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HOUSE OF REPRESENTATIVES—*Thursday, April 27, 1972*

The House met at 11 o'clock a.m.

The Rev. Grace Free, Unity Church, Hammond, Ind., offered the following prayer:

Faith without works is dead.—James 2: 17.

Heavenly Father, increase our faith and our works.

We are mindful that it is You who hath made us.

You are the source of our life and power.

Free us from fear. Give us courage. Courage is fear that has said its prayers.

Inspire the Members of this legislative body with vital leadership and strong statesmanship.

We are a blessed nation. We have gained great wealth and power on the world's horizon. We have much for which to give thanks. Free us from self-pity and ingratitude.

Guide these leaders to unite our people; to rekindle hope.

Motivate us to positive faith and action, so that the youth of America will gain a new awakening of their true purpose for living, and for loving Thee, O God. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

THE REVEREND GRACE G. FREE

(Mr. MADDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MADDEN. Mr. Speaker, the Reverend Grace G. Free, minister-founder of Unity Church of Christ, Hammond, Ind., was honored by the Speaker of the House of Representatives by opening today's session with prayer. Reverend Free is the first woman minister to open our session with prayer this year and one of the very few in the history of the House of Representatives.

Reverend Free, before her ordination at Unity School of Christianity, Kansas City, Mo., in 1953, was a licensed teacher at the school for 5 years. She is also a devoted student of history of the United States and her ancestry on her mother's side dates back to George Washington's time. One of her great-great-great-grandfathers was William Carr who fought in the Battle of Trenton, in General Washington's handpicked army of 2,400 men. Reverend Free's father was a World War I veteran, having served as an ensign in the U.S. Navy in special intelligence. Her brother died in World War II in the Philippines, and was awarded the Silver Star, the Victory Medal, and other honors for bravery in action.

She studied at Rockhurst College and at Kansas University in Kansas City, Mo., as well as at George Washington University. She also specialized in secretarial work, and was at one time an expert in that field.

Reverend Free served as teacher at Unity School, assistant registrar and was also active in the silent unity prayer ministry. She is proud that her ministry in Hammond has been a challenge of faith—and a most rewarding work.

Reverend Free participates twice monthly—on Friday morning—on the "Harriet Fuller Show," radio station WJOB, in her home city. She also participates in television shows and has appeared with "Our Flag Lady" of Indiana and with other patriots for the National Council for the Encouragement of Patriotism.

She was chosen in 1970 to take part in "Operation Understanding," which included a tour to various U.S. Army and U.S. Air Force bases, along with several other ladies who are active in community and patriotic affairs. Their tour included White Sands, N. Mex., the U.S. Air Academy, and other vital centers of U.S. Armed Forces activities.

In addition to founding Unity Church of Hammond, Reverend Free is:

President of Great Lakes Unity Ministers Regional Conference;

Chaplain of the Hammond Woman's Club;

Chaplain of the Memorial Day Parade, Hammond;

Member, board of directors, National Council for Encouragement of Patriotism, Munster, Ind.;

Member, board of directors, Northwest Indiana Cerebral Palsy, Hobart, Ind.

She is a devoted sponsor of Girl Scouts and Boy Scouts, as well as American Legionnaires;

She is active in other community affairs; and

Reverend Free calls her pastorate—Unity Church—the "biggest little church in Indiana, and the U.S.A."

HOUR OF CRISIS IN THE VIETNAM WAR

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker, we are met in an hour of crisis in the Vietnam war.

The President has risen to meet that crisis with a courage and resoluteness we would all do well to emulate.

The President has resolved to continue the bombing in the Vietnam war until the Communists halt their invasion of South Vietnam. I believe that is the right course for this Nation to pursue.

The President has announced he will continue to withdraw American ground troops from South Vietnam. Our ability to continue troop withdrawals despite the enemy invasion gives me confidence in the President's leadership and in the wisdom of his Vietnam policy.

The President's determination to hew to the course he has set on Vietnam is tempered by the apprehension that Congress may undercut that policy. Madam Binh is lobbying the Congress because certain Members of the Congress have led Hanoi to believe the United States will make peace in Vietnam on North Vietnamese terms—that we will simply hand South Vietnam over to the North.

Capitulation can be avoided if we demonstrate the same brand of courage displayed by the President at this time of crisis. Let the Communists know the Congress wants a peace which is fair and just to both sides. Let the Communists know we will never hand them at the negotiating table what they cannot win on the battlefield.

Let the Communists know that peace will come in Vietnam when they are prepared to negotiate seriously on the basis of the generous terms offered them by our President.

This we must do, for the credibility of the United States is at stake, and the future peace of the world hangs in the balance.

PRESIDENT NIXON'S REPORT ON VIETNAM

(Mr. ARENDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARENDS. Mr. Speaker, I wish to congratulate our President on his great speech televised to the American people last night. I am sure he expressed the sentiments of the vast majority of the American people in all that he said. We will not surrender to unprovoked aggression.

President Nixon has made it abundantly clear to the world that while we love peace and want peace and will continue to work tirelessly for peace, we love freedom even more.

We covet no territory. We do not seek to conquer. We do not seek to impose our will on any people anywhere. We are not seeking military victory.

We seek simply to defeat aggression. We seek to obtain the release of our boys held as prisoners of war. We intend to afford protection to our troops remaining in South Vietnam. We intend to continue with our Vietnamization program and our plans for the complete withdrawal of our troops.

We will not desert our allies. We intend to give the 17 million people of South Vietnam a chance to defend themselves. We will not yield at the point of a gun to the demands of Hanoi and turn over the people of South Vietnam to Communist terrorism and oppression. We will not surrender in the cause of freedom and the cause of peace.

President Nixon last night made it crystal clear that he says what he means, and he means what he says. And in so doing he spoke for the vast majority of the American people. Let us not allow Hanoi to divide and conquer us in their efforts to impose the Communist will on a free people. The way to hasten the end of this war is simply to unite behind the President of the United States.

PEACE TALKS TO BE RESUMED

(Mr. WALDIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALDIE. Mr. Speaker, I listened to the President last night and I was plagued by curiosity as to what had occurred in Moscow to cause the President to retreat from the decision that he had made perfectly clear that under no circumstances would he go to the bargaining table in Paris again, from which he had withdrawn, until such time as the North Vietnamese ceased their invasion of South Vietnam.

I had understood that to be the President's policy and he had made it perfectly clear to me and to the American people. Apparently, that policy was changed by some event that occurred because last night the President told us we were going back to the peace table even though aggression from North Vietnam has not stopped.

That was an interesting change of policy, and one which, frankly, I applaud, but I am curious as to who brought it about. It seems to me that Henry Kissinger brought it about.

It would be interesting to the American public as well as to the Congress of the United States to know what else Henry Kissinger conceded to the Russians when he visited Moscow in the clandestine visit just completed.

It would be helpful and encouraging if the President would report to the American people what other matters Henry Kissinger had to give in on to get the Russians to agree to permit our President to go to Moscow to visit them.

REAL INCOME IS RISING WHILE INFLATION IS BEING RESTRAINED

(Mr. HARSHA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HARSHA. Mr. Speaker, we have recently seen significant evidence of the success of the economic stabilization program in combating inflation. According to the Department of Labor, the Consumer Price Index, as seasonally adjusted, was unchanged in March from the February level. This marked the first month since November 1966 that the index was unchanged. This is highly encouraging, especially when the Consumer Price Index performance is considered together with the March Wholesale Price Index figures, which showed an increase of only 0.1 percent on a seasonally adjusted basis.

The effect of the economic stabilization program is indicated by examining changes in the Consumer and Wholesale Price Indexes in the 6 months prior to August 15, 1971, and during the 7 months following President Nixon's announcement of the dramatic new policy. From February to August 1971 the Consumer Price Index increased at a seasonally adjusted annual rate of 4.1 percent; from August 1971 through March 1972 the increase was 2.8 percent, or approximately two-thirds of the increase in the earlier period. From February to August 1971 the Wholesale Price Index increased at a seasonally adjusted annual rate of 4.6 percent, compared to an August 1971 to March 1972 increase of 3.1 percent or approximately two-thirds of the increase in the earlier period.

Mr. Speaker, what is equally important, the economic stabilization program has not worked at the expense of the wage earner, as a number of persons have irresponsibly charged. In the 7 months since last August the average weekly earnings of production workers in the manufacturing industries have risen in real terms from $116.04 per week to $121.55, an increase of 4.7 percent; on an annual basis that is 8.1 percent. Real wages are clearly on the rise during this time of lessening inflation.

ELECTION TO COMMITTEES

Mr. MILLS of Arkansas. Mr. Speaker, I offer a privileged resolution (H. Res. 949), and ask for its immediate consideration.

The Clerk read the resolution as follows:

Resolved, That the following-named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on District of Columbia: Thomas M. Rees, California;

Committee on Internal Security: Mendel Davis, South Carolina;

Committee on Post Office and Civil Service: Elizabeth (Mrs. George) Andrews, Alabama.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

ARTHUR E. SUMMERFIELD

(Mr. CHAMBERLAIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. CHAMBERLAIN. Mr. Speaker, yesterday I was saddened to learn of the passing of Arthur E. Summerfield.

His death brings to a close a life which embraced several full-time careers in business and public affairs and which ever reflected a deep and abiding concern for his country, his State, his city, and his party.

Leaving school at the age of 13, he succeeded in establishing one of the Nation's largest automobile dealerships in his hometown of Flint, Mich.

An active and dedicated Republican since the days of the Wendell Willkie campaign, his energy and advice made major contributions in returning his party to the victory column. In 1943, he was elected as a member of the Republican National Committee from Michigan. In 1952 he was named chairman and directed Dwight D. Eisenhower's presidential campaign.

Appointed by President Eisenhower as Postmaster General, Mr. Summerfield's 8-year service in that post resulted in many innovations and improvements in the postal service between 1953 and 1961.

For several years, it was my privilege to represent the Flint area and to come to know personally of Arthur Summerfield's great abilities and interests in government.

The counsel and friendship of Arthur Summerfield will be greatly missed and I extend to Mrs. Summerfield and to members of the family my deepest sympathy.

INCREASED GOVERNMENT CONTRIBUTION UNDER FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 927 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 927

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12202) to increase the contribution of the Federal Government to the costs of health benefits, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the

> consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Florida is recognized for one hour.

Mr. PEPPER. Mr. Speaker, I yield one-half hour to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I shall consume.

Mr. Speaker, House Resolution 927 provides an open rule with 1 hour of general debate for consideration of H.R. 12202 to increase the Government contribution under the Federal employees health benefit program.

The purposes of H.R. 12202 are to increase the Federal Government contributions to the employee health benefit program, permit pre-July 1960 annuitants to elect coverage under the present program, and extend coverage to certain unmarried, dependent children.

The Government contribution would be increased progressively. Presently it is 40 percent of the average high option charge of six representative plans. This would be increased to 55 percent effective the first pay period beginning on or after 30 days of enactment. In each of the calendar years 1973, 1974, and 1975, the contribution would be increased 5 percent. In 1976 and thereafter, the contribution would be 75 percent of the average charge.

The present contributions are $19.42 for family enrollments and $7.78 for individuals. This would increase this year to $26.71 and $10.69. Subsequently the six plans average would be recomputed.

Pre-July 1960 annuitants would have the privilege of electing coverage under the present plan, which covers post-July 1960 annuitants.

The present law would be amended to extend coverage to an unmarried, dependent child, regardless of age, who is a fulltime student in a recognized educational institution.

There is some question as to whether Postal Service employees will be covered by the legislation and it must await further action by Congress or by judicial interpretation.

Estimated additional costs of the legislation are $184.2 million in 1972, $236.8 million in 1974, $389.4 million in 1975, $342 million in 1976, and $368.6 million in 1977.

Mr. Speaker, I urge the adoption of the rule in order that the legislation may be considered.

I now yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I agree with the statements just made by my able friend, the gentleman from Florida (Mr. PEPPER). There is not any controversy on this rule, but I might say there is some controversy on the bill and a proposed amendment which will be offered.

Mr. Speaker, we talk a great deal about fiscal responsibility, and today if we oppose this bill, we can vote for fiscal responsibility.

The position of the administration on this bill is indicated by the letter in the report from the U.S. Postal Service. The Civil Service Commission advises:

> However, at this point in time when the Administration is trying to exercise fiscal restraint, and which is only about eight months since the Government's contribution was about doubled to approximately 40 percent of premium, the Commission does not favor any further increase in the Government's contribution.

Also, Mr. Speaker, I understand an amendment is going to be offered to bring the Postal Service employees under the provisions of H.R. 12202. This amendment, if adopted, will defeat the primary purpose of the Postal Reorganization Act by destroying the principle of collective bargaining. The Postal Reorganization Act provides for collective bargaining by the representatives of the Postal Union and the Postal management on all fringe benefits with the exception of retirement, which is maintained by law at the same level as other Federal employees. The law clearly states that health benefits are a negotiable item. Both labor and management agreed in their July 20, 1970, agreement that health insurance benefits should continue for 2 years at the current level. These benefits will be subject to bargaining again in 1973. Yet, Mr. Speaker, I understand that an effort will be made today to include the Postal Service employees under the provisions of this bill.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. DULSKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12202) to increase the contribution of the Federal Government to the cost of health benefits, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12202, with Mr. BEVILL in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. DULSKI) will be recognized for 30 minutes, and the gentleman from Iowa (Mr. GROSS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York.

Mr. DULSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in effect, H.R. 12202 will both initially and ultimately accomplish what the Committee on Post Office and Civil Service had in mind when the Federal employees' health benefits program was created 12 years ago. It was our belief then that the Government should initially share premium costs at least equally with its employees. But at that time, because we had no previous experience, a dollar limitation was written into the law fixing a maximum contribution to be paid by the Government, and geared to the least expensive Government-wide low option plan.

Because of such dollar limitation, the Government's share of costs in 1970 was down to less than 25 percent and only a few low-option plans received a Government contribution equal to half the total premium charge. The enactment of Public Law 91–418, effective in January 1971, eliminated the maximum dollar amounts and expressed the Government contribution in terms of a percentage—that is, 40 percent of total charges—which is still well below the 50–50 sharing ratio initially contemplated.

Further, this legislation will fulfill the long-range intent of the 86th Congress as expressed in the report that accompanied the enabling legislation, which read as follows:

> The Committee recognized that the maximum amounts indicated could not remain unchanged over a long period of years, any more than the cost-of-living has remained frozen. Medical care costs will undoubtedly fluctuate at least as widely as other items of living costs. The Committee believes that the Congress will continue to be responsive to the needs of the employees and will appropriately act to keep the proposed program in consonance with future developments.

Mr. Chairman, the studies and hearings conducted by our subcommittee fully justify the change to the graduated sharing ratios provided for in this legislation. H.R. 12202 updates the program to a point that it will be in consonance with intervening and future developments, and whereby Federal employees and annuitants will be more reasonably in line with those employed in the private sector.

I commend the chairman of our Subcommittee on Retirement, Insurance, and Health Benefits, the gentleman from California (Mr. WALDIE) for the leadership he was demonstrated in obtaining committee approval of the bill. I commend the members of the subcommittee for their unanimous support and cosponsorship of the reported bill. and those members of the full committee, on both sides of the aisle, for their approval of this essential measure.

I urge the Members of this body to lend their enthusiastic support to the committee's endeavors by giving H.R. 12202 their overwhelming approval.

Mr. Chairman, for an explanation of the provisions of the bill, I now yield to the gentleman from California, the subcommittee chairman as much time as he may consume.

Mr. WALDIE. Mr. Chairman, H.R. 12202 calls for the Federal Government to increase its share of the cost of its employees health insurance on a schedule that was suggested by the President for the private sector. The President last year in his health message to the people and to the Congress said that he felt as an exemplary program and as an example of commitment to the health needs of this Nation the private employer of America should contribute up to 75 percent of the total cost of medical health insurance premiums by the year 1975.

I commend the President for that interest in the well-being of employees in the private sector of the economy and for his leadership in urging the private employers of America to bear the burden he suggested they should bear in the interest of the Nation's well-being, that they should increase their contribution to the private employees health insurance program up to 75 percent by the year 1975.

It was with that example set by our President that I submitted this bill to the Congress, that what was good for the private sector of the economy in terms of employers, as the President saw it, would be equally good for the public sector employer, the largest employer in America, the Government of the United States. If the President believes, as he so obviously does and as he makes so perfectly clear, that the private employer should contribute up to 75 percent of premiums on private employees health insurance, he surely should believe that the largest employer in the Nation, the Federal Government, should exert an equal commitment to the well-being of our employees and to the well-being that would be therefore forthcoming to the Nation as a whole.

So, following the President's leadership, I introduced this bill which would provide that the Federal contribution to the employees health insurance cost shall be by the year 1976—not 1975, as the President proposed for the private employer, but by the year 1976 the Federal employees health insurance shall have contributed to it 75 percent of the cost by this Government.

That formula will work out in this manner. The present share that the Federal Government pays for the Federal employee is 40 percent of his premium. That figure, by the way, is very, very low in comparison with most of the Nation's large employers. As a matter of fact, most of the Nation's large employers are in excess of that guideline the President set for the private employer, because most of the large private employers in the Nation pay better than 75 percent of health premiums for their employees, and in most instances it is 100 percent. So the President's criterion for the private employer would have no application to the large private employer, but only to the small private employer in America, who the President suggests should pay 75 percent of the health premium.

So as the largest employer by far of anyone else in the Nation we will, if we follow the President's lead, contribute that 75 percent figure by 1976. But at the present time our commitment to the well-being of our employees in terms of providing health benefits and our commitment to the Nation to the extent the Nation is benefited by providing health benefits for its citizens, is but 40 percent compared to 100 percent as the pattern for the largest employers in the private sector of the economy.

Our commitment, then, is not very good at the present time. In fact, it is disgraceful at the present time.

The bill will increase the Government's share this year, the first full year of operation of this bill, to 55 percent. The Government's share of the Federal employees health premium will be increased the first full year of operation from 40 to 55 percent, an increase that is desirable but an increase that falls far short of meeting the responsibility which the Federal Government has as the largest employer in the country, when that responsibility is measured by the performance of the private employer of comparable size. And there is no comparable size to the Federal employer, but I refer to the largest private employer, paying 100 percent.

Thereafter, after the initial 15 percent increase in contribution, we will increase the amount by 5 percent each year until 75 percent of the total premium is being met by the Federal Government in the year 1976.

This is not an unreasonable figure. It is within the President's guidelines and suggestions and urgings to the private sector of the economy. It is below the preformance of the largest employers in the private sector of the economy who are presently contributing 100 percent. Therefore, it is not an unreasonable level of performance for the Federal Government. Neither is it a satisfactory level of performance, but it is incomparably better than the level of performance which we have presently pressured upon the public employee.

Besides providing for that increase in the Federal share of the premium for health insurance, this bill will also enable thousands of retired employees to be covered under the protective provisions of the Federal health benefits program. These employees who retired from Federal service prior to 1960, when the present system was enacted, presently have a woefully inadequate program. The Federal Government contributes the paltry sum of $3.50 a month toward the payment of whatever health insurance a retiree can obtain. Many have no medicare eligibility by reason of their employment with the Federal Government and therefore are terribly underinsured.

Under this bill the pre-1960 retiree has the option of enrolling in more comprehensive coverage. It is a just, fair, and equitable way of correcting this inequity.

Finally, Mr. Chairman, this bill will allow the unmarried dependents of employees who are enrolled in school and have reached the age of 22 to continue to be covered if their parents are still Federal employees under this program.

That provision was included at the suggestion of my colleague on the committee, the gentleman from the State of Virginia (Mr. Scott), who rightfully pointed out that many students are service veterans and must stay in school beyond the age of 22.

This provision will also extend the protection to students enrolled in graduate law and medical schools.

Mr. Chairman, I have also proposed the adoption of an amendment which I will submit at the appropriate time to include postal employees under the coverage of the increased contribution by the Federal Government to the premium of Government employees.

The reason why that has been done and the reason why it will be attempted is because of my personal conviction that at the time the Postal Reorganization Act was adopted there was great confusion on the part of many as to whether the postal employee in fact was intended to be covered in the future when the contribution to health plans was increased by the Federal Government. That confusion reached the Post Office itself as well as the postal organizations. I will submit at an appropriate time affidavits by all of the representatives of postal organizations who participated in the collective bargaining process to the effect that they were under the assumption and that that assumption was in fact in their view upheld by the negotiator for the Postal Service, that they were to be covered in terms of any future increase in benefits. Those affidavits have not in any way been contested by the negotiator for the Postal Service.

The negotiator for the Postal Service said he had no recollection of such an assurance on his part to the affiants, but he says he will not deny their recollection as being accurate, because his recollection does not serve him in that regard.

Mr. Chairman, it is undeniable that that is a position that is subject to a considerable amount of controversy and to a considerable amount of honest disagreement. To resolve, however, the dispute once and forever, short of going to the courts, it is my intention to submit the issue to the Congress for resolution so that the Congress could this day make a determination in the House of Representatives at least, as to whether its employees are to benefit from any increase in health insurance premiums that the Government will make in the future.

Mr. Chairman, I will speak at greater length on that issue during the amendment process.

Finally, Mr. Chairman and members of the committee, the urgency of assisting the Federal employee in meeting the cost of his medical care is extreme.

If you have had an opportunity to follow the hearings of the subcommittee of the Post Office and Civil Service Committee that has jurisdiction over the administration of Federal employees' health programs, you would note that the costs of that program have gone up in a staggering amount in the past few years.

Last year, the Blue Cross-Blue Shield program which covers the vast majority of Federal employees requested a 53-percent increase in the premiums paid by Federal employees. Ultimately, through a series of actions that were taken that percentage increase was reduced to 22 percent rather than 53 percent. But a 22-percent increase in 1 year is still a staggering increase to place upon the Federal employee.

In short, there is little indication that the cost of medical coverage will in any way decrease, but that the present burdens will, in fact, materially increase.

The performance of the Federal Government, however, the employer, in meeting that burden and sharing that burden has really been disgraceful in comparison with the performance of employers in the private sector. But the Federal employee as an American and as a Federal employee has been and is confronted with the problem of denying him just benefits because of alleged cost as every public employee has been confronted with it since the beginning of time.

Any legislative body and any jurisdiction of Government constantly suggests that though the employees have a meritorious claim for increasing benefits, the increase in wages, for improvement of working conditions, that plan will have to be postponed until such time as the budget of the particular jurisdiction—in this case the United States—is better able to meet their needs.

What that means is that the Federal employee is subject to a far greater sacrifice in order to bring stability to the economy than is any other individual in the economy.

The private employee is not told by his employer when he is engaged in collective bargaining that "we simply do not have money available to pay your just and proper claims." If the money is available and if the claims are proper and just, those moneys are paid by taking the moneys from other activities of private employers. If it is not paid, the private employee strikes or withholds his services.

The Federal employee, however, is so susceptible to being deprived of his just entitlement that there is nothing he can do, and we in the Congress and they who occupy the Presidential seat know that.

The public employee simply must bear in silence the imposition of a greater sacrifice on him than others in this Nation.

Mr. Chairman, without question we have deprived him of any right to complain. He cannot, as can his counterpart in the private sector, withdraw his services from the market.

He must continue to render services to this government although this government does not treat him fairly or properly and, therefore, because he is in such a vulnerable position, because we have been so inconsiderate of his lack of ability to respond, either in the marketplace by withdrawing services, or at the ballot box by participating in political activities, we deprive him of any opportunity to respond whatsoever to our shortcomings. We ought to change that attitude, and this would be a good place to start, because the shortcomings are extreme in the Federal health program by any measure that you can present, and the performance of the Federal Government is a disgrace. We have the opportunity to comply with the President's program for the private sector by setting an example that we should be setting involving this particular program.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. WALDIE. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Chairman, I wish to associate myself with the remarks of the gentleman in the well.

Mr. Chairman, I rise today in support of H.R. 12202. The way I see it is that if anyone had any reservations about this bill early on in its legislative history, these reservations should have been effectively dispelled with the decision by the Price Commission to approve a 22-percent rate increase for the Federal employee's Blue Cross-Blue Shield health plan. Even though this scaled down the outrageous and completely insensitive request of the Blue Cross-Blue Shield people for a 34.1-percent increase, as far as I am concerned this was no cause for universal celebration, whatever excuses the Commission offered in defense of its decision. While any reduction in the financial pressure on a Government employee's family attributable to health insurance costs is welcome news indeed, I never was convinced that even an increase of 22 percent was justified. The Commission, it seems to me, was too quick to accept the argument of the companies that they should be permitted to recoup the major portion of their estimated losses right away—not sometime in the future, but here and now. In arriving at the decision there is no question in my mind that the Price Commission established a dangerous precedent. In view of the logic behind this decision, the whole wage-price guidelines under phase II were put in jeopardy, since every firm in the Nation, it seems, now had grounds for justifying increases of similar magnitude, in order that they too might be able to speedily recoup previous losses. My feeling was then and still remains that if inflation is going to be curbed and kept within a 5-percent growth rate, then the bullet must be bit, whatever the pressure to do otherwise, and requested increases, four times over the guidelines' standards, must be turned down.

Nor can I condone the Commission's action on the grounds that the President's guidelines as originally announced were silent on the subject of insurance premiums and rate increases and that special treatment and consideration was necessary for the insurance industry. If this is the kind of special treatment the administration intended, I say it makes a mockery out of the whole policy. Health insurance is too big a factor in the family's budget to exempt it from general guidelines.

I only hope that the Commission was not unduly impressed by public statements and rumors about the possibility that Blue Cross-Blue Shield would withdraw coverage from Federal employees if it did not get its way. The Commission should have had the courage along with the Civil Service Commission to resist this move. For the fact of the matter is these companies, after all, are not bargaining from the position of strength some people think they are.

At a very minimum, it would seem to me incumbent upon the Price Commission to thoroughly review and explore every detail of the loss estimates submitted by the company before approving an increase of this magnitude. The fact of the matter is that a general increase of 22 percent actually works out to a much higher effective increase when it finally comes down to individual Federal employee contributions in view of the present distribution of the costs borne by the Federal employee and the Federal Government. With the portion borne by the Federal employee greater than that presently borne by the Federal Government, the effective increase was almost invariably greater than 22 percent. In fact I have had correspondence from some of my constituents documenting with their paycheck stubs percentages anywhere from 37 to 57 percent. The average figure seemed to be almost 50-percent increase over last year's payments. Let me just quote you one instance of how 22 percent is a fairly meaningless figure for the average Federal employee. I am quoting from a letter from one of my constituents revealing information contained on the salary deduction breakdown which accompanies his paycheck:

> As I understand the present program, the government is supposed to pay 40 percent of the premium costs while I, as an annuitant, am supposed to pay the adidtional 60 percent required to cover full payment of the premium. Under the rate increase of $10.55, the government pays $.70. I pay $9.85. In this instance I fail to see how the government is covering 40 percent of the rate increase. $.70 to $9.85 is not 40 percent to 60 percent.

Let me break down the method of premium coverage:

Total cost, $58.46. Government pays $19.42—40 percent of $58.46 equals $23.38. I—annuitant—pay $39.04—60 percent of $58.46 equals $35.08.

Let me now quote to you from the totally typical unsympathetic reply received from the Civil Service Commission when invited to comment on cases such as this:

> The Federal Employees Health Benefits Act provides for a government contribution to health benefits premiums that is equal to 40 percent of the average of the high option premiums of the six largest plans participating in the program. The six plans are: the Service Benefit plan, the Indemnity Benefit plan, the two employee organizations plans with the largest enrollments, and the two comprehensive medical plans with the largest enrollments. Therefore, the government contribution to any particular plan may be less than 40 percent of the premium for that plan.

As I say in view of an increase of this magnitude for the individual Federal employee, the least the commission could have done was to seriously review the evidence submitted to justify the requested increase. The fact that the commission did not begin to go far enough in their rush to arrive at a decision is now apparent for all to see with the recent announcement by Blue Cross-Blue Shield that their loss estimates were in fact erroneous and they have been subsequently considerably scaled down. Mind you, this information only came to light after the Price Commission approved the increase. Such sloppy enforcement of wage-price controls is just too obvious and too important for any Member of Congress to ignore. Certainly the Federal employees involved have not surprisingly lost whatever faith they might have had in the efficacy and practical justice of the whole wage-price program. On the one hand, a long drawn out, hard fought campaign had to be waged in both Houses of Congress and behind the scenes in the administration in order to insure that Federal employees were to be treated like every other citizen as far as retroactivity was concerned and to overturn the obvious discrimination contained in the White House's Executive decision to freeze employee's wage increases scheduled to go into effect long before wage-price controls were even thought of by the reluctant converts at the White House. You can imagine their chagrin when they were treated with the spectacle of the easily-won price increase of 22 percent for one of the more important items in their budgets, their health insurance premiums.

Thus, as I say, we come to the present situation and the legislation before us today. There is no doubt more support today for this legislation than existed previously, in view of the obvious and easily demonstrated individual burdens the Price Commission's decision has imposed upon the families of Federal employees. The present legislation offers Congress a means to at least offset the burden facing these families by increasing the Federal Government's contribution to the cost of health insurance. I regret that the net effect of the Price Commission's permitted increase on the economy will still be inflationary and the economy, as a whole, will still suffer because of the Price Commission's action. However, our responsibility is inescapable and that is, to see that justice is done to the individual families most affected by this hasty decision.

The fact of the matter remains, as far as I am concerned, that for all intents and purposes in thousands of cases the present employee's Federal Government breakdown is far from being 40 to 60 percent. While 75 percent might strike some in this body as a drastic shift from the present system, it might be well for my colleagues to remember that for many of their constituents there will be under the legislation proposed today nowhere near a 25 to 75 percent breakdown.

There is one other matter I want to address my attention to today while I have the House's attention and that is, the amendment to be offered by Congressman WALDIE of California, to clarify the status of Postal Service employees with regard to the Federal health insurance program. Apparently in the final days before H.R. 12202 was reported out of committee, by a one-vote margin, the full committee, under obvious pressure from the new postal corporation, voted to exclude the Postal Service employees from the provisions of this bill. I think this is going too far in the direction of treating the Postal Service employees across this Nation as orphans of the Federal Government. Nothing will ever convince me that it was the intent of Congress in passing the Postal Reform Act to transform the old Post Office Department into a private business or corporation. The Postal Service employees in the opinion of the overwhelming majority of the people of this country are still Federal employees. Maybe with a difference, with a difference that perhaps is none too clear at the moment, but not with such a difference that they are to be excluded automatically from legislation affecting employee benefits throughout the rest of the Federal Government.

As matters now stand, the postal employees are in a vague area in our Government which can only be described as the closest thing to limbo Washington has ever seen. Decisions are being made affecting their jobs, cutbacks are being enforced throughout the system, employees with years of service are informed that they can no longer go to their Congressmen with their problems the same as any other American citizen experiencing an injustice at the hands of the Federal Government is entitled to do. They do not have the right to strike, they are told they are dealing with a corporation—a corporation which when it suits its interests is a public corporation and when it suits its interests is more like a private corporation than anything else. We in Congress who passed legislation out of a genuine desire to reform the Postal Service cannot wash our hands of the well-being of these employees and pretend that they no longer exist. If we are not permitted to intervene on a case-by-case basis to bring a particular problem to the attention of the powers that be in the new Postal Corporation, then it seems to me that we have to use the only avenue open to us and that is to legislate when the opportunity comes and make it crystal clear that the postal workers should not be less well off under the Postal Corporation than they were under the old Post Office Department. We in Congress and those on the Committee on Post Office and Civil Service do have a responsibility in this area and I, for one, fear the interpretations and implications that will follow from any decision made today to pass H.R. 12202 without including the Postal employees under the provisions of this bill.

Mr. GROSS. Mr. Chairman, I yield myself such time as I may consume.

Mr. TEAGUE of California. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 125]

Abzug
Anderson, Tenn.
Andrews, Ala.
Annunzio
Ashley
Badillo
Betts
Bingham
Blanton
Blatnik
Broyhill, Va.
Byrnes, Wis.
Byron
Carney
Casey, Tex.
Celler
Clark
Clay
Collins, Ill.
Conte
Conyers
Crane
Culver
Curlin
Davis, Ga.
Dellums
Diggs
Dowdy
Dwyer
Edwards, La.
Erlenborn
Esch
Eshleman
Flowers
Fountain
Frenzel
Galifianakis
Gallagher
Gray
Grover
Hagan
Hastings
Hawkins
Hébert
Hogan
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Kluczynski
Kuykendall
Kyl
Kyros
Landgrebe
Lent
Long, La.
Long, Md.
Lujan
McDonald, Mich.
McKevitt
McKinney
Macdonald, Mass.
Mahon
Miller, Calif.
Mills, Ark.
Mitchell
Mollohan
Morse
O'Neill
Patman
Pettis
Poage
Price, Tex.
Pryor, Ark
Pucinski
Purcell
Rangel
Rees
Reid
Roberts
Roy
Runnels
Ruppe
Sandman
Scheuer
Shipley
Skubitz
Slack
Springer
Staggers
Stanton, James V.
Steed
Stokes
Stubblefield
Symington
Teague, Tex.
Terry
Udall
Ullman
Vander Jagt
Veysey
Whitehurst
Whitten
Winn
Young, Tex.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BEVILL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 12202, and finding itself without a quorum, he had directed the roll to be called, when 329 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the Committee rose, the gentleman from Iowa (Mr. GROSS) had been recognized.

Mr. GROSS. Mr. Chairman, there are at least two compelling reasons why this bill should be defeated. First, it is unjustified and unwarranted; and second, it simply costs too much money at a time when our Federal economy is in such grave condition.

It has been less than 2 years since this Congress enacted legislation completely revising the formula for fixing the Government's share of health benefits cost. At that time it was the considered judgment of this body that the' Federal Government, as an employer, should begin paying an average of 40 percent of the cost of its employees' health benefits premiums, and it was determined that this 40 percent should be maintained on into the future. Procedures were written into the bill to insure that the Government would assume its fair share of health insurance premiums and that it would continue to do so as those premiums increased.

That law—Public Law 418 of the 91st Congress—has proven to be eminently satisfactory. Twice since its enactment the Federal employee has been buffered against surging health benefits costs—in January 1971 and again in January 1972—inasmuch as the 40 percent payment on the part of the Government in each instance translated into higher dollar amounts.

The 40-percent share was considered to be more than fair and satisfactory at the time it was enacted, and there is certainly no justification for increasing that amount based upon the experience to date.

One of the arguments being used in support of this legislation is that a growing number of companies in the private sector are paying more for employees' health benefits than the Federal Government is doing. I submit that even if this is the case, it does not justify the reckless action that is contemplated by this bill. It is quite essential that, if a proper perspective is to be maintained, we view the entire picture of pay, pay supplements, and fringe benefits. It is inherently misleading to compare employer practices in only a single area of fringe benefits, such as health insurance.

The Bureau of Labor Statistics in its latest study on the subject of pay and fringe benefits reports that in private industry employer expenditures for fringe benefits amounts to 26.6 percent of basic wages and salaries—and 27.8 percent in the Federal Government. Essentially the Federal employee today has a much better total package of fringe benefits than does the employee in the private sector.

Additionally, the Civil Service Commission reports that Federal Government contributions to fringe benefits, as a percentage of basic payroll, will continue to rise by reason of added paid holidays, additional requirements of the civil service retirement financing law, and by reason of the fact that the existing 40-percent contribution rate for health benefit premiums will further increase the percentage of actual payroll expenditures, because health costs will probably rise faster than payroll. Viewed in this context there can be no justification for the Government to pay more than it already pays to the health benefits program.

Mr. Chairman, I would like briefly to address myself to another argument that proponents of this bill glibly make—but which has no substance. The 75-percent contribution rate is being justified on the basis that this is the same percentage contribution which the President has recommended that private industry pay under the provisions of the National Health Insurance Partnership Act.

I would point out that percentages can be extremely misleading. The President has recommended that private industry establish a minimum package of benefits that in no way compares to the ultraliberal—almost all encompassing—health insurance now enjoyed by Federal employees.

It is anticipated that under the President's proposal the total costs for the health insurance will not be nearly as great as the total premiums now in effect in the Federal program. Conceivably, as far as dollar amounts are concerned, a 75-percent contribution rate on the part of the private employer may not amount to as much money as the existing 40-percent contribution rate being paid by the Federal Government.

I certainly will not oppose the Federal Government's contributing to the fringe benefits of its employees at a level comparable to what that same Federal Government requires private employers to contribute. But until or unless the President's plan for private industry is enacted, we will not know what dollar amounts might be involved, and it is entirely possible that the existing 40-percent contribution by the Federal Government, in terms of actual dollars, may already be more than will be required of private employers.

Now as to the exorbitant costs of this legislation—the figures speak for themselves. Presently the Federal Government in this fiscal year will be contributing $575 million—more than a half billion dollars—to provide its employees with the best possible medical care. If this bill is enacted, by fiscal year 1977 when its provisions are fully effective, the Federal Government will be required to contribute over $2 billion a year. Under the existing 40-percent contribution rate, it is anticipated that because of rising premium costs that the Federal Government in fiscal year 1977 will be contributing $942 million. This legislation, if enacted, will require an additional annual outlay on the part of the Government of $1.063 billion by 1977—which will more than double the cost to the Government of the existing health benefits program.

Mr. Chairman, by any measurements, this bill cannot possibly be justified. It is an unwarranted raid on the taxpayers of this country—and with tax-filing time just passed, I am confident the taxpayers will experience more than the usual dismay at the fiscal irresponsibility that is about to be displayed here today.

Mr. DULSKI. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. DANIELS), a member of the committee.

Mr. DANIELS of New Jersey. Mr. Chairman, I rise to urge the membership of this House to lend their support to the legislation under consideration, H.R. 12202, the major purpose of which is to relieve employees and annuitants from continuing to bear a disproportionately large share of the premium charges under the Federal employees health benefits program.

Our committee has had a continuing concern over the spiraling costs of providing health benefits protection under the program within its jurisdiction—that concern being demonstrated by the subcommittee's extensive investigation of the program's administration and the operations of the participating carriers. The problem of escalating medical care costs is, of course, not peculiar to the Federal employees' program, but is a problem common to all Americans. Unfortunately, our scope of activity can have little impact upon minimizing or arresting escalating medical care costs.

The fact of the matter is that premiums must be sufficient to pay for the benefits provided, and rate increases are recurrently approved in order to maintain the financial soundness of participating plans. As medical care costs rise, the portion of them not covered by insurance constitutes an increasing burden for retirees and employees, and, as premiums increase to cover those costs, an additional burden is imposed on them. These two facts add up to enrollees being faced with the increasingly difficult problem of paying for health benefits.

Testimony developed by the Subcommittee on Retirement, Insurance, and Health Benefits during public hearings on this legislation supports, I believe, the contention that the Federal Government, as a major employer, lags far behind large employers in the private sector in this vitally important area of fringe benefit programs. The evidence, which is confirmed by Government analyses and statistics, showed that major industrial employers are paying, if not the total costs, most of the costs of their employees' health insurance, and providing benefits comparable to those offered in the Federal employee program.

It is the consensus of the committee, therefore, that the Government's contribution to subscription charges of this program be increased to achieve a more equitable sharing ratio similar to that which the President has proposed for the remainder of the Nation's work force. That objective is embodied in the bill before us today. The need for this legislation is demonstrated by the fact that H.R. 12202 was unanimously approved by the subcommittee and overwhelmingly adopted by the full committee.

I urge, Mr. Chairman, that this body also lend its overwhelming support to this legislation.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. DANIELS of New Jersey. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman from New Jersey for yielding.

Mr. Chairman, I wish to associate myself with the gentleman's remarks, and also in support of this bill as well as the amendment to be offered by the gentleman from California (Mr. WALDIE) which would clarify the situation as to postal employees.

Mr. Chairman, this legislation which would increase the contribution of the Federal Government to the cost of Federal employees health benefits.

This bill is a most worthwhile proposal which accomplishes three main points. First, it increases the Government's contribution for the Federal health benefits plans from 40 to 55 percent starting in 1972 with an additional 5-percent increase for each subsequent year until 1976 when the Government portion will reach 75 percent.

Second, this legislation allows annuitants who retired prior to July 1, 1960, and are now covered under the Retired Federal Employees' Health Benefits Act to elect coverage under the health benefits provisions of the law available to active employees.

Finally, this legislation would extend health benefits coverage to unmarried dependent children over the age of 22 who are full-time students.

Mr. Chairman, this legislation is desperately needed to cover the escalating costs of medical care. While virtually every consumer item has increased during the sixties, the costs associated with medical care has increased twice as fast as the overall Consumer Price Index. This has had the effect of tightening the purse strings of all those people unfortunate enough to get sick or have a member of their family sick. Private industry has led the way with a trend toward providing its workers and retirees with cost-free health insurance. The Federal Government should follow that lead and attempt to do the same for its workers.

Our senior citizens, who have retired from Government service are hit particularly hard since they live on a fixed income and are also more likely to have health problems.

When offered, I also intend to support the amendment offered by the gentlemen from California (Mr. WALDIE) which will clarify the status of Postal Service employees with regard to the Federal health insurance program.

When the Subcommittee on Retirement, Insurance and Health Benefits marked up the bill, they fully believed that postal employees were to be included under the provisions of this legislation. Unfortunately the Postmaster General only informed the committee at the last minute that he felt postal employees would not be covered.

At the time of postal reorganization, there was no intent in this Congress that postal employees would lose coverage under the health benefits program. To exclude the workers now would be extremely unjust.

Therefore, I urge my colleagues to join with me in supporting this legislation and the Waldie amendment so that all Government employees may be provided with life's most valuable commodity—good health.

Mr. GROSS. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I rise in support of this legislation even if the committee adopts it without an amendment, and yet I am concerned about the cost of the present bill. I am concerned about the probability of a veto of the legislation if it is passed in its present form. I am hopeful that we can agree on a bill which can be signed by the President and enacted into law.

Certainly we are all concerned about the cost of health care. The general rise in medical expenses has resulted in an increase in the cost of medical insurance, and it has affected the Government employee as it has the rest of our people throughout the country.

In 1960 we adopted a basic health benefit bill under which the Government and the employee would each contribute 50 percent in dollar amounts, but as the cost of medical care increased over the years, this equal sharing between the Government and the employee eroded until 1970, when the Government was paying only 24 percent of the actual cost of the health insurance.

You will remember that during the 91st Congress this House did consider an increase in the cost, and by a vote of 284 to 57, passed a bill which provided for equal sharing of the cost between the Government and the employee, each paying 50 percent of the actual cost. In conference with the Senate the percentage paid by the Government was reduced to 40 percent, with 60 percent being paid by the employees.

Under the proposed legislation which we are considering today, if enacted without amendment, the contribution of the Government would be increased to 55 percent in 1972, and would further increase by 5 percent each year until it reaches a total contribution by the Government of 75 percent.

I propose to offer an amendment at the appropriate time which would fix the contribution at 50 percent by the Government and 50 percent by the employee.

There would be no further increment without further action by the Congress.

On the cost basis we are told, and the committee report shows, that the first year of the adoption of the legislation before us would cost the Government $210 million, which would increase each year until 1977, when the annual cost of the bill as it is before us now would be $834 million. If we would assume that an increase of 10 percent would be two-thirds of the amount of the cost of a 15-percent increase, or an increase to 55 percent for the first year, then my proposal would increase the cost to the Government by only $140 million. It would remain static in the future unless there was an increase in the general cost of medical insurance to the Government employees.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. SCOTT. I yield to my friend, the gentleman from Missouri.

Mr. HALL. Mr. Chairman, I wonder if the gentleman will yield for this point of information. I understand his proposed amendment, and I also understand his preliminary remarks to indicate he is worried lest there be a veto because of the increase in cost of Government participation. Does the gentleman feel that with his bill and the increase he just referred to, this legislation would be less liable to a veto by some nonunderstandable logic that I fail to get, or would it make the bill more liable to a veto if we added onto the unbudgeted costs?

Mr. SCOTT. I think it would be much less likely to be vetoed if we said there would be an equal sharing between the Government and the employee, or 50 percent. This was the intent of the original legislation which was passed in 1960.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GROSS. Mr. Chairman, I yield the gentleman from Virginia an additional 2 minutes.

Mr. HALL. Mr. Chairman, will the gentleman yield further?

Mr. SCOTT. I am glad to yield to the gentleman from Missouri.

Mr. HALL. Does not the bill we have under consideration limit the participation to 40 percent on the part of the taxpayers?

Mr. SCOTT. At the present time, in the law as it exists today, the participation is 40 percent. The proposal we are now considering, the bill as reported by the committee, would increase that to 55 percent for this calendar year, and the contribution by the Government would go up in annual increments of 5 percent until 1976 when the Government contribution would be 75 percent. In my proposal, the amendment I will offer, it will be fixed permanently at 50 percent of the actual cost of the medical insurance.

Mr. HALL. I certainly agree that medical costs and particularly hospitalization costs thereof are liable to increase during the years, and I admire the gentleman for wanting such increases to come back to Congress before there is any change in the formula, but I am not at all sure this would make the legislation less liable to veto, because I think it is just beyond our capability to expend this money.

Mr. SCOTT. Let me say to the gentleman I can see several reasons why the President may veto this legislation. One is the cost. My amendment would materially reduce the cost below the amount provided in the bill, reducing it by 50 percent the first year and then providing no further increase in the percentage of contribution by the Government. This would eliminate the 5-percent annual increment now included in the bill.

Mr. HALL. Mr. Chairman, I thank the gentleman for his explanation.

Mr. SCOTT. Mr. Chairman, I will explain my amendment further during the amendment process. To me it is a reasonable amendment. I hope the committee will give consideration to it. In my opinion it will increase the possibility of this bill becoming law.

Mr. GROSS. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, I thank the gentleman. As a cosponsor, I rise in support of H.R. 12202, a bill to increase the Federal Government's contribution to employees health insurance premium.

In the last decade, medical care prices have skyrocketed, and, there seems to be no relief in sight. In 1970, the Nation spent, for health and medical care, two and one half times the amount spent 10 years before, and more than five times the amount spent 20 years earlier. The average health bill for each American was $324. Just 10 years before, the average was half the amount—$145, and 20 years earlier, it was less than one-fourth the 1970 figure, $79. This growth represents an average increase of 7.3 percent per year. During this same period, the average increase in industrial wage levels was 4.3 percent per year.

The three major factors contributing to this problem are price increases, population growth, and increased use of services, and the introduction of new medical techniques.

However, the important question is how are employees going to be able to afford proper medical care. We know for a fact the trend in private industry is toward the employer picking up the major portion of the cost and in many cases the entire cost. Among some of the large corporations that pay the total cost of medical coverage are Alcoa, American Airlines, Burlington Industries, Du Pont, IBM, PPG Industries, United States Steel, and a host of others. I mention these major corporations to illustrate that the largest employer in the United States is not among them. And that is the U.S. Government. I have introduced legislation in this and the previous Congress which would provide for the Federal Government paying 100 percent of the cost of health care for Federal employees.

At present, the Government's standard contribution to the total subscription charge for an enrollee's health benefits plan is set at 40 percent of the average high-option charge of six large representative plans. Under this proposal which is before us today, the Government's outlay would be increased to 55 percent in 1973 and 5 percent each year until it reaches 75 percent in 1976.

Now, I contend that until medical care costs are brought under some kind of control and better administration is exercised over the operation of the Federal health benefits program, the Federal Government has a moral obligation to its employees to pay a larger share of the health insurance premiums.

In providing fringe benefits for its employees, the Federal Government should lead the way rather than always be following private industry.

Mr. Chairman, in my view the way to finance increased health premium costs is not through employees taking a pay cut but rather through the Federal Government paying a larger and fairer percentage of the total cost.

I strongly urge adoption of this much needed legislation.

Mr. DERWINSKI. Mr. Chairman, the overriding issue at stake today is whether the U.S. Congress is going to continue deficit spending at an ever-increasing rate. The time, I am afraid, is fast approaching when the U.S. Congress must either face its fiscal responsibilities or submit to Federal bankruptcy.

This bill is estimated to cost, using a "dynamic" projection, that is, assuming increases in health insurance enrollments and increases in the cost of premiums, an additional annual outlay on the part of the Government of $1.063 billion by 1977, which will more than double the cost to the Government of the existing health benefits program.

The proponents of H.R. 12202, which increases the Federal Government's share of employees health benefits insurance premiums, argue that Federal employees are paying a disproportionate share, in contrast to private sector employees, toward health benefits coverage. They argue that the trend in private industry has been toward the employer assuming the major share of employees health insurance premiums, and in many cases the full cost. They also go on to point out that major industrial employers are not only paying a major portion of the premium costs, but they also are providing a level of benefits comparable to those provided under the various Federal employee plans.

Now, let us examine this argument. To begin, the U.S. Congress has established in law and in spirit the principle of comparabilty. It is a fair standard, and one that means that Federal employees should receive the same pay and fringe benefits as their counterparts in private industry receive. No more or no less benefits.

Recently, the Bureau of Labor Statistics completed a study comparing fringe benefits, which showed that in private industry employer expenditures for pay supplements amount to 26.6 percent of basic wages and salaries, and in the Federal Government amount to 27.8 percent of basic wages and salaries.

The comparative table of these pay supplements, or fringe benefits, compiled by the Bureau of Labor Statistics is included in the minority views, which I signed, so I will not include it in my statement.

The point I believe that is clearly emphasized in this analysis is that there is just no logical or justifiable reason for increasing the Government's contribution to the employees health insurance premium.

As a note to this discussion, I would like to point out to the Members that if this bill is enacted into law the cost to the Government for its contribution for coverage for Members of Congress will be: 1973—$50,000 aidtional cost; 1974—$80,000 additional cost; 1975—$120,000 additional cost; 1976—$170,000 additional cost; and 1977—$200,000 additional cost.

These figures were received from the Civil Service Commission and are based on a total of 537 enrollees using the "dynamic" model of costs.

I am opposed to the bill, and strongly feel it must be refused.

Mr. BOB WILSON. Mr. Chairman, as the cosponsor of identical legislation, I would like to express my strong support for H.R. 12202, to increase the Government's contribution under the Federal employees' health benefits program.

With the skyrocketing rise in hospital and other medical expenses in the past decade, we have become increasingly concerned about the need to assure that all Americans have access to quality health care at reasonable cost. Both the President and the Congress have devoted much attention to this subject and a number of proposals are currently under consideration. Since the President has proposed that employers provide health insurance for their employees on a cost-sharing basis, it is incumbent upon the Federal Government, as a major employer, to set a good example. H.R. 12202 coincides with the administration's goal of requiring the employer to pay 75 percent of the premium cost after 1976.

In addition, this legislation contains an important section which would permit pre-1960 annuitants to participate in the more comprehensive Federal employees' health benefit program. For those annuitants enrolled in the retired Federal employees' health benefits program who are covered by medicare parts A and B, the retired program provides a supplement to their basic medicare protection. However, for those not eligible for full medicare, these benefits may not be adequate. The aged are hardest hit by the continued rise in medical costs, and I am pleased that the legislation deals directly with this problem.

Finally, I would like to express my support for the amendment to assure that Postal Service employees are covered by this legislation, and hope that this provision will be approved.

H.R. 12202 is a major step forward in health care legislation and I urge my colleagues' favorable consideration.

Mr. BROYHILL of Virginia. Mr. Chairman, I rise in support of H.R. 12202, to provide for an increase in the Government's contribution to the subscription charge for Federal employee health benefits plans.

I was privileged to serve on the Committee on Post Office and Civil Service when we inaugurated the health insurance program for Federal employees in 1959. We determined then that a 50–50 participation plan was fair and reasonable. But because it was a new program and the cost to the Government was not yet estimated, we adopted a formula wherein the Government would pay 50 percent of the cost of the least expensive low-option family program. By virtue of the type of insurance plan the employees adopted, however, the cost distribution at the time of enactment amounted to a 38-percent cost for the Government and a 62-percent cost for the employee.

Then last year Congress considered the plans again, but by that time increasing medical care costs and premium increases had reduced the formula to a 24 to 76 ratio. The House by its action last year restored the program to the 50–50 ratio originally intended by Congress only to have the Government contribution again reduced to 40 percent in the House-Senate conference on the legislation.

When the President sent his message to Congress on February 18 of last year, proposing as a major part of his legislative program a national health insurance program which would require every employer in the Nation to pay 65 percent of the premium for his employees health insurance for 2½ years, then 75 percent thereafter, those of us who had worked for years for a more equitable formula for Federal employees were most encouraged. Unfortunately, the administration as an employer did not feel compelled to serve as a leader and example to employers in the private sector, for the Civil Service Commission once again recommended against enactment of this legislation.

When I appeared before our colleagues on the House Committee on Post Office and Civil Service last September, I expressed my inability to understand how the administration could oppose this legislation for so-called economy reasons when a few weeks later they would be parading before the Committee on Ways and Means urging passage of their new health insurance proposal for the private sector. A few weeks later, on October 20, I had the opportunity of posing that question to Secretary Richardson in the Ways and Means Committee. As I believe his response represents total agreement with our position, I should like to read a brief extract from the Ways and Means hearings for that day at this point:

Mr. BROYHILL. Mr. Secretary, under the administration's plan, employers would be required to contribute 75 percent of the insurance costs for their employees. Under existing law, which we amended in 1970, we provide for a 40-percent contribution on the part of the Federal Government, as the employer, for health insurance programs for Federal employees. Actually, we were late in even inaugurating a health insurance program for Federal employees. I think it was 1959 when the Federal Government reluctantly put through a health insurance program for its employees after industry already had been providing such programs for a good many years. I believe since the Federal program has been in effect, the average contribution on the part of the Government as the employer, has been in the neighborhood of 25 to 30 percent.

The administration opposed the 40-percent program last year. Actually, there was a 50-percent contribution proposed last year, and again this year a proposal for a 50-percent Federal Government contribution, as an employer contribution, was again vigorously opposed by the administration.

My question is, Since the administration feels that it is fair and equitable and proper to require all employers to contribute ultimately 75 percent of the cost of a health insurance program, why shouldn't the Federal Government take the lead and initiative as an employer, to provide a 75-percent, or at least a 50-percent, contribution for its employees? I am sure you feel that Federal employees should be treated equally with other employees.

Secretary RICHARDSON. Well, I can only say, Mr. Broyhill, that your logic is irrefutable. I think the Federal Government should be a model employer, and I think that the recommendation that we make for other employees should cause a reconsideration of the position the Federal Government takes in the cost sharing of health insurance of its own employees.

Mr. BROYHILL. What would be the effective date of the administration bill?

Secretary RICHARDSON. July 1, 1973.

Mr. BROYHILL. At that point, it would be 65 percent, would it not?

Secretary RICHARDSON. Yes.

Mr. VENEMAN. Not to exceed 35 percent for the worker.

Mr. BROYHILL. It might be a great encouragement to industry if the administration would send its people to the Post Office and Civil Service Committee to recommend that a 65-percent contribution be effective around January 1, 1973. I am a cosponsor of the legislation, and I would accept the amendment to make it effective January 1, 1973, and you might find that, since the Federal Government has taken the initiative in that area, the employers throughout the country, along with the big unions that Mrs. Griffiths is talking about, might put this into effect without your requiring it through legislation.

Secretary RICHARDSON. I think that we could certainly pursue this, Mr. Broyhill. As far as the Federal employes are concerned, I would have to, of course, enlist the interest of my colleagues in the administration.

Mr. BROYHILL. There may be some disagreement in the administration, regarding the Federal employee program.

Secretary RICHARDSON. I have no reason to think that the general validity of the point that you have made that we should be prepared as an employer to do what we are asking other employers to do, would be the subject of serious dispute, but I am only saying that that is not a matter that falls directly within my province to say.

Mr. Chairman, employee health benefits premiums were increased early this year, and because we did not act on this legislation by the time of the recent pay increase many employees are receiving smaller checks than they did before the badly needed pay increase. This is also true of the employees of the Government Postal Service, and I shall support the amendment to include them in this legislation during the reading of the bill. I do not believe we can, in the name of economy, continue to deny Federal employees benefits comparable to those they would receive in private industry, therefore, I urge enactment of H.R. 12202 without delay.

Mr. TIERNAN. Mr. Chairman, I rise to express my strong support for H.R. 12202 which has three purposes: First, to increase the Federal Government contribution to the costs of health benefits from 40 to 55 percent in 1972, with an additional 5-percent increase each year until the Government contribution reaches 75 percent; two, to allow annuitants who retired prior to July 1, 1960, to elect coverage under the health benefits provisions currently applicable to post-July 1960 employees and annuitants; and three, to extend health benefits coverage to unmarried dependent children over the age of 22 who are full-time students.

The skyrocketing health costs in this Nation make the passage of this bill compulsory. These costs have accelerated faster than the prices of any other commodities or services. The average annual health bill for each American in 1970 was $324. Ten years earlier the average was only $145, and 20 years earlier it was $79. This means that our health costs have increased approximately 7.3 percent per year. During this same period the average annual increase in industrial wage levels was only 4.3 percent.

As I am sure most of my colleagues are aware, the trend in private industry has been for the employer to assume the major or in many cases the full cost of the employees' health insurance premiums. As the committee report points out, a 1966–67 survey by the Bureau of Labor Statistics indicated that 64 percent of all plant workers and 49 percent of all office workers were employed in establishments which paid the full cost of health insurance coverage.

It is time that the Federal Government starts down this same road. This is especially true if we are to continue to attract men and women in Government jobs. I urge support for H.R. 12202.

Mr. Chairman, at this time I would also like to express my support for the amendment to be offered by my colleague, the gentleman from California (Mr. WALDIE). This amendment would include Postal Service employees under the Federal employees benefits program and allow them to receive any benefits from increased Federal participation in premium payments.

When the Subcommittee on Retirement, Insurance, and Health Benefits originally considered H.R. 12202, it was assumed the postal employees were to be included under the provisions of the bill. At the last minute the Postal Service said it felt they were excluded from these provisions.

It is my understanding that there is nothing in the bill that specifically excludes Postal Service employees, and yet the question was referred back to the subcommittee. It is absurd to put this question off; it should be settled here and now. I intend to do so by voting for the Waldie amendment and I urge my colleagues to do likewise.

Mr. DULSKI. Mr. Chairman, I have no further requests for time.

Mr. GROSS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsections (a) and (b) of section 8906 of title 5, United States Code, are amended to read as follows:

"(a) The Commission shall determine the average of the subscription charges in effect on the beginning date of each contract year with respect to self alone or self and family enrollments under this chapter as applicable, for the highest level of benefits offered by—

"(1) the service benefit plan;

"(2) the indemnity benefit plan;

"(3) the two employee organization plans with the largest number of enrollments, as determined by the Commission; and

"(4) the two comprehensive medical plans with the largest number of enrollments, as determined by the Commission.

"(b)(1) Except as provided by paragraph (2) of this subsection, the bi-weekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter shall be adjusted, beginning on the first day period of each year, to an amount equal to the following percentage, as applicable, of the average subscription charge determined under subsection (a) of this section: 55 percent during 1972; 60 percent during 1973; 65 percent during 1974; 70 percent during 1975; and 75 percent during 1976 and during each year thereafter.

"(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 75 percent of the subscription charge.".

(b) Section 8906(c) of title 5, United States Code, is amended by striking out "subsections (a) and (b)" and inserting "subsection (b)" in lieu thereof.

(c) Section 8906(g) of title 5, United States Code, is amended by striking out "subsection (a) of".

SEC. 2. (a) Notwithstanding any other provision of law, an annuitant, as defined under section 8901(3) of title 5, United States Code, who is participating or who is eligible to participate in the health benefits program offered under the Retired Federal Employees Health Benefits Act (74 Stat. 849; Public Law 86–724), may elect, in accordance with regulations prescribed by the United States Civil Service Commission, to be covered under the provisions of chapter 89 of title 5, United States Code, in lieu of coverage under such Act.

(b) An annuitant who elects to be covered under the provisions of chapter 89 of title 5, United States Code, in accordance with subsection (a) of this section, shall be entitled to the benefits under such chapter 89.

SEC. 3. Section 8901(5) of title 5, United States Code, is amended by striking out the phrase beginning "or such an unmarried child" and inserting in lieu thereof the following: "or such an unmarried child regardless of age, who—

"(i) is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university or comparable recognized educational institution and receives more than half his support from the employee or annuitant; or

"(ii) is incapable of self-support because of mental or physical disability which existed before age twenty-two;".

SEC. 4. (a) This section and the first section of this Act shall take effect on the first day of the first applicable pay period which begins on or after the thirtieth day following the date of enactment. Section 2 shall take effect on the one hundred and eightieth day following the date of enactment or on such earlier date that the United States Civil Service Commission may prescribe. Section 3 shall take effect on the date of enactment.

(b) The determination of the average of subscription charges and the adjustment of the Government contributions for 1972, under section 8906 of title 5, United States Code, as amended by the first section of this Act, shall take effect on the first day of the first applicable pay period which begins on or after the thirtieth day following the date of enactment of this Act.

Mr. DULSKI (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 4, strike out lines 3 through 10 and insert in lieu thereof the following:

"SEC. 4. (a) This section and section 3 of this Act shall take effect on the date of enactment. The first section of this Act shall take effect on the first day of the first applicable pay period which begins on or after the thirtieth day following the date of enactment. Section 2 shall take effect on the one hundred and eightieth day following the date of enactment or such earlier date that the United States Civil Service Commission may prescribe."

The committee amendment was agreed to.

Mr. WALDIE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 126]

Abzug
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Annunzio
Ashley
Aspinall
Badillo
Betts
Bingham
Blanton
Blatnik
Boland
Broyhill, Va.
Buchanan
Carey, N.Y.
Carney
Casey, Tex.
Celler
Clark
Clay
Collins, Ill.
Conte
Conyers
Culver
Curlin
Danielson
Davis, Ga.
Dellenback
Dent
Diggs
Dowdy
Dwyer
Edwards, La.
Esch
Eshleman
Evins, Tenn.
Flowers
Fountain
Frenzel
Galifianakis
Gallagher
Green, Oreg.
Grover
Hagan
Hastings
Hathaway
Hawkins
Hébert
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Keith
Kluczynski
Kuykendall
Kyl
Kyros
Landgrebe
Lennon
Lent
Long, La.
Lujan
McCloskey
Macdonald, Mass.
Madden
Mahon
Miller, Calif.
Mollohan
Morse
Murphy, N.Y.
Patman
Pepper
Pettis
Poage
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quie
Rangel
Rees
Reid
Roberts
Runnels
Ruppe
Scheuer
Shipley
Sisk
Slack
Smith, Calif.
Staggers
Stanton, James V.
Steed
Steiger, Wis.
Stokes
Stubblefield
Symington
Teague, Tex.
Thompson, N.J.
Udall
Vander Jagt
Veysey
Whalen
Whitehurst
Whitten
Wiggins
Winn
Young, Tex.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. BEVILL, Chairman of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 12202, and finding itself without a quorum, he had directed the roll to be called, when 325 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committe resumed its sitting.

AMENDMENT OFFERED BY MR. WALDIE

Mr. WALDIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALDIE: Add a new section at the end of the bill to read as follows:

SEC. 5. The rate of Government contribution for health benefits determined under section 8906 of title 5, United States Code, as amended by the first section of this Act, and the inclusion, for health benefit purposes, of certain unmarried children as family members under section 8901 (5) of title 5, United States Code, as amended by section 3 of this Act, shall apply to the United States Postal Service and its officers and employees and to the Postal Rate Commission and its officers and employees.

POINT OF ORDER

Mr. GROSS. Mr. Chairman, I make a point of order against the amendment offered by the gentlemen from California on the ground that it is not germane, that it violates rule XVI, clause 7, of the Rules of the House of Representatives.

The rule I cited states in part:

> And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

Mr. Chairman, I maintain there is ample precedent to support my position. The bill before us, H.R. 12202, amends chapter 89 of title V United States Code, relating to the contribution rates for health insurance for Federal employees. The classes of employees covered by this chapter are clearly defined in existing law, and these definitions do not include employees of the U.S. Postal Service. The pending bill does not change the coverage of the act. The legislative history of the Postal Reorganization Act of 1970, and the legal opinions of the Postal Service, the U.S. Civil Service Commission, and the Comptroller General leave no doubt that health benefits for postal employees are negotiated under the terms of the Postal Reorganization Act and that these employees no longer come under the specific provisions added to chapter 89 of title 5.

The mere fact that the amendment is offered supports this statement. If postal employees continue to be covered by the cited provisions of title 5, there would be no need to attempt to extend these provisions to them.

Mr. Chairman, I cite section 2952 of volume 8 of Cannon's Precedents, which says:

> It is not in order to propose to amend one individual proposition by another individual proposition even though they be of the same class.

On March 19, 1928, the House was considering the bill (H.R. 5789) to authorize the award and supply of service medals to individual soldiers as prescribed by Army regulation for the rendition of certain services, authorizing the Secretary of War to issue such medals. An amendment was proposed to authorize the Secretary of the Navy and the Secretary of the Treasury to issue similar medals to the personnel of the Navy and Coast Guard, respectively.

A point of order was raised and sustained against the amendment, and in ruling, the Speaker pro tempore said:

> There is a long list of precedents which state that one individual proposition may not be amended by another individual proposition even though the two may belong to the same class, such as admitting a Territory, and amendment providing for the admission of another Territory is not in order; to a bill providing pensions for veterans of the Indian wars, an amendment providing for pensions for veterans of the Mexican War is not in order. Also, in section 8909 there is a precedent exactly similar to the one pending, where to a bill for the relief of dependents of men in the Regular Army, and amendment proposing to extend the benefits of the Act to dependents of men in the National Guard and the Reserve Corps was held not to be germane.

Mr. Chairman, I will not belabor the point inasmuch as I believe the proposition before us is quite clear The pending legislation seeks to extend certain health insurance benefits to defined categories of Federal employees. The amendment seeks to extend these benefits to a category of employees not covered by the legislation nor by the basic law which the legislation amends.

Mr. Chairman, I insist upon my point of order against the amendment on the grounds that it is not germane.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. WALDIE. Yes, Mr. Chairman, I do.

I am caught somewhat by surprise. I did not know a point of order would be offered to the amendment, but the point of order does not seem to me to be meritorious.

The bill deals with contributions to the health benefits program by the Federal Government. It is undeniable that the postal employees are presently covered under the health benefits program and, as a matter of fact, the controversy involved here starts from the premise that their coverage is at a certain percent, 40 percent, and we are asking that the percentage of contribution of the Federal Government be increased, not initiated.

I suggest, Mr. Chairman, that the postal employees are a part of the coverage of the health benefits plan and that this amendment is germane.

The CHAIRMAN (Mr. Bevill). The Chair is ready to rule.

The Chair has listened to the point of order by the gentleman from Iowa and finds that while the statement by the gentleman from Iowa is correct about the extension of employees, the Chair points out that this bill already provides that it shall extend the Federal employees health benefits coverage to unmarried dependent children over the age of 22 who are full-time students.

The term "employees" covered by the bill are those as defined in title 5 United States Code, section 8901. Section 8901 incorporates by reference those employees as defined in 5 United States Code, section 2105. Section 2105 specifically excludes Postal Service employees from its definition "except as otherwise provided by law." Other law, namely section 1005(f) of title 39, provides that:

> Chapter 89 of title 5 shall apply to officers and employees of the Postal Service unless varied, added to, or substituted for, under this subsection.

Thus, at the time of enactment of the Postal Reorganization Act of 1970, Postal Service employees were included within the definition of Federal employees.

So it is the ruling of the Chair that the amendment is germane and the point of order is overruled.

The Chair now recognizes the gentleman from California, (Mr. Waldie) in support of his amendment.

Mr. WALDIE. Thank you, Mr. Chairman.

Mr. Chairman, the amendment that is before you is an attempt to clarify what is admittedly a confusing situation that came about by the enactment of the Postal Reorganization Act.

When the Congress enacted the Postal Reorganization Act it was the intent of the Congress to provide that the postal employees shall have all rights of collective bargaining, to be limited to be sure; to be limited in that they have not the right to strike or they have not the right to withhold services. The areas concerning which they have the right to negotiate with their employer, the Postal Service, were attempted to be defined in the bill.

There is no question that among these areas negotiation in terms of collective bargaining could occur. There is no question that excluded from that area were the retirement benefits.

We have said that whatever the Congress does in terms of retirement benefits could apply to the postal workers, although they will have the right to negotiate in terms of collective bargaining improvements in the retirement plan over and above that which other Federal employees receive. The base, however, is established in terms of whatever the Congress does for retirement benefits.

It was my understanding and it was the understanding, I believe, of a great majority of the members of the committee, that fringe benefits involving the Federal employees health program were similarly treated. In other words, that the contribution from the Federal Government for the Federal employees health program would be negotiable as an item of collective bargaining, but negotiable from a base, and the base being that which the Congress sets for other Federal employees.

There was considerable controversy, in retrospect, as to whether the language that was adopted in the postal reorganization bill sustains the conclusion that I just gave to you. It is legitimate controversy, and it is language that is susceptible of different interpretations by reasonable men.

However, in practice, what has occurred is that the Postal Service itself, as well as the negotiators on behalf of the employees, when they were engaged in the collective bargaining process, all assumed that, in fact the interpretation that I place upon those words was the interpretation that prevailed, in other words, that the base for the Federal contribution to the Federal employees health plan would be that base that the Congress enacted, and, as the Congress improved that base, they would have the benefit of that improvement in the base that applies to all Federal employees, including postal workers.

To substantiate my assertion that that, in fact, was the belief and understanding of the negotiators at the collective bargaining session, I have in my possession, and will introduce at the proper time into the Record, affidavits of all the negotiators on behalf of the employees, beginning with Mr. Bernard Cushman, who was the chief negotiator for the National Postal Unions; Mr. Chester W. Parrish, chairman of the Council of American Postal Employees; Mr. James H. Rademacher, president of the National Association of Letter Carriers; Mr. Francis S. Filbey, the general president of the American Postal Workers Union.

All of these affidavits allege in substance, as the affidavit of Mr. Cushman, who served as the chief negotiator for the National Postal Unions, which began in January 1971, and by Mr. Bernard Cushman there is the following:

> As I read the wording of the pages containing the health benefits article, referring to "current contribution level", I asked Mr. Blaisdell, in substance, whether if changes were made in the law, the changes would apply. He said yes. I had assumed that this affirmative answer would be forthcoming, since it had been my general understanding from the negotiations that contractual agreement to continue the health benefits program would incorporate changes made by Congress in the future. I thereupon initialed the article upon behalf of the Postal unions.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Waldie was allowed to proceed for 2 additional minutes.)

Mr. WALDIE. Mr. Parrish, in his affidavit states:

> I distinctly remember that when Mr. Cushman read the clause relating to health benefits insurance, the language of which had been drafted by the Postal Service, he asked Mr. Blaisdell whether amendments to the health benefits law would also apply to postal employees. Mr. Blaisdell said they would. With that assurance, Mr. Cushman initialed the clause.

However, Mr. Blaisdell said that his recollection was imperfect, and he did not recall that conversation.

In short, the negotiators of the collective bargaining agreement assumed the situation to be that a base was established by the Congress, and if that base would be increased they would be recipients of that benefit.

Mr. Chairman, whatever arguments you will hear to the contrary, the situation confronting us is this: There is a dispute as to what was intended. Whether it is legitimate or unreasonable is not really the issue before us today.

The issue is: Shall the postal employees be included in any increase in the contributions by the Federal Government to the premiums for the health insurance plans of the country? I believe they should be.

I believe there should have been no dispute in the beginning, and to the extent that there was dispute in the language used, this is our opportunity to clarify that and make absolutely certain that at this stage, in the infancy of this program, and in the infancy of our experience in the collective bargaining process, that the base should be precisely that which we give all Federal employees.

Mr. Chairman, I ask for an aye vote on the amendment.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, the amendment offered by the gentleman from California should be rejected. It will only result in making an already bad bill much worse.

For a number of years prior to the enactment of the Postal Reorganization Act, the most heavily lobbied legislation before our committee were the great number of bills, introduced each year, establishing a labor-management program and collective bargaining in the Postal Service.

In countless numbers of legislative rallies, petitions, and appearances before our committee, the postal unions sought, more than anything else, the right to be able to sit down with postal management and bargain collectively on pay, working conditions, and fringe benefits.

With the passage of the Postal Reorganization Act, the unions achieved their long-sought objective.

The Reorganization Act, while retaining postal employees under the coverage of the civil service retirement system, specifically left all other conditions of employees' pay and fringe benefits to the collective bargaining process. In a labor contract signed last July, the labor unions won substantial increases in pay, and agreed in writing that the present level of contributions for health benefits would be maintained for the duration of that contract. And now apparently these same unions are either having second thoughts about their effectiveness at the bargaining table, or they are now embarked on a greedy campaign of securing the best of both possible situations—the fruits of collective bargaining and the largess of congressional benevolence.

On April 23, 1970, Mr. George Meany, president of the AFL–CIO, testified before our Post Office and Civil Service Committee, and was quite pleased with what he said were the concessions the postal unions had won from the administration as a result of the work stoppage in March. These concessions were incorporated in the new postal reform legislation.

Mr. Meany said:

> Just think of it in addition to the improvement in wages and hours, and this is from the President's own message, matters that are subject to collective bargaining include such things as grievance procedures. This means grievance procedures as it is carried on in the private sector, which is a far cry from whatever grievance procedure was negotiated before. Final and binding arbitration of disputes, seniority rights, holidays, vacations, life insurance, medical insurance, training, and promotion procedures.
>
> This concession on the part of the executive branch of the government was what brought about this agreement.

So, said Mr. Meany, referring to labor union support for creation of the Postal Service Corporation.

And only yesterday Mr. Patrick Nilan, legislative director of the Postal Workers' Union, testifying before the Postal Service Subcommittee, said:

> We are in a different position from Federal employees. We depend on the collective bargaining process for our benefits.

After the Postal Reform Act was approved by the President in August 1970, with the blessing of Mr. George Meany and all the representatives of the Postal Unions, Mr. James Rademacher, president of the Letter Carriers, editorialized in his magazine as follows:

> With the passage of the Postal Reform Act we entered into an entirely new kind of ball game. No longer must we depend upon our legislative expertise to achieve economic and professional benefits for our members. Instead we must develop and perfect our bargaining techniques—

And the word "bargaining" is italicized.

Continuing, Mr. Rademacher said in his editorial:

> Our victories henceforth must be won through negotiation.

Again, in the same editorial, he said:

> History will certainly record that our most critical time was during the past two years. We suddenly became men with a new-found spirit. We shed the shackles that bound us for years in the halls of Congress, and in our own failure to sense the true dignity of what is rightfully ours.

These statements by three of the prominent union officials involved in the massive effort to secure collective bargaining rights certainly leave no doubt that it was the intention and the understanding of everyone involved that health benefits would in the future be subject to the collective bargaining process.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. GROSS was allowed to proceed for 2 additional minutes.)

Mr. GROSS. If the amendment now pending to this bill is adopted, it will, for all intents and purposes, signal the end of the collective bargaining process which the unions fought so hard to achieve.

If the amendment is adopted, the unions, to paraphrase Mr. Rademacher, will again be shackled for years to come to the halls of Congress, and they will again become dependent on their "legislative expertise to achieve economic and professional benefits for our members."

I submit that we should not let this happen. We should insist, as Mr. Rademacher has stated, that the unions "develop and perfect their bargaining techniques."

It simply cannot work both ways.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Michigan.

Mr. WILLIAM D. FORD. Mr. Chairman, if I heard the gentleman correctly, I am shocked. Did I understand you to just put forth the theory that this Congress by passing the postal reform bill providing that some matters between employees are subject to collective bargaining have divested itself of any authority to legislate on those matters because they are also subject to collective bargaining? Are you saying that anything that is subject to collective bargaining?

Mr. GROSS. Let me answer the gentleman.

By voting for the Postal Reorganization Act, which established that corporation, you divested yourself and your colleagues of any part of this.

Mr. WILLIAM D. FORD. I will admit my shame and anguish for having cast that improper vote. The gentleman was right then, but he is wrong now.

Mr. GROSS. No—I am not.

Mr. WILLIAM D. FORD. He did not vote for the bill—I did. I admit that it was a mistake, but it did not carry with it the intention that he attributes to it.

Mr. HENDERSON. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the Waldie amendment and point out to the Members of the House that the vote in the Post Office and Civil Service Committee was very close.

As I recall, it was a vote of 13 to 12 to reject the amendment.

But we are now asked to say what was the intent of the Congress. If I knew for a certainity that the vote that would be cast here this afternoon would be on the basis of what we did intend at the time we passed the Postal Reorganization Act, I would not be concerned about the outcome at it relates to this amendment.

What has happened to raise doubts about our intent? Perhaps there is some doubt about the intention on the part of some Members of the Congress.

We clearly provided that retirement benefits would be retained for congressional action. We provided that the pay and all other benefits would be negotiated.

What happened? They negotiated. They negotiated with regard to the health benefits in a package. It so happens on that score, they agreed that current benefits, as the law provided, will continue until negotiations in 1973, when they will again be negotiable.

I am sure that the employee organizations are again going to negotiate on health benefits.

But the first time we get a bill before the Congress and before our committee in which it looks like other Government employees are going to get an edge on the postal employees on one fringe benefit, great doubt arises about what the Congress intended.

So they come back now to ask that we make our intentions suit the whim and the most favorable position.

In my opinion, this is not right. It will destroy collective bargaining in the postal system.

Those of us who have been here, remember some of the pay fights as well as the rate fights. But in the pay fights, we all knew throughout the years that the charge was that our civil service employees rode the coattails of the postal employees. They did not hesitate to say that they had the muscle and that they could do it—and the other employees would ride along.

So here in the first instance on legislation as it relates to the other Federal employees, the postal workers argue that they have equity for health benefit adjustments and the postal employees are going to ride on the coattails of other Government employees, then go back to the bargaining table in 1973 and try to up their position without respect to and without giving the other Government employees an opportunity to ride that coattail.

In my opinion, it is just not fair. It is not what the majority of the Congress intended when we reorganized the postal system. I expect many votes today that are going to be affected by the displeasure that many Members have at the present time with the reorganized postal system. I would point out that there will not be the opportunity for that postal system, as reorganized, to reach the improvement that all of us seek, if we in Congress are going to begin to change what they should negotiate between management and collective bargaining. The precedent we are setting this afternoon is far worse than what we actually will be doing by adopting the Waldie amendment.

We can put Congress in the position that we were in before we reorganized the postal system, where they will be coming to the Congress, and every one of us will feel tremendous pressure. If you do not believe it, you can watch the vote this afternoon, because pressures are already here. My colleagues tell me that they are feeling the pressures, and I just hope that there will be enough of us to stand firm to give the management of the postal system some opportunity to use the collective bargaining that the employees, and management, too, wanted.

I was not very happy, as many of you will recall, at the strong support the administration and the postal management gave to the collective bargaining in the postal service, but I can understand why they did it. However, this afternoon, we can cut out their opportunity to make that effective.

I urge the defeat of the Waldie amendment.

Mr. BRASCO. Mr. Chairman, I rise in support of H.R. 12202 and the Waldie amendment. It has been my experience here in the House that Federal employees have been treated more shabbily than any other segment of our national work force, and more often than not the postal employee has been treated worst of all. As a member of the Post Office and Civil Service Committee, I not too long ago supported and voted for the Postal Reorganization Act. I did so with one thought in mind. I recognized that the Comparability Act of 1962 was not working for the Federal employee, and particularly the postal employee.

I understood very clearly that the postal employee in a city like New York could not exist when the cost-of-living was rising higher than what he could earn. So we supported the act with one thing in mind, and that was to do equity to the economic situation that the postal employee faced at that time.

Today we are involved in the same kind of argument—doing justice to the postal employee. Let me tell you what happens if we defeat the Waldie amendment. We, as a nation, have made it a national policy that one of our top priorities is to deliver adequate medical service to Americans at the cheapest price available. As a result thereof, we have this bill before the Congress where in 5 years 75 percent of the cost of health insurance programs would be contributed by the Federal Government toward employee health insurance programs.

Simultaneously, this administration reaffirming our national commitment to health benefits for Americans sent legislation to the House Ways and Means Committee to do the very same thing for all private employees, because that legislation mandates that the very same benefits before us now be paid by private employers to all private employees, so that means very simply that if both pieces of legislation passed, every employee in the United States, Federal and private, would receive employer increases up to 75 percent for health benefits, because we made it a national priority and it should be one, and the only one left out is that same little old postal employee, the guy that you and I have to see when we go back home.

I know some of my friends will say this is something that should be bargained for, that this is something which should be involved in the process of collective bargaining. But let me say this. When the President sent the legislation regarding private employees to the Congress and to the Ways and Means Committee, he did not ask whether or not they should bargain for that increase. And not only do employees in the private sector have collective bargaining, they also have the right to strike, which the postal employees do not have. He was not concerned about that. We could use these same arguments with respect to them, because they really have teeth in their bargaining. They can walk out and withhold their services.

What the President said is that we as Americans must provide for adequate health service for Americans. Are the Members today with the legislation that will be considered today and in the future before this committee going to leave out just one segment of American workers, the postal employees?

In the past we might have been accused of turning away and not listening to the pleas for equity in behalf of the postal employee. I hope today we are not recorded as Members of Congress who have become totally deaf when it comes to equity for the postal employees, because if we are, I do not see how the Members and I are going to go home and face our people who are entitled to the benefits of the Waldie amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I think the Member has made an excellent point, that everybody in this House wants to be concerned about the postal worker. The gentleman knows when postal workers received what they wanted, the right to have collective bargaining, that in that process they received an average 15 percent increase in wages when other Federal employees were being asked to hold back. Those fringe benefits including health services were set aside, because the bargaining parties did not consider this as a high-priority item. The union workers properly wanted greater attention given to the increase in their wages. The postal workers achieved that objective. So to imply that being against the Waldie amendment is voting against the postal employees in your district or in anybody's district is false, and I think it is wrong to imply that.

Mr. THOMPSON of Georgia. Mr. Chairman, I rise in support of the Waldie amendment and of H.R. 12202.

Mr. Chairman, when I first came to this Congress about 6 years ago, I was assigned to the Post Office and Civil Service Committee. I was disturbed to find that the health benefits the postal employees were receiving were paid for by about 73 percent contributions by the employee and about 27 percent by the Federal Government.

Only a few years before it had been a 50–50 proposition, but each time there was an increase in the cost of medical and hospitalization insurance, it was the employee who had to foot the difference, and the Federal Government did not increase its share of the contribution.

I offered at that time a bill which, I think, was a fair, and equitable bill, which basically would have done the same thing as the Waldie amendment, and that was to provide for the Federal Government over a period of time to take over the payment of the hospitalization and medical insurance costs of the employees.

Most of our large national concerns do this for their employees. I do not recall the precise list at this time, but I know I made an investigation at that time which showed Du Pont, Allis-Chalmers, General Motors, Ford, and so on, were paying the full costs of the fringe benefit.

The postal employee has not had the right to strike. He does not now have the right to strike. It may well be that some of these people in private industry obtained this benefit because of their right to strike. We should be responsive to the needs of the postal employees, even though we have a semiprivate operation through a corporate structure of the Postal Service, because the President, and other branches of the Government, have indicated this is a formula he would like to use for other governmental agencies.

I would like to see it used for the postal employees. The postal employees do need help. They do not have the right to strike. They do have the right to collective bargaining, but sometimes the right to collective bargaining is not as forceful when there is not the right to strike as if there is the right to strike. I will not mislead anyone. I do not intend to support the right to strike for the postal employees, because I think their service to America is too vital to have interrupted.

Feeling that way, I feel a duty as a Member of Congress to stand up and look out for some of these people who may not have the same force behind their demands as some of those in private industry, and urge other Members of Congress to do the same.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of Georgia. I yield to the gentleman from Iowa.

Mr. GROSS. The gentleman, I am sure, knows that the postal unions gladly and willingly, as they said, shed their shackles and accepted collective bargaining.

I am not running for the U.S. Senate, but is the gentleman saying that they did not ask for collective bargaining and that this is not one of the fringe benefits subject to negotiation?

Mr. THOMPSON of Georgia. May I add, the positions I take are the same positions I would take were I running for reelection, running for any particular office, or not running for any particular office.

So far as the collective bargaining process is concerned, yes; they did want collective bargaining, and I supported them in that position.

It is a matter of give and take as to what one can get or cannot get and what the various avenues are. One may not get everything one wants, on either side.

The point is simply that the postal employees do not have the same clout that some of those in other industries have, and they are going to need help from some Members of the Congress.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of Georgia. I yield to the gentleman from Florida.

Mr. CHAPPELL. Is it not true that under the Postal Service law the employees have the benefit of compulsory arbitration?

Mr. THOMPSON of Georgia. I am certain they have many benefits of collective bargaining and in certain instances compulsory arbitration.

The point is simply this: They do not have the same privileges as those in private industry have. There is a history of the postal employees not having had the same share of their health benefits paid for, as is paid in most major concerns in America. I believe the time has come when we should try to rectify that situation.

Mr. DANIELS of New Jersey. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California.

The amendment does not propose to grant to postal employees something which was surrendered in collective bargaining. Rather, it clarifies the congressional intent behind the Postal Reorganization Act—a statute in which the Congress obviously reserved a role in the future shape of past employee benefit programs.

It is difficult for me to conceive that the Congress, intent upon improving the economic status of postal employees through the Postal Reorganization Act, meant to deny them the fruits of any statutory liberalization of the health benefits program—unless expressly varied, added to, or substituted for by those employees' bargaining agents. However, I do conceive that intent of section 1005(f) of that act to provide that the benefits referred to therein would continue to apply to postal workers until such time as the negotiating parties agree to abandon or modify them; that is, that unless the parties expressly agree to changes, the referenced statutory provisions shall continue to apply to the Postal Service and to its officers and employees.

Notwithstanding this view, the issue raised by the pending amendment is whether the Congress shall now, if not confirm, at least clarify its previous intent, by resolving the question of the applicability of this bill to the Postal Service, or whether it should leave that resolution to arbitration or to the courts. I submit that the Congress is the authority best qualified to determine what results it wants to accomplish by its own legislation.

Mr. Chairman, adoption of the amendment will accord postal employees the same treatment the bill proposes for all other Federal employees until such time as the statutory provisions are changed by collective bargaining. I urge adoption of the amendment.

Mr. ADDABBO. Will the gentleman yield?

Mr. DANIELS of New Jersey. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I rise in support of H.R. 12202. Ever since my first term as a Member of the House and as then a member of the Committee on Post Office and Civil Service, I have advocated greater, if not full, contribution by the Government toward Federal employees health benefit program. I believed and still believe that this was even more important to the employees than pay raises, for pay raises were quickly eaten up by increased taxes, but fringe benefits put money in the pocket of the employee and it could be used by him for his and his family needs. This much-needed legislation has been too long in coming and I urge my colleagues to give it full support. One sad note is that those of the Postal Service who have always been in the forefront of the battle for this and other fringe benefits are not now included. I support and ask my colleagues to support the amendment offered by the gentleman from California (Mr. WALDIE) which would include the employees of the Postal Service who are also entitled to the benefits under this bill.

Mr. Chairman, this bill and amendment has been too long in coming and is needed and I again urge my colleagues to give it their full support.

Mr. DERWINSKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am somewhat at a loss to understand the thinking of the gentleman from California (Mr. WALDIE) in introducing this amendment.

If my memory serves me correctly, and I believe it does, Mr. WALDIE voted to report H.R. 17070, the postal reorganization bill, from the Committee on Post Office and Civil Service. And, he did not elect to file additional views. He also subsequently voted to pass H.R. 17070 from the House, and then voted for the conference report.

I guide you through this brief review of postal reform history because on all three occasions, Mr. WALDIE was conspicuous in his approval of the legislation, and of course the language contained therein.

During debate of the postal reform bill, the floor manager, the gentleman from Arizona (Mr. UDALL) explained the bill in respect to fringe benefits as follows:

> In our postal reform package we have taken that old postal worker and said, "You will henceforth become a new kind of Federal civil servant. You will have many of the same benefits and programs you previously had, while at the same time, we are going to provide you with new and different programs for career advancement." In effect, we have created a new kind of Federal employee. Let me emphasize at this point that this changeover is welcomed enthusiastically by the employees—it will for the first time, allow them to become a viable force in creating real changes in their working conditions. For the first time they will be able to sit down and really talk with management about bettering their benefits, wages, working conditions, and the entire range of personnel problems.
>
> At the same time, we are still going to preserve those essential parts of the "old" postal employee's civil service status so that he cannot be arbitrarily fired or have his conditions of employment summarily changed.
>
> Let us look at some specifics so you can see what we did in this area.
>
> First. We said that the postal employee will always have the following rights exactly as he has them right now:
>
> a. Veterans' preference as to hiring, adverse appeals, and so forth;
>
> b. Compensation for on-the-job injuries;
>
> c. His entire Retirement program shall remain in Civil Service.
>
> We also said that every time these programs are made better for the regular civil service, so should they be applied to the postal worker.
>
> Second. We then said that every law, rule and regulation that covered the rights of the postal employee subject to collective bargaining would continue in force until they were changed through negotiations between the employees and management. Thus, this postal worker will continue to be guaranteed his job, his merit appointment and promotion procedures, his *health benefits*—everything like this—*until such matters are changed through collective bargaining.*
>
> To make sure that even this provision was not misconstrued, we added the following language:
>
> > No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the employees than fringe benefits in effect on the effective date of this section. (Pages 21–22 of H.R. 17966.)
>
> This means that management cannot ever negotiate a package that is less than the status quo. There is no conceivable way that the benefits the postal employee now has will ever be less.

From that explanation, there seems to be little doubt as to what the committee intended.

Now, let us examine the costs and the practical effects of the Waldie amendment. The Postal Service estimates their additional cost would be, assuming that all items will remain constant except for the increasing percentage of contributions they will pay: 1973, $50 million; 1974, $60 million; 1975, $75 million; 1976, $90 million; and 1977, $100 million.

The practical effect of the Waldie amendment is a postal rate increase. And, John Q. Public will again be asked to fork out a little more to mail a letter.

The Postal Service will not be able to absorb this cost but will have to pass it on to the mail users through higher postage rates.

Congress provided in postal reform legislation that the working agreement between the Postal Service and its employees should be the product of a genuine collective bargaining process. The Postal Service's contribution to the employee health benefit plan is the type of fringe benefit to be agreed on through collective bargaining. To legislate such a fringe benefit would seriously undermine the tradition of good faith bargaining that was created last July 20 when the current National Agreement was signed.

As a result of the negotiated labor agreement, the average postal employee with 10 years of service now has an income of $1,400 a year more than his counterpart in the Government service.

Mr. Chairman, it is abundantly clear this amendment is unjustified, uncalled for, and a terrible, unnecessary expense which will continually be borne by the public through higher postage rates.

Mr. Chairman, if there are any Members who want to insert their remarks for or against the amendment in the RECORD at this time, I will be pleased to oblige them.

I want to be very brief and sum this up.

Basically—and I appeal to your memories—you will remember before we provided for postal reform one of the more interesting events we went through every election year was the excessive demands from postal unions and other employee groups which were necessarily tied in to the proximity of an election. As a result, we drove the deficit in the post office out of sight and did not contribute to any improvement in the postal service to the detriment of the public.

This was finally recognized, and 2 years ago we took the post office lock, stock, and barrel out of politics. This meant that we do not have the appointment of postmasters, it meant we did not dictate promotions, and it meant we do not dictate to the postal department in Washington high-level political postal appointments. It also meant we were no longer to grant in every election year, further pay increases, nor are we required to sit in the laps of the second- and third-class mailers and negotiate favorable rates for them adding to the postal deficit.

You cannot resurrect the game of passing out election-year goodies without having a direct effect on postal rates. Under the new Postal Service Act, the Postal Services goes to a rate commission; they justify their cost of operation and then they receive an increase in postage rates. If you want to be responsible for increasing postage rates, you will do so with an amendment like this.

You will be told it is a one-shot move. That is ridiculous. Once you have established a precedent of coming back in after a contract has been negotiated by the Postal Service and the unions, you establish the precedent of coming in and giving additional fringe benefits. What is to stop you from coming in with a wage increase, and then what is to stop you from changing the whole ball game again and playing God with postage rates?

This is a brazen political amendment and defies everything that we did in postal reform. I hope the House this afternoon will show some statesmanship and support the new concept of postal reform and beat down the amendment.

Mr. HILLIS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to add a strong voice in support of the proposed amendment to H.R. 12202, to assure it applies to postal workers, as well as all other Government employees.

When this bill was drafted by the Retirement, Insurance and Health Benefits Subcommittee, both Chairman WALDIE and the ranking minority member, myself, assumed postal workers would be included in its provisions. It was not until the bill got into the full Post Office and Civil Service Committee that the controversy arose and the committee asked that the subcommittee look into this question further. We held hearings on this issue and, on this basis, would now like to clarify our intent in the bill by adding postal workers in the language, to assure they share the same base of benefits as governmental workers receive.

As we all know, the Postal Reorganization Act gave the independent Postal Service the job of negotiating a contract with a representative for all postal workers. During negotiations, the union representative requested a noncontributory health benefits program, but the Postal Service was adamant that the existing health benefits program be maintained. The formal bargaining contract on this point reads:

> The employer shall continue the health insurance benefit program at the current contribution level for the duration of this agreement.

Postal Negotiator Bernard Cushman has testified that in signing the postal agreement, he asked the Postal Service chief negotiator whether the reference to "current contribution level" meant that if changes were made in the health benefits law by Congress they would apply to the Postal Corporation. The reply was "yes," according to Mr. Cushman—that both sides had this understanding of what the language meant when the contract was signed.

The Postal Service now argues that "current contribution level" means that payment is frozen at the level existing when the bargaining agreement was signed on July 20, 1971. However, since then the Postal Service has compiled with the law which provides that at the beginning of each year, the Government contributions to the health insurance program shall be adjusted to an amount equal to 40 percent of the average of the subscription charges of the six major benefit plans. By raising its health benefit contributions as required, the Postal Service implicitly conceded that it must comply with the Federal Health Benefit Act and increases in that act.

During committee hearings on the question of whether the postal employees should be included in this bill, some committee members and Postal Service officials stated they felt that health benefits are clearly a matter for negotiation and no longer a matter for congressional concern. They argued that the postal employees gave up their rights to be included in legislation like this by insisting upon the right to bargain collectively on these same items. I disagree.

If the Postal Service and its employees actually were totally independent of the U.S. Government, it would be one thing. But the mere fact that the Post Office and Civil Service Committee still has jurisdiction in this area is proof of the fact that Congress feels it still has some stake and responsibility in how the Postal Service operates. Furthermore, the Postal Reorganization Act forbids postal workers from striking, thus clearly setting them off from other workers in the private sector. Because of these distinct differences, I cannot agree with the arguments that the Postal Service and the welfare of its employees is no longer the concern of Congress.

During the course of these hearings, some committee members said they felt the problem lay in a poor contract, which did not clearly enough spell out what would be the rule regarding health benefit increases for postal workers—just what "current contribution level" actually meant. Most probably, the contract should have been worded more clearly.

However, I do not feel that 700,000 postal employees should suffer because of an oversight beyond their control. I believe that in creating the Postal Service, the intent of Congress, among other things, was to upgrade a reportedly low morale among postal workers, to make them more efficient and productive. I do not believe we intended to lower the relative benefits going to postal workers, as would be the result if postal workers are not included in H.R. 12202. I believe we meant to set the Federal Health Benefits Act as a base for these workers, giving them the right to bargain for whatever additional benefits they could derive in negotiations.

In conclusion, let me reiterate that subcommittee Chairman WALDIE and I, as well as some other members of our subcommittee which drafted this bill, intended for postal workers to be included in its provisions. I hope you will agree with us and approve this clarifying amendment to the committee bill.

As health care costs spiral and insurance charges rise correspondingly, we cannot afford to let the families of postal or other Federal employees suffer from insufficient medical treatment simply because the cost of adequate medical coverage has shot above their reach.

The administration has asked for a National Health Insurance Standards Act which requires employers to assume 75 percent of health insurance costs for its employees. Many private businesses already provide this amount, if not all of the cost of health insurance premiums for their employees. I think the Government should be leading, not trailing in this effort.

And I think that if the Post Office is to be given a corporation image, it should also be leading, not trailing in the move to assure workers adequate health care coverage.

H.R. 12202 is designed to meet the guidelines set forth by the President and attempts to bring Federal benefits in this area into line with health policies now followed by more than half of the Nation's largest employers.

On behalf of all postal and U.S. Federal employees, I urge your enactment first of the Waldie amendment, and then this entire piece of very important legislation.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this committee bill and in support of the Waldie amendment.

The Government of the United States, in my opinion, should set the example of progressive legislation and progressive consideration of its employees, rather than lagging behind what may be expected of private employers.

In fact, Mr. Chairman, the primary measure here, H.R. 12202, as has already been pointed out, is an effort to carry out what the President had recommended and that is that private employers contribute up to 75 percent of the cost of comparable health insurance programs.

Surely the Government of the United States should not do less. Surely the Congress should not propose to do less because, as I said, I think we should set the example for the private industry sector of this country to follow.

Mr. Chairman, in respect to this amendment I want to commend my distinguished friend, the gentleman from California (Mr. WALDIE) for proposing the amendment.

Mr. Chairman, I do not see how anybody can deny that the 650,000 people who are the employees of our Postal Service are employees of the Government of the United States. It is provided in the law that they are covered by the provisions of the law relative to retirees. In other words, whatever the general benefits are for the retirement of Federal employees are available to the employees of the Postal Service. Now, there is a subsequent provision in that enactment which gives the postal employees the right to collective bargaining in relation to the terms and conditions of their employment, and the present collective bargaining agreement does provide that the employees shall receive only a 40-percent contribution by the Federal Government to their health programs. But, Mr. Chairman, Congress can improve the terms of an agreement between the Postal Service and the postal employees at least in respect to the Government's obligation to the employees. We can recognize our obligations to these postal employees by providing that Government benefits to other Federal employees is greater than those in effect when the postal agreement was entered into shall be extended to postal employees. Certainly we should do so in a matter so critical and so crucial as the health care of the postal employees and their dependents.

So it seems to me, Mr. Chairman, that the Congress of the United States by all means ought to include the postal employees in respect to this critical matter in the same category as we include all the other Federal employees.

Mr. Chairman, if the right to strike were given to postal employees, and they were treated in every respect like nongovernmental employees, the situation would undoubtedly be different. But we insist upon their obligation not to strike on the assumption that they are Federal employees performing an essential public function. If we put them in that category and deny them the imperative significance of private employment, which is the right to withhold their labor, then we ought to compensate them for that denial by giving them at least the same kind of protection for their health and security and that of their families, which is accorded to other Government employees.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, in opposing the amendment, and in replying to the gentleman from Florida, may I say that as a young man I recall that the gentleman from Florida was the great debater in the other body, so that I hesitate at this point to tangle with the gentleman. But the point is, under the contract which covers the postal employees, they have received salary increases far in excess of corresponding Federal employees. In other words, they are better off under this new Postal Service. If we open up their contract to congressional dictated improvements over and above their contract, what we have actually done is start to move them backwards into the control of the Congress from which we just released them. So in this sense the amendment offered by the gentleman from California (Mr. WALDIE) is a negative step covered by a special facade of progress, but really it is not that, it is negative.

Mr. PEPPER. I will state to my distinguished friend, the gentleman from Illinois (Mr. DERWINSKI), if we adopt the Waldie amendment between the Postal Service and the postal employees, we are merely voluntarily extending to the postal employees the same Government contribution to health insurance programs the Government extends to other Federal employees. We are not invading other areas of agreement involving wages, conditions of work, seniority, and those sort of things. All we are saying is simply that in respect to a matter so vital as the health of these employees and their ability to pay the premiums on policies that cover their health, and that of their dependents, that they ought not to be excluded from the benefits that the Congress bestows upon the other employees of the Government, because they are still substantially public employees.

Mr. DERWINSKI. If the gentleman will yield further, then we should have a large appropriation to cover this additional charge.

Mr. CHAPPELL. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. CHAPPELL. Mr. Chairman, let me say in the beginning, I know a lot of us are on a spot here today. We have always supported the postal workers. We have done everything in the world we can to help. I stand in exactly that same position today. I know that you stand in that position. I think you stand in that position by voting against this Waldie amendment.

Let me see if I can explain to you what I am talking about.

The two men who have led the unions in this fight for postal members to be included in this bill, Mr. Filbey and Mr. Rademacher, I am sure, are hearing the remarks that are being made here today. I want to commend them for the position they have taken in the past in trying to protect the postal workers and in helping secure for them the rights of collective bargaining.

We have an opportunity here today to help them hold what they have been trying to do. But you cannot do it by voting for the Waldie amendment. You do it by voting against the amendment.

Let me quote from some of the remarks that Mr. Rademacher has made on this subject. He said in the Postal Record of July 1970, and remember he is the president of the National Association of Letter Carriers, AFL–CIO:

> It should be a relief to the Congress to rid itself of attempting to manage the world's largest business. It must be a relief to know that it will no longer be burdened by influencing seeking politicians who deprived career postal workers of higher level appointments. It must be a relief to know that it will no longer be necessary to legislate on matters affecting wages and fringe benefits of postal workers.

Then he goes on to say:

> We are pleased with the new challenge which has converted us from lobbyists to negotiators.

Then in the editorial that the gentleman from Iowa (Mr. GROSS) brought to your attention, he very clearly stated the best for postal people is collective bargaining and a throwing off of the shackles of Congress.

Those are the words of Mr. Rademacher in his previous position statements.

Mr. Rademacher and Mr. Filbey on previous occasions, at times when the pressures were not so great as perhaps they are here today, exercised better judgment than they do when they come here seeking the best of two worlds, regardless of right and fairness to other Federal employees.

Perhaps the lobbying pressures are so great here today and so keen the desire of our union friends to show their muscle, that all effort behind the bill will be brought to naught by Presidential veto. Such I predict will be the result—all to the detriment of the employees they represent and to nonpostal Federal workers especially.

Mr. Rademacher, in one of his past publications, says:

> Congress has never granted federal employees an increase equaling $1,000 during a 12 month period, such as was won in negotiations.
>
> Congress has never granted Government workers a $300 cash bonus although an hourly bonus was granted employees in 1945.

He goes on to point out the advantages of collective bargaining as opposed to legislative lobbying—citing the great gains of postal workers as compared to other Federal employees. Let us help Mr. Rademacher further his best efforts by defeating the Waldie amendment.

There is no question, but that the postal unions here are seeking the best of two worlds.

Let me quote from the gentleman of the other union to point out that that is exactly what is being attempted here.

The good president of the American Postal Workers Union on April 25 before the subcommittee of which I am a member said:

> Mr. Chairman, some members of this committee have expressed the thought that the postal unions want to have the best of two worlds or of both worlds.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. CHAPPELL was allowed to proceed for 3 additional minutes.)

Mr. CHAPPELL. Meaning that what we cannot gain by collective bargaining we should be able to obtain through legislative action. He goes on to say:

> At the risk of seeming to be flippant, we are compelled to reply, "Doesn't everyone?"

That is what we are down to, Mr. Chairman. These friends of ours that we have supported down through the years want the best of two worlds. They want the best of two worlds. They want to start their negotiations where the other employees leave off. That is exactly what this amounts to.

Let me point out to you the advantages that our friends have been able to obtain by collective bargaining. They negotiated for and obtained far reaching advantages and benefits which no other Federal employees can presently obtain.

Let me list some of those advantages and benefits, and these are advantages that no other Federal employee has—not one of them. In the contract these are the advantages:

First, no layoffs for the duration of the agreement;

Second, retraining or new job locations for employees displaced by mechanized change;

Third, a minimum of 4 hours pay for call-in work, as compared with 2 hours in other agencies; and

Fourth, disputes are subject to final and binding arbitration.

There is not another single Federal employee who has those advantages.

Then listen to this: They agreed to their contract in return for a more direct remuneration for their members totaling approximately $1,550 per individual. This included an immediate $300 bonus, plus salary increases of $1,200 for a 2-year period. The postal employee has, thus, a $200 to $500 advantage over his equivalent fellow Government employee. So, Mr. Chairman, I say to you what we ought to understand is that when we passed this legislation, we took the postal employee and made him a separate kind of employee. We gave him everything that private industry has save the right to strike against his Government—and gave in its place binding arbitration.

These items no other Federal employee has. And we gave him the opportunity to settle his disputes, to get his advantages by collective bargaining, and that shows to you it has been working.

The CHAIRMAN. The time of the gentleman from Florida has again expired.

(By unanimous consent, Mr. Chappell was allowed to proceed for 1 additional minute.)

Mr. CHAPPELL. I want to conclude quickly, Mr. Chairman. If you will study the law and read it, there is no question but what in the passing of this legislation we made him a different kind of employee, and we are going to do serious harm to him if we adopt this amendment today, returning him to seek redress at the doors of Congress.

I urge the defeat of the Waldie amendment.

Mr. Chairman, by unanimous consent I hand to the Clerk for inclusion in the Record the testimony of Mr. Blaisdell, negotiator for the Postal Service given before the Postal Subcommittee on Retirement, Insurance, and Health Benefits on February 16, 1972:

Statement of James P. Blaisdell, Special Assistant to the Postmaster General for Labor, Accompanied by Louis A. Cox, General Counsel, U.S. Postal Service

Mr. Blaisdell. Yes. I have a statement that with your indulgence, I would like to read first.

Mr. Waldie. Your statement will be included in the record in its entirety; without objection.

Mr. Blaisdell. I am James P. Blaisdell, Special Assistant to the Postmaster General for Labor. I have with me Louis A. Cox, General Counsel of the Postal Service.

I served as chief negotiator for the Postal Service in the collective bargaining negotiations that began in January 1971, and culminated in the collective bargaining agreement that was signed July 20, 1971, between the national exclusive postal unions and the Postal Service.

I welcome this opportunity to explain our reasons for opposing any amendment to H.R. 12202 that would require the Postal Service to increase its share of the cost of employee health benefits insurance. The amendment that is proposed would cost mailers over $100 million annually. It would be inconsistent with a specific provision of the Postal Reorganization Act, as explained in a letter that our General Counsel sent to Chairman Dulski on January 26, 1972, a copy of which is attached. Moreover, the amendment would undermine the necessary foundation of successful labor relations: that conditions of employment are to be settled by agreement at the bargaining table and not elsewhere.

Nothing is more important to the accomplishment of the purposes of the Postal Reorganization Act than successful collective bargaining. It is absolutely essential to a satisfactory system of employee relations in the Postal Service, just as satisfactory employee relations are absolutely essential to a viable postal service. As the Subcommittee well knows, the collective bargaining obligations that the Congress wrote into the Postal Reorganization Act are set forth in the National Labor Relations Act, as amended. A major purpose of that Act is to make collective bargaining contracts binding on both parties. Collective bargaining cannot be successful unless the parties understand that they will have to abide by the agreements they reach through the bargaining process.

To permit postal employees to gain greater benefits from Congress than those they have accepted through the bargaining process would be as destructive of sound labor relations as it would be to permit the Postal Service (or major mailers) to win a reduction in bargained-for postal wages from Congress.

In this connection, some recent remarks of a spokesman for the American Postal Workers Union, AFL–CIO, seem very much to the point. In testimony before a Senate subcommittee holding hearings on a bill to amend the Randolph-Sheppard Act, the Legislative Director of the A.P.W.U. said:

"If this is the course to be followed, the bold legislation of 1970 will become a comic gesture with the Congress reasserting control in one area after another and again becoming the seat of battle between employees and employer with respect to wages, hours, and working conditions."

The January 1972 issue of The American Postal Worker, the official publication of the APWU, prints the quoted statement in bold type. Although the specific legislation before this subcommittee is very different, the principle at issue is precisely that which the APWU describes.

Not only are employee health benefits, like other fringe benefits, bargainable issues under the Postal Reorganization Act and the National Labor Relations Act, but fringe benefits were bargained for in the 1971 negotiations. In these negotiations, the entire compensation package—including "fringes" as well as wages—was bargained for as an overall cost package and the unions had the opportunity to agree to lesser wage increases and greater fringe benefits than those provided in the final settlement.

Mr. Waldie. May I interrupt you, Mr. Blaisdell? Is it your intention that retirement benefits also were bargained for?

Mr. Blaisdell. All matters that pertained to cost were bargained for in the sense that I have just explained.

Mr. Waldie. Are retirement benefits a cost?

Mr. Blaisdell. I would consider them such.

Mr. Waldie. So, it's your understanding retirement benefits, then, were bargained for?

Mr. Blaisdell. Well, as far as the retirement benefits are concerned, they have a greater control in the legal area, which Mr. Cox is in a better position to delineate than I am.

Mr. Waldie. I will get to Mr. Cox, then, in a moment.

Mr. Blaisdell. To reemphasize the point, we had a total money package that we were barganing for.

Mr. Waldie. Mr. Gross just arrived, Mr. Blaisdell.

Mr. Blaisdell. Good.

Mr. Waldie. Please continue.

Mr. Blaisdell. Thus, the very susbtantial wage benefits that the unions won would not have been agreed to had we not also agreed, in the single overall cost settlement, to continue fringe benefit plans at their then current levels. And a change to any one of the interrelated parts of the overall settlement would undercut the basis of the whole settlement. The collective bargaining agreement that was signed on last July 20 specifically provides that:

"The employer shall continue the health insurance benefit program at the current contribution level for the duration of the agreement."

Mr. Waldie. May I interrupt you at that moment? Just so that the record follows, do you recall what the collective bargaining agreement provides relative to retirement?

Mr. Blaisdell. Not exactly. I can find it.

Mr. Waldie. Let me read it into the record at this point. Section 3, article XXI:

"Retirement. The employer shall continue the funding and administration of the retirement program at the current contribution level for the duration of this agreement."

Would you continue?

Mr. Blaisdell. I am aware of a very recent affidavit by Mr. Bernard Cushman, the extremely able chief negotiator for the national postal unions. The substance of Mr. Cushman's affidavit is that, on July 20, after the parties reached agreement, he asked me whether, in view of the reference to "current contribution level" in the health benefits provision of the agreement, any changes which might be made in the law would apply, and that I answered "yes." I do not remember this exchange. I have, however, great respect for Mr. Cushman and I do not doubt that he is sincere in his recollection. But any statement of mine could not have meant that a change in the Federal employees health benefits law which covers Federal employees generally but is not specifically made applicable to the Postal Service would nevertheless apply. Certainly, I would not, and could not, have agreed to such a change in the clear meaning of the written words of the agreement, on an issue of such magnitude, simply on the basis of incidental conversation after the agreement was concluded.

What I did say, on many occasions, is that we would, of course, abide by any legislation enacted by the Congress which is applicable to the Postal Service. But this is entirely different from an open ended "blank check" commitment to casually add what could turn out to be hundreds of millions of dollars of additional costs to an already costly hard-bargained settlement.

In conclusion, Mr. Chairman, let me remind the subcommittee that the Postal Service is still in its formative early years and that what we do now casts a long shadow over the ways in which the Postal Service will develop. In this context, it is hard to imagine a more damaging legislative precedent than a law that grants either to postal management or to postal labor very substantial advantages that it failed to gain—and agreed to forego in exchange for other gains—at the bargaining table. If such a law is enacted, the collective bargaining process would be severely impaired and the essential basis for successful employee relations in the Postal Service would be gravely undermined.

This concludes my prepared statement and I will be glad to respond to questions.

Mr. Waldie. Yes, Mr. Chappell arrived on our committee and I will suggest, with agreement on Mr. Gross and Mr. Chappell's part, that we continue with the statement of Mr. Cox, General Counsel for the Postal Service. Mr. Cox, do you have a prepared statement?

Mr. Cox. I do not have a prepared statement, Mr. Waldie.

Mr. Waldie. Then I would assume you would both be open to questions at this particular point?

Mr. Cox. Yes, sir.

Mr. Waldie. May I, gentlemen, commence questioning?

Mr. Cox, the thing that we are interested in is the understanding of the parties at the time of the collective bargaining agreement as to what items in fringe benefits were, in fact, negotiable items and as to which items the Congress maintains jurisdiction to improve over and above and beyond the collective bargaining agreement.

In that regard, I would like to ask you, Mr. Cox, what your understanding is of the language contained in section 1005, subsection (d) of the Postal Reorganization Act, relative to retirement benefits as compared to a different language contained in that same section under subsection (f) as having application to health benefits? What distinction do you believe exists between those two fringe benefits and the manner in which they are to be handled both by the Postal Service and employee unions and the Congress, if there is any difference?

Mr. Cox. Mr. Chairman, I think there is indeed a very sharp difference and I think that the fact that retirement benefits is treated in a subsection of section 1005, title 39, which is quite different from the subsection in which health benefits and unemployment insurance and life insurance and other fringes are treated in itself makes clear that there is intended to be a difference. I think the difference was most clearly delineated on the floor of the House in the middle of June of 1970, when Congressman Udall was explaining the whole question of what the bill that was then before the House—and in respect to the matters that we are discussing here this morning, it was, I think, identical with what was finally enacted—entailed. If it would be appropriate, I would be glad to hand up copies of a couple of pages from the Congressional Record.

Mr Waldie. We'll include those pages in the record of this committee hearing without objection. (See p. 43.)

Mr. Cox. Yes, sir. May I just mention that perhaps the most significant part of Mr. Udall's statement appeared in a table which I would gather from reading the record he had in front of him when he addressed the House on this subject, in which he compared the ways in which the postal reorganization bill as it then was would treat what he called the "old postal worker," the existing Post Office Department employee, as compared with the "new postal worker," the employee as he would be under the Postal Service, and he delineated in there with very great clarity that in respect for example, to retirement that the old postal worker's retirement benefits would be set by Congress and the new postal worker's retirement benefits would be set by Congress. I think that bears out what the statute seems to me, at least, to say on its face; that the contemplation of Congress was that postal workers would remain under the civil service retirement system as they had in the past. But he also noted that in respect to health insurance and life insurance in particular, that whereas the old postal worker's health insurance and life insurance were covered by laws set by Congress, the new postal worker under the Postal Reorganization Act would find that his health and life insurance would be identical to existing law until changed by collective bargaining, and it seems to me that Congressman Udall's explanation makes really unmistakably clear that an entirely different arrangement was intended in respect to health insurance benefits than with respect to retirement benefits.

Mr. Waldie. Your contention, then, is that retirement is not within the purview of collective bargaining?

Mr. Cox. I think that's correct.

Mr. Waldie. Will you then——

Mr. Cox. Except I would like to just add I think it's correct that the Postal Service could not properly undertake to agree with the unions for any lesser level of retirement benefits than that which is provided under the law that applies to Government workers generally.

I suppose it's at least a theoretical possibility that we could undertake to agree to even greater retirement benefits than that provided for Federal employees generally.

Mr. Waldie. Then will you explain to me why the collective bargaining agreement that was ultimately adopted by all the parties has precisely the same language for the retirement benefits for employees as it does for the health benefits?

Mr. Cox. Well, I suppose——

Mr. Waldie. Would it not be that the language would be different if there were no authority within the parties to collectively bargain over that issue?

Mr. Cox. Well, do you want to talk to him?

Mr. Blaisdell. Well, I would speak to that point.

The purpose, insofar as my recollection is concerned, is to remove any doubt. We were not in a position in the bargaining of January to July, with the pressures that we were under, to indulge in the niceties of the legal distinctions at that time. We wanted to make it clear.

Mr. Waldie. Well, let me read how clear you made it. With reference to health benefits you said: "The employers shall continue the health insurance benefit program at the current contribution level for the duration of this agreement."

You have interpreted that as meaning that the Congress has no right to include health benefits for postal employees without an express determination that they are to be included?

Mr. Blaisdell. Yes, sir.

Mr. Waldie. That this, absent an expressed determination, describes precisely the condition relative to health benefits?

Mr. Blaisdell. That will prevail; right.

Mr. Waldie. That will prevail. In retirement, your language is: "The employer shall continue the funding and administration of the retirement program at the current contribution level for the duration of this agreement."

A learned person would assume since you used the identical language that you used it with the identical intent that you had with the health benefits. That, in fact, it would require a specific act of Congress to increase retirement benefits for postal employees but that, in fact, is not the case, is it?

Mr. Cox. It would not require a specific act using "specific" in the sense of "specifically" applicable to Postal Service——

Mr. Waldie. But I would increase benefits?

Mr. Cox. That's right.

Mr. Waldie. Why is the language identical if the intent is different?

Mr. Cox. Well, I should say I was not a party to the collective bargaining negotiations. I suppose I'm not the best witness on that. I think the point Mr. Blaisdell made a moment ago, as I understood it, was that the collective bargaining agreement talks to retirement insurance—excuse me—retirement benefits simply to lay to rest any doubt that might otherwise have arisen and not because it was necessary to talk to it at all in the collective bargaining agreement.

Mr. Waldie. What was agreed at that time, Mr. Blaisdell?

Mr. Blaisdell. The unions were offered repeatedly the opportunity to take out of the cost package and apply to the various other items that were involved, loosely referred to as fringes, a portion of that package and we would certainly listen to it and probably could reach agreement on that basis. They chose to go the other route, so under the circumstances, in the closing hours of putting this thing together, all we were trying to do on article 11 was to indicate that we would continue the status quo.

Mr. Cox. Mr. Waldie, there is one other thought that it seems to me may be generally relevant here, and that is, if I'm correct in supposing that it would be legally permissible if the parties wish to do so for them to bargain for retirement benefits over and above what Government employees generally have under the civil service, then I suppose this section 3 of article XXI of the agreement takes on an additional meaning.

Mr. Waldie. Well, that's precisely what the postal employees have alleged was their understanding of the health benefits; that the Congress set a basis below which the collective bargaining agreement could not build but that they could go above that either by negotiation or by congressional action.

I gather you assume that that is exactly the correct theory for retirement benefits?

Mr. Cox. No, sir. What I said a moment ago about retirement benefits was that it seems to me you could read this article XXI, section 3, on retirement as impliedly, at least, and maybe explicitly stating agreement in effect that there was no further bargaining for increases in retirement benefits in the mind of the parties for the life of this agreement over and above what might happen under legislation enacted by the Congress.

Mr. Waldie. But that language on retirement—and I'll end this line of questioning very quickly—the language on retirement in your view in no way precludes the Congress from enacting a general retirement law, the benefits of which would apply to the Postal Service?

Mr. Cox. That's correct, sir, and I would call your attention in that connection to section 1 of article XX, which is entitled "Separability," and which says, in pertinent part, that "Should any part of this agreement be rendered invalid by reason of subsequently enacted legislation"—as I take it would be the case in the event of future statutory changes in the retirement benefits set-up—"such invalidation will not invalidate remaining portions of the agreement." So it seems to me the agreement does contemplate that there might be subsequent legislation that would affect some of the areas that are discussed in the agreement.

Mr. Waldie. I think the agreement does contemplate that including health benefits.

Mr. Cox. Well, as you know, sir, we don't agree with you.

Mr. Waldie. Yes, I know; but our attempt here is to determine what the parties, when they entered into the agreement, had in mind. There is an inconsistency here that requires explanation, when they use the identical language for each fringe benefit that we are discussing, but apparently, meant a different meaning for each paragraph. It didn't mean a difference for the retirement but only for the health benefit language.

Mr. Cox. Certainly, on the part of the Postal Service, there was no intention to depart from the, to our minds, very clear pattern that the Postal Reorganization Act had set with respect to these matters and Mr. Blaisdell can correct me if I'm wrong, but I think the Postal Service bargainers at least intended the agreement to read consistently with the Postal Reorganization Act.

Mr. BLAISDELL. That's correct.

Mr. WALDIE. Mr. Chappell?

Mr. CHAPPELL. Mr. Blaisdell, were you present at all of the negotiation sessions which you had between the Postal Service management team and the union representatives?

Mr. BLAISDELL. I believe I was.

Mr. CHAPPELL. Were the unions represented by legal counsel?

Mr. BLAISDELL. They had counsel present a major portion of the time; not always in the collective bargaining room, no, but available in the hotel or wherever.

Mr. CHAPPELL. Did they have available to them, at all times, legal counsel to assist in the drafting of the contract?

Mr. BLAISDELL. They did. To the best of my knowledge and belief, they certainly were present.

Mr. CHAPPELL. Did they participate in the drafting of the contract after the negotiation, after the agreements had been made at the bargaining table?

Mr. BLAISDELL. I'm sorry?

Mr. CHAPPELL. I say, did legal counsel have the right without restriction to help work the will of his people in writing down what they meant in the contract?

Mr. BLAISDELL. I believe that they had access to their counsel at all times to the best of my knowledge and belief.

Mr. CHAPPELL. As far as the Postal Service management team is concerned, they had the opportunity of legal counsel at all times, didn't they?

Mr. BLAISDELL. We had the same opportunity, that's correct.

Mr. CHAPPELL. It seems to me that the Congress is being asked to interpret a contract; am I not correct? This was a contract that was entered into in good faith between management and the employees in the Postal Service, is that not right?

Mr. BLAISDELL. Well, I believe that's correct, sir. The contract certainly was entered into in good faith on our part and I have every reason to believe so on the part of the union.

Bear in mind, however, in terms of the question of whether or not you feel there is ambiguity in it, you asked about counsel. Mr. Cushman is a lawyer and a very able one as well as spokesman for the——

Mr. CHAPPELL. Who is Mr. Cushman?

Mr. BLAISDELL. Mr. Cushman is spokesman for the unions.

Mr. CHAPPELL. So, he was an active part of this, wasn't he?

Mr. BLAISDELL. That's right.

Mr. CHAPPELL. I notice in paragraph XXI (d)—which we have been speaking of on page 27 of the contract—that the language is identical in four instances, as it relates to health insurance, to life insurance, to retirement, and to injury compensation not just in the two instances previously mentioned. That's sections 1, 2, 3, and 4 carry the same in separate sections in the contract

Now, if there had been any question in the minds of Counsel Cushman and those who had a part in the negotiating and drafting—if there was any question in the minds of these good lawyers—that was the time to raise it, don't you think?

Mr. BLAISDELL. I would have thought so. I thought the intent was clear that we only meant to continue the status quo and that's all there was to it. As to the exchange that was referred to in Mr. Cushman's affidavit, as I said in my opening statement, I have nothing but respect for Mr. Cushman's integrity. If the exchange took place, it showed a misunderstanding in regard to the difference between the idea of whether or not the Postal Service would attempt to get out from under a law passed by Congress with the intent to apply to the Postal Service and the idea of whether as a matter of contract we were buying a blank check. We could not do the latter under the conditions in which we were bargaining.

Mr. CHAPPELL. Well, if there is a simple misunderstanding between management and labor in the matter, certainly the Congress of the United States is not the proper forum. The court would be the proper forum; isn't that correct?

Mr. BLAISDELL. If they claim we are not living up to the contract as written, I would say that is probably so.

Mr. CHAPPELL. If they think their negotiators did a poor job in negotiating, which may very well be the case, then again, the Congress is not the proper forum for that when we have attempted to give to the Postal Service the power of collective bargaining with management; isn't that right? So, the Congress, again, is not the proper forum to upgrade the contract, is it? That would be back at the negotiating table, wouldn't it?

Mr. Cox, let me ask you that. Perhaps you understand what I am saying.

Mr. COX. Sir, I think you are quite correct. I think what you say is absolutely sound.

Mr. CHAPPELL. So we have one or two things we are being asked here—to rectify and improve some poor bargaining which was done on the part of the leadership of the union, or we are asked here now to go back and correct a misunderstanding which may have occurred—and neither, in my view, is a matter for the Congress at this time.

Now, let me ask you this; either one of you—the one that is best qualified. Isn't the very purpose of collective bargaining on the part of this group—the Federal employees—to give them the very best opportunity to improve their situation as they relate to all of the matters conditioned upon their employment? The intent and purpose of it was to give them an opportunity to gain through collective bargaining that which they felt could not be gained through coming to the Congress every year or every 2 years; isn't that right?

Mr. BLAISDELL. That is true, and it's borne out by the agreements that were entered into in April of 1970, following the postal strike and it has been the case ever since.

Mr. CHAPPELL. Now, isn't it true that the postal employee has all of the advantages which the Federal employee in other areas have plus he has some very definite advantages such as the no-layoff provision; isn't that right? Isn't that one of the advantages which other employees don't have?

Mr. BLAISDELL. A no-layoff provision is a part of this agreement.

Mr. CHAPPELL. And that lasts for the duration of this agreement?

Mr. BLAISDELL. It does.

Mr. CHAPPELL. And second, what about when the employee loses his position? What happens? Isn't a postal employee in a better position than another Federal employee in that regard?

Mr. BLAISDELL. I believe by reason of that agreement negotiated in this agreement, he is better off.

Mr. CHAPPELL. As a matter of fact, you have to retrain the employee and he maintains his rate of pay for the duration of the agreement. That's a definite advantage over the other Federal employees, isn't it?

Mr. BLAISDELL. I believe it is.

Mr. CHAPPELL. And then if he's displaced, under that agreement you are required to find him a new job and pay his moving costs within the moving distance; isn't that right?

Mr. BLAISDELL. Correct.

Mr. CHAPPELL. Now, that's an advantage over the other Federal employees, isn't it?

Mr. BLAISDELL. I believe it to be.

Mr. CHAPPELL. Don't you have a provision in there, too, that provides for a 4-hour call-in or reporting provision guaranteeing 4 hours pay even if the employee is not needed for the full 4 hours?

Mr. BLAISDELL. We do.

Mr. CHAPPELL. So you pay him a minimum of 4 hours, regardless. Do you know of any other place in the Federal employment practice where that is true?

Mr. BLAISDELL. I'm not aware of it.

Mr. CHAPPELL. I think, as a matter of fact, the other agencies only pay a maximum of 2 hours under any circumstances; isn't that right? So this is double the advantages afforded other Federal employees on this point, isn't it?

Also, haven't you provided in this agreement for cost of living guarantee, which becomes effective July 1972?

Mr. BLAISDELL. We include the cost of living provision.

Mr. CHAPPELL. Now, do you know of one in the other sectors insofar as other Federal employees are concerned?

Mr. BLAISDELL. I do not.

Mr. CHAPPELL. Now, in your situation here, too, you provide that disputes are subject to final and binding arbitration which is in lieu of the strike provision; isn't it?

Mr. BLAISDELL. Binding and final under the bargaining agreement. It is, I believe, the first example of it anywhere in the Federal sector.

Mr. CHAPPELL. That's right, and that differs from the other Federal employees in that the other agencies may submit to final, binding arbitration but it's subject to the pleasure of the agency head; isn't it? And here it's a matter of binding contract; isn't it?

Mr. BLAISDELL. It is.

Mr. CHAPPELL. What I am saying is that in the establishment of the Postal Reform Act the intent of those who voted for it—and I'm one who voted for it—was to make the postal employee some kind of a special Federal employee; to give him an opportunity to collectively bargain and get himself in a better position than other Federal employees; to give him that latitude. And, at the bargaining table he obviously has to bargain. He bargains for an advantage here and he has to provide maybe for a whole provision in some place else. But, the point is, he has the opportunity to bargain where the other Federal employee is not in that category. He has all of these other advantages I mentioned earlier.

I venture to say if the Congress came back now and started taking away these provisions which had been gained at the bargaining table, that the postal employee would be the first one to be hollering that under the Postal Reform Act we didn't have the right to change a contract or go back in and change that which has been negotiated at the bargaining table.

Don't you suppose that would be true?

Mr. BLAISDELL. I sincerely hope so.

Mr. CHAPPELL. What I am trying to say, Mr. Chairman, is it seems to me that all of us are after that which is the very best for our Federal employees and that which is best for the postal workers. I hope that we are not going to retrogress by taking, at one moment, hold of a situation that may have arisen by misunderstanding or other reason, and start going behind the contracts and overriding them because, whereas today it might be an advantage to the employee, tomorrow it might be a serious disadvantage. As a matter of fact, that's what the union leadership was concerned about when they worked to help bring about the passage of this—to get collective bargaining which is above and beyond that which is provided for other Federal employees. I hope, personally, that we are not going to get into a situation where every time you fellows negotiate a contract the Congress looks at it and if it likes it it confirms it and if it doesn't it changes it. If there's anything wrong in that particular provision, it seems to me that you fellows ought to go back to the negotiating table and bargain about it there; certainly not come before the Congress and ask us to rectify an error, if it was an error, or correct a misunderstanding, if that's what it was.

Thank you, Mr. Chairman.

Mr. WALDIE. Mr. Hogan?

Mr. HOGAN. Mr. Blaisdell, your statement indicated that the conversation between you and Mr. Cushman took place after the agreement had been reached. So in a sense, it was not part of the negotiations in any way; is that correct?

Mr. BLAISDELL. I was referring to his affidavit which indicates a conversation that he refers to took place at the time we were initiating provisions that had been agreed to.

Mr. HOGAN. So in other words, the agreement had already been reached before this even came up in conversation?

Mr. BLAIDSELL. That is correct.

Mr. HOGAN. What would have been your position if he, during the active negotiations before agreement was reached, had said that if the Federal employees get an increase in health benefits we should get the same?

Mr. BLAISDELL. Our position was predicated throughout the bargaining on the idea that the package of the cost-of-wage increases and all other cost items could be just so great in the condition the economy was in. What we were up against in coming into a new era where all income in the reasonably near future had to come from revenue stamps and not from the munificence of Congress, was that the cost thing had to be kept under control and that when we talked cost we were talking an entire package of costs.

Therefore, my answer at that would have been: We cannot deal in uncertainties or flexibilities. We cannot agree to anything whereby a cost might be increased beyond our control, as distinguished from the bargain that we are prepared to make here at this table.

Mr. HOGAN. But now, wouldn't the same argument apply to an increase in Federal retirement which clearly is to be set by Congress? I mean, the economics argument which you have just argued?

Mr. BLAISDELL. The question is one of whether under the law as it exists, and I have to defer to Mr. Cox, the Postal Service can be saddled with increased costs beyond its control. It would constitute a very difficult problem in relation to the financing of the Postal Service. Legally, I can't answer that question. I don't know how it stands.

Mr. COX. What I think, Mr. Hogan, is that the nub of it simply is that the Congress set up an entirely different and separate arrangement with respect to the applicability of the retirement benefits for postal employees, which gets back to the point we are talking about at the beginning of this session——

Mr. HOGAN. I understand that, but let's envision a collective bargaining situation where admittedly, when Congress raises the benefits of retirement for Federal employees it would apply to postal employees.

Mr. COX. Yes, sir.

Mr. HOGAN. So, we are sitting at the negotiating table, now, and the unions are demanding an increase over and above what Government employees get. That's a negotiable item; right?

Mr. COX. That's my understanding that it is; yes.

Mr. HOGAN. So, in effect, what the postal reorganization bill does with respect to retirement is to create a floor below which the postal employee retirement will not go but during the course of negotiation they could certainly negotiate a more favorable retirement plan than other Government employees?

Mr. COX. That's correct.

Mr. HOGAN. But as the law is written, or as you interpret the law, this same floor does not apply to health benefits?

Mr. COX. That's correct. The law as it existed immediately prior to the effective date of the part of the Postal Reorganization Act dealing with this matter is a floor, but not any after enacted changes in that law.

Mr. HOGAN. Well, I think that many of us who supported postal reorganization—it was a very complex piece of legislation—but, frankly, I think it was an oversight for us not to have given the same kind of floor to health benefits as we did to retirement. I think we all share the guilt in this regard. If a remedy is necessary, then this is the purpose of these hearings today. I don't think any of us really wanted the postal employees to be put into a category of second-class citizens because, as you know, the postal employees were very dubious about the Postal Corporation and fought it for a while. I can recall giving assurances to them personally that they were not going to be worse off under postal reorganization than they already were. I, for one, was not aware until this current crisis arose as to whether or not they could conceivably get lesser health benefits than other employees. I don't know that that ever came up.

Do you, either of you, recall that it did at the negotiations?

Mr. BLAISDELL. If I understand you, Mr. Hogan, there is a floor to the health benefits, too, under the statute unless changed by collective bargaining and it wasn't changed by collective bargaining.

Mr. HOGAN. But the floor is the existing level.

Mr. BLAISDELL. Exactly.

Mr. HOGAN. But under retirement, it's a flexible thing. If Congress raises retirement benefits, then the floor that you are negotiating from is, in turn, raised; is that correct?

Mr. BLAISDELL. Under retirement, I defer to counsel.

Mr. HOGAN. I think this is what counsel said a minute ago.

Mr. BLAISDELL. But the fact that that happens to be the case, if that's correct—and I'm not challenging it; I just don't know—as far as retirement is concerned, does not mean that we should extend that same condition to further encroachment on the bargaining area. You cannot carry on collective bargaining successfully over a period of years if you are trying to carry it on in two forums and the Postal Service is charged with the responsibility of becoming a self-sustaining organization within a reasonable period of time and they cannot accept and live with that if they can have their costs varied by edict here, irrespective of the bargain they make across the bargaining table.

Mr. HOGAN. So, in other words, you think it would have been wiser for us to have excluded the retirement provision, too?

Mr. BLAISDELL. Actually, I do.

Mr. HOGAN. Well, I think we have to recognize that with the postal employee, we have a hybrid kind of situation. He is neither fish nor fowl. He is neither a pure Government employee nor a pure union member employed by a private company with all of the benefits of negotiation. I am a stanch opponent of the right to strike by Government employees—although I have heard the Postmaster General say he didn't think that was a bad idea, which gave me quite a bit of concern. But they don't have the right to strike and because they don't, we have to treat them differently than we do employees in the private sector who do have the right to strike in the give-and-take of collective bargaining. From my point of view I think it was an oversight that we didn't include health benefits with the same kind of a floor.

Mr. BLAISDELL. Well, Mr. Hogan, if you are talking about the kind of floor that means any adjustment which is paid in the Federal sector generally is going to be extended to the postal employees, that withdraws a very important segment of the overall cost span from collective bargaining. If collective bargaining is going to be real in the sense that is known in the private sector, it has to include costs. Those are the blue chips that make bargaining real. That is why the collective bargaining agreements under the Executive order are studies in nitpicking, because they do not deal with the important things—they do not deal with the heartbeat of a true collective bargaining relationship.

Mr. HOGAN. Don't you also agree that the right to strike is a weapon in collective bargaining which postal employees do not have?

Mr. BLAISDELL. I certainly recognize that as a matter of law. I know that they have engaged in one strike, however.

Mr. HOGAN. Would you favor giving employees the right to strike?

Mr. BLAISDELL. I have to answer that, Mr. Hogan, in this fashion. From my standpoint sitting on the side of the table of the employer, attempting to represent his interests, many of the issues would be easier clarified over the bargaining table if you had to boil it down to the question of whether or not it was a strike issue, and that can only be done when they have the right to strike: Therefore, at times I might wish they had the right to strike in order to make bargaining easier but I think my opinion must be subordinated to the fact that, as we all know, the Postal Service is unique and it serves these entire United States and therefore, is deeply involved in the public interest. Therefore, I think it would be presumptive of me to try to speak for policy in that respect. My own personal opinion is sometimes it would be easier for the guy at the bargaining table if they had it.

Mr. HOGAN. Well, the fact that they are a hybrid-type of creature, I think, requires a different kind of situation. We don't have the pure collective bargaining atmosphere that you alluded to so I think that we have to accept that they are Government employees and when we change the structure we must recognize they are Government employees. We might just as easily have turned the whole Postal Service over to A.T. & T. if we didn't want to continue to consider them Federal employees.

Mr. BLAISDELL. But, Mr. Hogan, you haven't mentioned the fact that they have a weapon that is the best answer in the absence of a right to strike, to wit: compulsory arbitration, and therefore, if we had failed to reach voluntary agreement at this time, why the whole kit and caboodle would have been put before an arbitrator and if he was faced with the issue of whether or not there should have been adjustment in the health benefit program, he would have had to weigh that along with what was given elsewhere and therefore, at least the arbitrator would have a similar perspective at the time that the decision was rendered. But in this situation, why the then Postmaster General went way out in terms of giving a tremendous package to bring about voluntary settlement and give the chance to the Postal Service to fly, to give the chance for real collective bargaining to work out in the public sector, where it had never been tried before under like circumstances.

Now, under those circumstances, we come now, after the bargain has been struck, and determine whether or not they should be saddled with an additional cost bill. It seems to me it's in quite a different light.

Mr. HOGAN. I have no further questions.

Mr. WALDIE. Mr. Gross?

Mr. GROSS. Thank you, Mr. Chairman.

My colleague from Maryland, Mr. Hogan, in opening his remarks, said that "We all share in the guilt of postal reform." Mr. Chairman, I must offer an amendment to that——

Mr. Hogan. Everyone except Mr. Gross.

Mr. Gross. Because I didn't support it.

Were you an employee of the Postal Department at the time, Mr. Blaisdell, when the Postal Reform Act was in the process of being——

Mr. Blaisdell. I was here in the capacity of a consultant at that time in the labor field; yes, sir.

Mr. Gross. And it's true, is it not, that with one or two exceptions—I believe one but perhaps two—every postal organization, every postal union, supported postal reform, the Postal Reform Act; is that not true?

Mr. Blaisdell. That is correct, by agreement entered into in April of 1970.

Mr. Gross. Mr. Blaisdell, title 39 of the United States Code, which embodies the Postal Reform Act, section 1005, paragraph (d), states as follows—the first sentence:

"Officers and employees of the Postal Service (other than the Governors) shall be covered by chapter 83 of title 5, realting to civil service retirement. The Postal Service shall withhold from pay and shall pay into the civil service retirement and disability fund the amount specified in such chapter."

That's pretty clear; isn't it?

Mr. Blaisdell. May I defer to Mr. Cox on that question?

Mr. Gross. Yes, of course.

Mr. Cox. Yes, sir. I think it's clear.

Mr. Gross. Thank you, sir. Is it your understanding of the provisions of title 39, covering fringe benefits, that postal employees are automatically entitled to any liberalization in the fringe benefits program enacted by Congress for other Federal employees and if so, why?

Mr. Blaisdell. It's my opinion to the contrary.

Mr. Gross. It's your opinion to the contrary.

Mr. Blaisdell. My reason to the contrary is as stated; it would be destructive of the possibility of successful collective bargaining.

Mr. Gross. And the national agreement of July 20, 1971, states in article XXI, benefit plan, section 3, retirement:

"The employer shall continue the funding and administration of the retirement program at the current contribution level for the duration of this agreement."

Isn't this language superfluous?

Mr. Blaisdell. Based upon Mr. Cox's opinion, I'd say it is.

Mr. Gross. Because it's the law——

Mr. Cox. Yes, sir.

Mr. Gross. Right?

Mr. Blaisdell. Yes.

Mr. Gross. Mr. Blaisdell, I am interested in your statement that the amendment, which proposed to include postal employees under the provisions of H.R. 12202, would cost the mailers over a hundred million dollars annually. Are you aware that in the fiscal 1973 budget the Civil Service Commission is proposing a supplemental appropriation for the mandatory payment to the civil service retirement and disability fund to finance the unfunded liability created by postal salary increases which were negotiated last July? The three postal salary increases in 1972 will create additional unfunded liability on June 30, 1972, requiring 30 annual payments of $62.9 million. Are you not equally concerned that the taxpayer has to pick up this tab and that it, in fact, represents a subsidy to the postal workers?

Mr. Blaisdell. I am very concerned on that very basis, if I understand you, that this is an added cost bill where we are struggling to meet the bill that we agreed to in this contract.

Mr. Gross. And you are aware that this committee has approved legislation, the House has approved legislation coming from this committee, to provide that the Postal Corporation take care of the unfunded liability to the retirement fund?

Mr. Blaisdell. We are aware of that.

Mr. Gross. Thank you, sir. That's all, Mr. Chairman.

Mr. Waldie. Mr. Blaisdell, I gathered you, in response to Mr. Gross' question, said that section 1 of the contract dealing with health benefits which reads, "The employer shall continue the health insurance benefit program at the current contribution level for the duration of this agreement," is superfluous because it's simply a statement of the law; is that correct?

Mr. Blaisdell. No; I thought he asked me in connection with the retirement section 3. That was my understanding. My answer was meant to be that.

Mr. Gross. Yes, it was directed to section 3.

Mr. Waldie. Oh. Do you believe section 3 is a statement of the law?

Mr. Blaisdell. Well, based upon Mr. Cox's statement.

Mr. Waldie. Well, let me ask Mr. Cox, then.

Mr. Blaisdell. Very well.

Mr. Waldie. Mr. Cox, do you believe section 3 is a statement of the law?

Mr. Cox. I believe it is of the law as the law stands at the moment.

Mr. Waldie. Section 3 says: "The employer shall continue the funding and administration of the retirement program at the current contribution level for the duration of this agreement." The law says that if Congress changes the retirement level it will apply to postal workers so that you cannot continue it for the duration of the agreement.

Mr. Cox. That is precisely what I had in mind when I said a moment ago it's a statement of the law as the law stands at the moment. You may have stated it more clearly.

Mr. Waldie. But it says "for the duration of this agreement."

Mr. Cox. I understand, but of course, if there was a change in the Federal retirement benefits legislation——

Mr. Waldie. It isn't a statement of the law, then, is it?

Mr. Cox. Well, it is only in the sense that I expressed a moment ago.

Mr. Waldie. Well, is section 1 a statement of the law with respect to health benefits in the same vague statement that you said section 3 is a statement of the law?

Mr. Blaisdell. May I answer?

Mr. Waldie. Let me read section 1 to you.

Mr. Cox. I have section 1 in front of me, Mr. Waldie.

Mr. Waldie. Now, is section 1 which is the identical language, the same identical interpretation of the law as you say section 3 is?

Mr. Cox. Let me say this. In view of the language of the Postal Reorganization Act, it was more appropriate, if you will, to talk to health benefits than to retirement benefits in the collective bargaining agreement.

Mr. Waldie. You misunderstand my question. Is section 1 a statement of the law in the same sense that section 3 is, as you have defined it?

Mr. Cox. No, sir; I do not think it is.

Mr. Waldie. It is the same language, is it not?

Mr. Cox. Yes, sir.

Mr. Waldie. OK. Why is it differently interpreted if it's the same language?

Mr. Cox. Because we are dealing with two quite different sets of statutory language.

Mr. Waldie. Should we not have used the different language in dealing with them?

Mr. Cox. In the bargaining agreement?

Mr. Waldie. Yes.

Mr. Cox. I don't think I can speak for that because, as I said, I was not present in the collective bargaining——

Mr. Waldie. But you as an attorney in reviewing the collective bargaining agreement, should you not have used separate language to make the intent of the parties different? Was the intent of the parties different used in section 1 and section 3, in your view?

Mr. Cox. It is very difficult for me to speak to the intent of the parties.

Mr. Waldie. Well, without knowing any more than the language, was the intent different if you had no idea what the parties intended and if you were to read this language and knew nothing about the background—this is an agreement; you were given the agreement as an attorney to read sections 1 and 3. Would you interpret them differently?

Mr. Cox. If I had in mind the Postal Reorganization Act, I would interpret them differently.

Mr. Waldie. Suppose you had in mind the collective bargaining agreement only, would you interpret the language?

Mr. Cox. I suppose if I only had this article XXI, nothing else, and I would see identical sets of language, and by your very hypothesis I think I would have to assume that the identical sets of language meant identical things, but I don't suppose we ever read a thing in a vacuum, in that sense.

Mr. Waldie. No; so we have to assume they meant different things and, in your view, section 3 is an exact statement of the law and section 1 is also?

Mr. Cox. No; I didn't say that, sir.

Mr. Waldie. Oh. Section 1 is an exact statement of the law?

Mr. Cox. No. I said that section 1 is a statement of what the parties agreed to. It's consistent with the law but it's not a statement of the law. The law intended there would be a collective bargaining agreement over the issue covered in section 1. The law permitted but I don't think intended in the same sense that there might be collective bargaining in respect to retirement over and above what the Federal retirement legislation provides. I think there is a material difference between the two.

Mr. Waldie. In January of this year, the Postal Service raised the amount of their contribution level for health benefits, did they not?

Mr. Cox. Well, I'm sorry, sir. I can't answer that question.

Mr. Blaisdell. I can't answer it either.

Mr. Waldie. Well, if I were to tell you that they did, would that be contrary to section 1?

Mr. Cox. Well, I'd want to know more about the circumstances, Mr. Waldie.

Mr. Waldie. Well, let me read you this question as it was presented to me. How do you explain the fact that the Postal Service raised its contributions in January 1972, in accordance with the formula in section 8906? Is this not a departure from the literal interpretation of the words "current contribution level" standing alone?

Mr. Cox. Well, now I should say, sir, that I am not intimately familiar with 8906. I believe this is the section that speaks of taking the average of the costs of the high options of the six leading plans, or something of the sort.

Mr. Waldie. That's what it is. That's what it is, and in accordance with that, the Postal Service raised its contribution on behalf of the employees subsequent to the execution of this agreement where you agreed you would continue the health benefit program at the current contribution level for the duration of the agreement. Apparently, you interpreted that language as permiting an increase in the contribution of the Postal Service?

Mr. Cox. Well, I think that the level was probably in the mind of the parties when they agreed to this language that we have been talking about in the collective bargaining agreement was the percentage level; that is to say, 40 percent. I can, of course, defer to Mr. Blaisdell since he was a party to those negotiations and I was not, but do I understand—I don't think I understand you as suggesting we made an increase of the 40-percent level?

Mr. Waldie. No, you made an increase of the amount of dollar contribution.

Mr. Cox. As a result of arithmetic computations.

Mr. Blaisdell. That is what I assume must have happened.

Mr. Waldie. So the meaning of the language, if that's what happened, is a current contribution formula; not current contribution level?

Mr. Blaisdell. That is correct on the basis——

Mr. Cox. On the basis of 40 percent; not 55 percent, for example.

Mr. Waldie. Does the question involving those people that are not permitted to engage in collective bargaining, the supervisors, for example, are they bound by this collective bargaining agreement if we increase benefits for health plans for all Federal employees? Will the supervisors of the Postal Service benefit from that improvement without an express inclusion?

Mr. Cox. No, sir; not in our view.

Mr. Waldie. Even though they are not parties to this agreement?

Mr. Cox. That's correct, sir. We base our views, as I believe you understand, on our reading of 39 U.S.C. 1005(f) and the legislative history that we referred to earlier. Of course, we do have an obligation under this statute and specifically, under 39 U.S.C. 1004, to provide compensation, working conditions, and so forth, that will permit an appropriate relationship between the level of the compensation of a supervisor and that for bargaining unit employees, as I believe you know.

Mr. Waldie. But though they are not part of this agreement, it's your interpretation of the act that a general increase in benefits for other Federal employees would have no application to them absent a specific inclusion in the act?

Mr. Cox. That is correct, sir.

Mr. Waldie. Is that also the case with Postal Service retirees?

Mr. Cox. No, sir. I think the case there is quite different.

Mr. Waldie. What is the situation with Postal Service retirees?

Mr. Cox. Well, they are not postal employees strictly speaking. They are not, as I understand it, subject to the collective bargaining agreement nor are they subject to the administrative procedures for setting compensation for those who are not within the bargaining units and I do not believe that they would be in the same boat at all.

I may say I am not a deep student of this subject. I don't want you to take my opinion as an expert one necessarily, but it's my off-the-cuff first impression that they would be treated like other Federal employees.

Mr. Waldie. Any other questions?

Mr. Chappell. Yes, Mr. Chairman.

Mr. Waldie. Mr. Chappell.

Mr. Chappell. Mr. Cox, as an attorney, let's turn to section 1005, title 39, United States Code, which is the one relating to the Postal Service. Mr. Gross has already read from subsection (d) there where the language is perfectly clear that it is intended that retirement be treated separately since the separate paragraph isn't completely set apart from all the rest; isn't that right?

Mr. Cox. Yes, sir; and if I may say so, Mr. Chappell, I believe it was before you came into the room, we did submit for the record to the subcommittee some legislative history that further bears that out which I think is exceptionally clear.

Mr. Chappell. Not only is it clear that it was intended to be set apart from other things, but it's also clear in paragraph (f), if we might read it, that it was clearly intended that health benefits be a part of collective bargaining and let me read:

"(f) Compensation, benefits and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the former Post Office Department or the executive branch of the Government of the United States, shall continue to apply to officers and employees of the Postal Service, until changed by the Postal Service in accordance with this chapter and chapter 12 of this title."

Now this is where it gets specific and precise:

"Subject to the provisions of this chapter and chapter 12 of this title, the provisions of subchapter I of chapter 85"—and chapter 85 deals with unemployment compensation—"and chapters 87 and 89 of title 5"—chapter 87 covers life insurance and chapter 89 covers health insurance, just as plain as the nose on your face. It just says that "chapters 87 and 89 of title 5 shall apply to officers and employees of the Postal Service, unless varied, added to, or substituted for, under this subsection."

And, it provides specifically:

"No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the officers and employees than fringe benefits in effect on the effective date of this section, and as to officers and employees for whom there is a collective-bargaining representative, no such variation, addition, or substitution shall be made except by agreement between the collective-bargaining representative and the Postal Service."

Now, there have been some that say it might have been a matter of oversight. There isn't any oversight. I have never seen a law that spelled it out more clearly than that law. Do you concur with that as a lawyer?

Mr. Cox. Yes; I do.

Mr. Waldie. Let me, Mr. Chappell, just ask a question in connection with that.

If it's as clear as it appears to be as you have read it, why would the collective bargaining agreement be so confusing in the language they used in handling the two issues?

Mr. Chappell. Mr. Chairman, you make the very point I have been talking about. This committee has no business here writing a contract. You can say they miswrote the contract or you can say anything you want to, but this Congress has no right to now change the wording in the contract and change the agreements when the law is perfectly clear that this is a negotiable item and was intended by the Congress to be a negotiatiable item.

Mr. Waldie. Except you could conclude, as the postal union have argued, that it was not as clear as you have suggested. That, in fact, the parties when they entered into the contract, intended to permit a negotiation on this issue as a level but subjected to the possibility that Congress would act further on it.

Mr. Chappell. Mr. Waldie, I could not disagree with you more. Here are reasonable men sitting down to the counsel table with the best lawyers in the country and if I were sitting as a judge and these people came to me and tried to tell me those high-powered lawyers didn't understand that provision in the law and that they should have protected themselves in the contract, I would say to those lawyers, you better go and hire yourselves a lawyer.

Mr. Waldie. Would you say that for the Postal Service, too?

Mr. Chappell. Yes, sir. I say it to the whole bunch of them. I say that the only thing that had to be put in the contract—and I don't profess to be any brilliant lawyer, but it's very clear to me if labor was concerned about it, the negotiators were worried about it, they were satisfied or dissatified with the provision, if they thought that they hadn't gotten all they should have at collective bargaining—at that point was to write in section 1 that the employer should continue the health insurance program at the current contribution level for the duration of this agreement or at such other level as might be prescribed by Congress; whichever should be the higher. It doesn't take much of a lawyer to do that, and I can't believe the lawyers involved in this proposition wrote down anything other than what they intended.

I just don't believe that.

Mr. Waldie. You think that is what they intended in section 3, also?

Mr. Chappell. I don't think the fact that you used different wording has a thing in the world to do with it. Apparently, they were satisfied with this provision and they were the ones who wrote the words. We are not supposed to be sitting here as a court trying to interpret a contract, we are here to——

Mr. Waldie. Well, I think——

Mr. Chappell. Let me make this point, Mr. Chairman.

If we are here trying to determine whether we made a mistake in this section 1005, that's another question. I might have a different view if we are here deciding whether or not you ought to take health insurance out of subsection (f) and amend it and put it in up here in subsection (d). That's another question.

The question we are dealing with so far is whether or not we are going to here rewrite a contract already negotiated and start it as a precedent. I think we are going to do the postal employees of this Nation a serious injustice because whereas it might be good today, it might be to their detriment tomorrow.

Mr. Waldie. If I can add a further comment, I think the question is precisely what you said: What did the Congress intend at the time they enacted this particular statute and what did the parties that were most intimately effected believe we intended. I think in terms of changing the agreement, we have some direction, at least, as to what the parties considered was effected by the statute—to be in the statute—believed bearing, upon Mr. Hogan's question as to whether the Congress, in fact, intended to remove from the purview of the Congress the issue of health benefits.

If it's a conclusion that the parties involved in fact believed that health benefits were removed from Congress, that would add great substance to your suggestion that the wording is very clear and not subject to any interpretation or need of clarification. If, in fact, the parties to the contract were equally confused by this particular wording that adds substance to the provisions or to at least a suggestion of that clarification of that language is intended, and is needed.

I, personally, as you know, share the view that Mr. Hogan expressed, that clarification is desired here and that the issue before this committee is, shall we amend the statute to disclose precisely what we intended in terms of health benefits.

Mr. Chappell. Mr. Chairman, let me respond to that. I don't believe that the chairman, or Mr. Hogan, or anyone else, who is acquainted with the English language—if they want to really get down and just look at this thing and read it—how they can misconstrue what chapter 89 is.

Now, chapter 89 is spelled out in the law here; that is health benefits. They can't misunderstand the meaning of chapter 89 when it's trying to say that that's included in the bargaining proposition. I don't see how anyone can read that wrong, Mr. Chairman. I'm not trying to be argumentative about it but I don't agree with the chairman that we have got a matter of clarification. We have a question proposed as to whether we want to change the intent of Congress from what it was when the law was passed. It's too clear with the explanation made in the record; it's too clear on the fact of the wording of this. I don't think there is any question but what the Congress intended just what it wrote here and that is easy interpretation.

Now, the question is really not whether we want to merely clarify. Let's not mislead and confuse ourselves. What we are dealing with is whether or not we want to change the view of the Congress as it's expressed in the present law, and that's the question.

Mr. WALDIE. Well, that's completely within the original question. I don't think there's any question about that, but its clarity is not quite pronounced as you suggest or these brilliant attorneys that you suggest were on the other side of the bargaining table and I think they would not have goofed up this section 1 and section 3.

Mr. CHAPPELL. I would be pleased if the chairman would read that section aloud to all of us and point out one thing that is ambiguous in it.

Mr. WALDIE. I have read the section and it seems to me there is not much ambiguity in the section. I personally would be quite willing to change what the intent appears to be in that section. If there's ambiguity it's not substantial, but I think there is ambiguity in this particular sentence of that section, if you will refer to section 1005(f). It says, "Subject to the provisions of this chapter, the provisions of subchapter I of chapters 85, 87, and 89 of title 5 shall apply to employees of the Postal Service unless added to under this subsection."

Now, I suppose you would have to make the argument that, "added to under this subsection," has no reference to the first sentence of that subsection which says, "Compensation benefits and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute," if it refers to that sentence, compensation and other benefits in effect that are provided by statute, permits you to change by adding to statutory compensation advantages.

Mr. CHAPPELL. Yes, sir; but it says specifically, "those which were provided by statute prior to the effective date of this legislation."

Mr. WALDIE. Yes, right; but then it says that those provisions "can be varied, added to, or substituted for, under this subsection," which would seem that an argument could be made that you could vary, add to, or change under this subsection those benefits.

Mr. CHAPPELL. These are talking about applicability. It says apply to those and that shall be the way to provide. That is those things in effect as of the effective date of the law. There is no question about that. It says unless changed in this way. It says you can vary them, you can add to.

Now, "vary" means up or down.

Mr. WALDIE. Right.

Mr. CHAPPELL. Added to, is clear, or substituted for.

Mr. WALDIE. By statute.

Mr. CHAPPELL. No; this is talking about the contract.

Mr. WALDIE. I don't see that.

Mr. CHAPPELL. For substitution.

Mr. WALDIE. It says under the substitution.

Mr. CHAPPELL. No; it says under this subsection.

Mr. WALDIE. And under this subsection you would vary it by statute, rules, and/or regulations.

Mr. CHAPPELL. Well, sure, but the subsection says, "No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable than on that specific date."

Mr. WALDIE. Well, all I think this colloquy proves is that you have two brilliant attorneys; you and me—that are arguing different positions and I expect the brilliant attorneys on the part of the Postal Service and organizations that have been negotiating this are subject to the same fallibilities that you and I may be.

Mr. Hogan?

Mr. HOGAN. Mr. Chairman, I just might say that, being a lawyer myself, anytime you get two, three, four, five lawyers together you get that many differences of opinion.

Mr. CHAPPELL. Mr. Hogan, I will admit it just looks clearer to me than it does to you fellows.

Mr. WALDIE. Gentlemen, are there other questions of these two witnesses? Thank you, Mr. Blaisdell and Mr. Cox.

Now, the next witnesses will appear jointly representing the postal unions: Mr. James H. Rademacher, president of the National Association of Letter Carriers; Mr. Bernard Cushman, chief spokesman and negotiator for postal unions; Mr. Chester W. Parrish, president of the Motor Vehicle Craft Division of the American Postal Workers Union; and Mr. Francis S. Filbey, general president of the American Postal Workers Union.

Yes, will you be seated and will you proceed in whichever order you desire? Are there any prepared statements that you desire to have included in the record?

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California is recognized.

Mr. ROUSSELOT. Mr. Chairman, I am sure the body is ready to vote, so I will be brief. I rise in opposition to the amendment offered by the distinguished gentleman from California (Mr. WALDIE) which would require the Postal Service to increase its share of the cost of employee health benefits insurance for the following reasons:

First, the amendment that is proposed would cost the mail users over $100 million on top of the benefits already achieved through collective bargaining. The Federal Treasury is already in the hole.

Second, it would be inconsistent with the specific provisions of the Postal Reorganization Act.

Third and more important, it would undermine the necessary foundation of all successful labor relations; that is, those conditions of employment that are to be settled by agreement at the bargaining table and not elsewhere.

Now, the claim is made here by my friends, who also are saying they are the friends of the postal workers, that somehow the postal workers are improperly frozen in their ability to achieve health benefits. That is not true. This contract expires about a year from now. So we are not voting against health benefits today by refusing to intervene in the middle of a 2-year contract. All of the postal union employees and their leaders said:

> We appreciate what Congress has done in taking us out of the Congressional process to have to plead for raises. We have achieved great wage power through the bargaining process. We got what we wanted.

Now, the Members of Congress want to interject Congress into that established process. Many of my friends who are today here arguing they want to keep the Government out of collective bargaining are now saying, "Oh, but in this one little instance, because votes are on the line in 1972 and the postal workers are in hordes going to go out and work against me if I do not vote for this"—I say it is pure bunk.

Now, I want to speak to the Waldie amendment, because we all understand my good friend is running for Governor, and there are a great many postal workers in California. We all know that but the gentleman is doing so in an upside down manner by disrupting the bargaining process he says he is for.

I think it is wrong for the Congress, once it has said by law we will use the collective bargaining system, and then suddenly junk it.

Now I will say this: Vote for the Waldie amendment if you want to destroy the collective bargaining system. That is exactly what we will be doing.

Mr. Chairman, let me review the facts: I am opposed to any amendment to H.R. 12202 which would require the Postal Service to increase its share of the cost of employee health benefits insurance.

The amendment that is proposed would cost mail users over $100 million annually. It would be inconsistent with specific provisions of the Postal Reorganization Act. And it would undermine that necessary foundation of all successful labor relations, which is: that conditions of employment are to be settled by agreement at the bargaining table and not elsewhere.

Nothing is more important to the accomplishment of the purpose of the Postal Reorganization Act than successful collective bargaining. Successful collective bargaining is absolutely essential to a satisfactory system of employee relations in the Postal Service, just as satisfactory employee relations are absolutely essential to a viable postal service.

The basic collective bargaining obligations that the Congress wrote into the Postal Reorganization Act are set forth in the National Labor Relations Act. A major purpose of that act is to make collective bargaining contracts binding on both parties. Collective bargaining cannot be successful unless the parties understand that they will have to abide by the agreements they reach through the bargaining process.

Permitting postal employees—no matter how great their need—to gain greater benefits from Congress than those they have accepted through the bargaining process would be as destructive of sound labor relations as it would be to permit the Postal Service to win a reduction in bargained-for postal wages from Congress.

I am not alone in my opinion on this subject. Let me read some remarks made by a spokesman for the American Postal Workers Union, the largest of the postal unions. The legislative director of the APWU, in testimony before a Senate subcommittee holding hearings on a bill to amend the Randolph-Sheppard Act, said:

> The Postal Reorganization Act of 1970 opens to bargaining: wages, hours, and working conditions as in private industry. . . . Surely the Congress which approved the Postal Reorganization Act will not approve new paternalistic legislation to negate the authority so recently given to the U.S. Postal Service, and, incidentally, to vacate negotiation rights already won by postal unions. If this is the course to be followed, the bold legislation of 1970 will become a comic gesture with the Congress reasserting control in one area after another and again becoming the seat of battle between employees

> and employer with respect to wages, hours and working conditions.

During the course of collective bargaining negotiations, the postal unions won some very substantial wage benefits. I am certain that the Postal Service would not have agreed to such benefits if they did not also obtain agreement to continue fringe benefit plans at a constant level. For a change to any one of the many interrelated parts of any labor-management agreement can undercut the basis of the entire agreement.

A vote for the Waldie amendment is a vote to destroy the collective bargaining procedure.

Mr. BRASCO. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from New York.

Mr. BRASCO. Mr. Chairman, I wanted to answer the question the gentleman asked of me when I was in the well. The gentleman's arguments in my humble opinion are irrelevant, because we are here under a special set of circumstances. The President made a decision that health benefits are a critical need to the working men and women of America, so he sent a special message to Congress mandating that every private employer give these benefits to private employees, notwithstanding their right to collective bargaining and the right to strike. We followed the President's lead by attempting to enact legislation that would do the very same thing for Federal employees.

Now my good friend, the gentleman in the well, says we will do it for all other employees and possibly, when other legislation comes, for those in the private sector, but we will only leave out the Postal employees. Does the gentleman say that is fair and not a vote against the Postal employees?

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. Mr. Chairman, I want to answer my good friend, because he is absolutely incorrect in his implication that I want to hold back the postal workers. I want to make it clear I am for the postal workers but I am not going to be put in the position of voting for a procedure that intervenes in the middle of a wage contract, and that is exactly what we would do with the Waldie amendment.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to my friend, the gentleman from Iowa, who has a further comment.

Mr. GROSS. Mr. Chairman, I only want to point out that if this amendment is adopted the huge increase in the Government's contribution will have to be paid for out of a postal rate increase.

Mr. ROUSSELOT. But that does not seem to bother my friend, the gentleman from New York.

Mr. GROSS. I am sure it does not.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am one Member of this body who with a great deal of reluctance and at the insistence of the postal employees voted to create this U.S. Postal Service. Something had to be done at that point in time. I made a mistake. We have not improved the Postal Service, but we have done something that I consider to be binding until that basic law itself is amended.

People have been talking from an emotional and I share some of that point of view, but they have not been considering the law that we passed.

I have here title 39 of the United States Code, which has to do with the U.S. Postal Service. I want to read to the Members from the law, and I want them to hear what the law has to say about who has what authority.

> Section 1005. * * *
>
> (f) Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the former Post Office Department or the executive branch of the Government of the United States, shall continue to apply to officers and employees of the Postal Service, until changed by the Postal Service in accordance with this chapter and chapter 12 of this title.

And chapter 12 of this title has to do with Employee-Management Agreements.

> Subject to the provisions of this chapter and chapter 12 of this title, the provisions of subchapter I of chapter 85 and chapters 87 and 89 of title 5 shall apply to officers and employees of the Postal Service, unless varied, added to, or substituted for, under this subsection.

Which means that if there is going to be a change from the benefits which were in effect at the time this law became effective the change must be brought about by amending this basic law.

It says:

> No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the officers and employees than fringe benefits in effect on the effective date of this section.

It says nothing about what might happen after this section becomes effective. It only specifies what is initially required.

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. The gentleman has had the floor. Let me make my explanation. I do not yield.

Mr. THOMPSON of Georgia. Let me ask a question.

Mr. WAGGONNER. I do not yield.

The CHAIRMAN. The gentleman from Louisiana has the floor.

Mr. WAGGONNER. It continues:

> And as to officers and employees for whom there is a collective-bargaining representative, no such variation, addition, or substitution shall be made except by agreement between the collective-bargaining representative and the Postal Service.

The gentleman's question would probably have been: Does the Congress have the authority to change the law? Absolutely, the Congress has the authority to change the law. But if we are going to do it, then let us live by the basic law until we amend this basic law we are talking about here today. I will vote to amend that basic law.

I am not one who says their benefits are or are not enough. I really do not know. But I am saying that the only proper course to pursue is to amend the law wherein we created this U.S. Postal Service. And until we do the authority to negotiate any change with regard to a change in any of these benefits, which includes fringe benefits, lies between management and the negotiating authorities or bargaining units.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. That is why I thought I had a valid point of order, because the amendment amends title 5, not the act the gentleman is citing.

Mr. WAGGONNER. That is exactly what this gentleman is saying.

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I am happy to yield to the gentleman from Georgia.

Mr. THOMPSON of Georgia. Did the gentleman not read that there would be no less benefits?

Mr. WAGGONNER. Yes. If the gentleman had been listening——

Mr. THOMPSON of Georgia. It did not prohibit increasing them, but only prohibited decreasing the benefits.

Mr. WAGGONNER. Listen to it again and try to understand it. I believe the gentleman has the capability.

Mr. THOMPSON of Georgia. I have read it, and it specifically says no less benefits may be reported, not with respect to higher benefits.

Mr. WAGGONNER. Listen to it again:

> No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the officers and employees than fringe benefits in effect on the effective date of this section.

It does not say what will happen later. It says what the situation will be initially.

The point is: Amend this law if you want to do it.

Mr. WILLIAM D. FORD. Mr. Chairman, I rise in support of the amendment.

I yield to the gentleman from California.

Mr. WALDIE. Mr. Chairman, I wonder if we can get an idea of how many still desire to speak on the pending amendment. Apparently the gentleman from Michigan is the only one.

I thank the gentleman for yielding.

Mr. WILLIAM D. FORD. Thank you, Mr. Chairman. I rise to speak in favor of the Waldie amendment to include postal employees in this legislation.

It is an extraordinary exercise we are going through here, but I am absolutely fascinated to see the gentleman who just preceded me in the well and the gentleman from Iowa who started their remarks by reminding us that the Postal Reorganization Act was one of a poorly constructed mistake made by the last Congress. They indicate in one case, in the case of the gentleman from Iowa, that he thought it was a bad bill when he voted against it, and he still thinks so. The gentleman from Louisiana agrees with me that it was not what it should have been and that he was persuaded to vote for it but now he thinks he made a mistake in doing so.

However, I think it is still a bad bill and that we ought to be consistent after identifying the legislation in this fashion. However, they agree on that and turn to you and read from it then as if it were a Holy Writ.

They say that they do not want to touch any part of this ill-conceived legislation for fear that they will be tampering with it and will hurt the intent that we legislated 2 years ago. We should not have done it, they say, but it is so great that we should not touch it now or improve it.

That does not make any sense to me. If you believe what the gentleman who preceded me in the well tells you, we could pass laws and say that no Congress in the future could ever amend it because we think it is so great. There is no place in the Constitution which gives us the authority to bind even yourselves in that way.

All of this argument about interfering with collective bargaining may be a convenient smokescreen for some people to hide behind who want to vote against the postal employees but who do not have the courage to do it without that smokescreen to hide behind.

Let me say it is baloney. There is no collective bargaining question here at all. If the employees had gone to the bargaining table and been denied some request of theirs and then they came to us in the Congress, I would have agreed with those who say that we should not interfere with it. They should not come over the heads of either labor or management, over the head of one or the other, and come to us in Congress and ask us to interfere in the collective bargaining process.

I might remind the gentleman from California when we were asking you not to interfere in the dock strike in California you were not as enthusiastic about keeping your fingers out of that collective bargaining process.

We are not interfering with the collective bargaining system here. We started out to legislate, as a matter of policy, that all Federal employees, regardless of whom they work for—and that includes the Wage Board employees, for whom we do not set wages here—would have some basic health benefits and over a period of time we would provide that all Federal employees would reach the level of 75-percent Government payment for their health benefits.

Only after the subcommittee considered the legislation did the Postal Service management come forward and say:

> We do not want our employees to be treated the same as all other Government employees.

If anybody has come to the Congress and asked for interference in the relationship, it has been the Post Office Department's management by asking that we legislate for everybody except their employees. I think we have a chance today to tell the postal management that their employees are Federal employees.

We might ask the question: Who runs the Postal Service in this country? Is it still the property of the public? Is it still something that belongs to the people of this country and which is going to be watched over and managed by those they elect to run their Government? Have we created an autonomous monster down the street that can go in any direction it wants to and whenever they feel they want to stop us from legislating on a matter of policy that affects them and their employees, by simply raising the specter of a violation of the Postal Reorganization Act.

I have to agree with the fact that there was some confusion, to say the very best you can say, about the clear-cut intent in the Postal Reorganization Act, and then those of you who oppose this will have to reject all these strained constructions that are being put on it today.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. Yes, I yield to the gentleman from Iowa since I mentioned his name.

Mr. GROSS. The gentleman from Michigan is an astute labor attorney, and I am surprised that he did not recognize this monster when he saw it a couple of years ago. I do not see how he can possibly say that if this amendment is adopted that Congress is not intervening in collective bargaining on this new postal corporation.

Mr. WILIAM D. FORD. I would like to remind my good friend from Iowa that I put up a good bit of a fight in this well about the collective bargaining provision contained in this act, and I invite him to support my bill to give postal workers the right to strike so that they can have effective collective bargaining.

Mr. GRAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Waldie amendment. In my opinion, equity requires us to pass this legislation with the Waldie amendment attached to it. We all admit we made a mistake in giving away our congressional control over the extremely important Postal Service; however, laws are made to be improved upon whenever possible. The Waldie amendment provides a step in the right direction, the health, welfare, and morale of our postal workers is directly related to the type of service the public receives. A yes vote means fairness, equal treatment, and a better Postal Service. Thank you.

Mr. PETTIS. Mr. Chairman, I wish to state my strong support for H.R. 12202 and the amendment offered by my distinguished colleague, the gentleman from California (Mr. Waldie) to include postal workers under the provisions of this bill.

The spiraling cost of health care and subsequent increase in health insurance coverage was most recently evidenced by the large raise in Federal health insurance rates which became effective the first of this year. With the Federal Government paying a set 40-percent of the cost for this coverage, a large chunk was taken out of Federal employee paychecks when these new rates went into effect.

Government workers have yet to achieve pay comparability with private sector employees and can ill afford to absorb this increase without additional Government contributions. President Nixon, in his health message to the Congress last year, recognized the essence of this problem and proposed adoption of national health insurance standards to require employers to provide shared-cost health insurance with a ceiling on employee contributions set at 35 percent by July 1973, and 25 percent by January 1976.

H.R. 12202 is designed to make the Federal Government a leader in following these guidelines. I urge my colleagues to approve this equitable and justified legislation to help Federal employees and retirees meet the rising costs of health insurance coverage and to approve the Waldie amendment to make postal workers eligible under this new plan.

I want to add that I would hope the passage of H.R. 12202 will give Congress the impetus to proceed with the enactment of identical standards and guidelines for private industry.

Mr. HARRINGTON. Mr. Chairman, I rise in full support of the amendment offered by the gentleman from California (Mr. Waldie) to provide postal workers with the full Federal share of health benefit premium offered to other Federal workers under H.R. 12202.

The amended legislation will increase the Federal share of premiums from 40 to 75 percent for all Federal employees, including postal workers. This, incidentally, is the same share of premium the President has called for in the private sector.

The postal employees work as hard and as diligently as any employee in the private or public sector.

It would be both discriminatory and inequitable to prevent postal employees from receiving the increased Federal share of health insurance premiums. With the incredible increase in health costs facing this Nation, and with a commensurate increase in premium costs, we cannot here, in effect, legislate a pay cut for postal employees by ignoring their needs in this area. They are fully entitled to the increased Federal share.

I urge other Members to vote with me for the Waldie amendment.

Mrs. ABZUG. Mr. Chairman, I am pleased to rise in support of H.R. 12202, which would increase the Federal Government's contribution for employee health benefits from 40 percent to 55 percent, beginning this year, with a further 5-percent increase in each succeeding year until the Government share reaches 75 percent in 1976. In addition, I want to express my strong support for the Waldie amendment, which would include postal employees under the same program available to other Federal employees.

I want to state briefly the two rationales which lead me to support this bill and the Waldie amendment:

First, if the Federal Government is to recruit and keep qualified employees to do the people's business, it must keep pace with private industry in terms of benefits as well as salaries. These days, many private employers pay the full cost of health insurance; surely, the Federal

Government should pay more than 40 percent if it wants to continue to have the best workers in the work force.

Second, and more important, every American should be assured adequate medical care based solely upon his need for it. His wealth or his income should have nothing to do with it. To this end, I have cosponsored the Kennedy-Griffiths bill for national health insurance and have testified before the Committee on Ways and Means in support of such legislation. The bill before us takes one step, albeit a small one, toward that goal. It is the least we should do for the faithful workers who make our Government run.

I urge the adoption of the Waldie amendment and the passage of this bill.

Mr. DONOHUE. Mr. Chairman, I most earnestly hope that the great majority of this House will approve, with the addition of the amendment to equitably clarify the status of Post Office employees, this measure H.R. 12202 designed to more realistically adjust the Government's contribution to the cost of health insurance coverage for Federal employees and annuitants.

The Congress has been committed for many years to the concept of taking every reasonable action to assure that Government employment remains competitive with employment in private industry.

The Federal Government's assumption of a more proportionate share of essential health costs is now in order, since it is obvious that the present contribution is considerably less than the amount contributed by major private industry. At present, the Federal Government contributes 40 percent toward the cost of health insurance coverage and the Federal employee contributes the remaining 60 percent. The updated provisions of H.R. 12202 increase the Government's contribution to 55 percent and call for incremental increases of 5 percent each year beginning in January until the Federal Government is paying 75 percent of the total cost by 1976. This gradual increase of benefits will move in the direction of preserving competitive benefit attractions between Federal employment and private industry and will demonstrate that the Federal Government, as an employer, recognizes the essential need to continue to try to attract the highest qualified personnel for Government service.

In summary, Mr. Chairman, I believe that the provisions of this measure, with the amendment on behalf of the Postal employees are fair and reasonable and they will undoubtedly operate in the best, overall national interest. Therefore, I urge my colleagues here to resoundingly approve this bill.

Mrs. HICKS of Massachusetts. Mr. Chairman, I rise in support of H.R. 12202, the amendment to the Federal Employees Health Benefits Act and also in support of the amendment filed by Congressman Waldie which will include in the benefits our postal service employees. This legislation will make three highly significant improvements in the act.

First of all, this bill would increase over a 5-year period the Government's contribution toward premium charges for the more than 8 million persons covered under the 40 different plans participating in the health insurance program. At the present time, the Government's share as an employer is pegged at 40 percent of the average high-option charge of six large representative plans. Under H.R. 12202, this share would be increased to 55 percent for the remainder of 1972, and in each subsequent year the percentage would be increased by an additional 5 percent until the Government contribution reached, in 1976, an amount equal to 75 percent of the average premium charge.

The bill would also permit certain retirees and survivor annuitants presently eligible for enrollment in the retired Federal employees' health benefits program to elect coverage under the regular FEHB program. As you know, when the Federal employees' health benefits program was established in 1960, coverage was extended to employees in active service and employees whose separation occurred on or after July 1, 1960. A special program was created to provide health benefits to retirees and survivor annuitants whose retirements rights were based upon separation prior to that date.

It has been estimated that a majority of those annuitants enrolled, or eligible to enroll, in the retired Federal employees' health benefits program are covered by medicare, which provides good basic coverage and enables the "retired" program to serve as a supplemental plan. However, for those individuals not eligible for full medicare coverage, benefits presently available under the retired Federal employees' health benefits program are seriously inadequate. H.R. 12202 would correct this situation by allowing these particular retirees to participate in the more comprehensive Federal employees' health benefits program, in lieu of their present coverage.

Another important provision in the bill would redefine the term "member of a family" for purposes of insurance coverage to include an unmarried child regardless of age, who is dependent upon the enrolled parent for more than half his support and who is a full-time student at an accredited educational institution. At the present time, a child ceases to be covered by his parents' enrollment when he marries or reaches age 22. This limitation creates a serious financial strain on families hard pressed to meet the costs of higher education for their children and simultaneously provide them with adequate health insurance protection.

For several years, I have been concerned about the discrepancy between health insurance protection afforded workers in private industry and that provided to our Federal employees. In recent years, the trend in private industry has been toward the employer assuming the major costs of employees' health insurance premiums and in many cases the full cost. Yet, the Federal Government has consistently lagged behind private industry in this regard, at one point in the 12-year history of the health program contributing as little as 24 percent toward the cost of aggregate premiums.

Last year, I introduced a bill which would have brought the Federal Government's contribution toward health insurance premiums more in line with the contributions made by private employers for their workers. This bill called for an increase in the Government's share from the present 40 percent to 66⅔ percent of the average high-option premium charge. The present bill, H.R. 12202, calls for an eventual increase to 75 percent of the average charges.

I have come to feel that this additional increase is urgently needed in view of conditions in the economy as a whole and in the health care sector in particular. We are all well aware of the serious inflationary problems affecting all sectors of our Nation's economy and the steps which have been taken through wage and price controls to counteract these problems. In the medical care area, prices have risen at a pace which far outstrips the increases for all other consumer items.

In 1970, the average health bill for each American was $324, more than twice what it was in 1960. Twenty years ago the average bill was less than one-fourth the 1970 amount. This growth represents an average increase of 7.3 percent per year, at a time when the average increase in industrial wage levels was growing at only 4.3 percent per year. As health care costs have risen, the portion of these costs not covered through health insurance has constituted a greater and greater burden. As premium charges rise to meet these costs, an even greater financial burden is imposed on the average breadwinner.

The Federal employee covered under the Government's health benefits program has not been immune to the effects of these incessantly rising costs. For example, the cost of insurance for the six out of every 10 Federal employees covered under the Blue Cross-Blue Shield plan rose by almost 22 percent in the last year alone. Combine this fact with the limitations imposed on scheduled pay increases for civil servants and you confront a situation of serious economic hardship.

I believe that in all fairness the Federal Government must not allow its employees and retirees to bear a disproportionate share of these spiraling health care costs.

I urge my colleagues to lend their enthusiastic support to H.R. 12202 and the Waldie amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Waldie).

TELLER VOTE WITH CLERKS

Mr. WALDIE. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. WALDIE. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the chairman appointed as tellers Messrs. Waldie, Gross, Brasco, and Derwinski.

The Committee divided, and the tellers reported that there were—ayes 197, noes 148, not voting 88, as follows:

[Recorded Teller Vote]

[Roll No. 127]

AYES—197

Abourezk
Abzug
Adams
Addabbo
Anderson, Calif.
Andrews, N. Dak.
Aspin
Badillo
Baring
Barrett
Begich
Bennett
Bergland
Bevill
Biaggi
Biester
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Brinkley
Brooks
Brotzman
Burke, Fla.
Burke, Mass.
Burton
Byrne, Pa.
Carey, N.Y.
Celler
Chisholm
Clark
Clausen, Don H.
Clay
Corman
Cotter
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Donohue
Dow
Downing
Drinan
Dulski
Duncan
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Fish
Flood
Ford, William D.
Forsythe
Fraser
Frey
Fulton
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Pa.
Griffin
Griffiths
Gubser
Halpern
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Harvey
Hathaway
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Howard
Hungate
Jacobs
Johnson, Calif.
Karth
Kastenmeier
Kazen
Koch
Kyros
Leggett
Lent
Link
Long, Md.
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKevitt
Meeds
Melcher
Metcalfe
Mikva
Mills, Md.
Minish
Mink
Minshall
Mitchell
Monagan
Moorhead
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Pepper
Perkins
Peyser
Pike
Podell
Price, Ill.
Quillen
Railsback
Randall
Reid
Reuss
Riegle
Rodino
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sarbanes
Seiberling
Shoup
Shriver
Sisk
Smith, Iowa
Steele
Stephens
Stratton
Stuckey
Sullivan
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Wampler
Whalen
White
Williams
Wilson, Bob
Wilson, Charles H.
Wolff
Wyatt
Wydler
Yates
Yatron
Zablocki

NOES—148

Abbitt
Abernethy
Archer
Arends
Ashbrook
Aspinall
Baker
Belcher
Bell
Blackburn
Bow
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carlson
Carter
Cederberg
Chamberlain
Chappell
Clancy
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Coughlin
Crane
Daniel, Va.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dingell
du Pont
Edwards, Ala.
Erlenborn
Findley
Fisher
Ford, Gerald R.
Frelinghuysen
Frenzel
Fuqua
Goldwater
Goodling
Green, Oreg.
Gross
Gude
Haley
Hall
Hamilton
Hansen, Idaho
Harsha
Heinz
Henderson
Hosmer
Hull
Hunt
Hutchinson
Jarman
Jonas
Jones, N.C.
Keating
Keith
Kemp
King
Landrum
Latta
Lennon
Lloyd
McClory
McClure
McCulloch
McDonald, Mich.
McEwen
McKinney
McMillan
Mailliard
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Michel
Miller, Ohio
Mills, Ark.
Mizell
Montgomery
Mosher
Nelsen
Pelly
Pickle
Pirnie
Poff
Powell
Preyer, N.C.
Quie
Rarick
Rhodes
Robinson, Va.
Robison, N.Y.
Rousselot
Ruth
Sandman
Satterfield
Saylor
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Sikes
Skubitz
Smith, Calif.
Smith, N.Y.
Snyder
Spence
Springer
Stanton, J. William
Steiger, Ariz.
Steiger, Wis.
Talcott
Taylor
Teague, Calif.
Waggonner
Ware
Whalley
Widnall
Wiggins
Wylie
Wyman
Young, Fla.
Zion
Zwach

NOT VOTING—88

Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Annunzio
Ashley
Betts
Bingham
Blanton
Blatnik
Broyhill, Va.
Carney
Casey, Tex.
Collins, Ill.
Conte
Conyers
Culver
Curlin
Dent
Diggs
Dorn
Dowdy
Dwyer
Edwards, La.
Esch
Eshleman
Evins, Tenn.
Flowers
Flynt
Foley
Fountain
Galifianakis
Gallagher
Grover
Hagan
Hastings
Hawkins
Hays
Hébert
Ichord
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Kee
Kluczynski
Kuykendall
Kyl
Landgrebe
Long, La.
Lujan
Macdonald, Mass.
Madden
Mahon
Matsunaga
Miller, Calif.
Mollohan
Morse
Patman
Pettis
Poage
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Rangel
Rees
Roberts
Runnels
Ruppe
Scheuer
Shipley
Slack
Staggers
Stanton, James V.
Steed
Stokes
Stubblefield
Symington
Teague, Tex.
Terry
Udall
Vander Jagt
Veysey
Whitehurst
Whitten
Winn
Wright
Young, Tex.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Scott: Strike out the first section in its entirety and insert in lieu thereof the following:
>
> "That section 8906(a) of title 5, United States Code, is amended by striking out '40 percent' and inserting in lieu thereof '50 percent'."

Mr. SCOTT. Mr. Chairman, under the present law the Government contribution is 40 percent of the cost of health benefits. The bill that is now before us, on page 2, provides that the Government contribution during this calendar year shall be increased to 55 percent with a 5-percent additional increment each year until it reaches a 75-percent contribution by the Government. I believe that this is one of the reasons why this legislation faces a possible veto by the President.

Mr. Chairman, my amendment provides that the Government would contribute 50 percent and the employees would contribute 50 percent to the cost of health insurance with no annual increment. This was the original intent of the legislation when it was enacted by the Congress in 1960; that is, an equal sharing of the cost of health benefit insurance. Over the years the ratio has been changed because the cost of hospitalization and health care has increased, and the cost of the insurance has increased.

Recognizing this change, during the 91st Congress this House passed a bill by a margin of 284 to 57 to provide equal sharing of the cost, 50 percent by the Government and 50 percent by the employee.

But in a compromise, in conference with the Senate, that equal sharing of cost between the Government and the employee was revised to the present 40-percent contribution by the Government.

I believe, Mr. Chairman, that not only is the equal sharing of the cost of health insurance by the employee and the Government consistent with the original intent of the Congress, but it is also fair and equitable.

Mr. Chairman, adoption of this amendment will change the prospects of the legislation being vetoed, because it is a fair proposal. I have no assurance from the administration, but because of the eminent fairness and equal sharing of the cost, I am very hopeful that we will be able to enact this measure into law by the adoption of this amendment.

Mr. WALDIE. Mr. Chairman, I rise briefly in opposition to the amendment. I commend the gentleman for the thrust of the amendment, which is to increase the Federal contribution to the Federal employees' health benefits premium, but the amount is considerably less than the increase proposed by the President for the private sector, which is the pattern we have suggested in the bill before the committee.

Mr. Chairman, I therefore ask for a no vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. Scott).

The question was taken; and on a division (demanded by Mr. Scott) there were—ayes 47, noes 36.

TELLER VOTE WITH CLERKS

Mr. WALDIE. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. WALDIE. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Scott, Waldie, Dulski, and Mills of Maryland.

The Committee divided, and the tellers reported that there were—ayes 124, noes 219, answered "present" 1, not voting 90, as follows:

[Recorded Teller Vote]

[Roll No. 128]

AYES—124

Abbitt
Abernethy
Archer
Arends
Ashbrook
Baker
Baring
Belcher
Bell
Bow
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burleson, Tex.
Byrnes, Wis.
Camp
Carlson
Cederberg
Chamberlain
Clawson, Del
Cleveland
Collier
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Va.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Downing
du Pont
Edwards, Ala.
Erlenborn
Findley
Ford, Gerald R.
Frelinghuysen
Frenzel
Gibbons
Goldwater
Goodling
Haley
Hammerschmidt
Hansen, Idaho
Harvey
Heinz
Horton
Hosmer
Hunt
Hutchinson
Jacobs
Jarman
Jonas
Keating
Keith
Kemp
Latta
Lennon
McClure
McCulloch
McDonald, Mich.

McKevitt
McKinney
Mailliard
Mallary
Mann
Martin
Mathias, Calif.
Mayne
Mazzoli
Michel
Miller, Ohio
Mills, Md.
Mizell
Montgomery
Nelsen
O'Konski
Passman
Pelly
Pike
Pirnie
Poff
Powell
Quie
Quillen
Rarick
Rhodes
Robinson, Va.
Robison, N.Y.
Satterfield
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shriver
Skubitz
Smith, Calif.
Spence
Springer
Stanton, J. William
Steiger, Ariz.
Steiger, Wis.
Talcott
Teague, Calif.
Terry
Thomson, Wis.
Wampler
Ware
Whalley
Widnall
Wiggins
Williams
Wylie
Wyman
Young, Fla.
Zion
Zwach

NOES—219

Abzug
Adams
Addabbo
Albert
Anderson, Calif.
Andrews, N. Dak.
Aspin
Aspinall
Badillo
Barrett
Begich
Bennett
Bergland
Bevill
Biaggi
Biester
Blackburn
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Brinkley
Brooks
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Carter
Celler
Chappell
Clancy
Clark
Clausen, Don H.
Clay
Colmer
Conyers
Corman
Cotter
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Diggs
Dingell
Donohue
Dorn
Dow
Drinan
Dulski
Duncan
Edmondson
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Fish
Fisher
Flood
Foley
Ford, William D.
Forsythe
Fraser
Frey
Fulton
Fuqua
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Gross
Gude
Hall
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Hathaway
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Howard
Hull
Hungate
Johnson, Calif.
Jones, N.C.
Karth
Kastenmeier
Kazen
Kee
King
Koch
Kyros
Landrum
Leggett
Lent
Link
Lloyd
Long, Md.
McClory
McCollister
McCormack
McDade
McEwen
McFall
McKay
McMillan
Mathis, Ga.
Meeds
Melcher
Metcalfe
Mikva
Mills, Ark.
Minish
Mink
Minshall
Mitchell
Monagan
Moorhead
Morgan
Mosher
Murphy, Ill.
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Patten
Pepper
Perkins
Peyser
Pickle
Podell
Preyer, N.C.
Price, Ill.
Railsback
Randall
Reid
Reuss
Riegle
Rodino
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruth
Ryan
St Germain
Sandman
Sarbanes
Saylor
Scherle
Seiberling
Shipley
Shoup
Sikes
Sisk
Smith, Iowa
Snyder
Steele
Stephens
Stratton
Stuckey
Sullivan
Taylor
Thompson, Ga.
Thompson, N.J.
Thone
Tiernan
Vanik
Vigorito
Waggonner
Waldie
Whalen
White
Wilson, Bob
Wilson, Charles H.
Wolff
Wyatt
Wydler
Yates
Yatron
Zablocki

ANSWERED "PRESENT"—1

Rousselot

NOT VOTING—90

Abourezk
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Annunzio
Ashley
Betts
Bingham
Blanton
Broyhill, Va.
Carney
Casey, Tex.
Chisholm
Collins, Ill.
Conte
Culver
Curlin
Dent
Dowdy
Dwyer
Eckhardt
Edwards, La.
Esch
Eshleman
Evins, Tenn.
Flowers
Flynt
Fountain
Galifianakis
Griffiths
Grover
Gubser
Hagan
Hastings
Hawkins
Hays
Hébert
Ichord
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Kluczynski
Kuykendall
Kyl
Landgrebe
Long, La.
Lujan
McCloskey
Macdonald, Mass.
Madden
Mahon
Matsunaga
Miller, Calif.
Mollohan
Morse
Moss
Murphy, N.Y.
Patman
Pettis
Poage
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Rangel
Rees
Roberts
Runnels
Ruppe
Scheuer
Slack
Smith, N.Y.
Staggers
Stanton, James V.
Steed
Stokes
Stubblefield
Symington
Teague, Tex.
Udall
Ullman
Van Deerlin
Vander Jagt
Veysey
Whitehurst
Whitten
Winn
Wright
Young, Tex.

So the amendment was rejected.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BEVILL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12202) to increase the contribution of the Federal Government to the costs of health benefits, and for other purposes, pursuant to House Resolution 927, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. GROSS. Mr. Speaker, am I correct in assuming that Members of Congress are covered under the provisions of this bill?

The SPEAKER. The Chair will state to the gentleman from Iowa that that is not a parliamentary inquiry.

Mr. GROSS. I thank the Speaker.

The SPEAKER. The question is on the passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas, 239, nays 110, answered "present" 1, not voting 83, as follows:

[Roll No. 129]

YEAS—239

Abourezk
Abzug
Adams
Addabbo
Anderson, Calif.
Andrews, N. Dak.
Aspin
Aspinall
Badillo
Baring
Barrett
Begich
Bennett
Bergland
Bevill
Biaggi
Biester
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Brinkley
Brooks
Broomfield
Brotzman
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Cabell
Caffery
Carey, N.Y.
Carter
Celler
Clancy
Clark
Clausen, Don H.
Clay
Conyers
Corman
Cotter
Coughlin
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Diggs
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Dulski
Duncan
du Pont
Edmondson
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Fish
Fisher
Flood
Foley
Ford, William D.
Forsythe
Fraser
Frey
Fulton
Fuqua
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Gude
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Harvey
Hathaway
Hébert
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Howard
Hungate
Hunt
Jacobs
Johnson, Calif.
Jones, N.C.
Karth
Kastenmeier
Kazen
Koch
Kyros
Leggett
Lent
Link
Lloyd
Long, Md.
McClory
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McFall
McKay
McKevitt
McMillan
Mailliard
Mathias, Calif.
Mathis, Ga.
Meeds
Melcher
Metcalfe
Mikva
Mills, Ark.
Mills, Md.
Minish
Mink
Minshall
Mitchell
Monagan
Moorhead
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Preyer, N.C.
Price, Ill.
Quillen
Railsback
Randall
Reid
Reuss
Riegle
Rodino
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sandman
Sarbanes
Saylor
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sisk
Smith, Iowa
Steele
Stephens
Stratton
Stuckey
Sullivan
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
Whalley
White
Widnall
Williams
Wilson, Bob
Wilson, Charles H.
Wolff
Wyatt
Wydler
Yates
Yatron
Young, Fla.
Zablocki
Zwach

NAYS—110

Abbitt
Abernethy
Archer
Arends
Ashbrook
Baker
Belcher
Bell
Blackburn
Bow
Bray
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burleson, Tex.
Byrnes, Wis.
Byron
Camp
Carlson
Cederberg
Chamberlain
Chappell
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Crane
Daniel, Va.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Edwards, Ala.
Erlenborn
Findley
Ford, Gerald R.
Frelinghuysen
Frenzel
Goldwater
Goodling
Gross
Gubser
Haley
Hall
Hansen, Idaho
Heinz
Henderson
Hosmer
Hull
Hutchinson
Ichord
Jarman
Jonas
Keating
Keith
Kemp
King
Landrum
Latta
Lennon
McClure
McEwen
McKinney
Mallary
Mann
Martin
Mayne
Mazzoli
Michel
Miller, Ohio
Mizell
Montgomery
Nelsen
Pelly
Pirnie
Poff
Powell
Quie
Rarick
Rhodes
Robinson, Va.
Robison, N.Y.
Rousselot
Ruth
Satterfield
Scherle
Schmitz
Schneebeli

Sikes
Skubitz
Smith, Calif.
Smith, N.Y.
Snyder
Spence
Springer
Stanton, J. William
Steiger, Ariz.
Steiger, Wis.
Talcott
Taylor
Teague, Calif.
Wiggins
Wylie
Wyman
Zion

ANSWERED "PRESENT"—1

Terry

NOT VOTING—83

Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Annunzio
Ashley
Betts
Bingham
Blanton
Broyhill, Va.
Carney
Casey, Tex.
Chisholm
Collins, Ill.
Conte
Culver
Curlin
Dent
Dowdy
Dwyer
Eckhardt
Edwards, La.
Esch
Eshleman
Evins, Tenn.
Flowers
Flynt
Fountain
Galifianakis
Griffiths
Grover
Hagan
Hastings
Hawkins
Hays
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Kee
Kluczynski
Kuykendall
Kyl
Landgrebe
Long, La.
Lujan
McCloskey
Macdonald, Mass.
Madden
Mahon
Matsunaga
Miller, Calif.
Mollohan
Morse
Moss
Patman
Pettis
Poage
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Rangel
Rees
Roberts
Runnels
Ruppe
Scheuer
Slack
Staggers
Stanton, James V.
Steed
Stokes
Stubblefield
Symington
Teague, Tex.
Udall
Vander Jagt
Veysey
Whitehurst
Whitten
Winn
Wright
Young, Tex.

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Broyhill of Virginia for, with Mr. Terry against.

Mr. Whitehurst for, with Mr. Price of Texas against.

Until further notice:

Mr. Annunzio with Mr. Anderson of Illinois.

Mr. Hays with Mr. Betts.

Mr. Matsunaga with Mr. Esch.

Mr. Stokes with Mr. Culver.

Mr. James V. Stanton with Mr. Hastings.

Mr. Teague of Texas with Mr. Kuykendall.

Mr. Jones of Alabama with Mr. Long of Louisiana.

Mr. Macdonald of Massachusetts with Mr. Morse.

Mr. Miller of California with Mr. Pettis.

Mr. Moss with Mr. Grover.

Mr. Pucinski with Mr. McCloskey.

Mr. Runnels with Mr. Eshleman.

Mr. Fountain with Mr. Winn.

Mr. Alexander with Mr. Kyl.

Mr. Anderson of Tennessee with Mr. Lujan.

Mr. Casey of Texas with Mr. Ruppe.

Mr. Dent with Mr. Johnson of Pennsylvania.

Mr. Evins of Tennessee with Mrs. Dwyer.

Mr. Flowers with Mr. Landgrebe.

Mr. Kluczynski with Mr. Vander Jagt.

Mr. Stubblefield with Mr. Veysey.

Mr. Staggers with Mr. Galifianakis.

Mr. Wright with Mr. Flynt.

Mr. Jones of Tennessee with Mr. Mahon.

Mr. Hawkins with Mr. Udall.

Mrs. Andrews of Alabama with Mr. Young of Texas.

Mr. Ashley with Mr. Conte.

Mr. Blanton with Mr. Whitten.

Mr. Carney with Mr. Collins of Illinois.

Mrs. Chisholm with Mr. Rees.

Mr. Hagan with Mr. Kee.

Mr. Roberts with Mr. Symington.

Mr. Mollohan with Mrs. Griffiths.

Mr. Steed with Mr. Bingham.

Mr. Slack with Mr. Curlin.

Mr. Scheuer with Mr. Patman.

Mr. Rangel with Mr. Eckhardt.

Mr. Purcell with Mr. Pryor of Arkansas.

Mr. TERRY. Mr. Speaker, I have a live pair with the gentleman from Virginia (Mr. Broyhill). If he had been present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. SPRINGER changed his vote from "yea" to "nay."

Mr. TALCOTT. Mr. Speaker, I voted "yea." I intended to vote "nay."

Mr. TALCOTT changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DULSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the Waldie amendment and on the bill H.R. 12202.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

THE LATE HONORABLE ARTHUR E. SUMMERFIELD

(Mr. RIEGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIEGLE. Mr. Speaker, I rise in sadness to draw the attention of my colleagues to the unfortunate death yesterday of former Postmaster General Arthur E. Summerfield.

Mr. Summerfield was a constituent of mine who lived and worked in Flint, Mich. As a hard-working member of the Eisenhower Cabinet for 8 years, he served effectively and with a great honor.

We in the Republican Party are especially indebted to him for his leadership within our party, including a period of distinguished service as Republican national chairman. He was a strong and creative leader for this country, the State of Michigan and the city of Flint.

We will miss him and his untiring efforts to help solve human problems. I know his many friends in the Congress on both sides of the aisle join me in extending the deepest sympathy to his wife and his family.

At the end of tributes from my colleagues I am attaching articles from the Flint Journal, the New York Times, the Washington Post, and the Detroit News for inclusion in the Record.

[From the Flint Journal, Apr. 26, 1972]

Milliken Lauds Summerfield

Gov. William G. Milliken made the following statement today upon hearing of the death of Arthur E. Summerfield:

"Arthur Summerfield was a man who, throughout his lifetime, possessed an alert, intense interest in the world around him.

"He was both a successful businessman and a public servant who cared much about the people in his country, his community of Flint and the state of Michigan.

"His driving desire for repeal of the auto excise tax was a recent testimony to his ability to combine awareness with action at a time in life when many are willing to accept more passive pursuits.

"Michigan and the nation will miss him."

First Job Was Sorting Mail

Arthur E. Summerfield Sr. began his working life handing out mail in an axle factory. The high point of his career, perhaps, was the eight years he spent as U.S. postmaster general, delivering mail to every home and business in the United States.

In between, he built a true family business.

In the beginning, his wife, Miriam, was his most valuable aide. When he became enmeshed in the national political scene, his son, Arthur E. Jr., "Bud", stepped into his car salesman's shoes.

Mr. Summerfield left school at 13 to go to work at the old Weston-Mott Co. as an office boy running errands and delivering mail for 12 hours a day.

He worked at Buick for a short period and was an inspector in the ammunition department at Chevrolet during World War I.

By 1919, at 19, he had married Miriam W. Graim and the two were involved in extensive do-it-yourself remodeling of their small home.

The war's end was followed by a business depression, however, and the Summerfields put their home up for sale.

Surprisingly, they made a small profit. They then bought another rundown home, remodeled and sold it, and were in the real estate business, buying small properties, improving them, and selling them.

Mrs. Summerfield minded the office, kept the books, and made appointments. In 1920 they added insurance sales.

In 1924, Mr. Summerfield founded the Summerfield Oil Co., which distributed Pure Oil products until 1937.

When the stock market crashed in 1929, the Summerfields took a chance and mortgaged their home in order to buy a Chevrolet franchise.

"Dad said the only chance he had to get something that good was a time when nobody else wanted it," his son said later.

The Summerfield Chevrolet Co. opened its doors at 2714-14 N. Saginaw on Jan. 4, 1936, showing off a line of 1930 model Chevys to the accompaniment of two singing groups, the Owen Sisters and the Wolverine Quartet.

Mr. Summerfield was president and general manager of the firm. R. Spencer Bishop, the late Flint banker, was vice president and a partner, Donald Maginn, Mt. Morris businessman was secretary-treasurer.

Mrs. Summerfield as before, was office manager.

The business grew, with several expansions and additions. In 1948, Mr. Summerfield added a Chevrolet dealership in Grand Rapids.

The Flint dealership was started with a single building with 10,000 square feet of space, a stock of parts valued at about $6,000, and 25 employes.

When the senior Summerfield went to Washington as Postmaster General in 1953, his son who started in 1946 as a service salesman, became president and general manager.

By that time, floor space had grown to nearly 50,000 square feet, the dealership was carrying a parts inventory worth more than $150,000, and is now one of the largest car dealerships in the country.

In recent years, Mr. Summerfield's son has been the majority owner in the Flint Chevrolet dealership and in truck dealerships in Gary, Ind. and Chicago. The elder Summerfield was board chairman of Summerfield Chevrolet. His son is the firm's president.

GOP Leaders Offer Tributes to Summerfield

National and local Republican leaders praised Arthur E. Summerfield today as a man who served his country well.

Michigan congressmen giving tributes to

Mr. Summerfield included U.S. Sen. Robert P. Griffin, U.S. Rep. Gerald R. Ford of Grand Rapids and U.S. Rep. Donald W. Riegle Jr., R-Flint.

Griffin is the minority whip in the U.S. Senate and Ford is the House minority leader. Both were close and longtime personal friends of Mr. Summerfield.

Riegle said Mr. Summerfield's death is a tremendous loss to Flint "because he was one of the most vital driving forces in community problem-solving."

Riegle said that although he and Mr. Summerfield sometimes did not agree on issues, they remained friends and that he "very much respected Mr. Summerfield and his point of view, and I'm deeply saddened by his death."

Riegle cited Mr. Summerfield's friendship with President Nixon and said that Mr. Summerfield often was instrumental in helping to obtain the Nixon administration's interest in Flint area problems.

"On a number of occasions I worked with him on different kinds of community projects and federal aid programs," said Riegle. "He was a terrific person to have on a problem-solving team. He leaves a big pair of shoes for the rest of us to try to fill."

Ford, who served in Congress throughout Mr. Summerfield's eight years as U.S. Postmaster General, often worked closely with him on Republican party matters.

"Art Summerfield was a truly dedicated American," Ford said today.

"He had firm convictions, unlimited energy, and a follow-through that usually brought results. Michigan and the nation have lost an outstanding citizen and I will miss him as a friend."

Griffin said he was greatly saddened to hear of Mr. Summerfield's death.

"He was a great American who served his country unselfishly and with distinction as a member of President Eisenhower's cabinet," Griffin said.

"Art Summerfield was a great fighter for the principles in which he believed.

"Michigan and the nation have lost a distinguished son. I have lost a friend."

David Laro, Genesee County Republican chairman, noted that Mr. Summerfield had good rapport with persons in Washington, D.C., in both political parties, enabling him to exert "a definite influence on the policies of this country by being able to approach the persons who are formulating those policies."

Said Laro: "We mourn the loss of Arthur Summerfield as a political and civic leader. Our respect for his extraordinary ability to achieve results in government regardless of the obstacles is unlimited.

"He worked for the good of the country."

Laro said Mr. Summerfield recently told him that his successful efforts in promoting the repeal of the 7 per cent federal excise tax on new car sales was "one of his proudest hours."

Mr. Summerfield is the one who went to Griffin and to the White House, and convinced them of the need for repeal of the tax, Laro said.

In his tribute, Griffin cited Mr. Summerfield's "great help to me in working successfully for the repeal of the auto excise tax."

Said Griffin: "He worked untiringly for his state and for a healthy automotive industry upon which so many depend for their livlihood in Michigan."

Riegle said Mr. Summerfield was one of the best of the nation's political strategists.

"He was a tremendously important man in the Eisenhower administration, even more so than he has been recognized as being publicly," Riegle said.

"President Eisenhower had tremendous respect for Mr. Summerfield, and the fact that he remained in the cabinet for eight years says much for his role in that cabinet.

"Politically, he played a very central role, first in General Eisenhower's nomination in 1952 and in the presidential campaigns of 1952 and 1956."

BY COMMUNITY LEADERS

Tributes for Arthur E. Summerfield came from leaders of the Flint community today.

Mayor Francis E. Limmer said Mr. Summerfield's death is a "great loss."

"He was a good door opener," Limmer commented, pointing out that Mr. Summerfield often made arrangements for local officials to meet with top federal officials.

"He often used his influence to bring people together to sit down and talk about a problem."

Harding Mott, president of the Mott Foundation, called Mr. Summerfield "a sinew of strength in the life of Flint for nearly half a century.

"It is a great tribute to his character," Mott said, "that when he was in high places both in government and business he never forgot the Flint community. His devotion and efforts on behalf of Flint will remain evident for years to come."

Lawrence P. Ford, president of the Flint Area Chamber of Commerce, said the city "will find it difficult to fill the void left by him.

"He was not only an inspiration to us but one we could always count upon."

Mr. Summerfield was "a real doer, not just a talker," Ford said.

Thomas R. Welch, executive director of the chamber, called Mr. Summerfield "one of the old breed."

"He said what he believed and you could either take it or lump it," Welch said. "He was a guy that could get something done. Not many people in the community could pick up the phone and call Washington like he could.

"I don't know of anyone that can take his place."

Charles Stewart Mott said today that the death of Arthur F. Summerfield was "a great shock."

"He was a very good friend and we were very fond of each other," said the 96-year-old Flint philanthropist. "Summerfield was a terrific worker. He was always working harder than he should."

Mr. Mott recalled that when he received the Big Brother of the Year Award from President Dwight D. Eisenhower, Mr. Summerfield introduced him to the president with this remark:

"It gives me great pleasure to introduce my first employer to my present employer—I carried the mail for both."

Mr. Summerfield was then postmaster general. As a youth, he had been an office boy, carrying mail, at the Weston-Mott plant in Flint which was owned by Mr. Mott.

"He was a wonderful friend and a great citizen," Mr. Mott said.

Laverne Marshall, secretary of the Flint Automobile Dealers Association, said that "we have lost a friend of every dealer in the country.

"He was a man of unbelievable energy, who was vitally interested in every problem we had. He never let up on anything."

ARTHUR E. SUMMERFIELD DIES AT 73

Arthur E. Summerfield, 73, who as U.S. postmaster general in the 1950's reached political heights never achieved by any other Flint man, is dead.

Mr. Summerfield died about 4 a.m. today at Good Samaritan Hospital in West Palm Beach, Fla. He had been in the hospital since April 6 with pneumonia. He had been troubled with a heart ailment in recent years.

His son, Arthur E. Summerfield Jr., reached by The Journal at the family's yacht at West Palm Beach, said services will be either Friday or Saturday at First Presbyterian Church in Flint. Burial will be in Sunset Hills.

Arrangements will be announced later by Dodds-Dumanois Funeral Home. Contributions are being made to the First Presbyterian Church Memorial Fund. There will be a memorial service at 10 a.m. Thursday at Summerfield Elementary School in Flint.

The younger Summerfield said President Nixon had called the family a few days ago to inquire about Mr. Summerfield's condition.

Mr. Summerfield was elected Republican national chairman in 1952 and directed Dwight D. Eisenhower's successful bid for president of the United States.

Mr. Summerfield had gone to Paris to urge Eisenhower to run for the presidency when Eisenhower was commander of Allied powers in Europe, in charge of the North Atlantic Treaty Organization armed forces.

When Eisenhower appointed him postmaster general, Mr. Summerfield became the only Flint man ever to achieve Cabinet status. He served in that position through the eight years of the Eisenhower administration.

Mr. Summerfield, founder of Summerfield Chevrolet Co., a large auto dealership at 2712 N. Saginaw, continued to be an important figure in politics and in civic and business endeavors until his death.

Preferring to work in the background, Mr. Summerfield was Flint's most influential citizen in liaison with the Nixon administration.

He had been a friend of Richard M. Nixon's since before Eisenhower's first presidential campaign, during which Nixon was the vice presidential candidate.

Mr. Summerfield stood solidly behind Nixon when some other political leaders talked of removing Nixon from the Eisenhower ticket as a result of a controversy over a Nixon campaign fund.

"Some people wanted to change vice presidential candidates," Summerfield recalled years later. "But I reminded them that this would require another national convention. And as national chairman, I was not going to call another convention."

Instead, he arranged the purchase of television time in which Nixon delivered his famous "Checkers" speech, successfully puncturing the issue and remaining on the ticket.

Mr. Summerfield's influence was felt in many ways locally, and often behind the scenes.

His influence was called the major reason for the federal government's decision to set aside $5 million for an urban renewal project in the Doyle School area north of downtown.

Another example came last year when a delegation of Flint citizens wanted to discuss a regional airport plan with federal officials. Mr. Summerfield was able to arrange a meeting of the group with John B. Volpe, secretary of transportation, and the chiefs of the Federal Aviation Administration.

Mr. Summerfield also was instrumental in helping the city reach an agreement with Chesapeake & Ohio to remove its tracks through downtown Flint. The track removal is scheduled to begin in August.

Last year he testified before the U.S. House Ways and Means Committee, urging repeal of the 7 percent excise tax on automobiles. Congress repealed the tax later in the year, and insiders said Mr. Summerfield was greatly influential in bringing that about.

Arthur Summerfield Jr. said today that his father developed parts of President Nixon's new economic policy announced last August and was the liaison man between the administration and Democratic members of Congress in getting the economic package through Congress.

Flint leaders have often said privately that Mr. Summerfield was Flint's most important citizen, even in recent years, in terms of his stature with the federal administration.

He also remained active in business. Last year, Mr. Summerfield was named Michigan Automobile Dealer of the Year by the Michigan Automobile Dealers Association. He organized a group of 200 General Motors stockholders to "stand up and speak out" for GM management at the annual GM stockholder's meeting last year, in an effort to counter the voices of Campaign GM backers at the meeting.

Mr. Summerfield was reluctant to talk for publication about his many activities, but he was almost a legend in his lifetime among the city's civic leaders.

They recalled accounts of his powers in national and State politics and of his important role in the start of one of Thomas E. Dewey's runs for the Presidency.

Mr. Summerfield was born in Pinconning and came to Flint with his family when he was nine. His first job—delivering mail for the Weston-Mott Co. here—was recalled years later when he became postmaster general.

Before opening his Chevrolet franchise in 1929, he sold real estate and became an oil distributor.

Mr. Summerfield got his start in politics when he and a few other men organized a campaign for Republican presidential nominee Wendell L. Wilkie in 1940.

Three years later he was named finance director of the Republican Michigan Central Committee and set up a new financing plan which was later to be copied by other states.

Mr. Summerfield's energy and organizational ability led him up the ladder in the state and national Republican organizations until he became national chairman in 1952.

Besides his wife of 54 years, Miriam, and his son, Mr. Summerfield is survived by a daughter, Mrs. John A. MacArthur, Flint; five grandchildren and one great grandson.

NIXON MOURNS SUMMERFIELD

President Nixon issued the following statement today on hearing of the death of Arthur E. Summerfield.

"Mrs. Nixon and I join with fellow citizens across the country in mourning the death of Arthur E. Summerfield and in expressing our deepest sympathy to his family.

"He was a loyal and good friend. He was an ardent and dedicated Republican. He was devoted to his country, and in his service to both party and country he earned the high admiration of men and women from both sides of the political aisle.

"He will be remembered by history as a great American whose career was symbolic of the finest aspects of our national character."

The Summerfield party reported that President Nixon inquired about Mr. Summerfield's condition in a telephone conversation a few days ago with the family in West Palm Beach, Fla.

ARTHUR SUMMERFIELD—A "SELF-MADE MAN"

Arthur E. Summerfield's insatiable interest in politics carried him to the chairmanship of the National Republican Committee and the office of United States postmaster general.

He was the only Flint man ever to attain a presidential cabinet position, serving eight years during the administration of Dwight D. Eisenhower.

His wife, Miriam, remarked while Summerfield was postmaster general, that his life was "an example of a self-made man in the best American tradition."

Born in Pinconning March 17, 1899, Mr. Summerfield attended school in Bay City before coming to Flint with his family when he was 9 years old.

He completed only the eighth grade, a fact that was known for years by only a few and astounded many associates and friends when it came to light at a testimonial dinner in 1952.

For the story of his early business career, see accompanying article.

During the 1930s most of Mr. Summerfield's energies were spent building his business, the Summerfield Chevrolet Co., which he had opened in 1930. By 1936 he had twice enlarged his building and expanded his employment from 2 to 130.

An impromptu discussion in 1938 with James Roosevelt, son of President Franklin D. Roosevelt, during a visit to Washington may have played a part in sharpening Mr. Summerfield's interest in politics.

An appointment to talk with FDR's son for 15 minutes was set up by a Flint congressman after hearing some of Mr. Summerfield's views on economic and labor issues.

The discussion in the White House lasted 45 minutes, with Roosevelt reportedly agreeing on some points, taking issue with others.

But legend is that an incident in Flint in 1940 provided the impetus for Mr. Summerfield's active interest in politics.

The late Wendell L. Willkie appeared in Flint Oct. 1 as the Republican presidential candidate and was met at a rally in front of the IMA Auditorium by only a small gathering. In fact he was booed by many in the group.

"I did not like what I saw," Mr. Summerfield said later. Within an hour he and a handful of other men met to organize a campaign for Willkie in Genesee County. When Michigan returns for that election were tabulated, the county had won the state for Willkie.

Mr. Summerfield's political activities grew after the 1940 elections. Two years later he narrowly missed being the Republican nominee for Michigan secretary of state.

Early in 1943 Mr. Summerfield was appointed finance director of the Republican Michigan Central Committee. He was alarmed at political financing methods in which a few men and the candidates were paying most of the cost of campaigns.

With his business acumen, he set up a new financing plan which later was to be copied by other states. Under the "Summerfield Plan," Republican expenditures in Michigan were budgeted for the first time.

During the World War II years, Mr. Summerfield served as Michigan chairman of the automotive committee of the National Automobile Dealers Association. He recruited more than 5,000 skilled mechanics and several hundred officers for the Army Ordnance Department.

In 1944 he was elected Republican national committeeman at Chicago. For the post he had the support of the political machine of Gov. Harry F. Kelly as well as help from the labor ranks.

The following year friends began urging him to seek the nomination for governor of Michigan. He toyed with the idea, but never worked for the nomination.

In 1948 Mr. Summerfield attracted national political attention when his name was mentioned as a dark-horse possibility for chairman of the Republican National Committee.

He was gaining a wide reputation as a dynamic personality and a capable organizer who had performed with marked ability every duty assigned to him by the national chairman.

However, he said he did not want the job.

He became regional vice chairman of the National Republican Finance Committee in 1946. He was in charge of fund raising in Michigan, Wisconsin, Illinois, Indiana and Ohio.

Unanimously re-elected in 1948 as national committeeman, Mr. Summerfield was promoting the late Sen. Arthur E. Vandenberg for presidential nomination. But it was a difficult position because Vandenberg refused to become an avowed candidate.

In 1949 Mr. Summerfield was named executive chairman of the Republican National Strategy Committee, having demonstrated an ability to work with congressmen on policy and strategy.

He resigned a year later, however, because a younger element to which he belonged did not always agree with the policies of national chairman Guy G. Gabrielson.

In 1952, after delivering a bloc of Michigan votes instrumental in Dwight D. Eisenhower's selection over Robert A. Taft as presidential nominee, Mr. Summerfield was elected national chairman. He succeeded Gabrielson, who had been accused by Eisenhower leaders of showing favoritism toward Taft.

In directing Eisenhower's successful campaign, Summerfield set up an organization of half a million workers, at the same time reconciling the Taft and Eisenhower forces.

With the Eisenhower victory came Mr. Summerfield's appointment as postmaster general—a political height never before reached by a Flint man.

In December, 1952, a throng of 3,000 attended a testimonial dinner in the IMA Auditorium to pay Mr. Summerfield tribute. The president-elect, returning to the U.S. from abroad, told Mr. Summerfield by way of a recording:

"Through your contribution we will have a better government."

Shortly after Mr. Summerfield took over his new duties, a Southern newspaper asked the White House why he, rather than a postal career man, had been appointed postmaster general.

Replied the President's press secretary, James C. Haggerty:

"The President appointed Mr. Summerfield because he had faith in his business experience and ability and believes it was necessary to get a businessman into the Post Office Department so that a good job of rehabilitation and reorganization of that department could get under way immediately."

Although Mr. Summerfield was credited with improving efficiency in the department during his term, he reported disappointingly to Eisenhower after submitting his resignation in January, 1961—that the operating deficit had grown during the eight years of the administration.

Eisenhower told Mr. Summerfield the postal system under his direction "has been better and more efficient than ever before in our history."

"U.S. Mail," Mr. Summerfield's history of the U.S. postal service as told to Charles Hurd, was published in 1960 by Holt, Rinehart & Winston, as the postmaster general neared the end of his term.

Noting that the postal deficit from 1946 to 1960 totaled $6.8 billion, Mr. Summerfield declared in the book that the postal service "can and must be placed on a basis of paying its own way."

However, he went on. "It is unlikely to achieve this basis as long as it remains at the mercy of some members of the Congress who will use their power over it to suit their political ambitions and purposes."

He said the "staggering postal losses" were due to inflationary rises in costs of wages, transportation and supplies "without compensating increases in revenues."

During his early years in office, Mr. Summerfield became alarmed over use of the mails to send obscene literature and pictures around the country.

He fought a six-year battle against pornography peddlers, ending in a Chicago grand jury indictment early in 1961 of 81 persons for conspiring to send obscene materials through the mails.

He suffered a major disappointment, however, in one phase of his fight against obscene materials when a New York court held that the unexpurgated version of the novel "Lady Chatterley's Lover" was mailable. Mr. Summerfield had banned the book from the mails.

Among other marks of Mr. Summerfield's term were a stress on wider knowledge and use of commemorative stamps, appearance of red, white and blue postal vehicles and a post office modernization program.

Flint's main post office was constructed while Mr. Summerfield was postmaster general.

Mr. Summerfield believed that man with knowledge and talent should never be deterred from their responsibilities.

A few weeks before the 1964 Republican national convention he told a gathering of Berrien County Republicans:

"After these many years of experience and intimate knowledge of our national problems and policies, and working with the greatest leaders of our time, I cannot withdraw from this responsibility. No man in this position has a right to do so."

During the convention in San Francisco in July of 1964, Mr. Summerfield declared: "I'm deeper in national and Michigan politics now than I have ever been."

Mr. Summerfield had worked for the presidential nomination of Barry M. Goldwater for months before the convention, serving as co-chairman of the Goldwater finance committee for North Central States.

Following Goldwater's nomination, Mr. Summerfield commented in an interview here that he considered himself cast in the role of intelligence officer for the Goldwater forces. He disclosed that he was a member of the candidate's personal advisory committee.

Goldwater's defeat by President Johnson was a disappointing conclusion to Mr. Summerfield's political career.

[From the Detroit News, Apr. 26, 1972]

EX-POSTMASTER SUMMERFIELD DIES

(By Glenn Engle)

Arthur E. Summerfield, former Flint auto dealer who rose to national political power during the Eisenhower years and held the cabinet post of postmaster general, died today in West Palm Beach, Fla. He was 73.

The former chairman of the Republican National Committee died in Good Samaritan Hospital, which he had entered two weeks ago with double pneumonia.

Mr. Summerfield's death was announced in West Palm Beach by his son, Arthur E. (Bud) Summerfield, Jr.

A figure in Michigan Republican politics for more than two decades, Mr. Summerfield quit school at age 13 to deliver mail for the old Weston-Mott Co., in Flint. Forty years later, he was tapped by the late President Eisenhower for a key role in his eight-year Republican administration.

In the meantime he had been a real estate salesman, an oil distributor and finally the owner of one of the world's largest Chevrolet dealerships. He also became deeply involved in both state and national politics, figuring frequently in GOP controversy.

Mr. Summerfield's political career might have been extended had it not been for Barry Goldwater's crushing defeat for the presidency in 1964.

For months before the convention that nominated Goldwater, he served as cochairman of the Arizona senator's finance committee for North Central States. He also was a member of the candidate's personal advisory committee.

It was his alignment with the GOP's conservative wing that created friction with the more moderate Republicans who controlled the Michigan party.

In 1959 he came to Detroit ostensibly to demonstrate new post office machinery. While here he collaborated with other party fund raisers in a move to dump Paul D. Bagwell, the nominee for governor the previous year, before he could run a second time.

When that move was blocked by Henry Ford II, the group then sought to force Bagwell to drop Lawrence B. Lindemer as state chairman.

Relations between Mr. Summerfield and the state party powers became so strained that he, though still a Cabinet officer, only reluctantly was given a delegate's badge for the 1960 national convention.

As the Goldwater movement developed, Michigan Republican leaders accused him of skimming off badly needed campaign money for the conservative cause.

At the 1964 party convention in San Francisco, Mr. Summerfield sat impassively on the sidelines as the Michigan delegation staged a favorite son demonstration for Gov. Romney.

Born in Pinconning, Mich., March 17, 1899, he attended school in Bay City before his family moved to Flint when he was nine years old.

After his boyhood stint at Weston-Mott, he became chief inspector of the ammunition department at Chevrolet during World War I.

He married Miriam W. Graim in 1918. She served as his bookkeeper when he went into the real estate business.

In 1924 he started an oil distributing business, and five years later he opened the Chevrolet dealership that brought him wealth and influence.

Mr. Summerfield first evinced an interest in politics in 1940. Only a small turnout of Republicans met the late Wendell L. Willkie when he carried his presidential campaign to Flint late that year, prompting the auto dealer to set up a Genesee County organization in his behalf.

Two years later Mr. Summerfield narrowly missed being the Republican nominee for Michigan secretary of state. In 1943 he became finance director for the state GOP and the following year he was elected Republican national committeeman.

After toying with the idea of running for governor in 1944, he was named regional vice chairman of the National Republican Finance Committee in 1946. In this post he was in charge of fund raising in five Midwestern states.

In 1948 he was re-elected national committeeman and tried to promote the late Senator Arthur H. Vandenberg for the presidential nomination. Vandenberg's reluctance to run made the job difficult.

At the 1952 GOP national convention, Mr. Summerfield was believed to be solidly for Senator Robert A. Taft. But he remained outwardly neutral until almost time for the first roll call, then delivered the Michigan delegation to Gen. Eisenhower by a large margin.

The move was rewarded when he subsequently was elected to succeed Guy Gabrielson as Republican national chairman.

With the Eisenhower victory came Mr. Summerfield's appointment as postmaster general and a recognition never before accorded a Flint man.

In this post he fought a continuing war against pornography peddlers, winning some battles and losing others.

Mr. Summerfield held honorary degrees from the University of Michigan; Cleary College, Ypsilanti, which he served as a trustee; and Thiel College, Greenville, Pa. He was a 33d degree Mason.

Besides his wife and son, surviving is a daughter, Mrs. John E. MacArthur.

[From the Washington Post, Apr. 27, 1972]

EX-POSTAL CHIEF A. E. SUMMERFIELD DIES

(By Jean R. Hailey)

Arthur E. Summerfield, former postmaster general and once a power in Republican politics, died yesterday at West Palm Beach, Fla. He was 73.

He was hospitalized two weeks ago with pneumonia while vacationing there, a family spokesman said. The family home is in Flint, Mich., where Mr. Summerfield was a successful automobile dealer for many years.

He served as postmaster general during the two terms of President Dwight D. Eisenhower, from 1953 to 1961, and was considered a close friend and confidant to the chief executive.

The job went to Mr. Summerfield after he delivered a bloc of Michigan votes to Mr. Eisenhower at the 1952 Republican Convention. He was named Republican National Committee Chairman and then successfully directed Mr. Eisenhower's campaign.

Mr. Summerfield was credited with supporting Richard M. Nixon, then Mr. Eisenhower's running mate, after questions were raised about the Nixon campaign funds in California and some Republicans tried to start a "dump Nixon" movement.

Mr. Summerfield defended Mr. Nixon, and as GOP National Committee chairman, arranged for the purchase of television time for the famous "Checkers" speech.

In a statement released here yesterday, President Nixon called Mr. Summerfield a "loyal and good friend" and an "ardent and dedicated Republican."

His tenure as postmaster general saw many innovations in automation aimed at streamlining, modernizing and improving postal services. He never lost his faith in postal workers and once remarked:

"In the final analysis, it is people, not machines, not laws, nor buildings alone that make any service great."

Mr. Summerfield was deeply perturbed at the continuing operating deficit of the post office department and later in his book, "U.S. Mail," he said mail service "must be placed on a basis of paying its own way."

He added, however, "It is unlikely to achieve this basis as long as it remains at the mercy of some members of the Congress who will use their power over it to suit their political ambitions and purposes."

Mr. Summerfield was a warm, friendly man, always ready with a smile and a handshake. He left school at the age of 13 to take an office boy's job in Flint. In 1918 he opened a real estate office and oil dealership.

Prosperity finally came to him after 1929, when he opened a Chevrolet automobile dealership in Flint, which became one of the nation's largest. He also owned truck dealerships in Gary, Ind., and Chicago.

After establishing himself as a successful businessman. Mr. Summerfield became interested in politics and in 1940 campaigned for Republican presidential nominee Wendell Willkie.

He became the chief fund-raiser for the Michigan GOP in 1934, and a year later was elected to the Republican National Committee from his state.

He was asked to run for chairman of the GOP National Committee in 1946 but declined. In 1948, he led a group seeking the presidential nomination for the late Sen. Arthur H. Vandenburg but the move failed. The next year, he was named executive chairman of the GOP's national strategy committee, but resigned in 1950.

However, Mr. Summerfield's influence in party affairs continued to increase and by 1952 was so great that backers of both Mr. Eisenhower and the late Sen. Robert A. Taft of Ohio, who also was seeking the presidential nomination, tried to get his support.

He returned to Flint after leaving his Cabinet post but continued to participate in GOP affairs. In 1964 he worked on campaign finances for Sen. Barry Goldwater of Arizona, who was then making a bid for the presidency.

In recent years he remained chairman of the board of Summerfield Chevrolet, but had turned over much of its operation to his son, Arthur Jr.

In addition to his son, he is survived by his wife, Miriam, and a daughter, Mrs. John MacArthur.

[From the New York Times, Apr. 27, 1972]

Arthur E. Summerfield Is Dead; Postmaster General 1952–60—National Chairman of GOP, Served Eisenhower Twice as Campaign Manager

West Palm Beach, Fla.—Arthur E. Summerfield, Postmaster General during the eight years of the administration of President Dwight D. Eisenhower and former chairman of the Republican National Committee, died here today. He was 73 years old.

Mr. Summerfield, who managed the Eisenhower Presidential campaigns, entered Good Samaritan Hospital two weeks ago, suffering from double pneumonia, while vacationing here.

He is survived by his widow, Miriam, a son, Arthur S., a daughter, Mrs. John MacArthur, five grandchildren and one great-grandson.

Rewarded for Loyalty

(By Murray Illson)

A highly successful merchandiser in the field of politics, Arthur Ellsworth Summerfield got his start as a salesman in real estate, sometimes selling lots after dark by the light of his car's headlights.

He became distributor in Flint, Mich., for the Pure Oil Company in 1924 and turned to the automobile sales business after losing heavily in the stock market crash.

The Summerfield Chevrolet Company, which he organized in 1929, grew rapidly. Within a few years, Mr. Summerfield had branches in other Michigan cities and eventually his agency became one of the biggest dealerships in the country.

His contributions to the nomination of General Eisenhower in 1952 made him one of the country's leading political figures.

He became chairman of the Republican National Committee the day after General Eisenhower's nomination. And when General Eisenhower was elected, Mr. Summerfield became Postmaster General, the post usually reserved for the winning party's leading political strategist.

PAINTED THE MAILBOXES

During his tenure he was credited with having the nation's drab green mailboxes painted red, white, and blue, introducing ball-point pens to post offices, sending the first "missile" mail and generally taking steps to modernize the postal system.

He approved more new stamps in 1960—his last year as Postmaster—than had been approved in any year in 20 years. By the end of December, 1960, 33 new issues of stamps were released. The previous high was 44 in 1940.

Among the 16 commemorative stamps released in 1960 were those for the Camp Fire Girls, the fifth World Forestry Congress, the 50-star United States Flag, the winter Olympic Games and the Boy Scouts.

Mr. Summerfield also revived the custom of issuing memorial stamps for Government officials. The 1960 stamps honored John Foster Dulles, Secretary of State under President Eisenhower; Robert A Taft, the Republican Senator from Ohio who had been General Eisenhower's principal rival for the G.O.P. Presidential nomination, and Senator Walter F. George, Democrat of Georgia.

Mr. Summerfield was an indefatigable foe of mail-order pornography and obscenity, which, in 1959, he described as a $500-million-a-year business. He reported that year that his anti-obscenity campaign had resulted in a record number of 315 arrests.

Mr. Summerfield suffered a notable defeat when the Justice Department, in June, 1960, decided not to ask the Supreme Court to reinstate the Post Office ban on "Lady Chatterley's Lover."

The following year, the private pornography collection Mr. Summerfield had assembled to fight obscenity was returned to Post Office files.

Mr. Summerfield was born in Pinconning, Mich., on March 17, 1899, the son of one of the earliest rural mail carriers in the state. At 13 he left grammar school to work as a "mailbag boy" in a nearby plant.

Later he worked for the Buick Motor Company and on the assembly line in the Chevrolet plant in Flint.

WORKED FOR WILLKIE

Mr. Summerfield entered politics in 1940 when he organized a campaign committee that helped Wendell L. Willkie carry the state that November.

In 1946 Mr. Summerfield made an unsuccessful bid for the gubernatorial nomination. He acquired prestige and political power despite the defeat, and when the Republican national strategy committee met in Chicago in 1949 to plan for the next year's Congressional campaigns, Mr. Summerfield was named chairman.

During the party's national convention in Chicago in 1952, Mr. Summerfield shrewdly held back his large block of uncommitted delegates from Michigan until the morning of the nomination, and then threw them behind General Eisenhower.

Mr. Summerfield, during his tenure as Postmaster General, experimented with several ways to speed the mails. On June 8, 1959, a Regulus guided missile carrying 3,000 letters landed on the Florida coast near Jacksonville after a flight of about 100 miles from the deck of a submarine in the Atlantic Ocean. Mr. Summerfield hailed the flight as the first known "official use of missiles by any Post Office department of any nation."

A year later, Mr. Summerfield demonstrated an electronic facsimile system to deliver first-class mail across the country in seconds. A letter put on a postal form could be transmitted over television microwaves.

However, in March, 1961, Mr. Summerfield's successor said that the facsimile system was being abandoned as too costly to operate.

A year ago, Mr. Summerfield headed a group of influential citizens in Flint, Mich., where the General Motors Corporation was born, to support the giant auto company against what were termed "vicious attacks from questionable sources and disruptive forces."

Members of the group said they were showing their support for G.M. because attacks on the auto company were "aimed at the vital fabric of all business and our government and our way of life." Mr. Summerfield was a large G.M. stockholder.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. RIEGLE. I am glad to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I appreciate the gentleman yielding to me.

I knew Art Summerfield very intimately since 1946. I had many political experiences with Art Summerfield from the time that I returned from military service in 1946 until just before he passed away. Those experiences covered a very wide range of political interest. I had my share of differences with Art Summerfield, but I can say very forthrightly that Art Summerfield's contribution to good government, going from his own area in Genesee County in the State of Michigan to the United States was very beneficial for the country.

He was an untiring worker and a dedicated person. He had the highest motives. I think his record both within Government and without is one that his family can well be proud of.

It was a record that was unselfish to the extreme.

I think it is tragic that even in his later years Art Summerfield could not do all of the things that he wanted to do because he still had the drive and the energy and the desire. Art Summerfield was truly a great American.

I extend to his lovely wife Miriam Summerfield and his family the deepest sympathies and condolences from my wife and myself.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. RIEGLE. Yes, I yield to the distinguished majority leader.

Mr. BOGGS. I thank the gentleman for yielding.

Mr. Speaker, I would like to associate myself with the remarks which have been made by the gentleman from Michigan (Mr. Riegle), and by the distinguished minority leader.

I was very well acquainted with the late and the distinguished Arthur Summerfield. He was a man of great talent. But, most of all, he was a man of many friendships. No one would say that he was not partisan, because he was. However, he was partisan in the very best sense of the word.

He stood up very strongly for what he thought was right, but his friends were on both sides of the aisle.

In those days, as a member of the Committee on Ways and Means, I had frequent contact with him. He was an able man. He was a dedicated man. He was always a very fair man. Although he had many friends on the Democratic side of the aisle, he never took contrary advantage of any of us. He had the friendship of most of us.

I join with both of the gentlemen from Michigan in expressing the deepest sympathy to his wife and family.

Mr. RIEGLE. I thank the distinguished majority leader.

GENERAL LEAVE

Mr. RIEGLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the life, character, and service of the late Honorable Arthur Summerfield.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON RESOLUTION RELATING TO PROVIDING FUNDS FOR EXPENSES TO THE SELECT COMMITTEE ON THE HOUSE RESTAURANT

Mr. THOMPSON of New Jersey, from the Committee on House Administration, submitted a privileged report (Rept. No. 92–1031), on the resolution (H. Res. 948) relating to the provision of funds for expenses incurred by the Select Committee on the House Restaurant, which was referred to the House Calendar and ordered to be printed.

(The resolution reads as follows:)

H. Res. 948

Resolved, That effective January 3, 1972, expenses incurred by the Select Committee on the House Restaurant, pursuant to H. Res. 317 not to exceed $29,500 including expenditures for the employment of clerical, stenographic, and other assistants, and for the procurement of services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)), shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

Sec. 2. The chairman of the Select Committee on the House Restaurant shall furnish the Committee on House Administration information with respect to the activities of the select committee intended to be financed from the funds authorized by this resolution.

Sec. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

PERSONAL ANNOUNCEMENT

Mr. FOLEY. Mr. Speaker, I was unavoidably absent from the Chamber during teller vote No. 127 on the Waldie amendment to H.R. 12202.

Had I been present, I would have voted "yea."

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker, I have requested this time for the purpose of asking the distinguished majority leader the program for the rest of this week, if any, and the schedule for next week.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the majority leader.

Mr. BOGGS. I appreciate the gentleman yielding.

In reply to the question of the distinguished minority leader, there is no further legislative program for this week. However, as previously announced, we do have our annual reunion day tomorrow. The House will meet at noon, as usual, tomorrow, and then recess for the remarks of our returning former colleagues.

It is my intention to ask to go over until Monday when the House adjourns on tomorrow.

The program for next week is as follows:

On Monday there will be the call of the Consent Calendar and the consideration of the following four suspensions:

S. 2713, care for narcotic addicts;

H.R. 12652, Civil Rights Commission extension;

H.R. 9676, land transfer to Tennessee; and

H.R. 13334, Treasury Department positions.

On Tuesday there will be the call of the Private Calendar.

On Wednesday there will be the following bills for the consideration of the House:

H.R. 13591, National Institute of Arthritis, Metabolism and Digestive Diseases, under an open rule, with 1 hour of debate;

H.R. 13089, accelerated reforestation of national forests, subject to a rule being granted, and H.R. 14015, pear marketing orders, also subject to a rule being granted; and

For Thursday and the balance of the week, House Joint Resolution 1174, the dollar devaluation appropriations.

Of course, conference reports may be brought up at any time, and any further program will be announced later.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I would ask the gentleman from Louisiana whether we have complete assurances now that there will be no business whatsoever transacted tomorrow?

Mr. BOGGS. The gentleman is correct.

Mr. GROSS. Mr. Speaker, I thank the gentleman from Michigan (Mr. Gerald R. Ford) for yielding to me, and I thank the gentleman from Louisiana (Mr. Boggs) for his response.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ADJOURNMENT FROM TOMORROW TO MONDAY, MAY 1, 1972

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

SEVENTY-NINE DAYS AND NO TAX REFORM PROPOSAL FROM THE PRESIDENT

(Mr. GIBBONS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GIBBONS. Mr. Speaker, after the momentous events of August 15 of last year, President Nixon told Congress that he would submit in 1972 a "tax reform program."

On February 7 the distinguished chairman of the House Ways and Means Committee asked the President to submit this tax reform program to Congress by March 15 so that action on his proposals could be taken this year.

It has been 79 days since that request was made by Mr. Mills and Congress has yet to see a single proposal from the President which would distribute the Federal tax burden more equitably or make our tax laws less complicated and confusing.

In fact, highly placed administration spokesmen continue to state publicly that there is no need for tax reform—that, in fact tax reform could be "a dangerous step."

It is hard for the American taxpayer and for many of us in Congress to understand just why tax reform would be a "dangerous step"—especially as we see more and more evidence that our tax laws have the effect of shifting the tax burden from the well-to-do to those who are less able to pay.

I would like to point out just two more examples of the inequity of our tax laws and again urge the President to follow through on his promise and submit a meaningful tax reform proposal to Congress—now.

First, I would like to insert in the Record some notable examples of how American businesses "eased their tax load" last year at the expense of other American taxpayers. These examples appeared in the April 15 issue of Business Week.

Second, I would like to insert a recent Washington Post article showing how Philadelphia Eagles owner Leonard Tose was able to avoid personal income taxes for 1969 and 1970, although he received hundreds of thousands of dollars in income during those years.

I submit, Mr. Speaker, that our tax laws are not getting any better with presidential or congressional neglect, and there is no time like the present to do something about them.

The items follow:

[From Business Week, Apr. 15, 1972]

How Some Companies Ease the Tax Load

Annual reports, in the chairman's letter to shareholders, invariably contain a sentence or so about the hefty tax bill the company had to pay. Last year, some companies still eligible to use the 1968 investment tax credit and other tax law provisions, were able to trim their tax load. Notable examples include:

U.S. STEEL CORP.

The 1968 investment tax credit, mineral depletion allowances, and deferred taxes provided in previous years on foreign income totaled $57.9-million for Big Steel in 1971. Estimated U.S. and foreign income tax for 1971 also came out to $57.9-million. The coincidence, attested to by U.S. Steel's auditor, Price Waterhouse & Co., meant that the U.S. and foreign tax bill was entirely offset by the allowable deductions and credits. But U.S. Steel did pay $149-million in state, local, and miscellaneous taxes.

WESTERN UNION CORP.

Last year marked the eighth year in a row that it paid no federal income tax even though it turned a profit in each of those years. The maneuver is completely within the tax laws. For one thing, the company uses accelerated depreciation for tax-reporting purposes. It also uses utility-accounting procedures. These permit expensing interest charges on the tax books while capitalizing part of them for accounting and financial purposes. Employee overhead on new plant construction is capitalized in the same way. Thus, Western Union has had a tax shelter for net income since 1963.

MESA PETROLEUM CO.

The Amarillo (Tex.) oil company turned in a whopping 90% earnings increase last year over 1970's profit figure of $6.7-million. Its tax bill for 1971 was only about $200,000, because of a 10% minimum tax on statutory items principally statutory depletion. Mesa paid no other tax, mainly because of intangible drilling costs and other exploration expenses such as lease rentals. They totaled more than its $12.7-million income.

TEXAS OIL & GAS CORP.

The 1971 fiscal earnings picture of this Dallas-based company was brightened by a 29% boost over 1970. But it paid no federal tax other than a nominal amount of minimum tax on preference items included in operating and general expenses. The reasons: deductions for intangible costs of drilling and other development activities, as well as a tax loss carryforward.

FLYING TIGER CORP.

Bottom-line figures for this cargo airline and equipment-leasing company registered an impressive 94% gain in 1971 over 1970. A healthy investment tax credit mixed in with a substantial figure on depreciation of leased equipment outweighed the company's 1971 tax liability. The two deductions are robust enough so that Flying Tiger probably will not pay any taxes this year or next.

WESTVACO CORP.

A combination of factors put the company on the credit side of the tax ledger in the amount of $600,000 for 1971 compared with 1970 when it made provisions for paying $3.4-million. For one thing, earnings slid from $17-million to $4-million and the bulk of 1971 profits were from foreign operations. Taxes on the foreign income were more than offset by the investment tax credit of $880,000 Westvaco took last year. This wiped out any 1971 federal tax liability.

REVERE COPPER & BRASS INC.

The federal income tax credit of $501,000 reported by Revere is due to a roller coaster dip in 1971 profits from $1.62 per share to 58c. The 58c dwindled when operating and startup costs at a new aluminum smelter—equal to 32c per share—were charged against income. Coupled with weak metals prices, the company would have been in the red if it had not been eligible to take a $1.5-million investment credit on the new plant.

[From the Washington Post, Mar. 5, 1972]

Tose's Tax Gains Bared in Court

(By Dave Brady)

Leonard Tose's refusal to sell the Philadelphia Eagles back to former owner Jerry Wolman was more understandable after a recent court hearing.

Testimony elicited from Tose in a $100,000-a-year support suit brought by his wife disclosed that although he earned $80,000 annually from two other firms and the Eagles showed cash-flow profits of $412,000 in 1969 and $570,445 in 1969 and 1970, he paid no personal income taxes in those two years.

Tose was able to more than offset his income by depreciating the value of the Eagles' "useful lives" over a span of six years, thus showing losses on his tax returns. He has a 35,715 percent interest in the profits or losses of the football club.

At the end of the six-year depreciation schedule, Tose could sell the Eagles, be subject to capital gains taxes, and the next owner could begin a new depreciation schedule.

Wolman sold the Eagles to a group headed by Tose in 1969 for $16.1 million. Wolman was in financial difficulty with other interests at the time, but entered into an agreement by which he could buy back the Eagles.

When Wolman later tried to reacquire the Eagles, Tose refused to sell, contending that Wolman had not conformed to the stipulations of the contract.

Tose does not win 'em all. He settled the suit by his wife by paying what she asked.

RETIREMENT FUNDS: PRIVATE AND PUBLIC

(Mr. ERLENBORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ERLENBORN. Mr. Speaker, late in February, the Senate Labor Subcommittee released its interim report on its study of private welfare and pension plans. Shortly afterwards, an editorial appeared in the Wall Street Journal which presented some thought-provoking comments on how the Federal Government might best protect private pension funds; but it also put forth a question seldom raised: How healthy are government retirement funds?

It is for this reason that I call this editorial to the attention of my colleagues:

[From the Wall Street Journal, Mar. 20, 1972]

Pension Problems

President Nixon and many Congressmen favor new federal standards for private pension fund administration and it would be hard to argue that a need doesn't exist.

Some care should be exercised in meeting it, however, and it wouldn't hurt to give some attention to public sector pension policies at the same time.

There can be little doubt that workers are sometimes victims of their own misconceptions about the pension programs that cover them and that employers and unions sometimes contribute to the misconceptions in their eagerness to make labor settlements look good. There also are cases of inadequate funding and fund management. Workers who late in life find that their pension expectations were illusory have a gripe that often is justified.

President Nixon made his latest proposals for regulating pension funds in December. A Senate Labor subcommittee came up with even broader and stronger recommendations recently.

The President proposed, among other things, a federal minimum standard for "vesting." Vesting gives qualified employes rights to their pensions, or a part of them, even if they leave the company or it goes out of business. Some of the strongest criticisms of present regulation has come from workers who have been laid off after long service and left without pension rights.

The President suggested a "rule of 50" federal standard which would require that pensions become half vested when an employe's age and the number of years he has been in the pension plan add up to 50. The amount vested would increase annually until the pension became fully vested five years later.

The President says his new minimum standards would insure that 92% of workers 45 and older who belong to private plans would have fully vested pensions, compared with only 60% presently. He also proposed tax benefits for self-employed workers and others who want to save for their own pensions. He further wants stricter federal reporting and disclosure requirements applied to managers of pension funds with the objective of insuring that they are administered only for the benefit of employees.

The Senate Labor subcommittee made similar recommendations but went even further by recommending that federal law set systematic requirements for funding pension plans. It also advised steps aimed at making various pension plans more compatible so that employees would have less difficulty transferring pension rights when they change jobs.

All of these proposals are worthy of serious consideration in Congress, but it should be cautious consideration. The record of private employers and unions on this issue is not so dismal as to justify punitive treatment. It will serve little purpose if the effect of new legislation is to saddle some employers with legal requirements that are too expensive for them to meet. Over-ambitious legislation could lead to a new form of federal administration of private compensation, something we have too much of already in the form of wage controls and minimum wage laws.

The emphasis, rather, should be on regulation designed to insure that promises are kept and that fund management is in the interest of the workers it is meant to serve. The size and scope of the promises must be left in the hands of the employers and the collective bargaining process, since no regulator can decide what each employer can afford.

Interestingly enough, some of the worst abuses of candor where pensions are concerned are committed not by private employers or unions but by state and local governments and by Congressmen themselves in their efforts to sweeten the federal Social Security program. Some of the pension plans state and local governments have granted to public employe unions in recent years have been unfunded plans, which means that some future generation of taxpayers is meant to bear the cost.

And Congressmen seemingly are becoming increasingly prone to play politics by promising ever more generous federal Social Security benefits, even at the expense of a bigger budget deficit. Promising pension goodies without making provision for paying for them is a fault not limited to the private sector.

We favor greater candor where pensions are concerned, and stiffer regulations may be the way to get that. While they are pondering such regulations, however, the Congressmen would do well to at the same time ponder ways to bring greater order to pension programs administered by government. That, in fact, may be the greater of the two needs.

NIXON ADDRESS NOTEWORTHY NOTWITHSTANDING NETWORKS

(Mr. DEVINE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, last night the President of the United States made a magnificent nationwide television address.

Mr. Nixon delivered a calm, sincere, reasoned statement that certainly clarified our posture in Southeast Asia and should develop confidence as well as unity across America.

Of course, there will be some radicals, apologists for the Communists, and a few emotionally unstable and politically ambitious that are never satisfied, but the President has leveled with the public about the naked, unprovoked aggression of the invaders from North Vietnam, and our response.

Nevertheless, Vietnamization will continue. We will reduce our ground troops to 69,000 by next Monday, and 20,000 more by July 1; just 60 days, later down to only 49,000—or a half million less than the Kennedy-Johnson high.

Meaningful negotiations will resume in Paris if the enemy will permit productive talks for peace and not resort to their phony propaganda; halt their invasion and return the POW's.

The President properly made it clear naval and air attacks will continue and will not terminate until the invasion stops.

It should be obvious to everyone, Mr. Speaker, that if we permit a major power to support a smaller one in overriding the freedoms of a nation, the world will be permanently jeopardized, and it would happen again and again. Predictably in the Middle East next.

The President demonstrated his greatness and high purpose by having the courage to reject the easy course of appeasement and protect the integrity of and the respect for the office of the Presidency.

As usual, Mr. Speaker, the arrogant, self-satisfied network commentators on CBS demonstrated their utter lack of integrity and intellectual dishonesty in their quote "analysis" unquote, following the President's telecast. I would hope CBS would play back over and over again the disgusting performances of the Doom and Gloom Boys, Dan Rather, Eric Severied, and Marvin Kalb. With the precision of a surgeon, they dissected and shredded the President's remarks before the public even had an opportunity to form their own opinion. If anyone has any doubt whatsoever about the authenticity of charges of bias, prejudice, and lack of objectivity, here was a performance worthy of an "Oscar" or whatever award the television industry bestows for this sort of disgraceful invective.

SENATOR McGOVERN'S COMMENTS ON PRESIDENT NIXON'S ADDRESS

(Mr. GOLDWATER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GOLDWATER. Mr. Speaker, I rise today to speak to my distinguished colleagues because I feel that a vicious, unjust attack has been made on our President.

Senator George McGovern, last night, showed himself to be the greatest hypocrite in American politics today. He has accused President Nixon of sending 20,000 men to their deaths in Vietnam since his election in 1968. Senator McGovern's irresponsible attack totally ignores the fact that more than 30,000 Americans died in Vietnam during the 8 years of Democratic administrations; he also ignores the fact that when President Nixon took office he inherited a war that a Democratic President had left in fever pitch.

When President Nixon took office in 1969, the death rate in Vietnam had soared to more than 15,000 in 1968; President Nixon began his Vietnam policy and the death rate began to decline dramatically and has been declining ever since. Senator McGovern's irresponsible attack does not point out that President Nixon has dropped U.S. troop strength from 500,000 to 50,000—with further reduction scheduled—this has been a 1,000 percent decrease.

Senator McGovern has steadfastly refused to acknowledge the terror tactics being utilized by the Communists; he has not expressed any concern over the North Vietnamese invasion of South Vietnam. He is simply using the war as his central issue and he is now instigating the resurrection of the war as an emotional issue.

It is interesting to note, too, that Senator McGovern was consistently prowar during the Democratic administrations. His prowar attitudes was clearly demonstrated in 1964 when he voted in favor of the Gulf of Tonkin resolution, and the record shows his support of the war right through 1968. Lastly, to show the hypocritical nature of this man, Senator George McGovern supported Socialist presidential candidate Henry Wallace in 1948. At that time, he declared that anyone who opposed the views of Henry Wallace was Fascist. It seems the judgment of Senator George McGovern is clearly questionable, at best.

THE PRESIDENT'S SPEECH WAS A STRAIGHTFORWARD RECITAL OF SOME ESSENTIAL TRUTHS

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, the President's speech was a straightforward recital of some essential truths. He gave an accounting of the events leading up to the Communist invasion and he portrayed again the enemy's callous disregard for all efforts for an honorable and responsible peace. He deserves the support of the American people in this major effort to insure the success of Vietnamization. The outcome of years of effort may well rest on the events of the next very few weeks. This is no time for discord at home.

I endorse the resumption of the Paris peace talks, but only for a limited time to determine whether the Communists at long last want peace.

I support the continued bombing of military targets wherever they exist. A massive effort is necessary to help offset the fury of the Communist attack.

The President is right in saying we will not be defeated and we will not surrender our objectives, and he was right in warning what will happen elsewhere in the world if the Communists are successful in Indochina.

VIETNAM MYOPIA

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN. Mr. Speaker, tragically, the President's address to the Nation on his Vietnam policy last night merely echoed the same litany of disaster that we heard time and time again during the Johnson years. I opposed that policy then. And I oppose it now.

After so many years, after so many lives, you would think that this administration would have learned that bombing is not the path to peace. You would think that it would realize that the corrupt military dictatorship of General Thieu does not promote the self-determination of the Vietnamese people. You would think that it would learn that the only course for this Nation to take is to extricate itself entirely from this dreadful war immediately.

But this administration—rather than learning from the mistakes of the past—is intent on repeating them. It is following a policy that can only lead to further death and destruction.

That policy must stop.

And it is the Congress that must stop it.

For far too long this House has closed its eyes to its responsibilities to the Constitution and to the people of this land. Time and time again it has written a blank check for military adventurism in Southeast Asia. No more. This House cannot turn its back on ending this war any longer. It is imperative that by legislative action the bombing be stopped, our troops brought home—now.

PRESIDENT ONCE AGAIN TAKES TO THE AIR IN VAIN ATTEMPT TO EXPLAIN HIS POLICY IN SOUTHEAST ASIA

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, last night the President took to the air waves once again in a vain attempt to explain his policy in Southeast Asia to the American people. It has been 4 years now since the President made his promise that he had "a plan to end the war." While ground troop levels have decreased, the war has taken a dangerously heightened turn in recent days. The bombings of Haiphong and Hanoi represent reckless actions, which can accomplish nothing but the further proliferation of the war, and the real possibility of a major world conflict. Three years of intensive bombing have not materially changed the war or secured victory for the South Vietnamese. It failed to even frustrate the Tet offensive of 1968. Can Mr. Nixon really believe that the resumption of such bombings will accomplish the dual purpose of saving South Vietnam and blasting away the impasse at the Paris peace talks?

The administration has carefully masked the reescalation of the war through troop reduction schedules, while continuing to beef up our naval and air strength in Vietnam.

The President's message came through loud and clear: The American people can expect the prolongation of the war on a new level of intensity until the North Vietnamese relent, or until the South Vietnamese demonstrate they can go it alone, which they have been unable to do for 4 years, and which the latest fighting confirms.

American policy as announced by the President means the continued support of a corrupt and unstable Thieu regime at any cost and the continued sacrifice of both the lives of Americans and the lives of South Vietnamese in an effort to "prop up" the government of South Vietnam.

In over 3 weeks of fighting, the South Vietnamese forces have been losing battles which the American advisers predicted they would win, and which they needed to win to repel the North Vietnamese. Without American support from the air and from the sea, the South Vietnamese would have been unable to hold on, which reveals the tragic forseeability of permanent American presence in Southeast Asia. In the first week of the fighting, American assistance consisted of close support tactical operations. In the second week, B-52 bombers were added in a region running 30 miles into North Vietnam. During the third week, the B-52's were unleashed where they have never operated before—over Haiphong, North Vietnam's principal port and supply center. These developments indicate conclusively that South Vietnam's future is totally dependent on U.S. air and naval support. These developments indicate further that Vietnamization has been a dismal failure, a delaying tactic to gain the administration time with the American public over the war issue, and that without indefinite tactical and economic support Vietnamization will be a shambles.

The President's message last night makes it abundantly clear that the American involvement is by no means coming to an end, that instead it has received a renewed and added stimulus, and the reports of the fighting this week spell out the continued presence of American forces in Southeast Asia. The peace for generations to come about which the President repeatedly speaks is in realty nothing but a commitment to continued warfare and bloodshed.

The United States is being forced into an indefinite and grinding support of the Government of South Vietnam, at a tremendous cost to domestic progress. Vietnamization has not resulted in the South Vietnamese standing alone as promised by the President.

While the President prolongs and extends the war against the wishes of the majority of American citizens, it is incumbent upon the members of the legislative branch to take action—immediate and final action—to cut off funding of the war, to force the negotiation of peace, and to wrest the reins of control from the executive in its unconstitutional gambit to run a war without the consent of the elected representatives of the people.

NATIONAL AWARENESS ADVISORY COUNCILS

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, today, communication—the lack of it, the improvement of it, the expansion of it—has become one of the most discussed topics by government officials and the public.

Although the electronic media, satellites, and other almost miraculous improvements in technology have made instantaneous global communication a reality, people are increasingly concerned over the adequacy and the accuracy of what they see and hear. They are concerned over the relevance of this data for decisionmaking in a democracy.

The President is vitally concerned that he present himself and his message to the people as he wants them to be seen. All of us in the Congress want our decisions on major issues to be presented to the public in undistorted form.

The President and all other elected officials want to be certain that they know at all times what the people are concerned about. What are the topical issues, what are the discontentments, and the swelling hopes and aspirations that the executive and legislative branches must act upon to properly represent the people?

The legislation that I am proposing would be a radical step forward in creating machinery that will guarantee that the President and the Congress are fully informed at all times of the people's immediate concerns. There will be a new department of government reporting directly to the President, to be called National Awareness Advisory Council.

The National Awareness Advisory Council would provide the executive and legislative branches with the means to effectively communicate with the American people with real problem-solving techniques which they can employ on a neighborhood level.

The national council would be made up of many local councils. Any group of people numbering at least 500, no matter how radical, conservative or middle-of-the-road their philosophy, could form such a local council, and be assured a voice on the national level and therefore have direct access to the President and Congress.

Thus, participatory democracy, upon which this Nation was founded, can once again be restored to our people in spite of our Nation's size, and ethnic, political, and geographic fragmentation.

Anyone who has taken part in a New England town meeting, where even today true participatory democracy is a living reality, realizes how meaningful this kind of person-to-person communication on the part of the governed and the local government officials can be.

There will be a "give and take" between Washington and the average citizen that can benefit both and often bypass local self-interested stumbling blocks.

This "give and take," this reciprocal communication on vital issues is an effective—probably the only effective—remedy to the estrangement from the center of change and power in our society that is felt so poignantly, particularly by our young people and to some degree by many other segments of American society today.

Youth today are to a large extent in the grip of a burning rage, because of their feelings of futility and powerlessness in the face of what they regard as a monolithic structure in Washington that is indifferent to their needs and desires, and unresponsive to them as a group.

We saw this during the melee that accompanied the Democratic National Convention in 1968; we see it in the vicious pipe bombings and other acts of violence on college campuses and military installations. Enactment of the National Awareness Advisory Council bill will be an effective step in relieving this pent-up frustration. Young people—indeed all Americans—will soon realize that once their authentic voice is heard by the President and the Congress, realistic action can be taken.

The councils would have no other power than advisory, and would be independent of municipal, State, and Federal Governments. Their primary aim, really, would be to stay aware of situations to be freely communicated to the decisionmaking powers of the Government so that evaluation and decisionmaking can be accomplished, untainted by bureaucratic filtration.

The delegates would have no decisionmaking authority regarding any Federal funding. This would only impair the communication function of the National Awareness Advisory Council and possibly stimulate empire building and corruption.

I urge the support of all legislators for this bill. In an age when alienation from the center of power is creating disillusionment among our citizens, especially the youth, we urgently need a new system of communication between the people and the power. Only if such realistic two-way dialog is restored can we maintain credibility in the institutions of government.

I include the following:

CONCEPT: NATIONAL AWARENESS ADVISORY COUNCIL

GENERAL DESCRIPTION

The system of Awareness Advisory Councils is a concept which originated at Odyssey House. A congressional bill embodying this concept is being drafted by the Legislative Counsel's Office of the United States Senate. A new federal agency is created similar to others in the Executive Branch of government such as the Office of Science and Technology or the Council for Urban Affairs.

The primary purpose of this new agency is to provide the Executive and Legislative Branches with the means to effectively communicate with the people of the United States. The Director of the National Awareness Advisory Council reports directly to the President.

In this age, where direct and meaningful communication has become an integral and paramount part of our business and private lives, there is a serious factual and credibility gap between the Federal government and the ordinary citizen. The Awareness Advisory Councils provide the people of our country with real problem-solving techniques which they can effectively employ on a neighborhood level based on self help and people working together in groups.

STRUCTURE

The Awareness Advisory Councils are structured on four levels:

The first or the closest to the man or woman in the street is the local or neighborhood base which draws its members from very small geographic or situational areas containing approximately 500 adults over the age of eighteen. However, any citizen can belong to only one local awareness council.

For example, a citizen can elect to belong to an awareness council either where he or she works, prays or lives. Assuming a population base of 100,000,000 adults, approximately 200,000 local councils can be established.

They meet once a month to discuss those problems which affect them in their community such as crime in the street, garbage collection, or even neighborhood petty graft.

A local council selects one delegate to meet on the second level, known as the regional council. Each regional council is comprised of 100 delegates, each of whom represents his or her local council. Thus, a single regional council represents blocks of 50,000 people. Approximately 2,000 regional councils can be established.

A regional council sends one delegate to meet on the third level, known as the national council. Each national council is comprised of 50 delegates each of whom represents his or her regional council. Thus national councils represent blocks of 2,500,000 people. Approximately 40 national councils can be established, which by their very design will transcend state lines.

One delegate from each of the 40 national councils is voted to be a councilman sitting on the National Awareness Advisory Council, the fourth level, located in Washington, D.C.

The national delegates receive salaries of $15,000 per annum plus staff and office expenses of $30,000. Councilmen elected to the National Awareness Council are paid $30,000 per annum and expenses of $100,000. The National Awareness Advisory Council representatives receive only the higher salary, but expense money sufficient to maintain both their regional and national offices. Strict accounting practices are included.

No delegate may be elected for more than four consecutive one year terms. It is imperative that the National Awareness Advisory Council consists of 40 average citizens.

POWERS

All councils must not have any direct power other than advisory. They must be independent of municipal, state and federal governments. Their primary goal is to be aware of situations to be freely communicated to the Executive and Legislative branches so that evaluation and decision-making can be accomplished untainted by bureaucratic filtration, that process by which information which begins at the bottom as a whole is filtered through the mesh of communication until it reaches the top only in part.

The delegates have no decision-making authority regarding any federal funding. This would only impair the communication function and stimulate empire building or corruption.

The local councils meet on the first Monday of each month to problem-solve, pass resolutions, institute local programs and receive information from the Executive Office as well as other public agencies.

ADMINISTRATION

The entire agency structure is headed by the Director of the National Awareness Advisory Council. He or she is appointed for a term of six years to bridge Presidential administrations, but serves at the will of the President. The Director receives a salary of $75,000 per annum plus administration expenses of $25 to $50 million. These funds are to be used to coordinate the information flow between all segments of the Executive and Legislative Branches and the local geographic areas.

Questions from the local citizenry can be quickly and efficiently answered. Small groups with creative, innovative ideas can learn where to be funded and put in touch with those agencies of the Federal Government which can aid them in developing meaningful programs. There can be a "give and take" between Washington and the American citizen that can benefit both and often bypass local self-interested stumbling blocks.

It is anticipated that the Executive and Legislative Branches will make use of these channels of communication to facilitate and promote a realistic understanding of problems at all levels of public interaction.

SUMMARY

The councils are designed to afford our people a greater sense of participation and involvement in the machinery of government. Simultaneously, the Chief Executive has immediate access to the views of his fellow Americans. He no longer remains the prisoner of his own office.

The system of the Awareness Advisory Councils creates a vehicle by which the President can dialogue with his constituents. No longer is there only the sterile one way monologue of the television and news media. Corrective, constructive feedback is afforded by which both the President and legislators can know quickly whether they have been understood and correctly interpreted. Reasons behind difficult decisions such as Cambodia or the cut-backs in Federal Aid can also be explained.

The time for authoritative monologue has ended—meaningful dialogue must be established if the American way of life is not to be destroyed by a revolutionary vocal minority and a passive silent majority.

BILL TO RECOMPUTE RETIRED MILITARY PAY

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. TALCOTT) is recognized for 3 minutes.

Mr. TALCOTT. Mr. Speaker, recently I introduced legislation (H.R. 14643) to authorize the recomputation of retired pay for military personnel. This bill is recommended by the President and is intended to rectify a longstanding inequity and to ameliorate a serious breach of faith by our Government with our retired military personnel in 1958.

This bill, when enacted, will allow those who retired prior to January 1, 1971, the privilege of recomputing their retired pay at age 60 if they have less than 25 years service and at age 55 with more than 25 years of service.

Retired pay for military personnel for years had always been computed as a percentage of the current pay of active duty personnel. Since time immemorial men were recruited to serve, and did serve, in the Armed Forces with the clear understanding that their retired pay would be based on a certain percentage of the pay of their counterparts on active duty.

However, in 1958, before I was elected, the Congress, without notice to those who joined, served and retired relying upon the understanding pertaining to retired pay, abolished the percentage recomputation and established a cost-of-living formula to compute retired pay.

The Congress did not bother to repeal title X, section 6149, of the United States Code which guaranteed recomputation as a legal right. Finally, in 1963, this section was repealed and those who retired after passage of the 1958 act and before passage of the 1963 act were given the benefit of recomputing on the basis of the 1958 act. After 1963, however, they were denied this right. So today one man who retires prior to a pay raise will receive one level of retired pay, while another man with exactly the same length of service and exactly the same grade will receive a greater sum simply because he retired at a later date.

Retired pay is earned pay. Servicemen contribute to their retirement system by accepting much lower pay while on active duty. If they leave the service early, they lose retirement benefits; neither they nor their dependents acquire any equity. The retiree is always subject to recall to duty by the President. Retirement pay is actually deferred pay.

In 1963 the Defense Department admitted that this right to recompute had been both a moral and a legal obligation for more than 100 years. Defense Department officials stated that, although the military retirement system is not a contributory system, military men, by accepting lower active-duty pay, do indirectly but effectively contribute to their retirement.

Because retired pay is truly earned pay, as the Department of Defense has admitted, all retired personnel should be treated equitably and there should be no dual standards or varying formulas as now exist. Retired military personnel are entitled to comparable treatment with retired Federal civilian personnel.

My bill is intended to partially rectify the inequity and to partially reinstate the broken agreement which our Government owes to its retired military personnel.

I have voted for full recomputation. However, I am convinced that full recomputation is neither feasible nor practical now. Our full recomputation proposals have died in the Senate.

Some recomputation is necessary, fair, and achievable. We cannot wait for a more propitious time in the vain hope of full recomputation. The cost of full recomputation would be prohibitive now.

Retirees had a right to hope for more; however, this proposal appears to be the most practicable and achievable solution to the very complex and controversial problem of recomputation of retired pay.

I am hopeful that both the Congress and the affected retirees will accept this proposal. I urge the early consideration and inactment of my bill, H.R. 14643.

SOVIET UNION'S TECHNOLOGICAL-MILITARY DRIVE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, at this moment in history, when so many of my colleagues find this Nation's defense posture bloated, overgrown, and extravagant, it is useful to interject some realism into the debate, to make a contribution of substance, void of emotionalism and irrelevancy, to what has become a thoughtless exercise in ideological abstraction.

The reality is that the U.S. defense position faces a crisis of technology. The often-heralded Blue Ribbon Defense

Panel, despite its lack of enthusiasm for many DOD operations, felt compelled to issue a supplemental report to the President on "The Shifting Balance of Military Power." Perhaps the most alarming conclusion to be reached by that Panel is the seriousness of the threat to U.S. technological superiority.

Let us face it: America is facing an undeniable trend toward simplism and philosophic dogmatism. That trend can be seen in the perceptions of some Americans toward the military threat posed by the Soviet Union. If we can curb the conspicuous impulse toward simplism, we might find Aviation Week & Space Technology's five-part series entitled "Soviet Union's Technological-Military Drive" enlightening.

It is my hope that a new sense of reasonableness can enter the perennial debate between those who are sensitized to the realities of the military threat and those whose disgust with certain military activity and procedure—that is, Vietnam, procurement practice—has led them to categorically dismiss many legitimate defense concerns. The distaste in some quarters for all things military is perhaps the most disastrous and far-reaching result of the Vietnam war. The aberrations of Vietnam involvement cannot allow this body to obfuscate the very real need for reasoned and objective deliberations concerning U.S. defense posture and preparedness.

I recommend the Aviation Week & Space Technology series for its definitive analysis of a defense reality which no one should lightly dismiss. A reading of the series makes it abundantly clear that national defense cannot become an aspect of the Nation's agenda to be dealt with simplistically or as a vehicle for liberal philosophic rededication. With this preface, I insert the series in the Record at this point:

[From Aviation Week & Space Technology, Oct. 4, 1971]

The Growing Threat—1: Soviet Union's Technological-Military Drive

Soviet Union is pushing to achieve a clear technological-military superiority over the U.S. by 1974–75.

At the present rate of advance by the Soviets and the decline by the U.S., the USSR should succeed, further eroding this nation's flexibility in foreign affairs and posing a threat to domestic policies as well.

Soviet political - military - technological moves into former areas of U.S. supremacy reach across the board, from political strategy to new military hardware and research and development. "The Russians are doing all the things a nation would do if it wanted to be the number one military power with clear, unequivocal strategic superiority," notes one veteran analyst of Soviet military developments. Among the things it is doing on new weapons development:

Active development of a new faster-burning, higher-velocity, anti-ballistic-missile system to augment the currently operational SA–7 Galosh. System requires a relatively small radar that will permit easier deployment throughout the Soviet Union in line with the traditional Russian concept of defense in depth. Current Galosh ABM operational system is clustered around Moscow.

New IBM silos—about 40—recently detected by U.S. reconnaissance satellites in the Moscow area may have been constructed to accept this missile. A lesser possibility is that they are for an improved version of the Galosh now in the flight-test stage and nearing operational status.

Present first-generation Galosh deployed around Moscow at four sites with a total of 64 missiles must be fired from a vehicular launcher, making it relatively vulnerable to attack. The improved Galosh has a controlled coast capability plus a restartable engine, providing it with a wide degree of flexibility in countering a number of threats, including incoming multiple-independently-targetable re-entry vehicle (MIRV) warheads.

Development of a new land-based intercontinental ballistic missile, probably with a mobile capability, to supplement the four Soviet ICBM systems now deployed. U.S. satellites also have detected 54 new-type ICBM silos near Moscow. These silos have been built into already-existing complexes for the variable-range SS–11 ballistic-missile system.

There is some speculation that they might be only for more solid-propellant SS–11s. But, their size indicates that they were built to accept a much larger weapon than the one-megaton SS–11. The silos are 4 ft. larger in diameter than the SS–9.

New silos could be designed to accept a completely new ICBM or to house the 20-megaton SS–9 Scarp in more-hardened sites than the ones currently operational.

Development of an advanced variable-geometry strategic bomber with supersonic dash speeds at low altitude (AW&ST Sept. 13, p. 16). Designated Backfire by North Atlantic Treaty Organization cataloguers, the Tupolev-designed aircraft has a gross weight of 272,000 lb. It is powered by two uprated versions of the Kuznetsov NK 144 afterburning turbofan engine originally developed for the Tupolev Tu–144 supersonic transport. Thrust of the NK 144s on the Tu–144 is 38,500 lb. each. Two prototypes of Backfire currently are flying. It has an unrefueled combat radius of well over 3,000 mi. Western observers believe the aircraft could be operational in two-three years.

Development of a new 3,000-mi.-range submarine-launched ballistic missile (SLBM) designated Sawfly to replace the present 1,300-mi.-range Serb carried by Soviet Yankee-class nuclear submarines. New missile has substantially better accuracy than the Serb, which will further increase the threat to the bomber bases of the U.S. Air Force's Strategic Air Command. It also could have the capability of following a low-trajectory flight profile to minimize the available warning times to the nation under attack.

Development of a new family of tactical fighter aircraft to augment an already-formidable arsenal. The most advanced, a swing-wing Mikoyan design bureau aircraft known as Fearless, has been designed specifically to counter the USAF/McDonnell Douglas F–15 and Navy/Grumman F–14 air-superiority fighters. Fearless has a projected combat radius of about 300 naut. mi. and a gross weight of about 40,000 lb.

Continued development and deployment of a variety of cruise missiles with ranges up to 450 mi. for Soviet surface ships and submarines. The missiles are designated specifically to attack US. Navy surface ships from points beyond the range of the latters' conventional guns or attack-submarine escorts. Their accuracy is good.

Technologically, the U.S. still maintains a three-four year lead in most areas. Since the late 1960s, however, the Soviets have been spending an average of 10–13% more annually on military-related research. As a consequence, they have pushed ahead of the U.S. in some areas and may close the remaining gaps by the late 1970s. Fields where they have taken the lead include:

Mathematical sciences.

Controlled fusion.

Energy accelerators.

Anti-satellite intercept. Soviets have successfully intercepted satellites in two of the four attempts made and observed by the U.S. thus far. An operational system could pose a serious threat to U.S. reconnaissance satellites and, consequently, this country's intelligence gathering capability.

Fractional orbital bombing systems, which would permit the Russians to launch warheads against the U.S. on an orbital trajectory around the South Pole, severely straining the nation's detection capabilities.

Large payload boosters.

Remotely controlled space systems.

Electro-geomagnetic research.

Required research-development production leadtimes for advanced weaponry coupled with the slow pace of the U.S. government bureaucracy provide little hope that the U.S. could reverse this trend toward Soviet military supremacy by the mid-1970s. The present U.S. lack of desire is stimulated by an anti-military-isolationist feeling engendered in Congress and major segments of the population by the protracted war in Vietnam.

Negotiations at the strategic arms limitation talks (SALT) aside, the Soviet Union has given no indication that it will slacken its technological-military push to the point of permitting the U.S. to regain the parity it is rapidly losing.

The Russians, with their larger warheads, already enjoy a megatonnage advantage over the U.S., although this nation still maintains a superiority in the numbers of actual warheads in the operational inventory, primarily because of the MIRVed Navy/Lockheed Poseidon fleet ballistic missile and USAF/Boeing Minuteman 3 ICBM.

Accuracies of the Poseidon and Minuteman also are believed to be better than those of their Soviet counterparts. But, the Russians are making a major development effort to increase their capabilities in this area, particularly for the SS-9, for which they are developing a MIRV capability. Three launch tests of an SS-9 with MIRV warheads have been detected by the U.S. so far.

The U.S. is standing pat at 1,054 ICBMs—1,000 Minuteman and 54 Martin Titan 2s—while the Soviets continue to deploy. In 1965, the Soviets had 224 ICBMs on operational status. Today, the figure is just over 1,500.

This country continues to lead in the number of deployed SLBMs—656 Lockheed Polaris and Poseidons on 41 submarines as opposed to 350 Russian missiles in this category. But, the U.S. has halted its ballistic-missile-submarine construction program, while the Soviets are building at a rate of eight Y-class vessels a year, each with 16 missile tubes. If this production pace continues, the U.S. advantage in SLBMs, if not in warhead numbers, will have vanished by 1974.

Perhaps of more concern than the actual development-deployment of hardware is the shifting emphasis by the Soviet leadership over the past few years in its projected techno-political-military concept in the use of its force.

This technical-philosophical change has been reflected in its concept of hardware requirements, a technical design switch reflecting a new global strategic concept. Tactical aircraft through the MiG–21 series, for instance, originally were designed primarily to meet a requirement for a short-legged, relatively-unsophisticated air defense fighter to defend the homeland.

Then followons, such as the high altitude Mach 3 MiG–23 Foxbat in its tactical configurations, have much longer ranges and greater avionic capability.

After a number of years of permitting its strategic bomber force to dwindle in numbers and quality, the Soviet leadership has ordered the Backfire into development, further complicating U.S. defensive options.

Similarly, the Russian navy has been transformed in the past few years from a defensive coastal force to a wide-ranging ocean power specifically tailored to challenge the U.S. Navy's dominance as a tactical and strategic threat.

With successive U.S. administrations absorbed by commitment to the war in Southeast Asia and with Great Britain's policy of abandoning its once-formidable presence east of the Suez, the Soviets have moved to fill the resultant gaps. Their former inward-looking military—as opposed to political—defensive posture was concerned primarily with defending the Soviet homeland and its East European buffer satellites. This has changed. The Russians have become militarily offensive minded.

Ballistic missile buildups aside, which could be termed either offensive or defensive in nature, the increasing Russian navy, merchant marine and military-aid buildups over the past few years offer a case history. Following is a rough chronological record of the Soviet navy's evolution from a purely defensive force to an instrument of world-wide strategic influence:

Continuous operations in the Mediterranean, long dominated by the U.S. Navy's Sixth Fleet, were begun in 1964, leap-frogging NATO's southern flank and providing Russia an additional political-economic wedge into the African and Asian littorals of that sea. Soviet influence, particularly within the United Arab Republic, was further accelerated by the Arab-Israeli war in 1967.

The consequent tensions and economic-hardware needs of dependent Arab nations have increased to a point where Russian influence is dominant in several countries. At the height of a potentially-explosive Arab-Israeli reconfrontation a year ago, the Russian Mediterranean fleet numbered 70 combat vessels as opposed to 60 for the U.S.

A recent internal Soviet document evaluating that country's worldwide strategic pluses and minuses noted happily, "We now control the oil in the Middle East." Militarily and economically, West Europe is dependent upon receiving the bulk of its oil supplies from the Middle East.

Periodic naval operations into the western Pacific were begun in 1963, primarily surface-ship exercises in support of submarine operations.

Extended support operations in the central Atlantic were initiated in 1967, with deployments to West Africa and Communist Cuba in the Caribbean beginning in 1969.

Continuous, if limited, naval presence has been maintained in the Indian Ocean since 1969 after a probing beginning in 1968.

The U.S., operating under the restraints of stringent defense budgets and the continuing costs of the war in Southeast Asia, has some comparable weapon systems to the new Soviet hardware developments, either operational or under design. The new Russian ABM, for example, appears to resemble the Martin Sprint quick-reaction missile designed for terminal defense in the controversial Army Safeguard system. The new Soviet SLBM under development appears to be roughly comparable in range and accuracy to Navy Poseidon now being deployed. It is not known if it will have MIRV capability.

The U.S. also has made studies on a mobile land-based ICBM, but any eventual deployment is doubtful. This is partially for financial reasons but also because of a growing Pentagon conviction that such weapons of the future should be sea-based to reduce vulnerability and to force any initial enemy ICBM attack from the continental U.S.

USAF has its advanced variable-geometry strategic bomber, the North American Rockwell B–1. But, it is in the early development stage and faces a political battle within Congress as to whether a new manned bomber is necessary. Two Backfires are flying.

After a long hiatus, the U.S. also has two modern fighter developments under way, the F–14 and F–15. They probably can counter the aircraft in the present Soviet aircraft inventory, except for possibly the Foxbat. U.S. officials hope they will be at least equal to the Russian designs under development.

In the Navy cruise missile field, the U.S. has no comparable weapons specifically designed for that purpose, although Defense Secretary Melvin R. Laird recently indicated that he will give approval for future development of such a system for use on attack submarines. In addition, the Navy also has awarded a development contract to McDonnell Douglas Corp. for the Harpoon anti-ship missile that will be designed to be fired from either surface ships or aircraft (AW&ST June 28, p. 23). Maximum design range of the Harpoon will be approximately 75 mi. The Russians, on the other hand, have anti-ship cruise missiles deployed on 20 major surface ships, 65 submarines and 160 patrol craft.

Within the context of the present political environment in this country, the future of all the new U.S. programs under their current schedules is risky at best.

The current public distaste in some quarters for almost all things military may be the most tragic legacy to the U.S. of the increasingly unpopular war in Vietnam, a conflict muddied by political debate and past secrecy that has endured beyond the patience of an impatient nation. Poor military-industry management of some recent major hardware programs and the implied inefficiency involved have further blunted this nation's willingness to support a defense effort of a magnitude required to keep pace with the Soviets.

The Russians currently are spending the equivalent of $78 billion a year on defense. Their major aim is to develop and produce weapon systems that will provide them with a strategic and tactical force clearly superior to that of the U.S., qualitatively and quantitatively.

Their intent in the strategic area is to develop a nuclear first-strike offensive capability and the defenses that would assure minimum losses from a U.S. response. For their political-economic purposes of expansion and influence, the mere fact that they have such a capability will place the U.S. in a poor position to counter their moves. This country's ability to respond to Soviet pressures in Europe and the Middle East already is severely limited.

Knowledgeable U.S. officials say this country would have to support an annual defense budget of at least $75 billion in current dollars above and beyond the costs of the war in Southeast Asia to counter the Soviet initiative. The Fiscal 1972 budget requests now before Congress, including the costs of the war, total $76 billion, but over 50% of this is channeled into manpower costs. Current Pentagon five-year projections of defense spending do not envision significantly higher levels, although manpower costs will continue to consume an increasing percentage of the budget.

The Soviets want to place the U.S. in the position in which they found themselves in the fall of 1962. In an effort to offset partially the then-overriding U.S. inventory of ICBMs, Soviet Premier Nikita Khrushchev attempted surreptitiously to establish a network of medium-range ballistic missiles in Communist Cuba. Their emplacements were detected by U.S. recon aircraft

The U.S., with its strategic weapon and geographical advantages, demanded that they be removed—and they were. This country had the necessary military muscle to force the Khrushchev government into a humiliatingly public backdown. The Russian military was even more humiliated. Its reaction was partially responsible for the fall of the Khrushchev government, and the military has enjoyed a dominant position in national affairs ever since.

More importantly, the Soviet military hierarchy pushed through an accelerated development, deployment strategy designed not only to preclude future Russian embarrassments of such a magnitude but also, if possible, to place the U.S. in the position in which they found themselves in 1962. They are now nearing their goal.

[From Aviation Week & Space Technology, Oct. 11, 1971]

The Growing Threat—2: Soviets Stressing Offensive Mix of Strategic Arms for Which the United States Has Little Defense

Soviet strategic threat to the U.S. is based upon a mix of offensive weapons against which the U.S. has little defense.

Backbone of the present Russian operational inventory is composed of the SS–9 Scarp and SS–11 Savage landbased intercontinental ballistic missiles (ICBMs) plus the 1,300-mi.-range Serb fleet ballistic missile.

On the near horizon are a number of advanced developments. These include the Tupolev-designed Backfire Mach 2 strategic intercontinental bomber (AW&ST Sept. 13, p. 16), a mobile landbased ICBM (AW&ST Oct. 4, p. 12) and a 3,000-mi.-range Sawfly successor to the Serb with improved accuracy.

Qualitatively, the major threat to the U.S. is the 20-megaton-warhead SS–9, which, in an alternate configuration, can carry three five-megaton multiple-reentry vehicle (MRV) warheads. Current operational inventory for the SS–9 is 276 missiles.

MRV warheads on the liquid-propellant SS–9 have been test-fired since 1969, and three of these tests have incorporated more complex multiple-independently-targetable reentry vehicle (MIRV) warheads.

Present MIRVed SS–9 does not have the accuracy to pose an immediate direct threat to the siloed U.S. Air Force/Boeing Minuteman force of 1,000 ICBMs. But Defense Dept. officials believe the Soviets will have developed a sufficient accuracy on the MIRVed SS–9 to do so by 1975–76, further weakening this country's stance of strategic deterrence.

In addition to its assigned roles as a "city buster" with its 20-megaton warhead and as a potential Minuteman destroyer with its multiple reentry vehicle, the SS–9 in a third version, designated Mod. 3, serves as the booster for Russia's fractional orbital bombing system (FOBS).

The FOBS version of the Scarp is designed to dispatch warheads against the U.S. on a south polar orbit to further complicate this country's detection and early warning problems. The Russians have been test-firing the FOBS since 1967 (AW&ST Oct. 16, 1967, p. 26). Most recent test, under the guise of a Cosmos scientific satellite, was made in August (AW&ST Sept. 6, p. 11).

Quantitatively, the current Soviet strategic offensive arsenal is dominated by the Minuteman-sized SS–11 Savage solid-propellant variable-range ballistic missile. Maximum range of the one-megaton-warhead SS–11 is 5,500 mi.

The Soviet force is just over 1,500 operational intercontinental ballistic missiles including 970 solid-propellant SS–11s. Of these, approximately 100 are targeted against countries of the North Atlantic Treaty Organization. This is a two-stage version of the normally three-stage Savage. It bears the North Atlantic Treaty Organization designation of SS–14 Scapegoat.

Another three SS–11 complexes have been constructed at sites near the Mongolian border in response to the continuing fractious relations with Communist China and that country's own evolving nuclear capability.

The remainder are targeted against the U.S.

Aside from the SS–9 and SS–11, the present operational ICBM inventory is composed of:

190 SS–7 Sadlers, each with a warhead of between 5–10 megatons.

65 solid-propellant SS–13s, each with a warhead of about one megaton. All 65 are located at the Plesetsk missile test site near Archangel in the Soviet Arctic.

The SS–13, which may have been developed in competition with the SS—11, experienced a number of failures in its guidance and propellant systems during early test launches from Plesetsk. Recent firings, however, have been successful, and it probably has been assigned a role as a back-up system to the SS–11.

These missiles can now effectively blanket all U.S. and NATO urban industrial complexes. In addition, the Soviet Y-class ballistic-missile submarines operating on continuous patrol off both the Atlantic and Pacific coasts of the U.S. can cover 95% of the targets in this category in the U.S.

The building of the Y-class submarine force has attained a top priority in the Soviet military construction program. They are now being launched from two Russian shipyards at a rate of eight submarines a year. The larger yard is located at Severodvinsk in northern Russia, the second in the Soviet Far East. The Russians also have a number of diesel-powered G-class and nuclear-powered H-class ballistic-missile submarines. Each carries three missiles with a range of 650 naut. mi. Total number of submarine-launched ballistic missiles now operational in the Soviet inventory is 350 compared with 656 for the U.S.

The Soviets are building an average of 20 nuclear submarines a year, including the Y-class.

In contrast, the U.S. is building five nuclear-powered submarines a year, all of them in the attack class. This country, which gained an early lead over the Soviets in the ballistic-missile category, froze the number of Lockheed Polaris-Poseidon missile submarines at 31 in the mid-1960's.

The defense-minded Soviets, confronted by the bomber and missile striking force of the USAF Strategic Air Command, traditionally have maintained a quantitative superiority over the U.S. in defensive developments. They have 64-first-generation SA–7 Galosh anti-ballistic missiles deployed around Moscow at four sites for ICBM defense. A newer ABM with substantially better reaction times is under development (AW&ST Oct. 4, p. 12).

Two sites for the controversial U.S. Safeguard anti-ballistic missile system are in the early stages of contruction.

For bomber defense, the USSR has approximately 10,000 surface-to-air missile launchers deployed throughout the Soviet Union as compared with 1,136 launchers in the U.S. The Russian surface-to-air missile complexes include three basic types, the SA–2 Guideline for high-altitude defense, the SA–3 Goa for low-altitude and the SA–5 Griffon, or Tallinin system, which also may have some ABM capability. Maximum intercept altitude of the Griffon is 95,000 ft.

The Soviets also have maintained their force of interceptor aircraft and related systems at high state of readiness and modernization. The U.S., faced until the appearance of Backfire with a Russian strategic bomber force that had been dwindling in quantity and quality, has permitted its interceptor strength to dwindle to a handful of General Dynamics/Convair F–106s. Russians at the moment have a fleet of only 145 strategic heavy bombers composed of the four-turboprop Tupolev Tu-95 Bear and the four-turbojet Myasischev M–4 Bison. These are augmented by 50 tanker versions of the Bison. Overall, the USSR has 3,200 operational interceptors, the U.S., 599.

Latest strategic interceptor in the Soviet arsenal is the Mach 3.5 Mikoyan MiG–23 Foxbat in one of the three versions being produced. In addition to its strategic role, Foxbat is being configured to operate as a tactical air-superiority fighter and as a ground attack aircraft.

In its strategic configuration, the Foxbat, with an operational altitude of 75,600 ft., is equipped with down-looking radar to detect any intruding bomber force below. Probable range of the radar is on the order of 50 mi. It also carries four semi-active-homing A–A–2–2 air-to-air missiles with a maximum range of about 35 mi. A–A–2–2 is an advanced version of the Atoll now carried by MiG–21 and Su–7 fighters.

The 62,400-lb gross weight MiG-23 made its first public appearance at the 1967 Moscow air show (AW&ST July 17, 1967, p. 26). It is being produced at a rate of three aircraft per month

In the meantime, the first-line operational Soviet strategic interceptor is the two-place Tupolev Tu-28P Fiddler, which has a combat radius of 800–1,000 mi. The Mach 1.7 Fiddler, carrying a single Ash air-to-air missile under each wing, has a gross weight of 32,000 lb.

There are now 126 Tu–28s in the Soviet inventory, and production is continuing at the rate of three aircraft per month.

The Fiddler is being employed extensively in the Soviet Arctic, closely monitoring SAC Boeing B–52 strategic bombers probing Russian defensive reactions. Here, the Tu–28 works closely with the Tu–114bis Moss airborne warning and control system (AWACS) version of the Tu–95. The Moss provides early detection and, in an actual engagement, would make initial target priority selection for the Tu–28s.

There currently are 10 Moss AWACS aircraft assigned to work with the Tu–28 in the Arctic area. From their Arctic flight paths, the Moss radars can probe deeply into the U.S. air traffic area, even monitoring flights from Dover AFB, Del.

Other Moss aircraft are deployed to operate with the Baltic Fleet of the USSR. "They [the Russians] already have an operational AWACS," one U.S. official recently lamented, "while we're just beginning to build one."

In their continuing building program, the Soviets also have been whittling away steadily at the U.S. Navy's surface ship superiority. In the past five years, for example, they have built more than twice as many combat vessels—200-plus to 98. Their present total in the major combat ship category stands at 217 as compared with 245 for the U.S. The latter total will continue to dwindle under current planning.

More significantly, the average age of the ships of the Russian fleet is 10 years. Less than 1% are over 20 years. U.S. ships have an average age of 16 years, and over half of the fleet is more than 20 years old. The U.S. surface fleet is out-missiled and out-gunned.

Yet another advantage the Soviets enjoy over the U.S. is an organizational structure that permits quick responses to aerospace hardware requirements with a minimum of overlapping managerial controls. Strong points of the present Russian aviation requirement - through - production cycle include:

Top-level government recognition of the important role of airpower, civil as well as military.

Continuity of control for both the industry and the air force customer.

Separation of design and manufacture.

Emphasis on prototype competition.

Strong capitalistic incentives for successful designers.

The minister of aviation is a member of the ranking Council of Ministers in the Soviet government hierarchy. His ministry, the Ministry of Aircraft Production, is responsible for all Soviet aviation development and production.

When the military establishes a requirement for a new aircraft, it is first submitted to the ministry for approval. If approved, the requirement is passed on to the ministry's Central Design Office for initial studies and then issued to two or more of the country's semiautonomous aircraft design bureaus for preliminary design. An evaluation group composed of representatives of the air force and the ministry's Central Aerohydrodynamic Institute (TSAGI), an orgnaization roughly equivalent to the old National Advisory Committee for Aeronautics, then selects the best of these designs for prototype construction.

The design bureaus draft only the minimum number of engineering drawings required to build the prototype in order to hold down costs and to reduce the time required to get the aircraft into the air for a competitive evaluation.

A production decision is made after extensive ground and flight-test evaluations by the government's Flight Test Institute. At this point, more-detailed engineering drawings incorporating all changes dictated by the tests are drafted and released to a series production plant for the actual manufacture of the aircraft. Ultimate design control however, is retained by the design bureau.

The system has its drawbacks. Designers, for example, must work within the constraints regarding approved materials and manufacturing techniques issued by and Central Aerohydrodynamic Institute. Such a policy restricts innovation. On the other hand, it insures the design of a relatively simple aircraft with few frills developed and produced to perform the mission or missions required, no more, no less.

[From Aviation Week & Space Technology, Oct. 18, 1971]

The Growing Threat—3: Soviets Push Advances in Fighters

Soviet Union is introducing an advanced generation of fighters to its tactical air force equal or superior to anything the U.S. now has deployed, while pushing prototype development of several even newer aircraft.

New-generation fighters in the Russian inventory include:

Mikoyan Flogger variable-geometry single-place aircraft. Of 1965 design vintage, the Flogger has a maximum speed of Mach 2.3 when carrying external stores. The 28,000-lb. gross weight aircraft apparently is scheduled to become the Soviet front-line tactical fighter. The Russians currently have 16 Floggers in the air force inventory and are producing additional aircraft at the rate of five a month. It can operate at altitudes up to 50,000 ft. and has a combat radius of 600 mi.

Sukhoi Fitter B, a variable-geometry derivative of the Mach 1.7 Su-7 single-place attack aircraft. Apparently designed in a prototype runoff competition with the Flogger, the Fitter B nonetheless is being deployed in limited numbers. Approximately two dozen have been sighted at a Russian tactical fighter base near the Chinese border.

Mikoyan Fearless Mach 2.5 variable-geometry fighter.

Sukhoi Su-11 Flagon A delta-wing attack/fighter aircraft. An all-weather fighter, the 35,000-lb. gross weight single-place Flagon A has a maximum speed of Mach 2.3 with external stores, Mach 2.5 in a clean configuration and a combat radius of 450 mi. The aircraft attained an initial operational capability in 1967, and there currently are approximately 400 Flagon A's in the Soviet inventory. Production is continuing at the rate of 15 a month. It has replaced the earlier Mikoyan MiG-21 at a number of key Russian fighter bases, particularly those in the Moscow area, and has also been deployed to Egypt for the air defense of the Cairo area.

Mikoyan MiG-23 Foxbat, with a maximum design speed of more than Mach 3.5 at altitude. Designed primarily as a strategic interceptor to combat the potential threat of the USAF/North American Rockwell B-1 bomber now under development, Foxbat also is being configured to perform two tactical missions—air superiority and ground attack.

One experimental aircraft has been sighted with the 44-ft.-span delta wing extended by approximately 2 ft. on either side to provide room for additional wing stores. Standard Foxbat carries four advanced Atoll A-A-2-2 semiactive-homing air-to-air missiles with a maximum range of about 35 mi. Current production rate is three Foxbats a month. The Foxbat has been detected at Soviet air defense and tactical air bases as well as at weapon test centers.

The MiG-23 wing loading was optimized for maximum performance at a speed of Mach 2.8 at altitudes above 60,000 ft. But, it also has a creditable Mach 0.8 performance at lower altitudes. Units of Foxbats flown by Russian pilots have been observed in Egypt and Algeria. In Egypt, it has been engaging the MiG-21J in mock dogfights AW &ST Apr. 19, p. 14). It also is flying reconnaissance missions over Israel.

These fighters were first shown publicly at the 1967 Moscow air show, during which a total of 12 new Soviet aircraft designs were displayed (AW&ST July 17, 1967, p. 26). Meanwhile, Russian design teams have been busy developing a follow-on family of tactical aircraft.

One is a Mikoyan variable-geometry fighter known in the West as Fearless. Another is a delta-wing ground attack aircraft. Both are in the prototype flight-test stage.

Mach 2.5 Fearless, with an estimated combat radius of 300 naut. mi. and a gross weight of approximately 40,000 lb., is believed to have been designed specifically to counter the USAF/McDonnell Douglas F-15 and Navy/Grumman F-14 air-superiority fighters. The F-15 is under development. Three prototypes of the F-14 are now flying. Both programs are encountering congressional funding difficulties.

Soviet engine design bureaus also are developing a new line of turbofan powerplants. Western observers do not yet know what airframe designs some of them are scheduled to power. Overall, the Soloviev design team has four new turbofans under development, Ivchenko one and Kuznetsov two, including versions of the NK 144, which powers the Tupolev Tu-144 supersonic transport and the variable-geometry Backfire strategic bomber (AW&ST Sept. 13, p. 16).

In the past 15 years, the Russians have developed and built at least 20 different fighters, excluding Foxbat. Eight of these are now operational. Over the same period, the U.S. has built one completely new fighter, the USAF/General Dynamics F-111 variable-geometry interdiction aircraft.

While the U.S. has been slow in pursuing advancements in the state of the art in the V/STOL flight regime, the Russians are gaining flight experience with military aircraft employing various modes of lift, including direct lift, deflected lift and deflected thrust.

New Russian aircraft also reflect a growing technological capability in both airframe and engine designs. Particularly large strides have been made in the latter area in the past 10 years. Today, the technology evident in the new-generation Soviet aircraft generally is on a par with that of the U.S.

Thrust-to-weight ratio for the Flagon A is estimated at approximately 0.85 at Mach 2.5. At Mach 2.8, the thrust-to-weight ratio for the MiG-23 is at about the same level, declining slightly at speeds above Mach 3. By contrast, the thrust-to-weight ratio for the Fearless is believed to be in the 1.1-1.5 category, roughly the same as that envisioned for the F-14.

There also has been a technical-political shift in Russian design philosophy since the initial MiG-21 was laid down in the early 1950s as an uncluttered Mach 2 home-defense day fighter. Most of the newer aircraft have an all-weather capability and longer ranges to permit deep penetration strikes, although the combat radius of the Fearless is about the same as that for the MiG-21. Increased emphasis also has been placed on crew survivability, with the installation of ejection seats and armor plating.

In the past, Soviet designers generally have resisted the trend towards higher winger loadings as fighter speeds have increased. Those for the Su-9 and MiG-21, for example, are lower than those of their Western counterparts except for the Dassault Mirage 3C. Wing loadings for the Flagon A and Foxbat are high, however, although both have displayed good maneuverability.

Wing loading for the MiG-23 at Mach 3.4 is approximately 110 psf.; for the Flagon A at Mach 2.5 it is about 120 psf. Faithless wing loading at Mach 2.5 is approximately 95 psf.

Of current aircraft in the Soviet inventory, the Foxbat clearly poses the most vexing problem for U.S. airpower. No currently-available American weapon system can begin to cope with it while it remains in its natural high-altitude environment.

The Foxbat, with twin powerplants delivering 24,200 lb. thrust each at sea level, is unreachable at altitude, either by current U.S. aircraft or their associated air-to-air missiles. It also is uncatchable—if the situation required, if could maintain a maximum speed of Mach 3.8 for a period of 10 min. And, in addition to its four external wing stations, it also may incorporate an internal weapons bay in the fuselage.

The financially starved USAF Aerospace Defense Command has been conducting studies on a possible follow-on to the aging General Dynamics/Convair F-106 interceptor as a counter to both the MIG-23 and the new Tupolev Backfire variable-geometry intercontinental strategic bomber. Recent studies have centered primarily on modified versions of the F-14 and F-15.

Both probably could handle the Foxbat effectively at altitudes below 50,000 ft. Late-model McDonnell Douglas F-4s also should be capable of dogfighting the MiG-23 at lower altitudes. But, in a hostile air environment, the Soviet aircraft might simply remain at a safe altitude, relying upon its air-to-air missiles to accomplish the task at hand.

If so, the F-15, with a maximum search and homing radar capability in the range of about 50 mi., admittedly could not challenge the Foxbat. On the other hand, its proponents do not believe that a MiG-23 at altitude would be a menace to the F-15. The wide turning radius of the Foxbat, they believe, would permit the USAF fighter to take sufficient evasive action to prevent the Soviet missiles from locking onto their target.

Proponents of the F-14 variously rate its combat potential against a MiG-23 flying near its maximum altitude from marginal to exceptional. The F-14 weapon system does have two advantages over the Foxbat despite its lower speed and altitude capabilities. Its search and track radar range of over 100 mi. is twice that of the Foxbat's. Similarly, the range of the Hughes AIM-54A Phoenix air-to-air missile is twice that of the MiG-23's A-A-2-2.

[From Aviation Week & Space Technology, Oct. 25, 1971]

THE GROWING THREAT—4: SOVIETS CLOSING GAP IN AVIONICS, COMPUTER SCIENCE MILITARY DEVELOPMENT

Pace of Soviet Union's progress in developing advanced military avionics equipment and systems is believed to be surpassing that of the United States, but the Russians still lag this country by a wide margin in a few critical areas, such as data processing.

The Soviets apparently are channeling their more limited avionics resources into fields of highest military priority, such as ballistic missile offense/defense, satellite interception and air defense, at the expense of other military endeavors.

But Russian success in satellite interception (AW&ST Nov. 2, 1970, p. 20; Nov. 9, 1970, p. 21) is clear evidence of mastery of precision guidance techniques so essential in military control of space. Their demonstrated satellite intercept capability challenges this nation's free access to satellite reconnaissance and early warning information.

The Soviet Union, like the United States, is carefully trying to squeeze the geodetic and geophysical uncertainties from ballistic missile targeting, an indication that the accuracy of their ballistic missile guidance systems is sufficiently honed to make these small anomalies a significant factor in miss distance (AW&ST Oct. 23, 1967, p. 108). And reducing the miss distance, or circular error probability as it is statistically expressed, is a primary objective in minimizing the number of weapons needed for any given strategic option.

The Russians are deriving accurate geodetic information about potential targets in the Western Hemisphere by optically tracking their own satellites from embassies in Washington, Havana and Santiago (AW&ST June 14, p. 11). By locating potential targets or references in the Western Hemisphere with respect to specific satellites, precisely tracked and positioned from surveyed locations within Russia, the Soviets can refine targeting data.

In the overall area of data processing, which is becoming increasingly fundamental in modern military technology, the Russians probably are seven years behind the United States, according to Barry W. Boehm, a Rand Corp. computer systems analyst who toured research institutes in the Soviet Union late last year as a guest of the Soviet Academy of Sciences. In high priority special purpose computers, the gap is only about five years, Boehm estimates.

The best Soviet scientific general purpose computer, Boehm points out, is capable of performing about 500,000 operations/sec., while the most compact spaceflight machine of which he is aware has a speed of about 100,000 operations/sec. By contrast, the best ground-based U.S. computer can perform 25 million operations/sec., and an airborne counterpart can do about 1 million/sec.

The smaller spread between the ground-based and airborne capabilities in the USSR suggests, Boehm says, that the Russians more quickly translate ground computer capability into air-borne hardware. It also suggests that estimates of Russian airborne or military computing power, based on simple analogies between U.S. and Russian scientific computing capabilities, could be deceptive.

In 1972, the Russians will be bringing on line their RYAD series of general purpose computers, analogous to the IBM 360 series, approximately seven years after the IBM machines. Their software also is about seven years behind U.S. equivalents, he notes. Drum memories are less than seven, but discs are more than seven years behind.

As in other technological fields, the Russians extract maximum utilization from their equipment, keeping older hardware in service years after it might be retired in the U.S. Often the equipment is modified or updated, extending its usefulness. Boehm reports seeing BESM-3 computers, developed in the 1950s, operating at facilities he visited.

The Russians appear to be concentrating data processing talents in selected spots (AW&ST Feb. 15, p. 15), such as ballistic missile defense, where there is evidence of much sophistication and achievement, in contrast with absence of computer finesse in other areas.

Some of the better computer and sensor work has been noted in connection with ballistic missile tracking and anti-ballistic missile (ABM) programs. Several large phased array radars are highly respected in Western military circles.

The Dog House radar, located near Moscow and operational since 1969, is believed capable of tracking U.S. missiles at ranges in excess of 1,500 naut. mi., sorting warheads from decoys and selecting targets for ABMs. Dog House operates at unusually low frequencies, in the VHF range, possibly reflecting the relatively late development in the Soviet Union of higher frequency (microwave) techniques and components common in Western radars.

The main drawback to lower frequency radar—the difficulty in focusing energy into narrow beams—is overcome in the large installations characteristic of Soviet ABM sites by making the effective radiating apertures very large, yielding the desired high ratio of aperture to radiating wavelength.

The use of longer wavelengths in Dog House has surprising benefits. It facilitates detection of the reduced radar cross section re-entry systems to which the U.S. has resorted in recent years to minimize radar signatures of missile payloads. It also complicates the U.S. task of decoying Russian ABMs since chaff must be cut into longer strips to match the longer Dog House wavelengths (about 300 cm. at the 100 mc. Dog House operating frequency). Large quantities of these fine long strands of chaff are not easy to dispense uniformly.

Dog House is capable of radiating upwards of 20 megawatts peak power. Its low pulse repetition rate of 50 pulses/sec. apparently is intended for long-range tracking.

Other ABM search and track radars operate in the VHF and UHF ranges, while some like Hen Egg, stretch into S-band (now designated E-band). Hen Egg's high average power and large radiating/receiving aperture give it, like other Hen series Russian radars, longer search and track ranges than earlier Russian radars. Hen Egg can probe with a pulse structure that varies from about five to 15 microsec. in length at rates up to 300 pulses/sec.

Hen House, another phased array ABM tracking system, ranks with some of the best operational American tracking radars, providing a possible maximum unambiguous missile search and track range of about 3,200 naut. mi., roughly comparable in performance to USAF's Ballistic Missile Early Warning FPS-50 detection radars. Hen House radars are reported to be operational at a number of locations with sites near Irkutsk on the Angara River, not far from the Mongolian border; in northwest Russia near the Barents Sea, and in Latvia, not far from the Baltic Sea.

Physically, Hen House resembles the Bendix FPS-85 radar at Eglin AFB, measuring nearly 1,000 ft. in length with its 50 ft. high billboard-like array inclined from the horizontal about 45 deg. Hen House has track-while-scan capability that enables it to track a number of targets while searching for others, which it subsequently can hand off to the Dog House radar.

Operating at about 150 mc., it uses several pulse repetition frequencies (PRF) from 25 to 100 microsec. and has pulses of varying widths, presumably for adjusting resolution at varying ranges. Its maximum output power also varies above and below the one megawatt level. It generates a complicated beam scan pattern with two beams scanning in azimuth, two in elevation and one in a clockwise direction. It also uses pulse compression techniques.

Like their counterparts in the U.S., the Russians do a good deal of experimenting that frequently results in one-of-a-kind radars that may or may not materialize as operational systems. The family of Hen series radars is extensive. It also includes Hen Roost, a five-megawatt peak power radar, operating as low as 500 mc. but possibly considerably higher. It generates 2 by 2 deg. beams. Another system, designated Beer Can, has been observed.

In public statements, Soviet military leaders stress the importance of electronic warfare in modern military doctrine, a concern reflected in the improved ability of recent Russian radars to perform in an electronic countermeasures (ECM) environment. The ABM radars, as well as later SAM guidance and control radars (AW&ST Feb. 15, p. 14; Feb. 22, p. 42) exhibit greater tracking ranges in the presence of noise as a consequence of the steady trend toward higher effective radiated power levels.

The Soviets equip their aircraft with an ample quantity of ECM equipment, including deception ECM (DECM) repeaters, noise and spot noise jammers. Their bombers carry a full range of jammers for different classes of threats.

They have I-band noise jammers capable of generating about a kilowatt of peak power against U.S. missile fire control radars and much lower power DECM repeaters directed at the same targets.

Their E and F band DECMs and noise jammers are for use against acquisition radars while another set of jammers is intended for use against D-band early warning radars They also are outfitted with other DECMs and noise jammers for use against VHF/UHF communications sets.

The Cross Up, Top Hat and Mound Brick identification, friend or foe (IFF) transponders assure RF identification of friendly aircraft.

Russian bombers have radar protection against tail attack in the form of radar tail warning sets that alert crews to aircraft or missile threats from the rear, a capability provided in a limited way in some U.S. tactical aircraft by infrared and passive radar warning sets. The Tu–22 Blinder has a several hundred kw. maximum power I-band radar, designated by NATO as Bee Hind, which searches with a 4-deg. wide beam for tail threats through a 90-deg. solid angle centered at the aircraft fuselage centerline. Like a similar set on the M–4 Bison C, this tail warner is believed to be derived from earlier Bee Hind equipment on such aircraft as the Tu–16 Badger A, B and C, Tu–95 Bear A, B and C, Il–28 and Bison A and B.

Typically, these sets have variable PRFs with pulse widths of about ½ microsec. Their 7.5-deg. beamwidths are scanned horizontally in raster sector scans at rates of about 30 cps. and are conically scanned in the vertical plane. Power output is about 50-kw. peak.

The Be–10 Mallow reconnaissance aircraft has a rotating polarization warning radar in I-band while the Antonov An–8 Camp assault transport and An–12 Cub rear-load version of the An–10 have Gamma A radar warning sets in their tail turrets. The Gamma A generates wide beamwidth low-power D-band signals that scan through a broad cone.

Although the Russians are believed to be narrowing the lead of the U.S. military airborne radars over their own previously clumsy and comparatively crude radars (AW&ST Feb. 15, p. 16), little is known about any Russian equivalents to the automatic terrain following/terrain avoidance radars in such U.S. aircraft as the USAF/General Dynamics F–111 series, LTV Aerospace A–7D, Lockheed C–130 AWADS and Martin B–57G. Without this capability, the low-level penetration performance of Russian aircraft might be constrained, particularly at night and under adverse weather conditions. It's unclear whether the USSR has this capability, which is difficult to detect electronically because the distinguishing characteristics of interferometric techniques are manifested after signal receipt.

So far as is known, the Russians do not have any operational airborne phased-array radars (AW&ST June 22, 1970, p. 169).

The Soviets are believed on the verge of introducing pulse Doppler radar for interceptors which would enhance their ability to detect and track low-altitude penetrators around ground and sea clutter.

TRACK RANGES

Track ranges of Russian forward-looking airborne intercept radars for missile-armed interceptors are surprisingly short compared with aerodynamic ranges of semi-active radar guided missiles. The intention of using these weapons for shoot-down tail attack might explain this because such engagements would impose a longer range requirement on the missile. In this situation, the missile's transit distance would exceed the interceptor-to-fleeing-target range.

Frequency agility, frequency diversity and other advanced techniques are incorporated in Russian airborne radars. Earlier S-band airborne radars are being supplanted by X-band sensors, in some instances by K-band (now called J-band) equipment.

The current push by U.S. military services to incorporate J-band (up to 15 gc.) capability in existing and upcoming aircraft threat warning receivers, tactical noise jammers and DECM is in apparent recognition of potential ground-based and airborne threats at these high frequencies.

The Russian Short Horn 14-to-15 gc. bomb/navigation radar has been in operation for some time on aircraft such as the TU-95 Bear, M–4 Bison, Yak–28 Brewer and Tu-16 Badger A bombers and Yak Mandrake high-altitude reconnaissance aircraft.

Navigation functions for the Il-28 and Il-62, Mallow and An-24 are provided by Toad Stool, a 40-kw. peak power I-band navigation radar that radiates cosecant squared theta and penciled beams. Another I-band radar, Mushroom H, serves as navigation and possibly a bombing aid for helicopters, probably derived from earlier Mushroom series radars on fixed-wing aircraft.

Target acquisition for air-to-surface missiles, such as the Kennel AS–1, is provided by Komet 3, an I-band radar with 600 to 625 pulse/sec. PRF for search and double that for tracking. Kipper AS–2 missile asquisition uses still another I-band radar.

The Soviets are placing heavy reliance on optical and electro-optical devices in many strategic and tactical military applications. What could be domes for optical devices are visible on many aircraft, tanks and self-propelled weapons carriers.

Available Soviet scientific literature suggests extensive research on image translators (image intensifiers), necessary for direct view night vision devices, and fiber optics bundles, possibly for coupling intensifiers. The Russians have worked in every type of semiconductor compound, including those for detectors and emitters.

Their breadth of research activity along with observed devices suggests they have a full range of optical night devices, comparable to the U.S./NATO spread of infrared binoculars, infrared tank periscopes, crew-served night weapon sights, night-time passive rifle sights and individually-held infrared sensors.

The Soviets have been keeping abreast of U.S. progress in lasers since the late 1950s and at times have been ahead of military-sponsored work in the U.S. Their literature suggests laser rangefinding applications like those now so extensively being applied by West European nations and to a lesser degree by the U.S. The Soviets have cited the thermal weapons potentiality of high-energy carbon dioxide lasers which sparked much of the current work in the U.S.

The Russians are applying inertial navigation/guidance systems not only for space shots, but in aircraft, some land vehicles and probably submarines. Their systems are believed to be heavier, larger and less accurate, at least in the pure inertial mode, than their U.S. equivalents. Russian inertial instrument technology is thought to lag behind that of this country, but the gap may lie principally in the productive capacity.

LORAN OPERATIONS

The Soviets last year put a 100 kc. Loran ground transmitting chain into operation, giving them navigation and position fixing capability now becoming popular with the U.S. military services. The locations of the five stations, stretching from Petrozavodsk, near Lake Onega, not far from the Finnish border, to Simferopol on the Black Sea, indicates that Russian aircraft, presumably military, are now in the process of being fitted with Loran receivers.

Perhaps the most troublesome problem facing the Russians in their avionics equipment is poor reliability and maintainability as reported by many observers. In part, observers attribute this difficulty to the lack of incentives to design and produce for reliability.

The emphasis appears to be on meeting productive norms, not on assuring reliability and guaranteeing spares and support for the field. The Russian tendency to produce and field in great quantity could offset this lack of reliability.

Demonstrated reliability was not always available from U.S. military equipment. Its absence in Russian avionics hardware could reflect the same kinds of growing pains, experienced in this country, which await any nation attempting to reduce rapidly to operation the spectrum of the last 15 years of technological progress in avionics.

[From Aviation Week & Space Technology, Nov. 8, 1971]

THE GROWING THREAT—5: U.S.S.R. IMPROVES CRUISE MISSILE CAPABILITIES

Continuing improvement in surface-to-air and surface-to-surface missile armament of recent Russian warships is heightening credibility of the spreading Soviet naval presence, now stretching well beyond waters adjacent to the Soviet Union and its client states.

Latest Russian warships are outfitted with new search radar and fire control systems for surface-to-air missiles (SAM), providing greater effective range, better electronic counter-countermeasures performance and more enhanced close-in flexibility than the SA–N–1 Goa naval missile armament of earlier ships.

The recently observed Kresta 2 class of 6,000-ton guided-missile destroyers or light cruisers also appears to carry new surface-to-surface missiles, perhaps naval adaptations of ground tactical weapons, fired from two-tier, quadruple launchers on either side of the ship. The new launchers replace dual Shaddock launchers in armament on the earlier Kresta 1-class warships and the pair of quadruple side-by-side Shaddock launchers on Kynda-class guided missile destroyers. The E-band Scoop Pair surface acquisition/fire control radars, characteristic of Shaddock armed ships, are absent from the Kresta 2 class of warships.

By relying heavily on cruise missile technology, previously discarded by the U.S. Navy, the Russians are undermining the strong numerical superiority once enjoyed by the U.S. and West European navies.

They also are forcing the U.S. Navy to reevaluate the role of surface firepower, largely ignored in the light of the overwhelming role of naval air power in the Pacific during World War 2.

Now small Russian-built Osa (Wasp) and Komar (Gnat or Mosquito) fast patrol boats, armed with Styx cruise missiles, have firepower range approaching that of large World War 2 warships.

The Soviets have at least 160 Osa/Komar class boats, with a total of over 500 launchers for the SS–N–2 Styx weapon. These small, maneuverable boats, deployed in "swarms," as their names imply, pose a massive threat of saturating shipboard defenses of high-valued American ships.

The Styx can outrange any current U.S. Navy ship-based gun, although the missile's warhead is relatively small. The larger SS–N–3 turbojet-powered Shaddock on Kresta 1- and Kynda-class surface ships and some submarines can range to 400 mi. over selectable flight profiles. The recent Nanuchka-class guided-missile gunboat armed with the new SS–N–9 cruise missile refines this evolution toward small ships with the firepower and range of larger more conventional warships.

Cruise missiles have become the weapon by which the Russians are eroding the dwindling U.S. naval advantage previously assured by naval aircraft and larger surface warships.

Cruise missiles enjoy several significant tactical advantages, although they are relatively slow, more tractable targets for defense to cope with. These are:

Low flight profile keeps them below defense radars of surface ships until they have closed range to a target, leaving intended victims with little time to react and imposing a crushing burden on shipboard defenses to rapidly detect, identify, acquire and respond to a threat. They can more easily be detected from the air by Doppler radar and are vulnerable to aerial attack, necessitating closely coordinated air cover.

Simplicity and flexibility are inherent in the concept of cruise missiles and the manner in which Soviets have chosen to deploy them. They do not need extensive fire control, permitting them to be launched from small ships equipped with simple surface search radars or by command from other friendly ships, aircraft, surfaced submarines or coastal positions. Typically, target bearing and rough range may be sufficient for launch with a missile-borne active radar and/or infrared terminal seeker generating necessary steering signals for closure in the terminal area. There are indications cruise missiles can be fitted quickly on any ship at dockside and missile stores replenished at sea.

The magnitude of the Soviet naval missile threat recently was cited by Adm. Thomas Moorer, chairman of the Joint Chiefs of Staff. He credited the Russians with five types of air-launched, anti-surface ship missiles (presumably Kennel, Kipper, Kangaroo, Kitchen and Kelt). The five missiles, Moorer noted, have ranges up to 150 mi. and are frequently equipped with terminal seekers for target closure.

"In addition," he noted, "advanced surface-to-surface guided missiles have been developed and are in service in Soviet forces. These weapons are accurate and lethal . . . and can be launched from submarines, ships and shore installations." Defense Dept. claims the Soviets introduced five new naval missiles, including at least two surface-to-surface systems—presumably the Kresta 2 and Nanunchka weapons—within the last two years.

Soviet helicopter carriers of the Moskva and Leningrad class, intended primarily as anti-submarine-warfare ships, can serve as offensive tactical command centers for cruise weapons, with their helicopters performing visual target acquisition and weapons direction for small cruise missile-launching boats.

The Moskva and Leningrad and about a dozen Kresta 2 guided-missile destroyers, major ships which began emerging from Russian coastal waters in 1967, are outfitted with identical, substantially more sophisticated and more advanced surface-to-air weapon systems than previously observed. The common anti-aircraft complement of these two different types of warships includes the following:

Top Sail multiple-element surveillance radar presumably using frequency scanning in elevation for long-range search and probably acquisition of aerial targets for missile guidance and control radars. On Kresta 2, Top Sail may also help acquire surface targets for surface-to-surface missiles.

Two twin groups of large G-band missile control radars with matched sets of antennas—two approximately 8-ft. circular mesh tracking paraboloids which scan in unison in azimuth and elevation and two smaller vertical sector dishes capable of scanning independently in azimuth and elevation. A single, smaller D-band antenna transmits guidance commands to the missiles after launch. The complete missile fire control set is designated Headlight, so-named for the physical resemblance to automobile headlights. All radio frequency power generating equipment is located on the same pedestals with the dishes to avoid excessive power losses in transferring high radar power to the antennas from below deck. This feature gives the fire control radar set striking physical prominence in the silhouette of a smaller ship like Kresta 2.

Dual surface-to-air missile launchers with cleaner lines than those on prior ships, like Kresta 1, Kynda, Kashin and Kanin class destroyers. Their slightly taller pedestals suggest that the ships' SAM missiles are of greater length than the 13-naut.-mi. range Goas, perhaps 22 ft. compared with Goa's 20 ft. The unusual Russian practice of trying to adapt weapons of one service to the other might indicate that the new SAM is a naval version or a derivative of a missile like the SA–4 Ganef army air defense weapon. As many as 200 SAMs may bestowed in below-deck magazines on Moskva/Leningrad ships.

LAUNCHING SAMS

The first as well as the second and third dual-rail, zero-length launcher in the forward section of the helicopter carriers is believed to be capable of firing SAM missiles, although the heavier pedestal of the first launcher could indicate other functions as well. The heavier support may facilitate swinging heavier weapons, such as cruise missiles or, as speculation and small loading hatches suggest, a rocket-propelled surface-to-surface missile. The heavy pedestal offers extra strength against damage from sea water when the desk is awash in heavy seas. The first launcher is ramp-loaded from the forecastle magazine.

Because of possible forecastle magazine flooding during loading operations or damage to missile fins in rough seas, the first launcher probably is of marginal value in high sea states characteristic of the North Atlantic and North Pacific. The degradation in ship performance that might result during service in these waters could suggest the vessel is principally intended for operations in Russian coastal waters, the Mediterranean and Red seas.

Each pair of launching rails of the remaining two Moskva SAM launchers is simultaneously loaded from two hatches on the port sides of the launcher pedestals. Missile loading from these fixed positions increase vulnerability of the ship to port side saturation air attack since launch rails must be swung around facing starboard, lowered into a vertical position, loaded, elevated and swung back again to the port side in defending against port side threats. This sequencing is believed to double the reload-launch time, thereby reducing the effective port side firepower of the ship.

Simultaneous reload capability of the launchers indicates the Russians, like their American naval counterparts, employ what is regarded as a rich nation combat philosophy of shoot-shoot-look, rather than the riskier, but more economical, poor nation shoot-look-shoot approach.

DIFFERENT APPROACHES

Shoot-shoot-look implies two quick salvo or rapid ripple shots against a single target to enhance likelihood of successful intercept, as opposed to shooting one missile and observing to verify chances of intercept before electing to fire a second missile round.

The shoot-look-shoot approach, which avoids possible needless waste of a second expensive shot, would need only a single reload capability for replacing the expended missile during the early flight phase of the fired weapon.

The Headlight guidance control radar group located on Moskva and Kresta 2-class ships is a significant step beyond its predecessor, the I-band Peel Group for Goa, and is functionally similar to Fan Song E, the most advanced SA–2 Guidance fire control radar.

HEADLIGHT OPERATION

Headlight operates at about 4.7 to 4.9 gc., providing high-resolution, low-altitude performance. The two large matched dishes probably are for the lobe-on-receive-only (LORO) capability found in Fan Song E (AW&ST Feb. 22, p. 48) that prevents target aircraft from using angle deception electronic countermeasures against the radar. Once a target is acquired, these dishes may operate passively, receiving returns of energy radiated by the small wide-beam vertical sector scanning dishes in the Headlight system.

The two independently-driven smaller paraboloids provide differential action with the guidance dish for commanding the SAM missiles on up-and-over trajectories, permitting tight control of the missiles during early flight stages. In this case, the large dishes track the target from returns of energy radiated by the broad-beamed small dishes. The guidance dish tracks the missile, possibly with the assistance of a beacon, employed previously in the SA–2 and SA–3 missiles.

By scissor-like action the missile is commanded to intercept when the smaller command dish is brought into coincidence with the tracking dish. A second missile fired from the same twin-rail launcher can be put on target by the same scissor-like action exercised by tracking and command dishes in the Headlight radar.

COUNTERMEASURES RECEIVERS

The large hemispherical-shaped bulges visible on the port side of the Moskva island as well as on the main superstructure of Kresta 1 (AW&ST Feb. 22, p. 43) probably house passive countermeasures receivers.

The absence of any apparent acquisition or fire control radar for the Kresta 2's pairs of quad-mounted surface-to-surface missile launchers, comparable to Scoop Pair on Kresta 1 warships, indicates this function might be handled by Headlight as well.

SOVIETS TESTING MACH 4 CRUISE MISSILE

Soviets have completed preliminary testing related to development of an air-breathing surface-to-surface cruise missile with a speed potential of Mach 4. In its initial configuration the weapon would be powered by a conventional low-bypass-ratio turbofan engine of the type used on supersonic fighters, but the powerplant would be designed to operate at high gas temperatures for an extremely short life.

Tumansky R–11 engine, also known as the R–37, the basic powerplant for the Mikoyan MiG–21 series, is believed capable of powering a cruise missile to Mach 4 or greater speeds on the basis of a 15-min. total engine life.

It is likely that experiments with semicryogenic fuel, such as liquid methane, are to be conducted as an approach toward keeping metal compressor parts cool while gaining additional thrust and/or engine life.

Basic tactical advantage of the high-speed cruise missile is its ability to evade radar acquisition and tracking because of relatively low-altitude flight and its ability to alter speed and direction to a great extent. For these reasons countermeasures would be greatly complicated.

Cruise missile would be capable of pulling up to 15 g during a tight maneuver. Range has not been determined on the basis of observed data but is believed to be 300–500 mi.

It is not known in the West whether the missile is destined for sea or land basing, or both.

The weapon is still in the earliest stages of development, with deployment not likely before 1976. Control system is believed to be still rudimentary.

TYPICAL SOVIET NAVAL RADARS

Code name	Frequency band	Function	Ship application
Top Bow	I	Target acquisition and fire control	Destroyers, light cruisers.
Scoop Pair	E	Acquisition and fire control for Shaddock	Light cruisers, destroyers.
Peel Group	I	Acquisition and fire control for SA–3 Goa	Guided-missile destroyers, guided-missile frigates.
Owl Screech	D	Acquisition and fire control for 3-in. AAA	Guided-missile frigates, destroyers.
Hawk Screech	I	Acquisition and fire control for AAA	Guided-missile frigates, destroyers, submarines, guided-missile destroyers.
Fan Song E	G	Acquisition and fire control for SA–2 guideline	Guided-missile cruiser.
Muff Cob	H	Acquisition and fire control for AAA guns	Patrol boats.
Square Tie	I	Early warning	Do.
Snoop Tray	I	Surveillance	Submarines.
Snoop Slab	I	do	Do.
Snoop Plate	I	do	Do.
Ship Globe	E	Missile tracking	Instrumentation ships.
Pot Head	I	Torpedo fire control	Torpedo boats.
Pot Drum	I	do	Do.
Horn Spoon	I	Navigation	Many.
Long Bow	I	Torpedo fire control	Destroyers.
Head Net A, B, C, D	E	Surface search	Guided-missile destroyers, destroyer escorts helicopter carriers.
Boat Sail	E	Surveillance	Submarines.
Drum Tilt	H	Acquisition and fire control for AAA	Torpedo boats.
Dead Duck	C	IFF	Many.
High Pole	C	IFF	Do.
Witch Five	C	IFF	Destroyers, light cruisers.
High Lune	E	Height finder	Guided-missile cruiser.
Top Sail	I	Suveillance	Helicopter carriers.
Half Bow	I	Torpedo fire control	Older destroyers.
Headlight	G	Acquisition and fire control for SA–N–4 antiaircraft missile and surface-to-surface cruise missiles.	Helicopter carriers, Kresta 2 guided-missile destroyers.

THE ALASKA PIPELINE ENVIRONMENTAL IMPACT STATEMENT IS VERY SCARCE

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, I am very concerned that the environmental impact statement on the proposed trans-Alaska pipeline has been virtually hidden from public scrutiny. I am sure that many of my colleagues will be interested in knowing that only seven copies of this important impact statement are available for public inspection in the lower-48 States. In fact, there is not one impact statement publicly available for 3,000 miles. There is not one impact statement publicly available in New York, Chicago, Milwaukee, or Detroit. In fact, there is not one copy available between Washington, D.C. and San Francisco.

Not only that, but the Interior Department is charging $42.50 for the 9-volume environmental and economic study of the Alaska pipeline and its alternatives. And, even if you are willing and rich enough to be able to afford the $42.50 price tag, it may take almost 1 month to obtain a copy of the impact statement.

For instance, in one case, it took the lawyers for the three environmental groups who are suing to prevent construction of the Alaska pipeline, 28 days to obtain several copies of the impact statement. On March 24, these lawyers asked for the copies, but were told they were out of print and would not be available for another 2 weeks. Three weeks later, on April 14, they were told that the impact statements were still not ready. They finally received part of their order on April 21. Thus, it took these lawyers—who have been integrally involved in the Alaska pipeline issue for over a year and a half—almost a month to get hold of these copies, which they wanted to distribute to others for comment. It is quite relevant to note that Secretary of the Interior Rogers Morton stated when the impact statement was released that a decision might be made at the end of a 45-day period, which means that these lawyers spent almost two-thirds of that period futilely searching for some copies of the 3,550-page impact statement.

Saying that Interior's treatment of the public has been shabby in this case is being kind to the Department. First, Interior refuses to hold public hearings on the basis that hearings would constitute "a circus," in the words of Under Secretary William Pecora. Then the Interior Department announces that it is selling the impact statement for a mere $42.50, and delays the distribution of these copies for as long as 1 month in some cases. And, to top it all off, the Department only provides seven publicly available copies for over 200 million people.

If there were a conscious conspiracy to prevent public scrutiny of the impact statement, it couldn't be accomplished much more effectively than this.

It is also important to note that the Council on Environmental Quality, to whom all comments on the impact statement are submitted, has so far received only five or six comments from private individuals on the Alaska pipeline impact statement. This is an unusually low number. I am just waiting for the Interior Department to say: "Aha, this shows that the public is satisfied with the impact statement." The real reason, of course, for the lack of public comment is that the Department has made the impact statement virtually invisible.

I believe very strongly that if the Interior Department is truly concerned with allowing the public a fair opportunity to comment on this vitally important environmental impact statement, it will agree to postpone its decision on the Alaska pipeline for at least 2 more months. In the interim it should, of course, make the impact statements much more available for public inspection and should also assure that those willing and able to buy the impact statement are able to get them much more quickly than is presently the case.

FIRE RESEARCH AND SAFETY ACT

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. MILLER) is recognized for 10 minutes.

Mr. MILLER of California. Mr. Speaker, each year fire has taken the lives of approximately 12,000 Americans, and caused uncounted injuries and billions of dollars in losses.

This bill gives impetus to needed research to reduce this tragic loss of life and staggering costs that our country undergoes each year as a result of unwanted fires.

This research is embodied in the Fire Research and Safety Act of 1968, which is an essential instrument for Federal work in this field.

Also included in the bill is authorization for the Standard Reference Data Act which was initiated by the Committee on Science and Astronautics. It, too, serves a needful purpose.

The work under this latter act results in the publication, in reference form, of the properties of various materials, compounds, and substances, that are widely used throughout our industry today.

The purpose of the standard data system is to make critically evaluated quantitative data on the physical and chemical properties of substances readily accessible to scientists and engineers throughout the country.

This includes, for example, measurements of the amount of energy released when chemical elements combine to form new compounds, or the ability of various substances to conduct electricity or heat under certain conditions.

It also shows how various metals or compounds react to different stresses and strains, or temperature changes.

This type of information is needed not only for the efficient conduct of our national research and development effort, but is required in the commercial sector of our economy as well.

It is used as basic reference data in such diverse fields as transportation, electronics, construction, and the manufacturing of commercial goods, medicines, and other products.

The raw data from which standard reference data are developed result from property measurements produced through research conducted by scientists and engineers throughout the world, and are published in the many thousands of scientific journals and reports.

Therefore, while these data theoretically are available to anyone who is prepared to search the literature to find them, it is quite often difficult to locate a specific number or value in the millions of pages of scientific literature.

Of equal importance is the fact that once the number or value is located, it is difficult to determine just how reliable such information is.

Only a specialist in the field can tell which number is most likely to be correct, and it is these specialists who, working with the National Bureau of Standards, select a single value or range of values as the best or "standard" value to be incorporated in the standard data system.

The data may then be used with confidence, and scientists and engineers may depend upon the reliability of the measurements without having to again conduct the experiments, often at substantial additional expense to the taxpayer.

The scope of the activity is almost boundless. It provides the basis for improving and producing practical things.

It will contribute to our environmental abatement programs relating to air pollution and antipollution equipment designs; nuclear power generation, chemical reactions and controls, and many others.

In spite of the importance of this work, the funding requirements are modest and in keeping with the role of the Bureau of Standards in supplying to the technical community the basic standards of measurements for which they were established.

I now want to talk about the fire research and safety work that is being emphasized.

Also, I would like to remind you that I am an advisory member from the House of Representatives to the President's National Commission on Fire Prevention and Control.

The Commission was activated last fall as authorized by the Fire Research and Safety Act of 1968.

This act directed the Commission to undertake a comprehensive study and investigation to determine practicable and effective measures for reducing the destructive effects of fire in our country.

This study will include an analysis of all facets of the problem, including fire prevention, equipment designs, methods of fighting fires, methods of reporting fires, standardization of equipments, capabilities of local fire departments, and a host of other problem areas.

The Commission has taken testimony from representatives of various groups that can be considered a cross section of organizations related with fire prevention and control.

I myself testified before this Commission. The current schedule is to present a report to the President and to the Congress in July 1973.

The bill before you, H.R. 13034, represents the major Government-sponsored research for fire prevention and control that affects the majority of our citizens. The military and AEC have highly specialized programs.

Although it has not utilized large sums in the past, and the Bureau of Standards received no appropriations for the work for 2 years, I am sure that more funds are required and that greater amounts will be needed in the future.

Obviously I am an enthusiastic supporter of this work. Also this is an area where a relatively small amount of money can produce large results when modern technology is applied.

Also, Mr. Speaker, the bill contains a number of amendments that are desirable to improve the operation of the Bureau of Standards.

I consider this an essential measure for insuring progress in our country. I earnestly solicit your support.

THE COASTAL ZONE MANAGEMENT ACT

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 10 minutes.

Mr. PODELL. Mr. Speaker, the bill I have introduced today, the Coastal Zone Management Act, has two main purposes not included in any other one bill before this Congress.

First, my bill would centralize coastal management. Second, it would direct special attention to beach erosion, one of the main problems of our coastal zone.

Each day's events dramatize anew the need for proper planning and adequate management of our coastal resources. Each day brings another huge waterfront building complex, another proposal for an oil rig, another industrial plant, another luxury apartment building, too often coupled with degeneration of our natural systems.

Each day new controversies throw the old dilemma between economic "progress" and the preservation of the "idle" shore back into the public arena. Each day surfaces another complaint about a piece of the coast "just sitting" when, if it were developed, it might provide jobs and tax revenue.

And who decides in most of our Coastal States, which of several alternatives will bring the greatest amount of good to the greatest number of people, in this generation and in the future? None.

Rarely is a conscious cost-benefit analysis done. Rarely is a conscious decision taken. Only rarely are these contests resolved by careful decisionmaking and planning. Whichever competitor yells loudest and brings the most political and economic pressure to bear usually wins for his brand of progress.

This bill, Mr. Speaker, would take coastal management out of the arena purview of chance and put it where it belongs—in the responsible hands of experts who, in light of the national policy articulated in sections 302 and 303 clarify the alternatives and consciously choose between them.

This bill would centralize those management functions and the implementation of national coastal policy in one agency in each State. This agency would design a coastal plan, coordinate the programs of all other Federal and State agencies to assure they conform to the management program, and resolve conflicts between various uses.

This bill would also encourage management programs to pay special attention to beach erosion. Recent press attention to this problem demonstrated the consequences of a helter-skelter attitude. Many of our beaches have been suffering worse erosion each year, with storms of various intensity and continued bureaucratic hassles and mixups over the division of responsibility.

This bill would place the responsibility squarely on the agency designated by the State to devise and implement its management program. This agency would coordinate all the various efforts by local, interstate, Federal, and private groups to restore the beaches and prevent their further decay. Continued decay of our natural resources is what this bill is designed to prevent. I hope it will have your support.

BORIS KOCHUBIYEVSKI—A HERO OF THE JEWISH PEOPLE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, yesterday you and I and other Members of Congress had the great pleasure and privilege of meeting Boris Kochubiyevski. For me it was a special emotional moment because of an incident which occurred about 2 years ago. In November 1969, I was asked to participate in a picket line in front of the Soviet mission in New York City protesting the persecution of Soviet Jews by the Soviet Government and in particular the imprisonment of 25 Jews for alleged anti-Soviet acts which consisted of their desire to emigrate to Israel. Along with other participants I picked up a poster bearing the name of one of the imprisoned men. It was simply chance that the poster I received bore the name of Boris Kochubiyevski. I was personally touched because of the similarity of our respective names—Koch-Kochubiyevski—and, of course, I never believed that I would meet the man whose name I carried in that picket line.

Boris Kockubiyevski, after his imprisonment in the U.S.S.R., was permitted to leave the Soviet Union. He was in Washington yesterday to tell Members of Congress of his prison experiences and of the persecution that his fellow Jews suffer in that country.

Boris Kochubiyevski was among the first, if not the first, to publically state his desire and that of hundreds of thousands of Jews in the U.S.S.R. to leave that country and emigrate to Israel. At this point I should like to place in the RECORD the short yet magnificent statement of conscience Boris Kochubiyevski issued in 1968:

NOVEMBER 28, 1968.

I am a Jew. I want to live in the Jewish state. This is my right, just as it is the right of a Ukranian to live in the Ukraine, the right of a Russian to live in Russia, the right of a Georgian to live in Georgia.

I want to live in Israel.

This is my dream, this is the goal not only of my life but also of the lives of hundreds of generations which preceded me, of my ancestors who were expelled from their land.

I want my children to study in a school in the Hebrew language. I want to read Jewish papers, I want to attend a Jewish theatre. What's wrong with that? What is my crime? Most of my relatives were shot by the fascists. My father perished and his parents were killed. Were they alive now, they would be standing at my side: Let me go!

I have repeatedly turned with this request to various authorities and have achieved only this: Dismissal from my job, my wife's expulsion from her Institute; and, to crown it all, a criminal charge of slandering Soviet reality.

What is this slander? Is it slander that in the multi-national Soviet State only the Jewish people cannot educate its children in Jewish schools? Is it slander that there is no Jewish theatre in the USSR? Is it slander that in the USSR there are no Jewish papers? Perhaps it is slander that for over a year I have not succeeded to obtain an exit permit for Israel? Or is it slander that there is nobody to complain to? Nobody reacts. But even this isn't the heart of the matter. I don't want to be involved in the national affairs of a state in which I consider myself an alien. I want to go away from here. I want to live in Israel. My wish does not contradict Soviet law.

I am not asking for mercy. Listen to the voice of reason:

Let me go!

KOCHUBIYEVSKII.

UNFAIR TAXATION MUST END

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 10 minutes.

Mr. DANIELSON. Mr. Speaker, the other day I received a moving letter from two of my constituents in Los Angeles, which emphasizes the need for immediate action to reform the tax laws and to eliminate the inequities that most harshly affect those least able to afford them. My constituents' letter illustrates the self-evident fact that it is our duty to make government more responsive to the people.

I am including in the RECORD the letter, and an article that was enclosed with the letter, describing by income categories the nearly 15 million persons who paid no income taxes at all during 1970. The most blatant revelation—and the one arousing the most anger by the taxpaying citizens in my district—is in the upper income brackets where more than 400 people, with adjusted gross incomes of $100,000 or more, escaped paying any income taxes at all.

Tax loopholes are not limited to individual taxpayers. Recent press reports tell us that at least eight giant corporation in the United States paid no Federal income taxes in at least one of the last 2 years; namely, Westvaco Paper Co., Alcoa, Standard Oil of Ohio, United States Steel Corp., Allied Chemical, Republic Steel, National Steel, and Bethlehem Steel Corp.

While these favored few grow fat, with their untaxed earnings, Mr. and Mrs. Average American carry the taxload for the entire Nation and much of the rest of the world. This is the old story over and over again: The rich grow richer and the poor grow poorer. This shameful situation cannot go on forever; we must have tax reform. No one should have to pay more than his fair share of taxes, which means that everyone must pay his own fair share. That includes the rich and the powerful, the favored few who today enjoy the greatest benefits of our country but do not carry their share of the load.

It is absolutely necessary that we move quickly, and that we do our part in the Congress to pass laws which will close these loopholes—or chasms—which permit and perpetuate the injustice in our tax system.

The letter and article that I referred to follow:

Congressman DANIELSON: Inclosed is an article of how *unfair* our government is to *people* like us. This is only "ONE" very important tax that all you *Congressmen can* do something about *"NOW"*. Goes to show what a *bad* system we have. Our Homes are so taxed especially us old people who worked a lifetime to have a roof over our heads and *not go on* "Welfare". This is only a sample of our crazy *government*.

MR. AND MRS. A. ABRAM.

NEARLY 400 HAD $100,00 YEARLY INCOME—15 MILLION ESCAPE TAXES

WASHINGTON.—Nearly 400 persons who made $100,000 or more in 1970 paid no income tax, Rep. Henry S. Reuss, D-Wis., said Sunday. Three of them were millionaires.

Reuss said Treasury Department information he requested showed that nearly 15 million persons paid no income taxes during 1970, but 14.49 million of them earned less than $5,000.

He said 282 persons making between $100,000 and $199,999 paid no tax, nor did 90 persons making between $200,000 and $499,999, 19 making from $500,000 to $999,999 and three with tax returns showing an adjusted gross income of $1 million or more.

The three were among 624 returns with an adjusted gross income of over $1 million.

Reuss said 1,338 Americans with incomes of more than $50,000 escaped paying income taxes during that year.

"And this is just the tip of the iceberg," he said. Adjusted gross income doesn't include tax free interest from state and local bonds nor one-half of long-term capital gains. If these were included, he said, the number of wealthy persons who pay no taxes "would skyrocket".

He urged President Nixon to support legislation introduced in the House last week to reform taxes by closing loopholes said to cost the government an estimated $7.25 billion in taxes every year.

Reuss disclosed a table which showed that 427,060 persons making between $5,000 and $9,999 paid no taxes; 24,701 making $10,000 to $14,999; 6,508 making $15,000 to $19,999; 2,817 making $20,000 to $24,999; 1,766 making $25,000 to $29,999; 1,976 making $30,000 to $49,999; and 944 making $50,000 to $99,999.

THE PRESIDENT'S REPORT ON VIETNAM

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, last night the President of the United States spoke to the people of the United States with great candor and conviction about the challenge which confronts our Nation. I believe President Nixon articulated the hopes and the determination of all Americans who take pride in this great country and put America's interests not only above the enemy's, but also above their own. I cannot improve on his words, but I consider it an honor to place them in the Record at this point:

REMARKS OF THE PRESIDENT ON NATIONWIDE RADIO AND TELEVISION, APRIL 26, 1972

Good evening.

During the past three weeks you have been reading and hearing about the massive invasion of South Vietnam by the Communist armies of North Vietnam.

Tonight, I want to give you a first-hand report on the military situation in Vietnam, the decisions I have made with regard to the role of the United States in the conflict, and the efforts we are making to bring peace at the negotiating table.

Let me begin briefly by reviewing what the situation was when I took office, and what we have done since then to end American involvement in the war and to bring peace to the long-suffering people of Southeast Asia.

On January 20, 1969, the American troop ceiling in Vietnam was 549,000. Our casualties were running as high as 300 a week. Thirty thousand young Americans were being drafted every month.

Today, 39 months later, through our program of Vietnamization—helping the South Vietnamese develop the capability of defending themselves—the number of Americans in Vietnam by Monday, May 1, will have been reduced to 69,000. Our casualties—even during the present, all-out enemy offensive—have been reduced by 95 percent. And draft calls now average fewer than 5,000 men a month, and we expect to bring them to zero next year.

As I reported in my television address to the Nation on January 25, we have offered the most generous peace terms in both public and private negotiating sessions. Our most recent proposal provided for an immediate ceasefire; the exchange of all prisoners of war; the withdrawal of all forces within six months; and new elections in Vietnam, which would be internationally supervised, with all political elements including the Communists participating in and helping to run the elections. One month before such elections, President Thieu and Vice President Huong would resign.

Hanoi's contemptuous answer to this offer was a refusal even to discuss our proposals and, at the same time, a huge escalation of their military activities on the battlefield. Last October, the same month when we made this peace offer to Hanoi, our intelligence reports began to indicate that the enemy was building up for a major attack. Yet we deliberately refrained from responding militarily. Instead we patiently continued with the Paris talks, because we wanted to give the enemy every chance to reach a negotiated settlement at the bargaining table rather than to seek a military victory on the battlefield—a victory they cannot be allowed to win.

Finally, three weeks ago, on Easter weekend, they mounted their massive invasion of South Vietnam. Three North Vietnamese divisions swept across the Demilitarized Zone into South Vietnam—in violation of the treaties they had signed in 1954 and in violation of the understanding they had reached with President Johnson in 1968, when he stopped the bombing of North Vietnam in return for arrangements which included their pledge not to violate the DMZ. Shortly after the invasion across the DMZ, another three North Vietnamese divisions invaded South Vietnam farther south. As the offensive progressed, the enemy indiscriminately shelled civilian population centers in clear violation of the 1968 bombing halt understanding.

So the facts are clear. More than 120,000 North Vietnamese are now fighting in South Vietnam. There are no South Vietnamese troops anywhere in North Vietnam. Twelve of North Vietnam's thirteen regular combat divisions have now left their own soil in order to carry aggressive war onto the territory of their neighbors. Whatever pretext there was of a civil war in South Vietnam has now been stripped away.

What we are witnessing here—what is being brutally inflicted upon the Republic of Vietnam—is a clear case of naked and unprovoked aggression across an international border. There is only one word for it—invasion.

This attack has been resisted on the ground entirely by South Vietnamese forces, and in one area by South Korean forces. There are no United States ground troops involved. None will be involved. To support this defensive effort by the South Vietnamese, I have ordered attacks on enemy military targets in both North and South Vietnam by the air and naval forces of the United States.

I have here on my desk a report. I received it this morning from General Abrams. He gives the following evaluation of the situation:

The South Vietnamese are fighting courageously and well in their self-defense. They are inflicting very heavy casualties on the invading force, which has not gained the easy victory some predicted for it three weeks ago.

Our air strikes have been essential in protecting our own remaining forces and in assisting South Vietnam in their efforts to protect their homes and their country from a Communist takeover.

General Abrams predicts in this report that there will be several more weeks of very hard fighting. Some battles will be lost, he said, and others will be won by the South Vietnamese. But his conclusion is that if we continue to provide air and sea support, the enemy will fail in its desperate gamble to impose a Communist regime on South Vietnam, and the South Vietnamese will then have demonstrated their ability to defend themselves on the ground against future enemy attacks.

Based on this realistic assessment from General Abrams, and after consultation with President Thieu, Ambassador Bunker, Ambassador Porter, and my senior advisers in Washington, I have three decisions to announce tonight.

First, I have decided that Vietnamization has proved itself sufficiently that we can continue our program of withdrawing American forces without detriment to our overall goal of ensuring South Vietnam's survival as an independent country. Consequently, I am announcing tonight that over the next two months 20,000 more Americans will be brought home from Vietnam. This decision has the full approval of President Thieu and of General Abrams. It will bring our troop ceiling down to 49,000 by July 1—a reduction of half a million men since this Administration came into office.

Second, I have directed Ambassador Porter to return to the negotiating table in Paris tomorrow, but with one very specific purpose in mind. We are not resuming the Paris talks simply in order to hear more empty propaganda and bombast from the North Vietnamese and Viet Cong delegates, but to get on with the constructive business of making peace. We are resuming the Paris talks with the firm expectation that productive talks leading to rapid progress will follow through all available channels. As far as we are concerned, the first order of business will be to get the enemy to halt his invasion of South Vietnam, and to return the American prisoners of war.

Finally, I have ordered that our air and naval attacks on military installations in North Vietnam be continued until the North Vietnamese stop their offensive in South Veitnam.

I have flatly rejected the proposal that we stop the bombing of North Vietnam as a condition for returning to the negotiating table. They sold that package to the United States once before, in 1968, and we are not going to buy it again in 1972.

Now, let's look at the record. By July 1 we will have withdrawn over 90 percent of our forces that were in Vietnam by 1969. Before the enemy's invasion began, we had cut our air sorties in half. We have offered exceedingly generous terms for peace. The only thing we have refused to do is to accede to the enemy's demand to overthrow the lawfully constituted government of South Vietnam and to impose a Communist dictatorship in its place.

As you will recall, I have warned on a number of occasions over the past three years that if the enemy responded to our efforts to bring peace by stepping up the war I would act to meet that attack, for three good reasons: First, to protect our remaining American forces; second, to permit continuation of our withdrawal program, and third, to prevent the imposition of a Communist regime on the people of South Vietnam against their will, with the inevitable bloodbath that would follow for hundreds of thousands who have dared to oppose Communist aggression.

The air and naval strikes of recent weeks have been carried out to achieve these objectives. They have been directed only against military targets supporting the invasion of South Vietnam, and they will not stop until the invasion stops.

The Communists have failed in their efforts to win over the people of South Vietnam politically. General Abrams believes that they will fail in their efforts to conquer South Vietnam militarily. Their one remaining hope is to win in the Congress of the United States, and among the people of the United States the victory they cannot win among the people of South Vietnam or on the battlefield in South Vietnam.

The great question then is how we, the American people, will respond to this final challenge.

Let us look at what the stages are—not just for South Vietnam, but for the United States and for the cause of peace in the world. If one country, armed with the most modern weapons by major powers can invade another nation and succeed in conquering it, other countries will be encouraged to do exactly the same thing—in the Mideast, in Europe, and in other international danger spots. If the Communists win militarily in Vietnam, the risk of war in other parts of the world would be enormously increased. But if, on the other hand, Communist aggression fails in Vietnam, it will be discouraged elsewhere and the chance for peace will be increased.

We are not trying to conquer North Vietnam or any other country in this world. We want no territory. We seek no bases. We have offered the most generous peace terms—peace with honor for both sides—with South Vietnam and North Vietnam each respecting the other's independence.

But we will not be defeated; and we will never surrender our friends to Communist aggression.

We have come a long way in this conflict. The South Vietnamese have made great progress and they are now bearing the brunt of the battle. We can now see the day when no more Americans will be involved there at all.

But as we come to the end of this long and difficult struggle, we must be steadfast. And we must not falter. For all that we have risked and all that we have gained over the years now hangs in the balance during the coming weeks and months. If we now let down our friends we shall surely be letting down ourselves and our future as well. If we now persist, future generations will thank America for her courage and her vision in this time of testing.

That is why I say to you tonight, let us bring our men home from Vietnam. But let us end it in such a way that the younger brothers and the sons of the brave men who have fought in Vietnam will not have to fight again in some other Vietnam at some time in the future.

Any man who sits here in this office feels a profound sense of obligation to future generations. No man who sits here has the right to take any action which would abdicate America's great tradition of world leadership or weaken respect for the Office of the President of the United States.

Earlier this year I traveled to Peking on an historic journey for peace. Next month I shall travel to Moscow on what I hope will also be a journey for peace. In the 18 countries I have visited as President I have found great respect for the Office of the President of the United States. I have reason to expect, based on Dr. Kissinger's report, that I shall find that same respect for the office I hold when I visit Moscow.

I do not know who will be in this office in the years ahead. But I do know that future Presidents will travel to nations abroad as I have, on journeys for peace. If the United States betrays the millions of people who have relied on us in Vietnam, the President of the United States, whoever he is, will not deserve nor receive the respect which is essential if the United States is to continue to play the great role we are destined to play of helping to building a new structure of peace in the world. It would amount to a renunciation of our mortality, an abdication of our leadership among nations, and an invitation for the mighty to prey upon the weak all around the world. It would be to deny peace the chance peace deserves to have. This we shall never do.

My fellow Americans, let us therefore unite as a nation in a firm and wise policy of real peace—not the peace of surrender, but peace with honor—not just peace in our time, but peace for generations to come.

Thank you, and good night.

FORGET LIMITED WAR, COME HOME

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, one of the outstanding publishers of the world is the Honorable John S. Knight of the Knight Newspapers. Mr. Knight has had distinguished service in the Armed Forces of our country and in civic leadership as well as in the realm of editor and publisher. He has had a long and intimate contact with Indochina and the war there. Mr. Knight is, I believe therefore, one of the best qualified men in our country to speak about that problem and to make recommendations as to what our country should do to terminate our engagement in this tragic conflict.

On April 16 in his highly esteemed column which runs regularly in the Miami Herald, Mr. Knight wrote on the subject of the war in Indochina under the heading, "Forget 'Limited War.' It Is Time To Come Home." I believe my colleagues and my fellow countrymen will profit from reading with particular care what Mr. Knight has said upon this critical subject. I include, therefore, Mr. Speaker, John S. Knight's Notebook following my remarks in the body of the RECORD:

JOHN S. KNIGHT'S NOTEBOOK: FORGET "LIMITED WAR," IT'S TIME TO COME HOME

Anthony Lewis of The New York Times recalls a statement by President Nixon in 1971 to the effect that Vietnam will not be an issue in the campaign . . . because we will have brought the American involvement to an end.

And indeed, that was the President's objective. Discerning politician that he is. Mr. Nixon said in the 1968 campaign that he had a plan to end the war. Yet the plan was never unveiled. Early in his administration, the President addressed the nation on Vietnam in these words: "I pledged to end this war in a way that would increase our chances to win true and lasting peace in Vietnam, in the Pacific and the world. I am determined to keep that pledge. If I fail to do so, I expect the American people to hold me accountable for that failure."

Now, three years later, American air and naval power are still directing massive strikes against the enemy in North and South Vietnam, Laos and Cambodia. The recent enemy offensive has brought the war back to the front pages and the television tube, a development which the President did not foresee in his confident prediction of 1971.

WHAT WENT WRONG?

So what went wrong? Where did the President's calculations fail? Why is the war once again turning up as a campaign issue even as Mr. Nixon's program of troop withdrawal has met with widespread approval from the American people?

As I see it, there were two major miscalculations:

1—The Vietnamization program, which in reality was the President's game plan to end the war, has been only partially successful and certainly not effective enough to enable the South Vietnamese to stand on their own.

2—The President's failure to grasp and comprehend the lessons of history which have enabled wiser men to understand why the North Vietnamese are dedicated to a cause while the South Vietnamese flounder about in a morass of instability and corruption without purpose or motivation.

The Nixon administration still clings to the John Foster Dulles doctrine of containment and the Johnson-Rusk policies which fostered the belief that the United States must fulfill the "sacred commitments" of SEATO and use the military muscle sanctioned by Congress in the now defunct Tonkin Gulf Resolution.

The Southeast Asia Treaty Organization (SEATO), formed in 1954 at our behest to provide for collective defense, has long been a paper tiger. Its members—including Australia, France, New Zealand, Pakistan, the Philippines, Thailand and the United Kingdom—have either totally abdicated their responsibilities or provided only token forces on the field of battle.

President Johnson's Tonkin Gulf Resolution gave the President power "to take all necessary measures to repel armed attack against the forces of the United States and to prevent further aggression." Congress approved the resolution on August 7, 1964, following alleged attacks upon U.S. destroyers by North Vietnamese torpedo boats.

Although these attacks were later to lack documentation, the words "and to prevent further aggression" legitimatized President Johnson's authority to escalate the war and encourage his troops "to bring back the coonskin." In 1971, Congress shamefacedly backtracked on the Tonkin Gulf fraud and President Nixon signed the bill of repeal.

HOW IT STARTED

What Presidents Johnson or Nixon were never able to learn is that Hanoi regards Vietnam as one country only temporarily divided by a "provisional military demarcation line" in accordance with a 1954 cease-fire accord signed in Geneva providing for French withdrawal from the North and elections to determine the country's future.

Vietnam has been fighting its enemies ever since the 13th century. The French and Portuguese first came in the late 16th century. Piecemeal conquest by the French began in 1858 and ended in 1884 with acceptance of a French protectorate. By 1940 Vietnam was occupied by Japan, during which time a number of nationalist groups formed the Vietminh headed by the late Ho Chi Minh, Communist guerrilla leader.

At war's end, France sought to reestablish her colonial domination—a move vigorously opposed by President Franklin D. Roosevelt. Following a long struggle, Ho Chi Minh's Communist and nationalist forces finally defeated the French in 1954 at Dienbienphu.

Meanwhile, the former emperor of Annam, Bao Dai, who had headed a short-lived regime sponsored by Japan, formed a State of Vietnam at Saigon with French approval. Bao Dai was later ousted by Ngo Dinh Diem who became South Vietnam's first president. Eight other regimes were to follow until President Nguyen Van Thieu and Vice President Ky were elected in 1967.

HANOI WON'T QUIT

Ever since 1954, the United States has supported the Saigon government while Communist China and Russia gave their assistance to North Vietnam. From the time of President Harry Truman, our Presidents have been striving to "contain communism," as if a foreign government could shoot down either communism or a strongly ingrained nationalism with military assistance and later with more than half a million American servicemen.

And herein lies the basic misconception. The French, long a colonial power, had the good sense to pull out. Our SEATO allies have forsaken us. But the North Vietnamese continue to fight on against a greater number of South Vietnamese, escalation of the war by President Johnson with U.S. troops and now our massive bombing attacks.

To use President Nixon's phrase, it should now be clear that North Vietnam—though severely hurt by our bombing—has no intention of capitulating either on the battlefield or at the peace table in Paris.

So, some say, why not destroy Hanoi itself and the port of Haiphong? My answer is that while such a military operation is feasible, it has several negatives. First, it would scuttle President Nixon's endeavors to improve relations with China and Russia. Second, this course would in the end solve nothing permanently.

For the nationalists, or Communists if you prefer that term, will still be there and fight as they have for so many years against "the forces of imperialism." In their minds, the Americans have only replaced their ancient enemies, the French.

Furthermore, and if you accept that premise, the United States would be compelled to garrison Vietnam for all time to come if South Vietnam is to survive as an independent entity.

A third reason is that President Nixon would have to concede the failure of his beloved Vietnamization policy, something he would prefer to avoid doing in this election year.

VIETNAM'S PROBLEM

Time is running on the side of the enemy. To quote correspondent Denis Warner who had lived in Asia since long before our involvement, "Both Peking and Hanoi believe the United States is attempting to negotiate from a position not only of weakness, but also of hopelessness. Nothing, they believe, can put an end to the U.S. policy of disengagement as pressures build up in the United States for reductions in air support and eventually in materiel support."

While we can all understand President Nixon's desire to extricate the United States from a difficult dilemma, a better comprehension of Vietnam's political realities was required when he first assumed office.

We cannot impose our will or dictate terms for settlement of the Indochina war. These questions must ultimately be resolved internally within Vietnam.

To prolong this war on the Nixon-Kissinger theory that might will prevail is to betray the "limited war for limited objectives" doctrine so successfully sold for a time to the American people by Mr. Nixon's predecessor.

It is time to come home, and bring our involvement to an end.

DISCLOSURE OF FUNDS

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, the House Committee on Standards of Official Conduct requires a partial public disclosure of the financial holdings of the Members to be filed by April 30. In my opinion, citizens are entitled to a more comprehensive financial statement from public officials. Such a statement provides another measure whereby citizens can assure themselves that officials are not subject to conflicts of interest which would prevent or deter them from performing their official duties in an objective manner.

I insert in the RECORD at this point a statement of my wife's and my financial holdings. The only substantial change in our holdings since the filing of our last statement has been the acquisition of additional ownership in A. Gude Sons Co., Inc. by inheritance. Taxable income in 1971 was $53,860. All income exclusive of that from the U.S. Government was from sources limited under assets.

The statement follows:

Financial statement of Gilbert Gude and Jane Callaghan Gude, his wife, April 27, 1972

ASSETS	
Cash, checking and savings accounts	$16,006
First National Bank of Maryland (stock—100 shares)	3,975
American Finance System Debenture	3,000
A.T.T	3,000
Part ownership of A. Gude Sons Co., Inc. (family landscape nursery and florist firm)	1,509,390
Residence	70,000
Life insurance, cash value	8,555
Household furnishings, personal belongings	28,000
Two automobiles	3,000
Total	1,644,926

LIABILITIES	
Accounts payable	300
Mortgage, residence	18,393
Personal note	15,000
Life insurance, loan	500
Note, automobile	1,952
Total	36,145
Net worth	1,608,781

LEGISLATION TO SAVE AND PROTECT TOPSOIL

(Mr. SMITH of Iowa asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SMITH of Iowa. Mr. Speaker, I have introduced a bill which is H.R. 14659 requiring the protection and preservation of topsoil. I think it is a bill of great importance and is undoubtedly the most far reaching and important bill dealing with the environment that has ever been proposed in the U.S. Congress.

Topsoil is the most important resource that any country can have. It represents millions of plants and animals and even human beings that have been here on earth before us. It is the residue of those plants and animals that have preceded us over the thousands of years. Their remains contribute small amounts to the topsoil and that topsoil then is capable in the future for producing more plant life and in turn animal life; and human beings depend upon both. Man transfers various kinds of energy through different forms but is incapable of creating new energy. It is through topsoil that new energy is created. In spite of the fact that this is the most valuable resource in the United States, we have treated it as if it were an inexhaustible resource. We have wasted it, we have let it erode and run down the rivers, we have buried it on construction projects and have intermingled it with toxic portions of the earth and simply made it inaccessible not only for present use but also for the use of future generations.

There has recently been some attention given to stopping the waste and burial of topsoil on strip mining projects. I visited strip mining projects in Tennessee, Iowa, and other places. I concur that the waste of topsoil in these cases must be stopped. However, this is only one of the many examples of terrible waste of topsoil.

Perhaps one of the greatest examples of the waste of topsoil is with regard to highway construction. When highways are cut through hills, very often the topsoil is buried beneath the road bed and intermingled with the foundation of the road. Later a bank of subsoil is exposed. Even if the highway department puts some fertilizer on the bank and gets a start of some kind of vegetation started, it still does not have but a small fraction of the productive capacity that it would have had the topsoil been saved and placed over the exposed bank. If a highway or any other construction is not valuable enough to our generation to pay for stockpiling and replace topsoil then it is not valuable enough to be undertaken at this time. On most of these projects topsoil could be stockpiled where it would be easily and economically accessible for a use at a later time and to the extent needed used to cover any exposed areas on the completed project.

Recently a lot of people have become more cognizant of the importance of protecting our environment. To many people this merely means protecting trees and existing vegetation. While existing vegetation is important to our present generation, it does not have anywhere near as much the importance to future generations as the saving of topsoil. With topsoil, rain, and sun, existing vegetation can be replaced in a relatively short period of time but without topsoil it would either never happen or it would take thousands of years. This is the reason that the saving of topsoil is of far more importance than all the other environmental bills that have thus far been proposed.

This bill, H.R. 14659, would establish minimum standards to be followed on construction projects. It would apply to both federally assisted and private projects where the topsoil to be moved exceeds an area of 2 acres. On such projects, 12 inches of topsoil would be stockpiled and that soil would be used to cover exposed areas on the completed project. Any excess not needed to cover the exposed area to a minimum of 12 inches in depth would have to be permanently placed where it would improve plant production or be easily and economically accessible for use at a later time. It could not be intermingled with toxic soils or destroyed.

Under the bill, a National Land Resources Protection Commission would be established. Those who propose a project would submit to the Commission a plan showing that they will meet minimum requirements and that the project will not cause pollution of existing streams, landslides, flooding, or substantially change the volume of water to be carried by natural waterways on land adjoining the immediate construction area except where such change is consistent with an approved State or Federal water resource policy or law.

The Commission could delegate its authority to State commissions including State soil conservation commissions but would be required to monitor their operation to make sure that at least the Federal standards would be met.

Mr. Speaker, I realize that this is a far-reaching bill and I do not have any illusions about quick passage of the bill. I realize that with an idea which has not really been considered in this country, it will take time to sell it. I do not pretend that this bill is perfect, but it will provide a vehicle for a discussion that is badly needed, and I am convinced that some time we will pass a law which prevents us in this country from wasting our most valuable resource; namely, topsoil. The sooner we take a more realistic approach to this problem, the better.

WHOEVER HEARD OF REDUCING GOVERNMENT SPENDING?

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, a recent editorial in the Columbus, Ohio, Dispatch is worthy of the attention of all persons in positions of public trust.

The boys who vote to spend and spend and then increase the public debt to pay for their excesses could take a lesson from the workers who recognize our survival depends on maintenance of a balance between income and outgo.

The editorial follows:

WORKERS RECOGNIZE REALITY WHICH ELUDES GOVERNMENTS

Federal legislators and government managers would do well to consider a recognition being made by an increasing number of their constituents—the source of income has a saturation point.

It is a matter of survival for the average American worker who expresses a willingness to forego a wage increase when it becomes apparent his employer could not otherwise remain operative.

By the same token, it should be apparent a nation cannot long remain viable unless its own economic house is in order.

Even so, this lesson has not yet been learned in Washington for each year Americans see more legislation passed which assures the spending of more money—far more than the amount of income.

Rather than cut down spending or at least match it with anticipated revenue, the practice now is to raise the federal debt limit. No president since Herbert Hoover has failed to follow this route.

Meanwhile, the worker back home cannot follow this line of thinking with regard to his own personal finances. Nor can his employer.

There is an increasing number of instances wherein workers, advised by their union leaders, recognize their survival depends on maintenance of a balance between income and outgo.

Pay boosts averaging 44 cents an hour were given up by employes of Dayton's Standard Register Co. to preserve jobs and increase the firm's competitiveness. Dayton's Frigidaire people also have traded off increases for jobs. Firestone tire workers have gone on an eight-hour day, rather than six, to help cut costs.

But what is government doing? Tax Foundation, a private research group, says that in the period of 1962–72 all government taxes increased by 77.5 per cent while spending climbed by 93 per cent.

Reduced to the average man's level, this means that while governments were to tax the average household $4,530 in fiscal 1972, they had committed themselves to spend $6,231 per family.

The average American is showing signs of being ready to call a halt to such fiscal irresponsibility in government.

APOLOGY, AMNESTY, ABORTION, AND POT

(Mr. CLANCY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLANCY. Mr. Speaker, the politically ambitious South Dakota apologist for the Communists has made an outrageous response to last evening's address by President Nixon. The news media said he accused President Nixon of having caused the death of 20,000 Americans.

However, the majority of American people approve of the President's steadfast position with regard to our continued withdrawal from Vietnam and our firm position in not permitting the Communists to take over a country by means of unprovoked and naked aggression.

The political campaigning of the apologist has extended into my home State of Ohio. The people there are well aware that he stands for surrender in Vietnam but they are not aware that he is also for amnesty, abortion, and pot. They do not know how he stands on aid for schools. They would like to know how construction of needed schools can be financed without a tax exemption to purchasers of bonds which must be sold for the schools. The South Dakota apologist, we understand, would eliminate this exemption. What else, we would like to know, would he eliminate from America.

President Nixon gave a well-reasoned speech last night, outlining a policy which every American can accept. He will—as he has promised and as Americans want—continue to extricate our Nation from this war. At the same time, our Air Force and Navy will provide military support to the fighting South Vietnamese troops with a minimum of danger to our own men.

And, around the world, we are negotiating for peace which, as President Nixon said, "Is a peace with honor for both sides, with South Vietnam and North Vietnam each respecting the other's independence."

President Nixon also said:

> The Communists have failed in their efforts to win over the people of South Vietnam politically. . . . Their one remaining hope is to win in the Congress of the United States and among the people of the United States the victory they cannot win among the people of South Vietnam or on the battlefield in South Vietnam.

It would appear that the Communists have won some of those people in the United States—or else some Americans are speaking rashly in their political fervor to win election to higher office.

On the other hand, despite the political activity generated in this election year, our President speaks calmly and rationally, continues to wind down the war effort in a sance and deliberate manner, and is bringing our men home. He deserves the respect of all Americans. More than ever before, the American people know that the perpetrators of aggression are the Communists of North Vietnam.

STATEMENT OF POSITION

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, the April 20 action of the Democratic Caucus relating to the prosecution of the war in Vietanam raises problems for those of us who attended the caucus, voted for the resolution, and are also members of the Committee on Foreign Affairs.

I did not support the original resolution but supported the amendments which eliminated the mandate to approve a specific bill and added the language which condemned the aggression of the North Vietnamese. I also opposed the introductory language of the O'Neill resolution and I had serious reservations about the principle of sending a directive with specific orders to the Democratic members of the Committee on Foreign Affairs, a sovereign committee of the House.

In the final analysis, however, I voted for the resolution in the caucus because it did constitute a firm expression of determination to terminate the war and an opposition to further escalation.

A few days' reflection has strengthened my belief that the form of the reference was ill-advised and I find it increasingly difficult to see how a committee of the Congress can fashion a prescription for the executive to follow in prosecuting the objective which all of us seek.

In view of the position in which I now find myself, as a member of the Committee on Foreign Affairs, I feel that I must treat this whole matter de novo and not be bound by any particular language or approach contained in the resolution of the caucus. I hope that the committee will be able to express the predominant opinion of the caucus within the existing constitutional framework, but this obviously will be a difficult task to perform.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHMITZ) to revise and extend their remarks and include extraneous material:)

Mr. HALPERN, for 5 minutes, today.

Mr. TALCOTT, for 3 minutes, today.

Mr. KEMP, for 15 minutes, today.

(The following Members (at the request of Mr. LINK) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. ASPIN, for 10 minutes, today.

Mr. MILLER of California, for 10 minutes, today.

Mr. PODELL, for 10 minutes, today.

Mr. KOCH, for 5 minutes, today.

Mr. DANIELSON, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SCHMITZ) and to include extraneous material:)

Mr. MCCLOSKEY.

Mr. GUDE.

Mr. MIZELL in five instances.

Mr. DEVINE.

Mr. HALPERN in three instances.

Mr. WYMAN in two instances.

Mr. GUBSER.

Mr. CEDERBERG.

Mr. MICHEL.

Mr. GOODLING.

Mr. EDWARDS of Alabama.

Mr. STEIGER of Wisconsin.

Mr. BUCHANAN.

Mr. BRAY in two instances.

Mr. BAKER.

Mr. BYRNES of Wisconsin.

Mr. TALCOTT in three instances.

Mr. Kemp in two instances.

Mr. Derwinski.

Mr. Dellenback.

Mr. Wylie.

Mr. Crane in five instances.

Mr. Zion.

Mr. Hosmer in two instances.

Mr. Latta.

Mr. Anderson of Illinois.

Mr. Horton.

(The following Members (at the request of Mr. Link) and to include extraneous material:)

Mrs. Hicks of Massachusetts in two instances.

Mr. Gonzalez in three instances.

Mr. Rarick in five instances.

Mr. Hagan in three instances.

Mr. Rogers in five instances.

Mr. Aspin in five instances.

Mr. Kluczynski in two instances.

Mr. Hungate in three instances.

Mr. Vanik in two instances.

Mr. James V. Stanton in two instances.

Mr. Biaggi in 10 instances.

Mr. Anderson of California in two instances.

Mr. Begich in three instances.

Mr. Flood in two instances.

Mr. Albert.

Mr. Holifield in two instances.

Mr. Hathaway in two instances.

Mr. Celler.

Mr. Johnson of California in five instances.

Mr. Jacobs.

Mr. Galifianakis.

Mr. Teague of Texas in five instances.

Mr. Sisk.

Mr. St Germain in two instances.

Mr. Sikes in five instances.

Mr. Dow in three instances.

Mr. Tiernan.

Mr. Chappell.

ADJOURNMENT

Mr. LINK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Friday, April 28, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1907. A letter from the Director, District of Columbia Unemployment Compensation Board, transmitting the annual report of the Board for fiscal year 1971, pursuant to title 46, section 313(c) of the District of Columbia Code; to the Committee on the District of Columbia.

1908. A letter from the Special Assistant for Legislative Affairs, Office of the Secretary of Labor, transmitting a copy of "Compliance, Enforcement, and Reporting in 1971 Under the Labor-Management Reporting and Disclosure Act"; to the Committee on Education and Labor.

1909. A letter from the Assistant to the President, American Academy of Arts and Letters, and Assistant Secretary, National Institute of Arts and Letters, transmitting the annual reports of the two organizations for 1971, pursuant to section 4 of their charters; to the Committee on House Administration.

1910. A letter from the Acting Secretary of Transportation, transmitting the annual report on the financial condition of the Penn Central Transportation Co. as of April 26, 1972, pursuant to section 10 of the Emergency Rail Services Act of 1970; to the Committee on Interstate and Foreign Commerce.

Received From the Comptroller General

1911. A letter from the Comptroller General of the United States, transmitting a report on the impact of a computerized job bank on employment security operations in Baltimore, Md., under a program administered by the Department of Labor; to the Committee on Government Operations.

1912. A letter from the Comptroller General of the United States, transmitting a report on the Department of the Interior's opportunity to improve Indian education in schools operated by the Bureau of Indian Affairs; to the Committee on Government Operations.

1913. A letter from the Deputy Comptroller General of the United States, transmitting a report of a followup review on assistance to war victims in Vietnam by the Agency for International Development, Department of State, and Department of Defense; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 14424. A bill to amend the Public Health Service Act to provide for the establishment of a National Institute of Aging, and for other purposes (Rept. No. 92–1026). Referred to the Committee of the Whole House on the state of the Union.

Mr. PRICE of Illinois: Joint Committee on Atomic Energy. H.R. 14655. A bill to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for nuclear power reactors under certain circumstances, and for other purposes (Rept. No. 92–1027). Referred to the Committee of the Whole House on the state of the Union.

Mr. EDMONDSON: Committee on Interior and Insular Affairs. H.R. 6788. A bill to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the act of December 31, 1970, and for other purposes; with amendments (Rept. No. 92–1028). Referred to the Committee of the Whole House on the state of the Union.

Mr. NEDZI: Committee on House Administration. House Joint Resolution 812. Joint resolution to authorize the Secretary of the Interior to participate in the planning and design of a national memorial to Franklin Delano Roosevelt, and for other purposes (Rept. No. 92–1029). Referred to the Committee of the Whole House on the state of the Union.

Mr. NEDZI: Committee on House Administration. H.R. 10595. A bill to restore to the Custis-Lee Mansion located in the Arlington National Cemetery, Arlington, Va., its original historical name, followed by the explanatory memorial phrase, so that it shall be known as Arlington House—The Robert E. Lee Memorial; with amendments (Rept. No. 92–1030). Referred to the House Calendar.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 948. Resolution to provide funds for expenses incurred by the Select Committee on the House Restaurant (Rept. No. 92–1031). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Illinois (for himself, Mr. Bingham, Mr. Broyhill of North Carolina, Mr. Collins of Illinois, Mr. Conte, Mr. Danielson, Mr. Derwinski, Mr. Dow, Mr. Frenzel, Mr. Gallagher, Mr. Garmatz, Mr. Grover, Mr. Halpern, Mr. Hammerschmidt, Mrs. Hicks of Massachusetts, Mr. Hosmer, Mr. King, Mr. Leggett, Mr. McCormack, Mr. Mathis of Georgia, Mr. Mikva, Mr. Moss, Mr. Quillen, Mr. Randall, and Mr. Robinson of Virginia):

H.R. 14665. A bill to amend the Internal Revenue Code of 1954 to provide that employees receiving lump sums from tax-free pension or annuity plans on account of separation from employment shall not be taxed at the time of distribution to the extent that an equivalent amount is reinvested in another such plan; to the Committee on Ways and Means.

By Mr. ANDERSON of Illinois (for himself, Mr. Scott, Mr. Smith of New York, Mr. J. William Stanton, Mr. Symington, Mr. Thone, Mr. Horton, and Mr. Gude):

H.R. 14666. A bill to amend the Internal Revenue Code of 1954 to provide that employees receiving lump sums from tax-free pension or annuity plans on account of separation from employment shall not be taxed at the time of distribution to the extent that an equivalent amount is reinvested in another such plan; to the Committee on Ways and Means.

By Mr. BROYHILL of North Carolina:

H.R. 14667. A bill to establish a national land use policy; to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 14668. A bill to strengthen and improve the private retirement system by establishing minimum standards for participation in and for vesting of benefits under pension and profit-sharing retirement plans, by allowing deductions to individuals for personal savings for retirement, and by increasing contribution limitations for self-employed individuals and shareholder-employees of electing small business corporations; to the Committee on Ways and Means.

By Mr. BYRNES of Wisconsin:

H.R. 14669. A bill to amend the Internal Revenue Code of 1954 to encourage the preservation of coastal wetlands, open space and historic buildings and to encourage the preservation and rehabilitation of all structures, and for other purposes; to the Committee on Ways and Means.

By Mr. CLEVELAND:

H.R. 14670. A bill to enhance the environment and to create and preserve economic opportunity in disadvantaged areas; to the Committee on Public Works.

By Mr. CLEVELAND (for himself and Mr. Wyman):

H.R. 14671. A bill to provide for the repayment of certain Federal-aid funds expended in connection with the construction of Route 101 in the State of New Hampshire; to the Committee on Public Works.

By Mr. CONYERS:

H.R. 14672. A bill to amend the Public Health Service Act to increase the fiscal year 1973 authorizations for project grants for health services development and for project grants and contracts for family planning services; to the Committee on Interstate and Foreign Commerce.

By Mr. DAVIS of South Carolina:

H.R. 14673. A bill to require that certain textile products bear a label containing cleaning instructions; to the Committee on Interstate and Foreign Commerce.

By Mr. FRASER:

H.R. 14674. A bill to amend the District of Columbia Teachers' Salary Act of 1955, as amended; to the Committee on District of Columbia.

By Mr. GUDE:

H.R. 14675. A bill to amend title 5 of the United States Code to provide that supergrade employees (and certain other Federal employees) whose pay is subject to a special statutory limitation shall be credited, for civil service retirement purposes, with the full amount of the basic pay they would be entitled to receive in the absence of such limitation; to the Committee on Post Office and Civil Service.

By Mr. HALPERN:

H.R. 14676. A bill to establish National, Regional, and Local Awareness Advisory Councils in order to facilitate communication between the President and the people of the United States, and for other purposes; to the Committee on Government Operations.

By Mrs. HECKLER of Massachusetts (for herself, Mr. Biester, Mr. Burke of Massachusetts, Mr. Conte, Mr. Drinan, Mr. Donohue, Mr. Galifianakis, Mr. Harrington, Mr. Keith, Mr. Matsunaga, Mr. Morse, Mr. Nelsen, Mr. O'Neill, Mr. Pepper, and Mr. Thompson of New Jersey):

H.R. 14677. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mr. KEMP:

H.R. 14678. A bill to impose a statutory limit on expenditures and net lending during fiscal year 1973; to the Committee on Government Operations.

By Mr. KOCH (for himself, Mr. Fisher, Mr. Hillis, Mr. Ryan, and Mr. Bob Wilson):

H.R. 14679. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. MILLS of Arkansas:

H.R. 14680. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

By Mr. MILLER of Ohio:

H.R. 14681. A bill to authorize the Secretary of the Army to investigate, plan, and construct projects for the control of streambank erosion; to the Committee on Public Works.

By Mr. MINISH:

H.R. 14682. A bill to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. NIX:

H.R. 14683. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. PIKE:

H.R. 14684. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. PODELL:

H.R. 14685. A bill to establish a national policy and to provide for the effective management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. RODINO:

H.R. 14686. A bill to amend the Public Health Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SCOTT:

H.R. 14687. A bill to authorize equalization of the retired or retainer pay of certain members and former members of the uniformed services; to the Committee on Armed Services.

By Mr. STEPHENS:

H.R. 14688. A bill to amend the Occupational Safety and Health Act of 1970 to exempt any nonmanufacturing business, or any business having 25 or less employees, in States having laws regulating safety in such businesses, from the Federal standards created under such act; to the Committee on Education and Labor.

By Mr. THOMPSON of New Jersey:

H.R. 14689. A bill to provide for the establishment of an Office for the Aging in the Executive Office of the President, for fulfillment of the purposes of the Older Americans Act, for enlarging the scope of that act, and for other purposes; to the Committee on Education and Labor.

H.R. 14690. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mr. VANIK:

H.R. 14691. A bill to provide for the regulation of the mining of oil shale, for the conservation and reclamation of the oil shale lands, and for other purposes; to the Committee on Ways and Means.

By Mr. WALDIE:

H.R. 14692. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

By Mr. CHAMBERLAIN:

H.J. Res. 1180. Joint resolution proposing an amendment to the Constitution of the United States relating to the nomination of individuals for election to the offices of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. CONTE (for himself, Mrs. Abzug, Mrs. Chisholm, Mr. Donohue, Mrs. Grasso, Mr. Halpern, Mr. Harrington, and Mr. Ware):

H.J. Res. 1181. Joint resolution proposing an amendment to the Constitution of the United States relating to the nomination of individuals for election to the offices of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. HALPERN:

H.J. Res. 1182. Joint resolution urging municipalities and other appropriate local government units to adopt regulations assuring the safety of high-rise buildings against the hazard of fire; to the Committee on Banking and Currency.

By Mr. ROBINSON of Virginia:

H.J. Res. 1183. Joint resolution requesting the President of the United States to declare the week beginning August 6, 1972, "National Junior Classical League Week"; to the Committee on the Judiciary.

By Mr. NIX:

H. Con. Res. 596. Concurrent resolution to stop the bombing of North Vietnam; to the Committee on Foreign Affairs.

By Mr. CHARLES H. WILSON:

H. Con. Res. 597. Concurrent resolution; policies and procedures to end the war in Indochina; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

380. The SPEAKER presented a memorial of the Senate of the State of Oklahoma, relative to price controls on food; to the Committee on Banking and Currency.

PETITIONS, ETC.

Under clause 1 of rule XXII,

221. Mr. ARENDS presented petition of Barracks No. 698, Veterans of World War I, Aurora, Ill., urging that Congress declare November 11 to again be known as Armistice Day and a national holiday; to the Committee on the Judiciary.

SENATE—*Thursday, April 27, 1972*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable David H. Gambrell, a Senator from the State of Georgia.

PRAYER

The Reverend Father James J. Kortendick, S.S., Ph. D., chairman, Graduate Department of Library Science, Catholic University of America, Washington, D.C., offered the following prayer:

Almighty and eternal Father of all, let us here and now be aware of Your presence and concern for us. Inspire our leaders in Government to seek Your will, wisdom, and strength in the fulfillment of their offices. Let them always be ready to listen to divine guidance and to hear and interpret Your voice through the voice of their colleagues and of all the people.

Bless these men and women who bear the burden of decision for destiny that they may vigorously seek the common good of mankind in peace, justice, security, and the alleviation of suffering and deprivation in all its forms among men.

Grant our leaders the grace of faith, hope, and love, of personal integrity, and good health to support them in facing the awesome responsibilities entrusted to them by You, and in prayerful confidence by us. Through Jesus Christ our Lord. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 27, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. GAMBRELL thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, April 25, 1972, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 2895. An act to provide for the conveyance of certain real property in the District of Columbia to the National Firefighting Museum and Center for Fire Prevention, Inc.;

H.R. 11032. An act to enable the blind and the otherwise physically disabled to participate fully in the social and economic life of the District of Columbia;

H.R. 13034. An act to authorize appropriations to carry out the Fire Research and Safety Act of 1968 and the Standard Reference Data Act, and to amend the act of March 3, 1901 (31 Stat. 1449), to make improvements in fiscal and administrative practices for more effective conduct of certain functions of the National Bureau of Standards;

H.R. 14108. An act to authorize appropriations for activities of the National Science Foundation, and for other puposes; and

H.R. 14582. An act making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 2895. An act to provide for the conveyance of certain real property in the District of Columbia to the National Firefighting Museum and Center for Fire Prevention, Incorporated; and

H.R. 11032. An act to enable the blind and the otherwise physically disabled to participate fully in the social and economic life of the District of Columbia; to the Committee on the District of Columbia.

H.R. 13034. An act to authorize appropriations to carry out the Fire Research and Safety Act of 1968 and the Standard Reference Data Act, and to amend the act of March 3, 1901 (31 Stat. 1449), to make improvements in fiscal and administrative practices for more effective conduct of certain functions of the National Bureau of Standards; to the Committee on Commerce.

H.R. 14108. An act to authorize appropriations for activities of the National Science Foundation, and for other purposes; to the Committee on Labor and Public Welfare.

H.R. 14582. An act making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes; to the Committee on Appropriations.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar beginning with "New Reports."

There being no objection, the Senate proceeded to consider executive business.

The ACTING PRESIDENT pro tempore. The clerk will state the first nomination.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Curtis W. Tarr, of Virginia, to be Under Secretary of State for Coordinating Security Assistance Programs.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered and confirmed.

The second assistant legislative clerk read the nomination of Joseph S. Farland, of West Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Iran.

Mr. ROBERT C. BYRD. Mr. President, I simply want to say that I am pleased to support the confirmation of the nomination of Mr. Farland, and I am sure that I speak for my senior colleague (Mr. RANDOLPH) in that regard.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered and confirmed.

The second assistant legislative clerk read the nomination of Martin J. Hillenbrand, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

AGENCY FOR INTERNATIONAL DEVELOPMENT

The second assistant legislative clerk read the nomination of Jarold A. Kieffer, of Minnesota, to be an Assistant Administrator of the Agency for International Development.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

DISTRICT OF COLUMBIA INSURANCE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 728, S. 2208.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 2208) to improve the laws relating to the regulation of insurance in the District of Columbia, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with amendments on page 19, line 25, after "$1,000,000", insert a comma and "and by striking out the figure "$150,000" in the last sentence thereof and inserting in lieu thereof the figure "$1,500,000"; on page 20, line 6, after the word "the", strike out "figure" and insert "figures"; in line 7, after "$300,000", insert "and "$150,000", respectively,"; in line 11, after the word "the", strike out "figure" and insert "figures"; at the beginning of line 12, insert "and "$150,000", respectively,"; after line 13, insert a new subsection, as follows:

(c) Subsection (b) of section 8, chapter III of the Life Insurance Act, as amended (48 Stat. 1145; D.C. Code, sec. 35-508(b)), is amended by adding after the word "subsection", the words "or subsequent amendment" and by adding after the words "stock company" the words "or the minimum surplus required of a mutual company."

On page 21, line 10, after the word "figure", strike out "$25,000" and insert "$30,000"; in line 12, after the word "figure", strike out "$75,000" and insert

"$100,000"; in line 14, after the word "figure", strike out "300"." and insert "300."; after line 14, insert a new section, as follows:

SEC. 302. The first sentence of section 11 of chapter V of the Life Insurance Act, (49 Stat. 1145) as amended (D.C. Code 35-711), is amended by deleting the word "and" between clauses (b) and (c), by deleting the colon at the end of clause (c) and substituting a semicolon therefor, and by adding a new clause (d) as follows: "and (d) that subject to the terms of the policy any person insured under a group life insurance contract, whether issued before or after the effective date of this clause, may make to any person, other than his employer, an absolute or collateral assignment of any or all the rights and benefits conferred on him by any provision of such policy or by law, including specifically, but not by way of limitation, any right to designate a beneficiary or beneficaries thereunder and any right to have an individual policy issued upon termination either of employment or of said policy of group life insurance, but nothing herein shall be construed to have prohibited an insured from making an assignment of all or any part of his rights and privileges under the policy before the effective date of this clause and, subject to the terms of the policy, an assignment by an insured before or after the effective date of this clause is valid for the purposes of vesting in the assignee all rights and privileges so assigned, but without prejudice to the insurer on account of any payment it may make or individual policy it may issue prior to receipt of notice of the assignment."

On page 24, line 12, after "(D.C. Code, sec. 1-805)", insert a comma and "and the Act approved August 3, 1968 (82 Stat. 628; D.C. Code 1-804a),"; and, line 14, after the amendment just above stated, strike out "is" and insert "are", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Insurance Act."

TITLE I—DISTRICT OF COLUMBIA POST ASSESSMENT INSURANCE GUARANTY ASSOCIATION ACT

SEC. 101. This title shall be known and may be cited as the "District of Columbia Insurance Guaranty Association Act."

SEC. 102. The purpose of this title is to provide a mechanism for the payment of covered claims under certain insurance policies to avoid excessive delay in payment and to avoid financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, and to provide an association to assess the cost of such protection among insurers.

SEC. 103. This title shall apply to all kinds of direct insurance, except life, title, disability, and mortgage guaranty insurance.

SEC. 104. As used in this title—

(1) "Commissioner" means the Commissioner of the District of Columbia or his designated agent.

(2) "Covered claim" means an unpaid claim, including one of unearned premiums, which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this title applies issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this title and (a) the claimant or insured is a resident of the District of Columbia at the time of the insured event; or (b) the property from which the claim arises is permanently located in the District. "Covered claim" shall not include any amount due any reinsurer, insurer, insurance pool, or underwriting asociation, as subrogation recoveries or otherwise.

(3) "Insolvent insurer" means (a) an insurer authorized to transact insurance in the District either at the time the policy was issued or when the insured event occurred and (b) determined to be insolvent by a court of competent jurisdiction.

(4) "Member insurer" means any person who (a) writes any kind of insurance to which this title applies, including the exchange of reciprocal or interinsurance contracts, and (b) is licensed to transact insurance in the District.

(5) "Net direct written premiums" means direct gross premiums written in the District on insurance policies to which this title applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. The term does not include premiums on contracts between insurers or reinsurers.

(6) "Person" includes individuals, corporations, associations, exchanges, and partnerships.

SEC. 105. There is created a nonprofit unincorporated legal entity to be known as the District of Columbia Insurance Guaranty Association (hereinafter Association). All member insurers shall be and remain members of the Association as a condition of their authority to transact insurance in the District. The Association shall perform its functions under a plan of operation established and approved by the Commissioner and shall exercise its powers through a Board of Directors. For purposes of administration and assessment, the Association shall be divided into three separate accounts: (a) the workmen's compensation insurance account; (b) the automobile insurance account; and (c) the account for all other insurance to which this title applies.

SEC. 106. (a) The Board of Directors of the Association shall consist of not less than five nor more than nine persons serving terms as established in the plan of operation. The members of the Board shall be selected by member insurers subject to the approval of the Commissioner. Vacancies on the Board shall be filled for the remaining period of the term in the same manner as initial appointments. If no members are selected within sixty days after the effective date of this title, the Commissioner may appoint the initial members of the Board of Directors.

(b) In approving selections to the Board, the Commissioner shall consider among other things whether all member insurers are fairly represented.

(c) Members of the Board may be reimbursed from the assets of the Association for expenses incurred by them as members of the Board of Directors.

SEC. 107. The Association shall have the following duties and powers under this title.

(a) The Association shall—

(1) be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty days after the determination of insolvency or before the policy expiration date if less than thirty days after the determination, or before the insured replaces the policy or causes its cancellation, if he does so within thirty days of the determination, but such obligation shall include only that amount of each covered claim which is in excess of $100 and is less than $300,000, except that the Association shall pay the full amount of any covered claim arising out of a workmen's compensation policy. In no event shall the Association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises;

(2) be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent;

(3) allocate claims paid and expenses incurred among the three accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligations of the Association under subsection (a) of this section subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under section 112 and other expenses authorized by this title. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the preceding calendar year on the kinds of insurance in the account. Each member insurer shall be notified of the assessment not later than thirty days before it is due. No member insurer may be assessed in any year on any account an amount greater than 2 per centum of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the Association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The Association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer if they are chargeable to the account for which the assessment is made.

(4) investigate claims brought against the Association and adjust, compromise, settle, and pay covered claims to the extent of the Association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested;

(5) notify such persons as the Commissioner directs under section 109(b)(1);

(6) handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the Commissioner, but such designation may be declined by a member insurer; and

(7) reimburse each servicing facility for obligations of the Association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the Association and shall pay the other expenses of the Association authorized by this title.

(1) employ or retain such persons as are

necessary to handle claims and perform other duties of the Association;

(2) borrow funds necessary to effect the purposes of this title in accord with the plan of operation;

(3) sue or be sued;

(4) negotiate and become a party to such contracts as are necessary to carry out the purpose of this title;

(5) perform such other acts as are necessary or proper to effectuate the purpose of this title; and

(6) refund to the member insurers in proportion to the contribution of each member insurer to that account that amount by which the assets of the account exceed the liabilities, if, at the end of any calendar year, the Board of Directors finds that the assets of the Association in any account exceed the liabilities of that account as estimated by the Board of Directors for the coming year.

SEC. 108. (a) (1) The Association shall submit to the Commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the Association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the Commissioner.

(2) If the Association fails to submit a suitable plan of operation within ninety days following the effective date of this title or if at any time thereafter the Association fails to submit suitable amendments to the plan, the Commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this title. Such rules shall continue in force until modified by the Commissioner or superseded by a plan submitted by the Association and approved by the Commissioner.

(b) All member insurers shall comply with the plan of operation.

(c) The plan of operation shall—

(1) establish the procedures whereby all the powers and duties of the Association under section 107 will be performed;

(2) establish procedures for handling assets of the Association;

(3) establish the amount and method of reimbursing members of the Board of Directors under section 106;

(4) establish procedures by which claims may be filed with the Association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent insurer shall be deemed notice to the Association or its agent and a list of such claims shall be periodically submitted to the Association or similar organization in another State by the receiver or liquidator;

(5) establish regular places and times for meetings of the Board of Directors;

(6) establish procedures for records to be kept of all financial transactions of the Association, its agents, and the Board of Directors;

(7) provide that any member insurer aggrieved by a final action or decision of the Association may appeal to the Commissioner within thirty days after the action or decision;

(8) establish the procedures whereby selections for the Board of Directors will be submitted to the Commissioner; and

(9) contain additional provisions necessary or proper for the execution of the powers and duties of the Association.

(d) The plan of operation may provide that any or all powers and duties of the Association, except those under subsections 107(a) (3) and (b) (2), are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this Association, or its equivalent, in two or more States. Such a corporation, association, or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of any other functions of the Association. A delegation under this subsection shall take effect only with the approval of both the Board of Directors and the Commissioner, and may be made only to a corporation, association, or organization which extends protection in a manner substantially similar to that provided by this title.

SEC. 109. The Commissioner shall have the following duties and powers under this title.

(a) The Commissioner shall—

(1) notify the Association of the existence of an insolvent insurer not later than three days after he receives notice of the determination of the insolvency; and

(2) upon request of the Board of Directors provide the Association with a statement of the net direct written premiums of each member insurer.

(b) The Commissioner may—

(1) require that the Association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this title. Such notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient;

(2) suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in the District of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the Commissioner may levy a fine on any member insurer which fails to pay an assessment when due. Such fine shall not exceed 5 per centum of the unpaid assessment per month, except that no fine shall be less than $100 per month; and

(3) revoke the designation of any servicing facility if he finds claims are being handled unsatisfactorily.

(c) All final orders or decisions of the Commissioner made under this Act shall be subject to review by the District of Columbia Court of Appeals under section 11–742 of the District of Columbia Code.

SEC. 110. (a) Any person recovering under this title shall be deemed to have assigned his rights under the policy to the Association to the extent of his recovery from the Association. Every insured or claimant seeking the protection of this title shall cooperate with the Association to the same extent as such person would have been required to cooperate with the insolvent insurer. The Association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the Association shall not operate to reduce the insured's liability to the receiver, liquidator, or statutory successor for unpaid assessments.

(b) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the Association or a similar organization in another State. The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this title against the assets of the insolvent insurer.

(c) The Association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the Association which shall preserve the rights of the Association against the assets of the insolvent insurer.

SEC. 111. (a) Any person having a claim against an insurer under any provision in an insurance policy, other than a policy of an insolvent insurer which is also a covered claim, shall be required to exhaust first his right under such policy. Any amount payable on a covered claim under this title shall be reduced by the amount of any recovery under such insurance policy.

(b) Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured except that if it is a first party claim for damage to property with a permanent location, he shall seek recovery first from the association of the location of the property, and if it is a workmen's compensation claim, he shall seek recovery first from the association of the residence of the claimant. Any recovery under this title shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.

SEC. 112. To aid in the detection and prevention of insurer insolvencies—

(a) it shall be the duty of the Board of Directors, upon majority vote, to notify the Commissioner of any information indicating any member insurer may be insolvent or in a financial condition hazardous to the policyholders or the public:

(b) the Board of Directors may, upon majority vote, request that the Commissioner order an examination of any member insurer which the Board in good faith believes may be in a financial condition hazardous to the policyholders or the public. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such person as the Commissioner designates. The cost of such examination shall be paid by the Association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the Board of Directors prior to its release to the public, but this shall not preclude the Commissioner from complying with subsection (c) of this section. The Commissioner shall notify the Board of Directors when the examination is completed. The request for an examination shall be kept on file by the Commissioner but it shall not be open to public inspection prior to the release of the examination report to the public;

(c) it shall be the duty of the Commissioner to report to the Board of Directors when he has reasonable cause to believe that any member insurer examined or being examined at the request of the Board of Directors may be insolvent or in a financial condition hazardous to the policyholders or the public;

(d) the Board of Directors may, upon majority vote, make reports and recommendations to the Commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer. Such reports and recommendations shall not be considered public documents;

(e) the Board of Directors may, upon majority vote, make recommendations to the Commissioner for the detection and prevention of insurer insolvencies; and

(f) the Board of Directors shall, at the conclusion of any insurer insolvency in which the Association was obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based on the information available to the Association, and submit such report to the Commissioner.

SEC. 113. The Association shall be subject to examination and regulation by the Commissioner. The Board of Directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year on a form approved by the Commissioner.

SEC. 114. The Association shall be exempt from payment of all fees and all taxes levied by the District of Columbia, except taxes levied on real or personal property.

SEC. 115. The rates and premiums charged for insurance policies to which this title applies shall include amounts sufficient to recoup a sum equal to the amounts paid to the Association by the member insurer less any amounts returned to the member insurer be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer.

SEC. 116. There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer, the Association or its agents or employees, the Board of Directors, or the Commissioner or his representatives for any action taken by them in the performance of their powers and duties under this title.

SEC. 117. All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in the District shall be stayed for sixty days from the date the insolvency is determined to permit proper defense by the Association of all pending causes of action. As to any covered claims arising from a judgment under any decision, verdict, or finding based on the default of the insolvent insurer or its failure to defend an insured, the Association either on its own behalf or on behalf of such insured may apply to have such judgment, order, decision, verdict or finding set aside by the same court or administrator that made such judgment, order, decision, verdict or finding and shall be permitted to defend against such claim on the merits.

SEC. 118. (a) The Commissioner shall by order terminate the operation of the District of Columbia Insurance Guaranty Association as to any kind of insurance afforded by property or casualty insurance policies with respect to which he has found, after hearing, that there is in effect a statutory or voluntary plan which:

(1) is a permanent plan which is adequately funded or for which adequate funding is provided; and

(2) extends or will extend to District of Columbia policyholders and residents protection and benefits with respect to insolvent insurers not substantially less favorable and effective to such policyholders and residents and the protection and benefits provided with respect to such kind of insurance under this title.

(b) The Commissioner shall by the same such order authorize discontinuance of future payments by insurers to the District of Columbia Insurance Guaranty Association with respect to the same kinds of insurance: *Provided,* That assessments and payments shall continue, as necessary, to liquidate covered claims of insurers adjudged insolvent prior to said order and the related expenses not covered by such other plan.

(c) In the event the operation of any account of the District of Columbia Insurance Guaranty Association shall be so terminated as to all kinds of insurance otherwise within its scope, the Association as soon as possible thereafter shall distribute the balance of moneys and assets remaining in said account (after discharge of the functions of the Association with respect to prior insurer insolvencies not covered by such other plan, together with related expenses) to the insurers which are then writing in the District policies of the kinds of insurance covered by such account, and which had made payments into such account, prorata upon the basis of the aggregate of such payments made by the respective insurers to such account during the period of five years next preceding the date of such order. Upon completion of such distribution with respect to all of the accounts specified in section 105, this title shall be deemed to have expired.

SEC. 119. The Commissioner is authorized to delegate any of the functions vested in him by this title.

TITLE II—AMENDMENT OF THE LIFE INSURANCE ACT OF THE DISTRICT OF COLUMBIA TO INCREASE CAPITAL REQUIREMENTS OF LIFE INSURANCE COMPANIES

SEC. 201. Section 8, chapter III of the Life Insurance Act (48 Stat. 1145) as amended (D.C. Code, sec. 35–508(a)), is amended by striking out the figure "$200,000" in the first sentence thereof and inserting in lieu thereof the figure "$1,000,000" and by striking out the figure "$150,000" in the last sentence thereof and inserting in lieu thereof the figure "$1,500,000".

SEC. 202. (a) Subsection (10) (b) (ii) of section 35 of chapter III of the Life Insurance Act of the District of Columbia (48 Stat. 1145) as amended (D.C. Code, sec. 35–535(10) (b) (ii)), is amended by striking out the figures "$300,000" and "$150,000", respectively, and inserting in lieu thereof the figure "$1,500,000".

(b) Subsection (15) (ii) of section 35 of chapter III of such Act, as amended (D.C. Code, sec. 35–535(15) (ii)), is amended by striking out the figures "$300,000" and "$150,000", respectively, and inserting in lieu thereof the figure "$1,500,000".

(c) Subsection (b) of section 8, chapter III of the Life Insurance Act, as amended (48 Stat. 1145; D.C. Code, sec. 35–508(b)), is amended by adding after the word "subsection", the words "or subsequent amendment" and by adding after the words "stock company" the words "or the minimum surplus required of a mutual company."

SEC. 203. This title shall take effect thirty days after its enactment.

TITLE III—AMENDMENT OF THE LIFE INSURANCE ACT OF THE DISTRICT OF COLUMBIA TO INCREASE GROUP TERM LIFE INSURANCE AMOUNT LIMITATIONS

SEC. 301. Sections 10(1)(d), 10(3), 10(4)(d), 10(6)(d), and 10(9)(d) of chapter V of the Life Insurance Act (48 Stat. 1145), as amended (D.C. Code, secs. 35–710 (1)(d), (3)(d), (4)d), (6)(d), and (9)(d)), are amended (1) by striking out the figure "$20,000" and inserting in lieu thereof the figure "$30,000"; (2) by striking out the figure "$40,000" and inserting in lieu thereof the figure "$100,000"; and (3) by striking out the figure "150" and inserting in lieu thereof the figure "300."

SEC. 302. The first sentence of section 11 of chapter V of the Life Insurance Act, (49 Stat. 1145) as amended (D.C. Code 35–711), is amended by deleting the word "and" between clauses (b) and (c), by deleting the colon at the end of clause (c) and substituting a semicolon therefor, and by adding a new clause (d) as follows: "and (d) that subject to the terms of the policy any person insured under a group life insurance contract, whether issued before or after the effective date of this clause, may make to any person, other than his employer, an absolute or collateral assignment of any or all the rights and benefits conferred on him by any provision of such policy or by law, including specifically, but not by way of limitation, any right to designate a beneficiary or beneficiaries thereunder and any right to have an individual policy issued upon termination either of employment or of said policy of group life insurance, but nothing herein shall be construed to have prohibited an insured from making an assignment of all or any part of his rights and privileges under the policy before the effective date of this clause and, subject to the terms of the policy, an assignment by an insured before or after the effective date of this clause is valid for the purposes of vesting in the assignee all rights and privileges so assigned, but without prejudice to the insurer on account of any payment it may make or individual policy it may issue prior to receipt of notice of the assignment."

TITLE IV—AMENDMENT OF THE FIRE AND CASUALTY ACT REGULATING THE BUSINESS OF FIRE, MARINE, AND CASUALTY INSURANCE IN THE DISTRICT OF COLUMBIA

SEC. 401. Sections 13 and 14 of chapter II of the Fire and Casualty Act (54 Stat. 1070) as amended (D.C. Code, secs. 35–1316 and 35–1317), are amended to read as follows:

"§ 13. Minimum Capital and Surplus Requirement.

"Every stock company authorized to do business in the District shall have and shall at all times maintain a paid-up capital stock of not less than $300,000, and a surplus of not less than $300,000. Every domestic mutual company and every domestic reciprocal company shall have and shall at all times maintain a surplus of not less than $300,000, and every foreign or alien mutual company and every foreign or alien reciprocal company shall have and shall at all times maintain a surplus of not less than $400,000.

"§ 14. Corporations Heretofore Formed.

"No company shall be exempt from the provisions of this subsection by reason of its having been incorporated in the District or elsewhere prior to the effective date of this subsection, except that, in the case of companies authorized in the District on the date of approval of this subsection and continuously thereafter without any increase of authority, the minimum capital and surplus required of a stock company, and the minimum surplus required of a mutual or reciprocal company, or of a Lloyd's organization by the laws of the District heretofore applicable shall not be increased by this subsection, and provided also that in the case of such continuously authorized companies the provisions of section 24 relating to the names of companies, and the provisions of section 25 relating to the amount of surplus necessary to the issuance of policies having no provision for contingent liability, shall not be applicable."

SEC. 402. Section 25 of chapter II of the Fire and Casualty Act (54 Stat. 1070; D.C. Code, sec. 35–1329) is amended by striking out the figure "$300,000" and inserting in lieu thereof the figure "$600,000".

TITLE V—AMENDMENT OF AMOUNT OF CONTRACT WITH THE GOVERNMENT OF THE DISTRICT OF COLUMBIA FOR WHICH A SURETY BOND IS REQUIRED

SEC. 501. The Act approved June 28, 1906 (34 Stat. 546), as amended (D.C. Code, sec. 1–805), and the Act approved August 3, 1968 (82 Stat. 628; D.C. Code 1–804a), are amended by striking out the figure "$2,000" wherever it appears therein and inserting in lieu thereof the figure "$10,000".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed shortly, at some point before the laying down of the unfinished business, to call up Calendar No. 726, S. 2219.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears no objection, and it is so ordered.

THE PRESIDENT'S REPORT TO THE NATION ON VIETNAM

Mr. GRIFFIN. Mr. President, as one American and one Senator, I was encouraged by the President's confident report to the Nation last night and the indicated steady pursuit of his disengagement policy.

If this courageous President gets the unified support which he deserves here at home, the prospects now for real peace look brighter than ever.

In a sense, this is a crucial period of testing for the American people as well as the South Vietnamese.

I am confident most Americans will stand with the President in this important hour as he moves into these critical negotiations.

I ask unanimous consent that the text of President Nixon's historic address to the Nation be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TEXT OF A TELEVISION AND RADIO REPORT BY THE PRESIDENT ON VIETNAM

During the past three weeks you have been reading and hearing about the massive invasion of South Vietnam by the Communist armies of North Vietnam.

Tonight, I want to give you a first hand report on the military situation in Vietnam, the decisions I have made with regard to the role of the United States forces in the conflict, and the efforts we are making to bring peace at the negotiating table.

Let me begin by briefly reviewing what the situation was when I took office, and what we have done since then to end American involvement in the war and to bring peace to the long-suffering people of Southeast Asia.

On January 20, 1969, the American troop ceiling in Vietnam was 549,000. Our casualties were running as high as 300 a week. Thirty thousand young Americans were being drafted every month.

Today, 39 months later, through our program of Vietnamization—helping the South Vietnamese develop the capability of defending themselves—the number of Americans in Vietnam by May 1st will have been reduced to 69,000. Our casualties—even during the present, all-out enemy offensive—have been reduced by 95 percent. Draft calls now average fewer than 5,000 men a month, and we expect to bring them to zero next year.

As I reported in my television address to the Nation on January 25, we have offered the most generous peace terms in both public and private negotiating sessions. Our most recent proposal provided for an immediate ceasefire; the exchange of all prisoners of war; the withdrawal of all forces within six months; and new elections in Vietnam, which would be internationally supervised, with all political elements including the Communists participating in and helping to run the elections. One month before such elections, President Thieu and Vice President Huong would resign.

Hanoi's answer to this offer was a refusal even to discuss our proposals and, at the same time, a massive escalation of their military activities on the battlefield. Last October, the same month when we made this peace offer to Hanoi in secret, our intelligence reports began to indicate that the enemy was building up for a major attack. Yet we deliberately refrained from responding militarily. Instead we patiently continued with the Paris talks, because we wanted to give the enemy every chance to reach a negotiated settlement at the bargaining table rather than to seek a military victory on the battlefield—a victory they cannot be allowed to win.

Finally, three weeks ago, on Easter weekend, they mounted their invasion of South Vietnam. Three North Vietnamese divisions swept across the demilitarized zone into South Vietnam—in violation of the treaties they had signed in 1954 and in violation of the understanding they had reached with President Johnson in 1968, when he stopped the bombing in North Vietnam in return for arrangements which included their pledge not to violate the DMZ. Shortly after the invasion across the DMZ, another three North Vietnamese divisions invaded South Vietnam further south. As the offensive progressed, the enemy indiscriminately shelled civilian population centers in clear violation of the 1968 bombing halt understanding.

The facts are clear. More than 120,000 North Vietnamese are now fighting in the South. There are no South Vietnamese troops anywhere in North Vietnam. Twelve of North Vietnam's thirteen regular combat divisions have now left their own soil in order to carry aggressive war onto the territory of their neighbors. Whatever pretext there was of a civil war in South Vietnam has now been stripped away.

What we are witnessing here—what is being brutally inflicted upon the Republic of Vietnam—is a clear case of naked and unprovoked aggression across an international border. The only word for it is invasion.

This massive attack has been resisted on the ground entirely by South Vietnamese forces. No United States ground troops have been involved. None will be involved. To support this defensive effort by the South Vietnamese I have ordered attacks on enemy military targets in both North and South Vietnam by the air and naval forces of the United States.

I have before me a report which I received this morning from General Abrams. He gives the following evaluation of the situation:

1. The South Vietnamese are fighting courageously and well in their self-defense, and inflicting very heavy casualties on the invading force, which has not gained the easy victory some predicted for it three weeks ago.

2. Our air strikes have been essential in protecting our own remaining forces and in assisting the South Vietnamese in their efforts to protect their homes and their country from a Communist takeover.

3. General Abrams predicts that there will be several more weeks of very hard fighting in which some battles will be lost and others will be won by the South Vietnamese. But he is convinced that, if we continue to provide air and sea support, the enemy will fail in its desperate gamble to impose a Communist regime on South Vietnam, and that the South Vietnamese will then have demonstrated their ability to defend themselves on the ground against future enemy attacks.

Based on this realistic assessment from General Abrams, and after consultation with President Thieu, Ambassador Bunker, Ambassador Porter, and my senior advisers in Washington, I have three decisions to announce tonight.

First, I have decided that Vietnamization has proved itself sufficiently that we can continue our program of withdrawing American forces without detriment to our overall goal of ensuring South Vietnam's survival as an independent country. Consequently, I am announcing tonight that over the next two months 20,000 more Americans will be brought home from Vietnam. This decision has the full approval of President Thieu and of General Abrams. It will bring our troop ceiling down to 49,000 by July 1—a reduction of half a million men since this Administration came into office.

Second, I have directed Ambassador Porter to return to the negotiating table in Paris tomorrow, but with one very specific purpose in mind. We are not resuming the Paris talks simply in order to hear more empty propaganda and bombast from the North Vietnamese and Viet Cong delegates, but to get on with the constructive business of making peace. We are resuming the Paris talks with the firm expectation that productive talks leading to rapid progress will follow through all available channels. As far as we are concerned, the first order of business will be to get the enemy to halt his invasion of South Vietnam, and to return the American prisoners of war.

Finally, I have ordered that our air and naval attacks on military installations in North Vietnam be continued until the North Vietnamese stop their offensive in South Vietnam.

I have flatly rejected the proposal that we stop the bombing of North Vietnam as a condition for returning to the negotiating table. They sold that package to the United States once before, in 1968, and we are not going to buy it again in 1972.

Look at the record. By July 1 we will have withdrawn over 90 percent of our forces that were in Vietnam in 1969. Before the enemy's invasion began, we had cut our air sorties in half. We have offered exceedingly generous terms for peace. The only thing that we have refused to do is to accede to the enemy's demand to overthrow the lawfully constituted government of South Vietnam and to impose a Communist dictatorship in its place.

As you will recall, I have warned on a number of occasions over the past three years that if the enemy responded to our efforts to bring peace by stepping up the war I would act to meet that attack, for three reasons: to protect our remaining American forces, to permit continuation of our withdrawal program, and to prevent the imposition of a Communist regime on the people of South Vietnam against their will, with the inevitable bloodbath that would follow for hundreds of thousands who have dared to oppose Communist aggression.

The air and naval strikes of recent weeks have been carried out to achieve these objectives. They have been directed only against military targets supporting the invasion of the South. They will not stop until that invasion stops.

The Communists have failed in their efforts to win over the people of South Vietnam politically. General Abrams believes that they will fail in their efforts to conquer South Vietnam militarily. Their one remaining hope is to win in the Congress of the United

States, and among the people of the United States, the victory they cannot win among the people of South Vietnam or on the battlefield in South Vietnam.

The great question then is how we, the American people, will respond to this final challenge.

Let us look at what the stakes are—not just for South Vietnam but for the United States and for the cause of peace in the world. If one country, armed with the most modern weapons by other countries, can invade another nation and succeed in conquering it, other countries will be encouraged to do exactly the same thing—in the Mideast, in Europe, and in other international danger spots. If the Communists win militarily in Vietnam, the risk of war in other parts of the world would be enormously increased.

We aren't trying to conquer North Vietnam or any other country. We want no territory. We seek no bases. We have offered the most generous peace terms—peace with honor for both sides—with South Vietnam and North Vietnam each respecting the other's independence.

But, we will not be defeated; and we will never surrender our friends to Communist aggression.

We have come a long way in this conflict. The South Vietnamese have made great progress and are now bearing the brunt of the battle. We can now see the day when no more Americans will be involved there at all.

But as we come to the end of this long and difficult struggle, we must be steadfast. We must not falter. For all that we have risked and all that we have gained over the years now hangs in the balance during the coming weeks and months. If we now let down our friends, we shall surely be letting down ourselves and our future as well. If we now persist, history will thank America for her courage and her vision at this testing time.

That is why I say let us bring our men home from Vietnam. Let us end the war in Vietnam. But let us end it in such a way that the younger brothers and sons of the brave men who have fought in Vietnam will not have to fight again in some other Vietnam at some time in the future.

Any man who sits here in this office feels a solemn and heavy weight of obligation to future generations. No man who sits here has the right to take any action which would abdicate America's great tradition of world leadership.

Earlier this year I traveled to Peking on an historic journey for peace. Next month I shall travel to Moscow on what I hope will also be a journey for peace. In the eighteen countries I have visited as President I have found great respect for the office of the President of the United States. I have reason to expect, based on Dr. Kissinger's report, that I shall find the same respect for the Presidency when I visit Moscow.

I do not know who will be in this office in the years ahead. But I do know that future Presidents will travel to nations abroad on journeys for peace as I have. If the United States betrays the millions of people who have relied on us in Vietnam, the President of the United States, whoever he is, will not deserve nor receive the respect which is essential if the United States is to play the great role we are destined to play of helping to build a new structure of peace in the world. It would amount to a renunciation of our morality, an abdication of our leadership among nations, and an invitation for the mighty to prey upon the weak all around the world. It would be to deny peace the chance peace deserves to have. This we shall never do.

Let us then unite as a nation in a firm and wise policy of peace—not the peace of surrender, but peace with honor—not only peace in our time, but peace for generations to come.

Thank you, and good night.

Mr. GRIFFIN. Mr. President, I was saddened to hear on the radio, and to check the wire and find that our colleague, the Senator from South Dakota (Mr. McGovern), has referred to President Nixon's speech last night as "political trickery and calculated deception."

Those are words that might be used by Madam Binh. But I am very disappointed to learn that they have been used by a Member of this Senate.

Certainly, I would not use such language in referring to a speech by any Member of this body. Indeed, if I were to do so, I would violate the rules of the Senate and could be taken off the floor.

Of course, the merits or demerits of President Nixon's policy are open to debate and criticism. But to use terms like that, which attack the character of the President, serve only to undermine his ability at the negotiating table in Paris—and that is a great disservice to the United States and to the chances for peace.

THE VETERANS' ADMINISTRATION HEALTH MANPOWER TRAINING ACT OF 1972

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of House Joint Resolution 748, and that the Senate proceed to the immediate consideration of the joint resolution.

The ACTING PRESIDENT pro tempore. The clerk will state the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 748) amending title 38 of the United States Code to authorize the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new State medical schools; the improvement of existing medical schools affiliated with the Veterans' Administration; and to develop cooperative arrangements between institutions of higher education, hospitals, and other public or nonprofit health service institutions, and the Veterans' Administration to develop and conduct educational and training programs for health care personnel.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from California? The Chair hears none, and it is so ordered.

Mr. CRANSTON. Mr. President, I understand that the Senator from Tennessee (Mr. Brock) has a brief statement and a question he would like to ask at this time.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

Mr. BROCK. Mr. President, I would just like to state briefly my very strong support of this legislation. I have one particular point which I have discussed with the Senator from California on past occasions regarding the possibility of having regional cooperative arrangements enhanced by passage of this legislation. I strongly believe that we should give consideration to those States which may reach agreement with sister States to assist in supporting the operation of a joint facility.

Mr. President, I believe that the committee has made a significant step toward addressing the problems that we face in providing adequate health care for all Americans.

I am particularly pleased that this bill recognizes the need for regionalization and dispersal of VA facilities to tap the potential which exists within the VA system to provide training facilities for area health education centers and medical schools to train doctors, other health and allied health professionals, nurses, and paramedical personnel. In its new role, the VA can continue to deliver excellent health services to our veterans and serve as a necessary adjunct to developing new health manpower resources.

While I respect the committee's desire to give the greatest degree of flexibility to the VA Administrator in selection of locations for such facilities, I believe that preference should certainly be given to areas where there is a demonstrated shortage of qualified medical personnel. To overlook this as a criteria would further complicate the already critical situation.

Today, regionalization is crucial to meeting the Nation's health care needs. Every American is entitled to receive medical attention at a reasonable cost and at a reasonable distance from his home. In order to provide this, we must maximize the potential use of our existing health manpower resources. The key to this is proper distribution of our doctors, nurses, and other medical personnel. While training more individuals to prevent future crises, we must now provide adequate incentives to insure equitable distribution. To date, this has not been done.

In the upper east Tennessee area we had a 6-percent gain in population between 1960 and 1968; yet, we lost 1 percent of our physicians during the same time. There are approximately 75 doctors per 100,000 people in this area or about half the national average. New York City on the other hand, is also described as a critical area. In this urban area there are 105 physicians per 100,000.

Moreover, there are little or no inducements for doctors to locate in the northeastern counties of my State. There are no medical schools near the Tri-City area despite the existence of several growth centers.

In view of the national health manpower crisis, the critical shortage of physicians in the Appalachian region and the potential for capitalization of new medical facilities contained in the pending bill, it would seem logical that a new medical facility be established in the upper east Tennessee region.

Mr. President, as I have stated some months ago I had a discussion with the distinguished floor manager of the pending bill concerning subchapter III—a pilot program for assistance in the establishment of new public nonprofit medical, health professions, and allied health schools and area health education centers.

In all, I believe enactment of the pending bill will greatly assist the Veterans' Administration in meeting the health manpower needs of this Nation. However, the concern I expressed during my conversation with Senator CRANSTON dealt with the question of how a State with a demonstrated need for a health manpower facility could share in the cost of financing and operation of the school or center with neighboring States who might benefit from its existence.

For example, in the Appalachian area of upper East Tennessee we have an existing VA facility which could qualify for assistance under this program. If a center was established in connection with the VA hospital, the citizens from the surrounding States of Kentucky, Virginia, West Virginia, North Carolina and Georgia will be the beneficiary of the center; yet, Tennessee has to bear the entire burden of maintaining such a facility. Such a situation is patently unfair.

In reviewing the committee report on S. 2219, I found that among the conditions formulated by the Senate Veterans Affairs Committee for the establishment of any new health professions or allied health school or area health education center was that:

> There must be adequate assurance of state or financial support for the proposed school or center. The committee expects the Department of Medicine and Surgery to examine with the greatest care the adequacy of likely present and future state financial support for the proposed new institution. It is expected that his will be extremely important criterion (along with the strength of assurances of accreditation) for providing assistance, given the likely extreme competition among applicants for limited funds.

In view of this emphasis, I strongly considered offering an amendment today to require that where out of State students comprise a significant proportion of the enrolled students of a particular school, the State of origin should share a pro rata cost of operating that facility. Since, at present, adoption of such a proposal appears unfeasible, I would like to establish legislative history for an alternative approach which might offer some relief to States obtaining a facility which is utilized by neighboring States. Such relief might be found by formation of a voluntary consortium of States who agree to support the cost of operation of a facility which directly benefits them.

Unfortunately, the committee has made no mention of this alternative and I feel it merits some discussion. I am uncertain as to how such an arrangement would be viewed by the VA. If acceptable, what priority would be given it? Does not a cooperative financing agreement between States tend to promote the equitable use of that facility, maximize its efficiency, and give greater assurance against recapture of the facility from lack of funds?

It is true that there is nothing in this legislation which would prohibit the formation of such a cooperative arrangement between States to insure that adequate funding is forthcoming during and after the initial assisted period.

Because I strongly believe that we should give consideration to such States who reach agreement with other sister States to participate in the support and operation of an assisted facility. I would ask the distinguished senior Senator from California if he would clarify the committee's intent on cooperative agreements.

Mr. CRANSTON. Mr. President, I recall very well the conversations with the distinguished Senator from Tennessee. As he indicates, there is nothing in this legislation that would prevent the consideration of programs submitted based upon financial support from two or more States. Indeed, this type of financing arrangement would fall completely within the purview of this subchapter. It is expected that the Department of Medicine and Surgery would consider that such a compact, if it offered adequate financial support, satisfied the "adequate support" criterion, as envisioned by the committee.

Mr. BROCK. I am very grateful for the Senator's response. I share his opinion of the intent and content of the language of the bill. I raise the question for only one reason: When we established the so-called regional concept a number of years ago, we found shortages of medical personnel in New York, Tennessee, and points in between, with little incentive for doctors to locate in the Appalachian region and no training facilities. If we were fortunate enough to secure a site for a facility in the Appalachian region, it would be for the benefit of all the States, because all the young people of the region would have an opportunity to use that facility for their own educational benefit.

I am particularly grateful to the Senator from California for his sponsorship of this measure. I have consulted with my senior colleague in the Senate and my colleagues from Tennessee in the House of Representatives, and they are in accord with my views. I thank the Senator very much for what I consider a fine bill, and for his response to my question.

Mr. CRANSTON. I thank the Senator. I appreciate his help in connection with this bill, and look forward to an Appalachian proposal being submitted to the VA.

Mr. President, I rise to speak in support of the provisions of S. 2219, the proposed Veterans' Administration Health Manpower Training Act of 1972—which I introduced on June 22 last year—as I reported it from the Committee on Veterans' Affairs last Friday, April 21. I have asked the leadership that rather than take up S. 2219 we take up instead the House-passed companion measure—House Joint Resolution 748—and that the provisions of S. 2219 as reported be inserted in lieu of the text of the House bill. I thank the leadership for their cooperation in clearing this bill for action so swiftly.

Before proceeding further I wish to note that S. 2219 is now cosponsored by the following 19 Senators: the chairman of the Committee on Veterans' Affairs (Mr. HARTKE), the ranking minority member (Mr. THURMOND); the following five other members of that committee, the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), who has been particularly interested in and instrumental in securing favorable committee action on S. 2219, the Senator from Iowa (Mr. HUGHES), the Senator from Ohio (Mr. SAXBE), and the Senator from Vermont (Mr. STAFFORD); and the following: the Senator from Texas (Mr. BENTSEN), the Senator from New Jersey (Mr. CASE), the Senator from Missouri (Mr. EAGLETON), the Senator from South Carolina (Mr. HOLLINGS), the Senators from Minnesota (Mr. MONDALE and Mr. HUMPHREY), the Senator from Montana (Mr. MANSFIELD), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PELL), the Senator from Texas (Mr. TOWER), and the Senator from New Jersey (Mr. WILLIAMS).

In addition to the cosponsors of the bill including almost all members of the Veterans' Affairs Committee, I think it is extremely significant that the bill is cosponsored by seven members of the Senate Health Subcommittee and most particularly by the chairman of the full parent committee, the distinguished Senator from New Jersey (Mr. WILLIAMS), who has been extremely interested in this bill from the time of its introduction when he was an original cosponsor. I feel that my membership and experience on the Senate Health Subcommittee has helped me enormously in developing the provisions of this bill.

S. 2219 was the subject of comprehensive hearings before the Subcommittee on Health and Hospitals, which I am privileged to chair, of the Veterans' Affairs Committee. The bill was acted upon unanimously both by that subcommittee and the full committee, adopting a committee substitute amendment I proposed making modifications in the original bill based upon our hearing record.

Mr. President, passage of the bill we consider this morning will be a historic breakthrough in mobilizing the vast medical resources of the VA to help not only veterans but all Americans.

The committee substitute gives a new basic mission to the 42-year-old VA Department of Medicine and Surgery: to assist in providing an adequate supply of health manpower to the entire Nation.

This new VA mission will rank in importance second only to the VA's traditional function of providing complete medical and hospital services to veterans.

The committee substitute bill authorizes an $875 million appropriation—$125 million annually for the next 7 years beginning in fiscal 1973—to expand the VA's health care manpower training programs and those of affiliated schools.

The Veterans' Administration health and hospital system, with its proposed budget for fiscal year 1973 of almost $2.8 billion, is already the largest single source of health care manpower training in the United States. Presently, more than 53,000 medical and health care personnel are receiving education and training in VA medical facilities. In fiscal year 1971, the figures were:

Medical residents	8,975
Dental residents	188
Medical interns	1,877
Dental interns	113
Medical and osteopathic students	12,567
Dental students	1,018
Nurses	15,869
Other professionals (at graduate level)	3,298
Allied health trainees	8,811
Administrative trainees	370
Total	53,086

Mr. President, the committee report (No. 757) summarizes the provisions of the committee substitute and compares them with House Joint Resolution 748 as follows:

SUMMARY OF PROVISIONS

1. Expands the primary function of the VA Department of Medicine and Surgery to include assisting in providing an adequate supply of health care manpower for national needs in addition to providing a complete medical and hospital service for veterans. Requires a separate line item in the annual budget for estimated expenditures for the education and training of health care manpower. Places special emphasis on programs to recruit and train veterans with medical military occupation specialties and to employ them in the VA, enabling them to pursue civilian health careers.

2. Authorizes a program for continuing medical education for health care staff of VA medical facilities and staff of other Federal medical facilities and members of the surrounding medical community on a reimbursable basis utilizing certain VA hospitals as "Regional Medical Education Centers." This would help keep VA medical care modern and innovative and also help the VA recruit new and high quality health professionals.

3. Directs that, to the extent feasible, any new VA hospital be constructed in close proximity to a medical school. This would ensure maximum utilization of the VA potential for training medical personnel while ensuring the highest quality of medical care for the VA hospital patient.

4. Authorizes for each of seven fiscal years beginning in FY 1973 the appropriation of $125 million for three major programs which would be established (all stressing development of innovative health programs, greater opportunities for the disadvantaged, and development of new types of training procedures and types of health care personnel):

A. Expansion of the VA's own hospital education and training capacity through remodeling and renovation of existing facilities to provide for expanded education programs as well as through special allocations to particular VA hospitals to develop, or develop and initiate, programs for improved methods of education and training (up to 30% of the amount appropriated each year may be used for this purpose);

B. VA grants to public non-profit institutions to assist in the establishment of up to ten new medical and other health professions and allied health schools or area health education centers. VA assistance could include the leasing cost-free to the institution of unused VA hospital and other health facilities; remodeling and extension of such facilities when necessary to make them suitable for such educational purposes; and reimbursement of the costs of faculty salaries for the first seven years of the operation of the new school or center—90% for the first three years, decreasing by 10% each year for the next four years to 50% in the seventh year. Provisions are included to ensure the maintenance of high standards both of education and the health care provided in such facilities, including appropriate consultation with the Secretary of HEW and academic accrediting bodies. No less than $25 million of the amount appropriated each year shall be used for this purpose.

C. VA grants to any non-profit medical and other health professions, allied health or other health personnel training institution or area health education center, which maintains a teaching affiliation with the VA Department of Medicine and Surgery, for the purpose of expanding and improving the capacity of those institutions to train health care manpower. Such grants could include funds for remodeling and extension of existing education facilities at such institutions, but not for construction of new free-standing facilities. Again, provision is made for appropriate consultation with the Secretary of HEW and for receiving reasonable assurance from recognized academic accrediting bodies that the caliber of training will not be diminished due to substantial increases in the number of trainees at the recipient institutions. COST: $125 million annually if full authorization amount is appropriated.

COMPARISON WITH H.J. RES. 748

With respect to point 4 above, the Committee substitute is very similar in basic purpose and in much of its content to H.J. Res. 748. The House bill does not contain points 1, 2, and 3, although another House-passed bill, H.R. 10880, contains a provision similar to the purpose of part of point 1. The basic differences in the approach to point 4 are: (1) The amount of authorization of appropriations (House—$33-34 million; Senate—$125 million annually); (2) S. 2219 leaves more discretion to the Administrator in terms of which the three programs he chooses to stress to expand the production of health manpower (although earmarking $25 million for the establishment of new schools or centers); (3) In addition, the House bill has no provision comparable to that explained in point 4.A. above (expansion of VA's own health manpower training capability); (4) would authorize only 5, as compared to 10 (in S. 2219) new schools; (5) provides major assistance only for new medical schools rather than, as in S. 2219, including other health professions and allied health schools and area health education centers on the same footing as medical schools; (6) makes assistance to expand existing capacities of schools contingent on 50% matching, the same as the very limited assistance ($3-4 million) it authorizes to be appropriated for assistance to expand training capacities in other health professions and allied health schools and consortiums thereof; and (7) generally contains less specificity with regard to the obligations and program requirements imposed on the recipients of assistance and the caliber of the education programs carried out by such recipients (for example, the House bill contains no program for recapture of assisted facilities upon failure to carry out the agreement with the VA).

Mr. President, at least $175 million of the total 7-year authorization in the committee substitute would be earmarked over the 7-year period for grants to universities and colleges to help them establish up to 10 new public medical schools, other health professions and allied health schools and area health education centers in affiliation with VA medical facilities. Schools would have to provide assurances that adequate non-VA support from a State, a combination of States or otherwise, as well as academic accreditation, would be forthcoming.

Under the committee substitute, existing VA facilities would form the clinical nucleus of these new schools, but, and it is extremely important to stress this, the VA would retain sole responsibility for the administration of its hospitals and clinics and for the quality of medical care provided for VA patients. Present VA facilities could, under the committee substitute, be expanded at VA expense to provide more teaching space, and the VA would also subsidize a very substantial portion of teaching salaries at the new schools—90 percent the first 3 years decreasing to 50 percent in the seventh year. Existing VA facilities not in use could be leased to universities and colleges for these new schools.

In addition to establishment of these new schools, the committee substitute would authorize the VA to provide substantial assistance to medical, or other health professions and allied health schools and other institutions training health care manpower, including area health education centers, in order to expand and improve their training programs.

Third, the VA would be able to spend up to $37.5 million annually to expand its own education and training programs. A 1971 survey of all VA hospitals health care manpower capacity showed that over 12,000 additional physicians, dentists, nurses, and allied health and paramedical personnel could be trained if existing capacity were fully utilized through additional funding. This would entail certain space modifications and renovations, and payment of stipends for traineeships and certain research projects.

A full hospital-by-hospital description of training capacity is set forth in appendix A of the subcommittee hearings. For example, the situation for the 10 VA hospitals and facilities then existing in California showed that 941 new health care personnel could be trained through the expenditure of $4.9 million. I ask unanimous consent, Mr. President, that the charts containing this California data be set forth in the RECORD at this point.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

FRESNO, CALIF.

I. FISCAL YEAR 1970

Training program	Number of trainees	Cooperating institutions
Medical resident (noncareer)	3	
Basic nursing student	76	Fresno State College, Fresno, Calif.
Graduate nursing student	3	Do.
Social work student (master's)	3	Do.

FRESNO, CALIF.

II. POTENTIAL EXPANSION BY SEPTEMBER 1971

Training program	Additional dollars needed					Number of additional and new trainees
	Total	Stipends	Instructor salaries	Space	Other costs	
EXPANDABLE PROGRAMS						
Dental assistant trainee	$21,285	0	$21,285	0	0	4
Social work student	31,722	$17,940	12,932	$850	0	6
Total	53,007	17,940	34,217	850	0	10
NEW PROGRAMS						
Dietetic intern			0	0	0	11
Practical nurse student	13,846	0	13,846	0	0	16
Total	13,846	0	13,846	0	0	16
Grand total	66,853	17,940	48,063	850	----------	37

LIVERMORE, CALIF.,

I. FISCAL YEAR 1970

Training program	Number of trainees	Cooperating institutions
Category of training:		
Medical resident (noncareer)	15	
Dental assistant trainee	6	Chabot College, Hayward, Calif.
Audiology and speech pathology student (master's).	9	San Jose State College, San Jose, Calif.
Social work student (master's)	2	University of California, Berkeley, Calif.
Physical therapist student	9	University of California Medical Center, San Francisco, Calif., Boston University, Boston, Mass.
Basic nursing student	1	Chabot College, Hayward, Calif.
Practical nurse student	12	Livermore Board of Education.,
Professional nursing student	9	

LIVERMORE, CALIF.

II. POTENTIAL EXPANSION BY SEPTEMBER 1971

Training program	Additional dollars needed					Number of additional and new trainees
	Total	Stipends	Instructor salaries	Space	Other costs	
EXPANDABLE PROGRAMS						
Dental assistant trainee						16
Practical nurse student	$11,500	----------	$11,500			15
Social work student	17,980	$5,980	12,000			2
Hospital librarian student	7,649	7,649				1
Audiology and speech training	3,335	3,335				1
Total	40,464	16,964	23,500			35
NEW PROGRAMS						
Dental hygienist training	46,000			$12,000	$34,000	15
Occupational therapy student	25,213	13,734	11,479			2
X-ray technician training	8,982	----------	8,982			2
Total	98,195	13,734	20,461	12,000	34,000	19
Grand total	120,659	30,698	43,961	12,000	34,000	54

LONG BEACH, CALIF.

I. FISCAL YEAR 1970

Training program	Number of trainees	Cooperating institutions
Medical resident (noncareer)	168	
Career psychiatry resident	2	
Career neurology resident	1	
Career P.M. & R. resident	1	
Career radiology resident	2	
Career pathology resident	3	
Dental resident (noncareer)	3	
Career dental resident	7	
Career dental intern	2	
Medical student 2d 2 school years	121	University of California, College of Medicine, Irvine, Calif.
Basic nursing student	249	Long Beach City College, Long Beach, Calif.; California State College, Long Beach, Calif.; St. Vincent's College of Nursing, Los Angeles, Calif.
Practical nurse student	196	Long Beach City College, Long Beach, Calif.
Psychology student (graduate)	6	University of Southern California, Los Angeles, Calif.; University of California, Los Angeles, Calif.; Catholic University, Washington, D.C.; University of Arizona, Tucson, Ariz.
Vocational rehabilitation counselor student.	6	California State College, Los Angeles, Calif.
Social work student (master's)	4	California State College, San Diego, Calif.
Social work student (baccalaureate)	4	California State College, Long Beach, Calif.
Occupational therapist student	10	San Jose State College, San Jose, Calif.; Colorado University, Ft. Collins, Colo.; Boston University, Boston, Mass.; Eastern Michigan University, Ypsilanti, Mich.; University of Wisconsin, Madison, Wis.
Physical therapist student	18	Loma Linda University, Loma Linda, Calif.; California State College, Long Beach, Calif.; Childrens Hospital, Los Angeles, Calif.
Corrective therapist student	9	California State College, Long Beach, Calif.
Dietetic student	15	California State College, Long Beach, Calif.
Medical technologist student	12	California State College, Long Beach, Calif.; California State College, San Bernardino, Calif.; University of California, Riverside, Calif.; Mount St. Mary's College, San Francisco, Calif.
Histologic or histopathology technician trainee.	4	
Radiologic technologist trainee	29	Long Beach City College, Long Beach, Calif.; Fullerton Junior College, Fullerton, Calif.
Prosthetic representative trainee	1	
Building management officer trainee	1	
Paramedical services orientation (nursing home employees).	26	Compton Convalescent Hospital, Compton, Calif.; Sunlight Newport Convalescent Hospital, Newport Beach, Calif.; Sunlight Norwalk Convalescent Hospital, Norwalk, Calif.; Leisure Golden Hours Convalescent Hospital, Torrance, Calif.; Woodruff Convalescent Hospital, Bellflower, Calif.; Orange West Convalescent Hospital, Buena Park, Calif.; Huntington Beach Convalescent Hospital, Huntington, Beach, Calif.; Sunlite Park Convalescent Hospital, Fullerton, Calif.

LONG BEACH, CALIF.

II. POTENTIAL EXPANSION BY SEPTEMBER 1971

Training program	Additional dollars needed					Number of additional and new trainees
	Total	Stipends	Instructor salaries	Space	Other costs	
EXPANDABLE PROGRAMS						
Dental assistant trainee	$17,200	0	$16,000	----------	$1,200	16
Social work (MSW)	35,800	$19,800	14,000	----------	2,000	6
Occupational therapy trainee	36,150	26,000	9,900	----------	250	8
Physical therapy trainee	10,150	0	9,900	----------	250	6
Corrective therapy trainee	10,150	0	9,900	----------	250	4
Dietetic student	0	0	0	----------	0	4
Medical technology trainee	73,000	19,000	39,000	----------	15,000	4
Medical radiology technologist	40,000	30,000	10,000	----------	0	8
Total	222,450	94,800	108,700	----------	18,950	56
NEW PROGRAMS						
Dental laboratory trainee	23,800	0	22,000	----------	1,800	8
Audiology and speech pathologist (M.S.)	39,000	11,000	14,000	----------	14,000	2
Audiology and speech pathologist (Ph. D.)	40,000	12,000	14,000	----------	14,000	2
Social worker (B.A.)	0	0	0	----------	0	4
Social worker assistant	10,000	0	10,000	----------	0	4
Manual arts therapy trainee	37,750	27,600	9,900	----------	250	6
Occupational therapy assistant trainee	18,900	18,400	0	----------	500	4
Physical therapy assistant trainee	18,500	18,000	0	----------	500	4
Pharmacy intern	9,000	9,000	0	----------	0	1
Pharmacy resident	11,000	11,000	0	----------	0	1
Dietetic affiliate	10,000	0	10,000	----------	0	6
Cytotechnical trainee	21,000	7,000	10,000	----------	4,000	2
Medical technologist trainee	19,000	5,000	10,000	----------	4,000	4
Pathology assistant trainee	21,000	7,000	10,000	----------	4,000	2
Autopsy assistant trainee	19,000	5,000	10,000	----------	4,000	2
Hospital library trainee	26,000	15,000	10,000	----------	1,000	2
Hospital library student	15,000	15,000	0	----------	0	2

LONG BEACH, CALIF.—Continued

II. POTENTIAL EXPANSION BY SEPTEMBER 1971—Continued

Training program	Additional dollars needed — Total	Stipends	Instructor salaries	Space	Other costs	Number of additional and new trainees
Radiation therapy trainee	$4,000	$4,000	0		0	2
Orthodontic/prosthetic trainee	6,000	6,000	0		0	1
Orthodontic/prosthetic aid	6,000	6,000	0		0	1
Prosthetic representative trainee	7,000	7,000	0		0	1
Medical receiving library trainee	6,600	6,600	0		0	1
Medical receiving library technical trainee	6,000	6,000	0		0	1
Inhalation therapy trainee	13,000	5,000	$8,000		0	2
Cardiopulmonary technician	2,500	2,500	0		0	1
Monitoring technician	72,500	60,000	12,000		$500	10
Operating room technician	72,500	60,000	12,000		500	10
P.M. & R. coordinator	10,000	10,000	0		0	1
Hospital administration resident	12,000	12,000	0		0	1
Graduate engineer trainee	8,000	8,000	0		0	1
Personnel management trainee	8,000	8,000	0		0	1
Accountant trainee	8,000	8,000	0		0	1
Building management trainee	8,000	8,000	0		0	1
Management analyst trainee	10,000	10,000	0		0	1
Supply management trainee	8,000	8,000	0		0	1
Medical administrative assistant trainee	8,000	8,000	0		0	1
Volunteer services office trainee	8,000	8,000	0		0	1
Library technican	15,000	15,000	0		0	2
Emergency room technician	30,000	30,000	0		0	5
Psychiatry technical trainee	62,500	50,000	12,000		500	10
Total	730,550	507,100	173,900		49,550	113
Grand total	953,000	601,900	282,600		68,500	169

LOS ANGELES, CALIF. (WADSWORTH)

I. FISCAL YEAR 1970

Training program	Number of trainees	Cooperating institutions
Medical resident (noncareer)	258	
Medical intern	36	
Career psychiatry resident	5	
Career P.M. & R. resident	6	
Career radiology resident	3	
Career anesthesiology resident	2	
Career pathology resident	3	
Dental resident (noncareer)	3	
Dental intern (noncareer)	7	
Career dental resident	4	
Career dental intern	2	
Medical student, 2d 2 school years	72	University of California at Los Angeles School of Medicine, Los Angeles, Calif.
Dental assistant trainee	12	Los Angeles City College, Los Angeles, Calif.
Dental laboratory technician trainee	36	Do.
Basic nursing student	580	El Camino College, Torrance, Calif.; Santa Monica College, Santa Monica, Calif.; Los Angeles Southwest College, Los Angeles, Calif.; University of California, Los Angeles, Calif.; Los Angeles City College Los Angeles, Calif.; Queen of Angels Hospital, Los Angeles, Calif.; California State College, Los Angeles, Calif.; East Los Angeles College, Los Angeles, Calif.; Hollywood Presbyterian Hospital, Los Angeles, Calif.
Practical nurse student	19	Santa Monica College, Santa Monica, Calif.
Audiology and speech pathology student (master's)	5	Valley State College, San Fernando, Northridge, Calif.; California State College, Los Angeles, Calif.; University of Southern California, Los Angeles, Calif.
Psychology student (graduate)	13	University of California, Los Angeles, Calif.; University of Southern California, Los Angeles, Calif.
Vocational rehabilitation counselor student	19	California State College, Los Angeles, Calif.
Social work student (master's)	6	University of California, Los Angeles, Calif.
Occupational therapist student	21	San Jose State College, San Jose, Calif.; University of New Hampshire, Durham, N.H.; Richmond Professional Institute, Richmond, Va.; Eastern Michigan University, Ypsilanti, Mich.; University of Puget Sound, Tacoma, Wash.; University of Kansas, Lawrence, Kans.; Loma Linda University, Loma Linda, Calif.; Los Angeles City College, Los Angeles, Calif.
Physical therapist student	35	University of Southern California, Los Angeles, Calif.; Loma Linda University, Loma Linda, Calif.; Children's Hospital of Los Angeles, Los Angeles, Calif.; San Fernando Valley State College, Northridge, Calif.; University of California, Los Angeles, Calif.
Recreation specialist student	3	University of Kansas, Lawrence, Kans.; Alverno College, Milwaukee, Wis.
Occupational therapy assistant trainee	2	Los Angeles City College, Los Angeles, Calif.
Pharmacy resident	2	University of Southern California, Los Angeles, Calif.
Dietetic intern	29	San Diego State College, San Diego, Calif.; University of California, Santa Barbara, Calif.; University of Houston, Houston, Tex.; Fresno State College, Fresno, Calif.; University of Nebraska, Lincoln, Nebr.; Case Western Reserve, Cleveland, Ohio; Duchesne College, Omaha, Nebr.; University of Arizona, Tucson, Ariz.; Iowa State University, Ames, Iowa, Southeastern Louisiana, Hammond, La.; Utah State University, Logan, Utah; University of Illinois, Urbana, Ill.; California State Polytechnic, San Luis Obispo, Calif.; University of Connecticut, Storrs, Conn.; California State College; Los Angeles, Calif.; Douglass College, New Brunswick, N.J.; Arizona State University, Tempe, Ariz.; California State Polytechnic, Pomona, Calif.; Mount Mary College, Milwaukee, Wis.; University of California, Davis, Calif.; Colorado State University, Fort Collins, Colo.; University of Nebraska, Omaha, Nebr.; University of California, Los Angeles, Calif.
Medical technologist student	6	
Hospital librarian work-study trainee	1	University of California, Los Angeles, Calif.
Radiologic technologist trainee	34	
Medical student anesthesiology trainee	3	University of California at Los Angeles School of Medicine, Los Angeles, Calif.; Jefferson Medical College, Philadelphia, Pa.; University of Texas Southwestern Medical School, Dallas, Tex.
Research and Education trainee	4	University of California at Los Angeles School of Medicine, Los Angeles, Calif.
Accountant trainee	3	
Management analyst trainee	2	
Director, voluntary service trainee	1	
Animal Facilities research supervisor	6	
Nuclear medicine physician trainee	2	
Radiopharmacy student	2	University of Southern California, Los Angeles, Calif.
Animal facilities, research supervisor	6	

LOS ANGELES, CALIF. (WADSWORTH)

II. POTENTIAL EXPANSION BY SEPTEMBER 1971

Training program	Additional dollars needed — Total	Stipends	Instructor salaries	Space	Other costs	Number of additional and new trainees
EXPANDABLE PROGRAMS						
Dental assistant trainee	$7,800	$7,200			$600	3
Dental laboratory technician trainee	11,010		$10,210		800	10
Audiology and speech pathology student (in master's degree training)	22,130	21,630		$500		2
Occupational therapist student (in baccalaureate or higher training)	22,881	13,000	9,881			3
Pharmacy resident	65,850	62,250	2,808			4
Medical technologist student (in program approved by AMA Council on Medical Education)	116,612	89,622	11,855	1,850	13,185	6
Hospital librarian work-study trainee (as described in M-3, pt. 11, par. 5.13b)	19,644	19,644				2
Radiologic technologist trainee—also known as medical radiology technician, medical radiological technician, X-ray technician, etc. (in program approved by AMA Council on Medical Education)	152,056	143,100	8,956			18
Orthotist-prosthetist trainee	58,740	32,740	13,000	12,000	1,000	4
Total	475,831	389,186	55,710	14,350	15,585	52

Training program	Additional dollars needed					Number of additional and new trainees
	Total	Stipends	Instructor salaries	Space	Other costs	
NEW PROGRAMS						
Social work student (in master's degree training)		$6,638	$14,192	$500		2
Histologic or histopathology technician trainee (supervised laboratory training, acceptable for trainee to be examined for certification as histologic technician)		11,706				2
X-ray technician trainee (in other than program approved by AMA Council on Medical Education)		14,400	7,294		$1,000	8
Radiologist's assistant trainee		29,088				4
Total	$84,818	61,832	21,486	500	1,000	16
Grand total	560,649	451,018	78,196	14,850	16,585	68

LOS ANGELES, CALIF. (BRENTWOOD)

II. POTENTIAL EXPANSION BY SEPTEMBER 1971

Training program	Additional dollars needed					Number of additional and new trainees
	Total	Stipends	Instructor salaries	Space	Other costs	
EXPANDABLE PROGRAMS						
Psychology student	$22,640	$8,640	$17,000			12
Vocational rehabilitation counselor	77,000		77,000			12
Total	102,640	8,640	94,000			24
NEW PROGRAMS						
Biomedical instructor technician	25,400	10,400	15,000			4
Grand total	128,040	19,040	109,000			28

LOS ANGELES, CALIF. (OUTPATIENT CLINIC)

I. FISCAL YEAR 1970

Training program	Number of trainees	Cooperating institutions
Audiology and speech pathology student (doctoral).	4	Universtiy of Southern California, University Park, Los Angeles, Calif.
Audiology and speech pathology student (master's).	3	California State College at Los Angeles, Los Angeles, Calif.
Psychology student (graduate)	4	University of California at Los Angeles, Los Angeles, Calif.
Social work student (master's)	8	San Diego State College Graduate School of Social Work, San Diego, Calif.; University of Southern California Graduate School of Social Work, Los Angeles, Calif.; School of Social Welfare, University of California at Los Angeles, Los Angeles, Calif.
Occupational therapist student	5	Boston University Sargents College, Boston, Mass.; San Jose State College, San Jose, Calif.

LOS ANGELES, CALIF. (OUTPATIENT CLINIC)

II. POTENTIAL EXPANSION BY SEPTEMBER 1971

Training program	Additional dollars needed					Number of additional and new trainees
	Total	Stipends	Instructor salaries	Space	Other costs	
NEW PROGRAMS						
Dental assistant trainee	$12,000	$6,000	$5,000	None	$1,000	20
Dental laboratory technician trainee	15,800	9,000	5,000	$1,000	800	22
Audio and speech path student doctoral post	21,611	6,000	15,611	None	None	1
Audio and speech path student masters	9,395	7,210	None	None	2,185	2
Social work student masters program	60,707	22,000	15,611	7,600	15,496	10
Pharmacy assistant trainee	16,972	10,424	6,548	None	None	2
Prosthetic repair trainee	6,748	6,548	None	None	200	1
Grand total	143,233	67,182	47,770	8,600	19,681	58

MARTINEZ, CALIF.

I. FISCAL YEAR 1970

Training program	Number of trainees	Cooperating institutions
Medical resident (noncareer)	44	
Medical intern	30	
Career pathology resident	2	
Dental intern (noncareer)	1	
Career dental intern	1	
Dental assistant trainee	2	Diablo Valley College, Pleasant Hill, Calif.
Dental hygienist trainee	12	Do.
Basic nursing student	165	Contra Costa College, San Pablo, Calif.; Kaiser Foundation Hospital, Oakland, Calif.
Practical nurse student	51	Contra Costa College, San Pablo, Calif.
Psychology student (graduate)	1	University of California, Berkeley, Calif.
Social work student (master's)	2	Sacramento State College, Sacramento, Calif.
Occupational therapist student	4	San Jose State College, San Jose, Calif.
Physical therapist student	8	University of California Medical Center, San Francisco, Calif.
Chaplain resident	5	Graduate Theological Union, Berkeley, Calif.

MARTINEZ, CALIF.

II. POTENTIAL EXPANSION BY SEPTEMBER 1971

Training program	Additional dollars needed					Number of additional and new trainees
	Total	Stipends	Instructor salaries	Space	Other costs	
EXPANDABLE PROGRAMS						
Dental assistant trainee	0	0	0	0	0	1
Total	0	0	0	0	0	1
NEW PROGRAMS						
Speech pathology	$10,420	$10,420	0	0	0	2
Graduate engineer trainee	11,458	10,528	0	0	$930	1
Accounting trainee	10,873	9,988	0	0	885	1
Building management trainee	8,837	8,098	0	0	739	1
Supply management trainee	8,837	8,098	0	0	739	1
Total	50,425	47,132			3,293	6

PALO ALTO, CALIF.

I. FISCAL YEAR 1970

Training program	Number of trainees	Cooperating institutions
Medical resident (noncareer)	129	
Medical intern	21	
Career psychiatry resident	1	
Career P.M. & R. resident	4	
Dental intern (noncareer)	2	
Medical student 1st 2 school years	36	Stanford University School of Medicine, Stanford, Calif.
Medical student, 2d 2 school years	105	Do.
Basic nursing student	257	University of California School of Nursing, San Francisco, Calif.; Stanford University School of Nursing, Stanford, Calif.; San Jose City College, San Jose, Calif.; DeAnza College, Cupertino, Calif.; College of San Mateo, San Mateo, Calif.; St. Luke's Hospital School of Nursing, San Francisco, Calif.
Graduate nursing student	3	University of California School of Nursing, San Francisco, Calif.
Audiology and speech pathology student (master's).	2	San Jose State College, San Jose, Calif.
Psychology student (graduate)	34	University of Nevada, Reno, Nev.; University of Oregon, Eugene, Oreg.; University of Arizona, Tucson, Ariz.; University of California, Berkeley, Calif.; University of Connecticut, Storrs, Conn.; University of South Dakota, Vermillion, S. Dak.; University of Nebraska, Lincoln, Nebr.; University of Massachusetts, Amherst, Mass.; University of Tennessee, Knoxville, Tenn.; Washington State University, Pullman, Wash.; University of Minnesota, Minneapolis, Minn.; Texas Technological University, Lubbock, Tex.; Clark University, Worcester, Mass.; Georgia State College, Atlanta, Ga.; Ohio State University, Columbus, Ohio; Duke University, Durham, N.C.; Harvard University, Cambridge, Mass.; Adelphi University, Garden City, N.Y.; Southern Illinois University, Carbondale, Ill.; Stanford University, Stanford, Calif.
Psychology student (postdoctoral)	1	Washington State University, Pullman, Wash.
Social work student (master's)	12	University of California, Berkeley, Calif.; Sacramento State College, Sacramento, Calif.

PALO ALTO, CALIF.—Continued

I. FISCAL YEAR 1970—Continued

Training program	Number of trainees	Cooperating institutions
Occupational therapist student	37	University of Puget Sound, Tacoma, Wash.; San Jose State College, San Jose, Calif.; University of Washington, Seattle, Wash.; Virginia Commonwealth University, Richmond, Va.; Colorado State University, Fort Collins, Colo.; College of St. Catherine, St. Paul, Minn.; University of Kansas, Lawrence, Kans.; University of Minnesota, Minneapolis, Minn.; Western Michigan University, Kalamazoo, Mich.; Mount Mary College, Milwaukee, Wis.; Boston University, Boston, Mass.
Corrective therapist student	3	San Jose State College, San Jose, Calif.
Recreation specialist student	1	Do.
Blind rehabilitation student	15	California State College, Los Angeles, Calif.; Western Michigan University, Kalamazoo, Mich.
Pharmacy student	4	Howard University, Washington, D.C.; University of Utah, Salt Lake City, Utah; Creighton University, Omaha, Nebr.; Washington State University, Pullman, Wash.
Medical record librarian trainee	1	USPH Hopsital, Baltimore, Md.
Research and education trainee	1	Stanford University, Stanford, Calif.
Chief nurse trainee	1	
Chief of staff trainee	1	San Jose State College, San Jose, Calif.
Management analyst trainee	1	
Supply management trainee	2	
Assistant hospital director trainee	1	

PALO ALTO, CALIF.

II. POTENTIAL EXPANSION BY SEPTEMBER 1971

Training program	Additional dollars needed					Number of additional and new trainees
	Total	Stipends	Instructor salaries	Space	Other costs	
EXPANDABLE PROGRAMS						
Basic nursing student	0	0	0	0	0	0
Graduate nursing student	0	0	0	0	0	15
Audiology and speech pathology student	$89,665	0	$14,665	$75,000	0	1
Do	14,253	0	13,096	1,157	0	1
Do	16,125	16,125	0	0	0	5
Audiology and speech pathology	5,000	0	0	0	$5,000	0
Psychology (post-baccalaureate)	610,060	390,000	170,060	50,000	0	65
Psychology (postdoctoral)	159,495	92,250	59,745	7,600	0	10
Vocational rehabilitation counselor student	22,280	8,090	14,190	0	0	1
Occupational therapist student	18,000	7,200	10,800	0	0	4
Do	0	0	0	0	0	2
Manual arts therapist student	9,800	0	9,800	0	0	3
Corrective therapist student	0	0	0	0	0	2
Recreation specialist student	9,800	0	9,800	0	0	2
Pharmacy intern	44,780	44,780	0	0	0	5
Electrocardiograph technician trainee	15,500	11,000	4,500	0	0	2
P.M. & R. coordinator trainee	10,800	10,800	0	0	0	1
Chief nurse trainee	0	0	0	0	0	0
Supply management trainee	8,098	8,098	0	0	0	1
Heart pump technician trainee	10,000	8,000	1,000	1,000	0	1
Medical student radiology clerkship	30,000	0	10,000	0	20,000	10
Secretary, audiology and speech pathology	7,294	0	0	0	7,294	1
Total	1,080,950	596,343	317,656	134,757	32,294	132
NEW PROGRAMS						
Practical nurse student	0	0	0	0	0	30
Nursing assistant trainee (public service career program)	89,250	35,484	51,571	0	2,195	15
Nursing intern	0	0	0	0	0	0
Occupational therapy assistant	9,800	0	9,800	0	0	3
Physical therapy assistant	9,800	0	9,800	0	0	3
Manual arts therapy assistant	9,800	0	9,800	0	0	3
P. M. & R, assistant, general	0	0	0	0	0	2
Pharmacy student in any school year	13,096	13,096	0	0	0	2
Pharmacy assistant trainee	20,848	20,848	0	0	0	4
Dietetic student	18,600	6,600	12,000	0	0	1
Food service worker trainee	136,800	124,800	12,000	0	0	20
Medical technician trainee	35,346	18,964	11,382	2,500	2,500	3
X-ray technician trainee	106,236	3,600	49,336	0	53,300	6
X-ray film processor trainee	0	0	0	0	0	0
Radiologist's assistant trainee	37,742	35,632	2,110	0	0	2
Inhalation therapy technician trainee	27,000	15,000	12,000	0	0	2
Physician's assistant trainee	38,100	28,100	10,000	0	0	4
Hemodialysis technician trainee	10,800	10,800	0	0	0	1
Cardiopulmonary technician trainee	18,000	12,000	6,000	0	0	2
Surgery technician trainee	15,500	12,000	3,000	500	0	2
Operating room technician trainee	$15,500	$12,000	$3,000	$500	0	2
Orthopedic technician trainee	2,000	0	1,500	500	0	2
Engineer officer trainee	21,500	21,500	0	0	0	2
Accountant trainee	13,007	8,746	3,536	0	$725	1
Building management officer trainee	8,746	8,746	0	0	0	1
Laundry superintendent trainee	10,670	10,670	0	0	0	1
Director, voluntary service trainee	9,853	9,853	0	0	0	1
Mental health associate	99,991	72,220	17,223	0	0	10
Consultant			4,000			
Secretary			6,548			
Psychology aid-technician trainee	63,720	30,000	33,720	0	0	5
Total	841,705	510,659	268,326	4,000	58,720	130
Grand total	1,922,655	1,107,002	585,982	138,757	91,014	262

SAN FERNANDO, CALIF.

I. FISCAL YEAR 1970

Training program	Number of trainees	Cooperating institutions
Social work student (master's)	2	University of California, Los Angeles, Calif.
Occupational therapist student	3	Colorado State College, Fort Collins, Colo.; Loma Linda University, Loma Linda, Calif.
Food service worker trainee	12	Unified School District, Los Angeles, Calif.

SAN FERNANDO, CALIF.

II. POTENTIAL EXPANSION BY SEPTEMBER 1971

Training program	Additional dollars needed					Number of additional and new trainees
	Total	Stipends	Instructor salaries	Space	Other costs	
Expandable programs:						
Social work student	$6,200	$6,200	0	0	0	2
Occupational therapy	3,000	3,000	0	0	0	2
Total	9,200	9,200	0	0	0	4

SAN FRANCISCO, CALIF.

I.FISCAL YEAR 1970

Training programs	Number of trainees	Cooperating institutions
Medical resident (noncareer)	211	
Medical intern	12	
Career radiology resident	1	
Dental intern (noncareer)	2	
Career dental intern	1	
Medical student 2d 2 school years	164	University of California School of Medicine, San Francisco, Calif.
Dental assistant trainee	8	City College of San Francisco, San Francisco, Calif.
Dental laboratory technician trainee	4	Do.
Basic nursing student	110	University of California School of Nursing, San Francisco, Calif.; University of San Francisco, San Francisco, Calif.
Graduate nursing student	8	University of California School of Nursing, San Francisco, Calif.
Practical nurse student	64	California College of Medical Affiliates, San Francisco, Calif.
Audiology and speech pathology (student doctoral).	8	San Francisco State College, San Francisco, Calif.; Stanford University, Palo Alto, Calif.; University of California, Santa Barbara, Calif.; University of Florida, Gainesville, Fla. University of Wisconsin, Madison, Wis.
Audiology and speech pathology student (master's).	10	San Francisco State College, San Francisco, Calif.
Psychology student (graduate)	21	George Washington University, Washington, D.C.; University of Montana, Missoula, Mont; Ohio State University, Columbus, Ohio; University of Connecticut, Storrs, Conn.; University of California, Berkeley, Calif.; University of Minnesota, Minneapolis, Minn.; University of Cincinnati, Cincinnati, Ohio; Adelphi University, Garden City, N.Y.; West Virginia University, Morgantown, W. Va.; University of Tennessee, Knoxville, Tenn.; Duke University, Durham, N.C.; Temple University, Philadelphia, Pa.; University of Missouri, Columbia, Mo.; Wright Institute, Berkeley, Calif.

Training program	Number of trainees	Cooperating institutions
Psychology student (postdoctoral)	1	University of California, Berkeley, Calif.
Psychology student (baccalaureate)	10	San Francisco Theological Institute, San Anselmo, Calif.; San Francisco State College, San Francisco, Calif.
Social work student (master's)	8	University of California, Berkeley, Calif.; Sacramento State College, Sacramento, Calif.
Social work student (baccalaureate)	2	University of San Francisco, San Francisco, Calif.
Physical therapist student	2	University of Caifornia, San Francisco, Calif.
Pharmacy resident	5	Do.
Pharmacy assistant trainee	19	University of California; San Francisco, Calif.; Unified School District, San Francisco, Calif.
Dietetic intern affiliate	2	University of California, Berkeley, Calif.
Cytotechnologist student	2	University of California, San Francisco, Calif.
Histologic or histopathology technician trainee.	4	St. Mary's Hospital, San Francisco, Calif.
Podiatry student	44	College of Podiatry, San Francisco, Calif.
Electrocardiograph technician trainee	1	
Operating room technician trainee	20	California College of Medical Affiliates, San Francisco, Calif.
Research and education trainee	2	University of California School of Medicine, San Francisco, Calif.
Personnel management specialist trainee.	1	
Podiatry intern	1	College of Podiatry, San Francisco, Calif.

SAN FRANCISCO, CALIF.

II. POTENTIAL EXPANSION BY SEPTEMBER 1971

Training program	Additional dollars needed: Total	Stipends	Instructor salaries	Space	Other costs	Number of additional and new trainees
EXPANDABLE PROGRAMS						
Dental assistant trainee	$8,500		$8,000		$500	8
Dental laboratory technician trainee	21,500	$2,500	8,000	$10,000	1,000	2
Basic nursing student	6,700		6,000		700	10
Graduate nursing student	13,200		10,700		2,500	10
Audiology and speech pathology student	14,250	10,400			3,850	2
Do	46,450	16,400	17,700		12,350	4
Social work student	29,500	7,000	15,000	1,500	6,000	2
Pharmacy resident	7,000	7,000				2
Pharmacy assistant trainee	4,500	4,000			500	2
Dietetic intern affiliate	14,425	825	11,900	1,500	200	3
Dietetic student	2,880	2,880				1
Psychology assistant	41,656	26,060	13,096	2,000	500	5
Total	210,561	77,065	90,396	15,000	28,100	51
NEW PROGRAMS						
Nursing resident	69,100	30,000	10,700	20,000	8,400	5
Pharmacy intern	20,000	20,000				2
Pharmacy student in any school year	13,000		13,000			25
Extracorporeal perfusion (pump) technician trainee	9,600		9,600			1
Opthalmology technician trainee	9,600		9,600			1
Chief of staff trainee	22,500	20,000		1,000	1,500	1
Hospital administration resident	10,900	10,000		500	400	1
Graduate engineer trainee	9,800	9,000		500	300	1
Building management officer trainee	8,050	7,300		500	250	1
Laundry superintendent trainee	8,700	8,500			200	1
Management analyst trainee	9,800	9,500			300	1
Supply management trainee	8,550	7,800		500	250	1
Medical administrative trainee	8,550	7,800		500	250	1
Assistant hospital director trainee	21,500	19,000		1,500	1,000	1
Dental assistants (oral surgery)	82,400	14,400	8,000	30,000	30,000	4
Physician assistants	36,000	28,500		4,500	3,000	3
Total	348,050	191,800	50,900	59,500	45,850	50
Grand total	558,611	268,865	141,296	74,500	73,950	101

SEPULVEDA, CALIF.

I. FISCAL YEAR 1970

Training program	Number of trainees	Cooperating institutions
Medical resident (noncareer)	36	
Career psychiatry resident	7	
Dental intern (noncareer)	3	
Dental student summer research trainee	1	UCLA, Los Angeles, Calif.
Audiology and speech pathology student (master's).	2	San Fernando Valley State College, Northridge, Calif.
Psychology student (graduate)	12	University of Southern California, Los Angeles, Calif.; UCLA, Los Angeles, Calif.; University of Nebraska, Lincoln, Nebr.; University of Arizona, Tucson, Ariz.; University ot Oregon, Eugene, Oreg.; University of Utah, Salt Lake City, Utah.
Psychology student (postdoctoral)	1	UCLA, Los Angeles, Calif.
Psychology student (baccalaureate)	19	San Fernando Valley State College, Northridge, Calif.; University of Southern California, Los Angeles Calif.
Social work student (master's)	5	UCLA, Los Angeles, Calif.; University of Southern California, Los Angeles, Calif.
Social work student (baccalaureate)	5	San Fernando Valley State College, Northridge, Calif.
Occupational therapist student	9	University of Wisconsin, Madison, Wisc.; University of Washington, Seattle, Wash.; University of Puget Sound, Tacoma, Wash.; University of Ohio, Athens, Ohio; Loma Linda University, Loma Linda, Calif.
Physical therapist student	5	Loma Linda University, Loma Linda, Calif.; Children's Hospital, Los Angeles, Calif.
Basic nursing student	214	California State College, Los Angeles, Calif.; Los Angeles Valley College, Van Nuys, Calif.
Practical nursing student	11	Holy Cross Hospital, Mission Hills, Calif.
Medical record librarian trainee	1	
Supply management trainee	1	
Assistant hospital director trainee	1	

SEPULVEDA, CALIF.

II. POTENTIAL EXPANSION BY SEPTEMBER 1971

Training program	Additional dollars needed: Total	Stipends	Instructor salaries	Space	Other costs	Number of additional and new trainees
EXPANDABLE PROGRAMS						
Nursing assistant trainee	$60,047	$46,200	$12,302		$1,545	40
Audiology and speech pathology student	32,665	12,000	14,665	$5,000	1,000	2
Do	17,560	17,560				4
Social work student	21,475	6,400	11,173		3,902	2
Occupational therapist student	20,087	1,218	10,869	5,000	3,000	6
Physical therapist student	18,869		10,869	5,000	3,000	10
Manual arts therapist student	12,869		10,869		2,000	10
Total	183,572	83,378	70,747	15,000	14,447	94
NEW PROGRAMS						
Social work student	19,218	11,680	5,587		1,951	2
Educational therapist student	11,869		10,869		1,000	6
Corrective therapist student	11,869		10,869		1,000	10
Recreation specialist student	11,869		10,869		1,000	10
Physical therapy assistant trainee	18,869		10,869	5,000	3,000	20
Medical technician trainee	11,138	9,888			1,250	2
Mental health associate trainee	95,153	64,380	17,223	3,000	10,550	10
Total	179,985	85,948	66,286	8,000	19,751	60
Grand total	363,557	169,326	137,033	23,000	34,198	154
Total California	4,876,993	2,789,314	1,473,901	272,557	341,221	941

Mr. CRANSTON. Under the committee substitute, the Veterans' Administration would also be directed to set up at least four regional medical education centers where health care personnel from the Veterans' Administration and, on a reimbursable basis, other Federal agency personnel and members of the surrounding medical community could come for refresher courses and to keep abreast of the latest medical technology and clinical techniques. These provisions were incorporated from S. 2355 which I introduced on July 27, 1971.

Mr. President, throughout the committee substitute the stress is on innovation. The Veterans' Administration is in a unique position to make an enormous contribution to the development of new methods of training, and the development of new types of and roles for, health care personnel because of its general freedom from the inflexible restrictions of many State medical licensing laws and regulations, and because of the size, diversity, and quality of its medical programs.

The committee intends that the provisions of the committee substitute will launch the Veterans' Administration on a greatly expanded program of helping train paramedical personnel, such as physicians' and dentists' assistants, to be recruited especially from former military medics and medical corpsmen. In our estimate, the Veterans' Administration should be able to double the somewhat less than 300 physicians' assistants currently being trained annually throughout the United States. This is one of the most important aspects of the committee substitute.

Mr. President, the VA is the very best place to demonstrate the value of expanded use of paramedical personnel, especially the training and employment of the physicians' and dentists' assistants who serve as military medics and Navy corpsmen. Because the VA is a Federal instrumentality it does not have to wait for 50 States to reform licensing and practice laws written for horse-and-buggy medicine. These VA demonstrations hopefully will induce States to change their laws and practice codes to make greater use of these new health workers in their communities.

Under the committee substitute, the highest priority will be given young veterans who had medical military occupation specialties—MOS's—and now want to train in VA or VA-supported programs to become physicians' and dentists' assistants and other health care workers. First preference will go to disabled veterans and those who served during the Vietnam era.

Mr. President, I ask unanimous consent that there be set forth at this point in the RECORD appropriate excerpts from the committee report which I filed last Friday, for myself and Mr. HARTKE, including the section-by-section analysis of the committee substitute.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BACKGROUND AND DISCUSSION

EXPANSION OF PRIMARY FUNCTION OF THE VA DEPARTMENT OF MEDICINE AND SURGERY

Currently the primary function of the Department of Medicine and Surgery (DM & S) of the Veterans' Administration is to provide a complete medical and hospital service for veterans and to carry out education and training programs for health care personnel within the context of providing care to beneficiaries.

This limitation has inhibited training programs from expanding to their fullest capacity since, in general, further expansion of health care manpower training could not have been achieved without decreasing the quality or amount of care provided veterans. Indeed, it is a well-accepted proposition that where active medical education programs exist, the quality of patient care improves.

In the discharge of its major mission—the care and treatment of veterans—the Veterans' Administration produces an important byproduct in trained health care manpower. In its huge system of hospitals, clinics, and extended care facilities—by far the largest such system in our Nation under a unified management—the VA has developed programs to assist in the education and training of physicians, dentists, nurses, and more than 60 other categories of health care and administrative support personnel.

Both the quantity and the high quality of these training programs are made possible by cooperation with medical schools, colleges, and universities throughout the country. At the present time, 84 medical schools maintain affiliations with 96 VA hospitals. In addition, the VA is affiliated with 52 dental schools, 304 nursing schools, 75 schools of social work, and 93 graduate departments of psychology. Students are also accepted from schools of physical therapy, occupational therapy, and from universities, colleges, and junior colleges.

Approximately one-half of all physicians entering practice each year receive some of their training in a VA hospital, and large proportions of other health care personnel are a product of this system. A total of about 53,000 trainees will be educated through the VA and its affiliates during fiscal year 1972.

The VA investment in training programs has been highly justified in terms of the consequent improvement in the quality of patient care for the disabled veterans in its facilities. Many VA trainees are thereafter recruited for employment in the agency; and the instructional personnel are among the best in their fields. The existence of active education and research programs and of university affiliations has proved to be extremely valuable and is today virtually indispensable for the recruitment and retention of full-time health care staff in VA hospitals.

However, despite this substantial contribution and enormous potential, the VA health and hospital system is not now being fully utilized as a resource for the Nation's manpower pool. Nor has its full potential ever been seriously approached.

Undergraduate medical training, including clerkships, and internships, and residency training programs in the VA could readily be expanded to accommodate at least 10 percent more—well over 2,000—students in existing facilities. A principal inhibition has been the philosophy—embodied in present section 4101(b)—that VA training funds should be limited to direct support of the VA mission.

Full use of the VA system as a health care manpower training resource for the Nation is not entirely a matter of providing greater direct funding. A major inhibition to full utilization is the lack of a clear statutory framework for the present VA operation in the health care manpower field and the only limited public recognition of this important role. The VA must generally defend its training budgets in reference to agency manpower needs alone or in terms of services actually delivered by trainees.

In addition, further expansion of VA health care manpower training programs is inhibited by the limitations of available hospital space and staff time for teaching.

An untapped potential exists in those VA hospitals which are not now affiliated with medical schools. These hospitals may be such distances from medical schools that affiliation is prohibited by that factor; or they may be underutilized for teaching by medical schools, because the schools have other adequate clinical facilities available to them. Such VA hospitals could, for example, provide clinical training facilities for area health education centers to train other health (non-physician) and allied health professionals, nurses and paramedical personnel.

A specific commitment to the mission of health care manpower development would greatly improve the VA position in reference to affiliations, especially with community colleges and non-Federal hospitals, and would permit expansion even within current levels of spending.

The Committee substitute expands the primary function of the VA DM&S to include assisting in providing an adequate supply of health care manpower for national needs in addition to providing a complete medical and hospital service for veterans. In carrying out this broadened function, the Veterans Administration is directed to place special emphasis on the training and employment of veterans with medical military occupation specialties as physicians' assistants, dentists' assistants, and other types of medical technicians, and to act in cooperation with schools of the health professions, other institutions of higher learning, medical centers, academic health and area health education centers, hospitals and other public or nonprofit agencies, institutions, or organizations as are deemed appropriate. To assure that these educational programs are carried out in a well organized and planned manner, the committee substitute directs that there be a separate line item in the annual budget showing the estimated expenditures during the fiscal year for the education and training of health care manpower. The Committee feels that long term planning and continuity is essential to successful education and training programs and that the inclusion in the annual budget of a special line item for these programs will greatly enhance such planning and continuity.

REGIONAL MEDICAL EDUCATION CENTERS

In furthering the ability of the VA to carry out this broadened education and training function, as well as to carry out its mission of providing quality, modern medical care to veterans, the Committee substitute incorporates the provisions of S. 2355 authorizing a program for continuing medical education for health care staff of VA medical facilities. Such continuing medical education programs would also be available to staff of other Federal medical facilities and to members of the surrounding medical community, to the extent facilities are available, on a reimbursable basis. These programs would be conducted in at least four Veterans Administration hospitals, geographically dispersed throughout the United States, which are to be designated by the VA as "Regional Medical Education Centers." The VA cost estimate per RME Center is $400,000 annually.

A special benefit which will be derived from the designation of these Regional Medical Education (RME) Centers, in addition to the opportunity for providing continuing education programs for VA and other staff, is the recognition that assignment to such centers as "faculty" will give to distinguished VA staff members. It will also make service in the Veterans Administration's medical facilities much more attractive to the outstanding professional by creating a more stimulating intellectual environment and appropriate opportunity for academic recognition.

Participants would also be exposed to the new roles that are developing, many on a pilot basis at VA hospitals permitted by their freedom from unduly restrictive state licensure laws and regulations, for new types of health care personnel and would learn to work with them in a manner which would achieve the greatest coordinated utilization of skills at all levels of the medical care team. This experience would be invaluable not only to the staff member from another VA hospital, perhaps in a remote area, but also to the professional from the community who utilized the RME continuing education program.

Special insight into the value these programs would bring to the VA health care program and the medical/dental community was offered to the Subcommittee on Health and Hospitals by William M. Feagans, Dean of the School of Dentistry, State University of New York, Buffalo, who testified:

> [B]efore a large and continuously growing number of paraprofessionals can be fully absorbed and utilized within our health care system, a strenuous effort must be made to upgrade the skills of medical and dental practitioners who may never have relied on allied health professionals to any degree.
>
> Today many graduating physicians and dentists are trained to routinely work with allied health professionals, and their role is fully understood and appreciated. This is not always true, however, with older conventionally trained medical and dental prac-

> titioners. The reeducation of these physicians and dentists to accept and fully utilize the skills and knowledge of paraprofessionals is just as important as the training of the paraprofessionals themselves.
>
> Continuing education programs and postgraduate enrichment programs that will reach out to these traditionally trained practitioners are vitally necessary and I strongly urge you to enact Senate bill 2355. This bill recognizes the fact that traditional continuing education programs are not enough. One cannot retrain a dentist to use paraprofessional personnel and work as a team by a lecture in a classroom or on a TV monitor. This requires actual chairside learning in patient care.
>
> If ever continuing education had a challenge, it is today. With the burgeoning information and new therapeutic skills being developed, the practicing health professional must broaden his sphere of knowledge and skills. It requires taking continuing education programs to the patient's bedside, the research laboratory or the rental chair. But clinical continuing education programs requiring patients and followup care are extremely expensive for schools to conduct and, unfortunately, are often the first programs to feel the pinch of reduced budgets and support.
>
> The VA could help speed the optimal utilization of paraprofessionals by:
>
> 1. Making facilities and staff available for continuing education programs;
> 2. Providing financial support for VA-affiliated health professional schools for expanded continuing education programs. These should be specifically designed to improve and increase the use of allied health professionals.
> 3. Providing a constant pool of patients for these programs. This would make high quality care available to VA patients at a low cost while at the same time providing an educational opportunity for the practitioners and the paraprofessionals. (Hearings, p. 334.)

The Committee would like to emphasize its recognition of the already meritorious continuing education programs provided in some Veterans' Administration hospitals. However, the Committee believes there is a need to build up these programs and to increase their availability to medical personnel both within the VA and in the surrounding medical community.

The increased demand for "Type A" postgraduate in-service training programs offered by the VA is one clear indication of the need for a more formal approach to providing continuing education programs. These programs are the highly specialized two to five-week intensive programs geared to the educational needs of an individual, usually oriented towards specialists, offered by VA facilities affiliated with a medical school to staffs of unaffiliated VA hospitals in the same region.

The Committee substitute will enable the Veterans' Administration to expand and increase such programs and, along with the benefits which accrue to the veteran from improved treatment capability, will provide a more attractive opportunity for members of the health and allied health professions in the career service of the Veterans' Administration Department of Medicine and Surgery.

In addition, such programs would be made available to the medical community at large, where space and facilities are available, in furtherance of the VA policy to coordinate their activities more closely with those of the community.

Since the bulk of these RME Centers will be established at VA hospitals affiliated with medical schools, the Committee substitute calls for the consultation on RMEC policy with the dean's committee established for each such hospital under section 4112 of title 38, as well as with the nationwide Special Medical Advisory Group (SMAG) or any appropriate SMAG subcommittee.

Strengthening of VA Hospital Affiliations with Medical Schools

In order to foster more affiliations between Veterans Administration facilities and health education institutions or at least to maintain the quality and extent of present such affiliations, the Committee substitute also includes a provision requiring that any new Veterans Administration hospital (other than a replacement hospital where there is no existing affiliation) be constructed in close proximity to an accredited school of medicine or osteopathy which has agreed to affiliate with the hospital. This provision generally represents a statutory expression of present VA policy. The Committee would not expect this policy to affect the construction of a hospital which is a replacement for an existing non-affiliated VA hospital (generally located in more remote geographical areas), although the Committee certainly would encourage developing an affiliation for any such replacement hospital wherever feasible.

Other provisions of the Committee substitute, regarding expansion and alteration of VA facilities to facilitate training, reflect the Committee's concern that affiliations between VA hopsitals and health professions schools be increased and strengthened to foster the maximum exchange of knowledge and experience to their mutual advantage. In each case the provision states that construction shall include such classrooms, lecture facilities, laboratories, and other teaching facilities as are necessary to make the hospital suitable for health manpower education and training. These provisions are found in sections 5064 and 5067 in section 6 of the committee substitute. Section 5064 deals with expansion of the Veterans Administration hospital education and training capacity and authorizes the renovation, extension, remodeling, or repair of VA buildings to make them more suitable for health care manpower education and training.

Section 5067 deals with pilot programs for assisting in the establishment of new health education schools and authorizes the repair, renovation, and remodeling of buildings leased to such new schools to make them suitable for such teaching purposes.

The Committee would not expect any renovations for teaching purposes to be made so as in any way to reduce the ability of a Veterans Administration medical facility to meet the requirements of its beneficiary population for health care.

UTILIZATION OF VETERANS' ADMINISTRATION HOSPITALS TO IMPROVE AND EXPAND EDUCATION AND TRAINING OF HEALTH CARE MANPOWER

The Committee substitute establishes a new chapter 82 in title 38 to encourage the maximum utilization of the VA potential for training and education of health care manpower through three approaches: (1) expansion of training programs of the hospitals of the Veterans Administration; (2) pilot programs for the establishment of new schools or area health education centers; and (3) support to schools affiliated with VA hospitals and facilities to expand their training and education programs.

Appropriations of $125 million for each of the seven fiscal years 1973 through 1979 are authorized for these purposes and such appropriations will remain available until expended. Of the amounts so appropriated, the first $25 million each year is specifically reserved for the second approach, no more than 30 percent of the total so appropriated each year may be spent for the first approach, and no more than two percent of such total appropriation may be expended for the administration expenses to carry out the new chapter.

Programs supported under each of these approaches must include assurances that (and all DM&S training programs must all ensure that) qualified veterans be given priority for admission to health manpower education and training programs and that highest priorty be given to Vietnam era veterans, especially those with medical military occupation, specialties, and those who are disabled.

The VA is in a particularly opportune position to develop new methods of training and to experiment with educational requirements. It is a nationwide system, consisting of 166 hospitals—with two more being activated during fiscal year 1972—in every region of the United States with an outstanding reputation for training due to its many contributions to the health care manpower field. In addition, it has the unique ability to utilize health care personnel without regard to certain outmoded restrictions of State licensing or certification requirements. The Veterans' Administration hospital system can thus take the lead in producing new levels and types of personnel; expanding the roles and responsibilities of existing types of personnel; and putting the innovations to a practical test in a clinical setting under the quality supervision of VA and medical school staffs. Hopefully, after success is achieved in the VA, the results of these innovations can be provided to the general medical community and can be incorporated into general usage.

For example, the VA provides an almost ideal training ground for the development of new categories of health care personnel whose functions and effect is to extend the effectiveness of highly skilled and trained professionals. It is estimated that existing facilities and VA affiliates could increase their annual production (80 to graduate in FY 1972) of physicians' assistants by 200 or 300, at the very minimum, if additional training funds were made available for this purpose.

Among the most qualified individuals who can benefit from these programs to train new types of health personnel are the returning trained health support personnel of the armed services, such as the Army medic and the Navy corpsman. The Committee expects that DM&S will see to it that every returning serviceman (and all returned Vietnam era Veterans) with medical military occupation specialties are advised, and actively encouraged to take advantage, of opportunities for health care careers in programs supported under the new chapter 82 and through training and employment in DM&S. However, careers in the health care support fields are by no means limited to those with previous health training.

J. B. Koch, National Commander of Veterans of World War I, U.S.A., Inc. cited the value of these individuals to the nation in his testimony before the Subcommittee. He said:

> With the increasing population in our country calling for an accelerated increase in medical professionals, the provisions of S. 2219 to provide training for physicians' assistants, dentists' assistants, and nurse practitioners, would appear to us as a long overdue attempt to correct the situation in health care. It appears to us that the value of the paramedic has been proven on the battlefields of Vietnam. Those trained under the supervision of physicians in health care, ease the strain on physicians and nurses enabling them to better meet the needs in hospitals, health centers, and nursing homes. (Hearings, p. 322.)

One provision included in each of the three approaches is the encouragement of the development of programs for the training of new types of health care personnel, particularly physicians' and dentists' assistants. In addition, common to the second and third approaches are requirements that grantee institutions must stress the team-training approach, training for new roles, types or levels of health care manpower, providing the fullest opportunities for career advancement and mobility within the VA Department of Medicine and Surgery and the community, or recruitment, enrollment, and retention of qualified disadvantaged students. The Committee has designed these provisions, to encourage the implementation of programs which will be complementary to and compatible with programs authorized under the Comprehensive Health Manpower Training Act of 1971 (P.L. 92–157), the Nurse Training Act of 1971 (P.L. 92–158), and the Health Training Improvement Act of 1970 (P.L. 91–519).

COORDINATION WITH THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND VA ADVISORY COMMITTEES

An important provision of the Committee substitute is the requirement that the Administrator of Veterans Affairs and the Secretary of Health, Education, and Welfare, coordinate to the maximum extent practicable, programs carried out under the authorities of the new chapter 82 established by the committee substitute and programs carried out under the education and training authorities of the Public Health Service Act.

Objections have been raised to the expansion of the Veterans Administration authorities to include direct support to health education and training programs in health care personnel education institutions and particularly to the establishment of new health education institutions on the grounds that such activities fragment the federal government's authorities and programs to assist in the training of health care manpower. The Committee carefully considered this contention and found it unpersuasive. The Committee does not intend that rival mechanisms for support of health care manpower programs be established. Instead, in view of the critical health care manpower shortage which exists today and the even more critical shortage predicted for the future, the Committee strongly believes that the full potential of the Veterans Administration medical programs must be utilized as well as Department of Health, Education, and Welfare (DHEW) programs, to meet this critical national need and that special authorities must be established to enable the VA Department of Medicine and Surgery to participate fully in a concerted national effort making use of all the nation's training resources.

During the hearings before the Subcommittee on S. 2219, two former officials of DHEW forcefully supported this position. Dr. Philip R. Lee, Chancellor of the University of California at San Francisco, stated:

As former Assistant Secretary in the Department of Health, Education, and Welfare, with responsibility for the programs of health manpower development, including those of medical, dental, osteopathic, pharmacy, veterinary medical education, nurses training and allied health professions education and training, I do not see this [fragmentation] as a problem. Rather, the problem is the VA lacks authority to fully participate as a partner in this venture. At those universities and schools that work closely with VA, we are seriously limited because of this lack of authority, because the VA cannot openly and fully participate in the programs and cannot share in the costs of the program. . . . The legislation as it is drafted, I think, would not in any way fragment the programs. I think at the local level, as well as national level, it would improve the Nation's capability of dealing with what is acknowledged to be a most serious national problem. I think the lack of that authority limits use of VA resources. (Hearings, p. 273.)

The following exchange took place between Senator Cranston, Chairman of the Subcommittee on Health and Hospitals, and Dr. John Grupenhoff, former DHEW deputy assistant secretary:

Senator CRANSTON. Since you have had considerable association with the Department of Health, Education, and Welfare, I would appreciate your explaining why you do not share the administration's fear about the bifurcation which would occur between HEW and the VA in health manpower training support if S. 2219 were enacted.

Dr. GRUPENHOFF. Senator, this has been the position both in this present administration and the last one, of course. I don't see it that way at all because I believe the only way that you are going to get the kind of cooperation that you want between HEW and the Veterans' Administration is for the Congress to hold their feet to the fire and require that they do get together. . . . I think this bill will do that. I think it is going to require, for the first time, real cooperation between the VA and HEW and I think you ought to push that part of the bill as hard as you can. That will cause a linkage instead of fractionalization. (Hearings, pp. 362–63.)

The Committee substitute also requires that in carrying out its functions under these new or amended provisions, the Veterans Administration through the Department of Medicine and Surgery, consult with the appropriate individuals within and outside the VA who have experience and knowledge in VA medical and hospital programs. The establishment of an advisory subcommittee on programs for assistance for health manpower education and training is specifically directed as a subcommittee of the Special Medical Advisory Group of the VA. This new subcommittee must be consulted fully in VA implementation of pilot programs for the establishment of new health education institutions or in the provision of assistance to affiliated institutions. The Committee intends through these provisions to ensure that training programs supported by the Veterans Administration will be of the highest quality and reflective of the most current innovations in medical technology and the provision of health care.

This new advisory subcommittee is also given the role of advising in the development of regulations covering the terms and conditions for agreements with health education institutions under the new chapter 82 established in the Committee substitute.

Although the Association of American Medical Colleges also expressed concern about the possibilities of fragmentation of responsibility for federal medical educational policy, it felt that a comparison of legislative approaches showed that:

The Veterans Administration Health Manpower Training Act of 1971 [*sic*] [S. 2219]—

(1) provides maximum coordination between the VA and the DHEW not only at the Secretary-Administrator level but also at the advisory group level through authorization of an appropriate subcommittee of the Special Medical Advisory Group;

(2) provides maximum flexibility in funding the two assistance programs and the most realistic levels of funding;

(3) imaginatively broadens the two programs to include assistance to area health education centers, a concept suggested by the Carnegie Commission; and

(4) includes essential assurances that any new school assisted through the program would meet appropriate accreditation standards and that any existing school would not expand its operations to the jeopardy of its accreditation.

In addition, S. 2219 provides special authority for funds to remodel and make special allocations to VA hospitals for health manpower education and training; requires construction of new VA hospitals for close proximity to affiliated medical schools, requiring the new hospitals to include appropriate education facilities; and broadens the health manpower education and training mission of the VA's Department of Medicine and Surgery.

The Association of American Medical Colleges finds these provisions to be particularly attractive. If enacted and fully funded, the Veterans Administration Health Manpower Training Act of 1971 could serve as an important first step in correcting some of the critical problems threatening the traditional VA-medical school association. (Hearings, p. 319.)

EXPANSION OF VETERANS' ADMINISTRATION HOSPITAL EDUCATION AND TRAINING CAPACITY (SUBCHAPTER II)

Well over 50,000 individuals are currently being trained for health care careers each year in Veterans' Administration facilities. In fiscal year 1971, the VA trained 53,086 health care personnel. They break down as follows:

Medical residents	8,975
Dental residents	188
Medical interns	1,877
Dental interns	113
Medical and osteopathic students	12,567
Dental students	1,018
Nurses	15,869
Other professionals (at graduate level)	3,298
Allied health trainees	8,811
Administrative trainees	370
Total	53,086

The potential easily exists for doubling this number over the next five years. A survey of the VA hospitals and clinics conducted approximately a year ago indicated that an additional 12,000 trainees could be accommodated immediately if funds ($36.7 million) were made available for trainee stipends, instructor salaries, space modification and other pertinent costs. (See Hearings, Appendix A.) To facilitate this immediate expansion the Committee substitute authorizes the allocation of up to 30% of the amount appropriated to carry out the new chapter 82 each year (under section 5062) for the attainment of suitable teaching space and equipment and for special allocations which will include trainee stipends and instruction salaries for the development of improved methods of education and training.

PILOT PROGRAM FOR ASSISTANCE IN THE ESTABLISHMENT OF NEW PUBLIC NONPROFIT MEDICAL, OTHER HEALTH PROFESSIONALS, AND ALLIED HEALTH SCHOOLS AND AREA HEALTH EDUCATION CENTERS (SUBCHAPTER III)

The need for additional health training institutions has been well established by a series of well documented and prestigious reports over the past several years. The latest has been the Carnegie Commission Report on Higher Education and the Nation's Health which recommended the establishment of nine new university health science centers, and the development of 126 new area health education centers. The report suggested three Veterans Administration hospitals as potential candidates for establishment of university health science centers and 17 VA hospitals as nuclei for area health education centers. (See Hearings, pp. 26, 246–59.)

The Veterans Administration has already demonstrated the efficiency of establishing a new medical school in conjunction with an established Veterans Administration facility in the newly created Louisiana State University medical school at Shreveport. This new medical school was advanced several years in becoming operational through utilizing the VA hospital and the Confederate Memorial Medical Center, a community hospital, as well as through clinical resources placing a predominant reliance on part-time staffs of those hospitals and physicians from the community as faculty resources.

The Committee believes the LSU Medical

School is a striking example of the potential contribution the Veterans Administration can make to meeting the nation's need for additional health care manpower and that it would be mutually advantageous to the beneficaries of the Veterans Administration and to the nation to encourage the development of additional institutional arrangements similar to that of Louisiana State University with the VA Department of Medicine and Surgery. For this reason the Committee substitute authorizes the implementation of a pilot program for the establishment of new public nonprofit health professions schools, allied health schools, and area health education centers if such schools and centers are located in proximity to, and operated in conjunction with, Veterans Administration medical facilities.

However, to assure that such institutions meet and maintain a high level of quality and relevance to national needs, the Committee substitute places several conditions on the establishment of any new school. First, the Veterans Administration is limited to assisting in the establishment of no more than ten new schools or centers which must be geographically dispersed and which may be health professions or allied health schools, or area health education centers. This numerical limitation will ensure that Veterans Administration resources are not proliferated but are targeted to the development of institutions with a high potential for excellence.

Second, there must be adequate assurance of state or other financial support for the proposed school or center. The Committee expects the Department of Medicine and Surgery to examine with the greatest care the adequacy of likely present and future state financial support for the proposed new institution. It is expected that this will be an extremely important criterion (along with the strength of the assurances of accreditation) for providing assistance, given the likely extreme competition among applicants for limited funds.

Third, the overall plans for the school or center must meet professional and other standards relating to education and training programs that the Administrator, in consultation with the Secretary of HEW, deems appropriate. These plans must include significant programs for (1) cooperative interdisciplinary training among health professions schools and allied health schools with emphasis on the team approach in providing health services; (2) training for new roles, types, or levels of health care manpower, and providing for full opportunities for career advancement and mobility; or (3) the recruitment and retention of qualified individuals who due to socioeconomic factors are financially or otherwise disadvantaged. As noted earlier, these same programs are also emphasized in the recently enacted health professional and nurse training Acts (P.L.s 92–157 and 158).

Fourth, the school or center must maintain mutually beneficial arrangements with the Veterans Administration medical facility with which it is affiliated.

Fifth, there must be reasonable assurance that the new school will meet the appropriate accreditation standards required within a reasonable period of time. The Committee feels this is a vitally important criterion.

Furthermore, under this new subchapter, if the Administrator finds that the school is not accredited and has failed to gain accreditation within a reasonable period of time, or is accredited but has failed to carry out the terms of the agreement, or ceased to be operated for the purpose for which assistance was originally granted, he may recover the facilities which were established with the VA assistance.

The Committee substitute also specifies that the VA may enter into an agreement to provide pilot program assistance only to public non-profit colleges, schools, or universities. This provision will ensure that the necessary academic environment will accompany the establishment of a new health professions school, allied health school, or area health education center. In his testimony before the Subcommittee on Health and Hospitals, Dr. William G. Anlyan, Chairman of the Executive Council, Association of American Medical Colleges, and Vice President for Health Affairs of Duke University strongly supported the intent of this provision with respect to affiliation with ongoing educational institutions.

The level of support to be provided to new health education schools or centers under the new subchapter will be the most substantial in their initial phase of operations. This support could include the leasing to the applicant institution of VA land and buildings, including equipment, which is necessary for the establishment and operation of the school or center, and the alteration of such buildings to make them suitable for use as a teaching facility. This support includes the making of grants to pay in part the cost of the salaries of the faculty for the first seven years, on a graduated level of support decreasing from 90 percent the first three years to fifty percent the last year.

The Committee wishes to stress that nothing in this new chapter is in any way intended to authorize transfer of active VA clinical facilities (or hospitals or units thereof) with VA patients to a health education institution or in any way to authorize the VA to delegate its total responsibility for the operation, administration or health care for patients treated in VA medical facilities.

No less than $25 million of the amount appropriated each year is reserved for expenditure to carry out these pilot programs.

ASSISTANCE TO AFFILIATED MEDICAL, OTHER HEALTH PROFESSIONS, AND ALLIED HEALTH SCHOOLS, OTHER HEALTH MANPOWER TRAINING INSTITUTIONS, AND AREA HEALTH EDUCATION CENTERS (SUBCHAPTER IV)

The third part of the Committee substitute's new chapter 82 to expand the primary function of the Veterans Administration Department of Medicine and Surgery is a program of assistance to those health care manpower education schools or area health education centers affiliated with Veterans Administration medical facilities.

Under the provisions of the Committee substitute the VA, in consultation with the Secretary of Health, Education, and Welfare, is authorized to carry out a program of grants to such institutions to assist them to expand and improve their capacities to train health care manpower. Again, as in the pilot program for the establishment of new educational institutions, conditions are required of grant applicants to ensure that high quality and relevant programs are supported. The application must show that the proposed program will make a significant contribution to improving the program of the institution and will result in a substantial increase in the number of students trained at the institution. Reasonable assurance must be provided that the increase in students will not threaten existing institutional accreditation or otherwise compromise the quality of training at the institution. There must also be appropriate fiscal controls and accounting procedures, as well as provision for making reports to the VA and maintaining records.

As in the case with pilot programs for the establishment of new health care manpower education institutions, the application must set forth significant programs for (1) cooperative interdisciplinary training among health professions schools and allied health schools and allied health schools with emphasis on the use of the team approach in providing health services; (2) training for new roles, types or levels of health care manpower and providing full opportunities for career advancement and mobility; or (3) the recruitment and retention of qualified individuals who due to socioeconomic factors are financially or otherwise disadvantaged.

These authorities will be most beneficial in making assistance available to newly-established and expanding medical schools, other health professions schools and allied health schools affiliated with VA medical facilities. Through grant support, coupled with the teaching potential of the clinical setting of the VA hospital, these institutions should produce significantly more and new types of graduates at a faster pace.

Dean Rheba de Tornyay, of the University of California at Los Angeles School of Nursing, has advised the committee of the substantial impetus the new subchapter would give to nurse training:

> The "Veterans' Administration Health Manpower Training Act of 1971" will provide much needed assistance to schools of nursing both to increase enrollment in existing training programs and to provide additional facilities for preparing nurses for increasing responsibilities in the care of people.
>
> The need for increasing the supply of nurses has been well documented. . . . The community need for these nurses, and the applicants for enrollment to the community college nursing program continues to be greater than the schools can accommodate with current budget and facilities . . . .
>
> The objective of helping each person to live his life in comfort and dignity is a central nursing goal. All older Americans, and most certainly a citizen who has served his country in its time of need, deserves personalized and humane care. An area of health care as yet undeveloped is the Geriatric Nurse Practitioner. These nurses would be prepared through carefully supervised clinical experiences with concurrent theoretical courses to work independently with older patients presenting chronic physical and emotional problems. . . . To date, such a program has not been developed as an integral part of a baccalaureate nursing program. . . .
>
> If additional faculty could be added to the school of nursing faculty, a project for preparing Geriatric Nurse Practitioners could be undertaken to produce nurses prepared for primary roles in caring for patients with cronic problems in conjunction with the Veterans' Hospital. Research is badly needed in long term illness, for example, on the effects of such interventions as stimulation and irritation to prevent sensory deprivation and its effect on the central nervous system. The utilization of the extended care facility of this Veterans' Hospital would provide much needed research facilities for the graduate program in nursing. . . . The funds provided by this proposed legislation could assist in providing both classroom space and laboratory space for such research efforts.
>
> The partnership of a school of nursing financed through local taxes . . . and the Federal Government through the use of Veterans' hospitals will benefit all—patients, students, and the communities involved.

Implementation of the programs for assistance to allied health schools authorized by the Committee substitute can be particularly beneficial at community colleges. This benefit was vividly described by Nancy Hartley, Dean of Instruction, St. Petersburg Junior College, St. Petersburg, Florida. Dean Hartley testified:

> There is a great need for the VA hospitals to be prime movers in coordination with the local, state, and regional plans for a health training system approach to meet health manpower needs.
>
> This Bill can be the basis for the upgrading of health workers through the ladder concept by certificated, associate degree, baccalaureate degree, and upward mobility for the health fields workers. *We must avoid set-*

ting up splintered patterns and expensive duplication of programs.

Planning must help alleviate the needless duplication and competition that now exists, and must feed into the educational system and have input and feedback through both educational and health care delivery systems.

The colleges, through such a Bill, could: 1) expand existing programs and put out larger numbers of workers more rapidly; 2) provide multidiscipline laboratories that would keep down costs of duplication of expensive equipment; 3) assist with better utilization of scarce, highly-specialized instructors in health occupations; 4) have more clinical facilities of a variety of experiences available for teaching health workers; 5) establish a career ladder approach through a system of moving in and out of work and learning programs at the community level; 6) work through the educational system evaluation methods of programs; 7) do individual student teaching programs for returning veterans and the new careers persons.

There is a great need for health occupations educational innovative centers in the states. This Bill could assist in allowing the development of research of new programs (which is almost financially prohibitive by each individual public college). Their acceptance into the revision of the systems of health care that is practically upon us cannot be borne by college financing alone. When a form of true universal health care meets us in one or two years, there will be an increasing crisis in health manpower training sources. This Bill could be a vehicle through which programs can be studied in light of a coordinated system with the colleges conducting the on-going programs. We must be vigilant that we do not have two distinct medical care systems develop in the United States.

The increase of cost of land and buildings for public community colleges is becoming critical. Existing land and buildings for the more expensive health programs could help keep the operating costs down for the taxpayers. The mobility of health workers throughout the country speaks for the need of more Federal support for their educational programs, rather than the states paying unevenly for expensive programs and the new graduates from health occupations moving freely throughout the country.

Locally, statewide, and nationally, the community colleges . . . can, with the cooperation of the system of VA hospitals as defined in this Bill, be a part of a flexible, coordinated, educational system to prepare health occupations manpower for the future coordinated system of health care delivery for the people of this country. (Hearings, p. 375.)

Mr. William M. Samuels, Executive Director of the Association of Schools of Allied Health Professions, also testified to the particular value the provisions of the Committee substitute would have to the development of allied health training programs:

The use of Veterans Administration hospitals in affiliation with community colleges and four-year colleges could be one step to help bridge a gap of program support, instructional space and teacher preparation that now exists in the training of allied health professionals. By and large, we are talking about programs that can be implemented without the need of construction funds and in areas with clinical space and with qualifying instructional personnel. Affiliation agreements between educational institutions and Veterans Administration hospitals—if properly supported—can be implemented with a minimum amount of effort and results could be realized within a very short period of time.

Recognizing that there is a limitation on the dollars this nation can spend on health, I am confident that with an appropriation authority the Veterans Administration in working *with* educational institutions can serve as a realistic model for other community hospitals. Building on the utilization of the strength of the Veterans Administration system including hospitals, manpower, and space, I feel sure that this could take us a step nearer to the achievement of our health goals for society. (Hearings, p. 397.)

Dr. Philip R. Lee, Chancellor of the University of California at San Francisco, paralleled these views in his testimony before the Subcommittee, stating:

The new authorities in S. 2219, as do those in House Joint Resolution 748, would stimulate and make possible a full partnership among the Veterans' Administration, educational institutions, and community hospitals and the public that we all serve. They build on the strong and mutually beneficial relationships between the Nation's medical, dental, nursing, pharmacy, and other health professions schools and the Veterans' Administration. The needs and the potential were well described in relation to physicians in House Committee Print No. 14. "History and Potential of Veterans' Administration—Medical School Relationships for Meeting Physician Manpower Needs", issued on March 11, 1971. The authorizations in S. 2219 meet the needs described in that report and when matched by adequate appropriations, will make a significant contribution to both improving the care for veterans and assisting in meeting our health manpower shortage. (Hearings, p. 270.)

This bill is an excellent complement to the Health Professions Education Assistance Amendments of 1971 [Comprehensive Health Manpower Training Act of 1971 (P.L. 92-158)], and the Nurse Training Act of 1971 [(PL. 92-158)]. They cannot be viewed in isolation because they all contribute significantly to meeting a critical national need.

The Veterans' Administration Health Manpower Training Act (S. 2219) and the Veterans' Administration Medical School Assistance and Health Services Personnel Education Act (House Joint Resolution 748) deal with health manpower needs in a manner suited to the unique resources of the Veterans' Administration. And in a manner that should enhance the basic mission of the VA for providing quality medical and hospital care to veterans. . . .

COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress), the Committee estimates that there would be no expenditures incurred in the fiscal year ending June 30, 1972 (except for very minimal start-up costs for RME centers pursuant to section 4 of the Committee substitute), and, if all funds authorized for appropriations are appropriated pursuant to the new chapter 82 which would be added by section 6 of the Committee substitute, in the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years, there would be $126.6 million (of which $1.6 million would be for four RME centers) in expenditures incurred in carrying out S. 2219, as reported.

SECTION-BY-SECTION ANALYSIS OF COMMITTEE SUBSTITUTE

Section 1 establishes the title of the proposed Act as the "Veterans' Administration Health Manpower Training Act of 1972."

Section 2 sets forth nine findings and declarations by the Congress with respect to: the nation's shortage of qualified health manpower; the great needs for expansion of training and education of health manpower; the unique and substantial untapped capacity of the Veterans' Administration (with its existing affiliations with 84 medical and 52 dental schools, 304 nursing schools and 400 institutions of higher learning which educate and train health care manpower) to assist in the expansion and improvement of existing and the establishment of new affiliated medical, other health professions and allied health schools and area health education centers as well as generally to assist in the expansion and improvement of education and training opportunities for all health personnel; the VA's special responsibility and unique ability to train and employ veterans with medical military occupation specialties (MOS's) as physicians' assistants; and the essentiality of increased training of health manpower if the Nation is to provide the best possible medical care for its veterans. The specific clauses in the section are self-explanatory.

Section 3 revises subsection (b) of present section 4101 of title 38, regarding functions of the VA's Department of Medicine and Surgery (DM&S), by adding to the basic VA mission (providing complete medical and hospital services for veterans) the function of assisting in providing an adequate supply of health care manpower to the entire Nation as long as that function does not interfere with the VA's primary mission. Subsection (b) presently *limits* education and training activities to those "in order to more effectively carry out" the basic DM&S mission. Under the revised subsection, the Administrator, in order to assist the Nation to meet its needs for more health care manpower, is directed to carry out a program of education and training of health care manpower in cooperation with health professions and allied health schools, other institutions of higher learning, academic health centers, and area health education centers. Special emphasis is again made on the training and employment of veterans with medical MOS's as physicians' and dentists' assistants.

The revised subsection also would add a new second sentence requiring that the President's annual budget request contain a separate line item for VA health care manpower education and training.

The revised subsection resembles the VA-proposed revision (included in section 201 of the administration bill—S. 1924) and establishes the basic framework for the chapter 82 to be added to part VI of title 38 by section 6 of the Committee substitute (S. 2219).

Section 4.—Subsection (a) adds a new subchapter II (Regional Medical Education Centers) to chapter 73 (Department of Medicine and Surgery) of title 38. The provisions of the new subchapter are virtually identical to those contained in section 2 of S. 2355, the proposed "Veterans Administration Continuing Medical Education Act," introduced by Senator Cranston on July 27, 1971.

Section 4121 of the new subchapter.—Subsection (a) directs the Administrator to designate no less than four Regional Medical Education Centers (Centers) at geographically dispersed VA hospitals to assist the VA in carrying out the expanded health manpower training responsibilities assigned to it under the revised section 4101 in section 3 of the committee substitute. (Cross reference should also be made to the new subsection (c)—stressing new and improved methods of providing care, the development of new types of health manpower, especially physicians' and dentists' assistants, and programs for continuing education and providing maximum lateral and upward mobility—which would be added to present section 4101 by section 201 of the S. 2345 Committee substitute.)

Subsection (b) of the new section specifies the purposes of Centers as follows: to provide in-residence (in VA hospitals designated as Centers) continuing medical and related education programs for VA health personnel and, where space is available, non-VA health personnel on a reimbursable basis. Instruction is to be intensive and on an advanced level in terms of new medical technologies and equipment and clinical techniques, investigations, and demonstrations of new and greater utilization of health personnel, but also to include verification and remediation, where necessary, of basic medical skills (refresher/deficiency courses).

Section 4122 in the new subchapter—Section (*a*) places responsibility for operation of the Centers in the DM&S Chief Medical Director and directs that the highest qualifications be used for assigning instructors to the Centers.

Subsection (*b*) *of the new section* directs the Chief Medical Director to grant special recognition to the achievements of career DM&S personnel by assigning them temporarily as visiting instructors at Centers.

Subsection (*c*) *of the new section* authorizes the Chief Medical Director to contract for services when necessary to obtain certain scarce specialists to serve as Center instructors.

Section 4123 in the new subchapter establishes the basic eligibility of persons for training at Centers and directs that preference be given career DM&S employees in assignment of health personnel for training. Reimbursement to the VA is required for any non-VA trainee.

Section 4124 in the new subchapter directs the Chief Medical Director to consult with the special medical advisory group (SMAG) (and any appropriate SMAG subcommittee) established under present section 4112a of title 38 (cross reference should be made to section 6 of the Committee substitute in which new section 5063(b) directs the Administrator to establish an Advisory Subcommittee for Assistance for Health Manpower Education and Training under SMAG) and with the dean's committee for any VA hospital where a Center is to be established.

Section 3.—Subsection (*b*) amends the table of sections at the beginning of chapter 73 to include appropriate reference to the new subchapter added by section 4 of the Committee substitute.

Section 5 adds at the end of subsection 5001(c) of title 38, regarding the location of VA hospital and domiciliary facilities, a requirement—reflecting present VA policy—that, to the extent feasible, a new VA hospital shall be constructed only in close proximity to an accredited medical or osteopathic school which is affiliated or has agreed to affiliate with the VA hospital in question. Replacement hospitals (where affiliations did not exist at the replaced hospital) are specifically exempted. Such construction shall include such classrooms, lecture facilities, laboratories, and other teaching facilities (reference to teaching space, aids and beds in the original bill was deleted as redundant) necessary to carry out health care manpower training in accordance with the purpose of the new chapter 82 to be added by section 6 of the Committee substitute. (Similar language is included in the proposed subchapter II (section 5064) of that new chapter, regarding improvements to existing VA health facilities, for the same health care manpower education and training purpose.)

Section 6.—Subsection (*a*) adds to part VI of title 38 (Acquisition and Disposition of (VA hospital and domiciliary) Property) a new chapter 82 (Utilization of Veterans' Administration Hospitals to Improve and Expand Education and Training of Health Manpower).

Subsection I of the new chapter sets forth basic chapter-wide requirements for coordination with other Federal programs and promulgation of regulations, authorizes appropriations to carry out the new chapter, and establishes certain limitations on expenditure of funds.

Section 5061 in the new subchapter directs the Administrator and the Secretary of Health, Education, and Welfare, to the maximum extent practicable, to coordinate programs carried out under the new chapter 82, of title 38, and programs carried out under Public Health Service Act section 309 (Project Grants for Graduate Training in Public Health), title VII (Health Research and Teaching Facilities and Training of Professional Health Personnel, including Training in the Allied Health Professions), title VIII (Nurse Training), and title IX (Education, Research, Training, and Demonstrations in the Fields of Heart Disease, Cancer, Stroke, Kidney Disease, and Other Related Diseases).

Section 5062 in the new subchapter authorizes appropriations of $125 million each for fiscal years 1973 through 1979, and provides that any funds appropriated pursuant to this section shall remain available until expended. Of the full amount appropriated annually under this authorization, the new section reserves (earmarks) $25 million only for carrying out new subchapter III (establishment of new health manpower schools and centers) of the new chapter. This new section further provides that no more than two percent of the funds appropriated pursuant to this new section for any fiscal year may be used for administrative expenses in carrying out the provisions of the new chapter. (Other appropriations in connection with the VA medical program could also be used for such administrative expenses, as necessary.)

Section 5063 in the new subchapter.—Subsection (*a*) prohibits the Administrator from entering into agreements under provisions of the new chapter with respect to new subchapter III pilot programs (establishment of new health manpower schools and centers) after the close of the seventh calendar year after the year in which chapter 82 would take effect, and sets the same prohibition with respect to new subchapter IV grants (assistance to affiliated health manpower training institutions and centers).

Subsection (*b*) *of the new section* directs the Administrator to establish the Advisory Subcommittee on Programs for Assistance for Health Manpower Education and Training of the Special Medical Advisory Group established pursuant to present section 4112 of title 38, and further prohibits the Administrator from entering into any agreements or making any grants under these same programs (subch. III & IV) without prior consultation with such Advisory Subcommittee. The Assistant Chief Medical Director for Research and Education in Medicine is made an ex officio member of the new section 4124.

Subsection (*c*) *of the new section* directs the Administrator to ensure that qualified veterans shall be given priority for admission to health manpower education and training programs assisted under the new chapter or any provision of title 38, and that highest priority be given to those who served during the Vietnam era and those who are entitled to Veterans' Administration disability compensation or whose discharge or release was due to a disability incurred or aggravated in line of duty. All Vietnam era veterans and returning servicemen with medical M.O.S.'s are to be advised of, and actively recruited for, opportunities under the new chapter and for training and employment in a health care career in DM&S.

Subsection (*d*) *of the new section* directs the Administrator, after consultation with the Advisory Subcommittee established pursuant to new section 5063(b), to prescribe regulations covering terms and conditions for entering into agreements under new subchapter III and making grants under new subchapter IV of the new chapter.

Subsection (*e*) *of the new section* with minor modification this new subsection is identical to language recommended by the Comptroller General in his October 6, 1971 report on the bill.

Paragraph 1 requires each recipient of assistance under the new chapter to maintain full and complete records, broken down by projects and showing funding from other sources, as are needed to facilitate effective audit.

Paragraph 2 requires each recipient of assistance to make available to the Administrator and the Comptroller General of the United States (GAO) all such records, books, and other relevant papers.

Subchapter II of the new chapter sets forth new ways for the Administrator to expand the Veterans' Administration in-house health manpower education and training capacity.

Section 5064 in the new subchapter provides in clause (1) that up to 30 percent of the sums appropriated pursuant to the authorization in the new section 5062 may be spent to extend, expand, alter, improve remodel or repair VA buildings (including provision of equipment and, where necessary, the addition of teaching facilities) (reference to teaching space, aids and beds in the original bill was deleted as redundant) to the extent necessary to make them suitable for use for health care manpower education and training to carry out the expanded mission of DM&S as it would be newly defined in the amended section 4101(b) of title 38 (to assist in providing an adequate supply of health care manpower to the Nation, as long as that does not interfere with the primary V.A. mission of providing complete medical and hospital services for veterans) included in section 3 of the Committee substitute. (Cross reference also section 201 of the S. 2354 Committee substitute.) Clause (2) provides that these funds also may be spent for the development of improved methods of education and training which may reduce the period of required education and training for health care personnel without adversely affecting the quality of such education or training.

Subchapter III of the new chapter authorizes the implementation of a pilot program for assistance in the establishment of new public nonprofit medical, other health professions, and allied health schools and area health education centers, if located in proximity to and operated in conjunction with VA medical facilities.

Section 5065 in the new subchapter sets forth the purposes of the new subchapter, as described above.

Section 5066 in the new subchapter defines the term 'area health education center,' 'health professions school' (includes nursing) and 'state.' Accreditation, or reasonable likelihood thereof, by recognized bodies is required as a precondition to assistance.

Section 5067 in the new subchapter.—Subsection (*a*) describes the assistance which may be provided to eligible institutions in three clauses as follows:

Clause (*1*) *of the new subsection.*—Leasing to the college or university of land, buildings and other structures (including equipment therein) under the control of the Veterans' Administration as may be necessary for the establishment and operation of a school or center as defined in new section 5066. Adopting the general proposals in section 301 of the administration's sponsored bill (S. 1924), the clause provides that any lease made pursuant to new subchapter II of new chapter 82 would be authorized to be made without regard to the provisions of section 5 of title 41, United States Code, which requires advertising where the lease exceeds $500. Since any lease under this section would not be for commercial purposes, but only for health, or educational purposes, advertising in these cases serves no useful purpose but does involve time and expense that is considered unnecessary.

In addition, any lease under this subchapter would be exempt from the provisions of section 303b of title 40, which bars lease provisions calling for alteration, repair, or improvement of such leased property as part of the consideration for the rental to be paid. Under the proposed change, the lessee would be permitted to maintain, protect or restore property where such property is leased to public or nonprofit organizations. In negotiating the rental value, practice is to set a rate that will serve to recapture the value of all services provided by the Government. In some instances, if the lessee were required to provide for maintenance and protection of the property leased, the Veterans' Administration could be relieved of certain expenses for materials and personnel.

Clause (2) of the new subsection.—Extension, remodeling, or repair of buildings and structures (including the provision of initial equipment or the replacement of obsolete or worn out equipment—reference to the addition of hospital teaching beds in the original bill was deleted as redundant) to the extent necessary to make the VA hospital in question suitable for use as a health care personnel training school or area health education center facility.

Clause (3) of the new subsection.—Payment of grants to support the costs of faculty salaries during the first seven years of the school or center's operation, such support to represent not more than 90 percent of the cost of faculty salaries during the first three years of operation and not more than 80, 70, 60, and 50 percent during the succeeding four years of operation.

Subsection (b) of the new section.—Paragraph (1) sets forth requirements that must be included in the agreement with the institution, entered into by the Administrator pursuant to new section 5067(a), as follows:

Clause (A) in the new subsection.—That state or other financial support for the proposed school or center be adequate. Present section 5035(a)(6) requires similar assurances in connection with the application by a state for V.A. construction grants for state veterans nursing facilities. The original S. 2219 clause (A) required the college or university to submit a plan whereby it agreed to provide during the term of the agreement its share of the financial support for the proposed school or center, including full financial support for all programs essential to assure that the school will meet the accreditation standards of appropriate accreditation bodies approved for such purpose by the Commissioner of Education of the Department of Health, Education, and Welfare. This language is deleted in order to provide the Administrator more flexibility in connection with this condition, although the original provision should be referred to for guidance.

Clause (B) in the new subsection.—That the overall plans for the school or center must meet such professional and other standards as the Administrator deems appropriate in consultation with the Secretary of Health, Education, and Welfare; and must include significant programs for cooperative interdisciplinary training among health professions and allied health schools, with emphasis on the use of the team approach in providing health services, training for new roles, types or levels of health care manpower (including training of physicians', dentists', or other health professions' assistants and/or nurse practitioners), providing for career mobility, or programs for recruiting, enrolling, and retaining qualified individuals who due to socioeconomic factors are financially or otherwise disadvantaged.

Clause (C) in the new subsection.—That the school or center must maintain mutually beneficial arrangements with the Veterans' Administration medical facility with which it is associated.

Clause (D) in the new subsection.—That the school must show that there is reasonable assurance that with the aid of an agreement under new section 5067(a) it would meet the accreditation standards of appropriate bodies. This requirement was strongly supported by the American Medical Association of Medical Colleges in its testimony.

Paragraph (2) of the new subsection directs that any agreement entered into pursuant to subchapter III shall contain such terms and conditions as the Administrator deems necessary and appropriate to protect the interest of the United States.

Subsection (c) of the new section limits the Administrator to providing assistance in the establishment of a total number of no more than ten new health institutions, which may be public nonprofit health professions and allied health schools or area health education centers, and directs that schools and centers established with assistance under subchapter III shall be geographically dispersed throughout the United States.

Subsection (d) of the new section authorizes the Administrator, in accordance with regulations, to recover from recipients of assistance under the new subchapter III, the facilities which were established with such assistance—and authorizes an action in the appropriate Federal District Court to make such recovery—when he finds that (1) the school has failed to gain accreditation within a reasonable time; (2) it is accredited but has failed to carry out substantially the terms of the agreement entered into under the new section 5067(a); or (3) it is no longer operated for the purposes for which the assistance was granted.

Subchapter IV of the new chapter provides for assistance to VA affiliated medical, other health professions, and allied health schools and other care health manpower training institutions, and area health education centers in order to assist such institutions to expand and improve their capacities to train health manpower.

Section 5071 in the new subchapter sets forth the purpose of the new subchapter, as described above.

Section 5072 in the new subchapter defines the term "eligible institution" as being a nonprofit public or private health professions school of the type defined in section 5066(2), area health education center of the type defined in section 5066(1), or institution for the training or education of allied health or other health personnel, which maintains an affiliation with the Veterans' Administration. Unlike subchapter III, assistance under Subchapter IV is available for nonprofit private as well as public institutions, whereas new subchapter III includes only public institutions.

Section 5073 in the new subchapter.—Subsection (a) provides that grant applications from eligible institutions to carry out projects and programs for the expansion and improvement of the institution's capacity to train health care manpower must include plans to carry out projected programs. Grants which provide for the construction of facilities may support only the extension, expansion, alteration, improvement, remodeling or repair of existing structures (including provision of initial equipment and replacement of obsolete or wornout equipment).

Subsection (b) of the new section authorizes approval of applications for a grant under new section 5073 only if the Administrator finds, in consultation with the HEW Secretary, as follows:

Clause 1 of the new subsection.—That the grant will be for a project or program which will make a significant contribution to improving the education (including continuing education) or training program of the eligible institution and will also result in a substantial increase in the number of students trained at the institution;

Clause 2 of the new subsection.—That there is assurance that the increase in the number of students will not threaten any existing accreditation or compromise the quality of training at the institution;

Clause 3 of the new subsection.—That the application provides for proper fiscal control and accounting procedures;

Clause 4 of the new subsection.—That the application provides for making appropriate reports and keeping such records as the Administrator may require; and

Clause 5 of the new subsection.—That the application sets forth significant programs for carrying out the same innovative programs required in the new section 5067(b)(1)(B) in the new subchapter III.

Section 5074 in the new subchapter provides for the manner in which payment may be made pursuant to grants under subchapter IV.

* * * * *

Subsection (b) of Section 6 makes conforming changes in the table of parts and chapters at the beginning of title 38 and the table of chapters at the beginning of part VI of title 38.

Mr. CRANSTON. Mr. President, before closing, I want to express my personal appreciation to the Senate staff who worked so hard to bring this bill from introduction, through hearings and subcommittee and full committee consideration, to the floor for passage this morning. Most particularly, I am indebted to the tireless and dedicated efforts of Jon Steinberg, my counsel, Louise Ringwalt, research analyst, and Mary Jane McConnell and Terri Morgan, Guy McMichael, general counsel of the Veterans' Affairs Committee, Tyler Craig, minority professional staff member on the committee, and Hugh Evans of the Legislative Counsel's office.

Also, I want to thank the General Counsel's office of the Veterans' Administration for the always excellent quality of its technical assistance throughout our preparation and consideration of this legislation: particularly Al Bronaugh, Associate General Counsel, Bob Coy, Assistant General Counsel, and Charlie Johnston, Deputy Assistant General Counsel.

Mr. President, I want also to express my continuing admiration for the leadership in veterans' matters in the Congress of my good friend from Texas (Mr. TEAGUE), chairman of the Veterans' Affairs Committee in the other body. We have worked together closely on veterans' affairs since I came to the Senate 3 years ago. His staff and mine have already conferred extensively on this measure and the differences between the House and Senate version. We have already taken into consideration the results of those consultations in many places in the committee substitute, and I believe the basic thrusts of the Senate bill will be acceptable to the other body. I feel confident we can agree readily upon a bill to send to the President without the need for a conference.

Mr. President, I appreciate the courtesy and cooperation of the assistant majority leader (Mr. ROBERT C. BYRD) and the minority leadership in calling the bill up this morning. I also am very grateful for the great support and contributions of the chairman of the Veterans' Affairs Committee (Mr. HARTKE), and the cooperation of the ranking minority member (Mr. THURMOND), and the ranking minority member of the Subcommittee on Health and Hospitals (Mr. HANSEN).

Mr. President, the VA operates the country's largest medical system—166 hospitals and 202 outpatient clinics—and is affiliated with 84 medical, 52 dental, and 304 nursing schools, and 400 institutions of higher learning which train health care personnel. The bill we are about to pass this morning aims to utilize to the fullest extent these extensive VA facilities and relationships to overcome current national health-care shortages and to meet today's pressing medical needs. Enactment of the committee substitute will insure both maximum utilization of the VA potential for training health-care personnel and the highest quality medical services for the veteran.

Mr. President, I move that House Joint Resolution 748 be amended by striking out all after the resolving clause and inserting in lieu thereof the text of S. 2219, as reported by the Committee on Veterans' Affairs on April 21, 1972; that is, the amendment in the nature of a substitute for the bill.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my strong support for S. 2219, the Veterans' Administration Health Manpower Training Act of 1972, which was reported by the Senate Committee on Veterans' Affairs on April 21, 1972.

The purpose of this bill is to encourage the utilization, to the fullest extent, of the capacity of VA hospitals and other VA health facilities for the training and education of physicians, dentists, nurses, and other health professionals, including the training of paraprofessionals such as physicians' assistants and nurse practitioners. In order to achieve this objective, the committee bill proposes to improve the capacity of the Veterans' Administration to train these personnel by maximizing the potential of VA medical resources in order that the VA can exert leadership within the medical community in providing these highly innovative health manpower education and training programs.

S. 2219 authorizes programs which will make available a continuing medical education for the health care staff of VA hospitals, the staffs of other Federal medical facilities, and members of the surrounding medical community. These programs would operate on a reimbursable basis and would utilize certain VA hospitals as regional medical centers. This approach will serve a dual purpose, in that it will keep existing VA medical care centers modern and innovative and at the same time help the VA to recruit new and high quality health professionals. This bill also directs that, to the extent feasible, all new VA hospitals are to be constructed in close proximity to a medical school.

The total amount authorized by this bill is $125 million per year for 7 years beginning with fiscal year 1973, which would be allocated as follows:

Up to 30 percent of the amount appropriated each year could be used for expansion of the VA's own hospital education and training capacity through remodeling and renovation of existing facilities to provide for expanded education programs as well as through special allocations to particular VA hospitals to develop and initiate improved programs for education and training.

No less than 25 percent of the total amount appropriated could be used for VA grants to State institutions to assist them in the establishment of up to 10 new medical and allied health professions schools or area health education centers.

Any unused balances could be used for VA grants to any nonprofit medical and other health professions training center which maintains a teaching affiliation with the VA Department of Medicine and Surgery. These grants would be for the purpose of expanding and improving the capacity of those institutions to train health manpower, and while they could be used to remodel existing facilities, they could not be used for the construction of new facilities.

Mr. President, I believe the Veterans' Administration is uniquely qualified to make an enormous contribution to the conception and development of new methods of training of health personnel. I believe that S. 2219 will give the agency the needed authority and the resources to make that contribution, and in addition, it will insure better care for veterans in existing facilities and take us one step nearer to achieving adequate health care for all of the American people.

Mr. THURMOND. Mr. President, I am pleased to add my support to S. 2219, the Veterans' Administration Health Manpower Training Act of 1972, of which I am a cosponsor.

This bill will use our present Veterans' Administration hospitals and facilities for the training of physicians, dentists, and other health professionals. In order to assure an adequate supply of health personnel for the medical care of our veterans, it is essential that prompt action be taken on this bill.

S. 2219 will expand current training measures of the Department of Medicine and Surgery; provide new hospitals in close proximity to a medical school which agrees to affiliate with the VA; expand VA hospital education and training capacity; assist in establishing 10 new medical schools; and will authorize appropriations of $125 million annually for this nationwide program.

Mr. President, VA hospitals have offered hospital based education experience to most of the Nation's medical schools for 25 years. During 1971 more than 50,000 students participated in training at VA institutions. The contribution of the VA to health education has thus been a larger one and the capacity exists for an even larger contribution in the future.

The success and productivity of the partnership between the Federal Veterans' Administration and our higher education system has had great support throughout the entire health care system. Eight hundred eighty-five colleges and universities involved in allied health professions have some sort of affiliation agreements with neighboring Veterans' Administration facilities. There are over 1,000 junior and community colleges with programs in health education. An estimated 2,000 clinical facilities also offer training in allied health fields.

Mr. President, all of these programs are interested in meeting the demand on our health system by training needed professionals in the new techniques. However, rising costs of construction and instruction could very well mean that many of these programs, which have already proven themselves, will be lost. This is one of the reasons why such a plan as that outlined in S. 2219 is necessary.

Another required ingredient of health education is clinical practice within an allied health facility. One of the major roadblocks to the development of such programs is the shortage of clinical sites for these programs. The need is critical for community colleges and universities as this clinical shortage reduces the number of students that can be admitted to education programs.

Another serious roadblock is the absence of well qualified instructors. Teacher preparation already carries a high priority; but without ready means to expand our educational facilities this need cannot be met. Program aid, instruction space and teacher preparation can be enhanced by proper support from the Veterans' Administration.

Mr. President, using the strength of the Veterans' Administration system will bring us nearer to the achievement of our health goals for society. I urge my colleagues in the Senate to join with me in supporting this legislation and in furthering our national health standard.

Mr. WILLIAMS. Mr. President, today the Senate is considering one of the major pieces of health legislation of this session of Congress—S. 2219, the Veterans' Administration Health Manpower Training Act of 1972, which the Senate Veterans' Affairs Committee has reported favorably, significantly improves the VA's health programs and consequently national health programs.

In the United States, we know of severe shortages of medically trained personnel. For example, the country needs a minimum of 48,000 additional doctors and 17,800 dentists to insure Americans of adequate health care. Faced with this shortage, we must progress toward the fulfillment of the Government's responsibility of insuring medical care for all Americans and veterans in particular.

I am pleased to say that I have joined Senator CRANSTON, the distinguished manager of this bill, in sponsoring the legislation before us. This bill addresses itself to the need for medical personnel and for improving facilities in Veterans' Administration hospitals and related facilities.

The Veterans' Administration has an unusual and important position in the realm of health services as it operates the largest medical care system in the United States. The size, diversity, and quality of medical services, and relative freedom from restrictive licensing and regulations permit considerable innovation and expansion of VA health training programs. Furthermore, the VA's Department of Medicine and Surgery is now actively affiliated with 84 medical schools, 52 dental schools as well as nursing schools, colleges, and universities.

I would like to take this opportunity to comment on a few points of the bill which seem to be most significant. First, it expands the mandate of the VA Department of Medicine and Surgery to assist in providing an adequate supply of health care manpower for national needs in addition to providing complete medical and hospital service for veterans. This expansion of the VA's hospital education and training capacity will be accomplished by remodeling and renovating existing facilities and by developing improved methods of education and training.

A serious problem facing the Vietnam era veteran is employment. In March, the unemployment rate for young veterans was 9.8 percent. This program of expanded training would emphasize recruiting and training veterans with medical military occupational skills so that they may build on their military experience to pursue civilian health careers.

S. 2219 also directs that, to the extent feasible, any new VA hospital is to be constructed in proximity to a medical school. This would maximize the hospital's potential to serve as a training center. I am very interested in this important provision because of the particular situation in southern New Jersey. I have been working with the entire New Jersey congressional delegation and Governor Cahill to secure funds for the construction of a new VA hospital which would serve the nearly 300,000 veterans who live in southern New Jersey. At this time, we are seeking money for planning and the State of New Jersey has committed itself to building a medical school in conjunction with the hospital.

S. 2219 also provides for the extension of grants to public nonprofit institutions to assist in the establishment of up to 10 new schools of medicine and other health professions. This assistance could include leasing cost-free unused VA hospital space and other health facilities, improving and extending such facilities to make them suitable for educational purposes, and reimbursement of salaries paid for the first 7 years of the operation of the new school or center.

A final important provision of this bill to enhance the health care services in the country is made for consultation with the Secretary of Health, Education, and Welfare and academic accrediting bodies to insure the maintenance of high standards of education and health care provided by the facilities.

S. 2219 authorizes $125 million per year for the next 7 years to be spent in implementing these programs.

It is clear that we must make a strong commitment to improving health services in this country. I believe that great progress in this direction can be made by working through the Veteran's Administration Department of Medicine and Surgery. S. 2219 makes such a commitment and will unquestionably raise the caliber of health care in this country.

I want to commend Senator CRANSTON, chairman of the Health and Hospital Subcommittee of the Veterans' Affairs Committee, and a most valued member of the Labor and Public Welfare Committee, for developing this important legislation. His conscientious study and work has resulted in developing this vital program which fills a critical need by providing veterans with the health services they rightly deserve and a substantial improvement in the general health care in America.

VETERANS' ADMINISTRATION CAN CONTRIBUTE SIGNIFICANTLY TO HEALTH CARE

Mr. RANDOLPH. Mr. President, it is a privilege to join my colleagues on the Veterans' Affairs Committee in recommending this legislation. It will significantly expand the role of the Veterans' Administration by increasing health care manpower for the benefit of our veterans, in fact for the benefit of all Americans.

The health care crisis in our Nation grows more acute each day. It is a complex problem. And it is receiving the careful study of many organizations and, of course, the Congress. This bill, S. 2219, the Veterans' Administration Health Manpower Training Act of 1972, can help alleviate this crisis.

By this measure, we are authorizing the expansion of the function of the Veterans' Administration Department of Medicine and Surgery to include assisting in providing an adequate supply of health care manpower for national needs.

Our country needs additional physicians, dentists, nurses, other health professionals, allied health professionals and paraprofessionals and other health manpower, including new types of health care personnel such as physicians' assistants, dentists' assistants, and nurse practitioners.

To meet these manpower shortages requires the establishment of additional institutions and programs to provide the necessary training and education and innovative leadership. The VA is uniquely qualified to fulfill this goal. It has the nationwide network of hospitals, clinics, and extended care facilities and ongoing reputable training and education programs. And by approving this measure we are challenging the VA and charging it with the responsibility to be the leader in putting its medical resources to work in meeting the great national need for additional and new types of health manpower.

The major provisions to attain this goal are a pilot program authorizing the VA to assist in the creation of up to 10 new nonprofit medical and other health professions and allied health schools; the expansion of its own education and training programs; and assistance to institutions which maintain a teaching affiliation with the VA Department of Medicine and Surgery to increase and expand the capacity of those institutions to train health-care manpower.

Mr. President, I strongly believe that all of us will be recipients of the benefits of this legislation. Our veterans will be assured continuing high quality medical care with the most recent techniques and innovations in health care. New health manpower fields and personnel will be more quickly and effectively incorporated into our health care system. And all Americans will have greater access to medical personnel which will be increased by this legislation.

I am hopeful that the House will adopt the Senate's more expanded and comprehensive plan in putting to better use the Veterans' Administration medical network and that we will see the early implementation of this effort to alleviate the health manpower shortage.

Our Veterans' Affairs Committee has carefully considered this new approach to the supply of health personnel and this expansion of the VA medical system and purpose. I believe we are making a vital and important step forward by our recommendations of action. The Senator from California (Mr. CRANSTON) is continuing his effective leadership in the area of veterans health care by his activities of this legislation. I am pleased to cosponsor this vital measure and to have worked within our Committee on Veterans' Affairs to bring it to the Senate for approval.

Mr. HANSEN. Mr. President, the Veterans' Administration Health Manpower Training Act of 1971 will provide much needed assistance to schools of medicine and allied health care preparing personnel for the increasing responsibility in care of the people.

The need for increasing these professionals has been well documented. The community need continues to be greater than the source can accommodate with current structures and budgets. There is a great need for the VA hospitals to be prime movers in coordination with the local State and regional plans for health training system approach to meet health manpower needs.

The colleges through such a bill could first, expand existing programs; second, provide multidisciplined laboratories that would keep down cost of duplication of expensive equipment; third, assist with better utilization the scarce highly specialized structures in health occupations; fourth, have more clinical facilities of a variety with experience available for teaching health workers; fifth, do individual student teaching programs for returning veterans and new career persons.

There is a great need for health occupation education innovation centers in the States. This bill could assist in allowing the development of research of new programs which is almost financially prohibitive by each individual public college. Their acceptance into the revisions of the systems of health care that is practically upon us cannot be borne by college financing alone.

When a form of true universal health care meets us—and some will say it is not too far away—there will be an increase in price in health manpower training sources.

This bill could be a vehicle through which programs can be studied in light of a coordinated system with the colleges.

The amendment was ordered to be engrossed and the joint resolution (H.J.

Res. 748), as amended, to be read the third time.

The joint resolution was read the third time, and passed.

The preamble was agreed to.

The title was amended so as to read: "A joint resolution to amend title 38 of the United States Code to authorize the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new public nonprofit medical, other health professions, and allied health schools and area health education centers and the expansion and improvement of health manpower training programs in Veterans' Administration facilities and in existing educational institutions affiliated with the Veterans' Administration; to afford continuing education for health manpower of the Veterans' Administration and other Federal departments and agencies at regional medical education centers established at Veterans' Administration hospitals throughout the United States; and for other purposes."

Mr. CRANSTON. Mr. President, I move that S. 2219 be indefinitely postponed.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I take this opportunity to congratulate the distinguished Senator from California (Mr. CRANSTON), chief sponsor of the bill for his leadership in bringing this matter to the floor and his splendid managership of the measure on the floor.

Mr. CRANSTON. I thank the Senator for those remarks, and for his cooperation and advice in helping me get the bill moving and passed as quickly as we have.

Mr. ROBERT C. BYRD. I thank the Senator.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the distinguished Senator from Alaska (Mr. GRAVEL) was to be recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Tennessee (Mr. BROCK) may proceed now under the order, and that the time allotted under the order with respect to the Senator from Alaska follow thereafter.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The Senator from Tennessee (Mr. BROCK) is recognized for not to exceed 15 minutes.

EDUCATION: SMALL RETURNS ON A BIG INVESTMENT

Mr. BROCK. Mr. President, quality public education is essential if America is to maintain her role of leadership in world affairs. Americans are spending billions for quality education for all, but are not getting it. It is time for Americans to demand a decent return on the tremendous financial investment they have made in education.

We have utterly failed to come up with constructive, creative solutions to our education problems. We have settled for sensational, simplistic solutions that have created more problems than they have solved.

It was assumed, on very little evidence:

First, that more money made better quality education, and

Second, that busing was necessary to make it equal.

School expenditures went from $18.5 billion in 1965 to $40 billion this year, and busing was ordered in many cities. Recent studies prove that more spending does not make quality education, nor does busing make it equal.

We need:

First, to make a close examination of our education programs and scrap those that have proven ineffective.

Second, to test new ideas in education and implement those that prove effective.

QUALITY EDUCATION: AN ESSENTIAL GOAL

America has always recognized quality education as an essential goal, but it has not been reached. The Office of Education estimates that 24 million Americans 18 years and over are "functionally illiterate"—they cannot read, write, or count at a fifth-grade level. Yet, only 6.4 million Americans, 14 years and over, have not had at least 5 years of school. This does not say much for the quality of education received by 17.6 million of these Americans.

Several years ago it was recognized that quality education was not being provided. The standard liberal answer to any problem was applied—spend more money. A myriad of programs resulted. Unfortunately we did not ask ourselves what goes into a quality education.

The quality of education was measured by its input rather than its output. It was assumed that lower teacher-class ratios, higher teachers' salaries, larger libraries, more equipment, and so forth, all calling for more money, would guarantee quality education. School expenditures rose at an astonishing rate. Class sizes were lowered, teachers' salaries raised, libraries enlarged, and new equipment bought. Quality of education was measured by those inputs and assumed to be good. This theory of quality education has been demolished by a number of studies.

In 1967, the Coleman report destroyed the assumption that high financial input produces quality educational output. James Coleman analyzed the findings this way:

> The evidence revealed that within broad geographic regions, and for each racial and ethnic group, the physical and economic resources going into a school had very little relationship to the achievements coming out of it.

Does this justify demands for more and more education spending?

Funds which went into poorer schools under title I of the Elementary and Secondary Education Act of 1965 have proven very ineffective. Of 189 programs aimed at reading scores there were 58 programs with positive gains, 50 with losses, and 81 programs with no significant change. Surprisingly, some of the least expensive programs were the most effective and vice versa. A recent Government-sponsored report by the American Institutes for Research found that on the average the most effective projects cost $279 per student, while the least effective project averaged $513 in one State and $395 in another. Despite the revelation that more money does not provide quality education, many continue to demand more and more education spending.

EQUAL EDUCATIONAL OPPORTUNITY: AN ESSENTIAL GOAL

Equal educational opportunity is an equally essential goal. Early analysis of the Coleman Report indicated that black lower-class children, integrated into a white middle-class environment, performed better than in a lower-class black environment. We were told that black exposure to a white environment was necessary for equal educational opportunity. Many liberal judges made a mistake similar to that made earlier by liberal legislators—they jumped to a major policy decision on the basis of a fallacious theory. A misinterpretation of the Coleman report led them to order massive busing in many cities. Later study of the Coleman report has indicated that the poor black children did better not because they were in a white environment, but because they were in a middle-class environment. Herbert J. Kesling, came to the conclusion that a middle-class environment aids education, but that there is "no good evidence" that integration by itself does much to raise the achievement of low-income Negroes. Many have continued to demand more busing, and have gotten it.

Harvard University recently sponsored an in-depth study of the Coleman report by experts in education, civil rights, sociology, and statistics. In it, Samuel Bowles and Henry M. Levin found that the conclusion that Negro achievement is positively associated with the proportion of fellow students who are white was not supported by the evidence of the Coleman report. It found the combining of socioeconomic classes accounted for slight gains by low-class blacks placed in middle-class white schools. Thomas Pettigrew, former Chief Consultant to the U.S. Civil Rights Commission, found that the gains made by poor blacks in mostly white, middle-class schools amount to "less than one-sixth of the difference between average Negro and white achievement at grade 12.

Daniel P. Moynihan summarizes the evidence of the Coleman Report this way:

> After receiving students who are unequally prepared, and unequally supported at home, the schools do not bring those students to educational equality. One way of looking at it is that the school does not slow down those who are ahead and speed up those who are behind.

It may be that busing slows down students who are ahead, but this is inconsistent with our earlier stated objective—to provide quality education. Is there no method of supplying quality education and equal education? The Harvard Study indicates that there is.

The most important element in a child's education was found to be the family involvement in that education. David J. Armor said:

> Family inputs are far more powerful predictors of achievement than school inputs, and this is true for both races.

Involvement of the family was found to account for up to 40 percent of the advantage in educational achievement of whites over blacks. Equal education can best be achieved by parental involvement in the schools, which is most likely in a locally controlled, neighborhood school, and highly unlikely when the child is bused across town to a school the parents know little or nothing about. The Coleman report has been cited by liberals for 5 years as evidence supporting forced busing. This most recent analysis indicates that it can better be used as evidence for opposing it.

SOCIAL EXPERIMENTATION

We should be careful about how we invest our time, money, and effort. Theories on education, as well as those on other areas of Government should be subjected to social experiments using the scientific method. A business would not go into mass production of a product if the theory behind the product, no matter how logical, were not tested. This idea should be applied by Government if it is to provide the public with the best services for its tax dollars. It was recently applied by OEO to the idea of performance contracting.

Performance contracting is a method of education which pays educational firms on the basis of improvements made by students on standardized tests. Early reports indicated that it was an answer to all our education problems. Rather than jumping into an expensive nationwide program, OEO decided to run a social experiment on the idea.

The experiment tested the ability of education technology firms to improve the reading and math abilities of underachieving youngsters. Eighteen underprivileged school districts were selected representing urban and rural areas. One positive aspect of this experiment was that it took the education problems of the rural areas into consideration. Education programs have for too long been directed solely at urban areas, while rural areas have been ignored.

The most academically deficient student body in a district was turned over to an educational firm to serve as the experimental group. The second most deficient received traditional education and served as the control group. The experiment lasted one school year. Traditional education techniques were used.

Performance contracting was considered a success when an experimental class's average improvement was one-tenth of a grade better than that of the control group. It was considered a failure when the experimental class's average was one-tenth worse. Of 212 pairs of classes, 31 cases performance contracting was considered a success, in 54 a failure, in 127 about the same. There were positive results from small, southern communities. Of 72 tests in the South, 22 found the experimental group to be successful, and only four a failure.

The test indicated that there are positive aspects to contract education, but it showed that contract education is not the educational cure-all it was originally thought to be. Had there not been a test such as this there might have been an expensive and fruitless national move to contract education.

Had we gone a bit more cautiously in the past and applied experiments such as this to Federal spending and busing for racial integration, it might be that we would have realized earlier that they are not means for achieving quality education for all, the end everyone desires.

INNOVATIVE PROGRAMS

There are many innovative programs that show signs of giving us quality education at primary, secondary, and college levels. Some involve parents in that education, which is the primary element in improving the disadvantaged's education. These ideas if carefully evaluated and studied could help us reach our goal of quality education for all at the least expense to the taxpayer.

Local control of the school system shows signs of being a good means of getting parents involved in the education of their children. Gary, Ind., which is predominantly black, elected a black mayor a few years ago. He appointed several blacks who had children in the public schools to the schoolboard. They looked at the records of their public schools, found them very poor, and decided to conduct their own experiment with contract education. They turned the entire Banneker Elementary School over to a private company for 3 years. It was paid the normal per student cost of education. The money was to be refunded if students did not meet national norms on tests.

The education firm chose to rely heavily on community personnel, rather than the traditional reliance on the teachers. The professional teaching staff was cut from 33 to 23, and 26 aides were hired from the community. This move is in accord with the new analysis of the Coleman Report—it encourages community involvement in education. After 1 year the results are very encouraging. The school went from only 25 percent of its students at or above national norms on reading and mathematics tests to 73 percent.

The Gary School Board is also considering experimenting with the voucher system, a program which would force parents to become involved in education. Under it a family would be credited with a certain amount of money per student. It would be given to the school they chose to send him to. Parents would pick the better schools and the out-of-step schools would be forced to improve. This, like the contract program, is an attempt to apply aspects of private enterprise to education, forcing schools to provide taxpayers with the best quality of education for their money.

Another program which is expected to more positively involve the parent with the education of his child is the preschool program in the home. It is being tried in Myrtle Creek, Oreg., under an Office of Education grant. The program is oriented around the home and the mother. A teacher visits the home once every 2 weeks to leave a lesson packet of suggested activities which the mother can participate in with her child. Group activities are held every 6 weeks where a show-and-tell session is held. Cost per student per year is reduced from $500 to $150. There are 38 specific skills which they are trying to develop, but the main objective is the involvement of the parents in the education of their child.

Year-round school systems have been instituted in several places. They are sound educationally, psychologically, and economically, and those tested have been liked by students, teachers, and parents. Forty school systems across the country are considering such programs. These programs attack what a recent study has found to be a major problem in equal education. The study, conducted by Stovald P. Hayes and Judith Grether, suggests that one problem in equal education is the use of long summer vacations. Middle-class and lower-class children progress at about the same rate during the school year, but learning during the summer, as measured by achievement tests, almost stops for lower-class children, while it continues at about the same rate for middle-class children.

Prince William County, Va., has had a very successful program. Students are divided into four groups, generally by neighborhood. A group will go to school for 9 weeks, then vacation for 3 weeks. The groups are staggered so only three-fourths of the students are in school at one time, therefore only three-fourths of the classroom space of a traditional school is needed. It is estimated that Prince William will save at least $12.5 million in classroom costs by 1980 if it continues this program.

Boston University instituted the college of basic studies to attack the problem of equal education. Students denied admission into the regular 4-year program because of poor academic backgrounds, are offered admission into a 2-year program that exposes them to the intellectual environment lacking in a lower-class home.

Each student has only five instructors—one in humanities, science, social science and rhetoric, psychology and guidance. There is a closer student-teacher relationship through many informal, as well as formal meetings.

A Harvard study of the program reveals that "perhaps the most provocative aspect of the college of basic studies plan is that it provides increased student-faculty contact by modifying the use of currently available resources, rather than by allocating new resources. Thus it generates increased educational excellence without increasing the cost of education."

Results have been excellent. Sixty-four percent of the students entering the program go onto a 4-year institution, 36 percent into Boston University. This is outstanding when compared with the 33 percent national average success rate for 2-year institutions.

Another positive aspect of this program is that it was initiated on a grant from the private sector. An Esso Education Foundation grant supported it. This may be a shock to those with little faith in private enterprise—successful education programs have been started without Government aid.

Quality vocational education is necessary if America is to continue to lead the world in technology. The unemployment rate among secondary school graduates, with or without some college, is more than three times as high as that of vocational education graduates. Nearly 100 California community colleges provide job-oriented education and high schools are encouraged to do the same. Through these, 1 million young people received vocational education during the 1970–71 school year. It might be a good idea if Congress would encourage more vocational education, possibly by raising the level of GI benefits for taking vocational education, possibly by raising the level of GI benefits for taking vocational training from $135 per month to what is now paid for college, $175 per month.

The USOE has encouraged schools to adopt cooperative partnerships with industry. This can give students on-the-job training, without the schools having to purchase expensive equipment. A student may also earn a small salary, which might enable him to stay in school. A good example of a cooperative partnership occurred following the 1967 riots in Detroit, Chrysler Corp. established one with the predominantly black Northwestern high school.

The university without walls program is an attempt to make education relevant. Under it a student is given credit for working in his major area of interest. Examples are supervised internships in schools, hospitals, museums, and businesses; and participation in the Peace Corps and Government agencies. This program is being offered by 17 established colleges across the country with funds contributed by many groups including the Ford Foundation, the United Nations, and HEW. Once established, this program will broaden educational opportunities, without requiring students on such work-study programs in their college communities. Preference would be given returning GI's, the hardest hit by unemployment.

A PROGRESSIVE EDUCATION POLICY

My arguments today all point favorably to a progressive education policy. Change is necessary if we are to provide quality education for all, but we must be sure, before we institute programs on a massive scale, that they attack the problems at which they are aimed.

Ineffective programs of the past must be scrapped. It will not be easy. What OEO Director, Phillip V. Sanchez, has called "educational monopolies" are more interested in guaranteeing job protection for their members than in quality education for our children.

More importantly, we must be more careful in the future. We must test proposals which are aimed at our problems. We must fund programs which will solve them, not that that will become part of the enormous, ineffective, self-perpetuating bureaucracy which only add to them.

Busing and massive spending are both simplistic solutions to our very complex education problems. It is time to move ahead in the field of education. We must accept the facts. Pumping more money into programs that have proven to be ineffective will not make them effective. Busing does not solve the problem at which it is aimed, and may well add to it.

We need to look elsewhere for constructive, creative solutions to our problems.

If America is to maintain her role of leadership in world affairs, we must make new efforts toward the end we all desire—quality education for all.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time which was allotted under the order of Tuesday to the distinguished Senator from Alaska (Mr. GRAVEL) now be allocated instead to the distinguished Senator from Arkansas (Mr. FULBRIGHT), in view of the fact that Mr. GRAVEL does not want to utilize the time. This will not make any change in the overall format. One Senator will be substituted for another. We have done this many times. No additional time is given, and no new order is entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately following the remarks of the distinguished Senator from Arkansas (Mr. FULBRIGHT), there be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT NIXON'S SPEECH LAST EVENING ON VIETNAM

Mr. FULBRIGHT. Mr. President, last night, as I listened to the President speak, I waited for the answers to three questions:

When will Americans no longer be fighting and dying in Vietnam?

Is there a plan to obtain the release of our prisoners?

What is the justification for continued American involvement in the war in Indochina?

The President gave us indirect answers to these questions. His answers were not those that I, and I believe millions of other Americans, had hoped to hear or been led to expect.

The answer to the first question is apparently that Americans will continue to fight and die as long as it is necessary for them to do so in order to save the South Vietnamese Government from military defeat.

The answer to the second question seems to be that there is no plan to secure the release of American prisoners but that, on the contrary, his plan for a continuing commitment of large numbers of American forces insures that the number of American prisoners will continue to rise.

The answer to the third question appears to be that the ultimate justification for continued American involvement is not protecting American forces still in Vietnam or permitting American withdrawals to continue or securing the release of American prisoners, justifications the President has claimed at one time or another, but rather that the North Vietnamese "cannot be allowed to win" a military victory on the battlefield.

From the answers to these three questions we learned last night that Vietnamization does not mean what we thought it meant. It does not mean that the South Vietnamese will soon fight the war themselves and that all American forces can now be disengaged. It means instead that American forces will remain committed indefinitely in Indochina until the North Vietnamese are defeated or until they stop fighting.

The President asks us to measure the "success" of Vietnamization by the withdrawal of 480,000 men and the announcement that 20,000 more are to be withdrawn in the next 2 months. He ignores the fact that more than 30,000 additional American men have been committed to the Indochina theater in the past 6 weeks and that in order to maintain the present tenuous position of the South Vietnamese forces he has found it necessary to order "air and naval attacks on military installations in North Vietnam until the North Vietnamese stop their offensive in South Vietnam." That was not my understanding of what Vietnamization meant.

The public and the Congress have supported President Nixon's Vietnamization policy for almost 3 years. They did so with the understanding and expectation that Vietnamization was a means of insuring that, even if negotiations failed, there would be a way of terminating American involvement in the war. Those who would have preferred a more rapid pace of withdrawals than that ordered by the President were nevertheless reassured by the promise that Vietnamization was an "irreversible" process.

Now that the inevitable test of Vietnamization is upon us and the President has spoken, we realize to our dismay that it was wrong to infer that Vietnamization meant any lessening of the administration's commitment to the present South Vietnamese Government. The President's promise in this year's state of the world message "to move toward ending the war for America through Vietnamization" was not what it appeared to be. Vietnamization may have moved us "toward" an end to the war, but the end which the President has in mind is now revealed to be not the end of American involvement by negotiation but the denial of victory to the North Vietnamese—"a victory," he said, "they cannot be allowed to win."

We heard last night what we have heard so many times before.

An optimistic report from the American commander in Vietnam whose name has changed but whose report was all too familiar.

An appeal to fear of the relentless march of communism "in the Middle East, in Europe and in other international danger spots."

The perennial and emotional argument that the war must be ended "in such a way that the younger brothers and sons of the brave men who have fought in Vietnam will not have to fight again. . . ."

The invocation of the "responsibilities" of world leadership.

It was a familiar litany, one that has been spoken by other voices in other times thousands of lives ago.

In conclusion Mr. President my reaction to hearing the President's speech was one of acute depression and sadness for our country; that after all these years of increasing destruction of life and property, there is no end to this epic tragedy in sight.

The President has changed the character of the war insofar as American foot soldiers are concerned. He has reduced the loss of American lives for which I am thankful.

But at the same time in changing the character of the war to one of unlimited air and naval bombardment, he has removed one of the normal human restraints upon the savage cruelty and inhumanity present in all wars.

The most succinct comment upon the changed character of war that I have seen appeared recently in the New Yorker magazine, which reads as follows:

> Our new strategy has done away with one of the most fundamental restraints on warmaking. It used to be that those who would kill also had to be ready to die. Even large armies facing small armies knew this and felt it, and, by extension, the societies they belonged to knew it and felt it. There was a feeling of equality in the face of death which touched both sides and formed the basis for whatever codes of honor have appeared in war. Sometimes, indeed, it formed the basis for paradoxical expressions of brotherhood between opposing armies, such as have regularly appeared in the history of war. The nearness and sureness of death gave war its solemnity, its feeling of great weight for an army or a people. It could not be undertaken casually—not for very long, anyway. But the present policy aims precisely at making the waging of war casual and acceptable. It confronts the innocent and the supposed foe alike with an army of machines, and rests on the assumption that although we don't like to die we don't mind killing. The war that this country's government is waging now is war trivialized. Never has a nation unleased so much violence with so little risk to itself. It is the government's way of waging war without the support of its own people, and involves us all in the dishonor of killing in a cause we are no longer willing to die for.

Mr. President, this is an ominous development. Not only does it mean continued horror and destruction, or in the words of the President a "blood bath" for the Vietnamese people, but it says something significant about the meaning of "Vietnamization" and about the sensitiveness of our people to the moral aspects of this war.

It is something about which all Members of this body and all Americans should be deeply concerned.

Mr. CURTIS. Mr. President——

Mr. FULBRIGHT. Mr. President, I yield the remainder of my time if it is in order to do so, to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, I listened very intently last night to the speech of President Nixon and I want to commend him for it. In these trying times, I am convinced that the American people appreciate honesty and candor. They like to have a President that levels with them. President Nixon faced the situation involving the North Vietnamese invasion of the South and did so courageously.

I believe that what he has done has met with the approval of the vast majority of Americans. Furthermore, I believe that millions and millions of Americans are grateful to President Nixon for his program. They are grateful for the fact that during his years in office close to half a million of combat troops have been brought home—almost 500,000—to this country. They are grateful for the fact that our casualties have gone down about 95 percent. Of course, one casualty is too many. And we hope that the day will soon arrive when there will not be any casualties.

Why should we harass and hinder and retard a program that is working? The withdrawal of the U.S. troops from the combat zones in Southeast Asia is a success. The boys are home. Casualties are down. How could we serve the peace of our country by harassing or interfering with that?

I believe that the senatorial critics of the President would enhance their standard if they would condemn the aggression of the North Vietnamese.

ORDER OF BUSINESS

The PRESIDING OFFICER. In accordance with the previous order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes with speeches by Senators limited to 3 minutes.

ORDER FOR RECOGNITION OF SENATOR MOSS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately following the recognition of the two assistant leaders under the standing order, the distinguished Senator from Utah (Mr. Moss) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RAIL PASSENGER SERVICE ACT—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, having discussed this matter with the assistant Republican leader, I ask unanimous consent that the time on H.R. 11417, the so-called Amtrak bill, be limited to 3 hours, to be equally divided and controlled by the manager of the bill and the distinguished Senator from New Hampshire (Mr. COTTON); that the time on an amendment to be offered by the Senator from Rhode Island (Mr. PELL) be limited to 1 hour, to be equally divided and controlled between the distinguished mover of the amendment, the Senator from Rhode Island (Mr. PELL) and the distinguished Senator from New Hampshire (Mr. COTTON); that the time on any other amendment be limited to 30 minutes, to be equally divided and controlled betwen the mover of such and the manager of the bill unless the manager of the bill supports the amendment, in which case the opposition would be under the control of the assistant Republican leader or his designee; provided further, that Senators in control of the time on the bill may yield therefrom to any Senator on any amendment, debatable motion or appeal; provided further, that the time on any debatable motion or appeal be the same as on amendments—30 minutes—to be equally divided as aforesaid on such.

Mr. GRIFFIN. Mr. President, would the Senator make provision for the possibility of an amendment to an amendment?

Mr. ROBERT C. BYRD. That would be 30 minutes.

Mr. GRIFFIN. I thank the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Presiding Officer and the distinguished assistant Republican leader.

Mr. GRIFFIN. Mr. President, this has been agreed to after checking with the distinguished ranking minority member of the Committee on Commerce, the Senator from New Hampshire (Mr. COTTON). It is the hope of both the majority and the minority leadership that the 3 hours allocated on the bill will not be used so that we can get to other items of legislation which we hope to finish today. Even though 3 hours is allocated to the measure, we hope the 3 hours will not be used.

Mr. ROBERT C. BYRD. I thank the Senator.

THE PRESIDENT'S SPEECH ON VIETNAM

Mr. AIKEN. Mr. President, I listened to the President's report to the Nation last night. Frankly, I was disappointed. Up until 3 weeks ago, I had hoped and believed that when the President spoke last night he would announce that our withdrawal from the Vietnam area had been virtually completed. He did not do that. He did not feel that he could announce a complete withdrawal, although I am glad that he did announce the withdrawal of 10,000 troops a month for the next 2 months.

The reason that he did not and could not announce that our withdrawal would be complete by midsummer was that the support given to the North Vietnamese and the encouragement given them to escalate and prolong the war had been such that the result of making the kind of report I would have liked to hear was simply out of the question.

There are those—and it has been reported that there is at least one prominent candidate for Presidential office—who have recommended that we accept the North Vietnamese peace terms. Those terms call for the removal of all defensive weapons which we have furnished the South Vietnamese. Those terms call for the overthrow or repudiation, if one wishes a milder word, of the Government of South Vietnam.

I think that we ought to realize how we got into this mess in the first place. We got into this because between 1950 and 1956 the North Vietnamese, the Hanoi government, had slaughtered, according to the best estimates, about 200,000 people. Between 1954 and 1956 it is quite accurately estimated that 900,000 people slated for punishment fled the country, aided by our furnishing ships to help them get out.

The International Control Commission was in effect at that time. However, the Hanoi Government would not let any people desiring to leave the country approach that Commission which was supposed to be of assistance to the refugees. Nevertheless we assisted 900,000 of those people to get out and to the south. Their religious beliefs entered into that situation very strongly.

Those 900,000 people are still in South Vietnam. What North Vietnam asks is that we now turn them over to them for such punishment as they see fit to give them. Many of them would undoubtedly receive the same punishment as the 200,000 people of their own belief got in North Vietnam during that 6-year period 1950–56.

I do not believe that the continuation of the bombing of North Vietnam is going to have any particular effect on the present battle that is going on today.

Whether it does in the future, I do not know. The bombing of North Vietnam was rather disastrous in 1966 to 1968 and I doubt the effectiveness now.

Finally, I want to say I am intensely proud of the United States. This is my country. We have done quite a lot of good in the world in spite of what you may have been hearing lately. In fact, I think we have done 100 times as much good in this world as we have done bad through the mistakes which we have made.

Now, all that I ask of the critics of President Nixon is please do not encourage this war to go on; please do not take the side of the enemy.

It is a North Vietnamese war now; it is not the Vietcong. We all got letters from Madam Binh the other day. The trouble with her letter was it should have been sent to Hanoi instead of charging us with increasing hostilities and bloodshed in Vietnam. It was not the United States but the North Vietnamese that precipitated the latest orgy of bloodshed in South Vietnam.

I certainly do not support the North Vietnamese in his terrible effort they are making to get control of South Vietnam and wreaking their vengeance on between 1 million and 2 million people now living there who disagree with their beliefs, philosophy, religion, and form of government.

I hope we can terminate our military involvement in Vietnam at an early date, but giving encouragement to North Vietnam will only delay that time.

Mr. GURNEY. Mr. President, I listened very carefully to President Nixon's address to the Nation last night on Vietnam. I thought it was the greatest speech he has made during his Presidency. It was factual; it leveled with the American people, it was spoken with great sincerity and conviction, and it told them exactly what the President has been doing about Vietnam since he took office in 1969, and what he is doing about this present massive invasion over there. The President's speech made me proud to be an American.

I listened a short time ago to the distinguished chairman of the Committee on Foreign Relations criticize the President in his recent naval and air bombardment against this massive invasion. I heard him say it filled him with a spirit of acute depression, and that he sees no end to the war.

I have to be frank. His remarks filled me with acute depression, too, because no mention was made of what North Vietnam is doing to South Vietnam; no mention was made of this horde of Russian tanks, the most modern equipment the Russians can furnish, moving to kill the South Vietnamese people, the South Vietnamese troops, and to be used against our troops if they reach the coast.

Does the chairman think that they shoot marshmallows out of the muzzles of their guns against the people of South Vietnam? I do not know that there is a difference between being shelled from a cannon and bombed from airplanes. But I do know that the President is trying to do two things: One, he is trying to make sure that that Communist horde does not overrun our remaining troops in Vietnam and drive them into the sea; and second, he is trying to fulfill the U.S. commitment to these people made by three Presidents, including the present incumbent in the White House.

I think this was a great speech, and in summing up I would like to read one portion to the Senate at this time:

> If the United States betrays the millions of people who have relied on us in Vietnam, the President of the United States, whoever he is, will not deserve nor receive the respect which is essential if the United States is to play the great role we are destined to play of helping to build a new structure of peace in the world. It would amount to a renunciation of our morality, an abdication of our leadership in the nations, and an invitation for the mighty to prey upon the weak all around the world.

The President is 100-percent correct. Here is one Senator who backs him up 100 percent.

If we in the Senate will back up the President now in what he is doing in South Vietnam to blunt and stop this last desperate Communist gamble to end this war with this massive invasion, and aggression, and if we in Congress and the people in the Nation would rally around the President, this would insure that peace would be around the corner in Vietnam.

Mr. TAFT. Mr. President, President Nixon's message to the Nation last night was a forthright and courageous one which leaves us in the strongest possible position in working for a negotiated peace in Southeast Asia, and not merely a U.S. withdrawal from the fighting.

This is true not only as to the negotiations in Paris, but also with regard to negotiations with the really true suppliers of the North Vietnamese, the Russians, not only in the President's forthcoming trip to Moscow, which we hope will deal with this problem, but also negotiations such as those now being carried on, and carried on as far as we can say with some degree of optimism in the SALT talks in Helsinki.

The chairman of the Committee on Foreign Relations spoke of a feeling there is a risk on both sides. I feel that our air and naval forces and the forces we have in Vietnam are in danger. I think we have to take that into consideration, and that our prisoners are in danger, as well.

The nation that has been carrying out the course of conduct which the chairman of the Committee on Foreign Relations talked about today is Russia. They did not put one man into this operation, yet they have supplied the entire wherewithal with which it has been conducted.

To have said less than the President said would have been to abandon negotiations and a negotiated peace, and to abandon our allies and prisoners, and the cause.

Mr. President, I yield the floor.

Mr. WEICKER. Mr. President, I rise to support the President and to say how proud I am of the statement he made last night. I say that as one who has not always agreed with the President, but on this matter he is right.

As I have said in the past, I would not favor an air war substituted for a ground war. I do not believe in the policy of Vietnamization, and certainly I would not support any future deployment or retention of American troops, not only in South Vietnam, but in Southeast Asia.

I have also said, I want to see our troops brought home safely and I want to see our POW's and MIA's brought home safely. That is exactly what the President of the United States has been pointing toward over the months, and he continued in that direction last night.

We are not talking about the Vietnam war in the context of 1968. There was no invasion by North Vietnam at that time. Some 560,000 troops were there placed by the previous Democratic administration. As I stand before the Senate, thanks to the steady, unspectacular, result-oriented efforts of the President, we have less than 7,000 combat troops in Vietnam today, and that figure will be diminished even further by the end of the next 2 months. That is a far cry from 560,000.

I stand with this man, Richard Nixon, when he decides to do everything possible to pursue the policy of withdrawal, and to see to it that the last man over the bridge home will be alive and not be just as a memory or a statistic. On this matter I am with the President of the United States, not with Communist whims or North Vietnamese invasions or the misleading, inane rhetoric, of colleagues and candidates on the Democratic side.

Mr. FULBRIGHT. Mr. President, I had nothing further to say, but I would like to comment on the statements that have been made by other Senators on the President's policy.

First, I want to say that while I have followed the distinguished Senator very carefully, I have never heard that the North Vietnamese have demanded as a condition for a political settlement the surrender of weapons given to the South Vietnamese. There have been several statements to that effect. This has been said by the senior Senator from Vermont. I have never heard a justification for the statement that the government of North Vietnam slaughtered 200,000 of their own people. There have been statements that there were very serious disorders in North Vietnam and that people were killed in the turmoil that resulted after the war, but nothing like 200,000 people killed. The only condition the North Vietnamese have attached to a negotiated peace that has been substantive and really significant has been the question of the government of South Vietnam. This has been made clear over and over and over again. To oversimplify, it was whether or not we were willing to accept a coalition government over a substantial period, approximately 1 year, in place of Mr. Thieu. That is really the crux of the matter, and has been for 2 or 3 years.

With regard to the comments of the Senator from Vermont, the insinuation that those of us who disapprove of the present policies are not proud of the country, or think that this country is not a great country, is a most unjustified type of criticism. The question here is: What is in the interest of the United States? I agree with him about what a great history we have had and the many things we have to be proud of. The character of our past history only serves to emphasize the fact that in the present war, which had been going on long before this administration came into office, we have gotten off the track. We have abandoned our ancient tradition of nonintervention in other people's affairs and of allowing other people to settle their affairs in accordance with their own traditions and capacities.

We are the ones, obviously, who are 10,000 miles from our own shores. Vietnam, of course, is the home of the Vietnamese, north and south, and has been for 2,000 or more years. Who is the stranger there? Who is the intervenor? The Americans are just as the French were.

But that, it seems to me, is beside the point. The main point is, what is in the interest of the United States?

The Senator from Florida asks us to rally behind a policy which I and many other people do not believe to be in the interest of the United States. The Senator, therefore, is asking us to rally behind a policy which has proved to be a failure. I think the proof of the failure of that policy was quite clear under President Johnson. After all, in many respects, and in the main respects, the policy today is the policy of President Johnson, and I do not know why members of the Republican Party are determined to take it to their hearts and assume full responsibility for it. I have never understood why President Nixon would accept a policy which, I think, President Johnson, by his retirement from public life, himself acknowledged to be mistaken. I do not see how President Johnson could have believed that the war in Vietnam was a valid investment of our resources in view of his own subsequent action. It has been a great mystery to me why this administration has stepped into President Johnson's shoes and continued his policies.

I do not excuse the North Vietnamese myself. I take my position because I consider it my duty to do so, representing my constituents. I have no influence in Hanoi. I would like to have had influence among my own colleagues, to let them see that the continuation of this war is against the interests of my constituents, and the interests of the constituents of every Member of this body.

I think the North Vietnamese should have accepted President Johnson's so-called San Antonio formula. I said so at the time. I think they were misguided and stubborn. But I can do nothing about that. The fact that they have been wrong in no way lessens the tragedy to the American people.

The continuation of this war is going to continue to obstruct the solution of our domestic problems, where great sums of money and effort are needed. I said to the President long ago that if he stopped the war he could do practically anything he wished with regard to domestic policies. He would not only enjoy the gratitude of the people, but he would also have the resources available for carrying out his domestic policies.

So it is not a question of what the North Vietnamese have done. Nobody excuses what they have done, any more than he excuses what any other country does in the heat of warfare. War is an inhuman activity. There is no disposition on the part of anybody to excuse what the North Vietnamese have done or what the Russians have done. That is not the question. The question has been, and after so many years of warfare still is, What is the interest of the United States in continuing the war? Why should we continue the war. What is to be gained for our people? I think the notion that the war must be continued as a means of combating of some abstract concept about the spread of communism has proved on many occasions to be invalid.

The other question goes to the care of today's issue, and the concrete, simple proposition is: Is it in the interest of our country to continue to defend President Thieu's government? That is the crux of the matter. I think anybody who is knowledgeable about this subject admits it. Commentators, observers, members of government I think have all come to a concensus that this is the key question. Are we prepared to continue the war, to sacrifice lives and enormous amounts of money, to preserve that particular government, that particular establishment in Saigon? I do not think it is in the interests of my constituents, and therefore I cannot support the continuation of the war. That is all there is to it.

It strikes me that all these other arguments and ideas of past wrongs, either by ourselves or the North Vietnamese, are irrelevant and unimportant compared to the central question at this late date: Is there a justification for the United States to continue the unlimited bombardment, the destruction of life and property, and the unlimited expenditure of funds in Indochina thereby sacrificing things that are seriously and urgently needed in this country?

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. FULBRIGHT. Certainly.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BELLMON. Mr. President, I yield my time to the Senator.

The PRESIDING OFFICER. Does the Senator seek recognition in his own right?

Mr. WEICKER. I do.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I have two questions. Does the Senator from Arkansas mean what he says—that it is not a question of what the North Vietnamese or the Russians do? They can do anything they want in South Vietnam or Europe; and that will have no effect on our foreign policy? Is there any difference in the chairman's mind as to the situation in Vietnam after the invasion by the North Vietnamese, or is it all the same?

Mr. FULBRIGHT. There is, of course, to our military commanders. If there was a valid reason for action to protect our troops from any real danger I would accept it. I do not believe, however, there is any threat to the lives of our own soldiers. The President has justified the continuation of the war on the grounds that it was necessary to the protection of our soldiers. If there was any immediate danger to the lives of our own soldiers—unless we project them into the fighting area—I have not seen such evidence. I do not think there is any serious danger to our own soldiers.

After World War II, 80 percent of the soldiers in the China-Burma area were withdrawn in 6 months. It is more than 3 years since the President started the Vietnamization program. He has accomplished it a little at a time, for reasons I have never understood.

All I was saying to the Senator was that one could argue endlessly about the peripheral questions involved. I shall not argue those questions. I believe the North Vietnamese have been stubborn, against their own interests and our own.

It is all right to get up and condemn them. I would join the Senator, if it is any comfort to him, and say yes, they have been in the wrong; they have been wrongheaded and stubborn. They should have withdrawn in response to President Johnson's San Antonio proposals. But they did not see fit to do it.

But now the United States has suffered so much, our economy is in disarray, our balance of payments, our taxes, our welfare program—everything is in disarray. Inflation, unemployment—I do not want to go into all that. What I am interested in is restoring the integrity and strength of my own people. These other matters I consider entirely secondary to that one issue. We can argue about these other matters as an academic exercise, but they do not change the fact that the continuation of the war is undermining the strength of the United States. We are sacrificing not only lives but human resources, and I do not think the Senator can deny that.

Mr. WEICKER. The second question I have to ask the Senator from Arkansas is, he stated that the Republicans have taken to their bosom the policies of President Johnson.

Mr. FULBRIGHT. And I regret it.

Mr. WEICKER. Does the chairman, then, state to the Senate that both the direction of our troops—in other words, going and coming—and the numbers of our troops today are exactly the same, or anywhere near the same, as they were under President Johnson.

Mr. FULBRIGHT. No——

The PRESIDING OFFICER The time of the Senator from Connecticut has expired.

Mr. BAKER. Mr. President, on more than one occasion, I have followed these debates after a Presidential address on television or radio with respect to the policy of the United States and Vietnam, and on occasion I have spoken on the issue, but I think I have never spoken with more conviction than today, following a magnificant speech by the President last night about the involvement of the United States in Southeast Asia, and the future American involvement in that war. It is a pretty gutty thing the President did, in my judgment, after seeing the latest brazen effort by the North Vietnamese to try to subjugate the South Vietnamese, without any apology, any hint of concealment, or any effort to divert world attention from the nakedness of that aggressive thrust, for the President to say, notwithstanding this naked aggression, that we are going to continue with the policy we staked out to begin with, the policy of staked and orderly withdrawal of American troops from Southeast Asia, notwithstanding this provocation by the north, which can have no purpose except to try to challenge the United States on its announced policy of getting out. If the North Vietnamese want us out of Vietnam, all they have to do is wait. So what purpose do they have?

I believe they have a far different purpose. I shall not delay the Senate with what I think their purposes are, in the brief time I have during the restraints of the morning hour. But I will say one further thing in response to the remarks of the distinguished chairman of the Committee on Foreign Relations. He stated that the sole test of whether or not there is a justification for an American policy in this respect is what is in the interests of America.

I very much hope that the Senator does not mean by that that the interest of America is the only concern of the people of the United States or the Senate of the United States. Clearly, it is the first, but is it America first? Does it mean there is no moral responsibility at all to be concerned for the welfare of any other human being, unless he is an American? Does it mean, for instance, that we have gotten to the place where we may decide—possibly we have decided—as a Nation that our original involvement with the land troops in excess of 500,000 American soldiers in Southeast Asia was a mistake? Maybe it was a mistake. It was not a mistake of the making of the senior Senator from Tennessee; I was not here at the time. But that is no apology. What I say is, whether it was right or wrong, it did one thing I am sure of. When we sent a half million American land soldiers into Vietnam, we created a moral obligation to withdraw those troops in such a way that we do not invite disaster in the country that we subjugated by our own troops.

We Americanized that war. We sent American troops there, half a million of them. I am sure we did not intend to turn that into an American war, but we did it, and it would be the grossest sort of immorality, in my judgment, to disengage from that war in a way that completely obliterated the process of de-Americanizing the war. To do so would offer up as a sacrifice the country and people of South Vietnam on the altar of America first.

The PRESIDING OFFICER. The Senator's time has expired, and the time for the transaction of routine morning business has expired.

EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business, with a 3-minute limitation on statements therein, be extended for an additional 12 minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered, and the time for the transaction of routine morning business is extended by 12 additional minutes.

Mr. FULBRIGHT. Mr. President, I do not know that there is very much point in prolonging this debate. Everyone has his views about it. But the Senator from Tennessee did make a statement which I wish to question.

He said that if the North Vietnamese wish us to get out, all they have to do is wait. I do not believe that, and I do not believe that many other people believe it.

There is no question but that they want us out. This is a very peculiar dilemma. They do not believe, and I think with some reason, that we intend to get out. I do not think there is anything in the President's speech last night that would give any reassurance that he intends to get out. On the contrary, he intends to stay there by proxy, with Mr. Thieu, in full support of him with our forces. This is what makes me so sad. It does not, as I read his speech, mean that his intention is to get out; and the only excuse I can see for the resurgence of the invasion was their conclusion that in view of the breakup of the secret negotiations and other negotiations, there is no intention on our part to get out.

It is inconceivable, it is against all human nature and commonsense, that they do not want us out. If they believed they could achieve that by waiting, I am quite sure they would have.

The Senator interprets my statement as saying that we have no other interest besides our own. He can put it that way if he likes. I would say, as a representative of the people of Arkansas, that the No. 1 interest with which I should be concerned is the strength and welfare of my own country and my own people. I think the Senator from Tennessee would agree with that general proposition.

Then we come to the question, What is in the interest of the people of my State of Arkansas, as well as the people of Tennessee? Is it the continuation of this war, with its very long history? In the beginning, when few people realized what it was going to be like, as the Senator said, they did not intend to Americanize it, but they did, and so on. There is some excuse, in fact one could say there is plenty of excuse for lack of foresight and wisdom, I guess, on the part of any man. But now, after 10 years, I can see no further excuse for not recognizing that the pursuit of the war is not in the interests of the people I represent. Their interest is to get it over with. It is of very minor importance to the people of Arkansas whether Mr. Thieu or Mr. Ky or Mr. Binh or Mr. Minh or anyone else runs the government of a small country in Southeast Asia 10,000 miles away. I do not think they really care.

I cannot understand how the Senator and the President can tolerate a Communist government in China, and go to visit them with great fanfare—the President is also going to Moscow, and we give aid to the Communist government of Yugoslavia—but for some reason, he cannot tolerate even a coalition government in Vietnam. That does not make sense to me.

So all we are really arguing about is the specifics of whether or not this particular program is in the interest of my people, the people of Tennessee, and the people of the country. That is what is at issue.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BELLMON. Mr. President, I yield so much of my time as he desires to the Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, I will take 1 minute, if I may beg the indulgence of the Senator from West Virginia to let me answer the remarks of the chairman of the Committee on Foreign Relations.

Mr. President, the only way that one could doubt that America intends to get out of Southeast Asia, the only way that one could doubt in good logic and judgment that the North Vietnamese do not know that all they have to do is wait for America to disengage, is for the North Vietnamese, the distinguished chairman of the Foreign Relations Committee, or anyone else to disbelieve two hard, cold facts:

First, we have reduced consistently our troop concentrations from over 550,000 to less than 70,000. We now have the announcement of further reductions.

Second, we have the categorical, unqualified announcement of the President of the United States, in campaign and since, that he was going to end the war.

Mr. President, the President of the United States has performed on his promises in foreign policy. He has done what no other President has done, and that is to reverse the flow of American strength in Southeast Asia.

I must fashion a phrase to my own liking: On the basis of his performance, on the basis of his statements, on the basis of his covenants with the people of this country, and on the basis of the disengagement of American troops from Southeast Asia—even in the face of this naked aggression—I believe that the President of the United States richly undeserves to be disbelieved.

Mr. HARRY F. BYRD, JR. Mr. President, to me, the significant aspect of the President's speech last evening is that he is continuing his program to withdraw American troops from Vietnam. If the objective is to get Americans out of Vietnam—and I approve of that objective; I favor that objective—certainly President Nixon is making good progress.

He stated last night that by the end of this month, or the first day of May, the number of American troops will have been reduced to 69,000. He stated, further, that within 2 more months the number of American troops will be reduced an additional 20,000, which at that point would bring the American troop strength in Vietnam down to 49,000. That figure compares with what faced President Nixon when he took office a little more than 3 years ago. At that time, approximately 550,000 Americans were in Vietnam. By July 1, there will be less than 50,000, the figure the President used being 49,000.

So I say again that if the objective is to get Americans out of Vietnam—and I favor that objective—then certainly President Nixon is making good progress. If there are other objectives, perhaps he is not. But if the objective is to get Americans out of Vietnam, then the facts show, and the President's speech last night makes clear, that that objective is being achieved.

Mr. FULBRIGHT. Mr. President, I want to make it clear that no one is questioning the motives of the President. That is not the issue here. The issue is one of judgment: What are the proper means to achieve an end with which everyone agrees or at least, nearly everyone agrees with

The Senator from Virginia said that the objective of getting out has been achieved. That is exactly the factual issue at point, because within the past 3 weeks, there has been an increase of 30,000 personnel in the war theater—they have not been ground troops, but when he says "American men or soldiers" what he is really saying is foot soldiers or ground forces as distinguished from naval or air forces. There has been a large increase in air and naval forces. I grant that we know why—because of the invasion. I deeply regret that the North saw fit to invade. These are not the issues. They are extraneous to the point of what is to be gained in terms of the interest of the United States by pursuing this war. The war could go on endlessly, with each side blaming the other—the old game of tit for tat. It has been going on for 10 years now. So I only want to try to put this in perspective.

Perhaps President Nixon does know more than anyone else about what is happening in Vietnam. Suppose he does but he certainly does not know more than anyone else about what is happening in the United States, and he does not know any more than the housewives of America know about prices at the grocery store, and he does not know more than I know about the lack of funds to build water and sewer projects in Arkansas, or the schools, or the roads which the people are crying for. He does not know any more about that than I do.

The question comes down to one of priorities. Is the interest of my constituents more important than who happens to occupy the presidential chair in Saigon? I think it is not. I am convinced that the single issue which keeps the war going is the question of who should be the President of South Vietnam. This has been a matter, time after time after time, of discussion in public and private statements. Members of this body—not I—but some who have met with the representatives in Paris from North Vietnam, have all come back agreeing almost unanimously, that the one real issue is the character of the government itself in Vietnam. The North Vietnamese will not accept Thieu. He is the symbol of the very thing they are unwilling to accept. That is the only point I am trying to make.

The idea that we question President Nixon's intentions, or his truthfulness, is mistaken. We differ with him as a matter of judgment, as to the means of achieving an end to the war.

Mr. BROCK. Mr. President, I have listened with a sense of amazement as the chairman of the Committee on Foreign Relations spoke more like a chairman of the Committee on Interior and Insular Affairs. Some of the statements that have been made, that he has no apparent knowledge of or control over the actions of the North Vietnamese or the Russians, are incredible to me, as is his statement that he would support the President if he thought our 70,000 troops were endangered. What does it take to show someone that we have 70,000 men in jeopardy, when 12 divisions of North Vietnam leave their country and invade another country and our 70,000 men are there exposed, only 7,000 of whom are combat troops? What does it take to indicate that they face danger?

This administration is not conducting a policy of pursuit of war. It is conducting its policy in pursuit of peace. To say that that policy is the same as that of Lyndon Johnson is to say that east is west, night is day, right is wrong. The troops are not going that way. They are coming home. The whole concept of the policy has been changed.

The Senator has said that the crux of our policy is to preserve Thieu. Not so. Our own peace proposals suggested that Thieu would stand aside 30 days before an election and allow free elections, internationally supervised, so that all sides could participate fully. North Vietnam has a problem. They cannot win militarily, and they cannot win by legitimate political action. So what do they do? They have to depend upon us to abandon South Vietnam. They have to depend on American critics of the President to force a surrender.

The crux of the Nixon policy is not to preserve Thieu; it is to preserve the opportunity of those people to select their own man.

The crux of the NVA proposal is not a "coalition"; it is a Communist government. Their proposal requires that 33 percent of the government be Communists and that the other 67 percent be subject to a Communist veto. A coalition? No.

Yes, we can wash our hands like Pilate. But I, for one, am proud that I have a President who has the moral integrity and the pride in his country not to do that. I am proud we have a President who stands on the principles of this Nation, stands in defense of what he believes is right, regardless of the consequences for himself. I am proud we have a President who gages his action in the full knowledge of what it means to our children—that they can have, for once, a reasonable prospect of living in a world of understanding and peace. Yes, I am proud of the President, and I support him vigorously.

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. The additional time allotted for the transaction of routine morning business has expired.

Mr. BELLMON. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I shall not object. The Senate is confronted with a very long day today. There are two bills scheduled that will require a considerable length of time, with several amendments on each, some of which will require rollcall votes.

I ask unanimous consent that the period for the transaction of routine morning business be extended, finally, for 9 additional minutes, with statements therein limited to 3 minutes at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BELLMON. Mr. President, how much time does the Senator from Oklahoma have remaining?

The PRESIDING OFFICER. Three minutes.

Mr. BELLMON. Mr. President, I am pleased with President Nixon's statement of last night. I feel that the report he gave to the Nation should be highly reassuring to those who are concerned that the attack of the North Vietnamese may somehow have extended the war and made it impossible for President Nixon to continue his policy of withdrawal.

I believe that President Nixon—who certainly knows more than any other person in this country about what is happening over there—feels that in light of this attack he can continue this policy shows that the attack is failing and that the South Vietnamese are now, more than ever, able to provide for the defense of their own country.

I believe that this is the time for Americans to support their President, because certainly this invasion, in its basic sense, is a political invasion, because there is probably very little hope for a military victory on the part of the North Vietnamese. Rather, it is their intention to produce further division in our country and to produce the same effect in the United States, by this invasion, as Dien Bien Phu produced in France during the time the war was going on in the North.

It is obvious, then, that this hope of the North Vietnamese is failing; because President Nixon has now stated that our policy has not changed as a result of the invasion. The country stands, to a large extent, united behind our President, and this means that the North Vietnamese have failed.

I believe that the fact that the negotiations are beginning today in Paris shows that, perhaps more than ever, hope of some kind of negotiated settlement that will be satisfactory to the South and to our country is possible. But I would say to the Senate that if the negotiators for North Vietnam do not show good faith, if they use the negotiated procedure only as a propaganda device, this Nation should not continue to participate for any extended period of time.

I was happy that the President summed up both the record he has made on withdrawals and also to state in clear language what it is we are trying to accomplish in South Vietnam, when he said:

> We aren't trying to conquer North Vietnam or any other country. We want no territory. We seek no bases. We have offered the most generous peace terms—peace with honor for both sides—with South Vietnam and North Vietnam each respecting the other's independence.

Mr. President, I feel that this is the kind of role a great nation like ours must play in international affairs. I fail to see how those who oppose the President can differ with him on this objective, which he has stated so clearly.

The PRESIDING OFFICER (Mr. CHILES). The time of the Senator from Oklahoma has expired.

THE PRESIDENT'S VIETNAM SPEECH TO THE NATION

Mr. THURMOND. Mr. President, the address to the Nation last night by President Nixon should serve as a fresh ray of reassurance to the many Americans who want the Vietnam war brought to an honorable conclusion.

The President indicated clearly that the Vietnamization program is succeeding. It is succeeding to the point where 20,000 more GI's can be brought home from Southeast Asia. It is succeeding to the point where Gen. Creighton Abrams can predict that the South Vietnamese forces now have the ability to repel the Communist invaders from the North. It is succeeding to the point where the people of South Vietnam now have a realistic chance to live under a government of their own choosing, rather than under the dictates of a self-imposed Communist regime. It is succeeding to the point where other would-be Communist "liberators," in other trouble spots of the world, must now have serious second thoughts about duplicating the immoral aggressive acts of the Hanoi government.

All of these points, Mr. President, should say to us that the world can be a safer place if we support our Commander in Chief now.

The President's report last night reveals to us that the American troop level in Vietnam will be reduced to 49,000 men by July 1. This means that President Nixon has brought home over a half million American fighting men since he took office. This, he promised to do.

It means that the major burden of defending South Vietnam and preserving her independence has shifted from the United States to South Vietnam herself. This, he promised to do.

It means that the Government of North Vietnam will be forced to the negotiating table by denying them their goals on the battlefield. This he promised to do.

President Nixon has clearly served notice that the negotiations which are being resumed in Paris will not entertain further "propaganda and bombast" from the Communist delegation. Rather, he says we will insist that these talks "get on with the constructive business of making peace."

Such a determination on the part of our negotiators offers a very real hope that this long and costly war can be brought to a conclusion acceptable to the free world. It offers a real hope that prisoners of war will soon be exchanged; and it offers hope that those brave American men who have been confined, some for many years, will soon be reunited with their families.

Mr. President, these high hopes can become realities if this Congress and the people we represent show a solid wall of support behind our President and show it now. Let us close ranks and do away with the division which has, in my judgment, done more to encourage Hanoi to continue this war than any other single factor. Let us serve notice on the Hanoi regime that freedom in this world will prevail because free men are determined to remain free.

Mr. President, the cost for such unity is negligible when compared to the potential returns. Let us determine now that partisan and political interests will no longer be allowed to create hope in Hanoi that their policy of naked aggression will pay off. I repeat, the time for such a determination is now.

The issue in Vietnam is clear. More than 120,000 North Vietnamese troops are fighting in South Vietnam. As President Nixon told us, not one single soldier from South Vietnam is in the North. Twelve of Hanoi's 13 regular combat divisions have moved south of the DMZ, carrying aggressive warfare into the territory of their neighbors in the South.

The battles have become open and conventional with Hanoi's troops supported by armor, artillery, missiles, and rockets supplied by the Soviet Union. No longer can anyone claim that the action is a civil war or limited to insurgent guerrilla activity. President Nixon stated accurately that the only word for this unprovoked aggression across an international border is "invasion".

The President has assured us that this invasion will be met on the ground by South Vietnamese soldiers. No American ground troops will be involved. But, it is essential that these ARVN forces be supported by American air and naval operations. The President has rightly stated that these operations will continue as long as Hanoi's units remain in the South.

Mr. President, these next few weeks will be critical and decisive. The results can be what all free men hope if we support our President now. The cause of peace everywhere will be greatly enhanced if we stand behind our President who said:

> We will not be defeated; and we shall never surrender our friends to Communist aggression.

Mr. President, the address by President Nixon last night was a magnificent one. It has my full support. It is an address that should be studied carefully by everyone of us, and for that reason, I ask unanimous consent that this full text of his speech which appeared in the April 27 issue of the Washington Post of Washington, D.C., be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

NATIONAL ADDRESS BY PRESIDENT RICHARD M. NIXON, APRIL 26, 1972

During the past three weeks you have been reading and hearing about the massive invasion of South Vietnam by the Communist armies of North Vietnam.

Tonight, I want to give you a first hand report on the military situation in Vietnam, the decisions I have made with regard to the role of the United States forces in the conflict, and the efforts we are making to bring peace at the negotiating table.

Let me begin by briefly reviewing what the situation was when I took office, and what we have done since then to end American involvement in the war and to bring peace to the long-suffering people of Southeast Asia.

On January 20, 1969, the American troop ceiling in Vietnam was 549,000. Our casualties were running as high as 300 a week. Thirty thousand young Americans were being drafted every month.

95 PER CENT CUT

Today, 39 months later, through our program of Vietnamization—helping the South Vietnamese develop the capability of defending themselves—the number of Americans in Vietnam by May 1st will have been reduced to 69,000. Our casualties—even during the present, all-out enemy offensive—have been reduced by 95 per cent. Draft calls now average fewer than 5,000 men a month, and we expect to bring them to zero next year.

As I reported in my television address to the nation on Jan. 25, we have offered the most generous peace terms in both public and private negotiating sessions. Our most recent proposal provided for an immediate cease-fire; the exchange of all prisoners of war; the withdrawal of all forces within six months; and new elections in Vietnam, which would be internationally supervised, with all political elements including the Communists participating in and helping to run the elections. One month before such elections, President Thieu and Vice President Huong would resign.

Hanoi's answer to this offer was a refusal even to discuss our proposals and, at the same time, a huge escalation of their military activities on the battlefield. Last October, the same month when we made this peace offer to Hanoi, our intelligence reports began to indicate that the enemy was building up for a major attack. Yet we deliberately refrained from responding militarily. Instead we patiently continued with the Paris talks, because we wanted to give the enemy every chance to reach a negotiated settlement at the bargaining table rather than to seek a military victory on the battlefield—a victory they cannot be allowed to win.

INVASION MOUNTED

Finally, three weeks ago, on Easter weekend, they mounted their massive invasion of South Vietnam. Three North Vietnamese divisions swept across the Demilitarized Zone into South Vietnam—in violation of the treaties they had signed in 1954 and in violation of the understanding they had reached with President Johnson in 1968, when he stopped the bombing in North Vietnam in return for arrangements which included their pledge not to violate the DMZ. Shortly after the invasion across the DMZ, another three North Vietnamese divisions invaded South Vietnam farther south. As the offensive progressed, the enemy indiscriminately shelled civilian population centers in clear violation of the 1968 bombing halt understanding.

The facts are clear. More than 120,000 North Vietnamese are now fighting in the South. There are no South Vietnamese troops anywhere in North Vietnam. Twelve of North Vietnam's 13 regular combat divisions have now left their own soil in order to carry aggressive war onto the territory of their neighbors. Whatever pretext there was for a civil war in South Vietnam has now been stripped away.

What we are witnessing here—what is being brutally inflicted upon the people of South Vietnam—is a clear case of naked and unprovoked aggression across an international border. The only word for it is invasion.

ATTACKS ORDERED

This massive attack has been resisted on the ground entirely by South Vietnamese forces and in one area by South Korean forces. No United States ground troops have been involved. None will be involved. To support this defensive effort by the South Vietnamese, I have ordered attacks on enemy military targets in both North and South Vietnam by the air and naval forces of the United States.

I have on my desk a report which I received this morning from Gen. Abrams. He gives the following evaluation of the situation:

1. The South Vietnamese are fighting courageously and well in their self-defense, and inflicting very heavy casualties on the invading force, which has not gained the easy victory some predicted for it three weeks ago.

2. Our air strikes have been essential in protecting our own remaining forces and in assisting the South Vietnamese in their efforts to protect their homes and their country from a Communist takeover.

3. Gen. Abrams predicts that there will be several more weeks of very hard fighting in which some battles will be lost and others will be won by the South Vietnamese. But his conclusion now is that, if we continue to provide air and sea support, the enemy will fail in its desperate gamble to impose a Communist regime on South Vietnam and that the South Vietnamese will then have demonstrated their ability to defend themselves on the ground against future enemy attacks.

Based on this realistic assessment from Gen. Abrams, and after consultation with President Thieu, Ambassador Bunker, Ambassador Porter, and my senior advisers in Washington, I have three decisions to announce tonight.

TROOP WITHDRAWALS

First, I have decided that Vietnamization has proved itself sufficiently that we can continue our program of withdrawing American forces without detriment to our over-all goal of ensuring South Vietnam's survival as an independent country. Consequently, I am announcing tonight that over the next two months 20,000 more Americans will be brought home from Vietnam. This decision has the full approval of President Thieu and of Gen. Abrams. It will bring our troop ceiling down to 49,000 by July 1—a reduction of half a million men since this administration came into office.

Secondly, I have directed Ambassador Porter to return to the negotiating table in Paris tomorrow, but with one very specific purpose in mind. We are not resuming the Paris talks simply in order to hear more empty propaganda and bombast from the North Vietnamese and Vietcong delegates, but to get on with the constructive business of making peace. We are resuming the Paris talks with the firm expectation that productive talks leading to rapid progress will follow through all available channels. As far as we are concerned, the first order of business will be to get the enemy to halt his invasion of South Vietnam, and to return the American prisoners of war.

Finally, I have ordered that our air and naval attacks on military installations in North Vietnam be continued until the North Vietnamese stop their offensive in South Vietnam.

I have flatly rejected the proposal that we stop the bombing of North Vietnam as a condition for returning to the negotiating table. They sold that package to the United States once before, in 1968, and we are not going to buy it again in 1972.

Look at the record. By July 1 we will have withdrawn over 90 percent of our forces that were in Vietnam in 1969. Before the enemy's invasion began, we had cut our air sorties in half. We have offered exceedingly generous terms for peace. The only thing that we have refused to do is to accede to the enemy's demand to overthrow the lawfully constituted government of South Vietnam and to impose a Communist dictatorship in its place.

WARNING CITED

As you will recall, I have warned on a number of occasions over the past three years that if the enemy responded to our efforts to bring peace by stepping up the war I would act to meet that attack, for three reasons: to protect our remaining American forces, to permit continuation of our withdrawal program, and to prevent the imposition of a Communist regime on the people of South Vietnam against their will, with the inevitable bloodbath that would follow for hundreds of thousands who have dared to oppose Communist aggression.

The air and naval strikes of recent weeks have been carried out to meet these objectives. They have been directed only against military targets supporting the invasion of the South. They will not stop until that invasion stops.

The Communists have failed in their efforts to win over the people of South Vietnam politically. General Abrams believes that they will fail in their efforts to conquer South Vietnam militarily. Their one remaining hope is to win in the Congress of the United States, and among the people of the United States, the victory they cannot win among the people of South Vietnam or on the battlefield in South Vietnam.

The great question then is how we, the American people, will respond to this final challenge.

Let us look at what the stakes are—not just for South Vietnam but for the United States and for the cause of peace in the world. If one country, armed with the most modern weapons by major powers can invade another nation and succeed in conquering it, other countries will be encouraged to do exactly the same thing—in the Mideast, in Europe, and in other international danger spots. If the Communists win militarily in Vietnam, the risk of war in other parts of the world would be enormously increased. If Communist aggression fails, it will discourage others to do the same thing.

We aren't trying to conquer North Vietnam or any other country. We want no territory. We seek no bases. We have offered the most generous peace terms—peace with honor for both sides—with South Vietnam and North Vietnam each respecting the other's independence.

NO SURRENDER

But we will not be defeated; and we shall never surrender our friends to Communist aggression.

We have come a long way in this conflict. The South Vietnamese have made great progress and are now bearing the brunt of the battle. We can now see the day when no more Americans will be involved there at all.

But as we come to the end of this long and difficult struggle, we must be steadfast. We must not falter. For all that we have risked and all that we have gained over the years now hangs in the balance during the coming weeks and months. If we now let down our friends, we shall surely be letting down ourselves and our future as well. If we now persist, future generations will thank America for her courage and her vision at this testing time.

That is why I say let us bring our men home from Vietnam. Let us end the war in Vietnam. But let us end it in such a way that the younger brothers and sons of the brave men who have fought in Vietnam will not have to fight again in some other Vietnam at some time in the future.

HEAVY OBLIGATION

Any man who sits here in this office feels a profound sense of obligation to future generations. No man who sits here has the right to take any action which would abdicate America's great tradition of world leadership.

Earlier this year, I traveled to Peking on an historic journey for peace. Next month I shall travel to Moscow on what I hope will also be a journey for peace. In the 18 countries I have visited as President I have found great respect for the office of President of the United States. I have reason to expect, based on Dr. Kissinger's report, that I shall find the same respect for the Presidency when I visit Moscow.

I do not know who will be in this office in the years ahead. But I do know that future Presidents will travel to nations abroad on journeys for peace as I have. If the United States betrays the millions of people who have relied on us in Vietnam, the President of the United States, whoever he is, will not deserve nor receive the respect which is essential if the United States is to continue to play the great role we are destined to play of helping to build a new structure of peace in the world. It would amount to a renunciation of our morality, an abdication of our leadership among nations, and an invitation for the mighty to prey upon the weak all around the world. It would be to deny peace the chance peace deserves to have. This we shall never do.

Let us therefore unite as a nation in a firm and wise policy of peace—not the peace of surrender, but peace with honor—not just

peace in our time, but peace for generations to come.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. CHILES). The Senator from Ohio is recognized.

(The remarks Mr. TAFT made at this point on the introduction of S. 3536 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. GAMBRELL) laid before the Senate the following letters, which were referred as indicated:

REPORT OF FINANCIAL CONDITION OF THE PENN CENTRAL TRANSPORTATION CO.

A letter from the Acting Secretary of Transportation, transmitting, pursuant to law, a report of the financial condition of that Company, as of April 26, 1972 (with an accompanying report); to the Committee on Commerce.

PROPOSED AMENDMENT OF HIGHWAY REVENUE ACT OF 1956, AS AMENDED

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Highway Revenue Act of 1956, as amended, and for other purposes (with accompanying papers); to the Committee on Finance.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a confidential report relating to repair on air-to-air missiles in the Department of the Navy (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improvements Needed in Training and Technical Assistance Services Provided to Antipoverty Agencies", Office of Economic Opportunity, dated April 26, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Opportunity to Improve Indian Education in Schools Operated by the Bureau of Indian Affairs", Department of the Interior, dated April 27, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Deputy Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Follow-up Review on Assistance to War Victims in Vietnam", Agency for International Development, Department of State, Department of Defense, dated March 27, 1972 (with an accompanying report); to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. GAMBRELL):

A concurrent resolution of the Legislature of the State of Kansas; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION NO. 1155

"A Concurrent Resolution relating to and ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women

"Whereas, At the second session of the ninety-second congress of the United States of America, begun and held at the city of Washington on Tuesday, the eighteenth day of January, 1972, it was resolved by the Senate and House of Representatives in Congress assembled (two-thirds of each house concurring therein) that the following article be proposed as an amendment to the Constitution of the United States, which when ratified by the legislatures of three-fourths of the several states, shall be valid to all intents and purposes as a part of said Constitution, viz:

" 'JOINT RESOLUTION

" 'Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

" '*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*: That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

" 'ARTICLE ——

" 'Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

" 'Sec. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

" 'Sec. 3. The amendment shall take effect two years after the date of ratification.'

"Whereas, Said article will become valid as a part of the United States Constitution only if ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission by the congress: Now, therefore,

"*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That the foregoing and above recited amendment to the Constitution of the United States be, and the same is, hereby ratified by said legislature of the state of Kansas as a part of, and amendment to, the constitution of the United States.

"*Be it further resolved:* That the governor of the state of Kansas forthwith forward to the Administrator of General Services, Washington, D.C., and to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States authenticated copies of the foregoing resolution."

A resolution of the Senate of the State of Hawaii; to the Committee on Labor and Public Welfare:

"S. RES. NO. 214

"Resolution relating to the agreement between the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association

"Whereas, the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association have reached agreement after a lengthy strike which lasted one hundred and thirty-four days; and

"Whereas, the gravity and urgency of reaching accord on this situation have taken much hard work and concerted effort on the part of many concerned individuals representing labor, management, the arbitrator, and the Federal Mediation and Conciliation Service; and

"Whereas, the agreement after much discussion was regarded with favor by the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association; and

"Whereas, the Pay Board has just slashed this agreement, the product of so much exertion by all concerned, by a substantial amount, a move that risks unnecessary confrontation between the International Longshoremen's and Warehousemen's Union, the Pacific Maritime Association, and the Federal Government; and

"Whereas, the International Longshoremen's and Warehousemen's Union, under the leadership of Harry Bridges, has cooperated with management to improve the companies and especially productivity; and

"Whereas, this increased productivity has led to higher profits for the corporations involved; and

"Whereas, the workers, who have not struck for many years, have not received their rightful share of the increased profits that resulted from increased productivity and were forced to strike to obtain benefits that should have been theirs; and

"Whereas, the agreement which was submitted to the Pay Board was recommended for approval by the staff of the Pay Board; and

"Whereas, the Pay Board itself, contrary to their staff's recommendation, has not approved the agreement in its entirety; and

"Whereas, the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association have both urged that the Pay Board approve the agreement to avoid further disruption of commerce; and

"Whereas, such action by the Pay Board against a small but important Union may create difficulty and hardship for our people; and

"Whereas, these members of the International Longshoremen's and Warehousemen's Union number only thirteen thousand one hundred workers; and

"Whereas, such action may be detrimental to a small and responsible Union such as the International Longshoremen's and Warehousemen's Union; and

"Whereas, such action may actually hurt efforts to build the American economy into a viable one that may provide a good life for all; now, therefore,

"Be it resolved by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that the Pay Board be, and hereby is, respectfully requested to reconsider its action and approve the agreement between the International Longshoremen's and Warehousemen's Union and the Pacific Maritime Association; and

"Be it further resolved that certified copies of this resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President and President Pro Tempore of the United States Senate, the members of the Pay Board, and the members of the Cost of Living Council."

By Mr. BENTSEN:

A concurrent resolution of the Legislature of the State of Texas; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION NO. 1

"*Whereas,* The 92nd Congress of the United States, by a constitutional two-thirds vote in both Houses, adopted the following joint resolution proposing an amendment to the Constitution of the United States:

"JOINT RESOLUTION

"*Proposing an emendment to* the Constitution of the United States relative to equal rights for men and women.

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE

" '*Section 1.* Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"'*Sec. 2.* The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"'*Sec. 3.* This amendment shall take effect two years after the date of ratification.'; now, therefore, be it

"*Resolved by the Legislature of the State of Texas, the Senate and House concurring:*

"*Section 1.* That the Legislature of the State of Texas hereby ratifies and adopts this proposed amendment to the Constitution of the United States.

"*Sec. 2.* That the Secretary of State of the State of Texas shall notify the Administrator of General Services of the United States and each Senator and Representative from Texas in the Congress of the United States of this action of the Legislature by forwarding to each of them a certified copy of this Concurrent Resolution."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S. J. Res. 182. A joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in Farmfest-U.S.A. and the World Ploughing Contest in September 1972 (Rept. No. 92-760).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 213. Joint resolution to authorize and request the President to issue a proclamation designating October 6, 1972, as "National Coaches Day" (Rept. No. 92-761); and

H.J. Res. 1029. Joint resolution to authorize the President to issue a proclamation designating the month of May of 1972 as "National Arthritis Month" (Rept. No. 92-762).

By Mr. ELLENDER, from the Committee on Appropriations, with amendments:

H.R. 14582. An act making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes (Rept. No. 92-763).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 431. A bill to amend the Internal Revenue Code of 1954 to modify the provisions relating to taxes on wagering to insure the constitutional rights of taxpayers, to facilitate the collection of such taxes, and for other purposes (Rept. No. 92-764); referred to the Committee on Finance; and

H.R. 11350. An act to increase the limit on dues for United States membership in the International Criminal Police Organization (Rept. No. 92-765); placed on the calendar.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

Mrs. SMITH. Mr. President, from the Committee on Armed Services, I report the nomination of one officer for appointment to the grade of first lieutenant in the Marine Corps. I ask that this nomination be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination, ordered to be placed on the Executive Calendar is as follows:

William D. Rusinak, for appointment to the grade of first lieutenant in the Marine Corps.

Mrs. SMITH. Mr. President, in addition, I report favorably 1,431 promotions in the Army in the grade of lieutenant colonel and below. Since these names have already appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Lael J. Abbott, and sundry other officers, for promotion in the Regular Army of the United States.

ENROLLED JOINT RESOLUTION PRESENTED

The Assistant Secretary of the Senate reported that on April 25, 1972, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 218) to extend the authority conferred by the Export Administration Act of 1969.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ALLEN:

S. 3535. A bill to provide for a two-week suspension of withholding of Federal income tax on wages. Referred to the Committee on Finance.

By Mr. TAFT:

S. 3536. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents. Referred to the Committee on Finance.

By Mr. HART (for himself, Mr. MCGOVERN, Mr. CRANSTON, and Mr. CASE):

S. 3537. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966. Referred to the Committee on Agriculture and Forestry.

By Mr. BAYH (for himself, Mr. EAGLETON, Mr. MCGEE, Mr. MCGOVERN, Mr. PASTORE, Mr. MONDALE, Mr. RIBICOFF, and Mr. TUNNEY):

S. 3538. A bill to amend the Controlled Substances Act to require identification by manufacturer of each schedule II dosage unit produced; and

S. 3539. A bill to amend the Controlled Substances Act to move certain barbiturates from schedule III of such Act to schedule II. Referred to the Committee on the Judiciary.

By Mr. BELLMON:

S. 3540. A bill to permit national banks to invest in agricultural credit corporations. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. SPONG:

S. 3541. A bill to designate certain lands in the Shenandoah National Park, Virginia, as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. HANSEN:

S. 3542. A bill to amend section 311(d)(2)(A) of the Internal Revenue Code of 1954. Referred to the Committee on Finance.

By Mr. ANDERSON (for himself and Mr. AIKEN):

S. 3543. A bill to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for nuclear power reactors under certain circumstances, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. MAGNUSON (by request):

S. 3544. A bill to amend the Communications Act of 1934, as amended, with respect to commissioners and Commission employees; and

S. 3545. A bill to amend section 7 of the Fishermen's Protective Act of 1967. Referred to the Committee on Commerce.

By Mr. GURNEY:

S. 3546. A bill to designate the hospital being constructed in Tampa, Florida, as the "Melvin T. Dixon Veterans Hospital." Referred to the Committee on Veterans' Affairs.

By Mr. GURNEY (for himself and Mr. CHILES):

S. 3547. A bill to provide for orderly trade in fresh fruits and vegetables, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. PERCY:

S. 3548. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful. Referred to the Committee on Commerce.

By Mr. TOWER:

S. 3549. A bill to amend title 38, United States Code, to encourage persons to join and remain in the Reserves and National Guard by providing full-time coverage under Servicemen's Group Life Insurance for such members and certain members of the Retired Reserve up to age sixty. Referred to the Committee on Armed Services.

By Mr. BENNETT:

S. 3550. A bill for the relief of Richard and Jodi Mahoney. Referred to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S. 3551. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses. Referred to the Committee on Commerce.

By Mr. FANNIN (for himself and Mr. GOLDWATER):

S. 3552. A bill to modify the project on the Little Colorado River for local flood protection at Holbrook, Ariz. Referred to the Committee on Public Works.

By Mr. FANNIN (for himself, Mr. BENNETT, Mr. GOLDWATER, Mr. CANNON, Mr. DOMINICK, Mr. BIBLE, and Mr. MOSS):

S. 3553. A bill to amend the Taylor Grazing Act to increase the amount of certain revenue returned to the State. Referred to the Committee on Interior and Insular Affairs.

By Mr. MILLER:

S. 3554. A bill for the relief of Clarence McCarville and Emma McCarville. Referred to the Committee on the Judiciary.

By Mr. COOK (by request):

S. 3555. A bill to encourage and assist States and localities to coordinate their various programs and resources available for the prevention, treatment, and control of juvenile delinquency, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MOSS:

S. 3556. A bill to amend the Public Health Service Act to provide for in-service training of nursing home personnel. Referred to the Committee on Labor and Public Welfare.

By Mr. TOWER:

S. 3557. A bill relating to the Federal Prison Industries and prison-made products. Referred to the Committee on the Judiciary.

By Mr. TUNNEY:

S. 3558. A bill to provide for increases in the readjustment allowances of Peace Corps volunteers and volunteer leaders, and to provide for the depositing of such allowances in savings accounts. Referred to the Committee on Foreign Relations.

By Mr. EASTLAND:

S. 3559. A bill for the relief of Jim Suk Park. Referred to the Committee on the Judiciary.

By Mr. FULBRIGHT (by request):

S. 3560. A bill to facilitate compliance with the treaty between the United States of America and the United Mexican States, signed November 23, 1970, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. SCHWEIKER (for himself, Mr. Mondale, Mr. Scott, Mr. Case, Mr. Talmadge, Mr. Boggs, Mr. Hughes, Mrs. Smith, and Mr. Burdick):

S.J. Res. 225. A joint resolution to prevent abandonment of railroad lines. Referred to the Committee on Commerce.

By Mr. PERCY:

S.J. Res. 226. A joint resolution to authorize the President to designate the period from September 17, 1972, through September 23, 1972, as "National Bank Women's Week." Referred to the Committee on the Judiciary.

By Mr. GRIFFIN:

S.J. Res. 227. A joint resolution to authorize and request the President to issue a proclamation designating one day during each year as "National Registered Nurses Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLEN:

S. 3535. A bill to provide for a 2-week suspension of withholding of Federal income tax on wages. Referred to the Committee on Finance.

TWO-WEEK INCOME TAX WITHHOLDING MORATORIUM

Mr. ALLEN. Mr. President, I introduce, for appropriate reference, a bill designed to provide a practicable means of reimbursing certain taxpayers for overpayment of taxes resulting from erroneous and excessive rates of withholding from the paychecks of millions of employees for Federal income tax purposes during the 1972 calendar year.

Beginning in the early part of 1972, Alabama constituents began asking why more was being withheld from their paychecks for income tax purposes this year than last, despite the fact that their earnings and the number of exemptions were the same as last year. We know that the standard deduction had been increased for the taxable year 1972 from 13 to 15 percent with a maximum of $2,000 and that the value of individual exemptions had been increased over 1971 from $675 to $750. Logically, the tax liability should have been less and the amount withheld from paychecks should have been less.

However, Congress, in the Revenue Act Amendments of 1971, had provided for a set of withholding tables which required employers to deduct more from wages and salaries than was necessary to pay the income tax liability for the calendar year 1972. As a result, it has been estimated that unless the present rate of withholding is adjusted, employee earnings in a total amount of some 5 or 6 billion dollars or more in excess of tax liability will be collected in the course of the 1972 calendar year. In considering whether adjustments should be made, the following factors might be considered:

First, the national debt picture and the size of the deficit for the fiscal year ending June 30, 1972 will be distorted by reflecting an excess of revenues from tax receipts in excess of the liability of the taxpayers.

Second, these billions of dollars taken from the pockets of the taxpayers have had a decidedly adverse effect on the economy, particularly in the area of retail trade. An influx into the private sector of reimbursed dollars through higher pay checks cannot but stimulate the economy.

Third, it is grossly unfair to wage earners to be compelled to continue to pay out dollars from their earnings month after month which in effect constitute interest-free loans to the U.S. Government.

Fourth, it is important that the taxpayers have confidence in our legislative system. This confidence can be restored by demonstrating a willingness on the part of Congress to correct an admitted mistake.

Mr. President, the bill I am introducing will make a necessary correction in a prompt and efficient manner to serve until such time as the withholding tables are adjusted by statute. The administration has offered a solution, but it has not worked and there is no reasonable expectation that it will work. I have reference to the administration's suggestion that employees file a form with their employers claiming additional exemptions as a means of reducing the excessive amount of tax now being withheld.

I submit that the solution offered in the bill being offered today is preferable. In essence, it would require a moratorium on withholding from earnings over a period of 2 weeks beginning on the Monday first occurring more than 30 days after the date of enactment of the bill.

The effect of such a moratorium would be that all overpayments would be reimbursed to the employee through higher take-home pay for 2 weeks, and the employee would be prepaid a portion of the anticipated excess in withholding based on current withholding tables for the balance of the calendar year. In this connection, the administration has permitted prepayment of national service life insurance dividends this year prior to the anniversary date, and there is no difference in principle in permitting employees an immediate settlement of a subsequent claim for tax refunds which claims arise from withholding in excess of tax liability. After all, the Treasury has been using the funds represented by excess withholding without the payment of interest. Why should not employees be given a break by way of reimbursement this year of overpayments resulting from error by the Government?

Mr. President, let me point out that the moratorium on withholding of income tax from paychecks will result in taxpayers receiving an estimated $3.2 billion extra in take-home pay during such 2-week period. Since it is estimated that at least $5 or $6 billion will be withheld during the year in excess withholding under present withholding tables, the moratorium would still leave most taxpayers a substantial cushion of overpayment of 1972 income tax liability.

Let me illustrate in dollars and cents what a moratorium on withholding would mean for individuals in three income categories. For this purpose, we will use tables applying to persons claiming only one exemption and persons claiming three exemptions. During the 2 weeks moratorium period, the increase in paychecks would total the amounts as indicated:

Total reimbursement

Weekly gross incomes	$100.00	$150.00	$200.00
Man, wife and 1 child	14.40	31.20	47.20
Single person	26.80	49.00	70.00

Mr. President, one may reasonably ask what would be the effect on those who had already filed with their employers a W–4 form claiming extra exemptions or those who for any other reason preferred not to be reimbursed for taxes withheld in excess of liability. Under provisions of the proposed legislation, such an employee could simply notify his employer of his wishes, and the employer would continue to withhold at the current rate. Administratively, there would be as little or perhaps less bookkeeping involved for the employer to not withhold from earnings during a 2-week period than if the employer had to continuously adjust his books to reflect the amount of withholding for separate employees who might file for extra exemptions.

Mr. President, the taxpayers have been victimized by an error on the part of the Federal Government. They are entitled to reimbursement, and they are entitled to it at the earliest possible moment. Needless to say, the economy would respond to this extra shot in the arm represented by the increased paychecks and increased spending over a 2-week period.

Mr. President, we hear much talk today about tax reforms, and some of the suggestions have considerable merit. This bill offers an immediate opportunity not for tax reform as such but for correction of a previous mistake. Those Senators now campaigning across the country for the office of President are promising tax reforms. I have no doubt that their promises imply a willingness to correct tax withholding errors on the part of the Government.

Mr. President, in view of the fact that the bill is quite brief, I ask unanimous consent that it be printed at this place in the Record and that several news items which illustrate various aspects of the problem be printed in the Record.

There being no objection, the bill and articles were ordered to be printed in the Record, as follows:

S. 3535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of chapter 24 of the Internal Revenue Code of 1954 (relating to collection of income tax at source on wages), no employer shall deduct or withhold any amount of Federal income tax from that part of the wages of any employee paid for services performed during the 14-day period beginning on the Monday first occurring more than 30 days after the date of enactment of this Act.

(b) Nothing contained in this Act shall affect the liability of any individual for taxes imposed under chapter 1 of the Internal Revenue Code of 1954 or the amount of taxes for which he is liable under that chapter. No employer shall be liable for any amount of tax not deducted or withheld from the wages of an employee on account of subsection (a).

(c) As used in this Act, the terms "employer", "wages", and "employee" mean employer, wages, and employee as defined in section 3401 of the Internal Revenue Code of 1954.

(d) This Act shall not apply with respect to wages paid to any employee who notifies his employer, in such form and at such time as the Secretary of the Treasury or his delegate may prescribe, that he does not wish to have a suspension of withholding of Federal income tax from his wages.

(e) The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

[From the Washington Post, April 13, 1972]

THE BIG TAX BLUNDER

(By Hobart Rowen)

This is the story of a $5 billion to $6 billion tax blunder made by the federal government, and being paid for by individuals whose income depends largely on a single wage or salary.

It may, in fact, turn out to be not only one of the most bizarre financial goofs of all time, but one which adds to the taxpayers' sense of being fed up with the bureaucracy.

Incredible as it sounds considering the array of available computers and technicians, the Internal Revenue Service and related committees on Capitol Hill established schedules for taking taxes out of pay envelopes this year that will result in overwithholding at least $5 billion to $6 billion more than the tax law requires.

The saga starts with the fact that in 1971, the opposite mistake was made: the withholding schedules resulted in "under-withholding" for millions of taxpayers, who then discovered they still owed Uncle Sam a big bundle when making out their final tax payment for April 17 this year.

Most who found themselves in this situation are families where both spouses had jobs, or where the husband or wife had two jobs. They were "under-withheld" because the tax law last year for the first time provided a more generous minimum standard deduction which was reflected in withholding rates. But where there were two jobs in the family, the withholding table was allowing credit for that deduction in both cases.

So the administration and Congress set about to correct this situation. But when they arranged higher withholding rates for this calendar year to more closely match the real tax obligations of the two-job family or the "moonlighter," they automatically set them too high for the man or woman with a single job.

Insiders knew that the pendulum would swing from under-withholding to over-withholding. The rationale was that those who would be over-withheld by the new schedules could easily file a W-4 form with their employers, claiming additional exemptions that would reduce their weekly tax bite.

But as top officials now concede, taxpayers (possibly because they were conscious that underwithholding had been the problem the year before) did not rush to file W-4s in the anticipated numbers.

Nixon administration officials foresaw that over-withholding would complicate their lives in a year when the economy would need all the stimulation it could get to promote recovery. In testimony last year, Treasury and IRS officials urged that a House Ways and Means Committee proposal, which was designed to correct the under-withholding in two stages, be adopted to soften the blow. But the Senate Finance Committee got its way in conference, putting higher withholding rates into effect at once for wages paid after January 15, 1972.

The impact of the new rates has been dramatic. For the first quarter of the year, the Treasury raked in $2 billion more than it had expected. That's an $8 billion annual rate. A top Nixon aide told The Washington Post that making allowance for a hoped-for influx of W-4 forms, the withholding excess for the year might not be more than $5 billion to $6 billion.

But even that much represents a massive miscalculation. It is little wonder, then, that the results in Democratic primaries in Florida, Wisconsin and elsewhere shows widespread voter dissatisfaction with the tax burden. It is not only oppressive, but a far cry from the reduced tax outlook that President Nixon had touted in his Budget Message and State of the Union address in January as "a return of power to the people."

Anything like $5 billion or $6 billion taken out of the consumer spending stream, even acknowledging that the taxpayers eventually will get the money back, dampens the hopes for recovery.

On the other hand, as Wall Street economist Sam Nakagama points out, the same miscalculation which brings in more money to the Treasury (helping reduce the federal deficit this year to less than $30 billion instead of the projected $38.8 billion) also reduces the pressure on the money markets and leads to lower interest rates.

What an ironic twist! Granting that it's tough to set withholding rates that cover the whole complexity of tax liability situations, the fact that the IRS and two technicians' groups on Capitol Hill are establishing the economic policy-mix for the whole government should lift more than eyebrows around this town.

[From Business, March 18, 1972]

WITHHOLDING PUTS A HOLD ON SPENDING

Administration economists are afraid that the new income tax withholding schedules are unnecessarily siphoning $4-billion or more from consumer pocketbooks. They wonder, in fact, if the withholding rates that took effect in January are not partly to blame for lagging retail sales and the prospect that first-quarter gains in gross national product may not be on target.

The rates were increased up and down the line to cover underwithholding for working couples and individuals holding two jobs and to bring withholding generally into line with tax liability. Now an employee with a "normal" situation—without a working spouse or a second job—must act to prevent having too much tax taken out of his paycheck.

The Council of Economic Advisers has raised questions about the change with the Treasury Dept. Treasury officials, in turn, have leaned on the Internal Revenue Service, and the IRS is stepping up efforts to show taxpayers how to bring withholding and actual tax liability back into line.

One Treasury analyst notes: "Nothing like the number of people we expected to change their withholding have changed. Now we are getting systematic overwithholding." Exactly how much of this is going on, nobody knows, but the $4-billion figure is commonly used. A "wild, outside figure" is $10-billion, which could be reached only if no one adjusted his withholding, Treasury says.

CEA'S GRIPE

Even if it turns out to be $4-billion, that is several hundred million more than all the personal income tax cuts included in the Revenue Act of 1971. And the Administration was counting on that to provide a major boost to the economy, especially to consumer spending.

The CEA hardly favors the forced savings represented by overwithholding, since the consumers were socking away a healthy chunk of their incomes anyway; the savings rate was an abnormally high 7.8% of disposable personal income in the fourth quarter of 1971. The Administration's forecast of a $100-billion GNP advance for the year does not hinge on a drop in the savings rate, but it certainly requires sharp gains in personal consumption spending. Says a Treasury forecaster: "If we don't get the consumption, we just can't make it."

The disappointingly flat retail sales reported for the first two months of the year cast some doubt on "making it," at least in the first quarter. The advance estimate of February's retail sales of $34.9-billion, seasonally adjusted, is slightly lower than January's $35-billion or last September's $35.2-billion. With personal income setting new highs, as opposed to after-tax disposable income, some analysts are blaming overwithholding.

ALTERNATIVES

No withholding scheme could be devised to cover every situation automatically. IRS officials claim they examined "many, many alternatives," and that the one chosen was the best. Specific withholding tables for working couples were rejected as a burden on employers and as a potential target for Women's Lib. To reflect reality, says one technician, such a table would have to allow for the fact that a husband's salary is usually about three times that of his wife's.

The tax code, which formerly made it illegal to claim more exemptions for withholding purposes than the taxpayer would be entitled to on his return, now provides for an additional "standard deduction allowance" equal to one exemption. And if the taxpayer has itemized deductions, he can claim still more withholding allowances.

The changes, however, are tricky for taxpayers who are already confused by tax forms, and who rely on automatic withholding to keep payments and liabilities in line. Under the law, employers were to inform employees of the various changes. But many did not, as a recent IRS check of major employers revealed. Even at IRS, fewer than 20% of the employees adjusted their withholding.

So now the IRS is launching a new effort to get employers to persuade employees to claim the added deductions. Trouble is, there is no way for the IRS to keep a running check on how many employers have adjusted their withholding. Even quarterly returns filed by employees do not link the amount withheld from an employee to his total tax liability. As one Treasury official admits, "We just don't know much about how it is going at the moment."

[From the New York Times, April 2, 1972]

HOW U.S. WITHHELD TOO MUCH INCOME TAX

(By Eileen Shanahan)

WASHINGTON.—Some things get done badly because they are genuinely hard to do well, and some get done badly because nobody tried hard enough to do them well.

Both of these contributed to the problem that taxpayers, the Administration and the economy now face over defects in the income-tax withholding system. While there is blame enough to go around, it is also clear that the Nixon Administration had what the liability lawyers call the "last clear chance" to ameliorate the problem and failed to do so.

Those with strongly partisan leanings may be forgiven a smile. Those who wish, regardless of partisanship, that the economy were recovering faster, may be forgiven some annoyance with the Treasury, the Internal Revenue Service and the White House.

The problem in this complicated story dates back to the 1969 Tax Reform Act.

Among the many provisions of the act, was an especially large standard deduction for low-income families that came to be known as the "low-income allowance" or the "minimum standard deduction." Anyone not familiar with the mechanics of the tax system might not understand how adoption of the low-income allowance could create a series of problems in adjusting the withholding-tax tables, but it did, particularly for 1971, when the allowance was fully in effect. The problem was not recognized as Congress hurried to finish the bill before Christmas.

Those who suffered fell into two groups—low-income families in which more than one person worked, and above-middle income families of all kinds, especially those in which more than one person worked. Both had too little tax withheld. The problem for low-income families was acute; those with pitifully small incomes, at and below the poverty level, would have been faced with ruinous tax bills of several hundred dollars on April 15 of this year.

The problem was recognized as early as February of last year, but beyond having Internal Revenue put out a press release warning that two-worker families, especially those at the bottom and those at the top, were being drastically underwithheld, nothing was done.

Even when the Administration decided, in midsummer 1971 to ask Congress to enact some tax reductions, partly for individuals but mainly for business, to help stimulate the economy, it made no move to correct the underwithholding problem. In fact, the Treasury fought the idea when members of the Ways and Means Committee suggested it, or the ground (undisputed) that increasing the withholding of those who were being underwithheld would tend to offset the stimulating effects in the economy of the tax reductions the Administration wanted.

In the end, Congress overrode the Administration's objections and changed both the withholding and the 1971 tax liabilities to bail out the poor people. It also fixed the withholding rates at the top, to ameliorate the problem for the type of constituents who write their Congressmen and complain.

But the new withholding tables, for a variety of reasons, planned and unplanned, overcorrected the underwithholding problem for most families with only one worker and for single people—corrected it to the point of drastic overwithholding.

The Administration has been aware of the new problem for several months but, once again, stirred itself only to the point of having Internal Revenue issue a couple of press releases, urging people to put in for extra tax exemptions if they were needed to make the withholding come out right.

Only when it began to appear, within the last few weeks, that the degree of overwithholding was so great that it might really dampen consumer spending to the point of threatening the economic recovery did officials start planning TV spots and letters to every taxpayer warning of the withholding.

[From the Washington Post, March 18, 1972]

NEW WITHHOLDING RULES SEEN HURTING ECONOMY

(By William H. Jones)

A top government economist lamented yesterday the fact that most Americans aren't yet aware of new withholding tax regulations that could increase their weekly take-home pay.

Harold C. Passer, Assistant Secretary of Commerce for Economic Affairs, told an audience at the University of Maryland that overwithholding of income taxes has become a major factor in sluggish retail sales since December—the one sector of the economy demonstrating any significant weakness, he asserted.

The net effect of the Revenue Act of 1971, passed late in the year, has been to blunt the impact of income tax reductions that became effective Jan. 1, Passer said, and consumer sales have remained flat.

The new legislation was designed to eliminate under-withholding experienced by many taxpayers, in 1971. As the law was changed to increase withholding rates, however, Congress also established a new "special withholding allowance."

The purpose, Passer said, was to permit individual taxpayers—on their own initiative—to reduce their withholdings if they had extensive normal deductions.

Various kinds of allowances in the withholding system permit taxpayers to tailor deductions for income tax to match the actual tax. For instance, according to the Internal Revenue Service, a person buying a house has large tax and mortgage interest payments to deduct, and can claim one or two additional exemptions in his W-4 form, over the total number of persons he supports.

"Look at your W-4 and tell your friends to look at theirs," Passer exhorted the audience of more than 300 business and government leaders from Maryland, including Comptroller Louis L. Goldstein. "Read the instructions on the back and perform do-it-yourself surgery on your withholding."

The voluntary over-withholding now prevalent, he concluded, "is like making zero interest loans, which is rich."

Passer said a second major factor holding down retail sales activity has been unseasonable warm weather in the Northeastern U.S., where a fourth of the people live. Temperatures have been above normal and precipitation below normal, he said, resulting in sharply reduced sales of such items as overcoats, snow tires, boots, ski equipment, snowmobiles, and fuel oil.

Retail food stores sales are also down on a per capita basis, he said, perhaps hinting a rebellion by housewives in the face of rising prices.

Elsewhere in his address to the annual outlook conference sponsored by the university's college of business and public administration and Surburban Trust Co., Passer detailed a generally optimistic economic picture for 1972, with the Nixon administration achieving all its goals.

Calling himself the "Cheerful Charlie of Economics," Passer said it is necessary to call attention to good economic news "because such an extra effort is needed to balance the perennial pessimism of some punditis in the press"—a minority of economic reporters.

The sluggish retail sales, he said, have been balanced so far by higher than anticipated residential construction and capital spending.

Asked later about rising short-term interest rates, Passer said they had fallen "abnormally low" and that as business expansion picks up—he stuck by the administration forecast of 6 per cent real growth in 1972—some interest rates will move even higher with more money market demand.

By Mr. TAFT:

S. 3536. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents. Referred to the Committee on Finance.

Mr. TAFT. Mr. President, I want to express my deep concern about the crisis condition in education facing all Ohio citizens and, indeed, the entire Nation, as a result of the April 17 Federal court ruling in the Wolman case declaring the Ohio nonpublic parental grant law unconstitutional. The Supreme Court's rulings in the Lemon and Brusca cases also bear on the problem nationally. Even these cases, however, and especially the Wolman case, in my opinion, do not preclude the constitutionality of an individual income tax credit for all or part of the payments for private school tuition of parents who have children in nonpublic schools. It appears to be the only route left to provide early and vital help both to private, nonpublic and public schools as well.

The collapse of Ohio's nonpublic school system would have a tragic impact on all Ohio education. The same picture is reflected nationally.

I share President Nixon's position in believing that Ohio and our Nation has been and must continue to be best served by a viable public and a viable nonpublic school system. Each system clearly complements the other toward the goal of availability of excellence in education for all our citizens. I also concur with the President's commitment to find constitutional means to assure the survival of nonpublic schools throughout the Nation, with appropriate safeguards assuring access to both systems for all citizens.

I am, therefore, carrying my concerns into immediate action as follows:

First, by introduction of individual income tax credit legislation in the Senate, aimed at the earliest possible relief to this crisis. This should be acted on in this session. It should include effective provisions requiring qualifying private schools to be open to all without racial discrimination. I believe that I have worked out, in the drafting of this legislation, safeguards that will assure this.

Second, by a pledge to work for an educational plank in the 1972 Republican Convention platform which assures meaningful educational legislation and equitable inclusion of public and nonpublic school children, in such legislation.

Third, by continuing my support to the President in implementing his views and programs in this area, including important recommendations of his commission and panel on nonpublic education.

Fourth, I have drafted and have ready for introduction a constitutional amendment specifically authorizing such a tax credit as I have proposed, and in the long run this may be the way to resolve the matter. However, I shall not introduce it at this time because I wish to cast no cloud on my complete conviction that the statutory approach is constitutional.

As pointed out by the final report of the President's Panel on Nonpublic Education, 10 percent of total enrollment, or over 5 million students are attending private schools. In Ohio this includes almost 340,000. Ohio was included in the commission's statement that:

> The prospect of massive dislocations exists in eight of the Nation's most populous states.

This led the panel to its recommendation of tax credits of the type proposed in my legislation.

Based on the estimates of the panel I mentioned in Ohio, one-third of the parochial students would leave the nonpublic schools and come to the public schools. It would cost in the neighborhood of $112 million as one-third of the total of 340,000 students in private schools would shift over to the public school system.

A failure to face this need and enact credits of this type mean a crisis of major proportions in both public and private education in this country, with an almost certain deterioration in quality of education occurring especially in areas that are already in need of enormous improvement.

As pointed out by the President's Commission, individual income tax credits could provide much needed help by promoting investment in nonpublic education, by eliciting public support, and by having a good psychological effect on nonpublic school parents.

The cost estimated for the credit would be $500 million, a modest one if it achieves the purposes desired, and this bill is drafted to accomplish those objectives.

Mr. President, I ask unanimous consent that the bill be printed in the Record at this point in my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by redesignating section 42 as section 43, and by inserting after section 41 the following new section:

"Sec. 42. Tuition Paid for Elementary or Secondary Education.

"(a) General Rule.—There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, an amount determined under subsection (b), for tuition paid by him to any qualified private nonprofit elementary or secondary school during the taxable year for the elementary or secondary education of any dependent with respect to whom the taxpayer is allowed an exemption for the taxable year under section 151(e).

"(b) Limitations.—

"(1) Amount per dependent.—The amount allowable under subsection (a) for the taxable year with respect to any dependent shall not exceed the lesser of—

"(A) 50 percent of the tuition paid by the taxpayer during the taxable year for the elementary or secondary education of such dependent, or

"(B) $400.

"(2) Reduction of credit. The aggregate amount which would (but for this paragraph) be allowable under subsection (a) shall be reduced by an amount equal to $1 for each full $20 contained in the amount by which the adjusted gross income of the taxpayer (or, if the taxpayer is married, the adjusted gross income of the taxpayer and his spouse), for the taxable year exceeds $25,000. For purposes of this paragraph, marital status shall be determined under section 143.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Tuition.—The term 'tuition' means any amount required for the enrollment or attendance of a student at a qualified private nonprofit elementary or secondary school. Such term does not include any amount paid directly or indirectly for meals, lodging, transportation, extracurricular activities, non-secular educational activities, supplies, equipment, clothing, or personal or family expenses. If the amount paid for tuition includes any amount (not separately stated) for an item described in the preceding sentence, the portion of the amount paid for tuition which is attributable to such item shall be determined under regulations prescribed by the Secretary or his delegate.

"(2) Qualified private nonprofit elementary or secondary school.—The term 'qualified private nonprofit elementary or secondary school' means a nonpublic educational institution (as defined in section 151(e)(4)) which—

"(A) regularly offers education at any grade from grade one through twelve (inclusive) which education is substantially equivalent to the public education available in the appropriate local school district;

(B) is accredited by the State; and

"(C) does not discriminate, through its tuition or scholarship policies, or otherwise, in the admission of students, in the hiring of personnel, or in any other activity, on the basis of race, color, creed, or national origin.

"(3) Elementary or secondary education.—The term 'elementary or secondary education' does not include education at a level beyond the 12th grade.

"(d) Application With Other Credits.—The credit allowed by subsection (a) to the taxpayer shall not exceed the amount of tax imposed on the taxpayer for the taxable year by this chapter, reduced by the sum of credits allowable under this subchapter (other than under this section and sections 31 and 39).

"(e) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such subpart A is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"Sec. 42. Tuition paid for elementary or secondary education.

"Sec. 43. Overpayment of tax."

Sec. 2. The amendments made by this Act shall apply to taxable years beginning after December 31, 1971.

By Mr. HART (for himself, Mr. McGovern, Mr. Cranston, and Mr. Case):

S. 3537. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966. Referred to the Committee on Agriculture and Forestry.

COMPREHENSIVE SCHOOL LUNCH-SCHOOL BREAKFAST REFORM

Mr. HART. Mr. President, I introduce a comprehensive school lunch-school breakfast reform bill. Joining me in this effort are Senators McGovern, Cranston and Case.

This legislation represents a broad consensus for change in these programs. A product of hearings by the Senate Select Committee on Nutrition and Human Needs, the recommendations were formulated by a large number of individuals and groups, including the Food Research and Action Center of New York, the National Council on Hunger and Malnutrition, the Community Nutrition Institute, the Children's Foundation and many State school lunch directors. It comes to the Congress not as the bill of any special interest, not as the bill supported by only one segment of the interested public.

Its benefits are aimed at only one group: the children of America. I truly believe, Mr. President, that this bill is the children's school lunch bill.

This bill will go a long way toward eliminating many of the difficulties that have plagued these programs in the last several years. This bill will make structural changes necessary if these programs are to help us realize our pledge to eliminate hunger and malnutrition from our Nation's classrooms.

The bill will establish a minimum national reimbursement rate of 10 cents a meal for all lunches, 35 cents for reduced price meals and 45 cents for free meals. The experience of the last several years has taught us that such a minimum reimbursement structure is essential if the States and localities are to have the confidence in reimbursement payments necessary for them to go forward to reach every needy child with a free or reduced-price meal.

Indeed, many of us will recall the difficulties we faced last fall on this matter, when, in an across-the-board nonselective attempt to save money, the Department cut back reimbursement rates from the previous spring. Congress responded by passing Public Law 92–153 setting the rates at 6 cents for each lunch and 40 cents for each free and reduced-price meal. Our legislation will assure the States that henceforth they need not worry about having their Federal reimbursement cut from under their expanding programs and will make it unnecessary for the Congress to deal with this program every August. The rate we propose is fair and reasonable.

For the first time it differentiates between the reduced price and free lunch—the reason: when lumped together, the overwhelming tendency by school officials is to charge a reduced price even to those who need a free meal so that the dollar stretches. The end result often is to eliminate the neediest of our poor children.

The bill also provides for including the cost of supervision, handling, and preparing the food. This provision is in response to the calls for help from many State school lunch directors who fall short of funds because of labor costs: the end result, of course, is once again to cut out the needy children who are not reached by the Federal reimbursement.

A significant feature of the bill is the provision directing advance funding to the States based on the previous year's cumulative expenditures. This will allow for proper and orderly planning by State officials, an element conspicuously absent from the present operation of the program. This change will enable each program to get off to a good start at the beginning of the school year and will eliminate question marks in local officials' minds as to the availability of Federal funds. They need no longer hesitate to make a vigorous outreach effort to serve each needy child.

The bill will eliminate the 3-to-1 matching formula, which offered a financial incentive to require payments from needy children who—in most cases—did not have the money to pay. It retains the requirement that State revenues, as opposed to children's payments, constitute a percentage of program funds.

For the first time, we are setting a truly adequate nutritional standard for both lunches and breakfasts: each meal will be required to meet the one-third recommended dietary allowances for specific age groups—elementary and secondary levels—in order to receive the Federal reimbursement. Such a provision, Mr. President, is essential if the meal is to have any certain value to these children.

This bill will require that the national minimum eligibility standards established by Public Law 91-248 be announced no later than May 15 preceding the opening of school. This is another essential provision to assure State and local people, on whom this program so greatly depends, of support for making intensive outreach efforts prior to the start of the school year. Its necessity, again, has been demonstrated to us: last year, just weeks before schools were to open, the Department sought to cut back the eligibility levels that exceeded the national minimum and that had been approved by USDA in their State plans of operations the previous spring. This move caused nothing short of chaos in the States, and Congress was, again, called on to respond, which it did by amending Senate Joint Resolution 157—Public Law 92-153—before it reached the floor for a vote.

The bill we introduce today makes very clear the intent of Congress when it passed Public Law 91-248: the eligibility standard is a floor, not a ceiling, and the State and local authorities are free to adjust it upward as they see fit, when cost of living variations, peculiar economic conditions or the like so require. This is no change in the current law: it simply puts this intent in more explicit terms, so that an action by the Department similar to that of last fall may never again be allowed to impede the progress of this program.

The authorizations are open ended, except that section 13, the preschool and summer lunch programs, is authorized to use $125 million for fiscal year 1973. Rapidly expanding needs in day care and summer feeding programs will require substantially increased funding for the coming year. Section 13 programs could easily have utilized twice their current spending levels of $49 million for fiscal year 1972; instead, a freeze has been imposed on section 13 funding throughout this fiscal year.

The final change in the lunch program is an amendment that adds six persons to the advisory committee that is to overview this program; a supervisor of a multiunit school lunch program; three parents, two of whom have children receiving free or reduced price meals; and, two children, one of whom is receiving a free or reduced price meal.

The breakfast program will get a great boost with this legislation; some of the changes were mentioned above. Principally, we intend to raise this program from the second-class status it currently occupies, to make it a permanent member of the child nutrition effort. We accomplish this by providing open-ended authorizations for the fiscal years after 1972, by providing a fair and totally realistic reimbursement rate of 30 cents per meal—as opposed to the current average of 15 cents—and by allowing "needy" schools to be reimbursed for 100 percent of the cost of breakfasts served. A major change is allowing the program in any school that requests one, and not limiting it to "needy" schools. Children not schools, are needy. The poor child should not be denied a meal because of the economic status of his classmates. I recently chaired a hearing of the Senate Select Committee on Nutrition and Human Needs where it was shown that with an adequate reimbursement rate system over 20,000 schools—more than 20 times the number now participating—would utilize the school breakfast program.

We are coming to realize the vital importance of breakfast to the health, attitudes and physical wellbeing of our children. A nutritious morning meal is an essential prerequisite to learning ability, energy capacity and attention span.

A useful efficiency measure in this bill provides that any child eligible for a free or reduced price lunch shall automatically be eligible for a free breakfast. This will eliminate any two-step application process and avoid the possibility of inconsistent eligibility standards. The reduced price category is eliminated, as we feel it creates an unnecessary administrative nightmare, is not financially rewarding and amounts, in reality, to hairsplitting among truly needy children.

As in the lunch program, simplified certification of eligibility by affidavit is provided for and notification of program availability is required.

Crucial to both the breakfast and lunch programs, as I mentioned before, is the inclusion of schools in the program that presently lack facilities. In the Child Nutrition Act amendments we authorize $80 million for the next 3 fiscal years and $40 million for each succeeding year for this purpose. These amounts are necessary, because although Congress in the past has authorized amounts of $38 million and $33 million, USDA has never requested more than $16 million and, in 2 years has succeeded in bringing no more than 5,000 new schools into the programs.

These are the major changes in the law that will be accomplished by this bill. I urged my colleagues on both sides of the aisle to give careful consideration to these changes and to support them.

Two years ago, when we passed Public Law 91-248, we pledged to end hunger in our Nation's classrooms. We have met major roadblocks in that effort. No one is to blame and this should not be an issue that divides us ideologically or by party lines. We are talking about hungry children and an effort to help them receive a better diet.

The reforms proposed in this bill can help us move toward that goal. One does not have to agree with every section of this bill in order to prove his commitment to the promise to end hunger in America. All I do ask is that as we consider the many reforms proposed, we keep in mind the goal that all people of good will can and should support—the elimination of hunger in a land of affluence.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3537

Be it enacted by the Senate and the House of Representatives in Congress assembled, That the heading of section 3 of the National School Lunch Act, as amended, is revised to read as follows: "Availability of Appropriations"; and the first sentence of such section 3 is deleted.

SEC. 2. The heading of section 4 of the National School Lunch Act is revised to read as follows: "Food Assistance" and the language of such section 4 is revised to read as follows:

"SEC. 4. (a) For each fiscal year, there is hereby authorized to be appropriated such sums as may be necessary to finance the food assistance payments under subsection (b) of this section.

(b) Except as provided in section 10 of this Act, in each fiscal year each State educational agency shall receive food assistance payments in an amount to be determined by multiplying the number of lunches (consisting of a combination of foods and meeting the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served to children in schools within that State.

(c) The food assistance payments made available to each State educational agency for each fiscal year under subsection (b) of this section shall be used by the State educational agency to assist schools of that State in financing the cost of obtaining agricultural commodities and other foods used in the school lunch program under the provisions of this Act. Such food costs shall include, in addition to the purchase price of the agriculture commodities and other foods: (1) the cost of storing, handling, processing, distributing, and transporting thereof; (2) the cost of preparing and serving the food; and (3) the cost of administering and supervising the lunch program by school food authorities.

SEC. 3. The heading of section 5 of the National School Lunch Act, as amended, is revised to read as follows: "Payments to States"; and the language of such section 5 is revised to read as follows:

"SEC. 5. The state educational agency of each State desiring to participate in the school lunch program under this Act and the Child Nutrition Act of 1966 and to receive payments under the provisions of sections 4 and 11 of this Act and section 4 of the Child Nutrition Act of 1966 shall enter into an agreement with the Secretary and shall submit State plans of child nutrition operations in accordance with section 11 of this Act. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under the provisions of sections 4 and 11 of this Act and the time or times such amounts are to be paid: *Provided that,* apportionments shall be disbursed at levels no less than the previous year's cumulative expenditures under sections 4 and 11 of this Act and section 32 of the Act approved August 24, 1935 (49 Stat. 774), by no later than the August preceding the school year, and adjustments in such apportionments to reflect increased expenditures because of increased costs and higher participation rates shall be made by no later than the following January, and as frequently thereafter as is necessary."

SEC. 4. Section 6 of the National School Lunch Act, as amended, is revised to read as follows:

"SEC. 6. For each fiscal year there is hereby authorized to be appropriated such sums as may be necessary to enable the Secretary to:

(1) finance his administrative expenses

under this Act and the Child Nutrition Act, provided that such amount shall not exceed 3½ per centum of the amount utilized in the preceeding fiscal year under Sections 4 and 11 of this Act and Sections 4 and 5 of the Child Nutrition Act of 1966.

(2) to supplement the nutritional benefits of these programs through grants in aid and other means for nutritional training and education of workers, cooperators and participants in these programs; and for the necessary survey and studies of requirements for food service programs in furtherance of the purposes expressed in Section 2 of this Act and Section 2 of the Child Nutrition Act of 1966: *Provided, however,* That, in any fiscal year the amount so used shall not exceed 2 per centum of the amount utilized in the preceeding fiscal year pursuant to the provisions of Sections 4 and 11 of this Act and Sections 4 and 5 of the Child Nutrition Act of 1966 and *Provided further,* That such amount shall be paid to the states by no later than the August preceeding the school year for which such funds are appropriated.

(3) to purchase agricultural commodities and other foods to be distributed among the states, schools and other institutions participating in the food service programs under this Act and the Child Nutrition Act of 1966 in accordance with the needs as determined by the local authorities of such schools and institutions. The provisions of law contained in the proviso of the Act of June 28, 1937, (50 Stat. 323) facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under Section 32 of the Act approved August 24, 1935 (49 Stat. 774), as amended, shall, to the extent not inconsistent with the provisions of this Act, also be applicable to the expenditures of funds by the Secretary under this Act."

Sec. 5. The heading of Section 7 of the National School Lunch Act, as amended, is revised to read as follows: "Funds from Sources Within the States"; and the language of such Section 7 is revised to read as follows:

"Sec. 7. For the fiscal year beginning July 1, 1972, State revenue appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the state, as distinguished from the local level) shall constitute at least 4 per centum of the federal revenues derived from Section 4 of the Act for public schools; for each of the two succeeding fiscal years, at least 6 per centum of the funds derived from Section 4 for public schools; for each of the two subsequent fiscal years, at least 8 per centum of the funds derived from Section 4 for public schools; and for each fiscal year thereafter, at least 10 per centum of the funds derived from Section 4 for public schools."

Sec. 6. Section 8 of the National School Lunch Act, as amended, is revised as follows:

"Sec. 8. Payments made to any state during any fiscal year pursuant to Sections 4 and 11 of this Act shall be disbursed by the state educational agency on a priority system based on need, in accordance with such agreements prescribed by the Secretary as may be entered into by such State agency and the school food authorities and institutions in that state which the State educational agency determines eligible to participate in the School Lunch Program under this Act: *Provided, however,* That a school food authority that operates the program in one or more of its schools shall implement the program in all schools under its jurisdiction: *Provided, further,* That by the fiscal year ending June 30, 1975, every public school shall operate the program.

Sec. 7. The first sentence of section 9 of the National School Lunch Act, as amended, shall be designated as subsection (a) and at the end thereof the following shall be inserted: "*Provided, however,* That such minimal nutritional requirements shall in no event provide for less than (1) one-third (⅓) of the National Academy of Sciences Recommended Dietary Allowances for children aged four (4) to six (6) for children in kindergarten or pre-school programs, (2) one-third (⅓) of the National Academy of Sciences Recommended Dietary Allowances for boys aged ten (10) to twelve (12) for children in elementary schools, and (3) one-third (⅓) of the Recommended Dietary Allowances for boys aged fourteen (14) to eighteen (18) for children in junior and senior high schools." The sixth through twelfth sentences of such Section 9 shall be designated as subsection (c) of such section; and the second through fifth sentences of such Section 9 shall be designated as subsection (b) of such section and shall be revised to read as follows:

"(b) Any child who is a member of a household which has an annual income not above the applicable family size income level set forth in the income eligibility guidelines shall be served a free lunch. The income eligibility guidelines to be used in each fiscal year shall be those prescribed by the Secretary by not later than May 15 of the preceding fiscal year and the Secretary shall not subsequently reduce such income eligibility guidelines during any fiscal year to be effective for that fiscal year and in no event shall such income eligibility guidelines established by the Secretary be less than the poverty levels for such fiscal year as defined by the United States Department of Health, Education, and Welfare or the United States Office of Economic Opportunity. Such income eligibility guidelines shall be adjusted on a yearly basis to reflect changes in the cost of living as reported by the Bureau of Labor Statistics of the United States Department of Labor. Such income eligibility guidelines shall be considered a national minimum eligibility standard for free lunches and the Secretary shall pay during such fiscal years State education agencies and other participating institutions for meals served free or at a reduced price, not exceeding 10 cents per meal, pursuant to higher eligibility levels established by local school food authorities: *Provided, however,* That the State educational agency shall be authorized to establish minimum statewide eligibility standards, above the income poverty guidelines, for the provision of free and reduced-price meals. The eligibility criteria established by local school food authorities shall be made in accordance with a publicly announced set of criteria which shall include the level of family income, including welfare grants, and the number in the family unit; and such eligibility criteria shall realistically assure that all needy children will have access to a free or reduced-price meal that they can afford. Notwithstanding any other provision of this Act, in the case of any school or institution in which 80 per centum or more of the students are eligible for free or reduced-price meals, all students in such schools or institutions shall be served meals free."

Sec. 8. Section 10 of the National School Lunch Act of 1946, as amended, is revised to read as follows:

"Sec. 10. If, in any State, the State educational agency is not permitted by law to administer the school-lunch program under this Act in nonprofit private schools within that State, the Secretary shall administer such program in such private schools. In such event, the payments that would have been made in any fiscal year to the State educational agency under the provisions of sections 4 and 11 of this Act for lunches served in the non-profit private schools in such State shall be retained by the Secretary for disbursement to such private schools. The Secretary shall disburse the funds so retained to the nonprofit private schools within such a State for the same purposes and subject to the same conditions as are authorized or required under this Act with respect to the disbursements to schools within the State by the State educational agency.

Sec. 9. Subsection (h) of Section 11 of the National School Lunch Act, as amended, is redesignated as subsection (d) of such section; subsections (d), (e), (f) and (g) are deleted; and subsections (a), (b), and (c) are revised to read as follows:

"(a) For each fiscal year, there is hereby authorized to be appropriated such sums as may be necessary to finance the special assistance payments authorized under subsection (b) of this section.

(b) Except as provided in Section 10 of this Act, in each fiscal year each state educational agency shall receive special assistance payments in an amount to be determined in the following manner: multiplying the number of lunches (consisting of a combination of foods and meeting the minimum nutritional requirements of Subsection 9(a) of this Act) served free to children eligible for such lunches in schools or institutions within that state during such fiscal year by the special assistance factor for free lunches and multiplying the number of such lunches served at a reduced cost to children eligible for such reduced cost lunches in schools or institutions in that State during such fiscal year by the special assistance factor for reduced price lunches prescribed by the Secretary for such fiscal year. For the fiscal year beginning July 1, 1972, the Secretary shall prescribe a special assistance factor of not less than 45 cents for each free lunch served, and a special assistance factor of not less than 35 cents for each reduced price lunch served. For fiscal years subsequent to the fiscal year beginning July 1, 1972, the special assistance factors to be prescribed by the Secretary shall reflect changes in the cost of operating a school lunch program under this Act by giving equal weight to changes in the wholesale prices of food and wages rates for employees of eating places published by the Bureau of Labor Statistics of the United States Department of Labor. In no event shall the special assistance factors be less than those prescribed for the fiscal year beginning July 1, 1972. In circumstances of substantial need, any school or institution which requires a greater payment per meal in order to fulfill the requirements of Section 9, shall receive 60 cents per meal out of Section 11 of this Act or the cost of producing the meal, whichever is less, if it can establish to the satisfaction of the State educational agency that it would otherwise be financially unable to support the service of free and reduced price meals. The cost of producing the meal shall include, in addition to the purchase price of agricultural commodities and other foods: (1) the cost of storing, handling, processing, distributing the food; (2) the cost of preparing and serving the food, and; (3) the cost of administering and supervising the program. In no event shall such higher payment rate to a needy school, institution or school food authority jeopardize the right of any other school food authority, school or institution in the state to receive, at a minimum, the payment rates set forth in this Subsection.

(c) The special assistance payments made to each State agency under this Section shall be used by such State agency to assist schools of that State in financing the cost of free and reduced price meals served to children pursuant to Subsection 9(b) of this Act. The amount of such special assistance funds that a state shall from time to time receive shall be based on the need of the school for such special assistance.

Sec. 10. Subsection (d) of Section 12 of the National School Lunch Act, as amended, is amended by inserting the phrase "the Trust Territory of the Pacific Islands," before the word "or" in paragraph (1); by deleting paragraphs (4), (5), and (6); and by redesignating paragraph (7) as paragraph (4).

SEC. 11. The first sentence of section 13 (a)(1) is amended to read as follows: "There is hereby authorized to be appropriated $32,000,000 for the fiscal year ending June 30, 1972, $125,000,000 for the fiscal year ending June 30, 1973, and such sums as may be necessary for each succeeding fiscal year to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means, to initiate, maintain, or expand nonprofit food service programs for children in service institutions."

SEC. 12. Section 14 of the National School Lunch Act, as amended, is amended as follows:

(1) In subsection (a), replace the word "thirteen" with the word "nineteen" and insert the following phrase after the phrase "(or the equivalent thereof)" the second time it appears in such subsection: "one member shall be a supervisor of a multi-unit school-lunch program; two members shall be children participating in the National School Lunch Program, at least one of whom is receiving a free or reduced price lunch; and three members shall be parents of children participating in the National School Lunch Program, at least two of whom are the parents of children receiving a free or reduced price lunch."

(2) In subsection (b), delete the number "nine" and insert in lieu thereof the number "fifteen"; and delete the phrase "three members" each time it appears in the subsection and insert in lieu thereof the phrase "five members"; and

(3) In subsection (e), delete the word "seven" and insert in lieu thereof the word "ten".

SEC. 13. The Child Nutrition Act of 1966 (42 U.S.C. 1771–1785) is amended as follows:

(1) Section 4(a) is amended by striking out the first sentence and inserting in lieu thereof the following: "There is hereby authorized to be appropriated for the fiscal year 1972 the sum of $25,000,000 for the fiscal year 1973 and for each fiscal year thereafter such sums as may be necessary to carry out a permanent program to assist the States through grants-in-aid and other means to: (1) initiate, maintain, or expand nonprofit breakfast programs in all schools in the United States which make application for assistance and agree to carry out a breakfast program in accordance with the rules and regulations promulgated by the Secretary, and (2) establish and operate breakfast programs run by local agencies."

(2) Section 4(b) is amended by striking out "in accordance with the apportionment formula contained in section 4 of the National School Lunch Act, as amended" and inserting in lieu thereof the following: "*Provided, however,* That beginning with the fiscal year beginning on July 1, 1972, funds appropriated for purposes of this section shall be paid to the States in such amounts as may be necessary to assist such schools or agencies in financing the costs of the program at a rate of not less than 30 cents per breakfast served under the program, or the cost of such breakfasts served, whichever is less: *Provided, however,* That funds appropriated for purposes of this section shall be paid to the States in such amounts as may be necessary to pay needy schools or agencies, designated as needy pursuant to subsection (d), for 100 percent of the cost of such breakfasts served. By August 1 of every year, the States shall receive at least the same amount of money that they spent for the program during the previous fiscal year, and further payment should be made at least by January, and as often thereafter as may be necessary, to pay States for the increased costs of the program. In computing the cost of each breakfast served there shall be included: (1) the cost of purchasing, processing, transporting, distributing, storing and handling food; (2) the cost of preparing and serving the food; and (3) the cost of administering and supervising the breakfast program. In determining the amount of payment for any school or agency during any period, there shall be deducted from the cost of breakfasts served the amount received in payment for the breakfasts served during such period.

(3) Section 4(c) is amended to read as follows: "(c) Funds paid to any State for the purpose of this section shall be disbursed by the State educational agency to assist such schools in financing the program costs of all schools which make application for assistance and agree to carry out a breakfast program in accordance with the rules and regulations promulgated by the Secretary: *Provided, however,* That during fiscal year 1973 and thereafter, schools shall be reimbursed at a rate not less than 30 cents per breakfast served, whichever is lower: *Provided, however,* That in determining the amount of reimbursement to any school during any period, there shall be deducted from the cost of breakfasts served, the amount received in payment for the breakfasts served during such period. The reimbursable costs of the program shall include: (1) the cost of purchasing, processing, transporting, distributing, storing and handling food; (2) the cost of preparing and serving the food; and (3) the cost of administering and supervising the breakfast program.

(4) Section 4(d) is amended to read as follows: "(d) In circumstances of substantial need, any school, which requires a greater reimbursement per meal in order to fulfill the requirements of Subsection (e), shall receive 100% of all its program costs if it can establish to the satisfaction of the State educational agency that it would otherwise be financially unable to support the service of breakfasts."

(4) Section 4(d) is amended to read as out the period at the end of the first sentence and inserting in lieu thereof a semicolon and the following: "but in no event shall such minimum requirements permit (1) breakfasts served in kindergartens and preschool programs to contain less than one-third (⅓) of the recommended dietary allowances prescribed by the National Academy of Sciences for children between 4 and 6 years of age; (2) breakfasts served in elementary schools, to contain less than one-third (⅓) of the recommended dietary allowances prescribed by the National Academy of Sciences for boys between 10 and 12 years of age; and (3) breakfasts served in high schools to contain less than one-third (⅓) of the recommended dietary allowances prescribed by the National Academy of Sciences for boys between 14 and 18 years of age."

(6) Section 4(e) is amended by striking out the second sentence and inserting in lieu thereof the following: "Such breakfasts shall be served without cost to all children in such schools who are determined by local school authorities to be unable to pay the full cost of the breakfast. Any child eligible for a free or reduced price lunch under the National School Lunch Act shall be eligible for free breakfasts under this Section."

(7) The third and fifth sentences of Section 4(e) are each amended by striking out "or at reduced cost".

(8) Section 4(e) is amended by inserting after the sixth sentence a new sentence as follows: "An affidavit executed by the adult member of any household pursuant to Section 9 of the National School Lunch Act shall be sufficient for purposes of determining the eligibility of any child of such household for free breakfasts under this Section."

(9) Section 4 is further amended by adding at the end thereof a new Subsection as follows:

"INFORMATION REGARDING PROGRAM

"(g) The Secretary shall require that all schools participating in the breakfast program under this Act shall notify the parents or guardians for all children enrolled in such school regarding (1) the standards to be followed in determining eligibility for free breakfasts, (2) the procedures to be followed in protecting the anonymity of children who receive free breakfasts, and (3) the procedures to be followed in appealing any adverse decision, including any hearing rights."

(10) Section 4 is further amended by adding at the end thereof a new subsection as follows:

"IMPLEMENTATION OF PROGRAM BY AGENCIES

"(h) In areas where the school food authority has failed to apply for the program in some or all of its schools, the state educational agency shall approve the applications of agencies seeking to operate the program if such agencies are willing to comply with the rules and regulations promulgated by the Secretary, and if such agencies can demonstrate to the State educational agency that they have the ability and willingness to operate a sound program provided, however, that in States that are not permitted by law to disburse funds to private agencies, or whenever agencies have been denied the opportunity to implement the program, such agencies shall be authorized to implement a program if they can demonstrate to the Secretary that they have the ability and willingness to operate a program. The State educational agency shall reimburse such agencies pursuant to the school reimbursement provisions contained in Subsections (c) and (d), and commodities shall be made available to such agencies in the same manner as they are available to schools participating in the program."

(11) The first sentence of Section 5(a) is amended by deleting the phrase "for the fiscal year ending June 30, 1973, not to exceed $15,000,000 and for each succeeding fiscal year, not to exceed $10,000,000," and inserting in lieu thereof the following phrase: "for each of the three fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, not to exceed $80,000,000 and for each succeeding fiscal year, not to exceed $40,000,000."

(12) The last sentence of section 5(b) is repealed.

(13) A new section 5(e) is added to the Child Nutrition Act as follows:

"RESERVE OF FUNDS

"(e) In each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, 50 per centum of the funds appropriated for the purposes of this section shall be reserved by the Secretary to assist schools without a food service and he shall apportion the funds so reserved among the States on the following basis: The amount to be apportioned to any State shall bear the same ratio to the total of such reserved funds as the number of children enrolled in schools without a food service in the State for the latest fiscal year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of children enrolled in schools without a food service in all States in such fiscal year. In those States in which the Secretary administers the school lunch program under the National School Lunch Act in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service in such State for the latest fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of children enrolled in all schools without food service in such State in such fiscal year. The funds reserved, apportioned, and withheld under the authority of this subsection shall be used by State educational agencies, or the Secretary in the case of nonprofit private schools, only to assist eligible schools without a food service. If any State cannot utilize all the funds apportioned to it under the provisions of this subsection to assist eligible schools in the State without a food service, the Secretary shall make further apportionments to the remaining States in the same manner set forth in this subsection for apportioning funds among all the States and such remaining States or the Secretary, in the case of nonprofit private schools, shall use the additional funds so apportioned or withheld only to assist eligible schools in the State without a food service."

(14) The first sentence of section 8 is amended by inserting after "Each school" the term "and agency".

(15) The second sentence of section 8 is amended by striking out "may be donated by the Secretary to schools," and inserting in lieu thereof "shall be donated by the Secretary to schools and agencies, to the maximum extent practicable and".

(16) Section 9 is amended by inserting after "in schools" the term ", agencies, and nonprofit institutions".

(17) The first sentence in section 10 is amended by inserting after "participating schools" the term ", agencies, and service institutions".

(18) Section 15 is amended by adding at the end thereof a new subsection as follows:

"(f) 'School food authority' means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a breakfast program therein."

(19) Section 15 is further amended by adding at the end thereof a new subsection as follows:

"(g) 'Agency' means a public or private organization, such as a church, civic, antipoverty, or similar group, that applies to operate a nonprofit breakfast program in a neighborhood where the school food authority has failed to apply for such a program in a nearby school."

SEC. 20. This Act shall become effective beginning with the fiscal year which begins July 1, 1973.

By Mr. BAYH (for himself, Mr. EAGLETON, Mr. MCGEE, Mr. MCGOVERN, Mr. PASTORE, Mr. MONDALE, Mr. RIBICOFF, and Mr. TUNNEY):

S. 3538. A bill to amend the Controlled Substances Act to require identification by manufacturer of each schedule II dosage unit produced; and

S. 3539. A bill to amend the Controlled Substances Act to move certain barbiturates from schedule III of such act to schedule II. Referred to the Committee on the Judiciary.

THE PROBLEM OF BARBITURATE ABUSE

Mr. BAYH. Mr. President, the Subcommittee on Juvenile Delinquency, of which I am chairman, has been conducting an intensive investigation into the abuse of psychotrophic drugs by our Nation's youth. We have been particularly concerned by the increasing abuse of amphetamines and barbiturates which many medical experts believe has reached crisis proportions. Last summer, we conducted hearings on amphetamine abuse in which we heard the tragic experiences of many young people who had been hooked on "speed" or "uppers," as these drugs are known in the street culture. We also heard from leading doctors and criminologists that amphetamines were widely abused at all levels of our society. Shortly after the conclusion of these hearings, the Bureau of Narcotics and Dangerous Drugs announced the administrative rescheduling of two amphetamine-like substances, with which we had been particularly concerned — phenmetrazine — "Preludin"— and methylphenidate—"Ritalin"—from schedule III to schedule II of the Controlled Substances Act of 1970. Under schedule II, these drugs are subject to stricter production and distribution controls, including the establishment of annual production quotas.

The subcommittee has pursued its investigation of the abuse of psychotropic drugs with particular emphasis on the problem of barbiturate abuse. We quickly learned that barbiturates present a threat to our national welfare that is far more serious than amphetamines, and even heroin.

We found that as many as 4 million school-age youths have abused barbiturates and that this number is rapidly increasing. The ready availability of these dangerous drugs at low prices have caused many medical experts to predict that 1972 will be known as "the year of the downer."

Barbiturates are the best known of the drugs which are used medically to relax the central nervous system. On the street these sedatives are known as "downers" or "goofballs." They are also known by brand names: Seconal—reds, red devils; Nembutal—yellow jackets; Amytal—blue angels; and Tuinal—rainbows, Christmas trees. All are synthetically derived from barbituric acid. However, they vary in the onset and duration of their action.

Barbiturates are highly dangerous when taken without proper medical supervision. Increasing use of these pills quickly produces tolerance. Once tolerance is achieved, the user experiences a euphoric effect from taking "downers"; rather than feeling merely drowsy and sluggish, he actually feels high—and completely insulated from reality. A regular abuser will suffer severe withdrawal symptoms, similar to delirium tremens, when the drug is suddenly terminated. However, severe withdrawal may be brought on even by a moderate reduction of the accustomed dose. After 12 hours off the drug, the user experiences nervousness, headache, tremors, insomnia, fever, and nausea.

After 3 days, some go into convulsions and delirium. Visual hallucinations, usually of a persecutory nature, are common. Barbiturate withdrawal is a serious medical emergency and requires hospitalization. It is more dangerous than heroin withdrawal and can be deadly.

Certain kinds of barbiturate addiction are regarded by many medical authorities as more difficult to cure than narcotic addiction.

Barbiturates are used by millions of Americans in every stratum of society. Unfortunately, in many homes some degree of barbiturate abuse is common, and usually unrecognized. Most Americans simply do not realize the terrible consequences of abusing these drugs. Barbiturates are not viewed with the alarm that we view heroin and morphine, although we know that the effects of these drugs may be even more devastating. Children grow up watching their parents take these pills, and they quickly develop an acceptance of drug taking. Thus, casual attitudes toward these potentially destructive drugs, coupled with a readily available supply in the family medicine cabinet, appear intimately connected with the current trend in youthful barbiturate abuse.

In December, the subcommittee conducted hearings on the nature and extent of barbiturate abuse. We heard representatives of the medical community describe the enormous abuse potential of these drugs. We heard young people who had experienced the horrors of barbiturate dependency relate how easy it is to obtain these dangerous drugs. In fact, many of the young witnesses had started down the terrible road to barbiturate addiction with pills taken from the family medicine cabinet. We learned from criminologists and sociologists the dynamics of abuse and emerging nationwide patterns of barbiturate dependency and addiction.

What are the sources for these dangerous drugs? Former barbiturate addicts have told the subcommittee that they obtained their barbiturates—"blue devils," "redbirds," and "yellow jackets"—from friends, street dealers, physicians, pharmacies, or by pilfering their family medicine cabinets. Others have suggested that a significant percentage of the persons abusing barbiturates obtain them originally through legitimate channels and then resort to self-medication and nonmedical use. One youngster, age 16, remarked that it is less of a "hassle" to obtain "downers" than it is to purchase cigarettes.

I have learned how readily available and inexpensive these drugs are from personal experience. Several months ago I visited a number of barbiturate treatment programs in California. During the course of a "rap session" with several barbiturate addicts, one young counselor at the Haight-Ashbury Free Clinic in San Francisco, himself a former barbiturate addict, slipped out of the session unnoticed. In a matter of minutes he returned with the fruits of several minutes effort: a handful of legitimately produced "yellow jackets," purchased for 25 cents a capsule from a local street dealer.

I am deeply concerned that barbiturate abuse may indeed become the number one drug problem facing our Nation. The investigation and hearings conducted by my subcommittee have revealed a dramatic increase both in the availability of these dangerous drugs and in the extent of abuse. The problem is reaching epidemic proportions. We cannot afford to wait.

Until we have developed a more complete legislative record, it is difficult to predict what corrective legislation would be most effective in dealing with this problem. But it is clear that a substantial problem exists, and in order to focus the testimony of those who will appear before us I am today, introducing two pieces of legislation, which are cosponsored by other Senators.

The first bill would provide for the rescheduling of four commonly abused, short acting barbiturates from schedule III to schedule II of the Controlled Substances Act. This change would subject these particular barbiturates to stricter production and distribution controls as well as to more stringent import and export regulations. The second bill would require all manufacturers and producers of solid oral form barbiturates to place identifying marks or symbols on their products. This would facilitate police efforts in tracing barbiturates diverted to the illicit market back to the original production and distribution sources.

These two bills attempt to deal with the most significant aspects of production, distribution, and diversion of the short acting barbiturates.

We are not yet sure whether either or both of these measures will be necessary to deal effectively with the abuse problem. However, they will provide a clear issue for future hearings and investigations of the subcommittee. We intend to gather a wide range of opinion from people active in the area of drug abuse control as well as from the pharmaceutical manufacturers on the need for these or other legislative measures. The subcommittee will consider these bills and suggested alternative proposals during the coming months before recommending specific legislative action.

Barbiturate abuse presents a growing threat to the health and safety of all our citizens. We cannot afford to delay in developing an effective comprehensive response to a problem of such critical proportions. We have learned from the experience of major urban areas, especially those on the west coast, that barbiturate addiction and abuse is a natural progression from abuse of psychedelic drugs and amphetamines. Patterns of barbiturate abuse now established in California will emerge within a few years in cities and towns throughout our country. This "ripple effect" should clearly alert us that barbiturates are indeed a present menace to the well-being of our entire Nation.

Mr. President, I ask unanimous consent that the text of both bills be printed at this point in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 305 of the Controlled Substances Act (Public Law 91–513, 84 Stat. 1250) is amended by adding at the end thereof the following new paragraph:

(e) It shall be unlawful to manufacture or distribute solid oral form controlled substances in schedule II, unless each solid oral form dosage unit carries a manufacturer's identification as required by regulation of the Attorney General.

S. 3539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) schedule II of section 202(c) of the Controlled Substances Act (Public Law 91–513, 84 Stat. 1250) is amended by adding at the end thereof the following new paragraph:

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Amobarbital;
(2) Pentobarbital;
(3) Secobarbital;
(4) Butabarbital.

By Mr. SPONG:

S. 3541. A bill to designate certain lands in the Shenandoah National Park, Va., as wilderness. Referred to the Committee on Interior and Insular Affairs.

Mr. SPONG. Mr. President, in order to provide a vehicle for complete discussion of the extent to which wilderness areas should be designated in the Shenandoah National Park, I introduce for appropriate reference a bill to designate approximately 112,687 acres of the park as wilderness.

The National Park Service has proposed setting aside 73,280 acres of land as wilderness, and a bill to accomplish that objective was introduced last year. It is my understanding that the Senate Interior Committee will receive testimony on the measure at hearings scheduled for May 5.

Since last July, the Shenandoah Coalition—a group of 15 conservation-oriented associations—has been evaluating the Park Service proposal, and has concluded that additional areas should be designated as wilderness. I am today introducing their proposal in legislative form so as to afford them a formal basis for their testimony at the Interior Committee's hearings.

By Mr. HANSEN:

S. 3542. A bill to amend section 311(d) (2)(A) of the Internal Revenue Code of 1954. Referred to the Committee on Finance.

Mr. HANSEN. Mr. President, I submit for appropriate reference legislation which would amend section 311(d)(2) (A) of the Internal Revenue Code of 1954.

This amendment corrects a technical defect in section 311(d)(2)(A), which was added by the Tax Reform Act of 1969. The amendment would apply constructive ownership rules in determining whether a shareholder owns at least 10 percent in value of the stock of a corporation which redeems all of his stock so as to protect the corporation from being taxed on any appreciation in property distributed by it in complete redemption of the shareholder's stock.

The bill would amend section 311(d) (2)(A) by inserting after the word "owns" and before the words "at least 10 percent" the following: "(directly or constructively under the rules of section 318(a) which shall apply in determining ownership of stock for purposes of this subparagraph to the same extent and in the same manner as such rules apply for purposes of section 302(b) (3))".

The general rule of section 311 is that no gain or loss is recognized to a corporation on the distribution of property with respect to its stock. The Tax Reform Act of 1969 made several changes in this general rule. However, section 311(d)(2) (A) continued this protection against recognition of gain to the distributing corporation if the distribution meets two tests. First, the distribution must be in complete redemption of all of the stock of a shareholder who owns at least 10 percent in value of the outstanding stock of the corporation. Second, the redemption must qualify as a complete termination of the shareholder's interest in the corporation.

Section 311(d)(2)(A) applies constructive ownership rules in determining whether the second test of completely terminating the shareholder's interest is met. However, it fails to apply those same constructive ownership rules in determining whether the shareholder owns the requisite 10-percent stock interest. The amendment merely corrects this situation, and applies the same constructive ownership rules for determining both the termination of interest requirement and the 10-percent stock ownership requirement.

One illustration of the existing problem involves a trust which directly owns 12 percent of the stock of a corporation and which constructively owns an additional 8 percent of the stock which is directly owned by an individual who is sole beneficiary of the trust. Both the trust and the individual desire to have their stock redeemed in a redemption which qualifies as a complete termination of interest. To effect this, all of the stock owned by each must be redeemed because each is treated as a 20-percent shareholder under the constructive ownership rules. The problem is that section 311(d)(2)(A) does not apply the constructive ownership rules in determining whether the individual qualifies as a 10-percent shareholder, so that the corporation will recognize gain if it distributes appreciated property in redemption of the individual's stock. Under the amendment, the individual will be treated as owning the stock held by his trust so as to qualify him as owning at least 10 percent of the stock. If, in the above case, more than one individual were a beneficiary of the trust, each beneficiary owning stock of the corporation would also have to completely dispose of his stock to enable the trust to attain a complete termination of interest.

The situation which called this problem to my attention involves a corporation whose stock is owned by different family groups and by several trusts for the benefit of individual members of the families. One family group—and trusts for their benefit—own approximately 47 percent of the stock of the corporation and they wish to have all of their stock redeemed. The corporation's assets consist largely of property which has appreciated in value. The corporation can afford to redeem its stock only if it is protected against recognizing gain on appreciated property distributed in the redemption. Each of the individuals and the trusts owns more than 10 percent of the corporation's stock in determining the shares which have to be redeemed to effect a complete termination of interests. However, some of the individuals and trusts directly own less than 10 percent of the stock unless the constructive ownership rules are applied in the same manner as they are applied for the complete termination of interest test.

The amendment applies the constructive ownership rules in applying the 10-percent shareholder test to the same extent and in the same manner as such rules apply for purposes of the complete termination test of section 302(b)(3). This rule precludes an individual from taking into account stock held by another family member for purposes of meeting the 10-percent shareholder test unless he is also treated as constructively owning the other family member's stock in applying section 302(b)(3). For example, if a father directly owns 8 percent of the stock of a corporation and his son directly owns 9 percent of the stock of a corporation, the father would be treated as constructively owning his son's stock to meet the 10 percent shareholder test only if the son's stock is also redeemed in the transaction.

Mr. President, this is a technical type of amendment, and I hope that it will receive the rapid consideration of the Senate.

By Mr. MAGNUSON (by request):

S. 3546. A bill to designate the hospital cations Act of 1934, as amended, with respect to Commissioners and Commission employees. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, by request, I introduce a bill to amend the Communications Act of 1954, and I ask unanimous consent that a communication from the Chairman of the Federal Communications Commission submitting an explanation of the bill be printed in the RECORD.

There being no objection, the communication was ordered to be printed in the RECORD, as follows:

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., April 11, 1972.
The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: The Commission has adopted as part of its Legislative Program for the 92nd Congress a proposal to amend section 4 of the Communications Act with respect to commissioners and Commission employees.

The bill essentially is designed to permit financial interests in mutual funds and companies who are subject to the licensing provisions of the Communications Act only because they make some incidental use of radio communication as an aid to their business operations. It would prohibit financial interests in broadcast stations, cable television systems, and communications common carriers or mutual funds whose investments are concentrated substantially in those areas.

The Commission's draft bill to accomplish the foregoing objective was submitted to the Office of Management and Budget for its consideration. We have now been advised by that Office that from the standpoint of the Administration's program there would be no objection to the presentation of the draft bill to the Congress for its consideration. Accordingly, there are enclosed six copies of our draft bill and explanatory statement on this subject.

The consideration by the Senate of the proposed amendment to the Communications Act of 1934 would be greatly appreciated. The Commission would be most happy to furnish any additional information that may be desired by the Senate or by the Committee to which this proposal is referred.

Sincerely,
DEAN BURCH, *Chairman.*

EXPLANATION OF BILL TO AMEND SECTION 4 OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED, WITH RESPECT TO COMMISSIONERS AND COMMISSION EMPLOYEES

This proposal would amend subsection 4(b) of the Communications Act of 1934, as amended, with respect to commissioners and Commission employees.

Subsection 4(b) of the Communications Act provides as follows:

(b) Each member of the Commission shall be a citizen of the United States. No member of the Commission or person in its employ shall be financially interested in the manufacture or sale of radio apparatus or of apparatus for wire or radio communication; in communication by wire or radio or in radio transmission of energy; in any company furnishing services or such apparatus to any company engaged in communication by wire or radio or to any company manufacturing or selling apparatus used for communication by wire or radio; or in any company owning stocks, bonds, or other securities of any such company; nor be in the employ of or hold any official relation to any person subject to any of the provisions of this Act, nor own stocks, bonds, or other securities of any corporation subject to any of the provisions of this Act. Such commissioners shall not engage in any other business, vocation, profession, or employment. Any such commissioner serving as such after one year from the date of enactment of the Communications Act Amendments, 1952, shall not for a period of one year following the termination of his service as a commissioner represent any person before the Commission in a professional capacity, except that this restriction shall not apply to any commissioner who has served the full term for which he was appointed. Not more than four members of the Commission shall be members of the same political party.

Proposed paragraph (1) of subsection (b) includes, without substantive changes, all existing provisions of that subsection concerning commissioners except as to their financial interests. Proposed paragraphs (2) and (3) revise the provisions concerning the financial interests of commissioners and employees. Paragraph (4) explains that the Commission is not restricted by this Act from imposing restrictions in addition to those set forth in Public Law 87-849 and other laws or Executive Orders. Paragraph (5) affords the Commission the opportunity to waive certain provisions of subsection 4(b) to avoid hardships which could arise in exceptional circumstances.

Conflict of interest provisions in the law have the highly salutary purpose of ensuring that Government officials act in the public interest and maintain their affairs so that no actual or apparent personal financial motivations cloud their official decisions. We are in full accord with this objective.

However, subsection 4(b) of the Communications Act, adopted in 1934 under quite different circumstances than prevail today, is far more restrictive than recent Congressional and Administrative pronouncements and is substantially inconsistent with current national policy.

Congress in 1962 extensively revised chapter 11 of Title 18, U.S.C., dealing with bribery, graft, and conflicts of interest (Public Law 87-849, approved October 23, 1962). Section 208 of that revision requires non-participation by officers or employees in matters in which they have financial interests. It reads:

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

Shall be fined not more than $10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services.

This statute of general applicability is not as restrictive as section 4(b) of the Federal Communications Act. We recognize, however, that in certain highly specialized fields, such as communications, some additional restrictions may be appropriate with respect to, for example, investments of commissioners and employees in companies regulated by the agency. In this respect, the Communications Act, proscribing certain activities and investments of commissioners and Commission employees, is much more restrictive than are the statutes of other regulatory agencies, which as a general rule apply only to commissioners.[1]

Past announcements of the executive branch and the Congress lend vital support to the view that conflict-of-interest provisions, while they must adequately protect the public interest, need not go beyond what is necessary to ensure that protection. Congress has also expressed its attitude with respect to this general problem in the legislative history of the 1962 amendments to the conflict-of-interest statutes. The House Report (H. Rept. No. 748, 87th Cong., 1st Sess., p. 6) states:

"It is also fundamental to the effectiveness of democratic government, that, to the maximum extent possible, the most qualified individuals in the society serve its government. Accordingly, legal protections against conflicts of interest must be so designed as not unnecessarily or unreasonably to impede the recruitment and retention by the Government of those men and women who are most qualified to serve it. An essential principle underlying the staffing of our governmental structure is that its employees should not be denied the opportunity available to all other citizens, to acquire and retain private economic and other interests, except where actual or potential conflicts with the responsibility of such employees to the public interest cannot be avoided.[2] [footnote added]"

Thus, the Commission is not seeking any

Footnotes at end of article.

special treatment in this area. We are endeavoring to have the antiquated provisions of this statute modified to reflect the present general law and to avoid obvious inequities which, through changed circumstances since its enactment, give the Communications Act potentially greater coverage than was either intended or envisioned.

There is no legislative history to explain the meaning Congress attached to section 4(b). Since its enactment, however, far-reaching changes have occurred in the communications art, and the Commission now has more than a million licensees. Thus, every executive's airplane equipped with radio communication must have a license from the FCC. States and municipalities are licensees of police and fire systems. In fact, practically every segment of the American economy (farming, mining, fishing, manufacturing, transportation, public utilities, etc.) uses radio communication as an aid to business operation, and is, therefore, subject to the licensing provisions of the Communications Act. The full import of this vast growth in licensing activity is in itself sufficient to cause a re-evaluation of the unequitable restrictions of section 4(b).

Another factor also tending to broaden the potential coverage of the section's existing language is the increased diversification of activity and financial interests of companies which has occurred in the three decades since the section's enactment. Thus, many companies, through a complex of corporate inter-relationships and business organizations, have remote interests in various licensees of the Commission.

Although such an interest might not be readily apparent, stock ownership in these companies could conceivably be violative of section 4(b) of the Act.

The proposed amendment would therefore make clear that section 4(b) is not intended to cover the multitude of companies whose use of radio is incidental or whose relationship to companies subject to the Act is remote.

Even as to companies directly involved in broadcasting or communications common carriers, the effect of mutual fund development must be considered. Thus, almost any mutual fund would likely contain some shares in American Telephone and Telegraph Company, General Electric, Radio Corporation of America, or a similar company. Where the mutual funds' investments are not concentrated substantially in broadcasting companies, communications common carriers, or companies engaged in the manufacture or sale of apparatus for wire or radio communication, the Communications Act should be clarified to permit commissioners and Commission employees to purchase shares of such mutual funds.

The effects of such wide disparity between the potential reach of section 4(b) of the Communications Act and existing national policy are difficult to evaluate. It is believed that its broad restrictions may tend to discourage some potential applications for employment with the Commission and to limit unfairly the investment opportunities available to Commission employees.[3]

The proposed amendment would continue to prohibit commissioners and Commission employees from having a direct financial interest in, employment by, or any official relation to (i) any person engaged in radio broadcasting; (ii) communications common carriers; (iii) persons a substantial part of whose activities consist of the manufacture or sale of apparatus for wire or radio communication; (iv) mutual funds, holding companies, or other investment companies whose investments are concentrated substantially in the entities included in paragraphs (i), (ii), and (iii). As an additional safeguard, the amendment also specifically states that nothing herein shall limit the authority of the Commission under Public Law 87-849 (87th Congress, approved October 23, 1962) or other law or Executive Order to restrict further the financial interests or official relations of its employees.

The proposal has a provision similar to the one in 18 U.S.C. § 208(b) which would permit the appointing authority to waive the prohibitions in certain cases. This provision would permit the avoidance of injustice or hardship which could arise in exceptional circumstances. For example, if a Commission employee were to be named beneficiary for a trust containing, among other things, a few shares of stock of an interstate communications common carrier, he could be in violation of the Act if he continued in the Commission's employ. Yet he might have no control over the trust and not be able to get the trustees to sell the prohibited shares. Other factual situations, each one unique, could arise and could be remedied under this waiver proviso.

Finally, the proposal would repeal as unnecessary the second sentence of subsection (j) of section 4, which appears redundant in the light of section 208 of Title 18, to which the members and employees of the Commission would continue to be subject.

The Commission agrees that actual or apparent conflicts of interest should be avoided and prohibited. However, as shown we believe the restrictions of section 4(b) potentially go far beyond what was ever envisioned and the section's prohibitions are certainly more extensive than required in order to avoid actual conflicts of interest or even the "appearance of evil."

The general conflict-of-interest laws as revised in 1962, together with the additional restrictions contained in section 4(b) as proposed, will provide adequate statutory standards to protect the public interest and insure impartial and unbiased conduct.

Adopted: October 21, 1970.

FOOTNOTES

[1] The more liberal provisions of the ICC Act (49 U.S.C. § 305) apply to members, examiners and members of a joint board; the CAB prohibition applies only to members of the Board (49 U.S.C. § 1321(b)); restrictions at FAA are on the Administrator and Deputy Administrator but not on employees of the agency (49 U.S.C. §§ 1341(b) and 1342(b)); restrictions against financial interests with respect to the Federal Power Commission apply only to commissioners (16 U.S.C. § 792).

[2] Senate Report No. 2213, 87th Cong., 2d Sess., notes as the "consensus" of views that some of the conflict-of-interest statutes create wholly unnecessary obstacles to recruiting qualified people for government service.

[3] Unlike the general conflict-of-interest statute (18 U.S.C. § 208), section 4(b) does not presently have a provision for waiver of insubstantial financial interest.

[4] That sentence provides: "* * * No commissioner shall participate in any hearing or proceeding in which he has a pecuniary interest." It would seem that non-participation by a commissioner in any hearing or proceeding in which he has a pecuniary interest [section 4(j) of the Communications Act] is, if anything, not as broad as the non-participation in a wider variety of activities enumerated by 18 U.S.C. § 208 in which, to his knowledge, he, his spouse, minor child, etc., has a financial interest.

By Mr. MAGNUSON (by request):

S. 3545. A bill to amend section 7 of the Fishermen's Protective Act of 1967. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, by request, I introduce a bill to amend the Fishermen's Protective Act of 1967.

I ask unanimous consent that a communication from the Secretary of Commerce together with a statement and purpose of need of the bill be printed in the RECORD.

There being no objection, the communication was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., April 5, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are four copies of a draft bill "to amend section 7 of the Fishermen's Protective Act of 1967," together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to submission of our draft bill to the Congress and further that enactment would be consistent with the Administration's objectives.

Sincerely,

PETER G. PETERSON,
Secretary of Commerce.

Enclosures.

STATEMENT OF PURPOSE AND NEED

Section 7 of the Fishermen's Protective Act of 1967, as amended, (Public Law 90-482; 22 U.S.C. 1977), authorized establishment of the Fishermen's Protective Fund, as a separate account in the Treasury, until February 8, 1973, to provide for reimbursement of losses and costs (other than fines, license fees, registration fees, and other direct costs which are reimbursable through the Secretary of State) incurred as a result of the seizure of a U.S. commercial fishing vessel by a foreign country on the basis of rights or claims, which are not recognized by the United States, in either territorial waters or on the high seas. Any owner of a U.S.-flag fishing vessel, in exchange for a small fee, may enter into a Guarantee Agreement with the Secretary for such coverage.

Since its inception on February 9, 1969, the program has met with considerable enthusiasm and interest by the U.S. commercial fishing industry. Forty-five Guarantee Agreements were effected for fiscal year 1969, 66 for fiscal year 1970, 214 for fiscal year 1971, and 210 as of February 22, 1972, for fiscal year 1972. Of the 210 for fiscal year 1972, 100 are for tuna vessels and 110 are for shrimp vessels.

Seventy vessel seizures have been reported since the program began. Of these three have not yet been confirmed and three were not covered by Guarantee Agreements. Claims with respect to all seizures since the program began are estimated at about $640,000.

The 4-year program under section 7 of the Act was designed to provide assistance to U.S. fishermen while negotiations were continuing with foreign countries to resolve the problem of fisheries jurisdiction. Viewed as a temporary measure, it does not undermine the principle that denies public compensation for private claims against foreign governments. Moreover, it provides a substantial measure of relief to the American fishing industry without incentive for abuse and serves to support the position of the Government in developing our fishing industry.

When the bill was under consideration, it was hoped that the United States would be able to enter into negotiations which would obviate the need for an extension of the program. Unfortunately, this has not been the case but we are still striving toward this goal. In the meantime, additional countries have asserted claims to a 200-mile limit, and the rate of seizures has accelerated greatly. Under these circumstances, it is appropriate to request that the provisions of section 7 of the Act be extended until July 1, 1977, as provided in section 1 of the draft bill.

Section 2 of the draft bill recognizes the transfer of authority for the program from the Secretary of the Interior to the Secretary of Commerce pursuant to the provisions of Reorganization Plan No. 4 of 1970 (84 Stat. 2090).

By Mr. GURNEY:

S. 3546. A bill to designate the hospital being constructed in Tampa, Fla., as the "Melvin T. Dixon Veterans Hospital." Referred to the Committee on Veterans' Affairs.

Mr. GURNEY. Mr. President, today I am introducing a bill to honor a man who made a great contribution to Florida and the Nation, the late Melvin T. Dixon. My bill would name the new Veterans' Administration hospital, presently being built in Tampa, Fla., and scheduled for completion this year, after Mel Dixon.

Mel Dixon worked with veterans almost from the time of his disability discharge from the Air Force in 1945 until his untimely death of a heart attack in January of this year. Prior to 1945 he had served his country with distinction in World War II.

My bill has the full support of the Veterans' Liaison Council of Pinellas County, which has, in fact, submitted a resolution calling for the naming of the hospital after Mel Dixon. For the benefit of my colleagues who may not know the respect with which Mel Dixon was held in Florida, I ask unanimous consent that this resolution, a biographical sketch of Mel Dixon and a moving eulogy written about him by his friends and colleagues be printed in the RECORD at the conclusion of my remarks.

To quote from that eulogy, he thought "seldom of his enemies, often of his friends and every day of his opportunity to serve."

Mr. President, such dedication deserves recognition. By naming the new VA hospital after a man who spent his life in dedication to the well-being of his fellow veterans, I can think of no more fitting a tribute.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas a new Veterans Administration Hospital is now under construction, and scheduled to be dedicated as a Veterans Hospital the latter part of this year 1972 at Tampa, Florida; and

Whereas The Honorable Melvin T. Dixon having served the State of Florida in the Department of Community Affairs, Division of Veterans Affairs, since his appointment on March 17, 1948, until his recent demise; and

Whereas during his term of office as State Service Officer for the State of Florida, he did initiate and brought to fruition, innovations within the program designed to the economic and social status for all veterans, their widows and orphans; and

Whereas Melvin T. Dixon was a gentleman of irreproachable morals and ethical principles with a deep compassion for his fellow men. To covet nothing that was his neighbors, to think seldom of his enemies, often of his friends, and everyday of his opportunity to serve. Therefore

Be it resolved that the Veterans Liaison Council of Pinellas County, incorporating into its Council Units of the World War I and World War II, The American Legion, AMVETS, The Disabled American Veterans, The Jewish War Veterans of the United States of America, The Marine Corps League, Military Order of the Purple Heart, Veterans of Foreign Wars, and other service organizations whose members have served their Country in time of war,

And we, do hereby respectfully request, and earnestly urge that you exercise your high office in naming this new hospital "The Melvin T. Dixon Memorial Veterans Administration Hospital", so that his name will always be an inspiration to all, and further preserve his memory as an outstanding example to those others who have dedicated their lives and careers to the service for the veteran, his dependents and orphans, and be it further resolved that copies of this Resolution be submitted to the following:

The Honorable Donald E. Johnson, Administrator of the Veterans Administration.

The Honorable Congressional Delegation of Florida.

The Honorable Members of the Board of County Commissioners.

To the Membership of the various Civic Clubs.

To the News Media.

And to the widow, Mildred Howell Dixon and children, Sarah Celia, Mary Kathleen, and Michael Howell.

ABE BAKER,
President, the Veterans Liaison Council of Pinellas County, Fla.

MELVIN T. DIXON, 1917–72

Melvin T. Dixon was born in Nashville, Tennessee on May 30, 1917, fourth of 5 children of Sarah and James Dixon.

He received his education in the State of Tennessee where he attended the University of Tennessee, which was interrupted by World War II.

Mel enlisted in the United States Air Force on April 21, 1941, and retired as a 1st Lt. from service due to disabilities incurred in service on February 13, 1945.

March 1, 1945, Mel was employed by the Veterans Administration as a Contact Representative in the St. Petersburg Florida Regional Office, training new contact representatives. He resigned on April 14, 1946.

On April 15, 1946, Mel accepted a position with the then Florida Department of Veterans Affairs, under David L. Wylie, State Service Officer, as a Claims Specialist.

In 1947, he was named Asst. State Service Officer. On March 17, 1949, David L. Wylie passed away and Mel was named Director and held that position until his untimely passing on January 7, 1972.

Upon assuming the duties as Director, he was named the Department Service Officer for The American Legion.

When Florida State Agencies were reorganized, the Department of Veterans Affairs became the Division of Veterans Affairs under the Department of Community Affairs. Mel became the Director, and the name State Service Officer was deleted from file but not from rank.

Mel has held the following positions and served on numerous veterans committees: Past President of the American Legion Service Officers Association; Past President of the National Association of State Directors of Veterans Affairs; Past President of the Southern Governors' Veterans Advisory Council; Past President of the Southeastern Service Officers Association and a member of President Johnson's Advisory Council 1967–68. Mel has also served on committees both local and statewide such as The Governors Employ of the Handicapped; Geriatrics Seminars; The Governors Action Task Force and the Veterans Liaison Council.

Mel was a much sought after speaker. He was a first come first served speaker. As to the size of a post, organization or any other group, it did not matter who called first, he committed himself to that organization.

Mel was married to the former Mildred Howell and had 2 daughters, Sarah Cecelia and Mary Kathleen and one son Michael Howell.

Melvin T. Dixon passed away on January 7, 1972 of a heart attack.

"WE SAY"

He was a man who lived by a challenge; this challenge gave him work to do, a job that he could call his own, where he could both lose himself and find himself in the daily job of doing it. Where his hands would not be tied nor his talents cramped, where his spirits would not be dwarfed by selfishness and greed and where he could breathe the pure sweet air that was his birth right. It gave him a job where opportunities reached outward and upward to the blue skies above, where his loved ones and he would never know confining boundaries or limited horizons; a job where he could earn a decent, honest living and realize just compensation for hard work. A job where he never felt the crippling chains of another's favor.

It gave him the work to do among his fellow men where he could feel at the setting sun that he had given a bit of happiness to a troubled world. That he had eased the load of his brothers' shoulders; that in some way he had brought peace and quiet to fearful hearts.

It gave him work to do, a job where he could be glad of life because it gave him the chance to love and to work and to play and to look up at the stars to be satisfied with his possessions; but not content with himself until he had made the best of them; to despise nothing in the world, except falsehood and meanness and to fear nothing except cowardliness. To covet nothing that was his neighbor's except his kindness of heart and gentleness of manner; to think seldom of his enemies, often of his friends, and every day of his opportunity to serve.

And at last, it gave him the courage to take the job and do it well, for only in so doing could he expect to find his own untarnished happiness.

And this is the challenge by which he lived his life. For this kind of challenge in the daily struggles of life there are no medals, and no decorations, but it has enshrined him in the hearts of a vast host of friends and associates.

As State Service Officer, Melvin T. Dixon's scholarship in veterans affairs, his seriousness of purpose, and his sincere dedication in perpetuating the commitments this State and Nation has made to its veteran population, have brought unparalleled prestige to the Veterans program. A gentleman of irreproachable moral and ethical principles and one with a deep compassion for his fellow man, Mel initiated and brought to fruition several innovations within the program designed to improve the economic and social status of veterans, their widows and orphans.

He simply stood up straight and tall, and bravely fought the foe; until one day God took his hand and said: "Come, my son, It's time to go."

By Mr. GURNEY (for himself and Mr. CHILES):

S. 3547. A bill to provide for orderly trade in fresh fruits and vegetables, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. GURNEY. Mr. President, the bill that my colleague from Florida (Mr. CHILES) and I are introducing today deals with a serious problem confronting the U.S. fruit and vegetable industry.

In the past 10 years, imports of foreign-produced fresh fruits and vegetables have increased to the point where they are having a major impact on the domestic produce industry.

In my own State of Florida, for example, starting in 1961, the volume of tomatoes imported from Mexico has steadily increased.

Imports of fresh fruits and vegetables from Mexico alone reached 155 million in 1971 and are expected to go even higher in 1972.

Every week, carloads of Mexican tomatoes flood the market without notice causing prices of domestic products to drop and bringing farmers in Florida to the verge of bankruptcy.

Moreover, this unregulated increase in volume of foreign imports throws the farm labor situation into chaos. At best, agricultural workers are never far removed from economic insufficiency and the present pattern of imports hurts them greatly.

The Homestead Housing Authority, an organization charged with the responsibility for housing about 50 percent of the migrant agricultural workers in Florida, has stated that:

> The stabilization of migrant housing and migrant people's income to pay rent isn't easy even under orderly market conditions because of the nature of highly perishable vegetables.

It is nearly impossible under the wide open export situation existing today.

Our Government must direct its efforts toward achieving reasonable agreements with trading partners and back them with an effective import quota law.

The Fresh Fruits and Vegetables Market-Sharing Act of 1972 is designed to promote these objectives. It provides that the total exports to the United States during the season would not exceed an agreed upon level based upon volume of shipment during a representative period.

The President would have full authority to determine the share of total imports using as a basis such things as: Historical patterns of imports, our balance of payments and trade situation, the economic status, underdeveloped nations and other factors affecting trade. Under terms of this bill, he could also limit the quantity of imports from any country which does not choose to enter into a trade agreement with us.

Under this act imports would receive a proportionate share of additional market demand in the event of U.S. crop shortages.

The enactment of this legislation will establish an equitable and orderly marketplace, consistent with the maintenance of a strong and expanding U.S. economy. It is designed to avoid the present threat of disruption in the domestic market for fresh fruit and vegetables—a threat that warrants corrective action without further delay.

By Mr. TOWER:

S. 3549. A bill to amend title 38, United States Code, to encourage persons to join and remain in the Reserves and National Guard by providing full-time coverage under servicemen's group life insurance for such members and certain members of the Retired Reserve up to age 60. Referred to the Committee on Armed Services.

Mr. TOWER. Mr. President, I am introducing today a bill to provide full-time coverage, under the servicemen's group life insurance program (SGLI), for members of the Reserve components of our Armed Forces, and certain members of the Retired Reserve.

Some weeks ago, I introduced a bill which would provide enlistment and reenlistment bonuses for members of the Reserve and Guard. The following week, I introduced a bill to credit officers with the years spent in a service academy or advanced ROTC program. These bills and the one I am proposing today are designed to encourage men to join and to remain in these Reserve components.

President Nixon has committed this Nation to the attainment of an all-volunteer force by mid-1973. At present, it appears that the active duty forces will not have difficulty in meeting their manpower needs for the near future. Although the quality of volunteers may prove less than we desire, we should be able to enlist an adequate number of men for active duty. The picture for the Reserve components, however, is somewhat more grim. Strengths, which had been 45,000 below congressionally authorized floors in December 1971, dropped further in January to 49,000 below.

Clearly, action needs to be taken immediately if we are to reverse this alarming trend. This bill combined with my earlier ones, is designed to help alleviate this problem. This bill extends full-time servicemen's group life insurance (SGLI) to certain members of the Ready and Retired Reserves. Specifically it would:

First, extend full-time coverage under SGLI to those members who voluntarily participate in Ready Reserve programs requiring a minimum of 12 active duty training periods annually. These periods must be creditable for retirement purposes;

Second, extend full-time coverage to persons assigned to, or eligible for assignment to, the Retired Reserve provided they have completed 20 years of service creditable for retirement;

Third, automatically insure those members against death for $5,000, $10,000, $15,000 if they so desire;

Fourth, continue coverage from the Ready Reserve to the Retired Reserve if the member has 20 years of creditable service;

Fifth, provide coverage to members of the Retired Reserve who are assigned to the Retired Reserve before the date on which this bill becomes effective (until age 61);

Sixth, provide for conversion to an individual policy for members of the Ready Reserve, but not the Retired Reserve;

Seventh, require contribution from the military personnel appropriation and the Government share of SGLI; and

Eighth, authorize the Administrator of the Veterans' Administration to administer this program.

If we are to rely more heavily upon the Reserve components now that active duty strengths have been reduced, those components must be strong; however, they cannot be strong without the manpower necessary to man modernized equipment. I hope this bill will help make service in the Reserves more attractive, and, thus, indirectly strengthen them.

By Mr. SCHWEIKER:

S. 3551. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses Referred to the Committee on Commerce.

BROADCAST LICENSE ACT OF 1972

Mr. SCHWEIKER. Mr. President. I introduce today the Broadcast License Act of 1972.

This bill contains two provisions: First, it extends the licensing period for radio and television broadcasting stations from a 3-year term to a 5-year term; and second, it establishes by law that the performance of an existing licensee shall be a primary test for the Federal Communications Commission to consider during license renewal proceedings.

This bill is identical to H.R. 12018 introduced in the House of Representatives by Representative JAMES T. BROYHILL, and I am hopeful that both bodies of Congress can move simultaneously to pass this important measure.

The two provisions of the Broadcast License Act of 1972 should be considered together by the Congress because they are companion measures serving a single objective: to further the greatest responsiveness to the public interest through responsible broadcasting.

Under these changes, all requirements and standards imposed now by the Federal Communications Commission on broadcasting licensees, and any new programing policies and guidelines initiated in the future by the FCC, must still be strictly adhered to by broadcasting stations. Presentation of public issues, responsiveness to all elements of a licensee's community, "fairness", and many other FCC requirements of broadcasting licensees in carrying out their duty to serve the public interest, will still be required under a 5-year license term, and under the test of good-faith performance for evaluation of license renewal applications.

Mr. President, many stations are already doing an outstanding job in representing the broad public interest in a complex era. I have spoken with many station owners and managers conducting their license renewal surveys of the needs of their local communities and have been impressed by the depth and quality of the public interest attitudes and activities of these broadcasters.

However, just as we demand that broadcast licensees remain responsive to the changing needs of society and of their respective communities, so must we in Congress insure that our laws and requirements are equally responsive to modern conditions. The 3-year broadcast license term was first imposed by the Congress in 1927, nearly a half-century ago. Television was just an idea at that time. I think it is fair for us to seriously reevaluate at this time whether this particular license term is still the most effective way to insure that our limited airwaves are utilized in the public interest in an era of a communications explosion.

I am fearful that because of the short duration of the 3-year license term, along with the many requirements of the licensee to serve the public interest in the complex era we now live in, that a disproportionate amount of time and energy is now being expended on the administrative license renewal process itself. Broadcasting stations barely begin operating under their license when they have to begin preparing forms and other data for their license renewal application. I feel that under a 5-year license term, Congress and the FCC can impose the same high public service requirements as under the current 3-year term. Likewise, any person or organization in a community desiring to challenge a broadcasting station's performance during the license renewal period will have the same opportunity to do so after a 5-year term as after a 3-year term.

In fact, I feel the 5-year license term would enable a station to make longer-range commitments, and provide even better service to its community. In addition, the FCC would have considerably less of an annual work-load, since it would only have to evaluate the licenses in one-fifth of the States each year, instead of the current one-third, and more attention could be paid to the quality of performance of all existing licensees.

Similarly, with the many public service requirements that have been added as policies by the FCC in recent years, I think it is even more incumbent on us to insure that the actual performance of a broadcasting station be the paramount consideration in license renewal proceedings.

We must be conscious of the enormous investment that is now required by a broadcasting station, in both manpower and sophisticated equipment, and also of the fact that public policy asserts that these stations be private business enterprises with public responsibilities. Congress has made important contributions to the development of public broadcasting, with my support, but we have specifically declared that public broadcasting is only one alternative to commercial broadcasting, and not a substitute for it. Accordingly, we cannot demand increased responsiveness to the public interest by privately owned broadcasting stations, a policy which I support, without at the same time taking cognizance of the economic investment that is required to support and carry out this public interest programing.

Passage of this bill can be an important contribution to the public interest, and the broadcasting industry's obligations to serve the public interest. I urge speedy consideration by the Congress.

By Mr. FANNIN (for himself, Mr. BENNETT, Mr. GOLDWATER, Mr. CANNON, Mr. DOMINICK, Mr. BIBLE, and Mr. MOSS):

S. 3553. A bill to amend the Taylor Grazing Act to increase the amount of certain revenue returned to the State. Referred to the Committee on Interior and Insular Affairs.

Mr. FANNIN. Mr. President, today, with other Senators, I am introducing a bill that would amend section 10 of the Taylor Grazing Act.

At the present time, section 10 of the Taylor Grazing Act allows for 12½ percent of the grazing fees collected to be returned to the States. Section 15 of the Taylor Grazing Act allows a 50-percent return to the States for lands which are isolated tracts of Bureau of Land Management public domain. It is my feeling that lands which come under section 10 should also receive a return to the States of 50 percent.

The basic resource upon which the Western States have developed economically is drived from the productivity and use of the land. Use of these fees for improvements would provide increased environmental protection as well as increase the productivity of these lands. It will also aid the ranchers in meeting demands for more meat at lower costs.

By Mr. COOK (by request):

S. 3555. A bill to encourage and assist States and localities to coordinate their various programs and resources available for the prevention, treatment, and control of juvenile delinquency, and for other purposes. Referred to the Committee on the Judiciary.

Mr. COOK. Mr. President, on March 30 I introduced a bill to amend and extend the Juvenile Delinquency Prevention and Control Act of 1968.

Today, by request, I am introducing the administration's Comprehensive Youth Services Act of 1972 which would replace the 1968 legislation.

Although I have introduced my own bill, I am also introducing the administration bill because the objectives of both are similar. Both of these proposals would authorize the establishment of youth services systems which are intended to foster program coordination and integration through joint planning and joint operation by health, education, and other agencies within a geographic area which provide services to delinquent youth and those in danger of becoming delinquent.

During this last year, HEW's Youth Development and Delinquency Prevention Administration has been redirecting its program toward the development of these youth service systems to the extent possible under the existing law. Twenty-three of these systems have been funded, and 10 more will be operational in the near future. In each of these systems YDDPA has demonstrated an ability to pull together a broad range of services as well as to obtain additional funding sources. Some of the services being provided in the systems are job training, health services, drug abuse programs, and dropout prevention programs. YDDPA's initial grant has been multiplied by as much as 10 times in some of the systems, with the additional funding coming from other Federal agencies such as the LEAA as well as the State and local agencies.

Until YDDPA's efforts to develop comprehensive youth services systems, there had not been any major attempts to coordinate at the community level existing health, education, and social services programs dealing with the problems of delinquency. Consequently, a needy youth would be required to go to several different agencies to receive the proper services. Under these circumstances, the youth is unlikely to receive the right service at the right time and may not receive any services at all.

The bill provides that the youth services systems will be established outside of the juvenile justice systems, with YDDPA's goal being the diversion of youth from the courts and law enforcement agencies. The fact that there is between 50 and 80 percent recidivism within our juvenile justice system is evidence that the juvenile justice and correctional system alone cannot meet the problems of delinquency. During the past year, YDDPA has demonstrated the ability to develop youth services systems and to bring together the kinds of services which are necessary to prevent delinquency and divert youth from the juvenile justice system. I believe that this approach, also utilized in my own Juvenile Delinquency Prevention Control Act Amendments of 1972 should be continued.

Mr. President, I ask unanimous consent that the summary of the proposed Comprehensive Youth Services Act of 1972 and the full text of the bill be printed in the RECORD at this point.

There being no objection, the summary and bill were ordered to be printed in the RECORD, as follows:

SUMMARY OF THE PROPOSED COMPREHENSIVE YOUTH SERVICES ACT OF 1972

Section 1 provides the short title of the bill: the "Comprehensive Youth Services Act of 1972".

Section 2 of the bill contains the Congressional declaration of findings and purpose.

Section 3 of the bill defines several key terms. The "comprehensive youth services systems" for which grants are authorized in the bill are defined as coordinated systems, separate from the system of juvenile justice, for providing youth services to individuals who are delinquent or in danger of becoming delinquent. The systems would be designed for the purposes of, among others, facilitating accessibility to youth services and improving the effectiveness of youth services.

Section 4(a) of the bill would authorize the Secretary, during fiscal year 1973, 1974, and 1975, to make grants to, or contracts with, any public or nonprofit private agency or organization to cover, for not more than one year, all or part of the cost of establishing or operating a comprehensive youth services system. Expenses which would be covered by payments under such grants or contracts would include those of providing youth services necessary to the success of the comprehensive youth services system which are not being adequately provided in the community and for which funds are not available from other sources and of training personnel who are employed in the system.

Section 4(b) of the bill would authorize the Secretary, during fiscal year 1974 and each of the next three fiscal years, to make supplemental grants or contracts to recipients of financial assistance under subsection (a) to cover, for a period not exceeding two years, part of the cost of any activity covered under subsection (a).

Section 4(c) of the bill would establish several conditions necessary for the approval of an application for a grant or a contract. One such condition would be that the applicant have the necessary capability to develop and operate a comprehensive youth services system. Another condition would be that in any year for which applicants receive supplemental assistance they must cover, from their own resources, a greater proportion of the cost of the activities for which they are receiving such assistance than in the preceding year. It is the intention that after no more than three years, the applicants would be able to insure the continuation of youth services systems without financial assistance under this legislation.

Section 4(d) of the bill would require that an application for a grant or a contract under section 4 by an agency or organization other than an Indian tribe be submitted to the Governor of the State in which the project is proposed to provide him with an opportunity to review and comment on it. In the case of an application by an Indian tribe, the Secretary of the Interior would be provided with an opportunity to review and comment on it.

Section 4(e) of the bill would require that in making grants or contracts under section 4, preference be given to units of general purpose local government.

Section 5 of the bill would provide for payments to be made under grants or contracts made under section 4 of the bill.

Section 6 of the bill would authorize the Secretary to evaluate comprehensive youth services systems assisted under section 4 of the bill, to disseminate information concerning comprehensive youth services systems and research activities in the field of delinquency prevention and youth development, to provide technical assistance in the planning, establishment, or operation of comprehensive youth services systems, and to set aside not more than one percent of the appropriations under the Act for evaluation.

Section 7 of the bill would provide procedures for the joint funding of comprehensive youth services systems.

Section 8 of the bill would continue the authorization for the Interdepartmental Council for the Coordination of Federal Juvenile Delinquency Programs established by the Juvenile Delinquency Prevention and Control Act of 1968.

Section 9 of the bill would authorize appropriations for fiscal year 1973 and each of the following four fiscal years.

Section 10 of the bill would repeal the Juvenile Delinquency Prevention and Control Act of 1968 with respect to appropriations for fiscal year 1973 and thereafter.

S. 3555

A bill to encourage and assist States and localities to coordinate their various programs and resources available for the prevention, treatment, and control of juvenile delinquency, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Youth Services Act of 1972".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that:

(1) Delinquency among the youth of this country continues to be a national problem.

(2) While much progress has been made in developing services which can assist in solving the problem of juvenile delinquency, obstacles to the effective provision of those services still exist.

(3) These obstacles often take the form of fragmentation among many agencies and organizations of the responsibility for providing services to juvenile delinquents and those in danger of becoming delinquent; structural rigidity and arbitrary categorization of Federal, State, and local programs; and lack of coordination and communication among agencies and organizations which provide services to youth.

(b) It is therefore the purpose of this Act to encourage and assist State and local agencies to enter into new cooperative arrangements and, where necessary, reorganize or reassign functions, in order to establish or operate comprehensive youth services systems which will—

(1) assist in the prevention of juvenile delinquency or the rehabilitation of youths who are delinquent;

(2) reduce alienation and promote the positive development of youth in ways which are meaningful and socially acceptable;

(3) improve the delivery of services to individuals who are delinquent or in danger of becoming delinquent; and

(4) serve as a model for the establishment or operation of similar systems in other geographic areas.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "youth services" means services which assist in the prevention of juvenile delinquency or in the rehabilitation of youths who are delinquent, including, among other services, the provision of individual and group counseling, family counseling, remedial education, tutoring, alternate schools (which, for purposes of this Act, means institutions or organizations which provide education to youths outside the regular school system), vocational testing and training, job development and placement, emergency shelters, halfway houses, hot lines (which, for purposes of this Act, means the provision of telephone access to emergency counseling), health services, drug abuse programs, social, cultural, and recreational activities, community awareness programs, foster home placement, and legal services.

(2) The term "comprehensive youth services system" means a coordinate system, separate from the system of juvenile justice (which encompasses agencies such as the juvenile courts, law enforcement agencies, and detention facilities), for providing youth services to an individual who is delinquent or in danger of becoming delinquent and to his family in a manner designed to—

(A) facilitate accessibility to and utilization of all appropriate youth services provided within the geographic area served by such coordinated system by any public or private agency or organization which desires to provide such services through such system;

(B) identify the need for youth services not currently provided in the geographic area covered by such system, and, where appropriate, provide such services through such system;

(C) make the most effective use of youth services in meeting the needs of young people who are delinquent or in danger of becoming delinquent or their families; and

(D) use available resources efficiently and with a minimum of duplication in order to achieve the purposes of this Act.

(3) The term "State" includes the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(4) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(5) The term "Governor" means the Governor of the State, in the case of any of the fifty States, and, in the case of the other States, the chief executive officer thereof.

(6) The term "unit of general purpose local government" means (A) a political subdivision of the State whose authority is broad and general and is not limited to only one function or a combination of related functions, or (B) an Indian tribal organization.

(7) The term "year" means any twelve consecutive calendar months.

ASSISTANCE FOR COMPREHENSIVE YOUTH SERVICES SYSTEMS

SEC. 4. (a) The Secretary may, during the period beginning with July 1, 1972 and ending with the close of June 30, 1975, make grants to, or contracts with, any public or nonprofit private agency or organization to cover, for not more than one year, part or all of the cost of (1) planning for the establishment of, establishing, or operating comprehensive youth services systems; (2) short-term training of personnel employed in connection with the operation of such systems or in connection with the provision of services through such systems; or (3) providing through such systems, either directly or through contractual or other arrangements, youth services which are necessary to the success of such systems, which are not being adequately provided in the community, and for which payment is not available from other sources.

(b) The Secretary may, during the period beginning with July 1, 1973 and ending with the close of June 30, 1977, make supplemental grants to, or contracts with, any public or nonprofit private agency or organization which was provided financial assistance for any period under subsection (a). Such supplemental grants or contracts may be made to cover, for a period not exceeding two years following the period for which assistance was provided under subsection (a), part of the cost of any activity for which assistance is authorized under subsection (a).

(c) A grant or contract may be made under subsection (a) only upon application therefor which—

(1) provides or is accompanied by assurances satisfactory to the Secretary that—

(A) the development of a comprehensive youth services system will be undertaken in a manner which will afford adequate opportunity for recipients of youth services and public or private agencies or organizations providing one or more youth services within the geographic area to be served by the applicant to present their views to the applicant with respect to such development;

(B) the applicant has the necessary capability to develop and operate a comprehensive youth services system;

(C) the applicant will provide such information as the Secretary determines to be necessary for carrying out the purposes of the Act, including information obtained pursuant to procedures established in accordance with clause (2)(D) of this subsection, information which will enable the Secretary to evaluate the benefits of the comprehensive youth services systems, and information which will enable the Secretary to determine the desirability of encouraging the establishment of similar systems in other communities; and

(D) in any year for which the applicant receives supplemental assistance under section 4(b), a greater proportion of the cost of the activities for which the applicant receives assistance under section 4 will be covered from resources other than payments under this Act than was covered from such sources in the preceding year; and

(2) includes a description of—

(A) the functions and services which will be coordiated by the applicant;

(B) the administrative efficiencies which will be achieved in the delivery of youth services by such coordination;

(C) the procedures which will be established for protecting the rights, under Federal, State, or local law, of the recipients of youth services provided under the comprehensive youth services system to be developed by the applicant, and for insuring appropriate privacy with respect to records relating to such services; and

(D) the procedures which will be established for evaluating such system; and

(3) includes such other information as the Secretary determines to be necessary for carrying out the purposes of this Act.

(d) Except in the case of an application by an Indian tribal organization, no grant or contract may be made under subsection (a) unless the application therefor has first been submitted to the Governor of the State in which the comprehensive youth services system is to be established in order to provide him with an opportunity (in accordance with regulations of the Secretary) to review and comment upon such application. In the case of an application by an Indian tribal organization, no grant or contract may be made under subsection (a) unless the application therefor has first been submitted to the Secretary of the Interior in order to provide him with an opportunity (in accordance with regulations of the Secretary) to review and comment upon such application.

(e) In making grants or contracts under subsection (a), the Secretary shall give preference to agencies of units of general purpose local government.

PAYMENTS

SEC. 5. Payments under grants or contracts made under section 4 may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

EVALUATION AND TECHNICAL ASSISTANCE

SEC. 6. (a) The Secretary may, directly or by grant or contract, evaluate comprehensive youth services systems assisted under section 4 in order to determine the achievements of such systems and the efficiency and effectiveness of the youth services provided on a coordinated basis thereunder. In addition to funds otherwise available therefor, such portion of any appropriation to carry out this Act as the Secretary may determine, but not in excess of one per centum thereof, shall be available to him for carrying out this subsection.

(b) The Secretary may disseminate the results of the evaluations conducted under subsection (a), as well as other information concerning comprehensive youth services systems and significant findings of research activities in the field of delinquency prevention and youth development, to interested agencies, organizations, and individuals.

(c) The Secretary may provide, directly or by grant or contract, such technical assistance as he determines to be necessary to assist public or nonprofit private agencies or organizations in the planning, establishment, or operation of comprehensive youth services systems or in the provision of youth services.

JOINT FUNDING

SEC. 7. Pursuant to regulations prescribed by the President, where funds are advanced for a comprehensive youth services system by more than one Federal agency to an agency or organization assisted under this Act, any one Federal agency may be designated to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) regardless of whether such requirement is imposed by statute or by regulation, if such requirement is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. Nothing in this section shall be construed to authorize the expenditure of Federal funds for purposes other than those for which they were appropriated.

INTERDEPARTMENTAL COUNCIL

SEC. 8. (a) There shall be an Interdepartmental Council on Juvenile Delinquency (hereinafter in this section referred to as the "Council") composed of the Attorney General, the Secretary of Health, Education, and Welfare, and the representatives of such other departments or agencies as the President may designate.

(b) The functions of the Council shall be to coordinate all Federal activities in the field of juvenile delinquency.

(c) The Chairman of the Council shall be appointed by the President.

(d) The Council shall submit to the President an annual report which shall contain, among other things, a description of the activities of the Council and of the activities relating to juvenile delinquency of the Federal departments and agencies.

APPROPRIATIONS AUTHORIZATION

SEC. 9. There are authorized to be appropriated for the fiscal year ending June 30, 1973, and for each of the next four fiscal years, such sums as may be necessary for carrying out this Act.

REPEALER

SEC. 10. With respect to appropriations for fiscal years beginning after June 30, 1972, the Juvenile Delinquency and Control Act of 1968, other than section 407 thereof, is repealed. Section 407 of such Act is repealed effective with the close of June 30, 1972.

By Mr. MOSS:

S. 3556. A bill to amend the Public Health Service Act to provide for inservice training of nursing home personnel. Referred to the Committee on Labor and Public Welfare.

NURSING HOME PERSONNEL IN-SERVICE TRAINING ACT

Mr. MOSS. Mr. President, today I am introducing a bill which I call the Nursing Home Personnel In-Service Training Act. This bill represents an important step overcoming the significant problems in nursing homes which are caused by or related to the dependence on untrained nursing personnel.

There are well over 500,000 nursing home employees in the United States, the bulk of them being untrained aides and orderlies. Since these individuals are paid the minimum wage to perform perhaps the most difficult job in the world it is understandable why the turnover rate for these occupations is near the 75-percent level.

I would be the first to point out that most of these employees work hard and attempt to ease the burdens of the infirm elderly. However, there are too few of these nurses aides to care properly for the needs of the elderly. This is particularly true since so few of them receive any sort of training for their work.

The example provided by the investigator of the Better Government Association who testified at our Chicago hearings is classic. He applied for a job as a janitor at a Chicago nursing home and within 20 minutes was at work passing medications with the keys to the narcotics cabinet on his belt.

Testimony from several of our hearings substantiates these conclusions: First, nursing homes are desperate for personnel but can only offer the minimum wage which results in the enigma of comparative ease in obtaining employment at a nursing home accompanied with a high turnover rate; second, physicians for all intents and purposes have abandoned nursing homes; third, some 90 percent of the medical care in nursing homes is given by the nursing personnel; fourth, the charge nurse, be she RN or an LPN, is busy with paperwork and administrative responsibilities, thus it is these same untrained aides and orderlies who are called upon to provide the medical care in nursing homes.

For all of these reasons it is in the direct interest of the people of the United States to provide some training programs for nursing home personnel. President Nixon has proposed the short-term training of 20,000 of these personnel this year and for the training of 21,000 more next year.

I suggest that this is a minimal and unacceptable effort. In an industry of 500,000 or more employees the training of 20,000 a year would be a mere drop in the bucket even if the training were meaningful. I suggest that the Nixon training program is far from meaningful. Although it has not been generally announced I have been informed that these short-term training courses will be a total of 3 days long. That is short term indeed.

My bill, which addresses this important problem, provides grants of up to $100,000 to assist public and nonprofit private schools of nursing to meet the costs of developing in-service training programs—not to exceed 6 months—for nurses aides and orderlies in nursing homes. I have asked for an appropriation of $1 million a year for this effort for the next 2 years. I am hopeful that this bill can be enacted in the near future.

By Mr. TOWER:

S. 3557. A bill relating to the Federal Prison Industries and prison-made products. Referred to the Committee on the Judiciary.

Mr. TOWER. Mr. President, I am today introducing a measure to modify the Federal Prison Industries Act to protect private business firms against unfairly priced products that are produced by the Federal Prison Industries. While it is desirable to put the time of convicts to some socially and economically beneficial use, the Government should not be subsidizing the production of goods which are in production in the private sector. The full costs of producing the prison goods should be assessed against them, so that they are not placed in a position of competitive advantage as against private, taxpaying business firms.

My bill would specify the costs to be allocated to prison goods, and the circumstances under which the Government may procure goods from the Federal Prison Industries. This will tend to place the emphasis in Federal Prison Industries on the production of goods and services in which private suppliers are inefficient or nonexistent, since in most circumstances Federal Prison Industries cannot compete against an efficiently run business firm. However, there are certainly many areas of public service, and also areas where private goods and services are inadequate, in which the Federal Prison Industries can engage its resources.

This bill will only attempt to prevent the inequitable tax-supported competition of these industries against the taxpaying business firm.

By Mr. TUNNEY:

S. 3558. A bill to provide for increases in the readjustment allowances of Peace Corps volunteers and volunteer leaders, and to provide for the depositing of such allowances in savings accounts. Referred to the Committee on Foreign Relations.

INCREASE IN PEACE CORPS READJUSTMENT ALLOWANCE

Mr. TUNNEY. Mr. President, I am pleased to take this opportunity to introduce legislation which would increase the readjustment allowance which is currently provided to return Peace Corps volunteers.

In the past 11 years, more than 50,000 Americans have served their country and the peoples of the world's less-developed nations as Peace Corps volunteers.

The hardships of life in an often primitive post have been accepted without complaint by the volunteers. But today I would like to identify the hardships that we have unwittingly added to a volunteer's life upon his return to the United States.

Eleven years ago, Congress established a "readjustment allowance" of $75 a month to be paid to volunteers in addition to their living expenses overseas. This allowance is subject to Social Security payments and to Federal and State income taxes. From this allowance, the volunteer must pay accident and life insurance premiums and other necessary expenses, such as loan payments, support for dependents at home, and union dues. The remainder, which is withheld by the Government without payment of interest until the volunteer completes his 2-year service, is intended to provide the returned volunteer with funds until he can reestablish himself at school or in a job.

The volunteer, significantly, is excluded from State and Federal unemployment compensation benefits and is not entitled to veteran's benefits. The volunteer normally needs to obtain medical insurance and a new wardrobe upon his arrival home. He is immediately confronted with the expenses of daily living as well as with those of seeking employment or admission to a university. The readjustment allowance is, consequently, of crucial importance to the volunteer upon his return.

Today the readjustment allowance is still $75 a month. I think it is time for a change.

In those 11 years, the Consumer Price Index has risen by almost 40 percent while per capita personal income has risen by close to 75 percent. The job market has, of course, grown tighter in recent years. A survey just completed in my State by the Southern California Peace Corps Service Council indicates that the average volunteer spends 3 months unemployed while looking for his first job.

Surely we owe these returned volunteers better treatment than this.

Today I am introducing legislation to correct this situation by increasing the readjustment allowance for Peace Corps volunteers to $125 per month.

I recognize, Mr. President, that this increase ought to go into effect in fiscal year 1973, but that the budget for fiscal year 1973 would preclude this increase without tampering with it elsewhere. Accordingly, my amendment will go into effect, if passed, in fiscal year 1974. It should be clear to everyone that an allowance which was reasonable in 1961 is no longer sufficient in 1972, let alone in 1973 and 1974, certainly, the fiscal 1974 budget should reflect this necessity.

Today I am introducing legislation to correct this situation by increasing the readjustment allowance for Peace Corps volunteers to $125 per month.

Mr. President, I ask unanimous consent that the text of the bill may be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3558

A bill to provide for increases in the readjustment allowances of Peace Corps volunteers and volunteer leaders, and to provide for the depositing of such allowances in savings accounts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5(c) of the Peace Corps Act is amended by striking out "75" and inserting in lieu thereof "$125."

(b) Section 6(1) of such Act is amended by striking out "$125" and inserting in lieu thereof "$150."

SEC. 2. Section 10 of the Peace Corps Act is amended by adding at the end thereof the following new subsections:

"(h) Upon written request of a volunteer or volunteer leader, the President shall deposit on behalf of that volunteer or volunteer leader, in a savings account of a Federally insured bank or savings and loan association, the amounts of the readjustment allowance which the volunteer or leader is entitled to receive for each month of satisfactory service performed by him. Each such amount shall be deposited promptly after the end of each month of satisfactory service. Interest earned on the amounts so deposited shall be paid at the same times, and to the same persons, as the amounts of such allowance are paid. Prior to the commencement of each period of service with the Peace Corps for which a volunteer or volunteer leader is entitled to receive a readjustment allowance, the Volunteer or leader shall be informed with respect to the provisions of this subsection and acknowledge in writing that he has been so informed.

"(i) Each time that the rates of basic pay of employees paid under statutory pay systems are increased under subchapter I of chapter 53 of title 5, United States Code, the rate of any allowance provided under section 5(b) or (c) or section 6 (1) of this Act shall be increased by a percentage equal to that average percentage of increase, as determined by the President, as the rates of basic pay of such employees are increased. Any increase in such allowances shall be effective on the first day of the month in which the increased rates of basic pay of such employees are effective."

SEC. 3. (a) (1) The amendments made by the first section of this Act are effective on the first day of the first full calendar month commencing on or after the date of enactment of this Act.

(2) Subsection (i) of section 10 of the Peace Corps Act, as added by section 2 of this Act, shall apply with respect to any increase, effective on or after the first day of the second full calendar month commencing on or after such date of enactment, in the rates of basic pay of employees paid under statutory pay systems under subchapter I of chapter 53 of title 5, United States Code.

(b) Subsection (h) of section 10 of the Peace Corps Act, as added by section 2 of this Act, shall be effective on the first day of the first full calendar month occuring at least 30 days after the date of enactment of this Act. Any individual who is a volunteer or volunteer leader within the meaning of the Peace Corps Act on the effective date of such subsection (h), who makes a written request in accordance with the amendment made by such section, may also request (and he shall be informed that he may make such additional request) that any amount of the readjustment allowance which he is entitled to receive and which has not yet been paid shall also be deposited in a savings account.

By Mr. FULBRIGHT (by request):

S. 3560. A bill to facilitate compliance with the treaty between the United States of America and the United Mexican States, signed November 23, 1970, and for other purposes. Referred to the Committee on Foreign Relations.

AMERICAN-MEXICAN BOUNDARY TREATY ACT OF 1972

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to facilitate compliance with the treaty between the United States of America and the United Mexican States, signed November 23, 1970, and for other purposes.

The bill has been requested in a letter to the Vice President from the Assistant Secretary of State for Congressional Relations and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State to the Vice President dated March 9, 1972, and the comments on the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3560

A bill to facilitate compliance with the treaty between the United States of America and the United Mexican States, signed November 23, 1970, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "American-Mexican Boundary Treaty Act of 1972."

TITLE I—AUTHORIZATION FOR CARRYING OUT TREATY PROVISIONS

SEC. 101. In connection with the treaty between the United States of America and the United Mexican States to resolve pending boundary differences and maintain the Rio Grande and the Colorado River as the international boundary between the United States of America and the United Mexican States, signed November 23, 1970, the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized—

(a) to conduct technical and other investigations relating to: the demarcation, mapping, monumentation, channel relocation, rectification, improvement and stabilization, and other matters relating to the preservation of the river boundaries between the United States and Mexico; the establishment and delimitation of the maritime boundaries in the Gulf of Mexico and in the Pacific Ocean; water resources; the sanitation and the prevention of pollution.

(b) to acquire by donation, purchase, or condemnation, all lands or interests in lands required—

(1) for transfer to Mexico as provided in said treaty;

(2) for construction of that portion of new river channels and the adjoining levees in the territory of the United States;

(3) to preserve the Rio Grande and the Colorado River as the boundary by preventing the construction of works which may cause deflection or obstruction of the normal flow of the rivers or of their flood flows.

(4) for relocation of any structure or facility, public or private, the relocation of which, in the judgment of the said Commissioner is necessitated by the project.

(c) to remove, modify, or repair the damages caused to Mexico by works constructed in the United States which the International Boundary and Water Commission has determined have an adverse effect on Mexico, or to compensate Mexico for such damages.

SEC. 102. The United States Commissioner is authorized to enter into contracts with the owners of properties to be relocated whereby such owners undertake to perform, at the expense of the United States, any or all operations involved in said relocations; to construct, operate and maintain all works provided for in said treaty and/or Title I of this Act; and to turn over the operation and maintenance of any such works to any Federal agency, or any State, County, municipality, district, or other political subdivision within which such project or works may be in whole or in part situated, upon such terms, conditions, and requirements as the Commissioner may deem appropriate.

SEC. 103. Notwithstanding any other provision of law, the United States Commissioner is authorized to dispose of by warranty deed, or otherwise, any land acquired by the United States Commissioner on behalf of the United States, or obtained by the United States pursuant to treaty between the United States and Mexico, and not required for project purposes, under procedures to be formulated by the United States Commissioner, to adjoining land owners at such price as he considers fair and equitable, and, if not so disposed of, to turn said land over to the General Services Administration for disposal under the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

SEC. 104. When a determination must be made under the treaty whether to permit a new channel to become the boundary, or whether or not to restore a river to its former channel, or whether, instead of restoration, the Governments should undertake a rectification of the river channel, the United States Commissioner's decision, approved by the Secretary of State, shall be final so far as the United States is concerned, and the United States Commissioner is authorized to construct or arrange for the construction of such works as may be required to give effect to that decision.

SEC. 105. Land acquired or to be acquired by the United States of America in accordance with the provisions of said treaty, including the tract provided for in section 106, shall become a geographical part of the State to which it attaches and shall be under the civil and criminal jurisdiction of said State, without affecting the ownership of said land. The addition of land and the ceding of jurisdiction to a State shall take effect upon acceptance by said State.

SEC. 106. Upon transfer of sovereignty from Mexico to the United States of the 481.68 acres of land acquired by the United States from Mexico near Hidalgo-Reynosa, administration over the portion of that land which is determined by the United States Commissioner, International Boundary and Water Commission, not to be required for the construction and maintenance of the relocated river channel shall be assumed by the Department of the Interior; and the Department of the Interior, Fish and Wildlife Service, Bureau of Sport Fisheries and Wildlife is authorized to plan, establish, develop and administer said portion of the acquired lands as a part of the National Wildlife Refuge System.

SEC. 107. The Tariff Act of 1930 (46 Stat. 590) as amended, shall be further amended as follows:

(1) The heading of Section 322 shall be amended to read: "International Traffic and Rescue Work; United States-Mexico Boundary Treaty of 1970";

(2) Paragraph (b) of Section 322 shall be amended by striking the work "and" at the end of subparagraph (2); by striking the period at the end of subparagraph (3) and inserting "; and" in lieu thereof; and by adding a new subparagraph to read:

"(4) Personal property reasonably related to the use and enjoyment of a separated tract of land as described in Article III of the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary between the United States of America and the United Mexican States signed on November 23, 1970."

SEC. 108. There is authorized to be appropriated to the Department of State for the use of the United States Section of said Commission such sums as may be necessary to carry out the provisions of said treaty and Title I of this Act.

TITLE II—PRESIDIO FLOOD CONTROL PROJECT

SEC. 201. The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for a coordinated plan by the United States and Mexico for International flood control works for protection of lands along the international section of the Rio Grande in the United States and in Mexico in the Presidio-Ojinaga Valley.

SEC. 202. If an agreement is concluded pursuant to Section 201, Title II of this Act, the United States Commissioner is authorized to construct, operate and maintain flood control works located in the United States having substantially the characteristics described in "Report on the Flood Control Project Rio Grande, Presidio Valley, Texas", prepared by the United States Section, International Boundary and Water Commission, United States and Mexico; and there are hereby authorized to be appropriated to the Department of State for the use of the United States Section of said Commission such sums as may be necessary to carry out the provisions of Title II of this Act. No part of any appropriation under this section shall be expended for flood control works on any land, site, or easement unless such land, site, or easement has been acquired under said treaty for other purposes by or donation and, in the case of a donation, the title thereto has been approved in accordance with existing rules and regulations of the Attorney General of the United States.

DEPARTMENT OF STATE,
Washington, D.C., March 9, 1972.

Hon. SPIRO T. AGNEW,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The treaty with Mexico to resolve pending boundary differences and maintain the Rio Grande and Colorado River as the international boundary is expected to enter into force shortly. This treaty settles all pending boundary differences and uncertainties with Mexico, and establishes procedures designed to avert such difficulties in the future. The treaty also establishes fixed maritime boundaries for the two countries to a distance of twelve miles in the Pacific Ocean and Gulf of Mexico. It is one of the most comprehensive boundary treaties ever concluded by the United States.

The International Boundary and Water Commission, United States and Mexico, is responsible under the treaty for its execution. The United States Commissioner on this international body should be provided with all the authority he is expected to need to discharge this responsibility for the United States. For this purpose he will have to conduct investigations, acquire lands and easements in lands, construct, operate and maintain works, and recommend for this Government the decisions that must be made under the treaty. Funds will be required to implement the initial settlement as well as to construct a closely related flood control project and carry out the obligations of the United States as they may arise under the treaty in years to come.

The Department has accordingly drafted a bill entitled the "American-Mexican Boundary Treaty Act of 1972." I present it herewith, together with a section-by-section analysis of its provisions.

The Department recommends enactment of such enabling legislation as quickly as practicable.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

Sincerely yours,
DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

COMMENTS ON DRAFT BILL

The Boundary Treaty of 1970 imposes on the United States and Mexico numerous responsibilities and obligations. These relate principally to the settlement of all existing boundary disputes and uncertainties and the prevention of new ones. The maintenance of the Rio Grande and the Colorado River as the international boundary is an important element in the achievement of both objectives. The treaty also defines and provides for demarcation of maritime boundaries in the Pacific Ocean and the Gulf of Mexico. It entrusts execution of the responsibilities and obligations to the International Boundary and Water Commission, which has been exercising similar duties with respect to the boundary with Mexico since 1889. The Commission consists of a United States Section and a Mexican Section, each headed by a Commissioner. The United States Commissioner would act for the United States in these matters under the policy direction of the Secretary of State.

Title I of the bill would provide the United States Commissioner with all the authority he is expected to need now and in the future to discharge the responsibilities and obligations assigned to the United States by the treaty. For this purpose he will have to conduct investigations, acquire lands and easements in lands, and construct, operate, and maintain works. Sections 101 and 102 of the bill, which are based on Sections 1 and 2 of the American-Mexican Chamizal Convention Act of 1964 (78 Stat. 184), would authorize these and related functions; they are largely self-explanatory. Since, if the Commission should determine under Article IV(B)(2) of the Treaty that works constructed in the United States cause deflection or obstruction of a river flow, this Government must remove or modify them, and possibly repair or compensate for the damage, Section 101(c) of the bill would authorize the United States

Commissioner to perform such work and make compensation to Mexico.

Section 103 reflects an exceptional circumstance resulting from the treaty, and is designed to mitigate the adverse effects of the operation of the treaty on certain individuals. Lands being transferred to Mexico under the terms of the treaty cannot be selected on the basis of convenience or exclusively domestic considerations. The new channel of the Rio Grande, relocated under Article I(C) of the treaty to place north of the river Mexican territory being ceded to the United States will follow an alignment determined as much by Mexican as United States interest. The Department wishes, to the extent practical, to protect the individual United States landowners adversely affected by an arrangement which was in part to accommodate Mexico. The United States Commissioner can best do this by being able to make transfers, sales and exchanges of certain lands sympathetically and expeditiously "on the spot" to suit the needs of the owners involved and provide equitably for all without delay.

For example, eleven pump sites are being eliminated from the river by its relocation. Where a United States farmer finds himself separated from the river channel and his former pump sites by lands ceded by Mexico, he becomes understandably concerned. The United States Commissioner would want to preserve an owner's riparian rights on the water course, and prevent another from acquiring the land and totally cutting him off from his source of irrigation water. Under Section 103 the United States Commissioner would be able to offer the intervening land to an adjacent owner at a price determined to be fair and equitable. Similar circumstances may well arise in the event of future acquisition of land from Mexico under the treaty, and the same provision would enable the Commissioner to protect other United States landowners. If adjoining land owners do not acquire the lands, the Commissioner would turn them over to the General Services Administration for disposal.

Section 104 relates to a complex procedure introduced by Article III of the treaty for the treatment of tracts of land shifted from one side of a boundary river to the other. Decisions must be made under the treaty in accordance with varying circumstances, whether to restore the river to its prior channel or whether to allow a new channel to become the boundary, whether to undertake rectification of the river and, in the rectification process, what lands to exchange with Mexico. Section 105 would authorize the United States Commissioner, with the approval of the Secretary of State, to make these decisions for the United States and to construct whatever works are required.

Section 105 is designed to eliminate any confusion concerning the exercise of jurisdiction over lands which pass from Mexico to the United States under the provisions of the Treaty.

Section 106 would assign to the Fish and Wildlife Service of the Department of the Interior responsibility for administering for the Federal Government that part of 481.68 acres being ceded to the United States by Mexico in the Lower Rio Grande Valley near Hidalgo, Texas, and not required in the relocation of the river at that point or for the maintenance of the project. The Department has learned that this tract would be especially useful as a wildlife refuge, and believes that this is the most beneficial use to which the tract could be put. The choice of tract was determined by flood control considerations, and it otherwise would probably have little value.

Section 107 is incorporated at the request of the Bureau of Customs. Since under Article III of the treaty tracts of land belonging to the nationals of one country might be on the opposite side of a boundary river for as long as four years, the treaty provides that those nationals would be extended such facilities for transit as may be necessary to permit them the use and enjoyment of separated tracts as before the separation, including exemption from customs duties and immigration procedures. Thus, for a period of as much as four years, Mexican nationals may be crossing to and from the United States and transiting United States territory to reach and return from tracts belonging to them on the north side of the Rio Grande or the east side of the Colorado River. The Bureau of Customs is of the opinion that legislation would be necessary to permit it to admit personal property belonging to them without entry or the payment of any duty or tax. The Bureau has therefore recommended the incorporation of Section 107 so that it can comply with the Treaty.

Section 108 authorizes the appropriation of such sums as may be necessary to implement the Treaty.

Title II would authorize an agreement with the Mexican Government for the construction of a joint flood control project for the protection of the lands in the United States and Mexico in the Presidio-Ojinaga Valley. Lands in the valley have experienced flood damage on the average of one year in three. A flood control project has been impractical, however, because of the territorial dispute in that valley. Now that the dispute over the location of the international boundary has been settled by the treaty, the river is being relocated in the valley to place north of the river channel all United States territory and to place south of the river all Mexican territory. Authorities of both countries agree that the least costly means of providing flood protection would be the addition of levees to the relocated channel at the time of its relocation, with the channel and areas between levees maintained clear of brush. The Department has therefore included Title II in the enabling legislation. SEC. 202 also authorizes the appropriation of such sums as may be necessary to construct, operate and maintain this flood control project.

By Mr. SCHWEIKER (for himself, Mr. MONDALE, Mr. SCOTT, Mr. CASE, Mr. TALMADGE, Mr. BOGGS, Mr. HUGHES, Mrs. SMITH, and Mr. BURDICK):

S.J. Res. 225. A joint resolution to prevent abandonment of railroad lines. Referred to the Committee on Commerce.

Mr. SCHWEIKER. Mr. President, on January 18, 1972, the Interstate Commerce Commission issued an order initiating special procedures for proposed railroad abandonments which became effective with its publication in the Federal Register 4 days later. The effect of this order is to modify section 1 (18)-(20) of the Interstate Commerce Act by converting the application proceeding therein to a notice proceeding. The order would also place within the discretion of the railroad filing the notice the initial determination of whether the "requirements of public convenience and necessity are minimal or non-existent." In addition, the order would shift to the public the burden of proving that the public convenience and necessity does not permit the abandonment of the line involved.

The ICC has added two new categories of abandonment of lines of railroads: those in which the requirements of public convenience and necessity are minimal or nonexistent and those where no public objection is sustained.

Under the former category of abandonment a railroad is authorized merely to post a notice that it is requesting a certificate of public convenience and necessity permitting the abandonment of a line or lines of railroad and if it declares that on the average, fewer than 34 carloads of freight per mile were carried over said line during the 12 months preceding the filing of the application the burden is placed upon the public to make a proffer of substantial evidence that it would be able to rebut the presumption. Failure of such proffer of substantial evidence will result in the immediate issue of an abandonment certificate.

Under the latter new category of abandonment the railroad may merely post a notice stating its reasons for abandoning the line and unless protests are received which contained information indicating a need for hearings the abandonment will become effective.

Mr. President, it is interesting that the Commission has issued this order at a time when legislation has been proposed and is currently being considered which would accomplish the conversion of abandonment application proceedings to notice proceedings, thus, easing the requirements for the railroad to abandon a portion of their lines. The intent of Congress in this regard is as yet uncertain and, clearly, the Commission has acted prematurely in issuing its order of January 18, 1972. It can be argued that the Commission has usurped a congressional prerogative.

The Commission order permits a carrier to abandon railroad line by alleging that the subject line has less than 34 carloads of traffic per mile during a 12-month period. The carrier need not show any substantial deficit in operating the line. The public is required to prove that the public convenience and necessity requires continued maintenance and/or operation of the said line of railroad.

Where a railroad suspects there may be no formal protest filed against this abandonment, it need only set forth the amount of traffic handled on the line in the preceding 2 years and whether continued operation would be at a deficit. There is no requirement that the "deficit" need be substantial.

Mr. President, the order of January 18, 1972, may be invalid because it was issued without notice or hearing for the public or without opportunity for the public to be heard. It can be considered an attempt to rewrite the Interstate Commerce Act and therefore exceed the Commission's powers.

The effect of this order, should it remain in force, would be the wholesale abandonment of lines of railroad which under the law as it is now constituted could not be abandoned. The order deprives shippers and employees of the opportunity to have their evidence properly weighed on the scale of the public convenience and necessity. The order places shippers at a disadvantage which they will find difficult to overcome since it modifies the criteria for determining public convenience and necessity and permits abandonment if the railroad can allege a deficit, no matter how slight, in the operation of such line.

Mr. President, although the railroads contend that abandonment of a portion of their rail lines is absolutely necessary in order to avoid further financial difficulty, there has been insufficient attention given to the plight of the farmer and the businessman, large and small. Rural America is being neglected. Small towns and regions struggling to promote industrial development and avoid economic depression are being dealt a near fatal blow.

Many businessmen located outside the urban center rely on the existing branch and spur lines. Many have substantial investment in facilities to handle their shipments. Numerous companies have located new facilities and plants in previously depressed areas because they felt that they could be served by the rail lines in the area. In Pennsylvania, for example, the industrial development authorities feel that the loss of rail lines will cripple their efforts to attract new employers. It is not an overstatement to say that large regions of the country are wholly dependent on the existence of railroads and the freight transport service they provide.

America's agriculture needs railroads. Agribusinessmen, large and small, must have the capacity to receive quantities of grain, feed, and fertilizer ingredients which only railroads can provide. In the process these businessmen are able to serve rural America with fertilizer and feed at competitive prices which in turn benefits the farmer and our agricultual economy—not just the local feed or flour mill or fertilizer plant. For the farmer his only access, ultimately, to the market is by the railroad. Trucks cannot fill the void if rail service was to disappear. Recently, a leading farmer's organization stated:

> While there are several other alternatives in passenger transportation in many communities across rural America, there is no present alternative transport service, at reasonable cost, for the bulky or heavy commodities generally transported on rail cars.

Mr. President, one of my constituents has aptly stated the matter in a recent letter to me:

> The ICC should be required to consider and evaluate the economic and social impact of eliminating rail service to the communities affected—since abandonment is the final and near-irrevocable step.

He adds:

> Abandonment is not an easy subject to rail users and it should not be made easy for the carrier.

Mr. President, the resolution that I and a number of my colleagues introduce today seeks simply to forestall the abandonment of railroad lines for 1 year. Specifically, it states that the Congress resolves that the Interstate Commerce Commission shall not authorize the abandonment of any line of railroad pursuant to the provisions of section 1(18)-(20) of the Interstate Commerce Act, as amended, prior to June 30, 1973.

This matter is currently being considered by the Congress and it would seem to me that the Interstate Commerce Commission would be well advised to await our decision. Equally important, the ICC should accord the States and innocent parties an opportunity to effectively participate in an appropriate proceeding to discuss and evaluate this change in the procedure for abandonment. The implication of the Commission's decision of January 18 is broader than merely to expedite applications for rail track abandonment and thus serve the railroads. The Commission's decision should be made only after presentation of all relevant matter.

Mr. President, I ask that the Senate joint resolution I introduce today be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 225

TO PREVENT ABANDONMENT OF RAILROAD LINES

Whereas the National Transportation Policy of the United States has as an objective the development and preservation of a national transportation system by rail; and

Whereas the transportation requirements of the United States will double within the next ten to twenty years; and

Whereas the development and preservation of a national transportation system by rail is therefore a matter of the highest priority; and

Whereas the continued development and preservation of a national transportation system by rail is essential to the continued economic viability of communities throughout our Nation; and

Whereas such a system is essential to the continued existence of industries located throughout our Nation; and

Whereas the United States is threatened with wholesale abandonments of lines of railroad serving such communities and industries throughout the United States; and

Whereas railroad lines once abandoned cannot be reactivated except at enormous cost; and

Whereas our Nation's future transportation demands may require the reactivation of abandoned rail lines at public expense; and

Whereas there presently exists no considered, uniform national or regional means of dealing adequately with present and future rail transportation needs of the United States and certain railroad carriers which seek to abandon vast portions of their systems because of present financial considerations; and

Whereas such abandonments may well be contrary to our Nation's national transportation policy of development and preservation of a national transportation system by rail: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Interstate Commerce Commission shall not authorize the abandonment of any line of railroad pursuant to the provisions of Section 1(18)-(20) of the Interstate Commerce Act, as amended, prior to June 30, 1973.

By Mr. PERCY:

Senate Joint Resolution 226. A joint resolution to authorize the President to designate the period from September 17, 1972, through September 23, 1972, as "National Bank Women's Week." Referred to the Committee on the Judiciary.

NATIONAL BANK WOMEN'S WEEK

Mr. PERCY. Mr. President, I am introducing today on behalf of the National Association of Bank Women, Inc., a joint resolution calling on the President to proclaim the period of September 17, 1972, through September 23, 1972, as National Bank Women's Week. This is an important week for it marks the golden anniversary of the National Association of Bank Women, an organization that represents more than 9,000 bank officers.

The NABW was founded in 1921 by six women bank officers in New York City. The number of women officers grew slowly until World War II and by 1946 there were more than 6,000 women bank officers. Today more than two-thirds of all bank personnel are women; 25,000 of them are bank officers.

The National Association of Bank Women has an impressive list of officers. Of a 9,000 total membership, 965 women are assistant vice presidents; 569, vice presidents; 18, senior vice presidents; 30, executive vice presidents; 18, second vice presidents; 68, managers; and 41, bank presidents.

Many of the association's active members are leaders in the Illinois banking industry. Miss Ruth A. Steinke, assistant vice president, National Boulevard Bank of Chicago, is serving as chairman of the NABW Golden Anniversary Convention. Other very active members in the financial community include Miss Buddie J. Belford, assistant vice president, Federal Reserve Bank of Chicago, current chairman of the National Careers Committee; Miss Jessamine Durante, vice president, Harris Trust & Savings Bank, Chicago; Miss Molly M. Kramer, assistant vice president, Harris Trust & Savings Bank of Chicago; Miss Hilda H. Kollmann, vice president Financial Management Associates, Inc., Blue Island; and Miss Greta M. Grafton, vice president, Central National Bank of Mattoon, nominee for regional vice president of the NABW for the 1972-73 term.

The association itself is an active, progressive organization of businesswomen dedicated to fulfilling their responsibilities in the business community. Perhaps its spirit and resourcefulness are best characterized by Mrs. Ruth D. Harrison the current president of NABW and assistant vice president of the Irwin Union Bank & Trust Co. of Columbus, Ind. Her career in the banking industry began in 1956 when she joined Irwin Union as a loan interviewer. The next year she was named manager of the charge account department and by 1966, she became an assistant vice president. Recently elected to the post of NABW president, Mrs. Harrison has outlined an active year for the association. Her three main objectives are an increased responsibility to provide fair and progressive direction to the association's activities; to work more closely with other banking organizations in enhancing the image of banks and to encourage more women to enter the banking field; and to build an organization that will lend strength to the future generations of bank women.

Plans are already being made for the 50th anniversary celebration to be held in Chicago September 17-20. The convention will focus on issues pertinent to banking today and in the future. It is also planned that at the convention there will be the presentation of a new scholarship to a student, either graduate or undergraduate, who is studying in a field related to banking and finance.

Mr. President, I wish to commend heartily the National Association of Bank-Women and its president, Mrs. Harrison. This organization has made tremendous strides in upgrading the status of women in the banking industry and in making a substantial impact in the financial community. A Presidential proclamation, as outlined in my resolution, will help to focus national attention on the contributions made by bank women and will highlight their convention activities in September.

I urge that the Senate Judiciary Committee give the resolution an early and favorable consideration.

Mr. President, I ask unanimous consent that a brief summary of the NABW's history and purpose, along with an article from the NABW Journal, be printed in the RECORD.

There being no objection, the summary and article were ordered to be printed in the RECORD, as follows:

[From the NABW Journal, January-February 1972]

MEET RUTH HARRISON: EXTRAORDINARY 'SQUARE'!

Some people would call Ruth Harrison "a square." You know, the kind that believes in an honest day's work, who is active in her church and her community, who dresses well but conservatively, who conducts herself like a lady, who dotes on her grandchildren and who clearly has a love affair going with her husband after 25 years of marriage.

She's the kind of "square" this nation was built on—and she brings all the strength and solidarity this implies to her job as NABW president this year.

Don't be fooled, though, by her innate courtesy and her native Indiana reserve into thinking she's cold and forbidding—nothing could be further from the truth. She's competent, talented and ambitious but she's also warm, friendly and possessed of a delightful self-deprecating sense of humor that keeps her from being too impressed with her own considerable accomplishments.

Mrs. Harrison could be a model for many young women in their careers. After rearing her family, she went to Irwin Union Bank & Trust Co. in Columbus, Ind., some years ago as an installment loan interviewer. At that time she had one thought in mind: She needed a new refrigerator! She wasn't thinking about a banking career then.

Fifteen years and a couple of refrigerators later, she is an assistant vice president and director of advertising and public relations for the bank. In the meantime, she has traveled far, learned much and brought numerous honors both to herself and her bank.

A recent cover story in *Hoosier Banker* details Mrs. Harrison's career as follows:

Becoming a career banker was an evolutionary process. She worked as a loan interviewer in the installment loan department for a year and then moved into other areas—manager of the charge account banking department and then manager of the new accounts department.

She found herself absorbing banking like a sponge, thriving on the variety and the personal relationships, going to meetings, picking up new ideas which she was eager to try. And she tried many of them.

One day someone at the bank woke up to the fact that much of the advertising and public relations budget was being spent in her departments because she was always trying out new promotion ideas.

So when a public relations and advertising department was set up in 1962, she became the director. In 1963, she was elected assistant cashier and in 1966, assistant vice president. She continues as director of advertising and public relations and works closely with H. Ray Moore, assistant vice president for marketing.

As she has assumed more responsibility, Ruth Harrison has had to learn to delegate authority, a difficult task for many women who start out in the business world taking care of detail, following instructions and handling the nitty-gritty of projects.

"I took the AIB course on Supervision and Personnel Management and one American Management Association training course," she explains, "I had to delay a second AMA course until I am through with this NABW job, but I still need all the management training I can get."

With a banking career well under way, Ruth Harrison joined NABW and immediately took an active part. She has held all the offices in the Indiana Group, and has served as program co-chairman for the national convention, on the regional conference publicity committee, as regional vice president and chairman of the national public relations committee.

The next step was logical—she was offered the post of national vice president, which put her in line for the presidency the following year.

Again, this took some thinking. The first person she talked to was her husband, Melvin, assistant principal at Columbus Senior High School.

"Mel looked at it as an education in itself and an obligation that I should not turn down. He has an interest in people and civic affairs and understands the demands and requirements of the job. He is my best critic. He has to hear my speeches first and tells me when I have said the wrong thing, used a double negative or a wrong verb.

"Then the bank has provided so much support, and staff people take over when I am gone. Two good secretaries, good back-up help, wonderful associates and an understanding husband have made the job easier. But you certainly have to have the support of your bank and your family to do it."

Columbus community and civic groups appeal regularly to Ruth Harrison for help and advice. And she responds.

She worked with the Columbus Chamber of Commerce to form a tour committee of residents to conduct tours of the city's educational and cultural facilities whose architecture has brought the city a national reputation as the Athens of the Prairie. And when committee members are tied up, Mrs. Harrison fills in as tour guide herself.

She serves on the community promotion committee and is a director of the Bartholomew County Library Association. In the latter post, she became part of a good-will committee that handles special projects for the library. One such project was development of a complete set of slides showing the outstanding structures in Columbus. This is now available for loan to schools and clubs or for visitors to view at the library.

She just finished organizing a speaker's bureau for the bank and is sending out a brochure listing staff members available and their topics.

Mrs. Harrison, a strong advocate of career education, is a graduate of The School of Bank Marketing. She is active in other banking associations, having recently completed a two-year term on the executive committee of the ABA's marketing/savings division and having been appointed to the Bank Marketing Association's nominating committee this year.

What does she do in her spare time? Answer: She doesn't have much! She likes to sew and knit, ride bikes with husband Mel and enjoy their lake site in beautiful Brown County, Ind.

How can she keep track of all of her responsibilities? It's no problem, reports the NABW National Office staff. They can testify that she's on top of things—and then some!! "She never misses a trick," according to Assistant Director Sharon Pierce. "Some days we swear she is triplets!"

NATIONAL ASSOCIATION OF BANK-WOMEN INC. A BRIEF SUMMARY OF ITS HISTORY AND PURPOSE

The National Association of Bank-Women Inc. was founded in 1921 by six women holding important positions in banks in New York City. These first women bank officers were pioneers in their field—not only were women bank executives a rarity, but there were few women employed in banks.

The number grew slowly until World War II when the manpower shortage caused bankers—and other businessmen—to look to "woman power" to fill the gap. By 1946 there were more than 6,000 women bank officers throughout the country and the number has accelerated rapidly. Today more than two-thirds of all personnel employed in United States banks are women and there are more than 25,000 women bank officers. They represent all facets of banking—loans, operations, investments, auditing, personnel, branch management, public relations, computer operation, trusts, marketing and many other areas.

Since 1921, NABW's membership has increased from six to over 9,000 with members in all 50 states, Canada and several foreign countries. Officer status is a requirement for membership. The Association now is divided into 15 regions, with the activities of each coordinated by a regional vice president.

The regions are again divided into groups, or chapters, of which there are now 128. Regional Conferences and group meetings are devoted to management-oriented programs in order to keep the membership informed about new techniques and alert to trends in banking and finance. Both regional and national scholarships are awarded annually to allow the recipients to take advanced courses in graduate banking schools of their choice. A new scholarship open to women undergraduate or graduate students interested in banking careers was established in 1971. Presentation of the first award under this program is expected to take place at NABW's Golden Anniversary Convention.

This event is scheduled for The Palmer House, Chicago, Illinois, September 17–21. Another "first" in conjunction with the 50th Annual NABW Convention will be an exhibition where supplies, equipment and services of value to banking operations will be showcased for inspection by the more than 1500 anticipated participants. NABW maintains a headquarters office in Chicago.

By Mr. GRIFFIN:

Senate Joint Resolution 227. A joint resolution to authorize and request the President to issue a proclamation designating 1 day during each year as "National Registered Nurses Day." Referred to the Committee on the Judiciary.

NATIONAL REGISTERED NURSES DAY

Mr. GRIFFIN. Mr. President, I am pleased to introduce a joint resolution which would authorize and request the President to issue a proclamation designating a "National Registered Nurses Day."

Following in the tradition of the legendary Florence Nightingale, the nurses of modern-day America are members of a proud profession. They always stand ready when called upon to serve the sick and to guide them back along the road to health.

In our country today there exists a critical shortage of nurses. Recent figures indicate that there are about 700,000 nurses in active practice. But an additional 150,000 are needed now. By 1980, over 1 million nurses will be needed to meet increased demands for health services due to growth in population, expansion of duties and responsibilities and the increasing complexity of health care.

In partial recognition of this situation, the 92d Congress passed, and President Nixon signed, Public Law 92–158, the Nurse Training Act of 1971, to provide for the training of an increased number of nurses.

This important legislation was designed to meet some of the most pressing needs in nursing, including the need for more teachers in schools of nursing, new facilities for training nurses and accelerated activity in the recruiting of potential nurses into the profession.

It is essential, I believe, that the people of our Nation recognize and appreciate the vital role played by America's registered nurses in the health of our Nation.

Accordingly, Mr. President, I believe it would be most appropriate that a "National Registered Nurses Day" be designated as one way to pay tribute to this great profession and to focus attention upon the needs and problems it confronts.

I hope that this resolution will receive early and favorable consideration.

Mr. President, I ask that the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

Senate Joint Resolution 227

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating an appropriate day during each year as "National Registered Nurses Day", and calling upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 593

At the request of Mr. Cannon, the Senator from Michigan (Mr. Griffin) was added as a cosponsor of S. 593, a bill to amend the Internal Revenue Code of 1954 to reduce the tax on fuel used in noncommercial aviation.

S. 2163

At the request of Mr. Mathias, the Senator from Illinois (Mr. Stevenson) and the Senator from Maryland (Mr. Beall) were added as cosponsors of S. 2163, the Vietnam Veterans Act of 1971.

S. 2219

At the request of Mr. Cranston, the Senator from Indiana (Mr. Hartke), the Senator from South Carolina (Mr. Thurmond), the Senator from Ohio (Mr. Saxbe), the Senator from Rhode Island (Mr. Pell), the Senator from Vermont (Mr. Stafford), the Senator from Georgia (Mr. Talmadge), and the Senator from Texas (Mr. Tower) were added as cosponsors of S. 2219, the proposed "Veterans' Administration Health Manpower Training Act", a bill to amend title 38 of the United States Code to authorize the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new public nonprofit medical, health professions, and allied health schools and the expansion and improvement of health manpower training programs in Veterans' Administration facilities and in existing educational institutions affiliated with the Veterans' Administration.

S. 2354

At the request of Mr. Cranston, the Senator from Indiana (Mr. Hartke), the Senator from South Carolina (Mr. Thurmond), the Senator from Georgia (Mr. Talmadge), the Senator from West Virginia (Mr. Randolph), the Senator from Iowa (Mr. Hughes), and the Senator from Vermont (Mr. Stafford), were added as cosponsors of S. 2354, the proposed "Veterans Health Care Reform Act of 1971," a bill to amend title 38 of the United States Code to provide improved and expanded medical care to certain dependents and survivors of veterans; to provide for improved structural safety of Veterans' Administration facilities; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes.

S. 2473

At the request of Mr. Burdick, the Senator from Vermont (Mr. Stafford), the Senator from North Dakota (Mr. Young), the Senator from New Jersey (Mr. Williams), the Senator from Wyoming (Mr. Hansen), the Senator from Rhode Island (Mr. Pastore), the Senator from Wyoming (Mr. McGee), and the Senator from Oklahoma (Mr. Harris) were added as cosponsors of S. 2473, a bill to amend the Land and Water Conservation Fund Act of 1965 so as to authorize the development of indoor recreation facilities in certain areas.

S. 3070

At the request of Mr. Thurmond, the Senator from Oregon (Mr. Hatfield) was added as a cosponsor of S. 3070, a bill to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations, to provide for such veterans a certain priority in entitlement to hospitalization and medical care.

S. 3083

At the request of Mr. Moss, the Senator from Michigan (Mr. Hart) was added as a cosponsor of S. 3083, a bill to amend the Fair Packaging and Labeling Act to provide for a uniform system of quality grades for food products, to provide for a system of labeling of food products to disclose the ingredients thereof, to provide for a system of national standards for nutritional labeling of food products, and to provide for a system of labeling of perishable and semiperishable foods.

S. 3116

At the request of Mr. Talmadge, the Senator from New York (Mr. Buckley) was added as a cosponsor of S. 3116, a bill to amend the Federal Trade Commission Act to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful.

S. 3148

At the request of Mr. Bayh, the Senator from Wyoming (Mr. McGee) was added as a cosponsor of S. 3148, a bill to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

S. 3383

At the request of Mr. Thurmond, the Senator from North Carolina (Mr. Jordan) was added as a cosponsor of S. 3383, a bill to encourage the use of recycled oil.

S. 3407

At the request of Mr. Williams, the Senator from Utah (Mr. Moss), the Senator from New York (Mr. Javits), the Senator from Nevada (Mr. Bible), the Senator from Illinois (Mr. Stevenson), and the Senator from Washington (Mr. Magnuson) were added as cosponsors of S. 3407, the Supplementary Education Services for the Handicapped Act of 1972.

S. 3409

At the request of Mr. Cranston, the Senator from Indiana (Mr. Bayh), the Senator from Oklahoma (Mr. Harris), the Senator from Michigan (Mr. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Connecticut (Mr. Ribicoff), and the Senator from New Jersey (Mr. Williams) were added as cosponsors of S. 3409, a bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos.

S. 3495

At the request of Mr. Dole, the Senator from Minnesota (Mr. Humphrey), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pastore), the Senator from Kansas (Mr. Pearson), the Senator from West Virginia (Mr. Randolph), the Senator from New Jersey (Mr. Williams), and the Senator from North Dakota (Mr. Young), were added as cosponsors of S. 3495, a bill to provide reimbursement of extraordinary transportation expenses incurred by certain individuals in the production of their income.

S. 3514

At the request of Mr. Proxmire, the Senator from Illinois (Mr. Stevenson) and the Senator from Massachusetts (Mr. Kennedy) were added as cosponsors of S. 3514, the Menominee Restoration Act.

S. 3515

At the request of Mr. Bellmon, the Senator from Arizona (Mr. Goldwater), was added as a cosponsor of S. 3515, the Weather Modification and Precipitation Management Act.

S. 3534

At the request of Mr. Griffin, the Senator from Texas (Mr. Tower) was added as a cosponsor of S. 3534, a bill to facilitate the adoption by U.S. citizens of Vietnamese children who have been orphaned or abandoned as a result of the war in Southeast Asia.

S. 3338

At the request of Mr. TALMADGE, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of S. 3338, a bill to amend title 38, United States Code, to increase the rates of compensation for disabled veterans, and for other purposes.

SENATE JOINT RESOLUTION 206

At the request of Mr. MONDALE, the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. DOMINICK), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maryland (Mr. MATHIAS), the Senator from Maine (Mr. MUSKIE), the Senator from Illinois (Mr. PERCY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) were added as cosponsors of Senate Joint Resolution 206, a bill relating to Sudden Infant Death Syndrome.

SENATE JOINT RESOLUTION 216

At the request of Mr. WILLIAMS, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Joint Resolution 216, to establish a commission on U.S. participation in the United Nations.

SENATE CONCURRENT RESOLUTION 79—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF SENATE HEARINGS ENTITLED "AMPHETAMINE LEGISLATION 1971"

(Referred to the Committee on Rules and Administration.)

Mr. BAYH. Mr. President, this morning I wish to introduce a concurrent resolution to authorize the printing of additional copies of Senate hearings entitled, "Amphetamine Legislation 1971."

The Subcommittee to Investigate Juvenile Delinquency held hearings on July 15 and 16, 1971, on S. 674, a bill to place stricter controls on the production and distribution of amphetamines and amphetamine-like drugs. Specifically, the bill would move these stimulant drugs from schedule III to schedule II of the Controlled Substances Act.

These hearings played a significant role in persuading the administration to impose stricter controls on the production and distribution of the amphetamine-like substances, phenmetrazine and methylphenidate, and to review more carefully the actual abuse and abuse potential of amphetamine combination drugs.

The 1,000-page volume, "Amphetamine Legislation 1971", covers the testimony of 28 witnesses, including testimony from several Senators and Congressmen, medical authorities, major amphetamine manufacturers, Government officials, and young people formerly involved with the "speed scene." The publication includes numerous exhibits, articles, and studies concerning the abuse and potential for abuse of amphetamines and amphetamine-like substances, including methylphenidate—Ritalin; phenmetrazine—preludin; and amphetamine combinations such as Eskatrol.

These hearings were available to the public on March 15 of this year. To date, the subcommittee's supply has been exhausted. My colleague from Kentucky, Senator COOK, the minority chairman of the Juvenile Delinquency Subcommittee and I find it necessary to request that 5,000 additional copies be printed for the use of the Committee on the Judiciary, and we urge our colleagues in the Senate to approve this resolution

The subcommittee has had an unusually large congressional demand for these hearings along with a heavy demand from colleges and universities throughout the country. We have found that this set of hearings is being used quite extensively as a reference document by various organizations, including congressional offices, State, and local law enforcement agencies, and drug treatment and rehabilitation programs.

Mr. President, I ask unanimous consent that the text of this concurrent resolution be printed in the RECORD at this point.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

SENATE CONCURRENT RESOLUTION 79

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on the Judiciary five thousand additional copies of the hearings of its Subcommittee To Investigate Juvenile Delinquency during the Ninety-second Congress, first session, on S. 674, To amend the Controlled Substances Act to move amphetamines and certain other stimulant substances from schedule III of such Act to schedule II, and for other purposes.

ISLE ROYALE NATIONAL PARK IN MICHIGAN—AMENDMENT

AMENDMENT NO. 1164

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. HART submitted an amendment intended to be proposed by him to the bill (S. 2539) to designate certain lands in the Isle Royale National Park in Michigan as wilderness.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1165

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill—H.R. 1—to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 1166

(Ordered to be printed and referred to the Committee on Finance.)

Mr. MAGNUSON. Mr. President, today I am introducing an amendment to the omnibus social security bill (H.R. 1) which would make two needed changes in the social security retirement program. First, it would lower from 62 to 60 the age at which persons may retire and collect actuarially reduced benefits. Second, it would reduce the proportion of monthly benefits which workers must sacrifice if they choose to retire before 65.

There are at least two sound reasons for reducing the minimum retirement age from 62 to 60 for all beneficiaries. The first is a matter of simple equity. Under present law, a widow who may never have paid any social security payroll taxes herself, can receive reduced benefits at age 60. Yet another woman, equally in need of early retirement, who has earned her social security benefits through her own payroll taxes, cannot retire until 62. Clearly, then, the present law discriminates unfairly against the workingwoman. And, while the inequity is perhaps best dramatized by comparing the widow with another woman, it operates with no less unfairness against male workers, their wives, and also, of course widowers.

In writing H.R. 1, the House Ways and Means Committee did act to equalize the treatment afforded dependent widows and widowers. Consequently, as it was sent to the Senate, H.R. 1 would permit dependent widowers, as well as widows, to retire at 60 with reduced benefits. However, H.R. 1 would continue to require workers to delay retirement until at least 62. My amendment, on the other hand, would put all beneficiaries—widows, widowers, wives, and workers—on an equal footing.

Although the proposed reduction in the minimum retirement age can be justified as a matter of equity alone, it would also serve a second very pragmatic purpose. Here I refer to those in the 60–62 age bracket who, in the midst of a national recession or local depression, suddenly find themselves without a job and without hope of finding another job in a labor market already short on jobs and long on more youthful workers.

In 1971, when, on an annual average, there were approximately 5 million workers counted as officially unemployed, 73,000 of those jobless Americans were either 60 or 61 years old. And, it is logical to assume that many thousands of others in that age group were among the hidden unemployed—that group who have become so discouraged in their efforts to find work that they no longer are actively seeking employment, and, therefore, are no longer included in the Government's official unemployment totals.

Although there is no precise data as to how many persons who lose their jobs at age 60 or 61 are never able to find full-time employment again, we do have good reason to believe that many do not. For example, while the average duration of unemployment was 11.4 weeks for the unemployed as a whole in 1970, the average duration for the unemployed workers in the 60–64 age bracket was 18.3 weeks. This information strongly suggests that many in the latter category never find another job. Also suggestive of that conclusion, are the letters which each of us receive from our constituents. I, for one, have received many dozens of letters over the past several months from unemployed Washingtonians who are in their late 50's or very early 60's and despair of ever finding another job. And, almost every one of those letters has urged that the minimum social security retirement age be lowered to 60.

In addition to lowering the minimum retirement age, my amendment would, as I noted at the outset, make a second needed change in the social security retirement program. I will move now, then, to a brief explanation of this second proposed change.

To receive full retirement benefits, an individual cannot retire before his 65th birthday. If he elects to retire earlier, then he will receive a monthly check for the rest of his life which is smaller than the monthly check he would have received had he delayed retirement until 65. Under the present social security law, a person who retires on his 62d birthday receives a monthly check for 80 percent of what would have been his full monthly entitlement had he retired at 65. Similarly, if he retires on his 63d birthday, then his monthly check is 86.7 percent of what would have been his full entitlement. Finally, if he retires on his 64th birthday, his monthly check is 93.3 percent of the amount he would have received if he had retired at 65. These reductions are equal for widows, widowers, and workers alike.

However, if H.R. 1 were to become law as it was approved by the House of Representatives, widows and widowers applying for benefits before 65 would incur smaller benefit reductions than would other beneficiaries who retired at the same age. Specificially, while the monthly payment to a worker who retired on his 62d birthday would be 80 percent of what it would have been if he had retired at 65, a widow or widower could apply for benefits at 62 and receive 82.9 percent of her—or his—maximum entitlement. Likewise, the worker retiring on his 63d birthday would get only 86.7 percent of his maximum entitlement each month, while a widow or widower would be paid 88.6 percent of a full benefit. At 64, the comparable rates would be 93.3 percent for the worker and 94.3 percent for the widow or widower.

Consider this case: A worker and a dependent widower, both of whom would have received $200 per month at age 65, apply for benefits on their 62d birthday. Under H.R. 1, as it was approved by the House, the worker will get a monthly check for $160 for the rest of his life, while the widower will receive $165.80 per month.

The amendment I am proposing today would equalize the reductions incurred by widows, widowers, workers, and workers' wives who apply for benefits before age 65. All would receive monthly benefits at the higher level—the level which H.R. 1 now accords only to widows and widowers.

To recap then, this amendment would make two changes in the social security retirement program. First, the minimum retirement age would be lowered from 62 to 60. Second, all beneficiaries applying for benefits prior to age 65 would have their benefits reduced on an equal basis.

Mr. President, I insert a chart which shows the impact of my amendment on a typical worker in the RECORD at this point in my remarks:

	Monthly benefits if you retire on the day you become—					
	65	64	63	62	61	60
Present law	$200	$186.60	$173.40	$160.00	-------	-------
Amendment	200	188.60	177.20	165.80	$154.40	$143

Mr. President, since benefits applied for at age 60 or 61 would be actuarially reduced under my amendment, the payment of those benefits would not result in any additional long-term cost to the social security program. There would, however, be a short-term increase in benefit payments which could easily be paid out of existing assets in the Social Security Trust Funds. Additionally, the cost of applying the same reduction factor to all beneficiaries under age 65 would be equal to a .06-percent increase in both the employee and employer payroll taxes.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point in my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1166

On page 134, between lines 15 and 16, insert a new section as follows:

ACTUARILY REDUCED BENEFITS PAYABLE AT AGE 60

SEC. 144. (a)(1) Sections 202(a)(1)(B) and 202(a)(3)(B) of the Social Security Act (as amended by section 106(b) and 110(a) of this Act) are amended by striking out "age 62" wherever it appears in each such section and inserting in lieu thereof in each instance "age 60".

(2) Section 202(b)(1) of such Act (as amended by sections 109(a) and 120(a) of this Act) is amended by striking out "age 62" wherever it appears in subparagraphs (B), (G), and (I), and inserting in lieu thereof in each instance "age 60".

(3)(A) Section 202(c)(1)(B) of such Act is amended by striking out "age 62" and inserting in lieu thereof "age 60".

(B) Section 202(c)(2)(A) of such Act is amended by striking out "age 62" and inserting in lieu thereof "age 60".

(4)(A) Section 202(h)(1)(A) of such Act is amended by striking out "age 62" and inserting in lieu thereof "age 60".

(B) Section 202(h)(2)(A) of such Act is amended by striking out "Except as provided in" and inserting in lieu thereof "Except as provided in subsection (q) and in".

(b)(1) Section 216(b) of such Act is amended by striking out "age 62" and inserting in lieu thereof "age 60".

(2) Section 216(c) of such Act is amended by striking out "age 62" and inserting in lieu thereof "age 60".

(3) Section 216(f) of such Act is amended by striking out "age 62" and inserting in lieu thereof "age 60".

(4) Section 216(g) of such Act is amended by striking out "age 62" and inserting in lieu thereof "age 60".

(c) Section 224(a) of such Act (as amended by section 125 of this Act) is amended by striking out "the age of 62" and inserting in lieu thereof "age 60".

(d) Section 202(q)(1) of the Social Security Act (as amended by section 104(e)(1) of this Act) is amended to read as follows:

"(1) If the first month for which an individual is entitled to an old-age, wife's, husband's, widow's, widower's, or parent's insurance benefit is a month before the month in which such individual attains retirement age, the amount of such benefit for such month and for any subsequent month shall, subject to the succeeding paragraphs of this subsection, be reduced by—

"(A) $\frac{19}{40}$ of 1 percent of such amount, multiplied by—

"(B)(i) the number of months in the reduction period for such benefit (determined under paragraph (6)(A)), if such benefit is for a month before the month in which such individual attains retirement age, or

"(ii) the number of months in the adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is for the month in which such individual attains retirement age or for any month thereafter;

and in the case of a widow or widower whose first month of entitlement to a widow's or widower's insurance benefit is a month before the month in which such widow or widower attains age 60, such benefit, reduced pursuant to the preceding provisions of this paragraph (and before the application of the second sentence of paragraph (8)), shall be further reduced by—

"(C) 43/240 of 1 percent of the amount of such benefit, multiplied by—

"(D)(i) the number of months in the additional reduction period for such benefit (determined under paragraph (6)(B)), if such benefit is for a month before the month in which such individual attains retirement age, or

"(ii) the number of months in the additional adjusted reduction period for such benefit (determined under paragraph (7)), if such benefit is for the month in which such individual attains retirement age or for any month thereafter."

(e) Section 202(q)(3)(A) of such Act (as amended by section 109(b)(1) of this Act) is amended—

(1) by striking out "or widower's insurance benefit and has attained age 62 (in the case of a wife's or husband's insurance benefit)" and inserting in lieu thereof "widower's, or parent's insurance benefit and has attained age 60 (in the case of a wife's, husband's, or parent's insurance benefit)"; and

(2) by striking out "or widower's" in the matter following clause (ii) and inserting in lieu thereof "widower's, or parents".

(f)(1) Section 202(q)(3)(C) of such Act is amended by striking out "or widower's" wherever it appears and inserting in lieu thereof "widower's, or parent's".

(2) Section 202(q)(3)(D) of such Act is amended by striking out "or widower's" and inserting in lieu thereof "widower's, or parent's".

(g) Section 202(q)(5)(B) of such Act is amended by striking out "62" and inserting in lieu thereof "6".

(h) Section 202(q)(6)(A) of such Act is amended—

(1) by striking out "widow's, or widower's" in the matter preceding clause (i) and inserting in lieu thereof "widow's, widower's, or parent's"; and

(2) by striking out "or husband's" in clause (i)(I) and inserting in lieu thereof ", husband's or parent's".

(i) Section 202(q)(7) of such Act (as amended by section 104(e)(2) of this Act) is amended by striking out "widow's, or widower's" and "widow's or widower's", and by inserting in lieu thereof in each instance "widows, widower's, or parents".

(j) Section 3(e) of the Railroad Retirement Act of 1937 is amended—

(1) by striking out clause (ii) in the second paragraph and redesignating clauses (iii), (iv), and (v) in such paragraph as clauses (ii), (iii), and (iv), respectively; and

(2) by striking out "age 65 (62 in the case of a woman)" in the fourth paragraph and inserting in lieu thereof "the specified age".

(k) (1) The amendments made by subsections (a) through (i) shall apply only with respect to monthly insurance benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted, on the basis of application filed on or after the date of the enactment of this Act. The amendments made by subsection (j) shall apply only with respect to annuities accruing for months after the month in which this Act is enacted.

(2) In the case of an individual who is entitled for the month in which this Act is enacted to a monthly insurance benefit the amount of which would be increased by the application of the amendments made by this section, the Secretary of Health, Education, and Welfare shall redetermine the amount of such benefits under title II of the Social Security Act, effective for months after the month in which this Act is enacted, as if such amendments had been in effect for the first month of such individual's entitlement to such benefits.

(3) Where—

(A) two or more persons are entitled to monthly benefits under section 202 of the Social Security Act for the month in which this Act is enacted on the basis of the wages and self-employment income of an individual, and

(B) one or more of such persons is entitled on the basis of such wages and self-employment income to monthly benefits under such section 202 (as amended by this Act) for the month following the month in which this Act is enacted, and

(C) the total of benefits to which all persons are entitled under such section 202 on the basis of such wages and self-employment income for the month following the month in which this Act is enacted (after the application of the amendments made by this Act) is reduced by reason of section 203(a) of the Social Security Act (or would, but for the penultimate sentence of such section 203(a), be so reduced),

then the amount of the benefit to which each such person referred to in paragraph (1) is entitled for months after the month in which this Act is enacted shall in no case be less after the application of the amendments made by this Act and such section 203(a) than the amount it would have been without the application of such amendments.

TRUTH IN LENDING ACT AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1167

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON. Mr. President, the purpose of this amendment is to eliminate the holder-in-due-course defense in credit card transactions. The holder-in-due-course defense has been a source of merchant abuse against consumers. Some merchants have sold shoddy goods to consumers and then sold the right to payment for those goods to third party lending institutions. When the buyer discovers that the goods are shoddy, he cannot legally stop payment to the finance firm. Under current law in most States, the finance firm is not responsible for the shoddy goods sold by the merchant. As a result, disreputable merchants have used holder-in-due-course to unload defective goods on unsuspecting purchasers. The purchaser's only remedy is to sue the disreputable merchant, which is often prohibitively expensive. At the same time, the purchaser is forced to continue payment to the finance company. I believe this legal tool which leads to abuse of consumers should be eliminated.

California has eliminated the holder-in-due-course defense in the context of credit card transactions. I think the California law should serve as a model for Federal legislative action. I am, therefore, introducing the holder-in-due-course provisions of that law as an amendment to this bill.

The California law provides that holder-in-due-course will not be available in credit card transactions where:

First, the sale took place within the State.

Second, the purchaser has made a good faith effort to obtain satisfaction from the merchant.

Third, the purchaser has made a good effort to obtain satisfaction from the bank.

For accounting purposes the amount of money owed on a particular transaction is calculated on first-in first-out basis.

I think the California law provides consumers with the protection they need to avoid abuses under holder-in-due-course. I urge the Senate to extend that same protection to citizens throughout the country.

I ask unanimous consent that the amendment be printed in full in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1167

On page 27, line 14, insert the following: as Section 211; and renumber existing Section 211 as 212:

Section 211(a). The right of a card issuer to recover any credit extended through use by the cardholder of a credit card in making purchases from a retailer shall be subject to the defenses which the cardholder has as a buyer against the retailer from whom the cardholder made the purchases if:

(1) The purchase price of the item as to which a defense is asserted exceeds fifty dollars ($50).

(2) The purchase was made within the state where the action is brought.

(3) The cardholder shall have made a written demand on the retailer with respect to the purchase and attempted in good faith to obtain reasonable satisfaction from the retailer.

(4) The cardholder gives written notice to the card issuer specifying the retailer, date of purchase, amount thereof, the goods or service purchased, the nature of the cardholder's defense with respect thereto, and those acts, if any, that the cardholder has taken in attempting to obtain satisfaction from the retailer.

(b) The amount with respect to which a defense may be asserted under this section shall not exceed the amount outstanding with respect to the purchase involved, and any late charges or finance charges on such amount, determined as of the time the retailer receives the written demand required from the cardholder pursuant to paragraph (3) of subdivision (a), whichever is received first. For the purpose of determining the amount outstanding, the payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of:

(1) Late charges in the order of their entry to the account.

(2) Finance charges in order of their entry to the account.

(3) Debits to the account other than those set forth above, in the order in which each debit entry to the account was made.

(c) Use by the cardholder of a credit card, for purposes of this section, shall include only an authorized use and shall be deemed to exclude both:

(1) Purchases with cash obtained through use of a credit card.

(2) Payment by check, whether or not such a payment results in a credit extension to the cardholder by the card issuer and whether or not a credit card was used to induce the seller to accept the check.

(d) Rights of the cardholder under this section can be asserted only as a matter of defense to or set off against a claim by the card issuer under its agreement with the cardholder. The rights provided are exclusive with respect to card issuer responsibility for acts or omissions of a retailer; a card issuer shall not otherwise be subject to defenses or claims which the cardholder has as a buyer against a retailer.

(e) Notwithstanding, any other provision of this section, where a card issuer knows or has reason to know of willful or repeated unlawful acts of a retailer in connection with retail sales, the rights granted under this section shall not be exclusive but shall be in addition to any other remedies provided by law.

(f) Within 90 days after the effective date of this act to each cardholder whose account was active on the effective date of this act, and prior to the first use of the credit card to each new cardholder who is issued a credit card after the effective date of this act, the card issuer shall send a written notice which cites this act and describes the procedure to be followed under subdivision (a) of this section.

(g) This section shall not apply to card issuers who operate retail outlets where use of the credit card is limited exclusively to such retail outlets.

FOREIGN RELATIONS AUTHORIZATIONS, 1972—AMENDMENT

AMENDMENT NO. 1168

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

FAIR LABOR STANDARDS AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 1170

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. JAVITS. Mr. President, I introduce an amendment to S. 1861 and ask that it be referred to the Labor and Public Welfare Committee, which is presently considering legislation to amend the Fair Labor Standards Act. The amendment I am introducing today would amend the Fair Labor Standards Act to require premium pay of double time for regularly scheduled overtime work in excess of 44 hours per week over a 6-month period. Employers who could demonstrate to the Secretary of Labor that they could not feasibly avoid overtime beyond 44 hours per week over a period of 6 months could obtain an exemption from this double-time requirement.

Mr. President, one of the most tragic and unsettling problems which we face today is an unemployment rate which has hovered close to 6 percent for over a year now. At the present time there are over 5 million people unemployed in America. It is the purpose of this amendment to try to spread available work opportunity more reasonably than it is now spread and thus reduce unemployment.

The present Fair Labor Standards Act provides that employees working in excess of 40 hours per week must be paid a premium rate of 1½ the regular rate for all overtime work. The original purpose of this time-and-a-half penalty was to spread available work opportunities to the greatest number of workers by providing a substantial disincentive for overtime work.

The fact is, however, that the time-and-a-half penalty does not at present constitute a meaningful deterrent to overtime. The growth of fringe benefits with fixed costs or fixed maximum costs has made it comparatively less expensive for employers to work existing employees overtime rather than to recall laid-off employees or hire new ones.

The result is that today, notwithstanding our high unemployment, millions of American workers work regularly scheduled overtime.

The full extent of this utilization of regularly scheduled overtime is shown in a series of tables prepared by the Department of Labor which I shall refer to during the course of my remarks. I shall ask unanimous consent that the tables, as well as explanatory notes prepared by the minority staff of the Labor and Public Welfare Committee be printed in the Record at the end of my remarks, along with certain tables furnished to us by the United Automobile Workers, to which I shall also refer.

Mr. President, Labor Department studies show that in April 1970, 88.6 million overtime hours—hours over 40 in a week—were being worked each week by 10.7 million private nonfarm, nonsupervisory workers—wage-salary workers and 7.1 million of these workers worked more than 44 hours, accounting for 52 million overtime hours per week. In those industries covered by the FLSA, 45 million overtime hours—over 44 per week—were worked by 6.2 million workers—see table 1.

In the case of manufacturing workers the average overtime hours worked per week has increased from a weekly average of 2.45 hours during 1956–60, to 3.3 hours during 1967–71, hitting recessionary lows of 2, 2.4, and 3 hours in 1958, 1961, and 1970 respectively. Thus the low point for the second half of the period, 3 hours in 1970, was 50 percent higher than the low point of 2 reached in 1958 in the first half of the period—see table 2.

It is obvious that some overtime will exist no matter what the overtime premium rate is. Hence I do not claim that all or even most of the existing overtime work can be translated into additional jobs. What this amendment is directed at is substantial overtime which is worked—week in-week out—over a period of at least 6 months; in other words, regularly scheduled overtime. In many cases this kind of overtime can be translated into additional jobs if workers with the requisite skills are available and plant capacity is not being utilized to its fullest extent.

It seems to be generally assumed that most overtime in America is scheduled on a nonrecurrent or at most, a seasonal basis. It will probably come as a great surprise to many to learn that the assumption is just not true.

Although the overtime figures for the years 1969–70 show a decline in the absolute number of workers on extended workweeks, attributable mainly to the general economic slowdown, a recent Labor Department survey, covering the period May 1967 to May 1970 shows that the majority of overtime workers are regularly on long workweeks.

More than 75 percent of the persons who worked 41 hours or more during the week usually did so both in 1969 and 1970. Of the 14.6 million wage and salary persons who worked 41 hours or more at one job, 11.1 million or 76 percent usually worked such hours.

Of the 7.3 million persons who worked 41 to 43 hours, 4.8 million or 66 percent usually worked such hours; of the 4.6 million who worked 49 to 53 hours per week, 3.8 million or 83 percent reported they usually did so—see table 3.

Even in the highly seasonal industries many of the overtime hours are worked for other than seasonal reasons. As an indication of the proportion of overtime hours which are not of a seasonal nature a 1966 Labor Department study computed the average weekly overtime hours in the month of 1966 showing the lowest average weekly overtime hours as a percent of the annual average weekly overtime hours for that year. The range was from 51 to 97 percent with 15 of the 57 industries showing 90 percent or more.

The 1971 figures show that in the paperboard mills industry, production workers averaged—annually—7.3 hours of overtime per week; the lowest month as a percent of the annual average was 92 percent—see table 4.

While this is only a rough approximation of nonseasonal overtime, nevertheless, it can be stated that a very large proportion of the overtime hours worked in manufacturing industries is regularly scheduled.

For the past several months my office has been working closely with the UAW to develop particularized statistics with respect to the automobile industry. While our study is not yet complete, results to date demonstrate that persistent overtime on a regularly scheduled basis exists in the industry.

We have found, for example, that for the Ford Motor Co. as a whole, overtime averaged 4.5 hours per week in 1970 and 4.2 hours per week in 1971. Averages for individual plants were much higher. At the Venus engine plant, for example, employees averaged—on an annual basis—14 hours of overtime per week; at the Toledo turbine plant, the overtime average was 13.8 hours per week—table 5. At the Woodhaven stamping plant, overtime hours totaled 1,340,000 for 1970 and 1,056,000 for 1971. The average employment at this plant during the 2-year period was approximately 4,000. Elimination of much of the overtime at this plant has the capability of creating approximately 500 full-time jobs in 1971—table 6.

From this example it would appear that the time and one-half premium pay penalty is not an effective deterrent to overtime in the auto industry.

Since World War II, fringe benefits—statutory and negotiated—for active workers in the major auto companies have increased from 13 percent of hourly rates to an average of about 43 percent today.

We have compared—as of January 1, 1972—the estimated cost of hiring a new autoworker—who eventually will be laid off—with the cost of paying overtime to an active worker. The wage rate used in these calculations is the current average wage rate of an hourly-rated worker in a major auto company, which includes the cost of living allowance but no other benefits.

The figures show that the average hourly cost of hiring a new worker for a period of 13 to 26 weeks is $7.57. This cost compares with an average hourly cost of $7.35 for overtime at time and one-half. That is, the cost of hiring a worker is 3 percent more expensive than paying overtime to an active worker—table 7.

We have also compared—as of January 1, 1972—the estimated cost of recalling a laid-off auto worker—and subsequently laying him off again—with the cost of paying overtime to an active worker. The wage rate used in these calculations, again, is the current average wage of an hourly-rated worker in a major auto company, which includes the cost of living allowance but no other benefits.

These figures show that the average hourly cost of recalling a worker for a period of 13 to 26 weeks is $8.92. This cost compares with an average hourly cost of $7.35 for overtime at time and one-half. Thus, the cost of recalling a worker is over 20 percent more expensive than paying overtime to an active worker. Put another way, an increase in the overtime premium to about 83 percent of straight-time pay would be necessary to equal just the known measurable costs of a recall, without taking into account the costs of clerical work, training, and so forth. On the other hand, the cost of overtime at 100 percent premium would be 9 percent greater than the cost of a recall—$9.76 as against $8.92—table 8.

It seems clear that the auto industry's

use of overtime is not due to full utilization of manufacturing capacity. Thus, there were a number of months during 1968 and 1969 in which employment was at levels well above that of any month in 1970 or 1971—tables 9–10.

Hence, it would appear that operating as it is with fewer employees and at lower production levels than in the past, the heavy amount of overtime worked in 1970 and 1971 could not be explained away by claiming that there was no "room" to hire additional workers.

Mr. President, the Economic Report of the President, issued last January, indicated that the administration's best hopes were to reduce national unemployment to 5 percent by the end of 1972; yet subsequent indicators suggest that even that goal will not be reached.

It is ironic indeed that we continue to tell the poor that the road away from poverty to economic dignity is traveled by those who work. Here are individuals regularly working 53 and 54 hours per week, 13 and 14 hours of overtime; yet the ranks of the unemployed continue to swell. This situation must be reviewed. My amendment is only a first step, a small step, but it is a step that ought to be taken.

According to our calculations payment of double time would be an effective deterrent to excessive overtime and hence would serve as a means of spreading existing employment. While I recognize that not all of the overtime hours presently could be converted into new job opportunities, I do feel that a sufficient number of new jobs could be created to make a significant contribution toward reducing employment.

Based on the best information available, this amendment could create several hundred thousand additional jobs. When people are regularly working enormous amounts of overtime at the same time that many are unemployed, the burden of proof must be on the employers to show why excessive—regularly scheduled—overtime cannot be eliminated in favor of the creation of new job opportunities.

Mr. President, I recognize that since many workers regularly work overtime, the possible adverse effects of this provision on their take-home pay must be considered. However, we must balance that adverse effect against the beneficial effect of putting more people to work. Further, it should be noted that for many employees, the provision would tend to reduce the dissatisfaction stemming from regularly scheduled, excessively long workweeks. This could lead to improved productivity and reduced absenteeism.

Mr. President, again I wish to emphasize that my amendment is a limited one. Any employer may receive an exemption if he can demonstrate that it is not feasible for him to hire additional employees. This would be true, for example, if he could not secure people with the requisite skills, or if his plant was operating at capacity, or if it would not be economical to hire an additional shift.

However, I am convinced that in certain cases where an excessive amount of overtime is being used, additional employment opportunities can be created.

Mr. President, during my remarks I have referred to various statistics. They are all drawn from tables published by the U.S. Department of Labor, except that those relating to the auto industry were prepared by the minority staff of the Labor and Public Welfare Committee with the cooperation of the UAW.

Mr. President, I ask that the material I have furnished together with the amendment be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1170

On page 9, between lines 2 and 3, insert the following new subsection:

"(d) Section 7 of the Fair Labor Standards Act of 1938, as amended, is amended by adding the following new subsections:

"(h) (1) No employer shall employ any employee who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than 44 hours, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than two times the regular rate at which he is employed: *Provided that* the provisions of this paragraph shall not apply to any employee during any semi-annual period unless such employee works more than an average of 44 hours per week during such semi-annual period. Semi-annual periods shall be the periods from January 1 to June 30, and from July 1 to December 31 during each year, unless otherwise determined pursuant to regulations prescribed by the Secretary. Any additional compensation payable under this paragraph with respect to a semi-annual period shall be paid within 30 days after the expiration of such period.

"(2) (A) Prior to the expiration of any semi-annual period but no earlier than 60 days prior to its commencement, any employer may apply to the Secretary for an order granting an exemption from the provisions of this subsection for such period with respect to particular employees or categories of employees. Such order shall be issued only if the employer files an application which meets the requirements of subparagraph (B) of this paragraph and establishes to the satisfaction of the Secretary that it is not feasible to reduce the average number of hours worked per week by such employees during such period to 44 hours or less through hiring additional employees. In making such a determination the Secretary shall consider, among other things, such factors as the availability of additional personnel with the requisite skills (or who could reasonably be expected to acquire such skills within a reasonable period of time) and the availability of additional unused plant capacity.

(B) An application for an order under this subsection shall contain—

(i) a description of the employees or categories of employees with respect to which the exemption is sought;

(ii) a representation by the employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that he is unable to avoid overtime in excess of four hours per week during the semi-annual period in question, and a detailed statement of the reasons therefor;

(iii) a statement of when he expects to be able to reduce overtime to an average of four hours per week or less, and what steps he has taken and what steps he will take (with dates specified, to the extent feasible) to do so;

(iv) a certification that the employer has informed his employees of the application by giving a copy thereof to their authorized representative, posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employees are normally posted, and by other appropriate means. A description of how employees have been informed shall be contained in the certification; and

(v) such other information as the Secretary may require.

(C) Any order issued under this section shall be effective for no more than one semi-annual period, except that such an order may be extended to cover succeeding semi-annual periods so long as the requirements of this section are met during such succeeding periods and a separate application for each such extension is filed no earlier than 60 days prior to the commencement of the semi-annual period to which it relates.

"(3) This subsection shall be effective with respect to semi-annual periods beginning on or after January 1, 1973.

TABLE 1.—HOURS WORKED IN SURVEY WEEK BY NONSUPERVISORY EMPLOYEES IN ALL PRIVATE NONFARM INDUSTRIES, APRIL 1970

[Employees in thousands; hours worked in millions]

Coverage status under the Fair Labor Standards Act	All nonsupervisory employees in nonfarm industries		Nonsupervisory employees who worked more than 40 hours in survey week			Nonsupervisory employees who worked more than 44 hours in survey week		
	Number	Hours worked in survey week	Number	Total hours worked	Hours over 40	Number	Total hours worked	Hours over 44
All nonfarm industries	44,703.0	1,642.7	10,743.3	518.3	88.6	7,102.6	364.4	51.9
Industries covered by minimum wage provisions of the FLSA	39,412.4	1,475.1	9,600.5	461.4	77.4	6,226.3	318.9	45.0
Covered prior to 1966 Amendments	32,747.9	1,250.5	8,317.5	400.1	67.4	5,406.9	277.3	39.4
Covered by the 1966 Amendments	6,664.5	224.6	1,283.0	61.3	10.0	819.4	41.6	5.6
Industries largely not covered by minimum wage provisions of the FLSA	5,290.6	167.6	1,142.8	56.9	11.2	876.3	45.5	6.9

Source: U.S. Department of Labor, Employment Standards Administration, "Wages and Hours of Work of Nonsupervisory Employees in All Private Nonfarm Industries by Coverage Status Under the Fair Labor Standards Act—Submitted to Congress 1972," tables 52, 59, and 66.

TABLE 2.—NUMBER OF PRODUCTION WORKERS, AVERAGE WEEKLY OVERTIME HOURS, AND AGGREGATE WEEKLY OVERTIME HOURS IN MANUFACTURING INDUSTRIES, UNITED STATES, 1956–70, ANNUAL AVERAGES, AND JANUARY–SEPTEMBER 1971

Year	Number of production workers (thousands)	Average weekly overtime hours	Aggregate weekly overtime hours (thousands)
1956	13, 436	2. 8	37, 620. 8
1957	13, 189	2. 3	30, 334. 7
1958	11, 997	2. 0	23, 994. 0
1959	12, 603	2. 7	34, 028. 1
1960	12, 586	2. 4	30, 206. 4
1961	12, 083	2. 4	28, 999. 2
1962	12, 488	2. 8	34, 966. 4
1963	12, 555	2. 8	35, 154. 0
1964	12, 781	3. 1	39, 621. 1
1965	13, 434	3. 6	48, 362. 4
1966	14, 297	3. 9	55, 758. 3
1967	14, 308	3. 4	48, 647. 2
1968	14, 514	3. 6	52, 250. 4
1969	14, 768	3. 6	53, 164. 8
1970	14, 050	3. 0	42, 150. 0

Source: U.S. Bureau of Labor Statistics, Employment and Earnings, United States, 1909–70, and various monthly issues.

TABLE 3.—PERSONS ON WAGE AND SALARY WORKING 41 HOURS OR MORE AT 1 JOB AND PROPORTION RECEIVING PREMIUM PAY BY HOURS OF WORK, MAY OF 1967, 1969, AND 1970.

[Numbers in thousands]

Hours worked	May 1970			May 1969			May 1967		
	Total worked overtime	Received premium pay		Total worked overtime	Received premium pay		Total worked overtime	Received premium pay	
		Number	Percent		Number	Percent		Number	Percent
Total who worked 41 hours or more	14, 554	5, 967	41. 1	16, 810	6, 808	43. 1	16, 672	6, 386	38. 3
Usually worked 41 hours or more	11, 061	3, 715	33. 6	12, 050	4, 492	37. 3	12, 986	4, 091	31. 5
Did not usually work 41 hours or more	3, 492	2, 252	64. 5	3, 759	2, 316	61. 6	3, 686	2, 296	62. 3
Worked 41 to 48 hours	7, 266	3, 713	51. 1	7, 960	4, 130	51. 9	7, 914	3, 813	48. 2
Usually worked 41 hours or more	4, 782	2, 027	42. 4	5, 276	2, 363	44. 8	5, 364	2, 135	39. 8
Did not usually work 41 hours or more	2, 484	1, 685	67. 8	2, 684	1, 767	65. 8	2, 549	1, 678	65. 8
Worked 49 to 59 hours	4, 579	1, 697	37. 1	4, 913	1, 991	40. 5	5, 384	1, 887	35. 0
Usually worked 41 hours or more	3, 820	1, 239	32. 4	4, 148	1, 539	37. 1	4, 552	1, 397	30. 7
Did not usually work 41 hours or more	759	457	60. 2	765	452	59. 1	832	490	58. 9
Worked 60 hours or more	2, 709	558	20. 6	2, 937	687	23. 4	3, 374	687	20. 4
Usually worked 41 hours or more	2, 459	448	18. 2	2, 627	590	22. 5	3, 070	559	18. 2
Did not usually work 41 hours or more	250	110	44. 0	310	97	31. 3	305	128	42. 0

TABLE 4.—NONAGRICULTURAL INDUSTRIES WITH ANNUAL AVERAGE WEEKLY OVERTIME HOURS EXCEEDING 3.5 HOURS IN 1971: RATIO OF AVERAGE WEEKLY HOURS OF OVERTIME IN LOWEST MONTH TO ANNUAL AVERAGE WEEKLY HOURS OF OVERTIME

Industry	Average weekly overtime hours (1971 annual average)	Lowest month as percent of annual average
3.6–3.9 HOURS		
Sawmills and planing mills	3. 9	82
Millwork, plywood and related products	3. 6	75
Structural clay products	3. 7	78
Other stone and nonmetallic mineral products	3. 6	89
Iron and steel foundries	3. 7	89
Nonferrous metals	3. 9	95
Nonferrous rolling and drawing	3. 9	79
Fabricated structural steel	3. 6	94
Metal services, n.e.c.	3. 7	89
Motor vehicles and equipment	3. 7	70
Dairy products	3. 8	92
Sugar	3. 7	76
Paperboard containers and boxes	3. 7	84
Periodicals	3. 7	70
4.0–4.9 HOURS		
Flat glass	4. 3	79
Glass and glassware, pressed or blown	4. 4	86
Metal cans	4. 3	60
Meat products	4. 3	81
Miscellaneous food and kindered products	4. 6	87
Weaving mills, cotton	4. 0	88
Weaving mills, synthetic	4. 0	78
Textile finishing, except wool	4. 9	88
Floor covering mills	4. 9	73
Yarn and thread mills	4. 4	86
Miscellaneous textile goods	4. 0	80
Plastics materials and resins	4. 1	80
Agricultural chemicals	4. 3	70
Tires and inner tubes	4. 1	63
5.0 OR MORE		
Concrete, gypsum and plaster products	6. 3	71
Grain mill products	6. 2	79
Paper and pulp mills	5. 8	95
Paperboard mills	7. 3	92
Other petroleum and coal products	6. 3	81

TABLE 5.—FORD MOTOR CO., U.S. AREA—AVERAGE HOURS WORKED

	1970			1971		
	Straight time	Overtime	Total	Straight time	Overtime	Total
Atlanta Assembly	34. 5	0. 5	35. 0	35. 7	6. 9	42. 6
Chicago assembly	33. 9	2. 4	36. 3	35. 7	. 8	36. 5
Dearborn assembly	34. 6	2. 4	37. 0	36. 0	. 8	36. 8
Kansas City assembly	34. 4	7. 8	42. 2	36. 0	5. 0	41. 0
Kentucky truck	35. 8	1. 9	37. 7	36. 5	1. 4	37. 9
Lorain assembly	34. 9	5. 6	40. 5	35. 3	6. 9	42. 2
Los Angeles assembly	34. 5	2. 3	36. 8	36. 6	1. 7	38. 3
Louisville assembly	35. 6	4. 5	40. 1	36. 7	. 8	37. 5
Mahwah assembly	33. 8	3. 0	36. 8	36. 4	1. 8	38. 2
Metuchen assembly	34. 3	7. 3	41. 6	35. 6	2. 3	37. 9
Michigan truck	34. 8	7. 8	42. 6	36. 0	4. 9	40. 9
Norfolk assembly	36. 1	3. 2	39. 3	36. 6	. 7	37. 3
St. Louis assembl	34. 9	1. 3	36. 2	37. 0	1. 7	38. 7
San Jose assembly	34. 4	5. 5	39. 9	36. 1	2. 5	38. 6
Twin Cities assembly	35. 8	4. 8	40. 6	36. 5	1. 4	37. 9
Wayne assembly	33. 4	2. 4	35. 8	35. 4	1. 6	37. 0
Wixom assembly	32. 9	1. 2	34. 1	35. 7	3. 5	39. 2
AAD, total	34. 4	3. 6	38. 0	36. 0	3. 0	39. 0
Steel Division, total	37. 7	3. 9	41. 6	37. 7	3. 9	41. 6
Buffalo Stamping	36. 4	5. 6	42. 0	36. 6	4. 7	41. 3
Chicago Stamping	34. 7	6. 7	41. 4	35. 7	4. 3	39. 1
Cleveland Stamping	35. 4	5. 3	40. 7	35. 3	6. 1	41. 4
Dearborn Stamping	34. 4	6. 3	40. 7	35. 2	3. 9	39. 1
Woodhaven Stamping	34. 2	7. 1	41. 3	34. 6	5. 5	40. 1
Frame	34. 3	1. 5	35. 8	35. 9	3. 6	39. 5
Monroe	36. 5	4. 3	40. 8	36. 3	5. 8	42. 1
Tool and Die	36. 2	8. 4	44. 6	36. 5	8. 6	45. 1
Metal Stamping Division, total	35. 1	5. 7	40. 8	35. 6	4. 9	40. 5
General Services, total	36. 0	3. 4	39. 4	36. 1	3. 5	
Dearborn Glass	37. 5	4. 7	42. 2	37. 9	3. 9	
Nashville Glass	36. 9	4. 8	41. 7	36. 7	3. 7	
Glass Division, total	37. 0	4. 7	41. 7	37. 0	3. 7	
Cleveland Engine No. 1	35. 4	4. 1	39. 5	36. 5	5. 0	
Cleveland Engine No. 2	35. 7	2. 5	38. 2	37. 5	4. 5	
Dearborn Engine	35. 5	5. 6	41. 1	36. 4	7. 4	

	1970			1971		
	Straight time	Overtime 1970	Total	Straight time	Overtime 1971	Total
Northville	38.2	5.1	43.3	37.3	7.2	
Lima Engine	35.8	3.7	39.5	36.7	3.5	
Green Island	35.8	6.9	42.7	37.0	7.5	
Cleveland Foundry	35.5	6.5	42.0	36.2	4.6	
Dearborn Iron Foundry	35.0	5.3	40.3	35.5	7.1	
Dearborn Specialty Foundry	36.7	2.6	39.3	36.4	3.6	
Michigan Casting				42.6	5.5	
Sheffield Aluminum	36.9	2.4	39.3	36.7	3.2	
Industrial Engine	38.4	3.5	41.9	37.0	7.7	
Toledo Turbine				36.1	13.8	
Vulcan	37.3	5.2	42.5	35.4	5.6	
Venus	38.3	15.5	53.8	36.0	14.0	
Engine and Foundry, total	35.6	4.8	40.4	36.4	5.5	
Mt. Clemens	35.2	7.2	42.4	36.2	7.8	
Utica	32.9	2.1	35.0	34.7	3.7	
Industrial and chemical production, total	33.4	2.8	36.2	34.7	3.7	
Fairfax	36.5	8.3	44.8	36.5	4.6	41.1
Sharonville	36.4	7.0	43.4	36.3	7.4	43.7
Livonia	35.2	3.5	38.7	35.6	4.5	40.1
Canton Forge	36.7	6.2	42.9	37.2	5.0	42.2

	1970			1971		
	Straight time	Overtime	Total	Straight time	Overtime	Total
Indianapolis	36.0	3.7	39.7	36.3	4.9	41.2
Sterling	36.0	7.7	43.7	36.0	9.2	45.2
Van Dyke	36.2	9.6	45.8	36.1	8.7	44.8
Transmission and chassis, total	35.9	5.9	41.8	36.1	6.5	42.6
Rawsonville	35.5	3.6	39.1	36.0	4.3	40.3
Sandusky	35.9	2.7	38.6	36.4	1.2	37.6
Ypsilanti	35.4	5.5	40.9	36.4	5.1	41.5
Fostoria	36.5	2.6	39.1	37.0	.6	37.6
Owosso	36.4	7.0	43.4	37.9	6.9	44.8
Sheldon Road	35.8	1.0	36.8	35.6	1.8	37.4
Saline	35.7	5.6	41.3	36.1	4.6	40.7
Shreveport	36.9	5.5	42.4	37.4	7.3	44.7
General Parts Division, total	35.6	4.0	39.6	36.3	3.7	40.0
Highland Park	36.6	2.3	38.9	37.6	1.8	39.4
M-151	36.2	1.8	38.0	36.6	4.9	41.5
Des Moines Implement	37.2	1.6	38.8	34.7	.8	35.5
Royal Oak Equipment	37.0	.9	37.9	36.3	3.8	40.1
Romeo Equipment	39.7	.7	40.4	35.4	2.0	37.4
Ford Tractor, total	36.4	2.0	38.4	36.4	2.1	38.5
U.S. area	35.2	4.5	39.7	36.1	4.2	40.3

TABLE 6.—WOODHAVEN LOCAL 387 UAW

OVERTIME HOURS FOR 1970

	January	February	March	April	May	June	July	August	September	October	November	December
Day:												
1		758.15	4,686.25	583.70	221.20	1,138.50		6,012.00	1,927.20	2,588.50	13,530.00	1,299.10
2		885.70	782.90	416.50	12,261.30	934.30		3,089.30	2,355.00	2,306.20	2,319.90	1,603.20
3		198.90	31.40	291.90	4,814.30	1,298.50		853.30	2,332.40	21,671.40	1,700.60	1,369.60
4		198.00	38.00	14,715.80	800.70	1,275.10		698.00	2,101.10	4,583.30	1,486.20	1,294.60
5	1,632.00	278.70	82.60	9,590.60	597.70	1,422.10		875.10	22,968.40	2,508.40	1,591.20	15,150.14
6	603.70	231.90	233.40	1,088.00	631.70	21,204.50	1,318.00	900.30	17,888.40	2,543.60	1,339.80	2,169.65
7	751.40	6,919.30	7,673.00	502.20	702.60	16,668.15	898.10	613.70	1,095.95	2,531.70	20,899.20	1,787.00
8	490.20	4,392.70	5,559.25	507.70	374.20	1,311.60	1,086.70	7,781.92	2,368.30	2,344.70	13,120.45	1,097.70
9	528.40	1,243.50	212.00	384.80	11,461.60	1,130.90	1,556.40	1,817.60	2,269.00	1,846.30	1,951.60	1,567.30
10	6,513.90	243.20	344.30	386.50	5,627.00	1,393.40	1,284.80	1,314.10	2,583.30	22,774.30	1,574.00	692.90
11	5,457.40	255.20	77.70	13,312.80	815.70	1,424.70	17,656.50	1,603.20	2,268.90	16,599.60	1,668.40	793.10
12	1,095.20	223.60	91.50	8,561.10	499.80	1,350.90	12,478.36	1,554.40	20,091.80	2,084.20	1,417.50	6,986.10
13	292.60	192.00	93.70	904.50	836.10	22,639.30	1,344.60	1,527.90	7,423.75	1,567.20	1,139.80	8,014.10
14	116.90	6,987.10	6,911.60	449.60	774.70	18,168.60	986.10	1,615.50	2,381.70	1,764.60	20,822.90	1,929.50
15	101.90	4,630.75	5,096.90	424.70	238.10	1,859.50	1,227.30	12,945.50	1,772.90	1,490.70	12,757.35	1,502.10
16	49.70	1,047.00	627.40	500.10	12,669.80	1,602.00	1,095.30	2,979.90	2,025.20	1,736.90		1,527.90
17	4,471.50	264.30	100.30	298.30	4,629.55	1,807.20	877.20	1,896.40	2,005.20	22,703.80		1,294.60
18	1,782.80	229.00	187.60	10,719.70	762.70	1,998.30	12,014.50	1,500.00	2,048.30	14,307.40		1,239.10
19	996.50	219.90	243.10	5,583.60	279.60	1,740.60	3,812.35	1,971.30	22,941.50	1,836.90		15,948.40
20	308.20	296.70	208.30	872.30	398.80	22,455.84	836.80	1,583.60	16,369.65	1,553.80		11,208.85
21	279.50	5,734.30	12,742.28	527.20	714.60	17,056.91	661.90	1,542.70	2,410.70	2,146.80		1,717.10
22	239.70	1,810.35	5,763.25	625.00	463.60	2,576.60	704.80	16,328.14	2,350.40	2,073.30		938.00
23	316.80	987.60	1,226.70	510.30	17,386.64	2,280.60	460.70	7,347.85	2,836.50	1,766.20	1,795.20	1,770.10
24	4,188.70	218.70	388.10	403.90	9,929.60	2,229.60	340.50		2,533.70	23,199.10	1,498.80	231.00
25		222.50	477.00	13,085.10	1,237.50	2,528.90	10,747.62		2,418.30	14,993.90	2,420.00	288.00
26	940.70	461.70	1,559.70	6,106.80	1,220.90	2,072.20	2,558.20		23,076.80	2,120.50	664.00	24.00
27	275.40	227.10	5,500.10	758.10	1,375.20	19,812.12	837.10		10,295.20	1,752.10	1,450.70	33.75
28	336.70	6,790.50	2,889.90	481.40	1,031.10	15,337.92	605.00		2,816.20	1,755.80	13,489.90	
29	239.70			443.10	1,805.70		690.40		2,555.60	2,010.20	6,366.30	
30	180.80		425.00	284.40	38,575.50		638.90		2,651.30	1,601.20	1,722.40	
31	5,972.60		652.80		10,787.00		793.20	2,391.80		22,373.80		

OVERTIME HOURS FOR 1971

	January	February	March	April	May	June	July	August	September	October	November	December
Day:												
1		1,517.40	1,369.80	796.90	17,880.50	1,478.90	1,771.90	4,242.15	910.40	1,255.00	1,378.50	1,005.40
2		484.90	930.10	637.00	4,232.95	993.30	1,354.50	1,854.10	1,271.30	8,966.00	974.70	836.10
3		857.90	432.50	9,913.60	1,450.80	934.60	6,983.00	1,233.10	1,111.40	2,010.35	915.70	676.30
4	3,597.70	728.30	466.80	4,596.00	1,086.60	746.70	4,133.20	1,243.00	3,818.50	1,899.80	970.90	11,229.60
5	1,350.80	623.60	358.20	1,378.60	1,210.70	22,739.40	2,527.10	1,322.60	425.50	1,294.50	909.50	8,028.60
6	1,405.60	10,736.20	5,552.60	852.80	1,273.10	17,628.45	1,434.50	1,087.40	379.00	1,138.20	12,483.00	1,375.10
7	1,060.40	4,615.55	3,730.55	831.10	1,020.30	1,707.90	1,371.60	4,213.30	1,428.30	1,237.40	7,544.60	948.90
8	631.60	1,586.60	939.40	1,823.80	21,340.80	1,584.00	919.70	1,737.60	1,010.50	1,019.00	1,620.30	1,033.00
9	4,965.00	1,066.90	257.60	300.00	11,372.25	1,777.40	767.50	1,417.20	955.20	9,302.80	971.90	1,439.00
10	4,209.85	1,367.10	307.70	134.00	1,816.80	1,633.00	18,008.90	1,074.00	1,141.60	2,636.75	915.20	968.00
11	1,304.50	841.00	393.80	101.00	807.90	1,661.80	7,084.00	1,010.60	8,165.90	1,969.30	1,155.10	14,629.50
12	709.90	556.80	283.20	1,248.00	823.30	24,012.60	1,563.80	1,246.70	1,005.00	1,315.90	1,165.00	1,240.05
13	972.60	11,587.80	8,466.00	663.90	724.70	18,212.50	803.50	1,063.40	1,320.10	1,222.70	11,102.30	1,636.10
14	422.70	3,541.20	4,053.95	596.70	765.50	2,436.50	1,002.40	3,793.10	989.60	1,216.20	8,143.65	802.40
15	331.30	1,337.50	975.60	678.10	19,868.00	1,642.40	1,040.30	1,603.70	1,017.30	1,201.90	2,042.80	922.00
16	8,877.90	605.20	510.50	719.10	12,138.55	1,435.90	771.20	1,385.20	852.90	10,760.80	1,568.10	1,070.00
17	3,915.35	874.30	312.60	9,942.50	1,929.00	1,468.40	14,950.70	1,073.90	715.90	5,328.05	1,575.50	713.90
18	1,341.50	761.40	273.10	4,207.00	463.10	764.90	3,563.00	1,270.10	2,968.60	1,964.00	1,413.70	11,836.30
19	457.90	656.60	429.70	1,506.20	819.28	19,119.80	1,331.10	1,237.30	1,282.75	1,358.70	1,156.10	4,023.05
20	338.70	9,396.20	6,854.40	973.30	828.60	11,389.50	917.10	955.50	1,139.70	1,649.90	12,556.50	
21	528.20	3,599.40	3,583.10	934.80	791.00		815.30	4,979.60	815.30	1,256.00	9,614.00	
22	689.60	1,444.80	1,214.30	694.60	22,113.00		1,067.30	1,703.60	1,074.30	1,154.00	1,514.10	
23	8,628.80	787.60	261.90	719.00	9,833.95		831.10	1,546.20	1,129.30	6,743.80	1,153.90	
24	3,663.10	695.60	334.80	13,520.80	2,155.30		11,664.80	862.70	939.20	1,122.35	2,470.60	
25	1,427.10	491.40	562.70	4,142.90	1,276.60		2,223.10	1,124.40	3,951.90	1,353.50	216.00	
26	781.80	676.00	490.90	1,281.10	1,363.00		1,703.50	832.80	1,500.35	1,500.90	854.90	
27	631.60	9,063.90	7,493.60	546.40	863.50		1,105.40	892.40	1,456.90	1,431.70	12,304.50	
28	767.10	4,460.25	3,888.00	736.70	823.50	2,734.10	1,231.60	3,520.20	972.00	1,265.90	8,937.10	
29	419.80		1,292.70	931.70	19,787.40	1,317.30	1,083.60	669.30	1,147.90	1,456.80	1,584.50	
30	7,411.10		860.80	828.40	13,843.15	1,366.70	886.80	1,558.90	1,020.80	12,233.00	857.40	
31	3,677.75		886.30		8,535.80		10,273.90	927.80		4,247.65		

TABLE 7.—ESTIMATED HOURLY COSTS OF OVERTIME VERSUS HIRING NEW WORKERS—SELECTED ITEMS—HOURLY RATED AUTO COMPANY WORKERS, 1947–72[1]

	1947	1972
Estimated average hourly wage rate as of Jan. 1, 1972	$1.38	$4.83
Wage cost if overtime is worked:		
At time and one-half	2.06	[2] 7.35
At double time	2.75	[2] 9.76
Wage cost if workers are hired and then laid off:		
Vacation pay allowance	0	.19
Holiday pay	.03	.18
Shift premium	.07	.24
Supplemental unemployment benefits		0
Pensions		0
Insurance	.01	.67
Social security taxes	.01	.28
Federal unemployment compensation	.28	[3] .03
State unemployment compensation		1.15
Total	1.78	7.57

[1] See app. A for assumptions underlying this table and app. B for an explanation of each item.

[2] Includes average current contribution of $0.10 to supplemental unemployment benefit fund.

[3] Assumes worker is hired for 18 weeks or less. See app. B, par. (10), item (a).

APPENDIX A

We made several assumptions in constructing the 1972 figures in the attached table and took various facts into consideration, as follows:

1. Hourly costs of benefits like vacation pay, holiday pay, etc., are averaged over hours worked, i.e., they decrease with overtime. However, the difference between labor costs averaged over a 40-hour week plus overtime is a small proportion of overtime costs and has been disregarded here. It should be kept in mind that this results in a slight overstatement of overtime costs, since the same cost averaged over more than 40 hours worked will be less than the cost averaged over 40 hours.

2. We assume that there is no shift premium when overtime hours are worked. All overtime takes place as part of a single morning shift. In the same way we assume there is no overtime when the company hires additional workers rather than scheduling overtime. This tends to understate the cost of the new hire policy, since there is probably some emergency overtime in any case.

3. In the case of the newly hired worker, the cost of Supplemental Unemployment Benefits is placed at zero, because it is assumed that the worker is employed less than a year, and therefore is not eligible for this benefit. It is true that while he is employed the company will be required to make contributions on his behalf, but since he does not draw that money out in benefits, the contributions will go to swell the Fund and eventually will help bring closer the time when the Fund is large enough that the company will be able to reduce its contribution rate for all workers.

4. The newly hired worker is a Michigan resident; he is married, his spouse does not work and they have one child. He is hired for a period of at least 13 weeks, at most 26 weeks. There are 12 paid holidays in each year, or an average of one paid holiday a month. We assume that the newly hired worker loses three paid holidays before he acquires seniority and becomes eligible for holiday pay. In view of his period of employment it is also assumed that he receives pay in lieu of vacation rather than vacation time off.

5. For every worker hired there is assumed a corresponding increase in the afternoon shift, and therefore a shift premium payment equal to five percent of the average wage.

6. When he is hired, the worker is assumed to have at least one credit week towards unemployment compensation.[1] As we assume he will be eventually laid off, the costs of unemployment benefits are computed by charging the amount of such benefits for which the worker would be eligible to the hours he actually works. This may overstate the U.C. cost of a newly hired worker to the auto company, however, we have assumed that 20 percent of the layoff time is represented by workers who find other jobs or for other reasons do not collect unemployment benefits. For the other 80 percent of layoff time, it is assumed that benefits are collected for the full period of eligibility.

The 1947 figures should be regarded as describing a benefit structure different from the present one. A worker with less than one year's seniority was then not entitled to a vacation. With respect to the cost of unemployment compensation, if the worker worked less than 15 weeks the figure would range up to $.38 per hour. Otherwise the figure was $.28 as shown in the table.

APPENDIX B

A worker whose characteristics were described in Appendix A is hired in lieu of scheduling overtime for active workers. The average hourly costs of labor for such worker were computed as follows:

1. Hours Effectively Worked—There are 2080 hours in a year of 52 weeks and 40 hours a week. Under the 1970 auto contracts, workers get 12 holidays. Therefore, yearly hours effectively worked: 2,080−96[12 x 8]=1,984.

2. Vacation Pay Allowance—Since the worker has less than one year of seniority he does not qualify for paid absence allowance. His hours of vacation pay allowance averaged over hours effectively worked are: 40/992=.0403.[2] The cost of his vacation pay averaged over the hours worked is: $4.83 x .0403 hours=$.19.

3. Holiday Pay—Under the assumption that the worker qualifies for only 9 holidays in his first year, the cost of holiday pay averaged over hours effectively worked is: (9 days x 8 hours x $4.83)/1,984 hours=$.18.

4. Shift Premium—Five percent of shift premium amounts to an hourly cost of: 5% x $4.83=$.24.

5. Supplemental Unemployment Benefits—A new hire is not credited with any Credit Units until the day he has at least one year of seniority. Therefore the hourly cost of this benefit is zero.

6. Pensions—As we assume the new worker will be laid off before acquiring vested pension rights, we estimate the cost of this benefit to the corporation at zero.

7. Insurance—We assume expected 1972 rates for hospital, medical and prescription drug expense coverage. The average hourly cost of these benefits (which include life and accident insurance) for a worker with a family is: $.67.

8. Old-Age and Disability Insurance (Social Security)—The employer is required to make a contribution of 5.2 percent of the worker's earnings up to $9,000 a year. Earnings per hour worked (average wage plus vacation pay plus holiday pay plus shift premium) amount to: $4.83 + $.19 + $.18 + $.24 = $5.44. Social Security taxes per hour worked are: 5.2% x $5.4=$.28.[3]

9. Federal Unemployment Insurance—The net effective FUTA tax rate for most employers is .5 percent, and the taxable wage base in 1972 is $4,200. Earnings per hour as in (7) above are $5.44.

(a) If the worker is hired for a period roughly equal to or shorter than 18 weeks, FUTA taxes per hour worked are: .5% x $5.44 = $.03.

(b) If the worker is hired for a period longer than 18 weeks, FUTA taxes per hour worked decrease as the length of his work period increases. At 26 weeks, FUTA taxes per hour worked are (.05% x $4,200)/992 hours = $0.02.

10. Unemployment Compensation—The unemployed worker receives three full weeks of benefits for every four credit weeks in his base year. Given the size of his family and his average weekly wage, his weekly benefit rate is $73. Distributing the cost of unemployment compensation over the number of hours effectively worked and allowing for the possibility that the worker may find another job, we have: (52 weeks x ¾ credits per week x $73) x 80%/1,984 hours=$1.15.

TABLE 8.—ESTIMATED HOURLY COSTS OF OVERTIME VERSUS REHIRING WORKERS—SELECTED ITEMS—HOURLY RATED AUTO COMPANY WORKERS, 1947–72[1]

	1947	1972
Estimated average hourly wage rate as of Jan. 1, 1972	$1.38	$4.83
Wage cost if overtime is worked:		
At time and one-half	2.06	[2] 7.35
At double time	2.75	[2] 9.76
Wage cost if workers are rehired and then laid off:		
Vacation pay allowance	.11	.39
Holiday pay	.03	.23
Shift premium	.07	.24
Supplemental unemployment benefits	0	.74
Pensions	0	.34
Insurance	.01	.67
Social security taxes	.01	.30
Federal unemployment compensation	.28	[3] .03
State unemployment compensation		1.15
Total	1.89	8.92

[1] See app. A for assumptions underlying this table and app. B for an explanation of each item.

[2] Includes average current contribution of $0.10 to supplemental unemployment benefit fund.

[3] Assumes worker is rehired for 18 weeks or less. See app. B, par. (10), item (a).

APPENDIX A

We made several assumptions in constructing the 1972 figures in the attached table and took various facts into consideration, as follows:

1. Hourly costs of benefits like vacation pay, holiday pay, etc., are averaged over hours worked, i.e., they decrease with overtime. However, the difference between labor costs averaged over a 40-hour week and costs averaged over a 40-hour week plus overtime is a small proportion of overtime costs and has been disregarded here. It should be kept in mind that this results in a slight overstatement of overtime costs, since the same costs averaged over more than 40 hours worked will be less than the cost averaged over 40 hours.

2. We assume that there is no shift premium when overtime hours are worked. All overtime takes place as part of a single morning shift. In the same way we assume

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[1] This assumption, together with the one regarding length of hire, assures that the worker will be eligible for unemployment compensation, and that his last employer (the auto company) will be debited first with the amount of U.C. benefits when he is laid off.

[2] This depends strictly upon assumption (4) in Appendix A, stating that the worker is rehired during at least 13 weeks and at most 26 weeks. If he worked less than 13 weeks, he would get 0 hours of pay allowance; if he worked more than 26 weeks, he would still get 40 hours, spread over more hours worked. Thus the relationship above only holds for the assumed range.

[3] This figure is consistent with our assumption regarding length of recall. If the worker were recalled for a period which earns him more than $9,000, the cost of Social Security taxes per hour worked would be lower than $.28.

there is no overtime when the company recalls workers rather than scheduling overtime. This tends to understate the cost of the recall policy, since there is probably some emergency overtime in any case.

3. The cost of Supplemental Unemployment Benefits for the recalled workers is based upon the amount the worker is eventually expected to draw from the Fund, as computed in Appendix B. This averages 74 cents per hour worked. It is true that the maximum *immediate* cost to the company is only 10 cents per hour contribution to the SUB Fund, but if the worker is later laid off and draws more out of the Fund than was contributed on his behalf, the company will be required to make up the excess payout by continuing to contribute longer to the maximum rate for the remaining workers, until the Fund reaches a level at which the contribution falls below the maximum.

4. The recalled worker is a Michigan resident; he is married, his spouse does not work and they have one child. He has slightly over two years of service and had been on layoff status for a period of time such that his only vacation credits are those he earns during the period he is recalled. In the meantime, he has worked for at least one week at another job. He is recalled for a period of at least 13 weeks[1], at most 26 weeks. In view of the period of employment, it is also assumed that he receives pay in lieu of vacation rather than vacation time off. We assume that the company expects him to have future periods of employment with it, which will eventually entitle him to vested pension rights.

5. For every recalled worker there is a corresponding increase in the afternoon shift, and therefore a shift premium payment equal to five percent of the average base wage.

6. When he is recalled, the worker has exhausted his eligibility for unemployment compensation and for Supplemental Unemployment Benefits. As we assume he will be eventually laid off, the costs of unemployment benefits are computed by charging the amount of such benefits for which the worker would be eligible to the hours he actually works. However, we have assumed that 20 percent of the layoff time is represented by workers who find other jobs or for other reasons do not collect unemployment benefits. For the other 80 percent of layoff time, it is assumed that benefits are collected for the full period of eligibility.

The 1947 figures should be regarded as describing a benefit structure different from the present one. With respect to vacation pay, if the worker was employed during the week of July 2 or laid off after May 1, he received 40 hours pay. If laid off before May 1, he had to work 75 percent of the 52 weeks in the period July 1946-June 1947. If he was eligible for a vacation, its cost would average out at $.05 per hour if he worked 26 weeks, or $.11 per hour if he worked 13 weeks (as shown in the table). With respect to the cost of unemployment compensation, if the worker worked less than 15 weeks the figure would range up to $.38 per hour. Otherwise the figure was $.28 as shown in the table.

APPENDIX B

A worker whose characteristics were described in Appendix A is recalled in lieu of scheduling overtime for active workers. The average hourly costs of labor for such worker were computed as follows:

1. Hours Effectively Worked—There are 2080 hours in a year of 52 weeks and 40 hours a week. Under the 1970 auto contracts, workers get 12 paid holidays. Therefore, yearly, hours effectively worked: 2,080–96=1,984.

2. Vacation Pay Allowance—Since the worker has two years of service, his hours of vacation pay allowance averaged over hours effectively worked are: 80/992=.0806.[1] The cost of his vacation pay averaged over hours worked is: (80 hours×$4.83)/992 hours=$.39[2].

3. Holiday Pay—The cost of holiday pay (12 days a year) averaged over hours effectively worked is: (12 days×8 hours×$4.83)/1,984 hours=$.23. It is assumed that if he works less than a full year he gets only a proportionate number of paid holidays, so that the cost per hour remains the same.

4. Shift Premium—Five percent shift premium amounts to an hourly cost of: 5% × $4.83=$.24.

5. Supplemental Unemployment Benefits—According to the auto contracts, the regular benefit payable to an eligible employee is an amount which, when added to his state benefit and other compensation, will equal 95 percent of his weekly after-tax pay minus $7.50. For each week of work he earns one-half credit (one credit is equal to one week of benefits). The amount of credits per hour worked is: (.5×52 weeks)/1,984 hours=.0131. The average weekly wage is: $4.83×40 hours=$193.20. Weekly federal, state and local[3], and Social Security taxes amount to $33.78. The laid-off worker will be entitled to unemployment compensation, as by assumption he has worked at least 14 weeks in the last year. In Michigan, his state unemployment benefit amounts to $73 a week. His weekly supplemental unemployment compensation is: ($193.20–$33.78)×95%–$73.00–$7.50=$70.95. The same cost averaged over hours effectively worked and taking into consideration the possibility that the worker may find another job is: $70.95×.0131 credits per hour×80%=$.74[4].

6. Pensions—We have assumed that the average hourly cost of this benefit has increased by $.03 due to 30-and-out provisions in the second year of the current contract. This is a preliminary estimate. Average hourly cost of pension: $.34.

7. Insurance—We assume expected 1972 rates for hospital, medical and prescription drug expense coverage. The average hourly cost of these benefits (which include life and accident insurance) for a worker with a family is: $.67.

8. Old-Age and Disability Insurance (Social Security)—According to the 1971 Amendment to the Social Security Act, the employer is required to make a contribution of 5.2 percent of the workers' earnings up to $9,000 a year. Earnings per hour worked (average wage plus holiday pay plus vacation pay plus shift premium) amount to: $4.83+$.39+$.23+$.24=$5.69. Social Security taxes per hour worked are 5.2%×$5.69=$.30.[5]

9. Federal Unemployment Insurance—The net effective FUTA tax rate for most employers is .5 percent, and the taxable wage base in 1972 is $4,200. Earnings per hour as in (8) above are $5.69.

(a) If the worker is rehired for a period roughly equal to or shorter than 18 weeks, FUTA taxes per hour worked are: 0.5%×$5.69=$.03.

(b) If the worker is rehired for a period longer than 18 weeks, FUTA taxes per hour worked decrease as the length of his recall period increases. At 26 weeks, FUTA taxes per hour worked are: (0.5%×$4,200)/922 hours=$.02.

10. Unemployment Compensation—The unemployed workers receives three full weeks of benefits for every four credit weeks in his base year. Given the size of his family and his average weekly wage, his weekly benefit rate is $73. Distributing the cost of unemployment compensation over the number of hours effectively worked and allowing for the possibility that the worker may find another job, we have: (52 weeks×¾ credits per week×$73)×80%/1,984 hours=$1.15.

FOOTNOTES

[1] This depends strictly upon assumption (4) in Appendix A, stating that the worker is rehired during at least 13 weeks and at most 26 weeks. If he worked less than 13 weeks, he would get 0 hours of pay allowance; if he worked more than 26 weeks, he would still get 80 hours, spread over more hours worked. Thus the relationship above only holds for the assumed range.

[2] If the worker had accumulated vacation credits by working off and on for the company before being recalled for the present period, his vacation pay allowance would be higher. For example, if he had worked during at least 13 pay periods before he would be entitled to 80 hours of vacation pay allowance provided the length of the recall period is at least 13 weeks, as assumed. Then, the hourly cost of his vacation pay would be: $386.40/992 hours=$.39 if he is recalled for 26 weeks; $386.40/496 hours=$.78 if he is recalled for 13 weeks.

[3] This is an average figure for the State of Michigan.

[4] The worker who has at least one year of seniority gets Guaranteed Annual Income Credit Units under the Supplemental Unemployment Benefits plan. It is difficult to produce an average figure for this benefit unless very strict assumptions about length and time of recall are made. The omission results in an understatement of average hourly SUB costs, but on the other hand there is probably an overstatement in assuming that 80 percent of benefit eligiblity is completely used up.

[5] This figure is consistent with our assumption regarding length of recall. If the worker were recalled for a period which earns him more than $9,000, then the cost of Social Security taxes per hour worked would be lower than $.30.

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[1] This assumption, together with the one regarding other work experience, assures that the worker will be eligible for unemployment compensation, and that his last employer (the auto company) will be debited first with the amount of U.C. benefits when he is again laid off.

TABLE 9.—U.S. CAR AND TRUCK PRODUCTION BY MAKER—1965–71

Year	Total	GM	Ford	Chrysler	AMC
Cars:					
1965	9,329,104	4,949,408	2,565,776	1,467,553	346,367
1966	8,598,917	4,448,634	2,425,442	1,445,616	279,225
1967	7,406,788	4,117,810	1,696,224	1,363,696	229,058
1968	8,843,031	4,592,077	2,396,924	1,585,591	268,439
1969	8,219,463	4,421,002	2,163,109	1,392,454	242,898
1970	6,545,908	2,979,187	2,017,152	1,273,459	276,110
1971	8,578,314	4,853,007	2,176,332	1,313,306	235,669

Year	Total	GM	Ford	Chrysler	[1] AMC
Trucks:					
1965	1,785,109	756,396	547,427	143,452	337,834
1966	1,764,337	748,711	526,408	153,139	336,079
1967	1,585,481	680,322	426,619	141,865	336,675
1968	1,950,713	828,978	623,272	173,769	324,694
1969	1,693,099	833,874	639,948	165,133	324,144
1970	1,716,749	612,719	626,585	178,584	229,861
1971	2,073,174	911,439	628,145	204,766	328,824

[1] Includes AMC's Jeep.

Source: Ward's Automotive Year Book; Ward's Automotive Reports.

TABLE 10.—PRODUCTION WORKER EMPLOYMENT, MOTOR VEHICLES AND EQUIPMENT INDUSTRY—JANUARY 1965 TO DECEMBER 1971

[In thousands]

Month	1965	1966	1967	1968	1969	1970	1971
January	648.3	677.6	670.7	679.2	724.0	697.2	680.7
February	648.6	685.5	661.7	677.8	714.8	609.8	676.5
March	655.5	687.7	654.0	684.2	711.0	684.3	678.1
April	657.6	684.0	631.1	679.0	690.0	672.7	674.9
May	664.0	689.7	646.2	683.9	671.9	676.0	697.0
June	669.3	684.5	649.0	691.6	719.0	680.5	696.8
July	651.1	608.1	567.0	674.2	651.4	603.4	623.1
August	560.4	518.0	534.0	535.9	697.9	574.8	631.5
September	627.7	692.1	574.9	704.3	738.4	688.4	697.8
October	687.1	702.1	576.8	714.4	738.5	397.5	689.5
November	696.4	709.6	670.7	718.7	727.1	385.8	693.4
December	695.9	704.2	686.8	725.8	728.7	672.1	[1] 692.0

[1] Preliminary.

Source: Bureau of Labor Statistics.

EXPLANATORY NOTE

THE DECREASING EFFECTIVENESS OF THE TIME AND ONE-HALF PROVISION AS A DETERRENT TO OVERTIME—FRINGE BENEFIT COSTS

The faster growth of fringe benefits than of wages since 1938 has shifted the balance in the costs that employers weigh when deciding between overtime and an increase in their number of employees.

The fringe benefits in question are those whose costs vary with the number of workers employed (or laid off) rather than with the overtime hours worked. Most fringe benefit costs are fixed or have a fixed maximum (e.g. Social Security and unemployment insurance) or are based on straight time hours only. They arise out of legislation and collective bargaining. The legislated fringe benefits include Social Security (taxes for which are much higher than in 1938) and unemployment compensation. Among the negotiated fringe benefits are paid vacations, paid holidays, supplementary pensions, life insurance, sickness and accident insurance, hospital-medical-surgical insurance, and supplemental unemployment benefits (SUB). Negotiated fringe benefits of these types were either totally non-existent in 1938, or, insofar as production workers were concerned, negligible in their coverage and cost.

In 1938 employee remuneration consisted almost exclusively of cash wages and salaries with the straight-time earnings of production workers in manufacturing averaging $.62 per hour. Thus, given the time and one-half requirement, on the average an employer was required to pay $.93 an hour for each hour of overtime.

Employer payments for Social Security and fringe benefits at the time amounted to only 5 percent of the hourly rates of such workers; however, since 1938 employer payments for supplementary benefits have increased and today average 25.1 percent of such wage rates. Overtime payments however, are, for the most part, based on cash wages only.

During World War I legal restrictions on wage increases resulted in the substitution of fringe benefit increases for cash wage increases—a trend which continued after the war even though a labor surplus existed. This practice further eroded the overtime premium as a deterrent to excessive overtime.

By 1962 hourly earnings had increased to $2.31 an hour and fringe benefits to $.57 an hour.

In 1962 an employer was paying $2.88 for a straight-time hour ($2.31 in cash & $.57 in fringes) and $3.47 an hour for overtime to production workers in manufacturing—a premium overtime rate of 1⅕ the straight time rate.

By September 1970, hourly earnings had increased to $3.29 an hour and fringe benefits to 25.1% of basic wages, or $.82 an hour. In the average, therefore, in 1970 an employer was paying $4.21 an hour ($3.29 in cash and $.82 in fringes) for a straight time hour and $4.93 an hour for an overtime hour, or only 1.15 times as much for an overtime hour as for a straight time hour.

The increase in fringe benefit costs has thus cut the effectiveness of the time and one-half premium for overtime by 40–50 percent.

FEDERAL COURT JURISDICTION ACT OF 1971—AMENDMENT

AMENDMENT NO. 1169

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. BURDICK. Mr. President, I am submitting today for appropriate reference an amendment to S. 1876, the Federal Court Jurisdiction Act of 1971.

The American Law Institute proposed certain procedural refinements in three-judge court proceedings to eliminate a number of jurisdictional questions and to allow these courts to function more smoothly. These proposals, first presented in 1966, are embodied in S. 1876 as the proposed sections 1374–76 of title 28.

However, since those proposals on three-judge courts were first advanced, judicial and scholarly thinking has suggested that mere refinement of procedure may not be sufficient. Rather, the Judicial Conference has recommended the elimination of three-judge courts in suits challenging the constitutionality of State or Federal laws except where expressly required by act of Congress. The Judicial Conference proposal is currently embodied in H.R. 3805.

In response to the recommendation of the Judicial Conference, it is proposed to amend S. 1876. While this amendment is intended to accomplish the same objective as H.R. 3805—the elimination of three-judge courts in constitutional litigation—it is believed that the specific procedures employed in the Senate version will be more effective in removing the burden on the courts.

It may be helpful in evaluating this amendment to S. 1876 and comparing it to H.R. 3805 to explain the functioning of the present law and its effects on courts and litigants.

THE PRESENT LAW

Under current law, a Federal district court may not grant an injunction restraining the enforcement of a State or Federal statute on the ground of its unconstitutionality unless the application for the injunction has been heard and determined by three judges, instead of the usual single judge court. This is required by sections 2281 and 2282 of title 28, United States Code. Decrees of three-judge courts granting or denying an injunction are appealable directly to the Supreme Court under section 1253 of title 28, while most single judge district court judgments are appealed to the circuit court of appeals, with further review in the discretion of the Supreme Court.

This extraordinary procedure was originally designed to protect State and Federal legislative programs from hasty invalidation. It was felt that the combined wisdom and maturity of three judges, including one circuit court judge, would guarantee a more careful finding of the facts and deliberation on the issues before a statute was enjoined. However, the three-judge court procedure, initiated in response to particular problems of the earlier part of the century, has recently been termed by one scholar, "the single worst feature in the Federal judicial system as we have it today." It has imposed a considerable burden on the Federal courts and has provided a constant source of uncertainty and procedural pitfalls for litigants. It is frequently difficult to summon a second district judge and a judge of the court of appeals without delaying other vital judicial work. The direct appeal to the Supreme Court is contrary to the general scheme giving the Court substantial control over its own docket. It is immensely difficult to know when a case comes within the statutes requiring three judges, and it is even more difficult to know which court has jurisdiction over appeals of decisions involving the convening or refusal to convene a three-judge court.

The number of these burdensome hearings and appeals is on the increase. From fiscal years 1963 to 1971, three-judge court hearings increased from 129 to 318, or 147 percent, but from 1969 to 1971 alone the increase was 103 or 60 percent. During the 1970–71 Supreme Court term, direct appeals from three-judge courts constituted 34 of the 151 cases argued—more than 22 percent.

PROPOSED AMENDMENT TO S. 1876

The proposed amendment to S. 1876 would do away with this burdensome procedure by eliminating three-judge courts in all constitutional cases except those involving reapportionment. It is felt that because of the importance of these cases, they should continue to be heard by three Federal judges. In addition, the legislation does not affect three-judge courts required by other special congressional enactment; that is, for certain Interstate Commerce Commission orders, and under the Expediting Act, the 1964 Civil Rights Act, and the 1965 Voting Rights Act.

The interests of the State and Federal Governments in suits challenging the constitutionality of their laws will be protected by means other than three-judge trial courts, and the appeals procedure in such cases will be brought in line with that in other Federal court cases.

Adequate procedures for safeguarding Federal laws have already been enacted. If a suit attacking the constitutionality of a law of Congress is instituted, the United States may intervene as a party under current section 2403, title 28, United States Code. Should the district court invalidate the law as unconstitutional, any party to the suit may appeal the decision directly to the Supreme Court under section 1252, title 28 United States Code.

If the constitutionality of a State law is challenged, the proposed amendment would allow the State to intervene as a party. Should the State law be invalidated, the State has a right of appeal to the circuit court of appeals, under section 1291, title 28 United States Code. If the court of appeals decision is unfavorable to the State, review of the Federal question may be had in the Supreme Court by appeal under section 1254(2), title 28, United States Code.

COMPARISON OF AMENDMENT TO S. 1876 TO H.R. 3805

While the basic theory of amendment No. 1169 and its House counterpart, H.R. 3805, is the same—the elimination of three-judge courts in suits challenging the constitutionality of State or Federal laws—the bills differ in one major respect. H.R. 3805 would amend title 28, United States Code, by adding a new section 1259. This section would permit direct appeals from district court decisions enjoining State as well as Federal laws as unconstitutional, provided the attorney general of the government involved filed a statement that immediate consideration of the appeal by the Supreme Court was "of general public importance in the administration of justice." The Supreme Court would have the discretion to dispose of the case on the merits or remand the case to the court of appeals. On the other hand, amendment No. 1169 relies on the existing procedures for appeal of such decisions, and extends section 2403, title 28, United States Code, to safeguard the States interests by allowing State intervention in suits challenging State laws. It is felt that the appeals methods of amendment No. 1169 are preferable to those of H.R. 3805: it relies on the familiar, existing procedure; it allows speedy, final decisions where necessary; and it avoids the awkward procedure of direct appeal of all decisions to the Supreme Court, with the possibility of subsequent remand to the court of appeals.

CONCLUSION

The elimination of the jurisdictional intricacies of three-judge court cases proposed in this amendment to S. 1876 will be beneficial to litigants who are now puzzled as to what kind of court their claim requires. It should end many frivolous but colorable disputes over jurisdictional questions. It will allow for a more effective use of judicial time and more efficient judicial administration. The courts then will be free to focus on the merits of the controversy—the purpose for which they are created—to the ultimate benefit of all our citizens.

Mr. President, I wish to acknowledge the suggestions of Prof. Charles A. Wright of the University of Texas Law School in preparing this amendment, and I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1169

On page 40, beginning with line 12, strike out through line 13 on page 42 and insert in lieu thereof the following:

"§ 1374. Three-judge court; when required

"A district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed seeking Congressional reapportionment or the reapportionment of any State-wide legislative body.

"§ 1375. Three-judge court; composition; procedure

"In any action or proceeding required by Act of Congress or Section 1374 of this title to be heard and determined by a district court of three judges, the composition and procedure of the court, except as otherwise provided by law, shall be as follows:

"(a) The district judge to whom the application for injunction or other relief is presented shall constitute one member of such court. On the filing of the application, he shall immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge. Such judges shall serve as members of the court to hear and determine the action or proceeding.

"(b) In any such case in which an application for a preliminary injunction is made, the district judge to whom the application is made may, at any time, grant a temporary restraining order to prevent irreparable damage. The order, unless previously revoked by the district judge, shall remain in force only until the hearing and determination by the full court. It shall contain a specific finding, based upon evidence submitted to such judge and identified by reference thereto, that specified irreparable damage will result if the order is not granted.

"(c) In any such case the application shall be given precedence and assigned for a hearing at the earliest practicable day. Two judges must concur in granting the application.

"(d) Any one of the three judges of the court may perform all functions, conduct all proceedings except the trial, and enter all orders required or permitted by the rules of civil procedure. A single judge shall not appoint a master or order a reference, or hear and determine any application for a preliminary injunction or motion to vacate the same, or dismiss the action, or enter a summary or final judgement. The action of a single judge shall be reviewable by the full court at any time before final hearing.

On page 69, between lines 9 and —, insert the following:

(k) Section 2403 of title 28, United States Code is amended—

(1) by inserting the subsection "(a)" immediately before "In" and

(2) by adding at the end thereof the following new subsection:

"(b) In any action, suit or proceeding in a court of the United States to which a State or any agency, officer or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General of the State, and shall pemit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality."

On page 69, line 10, strike out "(k)" and insert in lieu thereof "(l)".

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 999

At the request of Mr. Church, the Senator from Alabama (Mr. Sparkman), the Senator from Delaware (Mr. Boggs), the Senator from Connecticut (Mr. Ribicoff), the Senator from New York (Mr. Javits), and the Senator from Mississippi (Mr. Eastland) were added as cosponsors of amendment No. 999, intended to be proposed to the bill (H.R. 1), to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 1074

At the request of Mr. Case, the Senator from Pennsylvania (Mr. Schweiker) and the Senator from Alaska (Mr. Gravel) were added as cosponsors of amendment No. 1074, intended to be proposed to the bill (S. 3108), to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons.

AMENDMENT NO. 1075

At the request of Mr. Case, the Senator from Pennsylvania (Mr. Schweiker) and the Senator from Alaska (Mr. Gravel) were added as cosponsors of amendment No. 1075, intended to be proposed to the bill (S. 3200) to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations.

AMENDMENT NO. 1103

At the request of Mr. Williams, the Senator from West Virginia (Mr. Randolph), the Senator from Rhode Island (Mr. Pastore), the Senator from Iowa (Mr. Hughes), and the Senator from Wyoming (Mr. McGee) were added as cosponsors of Amendment No. 1103, intended to be proposed to the bill (H.R. 1), supra.

NOTICE OF HEARINGS ON CERTAIN BILLS

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs will hold hearings on the bills, S. 2551, S. 3297, and S. 3412, relating to the clearance and settlement of securities transactions.

The hearings will be held on Tuesday, Wednesday, and Thursday, May 9, 10, and 11, 1972, and will begin at 10 a.m. each day in room 5302, new Senate Office Building.

Persons wishing to testify or to submit written statements in connection with these bills are requested to contact Mr. Kenneth D. Stephens, Subcommittee on

Securities, Room 512, Senate Annex, Washington, D.C. 20510; telephone 225-9150.

NOTICE OF HEARING ON NOMINATION

Mr. PROXMIRE. Mr. President I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold a hearing on the nomination of Mary Hamilton, of Illinois, to be a member of the Price Commission.

The hearing will be held on Tuesday, May 2, 1972, and will commence at 10 a.m. in room 5302, New Senate Office Building.

NOTICE OF HEARING ON S. 3307

Mr. HRUSKA. Mr. President, on behalf of the Subcommittee on Federal Charters, Holidays, and Celebrations of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, May 2, at 10 a.m. in room 1318, New Senate Office Building. The hearing will seek information on S. 3307, a bill to amend the joint resolution establishing the American Revolution Bicentennial Commission.

Any person desiring to appear and give testimony should contact the subcommittee in room 2226, New Senate Office Building before that date.

The subcommittee consists of the Senator from Arkansas (Mr. McCLELLAN) and myself, chairman.

NOTICE OF HEARINGS ON THE STATUS OF COMPETITION AND ROLE OF SMALL BUSINESS IN GOVERNMENT PROCUREMENT OF DRUGS

Mr. NELSON. Mr. President, I wish to announce that the Subcommittee on Monopoly of the Select Committee on Small Business will resume its hearings on competitive problems, the role of small business, the efficiency and economy of Federal agencies and departments in the procurement and use of drugs.

The hearings will be held on May 9 and 10, 1972, in room 318, Caucus Room, of the Old Senate Office Building starting at 10 a.m. each day.

NOTICE OF HEARINGS

Mr. RIBICOFF. Mr. President, the Subcommittee on Executive Reorganization and Government Research of the Committee on Government Operations will continue hearings on titles I and II of S. 3419, the Consumer Safety Act of 1972, next Tuesday and Wednesday, May 2 and 3, in room 3302, New Senate Office Building at 10 a.m.

NOTICE OF HEARING ON NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, May 4, 1972, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

James M. Burns, of Oregon, to be a U.S. district judge for the District of Oregon, vice Gus J. Solomon, retired.

Otto R. Skopil, Jr., of Oregon, to be a U.S. district judge for the District of Oregon, vice Alfred T. Goodwin, elevated.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McCLELLAN); the Senator from Nebraska (Mr. HRUSKA) and myself as chairman.

NOTICE OF HEARING ON H.R. 13752 PROVIDING FOR THE INTERIM LICENSING OF CERTAIN THERMAL ELECTRIC GENERATING PLANTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Washington (Mr. JACKSON) announcing a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR JACKSON

On Friday, April 28, 1972, the Senate Committee on Interior and Insular Affairs has scheduled a hearing to receive testimony on H.R. 13752, amending the National Environmental Policy Act of 1969 to provide for the interim licensing of the operation of certain thermal electric generating plants and for other purposes.

The hearing will convene at 10 a.m. in room 3110 of the New Senate Office Building to receive testimony from:

James R. Schlesinger, Chairman, Atomic Energy Commission.

Dr. Gordon MacDonald, Member, Council on Environmental Quality.

John R. Quarles, Jr., Assistant Administrator for Enforcement and General Council, Environmental Protection Agency.

William B. McGuire, Chairman, National Electric Reliability Council and accompanied by Jack J. Kearney, Edison Electric Institute.

Anthony Z. Roisman on behalf of Sierra Club, Environmental Action, Environmental Policy Center, Friends of the Earth, and Union of Concerned Scientists.

Other affected parties are invited to submit statements for the RECORD which will remain open until May 5, 1972.

NOTICE OF HEARINGS ON FEDERAL COURT JURISDICTION

Mr. BURDICK. Mr. President, as chairman of the Senate Judiciary Committee's Subcommittee on Improvements in Judicial Machinery, I wish to announce that hearings will be held for the consideration of S. 1876, the Federal Court Jurisdiction Act of 1972.

The hearings will be held on May 2, 3, and 4 in room 2228, New Senate Office Building, beginning at 10 a.m. each day.

On May 2 and 3, testimony will be received involving the United States as a party.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, 6306 New Senate Office Building.

NOTICE OF HEARING ON NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, May 4, 1972, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

Norm C. Roettger, Jr., of Florida, to be a U.S. district judge for the Southern District of Florida, vice Ted Cabot, deceased.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McCLELLAN); the Senator from Nebraska (Mr. HRUSKA) and myself as chairman.

ADDITIONAL STATEMENTS

SUPPORT FOR PRESIDENT NIXON'S POSITIONS

Mr. BUCKLEY. Mr. President, I wish to record my strong support for the positions which President Nixon outlined in his report to the American people last night.

He has reaffirmed our longstanding willingness to pursue constructive negotiations for a political termination of the current hostilities. At the same time he has set to rest any questions as to our intention to continue to pound the military targets in North Vietnam which are supporting and supplying the current massive invasion of the South until such time as the invading North Vietnamese divisions are withdrawn from South Vietnam.

I can think of no more effective way to persuade Hanoi to abandon its dreams of a military conquest and to turn instead to good faith negotiations than for us to maintain these military pressures against the North.

I can think of no action better designed to maintain the credibility of American alliances in Asia and elsewhere than this firmness on the President's part in the face of the political pressures of an election year. If any more proof were needed, the President's statement last night makes it absolutely clear that a withdrawal of American forces pursuant to the policy of Vietnamization is not tantamount to the abandonment of an ally.

The fact that we should announce at this time the withdrawal of an additional 20,000 Americans from Vietnam—more than a third of those still stationed there—is in itself excellent news because of the confidence which it reflects in the success of the Vietnamization program. Critics of that program tend to ignore the facts which demonstrate that success.

All we need do is to look back to the Tet offensive in the spring of 1968 to see how well the South Vietnamese have learned to defend themselves on the ground. At that time, more than 500,000 Americans were stationed in Vietnam, and they bore the major burden of turning back the savage attacks which had been unleashed by the North Vietnamese. Yet we lost far more ground in the first few weeks of those offensives than the South Vietnamese have yet lost since the North Vietnamese crossed the DMZ in force.

To me, what is surprising is that the South Vietnamese have not suffered larger reverses; and in the probable event that the highly trained, superbly equipped North Vietnamese divisions will here and there capture some important objectives, I trust that the President's critics will exhibit the prudence to withhold the announcement of a decisive victory for the North Vietnamese and decisive defeat for the American policy of Vietnamization until all the returns are in. Just as the Communists were ultimately routed from Hue and other cities they had seized in the 1968 offenses, so have we every reason to believe that in good time they will be forced to give up the territories now seized by them.

This American, and I suspect millions upon millions in Southeast and Eastern Asia as well, sleep a little bit better at night knowing that we have as our Commander in Chief a man with the firmness and the judgment to meet the Communist offensive as the President has done.

COMPETITION IN THE AIRLINE INDUSTRY

Mr. HART. Mr. President, regulation of natural monopoly industries is a complex and trying task. It may—in fact—be an impossibility due to the marked tendency for the regulators to become regulated by the regulated.

The problem of how to cope with regulated industries has perplexed a number of us in this body for some time.

In fact, twice the majority leader (Mr. MANSFIELD) has introduced proposed legislation which would abolish one such agency—the ICC—because he feels it serves the country so poorly. Several of us have announced that we agree the idea deserves serious consideration.

Today my concern returns to another agency which has troubled me by its actions for the past few years—the CAB.

Many Senators may recall the highlights of last year's chapter in the history of the CAB. It was the tail end of the recession, and many airlines—cost plus entities—were in the red. The CAB had several ideas of how to alleviate that situation. However, most of them were aimed at the target that seems so to trouble the airlines themselves—the last few vestiges of competition left in the industry. Most of the steps taken and proposed by the CAB seemed guaranteed to further economic concentration, increase the number of financially unstable airlines, promote mergers and the international rate cartel and reward consumers with higher costs and greater discomforts.

In short, some suggested the CAB seemed determined to demonstrate how little the intent of Congress in establishing these agencies means in their day-by-day operations.

In airline regulation, Congress has directed the CAB to take account of the public interest in performing its duties. The public interest has been defined to include "competition to the extent necessary to assure the sound development of an air transportation system"—49 U.S.C. 1302(d). Mergers and consolidations are to be tested by antitrust standards, 49 U.S.C. 1378(e); interlocking relationships are generally prohibited, 49 U.S.C. 1379; and, unfair or deceptive acts or practices or unfair methods of competition are subject to CAB cease-and-desist orders, 49 U.S.C. 1381. Congress recognized that the regulatory process could be subverted by eliminating all vestiges of competition in the industry and that the death of competition would harm the public interest. Congress sought to protect the public interest, the regulatory process and the industry by building competition into the CAB's statutory charter as a way to maximize efficiency at the lowest cost and the highest benefit.

The recent economic downswing demonstrated Congress' wisdom in making competition a keystone of regulation. Rate regulation is essentially a guaranteed recovery of cost, plus a guaranteed rate of return for establishing a product or service price. There is an inherent weakness in the existing rate regulation system since there is little incentive to reward those who keep costs down. In fact, in regulated monopoly industries there is a built-in incentive to constantly expand the rate base in order to maintain or expand return. The monopolist subject to cost-plus regulation must prevent the erosion of the rate base by depreciation.

The old adage, "the more you spend, the more you make," has a unique relevance to the regulated monopoly. Thus, inefficiencies, poor management, and other factors incapable of measurement except by a competitive yardstick, can push costs up and squeeze the rate of return.

The natural response of the regulated is to seek rate increases, minimize fringe competitive pressures, or seek efficiencies inside or outside their own companies. This happened in the airline industry last year. In hearings before the Aviation Subcommittee of the Commerce Committee last year, the major airlines attributed severe financial losses to excessive competition as a result of new route awards, inadequate rates, inflation, nonschedule airline competition, and the recession. The remedies proposed for the red ink included higher rates, cutbacks on duplicating service by agreements among competitors, the curbing of nonschedule competition by restrictive charter rules, and mergers. The CAB responded by sanctioning service cutbacks, proposing charter regulations, imposing rate increases and then began active consideration of various merger proposals. In the interim, many airlines responded by cutting costs and upping efficiency—a sanction of the competitive process that is painful to bear but of prime benefit to the public and, ultimately, the industry. Acknowledging the concern and the efforts of the regulators, the existence of competition, limited though it may be, and the availability of competitive yardsticks to measure performance did more to correct the red ink than the actions of the Board.

Yet the industry is continuing to press the proposal that mergers are the salvation of the industry. Three significant merger proposals are presently pending: American-Western, National-Northwest, and Delta-Northeast. The explicit assumption in the drive for mergers is that economies of scale can be realized by integrating existing carriers. An implicit assumption is that competition is the enemy of economies of scale in the airline industry. I am not convinced of either assumption.

During 1970 three of the big four in the industry had operating losses while five of the smaller six had operating profits. By every index of efficiency I have seen, the smaller six outstripped the big four lines in efficient utilization of their equipment and manpower. But even aside from the debate about economies and diseconomies of scale, these proposed mergers have grave implications for the future structure of the industry and the potential for effective regulation.

It is a well-known phenomenon of mergers in regulated industries where entry is restricted that mergers beget mergers ad infinitum—ad disaster. The litany of modern mergers in the railroad industry began in 1958 with Norfolk & Western and the Virginian. That merger ended the New York Central's access to the Pocahontas coal region. The Central sought protection through an attempted merger with the B. & O.; only to see the B. & O. flee to the arms of the C. & O. This merger in turn begot the N. & W., Nickel Plate, and Wabash merger, further threatening the jilted New York Central. The Central finally merged with the Pennsylvania; a marriage which not only ended in disaster, but which also triggered further merger proposals still pending in the railroad industry. Each merger not only further concentrated the industry and put more of our economic railroad eggs in fewer baskets, but also made the ability of Government to regulate effectively even more doubtful.

There is a direct correlation between the size of the regulated and the ability of the regulator to be effective. If one doubts this, he need only recall the spectacle of the Penn Central which all the ICC's horses and all the ICC's men apparently never did put together to begin with and never did regulate before it tumbled off the wall. The bankruptcy court now is trying to put all the pieces together. Of more recent vintage is the spectacle of the FCC abdicating its responsibility to regulate A.T. & T.—"because it is too big."

The merger pattern of the railroad industry can be detailed also in other regulated industries such as trucking, banking and the merchant marine.

The urge-to-merge in response to mergers which disrupt the normal competitive pattern is particularly exaggerated in an industry dominated by a few firms.

In the airline industry, the top four have more than 70 percent of the market, leaving the smaller airlines threatened by a major merger with few potential marriage partners. If they are to survive major competitive changes in the industry's structure, shotgun weddings are likely on a grand scale. Thus, if a merger like American-Western or National-Northwest is approved, it is highly probable that a rash of major mergers totally restructuring the industry into four or five companies will follow.

The major victim would be the congressionally mandated policy of competition—with its attendant benefits of a spur to efficient management, creative innovation, lower costs, better service, decentralization of decisionmaking, dispersal of the potential political, social, and economic power, and multiplicity of economic opportunity for the individual in different firms.

American and Western, as well as Northwest and National, are economically healthy airlines; and I am not convinced that compelling reasons have been cited to justify the sacrifice of competition.

Allowing such mergers and inviting all the others that would follow would not only do a disservice to the public but would further undermine the regulatory process. Regulation is accepted in lieu of competition only because of the promise that it will—like competition—effectively protect and promote the public interest by an efficient allocation of resources at the lowest cost. All too often, however, the promise has not been fulfilled. Too often the concentrated economic power of the industry has been used to overwhelm the understaffed and underfinanced regulatory process. The process responds either by burying itself in redtape and delay, acquiescing in the demands of the regulated, or abandoning any attempts to regulate.

Some may suggest that these symptoms are manifesting themselves in airline regulation. Rate cases are bogged down in redtape and delay. Charter regulations and seating configurations conform often to the demands of the industry. And the regulation of international rates is delegated to the regulated in the form of an international cartel.

Clearly, regulation in this industry is sick—and does not seem too well in several other industries.

If the trend toward concentration in regulated industries continues and the effectiveness of regulation is further undermined, our choice will no longer be competition or regulation. It will be competition or nationalization.

This is why the pending merger cases before the CAB are of grave national importance.

Mergers among healthy carriers should stop. The time has come for the regulatory process to maximize the most efficient and powerful tool of regulation—the preservation and extension of competition within the regulatory process.

NEW FOREIGN MARKETS FOR AMERICAN FOOD PRODUCTS

Mr. CURTIS. Mr. President, anytime we can open up a new foreign market for American food products, it is a plus for American agriculture and a definite gain for our economy as a whole, including our balance of trade. Therefore, I was pleased to read an article recently about the cooperation that is taking place among nations to develop uniform or dairy-uniform food standards. This article appeared in Agri Industry News, a publication of the Corn Refiners Association, Inc. I invite the attention of the Senate to the article and respectfully ask unanimous consent that the article entitled "New Food Standards: An International Flavor," written by Mr. George R. Grange, Acting Administrator of the Department of Agriculture's Consumer and Marketing Service, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW FOOD STANDARDS: AN INTERNATIONAL FLAVOR

(By George R. Grange)

(EDITOR'S NOTE: Mr. Grange is Acting Administrator, Consumer and Marketing Service, U.S. Department of Agriculture and serves as Chief U.S. Representative to the Codex Alimentarius Commission. He is Vice Chairman of the Commission and coordinates the efforts of all U.S. participants in the Commission's work.)

Today, through the efforts of a relatively obscure United Nations agency, the achievement of international standards for food and food products is—for the first time—a distinct possibility. The Codex Alimentarius Commission, the agency responsible for developing food standards for international use was established in 1963 by the Food and Agriculture Organization of the UN and the World Health Organization with two basic objectives in mind: (1) to protect consumers throughout the world, and (2) to overcome barriers to trade in food and food products.

Eighty-eight member nations now participate in the deliberations of the Commission. Standards are formulated by 17 committees. Six committees focus on broad issues with relevance for all food products. Another 11 committees deal with specific commodity groupings.

A detailed ten-step process governs the development and approval of a Commission standard. As the process unfolds the standard is submitted to member governments and concerned international organizations for their comments and input at two stages, first as a proposed draft standard and subsequently as a draft standard. When comments are received and appropriate amendments, if any, are made to the draft standard the Commission then may adopt it as a recommended standard and again submit it to the member governments for their acceptance or rejection. It is here that the efforts of the Committee meet their key test.

In adopting a Codex standard a country may choose *full acceptance, target acceptance* or *acceptance with minor deviations. Target acceptance* indicates an intention to grant *full acceptance* after the passage of a stated period of time. However, some countries including the U.S. do not adopt standards under the *target acceptance* provision. The last category indicates *full acceptance* but with certain recognized deviations designed to meet particular national requirements.

If a country determines that it cannot grant acceptance in one of its three forms to the standard, it is asked to inform the Commission whether it will, nonetheless, permit free distribution of products meeting the standard, and in what ways its present or proposed requirements differ from the standard.

To date, some 67 recommended standards have been approved by the Codex Alimentarius Commission for submission to the member countries and associate members of the Food and Agriculture Organization and the World Health Organization.

Two points must be kept firmly in mind in regard to Codex Alimentarius food standards. First, in no way would competition among brands or consumer choice in such areas as taste preference be restricted by the application of these standards.

Differences in food quality, nutritive value and taste among competing products would continue as a result of differences in the basic food source utilized and processing procedures employed in just the same way as do competing domestic food products all of which must meet U.S. Food and Drug Administration standards. What these international standards will assure, particularly for those consumers in less developed countries which lack adequate food safety laws and inspection and enforcement procedures, is a food supply meeting basic safety requirements and minimum quality levels. It might also be pointed out that the adoption of such standards may be beneficial to highly developed nations by helping to enhance trade through the elimination of non-trade tariff barriers.

The second point is that the Codex Alimentarius Commission has no authority to impose standards on participating nations. Standards may be adopted by nations in accordance with their existing statutes and procedures governing the adoption of food standards. Hence, for example, the U.S. would adopt a Commission standard through the same machinery and in precisely the same manner as the Food and Drug Administration, or in some cases the Department of Agriculture, presently promulgate their domestic food standards.

A critical time is at hand for the work of the Codex Alimentarius Commission. With the present submissions in the hands of member governments for consideration and adoption and with further new standards expected to be submitted in the near future, we will soon learn if it is reasonable or practical to expect governments to give due weight to international as well as domestic concerns in the establishment of food standards.

EQUAL EDUCATION OPPORTUNITY

Mr. SPONG. Mr. President, I have for many years been involved in educational activities in my State of Virginia. We have had many problems. Our record is not without blemish. I do, however, feel that the large majority of Virginians have rejected the appeals of extremists and demagogues and have demonstrated a commendable restraint in spite of the fact that they have been the proving ground for every new approach to a solution to the complex problem of meeting the constitutional rights of all children to an equal educational opportunity.

Many of the situations in our State are difficult enough as they are. It is, consequently, both counter-productive and against the best interests of education for employees of the Department of Health, Education, and Welfare to take uncooperative attitudes; to overlook obvious conflicts among various agencies and levels of government and proceed as if these conflicts did not exist; to issue conflicting letters; and to play games over the information they are seeking from local school districts and over what they are attempting to accomplish.

This is, however, exactly what has happened in my State of Virginia. Furthermore, it has happened in some districts which have, throughout the years, demonstrated good faith in complying with the laws and which have continuously devoted their efforts to improved educational opportunities.

In addition to raising questions about the general procedures of the Department of Health, Education, and Welfare, the problems which have arisen between certain Virginia school districts and HEW also raise questions about the funding procedures the President recommended in his March statement. To date, most school districts have found few problems in the operation of title I of the Elementary and Secondary Education Act, which is a formula program. While the Emergency School Assistance program, which is a project grant program, has provided some very necessary funds, it has also opened the way for officials in the Department of Health, Education, and Welfare to bring additional pressure on school districts to implement experimental programs and engage in social engineering and perhaps to require actions beyond those required by courts of law. In view of this situation, I believe any move which might lead to title I and ESAP funds being considered together would be inadvisable.

In order that my colleagues might be aware of the situations in my State, I ask unanimous consent that a copy of the letter which I sent President Nixon on April 20 be included at this point in the RECORD. Attached to that letter is a newspaper article which details the situation in Portsmouth, Va., and which demonstrates particular confusion and misrepresentation on the part of employees of the Department of Health, Education, and Welfare. I also ask unanimous consent that a copy of the letter I sent to Senator CLAIBORNE PELL, chairman of the Education Subcommittee, expressing my concern over possible changes in the funding for Federal elementary and secondary education programs be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., April 20, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I had hoped that, as a result of your statements and your publicly announced position on the matter of school busing and equal educational opportunity, relations between federal departments and local school districts would not be handled in the high-handed manner which has characterized so many dealings in the past.

Unfortunately, however, there appears to be little willingness on the part of many members of the federal bureaucracy to take an attitude of co-operation toward local school districts. Because of this, I believe there are some serious questions over the desirability of portions of your recent school proposals which relate to the manner of disbursing funds.

I would like to bring to your attention three situations in my State of Virginia, situations which I believe raise serious questions about proceedings in our federal government.

One situation concerns the expertise of employees of the Department of Health, Education, and Welfare. My most blatant example of lack of "expertise" in the Department has already been brought to the attention of members of your administration. I quoted to then-Attorney General John Mitchell a deposition taken in the Norfolk school case when Mr. Mitchell appeared before the Senate Select Committee on Equal Educational Opportunity on August 13, 1970.

Following is an excerpt from that hearing:

"Mr. SPONG. I should like to read from the deposition taken on August 6 concerning the qualifications of this expert witness, who in 5 hours devised a plan that involved the fate of thousands of elementary school children in the city of Norfolk. He is being questioned by Mr. Henry Marsh, a Richmond attorney in the case. I will read questions and answers in this deposition:

Q. Have you read any of the literature in the field of desegregation by any of the experts?

A. Who are some of the experts in the field?

Q. Well, I should ask you, do you know of any experts in the field?

A. Not who've published one.

Q. Have you read any published materials on desegregation or on integration?

A. I certainly have read a—published materials on desegregation and integration. I can't quote you any authors or anything taken from context.

Q. Can you name any authors that you've read at all?

A. No.

Q. Can you relate any treatises that you've read?

A. No.

Q. Have you read "Racial Isolation"?

A. No, I haven't read it.

Q. Do you know what racial isolation is?

A. I don't know. I don't know how it's defined in that book. I haven't read the book.

Q. Do you know what the book is?

A. No, I haven't read it.

Q. Have you read the Brown decision?

A. I haven't read it. I am not a lawyer.

Q. Have you read any of the cases, any of the court cases?

A. Um-um—well——

Q. —involving desegregation?

A. I am not a lawyer, no, I don't.

Q. I didn't get your answer.

A. No.

Q. When did you take political science? What year?

A. What year?

Q. Yes, when were you in school?

A. I graduated, undergraduate degree, in 1963. So prior to that.

Q. Was it after 1954?

A. Yeah. I've studied these things in school years ago, but I haven't read—talking about the Brown decision—I haven't read them per se. I have gone through and read them.

Q. Do you know generally what the Brown decision decided?

A. I'd have to look—you are taking me back to school days now. I didn't know I was here to take a comprehensive exam in political science or law.

Q. I didn't quite get your answer. Do you know generally what the Brown decision decided?

A. No.

"Now, Mr. Mitchell, by way of background, I would like to say that the judge sitting in the Norfolk case has had more exposure to desegregation cases than any district judge in the United States. The chairman of the Norfolk School Board is a nationally recognized school board chairman holding national office. The attorneys in that case are excellent.

"Yet, the Federal Government proffered as an expert according to the testimony I have here, the man whose testimony I have just read, and this is what the court had to say after listening to him. This is the court speaking:

"Mr. Barnett, do you seriously urge that this gentleman is an expert in the field? I know everybody is an expert in the field, but in all seriousness—I think it is all right for the Government to come forward and submit some suggested alternatives. I welcome them. But if he is an expert in the field, if Mr. Morris can supply the expertise in this field, I would like to know on what basis.

"Mr. Barnett answered, 'Your Honor, we proffered Mr. Morris as the gentleman who was involved in the creation of these suggestions.'

"The Court. But he has no basis for creating anything.

"Mr. Barnett. Your Honor, as I tried to bring out during direct examination, he has been involved in the development of school desegregation plans for a number of Alabama and Mississipi counties and cities.

"The Court. But he is totally inefficient. He doesn't meet the educational qualifications. He submits figures that are erroneous and really, in all seriousness, I am not going to brand him as an expert.

"Now, you can let the evidence stay in for what it is worth, but as far as his being an expert, I am not going to let him go to some other court and say he qualified as an expert in the United States District Court for the Eastern District of Virginia, because he sure can't qualify under any pretense."

Along this same line, I am enclosing copies of resumes of employees of the Department of Health, Education and Welfare who recently conducted a review in Portsmouth, Virginia. I will go into the Portsmouth situation in some detail later in this letter. At this point, however, I would only note that the situation which the representatives were seeking to evaluate involved educational and psychological testing procedures and medical determinations, areas in which these personnel generally had little background or experience. I am aware that most of these persons have had experience in teaching and in the law profession, but I question, as a lawyer myself, whether or not that qualifies them as educational psychologists or medical personnel.

My second problem involves Nansemond County, Virginia. I am aware that the county has had difficulties for some time. One aspect of the problem does, however, seem ludicrous. According to information provided to me, employees of the Justice Department requested certain information from the files of teachers in the Nansemond County school system. On September 14, 1971, a United States District Judge entered an order prohibiting the release of this information unless and until the agencies requesting it could show *facts* as to why they wanted the information. Later, the Department of Health, Education and Welfare again requested the *same* information. When the school district refused to provide the information, its application for ESAP funds was not considered. I wrote to the Department of Justice concerning this, specifically asking what the legal situation was in such a case: Did the court ruling or the request of HEW take precedence?

David Norman wrote to me as follows:

"I am advised that the Department of Health, Education and Welfare terminated Emergency School Assistance Program funds to the district because of the district's failure to provide the information requested in accordance with the assurance signed by the district and the Emergency School Assistance Program regulations and that the termination of funds was not related to the subsequent court proceedings instituted by this Department against the Nansemond County School board."

Stanley Pottinger wrote to me:

"Although we are aware of the court proceedings initiated by the Department of Justice, we are in no position to waive the requirements of the grant program in this case because of those proceedings."

Obviously, the jurisdictions of various levels of government are involved here, but it seems counter-productive to proceed without some priorities among requirements, without some procedure for settling such a matter. Also, I think I deserved an answer which went to the heart of the matter of a conflict of jurisdictions and requirements, rather than an acknowledgment of the situation and the implication that it was "just too bad."

Thirdly, I am enclosing a copy of a newspaper article written by a reporter who is well known in our state for his journalistic independence. I believe his article outlines well and as concisely as possible the current situation in Portsmouth. There are several conclusions which must be drawn from this article: (1) There is a great deal of confusion in the Office of Civil Rights over what they are doing. Evidence: conflicting letters and telephone calls. (2) The Office of Civil Rights promised information to the school district and then refused to provide it. (3) There is some suggestion that the Department of Health, Education and Welfare is concerned over the racial composition of special education centers which were established to provide services not available in regular schools. These centers are "special"—they are for children who have difficulties which can best be handled in a special environment, but HEW seems more concerned over racial composition, over bodies, than over any educational benefits that might accrue from such centers. (4) I received little response or assistance from the Department of Health, Education, and Welfare. Example: on March 31 my office was advised that a reply to my telegram to Mr. Russell Roberts would be forthcoming. When on reply had arrived as of April 7, my office inquired and was told that a response would be mailed that afternoon. No response arrived in my office, however, until April 12. Furthermore there has, to date, been no response from either Secretary Elliot Richardson or Mr. Stanley Pottinger to my telegrams of March 31.

It is also interesting that in three letters to the Portsmouth school system, the Office of Civil Rights asked for a "review," an "on-site review" and a "post grant review." The "review" was conducted and a report prepared by an employee of the Department of Health, Education, and Welfare. When a copy of the report was requested by the school system and by my office, however, the report suddenly became an "intraagency memoranda" or an "investigatory file" which the Department of Health, Education, and Welfare maintained it did not have to release. Yet, the Department supposedly wanted access to confidential psychological and medical files of children in the special centers on the basis of information contained in the report.

In connection with the Portsmouth situation, I am also concerned that an employee of the Office of Civil Rights suggested to the Portsmouth school system that it was not necessary for them to contact my office in connection with difficulties associated with obtaining the report. I believe that we in the United States still have representative government. I do not find the employee's attitude very becoming to a civil servant in the federal bureaucracy.

For these reasons, I have serious questions about the administration of the Emergency School Assistance Program and about any change which might concentrate more funds in it or which might allow ESAP and Title I ESEA funds to be considered together. I am advising Senator Claiborne Pell, Chairman of the Education Subcommittee, a conferee on the higher education legislation and the conductor of the hearings on your recent proposals, of my concerns.

I hope you will check into this matter, too, because I believe it is of prime importance to our educational systems. It is, I believe, a fair conclusion that those who work for the Office of Civil Rights are often more concerned with numbers than with educational considerations. I believe that it is important to give educational considerations more attention than they have received in the past and to eliminate the type of games which are obvious in the Portsmouth and Nansemond situations I have detailed here.

Respectfully.

William B. Spong, Jr.

U.S. Senate,
Committee on Foreign Relations,
Washington, D.C., April 20, 1972.

Hon. Claiborne Pell,
U.S. Senate,
Washington, D.C.

Dear Claiborne: I am writing to you about several education problems in my State of Virginia for two reasons: (1) you are head of the Senate conferees on the higher education legislation which includes provisions for aid to desegregating school districts and have before your Subcommittee the President's recent school busing and education proposals and (2) you, I hope, know and understand my long interest in education, my desire to maintain a fair position and to avoid the demagoguery and extremism which often attends these matters.

As a result of the problems in my state, I have serious reservations over some aspects of the President's recent proposals for use of Title I funds and Emergency School Assistance aid. I fear that under certain of his recommendations the Department of Health, Education and Welfare and the Department of Justice could put additional pressure on local school districts to engage in various programs and experiments advanced by employees in the bureaucracy and to take actions beyond those required by courts under law.

I have advised the President of these concerns and am enclosing a copy of my letter to him in the hope that you can give some attention to the situations which have arisen in Virginia and means of preventing them both in my state and throughout the nation as you work on legislation dealing with busing and equal educational opportunity.

With kind regards,

Sincerely,

William B. Spong, Jr.

Résumés: Civil Rights Team, April 4, 1972

Title: Civil Rights Assistant.

Educational experience: B.A. English (Hampton Institute), 1971; 9 graduate hours (Education), (University of Virginia), summer 1971.

Relevant work experience: (1) 4 summers as assistant instructor at Norfolk State Reading Center.

(2) September–December 1971, Education Program Assistant in the Equal Education Branch of Office of Education, DHEW.

(3) January, 1972–Present, Civil Rights Assistant, in the Education Branch, Office for Civil Rights, Department of Health, Education, and Welfare.

Lincoln University—B.A.—1951—Major Biology—Minor Chemistry, Lincoln University, Pennsylvania.

Hampton Institute (Graduate Division)—1958–60—28 sem. hours. Graduate, Hampton, Virginia Education—(Incl. Legal Foundations of Education—Courts and the Public Schools).

New York University—Grad. School of Arts and Sciences—1961–62—Public, New York, New York, Administration—20 sem. hours (Incl. Administrative Law).

University of Pennsylvania—(Grad. School of Arts and Sciences)—1968–70—Philadelphia, Pennsylvania, Business and Applied Economics.

WORK EXPERIENCE

Teacher and Assistant to Director (1958–60)—Base Education Office, Langley AFB, Virginia. Planned course offerings in General Science, Mathematics, and Physics. Duties included teaching general science and mathematics to military personnel and dependents who had not completed high school or needed the training for military specialties.

Revenue Officer and Chief, Taxpayer Service—Internal Revenue Service, New York, New York, and Philadelphia, Pennsylvania (1960–71)—Duties included administration of Federal tax laws and investigation of tax cases involving business and individuals. As Chief, Taxpayer Service, Philadelphia District, duties included planning, coordinating and directing the taxpayer service program on a year round basis including training programs for professional and non-professional personnel. I supervised approximately 60 professional and technical personnel. I also had responsibility for staffing personnel in 28 offices throughout the district in addition to coordinating the program in those offices. I also coordinated activities with the news media and community groups.

Member Equal Employment Opportunity Committee—(1968–71)—Internal Revenue Service—The committee was responsible for the equal opportunity program throughout the Philadelphia District and developed an action plan to assure equal opportunity to minority employees.

Civil Rights Specialist—(1971–present)—Region III, Philadelphia, Pennsylvania. My duties include investigation of complaints of racial discrimination in the various schools and colleges on our 5 state area, Title VI and E.S.A.P. reviews of the various school districts, negotiations with school superintendents and officials and compiling reports for the Regional and National Offices for Civil Rights.

Johnston County Training School, Smithfield, N.C., 1938–50, diploma.

Shaw University, Raleigh, N.C., 1950–54, BS.

South Carolina State, Orangeburg, S.C., Summer 1961.

Atlanta University, Atlanta, Georgia, 1961–62.

North Carolina College, Durham, N.C., Summer 1958–59, 61 & 62, MS.

WORK EXPERIENCE

Teacher (1957–60)—Anne Chesnutt High School, Cumberland County, N.C. My duty was that of a Biology and General Science teacher.

Principal (1961–68)—Princeton Grade School, Johnston County, N.C. My duties included teaching a class of sixth and seventh graders during 5 of my 7 years in this position. I supervised a staff of 12 professionals and four non-professionals. It was my responsibility to supervise the instructional program and act as a liaison between the teachers and the community, the teachers and the Superintendent, and the community and the school board.

Principal (1968–69)—Forest Hill High School, Johnston County, N.C. My duties included all of the above except teaching as well as scheduling of classes, supervising an athletic program and other duties usual to a high school principalship.

Civil Rights Specialist (1969 to present)—Region III, Philadelphia, Pa. My duties include investigation of complaints of racial discrimination in the various school and colleges in our 5 state area, Title VI and ESAP reviews of the various school districts, negotiations with school Superintendents and officials and compiling reports for the Regional and National Offices for Civil Rights.

Born: May 31, 1934, Poplarville, Mississippi.

Education: Elementary and secondary education, Mississippi public schools.

B.S. education—Mississippi College graduate study at Miss. College and U. Southern Mississippi.

Other study: San Francisco State, U. Maryland, Miss. State.

Work Experience: Teacher—special Ed—Lang. Arts 1962–63 West Jr. High, Gulfport, Miss.

1963–64 Teacher—Speech and English, Pass Christian High School.

1964–1967 Director: Adult Basic Education Pass Christian, Miss.

1968–1972 Officer of Civil Rights, Atlanta, Georgia and Phila., Pa.

Current Position: Chief, Washington Desk for Region III, Education Division, Office for Civil Rights, DHEW.

Previous Relevant Experience:

Special Assistant to the President, Federal City College, Washington, D.C. Designed an experimental training program for teachers and school administrators. Coordinated and designed the institutional evaluation required for initial regional accreditation for the college.

Program Specialist, Community Relations Service, Department of Justice. Provided assistance to communities engaged in school desegregation.

Consultant, Fore, Inc., Washington, D.C. Helped school systems in a large metropolitan area develop a joint Title III, ESEA proposal, including the establishment of a diagnostic center for pupils with learning disabilities.

Executive Assistant, Educational Projects, Inc., Washington, D.C. Advised colleges and universities on the development of pre-college programs for poor high school students which could be funded under the Upward Bound Program. Served as a resource person in staff development programs.

Program Planning and Development Officer, Learning Institute of North Carolina. Planned programs for educational innovation and experimentation, working particularly closely with program development and evaluation at the North Carolina Advancement School, a residential, experimental school for underachievers. Planned a summer institute on desegregation for teachers and administrators and a research program for evaluating materials or learning systems being used in adult literacy programs.

Programs Associate, Division of Educational Research and Development, U.S. Office of Education. Made technical reviews of research projects relating to environmental influence on learning and curriculum development.

Research Associate, Health and Welfare Council, Washington, D.C. Analyzed data and wrote papers dealing with "Child Rearing in Low-Income Families."

Teacher, D.C. Public Schools, 1958–61; Fulbright Teacher, Berlin, Germany, 1957–58.

Publications:

The Housing Act of 1961, Civic Education News Service, Washington, D.C.

Program and Research Design for a Remedial School for Underachievers, Coop. Rsch. Proj. F–033, USOE, HEW, Dec. 1964.

Educational Background:

B.A., The George Washington University, 1956.

M.A. in Teaching, Harvard University, 1957.

Free University, Berlin (1957–58).

D.C. Teachers College (1959–60).

Courses included psychology, testing and measurement, statistics, and special education.

Current Occupation and Activities (since January 1970):

Staff Assistant to Assistant Director for Special Programs.

Office for Civil Rights.

Office of the Secretary.

Department of Health, Education, and Welfare.

Actively participate in and coordinate the implementation of civil rights policy as regards the elimination of discrimination against national origin minority group children in elementary and secondary education, as well as providing technical education assistance to those school districts seeking to develop and implement educational programs which are linguistically and culturally relevant to national origin minority group children.

EMPLOYMENT HISTORY

January 1970 to present: Staff Assistant to Assistant Director for Special Programs, Office for Civil Rights, Office of the Secretary, Department of Health, Education, and Welfare, Washington, D.C.

June 1969–August 1969: Summer Intern, Research for Education Branch Chief, Office for Civil Rights, Office of the Secretary, Department of Health, Education, and Welfare.

June 1968–August 1968: Assistant to Manager, Washington Cathedral Book and Gift Shop, Cathedral St. Peter and St. Paul, Mt. St. Alban, Washington, D.C.

June 1966–August 1967: Salesclerk, Washington Cathedral Book and Gift Shop, Cathedral St. Peter and St. Paul, Mt. St. Alban, Washington, D.C.

June 1965–August 1965: (Same as June 1966–August 1967).

ACADEMIC BACKGROUND

College: American University, Washington, D.C. Masters Program—English Literature. Six hours completed toward M.A.—Fall 1970–71.

Park College, B.A. 1969 (Fall) Kansas City, Missouri. Major: English Literature. Honors: Dean's List, Fall 1967, Spring 1968, Fall 1968, Fall 1969, Magna Cum Laude Graduate, Grade point average in major—3.9, Grade point average over-all—3.61.

College Activities: Fall 1969, Chairman, Judicial Council. Fall 1969, Co-Director and Founder, College Coffee House. Spring 1968, Co-Chairman, Human/Racial Equality Committee.

Mt. Vernon Jr. College, A.A. 1966, Washington, D.C. Major: Liberal Arts.

High School: Woodrow Wilson High School, Washington, D.C. 1963–64 (12th grade).

Walnut Hills High School, Cincinnati, Ohio. 1958–63 (7–11th grades).

AREAS OF SPECIAL INTEREST

Research in the area of discrimination against poor and minority group children in the public elementary and secondary school systems; Literature as it reflects psychological, moral, and ethical dilemma of 19th and 20th Century man.

Employment: Assistant to the Director, Office for Civil Rights, DHEW, Washingtoon, D.C., December, 1971—Present.

Chief, Equal Educational Opportunities Section, Office of the General Counsel, DHEW, Washington, D.C., July, 1971–December, 1971.

Attorney-Adviser, Office of the General Counsel, DHEW, Washington, D.C., September, 1970–July, 1971.

Attorney in private practice, Montgomery, Alabama, April, 1969–September, 1970.

Research Fellow and Editor, The Ripon Society, Cambridge, Massachusetts, January, 1969–April, 1969 (part time thereafter).

Editor and President, The Southern Courier (weekly newspaper), Montgomery, Alabama, June, 1965–December, 1968.

Reporter, Chicago Daily News, Chicago, Illinois, June, 1962–June, 1965.

Education: LL.B. Jones Law School, Montgomery, Alabama, May, 1966–January, 1969.

Chicago-Kent College of Law, Chicago, Illinois, September, 1964–June, 1965.

A.B., Harvard College (English Lit.), Cambridge, Massachusetts, September, 1958–June, 1962.

Professional: Admitted to Bar, Supreme Court of Alabama, April 1969.

Member of Bar of U.S. District Court, Middle District of Alabama, and U.S. Court of Appeals for the Fifth Circuit.

CIVIL RIGHTS ASSISTANT, OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

1968: Boston University—BFA.

8/68–5/69:4th Grade Teacher, Triune Elementary School (Black), Aiken County, South Carolina.

11/68: National Teachers Examination, Weighted Common Score 753.

7/69–6/73. South Carolina Teachers Certificate, #072945, Group 0 Class 3 Grade I.

Spring 1970: Student Teacher—Early Childhood, Education Center—Federal City College, Washington, D.C.

11/70–Present: Assistant to Director of Education Division, Office for Civil Rights, Department of Health, Education and Welfare, I have been both member and leader of teams determining Title VI compliance of various school districts. Recent assignments have included moderate research into the elements of testing and assignments of children to classes for exceptional children.

[From the Virginian Pilot, Apr. 9, 1972]

PORTSMOUTH LOCKS HORNS WITH HEW ON SCHOOL AID

(By Don Hill)

WASHINGTON.—As much as $200,000 in emergency school aid designated for Portsmouth has been jeopardized by a dispute between the Health, Education and Welfare Department and Portsmouth public schools.

This is a small amount in the over-all Portsmouth school budget, but the story provides a remarkable insight into one set of technical difficulties created by desegregation and by the intricate tangles of court orders and federal regulation.

An unusually detailed look into the controversy has been made possible because a virtually complete file of correspondence, memos, and congressional inquiries into the case have become available.

The one unavailable item is the long report of a team of HEW investigators which investigated the Portsmouth schools last November.

Although the entire dispute appears to be based upon that report, HEW has refused to make it available to the school administration. Sen. William B. Spong, Jr. last week went to the unusual lengths of invoking the U.S. Freedom of Information Act to attempt to pry the report loose.

An HEW spokesman promptly called Spong's office, refusing the report. The spokesman promised a written rationale under the information act. The written explanation has yet to arrive.

Portsmouth's problems began when it qualified as one of the major recipients of Emergency School Aid Program (ESAP) funds intended by Congress to ease the troubles of school systems unsettled by desegregation. The city is under court order requiring students to attend sometimes distant schools in order to insure racial mixing.

Portsmouth's ESAP application had asked $641,000 for a series of innovative educational efforts and more than $500,000 to provide for free busing of students.

The $500,000 was denied under a Nixon administration policy disapproving busing money, even when busing was required by court order. The $641,000 was approved. Some $225,000 of this has already been received by the school system.

Last fall, HEW established a program of visiting major ESAP recipients. According to a form letter sent out to school superintendents this "post grant review" was intended simply to insure that ESAP funded programs got off to a good start and complied with required nondiscrimination assurances.

Portsmouth's Supt. M. E. Alford replied to the form letter that Portsmouth would welcome the investigations.

The first form was followed by a second dated Nov. 19. It posed eight pages of questions. By the time the "post grant review team" arrived Nov. 29, four books of material in response to the questions were awaiting it.

The material was detailed; it even contained racial counts of who participated in extracurricular activities at some schools.

The team reviewed the material, stayed for about a week, visited many city schools, met with Portsmouth school officials for what appeared to both sides to be a sympathetic discussion, and departed.

According to a memorandum filed in Washington, the team leader, Harold Davis of the Philadelphia office of HEW's Office of Civil Rights, promised that the team's written report would be provided to the Portsmouth officials. This is the report which HEW now refuses to release.

On Dec. 16, Dr. Eloise Severinson, director of the Philadelphia office, wrote Portsmouth questioning the sale of some $81 worth of surplus material to the private all-white Southampton Academy. Federal law provides for denying ESAP funds to any public school system that sells materials to segregated private institutions.

On Jan. 20, Dr. Severinson wrote a long letter to Portsmouth noting a number of "exceptions" to Portsmouth's nondiscrimination assurances.

These included the transfer of property to Southampton Academy, and—to the evident astonishment of Portsmouth officials—the use of testing procedures to identify children for admission to five innovative education centers in Portsmouth.

The centers, which are the pride of Portsmouth educators, were racially discriminatory, Dr. Severinson suggested, because 1,761 of their students are black and 361 are non-black. Twenty-five of their classes are all black for more than half the school day, she said.

Incidental to this account, she also pointed with alarm to the fact that Norcom High School is all black and that blacks bused into Churchland High School and Churchland Junior High School engage only lightly in extracurricular activities.

All black Norcom is scheduled for elimination from the school system under court order. According to the usual federal rules, this takes it out of HEW jurisdiction.

Black students are limited in their participation in extracurricular activities at Churchland partly because their buses, coming from the inner city, usually arrive before and leave after extracurricular activities are conducted. More buses would solve this problem, but money for more buses was expressly ruled out of the ESAP program.

(Churchland High School principal Walter Galliford managed in spite of this restriction to provide a bus for activity participants. It was so little patronized by blacks that it had to be discontinued.)

The file contains a sharp rejoinder to Dr. Severinson from Portsmouth's Alford concerning the education centers.

He wrote, in part:

"The members of the team failed to comprehend clearly that the centers are designed to meet the educational needs of atypical children without regard to race, color or national origin. Furthermore, the centers are operated in accordance with a federal court order."

He added, "Research indicates that there is a positive correlation between the incidence of many educational problems of children and the socioeconomic levels of their parents."

Admission to the Portsmouth conters is based on the children's needs as determined by psychological and medical data, on academic testing, and on teacher evaluations. Admissions, strictly limited by the availability of space, are determined by a racially-mixed admissions committee and in conference with the parents.

Portsmouth's Individualized Learning Center, according to information in the file, is funded under federal law which provides funds only for target "disadvantaged" schools. The combined enrollment of these target schools in Portsmouth is 83 per cent black.

This seems to explain the fact that the ILC's enrollment is 84 per cent black.

Two of the centers are for mentally retarded children, by Portsmouth's definition children with IQ's of less 75. One congressional memorandum made available Thursday in the file notes incredulously that HEW complains that these centers have too few white children.

"What are they supposed to do, go out and retard a few?" a congressional aide quipped.

A fourth center provides vocational training for "overaged underachievers." Pupils, often at the junior high school level, are admitted to this center for a work and learn program. Portsmouth statistics indicate that this center has cut sharply into the schools' dropout rate.

The fifth center provides under a federal grant for special classes for physically handicapped, children with language disorders, children returning to the school system from juvenile detention, and the like. Like the centers serving retarded children, the racial makeup—according to Portsmouth's correspondence in the file—is out of the hands of Portsmouth's school officials.

The letter from Alford to Severinson said:

"One would not expect the patients in a hospital to reflect the racial composition of the city. Rather, they would reflect the racial composition of all those individuals who needed the services offered by the hospital . . .

"Frankly, Dr. Severinson, Portsmouth is proud of these centers. They are the vanguard of the school system and provide services for atypical children to assist them in becoming fully functioning citizens. Services in these centers are provided on the basis of need . . ."

The Alford letter was dated Feb. 3, 1972. On Feb. 28, Dr. Severinson wrote, "It now appears that these issues are resolved and the specific assurances generally met."

The Feb. 28 letter was received in Portsmouth, according to a notation in the file March 2. On March 1, a "Mr. Wego" from Dr. Severinson's office called Portsmouth to say that serious questions had arisen.

On March 3, Wego called back to schedule a visit to Portsmouth to investigate his questions. He was asked if he were aware of Dr. Severinson's letter. He was not, and hung up in some confusion. The visit remained unscheduled, due, he said, to "manpower problems."

On March 20, Harold Davis, the original team leader, called with limited questions. He scheduled a visit for April 10, 1972, and read over the telephone information he said would be needed.

On March 24, Dr. Severinson wrote to Portsmouth listing seven categories of data the city was to provide. The first category was "class rolls showing names and races of all students enrolled at each of the special education centers, as well as the files maintained on each of those students."

These files, of course, contained the confidential psychological, psychiatric, and medical information on the children enrolled in the centers.

On March 30, Portsmouth school officials contacted HEW asking for the investigative team's report. They were referred to HEW's information center, which refused to make the report available.

Last week, a HEW team from Philadelphia arrived in Portsmouth, again headed by Davis. Dr. Alford asked for the report of the first visit, which Portsmouth school officials contend Davis had promised.

Team members replied that the report was "intraoffice correspondence" and would not be released. The team then demanded the confidential files on the students. Alford refused to make them public without a court order or specific parental consent in each case.

As a compromise, Alford offered to take a representative sample of the files, and seek parental consent for their release. The HEW team refused this offer and left.

Wednesday, an HEW representative wrote to the office of Rep. G. William Whitehurst, R-Va., that, "the failure of the school district to provide information raises a serious question as to its compliance with the ESAP regulations, and the superintendant has been advised accordingly.

Meanwhile, Sen. Spong's office said the senator still has not been apprised of why the original team report will not be made public. Spong's office is investigating further action.

Alford, reached by telephone Thursday, was reluctant to comment for fear of further antagonizing HEW officials. Asked what the effect of a cutoff of ESAP funds would be, he said, "it would curtail service to children who are going most severely to need it."

Of the $416,000 in promised ESAP funds yet to be received by the city, he said, a roughly estimated $200,000 would be liable to withholding if that action is decided upon by HEW.

Mr. SPONG. Mr. President, our local school districts and local school personnel have been on the firing line for many years. They face many problems. And, they face the responsibility for providing to all our children the education which will enable them to provide for their own well-being and to compete in the world of tomorrow. It is a large responsibility, and our local officials have not, I fear, had much help or cooperation from the Federal bureaucracy in carrying out that responsibility. In fact, if that bureaucracy were being graded, I suspect strongly that it would fail.

OUTRAGEOUS ICC REGULATORY POLICIES

Mr. TAFT. Mr. President, recently I received a letter from Charles W. Dibert, mayor of the village of Elmore, Ohio, providing yet another example of outrageous ICC regulatory policies. The ICC has given a certain truck line the right to haul from Toledo to other points in Ohio provided the trucks pass through the village of Elmore. As a result of this absurd policy, the people of Elmore are plagued with heavy trucks roaring through their small community day and night. This is just another illustration of the way in which a regulatory body can become so bogged down in technicalities and regulations that it becomes divorced of all commonsense and public responsibility.

After receiving Mayor Dibert's letter, I wrote to the Chairman of the ICC about this matter on April 13 and have now received his reply. I ask unanimous consent that the letter of Mayor Dibert to me, the exhibit which Mayor Dibert has supplied, and the letter from Chairman Stafford be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

VILLAGE OF ELMORE, OHIO,
April 10, 1972.

Hon. ROBERT TAFT, Jr.,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR TAFT: The comment in your March News Letter concerning the bureaucracy of the I.C.C. struck a sympathetic note with me. For several months now the Village which I represent has been on the losing end of an arrangement created by the I.C.C. and it appears we are stuck there for a long time, perhaps forever.

It all started back in the 1930's when a local, small-town businessman, Mr. C. J. Kuhlman, bought a stake truck to haul supplies and products in and out of this village of then 1,100 people. He acquired two common carrier permits, one to haul between Elmore and Toledo, a distance of eighteen miles, and the other to haul between Elmore and other points in the State of Ohio.

Years have passed, Mr. Kuhlman has died, but the permits live on. Within the last year a large (by our small-town standards) trucking firm bought the permits. This firm, Red Line Express, whose President is Mr. Raymond Short, operates out of Toledo. Red Line, also by I.C.C. permission, is under the operating control of Short Line Inc. of Bay City, Michigan, whose President is Mr. Gary Short, Raymond's brother. (Incidentally, Raymond Short had been president of Short Line before resigning to take over the presidency of Red Line.)

Red Line did not have a permit for intra Ohio hauling. However, the Short brothers somehow arranged with the I.C.C. to "tack" together the two Elmer permits which gives them the right to haul from Toledo to anyplace in Ohio *so long as they go through Elmore.* In order to establish proof of this routing their trucks come into the Village, the drivers sign a log, and they turn around and drive back out.

All hours of the day and night these heavy, noisy and fume-belching trucks drive in and out over our Village streets, which are neither wide enough nor of sufficient construction to hold up under such loads. There is no tax revenue to the Village to compensate for the damage and nuisance. Our residents cannot understand how we can be forced into such a situation, and neither can I.

The attached chronology indicates the attempts which I have made to eliminate the situation, all unsuccessful. I do not really expect you to be able to help us, but I could not pass up the opportunity to provide further evidence of the entanglement of the I.C.C.

Very truly yours,
CHARLES W. DIBERT,
Mayor.

CHRONOLOGY OF EVENTS—VILLAGE OF ELMORE VERSUS RED LINE EXPRESS

February 5, 1972—Local Elmore businessman, Ray Peterson, reported he had given permission to Red Line to use his building for drivers to log trips.

February 7, 1972—Local Elmore resident, James Murray, called to report that Red Line trucks were driving through residential area all hours of day and night.

February 8, 1972—Went to see Mr. Raymond Short, President of Red Line Express to talk over situation. He told me his permits required trucks to go through Elmore and that while residents might not like it, that was the way things were.

February 10, 1972—Wrote to Public Utilities Commission of Ohio protesting trucking situation and requesting permission to represent Elmore at hearing scheduled for February 24, 1972. Docket No. MC–F–11396.

February 15, 1972—Received complaint from Elmore residents that Red Line trucks were running over curbs and cutting up boulevards.

February 18, 1972—Zoning Inspector of Elmore, Paul Johnson, issued violation notice to Red Line that their terminal was in an unauthorized district.

February 19, 1972—Received letter from David L. Pemberton, Secretary, State of Ohio Public Utilities Commission explaining that commission's opposition to tacking arrangement and explaining that arrangement is of I.C.C. design.

February 21, 1972—Wrote Robert L. Oswald, Secretary of I.C.C. in Washington, D.C. to protest tacking arrangement.

February 22, 1972—Received letter from Michael M. Briley of law offices of Fuller, Henry, Hodge and Snyder, in Toledo representing Red Line indicating Village of Elmore had no jurisdiction in the matter.

Talked on phone to John Gordon, Transportation Secretary for P.U.C.O. who explained hearing previously scheduled on matter by I.C.C. had been postponed indefinitely.

February 23, 1972—Sent another letter to Mr. Oswald of I.C.C. along with Mr. Briley's letter of February 22.

March 24, 1972—Went to see Keith Warner of Toledo office of I.C.C. to protest tacking arrangement. Mr. Warner explained his offices opposition to arrangement but indicated decision remained in Washington.

April 1, 1972—Received letter from Robert C. Bamford, Chief Examining Officer for I.C.C. Washington, D.C., explaining that hearing would be held later this summer.

April 10, 1972—Wrote desperation letter to Senator Taft.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., April 25, 1972.

Hon. ROBERT TAFT, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TAFT: This is in response to your letter of April 13, 1972, enclosing a letter from Charles W. Dibert, the Mayor of the Village of Elmore. Mayor Dibert complains that motor vehicles operated by Red Line Express, of Toledo, Ohio, pass through Elmore at all hours of the day. He states that these vehicles pollute the village's environment with their noise and fumes, and destroy the village's streets, which are neither wide enough nor of sufficient construction to endure heavily laden motor vehicle equipment.

Red Line Express, Inc., holds interstate authority pursuant to Certificates of Registration issued by this Commission to transport property (1) between Elmore and Toledo, and (2) between Elmore, on the one hand, and, on the other, points in Ohio. Therefore, in order for Red Line Express to transport property between Toledo and points in Ohio other than Elmore, it must observe a gateway at Elmore or points within its commercial zone. Mayor Dibert expresses his belief that this gateway limitation on Red Line Express' operations should be removed.

In an effort to be of possible assistance, I am referring this information to Regional Director Anthony W. Bummara, Interstate Commerce Commission, 16th Floor, 1518 Walnut Street, Philadelphia, Pennsylvania 19102. Since Mr. Bummara has supervision over the area in which the carrier is domiciled, I have requested that he assign the matter for review with carrier officials. You will be informed as to the outcome of this action. Regional Director Bummara will also be requested to investigate the allegation of the State of Ohio Public Utilities Commission that Red Line Express' tacking arrangement is of this Commission's design. Red Line Express operates pursuant to a Certificate of Registration and, as such, its operations are generally controlled by the operating rights interpretations of the Ohio Public Utilities Commission.

Mayor Dibert also has expressed an interest in the pending control proceeding in No. MC–F–11396 which was filed December 7, 1971, and in which Short Freight Lines, Inc., seeks to purchase Red Line Express. This proceeding is awaiting the assignment of a time and place for oral hearing. This Commission will welcome the participation of Mayor Dibert in this proceeding for the purposes of protecting the environmental interests of the residents of Elmore. I have arranged to place both Mayor Dibert's and your names on the Commission's service list in that proceeding so that you both may remain apprised of its progress.

I trust the foregoing will be of assistance to you in replying to your constituent.

Sincerely yours,
GEORGE M. STAFFORD,
Chairman.

PRISON VOLUNTEERS

Mr. MOSS. Mr. President, last September "the Attica tragedy" shook the Nation's consciousness. Overnight, "prison reform" became the order of the day.

Seven months later, however, the outrage has subsided. Public concern has shifted to other issues: the war, tax reform, not to mention the presidential campaigns themselves.

It is unfortunate, however, that the horrible conditions which ignited the violence at Attica are not as transitory as the public's attention span. Inadequate and irrelevant educational programing, the sense of alienation and bitterness on the part of the prisoners, the lack of jobs for ex-convicts, these situations remain all too real to the more than a million men and women now under "corrective custody."

On April 19, 1972, I wrote a letter to Joseph H. Blatchford, Director of Action, proposing the creation of an entirely new volunteer program, similiar to the Peace Corps or VISTA, but directed at the needs of America's prisons.

I believe such a program would go a long way in providing broader educational programing to penal institutions. It would also allow committed volunteers to help inmates become aware of their own potential as constructive members of society, to help them find jobs and in other ways prepare themselves for the "outside." I ask unanimous consent that a copy of the letter appear in today's RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 19, 1972.

Mr. JOSEPH H. BLATCHFORD,
Director, Action,
Washington, D.C.

DEAR JOE: More than anyone else in public service, you appreciate the immense, largely untapped, potential of voluntary action. "Volunteer-ism", begun only a decade ago, has already emerged as one of the great phenomena of our time.

For many of us, it is hard to imagine that little more than 10 years ago, the Peace Corps was only an idea, and that VISTA, its domestic counterpart, had not even been considered. Today, as Director of Action, you are all too aware that these programs have only begun to address the enormous tasks for which they were established. As long as a multi-national approach to economic development is deemed desirable, as long as conditions of poverty at home remain unacceptable, Peace Corps and VISTA volunteers will continue to have a great role to play.

Volunteers, however, thrive on new challenges. New challenges to meet new goals have a driving force all their own, especially when they address a problem long ignored, but whose dimensions make further inaction inexcusable.

Today I propose the formation of a totally new volunteer program—on the scale of the Peace Corps—addressed, not to the needs of foreign nations, nor even those of Appalachia, but to the all-too-evident needs of America's penal institutions.

The advantages of a *prison volunteers program* are obvious. Such an effort would, in fact make maximum use of those very qualities which have made earlier voluntary efforts so successful: the volunteer's proven *concern* and his open-ness to institutional change.

Seven months ago, the nation's consciousness was shaken by the tragic events at a New York State prison. Overnight "Attica" became a code-word for all that was wrong with our penal system: inadequate or irrelevant educational programming, the lack of public awareness regarding prison conditions, and, perhaps most seriously, the growing sense of alienation, literally of *banishment*, on the part of the inmates themselves.

In the wake of the Attica violence, there exists a reservoir of public interest in "doing something" about these conditions. A volunteer program which relied heavily on person-to-person communication could draw on a great variety of skilled volunteers, people ready and willing to participate in efforts to tutor prisoners in reading, writing, mathematics and *practical* industrial crafts.

VISTA has already taken a minor step in this direction. At Shelby Penal Farm near Memphis, Tennessee, five volunteers are involved in a project which includes tutoring, counselling, helping prisoners to find jobs before their release, as well as assisting them in other ways to prepare for the "outside world".

There are, in addition, many other cases of voluntary action groups working in this field. Recently I studied descriptions of over 20 programs operating throughout the country where volunteers are helping to develop educational programs, set up man-to-man relationships between prisoners and interested citizens and countless other attempts to cut through the wall that separates the inmate from society. In many areas, high school equivalency courses have been instituted. In Minneapolis, 30 inmates are now attending the University of Minnesota as part of a "related time" program.

All of these efforts—organization, training, and most importantly, communication—are what volunteers do best. Working for a short time, such as a year, Action volunteers would be in an excellent position to implement long-overdue initiatives. Unlike the professionals they would not feel compelled to defend the *status quo*. More importantly, as people who volunteered to work for low wages to do just this kind of work, they would have demonstrated a concern for improving the situation. Their commitment and their growing appreciation of conditions as they are would be a prized contribution to our fight for an enlightened approach to prison reform.

The need for such a volunteer enterprise is beyond dispute. Today there are over 200,000 men and women "serving time" in Federal and state penitentiaries alone. If you count all forms of "corrective custody", such as jail, parole and probation, there are, at any given time, more than a *million* people under the control of our penal system. Regardless of one's personal philosophy, be he "hard-hearted" or a "bleeding heart", he must contend with the fact that nearly all of these people will someday again walk the streets. Whether they return from prison more alienated, ignorant and hostile than when they entered, or with a new sense of community with their fellow men and a greater ability to participate in a competitive but cooperative society could largely depend upon how hard we fight for just this kind of program I have described.

Sincerely,

FRANK E. MOSS,
U.S. Senator.

OSTPOLITIK

Mr. TALMADGE. Mr. President, the Ostpolitik of the Socialist-Liberal government in West Germany under Chancellor Willy Brandt had only a minority of German voters behind it when it was established in Bonn. There is considerable concern about its relationship to the opposition party, the Christian Democratic-Social Union, particularly with reference to agreements with Communist governments of Eastern Europe.

When portions of secret protocols were brought to light recently by the opposition party, it was generally felt that the German Socialists made large, secret concessions to the Socialist Communist bloc in Eastern Europe.

As I am informed, the principal dangers of the Moscow and Warsaw Treaties concluded by the West German Socialist Chancellor involve, first, economic aid which West Germany proposes for the Soviet Union and other Communist countries to strengthen their economies. Second, it could mean a widening of opposition to Communist rule in Eastern and Central Europe and virtual recognition of Communist domination of other nations as an acceptable situation.

These treaties also pose other serious problems for the free world, and especially for West Germany. For example, the treaties offer no alleviation of the fate of Germans living within the Eastern power sphere. As the world knows, elementary principles of humanity continue to be violated along the Berlin wall.

In the Moscow Treaty, the Federal Republic of Germany not only legalizes the frontiers concerning and affecting Germany herself, but also all other frontiers in Eastern and Central Europe. In so doing, it has the effect of consolidating the position of influence of the Soviet Union in that area. Moreover, it is doubted whether the Soviet Union renounced, in the Moscow Treaty, its right of intervention in West Germany.

Concessions made by the Soviet Union are only superficial. The Communists want to allow West Berliners from time to time to visit East Germany. But this is something they have permitted in the past, and then revoked whenever it suited their purposes.

For these reasons, there is a great deal of concern about these treaties, and it would be well for the United States to watch this situation very closely.

FEDERAL PROGRAMS AVAILABLE TO LOCAL COMMUNITIES

Mr. CURTIS. Mr. President, we frequently hear complaints that minority citizens, particularly poor people, do not know what Federal programs are available to help them, and where to go in the Government bureaucracy to obtain the assistance to which they are entitled.

Knowing the complexity of the bureaucracy that has been created over the years by the piling of programs on top of programs, I do not doubt for a moment that many of those complaints are fully justified.

A step that is being taken in the Kansas City, Mo., region of the Federal administrative establishment came to my attention recently, and I wish to call it to the attention of the Senate, because I believe it is a significant step toward bridging the communications' gap that so often separates people from their Government when the Government becomes too large. I have with me a copy of a news release explaining a new program that is being aired on a radio station in Kansas City by black Federal officials who are serving in the Federal administrative establishment in the region composed of Nebraska, Kansas, Iowa, and Missouri. I believe the efforts being made by these black officials and the radio station which is cooperating with them are a major step in the right direction.

I am especially pleased to point out that a Nebraskan who is the highest-ranking black Federal official in the region has taken the lead roll in behalf of the Government in coordinating the efforts. This official is Mr. Samuel J. Cornelius, Regional Director of the Office of Economic Opportunity. Mr. Cornelius is from Omaha, and he formerly was State technical assistance director for Nebraska.

I ask unanimous consent to have printed in the RECORD the news release describing what is being done in the

Kansas City area to inform the public of Federal programs available to people in the local communities.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

BLACK KANSAS CITY FEDERAL OFFICIALS EXPLAIN PROGRAMS "ON THE AIR"

Black federal officials in the Kansas City Region have "gone to the airways" to inform the public of federal programs available to local communities.

In what may be a first for the Kansas City area and the nation, some 20 Black federal officials have begun a series of weekly interviews on the local radio station.

The major thrust of the program is to reach the poor and socially disadvantaged citizen with information regarding available federal programs and the effect current federal efforts are having in specific communities.

The program, which began February 6, 1972, is being coordinated by the Regional Office of Economic Opportunity at the request of Radio Station KPRS of Kansas City, Missouri.

In an effort to increase the station's public service programming, KPRS officials said they noticed the increase of Blacks in key, decision-making positions in the Regional federal agencies since July, 1970, and determined that the Black and minority communities would benefit by hearing about the federal efforts from these officials.

The station, the city's only black-owned and operated broadcast media, asked Samuel J. Cornelius, Regional OEO Director and the highest-ranking Black federal official in the region, if he would assist in coordinating this program.

Cornelius agreed and assigned Titus D. Fisher, Special OEO Assistant for Congressional Affairs, to the job of setting up interviews.

To date, the Kansas City community has heard interviews with: John Dupree, Title I ESEA Program Officer, HEW; Elmo Turner, St. Louis Area Director, HUD; P. A. Townsend, Legal Counsel, HUD; Robert Whitehead, Personnel Officer, OEO; Kenton Williams, Assistant Regional Director, Office of Child Development, HEW; James Gohlston, Manpower Administrator's Representative, DOL; Robert Collins, Regional Director of Equal Employment Opportunity, GSA; Robert Watson, General Counsel, OEO; Melvin Harrington, District Director, SBA, St. Louis; Lloyd Claiborne, Regional Director, Food and Drug Aldministration, HEW.

Cornelius was interviewed in a special 30-minute taped program earlier this year.

Each of the above interviews were 25-30 minutes and are being broadcasted each Sunday and Thursday over KPRS. During the first series of programs, Bob Anderson, KPRS program director, has been the interviewer.

Future plans include a five-member panel of Regional Black federal executives to be interviewed "live" on the program and they will answer questions from the Black, Mexican-American and other minority groups.

Also planned is a second series of taped interviews of 10 additional Black federal officials in the region—which includes Missouri, Iowa, Nebraska and Kansas—beginning May, 1972.

Anderson said the program has been "very successful and informative and my calls and letters from the community express the concern that this type of program has been needed for a long time."

Anderson said the noticeable increase in Black federal officials in the region—from about 7 prior to July, 1970, to about 30 since then—has encouraged the involvement of minorities in the Kansas City area to become more involved in federally-assisted programs.

"The question most asked following any one of these programs," Anderson said, 'Is he Black?' I didn't know the federal government had a black person in charge of that agency."

Chester Stovall, director of the local antipoverty agency, said he felt the interviews have been "very good" and were reaching the community.

Federal officials who have participated in the programs said their mail and telephone calls to their agencies have increased since they were "on the air."

"Most of my responses were from people who said they were impressed with hearing about the social involvement of the federal agencies," said Bob Collins of GSA.

Anderson said he is hopeful that the program could be of a more permanent nature in the future, but added that this would take a lot of planning.

"Most importantly of all," he said, "I think the Black community can relate better to other Blacks and the explanation of various federal programs from other Blacks are more meaningful and understandable."

NIXON'S WAR—AN EDITORIAL

Mr. MOSS. Mr. President, President Nixon's address on Vietnam last night presented the same wornout arguments we have heard so often before. We were told that 20,000 more troops can be withdrawn because General Abrams has said that Vietnamization is working, but that the bombing would continue.

I believe that troops should be withdrawn, but with honesty, not deception. Systematic substitution of U.S. airpower of U.S. groundpower is not Vietnamization. The skies of Indochina now carry 780 U.S. planes; 5 months ago there were only 400—158 of these are B–52's, which by their nature must be less selective in their bombing. More U.S. ships dot the waters of Indochina than ever before. This is a program of substitution, not Vietnamization. South Vietnamese deaths have simply replaced U.S. deaths on the ground; the war goes on as fierce as before. The sadness that pervades all discussions of Vietnam comes from the realization that President Nixon was advised at the beginning of his term, by his own advisers, that the course of Vietnamization would not work.

The disclosures of the 1969 "Kissinger Papers" prepared for President Nixon on the Vietnamese war are of enormous consequence. In a penetrating editorial, Wednesday, April 26, the Washington Post states their significance as picturing Mr. Nixon no longer "as the hopeless prisoner of past policy" but rather as bearing the full responsibility for the current conflict.

The 1969 documents described the situation in Vietnam and attempted to evaluate the bombing and other military and political factors in a move to lay out the options for the President. The Post contends the President chose to ignore the sensible voices of the Secretary of Defense, the State Department, and the CIA, which were stating:

That the North Vietnamese had the will and the resources to carry on the war indefinitely against unlimited bombing;

That the South Vietnamese showed little prospect of ever being able to conduct their end of the war without extensive American military support including the use of air power and combat troops;

That pacification was not working and showed little hope of working over the long haul;

That B–52's were a doubtful asset except for close-in tactical support of combat operations;

That there was something to be said for promoting accommodations on the local level, in the districts and villages and provinces, between the government people and the Vietcong;

That neither this country's standing in the world nor the fate of Southeast Asia, hinged on the outcome of the Vietnamese struggle.

Mr. President, I ask unanimous consent that the full editorial be printed in the RECORD:

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, April 26, 1972]

NIXON'S WAR

By way of prelude to almost every speech he has ever made about the Vietnam war, President Nixon has been at pains to remind us, just for the record, of the terrible legacy he inherited from the Democrats: over half a million Americans in a combat role; casualties running at the rate of more than 300 a week killed in action; no plan to "Vietnamize" the war or to bring our military forces home. There is some truth in this, of course; Mr. Nixon did fall heir to a heavy burden not of his making. But the roots of involvement reached back into a Republican administration of which he was a part. There was also a plan to end the war which General William Westmoreland could have furnished the new Nixon administration because he had laid it all out as early as November, 1967. For better or worse, "Vietnamization" was already in the official lexicon. And far more important, the really big, tough decisions had already been made by President Lyndon Johnson when he refused in March of 1968 to go on down the road of "graduated response," and decided instead to end the bombing of the North and to deny for the first time the next big commitment of American troops. In short, the Johnson strategy had failed by January, 1969, and the country had begun to accept the real limits of a limited war.

That lesson was also part of Richard Nixon's legacy if he had chosen to accept it. He was a free agent, in a way that his predecessor had never been, and not just because he was a new President with a mandate to end the war. He was a free man in the most significant sense because he had inherited not a bureaucratic monolith hell-bent on pursuit of a discredited and unworkable policy, but a bureaucracy divided; there were other voices saying sensible and realistic things, other forces at work in the big departments of government which were there for the President to hear and to use in the difficult business of turning the governmental apparatus around on a new course. But President Nixon did not listen to those voices and never told us about them because he did not wish, for his own reasons and out of his own geo-political concepts, to abandon the old goals of our Vietnam mission. He did not want to accept the hard consequences of the lesson other men had learned. Those on the outside could only guess at the division within the government, only hear snatches of the argument, only speculate about the depth of the carefully suppressed reservations which were held by important people in key agencies—until this week when the hard evidence finally became available. That is the real and immensely profound significance of the "Kissinger Papers," the contents of which were revealed in some detail in this newspaper on Tuesday. They tell us little that is directly relevant to the current situation. Rather, they describe an opportunity tragically lost. They tell us that by early 1969 only the very same people who had made most of the miscalculations which carried us up to March of 1968 with a big war and no solution still believed that the war in Vietnam was winnable in any practical sense. The Joint Chiefs of Staff, and the military command in Vietnam, and the diehards in the Saigon embassy still believe this. But there was a considerable body of opinion that believed otherwise, that was prepared to support and reinforce a new, more realistic and more promising approach to Vietnam. By and large, the Secretary of Defense and the State Department and the CIA believed:

That the North Vietnamese had the will and the resources to carry on the war indefinitely against unlimited bombing;

That the South Vietnamese showed little prospect of ever being able to conduct their end of the war without extensive American military support including the use of air power and combat troops;

That pacification wasn't working and showed little hope of working over the long haul;

That B–52s were a doubtful asset except for close-in tactical support of combat operations;

That there was something to be said for promoting accommodations on the local level, in the districts and villages and provinces, between the government people and the Viet Cong;

That neither this country's standing in the world nor the fate of Southeast Asia, hinged on the outcome of the Vietnamese struggle.

But Mr. Nixon ignored the best part of this counsel and so here we are, having dropped more bombs in the last three years than in all of the five years of the Johnson administration and having suffered more than one-third of all the American casualties that have been suffered in this war—and still with no solution. So it is no longer enough—now that we have seen the Kissinger Papers—to be told that this is not Mr. Nixon's fault because he didn't lead us into it. That's true; he didn't. But he had running room in early 1969—much more than we knew. And because he didn't use it, Mr. Nixon cannot be pictured any longer as the hapless prisoner of past policy. The message from the Kissinger Papers is plain. Just as the responsibility for the early Vietnam involvement and the later build-up may have been, progressively, Dwight D. Eisenhower's and John F. Kennedy's and Lyndon B. Johnson's, what we are now confronted with, for better or worse, is Richard M. Nixon's war.

LUKFATA LAKE

Mr. BELLMON. Mr. President, the Army Corps of Engineers is now holding public hearings in Oklahoma and completing its environmental impact statement on a controversial flood control project known as Lukfata Lake.

The Lukfata project was authorized by Congress 14 years ago in the Flood Control Act of 1958 which modified another flood control act approved 26 years ago. At the time the project was authorized, its purposes appeared highly justified and necessary.

With the passage of time, the views of many citizens have changed and the real needs of the State have become more clear. The purposes for which this project was authorized are no longer a matter of priority and substantial opposition to construction of the dam and reservoir has developed. Yet, the corps is still under congressional mandate to build the project.

The controversy over the Lukfata project clearly points up the need for Congress to periodically review authorized water development projects to determine if they remain necessary. Such a review has been proposed by the Water Resources Council.

Earlier this week I testified at a public hearing on the Lukfata project, expressing my views on this subject and pointing up some of the shortcomings.

I ask unanimous consent that my testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HENRY BELLMON

First let me commend the Corps of Engineers for the thorough evaluation contained in the Environmental Assessment of Lukfata Lake, including a thumbnail sketch of many possible alternatives to the proposed project. Such objective analysis of potential public works projects is absolutely essential if members of the public are to play a meaningful role in guiding and developing government policy in such undertakings; and equally essential if the public is to support public works and have confidence in representatives of the government and its agencies.

I further commend the Corps for providing the opportunity for public comment at this hearing today and the second hearing to be held in Broken Bow. In this manner, we are assured of receiving the broadest possible expression of views by those who have sincere interest in the proposed project; also we help reaffirm that our representative form of government still functions as was intended.

The Lukfata Project which we have before us today would have an initial cost of nearly $18 million. Taking into account the interest and annual operation and maintenance expense, the total cost over the 100 year life of the project would be $90 million.

The projected annual benefits are approximately one-and-one-half million dollars. Half of those are credited to water supply.

According to all available information, current sources already supply all the water needed within the region of the project and will continue to do so for many decades. The region is blessed with plentiful—even surplus—water and no present or near future demand for additional sources has been brought to my attention.

Other areas of our state are not nearly so fortunate, however. Dozens of Oklahoma communities today are desperately in need of water; and even though water resources are available to meet the local needs, a lack of money for construction and development has left those needs unmet. As a result, crops are destroyed from lack of irrigation water, cities are forced to ration water to local residents and economic development is impeded because industrial water needs cannot be met.

The Corps of Engineers and other federal agencies are now designing a statewide system to move water from eastern Oklahoma to dry sections in the western half of the state. This system has the potential of solving the water problems in most sections of Oklahoma. But even planning of the statewide water system is not moving ahead as rapidly as it could, because there is insufficient money available for planning.

In my view it would be highly irresponsible for the federal government to construct additional water supply shortage facilities in an area of surplus water when other nearby areas are in desperate need and begging for money to build water supply reservoirs to meet today's needs.

It is my firm conviction that no benefits should be claimed or allowed for water storage in regions of surplus water, unless present or near future demand can be demonstrated . . . especially when current water needs of other areas are unmet.

If water supply benefits were eliminated from Lukfata project, half of the total annual beneficial results would be lost and the cost benefit ratio would fall below unity, making the project unfeasible.

Project benefits are also claimed for redevelopment and future development of the flood plain below the dam. At the present time, 60 million acres of productive farm lands are kept out of production each year, through Federal programs, to avoid agricultural surpluses. The cost to the taxpayer to take those lands out of production is three-point-seven billion dollars a year. Each time an acre of new land is put into production, an acre of land someplace else must be taken out of production.

It is highly inconsistent and questionable economics for the federal government to spend money on dams to put additional acres in crop production, then spend more money to take that same amount of land out of production someplace else.

It is my firm conviction that no benefits are presently justifiable for future development of the flood plain below the proposed Lukfata dam.

It is further highly questionable to claim economic benefits to the local area which will result from the actual construction activity. If this money is not spent on the Lukfata project, it will be spent elsewhere on some other project; and no matter where it is spent, the same degree of short term economic advantage will be gained. Therefore, it seems inappropriate that such benefits should be attributed to the project itself. No real added benefits are accruing, merely a transfer of benefits from one area to another.

While no recreation benefits are claimed for the project, recreation has been considered in the assessment. Two large reservoirs are already situated adjacent to the proposed project—both of which presently under-utilized for recreation. To add more flat-water type recreation to the region will merely siphon away use of the existing lakes and increase the surplus of a single type of recreation. At the same time, river-based recreation which is in short supply would be largely eliminated. Thus, from a recreational point of view, construction of Lukfata Dam must be considered a negative factor.

As a farmer, a landowner, and a resident of areas that have been subject to flooding, I fully understand and know well the tragedy of floods. I recognize the damage to life and property that floods can bring. For this reason, the position of those persons who are victims of flooding on the Glover River is easily understood. They deserve assistance, and I would support the use of federal funds to provide relief. Residents and landowners should receive the maximum flood control assistance available from the federal government, giving them opportunity to relocate or to change their operations to a type that will not be adversely affected by flooding. The environmental assessment lists numerous alternatives to achieve the necessary relief at substantially less cost than the proposed flood control project. I would support whichever proposal achieves the greatest flood control benefits at the most reasonable cost. I am inclined to believe that non-structural alternatives may be desirable and may serve the over-all public interest best.

As I view the Glover River and its adjacent area, it seems quite probable that the highest and best use to be made of the resource is for public recreation, compatible with timber and livestock production. This view has been supported in reports and surveys by one or more agencies of the U.S.

Department of the Interior. This being the case, it is my recommendation that the Corps examine in greater detail some of the nonstructural alternatives identified in the Environmental Assessment.

We must all recognize that the Glover River is a highly valuable resource. It is Oklahoma's last significant free-flowing stream; it is one of the few significant wilderness streams left in the state, and it has a considerable amount of aesthetic value.

It is also a valuable natural resource from the point of view that it has the potential for providing a sizeable quantity of water and other economic benefits.

This potential water supply will not go away; it will always be there. Nothing is lost if it is not developed immediately. And if the time comes when there is demand for the water, or if the lands below the proposed dam site are needed for cultivation, the option to build the structure is still available.

At the present time, however, there is no need for the water and there is no need for more farm land. Consequently, I cannot support a project which depends upon these factors for justification when so many other projects are in urgent need of funding.

Once again, I appreciate this opportunity to comment and commend the Corps for its objective assessment of the proposed project.

DEDICATION OF GOOD SAMARITAN REST HOME

Mr. CHILES. Mr. President, during my campaign walk through Florida in 1970, I had the opportunity to attend the groundbreaking ceremony for the Good Samaritan Rest Home in Sanford. This biracial home for the aged is a living tribute to Mother Ruby Wilson, a black lady who has been an inspiration to the entire Sanford community. On that day, I said that it seemed a shame that her life should be hidden in Sanford, rather than being an influence all over the State.

On April 16, 1972, I again had the privilege of being in Sanford—this time for the dedication of the new home. It was a happy day for Mother Wilson, for the small community and for the entire State of Florida. As Ruby Wilson so often stated:

> All things are possible through the grace of God.

Mother Wilson, born in 1908, has been caring for the afflicted and the needy since she was 9 years old. She wanted to be a nurse, but nursing training was not available for blacks in Florida at that time, so she learned practical nursing.

In 1948, members of the Free Will Holiness Church, under Mother Wilson's guidance, built the first unit of the building as a haven for the aged, the handicapped, and the helpless, where no one was turned away, because of lack of funds. The State board of health told them they would have to close the home, because of inadequate fire protection.

However, Mother Wilson would not be discouraged and she started the building project involving a cost of over $50,000. Contributions came from all over Seminole County and from outside, from citizens of all races, creeds, colors, and economic status. More than 20 years later, the home is a reality.

Since the first opening of the home, over 500 people have been cared for by Mother Ruby Wilson and her dedicated staff. The Good Samaritan Rest Home is a nonprofit corporation, still associated with the Free Will Holiness Church. Mother Wilson also oversees Rest Haven, a shelter for homeless children; a daycare center for the children of working parents and a storehouse. In this storehouse, Mother Wilson gathers food, clothing, appliances, furniture, wood fuel, and other useful items donated by the general public. She then dispenses them as "blessings" to the needy persons in Sanford.

The dedication, devotion and hard work of Mother Wilson and the citizens of Sanford should serve as an example to us all. I have watched the people of this community—black and white, rich and poor—work together for the common good. It has been a heartwarming experience for me and it reaffirms my faith in local community action and participation. I ask unanimous consent that an article from the April 17, 1972, Sanford Herald be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOOD SAMARITAN HOME DEDICATED

(By Ann Sieczkowski)

"The Impossible Dream".

No, not impossible—not even improbable—not with the abiding faith in God which sustains that unshakable attitude of a wonderful woman, Ruby Wilson, who unswervingly believes that "All things are possible through the Grace of God".

Sunday was a day of profound impact on the lives of 26 residents of the Good Samaritan Home, and on the lives of the incredible Mother Wilson, her husband, Timothy Wilson, and the board of directors of the Home which has been for so many, a home, love, care, and work, all of which contributed to the restoration of a will to live, a revitalized sense of personal dignity and worth, and a desire to return that kindness received at Good Samaritan with good services to others.

For today marks the realization of a dream long held by Mother Wilson and her board at the home and a volunteer board of local citizens whose efforts throughout the past several years has culminated in the ceremonies celebrated on a Sunday afternoon made brilliant with the glorious rays of Florida sunshine and further enhanced with the smiles of equal brilliance on the faces of those who have worked for so long for this day to arrive.

On this auspicious occasion—the dedication and ribbon cutting signifying the opening of the new Home for at least 26 residents—a home where citizens from all walks of life and from all over Seminole County as well as many from outside the county, have contributed towards its completion and still contributions come in.

Present to share the joy of Mother Wilson and the guests of the home were steering committee chairman John Krider; treasurer, Robert Daehn, and members of the committee, Dr. and Mrs. Vincent Roberts, Henry McAllister, Mrs. Randall Chase, Mrs. J. J. Sieczkowski, Dr. George Starke, Charles T. Phillips, Dr. J. C. Ringling, Arthur Mackey, Robert Ek, Martin Neiswander, D. C. McCoy, Mrs. G. Jackson, Rev. J. E. Conley, Gordon Bradley, E. L. Blackshear, Sidney Vihlen, Mrs. Helen Tucker and George Touhy.

It was in 1948 that members of the Free Will Holiness Church, under Mother Wilson's leadership, built the first unit of the building which has served since that time as a refuge from a world where nobody else cared. The aged, the handicapped, and helpless persons came or were sent by authorities, or were brought by someone who knew of the work going on at Good Samaritan. The Home is open to anyone regardless of race, color or creed. If the person has the means, he is requested to pay a small fee but he will not be turned away because of lack of money.

In addition to caring for those who require special attention, Mother Wilson also has, through the generosity of the area citizens stocked a small store house with good usable clothing, appliances, furniture, dishes, fuel. These are dispensed among the needy persons who are brought to the attention of Mother Wilson.

And these two functions are not the end of her boundless energy and remarkable contributions to ths community—she also established a day nursery for working mothers, in which classes are held and taught by Lelia Ross, wife of one of Mother Wilson's assistants. Mrs. Ross, who studied at Stetson University, performs these services at the little school at considerable financial sacrifice but says that she would have it no other way. Also sheltered from the environment which denied them are orphaned and abandoned children.

Stirring musical tributes were sung by the Community Singers under the direction of Joseph Williams and selections by the Woman's Club Chorus of Deltona with Mrs. Paul Rose, director, evoked enthusiastic applause as they sang for the large crowd assembled on this momentous occasion to celebrate the realization of "The 'Not' Impossible Dream.", the dedication of a new Good Samaritan Home and the beginning of another era in unexcelled community service by Mother Wilson and her staff.

Master of ceremonies for the dedication program was Daehn, treasurer of the steering committee. The inspiring invocation was given by Charles Phillips. Acting Mayor Gordon Meyer spoke of the asset to this entire area which is embodied in the operation of the home. Dr. Starke referred to the dedication of this home as a dedication to mankind, as it has always been truly a dedicated service to the less fortunate. The blessing and benediction spoken with such reverence and gratitude by Rev. William Pickett, of Community United Methodist Church of Casselberry, concluded the program, followed by the ribbon cutting and an open house celebration.

The church and the new home were filled to capacity with well wishers and it was a joyous and beautiful thing to see how much has been accomplished. To see the faces of some of the residents being taken through the new home and hear them say, "Is that really going to be my room?" was enough to make one glad that one had even a small part in today's events. And it was enough to make first time visitors want to become a part of that home by helping.

HOUSING PROGRAM SCANDALS

Mr. TAFT. Mr. President, our housing programs have recently been rocked by scandal after scandal. We have received news of massive housing frauds involving Government subsidies from New York, St. Louis, Detroit, Philadelphia, and other cities. At the same time, the expense of maintaining these programs is mushrooming.

This situation has led some observers to conclude that it is time for a complete overhaul of Federal housing programs. The Wall Street Journal recently published an excellent editorial along these lines. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

Housing

The dimensions of the housing mess become more apparent every day. An FHA scandal in Detroit could cost the government over $100 million in losses. . . . On Wednesday, a U.S. attorney in New York brought a massive housing case against Dun & Bradstreet, nine other corporations and 40 individuals, charging wrongdoing that involved 5,000 houses and $200 million in potential FHA losses. Nationally, it has been estimated that the FHA's losses to housing frauds could cost the government over $500 million. And the FHA scandals are only a part of HUD's troubles.

The troubles can mainly be attributed to the Housing and Urban Development Act of 1968, which President Johnson proposed and a friendly, and somewhat naive, Congress approved.

In typical Johnsonian rhetoric, the President posed a "massive national need" for 26 million new homes and apartments in a decade to replace "shameful substandard units of misery where more than 20 million Americans still live." The new bill not only relaxed FHA standards for insuring central city home purchases but also provided direct mortgage interest subsidies so that families both below and somewhat above the poverty line could buy their own homes.

The scandals in Detroit and elsewhere can be credited heavily to the ensuing pressures from Washington to guarantee and subsidize central city housing. Local FHA offices apparently became easy marks for land speculators who lined up families that qualified for the new subsidies and sold them substandard housing at inflated prices. Some of the families were so poor or transient that they couldn't or didn't meet payments on their mortgages, despite the subsidies. So they moved out or were foreclosed, leaving the FHA stuck with large mortgages on low-value property. Nationally, the FHA had to repossess 36,000 houses last year, a sharp rise from 1970.

Irving Welfeld, an attorney who has worked for HUD in various roles, writes in the forthcoming issue of "The Public Interest" that the liberal features of the 1968 act allowed it to benefit almost everyone more than the truly poor—builders, speculators, lenders and home buyers and tenants who were not really poor. The usual anomalies developed between subsidized families who were enabled to live better than more industrious but unsubsidized families. Finally, Mr. Welfeld cites statistics showing that the presumed general housing shortage was largely a myth, since housing construction has been outpacing new household formations for two decades. The empty housing in Detroit offers testimony to this idea.

The reason the HUD problem deserves immediate attention is that the mortgage interest subsidy commitments provided by the 1968 act rise geometrically as new subsidies are granted. HUD granted $1.3 billion in subsidies last year but since the subsidies cover interest on 30-to-40-year mortgages, its long-term commitment already is $30 billion. By 1978, federal officials estimate, it will be spending $7.5 billion annually but its long-term commitment will be a staggering $200 billion.

All of which suggests that Congress should move quickly to foreclose the present HUD subsidy system. Mr. Romney has suggested that it might be cheaper for the government to pay housing supplements directly to poor families and let them find their own accommodations. It sounds like a good idea, relatively at least, and HUD intends to give it a test.

There is no denying that it will take some doing to untangle the mess, given the special interests involved. However, when the man in charge of a program is himself willing to admit that the program is faulty, and when massive scandals are surfacing, how long should it take for Congress to get the message?

Mr. TAFT. Mr. President, I can certainly sympathize with those who suggest that Congress gear up immediately to rectify the problems discussed in this editorial. Any program which is capable of producing low-income housing in Washington at a total cost to the public of $76,000 per unit, as the Washington Post recently reported, deserves the outrage of every taxpayer. In my opinion, however, it would be unwise to take hasty legislative action at this point. The housing problem is so perplexing that despite the obvious shortcomings of present programs, neither HUD nor the Congress has been able to come up with any major proposals for reform. Such a problem is not the kind which we should attempt to settle legislatively in the summer of an election year. It would be a tragic mistake, on the other hand, to react to recent scandals by simply cutting back Government housing programs. For millions of Americans, Federal housing assistance is crucial if they are to have any hope of escaping an unsafe, unpleasant, and unhealthy living environment.

It is the executive branch of the Government rather than the legislative branch which can and must respond to the housing scandals effectively and immediately. Secretary Romney has demanded that the administration of FHA programs be tightened up. Speculators and other fast-buck artists can no longer be allowed to take advantage of these programs and the low-income Americans that they serve. To get rid of the speculators, the FHA will have to upgrade its inspection procedures for existing housing. Because homebuyers consider FHA approval as proof that a home is in good shape, the agency cannot be content just to appraise these dwellings. In March 1971, HUD found in a random sampling of section 235 homes that 25 percent of the new units and 44 percent of the existing units had serious defects. It will be difficult to remedy this situation unless FHA inspections are improved. The FHA must also be increasingly careful to exclude known shysters in the real estate, home repair, and mortgage lending businesses from Government housing programs. Transactions involving property which has not had a history of stable ownership should be looked at especially critically by the FHA. We cannot tolerate any further recurrences of the heretofore common scenario, whereby a speculator buys a deteriorating property, holds it for a short time, and then sells it at a vastly inflated price under the auspices of an FHA program.

The FHA can help to prevent housing tragedies by enforcing more stringently the income requirements for its homeownership programs. Too many people have been allowed to become saddled with mortgage payments which they cannot really afford. In other cases, the new owners have been able to meet the monthly mortgage payments but could not find the money to fix the plumbing when it broke down 2 months after they assumed the mortgage. The result has been misery for the new homeowner, and the ownership of one more inner-city property by George Romney.

The chances for success of our new low-income homeowners will be further enhanced by an effective and expanded counseling program. I applaud HUD's recent efforts to move in that direction.

The importance of making these improvements in our present programs is paramount. At the same time, however, the shortcomings which the scandals have pointed up make especially interesting the HUD experiment to which the above editorial refers. HUD's housing allowance experiment is now at the end of its planning stage. It will involve approximately 30,000 people in 10 to 15 different cities.

The housing allowance approach has worked well in many other countries, including Sweden, Britain, the Netherlands, France, and West Germany. Unlike the methods which we presently use to subsidize housing, this approach ties the subsidy directly to housing needs rather than to housing units. It therefore can be applied by the user to any housing which he sees fit, including new, rehabilitated, or existing housing. Because the application of the housing allowance is not limited to specific units, it should be able to be used by more low-income people than present programs. Our present housing programs reach only about 10 percent of those eligible for assistance. Several research groups have concluded that for the same expense, a housing allowance program could effectively reach twice as many people.

The major problem with housing allowances is the possible inflationary impact resulting from the subsidized increase in housing demand. Rents are expected to rise in cities where the housing allowance experiment is widespread. It is hoped that the increased rents will not be a purely negative factor, but will stimulate increased construction and rehabilitation as well as improved maintenance of existing units.

In its 1971 report, the House Housing Subcommittee stated that—

> Housing allowances, combined with effective production incentives, may potentially represent the most effective of all approaches to the solution of the nation's housing problems.

I urge the Congress to follow the progress of this crucial experiment carefully. To meet the challenges which face us today in the field of housing, we must be willing to utilize both old and new ideas. We must strive for more mileage from the existing programs in the ways which I have recommended, and at the same time keep an open mind with regard to the possible adoption of promising new programs such as housing allowances.

ENFORCEMENT OF ANTIDUMPING LAW

Mr. FANNIN. Mr. President, for several years I have been encouraging the Treasury Department to enforce certain of our existing laws regulating unfair trade practices. Now I would like to give credit where credit is due. I would like to point out the splendid effort being put forth in the Treasury Department to enforce our antidumping law and to comment on a recent decision by the Tariff Commission.

During March a year ago, I called the attention of Senators to a decision of the Tariff Commission. At that time I stated that I was encouraged to see that the Tariff Commission was taking action against the illegal sales tactics of Japanese television manufacturers. In addition, it was my hope that the action would serve notice that the United States will no longer tolerate dumping and other unfair trading practices by the Japanese or any other foreign manufacturers of any products.

Mr. President, I am again extremely pleased to report that my hopes were not unfounded. The Tariff Commission has once again taken a forceful step to correct one of our serious trade problems by enforcing our antidumping law.

The Commission has found that the domestic industry manufacturing large power transformers was being injured by imports from France, Italy, Japan, Switzerland, and Britain. Imports from these countries totaled $11 million for 21 months in 1970–71.

Mr. President, the action by the Tariff Commission would not have occurred if the Treasury Department had not previously found that the foreign manufacturers were selling in this country at prices less than fair value. This significant decision follows the tougher policy of enforcement by the Treasury Department for which they are to be highly commended.

An excellent speech by Eugene T. Rossides, Assistant Secretary of the Treasury, sets forth the progress now being made by the Department in combating unfair trade practices. Mr. Rossides states in part:

> From the inception of President Nixon's Administration, the Treasury Department has vigorously attacked discriminatory pricing techniques of foreign exporters. Treasury and its Bureau of Customs have accelerated and expanded the use of statutes specifically designed to protect U.S. industry against unfair foreign competition. We have institutionalized the supervision of the administration of the Antidumping Act and the countervailing duty statute and other aspects of tariff and trade relations by setting up an Office of Tariff and Trade Affairs in the Office of the Secretary.
>
> The Antidumping Act is designed to prevent injurious international price discrimination—typically, selling in the U.S. market at prices lower than in the foreign home market. The countervailing duty statute is designed to counteract and prevent foreign subsidies on exports to the U.S.
>
> The Treasury, under this Administration, has rejuvenated what was largely a moribund Antidumping Statute. We have significantly increased actions under this statute in the past three years. We have eliminated loopholes. And we have expedited consideration of complaints from domestic manufacturers by adding manpower and streamlining procedures.

Mr. Rossides further states that:

> Amendments of our Antidumping Act and countervailing duty statute may be required to achieve freer and fairer competition in international trade. And, once the long-range adjustments of tariffs, quotas, and other barriers are accomplished, these same measures can serve to maintain the integrity of those agreements.

Mr. President, I look forward to doing all I can to assist the Treasury Department in strengthening our antidumping and countervailing duty statutes.

Mr. President, I ask unanimous consent that the entire text of the remarks by Assistant Secretary Rossides be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

PRESIDENT NIXON'S NEW ECONOMIC POLICY AND THE DOCTRINE OF FAIRNESS IN INTERNATIONAL TRADE

President Nixon's New Economic Policy, announced on August 15, 1971, marked a watershed in world history, not just U.S. history. The President's actions marked the end of one era—"the end of the post-war world" as Secretary Connally said last month—and the dawn of a new era in international economic relationships.

The President's goals were three—to curb inflation, to generate jobs by stimulating responsible economic growth, and to strengthen the position of the United States in the international trade and financial community.

Today, I shall talk primarily about the U.S. position in international trade—a Doctrine of Fairness—with special emphasis on Treasury's role and responsibilities in this area, and the need to perfect international organization and procedures for effective solutions of trade problems.

WHY ARE WE IN A NEW ERA?

At the end of World War II, the United States was the wealthiest, most powerful nation on earth. A large part of the world was in ruins, physically, politically, and economically, after the holocaust that it had just experienced. The United States exhibited truly unselfish and generous leadership in an effort to bring these ravaged areas back to normal. We did this in our own long-range national interest but at considerable sacrifice.

It made sense for the United States to do everything possible to assist both our former allies and enemies to regain their feet. And so, we literally showered U.S. dollars and expertise on these countries. The American taxpayer accepted the burden of the nearly $150 billion in economic and military aid that was made available over the past 25 years, for he understood the relationship between a prosperous world economy and his own well-being.

But conditions have changed and we now find ourselves confronted with an entirely different picture. Although the United States is still the most important free world power, it is no longer the only free world power. Other nations are again in a position to challenge us economically and politically. The United States is now one giant among several.

THE LONG-RUN TASK

What does this new era signify for the United States and the rest of the trading world? Essentially, the long-run task facing the United States and the world community is the creation of an international economic system which, on the basis of mutual advantage, will stimulate international trade and freer competition, draw nations and people together, and thus form the basis for a lasting peace with prosperity.

PROGRESS MADE SINCE AUGUST 15, 1971

In his policy role as chief economic spokesman for the President, Secretary Connally has already sketched in broad outline form the new policies to be followed. The domestic and international fronts, which cannot be separated, have seen considerable progress in the eight months since August 15, 1971.

On the domestic side, economists are virtually unanimous that activity is expanding vigorously. Industrial production rose strongly in March, the seventh consecutive monthly advance. The other two economic indicators for March presently available—total employment and retail sales—also showed strong gains. Employment rose by 620,000 to 81.2 million—the largest gain for a month since mid-1967. These indicators are further evidence that the economy is in a strong expansionary phase.

On the international side, the Smithsonian Agreement of December 18, 1971, was a significant breakthrough and has given the new era a substantial forward thrust. That agreement included a multilateral realignment of exchange rates, commitments to discuss more general reforms of the international monetary system, and commitments to begin discussions to reduce trade barriers, including some most harmful to the United States. For its part, the United States agreed to recommend to the Congress that the price of gold in dollars be raised when progress had been made in trade liberalization.

On February 9, Secretary Connally transmitted to the Congress a draft bill providing for devaluation of the dollar by 8.57% to $38 per ounce of gold. In signing that bill into law on Monday, April 3, the President said that the basic significance of the Smithsonian Agreement and the legislation is:

"That it provides for continued cooperation among our allies and ourselves—and thus strengthens our unity—as we work toward an 'open world' based on a more balanced monetary system and a more equitable international trading environment."

Simultaneously with the Smithsonian Agreement, commitments were made by some of our allies to assume a larger share of the costs of common defense.

Substantive agreements have also been reached with the European Community and with Japan to remove or lower certain barriers against U.S. products and to support multilateral and comprehensive trade negotiations in 1973, meanwhile solving more immediate problems in 1972 through the GATT. The Administration will seek the necessary legislative authority for these comprehensive negotiations.

DOCTRINE OF FAIRNESS IN INTERNATIONAL TRADE—ABROAD AND AT HOME

Abroad

These are some of the accomplishments to date on the international trade front. All of the United States' efforts in international discussions have been dedicated to one objective—the establishment of a Doctrine of Fairness in International Trade.

The President and Secretary Connally have served notice that the United States is no longer going to compete with one hand behind its back. To compete fairly abroad, we must have fair access to the markets of Europe, Asia, South America, Africa, and the rest of the world.

I do not mean to imply that the United States is expecting to obtain something for nothing. We recognize that some of our practices are regarded by other countries as discriminatory. But in our trade negotiations we do have a right to demand a fair bargain. *We insist only on the right to compete fairly abroad.*

As Secretary Connally said in Munich last May:

"No longer will the American people permit their government to engage in international actions in which the true long-run interests of the U.S. are not just as clearly recognized as those of the nations with which we deal."

The point he conveyed to all is that the United States can no longer stand by complacently when markets are closed to us or where the "rules of the game" seem to be rigged against us.

When our foreign friends complained about the temporary 10% additional duty adopted as part of the President's new economic program, they did not mention in their complaints the barriers they maintain against U.S. exports to their countries.

These barriers take various forms—quotas no longer justified by economic factors, *discriminatory* taxes such as progressive taxes on horsepower directed at the export of U.S. automobiles, discriminatory tariff arrangements such as the Common Market preferences and reverse preferences, which establish a lower tariff on the exports of Common Market members than on those of the U.S. and others into third markets, both in developing and developed countries.

These barriers were not wiped out by the Smithsonian Agreement. Moreover, I regret to say that some new actions have been taken since the date of that agreement. For instance, the Netherlands has put a quota on electronic goods from Japan. That action has the effect of putting further pressure on our own market. We have a long way to go in order to achieve a fair break in international trade for American industry and agriculture.

Since the post-war years, the United Kingdom has maintained quotas for balance of payments reasons on imports from the dollar area of fresh, frozen, and canned grapefruit, orange juice, and rum—this despite the fact that the balance of payments justification for these quotas has long since passed. Indeed, the British are now in balance of payments surplus, and removal of these quotas, which the United States has been seeking for over 20 years, is certainly long overdue. Is this fair trade?

Similarly, France imposed quotas several years ago for balance of payments reasons on imports of semi-conductors. Although the French authorities have liberalized these quotas over the years, an intricate licensing system inhibits our exporters from supplying the French market. The balance of payments justification for protection has long since ceased and this obstacle to trade should have been eliminated years ago. Is this fair trade?

In the past few weeks, the European Community has instituted a new system of compensatory duties so as to continue to protect its domestic agricultural markets from more efficient foreign production in the face of the recent currency realignments. In so doing, the European Community did not hesitate to break the negotiated rates (to which all negotiating parties are supposedly bound) on some 40 million dollars' worth of trade. They did this despite the fact that it was a clear violation of the GATT. The United States has some interest in the EC's actions, for our cost of production for basic agricultural commodities approximates half of that in the Common Market. Is this fair trade?

The Community's regulations have restricted Japanese imports to 6 percent of that country's overall exports—this in contrast to the 30 percent which Japan exports to the United States. By restrictions such as these, the Common Market has literally forced the Japanese to concentrate their export drive on the United States. Is this fair trade?

Japan now has $17 billion in foreign assets reserves. We have approximately $12.5 billion. While the United States had a balance of payments deficit last year—and has had one for over 20 years—and our first trade deficit since 1888—Japan had a trade balance surplus last year of 7.9 billion dollars, the highest in the world and this year's balance for them will be even larger since their exports are likely to run 20% above 1971.

Many factors, in addition to U.S. policy, contributed to Japan's economic success. Japan, which was allowed to maintain quotas for balance of payments reasons when it entered GATT, still retains many of these quotas, this despite an economic recovery which is commonly referred to as the Japanese miracle. "Administrative guidance" by Japan which impedes our exports and focuses on their export drive to the U.S. is a central factor in Japan's economic success. Is this fair trade?

AT HOME—TREASURY'S ROLE IN COMBATING UNFAIR TRADE PRACTICES

Against this backdrop, there are very positive measures this Administration has already taken at home to rectify our trade imbalance and protect jobs in the U.S.

From the inception of President Nixon's Administration, the Treasury Department has vigorously attacked discriminatory pricing techniques of foreign exporters. Treasury and its Bureau of Customs have accelerated and expanded the use of statutes specifically designed to protect U.S. industry against unfair foreign competition. We have institutionalized the supervision of the administration of the Antidumping Act and the countervailing duty statute and other aspects of tariff and trade relations by setting up an Office of Tariff and Trade Affairs in the Office of the Secretary.

The Antidumping Act is designed to prevent injurious international price discrimination—typically, selling in the U.S. market at prices lower than in the foreign home market. The countervailing duty statute is designed to counteract and prevent foreign subsidies on exports to the U.S.

The Treasury, under this Administration, has rejuvenated what was largely a moribund Antidumping Statute. We have significant increased actions under this statute in the past three years. We have eliminated loopholes. And we have expedited consideration of complaints from domestic manufacturers by adding manpower and streamlining procedures. In short, Treasury is now administering the Antidumping Act more nearly in the manner intended by Congress. This is what industry has a right to expect. But more is needed.

Perhaps, criticism from abroad had to be expected. But, the point is that these actions are taken and justified in defense of fair trade—and without a sense of fairness, the prospects for freer trade would be bleak.

Now, we are studying possible refinements and expansions of the use of these measures which protect U.S. industry against unfair competition. In new proposed antidumping regulations which will be published this week, we plan to clarify and tighten further the procedures of the Antidumping Act.

Amendments of our Antidumping Act and countervailing duty statute may be required to achieve freer and fairer competition in international trade. And, once the long-range adjustments of tariffs, quotas, and other barriers are accomplished, these same measures can serve to maintain the integrity of these agreements.

INTERNATIONAL REFORMS

In analyzing what we can do to enable U.S. producers to compete more effectively under fair rules of international trade, we must of necessity examine closely the implementation of those rules and even question the nature of the rules themselves.

We face a situation in which such basic GATT rules as most-favored-nation treatment are increasingly violated. We are also concerned that foreign dumping and subsidizing of exports to third countries have the effect of freezing U.S. manufacturers out of these markets. Moreover, while we favor U.S. capital investment abroad on as liberal terms as our balance of payments allows, we cannot continue to permit U.S. capital to create jobs abroad if domestic U.S. manufacturers are prevented by discriminatory barriers from selling in these markets on equal terms.

If the GATT itself proves unable to face up to the realities of today's world, and we hope that it can measure up to its responsibilities, we may have to give thought to other ways of meeting the needs. If we are to reach our goal of a bright new international future, the rules and procedures of the past must be adapted to the world of the 1970's.

There is clearly a need for an international forum or forums in which the interrelationship of all the factors affecting international economic matters—monetary, tax, and trade—can be discussed, not piece-meal, but as part of a whole problem of economic health for all participating nations.

Secretary Connally, in his March 15 remarks, stressed the need to recognize such links in the international economy when approaching the issue of monetary reform.

Indeed, the international discussions of last fall, following the President's declaration of his New Economic Policy, were successful in achieving the recognition of the interrelationship between international monetary and trade matters. Accordingly, the President placed in the hands of Secretary Connally, his chief economic spokesman, the broad responsibility and negotiating authority to do the job

Secretary Connally has commissioned Under Secretary Volcker to discuss with our principal trading partners the development of an appropriate forum or forums. Under Secretary Volcker has recently talked with his colleagues in Europe and has been in Japan over the past weekend for discussions of this matter.

IMPLEMENTATION VERSUS POLICYMAKING

It has often been said, "Important as it is to make policy, it is even more important to implement it."

It could very well be that more forceful administration of the Antidumping Act and countervailing duty law in earlier years would have eased our problems today. I can well remember my confirmation hearing when each and every question of the Senate Finance Committee dealt with these two statutes and whether I intended to enforce them. For months thereafter, the same Senators were telling me, "You have those statutes, use them." Well, this Administration has used the Antidumping Act effectively and, as I mentioned, is reviewing the countervailing duty law.

But, there are other aspects of implementing trade policy in day-to-day operations which strongly affect our international trade and our balance of payments.

The main day-to-day operating bureau in the U.S. Government affecting international trade is the Bureau of Customs. Secretary Connally has directed that the trade and tariff aspects of that Bureau's operations be given the highest priority. This included not only the operating responsibilities of the Bureau of Customs in the area of antidumping and countervailing duty, but also its role in classification and valuation of imported merchandise, administration of quotas and marking requirements, prevention of smuggling, monitoring voluntary restraint arrangements, and investigation of commercial frauds.

We also have under way a Treasury study to analyze the data that is available in international trade matters. Here again, the Bureau of Customs is the prime source for data regarding trade matters and yet, for analyzing and interpreting that data, its resources have not heretofore been fully utilized. This also we are moving to correct.

THE FUTURE

In summary, President Nixon's Administration has moved forcefully to improve our international trade and monetary position. We have given our anti-price discrimination tools the most vigorous exercise they have ever had. We have negotiated the removal of various trade barriers and set the stage for an overhaul of the international trade mechanisms in the near future.

Secretary Connally has demonstrated what can be accomplished by a single chief economic spokesman for the President. We are seeking an international forum which will enable us to deal with the problems in their full depth and perspective. And we have identified the need within the Executive Branch to institutionalize these capabilities.

The President has made it clear that he intends to meet the challenge of the future by stimulating our economy to ensure our continued efficient and competitive position in the world. This means that inflation and unemployment in the United States will be reduced while investment in new plants and equipment by the private sector are stimulated.

While building this stronger economy at home, we must remain outward looking and international in our initiatives overseas. This Administration is committed to such a course. Of course, our foreign friends and trading partners must be equally outward looking and international in their approach to their problems.

As Secretary Connally said when he addressed the Economic Club of New York last fall:

"We do not intend to become provincial. We shall not resort to protectionism. We shall carry our burdens on the international scene. But to do so it is essential to attain an equilibrium in our overall financial balance with the rest of the world. We seek no advantage of others. We propose to suffer no disadvantage. We seek a balance which will be to the benefit of all the nations."

* * * * *

"At stake are not narrow or selfish economic goals; beyond a fair balance of opportunity, we seek none. The basic issue is much broader. It is nothing less than rebuilding the economic foundation for promoting economic development, military security, and the free flow of commerce.

"To fail in our effort would be to fail not only as an Administration, nor even as a Nation. At stake is nothing less than the foundation for the freedom and security of this generation, and those that follow."

All Americans and all countries must be willing to make the necessary sacrifices and, as a result, all Americans and all countries will be beneficiaries.

What we seek are the conditions that will encourage freer and fairer trade throughout the entire world, develop growing domestic enterprise and employment, and insure these gains against the erosion of inflation.

The President's New Economic Policy advances these goals by laying the foundation for peace with prosperity throughout the world.

CONNECTICUT'S LAW DAY VOTER REGISTRATION DRIVE

Mr. RIBICOFF. Mr. President, once again this country is about to celebrate the role of law in the structure of our society by observing Law Day on May 1. Programs in every State of the Union will focus on the importance of the rule of law in insuring justice and fairness for all.

A program of particular significance will take place in Connecticut. A bipartisan effort is being sponsored by political leaders, organized labor, and business to register voters throughout the State. Encouraging widespread voter participation is vital if we are to insure that this country's leaders and institutions truly have the consent of the governed. Our greatest defense against anarchy and tyranny lies in the thoughtful exercise by each American of his right to vote in elections at all levels of government.

I applaud the leaders of the Connecticut Bar Association who have developed this campaign as part of the Law Day activities in Connecticut.

A CONCURRENT RESOLUTION PASSED BY THE GENERAL ASSEMBLY OF SOUTH CAROLINA REGARDING AMNESTY

Mr. THURMOND. Mr. President, the General Assembly of South Carolina recently passed a concurrent resolution memorializing Congress not to enact any legislation that would grant amnesty to draft protesters who have fled the country.

This resolution recognizes that to grant amnesty to draft evaders and deserters from the Armed Forces would be a mockery to those who have valiantly served and sacrificed limb and life for this country.

Mr. President, this resolution reflects the feeling of the vast majority of Americans today. Local, regional, and national polls on this issue confirm that the American public is solidly behind President Nixon's stand on this matter. The President stated that the question of amnesty should not even be considered as long as we have men being held as prisoners of war in Southeast Asia. Then each individual case should be considered separately.

Mr. President, on behalf of Senator HOLLINGS, and myself, I ask unanimous consent that this resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A concurrent resolution to memorialize the Congress not to enact any legislation that will grant amnesty to draft protestors who have fled the country.

Whereas, cowardice in the face of the enemy is in the eyes of patriots an act so dishonorable as to rank equally with treason, to overlook cowardice is to reward and reinforce it, to forgive it is to guarantee its recurrence; and

Whereas, there are thousands of brave, loyal Americans who are now dead, missing in action, prisoners of war, or crippled physically or mentally as a result of their service and loyalty to their flag, even in some cases against their will, and there are numbers of families, loved ones and friends of these brave men and women, who should not see their sacrifice mocked by granting of amnesty to cowards. Now, therefore, be it resolved by the House of Representative, the Senate concurring:

That Congress be memorialized to refuse to grant or to allow the granting of amnesty to all draft protestors who fled this country rather than to serve her.

Be it further resolved that copies of this resolution be forwarded to each member of Congress from South Carolina.

STREAM POLLUTION—AND A SOLUTION

Mr. McGEE. Mr. President, in the March issue of Soil Conservation, a publication of the Soil Conservation Service of the U.S. Department of Agriculture, there appeared an article pointing out how the citizens of Jackson, Wyo., met head on a pollution problem.

Confronted with pollution in Flat Creek running through the town of Jackson, the citizens of this scenic northwestern Wyoming community, along with State and Federal volunteers, donated time and equipment to haul trash from the stream.

Not only was the stream cleaned up, but it was also improved. In conjunction with the Wyoming Game and Fish Commission, the Soil Conservation Service developed a plan for further improvement of the trout habitat of the stream. That plan was implemented with the cooperation of landowners in the area.

Mr. President, I want to take this opportunity to pay special tribute to the efforts of the people of Jackson, Wyo., who took it upon themselves to personally do something about pollution in their community. This community concern and initiative is just one reason why Jackson, Wyo., remains free from air and water pollution.

I ask unanimous consent that the article appearing on pages 178 and 179 in the March issue of Soil Conservation be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FISH AND KIDS LOVE A CLEAN STREAM

(By Douglas E. Paynter)

"Stream pollution in Jackson Hole?" asked a startled tourist. "I can't believe my eyes!"

The pollution the disbelieving tourist spoke of was a cowtown's discarded trash, accumulated over a period of several decades, along a mile-long stretch of Flat Creek running through the little town of Jackson, Wyoming.

In recent years, this same stretch of stream has been officially designated as a Children's Fishing Area by the Wyoming Game and Fish Commission. Only youngsters under the age of 14 are permitted to fish there. The commission keeps this part of Flat Creek well stocked with cutthroat trout.

In the summer of 1969, the editor of the *Jackson Hole Guide* conceived the idea of a "Kids' Fly Fishing Contest." Local merchants responded by providing more than $500 worth of prizes.

The contest was a rousing success. But many people, including contest judges and parents of the contestants, were shocked by the condition of the stream. During the contest, they saw children fishing among old rubber tires, oil drums, barbed wire, broken glass, tin cans—even the decaying rib cage of an elk. At the upper end of the fishing area, an oil leak sent a thin film of oil skittering over the water's surface. On the far side, a dozen houses had been built beyond the town's sewage disposal system. In several places, landowners had dumped fill along the edge of the stream.

Concern over the stream mounted. There was talk that a new bypass highway would obliterate the Children's Fishing Area.

Many people expressed a desire to help. The Jackson Town Council felt powerless because all the land was privately owned. Yet the 20 landowners seemed anxious and willing to cooperate. What could be done?

The Teton County Conservation District supervisors provided the necessary catalyst. They declared that, with SCS assistance, they would be happy to provide leadership for a restoration program.

The offer touched off a massive cleanup

campaign that found 2 dozen volunteers, wearing hip boots and waders, splashing through the chilly September waters collecting trash. On two separate weekends, several truckloads were removed. Boats and rafts were used to transport the debris to pickup points.

Volunteers came from organizations such as the U.S. Forest Service, Chamber of Commerce, Wyoming Game and Fish Commission, Trout Unlimited, Jackson Town Council, Jackson Hole ENACT Jaycees, and Jackson Hole Fly Fishermen's Club. Other help poured in from the rest of the community: a car dealer donated a tow truck to pull an old car body out of the stream; a repair shop donated special hand hooks for snagging trash from the stream bottom; a float-trip service provided two rubber rafts and a pram; a merchant served hot coffee and donuts; and a rancher loaned his dump truck to haul the trash away.

The results were overwhelming. The town council announced plans to extend sanitary sewers to the houses on the far side of the creek. The oil leak was located—the landowner agreed to stop the leak and, furthermore, offered to donate a parcel of land to Jackson for picnic use at the Children's Fishing Area. The local newspaper ran several picture stories on the cleanup. The Wyoming Highway Commission assured the group that the proposed bypass highway would be designed to complement the Children's Fishing Area rather than destroy it.

Last winter, Wyoming Game and Fish Commission officials and SCS developed a plan for further improvement of the trout habitat. Locations for rock jetties, deflectors, random boulders, and riprap were mutually agreed upon by the two agencies. A sketch showing the proposed work was presented to the landowners along the stream for their approval. Following this, a working agreement between these landowners and the conservation district was signed. The Game and Fish Commission allocated $1,000 toward the project, and the Jackson Hole Fly Fishermen's Club offered an additional $300.

In the spring of 1971, volunteers again put on their boots and placed, by hand, nearly 100,000 pounds of quarry rock for the habitat improvement structures. Where vehicle access was not a problem, the rock was loose-dumped to form jetties for velocity control.

The second and third annual Kids Fly Fishing Contests have been progressively better than the first. And Jackson residents no longer hear cries of "stream pollution" from startled tourists.

PROTECTION OF LIVES OF MEMBERS OF U.S. ARMED SERVICES

Mr. HRUSKA. Mr. President, as the brutal invasion of South Vietnam by Communist military forces continues, the criticism of President Nixon's response to this invasion continues as well. With a full appreciation of the fact that this is a significant election year, this Senator still finds it amazing that high elected officials—some of whom are presidential aspirants—would have so one-sided and distorted a view of what is going on in Vietnam. These people must, indeed, believe that Americans are a foolish and uninformed public, if they expect their blatantly political outbursts to be taken as expressions of intelligent leadership.

Vice President AGNEW recently pointed out with his usual perception that most of the President's critics who now express such outrage about America's bombing response were strangely silent when the North Vietnamese initiated their all-out military invasion.

When thousands of South Vietnamese civilians were driven from their homes in the northern provinces, when rocket and mortar rounds were exploding in cities of South Vietnam as the Communist military units pressed their invasion, no expressions of outrage were heard from these critics.

No fear was expressed at that time for the lives of the thousands of American servicemen who still remain in South Vietnam.

Only when the President made his required response did the cries of outrage begin.

Mr. President, I once again urge all responsible members of this country to place the blame for the current escalation of warfare in Southeast Asia squarely where it belongs: with Hanoi, where it has always been. On April 19 I joined in cosponsoring Senate Resolution 294, introduced by the Senator from Arizona, which would condemn the invasion of South Vietnam by North Vietnam and support the Government of the United States in its effort to provide an honorable peace in Vietnam.

This is a measure which all Senators, regardless of politics, can and should support. I understand that this resolution will be offered as an amendment to the pending State Department-U.S. Information Agency authorization bill which will soon be brought to the Senate floor. I wholeheartedly support this move by the Senator from Arizona and will vote for the acceptance of his amendment.

Mr. President, I have recently received a letter from a constituent who is stationed with the Air Force at Danang Airfield in Vietnam. In his letter, Sgt. Eugene F. Kathol of Omaha asks "that these thoughts be passed on to Members of the Congress and the people of the United States."

It is my great pleasure to honor Sergeant Kathol's request. His letter is intelligent, straightforward, and I am sure highly representative of the thinking that prevails among our servicemen in Vietnam.

Sergeant Kathol aptly states:

> People are dying every day by Russian built 122mm rockets which enter Vietnam through the Port of Haiphong. When you get roused nearly every night by the blast of rockets all around you, you tend to have a different feeling about destroying the rockets and supplies before they can be used against you.

The President has the obligation and responsibility to protect the lives of Americans abroad—he has that duty and obligation as to members of the armed services especially. Yet he is being bitterly and unfairly criticized for discharging that obligation and responsibility. It is inconceivable that such criticism has for its purpose the cessation of such protective measures. But without question that would be the effect of heeding such criticism and acting on it.

I ask unanimous consent that Sergeant Kathol's letter be printed in its entirety at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

April 18, 1972.

Hon. SENATOR ROMAN HRUSKA,
U.S. Senate,
Washington, D.C.

SIR: I wish you would relay the thoughts of a fellow Nebraskan and many other American servicemen stationed in Vietnam to the Congress. In regard to the recent bombing of Hanoi and Haiphong Harbor, the President is doing what is needed to save the lives of the people of South Vietnam and the lives of the many American servicemen still stationed here.

People are dying every day by Russian built 122mm rockets which enter Vietnam through the Port of Haiphong. When you get roused nearly every night by the blast of rockets all around you, you tend to have a different feeling about destroying the rockets and supplies before they can be used against you.

Certain high ranking officials seem not to realize these things as they publicly denounce President Nixon's present winning policies. They merely add more fuel to the North Vietnamese propaganda fire and further delay our reuniting with our loved ones at home.

I would request that these thoughts be passed on to Members of the Congress and the people of the United States. Your continued concern would be appreciated.

Sincerely,

EUGENE F. KATHOL,
Sgt., U.S. Air Force.

VIETNAM—THE WAR THAT MUST END

Mr. RIBICOFF. Mr. President, what is there new to say about a war that will not end? Last night the President did not offer the American people any hope that the slaughter would stop or that our prisoners would be returned. All we heard were the same old arguments for continuing the war.

But do these arguments justify the continuation of a war that has cost over a million lives, created almost 7 million refugees, 23 million bomb craters, and has cost this Nation more than $100 billion? What logic still compels our Nation's leaders to the conclusion that dropping a few hundred thousand more tons of bombs will be more effective in defeating a tenacious enemy than the 6 million tons already unloaded on Indochina?

After more than a decade of search and destroy missions, body counts and pacification programs, it is time to acknowledge the truths that have emerged from this quagmire.

Whatever our original political objectives in Vietnam might have been, they are no longer valid. Nor are they worth the continuing moral, pyschological and economic costs to the United States. The world has changed rapidly in the past decade. And the American people recognize that the Vietnam war is a national disaster.

It is imperative that we get out now. The sooner we stop our losses and disengage militarily, the better it will be for this Nation and for the thousands who will die.

We must face up to the realities that a pro-American government in Saigon is impossible and that all of Vietnam, North and South, will most probably be united under a single flag. This may not happen for 2, or 5, or even 10 years. But this is bound to come, whether another million Vietnamese will have to die—or not. If we should have learned anything from our deep involvement in Indochina, it is that all Vietnamese are united in their dislike of foreign interference—whether it be French, American, Russian or Chinese. By now we should recognize that Vietnamese nationalism is a force to be reckoned with—particularly when it is backed up by dedication, and a willingness to die.

I, too, would not like to see the United States lose a war. I, too, do not want it said that Americans have died in vain. But I must reject policies which compel this Nation to continue to maim and kill others and have its own sons maimed and killed in order to justify past blunders and to perpetuate outdated theories.

Our role in the Vietnam conflict directly contradicts what this Nation should stand for in the world. We are employing 20th century technology to punish a 19th century society for practicing 18th century nationalism. In doing so we are displaying a contempt for human values and human life.

What can we hope to accomplish by continuing this war?

Are we really fighting to give the people of South Vietnam the right to decide how they will be governed when dissent in South Vietnam is stifled?

Are we really creating better lives for the children of Vietnam by making so many of them orphans, cripples, and dope pushers?

Are we really protecting vital American strategic interests in Southeast Asia now that the President has been to China and is pushing detente with the Soviet Union?

Can the President have it both ways in seeking better relations with the Russians and the Chinese while blasting Hanoi and Haiphong? Can the champagne and vodka toasts flow in Peking and Moscow at the same time that blood is flowing in Quang Tri, in An Loc, and in Hanoi?

The President certainly deserves praise for his skill and flexibility in guiding our relations with the Soviet Union and mainland China. But his handling of North Vietnam and our exit from the war is another matter.

North Vietnam's capacity to endure what we consider unendurable bombing, and to accept what we describe as unacceptable casualties has compelled this Nation to repel the latest Communist onslaught by massive bombing. Given the rigid confines of the box the President had constructed for himself, he had little alternative to reacting this way. But in April of 1972, we no longer have a brand-new President thrashing about in quicksand inherited from others. The tragic mess we find ourselves in today could have been avoided during the past 3 years if the administration had not continued to seek the impossible—the retention of a pro-American regime in Saigon indefinitely.

The President does deserve praise for withdrawing so many of our troops. But he has done so on the mistaken assumption that the South Vietnamese could fill the gap. The massive air and sea operations we have had to mount in recent weeks show that Vietnamization is a failure.

The concept of Vietnamizing this war is not a new one. It is not a creation of the current administration, or even the one before it. We have been supplying, equipping, training, paying, supporting, leading and building the South Vietnamese Armed Forces for more than 10 years now. If they are not prepared to do the job yet, when will they be?

The question today is not whether the South Vietnamese people have the physical means to defend themselves—they obviously do—but whether they really want to. Of course there are a few South Vietnamese who still have a stake in the Thieu government. But after more than 25 years of misery and dying, most Vietnamese just want peace.

Vietnamization cannot bring the end of direct American involvement in the conflict and the return of our prisoners. Each day Vietnamization is being proven to be only a means of changing the color of the corpses from white to yellow.

We will not be able to get our prisoners back by dropping more bombs, by breaking off negotiations in Paris, or by calling our adversaries names. This is becoming obvious to more Americans, and most painfully to the families of our prisoners. It is high time that the cruel hoax of liberation of the POW's through bombing be ended.

If our adversaries agree to give us back our prisoners and permit the safe withdrawal of our men, we will not be doing that badly in the long run. What terrible things will happen to the United States if we leave Vietnam now?

We will still be the most powerful nation on earth. We will still have the highest standard of living. We will still have our nuclear deterrent and military alliances. The United States will be no pitiful giant. In fact, we will have the economic means to improve the lives of more Americans and the opportunity to restore the shattered morale of our Armed Forces. We will also have taken a giant stride toward preserving the moral and spiritual health of America. We will be giving America a chance to once again be a beacon for the rest of the world and a dynamic force for decency and peace. This will certainly not occur automatically. But with Vietnam behind us it will at least be a real possibility.

Vietnam has been a weighty albatross around our necks for too long. By casting it off, we will not be displaying weakness, but strength. We will not be forsaking a worthy ally, but we will be creating opportunities to move closer to more important allies. We will not be undercutting our commitments elsewhere, but reinvigorating them now that we will be in a better position to honor them.

In the past the Senate has sought to restrict U.S. military operations in Vietnam and to set a date for the cutoff of funds for the war. I have supported all of these efforts and have voted for them. The passage of time and the obvious bankruptcy of the administration's policies since then have only strengthened my resolve that this terrible war must end. That is why I am supporting current and proposed legislative efforts providing for the end of our massive bombing in Indochina, and the orderly withdrawal of U.S. military personnel from Indochina and the return of our prisoners. I hope the U.S. Senate will be able to provide the necessary leadership in this time of despair.

KITTERY-PORTSMOUTH NAVAL SHIPYARD

Mrs. SMITH. Mr. President, I have received a most gratifying and encouraging report from the Secretary of the Navy on the status and the future of the Kittery-Portsmouth Naval Shipyard. He reports that the current schedule being developed will provide a stable workload for the shipyard throughout fiscal year 1973 and should aid the shipyard commander in making management improvements.

To assist in future planned developments, a shipyard modernization study to determine the long-range facility and equipment requirements of the shipyard was started and is currently on schedule and should be completed in time to permit regular funding submissions of selected construction and industrial plant equipment projects in the fiscal year 1973 and fiscal year 1975 programs.

Repairs to the west wall of drydock No. 2 are about 75 percent completed. All 102 high tensile strength steel anchors have been installed and all 17 concrete reinforced panels have been poured. Completion is set for June.

During the past year engineering duty captains with previous submarine and shipyard experience have been assigned to all of the top military management jobs. 98 percent of the junior officer positions at the shipyard have been filled. This is significantly higher than the 82 percent manning in other Navy ship industrial facilities.

Development of a sense of "pride in the shipyard" program in the shipyard is being vigorously pursued. Performance standards have been developed for 46 percent of the production work in the shipyard which compares with a 30 percent coverage in June 1971.

I ask unanimous consent to place the Secretary's letter of 21 April 1972 in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE NAVY,
Washington, D.C., April 21, 1972.

HON. MARGARET CHASE SMITH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SMITH: Thank you for your letter of April 7th concerning an up-to-date report on the mission and capability of the Portsmouth Naval Shipyard.

Since the mission of the yard has changed from building new construction ships to repairing existing ships, many management improvements have been necessary. I believe we have made considerable progress.

During the past year we have assigned engineering duty captains with previous submarine and shipyard experience to all of the top military management jobs. We have filled 98% of our junior officer positions in the Portsmouth yard which is considerably higher than the 82% manning in other Navy ship industrial activities.

The shipyard commander has adopted and is vigorously pursuing a program to develop a sense of "pride in the shipyard" in all hands. Performance standards have been developed for 46% of the production work in the yard which compares with a 30% coverage in June 1971.

Repairs to the west wall of drydock number 2 are about 75% completed. All 102 high tensile strength steel anchors have been installed and all 17 concrete reinforced panels have been poured. We expect to complete the job in June.

To assist in future planned developments, a shipyard modernization study to determine the long range facility and equipment requirements of the shipyard was started. This study effort is currently on schedule and should be completed in time to permit regular funding submissions of selected construction and industrial plant equipment projects in the Fiscal Year 1974 and Fiscal Year 1975 programs. A management interchange program for both civilian and military people has been initiated. This program will provide for exchange visits of key shipyard personnel with their counterparts in other naval shipyards engaged in similar work.

I feel we have made a great deal of progress in the management and operation of the Portsmouth Naval Shipyard during the past year. I am confident that the current schedule being developed will provide a stable workload for Portsmouth throughout Fiscal Year 1973, and should aid the shipyard commander in making further management improvements.

Very best personal wishes.

Sincerely yours,

JOHN H. CHAFEE.

USIA

Mr. **BUCKLEY**. Mr. President, the May 1 issue of U.S. News & World Report, and the New York Times for Tuesday, April 25, 1972, contain articles concerning the future of America's overseas information program. I consider them to be vitally important reading for Members of Congress, and ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **BUCKLEY**. In U.S. News & World Report, an interview with USIA Director Frank Shakespeare underscores the importance of USIA's mission, which is to give significant support to the foreign policy of the United States through the media of radio, films, magazines, cultural and information centers, and libraries. In an age of a struggle of ideologies, Director Shakespeare reminds us, the need for an "important informational program throughout the world by the United States" is more than ever a necessity for the implementation of a successful foreign policy.

In the article from the New York Times, Mr. Tad Szulc reports that the mission described by Director Shakespeare will be endangered in some of its most important aspects if a proposed 25-percent cut on its budget becomes a reality. The impact of the proposed cuts will be particularly disastrous in its effect on the USIA's international broadcasting arm, the Voice of America, which has received all but universal acclaim for its blend of objective news reporting and clearly labeled commentary in 35 languages, including worldwide English.

Referring to proposed cuts in the USIA budget, the Washington Post, which is no friend of Mr. Shakespeare, has had this to say:

> Especially distressing to us were the bites taken out of the Voice of America. Its newscasts, which American commercial media are in no position to duplicate—a point of legitimate concern to Mr. Fulbright—have retained their reputation for professionalism through the Shakespeare years. Such broadcasts express a central and continuing American interest in the open international flow of information and ideas. They would be reduced now to a weekly 454 hours, just behind Albania's 480, though to be sure, ahead of Portugal's 440. (The Russian figure is 1903)

There is one aspect of the proposed curtailment of certain Voice of America language services that must be stressed. Any budget cut that results in the loss of a particular Voice of America foreign-language program will not only eliminate that program—it will eliminate any chance of regaining the audience that will be lost once broadcasts are stopped. The audience that listens to one of the 34 Voice of America broadcasts in languages other than English is painstakingly built over a period of years. The years spent in convincing audiences that Voice of America broadcasts are credible and informative will be of no avail once a language service has been cut. International broadcasting is a highly competitive area of communication, and to stop a language service even for a short while will result in what most experts in the field are convinced is an irrevocable loss of a carefully cultivated audience.

To have a truly effective foreign policy the United States must make clear to millions of men and women all over the world precisely what that policy is. In those countries where freedom of information is respected and practiced. USIA can help to clarify difficult points and to correct misinformation; in countries where government control over media makes it all but impossible to gain access to other than officially controlled information, USIA can—and does—serve to inform those who are uninformed. The need in either case is for the documentation of facts, for the kind of objective news that Voice of America listeners have been relying on for 30 years, and for the kind of commentary, clearly labeled as such, with which the Voice of America has sought to place the facts into the proper perspective. Equally important, in telling America's story to the world, USIA serves to focus attention on the facts of American life, the realities that are often hidden by distortions by forces hostile to our Nation.

The argument that USIA is an outmoded relic of the cold war, as some have put it, neglects to make the necessary intellectual distinction between the organization's origins and its principles. Certainly USIA was created near the start of that historical period we refer to as the cold war. But the purposes underlying USIA's mission transcend the cold war—assuming for the sake of argument that cold war is over, a proposition recent events would seem to have made dubious—and go to the heart of the matter concerning international relations today. As Director Frank Shakespeare has pointed out on many occasions, the world is in the midst of a communications revolution, a revolution of transistor radios and television satellites, of high-speed presses and jet planes. Whether we like it or not the United States is part of that communications revolution and we simply cannot turn our back on our official Government responsibility to set the record straight where necessary and make convincing arguments where possible in the war of ideas.

If it is said that USIA, in providing the facts that point out the abuses inherent within communism, is acting against President Nixon's policy of detente, it is necessary to point out that President Nixon, for one, does not think so. Indeed, the President's recent words directed toward Moscow concerning their arming of the North Vietnamese invaders seems to suggest that he more than anyone recognizes the needs for clear, forceful, succinct policy presentations in a world where confusion over basic principles can often lead to chaos.

To force the Voice of America to absorb the cuts mentioned in the New York Times article written by Tad Szulc will be more than a disaster in the field of communications. It will be a disaster in the field of human relations because the Voice of America is more than a radio station to those who have no access to information other than that which a totalitarian regime allows: it is a voice of humanity, telling of the wide and diverse and rich field of human ideas from which totalitarianism cuts off its victims.

There being no objection, the text of the interview was ordered to be printed in the RECORD, as follows:

WHO'S WINNING THE PROPAGANDA WAR?

Here is a warning for Americans. It comes from the head of an agency that is the voice of America to hundreds of millions of people abroad. He sees this nation locked—and maybe losing—in a vital struggle for men's minds.

Mr. Shakespeare came to the conference room of U.S. News & World Report for this exclusive interview with members of the staff:

Q. Mr. Shakespeare, just what is the job of the U.S. Information Agency?

A. Its purpose, fixed by law, is to support the foreign policy of the United States. We do that through the process of: one, making clear to the world what that policy is; two, seeking support for that policy where we can gain support; and three, minimizing opposition where it is not possible to gain support. It is also a purpose of USIA to assess international attitudes as they appear relevant to U.S. foreign policy for consideration by the President and the Secretary of State in their formation of that policy.

Q. How do you do all this?

A. We make worldwide radio broadcasts, through the Voice of America, in 35 different languages. We produce television and motion pictures. We have libraries in many countries which contain books, magazines and exhibits. We have press and cultural offices throughout the world.

Q. Can you tell us in more detail how the USIA operates—its radio broadcasts, for instance?

A. The Voice of America operates it own transmitters in key locations around the world. The programs originate here in the U.S., but the transmitters pick up the programs and relay them into every area—such as Eastern Europe, the Soviet Union, China, Southeast Asia, Africa and Latin America.

Q. Do you have any idea how many hear your broadcasts?

A. No estimate—but it would be in the hundreds of millions.

Q. What sorts of programs do you broadcast?

A. There are three types: news, commentary and music—or, if you will, entertainment. News constitutes roughly 55 per cent of our programing.

Q. What is the nature of your commentary?

A. We quote expressions of American opinion. Those typically would be editorials from leading newspapers or television networks. What we are trying to do is show the general attitude on various issues.

We also do commentary of our own, which is so labeled. And in addition to editorial comment, we frequently give background information, so a news event can be understood by foreigners not familiar with the United States.

Q. All this is for audiences abroad?

A. Yes.

Q. Are these same programs available inside the U.S.?

A. When the U.S. Information Agency was founded under President Eisenhower in the early 1950s, Congress was very concerned that some American President might build up a propaganda organization that he could, in effect, turn on his own people and use to his own political advantage.

In USIA we have a lot of people who are very skilled in the communications art. The temptation for some President to use that skill to seek support for his programs among his own citizens could be very strong. So Congress said the Information Agency could not be used at all in any way that might involve it politically in anything inside the U.S.

That has advantages—and disadvantages. The advantage is obvious. It protects the country from the misuse of an organization of this sort.

The disadvantage is that it creates a certain mystery about what we do, and makes it difficult for the American people to learn what their country is doing abroad. Therefore, it's hard for them to make an informed judgment whether to support it or oppose it.

Q. Hasn't USIA been permitted to show some of its work inside the U.S.?

A. The law is a little bit imprecise. It quite clearly says, however, that we can't show anything to the American people which involves a political figure or issue.

Thus, when a film was made by USIA in 1963 on the life of President Kennedy—called "Years of Lightning, Day of Drums"—the film was shown overseas but not here. True, Mr. Kennedy was dead by that time. But there was still the Kennedy family and the Democratic Party, so political considerations were still involved. But this film stirred an enormous reaction overseas. American tourists would come back and say, "Hey, you ought to see this terrific film." So Congress passed a one-time exception to permit the showing of this Kennedy film in the U.S. under certain conditions.

We have also been permitted to make available here on an educational basis some of our products that don't relate directly to domestic politics. We recently made an arrangement with a nonprofit, governmental organization called the National Audio Visual Institute, under which that Institute can take films which are not political and make them available for educational use within the U.S.

IF CURBS ON USIA WERE RELAXED

Q. Do you think the law should be changed so the American people can see more of what USIA does?

A. From my own point of view, I think that some way should be devised for the people of the United States to have more-ready access to USIA materials, provided there are restrictions that would prevent the material from being misused. It's madness, for example, for us to make a film which wins an Academy Award and which is shown all over the world and the only people who can't see it are the Americans who paid for it.

Q. What films have you made that you think it would be good for Americans to see?

A. Oh, many films. In the last three years we have had three films nominated for Academy Awards. One was a film on the Soviet invasion of Czechoslovakia in 1968. Another was a film on the life of John Steinbeck. And the third was a film called "The Numbers Start at the River," which is a picture of small-town America.

I frankly think there would be much more public support for doing the types of things that need to be done—and that we're trying to do—if people knew more about what we are doing.

Q. How large is the USIA, in terms of people?

A. We have approximately 9,700 people, but that can be a misleading figure because roughly 5,000 of those people are foreign employes who work in our libraries and that sort of thing abroad. We have fewer than 4,500 American employes of whom 1,300 serve overseas and 3,200 serve in the United States.

Q. How much do you spend each year, approximately?

A. Two hundred million dollars.

Q. Does the U.S. need to spend that much for what can be called propaganda?

A. We need it if we're to continue the functions that we now have.

Spending by the U.S. Information Agency today is within 4 per cent—in terms of constant dollars—of the annual appropriation it had the year it was formed, in 1953. Although our budget has gone up from 85 million dollars in our first year to roughly 200 million dollars now, in terms of actual purchasing power our budget is the same or even smaller.

Q. When the USIA was formed in 1953, the cold war between the U.S. and the Communist world was at its very height. Has the need for the USIA lessened in recent years?

A. If I catch the implication of your question correctly, you imply that the cold war has ended. That, of course, gets into the definition of what the cold war is.

If the definition of the cold war is a struggle of ideologies—a war carried on by means other than military conflict—then the cold war evidently still exists, in terms of a struggle for men's minds.

The question of what we should spend on USIA involves the question of whether we have come to understandings between the major powers of the world which obviate the need for an informational, propaganda effort by the U.S. of the type that we're making.

In my judgment, we obviously have not arrived at such a position. I think it is still necessary—perhaps even more necessary than ever—to continue an important informational effort throughout the world by the United States. If that is to be our national policy, then it requires funds to do it. Whether the funds should be 200 million or not—that is a relative detail.

Q. How successful has the USIA been in its effort to get its story across to people in other countries?

A. I don't know whether I can give you a categorical answer because, in assessing our effectiveness through the years, you would have to assess it on an area-by-area or a country-by-country basis. There obviously have been some cases where we have done well, and some cases where we have not. But you're asking me a general question, so I'll answer it in a broad way:

I think that the Soviet Union has been much more successful than the West, generally, in propagating its point of view and in getting support for it. And I think this is especially remarkable when you consider the substance of what the Communists have to offer and the substance of life in the Soviet Union, as contrasted with the substance of our life and what we have to offer. So I feel that we in the West have done a very inadequate job of presenting the issues in a way in which people can judge them with perception.

Q. How can you measure the relative success or failure of a propaganda program?

A. You can't measure it precisely, because you're talking about changes in the human mind, and you can't put a caliper on that.

In the last decade, there has been an increasing questioning in much of the Western world about our root premises, about the philosophy that we stand for, about our traditions and about the rightness of our approach to human freedom, to the organization of society. In part, that's because we're in a constant stage of evolution, and Americans are a questioning people.

The other side—led essentially by the Soviet Union—adopts a very simplistic, iterative, hard-line, nondeviating approach in saying that its system is the best and that it is the wave of the future, the way the world is going. The other side tells nothing about itself which is bad. The outside world rarely hears about the bad except when it involves an external action of a major sort, such as the Soviet invasion of Czechoslovakia in 1968. It is very, very difficult to get a continuing flow of news stories out of the Soviet Union because of the restrictive nature of their society.

In the West, on the other hand, there is a constant flow of news—both bad and good. We have been in ferment, and many of the problems we are wrestling with are widely reported abroad—often in a disturbing way. So what gets through to many parts of the world is a picture of turmoil and uncertainty in the West, as against an appearance of a sort of solidity within the Communist regimes. This impression of Communist solidity is, in fact, just a cover—but it's what they present to the world.

Now, in that context, I think ideas are formed in the minds of many people that are not in accord with reality. And to the extent that that's true, the Soviet Union has done a better job in the promulgation of its concepts than the West has done.

Q. Under the free American system, is it possible for this country to do a better propaganda job than the Soviets?

A. No, I suppose not.

Now, you have used the world "propaganda," and I have been content to go along with that because in the dictionary sense of spreading information, it's correct. But what we really do in USIA is try to reflect in a panoramic form the sort of life that is lived in the United States.

I think we have not really got down to the fundamentals. We don't concentrate nearly enough on the root, philosophical differences between ourselves—our system—and the alternate choices offered people. We have avoided this out of a certain diplomatic politeness—out of our policy of not interfering in the internal affairs of other countries.

Under the restrictions we impose on ourselves, we never make clear to other people our perception of what are the real choices they face. We in USIA are much more of a reporting agency than an analytical agency. The West generally is that way.

But I do think it would be possible for the West to be much more effective than it is in the propaganda war.

Q. What is the biggest problem you face?

A. Our biggest problem is the lack of a realization in this country that we are involved in psycho-political war—a struggle for ideas. If you weren't in a war of ideas, then you wouldn't need an information agency. But as long as you face strong, aggressive powers that are imperialist by nature—and the Soviet Union is imperialist by nature—then you must have an information agency.

Q. What do you think should be done to improve your effectiveness in this propaganda war?

A. Our basic problem is that we—the United States—have never really decided what our end posture should be in countries such as the Soviet Union and China. We don't have a clear, specific propaganda objective. Until we have that, we can't address ourselves to the problem directly.

So I think that would probably be the central point: We have to decide what, as a people, our objective is as regards influencing minds about the Soviet Union.

Q. Is this a question of national policy?

A. I think it's a whole mix of questions, but that's one of the key considerations.

Q. How is USIA policy set now?

A. Policy, in terms of foreign policy, is set by the President and the State Department. The USIA itself is not a policy-setting agency. It's a policy-implementing agency.

Q. Who decides what policies you implement?

A. There are three or four levels of decision. The top decisions are made at the highest levels, and are passed to us either by the National Security Council or by senior officials in the State Department.

Once a decision is made, then the implementation of that decision is entirely the job of the USIA. In other words, we do the orchestration. But even when we orchestrate on a worldwide basis, the U.S. public-affairs officer in a particular country also has a certain degree of latitude as to the extent to which he emphasizes certain things in his particular country.

Q. Do you agree with this system?

A. I think USIA as an institution is not properly structured within the Government if we are to have a really serious information and propaganda effort.

Let me tell you what I think is needed, and then talk about how it would have to be done structurally:

In an information program, doing a good job does not consist of just brilliant master strokes. There may be brilliant master strokes from time to time if you are lucky and have very good people. But that's not the name of the game.

What is required is a constant, steady effort, because you're dealing with human minds—and that takes time. You have to have clear objectives—know exactly what the nuances are, what are the ultimate objectives—and you have to know exactly the interplay of considerations and forces to accomplish them.

Now, all this means that the head of the Information Agency—and I impersonalize this; I'm talking about structure rather than personalities—the head of the Agency must be involved in those planning sessions and those conferences and those decision meetings in order to know exactly what it is we're trying to achieve. This type of thing cannot be done in a vacuum.

You know, in the United States and in our Government—and this has nothing to do with political parties or Administrations—the word "propaganda" is a scare word. It's related to the work of the Nazi Propaganda Minister, Joseph Goebbels. It's regarded as the big-lie technique, brainwashing. It has the connotation, in effect, of being unclean.

Now, that's absurd. What you're really talking about are the fundamentals of what our country believes, what the West believes in, what we stand for—the root of the whole Judaic-Christian philosophy, the Declaration of Independence.

This whole cold war that is going on in the world is essentially a clash of ideas. If we are not prepared to at least portray and advocate the ideas we believe in, we won't survive.

Certainly the other side is very, very clear about what it wants, about its ultimate objectives. It's very clear that they are seeking to convert men's minds. They do it with ideas when they can. They do it with guns when they can. But they do it.

We, on our side, sort of wish that the whole concept of propaganda and cold war would go away. But it isn't going to go away. Yet we do our propaganda work sort of piecemeal, without careful planning, without even knowing precisely what it is we are trying to bring about. We deal in generalities. We "support the foreign policy of the United States." Sure, everybody here is for the success of the foreign policy of the United States. But the question is: What, specifically, do we want our propaganda to achieve?

So I think that if we are ever to have an effective propaganda operation within the U.S. Government, we must put the director of that operation right into the scheme of things and use the organization as a very finely orchestrated mechanism to achieve our goals. This is not being done in our country, and I think it should be done.

Q. How does Russia or China do this job?

A. In the Soviet Union, everything is totally controlled. The newspapers, the press agencies are Government implements. So is Radio Moscow. All are tightly controlled.

You've noticed that when something happens of a sensitive nature, the Russians won't put out a news story about it for two or three days. Why? Because the guys at the top haven't yet approved the story line—haven't decided exactly what to tell.

Now, we're never going to have any system like that in the United States—and we never should. But the men who understand propaganda warfare more than anyone else are those on the other side—the totalitarians. They deal in it. The Nazis were master propagandists. The Communists are frequently master propagandists. They deal in propaganda as a commodity, and they know its value.

Let me give you an example of how they operate:

During the President's China visit, there was an occasion when a young girl walked into a meeting with something for Premier Chou En-lai that looked like a front-page layout. One of the Americans present asked, "What is she doing here?" And he was told: "She's got the layout for tomorrow's newspaper, and the Premier has got to go over the layout of the stories and pictures."

The point is that in Communist countries anything they publish has only one purpose: to advance their aims. Truth is irrelevant. The concern is: Will this help foreign policy?

Propaganda is part of their foreign policy. And that's the reason it's so effective.

MAKING THE MOST OF U.S. KNOW-HOW

Q. Is there any way American propaganda can be made effective without copying the Communist system?

A. Sure. The whole communications revolution was created by the United States. The technology which is the essence of the communications revolution was created in this country. In the use of that technology for the dissemination of ideas and information and entertainment, we were the world's leaders. We dominated motion pictures and television for years. We still do. "Madison Avenue" has become a world-wide cliché for referring to the technique of marketing, and that's the dissemination of ideas.

But when it comes to using this technology or these techniques for disseminating ideas outside our own country—to act in opposition to those who would thrust their ideas down our throats—we don't do that very well. And I think it's basically a matter of will and of planning.

Q. To do the kind of job you think should be done, would you need a greatly expanded USIA, with a lot more people and a lot more money?

A. No. It isn't a question so much of money. It's a question of emphasis and clarity.

Q. If you had a free hand, what would you do?

A. Well, let's take the question of the Soviet Union and talk in terms of specifics.

You have the Soviet Union embarked on a build-up of conventional and nuclear weaponry. They've got their military accelerator down to the floor. They've become a power of awesome military potential. Senator Margaret Chase Smith [Republican, of Maine, a member of the Senate Armed Services Committee] has recently warned that if the present trends continue the United States will soon find itself in a position of military inferiority.

Now, one does not postulate that when the Russians get military superiority they will jump us in a direct attack. But they will have much greater freedom for aggressive acts. They can move into areas to their south—around the Persian Gulf, Iraq, Turkey—with considerably more freedom from fear of the United States than they could in the past.

They might gain control of some of these strategic areas by subversion and merely say to us: "Come and get us out if you don't like it." They said it to us in Cuba, and we made them get the missiles out because we were infinitely stronger.

Professors Brzezinski at Columbia and Pipes at Harvard—two of the most knowledgeable and dispassionate observers—are extremely concerned about what might happen to Russian attitudes when they finally get to the point where they can confront us with a Cuba in reverse.

When you have an inherently aggressive ideological society run by limited men, that presents a very dangerous situation for the things that I believe in, and I think we're heading into a very perilous decade for which the American people are not prepared.

Q. Just how does propaganda relate to all this?

A. There is a great deal of discontent within the Soviet Union. It is caused by two factors. One is the dissent of people who want human freedom: civil rights, freedom of religion, freedom to write and publish what they think. That's an intellectual dissent.

The second type of dissent is purely nationalistic, people of other nationalities who don't want to be ruled by the Russians—who, after all, are a minority in the Soviet Union.

So you've got two types of ferment inside the Soviet Union. If in the imperialistic Soviet society there are these broad currents of dissent, then it is clearly to the interest of the West, in my judgment, to relate to those dissents so that they will cause caution on the part of the Soviet regime.

These internal dissents are a great blessing to us. There isn't one of Russia's Eastern European satellites that would stay loyal to Russia if it could get out from under. These are matters that we ought to be addressing ourselves to.

It's essential that we broadcast to the discontented people inside the Soviet Union. Why? One reason is because the dissent of the leading intellectuals is never made known to the people of the Soviet Union except by Western radio. If we don't broadcast such information, it doesn't get in. The Soviet people are not told about [Nobel Prize winner] Solzhenitsyn's dissent, of the Sakharov letter [a letter by nuclear scientist Andrei Sakharov asking freedom for Russians to leave the country at will] or about the fact that 17,000 Catholics in Lithuania signed a protest against the Government.

We must make these discontented people inside the Soviet Union aware that they are not alone, but that there are millions of people who feel the same way they do.

You can do this in a very objective way. You can simply read the novels of Solzhenitsyn, as Radio Liberty does. Or you can report the facts on the Soviet repression of the Nobel Prize to a Soviet citizen—as the Voice of America does. Or you can report the fact that sugar is being rationed in Cuba.

Our policy of not involving ourselves in what is defined as "internal affairs" of the Soviet Union leaves me very uncomfortable.

The Russians have no such qualms. They are very methodical about commenting on the internal affairs of the United States and portraying it as a country torn by racial, regional, political and economic problems.

Now, publicly, it's very difficult to say these things. But look: What we're doing is running libraries and having exhibits, sending paintings around the world. This isn't enough. If any business tried to sell a product—any product—the way we're trying to sell our ideas, then you ought to sell that business short.

NO LONGER "A MARGIN FOR ERROR"

Q. Do you think this country is ready for the kind of effort that you're suggesting?

A. In today's climate, and with the trauma that the Vietnam war has put the American people in, and with its tragic impact on youth, I think it's very questionable whether we can measure up to the type of effort that we're going to need in the years ahead to withstand the pressures that we're going to be up against.

Once we had the big muscle. We had a margin for error, and we could make all kinds of mistakes and still survive. But with Russia's enormous and growing power, we don't have a margin for error any more.

Q. What is your answer to this situation?

A. One answer is: We've got to stay strong. But the other answer is we've got to recognize the nature of the enemy, that we are in a psycho-political war—and we'd better shape up.

USIA SAYS PROGRAMS FACE BIG CUTS

(By Tad Szulc)

WASHINGTON, April 24.—The United States Information Agency warned today that the proposed 25 per cent cut in its budget would halt all the Voice of America broadcasting to Eastern Europe and Africa and also seriously curtail many other propaganda and research activities.

The agency also said that 2,360 officials of the agency, about 1,000 of them Americans, out of the present total of nearly 10,000, would be dismissed if Congress endorsed the action taken last Monday by the Senate Foreign Relations Committee. The committee slashed the agency's budget for the fiscal year 1973, starting on July 1, from $200-million to $154.4-million.

A long internal memorandum from Charles D. Ablard, the Information Agency's general counsel, to the heads of all the departments of the agency summarized the projected impact of the reduction on the current programs, and told them that "this paper may be given general distribution to your contacts."

Agency officials said that Mr. Ablard, whose office also handles liaison between Congress and the agency, expected the department heads to circulate the information to their friends and associates in Washington and elsewhere so that key Senators and Representatives could be advised how the effectiveness of the propaganda programs would be lessened.

NO QUALITATIVE CONCLUSIONS

The memorandum itself does not, however, directly urge the recipients to seek to influence the members of Congress in any way, nor does it offer qualitative conclusions concerning the effect of shrunken United States informational programs.

A more direct approach was used by the union representing the agency's American employes here and abroad in letters dispatched to every Senator. The letters pleaded for rejection by the full Senate of the cuts recommended by the committee, which is headed by Senator J. W. Fulbright, Democrat of Arkansas.

Bernard Wiesman, president of Local 1812 of the American Federation of Government Employees, at the United States Information Agency, said in the letters:

"We are convinced that such a gagging of the Voice of America, such a smothering of our press and publications, such a blackout of our motion pictures and TV services, and such a near-elimination of United States information centers overseas would terribly undermine American influence among all segments abroad."

The Senate Foreign Relations Committee's decision to cut the agency's budget resulted from its dispute with the Nixon Administration over the Administration's invocation of "executive privilege" to deny the Senators access to the agency's "country program memoranda" covering plans for years beyond 1973.

The committee disclosed last Thursday that President Nixon invoked the executive privilege in a memorandum received on March 15, arguing that "country program" papers did not reflect actual Administration policy "but only proposals that are under consideration." Disclosure of the proposals to Congress would "not be in the public interest," the Administration memorandum said.

The agency's budget is expected to be considered by the full Senate next week, and its officials privately fear that the Fulbright committee's stand will be confirmed unless a major change in mood takes place.

They hope for relief when the House of Representatives considers the legislation later in the spring and, presumably, attempts to work out a compromise with Senate conferees.

Meanwhile, Information Agency planners said that unless the cuts were restored, the Voice of America would have to reduce its broadcasts from 780 hours weekly in 35 languages to 454 hours in 11 languages. Seven of the 15 relay stations abroad would be shut.

SHARP CUT IN VOICE BUDGET

The Voice would be hardest hit because under the legislation written by the Senate Committee, its budget would be reduced about 30 per cent—from $46.4-million to $37.5-million—without flexibility for Frank C. Shakespeare, the agency director, to shift funds from other programs.

Under the priority list worked out by the agency, the 24 languages to be eliminated from Voice of America broadcasting would include five Slavic ones, but not the Russian. Also to be eliminated would be Albanian, Estonian, Hungarian, Latvian, Lithuanian, and Rumanian.

The agency's memorandum said that the budgets cuts would force the halving of its television and motion picture programs and the elimination of all television satellite transmissions.

JIMMY BARROW

Mr. THURMOND. Mr. President, I wish to pay tribute to Jimmy Barrow, whose recent death is a great loss to the city of North Augusta, S.C.

A native of North Augusta, Jimmy Barrow devoted his entire adult life to development of the city's youth, coaching baseball and football teams in the city for some 14 years. His quiet, diligent, and unselfish efforts in behalf of the boys he coached earned him wide recognition in his community. He performed an invaluable service in instilling the qualities of good sportsmanship, discipline, and good manners in many boys which will leave his mark on his community for many years to come.

Mr. President, I ask unanimous consent that an article published in Mr. Barrow's hometown newspaper, the North Augusta Star, on April 13, 1972, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JIMMY BARROW

North Augusta recently suffered the loss of one of its most active sons in the passing of Jimmy Barrow.

Jimmy was not one to make the headlines or stand in the forefront of any movement that would net him personal recognition or gain.

Rather, he was one who *did* instead of *said*. And his doing crossed many years.

His main enjoyment and concern was evidenced toward the youth of the community, witnesses some fourteen years of coaching baseball and football teams in the city.

His diligence in these endeavors was such that it prompted one of his fellow coaches to say of him, "Always have the teams under his leadership exhibited good sportsmanship and excellent traits becoming to the type athletes we strive to produce in these programs. His teams were true examples of well coached, well disciplined and well mannered groups of young boys. They serve as a living example of his efforts."

A native North Augustan, Jimmy had lived here all his life.

We are certain that for years to come, many growing boys and grown men will carry with them the marks of good sportsmanship, discipline and good manners that they learned from their coach, Jimmy Barrow.

They will prove once again that the good men do live on long after the doer has departed.

THE REPUBLIC OF TANZANIA

Mr. McGEE. Mr. President, 8 years ago yesterday a historic event took place in East Africa when the island of Zanzibar and Pemba joined with Tanganyika to form the Republic of Tanzania.

During the ensuing period, the union has prospered under the leadership of "Mwalimu" Julius K. Nyerere, President of Tanzania. The close cooperation created by the union between mainland Tanganyika and the islands of Zanzibar and Pemba has not only benefited the parties directly involved, but has contributed to a stronger East African community. This is an achievement which is enviable not just in Africa, but throughout the world as well.

On this, the eighth anniversary of the union, I extend my warm congratulations in which I am certain my colleagues would wish to join me, to President Julius Nyerere, First Vice President Aboud Jumbe, Prime Minister and Second Vice President Rashidi Kawawa, and the people of Tanzania. I wish the United

Republic of Tanzania continued success in the years to come.

CITIZEN EXCHANGE CORPS

Mr. JAVITS. Mr. President, I have long been among those Government officials who have supported private, nongovernmental efforts to initiate meaningful cultural exchanges and contacts between the United States and the various Communist countries. I bring now to the attention of my colleagues the latest activity of the Citizen Exchange Corps, which is the country's largest nonpolitical, noncommercial exchange program involving Americans from all walks of life. Its program is developed by American professors and interpreters who work in cooperation with similar individuals in the counterpart Communist host country to arrange lectures, discussions and visits to homes, schools, and institutions of higher learning.

The Citizen Exchange Corps is now attempting to establish just such a cultural and educational exchange program with the People's Republic of China. With the President's trip to the Chinese mainland completed and with the Senate minority and majority leaders there now, it is only fitting to make note of the necessity and, indeed, the wisdom of promoting these private exchanges among the citizens of the United States and the People's Republic of China.

In 1962, the CEC started its first—and then seemingly utopian—effort to establish direct lines of communication with an exchange program between the United States and the Soviet Union. The CEC was in its infancy then, and a program of this magnitude seemed, at the very least, improbable. However, through the guidance and persistence of its president and founder, Stephen James, the plan succeeded and flourished. CEC can now boast that it has sent over 1,600 "citizen-diplomats" to the U.S.S.R.

In 1968, the CEC established a "China Corps" with the intention of working out a similar program with the People's Republic of China. By today, over 500 U.S. citiens have enrolled in the "China Corps," and I look forward to the fulfillment of this exchange program as another step in the normalization of United States-China relations.

Cultural exchanges transcend even the most opposing and divergent political ideologies. The CEC's efforts to establish channels of communication between the people of China and the United States promote closer understanding through exchange visits. It may prove to be one of the best ways to vault the ideological and political Great Wall of China, because the CEC eschews ideological and political identification and stands on humanitarian person to person grounds.

U.S. ROLE IN THE FUTURE OF VIETNAMESE CHILDREN

Mr. WILLIAMS. Mr. President, I wish to express my deep appreciation to the chairman of the Committee on Foreign Relations (Mr. FULBRIGHT) for reserving time from his busy schedule, which involved extensive floor action on the war powers bill, so that a day of hearings could be held April 5, 1972, on S. 2497, Senators HAROLD HUGHES and MARK HATFIELD and I introduced this legislation to create a Vietnam Child Care Agency responsible for providing care and protection to the hundreds of thousands of Vietnamese orphaned or otherwise disadvantaged by the war in Vietnam.

Last summer, when we first started working on this legislation, we were hoping that the war would continue to diminish in effect. Regrettably, as the President escalates his efforts toward a military solution in Vietnam, the numbers of casualties and severely disadvantaged mount.

This is a particularly important time to study the problems of children in Vietnam as those problems are being compounded daily as a result of the intense battles being waged across Vietnam. In the midst of this destruction are American planes, ships, and helicopters adding to the numbers of refugees, orphaned and disabled children. We introduced this bill in the hope that the United States would participate in a constructive program of social benefit which would actually be ongoing after the military efforts had been terminated.

I want to take this opportunity to clarify a couple of points of confusion about the bill. S. 2497 would establish the Vietnam Child Care Agency as a new governmental agency. I appreciate that the concept of creating new agencies is anathema to many of my colleagues. However, in the particular situation of children's problems in Vietnam, I cannot foresee any viable alternative to an organization committed to participating in the solution of these problems.

The agency would not serve in an operational role. It would be charged with evaluating, coordinating, approving, funding and overseeing programs related to child care developed by the Vietnamese Government's Ministry of Social Welfare and nonprofit relief organizations working in Vietnam. At this time, the Ministry of Social Welfare has developed a program quite similar to the one proposed a program quite similar to the one proposed in our bill and nearly 60 private agencies are already working in Vietnam.

A strong commitment of the U.S. Government would certainly augment these sorely needed programs and enhance benefits to Vietnamese children, and yet there is no indication that such an ongoing commitment will be made.

I have frequently heard the argument that the Agency for International Development could handle a child care program and therefore a new agency is redundant. Clearly, AID's experience to date counters this argument. During all the years AID has been in Vietnam, it has not been able to assign more than a couple of workers on a part-time basis to the problems of children. In addition, the AID authorized staff level is being decreased by 15 to 20 percent per year.

On April 1, the AID mission in Vietnam approved a transfer of approximately $770,000 in counterpart funds to the Vietnamese treasury for initial implementation of the child care program I have already mentioned. This is a fine step. However, the transfer expires at the end of this calendar year; in other words there is no guarantee that the United States will continue to demonstrate responsibility and concern for these vast problems beyond December 31, 1972.

A second important point is that the Vietnamese Government has had problems of corruption and we do not think it is prudent to transfer or extend money to the government without being able to supervise the expenditure and terminate the funding if corruption was found to be a problem. Clearly because of its manpower shortage, AID is unable to oversee the Ministry's programs which have been approved and will receive funding, whereas a primary function of the Vietnam Child Care Agency would be to oversee such programs.

I shall include after my remarks a statement prepared for the hearing record on S. 2497 by Dr. James R. Dumpson, dean of the School of Social Service at Fordham University. Dr. Dumpson has been to Vietnam twice in an official capacity to study the problem of social welfare. In 1967 he was chairman of a social welfare task force, which involved study of the AID's various programs in Vietnam. He returned again in 1970 to update his earlier study.

His discussion of AID's lack of commitment and capability is very pertinent at this point. He discusses personal observations of the problems AID is facing and has been unable to overcome and the commitment which must be made if a program truly beneficial to the Vietnamese and their children is to be developed.

Another problem which must be further clarified concerns the intercountry adoption of Vietnamese orphans. A friend of mine, Mrs. Nancy Krivit, of Edison, N.J., has written a moving statement for the hearing record which describes the problems faced in adoptions. I think her personal experiences and those of her friends indicates the need for some official action to be taken in this area.

As an official organization responsible for coordinating, funding, and overseeing programs directed at relieving the problems of Vietnamese children, the agency should be in an excellent position to negotiate with the Vietnamese Government and ease the restrictions which presently are confounding the adoption process.

I hasten to add that we see adoption as an important supplement to the major programs directed at stimulating and strengthening Vietnamese family life so that children are kept at home in good health. On no grounds do we endorse a large-scale removal of children from Vietnam. These adoptions would continue to occur on a strict case-by-case basis which almost assures the success of the adoption.

I have heard the point made that the United Nations or other multinational organizations should be doing this sort of relief activity in Vietnam. At this time, I can think of no multilateral organization including UNICEF, which is willing to enter Vietnam and work to resolve the massive problems of many of the 8,000,000 children while American bombers and naval vessels are destroying villages and fields, while American helicopters and artillery are providing close support to Vietnamese soldiers, or while 80,000 American soldiers continue to pursue a military solution in Vietnam.

I can say unequivocally that the problems of 700,000 orphans or half-orphans are not lessening as the Americans leave, that the tribulations of hundreds of thousands of wounded and disabled children are not easing as more and more Americans tend to disregard the tragedy which Americans have participated in and conducted for so long.

As a nation, we must be prepared to meet with resolve these great problems which we have contributed to and I say that we should commit ourselves to solving those problems soon with the sincere intention of saving and nourishing lives rather than destroying and wasting them.

I ask unanimous consent to have printed in the RECORD the testimony of Dr. James R. Dumpson and the testimony of Mrs. Nancy Krivit.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT OF JAMES R. DUMPSON

Mr. Chairman and members of the Committee on Foreign Relations Committees, I regret that my absence from the country makes it impossible for me to accept the invitation to appear personally before the Committee to testify concerning Senate Bill 2497. I welcome the opportunity, however, to submit this written statement. The observations I submit to you grow out of my long professional background in the field of social welfare, particularly in child welfare. Preceding my seven year tenure as Commissioner of Welfare for the City of New York, I was the Director of the City's Bureau of Child Welfare. More intimately, they reflect insights I gained on two assignments to South Vietnam. In June 1967, I accepted the Chairmanship of a Social Welfare Task Force to South Vietnam, authorized by the Agency for International Development of our government. That Task Force submitted its report to USAID in Washington and USAID in Vietnam in August, 1967.

In November, 1970, I returned to South Vietnam at the request of the Unitarian Universalist Service Committee to evaluate that agency's program in Saigon and to recommend the specific steps and actions that would be required following the withdrawal of that agency's operation of the program. The objectives and programs outlined in S. 2497 are of particular interest to me and I welcome the opportunity to comment on them. Let me state at the outset that I urge the Committee to approve the Bill and subsequently, vigorously to support it on the floor of the Senate. I would certainly prefer to see all assistance channeled through the ministry of social welfare and other appropriate ministries of the Vietnamese government rather than set up an American agency in Vietnam to operate services. I question whether the capability exists at this point to achieve immediately the objectives of the Bill. The intent might well be expressed that when that capability is assured, the program should be so transferred. But children so sorely in need cannot wait for this development. Commitment to the goal and planning to achieve can proceed while the proposed agency moves into operation.

The Bill is most significant in its statement of intent which affirms that: "the United States has a moral responsibility to assist the Government of South Vietnam in the care and protection of all South Vietnamese children, particularly those orphaned or abandoned." It is urgently important, not only for humanitarian reasons but in the interest of future peace particularly in Indo-China, that the United States provide the leadership with the Government of South Vietnam and the financial resources for the development in that country of a rationally planned, practically implemented program of social development, that involve the people of the country. In no other way can there be a maximation of the human return on the human investment and sacrifice that has been made through the war, hopefully in the interest of freedom of choice and self-determination on the part of the Vietnamese people. The need of all the children in South Vietnam must have the highest priority in this effort.

Our casualties in South Vietnam are not only those counted and reported in the daily press. Those families and their children who have been killed, maimed, or left homeless by the war in which we have been a major participant, are the unreported casualties of the war. The disruption of family life caused by the massive dislocation of the population has destroyed the very fabric of Vietnamese life. It has taken a horrible toll within the child population. The social needs of millions of children, those still clinging to what little is left of their own families in the villages and cities; those whose existence, is supported in overcrowded institutions, shockingly substandard when measured by the most elementary requirements of child care; and those who are completely homeless, neglected or abandoned to the streets of Saigon, present a stark and disturbing picture. They represent a threat to the future well-being of the Vietnamese nation; they represent a potential for defeat of the possibility of the Vietnamese people to achieve the goal stated by President Nixon in May, 1969: ". . . . to determine their own political future without outside interference." They represent a social cost that neither Vietnam nor the rest of the human society can ever afford.

The statement of intent of S. 2497 as a public policy position, if fully implemented, would represent an enormous contribution to the reversal of the effects and long range consequences of continued neglect of millions of Vietnamese children and their families.

In 1967, the A.I.D. Social Welfare Task Force of which I was the Chairman, pointed out that our government, as reflected by the absence of a sustained commitment, an appropriate allocation of funds, and provision of qualified personnel commensurate with the need and shared responsibility of our nation for meeting it, had abdicated all responsibility for developing leadership and capability on the part of the Vietnamese government to address itself to social development. The Task Force Report emphasized its conviction that "sound social policies and programs are tools in winning the war and in Vietnam's nation building efforts." We failed to gain acceptance of this position on the part of A.I.D. following our tour of duty in 1967.

During my 1970 visit to Vietnam, I found that that position still had not been accepted. From information available in official reports, including those from A.I.D., the proposals advanced provide no indication that a change is likely to occur on the initiative of the Administration. Indeed, what is indicated, and consistently advanced, is a crisis-oriented approach to human problems in South Vietnam, a narrow perception of human need, and a short-range, inadequate allocation of funds that fail to reflect any intent on the part of our government to share with the Vietnamese our technical and financial capability for the pursuit of social as well as economic development. This is particularly true in the case of children and their families whose homes and traditional forms of support we have so effectively destroyed.

I understand that a request for substantial assistance to support social welfare was made by the Ministry of Social Welfare sometime last fall. I understand further that the AIDVN Mission approved ear-marking some 500 million piasters for social welfare. Only now, in March, has agreement been reached within the Administration to make available some 300 million of the allocated 500 million piasters. Beyond this delay, it must be emphasized that whatever sums have been ear-marked or actually approved for use, this is an approval for this calendar year only. These facts must be viewed within the context of two apparent policy postures of the administration: 1) that it has no long range responsibility for social welfare support in South Vietnam; and 2) that A.I.D. will continue not to be involved in a supporting assistance program in South Vietnam. Question must be raised then concerning the creditibility of the Administrations position that no existing legislation or additional governmental structure are necessary.

The statement of intent of S. 2497 would reverse this disgraceful posture of our government in this area of human need. If for no other reason, the Bill warrants the enthusiastic support of the American people.

The second statement of intent of the bill, affirming responsibility for assisting "in facilitating the care or adoption of children in Vietnam whose fathers are United States citizens and who are not living with their Vietnamese families," also must be supported.

The provisions of the bill designed to implement this statement of public policy on the part of our government are sound and practical. The experience of the French in dealing with this problem in Indo-China before us; and the social cost of our ineptness as a people, in dealing with many of the children in Germany and Korea whose fathers were American citizens, should provide us the understanding and know-how for effective, humane handling of similar children in South Vietnam. Who better than we Americans know the crippling effects in the development of children of the stigma of difference based on color and mixed ethnic parentage? Who better than we should provide the choice for children to escape that stigma and its damaging effects on the individual and the society of which he is a member.

In addition to the public policy commitments on the part of our government set forth in S. 2497, there are a number of provisions concerning which I wish to submit a few, brief comments.

I urge particular support of provisions in Section 2 that set up a Vietnam Children's Care Agency and that broadly and appropriately defines children who are to be beneficiaries of its service as all children sixteen years of age or younger whose needs stem from war related circumstances. My preference for direct assistance to the Government of Vietnam and my reservations about it have already been stated. This Committee should be clear that such a definition will include a great majority of Vietnamese children, and that establishing and maintaining a program for their care and protection in their own homes, in institutional care, or through adoption cannot and must not be perceived as a short-term, emergency type development. It is in this respect that I stress the long-range commitment feature of the bill's legislative intent and the requirement for provision of funds to implement that long-term commitment.

The bill is eminently sound in recognizing the differential needs of children by authorizing provision for assistance to children in their own homes, in institutions, in day care centers, in hostels, and adoption. The recognition of the differential needs of children is further reflected by provision for the training of child care personnel for the variety of services. This is an essential provision of the bill and must not be lost in further Congressional consideration. Indeed, the effectiveness of the provision of services authorized under the bill are almost completely dependent on the quantity and quality of personnel, American and Vietnamese, engaged in the program.

I wish to stress support, further, for that provision in Section 2 that authorizes the Agency "to provide, on such terms and conditions as it considers appropriate, direct assistance to public or private nonprofit organizations . . ." Again, this provision is in accord with a recommendation made by the aforementioned A.I.D. Task Force on Social Welfare that "a dynamic partnership between government and citizen effort may evolve, and that joint planning and mutual collaboration in the interest of human well-being and social reconstruction may be achieved." I would urge that the Committee's discussion clearly indicate to the administration of the proposed agency its intent that there be built-in the public-nonprofit organization relationship acceptable standards of child welfare services, reflecting the cultural traditions of the Vietnamese people, and a degree of accountability for performance that not only is acceptable to them at this period of their social development, but that contributes to further advances in child and family welfare service delivery in Vietnam.

In closing I would strongly emphasize again that soundly conceived, effective programs for children and their families cannot be established on an ad hoc basis. Short range and long range planning for the aspect of social development dealt with in the Bill, if it is to meet the objectives of the legislation, requires a long term commitment buttressed by Agency funding on at least a three to five year basis. No other approach can be defended in terms of child need in Vietnam. No other approach can possibly satisfy the responsibility that the United States inescapably has in helping bind the social wounds suffered by the assault that has been made during the war to the social fabric of the Vietnamese society.

Testimony for S. 2497—Hearings April 5, 1972—Committee on Foreign Relations

My name is Nancy Krivit. I am 29 years old, married to Mark Krivit for the past ten years, and the mother of four children, two boys whom I gave birth to, a little girl whom we adopted, and a little girl in Vietnam who we are in the process of adopting now. I wish to tell the Committee of our personal experience in adopting a Vietnamese child, of the experiences of some of the 75 families in this country with whom I correspond who have adopted Vietnamese children, and of the work of hundreds of volunteers in our country who are trying to alleviate some of the suffering of innocent children by providing money, food, clothing, milk and medicines to orphanages in Vietnam.

In 1967 my husband and I decided we wanted to adopt a Vietnamese orphan. Although we had no knowledge of the numbers of children in orphanages or the conditions under which they lived, we knew that war creates orphans, we had room for a child in our home who needed a home, and we very much wanted a little girl in the family. We called several international social agencies and were told it was impossible to adopt a child from Vietnam. In the process we learned of the many homeless children in this country, and proceeded to adopt a little girl in 1970.

By the time we adopted Rory we had learned a great deal about the field of adoption. We were active in two voluntary parent groups, Council on Adoptable Children and Frontiers in Adoption, whose functions involved recruiting parents for homeless children, and working to change laws that hampered children's chances for adoption. Both Mark and myself helped to create Spaulding for Children, a New Jersey licensed adoption agency whose purpose is to serve without fees the homeless children in this country for whom other adoption agencies have been unable to find homes. As members of the Board of Directors we increased our knowledge of adoption both from an agency and individual point of view.

Last year we learned of a family who had adopted a Vietnamese child. We called them and at that point began actively trying to adopt a child. At the same time we became active in organizations which tried to encourage agencies to help with Vietnamese adoption; we helped to support orphanages that were releasing children for adoption; and we tried through the legislation we are discussing today to involve our government in helping the youngest victims of the war.

Last June, 1971, we began writing to several orphanages and agencies trying to locate a child available for adoption. We did not have any friends in Vietnam who could help us, so we had to use the mail. It took us seven months before we were notified by one orphanage that a three week old Vietnamese American baby was available to us. This long wait is so incredible when one considers the thousands of orphans in Vietnam who live in the 126 registered orphanages, on the street or in whatever shelter they can find. We are overjoyed with our daughter and are now in the process of adopting her, a process which will take about a year and is only possible because of the cooperation of individuals in Vietnam who voluntarily devote their time to helping people who cannot travel to Vietnam to adopt. They arrange the paper work with a Vietnamese lawyer and care for the children until they are able to leave the country.

Our daughter is in one of the nicer orphanages in Vietnam, near a United States Air Force base. Over the years this orphanage has received help from soldiers who devote their time to assisting with repairs and maintenance and playing with the children, of vital importance to their development. They also accept packages and letters for the orphanage. Without their help many more children would die than the estimated 80 to 90% mortality rate that now exists in Vietnam's institutions.

From the most recent pictures we have received of our daughter it appears that her legs are not developing properly. We are concerned that we are unable to take her to a doctor and have the necessary diet and correction prescribed that would correct the condition. Instead we must again use the mail to look for a means to help her through people now in Vietnam. The medical care in the best of orphanages is minimal, and conditions like hers, which are not among the most serious, must be overlooked so that those critically ill children can receive care. Nevertheless, we know in the many months that we must wait, the conditions will probably worsen. We also must live in the hope that none of the common killers of babies, measles, tuberculosis, polio, and pneumonia, will be contracted by our very fragile baby, who already is underweight for her age. We only wish there was medical care for our daughter, and for all the children, and that the time she must spend in a crowded orphanage sharing her crib with at least one other baby can be considerably reduced.

I am a co-founder of the New Jersey branch of Friends of Children of Vietnam, an organization that originated in Colorado some years ago, and whose functions are primarily to support those facilities that are involved in adoption, and to assist adoptive parents in the complicated paper work they must complete before they can bring their child home. As a member of Friends of Children of Vietnam, I have received hundreds of letters from families who would gladly open their homes to a Vietnamese orphan. The homeless children in Vietnam are waiting for parents; the willing parents are waiting for children. The machinery to bring them together has got to be simplified.

There have been eighteen Vietnamese children adopted in Colorado and at least another eighteen adoptions started. The children are a great joy to their families. Each adoption has had some delays and each has been a frustrating wait for the parents. But for some the long wait involved in the adoption has had long-range consequences.

The Schlegals of Longmont, Colorado, had waited four months for their son when they received word he had died in the orphanage. Although the death of this child was difficult for them, they decided to accept a "replacement", a baby boy close to the same age and in the same orphanage. The second boy was named Scott and they waited another eight months for him. Scott was twenty months old when he arrived and could only crawl crab-fashion on the floor. He had had polio. His legs were badly damaged. After a year in casts and braces, Scott had major surgery on one leg. He faces at least one more operation on the other leg and more years in braces. The doctors assure the Schlegals Scott will walk. Had his adoption taken a shorter time, Scott needn't have had polio. His parents now are just grateful to have him and consider him a special gift to their family.

Lara Pauli Grant was born in the same village in Vietnam and on the same day as Scott Schlegal. She went to the same orphanage and got polio at the same time. Lara Pauli will always walk with a limp. A beautiful and loving two years old, Lara delights her parents who can't get over their good fortune in having her. But sometimes when her weak leg gives way and she falls, they wonder why she had to have polio, why she couldn't have come early enough to save her from being handicapped.

Kim Oanh Buchanan was five years old before she was chosen for adoption. Sister Anicet at the orphanage explained to Kim Oanh about a family of her own, gave her pictures of two brothers, two sisters and parents, and then she waited. Ten months is a long time for parents when they wonder every day if their child is being fed well. For the children waiting for a new sister, for the five year waiting for a promised home, it is long enough to turn a promise into a dream. Kim Oanh is a delight to her family but her speech is developing slowly. Constant untreated ear infections during her stay in the orphanage have resulted in some loss of hearing. It is difficult to learn a new language when you can't hear it very well.

Van watched his family die in a mortar attack. At age seven, he held his shattered leg together with one hand and dragged himself from mother to brother to father to sister. A two year old sister was still alive but died as Van tried to give her the drink of water she begged.

An American found Van in a hospital and heard his story. The American was so moved he promised Van to take him home to the U.S. and always take care of him. It took two years to get through the adoptive red tape. For two years that little boy alternately hoped and despaired.

Van is a happy American ten year old now.

He is doing well with his artificial leg. His parents are very proud of him. But we wonder if, after all he had experienced, he really had to go through those two years of waiting.

All of the adoptions are happy. The children are bright and beautiful. But many more families would like to adopt, and are unable to. At the same time a nun at one of the orphanages writes "The babies are dying like flies. We have four to a tiny crib. The children are eating moths and ants. So many die."

A family in New York located a child in an orphanage, and after seven months of loving her, they found out her parents were taking her back. Despite their sadness, they realized that this was as it should be. They realized that adoption was a solution for a small number of the children in Vietnam who need help, but they also realized that for these children adoption was their only hope for survival and a fruitful life. Soon another child was located for them, but she died suddenly of measles. They were shocked and terribly grief stricken, but they knew of the need and they knew of their desire for a child, so they continued when a third child was located for them. Fourteen months after they heard about their first daughter, their third daughter arrived, weak and thin, but alive and smiling. The doctors say her early malnutrition has left her in a weakened condition, but every day she gains strength and even is a bit chubby today.

Every family with whom I correspond tell of the amazing capacity of their children to adjust quickly, and of their eagerness to learn and to enjoy their new environment. They tell of the interest they have developed in the Vietnamese culture and history, as they learn about it in order to share their knowledge with all of their children.

The majority of the children who have come to this country are of mixed racial background, either Vietnamese-Caucasian or Vietnamese-Negro. A nun at one of the orphanages comments "Yes, there are so many mixed American-Vietnamese in Vietnam who need a good home and good parents. I am really very worried about their future." It is acknowledged by most of the experts in child welfare that the mixed race child will have great difficulties as he grows older, and particularly the part black child. Numerous studies completed in this country concerning the thousands of Korean children who have been adopted by Americans point out that the adoption of children across racial lines has had a very high degree of success in terms of the child's adjustment, the mutual satisfaction of parent and child and the child's capacity for a fulfilling life. It would seem that adoption is a very important solution to some children in Vietnam whose futures are so uncertain today.

As I understand it, the long delay in the completion of the adoptions is caused primarily by the proxy adoption system now in use in Vietnamese courts, which requires a child to be legally adopted before he can leave the country, rather than having an agency assume legal guardianship of a child, and bringing the child out of the country and placing him in a home until a final American adoption can be completed, at which point the agency would then give up legal guardianship. One particular delay is caused by the need for a dispensation signed by the President of South Vietnam in the majority of cases when the following adoption requirements have not been fulfilled.

1. Parents must be married ten years or more.

2. Parents must have no natural children.

3. At least one parent must be over the age of 30.

Although the dispensations are granted regularly, there is a delay of up to several months in which time the adoption process is at a standstill. There is also a lengthy court process involving two hearings scheduled two months apart. Another delay is caused by the fact that abandoned children must be issued a birth certificate, which has taken up to five months in some cases. From the time a family first locates a child, about a year will pass before that child can join his family.

The part of the Vietnamese adoption that takes place in this country is basically the completion of a home study by a qualified adoption agency and the filing of Petition I-600 with Immigration and Naturalization. When the child enters the country, although he has been adopted legally in Vietnam, most of the children are readopted in their state and then file for citizenship two years later.

It has been found that the Immigration authorities have been particularly cooperative in filing Petition I-600, and in many states the public welfare agency has been cooperative in performing the necessary home study.

However, in many states families have run into a great deal of resistance in obtaining a home study for a child not born in this country. It seems to me that the public agency is there to serve the public, which has not been the case for the many families who have been forced to pay fees to private agencies in order that they could have a home study completed.

In some states a family can not adopt a child unless the child has been seen by the family, which makes it impossible for some people to adopt a Vietnamese child. To date there has been little official agency involvement by those who are in a position to help people who wish to adopt; thus there has been nobody to turn to when problems of this nature arise. It is hoped that this legislation will correct some of the weaknesses in Vietnamese adoption and enable agencies to assume a more clear cut and responsible position in helping Americans who wish to adopt.

The tragic irony that exists today is just as the children suffered greatly when U.S. involvement was at its height in Vietnam, so the children will suffer even more as the troops withdraw. These children, who are our responsibility, need extensive child welfare services, including adoption, and they need them now, before too many more innocent children must die.

To sum it up my recommendations would be as follows:

1. To eliminate the proxy adoption, and allow agencies to bring the children out of Vietnam on a case by case basis, under agency legal guardianship.

2. If this is not possible, a simplification of adoption procedures could be encouraged, which would eliminate the need for dispensation, and shorten the court procedure for adoption.

3. A more efficient method should be conceived to obtain a birth certificate for an abandoned child.

4. An education program in Vietnam, particularly geared to those who run the orphanages which would help the people to better understand adoption and how it benefits children.

5. Strong and continuing financial support to orphanages, so that adequate food and facilities and medical care can be provided for all the children, and easy accessibility to doctors and hospitals for the children who are in need.

6. More cooperation from the agencies who are in a position to engage in Vietnamese adoption, and to assist parents in adopting a child.

7. Cooperation from each States Welfare Department for completion of home studies for intercountry adoption and recognition of proxy adoption.

PLANS TO PROTECT THE HOMEOWNER

Mr. PERCY. Mr. President, during the hearings 5 years ago on the homeownership program for low-income families I repeatedly urged my colleagues on the Banking and Currency Committee to adopt some form of insurance to protect the home buyer from defaulting on his mortgage due to involuntary unemployment. Unfortunately my proposal was not adopted.

We are now witnessing thousands of defaults, foreclosures, and abandonments in cities across the country in connection with the section 221(d)(2) and section 235 programs. One of the major reasons for this regrettable pattern of failure—aside from the well-documented abuses in several FHA mortgage insurance programs—is the economic recession plaguing our central cities the last few years.

Many lower income families could still be enjoying the fruits of homeownership and contributing to the stability and growth of their communities if the Congress had recognized the need for helping the purchaser meet his mortgage payments in times of economic hardship.

I am pleased to learn that the private sector is now offering a plan to protect homeowners from unforeseen economic developments. The plan, called the economic security plan, was devised by Mr. Laurence August who is now executive vice president of ESP-Fidelity Corp. I am extremely pleased that the Department of Housing and Urban Development has recently agreed to allow the program to be made available to purchasers who use FHA financing and that ESP-Fidelity intends to make the service available to purchasers participating in the section 235 program.

I ask unanimous consent that an exchange of letters between Mr. August and Mr. Robert Hollister of HUD and a letter to me from Mr. August be incorporated in the RECORD at the conclusion of my remarks.

This is how the program works.

Sellers may adopt a variety of predetermined employment protection plans on behalf of their consumers, providing from two monthly payments in 1 year, up to 10 monthly payments in 4 years, if the consumer's earning capacity is involuntarily suspended due to:

Economic unemployment in which an employer or company reduces employed personnel because of adverse economic necessity;

Technological unemployment in which a position is eliminated due to technological advance or automation;

Geographic unemployment in which a position is eliminated when a company relocates an administration, sales, or industrial operation;

Production or product redesign in which temporary unemployment is caused by redesign of product or production methods; and

Lockout due to union dispute.

A 30-day waiting period is required to complete the necessary substantiation and paperwork. The first monthly payment will be credited to the consumer's account on the regularly scheduled payment date following this 30-day waiting period if the consumer is still unemployed at that time. Subsequent monthly payments will be credited in this manner during each month of the consumer's unemployment for the predetermined aggregate total.

The full cost of the protection is borne by the seller and amounts to about one-third to one-half of a monthly payment.

I understand the economic security program is available in such diverse areas as Los Angeles, Calif., and Providence, R.I. The protection is offered by homebuilders in Park Forest South, Aurora, and throughout Cook County in Illinois. Plans are in the making to extend the program throughout the United States.

I believe that Senators will be interested in further details about the program and about Mr. August, the remarkable young originator of this plan.

I ask unanimous consent that descriptive materials and newspaper articles also be incorporated in the RECORD at the conclusion of my remarks.

I am gratified that someone is advocating and implementing programs to protect the consumer of real estate properties at a time when so many fast-buck operators are interested only in bilking the public.

Several weeks ago I inserted in the RECORD a brochure about how to make fast profits on real estate which I entitled, "A Guide To Bilking the Public." This guide has generated a great deal of interest and several people have written me about activities designed to protect, rather than bilk the consumer.

I wish to call two such programs to the attention of the Senate. One is a voluntary 235–237 counseling program operated by the Tri-County Urban League in Peoria, Ill. The other is a counseling program sponsored by America 2000, a St. Louis, Mo., nonprofit foundation.

I ask unanimous consent that descriptive material about these two programs, including a counseling booklet prepared by the Peoria program, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

E.S.P. FIDELITY CORP.,
Los Angeles, Calif., March 2, 1972.

MR. ROBERT HOLLISTER,
Chief—Home Mortgage, Office of the General Counsel, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. HOLLISTER: Thank you for your expression of interest in the Economic Security Program. As you will note, it is the only Program now in existence that not only protects the unemployed homeowner's investment, but, at the same time, increases the unemployed homeowner's equity and preserves the unemployed homeowner's credit rating.

Simultaneously, the Economic Security Program acts as a Lender protection device by assuring a continuity of profitable cash flow even while the homeowner is unemployed.

We are even willing to include buyers of No. 235 homes within the protection of the Economic Security Program and to extend this protection into such depressed areas as Seattle, Washington.

We believe that the Economic Security Program will be of immeasurable benefit to the operations and goals of the F.H.A. This is especially true if the F.H.A. does not put the builders who adopt the Program into the double jeopardy of reducing their loan commitment by a sum equal to the small fee they will spend in securing this protection for their homebuyers.

The builders of these homes agree not to pass even this minimal cost on to the homeowner. Therefore, an F.H.A. home selling for $25,000 before the builder adopts the Economic Security Program, will still cost $25,000 after builder adopts this economic protection on behalf of the homeowner.

As I informed you, this fee, which is paid by the builder, represents approximately 50% of one normal monthly mortgage payment, which in turn, provides six (6) full monthly payments within a three year period.

An affirmative decision on this matter would be deeply appreciated by the home buying public and the home builder, while being of great benefit to the F.H.A.

Regards,
LAURENCE I. AUGUST,
Executive Vice President.

NOTE: The Economic Security Program has been reviewed and received favorably by:

1. Office of Senator Warren Magnuson, Mr. Norman Dicks.
2. Office of Senator Alan Cranston, Mr. Steve Shefler.
3. Office of the Chairman—Federal Home Loan Bank, Mr. Trent Feldman.
4. Department of Housing and Urban Affairs—Community Development, Mr. Roy Cuneo.
5. Federal Home Mortgage Corp., Mr. Arthur Atkinson.

MARCH 15, 1972.

MR. LAURENCE I. AUGUST,
Executive Vice President, E.S.P. Fidelity Corp., Los Angeles, Calif.

DEAR MR. AUGUST: I am replying to your letter of March 2, 1972, concerning the proposed Economic Security Program which is being offered by your company.

It is our understanding that the program offers several unemployment protection plans for purchasers of homes for a period of up to three years for an approximate cost of fifty percent of one monthly mortgage payment. The premiums will be paid by the seller of the property. The cost of this policy is not, under any circumstances, to be passed on to the purchaser and will not affect the price of a dwelling.

We have no legal objection to the above program provided that it is available to purchasers who finance their mortgage using VA, FHA or conventional methods and not just to purchasers under federal programs. Furthermore, there must be a provision which either permits an assumpter of the mortgage or deed of trust to receive the benefits of the insurance policy for any remaining term of the three year policy or, in the alternative, an agreement by the insuring company to return any unearned premium to the party who paid for the policy.

Since the program does not in any way affect the sales price of dwellings we do not intend to treat the payment of the premium by the seller as a reduction in the sales price which would require an equivalent reduction in the lean commitment amount.

However, we do intend to carefully monitor sales prices in areas where the program is adopted and we would reconsider our decision if evidence is produced which indicates that the program is affecting the sales price of units covered under the program.

The foregoing is not to be construed as an approval of your plan by the Department. Any statement implying FHA approval would be in violation of Section 709 of Title 18 of the United States Code which provides for a fine of not more than $1,000 or imprisonment for not more than one year, or both.

I trust that the foregoing will be of assistance to you.

Sincerely yours,
ROBERT F. HOLLISTER,
Chief, Home Mortgage Section.

E.S.P. FIDELITY CORPORATION,
Los Angeles, Calif., March 14, 1972.

Senator CHARLES PERCY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: I am literally overwhelmed at the swift, efficient, and very favorable assistance you and your staff provided on behalf of our Economic Security Program.

There is no doubt in our minds that without this assistance, the favorable decision reached by HUD would not have been forthcoming in such an expeditious manner if at all. To paraphrase the closing paragraph in my letter to Robert Hollister, your interest in this matter is not only deeply appreciated by all the members of ESP-Fidelity Corp., but, in turn, will be of great benefit to the home buying public, the home builder and the Department of Housing and Urban Development.

Warmest regards,
LAURENCE I. AUGUST,
Executive Vice President.

ECONOMIC SECURITY PROGRAM
PRECIS OF OPERATION

The Economic Security Program provides direct financial protection to the involuntarily unemployed Homeowner.

The Program is also designed to alleviate the Homeowner's "fear syndrome" that occurs when assuming the financial obligation of mortgage.

In addition, the Economic Security Program acts as a form of protection to the Lender by partially assuring a continuity of repayment even when the mortgagee is unemployed.

I. ADOPTION

A. The builder/developer agrees to adopt the Economic Security Program.

B. Builder/developer selects a specific plan most applicable to the designated market (example: a total of 6 full monthly payments made through the Economic Security Program in a 3 year period if the homebuyer becomes involuntarily unemployed).

C. The builder/developer supplies the information required for specific rate determination (see rate determination section in booklet).

D. ESP-Fidelity Corp. presents builder/developer with specific rate (example: the plan specifying 6 full monthly payments in a 3 year period will cost the builder/developer a total of approximately 48% to 51% of one monthly payment for the full 3 year term).

II. OPERATION

A. ESP-Fidelity Corp. supplies the builder/developer with Economic Security Program certificates which specify all the benefits, qualifications and restrictions of the Program.

B. Upon completion of escrow, the builder/developer presents homebuyer with an Economic Security Program certificate. In Every Case the Minimal Cost of the Program Has Been Absorbed by the Builder/Developer.

C. Builder/developer submits the necessary identification information on each homebuyer along with the designated premium to ESP-Fidelity Corp.

D. ESP–Fidelity Corp. supplies the insurance company with the specified information and premium. The homebuyer is now fully protected by the Economic Security Program although the homebuyer is never issued any form of insurance policy or insurance certificate.

E. Upon receiving the specified information and the premium, ESP-Fidelity Corp. sends the homebuyer an Unemployment Notification Form which is to be filed out and sent to ESP-Fidelity Corp. if and when the homebuyer becomes involuntarily unemployed.

III. MONTHLY PAYMENT PROCEDURES

A. If the homebuyer does become unemployed he or she will fill out the Unemployment Notification Form and submit it to ESP-Fidelity Corp. In this form the homebuyer must specify that he or she is involuntarily unemployed due to one or more of the reasons listed in the Economic Security Program (see booklet-Unemployment Protection Plan).

B. ESP-Fidelity Corp. will, in turn, submit the Unemployment Notification Form to the insurance company.

C. Within 30 days after receiving the Unemployment Notification Form, the insurance company will send the unemployed homebuyer a voucher made out to the Savings and Loan company or whoever is holding the mortgage for the full amount of one monthly payment. This payment may include taxes and insurance along with interest and principal if so specified originally by the builder/developer. The unemployed homebuyer will countersign this voucher stipulating that he or she remains unemployed as of that date and send it to the Savings and Loan company or whoever is designated as holding the mortgage.

D. A similar voucher will be sent each month that the homebuyer remains unemployed, up to and including a maximum number of months specified in the plan.

E. The insurance company retains the right to ascertain if the homebuyer is still unemployed at any time during this period.

IV. SPECIAL FEATURES

A. Economic security program payments are made on behalf of the homeowner free and clear of any obligation to repay these funds.

B. The Program protects both company employed and self employed homebuyers.

C. Once the premium is paid, the individual Economic Security Program certificates may not be canceled throughout the term of the Program.

D. Military men who purchase homes while still on active duty and are then forced into early discharges due to the Department of Defense's new personnel reduction program are fully protected under the Economic Security Program.

Aid Offered to Jobless Through Sellers

(By Robert A. Wright)

Los Angeles.—Laurence August, a 36-year-old Los Angeles public relations counselor, has gone into the unemployment insurance business.

The E.S.P.-Fidelity Corporation, a company he founded recently, is offering a plan that would pay installments on consumer purchases—from homes to washing machines—when a person loses his job. The seller pays the insurance premiums.

The plan was devised originally as a marketing tool for developers who were encountering difficulty selling homes during a recession. "An aerospace worker, seeing his fellow workers being laid off, is not about to make a long-term commitment on a home for fear he is next," Mr. August notes. "And who knows how many washing machines have not been sold during the recession because of the fear syndrome among consumers worried that they might not be able to pay it all off?"

E.S.P. (for Economic Security Program) is offering a variety of unemployment protection plans through sellers of products that provide two monthly payments in one year up to 10 over four years. "Unlike any form of insurance, our certificates held by the consumer cannot be canceled during the term of the program," Mr. August declares.

Mr. August says his plan is simple, but he describes his experience from his original idea to formation of E.S.P.-Fidelity as an "odyssey."

The idea of E.S.P.-Fidelity came to Mr. August in early 1970 during a personal tragedy. His infant son, born with a rare disease, died after three and a half months, never having left the hospital. Mr. August was faced with doctor and hospital bills totaling $26,000, for which he was not insured. Meanwhile, he estimates, he lost some $25,000 in potential business in his public relations company because of his distraction with his son's illness. "I thought, there ought to be some way to buffer people against things like this. Suppose I was employed? I had to be at the hospital every day."

Developing his idea as a marketing device for sellers of homes, Mr. August found that most states had laws preventing the giving away of insurance; it had to be paid for. He then took his idea to insurance companies, but could not sell any of 12 companies he approached. "At that time, I began to think I was speaking English and they Italian, or vice-versa. When I got any response at all they would say, 'How much equity would a man put into a house before we insure him?' I would say, 'You're not insuring the man or the house. No equity is involved.' At that point, I would be told. 'There are no actuarial tables on this' Therefore, as far as they were concerned, it didn't exist."

Disillusioned, Mr. August nearly gave up before finding an insurance company to back his program. He says. "Now I'm very pleased we did find a large and enlightened company. I was beginning to think they didn't exist."

E.S.P.-Fidelity was founded in July, 1971, but it was not until December that the program took its final form.

The program, which is guaranteed by Market Facilities-Chicago, general agent for the Reserve Insurance Company of Chicago, works as follows: alternate plans pay from two monthly payments of a covered installment purchase in a six-month period, up to 10 monthly payments in a four-year period when the consumer becomes unemployed. Five types of unemployment are covered: reduction in a company work force for economic reasons, technological unemployment, geographical unemployment, when a company relocates, product redesign causing temporary unemployment and lockout because of a union dispute. There is a 30-day waiting period from the issuance of the certificate until payments are collectible.

To qualify, a consumer must be 21 years old—or 18 where state law allows—and a designated head of household. He must have been continually employed by one or more employers for 12 months prior to making his first claim in the E.S.P. program or an active member of a union for that long. Military consumers must have been phased out of the service under "early" honorable discharges.

E.S.P.-Fidelity issues a blanket certificate for each participating seller, for which it charges a fee averaging $500 if no salesman orientation program or other services are required. E.S.P.-Fidelity also receives a fee for each certificate of coverage issued to purchasers, collects premiums from the company covered and passes them along to the insurer.

The cost to the seller, Mr. August says, is minimal. On a $20,000 home with a Federal Housing Administration mortgage and monthly payments of $200, including taxes, Mr. August says it would cost the seller "no more than $100" to cover a certificate offering six monthly payments in case of unemployment over a three-year term.

All of the insurance is placed through the Chicago agency, Starkweather & Shepley, of which Edward Lawson is a partner. Mr. Lawson, president, Mr. August, executive vice president, and Arthur Rifas of Chicago, secretary-treasurer, are the three principal stockholders of E.S.P.-Fidelity.

So far, E.S.P.-Fidelity has five customers—all home developers—and has extended coverage to some 1,500 households in California, Arizona, Texas and the Gulf Coast. It has offices in Los Angeles and Chicago and plans to open another soon in Providence, R.I.

Eventually, Mr. August hopes to be able to cover all kinds of products bought on credit. "We have had indications that the program could be a stabilizing factor in the entire credit economy, in which nearly 100-million Americans are obligated to installment payments," Mr. August says. "We've been sounded out by the automotive industry, a retail credit financing company, a retail trade association and have gotten expressions of curiosity from various sectors of the Federal Government."

But E.S.P.-Fidelity is not rushing into expansion to every kind of product. Mr. August says, beginning to sound more like an insurance man: "We have little experience and don't know yet what our rates should be. But that's what we're aiming at."

[From the Orange County Evening News, California, Aug. 25, 1971]

During Unemployment Crisis: Consumer Protection for Public

Consumer protection, one of the most controversial aspects of modern American business, may now be offered on an economically practical basis by the companies engaged in the pursuit of the diversified recreational or leisure time market.

Referred to as the Economic Security Program by its creator, Los Angeles-based marketing and mass motivation consultant, Laurence August, the program is undergoing its first practical application at major recreational land developments in two divergent regions of the country: the Gulf Coast of Mississippi and Northern California.

"The concept of this program is extremely simple, explained August. "Primarily it's designed to offer a form of effective economic assistance to time-payment purchasers of major recreational and luxury items, if these purchasers become involuntarily unemployed due to adverse economic conditions."

According to August, such major recreational items as vacation homesites, second homes, mobile homes, recreational vehicles, boats and vacation condominiums could easily be enveloped in the Economic Security Program. The program also can be adapted to envelop home improvement loans and swimming pools.

August explained that if such a time-payment purchaser did become involuntarily unemployed due to various economic conditions, the Economic Security Program provides for these payments to be credited to the purchaser's account during each month of unemployment for up to six full months.

The two key unprecedented factors of this Economic Security Program are: the benefits are provided at no additional cost to the consumer; and there is absolutely no future obligation placed on the consumer to repay the credited payments.

"During a financially burdensome unemployment period," continued August, "the consumer benefiting from the Economic Security Program not only saves the equity already invested, but with no financial strain, is able to actually increase the equity each month while retaining a good credit rating."

Superior Equity Corp. of California, Inc./Envirotec General Corp., the joint venture partnership engaged in the development of Lake California in Northern California is one of the first major organizations in the western United States to adopt the program.

The expensive, diversified nature of Lake California makes it an excellent primary model for the Economic Security Program.

With a master plan that will envelop approximately 10,000 sites, Lake California contains lakefront marina homesites, one-acre and 2½-acre equestrian sites, golf course sites, a mobile home park and a "fly home" area where private plane operators can taxi directly from the Lake California airstrip to their homes. There also are multiple unit and commercial sites within the community. These diversified environmental living areas are all included in the Economic Security Program. In addition, the homes and the various amenities that are conducive to these different areas, such as boats, private pools, etc. will be easily contained in the Economic Security Program.

"What the Economic Security Program does at Lake California" states George Yost, president of Envirotec General, "is to enable our property owners to enjoy their homesites, their second homes and the other major recreational amenities with a greater sense of security from financial worries caused by actual unemployment or the fear of future unemployment."

On the Gulf Coast, U.S. Leisure Time of Mississippi, a division of World Leisure Time Inc. has adopted the Economic Security Program for the property owners of Discovery Bay. This private, seacoast recreational village and yacht club, situated on the Bay of St. Louis, in Mississippi, features an eight-mile complex of interlacing waterways allowing direct access to the Gulf of Mexico. Approximately 1,700 Discovery Bay property owners will now be able to benefit from the Economic Security Program if the need arises at no cost or future obligation.

Robert Beaumont, president of World Leisure Time, Inc. obviously is delighted that its subsidiary, U.S. Leisure Time, Inc. of Mississippi, was responsible for the adoption of the program at Discovery Bay.

"There is no doubt in my mind but that the public, once it learns what this program offers at no cost or obligation, will insist that all the other developers, producers and distributors within the industry offer the same benefits. Naturally we are proud to be one of the first to present this unique method of consumer protection. It's the type of precedent we believe must be established."

August and his associates have formed ESP Fidelity Corp., which was organized to act as the manager and administrator of the Economic Security Program. To date there are three ESP-Fidelity offices in the United States situated in: Beverly Hills, Chicago and Providence, Rhode Island. August will operate out of the West Coast office at 9355 Wilshire Blvd., Beverly Hills.

The Economic Security Program should not be confused with the less desirable moratorium or deferred payment techniques which only postpone the inevitable financial obligation. August spent almost a year in developing this unprecedented program and analyzing the public need. During this period he was in contact with at least a dozen major insurance companies, various banks and financial institutions, and myriad governmental agencies.

Presently, the new consumer protection program provides benefits in five major categories: economic unemployment, caused by reduction of employed personnel due to adverse economic conditions, technological unemployment, caused by the reduction of employed personnel due to automation or technological advances; geographic unemployment, caused by companies location and/or physical consolidation, production or product redesign, causing temporary unemployment, and "lockouts" caused by union disputes.

"This is our first program," explained August. "In all probability it will be altered and expanded, while other consumer protection programs will be developed by ESP-Fidelity Corp."

[From the Realty and Building, Jan. 22, 1922]

Economic Security Plan Now Offered to Home Buyers

A consumer protection plan called Economic Security Program, far in excess of anything now being offered or contemplated by government agencies, general industry or individual companies, has been offered to Midwest homebuyers by ESP-Fidelity Corp., which already has instituted the plan in California, the Southwest and the South.

The new plan guarantees homebuyers, through qualified home builders, their mortgage payments and apartment dwellers their rent payments for a specified period of time should the buyer be unemployed through no fault of his own.

According to Edward Lawson, president of the firm, the program is designed to offer a form of direct and effective financial assistance to consumers who become involuntarily unemployed because of adverse economic conditions.

Mr. Lawson said that the program at this time is limited to purchases of homes, land or rental transactions, but that in time it will be extended to cover consumers obligated to installment payments for major purchases.

Costs of the program are borne by the home builder or developer, and the buyer is protected for a predetermined number of full monthly payments to be credited to his account during the period of unemployment. There is no obligation for the consumer to repay the credited payments, which include both principal and interest.

Mr. Lawson and Arthur Rifas, administrative vice president, will operate out of the home office at 175 W. Jackson Blvd., while Laurence August will supervise operations in the West Coast office.

[From the Oakland Tribune, Aug. 15, 1971]

Plan Provides for Payment Break

(By William Doyle)

Buyers will receive protection and the seller has an exciting new marketing tool said Laurance August, Los Angeles-based marketing and mass motivation consultant.

August, who has worked up and down California on a variety of major real estate and land development projects for several years, was talking about a program he developed which takes care of a buyer's payments for up to six months in a three year period if he becomes unemployed for economic reasons.

The first implementation of the plan is at Lake California, a recreation land development between Redding and Red Bluff on the Sacramento River.

August said he first became interested in providing buyer protection more than a year ago.

"There was a lot of interest in consumer protection in the real estate field and consumer advocates were insisting that something had to be done.

"They were good at pointing in alarm but they had no solution," said the intense, dark-haired August.

He added, "As unemployment and the recession grew I noticed that the fear of unemployment was more prevalent than the actual thing in the income range which provided our customers. It had an effect on the cost of sales but not much on sales themselves."

August said it seemed best to think of providing some security even if the ultimate occurred and that he thought it would be simple to work out some program to insure against loss resulting from economic unemployment.

Several months and a myriad of visits to major insurance companies, financial institutions and government agencies he found that it wasn't.

First, it had never been done before, there were no actuarial tables to provide any idea of what the cost might be and finally there is a law in California, and many other states, against giving away insurance.

A DIFFERENT APPROACH

August finally solved this problem by persuading Superior Equity Corp. of California Inc. and Environtec General Corp., joint venturers on the Lake California project, to agree to forgive both principal and interest payments for anyone who became unemployed.

Then an insurance company was found to insure them against any loss they might suffer as a result.

George Yost, president of Environtee said the cost is approximately 0.6 per cent of the sales price of the property and he said the joint venture is absorbing the cost. August said sales advertising and promotion costs on recreation and luxury items often runs 25 per cent of total cost.

Questioned as to why he had agreed to the program Yost said there were three basic reasons.

First, during this period of economic uncertainty the program provided a certain degree of security that customers and prospects were looking for.

Second, the joint venture is involved in a project of a type which has been the subject of much criticism because in many developments the recreation facilities aren't built for two to four years. Yost said the joint venture has $10 million in "front end" money with which it is providing the amenities today and this immediacy goes hand-in-hand with providing protection for the immediate future.

WANTED TO BE FIRST

And finally, since the joint venture is a new company the idea of being the first to provide this type of consumer protection was appealing, said Yost who added, "We wanted something to put us beyond what others were doing."

August said he feels the coverage for three years should take care of the economic evolution to an improved economy and Roger Sack, president of Superior Equity, added that after three years a buyer who paid 10 per cent down has built up an additional 10 per cent equity and is in a good position to ask for a moratorium on payments if he has financial problems.

The plan covers both those who are employed by others and self-employed persons. An employee must have worked for 12 consecutive months before he is eligible while a self-employed person must have been involved for 24 months.

The buyer triggers the coverage by filling out a short form which he submits to the seller when he becomes unemployed. A copy is sent to his former employer to endorse the reason and the forgiveness of payments begins.

August and his associates have formed ESP-Fidelity Corp. to manage and administer the program. He feels it has application for a variety of major recreation purchases such as swimming pools, boats, mobile homes and recreation vehicles.

Tri-County (Peoria)
Urban League, Inc.,
Peoria, Ill.

To The Buyer: Purchasing a home is the biggest investment that many people will ever make. It requires serious, thorough shopping and comparing of values. To help you prepare for this venture, you should know how much house you will be able to qualify for, what the responsibilities of a good homeowner are, and whether you are able, at this time, to assume these responsibilities. The National Housing Act of 1968 and the Housing Bill of 1969 offer financial assistance to the low to moderate income families for purchasing homes.

Your URBAN LEAGUE will provide you with budget, debt management, family and other related home counseling, and any other assistance necessary to qualify you for FHA programs under provisions of Section 235-237 and for general home loans. We have endeavored to develop and implement innovative methods and means to render FHA programs workable and available to those at the lower economic level. We want to extend to low and moderate income people the same rights and opportunities to acquire adequate housing at the same level of ownership as has always been available to those in the upper bracket.

Through the expansion of our housing programs and services, the URBAN LEAGUE intends to make our advocacy of the poorest and most disadvantaged more meaningful and effective in the areas where currently they have no friend and absolutely no voice.

The home counseling program is a part of the Community Services Department of the URBAN LEAGUE.

Sincerely,

TRI-COUNTY (PEORIA)
URBAN LEAGUE.

HOUSING: BETTER SHELTER FOR A BETTER FUTURE

SECTION 235: NATIONAL HOUSING ACT

What is it? A program of homeownership assistance for low-income and moderate-income families.

What kind of housing can I get? New or substantially rehabilitated single-family dwellings approved *PRIOR* to beginning of construction or rehabilitation.

A one-family unit in a condominium project.

How much will it cost? Maximum amount a mortgage can be is $20,500 (23,000 in high-cost areas).

Mortgage made at FHA interest rate.

Mortgage for a thirty (30) year term.

Minimum investment of $200 downpayment by the homebuying family.

Can I get help? Yes, if you are of the following:

Must be a "family" of two (2) or more persons related by blood, marriage, or law.

A handicapped person.

A single person, sixty-two (62) years or older.

Families with credit problems not meeting regular credit standards get priority under Section 237. (237 to be explained later)

How much do I have to make?

To be eligible for assistance, the family must have an adjusted (Net) family income that can only be 135% more than the adjusted (Net) income of a family living in Warner, Harrison, or Taft Homes (Public Housing). Most private homeowners with low incomes will meet the above income limit. Most people already living in Taft, Warner or Harrison Homes will also obviously meet the requirements.

(An adjusted income is one's GROSS (total) income after the deductions of dependents (minors) and other taxes; actually one's NET (ADJUSTED) income.)

Income recertification after mortgage qualification is required of the family every two (2) years.

Assets cannot exceed $2,000.00 ($5,000.00 for people over 62 years of age).

How the assistance program under Section 235 would work is illustrated in the following example:

A family of ten (10)—mother, father, four (4) daughters, and four (4) sons—has a gross annual income of $9,180.00. This particular family would have an adjusted income of $6,321.00.

Gross income	$9,180.00
Child deductions	−2,400.00
	6,780.00
Other taxes	−459.00
Total adjusted income	6,321.00

This particular family wants to buy a $15,700.00 home on a 35 year mortgage at regular interest rates. The buyer's adjusted monthly income is $526.75 ($6,321.00÷12), and 20% of his income is $105.35 (20%×$526.75=$105.35). The total mortgage payment on this property is $168.14. Therefore the buyer's assistance payment from the Federal Government is $62.79, that is ($168.14 −$105.35). The family's monthly mortgage is $105.35.

The monthly mortgage is then subtracted from the family's adjusted monthly income ($526.75), and the balance is then used by the family for their monthly living expenses. (See worksheet on this and following page:)

Example work:

Family—10 people.

Total income—$9,180.00.

Adjusted income—$6,321.00.

*Adjusted income:

Gross	$9,180.00
Child deductions	−2,400.00
	6,780,00
Other taxes	−459.00
Adjusted income	6,321.00

New house—$15,700.00.

Adjusted monthly income—$526.75.

*Adjusted mo. income: $526.75; 12/$6,321.

20% of adjusted monthly income—$105.35 (percentage family to pay on mortgage).

20% A.M.I.: $526.75 times 20 equals $105.35.

*$168.14 (T.M.P.) −105.35 (A.M.I.) equals $62.79 Fed. Govt. Share.

Total mortgage payment=$168.14

Family mortgage amount=$105.35.

Federal Government amount=$62.79.

Adjusted monthly income (A.M.I.)	$526.75
Family monthly mortgage	−105.35
Total monthly living expenses	421.40

Salary table: Tri-County area:

Below is a table showing the maximum income level which a family can have and still be able to qualify for FHA assistance:

NUMBER OF PERSONS IN FAMILY

	1	2	3	4	5	6	7	8	9	10
Peoria, Woodford, Tazewell	$4,185	$6,345	$7,155	$7,965	$8,505	$9,045	$9,400	$9,600	$9,800	$9,990

The above maximum amounts are obtained AFTER the GROSS (total) annual salary has taxes and dependent deductions subtracted from it.

An example of a maximum income level for a family of six (6) would be:

A. $10,000.00—Gross (total) yearly salary times .05—5% equals $500.0000.

B. 4 Dependents times $300.00 equals $300.00 times 4 equals $1,200.00.

Tax deduction	$500
Child deduction	+1,200
Total deductions	1,700

Gross yearly salary	10,000
Deductions	−1,700
Yearly net salary	8,300

The maximum level for a family of six (6) is $9,045. Our family has an income of $8,300.00 and thus qualify for FHA help.

SECTION 237: NATIONAL HOUSING ACT

What is it? Section 237 provides mortgage assistance for low- and moderate-income families with poor credit history.

Section 237 works in conjunction with Section 235. The basic idea under Section 237 is the same as Section 235; the difference being that people unable to be certified for 235 assistance due to poor credit can gain the same certification under the credit counseling done in section 237.

The three (3) major functions of Section 237 are:

A. Screening: The interviewing and reviewing of the records of families who have been rejected for an FHA loan primarily because of bad credit and/or inadequate income.

B. Counseling: 1. Methods of erasing bad credit histories.

2. General counseling on budgeting and/or any other obstacles which prevent a family from qualifying for a FHA mortgage.

3. Counseling on paying installment credit purchases within appropriate time limits.

C. Social service: Advise on social service that might be needed by the family other than economic help.

Under 237, priority is given to families in public housing and especially those required to leave because incomes are over prescribed maximum limits, preference is also given to families displaced by Federal action. (Such as urban renewal.)

How much will it cost? To be eligible under Section 237, a mortgage shall not be higher than $20,500. ($23,000 in high-cost areas)

Mortgages made at FHA interest rate.

Mortgage for thirty (30) year term.

Minimum investment of $200 downpayment by the homebuying family.

*Basically, the aforementioned mortgage criteria follows exactly the information given for the criteria under Section 235.

Can I get help? Must be a single family of two (2) or more persons related by blood, marriage, or law.

Must have a GROSS (TOTAL) monthly salary that is 4 times the monthly mortgage payment.

Extenuating Circumstances:

A. Poor history due to adversities that are beyond the family's control:

1. Extreme illness.

2. Forced unemployment.

3. Accident.

Has a willingness to pay old bills.

Improved credit habits as opposed to past actions.

Has history of poor credit, but has been counseled prior to Section 237 counseling by a professional counseling service.

All marginal cases are to be recommended for approval.

What kind of housing can I get? New or substantially rehabilitated single-family dwellings approved PRIOR to beginning of construction or rehabilitation.

A one-family unit in a condominium project.

*Basically, the aforementioned Eligible Housing criteria follows exactly the information given for the criteria under Section 235.

Credit counseling: The Tri-County (Peoria) Urban League 237 counseling agency will provide continuous budget, debt management, and other social counseling services to those families that have been recommended to it by the building companies, the lending institution, or the family looking for the new home. (If they realize their credit is bad.)

*The building companies can be either profit, or non-profit agencies,

People living in the various public housing projects are also encouraged to contact the Urban League counseling agency regardless of the fact that they might not as yet have a home in mind. Many families now living in the public housing projects would probably qualify for either section 235 assistance or section 237 counseling assistance.

It would certainly be wise for families in the public housing project that want to move into better living conditions to come to the urban league and see which program they would qualify for.

If perhaps, a family requires the Section 237 credit counseling service, it would be to their advantage to begin the service even before deciding upon a new home. The advantage of beginning the counseling early would be that the family would be that much further along in relation to final FHA certification and thus, would not be forced to wait as long as a family that does not begin the service until after they have selected a home.

The Urban League would also extend the same services as mentioned above to families that have lost their homes due to the Urban Renewal Program.

The Urban League counseling agency will try to place the family on a budget that would help them remain up-to-date in relation to their monthly bills: Begin to pay their creditors, and also have enough money to live on for the month.

The Urban League counseling agency will also try to help the family in ways other than those that are economic. Other services might include finding employment, tips on taking care of a home, food budgeting, homeowners insurance questions, and, if needed, directing the family to the proper source for social or marriage counseling.

The counseling agency is acquainted with a broad spectrum of social agencies providing a wide variety of specialized services.

NONPROFITMAKING HOUSING CORPORATIONS

There are several profit and non-profit housing corporations building houses for low and moderate income families within the Peoria area.

I. Upgrade: (development corporation).

A. What is it? A non-profit housing corporation.

B. Objective: To provide impetus and supplemental financial aid in meeting the housing needs of low and moderate income families.

C. Location: 208 N. MacArthur Highway.

D. Involvement: The major involvement is in relation to the Pierson Hills project.

E. Contact: Mrs. Billy Ambrose 674–1032.

II. Upgrade: (service corporation).

A. What is it? A non-profit housing corporation.

B. Objective: To provide impetus and supplemental financial aid in meeting the housing needs of low and moderate income families.

C. Location: 208 N. MacArthur Highway.

D. Involvement: Upgrade Service Corporation was organized because FHA regulations state that a non-profit housing corporation cannot carry on any other business once it begins construction of a 236 project (such as Pierson Hills). All assets and liabilities were transferred from Upgrade Development to Upgrade Service Corporation in order that they could continue to rehabilitate older houses and build new ones.

III. HOMES, INC.

A. What is it? A non-profit housing corporation.

B. Objective: To build new homes for low and moderate income families that will foster pride of ownership.

C. Location: 503 N. E. Jefferson.

D. Involvement: The redevelopment of an established suburb in the far north section of Peoria (New York and Boulevard).

Construction has begun on an original three (3) units in the above area, and an additional ten (10) lots have been bought for further development.

Through a recent interest-free loan, financing for an additional fifteen (15) units is expected within the next year. These units will be built primarily within the inner city.

E. Contact: Mr. Michael Agelasto 673–8851.

IV. UNITED CHURCHES FOR BETTER HOUSING

A. What is it? A non-profit housing corporation.

B. Objective: To furnish the low and moderate income community with sound, first-class rehabilitated homes.

C. Involvement: As of September 1971, United Churches for Better Housing has processed a total of twenty-six (26) houses. Sixteen (16) of the above total have been completed. Nine (9) have already been sold and five (5) others have approved buyers.

Construction on seven (7) of the remaining ten (10) began this September (1971).

D. Contact: Mr. Holmes Dille 672–7427.

V. URBAN FAMILY RESIDENCES

A. What is it? A non-profit housing corporation.

B. Objective: To build new apartments and duplexes for low and moderate income families.

C. Location: Near Manual High School.

D. Involvement: Urban Family Residences is now in the final stages of completing twenty-six (26) new apartments for rent.

Due to a favorable ruling from the Supreme Court of Illinois, construction of an additional thirty-three (33) units (duplexes) will begin on land adjacent to that of the apartments in the very near future.

E. Contact: Mr. John Radomsky 675–4519.

VI. BAC-UP

A. What is it? A non-profit housing corporation.

B. Objective: To furnish the low and moderate income community with sound, first-class rehabilitated homes.

C. Involvement: Bac-Up has rehabilitated four (4) houses, three (3) of them have been sold. Bac-Up plans to continue rehabilitation.

D. Contact: Mr. Fred Annin 691–7391.

VII. COMMUNITY HOUSING CORPORATION

A. What is it? A non-profit housing corporation.

B. Objective: To build new houses for low and moderate income families.

C. Involvement: Community Housing Corporation is in the process of building six (6) of thirteen (13) new single family houses.

D. Contact: Mr. O. D. Maddox 675–4642.

VIII. Anvil

A. What is it: A non-profit housing corporation.

B. Objective: To build housing for low and moderate income families.

C. Location: Ward Chapel Church.

D. Involvement: Anvil has, as of this writing, two (2) new single family houses under construction that have been sold. The future plans of Anvil are not definite.

E. Contact: Rev. W. L. Stuart.

PROFITMAKING HOUSING CORPORATIONS

I. Layco, Inc.

A. What is it: A profit-making housing corporation.

B. Objective: To build FHA subsidized housing.

C. Location: 6424 N. Randwick Road.

D. Involvement: Layco has been sponsoring FHA subsidized housing in the new subdivision known as Vinton Highlands.

E. Contact: Mr. Charles Carroll 691–2146.

II. Fred Danage, Assoc.

A. What is it: A profit-making housing corporation.

B. Objective: To build FHA subsidized housing.

C. Location: 208 N. MacArthur Highway.

D. Involvement: Danage is currently engaged in building FHA subsidized homes throughout the city of Peoria.

E. Contact: Mr. Fred Danage 676–1465.

III. Monge Construction Company

A. What is it: A profit-making housing corporation.

B. Objective: To build FHA subsidized housing.

C. Location: 1500 N. 8th St., Pekin, Illinois.

D. Involvement: Monge is currently engaged in building FHA subsidized homes in the Timber Oaks sub-division in Peoria, Illinois.

E. Contact: Monge Construction Co. 346–2157 (Pekin, Ill.).

SUGGESTIONS ON BUYING A HOME

The buying of a home is probably the single biggest investment that a family will ever make.

Below are several suggestions that should be considered before buying a home.

Look at as many houses within your price range as you can before you make your final decision.

Consider the future growth of your family.

Consider re-sale value.

Make sure that you have legal counseling before signing any papers of any kind.

Make sure that any and all questions that you might have are answered to your satisfaction.

NOTE.—Any type of home buying counseling is available at the Tri-County (Peoria) Urban League or Upgrade Corp.

THOUGHTS FOR THE NEW HOMEOWNER

Budget your money! Be sure that you are able to see exactly where your money goes every day.

Pay your bills on time! Be certain to make your mortgage payment on time.

Avoid any late charges! If an emergency arises and you cannot make your mortgage payment on time, call the mortgage company and notify them.

Do not take any credit cards! Keep all bills to the bare minimum!

Pay cash for the majority of what you want! If you cannot pay cash—try not to get it; unless extremely necessary.

Even if your credit is good and you receive your loan without our financial credit assistance, we will be willing to help you by counseling you in the techniques of home maintenance, any social problems; or any economic problems that you might encounter.

TERMS TO KNOW

1. Appraisal—An estimation of value of property. This is usually done by an FHA appraiser.
2. Assets—Money and securities one owns.
3. Closing costs—Those costs associated with the sale of property.
4. Credit report—Paper which shows how well you pay your debts.
5. Deed—Legal paper showing your ownership of property.
6. Easement—The right which one person has on the land of another as outlined by written agreement.
7. Equity—The value one has in a piece of property over and above the mortgage.
8. Foreclosure—Procedure whereby the property which you are buying can be sold when you are three (3) months behind in your payment.
9. Forfeit—Something (usually money) one loses if he fails to live up to his part of an agreement.

10. Insurance—Policy to protect your property in case of loss by fire, etc.

11. Liabilities pledged to pay—Debts and other obligations one has pledged to pay.

12. Lien—A legal document which makes property security for the payment of debts or discharge of an obligation.

13. Mortgage—That document which indicates your indebtedness to the mortgage company for the balance you owe on the property.

14. Note—A signed written instrument acknowledging a debt and promising payment.

15. Quit claim deed—Deed in which a person gives any and all interest which he may have in a property to another person.

16. Title—Legal ownership of property.

KNOW YOUR HOUSING RIGHTS

Racial discrimination in the sale or rental of ALL housing is now illegal under Title VIII of the Civil Rights Act of 1968. You can be helped if because of your race, religion, color, or national origin, any of the following things happen to you:

You were denied the opportunity to buy or rent a house or apartment.

You were told a house or an apartment wasn't available when it really was.

You were offered different terms or conditions of sale or rental than someone else.

You came upon discriminatory advertising.

Block Busting—You know of someone who has caused another person to sell or rent by telling him that members of a minority group were moving into the area.

You encountered discrimination in financing housing by banks, savings and loan associations or other businesses.

If, in fact, you come upon any of the previously mentioned discriminatory practices, you have three (3) courses of action:

A. You can take your complaint directly to court

You can immediately file suit in a Federal Court. You may wish to consult an attorney or a Legal Aid Society.

The court could stop the sale of the house or the rental of an apartment to someone else.

The court could make it possible to buy or rent the housing you want.

B. Write the Federal Government for help

Send the complaint to the Department of Housing and Urban Development (HUD)

HUD can:

Contact the violator and get him to cease his discriminatory practices.

Refer your complaint to a State or local Human Relations Commission.

C. Call the Federal Government for help

A new unique feature being tried against housing discrimination is the use of Wide Area Telephone service (WATS).

If a person feels that he or she has been discriminated against in housing because of race, color, religion or national origin, he or she may call, toll free (800) 424–8590, to register their complaints.

All calls come into a central switchboard in Washington. Complaints are taken over the phone and referred to the appropriate HUD Regional Office for immediate action.

A recording device is attached to each phone that enables the caller to leave a message at night and on weekends.

The toll free number—(Area Code (800)—424–8590).

To file complaints write to:

Federal: Fair Housing, C/O Dept. of HUD (or Department of Housing and Urban Development), Washington, D.C. 20410; or

Dept. of HUD (or Department of Housing and Urban Development), C/O Office of the Regional Administrator, 360 N. Michigan Ave., Room 1500, Chicago, Ill. 60601.

Local: Fair Housing Board, C/O Room 208, City Hall, Peoria, Ill. 61605; or

Human Relations Commission, C/O City Hall, Peoria, Ill. 61605.

You may also contact the Tri-County (Peoria) Urban League:

Mr. Frank Campbell—Executive Director.

Mr. Michael S. Glass—Director of Community Services, FHA/HUD Housing Representative, 844 W. Smith St., Peoria, Ill. 61605.

My house is small—
No mansion for a millionaire—
But there is room for love
And there is room for friends
That's all I care

AMERICA 2000

A St. Louis non-profit Foundation is proud to present to the St. Louis community and the citizens a free housing counseling service for those persons interested in buying or renting a home.

America 2000, 300 South Grand—Room 225, St. Louis, Missouri 63103, Code (314) 289–2411.

America 2000 offers a housing counseling and referral service to low and moderate income persons or families who want to buy or rent a home or apartment in the St. Louis City or County area.

For your convenience, our housing counselors maintain a copy of the realtors home guide . . . which contains picture photographs and a general description of many of the homes for sale in the St. Louis area.

America 2000's qualified and experienced housing counselors will assist the purchaser in determining whether a sales price is reasonable . . . on other than FHA or VA insured properties where an appraisal is required.

Our housing counselors have complete knowledge of the various forms and procedures in purchasing a home or renting an apartment.

Our able housing counselors will advise you as to the price and size home that we feel you and your family can best afford.

Our housing counselors are qualified to explain the various responsibilities of home ownership (such as monthly payments, closing costs and operating expenses) . . . and will help you determine whether you can afford the home of your choice.

Upon request, America 2000's housing counselors will make on-site visits of your desired home before your purchase with you and your sales agent.

For those of you who may have come upon difficult times, are unable to make mortgage payments and are concerned about losing your home . . . America 2000's housing counselors can help you.

This is a free community service.

America 2000 services are complimentary to the general public . . . we do not buy, sell, lease or compete with the real estate industry . . . and we receive no fees or commissions of any kind from anyone.

Call America 2000, 289–2411.

Come to any of the area offices:

Council Plaza Complex, 300 South Grand—Room 225, 289–2411 (Monday–Thursday–Friday).

Carondelet Area Council, 7613 South Broadway, 638–8200 (Tuesdays only).

Tandy Area Council, 3500 North Gnanh, 371–1050 (Wednesdays only).

This service is free to anyone who wants to buy or rent a home.

MRS. BESSIE KIDD BEST, FLAGSTAFF, ARIZ.

Mr. FANNIN. Mr. President, Arizona has contributed many outstanding sons and daughters to the ranks of education, but surely none can surpass the remarkable career of Mrs. Bessie Kidd Best, of Flagstaff.

As noted in the April 25 edition of the Arizona Daily Sun of Flagstaff, Mrs. Best has announced that she will not seek reelection as Coconino County Superintendent of Schools, a post she has held for an amazing 44 years.

This is more than a notable achievement; it is the success story of a phenomenal career of public service.

Mrs. Best's long tenure in office is not only a tribute to her, but also a testimonial to the judgment of the voters of Coconino County, who expressed their faith and confidence in our educational system by electing and reelecting her every 2 years since 1928.

A kind and gentle lady with extraordinary ability as an administrator, Mrs. Best quietly and without fanfare set out long ago to improve the quality of education in her county, and has achieved this goal in many ways.

Through her efforts, rural school consolidation has been accomplished. This has provided for most school districts a broad tax base and a more economical educational system.

Although Indian Reservations occupy much of Coconino County, it should be pointed out that it is the second largest county in the United States, encompassing 18,562 square miles. By comparison. this is almost as large as the States of Maryland and Massachusetts combined.

Mrs. Best is very proud of the fine reputation of the schools of Coconino County, and was quoted in the Arizona Daily Sun as saying:

> Good schools do not happen; people working together build them.

A native of Flagstaff and the youngest daughter of Flagstaff pioneers Judge Robert J. Kidd and Eva Miller Kidd, Mrs. Best said she plans to continue to make her home in the city of her birth and has no specific plans for retirement soon after she concludes her present term at the end of this year. Her son, Robert, and his wife, Katherine, and their son, Robert, live in Flagstaff also.

Mrs. Best extended her sincere appreciation to her many friends for their confidence and continued support through the years.

Mrs. Best said:

> It has been a privilege and pleasure to serve Coconino County as county school superintendent.

Mrs. Best obtained a 2-year teaching certificate from Northern Arizona Normal School—now Northern Arizona University—in 1922 and earned a bachelor of arts degree from Arizona State College in 1936. She earned a master of arts in education degree in 1948 at the same school.

Northern Arizona University alumni honored Mrs. Best last fall with their Distinguished Citizen Award.

Former Governor Howard Pyle appointed Mrs. Best to the Arizona State Board of Education for two terms, and I had the privilege, when I was Governor, of also appointing her for another two terms.

Also at the State level, she has been secretary for the Arizona Association for Supervision and Curriculum Development and served on the State advisory certification committee, coordinating curriculum committee. She has been president of the Arizona County School Superintendents Association and Who's Who of American Women list her in its second edition.

Mrs. Best has served on the city of Flagstaff Library Board for 23 years. Other community services include past chairman of the American Legion Auxiliary sponsored program of Girls' State for 8 years, past mother advisor for Rainbow Girls, and past board member for the Society for Crippled Children.

Since 1930 she has maintained professional affiliation with the American Association of School Administrators. She also is a member of Arizona Education Association, life member of National Education Association, Delta Kappa Gamma Sorority, of which she is past president of Gamma Chapter, Kappa Delta Pi, and life member of Parent-Teacher Association.

She has a life membership in the NAU Alumni Association. Other activities include American Legion Auxiliary, Daughters of the American Revolution, American Association of University Women, Flagstaff Woman's Club, Order of Eastern Star, Flagstaff Rebekahs and Pythian Sister. She is a past matron of the Flagstaff OES, past noble grand of the Flagstaff Rebekah Lodge, and past State officer of Pythian Sister.

A GOOD ALCOHOLISM PROGRAM

Mr. BOGGS. Mr. President, this month the oldest industrial alcoholism program in this country celebrates its 30th anniversary, and it is my privilege to bring its accomplishments to the attention of my colleagues.

I am speaking of the program established by the Du Pont Co. medical division in 1942. It was the pioneering plan in industry for the recognition and control of alcoholism among workers.

It is a simple program, one that teaches all employees to recognize alcoholism and bring it into the open, rather than to "sweep it under the carpet." It is dealt with honestly and the employee is given the solid and clear offer to have it treated both fairly and honorably.

The alcoholic worker is given every opportunity to lick his problem and he is discharged only if he is unwilling to overcome it after due consideration and with medical assistance. There is an esprit teamwork in Du Pont between an understanding and enlightened management; the medical division; a well-trained psychiatrist; and an AA worker who is knowledgeable, experienced, understanding, and dedicated.

The medical division attempts to ferret out the cases and to bring them to the fore. They are all given a satisfactory time to rectify the situation after orientation by the doctor; then they have a discussion with the adviser on alcoholism, or some member of Alcoholics Anonymous, and often by the psychiatrist as well. The amount of time given to straighten out, and whether a leave is given, will vary with the worker's age, years of service, previous opportunities given, nearness to retirement age, complications of the disease, whether these complications are permanent or temporary, the employee's attitude toward his problem and his sincerity of effort.

In the absence of medical complications, it is rare that more than 4 weeks away from work is necessary, and then only for institutional treatment. More often, no lost time from work at all is desirable. Experience has taught the company that alcoholics do better with surveillance on the job. This is the same experience noted by military psychiatrists, as well as by those experienced in rehabilitation.

The medical division has found that close cooperation with the program of Alcoholics Anonymous provides by far the best results. It also has learned from experience that, when a psychiatrist works closely with this program, the results are further enhanced. There is a full-time employee—himself a "recovered" alcoholic and a member of Alcoholics Anonymous—who works under the guidance of the psychiatrist, gives talks to plant groups and assists in the handling of these cases.

The Du Pont Co. management has been most cooperative, both in the encouragement and institution of the plan, as well as permitting the medical division to expend the time and effort needed in its implementation. All levels of management, from the president on down, have been most helpful and encouraging.

Mr. President, I believe this company should be commended for this fine program and its many achievements. The recovery of 3,000 persons who might otherwise be dropouts from society is, in itself, a great accomplishment.

Special mention should be made here of Dr. C. Anthony A'Alonzo, the Du Pont Co. corporate medical director, and of Mr. Frank Lawlor, who has worked tirelessly to make the program effective.

HARRY A. BECKER

Mr. THURMOND. Mr. President, I wish to call to the attention of my colleagues an article which appeared in the Orangeburg, S.C., Times and Democrat featuring Mr. Harry A. Becker. Mr. Becker is a man of the highest integrity, who is one of the most remarkable and respected members of his community.

A self-made man, Mr. Becker was born in Baltimore, and received his early education there. He later moved to South Carolina with his parents and while still very young started his business career by working in a general merchandise store. His experience there enabled him later to found a very successful clothing business.

Investing profits of his clothing business in the construction of prefabricated "shell" homes, Mr. Becker was the epitome of a successful businessman—until the "shell" home market collapsed in 1963, plunging Mr. Becker a half million dollars in debt.

A man of the highest integrity, Mr. Becker ignored the advice of friends to declare bankruptcy, and proceeded to recover his business and pay off all debts. Today Mr. Becker has repayed his losses and has established a reputation of good credit unequaled in his community.

Mr. Becker is deeply involved in the social and civic life of his city. His great efforts and devotion to his fellow citizens have made him an example of personal success which few can equal.

Mr. President, I ask unanimous consent that the article entitled "People Worth Knowing" which appeared in the Orangeburg, S.C., Times and Democrat on August 29, 1971, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Man of Integrity: Over Half a Million in Debts and Losses—But He Bounced Back

(By Frank K. Myers)

If an author sat down to write a biography and used as his subject a man who, in the prime of his life, had lost a half-a-million dollars of his own earnings and had debts amounting to several hundreds of thousands of dollars more—then in the scope of only a few years recovered and paid off almost all of his obligations and hopes to be in the clear in the immediate future, one would say he had a pretty good story.

Strange as it may seem, that has happened to an Orangeburg man—and he does not regard it as an interesting story. To him, his business recovery and the repayment of his just debts would happen to any man of integrity—but he is a man of integrity.

As the saying goes, something good comes out of everything, and it took his financial collapse in 1963 to prove, but not to himself, that he was a man of integrity. Today, his business is welcomed at any of Orangeburg's banks. The company which supplies him with building materials, although traditionally doing business on a cash on delivery basis, has extended to him a $200,000 line of credit he can use as he wishes. At least one outstanding and wealthy Orangeburger has such faith in him that he considers his handshake as binding as any promissory note.

On the walls of his office at 155 Wall, N.E., there are many plaques, photographs of very important persons, some of whom he knows or has known personally and all of whom he admires. Two of those plaques, however, tell the story of the last two years of his life.

Both were presented him by National Homes. Each attest to his membership in National Homes' Million Dollar Club. One issued in 1970 attests to the sale of $1.4 million in homes in 1969, the other to the sale of $1.9 million in homes in 1970.

Harry Arthur Becker, in whose name the plaques are made, became a builder late in life. Until 1965, in fact, he had always been engaged in the general merchandise business. He was born in Baltimore, Md., a son of the late Orkie and Fanny Becker, but moved to Elloree while he was in knee britches. He recalls that the first person he met in Elloree was the late Pres Hungerpiller, then cashier and later president of the Bank of Elloree.

He had completed his early education in Baltimore schools and soon after his arrival in South Carolina became employed by I. Berger, at that time Elloree's general merchandise mart.

Later, when he married the former Miss Sadie Bernstein of Summerville and Orangeburg, he moved to Orangeburg and they, together, opened a general merchandise store in the building on East Russell St. now occupied by the Garden City Sports Shop. They remained there about 10 years.

"Then I began thinking," Harry Becker told The Times and Democrat. "Orangeburg had no quality ladies' ready-to-wear store at the time. People were going to Columbia to shop. So we decided to open such a store. It was in the property now occupied by Friedman's Jewelers:

"I made the right connections in New York City and we introduced several of the best quality lines of women's clothing that we could find. And we had a one-price policy, too."

Becker's, as the store was known, prospered for about 20 years. Then Harry Becker sought a change. He had always liked the building construction business and at the time the "shell-type" home, in which the buyer purchases merely a "stripped" building and puts on the finishing touches himself, was selling like the proverbial hot-cakes.

After a period of outstanding success, the bottom fell out of the market all over the country. The businesses in which Harry Becker held interests suffered when banks withheld credit on a nationwide basis. Others in the business found themselves in the same fix. The half-a-million dollars he had made, plus those thousands of other dollars he had borrowed, were gone.

To a lesser man, that would have been the end. But not to Harry Becker. Despite the advice of attorneys and the pleas of friends—and even relatives—to go into bankruptcy, Harry Becker declined to even entertain the thought.

"You go into bankruptcy and you won't have anything—but you won't owe anything, they told me," he said. "If you don't go into bankruptcy, you won't have anything but you'll still owe all that money. You'll be in debt when you die."

Harry Becker never lost faith in himself. Harry Becker's friends never lost faith in him. Instead of yielding to despondency, he began the sometimes slow climb back to success.

"I'd send someone I owed $50 or $75 when I got it, and even more when I could," he said. "One of the banks threatened to sue me over a $25,000 note. I told them that if they left me alone they'd get their money back much faster than if they tied my hands with a lawsuit. They've gotten it back and I have good credit with that bank."

Harry Becker's faith in himself may stem from his faith in the church—not just the Jewish church but any church.

"There is not a single church in Orangeburg to which I haven't contributed something," he said. 'Sometimes it is for a special project, sometimes the amount I give is unrestricted as to use.

"I remember one year I returned from home from a vacation in Florida and was told that members of the Jewish community wanted to build a synagogue, or temple, but didn't have enough money. I told them I would make the largest donation of anyone if they could raise the rest. We're not a wealthy community, but we're a fine community. It would surprise the people of Orangeburg how much the non-Jewish community contributed to the temple. Peoples of all religions were more than generous and mailed in checks—even without solicitation."

And Harry Becker believes that a man's religion is strictly a personal thing.

"I don't care what church a man attends," he said. "I only worry about and distrust a man who says he doesn't believe in any church, in anything."

And Harry Becker is a humble man. He has not forgotten those financial institutions, business firms and, particularly, real friends who stood behind him during his most trying adversities and who, he says, are directly responsible for his comeback.

"I shall always remember and appreciate their help. Without them I would have been lost," he said.

He is also a compassionate man. He is the founder of a needy family fund at Christmas time. With the aid of the Police and Fire Departments, his fund has been able to distribute about 200 baskets of food to needy families of the area each Christmas season.

Describing himself as a "banker, developer, financier, builder and altruist," Harry Becker is president of King Builders Inc., Key Builders Inc., the Capital Mortgage Co., and Becker Enterprises.

In the building profession, he is a member of the advisory board of the National Homes Corp. of Lafayette, Inc.; the leader in the two Carolinas in the National Homes of Virginia Million Dollar Club, and the winner of the Master Builders Award for being the leader in Community Progress and Development in One Family Units.

He is one of the founders of Orangeburg's First Federal Savings and Loan Association and is a vice president and member of the board of directors.

A member of Temple Sinai of Orangeburg, he is also a member of Brith Sholom Beth Israel Congregation of Charleston.

In the social and civil life of the city, Harry Becker is a life member of the Orangeburg Elks Lodge and a member of the Country Club of Orangeburg. He is a former treasurer of the Greater Orangeburg Chamber of Commerce, and a former member of the board of trustees of the Orangeburg Regional Hospital.

His hobbies: "helping charitable causes and those less fortunate than I am, but not limiting my aid to religions or color."

ADDRESS BY SENATOR BEALL BEFORE MARYLAND ASSOCIATION OF JUNIOR COLLEGES

Mr. BEALL. Mr. President, on April 21, I had the pleasure of addressing the Maryland Association of Junior Colleges.

I ask unanimous consent that the text of my address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

I appreciate this opportunity to be with my many community college friends this evening and I would like to talk with you about "The Community College and the Education Amendments of 1971—Partners in Pursuit of a Great National Goal".

The range and nature of education in a given nation or society results from many factors including its history its basic philosophy and its commitment. Fortunately for us, from our Founding Fathers to the present, this Nation has had a commitment to education.

It was Thomas Jefferson who first began to make the case for universal education. Mr. Jefferson felt education would provide a "community of honest, useful, and enlightened citizens, understanding their own rights, and firm in their perpetuation". The pronouncements of other Founding Fathers, such as Franklin, Washington, and John Adams, also evidenced a commitment to and a realization of the importance of education.

This outlook was written into law in the clarion call for education written in the Northwest Ordnance which says: "Religion, morality, and knowledge being essential to good government and the happiness of mankind, schools and education, shall forever be encouraged".

But even Thomas Jefferson's view of "universal education" did not include "universal higher education". In his notes on Virginia written in 1782, he writes only of the selection of the "youth of genius" or what he refers to as the "aristocracy of Intelligence", Jefferson's vision then clearly did not include the community college concept.

Most, if not all of his contemporaries, would have had similar difficulties with this concept. This limited vision, although most enlightened at that time, continued through the 18th and 19th centuries. It was not until the early 20th century that this nation's sights were lifted and then no higher than an elementary education for all children.

Finally by the middle of this century we had embraced secondary education for all children.

The history of our nation shows successive steps and advances toward education for all that far exceeds that of any nation in the history of mankind. We are and should be, proud of that record. For it is a record that reveals ever increasing numbers and percentages of our youth in schools and colleges.

For example, by 1900, 11% of the eligible youths were in high school; today, the percentage approaches 95%.

In 1900, only 4% of our college age youth attended college. Today, the figure exceeds 50%. With educators like you in the audience at work, I am convinced that this will continue in the future.

In fact, one author suggests that if the trend continues, we may anticipate a 90% enrollment of college-age youth in our institutions of higher learning during the first decade of the next century.

As you know, community colleges are aware of and are experiencing the implications of such developments and projections.

It has spelled a notable characteristic of junior colleges today, and for the foreseeable future. I am referring, of course, to the explosive growth of community colleges both nationally and here in Maryland. You will recall that in 1900 I said only 4% of our college age youth were in colleges. It is interesting to observe that at the same time there was only 8 junior colleges in the United States with a grand enrollment of 100 students. By 1971, 1100 private and public junior colleges enrolling 2.5 million students were part of our national and education landscape. In the last decade alone, the number of junior colleges doubled while a 300% increase in enrollment took place. In recent years community colleges nationally have been growing by one a week.

The Carnegie Commission on Higher Education has advanced a national goal of establishing community colleges within commuting distance of all persons by 1980, with the exception of some sparsely settled areas. To reach this goal, the Commission estimated that between 230 and 280 new colleges would be required.

Maryland's experience has been similar to that of the nation as a whole. The number of community colleges in our State in the past six years have increased by over 45% and the enrollment at the institutions has tripled. Fortunately, we in Maryland are far ahead of most of the nation toward meeting the goal of making geographical access to community colleges for all Marylanders.

47,671 credit seeking students were enrolled in Maryland's 16 community colleges in 1971. This represented a 13.2% increase over the previous year. The State's projections indicate that by 1976 the enrollment in the community colleges will be over 82,000 and by 1981, the projected size will surpass 100,000, a figure which will represent 60% of the projected first two year under-class enrollment in higher education in Maryland.

Current surveys in Maryland indicate that 93.3% of Maryland's residents live in counties served by community colleges. Thus, the Carnegie Commission's goals for tomorrow is becoming a reality in Maryland today. Only 6.7% of the State's population live in counties not presently served by community colleges. However, it has been estimated that 3,434 Maryland citizens would enroll in a community college if it were accessible. Members of this audience, I am sure, are aware of the fact that it has been found that more than half of all high school graduates intend to go to college if there is a public junior college in the community, where as one-third or less do so if there is not such an institution near by.

The community college movement is a logical extension of educational opportunities in this country. They are unique institutions built in response to community and citizen needs. They are locally controlled and operated. They are a part and vital to the community and the community is a part and vital to the college.

The community college has not been without its critics. Recently, I read an article criticizing the community colleges as offering unequal educational opportunity. By this I guess it is meant that the Harvard education is not offered at community colleges.

But, the community colleges are not and should not be watered-down versions of four year colleges. Community colleges should seek excellence. This is just as important in one type of institution as it is in another. As John Gardner, former Secretary of the Department of Health, Education, and Welfare pointed out "As things now stand the word excellence is all too often reserved for the dozen institutions which stand at the very zenith of higher education, in terms of faculty distinction, selectivity of students, and the difficulty of curriculum. In these terms, it is simply impossible to speak of junior colleges, for example, as excellent. Yet, sensible men can easily conceive of excellence in a junior college.

"The traditionist might say 'of course'; let Princeton create a junior college and one would have an institution of unquestionable excellence". That may be correct, but it leads us down precisely the wrong path. If Princeton Junior College were excellent in the sense that Princeton University is excellent, it might not be excellent in the most important way that a community college can be excellent. It would simply be a truncated version of Princeton. A comparably meaningless result would be achieved if General Motors tried to add to its line of low priced cars by marketing the front end of a cadillac. We shall have to be more flexible than that in our concept of excellence. We must develop a point of view that permits each kind of institution to achieve excellence in terms of its own objectives. The community college then should continue to pursue excellence but it should be excellence in its own objectives.

The community college has and must continue its unequaled and critical role in the provision of universal access. Briefly, I would like to discuss with you some of the community college's roles and in some cases comment on them.

Community colleges will continue to have the major responsibility for preparing students at upper division work at universities and colleges. Course offerings should be coordinated with the University so that they will be fully transferable with as little loss of credit as possible to the student. I applaud our State's efforts to improve the articulation process. I recently examined a catalog for Montgomery Junior College and I must say that I was very impressed with the course offerings. I was particularly pleased with the examples of coordination and imagination that I believe are essential for higher education in the country.

If I read the catalog correctly, a student desiring to enter business administration, could spend two years at Montgomery Junior College. Thereafter, the student could transfer to the University of Maryland at College Park and spend another year there as part of his business administration program. The student then could enter the Maryland University Law School at Baltimore and would be given his Bachelor of Science degree in Business Administration after he completed his initial year of law school, which would represent his fourth year of business school. The student then, of course, would continue until he received his law degree.

Thus, three separate campuses have been combined to make it possible for students to secure his business and law degrees in one year less time. This is the kind of cooperation and imagination needed in education in the country. I urge all in the audience today to continue to pursue similar arrangements.

The community colleges have a major responsibility in technical and vocational education. This is an area that has been neglected in much of the Nation. Somehow, American education and educators from the elementary to the college level must quit peddling or implying the nonsense that an academic college education is the only passport to success. This is patent nonsense. I believe that Maryland is facing up to this issue. It is my understanding that vocational students now make up 30% of Maryland community college students, and within 5 years this percentage is expected to reach 50%.

However, there is some cause for alarm. The just completed "Project Focus" a study done by the American Association of Junior Colleges indicated "career education within the community college setting is experiencing difficulty" . . . and that much of the liberal arts faculty sees "little value in providing the career training option to students". This attitude makes no sense. The trend in Maryland, as well as my personal discussion with the community college Presidents and faculty, makes me believe this attitude is not prevalant in our State. John Gardner gave an analogy which I believe states the case quite well.

"There may be excellent plumbers and incompetent plumbers, excellent philosophers and incompetent philosophers, an excellent plumber is infinitely more admirable than an incompetent philosopher. The society which scorns excellence in plumbing because plumbing is a humble activity and tolerates shoddiness in philosophy because it is an exalted activity, will have neither good plumbing nor good philosophy. Neither its pipes nor its theories will hold water."

Community colleges should continue to be open-door institutions. This concept is consistent with the idea of educating our citizens to the fullest potential, gives late bloomers a second chance, and allows the retraining of adults for jobs created in an age of automation.

Junior colleges must continue to be a community college in all that name implies. The community junior college must attempt to meet the special requirements and concerns of the community and this is one of the real important developments in the junior college movement. College classes during evening hours, cooperative programs with industry, special programs for low-income groups, and special non-credit courses appealing to avocation or cultural interests are a few of the examples of good community involvement. I am pleased to note that Maryland is one of the few States providing State support for community service programs of a non-credit nature.

I have two comments in this area. Modern communications and technology are going to bring revolutionary changes in communities and colleges in the future.

Some have predicted the demise of education as we know it today. While this seems far out, the possibility of communications are indeed staggering. Take cable TV and its implications. It will now be possible to beam community college courses into homes throughout the community.

As far as the political process is concerned, cable TV may usher in the citizens participation unlike anything that the Nation has experienced since the New England Town meetings. Cable television will permit a great opportunity for imaginative local TV programs and I believe that the community colleges in many areas will be looked to for a major role in this regard. Secondly, I would like to see funds available for community colleges to enable them to focus on community problems such as unemployment, transportation, health, drug abuse, pollution, and housing, to mention a few. The American Association Junior Colleges Project Focus to which I previously referred, recommended such an effort and in fact envisioned the establishment by 1980 in community colleges a variety of quasi-permanent institutions focusing on community problems.

President Nixon in submitting his education message and proposals to the Congress made an historical pledge when he said: "No qualified student who want to go to college should be barred for lack of money. That has long been a great American goal: I propose that we achieve it now".

Since then, the Congress has been working on legislation that will become, in my judgment, another legislative milestone. When the Higher Education bill passed the Senate, I said in a floor speech, "This measure is both massive and monumental. It is not only for the moment but for the future." As you know, this legislation is now in the Conference Committee which has the difficult job of reconciling the differences between the bills as passed by the House and the Senate. The Higher Education bill, in reaching this stage of its legislative journey, had added to it a 1.5 billion dollar two-year aid to school districts to help them desegregate. School anti-busing amendments were also added to both House and Senate bills and this issue will probably be the last item resolved by the Conference Committee. To give you an idea of the complexities and the size of the task facing the Conference Committee, on which I serve, the Senate bill was over 750 pages in length and there are over 250 substantive issues that will have to be resolved by the Conference Committee before final House and Senate passage.

I would like to discuss with you some of the major issues in the Higher Education legislation and, where possible, the decisions reached by the Conference Committee thus far.

Student aid is one of the major issues facing the Conference. Both the Senate and House bills would continue the present National Defense Student Loans and the Educational Opportunity Grants. But the Senate bill in keeping with the President's commitment that no students should be barred from attending college for lack of financial resources envisions a vast increase in the direct Federal grant assistance, and would authorize a new program called "basic opportunity grants".

Under this program a student would be eligible for a grant of up to $1,400 less that amount that the student's family could reasonably be expected to contribute to the education of the student. Family contribution would be considered such as items as family income, the number of dependents, including the number of dependents in college, family and student assets and any unusual expenses, such as medical bills. Such a basic grant could not exceed 50% of the cost such as tuition, fees, rooms and board and books and other expenses deemed by the Commissioner to be related to attending school, of attending the institute.

In general, no grant will be made of less than $200 although the Committee adopted an amendment offered by me to allow grants for less than $200 under exceptional cases where it was necessary in order for a student to attend higher education.

The House bill extends the present student aid program generally with some improvements. The Conference Committee tentatively agreed on the Senate position with respect to student aid. Testimony was presented to the Congress indicating that young men and women from families in the bottom quarter of the nation economically, are three times less likely to be in college than those in the top quarter. The Senate student aid provisions are designed to provide economically equal access to higher education. Coupled with the geographical access that community colleges are providing, these new student assistance grants will greatly expand educational opportunities in the Nation.

The second key issue before the Conference is institutional aid. Both the House and the Senate bills provide for the first time direct Federal grant to the Nation's colleges and universities to use as they see fit.

The House and Senate versions vary considerably. The Senate formula would distribute institutional aid according to the number of students receiving the basic federal grants and the number of veterans. On the other hand, the House formula allocates one-third of its institutional aid according to the amount of educational opportunity aid received by students at the various institutions and two-thirds according to total enrollment. Both the House and Senate formula are weighed so that smaller colleges get more per student than the largest universities.

Under the Senate provision, community colleges in the country and Maryland would receive two times as much funds as under the House version. For example, for each $100 million appropriated, the Senate bill would provide $32.6 million to community colleges whereas the House would provide $16.5 million. Maryland community colleges would receive $323,612 under the House formula, and $677,560 under the Senate version.

To date, no decision on institutional aid has been reached by the conference committee. It is likely that the final version will be an amalgam of the two, although it is likely that the final product will be closer to the Senate position. There has been some concern voiced with respect to the constitutionality of both bills institutional aid provisions since assistance is provided to church-related schools. The Senate believes its version, because it addresses a specific national purpose, namely, promoting equal educational opportunities, is more likely to stand a constitutional test.

There are also important items in the conference dealing with expanded educational research. It is important that an accelerated effort be made in this area. If one compared research and development expenditures in education as compared to health, defense, and other areas, one is sharply struck with the disproportionment resources that are being spent in educational research area.

The Senate bill would establish a national institute of education to do educational research and development, authorizing $25 million for the initial year, and also would authorize a national foundation for post-secondary education. The foundation will provide funds to institutions and individuals for promising experiments in higher education.

Similar to the National Science Foundation, the foundation would be authorized to spend $200 million the first year.

Another section in the Senate bill of particular interest to the community colleges is found in title X. I am referring to that section of the Senate bill which authorizes $225 million over a three year period for establishing and expanding community colleges to bring them within commuting distance of all students. Part A of this title authorizes grants to the states for the survey of post-secondary education programs and the development of statewide plans for the expansion and improvement of post-secondary education programs in community colleges. Although our state is far ahead in the planning area, this is needed by many states and I am certain that Maryland will make good use of the funds. Part B of the title provides for three types of grants to establish new community colleges, to expand existing colleges, and grants to lease facilities either for the purpose of establishing a new college or expanding existing ones.

In addition, the Senate bill raises the present setaside for junior colleges under the higher education facilities section from 23% to 24%.

This increase in the set-aside provision has been agreed to by the conference committee. Title X also authorizes a community college unit in the office of education to coordinate all programs administered by the commissioner. Our educational subcommittee has been concerned with the disproportionately small allocation of funds to community colleges by the office of education. During the fiscal year 1971, for example, we found that community colleges received less than 6% of the $4.4 billion budget administered by the office of education.

The House bill does not have a community college section but it does have an occupational educational title, also of interest to community colleges. The conferees have not resolved the community college and occupational education titles. This was the item discussed in our last conference and effort is underway to combine these provisions.

I feel confident that the conference will adopt the community college and occupational education titles. I strongly support such agreement which will help provide the needed additional resources for community colleges not only because of the need that exists but also in recognition of your solid record of accomplishment in expanding educational opportunity to young men and women in this country.

There are many other important provisions in the bill dealing with such items as women's rights, developing institutions, library assistants, communty service, teacher training, and so on. As I previously indicated, there are 250 to 275 substantive issues. We have approximately 125 issues remaining. We have met this week and have made considerable progress and are scheduled to resume our meetings next week. I cannot predict when the conferees might conclude, but there is hope expressed that agreement will be reached in the next two weeks.

I am aware of the urgency to reach agreement on this legislation so that students will know what financial assistance might be available for the fall term, and that schools might know what, if any, institutional assistance they might count on.

Mr. Adolpf A. Berle, addressing a conference of school administrators discussed the charge that our society is hypocritical. He said:

"Accusation is made that American society is hypocritical—proclaims a spate of ideals in the Declaration of Independence and the Constitution and does not live up to its profession. A good teacher, far from denying this, would at once admit its truth. But he would add something surprising. He would say that no society would be worth the price of admission if it did not proclaim ideals which were beyond its present realization. For that matter, no man ever lived up to his ideals either. If ever American society fulfills all its ideals, it would be because the ideals were outrageously low."

Setting goals beyond our reach has always been tradition of this country and of the education community. Commissioner Marland in his recent annual review of the conditions of education in the Nation referred to this process as the endless educational renaissance. He predicted that at the close of this decade America will find that their expectations in education are being made and that education had responded effectively to this public will. But he went on to say that society would be further dissatisfied with whatever gains were made and a "splendid discontent will launch us possibly into the near decade of the endless education renaissance." Our Nation was formed based on a belief that a better way of life could be found. But the spirit of America has always been regenerated by the fact that we have a program for tomorrow. The progress that you are developing in the community colleges in Maryland and the legislation that is being shaped in Congress will enable the Nation to reach *today's* national goals, but in the meantime, I am certain that national goals and sights will be raised even higher *tomorrow*. This after all is the story of America. May it always be so.

WILLIAM G. DOWD, JR.

Mr. WILLIAMS. Mr. President, it was with great sorrow that I learned of the recent death of Mr. William G. Dowd, Jr., of Elizabeth, N.J. At the time of his death Mr. Dowd was finance director of the city of Elizabeth. However, that post was only the last in a lifetime of activity in government and politics.

I think it is safe to say that Mr. Dowd was one of the most widely known, and best liked, people in Elizabeth. For me personally, he was a very special friend as it was Mr. Dowd who made it possible for me to first run for Congress.

Mr. President, I know that many, many people in Elizabeth, and throughout New Jersey, share my great sense of loss, and join me in expressing heartfelt condolences to Mr. Dowd's son and grandchildren. I ask unanimous consent that a newspaper article about Mr. Dowd be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Daily Journal, Elizabeth, N.J., Mar. 30, 1972]

WILLIAM G. DOWD, 66; ELIZABETH FINANCE CHIEF

William G. Dowd, Jr., 66, of 545 E. Jersey St., Elizabeth's finance director and a former Democratic state committeeman, died today in Alexian Brothers Hospital.

Mr. Dowd, one of Elizabeth's best-known and most popular residents, was admitted to the hospital Saturday suffering from a heart ailment.

During his long career in public life he served as a councilman, supervisor of municipally owned buildings, street commissioner and director of public works.

Mr. Dowd was chairman of the Union County Democratic Committee from 1952 to 1954 and a state committeeman for 14 years prior to 1969.

He was a gubernatorial appointee to the New Jersey Civil Service Commission and a former clerk of the Union County Board of Freeholders.

Born in Elizabeth, Mr. Dowd was educated in Elizabeth schools and Newark Preparatory School.

When he entered politics, at an early voting age, he followed in the footsteps of his father, the late Welfare Director William G. Dowd.

He was named to the old Third Ward seat in City Council on Jan. 1, 1931, to succeed his father, who was appointed overseer of the poor on that day.

While in council, the junior Dowd worked with the later Mayor Joseph A. Brophy in completing plans for a new city hall. He also served as council president two years, was chairman of the important finance committee and majority floor leader.

Mr. Dowd resigned his council seat in 1940 to become superintendent of city hall.

In 1950, he lost a hotly contested primary battle in his effort to block the renomination of former Mayor James T. Kirk.

Regarded as one of the most astute political leaders in the state, Mr. Dowd was one of the earliest supporters of Sen. Harrison A. Williams Jr.

He was a member of the group who selected Williams, then a politically unknown Plainfield attorney, to run for Congress in the 1950s in the old Sixth District.

Williams went on to win and became the first Democratic congressman from the Sixth District.

Mr. Dowd also was an early supporter and personal friend of former Gov. Robert B. Meyner.

In August 1954, ten months after the dramatic Williams and Meyner victories, Mr. Dowd resigned as chairman of the Democratic County Committee.

As his reason, he pleaded a desire to devote time to business interests.

Seven years earlier, he had also astounded political friends by resigning unexpectedly as city chairman.

He had been the Elizabeth Defense Council's purchasing agent and treasurer in World War II and was designated the city property officer to receive and distribute a wide variety of defense items made available by the government during World War II.

Mr. Dowd was a communicant of St. Patrick's R. C. Church.

He was a director of the former Community Bank of Linden, treasurer of the Alexian Brothers Hospital Foundation and a member of many other organizations.

His wife, Mrs. Anne Heinkele Dowd, died last June.

Surviving are a son, William G. 3rd of Elizabeth, and two grandchildren.

The Leonard Home for Funerals, 242 W. Jersey St., has completed arrangements.

FLAGS AT HALF-STAFF

Mayor Thomas G. Dunn, today ordered all flags at public buildings lowered to half-staff until after the funeral of William G. Dowd Jr.

Of Mr. Dowd, the mayor said: "Without a doubt he was one of the most able public officials ever produced by our city and one who followed in his father's footsteps with dignity and distinction. He was certainly one of the most, if not the most, popular gentlemen ever.

"I had the honor of having him as a close friend for 25 years. The whole city mourns our great loss."

THE GENOCIDE CONVENTION: AN ANALYSIS OF SOME OPPOSITION

Mr. PROXMIRE. Mr. President, ever since I made my vow in January 1967, to speak daily on the Senate floor in favor of American ratification of the Genocide Convention, I have received a steady flow of mail on this subject. Some of the people who have written to me are opposed to ratification of the convention. They have a wide variety of arguments as to why the Senate should reject the treaty. In my daily speeches I have endeavored to show the shortcomings of these criticisms and why we should ratify the convention.

One increasingly common objection to the convention is as follows: The Genocide Convention is written in such a way that it does not apply to Communist nations. Why would they ratify it unless they knew it would never affect them? However, if the United States ratifies the treaty we will be bound by it because we always follow our treaty commitments. Therefore, we should not ratify the convention. The United States should not be party to a treaty that limits our actions, but not the actions of Communist nations.

Mr. President, I do not want at this time to enter into a discussion of whether or not the Communist nations that have ratified the convention, and not all of them have, will live up to their treaty obligations. Neither do I wish to speak on America's record for upholding the treaties it has made; although I am sure there are many American Indians who would like to say something on this subject. Rather I would like to address myself to the implications of the above-stated argument.

By ratifying the Genocide Convention, a nation pledges itself to take action, in accordance with its constitution, to see that acts of genocide do not occur within its borders. The above argument implies that Communist countries are able to commit acts of genocide even though they have ratified the convention. If the United States ratifies the convention we will not be able to commit acts of genocide. Since the Communists can commit genocide, we should be able to do so also.

I do not know if those persons who advance the above argument are aware of the implications which I have outlined. But I think this shows the absurd arguments that some people will use to try and defeat American ratification of the convention. The argument that the United States should not try to stop genocide, because some other nation, whoever that nation may be, is not going to take similar action is totaly irrelevant.

Action or lack of action on the part of any nation should not influence our ratification of the convention. The convention should be considered on its own merits, or whether or not it is in our best interests. The United States should ratify the Genocide Convention. Such action would put us on record as opposed to this horrible crime. Then, swift enactment of the necessary implementing legislation, S. 3182, would give the convention effect within the United States. American courts would enforce the provisions of the law with respect to American citizens.

If it is the case that some nations are not living up to their treaty obligations, we will have a greater chance of rectifying that situation if we are party to the convention than if we are not. The United States was once a leader in the movement to prevent the occurrence of genocide. By ratifying the Genocide Convention we can once again be in a position to reassume that leadership.

Mr. President, I call upon the Senate to ratify the Genocide Convention without delay.

FDA RECALLS IMPORTED DINNERWARE

Mr. SCHWEIKER. Mr. President, last week the Food and Drug Administration ordered the recall of approximately 13,000 dozen pieces of imported stoneware and enamelware which have been found to contain dangerous amounts of lead and cadmium.

The articles recalled were manufactured by Ceramano-Keramik, of West Germany, and Ishikawa, of Tokyo, Japan. The West German articles were found to contain 100 parts per million of lead with some samples being as high as 307 parts per million, or nearly 44 times the present FDA standard for lead which may be released from dinnerware.

The Japanese articles were found to contain as much as 100 times the level of cadmium considered to be safe under present standards.

While much of this dinnerware is still on the market and can be recalled with relative ease, several thousand sets of this dinnerware have been sold and are currently in the homes of consumers who may not be aware of the potential hazard which these items present.

This is exactly the situation I had in mind when I introduced my bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the amounts of lead and cadmium which may be released from glazed ceramic or enamel dinnerware, S. 3136. My bill was introduced in February 1972, and is identical to a bill introduced in the House by Congressman FRANK HORTON, of New York.

My bill would cover virtually all dinnerware products made in the United States and all imports. On the whole, the domestic dinnerware industry is producing safe dinnerware, earthenware, and stoneware products.

In the 1930's the U.S. Potters Association became concerned about this problem. In 1969 the potters and FDA agreed to standards governing the release of lead and cadmium in the foods from dinnerware. At the present time, less than one part per million lead is released into food by most products made by legitimate manufacturers. The Potters Association tests the goods, issues seals of compliance, and submits reports to the FDA.

As this recent FDA recall clearly indicates, the problem is that many marginal pottery shops and foreign producers are not subject to the tests. My bill will enlarge the FDA authority in several important ways:

The bill would allow the FDA to get into this problem at the manufacturing stage, before the articles have been released into the market.

The present legislation limits FDA involvement to the time when such products are in interstate commerce, and my bill would broaden the definition of interstate commerce to include situations affecting interstate commerce.

S. 3136 would add new labling requirements for dinnerware which would facilitate identification of recalled articles by the consumer.

This most recent incident involving dinnerware containing dangerous levels of lead and cadmium clearly underscores the need for prompt action on legislation to permit the Food and Drug Administration to regulate dinnerware before it is offered for sale and before it can be taken into the home of the consumer. S. 3165 would eliminate this danger, and I believe that the need for the passage of such legislation is clearly indicated.

THE PRESIDENT'S SPEECH ON VIETNAM

Mr. TUNNEY. Mr. President, the President last night attempted to mislead the American people. While lauding his administration's policy of decreasing American ground troops in Vietnam, he decided simultaneously to reaffirm his commitment to massive air and naval power.

He told the people that only 69,000 American ground troops would remain in Vietnam as of Monday, May 1. He did not admit to the American people that the number of American B–52 bombers in Vietnam will have tripled since January 1972.

He told the people that only 49,000 American ground troops would remain in Vietnam as of July 1. He did not admit to the American people that the American naval involvement in Vietnam has more than doubled since January; that four aircraft carriers are currently operating off the coast of Vietnam with a fifth reportedly on the way; and that American naval involvement is greater now than at any time since the war first began.

His conception of winding down the war is a strange one. It is more akin to expansion.

In fact, a number of his concepts are strange ones. He calls the border between the North and South Vietnam an "international border." Yet it is clearly not an international border. It is the line which separates combatants in what has always been essentially a revolutionary war—despite the attempt of great powers to alter the nature of that war and make it an international conflict.

He calls South Vietnam an "independent nation." Yet it is one part of a divided country.

The President clearly operates from faulty premises. When the Chief Executive believes that a temporary border is an "international border"; when he believes that part of a divided country is an "independent country," it is likely that fallacious conclusions will be the result.

And, Mr. President, fallacious conclusions are the result. Instead of steadfastly working toward a peace that will work, the President pursues terms that are unrealistic. Instead of ending the war, he continues the bombing.

Perhaps the most tragic element of the President's statement is his concept of "a new structure of peace." For his new structure of peace is a structure of peace built upon war. It is a structure with no foundation. It is one that is destined to crumble before it has been constructed, and it is one which calls into question any real and lasting concept of a genuine peace.

I cannot really believe that the President of the United States can, after years of experience and after the American people has made its will so clear, continue to pursue the dogged course he has selected—a course that believes in military victory; a course that is willing to expend more American lives; a course that does not serve American interests.

That course must be changed. And I encourage all Americans to continue to tell President Nixon that his way will not work.

SENATOR PERCY SPEAKS ON HOUSING PROGRAMS

Mr. PACKWOOD. Mr. President, the distinguished senior Senator from Illinois (Mr. Percy) yesterday delivered an exceptionally penetrating analysis of the problems plaguing two of our major housing subsidy programs for lower income families, the section 235 homeownership program and the section 236 rental and cooperative housing program.

Not only did the Senator ably document the faults in the administration of these programs, but he also offered specific concrete proposals for reform in the programs which deserve the careful attention of all Members of this body.

I ask unanimous consent that the text of the Senator's address before the annual convention of the National Association of Building Manufacturers be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Senator Charles H. Percy

I am pleased to be here today. I welcome this opportunity to discuss with you our nation's housing programs.

Ralph Nader recently said that housing quality will become the number one consumer issue of this decade. Housing issues will be in the 1970's what automobile issues were in the 1960's.

John Herbers of the *New York Times*, the author of a brilliant series of articles on housing over the last several months, wrote not long ago that many authorities believe the controversy over national housing policy "will become more widespread and heated than that surrounding public welfare in recent years."

No less an expert than George Romney, the Secretary of Housing and Urban Development, said in an address before the Detroit Economic Club, "We have made mistakes in the design and administration of the programs that were proposed to alleviate human suffering. I acknowledge with deep regret the things that have gone wrong with our housing subsidy programs."

The controversy has been fueled over the past several months by revelations of gross mismanagement as well as widespread fraud and corruption in some housing programs. Charges of wrongdoing have culminated in numerous grand jury indictments in many cities across the country; not the least of these were in New York City, where some 500 indictments were handed down, including some against officials of the widely respected firm of Dun and Bradstreet.

At the heart of this controversy, as indicated by Secretary Romney, are two housing programs which were added to the National Housing Act in 1968. These are the so-called interest subsidy programs; Section 235, Homeownership for Lower Income Families, and Section 236, Rental and Cooperative Housing for lower income families. Under both of these programs, the Secretary of Housing and Urban Development is authorized to make payments to mortgagees to reduce the amount of interest a homeowner or building owner must pay on his mortgage.

Critics charge that the price we must pay in tax dollars for these programs is too great for the benefits to be gained. The ultimate consumer—the homeowner or the renter—is too frequently receiving a low quality product which may not last the life of the insured and subsidized mortgage. Moreover, HUD may soon become the nation's biggest slumlord because of the increasing number of abandonments, defaults and foreclosures under the interest subsidy programs.

Criticism of the implementation of these programs is justified. No one can deny the body of evidence compiled by congressional committees, enterprising newspaper reporters, the United States Civil Rights Commission and HUD's own auditors. And I shall return to this body of evidence in a moment.

But I think the criticism must be put in perspective. I agree with the expert analysis provided for the House Banking and Currency Committee by an impartial authority: "The existing subsidy system is geared toward providing decent shelter at prices lower income families can afford under reasonably equitable conditions. By and large it is capable of achieving this purpose at public costs which are high but not unreasonable."

Measured in terms of number of units produced, the interest subsidy programs are successful. In 1971, 440,000, or 21 percent, of all conventional home construction starts were subsidized housing.

Measured in terms of low-income families served and in terms of minority participation, the programs also have been successful. By the end of 1971, 276,000 units had been insured under the 235 program. This means quite simply that 276,000 low income families, or approximately 1.5 million people—many of them blacks or Spanish-speaking Americans—are enjoying the fruits of homeownership who might otherwise not have had that opportunity.

And measured in terms of quality of most of the housing the programs have been successful. Almost all families living in 235 homes or 236 apartments are living in better homes than they previously had lived in. This is the conclusion not only of the HUD auditors who have evaluated these programs, but also of the Civil Rights Commission in its report of last June on the 235 program.

But the successes of the 235 and 236 programs cannot excuse the well-documented abuses in these programs. I cannot emphasize too strongly, however, that the abuses found in these programs are also present in other Federal Housing Administration programs, especially those which serve the inner city.

Some critics charge that 235 and 236 are part and parcel of the abandonment and foreclosure cycle now evident in such cities as Detroit and St. Louis. But I want to point out, however, that foreclosures of mortgages insured under 235 number only about 7,000 of the 276,000 which have been endorsed. This is still too many, but the rate is far higher for the unsubsidized program of mortgage insurance for low- and moderate-income families in central cities. Multifamily dwellings constructed under the below-market-interest-rate program are in more difficulty—or at least as much difficulty—as those insured under Section 236.

The point I want to draw very sharply is this: The interest subsidy programs have provided many families with decent housing. Fraud and corruption and other abuses exist in these programs and certainly must be rooted out. They also exist in other FHA programs as well, and must be rooted out there as well.

But to kill these programs now, as has been seriously suggested by so distinguished a member of Congress as the Chairman of the House Banking Committee, Wright Patman, would seriously cripple our efforts to meet the housing needs of this nation. The Senate, I am happy to note, overwhelmingly endorsed the continuation of these programs with the passage of the 1972 Housing Act in early March.

I want to review with you now the most serious problems of the 235 and 236 programs, their causes, and some remedies.

Auditors from the Housing and Urban Development Department inspected a sample of over 1,200 new and existing houses insured under Section 235. About a third of these houses were found to have serious problems. Deficiencies were noted in 25.7 percent of the new houses inspected and in 42.7 percent of the used houses inspected. Fully 53 percent of the inner-city existing homes inspected were found to have deficiencies. In the judgment of the auditors, 35 used houses inspected had problems severe enough that the houses *should never have been insured.*

The litany of deficiencies is truly astounding. The inspectors found examples of the following in new houses:

A drain pipe from the kitchen and bath leaking, result in water standing under the House at the point of the leak;

A sheet-rock ceiling in a den sagging in several places;

Two to six inches of water standing in crawl space due to poor drainage;

Cracking in a garage slab floor extending into the house slab floor;

No attic ventilation;

A wing wall settling and separating from the main part of the house;

Severe settling of concrete porch steps resulting in their separating from the porch;

No hand rails on porches;

Drainage problem because of improper lot grading.

And on and on.

In the case of used homes, inspectors found examples of the following deficiencies:

A house requiring complete rewiring;

Walls cracked throughout a house;

Ceiling tile falling down;

Paneling loose on all walls;

A rotting sub-floor and joists under the bathroom and utility areas;

An exterior foundation base cracked in several places, with the ground eroded significantly away from foundation in rear;

Roof leaks into three upstairs bedrooms;

Rotten and broken gutters and downspout;

Water in the basement due to leaky foundation walls in very poor condition;

Bricks loose and coming out of the walls.

And on and on.

In a masterful bit of understatement, the HUD auditors concluded: "In our opinion, too many houses—particularly used houses—were insured which contained deficiencies that should have been corrected prior to final endorsement." The end result of this process, as the auditors rightly point out, is that "many unsophisticated buyers of older inner-city housing"—and, it should be added, of newly-constructed suburban development houses as well—"have not been fairly treated."

To put the matter simply, the low-income consumer is taking it in the neck. And in many cases he is at a loss about how to deal with his situation. Understandably enough, frustration, abandonment, default, and foreclosure sometimes follow.

Why has this situation developed? Secretary Romney accurately points out that the Section 235 program opened a vast new housing market in both the inner city and the suburbs. Into this market, says the Secretary, "moved a group of fast-buck artists: speculators, unscrupulous developers, and purveyors of poor workmanship."

Perhaps Mr. Romney had in mind something like the scandal in FHA programs in New York City. According to the New York Times, "The scheme allegedly involved procurement of false credit records and false appraisals, which were then used to obtain FHA insurance for unduly high mortgages on rundown, overpriced one-to-four family houses in Brooklyn. The houses were sold to low-income families.

"Real estate speculators, brokers, lawyers, appraisers and bribed FHA employees conspired in the scheme."

At a minimum, unscrupulous speculators and builders have been willing to peddle defective homes at inflated prices to a large new class of inexperienced and unsophisticated buyers. In some cases speculators—after making cosmetic repairs on existing properties—are selling the properties to low-income buyers for profits of as much as 60 or 70 percent in three months. There are even manuals being published to tell you how to bilk the public and do it within the letter, if not the spirit, of the law.

I cannot condemn too strongly those members of the private sector—builders and developers, real estate speculators and brokers, mortgage bankers and fee appraisers—all of whom have wantonly and deliberately set out on a course of making an easy dollar by defrauding the poor and rifling the public treasury. This conspiracy against the poor and the public is a cancer in our free enterprise system which must be ruthlessly cut away by men of good will in both public and private life. I hope the members of the National Association of Building Manufacturers will join me in this effort.

Another serious problem I want to discuss is one which has been amply documented by the U.S. Civil Rights Commission. Allow me to quote from the Commission's study of the 235 program:

"Most new 235 units are being located in suburban areas and are being purchased largely by white buyers, while most existing units are being located in inner-city ghetto areas or 'changing' neighborhoods and are being purchased largely by minority buyers. In those cases where minority 235 buyers are purchasing new suburban housing, it is usually located in subdivisions reserved exclusively for them."

I see evidence of this pattern in my home state of Illinois. In the suburb of Chicago Heights, a substantial number of homes in two subdivisions have been sold with mortgages insured under Section 235. One of these, Appletree, is almost totally white; the other, Forest Heights, is almost totally black.

In a devastating series of articles about shoddy construction in the Forest Heights subdivision, the *Chicago Daily News* has reported that 52 of the 270 homes built in the last two years are now boarded up and abandoned. This finding lends support to the suggestion by John Herbers of the *New York Times* that we may be witnessing the development of suburban slums because of the volatile mix of low-income families, poorly trained for home ownership, with new homes that have serious construction faults.

Again I must ask: Why has this happened? I think part of the blame for the abuses in the 235 program can be placed squarely on FHA and HUD, as Secretary Romney has said. The program has been miserably mismanaged almost from the very start.

The HUD audit clearly points in this direction, as do virtually all other informed observers.

The work of FHA appraisers has been inadequate and their appraisals have been defective in many respects.

The supervision, control, and review of the work of FHA appraisers by middle management has been insufficient.

Property standards are lax.

Reported violations and irregularities in the 235 program have not been followed up. Complaints by mortgagors have not been handled properly.

The auditors trace these examples of mismanagement to three sources—the attitudes of HUD–FHA personnel, the excessive emphasis on quantity versus quality in FHA appraisals and inspections, and the absence of effective supervision and review of the work of FHA appraisers.

The message is simple: FHA has adhered to an outmoded concept of *caveat emptor*—let the buyer beware—and an outdated policy of passive noninvolvement in the homebuying process. This has occured at a time when fresh ideas and a new sense of responsibility to the consumer were called for.

The *Wall Street Journal* scolded Congress editorially not long ago for entrusting the Section 235 program to FHA, which it called "a suburban-oriented agency that knew little about the poor and less about old housing." The editorial continued this way:

"By leaving the programs to operate virtually unregulated at the whim of private interests—the real estate brokers, the mortgage companies, the marginal repairmen—the FHA opened the door for enormous abuses. Unlike the more educated middle-income buyer, the poor desperately needed counseling and a public agency to protect their interests."

The unfortunate aspect of this situation is that many of us in Congress perceived this very possibility in 1966, 1967, and 1968. My bill to establish a home ownership program called for establishing an essentially private but publicly supported National Home Ownership Foundation to run the program. FHA has had virtually no experience in this low income field. In an analysis of the legislation for the Senate Banking, Housing and Urban Affairs Committee, I wrote, "FHA, which is an insurance agency, displays a striking reluctance to insure mortgages for low income people."

As the late Charles Abrams, the distinguished urban planner, had observed:

"The feeling is that these agencies must be self-supporting . . . Efforts to bring these agencies within the framework of the generous dedication of the Housing Act of 1949 (a decent home and a decent environment for every American family) or to make them a tool for improving slum life, instead of a tool of the private building and lending enterprises, have never gotten very far."

At a later point in the same analysis I wrote, "FHA has not spoken to lower income housing needs, and, given human nature, probably never will. A private sector institution established expressly for the purpose of assisting lower income families to become homeowners, and over the policies of which local organizations concerned with this problem have some control, would afford a much more responsive tool."

At one point during the hearings on the National Home Onwership Foundation, when witnesses were arguing for organizational neatness by putting the new program under FHA and HUD, I said on the record: 'I'll bet everything I know about human nature that you can try to regulate, rerun, and redirect an existing agency, and try to do their job for them—and fail."

That is one bet I wish I had not won.

But what can we do now to improve the existing homeownership program? The goals of this program are as worthy as ever and its potential benefits for the individual and the society are as great as ever. But what are we to do for the home owner who has suffered past abuses because of FHA laxity? And what are we to do to prevent similar things from happening in the future?

Secretary Romney has already moved to implement many administrative reforms and he is to be commended for the straightforward way he is dealing with these problems. Much more needs to be done, however.

The Section 518 program, which establishes HUD's liability for defects in new and existing housing needs to be expanded and strengthened. I see no reason why the purchaser of an existing home under any FHA program should not have the same guarantees about the quality of housing as does the purchaser of a new home. I propose a five-year term of liability for both new and used homes. I propose to allow present holders of mortgages on defective homes purchased under any FHA programs to submit applications for relief for a six-month period, no matter when the homes were purchased.

If FHA carries out the letter of the law and sees to it that a quality product meeting all state and local code requirements is delivered to the consumer, then Section 518 never need be utilized. And it seems to me that this can be accomplished if the Secretary will only demand the same high standard of houses approved for insurance under FHA programs that he imposes on HUD acquired properties which are rehabilitated for resale. There is no justification for the present widely-differing sets of standards.

In essence, what I am calling for is a complete restructuring of FHA into a consumer-oriented housing agency dedicated to providing quality housing and other supporting social services for low-and-moderate-income families. FHA must utilize existing authority and Congress must supply the necessary funds to activate a wide range of pre- and post-purchase counselling and training programs for the unsophisticated buyer. For several years, I have been advocating full funding for the counselling programs authorized in 1968, but all we have now are inadequate voluntary efforts.

FHA must utilize existing authority and come to Congress for any additional authority it may need to intervene actively in the selling process.

FHA must see to it that speculators and unscrupulous real estate brokers are eliminated from the subsidized housing market.

FHA must see to it that potential homebuyers are shown all available properties and that all relevant information about these properties is fully disclosed to the prospective purchaser.

FHA and HUD should carry decentralization to its logical conclusion, following the advice of the Civil Rights Commission, and set up neighborhood offices to serve as sources of information and assistance concerning the interest subsidy programs.

FHA's concern with the home buyer cannot end with final endorsement. FHA must commission and pay for regular inspections of both new and existing homes purchased under Section 235 and other FHA programs to assist the consumer in spotting and dealing with routine problems of repair and maintenance. FHA should consider setting up a maintenance and repair fund for low-income families.

If FHA cannot or will not accomplish these objectives, then Congress must give consideration to separating the interest subsidy programs from the traditional ones and putting them into a new agency. Perhaps only in this way will Congress' purposes be achieved.

Allow me to turn now to the Section 236 program.

Multifamily rental properties built under this program have shown many of the same defects in construction that have plagued 235 homes. In addition, some of the "packagers" and contractors undertaking these projects were motivated by the substantial fee involved. So much money has been lost in the cycle of excessive fees, unwarranted land markups, and the failure of FHA to stop fraudulent practices that mortgages are inflated, increasing not only the rental cost per unit but HUD's long-term liability for interest subsidy payments.

HUD auditors found in city after city that Section 236 market rents were disproportionately higher than comparably sized and located conventional units. For example, 93 percent of the rents for one-bedroom apartments in conventional projects were lower than rents for comparable units in the Section 236 projects reviewed. The same held true for 59 percent of the rents for three-bedroom apartments.

One result of these inflated rents is that in many locations some low-income tenants are spending up to two-thirds of their income on rent. The average tenant is paying 34 percent of his income for rent. Congress' goal was 25 percent.

Once again, the consumer is taking it on the chin.

And they are also suffering because many of these properties are apparently located next to junkyards and factories, under power lines, in former lake beds and far from community services. Because of poor site selection—and I include here the overabundance of projects being located in suburban areas where the need is not as great as in the central cities—many projects have a high vacancy rate and are either in default of their mortgage payments or in financial trouble.

We also hear a lot about the benefits accorded to investors in 236 properties under the Tax Reform Act of 1969. In some cases, high income investors are attracted by the tax savings offered by accelerated depreciation and have little interest in the long-term viability of the projects.

In short, builders and developers are making quick profits, high-income investors are getting lucrative tax write-offs, the consumer is receiving poorly-constructed housing at inflated costs—and the taxpayer is footing the bill.

I believe that the Congress know that to harness the powerful forces of the private sector to help meet national housing needs, we had to offer some very special inducements. I daresay these inducements have been successful, measured in terms of housing starts.

I believe the Congress also was aware of the potential cost of these programs in the form of direct subsidies and indirect tax write-offs. But we were willing to pay this price if it resulted in quality housing at reasonable costs to low-income families.

The evidence suggests that the goal has not been achieved in all cases. It has not been achieved principally because of the failure of FHA to take affirmative action to achieve this goal. Congress did not intend for FHA to pursue quantity production of housing units at the expense of quality and the long-term viability of these projects.

What can be done to rid this program of abuses? FHA has the responsibility to assume the perspective of the consumer. It must eliminate unreasonable construction and development costs, and at the same time impose the highest standards of quality. It must actively seek out and train organizations to sponsor and maintain 236 projects. It must come to the Congress for additional authority or program amendments so that the goals of the legislation can be obtained.

But you in the National Association of Building Manufacturers and your colleagues in the housing industry throughout the nation have a responsibility as well. If, in your professional capacity, you wish to reap the benefits of public programs, then in your professional capacity you must become the advocate of the consumer. You must actively police your own industry and rid it of unscrupulous operators and fast-back artists who are out to make a killing at the expense of the low-income consumer and the public at large.

We all share the responsibility to make these programs work to achieve the ultimate goal of a decent home in a decent environment for all Americans.

PRESIDENT NIXON'S ANNOUNCEMENT ON VIETNAM

Mr. KENNEDY. Mr. President, stripped of the resort to obsolete cold war rhetoric and the appalling invocation of the discredited domino theory, two points stand out in the President's announcement on Vietnam last night.

First, it is impossible to ignore the cruel simple fact that the awful toll of death and devastation is continuing undiminished in Indochina. The President's timetable for Vietnamization and the withdrawal of American troops is a timetable for war, not a timetable for peace. I condemn the invasion from the North, just as I have condemned all the other killing that has gone on so long in Indochina. What possible satisfaction can any of us take in this continuing wanton test of Vietnamization, a test that is costing the lives of thousands of soldiers and civilians? Those are not toy soldiers dying on the battlefield, but real human beings. Their daily sacrifice of life is an unconscionable price for any nation to demand in an effort to vindicate its policy.

Second, although the President has now recognized his mistake in walking off the job at the peace table in Paris last month, we must also recognize that it is not enough for the United States to return to Paris, if all we do is fill our empty seat. If that is the limit of our vision, then we have failed our responsibility to seek a realistic negotiated settlement of the war.

The most glaring omission in the President's announcement was the total absence of any indication that he is prepared to make a genuine compromise in the negotiations. The eight-point offer we heard last January is no more than a transparent plan to guarantee the survival of President Thieu in office, a plan that can never be the basis for peace in Indochina.

The ink on the rigged results of President Thieu's uncontested election last October is hardly dry. How can the President propose another rigged election for President Thieu as the only path he is willing to pursue in Paris? When will President Nixon realize that he can no more insure the reelection of President Thieu than he can insure his own reelection by his actions on the war? How long will the lives of American troops, how long will the lives of the people of Indochina, how long will the American prisoners of war be held hostage to the survival of President Thieu?

The President says he will never surrender to the enemy, but neither will Hanoi. The sooner we accept that fact, the sooner we will be on the road to a realistic compromise and negotiated settlement in Paris, the only road that leads to peace in Indochina. Until the President accepts this simple fact, it will be the responsibility of Congress to seek to end the war by legislative means.

ANNIVERSARY OF CIVIL RIGHTS ACT OF 1968

Mr. BROOKE. Mr. President, this month marks the fourth anniversary of the enactment of title VIII, the fair housing section of the Civil Rights Act of 1968.

Secretary George Romney of the Department of Housing and Urban Development announced earlier the scheduling of commemorative events throughout this month to celebrate the anniversary of that historic enactment.

As one who assisted in the drafting of the adopted language, I have had occasion to follow closely the development of administrative rulings drawn pursuant to that statute and the relevant case law. In my opinion, Secretary Romney and his Assistant Secretary for Equal Opportunity, Samuel J. Simmons, have captured the spirit and intent of title VIII. They have initiated and instituted a host of new policies in this important area.

In a recent speech before the 41st Annual Convention of the National Housing Conference, Assistant Secretary Simmons outlined their policies and progress to date.

While pride can be taken in the institutional changes made so far, he rightfully recognized that only a beginning has been made. We cannot rest until equal housing opportunity for all Americans is as real as the dual housing market that continues to persist today. There are few instances more fundamental and important to this Nation's domestic growth than the clear-cut need for fair housing choices. I firmly believe that the long-range solutions to employment discrimination and the denial of equal educational opportunities lie in the dissolution of discriminatory housing patterns.

On this important anniversary, let us renew our commitment to the bringing about of fundamental changes in our housing policies. While we take heart from the Department's leadership, let us resolve to complete the task.

Mr. President, I ask unanimous consent that Secretary Simmons' speech to the National Housing Conference be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks by Samuel J. Simmons, Assistant Secretary for Equal Opportunity, U.S. Department of Housing and Urban Development

I'm delighted to be here this afternoon. The National Housing Conference is an extraordinary organization, and it is for me, as with any HUD official, a singular privilege to address your annual convention. Being among old friends, I welcome it as an occasion to be expansive if not evangelic; an occasion to be candid yet circumspect.

Three years ago this month I addressed, briefly, your convention as a member of the new HUD team. Then, as now, I offered no grand schemes or magic potions for achieving those social and human objectives which we subsume under the shibboleth "equal opportunity." For even before joining the Department, my experience in this field had long since made me chary of easy panaceas, of "freedom now" formulas.

Progress here, as best we can measure it, is as elusive as the search for cancer's cure. And, it is no less important. In this quest, there is trial. There is error. There is probing, testing, unrelenting pressure at bigotry's door, and short but firm steps toward one's immediate objective while not losing sight of long-range goals. There is coalition-building, litigation, technical assistance, public relations and regulation promulgation.

But, our game plan is not ad hoc nor helter-skelter. There is a common thread—institutional change—which has linked our major efforts since March 1969 to purge discrimination in each and every phase of the marketing of shelter in this nation, to expand the choice for minority Americans of housing locations in all price ranges throughout urban, suburban and rural communities, and to increase their participation in the economic benefits that flow from HUD programs.

First, in housing. What have we done? What are we doing? Where do we wish to be—say, five years from today? You deserve, I suspect, a blow-by-blow description which time does not allow. So, let me just touch the high spots.

Our office customarily defines its objective, under existing statutes and executive orders dealing with equal housing, as one of seeing to it that minority group Americans have the same housing options as all other Americans of similar economic means. To achieve this, we have taken dead aim at dismantling the dual housing system that underpins the perpetuation of racial and ethnic residential segregation.

Many Americans are unaware that a dual housing system exists. Many feel that as a result of recent legal breakthroughs, including the passage of the Federal fair housing Act in 1968, that there is little residual housing discrimination in this country. By that they mean, but do not say, that a minority family with lots of money, a thick skin and legal savvy can live just about anywhere it chooses. That may be true, but it is really irrelevant if our aim is effective housing choice.

For the fact remains that in cities and small towns alike the white family seeks and acquires housing through competing in one housing market, while the nonwhite family of similar income competes in another. Under this dual system, the minority family pays more for less shelter. The minority person sufficiently motivated to compete "in the white market" is frequently confronted by overt degrading race and religious discrimination. And when he is not, he is met by a wide variety of subtle marketing tactics that are just as effective in frustrating any competition for decent shelter across racial lines. Brokers, lenders, developers, apartment managers, appraisers—all participate as "gatekeepers" in the maintenance of a sub-housing market for minority families.

The 1970 Census returns now tell us how effective the dual housing system is in reinforcing segregated residential patterns. Central cities are losing whites and gaining blacks. In spite of a gradual increase in the number of blacks and other minorities in the suburbs, the fact of the white noose around the country's largest cities is a largely unchanged reality. And within the central city, an average black family will reside in a census tract that is 80 percent or more black.

To break this web, there is no substitute for forceful law enforcement. President Nixon called upon this Department to develop a wide-ranging law enforcement program in concert with the Department of Justice in his June 11 Statement on the subject last year. And we are pleased, but not satisfied, with what we have accomplished under the Federal fair housing law—a statute which will be four years old next month.

Through conciliation (HUD's major weapon under the law) we have seen literally thousands of units made available to minority group Americans in the last six months alone that were not available to them before;

By establishing the principle under the law of monetary compensation to victims of discrimination, we have succeeded in placing an economic price on bigotry; and

In requiring those who violate the law to engage in systematic affirmative reform of their business practices, we have succeeded in turning the redressing of individual complaints into "institutional change."

To carry out these responsibilities, we have assembled and trained a capable staff in Washington and in our ten regional offices to deal with complaints under the fair housing law.

The Department of Justice has been pressing the fair housing law in court. Again, it has been very successful. It has brought more than 100 cases to court and has yet to lose one.

Law enforcement is indispensable in changing institutional patterns and practices that make up the dual housing system, but we realize that provable housing discrimination represents only the tip of the iceberg.

The fair housing law also calls for "affirmative action" to help achieve equal housing opportunity throughout the nation.

The President in his June 11 Statement spelled out the components of this program:

Appropriate equal housing opportunity criteria for participation in programs affecting housing;

The development of information programs;

The development of policies relating to housing marketing practices.

We have now taken steps to fulfill this mandate.

First, with respect to criteria:

Community development programs, such as urban renewal, open space, new communities and water and sewer must be part of a comprehensive plan which expands low and moderate income on a non-discriminatory basis;

Respecting water and sewer grants, HUD has been guided since July 1, 1971, by a project selection system pursuant to which points are awarded not only for such fundamental factors as health and need, but also on the basis of whether or not housing in the area is accessible on a non-discriminatory basis. And more recently, we have published for comment new application procedures which would favor proposals for other community development programs from communities in which there has been a non-discriminatory expansion of the supply of low- and moderate-income housing or which have a realistic plan to expand the supply of such housing outside low-income or minority areas.

Respecting HUD-assisted housing programs, project selection criteria effective February 7, 1972, (a) will favor developments which provide low-income families with options outside areas of low-income or minority concentration, (b) will require that the developers of such housing are in compliance with applicable Federal laws and regulations relating to non-discrimination, and (c) will award "brownie points" for proposals which are part of a larger plan to provide training, business and employment opportunities for low-income and minority groups.

Secondly, with respect to *information programs*, three major steps have been taken:

Last summer we launched our second major advertising campaign in three years to tell people that HUD can help them open doors that are closed to them because of discrimination. This multi-media campaign, started in a two-month test in our Philadelphia region, now covers the eastern half of the nation. The campaign highlights the opportunity to call HUD toll-free from anywhere east of the Mississippi to register a fair housing complaint. Eventually it will go nationwide.

Complementing this campaign is the requirement, effective two weeks ago, that in every realty office in the country, in every model dwelling at a subdivision tract and in every other place of business where dwellings are offered for sale or rental, there must be on display a poster proclaiming the Federal ban on discrimination in housing. Two months from now, a similar requirement will apply to all lending institutions.

As a result of a two-year development contract with HUD, Prentice-Hall is now publishing the first comprehensive reporting service in the field of "equal housing opportunity." This service provides current laws, court and administrative decisions, regulations and other relevant information in this field. Many of you here, I trust, will have access to this publication which can serve both to keep you abreast of minimum legal standards as well as act as a guide to programs that you can use in your own work to expand housing options to low-income and minority families.

Finally, we have taken new initiatives relating to marketing.

Effective ten days ago, all FHA subsidized and unsubsidized housing, with few exceptions, will have to be marketed in accordance with HUD's Affirmative Fair Housing Marketing Regulations. They require a sponsor to carry out affirmative programs to attract buyers or tenants of all races into his projects. Typically, a developer will be required to advertise in minority media, maintain a non-discriminatory hiring policy in recruiting his sales staff, and use a HUD-approved Equal Housing Opportunity logo or slogan in his advertising. He will be required to display a Fair Housing Poster in a prominent place on his premises.

This will help end the system whereby developers in the past have marketed HUD-assisted housing by quietly opening their doors and filling up a project with all white or all black buyers or renters, depending on whether it was a black or white neighborhood.

What's more, we will know whether and how this is working, for HUD is now collecting racial and ethnic data respecting occupancy patterns on all housing programs. Through analysis of this data, we already are uncovering projects which do not have any racial integration, but should.

Since advertising is a major element in marketing, HUD has in final clearance guidelines covering all real estate advertising. These are intended to discourage the use of words, phrases, maps and other symbols to attract to the unit one race and not the other. Conversely, these guidelines encourage the use of an Equal Housing Opportunity logotype, statement and slogan.

This job cannot be done by HUD alone. Mindful of that, we have sought the cooperation of others, especially Federal agencies.

For years, Federal departments and agencies have been leasing or building new facilities in the suburbs just as private industry has. And as in the case of the private sector, the Federal Government has also left behind its low-income workers because there was no housing for them, and no decent transportation.

But HUD has recently signed a memorandum of agreement whereby the General Services Administration, which handles much of this leasing and building, will require planned efforts to make such housing available in suburban locations.

Nor do I intend to give the impression that all constructive action in this field is the result of Federal leadership. There are numerous examples of how localities have attacked these complex problems.

The Leadership Council for Metropolitan Open Communities in Chicago has been more successful than any other effort in the country in identifying and strengthening legal methods of beginning to eliminate a dual housing market within a metropolitan area.

In Ohio, the Miami Valley Regional Planning Commission unanimously approved a regional housing plan for sharing responsibility for development of low- and moderate-income housing through a formula distributing the required units throughout the Dayton metropolitan area.

The Washington, D.C., Metropolitan Council of Governments has recently adopted a similar formula, allocating a fair share formula percentage to each jurisdiction.

The work of the State of Massachusetts in formulating a housing dispersal plan with allocations of targets to the various regions is another fine example of what is needed.

What does all this mean? In sum, these new initiatives represent a fundamental shift in the HUD equal opportunity housing program. From a preoccupation with case-by-case resolution to setting minimum equal opportunity requirements for all HUD programs; to determining funding priorities, to establishing nation-wide guidelines and standards defining discrimination and to developing procedures for monitoring results—I believe we have fashioned a program for producing purposeful change.

For many minority Americans the promise of "equal housing opportunity" is illusory because of their marginal participation in the economic life of the nation. Jobs and business opportunities must go hand and glove with housing rights if there is to be real equality, if there are to be effective options.

HUD's budget last year exceeded four billion dollars. This represented the lifeline for a variety of construction and related activities. At HUD alone it meant 14,000 jobs, plus the sustenance for the payrolls of 4,000 funded agencies. And more importantly, it meant thousands of business opportunities and an additional two million jobs as a consequence of construction starts generated by FHA commitments, and contracts let by funded agencies and HUD directly.

Historically, we know that minorities have been excluded from all but a token share of HUD-generated economic activity. During the past year or so, this is becoming less so. But this change has not been fortuitous. For without a comitment (and a program) to rip away inequitable barriers and to replace them with a tow-line to economic parity, there would be rhetoric but not results.

For this reason, a second major goal of the Office which I head is to expand the participation and involvement of minorities and low-income persons in all facets of housing and community development programs.

To institutionalize this process by making it a part of our on-going operation, we have done several things.

New Executive Order 11246 regulations. Effective December 31, 1971, HUD will operate under its own regulations implementing Executive Order 11246 relating to Equal Employment Opportunity on HUD procurement contracts and the contracts of HUD-funded local agencies. With these new regulations HUD is now better able to shape an enforcement program suitable for its own particular class of contractors.

Hometown plans. Prior to the issuance of the above new 11246 regulations, our Department had pioneered in the conduct of city-wide compliance reviews of critical construction crafts. This enabled us to identify the union-contractor relationship that bore most heavily against minority groups, rather than trying to deal in isolation with hundreds of contractors and subcontractors. As a result of these reviews, HUD has helped fashion so-called "hometown plans" in 38 cities.

Section 3 regulations. We are on the eve of publishing a regulation implementing Section 3 of the Housing Act of 1968, which requires that the Secretary of HUD see that job, training and business opportunities are provided, where feasible, to lower income persons and to businesses located in the area of the HUD-assisted projects.

But the articulation of legal rights and the establishment of compliance procedures are not enough. Recognizing this, we have taken a number of affirmative steps to expand economic opportunity options of minorities under HUD programs.

Beginning with this fiscal year, HUD has adopted a Minority Housing Production Goals Program designed to increase minority entrepreneurial involvment in the Sections 235, 236 and Rent Supplement programs. Each Area and Insuring Office will develop dollar targets for involving minority entrepreneurs in these three programs, after assessing the level of participation in HUD programs by minority business during the previous fiscal year.

We developed this program as a result of our experience with the Los Angeles Minority Opportunity Plan, which set aside 1,000 units of HUD-assisted housing to be built by minority housing producers—Black and Mexican-American. Involving more than $20 million in mortgage commitments, this Plan provided 7,000 minority job opportunities on 46 projects, plus 38 opportunities for general contractors and 970 minority subcontractor opportunities.

A similar approach has been successful in gaining more participation by Indian firms in HUD-assisted construction on reservations. These goals call for an annual set-aside of HUD funds for production of up to 6,000 units of public housing. In addition, the Department's regional offices may now waive the competitive bidding requirements on public housing contracts, allowing Indian construction firms to bid directly on these projects. During fiscal years 1971 and 1972, projects involving over 1800 units of housing worth more than $21 million have been or will be contracted out to Indian firms.

To help solve the bonding problems encountered by minority contractors, HUD has given local offices the authority to accept personal indemnity agreements in lieu of bonds on FHA projects of $500,000 or less.

With respect to minority banks, HUD and local funded agencies have deposited more than $19 million in these institutions.

In terms of technical assistance, HUD signed new contracts with the Urban League and Operation SER, a service group dedicated to increasing economic opportunities for the Spanish-speaking, to update and expand the six-volume national Registry of Minority Contractors. The new Registry will include engineers, brokers, sponsors, lawyers, architects and other housing specialists. And local HUD offices are encouraged to hold area seminars in order to provide technical assistance to these contractors which will enable them to gain access to the Federal housing production and management system.

In terms of our "own shop," we have developed a goals-oriented equal employment opportunity program for HUD itself, covering minority groups and women. Each HUD installation now will be required to institute an affirmative program setting forth long-range goals and yearly targets respecting minority employment utilization.

With respect to funded agencies, the equal employment picture is not so bright. Although employment non-discrimination has been required of funded agencies through the loan or grant instruments, too little positive action has occurred in the past. While a few agencies do employ many minorities, all too often they are found in the lower-paying jobs. However, now that the Equal Employment Opportunity Commission will soon have jurisdiction over employment discrimination complaints filed against state and local government agencies, I am sure you can appreciate that it is now imperative that these agencies develop and implement affirmative compliance programs.

You may say that "this is a lot." I say it is not enough. It is a beginning A pointing in the direction which we should and must follow in the future. For housing and community development programs affect the lives of every individual, especially in the central city of our metropolitan areas where harsh reality forces us to find ways to expand option for all income groups on a non-discriminatory basis. And we must continue to search for ways to institutionalize and expand opportunities for the participation of minorities in the economic benefits derived from these programs.

Yet this cannot be achieved solely by the Federal Government, or solely through enforcement efforts. In the end, the fate of these new initiatives will depend upon the creativity and ingenuity of those persons responsible on a day-to-day basis for the decisions and programs in this field.

MINING AND MINERALS POLICY ACT OF 1970

Mr. BIBLE. Mr. President, for many years I have been seeking the development of a policy which would insure a continuing and expanded supply from domestic deposits of those minerals and metals essential to our economy and security. The great State of Nevada has a bountiful supply of many minerals and metals and it has been my continuing desire to bring about their full development through policies which would encourage industry to do so.

We have just received the first report of Secretary of the Interior Rogers C. B. Morton in response to the requirements for an annual status report and analysis of our minerals posture called for under the Mining and Minerals Policy Act. I had the honor of being a cosponsor of the law which was enacted in 1970 and for once placed the responsibility for most of our mineral activities in the hands of a single Cabinet member.

I have had the opportunity of reviewing this report and find that it confirms the concerns that I and a number of other Senators have pointed up over the past decade. The report shows a rising reliance on foreign sources for a number of minerals. It indicates that this reliance might possibly reach the staggering total of $64 billion by the year 2000 unless we are able to increase our own production of those minerals located within our borders, and improve our reuse of minerals and metals, or bring about a redesign in our requirements so that scarce minerals will be properly conserved.

This report also indicates that we need to improve the economic climate within the United States to assure those interested in mineral investment that we seriously intend to develop our own resources under policies of encouragement rather than discouragement.

I shall not go into the details of this report but commend it to the consideration of all Senators. It brings to our attention in a clear-cut manner the minerals situation in which we find ourselves. This report is a factual one, delineating the problem areas to meeting our future demands and the need for reasonable policies to encourage our private enterprise system to expand the funds here at home to bring about maximum output and maximum use of our available mineral resources. I know that those of us concerned with the welfare of our mineral industries and the security of the country are looking forward to giving full consideration to any suggestions which will lower our reliance on foreign supply and maintain a strong and economically sound natural resources base in the United States. I urge constraint on the part of our administrators in any activities which may result in impeding expansion of our minerals production. I am hopeful that all of us will take to heart the need to maintain a sound mineral base in the United States if we are to enjoy a continuing and progressive high standard of living.

HEALTH MANPOWER TRAINING ACT OF 1972

Mr. TOWER. Mr. President, I am extremely pleased with the passage of S. 2219, the Veterans' Administration Health Manpower Training Act of 1972. I feel that this legislation is another step toward addressing two very important concerns of the Nation. First, it addresses the Nation's health manpower shortage. Very often, this shortage is measured by ratios of doctors to hospital beds, or dentists to population. Although these facts and figures help us size up the immensity of the problem, it is even more distressing if we analyze the shortage in terms of patients who cannot obtain medical treatment and rural physicians who must treat more patients than they can adequately care for.

In order to alleviate this health manpower shortage, we must utilize all of our national resources. Perhaps one of the most promising hopes for increasing our Nation's ability to train an adequate number of health professionals is the utilization of the resources and experience of the Veterans' Administration. The VA's Department of Medicine and Surgery has made a substantial contribution in the field of health education. For over 25 years, hospitals of the Veterans' Administration have been offering hospital-based educational experience in collaboration with most of the Nation's medical schools. Veterans' Administration hospitals are currently affiliated with 81 medical schools, 51 dental schools, 287 nursing schools, 274 universities, and 84 community and junior colleges. During the current fiscal year, more than 50,000 students will participate in more than 60 categories of training in VA institutions. Because of the size, diversity, experience, and quality of its medical facilities and training programs, the VA's Department of Medicine and Surgery is uniquely qualified to undertake additional and expanded programs in order to provide an adequate supply of health care manpower to meet our national needs.

Second, S. 2219 addresses our Nation's concern for improving the quality of medical care that is available to our deserving veterans. As has been amply demonstrated, an improvement in medical care invariably accompanies medical education programs.

I am particularly pleased that the major provisions of two bills which I introduced in this Congress, Senate Joint Resolution 128 and S. 2304, have been incorporated into S. 2219.

Senate Joint Resolution 128, the Veterans' Administration Medical School Assistance and Health Service Personnel Education and Training Act, provided VA grants to public nonprofit institutions to assist them in the establishment of new medical schools. VA assistance to these institutions would include the leasing of unused VA hospital and other health facilities, remodeling and expansion of facilities when necessary to make them suitable for such educational purposes, and the reimbursement of faculty salaries during the first years of operation. S. 2219 has expanded this provision. For example, it includes schools of other health professions, such as dentistry and optometry, allied health schools, and area health education centers.

S. 2304, the veterans allied health professions training assistance program, which I introduced, would have authorized a grant program to be administered by the Veterans' Administration for programs which were expanded or initiated to provide veterans with medical experience and training the additional education they needed to receive state certification and licensure. Over 30,000 men and women leave the armed services each year who possess valuable medical skills. However, they cannot join the civilian health manpower force because they lack formal certification. S. 2219 places special emphasis on programs to recruit and train veterans with medical military occupation specialties and to employ them in the Veterans' Administration.

I feel that such farsighted proposals as these can effectively utilize the vast resources of the Veterans' Administration in our Nation's effort to train an adequate number of qualified health personnel to meet the demands which are being placed on our system of delivery of medical care.

OPPOSITION TO ABANDONMENT OF RURAL RAILROADS

Mr. MONDALE. Mr. President, the abandonment of rural railroad branch lines is another growing force adding to the strength of several factors already choking off the vitality of rural America.

This abandonment of short railroad lines in rural America is just the beginning of a disastrous process that could eventually disrupt the rural economy, kill many communities and cause chaos in the national transportation complex.

In my home State of Minnesota it would cost nearly $80 million just to provide necessary highways to serve those communities threatened with the loss of their railroads. For those towns, there are no good alternatives to rail service. Many of the Minnesota communities that face loss of rail service lack unrestricted access to good, all-weather highways. To provide improved highways to those Minnesota communities would cost $79.7 million in additional State and county highway construction money.

Besides the tremendous cost to taxpayers, there also would be extremely high added costs to business which would have to convert their terminals and receiving facilities to accommodate the increased reliance on motor carriers.

We cannot allow these abandonments to go on and on, speeding the death of our rural communities. Instead, we need to develop a balanced approach to meet the Nation's growing transportation needs. To keep the railroads in service and to improve that service to small communities which desperately need rail service may require an entirely new approach. In my judgment, we should stop the abandonments now and start investigations directed at finding some way to keep rail service in communities which need it.

Earlier this year, I sponsored, along with my colleague, Senator HUMPHREY, Senate Concurrent Resolution 56, which would declare a moratorium on abandonments until needed studies and investigations could be carried out. I urge other Senators to study the necessity of passing this measure. Further abandonments are a severe threat to rural businesses and to farmers. In my judgment they should not be allowed to continue.

Practically every night on radio and television, the public hears Wally Shirra, the former astronaut, saying that we all need the railroads. I agree. But I think we should start trying to keep our railroads. We do not need the space shuttle or other extravagant space projects. For now, we should scrap those expenditures and keep our railroads.

Mr. President, Monday I testified at an Interstate Commerce Commission hearing at Redwood Falls, Minn., in opposition to abandonment of a Chicago & Northwestern Railway, a branch line between the villages of Sanborn and Wanda, Minn. I ask unanimous consent that my testimony be printed in the RECORD at this point.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR WALTER F. MONDALE

Mr. Examiner, thank you. I appreciate this opportunity to appear before the Interstate Commerce Commission to discuss the subject of railroad branch line abandonment—a subject of great importance to rural America.

Walter Shirra, the astronaut, now appears on television to tell us how vital our railroads are I think we should believe him.

How ironic it is that now Shirra's former employer, NASA, is asking the Congress for 35 billion for a space shuttle to take a few astronauts around the earth . . . while our government silently permits these rail lines to be cut.

I think that's truly an astronomical irony. A few men will be able to orbit the earth, but farmers in Wanda or Sanborn can't get their crops to market. If that happens we've come a long way . . . backwards.

I ask the Interstate Commerce Commission to help reverse these tragically mistaken choices, and keep essential rail service in rural America.

I, therefore, strongly oppose the proposed abandonment of the rail line from Sanborn to Wanda and I urge you and the Commission to consider what this abandonment will mean to the people of these communities.

To these people, and the people of rural America, the issues raised here are of highest priority. For rural America understands the devastating impact of railroad abandonments.

Many rural communities, like the Village of Wanda, are threatened with the loss of their rail service. In many instances, these communities developed as collection and shipping points for farm commodities. Their residents are shippers, those performing services to shippers, or farmers bringing commodities to town for shipment.

It is not surprising that they are vitally dependent on railroads. Railroads often provide the only mode of transporting bulky commodities—especially agricultural produce. Despite the importance of railroads to rural America, over 60,000 miles of railway lines have been abandoned since 1920.

And more abandonments are planned. For example, the Penn Central intends to abandon 9,000 of its 21,000 miles of track. Here in the Midwest, the Chicago and Northwestern has indicated an interest in abandoning some 33% of it's lines.

These abandonments pose a substantial threat to the prosperity and stability of rural America.

Railroads are integrally related to the entire grain marketing system. Even the government's Commodity Credit Corporation refuses to accept responsibility for grain until it is delivered to a railhead. This means that if a grain elevator loses its rail service, it will not be competitive when buying and selling grain because it must absorb the additional transportation expense of getting the grain to the railroad. Ultimately, farmers' incomes are reduced because of increased freight costs or because they have to drive to a more distant elevator and waste more time by waiting to unload.

Farm prices, especially grain prices, have been severely depressed for the past year, and tragically there is little hope of improvement unless national farm policy changes. Freight costs of a few cents more per bushel can easily force grain prices into the loss category.

A rural community's loss of a railroad is more than a matter of dry statistics; it directly affects real people with real problems.

For example, there is Clements, Minnesota—a community that lost its railroads two years ago. The manager of a grain and feed company in Clements estimates that he had to spend $6,120 more to haul grain to Savage by truck than it would have cost to haul the same load by rail to Minneapolis. Because he could not afford to pay farmers as much for grain as his competitors on railroad lines, he lost all profits from 50,000 to 100,000 bushels of grain business.

As a result, his total loss for 1971 was $8,620. In a recent letter to me he presented vivid and graphic account of what the loss of a railroad means to rural community:

"Not being competitive," he wrote, "means that I make from one to five cents less than competitors. The biggest spread is when we are in harvest and the trucks are lined up at Savage for a mile waiting 10 to 15 hours to get unloaded. So if the railroads were all taken out of Minnesota, it would mean millions of dollars to build enough terminal facilities at Savage to handle the volume. It would also mean millions more to upgrade the roads. Here in Redwood County, I know it would take all the State and Federal funds allowed to the county for about seven years just to give each town an all weather road. This wouldn't leave anything to maintain the rest of the roads in the county. I feel that the loss of the railroad in Clements is forcing us towards the closing of our business."

The last year we had the railroad, about 1,000 carloads of grain, sugar beets and lumber were shipped in or out of Clements. Sugar beets alone meant an income to the gas station, restaurant, garage, hardware store, grocery stores and I guess it helped about every other business place in Clements. So it is real hard to estimate how many dollars the loss of our railroad took from the town. I know we have lost a lot and I feel that other rural towns have just as much to lose."

The railroad he was describing is gone. It died a quick death.

Even where the railroads remain, the service continues to deteriorate. Poorly maintained branch lines mean slow moving trains. Farmers tell me that they can pass a train while plowing their fields. In fact, one man told me that his wife can jog faster than the train moves.

There is the case of the deterioration of a branch line from Sleepy Eye to Redwood Falls—which is about 30 miles long. It requires a full day for a train to travel from Sleepy Eye to Redwood Falls. When the train finally arrives there in the evening, the crew is picked up and taken by automobile back to Sleepy Eye for the night. They are then brought back to pick up the train in the morning. There is little doubt that this train moves slower than stagecoaches in the old west.

Along with poor maintenance of roadbeds and track, shortages of boxcars are a perennial problem plagueing shippers of farm commodities. Grain elevators never seem to be able to obtain enough cars when they need them. Eventually, lines are abandoned and after abandonment, the rails, ties and even the ballast under the track are completely removed. Thus, once railroads are gone, they cannot be replaced without tremendous cost. If they had been properly maintained over the years, many depressed communities would still be thriving today.

Ironically, the abandonment of rural rail service is occurring at a time of increasing demand and need for this service. The Department of Transportation has estimated that the nation's ton-miles of freight volume will increase at least 40% by 1980. At the same time, railroads want to abandon between 35 and 40 per cent of their branch lines. Many of the abandonments are planned for rural areas.

But that is precisely where overall freight volume is increasing. Corn and soybean production have increased tremendously in the last few years. And most of the increase has to be shipped away from home.

In Redwood County, for example, there is no soybean processing plant. However, soybeans are an important cash crop in that county. Almost 3½ million bushels were produced last year. And for 1972, a 9% increase in soybean planting is expected. While there is storage for some seven millions bushels, that storage space is also used for corn and flax. Eventually, most of the volume of all these commodities must be moved out of the county.

Corn production has increased even more dramatically. This has been due to the response of corn to heavy applications of commercial fertilizer. Fertilizer use is increasing about 12,000 tons a year in Redwood County and by over 17,000 tons a year in neighboring Renville County. This bulk fertilizer is needed at certain times of the year—mainly in the spring when road restrictions are on and substandard railroad beds cause a transportation crisis.

For these areas, there are no alternatives to railroads. The soybean volume which has to be hauled out of Redwood County every year amounts to 3,760 50-ton box cars—or 9,400 20-ton semi-trailer trucks.

But there are too many trucks on the road already. Anyone who has driven across the Northern part of Minnesota on Highway No. 2 can verify this fact. That highway often has grain trucks bumper to bumper hauling grain from the Red River Valley, North Dakota and Montana to Duluth.

Increased reliance on motor carriers is not the answer for these farmers or for other residents of rural America. A recent study indicates that if the railroads have their way 304 Minnesota communities will lose railroad service by 1980, 98 of these communities now have roads which are restricted to less than 9 ton carrying capacity.

Thus, it would cost highway departments of the State of Minnesota and the counties $79.7 million in additional highway construction money to provide unrestricted access to these 98 communities. We know that many of our rural communities will be left to die because of the prohibitive cost of providing adequate transportation facilities to replace abandoned railroads.

The abandonment proceeding we are concerned with today illustrates why motor carriers are not a feasible alternative. The case of upgrading the road between Wanda and Sanborn to 9-ton capacity would be $130,000.

It is also reasonable to assume that if abandonments occur at the rate the railroads are requesting them, highway improvements could never be made fast enough to keep pace. We would have an extremely costly situation and utter chaos for several years. Wholesale abandonments of railroad lines throughout our nation would destroy any hope of developing a viable national transportation system.

We must face the fact that there are no reasonable alternatives to keeping the railroads in rural America. However, the railroads insist that the unprofitability of branch lines justifies abandonment. But before a community is condemned to death by cutting off its railroad, we should examine how the branch lines have been treated by the railroads which own them.

The typical abandonment petition describes a sodded roadbed, an outmoded track unable to handle modern tonnages, and a fifty or sixty year old line which has never been renovated.

Who is responsible for the condition of these lines: this responsibility certainly does not rest on the shippers—the country elevators, the farmers or the rural businessmen.

I think it is clear that the railroad companies created those conditions. These companies abandoned service to the branch lines long ago. Now they want to make it official by abandoning the lines themselves—thereby isolating rural America in the process.

The abandonment of rural rail service is a sad replay of the deterioration of railroad passenger service a few years ago. Railroads which want to leave an area simply make the service so poor that shippers cannot provide enough business to make the line profitable. Rail business on the branch line inevitably decreases because of the inadequate service, and finally, the line is abandoned.

Unfortunately, neither the Department of Transportation or the Interstate Commerce Commission has made any effort to solve this problem. On the contrary, their proposals are designed to facilitate branch line abandonments.

For example, the Interstate Commerce Commission recently proposed a new standard on abandonments. Under this standard, a line can be eliminated if it has not been used by 34 cars per mile per year. This standard is most unfair, because it does not take into account the fact that many shippers are unable to obtain the number of cars that they order.

When the railroads opened the frontier, they were heavily subsidized with grants of land and other assistance from government agencies. Since that time, the railroads have continued to draw profits from the original grants—while refusing to invest money in maintaining roadbeds and tracks.

Today several of the railroads are owned by large conglomerates. It is clear that at least some of these conglomerates regard their railroad only as a tax loss; they ignore the fact that their tax loss is a transportation company vital to the lives of many Americans.

If existing rural rail lines were maintained and serviced effectively, they would be a real enhancement to rural development. But faced with the chance of abandonment at any time, businesses shy away from many communities. A company has no guarantee that if it builds a new grain elevator or fertilizer plant on a railroad line in 1972, there will not be an abandonment petition a year from now—or that the railroad will not be abandoned a year and a half from now.

For these reasons, I oppose the proposed abandonment of the line from Sanborn to Wanda. I also oppose all further abandonments without additional study and investigation of our rural transportation problems and needs. That is why Senator Humphrey and I have introduced a Senate Joint Resolution declaring a moratorium on abandonments until further study and investigation can develop solutions to this tragic situation.

The Congress must consider alternatives for keeping branch lines open and viable where there is a genuine need for a railroad. A few decades ago, there were pessimists who said that electrification would be impractical in rural America. But the REA has proven to be our greatest rural development success story. I therefore think we should consider the possibility of patterning the operation of rural railroad branch lines after the Rural Electrification Program.

There are other alternatives. For example, the Federal government should also consider subsidizing the branch lines—insuring that any such subsidy be earmarked and used for only that purpose.

The Federal government now subsidizes other forms of transportation—such as air travel and mass transit for our urban areas.

Meeting the transportation needs of rural America is no less important than solving the transportation problems of our cities. If we can revitalize our rural areas with decent transportation systems and other programs, we can reserve the senseless flow of rural America to large, over-crowded cities.

What's at stake here, then, is more than the abandonment of one branch line in rural Minnesota. What's really at stake is the abandonment of an entire transportation system and the hopes and opportunities of those totally dependent on this system—and of rural Americans and communities like Wanda, Elmore, Herron Lake, and many others.

I urge the Commission to come to grips with the broader issue—and deny the pending abandonment.

GOV. WENDELL R. ANDERSON OF MINNESOTA OPPOSES RAILROAD ABANDONMENTS

Mr. MONDALE. Mr. President, the Honorable Wendell R. Anderson, Governor of the State of Minnesota also testified in opposition to the abandonment of railroad branch lines. Governor Anderson focused on a clear parallel between what has happened to railroads due to the conglomerate takeovers and what has started to happen to agriculture due to vertical integration by corporate conglomerates.

In my judgment, Governor Anderson's testimony would be helpful to anyone interested in gaining an understanding of the problems which will be visited upon rural America by wholesale abandonment of railroad branch lines.

Mr. President, I ask unanimous consent that the Governor's statement be printed at this point in this RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF GOV. WENDELL R. ANDERSON

Thank you for the opportunity to appear before the Interstate Commerce Commission today to comment in opposition to the proposed abandonment of Chicago and Northwestern rail trackage between Sanborn and Wanda.

I appreciate the willingness of the Interstate Commerce Commission to honor my request for a public hearing on this proposed abandonment. I also appreciate the willingness of the I.C.C. to accommodate Senator Mondale's and my schedules by allowing us to appear at this time in the hearing, which is reserved for proponents of the proposed abandonment.

During the remainder of today you will be hearing an old story—that the declining revenues on this piece of track do not justify continued maintenance even of their presently deteriorated condition. You will certainly hear that profitability dictates no new investment in bringing the roadbed and track up to a more usable level.

And during tomorrow's session you will hear another old, familiar, and tragic story—another community left stranded by a broken promise. A new grain elevator; a cooperative effort of the local community in anticipation that rail service would continue; and then the news that the master plan for the railroad's future just doesn't include any plan for the future of the people of Wanda.

I am not here today to tell those two old stories over again. The representatives of the railroad and the community are prepared to testify before you.

But I am here to tell you that the effects of railroad abandonment in Minnesota are the business of the State of Minnesota.

We have not been adequately involved over the years. But we are determined to change that. The proposal to abandon a little over eight miles of track between Sanborn and Wanda is part of a plan to reduce, deliberately and methodically, the available railroad service throughout the outstate portions of Minnesota.

That is more than a question of eight miles of track that help Wanda survive as a community. It is more than a question of shipping in the products that make the land fruitful and shipping out the fruits of the labor of the people of this rural community in Minnesota.

The question that is really before us is what part a rail system can play in maintaining and improving the quality of life of half the people of Minnesota. And that makes it the business of Minnesota State Government.

That is the spirit in which I requested a public hearing on the abandonment of this segment of track.

That is the spirit in which my office joined in a delegation from Minnesota to oppose railroad abandonments.

That is the spirit in which I supported, and still support, a moratorium on railroad abandonment, nationwide, until vital questions of public policy can be addressed and resolved.

That is the spirit in which I established last month a railroad abandonment study committee in the State of Minnesota.

In Minnesota in 1972, we are facing up to a series of problems that are related to this abandonment proposal and all others which can be shown to have significant effects on the communities that may be abandoned along with the trackage.

In February I directed the chairman of the state's interdepartmental transportation task force to take the lead in preparing a proposal for a department of transportation in Minnesota.

In my letter to the chairman, Minnesota highway commissioner Ray Lappegaard I pointed out that:

"Transportation decisions also affect the environment, economic growth and development, population trends and the general quality of Minnesota life, even down to the neighborhood level. I believe the state must adopt a comprehensive approach to transportation."

In justifying the need for such a department, I argued that "we can no longer afford isolated single-purpose efforts if we are to provide the best possible access for our citizens and businesses to air, rail, highway, and local mass transit facilities. We must cross existing departmental and regulatory barriers in the interest of providing efficient, economical modern transportation for the people of Minnesota."

In my judgment, the questions of railroad abandonments are part and parcel of this philosophy toward transportation. Within the State of Minnesota, we must consider individual rail abandonments within the framework of a general transportation policy for the state.

We do not yet have a department of transportation, and we do not yet have a transportation policy for the state. That is a Minnesota state problem. We are working to solve it. I believe we will accomplish both a department and a transportation policy soon.

In the meantime, it is my judgment that we can afford to wait a while before the track is abandoned between Sanborn and Wanda, and before it is abandoned anywhere in Minnesota where there is a question of the effect of abandonment on the well-being of the community involved. The Chicago and Northwestern Railroad can also wait a while.

By law, the hearing in which we are engaged today is the only forum in which the decision to wait a while can be made. That is one reason that I am asking the Interstate Commerce Commission today not to allow the abandonment of the track between Sanborn and Wanda.

Closely related to the question of a State Transportation Policy is another problem which the State of Minnesota is facing up to this year.

My administration is deeply concerned with the economic problems of the people who live in outstate Minnesota.

We are faced with a severe economic situation in the Duluth community of northeastern Minnesota, and it has received a great deal of attention. But we are presently preparing legislation that will address the State's economic situation on a statewide level.

Figures from the 1970 census show that nearly 16 per cent of the families in Redwood County had incomes below the poverty level in 1969. In the surrounding counties, the percentages vary from 13 to 16 percent. For Redwood County, that means 786 families whose income did not meet the standards defined by the Federal Government as minimal for economic well-being.

On a State-wide basis, the percentage of families with incomes below the poverty level is 8.2 percent. There is not one county west of Mankato and south of Moorhead which does not exceed the State average of families living in poverty.

That is one indication of the economic problems of outstate Minnesota. It is primarily a farm economy, and substantially a grain economy. And it is an economy in trouble.

For a farm family earning its living by producing and shipping agricultural products, the difference in freight rates between rail transit and other forms of transportation can make the difference between poverty and economic well-being.

I do not believe we should take any action that could threaten to add one family from Redwood County to the poverty statistics of the State. That is another reason that I am asking the Interstate Commerce Commission today not to allow the abandonment of the track between Sanborn and Wanda.

This year in Minnesota we are facing up to a third problem that bears a relationship to the question of railroad abandonment—the development of corporate farming in the State.

The 1971 legislature passed a law requiring the registration of corporate farms so that we can watch what is happening to our farming communities in the State. We hope to strengthen that law in our next legislature.

I can think of no better argument for State laws in the corporate farming area than the process we are talking about today.

For agriculture in Minnesota is just beginning the process that has led to the situation we now face in the railroad industry.

Over the years, small railroads dependent and involved with local communities and economies have become larger and larger railroads less and less concerned with the economics and the people of local communities.

Finally they have become parts of huge conglomerate enterprises that are less and less concerned even with railroads.

The end result is that corporate executives and board members, sitting around tables in Dallas and New York and Chicago, make profitability decisions on a broader and broader basis. The people of Wanda are of no concern to them. But the decisions they make have major effects on the people of Wanda.

I fear that development in agriculture because we can see so clearly what its parallel has been in rail transportation. In agriculture, we are moving as a State to protect the people of communities like Wanda from conglomerate decision-making in agriculture.

Unfortunately, we have not moved as a State to protect our people against conglomerate decision-making in rail transportation.

But I do not believe it is too late to start. And that is another reason that I am here today to ask the Interstate Commerce Commission not to allow the abandonment of the track between Sanborn and Wanda.

Let me be as clear as I can be about one thing.

I recognize the fact that railroad companies have a responsibility to operate at a profit. As a matter of fact, I believe that if we are to make policy decisions about transportation that require certain services, we must be prepared to protect the providers as well as the consumers of those services.

That question is part of the national debate over rail transportation that is now going on in Congress. And I recognize the responsibility of government not to make unfair demands upon regulated industries.

But with the movement toward conglomerate industries, we are faced with virtual monopoly decision-making about transportation. The people of Wanda have nowhere else to go for dependable rail service. To the extent that such service is needed, it must be someone's responsibility to see that it is available. It is clear that the railroad industry does not see that it has any responsibility.

If the number of negative decisions on abandonment is any indication, it is also clear that the interstate commerce commission does not see the people of communities like Wanda as its responsibility, either.

But as governor of Minnesota, I know that they *are* my responsibility.

That is the reason I am here today to oppose the abandonment of the trackage between Sanborn and Wanda.

I am not asking for a permanent decision.

I am not claiming that profitability should go unconsidered in making decisions about rail service.

But I *am* asking that abandonment be discontinued wherever there is an indication of adverse economic impact on the community, until we can develop a state department of transportation and a state transportation policy.

I *am* asking that we do not burden an economically distressed area with higher freight rates that may add more families to the poverty statistics, until we are able as a state to take steps to improve Minnesota's outstate economy.

I *am* asking that we use the instruments of government to protect people in the communities of Minnesota from decision-making that is far removed from them even though it affects the immediate worlds in which they live.

Thank you.

MARIHUANA LAWS IN NEED OF REFORM

Mr. PERCY. Mr. President, substantial public usage of marihuana—an estimated 24 million Americans have tried marihuana in some form and many use it regularly—coupled with the fact that research to date has uncovered relatively few known harmful effects to the individual or the society, lead me to conclude that existing criminal penalties are clearly ineffective as a deterrent.

Thousands of otherwise law-abiding citizens are being branded as criminals by an arbitrary and unequal application of the law. We see increasing reports of sons and daughters being sent to jail for the mistake of getting caught. And we suffer the anguish of seeing our youth and Vietnam veterans treated as criminals, their personal lives and job opportunities marred by a prison record or dishonorable discharge, their alienation from the society in which they live made more severe.

At the same time, heated rhetoric and misallocated resources in enforcing laws that bear no demonstrable relation to the harm done—if any—have impeded our efforts at controlling more significant hard-drug use.

On the basis of the evidence and sound conclusions of the Commission on Marihuana and Drug Abuse, following on the heels of similar conclusions reached by the National Institute of Mental Health, we must begin to deal honestly with the marihuana issue by decriminalizing our laws relating to personal possession and use. This course would have the effect of distinguishing marihuana from drugs known to be dangerous. It would constitute an acceptable middle ground between a policy of encouragement through outright legalization and the present unsuccessful policy of elimination through stiff sanctions. We only succeed in undermining respect for the law by continuing to hold to anachronistic sanctions arbitrarily enforced which result in serious psychological, social, and economic consequences for the society and the individual far more damaging than any direct consequence of using marihuana.

Mr. President, in connection with the current debate on the efficacy of Federal and State laws pertaining to marihuana, I ask unanimous consent that there be printed in the Record a series of editorials from leading newspapers across the Nation commenting on the need for a change in attitude and approach toward this problem.

In addition, I ask unanimous consent to have printed in the Record an updated compilation of "Criminal Penalties Under the Current Marihuana Laws," current as of January 1, 1972, which was put together at my suggestion by a nonprofit, private group here in Washington called the National Organization for the Reform of Marihuana Laws—NORML.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Chicago Daily News, Mar. 27, 1972]

SANITY ON MARIJUANA

We welcome the proposal by the National Commission on Marijuana and Drug Abuse to abolish criminal penalties for the private use and possession of pot. The conservatively oriented commission's findings are based on the most thorough study ever conducted of marijuana use and its physiological, psychological and sociological effects. A careful reading of the report should do much to dispel myths, misconceptions and fears that have made it difficult to deal intelligently with the problem.

While the commission found that marijuana is not an innocuous drug, it concluded that its use at present levels by the majority who indulge in pot "does not constitute a major threat to public health." The report itself was careful not to draw such a comparison, but it left little doubt that marijuana's effects—varying with the degree of use or abuse—could be equated with those of alcohol, a socially and legally acceptable drug subject to government regulation.

Proposals for putting marijuana on the same legal footing as liquor and tobacco were rejected by the commission, however. It did so partly because it felt the country is not politically prepared for such a radical change and even more importantly because it believes that more scientific research must be conducted to clear up areas on which some doubts still exist.

The report confirmed earlier findings that pot is not addictive as are narcotics and other hard drugs, and that its use does not ordinarily lead to harder stuff. It failed to find any significant connection between violent crime and pot use—links that do exist in the case of narcotics. And it sought to put to rest the widespread notion that pot and sexual promiscuity go hand in hand.

Marijuana users have long made the same points themselves, and once an adult generation is prepared to accept them and take rational action, part of today's generation gap could well be closed. It is fatuous and morally destructive to brand young people as criminals for using marijuana, when the main evidence of its harmfulness rests on hysteria rather than fact.

Gov. Ogilvie and the Legislature went a considerable distance last year to ease criminal penalties for the use and possession of pot. In the light of the commission findings, they should go the whole way and abolish the criminal penalties altogether.

[From the Post-Dispatch, Mar. 25, 1972]

MAKING POT PASSE

Possibly because its members are keenly aware of the political obstacles to any radical reform of laws pertaining to marijuana, a resistance reinforced by folk wisdom and old wives tales, the National Commission on Marijuana and Drug Abuse was at pains to make it clear that it disapproved of pot. Thus in its report the commission stated that it "would prefer" to consider marijuana as a fad and that its recommendations were designed to discourage marijuana use."

Having made it plain that its intentions were pure, so to speak, the commission went on to demolish almost every one of the popular myths about marijuana. The weight of evidence, the commission said, shows that pot inhibits rather than causes violent behavior; that not a single death has ever been recorded from an overdose of marijuana; that the drug probably does not cause genetic damage; that marijuana categorically does not lead to addiction and that it does not significantly impair driving ability.

The commission's findings point the way to a wholesale revision, if not elimination, of the nation's federal and state marijuana laws. For itself, the commission merely advocated a partial legalization of pot, that is, removing penalties for personal possession of the drug or for the casual, not-for-profit distribution of it but retaining restrictions against the cultivation, sale or public use of marijuana. Such laws, the panel said, may destroy marijuana as a fad by robbing it of its value as a symbol of defiance.

It is a strategy to make pot passe and whether it could succeed as long as any criminal penalties are associated with the drug is open to question. In any event, the commission has made a contribution toward the eventual formulation of a rational public policy on the use of a drug whose value to society is doubtful but whose danger is probably considerably less than those, say, connected with alcohol.

[From the New York Times, Feb. 20, 1972]

"DECRIMINALIZING" MARIJUANA

Is "pot" harmful? Classified as a "narcotic drug" by law, with severe penalties imposed for its sale, use or mere possession, marijuana has been treated as an extremely harmful commodity at all levels of government for many years. Only during the last few years, however, has the medical profession closely studied marijuana. The validity of the law depends on the answer to the question: How harmful is "pot"? That answer is only now beginning to come in.

According to both the National Institute of Mental Health and the National Commission on Marijuana and Drug Abuse, the dangers inherent in smoking marijuana appear to be less than previously assumed. On the basis of recent medical inquiry, both studies have now supported "decriminalization" of marijuana. This is a tentative interim step that would separate marijuana from hard, addictive drugs like heroin and would place the weight of law somewhere between the current stiff sanctions and outright legalization. It is a step suggested only for marijuana and not for the hard drugs.

Dr. Bertram S. Brown, director of N.I.M.H., says flatly that marijuana penalties are "much too severe and much out of keeping with knowledge about its harmfulness." The national commission, appointed by President Nixon specifically to study the issue, has prepared a formal report due for release soon which also recommends abolition of all criminal penalties for private use and possession of marijuana.

This double recommendation from such authoritative sources should have influence not only on Congress but also on state legislatures, such as New York's, currently wrestling with proposals to change the drug laws. A New York legislative committee last year recommended reclassification of marijuana—new a "narcotic drug" under New York law—and reduction of penalties associated with it. Mere possession of marijuana remains a "class A" misdemeanor in this state, punishable by as much as one year in jail. If one college student gives another a marijuana cigarette—something that appears to happen frequently on college campuses—he may be subject to as much as 25 years in jail.

Fortunately, these penalties are seldom imposed by a generally enlightened New York State judiciary; but their existence on the statute books is now anachronistic. Neither the N.I.M.H. nor the national commission seems prepared at this point to advocate outright legalization of marijuana; the accumulation of further medical evidence might justify such a step later on.

What is immediately called for is a sharp scaling down of marijuana penalties, elimination of criminal sanctions for its use or possession and reduction of penalties for its small-quantity sales. A failure of legislatures to base legal sanctions on the best medical evidence available can only undermine respect for the law.

[From the Washington Daily News, Mar. 23, 1972]

THE MARIJUANA REPORT

A proposal to remove all criminal penalties for the private possession or use of marijuana, while continuing to crack down on traffickers, pushers and suppliers, should be given prompt and favorable consideration by Congress this spring.

The proposal makes sense for two reasons:

It recognizes that casual marijuana usage is so common that fair and effective enforcement and prosecution are practically impossible. In some states, a first offender can be jailed for 10 or 20 years. In others, he's likely to be placed on probation.

It rejects the idea that marijuana should be legalized and recommends that stiff penalties for importing, growing or selling the stuff be retained.

This new approach was developed by the National Commission on Marijuana and Drug Abuse.

The commission, headed by former Pennsylvania Gov. Raymond P. Shafer, concluded that marijuana is neither as harmful as its critics contend nor as harmless as its defenders would like to think.

The salient fact is that marijuana is a drug. It distorts perception, slows the reflexes and creates a serious risk to public safety, when used while driving a car for instance. Its long-term effects are largely unknown.

Legalizing such a drug, even under strict controls, would be an unwarranted indication that maybe the stuff has some virtues after all.

Our national policy is—and should be—to discourage the use of marijuana, or any other dangerous or intoxicating substance.

This can best be done, not by policemen and judges, but by concerned parents, teachers, doctors and clergymen—if they're willing to take the time.

[From the Washington Star, Feb. 19, 1972]

DECRIMINALIZING POT

From two sharply divergent sources last week came support for the idea of ending criminal penalties for marijuana users. One was Dr. Bertram S. Brown, the director of the National Institute of Mental Health, whose breadth of work in the psychiatric field makes such a view not too surprising.

John Finlator is something else. Here is a square-jawed, shorthaired 60-year-old who, having spent most of his life chasing lawbreakers, was known around the Justice Department as "Supernarc" until his retirement a few months ago as deputy director of the Federal Bureau of Narcotics and Dangerous Drugs. What's to be made of a man with that background who now says sending marijuana users to jail is "wrong as hell" and who has joined a group working for legalization of the drug?

Well, in the first place, the two points—legalization on the one hand and criminal penalties for use on the other—can be considered separately.

Dr. Brown, for example, while favoring "decriminalization" in cases of the drug's use, emphatically does not support its legalization at this point. We agree. The latest HEW research report, released by Brown, raises a host of medical and scientific questions which require a great deal more factual data before a legalization campaign is seriously considered.

Finlator, in fact, while assuming that legalization will come ultimately, also disavows any desire "to promote or to encourage the use of marijuana."

What he does insist, however, is that the statutory criminal penalties for use bear no relevance to the demonstrable harm done; that marijuana use in this country has reached such proportions that the present law is clearly ineffective as a deterrent; that thousands of otherwise law-biding people are being stigmatized as criminals by an unequal application of the law, and that "rhetoric and emotion" of the marijuana debate is severely impairing the fight against more important drug abuse.

Precisely where a recodification of the laws might lead, if one accepts these views, raises a host of new questions. If it is all right to smoke pot, for example, what about the smoker who gives or sells a supply to a friend? Finlator's claim that society "must accept the fact that there is such a thing as 'recreational' use of drugs" is much easier said than done.

Still, that concern hardly detracts, in our opinion, from the importance of his conclusions in the continuing debate over marijuania. Much of what he says, quite apart from his unique background of expertise, is apparent to anyone who has seriously considered the problem. In particular, his view that a national decision to "honestly deal with the marijuana question" is a necessary prelude to an effective fight against more serious forms of drug abuse deserves a lot of earnest thought.

[From the Press, Long Island, N.Y., Mar. 24, 1972]

A Realistic Look at Marijuana

A presidential panel has offered a realistic assessment of the furor over marijuana, and a realistic formula to govern its use.

The National Commission on Marijuana and Drug Abuse suggests abandonment of criminal penalties for simple possession and use, and a policy of "discouragement" rather than prohibition. However, the panel opposes legalization and urges continuation of penalties for its sale.

There are obvious contradictions, as some law enforcement officials point out. One critic said the proposal not to prosecute users, but also not to legalize marijuana, is akin to being "just a little bit pregnant." Another pointed out the smoker wouldn't commit a crime by using pot, but would create one by buying it.

These are valid points, and the commission knows it. As Dr. Henry Brill, director of Pilgrim State Hospital in West Brentwood and a member of the commission says in a story on today's front page, "We wanted to face the reality that marijuana is used, and will be used . . . Yet we want to penalize those who grow marijuana or transport or sell it for profit . . . To be blunt about it, we are equating marijuana's use with adultery. There are those who will do it, and we say to them: 'If you get by with it, all right, but don't get caught.'"

That is a refreshingly frank—and completely sensible—position.

The widely held conviction that pot smoking poses a threat to the moral, physical and social well-being of America is disputed by the commission, which says: "Considering the range of social concerns in contemporary America, marijuana does not, in our considered judgment, rank very high. We would de-emphasize (it) as an issue."

The commission properly points out that the public has never treated alcohol with as much concern as marijuana, though alcohol is surely a potentially harmful drug used for pleasure. The most important factor, as the commission says, is that marijuana "has evolved . . . as a symbol of wider social conflicts and public issues."

When the use of pot was generally confined to the poor, the black, the criminal and the artist. there was no concern—let alone national furor. The furor only came when pot symbolized a wholesale revolt—especially among the young—against established American values.

While recognizing that pot will be smoked regardless of the law, and concluding that its use is not a major threat to public health, the commission properly warns against complacency. "Marijuana is not an innocuous drug. The clinical findings of impaired psychological function . . . legitimately arouse concern," the report says.

The panel members also hope that pot smoking may be approaching fad status, saying they believe "the present interest . . . will diminish in time of its own accord once the symbolic aspects of its use are de-emphasized."

Enactment of the panel's proposals to "decriminalize" pot smoking may speed that day. It is time government learned that whenever it tries to legislate people's personal actions, it runs into trouble.

The commission next tackles the even more difficult question of hard drugs, such as heroin, and its opinions will be eagerly awaited.

Meanwhile, it is encouraging that President Nixon has promised to step up the federal attack on drug addiction. However, we have heard many promises before from Washington, with little action. Hopefully, the new coordinated program Mr. Nixon outlined will show more in the way of results.

There now are 13 federal agencies involved in narcotics programs, resulting in bureaucratic waste rather than drug prevention. Our money can certainly be better spent.

Mr. Nixon has put the emphasis on tough enforcement of laws against drug pushers. This is vital, but the federal government must help fund local programs to educate our youngsters about the dangers of narcotics.

Unfortunately, no matter how hard we, and other nations, crack down on drug smuggling, some will get through. We must, therefore, reduce not only the availability, but the desirability, of drugs if we are to win the war against what Mr. Nixon calls our domestic "Public Enemy Number One."

[From the Philadelphia Inquirer, Mar. 24, 1972]

Legal Chaos Over Marijuana Leads to Disrespect for Law

Depending on your preconceived notions, you can denounce the report of the National Commission on Marijuana and Drug Abuse for going too far or for not going far enough. It is also easy to cite what the 13 members of the commission, which was headed by Pennsylvania's former Gov. Raymond P. Shafer, acknowledge to be contradictory recommendations in the report.

The one thing Americans ought not to do is ignore the report itself. That, though, isn't likely. The report promptly drew heated comments from all sides and a frosty reception in the White House.

There is a certain irony in this, for if the commission members were unanimous about anything, it was that marijuana ought to be de-emphasized as an issue in American life.

Perhaps the best way to approach the issue is in the manner the members themselves did, putting aside preconceived notions and starting with the realities.

One of those realities is that marijuana is widely used in this country—the commission cites studies which indicate that as many as 24 million Americans have at least tried it.

And they go on trying it, despite the fact that the laws forbid them to do so. Federal law makes it a misdemeanor, punishable by a year in jail or a $5,000 fine or both, to use marijuana or casually distribute it. State laws, however, are widely—even wildly—at variance, in penalties and in enforcement. In some jurisdictions you can be imprisoned for 20 years on a felony charge for having the stuff; in others, you may be let off with a fine or a reprimand.

When the law is unenforceable, unjust in its incidence, and senseless to those upon whom it is applied—or misapplied—the result is widespread disrespect for the law itself. So it was during America's "great experiment" with Prohibition, and so it is today.

For still another reality—and a central one in any rational consideration of the issue—is, as the commission put it, that "from what is now known about the effects of marijuana, its use at the present level does not constitute a major threat to public health."

It is not a health food and the commission doesn't recommend it: "Any psychoactive drug is potentially harmful." But the commission finds no conclusive evidence to support the widespread notions that it is addictive, that it leads the user onward and downward to hard drugs, that it causes physical or psychological harm or leads to violent or aggressive behavior by the large majority of mature individuals.

All of which leads the commission to recommend not that marijuana be legalized but that it be "decriminalized." Sensibly, it says that present penalties are much too harsh and urges that state laws be made uniform. It also recommends that possession for private use no longer be considered an offense but that growing or selling pot for profit, or distributing it in public, remain offenses.

Quite obviously, these controversial recommendations are not going to please everyone, but that is another reality the Shafer commission recognized. In any event, the members have done a courageous and conscientious job, and their report deserves fair and open-minded consideration.

[From the St. Paul (Minn.) Pioneer Press, Mar. 23, 1972]

The Marijuana Report

Controversy over public policy toward marijuana will not be ended by the report of the national commission which has just reported its findings on the subject.

However, the conclusion that private pot smoking should be discouraged but is not in itself justification for fining a person or putting him in jail as a criminal seems based on a reasonable consideration of the available facts. It also recognizes that millions of Americans have chosen to try marijuana, a situation which strengthens the argument for "persuasion rather than prosecution".

The National Commission on Marijuana and Drug Abuse was established by Congress. Most of the members were appointed by President Nixon, who opposes legalization of pot but believes some penalties for use and possession have been too harsh.

"In general," said the report, "we recommend only a decriminalization of possession of marijuana for personal use, on both the state and federal levels." It proposed elimination of fines and jail terms for smoking marijuana in private or possessing one ounce or less. It advocated felony penalties for growing marijuana, selling it for profit or possessing it with intent to sell.

This is a compromise, of course, leaving many problems, but it may represent as practical an approach as has been put forward.

The commission found no strong evidence that marijuana is really dangerous to users or that its use leads to crime, violence or addiction to more powerful drugs. It did conclude that a person driving while under influence of pot can be a serious threat to public safety—as is also the case with alcohol. Long-term daily use was declared harmful.

Smoking pot, the report suggested, may be a fad among youth that will die out if robbed of its importance as a symbol of defiance. This is what the commission hopes will happen.

The recommendations have no binding effect, but should be carefully considered by state and federal legislators considering drug law revisions.

[From Newsday, Long Island, N.Y., Mar. 24 1972]

A Good Try

The National Commission on Marijuana and Drug Abuse demonstrated a refreshing sense of realism in dealing with a complex and controversial social issue.

In its report released recently, the commission recommended changing state and federal laws to permit the private use and possession of marijuana while retaining penalties for growing it, selling it or holding it with intent to sell. At first glance, the suggestion seems inconsistent and possibly counter-productive. If it is legal to use marijuana, why should it be illegal to sell it? And might not legalized use create a demand that would attract new sellers into the illegal market? On reflection, however, it's apparent that the commission's compromise is consistent with its mandate, which was to suggest *realistic* ways to cope with the marijuana underground.

The commission could have suggested a stronger law-enforcement effort to stop the use of the drug. But since the commission estimates that 24,000,000 Americans have used marijuana, at least once, this approach probably would have been futile. The commission found no proof that marijuana causes physical or psychological harm, and it could have recommended that both use and sale be legalized. But it rejected this approach for the common sense reason that a society "is well advised to minimize the number of drugs which may cause significant problems." Just the potential impact of legalized marijuana on the traffic death rate would constitute a significant problem.

The commission also did not want to institutionalize, and thus perpetuate, what may be only a passing fad. Right now, however, it is a major social problem, especially because so many young people are attracted to the drug. We don't know if adoption of these recommendations can retard the use of marijuana. And surely, the report isn't perfect. But the commission at least made a real attempt to come to grips with the problem, and that's a step forward.

[From the Press, Long Island, N.Y., Mar. 28, 1972]

Marijuana: New Light on the Subject

(By William F. Buckley, Jr.)

The recommendations of the National Commission, assuming the thoroughness of its research, are welcome. Up until two or three years ago, one could prudently say about marijuana that there wasn't yet enough evidence about its effects to warrant a substantial change in public policy towards the casual users of the drug.

But the evidence began to mount, and Prof. John Kaplan of Stanford University wrote a challenging book in 1970 in which he trod a delicate but altogether intelligible line. He said that whatever is ultimately discovered about the harm caused by marijuana, it is right now indisputable that the criminalization of the use of it is worse for more people than any foreseeable affliction from the use of it.

A year or so went by and Prof. Lester Grinspoon of Harvard went much further. He said that enough is now known as the result of scientific testing about marijuana to make it scientifically responsible to state flatly that the occasional use of it does not harm the individual biologically or psychologically.

The Commission at the very least accepts the views of Prof. Kaplan, and goes a long way towards accepting the views of Prof. Grinspoon. It makes, however, an interesting distinction between the pusher and the consumer, one which no doubt would vex many law enforcement officials if the commission's recommendations are widely accepted. But not one, surely, which is without precedent. The commission says, in effect, that the use of marijuana, which after all does affect the mind, is hardly to be encouraged by filling the grocery stores with it. But that if an individual goes out of his way to get it, he will not be prosecuted, though the supplier will be.

I said on one occasion, taxed by a college student to explain my position against the legalization of pot, that it struck me as unbalanced that at one and the same time a state should a) legalize marijuana, and b) illegalize soft drinks containing cyclamates. The Commission's recommendation in effect acknowledges the difficulty. No one will walk into a home and arrest someone who is sipping one of those soft drinks, left over from before the ban.

For years, during Prohibition, suppliers of whiskey were jailed or fined, but patrons of the speakeasy were for the most part unmolested. It has been so for centuries on the matter of prostitution.

The commission's existence, by the way, is largely the work of Rep. Edward Koch of Manhattan. Mr. Koch being a liberal, it was of course suspected that his sympathies were permissive. But there were conservatives in favor of the commission.

The existing anti-marijuana laws are excruciatingly anachronistic, and although it is hardly a tribute to the direction in which students have used their power that their most signal victory will probably result in due course in the general licensing of mild narcotics, still it is no doubt a tribute to student power that a commission was finally mobilized to look into the matter, and did so responsibly. Alas, the case will be most widely made that what brought the commission into being was not so much pressure from students on the laws, which were, quite simply, disregarded.

It will be a long time before the commission's proposals are accepted, but it has already accomplished that destigmatization of the occasional use of marijuana, which is not to be confused with the regular use of it, as different one from another as social drinking and alcoholism. Inevitably, magistrates will be influenced when time comes to meet out sentences; and, in due course, the positive law will catch up.

[From the Evening Sun, Baltimore, Md., Mar. 23, 1972]

On Marijuana

The National Commission on Marijuana and Drug Abuse has, to paraphrase an old song, gone about as far as it could go. It has recommended that criminal penalties for marijuana use and possession and distribution of small amounts be repealed. It has recommended this after an exhaustive study of the drug and its psychological and physical effects, which it found to be negligible. At the same time the commission suggested that the production and sale of marijuana remain illegal.

Illogical? It would seem so. A closer look, however, indicates that the commission's position on marijuana comes closer to the attitude shared by a growing number of Americans. It has taken a few years, but most informed people have jettisoned the idea that marijuana use leads ineluctably to heroin and a life of crime. It is not a thoroughly harmless substance, though, and no really good reasons have been marshaled to legalize it, for legalization would stamp it with the imprimatur of social approval.

Marijuana, it may be argued, is less harmful than alcohol. But the use of alcohol is a part of our culture. Marijuana use is not and neither the commission nor most Americans are willing to accept it as such. It is possible that the next generation of adults may do just that; it is also possible that marijuana use is a fad that before too many years have passed, will lose its popularity.

The commission is certain to have its antagonists. Large numbers of young people will repudiate the panel for its tentativeness. These are the cultist, the spiritual children of Dr. Leary, who view the weed as a panacea of peace, a substance with the same sort of benign effects on the mind that fluoride has on the teeth.

From the right will thunder the objections of various reactionary politicians, the older, frightened people to whom marijuana is essentially evil because it is foreign and new.

Most Americans in the middle, we trust, will see clearly that the commission has done its best, seen at least a partial truth, made its judgments and let us hear them.

[From the Portland (Oreg.) Oregon Journal, Mar. 24, 1972]

One of the Lesser Vices

The use of marijuana is a vice, but it is no worse than some other vices commonly tolerated in our society—and probably not as bad.

That seems to be the essence of findings by the National Commission on Marijuana and Drug Abuse, which has just issued a series of recommendations that would take the "middle way" in the handling of this troublesome problem.

The commission would remove penalties against personal possession and private use but at the same time would seek to discourage its use and retain penalties for production, distribution and public use.

There does seem to be an inherent conflict in the proposal to legalize the possession and use of a substance which it would be illegal to grow and distribute.

The findings resulted from a consensus that present tough laws against marijuana are a factor in the alienation of youth and that crackdowns on the drug actually encourage experimentation with hard narcotics. In only a small percentage of cases does the marijuana user "graduate" to hard drugs, says the commission.

Oregon's new criminal code has modified penalties against marijuana to the extent that possession of less than one ounce is only a misdemeanor on the first conviction, whereas it used to be a felony.

Pressure is rising for further changes in the law, and the findings of the national commission will certainly increase the pressure.

Rep. Morris Crothers, R-Salem, a physician and chairman of the subcommittee on drugs of the Legislative Interim Committee on Alcohol and Drugs, believes it inevitable that Oregon will at least move in the direction of the national commission's recommendations. He will chair a hearing on marijuana in Smith Memorial Union at Portland State University next Tuesday night.

Last June, Dr. Samuel Irwin, University of Oregon pharmacologist, testified before the national commission that marijuana is less hazardous than alcohol, which he regards as perhaps the most dangerous drug to the individual and society when abused. Only a few weeks ago the Department of Health, Education and Welfare branded alcohol the nation's No. 1 drug abuse problem.

In sum, the case for marijuana is really not very good, stemming mainly from the conclusion that other legal vices are worse and that to outlaw it makes society appear hypocritical to the young. But it reminds us of the question raised by one 19-year-old: "Does this nation need a new generation of 'pot heads' to compete with the past and present generation of alcoholics?"

One of the hopes of the commission is that elimination of penalties for possession and private use of marijuana would make it less attractive and perhaps even lead to a reduction of the problem.

That is a hope which remains to be proved, but the trend of findings in studies at all levels of government lead to the conclusion that further softening of the penalties on marijuana is inevitable. But this ought to be accompanied by renewed attacks in other ways on the whole range of our drug problems, including our worst one, alcohol.

[From the Journal, Montgomery, Ala., Mar. 24, 1972]

The Marijuana Committee

Well, a blue ribbon panel of national leaders, most of them conservatives, have spoken the unspeakable by recommending that the first step to be taken toward legalization of marijuana. The chairman of the commission, former Gov. Raymond Shafer of Pennsylvania, hit the nail on the head when he analogized the present day laws against marijuana to the prohibition laws earlier this century.

There is, of course, a manifest inconsistency in a report which makes selling marijuana illegal and buying it in effect legal. Needless to say, the report represents the politics of compromise.

And it acknowledges that the present laws are in practical terms unenforceable. How can any law be enforced when it is violated by one out of every eight persons in the country—as the commission found—and by one out of two college students—as various polls have found.

The Legislature here has already acknowledged these facts by reducing, in two steps over the past five years, the penalties for simple possession of the weed from a felony punishable by a mandatory five years to a misdemeanor which usually gets probation.

But there are still a number of young people serving time in prisons under the old laws. The intent of the Legislature has been made clear, and the authorities ought now use whatever parole and commutation powers are at their disposal to free these people from prison. They are not, in the accepted sense, criminals, and even if they are, the only victim of their crimes has been themselves.

[From the Salem, Oreg., Oregon Statesman, Mar. 25, 1972]

MARIJUANA DILEMMA

Most older people, when asked about relaxing the legal bars against marijuana insist we've got enough problems now, why add another one.

Marijuana has become the symbol of the generation gap. Somehow, "letting the bars down" would be seen as defeat for the older generation.

But it wasn't the younger generation which filed the presidential report on marijuana this past week. The National Commission of Marijuana and Drug Abuse, after a year's study, unanimously concluded that private use of marijuana should no longer be penalized. This and other studies have laid to rest the belief the marijuana is physically addictive.

There are no recorded deaths attributable to marijuana.

But because its long-term use can impair initiative, it carries potential hazard to the psychologically unstable—as does alcohol. But unlike alcohol, it does not bring physical deterioration.

The question facing society now, as the presidential panel points out, is not whether to add the marijuana problem to those we already have, but how to deal with it now that it is here.

Sheer, outright repression hasn't worked. It hasn't cut off the supply. The plant is too easily grown and available. It has clogged the courts in many major cities. It is taking a disproportionate amount of police time. It is embittering young people who see their friends thrown into jail for privately using a "harmless" weed while persons under the influence of alcohol cause highway deaths, often without penalty.

If outright repression isn't working, what is the alternative? Short of eliminating laws dealing with marijuana, there are three options of "models."

The vice model is suggested by the presidential panel. It would continue treating marijuana as a vice, but would take away penalties for private use or possession. This is hypocritical, of course. It would keep penalties for selling and distributing. Thus, in any purchase, the buyer would be innocent and the seller guilty, as is presently the case with prostitution.

The medical model would treat marijuana as a medical product, and give doctors the right to dispense it. While the drug may have medical values in making some people more socially relaxed, it is primarily a pleasure product, not a medicine. Doctors don't want to decide who shall have it and who not.

The regulatory model would have the state license it. This would insure its quality, take it away from the present illegal sales and distributing system, and disassociate it from contact with hard drugs, which is one of its biggest present dangers. Its tax revenue potential is attractive to politicians.

But the regulatory model is not politically salable to the public. It would put society's and the government's stamp of approval on marijuana. In this pleasure-seeking society, its use would most likely spread once it were legalized.

So the presidential panel's proposal, even with its hypocrisy, is considered by that group to be the most feasible present compromise. It would free the courts and the law enforcement system from the impossible burden of apprehending and prosecuting all users, without giving it society's sanction. It would also provide more time for that slow, deliberative process by which society decides what it will and will not accent.

THE CRIME PENALTIES UNDER THE CURRENT MARIJUANA LAWS

STATEMENT OF PURPOSE

NORML is a non-profit organiaztion formed for the purpose of achieving legislative reform of the marijuana laws on both the state and federal levels. While we don't advocate the use of marijuana, we know of no medical, legal or moral justification for sending those to jail who do use it. We believe the current criminal penalties pertaining to possession and use of marijuana cause far more harm to the individual users and to society as a whole than the substance they seek to prohibit. And recognizing the need for more control over the quality and strength of the drug, as well as over who can obtain it, NORML recommends the creation of a licensing system for distribution of marijuana analogous to that now used for alcohol.

The data appearing in these tables is current as of Jan. 1, 1972. Starting with a similar compilation 18 months earlier, prepared by Richard J. Bonnie and Charles H. Whitebread, II, appearing in the October 1970 Virginia Law Review, Vol. 56, No. 6, we have attempted to incorporate all subsequent changes. Finally, a caveat is in order. Because many of the recent changes were not available in written form, we were often forced to rely on telephone inquiries with state officials. Minor errors may have resulted from this less-than-optimum research method.

TABLE I.—FEDERAL LAW

(The Controlled Substances Act of 1970, Public Law 91-513 (Oct. 27, 1970))

Offense	1st offense	2d offense	Subsequent offense
Simple possession	0 to 1 year, $5,000 [1]	0 to 2 years, $10,000	Same.
Possession with intent to distribute.	0 to 5 years, $15,000	0 to 10 years, $30,000	Do.
Sale or distribution	do [2]	do	
Sale or distribution to a minor	0 to 10 years, $30,000	0 to 15 years, $45,000	Do.

[1] For 1st offender, court has descretionary authority to defer proceedings and place defendant on probation, which, if successfully discharged, avoids an adjudication of guilt. For offenders under 21, court has further discretionary authority to completely expunge the records.

[2] Distribution of a "small amount of marijuana for no remuneration" is to be treated the same as simple possession.

TABLE II.—STATE LAWS

(STATUTORY SCHEMES FOR MARIJUANA PROHIBITION)

Jurisdiction	Distinction between marijuana and narcotics	1st offense possession classified as felony	Federal Model Uniform Controlled Substances Act
Alabama	Yes	No	Yes.
Alaska	Yes	No	
Arizona	Yes	No	
Arkansas	Yes	No	Yes.
California	Yes	No	
Colorado	No	No	
Connecticut	Yes	No	
Delaware	Yes	No	
Florida	Yes	No	
Georgia	Yes	Yes	
Hawaii	No	No	
Idaho	Yes	No	Yes.
Illinois	Yes	No	
Indiana	No	Yes	
Iowa	Yes	No	Yes.
Kansas	No	Yes	
Kentucky	Yes	No	
Louisiana	Yes	No	Yes.
Maine	Yes	No	
Maryland	Yes	No	Yes.
Massachusetts	Yes	No	Yes.
Michigan	Yes	No	Yes.
Minnesota	Yes	No	Yes.
Mississippi	Yes	Yes	Yes.
Missouri	Yes	No	Yes.
Montana	Yes	No	
Nebraska	Yes	No	Yes.
Nevada	Yes	Yes	Yes.
New Hampshire	Yes	No	
New Jersey	Yes	No	Yes.
New Mexico	Yes	No	
New York	No	No	
North Carolina	No	No	
North Dakota	Yes	No	Yes.
Ohio	Yes	No	
Oklahoma	Yes	No	Yes.
Oregon	No	Yes	
Pennsylvania	No	Yes	
Rhode Island	No	Yes	
South Carolina	Yes	No	Yes.
South Dakota	Yes	No	Yes.
Tennessee	Yes	No	Yes.
Texas	No	Yes	
Utah	Yes	No	Yes.
Vermont	Yes	No	
Virginia	Yes	No	Yes.
Washington	Yes	No	Yes.
West Virginia	Yes	No	Yes.
Wisconsin	Yes	No	
Wyoming	Yes	No	Yes.
District of Columbia	No	No	

TABLE III.—PENALTY PROVISIONS FOR MAJOR MARIJUANA OFFENSES

[All fines are represented as maximum amounts possible]

A. POSSESSION

	1st offense	2nd offense	Subsequent offense
Alabama	0–1 year/$1,000	2–15 years/$25,000	
Alaska	0–1 year and/or $1,000 or rehabilitation treatment by state for 1 year.		
Arizona	0–1 year in county jail and/or $1,000 or 1–10 years.	2–20 years	5 years to life.
Arkansas	0–1 year and/or $250[1]	0–1 year and/or $250.	2–5 years.
California	County jail for up to 1 year or 1–10 years.	2–20 years	5 years to life.
Colorado	Under ½ oz., 0–1 year and/or $500· over ½ oz., 2–15 years and/or $10,000.	1–14 years and/or $1,000–$2,000.	
Connecticut	0–1 year and/or $1,000 or up to 3 years in custody of commissioner		
Delaware	0–2 years and/or $500[1]	2–7 years and/or $500.	
Florida	Less than 5 grams, 0–1 year and/or $1,000; More than 5 grams, 0–2 years and/or $1,000.	0–2 years and/or $1,000.	
Georgia	Under 1 oz., 0–1 year and/or $1,000; Over 1 oz., 0–2 years and/or $2,000.	0–5 years and/or $5,000.	
Hawaii	0–5 years	0–10 years	
Idaho	0–6 months and/or $300		
Illinois	Amount[3]		
	Less than 2.5 grams, 0-90 days.		
	2.5 to 10 grams, 0–180 days		
	10 to 30 grams, 0–1 year	1–2 years	
	30 to 500 grams, 1–3 years	2-6 years	
	Over 500 grams, 1–5 years	2–7 years	
Indiana	Less than 25 grams or 5 grams hashish, 0–6 months and/or $25-$100; over these amounts, 30 days to a year and/or $500.	2–15 years and/or $3,000.	
Iowa	0–6 months and/or $1,000	0–18 months and/or $3,000.	
Kansas	0–1 year	1–3 years	
Kentucky	0–1 year mental health facility.[1]	0–1 year county jail and/or $1,000.	5 years and /or $5,000.
Louisiana	0–1 year and/or $500[1]	0–5 years with or without hard labor and/or $2,000.	0–20 years hard labor.
Maine	0–11 months and/or $1,000	0–2 years and/or $2,000.	
Maryland	0–1 year and/or $1,000[1]	0–2 years and/or $2,000.	0–2 years and/or $2,000.
Massachusetts	0–6 months/$500[2]	0–2/$2,000	
Michigan	0–1 year/$1,000	0–2/2,000	
Minnesota	Under 1.5 oz., 0–1 year and/or $1,000; over 1.5 oz., 0–3 years and/or $3,000.	0–6 years and/or $6,000.	
Mississippi	0–4 years and/or $2,000	5–10 years and/or $2,000.	10–20 years and/or $2,000 mandatory fine
Missouri	Under 35 grams or 5 grams hashish, 0–1 year and/or $1,000; over these amounts, 0–5 years and/or $1,000.	0–5 years and/or $1,000.	
Montana	Up to 60 grams or 1 gram of hashish, 0–1 year and/or $1,000; over these amounts, 0–5 years.	0–3 years and/or $1,000.	
Nebraska	Less than 1 pound, 7 days in county jail to be held separately and/or $500; over 1 pound, 0–6 months in county jail or 1 year in prison and/or $500.	Under 1 pound, up to 14 days and/or $1,000; over 1 pound, 0–1 year in county jail or 2 years in prison and/or $1,000.	
Nevada	If under 21 and less than 1 oz., 0–1 year and/or $1,000 and/or suspension of driver's license; if over 1 oz., 1–6 years and/or $2,000.	Under 1 oz., 1-6 years and/or $2,000; Over 1 oz., 1-10 years and/or $2,000.	Under 1 oz., 1–10 years and/or $2,000; over 1 oz., 1–20 years and/or $5,000.
New Hampshire	Less than 1 pound, 0–1 year and/or $500; over 1 pound, 0–5 years and/or $2,000.	Less than 1 pound, 0–3 years and/or $1,000; over 1 pound, 0–10 years and/or $5,000.	
New Jersey	Under 25 grams or 5 grams hashish, 0–6 months ; over 25 grams, 0–5 years and/or $15,000.		
New Mexico	0–1 year in county jail and/or $1,000.	5–20 years and/or $2,000.	10–40 years and/or $2,000 minimum.
New York	Less than 25 cigarettes or ¼ oz., up to 1 year ; 25–99 cigarettes or ¼–1 oz., 1–7 years; over 100 cigarettes or over 1 oz., 1–15 years.		
North Carolina	Less than 1 gram, misdemeanor with fine or imprisonment left to court; over 1 gram, 0–5 years and/or $1,000.		
North Dakota	0–1 year and/or $500		
Ohio	0–1 year and/or $1,000	1–10 years.	
Oklahoma	0–1 year	2–10 years.	
Oregon	0–1 year in county jail and/or $5,000 or 0–10 years in prison and/or $5,000.		
Pennsylvania	2–5 years of separate or solitary confinement and/or $2,000.	5–10 years of separate or solitary confinement and $5,000.	10–30 years of separate or solitary confinement and $7,500.
Rhode Island	0–10 years and $5,000	0–20 years and $10,000.	0–30 years and $10,000.
South Carolina	Under 1 oz. or 10 grams of hashish, 0–3 months and/or $100; over these amounts, 0–6 months and/or $1,000.	Under 1 oz. or 10 grams of hashish, 0–6 months and/or $200; over these amounts, 0–1 year and/or $2,000.	
South Dakota	Less than 1 oz., 0–1 year in county jail and/or $500[1]; Over 1 oz., 0–5 years and/or $5,000.	0–15 years and/or $10,000.	0–40 years and/or $20,000.
Tennessee	Commitment to a state-operated drug treatment facility or community mental health center or, at the discretion of the court, up to 11 months, 29 days and/or $1,000.	0–2 years	
Texas	2 years to life	10 years to life	
Utah	0–6 months and/or $299[1]	0–1 year and/or $1,000.	0–5 years in penitentiary.
Vermont	0–6 months and/or $500	0–2 years and/or $2,000.	
Virginia	0–12 months and/or $1,000	0–12 months and/or $10,000 or 2–20 years and/or $10,000.	
Washington	Less than 40 grams, 30 days; over 40 grams, 0–5 years and/or $10,000.	0–10 years and/or $10,000.	
West Virginia	90 days–6 months and/or $1,000.*		
Wisconsin	0–1 year in county jail and/or $500.		
Wyoming	0–6 months and/or $1,000[1]	0–6 months and/or $1,000.	0–5 years and/or $5,000.
District of Columbia	0–1 year and/or $100–$1,000	0–10 years and/or $500–$5,000.	
B. POSSESSION WITH INTENT TO SELL			
Alabama	2–15 years/$25,000	4–30 years/$50,000	
Alaska	0–25 years and/or $20,000	0 years to life and/or $25,000.	0 years to life and /or $25,000.
Arizona	2–10 years	5–15 years	10 years to life.
Arkansas	0–5 years and/or $15,000	0–10 years and/or $30,000.	
California	2–10 years	5–15 years	10 years to life.
Colorado	2–15 years and/or $10,000	5–20 years and/or $10,000.	1–30 years and/or $10,000.
Connecticut	5–10 years and/or $3,000	10–15 years and/or $5,000.	25 years.
Delaware	5–10 years and/or $1,000 to $10,000.	7–15 years and/or $1,000 to $10,000.	
Florida	No such offense		
Georgia	No such offense		
Hawaii	0–10 years and/or $1,000	0–20 years and/or $2,000.	
Idaho	0–5 years and/or $15,000		
Illinois	Amount—		
	Less than 2.5 grams, 0–180 days 2.5 to 10 grams, 0–1 year jail or 1–2 penitentiary.		
	10–30 grams, 0–1 year jail or 1–3 penitentiary.	1–4 years	
	30 to 500 grams, 1–4 years	2–8 years	
	Over 500 grams, 1–7 years	2–10 years	
Indiana	5–20 years and/or $2,000	5 years to life and/or $5,000.	
Iowa	0–5 years and/or $1,000	0–15 years and/or $3,000.	
Kansas	1–3 years	1–3 years	
Kentucky	0–5 years and/or $5,000	0–10 years and/or $10,000.	
Louisiana	0–10 years and/or $15,000	0–20 years and/or $30,000.	
Maine	No such offense		
Maryland	0–5 years and/or $15,000	0–10 years and/or $30,000.	
Massachusetts	0–2 years/$5,000	2–5 years/$10,000	
Michigan	0–4 years/$2,000	0–8 years/$4,000	
Minnesota	0–5 years and/or $15,000	1–10 years and/or $30,000.	
Mississippi	0–4 years and/or $2,000	0–8 years and/or $2,000.	
Missouri	5 years to life	10 years to life	
Montana	No such offense		
Nebraska	0–6 months in county jail or 1–5 years in prison and/or $2,000.	0–12 months in county jail or 2–10 years in prison and/or $4,000.	
Nevada	No such offense		
New Hampshire	0–10 years and/or $2,000	0–15 years and/or $5,000.	

Footnotes at end of table III.

	1st offense	2nd offense	Subsequent offense
New Jersey	0–5 years and/or $15,000	0–10 years and/or $30,000.	
New Mexico	No such offense		
New York	1–7 years		
North Carolina	0–5 years and/or $1,000	5–10 years and/or $2,000.	15 years to life and/or $3,000.
North Dakota	0–10 years and/or $5,000	0–20 years and/or $10,000.	
Ohio	10–20 years	15–30 years	20–40 years.
Oklahoma	2–10 years and/or $5,000	4–20 years and/or $10,000.	
Oregon	No such offense		
Pennsylvania	No such offense		
Rhode Island	0–20 years	0–30 years	0–40 years.
South Carolina	0–5 years and/or $5,000	0–10 years and/or $10,000.	
South Dakota	0–10 years and/or $5,000	0–15 years and/or $10,000.	0–40 years and/or $20,000.
Tennessee	1–5 years and/or $3,000	2–10 years and/or $6,000.	
Texas	No such offense		
Utah	0–5 years and/or $5,000		
Vermont	25 cigarettes or more, 0–2 years and/or $2,000; 100 cigarettes or more, 0–5 years and/or $5,000.		
Virginia	1–40 years and/or $25,000	10 years to life and/or $50,000.	
Washington	0–10 years and/or $10,000		
West Virginia	1–5 years and/or $15,000	2–10 years and/or $15,000.	
Wisconsin	0–5 years and/or $15,000	0–10 years and/or $5,000.	
Wyoming	0–10 years and/or $10,000	0–20 years and/or $20,000.	
District of Columbia	No such offense		

C. SALE

	1st offense	2nd offense	Subsequent offense
Alabama	2–15 years/$25,000	4–30 years/$50,000	
Alaska	0–25 years and/or $20,000	0 years to life and/or $25,000.	
Arizona	2–10 years	5–15 years	10 years to life.
Arkansas	0–5 years and/or $15,000	0–10 years and/or $30,000.	
California	5 years to life		10 years to life.
Colorado	2–15 years and/or $10,000	5–20 years and/or $10,000.	10–30 years and/or $10,000.
Connecticut	5–10 years and/or $3,000	10–15 years and/or $5,000.	25 years.
Delaware	5–10 years and/or $1,000 to $10,000.	7–15 years and/or $10,000.	
Florida	0–10 years and/or $10,000	0–20 years and/or $20,000.	20 years to life and/or $20,000.
Georgia	0–2 years and/or $2,000	0–5 years and/or $5,000.	
Hawaii	0–10 years and/or $1,000	0–20 years and/or $2,000.	
Idaho	0–5 years and/or $15,000	0–10 years and/or $15,000.	
Illinois	Amount—		
	Less than 2.5 grams, 0–180 days.		
	2.5 to 10 grams, 0–1 year jail or 1–2 years penitentiary.		
	10 to 30 grams, 0–1 year jail or 1–3 penitentiary.	1–4 years	
	30 to 500 grams, 1–4 years	2–8 years	
	Over 500 grams, 1–7 years	2–10 years	
Indiana	5–20 years and/or $2,000	20 years to life and/or $5,000.	
Iowa	0–5 years and /or $1,000	0–15 years and /or $3,000.	
Kansas	1–3 years	1–3 years	
Kentucky	0–5 years and/or $5,000	0–10 years and/or $10,000.	
Louisiana	0–10 years and/or $15,000	0–20 years and/or $30,000.	
Maine	1–5 years	3–10 years	
Maryland	0–5 years and/or $15,000	0–10 years and/or $30,000.	
Massachusetts	0–2 years/$5,000	2–5 years/$10,000	
Michigan	0–4 years/$2,000	0–8 years/$9,000	
Minnesota	0–5 years and/or $15,000	1–10 years and/or $30,000.	
Mississippi	0–4 years and/or $2,000	0–8 years and/or $2,000.	
Missouri	5 years to life	10 years to life	
Montana	1 year to life		
Nebraska	0–6 months in jail or 1–5 years in prison and/or $2,000.	0–1 year in jail or 2–10 years in prison and/or $4,000.	
Nevada	By minor, 1–20 years with possible probation; Adult, 1–20 years and/or $5,000.	Life, no parole, and/or $5,000 (No difference for minors).	
New Hampshire	0–10 years and/or $2,000	0–15 years and/or $5,000.	
New Jersey	0–5 years and/or $15,000	0–10 years and/or $30,000.	
New Mexico	1–5 years	2–10 years	
New York	1–15 years		
North Carolina	0–5 years and/or $1,000	5–10 years and/or $2,000.	15 years to life and/or $3,000.
North Dakota	0–10 years and/or $5,000	0–20 years and/or $10,000.	
Ohio	20–40 years		
Oklahoma	2–10 years and/or $5,000	4–20 years and/or $10,000.	
Oregon	0–1 year and/or $5,000 or 0–10 years and/or $5,000.		
Pennsylvania	5–10 years separate or solitary confinement and $5,000.	10–20 years separate or solitary confinement and $10,000.	Life and/or $30,000.
Rhode Island	0–40 years maximum		
South Carolina	0–5 years and/or $5,000	0–10 years and/or $10,000.	5–20 years and/or $20,000.
South Dakota	0–10 years and/or $5,000	0–15 years and/or $10,000.	0–40 years and/or or $20,000.
Tennessee	1–5 years and/or $3,000	2–10 years and/or $6,000.	
Texas	5 years to life	10 years to life	
Utah	0–5 years and/or $5,000		10 years to life.
Vermont	0–5 years and/or $10,000	10–25 years and/or $25,000.	
Virginia	1–40 years and/or $25,000	10 years to life and/or $50,000.	
Washington	0–10 years and/or $10,000	0–10 years and/or $10,000.	
West Virginia	1–5 years and/or $15,000	2–10 years and/or $15,000.	
Wisconsin	0–5 years and/or $5,000	0–10 years and/or $5,000.	
Wyoming	0–10 years and/or $10,000	0–20 years and/or $20,000.	
District of Columbia	0–1 year and/or $100 to $1,000.	0–10 years and/or $500 to $5,000.	

D. SALE TO A MINOR

	1st offense	2nd offense	Subsequent offense
Alabama	4–30 years/$50,000	8–60 years/$10,000	
Alaska	0 years to life and/or $25,000		
Arizona	10 years to life		15 years to life.
Arkansas	0–10 years and/or $15,000	0–20 years and/or $30,000.	
California	10 years to life		15 years to life.
Colorado	No such offense		
Connecticut	No such offense		
Delaware	7–15 years and/or discretionary fine.	15–25 years and/or discretionary fine.	
Florida	10 years to life and/or $10,000.	10 years to life and/or $20,000.	20 years to life and/or $20,000.
Georgia	0–5 years and/or $5,000	0–10 years and/or $100,000.	
Hawaii	0–20 years and/or $1,000	Life and/or $2,000	Life and/or $2,000.
Idaho	0–10 years and/or $15,000	0–20 years and/or $15,000.	
Illinois	Amount—		
	Less than 2.5 grams, 0–360 days.		
	2.5 to 10 grams, 0–4 years		
	10 to 30 grams, 0–6 years	2–8 years	
	30 to 500 grams, 2–8 years	4–16 years	
	Over 500 grams, 2–14 years	4–20 years	
Indiana	No such offense		
Iowa	0–7½ years and/or $1,000	0–22½ years and/or $3,000.	
Kansas	No such offense		
Kentucky	0–10 years and/or $20,000	0–20 years and/or $40,000.	
Louisiana	0–20 years and/or $30,000	0–40 years and/or $60,000.	
Maine	For sale to people 18–20, 2–6 years; to people under 18, 3–8 years.	4–10 years	
Maryland	5–20 years and/or $1,000		
Massachusetts	0–2 years/$5,000	2–5 years/$10,000	
Michigan	0–8 years/$2,000	0–16 years/$4,000	
Minnesota	0–10 years and/or $15,000	0–20 years and/or $30,000.	
Mississippi	0–8 years and/or $2,000	0–16 years and/or $4,000.	
Missouri	5 years to life or death	10 years to life or death.	
Montana	1 year to life		
Nebraska	No such offense		
Nevada	If sold by minor, 1–20 years with possible probation; by adult, life and/or $5,000.	Life, no parole	
New Hampshire	0–10 years and/or $2,000	0–15 years and/or $5,000.	
New Jersey	0–10 years and/or $15,000	0–20 years and/or $30,000.	
New Mexico	2–10 years	10–50 years	
New York	1–25 years		
North Carolina	10 years to life and/or $3,000		
North Dakota	0–20 years and/or $5,000	0–40 years and/or $10,000.	
Ohio	30 years to life		
Oklahoma	4–20 years and/or $10,000	8–40 years and/or $20,000.	
Oregon	No such offense		
Pennsylvania	No such offense		
Rhode Island	0 years to life		
South Carolina	0–10 years and/or $10,000		
South Dakota	0–20 years and/or $5,000	0–30 years and/or $10,000.	0–80 years and/or $20,000.

Footnotes at end of table III.

TABLE III.—PENALTY PROVISIONS FOR MAJOR MARIJUANA OFFENSES—Continued

[All fines are represented as maximum amounts possible]

D. SALE TO A MINOR—Continued

	1st offense	2nd offense	Subsequent offense
Tennessee	2–10 years and/or $6,000	4–20 years and/or $12,000.	
Texas	5 years to life	10 years to life or death.	
Utah	0–10 years and/or $5,000		
Vermont	0–5 years and/or $10,000	10–25 years and/or $25,000.	
Virginia	5–40 years and/or $50,000		
Washington	0–10 years and/or $10,000	0–20 years and/or $10,000.	
West Virginia	2–10 years and/or $15,000	2–10 years and/or $15,000.	
Wisconsin	0–15 years	30 years to life	Life.
Wyoming	0–20 years and/or $10,000	0–40 years and/or $20,000.	
District of Columbia	No such offense		

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[1] May be expunged.

[2] Mandatory probation for 1st offense may be expunged.

[3] Casual delivery (delivery without consideration) of up to 10 grams is treated as possession.

[4] May be expunged: Possible loss of driver's license.

TABLE IV.—MARIJUANA PROHIBITION CITATIONS

	Antimarijuana Statute Citation	Most recent amendment
Alabama	Ala. Code Tit. 22, Sec. 232–258 (1958), as amended, (Supp. 1969).	1971
Alaska	Alaska Stat. Sec. 17.10.010-.240 (1953), as amended, (Supp. 1970).	1968
Arizona	Ariz. Rev. Stat. Ann. Sec. 36–1001 to -1002.10, -1017 (Supp. 1969).	1961
Arkansas	Ark. Stat. Ann. Sec. 82–1001 to -1020 (1937), as amended, (Supp. 1969).	1971
California	Cal. Health & S. Code Sec. 11530–11533 (West 1964), as amended, (Supp. 1970).	1968
Colorado	Colo. Rev. Stat. Ann. Sec. 48–5–1 to –21 (1963)	1963
Connecticut	Conn. Gen. Stat. Ann. Sec. 19–433 to –485 (1958). Conn. Pub. Act. No. 753, Sec. 1–42 (1969).	1969
Delaware	Del. Code Ann. Tit. 16, Sec. 4701–4722 (1953), as amended, (Supp. 1968).	1971
Florida	Fla. Stat. Ann. Sec. 398.01–.24 (1959), as amended, (Supp. 1969).	1971
Georgia	Ga. Code Ann. Sec. 79A–802 to –822, –9910, –9911 (Supp. 1969).	1971
Hawaii	Hawaii Rev. Laws Sec. 329–1 to –32 (1968)	1969
Idaho	Idaho Code Ann. Sec. 37–2701 to –3321 (Supp. 1969)	1971
Illinois	Ill. Ann. Stat. Ch. 38, Sec. 22–1 to –53 (Smith-Hurd 1964), as amended, (Supp. 1970).	1971
Indiana	Ind. Ann. Stat. Sec. 10–3519 to –3552 (1956), as amended, (Supp. 1970).	1971
Iowa	Iowa Code Ann. Sec. 204–1–.23 (1969), as amended, (Supp. 1970).	1971
Kansas	Kan. Stat. Ann. Sec. 65–2501 to –2522 (1964)	1971
Kentucky	Ky. Rev. Stat. Ann. Sec. 218.010–.245 (1969)	1970
Louisiana	La. Rev. Stat. Ann. Sec. 40.961–.984 (1965)	1970
Maine	Me. Rev. Stat. Ann. Tit. 22, Sec. 2381–2386 (Supp. 1970)	1969
Maryland	Md. Ann. Code Art. 27, Sec. 276–302 (1957)	1970
Massachusetts	Mass. Gen. Laws Ann. Ch. 94, Sec. 197–217E (1958), as amended, (Supp. 1970).	1971
Michigan	Mich. Comp. Laws Ann. Sec. 335.51–.77 and 335.151–.154 (1967), as amended, (Supp. 1970).	1971
Minnesota	Minn. Stat. Ann. Sec. 618.01–.25 (1964), as amended, (Supp. 1970).	1971
Mississippi	Miss. Code Ann. Sec. 6844–6869 (1942), as amended, (Supp. 1969).	1971
Missouri	Mo. Rev. Stat. Sec. 195.010–.210 (1970)	1971
Montana	Mont. Rev. Codes Ann. Sec. 54–129 to –138 (Supp. 1969)	1971
Nebraska	Ch. 197, (1969) Neb. Acts	1971
Nevada	Nev. Rev. Stat. Sec. 453,010–.240 (1967)	1971
New Hampshire	Ch. 421, (1969) N.H. Laws	1971
New Jersey	N.J. Rev. Stat. Sec. 24.18–1 to –47 (1937), as amended, (Supp. 1969).	1971
New Mexico	N.M. Stat. Ann. Sec. 54–7–1 to –51 (1962), as amended, (Supp. 1969).	1965
New York	N.Y. Penal Law Sec. 220.00–.95 (1967), as amended, (Supp. 1970).	1971
North Carolina	N.C. Gen. Stat. Sec. 90–86 to –113 (1965), as amended, (Supp. 1969).	1969
North Dakota	N.D. Cent. Code Sec. 19–03–01 to –32 (1960), as amended, (Supp. 1969).	1971
Ohio	Ohio Rev. Code Sec. 3719.01–3719.99 (Page 1953), as amended, (Supp. 1961).	1970
Oklahoma	Okla. Stat. Ann. Tit. 63, Sec 2–101 through 2–609 (1971)	1971
Oregon	Ore. Rev. Stat. Sec. 474.010–.99 (1969)	1971
Pennsylvania	Pa. Stat. Tit. 35, Sec. 780 (1964), as amended, (Supp. 1970)	1961
Rhode Island	R.I. Gen. Laws Ann. Sec. 21–28–1 to 21–28–68 (1956), as amended, (Supp. 1969).	1962
South Carolina	S.C. Code Ann. Sec. 32–1461 to –1495 (1962), as amended, (Supp. 1969).	1971
South Dakota	S.D. Comp. Laws Ann. Sec. 39–17–44 to –155 (Supp. 1970)	1971
Tennessee	Tenn. Code Ann. Sec. 52–1301 to –1323 (1966), as amended, (Supp. 1969).	1971
Texas	Tex. Pen. Code Art. 7256 (1960), as amended, (Supp. 1969–70).	1969
Utah	Utah Code Ann. Sec. 58–13a–1 to –44 (1963), as amended, (Supp. 1969).	1971
Vermont	Vt. Stat. Ann. Tit. 18, Sec. 4201-25 (1968), as amended, (Supp. 1970).	1969
Virginia	Va. Code Ann. Sec. 54–524.1 to .109 (Supp. 1970)	1971
Washington	Wash. Rev. Code Ann. Sec. 69–40.1–69.40.100	1969
West Virginia	W. Va. Code Sec. 16–8A–1 to –24 (1966)	1971
Wisconsin	Wis. Stat. Ann. Sec. 161.01 to .275 (1957), as amended, (Supp. 1969).	1969
Wyoming	Wyo. Stat. Sec. 35–348 to –371 (1957), as amended, (Supp. 1969).	1971
District of Columbia	D.C. Code Ann. Sec. 33–401 to –425 (1968)	1966

FOREIGN TRADE AND INVESTMENT ACT

Mr. HARTKE. Mr. President, in the face of a deteriorating international trade situation and mounting unemployment at home, I introduced the Foreign Trade and Investment Act of 1972, the first piece of comprehensive trade legislation in more than a decade. One of my bill's major titles provides for the imposition of general trade quotas on goods imported into the United States.

No section of the bill has been subjected to less analysis and more rhetoric. Again and again one hears the charge that quotas are bound to raise prices, that the consumer is being asked to pay dearly for any reduction in imported goods. As with so many issues in the foreign trade field, fact has given way to fancy.

O. R. Strackbein, president of the Nationwide Committee on Import-Export Policy, has done a most interesting analysis of past price trends of goods now under import quota controls. The Strackbein study shows conclusively that rising prices and import quotas are simply not related.

Cotton textiles are an interesting example. Inflation pushed up most prices in the 1960's, but cotton textiles rose consistently less than the average increase in the consumer price index. The same story holds true for sugar and oil. Between 1955 and April of 1971, import quota controlled sugar did increase in price by 31.7 percent, but over the same period, potatoes rose by 50 percent and lettuce by 84 percent. Neither potatoes nor lettuce are subject to import quotas.

Raw cotton is another striking example. With a strict quota limiting imports to less than 5 percent of domestic production, the price of raw cotton has fallen by more than 35 percent between 1951–55 and 1970.

Because of this study's particular importance to the current debate over our foreign trade and investment policies, I ask unanimous consent that "Import Quotas and Prices—A Review" by O. R. Strackbein be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

IMPORT QUOTAS AND PRICES—A REVIEW

(By O. R. Strackbein)

Constant repetition of unsupported comment tells us that import quotas will raise domestic prices of the products that are the subject of such quotas. Further, it is said that the only purpose of import quotas is to raise prices.

It should be possible to test the soundness of these unsubstantiated assertions. To do so we need do no more than to trace the wholesale price trends of products that are "protected" by import quotas compared with the price trend in general and the price on particular products that are not so "protected."

COTTON TEXTILES

One of the products that is the subject of an import quota or its equivalent is cotton textiles. An arrangement was made with Japan alone, effective January 1, 1957, whereby that country restricted its cotton textile exports to this country. This arrangement was superseded October 1, 1961 with the so-called Long-Term Arrangement negotiated under GATT. This arrangement covered some 30 countries and about 90% of our total cotton textile imports.

The wholesale price of cotton products (1967 equaling 100) was 104.5 in 1968. It remained at 104.5 in 1969. The wholesale price of all commodities in 1968 was 102.5, which was below the 104.5 for cotton products; but in 1969 the all-commodity index had risen to 106.5 while cotton products remained at 104.5.

By December 1970 the index for all commodities had risen to 111.0, while the level for cotton products had reached only 106.9. One year later the all-commodity level had reached 115.4 while the cotton products level while also rising, nevertheless continued to lag at 113.6. (Survey of Current Business, U.S. Dept. of Com., Feb. 1971, pp. S–8–9; Feb. 1972, pp. S–8–9.)

If we go back to the index that used 1957–59 as 100 we will find that by 1968 the wholesale price index on cotton products stood at 105.2 compared with 104.5 on the basis of 1967 equalizing 100. In other words very little price movement had taken place between the 1957–59 base and the 1967 base so far as cotton products are concerned.

The evidence as reflected in cotton-products price movement does not support the claim that import quotas of themselves raise prices. The index for household furniture from 1968–71 was respectively 103.9, 108.3, 111.6, ending at 115.5 in December 1971. It kept pace with the all-commodity index, while the index on cotton products, as just noted, fell behind.

Yet household furniture was not "protected" by an import quota. The wholesale price of footwear, also without benefit of an import quota, moved from 104.8 in 1968 to 109.1 in 1969, to 113.9 in December 1970 and on to 117.1 in December 1971.

Motor vehicles and equipment, also without import quota restrictions, rose from an index of 102.8 for 1968 to 117.5 in December 1971. Tobacco products moved from 102.0 to 116.7. No import quota exists on tobacco products.

To maintain that import quotas lead to higher prices in the face of these facts merely represents unfounded assertion. Yet such assertions are widespread, found very frequently in newspaper editorials and columns as well as in speeches of public officials.

In a pamphlet recently issued in 1970 by the United States-Japan Trade Council it is asserted (p. 10) that "Textile Quotas Would Have Slight Benefit but Very High Cost."

"In sum," it says, "proposed textile quotas would be enormously costly to the United States.

"Quotas would accelerate inflation, raising clothing prices to consumers.

"They would boomerang against U.S. export sales and harm the economics of port cities."

Against this cry of alarm, the wholesale price trend of cotton textiles of the past ten years while these products have been under import limitation, stands as a complete rebuttal.

PETROLEUM

A favorite whipping boy of those who say that import quotas raise prices is oil, or petroleum. An import quota was established in 1958, first on a voluntary basis, followed by a mandatory quota, effective March 1959.

The wholesale price of refined petroleum products expressed in an index form, where 1957–59 equals 100 had risen to only 100.3 in 1968 and 101.8 in 1969.

The more recent price index is based on 1967 as 100. By that measure the 1969 price stood at 99.6 and rose in 1970 to 101.1 for the year as a whole but reached 107.5 in December of the year. However, the December 1971 level was at 106.1, representing a slight decline. This level compares with that of all commodities, as already given, at 115.4 for December 1971, where 1967 equals 100.

"All commodities," of course, include those on which we have import quotas. Therefore it will be desirable to compare the refined petroleum price level with that of other products that are not subject to an import quota. If we select another fuel, namely, coal, which has no import quota and should therefore not be so free to move upward in price because it is not "protected," we find a sharp contrast. The wholesale price index where 1967 equals 100 stood at 103.7 in 1968, rose to 112.5 in 1969 and zoomed to 175.8 by December 1970 and on to 190.2 by December 1971.

Surely if there were an import quota on coal, the quota would be blamed for this runaway price. Obviously other factors were at work.

We find, in other words, that the wholesale price of refined petroleum increased distinctly less than wholesale prices of all commodities and very much less than the price of its competing energy fuel, namely, coal. (For confirmation, see Survey of Current Business, U.S. Department of Commerce, Feb. 1971 and Feb. 1972.)

SUGAR

Yet another product that is under import quota control is sugar. This quota has been in effect antedating World War II.

In 1955 the retail price of sugar was 10.4c per lb. Ten years later (1965) the price was 11.8c. In 1968 the price was 12.2c. In 1969 it was 12.4c and in December 1970 it was 13.5c. By December 1971 the price had reached 14.1c. (Statistical Abstract of the U.S., 1970, Table 530, p. 349; and Survey of Current Business, Nov. 1970 and Feb. 1972, p. S–29.) The increase in retail sugar prices from 1955 to December 1971 was 35.5%.

If we compare the retail price increase of sugar from 1955 to April 1971 with the increase in other food products, i.e., with those that were free of import quotas, we would be hard put to it to maintain that the sugar quota was costly to consumers. A brief table will serve adequately:

RETAIL PRICE IN CENTS PER UNIT

Product	1955	1971 (April)	Percent increase
Sugar (pound)	10.4	13.7	31.7
Bacon (pounds)	65.9	[1] 79.5	[1] 20.6
Potatoes (pounds)	5.6	8.4	50.0
Apples (pounds)	15.1	23.5	55.6
Onions (pounds)	8.1	13.4	65.4
Lettuce (head)	16.4	30.2	84.1
Tomatoes (pounds)	27.4	52.1	90.1
Chickens frying (pounds)	57.4	40.8	[2] 28.9

[1] The average 1970 bacon retail price was 94.9 cents per pound. This was 39.9 percent above the 1955 level.

[2] Decline.

Source: Statistical Abstracts 1972, table 541, p. 344.

The index of all food retail prices rose 40.8% from 1955–1970 or 29% more than the retail price level reached by sugar in 1971. (Stat. Abs. 1971, Table 540, p. 343.)

It follows that the sugar quota also cannot be used to demonstrate that import quotas raise prices unreasonably, or even as much as the rise in other prices.

WHEAT

Wheat is under a severe import restriction that permits less than 1% of domestic production to be imported, in pursuance of a limitation imposed under Sec. 22 of the Agricultural Adjustment Act in 1941.

The price of wheat (hard winter, No. 2, Kansas City) has fallen quite sharply in recent years. The price per bushel was $2.22 in 1950. In 1955 the price was $2.25. By 1960 the price had dropped to $2.00. In 1968 it had sunk to $1.46 per bushel, and in January 1972 it was $1.62.

Corn is not the subject of an import quota. The 1950 price (yellow, No. 2, Chicago) was $1.50 per bushel. In 1955 the price was down to $1.41. The decline, as in the case of wheat, continued. In 1960 it stood at $1.15; in 1968 it was $1.14 and in January 1972 it was $1.22 (yellow, No. 3, Chicago. The difference from No. 2 is very slight, as note, that in 1968 the price of No. 2 in Chicago was $1.14 while that of No. 3 was $1.11). (See Statistical Abstract of the U.S., 1969, Table 504, p. 343; and Survey of Current Business, February 1972, p. S–27).

Comparing the price trend in wheat with that in corn we find that from 1950 to January 1972 the price of wheat *dropped* 27% while that of corn dropped only 23%. *Yet it was wheat and not corn that was "protected" by an import quota.*

Since 1960 the price of wheat dropped from $2.00 per bushel to $1.53 in May 1970, a decline of 23%. The price of corn, by contrast, *rose* from $1.15 per bushel in 1960 to $1.30 in May 1970. This was an increase of 13%. Thus while the price of the "protected" wheat dropped 23%, that of corn which was not under import quota, rose 13%.

In comparison with other commodities the price of both wheat and corn has dropped while the other prices rose rather sharply, especially in recent years.

RAW COTTON

The price of raw cotton has also declined. The decline was greater than that of wheat and corn, dropping from some 34¢ per lb. in 1951–55 to some 22¢ in 1970 or by more than 35%. Yet raw cotton imports have been limited under Sec. 22 of the Agricultural Adjustment Act for many years to a quantity less than 5% of domestic production. (Statistical Abstract of the U.S., 1972, Table 965, p. 592.) A decided increase in the price of raw cotton has occurred in the past year, bringing it to 32.9¢ per lb. in January 1972 (Survey of Current Business, February 1972, p. S–39.) No change has been made in the import quota to make it in the least more restrictive. Therefore the cause of the rise must be sought elsewhere.

DAIRY PRODUCTS

Dairy products have enjoyed an import limitation under Sec. 22 of the Agricultural Adjustment Act since 1953.

With a base of 1957–59 equaling 100, the wholesale price index of dairy products stood at 94.0 in 1955, at 105.0 in 1960. In recent years the price rose to 118.5 in 1966, to 127.7 in 1968 and on to 136.5 in October 1970. This was an increase of 30% since 1960, and compares with an increase since 1960 of 24.9% in wholesale price of "Farm Products, Processed Foods and Feeds," which, of course, includes grains, on which the price, as we have seen, dropped considerably and pulled down the average.

Where 1967 equals 100 the wholesale farm price index stood at 108.8 in 1969 compared with 108.2 for dairy products. In 1970 the two indexes were 111.0 and 111.2, respectively. By December 1971 the dairy product index had moved slightly ahead to 117.4 compared with 115.8 for farm products as a whole. The dairy index while moderately outpacing farm prices in general did not run wild. Dairying has, indeed, declined quite sharply per capita. Milk produced on farms was less than 1% higher in 1968 than in 1950, despite the considerable increase in population. The number of cows and heifers kept for milk declined by more than 40%. The loss of the butter market to margarine has had a very harsh effect on dairying. Unquestionably these factors have influenced the price of dairy products much more than the import quota.

The wholesale price of agricultural machinery and equipment on an index base of 100 for 1967 rose to 118.6 by December 1971. This was a shade higher than the 117.4 reached by dairy products. Yet, there is no import quota on this machinery and equipment. Moreover, agricultural implements are duty free! If imports exert such a salutary effect on prices the effect must have failed in this instance.

MEAT—BOVINE

In 1964, a ceiling that would trigger a quota if imports of beef should breach the ceiling, was established by law. Once when a breach was imminent in 1970, the ceiling was lifted slightly to permit more imports. In 1971 an actual import quota was imposed.

It will be of interest to examine the trend in beef prices.

MEAT PRICES—WHOLESALE

It is true that meat prices have moved upwards since 1964, the year in which the ceiling legislation was passed. The U.S. Department of Agriculture, Statistical Reporting Service, keeps an account of prices on cattle meat, hogs and sheep.

The 1964 average price of beef was $18 per 100 lbs. In January 1971 the price was $25.80, representing an increase of 44%. Prices rose in 1971, reaching $29.80 in December. The rise continued in 1972, up to $32.60 in February. This was an increase of 80% since 1964. The table below shows the price trend from 1964:

BEEF PRICES

Year	Amount per 100 pounds	Per 100 pounds	
		Date	Amount
1964	18.00	January 1971	25.90
1965	19.90	April 1971	29.10
1966	22.20	July 1971	28.40
1967	22.30	October 1971	29.10
1968	23.40	December 1971	29.80
1969	26.20	January 1972	31.40
1970	27.10	February 1972	32.60

This record of beef prices may be compared with that of hogs (pork):

HOG PRICES

Year	Amount per 100 pounds	Per 100 pounds	
		Date	Amount
1964	$14.80	January 1971	$15.20
1965	20.60	April 1971	16.00
1966	22.80	July 1971	19.10
1967	18.90	October 1971	19.50
1968	18.60	December 1971	19.70
1969	22.20	January 1972	22.70
1970	22.70	February 1972	25.70

From these tables, to repeat, we find that beef prices rose from $18 per 100 lbs. in 1964 to $32.60 in February 1972, an increase of $14.60 or 80%. We find also that pork prices rose from $14.80 per 100 lbs. in 1964 to $25.70 in February 1972, after having reached a peak of $27.40 in February 1970. The rise from 1964 to February 1972 was $10.90 per 100 lbs., which is to say, 74.0%, or a shade less than the price of beef.

However, at the pre-1971 peak, which was $28.80 for beef in March 1970, and $27.40 for pork in February, beef had risen 60% since 1964, the year the import ceiling on beef was established, while pork had risen 85% compared with 1964.

In 1971 the price of both beef and pork again rose after declining. Beef went from $25.90 in January 1971 to $32.60 in February 1972, representing an increase of 26%. During the same period hog prices rose from $15.20 to $25.70, an increase of 70%. In other words pork prices during the 14 months ended in February 1972 rose over twice as fast as beef. Yet, *it was beef and not pork* that was and is under import restriction.

Thus, while beef prices did rise more than the general wholesale price level and more than other farm products in general, the rise was little different from that on its companion product, pork, which had no import restriction. Indeed in the past year pork prices rose more rapidly than beef prices.

In 1970 beef prices dropped to $24.50 from $28.80 in March. Could this drop have been explained by the relaxation of import restrictions? Hardly, since the price of pork dropped from $27.40 to $15.10 in the same period; and there were no import restrictions to be relaxed.

STEEL PRICES

In the case of steel an international arrangement was concluded toward the end of 1968 under which the principal foreign suppliers of this country agreed to limit their exports to the United States. The arrangement took effect at the beginning of 1969.

According to the Survey of Current Business of July 1970, the wholesale iron and steel price index, where 1967 equals 100, stood at 106.1 in December 1968, or immediately before the export restriction by other countries took effect. In December 1971, the index had moved to 125.3. This was a rise of 19.2 points or 18%.

The index for all commodities had risen to 115.4 in December 1971 from 100 in 1967. However it had already reached 109.8 in December 1968, ahead of steel by 3.7 percentage points. The wholesale prices of iron and steel exceeded the rise of all commodities since 1967 by 10 percentage points. This is a somewhat serious rush ahead of the general price level, but not so when the earlier lag just mentioned is taken into account, nor when compared with the rise in nonferrous metal prices which jumped from a base of 103.5 in 1968 to 130.0 in May 1970, an increase of 26½% percentage points. Among the metals that made up these rising prices were nickel, copper, aluminum, lead. The increase was 25%.

Also, the wholesale price of coal far outstripped the price of steel, rising from a base of 103.7 in 1968 to 140.2 in December 1971. Coal, as it happens, is an important raw material used in the production of steel.

Neither nonferrous metals nor coal have import restrictions in effect. The rise in price in each instance was well in excess of the rise in steel prices.

There is nothing in the price trend of iron and steel since 1968 that would support the inflationary charge leveled against import quotas, especially when other metal prices which were not under a quota rose appreciably more sharply, and also coal.

PEANUT PRICES

Another product that is under an import quota limitation is peanuts.

The Department of Agriculture reports the season-average prices of peanuts annually; and these are available through 1971.

Peanuts are under price support and an import quota limitation established in 1953 under Section 22 of the Agricultural Adjustment Act.

The 1953 "season average price" was 11.1c per lb. By December 1971 this average price had risen to 13.6c per lb. (est.) or 22½%. The wholesale price of "all commodities' increased from 81.8 in 1950 to 115.4 in 1971 where 1967 equals 100. This was a rise of 41%, or nearly twice the rise in the price of peanuts.

CONCLUSION

The experience with peanuts as with the price trend on all the other products that are under quotas except dairy products, supports the conclusion that import quotas cannot be saddled with the objection that they are inflationary.

What might indeed be said is that one of the prime purposes of our import quota or similar limitation on imports is to *prevent* a drop in prices to a level so low that it would be disastrous to domestic producers but that might still return a profit to foreign exporters to this country because of their lower costs.

To say that the purpose of quotas is to raise prices is to say that to date nearly all our quotas have failed becasue most of them have not succeeded in keeping up with the general price level. They could then apparently be discarded with safety; but that is not the essential purpose of the quota.

However, the fact that prices might break through the floor if the quotas were removed, and thus produce an untenable price level for domestic producers, be their product textiles, sugar, petroleum, wheat, peanuts, meat or steel, represents the motivation for such quotas as a preventive measure, rather than a windfall or the possibility for gouging the consumer.

A further condemnation of the import quotas is expressed by the notion that under their protection producers will become complacent and inefficient. The whole record of the agricultural price support program, sustained by import quotas, stands as a complete refutation. Output per man-hour in agriculture has risen phenomenally and surpassed the increase experienced in the industrial field. One reason lay in the yet greater return to be gained under a guaranteed price and limited acreage if the yield per acre were lifted, and this was unquestionably the moving incentive toward greater effort. Assurance of a merely fixed return that could not have been increased by greater effort would hardly have led to the great increase in productivity.

UTAHAN HEADS DELEGATION TO MOSCOW

Mr. BENNETT. Mr. President, while the recent secret mission of Henry Kissinger to Moscow has captured national attention, another American vital to the success of the upcoming talks between President Nixon and the Soviet leaders has quietly been laying the groundwork at the Kremlin for the summit meeting. He is Brig. Gen. Brent Scowcroft, who, I am proud to say, is a native of Utah.

General Scowcroft, who was born in Ogden and educated in the Ogden school system, traveled to Moscow last week at the head of a 25-man team. These specialists are working with their counterparts in the Soviet Government to insure that the talks next month will be productive.

I am proud that a Utah native has been charged with such an important responsibility, and I know I speak for all Members of the Senate in wishing General Scowcroft and his team Godspeed on their vital mission.

An article published in the New York Times of April 21 details the background of General Scowcroft. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ADVANCE MAN IN MOSCOW—BRENT SCOWCROFT

WASHINGTON, April 20.—Brig. Gen. Brent Scowcroft, the head of the advance party in Moscow preparing for President Nixon's trip there, is described as a "very quiet and very forceful man" who has specialized in Russian affairs during his Air Force career.

General Scowcroft, the President's military assistant since Feb. 1, arrived in Moscow yesterday with 24 other officials to make final arrangements for Mr. Nixon's visit, scheduled to begin May 22. The general's mission is a touchy one, considering the renewed American bombing of the Soviet Union's North Vietnamese allies.

General Scowcroft, who is 47 years old, seemed to be well equipped for the task. He spoke Russian, he concentrated on Slavic studies while earning a master's degree and a doctorate, and he has held senior planning positions in the Pentagon.

"COOL AND DECISIVE"

An officer in the Pentagon who has worked with General Scowcroft said his most lasting impression of the man was that "no matter what kind of pressure is put on him, he's cool and decisive."

Others said that he is "extremely intelligent," "hardworking," "a deep thinker who isn't carried away by the problems of the moment," and "a man with a great deal of common sense."

Before going to the White House, General Scowcroft, then a colonel, was special assistant to the director of staff of the Joint Chiefs of Staff, Gen. John W. Vogt. General Vogt has just gone to Saigon to command the Seventh Air Force and direct the bombing of North Vietnam.

While in the Pentagon, an associate said, General Scowcroft took interest in the enlisted men there. "He was deeply concerned about the welfare of the men," the associate said.

To keep trim, the general goes skiing, plays golf, tennis and squash, and swims when he has time. He is also a crack shot with a pistol and has won medals in sharpshooting competitions.

His wife said that he won a medal at a ski meet while they were in Yugoslavia, where he was an assistant air attaché from 1959 to 1961. Yugoslav military officers invited all the military attachés to a skiing party and General Scowcroft won first prize in the races.

"When I tell people this," Mrs. Scowcroft said, "he says that it embarrasses him. He says that it's not fair to compete with Indonesians in skiing."

General Scowcroft was born in Ogden, Utah, on March 19, 1925, and attended the Ogden city schools. He graduated from West Point in 1947 and entered the Air Force, in which he earned the wings of a fighter pilot in 1948.

The general and Marian Horner were married on Sept. 17, 1951. They have a daughter, Karen, who is 13.

General Scowcroft received his master's degree in 1953 from Columbia and a doctorate there in 1967, and he studied at the Georgetown University School of Language and Linguistics. In addition to Russian, he speaks Serbian and Croatian.

He has attended the Naval Strategic Intelligence School, the Armed Forces Staff College and the National War College. He has served in the Defense Department's Office of International Security Affairs, which has been called the Pentagon's State Department, and in the Air Force's headquarters dealing with matters concerning the National Security Council.

Inquiries about General Scowcroft brought a string of plaudits from officials in the White House and the Pentagon, and a compliment from his wife: "He's a modest man. But I'm not modest about him."

RAILROAD BRANCH LINE ABANDONMENT—A THREAT TO ALL OF RURAL AMERICA

Mr. MONDALE. Mr. President, the abandonment of rural railroad branch lines is a widespread problem. Unless something is done about it now, it could get much worse. Ultimately, we could end up with many communities throughout rural America having no rail service.

For the information of Senators, I would like to submit, for the RECORD, a selection I have made of some recent news articles concerning the issue of abandonments.

Recently, a comprehensive series was written by Tom Weyandt and published by the Mankato Free Press, Mankato, Minn. Also, the Farmers Union Herald, in its March 14, 1972, edition carried an article by Eric Rasmussen, about rail abandonments in the State of Nebraska. The Worthington Daily Globe, another of Minnesota's fine papers, on April 12, 1972, had a startling article which pointed out that 1,425 miles of rail in Iowa may be abandoned. And nationally, Farm Journal's Top Op featured an article by Bob Coffman and Gene Logsdon on "What To Do With a Pair of Rusty Rails?"

Mr. President, I ask unanimous consent that these articles be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the Mankato (Minn.) Free Press, Mar. 23, 1972]

ECONOMIC ILLNESS OF RAILROAD IS SPREAD TO RURAL AREAS

(By Tom Weyandt)

The Wabash Cannonball, The Super Chief and The Soo are dead.

Rural freight service in Minnesota is dying. Those who give a damn about the decline of railroad service seem to be an extremely small minority.

Railroads carry 41 per cent of the nation's freight, they only turned a profit of 2.367 per cent in 1970, the worst profit margin of any major industry.

Railroads carry 46 per cent of all meat and dairy products, and 74 per cent of all canned goods and frozen foods.

Labor Department officials claim that if the nation's railroads closed down for one week, the Gross National Product would be off by 6 per cent, and an eight week shutdown would cut the GNP by 24 per cent and unemployment would go up by 22 per cent.

Railroads today pay more than 24 per cent of their revenues in taxes, while truck lines pay 5 per cent, buses just under 5 per cent, airlines 4 per cent and barge lines nothing. The nation's railroads are sick, and some of the disease in likely to spread to an already shaky rural economy.

In February the railroads got the green light to close 16 stations in the Mankato area. Track abandonments are being considered from Sanborn to Wanda and from Albert Lea to Hollandale.

The Public Service Commission (PSC) chairman, Ron Anderson, says his department has no jurisdiction in track abandonment cases. The Interstate Commerce Commission (ICC) makes the determination in track abandonments.

"There have been a great many of these abandonments in the past four or five years. We've opposed almost all of them and we lost every case."

The ICC wants a certain amount of revenue shown to prove it should force the companies to keep the lines open. It usually relies on the figures the companies present, and the formula generally only consists of the question of whether or not the companies say they are making money.

No one disputes the fact railroads are losing money on some of the rural trunk lines, but the big question is whether the companies should be allowed to abandon the lines with a low profit margin and only retain the highly profitable lines.

Cy Carpenter, acting president of the Minnesota Farmers Union, says his group has asked for a moratorium on track abandonments in the Midwest.

"We feel that there should be an investigation of the entire transportation business. Congress should study the problem closely to see what is practical and feasible in correcting the problems.

A look has to be taken at the total financial picture of the rural community, he believes, and this has to be put into a relationship to the total input into railroads from agri-business. The railroad companies can't have all the cream and not take the skim milk too."

Carpenter said the same factors that spurred the growth of railroads in the 19th Century exist today.

Communities have an even larger amount of grain and agricultural products to ship out to the nation, and the nation needs them more and faster than ever, he declared.

Congress has been considering the Surface Transportation Act of 1971 for several months. The bill, also known as the Hartke-Adams bill after the authors, U.S. Sen. Vance Hartke, D–Ind., and U.S. Rep. Brock Adams, D–Wash. would shift the major emphasis of federal programs from other forms of transportation to railroads.

The Hartke-Adams bill is designed to help insure the survival and continuing improvement of all surface transportation modes. Part of the bill is planned to allow carriers to improve and expand their equipment and facilities without being forced to borrow at unreasonable or prohibitive rates.

The plan would establish a government corporation to lend railroads and other carriers up to a total of $5 billion in actual loans or loan guarantees. Loans would be repaid over a 15-year period, to the Treasury Department, which would be in charge of the program.

Railroads say this money would give the needed shot in the arm to start a renovation program. Estimates are that the railroads would have to spend $36 billion over the next 10 years to improve and modernize their facilities.

Two other provisions of the bill would provide railroads with the ability to circumvent some of the federal red tape they claim has caused so many problems.

One of the provisions would make it possible for carriers to adjust rates quickly to comply with needs and demands of the markets. The ICC would retain the authority to reject rates if it determined they were out of line, but the cumbersome machinery now in use would be abolished.

The second sweeping provision of the Hartke-Adams proposal, and the part that is meeting the most opposition, would make it possible for the railroads to abandon trackage that is losing money by notifying the ICC 45 days in advance.

On its own initiative, or on a complaint of a customer, the ICC could hold up the abandonment for as much as six months. The abandonment would take effect after this period unless the ICC found first that it was against public policy and secondly that the railroad could at least get back its operating expenses.

This provision would speed up the abandonment procedure, which the railroads claim is one of the biggest problems to date.

States would also be required to spend at least 5 per cent of all federal highway funds allocated to them for grade-crossing improvements. There are still 180,000 unguarded crossings in the nation where 1,500 deaths and 3,700 injuries occur annually.

Members of the Minnesota congressional delegation don't look favorably on the bill. One said the abandonment clause as it stands in the Hartke-Adams bill, would make the abandonment procedure too easy.

Further study should be made of the situation before any action is taken, he said.

The Nixon administration has sponsored a similar bill through the Department of Transportation.

Two provisions of this bill are viewed with alarm by several groups. This bill would make it possible for railroads to abandon lines with 30 days notice, as compared to 45 days notice under the Hartke bill.

From the consumer's standpoint the Nixon bill offers a very succulent provision.

The provision would remove the anti-trust exemption of the transportation industry's rate making bureau.

The rate making bureau is a quasi-judicial body that meets regularly to set the freight rates for the nation's carriers. The group, which in effect fixes prices for the entire transportation system, meets under the auspices of the ICC. But since awarded the exemption from anti-trust legislation the companies have been able to set prices arbitrarily, but uniformly, across parts of the nation.

The removal of the anti-trust exemption is a two-sided coin, however.

It would make the carriers more competitive, which would probably result in a drop in freight charges. This drop would cut the cost of consumer goods, and presumably the cut would be passed on to the consumer.

On the other side the increased competition would speed up the demise of some of the rail companies, which is exactly what is affecting rail service to rural areas.

Railroads claim their profit margin is so slim that any reduction would put them out of business. The companies are unable to update their equipment to meet current needs, they claim, and experts say there is going to be a 40 per cent increase in the amount of merchandise that will have to be shipped by rail in 1980.

The Nixon proposal also provides for $3 billion in loans and loan guarantees, and direct grants of $35 million to the rail companies.

Local officials are wary of these provisions for grants and loans contained in both proposals. They feel the money will be spent to maintain the main lines in the highly profitable areas, and not provide any relief for the rural communities. They even claim these infusions of funds may increase track abandonments.

[From the Mankato (Minn.) Free Press, Mar. 24, 1972]

OFFICIALS ASK TEMPORARY END TO RAIL ABANDONMENT

(By Tom Weyandt)

Minnesota's DFL Sens. Hubert H. Humphrey, and Walter F. Mondale, have cosponsored a concurrent resolution calling for a moratorium until the end of 1972 on all railroad track abandonments in the nation.

Humphrey said it was inconsistent to start federal programs designed to encourage rural growth through federal departments when other federal departments are allowing the railroads to choke off rural America.

Mondale contended recent attempts to produce an SST aircraft and a space shuttle were aimed at providing jobs.

"The main argument for the SST and the shuttle is that these projects will create jobs and boost the economy," he says. "Revitalization of the railroads serving America would create jobs, too, and it would directly benefit more people by bringing new life to rural areas."

The senators asked that all abandonments cease until investigations can be started to produce an overall comprehensive notion of the needs of the country in regards to transportation.

Such a study has been quietly started in Minnesota by Gov. Wendell Anderson.

Anderson sent a letter to the heads of five state departments asking them to investigate and determine the criteria for measuring the impact of railroad abandonments on the economic activity in Minnesota. The objective of the study is to set up a state policy on abandonments that is practical, reasonable and equitable to all concerned parties.

The group will attempt to gather data from a variety of sources, but the biggest obstacle will be trying to gather information from the railroads themselves.

Many officials privately admit they are skeptical about validity of the economic data railroads give during line abandonment procedures.

The formula that has come under the most fire is the contention of the railroad companies that they must ship a minimum of 34 car loads of freight a year for every mile of track in operation. The provision has been incorporated into the guidelines used by the ICC, who recently proposed to raise the rate.

Anderson intervened in this case and asked for public hearings on the proposal. The public hearings are being set up and Roger Baker of the Department of Economic Development is collecting data for an orderly presentation.

One case where the governor intervened provides an insight to the problems. The governor asked that hearings be held on the track abandonment from Sanborn to Wanda. In December of last year the governor received a letter from an ICC official that stated that hearings would be held, but that testimony would only be accepted in writing.

The governor's office learned that the Chicago and Northwestern Railroad had requested that no public hearings be held. The governor again requested hearings in the area, and, in a strongly worded letter, said input from all concerned parties should be accepted. The hearing was finally granted, and the case is still being studied.

Anderson is also sending Agriculture Commissioner Jon Wefald to the hearing April 24 in Redwood Falls to offer suggestions in the abandonment case at Wanda. Wefald presumably will oppose the abandonment, and will once again ask that abandonments be halted for the rest of the year.

Wefald offered several remedies to the rail problem.

His first suggestion would be federal subsidy.

"People are just going to have to realize how important rail service is to the country, and they are going to have to see that certain amounts of money are going to be spent on transportation."

His second alternative would be the nationalization of rail beds, with the rail companies paying an annual charge for the use of tracks.

The most innovative suggestion that Wefald made was that co-operatives be set up to provide the needed services.

"Something on the line of the REA, which everyone claimed wouldn't work back in the 1930's, could conceivably be set up to deal with the problem.

"Farmers and businessman in rural communities could band together with the help of the government, and they could start operations that would at least get the rail service extended out to the main transportation lines."

Wefald said that for decades railroads have used the profits that they made shipping agricultural related goods to invest in non-railroad enterprises rather than purchasing and repairing equipment.

"I think it is about time that we reverse the trends, rather than let the trends dictate to us."

[From the Mankato Free Press, Mar. 25, 1972]

FIRMS, SHIPPERS HIT BY RAIL PROBLEMS

(By Tom Weyandt)

The main problem with saying railroads can't abandon any trackage is that this type of measure would almost force the government to subsidize the rail industry for unprofitable trackage.

The cost of buying existing facilities would be anywhere from $28 to $60 billion at the current fair market value.

The money would have to come from taxpayers, and equipment that would be purchased is largely outdated or obsolete. The cost to repair and replace the needed equipment is estimated at $36 billion over the next 10 years. The money would come from the taxpayers.

These figures, when combined with the past records of attempted nationalization of an industry, usually choke off any type of serious debate on the issue.

Locally the situation varies.

Some communities would feel the impact of lost rail service much greater than others.

Gordon Frank, manager of Frank Brothers elevator in Winnebago, says his operation would be hurt by a loss of service, especially at harvest time.

"When the roads are closed because of high water, or when we have a large volume of shipments, it's nice to have two outlets," Frank says.

"That way we can choose between trucks or rail, and over the long run, rail usually is cheaper."

Loyal Koenck at Huntley Feed and Grain says the removal of rail service would be disastrous.

"During April and May when there are load restrictions on the highways we wouldn't be able to ship a thing," Koenck says. "If the Milwaukee Road left, we wouldn't be able to ship any grain, fertilizer, anhydrous ammonia, or anything, and that would put us right out of business."

One place where the railroads have proposed service discontinuance is from Sanborn to Wanda.

In 1966, the Farmer's Elevator in Wanda was assured rail service would be continued.

On this promise the co-op spent more than $200,000 for a new corn handling unit which was completed in October. Now the railroads are proposing that the line be abandoned, and if they are forced to keep the line open it would be the first time the ICC ruled in favor of the local businessmen.

Joe Welder at the Blue Earth Farmer Elevator says he has been very happy with the railroads for the past four or five months.

"We've shipped 385 cars since May 1, and we've had real good service so far," Welder says. He added that his company would have to invest considerable sums in trucking equipment if the rail service was discontinued.

Several grain elevator officials claimed that they wouldn't miss the rail service, mainly because they either are on a major highway with direct access to their market, or their shipments are so small that they can just as profitably ship by truck.

Carpenter says he is concerned that many members of the Farmers Union, and people in the rural communities in general, don't seriously consider the impact of a loss of rail service.

"What we need to do is develop a practical service for today's needs and services," Carpenter says.

Carpenter says the ever increasing influx of rural families into urban areas is cause for major concern. He says increased costs in government services will outstrip the possible revenues than can be obtained through current taxing methods.

"The average family on welfare in New York has a higher annual income than the average farm family in Minnesota. This is a very unhealthy and unfortunate situation, and the decline of rail service is going to ensure that such things continue," Carpenter said.

The rail companies rest their case for abandonment on an economic basis, and also on the poor condition of the track beds.

Rotting ties and bent rails have been cited the factors in a number of abandonment cases. The companies claim that to repair or replace the tracks according to specifications would cost more than what it's worth.

Carpenter says this assumption is true in some cases, but that the companies use specifications for the tracks that would provide adequate service for trains that travel at 60 miles an hour.

"No freight train travels at 60 mph, so why spend all that money to repair the beds to this level," Carpenter asks.

Some proponents have called for nationalization of the rail beds, with the companies paying annual fees for the use of the beds. This would allow federal spending to repair the beds and meet the necessary specifications.

This provision would place the same emphasis on railroads that the trucking industry has enjoyed in the construction of highways.

The costs of highways are increased by 20 per cent on the average to provide adequate beds for heavy trucks that carry freight across the nation, and airline taxes will fall $3.2 billion short of paying for airport improvements that will be needed in the next 10 years.

Trains can move one ton of freight for a fifth the fuel, a sixth the accidents, and a tenth of the land required by trucks.

When the government starts paying as much attention to freight service as they have to passenger service through Amtrak rural freight service will start to thrive.

The President of the Southern Pacific Co. proposed the nation's passenger service be reduced.

"In my view, Amtrak's function should be to provide for an orderly shrinkage of rail passenger service," says Benjamin F. Biaggini.

"Amtrak is trying to operate far too many miles of service to fit either the money or the demand it has."

He proposed that instead railroads be allowed to provide service in a "few appropriate places—such as as New York, Boston, and Washington."

Railroads are the only way that the amounts of input and output goods that flow in Southern Minnesota, as well as rural areas of the entire nation, can be shipped. To do all the work by truck would increase highway congestion to the strangulation point.

The comprehensive plan proposed by Humphrey and Mondale will have to be completed to provide the needed information that will convince officials of the need for rail service.

The record of Amtrak doesn't provide an admirable model to date, but it is doubtful current trends in rail operations are going to prove beneficial to rural Minnesotans.

BRANCH LINE FORECAST BLEAK

(By Eric Rasmussen)

Abandonment! Not a pretty word to anyone. Not a word any of us like to think about, much less say it out loud—but, I'll say it again. Abandonment!

In 1930, Nebraska had around 6,200 miles of railroad track. Now, we have about 5,500. That's a difference of about 700 miles—not too big a deal over a 40-year span. The ICC is presently considering applications for abandonment of 176 miles of track in Nebraska. Again—not too very big of a deal.

But wait a minute. The Nebraska Railway Commission recently asked the Northwestern railroad to give us a long-range plan of their expected operation. They admitted that during the next ten years they plan to abandon over half their track mileage in Nebraska. The Burlington Northern will give us their report shortly, and we expect it and all other lines to submit similar reports.

There are a little over 2,000 miles of mainline track in Nebraska today; these are lines which go to the state's borders and then continue beyond. This means there are about 3,500 miles of secondary and branch line track today. If the railroads proceed with the abandonment schedules which are indicated, in 1980 there will be only about 700 miles of railroad track in Nebraska which is not on these mainline routes.

If this happens, Nebraska becomes merely a flag stop state. All the Great Plains states will be in the same position.

It hasn't come as a surprise that abandonments are taking place at a faster and faster pace. Not too long ago, an official of the Burlington Northern stated publicly: "The day of train service to country elevators is almost gone."

How did we get into such a mess? Everybody deserves a share of the blame. Deterioration of the branch lines and of the entire railroad operation progressed on a gradual scale for many years. During World War II, we were busy with other interests; after that, we were pretty apathetic until, all of a sudden, the problem stares us in the face.

The result of public disinterest has been that the laws have become totally outmoded and many times completely unrealistic. Railroad management has been rightfully blamed for many of the problems concerning the industry, and mile after mile of track has been allowed to deteriorate to the point where salvage value nearly exceeds revenue-producing ability.

Let me give you some examples of the inequitable laws and frustrating circumstances which confront those who are responsible for railroad regulation.

Nebraska law presently states that if a railroad does not maintain quality tracks and standards, they can be ordered to cease operation. Fifty years ago, that law was appropriate, but today it only speeds up the pace of abandonments.

A branch line in Nebraska had a bridge wash-out last year. The Railway Commission directed that the bridge be repaired and service restored. The railroad filed for abandonment of the line, stating this would create an unsupportable burden on their revenues; the case is now being considered by our supreme court.

These are illustrations of outmoded laws. What about new legislation? The previous law stated that no railroad crew would work a route requiring more than 16 hours to complete. Congress has now changed this to 14 hours and in another year the restriction will be reduced to a 12-hour continuous operation. It is easy to see that next year's 12-hour rule will reduce service on marginal lines even further; lines where a round trip cannot be made in 12 hours.

One more factor is that of attitude; the attitude of railroad management, of labor, of the customer, of the lawmakers and of the people responsible for regulation. A spirit of cooperation has not always existed, but surely the time has come when it must exist.

After all, the farmer depends on the local elevator, which depends on the transporter and the merchandiser, who depends on industry, which depends on the consumer. The important question is not who is at fault, but what can be done about it. There are many ideas, theories and proposals; here are a few:

Nationalization is one alternative. It would cost the federal government at least $60 billion to purchase the nation's railroads, and the government still would have to pay for the improvements so desperately needed.

Another program has been suggested by America's Sound Transportation Review Organization, known as ASTRO. This study has the full support of all the nation's railroads. Here are some of the proposals contained in this report:

Elimination of state and local property taxes against railroads.

Creation of a single transportation trust fund to apply to the needs of all modes of transport.

Government guarantees of up to $400 million annually on private loans to railroads.

Aid in getting locomotives and cars that a railroad is unable to finance on its own.

Funds for more research.

Relaxation of rate regulations, and creation of a single government agency to regulate all forms of transportation equitably and impartially.

It is estimated that this program would cost $36 billion by 1980, and that the railroads would themselves generate three-fourths of the cost.

We've taken a look at some of the proposals on the federal level. Is there anything we need to consider on an individual basis? I think so. We in the midwest have merged farms for a more efficient operation, but have been extremely slow to merge grain elevator operations for similar efficiency. Before we add to our investments in a widespread country elevator system, we had better take a long, hard look at the problems of the railroads and gauge our actions accordingly.

One elevator network and the railroad branch line network have similar futures, but the agricultural community has a lot more at stake financially than the railroads in the solution of this branch line problem. We'd better wake up and make sure our voice is heard; we'd better all become politicians—and darn good ones.

[From the Worthington (Minn.) Globe, Apr. 12, 1972]

ABOUT 1,425 MILES OF RAIL IN IOWA MAY BE ABANDONED

DES MOINES.—Representatives of three railroads testified before the Iowa Commerce Commission Tuesday that they may abandon as much as 1,425 miles of track in Iowa.

Most of that would be abandoned by the Chicago and North Western Railroad. Officials of the C&NW told the ICC it has 1,200 miles of track in Iowa regarded as unprofitable and without potential for future profits.

J. R. Feddick, general market manager of the C&NW, said the 1,213 miles of line the railroad eventually plans to abandon constitutes 46.3 per cent of the company's total trackage in the state, mostly branch lines.

The management regards the abandonment of the unprofitable lines as necessary to establish a "viable railroad system," he said.

The C&NW was the first railroad to present testimony at the meting. Most of the morning was taken up with a slide presentation.

Commission Chairman Maurice Van Nostrand said the commission is concerned about planned railroad right-of-way abandonment in the next five years. Since the 1972 legislature did not act on legislation to establish a Department of Transportation, he said, any planning toward a comprehensive state transportation system must be done by the commission.

"This commission does not have the authority to compel the railroads to continue operations on those branch lines that are clearly unprofitable," Van Nostrand said, and he added that it wouldn't do that if it could.

"Our mission here," Van Nostrand explained, "is not to abuse Iowa's railroads, but to try to develop plans and programs that will make it possible to expand into the future the contributions historically made by those organizations to the economic well being of this state and its people."

He said the commission wants to know if an Interstate Commerce Commission proposed standard of 34 cars per mile per year as the dividing line between profitable and unprofitable railroad operation, is valid.

Van Nostrand noted that 72 per cent of the intra-state revenue of Iowa railroads comes from grain shipments.

But he said the commission needs to know why, with more grain being produced and more freight being moved by rail every year, "the railroads appear to be convinced that their success depends on an ever-contracting plant."

It also needs information on the part the Iowa property tax structure and railroad union work rules play in weakening the railroads' ability to compete with other modes of transportation.

Feddick said a relatively large per cent of the grain produced in Iowa is moved by truck "because of market and price." This is true because the railroads have a "static" freight structure while the rate structure for trucks and barge lines is more flexible, he said.

The railroads have considered developing a system of moving grain to river points on both Iowa borders for further shipment via barge to terminal markets and have handled some business this way, Feddick said.

But on short mileage hauls, he said, "trucks have a definite advantage" over railroads on money making potential.

Van Nostrand questioned Feddick about the location of the Sara Lee plant at New Hampton on a C&NW line the railroad now says is being considered for abandonment.

Feddick said he knew railroad officials recommended against Sara Lee's location on that line when the plant was built but it built there anyway.

Van Nostrand, however, read into the record a statement he said came from a letter to him, written by a person who was "closely involved" in negotiations to get Sara Lee to locate in New Hampton.

The letter said C&NW urged Sara Lee to locate on the railroad's line in New Hampton, but that after the plant was built it then balked at running sidings to the plant until reminded of commitments the railroad had made in writing.

Van Nostrand also questioned Feddick about the C&NW line through Harlan, another marked for closing. He said Harlan is a good business town of 5,500 and it seems incredible to him that it can't produce sufficient rail business to make railroad service profitable.

M. J. Reid, C&NW assistant chief engineer, said the Interstate Commerce Commission's 34 cars per mile standard for profitable railroad operation is "quite comparable" to the railroad's standard, which calls for abandonment of a line that does not earn $7,000 a mile.

Asked by Van Nostrand why the C&NW has had "derailment problems" on its line from Des Moines to Kansas City, Reid replied that this was a line taken over by C&NW when it merged with the Chicago Great Western in 1968.

The former CGW line wasn't built for the heavy traffic it suddenly absorbed after the merger, Reid said. But he said the C&NW has been upgrading it and "I think we're pretty well out of the woods now."

Donald H. King of Chicago, vice president of the Burlington Northern Railroad, said his company has no formal "master plan" for wholesale abandonment of rail lines in Iowa or any other state.

He said the Burlington doesn't regard the 34-car rule as an "operational standard" for abandonment of lines, but as a "procedural" standard.

WHAT TO DO WITH A PAIR OF RUSTY RAILS?

(By Bob Coffman and Gene Logsdon)

America's railroads are in a mess. And if the problem isn't solved soon, you, and the businesses that serve you, are going to bleed again, right through your pocketbook. As one angry grainman remarked, watching trucks bypass his glutted elevator because he couldn't get freight cars, "It's not enough for agriculture to be an efficient business. We have to rely on railroads, government and labor—the most inefficient humpty-dumpties in the whole darn country."

Bills are now being submitted to Congress which would do something about that inefficiency and they come not a moment too soon. While the Department of Transportation (DOT) estimates that our transport system must be equipped to handle a 40% increase in freight ton-miles over current levels by 1980, railroads are predicting they will have to abandon 35% to 40% of their branch lines over the next 10 years. "For Iowa, I'd say that's conservative," says Maurice Van Nostrand, chairman of the state's Commerce Commission. *"We'll lose that much in five years."*

A railroad map of Iowa looks like a fish net made to catch very small minnows. The cross-hatching is so close, almost every farmer is within 12 miles of a railroad market depot. But whereas a novice might consider that an advantage, it's a catastrophe by modern transportation standards—something left from the horse and buggy days when trucks were just a Henry Ford dream.

Even the railroad's detractors admit that the basic problem is simply that many short-haul lines have been made obsolete, especially by the awesome federally-funded, new highway system. And barges can beat the rails on some long hauls. As railroads lose business, rates rise to compensate, causing further loss of business. Service diminishes; maintenance becomes appalling. Derailments are rising. Track and roadbeds are deteriorating, increasing the number of "slow orders." Some cars are in such poor shape, the shipper has to turn them back to the railroad, then wait forever for a replacement. Even when railroads try to modernize they can't always follow through. The big new 100-ton hopper cars could relieve the freight car shortage, but many branch lines and trestles are too weak to handle them.

But the problem runs deeper. (The railroads say that they cannot cope with change fast enough because of too many government regulations—and almost everyone agrees.) "Some carriers, notably railroads, are in severe financial straits," James Beggs, acting Secretary of Transportation, said last year. "A major cause appears to be the presence of outmoded regulatory constraints."

To combat the situation, new transportation bills are breaking out like hives in Washington. Some of them itch more than others. The two most important proposals Congress is now hearing testimony for and against, are the Surface Transportation Act (S 2362) and a tongue twister called the Transportation Regulatory Modernization Act (S 2842). The former is a bill proposed by the carriers themselves; the latter is DOT's proposal, often called the Administration's bill. In essence, the DOT bill would ease regulations in an effort to create a more competitive climate between various modes of transportation. The carriers want more regulations in some areas, a freer hand in others.

The bills concern themselves with the whole spectrum of transportation problems, but would directly affect farmers in at least two areas: rate regulation and rail abandonment procedures.

Rates: Railroads' cost advantage lies in long hauls. But regulations now in effect inhibit their ability to attract more long haul traffic because they cannot lower rates to remain competitive with other carriers. Conversely, short haul rates are regulated below cost and cannot be raised to an efficient operating level. The DOT bill calls for a gradual change, with appropriate safeguards, to a rate structure based on *cost*.

Carriers are not so keen on moving towards a more competitive climate. One of the crucial points in their proposal—for farmers—is to change present rules that exempt truckers of ordinary livestock, processed poultry, milk and eggs, redried tobacco and shelled peanuts from regulation.

"This is particularly alarming," says James Krzyminski, assistant general counsel of the National Council of Farmer Cooperatives. "It would represent only the first step in what might become an attempt to remove the exemption for all agricultural products. Actually, it's the same kind of move that almost brought drivers of farm trucks under regulation last summer. It could only mean increased costs and less flexibility of operation. *For those farmers who are going to lose rail service anyway, this move to regulate trucking in agriculture could be a death blow.* We're urging farmers everywhere to oppose the carriers' bill forcefully. We see little in it to help shippers."

Assistant Secretary of Agriculture Richard Lyng, testifying before the Subcommittee for Surface Transportation, spoke sharply against this section of the carrier's bill. "USDA studies of frozen fruits and vegetables before and after being declared exempt show that without regulation rates were lower and service better. With regulation, rates increased, and service became poorer."

Railroad Abandonment: Both bills would make it easier for railroads to abandon unprofitable lines. Carriers propose abandonment upon 45 days notice unless the ICC ordered an investigation; in that event, the Commission would have to reach a decision in six months. "This means that a country elevator operator might find himself out of business 7½ months after he found out his line was being abandoned," says Krzyminski.

The DOT bill would require a 30-day public notice and a Commission decision within six months. However, where abandonment was found justified, and yet substantial injury to shippers or receivers would result, the carrier would be required to maintain service for an additional six months. The carrier could then legally abandon the line, but the parties involved would be free to negotiate an arrangement among themselves whereby service could be continued.

"No one is arguing that all branch lines must be saved," says Robert Graves, director of transportation for FS Services, Inc., a four-state regional farm supply cooperative which uses railroads to ship some 600,000 tons of fertilizer every year. "But we are worried by some of the formulas being advanced to determine eligibility for abandonment. One put forth suggested that less than 34 freight cars per mile of track per year would qualify for abandonment. That's a lot of cars. We think a better gauge might be the value of commodities shipped."

"We don't think railroads should be saddled with loss," agrees Krzyminski, "but we don't want shippers to take a beating either. Since they are talking about a $5 billion subsidy to the railroads, we want it set up to benefit shippers, too.

"Also, we object to the way railroads consistently refuse to give prior notice of abandonment. It usually comes as a complete surprise. We are urging that railroads be required to file publicly those branch lines that are candidates for abandonment 12 to 24 months ahead of time, so shippers have time to make other plans."

"We have asked the five railroads operating in Iowa for maps showing which lines will probably be abandoned in the next five years," says Van Nostrand. "Some lines are cooperating."

One reason railroads are hesitant to publish plans for future abandonment is mergers. "If two roads have parallel lines and they merge, you can be on a mainline today, and a branch line tomorrow," says Graves.

What can you, a producer, a shipper do? If your elevator is next to rusty rails, start thinking trucks. And let your congressman know why you need the agricultural exemption from regulation in motor freight. Push for subsidies that help shippers, too, not just the railroads.

NOBODY'S WAR BUT HANOI'S

Mr. BENNETT. Mr. President, the more I see President Nixon in action, the more I am convinced he will be recorded in history as one of America's greatest Chief Executives.

When the controversies of the moment, including the war in Vietnam, have faded, and the President's critics have received their scant footnotes in the history books, Richard Nixon will be remembered for his courageous action in the face of intense opposition.

No problem has proved tougher than the winding down of the war in Vietnam and the termination of American participation there. However, as the President's message last evening demonstrates, his program will continue to succeed despite the onslaught from North Vietnam. All Americans have good reason to be very proud of their President and his courageous leadership.

Mr. President, John P. Roche wrote an excellent column on the war and the fact that it is neither "Johnson's War" nor "Nixon's War," but Hanoi's War. I ask unanimous consent that the article published in the Washington Post of April 27, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NOBODY'S WAR BUT HANOI'S

(By John P. Roche)

When the North Vietnamese launched a conventional invasion of the South, complete with Soviet-made T-54 tanks and other heavy equipment, you might have thought that the question of who was doing what to whom would be conclusively settled. This was straight, naked aggression. Not even the most dedicated opponent of the war could argue that amphibious tanks were being constructed in peasant huts by the Viet-cong.

Yet in subsequent weeks we have heard some of the strangest explanations of what allegedly occurred: some commentators have virtually suggested that President Nixon personally sponsored the invasion. When the bombers went north, the howl went up that we had escalated the war, and Sen. J. W. Fulbright suggested that we had provoked Hanoi by breaking off the Paris talks. Fulbright's logic was bizarre—in effect, he said that since we had refused to give the North Vietnamese what they want, they had no recourse except to go for military victory. The submerged premise of this extraordinary syllogism is, of course, that they are right and we are wrong.

Similarly, a letter to The New York Times from eight members of the House of Representatives contained this remarkable paragraph: "The President of the United States has called off the regular (Paris) meetings . . . And only this week the United States launched a massive air attack on both South and North Vietnam. In short, there are no signs of any moral leadership on the part of the administration to end the killings and the destruction of countries now." (4-16-72)

The Congressmen did not even mention the North Vietnamese invasion!

The harsh fact is that in terms of the arrangements made in 1968 as a precondition for a full bombing halt, the President was completely justified in taking the air war to the north. There has been a great deal of fudging about whether or not the Hanoi regime accepted any "understandings" and some people seem to have had odd memory lapses. What occurred in 1968 was that we insisted as a precondition for a total bombing halt that Hanoi agree (1) to respect the inviolability of the DMZ; (2) to cease shelling the cities of South Vietnam; and (3) to permit American aerial reconnaissance of the North.

It is true that Hanoi's representatives never signed on the dotted line; there is no formal piece of paper. But the President of the United States was assured by the Soviets that Hanoi would go along with these terms. Without that assurance Lyndon Johnson told me he would never have agreed to a total halt: "It would be strictly a one-way proposition"

This is not just a matter of recollection. At the time. Secretary of Defense Clark Clifford went on CBS-TV, "Face the Nation," and said in response to a question about the quid pro quo we had extracted from Hanoi, "The situation is that we had certain understandings reached with the North Vietnamese in Paris. They involved the DMZ and the shelling of the cities and the question of reconnaissance. There is the area of agreement." (12-15-68).

What Hanoi has done in the last few years is lay the groundwork for a heavy invasion through the DMZ. Four roads were built and supplies were stockpiled immune to air attack. And then they came in. They have been rocketing Saigon and other cities. In sum, they broke the agreement and, to repeat, Mr. Nixon is correct: all bets are off.

"Johnson's War," in other words *has not* become "Nixon's War." The war is now and always has been "Hanoi's War."

NEW PROGRAMS FOR NAVY ENLISTED PERSONNEL

Mr. TOWER. Mr. President, today many men and women serving in the armed services receive valuable training and experience. However, as I have indicated on numerous occasions, I am deeply concerned that at the present time, their training receives limited recognition in the civilian world. Furthermore, these skilled veterans often have difficulty in consolidating the academic credits they earn while in the service in an effort to obtain a college degree.

I have followed with interest the many recent developments which seek to correct this situation.

I ask unanimous consent to have printed in the RECORD an article published recently in the Washington Post and a news release of George Washington University Medical Center which describe a new program which will enable many Navy enlisted personnel who train as hospital corpsmen to earn college degrees in the allied health sciences while in the service. I applaud this innovative and encouraging project.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 5, 1972]

NAVY, GWU PLAN MEDICAL TRAINING

(By Jules Asher)

Many Navy enlisted men who train as hospital corpsmen may soon be earning college degrees in the allied health sciences from George Washington University.

Up to now, enlistees have not had the opportunity to earn degrees through Navy technical training schools and much of their course work has gone unrecognized in civilian life.

Beginning in May, a curriculum leading to an Associate in Science degree in X-Ray technology will be offered jointly through the university and Navy hospitals at Bethesda, Md.; San Diego, Calif., and Portsmouth, Va.

It will be the first of several Associate and Bachelors-level degree programs in medical technical specialties planned under an agreement announced yesterday between GWU and the Navy.

"A young man coming into the Navy out of high school could conceivably become Navy Surgeon General in 20 to 30 years," said Capt. Edward J. Rupnik, commanding officer of the National Naval Medical Center's Naval Medical School.

The 61-semester hour X-Ray technology program will normally take 15 months to complete. It includes six months of academic work and six months of clinical experience in the specialty, as well as 12 semester hours of communications, social studies and humanities, said Cdr. C. J. Pearce, curriculum director of the Naval Medical School.

A graduate of this program can apply his two-year associate (junior college level) degree toward a four-year bachelors degree.

The Navy picks up the tab. The GWU School of Medicine helps plan the curriculum and provides an accredited faculty. The courses are administered by the GWU College of General Studies.

A comprehensive training program in the medical sciences geared to the needs of the Navy is being planned. The 30 technical specialties for which future programs are being considered include: nuclear or cardiopulmonary medicine, nuclear submarine medicine, radioactive isotopes, electrocardiography, electroencephalography and aerospace physiology.

Dr. S David Rockoff, chairman of the Department of Radiology at GWU, said such training of large numbers of health care personnel at a skill level between technicians and physicians could produce a "phenomenal" improvement in the nation's health care.

[From a News Release, George Washington University Medical Center, Apr. 4, 1972]

GW-NAVY LAUNCH DEGREE PROGRAMS FOR X-RAY TECHNICIANS, ALLIED HEALTH PERSONNEL

The U.S. Navy and The George Washington University are joining ranks to expand the educational opportunities in radiologic sciences and other allied health fields for military and civilian personnel. A memorandum of agreement signed at GW by Navy and University officials launches a major academic program leading to an Associate in Science degree.

It will be the first comprehensive program in the medical sciences designed to help meet some of the unusual needs of the Navy.

The School of Medicine will award the Associate in Science (X-Ray Technology) to candidates meeting the requirements for the 61-semester hour course, beginning in May. The curriculum will be offered at the three Navy hospitals at Bethesda, Maryland; San Diego, California; and Portsmouth, Virginia.

The Navy agreement makes it possible for enlisted personnel to earn academic degrees in the allied health sciences as an educational fringe benefit since the student fees, books, materials and instruction are contracted by fiscal arrangement with the Bureau of Medicine and Surgery and the University.

Augmentating existing technology courses offered by Navy schools, the GW University off campus courses will be taught by accredited faculty of the School of Medicine and the courses will be administered by the College of General Studies. Under the agreement the medical faculty will also assist the Bureau of Medicine and Surgery in assessing and correlating all medical training programs of the Bureau.

The Associate in Science degree program for X-Ray technicians is the first of about 30 medical technical specialties under consideration. These include: nuclear or cardiopulmonary medicine, nuclear submarine medicine, radioactive isotopes, electrocardiography, electroencephalography, or aerospace physiology. Still others may cover basic hospital corpsmen, clinical laboratory, medical technology or preventive medicine technicians. Additional fields involve medical photography, pharmacy, operating room or surgical specialties, and deep sea diving medical technicians. In each, personnel would undertake approved course work that can be applied toward degree requirements.

Of the initial program's 61 hours, 49 are designated in the area of concentration, X-Ray technology. The remaining 12 credit hours are in communications, social sciences and humanities. An overall grade average of 2 with a 2.5 average in the area of concentration is required for the degree. (University grade averages are based on a 4 point scale.)

Dr. S. David Rockoff, Professor and Chairman of the Department of Radiology at GW, and Commander C. J. Pearce, MSC, USN, Curriculum Director, Naval Medical School, National Naval Medical Center, were instrumental in planning the curriculum and instructional base for the X-Ray technicians program, along with Mr. Earl J. Ross, Director of Plans and Programs of the College of General Studies at the University.

Participants in the GW signing ceremony were: Dr. Harold F. Bright, Provost and Vice President for Academic Affairs; Dean John Parks of the Medical Center and Dean Eugene R. Magruder of the College of General Studies, representing the University, and for the Navy: Captain E. J. Rupnik, MC, USN, Commanding Officer, Naval Medical School, National Naval Medical Center, and Commander C. J. Pearce, MSC, USN, Curriculum Director, Naval Medical School, National Naval Medical Center.

SECRETARIES WEEK

Mr. MILLER. Mr. President, the National Secretaries Association—International—this week is sponsoring Secretaries Week to honor all secretaries. This is the 21st consecutive year that this honor has been accorded to those who are the backbone of our offices.

Although yesterday was designated Secretaries Day, I would like to take this occasion to single out for praise these unsung, for the most part unappreciated heroines of the business world.

I believe we should designate one week a year to specifically recognize the vital role these dedicated people play in the life of our country.

This year's theme, "Better Secretaries Mean Better Business," emphasizes the continuing need for good, responsible secretaries in order to insure the productivity and proficiency of our offices.

To which I say: "Amen."

COMPLEXITY OF THE TAX LAWS AND PAPERWORK BURDEN

Mr. BIBLE. Mr. President, in 1970 I and several other Senators introduced a small business tax simplification and reform bill designed to reduce the tax burden on the 5¼ million small firms and their owners.

Reintroduced in the 92d Congress as S. 1615 and H.R. 7692, there are now 24 Senate cosponsors and 118 House cosponsors and supporters. The bill proposes an intergovernmental committee on tax simplifications, a business advisory council giving a significant voice to small business, which would meet quarterly, and creation of an Office of Small Business Tax Analyst within the Treasury Department to assure research and representation on issues vital to new, growing, and independent firms in our economy.

In introducing this measure 2 years ago, I stated:

> In its stripped-down form, the Internal Revenue Code is still 1⅜ inches thick. Together with voluminous regulations, bulletins, rulings, procedures, press releases, manuals, forms, instructions, guidelines, and explanations, the total tax system that confronts the businessman is literally a mountain of material which is nearly impenetrable to those lacking in special tax training.
>
> It is important to keep in mind the general rule that the smaller the business, the less will be the likelihood that it can afford highly specialized tax work by accountants and lawyers. Thus, the weight of the tax system itself is disproportionately against smaller firms.

Since 1970, matters have grown worse. To illustrate the increasing urgency of simplification and reform, I ask unanimous consent that an article from the Wall Street Journal entitled "How Five IRS Offices Advised One Taxpayer in Five Different Ways," and an editorial from the Washington Post entitled "'Income Tax Disaster" be printed in the Record at the conclusion of my remarks.

The Journal reports that an Atlanta businessman visited offices of the Internal Revenue Service in different parts of the country and received five different opinions as to his tax liability. This saga follows the pattern of another Atlanta taxpayer who last year visited five commercial tax preparation services and received more widely divergent advice.

Recent congressional hearings have questioned the training and honesty of some tax preparers. However, the heart of the problem, as the Washington Post points out, is that the tax laws—and the implementing forms and instructions—have grown to be so complex that even the experts cannot fully understand them.

As a further illustration, the April 7 issue of the Federal Tax Guide published by Commerce Clearing House reported that there are currently 13,745 different Internal Revenue Service forms and form letters.

Mr. President, it is the President and Congress who have created thus burden on the small businessman and the average taxpayer. Some of us in Congress are trying to do something about it. In addition to cosponsoring the Bible-Evins tax bill, one of our able Small Business Committee members, the Senator from New Hampshire (Mr. McIntyre) has undertaken a full investigation of the total paperwork burden on small business, as chairman of our Government Regulation Subcommittee.

Unfortunately, Senator McIntyre has found that the small businessman's problem only begins with the Internal Revenue Service, but does not end there. He has told me that it may cost the Nation's businessmen as much as $36 billion to complete the paperwork required by dozens of Federal, State, and local Government agencies and offices. The prestigious Prentice-Hall, Inc., tax information publishers said in 1964 the price tag for business was roughly estimated at $50 billion per year.

If anything can be done to reduce this crushing load, we will all be in Senator McIntyre's debt. The subcommittee is planning hearings initially in Chicago, Boston, and Concord, N.H., before returning to Washington to hear executive department officials talk about the paperwork burden, or as Senator McIntyre appropriately calls it, "Federal Form Pollution." We shall be looking forward to their findings and recommendations and to working closely with the Senator from New Hampshire in attempting to simplify both the tax laws and the myriad of tax and other forms with which our harassed small business community must now contend.

Mr. President, I ask unanimous consent that an article from the Wall Street Journal of April 13, 1972; an editorial from the Washington Post of April 14; and a statement issued by the distinguished Senator from New Hampshire (Mr. McIntyre) on the paperwork burden faced by small business particularly, and the country at large generally, be printed in the Record at the conclusion of my remarks.

There being no objection, the items were ordered to be printed in the Record, as follows:

How Five IRS Offices Advised One Taxpayer In Five Different Ways

(By Tom Herman)

Paul Farr, an executive at a small Atlanta education company, considers himself handy with figures. Nevertheless, this year he drew the line at figuring, on his own, one set of calculations: his U.S. income tax return. Form 1040, he says, "gives me fits."

The return of Mr. Farr (not his real name) is no more complicated than that of millions of other U.S. taxpayers. He is married, has three dependent children and lives in a handsome frame-and-brick home that he bought late last year when he moved to Atlanta from a Northern state as the result of a job change. His 1971 income consisted of $22,560.14 from the two jobs, $5,600 from pension and profit-sharing plans, $81.53 in interest and $86.75 in dividends. He itemizes his deductions.

Except for one year when he retained the services of an accounting firm, Mr. Farr has always prepared his own return. He wasn't pleased with the results that year. The advice, he says, turned out to be partly erroneous, and the accountants' bill came to $150.

This year, he considered taking his return to a commercial tax-preparation agency, which would cost less than the accountants, but he decided against this move when he heard that the Internal Revenue Service had launched a nationwide crackdown that resulted in dozens of arrests of allegedly dishonest commercial tax practitioners. (Earlier this week, Secretary of the Treasury John Connally said the government had recently run a survey on several hundred non-taxpayer-prepared returns from the southeastern U.S. and had found some 97% of them to be "fraudulent.")

TURNING TO THE EXPERTS

What, then, is a man to do? Noting the publicity the IRS has increasingly been giving its own taxpayer-assistance program, Mr. Farr decided that help from the service itself might be his solution. Although the IRS won't fill out a taxpayer's form unless he is blind, disabled or illiterate, it will answer all tax questions free of charge and will show the taxpayer where the answers should be entered. And after all, Mr. Farr reasoned, who could be more expert in IRS matters than the IRS itself?

At the suggestion of this newspaper, Mr.

Farr agreed to submit his questions to IRS offices in five different cities: Atlanta, Des Moines, New York, San Francisco and Rome, Ga. I accompanied Mr. Farr on his visit to the Atlanta IRS; in the other four cities, I was alone and explained that I was a friend helping Mr. Farr with his return. The purpose of the multiple meetings was to test the depth and consistency of the IRS experts.

If consistency were to be judged on whether the offices said "we owe you" or "you owe us," the five IRS offices were consistent: All said the government owed Mr. Farr a refund. The amount of the refund, however, was another matter, with a $307.04 difference separating the most generous office (New York) from the most niggardly (Atlanta). Their computations were as follows:

City	*Refund*
Atlanta	$177.14
Des Moines	211.88
Rome, Ga	338.04
San Francisco	394.68
New York	484.18

The disparity in the final results isn't surprising in view of the fact that the five IRS offices differed among each other in most of the steps taken to arrive at these results. Most, for example, disagreed on a matter that might be considered basic and clear-cut: the number of forms necessary for Mr. Farr to fill out. The New York and San Francisco offices both said four, but Des Moines said five, Atlanta said six, and Rome said seven forms were required.

Mr. Farr was flabbergasted, but expert tax men say they aren't at all surprised by the discrepancies. U.S. tax laws, they say, are sufficiently complex to invite a host of differing interpretations. And even more important, they add, helping taxpayers with their returns is generally considered one of the less attractive tasks at the IRS and is therefore performed by low-level, or even part-time, workers. "For the most part, the majority of the tax helpers are younger agents; some like it, but the vast majority don't," says a former IRS agent in Atlanta.

William F. Culliney, director of the Taxpayer Service Division of the IRS, says there are about 2,620 taxpayer service representatives in 781 offices currently dispensing advice across the country. About 1,000 of these workers are temporary and earn about $100 a week, he says, and another 1,220 are permanent employes who advise taxpayers the year round and earn between $138 and $175 a week. The remaining 400 are from other IRS divisions and assist taxpayers during the filing season; members of this latter group, Mr. Culliney says, are usually "top-notch" and earn about $300 a week.

GENIUSES AND MISTAKES

A spokesman for the IRS says, "I wish I could tell you we employ nothing but geniuses who never make mistakes. Unfortunately, it just isn't so." He adds: "You've got to remember the heat of time breathing down everyone's back. You're getting 100 to 150 queries a day, and if you take time to research something in depth, you may have one happy taxpayer, but you'll also have nine mad ones."

Adding to its burdens this year, the IRS has new manpower-training duties, among which is the responsibility for enforcing the wage-price controls. At the same time, a record number of taxpayers are pouring into IRS offices to seek help. Officials of the service are predicting that the volume in the fiscal year ending next June 30 will easily surpass the record 35 million taxpayers helped in fiscal 1971.

For all these reasons, it isn't unusual that a taxpayer like Mr. Farr should receive conflicting advice from different IRS offices. To be sure, the great majority of taxpayers seeking IRS assistance approach only one office and rest content—or unhappy, as the case may be—with that office's opinions. Nevertheless, a close look at the progress of Mr. Farr's forms through five offices illustrates not only the inconsistencies of "final authorities" but certain uniformities in the taxpayers-assistance process as well.

One such uniformity is the location of the IRS office, which in most cities is in a central downtown area in a federal office building. And after locating the office, the taxpayer is almost certain to discover a fact of IRS life that, based on experience in five cities, seems to be a second uniformity: a lengthy waiting period before any assistance is rendered.

My experience with Mr. Farr's forms in New York was illustrative of the delay factor and not at all atypical of most big-city IRS operations. After entering the IRS Manhattan office at 120 Church St., the taxpayer is handed a number designating his place in line—and the lines get longer every day as the April 17 deadline approaches. (My Church Street visit occurred in mid-March and involved a wait of 45 minutes before my number was called.)

Delays, however, don't end when the taxpayer's number is called. After being escorted to a chair at a long, rectangular table, the Manhattan taxpayer will discover that more often than not the tax expert is shared by several other taxpayers; the IRS employe answers a question or two from one and then turns to another, sometimes leaving the first speaker in mid-sentence.

IRRITATIONS IN STRIDE

Most taxpayers take such irritations in stride, but many register extreme annoyance when they discover that the IRS refuses to fill out forms. "Why on earth do you think I came all the way down here?" an elderly woman querulously asked an IRS man in New York. "I have no idea what to do with all these here forms. My dear late husband used to take care of it, and he knew how to handle figures."

But no matter how plaintive the plea, IRS helpers won't put their pens to a taxpayer's papers. They also frequently refuse to double-check or otherwise calculate a taxpayer's arithmetical calculations. (In New York, however, when a young man complained to the IRS man that "the main reason I came down here was to make sure I don't make any stupid math errors" and then threatened to call the helper's supervisor, the IRS man agreed to go over the taxpayer's calculations.)

The various constants encountered from office to office, however, are overshadowed by one major difference: the advice that is dispensed. And in Mr. Farr's case, the differing counsel largely concerned his itemized deductions, his moving expenses and his pension plan income. (Mr. Farr claimed no medical deductions.)

On the question of moving expenses (the proper amounts for which are deducted prior to arriving at the taxpayer's adjusted gross income) only the Des Moines and the Rome offices said that $381 in closing costs associated with Mr. Farr's purchase of his Atlanta home could be deducted. The other three offices advised him that such costs weren't deductible until he sold his new home.

(According to the IRS guidebook, "Your Federal Income Tax, 1972 Edition," Des Moines and Rome were correct. "The cost (sic) of selling your residence or settling your lease at the old location and purchasing a residence or acquiring a lease at the new location are deductible," the book states. "This includes broker's commissions, attorney's fees, 'points' (to the extent not representing interest) and similar expenses incidental to the sale or purchase of a home.")

In the case of Mr. Farr's $1,708.32 income from his previous employer's pension plan, the New York and San Francisco offices said this sum could be treated as a long-term capital gain (one-half of which is untaxed). The Des Moines expert, however, said the total should be treated as ordinary income and entered on Schedule B as "interest income." And the Atlanta and Rome tax assisters also classified the $1,708.32 as ordinary income but said it should be entered on Schedule E (a "supplemental income schedule" that includes entries for pension and annuity income).

SOME SIMPLE ERRORS

Concerning itemized deductions, the discrepancies among the five offices examining Mr. Farr's figures were as follows (rounded off to the nearest dollar):

	Total	Taxes	Gifts	Interest	Miscellaneous
Atlanta	$5,326	$1,897	$778	$2,645	$6
Des Moines	5,514	1,908	798	2,616	26
Rome	5,395	1,956	798	2,616	26
San Francisco	5,369	1,934	769	2,645	21
New York	5,689	1,954	1,070	2,649	16

The opinions leading to the various totals diverged in many areas and, in some instances, were the result of simple errors. Some examples of these variations:

The Rome expert used Mr. Farr's "total income" figure, instead of "adjusted gross income," as a base to compute his sales tax deduction from IRS tables. This error—and according to the IRS guidebook, it was an error—worked in Mr. Farr's favor.

The Des Moines office made a subtraction error in computing Mr. Farr's final tax. The error would have cost Mr. Farr only $2.66, but it would also very probably have delayed his refund check.

The New York assister said Mr. Farr could deduct 40% of the original value of some clothes he gave to Goodwill Industries last year. When the assister's supervisor was questioned on this figure, he termed it "ridiculous" and said it should be considerably lower. The other four offices recommended deductions between 10% and 20% (none, however, agreed with another on an exact figure).

The IRS office in New York allowed Mr. Farr a miscellaneous deduction of $10 because he partly used his home telephone for business. However, the IRS in San Francisco said $15, Rome said $20, and Des Moines and Atlanta both said nothing at all could be deducted for such telephone use.

Four of the five offices said Mr. Farr shouldn't deduct the $277.22 he spent on a resume and job counseling from a resume preparation company after he quit his old job. But the Des Moines expert said he certainly could treat the figure as a miscellaneous deduction since the firm helped him get a new job.

Finally, the offices even had differing opinions on the relative complexity of Mr. Farr's return. "Routinely simple," said the Atlanta expert. "A snap," said San Francisco. But the IRS assister in Rome said, "Your friend's form is more complicated than the usual ones we deal with here."

Whom should Mr. Farr believe? Perhaps no one. While the IRS spokesman says "there shouldn't be the difference (Mr. Farr) got" and calls the spread among the differing numbers "unsatisfactory" ("The laws aren't so wildly complex that they can't be complied with"), the fact remains that the IRS isn't bound by any mistaken advice given to taxpayers by IRS employes. According to the spokesman, a taxpayer is liable for any underpayments or penalties resulting from erroneous forms—no matter where the advice came from.

BUT LAST YEAR . . .

Although the five IRS offices that examined Mr. Farr's form had wide differences of opinion and judgment, it might be noted that another Atlanta taxpayer last April received even more divergent advice from five different commercial tax services. That taxpayer, accompanied by a Wall Street Journal reporter, was told by one of the five services that he was entitled to a federal refund of $652.04. Another service said the taxpayer *owed* the government $141, and the remaining three services cited figures (all refunds) falling between these extremes.

If the moral of the story is that "experts" don't necessarily agree with one anothers' conclusions, where does this leave the taxpayer? In Tax Court, perhaps, if the auditor in turn disagrees with the expert. To forestall such a proceeding, however, observers of the U.S. tax scene have offered a variety of remedial plans. As one possible solution, it's been suggested that the IRS allow all taxpayers a tax credit of up to a certain amount—say $20—for commercial tax help. (Current tax laws permit taxpayers to deduct tax-help fees as an itemized deduction—but that's small comfort to the millions of taxpayers who don't itemize deductions.)

According to a Treasury official, however, such a tax credit would add even more complications to the tax process and would be of little value for most of the nation's taxpayers. Those citizens claiming standard deductions, the official says, are least in need of outside help. Furthermore, he adds, taxpayers should be encouraged to complete their own returns without commercial assistance. (And paid help from outside sources, of course, provides no guarantee of accuracy—as witness Secretary Connally's recent discussion of "fraudulent" non-taxpayer-prepared returns.)

Another suggestion is that the IRS could offer to fill out the form of anyone who wants help—the theory being that the service would upgrade its taxpayer assistance program if it had to take the responsibility of filling out the entire return. Supporters of this idea note that some state tax offices fill out state forms for anyone who asks.

IRS officials say that in the past they filled out taxpayers' returns. A spokesman, however, says the service abandoned the practice "because the number of returns and their complexity became overwhelming."

"We would like to (fill out taxpayers' forms), but we just don't have the resources," the spokesman says. "You could easily spend four hours doing one guy's return. Great. So you have two or three returns done in an eight-hour day, and you've got 300 people waiting. Everything else goes to hell."

Randolph Thrower, former IRS Commissioner and now an Atlanta lawyer, says, "It is so much more constructive to have the IRS show a person how to fill out his form than to do all the work for him and thus provide him with a permanent crutch." Besides, he adds, "millions of people do their own return with a high degree of accuracy."

Maybe so. Maybe indeed a "high degree of accuracy" is all that can be expected of anyone—taxpayer and expert alike—in view of the complexity of U.S. tax laws and the numerous judgmental factors entering into the compilation of Form 1040. In any case, the millions who complete their own forms don't include Mr. Thrower. His form, he says, "is quite complicated and very time-consuming" and is therefore prepared by the accounting firm that handles his law firm's books.

As for Mr. Farr, he chose to compile his form on the basis of bits and pieces of advice from all five offices. But the refund that he's claiming is closest to that arrived at by following the advice of the New York office—whose $484.18 was the highest of all.

IRS Expands Service

WASHINGTON.—The Internal Revenue Service announced it is expanding its free tax-preparation and advice service after finding "wide-spread" fraudulent practices among commercial tax preparers.

IRS Commissioner Johnnie M. Walters said that of 3,200 tax preparers checked, at least 1,800 were preparing fraudulent returns. The figure doesn't include those tax preparers who were simply sloppy and erred inadvertently, Mr. Walters said.

IRS agents, posing as taxpayers, were armed with data that should have resulted in $148 of additional tax liability, but the returns came out with refunds due of up to $750, Mr. Walters said. He added that "very few" returns were prepared correctly.

The commissioner estimated that commercial tax preparers total 200,000. He said investgations are continuing and fraudulent operators are being prosecuted.

To assist taxpayers through the Monday filing deadline, the IRS said up to 15,000 technical workers are being pulled off other assignments, such as auditing returns, to help keep IRS offices open longer hours, including Saturday. Mr. Walters said that precise hours will be determined by local IRS directors according to need, but the agency is thinking in terms of 12-hour days.

The IRS said taxpayers who think their return has been prepared incorrectly can file an amended return on Form 1040–X and won't be penalized if they get it in by Monday.

[From the Washington Post, Apr. 14, 1972]

The Income Tax Disaster

The part of the annual rites of spring known as filling out the tax returns has turned into a national scandal. Millions of taxpayers, having given up because it all seems too complicated, are now confronted with the possibility that the "experts" to whom they turned for help are not experts at all. Indeed, it seems quite probable that a good many taxpayers are going to have to meet that horror of horrors, the Internal Revenue Service, face to face within the coming months and that a goodly number of professional tax return preparers may have to face something even worse, a federal grand jury.

The revelations this week of IRS Commissioner Johnnie M. Walters are staggering. He reports that a spot check in the Southeast of the work of so-called tax experts showed that more than 70 per cent had prepared erroneous returns and around 50 per cent had prepared fraudulent ones. The situation is so bad that he has thrown 15,000 additional IRS employees into local offices to give do-it-yourself taxpayers advice over the next few days, a step, incidentally, which ought to have been taken years ago.

There are, we submit, several factors which have led to this scandal. The first is the complexity of the tax laws themselves. The loopholes—call them deductions or protected income provisions if you like—in the original income tax law have doubled and doubled again, each created to meet what Congress claimed was a legitimate need but each in turn complicating the individual return and spawning dozens of questions. The second factor is the quality of the tax forms and the instructions provided by IRS itself. Representative Aspin has produced a study which says that even an average college graduate would have trouble understanding some parts of the instructions because of the way in which they are written. This may be the fault of IRS, even though it has tried to make those things understandable, or it may be simply that the law is so complex it cannot be explained in simple English.

These two factors have driven millions of people into the hands of the tax preparer. There the gullibility of a good many Americans has joined with the greediness of a good many entrepreneurs to produce the figures pulled out by Commissioner Walters. Tax service offices have sprung up all over the place, some staffed by competent people and some by those out only to make a quick buck. Many of them have competed to see which could produce the lowest tax for its clients, a kind of competition which invites the sort of corner-cutting that, in turn, leads to fraud. Many taxpayers have been conned by this—low taxes and a low charge by the expert—forgetting that in hiring a tax expert, as in a lot of other things, you get just what you pay for. There are many qualified people who prepare tax returns, of course. But we suspect that most of them don't work out of temporarily rented quarters.

The whole thing, of course, can't be blamed on the tax preparers. The tax laws are so complicated that honest mistakes and differences of opinion do occur. The Wall Street Journal demonstrated this point on Thursday in its report on what happened when the same set of facts was submitted to five IRS offices for advice. The Journal got back advice that produced five different tax bills, with a difference of $307 between the high and low ones. Nothing could argue more forcefully the case for a cleanup of the income tax laws.

All this does not do much for that sinking feeling you may have on Monday night when the deadline arrives for filing returns and amendments to returns. The fact that you have hired someone to prepare your return does not relieve you of responsibility for its correctness. If the return is wrong, you are responsible for the additional taxes, interest and penalties which IRS can assess. If it is fraudulent—that is, if it is held that you deliberately tried to cheat the government—there are criminal penalties as well. As far as the tax return preparer is concerned, he can go to jail only if he has knowingly helped you try to cheat. The best advice is to play it straight and to complain to your congressman after it is over. It is Congress, after all, that has created the legislative maze which makes tax returns so complicated.

Federal "Form Pollution"

(Statement by U.S. Senator
Thomas J. McIntyre)

I've called this press conference to announce a series of hearings my Subcommittee on Government Regulations will be holding on what the Chicago Tribune calls "Strangulation in Triplicate" . . . and I call "Federal form pollution."

The Subcommittee plans to hear extensive testimony at a number of locations on the burden government paper work imposes upon small businessmen.

The hearings will open in Chicago on May 2 and will continue on May 4 and 5 in Boston and in Concord, New Hampshire. Further sessions are scheduled for June in Washington, D.C.

Now I would suppose that over the past 40 years few subjects have inspired more wisecracks than government red tape. But if red tape is a joke, it's a costly one, because built into it are some of the most uncomfortable issues of our time.

I've already mentioned pollution.

What else can you call 4½ million cubic feet of paper? That's enough to provide government forms for every man, woman and child in this nation ten times over!

But this avalanche of paper poses more than a recycling challenge.

It adds to inflation.

And it further strains the bonds of trust between the citizen and his government.

Let's look at costs.

The Subcommittee already has discovered that it costs $18 billion a year to print, peruse and store that 4½ million cubic feet of paper.

Taxpayers foot that bill.

And the Subcommittee also discovered that it costs the nation's businessmen another $18 billion a year to fill out the papers and return them to the government agency that sent them.

You figure that cost in terms of accountants' fees or time the businessman lost from his primary duties while he was filling out quarterly tax forms, business census forms, Social Security forms, unemployment forms, other regulatory agency forms, and wage and price freeze forms.

Now $18 billion is a lot of money to absorb.

It could put some men out of business.

It discourages other businessmen from hiring additional help.

It robs still others of the time and money they need to develop and expand.

And it encourages business to pass on to the consumer the costs of filling out forms by raising the price on products.

So the public ultimately pays *that* $18 billion, too.

What we're talking about, then, is $36 billion a year . . . a staggering amount of money equal to no less than 15 per cent of the Federal budget for fiscal 1972.

Let me put it this way:

The total costs of governmental red tape this year will be more than all this Government spent last year in health, education, welfare, saving the environment, community development and housing.

Put another way: That $36 billion would pay for 2,412,000 low cost housing units with two bedrooms each.

Now I'm not suggesting we could cut red tape costs by $36 billion a year. Obviously, we can't do away with all government forms.

What I am suggesting is the real possibility that the cost of form compliance can be cut by reducing waste, duplication and complexity.

With that in mind, the Subcommittee hearings will focus—as a starting point—on Internal Revenue Service requirements in order to see if form "pollution" and costs *can* be reduced.

Specifically, witnesses will be asked three general questions:

1. Are the IRS forms too complex for the small businessman to prepare himself or is it necessary for him to hire professional help to complete the forms according to IRS requirements?

2. Is the frequency of the forms (quarterly estimated tax withholding, estimated income tax, and Federal excise tax—plus annual reconciliations of each) such that the small businessman has an undue burden and expense? Is it possible to reduce requirements to an annual or semi-annual basis?

3. Are the administrative tax form requirements of state and local governments duplicative of Federal forms? Why can't we develop a better system of sharing information among the various governmental units?

The witness list will be made up of small businessmen, representatives of small business organizations and accounting firms, and public officials.

Now so far, I've talked of red tape costs in terms of dollars and time. But there are also costs in human terms—worry, frustration, bitterness and resentment—that are harder to measure but equally real.

These are the costs that pit the citizen against his government.

For at a time when too many citizens feel alienated from the nation's leadership and institutions . . . at a time when too many feel that government is remote and unresponsive . . . their only direct contact with it is irritating, frustrating, even demeaning.

To begin with, the avalanche of form requirements indicates to the small businessman that his government really doesn't trust him.

Why else would it require him to swear to his integrity so many times in so many ways?

And then the very complexity and frequency of the requirements seem bound to contribute to the suspicion that government isn't there to help . . . it's there to hinder.

One example: A couple operating a small hospital on the West Coast told Subcommittee aides that they are thinking about quitting because of the paperwork involved in dealing with no less than 23 government agencies.

They told the investigators: "We love the work we are doing, and our hospital contributes to society by restoring people to a useful way of life. But, as much as it grieves us, we're willing to quit."

Since I first mentioned the possibility of hearings into the paperwork burden, I've received countless letters saying essentially the same thing. Whatever the real intent, many people say government *seems* determined to badger and harass and smother the small businessman instead of helping him do a better job for himself and for the general economy.

So the hearings the Subcommittee has scheduled will be aimed, then, at seeking guidelines not only to cutting form pollution, not only to reducing costs by eliminating waste and duplication, but also to restoring trust, confidence and good will between the small businessman and his government.

With government's credibility so under question at this point in time, I think the last mentioned goal is fully as crucial as the first.

LOUIS R. PERINI

Mr. BROOKE. Mr. President, only rarely in this life is a person able to make his accomplishments equal his ambitions and goals. I have been privileged to know such a man: His name is Louis Robert Perini.

I knew Lou Perini for many years. We shared a love of sports and a love of the Nation and the Commonwealth of Massachusetts. And we shared a friendship which will be remembered and revered.

It was thus with particular sadness that I learned of the passing of this dear friend on April 16.

But Lou Perini's legacy is an enduring one. How many other men have ever been privileged to leave behind such enduring monuments as the Golden Gateway Center in San Francisco; the Prudential Tower in Boston; the locks and dams for the St. Lawrence Seaway; the hydroelectric power facilities for the city of Quebec; the tunnels at Niagara Falls, Ontario, and the Amistad Dam on the Rio Grande in Texas?

Yet, these are only a few of Lou Perini's many thousands of accomplishments. Lou Perini began his construction work at the age of 16, carrying water for his father's workmen. For 50 years he has been housing people, constructing offices, building better highways and safer factories, all over the United States, South America, Australia, and the Middle East.

In his spare time, he served as president of the Braves National League Baseball Club, selling that club to Milwaukee in 1953, and buying back part interest when they moved to Atlanta many years later. He served as a trustee for the Jimmy Fund for cancer research, and received honorary degrees from Boston College, Holy Cross, St. Anselm's College in New Hampshire, and Lesley College in Boston. He also served as a fellow of Brandeis University, and was cited by the National Conference of Christians and Jews for his promotion of racial and religious understanding.

Yet, not all of Lou's accomplishments have been in the public eye. Perhaps his greatest accomplishment is a very personal one: He has given the world seven fine sons and daughters, and 38 lovely grandchlidren.

Lou Perini left his mark on the land he loved. A man of such stature will be sorely missed, and I extend to his wife Florence, his childen, his grandchildren and friends, my sincerest sympathy and my deepest respects.

COUNCIL OF SOCIAL ADVISERS

Mr. MONDALE. Mr. President, a former Secretary of Health, Education, and Welfare, Wilbur J. Cohen, recently delivered a very stimulating address before a colloquium of the National Bureau of Economic Research. Secretary Cohen is now dean of the School of Education at the University of Michigan.

His address "The Quality of Life and Social Indicators" argues very persuasively for the need to enact legislation to help us to spend our always-limited Federal resources more wisely. I am pleased that Mr. Cohen believes that my proposed Full Opportunity and National Goals and Priorities Act (S. 5) would make an important contribution.

Secretary Cohen is but one of a growing number of officials of the previous administration who now endorse this legislation. I feel sure that officials of the current administration may well see the need for such action after they leave office.

Mr. Cohen's speech is a wide-ranging discourse on a number of significant changes in social programs that lie ahead. He talks about new approaches to leisure, continuing education for adults, the need for greater expansion in early childhood programs, the obsolescence of the property tax, guaranteed income, and ethical issues which require decision by society. In particular, he mentions the question of terminal illness and how society needs to determine how to approach decisions relating to the prolongation of life. I am happy to say that my bill to create a National Advisory Commission on Health Science and Society, Senate Joint Resolution 75, which was passed by the Senate last December, would provide an approach toward dealing with such complex questions in the field of medicine.

Mr. President, I ask unanimous consent that this excellent speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE QUALITY OF LIFE AND SOCIAL INDICATORS

(By Wilbur J. Cohen)

It seems to distress some past Secretaries of the Department of Health, Education and Welfare that I really did enjoy the job. As a matter of fact, on several occasions. I said

I would have been glad to pay the government for giving me the opportunity to have had that particular experience. Now I have returned to university life, which I also greatly appreciate. I would rank as the two best jobs in the country being a professor and being Secretary of HEW, in that order. Both offer many opportunities to use time in a challenging way.

I am going to present here some thoughts which have developed from these two experiences of mine. I will stress some of the potential research opportunities and developments in the fields that I am particularly interested in at the present time. I am presenting some observations on current policy as well as some observations on what might be done in the development and research of policy and programs in the social arena—in eradicating poverty, improving education, and upgrading the quality of life in general. First, let me indicate three or four developments that have occurred during recent years; throughout this discussion I will be referring to them.

A LOOK AT SOME SOCIAL STATISTICS

First, rather strikingly, the amount being expended on health, education, and welfare in the nation from all sources, private and public, has very significantly increased during the last twenty years. The amount that was expended in 1950 for all health, education and welfare, from all sources, private and public, was about 13½ percent of the GNP. Last year it was 21.6 percent and was still going up. Therefore, growth in these expenditures in the past period has been very significant, and I would prophesy, for the coming decade or two, that expenditures for health, education, and welfare will continue to rise, and will approximate, by the end of the decade, something like 25 percent of the GNP.

Secondly, until May, 1971, when we received the information about the increase in the number of people in poverty, one of the most significant developments in the last ten years was the decline in the extent of poverty in the United States as defined by the Census report. We could discuss for several days what the level of poverty means—that is not part of my discussion here because that is another whole area. It is a significant fact that the number of people in poverty has declined roughly from forty million in 1959 to twenty-five million in 1970; a net decrease of about fifteen million and a drop in the population relatively from 22 percent to 12 percent—one of the most significant developments which has not been widely discussed or analyzed.

A third interesting development that has occured in recent years is a decline in the infant mortality rate. Although the United States is still about fourteenth in rank among the major nations in the world in its infant mortality rate—that is, there are another thirteen countries which have a lower infant mortality rate—nevertheless it is true that our mortality rate has been declining and so has that of other countries.

SOME FACTORS IN THE APPRAISAL OF SOCIAL CONDITIONS

Before going on to develop my topic in some detail, I should express, of course, a reservation which many of us have, and I think is increasingly of importance. I am sure many economists and, more particluarly, sociologists and psychologists will agree with me that in the last five years there is wider and wider agreement that the GNP no longer is an expression, as it was when I was younger, of the signs of economic vitality and of progress and improvement in the quality of life.

I am a product of that period when one might say, "Gee, when the day comes that we have a GNP of one thousand billion dollars a year, the millenium will have arrived, and we will have enough money for health and education and welfare and we shall not have any pollution, and we shall not have any other problems." Well, the one thousand billion dollar GNP has arrived, and it is obvious that we have more problems than when we had a GNP of seven hundred fifty billion. Now, that needs some further analysis and comment, but I believe that during these last five years a tremendous change has occurred which has a significant impact on economic as well as social science research generally.

That change involves shifting from simply economic analysis and quantitative macroeconomic aspects to what I prefer to call a quality-of-life analysis. Of course, the quality of life is not as easy to measure as the GNP, despite the fact that we have been really developing the concept of the GNP for only forty years or so. I am sure it may take at least another one hundred or two hundred years to perfect concepts of the quality of life that are going to be generally acceptable. The quality of life is a much more subjective concept than the GNP, but it seems to me to be an even more important index.

THE NATION NEEDS A "SOCIAL REPORT"

Now let me jump ahead of my analysis to say that at the end of this discussion I am going to propose a report similar to our annual Economic Report. Just as the Council of Economic Advisers produces its estimates of the GNP and gets into arguments as to whether it is $1,056 billion or $1,065 billion, or whether a 9 percent increase in this year can be achieved or not, I would like to see us estimate the quality of life. I propose that we have a Council of Social Advisers and that the executive branch of the government, in cooperation with the legislative branch, produce a social report each year that attempts to analyze the qualiy of life. Of course, some economic factors would have to be taken into account, but factors other than economic factors would have to be taken into account, but factors other than economic factors would also be given weight. And for those of you who are not aware of the fact that such a report, in a very tentative way was produced at the end of 1968, Dr. Alice Rivlin was in charge of the development of that report, a document called "Toward a Social Report," which was presented to Congress and then neglected by the Nixon Administration and forgotten.

I would also propose that, just as we have a Joint Committee on the Economic Report, which holds hearings each year, there be a Joint Committee on the Social Report, and that its responsibility would be to hold hearings in Congress and throughout the country on the quality of American life and the determination of policy issues and social indicators. It would be desirable to have a public debate on priorities and allocations of scarce resources in the whole field that makes up the quality of life. If we are going to do anything like that, it really means that the whole character of social science research, both in the government and, of course, in the universities, ought to be not only modified, but accelerated in a different direction.

What are some things that perhaps ought to be examined in connection with quality of life? In this discussion I will only consider five or six examples.

THE CONCEPTS OF WORK AND LEISURE HAVE CHANGED

One question regarding the quality of life is, "What is work and what is leisure?" I would say that during my lifetime there has evolved a vast change in definitions of what is work and what is leisure. I asked my father how many hours a week he worked when he was a young man, and he said eighty. I have not asked my children that, but I think quite frankly my twenty-two year old son does not know the difference between work and leisure. I think he defines leisure as work and work as leisure, because what he must do is what he wants to do. Perhaps this is true of only a small portion of our present young people I see on the campuses. Nevertheless, with the tremendous reduction in the hours of work and with the relative affluence of a large number of people, the whole question of leisure for a certain number of people is becoming central to their lives.

Let me illustrate this issue in another way: I talked to my father. When I asked him what was his conception of work and leisure over a lifetime, he replied, "Well, you work from the time you're fourteen to the time you're sixty and you work seven days a week, fifty-two weeks a year, and then when you get to be sixty you retire, and then you don't do anything." He is eighty-four now, and he hasn't followed that example, but that was his conception of life, work, and leisure: concentrate all your work into the period when you are able-bodied, and concentrate all your leisure into the period after you retire.

There has been a vast transformation in that whole attitude. I could put it this way: Now, people are taking their leisure during their entire lifetime; some people enjoy leisure a pretty good 90 to 95 percent of the time. The whole development of collective bargaining, fringe benefits, holidays, indicate this too. The recent act by Congress to change the series of holidays to Mondays is another manifestation of what will eventually come to be, in my opinion, four- and five-day holiday weekends. Long holiday weekends will probably come about during this coming decade or two as part of the whole reduction in the hours of work.

EXPANSION OF CONTINUING EDUCATION

I might also point out that there are several collective bargaining contracts which provide that the workers after a certain age, and after a certain period of work, get sixteen weeks off. Of course, in sixteen weeks a person could go back to a university and take one term of college credits, if he scheduled it correctly. The possibilities of adult and community education in connection with that kind of sabbatical is not to be just written off as an idle dream. I would even put it this way: I would predict that by 1985 or so we are going to have large numbers of employees, blue collar employees, who will have substantial periods off in each year in which they could go back to universities or community colleges to get more education.

What will they be educated for? I imagine there will arise the whole implication of second careers. It is entirely likely, with the vastness of technological and scientific change, that a person's occupation between twenty-five and forty-five will not be his occupation between forty-five and sixty. It is very likely that people may have one, two, or three occupations during their working lifetime. How do you retrain them? Where do they go? What is to be done? What is the role of our educational institutions, and of the employer and the union in this retraining process, especially if by that time we have the thirty-hour week, and the eleven-month year for work, with the sabbatical every five years?

I might add, there also is the possibility that we may have, as in earlier times, a large number of people whose place of work and home is exactly the same locality. Today you can find many people—husband and wife, father and son—who are running an establishment, whether it is an automobile repair place or a little restaurant or some other enterprise in which they live and work exactly in the same immediate vicinity. Whether this trend will ever become more widespread, I do not know, but it is also connected with other trends that are at work—the decentralization of industry and the concern of people about the time that is involved in travel to and from work.

IS COMMUTING WORTH THE TIME?

And here is another area which I believe is worthy of exploration—the whole problem of the time it takes to go to and from work.

I believe that in the near future, because of the tremendous traffic congestion and the lack of adequate planning of our highways and transportation system, we are going to see some very significant changes. There will be more people who do not want to spend one hour going to work and one hour coming back from work. They will avoid the unsafe conditions of driving, the necessity of having two or three automobiles, and the overall exhaustion of commuting to work.

To reduce commuting time from residential areas, many industries and businesses have decentralized. One sees that, of course, in the suburban shopping centers and parking areas throughout our country, which represent the attempt to bring the developments of American industry, business and commerce closer to the consumer. These places of business enable the mother to drop the children off at school, go shopping in the supermarket, and get back home in a reasonable period of time. If we could only work it out so that the father would not have to go twenty miles or forty miles to work, that would be another saving.

NEW FACTORS WILL INFLUENCE JOB SELECTION

What I am saying is that, concerning the quality of life, we are probably going to reach a point where people in determining their job opportunities are going to consider factors other than simply the income. We know that with collective bargaining, with continued increase in the GNP, and so on, there are going to be more and more acceptable jobs for people at certain incomes. The deciding element is not going to be so much the wage rate in 1985 as it is going to be the many other factors surrounding the employment; such as, whether an employed mother can come home at 3:00 o'clock to meet her children, whether daddy can come home in the middle of the day, and where he can park.

I believe that these factors will all have very important effects in the future, as income rises and employment conditions revolutionize. This is not exactly a wonderful time to discuss these issues when unemployment this year is over 6 percent, but I assume that President Nixon is going to try to rectify that before September of 1972, for obvious purposes. Therefore, this discussion which is related to the next decade or two overlooks that rather important current point. I believe that these long-term factors surrounding employment conditions are going to play an important part in the quality of life.

EARLY CHILDHOOD EDUCATION WILL EXPAND

Another significant thing that I think is going to happen during this decade is a growing acceptance for early childhood education. This acceptance represents a confluence of ideas in which people all agree substantially on the same thing for rather different reasons. I think that this is going to have very serious economic, social, familial and other consequences which are well worth studying. We know that the employment of women has been rising steadily over the last twenty, thirty, forty years, and appreciably since World War II, and every extrapolation of this social tendency seems to indicate a continued rise. It is, therefore, interesting that mothers are very much in favor of day care and nursery schools for their children since they voluntarily wish to go to work. It so happens, if we look at the United States Congress, they are enthusiastically for it too because they would like the women on welfare to go to work and they would, therefore, be very interested in providing day care facilities for the nearly one and a half million mothers who now have children on welfare. I believe there are eight or nine million children on welfare. Any kind of day care for a million, two million, three million of these children is not exactly a small undertaking during the next few years.

EARLY CHILDHOOD YEARS ARE CRUCIAL IN DEVELOPMENT

But, of course, the third factor underlying this movement is even more important and underscores the need for more widespread preschool education. Child psychologists, led by Jean Piaget and many others, have been showing increased concern, during the last few years, about the psychological and motivational formation of children in the very earliest years. They emphasize reliance upon education geared to these formative years. A number of people say that 60 to 80 percent of the creativity of a child is formed by the time he is six or eight years of age, and a major proportion of his motivational patterns are formed by this time. If you think that you are over the hill when you are thirty, they demonstrate pretty convincingly that you are over the hill when you are age six, at the point where you enter public school.

There are roughly about 3.7 million children in each age group at the present time under the age of six, and if we want to have an early childhood program that costs a thousand dollars per child or, what I think is a little closer to desirability, closer to two thousand dollars per child, I ask you to make your own computation per million children of how much money it would be necessary to spend if our national priorities were directed in that area. I think they will be.

PREPARATION IS NEEDED TO PLAN PRESCHOOL FACILITIES

What would be some of the impact of this? Assume for the moment that during the decade of the seventies, each year we would enroll an extra one million children in early childhood education programs, so that by the end of the decade all children from two to five would be covered. It would not only have a tremendous impact on potential expenditure figures, but the demand for teachers in this area would shift immediately from the surplus that exists at the present time to a vast shortage. The desirable ratio of teachers to students in the early childhood period is more like one to five, as compared with one to twenty-five and one to thirty in the elementary and secondary school systems. What I am saying is that the tremendous teacher surplus which now exists could overnight not only be transformed into a vast teacher shortage, but it might also, in my opinion, result in further increases in the price of labor in the elementary and secondary teaching area, which would further affect the problem of financing education.

NEW TAXES MUST FINANCE EDUCATION

This brings me quite logically to my next point. I do not believe that expanded preschool education along with other changes in the educational system can be implemented as long as our elementary and secondary education systems depend largely on the residential property tax. Millages for local education are being defeated now much more extensively than any other time in American history. And property tax millages are going down to defeat not merely in poor areas, but in middle-income and upper-income areas.

I happen to be one of those who has been criticized for urging reliance on payroll taxes for financing social security. But I would like to advise my economist colleagues that, if they would only spend half the time attacking the property tax that they spend attacking the payroll taxes, we would be further along in our improvements of education. Through the payroll tax we have obtained vast improvements in social security and health, which the economists would not have obtained for us if they had relied on general revenue financing.

But I do not believe that we can so largely rely in the nineteen seventies on the property tax. Eighteen thousand school districts in this country are relying in various degrees upon the property tax, and I would think that there is no question that we have to shift over in this decade to a greater degree of federal financing and state financing of elementary and secondary education.

If you want to go in the direction of incorporating two, three, or four million more children in the two-to-five age group into the educational system, if this is to be at a relatively much higher per pupil cost than for elementary or secondary school, because of a much higher ratio of teachers to students, it is obvious that we are talking about an expenditure in the vicinity of five, ten, fifteen, or twenty billion dollars more per year, at present prices in the educational system. All of which could not possibly be financed through the property tax, which, I need not say, is the most undynamic, unresponsive, unreceptive kind of a tax for anything like a dynamic system of education. I believe, therefore, that financing is an area for particular concern for economists in dealing with the quality of life. If we want to make very important improvements all the way from early childhood education through elementary, secondary, higher, and adult community education, we must understand that we are not going to get the extra ten, twenty or thirty billion dollars more per year needed at present prices, ten or fifteen or twenty years from now by such a large reliance on the property tax. That type of financing would mean further deterioration in the whole educational system.

WHY ARE MILLAGES DEFEATED?

Why are the millages being defeated more than ever before? I have one perception of it from my own experience in trying to get a millage passed. Whenever I spoke to people who were over the age of fifty-five or sixty, they would say, "Well, I'm going to be on a pension. If the millage goes up, I don't have any way to get the increased income. Now you younger fellows, if your costs go up, you can go out on strike and get an increase, but I can't. Therefore, I'm going to vote against the millage. It's up to you younger people to find a way to finance education. I've paid my education taxes for the last thirty or forty years. Now it's your turn."

I have noticed more and more, that as the proportion of our aged population increases, the resistance to the residential property tax has increased. Since the proportion and number of aged is going to increase continually during the next decade or two, I prophesy even greater resistance to the property tax during this coming decade than we have seen during the last.

IS THERE A GENERATION GAP IN FINANCING EDUCATION?

This brings me to another observation. There is a conflict, or a generation gap, occurring in connection with financing higher education. Student unrest in recent years has helped cause this situation. It's not hard to understand that when an educator goes to a taxpayer and says, "Look, we want to appropriate more money for our university," the response very likely will be, "More money for what? To burn down buildings? To break windows? For students to riot when they should be studying?"

Even with the past quiet year, I would argue that we are going to have a very difficult time during this next ten-year period getting more money for higher education until we resolve some of the tensions that exist in the educational system vis-a-vis the young people and the old. There is no question in my mind that the lawmakers do not feel great enthusiasm for the people who are marching, for the people who are demonstrating. Whether or not such demonstrations lead to changes in our social system, I do not think they will lead immediately to greatly increased financial appropriations for the universities.

There is another aspect to this generation gap which is worthy of a comprehensive study by someone. The last studies I have seen on the proportion of people over age fifty-five who vote in elections indicate that around 55 to 60 percent vote. The last analysis I have seen of participation by people eighteen to twenty-four who can vote is around 20 percent. Well, I shall leave you to draw your own conclusions about the impact on legislators who, after all, provide the money. I think there needs to be some very careful attention paid to the research in voting behavior in relation to these educational expenditures and other important elements of educational policy, if we expect in the coming years to be able to get more money into the educational field.

THE CREDENTIAL SOCIETY FACES A CHALLENGE

That brings me to another current problem. The various studies that have been made by distinguished people about investments in human capital, about the value of education in terms of lifetime earnings, indicated that investment in education produced a very, very significant contribution to our economy and to our public policy discussion. But, in the last few years, I have sensed a whole new development in which there is grave questioning as to whether educational attainment is an index of either intelligence, vocational ability, status, prestige, or even income in our society. I notice more and more frequently the attacks on the credential society.

What does a Ph.D. mean? What does an M.A. mean? What does a B.A. mean? There are more and more people who have doubts about degrees. I believe if we interviewed the thousands of Ph.D.'s in physics and engineering who have recently been terminated by Northwest, we would not find a very enthusiastic response about the value of their degrees over the long period.

I believe that this whole question of the level of educational attainment in relation to both income and satisfaction as far as lifetime objectives about the quality of life are concerned, will need basic re-examination. There are more and more jobs today in which, despite the trend toward credentialism, future college credentials will no longer be recognized as the basis for advancement. I can point out employers who do not want to employ college graduates on the basis of what has happened in the last few years. They would rather take a high school graduate and put him into an in-service training program in the company than have him study four years in Madison or Ann Arbor. They believe that they are better able to produce the results they want than Ann Arbor, or Columbia, or Berkeley.

Many of my colleagues question the validity of the credential society, in which the prestige and status of certain degrees has been equated with a certain level of income and a certain status in society. It appears that this type of assurance of status is rapidly deteriorating. Whether the trend will continue during the decades of the seventies and eighties I only offer as a further question for exploration.

MORE CHOICES WILL ARISE IN EDUCATION

In any case, the movement away from credentialism probably means that we are going to have more different kinds of options for education in the future than we have had in the past. This alone will mean a whole gamut of different kinds of analyses and different kinds of programs. Suppose we were to have an educational system in which each community offered five different kinds of elementary education, and every parent could choose which one he wanted. I do believe that more options in education and in health and welfare should be offered to people. But suppose, just for the sake of discussion, that we were going to have four different patterns of elementary education beginning at age one: a Montessori School in the community, an open-walled school with many ethnic groups, a school that was very highly structured, and one that was completely experimental. I could give you other variations. There are obviously parents who want their children to have nontraditional experiences. These are not largely available at the present time. Now suppose in this next decade we did want more options in the educational system. What would be the cost implications, what would be the organization implications, what would be the problem with regard to training teachers? We would have to turn the twelve hundred schools of education in the United States upside down to take advantage of that kind of a new restructuring in our eduactional system. Yet the idea is not really an impossible one.

ONE TYPE OF SCHOOL IS NOT THE BEST FOR EVERYONE

If we are an affluent society and if we respect variations in human personality and different aspirations, why do we not have different kinds of schools? The concept of the monolithic public democratic school has served an important purpose in drawing together the citizens of this country into the American melting pot, but a monolithic structure is very unreal in the kind of society that we have now. I would offer the suggestion that some exploration of options in the school system are well worth study and well might be related to his whole quesiton of the quality of life, which is really directed, in my opinion, toward giving people more options about the things they think are important: more options in their jobs, more options in their vocations, more options in their educational systems. That seems to me to be important if we are going to be able to deal with these kinds of quality-of-life questions.

WE MUST ELIMINATE POVERTY

I believe the most important social and economic issue we face during this decade is the question of eliminating poverty. Every single question, economic, social, and political, that I touch upon in my professional and personal life always comes back to the issue of poverty in this country. I do not care if we are talking about the disadvantaged in the educational system, the access to health services for the disadvantaged, infant mortality, delinquency, or some other problem; we cannot deal effectively with those problems until once and for all we eliminate poverty from this country. No matter how we try to deal with the other problems, we are always faced with the situation that if that person had money and that person were able to satisfy himself with a certain minimum standard of life and education and housing, his other problems would be able to be dealt with in a much more effective way. While the problems of poverty are interlinked with social responsibilities for housing, access to good health and health insurance, and educational organization, it is a terrible shame in our country to put the burdens of having an inadequate health system on doctors alone, or an inadequate educational system on educators alone, or bad housing on HUD alone, when the interrelated factor of inadequate income is so important.

Therefore, I believe that coming to grips with the issue of poverty and the national income guarantee and these other things we have discussed is the number one priority of the decade of the seventies. That is why, I myself, with all my reservations about President Nixon's welfare reform, believe that this is the beginning of the most significant development of the decade of the seventies, the beginning of a new kind of policy with regard to an income guarantee.

Having said that, I would like to say that there are very important limitations. The biggest attack on poverty in this country outside of the work, free enterprise, wage, price, profit system is, of course, the social security program. If the social security program were not in effect today, there would be eleven million more people below the poverty line than the twenty-five million that I indicated earlier in this talk. The OEO program, the antipoverty program for 1964, has probably taken three people out of poverty since 1964. While I support vigorously things like legal aid to the poor and other OEO components, as a measure of reducing poverty in the economic sense, it has been ineffective. As a matter of fact, I could make an argument that it probably put more people in poverty than it took out.

The social security program is not only our biggest antipoverty program, it was also the first income guarantee program. What is social security if not a national guaranteed income program for people in the categories specified in the law. Granted, it is not universal. Granted, it is not for everybody, but it is an income guarantee. Congress says in the law, when a person reaches age sixty-five, or sixty-two or sixty under certain conditions, he gets this amount of income and if the administrator does not give it to the applicant he can go to court and get a court order requiring the Social Security Administrator to pay that money. Now, if that is not an income guarantee, I would like to know what is. What I am saying is that, after thirty-five years, we are on the verge of extending that principle outward and downward in such a way that I think by the end of this decade we are going to have a program in this country of income guarantee for everyone, and that it will be very consequential and meaningful. This will probably require an additional transfer of something above twenty billion dollars a year at present prices. I do not think the program is going to start at that level. The Welfare Reform Bill starts at about a five billion dollar level, maybe a little bit less if you subtract some of the other costs that are really presentday costs. But let us say, for the sake of argument, it is only four billion dollars. Well, nevertheless that is a start. It is a down payment, and I am willing to take the down payment if there is some indication of a commitment to moving in that direction this decade. I believe this will happen.

WHAT EXPENDITURES WOULD FOLLOW A GUARANTEED INCOME PROGRAM?

Of course, if we get to the point where we are putting another ten, or fifteen, or twenty billion dollars in income redistribution, it will have a very consequential effect of increasing the proportion of the GNP committed to these programs. I think there will be much interest in how that money is used. If you want to start your investigation now, I can tell you what purchases of things like eyeglasses for children will increase. There is no question in my mind that, when you give more money to women with children, they are going to buy eyeglasses for their children as soon as they are needed, even at a very young age. There will probably be somewhat more milk consumed than before, as indicated by a Canadian study. There will probably be more physician services for children. I could describe a series of probable changes and expenditures that would be related to this increased income. I think that would be a very important area for analysis.

WHAT WORK INCENTIVES ARE NEEDED FOR A GUARANTEED INCOME PROGRAM?

But the most important question which still needs to be answered is, "What kind of incentives are needed to induce employable people to work if they participate in an income guarantee program?" That was not the large issue in social security because most of the people in social security were unemployables; the aged, the disabled, and death cases. Now in relation to employable people, the whole question of incentives needs to be developed. In the social security amendments of 1967, there was a work incentive of disregarding the first thirty dollars a month for welfare recipients plus one third of any additional amount above that. Now, are those the right work incentives? I wonder myself.

I do not think there has really been any good study yet on what the impact of work incentives really is in different parts of the country; on male heads of families, on female heads of families with young children, with older children, by age, by race, by ethnic group. Many older people have some idea that, when you give a person a work incentive of 50 per cent, that will be sufficient. Maybe it will, maybe it will not. I think that we need many more studies on the interrelationship of work incentives to level of payments and the social characteristics of various groups before we make a final determination as economists or citizens as to what might happen.

WE ARE UNDERGOING A PERVASIVE SOCIAL REVOLUTION

What I have tried to say is that we are undergoing a revolution. But I use the word revolution in a deep and pervasive sense. I do not mean it in the sense of violence, and I do not mean it in the sense of militancy, and I do not mean it in the sense of confrontation. I believe that we are in a period of time when values, objectives, goals, insights, interpersonal relations, institutional factors, are undergoing a great deal of stress and strain, and people are changing their attitudes toward all sorts of things that previously were taken as an obvious good.

Just take the issue of the nonreturnable bottle. A big controversy can start on that kind of a question; the nonreturnable bottle with all its ecological and environmental aspects, with its effects on marketing, distribution, and cost, and with its effects on public sanitation, and so on. A little bottle can kindle a six hour exploration on the very values of human life. Do you want to live with returnable or nonreturnable bottles? The ramifications are simply terrific. And need I mention things like water pollution, air pollution, parking and second cars, and freeways? It is easy to see we are in a revolution of values and a revolution of ideas.

I think, therefore, economists, must begin to change the area and emphasis of their research from the macroeconomic, from large-scale quantitative studies, to what I call the whole area of the quality of life. The quality of life, an esoteric, ephemeral, subjective kind of a concept, but nevertheless one that is very real. People over thirty especially notice the impact of the concept when young people start right off and say that all traditional values are wrong. What do you say? I believe that such questions as pure air, pure water, relationships with minority groups, the kinds of schools for children and objectives for leisure time activity are extremely important.

ETHICAL, MORAL AND QUALITATIVE ISSUES WILL BESET US

I will take one more example to show how complicated it is to deal with the quality of life. Take terminal illness of you want to take a really complex issue. We are getting at a point in our economic ability, our medical science, and our social consciousness where it is possible to lengthen for a day or a week or a month, on the average, the life of every person who is about to die. Should we do that?

Consider the allocation of scarce resources. Consider the quality of life. Consider our access to medical care. One and three quarter million people die every year. Let us say that for a million of them, just for the sake of argument, we could continue the life of each one for a week on the average, which would mean a day for some and a year for others. Should we do it? Should we set up any guidelines? Is there any way to appraise the situation? Let us say that the effort required 10 percent of all our medical care resources and that, if we did it, we could not devote that 10 percent to prenatal and postnatal care. Is that the right social decision to make? Who should make the decision, if there was going to be a conscious decision? A decision is made to some extent now, willy-nilly, by parents, by children, by doctors, by hospitals: one could tabulate the quantitative results of all these individual decisions and do some research.

I do not have any answer to this question. It is a highly involved moral, ethical, medical, financial, organizational issue of vast implication. But if your concept about quality of life includes giving everybody a chance to live, that is one thing. If your concept includes that people ought to be able to decide when they are going to terminate their lives and then write down on a piece of paper, "When I get cancer and somebody under some accurate method determines that it is fatal, then stop giving me oxygen and so on each day." It could be worked out, I presume. I do not know how it would work. But these ethical, moral, qualitative issues are going to beset us even more in the next ten or twenty years than ever before in the history of the world. That is one of the reasons why I so urgently recommend that we begin to shift our emphasis from the Council of Economic Advisers to the Council of Social Advisers, from the Economic Report to the Social Report, from the Joint Committee on the Economic Report to the Joint Committee on the Social Report, thus becoming a nation that is beginning to investigate, to study and be concerned about these social problems.

NORTH VIETNAM THE AGGRESSOR IN SOUTH VIETNAM

Mr. TOWER. Mr. President, my admiration for President Nixon's firmness in the pursuit of peace in Southeast Asia is matched by my mystification at the position adopted by the Senator from South Dakota (Mr. McGOVERN).

It is, after all, North Vietnam which is the aggressor in South Vietnam. There are 12 North Vietnamese divisions involved in battles outside their own territory and not a single ARVN soldier is in North Vietnam. I would hope that Senator McGOVERN and all other Americans would condemn Hanoi for its aggression, rather than condemning their own Government for lending support to the South Vietnamese Army in providing for its own defense. Constant efforts to undercut the President while he is attempting to withdraw American soldiers safely from a war he inherited, only serve to bolster the enemy's morale.

North Vietnam is not going to achieve its goal of assuming control of South Vietnam either on the battlefield or at the negotiating table. I hope they do not achieve the goal, instead, by succeeding to divide the Congress and the American people.

President Nixon has made it clear to Hanoi and to the supporters of Hanoi that there will be no reward for Communist aggression anywhere in the world. His willingness to adopt this position, and the willingness of the American people to support him in this position, are the strongest guarantees of eventual peace in this world.

If Communist aggression is rewarded in Vietnam, it will be pursued elsewhere. But if it is stopped in Vietnam, it will be discouraged everywhere.

Those who would surrender in Vietnam to achieve a short-term peace now, would risk wider war as a long-run reality.

The President recognizes this and he has given Gen. Creighton Abrams the difficult task of continuing U.S. troop withdrawals safely, of protecting those Americans which remain, and of assisting the South Vietnamese in resisting the Communist invasion. I have confidence in the President and I have confidence in General Abrams. I hope the American people and Congress will back the President and back Abe.

BARBERSHOP QUARTET IN TUNE WITH AMERICA

Mr. PROXMIRE. Mr. President, recently I received a letter reacquainting me with a style of music that for generations has played to toe-tapping audiences throughout America. The barbershop quartet is truly an important part of America's musical heritage, for it is one of only three forms of music native to America. The faithful fans of barbershop harmony have carried on through the years and today this bright and happy music is having an energetic revival. The letter I received came from the Society for the Preservation and Encouragement of Barbershop Quartet Singing in America. I would like to quote from part of that letter because it gives evidence of the great spirit and fraternal concern which is an integral part of this international society of 33,000 members and 700 chapters.

Mr. Barrie Best, executive director of the society, explained the activities of this musical association when he wrote in this way:

> In addition to perpetuating our style of music, our chapters provide wholesome family entertainment for millions of persons each year in their various communities and assist in the raising of hundreds of thousands of dollars annually for philanthropic and community projects. One example is our Society's unified service project in support of the Institute of Logopedics in Wichita, Kansas, which is the world's largest center for communicative disorders and habilitation of the multi-handicapped. Since adopting the Institute in 1964, the Society has raised, through personal donations from members and special concerts, more than $800,000, and expects to surpass the million dollar mark this year. This money has been used to aid multi-handicapped children who need financial assistance, as well as for research projects in the use of music in assisting the multi-handicapped to become normal communicative citizens.

Mr. President, it is only fitting that we salute this musical association, for it was in the month of April, 34 years ago, that 26 men gathered for the first barbershop songfest in Tulsa, Okla. Since that April 11 in 1938 the organization has grown into an American institution, and its birthday should be noted by all who appreciate merry music. I think all of us will agree that this is the kind of joyful, talented, yet public spirited organization in which all Americans can take pride. With the discord in the world today, it is a pleasure to rediscover the harmony of the barbershop quartet.

THE SACRED CONCERT SERIES

Mr. BROOKE. Mr. President, I am always proud to salute community initiative and accomplishment.

The citizens of my State are lively and creative people, and they deserve to be praised for many things. But truly, one of the most ambitious undertakings ever to be brought to my attention has recently taken place in Hamilton, Mass.

A number of townspeople from Hamilton, Manchester, and Beverly Farms, Mass., conceived the idea several years ago of presenting an annual Sacred Concert Series of musical performances. They did not limit themselves to traditional numbers. Rather, they began their series in November 1970 with a performance of Joseph Haydn's "Missa in Tempore Belli"—"Mass in Time of War"—which received resounding salutes from local reviewers and local citizens.

They followed this performance with Mozart's "Requiem," performed in the spring of 1971. And this spring they elected to perform one of the most difficult of all musical compositions, Otto Nicolai's "Te Deum," a piece which has only been sung once before in the United States.

Mr. President, what makes these accomplishments unusual and heartwarming is that this group is not composed of professional musicians, but ordinary citizens—mothers, fathers, housewives, teenagers, engineers, and secretaries. For 10 weeks they met every Saturday night and practiced their music.

These citizens took time out of their own busy lives to perfect a piece of music which they hoped would brighten their neighbor's day and make their communities proud.

I for one am proud. I love music and I am proud to represent people who have the ability to set aside their own personal problems and those of the rest of the world for a few brief hours, and sing solely for someone else's enjoyment.

I am proud to represent the merchants who supported them in their efforts, despite their own economic problems.

It has always been this type of community effort which has been at the core of this country's greatness. I find these people exemplary, and hope they will keep right on singing.

ACCESS TO THE ARTS AND HUMANITIES

Mr. TOWER. Mr. President, I have always had a deep and abiding interest in the arts and humanities, on a personal level, and a belief in their importance to the Nation as a whole. On a level equal with science and technology, the Nation should move to encourage the skills of creative imagination in the production of aesthetic objects, and to give impetus to the branches of learning primarily of a cultural character. The President has recently stated that—

> We could be the richest nation in the world, the most powerful nation in the world, the freest nation in the world, but only if the arts are alive and flourishing can we experience the true meaning of freedom and know the full glory of the spirit.

These are sentiments with which I heartily concur.

Congress, working toward this goal, established the National Foundation on the Arts and Humanities in 1965. The Endowment's role is to aid and encourage the arts and humanities in America. Its primary means of accomplishing this goal is by making grants to individuals and organizations in the various fields of the arts and humanities. Most grants to organizations must be matched with non-Federal funds. The Endowment will also match donations given to them. And last, but certainly not least, there is a separate program in the National Endowment for the Arts which provides direct grants to State art councils. This concept is likewise being investigated by the National Endowment for the Humanities.

In my home State of Texas, theaters such as the Alley Theatre, in Houston, and the Dallas Theatre Center have received grants. Also, the San Antonio and El Paso Symphonies have been singled out as grant recipients. Grants have been given to such worthy projects as the bilingual theaters at Texas Tech University which tours Mexican-American areas in the Southwest. The Texas Commission on the Arts and Humanities received $75,377 in fiscal year 1971 to bring performances and exhibitions to smaller communities without normal access to major cultural centers. The National Endowment for the Humanities supports research, awards fellowships, and gives grants-in-aid to groups and individuals in the fields of language, linguistics, literature, history, jurisprudence, philosophy, archeology, comparative religion, and ethics.

In 1966, the Endowments were authorized appropriations in the amount of $10 million for national programs, $7.5 million to match unrestricted donations made to the Endowments, and $2.75 million to the individual State art agency programs—for a total of $20 million.

Under the present administration, these amounts have grown to $64,125,000 for national programs, $9 million in funds to match donations to the Endowments, and $6,875,000 for the State art agency programs, for a total of $80 million for fiscal year 1973. This shows that the budget for the Endowments has nearly quintupled the past 3 years of the Nixon administration.

I would like to add my voice to that of the President in support of the Endowment. I would like to encourage the Endowment to widen and expand State programs, especially in the humanities. I would like to see each State with a strong and locally controlled program responsive to the unique needs of the citizens of each State. Our ultimate goal should be to provide access to the arts and humanities to each citizen, regardless of financial status or proximity to metropolitan centers.

NUTRITION AND THE PREGNANT ADOLESCENT

Mr. PERCY. Mr. President, many Senators are aware of the American Medical Association's Congress on the Quality of Life which was held in Chicago last month. The Congress, attended by over 1,000 participants from a number of professional fields, focused on improving the health and general quality of life of youngsters from conception to adulthood.

Prior to the convening of the Congress, a group of specialists from several fields and governmental agencies met to prepare recommendations for the Congress for the improvement of the health and nutrition of the adolescent parent. These recommendations were then adopted by the Congress.

No group in our population is as vulnerable to the ravages of ill-health and malnutrition as the pregnant adolescent and her offspring. Good nutrition is absolutely essential to the normal prenatal growth of the fetus and its future mental and physiological development. Good nutrition is absolutely essential to the health and well-being of the teenage mother and to her capacity for a full life.

I think the evidence is overwhelming that we are not presently dealing adequately with the problems of this group. We must do a better job of coordinating and delivering a variety of supportive social services to mother, child, and family unit.

I am pleased that a small group of participants from the working group which met in Chicago will convene here in Washington on Monday, May 22 to plan an action program to implement their recommendations.

I know they will have the support of myself and the other members of the Select Committee on Nutrition and Human Needs, as well as of all other Senators, in their endeavor.

I ask unanimous consent that the recommendations of the working group be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Recommendations of the Working Group for the Improvement of Health and Nutrition of the Adolescent Parent, March 22, 1972

The critical importance of the adolescent period as a developmental crossroads for mother, infant and family has made this the predominant emphasis of an interagency group over the last several months. Representing national as well as regional representatives from government, private agencies and industry, the group has begun to define sources of funding, methods of obtaining and coordinating support, extending service and coordinating efforts. The following brief recommendation is offered to the Quality of Life groups for consideration, with the understanding that this is simply a beginning and will be followed by more detailed resource material, analysis of existing systems and input from adolescents as well as professionals.

Working Goal: Reduction of the adverse social, emotional and physiologic impact on the individual and society resulting from adolescent pregnancy, particularly prior to seventeen years of age.

Action Plan:

I. Provide coordinated community services through established public and private programs, to every pregnant person, with appropriate follow through, including:

Comprehensive health services.

Counselling and education for family living.

Family planning.

Nutritional services.

II. Action agencies will include coordination of all public and private agencies and institutions which have responsibility or potential service to adolescents, including:

Public agencies (federal) such as HEW, including Food and Drug Administration, Health Services and Mental Health Administration, Office of Child Development, National Institutes of Health, Office of Education, Social and Rehabilitation Services, Social Security Administration and appropriate task forces, committees, etc., Departments of Agriculture, Housing and Urban Development, Justice and Labor.

Private agencies such as American College of Obstetrics and Gynecology, American Academy of Dentistry Children, American Academy of Pediatrics, American School Health Association, American Dental Association, American Public Health Association, Community Pediatric Society, Nutritional Foundation, and many others working with children.

III. Implementation: These goals and plans will be shared with the above groups, through the Quality of Life Congress, and, following this meeting, with:

The Maternal and Child Health Committee of the AMA for action and interaction with appropriate responsible groups.

The various committees and sections of the American Academy of Pediatrics.

The Youth Committee of the American Public Health Association.

The Community Pediatric Society.

IV. Suggested courses of action include:

1. Creation of a working group composed of members and liaison representatives from private and public agencies;

2. Support from the Health and Nutrition for Adolescent Parent working group in defining sources and methods of obtaining funding, extending services and coordinating agencies;

3. Development of adolescent training programs in health and nutrition as a career;

4. Coordination of all HEW, USDA programs to mandate adequate nutrition for 209,000 pregnant adolescents and three and one-half million pregnant adults each year;

5. Work with state and local 4C (Coordinated Community Child Care) Committee to extend concern to the adolescent years.

For the Working Group: Elizabeth Aplin, M.D., Robert Deisher, M.D., Martha Erickson, M.A., Roger Meyer, M.D., Robert Smith, Ph. D., Victoria Taylor, M.S.

PRESIDENTIAL MONARCHY

Mr. CHURCH. Mr. President, war is "the most oppressive of all kingly oppressions," wrote Abraham Lincoln to his law partner in 1848. For that reason, the framers of the Constitution "resolved—that no man should hold the power of bringing this oppression upon us," the prairie statesman added. Yet, such is the situation in America today.

This development, observed by noted Boston Globe columnist Martin F. Nolan, is most obviously demonstrated by the unfortunate way in which the President and a few close advisers isolate themselves from Congress and the American people. Nolan writes:

> President Nixon is surrounded by the Secret Service and the impressive moat of "executive privilege" protecting the chamberlains in his household from public scrutiny. An appearance from the royal balcony of a television studio may ensue, but otherwise a royal silence.

An active Congress that reasserts its power over the public purse is the only way that America can return to constitutional democracy.

I ask unanimous consent that Mr. Nolan's article, published in the Boston Globe of April 21, 1972, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOG-ENGULFED PRESIDENCY

(By Martin F. Nolan)

WASHINGTON.—The American presidency these days can only be viewed through a fog of tragedy and comedy—the Punchinello performances of Secretaries Rogers and Laird before the Senate Foreign Relations Committee, the semi-virginity of presidential aide Peter Flanigan and his holy disdain for the Senate Judiciary Committee, and the phantom-like figure of the President himself.

Mr. Nixon is, with aides Henry Kissinger and H. R. Haldemann, hidden in the mists. At a time of greatest public interest, even anxiety, in the President's motivations for bombing North Vietnam, he is inaccessible, remote, mysterious.

If America were governed by a parliamentary democracy, Mr. Nixon would himself be answering questions before Sens. Fulbright, Church et al., just as Prime Ministers Trudeau and Heath must endure a daily crucible in Ottawa and London.

But President Nixon is surrounded by the Secret Service and the impressive moat of "executive privilege" protecting the chamberlains in his household from public scrutiny. An appearance from the royal balcony of a television studio may ensue, but otherwise a royal silence.

In 1788, Alexander Hamilton wrote Federalist Paper No. 69 to put down the canard that the American President in a new Constitution could become nothing more than a British monarch.

"There is no pretence for the parallel which has been attempted between him and the king of Great Britain," Hamilton wrote. "But to render the contrast in this respect still more striking, it may be of use to throw the principal circumstances of dissimilitude into a closer group:

"The President of the United States would be an officer elected by the people for four years; the king of Great Britain is a perpetual and hereditary prince. The one would be amenable to personal punishment and disgrace; the person of the other is sacred and inviolable. The one would have a qualified negative upon the acts of the legislative body; the other has an absolute negative. The one would have a right to command the military and naval forces of the nation; the other, in addition to this right, possesses that of declaring war and of raising and regulating fleets and armies by his own authority . . ."

Hamilton acknowledged that the President's military authority "would be nominally the same with that of the king of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the confederacy; while that of the British king extends to the declaring of war and to the raising and regulating of fleets and armies."

In his clear, self-confident Federalist prose, Hamilton asked, "What answer shall we give to those who would persuade us that things so unlike resemble each other?" What answer indeed could Hamilton find in a world of cowardice and confusion in the national legislature called Congress and anxiety and fear among the people?

There is no practical answer. "The person of the king of Great Britain is sacred and inviolable," said Hamilton. "There is no constitutional tribunal to which he is amenable; no punishment to which he can be subjected without involving the crisis of a national revolution." God save the king.

MEDICAL CARE FOR INDIANS

Mr. FANNIN. Mr. Prseident, many of America's Indians live in remote areas and under relatively primative conditions. It has been difficult to reach many of them with adequate medical care.

Dedicated men are making a great effort, however, to provide this care. The Arizona Regional Medical program has been working on the problem.

I invite attention to a program which will start soon on the vast Papago Reservation in southern Arizona. I ask unanimous consent to have printed in the RECORD a story from the April 19, 1972, Tucson Daily Citizen, telling of a new program to eradicate strep throat as a serious threat to the health of the Papagos.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMONG PAPAGOS—FIGHT TO END STREP THROAT PERIL SLATED

(By Margaret Kuehlthau)

SELLS.—A massive campaign to eradicate streptococcal disease (strep throat) on the Papago Indian Reservation will begin here next month.

The project, expected to cost about $50,000 in Indian Health Service (IHS) funds, will be aimed at about 1,600 Papago school children and faculty members.

Dr. Jack C. Robertson, director of the IHS unit here, said streptococcal disease poses a major threat to health because it often leads to rheumatic fever and nephritis, a kidney disease.

The disease is prevalent among lower socioeconomic groups, according to Dr. Brendan Phibbs, the Arizona Regional Medical Program's consultant to the Papago project.

Phibbs characterized the Indians of Arizona and New Mexico as representing "a large reservoir of this disease."

Throat cultures will be taken from children and teachers in all schools on the reservation. Special clinics and other programs are expected to reach children in nursery schools and all other under-school age children on the reservation.

To assist with the program, two 22-year-old Papago Indians, Raymond Ortegas and Timothy Antone, have been sent to Wyoming for special training. They are learning to operate the new streptococcal laboratory which will be installed at the Indian hospital here.

When they return to the reservation next week, they will get additional basic laboratory training at the hospital here, Robertson said.

Phibbs said streptococcal disease ought not to exist at this date in medical history because, with the infected patient given an antibiotic, the strep germ "is one of the easiest germs to kill—of all known germs."

Phibbs, associate professor of medicine and chief of the electrocardiogram department at the Arizona Medical Center, is widely known in medical circles for a program he initiated in Casper, Wyo. The Wyoming project has resulted in the almost complete elemination of strep disease in that area.

To the children of Casper, having their throat examined is as much a part of the school day as roll call and the spelling lesson, reports a pharmaceutical company.

As a result of Phibb's concentrated campaign to eradicate strep disease, in more than four years not one case of rheumatic fever was reported among the 14,000 school children in Natrona County, Wyoming.

Arizona Regional Medical Program (ARMP) reports that tuberculosis and streptococcal disease are two of the major infectious diseases with which the Indian Health Service must contend.

To give an idea of the magnitude of the problem, according to ARMP, "the first attempts at organizing a computerized rheumatic fever registry among the Papago Indians soon produced 30 well-documented cases of rheumatic fever out of a total population of 10,000.

"A rate of three per 1,000 is, of course, very high and this represents only the initial compilation.

"The occurrence rate among the Navajo is about 90 cases per 100,000 as compared to an overall known incidence in the United States of 1.6 cases per 100,000 population."

Phibbs said negotiations are under way with the Navajo Tribe in northern Arizona to set up on that reservation a similar project for the detection, treatment and eradication of streptococcal disease, with the program "hopefully to begin in October."

RURAL DEVELOPMENT ACT

Mr. HARTKE. Mr. President, for the past 30 years, the trend has been for Americans to move to the cities. In the years since World War II, 30 million Americans have left the farms and small towns for the promise of city life. In search of jobs and modern conveniences, they have swelled the urban oases of the Nation to the point of excess. What was once a bright promise is now a daily story of torment and despair.

Our cities are now congested. Vast increases in population have brought pollution, crowded highways, soaring crime rates, squalid housing, deteriorating education, and high unemployment. The economy and the very fabric of our society are threatened because of this promise turned nightmare.

In response, Congress has enacted dozens of worthy programs to help uplift the quality of urban life. Yet, these programs are mere straws in the wind when compared to the rapid rise of urban congestion and blight. The time is fast approaching when we must face the fact that the future of this country demands thoughtful planning at all levels of government. We must begin now to take stock of our human and material resources; to think of the next 50 to 100 years; and to plan for the orderly development and use of those resources in the decades to come.

A major part of this planning must involve rural America. It is here that many untapped resources exist. Rural communities are dying, but they contain the base upon which we can build for the future. It is in rural areas that the new promise for growth exist; and it is there that we can look for alternative solutions to urban congestion and blight.

The Rural Development Act which passed the Senate last week is a major step in the process of establishing a rational national growth policy. It establishes a mechanism for revitalizing nonurban areas using a combination of local initiative and Federal cooperation. This is the type of partnership which I envision on an even broader scale for urban, suburban, and rural areas of America. We must encourage our communities to plan for the future; to take stock of resources which should be preserved; to determine future growth needs; and to plan rationally for the future so that any growth does not destroy the community's vital resources and its quality of life.

Mr. President, there are hundreds of Federal programs of assistance, yet there is no coordination of the allocation of these resources. Without coordination, billions of dollars each year are being wasted. Each Cabinet-level department promotes its own activities and gives paramount attention to its own programs; yet no significant effort is made to determine how each program relates to all others. That is a need which we must meet if we are not to awaken to the realization that we have spent billions of dollars but have failed to keep pace with the forces of growth.

The resources of the Nation are finite. In the face of misuse, they will not be available forever. Our democratic institutions and our open market economy can withstand only so much pressure before they fall victim to the centristic forces of repression and control. Yet we are wasting our resources—treating them with an abandon which is criminal; and we are suffering from congestion, unemployment, inflation, poor education, high crime rates, and rising welfare costs—all because we have failed to make proper use of our resources and because we have failed to undertake long range and broad-based planning.

Mr. President, with this as a background, I was pleased to support the Rural Development Act because it draws the Nation's attention to the neglect of our rural resources and because it provides an effective means to develop those resources.

DEATH OF A GREAT TEACHER: DR. FRANK L. BOYDEN

Mr. KENNEDY. Mr. President, on Tuesday, Massachusetts and the Nation lost a devoted teacher and leader in the field of education, Dr. Frank L. Boyden, headmaster of Deerfield Academy in Massachusetts from 1902 to 1968.

We can measure the contributions of Dr. Boyden as an educator not only by the awards bestowed on him over the years, but by the progress and direction of Deerfield Academy under his direction. When he became the headmaster of Deerfield in 1902, the school had 14 students. Under his leadership and devotion, Deerfield Academy became one of the outstanding preparatory schools in the Nation. Students from Deerfield can be found in every profession. But perhaps most significantly, Dr. Boyden developed similar educational talents in others, and outstanding teachers across this country trace the beginning of their development to Dr. Boyden and Deerfield Academy.

I think two illustrations of Dr. Boydens' approach to life and young people provide an excellent measure of his stature as a man committed to others. Dr. Boyden kept his office in the front corridor of the main building of the academy where he was accessible to all of his students. Over the years, as his duties and responsibilities grew as an administrator, he never lost contact with those he loved most, his students. And it is precisely this kind of warmth and devotion that encouraged and developed the potential of the young men under his direction.

Second, Dr. Boyden who coached Deerfield's football team until he was nearly 80, also was its quarterback in the early years. I think this is symbolic of the legacy that Dr. Boyden leaves us—that education has not only to do with books, but with involvement and commitment, and action. Dr. Boyden knew the secret of a real educational process—that we must inspire the individuals to become totally and actively involved in his profession, his community, and in the affairs of the Nation.

I want to extend my deepest sympathy to Dr. Boyden's widow, Helen, and his family. The grief we share with them on this tragic loss is tempered only by our recollection of the continuing contribution of Dr. Boyden through thousands of men whose lives he touched.

I ask unanimous consent that tributes paid to Dr. Boyden and published in the Boston Globe, Boston Herald Traveler, New York Times, and Washington Post, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

FRANK L. BOYDEN SPENT HIS LIFE BUILDING DEERFIELD ACADEMY

(By Jean Caldwell)

DEERFIELD.—Frank L. Boyden, who came to spend one year as headmaster of a faltering Deerfield Academy in 1902 and stayed on for 66 years to build it into one of the nation's finest secondary schools, died in his home early yesterday morning. He was 92.

He was a little man—5 feet—and he used to describe his method of raising funds by saying: "I just look old and frail and sick."

But Boyden wielded power far beyond that, perhaps, of any other educator of the century. His power came from the fact that he understood boys, he loved people, he had a showman's flair that was coupled with deep sincerity, and a willingness to do everything for this school from raising $100,000 in an afternoon to replacing bits of turf dug up by players' cleats from the football field.

When Boyden became headmaster in 1902, Deerfield had 14 students—some of them regarded as terrors by the townsfolk. The trustees weren't sure whether to close the school or to try to keep it going. Several of Boyden's Amherst classmates had been offered the job. He was the only one who applied.

He planned to stay for one year, save his money and enter law school. It was 20 years before he gave up the idea.

In the beginning he would drive around the countryside in a buggy trying to persuade country boys to enroll in the Academy. After a time he had his pick of the top students in the country.

He always found room for the boys, no one else wanted. Boys who were kicked out of Andover and Exeter came to Deerfield and went on to do brilliantly in college.

His offices were in the front corridor of the main building. This was the busiest spot in the school. He could sit there and sense the mood of the school, could spot an individual boy who was troubled. Much later, someone gave money for a lovely office to be built off the main corridor. He never sat at the desk which commanded a splendid view of the campus but in a chair near the door, as close as he could to the corridor. He wanted, he said, to see everyone who came by.

Under his leadership, the Deerfield Academy had no catalogue and no printed set of rules. He didn't mind making exceptions for a single boy and then getting agreement from the student body that the exception was to be an exception.

His graduates went on to become doctors, lawyers, bankers, but most, especially, educators.

When he first came, the school was too small to field a team so he played on the baseball team with the boys. He played on the team until he was 35 and was coach for the football, basketball and baseball teams until he was almost 80. He went to every game up to the beginning of March and would sit on the bench with the players.

Last year, the National Football Foundation and Hall of Fame presented him with its "Distinguished Americans Award."

Twenty-three colleges and universities awarded him honorary degrees. But the presidents of many more payed him a higher tribute—they sent their sons and grandsons to him to be educated.

He insisted on fresh flowers in every building and at least a single flower on every table in the dining room. But when it came to fees, he often would tell parents to "pay what you are able." At one time a fifth of the student body was there under this arrangement.

He got the boys together at least once a day because he felt this was what families should do.

The campus switchboard was in his rear parlor and for years—until he was 82—he was the one to answer the phone when it rang between 10:30 p.m. and 7:00 a.m.

When his wife rejoined his faculty after the birth of their third child, he warned her that should a dispute ever arise between her and one of the boys, he would side with the boys.

Her alma mater got even with him for keeping her worried about her job despite the fact that she was one of the school's oustanding teachers. When Smith College gave her an honorary degree, the citation read: "To Helen C. Boyden, who, with some small help from her husband, built a great school."

But he would say of her: "She is much more important than I am. She has a wonderful sense of human and deep affection for the boys. She has more influence on the boys than I have. She makes them want to do the work. Her judgment is excellent. It is interesting that a combination such as the two of us could get together. I don't know that I've ever known her really. She could have been the head of any school.

For ten years, from 1960 to 1970, he was chairman of the board of trustees of the University of Massachusetts. He was instrumental in obtaining fiscal autonomy for the university and presided over it during its period of greatest growth.

Robert C. Wood, president of UMass, noted Boyden's efforts in planning for the medical school in Worcester and the UMass-Boston campus.

"Men of the stature of Frank Boyden are a grace to their epoch," he said. "His vitality and energy on behalf of the University of Massachusetts were legend. We shall miss him, but his endeavors are his monument and he will not be forgetten."

In 1967 President Lyndon Johnson awarded him the Presidential Citation for Distinguished Service.

He leaves his wife, Mrs. Helen (Childs) Boyden, whom he married in 1907; two sons, John C. of Yarmouth Port (who retired as Deerfield Academy admissions director in 1969, one year after his father) and Theodore C. of Atlanta, Ga. and a daughter, Miss Elizabeth Boyden of Deerfield, and two grandchildren.

Private family services will be today in the First Church of Deerfield. Burial will be in Laurel Hill Cemetery in Deerfield.

There will be a public memorial service tomorrow at 2:00 p.m. in the Deerfield Academy Memorial Building.

DR. F. BOYDEN, DEERFIELD HEAD

DEERFIELD.—Dr. Frank L. Boyden, headmaster of Deerfield Academy from 1902 to 1968 and one of the nation's most prominent educators, died at his home yesterday after several weeks' illness. He was 92.

As a youth, Dr. Boyden had planned to go into law, not education. When he was graduated from Amherst College in 1902, he took the job as principal and ony teacher at Deerfield because he needed the money for law school.

Dr. Boyden planned to stay only two years at Deerfield, then a local high school which in 1902 had an enrollment of 14 pupils, eight girls and six boys. Sixty-six years later, when he retired, Dr. Boyden had developed Deerfield into a boarding prep school for 520 boys, with a physical plant valued at more than $15 million and an endownment of well over $13 million.

For 50 of his 66 years at Deerfield, Dr. Boyden served as coach of the football team, and was honored last December by The National Football Foundation for his leadership in the development of competitive football.

One of Dr. Boyden's trademarks was staying close to his pupils. He never had an office at Deerfield throughout his long career as headmaster. He placed his desk in the lobby of the main classroom building where he always was surrounded by students entering and leaving classes.

"I wouldn't know of any other way to run a school and still keep close to that many boys," Dr. Boyden once said.

A native of Foxboro, he was born Sept. 16, 1879, and married the former Helen Childs of Deerfield in 1907.

During his tenure at the academy, his puppils included the sons of the Rockefellers, of Bennett Cerf, of John Gunther and of Ben Ames Williams.

He was the recipient of 23 honorary degrees, including doctorates from Princeton, Havard, Tufts, Boston University and the University of Massachusetts. He served on boards of trustees of 21 private schools and colleges, including 10 years, from 1960–70, as chairman of the University of Massachusetts trustees.

Dr. Boyden received a presidential citation from Lyndon B. Johnson in 1967 for encouraging "standards of excellence which have enabled America's independent schools to become a continuing source of vitality in American education and quality in American life."

The gymnasium at the University of Massachusetts' Amherst campus and the new library at Deerfield are named for Boyden.

The present Deerfield headmaster, David M. Pynchon, said in tribute yesterday: "In Mr. Boyden's passing, there departs from the American scene one of the true educational geniuses of this and recent generations, yet we also share in the joy of a life well-lived, of dreams come true and of others' lives enriched."

Dr. Robert C. Wood, president of the University of Massachusetts, said, "In the death of Frank L. Boyden, the University of Massachusetts suffers the loss of its most distinguished elder statesman."

Dr. Boyden leaves his wife, Helen (Childs); two sons, John C. of Yarmouth Port, former director of admissions at Deerfield Academy and Theordore C. of Atlanta, Ga., and a daughter, Miss Elizabeth Boyden of Deerfield.

Private services will be held today and memorial services will be Thursday at 2 p.m. at Deerfield Academy Memorial Building.

FRANK L. BOYDEN, 92, PRINCIPAL OF DEERFIELD ACADEMY, IS DEAD

(By Farnsworth Fowle)

DEERFIELD, MASS.—Frank L. Boyden, who came to Deerfield Academy in 1902 as principal of a dying village institution and made it a notable preparatory school for boys, died this morning at his home here. Mr. Boyden, who retired as headmaster in 1968, was 92 years old.

For over 60 years Deerfield Academy evolved around the quietly dominating personality of Frank Learoyd Boyden, one of the most original and eventually the best known American headmaster of his times.

The late John Gunther wrote that "he probably knows as much about boys between the ages of 14 and 18 as anybody alive."

Mr. Boyden, who held many honorary degrees, found his vocation by accident. He was born and grew up in Foxboro, Mass. On graduation from Amherst College in 1902 he needed money to study law and enter politics, the family foundry business having been wiped out by fire. He took the job in Deerfield, 10 miles from Amherst, as a chance to save and to start reading law books.

Deerfield Academy, founded in 1799, had 15 boys and girls as day pupils when Mr. Boyden took over the rickety old building that fall. The boarding department had long since lapsed.

The school could not field a full football or baseball team in his early years, and Mr. Boyden, as coach, took on the additional duties of quarterback and first baseman. Opponents didn't object; Mr. Boyden was shorter and lighter than most of his players.

In athletics, he started early a pattern of good sportsmanship and outright courtesy to opponents, during as well as after a game.

As builder of this tradition, he received the Distinguished American Award of the National Football Foundation at its Hall of Fame dinner last December at the Waldorf-Astoria Hotel.

Mr. Boyden had an easy, unassuming way with the pupils—and with their parents. A Yankee in character and accent, he was not long in making himself at home in Deerfield, where the ancient houses, elms and perhaps even the personalities of 17th-century New England were well preserved.

He also made friends with the newer settlers on the farms up and down the Pocumtuck Valley. By 1904 enrollment at the academy had risen to 62.

In 1905, against what he later called his better judgment, he hired a young local woman, Helen Childs, a year out of Smith College and with less teaching experience than his own. Her humor was swift and warm; his was slow and dry. They were married in 1907. Mrs. Boyden, who turned out to be a natural teacher, coaxed six decades of students through mathematics and chemistry.

Mr. Boyden abandoned the classroom as soon as he had the teachers he wanted. Over the years he enlisted drillmasters of the old school, hearty young athletes fresh from college triumphs and others with the gift of stimulating a love of learning. He left them alone, explaining:

"If they don't know more about what they're teaching than I do, they shouldn't be here."

The boarding department was revived in World War I after out-of-town parents began arranging to board their sons in the village so that they could attend the academy. But there was no switch to the style of the fashionable preparatory schools of the day.

Every boy took his turn at chores, such as waiting on tables and raking leaves. Mr. Boyden was generous with scholarship aid but tried to keep it secret, even from the recipients. Every boy was made to feel a duty as host to go up to any stranger in Deerfield and ask if he could be of help.

Then and later, Mr. Boyden was not much given to lecturing his charges. His admonition, whether to one boy or to the whole school seated before him every evening on the carpeting of the school living room, was in the nature of a swift and penetrating aside.

A favorite maxim was: "There's nothing in the world like good hard work."

Deerfield's old school building was condemned in 1928, and a new fund-raising effort ran into the Depression. But Mr. Boyden and his old-fashioned, new-fashioned institution won new supporters. In 1931 a red-brick Georgian building opened on the old site facing the village common.

In later years Mr. Boyden served many other schools and colleges as a trustee. He was chairman of the trustees of the University of Massachusetts, which is located in Amherst, during its rapid expansion in 1960–70.

A canny politician, he was able to persuade the Massachusetts Legislature in 1962 to grant the university much greater autonomy. Used to handling the reins of authority in his own institutions, he became known to fellow-trustees from the eastern part of the state as "the fastest gavel in the West," as recounted in John McPhee's biography. "The Headmaster: Frank L. Boyden of Deerfield," published in 1966.

When he yielded his Deerfield post to David M. Pynchon, now headmaster, Mr. Boyden kept on giving much time and energy to a successful $20-million fund-raising drive; the school's endowment now exceeds $15-million. In failing health this spring, he nevertheless appeared briefly at the Franklin County alumni meeting here April 4 and at the Western Massachusetts Football Hall of Fame, of which he was a founder, on April 11.

Surviving are his widow; two sons, John C. of Yarmouth Port, Mass., and Prof. Theodore C. Boyden of Atlanta; a daughter, Elizabeth Boyden of Deerfield, and two grandchildren.

The funeral will be private. A public memorial service will be held at the academy on Thursday at 2 P.M.

Deerfield Academy Headmaster

DEERFIELD, MASS.—Dr. Frank L. Boyden, 92, headmaster of Deerfield Academy from 1902 to 1968, died at his home this morning after several weeks' illness.

One of America's most prominent educators of this century, and honored as a leader in the development of competitive football, Dr. Boyden built Deerfield Academy from a local high school for a handful of pupils to a preparatory school for 550 boys with an endowment exceeding $20 million.

A native of Foxborough, Mass., he was born Sept. 16, 1879, and graduated from Amherst College in 1902. He often told of walking from Amherst to the virtually unknown local school here to become its only teacher and headmaster.

During his tenure at the academy, he taught many famous men, and the sons of the Rockefellers, of Bennett Cerf, of John Gunther and of Ben Ames Williams.

The subject of many books and articles, including the John McPhee biography, "Headmaster," Dr. Boyden was the recipient of honorary doctorates from more than 15 colleges. He served on the boards of trustees of more than 20 private schools and colleges, including 10 years as chairman of the University of Massachusetts trustees.

He received a citation from former President Lyndon B. Johnson in 1967, and was honored last December by a national football award in recognition of his contribution to football, including 50 years as football coach at Deerfield Academy.

He is survived by his wife, the former Helen Childs, whom he married in 1907; three children, John, of Harwichport, Mass., Theodore of Atlanta, and Elizabeth of Deerfield, and two grandchildren, both of San Francisco.

NEED TO CONTINUE FOLLOWTHROUGH PROGRAMS

Mr. PERCY. Mr. President, it is with dismay and a heaviness of heart that I speak today on behalf of Project Followthrough, one of our country's most successful compensatory education programs.

Effective this coming school year the State of Illinois will be less three excellent Followthrough programs, and the country will be less 26 of these programs. The culprit is apparently a lack of funds. The Office of Education does not have enough money to continue all of the 160 existing Followthrough programs, however excellent, serving over 75,000 low-income children in kindergarten through the third grade.

However, on closer scrutiny, the culprit is not a lack of funds. The culprit is the U.S. Office of Education.

I was a member of the Senate Appropriations Committee when the Office of Education's fiscal year 1972 budget was being considered. I recall Dr. Sidney P. Marland's fine and reasonable testimony on the administration's budget request for the Office of Education. On looking back at the hearing record of May 5, 1971, I see what a fine job Dr. Marland; Dr. Herman R. Goldberg, associate commissioner for elementary and secondary education; Dr. Terrel H. Bell, deputy commissioner for school systems; Richard L. Fairley, director, Division of Compensatory Education; Charles Miller, deputy assistant secretary, budget; Joe G. Keen, budget officer; did in convincing the committee that Followthrough was a good program, unique in the services that it provides and innovative in the techniques and ideas that it uses. They convinced the committee that the program merited continuation and, moreover, that the program merited a permanent place within title I, ESEA. They also convinced the committee that they needed less money than the previous fiscal year to administer the program, that with a $9 million reduction they could continue to fund the same number of projects and children as previously.

Imagine my surprise, shock, and disbelief when letters began pouring in from the mayor of Waukegan, the principals of Ogden, Lathrop, and Howland Elementary Schools, and from scores of concerned State officials, parents, teachers, and administrators protesting the termination of four outstanding Followthrough programs in Chicago and Waukegan. I have no recourse but to join this protest, for I have tried, without success, to persuade the Office of Education to keep its word and continue to fund the same number of projects and children as previously.

I have tried, but I can neither understand nor condone the Office of Education's unannounced shift in position. I have, therefore, joined with Senators STEVENSON and KENNEDY in requesting that the Senate HEW-Labor Appropriations Subcommittee restore the $9 million cut from Followthrough's fiscal year 1972 budget. The full Senate Appropriations Committee will meet today to mark up the HEW supplemental appropriations bill. I have personally spoken with key members of the committee to ask their support for the $9 million restoration.

Furthermore, I plan to ask the Office of Education to justify the discrepancy between its testimony before the Senate Appropriations Committee and its recent actions. I also plan to ask the Office of Education to release comparative evaluations of the 160 Followthrough programs across the country and summarize for me the common standards used to terminate 26 programs and continue 134 programs.

THIS YEAR'S EARTH WEEK

Mr. WILLIAMS. Mr. President, this is Earth Week, 1972. It is a week during which, for the third consecutive year, citizens across the Nation are urged to reexamine their involvement in environmental protection and management. By enhancing their knowledge of the needs and problems of the environment in which they live, we hope they will reemphasize their personal stake in the solution of these problems.

This is a particularly appropriate year for such an examination, for it is the year which the United Nations has designated as the year of the environment, to culminate in the United Nations Conference on the Human Environment in Stockholm in June.

Preparations for this conference have been perhaps the most painstaking ever to precede a United Nations meeting. Under the direction of a 27-nation preparatory committee, intergovernmental groups have been drafting proposals on six major topics. Concurrently, individual governments are submitting reports describing their own experiences in environmental management, and interested specialized agencies of the United Nations are preparing statements on their present and expected future work.

It is most important that the citizens of this country be aware of these activities. Only through closest international cooperation and teamwork, insisted upon by the citizens of the individual countries, can global environmental problems he solved. Polluted water supplies, deterioration of argricultural lands, the problems of urbanization are of real and increasingly urgent concern, not only to local and regional governments, but to all countries. Standards setting limits beyond which people of an area—or country or group of countries—must not be permitted to pollute the air and water, exploit the land, kill wildlife and fish, or use pesticides should be established internationally for they would benefit all inhabitants of this earth. Conversely, spotty, disorganized, and unchecked exploitation of the environment will affect people everywhere.

Three years ago, Earth Week was established in this country to provide citizens, through special programs in schools and communities, with increased and relevant information concerning environmental conservation, rehabilitation, and management. These programs were, and continue to be, designed to promote future planned action for environmental improvement. This year, because of the great interest expressed in the U.N. Conference on the Environment, I believe the time is ripe to make Earth Week an international observance. Just as our citizens are urged to participate in environmental education projects during this week, so should citizens of other nations be given an opportunity to learn more about their own environmental education projects during the same time span, and participate in joint projects designed to explore problems that are international in scope.

Constant cooperation and the best teamwork is needed today to preserve and enhance environmental quality everywhere. International Earth Week can provide the impetus for joint ventures which will benefit us all.

RISE OF JAPANESE ECONOMIC POWER

Mr. FANNIN. Mr. President, the rise of Japanese economic power is one of the miracles of the second half of the 20th century. The word most often used to describe this growth is "phenomenal." And phenomenal it certainly is.

The United States helped to plant the seeds for this growth. Now we stand somewhat in awe as Japan has become our main competitor in the world economic system. The ingenuity and vigor of our friend and ally now causes serious economic problems for the United States.

A good part of the problem concerns the failure of the United States in the 1960's to adjust trade agreements and U.S. policy to fit the realities of the times. I have discussed this many times in this Senate and in speeches around the Nation.

It seems evident, however, that the success of the Japanese and the demise of U.S. competitiveness in the world markets also stems in part from some other fundamental factors.

The Japanese have been successful because they have worked together—the Government, industry, and the unions have cooperated to produce quality goods at low price for export.

Such cooperation has not been possible in the United States for two reasons:

First. Our antitrust laws have forbidden such pooling of resources either for the production of goods for domestic or for foreign consumption. At times we have carried this antitrust mania to ridiculous extremes.

Second. Unions have fostered the idea that the workingman and management are enemies. Any thought of teamwork between labor and management has been ridiculed by the union bosses.

Mr. President, the Japanese have been great at adopting and improving upon the best of technology and systems used by other nations, especially the United States. Perhaps it is time we started trying to learn from the Japanese.

An article published in the San Francisco Examiner of April 15, 1972, gives us some insight into how the Japanese manage to be so successful. I ask unanimous consent that the article, written by S. I. Hayakawa, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY JAPAN'S GROWTH IS SO PHENOMENAL

(By S. I. Hayakawa)

Do you remember the feverish building of fallout shelters in 1961 in anticipation of a Soviet nuclear attack? Do you remember people storing cases of food and bottled water?

Herman Kahn, who wrote his terrifying book, "On Thermonuclear War," in 1960, contributed much to our panic of that period. He insisted on "thinking the unthinkable." What would war with hydrogen bombs be actually like? I denounced the book at the time, but in retrospect I must admit someone had to write it.

Hence I am a little puzzled that Herman Kahn's latest book, "The Emerging Japanese Superstate: Challenge and Response" (Prentice-Hall, 1970; Prism paperback, 1971), has created so little stir in the U.S. In it, Kahn predicts that by the year 2000 Japan will in all likelihood be the world's leading economic power, and that the 21st Century will be the "Japanese century."

Since Japan decided in 1868 to open its doors to the world, the national goal of the Japanese people has been to catch up with the West. Having by this time caught up in most respects, their next goal is to surpass the West. How are they doing?

Well, Japan has recently surpassed England, France and Germany and is behind only the U.S. and the Soviet Union. Japanese technological capabilities are now fully competitive with those of the West and the objective of surpassing the West, says Kahn, is now in sight. By the end of this century or early in the next, Japan may well be foremost, economically and technologically.

The reasons for this tremendous success since the devastation of World II lie in the Japanese character, says Kahn. "The Japanese see themselves not as a society of individuals, but as a national family in which all people and all companies cooperate to make the nation stronger."

The key to "Japan, Inc." is growth. The keys to growth are unity and loyalty. The Japanese watch growth rates the way Americans watch baseball standings.

In his comments on Japanese character, Kahn often sounds like Ruth Benedict, to whose great study of Japanese culture, "The Chrysanthemum and the Sword" (1946), he makes grateful acknowledgement.

In Japan no one would criticize such a statement as "What's good for General Motors is good for the country." What's good for Iwata Steel or Nissan Motors is assumed to be good for Japan, because it is Japan against the rest of the world. Everybody—management, labor and the general public—identifies the success of Japanese business with the success of the nation—and therefore with individual success.

This unity is revealed in the close cooperation which flows among Japanese firms. Of course, employees and executives try as hard as possible to further the interests of their own companies, but everyone takes pleasure in any Japanese success. Thus there exists a kind of open society within business circles in which competitors share information which in the West would be considered secret.

Members of Japan, Inc. are loyal. When a man signs a contract to work for a company, it is like entering marriage. It is for life. There are rights and duties on each side to be honored. Employes know they will never be fired. The company is a family which takes care of everyone, in return for devotion. It can afford to do so because high growth rates permit so much expansion that there is always a place for everyone.

Loyalty is not something to hide, but something to celebrate. Every morning workers at Matsushita Electric, as in hundreds of other companies, sing their company song before beginning work. They sing with an enthusiasm and gusto which Americans would find embarrassing, if not ridiculous.

Even unions in Japan are loyal to business. They lobby and apply pressure to obtain demands they consider fair and reasonable. But they would never go so far as to let their companies be hurt. Most American unions assume an adversary relationship between employers and employes and proceed on that assumption. Unions rarely work with corporations; but organize against them.

Because of the loyalty of Japanese workers, their unity and willingness to work long hours and to sacrifice present consumption in favor of capital investment, the Japanese economy is growing at a rate exceeding 10 percent a year, or about twice that of U.S. economic growth. Moreover, the U.S. is increasingly finding itself clobbered in world markets.

I wonder if American union leadership worries about problems such as these? What good does it do to get wage increases for union members from $3 an hour to $7, from $7 to $15, from $15 to $22, if as a result the company transfers its operations to West Germany or Taiwan—or goes out of business altogether?

The question is not hypothetical. It's been happening for years. Herman Kahn is persuaded that Japan may very well come out the winner as a result.

LITTLE ENCOURAGEMENT FROM PRESIDENT'S SPEECH

Mr. CHILES. Mr. President, I have been deeply disturbed by recent developments in Vietnam. The massive invasion by North Vietnam of South Vietnam, the buildup of Navy and Air Force personnel by our country, the accelerated bombing, the loss of American and Vietnamese lives. To me it is senseless, and I am very much discouraged and disappointed.

I am afraid that President Nixon's speech last night offers little encouragement. He promised to remove 20,000 more ground troops in the next 2 months but at the same time made it plain that our Navy and Air Force people are committed indefinitely. He said our naval and air attacks will continue, and he said "we will not be defeated." This, of course, means that more of our men will be lost and captured, and I hate even to think of this.

But I am glad President Nixon has instructed Ambassador Porter to return to the negotiating table. If we are not there then we cannot hope to bring about a settlement.

It is not easy. On the contrary, it is most difficult to sit at the table and hear absurd claims by the North Vietnamese that they have no military in South Vietnam when in fact they have some 12 divisions there. It is even more difficult to sit and be called the aggressors when in fact North Vietnam massed its troops and launched the invasion that brought about escalation. It is no less difficult to be called the killers when in fact the North Vietnamese, unnecessarily using deadly airburst weaponry, are literally wiping out thousands of helpless South Vietnam refugees trying to escape the active combat zones.

I want us out of this destructive war that is creating severe disunity in our country and draining our human and economic resources. Through my own legislation and through support of other legislation I have consistently sought a firm withdrawal date contingent on release of our prisoners. Had this been done, I believe we could have avoided this bad situation.

But the war continues, and we return to the negotiating table. If world opinion recognizes that North Vietnam inflamed the situation by its invasion of South Vietnam, if world opinion will condemn North Vietnam for that aggression, if world opinion will bring real pressure to bear, then there is still hope that North Vietnam will get serious at the table and agreement can be reached. This must be our hope.

ADDRESS BY ROBERT S. McNAMARA

Mr. COOPER. Mr. President, on April 14, the President of the World Bank, Mr. Robert S. McNamara, addressed the United Nations Conference on Trade and Development in Santiago, Chile. His address examined the present state of development efforts, and he proposed what is in my view, a very constructive approach to improving the quality and effect in lesser developed countries.

The chief points that he made bear our consideration. First, he argued that the goals of national growth have to be related to reasonable efforts to achieve equitable income distribution by the countries receiving assistance. He points out that unless this is done by the developing countries themselves, no amount of external assistance will significantly improve the quality of life of the vast proportions of their populations which are now living in conditions of abject poverty. The goal established for the second development decade of 6-percent annual growth for the developing countries cannot be met without continued substantial assistance from the developed countries.

World Bank President McNamara's most important point was that it is the responsibility of the developing nations; that is, those nations whose populations make up 25 percent of the world's people, but who possess 80 percent of its wealth should move forcefully and consistently to provide the additional assistance in the form of aid and trade which the developing nations need to meet their minimum national goals.

The President of the World Bank concludes that this assistance from the developing countries can be financed by devoting only a tiny percentage of the income that will accrue to the developing countries in the coming decade.

I ask unanimous consent that Mr. McNamara's address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address to the United Nations Conference on Trade and Development

(By Robert S. McNamara)

INTRODUCTION

This is the first opportunity I have had since becoming President of the World Bank to attend a session of the United Nations Conference on Trade and Development, and I am very pleased to be here.

What I have to say will be brief and candid.

My view is this:

The state of development in most of the developing world today is unacceptable—and growing more so.

It is unacceptable, not because there hasn't been progress in the past 20 years—and particularly in the decade of the sixties—but because development programs have been directed largely at gross economic goals, and have failed to insure that all nations, and all groups within nations, have shared equitably in the economic advance.

As the Second Development Decade unfolds, the mistakes of the past have begun to be perceived, but neither the developing nor the developed nations have moved to deal with them effectively.

Finally, if the state of development today is unacceptable—and it is—we must not waste time looking for villains in the piece, or even worse, waste energy in fruitless confrontation between rich nations and poor nations. Rather, the entire international development community—all of us—must promptly move forward with practical measures which are conceptually sound, financially feasible, and which can command the requisite public support. I hope to suggest some of these today.

II. THE UNEVEN AND UNACCEPTABLE STATE OF DEVELOPMENT

I have said that I believe the state of development in most of the developing world today is unacceptable.

It is unacceptable, but not because there has not been progress. There has been. The total economic growth, measured in GNP terms, for the developing countries during the First Development Decade was impressive. For some of these countries it was the most successful decade—measured in these gross economic terms—in their history.

But such economic measurements, useful as they are, can be seriously inadequate.

What is inadequate about them is that they do not, in themselves, tell us much about what is happening to the individual lives of great masses of people in the developing countries.

But the improvement of the individual lives of the great masses of people is, in the end, what development is all about.

What are we to say of a world in which hundreds of millions of people are not only poor in statistical terms, but are faced with day-to-day deprivations that degrade human dignity to levels which no statistics can adequately describe?

A developing world in which children under age five account for only 20% of the population, but for more than 60% of the deaths.

A developing world in which two-thirds of the children who have escaped death will live on, restricted in their growth by malnutrition—a malnutrition that can stunt both bodies and minds alike.

A developing world in which there are 100 million more adult illiterates than there were 20 years ago.

A developing world, in short, in which death and disease are rampant, education and employment scarce, squalor and stagnation common, and opportunity and the realization of personal potential drastically limited.

This is the world of today for the two billion human beings who live in the more than 95 developing countries which are members of the World Bank. The personal catastrophe that affects the individual lives of hundreds of millions of these individuals is such that we can no longer take much satisfaction in the simple statistical achievement of the overall GNP growth goal of 5% by the close of the First Development Decade.

To begin with, that average figure conceals the fact that the growth rate was very uneven among the developing countries; and that income grew the least where it was needed the most—in the poorest countries, with the largest aggregate population.

Based on a study of the individual countries, the picture that emerges demonstrates just how uneven that growth has been.

The major oil-exporting countries, with less than 4% of the population, enjoyed a GNP growth rate not of 5%, but of 8.4%.

The developing countries with a per capita GNP exceeding $500, with 9% of the population, had a growth rate of 6.2%.

The countries with a per capita GNP between $200 and $500, with 20% of the population, had a growth rate of 5.4%.

And the poorest countries—those with a per capita GNP of less than $200—with an overwhelming 67% of the population, had a growth rate of only 3.9%.

So the first obvious conclusion is that by lumping all developing countries together, and measuring progress by an average GNP growth rate for the entire group, we obscure the significant differences between these countries.

What is more, we obscure the even larger differences in their per capita income growth.

In the poorest countries, with 67% of the population, per capita income during the First Development Decade grew at only 1.5% annually.

In the two middle categories of countries, per capita income grew far faster than that—2.4% and 4.2% respectively.

In the oil-exporting countries, it grew more than three times as fast: 5.2%.

But what is most misleading of all is to assume that once we have calculated the GNP growth rate of a particular developing country, and then expressed it in per capita terms, we have arrived at a sound picture of the level of economic development in the country.

We have not.

For rates of growth of GNP, and of GNP per capita, tell us nothing about how income is actually distributed within a country.

III. THE MALDISTRIBUTION OF INCOME WITHIN DEVELOPING COUNTRIES

Such evidence as is available suggests that even the developing countries which have registered significant gains in GNP growth rates are plagued with severely skewed income distribution patterns.

In the last decade Brazil's GNP per capita, in real terms, grew by 2.5% per year, and yet the share of the national income received by the poorest 40% of the population declined from 10% in 1960 to 8% in 1970, whereas the share of the richest 5% grew from 29% to 38% during the same period. In GNP terms, the country did well. The very rich did very well. But throughout the decade the poorest 40% of the population benefitted only marginally.

In Mexico the picture is similar. Over roughly the past 20 years, the average income per capita grew, in real terms, at 3% per year. The richest 10% of the population received about half the total national income at the beginning of the period and an even larger share at the end of the period (49% in 1950 and 51% in 1969). But the share of the poorest 40% of the people was only 14% in 1950, and declined to 11% in 1969. The share of the poorest 20% during the same period sank from 6% to 4%.

In India, there has been progress in overall GNP growth during the past decade. But, today, some 40% of the entire population—200 million people—live beneath a poverty line: a line defined as the point at which serious malnutrition begins. And the evidence is that the poorest 10% of the nation—50 million people—have not only not shared in the progress of the decade, but may even have grown poorer.

These examples are not atypical. A recent study of income distribution patterns in more than 40 developing countries estimates that at the beginning of the First Development Decade the average share in the national income of the richest 20% of the people was 56%—but the share of the poorest 60% of the people was only 26%. Although comparable data for the beginning of the Second Development Decade are as yet too sketchy to draw detailed conclusions, preliminary indications are that this severely distorted income distribution is not only continuing, but in many countries may be growing worse. The poor are sharing only to a very limited extent in the benefits of growth.

Why is this the case?

The reasons, of course, are complex. We still have far more questions than answers, but I believe that certain points are clear.

To begin with, economic growth is a necessary condition of development in any poor country—but it is far from being a sufficient condition.

Without a climate of growth, the domestic savings and export earnings crucial for internal investment simply cannot be mobilized. That is obvious enough.

What is less obvious is that economic growth in a poor country, in its early stages, is likely to penalize the poorest segment of the society relative to the more affluent sectors unless specific action is taken to prevent such an effect.

This is particularly true of those subsistence agrarian economies in which economic growth began with a narrow but intense exploitation of rich natural resources. The historical experience of these situations is that unless the government takes steps to broaden the base of development by rapid reinvestment of the export revenues from such resources, the income share of the poorest 60% of the population declines, and the income share of the richest 5% increases.

Even the small middle-income group in such societies—the approximately 20% of the population whose average share of the national income clusters near the median point—even this incipient middle class receives a declining share of the national income when growth is sudden and too confined to enclave types of activity.

As development in a poor country broadens its base, the middle-income group begins to benefit. This group prospers, largely as a function of its education and employment opportunities. But the 30 to 40% of the total population, who range from the poor to the very poor, continue to receive a disproportionately small and frequently declining share of national income. Typically, it is these poorest 40% who are most vulnerable to the economic hardships associated with high birth rates, poor educational opportunities, mounting inflation, the difficulty of obtaining credit for family farming or small-scale local enterprises, and the migration from a stagnant countryside to a jobless urban slum.

What this amounts to in most developing countries is a desperate and seemingly self-perpetuating situation.

What can be done about it?

What must be done about it is to reduce the crushing disparities of opportunity.

To begin with, there must be more equitable and comprehensive tax measures; land reform laws; tenancy security policies; and, above all, concrete programs to increase the productivity of small farmers. And not just programs and measures languishing in legislative debate and delay, or lost in legal complexities so hedged about with exceptions that they end by being more rhetoric than reality. What are required are feasible fiscal, agrarian, and educational reform measures that can be fully and fairly enforced. What is needed most of all is a determination to move against the inequities of income distribution.

There is no need to point out that this is politically difficult. Without question it is. But when the distribution of land, income, and opportunity becomes distorted to the point of desperation, what political leaders must often weigh is the risk of unpopular but necessary social reform—against the risk of social rebellion.

"Too little too late" is history's most universal epitaph for political regimes which have lost their mandate to the demands of landless, jobless, disenfranchised and desperate men.

What I am suggesting is that we should stop thinking of massive poverty in a developing country as simply a symptom of underdevelopment—and begin, rather, to think of it as a condition that must be attacked within the framework of the Nation's overall development program.

If developing countries themselves do not adopt the policies to deal with this problem, there is little that international institutions and other external sources of aid can do to help the poorest 40% of their peoples—those 40% who suffer the greatest deprivations and who are in the most desperate need.

But if the developing countries do adopt policies to insure that the benefits of growth will be more equitably distributed among their own peoples, then these countries both need and deserve the assistance necessary to insure that a reasonable rate of overall growth can be achieved. That is why the Second Development Decade's goal of 6% growth in GNP per year was established. It is, in my view, a necessary and an attainable target. But it cannot be met unless external assistance, in the form of both aid and trade, is made available in amounts larger than those which now appear likely.

IV. THE NEED FOR OFFICIAL DEVELOPMENT ASSISTANCE

The developed countries in adopting the strategy for the Second Development Decade, and in support of the growth target, stated that the level of external aid to be provided in the form of Official Development Assistance should reach .7% of their GNPs by 1975.

Where do we stand today in that effort?

A number of the developed countries have made significant progress towards the objective, as the attached table indicates. However, on the basis of present indications, only two (Norway and Sweden) will reach or exceed the target. Six more (Australia, Belgium, Canada, Denmark, France, and the Netherlands) will come close. Four others will substantially increase their percentage but still fall well below the target (Austria, Japan, Switzerland, and the United Kingdom). And the contribution from the United States, which accounts for roughly half of the total GPN of such countries, continues to decline. It has already fallen from above .5% of GNP in the early years of the last decade to .31% in 1970. It is likely to fall further to around .24% by 1975.

I feel obliged, therefore, to conclude that the total flows of ODA for the first half of the decade are likely to average out at approximately .35% of GNP, only half of the Second Development Decade target.

This is a most unwelcome conclusion. But we must face facts. Not only is there no evidence that ODA as a percentage of GNP will rise above one-half of the target rate by 1975, but unless there are prompt and marked changes in attitudes, it is difficult to foresee any great improvement in the second half of the decade.

Was the .7% target too ambitious? Are the difficulties within the domestic economies of the developed countries such that it is unrealistic to assume they can afford this degree of assistance to international development?

Certainly not.

I have pointed out the severe maldistribution of income and wealth which exists within the developing countries, and I have stressed that these nations must act to shape future economic growth in such a way as to redress that imbalance. But an analogous situation exists in the distribution of the *world's* wealth and income—there is severe maldistribution between the rich nations and the poor nations—and given that fact, one must face up to analogous conclusions.

During the First Development Decade, the total GNP of the world increased by $1,100 billion. That is an increase in income almost beyond comprehension.

But how was that growth in income distributed throughout the world?

Eighty percent of the increase went to countries where per capita incomes already average over $1000—and they contain only one-quarter of the world's population.

Only 6% of the increase went to countries where per capita incomes average $200 or less—but they contain 60% of the world's people.

Today the average per capita income in

the developed countries is approximately $2400. The comparable figure for the developing countries is $180. By 1980, after the 25% of the world's people who live in the developed countries once again receive 80% of the total increase in the world's income, their per capita income will have risen by some $1200. The comparable increase in the per capita income of the 75% of the world's people who live in the developing countries—even if the Second Development Decade growth objective is achieved—will be less than $100.

The collective GNP of the developed countries in 1970 totalled roughly $2,000 billion. In constant prices, it is projected to grow to at least $3,000 billion by 1980.

What this means is that in order to raise the current ODA flows of .35% to the targeter .7%, the developed countries would need to devote only about 1.5% of the amount by which they themselves will grow richer during the decade.

The remaining 98.5% of their incremental income will provide them with sufficient funds to meet their domestic priorities.

Granted these facts, are we to say seriously that these wealthy countries cannot reach the ODA target of .7% of their combined GNP's?

It is manifestly not a case of their being unable to afford it.

Nor, in my view, are the reasons for the serious shortfall in ODA the lack of generosity of the peoples of the developed world, or their indifference to justice.

It is much more a matter of ignorance: a failure to comprehend the inhuman conditions which characterize the lives of hundreds of millions of people in the developing countries; a failure to grasp how severe the maldistribution of income actually is between rich nations and poor nations; and a failure to understand how modest are the amounts of the wealthy nations' incremental income which, if made available to the developing countries, would make so great a difference in their ability to meet minimal growth objectives.

It is said that in wealthy countries the case for foreign assistance has no constituency. I do not believe that is true. What I do believe is that the constituency in most of the countries must be better informed, better mobilized, and better motivated. In the end, that is a matter of leadership.

But if that constituency in important parts of the developed world remains at its present level of concern—and governments continue to reflect this—then one is compelled to conclude that the flow of ODA will remain at its present wholly inadequate level throughout the decade.

In view of the degree of poverty that oppresses the human spirit in so much of the world, that would be tragic. Let me, for a moment, analyze what in fact that failure would mean.

The ODA deficit will penalize the poorest countries the most. It is unlikely that they will be able to reach the growth target. Their need for ODA is the greatest, and if it stagnates at its present level, they will feel the effects the most severely.

But for even those developing countries which are somewhat better off, a deficiency in ODA will force them to seek external finance from less desirable sources—particularly sources demanding high rates of interest or early repayment. The danger of overreliance on such sources is well known: it adds significantly to short- and medium-term debt burdens by mortgaging larger proportions of export earnings, and, in the event of an unexpected decline in those earnings, it can cause severe strains on the whole of the economy.

V. THE DEBT PROBLEM

The truth is: *if ODA flows level off at substantially less than the target for the decade, mounting debt problems for the developing world are inevitable.*

Achievement of the 6% GNP growth objective would require an increase in the volume of imports by over 7% a year. This increase would, in the main, have to be financed by a rapid growth in export earnings, as I will note in a moment. But even if these earnings increase at a rate greater than imports, the trade deficit, which would have to be financed by grants and external borrowings, would grow by approximately 7.5% a year in current prices. In these circumstances, in the face of an ODA deficit, the developing countries would either have to reduce their rates of growth, or increase their debts above reasonable levels. Both are likely.

Since the mid-1950's, publicly guaranteed debt has been growing at about 14% a year. At the end of 1971 it stood at over $60 billion and annual debt service exceeded $5 billion. Servicing of debt since the mid-1950's, has been growing at the same average annual rate of about 14%. This is about twice the rate at which the export earnings, from which the debt must be serviced, have been growing. Such a relationship cannot continue indefinitely.

With the prospect of a leveling off of ODA at far less than the targeted amount, and its partial replacement with financial assistance on harder terms, debt service ratios will inevitably rise. Debt financing has a continuing role in development. But it has its outer limits of prudence and these must be recognized by debtors and creditors alike.

VI. THE EXPANSION OF TRADE

If they are to offset shortfalls in ODA, and keep debt burdens within manageable proportions, it is clear that the developing countries' most imperative need is greatly to expand their export earnings.

How can this be done? Can it be done at all?

It can. But only by difficult economic adjustments, broad policy changes, and astute political leadership in the rich and poor countries alike.

The general outline of the problem is clear enough. From an export point of view, there are three broad categories of developing countries.

Those countries which export fuel. Fuel exports account for a third of all export earnings in the developing world, and are growing at an average rate of 10% a year. But three-quarters of these substantial earnings go to only six countries, containing less than 3% of the world's population.

Those countries, many of them with very low income, which remain highly dependent on exports of agricultural products.

Those countries, many of them in the middle-income group, which have the possibility of increasing their earnings through exports of manufactures.

The relative inelasticity of demand for agricultural raw materials means that the growth of exports of primary commodities, excluding fuel and minerals, is not likely to exceed 3 or 4% a year. However, even for countries dependent on the exports of such products, the developed countries can provide assistance.

They can negotiate stabilization agreements—on the international coffee agreement model—for cocoa and other commodities. Such agreements might provide for multilateral financial assistance.

And the wealthier nations could well afford to leave more of their markets open to agricultural imports from developing countries. Agricultural protectionism, particularly in the current climate of inflationary food prices in wealthy nations, makes neither domestic nor international sense. The sugar beet growers of the temperate countries, for example, have other ways of earning their living; the sugarcane growers of the Caribbean, Mauritius, and Fiji do not—and the same could be said for many other commodities.

For the countries with greater capabilities for the export of manufactures—countries whose populations total over one billion—we have estimated that achievement of the 6% growth target will require an increase in their export earnings, in current prices, of nearly 10% a year. This, in turn, necessitates an annual increase of their manufactured exports of 15%.

Can this rate of growth be achieved?

It is in the manufactured-products sector that world demand grows fastest, and the record of the developing countries in this sector during the sixties was impressive. Their manufactured exports did in fact grow at the rate of about 15% a year.

What is needed in the seventies is that the momentum be maintained. The natural comparative advantage for developing countries lies clearly in those manufactured products which have a high labor input, or which utilize abundant domestic materials. These include items such as textiles, garments, footwear; vegetable oils, processed foodstuffs; plywood, furniture, glassware, plastic and wooden products; and electronic and engineering sub-assemblies.

But though demand exists for these manufactures in the developed countries, the developing nations have in some cases clung too long to inward-looking, import-substitution policies—policies which may have been appropriate at earlier stages of their industrial growth, but which now unnecessarily hobble export promotion efforts.

There are a number of specific actions which governments in these situations can take. They can reduce the heavy protectionist tariffs on necessary inputs; supply local credit on more reasonable terms for small, labor-intensive, export-oriented enterprises; and adopt and maintain realistic exchange rates.

But if the developing countries must realign their industrial policies to move from reliance on import substitution to greater efforts at export promotion, the developed countries must make just as great a shift from excessive protectionism to move equitable and less restricted import policies.

It is, for example, wholly illogical, after 20 years of development assistance to poorer countries, for the wealthy nations to negate that effort by maintaining higher tariffs on the manufactured goods these poorer countries export than on manufactures from their affluent counterparts. But that is precisely what the wealthy countries are doing. The levels of tariffs on imports of manufactured goods from rich and poor trading partners respectively average out in the United States to 7 and 12%, in the United Kingdom to 9 and 14%, and in the European Community to 7 and 9%.

But it is not only the level of tariffs that is discriminatory against the developing countries. It is their structure. For tariffs rise with the degree of fabrication. In the United States, there is no customs duty on hides and skins, but tariffs on leather are 5%, and on shoes 10%. Similarly, in the European Community cocao beans from non-associated countries carry a 3% duty, while processed cocoa products must bear an 18% tariff. This manifestly means that processing—even simple processing—can by such tariffs be priced out of the developing country's most appropriate markets.

Even more repressive of the developing countries' export opportunities is the whole series of restrictive non-tariff barriers which rich countries have erected over the years. These take the form of quotas, subsidies, and various preferential purchasing arrangements.

One of the most important elements in the strategy of the Second Development Decade is that the wealthier countries should grant preferential treatment to the manufactured exports of the developing countries. Japan, the Nordic countries, and the European Community have adopted this proposal, with various limitations, and other developed countries are considering it.

It is essential that this plan be carried out in full, but much more is required. The proposed preference agreement would increase the developing countries' exports of manufacturers by only about $1 billion a year. And if these countries are to maintain the necessary momentum of a 15% growth in manufactured exports, their annual volume—which rose from less than $2 billion in 1960 to $7 billion in 1970—will have to quadruple to $28 billion by 1980.

That is clearly going to be an enormous task. But one must not dismiss its feasibility, and certainly not on the grounds that it would impose an intolerable import burden on the wealthy countries. Should the $28 billion in exports from developing countries be achieved, it would amount to only about 7% of the expected manufactured imports of the affluent countries, and would represent less than 1% of their GNP.

The volume of trade in manufactured goods among the developed countries themselves is massive, and mutually beneficial. The rich nations accept huge quantities of manufactures from one another. There is no logical reason to suppose that it would not be equally beneficial—indeed, in terms of true comparative advantage, even more beneficial—for these highly industrialized nations to open a greater share of their expanding market for manufactured goods to the developing nations.

The rich nations' absorptive capacity for such goods is immense, and by accepting the more labor-intensive manufactured items from the developing countries, they can turn their attention to where their own true comparative advantage lies: to the production of more sophisticated items, and those employing capital-intensive technology.

It is precisely these goods that the developing countries will increasingly require, and a vast potential market exists among them for such imports provided they can secure, in return, an adequate share of the market for their own manufactured goods.

But even those who accept the probability of long-term gains to the developed countries from opening their markets to the imports from the developing nations may point to the short-term pains of adjusted. Much of the rising tide of protectionism springs from the fears of those whose jobs and investments will be displaced.

It is a political fact of life that the developed countries must adopt realistic adjustment policies to cushion the impact of import competition by retraining, relocation, and refinancing. Few have done so to date. Until they do, labor and management opposition to trade liberalization will be great—and justly so.

In sum, what we should all be seeking in development trade policies—both agricultural and industrial—is closer approximation to the principle of true comparative advantage. The basis for its exists in both the developed and the developing countries, but both must be prepared to modify inward-looking policies in order to achieve it. Only in an environment of more liberal international trade can the efforts of international and national aid agencies to improve the conditions of life in the developing world be fully effective.

VII. THE WORLD BANK

It is in this context that I would like to add a word about the World Bank.

Some four years ago, we set out in the Bank on a Five-Year Program. Our overall objective was that the Bank Group should lend roughly twice as much in the five years ending June 30, 1973, as it had in the previous five-year period; or to put it another way, that in the Five-Year Program period it should lend a total that would approach the entire amount lent in the first 23 years of the Bank's operations.

Taking into account the operating program for the current fiscal year, and the prospects for the following and final year of the Five-Year Program, it now appears probable, assuming ratification of the Third Replenishment of IDA, that the total of new investments in the five-year period will in fact surpass the initial objective of $11.6 billion, and the total cost of Bank-supported projects should exceed $30 billion.

Our goals also included trebling lending in the field of education, and quadrupling it in the agricultural sector. These goals, too, are being met.

Still another objective we have pursued is to give greater emphasis to assisting the very poorest among our member countries—countries with per capita incomes of $100 or less. Our estimate is that during the five-year period from 1969 to 1973 we will have assisted the poorest countries with a total of 215 separate projects. The comparable figure for the first 23 years of the Bank's activities—from 1946 to 1968—was 158.

Now that we are approaching the end of our Five-Year Program, we are giving concerted attention within the Bank to what we can most usefully do to assist our developing member countries in a second Five-Year Program from FY 1974 to 1978. These will be crucial years for the success of the Second Development Decade, and we intend to play as productive a role as possible.

It is already clear that there will be a pressing need for an expansion of IBRD lending, and for a substantial increase in IDA assistance during the Fourth Replenishment Period. We are confident that the necessary increases in IDA assistance, and in other forms of ODA as well, can be achieved. These achievements would be facilitated if plans were made to link the financing of such aid, either directly or indirectly, to future issues of Special Drawing Rights.

VIII. SUMMARY

I want to conclude by summarizing the chief points I have put before you today:

There is an urgent need to relate the goals of national growth to realistic targets of more equitable income distribution. A climate of economic growth is necessary for the advancement of the developing peoples, but it does not in itself assure equitable participation in the fruits of that growth.

Unless this is done by the developing countries themselves, no amount of external assistance, whether in the form of aid or trade, will do much to improve the welfare of the lower 40% of their populations which are living in conditions of the most abject poverty.

The 6% growth goal established for the Second Development Decade cannot be met without substantial flows of Official Development Assistance. But current and projected flows of ODA—at less than half their stated target—are wholly inadequate. Unless ODA expands, the poorest countries will simply be unable to reach their objectives, and many of the others will face increasingly serious problems of debt.

Even with ODA flows at the targeted level of .7% of GNP, achievement of the Second Development Decade's growth goal would require substantial trade assistance to the developing countries by the wealthy nations. Action must be taken to help stabilize and expand the agricultural exports of those developing nations which are dependent on them. And for those countries with the potential for exports of manufactured goods, discriminatory barriers to markets must be removed and preferences made available.

Just as we must conclude that it is the responsibility of the political leaders of the developing nations to recognize the inequities that exist within their nations and to move to correct them, so we must likewise conclude that the wealthy nations of the world—possessing 25% of its people, but 80% of its wealth—should move now to provide the additional assistance, in the form of aid and trade, which the developing nations need to meet minimum national goals. The additional assistance can be financed by diverting but a tiny percentage of the incremental income which will accrue to the developed countries during the 1970s.

Our clear duty for the remainder of this decade is to face up to mass poverty for what it really is, determine its dimensions, locate its whereabouts, set a limit beneath which we will not accept its continuance, and make our first priority a threshold of human dignity and decency which is achievable within a generation.

That, ladies and gentlemen, is how I—for one—view the development task.

What we need most to do is to get on with it.

PROJECTED FLOW OF OFFICIAL DEVELOPMENT ASSISTANCE MEASURED AS A PERCENT OF GROSS NATIONAL PRODUCT[1]

	1970	1971	1972	1973	1974	1975
Australia	0.59	0.58	0.59	0.59	0.59	0.60
Austria	.13	.16	.17	.19	.22	.25
Belgium	.48	.51	.54	.58	.62	.66
Canada	.43	.45	.48	.51	.55	.59
Denmark	.38	.43	.48	.53	.58	.64
France	.65	.65	.65	.65	.65	.65
Germany	.32	.31	.32	.33	.33	.34
Italy	.16	.16	.16	.16	.16	.16
Japan	.23	.24	.29	.31	.33	.35
Netherlands	.63	.64	.64	.64	.65	.68
Norway	.33	.36	.47	.56	.66	.72
Portugal	.45	.41	.45	.45	.45	.45
Sweden	.37	.49	.52	.60	.74	.88
Switzerland	.14	.16	.22	.26	.30	.32
United Kingdom	.37	.38	.38	.38	.41	.43
United States	.31	.31	.30	.28	.26	.24
Total DAC	.34	.35	.35	.35	.35	.35

[1] Countries included are members of OECD Development Assistance Committee, accounting for more than 95 percent of total official Development assistance. Projections are based on World Bank estimates of growth of GNP, on information on budget appropriations for aid, and on aid policy statements made by governments. Because of the relatively long period of time required to change legislatively authorized levels of aid, and then to translate legislative authorizations first into commitments and later into disbursements, it is possible to project today, with reasonable accuracy, ODA flows (which by definition represent disbursements) for 1975.

GAO REPORT ON THE F–14

Mr. TOWER. Mr. President, on April 16, 1972, the Senator from Wisconsin (Mr. Proxmire) released a statement and portions of a GAO report on the F–14. In the statement, he attacked what he alleged was poor management of the F–14 program. He released quotations, taken out of the context of the GAO report, which he termed "a shocking indictment of Navy management of the F–14 jet fighter program."

I feel that this is an entirely inappropriate way to conduct intelligent debate over weapon systems, particularly when a distorted picture is created. For this reason, I ask unanimous consent that a detailed analysis and refutation of the Proxmire release, which was prepared for me by the Department of the Navy, be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SENATOR PROXMIRE PRESS RELEASE

STATEMENT

Senator William Proxmire (D-Wis.) released Sunday night a new government report which he termed "a shocking indictment of Navy Management of the F–14 jet fighter program."

COMMENT

On April 16, 1972, Senator Proxmire released another press release concerning the F–14 program. Though based on a March 1972, GAO report, the Senator's release bears little resemblance to the referenced document. The following paragraphs provide the Navy's specific comments concerning the Senator's press release.

STATEMENT

In a statement from his Washington office, Proxmire said: The report—a March 1972 study by the General Accounting Office—shows that development of the F–14 was begun on the strength of an incomplete and biased study, that at least fourteen performance specifications have since been degraded, and that American taxpayers will be committed to the purchase of 134 F–14 aircraft before flight testing has ever been completed.

COMMENT

The study referred to is the Navy Fighter Study conducted in late 1967 and early 1968 at the direction of the Chief of Naval Operations (CNO). The Navy Fighter Study was conducted to fully analyze the VFX concept, not the F–14 aircraft as known today. The final report released on April 1, 1968, confirmed the VFX concept had great merit and that development should be pursued as soon as possible. It was not until January 1969, six months later, when notification of award was made to Grumman, that the F–14 became a reality built on design specifications.

The report was not biased in favor of the F–14, but was an analysis of the VFX concept compared to other alternatives available at that time.

The statement that "at least 14 performance specifications have since been degraded" infers less than desirable performance and does not identify the basis of original performance estimates. This area will be commented on in greater detail in the following paragraph dealing with technical performance degradations.

Before the *final results* of flight testing are complete, 134 F–14A's may be on order. Of these 134 aircraft, only a relatively small number will actually be built and delivered prior to the completion of flight test. However, extensive performance and service suitability testing will be accomplished in the Navy Preliminary Evaluations planned in the summer and fall of 1972. This will be well before the Board of Inspection and Survey (BIS) trials begin. As in many past aircraft development cycles, if the Navy finds the F–14 unsuitable for service use the program will be terminated. It must be noted that in all testing to date the F–14 is achieving excellent results and in some instances is exceeding performance specifications.

STATEMENT

It also shows that Navy reporting procedures have been designed to hide the full extent of the cost problems which have developed on the plane.

COMMENT

The Senator's statement seems somewhat distorted given the facts reported by the GAO. The Senator has misinterpreted a paragraph entitled "Selected acquisition reporting." The pertinent paragraph is quoted in its entirety from the GAO Study: "During our two previous reviews, we found that the airborne missile control systems (AMCS) was not being reported on the SAR. The program office indicated that the Department of Defense had not established this as a reporting requirement. Our current review disclosed that AMCS data was still not being reported on the SAR. We are repeating our previous recommendation as part of this staff study."

The AMCS costs are included in the funding profile outlined in the SAR, however, these costs are not broken out specifically under a weapons system cost profile. Similarly, other major F–14 components or subsystems are not separately reported, e.g., engines.

To categorically state Navy reporting procedures are designed to "hide" cost problems casts serious doubt on the validity of Department of Defense and Congressional reviews of the SARs submitted quarterly. The F–14 is one of the most visible programs in the Department of Defense, including all cost elements and their relationship within the total program.

STATEMENT

Whatever happened to "Fly Before You Buy" and better procurement management?

COMMENT

The "Fly Before You Buy" concept, originated by the present administration, was initiated subsequent to the F–14 contract awarded in February 1969. Even so, the F–14 program has been structured to a test early concept.

There simply are no facts to support the Senator's purported need for "better procurement management."

STATEMENT

The GAO report strengthens my conviction that the F–14 program has been managed for the last four years by a group of kamikaze pilots determined to commit procurement suicide.

COMMENT

This is but another unsupportable generalization that shows little appreciation for available facts. Statements such as this contribute little to objective criticism.

STATEMENT

I am most disturbed by the GAO's criticisms of the Navy fighter study used to justify the F–14 in the first place.

COMMENT

As previously stated, the Navy Fighter Study used by the GAO was a 1968 study to determine the feasibility of the VFX concept. A more recent Navy Fighter Study III, concluded in January 1972, analyzed in depth the present F–14 aircraft, not a conceptual design, and a wide variety of alternative aircraft presently available, including the F–4J.

STATEMENT

According to the GAO, the fighter study did not compare the F–14 cost effectiveness against all potential new fighter candidates, and its conclusion that the F–14 was superior as a fighter even to the existing F–4J "was not demonstrated conclusively." In fact, the study showed that in the key category of maneuverability "the F–4J was superior to . . . the F–14 in the projected air combat zones of the 1970s."

COMMENT

The GAO report identified two basic aircraft included in the F–111B Requirements Study that were not considered in the 1968 Navy Fighter Study. These were the VFAX with SPARROW and with PHOENIX and the Swing-wing version of the F–4J. The 1968 Navy Fighter Study compared only those aircraft types found to be cost effective from the earlier study. Detailed comments concerning the Cost Effectiveness chapter of the GAO staff study follow in the paragraphs below adjacent to GAO report excerpts.

STATEMENT

It is appalling to think that the Navy would want to replace F–4s costing $4 million per copy with F–14s costing four times as much when its own study showed that the new plane would be little, if any, better than the old one.

COMMENT

Considerable information regarding cost relationships is available in the Congressional Record and other source material, yet these relationships are consistently ignored by Senator Proxmire and other critics of the F–14 program. This F–14/F4 cost comparison is not valid and misleads the general public when quoted in the various news media.

The F–4 cost of $4 million is flyaway unit cost, the price of only the airplane as it sits on the runway. The F–4 cost of approximately $16 million is the total program unit cost, the price including support, spares and research and development as well as the airplane as it sits on the runway. The comparison does not take a common base for both aircraft. The F–14 flyaway unit cost is $9.4 million as reported in the December 1971 SAR. Thus, on a comparable basis the F–14 is approximately twice the cost of an F–4.

STATEMENT

"But the Navy has been trying to do just that, and it continues to pour an average of $3 million in new tax money into this worthless program every day.

COMMENT

The arithmetic in this statement is correct. However, the statement that the F–14 is a "worthless program" is not substantiated with facts. All studies conducted to date, including an independent NASA study, conclude the F–14 is superior to threat aircraft in being and projected through the 1980's. However, our current F–4 fighter inventory is only marginally superior in some areas and extremely deficient in others when compared to the present threat, and is unacceptable when facing the postulated threat of the future.

STATEMENT

We should buy only the 86 F–14's now on order and then terminate the program. Improved F–4s could provide a fine interim replacement until the new light weight fighter now being developed by the Air Force also became available.

COMMENT

Improved F–4s are not an acceptable alternative as an "interim replacement" for the F–14 because the F–4 in any version is not capable of effectively countering the threat. A lightweight fighter is not a viable alternative for the same reason and becomes a solely dedicated, single mission aircraft. The light weight fighter is and must be considered as complementing present developments not as an alternative to them.

[The following are excerpts from the GAO report]

THE NAVY FIGHTER STUDY (NFS)

STATEMENT

The NFS group initially restricted their analysis to three aircraft capable of carrying the PHOENIX missile: F–111B, F–14, and the A–6 Mod 11A. Subsequently, the F–4J alternative was also examined. The study group, however, did not consider other alternatives such as the VFAX with Sparrow missiles, the VFAX with Phoenix missiles, or the new improved F-4J (designed F-4 (FV)) . . .

For its analysis of maneuverability in the close-in air-to-air combat engagement, the NFS used the VEDA Air Combat Simulator to perform a comparative evaluation of the F-14 and F-111B in OFR. The study found the F-14 to be superior to the F-111B in air-to-air combat. . . . Four additional simulations were conducted which matched the F-14 against the Foxbat, MIG 21F and the F-4J and the F-4J against the Foxbat (the Foxbat and MIG 21F are Soviet fighter aircraft). We were advised by an official of the Navy Program Planning, Systems Analysis Division that the above simulations had been run but the input assumptions used had generated extreme controversy. Consequently, the simulations were not considered and the F-14 versus the F-111B simulation, in which the F-14 was shown to be superior, was used in the NFS. In addition, the NFS analysis of key performance factors disclosed that the maneuverability of the F-4J was superior to that of the F-14 in the projected air combat zones in the 1970s. Thus we believe the conclusion reached in the study concerning the F-14's superiority in other fighter roles was not adequately demonstrated.

COMMENT

The Government Accounting Office (GAO) Report (OSD CASE 3400-31) of March 1972 prepared an up-to-date report on the F-14 aircraft weapon system. Included in chapter 4 was a discussion of cost effectiveness which embraced conclusions relative to a Navy Fighter Study conducted in 1967 and 1968. The GAO's major conclusions were as follows:

"While cost effectiveness studies were performed for the F-14 weapon system and the basic study elements were considered we believe that: other alternative aircraft could have been included in the analyses.

The conclusion that the F-14 was generally superior to the F-4J aircraft in other fighter roles was not demonstrated conclusively.

An updated analysis of the Phoenix missile system development should have been included as part of the evaluation of the F-14 weapon system."

It is apparent that the GAO was unaware or did not consider the results of Navy Fighter Study III completed in January 1972. The previous studies did not address the F-14 as it exists today, but merely compared paper aircraft as they were envisioned at that time.

Specifically, at the direction of the Chief of Naval Operations, the Navy Fighter Study (NFS III) responded to a requirement of the Deputy Secretary of Defense to evaluate the capabilities of the F-14 against the Soviet threat of the 1975 to 1985 time period. The Study was further tasked to evaluate alternatives to the F-14 to determine the most cost-effective fighters for the U.S. Navy.

Analyses of the performance of the alternative Navy aircraft: F-14A, F-14B, F-4J (Slats), and a carrier suitable version of the USAF F-15, designated the F-15N, have been completed in-depth. The capabilities of these aircraft in interceptor roles and other fighter roles (OFR) have been analyzed in a range of threat environments. Detailed analyses of the candidate fighters in one-on-one aerial combat against current and projected Soviet fighters were completed.

Assuming the validity of inputs, intelligence and methodology used by the Study, *the following principal conclusions of NFS III are:*

A fighter complement of 24 F-14s per CVA is the most effective mix among the alternatives considered.

The F-14 is required in carrier airwings for the interceptor role during the 1975-1985 time period to insure air superiority for ships at sea.

The F-14 will provide the fleet with the air superiority fighter capability to successfully conduct air strike operations through 1985.

The F-14B will be sufficiently superior to the F-14A to justify continued participation in the joint engine development.

The F-14 is required by the Marine Corps to provide and maintain air superiority over beachhead and amphibious objective areas and to supplement Navy carrier forces.

Neither the F-4J nor F-4J (Slats) will have adequate capability to counter the Soviet missile or tactical fighter threat during the period 1975-1985.

Based on available information, there is no advantage for the Navy to develop a carrier—suitable version of the F-15 but there would be numerous disadvantages.

Recommendations based on the above conclusions are:

Continue the F-14A program.

Continue participation in the joint engine development program for the F-14B.

Do not initiate development of a Navy version of the F-15.

The Navy would be pleased to make these classified documents available for use by the GAO upon request.

STATEMENT

Technical performance degradations

Up to this last fiscal year, little change had occurred in the aircraft's technical characteristics as reported by the F-14 project office. This is also generally true for fiscal year 1971. We noted, however, that 14 out of 20 characteristics degraded whereas only four improved. Two remained the same.

COMMENT

This is an accurate excerpt from the GAO report, but gives the impression of dire technical problems in the F-14. Careful examination of the facts would reveal that these items relate to aircraft weight, combat ceiling, maximum speed, etc. that have varied small amounts from the original estimates prior to producing a real aircraft. These variations are entirely normal in any aircraft development program and are the result of actual testing or better engineering assessment. The F-14 variances are generally smaller percentage-wise than prior successful Navy fighter programs. If there were not technical performance variations being reported, it would be cause for concern as to the real status.

The stated excerpt was taken out of context as the press release fails to quote out of the report summary which says, "During fiscal year 1971, there were some minor reductions in the performance estimates. None of these was based on flight test data."

STATEMENT

Development—production concurrency in Board of Inspection Survey flight tests

We previously reported that the Navy would be buying a number of production aircraft before BIS trials. With an eight month slippage projected in the BIS trials, development-production concurrency increases. The BIS trials were scheduled to begin in June 1972 and are now scheduled to start in February 1973. Thus, an additional contract option, Lot V, due to be exercised on October 1, 1972, for an estimated 48 production aircraft, will be due before BIS trials commence. This could bring the total aircraft on order to 134 before the final results of Navy tests of performance, maintainability, and reliability are known.

COMMENT

It is true that the option for Lot V must be exercised by October 1, 1972. This is for a Navy request for 48 aircraft in FY 73. It is also true that this could bring the total number of aircraft on order to 134. The Board of Inspection and Survey Trials (BIS) are not the initial effort in flight testing. Navy Preliminary Evaluation #1 has been completed and NPE #2 will take place in the summer of 1972 and will be a most comprehensive appraisal of the entire F-14. This will include firings of the Phoenix, Sparrow and Sidewinder missiles. BIS trials are the legal tests to determine contract specification compliance.

Any serious problems arising in the F-14 that might warrant termination of the program through flight test results would be encountered long before Lot V aircraft would be produced. Lot V aircraft are not due for delivery until Fiscal Year 1975.

As to concurrency, with the eight month slippage projected in the BIS trials, development-production rate will still remain at approximately one aircraft per month. The F-14 is being tested in depth now. Over 650 hours have already been flown in flight tests. Results to date are considerably better than expected and show the F-14 to be the fighter the Navy must have.

STATEMENT

Hiding costs of the program

During our two previous reviews, we found that the airborne missile control system (AMCS) was not being reported on the SAR. The program office indicated that the Department of Defense had not established this as a reporting requirement. Our current review disclosed that AMCS data was still not being reported on the SAR. We are repeating our previous recommendation. . . .

COMMENT

This again is a factual but incomplete statement of the GAO report. In the summary section of the report on page 4, the GAO states "we repeat our recommendation of previous years that the program office include appropriate performance and schedule data for the airborne missile control system in the Selected Acquisition Report (SAR). With this exception, we acknowledge the suitability of the SAR format to fulfill the objectives of the SAR system." It should be noted that GAO in the substance of the report in no way suggests or implies that costs of the program are being hidden.

STATEMENT

An effective performance measurement system requires the computation of work accomplished in terms of the original budget (planned value of work accomplished PVWA). However, on the F-14, the contractor does not compute work accomplished in terms of the original budget but in terms of the current, revised budget. By comparing work accomplished, based upon current budget to actual costs, the contractor reports a cost variance which reflects only the difference between current budget and actual cost instead of original budget and actual cost.

COMMENT

Characteristically, this is also a factual statement appearing on page 17 but does stand alone when compared to the conclusions and recommendations on page 23. To be totally accurate, page 23 is quoted:

CONCLUSIONS AND RECOMMENDATIONS

We believe that the performance measurement system at Grumman is providing some visibility to the Navy over contract cost. However, we believe that the problems noted during our review limit this systems' potential effectiveness as a DoD and Navy management tool.

We believe that the effectiveness of the system could be enhanced by:

Providing information for use in projecting the results of effort currently under contract for future anticipated procurements to better assess and anticipate the impact of current activity on the total program.

Maintaining a budget baseline at target cost and reporting properly related variances between established plans and accomplishments.

Highlighting and tracking the use of management reserves for better program visibility.

Providing for Navy review and approval of major subcontractor performance measurement systems.

Conducting a proper and vigorous surveillance program which is coordinated with the project manager.

By incorporating these suggested changes, we believe that the continued use of the performance measurement system and its related reports will provide a better means for monitoring weapons system progress."

It is difficult to understand how this statement supports Senator Proxmire's contention that costs are deliberately being hidden.

Senator Proxmire's statement on the F–1 program is not factually substained. In large measure the GAO F–14 staff study, the basis for his allegations, counters the Senator's charges when read in context.

Rather than draw from the detailed information previously provided to him, Senator Proxmire repeatedly offers the same arguments against the F–14 program without substantiating data.

Senator Proxmire has apparently forgotten Admiral Zumwalt, the Chief of Naval Operations, briefed him on the existence and results of Navy Fighter Study III during a visit to the Senator's office last fall. The Senator has also received personal copies of Navy responses to his two lengthy speeches of last fall concerning not only the F–14 weapons system, but attack carriers and tactical airpower as well. In addition, the Senator has been offered in-depth briefings on the F–14 program.

Through a use of generalities, Senator Proxmire does not objectively criticize the F–14 program and he performs, while utilizing distorted information, a dis-service to the American taxpayer he claims to protect.

GROWTH OF COMMUNITY COLLEGES

Mr. WILLIAMS. Mr. President, I should like to take some time from our regular Senate business to speak about the growth of community colleges in the United States. According to new Census Bureau figures total enrollment in public junior colleges now exceeds 2.3 million. This is more than five times the enrollment of 1960 and it is expected to double by September 1975; 435 of the 840 public community colleges are less than 10 years old.

I think these figures are testimony to the previously unmet needs of a large segment of Americans. The nonrestrictive curriculum, the diversity of subjects offered, and the junior college's proximity to local communities has enabled these men and women to take advantage of educational opportunities the traditional higher education institutions could not offer.

The community colleges reach into every age level of our society and its courses touch on almost every facet of metropolitan life. Cabinetmaking and water disposal are examples of its freewheeling curriculum that is tailored to the specific needs of the housewife, the businessman, the retired worker. Young people who are bent on a specific vocation not requiring the traditional 4-year degree or who are preparing for the regular 4-year institution also find the community college invaluable.

The community college is growing because it offers a chance to everyone, regardless of previous educational standing, to improve their social as well as career assets. As the sponsor of the community college legislation now being considered in the Higher Education Conference, I am particularly interested in their development. I believe my colleagues can also benefit from an article which appeared in the New York Times revealing the scope of the community college today.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 14, 1972]

THE JUNIOR COLLEGE BELITTLED IN PAST, NOW A MAJOR FORCE

(By Jack Rosenthal)

MIAMI, Feb. 13.—Public junior colleges, once scorned as "high schools with ash trays," have exploded since 1960 into a major social force that is shaping industrial development, urban services and personal pride.

The statistical evidence was issued in Washington today in a Census Bureau report. While total university enrollment doubled in the nineteen-sixties, enrollment in the public two-year colleges quadrupled, the report said.

This enrollment now exceeds 2.3 million, according to one measure. And experts calculate that the number may well double again quickly, reaching 5 million by September, 1975.

The pulse and muscle represented by the skeletal statistics are dramatically illustrated in Miami. There was no public junior college at all here in 1960. This year, Miami-Dade Junior College enrolled 38,106 students.

From 7 A.M. to 10 P.M., students swarm through facilities costing $45-million—a downtown center and two sprawling suburban campuses studded with filigreed concrete buildings, palm trees, contoured plazas and landscaped parking lots.

Their ages range from 17 to 70, their intelligence from subnormal to genius, their diligence from full-time preparation for senior college to a single one-hour course before Christmas in fancy giftwrapping.

And their interests span the seven stages of man, from "Maternal and Child Health Nursing" to "Marriage and the Family" to "Advanced Embalming."

Miami-Dade, serving the city and county it is named for, is now the largest of 840 public two-year colleges in the country, 435 of which are less than 10 years old. Called community colleges or junior colleges, they are tax-supported institutions open at little or no cost (Miami-Dade's fees total $125 a term) to virtually any resident who wants to enter.

Thus to some they are the "open-door colleges," the leading edge of universal higher education.

Physically, the impact of their development is strikingly evident everywhere. In the Southern suburbs of Washington, "Novacoco"—Northern Virginia Community College—now has overflowed onto a second campus. In Cleveland, acres of inner city slums have been replaced by the handsome Cuyahoga Community College. In Los Angeles, some 100,000 students attend eight public junior colleges.

The social impact of the two-year colleges is just as evident as the physical. Miami-Dade, like its sister schools elsewhere, is far more than a traditional academic training ground for recent high school graduates. It is a broad social institution that touches almost every facet of metropolitan life.

Thousands of its students take such public-service courses as fire science and waste water disposal. Miami-Dade now trains policemen for its entire area.

Thousands of other students have learned skills in electronic data processing, aerospace technology and freight rate structures, thus supporting—and helping to attract to the area—businesses that require a skilled labor market.

And most students, even those indifferent to qualifying for a degree or a skilled job, have won a new sense of accomplishment, personal worth and ambition.

IT BEGAN AS FUN

"It began only as fun," says Mrs. Betty Morow, who shyly enrolled for a night course in English composition after 25 years of marriage. Now after writing 40 short papers and taking several other courses, she says: "I'm really serious about going after a bachelor's degree."

The students reflect the Census Bureau's national statistical portrait. They are more likely to be older, to work, to be married, to come from families without any college education and to have lower incomes than are students in four-year colleges.

Only half of the students here are pursuing a traditional academic course. A young mother brings her baby with her to a computer laboratory. A day maid studies at night to become a secretary. A grandmother discovers that: "Baroque music is really terrific, once you understand it."

These experiences only suggest the reasons for the explosive growth of public junior colleges. (There is a small and declining number of private junior colleges.) The most obvious is the presence of swelling numbers of young high school graduates, says Jack C. Gernhart, an official of the American Association of Junior Colleges, in Washington. "The kid market is at its peak right now," he says, referring to the postwar baby boom.

But that population change can account for no more than half of the total growth. Mr. Gernhart gives a series of additional explanations:

"There's an increasing desire on the part of a lot of parents that their children should have better opportunity. There is the demand of industry for increasingly skilled labor. There is the development of a whole new demand for paraprofessional labor in public service fields like computer mapping or medical technology," which require more than high school and less than college.

Then, too, there is the factor of increased leisure time. When the work week is short and the college is both close and inexpensive, Mr. Gernhat says, "the opportunity for advancement and for enrichment is often irresistible." He himself looks forward to taking a course in cabinetmaking this spring.

Still further explanations for the growth are offered here by Peter Masikos Jr., the restless, silver-haired president of Miami-Dade. The population of the area, he observes, has grown 40 percent since 1960. The addition of campuses—now spanning a 25-mile radius—has brought Miami-Dade within reach of most of those people.

WEEKEND COLLEGE

And he and his staff, not content simply to keep up with the demand, are working to increase it. In 1965 a "Weekend College" was begun, permitting people to earn an Associate in Arts degree after studying on Saturdays for three and a half years.

Individual courses have been taken out to the students—at, for example, meeting rooms in Miami Beach condominium apartments.

Such outreach creates problems beyond the problems of volume. For with volume come students with the widest range of intellectual ability.

Miami-Dade offers courses that are varied not only by subject but also by difficulty. Beginning English, for example, now is taught in 15 different ways ranging from the remedial "bonehead" approach to completely individual instruction.

"It would be easier to preselect our students, or flunk out a lot of them the first term," says Robert H. McCabe, the executive vice president. "But we don't think that's our role. Our original admissions requirement was the ability to turn left off 27th Avenue. We're still pretty close to that and we're glad. There's value in education—to the individual and to society—outside a B.A. degree."

NATIONAL SECRETARIES WEEK

Mr. BEALL. Mr. President, April 26 was National Secretaries Day, the highpoint of the 21st annual National Secretaries Week. This is most certainly a time when busy executives can stop and recognize the unsung heroes of any office, and the contribution she makes to the smooth accomplishments of any office objective.

"Better Secretaries Mean Better Business" is the theme of this week, and I know of no better statement on the role of the secretary in today's world. The modern secretary is an integral and significant part of any business, performing a myriad of tasks with efficiency and pleasantness. No firm could exist for very long without the loyalty, dependability, tact, discretion, initiative and good judgment that a proficient secretary brings to her position. As Mrs. Angeline Krout, CPA, international president of the National Secretaries Association, and, I might add, a fellow Marylander, reminds us:

> They are taken for granted when they are there, and no substitutes are accepted when they are not.

So let us make each week Secretaries Week, and recognize the work of the secretary as she performs the many varied and important tasks of the modern office. She is a person our Nation cannot do without.

PRESIDENTIAL PRIMARIES

Mr. NELSON. Mr. President, at a luncheon meeting of the Woman's National Democratic Club 1 week ago, Senator THOMAS EAGLETON, raised some important points about the presidential primary system.

In his speech Senator EAGLETON discussed the basic goal of the progressive reformers of the turn of this century. Their concern was to take the selection process out of the "smoke-filled" rooms and institute a system of greater public involvement. The question in 1972 is whether or not this desire for reform some 70 years ago has not turned into an impossible obstacle course that would make the Boston marathon look like a Sunday stroll along the Charles River.

In questioning whether the present system of 23 different primaries covering a 4-month time span serves the public interest and achieves the goals of rational political reform, Senator EAGLETON pointed out to the audience that the present system:

> Encourages discussion only of the most parochial concerns, those of interest to the relatively few voters who take part in each contest. It is a wonder that any candidate, or indeed the electoral process itself, emerges from the primary circus with a shred of dignity.

In order that the Senate can share Senator EAGLETON's thoughts and suggestions on primary reform more completely, I ask unanimous consent that the full text of his April 20 statement and the news release which announced this speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF U.S. SENATOR THOMAS F. EAGLETON

We are once again deep into the disturbing American ritual of the Presidential primaries. Mercifully, we need only endure it every fourth year. No matter which candidate one prefers—and I made my own preference known very early in the game—anyone with a TV set, a newspaper subscription or a friend who talks politics knows that our primary system is irrational, undignified and particulary unsuited to the task of indicating which candidate can create a winning consensus of voters.

The primary system was born of the best of intentions, the brainchild of the Progressive reformers around the turn of the century. They wanted to take the selection process out of the proverbial "smoke-filled rooms" and hand over at least a part of it to the people. At the same time, they wanted candidates to have a trial run before election day, giving the candidates and the voters a chance to get acquainted. As the years passed and more and more states got the reform spirit, the patchwork of primaries got out of hand. Today, we are faced with a virtually unmanageable morass of state-by-state contests.

The most glaring problem with the primary system as it now functions is that it is an unconscionable drain on a candidate's time, money, and energy. Any candidate who chooses to take the primary route to the national convention—and few have any other option—is faced with an obstacle course of 23 possible contests. For four months he must run from state to state, with no rational geographic pattern, making almost daily appearances. At the same time, he has to bear his responsibilities as a senator, governor, mayor, or whatever. In my view, primaries are more tests of wealth and endurance than they are tests of ability.

Then, too, we must admit that the primaries are not much easier on the public. Night after night we as a people are subjected to reports of this or that candidate riding a bike, trying his hand at baseball, all generally exhausting himself at everything but a full discussion of the issues. That is yet another deficiency of our present system. It encourages discussion only of the most parochial concerns, those of interest to the relatively few voters who take part in each contest. It is a wonder that any candidate, or indeed the electoral process itself, emerges from the primary circus with a shred of dignity.

We must also concede that the present system encourages political maneuvering not so different from the kind the turn-of-the-century reformers intended to eliminate. No two primaries offer precisely the same opportunities. Some are tied to delegate selection, others are not. Some bind their delegates to a particular candidate, others do not. Some are open to all voters, others are open only to registered party members. And, of course, no two constituencies are alike.

Survival in the primary maze becomes a test of one's skill in piecing together a winning combination of contests—a procedure not unlike putting together a meal from Column A and Column B in a Chinese restaurant.

Finally, the present system is clearly unsuited to its central purpose, that of presenting the convention with a candidate who can be expected to carry the greatest number of votes in the general election.

In the first place, with the crazy quilt of primaries and results, even the political analysts are left haggling over just what the returns mean. With no rational basis for comparing results, it's anybody's guess who the "people's choice" is for the party's nomination.

Secondly, the candidate whose views actually are the most representative of a greater portion of the people often fails to emerge as the winner. As candidates on his left and right choose their forums, he is subject to attack from one side or the other throughout his campaign. Even though his opponents would fare poorly in a national contest, they can successfully reduce his margin of success in the primaries enough to draw his viability into question.

Perhaps that is why primaries are not viewed so much as "makers" of candidates, but as "breakers" of candidates. What we are likely to find at the end of the primary route is not a consensus candidate, but rather a heap of those who didn't make it. I cannot believe that that is the result the Progressive reformers had in mind 70 years ago.

With that background, I think it is fair to say that we now find ourselves at a crossroad not unlike the one the Progressive reformers faced. It is time once again to reform the manner in which we select our presidential candidates—keeping in mind the importance of voter participation in this process.

While no one has seriously suggested that we return to the smoke-filled room or that we adopt a suggestion made in the early 1800's that retiring Senators draw lots for the privilege of serving as President, some suggestions have been made.

From time to time it has been suggested that we switch to a national primary system in which all the states hold their primaries on the same day, under uniform conditions and procedures. Under some formulations, the winner would take all, going to the convention as the party's nominee. If no one has a sufficient plurality, there would be a runoff. A variation on this theme would send the top three names, or the names of those with a certain percentage of the total vote on to the convention for final selection. This variation does away with the cumbersome runoff procedure.

Under the national primary system we would eliminate many of the disturbing variations among state primaries. We would also telescope the primary process into a shorter period. On the other side, there is the argument that lesser known or minority candidates would suffer greater hardship under a one-shot primary. And a run-off election, of course, would mean three national elections within a relatively short period of time.

Another important proposal is the so-called "regional primary" plan under which candidates would run in five primaries in large geographical chunks of the country, each held at a different time. This plan heightens the risk that several candidates, each with a single regional base, would be sent on to the convention. But it would be less of a drain on the candidate and the public, at the same time providing a longer period for lesser known candidates to get their views across.

Finally, it would help even if all we did was telescope the existing state primaries—with all their variations—into a one-month period. At least we would cut down on the boredom of the public and the strain on the candidates, at the same time legislating in a way that would not raise serious Constitutional questions about federal interference with the prerogatives of the states.

Each of these plans has advantages and disadvantages. Whatever system we choose to replace the present one, there will be tradeoffs. But the campaign of 1972 has made abundantly clear that the present system has terrible disadvantages with few, if any, advantages. It is in many ways, the worst of all possible worlds.

THE ADMINISTRATION'S NEW TRANSPORTATION PROPOSAL: FEAST OR FAMINE FOR MASS TRANSIT?

Mr. WILLIAMS. Mr. President, as a Member of this body I have over the years been an advocate of expanding the Federal commitment to urban mass transportation. Therefore, I view the administration's most recent urban transportation proposal with considerable concern. This proposal, on its face, appears to give real impetus to mass transportation by opening up the highway trust fund to transit expenditures. However, on closer examination, I believe that the administration's recommendation would in fact shortchange our cities and towns which are desperately in need of additional Federal assistance.

Under the administration proposal, urban areas could be far worse off in terms of Federal aid than under present financing patterns. Specifically, the administration proposes no new funding for the Urban Mass Transportation Administration and would eliminate the separate transit program altogether. In its place, mass transportation would be eligible to receive highway trust fund moneys. Significantly, however, a very substantial portion of the money slated for urban areas would be under State control. And it is a well known fact that the States have traditionally been first and foremost proponents of highways. Moreover, funds which would be under the urban areas' own determination would be available for highway or transit use, thus limiting the amount available strictly for transit purposes. Additionally, the administration proposal would virtually preclude concentrated funding of new mass transit systems.

Mr. President, the foregoing reasons highlight my reservations concerning the administration's proposal for urban transportation funding. Before enactment of any legislation based on this proposal, I believe the Congress will want to give careful scrutiny to the actual effect on Federal support for mass transportation. Certainly we do not want to delude ourselves into believing that any proposal to permit expenditure of highway trust funds for transit is an improvement over the existing situation. In fact, such proposals may portend famine rather than feast for our critically needed mass transit systems.

Mr. President, a full discussion of the principal drawbacks to the administration's proposal is contained in an excellent article entitled "Gift Horse," published in the April 15 issue of Forbes magazine. So that all Senators may have the opportunity to aprise themselves of the potential drawbacks contained in the administration's program, I ask unanimous consent that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GIFT HORSE?

The Administration proposes dipping into the Highway Trust Fund to help mass transit. Is the Volpe plan what it seems? Or is it a disguised victory for the highway lobby?

Take a closer look at what the Administration calls a plan to give a break to mass transportation. Critics say it's a quiet way to perpetuate the Highway Trust Fund beyond its statutory expiration date, to keep paving the U.S. for years to come, while mass transportation gets the leavings.

The Highway Trust Fund is a fund collected from federal gasoline and other excise taxes. It's earmarked for highway building. No economy ax can touch it. The fund will spend $4.7 billion this fiscal year; it has spent $54.2 billion since 1956. But it's supposed to expire in 1977.

Transportation Secretary John A. Volpe has come up with a plan. Extend the Highway Trust Fund until 1980, he says, but use some of the money for mass transportation.

Does this sound like what the environmentalists and anti-asphalt groups have advocated. Well, it is not.

The Volpe plan would add no new funding for the Urban Mass Transportation Administration (UMTA). It would eliminate separate funding for urban transit altogether. In its place Volpe would take $1 billion out of the Highway Trust Fund for fiscal 1974 and put it into a Single Urban Fund along with the final $850 million of the original UMTA authority. After fiscal 1974 the Single Urban Fund would be financed solely out of the Highway Trust Fund at a rate of $2.25 billion a year from 1976 to 1980. (The Interstate Highway System would go on receiving $3 billion a year all this time.)

Isn't this at least a start toward what the environmentalists and mass transit advocates want? Not necessarily. The Single Urban Fund money would go to the cities and states for all forms of transportation—highways and subways. The subway people would be indeed fortunate to get their hands on half of it. Even then the Volpe plan would disburse the money broadly to communities on the basis of population. While this sounds reasonable in theory, in practice it would prevent the kind of concentrated funding allowed presently under UMTA. As the table on page 28 makes clear, the Volpe plan would give less money to almost every major metropolitan area that is engaged either in building, modernizing or planning a rapid rail transit system. In short, the Volpe plan would give too little money to make the choice between rapid rail and highway transit any but a make-believe choice.

Says an aide to protransit Republican Senator Gordon Allott of Colorado, who sits on the Appropriations Committee: "You can program a decision by giving false choices. The highway people present false choices. They say you can have a heavy rail transit system that costs this much or you can have, for a lot less cost, busways." Mayor Sam Massell of Atlanta, who also serves as president of the National League of Cities, says of the Volpe plan: "This limited amount of funds would not allow the urgent and pressing needs of Atlanta and similar cities to be fulfilled."

The Administration isn't listening. "Our program provides a continuous source of financing for transit," argues Transportation Undersecretary James Beggs. "Opening up the trust fund relates to long-term financing. We're addressing a continuous source of financing." He adds, "Look, we've been told for years this is the thing to do, open up that trust fund. Now we're doing it and they say it's not enough." He echoes Volpe's statement to Congress: "Now is the time to break away from the established pattern of separate highway and mass-transit programs."

Such statements are not entirely convincing. There has been a real mass-transit program only in the last two years, or since Congress passed the Urban Mass Transportation Act in 1970. What the Volpe plan would do would simply subordinate the infant program to the older highway program. Not only would highways get money from the Single Urban Fund, but Volpe's plan proposes separate annual funding totaling $1.2 billion for primary and secondary roads and rural highways. Clearly construction man Volpe, who was the first Federal Highway Administrator in 1956, hasn't forgotten his friends.

Before 1970, funds for urban transit ran at a token level while the highways spun out across the landscape. New Jersey's Senator Harrison Williams was a voice crying in the wilderness for mass transit. He remembers when urban transit got $60 million from the Congress in 1965, a year when highways received $4 billion. But with the rising consensus of suburban and urban interests, mass transit gathered support. In 1970 Congress granted $3.1 billion for mass-transit projects through fiscal 1974, but stipulated that such contract authority must be updated by each succeeding Congress until a total contract authorization of $10 billion was used up. This year the transit lobby hoped to piggyback an authorization of $5.8 billion for fiscal years 1973 through 1977 onto the original authority and thereby provide urban transit with some real money.

"In passing the 1970 act (UMTA), the Congress clearly intended to establish a ten-year federal commitment for the funding of urban mass transportation systems," Williams wrote Volpe last month, chastising the Transportation Secretary for not coming forward as he is required to do with the Administration's proposals for funding mass transit. Williams feels that Volpe's plan would make urban transit, specifically rail transit, a permanently poor second cousin. It would also, in the niceties of Washington maneuvering, remove Williams' Senate Banking, Housing & Urban Affairs Committee from consideration of funds for transit.

Department of Transportation's James Beggs comes close to revealing the Administration's real priorities when he says: "The only places subways are needed are in the big cities on the coasts. Between the Appalachians and the Rockies there are cities that are well served by their highway transport."

Such a statement ignores the fact that St. Louis, Minneapolis-St. Paul, Pittsburgh, Denver, Kansas City, Houston, Dallas-Ft. Worth, and even Detroit are considering some rapid rail transit in their mix in the Seventies. Chicago has rail transit and has raised the necessary matching grants to bring in the federal money for modernizing it. For mass transit, the money comes in at a rate of 70% federal for every 30% local money. This is in contrast to Highway Trust Fund money which goes into the interstate at the rate of 90 cents federal for every dime of local money.

Yet local support for improving transit systems under the provisions of UMTA has been impressive. "In Atlanta," says Mayor Massell, "the voters recently approved a special sales tax earmarked for construction of a $1.3-billion rapid-transit system. This system includes 50 miles of rail rapid transit, a 14-mile busway and 1,500 miles of local feeder buses. Other metropolitan areas have made equally strong commitments to mass transit." And Atlanta is not unique.

The rail transit lobby does not yet have the corporate clout of the highway lobby. Companies involved in rail transit include General Electric, Westinghouse Electric, Budd Co., Rohr Corp., the St. Louis Car division of General Steel Corp. and the Westinghouse Air Brake division of Bendix. As more subway money flows, however, additional companies would find they have a stake.

So what is the upshot of the Administration's plan? It probably won't become law this year. There just isn't enough time for the Congress to tackle such a complex political football. Meanwhile, the urban transit lobby has scaled back its request for future authorization to $2.9 billion for fiscal years 1973–75. It stands a good chance of getting it. Its request would bring annual authorizations for urban transit to $1.5 billion when coupled with the original UMTA money, a level that would be 29% of what the highways would get in fiscal 1973. But they would be sure of getting it, which is more than they would be under the Volpe plan. This would give the cities the necessary funding to go ahead with their rapid transit plans and programs, while it would give the urban transit lobby time to fight for a better share of the Federal Government's distribution to transportation in this country.

Is it any wonder the public is confused by economic politics? The Administration says it wants to break up the Highway Trust Fund when what it really wants to do is to prolong it. And the mass transit lobby says, no thanks, we don't want part of the Trust Fund, we'd rather have our own separate funding. Is it any wonder there's a credibility gap?

FORCED BUSING OF SCHOOLCHILDREN

Mr. ALLEN. Mr. President, New York State continues to lead the way in devising legislative means to overcome the effects of forced busing of schoolchildren to achieve racial balance in public schools. I am continually amazed by the remarkable similarilty in attitudes of the people of New York State and of New York City, for that matter, with those of the people of Alabama on the question forced busing.

In 1969, the Legislature of New York State enacted a bill to prohibit the use of forced busing by local school boards and by the State education commissioner as a means of desegregating the schools. This legislative action faithfully reflected the sentiments of the people of the State as expressed through their elected representatives to the State legislature. However, we know that the U.S. Supreme Court, in the exercise of its powers of omnipotence and by invoking the judicial doctrine of divine revelation in such matters, declared the law unconstitutional. The Court cited as authority the revised and edited version of the U.S. Constitution left to us by the Warren Court.

Mr. President, this last incident did not foreclose the options. Facts disclosed in an article by Iver Peterson which appeared in the New York Times on February 23, 1972, make it clear that busing students to achieve racial balance in public schools had really never been a major problem in New York City. This, despite the fact that the city schools are among the most racially imbalanced in the State. In fact the article reveals that New York City has never had a busing program and that the school administration had not bothered even to develop proposals for one. After all, why should the city of New York bother with busing when it relied on a policy of freedom of choice? Of course, in New York City and in other areas of the country, "freedom of choice" refers to the policy of "open enrollment." Therefore, such minute busing as does occur in New York City is purely voluntary.

Mr. President, the people there are not concerned about massive busing and crossbusing such as children in the South must suffer and endure. The U.S. Supreme Court, the Department of Justice, and the Department of Health, Education, and Welfare treat New York City's system with hands off reverence and benign neglect. However, the unquestioned fact is that southern public schools are far more integrated than the schools in New York City. According to a recent study, 88.7 percent of New York City's schools are racially imbalanced—906 of those schools range from being seriously imbalanced to "totally segregated." In commenting on this gross discrimination and mistreatment of schoolchildren in the South, none dare call it politics. I commented on this last article in remarks printed in the CONGRESSIONAL RECORD of February 23, 1972, pages 5115–5116.

Mr. President, the New York Assembly has once again expressed the will of the people of the State of New York on the busing issue. By a vote of 99 yeas to 44 nays, the assembly favored a 1-year moratorium on forced busing as a tool for achieving racial balance in the State's schools. The bill now goes to the State senate where, according to a New York Times article of Wednesday, April 26, 1972, "The prospects for passage in that House were good." Governor Rockefeller has previously expressed himself on the President's proposed moratorium on busing as a "very constructive approach." So it would seem reasonable to expect his support of the assembly action. During assembly debate on the issue, the moratorium on busing in New York State was justified on the ground that it was made necessary by a "rash of edicts and orders by various bureaucrats and by judges who are not responsible to the will of the people."

The assembly majority leader, John E. Kingston, said that busing pupils to achieve racial balance "has disrupted the orderly administration of the educational process and has divided our society." Mr. President, it is my firm conviction that the assembly has expressed the sentiments of the people from every State and region of the Nation.

When we recall that all forced busing orders to achieve racial balance in public schools have been justified by the U.S. Supreme Court as a proper exercise of equity powers, and when we consider that the orders now compel forced busing across school district lines and across boundaries and jurisdictions of cities and counties, we cannot but be astounded by the new concept of equity that vests discretionary powers in Federal judges to disregard the existence of the jurisdictions of separate political subdivisions of State and local governments in order to implement an insultingly racist dogma of racial balance.

Mr. President, I hope that the New York State Assembly bill will be enacted into law. If so, there is good reason to believe that the validity of the law will finally be determined by consultation with our judicial oracles who will faithfully disclose the heretofore hidden knowledge of divine purpose. Otherwise, commonsense and a devotion to the principles of freedom and liberty, as expressed through elected representatives of the people would prevail. And this is a state of affairs which cannot be tolerated by oligarchs.

In this connection, at least one candidate for the office of President, Gov. George C. Wallace, has advocated a constitutional amendment to make the omnipotent Federal bureaucracy answerable to the people by means of periodic reelections in the case of U.S. district court judges and by means of periodic Senate reconfirmations of other Federal judges, including U.S. Supreme Court oracles. If these people are to act in the role of gods, they should be made to show their credentials. If they continue to act as superlegislative bodies, then they should be answerable to the people. This issue is fast coming to a head and it may be decided in this presidential election year.

Mr. President, I ask unanimous consent that the article from the New York Times of Wednesday, April 26, 1972, entitled "Assembly Backs a Halt in Busing," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ASSEMBLY BACKS A HALT IN BUSING

(By William E. Farrell)

ALBANY, April 25.—After nearly four hours of intense and sometimes rancorous debate, the Assembly today approved a bill to impose a one-year moratorium on busing as a tool for achieving racial balance in the state's schools.

Despite charges that it was unconstitutional and amounted to "racism," the measure easily passed by a vote of 99 to 44, with proponents contending that it was a stopgap measure while Congress considered President Nixon's proposed national moratorium on all court orders that would require busing to achieve school desegregation.

The bill now goes to the Senate. A spokesman for Senate Majority Leader Earl W. Brydges, Republican of Niagara Falls, said that the prospects for passage in that house were "good."

A spokesman for Governor Rockefeller declined this evening to say what action he might take, but Mr. Rockefeller said last month that the President's proposed moratorium on busing as a desegregation tool was a "very constructive" approach.

Mr. Rockefeller also said then that the Board of Regents, the highest educational policymaking body in the state, would have to review its commitment to busing as a means of achieving racial balance.

Shortly afterward a majority of the 15 Regents reaffirmed their support of busing, a move that also upheld the position of State Education Commission Ewald B. Nyquist.

Today's Assembly action was a clear slap at both the Regents and Mr. Nyquist, and it was accompanied during the debate by remarks that educational decisions were being made by a "rash of edicts and orders by various bureaucrats and by judges who are not responsible to the will of the people," as Assembly Majority Leader John E. Kingston, Republican of Nassau, put it.

The bill says that busing pupils to achieve racial balance "has disrupted the orderly administration of the educational process and has divided our society."

It prohibits the Commissioner of Education and any appointed school board in the state from "promulgating any order, rule or regulation requiring the attendance for regular instruction by a public-school pupil at any school for the purpose of achieving racial balance."

It also suspends any such orders issued since January 1971, until Sept. 1, 1973. In addition, it prohibits elected school boards from busing across district lines to effect racial balance. There is no prohibition of busing within a district.

A similar bill prohibiting the use of busing by appointed school boards or the Education Commissioner was enacted in May, 1969, and served as a model for some Southern school districts that sought to avoid integration.

The 1969 law was ruled unconstitutional by a Federal court, and the finding was upheld on May 3, 1971 by the United States Supreme Court.

"I hate to see this state try to get in front of George Wallace," said Assemblyman Guy R. Brewer, Democrat of Queens, as the lengthy debate commenced today.

Assemblyman Albert H. Blumenthal, Democrat of Manhattan, said that busing had long been an acceptable mode of transporting children to school in this state and that the concept was "not the problem."

"The problem is quality racial integration," Mr. Blumenthal said. "We've talked a great deal about knee-jerk liberals and about a whole variety of liberals, and some of the criticisms are true, but I don't think we should become a Legislature of copycat conservatives."

STOPGAP INTENT CITED

Assemblyman Rosemary Gunning, Republican Conservative of Queens, who explained the bill in the absence of its sponsor, George Van Cott, who was ill, said its purpose was to "hold in abeyance any plan which would create greater turmoil and greater expense until there is a determination on the national level."

Assemblyman Stanley Harwood, Nassau Democrat who opposed the bill, said it was "a diversionary tactic" aimed at directing "the attention of the electorate from the failures of this Legislature" to deal with major issues, such as mental institutions, prison reform and unemployment.

The measure drew a strong attack from an upstate black lawmaker, Assemblyman Arthur O. Eve, Democrat of Buffalo, who said: "You don't want us in your school, and you don't want to come to our schools, and you don't want to give us control of our schools."

CAPITOL REEF NATIONAL PARK

NATIONAL PARKS DRAW TOURISTS

Mr. MOSS. Mr. President, at the time Congress was considering my bill to establish Capitol Reef National Park in the place of the existing national monument, some people—both in Utah and in Washington—questioned the wisdom of upgrading the area to national park status. Aside from the need to adjust the boundaries, and to assure, by statute certain other management practices for the park, I argued that a national park would be more attractive to visitors than a national monument, and would bring greater economic benefits to the surrounding area.

My contention has now been borne out. Capitol Reef National Park was established by law last December. It was dedicated earlier this month. Superintendent Franklin Wilson reports that already business is picking up. Both the number of inquiries about the park and the number of visitors have increased many fold. The story of the growing popularity of Capitol Reef National Park in southern Utah was carried in an article in the Deseret News on April 19, and I ask unanimous consent that it be placed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Capitol Reef Draws Tourists

(By Bill Ewer)

Capitol Reef National Park, Wayne County.—It's amazing what a new name will do for business.

A few years back, when Capitol Reef was still a National Monument, everyone connected with the central Utah wonderland was doing everything they could to drum up the tourist trade.

From a scant 7,000 people in 1955, visitations to the monument grew to over 400,000 last year.

The flood gates were really opened when Capitol Reef became a national park last December. Dedication rites were held only 12 days ago, but the word has gotten around and the Parks Service is reporting a 50 percent increase in traffic so far this year.

"The new name certainly has had an effect," says Superintendent Franklin Wallace. "People hear about a new national park and they want to go see what it's like. People just want to see a national park more than they do a national monument.

Wallace reports information requests from people planning to visit Capitol Reef have reached 50 to 60 a day—up from about 10 a day last year.

Most people visiting Capitol Reef in the past have spent very little time there. It was a nice place to drive through, but most visitors stayed close to U–24, the park's only paved highway.

"Now people are coming here to see the park and spend some time," Wallace said. "So far this year there has been a 75 to 90 percent increase in back country visitation. People are getting the word about the back country and are coming prepared to get off the main road and onto the jeep, horse and hiking trails.

"Places like Cathedral Valley, the Burr Trail, Capitol Gorge and Grand Wash have all of a sudden become the hot spots. Everyone wants to spend a few days in the out-of-the-way places, get away from the 'civilization' near the highway."

Despite Capitol Reef's new popularity, it still rates as a "best bet" for the tourist trying to get away from it all. And, its year-around availability, and moderate climate, make it an ideal fall, winter or spring vacation spot.

While most of Utah has been suffering through rain and snow for the past two weeks, the Capitol Reef area has been enjoying warm spring sunshine.

Main attractions of the park are its natural bridges, arches, historic Indian ruins and spectacular scenery. Its high-walled canyons, unusual multicolored rock formations and high plateaus make it highly rewarding to hikers, campers, or just plain amateur explorers who want to go places few people have been before.

But unless you plan on getting there soon, it appears you might have to send for reservations.

WITHHOLDING OF HIGHWAY TRUST FUNDS

Mr. CANNON. Mr. President, the latest figures show unemployment in this country hovering around the 5.9-percent mark. Bad as that is, it does not compare with Nevada, which is struggling with a 6.7-percent level. In the State's largest population center, Las Vegas, unemployment is at 7.4 percent.

This administration has made much of its efforts—so far unsuccessful—to reduce these figures. But it stubbornly holds to one practice which forces men off jobs across the country—withholding highway trust funds.

The history of this practice is well known to all of us who have endured it since 1966. There seems to be little doubt it is a direct frustration of the intent of Congress, without any legal sanction. Nor is there any doubt of the Congress' opposition to it—a number of bills, resolutions, and telegrams attest to that.

Still, the practice persists, while completion of the Interstate Highway System slips farther into the future, while State highway departments are reduced to guesswork in planning vital roads, while construction costs continue to rise and, most importantly, while more construction workers fail to find jobs.

In Nevada, the amount of funds withheld is expected to reach $35 million by the end of the current fiscal year. Keep in mind Nevada is a small State and $35 million in 6 years is a large amount compared with the $20 million or so appropriated there annually.

We have vital highway projects going begging because of a lack of funds—projects doubly important to Nevada because of its reliance on tourism. State highway officials say they could use at least $20 million just to complete the Interstate System through the State, and yet the administration hoards several million dollars a year that Congress has already approved.

The situation is so serious that the Governor of Nevada was forced into seeking a face-to-face confrontation with Transportation Secretary Volpe during the recent National Governors' Conference. Unfortunately, the distinguished Governor proved no more successful in dislodging impounded trust funds than Congress has been over the years. The Governor concluded the President's political advisors were dominating the highway program and expressed a thought he said was shared by many Governors—that impounded funds will be released later this year as a campaign tactic.

That may be fine for the President's reelection efforts, but it will not aid State highway departments who must plan now for projects to begin several months hence. Without assurance of funds, these projects must be postponed another year or longer.

Senator Randolph, the able chairman of the Public Works Committee, has been fighting this practice for years. He has included language in past highway acts directing the administration to stop withholding funds. So far, this has been to no avail, but I have been assured that the distinguished Senator from West Virginia intends to try again. The 1972

Highway Act is scheduled for Public Works Committee hearings some time next month. I urge all Senators to join Senator RANDOLPH in seeking an end to this shortchanging of a vital national construction project.

THE COLLEGE GOES TO PRISON

Mr. WILLIAMS. Mr. President, I wish to talk about a most interesting article I came across in the Junior College Journal of April 1972. It tells about the Mercer County Community College prison education network system in New Jersey. This system brings higher education to inmates at four prisons within a 90-mile radius of Mercer Community College. It is one way of decreasing recidivism among prisoners. Recidivism is the habitual incarceration of people who commit crimes, are freed, and return to criminal activities over and over again. This group constitutes the highest proportion of our prison inmates.

The Mercer Community College program has given these people a chance to become useful citizens when they regain their freedom by helping them to gain a college degree or furthering their education when they are freed. It imbues tremendous psychological assets such as confidence and self-pride. It also gives the inmates a chance to obtain better employment when they return to the mainstream of society.

As one young prisoner poignantly described this process:

> Although different in many aspects, almost all of us are held together by common bonds, the desire to achieve, to improve ourselves, to learn and to reach a point that when our eventual release comes we will be better equipped to fit into, and contribute to, society. None of us wants to come back here.

In order to accommodate the obviously special circumstances involved in teaching courses to prison inmates several innovative methods were developed in the area of technological education aids. The director of the Mercer Community College media center worked with New Jersey Bell Telephone in designing a system whereby a staff member could instruct to four institutions at one time over live television. Teachers supplement this with visits to the prisons for classes and vocational or educational counseling.

A measure of the success of these teaching methods is demonstrated by the rapid increase in participants since the programs inception in the fall of 1971. It started with one course and 15 inmates and is now enrolling 270 inmates with sets of full-time and part-time student curriculums.

The cost of educating these prisoners is less per student than the per capita cost on the main campus, even with the high first-year acquisition of equipment.

Successful as this program is, it reaches only 7 percent of the educable prison population. It is limited to college-level inmates while there are many who need elementary and secondary level education.

The potential for bringing about a truly reformative process for prisoners has been demonstrated by the Mercer Community College program. Since we spend more on penal systems today than on education and since this is a time of legitimate concern over the crime rate, we should take heed of an idea such as this and give it every opportunity to develop in our penal institutions.

Mr. President, I ask unanimous consent that this most worthy article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COLLEGE GOES TO PRISON

(By Richard K. Greenfield)

It is a reality, albeit a tragic one, that most states and governmental agencies spend proportionately more money today on penal systems than on education. Monies allocated for correctional institutions are primarily spent in continuing a system of incarceration and perpetuating the negativism of our present day approach to prison reform.

It is also a fact that a large percentage of inmates are "repeaters" who return again and again to institutional control and incarceration after short periods of freedom. This tendency to return repeatedly to prison—recidivism—has been the concern only of those deeply involved in penology. However, education as a discipline and educators as practitioners should share this deep concern. Our assets should be mobilized to help reverse this trend through education.

We in the education profession must accept some culpability for the failures which are reflected in prisoners. Though well intentioned and well designed, somewhere our educational systems have failed to motivate this segment of our society during the time it was in our care. Fortunately, enlightened correctional authorities are now working in concert with far-thinking and innovative educators, sociologists, psychiatrists, and counselors in developing educational programs in prison which are particularly suited to use the resources we represent.

COURSES FOR THE WELL-MOTIVATED

With these thoughts in mind, in 1968 Robert Hatrak, then the director of education at Trenton State Prison (located in Trenton, New Jersey), near Mercer County Community College, approached me with a request that the college offer courses within the prison for well-motivated inmates who felt they could handle college-level studies and who would soon be released to return to society. We shared the conviction that elevating an inmate's educational achievement would certainly result in improved attitudinal and behavioral changes and employability, hopefully reducing the probability of recidivism and giving inmates a new direction. On this basis, the college's board of trustees readily approved the recommendation. The board also endorsed a suggestion that tuition costs be waived for those inmates who expressed a desire for higher education but had no means of financing such.

The success of this initial effort at college-level education within Trenton State Prison may be gauged by its growth. Since its beginning, the program has expanded from one course and 15 inmate-students to six courses and over 88 inmate-students. This past June, five inmates were awarded associate of arts degrees in a unique commencement ceremony within the prison itself. These inmate-graduates had completed all their college course requirements while incarcerated. The best endorsement for the program came from a young prisoner who wrote:[1]

"There has been much said about the college program here, but obviously those who make it work are we prisoners who participate in it. There is a great diversification between us in the program. In age, I am the youngest at 19, while the oldest is approaching 51. In other areas, there are men in the program for all different types of crimes, some with very short sentences, some with very large ones. Some of us are first offenders while others are second and third offenders. Although different in many aspects, almost all of us are held together by common bonds, the desire to achieve, to improve ourselves, to learn and to reach a point that when our eventual release comes we will be better equipped to fit into, and contribute to, society. None of us wants to come back here.

"It is the general concensus among the men in the program that had they remained free they wouldn't have gone to college. Many of us feel that this program can be a great step forward in our lives, and that the start we get here will enable us to continue further upon our release, and prevent us from returning to prison."

EXPANDING THE PROGRAM

The enthusiastic response to this program at Trenton State Prison led logically to the assumption that it would be similarly accepted at other penal institutions if some means could be devised to bring college-level instruction into a number of institutions at low cost. The obvious use of closed-circuit television was ruled out at the very beginning because of the prohibitive cost of equipment.

However, a small informal study group headed by Donald Weinberg, director of the college media center, conceived the notion that the use of some types of new media equipment offered the potential of expanding current efforts at little relative cost. Working in conjunction with New Jersey Bell Telephone engineers, Weinberg designed a system that combined the use of college modified telelecture and electrowriter units with telephone circuits in a coordinated educational network, whereby one staff member could "instruct" in four institutions simultaneously utilizing these units.

The telelecture unit would provide two-way voice communication between the campus and each of the institutions included in the network. For example, the professor gives his lecture as he would a normal class and his lecture is heard simultaneously in every institution in the network. At the appropriate time, he pushes a button marked for each of the institutions and asks for questions or discussions on the topic at hand. While the professor is responding to a question from an inmate-student at one institution, inmate-students at all other institutions in the network hear everything that is going on. In this same fashion, an inmate in another institution who has something more to add to the discussion or to a question raised by his "classmate" at another prison may interject his views or ask for clarification.

TWO-WAY WRITTEN COMMUNICATION

There would be two-way written communication as well. The electrowriter, the other part of this interlocking system, would visually project illustrations, problems, experiments, written questions, and blackboard notes to all of the institutions simultaneously. As the professor writes on the "blackboard," his commentary, materials, and illustrations are transmitted electronically and projected on an overhead screen at each of the participating institutions. Thus the student not only hears the professor, participates in the discussion that transpires, and sees materials and notes, he also may send written notes and questions and answers back to the professor.

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[1] David A. Willetts, "The College Behind Bars," the *Welfare Reporter*, Vol. XXII, No. III, N.J. Department of Institutions and Agencies, July 1971.

The system would provide a means of recall for subsequent reinforcement. All functions in the network are recordable and hence retrievable. Electrowriter signals and telelecture voice transmissions can be recorded on an audio-stereo tape recorder. Any inmate who misses the lecture or who feels it necessary to repeat it again can run the tape as often as necessary. Technologically, the system would be tied together by leased lines radiating from the college.

The system also provides a dubbing mechanism that permits the professor to embellish his lectures, thereby introducing interesting sidelights and additional materials that provide enrichment to instruction. During nonclass hours, one network line would be used to transmit "enrichment materials" which are then distributed over the amplifier system at each institution. This material encourages the student, recharges his enthusiasm, and present him with an opportunity to swing out on his own and explore paths that hold special interest to him. These enriching materials are specifically designed to add to his learning experience. They may be started and stopped at any time. Thus the highly motivated learner is provided an opportunity to shoot ahead when he is finally "turned on" and not to be kept plodding when he is ready to sprint.

With the strong support of A. Wagner, director of the New Jersey Division of Correction and Parole, and Ralph Dungan, the New Jersey chancellor of higher education, the state made $250,000 available to the college to initiate this imaginative and innovative concept. As a result, the M.C.C.C. Prison Education Network was officially launched in the fall semester of 1971. The network represents supervisory, counseling, instructional, and administrative capabilities in a staff of ten professionals. A concerted effort was made to find and recruit staff members with a deep sense of social awareness and commitment toward prison education and instructors who could communicate and relate to the inmate and his problems. (Interestingly, we had no shortage of excellent candidates from which to select a staff.)

FOUR INSTITUTIONS AND 270 STUDENTS

The Prison Education Network currently includes four New Jersey penal institutions: Trenton State Prison, the Leesburg Prison and its satellite Leesburg Farm, and the prison at Rahway. One institution is as distant as 91 miles from the college's main campus, though distance does not pose a problem because of the equipment and instructional mode being used.

We have enrolled 270 inmates in six courses this semester. Of this total, 186 are full-time; 84 part-time students enrolled for six or more credit hours of instruction. At present, four curricula are represented in these course offerings, one in general studies and three vocationally oriented curricula in business administration, accounting, and community services.

A mix of 270 inmates at various stages of learning, four widely separated institutions, six different courses, five instructors, two counselors, one director, one secretary, two maximum security prisons, and a limited budget may appear to pose insuperable handicaps. But the equipment that I have described permits us to overcome these problems to the extent that we are able to provide higher education easily, effectively, and at low cost to large numbers of widely dispersed students. Despite the obvious liabilities, the per capita costs for network students are less than comparable costs for students enrolled on the main campus, even with the high first-year acquisition costs of expensive equipment.

In addition to enrollment in regular courses, 23 inmates at Trenton State Prison—veterans of the college's earlier program—are now enrolled in the newly instituted credit-by-examination program. This facet of the educational network enables an inmate to study independently courses that are offered by the college but not taught as a part of the network curricula, and, when ready, to take a final examination for credit.

The 23 students in this program are pursuing from 3 to 12 credit hours above their "in-class" work load of six or nine hours, a formidable load for many students. But time to study is not a scarce commodity for inmates. The network with its participants provides an excellent laboratory to test, as it is, the concept of credit-by-examination under controlled conditions.

The program does not overlook the need of inmates for social contact with those on the outside. The telelecture/electrowriter equipment is used for two of the one-hour lectures each week; the third is taught by the instructor in person at each of the institutions. This means that every instructor teaching a three-hour course spends a minimum of six hours each week in the prisons. In addition, the network counselors visit inmates at each of the institutions twice each week for academic and, where possible, vocational work-release counseling. They are also on call for both day and evening counseling.

CAN REACH ONLY 7 PERCENT

There are problems associated even with this advanced approach to institutional education. However well conceived, the network system reaches only 7 per cent of the educable prison population and must necessarily be limited to educational offering. Remediation and rehabilitation services, inseparable parts of the education process, are not encompassed in the network. Potentially capable inmates who could develop educationally to college level are denied the opportunity to do so because there is no adequate program to carry the educable prisoner from illiteracy to college.

Even for those inmate-students who elect to participate in the courses, the network does not include a program for psychological and social adjustment counseling parallel with the educational program. Nor are inmate-students in the network able to interact with prisoners in other institutions or participate in related vocational experience in the form of "hands-on" training.

We view the Prison Education Network as phase one of a much bigger program to help decrease recidivism. It may be best described at this stage as "a patch on a building that doesn't need a patch but rather a new building." Yet in spite of the network's inability to solve the whole problem, we believe it is conceptually good as the framework for improvement and expansion. It is an attempt to solve the particular needs of inmates rather than putting them back into the old mold of failure they experienced on the outside. It is an "open door" to another silent minority. And an inmate enrolled in the program can be educated for a fraction of what it costs taxpayers to maintain him as an unwilling "guest" of the public.

We have noted that the institutional philosophy toward educating prisoners has changed since the college education program first began. Fissures are appearing in the traditional walling-in approach of locking up inmates to protect society. The trend today is to provide an inmate with the opportunity for the type of education and counseling that will enable him to function effectively in society when released so that he won't return to prison. There is a tremendous savings to taxpayers when inmates do not return.

The program is working. One inmate was released before he finished his associate's degree. In the one year he has been out of prison, he has graduated, been employed, and recently received an increase in salary at the direction of the company's board of directors—who also gave him a scholarship to work part-time on a bachelor's degree. This inmate had a long history of incarceration, beginning as a teenager. Prison educators are sure he won't return. And there are others like him.

What direction will prison education take now that this first step, the multi-media, individualized, self-paced network has been established?

Ideally, what is needed is a fully integrated and articulated educational program for the educable prison population. This would incorporate existing institutional and college efforts with remediation, educational upgrading, and vocational and psychological counseling into a single, cohesive, and correlated system which would deal with all prisoners, at all levels, from the illiterate through the well educated. Such a system of educational and social adjustment must be capable of carrying the inmate from his entrance level to his maximum potential. It should be paralleled by a program of vocational counseling to enable the inmate to use his new skills in a real life situation.

Whatever programs are initiated will depend upon continuing funds, but the next step must be the development of a master plan for prison education—a total system for educating prisoners. Governor William Cahill already has a special state commission working on the problem, and Mercer County is seeking federal and state funds to map a comprehensive plan to combat criminal justice problems.

To those of us whose enthusiasm has been kindled by the enormous potential and possibilities reflected in a truly comprehensive educational system in prisons, an approach such as we have outlined is that "second chance"—for prisoners and educators alike.

VIETNAM BOMBING AND GRAVEL-MONDALE BILL

Mr. CRANSTON. Mr. President, I am puzzled by what the President seems to be saying. He is calling for peace with honor, peace for generations to come, but never peace now.

The rhetoric surrounding the current American escalation clings to a perplexing and contradictory rationale. On the one hand we are told that the current North Vietnamese offensive is so different from past operations that it justifies punitive bombing raids on Hanoi and Haiphong. Because of the presence of sophisticated antiaircraft equipment, SAM's, T-54 tanks, and large-scale troop movements across the DMZ, the President asserts that the fighting has entered a new stage. In his address of April 26, he warned that present options will remain open as long as the current thrust continues. So far, he seems to be saying, the North Vietnamese offensive is very new and very different.

On the other hand, when it comes to American lives rather than Vietnamese lives, the President's tone changes. It appears that the North Vietnamese moves do not make enough of a difference to halt American withdrawal after all. True, the withdrawal rate will slow down to 10,000 a month rather than 23,000 a month, but Mr. Nixon claims that this pace is part of a longstanding plan.

I believe him. I am convinced that the President intends to withdraw 20,000 more men, from the ground regardless of what happens. Since this withdrawal is going to happen anyhow, and since bombing is going to continue, the bombs can have no other purpose than to prop up the Thieu government. I fail to understand why our national interest—and by implication the entire viability of American foreign policy—is supposed to depend on this corrupt crop of militarists.

The White House tries to camouflage this raw political-military stance by claiming that the stakes affect the entire cause of world peace. We are told that a civil war is really a war between two countries. If a Communist country—read North Vietnam—succeeds in conquering a non-Communist country—read South Vietnam—he tells us, then other countries will be encouraged to do the same thing in the Middle East, Europe, and other places.

This is nothing more than the old, discredited domino theory. What is really remarkable is that the President's advisers told him just the opposite in 1969. According to the responses to NSSM–1, the so-called Kissinger papers, the National Intelligence Estimate reported that even a Communist victory in South Vietnam would not necessarily unhinge the rest of Asia, let alone the rest of the world.

So we are left with the tired, wornout phrases of the 1950's. A war to bring peace. Peace with honor. Peace with something, but never peace without war.

If the so-called Kissinger papers tell us anything, it is that we cannot blame Vietnam war policies on poor information, bureaucratic distortions, disguised statistics, or any other feature of overstuffed organizations distant from battlefield realities. The questions are all there on paper. They are hard questions. The answers are there, too. They are frank answers. They differ, not so much in fact as in appraisal. The text of the summary says—

> While there are some divergencies on the facts, the sharpest differences arise in the interpretation of those facts, the relative weight to be given them, and the implications to be drawn.

Thus, in the end, we fall back on the wisdom, judgment, and perspective of our leaders. Most fundamentally, it appears, we fall back on the individual personalities of Mr. Nixon and Mr. Kissinger. Since they are tipping that critical balance in favor of prolonged destruction, we have a right to question the quality of their leadership. We have an obligation to challenge them. We have a duty to insist that wisdom and compassion are the better part of leadership.

Mr. President, the Senate has an opportunity to put teeth into its effort to end the war. On March 23, Senators Mondale and Gravel introduced S. 3409, a bill to provide for the cessation of bombing and for the withdrawal of American military personnel from Indochina. I cosponsored that bill in the belief that we must act now.

We cannot quibble over whose bodies are joining the lists of dead and wounded. We must instead see that no more lives are blasted and wasted and maimed and crippled.

I ask unanimous consent that the text of S. 3409 be printed in the Record together with an up-to-date list of cosponsors.

There being no objection, the list and bill were ordered to be printed in the Record, as follows:

List

Mr. Gravel, Mr. Cranston, Mr. Hughes, Mr. McGovern, Mr. Mondale, Mr. Nelson, Mr. Proxmire, Mr. Stevenson, Mr. Tunney, Mr. Bayh, Mr. Harris, Mr. Hart, Mr. Hartke, Mr. Humphrey, Mr. Inouye, Mr. Kennedy, Mr. Ribicoff, and Mr. Williams.

S. 3409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. That subject to the provisions of section 3 of this Act, no funds heretofore or hereafter appropriated may be expended for longer than thirty days after the enactment of this Act to support the development of United States Armed Forces or any other military or paramilitary personnel under the control of the United States in or the conduct of military or paramilitary operations in or over the Republic of Vietnam, the Democratic Republic of Vietnam, Cambodia, or Laos.

Sec. 2. (a) That no funds heretofore or hereafter appropriated may be expended after the date of enactment of this Act to conduct offshore naval bombardment of, or to bomb (including the use of napalm, other incendiary devices, or chemical agents), rocket, or otherwise attack by air, from any type aircraft, any target whatsoever within Laos, Cambodia, Thailand, or the Democratic Republic of Vietnam.

(b) No funds heretofore or hereafter appropriated may be expended after the date of enactment of this Act to conduct offshore naval bombardment of, or to bomb (including the use of napalm, other incendiary devices, or chemical agents), rocket, or otherwise attack by air, from any type aircraft, any target whatsoever within the Republic of Vietnam unless the President determines any such bombardment or air operation clearly to be necessary to provide for the immediate safety of United States Armed Forces during their withdrawal from the Republic of Vietnam, and submits to the President pro tempore of the Senate and the Speaker of the House for immediate transmission to the respective bodies of the Congress, within forty-eight hours of each such bombardment or operation (or if the Congress is not in session, as soon thereafter as it may return), a written report setting forth the time, place, nature, and reasons for conducting such bombardment or operation.

Sec. 3. (a) If, by twenty days after the date of enactment of this Act, the Democratic Republic of Vietnam and other adversary forces in Indochina holding American prisoners of war have not made arrangements for the release and repatriation, by the date in section 1, of all such prisoners:

(1) the date in section 1 shall be extended for thirty days, and

(2) the Congress may by joint resolution authorize such further action as is recommended by the President to secure the release and repatriation of American prisoners of war.

(b) Nothing in this section shall be construed to affect the authority of the President to arrange asylum or other means of protection for individuals who might be physically endangered by the withdrawal of United States military or paramilitary personnel from the Republic of Vietnam, Cambodia, or Laos, or to arrange for the return of United States equipment or stores from the Republic of Vietnam.

CUTBACK IN OPERATING BUDGET OF USIA

Mr. McGEE. Mr. President, with all due respect to the views of Senators who support the Foreign Relations Authorization Act of 1972 in its present form, I should like to call the Senate's attention to one portion of the bill which I believe to be exceedingly unwise—the proposal to cut about one-quarter of the operating budget of the U.S. Information Agency. This cutback would, in effect, cripple a small agency with a big and important job.

There can be no serious question about the need for a Government information program or the importance of the USIA's function in the conduct of our foreign affairs. Its efforts are closely integrated with the activities of other U.S. agencies engaged in foreign relations, and its role is a permanent one. As the Foreign Service Journal noted editorially a few years ago:

> Today it is rare to find a Chief of Mission or other seasoned Foreign Service officer who believes that any large modern nation could conduct its foreign affairs successfully without a substantial public affairs arm.

The need for an official information program to support our foreign policy and advance the interest of the United States has been repeatedly recognized by successive Presidents over the past 20 years. President Eisenhower, in his budget message to the Congress in 1955, said:

> I believe it is of the highest importance that our program for telling the truth to peoples of other nations be stepped up to meet the needs of our foreign policy.

Nor did this conviction leave him when he left office. More than 10 years later he wrote, in an article for the Reader's Digest:

> The hard truth is that this task of communication is so great that, in the main, it must be done by the federal government.

President Johnson, speaking in 1965, said:

> In this era the USIA has the most valuable role to fulfill. It is a most important arm of our Government. There is no partisanship associated with it because the success of the USIA is a success for all Americans.

And just a few months ago, President Nixon issued a statement declaring:

> Just as the world has changed in the last thirty years, so too has the Voice of America . . . Never has the role of the VOA been more important than now. . . .

With full admiration and respect for the power, skill, and sophistication of our private news media, I submit that they were never intended to do the job for which the USIA was created. Understandably, the commercial media give greater coverage to spectacular events—riots, demonstrations, scandals, and disasters—than to those often undramatic aspects of American life, culture and history essential to an understanding of our country and its policies. The continuing efforts to explain the facts and underlying principles of our policies, to correct the willful or unintentional distortions about our country abroad—the daily task of USIA—is simply not the primary purpose or concern of the private commercial media.

The charge has been made that the USIA is an anachronistic holdover from the cold war. I find that view surprising, since certainly none of the other major powers regards official information programs as anachronisms. The Soviet Union leads the world in international broadcasting, both in the number of hours broadcast weekly and in the number of foreign languages used. The People's Republic of China is second. The Soviet Union distributes some 67 magazines in over 15 million copies each year, and 8 newspapers in 38 million copies in 20 languages. I have not the time to go into detail, but I am impressed by the fact that the U.S.S.R. also sends about 50 million books abroad each year in over 30 languages, and through foreign publishers produces some 8,000 titles in around 100 million copies.

China has an extensive program for the distribution abroad of magazines and books in many languages, and Cuba, as I assume we all know, is extremely active in international broadcasting as well as in the distribution abroad of magazines, films, and its own version of the news.

The major powers of Western Europe have not failed to see the need to support the national interests with official information and cultural services. The United Kingdom Commission of Enquiry on overseas information services—the Dorgeda Commission, 1954—drew some timeless conclusions about a great power's need for such services.

> We have found it impossible to avoid the conclusion that a modern government has to concern itself with public opinion abroad and be properly equipped to deal with it . . . The information services must today be regarded as part of the normal apparatus of diplomacy of a great power.

The Duncan Committee reached the same conclusion in a review made in 1969. I would point out briefly that Great Britain, in addition to its worldwide BBC broadcasts, carries out informational and cultural programs abroad through 118 centers and 204 libraries. France, which has been a pioneer in this field, spends about $182 million a year in its overseas information efforts and maintains over 160 cultural centers and 59 institutes abroad. West Germany's foreign information and cultural activities, including its prestigious Goethe Institutes, cost over $150 million, and about $33 million annually is spent on international radio broadcasting.

I stated a moment ago that the cut of over $45 million proposed in this bill would cripple the U.S. Information Agency. This is no exaggeration. And by specifying the cuts for each media and activity while denying the agency the flexibility to transfer funds between programs, the damage is compounded.

Under S. 3526 the agency's salaries and expenses appropriation has been subdivided into five categories—radio; press and publications; motion pictures and television; centers and related activities; and direction and general support. Funds for four of these five have been cut by 30 percent, and the Director of the Agency is denied the right to change the "mix" of media used in responding to events and opportunities. It is obviously not possible to plan in advance precisely what media tools will be needed to use total resources most effectively. A missile crisis may require more radio broadcasting. A dramatic space achievement can be exploited by more films and television. An opportunity in East Europe can be seized by the establishment of a new cultural center. These actions cannot be anticipated. Yet this needed flexibility would be precluded under the bill.

The Agency has undertaken a review, necessarily a preliminary one, of the effects the proposed cutback and restrictions would have on its operations and personnel. It is important that we understand fully what we would be doing if we approved this reduction, so I shall cite some of the results:

USIA would have to close approximately 65 of its installations abroad, including the total abolition of its posts in some 30 countries. The Voice of America would stop broadcasting in about 25 languages, including some or all of those to Eastern Europe and the Baltic States. It would also have to close down perhaps seven of its 15 relay stations and three of its regional program centers. Do we really want to muffle the Voice of America to this extent?

It would eliminate the regional magazines distributed throughout Africa, the Arab countries, and the Far East, as well as the highly regarded magazine in Polish, Amerika Illustrated, and between 80 percent and 90 percent of the magazines the Agency tailors for single country distribution.

This cut would terminate the services of nearly 2,400 employees, or about 25 percent of the present staff. I would point out that the present staff of 9,877 is considerably less than the Agency's staff when it was established in 1953. About 1,000 Americans would be dropped. Most of the 2,400 people who would lose their jobs, both American and foreign, are career employees who have developed special skills, an understanding of other nation's points of view, and vital language and communications abilities. Once removed, they could not easily be replaced. Is it really our intention to deprive the Government of this talent and irreplaceable experience?

I would point out that it takes years and painstaking effort to assemble and train qualified people, to organize a cohesive and effective and properly equipped organization, and to create a communications network which we, in the instant of our vote on this bill, can cripple or destroy.

And above all, I question whether we should undertake this well nigh irreversible step of disestablishment before—before—we know the results of the foreign policy study by the Commission which title VI of this bill sets up.

The study which the proposed Commission would undertake is, in my view, a welcome and much needed one, and I regard title VI of this bill as sound and timely. The results of the study could make a great contribution to the more effective organization of the foreign affairs agencies of our Government.

But would we not look foolish, if we were to make a crippling cut in the U.S. Information Agency—only to have the Commission present us with a recommendation that this Agency be restored to its present capabilities—or even augmented?

By voting for this bill as it stands today, I submit that we are assembling experts to undertake a diagnosis—and at the same time, performing surgery—drastic surgery—before the diagnosis is made. In my view, this makes little sense. The course of logic would be to await the Commission's findings—not to preempt them now by hastily cutting with no sure sense of the direction we should follow or the damage we would do.

I confess that I find it difficult to understand why the committee proposed such a drastic cut in the Agency's authorization request. The committee report states the decision was based "in large part on the Agency's refusal to make its country program memoranda and other planning information available to the committee as requested." Yet the Agency was acting under written instructions from the President—indeed, the President's memorandum to the Secretary of State and the Director of USIA directing them not to make such planning documents available is printed in the committee's report. Should we punish the USIA because its Director complied with a White House directive? I deplore the excessive use of Executive privilege to deny to the Congress the information we need to carry out our legislative responsibilities, but we should not make the USIA the victim of an executive-legislative disagreement of principle which is vastly beyond the Agency's authority.

The committee report states that without the information contained in the country program memoranda it was asked to approve the Agency's budget authorization request "in the blind." I do not agree with this. USIA cooperated fully with the committee and gave it all the information requested except for those items specifically prohibited by the President. To my knowledge, the USIA provided the committee with an 88-page book detailing the purposes and activities on a geographical and media basis. The Director and principal officers of the Agency responded to all questions in 3 days of testimony and have provided numerous inserts for the record at the committee's request. The Agency has answered in writing over 90 questions posed by the committee before and after the hearings. Hundreds of examples of USIA press, publications, radio and film products have been made available in response to the committee's requests.

I for one do not feel that the committee was asked to approve the USIA's request "in the blind."

I was surprised to read in the committee report that as far back as 1953 the Hickenlooper-Fulbright subcommittee "raised doubts about the media programs" of USIA. I was surprised because the doubts expressed in the 1953 report refer to efficiency of operations rather than to the basic validity of the motion picture, broadcasting and press functions of the Government's overseas information program.

Far from challenging the basic tenets of the information program, including its media services, the committee in 1953 advised the Senate to "avoid drastic cuts in appropriations for the information program." The report further states:

> The Committee is unanimous in endorsing the continuance and strengthening of this program."

Focusing on specific media services, the report said:

> The Committee is of the opinion that the motion picture program should be continued.

Some particular publications were criticized, but the report nonetheless concluded that—

> The press and publications program, taken as a whole, is a useful instrument in furthering the purposes of the information program.

The report of the committee further suggests that over the years USIA's media services have just "growed"; that they have continued to expand despite the availability of private information dissemination.

I have already explained why private information dissemination cannot possibly substitute for a Government information service. Now what about the charge that the Agency's media services have continued to expand?

The facts are that neither the Agency nor its media services have growed. Quite the reverse is true. In 1953, USIA's predecessor agencies had dollar budgets totaling $123 million. Staff was 14,130. On a constant dollar basis—excluding the results of the very substantial wage and price increases that have taken place since that date domestically and abroad—the comparable dollar amount in the President's 1973 budget is $87 million—a reduction of almost 30 percent. And what is true in total is true of each of the media services: radio down 25 percent; press and publications down over 50 percent; motion picture and television down over 50 percent; information centers and related activities down about 10 percent. Staffing is also down over 30 percent from 20 years ago—to 9,855 in the President's 1973 budget.

The task of promoting and increasing foreign understanding of the United States and its policies is never ending. New generations abroad arise who need to be told of the distinctive American contribution to world peace, progress, and security and the relation of this contribution to their own concerns and hopes. Allies and neutrals cannot be taken for granted and the distortions of our adversaries must be countered. This is not a passing task, but a continuing one.

If I may briefly summarize: Our foreign information and cultural services play an important and indeed essential role in support of the objectives of our Nation's foreign policy. They must be regarded as an integral and normal part of the diplomatic tools of a great power, and they are so regarded by other major powers of the world.

The cuts proposed by the bill before us are excessive and would—as I have shown—seriously damage an agency whose activities are essential to our national interest. In my judgment, we more properly should be considering ways of making it more effective rather than crippling it.

Nor are we concerned with an Agency guilty of mushrooming growth. Indeed, USIA is now 30 percent below where it was 20 years ago, in terms of real resources. In the last 5 years it has been cut some 15 percent in money and people. The cut proposed by the committee would leave it over 20 percent below where it has been at any time in its existence.

I welcome the proposal for a Commission to study the overall organization of our Government's foreign affairs agencies, but I submit that it makes no sense to dismantle one of these agencies before we have the Commission's recommendations.

Finally, I repeat that it would be both unwise and unfair to punish the U.S. Information Agency for obeying a Presidential directive that forbade it to give certain planning papers to the committee. The USIA cooperated fully with the committee during the hearings, and it furnished voluminous information and materials. Let us not sacrifice our country's foreign information services as a pawn in what is essentially a disagreement between the legislative and executive branches.

I would like to conclude by recalling a passage from a letter by President Eisenhower to the distinguished Senator from Rhode Island (Mr. PELL) concerning the creation of a Foreign Service Information Officer Corps, in which he wrote that:

> Hostile propaganda is painting for foreign populations a false picture of America's purposes and aspirations. We ought to give priority attention to this matter; it is far more important than many other Federal programs.

I agree with that, and I urge Senators to join with me in supporting a restoration of the cut in the USIA's budget authorization.

MEDICAID DRUGS IN NURSING HOMES

Mr. MOSS. Mr. President, the staff of my Subcommittee on Long-Term Care is currently preparing a report on nursing home problms which is based upon the 19 hearings we have held since July 1969.

Among the issues which the subcommittee has under study is the question of the flow of drugs through nursing homes. Preliminary data indicates that this constitutes one of the most significant problems in the nursing home field. Some suggestion of the seriousness of the problem may be indicated by studies which point out that the incidence of drugs administered in error in nursing homes may be as high as 40 to 50 percent.

Other allegations suggest that patients indiscriminately receive tranquilizers to keep them quiet and make it easier on the staff. Still other charges include easy access to nursing home medications and even narcotics.

These are all important questions and the subcommittee is taking the time to evaluate them carefully. With the help of the General Accounting Office my subcommittee has assembled statistics which for the first time detail which drugs and in what amounts are paid for by the Federal-State, medicaid program.

This GAO audit of Illinois, New Jersey, and Ohio prepared at my request, indicates that roughly 37 percent of the drugs paid for by medicaid are central nervous system drugs, pain relievers, and tranquilizers. Slightly less than 20 percent of the total drugs purchased were tranquilizers.

In short, tranquilizers were far and away the largest category of drugs purchased by medicaid for the elderly. While I recognize there are some legitimate uses of tranquilizers in nursing homes, the sheer volume of the drugs creates at least an inference that they are given without proper medical controls.

All of these questions will be examined in detail and I welcome comments from any interested party.

Mr. President, I ask unanimous consent that the GAO audit of medicaid drugs in Ohio, Illinois, and New Jersey be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

DRUGS PROVIDED TO ELDERLY PERSONS IN NURSING HOMES UNDER THE MEDICAID PROGRAM

(Report to the Subcommittee on Long-Term Care of the Special Committee on Aging, by the Comptroller General of the United States)

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C.

Hon. FRANK E. MOSS,
Chairman, Subcommittee on Long-Term Care of the Special Committee on Aging, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are listings of prescribed drugs provided to recipients of old-age assistance in nursing homes under the Medicaid programs in Illinois, New Jersey, and Ohio. This information was obtained pursuant to your request of July 22, 1971.

On September 10, 1971, we furnished you with the information relating to Illinois only. To assist you in comparing the data in the three States, this report consolidates the drug information on Illinois with New Jersey and Ohio. These comparisons are shown in appendices I through VIII.

Officials who administer the Medicaid drug programs in these States furnished us with computer printouts listing purchases by drug name, number of prescriptions, and amount paid during the first month of each quarter of calendar year 1970. Assisted by a registered pharmacist on our staff, we grouped these drugs into 25 categories. The categories which we used are those contained in the American Hospital Formulary Service published by the American Society of Hospital Pharmacists.

As shown in appendix I, Central Nervous System drugs—which include tranquilizers—represent about 35 percent in Illinois, 36 percent in Ohio and 39 percent in New Jersey of all amounts paid for drugs on behalf of nursing home patients during these months. In appendices II through V we have identified the specific types of drugs which account for the majority of the purchases under the Central Nervous System category.

For 1 month (October 1970), we compared the number of prescriptions and amount paid for drugs provided to recipients of old-age assistance in nursing homes in these three States to drugs provided to all Medicaid recipients within the respective States. These comparisons, included as appendices VI and

VII, show that about 11 percent of all prescriptions paid for in New Jersey in that month were for old-age assistance recipients in nursing homes; the percentage was 16 percent in Illinois and 24 percent in Ohio.

Appendix VIII consists of selected statistical information on the Medicaid and intermediate-care programs in Illinois, New Jersey, and Ohio for 1970. Appendix IX contains a general definition of the drug categories used in the other appendices.

We plan to make no further distribution of this report unless copies are specifically requested and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

APPENDIX I

MEDICAID DRUG PROGRAM—ILLINOIS, NEW JERSEY, AND OHIO

NUMBER OF PRESCRIPTIONS AND AMOUNT PAID IN JANUARY, APRIL, JULY, AND OCTOBER 1970 FOR DRUGS FOR RECIPIENTS OF OLD-AGE ASSISTANCE IN NURSING HOMES

Category	Illinois		New Jersey[1]		Ohio		Total	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Antihistamine drugs	6,716	$21,328.43	1,970	$6,155.84	7,072	$23,048.16	15,758	$50,532.43
Antiinfective agents	20,503	103,455.06	4,620	20,955.40	16,711	112,956.02	41,834	237,366.48
Antineoplastic agents	19	73.68	19	66.38	24	124.17	62	264.23
Autonomic drugs	11,045	44,794.87	2,608	8,667.34	11,462	43,288.89	25,115	96,751.10
Blood derivatives								
Blood formation and coagulation	4,430	9,623.40	651	2,161.36	2,731	6,211.86	7,812	17,996.62
Cardiovascular drugs	26,689	81,836.27	9,357	28,404.76	23,677	75,714.27	59,723	185,955.30
Central nervous system drugs[2]	85,294	407,178.18	25,672	105,983.25	93,416	477,257.57	204,382	990,419.00
Diagnostic agents	146	228.34			1,344	3,778.46	1,490	4,006.80
Electrolytic, caloric, and water balance	24,636	96,896.38	6,423	22,821.87	18,357	72,730.11	49,416	192,448.36
Enzymes	302	2,288.26	69	398.36	523	3,068.21	894	5,754.83
Expectorants and cough preparations	3,884	8,842.61	460	1,547.20	3,180	7,368.75	7,524	17,758.56
Eye, ear, nose, and throat preparations	761	1,572.71	1,251	4,642.69	4,199	13,732.82	6,211	19,948.22
Gastrointestinal drugs	32,650	108,458.43	1,712	6,687.83	30,152	104,977.79	64,514	220,124.05
Gold compounds								
Heavy metal antagonists								
Hormones and synthetic substitutes	13,852	62,212.44	3,660	15,195.74	12,770	62,141.98	30,282	139,550.16
Local anesthetics								
Oxytocics			1	3.65	12	14.63	13	18.28
Radioactive agents								
Serums, toxoids and vaccines	3,429	10,056.74	108	470.62	279	391.83	3,816	10,919.19
Skin and mucous membrane preparations	7,167	24,794.98	799	3,870.65	4,064	18,772.63	12,030	47,438.26
Spasmolytic agents	3,228	10,398.80	2,151	10,850.74	8,648	60,050.11	14,027	81,299.65
Vitamins	29,929	84,984.09	3,357	9,709.85	12,083	38,041.46	45,369	132,735.40
Unclassified therapeutic agents	109	638.65	101	507.82	77	811.81	287	1,958.28
Other unclassified drug[3]	19,104	85,774.24	5,862	25,243.48	42,298	197,417.34	67,264	308,435.06
Total	293,893	1,165,436.56	70,851	274,344.83	293,079	1,321,898.87	657,822	2,761,680.26

[1] Includes drugs purchased for Cuban refugees and the aged which were not paid for under medicaid. The number of prescriptions and amount, however, were insignificant.

[2] This category, which includes tranquilizers, represents about 35 percent (Illinois), 39 percent (New Jersey), and 36 percent (Ohio) of all amounts paid for drugs on behalf of nursing home patients.

[3] Includes drugs purchased under national formularies such as the National Formulary and U.S. Pharmacopeia; compounded prescriptions; specifically approved drugs; medical supplies (cotton, gauze, syringes) and other drugs which we could not classify.

APPENDIX II

MEDICAID DRUG PROGRAM—ILLINOIS, NEW JERSEY, AND OHIO

NUMBER OF PRESCRIPTIONS AND AMOUNT PAID IN JANUARY, APRIL, JULY, AND OCTOBER 1970 FOR CENTRAL NERVOUS SYSTEM DRUGS FOR RECIPIENTS OF OLD-AGE ASSISTANCE IN NURSING HOMES

	Illinois		New Jersey[1]		Ohio[2]		Total	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
General anesthetics					1	$5.40	1	$5.40
Analgesics and antipyretics	23,726	$115,020.09	5,452	$23,606.68	20,632	103,452.08	49,810	242,078.85
Narcotic antagonists								
Anticonvulsants	2,151	5,554.54	742	1,922.54	3,840	8,122.90	6,733	15,599.98
Psychotherapeutic agents:								
Antidepressants	3,456	22,496.69	1,878	9,949.02	5,073	39,179.74	10,407	71,625.45
Tranquilizers	32,153	207,015.48	10,749	52,265.10	36,052	265,100.73	78,954	524,381.31
Other psychotherapeutic agents	186	1,367.54			4	8.10	190	1,375.64
Respiratory and cerebral stimulants	1,615	6,721.23	523	2,061.21	2,367	11,278.39	4,505	20,060.83
Sedatives and hypnotics	22,007	49,002.61	6,328	16,178.70	25,447	50,110.23	53,782	115,291.54
Total	85,294	407,178.18	25,672	105,983.25	93,416	477,257.57	204,382	990,419.00

[1] Includes drugs purchased for Cuban refugees and the aged which were not paid for under medicaid. The number of prescriptions and amount, however, were insignificant.

APPENDIX III

MEDICAID DRUG PROGRAM—ILLINOIS, NEW JERSEY, AND OHIO

NUMBER OF PRESCRIPTIONS AND AMOUNT PAID IN JANUARY, APRIL, JULY, AND OCTOBER 1970 FOR ANALGESICS AND ANTIPYRETICS FOR RECIPIENTS OF OLD-AGE ASSISTANCE IN NURSING HOMES

Name	Illinois		New Jersey[1]		Ohio		Total	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Acetaminophen	944	$2,687.44					944	$2,687.44
Amytal with aspirin					6	$15.26	6	15.26
Anacin					223	380.80	223	380.80
Analgesic balm	105	111.94					105	111.94
APC	291	314.98			316	336.52	607	651.50
APC with demerol			3	$7.09			3	7.09
Arthropan					5	25.34	5	25.34
A.S.A.					951	1,973.85	951	1,973.85
A.S.A. and codeine			1	2.48			1	2.48

Name	Illinois		New Jersey[1]		Ohio		Total	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Ascriptin with codeine			2	$2.85			2	$2.85
Aspirin	297	$356.15			457	$490.50	754	846.64
Aspirin, buffered	539	797.14					539	797.15
Aspirin, enteric coated	2,276	6,449.56					2,276	6,449.59
Bufferin					1,055	1,952.91	1,055	1,952.91
Butazolidin	636	3,802.40	268	1,105.04	208	1,039.34	1,112	5,946.78
Calurin					31	59.94	31	59.94
Codeine					42	126.53	42	126.53
Codeine with aspirin, phenacetin and caffeine	1,104	3,079.14					1,104	3,079.14
Codeine sulfate			25	89.69			25	89.69
Codeine phosphate	26	68.73			10	18.60	36	87.33
Colchicine	53	138.42	14	38.31	35	72.93	102	249.66
Crystoids	1	1.25					1	1.25
Daprisal			19	84.65	34	137.46	53	222.11
Darvon	1,790	9,087.60	859	3,459.45	2,012	12,084.15	4,661	24,631.20
Darvon compound	10,524	59,491.90	2,750	11,868.28	8,189	50,200.48	21,463	121,560.66
Darvon with A.S.A	341	2,125.43	27	103.35	252	1,430.38	620	3,659.16
Darvo-tran			11	62.38	61	309.75	72	372.13
Demerol	134	445.94	83	243.82	368	1,069.67	585	1,759.43
Dilaudid	9	19.44	5	19.45	7	34.16	21	73.05
Dolophine			5	11.73	15	16.53	20	28.26
Edrisal					2	7.73	2	7.73
Empirin with codeine			26	92.92	358	873.38	384	966.30
Emprazil					33	111.40	33	111.40
Excedrin					4	6.39	4	6.39
Fiorinal	236	709.36	103	321.37	355	1,034.37	694	2,065.11
Gelpirin					36	41.11	36	41.10
Indocin	2,126	16,636.09	629	3,613.12	1,722	14,340.31	4,477	34,589.52
Leritine	5	16.42			5	13.30	10	29.72
Levo-Dromoran			3	8.23	1	7.95	4	16.18
Liquiprin					1	1.00	1	1.00
Methadone hydrochloride	6	16.26					6	16.26
Morphine					74	180.26	74	180.26
Morphine sulfate	9	28.19	7	15.17			16	43.36
Morphine and atropine			2	6.14			2	6.14
Nebs					1	2.07	1	2.07
Numorphan					9	46.79	9	46.79
Opium and belladonna suppositories					1	2.66	1	2.66
Pabalate	411	1,585.14	3	14.05	222	1,070.07	636	2,669.26
Pabalate (sodium free)	844	3,579.33	19	63.43	166	671.77	1,029	4,314.53
PAC with gelsemium					1	1.00	1	1.00
Pantopon					1	4.80	1	4.80
Percobarb			1	3.06	1	3.71	2	6.77
Percodan	72	278.86	90	341.89	309	1,025.24	471	1,645.99
Phenacetin					1	1.90	1	1.90
Phenaphen			22	58.10	263	629.30	285	687.40
Ponstel			12	54.12	116	623.95	128	678.07
Procaine solution					11	11.00	11	11.00
Protamide					10	136.83	10	136.83
Pyrilgn					34	65.61	34	65.61
Sodium salicylate	637	1,620.97	1	2.85	442	771.29	1,080	2,395.11
Sterazolidin			30	124.41	48	276.81	78	401.22
Talwin	310	1,572.01	359	1,431.24	1,202	6,126.97	1,871	9,130.32
Tandearil			29	136.70	45	276.56	74	413.26
Tempra					9	32.73	9	32.73
Tybatran			2	8.20	37	337.07	39	345.27
Tylenol			7	22.52	719	2,182.52	726	2,205.04
Zactane					7	28.53	7	28.53
Zactirin			35	190.59	109	730.60	144	921.19
Total	23,726	115,020.09	5,452	23,606.68	20,632	103,452.08	49,810	242,078.85

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[1] Includes drugs purchased for Cuban refugees and the aged which were not paid for under medicaid. The number of prescriptions and amount, however, were insignificant.

APPENDIX IV

MEDICAID DRUG PROGRAM—ILLINOIS, NEW JERSEY, AND OHIO

NUMBER OF PRESCRIPTIONS AND AMOUNT PAID IN JANUARY, APRIL, JULY, AND OCTOBER 1970 FOR TRANQUILIZERS FOR RECIPIENTS OF OLD-AGE ASSISTANCE IN NURSING HOMES

Name	Illinois		New Jersey[1]		Ohio		Total	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Atarax			402	$1,948.64	460	$3,312.19	862	$5,260.83
Bucladin					25	103.56	25	103.56
Combid	323	$1,910.00	124	596.81	453	3,929.12	900	6,435.93
Compazine	1,179	5,313.91	240	1,096.46	1,082	6,485.06	2,501	12,895.43
Deprol			44	228.54	140	2,203.12	284	2,431.66
Equagesic	189	1,423.81	103	484.61	444	3,811.40	736	5,719.82
Equanil			195	900.37	1,043	7,060.91	1,238	7,961.28
Eskatrol					47	220.59	47	220.59
Fluphenazine dihydrochloride	181	1,157.57					181	1,157.57
Haldol	258	2,178.01	214	1,341.74	515	5,463.06	987	8,982.81
Hydroxyzine	1,321	10,384.23					1,321	10,384.23
Librax	246	1,577.79	116	581.86	253	1,696.43	615	3,856.08
Librium	3,265	21,351.37	1,036	4,691.59	2,958	20,823.57	7,259	46,866.53
Mellaril	6,854	53,526.51	3,078	16,234.04	8,045	69,121.48	17,977	138,882.03
Menrium			5	16.98	9	55.47	14	72.45
Meprobamate	1,738	7,346.58	292	893.04	494	2,130.01	2,524	10,369.63
Meprospan			10	57.90	135	895.83	145	953.73
Meprotab					2	37.19	2	37.19
Miltown			109	454.22	453	2,955.86	562	3,410.08
Navane			70	388.85	252	2,423.12	322	2,811.97
Permitil			2	7.51	44	228.49	46	236.00
Proketazine			8	24.79	211	1,364.49	219	1,389.28
Prolixin			48	196.63	148	970.25	196	1,166.88
Prozine			5	44.45	104	664.25	109	708.70
Serentil			6	23.80			6	23.80

Footnote at end of table.

APPENDIX IV—Continued

MEDICAID DRUG PROGRAM—ILLINOIS, NEW JERSEY, AND OHIO—Continued

NUMBER OF PRESCRIPTIONS AND AMOUNT PAID IN JANUARY, APRIL, JULY, AND OCTOBER 1970 FOR TRANQUILIZERS FOR RECIPIENTS OF OLD-AGE ASSISTANCE IN NURSING HOMES—Continued

Name	Illinois		New Jersey [1]		Ohio		Total	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Serax	227	1,542.32	95	442.36	397	2,525.87	719	4,510.55
Softran					7	31.99	7	31.98
Solacen					53	148.48	53	148.49
Sparine	2,164	$15,006.00	379	$1,948.00	1,523	$10,611.27	4,066	$27,565.27
Stelazine	1,100	8,059.72	279	1,589.59	1,622	14,065.95	3,001	23,715.26
Taractan			80	357.33	405	3,045.30	485	3,402.63
Thorazine	10,146	55,924.11	2,656	11,949.55	10,324	64,428.65	23,126	132,302.31
Tindal					48	252.10	48	252.10
Tranco-Gesic			17	117.68	13	84.87	30	202.55
Trancopal	19	115.28	1	4.73	13	100.00	33	220.01
Trilafon	895	6,038.73	33	156.83	688	5,677.32	1,616	11,872.88
Ultran			2	4.80	1	5.37	3	10.17
Valium	1,901	13,270.28	922	4,332.65	2,485	19,214.31	5,308	36,817.24
Vesprin	147	889.26	1	5.50	106	800.99	254	1,695.75
Vistaril			177	1,143.25	950	8,152.81	1,127	9,296.06
Total	32,153	207,015.48	10,749	52,265.10	35,952	265,100.73	78,954	524,381.31

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[1] Includes drugs purchased for Cuban refugees and the aged which were not paid for under medicaid. The number of prescriptions and amount, however, were insignificant.

APPENDIX V

MEDICAL DRUG PROGRAM—ILLINOIS, NEW JERSEY, AND OHIO

NUMBER OF PRESCRIPTIONS AND AMOUNT PAID IN JANUARY, APRIL, JULY, AND OCTOBER 1970 FOR SEDATIVES AND HYPNOTICS FOR RECIPIENTS OF OLD-AGE ASSISTANCE IN NURSING HOMES

Name	Illinois		New Jersey [1]		Ohio		Total	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Alurate elixer			2	$5.97	23	$41.33	25	$47.30
Algoson					3	11.49	3	11.49
Amesec			16	55.09	84	246.63	100	301.72
Amobarbital	277	$545.53					277	545.53
Amobarbital sodium	325	711.99					325	711.99
Amytal			8	18.32	69	81.24	77	99.56
Amytal sodium			14	34.25	109	168.55	123	202.80
Beta-chlor			14	44.20	324	1,109.60	338	1,153.80
Butabarbital					55	76.75	55	76.75
Butabarbital sodium	1,306	3,157.47					1,306	3,157.47
Butibel			30	87.19	132	312.24	162	399.43
Butibelzyme			5	32.45	49	359.94	54	392.39
Buticaps					33	95.86	33	95.86
Butigetic					4	14.57	4	14.57
Butisol			168	440.31	1,123	2,695.97	1,291	3,136.28
Carbrital			67	166.69	550	907.57	617	1,074.26
Chloral hydrate	6,141	15,294.32	675	1,590.42	1,448	2,579.37	8,264	19,464.10
Dalmane			25	77.36			25	77.36
Dimethacol					1	9.00	1	9.00
Doriden	2,964	8,419.60	975	2,915.07	3,863	9,794.08	7,802	21,128.75
Eskabarb			14	44.44	17	41.71	31	86.15
Ethobral					11	19.36	11	19.36
Ipral					2	3.02	2	3.02
Ipral calcium			3	7.55			3	7.55
Levoprome					9	65.25	9	65.25
Lotusate			3	9.00	9	15.90	12	24.90
Medomin					3	8.19	3	8.19
Nebralin			1	3.35	30	87.57	31	90.92
Nembutal			653	1,524.52	1,621	2,219.19	2,274	3,743.71
Noctec			899	2,466.13	5,234	11,489.12	6,133	13,955.25
Noludar			344	1,087.72	1,123	3,187.30	1,467	4,275.02
Paraldehyde					7	22.45	7	22.45
Parest			5	17.13	57	120.11	62	137.24
Pentobarbital					55	63.51	55	63.51
Pentobarbital sodium	2,187	3,643.83					2,187	3,643.83
Phenobarbital	4,043	6,579.52	1,062	2,129.89	4,558	4,639.36	9,663	13,348.77
Phenobarbital with belladonna			8	17.65			8	17.65
Placidyl	1,932	5,808.53	251	715.83	1,416	3,655.68	3,599	10,180.04
Quaalude			147	463.95	669	1,692.45	816	2,156.40
Quadra-bar					2	2.00	2	2.00
Secobarbital			34	61.09	91	91.30	125	152.39
Secobarbital sodium	2,832	4,841.83					2,832	4,841.83
Seconal					1,530	1,913.14	1,530	1,913.14
Seconal sodium			631	1,468.22			631	1,468.22
Sominex					12	21.70	12	21.70
Somnafac					2	6.62	2	6.62
Somnos			5	15.40	169	442.36	174	457.76
Sopor					174	527.34	174	527.34
Stental extentabs			1	5.00			1	5.00
Triple bromides					1	1.00	1	1.00
Tuinal			262	659.75	736	1,178.03	998	1,837.78
Valmid			6	14.76	39	92.38	45	107.14
Total	22,007	49,002.61	6,328	16,178.70	25,447	50,110.23	53,782	115,291.54

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[1] Includes drugs purchased for Cuban refugees and the aged which were not paid for under medicaid. The number of prescriptions and amount, however, were insignificant.

APPENDIX VI

MEDICAID DRUG PROGRAM—ILLINOIS, NEW JERSEY, AND OHIO

NUMBER OF PRESCRIPTIONS AND AMOUNT PAID IN OCTOBER 1970 FOR DRUGS FOR RECIPIENTS OF OLD-AGE ASSISTANCE IN NURSING HOMES COMPARED TO DRUGS PROVIDED TO ALL RECIPIENTS STATEWIDE

	Illinois prescriptions						New Jersey, prescriptions statewide	
	Statewide		Nursing homes		Percent of nursing homes to statewide			
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Antihistamine drugs	27,830	$81,404.68	1,693	$5,700.90	6	7	21,973	$65,508.34
Anti-Infective agents	69,214	343,191.78	5,359	27,471.46	8	8	47,334	218,646.55
Antineoplastic agents	45	369.07	2	11.33	4	3	73	408.83
Autonomic drugs	18,470	71,825.36	3,295	13,407.21	18	19	9,204	31,615.45
Blood derivatives							9	36.51
Blood formation and coagulation	6,598	15,740.92	1,287	2,902.24	20	18	3,137	9,744.85
Cardiovascular drugs	33,717	118,541.97	7,842	24,503.65	23	21	15,507	57,574.31
Central nervous system drugs	144,809	652,065.07	25,202	119,722.56	17	18	64,672	275,799.98
Diagnostic agents	1,381	2,075.13	47	77.06	3	4	288	619.61
Electrolytic, caloric, and water balance	31,355	131,243.10	7,562	29,750.46	24	23	11,816	47,805.54
Enzymes	1,328	9,102.98	58	433.75	4	5	599	3,203.55
Expectorants and cough preparations	14,362	38,744.77	885	2,070.60	6	5	7,730	22,050.06
Eye, ear, nose, and throat preparations	8,367	17,725.23	305	600.37	4	3	8,372	29,872.42
Gastrointestinal drugs	35,753	109,267.99	9,835	32,518.42	28	30	7,252	22,680.12
Gold compounds								
Heavy metal antagonists								
Hormones and synthetic substitutes	38,371	178,644.60	4,096	18,333.18	11	10	21,165	88,398.35
Local anesthetics								
Oxytocics	230	494.14					219	557.92
Radioactive agents								
Serums, toxoids, and vaccines	6,513	20,056.59	1,211	3,670.19	19	18	163	798.36
Skin and mucous membrane preparations	21,258	72,787.60	2,504	8,980.49	12	12	6,527	26,720.68
Spasmolytic agents	7,545	26,637.41	1,109	3,296.76	15	12	5,409	21,387.43
Vitamins	38,310	113,582.15	9,397	26,715.97	25	24	15,264	59,175.11
Unclassified therapeutic agents	508	2,400.32	29	165.65	6	7	431	2,046.25
Other unclassified drugs [2]	33,956	140,032,46	7,346	32,475.24	22	23	22,715	88,322.87
Total	539,920	2,145,933.32	89,064	352,807.49	16	16	269,859	1, 72,973.09

	New Jersey prescriptions [1]				Ohio prescriptions					
	Nursing homes		Percent of nursing homes to statewide		Statewide		Nursing homes		Percent of nursing homes to statewide	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Antihistamine drugs	813	$2,536.11	4	4	12,215	$35,685.20	1,659	$5,535.69	14	16
Anti-Infective agents	1,868	8,397.41	4	4	26,064	152,623.95	3,876	26,486.53	15	17
Antineoplastic agents	9	30.43	12	7	68	572.34	9	44.75	13	8
Autonomic drugs	971	3,137.56	11	10	11,444	43,979.01	2,828	10,768.82	25	24
Blood derivatives										
Blood formation and coagulation	399	1,286.45	13	13	3,077	10,123.44	690	1,587.70	22	16
Cardiovascular drugs	3,797	11,818.48	24	21	24,458	94,349.91	6,115	19,491.53	25	21
Central nervous system drugs	10,281	42,185.37	16	15	97,272	471,203.40	23,981	117,836.55	25	25
Diagnostic agents					910	2,283.50	352	1,000.54	39	44
Electrolytic, caloric, and water balance	2,629	9,240.49	22	19	18,156	77,294.72	3,610	13,843.39	20	18
Enzymes	30	165.12	5	5	545	3,659.79	144	1,062.90	26	29
Expectorants and cough preparations	182	626.25	2	3	4,994	11,601.20	614	1,494.71	12	13
Eye, ear, nose, and throat preparations	513	1,934.22	6	6	6,654	22,263.21	1,131	3,335.27	17	19
Gastrointestinal drugs	701	2,601.17	10	11	19,874	69,596.65	7,713	27,244.42	39	35
Gold compounds					8	17.90				
Heavy metal antagonists					2	33.60				
Hormones and synthetic substitutes	1,615	6,318.83	8	7	19,800	93,629.00	4,160	19,856.04	21	21
Local anesthetics										
Oxytocics					93	120.78	2	2.74	2	2
Radioactive agents					1	15.20				
Serums, toxoids, and vaccines	45	186.21	28	23	65	298.73	2	10.71	3	4
Skin and mucous membrane preparations	376	1,813.97	6	7	5,936	25,458.45	1,033	5,333.48	17	21
Spasmolytic agents	912	4,634.36	17	22	7,223	42,877.68	2,200	15,143.02	30	35
Vitamins	2,153	5,867.25	14	10	7,027	21,369.06	2,923	9,224.07	42	43
Unclassified therapeutic agents	83	455.12	19	22	334	2,440.37	67	633.56	20	26
Other unclassified drugs [2]	2,326	10,394.11	10	12	45,429	191,554.46	10,764	43,524.14	24	23
Total	29,703	113,628.91	11	11	311,649	1,373,051.55	73,873	323,460.56	24	24

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[1] Includes drugs purchased for Cuban refugees and the aged which were not paid for under medicaid. The number of prescriptions and amount, however, were insignificant.

[2] Includes drugs purchased under national formularies such as the National Formulary and U.S. Pharmacopeia; compounded prescriptions; specifically approved drugs; medical supplies (cotton gauze, syringes) and other drugs which we could not classify.

APPENDIX VII

MEDICAID DRUG PROGRAM—ILLINOIS, NEW JERSEY, AND OHIO

NUMBER OF PRESCRIPTIONS AND AMOUNT PAID IN OCTOBER 1970 FOR CENTRAL NERVOUS SYSTEM DRUGS FOR RECIPIENTS OF OLD-AGE ASSISTANCE IN NURSING HOMES COMPARED TO SIMILAR DRUGS PROVIDED TO ALL RECIPIENTS STATEWIDE

	Illinois prescriptions						New Jersey prescriptions [1]			
	Statewide		Nursing homes		Percent of nursing homes to statewide		Statewide		Nursing homes	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
General anesthetics										
Analgesics and antipyretics	56,573	$227,899.34	6,939	$33,650.54	12	15	22,258	$83,750.41	2,074	$9,068.47
Narcotic antagonists										
Anticonvulsants	4,878	14,001.00	614	1,612.90	13	12	2,649	8,421.93	256	687.59
Psychotherapeutic agents:										
Antidepressants	4,546	30,509.89	1,125	7,613.32	25	25	4,145	25,500.23	747	3,855.31
Tranquilizers	49,378	310,415.89	9,464	59,562.87	19	19	24,657	126,998.20	4,512	21,346.09
Other psychotherapeutic agents	331	2,157.62	47	366.50	14	17	13	39.97		
Respiratory and cerebral stimulants	3,977	13,426.68	512	2,154.34	13	16	1,234	5,219.96	196	804.22
Sedatives and hypnotics	25,126	53,654.65	6,501	14,762.09	26	28	9,716	25,869.28	2,496	6,423.69
Total	144,809	652,065.07	25,202	119,716.56	17	18	64,672	275,799.98	10,281	41,185.37

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[1] Includes drugs purchased for Cuban refugees and the aged which were not paid for under medicaid. The number of prescriptions and amount, however, were insignificant.

APPENDIX VII—Continued

MEDICAID DRUG PROGRAM—ILLINOIS, NEW JERSEY, AND OHIO—Continued

NUMBER OF PRESCRIPTIONS AND AMOUNT PAID IN OCTOBER 1970 FOR CENTRAL NERVOUS SYSTEM DRUGS FOR RECIPIENTS OF OLD-AGE ASSISTANCE IN NURSING HOMES COMPARED TO SIMILAR DRUGS PROVIDED TO ALL RECIPIENTS STATEWIDE

	New Jersey prescriptions		Ohio prescriptions					
	Percent of nursing homes to statewide		Statewide		Nursing homes		Percent of nursing homes to statewide	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
General anesthetics			1	$5.40	1	$5.40	100	100
Analgesic and antipyretics	9	11	30,346	136,073.05	5,324	26,125.87	18	19
Narcotics antagonists			1	2.10				
Anticonvulsants	10	8	3,254	8,064.38	981	2,159.47	30	27
Psychotherapeutic agents:								
Antidepressants	18	15	4,899	40,530.20	1,361	10,510.23	28	26
Tranquilizers	18	17	33,202	222,922.89	9,413	63,973.56	28	29
Other psychotherapeutic agents			2	5.76				
Respiratory and cerebral stimulants	16	15	6,003	26,908.26	581	2,706.02	10	10
Sedatives and hypnotics	26	25	19,564	36,691.36	6,320	12,356.00	32	34
Total	16	15	97,272	471,203.40	23,981	117,836.55	25	25

[1] Includes drugs purchased for Cuban refugees and the aged which were not paid for under Medicaid. The number of prescriptions and amounts, however, were insignificant.

APPENDIX VIII

SELECTED STATISTICAL INFORMATION ON ILLINOIS, NEW JERSEY, AND OHIO MEDICAID AND INTERMEDIATE CARE PROGRAMS FOR CALENDAR YEAR 1970

	Illinois	New Jersey	Ohio
Medicaid program:			
Started	(1)	(2)	(3)
1970 expenditures:			
Amount (millions)	$200.6	$130.9	$120.0
Federal share (millions)	$100.3	$62.7	$62.9
Drugs:			
Percent of total medicaid expenditures for drugs	11	8	14
1970 expenditures:			
Amount (millions)	$22.2	$10.4	$16.9
Federal share (millions)	$11.1	$5.2	$8.9

	Illinois	New Jersey	Ohio
Skilled nursing care:			
Percent of total medicaid expenditures for skilled nursing care	3	33	24
1970 expenditures:			
Amount (millions)	$5.3	$43.5	$28.6
Federal share (millions)	$2.7	$20.7	$15.0
Patient days of care paid for	589,349	2,375,411	2,810,826
Intermediate care: [14]			
1970 expenditures:			
Amount (millions)	$62.6	(5)	$27.7
Federal share (millions)	$31.3		$14.5
Patient days of care paid for	7,773,530		3,475,479

[1] January 1966.

[2] January 1970.

[3] July 1966.

[4] Provided to eligible persons not in need of skilled nursing care but in need of more intensive care than that provided in residential facilities.

[5] New Jersey did not participate in the intermediate-care program in calendar year 1970.

APPENDIX IX

GENERAL DEFINITION OF DRUG CATEGORIES

Antihistamine Drugs—Products used to alleviate the symptoms of hayfever, allergy, and the common cold.

Anti-Infective Agents—Products used in the treatment of bacterial and viral diseases.

Antineoplastic Agents—Products used in the treatment of cancer.

Autonomic Drugs—Products whose primary effect is on the nervous system and includes drugs used to treat abnormalities in smooth muscle tone and certain abnormal eye conditions.

Blood Derivatives—Products used in blood replacement.

Blood Formation and Coagulation—Products used to enhance formation of blood cell products and components, including the treatment of anemia and the treatment and prevention of blood clotting.

Cardiovascular Drugs—Products used to treat abnormal blood pressure, heart congestion, and cardiac insufficiency.

Central Nervous System Drugs—Products whose primary effect is on the brain and are used to excite, sedate, tranquilize, or relieve pain.

Diagnostic Agents—Products used to diagnose diseases and in laboratory analysis.

Electrolytic, Caloric, and Water Balance—Products used to restore water balance of body fluids. Also, products are used to help eliminate abnormal water retention in tissues.

Enzymes—Products derived from naturally occurring substances and generally used to expedite or retard a natural body process. Frequently, these products are also used to treat undesirable blood coagulation.

Unclassified Therapeutic Agents—Products of naturally occurring substances which are not classified elsewhere.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

AMENDMENT OF THE RAIL PASSENGER SERVICE ACT OF 1970

The PRESIDING OFFICER (Mr. CHILES). Under the previous order, the Chair now lays before the Senate the unfinished business, H.R. 11417, which the clerk will state.

The legislative clerk read as follows:

> H.R. 11417, to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation for the purpose of purchasing railroad equipment, and for other purposes, reported with amendments.

The Senate resumed the consideration of the bill.

Mr. HARTKE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 10 minutes.

Mr. HARTKE. Mr. President, on October 30, 1970, the Rail Passenger Service Act of 1970 became law. It authorized the establishment of the National Rail Passenger Corporation, now known as Amtrak, as a quasi-public corporation to provide intercity rail passenger service on important routes throughout the country, thereby relieving the railroads of the sole financial responsibility for operating the trains.

Amtrak was required to commence service on May 1, 1971. As that date approached, it appeared to many people both in and out of the Congress that Amtrak was not ready to assume its responsibilities. Among other things, its chief executive officer had just been appointed. The committee gave serious consideration to postponing the date for Amtrak's startup. However, it was decided that a delay would create more problems than it would solve, and no action was taken.

Amtrak's initial funding was $40 million in direct Federal grants, $100 million in Federal loan guarantees, and an estimated $197 million in monthly payments from the railroads, spread over a 36-month period. In April 1971 there was sentiment among several members of the committee, including myself, that this funding was insufficient to enable Amtrak to provide modern, attractive trains and thus make a meaningful effort to establish the appropriate role and level of rail pssenger service in a balanced transportation system. However, the committee took no action at that time to increase the funding in view of the representation by both Amtrak and the Department of Transportation that no more money would be needed before July 1973.

Less than 6 months later, Amtrak and the Department admitted that the initial funding was not enough to carry Amtrak through July 1973. The Secretary of Transportation in October 1971 sent to the Congress draft legislation requesting $170 million in additional direct grants which was introduced by the chairman—by request—as S. 2760.

On October 26, 1971, the Subcommittee on Surface Transportation heard witnesses from the Congress, Amtrak, the Department of Transportation, rail passenger users, and motorbus operators. Except for the bus operators, the witnesses generally supported the funding request. But the testimony indicated that the quality and efficiency of Amtrak operations up to that time were considerably less than what the Congress and the public had expected when the program was first enacted. This situation was corroborated by statistical data on on-time performance and on financial results of the various Amtrak routes, which were supplied to the committee by Amtrak.

Subsequently Amtrak submitted amendments to effect technical changes in the loan guarantee provisions of the act which its financial advisers deemed essential to remove certain limitations so as to enable Amtrak to secure loans in the amount contemplated by the act.

On March 15, 1972, the House of Representatives passed H.R. 11417, authorizing the administration's requested $170 million additional funding and amending the act in several other respects.

After considerable discussion the Senate Commerce Committee has now completed its consideration of the Amtrak legislation. To simplify the procedure the committee has adopted the House number, H.R. 11417, but the text of the Senate amendments differs in several respects from the House-passed bill.

The committee report at page 7 summarizes the Senate Commerce Committee bill. At page 14 of the report there is a summary of the differences between the Senate and House bills.

I will describe the Senate bill in a very few words. First, the committee approved a flat limitation on officers' salaries so that they may not exceed that of Cabinet officers which is currently $60,000.

Second, the committee in section 2 would establish as policy Amtrak's obligation to assume direct controls of operations as soon as practicable. Only in this way can Amtrak have the authority it needs to impose better quality control and better cost controls.

Third, the committee in sections 3 and 4 insures that the public and the Congress will have access to information about Amtrak. Section 10 provides for General Accounting Office authority to examine railroad records as part of any audit of Amtrak. This information could help control costs.

Fourth, second Amtrak has not seemed particularly aggressive in its search for additional moneys from conducting business, the legislation requires Amtrak to undertake a study, to be completed by November 1, of the potential revenues from carrying more mail and express.

Fifth, the ICC would be required to decide questions about Amtrak access to track expeditiously so as to avoid the possibility that dilatory action by the ICC might provide a serious burden to Amtrak operations.

Sixth, the bill contains in section 7 an amendment that clarifies the responsibilities of railroads and Amtrak with respect to employees displaced by Amtrak readjustments or discontinuance of service.

Seventh, the bill restores pass privileges to those employees, retirees, and dependents who had such rights as of April 30, 1971—the day before Amtrak took over control of rail passenger services. The railroads would be required to reimburse the Corporation for its costs, which seems only proper since it is, after all, the railroad's own policies that would be reinstituted.

Eighth, the committee approved Federal grants to Amtrak of $270 million, $100 million above the Office of Management and Budget approved request; $2 million annually for certain international routes, and $250 million for loan guarantees.

The committee, in short, has strongly supported continuation of the Amtrak concept, but has tried to make clear to Amtrak its displeasure over Amtrak operations to date.

I should like to comment in this connection on some recent articles which have appeared in the press to the effect that Amtrak is an experiment that has failed. To make that kind of statement presupposes that there has indeed been an experiment that was conducted with the utmost care and that all of the information thus far indicates that there is no hope for intercity rail passenger service playing a significant role in the Nation's total transportation picture. First, I think we must establish criteria by which success should be measured. The Congress in approving the Amtrak legislation did not establish profitability as the sole measure of success. While we certainly hoped that Amtrak, under aggressive, innovative management, would at some point in its history make a profit, I do not believe that anyone who supported this measure in Congress felt that as a primary objective we were forming an enterprise for commercial gain. Certainly we did wish to encourage this enterprise to strive for profitability because, with that kind of effort, it would more likely be efficient. But there are few, if any, transportation enterprises which could stand on their own today, unassisted in some way by the Federal Government, and obviously Amtrak is not an exception. Government interest in transportation should not be to measure profitability as a goal in itself. Rather, we should be striving to insure that transportation services are available for those citizens who need the service when they need it. This may or may not mean that a particular transportation service makes money.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. **HARTKE.** Mr. President, I yield myself an additional 5 minutes.

Second, I do not feel, and I think my views are supported by many, if not the vast majority in Congress, that Amtrak has really made the kind of effort that we had all hoped it would make to bring about a vast improvement in rail passenger service. We can all point to countless managerial snafus, in Amtrak's administering to the needs of the traveling public which give Congress plenty of evidence that something has been lacking in the way of an all out effort on the part of Amtrak. Trains today are still slower than they were several years ago—most schedules are slower than in 1941. I have found on personal experience that trying to call an Amtrak reservations desk can be an excruciating experience—one time waiting for 22 minutes just to get a phone answered. On-time performance has lagged from mediocre to wretched. Outside of the Northeast Corridor there is very little evidence that Amtrak has attempted to seriously promote or advertise rail passenger service in the United States. Of course one could argue that if the product is not good maybe it should not be advertised.

Amtrak managerial attitude is exemplified by a quite recent event. One of the more vexing problems confronting those who wish to travel on passenger trains, as almost everyone knows who has ever tried to ride a train, is the extreme difficulty one encounters in trying to obtain reservations or even to obtain information about train schedules. The Interstate Commerce Commission has proposed some regulations governing the adequacy of Amtrak's service—it is worth noting that the ICC never showed such zeal on behalf of the rail passenger when the railroads were solely responsible for passenger service. In the Commission's proposed rules there is a proposal that reservations and information services be readily available at any time of the day or night to customers anywhere in the United States. The Commission in its proposed regulations further noted "a nationwide toll-free telephone service will meet this requirement." Amtrak has opposed this regulation saying among other things it is far from persuasive that such an elaborate system is even a desirable near term goal in terms of service to the public. Amtrak at a later point states:

> If Amtrak does not implement a nationwide computer reservations and communications system, the Commission is assured that this is because in Amtrak's best, informed judgment the future of intercity rail passenger service will better be served by some other application of available resources. Amtrak's energies and resources cannot be diverted to any other purpose since that is the sole purpose for which it exists.
>
> There is no basis at this time for concluding that Amtrak's efforts to date to develop and improve the rail passenger reservations system have been insufficient or, indeed, that the present system with the improvements Amtrak is introducing is inadequate for the present needs of intercity rail passenger service. On May 1, 1971, Amtrak acquired 13 independent reservations systems from various railroads operating under somewhat diverse principles and procedures, but most performing reasonably well the reservations functions of those railroads."

The disturbing point about Amtrak's comment is not that a new nationwide system might be prohibitive in terms of cost. That may be true. What is disturbing is that this rail passenger reservations system, if indeed it can be called a system, which Amtrak took over in May 1970 is categorized by Amtrak as performing reasonably well and Amtrak is not convinced that it is inadequate for present needs. This calls into serious question whether we have obtained the change in managerial attitudes which we had all hoped would be achieved by enactment of the Rail Passenger Service Act of 1970.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HARTKE. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. HARTKE. As of now, Amtrak is falling far short of what we had hoped and expected of it. The quality of service has improved very little since Amtrak took over last May. We have yet to see any improvements and no new equipment has even been ordered.

Under the system it is hardly surprising that ridership outside the Northeast has not increased.

Despite all this, I think the committee is generally in accord in believing that with the proper effort by Amtrak management, with sufficient funds, and with more interest and support from the White House this experiment could still show that there is a positive need for continuing Amtrak in operation. But attitudes in Amtrak and in the administration must change or Amtrak's chances of being successful are minimal.

I am convinced that we need a more positive attitude on the part of the administration and I am equally convinced that there is unfortunately very little that Congress can do to promote that attitude. However, we must do our best. The legislation which the Senate Commerce Committee has approved does not meet all of my objectives but it does represent a very sound piece of legislation which if passed and effectively implement by the administration will produce the kind of rail passenger system which we all envisaged when Amtrak was enacted.

The PRESIDING OFFICER. Who yields time?

Mr. COTTON. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold his request temporarily?

Mr. COTTON. Yes.

Mr. ROBERT C. BYRD. Will the Senator yield to me for 1 minute?

Mr. HARTKE. I yield to the Senator from West Virginia.

PRIVILEGE OF THE FLOOR

Mr. ROBERT C. BYRD. Mr. President, at the request of the Senator from Arkansas (Mr. FULBRIGHT), I ask unanimous consent that during consideration of his amendment to the Amtrak bill he be permitted to have two of his assistants on the floor of the Senate; namely, Mr. David Capes and Mr. Hoyt Purvis.

The PRESIDING OFFICER. Without objection, it is so ordered.

RULE OF GERMANENESS APPLICABLE FOR 6 HOURS TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Pastore rule of germaneness run for 6 hours today instead of the usual 3 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. COTTON. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. COTTON. Mr. President, the purpose of the bill, H.R. 11417, is to amend the Rail Passenger Service Act of 1970 so as to provide further financial assistance to the National Railroad Passenger Corporation—Amtrak.

Fundamentally, H.R. 11417, as reported by our Committee on Commerce is a good bill. More important, it contains an appropriation authorization provision which is desperately needed by Amtrak if it is to meet the obligations which the Congress mandated it to carry out.

Quite frankly, Mr. President, I supported the Rail Passenger Service Act of 1970 in the last Congress, but not without some personal reservations as to its effectiveness. These reservations persist today, and I would be less than honest if I did not so state. As a matter of fact, it is my deep personal belief that the greatest potential for the revitalization and effective utilization of the passenger train lies in the high density urban corridors, such as that located here in the Northeast and probably that on the Pacific coast. And, it is in such corridors that the major effort in terms of financial investment should be made.

H.R. 11417 does not limit the effort of Amtrak to such high density urban corridors. Rather, it continues the basic system established by the Secretary of Transportation which does include some long-haul routes. Moreover, the bill provides for international rail passenger service between the United States and Canada and Mexico. But, all of these routes will be subject to reexamination on July 1, 1973, at which time the basic system may be realined based upon the experience gained during this test period mandated by the Congress. I personally feel strongly that such a realinement probably will be necessary if Amtrak is to succeed in its mission to revitalize rail passenger service.

As one of my constituents recently noted in a letter to me:

> I also have been distressed at the Amtrak program or whatever it is now called. The program is going at the problem backwards and will be a bottomless pit of a money drain as now conceived. The scheduling and routes should have been based completely and solely on the short haul, from major city to major city, not on the long haul. The only people who will travel coast-to-coast or more than 250 or 300 miles by train are railroad buffs, no matter how many pretty girls in fancy costumes.
>
> The market is in rides from Washington to New York, Houston to Dallas, St. Louis to Memphis, and so on all over the Nation. True, the long haul ties these cities together in a way, but the scheduling is not oriented toward these markets.

Nevertheless, notwithstanding this personal reservation, I do support H.R. 11417, as reported by our Committee on Commerce, to enable Amtrak to complete its period of experimentation originally mandated by the Congress and embodied in the Rail Passenger Service Act of 1970. I therefore urge favorable consideration of the bill, H.R. 11417.

Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, perhaps the most important amendment to be considered in connection with this bill will be that offered by the distinguished Senator from Rhode Island (Mr. PELL). His amendment has a very worthy objective. But, I believe that in the opinion of most members of the Committee on Commerce, it might conflict with mass transit and might render the Amtrak trial period ineffective.

It is vitally important that both sides of that amendment be presented and that sufficient time be left on the bill so that we can adequately deal with it.

I merely wanted to make that observation for the Senate.

The distinguished Senator from Maryland (Mr. BEALL) is the ranking minority member of the Subcommittee on Surface Transportation. I wish to turn over to him the control of the time for this side of the aisle.

Mr. BEALL. I thank the distinguished Senator. I yield myself as much time as I might consume.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. BEALL. Mr. President, I wish to express my support for the passage of the bill under consideration, H.R. 11417 as amended by our Committee on Commerce. This bill would amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation—Amtrak—for the purpose of purchasing railroad equipment, and for other purposes.

The origin of this bill was the letter of the Secretary of Transportation in October 1971 submitting to the Congress draft legislation requesting an additional appropriation authorization to Amtrak of $170 million which was introduced by the distinguished chairman of our Committee on Commerce (Mr. MAGNUSON) by request as S. 2760. The Subcommittee on Surface Transportation, on which I am the ranking Republican member, held hearings on the bill, S. 2760 on October 26, 1971. And, in November of that year that subcommittee voted to the full committee for its consideration a draft of the bill which included several additional substantive amendments beyond the original request for additional appropriation authorization based upon the hearings held on the measure.

H.R. 11417 is the House companion measure which passed that body on March 15 of this year. It, too, contained several substantive amendments to the Rail Passenger Service Act of 1970 in addition to the added appropriation authorization requested by the Secretary of Transportation.

H.R. 11417, as reported by our Committee on Commerce, represents a substitute text for the House-passed version and an amended title to the bill to more accurately reflect the substance of that amended text. In the truest sense of the legislative process, Mr. President. H.R. 11417 represents a compromise. On the one hand it no doubt does not contain as much as some Members might wish; and on the other, more than others would like to see in such a bill. However, on balance, it is fundamentally a good bill and I believe we should not lose sight of the fact that Amtrak has great need for the additional appropriation authorization if it is to continue to function. Therefore, timely action on the bill, H.R. 11417, is imperative.

Mr. President, at this point I believe it would be appropriate for the Members of this body to keep in mind the origin of the Rail Passenger Service Act of 1970. In the 91st Congress, second session, this body passed on a record vote of 78 to 3 the bill, S. 3706, with an amendment—No. 608 as amended—in the nature of a substitute adopted during the debate in this Chamber on that measure. Passage of this earlier bill, S. 3706, was on May 6, 1970.

Then on October 14, 1970, the House of Representatives passed the bill, H.R. 17849, as amended by its Committee on Interstate and Foreign Commerce. On the same day, October 14, the Senate passed the same bill, H.R. 17849 without amendment and at that time, the distinguished chairman of our Commerce Commitee (Mr. MAGNUSON) had printed in the RECORD a statement on this bill which noted in part the following:

> Except for some relatively minor amendments this bill [H.R. 17849] is essentially the same as legislation, S. 3706, approved by the Senate on May 6 of this year. . . .

Subsequently on October 30, 1970, H.R. 17849 was approved as Public Law 91–518—the Rail Passenger Service Act of 1970.

As a result, Mr. President, the principal document available providing legislative history on the Rail Passenger Service Act of 1970 is the report of the House Committee on Interstate and Foreign Commerce accompanying H.R. 17849 (Report No. 91–1580). In view of this, I believe it might be helpful to recall some of the language from that House report. As for the purpose of the Rail Passenger Service Act of 1970 the House report noted in part the following:

> The basic purpose of this bill is to prevent the complete abandonment of intercity rail passenger service and to preserve a minimum of such service along specific corridors. * * * The corporation would be expected to revitalize rail passenger service in the expectation that the rendering of such service along certain corridors can be made a profitable commercial undertaking, particularly with new equipment or advanced vehicles.

As for the background and need for the Act, the House report noted in part:

> This nation is faced with the immediate threat of complete curtailment of rail passenger service. . . .
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> * * * * *
>
> In other words, a rational reduction of present service will be required in order to save any passenger service. The remaining service must be organized into a cohesive system requiring a management which takes into consideration the needs and abilities of the entire system which will be a replacement for the diverse managements of the present unintegrated and in many instances, unwanted (by management) passenger service.
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> * * * * *
>
> In short, this is a constructive attempt to salvage an essential system of intercity rail passenger service to meet the needs of the public, our National Defense, and the postal service.

The act required that the Secretary of Transportation, after consultation with the Interstate Commerce Commission and railroad and labor representatives establish a basic national rail passenger system. Amtrak was then required to provide service between end points in the basic system for 2 years and 2 months. After that period of time, Amtrak was to have the flexibility to adjust the amount of service provided. In the words of Secretary of Transportation Volpe in his letter of December 10, 1971, to the chairman of our Subcommittee on Transportation (Mr. HARTKE):

> In essence, the required period of service to July 1, 1973 was established to provide the Corporation a period of time in which to conduct a *nation-wide test* to determine the appropriate role and level of rail passenger service in the development of a balanced transportation system. (Emphasis supplied.)

Thus, Mr. President, I think we should be ever mindful, first of the fact that Amtrak did come into being at a time when we were faced with the immediate threat of complete curtailment of rail passenger service and, second, that it does represent a "nationwide test." As the House Interstate and Foreign Commerce Committee indicated in its report:

> We fully recognize that Amtrak was to a substantial degree an experimental effort to determine the appropriate role and level of rail passenger service in the development of a balanced national transportation system. * * * Amtrak was required to resume service on May 1, 1971. This goal was met, but apparently not without considerable birth pains. (See House Report No. 92–905 accompanying H.R. 11417 at page 7.)

H.R. 11417 as reported by our Committee on Commerce, Mr. President, represents in my opinion a realistic approach to meeting some of the needs of Amtrak enabling it to satisfactorily complete the test period mandated by the Congress to be carried out by Amtrak. For the convenience of Members of the Senate I would invite their attention to pages 7 and 8 of the committee report accompanying H.R. 11417 which sets forth in a succinct fashion a summary of the provisions of the reported bill and to pages 14 and 15 which summarizes the differences between the House passed version and that reported by our Committee on Commerce.

Mr. President, in light of the statement made by the distinguished chairman of our Subcommittee on Surface Transportation (Mr. HARTKE) I see little point in making a second recitation of the provisions of this bill. Suffice it to say that I personally believe that it represents the best possible bill which could be worked out at this time. More important, it is a bill providing funding which is desperatly needed by Amtrak if it is to continue to meet its obligations in the weeks and months ahead.

In conclusion, Mr. President, I respectfully urge the support of my colleagues in the Senate for the bill, H.R. 11417, as reported by our Committee on Commerce and urge its passage.

The PRESIDING OFFICER. Who yields time?

Mr. BEALL. Mr. President, I yield 5 minutes to the Senator from Connecticut (Mr. WEICKER).

Mr. WEICKER. Mr. President, I rise in support of the Amtrak legislation, and particularly, at the outset, to commend the Senator from Indiana, and indeed the entire Commerce Committee, for being the first to stand up with a forward look at what is required to produce a balanced transportation system in these United States.

We have had a great deal of negative talk, some of it generated by myself and others, against the way funds are allocated in the United States for the various forms of transportation. Specifically, I and others have criticized the Highway Trust Fund as being a fund which puts too much emphasis on highways as a resolution to our transportation problem.

The Senator from Indiana and the members of the Commerce Committee have come forth with a positive response by making a meaningful commitment in the area of rail transportation. The bill before us calls for some $420 million in possible funding—$270 million in cash and $150 million in loan guarantees—$420 million compared to some $10 billion that will be spent on highways and $4 billion for airports.

I also want to commend the Senator from Indiana, because the forward look which he and the members of his committee have given to rail transportation is not something new. It was almost a year ago that he and other Senators pointed out that, the funding that was given to Amtrak was woefully inadequate and doomed it to failure from the outset. In effect, what we did was set up a corporation to pass the debt from private hands to the taxpayers of this Nation, and we did not give Amtrak the wherewithal to create better service, better rights-of-way, acquire new equipment, and do all the things necessary to brake the cycle of deficits which had become critical when the rails were in private hands. In effect, we said, "Let us put it into a Government corporation and then give it just enough money to cover operating deficits in the year ahead."

Originally the bill, which the Senate is being asked to pass today, called for $170 million to be allocated to operating deficits incurred between now and July 1, 1973. Certainly, that does not bespeak any great optimism in what is going to happen. But what the Senator from Indiana and his subcommittee and the Commerce Committee are doing in this bill is giving additional funds earmarked specifically for capital improvements.

If you run the same trains over the same rights-of-way in the same manner, you are going to end up with the same deficits. I do not think that is what the American people expected when Amtrak was established; but, unfortunately, a full-page advertisement in the newspaper and a high-sounding name does not put one new car on the track, does not create one new right-of-way, does not employ one new way of railroading. To do that requires money.

So I think it important to point out that the efforts of the committee in this direction were not to provide just additional funding. I noticed in the newspapers, after the Commerce Committee had reported the bill out of committee, that it was stated new funding had been added to the bill which had not been requested. Let me point out that that was not what was important.

We did not seek increased funding for its own sake. Today marks a new day, a real departure in the thinking of this legislative body as to what our transportation system——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. WEICKER. I ask for 2 additional minutes.

Mr. BEALL. I yield the Senator 2 more minutes.

Mr. WEICKER. As to what our transportation system should consist of. I point out that due to the actions of the committee, an additional $100 million in direct funding and an additional $150 million in loan guarantees has been incorporated in the Amtrak bill. For the first time the American people are being told what it really costs to run a railroad.

But altogether, the issue is no longer just those who want to travel intercity, because the cost of the rails can be based on human life—55,000 people killed on the highways every year—it can be based on pollution and our efforts to do away with it; it can be argued on the basis of moving people around; it can be argued on the basis of what the needs of our cities are. It is a broad issue. It no longer belongs alone to the traveler from New York to Chicago.

No other form of transportation can move so many people over such a small piece of real estate; and as powerful as we have become throughout the world, and as many achievements as we have in the areas of science and space, the fact remains that the United States of America has without question the worst rail system of any major nation in the world.

So I am delighted and I am proud that the U.S. Senate, and specifically the Committee on Commerce, has chosen to be the pioneer, has chosen to set forth what our commitment is going to be, which has not, frankly, been done by the administration or added by the House of Representatives.

This is new. It is exciting. And if this bill passes, we will have, not a thousand transportation happenings in the United States of America, but indeed a transportation system.

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. Mr. President, I yield myself 2 minutes.

I thank the Senator from Connecticut for his comments today. The fact is that he has represented, inside the committee, one of the driving forces to make Amtrak work, and it is his amendment which provides the additional funds and the allocation of those funds in a manner which will effectively achieve something in the future for the movement of people.

Let me state an example of what could and should happen, and I hope will happen. It is 227 miles from New York to Washington. The average time in which that distance has been covered under Amtrak is 2 hours and 50 minutes. But with greater capital expenditures—that means improved track and improved equipment—there is no reason whatsoever but that within a few years, if we move effectively, we could have a train make that trip in 1 hour's time, from city to city.

This would be a development which people could understand, and to which they would respond. Then we would begin to truly move forward with the rail transportation system. This is what we are talking about.

There is no reason in traveling by train, between Boston and New York, that that train should always stop in New London. I enjoy New London, Conn., where my first daughter was born, but I tell you quite honestly that we should have put in new systems and new methods which would make a much faster trip possible between those two cities. If we, as an example, want to do something effective for this country to celebrate its 200th anniversary, we ought to start moving people. Perhaps next year, with the election out of the way, we can proceed forward with a dynamic new approach in seeing that by 1976 we will have established some new, meaningful transportation methods which will be consistent with our capabality by the year 2000.

I compliment the Senator from Connecticut not only for his fine comments, but also for his insistence that the Senate not be merely a rubber stamp for what the administration asked or what the House of Representatives approved. By virtue of the type of dynamic presence that he has, he has established himself as a leader in this field.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, at the outset of my remarks——

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Who has the time in opposition?

Mr. HARTKE. The Senator from Maryland.

Mr. PELL. Will the Senator from Maryland yield me 10 minutes?

Mr. BEALL. Ten minutes on the bill?

Mr. PELL. I have an amendment which is now being recast to, I hope, meet general acceptance.

Mr. BEALL. I am glad to yield the Senator 10 minutes on the bill.

Mr. PELL. Mr. President, at the outset, I would like to commend the Committee on Commerce and its distinguished chairman on the legislation reported to the Senate. The bill as reported is a distinct improvement over the legislation recommended by the administration.

The Amtrak funding authorization requested by the administration was a minimal proposal, barely sufficient to maintain Amtrak's current rail passenger operation.

The work the Senator from Indiana has done in this regard, with the Senator from Maryland, the Senator from Washington, the Senator from New Hampshire and the Senator from Connecticut, has helped tremendously in refining and tightening up and also making the thrust of this legislation move in the direction that so many of us have thought that it should.

I know, as one individual Member of this body 7 years ago wrote a book called "Megolopolis Unbound," which sought to show that the best method of moving people cheaply and efficiently between cities is ground transportation, that to do that there have to be improvements and changes in the technology, and money provided for that purpose. If these changes are made, if adequate transportation is provided for the people of the urban corridors, we will find them using it, as has already been proved in the megalopolis between here and Boston. But if it is left to the private railroads, one finds then that since they can make more money, and there is nothing wrong with making a profit, out of moving goods rather than people, they will prefer to move goods. Why? Because goods do not require polite service, prompt service, comfortable service, and nonbumpiness to such an extent.

These thoughts have been in my mind now for many years—almost 12 years. Out of these thoughts was generated the concept of the High Speed Transportation Act with its resultant metroliners and turbo-trains and my book. But the movement has been slow in our country. Other nations are aware of the potential in moving people—the need for moving people quickly and comfortably on the ground. The result is that our great Nation has one of the more inferior passenger railroad services of all the technologically advanced nations.

The Committee on Commerce has recognized what needs to be done, and its members are to be congratulated. In the reported bill, they have increased the funding for direct grants by $100 million and for loan guarantees for capital improvements by $150 million. This is certainly an improvement, and a commendable recognition of the reality that the ground passenger system needs new capital funding to break out of its downward spiral. But H.R. 11417 as amended still does not authorize a full-fledged vigorous program to permit the development of the potential of the rail passenger system. The committee recognized this in its report, noting that the additional loan guarantees "will not enable major rebuilding of tracks and roadbeds" but only "judicious, if limited, tract improvements"—page 13 of report.

The amendment I have offered would provide the additional capital resources essential to improvement in rail passenger service; and equally important, it would focus those funds in the area where rail passenger service has the greatest potential, and promise, in the urban corridors of the country.

At this time, Mr. President, I send to the desk an amendment on behalf of myself and the Senator from Massachusetts (Mr. KENNEDY) and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 27, immediately after line 17, insert the following new sections and redesignate section 12 as section 14:

SEC. 12. Section 102 of the Rail Passenger Service Act of 1970 is amended by striking out clause (8) and inserting in lieu thereof:

"(8) 'Urban corridor' means a densely populated area containing a series of two or more standard metropolitan statistical areas not more than five hundred miles apart connected by major routes of ground passenger transportation."

SEC. 13. Title VI of the Rail Passenger Service Act of 1970 is amended by adding the following new sections:

"LOANS FOR URBAN CORRIDOR IMPROVEMENTS

"SEC. 603. (a) The Secretary is authorized, on such terms and conditions as he may prescribe by regulations which he may promulgate, to make loans to the Corporation for the development, improvement, and construction of rights-of-way, terminals, and vehicles to be used for intercity transportation along fixed guideways within urban corridors of the United States.

"(b) Loans made under this section shall be made in conformance with comprehensive regional transportation plans made in consultation with the Corporation, the Secretary of Transportation, and the Governors and to the extent practical, elected representatives from standard metropolitan statistical areas within the region. When allocating loans to the Corporation, the Secretary shall consider the potential revenue to be generated by the improvements planned and the numbers of passengers to be served by the improvements.

"(c) There are hereby authorized to be appropriated such amounts, not to exceed $50,000,000, as may be necessary to carry out the purposes of this section. Any sums appropriated shall be available until expended.

"GUARANTEES FOR LOANS FOR URBAN CORRIDOR IMPROVEMENTS

"SEC. 604. (a) The Secretary is authorized on such terms and conditions as he may prescribe by regulations which he may promulgate, to guarantee any lender against loss of principal or interest on securities, obligations, or loans issued to finance the development, improvement, and construction of rights-of-way, terminals, and vehicles to be used for intercity transportation along fixed guideways within urban corridors of the United States. The maturity date of such securities, obligations, or loans including all extensions and renewals thereof, shall not be later than twenty-five years from their date of issuance, and the amount of guaranteed loans outstanding at any time may not exceed $50,000,000, and the cumulative amount of guaranteed loans to be authorized shall not exceed $100,000,000.

"(b) Guarantees for loans provided under this section shall not be made unless such loans are to be made in conformance with comprehensive regional transportation plans made in consultation with the Corporation, the Secretary of Transportation, and the Governors and, to the extent practical, elected representatives from standard metropolitan statistical areas within the region. When providing such guarantees, the Secretary shall consider the potential revenue to be generated by the improvements planned and the numbers of passengers to be served by the improvements.

"(c) There are authorized to be appropriated such amounts as may be necessary to carry out this section.

The PRESIDING OFFICER. Is this the amendment of the Senator from Rhode Island on which there is to be a 1-hour limitation, 30 minutes to each side?

Mr. PELL. That is correct.

Mr. President, I now use my time on the amendment, and I yield myself such time as I may require.

The amendment would authorize an additional $50 million in direct grants for capital improvements in the urban corridors, and an additional $100 million in loan guarantees, also for capital improvements in urban corridors. Urban corridors are defined as densely populated areas containing a series of two or more standard metropolitan statistical areas not more than 500 miles apart and connected by major routes of ground passenger transportation. The loans and loan guarantees would be available to Amtrak with the requirement that the funds be utilized in accordance with comprehensive regional transportation plans.

Mr. President, there are, I believe, two overriding facts about the current state of rail passenger service. The first is that the greatest need is for improvement of tracks and roadbeds to permit smoother and higher speed operation. The second is that the urban corridors is where capital investment has the potential to produce increased patronage and increased revenues that will make better service self-supporting and, in some cases, profitable.

In addition, it is in these urban corridors that population and transportation congestion is greatest, and where the environmental effects of transportation systems are of greatest concern.

My amendment would focus Federal assistance funds on these areas, where both the need and the promise of benefits are greatest.

Mr. President, when speaking of urban corridors, we normally think of megalopolis, the Northeast Corridor, stretching from Washington through New York City to Boston. But there are present and developing corridors throughout the United States. Just as a beginning, the Department of Transportation has identified 15 such corridors. They are:

Miami-Jacksonville, Oakland-Sacramento, Houston-Oklahoma City, Chicago-Minneapolis, Kansas City-St. Louis, New York-Boston, New York-Richmond, Seattle-Portland, Chicago-Cincinnati, Memphis-New Orleans, New York-Buffalo, Chicago-St. Louis, Chicago-Detroit, Los Angeles-San Diego, and Pittsburgh-Philadelphia.

According to a 1968 report by DOT, these corridors contain more than three-quarters of the urbanized population of the United States. In addition, 67 percent of all passenger travel occurs between the corridor distances of 50 and 499 miles.

Mr. President, although smaller in scope, this amendment is similar to amendment No. 696 which I submitted with the cosponsorship of 12 of my colleagues in November of last year. And these amounts, I would emphasize, are modest in comparison with investments already programed in transportation systems—about $10 billion in highways and $4 billion in airports and airways during the next 2 years alone. The sums authorized by the amendment are very modest compared with what eventually will be required to rebuild and modernize the neglected rail passenger system of this country.

I believe it is time not only to talk about this job, but also to get on with it and to get the principle of regional corridors accepted.

In closing, I would leave this thought with my colleagues: Three-quarters of our people who travel live in urban corridors, and obviously this is where the largest amount of money should be spent. The long-haul distances are more adequately served in the air. I would hope that where high-speed ground transportation could do a job, it would be permitted to do so and that this principle might be accepted.

As the manager of the bill and the ranking minority member now, I have radically reduced the funds involved and reluctantly removed the reference to the regional concept, because of the problems of other regional organizations and the overlapping jurisdictions that are involved. But I would still hope that my amendment, somewhat truncated as it is, could be accepted, because it does get across the principle that the emphasis, when it comes to spending money for high-speed ground transportation, should be in the areas where the people are, where the profits are, and where the need is.

Mr. HARTKE. Mr. President, I compliment the Senator from Rhode Island for his long and courageous stand in connection with trying to do something about the transportation of people. He has been a consistent proponent and an outstanding leader in the effort to improve transportation by his efforts on the floor of the Senate, and his well-known authorship of a very fine book in this field which is one of the outstanding works in the field.

Mr. PELL. I thank the Senator. But all I can do is offer words. The chairmen of the Surface Transportation Subcommittee and of the Commerce Committee offer actions, and their actions have done far more than my words, and I congratulate them.

Mr. HARTKE. I understand that the Senator from Rhode Island now has reduced his amounts severely, to approximately 10 percent of the original amounts. The concept of regionalization is one which I favor, but it was a matter of dispute and discussion in hearings before the Commerce Committee. So that matter is one upon which I am not prepared to speak for the committee, I cannot do so, and I understand that that aspect has been removed from the amendment. Is that correct?

Mr. PELL. That is correct. I recognize the problem here, because the urban corridors concept is, in itself, regional, and by accepting it we can cross that point.

Mr. HARTKE. The other problem, which presents itself somewhat in more detail, is the question of whether the amendment might not conflict with the purposes of Amtrak which is confined to intercity transportation. We should not here, with this bill, be attempting to deal with urban transportation. In many ways, I am of the opinion that what the Senator from Rhode Island is speaking about is what almost amounts to mass transit and what amounts to a severe problem for every community in the Nation. That is a matter which concerns me and concerns the committee greatly, we merely question whether it should be addressed by this bill.

Mr. PELL. If the Senator will yield at that point, he is absolutely correct. The concept I am trying to get across is that megalopolis is really one big metropolis, and we are going to have other megalopolises around the country. What we should think of—and this is where I disagree with some of the Amtrak management—is not of longer multicar trains but shorter trains running more frequently and on a need rather than a scheduled basis just like our subway system. Every 10 minutes, up and down our corridor, there could be trains running like a city subway system.

These cars could be run every 10 minutes between Philadelphia and New Haven and perhaps every 15 or 20 minutes between Washington and Boston. In other corridors, the operations could be in the same pattern. This would provide plenty of jobs because more cars would be running. I believe that the men of the railroads would like the concept of that appoach. I believe the public would like such a concept. That really would be mass transit. We could consider the mass transit approach particularly in the area between Washington and Boston.

Mr. HARTKE. Mr. President, there is no question that the Senator from Rhode Island is supporting a viewpoint which is widely held. The fact remains, though, that we are dealing with something that is very immediate: We are dealing with a system which could expire about a year from now—in 1973. We are dealing with a system taken over from many railroads and are trying to put it back together.

I have discussed the matter with the chairman and other members of the committee, including the ranking minority member. What we have decided, very frankly, is that the proposal of the Senator from Rhode Island—and he is well aware of the difficulties we might have in trying to make this type of determination—might cloud the bill so much that it would jeopardize the continuation of the program.

I have discussed the matter with other members of the committee, and we are prepared to accept the amendment and take it to conference. I would hope that we might have a detailed study as to how the amendment would apply in relation to the overall operation of the plan, particularly as the legislation would concern urban mass transit.

Mr. PELL. That would be agreeable to me. I thank the chairman of the Subcommittee on Surface Transportation for his courtesy and helpfulness in this regard, and I likewise thank the ranking Republican member of the committee.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. TAFT. I have listened with interest to the Senator from Rhode Island describe the corridors that might be involved in his amendment. However, I did not hear any mention of the city of Cleveland or the city of Toledo. What I should like to inquire about is whether the Cleveland-Toledo-Detroit area is one which would qualify for inclusion in the Senator's amendment.

Mr. PELL. I know that Chicago and Detroit are mentioned on the map. I cannot imagine why Cleveland is not on the map. It certainly should be.

Mr. TAFT. I should like to ask, first, whether Cincinnati, Columbus, and Cleveland would be included in such a plan.

Mr. PELL. Each one?

Mr. TAFT. Cincinnati, Columbus, Cleveland, and also Akron.

Mr. PELL. My knowledge of the geography of that area is not as good as it is of New England. Chicago and Cleveland would be included.

Mr. TAFT. Chicago and Cleveland should be included.

Mr. PELL. I regret if your Cincinnati and Cleveland corridors have not yet grown to maturity; and if they are not now included, I am certain they will be because of during what I am sure will be the Senator's long tenure in this body.

Mr. TAFT. Will the Senator from Rhode Island outline the specific requirements for inclusion of such cities?

Mr. PELL. An urban corridor means:

> A densely populated area containing a series of two or more standard metropolitan statistical areas not more than five hundred miles apart connected by major routes of ground passenger transportation.

Mr. TAFT. Will the Senator explain why the Cincinnati-Columbus route would not be covered? Those cities are metropolises having populations of around a million—approximately 700,000 in Columbus; and 100 miles away is Cleveland, having almost 2 million.

Mr. PELL. So far as I am concerned, I would be delighted if they were included.

I would support the Senator from Ohio if his corridors met the criteria and he suggested they be included.

Mr. TAFT. There is a qualification in the Senator's amendment which provides for a population of more than a million and relates to a degree of settlement along the lines of transportation.

Mr. PELL. That is correct. My amendment would apply to any areas that met the requirements of the Amtrak lines or corridors. Perhaps more should have been included.

Mr. TAFT. I am trying to determine what are the criteria of the Senator's amendment. I do not understand what they are.

Mr. PELL. The criteria are:

> "Urban corridor" means a densely populated area containing a series of 2 or more standard metropolitan statistical areas not more than 500 miles apart connected by major routes of ground passenger transportation.

Under that definition, it seems to me that the corridors the Senator from Ohio is speaking of would comply.

Mr. TAFT. They should be included eventually. That is the reason for my question.

Mr. PELL. I think the reason for their not having been included is that they do not meet the present criteria for ground transportation.

Mr. TAFT. I do not think that is correct.

Mr. PELL. On the map furnished me by Amtrak I see the corridor, but the route is not marked on it.

Mr. TAFT. In other words, the route must be served by the present Amtrak service in order to qualify. Is there a requirement that at present the corridors in question must have that service?

Mr. PELL. Yes. For instance, the route between Seattle and Portland is at present considered a corridor.

Mr. TAFT. So the Senator is not proposing to add new corridors but merely to put additional money into corridors that exist where there are megalopoli?

Mr. PELL. That is correct. But the question is whether the Senator's corridors meet the requirement established when Amtrak considered major routes of ground passenger transportation between Cincinnati and Cleveland. As of now, they do not consider it to be such.

Mr. TAFT. What is a "major route of transportation"? Is that a bus line?

Mr. PELL. No; a frequently traveled railroad line.

Mr. TAFT. Can there be a frequently traveled railroad line without its being a part of the present Amtrak system?

Mr. PELL. This is somewhat confusing. Some passenger lines have not been in existence for many years. My amendment does not propose to revive those lines. My amendment seeks to develop routes that are used at present. If the Senator believes that the routes he is speaking of should be used——

Mr. TAFT. They were being used until Amtrak came along. Now they are not in use.

Mr. PELL. They must meet the definition.

Mr. TAFT. The Senator is telling me, apparently, that there must be Amtrak service on them now in order to qualify.

Mr. PELL. No; I am not saying that there must be Amtrak service now. It must be a major route of ground transportation as defined by the Secretary of Transportation. He has not yet defined the routes the Senator has described.

Mr. CHILES. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. I yield.

Mr. CHILES. I was delighted to hear the Senator from Rhode Island say that the route between Jacksonville and Miami is one of the routes the Department of Transportation has now included. I wondered whether the map shows a drawing of a route between St. Petersburg, Tampa, Orlando, and Daytona Beach. That is a part of the major corridor that transportation to and from Disney World travels across the State of Florida. There is an Amtrak route that goes across that corridor that does contain the metropolitan areas of Tampa, St. Petersburg, Orlando, and Daytona Beach.

Across that corridor today, on Interstate 4 is one of the most traveled interstate roads. There is a most pressing need for a mass transit or rapid transit system there in the rail corridor that is presently there.

Mr. PELL. Mr. President, I regret to inform the Senator from Florida as I did the Senator from Ohio that his route is not included in the chart. The only route in the Senator's State included in the chart is the one from Miami to Jacksonville.

The Senator makes a good argument. I think he should press his case on the definition.

Mr. CHILES. Mr. President, can the Senator from Rhode Island tell me why that route would not be included at this time?

Mr. PELL. The only reason that I could give—and a very unsatisfactory reason—is that when the chart was drawn up, it was not considered to have a major system of transportation between the two cities.

Mr. CHILES. Would the definition contained in the Senator's amendment mean it would have to be a rail system?

Mr. PELL. The Senator is correct.

Mr. CHILES. It means ground transportation.

Mr. PELL. It does mean rail transit.

Mr. CHILES. It means ground transportation.

Mr. PELL. It does mean rail transit.

Mr. CHILES. And if there was a rail system prior to that, and that was the occasion for the Amtrack system, then would that be included?

Mr. PELL. My understanding is that if it joined two standard metropolitan statistical areas, as a major means of transportation it would measure up to it.

Mr. CHILES. I am trying to find out what would constitute major use. I know that it has to be a rail system and that it has to join the ASMA. If that is a part of the Amtrak system, is that sufficient to comply with the definition?

Mr. PELL. Mr. President, as of now, it means it has to be if the Amtrak system presently provides service or if an independent railroad, not part of the Amtrak system, is there, and it meets the other criteria. I think that there are a few around the country that give passenger service.

Mr. CHILES. That presently give passenger service.

Mr. PELL. The Senator is correct. I do not think that applies to the Senator's area.

Mr. CHILES. Mr. President, I thank the Senator.

Mr. KENNEDY. Mr. President, I rise to speak as a cosponsor of this amendment designed to provide for an expanded, upgraded, and efficient high-speed ground transportation in the Northeast corridor and other urban corridors of this Nation.

If we provide the additional resources provided by this amendment, I believe we will have moved the Nation much closer to creating a sensible system of transportation.

It will mark a turn away from the congestion caused by the automobile and a basic shift toward more adequate mass transportation for the heavily populated sectors of this country.

For nearly a decade, we have watched the east coast of this Nation become a megalopolis. We have seen the transportation system fail to keep up with the needs of a densely populated corridor. The result has been more highways, more automobiles, more pollution, but less convenient, less efficient, and less adequate transportation.

There are currently 15 urban corridors across the country, including Boston-New York, New York-Washington, New York-Buffalo, Philadelphia-Pittsburgh, Miami-Jacksonville, Chicago-Indianapolis-Cincinnati, Detroit-Chicago, Chicago-St. Louis, St. Louis-Kansas City, Milwaukee-Minneapolis, Seattle-Portland, Oklahoma City-Dallas-Houston, Memphis-New Orleans, and Oakland-Sacramento.

These are densely populated areas containing a series of two or more standard metropolitan statistical areas not more than 500 miles apart connected by major routes of ground passenger transportation.

All of these corridors would be eligible for transportation assistance under this amendment.

And there is specific reference to the Northeast corridor, essentially Washington to New England, because that is where we must take action immediately.

After 8 years of study, the Northeast corridor transportation project of the Department of Transportation issued its final report and recommendations last September.

The report found the Northeast corridor to be the most extensively urbanized region in the Nation with some 44 million persons, 20 percent of the Nation's population, living on less than 2 percent of the Nation's land.

The sprawling growth of suburbia and exurbia, the exodus of industry and population from the central city, the steady concentration of people in new metropolitan areas joined in an urban band 500 miles long—all have created the transportation crisis.

Traffic congestion on the highways and congestion at airport terminals already exist so that travel times both by air and by road are increasing between Boston and New York and between Washington and New York. In fact, it takes longer today on the average to get from National Airport to New York than it did in 1953.

The report noted:

> Aircraft and terminal delays between 1968 and 1969 increased 20 percent. Almost 30 percent of this delay was registered at five major Corridor airports.

It was after years of detailed investigation that the final report recommendations were made. And I believe it is essential that action be taken now to begin to put the recommendations into effect.

The amendment now before us would authorize funds for that purpose.

The major recommendations of the study for the current decade was to improve the passenger railroad service to provide 2-hour nonstop travel New York to Washington and 2¾-hour nonstop travel from New York to Boston. A 3-year program would include $100 million for right-of-way improvements between Washington and New York, $190 million in similar improvements between New York and Boston, $70 million for terminal improvements, and $100 million for additional vehicles.

This would mean more high speed Metroliner-type cars, improved passenger comforts, greater frequency of schedules, and both nonreservation and nonstop service.

The result would be a major reduction of the air and road congestion within the corridor, a reduction in pollution and an increase in passenger service. The resulting profitmaking potential would fund additional improvements in the 1980's that would decrease nonstop rail service time from downtown Washington to downtown New York to 1½ hours and to 2 hours between New York and Boston.

As more people used high speed trains within the corridor, congestion on the highways and congestion at the airports would be substantially reduced.

This provision would be the model adopted by the Nation to be used in the other urban corridors and would provide a means by which we could avoid in many of those corridors the congestion and the breakdown of the transportation system which has occurred in the Northeast corridor.

This amendment provides for the first major step toward carrying out the recommendations of the Northeast corridor report and I urge its adoption.

Mr. BEALL. Mr. President, I yield as much time as he may need to the Senator from New Hampshire.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, may I call to the attention of the Senate and particularly to the attention of my highly esteemed friend, the distinguished Senator from Rhode Island (Mr. PELL), the fact that this colloquy which has just taken place is a beautiful demonstration of the trouble we get into when we try to deal with the establishment of a transportation system in the country. We get into the situation of trying to name routes of service between city X and city Y and determining whether we are going to get rail service in a certain location.

To be perfectly frank, we get into a situation of determining whether every Member of Congress is going to get a train through his locality and whether every Senator will get a train through his State. That situation will make it absolutely dead certain that this attempted experiment of trying out Amtrak will be an utter, complete, and colossal failure.

Mr. President, I am in sympathy with the objective of my good friend, the Senator from Rhode Island. It happens to be the firm belief of this Senator—and I think there are also others of the same mind—that if Amtrak is going to run long-haul passenger trains across the continent, it is a hopeless situation. In most cases, in my humble opinion, only a small number of people are ever again going to ride a train from Boston to Los Angeles on such long-haul passenger trains. And, if the Amtrak system is going to be a success and render service on at least a reasonable "break-even" cost basis so that large sums of Federal money will not be going down the drain in a hopeless cause, then we should give serious thought to the concept advanced by the distinguished Senator from Rhode Island (Mr. PELL). It should be confined to high-density urban corridors—that is, service between cities of large population, not more than 500 miles apart.

Mr. President, the trouble comes when we start talking about more criteria, such as the requirement that it has to be someplace that Amtrak is already serving.

As far as I am concerned, I would be very glad to accept the amendment if the Senator from Rhode Island (Mr. PELL) were to cut down the expenditures and authorizations, as he says that he is willing to do, so as to provide not to exceed $50 million for loans and not to exceed the cumulative amount of $100 million in guarantees for loans. Also, I suggest that in the definition of "urban corridors" he so amend it so that the authority shall only be used in service between large cities that are not more than 500 miles apart and stops there. This would constitute guidance and more than a strong hint to those administering Amtrak as to just what the Senator means.

Nevertheless, the fact still does remain that he is getting into the field of mass transit instead of the defined mission of Amtrak. I would be willing, however, to accept the amendment on a voice vote and take it to conference. But, if it goes any further we are in trouble clear up to our necks.

The criteria is important because it leads us into a situation where two-thirds of the Senators would want to know whether it takes in city X or city Y. We would be hopelessly lost.

I also understand that the distinguished Senator from Massachusetts (Mr. BROOKE) has an amendment with a slightly different approach, which I think should be carefully considered. It, too, might be taken to conference.

However, with the suggested changes I would be willing, as the distinguished Senator from Indiana (Mr. HARTKE) has said, to accept the amendment of the distinguished Senator from Rhode Island (Mr. PELL). I would want to be sure that the distinguished Senator from Maryland (Mr. BEALL), the ranking minority member of the Subcommittee on Surface Transportation, agrees. However, I personally would not be willing to do so with anything more in the amendment than just those bare bones.

Mr. President, I take the liberty of pleading with the Members of the Senate. Please, let us not get into the situation by way of definition, or by writing into the statute, or by even creating legislative history during this debate, what specific cities or localities are going to be served, because that would just spell the end.

I thank the Senator for yielding to me.

Mr. BEALL. I thank the Senator from New Hampshire. If so amended, I believe the amendment offered by the Senator from Rhode Island (Mr. PELL) would be acceptable and we could take it to conference. The Senator has spoken of problems that are of great concern to all of us. It involves moving people in such a way that those who are charged with the responsibility can perform the service without being forced into bankruptcy, and recognizes the fact that to be successful we have to have the most modern technology available.

I would be willing to go to conference with an amendment of this sort.

Mr. President, I am ready to yield back my time if the Senator from Rhode Island (Mr. PELL) is ready to yield back his time.

Mr. PELL. Mr. President, I yield to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I wish to ask a question of the Senator from Rhode Island. I have an amendment, cosponsored by the Senator from Ohio, which is designed to reach exactly the point. I had not intended to discuss it now, but it occurs to me that it might be appropriate as an amendment to the pending amendment, if that is permissible.

The amendment would deal solely with the cities of Cleveland and Little Rock. I might say that my State is the only State of its size without any service whatever. Little Rock is on an alternate route from St. Louis to Texas. It qualifies under the expressed view of the committee on page 6, in which it stated:

> EXTENSION OF DOMESTIC SERVICE
>
> The Committee discussed a suggested requirement that Amtrak provide service to the largest standard metropolitan statistical area (SMSA) in each State provided that such SMSA were located on an alternate route identified by the Secretary of Transportation in his "basic system" report. While the committee does not feel that a statutory directive is appropriate at this time, it does believe that Amtrak should give serious consideration to providing service to all such areas. The absence of Amtrak service to Cleveland, Ohio, and Little Rock, Ark., is contrary to the mandate that Amtrak provide a basic system of rail passenger service within and between all regions of the United States.

Mr. President, that is the statement from the committee report. My amendment simply puts that into the law, using that same criteria of the "largest standard metropolitan statistical area in each State" in which such area has a population in excess of 300,000 people. Its effect would be to include Cleveland and Little Rock.

Until Amtrak came along Little Rock was on the principal route between St. Louis and Texas, and, of course, on to Mexico.

I wonder if it would not be appropriate for this amendment to be incorporated into the pending amendment. If not, I will offer it as a substitute. The discussion has taken place, and the Senator from Ohio has spoken on this subject. If it could not be incorporated in the present amendment I will have to offer it separately.

Mr. HARTKE. Mr. President, I think I speak for the committee. This is the heart of the difficulty of the amendment submitted by the Senator from Rhode Island. I think the Senator has presented a clear case. Reference has been made to the elimination of the regional concept, the understanding that it was within the jurisdiction of the Department of Transportation and within Amtrak authority to follow the definition of routes as was originally provided for in the Amtrak legislation and that there is no legislative action on the route concept whatever in the pending amendment.

I will say to the Senator from Arkansas (Mr. FULBRIGHT) that if his amendment is attached to the amendment of the Senator from Rhode Island we would be required to oppose. The effect would be that if the Senator from Rhode Island wants to accept an amendment to his amendment I wish to make clear that the committee would be in the position where it would have to oppose the amendment if it becomes amended.

Mr. FULBRIGHT. I take it from that that the committee will oppose the amendment offered by the Senator from Ohio and me when it is offered.

Mr. HARTKE. The Senator is correct.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. Is it in order to offer this as an amendment to the amendment, excluding from my prepared amendment the first line regarding the amounts, which could be separated? Is it in order to offer that at this time?

The PRESIDING OFFICER. It is if the last line is also excluded.

Mr. FULBRIGHT. That is a technical detail. I would be glad to offer those separately. The substantive question is contained in section 12 with the correction of the numbers.

As soon as time on the amendment has expired it would be in order to offer my amendment as an amendment to it?

The PRESIDING OFFICER. The Senator is correct.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. COTTON. Mr. President, I would not want the Senator from Arkansas (Mr. FULBRIGHT) to feel for one minute that we are trying to discriminate against him. I believe the New England States are excluded from having service because they did not have the service at the time Amtrak was adopted. Those States cover more than 3 million people.

I think that perhaps service, in the interest of the Senator from Arkansas (Mr.

FULBRIGHT) and the Senator from Ohio (Mr. TAFT), should be adopted. But again I must reiterate that if we open up the floodgates or Pandora's box—or whatever metaphor one wishes to use—and start writing into the law on the floor of the Senate particular cities and localities, then the entire bill will go down like the *Titanic*—fast and without any question.

Therefore, we will have to strenuously oppose this designation—whether it is an amendment to the amendment offered by the Senator from Rhode Island (Mr. PELL), or an amendment by itself. Such oposition is not because we do not believe there is much merit to the Senator's contention, but we think that it is a determination which should be left to Amtrak and the Department of Transportation.

Mr. FULBRIGHT. Mr. President, will the Senator from Rhode Island yield?

Mr. PELL. I yield.

Mr. FULBRIGHT. This does not cite specific routes. It cites certain standards to be met. There is a distinct difference in connection with Little Rock. It did have service and was excluded as a result of Amtrak. We propose to set standards, but it would be under those standards which the committee expressed sympathy for in that portion of the report which I read. The committee seemed to be interested in hoping it could be done. I do not believe it is a question of unlimited expansion. The committee itself expressed a certain favorable sentiment on this subject.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. COTTON. I certainly agree with the Senator. We, too, were excluded, but that is water over the dam.

May I ask, how does the Senator's amendment definitely provide for service to Little Rock and Cleveland, without naming them?

Mr. FULBRIGHT. The amendment would provide for service to the "largest standard metropolitan statistical area in each State," when such area has a population in excess of 300,000.

It is my understanding from the staff that the only two communities which would meet that criterion would be Cleveland and Little Rock under present conditions. Others might meet the criterion later, but at present it would be Little Rock and Cleveland.

Mr. COTTON. How far apart are they?

Mr. FULBRIGHT. They are not on the same route, of course, but I guess they are 700 or 800 miles apart. The route I am talking about was formerly the principal route between St. Louis and Texas. This route also is 700 or 800 miles long and crossed the State of Arkansas. Little Rock was the principal stop between St. Louis and points in Texas.

Mr. COTTON. Under the terms of the amendment of the Senator from Rhode Island (Mr. PELL), and I think under the understanding of the committee, Little Rock might well be qualified and be considered for connection with St. Louis. But, are you saying that your amendment also would require service between two centers as far apart as Cleveland and Little Rock?

Mr. FULBRIGHT. It is not service between Cleveland and Little Rock we are looking for. That is not the point.

Mr. COTTON. I am trying to find out what I am looking for.

Mr. FULBRIGHT. Arkansas now has no service at all. We are proposing the criterion of the largest standard metropolitan statistical area. Under the provisions of the proposed amendment this would be Little Rock in Arkansas, because it has a metropolitan area population of more than 300,000. Little Rock used to be serviced on the principal route between St. Louis and Mexico. This bill undertakes to reopen service to Mexico. Arkansas is on the old, alternate route, formerly the principal route. It is the most direct route. It is the most direct way to go from St. Louis—the same could be said of Chicago—on to Texas and to Mexico.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. BEALL. With all respect to the Senator from Arkansas (Mr. FULBRIGHT), I think there is a substantial difference between the two amendments. While it may be parliamentary correct to offer his amendment to the amendment of the Senator from Rhode Island (Mr. PELL), in the amendment of the Senator from Rhode Island it says the Secretary is "authorized" to do certain things. Everywhere the word "authorized" is used, whereas in the amendment offered by the Senator from Arkansas, it says that the National Rail Transportation Service "shall."

Mr. FULBRIGHT. That is right.

Mr. BEALL. While the Senator from Rhode Island (Mr. PELL) is allowing the flexibility necessary in order to make rational decisions with respect to moving people from point to point, in accordance with available technology, the Senator from Arkansas (Mr. FULBRIGHT) is doing something contrary to what the Senator from Rhode Island said was necessary, allowing this flexibility to experiment. The Senator is saying that the flexibility must stop.

The PRESIDING OFFICER. The Senator from Maryland is speaking on the time of the proponents, and all time has expired.

Mr. PELL. Mr. President, has the amendment of the Senator from Arkansas been offered yet?

The PRESIDING OFFICER. It has not been, and it cannot be offered until all time on the amendment has been used.

Mr. PELL. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. HARTKE. Mr. President, I will yield 2 minutes of my time on the amendment. Before I do that, let me make a point.

The PRESIDING OFFICER. The Senator from Indiana has no time remaining on the amendment.

Mr. COTTON. Mr. President, I will yield the Senator 2 minutes on the bill.

Mr. HARTKE. Mr. President, I will yield myself 2 minutes on the bill.

The fact still remains that we have come to a good understanding with the Senator from Rhode Island on his revised amendment as it is now submitted. I point out that it does not deal with specific routes. That is a very difficult and touchy situation. I would hope we would not destroy the agreement on the revised amendment of the Senator from Rhode Island, which I think is a very worthwhile goal, by encumbering it with a separate amendment which I think we can deal with at a proper time. I would like the Senator from Arkansas to know that at that time we will oppose it as an amendment. We would oppose it as an amendment to the amendment of the Senator from Rhode Island.

Mr. FULBRIGHT. Mr. President, if that is the way the committee feels about it, I will offer it in a different way.

Mr. COTTON. Mr. President, I will yield myself 1 minute on the bill.

Mr. FULBRIGHT. But I thought, in the interest of efficiency, since it dealt with a subject matter that the pending amendment deals with, it would be advisable to offer it at this time. I will offer it as soon as this amendment is disposed of.

Mr. COTTON. Mr. President, I would like to yield 2 minutes on the bill to the Senator from Rhode Island (Mr. PELL). I think we ought to know exactly what is in his revised amendment.

Mr. PELL. I thank the Senator from New Hampshire.

Mr. President, in revising the amendment, I think the Senator asked his council to go over it, so I think he has had more of a chance in this regard than I have. It reduces the amount by 90 percent and knocks out the regional concept. I would hope the Senator from Arkansas would not press his amendment at this time, because what I have sought to do in my amendment is to be unspecific and generic, in helping the urban corridors, but we are not including areas that are not so densely populated. Twenty-five percent of our people and probably 80 percent of our land area are left out of this amendment, but it is helping where the people are. So I hope it will be accepted.

Finally, with respect to transportation to Mexico, that is not on the urban corridor. This refers only to the urban corridor, on which the Senator from New Hampshire and the Senator from Indiana have worked so hard in committee.

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. PELL. I yield.

Mr. COTTON. Has the Senator taken from his amendment the other restrictions, such as cities already being served?

Mr. PELL. But in fact—and here I am getting into fairly muddy water—it means it is helping the present corridors areas where there is high-speed ground transportation. In the area of the Senator from Ohio, there is not presently an Amtrak system.

Mr. COTTON. What is there in the provision that says that, because I cannot accept this amendment if it even has those strings attached to it? Then, we run into all this difficulty.

Mr. President, I yield myself 2 minutes on the bill.

Undoubtedly, both the officials of Amtrak and the Department of Transportation will give ample consideration to those areas that are already being served. Nobody has passenger service except by Amtrak now. If the cities that are now not being served are to be treated differently, except by the wisdom, weighing the facts, and listening to the evidence, by both the Department of Transportation and Amtrak, then that does get the Senator's amendment in muddy waters.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator from Indiana.

Mr. HARTKE. The Senator from Maryland made the point, first, that this is authorizing legislation; it is not mandatory; it is permissive. Second, section 603(a), which makes loans to the corporation, makes the authority directed to the Secretary of Transportation, which is exactly the situation we had under the original Amtrak legislation. In effect, this measure authorizes funds to those areas presently being served by Amtrak or under the Secretary of Transportation's designation. There is no specific authority to increase Amtrak routes, which I think is the question the Senator from New Hampshire is raising. I think this answers the objections the Senator from New Hampshire has raised.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. HARTKE. I have no more time.

Mr. BEALL. Mr. President, I yield myself 3 minutes on the bill.

I might suggest to the Senator from Rhode Island (Mr. PELL) that he could accomodate the objections that the Senator from New Hampshire (Mr. COTTON) has expressed by a simple modification of his amendment. If he will look at page 2 of the amendment, under the definition of "urban corridor," he says:

> "Urban corridor" means a densely populated area containing a series of two or more standard metropolitan statistical areas not more than five hundred miles apart connected by major routes of ground passenger transportation.

If the Senator will eliminate the words "connected by major routes of ground passenger transportation," I believe that he will then remove the cloud that hangs over the legislation as far as the distinguished Senator from New Hampshire (Mr. COTTON) is concerned, because then, in my opinion, he would not limit it to those routes currently running under the direction of Amtrak.

If the Senator will accept that amendment to his amendment, I think it would be satisfactory.

Mr. PELL. Mr. President, the amendment is acceptable, but the intent of the legislation, and the record shows it, is that it should apply in those urban corridors the Secretary of Transportation has designated where 75 percent of our people are living. If we remove the authority of the Secretary of Transportation in this regard, I think it would be an impossible bill with which to deal.

Mr. BEALL. The bill would give the Secretary of Transportation the discretion that is necessary, because it would only "authorize" him to do this.

Mr. COTTON. Mr. President, if the Senator will yield to me. The Secretary of Transportation again makes recommendations in regard to the money provided in the Senator's amendment. It is not just the Senator from Ohio (Mr. TAFT) and the Senator from Arkansas (Mr. FULBRIGHT), but I am sure that if other Senators were here, then they, too, would object to that limiting feature in the Senator's amendment.

Mr. PELL. This modification would be acceptable to me if it is acceptable to the managers of the bill.

Mr. BEALL. It is acceptable on this side of the aisle. I have not checked with the Senator from Indiana to see whether it is objectionable to him.

Mr. COTTON. Is the Senator from Indiana willing to accept the modification of the Senator from Maryland?

Mr. HARTKE. Yes; I am willing to accept that modification, and if the Senator is willing to yield back his time, we could dispose of the amendment.

The PRESIDING OFFICER. Does the Senator wish to modify the amendment?

Mr. BEALL. I wish to modify the amendment of the Senator from Rhode Island.

Mr. PELL. Mr. President, I have no objection.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. PELL's amendment, as modified, is as follows:

> On page 27, immediately after line 17, insert the following new sections and redesignate section 12 as section 14:
>
> SEC. 12. Section 102 of the Rail Passenger Service Act of 1970 is amended by striking out clause (8) and inserting in lieu thereof:
>
> "(8) 'Urban corridor' means a densely populated area containing a series of two or more standard metropolitan statistical areas not more than five hundred miles apart."
>
> SEC. 13. Title VI of the Rail Passenger Service Act of 1970 is amended by adding the following new sections:
>
> "LOANS FOR URBAN CORRIDOR IMPROVEMENTS
>
> "SEC. 603. (a) The Secretary is authorized, on such terms and conditions as he may prescribe by regulations which he may promulgate, to make loans to the Corporation for the development, improvement, and construction of rights-of-way, terminals, and vehicles to be used for intercity transportation along fixed guideways within urban corridors of the United States.
>
> "(b) Loans made under this section shall be made in conformance with comprehensive regional transportation plans made in consultation with the Corporation, the Secretary of Transportation, and the Governors and to the extent practical, elected representatives from standard metropolitan statistical areas within the region. When allocating loans to the Corporation, the Secretary shall consider the potential revenue to be generated by the improvements planned and the numbers of passengers to be served by the improvements.
>
> "(c) There are hereby authorized to be appropriated such amounts, not to exceed $50,000,000, as may be necessary to carry out the purposes of this section. Any sums appropriated shall be available until expended.
>
> "GUARANTEES FOR LOANS FOR URBAN CORRIDOR IMPROVEMENT
>
> "SEC. 604. (a) The Secretary is authorized, on such terms and conditions as he may prescribe by regulations which he may promulgate, to guarantee any lender against loss of principal or interest on securities, obligations, or loans issued to finance the development, improvement, and construction of rights-of-way, terminals, and vehicles to be used for intercity transportation along fixed guideways within urban corridors of the United States. The maturity date of such securities, obligations, or loans including all extensions and renewals thereof, shall not be later than twenty-five years from their date of issuance, and the amount of guaranteed loans outstanding at any time may not exceed $50,000,000, and the cumulative amount of guaranteed loans to be authorized shall not exceed $100,000,000.
>
> "(b) Guarantees for loans provided under this section shall not be made unless such loans are to be made in conformance with comprehensive regional transportation plans made in consultation with the Corporation, the Secretary of Transportation, and the Governors and, to the extent practical, elected representatives from standard metropolitan statistical areas within the region. When providing such guarantees, the Secretary shall consider the potential revenue to be generated by the improvements planned and the numbers of passengers to be served by the improvements.
>
> "(c) There are authorized to be appropriated such amounts as may be necessary to carry out this section.

Mr. BEALL. Mr. President, if I have time remaining, I am willing to yield back that time so that we can proceed to vote on the amendment of the Senator from Rhode Island (Mr. PELL).

The PRESIDING OFFICER. All time having been yielded back——

Mr. COTTON. Just a minute. I wish to yield 1 minute on the bill to the senior Senator from Vermont (Mr. AIKEN).

Mr. AIKEN. Mr. President, I have just one question. I want to know, is there anything in the bill which gives encouragement to the restoration of the passenger service between Washington and Montreal by way of New York, New Haven, Springfield, and White River Junction?

Mr. COTTON. There is $2 million in this bill for international lines.

Mr. AIKEN. But would that assure that the old service, which was the only rail passenger service between Washington and Ottawa, be restored?

Mr. COTTON. As I understand it, that is a determination to be made by the Secretary of Transportation and Amtrak. The bill simply authorizes international rail passenger service and specifies that the end points of such service shall be between the United States and Montreal, Canada; Vancouver, Canada; and Nuevo Laredo, Mexico.

Mr. AIKEN. From Boston?

Mr. COTTON. This is possible, if the Secretary of Transportation and Amtrak so determine.

Mr. AIKEN. Washington to Montreal is what I was asking about.

Mr. COTTON. In other words, the

Senator wants to be sure it goes through Vermont and not New Hampshire? If so, then I certainly cannot provide any such assurance.

Mr. AIKEN. I want to be sure it goes past Putney, Vt., and Lebanon, N.H., because that is the area which needs the service.

The PRESIDING OFFICER (Mr. BENTSEN). All time on the amendment having expired, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. FULBRIGHT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I shall explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Fulbright's amendment is as follows:

> On page 22, line 6, strike out "$270,000,000" and insert in lieu thereof "$272,000,000.".
>
> On page 27, between lines 17 and 18, insert the following:
>
> Sec. 12. The National Railroad Passenger Corporation shall, as soon as practicable, establish as part of the basic system provided for in the Rail Passenger Service Act of 1970 rail passenger service to the largest standard metropolitan statistical area in each State in which such area has a population in excess of 300,000 and is located on an alternate route identified by the Secretary of Transportation in his report on such basic system. Nothing in this section shall authorize the termination of any service being provided by such Corporation on the date of enactment of this section.
>
> On page 27, line 18, strike out "Sec. 12" and insert in lieu thereof "Sec. 13".

Mr. FULBRIGHT. Mr. President, this amendment would provide financial assistance to the National Railroad Passenger Corporation (Amtrak). The purpose of my amendment is to help insure that the Railroad Passenger Corporation fulfills its mandate—to provide a basic system of rail passenger service within and between all regions of the United States.

Specifically, the amendment which I propose would require Amtrak to establish, as soon as practicable, passenger service to the largest standard metropolitan statistical area (SMSA) in each State, provided that such areas have a SMSA population of more than 300,000 and were on alternate routes in the original Basic National Rail Passenger System, as designated by the Secretary of Transportation. It is also the intention of this amendment that this service be in addition to any existing service operated by the Corporation.

This amendment would provide an additional $2 million or a total of $272 million for Amtrak. The $2 million would be for the development and operation of rail passenger services authorized by this amendment, and would be comparable to the amount included in H.R. 11417 for the development and operation of international rail passenger services between the United States and Canada and the United States and Mexico.

Mr. President, once again I would like to quote from the report of the Committee on Commerce on H.R. 11417:

> The Committee discussed a suggested requirement that Amtrak provide service to the largest standard metropolitan statistical area (SMSA) in each State provided that such SMSA were located on an alternate route identified by the Secretary of Transportation in his "basic system" report. While the Committee does not feel that a statutory directive is appropriate at this time, it does believe that Amtrak should give serious consideration to providing service to all such areas. The absence of Amtrak service to Cleveland, Ohio, and Little Rock, Arkansas, is contrary to the mandate that Amtrak provide a basic system of rail passenger service within and between all regions of the United States.

I would like to express my appreciation to the chairman and members of the Committee on Commerce for their consideration of this matter and their recommendation that Amtrak give serious consideration to providing service to the Cleveland and Little Rock areas. However, it is my view that at this point in time, after Amtrak has already been in operation for 1 year, that it is necessary to include a specific directive in the law requiring that such service be provided.

As the committee report states, the absence of Amtrak service to Cleveland and Little Rock is contrary to the Corporation's mandate. I think it is imperative that we take steps to see that Amtrak does meet the purpose for which is was created, and that is the aim of this amendment.

In the final days prior to the beginning of Amtrak service on May 1, 1971, Arkansas was omitted from the Amtrak operating system, when a longer, circuitous route between Chicago and Houston was selected rather than a direct route from St. Louis through Arkansas to Texas. The route through Arkansas remains as an optional route on the basic system.

Arkansas is the largest State, with 2 million people, having no passenger service. It is also the only State, I believe, which had service until the beginning of Amtrak and lost it on May 1, 1971, with the initiation of Amtrak operations. I see no reason why the people of Arkansas, the 32d largest State, should be penalized and left without a service that could and should be increasingly important in the future.

Is it not ironic that at a time when we have spent billions to enable men to drive a buggy across the moon or walk in space that we cannot provide rail passenger service for an important segment of our population?

The total amount being requested for Amtrak would not even make a dent in the mammoth military budget. At current spending rates, the $272 million which would be provided for Amtrak is about the equivalent of the amount the Government spends in 1 day for military and military-related purposes.

The $2 million which my amendment would provide above and beyond the committee recommendation palls in comparison to the amounts we are spending on dubious foreign endeavors. This $2 million represents direct investment in and service to the American people.

We boast of a trillion-dollar gross national product, yet it is interesting to note that many of the nations whose GNP is dwarfed by ours are providing their citizenry with excellent rail and public transportation service. I think this points up not only the inadequacy of the GNP as a measurement of the state of our society, but also points out our seriously misplaced priorities.

Mr. President, as stated in the Rail Passenger Service Act of 1970—Public Law 91–518—"modern, efficient, intercity railroad passenger service is a necessary part of a balanced transportation system."

It is all too clear that we have allowed this Nation's transportation system to become imbalanced, with an overemphasis on automobile and plane travel. It is important that we begin to restore balance, and to develop a truly national rail passenger system.

Mr. President, it is fine to talk about the need to provide rail service to our very largest cities. But it seems to me to be equally important that we provide the less-heavily-populated areas of the country with the amenities and services which would enable us to ease the pressure on our heavily burdened urban areas.

As the Arkansas Industrial Development Commission stated in a resolution on this subject:

> Arkansas industrial growth and the public need requires adequate, dependable passenger service in first-class passenger equipment from and to Arkansas.

The standard metropolitan statistical area of Little Rock now contains about 325,000 people. An area of such size should have passenger trains to service its growing population. The people of Little Rock and Arkansas live in the only centrally located State without any such service. As the Arkansas Gazette editorialized:

> In the middle of the country, Arkansas appears on the map as a blank, the bare outlines of its borders being its only identifiable characteristics . . . Arkansas, in plain language, got a raw deal out of the initial routing . . .

As I noted earlier, H.R. 11417 includes a provision for $2 million for development of passenger services between the United States and Canada and the United States and Mexico. The reopening of service to Mexico offers an opportunity to include service through Arkansas on the route of the Missouri Pacific Railroad from St. Louis to Texas. That is the way it used to be until Amtrak came along. As an example, service from Milwaukee and Chicago could be routed via St. Louis, Little Rock, Texarkana, and through various Texas points to Nuevo Laredo. This would be essentially the same route as that formerly served by the Texas Eagle.

Mr. President, I believe the people of

Arkansas, like those in other States, are entitled to a high-quality, reliable, and efficient passenger service. There can be no fair test of profitability and utilization until the people are provided such service.

I strongly urge passage of this amendment. I believe it will be an important step in realizing the purpose for which Amtrak was created—a truly national rail passenger service as part of a balanced transportation system.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. FULBRIGHT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, I yield to the distinguished chairman of the full committee.

Mr. MAGNUSON. Mr. President, I think it appropriate to make some rather general observations about the committee's attitude toward Amtrak and the rail service being provided under its aegis. Very simply, I would describe the committee's action as solidly supporting the concept represented by the quasi-public corporation's provision of rail passenger service. At the same time, the committee has expressed its strong reservations about Amtrak's method of operation.

When Congress initially authorized the establishment of the Amtrak Corporation, I think it was quite clear that what we had in mind was in effect bringing in new management of rail passenger service to replace the railroad management which was either unable or unwilling to provide high quality rail passenger service consistent with the needs of the traveling public. Frankly, I think it must be said that many of us are not satisfied that the new management has shown itself to be much of an improvement thus far.

Out in the State of Washington, we have a perfect example it seems to me, of obstacles to improve rail service. Amtrak is considering reducing service between Seattle and Portland. It is true that the service between these two cities contributed significantly to Amtrak losses. Revenue has represented only about 30 percent of expenses for this particular route. I would hasten to point out that the following routes have done about as poorly or worse: The New York to Buffalo; Chicago to Detroit; New York to Springfield; Chicago to Milwaukee; Newport News to Cincinnati; Chicago to Florida; New York to St. Louis; and San Diego to Los Angeles. Some of these routes would seem to have the potential for doing much better than in the past.

But here are the problems. First the trains are slow—not traveling much faster than they did some 40 to 50 years ago and sometimes slower. The average speed between Seattle and Portland for example is only 50 miles per hour. As the chart in the appendix attached to the committee's report at page 66 indicates, there does seem to be a definite correlation between speed and ridership. Second, there has been no experimentation with fares in the Seattle-Portland corridor.

Third, there has been nothing done to improve equipment in that corridor. Fourth, it has proved to be extremely difficult to obtain information about service available, or to obtain a confirmed reservation. And, lastly if all these things had been done, based on Amtrak's performance to date, it is doubtful that anyone in the area would be aware of any improvements for the simple reason that Amtrak's advertisements and promotions for this route have been practically nothing.

In other words, practically no one in the area is aware of what train service is available. But the even more unfortunate thing is that if they were aware of it they probably would not take advantage of the service because it is too slow, too expensive, and too hard to utilize.

In addition, while on the one hand Amtrak's executives talk about the importance of corridor service to provide the revenue to sustain the Amtrak system, the information developed from Amtrak operation figures set forth in page 65 of the committee report shows that actually only the New York to Washington corridor is consistently doing well and that many long distance runs are doing much better than corridors with, given the official Amtrak attitude, absolutely no advertising effort whatsoever, for the longer hauls. The real reason for this appears to be that corridors are very time sensitive and Amtrak has done nothing to reduce time or increase speeds in most of the corridors in the country.

Indeed, paradoxically in the Seattle-Portland area it has been proposed by Amtrak that local service between Seattle and Portland be curtailed and long-haul service from Seattle to Los Angeles be increased so as to provide daily midday service between those two cities. What this means is that Amtrak, at least on the west coast, apparently sees a greater future for the long haul than they do for the short haul in contrast to their many public comments to the contrary.

I have used this example of the Seattle to Portland because it is a situation with which I am most familiar and because it points up well the dilemma which confronted the committee in considering the proposed amendments to the Amtrak legislation.

On the one hand the committee is not happy with Amtrak's performance to date; on the other, we feel that the concept must continue to receive substantial congressional support. That is why the committee, with all its reservations, has supported additional funds for Amtrak. We are still hopeful that the legislation will produce a greater effort by Amtrak and we have given Amtrak more tools with which to do its job. I should point out that the $270 million in grants authorized by the committee is not a figure grabbed from thin air. Some months ago prior to the time that the administration formally requested $170 million for direct grants, I was informed that Amtrak had requested from the Office of Management and Budget a figure which had been reduced to $260 million. The legislation which finally came to us was restricted even further. The committee feels that with additional funding, with clarification of Amtrak authority to use tracks and facilities, with a closer definition of Amtrak's labor protection responsibility, and by avoiding the requirement that Amtrak pay for pass privileges that Amtrak should be able to perform much more in keeping with the original congressional mandate.

I urge that the Senate approve the committee reported Amtrak legislation.

Mr. FULBRIGHT. Mr. President, I yield 5 minutes to the Senator from Ohio.

Mr. TAFT. Mr. President, I am pleased to join as a cosponsor of this amendment to provide Amtrak service to large metropolitan areas not now served by the Amtrak system. I particularly want to observe the importance of this amendment to the State of Ohio. Cleveland used to be one of America's great rail passenger centers and is now the largest city in the United States without any intercity rail passenger service. The absence of Cleveland from this system, in my judgment, contravenes the purpose of the Rail Passenger Service Act of 1970.

I might say that this is an observation that I have made with regard to the Amtrak program and legislation from the very outset. When the legislation was first passed, Cleveland was not included in the basic surface system; and it seems to me inconceivable that a city of this size, with a population corridor of the type we have, with the large amount of industrial development connected with it, on the way to Detroit and to Chicago, does not have such service.

I have requested the distinguished Senator from Arkansas (Mr. FULBRIGHT) to include in his amendment the provision that this amendment shall not authorize the termination of any existing service. I am pleased that he has done so. This provision will prevent Amtrak from merely rerouting the Broadway Limited through Cleveland. The Broadway Limited presently is serving from New York to Chicago and goes through Canton, Ohio. Such a rerouting would provide Cleveland with rail passenger service at 3:36 in the morning, which is hardly the type of service which the people of Cleveland desire.

I want to make it clear that I intend this amendment to result in an additional daily train between Chicago and Washington, passing through South Bend, Toledo, Cleveland, Youngstown, Pittsburgh, and Cumberland. I have spoken with representatives of the Greater Cleveland Growth Association who concur with me that this route would serve more people than the route between Chicago and Buffalo, which was taken up under section 403(b) for a period by Amtrak but has since been discontinued. The Chicago, Washington route which I have described would not only serve major population centers, but would provide the only rail route to Florida for people in northern Ohio and northern Indiana.

If the Amtrak system is to be successful, it must not only provide good equipment but in addition it must connect major cities to attract riders. The route, which I have described would be an important connecter to major population areas. I believe that it was a grave mistake not to provide such service initially.

The people of the States of Ohio, Indiana, Pennsylvania, New York, and Maryland should not have to use State funds to provide service which is available in other parts of the country entirely at Federal expense. I particularly refer to the use of section 403(b) to finance the now discontinued Amtrak route from Buffalo through Cleveland to Chicago which was not a very widely used route and did not provide on its schedules the type of corridor transportation service that I think Amtrak will have to provide.

Section 403(b), on the other hand, is designed for an entirely different purpose from that for which it was used by Amtrak. Section 403(b) provides two-thirds financing for needed rail service to bolster the economy in a spur line situation, where a city is not on a major transportation corridor.

That should not be financed by the general fund. But this line should be financed by the general fund, and that is what we are attempting to do.

The cities of Cleveland, Toledo, and Youngstown are entitled to rail passenger service and I hope that my colleagues will join in supporting this amendment which is of such importance to this area of the country.

I have listened with great interest to the statements made here today, that we should not tie the hands of Amtrak; that in order to make this experiment work, we ought to leave the broadest discretion in the choice of these routes. We gave them that discretion, and what did they do? They financed Cleveland service through the section 403(b) process. They have not improved the service. They have not improved the equipment.

I commend the chairman and the committee for reporting the basic bill. I am going to support it, because it would vastly increase the financing of Amtrak. It was openly apparent from the beginning that there was no chance that the financing provided was going to be adequate even to start doing the job.

The Senate committee has gone quite a way, and I hope the Senate will go quite a way in approving that financing. But let us talk about practicalities. Let us talk about where people are going to ride trains on short hauls and in transportation corridors where they are competitive with airline times. Let us not talk about maintaining long-range overnight lines between such areas as New York and Chicago and then say we are serving some areas in between, by the fact that the trains have to go through those States.

The amendment is necessary, and I think it is sound. To provide a minimum amount that must be allocated to individual States and somehow allow the present system, no matter how wise the officials of Amtrak may be, to discriminate against particular areas of this country spells the doom of Amtrak. I am not going to vote for it again, if that occurs.

Mr. FULBRIGHT. I yield 3 additional minutes to the Senator from Ohio.

Mr. TAFT. I think the Senator for yielding me that time, but I have completed my remarks.

Mr. HARTKE. Mr. President——

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Indiana has 2 minutes remaining.

Mr. HARTKE. Mr. President, I yield myself such time as I may require, to say that this question is one which has been discussed previously on the floor. What the amendment would do would be to require Amtrak to add the following cities to its service: Cleveland, Ohio, and Little Rock, Ark. In the report we took cognizance of the fact that the two communities have been omitted from the Amtrak system. I understand that the reason given for omitting Cleveland was that the terminal facilities there make it too expensive so that they could not keep it operating. At the same time, however, it is one of the major metropolitan areas of the country and, therefore, such an omission is difficult to understand.

As to Little Rock, Ark., my understanding is that the decision was made that another route was decided upon which would be less expensive and, therefore, that State was omitted. However, other sections of the Nation were also omitted.

The difficulty with legislating routes on the floor of the Senate is that there is no way to stop, once we begin to open the door. Then, every Senator will feel obligated to try and have included every city in his State or to include at least some of the favorites in his State.

This authority was given to the Department of Transportation. It made that decision. There is no obligation or any reason why that route cannot be extended or changed by the Department of Transportation. My judgment is that when we start legislating routes on the floor of the Senate, we will be taking on a task the solution of which cannot be judged on its merits.

Mr. FULBRIGHT. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield.

Mr. FULBRIGHT. I do not understand that kind of attitude, the acceptance of the infallibility of Amtrak officials. With respect to this particular route I am speaking of, before we had Amtrak, the people who ran the private enterprise system, specifically, the Missouri Pacific, had this route through Arkansas. It was the most efficient and direct route from the center of the country to Chicago, St. Louis, and on to Dallas and then on into Mexico. This is an old route. It was standard transportation through Little Rock.

The Senator from Indiana said that Senators would want routes through their favorite cities. I am not asking favors for my city or any other city. In the case of Arkansas—the only case I know of—there may be others—we had a route established during the pre-Amtrak period and now under Amtrak we have nothing.

I cannot agree with those who say that Congress has no capacity to make discriminating judgments on things, and that this is not what Congress really is for. What has happened is that a bureaucracy has come in and destroyed the system, dropping the route which from long practice was acknowledged to be the best, the most efficient, and the most direct. Surely the Senator is not suggesting that we should never question the judgment of a bureaucracy.

All the Senator from Ohio and I are saying is that they have made a mistake in these two cases. I do not think one should say that Congress should not question whatever Amtrak officials say. There is a lot they do not know about this country.

Mr. HARTKE. I would agree with the Senator from Arkansas. But I should point out that Arkansas was not the only State omitted. Vermont, Maine, New Hampshire——

Mr. FULBRIGHT. They did not have service when Amtrak came in.

Mr. HARTKE. South Dakota had it and——

Mr. FULBRIGHT. Many places in New England did not have it before. In Arkansas, we did have service and Amtrak took it away.

Mr. HARTKE. There is no question, there were many services taken away. Service to many communities was eliminated. What I am going to say, and repeat here, is that in the bill we wanted to avoid legislating an answer, but in the report we have stated we recognize that Amtrak should give consideration not only to these communities but also to other communities. The fact still remains that, once we open the door, I can assure the Senator, in good conscience, there will be many people who will want us to change things around.

As to the question of bureaucracy, I question bureaucracy, I question Amtrak. In my opening remarks, I question the whole operation, except it is still true that the legislature cannot administer. The legislature is not an administrative body. That is exactly what you are attempting to do here, to make a decision of administration which has been left to Amtrak. Hopefully, Amtrak will make some corrections.

I point out that, if it were just merely including the two cities, I would find no great difficulty in doing so. But I could say, equally as well, that other Senators would present their arguments and I would find very little difficulty with them, that they should be included, too. It was estimated by Amtrak that, if we included both——

Mr. FULBRIGHT. Two million dollars——

Mr. HARTKE. Approximately 2 million over 2 years, I believe; yes.

Mr. TAFT. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield.

Mr. TAFT. I noted the remark the Senator from Indiana made about the terminal facilities in Cleveland and I want to correct the impression he has about this. That question was discussed thoroughly. While the cost of running the terminal was high, there was no requirement on the part of Amtrak to continue to use it. There is another route which could be used as a temporary facility, to be put at the waterfront.

Mr. HARTKE. I do not dispute what the Senator from Ohio says. I only gave the explanation that was given to me when I asked Amtrak why Cleveland was not included. There may have been other reasons. I was shocked myself when I found that Cleveland was left out.

Mr. FULBRIGHT. The Senator stated that this amendment would open the door. Let me say that Arkansas has a greater population than all of the States the Senator has mentioned put together.

Arkansas is in a unique situation. In the first place, it is the 32d largest State in the Union. It had this service prior to Amtrak. We have allowed this unregulated authority to take away from Arkansas a service which he had. Arkansas does have a population greater than all the other States the Senator talked about.

Mr. BEALL. Mr. President, will the Senator from Indiana yield?

Mr. HARTKE. I yield.

Mr. BEALL. I rise to support the position of the distinguished chairman of our Subcommittee on Surface Transportation (Mr. HARTKE) with regard to this amendment. We are all sympathetic to the desires stressed by the Senator from Arkansas (Mr. FULBRIGHT). I know, for instance, in the town where I live, that I used to be able to get on a train and in 3 hours arrive in Washington. The train ran 3 times a day. There once were three such trains running, but now we only have an experimental train that may not run much into the future.

I do not agree with the Amtrak decision when they established many of the routes. If I had been asked, I would have picked out other locations that would have been more profitable. But the point is, I think, that when Congress passed the bill, it decided it was going to experiment. It was experimenting with the Corporation to run a rail passenger service until June 30 of 1973. Congress said to the Corporation, "We want you to establish some routes for rail passenger service and see if they can be made profitable." It established a procedure under which the routes would be established and Amtrak followed that procedure, establishing the routes.

The procedure further provided that the basic system, which was established last year, would be reviewed by the Interstate Commerce Commission, the State Commissions, the representatives of the railroads, and duly authorized labor organizations. The Secretary of Transportation was required to consider all their comments. Then, the Secretary was required to submit a final report to Congress. Once sent to Congress, the system was established and Congress said, "You cannot even review this system in court." What we are doing now is changing horses in midstream, if you will, Mr. President. And, we are saying that we are going to try to change the experiment.

I would respectfully suggest to the Senator from Arkansas that this is not the time to agree to his amendment. The time to agree to his amendment would be when we review the basic system sometime next year, prior to July 1, 1973, at which time we, in Congress, will have to decide whether this experiment has been successful. Then we have to make such basic decision as to whether we are going to continue the Amtrak system, nationalize rail passenger service, or whether the Congress is going to set the routes.

If we make that decision today, we will not be able to make a rational decision in 1973.

Mr. FULBRIGHT. Mr. President, this is the first time we have been able to offer amendments to the legislation since Amtrak was set up. It never occurred to me or to anyone else that they would act as they did in this case. One of the reasons it may not have been more profitable is the lack of wisdom shown in the choice of routes, as the Senator said. I am not at all sure that the Senate's views might not have been better.

Mr. BEALL. Congress said when it passed the act and established Amtrak, "We want you to do this until July 1, 1973. Then we will review your action, and not before."

Mr. FULBRIGHT. This is the first time since we had the bill passed that we could make suggestions. The committee, in this legislation, has already authorized two routes that go outside of the country. If this is such an inviolable principle, why did the committee establish a route going to Canada? I do not know how the committee can say there should be no legislation on specific routes when this bill specifically mentions routes to Canada and Mexico. You are not applying the principle consistently.

I submit that it is the job of Congress to review its own creations to see whether it acted properly. We do it with respect to every other agency. If we do not, we get into trouble.

I suggest that lack of attention to this kind of a detail—which is very important to the particular communities involved here—could be one of the explanations of why Amtrak is not more successful. We certainly deserve service in a State that is important in size and population. Arkansas is also unique in the sense that there was a major route before Amtrak came along and abolished it. That raised some question as to whether they understood the railroad business.

Mr. President, I yield back the remainder of my time.

Mr. TAFT. Mr. President, I was particularly interested in the remarks of the Senator from Maryland with respect to the assessment we will have to make in 1973 as to whether we should continue the program. Indeed, that is an assessment that we will have to make.

I reconfirm what I told the Senator a short time ago on the floor. If we cannot provide service to a county with 1.7 million people that is on a main transportation line, a main corridor, then I do not think I will have the information that I will need to determine whether to continue the service. I think it makes it absolutely vital that we tell them they have to serve this area so that we will have some basis on which to make a judgment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Arkansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from Washington (Mr. JACKSON), and the Senator from Georgia (Mr. GAMBRELL) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. ALLOTT) is detained on official business.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 27, nays 54, as follows:

[No. 156 Leg.]

YEAS—27

Aiken
Bayh
Bentsen
Byrd, Robert C.
Case
Chiles
Church
Cooper
Cranston
Eagleton
Eastland
Fulbright
Hughes
Javits
Kennedy
Mathias
McGee
Mondale
Nelson
Randolph
Saxbe
Stennis
Stevenson
Symington
Taft
Tower
Williams

NAYS—54

Allen
Anderson
Baker
Beall
Bellmon
Bennett
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Cannon
Cook
Cotton
Curtis
Dole
Dominick
Ellender
Ervin
Fannin
Fong
Griffin
Gurney
Hansen
Hartke
Hollings
Hruska
Inouye
Jordan, Idaho
Magnuson
McIntyre
Metcalf
Miller
Montoya
Moss
Packwood
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Smith
Spong
Stafford
Stevens
Talmadge
Thurmond
Tunney
Weicker
Young

NOT VOTING—19

Allott
Gambrell
Goldwater
Gravel
Harris
Hart
Hatfield
Humphrey
Jackson
Jordan, N.C.
Long
Mansfield
McClellan
McGovern
Mundt
Muskie
Pastore
Scott
Sparkman

So Mr. FULBRIGHT's amendment was rejected.

Mr. HARTKE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. HARTKE. Mr. President, I yield myself time on the bill.

It is my understanding that there is one other amendment to be offered, by the Senator from Massachusetts (Mr. BROOKE), and I understand we will be on final passage within a very few minutes.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. BROOKE. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

> On page 18, immediaely following line 19, add the following section 7, and renumber the succeeding sections accordingly:
>
> Sec. 7. Section 403 (a) is amended to read as follows:
>
> The Corporation may provide intercity rail passenger service in excess of that prescribed for the basic system, either within or outside the basic system, where the Corporation, based on its own or available marketing studies or other similar reports or information, determines that experimental or expanded service would be justified, if consistent with prudent management. In determining the establishment of the additional routes, the Corporation shall take into account the current and the estimated future population and economic conditions of the points to be served, the adequacy of alternative modes of transportation available to those points, and the cost of adding the service. The Corporation shall cooperate with state, regional, and local agencies to encourage the use of trains established under this subsection and shall make reasonable efforts to assure high quality of customer services. Any intercity rail passenger service provided under this subsection for a continuous period of two years shall be designated by the Secretary as a part of the basic system.
>
> On page 23, immediately following line 20, add the following subsection:
>
> (c) There is authorized to be appropriated to the Secretary $15,000,000 to remain available until expended for payment to the Corporation for the purpose of assisting in the development of rail passenger service in accordance with subsection 403 (a) of this Act.

Mr. BROOKE. Mr. President, I wish to commend the Commerce Committee and its distinguished chairman (Mr. MAGNUSON), and the ranking minority member (Mr. COTTON) for their wise and far-reaching amendments to the Rail Passenger Service Act of 1970. The committee has performed an admirable job of meeting the Nation's rail passenger needs, within the constraints of Federal fiscal demands and the deterioration that has marked the quality and quantity of passenger train service during the past decade.

The Amtrak experiment has not yet proved to be a financial success. But it has shown promise, and I firmly believe that the continuation of the program is worthy of the Nation's further investment. At a time when the Federal Government spends $5 billion a year on highway construction and $2 billion a year on airport and airway facilities, it is certainly not an extravagance to authorize $270 million for development of passenger train service, a mode of transportation that has for too long been neglected by government, business, and the public alike.

The result of this neglect is all too obvious. While passengers on highways and airways across the Nation regularly encounter congestion and delay, particularly in highly populated urban areas, the development of railways as an alternate mode of transport has been practically nonexistent. Old lines have been inadequately maintained; schedules have not been met; and rail transport has fallen into wide disfavor.

Yet this situation need not exist. The thoughtful and constructive report of the northeast corridor transportation project in the Department of Transportation made a point that aptly applies to many areas throughout the country:

> The rail mode is the only uncongested mode in the Corridor and thus has the capacity to handle large numbers of travelers who now travel on the congested airways and the highways. Presently, some diversion of passengers to rail is indicated by the on-board passenger surveys taken on the Metroliners. There is indication that nominal air-rail door-to-door time differences in favor of air between some city pairs in the Corridor are compensated, in the traveler's mind, by the phenomenal on-time record (reliability factor) and the assumed better safety record of the high speed trains. This suggests that convenient and frequent departures together with fares lower than airlines would result in substantial patronage gains for rail over the next years.

I agree with the thrust of this DOT report that passenger rail service must play an important part in our Nation's overall transportation network. The proof of the popular demand for quality service is demonstrated by the overwhelming success of the Metroliner, which makes a handsome profit on its 14 round trips each day from Washington to New York. The marked upswing of more than 30 percent in ridership from Boston to New York in 1972, documented in the committee report, is further evidence of the fact that people will ride the trains if pleasant accommodations and efficient service are provided.

Amtrak must concentrate the bulk of its assets and attention at the present time to the continuance and improvement of service along the traditional routes which comprise its "basic system." But Amtrak should also devote some of its resources to the development of service between points which are not currently included in the basic system but which show evidence of large potential ridership. If Congress is to commit itself to the Amtrak experiment, and I believe that this bill is compelling evidence of such a commitment, then we must give to Amtrak officials a clear mandate to undertake experimentation and the development of new routes of service.

The amendment which I introduce today would amend the existing section 403(a) which deals with "new service" in order to clarify the intent of Congress concerning use of Amtrak funds for experimental or expanded service. The amendment requires that, in establishing the additional routes, Amtrak officials take into account the current and the estimated future population and economic conditions of the points to be served, the adequacy of alternative modes of transportation available to those points, and the cost of adding the service.

In addition, the amendment authorizes an additional $15 million to be spent solely for the purpose of this section. I am aware of only two routes which are currently receiving funds under this section: the route from Fargo, N. Dak., through southern Montana to Spokane, Wash., and the route from Washington, D.C., to Parkersburg, W. Va.

Without in any sense attempting to prejudge the validity of either of those lines, I would submit that there are many other sections of the country—urban and rural—which have a significant potential ridership but which currently are not granted Amtrak service. The committee report refers to the absence of Cleveland, Ohio and Little Rock, Ark. as contrary to the mandate that Amtrak provide a basic system of rail passenger service within and between all regions of the United States.

There are two other lines over which passenger service is now being operated with two-thirds State subsidy and a one-third contribution from Amtrak in conjunction with section 403(b) of the act. These are the lines from Chicago to Rockford, Ill., and Boston to Springfield, Mass. Although this amendment is not an attempt solely to require a greater Amtrak commitment to that route, I am particularly familiar with the Boston-Springfield route and I believe that a brief review of the facts of that case would be instructive as an example of what Amtrak could and should be doing not only on that route but along several other routes across the Nation.

When the routes for the Amtrak system were determined in April of 1971, no through service from Boston to New York via Worcester, Springfield, and Hartford was provided. Service was continued from Springfield to New Haven but there were no trains to tie together the three largest cities of Massachusetts—Springfield, Worcester, and Boston. These cities lie on an east-west axis approximately 100 miles apart, and there is considerable business and pleasure travel among the three cities along the increasingly congested Massachusetts Turnpike. Interstate Highway I-90.

When the Amtrak bill was passed, the Massachusetts Legislature quickly approved legislation to qualify the State for participation in the 403(b) program. Service has operated along the line since May 17, 1971, with one round trip train per day from Boston to Springfield and connecting service to New York and Washington. It has not been well-promoted, however, and customers often find it difficult to get timetable information or to purchase tickets; understandably, therefore, it has operated at a deficit of approximately $200,000 during its first 8 months. Two-thirds of this deficit is owed by Massachusetts.

More than a million people live in the Springfield-Worcester area; nearly a million more people live in the Hartford area. Figures on highway and air traffic present a clear and convincing case for regular train service between these cities to Boston as well as New York and other points to the south. The cost to Amtrak of regular service along this route need not exceed $1 million. And, I am sure many of my colleagues would agree that similar limited sums could be well-spent in providing transportation to accelerate economic growth in other parts of the country.

Thus, the intent of this amendment is to provide a mandate to Amtrak officials to undertake service beyond that currently operating. A prime purpose of this experimentation would be to examine alternative routes for train service during the rest of this century. To a large degree, Amtrak has been forced to operate along the routes which had the greatest market potential a generation or even two generations ago. But, demographic statistics make clear that population centers are changing. In large numbers, people are moving away from the great port cities which served as trading centers in our country decades ago. They are moving inland or upstream and, as a result, new transportation routes must be developed.

In some areas, highways have met this need and will continue to do so. But, different areas demand different solutions and the highway that may be conveniently located in one city may cause a major disruption in the economy and living conditions of another city. Yet both cities may have an existing but unused right-of-way for rail service. This is the type of situation to which State and local planners are increasingly turning their attention. And Congress should be encouraging such experiments through the Amtrak structure.

This amendment directs Amtrak to assist State and local governments which can demonstrate the case for experimental or expanded service. It is an additional aspect of rail passenger service on which I believe Amtrak should focus. I urge my colleagues to adopt this amendment so that the Amtrak officials will be able to move creatively in this new direction along the route to improve rail passenger service throughout America.

Mr. President, I ask unanimous consent to add the name of my colleague from Massachusetts (Mr. KENNEDY) as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am pleased to join with Senator BROOKE in providing for an increase in funds of $15 million to permit Amtrak to improve or expand intercity service in critical areas outside the basic system.

There is an obvious need for experimental routes to be tested in operation by Amtrak in an effort to build a truly national rail passenger network.

But more important than the experimental lines is the maintenance and improvement of such provisional routes as the Boston-Worcester-Springfield route.

Originally excluded from the basic system, this route was added last May and operates a round trip daily from Boston to Washington. The Commonwealth of Massachusetts now provides $175,000 to help defray the costs of this line.

This amendment now will permit the addition of this route, and others like it to the basic system, after 2 years of efficient continuous operation.

The area of Massachusetts covered by this route in one of the fastest growing in the State. And its 2 million population requires the operation of high-speed ground transportation as part of its growing economy.

Now, I believe this amendment will insure that in the future this route, which clearly is a vital link within the transportation system of the State, will be incorporated into the normal operation of Amtrak.

Also, the amendment will provide to Amtrak the necessary flexibility to provide growing population sections with passenger service on an experimental basis so that the costs and benefits can be tested under actual operating conditions.

I believe this amendment adds to the likelihood that Amtrak can become an effective national rail passenger system and I urge its adoption.

Mr. HARTKE. Mr. President, the amendment of the Senator from Massachusetts basically is in line with the general, overall concepts and the idea that we had envisioned when we put Amtrak into operation—that is, that it was to experiment and we were specifically providing the money for doing so.

I compliment the Senator from Massachusetts for his concern in this matter. He has had a long-standing interest in providing transportation not only to his area but to the whole Nation.

Under the circumstances, we are prepared to accept the amendment.

Mr. BEALL. Mr. President, speaking for the minority, I am aware that the Senator from Massachusetts represents a State with a great need for surface transportation. It is a section of the country where there is a concentration of population with a need for this kind of transportation. He has continually expressed concern in this regard.

As the chairman of the subcommittee has said, the amendment is in overall keeping with the purpose of Amtrak, which is to see if we cannot improve the way in which people are moved about in this country. I believe his amendment is totally in line with the purposes of the legislation. I think I can speak for this side in saying we accept the amendment.

Mr. BROOKE. Mr. President, I am very greatful to the chairman of the subcommittee and the Senator from Maryland for seeing fit to accept this amendment and take it to conference.

Mr. CRANSTON. Mr. President, I rise to record my support for the amendment offered by the Senator from Massachusetts (Mr. BROOKE), which authorizes an additional $15 million for the purpose of developing experimental and expanded rail passenger service in addition to that prescribed for the basic Amtrak system.

This amendment is important in that it provides an opportunity for the inclusion of several rail passenger routes that were left out of the initial Amtrak system. One such omission is that of the San Joaquin Valley route between Los Angeles and San Francisco. This amendment would make it possible for the Corporation to reconsider its previous decision not to include this important valley route in the basic system. I strongly urge the Corporation to do so.

I recommend this action for essentially the same reasons that Senator Tunney and I introduced S. 2341 last July. This bill would require the inclusion of rail passenger service through the San Joaquin Valley in the Amtrak system. This valley route would be in addition to the coastal route already included in the basic system. As I said on July 24, 1971:

> I fully agree that the coastal route is totally justified for inclusion. It is 2 hours faster, and thus the shortest route between the two terminal cities, Los Angeles and San Francisco. Further, it is a notably scenic route.
>
> But the area between these two terminals justifies two alternative routes. Between the southern California mountain ranges and the San Francisco Bay area, the coastal route services only one city with a population in excess of 50,000—Salinas, population 58,896. The valley route between the southern mountains and the Bay area serves four cities above 50,000. Bakersfield, 69,515; Fresno, 165,972; Modesto, 61,712; and Stockton 107,644.

I also pointed out in my remarks last July that the San Joaquin Valley serves as the gateway to the Sierras. This grand and majestic mountain range—with its three national parks—is visited by millions of citizens each year. An improved and modern rail system would provide an important service to the ever-increasing stream of visitors to the grandeur of the Sierras.

Mr. President, I believe that there is much merit to this pending amendment, and, if it is passed, I hope that the Corporation will agree with me that there is much merit in providing alternative rail passenger service through California's San Joaquin Valley.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BROOKE. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Indiana yield back his time?

Mr. HARTKE. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. STEVENSON). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments——

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on April 24, 1972, the President had approved and signed the act (S. 3054) to amend the Manpower Development and Training Act of 1962.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. STEVENSON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Indiana yield me 1 minute?

Mr. HARTKE. I yield.

Mr. ROBERT C. BYRD. Mr. President, may I say that the Senate today is confronted with a very long day. Another difficult bill will follow final passage of the Amtrak bill. On that bill—S. 652—several amendments are expected. There is a time limitation of 2 hours on each of two amendments, and one on which there is 1 hour. There will be several rollcall votes during the afternoon.

The Senate can anticipate being in session late—until 8 or 9 o'clock tonight—if there are good possibilities of having final action on that bill—the truth in billing practices bill. If final action on that bill occurs today, there will be no votes tomorrow, but the Senate will be in session tomorrow, and will proceed to the consideration of the USIA-State authorization bill tomorrow, with general debate thereon.

However, if the Senate does not complete the truth in billing practices bill this afternoon, that will spill over until tomorrow, thus necessitating rollcall votes on tomorrow.

I take the floor at this time, therefore, to express the hope that we can move forward as expeditiously as possible with third reading and passage of the Amtrak bill. It is my understanding that the Senate is now awaiting the arrival of a Senator to come to the floor to offer an amendment to the pending bill or to make a statement, and certainly every opportunity is going to be afforded that Senator in order to accommodate him.

I merely take the floor at this time to urge that the cloakroom try to get in touch with the Senator so that the Senate can move forward with final action on the pending bill and get on with action on the next bill, which is going to be a very controversial and difficult one.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE RAIL PASSENGER SERVICE ACT OF 1970

The Senate continued with the consideration of the bill (H.R. 11417) to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation for the purpose of purchasing railroad equipment, and for other purposes.

Mr. ROTH. Mr. President, I rise in support of H.R. 11417 as reported by the Senate Commerce Committee. This bill will enable the National Railroad Passenger Corporation to continue operations by providing additional funding.

In October 1970, the President signed into law the Rail Passenger Service Act which established the Corporation. In puting the language of the 1970 act together, Congress admittedly was breaking new ground. The Corporation was given the task of providing a rail passenger service over the basic system established by the Secretary of Transportation. But it is obvious that we did not provide the Corporation with sufficient funds to fulfill its responsibilities. After all, the nationwide rail passenger service prior to the organization of Amtrak was being operated by the railroads at a deficit estimated by various sources at over $200 million a year.

The Senate Commerce Committee, after careful review of the financial problem and statutory responsibilities of the Railroad Passenger Corporation, recommended an authorization for their operation which exceeded that of the House. I believe that the funds provided in the Senate recommendation are fully warranted. The Corporation faces a substantial capital expenditures program to provide a foundation of rolling stock on which to begin building its service. It must acquire the most promising 1,200 passenger cars from the existing fleet, as well as a supply of new locomotives.

Moreover, it must strive to improve service, including the introduction of innovations such as valet parking and the purchase of tickets using credit cards. And it must give thought to longer-range improvements such as faster, more modern, more comfortable trains.

Above all, the passage of this bill will assure the continuance of this program of maintaining a basic structure of railroad passenger service in the United States. This is most important because I am certain the day will come when travel by rail generally will be more prevalent than it is today.

Mr. President, in commenting on railroad passenger service, may I say, with due modesty, that I speak from personal experience, not just from what I read. I am a very frequent user of Amtrak's Metroliner between here and Wilmington. I find it excellent service, and would not hesitate to recommend it. Furthermore, the Metroliner service is being further improved by the addition of more trains. Metroliner is establishing a pattern which can provide a standard of service for future rail service in other areas of the country, particularly other population corridors.

Amtrak is important to my State, Delaware, not only for the passenger service it makes available, but also for the employment it provides within the State.

And, on the subject of employment, I am in full accord with section 8 of the bill, which provides for free or reduced-rate transportation service to railroad employees eligible to receive such services. This provision also includes retired employees and dependents of employees. This is a time-honored practice of providing passes to rail workers, which I feel should be continued. The bill provides for the reimbursement of Amtrak by the railroads for any costs incurred.

Senator BOGGS and I introduced legislation which would accomplish this matter of providing free or reduced-rate passes to railroad employees. I am gratified that the committee saw fit to incorporate this in its recommended bill.

Mr. President, passage of H.R. 11417, as recommended by the Senate Commerce Committee, is essential to the continuation of railroad passenger service in this country. I shall vote for it and urge its support by all my fellow Senators.

Mr. BOGGS. Mr. President, I am delighted that the Amtrak legislation, H.R. 11417, is being considered on the Senate floor. It seemed to me at the time the original legislation creating Amtrak was signed into law that this quasi-public corporation was the only real solution to the problems of rail passenger service available to us. I supported the concept then and I continue to do so now.

As we all recognized, Amtrak would undoubtedly require additional legislation after the organization had had some time to function. The pending legislation authorizes additional funds to see that Amtrak continues to operate. I am confident that once it has had sufficient time to function, it will prove that we have made a wise decision.

On February 7, Mr. President, four of our colleagues, Senator ROTH, Senator COOPER, Senator RANDOLPH, Senator PERCY and I introduced a bill, S. 3131. This bill required that Amtrak recognize the rights to free or reduced-fare passes to retired employees of the railroads. I was very grateful, indeed, that those four Senators joined me in that effort. Their help and support have certainly contributed greatly to success in having this amendment included in the bill. The entire substance of that bill, S. 3131, which we initially presented to the Senate, is contained in the bill which the committee has reported to the floor, H.R. 11417.

Specifically, Mr. President, I want to address myself to section 8 of the pending bill which contains the substance of an amendment which I introduced and which the committee very kindly agreed to consider. My amendment was originally offered to the Senate version of this legislation, S. 2760. Now, the committee version, as I understand it, has been substituted for the language of the House-passed bill, H.R. 11417.

Mr. President, section 8 of this bill makes provision for continuation of the rights to free or reduced-fare passes which railroad employees and retirees possessed prior to the advent of Amtrak on May 1, 1971. These railroad passes had for many, many years been a part of what railroad people came to regard as their compensation for service. Summarily, however, these rights were terminated when Amtrak went into business. I recognize there are pro and con arguments with respect to the continuation of these rights, but I am exceptionally pleased that the Commerce Committee weighed these arguments and then decided to incorporate my amendment in this bill.

The amendment which I proposed is essentially the same as the language in section 6 of the bill as it was passed by the House. I requested that the Commerce Committee consider, and it did include in this bill the language which would include railroad employees on furlough and/or leave of absence among those who would be entitled to the use of passes.

Mr. President, I am confident that the Senate will, in its wisdom, retain section 8 in the bill. I certainly commend its provisions to each Member of the Senate, and I am sure each of us will be quite satisfied that he has done a service for employees and retirees of the Nation's railroads.

Mr. President, I want especially at this time to thank the Commerce Committee chairman, Senator MAGNUSON, and the ranking minority member of the Commerce Committee, Senator Cotton, for their willingness to consider this amendment even though I do not serve on the committee. Indeed, every member of the Commerce Committee, and especially those on the Surface Transportation Subcommittee, has been very helpful in this matter.

I would be remiss if I did not also mention the very fine work which the legislative counsel of the Senate and the committee staff did on this particular amendment. I received fine cooperation from them and I am delighted at the result.

Mr. COOPER. Mr. President, I appreciate very much the statement of the senior Senator from Delaware (Mr. BOGGS) and his reference to my interest in seeking to secure free railway fare passes to former employees of the railroads who are now retired.

I was very glad to join as a cosponsor of the amendment which was approved in the committee. From the outset I have disapproved the policy adopted by Amtrak in discontinuing these rights. Many retired railway employees in Kentucky and in my own town of Somerset have brought to my attention this basic unfairness of Amtrak's policy to retired railway employees. I believe it is correct, as my distinguished colleague has pointed out, that in the minds of railway employees the right to secure passes upon retirement has been considered a part of their compensation, and a vested retirement benefit.

Although the provision recommended by the committee is somewhat different than the provisions of S. 3131, as introduced by Senator BOGGS, and which I was happy to cosponsor, I am pleased that the committee has taken the action it did.

And I wish to compliment my distinguished colleague from Delaware on his persistent efforts in securing this provision in the committee bill and I am very pleased to give it my support.

Mr. TUNNEY. Mr. President, today I intend to vote to give Amtrak a healthy transfusion of lifeblood—to give it a chance to rise above a "stepchild of Congress" status. When the Congress created Amtrak a short time ago, it made a promise to support the idea of a visible system of rail transportation in this country. That promise should be kept. Both the amendment offered by Senator PELL, as to which I am cosponsor, as well as the Senate bill should be passed.

The House version of the Amtrak bill, in my view, pays only lip service to that promise. It provides among other things, for a Federal grant of $170 million. The Senate Committee on Commerce has found that the suggested grant of $170 million will "allow Amtrak to continue operating not longer than July 1973, while making only minimal capital improvements." The committee further found that by that date—

> Amtrak will likely be completely without funds; will owe $100 million; and will not have the modern equipment and facilities needed either to improve its financial results or to provide the quality of passenger service necessary to attract substantial numbers of people and thus make real contribution to the total transportation picture.

The Senate bill reported out of Commerce Committee takes a meaningful step forward by proposing Federal grants amounting to $270 million and increasing the loan guarantee authority from $100 million to $250 million. In my view, this proposed investment is necessary and minimal.

It is difficult to fail to take notice of the marvelous success of the New York to Washington Metroliner. A few years ago, the idea of taking a train from New York to Washington would have been regarded by most as preposterously inefficient and unpleasant. Today people are clamoring for reservations on the Metroliner, which has transformed a dying passenger rail service into a jet-aged streamlined success and yet has not even reached its full potential of 150-miles-per-hour service.

Anyone who has undergone the tedium of 1-day return business trips by air or crowded highway commutes knows the frustration, exhaustion, and irritation that often accompany these daily activities performed by millions of Americans. Amtrak offers hope, not only to make this type of travel bearable, but downright enjoyable.

It takes little imagination to envision the speedy, yet effortless conveyance between cities on trains able to achieve the speed of the Metroliner. Not only will people be spared the agonies of racing to and around airports and being subject to highway congestion in going to and from their inter-city tasks, but also, they could, on the Amtrak system, devote their travel time to quiet contemplation, relaxation, or productive work. The enhancement of the psychological and physical well-being of America's daily travelers will be tremendous and could be expected to accomplish increased productivity for them due to this reason alone.

California's airways and freeways are congested to the point of saturation, especially with respect to such heavily travelled California corridors as those between San Diego and Los Angeles, San Francisco and Sacramento, and San Francisco and Los Angeles. Rail Passenger services equivalent to that of the Metroliner supplied to those as well as other California urban areas may well permit the congested freeways to become "free" again for those who must drive, and the airports to be no longer deemed outgrown as soon as they are expanded. The Pell amendment will, if enacted, greatly facilitate this needed development.

The possibilities are endless. Holiday travelers—especially families—may, if Amtrak thrives, eventually board in San Francisco a train designed to transport their family automobile with them, deposit the kids in a supervised kiddie car equipped with tops, children's books and movies, while the parents relax in a nightclub bar. They may get off the train in San Diego and spend their week at the beach having had fun all the way and having been spared the toll of a 2-day drive.

Once Amtrak becomes a reality, special cut-rate passes like Europe's Eurailpasses could be sold to foreign tourists so as to permit unlimited travel over a specified period of time throughout the country. If it is made pleasurable and inexpensive enough, the existence of Amtrak alone may attract thousands of foreign tourists, who otherwise might regard the cost of travel in the United States as either prohibitive, when speedy and convenient such as air travel, or limited, confining, and slow such as by bus travel. If such cut-rate passes were available to American travelers on the same basis, many American travelers may decide to spend their holidays in the United States rather than to pay the cost of a charter air flight to Europe where inexpensive, yet modern, rail services are available quite cheaply.

Robert Lewis, the President of Amtrak, in the February 28, 1972, issue of U.S. News & World Report cited a startling statistic. He said that 50 percent of the people in this country have never been on an airplane and that 20 percent of America's families do not own an automobile. This means that approximately 100 million Americans either are walking or riding their bicycles a lot, driving their cars, or they simply do not travel. Amtrak may be the answer for them.

In order for such dreams to be fruitful, we must be generous, not frugal in our support of Amtrak. We must encourage imagination and creativity and not be satisfied with bare-bones subsistence-level support.

To those who criticize the Amtrak proposal as excessive, I suggest a comparison of the Amtrak proposal with the extremely generous funding plans for highways and air travel. During the next 2 years alone, approximately $10 billion will be spent on highways and $4 billion will be spent on airports and airways according to the Senate Commerce Committee Report.

What I am advocating is not an unlimited drain on the U.S. Treasury. If at some future time Amtrak proves unworkable, then I believe it should be dropped. However, so long as we are committed to the goal of a viable national rail passenger service, the project should not be undermined by a lack of adequate funding.

Let us not allow the untapped potential of the Amtrak passenger system dissipate through false economies. Let us make this investment wholeheartedly. We shall all live better for having done so.

RESTORATION OF PASS PRIVILEGES TO RETIRED RAILROAD EMPLOYEES

Mr. PERCY. Mr. President, there is one provision in H.R. 11417 in which I am especially interested. That is section 8, which requires that Amtrak grant free or reduced rate transportation to any active or retired railroad employee or to his dependents who were eligible for such privileges on April 30, 1971.

Under the committee bill, the railroads are required to reimburse Amtrak for the cost incurred in providing such transportation. The committee estimates that the cost of this provision should not be substantial, but if there are any costs, the railroads should pay them. As the committee report states:

> Because Congress is merely continuing pass policies which the railroads themselves developed, it would appear that the railroads and not Amtrak should bear the cost, if any.

When Amtrak took over, many of these pass privileges were terminated. With only a limited amount of funding, Amtrak felt it could not continue to honor the pass privileges and still accomplish its assigned goal of upgrading rail passenger service and making it profitable. Amtrak further contended that it was not legally bound to honor policies or contractual agreements entered into years ago by the railroads.

A number of my constituents have been greatly disappointed to learn that they can no longer count on these lifetime rail passes. As one retired worker explained to me in a letter:

> Years ago when our work contracts were drawn up, one of the benefits incorporated into the agreement was free pass privileges for railroad employees. But these railroads have just taken it into their own hands to eliminate these privileges without any agreements being drawn up, at least that has always been my understanding. Would you help us out on this thing? My wife and I have looked forward for years to the day when I retired so that we could take advantage of this free transportation and visit our children who are located in Florida and New York.

Another man wrote to me:

> I am seeking your support in restoring my railway pass rights that were taken away by Amtrak. I worked at the Centralia railroad shop for more than 42 years. As a retired person, I enjoyed those pass rights. I find it hard to travel at today's prices. We retired people need our earned privileges restored.

And the widow of a retiree pointed out:

> None of us get pensions (which give us) enough to live on. We have to go into our meager savings, and there is no money to ride trains. My only son lives in Tucson, Arizona. I can't even go see him. Please help. We would all be so grateful.

Mr. President, the disappointment felt by these people is keen. In my opinion, it is also understandable. It is true that Amtrak must make a profit and upgrade rail passenger service in a limited period of 3 years, but the participating railroads must also deliver on their promises of long standing.

Slightly over a year ago, I introduced a comprehensive legislative program to improve the lot of retired people, and one of my proposals called for reduced fares for senior citizens on all planes, trains, and buses operating with Federal funds or in interstate commerce. A number of mass transit systems in our cities, including the CTA in Chicago, have taken the commendable step of offering reduced fares to senior citizens during nonrush hours. And some of the airlines, including Pan Am and KLM, have offered reduced fares for people over 65 on a seat-available basis.

To bring us closer to the goal of providing the reduced fares called for in my legislative program for the elderly, I became a cosponsor of S. 3131, a bill introduced on February 7 by the distinguished senior Senator from Delaware (Mr. BOGGS). S. 3131 called for the restoration of "certain rights to free or reduced rate passenger transportation granted by railroads to employees upon retirement." The substance of S. 3131 was incorporated into the bill now before us, H.R. 11417, and I would like to commend Senator BOGGS for his initiative on this issue.

During last December's White House Conference on Aging, the Conference noted that transportation is one of the most serious problems confronting senior citizens. One of the major recommendations of the Conference was:

> Appropriate legislation at all levels of government should provide that the elderly and handicapped be allowed to travel at half fares, or less, on a space available basis on all modes of public transportation.

The provision incorporated into H.R. 11417 would by no means completely accomplish this stated goal, but it would move us closer to it.

Elderly people have the time and the desire to travel. What they too frequently lack is the money.

Lack of mobility is one of their most serious problems, and for them, this lack of mobility means increased isolation—beyond what they already suffer.

Mr. President, I not only commend the Senate Commerce Committee for including in this bill a provision to restore pass privileges to retired employees, but I also express the deep hope that Amtrak will consider experimenting with reduced fares for senior citizens on a broader, more general basis.

I know that Amtrak is already taking certain steps to improve service on trains, in the hope that improved service will attract more passengers. As Amtrak makes these improvements and tests different ideas for increasing ridership, I hope it will consider offering reduced fares to senior citizens on those trains now operating at a loss. These trains must, according to the law, continue in operation until July 1, 1973. If the trains must run anyway, but are now running far below their potential passenger loads, why not select one of the money-losing routes and determine what effect upon ridership—and revenues—a policy of reduced fares for senior citizens might have? The experiment could be undertaken on a modest experimental scale, but it could enable us to determine more accurately the potential of rail passenger service.

It is my understanding that Amtrak officials have given some thought to this idea and that there is a possibility that such an experiment could get underway by the end of this summer, after Amtrak has completed certain contemplated improvements.

If this is the case, I would like to strongly encourage Amtrak to go ahead with such an experiment.

NO MORE IDAHO TAX DOLLARS FOR AMTRAK

Mr. CHURCH. Mr. President, I shall vote against this legislation to furnish $270 million more in Federal revenues to the National Rail Passenger System. In my view, Amtrak has failed to carry out the duty with which it was charged by Congress. A system providing absolutely no service to five States is not "national" in my book.

Amtrak was directed by Congress to improve and expand rail passenger service between urban and other areas of the United States; yet the System has concentrated on the urban centers at the expense of the "other areas." Instead of improving service in my State of Idaho, Amtrak has effectively wiped out passenger service there. All railroad passenger service in southern Idaho was abandoned, and only a single stop in the northern part of my State was retained. Apparently, the System could not find a way around the State of Idaho to get to the west coast.

My vote on Amtrak funding, with the tax dollars of Idaho taxpayers, will be the same as the service effectively provided my State: I shall cast a negative vote.

The only reluctance I have in voting against this bill is that it does more than provide for simply authorizing money for Amtrak. It provides for two other matters which I favor. One of those matters is directly related to legislation I have sponsored. The two items are:

First, providing for a comprehensive study and report to the President and Congress of the potential for transportation of mail and express on passenger trains.

Second, reinstatement, within stated guidelines, of passenger train pass privileges for railroad employees who were entitled to such privileges prior to or on April 30, 1971.

I favor both of these proposals. I sponsored legislation, S. 1666, to provide for the transportation of mail by the National Railroad Passenger Corporation. This study, I am confident, will show the feasibility of such activity on the part of the Corporation, thus allowing it to produce more revenue and, hopefully, provide service to areas such as southern Idaho in the future.

In addition, Mr. President, I have always felt that the loss of, or reduction of, free pass privileges by railroad employees entitled to them was a breach of faith with these people. I am pleased to see that the committee has moved to reinstate, in large measure, these privileges. I support this action.

However, Mr. President, the bill still contains a fatal flaw. It does not require the network to provide passenger service to at least one major population center in each of the contiguous 48 States. That, I feel, is the least that could be done to assure that the intent of the original Amtrak legislation is carried out. I have introduced such a requirement in the form of S. 1018, and regret that the committee did not choose to include such language in this bill. Had that language been inserted, I could, in good conscience, support the bill. Without it, I cannot support this legislation.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11417) was read the third time.

Mr. HARTKE. Mr. President, I have no further comments, and I yield back the remainder of my time.

Mr. BEALL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

On this vote, the Senator from North Carolina (Mr. ERVIN) is paired with the Senator from Washington (Mr. JACKSON).

If present and voting, the Senator from North Carolina would vote "nay" and the Senator from Washington would vote "yea."

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL), the Senator from North Carolina (Mr. JORDAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 73, nays 7, as follows:

[No. 157 Leg.]

YEAS—73

Aiken
Allen
Allott
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Fannin
Fong
Griffin
Gurney
Hansen
Hartke
Hollings
Hruska
Hughes
Inouye
Javits
Kennedy
Magnuson
Mathias
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Smith
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—7

Brock
Church
Ellender
Fulbright
Jordan, Idaho
Packwood
Saxbe

NOT VOTING—20

Burdick
Ervin
Gambrell
Goldwater
Gravel
Harris
Hart
Hatfield
Humphrey
Jackson
Jordan, N.C.
Long
Mansfield
McClellan
McGovern
Mundt
Muskie
Pastore
Scott
Sparkman

So the bill (H.R. 11417) was passed.

The title was amended, so as to read: "An Act to amend the Rail Passenger Service Act of 1970 in order to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes."

Mr. HARTKE. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARTKE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in the bill.

The PRESIDING OFFICER (Mr. BELLMON). Without objection, it is so ordered.

(The following proceedings, which occurred later in the day are printed at this point in the RECORD by unanimous consent:)

Mr. ROBERT C. BYRD. Mr. President, the very distinguished senior Senator from Maryland (Mr. MATHIAS) was unavoidably detained just prior to third reading and passage of the Amtrak bill. The Senator from Maryland had a matter pertaining to the Amtrak measure which he wanted to discuss. Because he was unavoidably detained, I ask unanimous consent that, at this time, the Senator from Maryland may proceed for 5 minutes without the time being charged to either side on the pending bill and that his remarks appear in the RECORD immediately following the passage of the Amtrak bill and before the pending bill was laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? May the well be cleared and the aides to Senators please take their seats unless they are conferring with Senators. The distinguished Senator from Maryland is entitled to be heard.

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. MATHIAS. Mr. President, I thank the distinguished Senator from West Virginia, the acting majority leader, for making it possible for me to present a few thoughts on the Amtrak situation at this time. I think perhaps, as it has worked out, that this is the proper time for my thoughts to be expressed. As the acting majority leader has said, I was in a meeting with Secretary of Commerce Peterson at the time that the debate was closed.

Prior to the opening of the debate on the bill, I had prepared an amendment to the bill. I send that amendment to the desk at this time and ask unanimous consent that it be printed at this point in the RECORD so that I can explain the need for the amendment.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 27, between lines 17 and 18, insert the following:

SEC. 12. (a) In any case in which the National Railroad Passenger Corporation terminates any rail passenger service which provides commuter service for which commuter ticket books are sold or accepted and such commuter service is between points served by the Metroliner operated by such Corporation, the Corporation shall provide such service on the Metroliner in return for valid tickets in such books sold or accepted before such termination and shall provide, for nine months after such termination, such commuter service on the Metroliner at the same special commuter rates previously charged for such terminated service.

(b) In any case in which such Corporation terminates any rail passenger service which provides any commuter service the Corporation shall consult with appropriate State and local officials and endeavor to provide a substitute for such commuter service.

On page 27, line 18, strike out "Sec. 12" and insert in lieu thereof "Sec. 13".

Mr. MATHIAS. I decided that I would not press the amendment to final action today after negotiations with Amtrak officials and after some consultation with my distinguished colleague, the junior Senator from Maryland (Mr. BEALL). The reason that I had initially thought that such an amendment would be useful was because it would draw attention to a human problem—a human problem which is sometimes overlooked when we deal only with statistics and traffic data.

The fact is that trains are supposed to serve people and not necessarily that people should serve trains. People depend on trains to get to jobs. People depend on trains in order to secure and retain their employment. People cannot change their lives and people cannot change their jobs and their pattern of employment as fast as Amtrak can change its train schedules. So, when we have a situation in which the human needs of people are not being answered by the train service, I think, then, we have to adopt a flexibility that meets the needs of people and deals with their problems.

One such case involves train No. 193, a commuter train serving Baltimore and Washington, as well as Philadelphia and Wilmington. That train is being discontinued by Amtrak. I would have hoped, had this amendment been agreed to, that it would establish a means of coping with the discontinuance of this service; namely, to allow a commuter ticket to be honored on the Metroliner, which travels the same route as train No. 193 at approximately the same time. I have not pressed my amendment because, as I said earlier, I have been in consultation with the Amtrak officials.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD certain correspondence with Secretary Volpe and others dealing with this service.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

APRIL 19, 1972.

Hon. JOHN A. VOLPE,
Department of Transportation,
Washington, D.C.

DEAR SECRETARY VOLPE: I am writing to you concerning Amtrak's announcement that train number 193, which leaves Baltimore for Washington at 8:48 a.m., will be cancelled.

As you know, this train is used by a large number of Marylanders who have business in Washintgon, including many persons who travel to work in Washintgon daily.

At the current time, there is no alternative form of transportation suitable to the needs of these individuals. Many do not have cars available in which they can drive to Washington, while many others have daily working hours which do not coincide with other available or proposed trains. Virtually none of the people affected can in any way afford the cost of a regular round-trip ticket on a Metroliner.

The problem for the government and the railroads is to provide reasonably-priced transportation at convenient times. I am informed that persons traveling between Baltimore and Washington can purchase regular tickets for the trip at a cost of $1.10. Metroliner tickets cost $4.50 for the one-way trip. I would hope that it might be possible for Amtrak, Penn Central and other interested parties to work out a system by which persons who travel frequently between the two cities could ride the early Metroliner for a price equivalent to or slightly higher than the regular commuter fare of $1.10.

I would hope that, in view of the cancellation of the 8:48, it would be possible to adopt such a program on an emergency basis while the State of Maryland, through its Department of Transportation, develops a program to provide commuter rail transportation for the Greater Baltimore-Washington area. I am informed that Maryland officials expect to have the details of their program completed within thirty days and that they have already been in touch with the U.S. Department of Transportation concerning assistance from UMTA for funding capital projects.

I enclose the results of a questionnaire which I recently distributed to the passengers of train number 193.

I would appreciate your immediate attention to this problem.

With best wishes.

Sincerely,

CHARLES MCC. MATHIAS, Jr.,
U.S. Senator.

APRIL 27, 1972.

Hon. CHARLES MCC. MATHIAS, JR.
U.S. Senate,
Washington, D.C.

DEAR MAC: Roger Lewis asked me to reply to your letter of April 26, 1972, about the 8:48 a.m. train from Baltimore to Washington, and your letter of April 19, 1972.

The Southeastern Pennsylvania Transportation Authority made a week-long survey in February of this year and found the average ridership on Train No. 193 from Baltimore to Washington to be thirty-two passengers a day. As you know, with commuter tickets there is no ticket lift on the train. The conductor just punches the commuter ticket. So, a physical count of the number of passengers boarding the train must be made, and I assume that is what was done by the Southeastern Pennsylvania Transportation Authority. Two of our people here at Amtrak have ridden the train on a number of occasions and while they report that the boardings at Baltimore were in excess of thirty passengers, they were not much in excess.

I called Les Pittler on the phone the other day to ask him to find out, if he could, how the figures on your "Final Talley Sheet", enclosed with your letter of April 19, 1972, to Mr. Lewis, were arrived at. If this is a final talley sheet of commuters on Train No. 193, I think there must be some mistake somewhere, because our Operations Department tells me that this train, having only two cars, would be jammed with standees if it carried 195 people.

There is no commuter train now between 7:05 a.m. and the 8:48 a.m., and it is our judgment that a 7:45 a.m. train from Baltimore would be more advantageous to most commuters than the present schedule.

We have given serious consideration to allowing, for a brief period, commuter tickets to be accepted on the 9:00 a.m. Metroliner from Baltimore to Washington. While we have not reached a final decision on this, we do want to let you know what some of our problems are so we can talk about it. In the first place, it would be very difficult to accept commuter tickets between Baltimore and Washington and not accept them between Wilmington and Philadelphia, between Philadelphia and New York, and between Trenton and New York. Then, our law defines intercity rail passenger service as excluding commuter services, and if we made special arrangements for handling commuters between Baltimore and Washington it would be used as a precedent for putting us further and further into the commuter business. Congress has treated commuter services separately under the Urban Mass Transportation legislation. These are some of our problems, and you can readily understand why we can't decide the question quickly.

According to our records, Train No. 193 has been losing at the rate of about $200,000 a year. While all of it, of course, is not chargeable to Baltimore, since this train is really only a commuter train between Philadelphia and Wilmington, and between Baltimore and Washington, and not an intercity train, we just can't justify such losses for a service we are not supposed to perform anyhow.

Kindest regards,

Sincerely,

GERALD D. MORGAN,
Vice President,
Government Affairs.

APRIL 26, 1972.

Mr. ROGER LEWIS,
President, Amtrak,
Washington, D.C.

DEAR MR. LEWIS: AMTRAK's decision to keep the early morning train from Philadelphia but to terminate it at Newark, Delaware, 35 miles north of Baltimore rather than Washington, is difficult to explain to the people of Maryland. As I have tried to make clear in other communications to you, many Maryland citizens rely on this train to get to their jobs in Washington. Cancellation of this service leaves them no comparable train to ride.

In a letter dated April 19, I requested that if the Philadelphia to Washington run were cancelled, commuters should be allowed to use the 9 A.M. Metroliner from Baltimore to Washington at least until alternate measures could be taken by the State of Maryland. If your counsel questions your statutory authority to take this step, I have offered to introduce emergency legislation to fill such a vacuum. As of today, I have received no reply to that request. The present service ends this week.

AMTRAK's authorizations legislation is the pending business in the Senate tomorrow. The support you need and should receive would be forthcoming with genuine enthusiasm if the Senate could feel sure that you have not lost sight of problems of human dimension like this one.

Sincerely,

CHARLES MCC. MATHIAS, Jr.,
U.S. Senator.

Mr. MATHIAS. Mr. President, in that correspondence it is stated that Amtrak is giving serious consideration to allowing, for a brief period, commuter tickets to be accepted on the 9 a.m. Metroliner from Baltimore to Washington.

It was in reliance upon this kind of consideration that I was willing to withhold action today. The officials have been trying to work out some long term solution.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Under the existing circumstances, I ask unanimous consent that the Senator from Maryland have 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I thank the Senator from West Virginia.

Mr. President, I am particularly heartened in my efforts by the work being done, as I said earlier, by my colleague from Maryland the junior Senator from Maryland. He has been the central figure in this legislation. He understands this problem as well as I do, if not much better, and is equally concerned.

I think that, with the attitude which has now developed on the part of Amtrak officials and with the concern exhibited by the junior Senator from Maryland, the Senator from Indiana, and others who have immediate legislative oversight over the bill, we can work out the problem on a human basis. The case is one which will not cost Amtrak any more and which will not put a burden on the Government. For in this case, there are surplus seats on the Metroliner which could be filled by those who have bought commuter tickets and want to get to their place of employment.

It is a matter which needs human concern in order to cope with the problem during the interim period while we are developing a rail system in an effort to deal with the decade of the 1970's.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. MATHIAS. Mr. President, I yield.

Mr. BEALL. Mr. President, I congratulate my senior colleague for bringing this point to the attention of the Senate today as we have just finished the consideration of the Amtrak legislation.

The senior Senator from Maryland has been of great service to the people of the Baltimore-Washington area and of the particular region in pointing out the human needs involved in providing adequate rail transportation.

There have been consultations between the senior Senator from Maryland and the Amtrak officials and myself so that this problem might be resolved.

I point out that we have yet to come to grips with the overall problems of the commuter matter. Very soon we must come to grips with this problem and decide whether we will rely on existing railroads to provide this service or whether the Federal Government will get into the problems with both feet and take care of the commuter problem existing in this country today.

(This marks the end of the proceedings which occurred later in the day and which, by unanimous consent, were ordered to be printed here.)

TRUTH IN LENDING ACT AMENDMENTS OF 1972

Mr. ROBERT C. BYRD. Mr. President, under the previous order, I ask that the Chair now lay before the Senate the next bill.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Chair now lays before the Senate, Calendar No. 718, S. 652, which the clerk will state.

The assistant legislative clerk read as follows:

S. 652, to amend the Truth in Lending Act, to protect consumers, against careless and unfavorable billing practices, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Truth in Lending Act Amendments of 1972".

TITLE I—FAIR CREDIT BILLING

§ 101. Short title

This title may be cited as the "Fair Credit Billing Act".

§ 102. Declaration of purpose

The last sentence of section 102 of the Truth in Lending Act (15 U.S.C. 1601) is amended by striking out the period and inserting in lieu thereof a comma and the following: "and to protect the consumer against inaccurate and unfair credit billing and credit card practices."

§ 103. Definition of creditor

Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by adding at the end thereof the following: "Notwithstanding the foregoing, for the purposes of the requirements imposed under sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(1), 127(b)(2), 127(b)(3), 127 (b)(11), and chapter 4 of this title, the term 'creditor' means any person who regularly extends credit or arranges for the extension of credit in connection with loans, sales of property or services, or otherwise."

§ 104. Identification of transaction

Section 127(b)(2) of the Truth in Lending Act (15 U.S.C. 1637(b)(2)) is amended to read as follows:

"(2) The amount and date of each extension of credit during the period and a brief identification on or accompanying the statement of each extension of credit sufficient to enable the obligor to identify the transaction, or relate it to copies of sales vouchers or similar instruments previously furnished, in a form prescribed by regulations of the Board."

§ 105. Disclosure of fair credit billing rights

(a) Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof a new paragraph as follows:

"(8) A statement of the protection provided by section 161 to an obligor and the creditor's responsibilities under section 162 in a form prescribed by regulations of the Board. Such statement shall be provided to the obligor at least semiannually."

(b) Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by striking out "this subsection" and inserting in lieu thereof "the Fair Credit Billing Act".

§ 106. Disclosure of billing contact

Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end thereof a new paragraph as follows:

"(11) The address to be used by the creditor for the purpose of receiving billing inquiries from the obligor."

§ 107. Billing practices

The Truth in Lending Act (15 U.S.C. 1601–1665) is amended by adding at the end thereof a new chapter as follows:

"CHAPTER 4—CREDIT BILLING

"Sec.
"161. Correction of billing errors.
"162. Regulation of credit reports.
"163. Length of billing period.
"164. Prompt crediting of payments.
"165. Crediting excess payments.
"166. Use of cash discounts.
"167. Prohibition of tie-in services
"168. Prohibition of offsets.
"169. Relation to State laws.

"§ 161. Correction of billing errors

"(a) If a creditor, within sixty days after having transmitted to an obligor a statement of the obligor's account in connection with an extension of consumer credit, receives at the address disclosed under section 127(b)(11) a written notice (other than notice on a payment stub or other payment medium supplied by the creditor oif the creditor so stipulates) from the obligor in which the obligor—

"(1) sets forth or otherwise enables the creditor to identify the name and account number (if any) of the obligor

"(2) indicates the obligor's belief that the statement contains a billing error and the amount of such billing errors, and

"(3) sets forth the reasons for the obligor's beliefs (to the extent applicable) that the statement contains a billing error, the creditor shall, unless the obligor has previously agreed that the statement was correct—

"(A) not later than thirty days after receipt of the notice, send a written acknowledgment thereof to the obligor, unless the action required in subparagraph (B) is taken within such thirty-day period, and

"(B) not later than two complete billing cycles of the creditor (in no event later than ninety days) after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, indicated by the obligor under paragraph (2) either—

"(i) make appropriate corrections in the account of the obligor, including the crediting of any finance charges on amounts erroneously billed, and transmit to the obligor a notification of such corrections and the creditor's explanation of any change in the amount indicated by the obligor under paragraph (2) and, if any such change is made and the obligor so requests, copies of documentary evidence of the obligor's indebtedness; or

"(ii) send a written explanation or clarification to the obligor, after having conducted an investigation, setting forth to the extent applicable the reasons why the creditor believes the account of the obligor was correctly shown in the statement and, upon request of the obligor, provide copies of documentary evidence of the obligor's indebtedness.

"(b) For the purpose of this section, a 'billing error' consists of any of the following:

"(1) A reflection on a statement of an extension of credit which was not made to the obligor or, if made, was not in the amount reflected on such statement.

"(2) A reflection on a statement of an extension of credit for which the obligor requests additional clarification including documentary evidence thereof.

"(3) A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction.

"(4) The creditor's failure to reflect properly on a statement a payment made by the obligor or a credit issued to the obligor.

"(5) A computation error or similar error of an accounting nature of the creditor on a statement.

"(6) Any other error described in regulations of the Board.

"(c) For the purpose of this section, 'action to collect the amount, or any part thereof, indicated by an obligor under paragraph (2)' does not include the sending of statements of account to the obligor following written notice from the obligor as specified under subsection (a), if—

"(1) the obligor's account is not restricted or closed because of the failure of the obligor to pay the amount indicated under paragraph (2) of subsection (a), and

"(2) the creditor indicates the payment of such amount is not required pending the creditor's compliance with section 161.

Nothing in this section shall be construed to prohibit any action by a creditor to collect any amount which has not been indicated by the obligor to contain a billing error.

"(d) Any creditor who fails to comply with the requirements of subsection (a) forfeits any right to collect from the obligor the amount indicated by the obligor under paragraph (2) of subsection (a), and any finance charges thereon, except that the amount required to be forfeited under this subsection may not exceed $50.

"§ 162. Regulation of credit reports

"(a) After receiving a notice from an obligor as provided in section 161(a), a creditor or his agent may not directly or indirectly threaten to report to any person adversely on the obligor's credit rating or credit standing because of the obligor's failure to pay the amount indicated by the obligor under section 161(a)(2), and such amount may not be reported as delinquent to any third party until the creditor has met the requirements of section 161 and has allowed the obligor the same number of days (not less than ten) thereafter to make payment as is provided under the credit agreement with the obligor for the payment of undisputed amounts.

"(b) If a creditor receives a further written notice from an obligor that an amount is still in dispute within the time allowed for payment under subsection (a) of this section, a creditor may not report to any third party that the account of the obligor is delinquent solely because the obligor has failed to pay an amount which he has indicated under section 161(a)(2), unless the creditor also reports that the account is in dispute and, at the same time, notifies the obligor of the name and address of each party to whom the creditor is reporting information concerning the delinquency.

"(c) A creditor shall report any subsequent resolution of any delinquencies reported pursuant to subsection (b) to the parties to whom such delinquencies were initially reported.

"§ 163. Length of billing period

"If an open-end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part unless a statement which includes the amount upon which the finance charge for that period is based was mailed at least fourteen days prior to the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge.

"§ 164. Prompt crediting of payments

"Payments received from an obligor under an open-end consumer credit plan by the creditor shall be posted promptly to the obligor's account as specified in regulations of the Board.

"§ 165. Crediting excess payments

"Whenever an obligor transmits funds to a creditor in excess of the total balance due on an open-end consumer credit account, the creditor shall promptly (1) upon request of the obligor refund the amount of the overpayment, or (2) credit such amount to the obligor's account.

"§ 166. Use of cash discounts

"(a) With respect to a credit card which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from offering a discount to a cardholder to induce the cardholder to pay by cash, check, or similar means rather than use a credit card.

"(b) With respect to any sales transaction, any discount not in excess of 5 per centum offered by the seller for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card shall not constitute a finance charge as determined under section 106, if such discount is offered to all prospective buyers and its availability is disclosed to all prospective buyers clearly and conspicuously in accordance with regulations of the Board.

"§ 167. Prohibition of tie-in services

"Notwithstanding any agreement to the contrary, no card issuer shall require a seller, as a condition to participating in a credit card plan, to open an account with or procure any other service from the card issuer or its subsidiary or agent.

"§ 168. Prohibition of offsets

"(a) A credit card issuer may not take any action to offset a cardholder's indebtedness arising in connection with a consumer credit transaction against funds of the cardholder held on deposit with the card issuer unless—

"(1) such action was previously authorized in writing by the cardholder, and

"(2) such action with respect to any disputed amount will be rescinded by the card issuer upon request of the cardholder made within ten days after such action is taken. In the case of any credit card account in existence on the effective date of this section, the previous written authorization referred to in clause (1) shall not be required until the date (after such effective date) when such account is renewed, but in no case later than one year after such effective date.

"(b) This section does not alter or affect the right under State laws of a card issuer to attach or otherwise levy upon funds of a cardholder held on deposit with the card issuer if that remedy is constitutionally available to creditors generally.

"§ 169. Relation to State laws

"This chapter does not annul, alter, affect, or exempt any person subject to the provisions of this chapter from complying with the laws of any State with respect to credit billing practices, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency."

§ 108. Conforming amendments

(a) The table of chapters of the Truth in Lending Act is amended by adding immediately under item 3 the following:

"4. CREDIT BILLING.................... 161".

(b) Section 111(d) of such Act (15 U.S.C. 1610(d)) is amended by striking out "and 130" and inserting in lieu thereof a comma and the following: "130, 166, 167, and 168".

§ 109. Effective date

This title takes effect upon the expiration of one year after the date of its enactment.

TITLE II—AMENDMENTS TO THE TRUTH IN LENDING ACT

§ 201. More-than-four-installment rule

The first sentence of section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by inserting "which is payable by agreement in more than four installments or" after "credit".

§ 202. Agricultural credit exemption

Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end thereof a new paragraph as follows:

"(5) Credit transactions for agricultural purposes in which the total amount to be financed exceeds $25,000."

§ 203. Enforcement by Farm Credit Administration

Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended by adding at the end thereof a new paragraph as follows:

"(7) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank or production credit association."

§ 204. Liens arising by operation of State law

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended—

(1) by striking out "is" the first time it appears in the first sentence of subsection (a) and inserting in lieu thereof ", including any such interest arising by operation of law, is or will be"; and

(2) by inserting after "obligor" the second time it appears in the first sentence of subsection (b) the following: ", including any such interest arising by operation of law,".

§ 205. Time limit for right of recission

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended by adding at the end thereof a new subsection as follows:

"(f) An obligor's right of recission shall expire three years after the date of consummation of the transaction or upon the sale of the property by the obligor, whichever occurs earlier, notwithstanding the fact that the disclosures required under this section or any other material disclosures required under this chapter have not been delivered to the customer."

§ 206. Good faith compliance

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(f) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, or in conformity with any interpretation issued by any other agency designated in section 108 unless such interpretation has, prior to the time such act was done or omitted, been determined by the Board to be inconsistent with the Board's rules, regulations, or interpretations, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

§ 207. Liability for multiple disclosures

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(g) The multiple failure to disclose to any person any information required under this chapter to be disclosed in connection with a single account under an open-end consumer credit plan, other single consumer credit sale, consumer loan, or other extension of consumer credit, shall entitle the person to a single recovery under this section."

§ 208. Limitation on class action liability

(a) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended to read as follows:

"(a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter or chapter 4 of this title (other than section 161) with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damages sustained by such person as a result of the failure;

"(2) such punitive damages as the court may allow, except that such damages shall (A) be not less than $100 in the case of an individual action, or (B) in the case of a class action, not more than the lesser of $50,000, or 2 per centum of the net worth of the creditor as of the end of the creditor's fiscal year immediately preceding the fiscal year in which the failure occurred; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee which shall be the reasonable value of the services rendered by the attorney without regard to the amount of any recovery.

In determining the amount of punitive damages in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional."

(b) Section 130(b) of such Act (15 U.S.C. 1640(b)) is amended by inserting after "this section" the first place it appears the following: "for any failure to comply with any requirement imposed under this chapter,".

(c) Section 130(c) of such Act (15 U.S.C. 1640(c)) is amended by striking out "chapter" and inserting in lieu thereof "title".

(d) Section 130 of such Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(h) A person may not take any action to offset any amount for which a creditor is potentially liable to such person under subsection (a)(2) against any amount owing to such creditor by such person, unless the amount of the creditor's liability to such person has been determined by judgment of a court of competent jurisdiction in an action to which such person was a party."

(e) The amendments made by this section shall apply in determining the liability of any person under chapter 2 or 4 of the Truth in Lending Act, unless prior to the date of enactment of this Act such liability has been determined by final judgment of a court of competent jurisdiction and no further review of such judgment may be had by appeal or otherwise.

§ 209. Credit card fraud

Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended to read as follows:

"§ 134. Fraudulent use of credit card

"(a) Whoever knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more; or

"(b) Whoever, with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(c) Whoever, with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(d) Whoever knowingly receives, conceals, uses, or transports, money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (1) within any one-year period has a value aggregating $1,000 or more, (2) has moved in or is part of, or which constitutes interstate or foreign commerce, and (3) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card; or

"(e) Whoever knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (1) within any one-year period have a value aggregating $500 or more, and (2) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or

"(f) Whoever in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than $10,000 or imprisoned not more than ten years, or both."

§ 210. Grace period for consumers

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) The conditions under which a finance charge may be imposed, including the time period (if any) within which any credit extended may be repaid without incurring a finance charge, except that the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after the termination of such time period but before the opening date of the next billing period."; and

(2) by amending subsection (b)(10) to read as follows:

"(10) The date by which or the period (if any) within which, payment must be made to avoid additional finance charges, except that the creditor may, at his election and without disclosure, impose no such additional finance charge if payment is received after such date or the termination of such period but before the opening date of the next billing period."

§ 211. Effective date

This title takes effect upon the date of its enactment.

The PRESIDING OFFICER. Who yields time on the bill?

Mr. PROXMIRE. Mr. President, I am happy to yield to the distinguished junior Senator from Tennessee.

PRIVILEGE OF THE FLOOR

Mr. BROCK. Mr. President, I ask unanimous consent that in connection with the consideration of S. 652 the following committee and personal staff members be given access to the floor to assist committee members:

Committee staff: Dudley O'Neal, Michael Burns, Ken McLean, John Evans, Steve Paradise, Paul London, T. J. Oden, and Alex Heues.

Personal staff: Pat Abshire.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I yield myself 15 minutes on the bill.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 15 minutes.

Mr. PROXMIRE. Mr. President, I open this debate on S. 652, the so-called Fair Credit Billing Act, with considerable misgivings. The bill reported by the Senate Banking Committee is a sadly "watered down" version of the original bill I introduced in February of 1971. While the committee bill does a reasonable job in helping consumers resolve billing disputes, many vital consumer safeguards were stricken from the bill and others were seriously enfeebled. Moreover, new provisions were added to limit a creditor's liability under truth in lending and to transfer part of the cost of policing fraudulent credit card transactions to the Federal Government. Instead of calling the bill the "Fair Credit Billing Act," the committee bill might be more aptly termed the "Bank Protection Act of 1972."

Mr. President, unless the bill can be substantially strengthened on the floor, it should be defeated.

Mr. BENNETT. Mr. President, will the Senator yield on my time for a question?

Mr. PROXMIRE. On the Senator's time.

Mr. BENNETT. Is the Senator using time for the proponents of the bill or as an opponent of the bill?

Mr. PROXMIRE. I am using time as a proponent of the bill because I am so optimistic that we can amend the bill and put it into such form that I can vote for it. I am the author of the bill, and I want to vote for a Proximire bill. But I am keeping my options open. I admit that I am in an ambiguous position as manager of the bill, but I do not know what else I can do.

Mr. BENNETT. Since the Senator is in opposition to key features of the bill, he is robbing the real proponents of their time.

Mr. PROXMIRE. On the other side, who is handling the opposition time on the bill? Those for the bill, lock, stock, and barrel. Any way one looks at it, both sides will get equal time.

In my view we should not substitute meaningful reform legislation with a watered-down bill.

Mr. BENNETT. Mr. President, will the Senator yield on my time?

Mr. PROXMIRE. I yield.

Mr. BENNETT. I wish to ask the Parliamentarian which side has the time.

The PRESIDING OFFICER (Mr. BEALL). According to the record at the desk, the Senator from Wisconsin is noted as a proponent of the bill and the Senator from Utah is noted as an opponent of the bill.

Mr. BENNETT. Still on my time, the Senator from Utah is one of the majority that is defending the bill and the Senator from Wisconsin, with individual views, is in opposition to it.

The PRESIDING OFFICER. It is the suggestion of the Chair that both sides have equal time and, therefore, have the ability to yield to whomever they desire for whatever purpose they wish. Although the title is misleading, the intent is the same. The time is equally divided.

Mr. PROXMIRE. I think we can take care of this in the amendment. The minority, the Republican side, which opposes the amendment, would have time in opposition to the amendment and as a proponent I would have time in favor of the amendment.

Mr. BENNETT. We will see how it works out.

Mr. PROXMIRE. We should not create

the illusion of progress while accomplishing little. No bill is better than a bogus bill, so this Senator may vote against his own Proxmire bill. There is a good reason for this. The Chairman of the Federal Trade Commission has already promised to push for most of the billing dispute reforms left in the legislation by the committee. The Federal Trade Commission action would be in the form of a trade regulation under the Federal Trade Commission Act. So why pass a watered-down bill reported by the Committee on Banking, Housing and Urban Affairs? Consumers will be better served by having the Federal Trade Commission put the few reforms left in the bill into effect.

Of course, if we can amend the bill and make it more significant for the consumers, there would be more reason to act.

Before discussing the provisions left in the legislation by the committee, I believe it would be more appropriate to talk about the provisions that were taken out. The committee deleted six major consumer protection provisions and virtually emasculated the present class action remedies under the Truth in Lending Act. While all six provisions deleted by the committee may not be essential to an effective bill, taken as a whole, their deletion substantially weakens the bill. I intend to offer amendments restoring two of the six provisions and I understand that Senators TUNNEY and Moss will offer amendments restoring most of the remaining items deleted by the committee. If all of these amendments fail, I will vote against the bill and urge other Senators to vote against it.

Here are the six consumer protection items stricken by the committee:

A prohibition of retroactive finance charges on revolving charge accounts which cost the American consumer $200 million a year.

A modified repeal of the holder-in-due-course doctrine on credit card transactions which would have permitted consumers to withhold payment for shoddy merchandise purchased with a bank credit card;

A prohibition of minimum finance charges on revolving charge accounts which frequently involve interest rates of 120 percent a year or even higher on low-income consumers;

A repeal of the utility exemption under truth in lending which enables public utilities to conceal the interest rate they charge their customers for paying utility bills late;

A prohibition against billing for merchandise which was never mailed to a customer;

A prohibition against sending junk mail advertisements with monthly billing statements unless the merchandise is sold in the normal course of business or unless authorized by the consumer.

In addition to these six provisions, the committee bill seriously weakens the consumer class action remedies under truth in lending. The Vice Chairman of the Federal Reserve Board, Governor Robertson, and the man directly responsible for administering the Truth in Lending Act has written protesting that the committee bill "may effectively preclude truth in lending class action suits." Everyone who knows Governor Robertson, knows that he is a completely fair man who would advocate no policy unjust to the banks or business.

I intend to discuss each of these issues in greater detail as we proceed to the consideration of specific amendments. In the meantime, I believe it would be useful to outline for the Senate the provisions contained in the committee bill. As I previously indicated, most of these provisions may be adopted administratively by the FTC. They are good provisions as far as they go. But the bill as a whole needs to be strengthened if it is to live up to its title as the Fair Credit Billing Act.

The legislation reported by the committee has the following key provisions:

First, creditors are required to acknowledge customer billing disputes within 30 days and to resolve those disputes within 90 days. A dispute is resolved by either correcting the customer's bill or explaining why the original bill was correct. Creditors who fail to meet these requirements forfeit the amount in dispute up to $50 whether or not the bill was in error;

Second, creditors cannot send dunning letters or take other actions to collect a disputed amount or report it as delinquent before explaining to the customer why the bill is correct;

Third, if a customer still disputes a bill after receiving the creditor's explanation, a creditor cannot report the disputed amount as delinquent to a credit reporting agency unless he so notifies the customer, and tells the agency that the amount is in dispute. He must also report any subsequent resolution of the dispute;

Fourth, creditors must briefly identify an address for handling billing disputes and disclose twice yearly the customer's right to have these disputes resolved as provided in the legislation;

Fifth, creditors must mail their monthly billing statements at least 14 days prior to when payment is due to avoid the imposition of a finance charge;

Sixth, creditors must promptly post a customer's payments to his account in accordance with Federal Reserve Board regulations;

Seventh, creditors must promptly credit excess payments or refund them if the customer so requests;

Eighth, banks or other credit card issuers cannot require merchants to maintain deposits or purchase other services as a condition for participating in the credit card plan or prohibit them from offering discounts to cash customers;

Ninth, banks cannot offset a consumer's credit card depot against his checking or savings account unless the consumer has agreed to such offsets and is allowed 10 days to rescind the offset;

Tenth, a creditor's liability for punitive damages under the existing Truth in Lending Act and the new Fair Credit Billing Act is limited to a minimum of $100 in an individual action and a maximum of $50,000 or 2 percent of net worth—whichever is less—in a class action suit. These limitations would also apply retroactively to pending suits which have not been finally decided. No limitation is placed on the amount of actual damages which can be recovered by consumers;

Eleventh, persons involved in fraudulent credit transactions of $1,000 or more in 1 year which affect interstate commerce can be fined up to $10,000 or imprisoned up to 10 years or both;

Twelfth, the disclosure provisions of the Truth in Lending Act are amended to resolve certain difficulties encountered by the Federal Reserve Board in administering the act.

NEED FOR LEGISLATION

Many of the billing problems experienced by consumers are a reflection of the phenomenal growth of credit cards and the use of computerized billing systems. A 1970 House committee report estimated there were 300 million credit cards in circulation with new cards being added at the rate of 100 million a year. Sales generated by credit cards exceed $50 billion and over 50 million Americans carry at least one credit card. That is about one-half of the adults; about 50 percent of our adults carry one, which is close to one per family.

The Federal Reserve Board reports that credit card accounts reached $17 billion as of June 30, 1971, up $2 billion from the previous year. Those who issue credit cards include commercial banks, retail merchants, department stores, oil companies, airlines, travel and entertainment companies, and others. Much of the growth in credit cards has been beneficial for the consumer, but new problems have also arisen which require corrective legislation.

RESOLVING BILLING ERRORS

Individual Members of Congress have received numerous complaints from consumers who have had considerable difficulty in resolving errors appearing on their monthly credit statements. The Federal Trade Commission has nearly 2,000 complaint letters from consumers who have had trouble in getting a billing error corrected. The Department of Consumer Affairs of the city of New York testified that it has received a large volume of complaints about unfair billing practices. Similar complaints have been received by consumer protection agencies throughout the country. A survey taken by the Minneapolis Tribune shows that one out of every three consumers has had at least one billing error problem.

Just think of it. This is not something rare that we are dealing with; it is something that is extremely common. One-third of the consumers—let us look at it another way, one out of every three voters—has had this experience.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROXMIRE. Mr. President, was this taken out of the Senator from Utah's time?

The PRESIDING OFFICER. Two minutes were taken out of his time.

Mr. PROXMIRE. I yield myself an additional 10 minutes. I thought I was being very careful, because I was pretty careful in analyzing this, but I do not dispute it. I will not question the Chair.

As evidence of the widespread concern over billing errors, my subcommittee took testimony from 16 consumers, some of whom traveled great distances at their own expense to testify on the need for Federal legislation to curb unfair billing practices.

Most consumer complaints about billing errors involve a common pattern. In a typical case, a consumer might discover a billing error on one of his monthly charge account or credit card statements. Or he might need further information about a particular item appearing on his statement. He then writes to the creditor but receives no satisfactory response. In the meantime, he is besieged with a series of computer-written dunning letters, each more menacing than the last. These letters often threaten the consumer with a bad credit rating or other legal action unless he pays the disputed amount.

After months or years of carrying on a one-sided correspondence with a computer, many consumers give up in frustration and pay the disputed amount even though they may feel they do not owe it. Others manage to get their dispute resolved through sheer persistence, although it may take many months or even years of patient letter writing. Some are able to get their billing problems straightened out by writing to the president of the company or to their Congressman or Senator. A few hire attorneys to press their claim. One consumer witness spoke of spending $150 in legal fees to settle a $22 billing error.

The heavy volume of consumer complaints led the FTC to propose a trade regulation which would have prohibited creditors from attempting to collect a disputed amount until the creditor gave an adequate explanation as to why the bill was correct—FTC notice dated October 8, 1970. However, there was some controversy as to whether the scope of the FTC's proposed regulation could cover commercial bank credit card plans since banks are exempt from the Federal Trade Commission Act. The Commission agreed to postpone its regulation when it appeared that Congress might enact similar legislation which would clearly apply to all segments of the credit industry—FTC release dated January 7, 1971.

The bill deals with these consumer complaints by requiring the prompt and orderly resolution of billing disputes within two complete billing cycles, but, in no event, later than 90 days. The legislation applies to all consumer credit transactions and to all segments of the consumer credit industry including commercial banks, retailers, petroleum companies, and the issuers of travel and entertainment cards.

THE SHRINKING BILLING PERIOD

Another typical consumer complaint involves the so-called shrinking billing period, where a creditor mails his monthly statement so late that a consumer has only a few days to make payment in order to avoid a finance charge. Most credit card plans require payment within 25 to 30 days from the end of the previous billing period. However, the actual time remaining before payment is due can be considerably shortened if a creditor is late in sending out his bills.

The FTC has received nearly 500 letters from consumers who have complained about the shrinking billing period. In one example, a consumer could not have avoided a finance charge even if he sent his payment back on the same day he received his bill.

There may be legitimate reasons for delay in mailing billing statements. Nonetheless, some may be tempted to decrease the time available for payment as a method for increasing finance charge revenue. Many consumers are paid twice a month and are not able to pay their credit card bills until their next paycheck is received. These consumers may thus be required to pay finance charges at an annual rate which generally runs 18 percent because of the creditor's delay in mailing its billing statement.

The bill deals with the problem by requiring creditors to mail their billing statements at least 14 days before a payment must be made to avoid a finance charge. If a creditor fails to provide 14 days for payment he is prohibited from collecting any finance charges on the amounts billed for that period.

PROMPT CREDITING OF PAYMENTS

Another common billing problem involves a creditor's failure to credit promptly a consumer's payment on his charge account. Many revolving credit plans require payment within 30 days to avoid a finance charge. If a consumer pays on the 30th day, he may still be assessed a finance charge if a creditor fails to credit his payment as of the date it was actually received. Consumers who make their payments on time should not be penalized for bookkeeping delays by the creditor.

S. 652 deals with this problem by requiring the prompt posting of payments on revolving charge accounts in accordance with regulations of the Federal Reserve Board. The bill gives the Board some flexibility to handle the case of creditors who may not be able to post a payment on the date it was received. However, the committee specifically intends that a consumer shall not be penalized if he makes his payment on or before the due date since creditors are specifically authorized, under section 210 of the bill, to give consumers an additional grace period from the time payment is due before imposing a finance charge. This additional grace period may vary, depending on the creditor, but it is expected that it will not exceed 7 days.

EXCESS PAYMENTS

While not a frequent complaint, some consumers have encountered difficulty in having excess payments refunded or credited to their account. The hearing record contains a case of a consumer who was unable to obtain a cash refund for a $100 overpayment to an oil heating company at the end of the winter heating period. Instead, her account was credited so that the only way of getting her money back was to make additional oil purchases the following fall. In the meantime, the creditor had the use of the money.

Most credit grantors will promptly credit excess payments to a customer's account or make a cash refund if requested. The bill would require all creditors to adhere to these standards.

CASH DISCOUNTS

Another problem arising out of the use of bank or travel and entertainment credit cards is the inability of the merchant to offer a cash discount to customers who prefer to use cash instead of a credit card. The typical bank-merchant agreement forbids a merchant from offering a discount to cash buyers. A small merchant has little or no bargaining power with a large credit card issuer and must generally accept these terms if he wants to participate in the credit card plan and compete effectively with other retailers. The chairman of the FTC has testified that such agreements raise serious antitrust law questions and similar thoughts were expressed by the spokesman for the American Bankers Association.

Under a typical three-party credit card plan, the merchant honoring a credit card sends a copy of each sales draft to the card issuer and receives payment at a discount which usually runs between 3 to 5 percent. This discount compensates the card issuer for the expense involved in operating the credit card plan. The merchant might be willing to offer a similar discount to his customer in return for paying cash, but he is precluded by the terms of his agreement with the card issuer. Therefore, his prices to both cash and credit customers must anticipate the payment of discounts to card issuers on credit card transactions. The cash customer thus pays for some of the costs of the credit card system without realizing the full benefits of that system.

The legislation would provide some relief to cash customers by prohibiting agreements between card issuers and merchants which forbid the merchant to offer a discount to cash customers. The legislation does not require merchants to offer discounts to cash buyers, but it does give him the option of offering a discount if he so desires.

In order to facilitate the offering of cash discounts, the legislation also exempts such transactions from the disclosure provisions of the Tuth in Lending Act provided the discount does not exceed 5 percent and its availability is disclosed and offered to all prospective buyers. The Federal Reserve Board has already exempted transactions involving discounts of 5 percent or less from the annual percentage rate disclosure requirements of the Truth in Lending Act. However, the other disclosure requirements of truth in lending currently apply including the disclosure of the cash price and the amount of finance charge. These additional requirements may have the unfortunate effect of discouraging cash discounts. Accordingly, the committee has exempted such transactions from all truth in lending requirements under Federal Reserve Board regulations.

TIE-INS

A related provision of the legislation prohibits credit card issuers from requiring that merchants maintain deposits or purchase other services as a condition for participating in a credit card plan. Hearings held by the House Select Committee on Small Business in 1970 revealed that some bank-merchant agreements required the merchant to open a deposit account with the issuing bank in order to join the credit card plan. These agreements raise serious antitrust questions and should be prohibited by public policy.

OFFSETS

Consumers often find their legal rights eroded on bank credit card plans through the common practice of offsetting a credit card debt against funds held in a consumer's checking or savings account. These funds can be attached through the practice of offset without any recourse to the courts and in spite of any valid legal defense the cardholder may have against the bank. A bank thus obtains a unique leverage over the consumer since it is acting as a depository financial institution as well as a credit card issuer. Any other creditor would have to apply to a court before being permitted to attach funds in a borrower's deposit account.

The bill would prohibit banks from offsetting a cardholder's debt against his deposit account unless the cardholder agreed in advance to authorize the offset and was given 10 days to rescind the offset in the case of any dispute. This will permit the continuation of bank plans which call for offsets as long as the consumer is given an opportunity to rescind the offset if he has a dispute about a specific transaction.

I have an amendment I would like to offer as soon as I can, but I reserve the remainder of my time. It may be that the distinguished Senator from Utah would like to speak before amendments are offered.

Mr. BENNETT. Mr. President, I have a number of amendments, also, which I understand will probably be accepted, but I think probably we should get the opening statements out of the way before we get into the amending process.

I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, it has been difficult to weigh the equities in all of the considerations which we had before our Banking, Housing and Urban Affairs Committee with regard to S. 652, the Fair Credit Billing Act, as introduced, and the proposals for amendment which were offered.

When our hearings on the proposed legislation began, I stated that the committee faced the problem of working out legislation that would contain a wise combination of solutions to problems. I added:

> We have got to be careful of our approach because if we write all of these things into law, we may put a burden on the legitimate merchant which is so heavy that he will have to increase the cost of his merchandise or the cost of his credit to provide for all these possible contingencies.
>
> There is such a thing as overkill, and we must be careful not to insist on that.

The Senator from Wisconsin replied:

> I think there is great wisdom in what you say; I think we should be very careful, as you say. We can go too far in these areas. I never expected that the bill would be passed in the form in which we introduced it. That is the purpose of these hearings, of course.

I believe that the committee has done a remarkable job of considering the evidence presented at the hearings and the proposals offered both at the hearings and subsequent to that time and reaching reasonable conclusions. Many of the original proposals would have resulted in restricted credit and an increase in costs of credit granting. The bill has been amended to take into consideration the realities of credit operations and the limitations that exist. The committee worked hard to develop a bill that would provide maximum protection to consumers without jeopardizing legitimate credit operations.

Mr. President, one need only glance at the bill reported by the committee to discover that it is a much amended bill from the original S. 652 introduced last year. In fact, all after the enacting clause of the original bill was stricken, and a rewritten improved bill was substituted. The bill was supported by the entire committee and in that sense is a committee bill. However, in deference to the Senator from Wisconsin, the committee retained the number of the bill he introduced last year, S. 652. There is no doubt that the Senator from Wisconsin deserves much of the credit for this legislation and no one wanted to deprive him of that credit.

On Wednesday, March 15, at an executive meeting of the committee, S. 652 was ordered reported. The motion to report the bill as amended was made by the Senator from Wisconsin who, as I have stated, was the author of the original bill. The committee bill was reported without objection from any member of the committee.

It was a foregone conclusion, of course, that the Senator from Wisconsin would report the bill to the Senate since it was an amended version of his bill. No indication to the contrary was given throughout the entire consideration of the bill. That the Senator from Wisconsin's man on the committee staff thought the Senator from Wisconsin would report the bill is evident also, because the original draft of the report which he developed and of which I have a copy had the Senator from Wisconsin listed on the title page as the one who reported the bill from the committee to the Senate. The original draft report was not satisfactory to some members of the committee because we felt that some of the provisions turned down by the committee were of such importance that the committee action on these deleted provisions should be discussed in a separate section of the report. Knowing that it might be difficult for one who had helped develop the provisions which the committee turned down, to discuss the reasons for the committee decisions, an offer was made by another staff member of the committee to draft those discussions. This offer was not accepted, and when the draft was made available to members of the committee, there were those of us who felt that the suggested report language did not represent the action taken by the committee. In fact, it was not too dissimilar from the individual views of the Senator from Wisconsin which accompany the committee report.

As I indicated in my earlier questions to the Senator, we have here a very anomalous situation. He is reporting the bill and controlling the time in support of it, but he is in opposition to the bill, and I, who am speaking in support of the bill, have the time in opposition.

As one who has often been in the minority on proposals reported from the committee, I am very well aware of the rights of individual committee members whose views are rejected by the committee to file minority views, dissenting views, or individual views, taking any position desired. However, I do not recall a single case in which the position not accepted by the committee has been argued in the body of the majority report from the Banking Committee in language indicating opposition to the action taken by a majority of the members of the committee. It was explained that the committee report should describe and support action taken by the committee. Apparently, the Senator from Wisconsin was unwilling to report the bill unless the report indicated support for provisions which the committee had, in fact, turned down.

Mr. President, all the members of the committee knew that the Senator from Wisconsin intended to submit individual views to the report, but I am sure that many of the members of the committee were surprised with both the form and the content of the individual views submitted by the Senator from Wisconsin regarding S. 652. I believe that it is worthy of note that he was not joined in signing his views by any other member of the committee. A reading of the views is sufficient to learn the reason for that fact.

I would like to discuss a few of the statements in the individual views of the Senator from Wisconsin which concern me. I regret that this is necessary but feel it is important that what I feel are misstatements not be left in the record unquestioned.

I am surprised that the Senator from Wisconsin would be critical of a provision dealing with penalties for the fraudulent use of credit cards. He certainly was not critical of these provisions in the committee and disregarded objections of the Justice Department. Fraud has always been an area of government involvement and interstate fraud has always been an area of involvement of the Federal Government. The Senator says that "we should not foster the illusion of reform while accomplishing little." I think the Senate should know that we are not trying to foster any such illusions in this legislation. The bill does just what it states it does. The committee report explains exactly what the bill is intended to do and even contains a separate section, against the wishes of the Senator from Wisconsin, stating that the committee considered other provisions, that these provisions were turned down, and the reasons why they were turned down. I do not know how the committee could have been more forthright. I do not know how it could have done more to assure that there would be no misunderstanding of its action. By including in its report this section on provisions not accepted by it, the committee focuses the attention of all who are interested on provisions that were turned down. There was no attempt to hide the action of the committee. The Senator from Wisconsin says, "No bill is better than a bogus bill." All who are interested should know that there is nothing bogus about this bill. I believe that the Senator really indicates why he decided not to report the bill which he had supported in both the subcommittee and the full committee when he says in his views that—

> The section of the report dealing with the provisions deleted by the committee was prepared by the committee's minority staff, presumably at the insistence of a majority of its members (although no vote was taken on the language), and in my view represents a one-sided account of the committee's deliberations.

I do not intend to argue whether the discussion of deleted provisions in the report is one-sided as stated in the individual views submitted by the Senator from Wisconsin. Those who read the report and the individual views can make their own judgment. I can, however, say that the section deleted by the committee is the result of contributions from the offices of several members of the committee from both sides of the aisle. Second, the report was prepared on behalf of a majority of the committee which included members from both the majority and minority parties. The Senator makes a point that no vote was taken on the language that appears in the report. It is not a practice in our committee that members take a vote on committee reports. However, I would like to say to the Senator from Wisconsin that the language of the committee report was made available to all members of the committee, and a majority of the members indicated that, in their view, it accurately represented the action taken by the committee. Indeed, the Senator from Wisconsin seems disturbed because the majority disagreed with his views.

I am surprised that the Senator from Wisconsin would suggest that the committee bill might be more accurately termed the "Bank Protection Act of 1972" instead of being titled the Fair Credit Billing Act. This puzzles me for several reasons. The first of these is that the bill reported by the committee contains virtually all of the provisions in his original bill requiring prompt and fair resolution of billing disputes, regulation of credit reports on disputed amounts, and sending of bills sufficiently in advance of the due date to allow payment without the imposition of a finance charge, prompt crediting of excess payments, prohibition of offsets without the consent of consumers, and the permitting of discounts for cash. To be sure, the committee amended these provisions so that they might be made more workable, but I doubt that the Senator from Wisconsin really wanted to deprive the committee of that opportunity since he said at the outset he did not expect the bill to be enacted without amendment.

The kindest way I can respond to the Senator's suggestion that this could be called the "Bank Protection Act of 1972" is to say that he sometimes seems to be given to overstatements. The bill has two titles. I find nothing in title I of the bill which lessens restrictions on banks and other creditors from those under which they now work. On the contrary, the provisions of title I impose new Federal requirements and restrictions on banks and other credit grantors, which do not presently exist in the law. All of these requirements and restrictions are intended to benefit consumers.

Title II of the bill has provisions not contained in S. 652 as introduced which are intended to improve the administration of the truth-in-lending law. Of the 10 provisions contained in that title, seven were recommended by the Federal Reserve Board and were accepted by the committee with little discussion, and with the support of the Senator from Wisconsin. The eighth was drafted at the request of the Senator from Tennessee (Mr. BROCK) to help reduce credit card fraud, and was supported by the Senator from Wisconsin. The ninth was one recommended by bankers, and would permit them to lengthen the grace period within which no finance charge would be imposed—a provision which is obviously beneficial to consumers. This provision was also agreed to by the Senator from Wisconsin. The last of the 10 provisions could possibly be termed protective of creditors because it provides a limitation on class action liability which would protect them from excessive class action liability where no damages are involved. It should be pointed out, however, that such protection was recommended by the Federal Reserve Board and applies not just to banks, but to credit unions, retailers, savings and loan associations, and all other institutions which are subject to the provisions of the Truth-in-Lending Act. Regardless of how one classifies this limiting provision on class action, it should also be made clear that it was proposed to the committee by the Senator from Wisconsin and the Senator from Wisconsin offered the amendment reducing the maximum liability from $150,000 to $50,000. This was done in the absence of a vote to strike the class action section or to remove any class action liability or a vote on the $150,000 level as a maximum. The only amendment to this section which the Senator from Wisconsin did not offer is a minor one to which he agreed, limiting the liability to 2 percent of net worth.

It does seem a little inconsistent now for the Senator from Wisconsin to say that the bill could better be called the Bank Protection Act of 1972.

The Senator from Wisconsin suggests that unless the legislation can be substantially improved, it is doubtful that the bill is worthy of congressional approval. The Senator has a right to oppose the proposed legislation if he feels that it is not worthy of support. However, I would like the Senate to know that this bill contains major benefits to consumers and that in my opinion it is worthy of the support of every Member of this body. Mr. President, let us not be misled by suggestions that this bill accomplishes little. Let us reject the claim that it is not meaningful legislation. Let us not consider it as fostering an illusion, and let us not entertain the misconception that it is a bogus bill.

When the bill dealing with billing practices of creditors was introduced, its sponsor cited a 12-point program which he called a bill of rights for the consumer, and subsequently he admitted that his bill may have gone too far in some areas. Nine of those twelve original points are included in the bill reported by the committee with improvements that have made them workable. Furthermore, additional protections were added as a result of the committee deliberations.

Instead of being critical of the committee bill, the sponsor should be grateful to the committee for working out provisions that would provide the protections which he apparently intended in these nine areas, without completely disrupting credit card programs which are beneficial to consumers, and without unduly burdening creditors with procedures which were either impracticable or which would inevitably result in higher costs of credit operations, which costs, as we know, would eventually be paid by consumers.

Let me explain why I believe this bill is worthy of the support of every Member of this body. The committee bill protects consumers by requiring creditors to acknowledge both requests for information and customer billing disputes within 30 days and to provide the requested information or resolve the billing dispute within two billing cycles but not to exceed 90 days. Creditors who do not meet these requirements forfeit the amount in dispute up to $50 whether or not the bill was in error. The Senator from Wisconsin may think that this is an illusion. I do not. It is directly responsive to the problem expressed by the overwhelming majority of individual consumers who testified at our hearings.

Consumers are also protected from receiving letters or being subject to other actions to collect a disputed amount, nor can such amounts be reported as being delinquent, before an explanation is given to the consumer justifying the amount in dispute. Thus, the consumer is protected from harassment if he asks for additional information or if he questions a bill. In addition, he is assured that asking for additional information or disputing an amount on a bill will not result in jeopardizing his credit rating.

After a creditor has explained a bill, if a customer still disputes the bill, either with or without any basis, a creditor is prohibited from reporting the disputed amount as delinquent to a third party, such as a credit reporting agency, unless the creditor also notifies the customer and informs the agency that the amount is in dispute. If such a report is made, the creditor must also report any subsequent resolution of the dispute to the third party or the credit reporting agency. Thus, by simply disputing a bill, a consumer can be assured that no negative report will be given to any third party without his knowledge and a statement that the bill is disputed by the consumer. I do not consider this protection to be an illusion nor do I consider it to be bogus or meaningless.

Consumers must receive a brief identification of each transaction on their monthly billing statements; each billing statement must contain an address of the billing agency which is to be used by the customer whenever he wishes to question the account. Moreover, the customer is to be informed when opening an account, and at least twice a year thereafter, of the protections granted to him by this legislation. Those protections include having the creditor prove that he, the customer, was involved in a transaction, that the transaction was made for the amount indicated on the bill, and that the amount indicated on the bill or any portion of it has not been paid. I certainly do not consider these provisions to be an illusion nor do I consider them to be bogus.

Unless the billing statements on open-end accounts are mailed to customers at least 14 days prior to the time when the account may be paid in full in order to avoid a finance charge, the creditor may not impose a finance charge for that period. This assures that if a period of time is granted by a creditor during which a consumer may make full payment and avoid a finance charge, he must be given a reasonable period of time after receipt of his bill in which to make that payment.

The bill requires that payments by customers on their accounts be promptly posted in accordance with regulations of the Federal Reserve Board. This is to assure that creditors do not unnecessarily delay posting of payments in order to increase the revenue received from finance charges.

Excess payments must be promptly credited to accounts and refunded to customers if they so request.

Credit card issuers cannot prohibit those who accept such cards for goods or services from offering a discount to customers for payment of cash or with a check instead of using the card system for payment.

Card issuers are prohibited from offering a customer's credit card debt against a checking or savings account unless the customer has agreed to such offsets and is allowed 10 days in which to rescind the offset, should he change his mind.

Mr. President, these are the protections granted consumers and the requirements placed on creditors that the Senator from Wisconsin refers to as meaningless, illusions, and bogus.

This bill is no illusion, and there is nothing bogus about these protections included in its provisions. In fact, the committee bill is one of the most far-reaching, if not the most far-reaching, consumer protective measure in terms of regulating actual consumer credit practices that has ever been considered by Congress.

Mr. President, how much time have I used?

The PRESIDING OFFICER. The Senator from Utah has used 24 of his 60 minutes.

Mr. BENNETT. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. I yield to the Senator from Tennessee such time as he may require.

Mr. BROCK. Mr. President, the Fair Credit Billing Act now before the Senate represents an important step towards protecting consumers against the frustrations of inaccurate and unfair billing practices, as well as from credit card fraud.

Before going into the merits of the legislation, I would like to commend the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Massachusetts (Mr. BROOKE) for introducing the original legislation. I was pleased that the distinguished chairman of the committee, the Senator from Alabama (Mr. SPARKMAN) so promptly ordered hearings and an executive session on this legislation. The members of the Subcommittee on Financial Institutions worked diligently to perfect the original proposal into a workable piece of legislation.

Since there has been a misleading news account of the role that outside interest groups played in the consideration of this legislation by the committee, I would like to take this opportunity to set the record straight.

I have particular reference to the charge that the banking lobby intruded itself into the committee's considerations in an attempt to gut the bill. Nothing is further from the truth.

When the bill was introduced, like so many proposals before hearings and executive sessions, it was far from a perfect piece of legislation. In fact, in its original form it would have had an opposite effect than that intended. Many of the provisions of the bill would have been extremely costly for the consumer. Its effect would have been to deprive many small businesses of the ability to extend credit to their customers and would have created a monopolistic environment for the large financial institutions. It would have stifled the growth of the technology to enable us to live in a cashless society. Many sources of credit to the lower income groups would have dissolved, and the bill had no provision to protect the consumer from credit card fraud.

Arthur F. Burns, Chairman of the Board of Governors of the Federal Reserve System—the agency that has the responsibility for administering the Truth in Lending Act—wrote the committee on August 23, 1971:

> Some of the problems dealt with in the bill are definitely in need of attention, but there is a possibility that legislation in the area, unless devised with great care, may involve greater disadvantages than benefits to consumers. For example, heavy expenses (some of which seem unavoidable and all of which ultimately will be borne by consumers) will be associated with some proposed requirements. Also, additional disclosure requirements may have the paradoxical effect of obscuring and deemphasizing those disclosures which are already being made under Truth in Lending.

First, let us look at some of the problems that the original bill would have created for the very person—the consumer—that the legislation is intended to protect.

The Chairman of the Federal Trade Commission, who saw a need for legislation in the area, testified before the subcommittee that section 164 of the original bill might well induce creditors to eliminate the option consumers now have to avoid payment of a finance charge. This, in effect, would have eliminated the "free period" of from 30 to 45 days that most customers have before a finance charge is imposed on an outstanding balance. This cost to the consumer would run into millions of dollars.

There was also testimony that section 163 requiring a 21-day billing period would have made it very difficult for small creditors without sophisticated electronic equipment to operate and would have tended to eliminate the free period. The consumer would thus be denied convenient, competitive sources of credit.

As Chairman Burns pointed out in his statement, there were many technical provisions in the original bill which would have made compliance costly. This cost would also ultimately be borne by the consumer.

Of equal concern to me is the effect that some of the original provisions of the legislation would have had upon small business. As the House of Representatives Select Committee on Small Business concluded from its recent study of the impact of credit cards on small business, bank charge card programs provide the small retailer "with a capacity for credit sales he would not otherwise have," and provide "small businessmen with a competitive tool which can be used in competing with larger retailers or retail chains which can afford their own credit system."

Recognizing that bank cards are convenient to the consumer and a competitive tool for the small businessman, the House committee warned that credit card users "should not be so regulated or harrassed that they are forced to discontinue operation."

One witness before our committee testified that small merchants in Missoula, Mont., accept the bank cards because of acceptability and security. The provisions of section 169 that would have permitted card holders to withhold payment for merchandise received, would destroy acceptability of bank cards and deprive consumers and small merchants of their benefits in that community. Many merchants in small communities in Tennessee who rely on tourist trade tell me the same story.

Also, many small merchants were equally concerned with section 164 which would have required that the base for computing finance charges be the "adjusted balance" method, and it would have prohibited the use of the "previous balance" method and cast a question on the use of "average daily balance" method. The "previous balance" method is a convenient method of computing service charges and one often used by small businessmen who cannot afford electronic equipment to compute the more complex "adjusted balance." This provision would place the Federal Government in the role of regulating finance charges and interest rates. This is now determined by State law. It is not at all clear what effect such regulation would have on small businesses, and the matter of the effect of regulation on the availability of consumer credit is now under study by the National Commission on Consumer Finance. The majority of our committee felt it would not be prudent for the Federal Government to venture into these uncharted waters at this time.

Other original provisions of the bill would be so costly and difficult to comply with that they would effectively preclude many small businesses from offering credit and force them to use bank credit cards.

Area charge cards are the most revolutionary development in our monetary system since the advent of negotiable instruments. Since bank cards have accounted for more than 50 percent of the total increase in revolving credit during the past 3 years, the future portends an even greater role for this development in our economy. The credit card provides great conveniences for the consumer by eliminating the need to carry large amounts of cash and permitting the consumers to make credit purchases while traveling away from home. But many provisions of the original bill would have impeded this growth.

The requirement of section 2 of the original bill for an identification on each billing of the goods or services purchased would make computerization of billing difficult, if not impossible. The prohibition of offsets in section 166 would have denied the consumer the right to request a bank to completely automate his account. This would have outlawed bank preauthorization payment plans involving the automatic debiting and crediting of bank depository accounts when related to credit cards. With this provision the consumer's bills could no longer be handled electronically.

In sum, many provisions in the original legislation were totally unworkable and not in the interest of the consumer or the small businessman.

This was recognized by the distinguished chairman of the Subcommittee on Financial Institutions when he was hearing testimony from Mr. Kenneth V. Larkin representing the American Bankers Association. On October 29, 1971, the chairman stated:

> Frankly, I am disappointed, Mr. Larkin, that you haven't come forward with at least some kind of construction recommendations in the event there is legislation.

The chairman continued, speaking of the bill, S. 652:

> I know you gentlemen can improve it.

He added:

> I want your advice—it would be very helpful to us, in the event we do pass legislation, that we take action that will not stem what has been a very useful, very fine spur for our economy, great benefit to our consumers.

He also stated:

> That's why you gentlemen are here, why we want you to continue to advise us on this. We certainly don't want to do anything that would interfere with the great advances in technology that have been developing here.

He continued:

> Before I yield to Senator Brock, let me just say once again on the assumption there is legislation, would you provide for the record specific amendments to S. 652 which you feel will make the bill workable, or more workable, and less onerous for the banking industry?

As a result of this specific request, on February 16, 1971, the American Bankers Association sent a letter signed by their executive director, Charles R. McNeill, to Senator PROXMIRE as chairman of the Subcommittee on Financial Institutions, transmitting specific recommendations for modifying S. 652, along with a comparative analysis of their proposal and S. 652. The McNeill letter asked the subcommittee chairman, if he, or some other member of the subcommittee, would introduce the proposal as an amendment "so that other Senators and their staffs may have a better opportunity to study the specific proposals it contains."

The American Bankers Association sent me a copy of this material. In order that other Senators and their staffs would have an opportunity to study these proposals, and upon request and without commitment to the provisions of the amendment, on February 23, 1972, I introduced the banking panel's suggestion in the form of an amendment in the nature of a substitute to S. 652.

Because there was an obvious need for amending the original legislation, the majority of the members of the subcommittee and the full committee acted favorably upon the suggestions to improve the bill made by the banking panel, retail groups, and small business interests.

Not only was S. 652 as originally drafted regressive and anticonsumerist in the ways already discussed; it also failed to deal affirmatively with one of the most serious problems that has confronted the "new currency" bank card mechanism. I am referring, of course, to the problem of credit card fraud, forgery, and theft. During the year ending December 31, 1970, member banks of the Federal Reserve System suffered losses of $115,549,000 or 3.9 percent of outstandings, a large portion of which was due to fraud, forgery, and theft. We must assume that ultimately consumers bear the costs of such losses. I was pleased that the committee added to the bill my amendment to protect the consumer from these losses by increasing the criminal penalties for the fraudulent use of credit cards.

The bill as it now stands is good legislation. It will protect the consumer by:

Requiring creditors to acknowledge customers' billing disputes within 30 days and to resolve these disputes within 90 days;

Prohibiting creditors from sending dunning letters or taking other action to collect disputed amounts or making adverse credit reports during this period;

Limit creditors right to report disputed accounts to credit reporting agencies;

Requiring a brief identification of each transaction on a monthly billing statement;

Requiring the mailing of billing statements at least 14 days prior to the date payment is due;

Requiring creditors to promptly post customers' payments;

Protecting merchants from requirements that they maintain deposits with the credit card issuers or provisions that would prohibit discounts to cash customers;

Prohibiting financial institutions from offsetting a consumer's credit card debt unless the consumer has agreed to such offsets;

Limiting a creditor's liability for punitive damages; and

Protecting consumers from fraudulent credit card transactions.

The committee bill is good legislation. It will help consumers resolve credit billing disputes in a fair and reasonable manner—I urge its enactment without crippling amendments.

Mr. President, I should like to address myself for a few moments to the statement of the Senator from Wisconsin (Mr. PROXMIRE) in his additional views, to the effect that "there were six major provisions stricken from the legislation." I am somewhat puzzled by this assertion.

Some of the items discussed as being stricken were never part of the legislation introduced by action of the subcommittee or the committee. Only one provision stricken by the committee, that dealing with minimum charges, was in the original bill introduced by the Senator from Wisconsin. Only two of the issues discussed as being stricken from the legislation were the subject of a committee vote in any form. Those two were the utility exemption from truth-in-lending requirements and the issue dealing with waiver of defenses.

The first item suggested by the Senator as being stricken from the legislation by the committee is a provision that would have restricted creditors from assessing finance charges on a credit balance before the date set for full payment. The fact is that this provision was never part of S. 652 at any time. S. 652 did contain a provision that would have prohibited creditors with open-end credit plans from using other than an adjusted balance method of determining a finance charge, if the plan embodied a period of time during which payment could be made without the imposition of a finance charge.

Mr. PROXMIRE. Mr. President, will the Senator from Tennessee yield?

Mr. BROCK. I yield.

Mr. PROXMIRE. I should like to point out that there is a misunderstanding. I think the Senator makes a good point. What I was discussing was not the original bill introduced, but a bill which I modified after the hearings and after we had the record and all the information. I had another proposal—I have a copy of it here—and if the Senator would like to inspect it, he will find all these provisions are in it. I introduced the bill which did contain some of the provisions which I thought in the hearing were quite persuasive.

Mr. BROCK. The point is that the committee did not have before it the provisions that were stricken. It did not consider those provisions. As I have already stated, as a matter of fact, three were not even a matter of discussion.

Mr. PROXMIRE. On my time, let me say that the bill before the committee for markup was the bill that I hold in my hand and that contained the amendment which I made my original bill. That was what I tried to offer. It is true that I did not press some of the measures and they were not discussed in detail. The major ones were discussed in great detail and voted on.

Mr. BROCK. The Senator has correctly stated the point, that he did not press for consideration. We did not even discuss them. I think the clear implication is, in the additional views by the Senator from Wisconsin, that these were major topics of debate in committee. That is not so. Considering every element and aspect of this legislation from every point of view that I know of, to say specifically that the provisions were stricken from the bill is somewhat misleading insofar as the actual process of the committee is concerned.

Let me proceed with some of the specifics, if I may.

The quote taken from the Federal Reserve memorandum on the provisions of S. 652 was directed at the provision originally in S. 652 and not the provision on which the committee voted and which the Senator discusses in his views. Further, if the full Federal Reserve Board comment is read, it is evident that the Federal Reserve Board questioned the equity of the original provision on the basis that it would have prohibited other methods of computing finance charges which are also considered to be equitable. The Senator from Wisconsin never discussed or offered his original proposal in either the subcommittee or committee executive sessions. Presumably he, too, decided that it was inappropriate. It should be recognized that the provision which was discussed in the committee had a significantly different conceptual basis. I feel that I should point out that no member of the committee, except the Senator from Wisconsin, argued in favor of the proposal in the subcommittee. It was not even brought up for discussion during the full committee executive sessions. The committee report accurately describes the reasons why members did not support the proposal.

The Senator from Wisconsin claims that the committee deleted a provision which would have stopped the practice of billing consumers for undelivered merchandise. Such a provision was not contained in S. 652 as introduced, nor was there any action by the committee to include such a provision in the bill, so that in fact the provision was not deleted or discussed by the committee. The Senator from Wisconsin did suggest a provision which would have prohibited a cardholder from using his card for the purchase of goods or services to be delivered to someone other than the cardholder. His proposal would also have prohibited the use of a credit card for making a down payment on a contract for future delivery. The provision, however, could not have applied to third party card issuers whose credit card plans are similar to checking accounts with the substantial increases in their costs, and it was turned down by the committee. The Senator from Wisconsin suggests that the committee "apparently decided to delete this provision on the grounds that the bill already permits a consumer to withhold payment for undelivered merchandise."

The Senator should know exactly why this provision was not acceptable to the committee. The problems relating to the provision were discussed openly and frankly in the executive session. The provision was discussed in conjunction with the provision that now appears in the committee bill on this subject. I proposed an amendment which became the provision in the committee bill. The Senator from Wisconsin accepted my amendment as doing the trick.

In addition to supporting the amended provision, the Senator from Wisconsin supported the striking of the provision which he now questions in his views. The fact is, there was no opposition to the action taken by the subcommittee or in the meeting a week later of the full committee. In expressing his dismay at the committee action which he supported, the Senator says that under the provision in section 161, the creditor need only explain that the goods have been delayed and then he can continue pressing for payment.

The bill now clearly defines as a billing error:

> A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction

Section 161 requires that before taking any action to collect the amount in dispute or any part thereof, the creditor must make appropriate corrections in the account or send a written explanation or clarification, after having conducted an investigation setting forth why the account is correctly stated, along with documentary evidence of its accuracy if requested by the customer. There is no way under that provision that a creditor could continue to press for payment by simply explaining that there has been a delay in delivery. The creditor must explain why the account is not in error. With the clear definition of billing error already discussed above, the creditor would be prohibited from seeking payment unless the customer had agreed to make such cash payments with delayed delivery at the time of the transaction. In other words, with the customer's consent. The Senator from Wisconsin suggests in his views that the committee deleted a provision to repeal the exemption presently provided for regulated public utilities under the Truth in Lending Act. As with most of the other provisions discussed by the Senator in his views, this was not part of S. 652, nor did the committee ever take action to include it in the bill. A proposal was offered by the Senator from Wisconsin in the subcommittee to delete the present exemption. That was turned down. The Senator did not even ask for a vote in the full committee. It is worthy of note that in its annual report for 1971 on the Truth in Lending Act, the Federal Reserve Board made many recommendations to improve the operation of the act. No recommendation was made, however, to delete the utility exemption. Further, the Members of the Senate should know that the Federal Trade Commission has not suggested any change in that regard. In fact, at a meeting held just a few days before the committee went into executive session, the Assistant Director of the Federal Trade Commission responsible for consumer credit and special programs, Sheldon Feldman, suggested that although the Commission had not taken any official action on the issue, he felt that it would not be appropriate to remove the exemption.

The Senator cites a decision made supporting removal of the exemption by the National Commission on Consumer Finance on February 23, 1971. That action by the Commission was highly irregular, since the Commission had earlier made it a policy not to become involved in legislative matters unless and until it had studied the issues and had made a factual basis on which to make recommendations. There is no indication that the action of February 23 was made on the basis of such studies. Members of our committee informally asked the Chairman and the Executive Director of the Commission if they would be able or willing to give their views on the provisions of S. 652, and they declined on the basis that they had not completed their studies and that it would not be appropriate to comment until they had.

Another of the six issues which the Senator says was stricken from the legislation dealt with a prohibition on mail solicitation of goods not offered in the normal course of business. The sponsor of this provision was in the hospital and the members of the subcommittee, in typical fashion, wanted to assure that it would be discussed fully by the committee. On that basis it was included by the subcommittee without any vote or any expression by a majority of the subcommittee regarding its desirability. When it was suggested in the full committee executive session that the provision not be approved, the Senator from Wisconsin stated, he had no objection to deleting it. No other member of the committee objected to its deletion either. I think it is decidedly one of the six examples of matter stricken from the bill.

The Senator from Wisconsin states that in addition to deleting major provisions which I have just discussed, the committee also seriously weakened the civil liability provisions of the Truth in Lending Act. Let me relate exactly what happened in the committee.

At the subcommittee level, there was a great deal of discussion of the issue, but it was again decided that because of the differences of opinion, it would be desirable to carry the issue over to the full committee without a vote.

In other words, it was without recommendation. When the issue was brought up at the full committee level, the Senator from Wisconsin offered a proposal providing for a maximum aggregate class action liability of $150,000. Without a committee vote on that proposal, however, he then further offered an amendment lowering the maximum liability from $150,000 to $50,000. The committee accepted the proposal of the Senator from Wisconsin without any objection. In addition, it was suggested that to protect small businesses, it would be desirable to have a maximum class action liability based on the percentage of net worth. And the committee, including the Senator from Wisconsin, agreed with that proposal as well. It seems somewhat strange to me now for the Senator to criticize his own proposal and to suggest that the committee seriously weaken the provision against his will when he was the one who suggested the changes.

Perhaps now that I have explained the action of the committee on these various provisions discussed by the Senator from Wisconsin in his individual views, it will be understandable why some members of the committee were surprised at the individual views of the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I call up my amendment.

Mr. SAXBE. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. Mr. President, yield myself time on the bill, and I am happy to yield to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. SAXBE. Mr. President, I would like to know whether S. 652 would subject the so-called convenience, no cost charge accounts to the truth-in-lending law. By convenience charge accounts, I mean the kind of account in which, for example, a patient goes to his doctor but instead of paying the bill at that time, he asks to be billed at the end of the month. Another example might be if a customer had an account at his drugstore and was billed for purchases at the end of each month. Specifically, would these types of credit be covered by the truth-in-lending law because of the change of definition of the term "creditor" which is found in section 103 of the bill.

Mr. PROXMIRE. The answer to that is that it would.

Mr. SAXBE. It would be covered?

Mr. PROXMIRE. That is my understanding.

Mr. SAXBE. Mr. President, as I understand that section, the intent of the committee in changing the definition of "creditor" is to bring under coverage of the truth-in-lending law, the issuers of travel and entertainment cards such as American Express, Diner's Club, and so forth. I have no quarrel with this. My question is whether or not the language is so broad that it would also cover any kind of credit transaction in which a person makes a purchase or receives a service and elects to pay for it at the end of the month rather than pay cash. I have in mind only those situations in which no finance charge is intended nor charged.

Mr. PROXMIRE. Mr. President, the Senator from Ohio and I discussed this matter. I think that he has made an excellent point. It was certainly my intent and I think the intent of other members of the committee that we should extend this in a way that would be inconvenient and would not serve any public purpose. However, the best way to handle it, it seems to me, is to discuss this matter on the floor and rely on the Federal Reserve Board which has authority to provide for regulations respecting the truth in credit bill. They have the authority to exempt any class of transactions and facilitate clients.

I would expect that in the case the Senator from Ohio has presented to the Senate this afternoon that if the Federal Reserve Board determined this would impose an undue burden on creditors it would issue an appropriate exemption.

Mr. SAXBE. Mr. President, I thank the Senator. As I understand it, though, each doctor, each dentist, each drugstore, or—as some of us still do in rural areas, run a charge account at a grocery store—each grocer would not have to go in and ask for exemption. They could be exempted as a class.

Mr. PROXMIRE. Yes, indeed. I am sure that is the case. They would not have to make an individual application. It would be done, as the Senator has said, for an entire class, or the Federal Reserve Board would exempt them.

Mr. BENNETT. Mr. President, I join with the Senator from Wisconsin in his statement of the intention of the committee. I would like to try to fortify his position for the benefit of the Federal Reserve Board when it is called upon to consider this situation. If, inadvertently, we brought every possible extension of credit under the meaning of the act, it was certainly not the intention of this member of the committee to do that.

I hope that the Federal Reserve Board will recognize that and issue regulations which would take out from under the function of the bill this group of creditors who have been designated in this discussion as convenience offerers of credit.

Mr. PROXMIRE. Mr. President, I thank the Senator from Utah.

Mr. President, I yield the floor.

Mr. BENNETT. Mr. President, I yield to the Senator from Texas such time as he might require.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, the Fair Credit Billing Act which the committee has reported is a good bill, which I intend to support on the floor today. It gives the consumer some substantial assistance in getting those annoying billing errors corrected that most of us have encountered from time to time. It is truly a "proconsumer" bill, since it brings the consumer benefits without particularly penalizing the processes of commerce, upon which the consumer ultimately depends for his employment, his income, his goods and services, and his Government's tax revenue.

Mr. President, I might say at this point that I am getting a little tired of people who try to draw a dichotomy between producers and the Government. We are all consumers and we are all taxpayers in this country.

Many times the Senate is asked to vote for bills that their advocates claim are "proconsumer", when in fact all that these bills offer is a superficial "bonus prize" that looks good to the average citizen who does not have the full economic facts before him. When the full facts are analyzed, however, frequently the "bonus prize" aspect is more than offset by adverse changes in the underlying economic structure which must be made to adjust to the new consumer law.

For example, it would be very appealing to the consumer-voter for those of us in Congress to offer to wipe out the income tax on individuals and double the taxes on business firms. Almost everyone would look at that "bonus prize" of no personal income taxes as a delightful prospect. The various people who purport to be the definitive "consumer advocates" of our country would be proclaiming loudly that this would be an extremely "proconsumer" step, and that anyone who opposed it was a robber-baron and a child beater. The emphasis and attention would be wholly on the short-term "giveaway" aspect of the proposal, and the deeper interests of the consumer-citizen in having a sound base of commerce in the country to support employment, income, taxes, and to produce the goods and services he wants would be lost in the dust of a storm of populism.

Obviously, we cannot make decisions in Congress on that type of superficial popularity rationale. We cannot abdicate our responsibility to analyze the deeper economic impact of seemingly attractive "consumer" measures, especially those that seem to give the consumer something for nothing. There is always some adjustment that will have to be made in the economy to absorb a new piece of economic legislation, and our job is to evaluate the benefits and the costs of such measures and to make a well-balanced decision that is in the longer-run best interests of the American citizen. In the very short-run, the taxpayer might find his pocketbook a little heavier if we repealed the individual income tax, but over the longer run he would be living through another major depression that would leave him very much poorer than he started off.

In the bill before us, the same principle of careful analysis of the underlying economic impact was followed in committee, and a number of so-called "consumer" provisions in the original bill were stricken because of the adverse effects they would apparently cause to the other side of the consumer's interests—the existence of a basically sound economic structure to support employment, income, taxes, goods and services. The adverse impact of some of these provisions would certainly not be as serious as those that would be entailed in the tax-abolition example, but the same underlying principle of careful balancing of the advantages and disadvantages of legislative proposals caused the majority of the committee to believe that the ultimate disadvantages to the consumer-citizen did outweigh the apparent short-run advantages to him.

This does not at all mean that the committee majority opposed the goals of most of these proposals, which were basically oriented toward helping the consumer in the credit and merchandise marketplaces. The entire committee endorses the goal of improving the ability of the consumer to deal with the creditor and the merchandiser on a fair basis. The only question involved in each such proposal is what the disadvantages to the consumer may be that accompany such measures—do they in fact negate the economic value of the advantages to the consumer.

Also, in dealing with regulatory economic legislation, we usually face the question of whether the measures proposed at the Federal level would unnecessarily intrude upon the scope of regulatory powers that have traditionally rested with the several States. In many situations I have felt obliged to oppose Federal legislation that, while I may have thought it desirable in a substantive sense, was undesirable because the question under consideration was one with which the States had adequate authority and competence to deal. I do not like to see the Federal Government impose a uniform rule on a given subject every time Congress thinks it sees a solution to some problem, when the several States are fully capable of making their own individual determinations of their citizens' interests in such subject matters. This is one of the great advantages of the federal system of Government: the individual units of Government in the system can legislate for their own citizens on subjects where a vital and universal national interest is not involved, and this system of experimentation with Government is the essence of a successful, dynamic governmental structure in this country. It both provides more direct citizen control over government and a means of keeping the Federal Government from smothering the economy with its own inevitable inertia.

In many of the proposals that the committee deleted from the original bill, this question of proper maintenance of the federal system was inherent in our decisions and instrumental in persuading the committee to strike certain of the provisions. I strongly feel that unless we use restraint in the application of the potentially heavy Federal regulatory hand under the commerce clause of the Constitution, we will eventually smother our economy with unnecessary and obsolete rules and regulations. We need flexibility and generality in our economic rules if our businessmen are to be able to meet the fast-paced market and technological changes that they face. Well intentioned, but heavy handed, Federal regulation of the mechanics of the marketplace will ultimately harm the consumer's employment opportunities, his income potential, his Government's revenue, and the supply of goods and services available to him.

Hence I will argue against most of the amendments to the bill which will be proposed to the Senate today, because upon close examination in the committee the consensus of the majority was that either the proposals were not good for the consumer's deeper economic interests or were unnecessarily inimical to the maintenance of a federal system of government. I do intend to support the bill as it now reads because it contains provisions that on balance benefit the consumer and which by virtue of their mechanical natures justify uniformity of application across the various States.

I urge my colleague to support the bill as it now reads and to analyze closely the amendments which will be proposed to it before deciding whether in fact they are truly pro-consumer and pro-citizen, when all relevant factors are considered.

AMENDMENT NO. 1161

Mr. **PROXMIRE**. Mr. President, I call up my amendment No. 1161.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

On page 19, line 7, strike the quotation mark and insert the following:

§ 170. Rights of credit card customers

A card issuer who has issued a credit card to a cardholder pursuant to an open-end consumer credit plan shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the credit card is used as a method of payment or extension of credit if (1) the obligor has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the credit card; (2) the amount of such initial transaction exceeds $50; (3) the place where the initial transaction occurred was in the same State as the State in which the card issuer maintained a place of business; and (4) the amount of claims or defenses asserted by the cardholder does not exceed: (a) the initial amount of credit extended in connection with the initial transaction giving rise to the claim or defense provided the cardholder notifies the card issuer or person honoring the card of such claim or defense within three months from the date of such transaction; or (b) if the cardholder notifies the card issuer or person honoring the card of such claim or defense later than three months following the date of such transaction, the amount outstanding with respect to such transaction at the time of such notification. For the purpose of determining such amount outstanding in the preceding sentence, the payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of: (i) late charges in the order of their entry to the account; (ii) finance charges in order of their entry to the account; and (iii) debits to the account other than those set forth above, in the order in which each debit entry to the account was made.

The **PRESIDING OFFICER**. Is this the amendment on which the Senator has a 2-hour limitation?

Mr. **PROXMIRE**. It is.

Mr. President, I yield myself 15 minutes.

The **PRESIDING OFFICER**. The Senator from Wisconsin is recognized for 15 minutes.

Mr. **PROXMIRE**. Mr. President, I offer an amendment to provide for a modified repeal of the so-called "holder-in-due-course doctrine" on credit card transactions. Under the holder in due course doctrine, a consumer is required to pay a bank for shoddy merchandise purchased with a bank credit card even though he may have a legitimate claim or defense against the merchant which honored the card. My amendment would permit the consumer, under certain conditions, to assert the same claim or defense against the issuer of a credit card that he has against the merchant honoring the card. The consumer would thus not be required to pay for shoddy merchandise merely because it was purchased with a bank credit card or similar card.

Perhaps the best way to understand the holder in due course issue is to take a typical example. Suppose that Mr. John Doe Consumer has a charge account at a furniture and appliance store. He uses his charge account to buy a $500 color TV set. When he gets the set at home, he finds that it does not work at all. He calls the store, but the store fails to repair or replace the defective set.

Mr. Consumer obviously has a problem. He owes $500 on a TV set that does not work. However, in this case, he has a remedy. He can simply refuse to pay for the set until the merchant repairs it or replaces it. He has some bargaining power—some leverage because he is dealing only with the merchant. If the merchant sues to collect, the consumer can raise as a defense the fact that the TV set did not work. If a court agreed that the consumer had a legitimate defense to the merchant's suit, then the consumer would not be required to pay. Knowing this in advance, the merchant would have an obvious incentive to satisfy the consumer without going to court. Mr. Consumer has thus used his leverage as a credit customer to induce the merchant to stand behind his product.

Now let us take the same transaction, but make one slight change. Instead of using his charge account with the store, suppose Mr. Consumer buys the same TV set from the same merchant with his bank credit card. What is different? There are now three parties involved—the consumer, the merchant, and a bank.

Again, let us suppose the set does not work. Again, the consumer contacts the merchant for relief and again the merchant ignores him. Mr. Consumer thinks to himself "Why should I pay for this TV set that doesn't even work?" He tries to withhold payment on his credit card account with the bank. Then he receives a rude awakening. The collection manager in the bank tells him about an obscure provision written on the back of his credit card. He must pay the bank regardless of any claim or defense he has against the merchant. The bank manager is sympathetic, but the result is the same. He must pay the bank for the defective TV set.

After this rude awakening, the consumer then goes back to the merchant. However this time, he finds the merchant much more difficult to deal with. The merchant has already been paid for the TV set from the bank. He sent the sales slip to the bank on the same day of the transaction and the next day he received the money for the set less the bank's customary discount. The merchant is perfectly happy. He made a sale. He has his money. He tells Mr. Consumer, "if you don't like the TV set, sue me."

The bargaining situation is now reversed. The merchant has the leverage and not the consumer. The consumer must initiate a costly law suit to recover his damages. In the meantime, he must still continue paying the bank for his unworkable TV set. The consumer has clearly been shafted by the antiquated "holder-in-due-course doctrine"—a doctrine he probably never heard of and didn't understand when he accepted the bank credit card. His legal rights and protections were taken away simply because he used a bank credit card instead of his account with the merchant.

Under my amendment, the consumer would be protected. He would have the same rights on three party credit card transactions that he now has on two party transactions. In the example I have given, he could withold payment from the bank. The bank would then have two options. It could sue the consumer or it could charge the item back to the merchant. If the bank sued the consumer, the consumer could raise as a defense the fact that the TV set did not work. If the court agreed with the consumer then he would not be required to pay.

If the bank thought the consumer had a legitimate defense, it probably would not bother with a law suit. Instead, it would simply charge the item back to the merchant. It would simply deduct the money for the set from funds it otherwise owed the merchant. The bank has the legal right to do this under the terms of its agreement with the merchant.

If the bank charged the TV set back to the merchant, the merchant would have the problem of collecting from the consumer. The consumer would then have the same leverage—the same bargaining power—that he would have if he had dealt directly with the merchant. The merchant could sue to compel payment. But if he thought the consumer had a legitimate defense, he probably would not do this. Instead, he would repair or replace the set.

My amendment thus restores the protections and rights which consumers surrender when they use bank credit cards or similar cards issued by third parties. It does not protect deadbeats. It does not prevent creditors from collecting legitimate debts. It does not impede the flow of commerce. It simply gives consumers the same legal protections on bank credit card transactions that they have on other credit transactions.

Why is my amendment needed? Because of the phenomenal growth of bank credit cards and their projected future growth. Credit outstanding on bank credit cards has grown from $1 billion to $4 billion over the last 3 years. Think of it. The bank credit card business has quadrupled in 3 years when the growth of the entire consumer credit industry was lagging. Some bankers are predicting that bank credit cards will account for over half the consumer credit extended within the next few years.

It is now possible to buy practically anything on a bank credit card—TV sets, furniture, major appliances, home improvements and the like. Just a few years ago, these items were financed by installment sales contracts or by revolving charge accounts operated by the merchant. Today, more and more are being financed by bank credit cards. And if the banker projections are correct, bank credit cards will dominate the credit industry in a few years. It is only a matter of time before cars can be purchased with a bank credit card. A few banks have already experimented.

As bank cards begin to replace conventional forms of credit, all of the legal safeguards which consumers have acquired on two-party credit transactions will be gradually eroded because of this antiquated holder in due course doctrine. Bank credit cards were never even thought of when the holder in due course doctrine developed in case law a century or two ago. Our legal system has lagged far behind technological innovations in the credit industry. The holder in due course doctrine no longer fits our modern created by the rapid growth of credit redress the imbalance in consumer rights created by the rapid growth of credit cards.

Actually, the holder in due course doctrine is already on the way out with respect to installment sales transactions. Thirty-two States have already acted to restrict the holder in due course doctrine on installment sales transactions. But these laws have a loophole. They do not apply to credit card transactions. The banks have set their credit card plans up in such a way that they are considered to be cash lenders rather than the buyers of installment contracts. By this legal device, most bank credit card plans have been able to escape the holder in due course restrictions enacted by the States.

Why can we not rely on the States to do the job? Why should the States not take care of this? Even if the States could be persuaded to close the loophole, there are sound reasons for Federal legislation. The bank credit card business is essentially national in scope. Two systems, Mastercharge and BankAmericard, account for over 95 percent of the bank credit card business. The cards issued under these plans are accepted in all 50 States. Those in the bank credit card business operate on a nationwide scale. They think national. They are huge and powerful. It is little wonder that the States have not been able to regulate them. As a matter of fact, it would be confusing and chaotic to subject these nationwide credit card plans to a hodge podge of conflicting and inconsistent State law. A national solution is needed to a national problem. Federal regulation is in the long term interest not only of the consumer, but of the bank credit card industry as well. It is most unfortunate that the position of the banking industry on this provision has been set by a small band of willful die-hards who cannot see the handwriting on the wall. I believe we are witnessing what I have termed "Gresham's law of trade association politics." That is, the position of any association on Federal legislation is set by its most obtuse elements.

Let us examine some of the arguments against my amendment raised by the credit industry and by the committee's majority report.

First, it is alleged that subjecting a bank to cardholder defenses would involve the bank in a policing function over retail merchants and that it would be inappropriate for banks to exercise this function.

Shoddy practices should be regulated by the Government and not the banking industry, according to this argument.

It is encouraging to note that the banking industry has suddenly become an advocate of governmental regulation of the retail industry. But whatever the motivation behind the banker's sudden change of heart, their argument completely ignores the fact that bank credit card issuers already exercise a policing function over retail merchants. The typical bank-merchant agreement enables the bank to charge an item back to the merchant if the consumer has a dispute about its quality. The bank also has an unqualified right to collect from the consumer under the holder-in-due course doctrine. Thus the bank is in a unique position. It has it both ways. It can collect from either the merchant or the consumer. In this situation, it is really acting as a judge. It reviews the dispute, decides who is right, and imposes liability for payment on either the merchant or on the consumer.

Although the bank is really exercising a judicial function, it does not have the impartiality of a court. It has a basic conflict of interest. It does business with both the merchant and the consumer. While it would like to retain the good will of both parties, its volume of business with the merchant is far more substantial than with the consumer. Is it any wonder, then, that in a close case, the bank will decide in favor of the merchant and against the consumer?

My amendment would take away the bank's unilateral power to impose payment on the consumer. Instead of giving banks a new policing function over merchants, my amendment would restrict the policing function which banks are already exercising over consumers.

Another argument made by the banking industry is that it would be unfair to make a bank responsible for the misdeeds of a merchant over whom it has no control. A corollary to this argument is that the consumer himself has the responsibility to determine the reputability of a merchant, and if the consumer has a dispute he should pursue it with the merchant rather than the bank which merely financed the transaction.

These arguments conveniently ignore the basic elements of bank credit card transactions.

First, banks do have control over merchants by admitting them into the credit card plan. If a merchant is continually involved in customer disputes, he can be excluded from participation in the plan by the sponsoring bank. Without my amendment, banks would have an incentive to continue the participation of questionable merchants because of the business they brought in.

Second, the bank confers an implied stamp of legitimacy on a merchant by admitting him into the plan and permitting him to display the bank's decal on his window. Consumers rely upon this implied stamp of legitimacy when dealing with a merchant. If a bank wants a consumer to accept and use a bank credit card with confidence, it should be willing to stand behind the merchants who honor the card.

I yield myself an additional 10 minutes.

The **PRESIDING OFFICER**. The Senator is recognized for 10 minutes.

Mr. **PROXMIRE**. Third, the bank always has the option of charging a disputed item back to the merchant, thereby recovering its investment. Given this option, it is hard to see how a bank would be unfairly penalized because of a merchant's misdeeds. Moreover, my amendment does not subject banks to cardholder defenses if the transaction took place out of State. Thus, a bank would not be responsible for reviewing the operations of out-of-State merchants.

Fourth, the consumer has a far more difficult time in recovering from a disreputable merchant for shoddy merchandise. The merchant may have gone out of business. Or if still in business, he may use delaying tactics to impede recovery. Since the merchant has already been paid for the shoddy goods by the bank, he has less of an incentive to settle with the consumer. The holder-in-due-course doctrine gives all of the leverage to the bank or the merchant. My amendment would restore some of this leverage to the consumer.

A third argument raised by bankers is that my amendment would somehow retard the development of the "cashless society," a plan which bankers have to replace currency and checks with bank credit cards. Whatever the merits of the so-called cashless society, my amendment would not affect its development. First of all, my amendment does not apply to transactions under $50. These are the typically cash transactions which the cashless society is intended to replace with credit cards. However, transactions over $50 are typically credit transactions. A consumer's existing legal rights on credit transactions should not be destroyed simply through the use of a bank credit card. Second, the profitability of bank credit cards should not be adversely affected by my amendment since a bank still has the legal power to charge a disputed item back to the merchant.

Finally, it is argued that we should leave the whole issue of holder in due course legislation to the States. This has become a recurring cry of those who are opposed to effective reform legislation. As I have already indicated, the credit card business is a national business and regulation at the Federal level is needed to insure uniformity and fair treatment.

Mr. President, while many of the arguments against my amendment assume a complete abolition of the holder in due course doctrine on credit card transactions, this is simply not the case. My amendment has a number of conditions which a consumer must meet before he can assert a claim against a bank or other credit card issuer. These conditions are designed to eliminate all of the legitimate objections and fears raised by the credit industry in testifying against a complete repeal of the holder in due course doctrine. Here are the conditions:

First, my amendment requires that before a consumer can assert a claim or defense against a bank credit card issuer, he must first make a good faith attempt to obtain satisfaction from the merchant. This is intended to eliminate frivolous disputes on the part of consumers who have made no attempt to get their money back from the merchant.

Second, the amount of the transaction giving rise to the claim or defense must exceed $50. As I indicated, this is intended to eliminate those transactions where a credit card is merely a substitute for a cash transaction. My amendment would thus apply primarily to those transactions where a credit card is a substitute for the merchant's own credit plan.

Third, the transaction must have occurred in the same State in which the card issuer maintained a place of business. This is intended to counter industry objections that a bank is not capable of reviewing the operations of distant merchants.

Fourth, the amount of the claim or defense cannot exceed the amount of credit originally extended if notification is made within 3 months, or the amount actually owing at the time of notification if made later than 3 months. The purpose of the 3-month period is to give consumers a reasonable opportunity to discover product defects before asserting a claim or defense. There are some who feel that the 3-month waiting period should be eliminated and that the consumer should be permitted to assert a claim or defense against a bank only for the amount actually owing at the time such notification is made. I believe this would put an unreasonable burden on consumers since an item purchased with a bank credit card can be paid for before the consumer realizes there is something wrong with the product.

The problem arises because of the common method for determining the amount owing for an individual item purchased with a credit card. Some State laws use the so-called first-in-first-out method or FIFO.

Here is why a consumer really can be put in a disadvantageous position with the "first in-first out" method, or FIFO. Under the FIFO method, partial payments to a revolving charge account are allocated to individual transactions in the order of their occurrence. Thus if a consumer purchased an item for $100 with his bank credit card on the first of the month, any partial payment he made would be allocated first to that purchase. If he subsequently discovered the merchandise was defective, the chances are that he would have already paid for it, thus eliminating his right of recovery. On the other hand, if he purchased the same item toward the end of the month, the chances are that he could assert a claim for the full amount. A consumer's rights should not be arbitrarily affected by the timing of his purchases. I, therefore, believe it is essential that he is given a 3-month period to notify the bank or the merchant of any claim or defense before limiting his right of recovery.

A repeal of the holder in due course doctrine was strongly supported during the hearings by the Federal Trade Commission and by consumer protection organizations. Moreover, a modified repeal of the doctrine, along the lines of my amendment, is supported by leading bank attorneys. The Senate Banking Committee narrowly rejected a similar modified repeal by a vote of 8 to 7. However, it is significant to note that the chairman of the committee, Senator JOHN SPARKMAN has filed individual views indicating that he is in favor of restrictions on holder in due course at least as strong as the present State law in Alabama. Since Senator SPARKMAN voted with the majority in rejecting a holder in due course provision, I believe his individual views are most important. They indicate that a majority of the committee is in favor of some kind of restriction on the holder in due course doctrine on credit card transactions.

Mr. **BENNETT**. Mr. President, will the Senator yield?

Mr. **PROXMIRE**. I yield.

Mr. **BENNETT**. Does the Senator know that the State law in Alabama does not apply to credit cards?

Mr. **PROXMIRE**. I am told by my staff assistant that we are not sure about the laws of Alabama, but it was my understanding that when the Senator from Alabama (Mr. SPARKMAN) filed his individual views that was his understanding. I cannot speak for the Senator from Alabama, and he is not here.

Mr. **BENNETT**. It is hard for the Senator from Wisconsin or me to say what the understanding of the Senator from Alabama was.

Mr. **PROXMIRE**. Let me read what

the Senator from Alabama said in his individual views:

> A few states, including my own state of Alabama, have adopted the language suggested in the proposed Uniform Consumer Credit Code drafted by the National Conference of Commissioners on Uniform State Laws which I understand applies to credit card transactions as well as installment sales transactions. I believe this law is working very well.

That was his understanding, according to his individual views in the report, at page 21.

Mr. BENNETT. The Uniform Consumer Credit Code does not apply to credit cards. The Senator from Alabama had a misunderstanding. When the Senator gets through, I will try to show that the Uniform Consumer Credit Code does not apply to credit cards.

Mr. PROXMIRE. Mr. President, I am almost through.

In summary, Mr. President, the basic issue is quite clear. Consumers should not be required to pay for shoddy merchandise because of a legal technicality. It is as simple as that. We need Federal legislation to prevent a serious injustice to the American consumer. I know that the banking industry has waged an intensive lobbying campaign against this amendment. I am sure that many Members of the Senate have received numerous telegrams from hometown bankers predicting the collapse of the economy if this amendment should pass. No doubt these banker communications far outweigh letters from consumer groups in support of the amendment. But make no mistake about the issue. This is the year of the consumer. Consumers are more organized, more articulate, and smarter than ever before.

The Senator from Texas said we are all consumers and all producers.

We are not all producers. Those still in school who have not yet started to work are not producers. Those who are retired are not producers. Those who are in a position of dependence, for whatever reason, may not be producers. But we are all consumers, every one of us. I would agree with the implication of the Senator from Texas that we are all equally important, and entitled to be treated with fairness from both sides. Unfortunately, we do not usually think of ourselves as consumers, and the producers have had their day. But I think the time will come when we will all consider that we have at least equal rights as consumers with those we have as producers.

In an election year when consumer issues have come to play an increasingly important role, the American voter will be carefully watching the action of the Senate today. We have a great opportunity to speak out for the consumer and demonstrate that the Senate does not knuckle under to a powerful and entrenched banking lobby. I urge the Senate to approve my amendment.

Mr. President, I yield the floor and reserve the remainder of my time.

Mr. TOWER. Mr. President, will the Senator from Utah yield me 4 minutes?

Mr. BENNETT. Mr. President, I yield the Senator from Texas such time as he may require.

Mr. TOWER. Mr. President, one of the items which the committee decided to delete from the bill was the provision to repeal the holder-in-due-course doctrine from application to third-party credit-card operations. The proponents of the provision argued that it was needed in order to give the consumer a better remedy against shoddy merchandise and misleading merchandising practices, since they could then refuse to pay the third-party creditor any time they felt they had a grievance against the merchant involved in a transaction.

While I agree, as do all of my colleagues on the committee, with the sentiment against bad merchandising and poor quality goods that was expressed in this provision of the bill, the majority of us felt that the mechanism by which the consumer was to be given these additional rights in this situation had several disadvantages. We felt that there were three major problems associated with the repeal of the holder-in-due-course doctrine in this situation which is, by the way, a common-law doctrine:

First. The substitution of credit card systems for the use of cash would be impaired, since the creditors would now have to put self-protecting limitations on the use of the cards as a universal payments medium. The movement toward a "cashless society" is desirable as a matter of public policy because it will improve the delivery of purchasing power throughout the economy, will release large sums of capital that are tied up in the mechanics of cash use, storage, and transfer, and will, with improvements in identification technology, serve to deter violent economic crimes. The advantages of the use of credit cards as a full cash substitute in the eyes of the consumer is therefore a major consideration to take into account in evaluating this provision of the bill.

Second. The mechanical difficulty inherent in requiring creditors to police merchants is a substantial factor to consider in this matter. While not a determinative drawback in and of itself, it was a factor which weighed against the adoption of this provision by the committee.

Third. The area of consumer remedies against merchants is normally one governed by State statutory and common law, particularly the area of express and implied contracts and warranties. Different States may wish to govern this area differently, according to the merchandising practices in their respective jurisdictions and to the wishes of their citizens. If any State wishes to regulate or limit the application of the holder-in-due course doctrine in its jurisdiction, it has the authority to do so. In fact, some 32 States have already done so, and some nine others are presently considering it. To the majority of the committee, it seemed that it would be wiser to continue to allow the States to control the law in this area and to shape it according to their own respective needs and concerns, rather than to have the Federal Government lay down a uniform rule in an area which does not appear to need uniformity at this time.

Mr. President, we are told that this is the year of the consumer. As I mentioned earlier, very often some attractive packages are blandished before the consumer and a lot of popular emotional sentiment is stirred up before the economic facts are in. Also, who speaks for the consumer? Can any one person speak for the consumers of the United States? Consumers do not speak with a monolithic voice, and I suspect that many of those who purport to speak for the consumer are really those who have a pathological desire to destroy the large corporations of the United States, and therefore I think we ought to have a close look at any of the proposals which emanate from these so-called consumer advocates.

Mr. PROXMIRE. Mr. President, I make the following modifications in my amendment:

On page 2, line 10, to delete the words "three months" and substitute in lieu thereof "forty-five days";

On the same line, delete the last word, "such", and on line 11, the word "transaction," and insert in lieu thereof the following: "his receipt of the bill on which such transaction first appears";

On line 13, delete "three months" and substitute in lieu thereof "forty-five days";

On the same line, delete the words "the date of such transaction" and substitute in lieu thereof "his receipt of the bill on which such transaction first appears," making the amendment read as follows, beginning at (a) on line 6:

> (a) the initial amount of credit extended in connection with the initial transaction giving rise to the claim or defense provided the cardholder notifies the card issuer or person honoring the card of such claim or defense within 45 days from the date of his receipt of the bill on which such transaction first appears; or (b) if the cardholder notifies the card issuer or person honoring the card of such claim or defense later than 45 days following his receipt of the bill on which such transaction first appears, the amount outstanding with respect to such transaction at the time of such notification.

This modification would give consumers 45 days from the time they received their bill to notify the bank or merchant of a claim or defense in order to recover the full amount of credit initially extended. After the 45-day period, the consumer's recovery would be limited to the amount actually owing at the time of such notification.

My original amendment gave consumers a 90-day period measured from the date of the transaction. This modification represents a compromise between those such as the Senator from California (Mr. CRANSTON), who supports a deletion of the 3-month provision.

The Senator from California was very much concerned about this matter in committee. He was an active member of the committee who worked hard on this proposal, and I agreed that we should modify it accordingly.

As I understand, the yeas and nays have not been ordered on the amendment at this time, and therefore I so modify my amendment.

The PRESIDING OFFICER (Mr. BEALL). To modify the amendment will require unanimous consent.

Mr. TOWER. Mr. President, the yeas and nays have not yet been ordered. Therefore, the Senator has the right to modify his amendment.

The PRESIDING OFFICER. Since the unanimous-consent agreement had reference to this specific amendment, unanimous consent is required for its modification.

Mr. TOWER. I see.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to modify his amendment?

Mr. PROXMIRE. I ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment will be so modified.

Mr. PROXMIRE's amendment (No. 1161), as modified, is as follows:

On page 19, line 7, strike the quotation mark and insert the following:

§ 170. Rights of credit card customers

A card issuer who has issued a credit card to a cardholder pursuant to an open-end consumer credit plan shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the credit card is used as a method of payment or extension of credit if (1) the obligor has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the credit card; and (2) the amount of such initial transaction exceeds $50; (3) the place where the initial transaction occurred was in the same State as the State in which the card issuer maintained a place of business; and (4) the amount of claims or defenses asserted by the cardholder does not exceed: (a) the initial amount of credit extended in connection with the initial transaction giving rise to the claim or defense provided the cardholder notifies the card issuer or person honoring the card of such claim or defense within 45 days from the date of his receipt of the bill on which such transaction first appears; or (b) if the cardholder notifies the card issuer or person honoring the card of such claim or defense later than 45 days following his receipt of the bill on which such transaction first appears, the amount outstanding with respect to such transaction at the time of such notification. For the purpose of determining such amount outstanding in the preceding sentence, the payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of: (i) late charges in the order of their entry to the account; (ii) finance charges in order of their entry to the account; and (iii) debits to the account other than those set forth above, in the order in which each debit entry to the account was made.

The PRESIDING OFFICER. Does the Senator ask for the yeas and nays?

Mr. PROXMIRE. I guess there are not enough Senators present for a sufficient second, but I intend to do so.

In fact, Mr. President, I suggest the absence of a quorum in order that we can get the yeas and nays.

The PRESIDING OFFICER. On whose time?

Mr. TOWER. Mr. President, I ask unanimous consent that the time for the quorum call be equally divided between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I object to that unanimous-consent request, and substitute a request that the time be charged to neither side.

The PRESIDING OFFICER. A quorum call is in progress. Is there a request that the order for the quorum call be rescinded?

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. I ask unanimous consent that there be a quorum call, and that the time for the quorum call be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President, I yield to the Senator from Tennessee such time as he may require.

Mr. BROCK. Mr. President, I share the rather interesting reaction of the Senator from Texas to the statements of the Senator from Wisconsin. I fully agree that this is a time in our Nation's history when the consumer has come into his own. It is a time long past due, and I am delighted with this situation.

But it seems strange that the Senator from Wisconsin would hew to this cause when, in my opinion, the bill he introduced originally, S. 652, was one of the more anticonsumer bills I have seen in a long time. It would have raised the cost of consumer goods. It would have made it far more difficult for the average American family to obtain credit. It would have limited the ability of small merchants to participate in credit plans such as these cards.

Now we have the spectacle of consumerism raised on this amendment. Let us look at the amendment. Let us see what it really does.

The Senator says he wants to protect the individual from shoddy merchandise and fraudulent merchants. I do not think anybody would deny the validity of that objective. Would the amendment do that? Let us look at it very carefully. The amendment has just been modified by the Senator in an apparent attempt to reduce the time from 3 months to 45 days. The modification itself has no effect whatever; it is no compromise; it is no change. The fact is that 3 months from the date of the transaction is about the same time as 45 days from the day of receipt of the bill. It can take 15 days for the merchant to get the bill from the bank and 15 days to get the bill to the consumer. That is 45 days. That is what was in the bill to start with.

But let us look at what the Senator said about the protection he wants to afford the consumer. He says that if a merchant does not adhere to good consumer practices, he can be excluded from the program. How, pray tell, does the bank in Mountain City, Tenn., a little community in the eastern end of the State, exclude a merchant who a customer can patronize in Memphis, Tenn.?

Mr. TOWER. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. TOWER. Let us try on Texarkana and El Paso for size.

Mr. BROCK. If the Senator wants to go to extremes, we will get to Texas sooner or later.

The fact is that the bank cannot exclude that merchant because he does not know him, never heard of him, never saw him, and never will. That small bank in Mountain City, Tenn., is absolutely captured by a situation over which it has no control.

The Senator talks about an unreasonable burden on the consumer. How unreasonable can one be? The purpose of this bill is to expand credit, not limit it; to enhance the opportunity for people to buy goods wherever they are in this country. If they want to travel from Tennessee to Wisconsin, they should have a right to do so and to use their credit cards, with the advantages and protections that come therefrom.

The Senator says it is time we had a national law because the States are doing little about the problem. Yet, his own amendment limits the application of a national law to the States—to one State. If you buy something outside of that State and you obtain your credit in Tennessee—if you buy something in California—this doctrine does not apply. There is no protection. Why should not the State of Tennessee have the right to write its own laws—laws that are designed for the protection of its own people, within its own boundaries, laws designed to apply to the situations and the needs of the people of our State?

The Senator from Wisconsin makes several arguments in favor of his amendment concerning the rights of credit card customers. Let us look at a couple of these arguments.

First, he maintains that credit cardholders have less leverage than other customers of a single merchant in the case of defective merchandise, and merchants have less incentive to settle disputes if they have already been paid. The attempted analogy between credit cardholders and other credit customers is misplaced. In view of the increasing use of the credit card as a medium of payment—a substitute for cash—the more appropriate anology is between a credit cardholder and a cash customer. Since the cash customer pays the merchant and has no money holdback or "leverage," the credit cardholder who uses his card in lieu of cash has lost no leverage in the event he becomes dissatisfied with the merchandise purchased. Furthermore, most merchants are both honest and enterprising and will attempt to satisfy customers with merchandise complaints. The committee's hearing record reflects few, if any, consumer complaints involving inability to obtain satisfaction from merchants due to the involvement of credit cards. Finally, the Senate has already passed S. 986 providing remedies for consumers where merchants and manufacturers fail to live up to warranties on products.

In so many words, what we have here is an amendment that is claimed to be a consumer protection amendment. It applies to a holder in due course for that little bank in Mountain City, Tenn., when his customer goes to Memphis and uses his credit card at a motel with which he is unhappy. Is it not a little hard for the bank in Mountain City to know whether the beds in that motel in Memphis are lumpy? Is it not hard for the banker in Mountain City to know whether the merchandise purchased in Memphis was shoddy? Is it not really impossible to do what the Senator suggested, for that bank to exclude the merchant from any further participation in a credit plan? Is he not really using the wrong words when he talks about bank cards, because they are not bank cards. This bill and his amendment covers every card issued of any credit card plan in the country.

These are not banks. Let us not make this a little bank or a big bank bill. The fact is that the bill covers all forms of cards, all forms of credit as written and as are pursuant to this Congress. It is a bill honestly designed to extend the opportunity for credit to customers, to consumers, to extend the opportunity for small business to participate in the availability of that credit so that they can enhance their business and achieve more sales.

If the Senator can show me where the banks are making a profit on these cards, I would like to see it because the record shows that they are all virtually losing money today. The fact is that the bill is an anticonsumer bill. If we continue to try to impede these cards and limit their availability and applicability and their use to the general public and to the consumer, we are defeating the purpose for which the bill was designed.

Mr. TOWER. Mr. President, will the Senator from Tennessee yield for a question?

Mr. BROCK. I yield.

Mr. TOWER. I should like to commend my distinguished colleague from Tennessee for making, I think, a couple of very telling points. To begin with, one of the reasons the Constitution reserves some powers to the States is that we cannot make national uniform laws, in many instances, that can be equally applicable in Delaware, in Tennessee, or in Texas. That is because we frequently have entirely different situations in different States.

Mr. BROCK. Of course.

Mr. TOWER. Beyond that, the Senator is absolutely correct when he suggests that this will reduce the availability of credit to the little guy, because the marginal credit risk is ordinarily the guy who goes in and buys the less expensive merchandise and deals with those merchants. So it will certainly have the effect of limiting the availability of credit to those persons lowest on the socioeconomic scale. Would not the Senator agree with that?

Mr. BROCK. Of course. That is the effect of the amendment. I know it is not the intent of the Senator from Wisconsin, but intent and effect are two different things. The effect of the amendment will be to make it more difficult for small business to participate in the plans, and far more difficult for people with limited incomes to have the availability of these new credit facilities. That is why I oppose the amendment.

Mr. PROXMIRE. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER (Mr. BEALL). The Senator from Wisconsin is recognized for 3 minutes.

Mr. PROXMIRE. I think the remarks of the Senator from Tennessee are very interesting. He asks, and properly so, as does the Senator from Texas, Who speaks for the consumer? The implication of course, is that I do not speak for him and he does, that his viewpoint is a more legitimate consumer viewpoint than mine.

It is interesting that the groups who supported the original bill introduced the bill that would modify the "holder-in-due-course" doctrine, the bill that would let the consumers refuse to pay for shoddy merchandise even though using credit cards.

Who is supporting the position we take today?

The Federal Trade Commission, Mr. Kirkpatrick, whose whole mission in life has been working for the Government and representing the consumer.

In New York City, the Bureau of Consumer Affairs said it was one of the most important provisions in the bill. And they supported it with emphasis.

The Consumer Federation of America supported it.

The National Consumers of Law supported it.

Are all these groups so dumb and stupid that they do not understand what is in the interest of the consumer?

There was none. I challenge Senator BROCK, Senator BENNETT, Senator TOWER—or anyone else—to give me a single consumer witness or spokesman who said that the original bill would hurt the consumer or that this provision in the "holder-in-due-course" doctrine will hurt the consumer.

Only the bankers make that argument. They are great people. I used to be in the banking business myself. I worked for the J. P. Morgan Co. on Wall Street. I am proud of that. I studied banking at Harvard University. It is a tremendously important business. But only the bankers have made the claim it would hurt the consumers. Only the bankers, it seems to me, can speak with the bankers' viewpoint. When they speak for the consumers' viewpoint, we should listen to them with respect but not accept it as the consumers' viewpoint. And even the bankers are divided. Walter Malcolm is a distinguished banking attorney and he appeared before the committee and on the record he supported restrictions on the "holder-in-due-course" doctrine. He supported, in effect, the principal position that I am taking today.

The State of Massachusetts has put this into effect. They are not suffering up there. It is not difficult for the consumer to do business up there. They like it. They testified in support of it. They are in favor of it. So if we want to consider what is really in the interest of the consumer, it seems that the record is clear as to where the consumer spokesmen stand.

Mr. BROCK. The Senator has just about made my point. He said even the bankers are split. He is right. The big bankers are for this amendment because it will keep the little banks from competing with them. It is going to get the little banks out of the credit card business.

Mr. PROXMIRE. Walter Malcolm is the attorney who has seen it operate. If the Senator would like to give me any new testimony from any of the big bankers who have taken a position in favor of my amendment——

Mr. BROCK. I would like to hear it. The Senator said in his opening remarks——

Mr. PROXMIRE. They are an enormous and necessary operation. They are the credit card people. They are not against it.

Mr. BROCK. That is not a bank. That is a collection agency. Let us get that straight. The Senator himself said that the larger banks——

Mr. PROXMIRE. I did not say larger banks.

Mr. BROCK. Legal counsel of banks——

Mr. PROXMIRE. Legal counsel of the bank—Walter Malcolm.

Mr. BROCK. The Senator said some banks, in his original statement, were in favor of this. There was a considerable split in the banking community. These are your words. But the Senator from Wisconsin is right. The fact is, the big banks do not have to worry about this. They are not losing money. They can handle it electronically. It is the small bank that makes credit available to the rural areas that I am worrying about.

Mr. BENNETT. Mr. President——

Mr. PROXMIRE. This is not on my time, is it?

Mr. BENNETT. Mr. President, how much time does my side have?

The PRESIDING OFFICER. Forty-three minutes remain.

Mr. BENNETT. I will not use all of it, but I yield myself such time as I may need.

The big banks do business across State lines so that the big banks are out of reach of everyone except those living in the State in which they are headquartered. So, of course, this does not bother them.

Mr. BROCK. If the Senator will yield, the Senator from Wisconsin said the big banks are for this. They are outside of its provisions.

Mr. BENNETT. Of course, the big banks are outside, except the State in which they are domiciled. Mr. President, I would like to make some comments on the Utah law which is written in accordance with the Commissioners of Uniform State Laws, which in my view says in effect that the "holder in due course" doctrine prohibitions do not apply to credit cards because third-party credit card programs do not involve a holder in due course but are considered as loans of money.

Mr. President, this whole issue of waivers of claims and defenses is a difficult one to solve because there is some uncertainty as to what the various State laws presently require. It would appear that most of the States have taken this issue under consideration and have made modifications in their statutes which they feel are appropriate. There is some question as to how the present laws apply to credit cards issued by third parties.

The Utah law, for example would appear to outlaw the holder in due course doctrine for all consumer credit sales and leases as follows:

> 70B–2–404. [Assignee subject to defenses.] With respect to a consumer credit sale or consumer lease, other than a sale or lease primarily for an agricultural purpose, an assignee of the rights of the seller or lessor is subject to all claims and defenses of the buyer or lessee against the seller or lessor arising out of the sale or lease notwithstanding an agreement to the contrary, but the assignee's liability under this section may not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. Rights of the buyer or lessee under this section can only be asserted as a matter of defense to or set off against a claim by the assignee.

This seems completely clear when read with the definition of "Consumer credit sale" except that this definition seems to exclude the use of consumer lender credit cards.

> 70B–2–104. Definition—"Consumer credit sales,"—(1) Except as provided in subsection (2), "consumer credit sale" is a sale of goods, services, or an interest in land in which
>
> (a) credit is granted by a seller who regularly engages as a seller in credit transactions of the same kind,
>
> (b) the buyer is a person other than an organization,
>
> (c) the goods, services, or interest in land are purchased primarily for a personal, family, household, or agricultural purpose,
>
> (d) either the debt is payable in installments or a credit service charge is made, and
>
> (e) with respect to a sale of goods or services, the amount financed does not exceed $25,000.
>
> (2) Unless the sale is made subject to this act by agreement (section 70B–2–601), "consumer credit sale" does not include
>
> (a) a sale in which the seller allows the buyer to purchase goods or services persuant to a lender credit card or similar arrangement, or

"A lender credit card or similar arrangement" is defined as follows:

> (9) "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises
>
> (a) by the lender's honoring a draft or similar order for the payment of money drawn or accepted by the debtor;
>
> (b) by the lender's payment or agreement to pay the debtor's obligations; or
>
> (c) by the lender's purchase from the obligee of the debtor's obligations.

This is further clarified by the Comments of Commissioners on Uniform State laws as follows:

> [Subsection (9).] The lender credit card arrangement is one under which the card issuer agrees to pay to third parties debts incurred by the card holder. The bank credit card and the travel and entertainment credit card are familiar examples. The arrangement for the card issuer's payment of the card holder's debt to the third party may take different forms. It does not matter under this definition whether the arrangement calls for the third party to be the payee of a draft drawn by the card holder on the card issuer, for the card issuer to take an assignment of the debt from the third party, or for the card issuer merely to pay to the third party the card holder's debt. Each of these methods is sufficiently similar in function to be treated alike by this section. "Seller credit card," excluded from the definition of "lender credit card," is defined in Section 1.301(16).

This would indicate that the bank credit cards and travel and entertainment cards are distinguished from seller credit cards and that the transaction between the credit-card issuer and the holder is the lending of money. If that is the case, I do not know of any basis on which the transaction could be considered to be improper by the holder, or why he should have defenses against the money lender unless the lender refused to pay as contracted.

If, on the other hand, it is not considered a loan, then it would appear that the statute provides that the credit-card issuer is liable under the law already.

I have tried to get a clarification as to what the Utah law has meant in actual practice and there have apparently been no cases on which this could be determined.

Mr. President, I ask unanimous consent to have printed in the RECORD an analysis of the Alabama law in this respect.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANALYSIS OF ALABAMA LAW

Section 5(a) of the Alabama Consumer Credit Transactions Law, Laws 1971, Act No. 2052, 1 CCH Consumer Credit Guide, Ala. ¶ 6009, reproduces virtually verbatim UCCC § 2.404 (Alternative A). It provides in pertinent part that with respect to a "consumer credit sale," an assignee of the seller's rights is subject to certain buyer's claims and defenses. Under the UCCC this does not apply to a card-issuing bank as creditor. However, the Alabama law does not incorporate the detailed UCCC definition of "consumer credit sale," § 2.104, which explicitly excludes lender credit card transactions. Instead the Alabama law sets forth its own broader definition of consumer credit sale, which includes all consumer sales "with respect to which credit is extended or arranged by the seller." § 1(d), CCH ¶ 6001(d). The UCCC treats lender credit card transactions under its Loans Section, Article 3, which is wholly separate from the Consumer Credit Sale Section, Article 2, from which Alabama's buyer defenses section was taken. UCCC Article 3 contains no provision for preservation of defenses in connection with consumer loans, *i.e.*, in connection with lender-issued credit-card transactions.

None of the six states (Oklahoma, Utah, Idaho, Wyoming, Colorado and Indiana), which have adopted the UCCC has extended the buyer-defenses provision of Article 2 to apply to Article-3 transactions.

Since the Alabama definition of consumer credit sale is unique to the Alabama law and does not completely parallel the UCCC, its intent is not perfectly clear. However, the definition, while broad, does specify that the credit must be extended or arranged by the seller. Since the arrangement for the extension of credit in the case of a bank credit card is made directly between the bank and the cardholder, there would appear to be substantial doubt that a sale pursuant to a bank card was a consumer credit sale within the meaning of the Alabama law. This appears particularly to be so since in Alabama the credit-card sale transaction is structured as creating a direct obligation from the buyer to the bank and not as an assignment of an account from merchant to bank.

It would seem to be significant that the Alabama law does recognize the consumer-loan form of transaction, and specifically includes it, for example, under § 12, which makes unconscionable terms in a consumer credit sale, consumer lease, or consumer loan" unenforceable. Other sections of the Alabama law which include specific reference to consumer loans as well as consumer credit sales are 1(b) (definition of "consumer"), 1(c) (definition of "creditor"), 2 (finance charges), 3(b) (deferral charges), 4(b) (copies of contracts), 4(c) (balloon payments), 13 (multiple contracts for one debt), and 18(a) (licensing of lenders and assignees, which includes specific distinction between "making consumer loans" and "taking assignments of consumer credit contracts"). Various other sections of the law also refer broadly to consumer credit "transactions," which would appear to include both sale and loan transactions. See, *e.g.*, §§ 1(b) (definition of "consumer"), 14 (schedule of instalments), and 16 (insurance). On the other hand, § 5(a), preserving buyer defenses, makes reference only to "a consumer credit sale or consumer lease" and does not apply to consumer loans.

It is also probably significant that § 5(a) refers to the liability of assignees of the rights of sellers, and not to creditors generally, while other sections do refer more broadly to "creditor" where the intent is clearly to cover third-party credit-card issuers as well as others. See §§ 1(a) (definition of "finance charge"), 1(c) (definition of "creditor"), 3(a) (late charges), 3(b) (deferral charges), 3(c) (prepayment rebates), 3(d) (renewal or refinancing rebates), 7 (creditors' suits), 15 (excess finance charges), 18 (licensing of lenders and assignees), and 24 (criminal violations and penalties).

Mr. BENNETT. Mr. President, I should like to take a minute to try to make clear my understanding of why the concept of the "holder in due course" doctrine does not and should not apply to credit cards. What we are really talking about on third party credit cards is a waiver of defense since no holder in due course is involved.

What does the phrase "holder in due course" mean? It means that someone held an instrument, a debt instrument which he passes on to someone else, and the third person became the holder in due course, although there might be a fourth or a fifth.

Let us say it another way. A man goes to an automobile agency and buys a car on credit. He signs a contract. The automobile dealer has not capital enough to hold that contract until it is paid off. So he sells it to the GMAC or Commercial Credit, or to someone else, and that company becomes the holder in due course. The transaction which establishes the relationship of the holder in due course is between the seller of the automobile and the finance company to which he sells the paper.

It may be a bank. But there is a transaction specifically between the seller of the merchandise and the financial institution in which the original buyer of the merchandise has no part.

Let us now look at the credit card situation. A bank or some other agency issues a credit card to me. And it says to me when it issues the credit card: "Within certain limits, we will pay your bills." It does not say that it has made a deal with the merchant to pay his account. It says to me: "I will pay your bills." So, the relationship is completely different.

If I go into a restaurant and order a meal or if I go into a merchant's store and buy a piece of furniture and I present the credit card to the merchant, the merchant presents the bill that I have created to the bank for payment on my account. It is just as if I had a rich relative who had agreed to pay my bill. The merchant does not sell my account to the bank and thus get away from any obligation. The merchant still looks at me. And if for any reason the bank computer gets fouled up and he does not get his money from the bank, he would be coming to me and asking me what the matter was.

These are two completely different financial transactions. The relationships are different. The basis is different. And to try to force the credit card situation into the pattern of the sale on an installment basis of credit paper which the dealer then sells to someone else, it seems to me, is a completely unreasonable analogy.

I think it is for that reason that the Commissioners on Uniform State Laws prepared a uniform code which my State has adopted which does not consider sales made on third party credit cards as a contractual arrangement where there is any reason to apply the holder in due course doctrine.

If things go bad, the bank is going to come back on me. It is not going to come back on the merchant. However in the case where there is a holder in due course, if that transaction goes bad, depending on how the information is written, the holder in due course may come back on the merchant or he may come back on me or he may come back on both of us.

I agree with the Senator from Tennessee that to try and force this bank-consumer relationship into the same pattern as the bank-dealer relationship is not a wise thing. The people who wrote these uniform laws treated the relationship between the credit card issuer and the credit cardholder as a loan. They have loaned the money to him. They have loaned it to him indirectly by paying off his debt. But they did not get the debt from the dealer. Their relationship is with the purchaser.

To me this is, in addition to all of the other arguments, the simplest reason why we should not burden credit card transactions with a concept that was developed in and belongs to installment loan transactions. I think that is what the committee finally came to understand. And that is why they rejected the proposal.

I can understand that on the surface it makes a nice argument because it seems to put another burden on the lender or on the bank instead of on the individual. But actually the relationship of the bank is completely outside of that of the credit card issuer and completely outside of the relationship between the buyer and the seller of the merchandise. As the Senator from Tennessee (Mr. BROCK) has so clearly said, credit cards are a substitute for cash. And the man who sells me a refrigerator on a credit card has just the same kind of relationship as the man who sells me one for cash. If the refrigerator goes bad, I have the same opportunity to come back on him.

I have been in business. I was in business for 30 years before I came to the Senate. I tried to sell merchandise, and I know that the seller is not trying to hook the customer by deliberately selling him shoddy merchandise. He is looking for the next sale. He is looking for the sale after this one. And that is the best protection that a consumer has. Those who believe that all merchants are evil and are seeking to take advantage of their customers do not realize the tremendous leverage a customer has on the merchant, because the next time he will walk down the street and buy his merchandise from someone else.

Not only will the customer walk past the door of the merchant who has cheated him, but his family and friends will also walk past the merchant's door if he tells them about his transaction and about the merchandise he bought, in which he was disappointed.

I hope the Senate will reject the amendment.

Mr. PROXMIRE. Mr. President, if the Senator from Utah wants to yield back the remainder of his time on the amendment, I will yield back the remainder of my time.

Mr. BENNETT. Mr. President, before I yield back the remainder of my time, I have another short statement to make.

WAIVERS OF RIGHTS AND DEFENSES

Mr. President, I also oppose the amendment offered by the Senator from Wisconsin because I do not think it is appropriate for us to act in the absence of any knowledge of how this proposal would affect small businesses. I would like to bring to the attention of the Senate an interim report by the professional staff of the Senate Select Committee on Small Business. On January 6, 1972, this interim report recommended the following:

> We recommend that the Small Business Administration, in consultation with the Federal Trade Commission and the National Commission on Consumer Finance, prepare and conduct an impartial study of the effect on small businesses of State laws that terminate the Holder-In-Due-Course Doctrine.
>
> To the utmost extent possible, the study should be designed to determine how many honest and conscientious small businesses have fallen victims to laws intended to eradicate only dishonest operators that preyed upon unwary consumers.
>
> We further recommend that the proposed SBA study be completed within eight months and that the Federal Trade Commission postpone final decision on its proposed Trade Regulation Rule until such SBA study has been completed. The decision should also await completion and publication of the first and final report of the National Commission on Consumer Finance.

The chairman of the Select Committee on Small Business (Mr. BIBLE) sent copies of this report to the chairman of the FTC, the Administrator of SBA, and to the chairman of the National Commission on Consumer Finance, asking for their comments on the recommendations of the interim report. The chairman of the National Commission on Consumer Finance, Mr. Ira Millstein, concurred in the recommendation for a study by the Small Business Administration of the impact on small businesses of changes in the holder-in-due-course doctrine. The Small Business Administration also felt it would be desirable to make such a study.

Mr. President, we do not have the facts we need in order to make a rational decision on this issue, and I believe it would be wise for us not to enact Federal legislation placing these additional liabilities on third party credit card issuers until after we do have some facts.

Mr. BENNETT. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Wisconsin. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the

Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), is absent on official business.

On this vote, the Senator from North Carolina (Mr. ERVIN) is paired with the Senator from South Dakota (Mr. MCGOVERN).

If present and voting, the Senator from North Carolina would vote "nay" and the Senator from South Dakota would vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), and the Senator from Washington (Mr. JACKSON), would each vote "yea."

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 35, nays 46, as follows:

[No. 158 Leg.]

YEAS—35

Aiken
Bayh
Bentsen
Brooke
Byrd, Robert C.
Case
Chiles
Church
Cranston
Eagleton
Ellender
Fulbright
Hartke
Hughes
Inouye
Kennedy
Magnuson
McGee
McIntyre
Metcalf
Mondale
Moss
Nelson
Pell
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Stafford
Stevens
Stevenson
Symington
Tunney
Williams

NAYS—46

Allen
Allott
Anderson
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Fannin
Fong
Griffin
Gurney
Hansen
Hollings
Hruska
Javits
Jordan, Idaho
Long
Mathias
Miller
Montoya
Packwood
Pearson
Percy
Roth
Smith
Spong
Stennis
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—19

Bible
Ervin
Gambrell
Goldwater
Gravel
Harris
Hart
Hatfield
Humphrey
Jackson
Jordan, N.C.
Mansfield
McClellan
McGovern
Mundt
Muskie
Pastore
Scott
Sparkman

So Mr. PROXMIRE's amendment (No. 1161) was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROCK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, the Fair Credit Billing Act, the presiding bill represents a major step forward in correcting errors resulting from the problems of computerized billing. The major provisions in the bill are cogently summarized in the committee report as follows:

First, creditors are required to acknowledge customer billing disputes within 30 days and to resolve those disputes within 90 days. A dispute is resolved by either correcting the customer's bill or explaining why the original bill was correct. Creditors who fail to meet these requirements forfeit the amount in dispute up to $50, whether or not the bill was in error;

Second, creditors are not permitted to send dunning letters or take action to collect a disputed amount or report such amounts as being delinquent before explaining to the customer why the bill is correct;

Third, if a customer continues to dispute a bill after receiving the creditor's explanation, a creditor may not report the disputed amount as delinquent to a credit reporting agency unless the creditor so notifies the customer, and tells the agency to which the report is being made that the amount is in dispute. The creditor must also report to the agency any subsequent resolution of the dispute;

Fourth, creditors must briefly identify each transaction contained on a monthly billing statement, indicate an address for handling billing disputes and disclose twice yearly the customer's right to have these disputes resolved as provided in the legislation;

Fifth, creditors must mail their monthly billing statements at least 14 days prior to the time when payment is due on the account to avoid imposition of a finance charge;

Sixth, creditors must promptly post a customer's payments to a creditor's account in accordance with Federal Reserve Board regulations;

Seventh, creditors must promptly credit excess payments or refund such payments if the customer so requests;

Eighth, credit card issuers cannot require merchants to maintain deposits or purchase other services from them as a condition for participating in the credit card plan nor can such issuers prohibit merchants from offering discounts to cash customers;

Ninth, financial institutions cannot offset a consumer's credit card debt against a checking or savings account unless the consumer has agreed to such offsets and is allowed 10 days to rescind the offset.

Tenth, a creditor's liability for punitive damages under the existing Truth in Lending Act and the new Fair Credit Billing Act is limited to a minimum of $100 in an individual action and a maximum of $50,000 or 2 percent of net worth—whichever is less—in a class action. Such limitations would also apply to pending suits which have not been finally decided. No limitation is placed on the amount of actual damages which can be recovered by consumers.

Eleventh, persons involved in fraudulent credit card transactions of $1,000 or more in 1 year which affect interstate commerce can be fined up to $10,000 or imprisoned up to 10 years or both.

Twelfth, provisions of the Truth in Lending Act are amended to resolve certain difficulties encountered by the Federal Reserve Board in administering the act.

These provisions represent a major step forward in protecting consumers against abuses caused by computerization. I have received many letters from constituents complaining that they have tried in vain to get computerized billing errors corrected. The machines simply continued, relentlessly, to repeat the errors and to assess interest on the inappropriate charges. Often the consumer was wrongfully left with a mischarge on his credit record which impaired his ability to borrow.

The bill puts the human element into computerized billing. It requires merchants and credit card companies to respond to legitimate complaints of their customers, and imposes penalties if they fail to provide such assistance. I think this legislation will provide major help for consumers. It should be passed.

Much of the concern and criticism of this legislation has been focused on provisions which were deleted by the committee. I would like to address myself briefly to two of the most controversial proposals deleted from the legislation.

The bill as originally proposed would have given consumers the right to sue banks whose credit cards were used to finance the purchase of shoddy goods. The purported logic of this provision was that purchasers relied on the credit card symbol as a guarantee of the quality of a merchant and the goods he sold. Under this logic, a bank would remain liable for goods sold by merchants who used their cards even years after the bank had been paid off and was completely out of the transaction. I opposed that provision. I believe that it would impose an unreasonable burden on banks to ask them to serve in the role of policemen over and guarantor of all merchants to whom they extend credit. The result of such a requirement would be that many smaller merchants would be unable to receive the benefits of card credit even though they were completely reputable. Banks would be unwilling to assume liability for goods sold by smaller merchants who are without substantial credit standing.

While I oppose allowing consumers to sue banks as guarantors of merchants to whom banks extend card credit, I feel consumers should be permitted to stop payment for shoddy goods. This result could be achieved by eliminating the holder-in-due-course defense.

Basically holder-in-due-course works as follows:

A customer buys goods on credit. The merchant sells the debt to a finance company. Two or three months later, the purchaser discovers the goods are shoddy and stops payment to the finance company. The finance company then sues the purchaser for the remaining payments due under the contract. The purchaser counterclaims that he owes the finance company nothing because the goods were shoddy. The finance company asserts a holder-in-due-course defense against the purchaser—in essence the finance company has the legal right to say: you cannot make the counterclaim against me because I did not sell you those goods. The purchaser is thus forced to sue the original merchant, but in the meantime he must continue payments for the shoddy goods.

The holder-in-due-course defense has been the source of considerable consumer abuse by some merchants. Disreputable merchants and finance companies have worked together to sell shoddy goods to consumers and then force them to make continued payments on those goods. Most of the abuse under holder-in-due-course has not taken place in the context of bank credit card transactions. To my knowledge, banks have been unwilling to extend credit to the types of merchants who have wrongfully taken advantage of the holder-in-due-course defense. I want to make it clear that I in no way mean to impugn the integrity of banks by my actions to eliminate the holder-in-due-course defense. I do, however, believe that the defense has contributed to merchant abuse. The Congress should now take the first step to eliminate holder-in-due-course. I am therefore introducing a bill patterned on the present California law which eliminates holder-in-due-course as credit card transactions.

Another provision which was not included in the bill and which has been the subject of considerable controversy was a proposal by Senator PROXMIRE to prohibit the use of the previous balance method of charge account financing. I opposed Senator PROXMIRE's proposal. I do not support the previous balance method of charge accounting, but I do not feel that this is a proper area for congressional intervention.

Thirty-eight States have established statutory limitations on open end credit transactions. In every case, permissible methods of applying rates are also included, and the method of applying the rate is directly and inherently related to the rates which are established. It would therefore be inappropriate to single out this one element of determining finance charges for Federal resolution. It would amount to half-way intervention unless there was a provision banning usury rate. No such proposal was made. I think such half-way action would be very inappropriate.

I also think that the Federal Government should not interfere in yet another area of traditional State jurisdiction unless the States have failed to respond to citizen concern. The previous balance issue has recently been protested by consumer groups. In California, Senator George Moscone has introduced legislation to ban that form of charging. The States should be given an opportunity to act before the Federal Government intervenes.

AMENDMENT NO. 1160

Mr. PROXMIRE. Mr. President, I call up my amendment No. 1160.

The PRESIDING OFFICER. The clerk will read the amendment. The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 1160 is as follows:

On page 19, line 7, strike the quotation mark and insert the following:

§ 170. Prohibition of retroactive finance charges

Any creditor who operates an open-end consumer credit plan under the terms of which the obligor has the option of avoiding the imposition of a finance charge by paying his outstanding balance in full within a specified period of time shall not retroactively assess a finance charge against any balances outstanding in the obligor's account prior to the time when such payment is due.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, will the Senator yield for an inquiry?

Mr. PROXMIRE. I yield.

Mr. TOWER. Some Senators have been asking when the vote might come. It is my understanding that, although there are 2 hours on the amendment, the Senator probably will not use that much.

Mr. PROXMIRE. Mr. President, I expect to speak about 15 minutes. Perhaps there will be a colloquy of 5 or 6 minutes. I would say that perhaps in a half hour we would come to a vote.

Mr. TOWER. I thank the Senator.

Mr. PROXMIRE. I yield myself 10 minutes, Mr. President.

Mr. President, this amendment prohibits retroactive finance charges on revolving charge accounts where the consumer is charged interest on money he has already repaid. The most common method for assessing retroactive finance charges is the so-called previous balance billing system. Under this system, consumers are generally given 30 days to pay their outstanding balance before they are assessed a finance charge. However, if they make a partial payment, they are charged interest against the original balance in their account rather than the remaining balance. No credit is given for the partial payment.

For example, if a consumer has a balance of $100 in his revolving charge account and makes a partial payment of $90, he is charged interest against the original balance of $100 rather than the closing balance of $10. He thus pays 10 times the amount of interest he otherwise would have paid if the creditor charged against the closing balance.

Most creditors impose a finance charge of 1½ percent a month. Thus, in the above example, a creditor using the previous balance system would charge the consumer 1½ percent of the $100, or $1.50. On the other hand, if the creditor used the closing balance system, he would charge the consumer 1½ percent of the closing balance of $10 or 15 cents. When the previous balance system is used, the consumer is really paying $1.50 in interest for the remaining credit balance of $10. He thus pays 15 percent a month or a whopping 180 percent a year.

Think of that. Let me repeat it. In this instance he would pay 180 percent interest a year.

The previous balance system works a particular hardship on consumers who have a billing dispute over one item in their revolving charging account. For example, suppose a consumer has an outstanding balance of $400 in his revolving account but has a dispute over one item costing $5. If he pays $395 and withholds $5 for the disputed item, he will be assessed a finance charge against the entire $400 balance. If the creditor uses the typical monthly rate of 1½ percent, the consumer's finance charge would come to $5, or more than the amount in dispute. Thus the consumer is unfairly penalized for exercising his right to withhold payment for a disputed item. In this example, all the pressure is on the consumer to pay what he does not owe. The creditor gets away with murder, no matter how wrong it is.

The previous balance system also encourages consumers to overextend themselves because they receive no credit for partial payments. If a consumer cannot pay his bill in full, it makes no difference how much he pays. The finance charge will be the same regardless. He thus has no incentive to reduce his indebtedness. This may be one of the reasons for the large number of consumer bankruptcies each year.

Creditors who use the previous balance method are anxious to preserve it because it results in substantially more finance charge revenue. I estimate that consumers are being overcharged at least $200 million a year because of the previous balance system.

Another method of assessing retroactive finance charges is the so-called average daily balance system which some creditors claim is fairer to consumers. However, some varieties of the average daily balance system also impose retroactive finance charges. Under these circumstances, consumers can pay even higher finance charges than they do under the previous balance system. For example, if a consumer makes a single purchase of $100 on the first day of his billing period, he is sent a bill at the end of the month and has until the end of the next month to pay in order to avoid a finance charge. If he makes a partial payment of $90 at the end of the following month, some creditors will charge interest at the rate of 1.5 percent per month for the full 60 days on the $100 outstanding during that period. In this example, the finance charge would come to $3 or double what he would be charged under the previous balance method. Annualizing this finance charge against the $10 actually owing at the end of the grace period produces an astronomical interest rate of 360 percent a year.

My amendment would prohibit the previous balance system as well as other systems which impose retroactive finance charges. It would not prohibit the so-called "average daily balance" billing system where the consumer is charged for credit on a daily basis provided the creditor does not retroactively levy a finance charge prior to the time when payment is due to avoid a finance charge. It restores a similar provision contained in the original S. 652 which was deleted by the committee.

The basic concept behind my amendment is simple. Consumers should not be charged interest on money they have already paid. If the creditor gives the consumer an option to avoid a finance charge by paying his bill in full by a certain date, it should be a meaningful option. It should not be hedged with tricky provisions which end up costing the consumer money. Consumers should not be induced into buying on time thinking they will pay only a small finance charge and wind up paying much more. If a creditor offers the consumer a 30-day grace period, then he should be compelled to live up to that offer.

My amendment will provide badly needed uniformity in the assessment of finance charges on revolving charge accounts. It will put all creditors on a common footing. Reputable credit grantors will not be placed at a competitive disadvantage by the tricky billing systems of their competitors.

My amendment will also make it possible to realize the main objective of truth in lending—and I say that as the author of the truth-in-lending bill—by making it possible for consumers to shop for the best credit plan by comparing interest rates. These goals are frustrated by the wide variety of billing systems which can produce enormous differences in finance charges even though they all use the same percentage rate.

Congress first considered the problem of billing systems on revolving charge accounts when it passed the Truth in Landing Act in 1968. At that time, it was realized that a monthly finance rate of 1½ percent—18 percent per year—could produce a wide variety of finance charges depending upon the method the creditor chose to compute the balance against which the finance charge was assessed. The solution adopted was to require disclosure of the monthly rate and its annual equivalent and the method for determining the balance against which the finance charge would be assessed. However, the disclosure approach has proven to be relatively ineffective in informing consumers of how their finance charges are actually determined. A poll taken in California showed that despite truth in lending, 82 percent of consumers did not really understand how their finance charges were figured under the previous balance system. When consumers were asked on what amount their finance charges would be computed if they had a bill for $100 and paid $25, only 18 percent correctly replied that the charge would be based on $100. The poll was taken in connection with a legal suit which seeks to have the previous balance method declared illegal.

During the hearings on S. 652, the previous balance billing method came under heavy fire from consumer groups and consumer protection agencies. The Chairman of the FTC, Miles Kirkpatrick, testified that—

> The Commission strongly supports the abolition of the previous balance method.

So I think I can fairly say that the Federal Trade Commission supports this amendment. The FTC has received over 700 letters complaining about the inequity of the previous balance method.

Dr. Arthur Burns, chairman of the Federal Reserve Board, was also critical of the previous balance method. In a report on the original version of S. 652, Chairman Burns observed that:

> The Truth in Lending Act requires creditors who use the previous balance method to specifically disclose that fact to consumers. As a result, the Board's Truth in Lending staff has observed that its use, which has been brought to the public's attention by Truth in Lending, has prompted numerous complaints in view of its appearance of inequity.

Again, I cannot think of anyone who can argue that Arthur Burns is unfair to business or insensitive to the needs of the credit industry. We all have great admiration for his ability.

The quotation from Dr. Burns continues:

> Consequently, the provision of S. 652 which would prohibit the previous balance method is likely to have considerable popular appeal. It would seem that the principal on which this provision is based is sound and reasonable.

The New York City Department of Consumer Affairs, in its statement before the subcommittee, argued that:

> Although the previous balance method is legal, it is our opinion that such a method of computing the interest is in violation of the intent of the usury laws and should be eliminated. It is an unfair and inequitable method of computation, inconsistent with the concept of buying on time.

Furthermore, Mr. President, not only do the consumers feel this way, but there are some responsible credit grantors who also feel the previous balance method is unfair. A Massachusetts retailer, in testifying before the subcommittee, said:

> I don't think any one here is taking issue with the fact that this (the previous balance method) perhaps affords a benefit to the merchant or retailer or banker that he can live without.

Massachusetts, which has led the Nation in consumer protection legislation, has already outlawed the previous balance method. J. C. Penney, one of the Nation's largest retailers, does not use the previous balance method and computes its finance charges instead on the amount remaining after deducting any payments from the customer. Similar computation methods are used by most oil companies and many bank credit card plans.

Despite the example set by the J. C. Penney Co. and other creditors, many of the Nation's largest retailers continue to use the previous balance method. These include Sears, Montgomery Ward, and Federated Department Stores. Yet not one of these companies appeared at the hearings to defend their billing system nor did they file a statement to justify their charges.

The principal argument against the amendment seems to be "leave it to the States." Well, why not? Why not leave it to the States?

Here is why: In view of the overwhelming record which has been made against the previous balance method, I believe Federal legislation to abolish it is clearly warranted and long overdue. The argument that we should leave it up to the States does not represent an adequate solution. Many creditors who use the previous balance method operate in all 50 States and should not be subject to piecemeal regulation. Moreover, it takes a considerably long time to enact uniform State laws on any subject. For example, it took the States over 20 years to draft and enact the Uniform Commercial Code. If we wait for the States to act, consumers will continue to lose hundreds of millions of dollars a year into the indefinite future. The time for decisive action is now.

Mr. President, I hope the Senate will adopt this amendment. I reserve the remainder of my time.

Mr. BENNETT. Mr. President, I yield myself such time as I may require in my interesting situation as a supporter of the bill through the use of opposition time.

It is unfortunate that the chairman of the committee is not here. He has a very good reason for not being here: He has a primary next Tuesday, and we all know of the pressure that that develops. So, in a sense, we members of the minority find ourselves in the position of speaking for the chairman and the majority.

Mr. President, the Senator from Wisconsin praises the State of Massachusetts for leading the Nation in consumer legislation, stating that Massachusetts has already outlawed the previous balance method. At this point, I interpolate to say that this discussion involves a technical credit problem that must be hard for people who have not been in on all of the discussions, both of this bill and the previous truth in lending bill, to know what we are talking about. Indeed, the previous balance method has been outlawed in Massachusetts and in other States as their legislatures have seen fit to include such a prohibition as part of their regulation of finance charges. That is perfectly appropriate. It should be understood, however, that Massachusetts has not approved legislation similar to that proposed by the Senator from Wisconsin.

I urge Members of the Senate to read the amendment by the Senator from Wisconsin. It is not drafted to simply prohibit the use of the previous balance method as one might believe from the discussion of the Senator. The Senator is apparently trying to confuse the issue with his discussion of the previous balance method. The amendment offered by the Senator requires that no finance charge be imposed by any method of computation before a specified date if the consumer is given the opportunity of paying off the account in full without a finance charge by that date. The most widely used open end credit plans grant 30 days for full payment without a finance charge but impose a finance charge on the basis of the time credit has been outstanding in the event that full payment is not made within the 30 days. In other words, these plans offer an incentive for the consumer to make full payment. But if he chooses not to make full payment and goes beyond that time, he has, of course, actually had the use of the money for those 30 days. What the Senator from Wisconsin is trying to do is to give him an extra 30 days, in addition to that which the present law provides in the event he does not make full payment.

Since statistics indicate that many creditors are losing money on their credit operations, it is perfectly logical that they would provide an incentive for full payment of an account. The Senator's amendment, if adopted, would eliminate the opportunity for them to offer that incentive. The Senator states that the average daily balance system may result in higher finance charges to the consumer than the previous balance system. There are circumstances under which this statement is true. However, to me his discussion of the rate of charge seems confusing and misleading. The Senator apparently ignore the fact that as soon as a transaction takes place, if payment is not made, credit is extended. Creditors have a legal right to impose a finance charge on the credit outstanding from the time of the transaction. Creditors, however, have set up plans which give the customer a choice between paying off the entire balance of the account—in effect a charge account—without the addition of finance charges if such payment is made in full before a certain date. In addition, they allow consumers to use the plan as a time payment plan or an installment account at the option of the consumer and impose a finance charge on the basis of the balance in the account as of a certain date or on the basis of the outstanding balance over a billing period. The Senator from Wisconsin describes a case in which the average daily balance is used as a method of computation and states that the charge against the $10 owing at the end of the period produces an astronomical interest rate of 360 percent a year. What the Senator ignores is that the consumer has had an outstanding credit balance of $100 since the day he made the purchase. He has had it for 60 days. The Senator says that a partial payment of $90 is made at the end of the second month. He states that the finance charge would come to $3 at 1½ percent for 60 days. Then he annualizes this $3 charge against the $10 still owing at the end of the period. As the Senator well knows, the $3 is not a charge against the $10 still owing. That $10 will be the basis of the finance charge for the following month. The $3 is a charge against the $100 outstanding during most if not all of the 60 days before any payment was made. The annual rate of finance charge against the debt outstanding under the Senator's example is exactly 1½ percent a month, or 18 percent a year. The grace period which the Senator uses to confuse the issue is granted only in the event that the full account is paid off by the end of the period. That fact is completely explained to the consumer before he opens his account and on each billing statement thereafter.

I should like to read from two typical forms. This is the K Thrift Charge Plan used by Kresge, K Mart, and Jupiter Stores. This material is contained in the form above the place for the customer's signature, so he signs indicating that he understands it. The same statement appears on every bill that he receives thereafter. This is what it says:

> I (we) understand there will be no service charge if my (our) account is paid within 30 days after billing date. But if I (we) choose the option terms and use the installment plan, I (we) will pay a service charge of 1½% on the unpaid balance carried over from the previous month's statement less any payments or credits.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. PROXMIRE. The Senator has just read something that is very complicated. Does not that make the case as to why 82 percent of the people do not understand this, as they found out in California?

Mr. BENNETT. It may be complicated for the Senator from Wisconsin, but it is not complicated for the Senator from Utah. It says that you have two choices. If you pay in 30 days, there is no charge. If you choose to carry it over and use the account as an installment account, there will be a charge. It is that simple.

I will read the next one, which is on the Singer form:

> You may pay entire balance at any time. If paid within 30 days of date of this statement no additional finance charge will be made. If you prefer an installment account, pay this amount upon receipt of statement.

This just reminds the customer that every time he buys something and gets a bill, he has this choice: paying it without charge within 30 days or, if he chooses to let it run, paying the legal charge, which is a generally a ceiling of 1½ percent per month.

No reputable mathematician or expert in finance computation has indicated that the average daily balance method of computing a finance charge is not completely fair to both the consumer and the creditor. The Federal Reserve Board in its comments on the original provision proposed by the Senator from Wisconsin that the average daily balance method is generally regarded as an equitable method for both creditors and consumers. What the Senator is trying to do in his amendment is to destroy plans which now exist which give consumers a choice between two methods of payment.

To me, the Senator further confuses the issue by stating in his explanation of the amendment that was sent to Senators:

> Many creditors charge against the closing balance because they feel it is fairer to consumers. These include large retailers such as J. C. Penney, most oil companies, and many bank credit card plans.

Unfortunately, this statement is wrong. It represents misinformation. These creditors do not use the closing balance; they use the adjusted balance which is advantageous to consumers.

Mr. President, let me explain the distinction between the closing balance method and the adjusted balance method.

The closing balance method does not grant the customer any option to pay the account in full and avoid the imposition of a finance charge. The finance charge is levied each and every month on the net amount owing at the end of each month. The finance charge is calculated on an amount which is equal to the balance at the beginning of the month less payments and returns plus purchases made during that month.

The adjusted balance method assesses no finance charge on a purchase for the month when that purchase was made. The adjusted balance method assesses a finance charge only if there is a previous month's balance. The finance charge itself then will be based on that balance less all payments and credits received during the billing period covered by the monthly statement. No charge is made on goods or services purchased during the current month.

It should be obvious that there is a major difference between these two methods of applying a finance charge. The adjusted balance method results in a significantly lower charge to the customer.

Mr. President, I ask unanimous consent to include in the Record six methods provided by Dr. Richard Morse, professor of family economics, Kansas State University, to compute finance charges and an explanation of the methods. These methods do not include the daily balance or the average daily balance.

There being no objection, the statement on the six methods was ordered to be printed in the Record, as follows:

SIX METHODS ILLUSTRATED BY DR. RICHARD MORSE TO COMPUTE FINANCE CHARGES ON REVOLVING CREDIT ACCOUNTS

6 METHODS USED TO COMPUTE 1½-PERCENT MONTHLY SERVICE CHARGES ON REVOLVING CREDIT ACCOUNTS (STANDARDIZED 6-MONTH ACCOUNT)

Method	Month	Previous balance	Credits		Charges	Balance before service charge	Service charge	Closing balance
			Payments	Returns				
	(a)	(b)	(c)	(d)	(e)	(f)=b−c−d+e	(g)	(h)=f+g
Method I: No option. Service charge, 1½ percent of current balance at end of month. (g)=1½ percent (f).	January			$10	$30	$20.00	$0.30	$20.30
	February	$20.30	$20	30	120	90.30	1.35	91.65
	March	91.65	80	40	90	61.65	.93	62.58
	April	62.58	10		10	62.58	.94	63.52
	May	63.52	10		10	63.52	.95	64.47
	June	64.47	10		10	64.47	.97	65.44
Total							5.44	

SIX METHODS ILLUSTRATED BY DR. RICHARD MORSE TO COMPUTE FINANCE CHARGES ON REVOLVING CREDIT ACCOUNTS—Continued

6 METHODS USED TO COMPUTE 1½-PERCENT MONTHLY SERVICE CHARGES ON REVOLVING CREDIT ACCOUNTS (STANDARDIZED 6-MONTH ACCOUNT)—Continued

Method	Month	Previous balance	Credits		Charges	Balance before service charge	Service charge	Closing balance
	(a)	(b)	Payments (c)	Returns (d)	(e)	(f)=b−c−d+e	(g)	(h)=f+g
Method II: 30-day option. Service charge, 1½ percent of previous month's ending balance less payments and returns. (g)=1½ percent (b−c−d) if (b)>(c+d).	January			$10	$30	$20.00		$20.00
	February	$20.00	$20	30	120	90.00		90.00
	March	90.00	80	40	90	60.00		60.00
	April	60.00	10		10	60.00	$0.75	60.75
	May	60.75	10		10	60.75	.76	61.51
	June	61.51	10		10	61.51	.77	62.28
Total							$2.28	
Method III: No option. Service charge, 1½ percent of previous month's ending balance. (g)=1½ percent (b).	January			10	30	20.00		20.00
	February	20.00	20	30	120	60.00	.30	60.30
	March	90.30	80	40	90	90.30	1.35	91.65
	April	61.65	10		10	61.65	.93	62.58
	May	62.58	10		10	62.58	.94	63.52
	June	63.52	10		10	63.52	.95	64.47
Total							$4.47	
Method IV: 30-day option. Service charge, 1½ percent of previous month's ending balance. (g)=1½ percent (b) if b>(c+d).	January			10	30	20.00		20.00
	February	20.00	20	30	120	90.00		90.00
	March	90.00	80	40	90	60.00		60.00
	April	60.00	10		0	60.00	0.09	60.90
	May	60.90	10		10	60.90	.91	61.81
	June	61.81	10		10	61.81	.93	62.74
Total							$2.74	
Method V: 30-day option. Service charge, 1½ percent of previous month's ending balance unless paid in full. ("All or none"). (g)=1½ percent (b) if (b)>(c).	January			10	30	20.00		20.00
	February	20.00	20	30	120	90.00		90.00
	March	90.00	80	40	90	60.00	1.35	61.35
	April	61.35	10		10	61.35	.92	62.27
	May	62.27	10		10	62.27	.94	63.21
	June	63.21	10		10	63.21	.95	64.16
Total							$4.16	
Method VI: 30-day option. Service charge, 1½ percent of previous month's ending balance less payments (but not returns). (g)=1½ percent (b−c) if (b)>(c).	January			10	30	20.00		20.00
	February	20.00	20	30	120	90.00		90.00
	March	90.00	80	40	90	60.00	.15	60.15
	April	60.15	10		10	60.15	.75	60.90
	May	60.90	10		10	60.90	.76	61.66
	June	61.66	10		10	61.66	.77	62.43
Total							$2.43	

Method I—is the closing balance method. Customer will pay a finance charge every month and has no option to pay any amount in full to avoid a finance charge—He must pay a finance charge on the net amount of the money he owes on the closing date of the period covered by his monthly statement.

This means that the finance charge for each and every month is assessed on the opening balance plus purchases, less payments and less returns. It is not generally used.

Method II—is the typically adjusted balance method in which the customer has the right to pay the full amount of the bill and avoid any finance charge if payment in full is made before the next billing date.

When a finance charge is imposed it is calculated on a sum equal to the previous balance less payments and returns. The adjusted balance is fairly widely used today.

Method III—is a hybrid previous balance method. It gives the customer no option to pay the previous balance in full and avoid further finance charges. Each monthly bill includes a finance charge which must be paid if there was a previous month's balance. However, the finance charge is not applicable to either purchases made nor does it subtract payments received during the billing cycle covered by the statement.

This method is not generally used because it does not give customers the option to pay the exact amount owed at the end of the month without incurring additional finance charges. The only free credit in Method III occurs whenever a purchase is made during a month for which there was no previous balance carried over from the preceding month.

When a finance charge is assessed it is calculated solely on the previous balance.

Method IV—is the typical previous balance method of computing finance charges which is widely used in retailing today. Under it—the customer each and every month has the option to pay the amount of the previous balance as indicated on that bill without incurring any additional finance charges. In determining whether or not the amount is paid in full, the credit for returns made that month is added to the amount of the payment.

Under this method, the amount which must be paid to avoid further finance charges does not include purchases made during the month covered by the bill nor does it subtract any payments made during that month.

When a finance charge is assessed, it is calculated on the previous balance irrespective of current payments or purchases.

Method V is a previous balance method which has an unusual twist and is seldom (if ever) used. The option given to the customer under this method is that she can avoid the payment of any additional finance charge if she pays the total amount of the previous balance. However, the creditor does not include in that payment any credit for returned merchandise. In other words, the cash payment must equal the previous balance irrespective of whether or not some credit was allowed during that month for the return of goods.

If a finance charge is assessed it will be assessed solely on the previous balance.

Method VI is an unusual version of the adjusted balance method and seldom (if ever) used. It gives the customer the option of paying the previous balance less any payments made in order to avoid a finance charge. However, the distinction between Method III above and Method IV is that III permits the credit for returned merchandise to be included in determining the adjusted balance upon which the finance charge is levied.

Method IV ignores returned merchandise credits in computing the adjusted balance.

Mr. BENNETT. Mr. President, I would also like to point out that the Senator's explanation includes comments of individuals and institutions which in different contexts have discussed the desirability or undesirability of the previous balance method. This body should know that these comments were not made in support of the amendment which the Senator from Wisconsin is now offering. As an example, the Senator quotes a couple of words from a Federal Reserve statement and uses this to support his amendment. The Federal Reserve Board has not commented on the proposition of the Senator from Wisconsin to limit the freedom of creditors to determine the date on which they will begin finance charges when the customer chooses not to pay the entire balance of the account. I have checked with the Federal Reserve and find that no statement has been made in support of this proposition by their staff or members of the Board of Governors.

Mr. President, there is no doubt that the States have accepted the responsibility of regulating finance charges on open-end accounts.

The determination of the method of applying the rate is part of the rate regulation. Thirty-eight States and the District of Columbia have established statutory rate limitations on open-end credit. Every one of these jurisdictions have included a method or methods for applying the rate. The method of applying the rate is directly and inherently related to the rate limitations which are established. It should also be pointed out that many States have several different statutory patterns for different types of open-end credit accounts within the State. These differences, including differences in rate limitation and method of applying the rate, are based on differences in the type of open-end credit accounts, which differences the State legislatures have found to be sufficiently significant to require a difference in regulation. The amendment offered by the Senator from Wisconsin makes no such differentiation among various types of open-end credit accounts. His amendment would single out this one element of finance charge regulation, the time and conditions under which a rate may be imposed, and apply it across the board to all open-end accounts. It is inappropriate to single out this one element of determining finance charges for Federal resolution. The determination of the rate, the method of application, and the time for application are all part of the determination of finance charges on open-end credit accounts. All of these should be considered and weighed against each other in reaching a final conclusion. This the committee did. The committee bill reflects the judgment of the committee, that the limitation which the Senator suggests should not be included.

May I say again that under the present law, the buyer has 30 days of free time in which to pay his account without a finance charge. If he goes past that, the charge will be imposed, or if he does not pay it in full, a charge will be imposed on the balance. But, as I understand from the Senator's amendment, the effect will be to give him another 30 days even though he has had the use of the credit since the day he bought the merchandise.

I believe that this really wrenches our traditional and accepted pattern of consumer credit out of all proportion.

I hope that the Senate will stand with the committee and reject the amendment.

Now, Mr. President, I yield such time as the Senator from Tennessee (Mr. BROCK) may need.

The PRESIDING OFFICER (Mr. McINTYRE). The Senator from Tennessee is recognized.

Mr. BROCK. Mr. President, I thank the Senator from Utah for yielding me this time.

Well, Mr. President, here we are again with another amendment which, charitably, is no more and no less than a wolf in sheep's clothing. I am constantly amazed at the ability of these debates to obfuscate the real, fundamental question that faces Congress and the American people.

The Senator from Wisconsin (Mr. PROXMIRE) is a skilled and able legislator and debater. He presents his facts with some cogency and a great deal of flair, if one can call them facts. I do not, because the real fact is that the statistics cited insofar as interest rates are concerned were completely distorted. They were not based on the interest charges on day-to-day purchases. They completely ignore that and go to the end of the free period.

I respect the skill of the distinguished Senator from Wisconsin, but I very much oppose his amendment. The effect of it—and, again, perhaps it is not the intent—the effect of the amendment will be to eliminate the free period available to the credit consumers of this country.

The small buyer, the low- and moderate-income purchaser, who has to take advantage of every possible credit condition, has an enormous advantage today because it is to the advantage of the banks, the businesses, and the merchants, to encourage the use of credit in order to enhance sales. To do so, they make credit available—free credit—no charge—for the first 30 days. At the end of the 30 days, the consumer has the option as to whether he wants to pursue the installment provision, or to pay off his bill in full.

The Senator from Wisconsin proposes an amendment which is an overt attempt to eliminate the previous balance method of accounting and billing. I really do not object to that. If that were the only effect because I do not like the previous balance method, even though it is used by something less than one out of five merchants in this country today. But, I would disagree with the Senator. There is no foundation for the Senator to state that $200 million in billing costs would be incurred as a result of the previous balance method because most people do not use it any more.

But even if they did and the previous balance method were eliminated by this amendment it would not help the consumer.

That is not the effect of the amendment. The effect of the amendment is to force the merchant to eliminate the free period. He now makes it available to all customers of moderate income and low income—small—large. The effect of the amendment is again to reduce the availability of credit, to increase its price to the average citizen. I do not think that is what this Congress wants to do. If we are going to pass a bill as a consumer bill, then let us do it honestly and let us do it by passing it or having a bill which literally does enhance the availability of credit, that literally does make this credit useful to small business which avoids the pitfalls of trying to have a Federal standard imposed upon accounting methods which involve consumer money. That is the effect of the amendment.

The committee considered all of the arguments given by the Senator in support of his proposal and rejected it overwhelmingly. The committee turned down this proposal because it would have prohibited creditors from offering a credit plan under which a consumer is given the option of avoiding a finance charge by paying off the entire balance by a specified date or paying off the account in monthly installments with a finance charge on the credit outstanding as of a specified date or during a specified period as disclosed in advance by the creditor and agreed to by the consumer. Many financial institutions and merchants offer plans which give the consumer his option. Such open-end or revolving charge plans are actually a combination of a charge account with no finance charges if the bill is paid within a specified period, and a flexible time payment account under which monthly payments with a finance charge are made. This provides maximum flexibility of payment to the consumer. It also provides the consumer with alternatives in the type of credit he desires.

We must also remember one other fact about this amendment. If the Federal Government does impose its will in contradiction of those 38 States that now have laws in this area and says that this plan can be used and that this plan cannot be used, at what point do we stop? If we are going to take action which has the effect of making credit more costly to the American people or making credit less available, are we honestly doing them any favors? I think not. I think that the amendment should be rejected.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement on the regulation by State law of open-end credit.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OPEN END CREDIT

OPEN END CREDIT LAWS

State laws have been adopted to regulate open end credit. *Open end credit* refers generally to credit plans or agreements under which a consumer is permitted to purchase goods or services or obtain loans from time to time and under which the unpaid balances resulting from these purchases or loans are debited to an account. The consumer is required to pay all or part of the unpaid balance upon periodic billings and is usually subject to finance charges on amounts left unpaid from previous billing periods.

Included within the term *open end credit* in this chart are credit arrangements referred to as revolving credit, revolving charge accounts, budget accounts, retail instalment accounts, instalment accounts, seller credit cards and lender credit cards. Also included is specialized bank check loan credit.

CHART CONTENTS

The "Open End Credit" Chart lists the states governing charges on open end credit plans. Entries are broken down by the type of open end credit governed under the law. The major headings include:

MONTHLY CHARGES

"Monthly Charges" is subdivided into two areas in which rates or dollar amounts of charges under open end credit are regulated. A "Maximum" column lists permissible monthly finance charge rates, monthly service charges, delinquency charges and default charges.

A "Minimum" column sets out the permissible monthly charges which may be imposed when the application of the "maximum" charge rate to an existing unpaid balance would yield a lesser amount.

COMPUTATION

In order to calculate a finance charge on an open end credit account, the creditor must apply the permissible periodic rate to a given periodic balance. A "Computation" column sets out the provisions determining the balance to which the periodic rate may be applied. When the statutes allow the use of a fixed or scheduled finance charge for a set range of balances, the fixed charge must be applied to all balances within that range.

STATUTES CITED IN CHART

The laws reflected in the Chart appear, for the most part, in full text in the state divisions of the Guide. Direct reference is given to the location of these provisions. In the case of the check loan provisions, which do not appear elsewhere in the Guide, reference is given to the applicable state statutes or code sections.

CHARTS

State	Monthly charges		Computation
	Maximum	Minimum	
Alabama	Open end credit plan: 1½ percent (Alabama par. 6002)	50 cents (Alabama par. 6002)	On balance from time to time (Alabama par. 6002).
Alaska	Revolving charge agreement: 1½ percent on $1,000 or less; 1 percent on excess (Alaska par. 6012).	$1 (Alaska par. 6012)	On monthly balance or per schedule of fixed amounts (applied to balances equal to fixed amount plus or minus $5 differential) (Alaska par. 6012).
	Bank revolving credit plan: See revolving charge agreement above. (Alaska par. 6201).		
Arizona	Charge account: 1½ percent on $1,500 or less; 1 percent on excess; no charge if paid in full before billing date (Arizona par. 6126).	50 cents (Arizona par. 6126)	On greater of (1) average daily balance, (2) beginning balance less payments and credits, or (3) median amount within $10 range within which (1) or (2) fall (Arizona par. 6126).
	Revolving loan account—Lender credit card: 1½ percent if not precomputed (Arizona par. 6101).	No provision	On monthly balance as of billing date or on actual daily balance (Arizona par. 6101).
	Check loan: 1 percent on $5,000 maximum; 5 cents per $1 on default (1 per payment); 25 cents service charge each loan (ARS § 6-376—6378).	do	On monthly balance as of billing date, or on actual daily balance (ARS § 6-376).
Arkansas	There are no open end credit provisions.		
California	Installment account: 1½ percent on $1,000 or less; 1 percent on excess (California par. 6066).	$1 (California par. 6066)	On monthly balance or per schedule of fixed amounts (applied to balances equal to fixed amount plus or minus $5 differential) (California par. 6066).
Colorado	Open end credit is governed by the Colorado Uniform Consumer Credit Code. Charges and fees appear in the "Uniform Consumer Credit Code" Chart at par. 505 of this division.		
Connecticut	There are no open end credit provisions. However, a Connecticut court has ruled that a retailer's charge account finance charges were subject to the usury law. See CCH Consumer Credit Guide par. 99,570.		
Delaware	Installment account: 1½ percent on $1,000 or less; 1 percent on excess (Delaware par. 6037).	$1 (Delaware par. 6037)	On monthly balance or per schedule of fixed amounts (applied to balances equal to fixed amount plus or minus $5 differential) (Delaware par. 6037).
District of Columbia	Revolving credit account: 1½ percent on $500 or less; 1 percent on excess (District of Columbia par. 6132).	No provision	On (1) daily balance (total charges less payments or credits) or (2) average daily balance or (3) balance within range of $10 on basis of median amount within such range (District of Columbia par. 6132).
Florida	Revolving account: 15 cents per $10 (Florida par. 6017)	$1 (Florida par. 6017)	On balance by month or other regular period or balance within range of $10 on basis of median amount within such range (Florida par. 6017).
	Bank loan—Credit cards: 1½ percent on $5,000 maximum (Florida par. 6458).	No provision	On monthly balance (Florida par. 6458).
Georgia	Revolving account: 15 cents per $10 (Georgia par. 6115)	$1 (Georgia par. 6115)	On balance by month or other regular period or balance within range of $10 on basis of median amount within such range (Georgia par. 6115).
	Lender credit card: 1½ percent (Georgia par. 6334); cash advance fee, greater of $5 or 5 percent up to $25; delinquency fee on default of 5 days, greater of $1 or 5 percent up to $5) and 1 per installment (Georgia par. 6335).	No provision	On average daily balance or monthly balance on same day (4-day variance) (Georgia par. 6334).
Hawaii	There are no open end credit provisions.		
Idaho	Open end credit is governed by the Idaho Uniform Consumer Credit Code. Charges and fees appear in the "Uniform Consumer Credit Code" chart at par. 505 of this division.		
Illinois	Charge agreement: 18 cents per $10 (Illinois par. 6042)	70 cents (Illinois par. 6042)	On monthly balance or balance within range of $10 on basis of median amount within such range (Illinois par. 6042).
	Revolving loan: 1½ percent; 25 cents service charge for each transaction or $20 annual fee (Illinois par. 6232).	No provision	On average daily balance of principal, or on balance on approximately same day of billing cycle (Illinois par. 6232).
Indiana	Open end credit is governed by the Indiana Uniform Consumer Credit Code. Charges and fees appear in the "Uniform Consumer Credit Code" chart at par. 505 of this division.		
Iowa	There are no open end credit provisions.		
Kansas	Revolving charge account: 1.78 percent on $1 to $300; 1.35 percent on $301 to $1,000; 1.20 percent on excess of $1,000 (Kansas par. 6022, 6274).	50 cents (Kansas par. 6274)	On no greater than (1) average daily balance; or (2) balance on same day (4-day variance) of billing cycle; or (3) median within specified range within which (1) or (2) falls, provided the charge on the median is not over the charge on the lowest amount in the range by more than 8 percent (Kansas par. 6274).
	Revolving loan account: Maximum permitted lender on any other type of instalment loan—see revolving charge account above and other loan charts—(Kansas par. 6252, 6253).		
Kentucky	Charge agreement: There are no open end credit provisions concerning charges other than the law authorizing a "time price differential." (Kentucky par. 6221).		
Louisiana	Bank revolving loan: 1½ percent not exceeding 18 percent per year simple interest; free period, 25 days from first billing; cash advance fee, 4 percent (Louisiana par. 6202).	No provision	On average daily balance of principal or on balance on approximately same day of each billing cycle (Louisiana par. 6202).
	Seller credit card: 1½ percent; free period, 30 days after initial bill mailed) (Louisiana par. 6311).	25 cents (Louisiana par. 6311)	On balance by month or other regular period (Louisiana par. 6311).
Maine	A 12 percent rate (see par. 99,456) was held invalid as to revolving charge accounts (see par. 99,232).		
Maryland	Credit account: 1½ percent on $500 or less; 1 percent on excess (Maryland par. 6034).	No provision	On monthly balance (based on average daily balance or daily balance of charges, less payments or credits); or balance within range of $10 on basis of median amount within such range (Maryland par. 6034).
Massachusetts	Revolving credit agreement: 1½ percent on $500 or less; 1 percent on excess (Massachusetts par. 6109).	50 cents (Massachusetts par. 6109)	On balance by month or other regular period (balance based on daily balance or previous balance less payment and credits during first 25 days but limited to purchases in period) or balance within range of $10 on basis of median amount within such range (Massachusetts par. 6109).
Michigan	Charge agreement: 1.7 percent (Michigan par. 6124)	70 cents (Michigan par. 6124)	On balance by month or other regular period, or balance within range of $10 on basis of median amount within such range (Michigan par. 6124).
Minnesota	Open end credit: 1 percent (Minnesota par. 6101)	50 cents (Minnesota par. 6101)	On average daily balance during monthly billing cycle (Minnesota par. 6101).
Mississippi	There are no open end credit provisions.		
Missouri	Charge agreement: 15 cents per $10 on $500 or less; 7½ cents per $10 on excess (Missouri par. 6021).	70 cents (Missouri par. 6021)	On unpaid amounts at beginning of billing cycle (month or other regular period), or on balance within range of $10 on basis of median amount within such range (Missouri par. 6021).
Montana	Charge account: 1½ percent (not on unpaid finance charge) Montana par. 6023).	50 cents (Montana par. 6023A)	On greater of (1) average daily balance or (2) median within $10 range within which average daily balance falls (Montana par. 6023).
Nebraska	Revolving charge agreement: 1½ percent on $500 or less; 1 percent on excess (Nebraska par. 6054).	No provision	On unpaid balances from month to month or other regular period (Nebraska par. 6054).
Nevada	Charge agreement: 1.8 percent (Nevada par. 6026)	do	On deferred balance (Nevada par. 6026).
New Hampshire	There are no open end credit provisions.		
New Jersey	Charge account: 1½ percent on $700 or less; 1 percent on excess (New Jersey par. 6055B).	50 cents (New Jersey par. 6055B).	On greater of (1) average daily balance or (2) balance at beginning or end of period, or (3) median within specified range within which (1) or (2) falls, provided the charge on the median in a range does not exceed the charge on the lowest amount in the range by more than 8 percent (New Jersey par. 6055B).
	New Jersey charge account—Effective Apr. 19, 1972.		
	Bank charge account: 1¼ percent on $700 or less; 1 percent on excess (New Jersey par. 6055B).	50 cents (New Jersey par. 6055B).	On average daily balance or balance at beginning or end of period (New Jersey par. 6055B).
	New Jersey bank charge—Effective Apr. 19, 1972.		
	Check loan: [2] 1 percent on $5,500 maximum; lesser of 5 percent or $5 for each default over 15 days; greater of 25 cents per loan or 50 cents service charge (R.S. secs. 17:9A-59.6—17:9A-59.8, 17:9A-59.11).	No provision	On daily principal balances (R.S. sec. 17:9A-59.6).

CHARTS—Continued

State	Monthly charges		
	Maximum	Minimum	Computation
New Mexico	Charge agreement: 15 cents per $10 on $500 or less; 10 cents per $10 on excess (New Mexico par. 6017).	70 cents (New Mexico par. 6017).	On balance at beginning of billing cycle (monthly or regular period), or balance within range of $10 on basis of median amount within such range (New Mexico par. 6017).
New York	Credit agreement: 1½ percent on $500 or less; 1 percent on excess (New York par. 6039).	70 cents (New York par. 6039).	On monthly balance or per schedule of fixed amounts (applied to balances equal to fixed amount plus or minus $5 differential) (New York par. 6039).
	Check loan: [3] 1 percent, on maximum of $5,000; 4 cents per $1 of installment due over 10 days, up to $5, only 1 late charge per default (if total fines during year exceed $15, excess to be applied to principal or $1 or more refunded); 25 cents each check or order (Banking Law, ch. 2, sec. 108).	No provision	On (1) unpaid principal; or (2) average balance—divide by 2 sum of unpaid balances on 2 dates during month, 1 not later than 15th and other not earlier than 16 with 10 to 20 days in between; or (3) fixed scheduled amounts within $10 range in which (1) or (2) falls (Banking Law, ch. 2, sec. 108).
North Carolina	Open end credit plan (revolving credit card or charge account): 1½ percent on unsecured loans (North Carolina par. 6314, 6409).	No provision	On previous monthly balance (North Carolina par. 6314, 6409).
	Revolving credit loan (check loan or other revolving direct loan): 1¼ percent on $5000 maximum (North Carolina par. 6409).		On previous monthly balance (North Carolina par. 6409).
North Dakota	Revolving charge account: 1½ percent (North Dakota par. 6203).	No provision	On monthly balances (North Dakota par. 6203).
Ohio	Revolving budget agreement: Base charge, 50 cents per $50; service charge, 50 cents per first 4 $45-units; additional service charge, 25 cents for next 4 $50-units (Ohio par. 6011).	$1 (Ohio par. 6011).	On balance at beginning or end of period (Ohio par. 6011).
	Bank revolving credit (indirect loan to buyer): 2 percent on $200 or less; 1½ percent on next $200; 1 percent on excess (Ohio par. 6015).	$1 (Ohio par. 6015).	On balance at beginning or end of each calendar month, or other regular period not in excess of 31 days, or on average daily balance (Ohio par. 6015).
Oklahoma	Open end credit is governed by the Utah Uniform Consumer Credit Code. Charges and fees appear in the "Uniform Consumer Code" Chart at par. 505 of this division.		
Oregon	There are no open end credit provisions.		
Pennsylvania	Retail installment account: 1¼ percent (Pennsylvania par. 6720).	70 cents (may be imposed for for minimum of 6 months) (Pennsylvania par. 6270).	On monthly balance or per schedule of fixed amounts (applied to balances equal to fixed amount plus or minus $5 differential) (Pennsylvania par. 6270).
	Revolving loan account: 2 percent on $3500 maximum (Pennsylvania par. 6321, 6323).	No provision	Unpaid principal balance (includes prior loan charges accrued within 60 days of new loan) (Pennsylvania par. 6323).
	Bank revolving loan (check loan): 1 percent on $5,000 maximum; current special check charge; lesser of $2.50 or 5 percent on defaults over 15 days (L. '65, S. B. 665, sec. 309 (a), (d), (f).	do	On outstanding balance (L. '65, S. B. 665, sec. 309(a).
Puerto Rico	Revolving account credit plan: 15 cents per $10 on $250 or less; 10 cents per $10 on excess (Puerto Rico par. 6023, 6502).	do	On monthly balance (Puerto Rico par. 6502).
Rhode Island	Revolving credit plan: 18 percent per year (free period on purchase, 30 days, or 21 days after statement) (Rhode Island par. 6014). Limitation does not apply to banks, etc., and other business governed by law (Rhode Island par. 6015).	40 cents (Rhode Island par. 6014).	On periodic balance (Rhode Island par. 6014).
South Carolina	There are no open end credit provisions.		
South Dakota	Bank revolving credit: 2 percent on $500 or less; 1½ percent on excess (South Dakota par. 6102).	$1 (South Dakota par. 6102).	On no greater than (1) average daily balance, or (2) balance on same day of billing cycle (4-day variance); or median within specified range within which (1) or (2) falls, provided the charge on a median does not exceed charge on lowest amount in range by more than 8 percent (South Dakota par. 6102).
	There are no other open end credit provisions. However, the South Dakota Supreme Court has ruled that retail charge account finance charges are subject to the usury law See CCH Consumer Credit Guide par. 99,275.		
Tennessee	Charge agreement: 15 cents per $10 (Tennessee par. 6013).	70 cents (Tennessee par. 6013).	On balance for month or other regular period or balance within range of $10 on basis of median amount within such range (Tennessee par. 6013).
Texas	Charge agreement: 15 cents per $10 on $500 or less; 10 cents per $10 on excess (Texas par. 6018).	75 cents (Texas par. 6109).	On balance by month or other regular period or balance within range of $10 on basis of median amount within such range (Texas par. 6019).
	Check loan: [5] Rates by Consumer Credit Commissioner for yield equal to add-on interest of $8 per $100 per year; 5 cents per $1 per 10-day default if contracted for; deferment charge equal to difference between prepayment refund on deferment date and 1 month prior to such date times the months deferred (L. '67, H. B. 452, art. 4.01(1), (4), (5), (7)).	No provision	On outstanding principal amount of loan during billing cycle (L. '67, H. B. 452, art. 4.01(4)).
Utah	Open end credit is governed by the Utah Uniform Consumer Credit Code. Charges and fees appear in the "Uniform Consumer Credit Code" Chart at par. 505 of his division.		
Vermont	Charge agreement: 1½ percent on $500 or less; 1 percent on excess (Vermont par. 6024).	25 cents (Vermont par. 6024).	On monthly balance or on basis of median amount within period (Vermont par. 6024).
	Bank credit card: 1½ percent on $500 or less; 1 percent on excess; free period on purchases 25 days from billing date (Vermont par. 6334).	No provision	On aggregate balance in account. Cash advance: average daily balance (Vermont par. 6334).
Virginia	Revolving consumer credit: 1½ percent; free period 25 days from billing; no charge if bill not mailed within 8 days of billing (Virginia par. 6018).	No provision	On monthly balance (Virginia par. 6018).
	Check loan: 1 percent; 25 cents each check, draft or order (Virginia par. 6403).		On daily balances, or maximum calendar or fiscal month balances (Virginia par. 6403).
Washington	Charge agreement: 1 percent not to exceed 12 percent per year (Washington par. 6017).	$1 (Washington par. 6017).	On monthly balance or balance within range of $10 on basis of medium amount within such range (Washington par. 6017).
West Virginia	There are no open end credit provisions.		
Wisconsin	There are no open end credit provisions. However, the Wisconsin Supreme Court has ruled that a retailer's charge account finance charges were subject to the usury law See CCH Consumer Credit Guide par. 99,570.		
Wyoming	Open end credit is governed by the Wyoming Uniform Consumer Credit Code. Charges and fees appear in the "Uniform Consumer Credit Code" Chart at par. 505 of this divsion.		

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[1] Arizona check loan is authorized only under written agreement signed by borrower. Agreement may contain any lawful provision (Sec. 6–372) It must contain payment day and amount of total amount due repaid monthly (Sec. 6–375), interest payable (Sec. 6–376, amended by laws any time. (Sec. 6–376, amended by Laws 1969, Ch. 79.) Lender forfeits all interest and borrower recovers twice interest paid for lender knowingly collecting excessive interest. (Sec. 6–380)

[2] New Jersey advance loan contract must have borrower's signature and must state: indebtedness limit; billing cycle; monthly payments; interest rate; later charges; service charges; if applicable, explanation of overdraft coverage; and credit insurance coverage, if requested. Acceleration and confession of judgment prohibited. (Sec. 17:9A–59.2) Monthly payment must be at least 1/36th of aggregate amount owing but not less than $10 unless outstanding balance is less. Order of application of payments: interest, credit insurance, late charges service charges, and principal. (Sec. 17:9A–59.5) Lender forfeits excess interest and borrower recovers twice amount paid within 2 years for lender's knowing collection of excessive interest. (Sec. 17:9A–59.13) At end of each billing cycle, statement must be sent showing balance, amount and due date of new loan, amount of payment, charges, interest, balance on all loans, amount to be paid and payment date. Notice must be given on statement in 10-point type or larger that it represents an accounting and attention must be called to all errors within 6 months. (Sec. 17:9A–59.4) Maximum loan does not include interest, insurance premiums and other charges not part of principal but insurance charges are part of principal for interest. (Secs. 17:9A–59.6, 17:9A–59.11)

[3] New York check loan requires written agreement with borrower Service charges, default fines, insurance, and court costs and attorney fees must be mentioned to be collectible. Payment is required in equal monthly installments within 37 months until there is additional loan. Three consecutive months may be skipped during any year if so provided. Initial payment may be deferred 65 days. Payment must not be less than 1/37th of total loans unpaid at end of month May pay 1/37th of total maximum. May agree to $20 minimum. Prepayment at any time. Order of application of payments: interest, insurance, service charges, fines, principal (See 108(5)) Lender forfeits all interest and borrower recovers twice amount paid for lender's knowingly having charged excess interest. (Sec. 108(6). amended by Laws 1963. Ch. 1072)

[4] Pennsylvania credit plan requires written agreement providing a maximum outstanding balance. A revolving plan loan is due 5 years from date of last loan made under plan. Payments must be equal amounts at equal intervals of not over 3 months each. Installments may be omitted for up to 3 months in each calendar year. Borrower must be given written monthly notice of rate of charge. (Sec. 309)

[5] Texas check loan agreement must be in writing and must contain dates names and addresses of parties, nature of any security, charges in addition to interest, interest for default and deferment, signatures of parties, maximum loan amount, loan method, simple statement of finance charge calculation, insurance coverage method of figuring insurance charges. Periodic statement must contain: outstanding balance at beginning of cycle; loans or advances during cycle excluding interest and charges; interest and charges accrued or debited; borrower's payments; balance at end of cycle; and amount and date of next payment to avoid default. Payment of not less than 5 percent of principal amount of loan outstanding must be paid during billing cycle preceding payment date. (Art. 4.01(4)) Lender forfeits twice amount of interest and other charges for excessive interest, and an additional forfeiture of principal if charged interest is more than double that authorized. (Arts. 8.01, 8.02)

Mr. TOWER. Mr. President, we yield back the remainder of our time.

Mr. PROXMIRE. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back, and the question is on agreeing to the amendment of the Senator from Wisconsin. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Bible), the Senator from North Carolina (Mr. Ervin), the Senator from Georgia (Mr. Gambrell), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Michigan (Mr. Hart), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from North Carolina (Mr. Jordan), the Senator from Washington (Mr. Magnuson), the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield) is absent on official business.

On this vote, the Senator from North Carolina (Mr. Ervin) is paired with the Senator from South Dakota (McGovern).

If present and voting, the Senator from North Carolina would vote "yea" and the Senator from South Dakota would vote "nay."

I further announce that, if present and voting, the Senator from Georgia (Mr. Gambrell), the Senator from Alaska (Mr. Gravel), the Senator from Washington (Mr. Jackson), the Senator from Washington (Mr. Magnuson), and the Senator from Rhode Island (Mr. Pastore) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Goldwater) and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

The Senator from Pennsylvania (Mr. Scott) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Oregon (Mr. Packwood) is detained on official business.

Also the Senator from Colorado (Mr. Allott) and the Senator from Kansas (Mr. Dole) are necessarily absent.

The Senator from Alaska (Mr. Stevens) is absent on official committee business.

On this vote, the Senator from Oregon (Mr. Hatfield) is paired with the Senator from Colorado (Mr. Allott). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 38, nays 38, as follows:

[No. 159 Leg.]

YEAS—38

Aiken
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cooper
Eagleton
Ellender
Fulbright
Hartke
Hughes
Inouye
Javits
Kennedy
Mathias
McGee
McIntyre
Metcalf
Mondale
Moss
Nelson
Pearson
Pell
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Spong
Stafford
Stevenson
Symington
Talmadge
Tunney
Williams

NAYS—38

Allen
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Buckley
Byrd, Harry F., Jr.
Cook
Cotton
Cranston
Curtis
Dominick
Eastland
Fannin
Fong
Griffin
Gurney
Hansen
Hollings
Hruska
Jordan, Idaho
Long
Miller
Montoya
Percy
Roth
Smith
Stennis
Taft
Thurmond
Tower
Weicker
Young

NOT VOTING—24

Allott
Bible
Dole
Ervin
Gambrell
Goldwater
Gravel
Harris
Hart
Hatfield
Humphrey
Jackson
Jordan, N.C.
Magnuson
Mansfield
McClellan
McGovern
Mundt
Muskie
Packwood
Pastore
Scott
Sparkman
Stevens

So Mr. Proxmire's amendment (No. 1160) was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BENNETT. I move to lay that motion on the table.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered on the motion to lay on the table.

Mr. ROBERT C. BYRD. Mr. President, will the Chair please clear the well and the aisles so that we may have order?

The PRESIDING OFFICER (Mr. Eagleton). The Chair asks the clerk to suspend until Senators are seated, so that Senators may hear when their names are called.

The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SAXBE. Mr. President, on this vote I have a pair with the junior Senator from Illinois (Mr. Percy). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Bible), the Senator from Louisiana (Mr. Ellender), the Senator from North Carolina (Mr. Ervin), the Senator from Georgia (Mr. Gambrell), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Michigan (Mr. Hart), the the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from North Carolina (Mr. Jordan), the Senator from Washington (Mr. Magnuson), the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Montana (Mr. Mansfield) is absent on official business.

On this vote, the Senator from North Carolina (Mr. Ervin) is paired with the Senator from South Dakota (Mr. McGovern).

If present and voting, the Senator from North Carolina would vote "yea" and the Senator from South Dakota would vote "nay."

I further announce that, if present and voting, the Senator from Washington (Mr. Jackson), the Senator from Washington (Mr. Magnuson), the Senator from Rhode Island (Mr. Pastore), the Senator from Louisiana (Mr. Ellender), and the Senator from Georgia (Mr. Gambrell) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Goldwater) and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

The Senator from Pennsylvania (Mr. Scott) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

Also, the Senator from Colorado (Mr. Allott), the Senator from Kansas (Mr. Dole) and the Senator from Illinois (Mr. Percy) are necessarily absent.

The Senator from Alaska (Mr. Stevens) is absent on official committee business.

On this vote, the Senator from Colorado (Mr. Allott) is paired with the Senator from Oregon (Mr. Hatfield). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Oregon would vote "nay."

The pair of the Senator from Illinois (Mr. Percy) has been previously announced.

The result was announced—yeas 37, nays 37, as follows:

[No. 160 Leg.]

YEAS—37

Allen
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Buckley
Byrd, Harry F. Jr.
Cook
Cotton
Cranston
Curtis
Dominick
Eastland
Fannin
Fong
Griffin
Gurney
Hansen
Hruska
Jordan, Idaho
Long
Miller
Montoya
Packwood
Roth
Smith
Stafford
Stennis
Taft
Thurmond
Tower
Weicker
Young

NAYS—37

Aiken
Anderson
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cooper
Eagleton
Fulbright
Hartke
Hollings
Hughes
Inouye
Javits
Kennedy
Mathias
McGee
McIntyre
Metcalf
Mondale
Moss
Nelson
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Spong
Stevenson
Symington
Talmadge
Tunney
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Saxbe, against

NOT VOTING—25

Allott
Bible
Dole
Ellender
Ervin
Gambrell
Goldwater
Gravel
Harris
Hart
Hatfield
Humphrey
Jackson
Jordan, N.C.
Magnuson
Mansfield
McClellan
McGovern
Mundt
Muskie
Pastore
Percy
Scott
Sparkman
Stevens

So the motion to lay on the table the motion to reconsider was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the motion to reconsider the vote by which the amendment was rejected.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amendment was rejected. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SAXBE (when his name was called). Mr. President, on this vote I have a pair with the Senator from Illinois (Mr. PERCY). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Louisiana (Mr. ELLENDER), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

On this vote, the Senator from North Carolina (Mr. ERVIN) is paired with the Senator from South Dakota (Mr. MCGOVERN).

If present and voting, the Senator from North Carolina would vote "nay" and the Senator from South Dakota would vote "yea."

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Georgia (Mr. GAMBRELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also, the Senator from Colorado (Mr. ALLOTT), the Senator from Kansas (Mr. DOLE), and the Senator from Illinois (Mr. PERCY) are necessarily abent.

The Senator from Alaska (Mr. STEVENS) is absent on official committee business.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Colorado (Mr. ALLOTT). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Colorado would vote "nay."

The pair of the Senator of Illinois (Mr. PERCY) has been previously announced.

The result was announced—yeas 36, nays 38, as follows:

[No. 161 Leg.]

YEAS—36

Aiken
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cooper
Eagleton
Fulbright
Hartke
Hollings
Hughes
Inouye
Javits
Kennedy
Mathias
McGee
McIntyre
Metcalf
Mondale
Moss
Nelson
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Spong
Stevenson
Symington
Talmadge
Tunney
Williams

NAYS—38

Allen
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Buckley
Byrd, Harry F., Jr.
Cook
Cotton
Cranston
Curtis
Dominick
Eastland
Fannin
Fong
Griffin
Gurney
Hansen
Hruska
Jordan, Idaho
Long
Miller
Montoya
Packwood
Roth
Smith
Stafford
Stennis
Taft
Thurmond
Tower
Weicker
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Saxbe, for

NOT VOTING—25

Allott
Bible
Dole
Ellender
Ervin
Gambrell
Goldwater
Gravel
Harris
Hart
Hatfield
Humphrey
Jackson
Jordan, N.C.
Magnuson
Mansfield
McClellan
McGovern
Mundt
Muskie
Pastore
Percy
Scott
Sparkman
Stevens

So the motion to reconsider was rejected.

Mr. TAFT. Mr. President, I call up my amendment at the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. HUGHES). The amendment will be stated.

The assistant legislative clerk read as follows:

S. 652

On page 19, line 7, strike the quotation mark and insert the following:

SEC. 170.—RIGHTS OF CREDIT CARD CUSTOMERS

With respect to any sales transaction where a credit card has been used to obtain credit, where the seller is a person other than the card issuer, and where the seller accepts or allows a return of the goods or forgiveness of a debt for services which were the subject of such sale, the seller shall, unless otherwise requested by the buyer, promptly transmit to the credit card issuer a credit statement with respect thereto and the credit card issuer shall credit the account of the obligor for the amount of the transaction.

Mr. TAFT. Mr. President, this amendment is a simple one, and I hope noncontroversial. It would require that when a seller allows a return of goods or forgiveness of a debit for services purchased with a credit card, he shall arrange with the credit card issuer to have the amount of the transaction credited to the account of the purchaser.

This amendment would insure that a consumer will not have to pay a credit card company for goods which he has returned or services which the seller agrees he did not provide. The amendment would also have the effect of prohibiting the seller from requiring that any credit given for a return on a credit card purchase must be spent in his store unless the buyer wished such an arrangement. Many consumers who receive defective or otherwise unsatisfactory merchandise have no desire to make another purchase at the same store, yet this is often the only way in which they are permitted to utilize their original expenditure.

My amendment would in no way infringe upon the prerogative of a seller to adopt whatever return policy he deems appropriate. I believe that in cases where a return is accepted, however, it will relieve consumers from having to pay bills that they do not owe or buy merchandise that they do not want.

Mr. PROXMIRE. Mr. President, I have discussed this amendment with the distinguished Senator from Ohio. It is a good amendment. It is a consumer amendment. It makes sense. It is equitable. We do not have a record in the hearing that this matter came up in the hearing but, under the circumstances, I am willing to vote in favor of the amendment, and I hope that the Senate will accept it.

Mr. TOWER. Mr. President, speaking on behalf of the minority, we are prepared to accept the amendment.

Mr. TAFT. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Ohio (Mr. TAFT).

The amendment was agreed to.

NOMINATION OF RICHARD G. KLEINDIENST

Mr. EASTLAND. Mr. President, I ask unanimous consent to have printed in the RECORD the text of a letter I have today sent to the distinguished majority leader.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., April 27, 1972.

Senator MIKE MANSFIELD,
Majority Leader,
U.S. Senate.

DEAR SENATOR MANSFIELD: Please be advised that the Judiciary Committee today adopted in Executive Session by a vote of 11 to 4 the following motion:

"This Committee reaffirms its action heretofore taken in favorably reporting to the Senate the nomination of Richard G. Kleindienst of Arizona to be Attorney General of the United States, with the recommendation that the nomination be confirmed."

Sincerely,

JAMES O. EASTLAND,
Chairman.

TRUTH IN LENDING ACT AMENDMENTS OF 1972

The Senate continued with the consideration of the bill (S. 652) to amend the Truth in Lending Act to protect consumers against careless and unfair billing practices, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MOSS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 22, line 15, after the word "follows:" strike out everything through page 24, line 16, and insert in lieu thereof the following:

"(a) Except as otherwise provided in this section, any creditor who fails in connection with any consumer credit transaction to disclose to any person any information required under this chapter to be disclosed to that person or who fails to comply with any requirement imposed under Chapter 4 of this title (other than section 161) is liable to that person in an amount equal to the sum of—

(1) twice the amount of the finance charge (if any) in connection with the transaction, except that the liability under this paragraph shall not be less than $100 nor greater than $1,000 in an individual action; or

(2) in the case of a class action such damages as the court may allow, but not more than the greater of $50,000, or 1 per centum of the assets of the creditor as of the end of the creditor's fiscal year immediately preceding the fiscal year in which the failure occurred; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court."

Mr. MOSS. The amendment which I offer today is designed to reverse the topsy-turvy class action arrangements in the present bill. Instead of placing a ceiling of $50,000 on a class action or limiting the ghetto loan shark's exposure to 2 percent of his net worth, my amendment would make a creditor, who fails to comply with the truth-in-lending law, liable to a class of consumers for that amount of damage which the court determines appropriate. In other words, the decision as to the appropriate level of damage is left to the court as is the case in most of legal disputes.

But in order to insulate creditors from class actions that could destroy them financially, the court may not assess damages against the liability of any particular creditor in an amount in excess of 1 percent of the net worth of the creditor as of the end of the creditor's fiscal year immediately preceding the fiscal year in which the violation of the truth-in-lending law occurred. In order to deter thinly financed entrepreneurs from violating the truth-in-lending law with impunity, because of the 1 percent of net worth damage limitation, such limitation does not apply to damages below $50,000.

In the case of an individual action, the amendment establishes a minimum liability of $100 and a maximum liability of $1,000, which is the same as in the present bill.

Finally, my amendment would authorize the court to award costs of reasonable attorney's fees in any successful action to enforce the liability under the truth-in-lending law.

I would point out, Mr. President, that under the circumstances which now exist, the law provides that $50,000 or 2 percent of net worth, whichever is less, is the ceiling that may be recovered in a class action. Therefore, in no event can it be higher than $50,000.

In a case where it is a violation that is widespread and by a large corporation, the total amount of $50,000, if that were awarded by the court, would not be a deterrent at all. It would be minimal.

There are cases where damages might go very high. If the 2 percent or the $50,000 had had a choice of the higher, why, of course, we would not have this situation, but it is whichever is less.

I have turned that around and say that the ceiling shall be $50,000 or 1 percent of net worth, whichever is the higher. That enables the judgment—if the court renders the judgment for a violation—to be of a sufficient amount. If there are many people in the same class action, and it is a large institution, it would be enough to have a deterrent effect.

I think this makes the penalty section, then, meaningful in the event of a violation.

I would point out also to the Senate that the Vice Chairman of the Federal Reserve System has spoken generally on this subject, in a letter that was sent to the Senator from Wisconsin (Mr. PROXMIRE) on the Committee on Banking, Housing and Urban Affairs, in which he discusses this matter.

He says:

Section 208 provides civil liability for both Chapter 2 violations (Truth in Lending disclosure) and Chapter 4 (Fair Credit Billing). It provides liability for actual damages sustained by the consumer for failure to comply with the requirements of either Chapter, as well as such punitive damages as the court may allow. Punitive damages may not be less than $100 in the case of an individual action and, in the case of a class action, not more than $50,000 or 2% of the net worth of the creditor, whichever is less. The successful plaintiff may also recover court costs, including attorney's fees.

At the outset let me say that I believe it is a mistake to have a single section applicable to both Truth in Lending and Fair Credit Billing violations. While actual and punitive damages may be appropriate for the Fair Credit Billing requirements (for example, where the creditor intentionally reports as delinquent a disputed amount in violation of Section 162 and the customer suffers adverse consequences), it is my belief, for the reasons stated below, that these damage provisions are inappropriate as a substitute for the present civil liability provisions of the Truth in Lending Act. Although section 208 seemingly preserves the class action remedy for violations of the Truth in Lending Act and appears merely to set a maximum limit on class action recovery, in fact, it may effectively preclude Truth in Lending class action suits.

He goes on to say:

Likewise, the new punitive damage clause in section 208(a)(2) is a significant departure from the present civil liability provisions in section 130 which establish minimum damages, not characterized as "punitive", for a creditor's failure to disclose the required information. The punitive damage concept seems to presuppose a finding by the court of deliberate deception or non-disclosure, gross negligence, malice, or the like, which presently would not be at issue in a civil suit for Truth in Lending violations. For example, section 208 directs the court to consider, among other factors, the extent to which the creditor's failure to comply was "intentional." All of this could make it much more difficult to bring a successful class action for Truth in Lending violations.

In summary, the new civil liability provisions in section 208 might be so interpreted as to place such impediments in the way of maintaining a civil suit for Truth in Lending violations that the question of whether a limit of $50,000 or 2% of net worth is an appropriate ceiling may be a hollow issue—interesting to speculate about, but of no real substance since there is little likelihood of ever approaching that limit.

In summary, he, in effect, approves of the classification this amendment would make in the law. So, I return again to what he said in the first instance, that what we are confronted with now is a limitation in the amount that a judge may assess as the recovery for damages that is so limited that the deterrent effect is not adequate to hold in restraint the large institutions which deal with a large class of people who might be damaged by a violation of the Truth in Lending Act.

I, therefore, believe that the amendment would improve the standards greatly. I would hope that the amendment could be accepted by the manager of the bill.

Mr. President, I ask unanimous consent that the junior Senator from South Dakota (Mr. MCGOVERN) be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered. Who yields time?

Mr. MOSS. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senior Senator from Utah is recognized.

Mr. BENNETT. Mr. President, by turning the amendment around, even though it cuts the lower figure from 2 to 1 percent, my colleague from Utah has effectively raised the potential ceiling on the small bank.

The committee bill provides $50,000 or 2 percent of the net worth, whichever is lower, for the small bank. And for the average bank in the smaller or medium-sized State and for the credit unions and other lenders, that 2 percent would not represent an undue penalty. However, by turning it around, we automatically say that every small lender, credit union, savings and loan association bank, or merchant is automatically responsible for $50,000. Then we apply the 1 percent. Of course, the 1 percent really does not come into play until we get up to $50,000. But we use that to hit the big bank, the big retailer, the big chain store. They can take care of themselves. However, I am concerned about the effect on the small bank and the little credit union. They will suddenly find themselves faced with a class action. And there are a good many of them. And they will be automatically responsible for up to $50,000, which may be more than their capital or their assets.

We purposely turned it around to protect the little man. However, this puts the little man right under the gun. While the 1 percent, if it were a nationwide situation, might be a little bit of a problem for the big retailer and the big banks, to me that is not so important as the effect it would have on the little man.

Mr. President, it has been called to my attention that the Senator has changed the concept of net worth in the committee bill to 1 percent of the assets of the creditor. Is it not assets or gross assets? How do we define the assets of a merchant or the assets of a credit union?

Mr. President, I think that this amendment is very dangerous. And I think it would do a great deal of damage in the form in which it has been offered.

There was a lot of discussion about this problem in the committee. We started with $150,000 as the balancing limit. And the committee reduced it to $50,000. As far as I know, that was done by unanimous agreement in the committee. Then, by turning this around, we make a large company liable for the kind of a program that could break it.

The Bank of America has assets of $32 billion. This would open up a potential class action suit against them for $320 million. Maybe they could live under it. However, if the little credit union operating down the street gets into trouble, they may face a liability of $50,000. It is either 1 percent or $50,000, whichever is higher. One percent may not bother them. However, the $50,000 would put them out of business.

I think the Senate should reject this amendment quickly.

Mr. MOSS. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. MOSS. Mr. President, I think that my colleague from Utah has overlooked the fact that this amendment provides that the judgment should be whatever the court finds to be appropriate under the circumstances. However, having said that, it puts on a ceiling that the court may not exceed.

The Senator is absolutely correct. The first ceiling is reached at $50,000. The court may, regardless of any assets or lack of assets, assess damages within that range. However, if the damages should go beyond $50,000 in the case of a large company, it has a second suit with a ceiling it may not exceed, and that ceiling is 1 percent of the assets of the corporation.

In the case of the Bank of America, which my colleague referred to, it could be a very high amount. It could be very high only if a lot of creditors were damaged and could show their damages, and if there were a great many of them and the court was convinced those damages were real and, therefore, should be compensated. Even so, whatever the judgment of the court would be it could not exceed 1 percent of the assets of the corporation.

So the argument that it would break a lot of institutions is not very valid. One percent is not enough to throw into bankruptcy any of the financial institutions that have been in violation of the statute. I think this is a realistic way to deal with the problem, to say we want to put some limit on it; we are putting a ceiling, and we would leave it to the jurisdiction of the court to make the judgment and what the appropriate damages are.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. BENNETT. That is no different than the committee bill. The court has to make a finding. This is not a question of damages; this is a question of an award by the court as a penalty for violation. The court can find actual damages and they can be paid in full with no limit, but after the actual damages have been handled the court has the ability to assess a penalty up to those figures.

Mr. MOSS. Yes, but the Senator used the Bank of America as an example. The Bank of America, by issuing proper instructions, or whatever, could have $500,000 but it still could not go beyond $50,000.

Mr. BENNETT. The Senator is mistaken. If it is actual damage, the damage can be recovered in full regardless of how big it is. We are talking about an additonal penalty, not actual damages.

Mr. MOSS. I do not see that and I would be glad to be referred in the bill to the section that provides all the damages to be recovered and beyond that we can recover more than just that.

Mr. PROXMIRE. Mr. President, will the Senator yield to me for 5 minutes on the bill?

Mr. MOSS. I am happy to yield to the Senator from Wisconsin.

Mr. BENNETT. Before the Senator begins, may I answer the question?

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. BENNETT. On page 22 of the bill, at the bottom of the page, section 208, entitled "Limitation on Class Action Liability," if the Senator will read down below the paragraph that he will see that it states:

> "(a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter or chapter 4 of this title (other than section 161) with respect to any person is liable to such person in an amount equal to the sum of—
>
> "(1) any actual damages sustained by such person as a result of the failure;
>
> "(2) such punitive damages as the court may allow, except that such damages shall (A) be not less than $100 in the case of an individual action, or (B) in the case of a class action, not more than the lesser of $50,000, or 2 per centum of the net worth of the creditor as of the end of the creditor's fiscal year immediately preceding the fiscal year in which the failure occurred; and

It is punitive damages covered by the limits and not the actual damages.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. PROXMIRE. The fact is the actual damages are very hard to establish under truth in lending. How does one show actual damages in a truth in lending action? The only effective damages are punitive. This is all we are talking about. I am in favor of the amendment offered by the Senator from Utah (Mr. Moss) to strengthen the consumer class action provision in truth in lending. The committee bill virtually emasculates these provisions.

Section 130(e) of this act authorizes consumers to bring class actions in the Federal courts against creditors who violate truth in lending. Each member of the class is entitled to a minimum liability of $100. Thus a class action involving millions of credit card holders can inflict an enormous civil liability upon a creditor.

I realize that could be too much for a creditor and I agree we should have limits on it. I agree with the need to place some reasonable limit on a creditor's aggregate class action liability. However, in my view, the committee set an unreasonably low limit of $50,000 or 2 percent of a creditor's net worth, whichever is less.

The fact is that a maximum penalty of $50,000 is hardly sufficient to cure violations on the part of many giant banks or retailers. For example, the Bank of America has a net worth of $1.4 billion.

Thus, its maximum liability of $50,000 is only 0.003 percent of its net worth. By way of contrast, a small corner drugstore selling on credit has a maximum liability equal to 2 percent of its net worth. Thus the small corner drugstore has a relative liability 667 times greater than the giant Bank of America.

Mr. President, when you talk about small business, the committee bill makes the small business man pay 1,000 times as much, 1,000 times as great a liability as the big bank.

The maximum liability figure should be substantially raised in order to provide a meaningful incentive for compliance by large creditors. If the committee thinks a 2-percent of net worth penalty is reasonable for small creditors, how can it justify a much smaller penalty for large creditors? The maximum penalty figure is clearly inadequate.

J. R. Robertson, Vice Chairman of the Federal Reserve Board, the man who administered truth in lending, and he has been on the Federal Reserve Board for many years and he is highly respected, has serious reservations about what the committee provided in the bill.

In testifying before the House Banking Committee on March 22, 1968, Governor Robertson referred to the committee provision and said that he thought it would "unduly restrict class actions and make it an almost impossible thing to maintain." Since Governor Robertson is directly responsible for administering the Truth in Lending Act, his views should be given great weight by the Senate.

Mr. President, I ask unanimous consent to have correspondence with Governor Robertson printed in the Record.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

April 11, 1972.

Hon. William Proxmire,
U.S. Senate, Committee on Banking, Housing and Urban Affairs, Washington, D.C.

Dear Senator Proxmire: This is written in response to your request of March 29, 1972, for my personal comments on section 208 of Committee Print No. 3 of S. 652, which contains the Fair Credit Billing Act as well as amendments to the Truth in Lending Act. Section 208 places maximum limits on the class action liability of creditors under the Truth in Lending Act.

In my recent testimony before the Subcommittee on Consumer Affairs of the House Banking and Currency Committee, I discussed the existing class action exposure under the Truth in Lending Act. I indicated that many creditors had been concerned over their possible exposure to class action suits and the possible ruinous liability which might result. Their concern was prompted largely by *Ratner* v. *Chemical Bank New York Trust Company*, a case in which a U.S. District Court held the bank in violation of the Act. The reported $13 million potential liability of the bank in the *Ratner* case led some creditors to fear that similar suits filed against them might even threaten their solvency. The court ultimately held in *Ratner* that a class action was not sustainable, but other class action cases relating to alleged Truth in Lending violations are pending.

As I indicated in my testimony, I believe this almost unlimited class action exposure may be detrimental to consumer interests and, in fact, may be an impediment to effective private enforcement of Truth in Lending through class actions. The courts, which are given a good deal of discretion in determining whether or not to allow class actions, may be inclined to disallow them simply because of the seemingly unreasonable magnitude of the class action recovery. As a result, I believe it is important to suitably limit this exposure. I am equally convinced, however, that class actions should not be so severely limited as to remove the threat of substantial liability to those who violate the Act. In my view the threat of class action liability must be preserved as a deterrent to those creditors who might otherwise take lightly their Truth in Lending responsibilities. It is for this reason that I am concerned about section 208 of Committee Print No. 3.

Section 208 provides civil liability for both Chapter 2 violations (Truth in Lending disclosure) and Chapter 4 (Fair Credit Billing). It provides liability for actual damages sustained by the consumer for failure to comply with the requirement of either Chapter, as well as such punitive damages as the court may allow. Punitive damages may not be less than $100 in the case of an individual action and, in the case of a class action, not more than $50,000 or 2% of the net worth of the creditor, whichever is less. The successful plaintiff may also recover court costs, including attorney's fees.

At the outset let me say that I believe it is a mistake to have a single section applicable to both Truth in Lending and Fair Credit Billing violations. While actual and punitive damages may be appropriate for the Fair Credit Billing requirements (for example, where the creditor intentionally reports as delinquent a disputed amount in violation of Section 162 and the customer suffers adverse consequences), it is my belief, for the reasons stated below, that these damage provisions are inappropriate as a substitute for the present civil liability provisions of the Truth in Lending Act. Although section 208 seemingly preserves the class action remedy for violations of the Truth in Lending Act and appears merely to set a maximum limit on class action recovery, in fact, it may effectively preclude Truth in Lending class action suits.

Section 208(a)(1) allows recovery for actual damages sustained by the consumer as a result of the creditor's failure to comply with any Truth in Lending requirement. While this provision has the appearance of an equitable remedy, the civil liability provisions which presently exist under section 130 of the Act do not require a demonstration of actual damages and, in practice, such damages for disclosure violations are likely to be nonexistent or extremely difficult to prove, particularly in the class action context. In short, the possibility of a successful class action for actual damages seems remote.

Likewise, the new punitive damage clause in section 208(a)(2) is a significant departure from the present civil liability provisions in section 130 which establish minimum damages, not characterized as "punitive", for a creditor's failure to disclose the required information. The punitive damage concept seems to presuppose a finding by the court of deliberate deception or non-disclosure, gross negligence, malice, or the like, which presently would not be at issue in a civil suit for Truth in Lending violations. For example, section 208 directs the court to consider, among other factors, the extent to which the creditor's failure to comply was "intentional." All of this could make it much more difficult to bring a successful class action for Truth in Lending violations.

In summary, the new civil liability provisions in section 208 might be so interpreted as to place such impediments in the way of maintaining a civil suit for Truth in Lending violations that the question of whether a limit of $50,000 or 2% of net worth is an appropriate ceiling may be a hollow issue—interesting to speculate about, but of no real substance since there is little likelihood of ever approaching that limit.

My suggestion, therefore would be to retain section 130(a) in its present form as it applies to Truth in Lending violations, with the addition of a new provision limiting total recovery in a single class action to such amounts as the court may allow, but not to exceed $50,000 or 1% of net worth, whichever is *greater*. By structuring the class action limit on liability to whichever is the greater of $50,000 or 1% of net worth, we could continue to be assured that large creditors, who might easily absorb a $50,000 loss, would strive diligently to avoid violations which might subject them to class action liability. As a result of changing the limit from the *lesser* of $50,000 or a percentage of net worth to the *greater* of these two figures, I believe it would be appropriate to reduce the net worth percentage to 1% which, if granted by the court, would be a very significant loss for most large corporations. In addition, by giving the court discretion in fixing the liability within these limits, the court would be free to impose a lesser liability where even, for example, a $50,000 judgment might threaten the solvency of the defendant. Draft language to implement my suggestion for an amendment to section 130 applicable to the Truth in Lending Act is enclosed. It would, of course, have to be suitably integrated with the other proposals in section 208 applicable to the Fair Credit Billing Act provisions.

Much of the creditor concern about Truth in Lending class action exposure stems from a fear that even though a creditor has followed Regulation Z and the Board's interpretations of it, a court may declare the Board's rules invalid and subject the creditor to liability for failure to follow the Act, which the court may construe differently from the Board. This is clearly an inequitable result for those creditors who have, in good faith, followed the Board's rules. Accordingly, we have suggested that a "good faith reliance" provision be added to the civil liability section of the Act, and I am gratified to see such a provision incorporated in S. 652 as section 206. The enactment of this provision should relieve some of the concern over class action exposure which has undoubtedly contributed to the introduction of the overly restrictive limits on class actions found in section 208.

It will be contended, no doubt, that the above recommendation for modifying section 208 is excessively severe as to both large and small creditors. Opponents will point out that one percent of the net worth of a great corporation could be $50 million, and that exposing a small retail or service establishment to a $50,000 judgment could result in its bankruptcy. In my judgment, an adequate answer to such arguments rests on (1) the proposed new "good faith" provision of the law and (2) the discretion of the court, in each case, to set the dollar amount of the judgment at an appropriate figure below the applicable maximum.

With the protection of such provisions, I see no sound basis for concern that a large corporation would lose tens of millions of dollars because of an unintentional, technical error, or that a small enterprise would be driven into insolvency as the result of a violation of the Truth in Lending Act; and yet the law would be equipped with penalty provisions that would encourage the "self-enforcement" process, that Congress has intended from the beginning, rather than requiring a mammoth enforcement operation by the Federal government, reaching out to the hundreds of thousands of lenders and other extenders of consumer credit.

Sincerely,

J. L. ROBERTSON.

SECTION 130. CIVIL LIABILITY

(a) Except as otherwise provided in this section, any creditor who fails in connection with any consumer credit transaction to disclose to any person any information required under this chapter to be disclosed to that person, is liable to that person in an amount equal to the sum of

(1) twice the amount of the finance charge (if any) in connection with the transaction, except that the liability under this paragraph shall not be less than $100 nor greater than $1,000 in an individual action; or

(2) in the case of a class action such damages as the court may allow, but not more than the greater of $50,000, or 1 per centum of the net worth of the creditor as of the end of the creditor's fiscal year immediately preceding the fiscal year in which the failure occurred; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court.

Mr. PROXMIRE. Mr. President, Governor Robertson is responsible for administering the law. He worked with it. We recognize him as a fair man. He understands the problems of creditors. I understand the Senator from Utah primarily took his amendment from the suggestion of Governor Robertson. It makes more sense and it is fair to the small businessman.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. BENNETT. The statement of Governor Robertson is 1 percent of net worth, but now it is changed to 1 percent of assets.

Mr. PROXMIRE. I realize that. That is a great difference. Nevertheless, I think the fundamental principle is the same as the Senator from Utah (Mr. Moss) proposes. But the Senator from Utah is correct; it is a great difference.

Mr. BENNETT. It greatly increases the penalty.

Mr. President, I yield 3 minutes to the Senator from Tennessee.

Mr. BROCK. Mr. President, I wish to point out that the use of assets and net worth makes it seem ridiculous. There is large volume, and all of a sudden a company begins to accumulate assets, but that means when you talk about 1 percent of assets you can wipe them out with this kind of action.

We worked long and hard in committee trying to effect a compromise which would allow total action for damages plus punitive damages with a $50,000 ceiling and 2 percent of net worth. But the amendment is an amendment that would affect the opportunity for business to compete under the program.

Mr. BENNETT. Mr. President, I am prepared to yield back my time.

Mr. PROXMIRE. Mr. President, before time is yielded back, could we have a quorum call?

Mr. MOSS. Yes. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MOSS. With the time to be equally divided.

Mr. BENNETT. That is fine.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. MONDALE). Without objection, it is so ordered.

Mr. MOSS. Mr. President, I ask unanimous consent that I may modify the amendment which is now before the Senate, and I send to the desk the modification.

The PRESIDING OFFICER. Without objection, it is so ordered. The modification will be stated.

The second assistant legislative clerk proceeded to read the modification.

Mr. MOSS. Mr. President, rather than have this read—it is rather technical language—I ask unanimous consent that I may describe it, and ask my colleagues, if they wish, to examine the modification at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. BROCK. Mr. President, reserving the right to object, the modification is not very long, is it?

Mr. MOSS. All right, let the clerk go ahead and read it.

The second assistant legislative clerk read the modification, as follows:

> On page 22, line 23, strike "punitive damages" and insert "additional amount" in lieu thereof.
>
> On page 22, line 24, strike "such damages" and insert "the total awarded" in lieu thereof.
>
> On page 23, line 1 strike out all from the word "than" to the semi-colon on line 4 and insert "$100,000" in lieu thereof.
>
> On page 23, line 10, strike "punitive damages" and insert "award" in lieu thereof.

The PRESIDING OFFICER. Does the Senator wish his modifications considered en bloc?

Mr. MOSS. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, this modification has come about by reason of discussion with those who were opposed to my amendment, and it is believed that this will accomplish at least an appreciable advance in this area, although it is considerably less than the amendment originally called for.

I, therefore, submit the amendment as modified, and ask for a vote upon it.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. MOSS. I am glad to yield back the remainder of my time, if the other side is willing to do so.

Mr. BENNETT. I am happy to yield back the remainder of the time in opposition.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah (Mr. Moss), as modified.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 19, line 7, immediately after the period, insert the following: "No state law which provides greater protection for consumers than the protection provided by this law shall be pre-empted by this law to the extent of the greater protection."

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield, without losing his right to the floor?

Mr. TUNNEY. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on this amendment be limited to 20 minutes, to be equally divided between the distinguished mover of the amendment and the distinguished Senator from Utah (Mr. BENNETT), and that the time on each of the two additional amendments which the distinguished Senator from California (Mr. TUNNEY) intends to offer be limited to 30 minutes, to be equally divided between the Senator from California and the Senator from Utah (Mr. BENNETT).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the name of my colleague (Mr. CRANSTON) be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I call up my amendment to insure that States so desiring are allowed to offer a consumer greater protection than does S. 652. We must be extremely careful here not to preclude our various States from giving consumers greater protections than are contained in S. 652.

The distinguished chairman of the Banking, Housing and Urban Affairs Committee has stated in the report to S. 652 that—

> He would not want to see any legislation adopted which would take away from consumers any of the protection given to them by State law.

The committee report also makes the observation that—

> Under existing interpretations——

Of the disclosure provisions of the truth in lending law,

> the Federal Reserve Board has held a State law is not inconsistent with Federal law if it provides a greater degree of consumer protection.

I propose to make explicit in the text of S. 652 what the committee report implies.

My amendment would provide for more efficient and expedient administration of the law and would avoid the dangers of either future changes in interpretations by the Federal Reserve Board or extended and unnecessary litigation if a Federal or State court subverts congressional intent in this area.

The amendment says that if a State law affords greater protection to consumers it is not to be considered as inconsistent with the provisions of S. 652.

Thus a creditor's compliance with such a State law would not constitute a violation of the provisions of S. 652.

I propose that we permit the States to continue to be partners with the Federal Government in consumer protection. This would be consistent with the approach to State legislation which we have taken with the Truth-in-Lending Act which S. 652 amends. It is also consistent with the approach taken in S. 986, the consumer warranty bill, the Clean Air Act and the Federal Highway Safety Act.

Alfred H. Song, chairman of the California State Senate's judiciary committee and author of the State's fair credit billing law has specifically requested that—

> S. 652 contain a provision permitting a State to provide additional consumer protections if it so desires.

There are many provisions of State law which do afford California consumers greater protection than does S. 652. There are in addition areas within S. 652 which Senator Song, and I am sure other members of the California Legislature might want to strengthen.

Let us insure that their ability—and that of other State legislatures—to do so, is firmly preserved.

Mr. BENNETT. Mr. President, I yield myself 2 minutes.

The bill as reported by the committee is adequate to take care of any fears that the sponsor of this amendment may have. The bill contains a provision stating that this chapter does not annul, alter, affect, or exempt any person subject to the provisions of this chapter from complying with the laws of any State with respect to credit billing practices, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency—section 169, page 19 of the bill. A similar provision is embodied in the present Truth-in-Lending Act with respect to its disclosure provisions. To my knowledge, there has been no problem with the present provision which the Federal Reserve Board has interpreted to mean that a State law is not inconsistent with the Federal law if it provides a greater degree of consumer protection.

I have no objection to this amendment, which simply nails down that particular point of view, and I would be very happy to join with the rest of my colleagues in accepting it. I am happy to yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I join with the Senator from Utah. I think this does, as he says, nail down the opportunity for States to have stronger consumer protection laws in this regard. I believe the Senator from California has made a very constructive proposal, and I think we should agree to it.

The PRESIDING OFFICER. Does the Senator from California yield back the remainder of his time?

Mr. TUNNEY. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. MONDALE). All time having been yielded back, the question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

AMENDMENT NO. 1157 (AS MODIFIED)

Mr. TUNNEY. Mr. President, I send to the desk another amendment, which is my amendment No. 1157 as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk read as follows:

> On page 11, at the bottom of the page, add the following:
>
> "170. Prohibition of billing for undelivered goods or services.".
>
> On page 19, line 7, strike out the quotation marks.
>
> On page 19, between lines 7 and 8, insert the following:
>
> "§ 170. Prohibition of billing for undelivered goods or services
>
> "No creditor who operates an open-end consumer credit plan shall bill an obligor (1) for any goods which have not been mailed or otherwise sent to the obligor, or (2) for any services which have not been provided to the obligor. Nothing in this section prohibits the billing pursuant to a specific agreement for billing in advance of delivery when goods are reserved or laid-away for later billing or the billing for goods or services which are to be provided in more than one installment if the first installment was received by the obligor or has been mailed or otherwise sent to the obligor prior to the date on which the bill is mailed or otherwise sent.".

Mr. TUNNEY. Mr. President, a finance charge for any goods which have not been mailed or otherwise sent to the customer or for any services which have not been provided to the customer is the subject of this amendment. The amendment is identical to my amendment No. 1157, except that it has been modified to specifically exclude so-called layaway plans. The amendment also excludes goods and services which are to be provided in more than one installment, except for the first such installment. In these instances, there is a specifically understood agreement about paying in advance of complete performance which governs the situation.

There is at present a custom among some merchants of billing for merchandise when ordered. In sales of furniture the merchant may know at the time of the sale that some weeks or months will pass before delivery is made. In the sale of air conditioners and other seasonal goods, the merchant urges out of season purchase, with delayed first payment, but levies a finance charge from date of sale. If the merchant levies a finance charge on the beginning balance of the customer's account, the injustice to the customer of applying a finance charge on undelivered purchases may well be greater than if the finance charge reflects payments, and so forth, during the month. The customer will be liable for a longer period of finance charge. But that is not the only basic injustice of the practice of charging for undispatched goods and services.

The charge account is ostensibly a means for financing customers, for extending credit to them on the purchases in order to encourage them to accept the merchant's offerings of his wares at an earlier date than if the customer were paying cash. But when the credit period is conceived to start when the bargain is made rather than when the merchant has performed his obligation to send good merchandise, then the customer is the creditor. He is financing the merchant. But he is not allowed a discount at, for example, 18 percent per annum for the money which he advances to the merchant. Instead, the merchant not only gets working capital from the customer, he makes the customer pay at 18 percent for the capital which he supplies to the merchant. The merchant can get his funds from the bank or other financing institution by the sale of the customer's debt. Yet, he, the merchant, will normally make no payment until perhaps 10 to 30 days after he receives the merchandise. Why should the customer pay a finance charge when the merchant has not yet paid for the goods?

If the merchandise is not good, the finance charges may be added for several months after delivery before corrections are made, if they ever are made. The consumer who buys seasonal goods well in advance of the season, and that is the time when they are most available at the major chain and department stores, will have to pay interest at 18 percent per annum for his children's clothes for some months before they are worn; but worse, he will be charged for interest at 18 percent per annum for some months before his furniture is delivered, and months before his air conditioner is delivered or installed; and may pay interest for additional months before the equipment or furnishings or furniture is satisfactory. If merchants are not prohibited from billing for finance charges prior to satisfactory delivery, they will thus add to the cost of a major piece of equipment by delay in satisfactory delivery. The less ethical the merchandiser, and the more he pushes preseason sales of seasonal goods, the more the customer supplies the merchant with working capital and pays interest at a high rate for providing credit, not for receiving credit.

Mr. BENNETT. I yield myself 6 minutes.

Mr. President, representing the majority of the committee, I oppose this amendment as vigorously as I can, and hope it will be rejected by the Senate as it was rejected by the committee, because there are so many problems connected with it. This is a case where you are trying to solve a situation that does not arise once in 5,000 times, and in order to solve it you create other situations which will make it very difficult for the man who is trying to buy merchandise.

The committee considered the problems involved and agree unanimously to reject the proposal and approve the provision now contained in the committee bill. Let me explain some of the difficulties which resulted in the committee action.

First, the amendment states that—

> No creditor who operates an open-end consumer credit plan shall bill an obligator (1) for any goods which have not been mailed or otherwise sent to the obligor, or (2) for any services which have not been provided to the obligor.

Let me repeat that—

> For any goods which have not been mailed or otherwise sent to the obligor.

The amendment prohibits the person using an open end credit plan for the purchase of goods or services to order them delivered to anyone except himself. You could not go into a department store at Christmas and buy your Christmas packages and ask that they be delivered to your family or relatives who do not live where you live. This does not make any sense to the committee, since open end consumer credit plans are often used. In fact, they are freely used for any logical purpose for which credit or cash can be used. I am sure that no one in this body would want to deny that privilege to a buyer of merchandise.

Second, open end consumer credit plans can be used for the purchase of custom-made goods for future delivery. The creditor may require a good faith payment by the obligor before he is willing to proceed with the order. But under this bill, you could not order something made and delivered to you when it has been made.

Third, travel and entertainment companies such as Carte Blanche, American Express, Diners Club, and others use open end consumer credit plans as defined in this bill in connection with their credit cards which can be used for the purchase of airline tickets and other accommodations as well as purchases throughout this country and the free world. It is not unusual for a tourist who has purchased an airline ticket to change his travel plans while in a foreign country. When this occurs, he turns in his ticket which was originally issued to him and obtains another ticket for the part of the flight or other travel which he has changed.

The issuer of the credit card sends him a bill on the basis of his original ticket which is sent to the credit card issuer by the airline. This bill would include an amount for services which had not been provided to the obligor since he did not use the entire ticket. The credit card issuer, however, does not know this until a notification of the change in travel plans is received from the foreign travel agent. Thus, if this amendment were approved, the creditor would have failed to comply with requirements imposed by the law and would be liable to the consumer for not less than $100. The committee properly decided that this was an unreasonable obligation to place upon a creditor for a change in plans over which he had no control.

Now, Mr. President, let me explain how the committee solved the problem of unreceived or undelivered goods or services. The bill now clearly defines on page 14 a billing error as—

> A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction.

If under this part of the bill a charge or a billing is made for something the customer has not received, he can go through the process of claiming that this is a billing error, in which case no charges can be made to his account, nor can his account be referred to a third party as being delinquent until that billing error has been corrected.

Defining this as a billing error brings the requirements relating to the correction of billing errors under section 161 into effect and thus completely protects a consumer against being required to make payment for something which he has not received. At the same time, it does not create the problems which would be created if the sending of such a statement were made illegal. In addition, the wording of the provision presently contained in the bill allows receipt of goods or services by a person other than the one involved in the transaction. It has been argued that under the committee bill, the creditor need only explain that the goods have been delayed and then he can continue pressing for payment. Anyone making such an argument either does not understand the operation of section 161 and its requirements or is trying to confuse the purpose of that section. Section 161 requires that before taking any action to collect the amount in dispute or any part thereof, the creditor must either first, make appropriate corrections in the account of the obligor, or second, send a written explanation or clarification to the obligor after having conducted an investigation setting forth why the account is correctly stated along with documentary evidence of its accuracy if requested by the customer. There are only two alternatives, therefore, available to the creditor.

If this thing happens, he must either credit the account with the amount represented by the bill for the undelivered goods or demonstrate that the account is accurate.

There is no third alternative for him to explain why the account contains a billing error as would be the case if it contained a statement of goods or services not accepted or not delivered in accordance with the agreement made at the time of the transaction. In conducting the investigation required by the law, the creditor would certainly find that goods or services had not been delivered in accordance with the agreement if that were a fact and he would be required to adjust the account to reflect that fact. There is no way under that provision that a creditor could continue to press for payment explaining that there has been a delay in delivery.

Mr. President, there is no doubt that the bill reported by the committee completely protects consumers against being required to pay for items which they should have received according to an agreement but which they have not received. The amendment therefore is unnecessary and, as I have explained, creates many inequities and would require expensive operations by creditors which would increase the costs of granting credit.

Since no benefits would be provided to consumers and the amendment would create disadvantages which would affect only an infinitesimal number of sellers who might try to get away with an attempt to collect for something they had not delivered in the face of an agreement, I think it would really damage this particular bill and I hope that the amendment will be rejected.

Mr. TUNNEY. Mr. President, there are a couple of points; one, that the customer can protest that the goods have not been received, but if he has had to wait 4 months to get the goods he still pays the finance charge on that 4 months.

Mr. BENNETT. The Senator is mistaken. Charges cannot be assessed if the customer protests that there has been a violation of the agreement.

Mr. TUNNEY. Let us assume that the customer has waited, not knowing the provisions of the law, for several weeks, he may still pay the finance charges up to the point of the protest.

Mr. BENNETT. If the Senator will read page 13 of the bill, at the top of the page, he will discover that the creditor will be required to correct any finance charges erroneously billed, so he cannot be required to pay a finance charge for any delays.

Mr. TUNNEY. Where is the Senator reading from?

Mr. BENNETT. From page 13 of the bill—the fourth line to the sixth line.

Mr. TUNNEY. I think the Senator is correct in his interpretation, but let us assume that the goods are just normally late. Would not the Senator agree with me that he could be billed, even though he had not received the goods?

Mr. BENNETT. He could be billed, but he has the right to claim that this is an erroneous billing, which it is. The process of handling this system of billing at a department store or other fairly large business goes on more or less automatically, but we have built into this bill protection, if through the billing, or if the billing goes on, and yet for some reason the merchandise is defective or has not been delivered, or for any other reason the billing is not proper, the pending bill now before the Senate would give the customer the chance to protest or to ask for an explanation and, during that time, if any finance charge is assessed, it must be lifted when the thing has been worked out.

Mr. TUNNEY. The Senator mentioned, as I understood it, from his statement, that there would not be an opportunity for a person, for instance, who had bought an airline ticket, to change his plan of travel.

Mr. BENNETT. This Senator said that we cannot prevent him from changing his travel plans, but the airline company will bill him for the original ticket. In effect, he would be billed for something he did not use. Therefore, this must be settled. I do not think we want to penalize the airline company with a possibly penalty up to $100 because they are going forward billing a man for a ticket they thought he was going to use.

Mr. TUNNEY. Did the Senator from Wisconsin want some time?

Mr. PROXMIRE. Three minutes.

Mr. TUNNEY. Mr. President, I yield 5 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER (Mr. MONDALE). The Senator from Wisconsin is recognized for 5 minutes.

Mr. PROXMIRE. Mr. President, if the Senator from Utah (Mr. BENNETT) is correct, then I think the Senator from California (Mr. TUNNEY) has made some useful legislative history because, frankly, I have worked on this bill—I was the author of the original bill—and I had the same understanding the Senator from California has.

Mr. President, I wholeheartedly support the amendment to stop the practice of billing consumers for undelivered merchandise. This provision was recommended by Miss Betty Furness, former Consumer Affairs adviser to the President, in her testimony filed with the committee. Miss Furness indicated that many complaints have been made about creditors billing for undelivered merchandise, especially on the part of furniture and appliance dealers.

In a typical complaint, a consumer might be promised 2 weeks delivery on a furniture purchase whereas actual delivery may take several months. In the meantime, a charge for the furniture appears on the consumer's monthly billing statement from the store or from a bank if a bank credit card was used. Despite repeated calls and letters, the consumer is continually badgered to pay for merchandise he never even received. The problem becomes even more acute if the furniture was purchased with a bank credit card since the furniture store has probably already received payment from the bank. In this case, the bank is quite anxious to collect from the consumer despite any delivery failures by the merchant. Many consumers give up and pay the amount, hoping the goods will ultimately arrive. In so doing, they make an interest free loan to the merchant.

There does not appear to be any legitimate reason why merchants should bill for undelivered merchandise and thus obtain the free use of their customer's money. As drafted, the provision deleted by the committee would have prohibited creditors who operate open-end or revolving credit plans from billing for goods or services not received by or sent to a consumer. A creditor would have been permitted to bill for goods the same day he shipped them and thus would not have been penalized for unforeseeable mail delays. Under the Federal Reserve Board's general regulatory authority, exceptions could have been made in unusual situations such as billing for clothes sold through various "lay-away" or similar plans.

The committee apparently decided to

delete this provision on the grounds that the bill already permits a consumer to withhold payment for undelivered merchandise until the creditor has resolved the dispute in accordance with the provisions of section 161. However, under this section, a creditor need only explain that the goods have been delayed. Once he explains the reasons for delay, he can continue to harass the consumer for payment even though the goods may not be delivered for several additional months. The committee bill thus fails to provide consumers with meaningful protection in this area.

If the Senator from Utah is correct—and I hope he is, because he is a very shrewd, sharp, and alert person who knows a great deal about this legislation—then the customer would be protected. There may not be a need for this legislation, as he said. However, I do think there is room for disagreement on whether this is the situation and whether the customer is or is not protected. It is the intention to protect him. I cannot see that the legislation does harm.

Mr. BENNETT. Mr. President, the measure places limitations on this which provide that one cannot sell any merchandise to anyone except himself. I am sure that the Senator does not intend that.

Mr. TUNNEY. No. They send it to anyone if there is an agreement. It should not be very difficult to get an agreement.

Mr. BROCK. Where is that provided?

Mr. TUNNEY. Where it reads:

> Nothing in this section prohibits the billing pursuant to a specific agreements.

Mr. BENNETT. But that does not say that nothing in this agreement should prevent the seller from delivering goods to someone else.

Mr. BROCK. Mr. President, the amendment provides for an agreement with regard to layaways and installment delivery. That has nothing to do with the purchase of gifts.

Mr. BENNETT. Mr. President, I yield such time to the Senator from Tennessee as he might require.

Mr. COOK. Mr. President, will the Senator yield?

Mr. BROCK. I yield to the Senator from Kentucky.

Mr. COOK. Mr. President, it is to the obligor. In this instance what happens in the situation where I want to send my youngster in college a present and I do not know what to send him? I notify Marshall Field's in Chicago to charge any account for so much and to send a gift certificate to my boy or girl in college. How do I know when the boy will go to the store? They send him a letter and say: "We have so much on account for you. It is at your disposal." Does the Senator mean to tell me that I do not get a bill until one of my children decides 3 months later to go to the store and spend the money, or do we eliminate that?

Mr. BROCK. They eliminate it under the amendment. The Senator talks about customers being badgered. The Senator sat through a lot of hearings and should know that that is not so. They can send one bill. They cannot badger anyone.

Mr. COOK. Mr. President, I agree with the import of the amendment. However, I think it has so many holes in it that the Senator is eliminating most of the type of credit business being done in the United States. With regard to what the Senator from Wisconsin said about people being billed in advance for goods, I could not agree more. However, when the Senator provides in strenuous language that he can enter into an agreement, what does that mean? Suppose I call the florist and say, "Send my mother a dozen roses in Florida, or in Kentucky." I do not receive them. They will say, "Wait a minute. We have to have an agreement, because the law says that we cannot bill you until they receive the goods". Obviously, I am never going to receive them.

Mr. BROCK. The Senator is entirely correct. All day today we have had difficulty between intent and effect. The intent is not bad. However, the effect is disastrous.

The Senator was not in the committee. However, in the committee we went to great lengths to try to resolve this problem.

The Senator from Wisconsin, who now supports the amendment, supported the bill in the committee because of the very problems raised by the Senator from Utah and the Senator from Kentucky.

The fact is that the Senator cannot with this amendment provide the flexibility that we would like to provide.

The amendment is an anticonsumer amendment that destroys the very situation the Senator seeks to protect.

Mr. TUNNEY. Mr. President, the customer is being billed for goods not sent to him. He is being billed for goods. That extends credit to the merchant.

Mr. BROCK. The bill provides that the customer who does not receive goods can refuse to pay the bill.

The PRESIDING OFFICER (Mr. MONTOYA). The time of the Senator has expired.

Mr. BROCK. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Utah has 4 minutes remaining.

Mr. BENNETT. Mr. President, I yield the remainder of my time to the Senator from Tennessee.

Mr. TUNNEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from California has 1 minute remaining.

Mr. BROCK. Mr. President, the bill provides that if one has undelivered merchandise, he does not have to pay for it, and he does not have to pay the finance costs. However, the Senator's languages does not do that. It goes way beyond that. In effect, the Senator would simply eliminate large blocks of credit that are available at present and would make it impossible to have airline and travel credit and things like that.

It would literally be impossible to provide credit to the ones whom the Senator is trying to help. The effect of the amendment is negative.

Mr. President, I reserve the remainder of my time.

Mr. TUNNEY. Mr. President, it is quite clear from the language of the bill on page 13, where it says that each person shall send a written explanation or clarification to the obligor, after having conducted an investigation, setting forth to the extent applicable the reasons why the creditor believes the account of the obligor was correctly shown in the statement and, upon request of the obligor, provide copies of documentary evidence of the obligor's indebtedness.

As a practical matter, everyone knows that such a fact could be a harassment, and the average consumer will not be involved in that way. That is very clear.

It is also very clear that insofar as the Federal Reserve Board is concerned, when we talk about an agreement being entered into, the Federal Reserve Board can prescribe the regulations and make it very clear.

Section 105 of regulation 2 states that:

> The Board shall prescribe regulations to carry out the purpose of this title. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof or to facilitate compliance therewith.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BROCK. Mr. President, the Senator just obliterated his own argument. He read language which provides that he has to conduct an investigation and that investigation must show that the charge was correctly shown. If it is not delivered, that cannot be shown. And one cannot have a bill for finance charges.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. BROCK. Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, the abuse that the Senator from California is intending to correct is not endemnic or widespread. The remedy would be far worse than the disease in this case.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President, I have 1 minute remaining. I would be very happy to yield back my 1 minute.

Mr. TUNNEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from California. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Nevada (Mr. CANNON), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

On this vote, the Senator from North Carolina (Mr. ERVIN) is paired with the Senator from South Dakota (Mr. McGOVERN).

If present and voting, the Senator from North Carolina would vote "nay" and the Senator from South Dakota would vote "yea."

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Georgia (Mr. GAMBRELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also the Senator from Colorado (Mr. ALLOTT), the Senator from Arizona (Mr. FANNIN), the Senator from Kansas (Mr. DOLE), the Senator from Iowa (Mr. MILLER), the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from Alaska (Mr. STEVENS) is absent on official committee business.

If present and voting the Senator from Colorado (Mr. ALLOTT) and the Senator from Iowa (Mr. MILLER) would each vote "nay."

The result was announced—yeas 30, nays 42, as follows:

[No. 162 Leg.]

YEAS—30

Bayh
Burdick
Byrd, Robert C.
Case
Chiles
Church
Cranston
Eagleton
Hartke
Hollings
Hughes
Inouye
Javits
Kennedy
McGee
Metcalf
Mondale
Montoya
Moss
Nelson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Stevenson
Symington
Tunney
Weicker
Williams

NAYS—42

Aiken
Allen
Anderson
Baker
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Brooke
Buckley
Byrd,
  Harry F., Jr.
Cook
Cooper
Cotton
Curtis
Dominick
Eastland
Ellender
Fong
Fulbright
Griffin
Gurney
Hansen
Hruska
Jordan, Idaho
Long
Mathias
Packwood
Pearson
Roth
Saxbe
Smith
Spong
Stafford
Stennis
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—28

Allott
Bible
Cannon
Dole
Ervin
Fannin
Gambrell
Goldwater
Gravel
Harris
Hart
Hatfield
Humphrey
Jackson
Jordan, N.C.
Magnuson
Mansfield
McClellan
McGovern
McIntyre
Miller
Mundt
Muskie
Pastore
Percy
Scott
Sparkman
Stevens

So Mr. TUNNEY's amendment (No. 1157), as modified, was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1155

Mr. METCALF. Mr. President, I call up my amendment No. 1155.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

> At the end of the bill add the following new section:
>
> § 212. Repeal of utility exemption
>
> Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by striking out paragraph (4).

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. METCALF. Mr. President, I yield myself such time as I may need, and I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on this amendment be limited to 30 minutes, to be equally divided between the distinguished mover of the amendment and the distinguished Senator from Utah (Mr. BENNETT).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield further?

Mr. METCALF. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on the remaining amendment by the Senator from California (Mr. TUNNEY) be limited to 20 minutes, to be equally divided as heretofore stated.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. Mr. President, reserving the right to object, I wonder if the Senator would withhold that request until I can ascertain whether I can take care of my situation?

Mr. ROBERT C. BYRD. Yes. Mr. President, I withdraw this request temporarily.

The PRESIDING OFFICER. How much time does the Senator from Montana yield himself?

Mr. METCALF. Mr. President, I yield myself such time as I may require.

Mr. President, this amendment simply repeals the exemption for regulated utilities provided by section 104, paragraph 4, of the Truth in Lending Act.

That utility exemption did not appear in either the Senate or House versions of the original truth in lending bills. No hearings were held on the exemption. The exemption was inserted by the conference committee and should have been excluded on a point of order.

During the 91st Congress the distinguished senior Senator from Pennsylvania (Mr. SCOTT) and I introduced legislation (S. 3018) to repeal the exemption. I pointed out in my introductory remarks that there had been no testimony, in either House, for the utility exemption, and that neither the Congress nor the Federal Reserve Board had determined that the State regulatory authorities exercised regulatory function in the credit field. I pointed out that the utilities' small business competitors, the fuel oil marketers, were subject to provisions of the act. And I cited an example of an individual being charged interest at the annual rate of 142 percent by a utility with which we are all familiar, the Washington Gas Light Co.

I reintroduced the bill as S. 1406 in the 92d Congress. My bill to repeal the utility exemption was included as section 210 of the Banking, Housing and Urban Affairs Committee Print Number One, dealing with Truth in Lending Act amendments, dated March 1, 1972.

Of course, I am talking about these little squares that appear on electric or gas utility bills, and so forth, where it says, "Pay net amount by" a certain date; and if that net amount is not paid by a certain date, then it says the consumer has to pay the gross amount, which amounts to an increase in the net amount by 10 percent. Sometimes that increase is 20 days or 10 days or 15 days later. What I am trying to do is point out how much interest is charged of these late payments.

However, this section was rejected by the Subcommittee on Financial Institutions, by a 5 to 4 vote, and the recommendation of the subcommittee was upheld by the full committee.

Mr. President, the distinguished senior Senator from Wisconsin (Mr. PROXMIRE) succinctly stated the case for inclusion of my amendment in his individual views on S. 652, which appear in Report No. 90–750.

> Consumers are entitled to know the implicit rate of interest being charged for the delayed payment of their monthly utility bills.

Senator PROXMIRE said:

> For example a five per cent additional charge for late payment is equivalent to an annual rate of interest of sixty per cent. If a consumer wants to delay payment on his utility bill for a month, he should know that he is being charged interest at the rate of sixty per cent a year.

I would point out here, Mr. President, that many utility consumers do not have as much as a month's time in which to pay their bill in order to escape usurious interest charges. When the mail is delivered promptly, and when I am home to read it, I have 17 days notice from Washington Gas Light Co. There are many persons who do not have the money to pay all their bills within approximately 2 weeks, or even a month. When they do get the money most of them pay their utility bills first, in order to maintain their essential utility service. These are low-income people who subsidize the large utility users through the prevalent block rate structure. To add usurious interest charges to their disproportionately high rates—high despite the fact that their low usage is not contributing to the demand upon which utilities base rate increase requests—is adding insult to injury.

One of the arguments which utilities raise, in their privately expressed objections to my amendment, raises more questions than it answers. They complain about the difficulty and burden of telling customers about their interest charges.

As Senator Proxmire points out on page 30 of Senate report No. 92–750:

> A survey taken in Massachusetts and Oregon reveals that home fuel companies are disclosing without difficulty that they are charging customers interest at the rate of eighteen per cent for late payment while public utilities are charging at a much higher rate.

Do not the utilities have as much capability in computing interest as their small competitors do? If not, perhaps they are improperly projecting costs in their rate increase requests, and erroneously forecasting reserve capacity for summer peaks and fuel reserves as well. If utilities' multiplication and compound interest tables are so inadequate these companies had better withdraw from their extensive indoctrination programs in the schools and colleges of this country.

Mr. President, I introduced my amendment in order to help persons who were not being protected by State regulatory commissions. I have long been and continue to be a supporter of strengthened State regulation. I will lean over backward to help members of State commissions and others who indicate that they are going to address themselves to the problems of regulation, help improve the customers' standing and expand the customers' fund of basic information.

Despite Senator Proxmire's efforts, and those of several of his colleagues, the Senate committee has not indicated a sensitivity to the problem with which my amendment deals. I say this with sadness, in full realization of the fact that utilities and banks have a much greater capacity for expressing their viewpoint, in Washington and especially through home State affiliates, than do the little people who have lost faith in the ability of the Congress to deal fairly with small problems involving large corporations.

Recently I visited with Chairman Diarmuid F. O'Scannlain of the Oregon Public Utility Commission. He is an energetic young chairman of one of the best State commissions. He has been appointed as chairman of the ad hoc committee on billing practices of the National Association of Regulatory Commissioners. Serving with him will be Chairman William F. Eich of the Wisconsin Public Service Commission and Commissioner Marvin R. Wooten, of the North Carolina Utilities Commission, with staff support from NARUC General Counsel Paul Rodgers.

Commissioner O'Scannlain told me that his committee is going to survey all the State commissions regarding billing practices. We discussed a number of matters in this area including, in addition to the interest on late payment issue, policy with respect to deposits of customers and service connection charges, the need for providing customers—as Washington Gas Light now does—a brief description, on the bill, of the basic rate structure. We also discussed several other items regarding which utility consumers should be regularly informed.

I want to see if the State commissions themselves will promptly move to determine and report the facts and make appropriate changes. I want to help a likely group of State commissioners, and look forward to their report and follow-up action.

Additionally I have been in touch with a member of the Commission on Uniform State Laws, Benny Kass. He is also a member of the Special Committee on the Uniform Consumer Credit Code. Perhaps the members of this commission will see fit to include a provision within the code which would repeal the utility exemption.

So I am going to await the results of two efforts to attain change through the State rather than the Federal route. I hope that these efforts at the State level are successful. If they are not, and if I return to the Senate next year, I shall again see if the Senate Committee on Banking, Housing, and Urban Affairs, however it is then constituted, is willing to take one small step toward fair utility billing procedures over the objection of the most pervasive lobby in the country.

Mr. President, I ask unanimous consent to have printed at this point in the Record correspondence relating to Commissioner O'Scannlain's committee and the Commission on Uniform State Laws, on which Benny Kass serves.

There being no objection, the letters were ordered to be printed in the Record, as follows:

National Association of
Regulatory Utility Commissioners,
Washington, D.C., March 14, 1972.

Re: Retention of Regulated Public Utility Exemption in Truth in Lending Act.

Hon. John J. Sparkman,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

Dear Chairman Sparkman: The National Association of Regulatory Utility Commissioners (NARUC)* vigorously urges the members of the Committee on Banking, Housing and Urban Affairs to retain the regulated public utility exemption contained in Section 104(4) of the Truth in Lending Act [15 U.S.C., Sec. 1603(4)] during current consideration by the Committee of the proposed Truth in Lending Act Amendments of 1972.

The repeal of the exemption would require regulated public utilities to conform their billing practices to procedures prescribed by regulations of the Federal Reserve Board. We believe that such a concentration of regulatory power in the Federal Government is unwarranted because such billing practices are now subject to comprehensive State regulation. Moreover, each State regulatory agency provides a ready and convenient forum for public consideration of any complaints regarding billing practices.

We understand that Committee consideration of the proposed repeal of the public utility exemption has been largely influenced by the practice of some utilities in applying late charges or "net and gross" differentials in computing the amount of a late bill in order to encourage prompt payment.

The NARUC has not heretofore studied the advantages and disadvantages to the public of such a practice. Accordingly, I am appointing an Ad Hoc Committee on Billing Practices to study this practice, and such other practices as members of Congress or other interested parties may suggest, and to submit its report and recommendations thereon for action by our Eighty-fourth Annual Convention to be held in New Orleans on November 27–30, 1972. We will of course submit the report and recommendations and Convention action thereon to the members of the Committee on Banking, Housing and Urban Affairs and other interested parties, including the news media.

In view of this impending study on utility billing practices by the State regulatory commissions, we would deeply appreciate you and your colleagues deferring action on the proposed repeal of the exemption until after our Convention.

With warm regards and best wishes, I am

Sincerely yours,
Francis Riordan, *President.*

National Association of
Regulatory Utility Commissioners,
Washington, D.C., March 22, 1972.

Re: Appointment of the NARUC Ad Hoc Committee on Billing Practices.

Hon. Diarmuid F. O'Scannlain,
Oregon Public Utility Commissioner.
Hon. William F. Eich,
Chairman, Wisconsin Public Service Commission.
Hon. Marvin R. Wooten,
Commissioner, North Carolina Utilities Commission.

Gentlemen: President Francis Riordan has appointed you as members of the NARUC Ad Hoc Committee on Billing Practices and has designated Mr. O'Scannlain as the Chairman of the Committee.

The mission of your Committee is to study the impact on the public interest of the practice of some utilities in applying a late charge or "net and gross" differentials in computing the amount of a late bill for service, and such other billing practices, as you may deem appropriate or as members of Congress or other interested parties may suggest, and to submit your report and recommendations thereon for action by the Eighty-fourth NARUC Annual Convention to be held in New Orleans on November 27–30, 1972.

You may wish to give consideration to the formulation of proposed model State commission rules governing utility billing practices.

Enclosed is a copy of the letter of President Riordan to Chairman John J. Sparkman of the Senate Committee on Banking, Housing and Urban Affairs, dated March 14, 1972, opposing the repeal of the regulated public utility exemption contained in Section 104 (4) of the Truth in Lending Act [15 U.S.C., Sec. 1603(14)] during the Committee's consideration of S. 652, a bill proposing the Truth in Lending Act Amendments of 1972. Subsequently, the Committee reported the bill without an amendment to repeal the exemption.

Your active service on the Ad Hoc Committee is important to the cause of strengthening effective State regulation.

With warm personal regards and best wishes, I am

Sincerely yours,
Paul Rodgers, *General Counsel.*

National Association of
Regulatory Utility Commissioners,
Washington, D.C., March 24, 1972.

Mr. Vic Reinemer,
Executive Secretary to Senator Lee Metcalf, 427 Old Senate Office Building, Washington, D.C.

Dear Mr. Reinemer: Enclosed are copies of NARUC correspondence of March 14 and 22, 1972 regarding the establishment of an NARUC Ad Hoc Committee on Billing Practices to study the validity of late charges being applied to the amount of a late bill for utility service and other practices employed by utilities in billing.

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*The NARUC is a quasi-governmental nonprofit organization founded in 1889. Within its membership are the governmental bodies of the fifty States and of the District of Columbia, Puerto Rico and the Virgin Islands engaged in the regulation of carriers and utilities. The mission of the NARUC is to improve the quality and effectiveness of public regulation in America.

It seems to me that it would be well for the Ad Hoc Committee to formulate a comprehensive questionnaire on this subject for completion by all State regulatory commissions. Accordingly, I will be in touch with you in the near future to get your views as to the kind of questions which should be included in the questionnaire.

I am looking forward to the opportunity of working with you on this important matter.

With warm personal regards and best wishes, I am

Sincerely yours,

PAUL RODGERS,
General Counsel.

NATIONAL ASSOCIATION OF
REGULATORY UTILITY COMMISSIONERS,
Washington, D.C., April 26, 1972.

To Each Member of the United States Senate.

Re: S. 652, a bill proposing the Truth in Lending Act Amendments of 1972

DEAR SENATOR: The National Association of Regulatory Utility Commissioners (NARUC)* vigorously urges the members of the Senate to retain the regulated public utility exemption contained in Section 104(4) of the Truth in Lending Act [15 U.S.C., Sec. 1603(4)] during consideration of the above bill on the floor of the Senate tomorrow, Thursday, April 27th.

We understand that Senator Lee Metcalf of Montana will offer at that time Amendment No. 1155 to repeal the exemption.

The repeal of the exemption would require regulated public utilities to conform their billing practices to procedures prescribed by regulations of the Federal Reserve Board. We believe that such a concentration of regulatory power in the Federal Government is unwarranted because such billing practices are now subject to comprehensive State regulation. Moreover, each State regulatory agency provides a ready and convenient forum for public consideration of any complaints regarding billing practices.

We understand that Senator Metcalf's Amendment to repeal the public utility exemption has been largely influenced by the practice of some utilities in applying late charges or "net and gross" differentials in computing the amount of a late bill in order to encourage prompt payment.

The NARUC has not heretofore studied the advantages and disadvantages to the public of such a practice. Accordingly, I appointed an Ad Hoc Committee on Billing Practices* on March 22, 1972, to study this practice, and such other practices as members of Congress or other interested parties may suggest, and to submit its report and recommendations thereon for action by our Eighty-fourth Annual Convention to be held in New Orleans on November 27–30, 1972. I anticipate that the report of the Ad Hoc Committee will include proposed model State commission rules governing utility billing practices.

We will of course submit the report and recommendations and Convention action thereon to the members of the Senate and other interested parties, including the news media.

In view of this pending study on utility billing practices by the State regulatory commissions, we would deeply appreciate you and your colleagues deferring action on the proposed repeal of the exemption until after our Convention.

With warm regards and best wishes, I am

Sincerely yours,

FRANCIS RIORDAN,
President.

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., April 26, 1972.

Mr. BENNY L. KASS,
Commissioner, Uniform State Laws,
Washington, D.C.

DEAR MR. KASS: As you know, the Senate is considering S. 652, the Fair Credit Billing Act. One item which was proposed for inclusion in this bill involves repeal of the exemption from Truth in Lending for regulated utilities. Under this exemption, transactions under public utility tariffs are exempted if the Federal Reserve Board determines that a State regulatory body regulates the charges for the public utility services involved, the charges for delayed payment, and any discount allowed for early payment.

I attempted to repeal this utility exemption, but to no avail. Despite my efforts, the Subcommittee on Financial Institutions of the Senate Banking and Currency Committee decided, by a 5 to 4 vote, to oppose the repeal of this exemption, and this position was upheld by the full committee.

Consumers are entitled to know the rate of interest being charged by utility companies. Perhaps, however, this is a matter which should be left up to the states for their consideration. Accordingly, I encourage you, as a Commissioner on Uniform State Laws and a member of the Special Committee on the Uniform Consumer Credit Code, to include a provision within the Code which would have the effect of repealing this utility exemption.

Your continued interest in the welfare of consumers is appreciated.

Kindest regards.

Very truly yours,

LEE METCALF.

Mr. METCALF. Mr. President, I reserve the remainder of my time.

Mr. BENNETT. Mr. President, there are compelling reasons why regulated public utilities should continue to be exempt from the Truth in Lending Act. Furthermore, any move to make them subject to its provisions would be patently anticonsumer.

First, public utilities throughout the Nation are already subject to regulation. Substituting Federal authority for this State and local control on the face of it would be purely unnecessary and duplicative. Worse, it would throw into the regulatory process elements of confusion and further needless delay.

Second, present regulatory systems are performing admirably in the consumer interest, while the Federal Reserve Board is neither qualified nor equipped to enter into the intricate field of utility regulation. The regulation of utility rates to retail consumers historically has been the responsibility of State and local governments because the Federal Government could not hope to do an adequate job in this field. Should this amendment pass, it would be the beginning of a breakdown in this well considered and exhaustively studied field.

Third, not only would this amendment require utilities to comply with many provisions of the Truth in Lending Act, as the bill before us would amend the act, it would also require public utilities to comply with the Fair Credit Billing Act. Utility billing practices—now regulated by the individual States which have properly established their own, varying rules—would have to conform to national practices. This would be required whether the company used "discount billing," late charges, or "net and gross" differentials, wreaking havoc with practices required by the present regulators and ignoring present local practices which have wide consumer acceptance.

Fourth, the Fair Credit Billing Act establishes procedures for a customer to contest billing errors. That may be well and good for unregulated businesses, but in the case of utilities there is a serious, substantive question whether the Fair Credit Billing Act would allow the use of estimated bills. If utilities could not, this would increase costs to the utilities and subsequently rates consumers pay. Furthermore, I would point out that many consumers of utility services prefer and want estimated bills, so they can adjust them to their household budgets.

Fifth, most utility consumers benefit from "discount" or "net amount" billing practices by paying their bills on time. If they were denied this benefit, or if it should be reduced, they would be shouldering the burden, or at least part of the burden, which should be and now is borne by late payers. It is not fair to penalize an "on time" consumer in such a manner.

Sixth, present rate structures are based on long experience. Changing the setup by making utilities and their regulators conform to national practices could require the whole rate structure to be revamped—a needless and senseless and expensive result, should this amendment pass.

Seventh, this amendment was considered by the committee and was not accepted.

Utility consumers are fully protected from unfair, unreasonable, unlawful, and discriminatory credit charges, and inaccurate and unfair credit billings by a complete body of law and by regulatory agencies, many of which are composed of elected officials. Utilities are in a unique situation when contrasted to the normal, unregulated business. There is no need for this amendment. It challenges current regulatory practices, even to the extent of undermining them. It should be defeated, so utilities and their consumers can continue to benefit from practices that are proven and are working well.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, we are, I think, prepared to yield back the remainder of our time. It is our understanding that the Senator from Montana intends to withdraw his amendment.

Mr. METCALF. I am going to withdraw the amendment if all time is yielded back.

Mr. TOWER. I yield back the remainder of the time in opposition.

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* The NARUC is a quasi-governmental nonprofit organization founded in 1889. Within its membership are the governmental bodies of the fifty States and of the District of Columbia, Puerto Rico and the Virgin Islands engaged in the regulation of carriers and utilities. The mission of the NARUC is to improve the quality and effectiveness of public regulation in America.

*The members of the Ad Hoc Committee are: Diarmuid F. O'Scannlain, Oregon Public Utility Commissioner, as Chairman of the Ad Hoc Committee; William F. Eich, Chairman, Wisconsin Public Service Commission; and Marvin R. Wooten, Commissioner, North Carolina Utilities Commission.

The PRESIDING OFFICER. Does the Senator from Montana yield back his remaining time?

Mr. METCALF. I yield back the remainder of my time, and withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 1159

Mr. TUNNEY. Mr. President, I call up my amendment No. 1159, to prohibit the imposition of a minimum finance charge.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 11, at the bottom of the page, add the following:
>
> "170. Prohibition of minimum finance charge.".
>
> On page 19, line 7, strike out the quotation marks.
>
> On page 19, between lines 7 and 8, insert the following:
>
> "§ 170. Prohibition of minimum finance charge
>
> "No creditor who operates an open-end consumer credit plan may impose a minimum finance charge."

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. ROBERT C. BYRD. I ask unanimous consent, having cleared the request with the author of the amendment and the distinguished Senator from Utah (Mr. BENNETT), that time on this amendment be limited to 20 minutes, to be equally divided between those two Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that time on the rollcall—which I understand the Senator will request—be limited to 10 minutes, and that the warning bell be sounded midway; that time on the rollcall vote on passage of the bill be similarly limited; and that the cloakrooms inform all Senators accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, this amendment has been endorsed by the Chairman of the Federal Trade Commission.

The truth-in-lending law does not require the disclosure to consumers of the annual percentage rate of a credit transaction where the finance charge is within certain minimum limits. The supposed rationalization behind this provision is that a minimum charge allows the creditor to recover the administrative cost of the transaction and that disclosure on an annual percentage rate basis of this minimum charge would present a distorted picture of a necessary cost.

Nowhere in the hearings or report is sufficient data presented that would show the difference there would be in the return to creditors if such minimum charges were prohibited. All the record shows are general statements by industry representatives that such minimum charges are essential to defray the administrative costs of providing revolving credit.

In addition, in March, 1968 the Federal Trade Commission conducted a survey of the installment credit practices of District of Columbia retailers. As part of this survey, the FTC analyzed the impact of finance charges on the low-income consumer. The data showed that bulk of installment credit sales were at effective annual financing rates of 22 percent or more. Nearly half—47.9 percent—was at rates ranging from 26 to 33 percent. By contrast, contracts arising from sales by non-low income general market retailers were at considerably lower rates. Three-fourths of these contracts were at finance rates of 20 percent or less. Less than 1 percent of general market retailer contracts had finance charges exceeding 24 percent.

Even if the consumer credit picture has improved somewhat since 1968, the essential inequities remain. The minimum finance charge seems to bear a share of responsibility for these imbalances.

As a practical matter the low-income customer is particularly vulnerable to the minimum finance charge which is imposed in lieu of the normal interest rate charge of 18 percent if the payment of small amounts are deferred.

For example, a minimum finance charge of 50 cents on a $10 balance is equivalent to a charge of 5 percent a month or 60 percent a year.

Thus, in its operation it works against the low-income consumer and has little if any effect on those who can afford to pay their accounts in full within the required time period. For those whose minimum balance is more than $33 on a revolving credit system, the standard 1½ percent a month charge—or 18 percent a year—is levied. If the balance is below this $33 however, say $10 for example, a minimum charge of 50 cents is levied. On an annual percentage rate basis, this represents a 60 percent per year rate.

As I mentioned, the creditor argues that this charge is necessary to pay for the cost of bookkeeping. However, if unit costs are determined by dividing total bookkeeping costs by the total number of transactions you get one cost figure. If the unit cost is determined by dividing total costs by the total dollar amounts financed you can show far lower costs and no need for a minimum charge.

It seems to me that the permissible interest rate under State law would usually be fixed so as to allow over the total dollars outstanding for the cost of bookkeeping. The use of permissible interest rates would spread the costs of credit over all the customers. The minimum finance charge however, places an unfair portion of the burden on the poor. Creditors impose no minimum charge on those who pay small charge accounts in full.

Clearly the operation of this levy is discriminatory.

When considering the final shape of S. 652 we must weigh these competing interests. On the one side we have the as yet unfounded claims of the credit industry that the minimum charge is an absolute necessity if consumer credit is to remain a viable industry. On the other side we have the claims of the low income consumer and data which show that the impact of this minimum finance charge falls unduly on this class. Thus those least able to pay are bearing the full brunt of this charge.

My amendment will correct this inequitable situation by prohibiting at the Federal level the minimum finance charge on revolving credit bills. Already nine states have passed such legislation and in these jurisdictions the revolving credit business has certainly not dried up. I submit it is time for the Federal Government to act and prohibit such charges nationwide.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. I yield myself 5 minutes.

Mr. President, I hope the Senate will reject this amendment overwhelmingly, just as the committee did when it was presented for our consideration.

I would label this the amendment to deprive small purchasers of credit, because that will be its effect.

The only argument made in favor of this proposal is that minimum charges are a discriminatory tax on low-income customers. There is no evidence to support such an argument, and witnesses before the committee made this perfectly clear. In fact, when the Senator from Wisconsin made such a claim during our hearings, he was challenged by a small retailer and withdrew from that position, stating,

> Maybe not low-income people as much as people who have to live pretty much as so many people do, so many of us do, on the basis of what we get each month, and we pay as much as we can afford to, and so on.

I do not consider the Senator from Wisconsin as being properly categorized as a person with low income. I repeat again, there is absolutely no evidence that the minimum charge falls more heavily on low-income individuals.

Another small retailer stated:

> . . . we regard minimum charges as an inexpensive collection tool, and as a means of reducing credit costs; 27 percent of all our revolving account customers carry a small balance every month. By eliminating the minimum charge, you place a tremendous burden on the small business—that of carrying thousands of dollars of small, virtually uncollectable balances. Such a financial burden on my store would drive our cost of credit up—and drive the amount of credit we could afford to grant down. This is hardly in the best interest of our average customer.

The Federal Reserve Board supports the statements of these small retailers by saying—

> Since the effect of the Truth in Lending disclosure provisions has generally been to limit minimum charges to 50 cents, there is a question whether further Federal legislation is warranted. It would appear reasonable for the creditor to be compensated for sending out an extra billing statement which would not have been necessary had the customer paid a small balance in full.

During our hearings, we received statistics showing that the actual cost of processing a single Bank Americard draft, exclusive of the cost of money, is $1.41.

Many witnesses before the committee stated that the 50-cent minimum did not fully represent the costs of sending out billing statements to individuals who left a small minimum balance in their account. Mr. President, the proponents suggest that a 50-cent minimum charge on a $10 balance is equivalent to a charge of 5 percent a month, or 60 percent a year. During our hearings one major witness suggested that it is an unlikely circumstance. In any event, the example given by the Senator loses its effectiveness when one understands that the committee has exempted from all truth-in-lending requirements discounts not in excess of 5 percent which, incidentally, would amount to 60 percent a year.

The committee carefully considered the arguments made by the Senator from Wisconsin that minimum charges would fall unduly on low-income individuals and those who can afford them least. The committee decided not to prohibit minimum charges on the basis that the elimination of minimum charges would reduce credit extended, and individuals with low-income would most likely be the ones to whom the credit would not be granted. Furthermore, at the present time finance charges, including minimum charges, are regulated by State law. States differ in their pattern of regulation. In one instance, a State may allow a lower rate of finance charge to be imposed but may allow a minimum charge. Another State may allow a higher rate of finance charge and prohibit minimum charges. Some States have specifically either restricted or prohibited minimum charges; other States have specifically authorized minimum charges. I ask unanimous consent to have printed in the Record a listing of minimum charges on open-end credit specifically authorized by various States.

There being no objection, the list was ordered to be printed in the Record, as follows:

Minimum Charges on Open-End Credit Authorized by State Law

1. Alabama	$0.50
2. Alaska	1.00
3. Arizona	.50
4. California	1.00
5. Colorado	.50
6. Delaware	1.00
7. Florida	1.00
8. Georgia	1.00
9. Idaho	.50
10. Illinois	.70
11. Indiana	.50
12. Kansas	.50
13. Louisiana	.25
14. Massachusetts	.50
15. Michigan	.70
16. Minnesota	.50
17. Missouri	.70
18. Montana	.50
19. New Jersey	.50
20. New Mexico	.70
21. New York	.70
22. Ohio	1.00
23. Oklahoma	.50
24. Pennsylvania	.70
25. Rhode Island	.40
26. South Dakota	1.00
27. Tennessee	.70
28. Texas	.75
29. Utah	.50
30. Vermont	.25
31. Washington	1.00

Mr. BENNETT. If the Federal Government were to make a minimum charge illegal, it would supersede State law, would apply to all States, and would not take into consideration the differences which now exist in the States in their regulation of finance charges.

I point out to the Senator from California that his State has a $1 minimum charge. I think he probably should go back home and get that reduced to 50 cents, before he comes to us and asks us to have the other States give up all their charges.

Incidentally, of the 31 States that do have minimum charges, 16 have charges in excess of 50 cents; the others have charges of 50 cents or less.

I think this is a de minimis problem, but it would be much more serious if this amendment were adopted.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from California has 3 minutes remaining.

Mr. TUNNEY. The Senator from Wisconsin indicated that he desired to make a statement. He is not in the Chamber at this time. I do not see any reason why we have to prolong the agony. I yield back the remainder of my time.

Mr. BENNETT. Mr. President, do I have 4 minutes remaining?

The PRESIDING OFFICER. The Senator from Utah has 4 minutes remaining.

Mr. BENNETT. I yield to the Senator from Tennessee such time as he may require.

Mr. BROCK. Mr. President, I do not want to prolong the agony, either, but I would wonder aloud what the Senator from California seems to have against poor people today. I know that he does not intend to discriminate against those in this country who have low incomes, but that is the effect of his amendment; because what happens when we prohibit a minimum charge is that what we in effect do is prohibit an extension of credit to those who have less than moderate incomes. That is the danger in this kind of amendment. That is why, when the States have been given the opportunity to vote, 31 of 38 States have affirmatively voted to do so.

What the Senator fails to recognize is that minimum charges are prohibited now unless the States take specific, affirmative action to allow it. Truth in lending will limit that to 50 cents.

So I think that the Senator's amendment, while again of obviously good intent, is obviously of bad effect. It would diminish immeasurably the availability of credit to the very people he desires to help; namely, the lower income groups in this country.

I therefore believe that his amendment should be soundly rejected.

Mr. TUNNEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BENNETT. Mr. President, I yield back the remainder of my time.

Mr. TUNNEY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Montoya). All time has now been yielded back on the amendment.

The question is on agreeing to Amendment No. 1159 of the Senator from California (Mr. Tunney).

On this questions the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Bible), the Senator from Nevada (Mr. Cannon), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Ervin), the Senator from Georgia (Mr. Gambrell), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Michigan (Mr. Hart), the Senator from South Carolina (Mr. Hollings), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from North Carolina (Mr. Jordan), the Senator from Washington (Mr. Magnuson), the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I also announce that the Senator from Montana (Mr. Mansfield) is absent on official business.

On this vote, the Senator from North Carolina (Mr. Ervin) is paired with the Senator from South Dakota (Mr. McGovern).

If present and voting, the Senator from North Carolina would vote "nay" and the Senator from South Dakota would vote "yea."

On this vote, the Senator from Alaska (Mr. Gravel) is paired with the Senator from Washington (Mr. Jackson).

If present and voting, the Senator from Alaska would vote "yea" and the Senator from Washington would vote "nay."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore), and the Senator from Washington (Mr. Magnuson) would each vote "yea."

I further announce that the Senator from Georgia (Mr. Gambrell) would vote "nay."

Mr. GRIFFIN. I announce that the Senators from Arizona (Mr. Goldwater and Mr. Fannin) and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

The Senator from Pennsylvania (Mr. Scott) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Colorado (Mr. Dominick), the Senator from Ohio (Mr. Saxbe), and the Senator from Connecticut (Mr. Weicker) are detained on official business.

Also the Senator from Colorado (Mr. Allott), the Senator from Kansas (Mr. Dole), the Senator from Iowa (Mr. Miller), the Senator from Illinois (Mr. Percy), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The Senator from Alaska (Mr.

STEVENS) is absent on official committee business.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Iowa (Mr. MILLER), and the Senator from Ohio (Mr. TAFT) would each vote "nay."

The result was announced—yeas 19, nays 47, as follows:

[No. 163 Leg.]

YEAS—19

Byrd, Harry F., Jr.
Byrd, Robert C.
Church
Hartke
Hughes
Kennedy
McGee
Metcalf
Mondale
Montoya
Moss
Nelson
Proxmire
Randolph
Ribicoff
Spong
Stevenson
Symington
Tunney

NAYS—47

Aiken
Allen
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Brooke
Buckley
Burdick
Case
Chiles
Cook
Cooper
Cotton
Cranston
Curtis
Eagleton
Ellender
Fong
Fulbright
Griffin
Gurney
Hansen
Hruska
Inouye
Javits
Jordan, Idaho
Long
Mathias
Packwood
Pearson
Pell
Roth
Schweiker
Smith
Stafford
Stennis
Talmadge
Thurmond
Tower
Williams
Young

NOT VOTING—34

Allott
Bible
Cannon
Dole
Dominick
Eastland
Ervin
Fannin
Gambrell
Goldwater
Gravel
Harris
Hart
Hatfield
Hollings
Humphrey
Jackson
Jordan, N.C.
Magnuson
Mansfield
McClellan
McGovern
McIntyre
Miller
Mundt
Muskie
Pastore
Percy
Saxbe
Scott
Sparkman
Stevens
Taft
Weicker

So Mr. TUNNEY's amendment (No. 1159) was rejected.

Mr. PROXMIRE. Mr. President, with a heavy heart I announce that for the first time I am going to vote against the Proxmire bill. I am going to vote against my own bill.

I call to the attention of the Senate two communications that I have received. One is from the Consumers' Federation of America. Their representative wrote me a note which reads as follows:

> We obviously have neither the votes to improve the bill or to stop it. Please put the Consumers' Federation of America on record as opposing S. 652 since it cannot be improved. It is not a consumer bill. Perhaps you can get through a token amendment to delete the word "fair".

I might say it is the Bank Protection Act of 1972.

The second communication is from the AFL–CIO.

It says in part as follows:

> Unless major strengthening amendments to help the consumer are adopted on the floor, this measure would make a mockery of its title.
>
> Therefore, unless strengthening amendments are adopted, we urge that you vote against S. 652.
>
> We support the concept of the original bill and we oppose the shell the committee has reported.
>
> We join in the views of Senator Proxmire, subscribed to by Senators Williams, McIntyre, Mondale, and Stevenson; and, therefore, urge you to support the strengthening amendments that will be introduced.
>
> If these fail, we urge you vote against the bill.

Mr. President, as I said before, I intend to vote against the bill.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. PROXMIRE. Mr. President, I yield to the Senator from Utah.

ORDER FOR ADJOURNMENT TO 9:45 A.M. TOMORROW

Mr. MOSS. Mr. President, I ask unanimous consent that, when the Senate completes its business tonight, it stand in adjournment until 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS HARRY F. BYRD, JR., AND BELLMON TOMORROW

Mr. MOSS. Mr. President, I ask unanimous consent that, following the speech to be delivered tomorrow by the Senator from Utah (Mr. Moss), now speaking, that Senator HARRY F. BYRD, Jr., be recognized for not to exceed 15 minutes, to be followed by the Senator from Oklahoma (Mr. BELLMON) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PRINTING OF HOUSE JOINT RESOLUTION 748 AS PASSED TODAY

Mr. MOSS. Mr. President, I ask unanimous consent that House Joint Resolution 748 be printed as it passed the Senate earlier today with technical corrections.

The PRESIDING OFFICER. Without objection, it is so orderd.

AUTHORIZATION FOR TECHNICAL CORRECTIONS TO BE MADE IN THE ENGROSSMENT OF HOUSE JOINT RESOLUTION 748

Mr. MOSS. Mr. President, I ask unanimous consent that in the engrossment of House Joint Resolution 748, passed earlier today, the Secretary of the Senate be authorized to make the following technical corrections:

> Page 31, line 2 in S. 2219, the text of which was substituted for H.J. Res. 748, strike the word "of", before the word "training" and insert the word "or" in lieu thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRUTH IN LENDING ACT AMENDMENTS OF 1972

The Senate continued with the consideration of the bill (S. 652) to amend the Truth in Lending Act to protect consumers against careless and unfair billing practices, and for other purposes.

Mr. PROXMIRE. Mr. President, I have a series of technical amendments which I offer. They have been cleared with the distinguished Senator from Utah (Mr. BENNETT) and with the minority. They agree that these are simply technical amendments that are not substantive. I offer them and ask that they be reported.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

> On page 12, line 18, strike the word "previously" and insert ", after giving such written notice and before the expiration of the time limits herein specified,".

Mr. PROXMIRE. Section 161 requires a creditor to explain billing disputes to a consumer unless the consumer "has previously agreed that the statement was correct." The intent of the provision is to preclude the need for a formal explanation if the consumer agrees the billing statement is correct. The amendment requires that the consumer's agreement as to the correctness of the bill must occur after giving written notice of a billing dispute. This clarification is needed to prevent possible evasion by a creditor who might include a predispute waiver provision in the terms of his standard credit contract with the consumer.

The assistant legislative clerk read as follows:

> On page 12, line 7, insert after the word "stipulates" the following: "with the disclosure required under 127(b) (11)".

Mr. PROXMIRE. Section 161 requires consumers to make a written notification of a billing dispute. Such notification must be separate from the payment stub if the creditor so stipulates. The amendment clarifies the committee's intent by requiring that such stipulation must be disclosed on or with the periodic billing statement along with the creditor's disclosure of the address for receiving billing dispute notifications.

The assistant legislative clerk read as follows:

> On page 10, line 16, insert "in a form prescribed by regulations of the Board" at the end thereof.
>
> On page 10, line 19, strike ", in a form prescribed by regulations of the Board".
>
> On page 10, line 25, after the word "statement" insert ", in a form prescribed by regulations of the board,"
>
> On page 11, line 2, strike "in a form prescribed by regulations of the Board".

Mr. PROXMIRE. This amendment simply clarifies the Board's authority to regulate the format of the disclosures required by sections 104 and 105 of the act. These provisions require a creditor to provide a brief identification of each transaction appearing on a periodic billing statement and to disclose a customer's protections and the creditor's responsibilities under the act. The amendment is necessary to prevent any erroneous interpretation which would limit the Board's authority to prescribing the format of sales vouchers or the creditor's responsibilities under the act. In so doing, the amendment merely clarifies the intent of the legislation.

The assistant legislative clerk read as follows:

> On page 22, line 12, insert after the word "section" the following: "but continued failure to disclose after a recovery has been granted shall give rise to rights to additional recoveries."

Mr. PROXMIRE. Section 207 exempts a creditor from multiple liability for Truth in Lending Act violations when the same error is repeated on more than one billing statement or where a number of separate errors occur on the same statement. The amendment clarifies the fact that a creditor would still be liable for continuing the same violation once a recovery had been obtained. Without this clarification, a creditor might be able to continue violating the law with impunity, which is clearly not the intent of the committee or the Federal Reserve Board which proposed the original language for section 207.

The assistant legislative clerk read as follows:

> On page 17, line 2, add the following new sentence after "Board.": "Such regulations shall prevent a finance charge from being imposed on any obligor if the creditor has received the obligor's payment prior to the time indicated by the creditor by which such payment must be received to avoid the imposition of a finance charge."

Mr. PROXMIRE. Section 164 requires the prompt posting of payments in accordance with Federal Reserve Board regulations. The amendment makes explicit the intent of the committee that no consumer be assessed a finance charge if his payment is received by the creditor prior to the due date. This intent was clearly indicated in the transcript of the committee's executive session although the committee report fails to make reference to this intent. Accordingly, a clarifying amendment is needed to assure that the committee's intent is realized.

Mr. TOWER. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The **PRESIDING OFFICER.** Without objection, the amendments will be considered en bloc.

The question is on agreeing to the amendments en bloc.

The amendments were agreed to.

Mr. BENNETT. Mr. President, I have sent to the desk four amendments which have been discussed with the manager of the bill. I am not sure that we can call them completely technical. However, they are necessary to the successful operation of the law under the bill. I ask unanimous consent that the amendments may be considered en bloc.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The assistant legislative clerk read as follows:

> On page 27, delete all after the word "period" on line 3 through the word "period" on line 4. Delete all after the word "period" on line 12 through the word "period" on line 13.

UNDISCLOSED GRACE PERIOD FOR CONSUMERS

Mr. BENNETT. Mr. President, I send to the desk a technical amendment which would amend section 210 of the committee bill to allow an undisclosed grace period without the imposition of a finance charge beyond the opening date of the next billing period. Section 210 permits open-end creditors to indicate that payment by a certain date must be made to avoid a finance charge without disclosing that no finance charge will actually be imposed if the payment is received after such date but before the opening of the next billing period. This was provided by the committee because in most instances it requires a day or two after receipt of a bill to post it on an account, and some creditors had established a grace period of this type in order to avoid imposing a finance charge on consumers who sent their bills on the final day of the billing period. It has come to my attention since approval of this provision that some creditors who operate on a 30-day cycle cannot take advantage of this undisclosed grace period but would like to provide such a grace period if the committee bill were amended to allow them to do so. Some retailers give customers several days of grace beyond the 30 days to allow for delays in the mail, delays in getting their own mail processed, and to compensate for holidays which would reduce the number of work days during the billing cycle. In these cases, customers may get as much as 35 days to pay their account without incurring a finance charge, and this certainly operates to their benefit. However, under the present language of S. 652, the retailer could not give this undisclosed grace period because the language provides that the grace period may not extend beyond the opening date of the next billing period.

In effect, if a creditor wants to give the customer several days of free credit to compensate for mail delays and so forth, he should be permitted to do this and for those creditors on a 30-day billing cycle, this can only be done by permitting the grace period to extend for several days beyond the end of the billing cycle. If we are going to give those creditors who have a 25-day billing cycle a 5-day grace period, as stated in the report, then we ought to permit those creditors who have a 30-day billing cycle to allow a comparable grace period. This would require a language change.

In short—a grace period is equitable and it is the customer who gains. I suggest that the grace period be permitted for customers who are on a 30-day cycle as well as those on a 25-day cycle. This can be done by permitting the grace period to extend beyond the closing date of the billing period.

My amendment would accomplish this purpose by deleting all after the word "period" on page 27, line 3, through the word "period" on line 4, and all after the word "period" on line 12 through the word "period" on line 13.

The assistant legislative clerk read as follows:

> On page 24, line 10, delete the words "this section" and insert "sections 206, 207, and 208".

GOOD-FAITH COMPLIANCE AND LIABILITY FOR MULTIPLE DISCLOSURES

Mr. BENNETT. Mr. President, section 208 of the committee bill sets up new standards limiting class action liability. These standards are applicable in determining the liability of any person unless prior to the date of enactment of this act such liability has been determined by final judgment of a court of competent jurisdiction and the time for appeal from such judgment has expired.

The amendment which I recommend would make sections 206, providing for good-faith compliance, and 207, dealing with liability for multiple disclosures, applicable on the same terms. Sections 206 and 207 were recommended by the Federal Reserve Board to correct uncertainties in existing law. In its recommendations the Federal Reserve Board said:

> Furthermore, the Act's civil liability section does not necessarily preclude liability when a creditor has acted in good faith in conformity with Regulation Z. The Board recommends that the Act be amended to provide for a "good faith" provision, such as contained in the Securities and Exchange Act of 1934, which would apply to both the Board's Regulation Z and formal interpretations of it.

The committee did this in section 206 of our bill. The Federal Reserve Board also stated in its recommendations:

> There is some uncertainty as to the meaning of "transaction" when applying section 130 to a possible error on a periodic statement used in connection with an open end account. It might be contended that each separate purchase for which a credit card is used constitutes a "transaction" for purposes of section 130, or that each periodic statement is a transaction. More likely the opening and use of the account is a single transaction. The Board believes that Congress should clarify the very important meaning of "transaction" in section 130.

The committee embodied this recommendation in our bill in section 207. Both sections 206 and 207 of our bill apply to and amend section 130 in the Truth in Lending Act, just as does section 208 which applies to all pending cases which have not been finally determined. It is only appropriate that the clarifications provided in these two sections also be used in determining liability of such cases.

The assistant legislative clerk read as follows:

> On page 18, line 10, insert after the word "transaction" the following: "under the relevant credit card plan".

LIMITATION OF OFFSET PROHIBITION

Mr. BENNETT. Mr. President, section 168 of this bill states that a credit card issuer may not offset a cardholder's indebtedness arising in connection with a consumer credit transaction against funds of the cardholder held on deposit with a card issuer unless first, such action was previously authorized in writing by the cardholder, and second, such action with respect to any disputed amount will be rescinded by the card issuer upon request of the cardholder made within 10 days after such action is taken.

The purpose of this provision in the law was to assure that no card issuer could take such action against an indebtedness arising under the relevant credit card plan.

I send to the desk a technical amendment which would make it clear that the prohibition against offsets applies to credit transactions under the relevant credit card plan only. This would be accomplished by inserting after the word "transaction" on page 18, line 10, the following: "under the relevant credit card plan". If the prohibition is more broadly interpreted since it applies only to card issuers, it could have the effect of discouraging the issuance of credit cards since any card issuer could be prohibited from offsetting indebtedness arising from transactions not connected with the credit card. No such prohibition would exist for the same type of indebtedness if the creditor was not a card issuer. The intent of the committee was not to prohibit offsets against all consumer credit transactions of credit card issuers because they issue credit cards, but to protect the credit cardholder from offsets to satisfy credit card debt in the event there is a dispute over the amount of the debt.

This amendment would clarify the intent of the committee and would make it clear that the committee proposal is not intended to discourage the issuance of credit cards.

The assistant legislative clerk read as follows:

> On page 11, strike lines 5 through 8 and insert the following:
>
> (b) Section 127 (c) of the Truth in Lending Act (15 U.S.C. 1637 (c)) is amended to read:
>
> "(c) In the case of any existing account under an open-end consumer credit plan having an outstanding balance of more than one dollar at or after the close of the creditor's first full billing cycle under the plan after the effective date of subsection (a) or any amendments thereto, the items described in subsection (a), to the extent applicable and not previously disclosed, shall be disclosed in a notice mailed or delivered to the obligor not later than the time of mailing the periodic billing statement required by subsection (b)".

NOTIFICATION OF PRESENT ACCOUNTS

Mr. BENNETT. Mr. President, section 105 (b) requires the notification of all present accounts of the protection provided by this bill and the creditor's responsibilities. I send to the desk an amendment that would require such notification only for active accounts. Since the present bill is intended to cover all creditors and a creditor is defined as one who arranges or grants credit, even if there is no finance charge, it may cover all doctors, dentists, attorneys, and small stores which do not consider themselves to be offering credit. It would be desirable to limit the obligation of creditors to report only to active accounts. Otherwise, apparently, a doctor would be required to notify all of his present and past patients, as would the dentist, the attorney, and others. This would be an expensive exercise and unnecessary unless at the time there is a debtor-creditor relationship with a balance owing. The amendment would require that inactive accounts be given the information when they became active and at least twice a year thereafter.

The amendment is as follows:

On page 11, strike lines 5 through 8 and insert the following:

> (b) Section 127 (c) of the Truth in Lending Act (15 U.S.C. 1637 (c)) is amended to read:
>
> "(c) In the case of any existing account under an open-end consumer credit plan having an outstanding balance of more than one dollar at or after the close of the creditor's first full billing cycle under the plan after the effective date of subsection (a) or any amendments thereto, the items described in subsection (a), to the extent applicable and not previously disclosed, shall be disclosed in a notice mailed or delivered to the obligor not later than the time of mailing the periodic billing statement required by subsection (b)".

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Utah en bloc.

The amendments were agreed to.

Mr. PROXMIRE. Mr. President, I yield to the Senator from New Jersey.

ORDER FOR STAR PRINT OF S. 2318

Mr. WILLIAMS. Mr. President, on July 20, 1971, I introduced S. 2318, a bill to amend the Longshoremen's and Harbor Workers' Compensation Act and for other purposes. Subsequent to the introduction of this bill, several technical errors were discovered in the text as printed. In order to rectify these errors, I ask unanimous consent that a star print of S. 2318, as corrected, be made and that the names of the cosponsors added since the introduction be included in the printing. I also ask unanimous consent to have the Senator from Illinois (Mr. Stevenson) added as a cosponsor and included in the printing.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRUTH IN LENDING ACT AMENDMENTS OF 1972

The Senate continued with the consideration of the bill (S. 652) to amend the Truth in Lending Act to protect consumers against careless and unfair billing practices, and for other purposes.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any technical or necessary changes in the engrossment of the bill, S. 652.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Bible), the Senator from Nevada (Mr. Cannon), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Ervin), the Senator from Georgia (Mr. Gambrell), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Michigan (Mr. Hart), the Senator from South Carolina (Mr. Hollings), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from North Carolina (Mr. Jordan), the Senator from Washington (Mr. Magnuson), the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I also announce that the Senator from Montana (Mr. Mansfield) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. Cannon), the Senator from North Carolina (Mr. Ervin), the Senator from Alaska (Mr. Gravel), the Senator from Washington (Mr. Jackson), the Senator from North Carolina (Mr. Jordan), the Senator from Washington (Mr. Magnuson), the Senator from Rhode Island (Mr. Pastore), and the Senator from Georgia (Mr. Gambrell) would each vote "yea."

On this vote, the Senator from South Carolina (Mr. Hollings) is paired with the Senator from South Dakota (Mr. McGovern).

If present and voting, the Senator from South Carolina would vote "yea" and the Senator from South Dakota would vote "nay."

Mr. GRIFFIN. I announce that the Senators from Arizona (Mr. Goldwater and Mr. Fannin) and the Senator from Oregon (Mr. Hatfield) are necessarily absent.

The Senator from Pennsylvania (Mr. Scott) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Ohio (Mr. Saxbe) and the Senator from Connecticut (Mr. Weicker) are detained on official business.

If present and voting, the Senator from Colorado (Mr. Allott), the Senator from Oregon (Mr. Hatfield), the Senator from Iowa (Mr. Miller), and the Senator from Ohio (Mr. Taft) would each vote "yea."

Also, the Senator from Colorado (Mr. Allott), the Senator from Kansas (Mr. Dole), the Senator from Iowa (Mr. Miller), the Senator from Illinois (Mr. Percy), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The Senator from Alaska (Mr. Stevens) is absent on official committee business.

The result was announced—yeas 51, nays 15, as follows:

[No. 164 Leg.]

YEAS—51

Aiken
Allen
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Buckley
Burdick
Byrd,
  Harry F., Jr.
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dominick
Eagleton
Ellender
Fong
Fulbright
Griffin
Gurney
Hansen
Hartke
Hruska
Javits
Jordan, Idaho
Long
Mathias
McGee
Moss
Nelson
Packwood
Pearson
Roth
Schweiker
Smith
Spong
Stafford
Stennis
Stevenson
Talmadge
Thurmond
Tower
Young

NAYS—15

Brooke
Byrd, Robert C.
Case
Hughes
Kennedy
Metcalf
Mondale
Montoya
Pell
Proxmire
Randolph
Ribicoff
Symington
Tunney
Williams

NOT VOTING—34

Allott
Bible
Cannon
Dole
Eastland
Ervin
Fannin
Gambrell
Goldwater
Gravel
Harris
Hart
Hatfield
Hollings
Humphrey
Inouye
Jackson
Jordan, N.C.
Magnuson
Mansfield
McClellan
McGovern
McIntyre
Miller
Mundt
Muskie
Pastore
Percy
Saxbe
Scott
Sparkman
Stevens
Taft
Weicker

So the bill (S. 652) was passed, as follows:

S. 652

An act to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Truth in Lending Act Amendments of 1972".

TITLE I—FAIR CREDIT BILLING

] 101. Short title

The title may be cited as the "Fair Credit Billing Act".

§ 102. Declaration of purpose

The last sentence of section 102 of the Truth in Lending Act (15 U.S.C. 1601) is amended by striking out the period and inserting in lieu thereof a comma and the following: "and to protect the consumer against inaccurate and unfair credit billing and credit card practices."

§ 103. Definition of creditor

Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by adding at the end thereof the following: "Notwithstanding the foregoing, for the purposes of the requirements imposed under sections 127(a) (6), 127(a) (7), 127(a) (8), 127(b) (1), 127(b) (2), 127(b) (3), 127(b) (11), and chapter 4 of this title, the term 'creditor' means any person who regularly extends credit or arranges for the extension of credit in connection with loans, sales of property or services, or otherwise."

§ 104. Identification of transaction

Section 127(b) (2) of the Truth in Lending Act (15 U.S.C. 1638(b) (2) is amended to read as follows:

"(2) The amount and date of each extension of credit during the period and a brief identification on or accompanying the statement of each extension of credit in a form prescribed by regulations of the Board sufficient to enable the obligor to identify the transaction, or relate it to copies of sales vouchers or similar instruments previously furnished."

§ 105. Disclosure of fair credit billing rights

(a) Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof a new paragraph as follows:

"(8) A statement, in a form prescribed by regulations of the Board, of the protection provided by section 161 to an obligor and the creditor's responsibilities under section 162. Such statement shall be provided to the obligor at least semiannually."

(b) Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended to read:

"(c) In the case of any existing account under an open-end consumer credit plan having an outstanding balance of more than one dollar at or after the close of the creditor's first full billing cycle under the plan after the effective date of subsection (a) or any amendments thereto, the items described in subsection (a), to the extent applicable and not previously disclosed, shall be disclosed in a notice mailed or delivered to the obligor not later than the time of mailing the periodic billing statement required by subsection (b)."

§ 106. Disclosure of billing contact

Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end thereof a new paragraph as follows:

"(11) The address to be used by the creditor for the purpose of receiving billing inquiries from the obligor."

§ 107. Billing practices

The Truth in Lending Act (15 U.S.C. 1601–1665) is amended by adding at the end thereof a new chapter as follows:

"CHAPTER 4—CREDIT BILLING

"Sec.
"161. Correction of billing errors.
"162. Regulation of credit reports.
"163. Length of billing period.
"164. Prompt crediting of payments.
"165. Crediting excess payments.
"166. Use of cash discounts.
"167. Prohibition of tie-in services.
"168. Prohibition of offsets.
"169. Relation to State laws.
"170. Rights of credit card customers.

"§161. Correction of billing errors

"(a) If a creditor, within sixty days after having transmitted to an obligor a statement of the obligor's account in connection with an extension of consumer credit, receives at the address disclosed under section 127(b) (11) a written notice (other than notice on a payment stub or other payment medium supplied by the creditor if the creditor so stipulates with the disclosure required under section 127(b) (11)) from the obligor in which the obligor—

"(1) sets forth or otherwise enables the creditor to identify the name and account number (if any) of the obligor,

"(2) indicates the obligor's belief that the statement contains a billing error and the amount of such billing errors, and

"(3) sets forth the reasons for the obligor's belief (to the extent applicable) that the statement contains a billing error,

the creditor shall, unless the obligor has, after giving such written notice and before the expiration of the time limits herein specified, agreed that the statement was correct—

"(A) not later than thirty days after receipt of the notice, send a written acknowledgment thereof to the obligor, unless the action required in subparagraph (B) is taken within such thirty-day period, and

"(B) not later than two complete billing cycles of the creditor (in no event later than ninety days) after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, indicated by the obligor under paragraph (2) either—

"(i) make appropriate corrections in the account of the obligor, including the crediting of any finance charges on amounts erroneously billed, and transmit to the obligor a notification of such corrections and the creditor's explanation of any change in the amount indicated by the obligor under paragraph (2) and, if any such change is made and the obligor so requests, copies of documentary evidence of the obligor's indebtedness; or

"(ii) send a written explanation or clarification to the obligor, after having conducted an investigation, setting forth to the extent applicable the reasons why the creditor believes the account of the obligor was correctly shown in the statement and, upon request of the obligor, provide copies of documentary evidence of the obligor's indebtedness.

"(b) or the purpose of this section, a 'billing error' consists of any of the following:

"(1) A reflection on a statement of an extension of credit which was not made to the obligor or, if made, was not in the amount reflected on such statement.

"(2) A reflection on a statement of an extension of credit for which the obligor requests additional clarification including documentary evidence thereof.

"(3) A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction.

"(4) The creditor's failure to reflect properly on a statement a payment made by the obligor or a credit issued to the obligor.

"(5) A computation error or similar error of an accounting nature of the creditor on a statement.

"(6) Any other error described in regulations of the Board.

"(c) For the purpose of this section, 'action to collect the amount, or any part thereof, indicated by an obligor under paragraph (2)' does not include the sending of statements of account to the obligor following written notice from the obligor as specified under subsection (a), if—

"(1) the obligor's account is not restricted or closed because of the failure of the obligor to pay the amount indicated under paragraph (2) of subsection (a), and

"(2) the creditor indicates the payment of such amount is not required pending the creditor's compliance with section 161.

Nothing in this section shall be construed to prohibit any action by a creditor to collect any amount which has not been indicated by the obligor to contain a billing error.

"(d) Any creditor who fails to comply with the requirements of subsection (a) forfeits any right to collect from the obligor the amount indicated by the obligor under paragraph (2) of subsection (a), and any finance charges thereon, except that the amount required to be forfeited under this subsection may not exceed $50.

"§ 162. Regulation of credit reports

"(a) After receiving a notice from an obligor as provided in section 161(a), a creditor or his agent may not directly or indirectly threaten to report to any person adversely on the obligor's credit rating or credit standing because of the obligor's failure to pay the amount indicated by the obligor under section 161(a) (2), and such amount may not be reported as delinquent to any third party until the creditor has met the requirements of section 161 and has allowed the obligor the same number of days (not less than ten) thereafter to make payment as is provided under the credit agreement with the obligor for the payment of undisputed amounts.

"(b) If a creditor receives a further written notice from an obligor that an amount is still in dispute within the time allowed for payment under subsection (a) of this section, a creditor may not report to any third party that the account of the obligor is delinquent solely because the obligor has failed to pay an amount which he has indicated under section 161(a) (2), unless the creditor also reports that the account is in dispute and, at the same time, notifies the obligor of the name and address of each party to whom the creditor is reporting information concerning the delinquency.

"(c) A creditor shall report any subsequent resolution of any delinquencies reported pursuant to subsection (b) to the parties to whom such delinquencies were initially reported.

"§ 163. Length of billing period

"If an open-end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part unless a statement which includes the amount upon which the finance charge for that period is based was mailed at least fourteen days prior to the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge.

"§ 164. Prompt crediting of payments

"Payments received from an obligor under an open-end consumer credit plan by the creditor shall be posted promptly to the obligor's account as specified in regulations of the Board. Such regulations shall prevent a finance charge from being imposed on any obligor if the creditor has received the obligor's payment prior to the time indicated by the creditor by which such payment must be received to avoid the imposition of a finance charge.

"§ 165. Crediting excess payments

"Whenever an obligor transmits funds to a creditor in excess of the total balance due on an open-end consumer credit account, the creditor shall promptly (1) upon request of the obligor refund the amount of the overpayment, or (2) credit such amount to the obligor's account.

"§ 166. Use of cash discounts

"(a) With respect to a credit card which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from offering a discount to a cardholder to induce the cardholder to pay by cash, check, or similar means rather than use a credit card.

"(b) With respect to any sales transaction, any discount not in excess of 5 per centum offered by the seller for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card shall not constitute a finance charge as determined under section 106, if such discount is offered to all prospective buyers and its availability is disclosed to all prospective buyers and its availability is disclosed to all prospective buyers clearly and conspicuously in accordance with regulations of the Board.

"§ 167. Prohibition of tie-in services

"Notwithstanding any agreement to the contrary, no card issuer shall require a seller, as a condition to participating in a credit card plan, to open an account with or procure any other service from the card issuer or its subsidiary or agent.

"§ 168. Prohibition of offsets

"(a) A credit card issuer may not take any action to offset a cardholder's indebtedness arising in connection with a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer unless—

"(1) such action was previously authorized in writing by the cardholder, and

"(2) such action with respect to any disputed amount will be rescinded by the card issuer upon request of the cardholder made within ten days after such action is taken. In the case of any credit card account in existence on the effective date of this section, the previous written authorization referred to in clause (1) shall not be required until the date (after such effective date) when such account is renewed, but in no case later than one year after such effective date.

"(b) This section does not alter or affect the right under State law of a card issuer to attach or otherwise levy upon funds of a cardholder held on deposit with the card issuer if that remedy is constitutionally available to creditors generally.

"§ 169. Relation to State laws

"This chapter does not annul, alter, affect, or exempt any person subject to the provisions of this chapter from complying with the laws of any State with respect to credit billing practices, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency. No State law which provides greater protection for consumers than the protection provided by this law shall be preempted by this law to the extent of the greater protection.

"§ 170. Rights of credit card customers

"With respect to any sales transactions where a credit card has been used to obtain credit, where the seller is a person other than the card issuer, and where the seller accepts or allows a return of the goods or forgiveness of a debt for services which were the subject of such sale, the seller shall, unless otherwise requested by the buyer, promptly transmit to the credit card issuer a credit statement with respect thereto and the credit card issuer shall credit the account of the obligor for the amount of the transaction."

§ 108. Conforming amendments

(a) The table of chapters of the Truth in Lending Act is amended by adding immediately under item 3 the following:

"4. CREDIT BILLING .... 161".

(b) Section 111(d) of such Act (15 U.S.C. 1610(d)) is amended by striking out "and 130" and inserting in lieu thereof a comma and the following: "130, 166, 167, and 168".

§ 109. Effective date

This title takes effect upon the expiration of one year after the date of its enactment.

TITLE II—AMENDMENTS TO THE TRUTH IN LENDING ACT

§ 201. More-than-four-installment rule

The first sentence of section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by inserting "which is payable by agreement in more than four installments or" after "credit".

§ 202. Agricultural credit exemption

Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end thereof a new paragraph as follows:

"(5) Credit transactions for agricultural purposes in which the total amount to be financed exceeds $25,000."

§ 203. Enforcement by Farm Credit Administration

Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended by adding at the end thereof a new paragraph as follows:

"(7) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, association, Federal intermediate credit bank, or production credit association."

§ 204. Liens arising by operation of State law

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended—

(1) by striking out "is" the first time it appears in the first sentence of subsection (a) and inserting in lieu thereof ", including any such interest arising by operation of law, is or will be"; and

(2) by inserting after "obligor" the second time it appears in the first sentence of subsection (b) the following: ", including any such interest arising by operation of law,".

§ 205. Time limit for right of rescission

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended by adding at the end thereof a new subsection as follows:

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property by the obligor, whichever occurs earlier, notwithstanding the fact that the disclosures required under this section or any other material disclosures required under this chapter have not been delivered to the customer."

§206. Good faith compliance

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(f) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, in conformity with any interpretation issued by any other agency designated in section 108 unless such interpretation has, prior to the time such act was done or omitted, been determined by the Board to be inconsistent with the Board's rules, regulations, or interpretations, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

§ 207. Liability for multiple disclosures

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(g) The multiple failure to disclose to any person any information required under this chapter to be disclosed in connection with a single account under an open-end consumer credit plan, other single consumer credit sale, consumer loan, or other extension of consumer credit, shall entitle the person to a single recovery under this section, but continued failure to disclose after a recovery has been granted shall give rise to rights to additional recoveries."

§ 208. Limitation on class action liability

(a) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended to read as follows:

"(a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter or chapter 4 of this title (other than section 161) with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damages sustained by such person as a result of the failure;

"(2) such additional amount as the court may allow, except that the total awarded shall (A) be not less than $100 in the case of an individual action, or (B) in the case of a class action, not more than $100,000; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee which shall be the reasonable value of the services rendered by the attorney without regard to the amount of any recovery.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional."

(b) Section 130(b) of such Act (15 U.S.C. 1640(b)) is amended by inserting after "this section" the first place it appears the following: "for any failure to comply with any requirement imposed under this chapter,".

(c) Section 130(c) of such Act (15 U.S.C. 1640(c)) is amended by striking out "chapter" and inserting in lieu thereof "title".

(d) Section 130 of such Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(h) A person may not take any action to offset any amount for which a creditor is potentially liable to such person under subsection (a)(2) against any amount owing to such creditor by such person, unless the amount of the creditor's liability to such person has been determined by judgment of a court of competent jurisdiction in an action to which such person was a party."

(e) The amendments made by sections 206, 207, and 208 shall apply in determining the liability of any person under chapter 2 or 4 of the Truth in Lending Act, unless prior to the date of enactment of this Act such liability has been determined by final judgment of a court of competent jurisdiction and no further review of such judgment may be had by appeal or otherwise.

§ 209. Credit card fraud

Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended to read as follows:

"§ 134. Fraudulent use of credit card

"(a) Whoever knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more; or

"(b) Whoever, with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(c) Whoever, with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(d) Whoever knowingly receives, conceals, uses, or transports, money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (1) within any one-year period has a value aggregating $1,000 or more, (2) has moved in or is part of, or which constitutes interstate or foreign commerce, and (3) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card; or

"(e) Whoever knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (1) within any one-year period have a value aggregating $500 or more, and (2) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or

"(f) Whoever in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than $10,000 or imprisoned not more than ten years, or both."

§ 210. Grace period for consumers

(1) by amending subsection (a)(1) to read as follows:

"(1) The conditions under which a finance charge may be imposed, including the time period (if any) within which any credit extended may be repaid without incurring a finance charge, except that the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after the termination of such time period."; and

(2) by amending subsection (b)(10) to read as follows:

"(10) The date by which or the period (if any) within which, payment must be made to avoid additional finance charges, except that the creditor may, at his election and without disclosure, impose no such additional finance charge if payment is received after such date or the termination of such period."

§ 211. Effective date

This title takes effect upon the date of its enactment.

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Texas (Mr. TOWER), I move to reconsider the vote by which the bill was passed.

Mr. MATHIAS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I just would like——

The PRESIDING OFFICER. Without objection, the title will be appropriately amended——

Mr. PROXMIRE. Mr. President, if the title is to be appropriately amended, I just think it should be amended to the "Bank Protection Act of 1972"; but I am not seriously suggesting that.

The title was amended, so as to read: "A bill to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes."

Mr. PROXMIRE. Mr. President, I would like to point out to the Senate that perhaps for the first time in the history of the Senate there are three sponsors of this legislation, the Senator from New Jersey (Mr. WILLIAMS), the Senator from Massachusetts (Mr. BROOKE), and I—all three of us—who voted "No." We all voted against this legislation. So it seems those who worked hard on the bill and know a great deal about it opposed it. So I hope the House, when it considers this legislation, will do so with great caution and care.

"BRAD"

Mr. MATHIAS. Mr. President, FRANK BRADFORD MORSE, Member of the other body from the Fifth District of Massachusetts, more familiarly and fondly known to so many as, simply, "BRAD," leaves us this week to go to another community and another calling, to succeed the late and so respected Ralph Bunche as Under Secretary General of the United Nations.

We say goodby to BRAD with very mixed feelings indeed—of selfish regret that he is leaving our company and that we are losing his but, equally, of glowing pride in the new and richly deserved recognition and distinction that are now his. Seldom has a man been better prepared and qualified for such purpose and position and few will be more sorely missed by his constituents, the Congress and his multitude of friends in Washington.

In my own lifetime, I have known few men so well equipped for notable public service as BRAD MORSE. From the time of his birth in Lowell, Mass., to this day, his preparation has been thorough and his sense of duty clear. A graduate of the Lowell public schools and of Boston University, he served first, following infantry duty in World War II, as a promising attorney-at-law, as law clerk to the chief justice of the Supreme Judicial Court of Massachusetts, and as a distinguished and stimulating member of the faculty of the Boston University Law School.

Then, as a member of the Lowell City Council, his projection into critical affairs of his community and his Nation began. He was called to Washington in due course by Senator Leverett Saltonstall, whom he served as a counsel to the Senate Armed Services Committee and as the Senator's executive secretary and chief assistant. With his eventual appointment by President Eisenhower as Deputy Administrator of Veterans' Affairs, his talents as lawyer, administrative expert and diplomat came to full flower.

A man who is chosen to succeed a popular, distinguished, and famous predecessor finds himself in the position of the son of a famous father with very large shoes to fill. That was BRAD MORSE's situation when he was elected to Congress to succeed Edith Nourse Rogers who had unexpected died in 1960. He responded to this challenge by dedicating himself, heart and soul, to the well-being of the people of his district and of the Nation. Rarely has a congressional district been so superbly served as by Edith Nourse Rogers and BRAD MORSE. Its citizens should, and do, feel themselves fortunate, indeed blessed, by public service of such high caliber.

In his more than a decade of dedication and duty in the Congress, BRAD MORSE has been in the forefront of the battle for enlightened legislation in the national interests, and, particularly as a prominent member of the House Foreign Affairs Committee, his foresight and farsightedness as to problems of international consequence have been without equal.

His respect and deep concern for the United Nations have won praise at home and abroad—and, to be sure, occasional criticism, from which he has never quailed. His belief that "a strong United Nations is an essential element in the creation of a just and peaceful world" has been deep-rooted and unshakable and his determination that we not reduce our contributions of men, minds, and money to the United Nations has been outstanding.

He has been a recognized leader in the continuing struggle for equal rights for all Americans. To him distinctions of color, of class, of creed have been intolerable and the proof of his devotion to equality of opportunity has been apparent not alone in his legislative initiatives but in his every personal relationship.

An illustration of this was a trip we took together to Selma, Ala., at the time that Dr. Martin Luther King was being held in jail there. I saw with my own eyes the expression of his concern and his compassion not only for Dr. King who was already famous but for the thousands of other people who were seeking at Selma to explain their position to a strangely hostile world.

He has led the fight for draft reform, characterizing the present system as outdated, ineffective and inequitable and pressing, with visible success, for the creation of an all-Volunteer Army.

He has supported the passage of every one of the 27 major authorizations for educational advancement made during his years in Congress, knowing so well that teaching the young idea to think is infinitely more desirable than teaching it to shoot.

I can recall vividly the leadership he exercised in July of 1967 when a group of nine Members of the House of Representatives, including both of us, proposed one of the first plans to disengage the United States from the war in Vietnam. It was implicit in this plan that the U.S. participation in this war was no longer a policy which should be pursued in the best interest of the American people and Brad Morse was not only one of the first Americans to see what is so generally recognized today but he was in the still smaller group of Americans who had the courage to say so in the early days of 1967.

Long before concern for our environment became a popular issue, Brad Morse was working hard for more feasible and efficient solutions. A dozen years ago he called for establishment of a pollution-control laboratory on the Merrimack River in Massachusetts and has been unremitting in his insistence upon protection of all our natural assets and resources ever since.

And nowhere, at no time, has he been more energetic and persuasive than in his support of America's elderly, who, in their agonizing economic plight and, too often, frightening loneliness, have found all too few such champions.

But the true measure of a man can never be taken alone by a recital of his professional record and public accomplishment. It can be seen and known, perhaps far better, by assessment of his personal, his human qualities as observed and felt by those who work and live with him throughout each passing day. And it is from just such an awareness that we hold Brad Morse in such affectionate esteem.

His high intelligence, his undoubted courage, his proven competence, his incurable optimism—all these have won our warm and enduring regard. But, even beyond these, we have valued him for, and felt ourselves blessed by, his sense of what it means to be, and to have, a friend.

I suspect that there are few, if any, Members of the Senate or of the House who would not agree that a friend—defined as "one who thinks of you"—is what each of us has had in Brad and whom we have in turn been privileged so to name. He has been unfailingly responsive to us as individuals, in time of distress or, more often, when we felt the need for honesty and sympathy. And he has rarely, if ever, failed to provide these, with wisdom and good cheer.

In a time and in a profession when it is all too easy to label a public man as "liberal" or "conservative," as "leftist" or "reactionary," the opportunity to identify a public servant as none of these but, rather, as concerned and competent, is a rare one indeed. Such a person is Brad Morse; so he has been in the Congress; so he surely will be in the global company of the United Nations.

From a Lowell of Massachusetts there came some years ago a poetic identification of just this. I think you'll remember:

> "New occasions teach new duties; Time
> makes ancient good uncouth;
> They must upward still, and onward, who
> would keep abreast of Truth.
> Lo, before us gleam her campfires; we ourselves must pilgrims be;
> Nor attempt the Future's portal with the
> Past's blood-rusted key."

Brad Morse, as student, veteran, attorney-at-law, teacher, administrator, legislator, public servant, and friend, has been unflagging in his pursuit of the possible dream.

The best of good luck, Brad!

God bless you.

ADDITIONAL COSPONSORS OF BILLS

Mr. MOSS. Mr. President, on behalf of the Senator from Maine (Mr. Muskie), I ask unanimous consent that the Senator from Maryland (Mr. Mathias) be added as a cosponsor of S. 3140, the Intergovernmental Cooperation Act of 1972, and S. 3063, a bill to amend the Internal Revenue Code to permit tax-exempt organizations to engage in communictaions with legislative bodies; and that the Senator from Ohio (Mr. Saxbe) be added as a cosponsor of S. 3142, a bill to provide $85 million for assistance to Soviet Jewish refugees in Israel.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNOUNCEMENT OF JOINT HEARINGS ON FEEDING PROGRAMS FOR MIGRANT CHILDREN

Mr. STEVENSON. Mr. President, as chairman of the Migratory Labor Subcommittee, I announce that hearings will be conducted jointly with the Select Committee on Nutrition and Human Needs, on Monday, May 1, 1972, 10 a.m., in room 6228 of the New Senate Office Building.

Testimony will be presented on the effectiveness of Federal food and nutrition programs in meeting the needs of migrant and seasonal farmworkers' children. Mr. Marvin Levin, until recently a food program specialist with the Child Nutrition Division of the Department of Agriculture, will testify. Representatives of farmworker organizations, representatives of the administration, and other parties interested in food programs for children will be invited to testify at subsequent hearings.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL MONDAY, MAY 1, 1972, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until 10 o'clock a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND TO LAY BEFORE THE SENATE THE UNFINISHED BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, immediately following the remarks of the two assistant leaders under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which time the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, for the purpose now of making it the pending business, with the understanding that there will be no votes thereon tomorrow, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 724, S. 3526.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, at the conclusion of routine morning business, and when the Chair lays before the Senate the unfinished business, an amendment by the able Senator from Wyoming (Mr. McGee)—which provides for the full restoration of the authorization for the USIA—be made the pending question; that there be a limitation of time on that amendment of not to exceed 4 hours, the time to be equally divided between and controlled by the distinguished author of the amendment (Mr. McGee) and the distinguished manager of the bill (Mr. Fulbright); provided further, that no amendments to the McGee amendment be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR PERIOD OF TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND LAYING BEFORE SENATE THE UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the expiration of the various unanimous-consent orders recognizing Senators, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE FOREIGN SALE OF CERTAIN PASSENGER VESSELS—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, having discussed these matters with the distinguished assistant Republican leader and with other Senators, I ask unanimous consent that at such time as Calendar No. 728, H.R. 11589, to authorize the foreign sale of certain passenger vessels, is called up and made the pending business, there be a time agreement thereon as follows:

That time on the bill be limited to 2 hours, to be equally divided between and controlled by the distinguished Senator from Louisiana (Mr. Long) and the distinguished assistant Republican leader or his designee; that time on any amendment thereto be limited to 1 hour, to be equally divided between the mover of such amendment and the manager of the bill; and that time on any amendment to an amendment, debatable motion, or appeal be limited to 30 minutes, to be equally divided between the mover of such and the manager of the bill; with the understanding that should the manager of the bill favor any of such, then time in opposition thereto will be under the control of the distinguished assistant Republican leader or his designee.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SECOND SUPPLEMENTAL APPROPRIATION BILL—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on the second supplemental appropriation bill for 1972 be limited to 3 hours, to be equally divided between and controlled by the distinguished manager of the bill (Mr. Ellender) and the distinguished ranking minority member (Mr. Young); that time on any amendment, debatable motion, or appeal be limited to 30 minutes, to be equally divided between the mover of such and the manager of the bill, except in those cases when the manager of the bill favors such, in which situation the time would be under the control of the distinguished assistant Republican leader or his designee—this agreement to be in effect at such time as the bill is called up for consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent, with respect to the agreements which have previously been entered into regarding H.R. 11589 and the second supplemental appropriation bill for 1972, that they be printed in the usual form, which would include provisions for the yielding of time from time allotted on the bills, by the Senators in control thereof to the proposers of any amendments, debatable motions, or appeals.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARTHUR E. SUMMERFIELD

Mr. GRIFFIN. Mr. President, Michigan and the Nation have lost a great and dedicated citizen when, at the age of 73, Arthur E. Summerfield of Flint, Mich., passed away early yesterday in West Palm Beach, Fla., where he had been hospitalized for 2 weeks.

In the words of the poet:

> The measure of a man's life is the well spending of it . . .

The life of Arthur Summerfield was well spent. He was a man of tireless energy, great enthusiasm and abiding faith, who moved easily and effectively in two worlds—in the world of business and the world of politics.

He was eminently successful in both worlds.

In business, through his industry and hard work, he created in his hometown of Flint one of the largest Chevrolet dealerships in the whole Nation.

In politics, he was not only an influential, he was a dominant, figure in the Republican Party for many years. For 8 years he served as Postmaster General in President Eisenhower's Cabinet and was one of the President's most trusted advisers.

As his lovely wife once proudly observed, he was "a self-made man in the best American tradition."

A native son of Michigan, he was born in Pinconning on March 17, 1899, and attended elementary school in Bay City. When he was 9 years old he moved to Flint with his family.

It is a measure of Arthur Summerfield's remarkable will and ability that he was able to accomplish so much even though he had little formal schooling. After completing the eighth grade at the age of 13, he went to work distributing mail and running errands for the Weston-Mott Co., a manufacturer of axles. He often recalled this experience later when he became the Postmaster General of the United States, responsible for delivery of the Nation's mail.

Later he worked at the Buick plant in Flint, and during World War I he was an inspector in the ammunition department of Chevrolet.

Still later, he entered the real estate field as a family undertaking, with Mrs. Summerfield minding the office and keeping the books.

The faith of Arthur Summerfield in the future of his country was demonstrated when the 1929 stock market crash signalled the beginning of the Great Depression. He and Mrs. Summerfield mortgaged their home to buy a Chevrolet dealer franchise. The Summerfield Chevrolet Co. began business in 1930, and during the succeeding years expanded many times over.

Arthur Summerfield moved actively into politics when he supported Wendell L. Willkie for President in 1940. After a Willkie visit to Flint, he took the lead in organizing a drive for the Republican candidate in Genesse County. Willkie carried Genesee County and the State.

From that time on, Summerfield was an increasingly important name in Michigan and national politics. In 1943 he became Director of the Michigan Republican State Central Committee, and in 1944 he was elected Republican National Committeeman. By 1946, he had become regional vice chairman of the Republican National Committee in charge of fundraising in a five State area.

An early supporter of General Eisenhower, Arthur Summerfield journeying to Paris to urge the World War II leader to come home and run for the Presidency. After General Eisenhower's nomination in 1952, Summerfield became national chairman and directed the general's successful campaign.

The appointment of Arthur Summerfield as Postmaster General recognized his great ability and his untiring work for the Eisenhower-Nixon ticket.

Even after leaving the Cabinet, the interest of Arthur Summerfield in public and civic affairs never diminished. Unwavering in his party loyalty, he worked hard for President Nixon in 1960 and in 1968, and for Senator Goldwater in the 1964 campaign.

He gave untiringly of himself to his community, State, and Nation. He worked effectively for the automobile industry upon which so many in Michigan depend for their livelihood. Only recently, he was of great help to those of us in Congress who worked successfully for repeal of the 7 percent Federal excise tax on automobiles.

By merely reciting the many interests and activities of Arthur Summerfield, it is not possible to do justice to the memory of this very remarkable American.

In his death, I have lost a good friend, a loyal supporter and a wise counsellor. The Nation has lost one of its ablest and most dedicated citizens.

Mrs. Griffin and I extend our deepest sympathies to Mrs. Summerfield and the Summerfield family.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:45 a.m.

After the two assistant leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order listed:

Mr. Moss.

Mr. Harry F. Byrd, Jr.

Mr. Bellmon.

At the conclusion of the unanimous-consent orders, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of the period for morning business, the Chair will lay before the Senate the unfinished business, S. 3526, the U.S.I.A.-State authorization. There will be no votes on that bill tomorrow. There will be opening statements and other statements with respect to that bill and with respect to other matters.

Mr. President, I wish to take this opportunity to express our appreciation to all Senators for their fine cooperation in the action on the four measures that have passed the Senate today. Two of them were quite difficult and controversial.

I also wish to congratulate the manager of the Amtrak bill (Mr. HARTKE) on his very commendable, expert, and effective handling of that measure; and similarly I wish to congratulate the distinguished Senator from Wisconsin (Mr. PROXMIRE) on his equally expert and judicious and able handling of the truth in billing practices bill. I thank and express commendations likewise to the ranking minority members on each bill, and who did an equally fine job.

All Senators are to be commended on the work accomplished today; there have been nine rollcall votes, it has been a long, hard day—more than 11½ hours—and I wish to express my personal satisfaction as well as by thanks again to all Senators for their patience and cooperation.

ADJOURNMENT UNTIL 9:45 A.M.

Mr. GRIFFIN. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment until 9:45 a.m. tomorrow.

The motion was agreed to; and at 8:44 p.m. the Senate adjourned until tomorrow, Friday, April 28, 1972, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate April 27, 1972 (Legislative Day of April 25, 1972).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

William A. Carey, of Illinois, to be General Counsel of the Equal Employment Opportunity Commission for a term of 4 years. (New position)

FEDERAL RESERVE SYSTEM

Jeffrey M. Bucher, of California, to be a Member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1972, vice Sherman J. Maisel, term expired.

DEPARTMENT OF JUSTICE

William C. Smitherman, of Arizona, to be U.S. attorney for the district of Arizona for the term of 4 years, vice Richard K. Burke, resigned.

IN THE COAST GUARD

The following temporary officers of the U.S. Coast Guard for promotion to chief warrant officer W-4.

John H. Ingram
Michael J. Barry
Jewell E. Laqua
Charles H. Cox
Jesse L. Long
Gerald W. Hayes
Robert L. Perkins
Eugene R. Lytton
William B. Clark
George R. Thomas
Billy G. Bailey
Forrest W. Peil
Robert A. Bhend, Jr.
Stephen Sperlak
Harold V. Smith
Paul B. Robertson
Carlton P. Smith
Frank A. Christoph
Louis R. Stowe
William G. Wohlfarth
Frank M. Alonzo
Wayne J. Lange
Joseph B. McCarthy
Charles H. Studstill
Theodore J. Polgar
Richard L. Luna

The following chief warrant officers W-3 for promotion to chief warrant officer W-4.

Robert C. Knowlton
William D. Hutchins
Myron L. Marcey
Jesse Bradford
Harry E. Lape
Roger L. Kennedy
Frederick A. Brockman
William W. Honeycutt
Robert L. Cotter
James P. Riddle
Donald L. Landes
Henry G. Jett
Lee Bradford, Jr.
George W. Todd
Eugene L. Murphy
William C. Cumming
John W. Collins
Ralph M. Dobson
Robert E. Jefferson
Roger J. Conard
Gary R. Klinkman
Victor L. Popplewell
George H. Yarrington
David E. Ford
Larry B. Brown
Robert D. Fiester
Douglas J. Hymers
Beecher D. Rapp
Hassan S. Salem, Jr.
Anthony Simoncini
Robert A. Fleming
Robert E. Halstead
Edward L. Amos
Forrest D. Fesler
Leroy J. Rathbun
Charles A. Lummus
James V. Simons
Harold D. Peck
Wilbur L. Matthews
Thomas E. Wassum
William F. Hiller
Leonard E. Engel
Billy B. Weimer
Ernest G. Smith
Edward J. Sitarski
Robert D. Hedgpeth
Edward F. Magee
Raymond G. Pullen
Glen W. Patterson

The following temporary officers for promotion to chief warrant officer W-3.

Robert E. Carmen
Gerald L. Ranes

The following chief warrant officers W-2 for promotion to chief warrant officer W-3.

Edward T. Kassick
Gordon M. Snook
Michael A. Allen
James L. Carnley
Thomas J. Nalley
Donald J. Buotte
Philip R. Sheldon
William J. Nielsen
William H. Shova, Jr.
Eddie E. Arnold
Fredric R. Brentson
Richard S. Flood
Robert K. Chandler
Harold H. Hager
John Kollar
John M. Weathers
Frederick W. Shackleton
James B. Alexander
Walter W. Croft
John O. Meekins, Jr.
Herbert P. Metzger
Gail O. Daugherty
Roger J. Rosie
Robert E. Morong
Earl J. Rouse
Norman A. Rogers
Charlie E. Melanson
Robert E. Lee
John H. M. Douglas
Arthur G. Villar, Jr.
Robert F. Hunt
Richard Findley
Duane D. Judkins
Earl L. Portrey
Jeffrey O. Wenger
"C" "C" Self
George W. Allen
Joseph G. Kava
Roger G. Resor
Ford F. Aumiller
William C. Hendry, Jr.
George F. Fallon
Jack L. Shampine
Ronnie M. Watson
James J. Patton
Norman L. Williams
John P. Lambert, Jr.
Leslie C. Eaton
Charles F. Walsh
James H. Henderson
Tony M. Robinson
Lee T. Jones
Norman A. Summers
William A. Gregory
Herman S. Loper
Edwin B. Ray
Daryl V. Orey
George W. Truntich
Paul F. Pearson
William E. Ambrose
Stephen T. Pitro
Robert W. Cason
William D. Saunders
Clovis B. Hickey
Gerald J. Lambert
Clark P. Kippenberger
Alfred M. Perry
John H. Larson
Richard R. Trompke
Charles M. Cate
Leonard J. Bobrowski
Egbert F. Williams
Roy Lindley
Albert W. Joynes
Perry W. Gines
Harold T. Wright
Harold D. Davis
Robert J. Silva
Dennis K. P. Lee
Claude C. Charley
James M. Meehan
George A. Matheson
Eugene V. Bowles
John A. Hagelin
Dominick P. Medico
Leland T. Davis
Fred H. Finkel
Thomas H. Bernhardt, Jr.
William E. Leistner
Theodore J. Falter
John W. Simpson
Robert W. Holley
Norman E. Caribo
Thomas B. Grimes
Richard W. Bowmer
Donald R. Clapp
Rodney N. Strelau
James A. Heckler
William D. Woodbury
David D. Beattie, Sr.
Curtis R. Neal
Harold L. Coel
Bobby A. Swindell
Lyle L. Cosner
Edward H. Lapinski, Jr.
Lafayette G. Duke
Edwin C. Price, Jr.
Victor A. Zink, Jr.
Richard L. Benson
Robert H. Marx
Lynn C. Helm
Larry G. Longbottom
Paul S. Grimes
William A. Wiggins, Jr.
Forest H. Mayer
Richard L. Trevallee
Richard C. McDowell
Thomas S. Mitchell
Philip A. Montminy
Charles D. Sprague
Thomas M. Creighton
Ervin S. Whitaker
William P. McGlone
Thomas J. Shubbuck
Kenneth E. Leland
Darrell L. Collier
Charles R. Robinette
Ralph E. Huck
Leo A. Coakley
John A. Hilmer
Joseph R. Oliver
Nerius Collazo
Kenneth J. Olsen
Gary C. Zoehler
Royce G. Young
Edward J. Norris
Joseph C. Berry
Daniel E. Fowler
Robert Berry
Cecil G. Bryan
Gary A. Lappier
Roger O. Lake
Irvin L. Gaines
Daniel G. Schueler
James B. Griggs
Ernest L. Styron
Vance M. Miller
Huey D. Grandstaff
George M. Batey
Thomas A. Pitkin
Charles W. Slaughter
James T. Lanier
Freddie J. Porter
Vernon M. McClellan
James F. Brown
Ronald Grant
Timothy G. Flavin
Cleo F. Metty
Douglas G. Wade
Robert L. Clark, Sr.
Donald W. Hale
Fernando F. Gispert
Carl B. Seale
Gerald J. Schramski
Clayton L. Swearingen
Jerry W. Lewis
Joseph C. Ehrenberg, Jr.
Walter J. Capps
Nelson M. Tavares
Lancy L. Bostwick
William J. O'Boyle
David A. Handy
Jerome J. Koenig
James L. White
William Gray
Robert Frates

The following temporary officers for promotion to chief warrant officer W-2.

Robert N. Zimmer
Melvin L. Kankelfritz
Perry W. Campbell
James A Murphy
Warren E. Dutton, Jr.
Donald T. McNulty

The following temporary chief warrant officers W-2 to permanent chief warrant officer W-2.

Wallas G. Cogswell
Robert D. Newcomb
Robert J. Rhoads
Irvin E. Dean
Anthony K. Orchard
Duayne J. Roberts
William J. Matter
Richard G. Pierce
Kenneth E. McFelea
Robert B. Dunn
John F. Bischoff, Jr.
John A. Haldeman III
Russell W. Evans
Herbert L. Willis
Leo H. Sermershiem, Jr.
Larry A. Barker
Fred A. Ross
Wright P. Pippin
James E. McDevitt
Hugh Mobley
Robert A. Leary
James G. Shrader
Carroll F. Schroeder, Jr.
Edwin A. Gardner
Robert F. Donahue Jr.
Elwood N. Sawyers
Howard A. Fregetto
Heber N. Kern
Ronald C. Frazier
James L. Taylor
James F. Lindsay
Steve Reynolds, Jr.
Wilber F. Ball
Thomas E. Meriwether
David B. Sterling
Joseph E. Mott
Robert J. McCall
Donald D. Blackmon
George C. Roath
Horace G. Hewitt
Gerald D. Schott
Wilton R. Meekins
Leroy G. Seier
Raymond Spadlin
Gerald D. Huskey
Robert A. Wilson
Harold E. Casper
Charles D. Dryden
Antonio Braz Jr.
Russel W. Watson
George K. Lloyd
Friend J. Cornell
Frank B. Carlsson
Wilbur A. Cote
Lawrence T. Johnson
Herman L. Clark
Howard R. Wolf
Willis P. Miller
James R. Lindeblad
Thomas R. Aitchison
John Wiggins
Stanley J. Bibby
Bruce A. Angus
Thomas E. Riley
Dan T. Markum
William J. Kaszubski
Harry T. Imoto
Richard E. Moore
Donald G. Brauer
Thomas L. Magorian
Jerome W. Cooney
Daniel Gonzalez
Richard T. Burgoyne
Henery R. Roesing
George R. Sinnett
Edward A. Koziski
Elden G. Nenstiel
George R. Gillett
John E. Marshall
Gerald L. Pond
John G. Burkee
Dean G. Wheet
Arvin L. Miller
Gale E. Zable
Karl E. Adkison
Walter P. Kee
Harold R. Fee
Vincente B. Agor
Louis D. Bottiglieri
Robert N. Graves
Ronald C. Crosby
William H. Mainard
Fernando L. Tuano
Deaneys W. Weeks
Clarence W. Veasey, Jr.
Kenneth E. Vocke
Thomas W. Barrington
Mitchell P. Nielsen
Leon D. Kennedy
James W. Figueira
Russell W. Johnson
Ralph J. Williams
James G. Taube
William E. Brindle
Francis J. Dougherty
Donald L. Zeigler
Kendall J. Parsons
William L. Demetropoulos
Richard H. Miller
Charles L. Boyle
Robert E. Johnson
Paul W. Smith
Francis A. Crabb, Jr.

Jerry D. Murdock
Van B. Midgette, Jr.
Andrew J. Key, Jr.
Alan V. Naber
John F. Lamere
Larry W. Duncan
Frederick M. Carpenter
Lyle G. Carlson
Joseph T. Cook
Hiram E. Brooks
Vince G. Legaspi
Carl P. Konick
Billy J. Bush
Leocadio V. Chua
Richard C. Pierce
Hudean R. O'Neal
Edward A. Farlinger
Robert J. Landefeld
Charles F. Whitehouse
Howard C. Morse, Jr.
James M. Woodall
Richard D. Richardson
Gary L. Rhodes
Ronald C. Morrill
Joseph J. Karch
Laurence H. Robbins
Lawrence R. Alread
Carl H. Olsen
Curtis J. Myers
Ross J. Vanduser
Fred M. Baker
Earl H. Leyda
George E. Spoke
James W. Ellison
Thomas S. Roberts
George A. Barnum
Robert L. Lewis
Wayne G. Gretencord
Andrew J. Gregorich
Robert J. Barker
Peter A. Brunk
Allen E. Detwiler
James E. Rivera
Werner G. Schweikert, Jr.
Roy O. Smith, Jr.
John W. Stephens
Raymond Snow
Tom N. Ward
Frank X. Stolpe
Thomas J. Devereaux
Morris A. Lance
Joseph H. Williams III
James E. Hipp
Thomas R. Shutters
Neal M. Myers
Edward Hall
Lonnie M. Padgett
Alfred Fearing, Jr.
Donald G. Magill
Peter S. Hughes
Thomas L. Watson
Theodore E. Burton
Charles A. Kelley
Richard D. Poirier
James E. Shafer
Claude B. Gillikin, Jr.
Robert G. Dosh
Charles Brown
John P. MacDonald
Robert O. Briggs
Antonio G. Espejo
Carlton F. Spooner, Jr.
Robert S. Samuelson
Roy L. Delia
Frank K. Bazin
Robert R. Johnson
Donald L. Keon
Robert W. Goodridge
Robert A. F. Gillenwater
Larry D. Jordan
Charles E. Hammond
Gary J. Dowell
Douglas R. Cameron
William L. Woods
William C. Goforth
Edmund J. Brady
Charlie T. Farlow
James J. Demille
Howard H. Hudgins
Gary J. Lamb
Peter J. Kellerman
Richard J. Zabel
Roger D. Gilliver
Ervin L. Dunahoe
John C. Crawford
Donald L. Schouten
James G. E. Campbell
William K. Collier

The following-named Reserve officer to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant commander:

William A. Doig

The following-named Reserve officers to be permanent commissioned officers in the Regular Coast Guard in the grade of lieutenant:

Joseph A. Telep
Michael R. Perkins
Foye A. Meader
Stanley E. Burgess

In the Air Force

The following officer to be assigned to a position of importance and responsibility requiring the rank of lieutenant general, under the provisions of Section 8066, Title 10, United States Code:

Maj. Gen. James M. Keck, [redacted] FR (major general Regular Air Force) U.S. Air Forces.

In the Navy

Rear Adm. Edward W. Cooke, U.S. Navy, for appointment as Director of Budget and Reports in the Department of the Navy for a term of 3 years pursuant to title 10, United States Code, section 5064.

The following-named captains of the line of the Navy for temporary promotion to the grade of rear admiral, subject to qualification therefor as provided by law:

Clyde C. Andrews
John M. DeLargy
Newton P. Foss
Albert M. Sackett
Walter Dedrick
William H. McLaughlin, Jr.
Donald T. Poe
Warren H. O'Neil
Eugene J. Carroll, Jr.
Robert H. Wertheim
Frank S. Haak
Robert J. Hanks
Warren M. Cone
Jeffrey C. Metzel, Jr.
William L. Harris, Jr.
Wycliffe D. Toole, Jr.
Charles W. Cummings
Max K. Morris
Frank W. Corley, Jr.
William N. Small
George E. R. Kinnear II
William L. Read
Robert R. Monroe
Ronald J. Hays
Kinnaird R. McKee
Merrill H. Sappington
Randolph W. King
Joseph L. Coleman
Willis C. Barnes
George F. Ellis, Jr.
Cleo N. Mitchell, Jr.
Richard E. Rumble
Edward A. Boyd
Joseph W. Russel
Ferdinand B. Koch
Justin E. Langille III
John H. Nicholson
Francis T. Brown
Owen H. Oberg
Kenneth E. Wilson, Jr.
John G. Williams, Jr.
Paul J. Early
Fred H. Baughman
John S. Kern
Robert P. Hilton
Stanley S. Fine
Burton H. Shepherd
David F. Emerson
Thomas J. Bigley

Capt. Alene B. Duerk, Nurse Corps, U.S. Navy, for appointment to the grade of rear admiral pursuant to title 10, United States Code, section 5767 (c) while serving as Director of the Nurse Corps.

In the Navy

The following-named officers of the U.S. Navy for temporary or permanent promotion to the grade of lieutenant (junior grade) in the line and staff corps, as indicated, subject to qualification therefor as provided by law:

LINE

Abelson, David D.
Able, Guy H., III
Achenbach, Dale A.
Achenbach, Paul L., Jr.
Acton, Richard L., Jr.
Adams, Bruce C.
Adams, Daniel C.
Adams, John H.
Adams, Michael E.
Adamson, Robert E.
Addison, Christopher L.
Adney, William M.
Adolfson, William F.
Agenbroad, Kenneth D.
Aiken, Joel W.
Airgood, Robert P.
Alcott, Roy J.
Alexander, David J.
Alexander, Jeffrey A.
Alexander, Steven R.
Alfieri, Paul A.
Ali, Nicholas J., Jr.
Allen, Charles T.
Allen, Dennis C.
Allen, James E.
Allen, Mark E.
Aller, Charles C.
Allison, Harry K.
Allphin, James A.
Ames, Oliver, Jr.
Amos, Barry M.
Amundson, Robert J.
Andersen, Michael P.
Andersen, Richard F.
Anderson, Bert M.
Anderson, David W.
Anderson, Jonathan L.
Anderson, James S.
Anderson, Kermit W.
Anderson, Leroy
Anderson, Marc E.
Anderson, Michael J.
Anderson, Samuel K.
Anderson, Terence L.
Anderson, William N.
Anderson, William J., Jr.
Andruskevich, Thomas A.
Anglim, Edward P.
Antrim, Stanley R., Jr.
Apollaro, Anthony F.
Archambo, Hubert E., Jr.
Arllen, Eric A.
Armet, Harold R.
Armstrong, William E.
Arneson, Keith J.
Arnette, Clyde E., Jr.
Arnold, Andrew J.
Arnold, Robert G.
Arter, Dennis R.
Artus, Stephen C.
Arwood, Patrick E.
Asbjornsen, Stein
Ashe, Glenn M.
Ashmore, George W.
Atherton, James B.
Atherton, Terry J.
Athow, Lewis K.
Atturio, John M.
Auriemma, John C.
Austin, Alexander L.
Austin, Roger G. J.
Avery, James H.
Avila, Richard F.
Ayers, Douglas P.
Ayers, James W., Jr.
Babb, James A.
Babcock, Barry L.
Baber, Dennis R.
Babington, William R., Jr.
Bagaglio, Mario J., Jr.
Bailey, John H., III
Baker, Bruce C.
Baker, Joseph R., III
Baker, Mark C.
Baldridge, Craig J.
Baldwin, Marvin D.
Ball, John D.
Ball, William L., III
Ballard, David L.
Ballard, Robert C.
Ballew, Robert W.
Ballew, William T.
Bancroft, Warren H.
Bandman, Albert M.
Bangert, James S.
Bannat, Edward G.
Barber, John T.
Barbero, Mark
Barley, Richard O., Jr.
Barnett, James H.
Barrett, Frank O., III
Barrett, Michael D.
Barrett, Stephen D.
Barrow, Ronnie L.
Barrus, Donald J.
Barry, Brian J.
Barry, Christopher J.
Bartlett, Richard J.
Basilio, Anthony C., Jr.
Baskerville, James E.
Bass, George L.
Bass, James W., Jr.
Bass, Joseph E.
Batdorf, Richard E.
Bathgate, John C.
Batten, Hugh N., Jr.
Battles, Duane P.
Bauer, Carl T.
Baxter, Robert M.
Baylis, Robert O.
Beall, Bradley S.
Beattie, Christian E.
Beaugureaw, Denis F.
Beck, William J.
Becker, Dennly R.
Becker, Thomas J.
Beckett, Thomas H.
Beduhn, Jerry R.
Behm, Dennis A.
Belichick, Thomas J.
Bender, Edward J., Jr.
Beninghove, Stephen F.
Bennett, Albert E., Jr.
Bennett, James D.
Bennett, Robert D.
Benson, Rodney L.
Bertelson, James A.
Bethea, William D.
Bettcher, Thomas E.
Beucler, Claire M.
Bezdek, Leo D.
Bianco, Bernard M.
Biddle, Charles T., Jr.
Bieda, George E.
Bingham, Terrence L.
Birch, Howard S., Jr.
Birnbaum, Peter A.
Bishop, Douglas S.
Bishop, Edward L., III
Bishop, John E.
Bishop, Robert A.
Bixler, Kenneth G.
Blackledge, Peter D.
Blackstock, James F.
Blakely, Robert D.
Blanchard, James J.
Blaue, John W.
Bleeker, James M.
Blewett, Jay A.
Blish, Nelson A.
Blom, Richard J.
Bloyer, Stanley F.
Bluhm, Peter M.
Bock, Jim B., Jr.
Bodine, John H.
Bodner, Stephen W.
Bogosian, David E.
Bogstad, Joseph W.
Bohannon, Edward L.
Bohm, Dwight K.
Boland, James A.
Bolinger, Paul F.
Bollech, David C.
Bollenbacher, Robert A.
Bonaquisti, Frank, Jr.
Bond, William R.
Bonds, John M.
Bone, John F.
Bonnett, John W.
Borsting, Conrad R.
Bostick, Robert K.
Botham, Kenneth M., II
Boucher, Oliver A., Jr.
Boucher, Richard E.
Bouchoux, Donald R.
Boudreaux, Joseph C., III
Bovey, Robert D., Jr.
Bowen, John C.
Bowers, John F., Jr.
Boyd, Marshall D.
Boynton, Robert W.
Bozeman, William S.
Bradfieid, Robert W., II
Bradley, Theron M., Jr.
Braine, Daniel H.
Bramley, William A., III
Branch, Malcolm P.
Branum, Jerome S.
Braschel, Grant O.
Braunstein, Wayne J.
Bray, Paul A., II
Brayton, Paul F.
Breckinridge, William L., VI
Breckon, Thomas J.
Brelsford, Edward M.
Bremhorst, Joseph H.
Brennan, Robert A.
Brenneman, Stephen A.
Brenner, Lawrence J.
Brevig, Leroy D.
Bricker, Edward G.
Bries, Eric D.
Briggs, Steven E.
Briggs, Thomas P.
Brink, Gale D.
Broaddus, Girard T.
Broman, Theodore H., III
Brooks, Randolph M.
Brooks, William E., III
Broome, John C.
Brown, Charles A.
Brown, Charles P. T.
Brown, Don M.
Brown, Gregory C.
Brown, John A.
Brown, John S.
Brown, Lynn E.
Brown, Norman F.
Brown, Richard F., Jr.
Brown, Robert B.
Brown, Stanley M., III
Browne, Chad W.
Browning, Charles S., Jr.
Browning, Jonathan E.
Bru, John W.
Brubeck, Gregory W.
Bruckner, William L., Jr.
Bryant, Richard E.
Bryant, Stanley W.
Buckalew, Alman L., Jr.
Buckingham, John S.
Budzik, Dennis M.
Bugelski, Paul J.
Bulger, Richard L.
Bunker, John M.
Burbage, Charles T.
Burdick, Thomas J.
Burdick, William F., Jr
Burgess, Ross W.
Burke, John J., III
Burkhalter, Stephen M.
Burkhard, Thomas K.
Burlin, David S.
Burnett, Jeffrey S.
Burnett, Lewis E.
Burr, Robert M.
Burton, Dennis E.
Bush, Jerry O.
Bush, Thomas L.
Butler, Charles L.
Butler, Charles T., III
Butterworth, Bruce V.
Butterworth, William J., Jr.
Byles, Robert W.
Byrne, Thomas M.
Cadwell, Mark C.
Cairnes, George W., III
Calkin, Scott A.
Callan, Leonard J.
Callan, Patrick F.
Callison, Claude O.
Campbell, Carroll E.
Campbell, Gerald E.
Campbell, Joe
Campbell, Richard T.
Capps, Charles J., Jr.
Carden, Carl E.
Carey, Wayne T.

Carey, William R., Jr.
Carlson, Christopher J.
Carlson, Eugene R.
Carlson, James R.
Carmean, Wilson L.
Carmichael, Hubert M., Jr.
Carney, Raymond F., Jr.
Carper, Thomas R.
Carpowich, David J.
Carr, Gregory L.
Carreiro, William T.
Carrier, John X., II
Carroll, Charles R.
Carroll, Kenneth W.
Carter, Alden R.
Carter, David E.
Carter, Dennis C.
Carter, James A.
Carter, John M.
Carter, Raymond M.
Carver, Bobby W.
Cashman, John F.
Cassidy, Edward T., Jr.
Cassidy, John A., Jr.
Cast, Frederick A.
Castro, Ignacio, Jr.
Caswell, Gary J.
Cataldi, Richard A.
Cate, Francis R.
Cates, John F., Jr.
Cavaiola, Lawrence J.
Cavanaugh, Thomas J.
Cavender, William K.
Caviness, Stephen D.
Cebulski, Raymond J.
Cech, Kenneth C.
Chalfant, Barry H.
Chalfant, Peter S.
Challain, Eric J.
Chambless, James E.
Champney, Robert K.
Chance, Thomas H.
Chapman, Carter S., Jr.
Chapman, Richard K.
Charlton, Frank G., III
Chase, Dudley H.
Chatfield, Steven C.
Cheves, John D.
Chevrier, John M.
Childers, Richard D.
Chipps, Samuel K.
Christensen, William J.
Christenson, Ronald L.
Christian, Roy C.
Christiansen, Carl S.
Church, Albert T., III
Cima, William M.
Cipriani, Alfred L.
Clancy, Kevin S.
Clapsadl, Michael R.
Clark, Allan F.
Clark, John F.
Clark, Michael B.
Cleverdon, Thomas F.
Clifford, William F.
Clifton, Guy D.
Cochrane, John M.
Code, James E.
Coffin, William M.
Colantoni, Anthony V.
Cole, Charles G.
Cole, Ford R.
Cole, James D.
Coleman, Walter D., Jr.
Coleman, William E.
Colie, Timothy B.
Collins, Steven L.
Colvin, Joe F., II
Conger, Robert W., Jr.
Conkle, William C.
Conley, Wilder L.
Conlon, Thomas E.
Conly, John T.
Connell, Hugh D., II
Conner, John M.
Connors, James D.
Connors, Philip F.
Conrad, John W.
Consaul, Harry P., III
Conway, Michael R.
Conway, Richard W., Jr.
Cook, Carroll E., Jr.
Cooke, George A., Jr.
Cooley, Pemberton, III
Cooper, Daniel D.
Cooper, Randall F.
Corcoran, Colin D.
Corcoran, Thomas J.
Cordier, Richard J.
Cosgriff, Robert W.
Cote, Daniel N.
Counts, Steven L.
Cowper, Richard G.
Coxe, William K., Jr.
Coyle, Barry J.
Crabb, James D.
Craddock David G.
Craig Harold A.
Crandall Scott M.
Crane Daniel M.
Crannell David J.
Crawford Jeffrey D.
Craynock Julius F. III
Creekman, Charles T. Jr.
Crellin, Bruce E.
Crenshaw, Keith V.
Crisp, Dale W.
Crisp, Marvin H.
Croake, John M.
Cronin, Grover J., III
Crooks, Daniel A.
Cross, Roger D.
Croucher, Barry L.
Crouse, Thomas C.
Cruser, Thomas P.
Cuccias, Robert F., Jr.
Culet, James P.
Cullen, Terrence V.
Culpepper, James C.
Cumminger, Frederick T., III
Cummings, Robert L.
Cummings, Walter J.
Cummins, William E., Jr.
Cunliffe, Robert F.
Cunningham, Lowell E.
Curley, William H.
Curnow, Frank J.
Curran, James J.
Curtin, James A.
Curtis, Dalton B., Jr.
Curtis, Dana S.
Daggett, David K.
Daigle, Valier J.
Dalessandro, Vincent R., Jr.
Daley, Thomas J.
Daly, Denis F., Jr.
Damsgaard, Mark D.
Daniel, John H., III
Daniels, James N., Jr.
Danielson, Terry A.
Danysh, Donald C.
Darezzo, Richard A.
Daube, David E.
Davey, Bruce C.
Davidson, Francis L.
Davidson, James D.
Davidson, James A.
Davidson, Raymond Al
Davis, Christopher M.
Davis, Robert B.
Davis, Roderick F.
Davis, Theodore, E.
Davis, William O.
Davison, Henry G.
Day, Robert W.
Day, Thomas R.
Deacon, Bruce E.
Dean, Floyd R.
Dean, Thomas R.
Deantonio, Robert F.
Debaggis, Michael P., Jr.
Deeter, Michael L.
Deets, Clifford L.
Deininger, David G.
Delaplane, Stephen W.
Delong, Glenn E.
Dempsey, Francis B.
Dempsey, Richard M.
Despain, William M.
Detwiler, Richard M.
Devanney, John C.
Devries, Peter J., Jr.
Dibble, Ronald A.
Diddlemeyer, Lawrence F.
Diem, Robert P.
Dietz, Donald M.
Dillon, Terry M.
Dimario, Robert
Dionizio, Augusto J., Jr.
Dobbins, Dennis G.
Dockstader, Bruce L.
Docton, Maurice H.
Dodge, Kenneth E.
Doempke, Gerald T.
Dolan, James E., Jr.
Donahue, Neal R.
Donilon, Michael F.
Donovan, Gerard M.
Donovan, John E.
Doran, Clark D., Jr.
Douglas, Tarry J.
Dove, Rhett P., III
Dover, James R., Jr.
Dowd, Andrew S., Jr.
Dowgiewicz, Michael A.
Downey, Gerald J., Jr.
Doyel, Christopher B.
Doyle, Geoffrey N.
Dreesen, Robert W., Jr.
Drew, David O.
Driscoll, Terence P.
Drossel, Craig
Drummond, Frederick J.
Dube, Bruce B.
Duckworth, Eddie L.
Dudek, David F.
Dudley, Harrison G., Jr.
Duke, Russell, A., Jr.
Dundas, James C.
Dunford, Robert W.
Dunn, Carl B.
Dupont, Ralph P., Jr.
Duvall, George E.
Dvorak, James P.
Dyer, Thomas J.
Dysart, Barry J.
Eagle, James N., II
Eason, John W.
Eastwood, George H.
Ebner, Robert A.
Eby, Ronald G.
Eckerman, Lawrence I.
Eckert, William J.
Economou, James L.
Edgar, Jack K.
Edgington, Bobbie G.
Edling, David V.
Edmonds, Carl H.
Edwards, Daniel D.
Ehemann, David A.
Ehrlich, Gerald D.
Elderkin, Kenton W.
Elfers, Glen E., Jr.
Elliott, Patrick W.
Ellis, James O., Jr.
Ellison, Martin D.
Elmore, Craig W.
Elston, Robert G., II
Eminhizer, Ronald D.
Emmons, Frederick R., Jr.
Engler, Brian D.
Enman, David M.
Epperson, Steven C.
Erdman, Edward A., III
Erhardt, Richard A.
Erickson, Lief W.
Erickson, Phillip A.
Erickson, Sidney L.
Erwin, Robert C.
Etheridge, Melvin R., Jr.
Etter, Thomas H.
Eubank, Perry H., Jr.
Euliss, James P.
Eustis, Harold R.
Evans, Albert L.
Evans, Charles L., III
Evans, Steven R.
Everett, John C.
Everhart, Ward S.
Ewing, Robert K.
Fahy, Thomas E.
Falls, Larry W.
Faneuf, Leo J., III
Farlow, Irl R.
Farmer, Roger A.
Feder, John H.
Fedyszyn, Thomas R.
Feeney, James L.
Felten, John A.
Ferenbach, Vincent C.
Ferguson, Paul F.
Fernie, John D.
Ferrell, Basil L.
Ferriman, Robert L.
Fiechter, Jacques P.
Fikes, Raymond F.
Fincher, Walter K.
Findrick, Edward J.
Finison, Edwin B.
Fink, Lee
Finnegan, Edward J.
Fischer, Andrew
Fischer, Michael H.
Fisher, Myles A.
Fitch, David P.
Fitzgerald, Edward J.
Fitzhugh, John E., II
Flannery, Jeffrey H.
Fletcher, Gregory G.
Fletcher, Stephen J.
Floyd, Richard P., Jr.
Flygare, Robert H.
Foley, John B., III
Foltz, Randall A.
Foote, George W.
Force, James E.
Ford, Jerry W.
Ford, Mark L.
Forney, Robert A.
Forscher, Edward W.
Forte, Bruce F.
Fortino, Anthony M.
Fortson, Robert M.
Fouse, William F.
Fowler, Arthur H., III
Fowler, Thomas V.
Fox, Richard F.
Francis, David L.
Frangione, Robert E.
Franicola, Robert A.
Frank, Stephan D.
Franklin, Richard H.
Franks, Douglas M.
Franzoni, John C., Jr.
Fraunfelder, Maurice F., Jr.
Fredricksen, Robert A.
Freed, Donald E.
Freed, Rodney W.
Freeman, Bruce D.
Freeman, Thomas L.
French, Raymond C.
French, Spencer L.
Frentzel, William Y., II
Frey, Edward F.
Frick, Robert E.
Frondorf, John R.
Fuellenbach, Joseph C.
Fulbright, Joseph J., Jr.
Fuller, John R.
Furland, Frederick M.
Fuson, William A.
Gabriel, Steven B.
Gagliardi, Dennis L.
Gallagher, John J.
Gallagher, Gerald L.
Gallegos, Richard E.
Galus, Albert J. R.
Galvani, William P.
Gamlen, Curtace S.
Gano, Richard D.
Gantley, John E.
Garavito, Donald E.
Gardner, Gregory L.
Gardner, Lester O., Jr.
Garnett, Robert R., Jr.
Garrett, Aaron D.
Garrett, Spencer L.
Garrett, William S., Jr.
Garske, John C.
Gaumond, George R.
Gauss, John A.
Gauthier, Maurice A.
Geagan, James J.
Geisler, Fred A.
Gembol, Michael P.
Gemmill, Alan M.
Genrich, Michael G.
George, Danny L.
George, Frederick L.
George, Robert T.
Gerlach, Milton F.
Getz, Richard R.
Giancola, Charles A.
Giannaris, Robert J.
Giannotti, Louis J.
Gibbens, Richard J.
Gibbs, Thomas R.
Gier, Scott G.
Giesemann, Frank T.
Gillaspie, Robert C.
Gillespie, Thomas R., II
Giraldi, Walter R.
Girardet, Wayne E.
Glass, Dennis W.
Gobel, Gary G.
Goins, Kenneth R.
Good, James L.
Goodmundson, Gary C.
Goodwin, Hugh G.
Gordon, Alan L.
Gordon, George M.
Gordon, Vernon C.
Gore, Charles F.
Gorman, Thomas R.
Gorrell, David K.
Gospodarec, Donald S.
Gott, John C.
Gourley, James E., II
Gragg, William L.
Grant, James R., III
Grapoli, Alfred P.
Grauert, Christopher M.
Gravitt, Patrick D.
Gray, Glen B.
Gray, Robert J.
Gray, Robert M.
Green, Gordon M.
Green, Leon C., Jr.
Greene, Joseph M., Jr.
Greenlee, William E.
Grehawick, Gregory D.
Gremillion, Lee L., III.
Griffin, David C.
Griffith, Curtis B., II
Grimm, David B., Jr.
Grimm, William R.
Gritzen, Edward F., II
Gross, Albert C.
Grove, David E.
Grove, Samuel P.
Grumley, Terry L.
Gubbs, Douglas H.
Guilfoyle, James R.
Gullickson, Gregg G.
Gumbert, Ronald D., Jr.
Gunn, Edward J.
Gunter, Joseph M.
Gutelius, Paul P.
Guthier, Steven L.
Gutmann, James E.
Haas, Ronald C.
Hacker, Daniel M.
Hackett, Edward J.
Hackney, Stephen A.
Haddock, Joseph W., III.
Hadfield, Peter J.
Hagan, Thomas F.
Hager, Alan R.
Haifley, Michael F.
Haight, Richard W.
Hall, George H.
Hall, Kenneth W.
Hallam, Philip G., Jr.
Hallett, Michael T.
Halliday, Howard J., Jr.
Hallock, William S.
Halloran, John G.
Halwachs, Thomas E.
Hamburg, James W.
Hamel, Henry J.
Hamilton, David E.
Hammond, Patrick A.
Handlers, Robert G.
Hansen, Gregory L.
Hanvey, Stephan A.
Harbin, Michael A.
Harding, George F., Jr.
Hargis, Raymond L.
Hargrove, James W., Jr.
Harnish, Thomas D.
Harr, Roger R.
Harrell, Deck E.
Harris, James D., Jr.
Harris, James P.
Harris, Jeffrey K.
Harris, John D., Jr.
Harrison, Michael A.
Harrsch, David A.
Hart, Frank G., Jr.
Hartling, John M.
Hartman, Roger W.
Hartman, Robert F., III
Hartmann, Bruce M.
Hartwell, Jerold K.
Haushalter, Jeffrey R.
Havel, Richard W.
Haverstock, John L.
Hawes, Frederick J.
Hawken, Charles H.
Hawkins, John B., Jr.
Hawkins, Robert K., Jr.
Hayball, Robert M.
Hays, Leroy E.
Hazelrig, John P.
Head, Nelson H.
Hearn, Hamilton D., Jr.
Hearne, Lonnie P.
Heaton, David W.
Heibel, Richard P.
Heidel, Michael L.
Hein, Gary W.
Hellrung, Jeffrey M.
Helm, Robert M.
Helsley, Ronald E.
Heming, David M.
Hemler, Stuart T.
Henderson, Randall S.
Henderson, James K.
Hendricks, Michael A.
Hendricks, Robert L.
Hennagin, Brian D.
Henze, Howard M.
Herring, Robert A., III
Herrman, Roger W.
Hershon, Simon A.
Herter, Judson R.
Hess, Michael D.
Hester, Michael J.
Hewett, Leslie W., Jr.
Hewig, William, III
Hickey, Charles D.

Hickman, Harold D.
Hickman, John E., Jr.
Hickman, William F.
Hicks, Benjamin H., Jr.
Hicks, Fred A.
Hicks, Harold S., Jr.
Higdon, Ronald G.
Higgins, James B.
Higgins, James C., III
Higgins, Simeon G., Jr.
Hiland, David A.
Hilburn, John E.
Hill, Lucius G., III
Hill, Richard A.
Hillmann, Leo C.
Hills, Ronald E.
Hillyer, Richard S.
Hilton, Hugh A.
Hilton, Jarvis G.
Hinckley, Robert C.
Hine, Jonathan T., Jr.
Hipp, Spencer H.
Hirschl, Jeffrey S.
Hirt, Keith A.
Hobson, Lynn E.
Hodill, Richard R., Jr.
Hoehn, Joseph P.
Hoff, Norman L., Jr.
Hoffman, Charles A.
Hoffman, Gary R.
Holcombe, Horace T.
Holden, Thomas W., Jr.
Holeman, Clinton N.
Holland, Barry S.
Holland, Daryl T.
Holleman, Thomas J.
Hollett, Kenneth J.
Hollis, Michael K.
Holmes, James E.
Honderich, Forrest T.
Honey, Michael L.
Honour, Eric C.
Hood, Robert M.
Hooper, James A., IV
Hopkins, Carl L.
Hopper, Edward A.
Hornberger, William B.
Horne, George M.
Horning, Nicholas C.
Honstra, Douglas J.
Horsley, James B.
Horton, Ronnie R.
Hostetter, Theodore L., Jr.
Hougham, John R.
House, Michael E.
Hoverson, John O., Jr.
Howard, Thomas N.
Howarth, Gray L.
Howe, David P.
Howie, John R.
Hoxie, Andrew B.
Hubel, Dennis J.
Hudson, Frank W., Jr.
Huey, Homer D., Jr.
Huff, James H., III
Huiatt, Keith W., Jr.
Humberd, Calvin C. Jr.
Humrighouse, Eugene B., Jr.
Hunt, Conway L.
Hurley, Allen L.
Hurley, William D.
Hutchings, Robert L.
Hutchins, Walter M.
Hutchison, John R.
Hutton, John W.
Hvidding, Paul C.
Iacuaniello, Umberto C., II
Illing, William R., Jr.
Ingerski, Jerome J.
Ingram, Carl E.
Isbit, Daniel S.
Isele, Charles P.
Iuvone, Brian D.
Iverson, Kenneth J.
Jackson, Charles A., Jr.
Jackson, George W.
Jacobs, John W.
Jacobsen, John A.
Jadlocki, Ronald
James, Gary B.
James, Stephen A.
James, William B.
Jameson, Stephen
Jamison, Michael E.
Jamison, Philip C.
Janak, Jordan R.
Janda, Robert W., Jr.
Janes, Jack H.
Jarina, Michael P.
Jarman, Roger C.
Jarrett, David C.
Jeffries, Charles L.
Jenkins, Gerald W.
Jennings, David B.
Jennings, Hugh S.
Jensen, Franklin J., Jr.
Johannsen, Michael K.
Johnesee, James A.
Johnson, Charles C.
Johnson, Don M.
Johnson, Gregory
Johnson, Gregory G.
Johnson, Robin R.
Johnson, Stephen D.
Johnson, Stephen I.
Johnson, Thomas B.
Johnson, Thomas P.
Johnson, Wade C.
Johnson, William P.
Johnston, George B., Jr.
Johnston, Paul S.
Johnston, Peter B.
Jones, David L.
Jones, Fred W.
Jones, Frederick E.
Jones, Gregory B.
Jones, Jerrold A.
Jones, John P., Jr.
Jons, Kenneth E.
Jones, Meade A., Jr.
Jones, Michael K.
Jones, Michael O.
Jones, Raymond D.
Jordan, Joseph E., Jr.
Jordan, Robert Y.
Josephson, Stephen W.
Joslin, Charles L., III
Joslin, Royal D.
Juarin, David S.
Jupin, Harry A.
Jurand, George W.
Kachergus, William F. Jr.
Kail, Robert P.
Kalb, Richard W.
Kaler, Herbert C.
Kane, John D. H., III
Kanitz, Thomas C.
Kanupka, George J., III
Kanze, Robert M.
Karcewski, Stanley J.
Karlan, Charles C.
Karpyak, Steven D.
Kase, Stephen A.
Kawaguchi, Ray S.
Kearley, John J.
Kearns, James T.
Keegan, John W.
Keeney, Merle A.
Kehoe, William A.
Keller, Joseph F.
Kelley, James B.
Kelley, Jerry E.
Kelly, David L.
Kelly, Richard A.
Kelly, Richard E.
Kempe, Byrd C. W.
Kennedy, Bloyd D., Jr.
Kennedy, John J., Jr.
Kennedy, Kraig M.
Kennedy, Richard A.
Kenney, James M.
Kenyon, Michael H.
Kephart, John G.
Kernan, Joseph E.
Kernan, William, Jr.
Kerwin, Timothy H.
Kester, Rodger P.
Ketts, Robert L.
Keup, Wayne A.
Key, Kenneth W.
Kibler, Rex W.
Kilmer, Milo J., II
Kimble, Gerald A., Jr.
Kimmel, James M.
Kindelberger, Ralph H.
Kinder, Drew D.
Kindstrom, Earl E.
Kingery, Donald L.
Kinsley, Brian E.
Kirby, James D.
Kirby, Thomas M.
Kirk, Douglas C.
Kirkland, Richard G.
Kirkman, John Q.
Kislia, Jerome D.
Kissell, Peter B.
Klemstine, Charles F.
Kley, William J.
Kline, Howard K.
Kline, Roger P.
Klocek, Thomas E.
Klosterman, Robert C.
Klugh, Robert B.
Knapp, Roland B.
Knobel, James D.
Knowles, David N.
Knowlton, Robert D.
Knubel, James
Koch, Kenneth W.
Koch, William N.
Kockler, Frank R.
Koerner, Daniel E., Jr.
Kokstein, Robert G.
Kolman, Jerry D.
Konen, Raymond R.
Koning, Jack A.
Korinis, Peter W.
Kosloff, Donald C.
Kowalczyk, Michael A.
Kraabel, John S.
Kracke, William F.
Kraft, Nile R.
Kral, David J.
Kral, Theodore C.
Kras, James
Kratt, Clifford L.
Krattli, Gene M.
Krause, Lynn T.
Krift, Frederick A., II
Kruger, Paul M.
Krum, Duane
Krumholz, Kenneth A
Kruse, Peter W.
Kucinski, Henry J., Jr.
Kuentz, Alan S.
Kuginskie, Robert
Kummert, William C.
Kundts, John H.
Kuntz, William D.
Kunz, Lawrence G.
Kuppe, Stephen J.
Kutys, John V., Jr.
Lacy, Olen G., Jr.
Ladd, Ronald L.
Laforce, Thomas W.
Lahren, Jack W.
Lakatos, Ronald S.
Lambright, Ralph E.
Lame, Philip C.
Landers, Jerome C.
Landua, James R.
Laney, Jack T.
Lange, Kenneth E.
Lange, Walter N.
Lanoux, Steven M.
Laplace, Edwin F.
Lapointe, Leslie D.
Larock, Robert E.
Larsen, Samuel H.
Latham, James W.
Latourrette, John A.
Lattig, Glenn D.
Lauer, Joseph R., Jr.
Lavallee, William L.
Lawson, Dale B.
Laz, William J., Jr.
Leaman, Stephen J.
Ledbetter, Robert L., III
Lehre, Edward J.
Leleux, Wayne J.
Lemke, Robert J.
Lemrow, Craig M.
Leonard, Ronald O.
Lessmann, Ronald P.
Lester, Roderick B.
Lesueur, John H., Jr.
Letkeman, Michael B.
Lettieri, Michael F.
Leverich, Wesley J.
Lewis, Billy L.
Lewis, Garry L.
Lewis, John M., II
Lewis, Mark A.
Lewis, Thomas E.
Lex, Thomas J.
Lieberman, Stephen L.
Liebschner, Douglas V.
Liles, John U., Sr.
Lilje, James J.
Lilliendahl, Alfred S.
Lilly, Creighton D., Jr.
Lind, Stephen M.
Lineman, John J.
Lines, David F.
Lipscy, Gordon E.
Little, Edward L., Jr.
Littlejohn, Harvey W.
Llewellyn, Timothy W.
Lochner, Dan H.
Locke, John S.
Lockhart, Stanley D.
Lockyer, William K.
Lofgren, Norman A.
Logan, Robert J.
Lohmeyer, Lonnie F.
Lomax, Tarrant H.
Long, Richard W.
Long, Robert F., Jr.
Longaker, Chester C.
Looft, Vincent F.
Lops, Michael T.
Lorkowski, James J.
Lortz, Paul C.
Lounge, John M.
Lounsberry, Freddie P.
Lowe, Douglas T.
Lowry, James H.
Ludwig, Arthur W.
Ludwig, Eric W.
Lukens, Larry A.
Lumsden, David M.
Lund, Vern E.
Lunde, Walter A., Jr.
Lung, David
Lyles, Richard I., III
Lynn, Freddie L., Jr.
Lynn, Warren D.
Lynskey, Paul C.
Lyons, Edward A.
Lyons, Mark J.
Lyons, Stephen P.
MacDonald, Joseph M.
MacDonald, Joseph B.
MacDougall, Joseph S.
Mackey, William A., Jr.
Maddux, Richard G.
Maggi, John C.
Magyar, David J.
Maher, David B., Jr.
Mailho, Ronald J.
Malachoski, Theodore S., Jr.
Maley, John P.
Malone, Michael J.
Maloof, James M.
Mangapit, Conrado, Jr.
Manning, Michael P.
Mansfield, Robert D.
Markley, Douglas G.
Marquis, Richard L.
Marsh, Paul A.
Marshall, John J.
Marshall, John R.
Marshall, Steven A.
Martin, Frederick K.
Martin, Jack E.
Martin, James W.
Martin, Jay H.
Martin, Peter W.
Martini, Larry S.
Marzullo, Raymond L.
Mascari, Guy T.
Masica, John M.
Masters, Gregory R.
Matchette, Eric E., III
Matetich, Michael G.
Mather, George W.
Mathis, Barry J.
Mathison, Neil G.
Mauer, Heinz G.
Maxwell, George G.
Maxwell, James H.
Maxwell, Stephen H.
May, Albert L.
Mayer, Scott H.
Mayes, Larry J.
Mayfield, Paul K.
Maynard, Hamilton K.
Mayo, Robert E.
McAllister, Allan D.
McAllister, Edward C.
McAllister, Paul A.
McBee, Lawrence L., Jr.
McCauley, William C.
McCauley, William P.
McClain, Calvin P., Jr.
McClain, William C., Jr.
McClellan, Malcolm W., Jr.
McClung, Roger W.
McConnell, Steven G.
McCullar, Edward T.
McCullough, David G.
McCullough, James J.
McCullough, Francis H., III
McCumber, Leonard D., Jr.
McCune, Michael O.
McDermott, John J.
McDermott, Thomas E., III
McDevitt, Robert J.
McDonald, John A., Jr.
McDonough, Martin P., Jr.
McDowell, Tommy G.
McEwen, Gary B.
McFillin, James F., Jr.
McGee, Amos A., Jr.
McGee, Willie E., Jr.
McGill, Robert G.
McGoey, William B., Jr.
McGovern, James F.
McGrath, Joseph W.
McHenry, Stephen W.
McInchok, George S., Jr.
McInnis, John G.
McIntosh, John M., Jr.
McKaige, George T., Jr.
McKean, Thomas A.
McKeldin, Charles E., Jr.
McKenzie, Allen G.
McKeown, Charles H.
McKinney, Dana B.
McKown, Andrew F.
McLaughlin, Peter C.
McLean, Owen D.
McLintock, David L.
McMahon, Edwin H., Jr.
McManuis, Charles M.
McMurry, William S.
McNamara, Joseph L.
McNamara, Michael T.
McNeil, Maurice M., Jr.
McNeil, Oscar N., Jr.
McPherson, David A.
McStay, James W.
McTigue, James J.
Mead, Howard W., III
Medford, William R.
Meeker, Paul R.
Mees, William N.
Meihaus, Harry E., Jr.
Melchioris, Charles J., Jr.
Meldrum, William G.
Melton, Joseph E.
Mendenhall, Dennis I.
Mercer, Michael R.
Merrill, Dean R., Jr.
Merrow, Richard A.
Mertz, Albert G.
Meshier, William T.
Meteer, Thomas D.
Metzger, Charles, III
Meyer, Charles G.
Meyer, James R.
Michaelis, Frederick H., Jr.
Michalski, Conrad M.
Mickett, Thomas G.
Mihaly, George H., Jr.
Milam, Roger A.
Milchanowski, Michael J.
Miles, Barry K.
Miller, Andrew J., Jr.
Miller, David V.
Miller, James P.
Miller, John H.
Miller, John M.
Miller, John P.
Miller, Michael L.
Miller, Richard S., Jr.
Miller, Robert F.
Miller, Robert W., Jr.
Miller, Roger L.
Miller, Steven W.
Miller, Thomas P.
Miller, William R.
Miller, William W.
Mills, Carl E.
Mills, Dawson A., Jr.
Milner, George M.
Mink, Charles E.
Minton, David S.
Misslin, Peter A.
Mitchell, John G.
Mitchell, Thomas W., Jr.
Mleziva, James M.
Mock, Jessie I., Jr.
Moeller, Robert L., Jr.
Moffit, James W., Jr.
Molloy, James W.
Monaghan, Charles E., Jr.
Monroe, William H.
Moore, George M.
Moore, Harry R., II
Moore, John J. C., II
Moore, Keith T.
Moore, Mitchell D.
Moore, Richard W.
Moore, Robert D.
Moore, Terry A.
Moore, Thomas R. I.
Moore, Wayne T.
Moore, Wesley H.
Moran, Gary W.
Moreland, James W., III

Morell, Christopher C.
Morgan, Leroy C.
Morgan, Michael Carter
Morgan, Michael Charles
Morgan, Newton H., Jr.
Morin, Paul R.
Morrell, Michael F.
Morris, Barry L.
Morris, Raymond J., Jr.
Morris, Stephen G.
Morrison, Thomas A.
Morrison, Theodore G.
Morse, Edgar L., III
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Moseley, Ronald P.
Moses, Orrin D.
Moses, William J. C.
Motta, Gerald A.
Moyer, Gordon S.
Mozino, Thomas P.
Mrowczynski, Ronald M.
Mueller, Ronald R.
Mueller, Stephen L.
Muir, Douglas F.
Mulderig, John F.
Mullica, William L.
Mullins, Alden F., Jr.
Mullins, Robert D.
Mulvaney, Michael E.
Munninghoff, Jay M.
Murach, Thomas P.
Murphy, Dennis M.
Murphy, Robert J., Jr.
Murzinski, Edward J.
Muth, Michael A.
Muzzo, Steven E.
Naeve, Jerry M.
Naset, Dwight E.
Nash, Donald H.
Nash, John D.
Nastro, Thomas R.
Nation, Charles W., Jr.
Navarro, Bradford V.
Nazaruk, Gregory M.
Neale, David A.
Neighbors, Earnest L., III
Nelson, Gary S.
Nelson, Irwin H.
Nelson, Richard J.
Nesbitt, Charles D.
Neumann, Robert R.
New, Millard W., Jr.
Newman, Michael S.
Newton, John W.
Neylon, Paul M.
Nichols, Hartwig J.
Niebruegge, Edward L., Jr.
Nifontoff, Gerald K.
Ningen, Russell K., Jr.
Nissen, William J.
Nolan, Terry R.
Noland, David J.
Noll, Richard F.
Noll, Robert B.
Norconk, James J., Jr.
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Oberender, Paul D.
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O'Connor, Thomas N.
Odegard, Ronald S.
O'Donnell, Gerald J.
O'Donnell, Robert B.
Offner, Alan L.
O'Hara, Stephen P.
Ohlinger, John F.
O'Leary, Michael S.
Oliver, Richard E.
Oliver, Timothy W.
Olsen, Olav V.
O'Meara, John, Jr.
O'Neal, Barry W.
O'Neil, Edward J.
O'Neil, Harry F., Jr.
O'Neill, Richard P.
Oosterman, Carl H.
Orfgen, Lynn C.
O'Rourke, Brian
Ott, Robert E.
Otto, Richard A. F.
Overbeck, Gregg R.
Overbeck, Gary J.
Overheim, David C.
Owens, Roger L.
Packard, Michael J.
Paddock, James R.
Padgett, John B., III
Page, George K., III
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Papineau, Paul W.
Pardee, James D.
Parham, Stephen J.
Parker, Walter J., Jr.
Parr, John M.
Parsons, Clarence L.
Parsons, David W.
Patch, Stanley J., Jr.
Pattison, James W.
Pawlowski, Stanley W.
Payne, Gary E.
Payne, Michael A.
Payte, David G.
Pearce, Robert T., Jr.
Peck, Robert S.
Pehl, Charles E.
Pell, John K.
Pellegrino, Richard L.
Penney, Kenneth B.
Perkins, Richard K.
Person, Bryan L.
Peterman, John J., III
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Peterson, Charles C.
Peterson, Lloyd W.
Petruska, Andrew M., III
Patykowski, Jerome L.
Peverill, Ronald L.
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Phillips, Landon B., Jr.
Phillips, Robert G., Jr.
Phillips, Robert W., Jr.
Phillips, Thomas L.
Pianetta, John B., Jr.
Piccolo, John A.
Picquet, Roger T.
Pieragostini, Karl K.
Pierce, Richard D.
Pike, Hal W.
Piland, Monroe G., III
Pillittere, Robert G.
Pinney, John H.
Piro, Lawrence C.
Pitman, Carrol A.
Pitman, Ronald L.
Pitney, John C.
Pittet, Leroy T.
Plank, Dennis W.
Plante, Martin E.
Platt, Edwin A.
Player, Adrian G.
Plehal, James B.
Plesser, Kenneth T.
Plett, John R.
Ploss, Richard S.
Plummer, Rudy E.
Poirier, William P.
Pole, Michael W.
Poleski, David A.
Poliakon, Joseph A., Jr.
Porter, Paul H.
Porter, Ronald D.
Posey, Charles F.
Potten, Milton E., Jr.
Potter, Miles B.
Potter, Wilburn M.
Potts, Edwin S.
Powderly, Robert G.
Powell, David L.
Powers, John M.
Prairie, John E.
Pratt, Phillip A.
Price, Gene H.
Price, Walter W., III
Pridmore, Alexander R.
Procopio, Eugene M., Jr.
Proses, William A.
Prosser, David L.
Prout, George M.
Provencal, Clifford E., Jr.
Provencal, John E.
Provencher, Michael J.
Prudom, Gerald H.
Prusiecki, David E.
Puckett, Richard F.
Pulbratek, James E.
Puncke, Frederick D., Jr.
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Quillinan, Gregory F.
Quinn, Donald L.
Quinn, Stephen E.
Raber, David M.
Rachmiel, Marshall E.
Rachor, Robert L., Jr.
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Rappaport, Gerald P.
Rasmus, Alfred A.
Rasmussen, Nicholas R.
Rausch, John D.
Rawlings, David G.
Ray, David C.
Raynes, Gerald E.
Reading, Leslie J.
Reaghard, James A.
Reaves, Keith C.
Rebeske, John J., III
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Reece, Richard R.
Reed, William C.
Reedy, Ronald E.
Reeve, Thomas B., Jr.
Regula, Stanley J., Jr.
Reid, James A.
Reid, Robert G., Jr.
Reid, William K.
Reinauer, Robert M.
Renfree, Peter R.
Renfroe, John M., Jr.
Renuart, Robert F.
Resinger, Stanley R.
Reusche, Robert L., II
Rhine, Loran E.
Rhoades, Richard J.
Rhoades, William A.
Rhodes, George S.
Richards, Nicholas L.
Richards, Richard N.
Richards, Thomas R.
Ridenhour, Calvin B.
Riera, Robert E., Jr.
Rieth, Joseph C., Jr.
Rigler, Ross A.
Riley, David G.
Riley, Denis G.
Riley, Stephen E.
Rishel, Michael P.
Rist, Donald F.
Ritter, Robert B.
Ritzert, Bernard U., Jr.
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Roberts, Charles C., III
Roberts, Francis A.
Roberts, Gary R.
Robinson, William L.
Roe, John A.
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Roemer, John J., Jr.
Rogalski, William W., Jr.
Roggow, Ralph R.
Rohland, Thomas R.
Roosa, Roger K.
Rose, Carlos D.
Rose, David O.
Ross, Paul F.
Rossiter, William K.
Rotzler, Frederic
Rounds, Frederic N.
Rounds, Terrence W.
Roy, Michael G.
Rubano, Louis F.
Ruddock, David H.
Rufner, Richard K.
Rumney, Dion W.
Runde, James A.
Runstrom, Karl J.
Rurak, Zbigniew T.
Rush, Charles P.
Rush, James C.
Russell, Robert C., Jr.
Rutherford, David L.
Ryan, Douglas
Ryan, Franklin T.
Ryan, Larry W.
Ryan, Michael C.
Rudel, Ronald E.
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Sadler, George R.
Sadler, William H., III
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Saltzman, Marc P.
Sams, John L.
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Sanborn, Paul M.
Sanderson, Robert J.
Sanger, Paul R.
Santoro, Kenneth M.
Santos, Valentino
Sara, George S.
Saraniero, Michael A.
Satak, William R.
Sattler, Martin G.
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Saunders, Gerald J.
Saunders, Michael J.
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Scanlon, Charles C., II
Scanlon, Edward C., Jr
Schadegg, Lawrence M.
Schaefer, Charles A.
Schaefer, Edward M.
Schafer, Richard A.
Schardein, John M.
Scharnus, Robert M.
Scherf, Paul H., Jr.
Schiffelbian, Alexander L.
Schmidt, Karl F., Jr.
Schmidt, William B.
Schmitt, Michael K.
Schmitt, Paul F.
Schneider, Jeremy T.
Scholes, Norman F.
Schram, Robert T.
Schreck, William A., Jr.
Schroeder, Kurtis D.
Schroeder, Rodney C.
Schroeder, William III
Schultz, Douglas C., Jr.
Schwaebe, Michael J.
Schwarzenbach, William
Schweers, Kenneth A.
Schwier, Edward G.
Scofield, Roger L.
Scott, Donald M.
Scott, Gary H.
Scott, William B., Jr.
Scrapper, John C.
Scully, John J.
Searles, Richard A.
Sears, David L.
Secrest, James R.
Sedgley, Ronald M.
Sellman, Michael B.
Seltmann, Kenneth W.
Serafine, Gene C.
Serotta, Michael D.
Settle, Peter M.
Seymour, Hubert E., III
Seymour, James D.
Shafer, Kenneth W.
Shafer, Paul L.
Shaff, Terry E.
Shaffar, James L.
Shake, Douglas W.
Shannon, Frank X., III
Shauberger, James E.
Shaughnessy, Daniel
Shaver, Edward F.
Shaw, Robert L.
Shelby, Stephen L.
Sheldon, Michael M.
Shelton, Thomas L.
Shepherd, Douglas R.
Sheppard, George M.
Sherwood, Edward J.
Shields, Peter K.
Shinovich, John R., Jr.
Shirk, Gary H.
Shirley, Charles C., Jr.
Shirley, Edwin R.
Shonyo, Michael J.
Shumlas, Stephen S.
Shustak, Stanley A., Jr.
Shuster, Don B., Jr.
Sievert, Charles M., Jr.
Sigler, William F.
Silverman, George M.
Simmons, Eric C.
Simril, Robert T.
Siri, Francis M.
Sjostrom Nils A.
Skelton, David L.
Skinner, Jimmie D.
Skrief, John N.
Slaight, James B., IV
Slates, Terrence P.
Sloan, Patrick B.
Slocum, Winfield S. IV
Slonecker, Michael L.
Slover, William S.
Small, James M.
Small, Warren E.
Smart, Jonathan
Smith, Alan C.
Smith, Baker A.
Smith, Charles A.
Smith, Daniel E.
Smith, Dirk M.
Smith Gary L.
Smith, Gregory W.
Smith, James C., III
Smith, John H.
Smith, Judson L., Jr.
Smith, Michael S.
Smith, Michael J.
Smith, Michael T.
Smith, Peter M.
Smith, Peter B.
Smith, Robert W., Jr.
Smith, Roger W.
Smith, Roy C.
Smith, Samuel P.
Smith, Steven G.
Smith, Thomas H., Jr.
Smith Tracy R.
Sniffin, Edward M.
Snoddy, Donald E.
Snow, John D.
Snyder, Charles F., III
Snyder, Jack R.
Solberg, James L.
Solin, John J.
Songe, Robert A.
Souza, Philip E., III
Spahr, Bradley
Sparger, Jerry R.
Sparrow, William C., Jr.
Spath, Robert L.
Specht, Brian L.
Speer, James W.
Spelman, George C., Jr.
Sprague, Monroe A.
Sprigg, Robert G.
Spriggs, David A.
Springer, Gregory V.
Stallman, Robert M.
Stanfield, Wesley C.
Stanley, Timothy D.
Stansel, Michael J.
Stanton, Bruce W.
Stark, Donald R.
Stebbings, Stuart K.
Steffens, Thomas W.
Stenstrom, Frank E.
Stepien, John Z.
Stepp, Kenneth S.
Stertzbach, Kim
Steshko, William N., Jr.
Stevens, Guy M., Jr.
Stevens, Jack M., Jr.
Stevens, James D.
Stevens, Robert J.
Stewart, Gorden G.
Stewart, Robert E.
Stewart, Timothy L.
Stewart, William D., Jr.
Stieglitz, William H.
Stiff, Peter E.
Stockdale, John J.
Stockton, Jackson A., Jr.
Stoll, Ralph H.
Stone, Daniel
Stoss, Robert F.
Stout, William R.
Stow, Richard L.
St. Peter, Daniel J.
Strand, Michael G.
Strauss, John H.
Stroop, Patrick A.
Suberly, Roy H., Jr.
Such, Carliss R.
Suddeth, James H., Jr.
Sujdak, Edward J., Jr.
Sullivan, John D.
Sullivan, Larry M.
Sullivan, Patrick D.
Sullivan, Richard D.
Sullivan, Timothy J.
Sumner, Dallas B.
Surpless, Henry A.
Susong, Carl F.
Swain, Philip F.
Swain, Robert L.
Swanson, James E.
Swanson, Paul A.
Swanson, Perry W.
Swartling, David D.
Swedberg, Carl P.
Sweet, James F.
Swick, Paul D.
Swingle, Howard D.
Sykes, William G.
Szender, Stephen J.
Tait, William A.
Talmadge, Keith R.
Tankersley, Carl M.
Tate, Michael S.
Taylor, Jimmy B.
Taylor, Moses, Jr.
Taylor, Robert B.
Taylor, William H.
Teesdale, Walter M.
Tehan, Terrance N.
Tempel, Billie L.
Terrell, Lyndon T.
Terry, Joel R.
Terwilliger, George P.
Tevebaugh, Kenneth W., II
Teves, Arthur G.
Thacker, Vester I., Jr.
Thatcher, Roland C., III
Thomas, James W.
Thomas, Scott P.
Thomas, William C.
Thompson, Bruce E.
Thompson, Charles D.
Thompson, Robert E.
Thompson, Thomas L., Jr.
Thomson, Glenn D.
Thomson, Lawrence S.
Tierney, Denis C.
Tieszen, Dwayne A.

Tinsley, Steven G.
Tippett, Donald D.
Tipton, Benjamin W., III
Tipton, Charles F.
Titcomb, Edmund B., Jr.
Titunik, Steven E.
Todd, William T.
Todd, William L.
Tolhurst, Robert A., Jr.
Tomanelli, James R.
Tonden, Thomas P.
Toth, Barry D.
Tovrea, George W.
Tower, Dennis R.
Townsend, David A.
Townsend, John H.
Townsend, Lawrence W.
Townsend, Thomas G.
Trask, Gordon W., II
Tredway, Robert J.
Trever, James E.
Trimble, David C., Jr.
Troup, David P.
Truman, Daniel S.
Tsamtsis, Paul C.
Tschaepe, Kurt O. E.
Tubbs, Ace L., Jr.
Tuller, James A.
Tulley, James H., Jr.
Turner, Archie A., III
Turner, Douglas K.
Turner, Harry G.
Turner, John T., II
Turnipseed, James L., Jr.
Twogood, Frederick J.
Umbarger, Ray M.
Unhjem, Mark A.
Updike, Samuel D.
Urmston, John D., Jr.
Utegaard, Thomas E.
Valles, Claude
Valva, Vincent J., Jr.
VanBrunt, Tommy H.
VanBuskirk, Dennis J.
VanNostrand, Clark R.
VanSant, Andrew G.
VanVlack, Charles H.
VanVooren, William P.
VanWinkle, Julian T.
Vaughan, Steven A.
VeHorn, Roger P.
Veltman, Richard J.
Vernon, Carl W.
Verrengia, Thomas J.
Vetter, David G.
Vining, Raymond D.
Vizzini, Frank A., Jr.
Vogt, Gorge Y., Jr.
Vollaro, Richard G.
Vrbancic, Joseph B.
Waddell, John W.
Waite, Michael P.
Waitt, Edward J., Jr.
Waldmann, Daniel J.
Walker, Henry G.
Walker, William H., III
Walklet, Donn C.
Wall, Laurence L.
Wall, Richard F.
Wallace, Edward G.
Wallace, James Y., III
Wallace, John D.
Wallace, Michael J.
Wallfred, James G.
Walsh, Edward J., Jr.
Walsh, Nicolas E.
Walsh, Patrick S.
Walsh, Robert W.
Walt, Thomas D.
Walters, James M.
Walther, Frank O., III
Walton, Robert G.
Walton, Stewart W.
Wandishin, Thomas J.
Wanner, Terry S.
Ward, Glement H.
Ward, James G.
Ward, James C.
Warner, Mark A.
Warner, Thomas G.
Warren, David F.
Warren, Richard G.
Warrenfells, James C.
Watkins, John M.
Watrud, Timothy F.
Watson, James F.
Watson, John W.
Watson, Michael J.
Watson, Thomas R.
Watters, John F., Jr.
Webb, John R.
Webber, James F.
Weber, Donald J.
Weber, Robin Y.
Wein, Michael C.
Weir, Michael W.
Weisberg, Neal W.
Weiss, Douglas L.
Weller, Ronald E.
Welling, Ronald L.
Wellman, Albert L., III
Wells, Robert R.
Welsh, Patrick T.
Welsh, Rodney R.
Wenchel, George F.
Wendt, Alvin E.
Wenzell, Albert B., Jr.
Westerlund, Albert F., Jr.
Westray, Richard H.
Whaley, Glenn R.
Whall, David G.
Wharton, Thomas P., Jr.
Wheeler, William J.
Whitaker, Robert A.
Whitby, Alan J.
White, John S.
White, Nestor D.
Whiteway, Roger N.
Whitman, Marland H., Jr.
Whitney, David M.
Whitney, Gerald A.
Wienke, Charles R.
Wiessler, Joel M.
Wiggett, Scott G.
Wikle, Kenneth G.
Wilbricht, Thomas E.
Wilcox, Donald E., Jr.
Wildridge, George A., Jr.
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Wilkinson, Joe F., Jr.
Wilkinson, John F., Jr.
Willey, James F.
Williams, Harold A.
Williams, James S.
Williams, James T.
Williams, John F.
Williams, Thomas R.
Williams, Wallace B., Jr.
Willis, Russell L., Jr.
Williscroft, Robert G.
Willoughby, Hugh E.
Wilson, David P.
Wilson, Frank R.
Wilson, Freddie R.
Wilson, George M.
Wilson, James T.
Wilson, Jay R.
Wilson, John R.
Wilson, John W.
Wilson, Larry D.
Wilson, Robert L., Jr.
Wilson, Samuel E., III
Wilson, William R.
Wilt, Donald A.
Witchell, Donald L., Jr.
Windeguth, Richard B.
Winstead, Cecil J., Jr.
Winters, Douglas E.
Winters, Keith A.
Witowski, Gerald T.
Wojciechowski, Thomas J.
Wolf, George J., Jr.
Wolf, Richard A.
Wollaeger, David P.
Wood, William B., Jr.
Woodruff, Berryman E., III
Woods, John G.
Woodworth, Richard A.
Wooley, Millard J.
Woomer, Charles W., III
Worley, Cris A.
Worley, Michael J.
Wright, Myles E.
Wright, William E.
Wrobel, Richard A.
Wulf, Michael E.
Wyld, Thomas C.
Wyluda, Stanley L., Jr.
Yarborough, Don C.
Yarham, Larry P.
Yatras, Dennis A.
Yockel, Donald R.
Yoder, Richard L.
Yordan, Carlos M., Jr.
Young, Dan R.
Young, John R.
Young, Richard A.
Young, Terence K.
Young, William D.
Younker, Michael E.
Yoxtheimer, John D.
Yudes, Alfred E., Jr.
Zenner, Mark E.
Zerbian, David A.
Zinny, Glenn M.
Zinn, Dain R.
Zogby, Joseph A.
Zorbach, Gregory M.
Zuidema, Peter B.
Zukas, Anton G.
Zurinski, Donald J.
Akerman, Margo L.
Albers, Sandra L.
Anderson, Mary F.
Boynton, Johnnie M.
Bradley, Billie J.
Braswell, Kathleen C.
Brown, Cecilia M.
Bruton, Kathryn J.
Butler, Shannon R.
Carranza, Linda J.
Childers, Joan E.
Dehoff, Rachelle A.
Dersch, Lynnette R.
Dick, Kristen A.
Divizio, Janet M.
Dowd, Peggy R.
Dugan, Kathleen M.
Dustin, Deborah L.
Escott, Sharon L.
Fisher, Mary M.
Funkhouser, Lenore M.
Gailey, Patricia M.
Giefer, Carolyn S.
Godel, Patricia B.
Hagerman, Dianne M.
Hawkes, Nancy J.
Heaxt, Sandra E.
Herbst, Michael A.
Holloway, Kathleen G.
Jarosz, Elizabeth A. M.
Jenkins, Carol A.
Johnson, Faith E.
Johnson, Marsha A.
Johnson, Martha S.
Karr, Elizabeth M.
Katschke, Mary L.
Keers, Paula M.
Kennedy, Sandra K.
Kohlmeyer, Jean L.
Kuhlman, Jeanne E.
Lillo, Sandra S.
Lloyd, Connie L.
Lovejoy, Kandiss A.
Manning, Lorraine F.
Marzola, Antoniette
Matheson, Eleanor S.
May, Nola J.
McAnallen, Shirley J.
McCasland, Mary A.
McCulloch, Bonnie M.
McGalin, Janice G.
McGalin, Judith F.
Metcalf, Wendy J.
Mitchell, Sharon I.
Mohr, April D.
Moore, Marilyn J.
Moriarty, Ann J.
Morrison, Elizabeth L.
Morton, Janice C.
Moyher, Linda L.
Murray, Susan E.
Newill, Patricia E.
O'Malley, Margaret M.
Oskam, Margaretha I.
Perry, Earlyn F.
Peterson, Janet M.
Pinkney, Sandra L.
Quinn, Kathleen A.
Ratz, Trudi
Regan, Sandra J.
Reynolds, Sharon A.
Rifenberg, Louise E.
Roberts, Elaine N.
Rodes, Joann
Rosenthal, Nikki L.
Rudd, Pamela S.
Sanders, Jo A.
Schafer, Bernadette H.
Sedlak, Patricia F.
Sherfey, Faith L.
Shie, Barbara F.
Skalisky, Mary V.
Smith, Helen E.
Stagg, Frances L.
Stevens, Marjory M.
Stewart, Jane L.
Tate, Lynn D.
Tedrow, Kaye M.
Tesoriero, Rita
Theall, Pauline J.
Tuite, Patricia A.
Waller, Rosemary L.
Weber, Betty J.
Weishaar, Pamela J.
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Winters, Margaret L.
Wurmser, Caroline M.
Youngstrom, Judith J.
Ziegler, Catherine
Zuger, Margaret A.

SUPPLY CORPS

Aaronson, Brian D.
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Andrew, Michael R.
Anthony, Henry W., III
Asselin, Andre S.
Avery, James A.
Baker, Mark A.
Barnes, Benjamin L.
Barnes, Jerry D.
Basso, Joseph M.
Battle, Charles L.
Boyarski, John R.
Brent, Robert S.
Burke, Dennis P.
Burns, Granville W.
Byard, Robert D.
Byers, Terrance L.
Camp, David G.
Carbone, James, Jr.
Capenter, Francis W., Jr.
Carty, Arthur G., II
Caskey, Carl A.
Caspari, John A.
Chrisman, Calvin L.
Cobb, Francis R.
Colin, Dennis F.
Condon, John A.
Cumesty, Edward G.
Cummings, Donald L.
Deems, Nyal D.
Delhamer, James M., II
Dickey, Donald W.
Diller, Daniel H.
Eagan, Ewell E. T., Jr.
Edgemon, Jack L.
Elder, Jeffrey J.
Evans, James R.
Fagan, Lawrence J., Jr.
Fassnacht, David G.
Fitzpatrick, Philip A., III
Flick, Arthur B.
Gallarno, Richard
Gannon, Thomas C.
Garvin, James L.
Geary, Norcross D.
Gent, Carl D.
Gerber, Ronald N.
Giuliani, Francis L.
Gorman, Howard P., Jr.
Goss, Ardin F.
Gould, Jeffrey P.
Goulet, Gerard R.
Griffin, Roland L.
Griswold, Raymond B.
Haas, Robert T.
Haddon, Michael J.
Hall, Michael R.
Hall, Richard P.
Harris, Craig S.
Harris, John W.
Hartman, John M.
Hawxhurst, Jack M.
Hayward, Daniel S.
Heikkila, James L.
Hempson, Donald A., Jr.
Henderson, Roger H.
Hetherington, Jerry F.
Hirsch, Arthur F.
Horner, Lawson C., III
Howze, Gary W.
Hrabosky, Bryan, Jr.
Hudock, Steven A.
Ian, Michael J.
Ishman, Michael D.
Ison, George S.
Jacobson, Martin D.
Jaques, Jeffrey W.
Joyce, James J., Jr.
Kakesako, Edwin M.
Kelley, Kevin P.
Kiefer, Roy W.
Kirby, Kevin B.
Kirkland, Edward F.
Klima, Richard D.
Knight, Robert C., Jr.
Koehler, Louis F., III
Kramer, Keith S.
Lane, Alan L.
Law, Robert F.
Lennon, Michael P.
Leonard, Robert P.
Lieberman, Jay E.
Lindsey, Larry A.
Lippert, Keith W.
Loshbaugh, Richard A.
Maier, Paul V.
Martin, John W., II
Mason, Edward F.
McQueen, Thomas W.
McWherter, Marvin E.
Metz, Roger A.
Mizejewski, Charles J., Jr.
Monnin, William C.
Montgomery, John B.
Morrison, David T.
Murphy, Robert D.
Murray, William M.
Musser, William A.
Neely, Terry J.
O'Connor, William H.
Oshima, Alan M.
Parry, Dennis S.
Patrick, Wayne M.
Paul, Robert
Perry, Keith M.
Peterson, Philip A.
Pierce, Randall L.
Pugh, Harry M., Jr.
Pulliam, Stephen C.
Quandt, Norman A.
Quinn, Richard A.
Ramsey, Brenton L.
Randall, Richard P.
Rankin, John H.
Rech, James H.
Renard, Geoffrey K.
Rickards, John D.
Rieve, Roy C.
Roby, Jeffrey P.
Rogers, Robert W.
Ruth, Lloyd D., Jr.
Schoenfeld, John D.
Schreiner, Phillip W.
Sellers, Benjamin R.
Shubert, Tommy L.
Smonko, George M.
Solli, Richard E.
Spencer, Richard A.
Stein, John R.
Todd, Robert L.
Toft, Carl E.
Trainor, Michael B.
Twomey, Kevin M.
VanderSlice, Wayne J.
Walker, Wayne A.
Warner, Paul G.
Wathen, Theodore M.
Watson, Michael A.
Webster, Bruce D.
Weigle, John M.
White, Thomas M.
Williamson, William R.
Wilund, William P.
Woodward, George G., Jr.
Zychowski, Thaddeus F.

CIVIL ENGINEER CORPS

Allen, Charles E.
Ambridge, Robert R.
Ashman, David S.
Bane, Purvis W., Jr.
Braddock, Robert L., Jr.
Bussey, Dennis R.
Butler, Jerry B.
Collins, John P.
Congdon, Douglas E.
Corsano, Arthur
Duke, Jonathan B.
Erickson, Stephen F.
Fincher, Thomas O.
Francis, William P.
Hagedorn, Gregg D.
Holen, Douglas J.
Hong, Ik P.
House, Thomas F., Jr.
Hudson, Ronald R.
Johnson, James K.
Jukkola, Lloyd A.
Kaleba, Frank J.
Keibler, Gary A.
Larsen, Thomas A.
Leineweber, Michael J.
Lemke, Randall L.
McKay, Joseph E.
Meyer, Robert S.
Neibert, Jerry S.
Nichols, Thomas B.
O'Hearn, John P., Jr.
Olsen, Thomas G.
Pollard, Charles H., Jr.
Rushing, Ernest C., Jr.
Ryder, Alan G.
Schmidt, Roger J.

Seaman, Michael J.
Sherbak, Patrick M.
Siefke, Robert W.
Spencer, John E.
Strongoski, Larry C.
Tzavaras, George N.
Way, Charles T.
Wowak, William E.

MEDICAL SERVICE CORPS

Adams, Robert W.
Baker, Charles W.
Baltimore, Daniel L.
Gerhard, John C., III
Logan, Robert S.
Patee, Jerry C.
Petersen, Henrik V.
Petroski, Joseph W.
Phillips, Harold E.
Prodanovich, Milo J.
Rittmeyer, Terry L.
Sandall, Vernon P.
Stefanyshyn, Andrew A.
Wilson, Don D.

NURSE CORPS

Burns, Jesse P., Jr.
Cisneros, Thomasa L.
Parrotte, David F.
Poland, Edith A.
Reiter, Larry L.
Ryder, Dorothy V.
Sant, Jeanne P.
Wright, Joe A.

Lt. Com. Wayne O. Buck, Medical Corps, U.S. Naval Reserve, for temporary promotion to the grade of commander in the Medical Corps, subject to qualification therefor as provided by law.

Lt. Thomas G. Cook, Medical Corps, U.S. Navy, for temporary promotion to the grade of lieutenant commander in the Medical Corps, subject to qualification therefor as provided by law.

Lt. Jeffery P. Allen, Dental Corps, United States Navy, for temporary promotion to the grade of lieutenant commander in the Dental Corps, subject to qualification therefor as provided by law.

Lt. (junior grade) Jerome L. Arbiter, U.S. Navy, for temporary promotion to the grade of lieutenant, subject to qualification therefor as provided by law.

Lt. (junior grade) Leroy E. Hays, U.S. Navy, for temporary promotion to the grade of lieutenant, subject to qualification therefor as provided by law.

Lt. (junior grade) Ronald K. Kennedy, Civil Engineer Corps, U.S. Navy, for permanent promotion to the grade of lieutenant (junior grade) in the Civil Engineer Corps, subject to qualification therefor as provided by law.

The following-named officers for permanent promotion to the grade of lieutenant (junior grade) in the U.S. Navy, subject to qualification therefor as provided by law:

Arnold, John S.
Bardsley, George P.
Bertsch, Roger B.
Bielicki, Dennis J.
Cutler, Thomas J.
Dailey, Eleanor C.
Downing, Gayle M.
Doyle, Edith E.
Dunn, Sharon L.
Grove, Dale M.
Hanna, Norman W., III
Henley, Sally S.
Jenks, Frank W., III
Moczygemba, Elaine D.
Pompey, Charles S.
Ricarte, Heloise B.
Rodes, George T.
Schwoerer, Barry F.
Sherrange, Daniel T.
Tolini, Dorothy A.
Wayman, Charles L.
Weber, Sandra L.

Lt. Comdr. Charles R. Burke, U.S. Navy, for transfer to and appointment in the Judge Advocate General's Corps of the Navy in the permanent grade of lieutenant and the temporary grade of lieutenant commander.

Lt. Comdr. Ronald E. Erchul, U.S. Navy, for transfer to and appointment in the Civil Engineer Corps of the Navy in the permanent grade of lieutenant and the temporary grade of lieutenant commander.

The following-named officers of the U.S. Navy for transfer to and appointment in the Judge Advocate General's Corps of the Navy in the permanent grade of lieutenant (junior grade) and the temporary grade of lieutenant:

Barr, Philip C.
Keithly, Roger M., Jr.
Neuman, Kermit W., Jr.
Reeber, Christopher J.
Wells, George L.
Wylie, Thomas L.

The following-named officers of the U.S. Navy for transfer to and appointment in the Supply Corps of the Navy in the permanent grade of lieutenant (junior grade) and the temporary grade of lieutenant:

Herbst, Howard P.
Hoffman, Joel J.
Martini, Larry S.
Utter, James H.

The following-named officers of the U.S. Navy for transfer to and appointment in the Supply Corps of the Navy in the permanent grade of ensign:

Basilio, Anthony C., Jr.
Bennett, Robert D.
Bohannon, Donald C.
Bohm, Dwight K.
Cochran, Charles T.
Hastings, Richard G., III
Havey, Patrick J.
Jenkins, Walter W.
Kawakami, Clarke K.
Ketts, Robert L.
Klingelberger, Carl E.
Madge, Norman W.
Merrell, Thomas O.
Pearce, John F., III
Smith, Kerry J.
Spratlen, Nicholas L.
Tempesta, Edward C.
Wilson, Paul A.
Younker, Michael E.
Zurinski, Donald J.

Lt. Lowell R. Norris, U.S. Navy, for transfer to and appointment in the Civil Engineer Corps of the Navy in the permanent grade of lieutenant (junior grade) and the temporary grade of lieutenant.

The following-named officers of the U.S. Navy for transfer to and appointment in the Civil Engineer Corps in the permanent grade of ensign:

Borowski, Casimir J., Jr.
Bruckner, William L., Jr.
Johnson, Michael R.
Mink, Charles E.
Molineaux, Ian J.
Shepard, David B.

The following-named officers for temporary promotion to the grade of lieutenant in the Supply Corps of the Navy, subject to qualification therefor as provided by law:

Basilio, Anthony C., Jr.
Bennett, Robert D.
Bohn, Dwight K.
Ketts, Robert L.
Younker, Michael E.
Zurinski, Donald J.

The following-named officers for temporary promotion to the grade of lieutenant (junior grade) in the line and staff corps of the Navy, as indicated, subject to qualification therefor as provided by law:

LINE

Ahlers, Norbert A.
Akins, Olen C.
Anderson, "J" Quinton
Arion, Ellsworth E.
Ashworth, Robert A.
Aversano, Anthony J.
Bailey, Defort
Baldwin, Robert L.
Barclay, Ray F., Jr.
Barker, Harvey W.
Bartholomew, David L.
Bartke, Harold L.
Benning, Vale J.
Billick, Dan R.
Binion, John I., Jr.
Black, James D.
Blanchard, Gary F.
Bobo, Billy J.
Bobo, Harold
Bobo, Jerry L.
Boon, John E.
Borgmann, Frederick W.
Boyle, David J.
Braswell, Wallace E.
Brattain, Herbert K.
Brooks, Edgar T.
Brown, Richard A.
Brown, Robert E.
Carey, John D.
Caton, Robert N.
Chitwood, Orvis H., Jr.
Clabaugh, Ronald S.
Cloutier, Lawrence P., Jr.
Crain, Robert L., Jr.
Crowder, James D.
Cudia, David T.
Daniel, Jess M.
Deinhardt, John J.
DeKart, Donald F.
Delancey, James D.
Delanty, Donald J.
Deutsch, Joseph K.
Doehring, Robert F.
Donnellan, David F.
Dougherty, Thomas J.
Drier, Melvin F.
Driscoll, Richard F.
Driver, John E.
Edwards, Bernard D.
Edwards, Raymond L.
Emswiler, Robert B.
Enevoldsen, Jack
Eney, Neilson E., Jr.
Etten, Gary A.
Fetter, Norman L.
Fisher, Glen A.
Foss, Harry C., Jr.
Fridell, Robert A.
Fuller, Emil A.
Gates, Richard W.
Gepford, Richard D.
Germany, Charles J.
Goerg, Frederick C.
Gordon, Harold L.
Goss, Marlin E.
Graff, Clinton G., Jr.
Grimes, David A.
Haffner, Guy A.
Hagensick, John R.
Hale, Douglas A.
Hall, Richard W.
Haller, Bernard J.
Hambley, James G.
Harris, Thomas E.
Harry Robert M.
Haupt, Lloyd
Havenstein, Gene L.
Held, Rene
Heuchert, Richard H.
Hill, Robert W.
Hine, Jerry G.
Hobbs, Hurshel B., Jr.
Hollon, Maurice C.
Horsfall, William E.
Howard, Donald R.
Howard, James E., Jr.
Hoyt, William H.
Huffman, Karl H.
Husted, George G.
Irby, Eldon E.
Jackson, Robert B.
James, Bobby C.
Jensen, Gordon M.
John, Paul M.
Johnson, Thomas S., Jr.
Johnston, Darrell E.
Johnston, James E.
Johnston, Wilford P.
Jordan, Boykin B.
Kellum, William C., Jr.
Kenyon, Larry L.
Lawrence, James R.
Lechtenberg, Richard C.
Lentz, Joe B.
Lighthart, Lloyd W.
Locke, Gary W.
Long, Homer R.
Lopez, Clyde C.
Loranger, Richard G.
Lormor, Eugene H.
Lovejoy, Jay E.
Lowe, Walter R.
Lucero, Seferino
Lyon, Scott R.
Majchrowicz, Edward J.
Malone, Robert G.
Markle, Donald F.
Marsh, Robert D.
Marshall, Leo R.
Massetti, Ennio
Mathews, Carl L.
McCleer, James L.
McElroy, Fred C.
McGuire, David N.
Michielson, Dennis C.
Miller, Paul H.
Miller, Roy A.
Milligan, Donald R.
Mitchell, Elmer R.
Nassar, Albert N.
Nechvatal, Charles J.
Neste, Carl A.
New, Melvin R.
Nichols, Paul M.
Oehler, James C.
Olsen, Fredrick L.
Olson, John T., Jr.
Page, Alfred L.
Parsons, James F.
Partesius, John C.
Pelletier, Ronald W.
Pohl, Matthew J.
Popikas, Charles F.
Rakfeldt, Harry O.
Rand, Verl A.
Rawls, Robert S.
Reed, Frank G.
Reinoehl, Phillip W.
Richardson, Billy E.
Robertson, Bernard L., III
Rodgers, Carl T.
Rogge, John A.
Ross, Albert J., Jr.
Rudden, Francis A.
Ruth, Herbert M.
Salter, Jesse E.
Schaffer, Lawrence C., Jr.
Scheierman, Robert L.
Scheine, Murray
Scherzer, James D.
Schmidt, Curtis J.
Shaul, Michael C.
Skipper, John W.
Smith, Herbert M.
Smith, Kenneth D.
Smith, Kenton L.
Snyder, Ralph O.
Sparks, Howard F.
Spear, Earl J.
Spears, Tommie E.
Speh, Warren G.
Sronce, Frank T.
Stanek, David M.
Stewart, Lowell T.
Stiffler, James W.
Strickland, Leroy H.
Strong, Franklin E.
Stuck, James R.
Swanson, Raymond P.
Talbot, Ronald E.
Tanner, William E.
Tarter, Arlan G.
Terry, Robert J.
Thomason, William R.
Thompson, Robert M.
Tibbs, John W.
Treadway, Alton G.
Tudor, Tommy N.
Tuttle, Donald E.
Uptegrove, Edwin W.
VanHee, Richard C.
VanHoose, Ronald
Vettese, Anthony
Vick, Don A.
VilleMaire, Albert J.
Vsetecka, Leonard J.
Wade, Johnny B.
Walker, Arthur T.
Walter, Fredrick S.
Watson, Donald R., Jr.
Weaver, Sterrie L., Jr.
Welch, Leslie C., Jr.
Wenter, Gary E.
Wertz, Bruce N.
Whalen, Regis E.
Will, George F.
Wood, Ronal D.
Woods, Gerald B.
Wyatt, Thomas V.
Zoglmann, Paul S.

SUPPLY CORPS

Black, James L.
Bothe, James J.
Burbridge, Robert L.
Coats, Daniel M.
Cormier, Edward N., Jr.
Cubbedge. Carlon E.
Dowell, Billy R.
Farlow, Roger K.
Flahiff, Daniel E.
Loney, James E.
Lowdermilk, Richard F.
Pearrell, Larry W.
Ritzel, Charles J.
Siemers, Uwe
White, John P.

CIVIL ENGINEER CORPS

Becker, Raymond H.
Headrick, Jay C.
Hisey, Howard A.
Martin, Norman R.
Schraud, Henry F.

MEDICAL SERVICE CORPS

Arnold, Anthony R.
Berkley, Roy L.
Criscitiello, Joseph J.
Donohue, Edwin A.
Dumais, Gary W.
Dunaway, Floyd J.
Enright, Charles A.
Ferda, Robert
Hanrahan, James E.
Hardy, Frederick C.
Hora, Charles D.
Kraft, John E.
Marolf, Walter K.
Mitchell, Michael L.
Mumford, William M.
Surratt, Colonel O.
Terry, Lynn M.
Williams, Ralph T.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 27 (legislative day of April 25), 1972:

DEPARTMENT OF STATE

Curtis W. Tarr, of Virginia, to be Under Secretary of State for Coordinating Security Assistance Programs.

Joseph S. Farland, of West Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Iran.

Martin J. Hillenbrand, of Illinois, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Jarold A. Kieffer, of Minnesota, to be an Assistant Administrator of the Agency for International Development.

EXTENSIONS OF REMARKS

THE 25TH ANNUAL DELMARVA CHICKEN FESTIVAL OPENS TODAY

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Thursday, April 27, 1972

Mr. BOGGS. Mr. President, the chicken industry today opens the festivities associated with the 25th annual Delmarva Chicken Festival.

This event annually focuses on Delmarva the interest of everyone who recognizes the importance the chicken industry has for the economy and the dinner table of all Americans.

The commercial broiler-fryer industry was begun nearly 50 years ago near Ocean View, Del. In recognition of this important fact, the first annual Delmarva Chicken Festival was organized in 1948.

Since that time, the Delmarva Chicken Festival has become an institution in the chicken business. It helps to demonstrate what a wholesome and inexpensive meal broiler and fryer chickens provide.

I would like to tell my colleagues something about the importance of the chicken industry to the economy of Delaware and our neighboring States on the Delmarva Peninsula, which is the center of the Nation's broiler industry.

Sussex County, Del., the place where the industry was founded, remains today the leading broiler county in the Nation.

Broiler chickens account for over half of Delaware's farm income. Including the value of corn and soybeans used as broiler feed, the business of raising broilers accounts for 70 percent of Delaware's farm income.

Throughout the peninsula, this means regular employment for over 10,000 persons and an annual value in chicken processed exceeding $250 million.

During the festival, which ends Saturday, thousands of people will visit the festival site at Dover, the picturesque capital of Delaware. They will participate in the Delmarva Chicken Cooking Contest, witness and enjoy such festival events as the Delaware Arabian Horse Association Show, the Delmarva Poultry Princess Pageants, and the Festive Parade.

But most of all, the visitors will be there to enjoy the taste of some of the best chicken cooked anywhere.

Mr. President, I wish to reiterate my congratulations to the Delmarva Poultry Industry, Inc., which sponsors the Delmarva Chicken Festival, and to express my belief that it will be the most successful festival on record.

Mr. President, the Wilmington Morning News yesterday carried several interesting articles about various activities that will take place during the Delmarva Chicken Festival. I ask unanimous consent that these articles be printed in the Extensions of Remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

FOR COTTON PICKIN' FINGER LICKIN' CHICKEN PLUCKERS, AND ANYONE ELSE

Sixty Delmarva home cooks will ready at the ranges on Saturday for the big Chicken Cooking Contest at Dover Downs.

All the semi-finalists in the cook-off come from Delaware, Maryland and Virginia. One person from each state will be chosen as the finalist to represent his state in the National Chicken Cooking Contest to be held in Birmingham, Ala., next month.

The first shift of chefs goes into action at 9 Saturday morning, the second at 12 noon. First-place winners each will receive $300, a set of cookware, spice rack with spices and a round-trip fare to Birmingham.

But while the contest is what it's really all about, the festival starts tomorrow and runs through Sunday. Festival-goers can have a heap of chicken from 10-foot fry pan manned by the Kiwanis Club of Dover. They can attend the Chamber of Commerce Home, Trade and Sports Show. Local firms as well as exhibitors from Baltimore, Philadelphia and New York will occupy 106 booths.

The Little League will raffle off a car. Even the politicians in this election year have taken spaces. Outside, boats and trailers will be featured. Some booths will sell merchandise, others simply show their wares or services.

Bargain hunters and antique collectors will have a chance to flock to the Flea Market for curios, and a look at one of the largest coin collections on the Eastern Shore. And there will be white elephant items as well as fine antiques, all under roof in the paddock area.

An Arabian horse show, appearances by country music stars Loretta Lynn and Conway Twitty, an antique car show and concerts by the Dover High School Band will offer almost constant diversion to the public.

Also, highlighting the Festival will be the choosing of the 1972 Delmarva Poultry Princess and the Little Poultry Princess on Friday night at 7:30. Judged on the basis of poise, personality, appearance and talent, the winning teenager will receive a $1,000 scholarship, a $500 scholarship, a $300 wardrobe and an engraved trophy.

"I'm certain this will be one of the largest Festivals ever," says Chairman Fred Phillips, mayor of Camden.

It looks as though it will be one of the busiest, too. One festival official guesses that 75,000 to 100,000 will attend the big doings in Dover. He's grateful for that outsize parking lot at Dover Downs.

MORE THAN ONE CHICK WILL LINE UP IN DOVER FRIDAY

A month ago, 21 teenagers plus 15 preschoolers and their parents met with Mrs. Vivienne Henrichson at Dover Downs.

Subject: The choosing of a 1972 Delmarva Poultry Princess.

The Princess Pageant will be held Friday night at 7:30 on a 40-foot stage right over clubhouse seats. But on this first day, rules, regulations, housing for the girls and general information were being dispensed.

After endless conditions and requirements were laid before the group, Mrs. Henrichson who is directing the pageant asked for questions. Silence. Not a hand or a voice was raised.

But after a long time, a 5-year-old broke the wall of quiet.

"Can I bring along my Easter candy?"

Those are the kinds of things that brighten a pageant director's life. Mrs. Henrichson says that the whole community is very involved in this year's festival. "Everything has been donated—the stage, the labor. The Air Base is supplying sound equipment, flowers are being given.

"The night before we're having a reception for all the girls at the Dinner Bell. After that they go to their host homes, three or four girls to a home."

Judging will be based on poise, personality, appearance and talent. About the last, Mrs. Henrichson says the girls are doing everything from an imitation of Lily Tomlin to the brave contestant who will make and model a garment right there before your eyes.

The Poultry Princess (senior) will be selected from the following entrants:

Miss Canterbury, Barbara Lynn Blackman; Miss Chincoteague, Heather Elizabeth Young; Miss Claiborne, Evelyn M. Reilly; Miss Dover, Michelle Stephanie Atchison; Miss Easton, Denise McKinsley Killmon; Miss Federalsburg, Janet Patchett; Miss Georgetown, Debra Lynn James; Miss Harrington, Joan Mason; Miss Laurel, Sandra Bowie; Miss McDaniel, Bonnie Lynn Mason; Miss Newcomb, Julie Hanks.

Miss Onancock, Karen Faye Colonna; Miss Oxford, Jean T. Martin; Miss Pocomoke, Ellen Corbin; Miss Princess Anne, Karen Frances Nelson; Miss Rio Vista, Renee Porter; Miss Royal Oak, Jasmine Mehrizi; Miss St. Michaels, Debra Jean Morse; Miss Salisbury, Beverly Robertson; Miss Seaford, Jeanne Marie O'Donnell; and, Miss Smyrna, Belinda Bridgeman.

The winning girl will receive a $1,000 scholarship for education of her choice beyond high school; a $500 scholarship for use at Wesley College Dover, Del; a $300 wardrobe; and an engraved trophy. First runner-up will receive a $500 scholarship or $250 in cash.

Miss Congeniality will be chosen by contestant vote and will receive a $200 U.S. Savings Bond and an engraved trophy.

On Saturday, April 29th, at 1:00 p.m., 15 four and five-year-olds will vie for the title of 1972 Little Delmarva Poultry Princess. The new princess will receive a $200 savings bond and an engraved trophy.

Tickets will be on sale at the Festival Information booth at Dover Downs Raceway and The Chamber of Commerce prior to the pageants. Admission is $1.000, with children under 12 years admitted free.

You'll know you're in the right place if you see a five-year-old with an Easter basket.

NOW DOWN TO BUSINESS

They come from Maryland. They come from Virginia. And they come from all over Delaware.

The 60 semi-finalists convene Saturday at Dover Downs for the big Delmarva Chicken Contest. Their recipes have been winnowed out of hundreds submitted from the area, and on Saturday each entrant will cook his chicken and be judged.

Last year's national winners were nugets, hors d'oeuvres, and a salad with orange overtones, unusual since most years the big money goes to main dish chicken delights. Perhaps this year, one of the following entrants will keep the honors in Delaware:

From Bridgeville: Mrs. Ruth Russel; Cheswold: Mrs. Mary Chippie; Dover: Mrs. Lester Blades; Georgetown: Mrs. Harold Jones, Mrs. William Jones and Mrs. Mabel Lambden; Hartly: Josef Lefner, Harrington: Mrs. William Walls; Lewes: Mrs. James Pfeiffer; Milford: Mrs. Charles French and Jay Sullivan; New Castle: Mrs. Jeanne Scott; Wilmington: R. Holley, Mrs. Frances Matuszewski, Remo Moffa, Mrs. Edward Callaway, Mrs. John Farace, Mrs. Charles Gailliot and Millard Zeisberg; and Wyoming: Mrs. Walter Ott.

The regional contest is sponsored by the Delmarva Poultry Industry Inc.

PROJECT SANGUINE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. ASPIN. Mr. Speaker, as many of my colleagues may know, the Navy recently issued a final environmental impact statement on the research and development aspects of Project Sanguine. It is my opinion, Mr. Speaker, that this environmental impact statement is elusive, vague, and terribly incomplete. On the whole, it is just one big whitewash.

After studying the impact statement carefully, I am convinced that the Navy has never seriously attempted to answer objections by scientists and Government agencies such as the Forest Service and the Corps of Engineers.

In order to be more specific, Mr. Speaker, let me cite several examples in which the Navy's impact statement fails to answer the criticism offered by many individuals and governmental agencies.

In its response to the original draft environmental impact statement the Forest Service observed that the electrical waves submitted by Project Sanguine might accumulate along with electrical energy generated by power system telephone lines and electrical appliances and result in environmental damage.

The Navy does not refute the objection offered by the Forest Service. Instead the Navy slides over the problem by saying:

> We are unaware of any information that these fields may add, subtract, or otherwise mix in biological material.

Both the Army Corps of Engineers and the Forest Service express concern about the validity of research in Project Sanguine because the experiments were conducted on aboveground antennas rather than the buried inflated wires planned for Project Sanguine.

The Navy's only reply is that "no rationale is given." The Navy never clearly attempts to explain why research with aboveground antennas is valid for buried electrical systems such as Project Sanguine.

The Environmental Protection Agency in its comments on the draft environmental impact statement indicates that the Navy should calculate the total cost of preventing interference with electrical systems caused by Project Sanguine. The Navy fails to make such an estimate.

In addition, the Navy's environmental impact statement never comments on scientific papers prepared by scientists Dr. Alwyn Scott and Dr. Michael McClintock, of the University of Wisconsin, which dispute the technical feasibility of Project Sanguine.

The Navy has not published its studies which it claims demonstrate the technical feasibility of Project Sanguine. All of the Navy's studies should be published so that independent scientists can evaluate the validity of the Navy's research. I am sure that the Navy agrees that only the most open and frank discussion of the technical feasibility of Project Sanguine will erase the doubts in the public's mind and within the scientific community about this project.

In conclusion, Mr. Speaker, I must say that despite the Navy's lengthy impact statement there are too many unanswered questions about the environmental effects and technical feasibility of Project Sanguine to permit further funding of the project. All funding, except for the continuation of environmental studies, on Project Sanguine should be halted.

A NEW HONOR FOR CONGRESSMAN CHARLES BENNETT

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. CHAPPELL. Mr. Speaker, occasionally one of our colleagues is honored in such a way that we like to share his happy achievements with all the Members of the Congress, a well as his good friends in his district. I speak of Congressman CHARLIE BENNETT who has just been awarded an honorary doctor of laws degree by Jacksonville University.

By way of emphasizing the high esteem in which CHARLIE BENNETT is held, I would like to quote the citation he received:

> Charles Edward Bennett, United States Congressman from Florida for the past twenty-three years, is one of Jacksonville's most distinguished and effective humanitarians, scholars, and public servants.
>
> Mr. Bennett's success in weathering the storms of politics was perhaps presaged by his birth in Canton, New York, in a weather station which has now become a student building on the campus of St. Lawrence University. In 1913 the Bennett family moved to Tampa, where the father encouraged his son in his studies and stimulated what has become a life-long interest in the law, politics, and public service. In 1930 the family moved to Jacksonville where the Congressman's father served as chief meteorologist until his retirement.
>
> Charles Bennett attended the University of Florida, where he planned and worked for the development of a Student Union building and finally broke the ground for it in 1933. He was president of the student body as well as editor of The Alligator, a student newspaper then rated as "best in the country." He received the degrees of Bachelor of Arts and Juris Doctor in 1934, was that same year admitted to the Florida Bar. He practiced law in Jacksonville, and served as a member of the Florida House of Representatives in 1941.
>
> Enlisting in the United States Army in March 1942, Mr. Bennett served for almost five years in the Infantry, advancing to the rank of captain. He participated in combat operations in New Guinea and in the Philippines and was awarded the Silver Star, the Bronze Star, the Combat Infantry Badge, and the Philippine Legion of Honor. He was elected into the Infantry Hall of Fame at the Fort Benning Officer Candidate School in 1950.
>
> Mr. Bennett has received many citations for outstanding leadership and service. He was twice awarded certificates by the Freedoms Foundation "for outstanding achievement in bringing about a better understanding of the American way of life." He received the Good Government award in 1952 from the Jacksonville and United States Junior Chamber of Commerce. For his outstanding work in aid on behalf of the handicapped, he was awarded a Distinguished Service award by the President's Committee on Employment of the Handicapped.
>
> Mr. Bennet was elected to the United States House of Representatives in 1948 and has answered all roll call votes for the last twenty-one years, a record unequaled in the 183-year history of the United States Congress. An outstanding legislator, Mr. Bennett has been a leader in forging higher ethical standards of members of the House of Representatives and other elected officials; he has sponsored reforms in the system of military justice; he was author of the legislation which made "In God We Trust" the Nation's official motto in 1954, and he launched the State Department's "People to People" program in 1957. He was co-sponsor of the landmark conservation measures of the 1960's—the Wilderness Act and the Land and Water Conservation Act. He has served on the Armed Services Committee for many years and is keenly interested in national security.
>
> Mr. Bennett's interest in scholarship and higher education goes back to the earliest years of Jacksonville University's existence. When this institution was still known as Porter University, young lawyer Bennett taught a night law course. At a later time he was a member of the University Council, an advisory board to Jacksonville University. He has long been a devoted friend and supporter of Jacksonville University, which gave him its first Distinguished Service Award in 1957. He has also served as friend, counselor, and trustee of other institutions of higher learning. He is the author of three works of history: *Laudonniere and Fort Caroline*, 1964; *Settlement of Florida*, 1968; and *Southernmost Battlefields of the Revolution*, 1970. He is co-author of *Congress and Conscience*, 1970.
>
> We salute Congressman Bennett for his many contributions to the enrichment of this community, and wish him many more years of accomplishment.
>
> Therefore, Jacksonville University, by unanimous action of the Board of Trustees on 24 June 1971, does hereby bestow upon Charles Edward Bennett, the degree of Doctor of Laws honoris causa.

Mr. Speaker, I know all our colleagues will join with me in congratulating CHARLIE BENNETT on this great honor.

AT WELFARE, IT WAS JUST A MATTER OF GENEALOGY

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 27, 1972

Mr. HARRY F. BYRD, JR. Mr. President, the April 21 edition of the Washington Evening Star included an article describing how a mother of two in the District of Columbia collected nearly $4,000 in welfare funds although she had given her children away 5 years before she began collecting the payments.

This is yet another in a long series of disclosures of successful frauds against our welfare system. Officials of the Department of Health, Education, and Welfare have themselves estimated that if all errors in welfare payments could be corrected, there might be a net savings to the U.S. taxpayer of about $500 million per year. Clearly, the administration of the present welfare system needs to be tightened.

Furthermore, the inability to control welfare payments properly under the present system should be carefully considered by the Senate before it approves the administration's proposal for a vastly expanded system, which certainly would be more difficult to administer.

I ask unanimous consent that the article, "At Welfare, It Was Just a Matter of Genealogy," be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AT WELFARE, IT WAS JUST A MATTER OF GENEALOGY

(By Thomas Crosby)

A District mother of two collected nearly $4,000 in welfare funds in 1970 and 1971 to help care for her children even though she gave them away in 1965 to a woman she had never seen before.

The woman who took in the children cared for them as if they were her own, according to welfare investigators, but she was denied welfare assistance because she was not related by blood to the children, now aged 8 and 9.

The bizarre story came to light last week when Alice B. Smith, 27, of the 3400 block of 14th Street NW, pleaded guilty in Superior Court to one count of welfare fraud.

According to court records and interviews with people close to the case this is what happened:

A Northeast woman, 30-year-old and unmarried, was told by a friend of a woman who had two children, but no place to stay.

The Northeast woman expressed a love for children and a desire to have some of her own. A couple of days later, Miss Smith, who was 20 at the time, arranged a meeting.

On a Sunday morning in July, 1965, Miss Smith gave her two children, Evelyn, 2½, and Jarrell Edward, 1½, to the Northeast woman at the corner of 9th and O Street NW. Miss Smith has never seen the children since.

The Northeast woman became the children's foster mother and recalled the moment when she first saw them: "They had no clothes and they looked something bad. They were nasty dirty. There was mud caked all over them."

But she loved the children and cared for them by herself until 1969 when she married a cab driver with a heart condition and who could work only part time.

Then in May 1970, she was hospitalized with a heart condition and shortly afterward applied to the District's welfare department for assistance.

Welfare investigators decided she was providing a good home and on Dec. 3, 1970, Miss Elma H. Aston, chief of the welfare department's intake and study section, recommended that the family be given financial assistance.

But the family instead was notified by letter that they could receive no welfare funds because the foster mother was in no way related to the children.

Meanwhile, Miss Smith applied in January 1970 for welfare assistance and began receiving payments the following March. No checks on her home were made by investigators and the payments continued through October 1971.

She collected $3,944.77 in fraudulent welfare payments and was finally discovered when she was included in a random check of welfare recipients. She now faces a maximum sentence of one year in jail and a $500 fine.

The foster mother, who said she has never told the children or neighbors that she is not the real mother, applied again for welfare aid a month ago when someone told her that welfare regulations had been eased.

The mother, who officially plans to adopt the children when they get older, said she doesn't know what is going to happen, but added, "I feel like the Lord will bless me. If they don't give it (assistance) to me, I'm just not going to worry about it."

OSHA'S BIRTHDAY

HON. JOHN DELLENBACK

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. DELLENBACK. Mr. Speaker, the Occupational Safety and Health Administration, which observed its first anniversary on April 28, has initiated two high-priority inspection programs that are zeroing in on health and safety conditions that particularly jeopardize the American worker.

These are what OSHA calls its target industry program and target health hazards program.

Five target industries were selected on a "worst-first" basis because they have injury frequency rates at least double the national average of 15.2 per million employee-hours worked. They employ more than 1.5 million persons.

These industries are longshoring, roofing and sheet metal work, meat and meat products, lumber and wood products, and miscellaneous transportation equipment such as the manufacturers of mobile homes, campers, and snowmobiles. Virtually all establishments in these industries will be inspected this fiscal year.

OSHA has developed the same "target" approach for health hazards, which are the basis for 60 percent of employee complaints. The agency is focusing on five of the worst hazards—asbestos, lead, silica, carbon monoxide, and cotton dust.

Health hazards are due for increased emphasis during fiscal year 1973 because there are now more than 8,000 toxic substances, and more are being introduced into workplaces each month.

While progress is being made, the task of achieving working places free from safety and health hazards is a formidable and continuing effort.

Standards exist for only about 500 of the 8,000 substances, and a number of them are outdated. So the task ahead in revising the existing standards and developing new ones is enormous. OSHA and its sister agency, the National Institute for Occupational Safety and Health, which develops criteria for toxic substance standards, face a formidable job.

ARTHUR VAN BUSKIRK PASSES AWAY

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. MOORHEAD. Mr. Speaker, the verve, energy, and civic drive which characterized the resurrection of Pittsburgh ebbed somewhat last week when Arthur Van Buskirk died.

One of the leaders of the Pittsburgh Renaissance, which saw factories and railroad yards replaced by parks and skyscrapers and smoke and pollution dealt mighty blows, Arthur Van Buskirk, teamed with David L. Lawrence and Richard K. Mellon to help make Pittsburgh the dynamic city it is today.

As chairman of the Park Committee of the Allegheny Conference on Community Development, Van Buskirk was responsible for the beautiful Point State Park which is the heart of Pittsburgh's Golden Triangle.

At this point, I would like to include in the RECORD an editorial which appeared last week in the Pittsburgh Post-Gazette telling of the contributions to Pittsburgh of Arthur Van Buskirk.

He was a rare and talented individual, a leader, and his friends and his city have indeed suffered in his death.

The editorial follows:

ARTHUR VAN BUSKIRK

It was an ironic coincidence that on the day that Arthur Van Buskirk died came word that the State had put up the additional funds for completion of Point State Park, for which he perhaps more than any other individual deserves the credit.

From 1946 until his resignation last year, Mr. Van Buskirk was chairman of the Point Park Committee of the Allegheny Conference on Community Development. That committee planned the park and expedited its development from its inception. It will be a beautiful and enduring monument to the chairman's civic patriotism.

Mr. Van Buskirk, along with the late Richard K. Mellon and David L. Lawrence, was a member of the civic-political triumvirate most responsible for this city's postwar renewal. He ably represented the Mellon interests in their civic undertakings.

In addition to his work on the park, Mr. Buskirk was also a member of the group that went to New York and persuaded the Equitable Life Assurance Society to develop Gateway Center adjacent to the park. He was also a long-time leader in the work of the Urban Redevelopment Authority, among other civic pursuits.

It is a pity that Mr. Van Buskirk did not live to see completion of Point State Park, where work had to await for many years completion of other projects such as bridge removal and highway construction. He did, however, see the realization of many other improvements in which he played an active role and which made this city famous for urban renewal.

Mr. Van Buskirk's passing severs another link with this city's progressive recent past. The giants of the "renaissance" are gone. How are they to be replaced? A revival of their vision and public-spiritedness among those left in positions of trust and responsibility would be the best and most appropriate tribute to their memories.

SENATE—*Friday, April 28, 1972*

The Senate met at 9:45 a.m., and was called to order by Hon. Frank E. Moss, a Senator from the State of Utah.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God our help in ages past, our hope for years to come, be with Thy servants here in this perilous age to support and guide them. Sharpen their minds, warm their hearts, kindle their patriotism, and increase their devotion to Thee. Be with them in solitary moments as well as in times of public action. Give them an enduring resolution to serve truth and justice. Work through them Thy purposes for this Nation and for all mankind. Be with them in their going out and their coming in now and for evermore. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Ellender).

The assistant legislative clerk read the following letter.

U.S. Senate,
President pro tempore,
Washington, D.C., April 28, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Frank E. Moss, a Senator from the State of Utah to perform the duties of the Chair during my absence.

Allen J. Ellender,
President pro tempore.

Mr. MOSS thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Thursday, April 27, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan desire recognition?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Robert C. Byrd). Without objection it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MOSS. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. MOSS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 729, 730, and 731.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARMFEST—U.S.A.

The joint resolution (S.J. Res. 182) authorizing the President to invite the States of the Union and foreign nations to participate in Farmfest—U.S.A. and the world ploughing contest in September 1972 was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. Res. 182

Whereas the United States will host the Nineteenth Annual World Ploughing Contest in September 1972 in Blue Earth County, Minnesota, and

Whereas up to twenty-two nations can be expected to participate in this contest on September 15 and 16 as part of a weeklong Farmfest—U.S.A., and

Whereas the 1972 National Ploughing Contest and the 1972 Grand National Tractor-Pull Contest are included in the scheduled events of Farmfest—U.S.A., and

Whereas Farmfest—U.S.A. will feature exhibitions of machinery, equipment, supplies, services, and other products used in the production and marketing of agricultural products; promote foreign and domestic trade and commerce in such products; and salute worldwide agriculture: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to invite by proclamation or in such other manner as he may deem proper the States of the Union and foreign nations to participate in Farmfest—U.S.A. to be held in Blue Earth County, Minnesota, from September 11, 1972, through September 17, 1972.

NATIONAL COACHES DAY

The joint resolution (S.J. Res. 213) to authorize and request the President to issue a proclamation designating October 6, 1972, as "National Coaches Day" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. Res. 213

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 6, 1972, as "National Coaches Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

NATIONAL ARTHRITIS MONTH

The Senate proceeded to consider the joint resolution (H.J. Res. 1029) to authorize the President to issue a proclamation designating the month of May of 1972 as "National Arthritis Month."

Mr. ROTH. Mr. President, I am very gratified that the Senate is today considering House Joint Resolution 1029. This resolution would authorize the President to issue a proclamation designating the month of May as "National Arthritis Month." Senate Joint Resolution 180, the Senate version of this proposal which I introduced, was cosponsored by 37 Senators. The House form, which we are presently considering, was introduced by Representative David Pryor of Arkansas and cosponsored by 68 Members. It received the approval of the other body on April 12, 1972.

The Judiciary Committees of both Houses are to be commended for their favorable action on this legislation. I would especially like to thank the distinguished members of the Subcommittee on Federal Charters, Holidays, and Celebrations, Senators Hruska and McClellan, for their interest in this serious problem of human welfare.

I introduced Senate Joint Resolution 180 to help call attention to the need to better combat the human and economic curse imposed upon our Nation by arthritic and rheumatic diseases. May is the month during which the Arthritis Foundation conducts its campaign to collect funds for arthritis research and treatment.

It is my hope that more private and public resources can be directed toward eliminating the suffering which arthritis and similar diseases cause millions of Americans of all ages. Because of the fact that they do not often result in death, many of our citizens do not realize the national health problem posed by these diseases. As a matter of fact, after heart disease, arthritis and rheumatic diseases are the most widespread chronic illnesses in the United States. The Arthritis Foundation estimates that 50 million Americans are afflicted by some form of arthritis—17 million of these seriously enough to require medical care.

One in four families include an arthritis sufferer. This debilitating disease does not restrict itself to our older citizens, but in its most violent rheumatoid form attacks primarily people under 45 years of age including many children.

Arthritis imposes grave economic, as well as human, costs upon our society. Various sources estimate that arthritis and rheumatic diseases cost individuals and the National Government over $3.5 billion annually in lost wages and salaries, medical costs, payments by the Veterans' Administration, and losses in Federal income and excise taxes. One can fairly add to this list the $400 million which it is estimated arthritis sufferers spend on "quack" remedies each year.

I want to emphasize that this illness denies to the Nation the talents of the citizens it strikes. Our society cannot safely overlook these human resources. It is especially important that through arthritis research and treatment, as well as through other means, we increase the ability of our older citizens to contribute to the national life.

Medical research and therapy is one area of public and private endeavor for which our society must provide adequate financial support. We cannot abide the human suffering and economic losses which would result from the failure to do so.

In conclusion, I would like to state that the version of the resolution reported by the distinguished committee contains the amendments made by the House. These changes are perfectly acceptable to me.

The joint resolution was ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION

Mr. MOSS. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations on the Executive Calendar, under "New Reports," will be stated.

U.S. MARINE CORPS

The second assistant legislative clerk read the nomination of William D. Rusinak to be a first lieutenant.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Army which had been placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MOSS. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MOSS. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Utah (Mr. Moss) is recognized for not to exceed 15 minutes.

INTERCONTINENTAL WATER PLANNING AND DEVELOPMENT

Mr. MOSS. Mr. President, on behalf of the people of Utah and all of the Western States, I want to congratulate President Nixon and Prime Minister Trudeau of Canada for the successful conclusion of an agreement with Canada to begin the long and costly job of cleaning up the Great Lakes.

Perhaps because of the intensity of the warfare in Southeast Asia, perhaps because of everybody's concern about the rising cost of living, perhaps because of manifold dissention among us, perhaps because of the Democratic Party primary activity, perhaps even because of the unprecedented delay in the start of the baseball season—whatever the reason—this agreement has not had the public attention it deserves.

The 1972 pact with Canada to begin a planned and coordinated attack on pollution in the Great Lakes is one of the more significant events of this decade. Its importance may not be widely apparent for some years, but by the end of the seventies it will be recognized as a major step, and, yes, a turning point toward a policy of preserving instead of degrading this beautiful land we occupy.

In addition to congratulations, I want to express the gratitude and pleasure of the people of the Western States, and particularly the water-conscious States represented in the Federation of Rocky Mountain States—including Utah—for the accomplishment of this highly constructive step toward keeping America beautiful and extending our life expectancy here.

Before we know it, the U.S. bicentennial year will be upon us. From all we can see going on, it may not be a very happy birthday party. But if we carry through on our part of the bargain made with the Canadians, we will, by 1976, have something to celebrate as far as water resources are concerned.

My colleagues in the Senate, some of whom may be a bit impatient with my constant pressing for water resource care and development, may wonder why the Senator from Utah is so elated about the good fortune of the people in the Great Lakes States in the commitment of the Federal Government to do something, finally, about the pollution of the Great Lakes.

I will tell you why I am elated. It is because the 1972 Great Lakes agreement between Canada and the United States is clearly the first step toward an eventual consultative arrangement on the care and constructive utilization of waters in other parts of the continent.

This agreement is a turning point because it is in the direction of cooperation and coordinated work. It is a first step because it commits both countries to stop flushing their untreated industrial and domestic sewage into the world's largest natural reservoir of fresh water.

Today, I would like to offer for the consideration of the Senate, and I hope of the Office of Management and Budget a suggestion as to the next four steps in the direction of good neighborliness and long life and prosperity for Canada, Mexico, and the United States on the continent of North America.

These are steps primarily oriented toward Western water development, but eventually benefiting all the States. I say this not just because the economic and social health of the water-short areas of the West is important to the rest of the country. I say it because the East as well as the West will benefit from water resource planning and development which treats the continent as a whole and not a collection of jurisdictions. Nature's boundaries and political boundaries are badly out of phase. There is no use trying to adjust them. We have to deal with nature on her terms.

The four steps call for a very small investment of dollars, but a very large investment of intelligence.

The steps I propose we take now are:

First. Establishment of a Water Basin Commission, under the Water Resources Planning Act, for the Colorado-South Pacific States;

Second. Immediate funding of Alaskan water and related land resources studies already outlined by State and Federal representatives in Alaska;

Third. Initiation of Water Resources Council study of possibilities of the transfer of water from Alaska to the coterminous States of the Union;

Fourth. Inauguration of technical consultations with Canada and Mexico for water resource planning across the board.

Before explaining these straightforward steps, let me review the situation which faces us.

The United States faces a wide range of water problems in the years ahead. They are serious enough as a consequence of historic abuse of resources and current demands, but will become more serious with increases in population. In the Eastern part of the country, pollution, flood threat, and watershed damage are the more serious problems. In the West, inadequacy of supply threatens to limit the economic activity of a vast region of the Nation.

The supply problem is probably the most difficult to solve. As the Nation's population increases, the water-short regions which have space and could provide new opportunities for better living will necessarily fall out of step with the rest of the country unless a solution is found to foreseeable water supply problems. Individual or separated massive projects, even of the caliber of the California water project, offer partial and limited relief. A new approach is indicated for the long term.

Continentwide, multibasin, integrated planning, with a step at a time development, offers a promising and practical approach. The vast water resources of Alaska make realistic new and imaginative concepts of collecting surplus water in the North and redistributing it to regions which are short. It could be a grand system. No commitments need be, can be, or should be made until Canada, Mexico, and the United States have satisfied themselves that continentwide planning and development makes sense. The first step is to gather the data necessary for planning concepts.

The problem we face—along with the Canadians and the Mexicans—can be quite simply outlined.

First, the total amount of water available to us is limited; the population dependent upon it is not.

Second, the distribution of the water resources, the regions of water production, and the distribution of population—the regions where people want to live and work—are not congruent, nor are they reasonably manageable.

Third, the exploitation of natural resources and the industrialization by which we live place an ever-increasing burden on both the quantity and the quality of our water supply.

Fourth, the care taken of our water resources, or the damage done to them, in one part of the continent eventually has an impact on the rest of the continent.

These four points determine the boundaries of a dilemma from which there is no escape except through intelligent and logical analysis and planning for the care and use of all the water resources of the continent.

I am encouraged by signs of recognition of the realities of this situation. There is reason to believe that the Canadians, some of whom have been offended by what seemed to them to be ill-considered or even greedy policies on the part of Americans, are going ahead with studies of their own water resources, with a view to determining whether or not any kind of joint planning with us makes sense. They are doing the right thing. I believe that the National Water Commission report due next year will provide some guidance for our own efforts for at least the rest of the decade.

THE REGIONS OF THE WEST

The concept which I advance today are realizable with today's technology. We are ready to go. The benefits will be available to the entire continent. The vital interests of three countries are involved. The principles on which continentwide water resource planning are necessarily based can be applied, and eventually must be applied, to all of the United States. Even if no multination program is envisioned, the United States must still treat itself as a whole, not as a collection of separated and isolated drainage basins.

This discussion deals only with the West. The West includes Alaska and the contiguous States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. These 12 States have been grouped into three drainage-area regions, consistent with the practice of the Federal Water Resources Council. The regions are:

Alaska, which alone covers a dozen major river basins with tremendous quantities of high quality water and an area greater than that of either of the two multi-State regions;

Columbia-North Pacific region, as defined in the first biennial assessment of the Nation's Water Resources by the Water Resources Council, covers the Columbia River drainage basin and all of the State of Washington, most of Oregon and Idaho, and parts of Nevada, Utah, and Wyoming;

Colorado-South Pacific region—or Southwest Pacific—covers the entire State of California with its several basins, the great basin, largely encompassing Nevada, and the Upper and Lower Colorado River Basins. In addition to California, the region covers all of Arizona, most of Nevada and Utah, and large parts of Colorado, Idaho, New Mexico, and Wyoming.

THE WATER PROBLEMS

For purposes of establishing the basis for a west-side water plan, following is a brief summary of the assessment of water problems by regions.

A quick, gross assessment: Alaska and the Columbia-North Pacific region are generously endowed with water resources; the Colorado-South Pacific region is not.

Alaska's water problems relate primarily to flood threat, scattered pollution points, erosion, and general lack of capital for investment in water resource development. A preliminary study leading to a comprehensive development plan was prepared several years ago by an ad hoc State-Federal work group under the Water Resources Council. While Alaska has no basins commission under the Water Resources Planning Act of 1965, coordinated planning has been carried forward on a voluntary and informal basis. A Basin Commission formed under the provisions of the 1965 act would provide a proper planning mechanism for the long-run care and development of the State's vast and incalculably valuable water resources.

The Columbia-North Pacific region, with extensive development of water resources, has moderate and scattered problems of pollution, flood threat, erosion, and watershed land care. All are subject to solution with good planning and reasonable funding, within the context of the region's economic and social momentum. The region is organized for coordinated planning and programing among local, State, and Federal agencies through a Basin Commission, staffed and funded as authorized by the Water Resources Planning Act of 1965. Its long range forecasts indicate total commitment of the region's water resources before the end of the century.

The Colorado-South Pacific region has serious problems related to inadequacy of supply and deteriorating quality of water. The region has intensive development, particularly for irrigation and power, and fears serious shortages. The demand for industrial and municipal use increases steadily with population. The problems, particularly in the Lower Colorado Basin, become more serious each year. While relief may be available through improved use, the basic problem of supply is not subject to solution without new sources—unless irrigated food production is continuously reduced, a prospect with far-reaching impacts. Without additional supply, the region faces actual restraints on the economic and social momentum of this great section of our country. Regional planning is now loosely coordinated through a voluntary interagency committee of representatives of State and Federal agencies. While the Colorado is the Nation's most intensively studied and used river, there is no regional commission to apply the provisions of the Federal Water Resources Planning Act.

INTERREGIONAL RELATIONSHIPS

For more than half a century, but particularly in the last decade, one of the most widely discussed solutions to the Southwest water shortage problem at least among the residents of the region, has been the transfer to the Colorado River of some 3 to 5 million acre-feet of the annual 90 million acre-foot runoff of the Columbia. In a public service paper titled "Water for the West, Summary of Regional Water Plans," published in October 1967, the Los Angeles Section of the American Society of Civil Engineers cited a half-dozen proposals which would tap either the Snake River or the mainstem of the Columbia for the benefit of the Southwest. Another would tie in the Snake and the Yellowstone, tributary to the Missouri. One would use the channel of the Snake to remove water from the Columbia. Two proposals would transfer water from northern California rivers to southern California, one via an undersea aqueduct and the other by exchanges with the Colorado. The proposals also included a continental plan which would have tied the Columbia into a water collection and distribution system extending from Alaska to Mexico and from Quebec to Texas.

With respect to the plans using the Columbia or its tributaries as a source, the ASCE publication treated them as practical from the engineering and construction standpoint. Other considerations were obviously beyond the scope of the paper. The assumed economic and social benefits were not checked out. The plans were not checked out from the standpoint of the total national interest. This is one of the opportunities for the National Water Commission, which is not barred from the study of interbasin transfers.

The Commission, created by Congress in 1968 and due to report in 1973, is also authorized to make use of basin comissions in support of its own studies. The people of the Southwest were fearful of the statutory bars to interbasin transfers which the Congress saw fit to put in both the Water Resources Planning Act of 1965 and the Central Arizona Project Act of 1968. The latter has a 10-year moratorium on such studies. But, as

Henry P. Caulfield, the former Executive Director of the Water Resources Council, told the Los Angeles civil engineers in his critique of their public service paper, these prohibitions will not always be the law of the land. In his words:

> What the Congress is trying to do is to make certain that deliberate steps, with very careful consideration at each step, be taken in resolution of this unprecedented and major issue of interstate interbasin transfers of water.

The comprehensive framework studies in title I of that act are, in Mr. Caulfield's words:

> Part of this deliberate effort to have orderly resolution of this issue in the national interest.

In other words, even in front of the statutory bars, study and data analysis work should go on.

A look at some of the problems which might be expected in undertaking massive interbasin transfers—especially those having to do with the terms and conditions of removal of such a resource from the contributing region, the ecological effects of the movement of water, the socioeconomic impacts and what might be called a cost effectiveness comparison with the emerging technological alternatives of weather modification and desalting—reveals the fact that the remainder of the period of the 10-year moratorium can be constructively used for basic planning for relief of the Colorado and alined basins. There is no statutory prohibition of study by basin commissions which basins having a surplus to confirm that they really have the surplus and of studies to determine how they might dispose of it beneficially. Such information will be essential effectively to follow up to the work of the National Water Commission, and for the continuing national assessments by the Water Resources Council. The questions involved are truly—necessarily—national and are not subject to solution on a simple basin or regional basis. Furthermore, a vast amount of basic geophysical, ecological, and socioeconomic data is necessary for international planning.

CONTINENTAL PLANNING

Studies of the transfer possibilities involving two basins naturally led to examination of multibasin interconnections. As the potential benefits emerged, so did the problems, and with both came the realization that massive interbasin transfers of waters have to be dealt with first on a national basis. The next step leads beyond national borders to consideration of collection and redistribution of water anywhere on the continent.

In 1964, the Ralph M. Parsons Co. of Los Angeles published a report of its work on just such a continental concept. It became known as NAWAPA—the North American Water and Power Alliance. Sufficient reconnaissance engineering, as contrasted with fieldwork, had been done as an "in-house R. & D." effort to indicate both the technical and economic feasibility of collecting and redistributing to the populous and needful areas of the continent some of the water now running off unused into the Arctic and North Pacific Oceans. The Parsons concept has been criticized for some of its features, but its greatest value has been to bring to light the opportunities for better use of water wherever it is.

That some of the northern water will always remain unused or unneeded in the basins of origin is a matter that has to be confirmed by two types of study; first by actual field survey and appraisal work to determine the amounts of water actually available, and second by comparing this data with carefully prepared forecasts of future utilization for at least a century. The volume of water flowing from these regions indicates the effort is worth making.

At least a half dozen plans, both American and Canadian, involving international interbasins transfers have applied in part the principles of continentwide planning. The first, by Thomas W. Kierans of Sudbury, Ontario, would tap the supplies of the James Bay Watershed for transfer to the Great Lakes and the bordering States of the United States. Prof. Edwin Kuiper, a world renown hydraulics engineer of the University of Manitoba, proposed collecting the excess runoff of Canada's central north for redistribution to the southern half of Canada, the Great Lakes, and the States of the United States along the eastern slopes of the Rockies, thence into Texas and the Southwest.

Knut Magnusson, rancher-engineer of Alberta and Ottawa, offered a similar plan drawing water from the eastern slopes of the Rocky Mountains in Canada. Lewis G. Smith, a retired U.S. Bureau of Reclamation engineer of Denver, submitted to the Federation of Rocky Mountain States an alternative to the Western section of the Parsons plan, avoiding use of the Rocky Mountain Trench as a reservoir, as envisioned in the Parsons or NAWAPA plan.

Similarly, E. Roy Tinney, a Canadian who formerly headed the Washington State Water Resources Center, suggested in 1967 before returning to Canada for Federal water planning work, a centrally based system like Kuiper's serving the Southwest but with no Rocky Mountain component, either in the United States or Canada. He said the Parsons concept relied too heavily on "huge artificial reservoirs, costly high dams, and large pumping lifts." He said a much simpler system, which he called CeNAWP—Central North American Water Project—could do both the essential part of the job, supplying both the Canadian and U.S. prairies, and augmenting the Great Lakes, the Rio Grande, and the Colorado. None of these concepts takes into account the possibilities of using Alaskan water to start the system.

THE NAWAPA CONCEPT

The Parsons concept, NAWAPA, covers the entire continent, from Alaska to Mexico and from Quebec to Texas. Applying the same continental or multibasin planning principles in Mexico, water planners came up with an interchange plan extending the benefits to the South. Mexico would receive water from the NAWAPA system delivered from Alaska and Canada, west of the Rockies, then collect the excess runoff in the rain-rich Tehuantepec Isthmus area for movement north along the eastern slopes of Mexico, irrigating a vast new area in Mexico and tying into the Rio Grande irrigation complex at Del Rio, Tex.

The continental system was designed to distribute both water and power, utilizing the gravity stored energy available from water deposited by nature in high mountainous areas. Such a system could provide new water for the southern tier of the Prairie Provinces of Canada, augment the supply of the Great Lakes, stabilize the flow of the Columbia in the West as well as the St. Lawrence in the East, provide additional water for the Great Plains, including restoration of ground water levels in the southern high plains, augment the flow of the Colorado with supplies for all the areas now tapping that water course, and deliver new and higher quality water for Mexico at several points along the U.S.-Mexican border. The decreasing quality of water supplied to Mexico via the Colorado under treaty is of equal concern to the Mexicans to the threatened shortage.

The NAWAPA concept starts its operations in Alaska. The system picks up water in every water-producing area through which the network passes. The initial studies made by Parsons engineers deal with volumes of water in the range of 160 to 190 million acre-feet per year. Such a system would be operated somewhat as a giant game of "Put and Take," with Alaska, as a separate water producing entity, one of the four players. The others are Canada, the coterminous 48 States of the United States, and Mexico.

Alaska's input of water into the system would be in the range of from 20 to 25 percent, or as much as 40 million acre-feet. Her "take" would probably be about one-fourth of that. In other words, in terms of the total amount of water collected within the State, some 10 million acre-feet—maf—could be utilized within the State. As one of the contributing entities, Alaska would share proportionately in the returns from the sale of water. If the system handled 180 maf, Alaska would contribute a net of about 16 percent, utilizing about 6 percent within her own borders.

Canada would make the largest input into the system, from 40 to 60 percent of the total, depending upon the design of the system. She would "take" for her own use, distributed as she wished within her own national network, something like two-thirds of the amount of water collected within her own borders. For example, in a 180 maf system, Canada might "put" 100 and "take" 60 maf for internal use. She would thus export a net of 40 million, with credit for her share of Great Lakes supplies, for which she would be paid as for any other export commodity. Of the 180 maf considered above, Canada would be a gross contributor of about 60 percent, while utilizing domestically about 33 percent.

Within the coterminous 48 States, another 30 to 40 maf would be collected and fed into the system, supplementing the transfers from Alaska and the imports from Canada. This part of the U.S. input would be 15–20 percent of the total amount handled. The "take" of the coterminous States would be in the range of 50 percent, or up to 90 million acre-feet in a plausible 180 maf system. About half of this would go to the Colorado-South Pacific and Rio Grande-Texas regions, the rest to the Plains, central basins and the East, including the supply taken through the Great Lakes. The United States would thus be a net importer of about 33 percent of the total handled by the system.

Mexico, in a system of this size, would "put" from 5 to 7 percent, or 10 maf, and take from 10 to 15 percent, or up to 25 maf, thus becoming a net importer of from 10 to 15 maf, but having the use of twice that much.

This concept seems grandiose beyond reason, but the reports of the Parsons engineers make it appear worth a closer look. With the United States taking credit for Alaska's tremendous input, the water participation is not greatly out of balance. The United States with Alaska will contribute slightly less than half, and use about half or slightly more. Canada puts in more than half, which takes care of Mexico. But these possibilities have to be checked out. It can be done one step at a time. First step is to inventory the water in the indicated contributing areas. The United States should start in Alaska since it is possible to move Alaskan water to the coterminous States with or without inputs of Canadian water. The Los Angeles ASCE report urges an immediate start because, "experience shows that a leadtime of 25 years is required to solve the many political problems attendant upon such projects, and to plan, design, finance, and build the facilities to supply water needs in the next century."

TIME TO START THE HOMEWORK

In an address before the Royal Society of Canada at the University of Sherbrooke in June 1966, I said that both Canada and the United States had a lot of homework to do before either country could decide to enter such an undertaking. I therefore urged that the United States and Canada put off worrying about anything but gathering the data on which to base the ultimate decisions on continental planning. At the same time the inventory of water is started, a start might also be made on just listing all of the ancillary questions which have to be answered. There are, in addition to the economic and engineering problems, which appear solvable, the technical ones of hydrology, geology, climatology, ecology, and so forth, and the social impact as well as the nature impact. The answers to these questions are not so simple to come by as in the engineering and geophysical realms.

The biggest step taken in the history of either country toward preservation of our joint heritage was the agreement which President Nixon and Prime Minister Trudeau signed on April 15, 1972, pledging all-out efforts on both sides to clean up the Great Lakes.

As I have said many times in discussing the possibilities of continental resource planning, we must clean up our lakes and rivers before we attempt to restore and stabilize them with new water from distant basins. And, most certainly, we will find that our needs will be much better served and augmentation requirements reduced if we take care of the supplies we have. This is more feasible and therefore more true for the East than for the West. We are already far behind in the ecological, hydrological, economic, and social impact studies that will provide the basis for large-scale multibasin planning and development.

A preliminary review of the possibilities of the NAWAPA concept was made in the fall of 1964 by a Special Subcommittee on Western Water Development of the U.S. Senate Committee on Public Works. A report in October of that year, revised January 1966, found that for about 25 percent greater cost the NAWAPA continental system could deliver twice as much water—and was subject to expansion—as that estimated as recoverable from all of the U.S. water-resource development projects envisioned by all agencies of Government in the next 20 years. The initial NAWAPA outline has been expanded to serve even more of the continent, primarily in the East.

BENEFITS FROM CONTINENTWIDE DEVELOPMENT

A significant point that emerges from study of the possibilities of continental water-resource development is the indication of economic benefit to all three countries. At the same time proper water-resource care and development can extend and expand nature's continuing life-support capabilities based on the water resources of North America. The Canadians, despite the depth of feeling on the subject of water and the initial unfavorable reaction in some quarters to the idea that the Southwestern United States had designs on the water resources of a sovereign neighbor, do not appear to be letting whatever annoyance they felt deter them from examining the possibilities.

Their reasoning is based on recognition that the basic data is needed anyway. There are Canadians who feel that in selling water to the United States, Canada might enjoy a new and effective economic incentive to conservation of the water-producing areas of their country. There is also assurance of a continuing inflow of public investment capital from sale of a crop which can be produced on a sustained-yield basis. Export of such a replenishable commodity as water avoids the objectionable facets of the business of exporting raw materials subject to depletion. Water is a renewable resource which can be exported profitably as long as the water-harvest lands are taken care of properly.

On the other hand, the Americans, faced with the prospect of buying water from a sovereign supplier, will be induced to examine all the possibilities of making better use of their own water before committing themselves to imports. If the Canadians, after measuring their water and projecting their own needs, find they have a surplus, they will be in a position to decide whether they want to sell water, and, if so, how much to sell and for what price. The Americans must then determine whether they want to import water, and, if so, how much they are willing to pay. If the answers to all of these water trade questions are affirmative, we will have continental development and utilization. If they are not, we will not. The Canadians will probably get their answers first, since they are apparently already at work gathering the facts.

A hard and continuous look at the conservation aspects of continental water resource development is essential from beginning to end. A program of conversation analysis is surely the next step. It would make no sense to launch such a redistribution enterprise unless the water production, that is, care of the water harvest fields, were assured at least for the life of the project. It would hardly be worth doing for a planned operating life of less than 100 years. Clearly, any public investment of this magnitude would compel a great expanded and intensified program of conservation in the water producing areas of the three countries. Of almost equal importance is a real clean-up of the river courses to be used for distribution of imported waters. Other benefits naturally flowing from the continental system are vast expansion of navigation and recreation potentials, both of which, with population increases, take on new importance in cost-benefit analysis of resource development projects.

As a matter of fact, the prospects of a continental water system call for a very special new approach to the problem of caring for nature's endowment of soil and water. The approach must be one of "productive conservation," aimed at strengthening nature's support role. This is the essential part of the answer to the question which I proposed to the Royal Society at Sherbrooke: "How long do we want to live here?" Why plan for 50 years instead of 500? I certainly do not want to put any limit on the lifetime of my country. Productive conservation is aimed at securing and expanding or enlarging nature's ability to continue to support us in the number of hundreds of millions at which our population may stabilize—from now on. An eventual grovelling struggle for a poverty-oriented existence on a wasted land is the alternative. Conservation has to be planned for centuries not decades. We have to plan for nature's continuing, not fixed-period, support if we want to avoid national decline according to the historical pattern of peoples who did not, would not, or could not take care of their basic soil and water resources.

The three countries do not have to make a decision now, or even anytime soon, to adopt a continental water system. But the United States can and should decide now, in agreement with Canada and Mexico, not to do things which would be a barrier to a continental system. It does not call for a treaty. Each government can simply instruct its planners to keep this option open. So much of what is needed as a planning base for a continental system is also needed for separate national systems in each country. But we do occupy the same continent. We do share its bounty.

Canada and the United States and Mexico are interdependent in the care and utilization of the natural resources of the whole continent. Nor can water resource care and development be planned in isolation. Fortunately, productive cooperation in one field usually spills over into others. Our relations with Canada across the board should improve as we work more and more closely together in the water resources field. Relations with Canada are suffering seriously as a result of our economic stabilization efforts. I trust the administration will fully repair the damage, because many different aspects of relations with Canada and Mexico will be intertwined with water planning. One of our first homework assignments should be to identify these auxillary questions.

WHAT ARE U.S. ALTERNATIVES?

The most urgent part of the United States homework is the pursuit of alternatives within each region. The alternatives too are subject to integration into a multibasin international system. For example, exploitation of rain-making fits into the bigger system, since progress in weather modification technology indicates it may be more effective over basins than over counties, or even States.

The alternatives also include such things as more disciplined use of water, treatment and recycling, desalting, underground storage, and control of surface losses, and land use planning to control irrigation demands. We should also study the possibilities of a national system of interbasin transfers not involving inputs of water from other nations. The elements of such a national system using nothing but United States water, should, however, be designed for eventual integration into a continental system. The latter, conversely, must be designed to accommodate national segments or sections.

The continental system might be built in stages or sections which are themselves international, but not continental. The Great Lakes Basin is a most viable candidate at an early stage. Not all of the new water needs come from Canada. A promising interbasin connection is between the lakes and the James Bay watershed of Quebec and Ontario. The Kierans and Parsons plans both had such a project, but field studies by the two Provinces and the Government of Canada may result in quite a different routing. The Parsons engineers also have a plan for augmenting Lake Michigan from the United States side. The point is, there is an awareness of the desirability as well as the feasibility of augmenting the water in the lakes by transfers from other basins. Canada might also offer to add water for controlled withdrawal by the United States with appropriate compensation.

Some work has been done on another section or stage which would not involve inputs of Canadian water. This would simply be a route to bring Alaskan water to Montana or Washington, probably paralleling the Rocky Mountains. Canada would be asked to provide only for the transit, selecting the right-of-way and determining how she might like to move the water. An actual trade is not out of the realm of possibility, whereby Canada would take some of the Alaskan water to the prairie Provinces and deliver an equivalent amount from her other basins to the United States. From the point of reentry into the United States somewhere in the Northwest, the water would be distributed in the Rocky Mountain States and the Southwest. All three of the U.S. western regions, Alaska, the Columbia-North Pacific and the Southwest, would necessarily work together and share the benefits.

A STEP FOR WASHINGTON

It will take years for either Canada or the United States to complete the studies needed for a determination of the advantages or desirability of big trade in water. They can proceed with the types of study which will pay off in each country in the meantime. Without any kind of treaty or written agreement, they can proceed in full awareness of the possibilities of joint planning and development, trying to avoid undertakings which would get in the way of the continental prospects.

During this homework period, it would be desirable to have a much broader, less formal, and more effective consultative relationship than has been the pattern up to now through the International Joint Commission. It is clear from the terms of the Great Lakes cleanup agreement and the discussions surrounding it that new arrangements will be needed to coordinate the new multi-billion-dollar program. The IJC was established by treaty in 1911 to handle problems related to the Great Lakes and the other boundary waters. Since the respective sides of the six-man IJC—three Americans and three Canadians—are formally empowered and designated representatives of their Governments, they function only in accord with established national policy and under instruction. The same situation exists with respect to the International Boundary Commission on which Mexico is the partner. These groups cannot serve as an adequate forum for the exchange of views and technical data among professionals concerned with the full sweep of water problems.

It is important to the three Governments that there be continuing technical consultations among appropriate agencies. By the middle of next year, the United States should be in a much better position, better prepared to make decisions after the National Water Commission has made its report. The Water Resources Council is prepared to serve as the coordinating mechanism for the United States.

Four Basin Commissions along the northern border—the Columbia-North Pacific, the Souris-Red-Rainy, the Great Lakes, and the New England Basin Commissions—already share drainage area problems with the Canadians. This Nation's next step should be to share our full planning and development capability with Canada in whatever effective and informal manner might be agreeable. Mexico should be brought promptly into a similar cooperative exchange of technical data and planning ideas. This is another reason why we should have Basin Commissions covering the Colorado-South Pacific and the Rio Grande Basins.

REGIONAL STEPS FOR THE COLORADO-SOUTH PACIFIC

As I have indicated, the homework to be done within our borders is of much greater urgency than the trans-border exchange. The compelling first step for the water-short States of the Colorado-South Pacific is to organize for an across-the-board attack on regional water problems. The existing voluntary interagency committee can coordinate work among agencies and States, but considering the urgency and importance, this is far from the most effective approach. The region needs a statutorily empowered Federal-State organization which will enable the seven States to mobilize all their planning forces and talents for an approach in concert toward agreed water objectives. A single Basin Commission under the Water Resources Planning Act of 1965 should serve four basin areas—the Upper and Lower Colorado, the Great Basin, and California.

The Los Angeles ASCE group listed eight programs of study of the Southwest water problem: Importation from other basins, groundwater development and storage, reclamation of municipal and industrial waste water, reuse of irrigation water, desalting, control of trans-evaporative losses through watershed management, surface conservation, and weather modification. Although the Basin Commissions cannot plan interbasin transfers under present laws, the statutory barriers to interbasin transfer studies should not deter work on other programs. The meaningful approach to transfer studies is first to establish the existence of surplus in the basin or origin. Similarly, the approach in the receiving basin is to establish demand and cost-comparison bases. Interbasin transfer costs will have to be measured against intrabasin alternatives.

The possible eventual successful application of nuclear explosives to excavation might lead to the creation of huge artificial acquifers for storage and transfer of water underground. Such a development would drastically change continental, as well as national, water resource planning. Interbasin transfer planning would probably begin all over again. Flood control activity would take on new dimensions with the prospect of underground storage and ordered withdrawal for use of flood-producing runoff. Underground storage capacity created by nuclear explosives might also be important to the efficient utilization of water resulting from changes in precipitation patterns through cloud seeding. The Atomic Energy Commission has indicated its interest in the development of peaceful nuclear explosives for water-related purposes, but no specific project has been proposed. Can we move people to water?

In response to grand scale water planning, critics have said it would be cheaper to move the people to the water. Representative Craig Hosmer, of California, a member of the Joint Congressional Committee on Atomic Energy, was quoted by the ASCE report as saying:

> There simply aren't enough whips in existence to force people to move to where the water is instead of bringing it to them.

Mr. Hosmer would doubtless agree, however, that it may be possible without whips, and even desirable to move both people and water to areas indicated by sound national planning and climatological appeal. The population increase for the last third of the century calls for living space, mostly in cities, for another hundred million Americans. Continental or even national water resource planning, with multi-basin interchanges, will permit the location and growth of the new urban centers where the growing is best for everybody. But we can hardly plan wisely for urban resettlement and new cities unless we have a national water plan.

The point was made clearly by the chairman of the Senate Interior and Insular Affairs Committee, Senator Jackson of Washington, in a speech before the American Public Power Association several years ago. He said we have to do better in our planning than just projecting today's problem instead of trying to do something about the problem itself.

Senator Jackson referred to the trend toward megalopoli—the apparently inevitable concentration of population in urban strips along the east coast, the Great Lakes, and the west coast. Nearly always, these strips are related to water, and the Gulf Coast is on the way to becoming another megalopolis. He said we can do something about this. There is no reason, said Senator Jackson:

> That we have to perpetuate past mistakes; we can establish new policies and new goals. The America of the year 2000 does not of necessity have to consist of strip cities of urban desolation stretching for hundreds of miles.

His speech was a plea for America to climb out of the rut of pragmatism, accommodation and compromise which we seem to be in. We too readily accept the conditions and forces around us, and, in Senator Jackson's words,

> We seem to be losing our capacity to dream of a better America and a better world.

PLANNING FOR GROWTH

The concept of a continental water system, the idea projected by Ralph M. Parsons and his associates starts with something great. Within the next quarter century, this Nation will have to find space for more than 20 million new households, new family dwelling units. This is one third more than we have now. Where are we going to put them? One of the factors that will determine where we put them is where we have water. If we take care of our water harvest fields, that is, practice productive conservation in the water producing areas of the country, then collect and redistribute that water in a manner that will best serve the Nation's true long term needs, we can also distribute our new population so that the next 20 million households do not have to take on the burdens of urban crowding, lack of planning, inadequate services, and outmoded standards of living.

Senator Jackson said we needed legislation to change the pattern of Federal planning toward programs "relevant to the creation of new rural growth opportunities." He mentioned new city sites based on compatibility with "water resources, outdoor recreational opportunities, regional growth patterns and industrial and commercial opportunities." I not only pledge my support of such legislation when it is introduced, but I want to propose that we start right now where we can. Thanks to the leadership and foresight of such men as the late Robert Kerr of Oklahoma and Senator Clinton P. Anderson of New Mexico, in the field of water resources, we have legislation on the books now enabling us to start the kind of planning that is consistent with the dream of a better America. We can start right now with the type of river basin planning and development which will make continental planning possible, which will make dream city planning realizable.

We will never get a national plan until we have done the basin planning. The arid regions should be taking the lead. The tremendous amount of work to be done in connection with inventorying water within the Southwest Pacific region, projecting ultimate needs, balancing requirements against the economic and social costs of alternatives, determining the degree of shortage, and then selecting a preferred combination of solutions to the problems defined, all this can best be started and guided under a seven-State Southwest Pacific Basins Commission.

One of the longstanding possible solutions is to import water from other basins. The possibilities cannot be determined by the receiving basin. That answer must come from a basin which has a surplus.

THE GREAT STEP FORWARD FOR ALASKA

The water resources of the State of Alaska may be the key to truly long range care and development of continental resources. In the meantime, Alaska offers an incentive to national planning for all the United States and could provide a sound solution to the supply problems of the arid West.

In the system proposed by Parsons, collection of water starts in the mountains of South Central Alaska, headwaters of the Susitna, the Copper, and the Tanana Rivers, and gathering place of the approximately 90 million acre-feet of annual runoff of those rivers. The Federal Power Commission estimates that the potential hydroelectric capacity of sites on these three rivers at more than 8 million kilowatts, of which 3.6 million could be generated at the Wood Canyon site on the Copper.

In its 1967 Planning Status Report on Alaska (Water Resource Appraisals for Hydroelectric Licensing), FPC said, under the heading of "Need for Additional Studies":

> Alaska today, in the first years of statehood could be on the threshold of an era wherein her bountiful natural resources will support a growth economy. Low-cost power may be the stimulus to put Alaska beyond that threshold. Studies are needed first, to examine the State's potential market for large blocks of hydroelectric power; second, to minimize cost of power through possible interconnection and coordination; third, to consider the feasibility of exporting Alaskan power in the light of recent advances in transmission technology; and fourth, to examine NAWAPA and the possible proposals which would export Alaskan water, to determine the effect of such diversions on Alaska's hydroelectric power potential.

I have seen no evidence that the FPC has changed its mind.

The NAWAPA concept would provide for generation of nearly 1,200,000 kilowatts at two dams on a huge Susitna-Copper-Tanana reservoir, joining the three watersheds by tunnels. No analysis has been made as to the effect of this impoundment on the potential hydro capacity cited by the FPC. Indications are that flow stabilization on the Susitna and Copper would enhance downstream generating prospects. The Parsons engineers have estimated that the NAWAPA impoundments on the Tanana River above Tanacross would have held back enough water to reduce the flood peak at Anchorage in 1967 about 7 feet.

As in the case in the Colorado-South Pacific region, Alaskan water planning at present depends primarily upon the cooperative spirit among the concerned State and Federal agencies. An ad hoc State-Federal WRC work group several years ago prepared a Preliminary Plan of Study for a comprehensive water resource care and development program for the entire State.

The State-Federal work group estimated that the 800 million acre-feet of annual discharge of high quality water from Alaskan rivers is some 40 percent of all the fresh water available under the U.S. flag. Alaska's development is an important national goal. The development, according to the group's preliminary study:

> Focuses on a strategy for developing (these) resources on an interrelated, coordinated basis, consistent with good environmental management.

The group agrees that—

> Wise conservation and development of Alaska's water and related land resources are certainly keys to the strategy.

It was the conclusion of the group, in the study completed in August 1968, that—

> In the present state of development, inadequate knowledge, and in a period of budget constraints, the available funds should be concentrated on inventory and reconnaissance studies, mapping, research, and planning as a foundation for action programs to follow. The framework study of water and related land resources is such an endeavor.

We want to emphasize those words:

> The available funds . . . for action programs to follow.

POTENTIALS FOR ALASKAN DEVELOPMENT

The study proposal clearly foresaw two parallel directions for water resource development in Alaska, which are interdependent and should be started at the same time. One is the problem of Alaska's own use of her immense water resources, the other is the development for export. The Nation has a need for Alaska's vast raw materials, Alaska has a need for capital to develop and expand her economy. These are complementary factors, said the study group, and—

> Alaska, with its tremendous resource assets, including water, has a unique opportunity to contribute to satisfying the larger needs. In so doing, Alaska can develop a strong regional economy.

It would seem from these observations that Alaska and the Southwest Pacific should get together. They cannot, of course, except with the aid of Canada and the Columbia North Pacific region of the United States through which water would pass if conveyed overland from Alaska to the southwest.

The machinery for doing this is available through the Water Resources Council with basin commissions which bring together the institutional resources of the local, State, and Federal agencies.

The suggestion has been made that funds from non-Federal sources might be available for water resource studies in the Southwest Pacific region, utilizing the facilities of the Council and the basin commissions for the start of studies in Alaska. If congressional authority for such cooperation among States is necessary, it should be readily forthcoming. The funding situation in Alaska is set forth as one of the problems which faced the study group in the following paragraphs:

> One of the greatest problems facing water resource planners is limited knowledge of the resources—mineral, water, land, and the others that would be affected by water resource developments. As a complicating factor, many of the planning "yardsticks" developed for other areas simply cannot be applied in Alaska. This is a critical situation with respect to determining criteria, costs, and single-purpose benefits for even a small water resources project. It largely precludes effective weighing of long range alternatives and evaluating impacts of larger potential developments.
>
> This is particularly important in evaluating the most desirable water and related land uses. Those portions of water and land resources that represent optimum use in their natural state should be defined and reserved. For the remainder, sufficient knowledge of the resources must be gained to insure advancement of the most appropriate development proposals.
>
> An overall Alaska problem—small population and limited tax base—severely limits the state's capability for funding planning and resource development activities. Considering this, the national importance of the resources involved, and the extent of public lands in the state, it is reasonable to expect that Federal participation in resource development programs must remain at a high level for the foreseeable future.

These are the words of the members of the work group made up of representatives of the State of Alaska and seven Federal agencies working together with the help and guidance of a Federal field coordinator for development planning in Alaska. The tone and wording of the work group report reflects recognition of the possible gains from cooperation with other regions. Such cooperation will be facilitated if the water-rich Alaskan region and the water-short Southwest Pacific take steps immediately to establish basin commissions under provisions of the Water Resources Planning Act of 1965. The Water Resources Council has funds for the purpose. And if the Federal Government does not have the funds available to help Alaska, perhaps the water-short States do.

The 1961 report of the Senate Select Committee on National Water Resources headed by the late Senator Kerr of Oklahoma, has been the foundation for most of the water legislation passed since, particularly with respect to pollution control and resource planning. One important step along this path of progress was the establishment of the National Water Commission through legislation introduced by Senator JACKSON as chairman of the Senate Interior and Insular Affairs Committee. Out of the same committee in 1965 came the Water Resources Planning Act, which provides legislative framework for this step-at-a-time plan.

The most important of the steps to be taken at this time is to provide the modest initial funds to begin the collection of data in Alaska.

It does not make sense to wait another year to start a project which will take years to complete, which has to be done, and which is ready to go. Every year lost in the gathering of data in the fields of climate and meterology, hydrology, and flood control is a year's handicap. These three areas are the most urgent of the 18 study elements identified 3 years ago by the State-Federal work group for the Water Resources Council.

Alaska is now ready, however, for a "framework" type study. In the absence of a basin commission to undertake the studies, the Alaska Power Administration is in a position to serve as the lead agency. Funds could be made available through the Water Resources Council for assignment to the special projects required in support of the meteorology, hydrology, and flood control studies. The whole range of work involved should be considered in order to avoid having some stages get seriously out of phase with the first three elements.

In view of the importance of planning for the prompt but orderly development of the vast natural resources of Alaska, and to avoid as far as possible the costly abuse of those resources, the full framework study should be authorized and funded for fiscal 1973 through 1975.

SUMMARY—FOUR STEPS TO TAKE

In summary, truly long range water resource planning for the West can get underway with four simple steps:

First. The Colorado-South Pacific States which have the most serious water problem of any region of the Nation are losing valuable time by failing to establish a basin commission to get on with serious long-range study of practical solutions in the obvious national context. The obvious initial step for the Colorado-South Pacific States is completion of a framework study and establishment of a basin commission.

Second. Alaska has an indicated surplus water and preliminary studies indicate it will be to her long-term advantage to export this water. The next step is to begin the surveys needed to confirm this surplus and identify the constructive potentials for utilization of the water, preferably under a basin commission functioning under the provisions of the 1965 act.

Third. The Water Resources Council as coordinator of planning among the basin commissions established under the Water Resources Planning Act of 1965, should sponsor studies to determine whether surplus water in Alaska might be made available to meet the needs of the Southwest.

Fourth. If it develops from these coordinated studies that there is surplus water for export in Alaska and if its transfer to the Southwest appears technically economically feasible, the United States will need the full and continuing cooperation of Canada to make the transfer. The fourth step, therefore, is for the President to advise the Canadians of these studies and propose the start of continuing technical exchange in the field of water resources in a manner that will best serve the interests of both nations. The great lakes agreement is a good start.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) is now recognized for not to exceed 15 minutes.

IMPORTATION OF CHROME ORE FROM RHODESIA

Mr. HARRY F. BYRD, JR. Mr. President, I should like to comment briefly this morning on an action taken by the Committee on Foreign Relations, which action seems to me to be very ill advised.

The Foreign Relations Authorization Act of 1972, contains a provision which would repeal what Congress did last year. The President, on March 17, 1971, signed into law legislation which would end the dependence of the United States on Communist Russia for a vital strategic defense materiel; namely, chrome. November 17, 1971, was only 6 months ago. Yet the proposal of the Foreign Relations Committee would repeal that action and once again make the United States dependent on Communist Russia for a strategic defense materiel.

Mr. President, President Johnson unilaterally by Executive order in 1966 decreed an embargo on trade with Rhodesia. From that point on the United States was cut off from the main source of chrome. And that resulted in the fact that the United States subsequently found itself in the position where it had to depend on Communist Russia for a majority of its source of this strategic materiel.

I would point out that chromium is one of the top strategic materiels, and in 1939, along with three other metals, it was the first to be designated for stockpiling.

When Congress considered this matter last year, there were a series of votes taken in the Senate, and the Senate concluded that it was unwise for the United States to be dependent on Communist Russia for this material. The Senate voted to lift the embargo on the importation of chrome from Rhodesia. When a vote came in the House of Representatives some time later, the House of Representatives by a vote of 251 to 100 took the same action that the Senate had taken. The President of the United States on March 17, 1971, signed such legislation into law.

Mr. President, I think it significant to point out that when the votes were taken in the Senate and in the House of Representatives, Representatives from 46 of the 50 States voted to permit the importation of chrome from Rhodesia. So, this matter is not a regional one. I say again that Representatives from 46 of the 50 States voted to permit the importation of chrome from Rhodesia.

At this point, I want to pay tribute to Representative JAMES COLLINS of the State of Texas who authored similar legislation in the House of Representatives to that legislation which was passed in the Senate. Representative COLLINS was a very able and effective advocate of the proposal to permit the importation of chrome from Rhodesia. He had much to do with the overwhelming vote of 251 to 100 by which the House of Representatives approved the action previously taken by the Senate.

Mr. President, this is a defense matter. The Foreign Relations Committee is seeking to amend the Stockpile Act which deals with strategic and critical material. I say again that this matter is a defense matter. Chrome is a vital defense material. The report submitted by the Committee on Foreign Relations states:

> The Rhodesian Chrome Amendment put the United States, for the first time, in a position of defying the UN Security Council. We were the first nation to break its formal adherence to UN sanctions. The effects of this action on the UN and on our relations with the African Continent have been serious.

The committee is correct in that the United States was the first nation to break its formal—and I emphasize the word "formal"—adherence with the United Nations sanction. However, the American Ambassador to the United Nations has subsequently stated in the Security Council and publicly that virtually every member of the Security Council at one time or another has refused to adhere to the sanctions against Rhodesia. But the overwhelming question, as I see it, is not necessarily what is best for the United Nations, but what is best for the United States.

I do not see how the Congress of the United States can put the United Nations ahead of the defenses of our own Nation. It is a very serious matter when the Congress is called upon to appropriate $77 billion of tax funds for the defense of this Nation and yet simultaneously, up until November 17 of last year, our country was dependent on Communist Russia for strategic material essential to the defenses of the United States.

I think it is highly significant, Mr. President, that Representatives from 46 of the 50 States recognized the seriousness of this problem and voted to lift the United Nations sanctions insofar as the United States is concerned in regard to the importation of chrome from Rhodesia.

I note that on Wednesday of last week 13 Members of the House of Representatives filed a suit in the U.S. district court at Washington to forbid any further importation of Rhodesian chrome and the use of that Rhodesian chrome which has already arrived.

According to the leader of the group:

> The importation of chrome contrary to U.N. Security Council resolutions and executive orders issued by (former President Johnson) violates solemn commitments of the United States to the United Nations, as a system for maintaining world peace, and violates treaties and laws of the United States embodying these commitments.

That suit is now in district court. If the courts can decree that the Congress of the United States cannot take action to protect itself, that such action is contrary to the desires of the United Nations, then I say this country is, indeed, in very real trouble. While I realize those 13 Representatives are serious in their endeavor to bring this matter before the Federal courts, I cannot conceive that the Federal courts could act affirmatively and take the action being sought by those 13 Representatives.

If the Congress of the United States is in that position that would mean it is in the position where whatever course it pursues in regard to its defense matters must coincide with actions previously taken by the United Nations and I say we are, indeed, in very serious trouble. I think the action of the 13 Representatives was ill advised and I think the action taken by the Committee on Foreign Relations in seeking to repeal legislation which became effective last November 17 was also ill-advised.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks an editorial entitled "Never Say Die," published on April 25, 1972, in the Northern Virginia Daily, whose editor is J. J. Crawford, of Strasburg.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARRY F. BYRD, JR. Mr. President, I conclude my remarks by saying that at the appropriate time I shall present an amendment to the Foreign Relations Authorizations Act of 1972 to repeal section 503 of that act.

EXHIBIT 1

NEVER SAY DIE

Last fall, after a long and arduous Senate fight led by Sen. Harry F. Byrd Jr., the President signed into law Section 503 of the 1971 Military Procurement Authorization Act. Section 503 ended five years of dependency on the Soviet Union for vital chrome by authorizing resumption of purchases from chrome-rich Rhodesia.

With the arrival of the first shipments of Rhodesian chrome in this country there was the usual picketing by dissident groups echoing the leftist line. These were directed against both the Administration for resuming the buying of chrome from Rhodesia and against Union Carbide and Foote Chemical, the two American companies for which the shipments were destined.

But these demonstrations were of minor consequence. The real battle against doing business with Rhodesia is still centered in Congress where last week it flared up again in the form of two separate congressional efforts to abrogate Section 503.

On Wednesday of last week, 13 black members of Congress filed suit in the U.S. District Court in Washington to forbid any further importation of Rhodesian chrome and the use of that which has already arrived. According to Rep. Charles Diggs, Democrat and leader of the group:

"The importation of chrome contrary to U.N. Security Council resolutions and executive orders issued by (former President Johnson) violates solemn commitments of the United States to the United Nations, as a system for maintaining world peace, and violates treaties and laws of the United States embodying these commitments."

This is an extremely significant case because it is the first court test of the question of whether the United Nations' legal authority to direct the actions of its members, in this case the United States, is greater than the authority of the Congress of the United States.

The argument by the plaintiffs is that as long as the United States is bound by its membership in the U.N. and its treaty agreement to abide by the decisions of the U.N., it acted illegally in legislating to lift the embargo on Rhodesian chrome at a time while the U.N. embargo was still in force.

What the 13 congressional contestants are saying is that when the Senate approved the treaty making this country a member of the United Nations it surrendered the legal sovereignty of the U.S., making our nation subject to the world organization, and that we are bound to obey all U.N. mandates. Thus, if the U.N. says no chrome from Rhodesia, then it's no chrome from Rhodesia.

Meanwhile, in addition to this frontal attack, there is another, if somewhat quieter, effort being spearheaded by Senators Dale McGee and Ted Kennedy to repeal Section 503 by attaching a provision to accomplish this onto the pending State Department Authorization bill.

Powerful forces are out to kill Section 503, each for their own partisan reasons, and each using whatever device is at hand to get the job done.

But it is our observation that if either of these attacks on Section 503 were to succeed there is a still more powerful force in this country which will be very much upset—the general public.

Survey after survey has shown that a majority of Americans are fed up with the idiocy of relying on Soviet Russian sources for chrome (the source of our supply of this material while the U.S. observed the U.N. embargo) at prices per ton far above what the U.S. could have and presently can buy it for from Rhodesia.

But this matter now involves another factor of even greater importance and this is the suggestion—by 13 U.S. congressmen no less—that the vital interests of the United States can be dictated by the U.N. General Assembly. This assertion does not deserve to be dignified by an answer from a federal court but it doubtless will be.

If the court's decision is anything other than a flat rejection of U.S. subservience to the U.N. in matters involving our national security, then we are in real trouble.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the order previously entered the Senator from Oklahoma is recognized for not to exceed 15 minutes.

THE RUSSO-GERMAN, POLISH-GERMAN TREATY A UNILATERAL PROPOSAL

Mr. BELLMON. Mr. President, yesterday the West German Government of Chancellor Willy Brandt narrowly survived in the Bundestag—247 to 249—a no-confidence vote called for by the opposition Christian Democratic Union—CDU. It marked the first time in West Germany's 23-year postwar history, that an attempt had been made to unseat an incumbent Chancellor through such a parliamentary maneuver. The narrow margin of victory illustrates the political vunerability of the present West German Government and could undermine the entire diplomatic structure with its allies.

Although the Brandt government has been plagued by its inability to control inflation and other domestic ills, the fundamental issue was, and remains, Chancellor Brandt's treaties with Moscow and Poland.

Next week, on May 4, the Bundestag—lower house—of the Federal Republic of Germany—West Germany—will vote on the ratification of the Russo-German and Polish-German Treaties, the most significant of which, because of the world power involved, being the Russo-German Treaty, or commonly referred to as the Soviet-West German Non-Aggression Pact.

This pact, and its ratification, has been considered by many observers as the linchpin of continuing East-West negotiations. It has been the focal point of Chancellor Brandt's Ostpolitik, and it could well be an issue upon which his government finally stands or falls.

It is a treaty of profound significance not only to its signatories, but also to the world community. It is a treaty, like all international treaties of today, whose implications affect the institutions of diplomacy throughout the world. Therefore, it is a treaty that cannot be considered solely an internal matter of the Federal Republic of Germany and the Union of Soviet Socialist Republics. As such, it deserves the attention of those that will be affected by its provisions.

Over the past months, Americans have been interested, though distant observers, watching the heated debate within the news media and the halls of government. Indications are clear that Americans understand our country's stake in this hotly contested issue.

The possibility of the treaty's failure has triggered fearful echoes in diplomatic circles throughout Europe and has brought angry threats from the Soviet Union that if ratification is not forthcoming, "The Berlin Agreement," although officially quite separate from any treaty commitments, will not go into effect and that the treaty will not be subject to renegotiations. These high pressure blackmail tactics of the Soviet Union hold the ominous threats of a return to stepped up cold war tensions if the U.S.S.R. does not get what it wants. At the same time, in order to favorably influence the ratification of the treaty, the Soviets opened the doors to the Berlin Wall and permitted West Berliners to visit relatives in East Berlin and East Germany during the Easter holidays. Additionally, Mr. Brezhnev recognized the reality of the European Economic Community, to which he has been opposed, and the Russians included West Berlin in the first trade agreement between West Germany and Russia since 1963. Such transparent efforts to manipulate German public opinion and influence the official acts of the government should be a clear warning to the world that the Russian bear has not changed his treacherous and ill-tempered nature.

THE PROVISIONS OF THE RUSSO-GERMAN TREATY

A review of the Russo-German Treaty—Polish-German Treaty is essentially the same—makes it explicitly clear to me the Russian anxiety for ratification of article 3 of the treaty. This is the only concrete provision in the entire text, and I wish to quote:

> In accordance with the foregoing purposes and principles the Federal Republic of Germany and the Union of Soviet Socialist Republics share the realization that peace can only be maintained in Europe if nobody disturbs the present frontiers.
>
> They undertake to respect without restriction the territorial integrity of all States in Europe within their present frontiers;
>
> They declare that they have no territorial claims against anybody nor will assert such claims in the future;
>
> They regard today and shall in the future regard the frontiers of all States in Europe as inviolable such as they are on the date of signature of the present Treaty, including the Oder-Neisse line which forms the western frontier of the People's Republic of Poland and the frontier between the Federal Republic of Germany and the German Democratic Republic.

This article of the treaty clearly seems to support the charge that, in effect, the treaty is a postwar border treaty, disguised as a nonaggression pact.

The recognition of the Oder-Neisse line relinquishes any future German claims to German territories and their populations east of that line presently being administered by Poland and Russia under the provisions of the Potsdam agreement. To me, it appears that this article, by far, is the most significant in the entire treaty and is clearly to the Soviet Union's advantage. The remaining articles concern themselves with diplomatic rhetoric that has been heard so often in the past, and at best, offer only fleeting hopes of normalization between the two countries in the distant future.

THE HUMAN FACTOR IGNORED

The treaty totally ignores the plight of the German ethnic groups in Russian- and Polish-occupied territories. It ignores their desire to emigrate. It ignores their desire for family reunification. It ignores the simple desire for normal mail and parcel service to and from families in the West. It ignores their desire to maintain ethnic identity, and it totally ignores the long suffering, of not just Germans, but Estonians, Latvians, Lithuanians, and many others, caused by artificial barriers created by the Soviet Union over the past 27 years.

The treaty casts away German territory for Russian implied promises. It is unlikely that the Soviet Union will permit a relaxation in the physical and intellectual barriers that separate East and West. It is unlikely that men in control in both the Soviet Union and its Eastern bloc countries will risk their positions of power for the sake of accommodations with the West, and a better life for their subjects. It is, therefore, wishful thinking to believe that implied promises, which totally contradict the existing political realities, will ever see fruition.

THE RUSSIAN RECORD

It is difficult to accept such agreements when one looks back over the years on the Russian record of international relations. One need only to go back to 1948, shortly after the end of the longest and costliest conflict in history and one sees the Russian blockade of the Autobahns leading to the four-power city of Berlin; a blockade that cost many American lives, as the memorial at Berlin's Templehof Airport vividly testifies. One need only to look back to the Russian-financed invasion of South Korea, that cost 50,000 American lives; to the 1956 invasion of Hungary; to the construction of mine fields, high tension barriers, and machinegun towers along the West German-East German frontier; to the construction of the infamous Berlin Wall; to the 1968 invasion of Czechoslovakia and to the financing of the invasions of South Vietnam, Cambodia, and Laos. This record ever since the end of World War II speaks hardly of a desire for peace; rather, the record speaks of a policy of desire for deception and blatant power politics. To ignore the record of the Soviet Union and to place one's confidence in the baseless promises offered in the treaty is sheer folly and irresponsibility. Such a policy represents an almost childish disregard for historical facts and human realities.

A WORLD MATTER

Mr. President, I raise these issues of concern, because I consider them of world significance and not merely the subject of an internal matter of the signatories.

The United States has vast military and political commitments abroad. It has been the backbone of NATO since its inception and to this day has over a quarter of a million men stationed in the country whose government is the principal with the Soviet Union in this treaty—West Germany.

Our commitment is affected by this agreement. The weakening of the West German position, and that of the West, and I maintain it would be if ratification is achieved, will place a greater burden upon the American role, not only in West Germany, but Europe as a whole.

Mr. Brandt has publicly stated that the 310,000 U.S. troops now in Europe must remain in order to maintain security. I ask why? Why must 310,000 American troops remain, when Germans are signing a nonaggression pact? Apparently, the signatories do not themselves believe it truly is a nonaggression pact. If a nonaggression pact is to be enforced by the existing level of military might, then strongly question the benefits to be derived from such an agreement. Even the German Government must doubt its true intentions and results. German ratification of this treaty will surely call for a reappraisal by the Congress of our present military commitments in Europe.

Mr. President, if the West Germans feel strongly that this is indeed a nonaggression pact, if they firmly believe it to be in their interest and the interest of the free world, then let them show it. Let them provide the necessary military might to enforce such an agreement, if their interpretation of the agreement requires a continued military presence. But let them not, for the sake of their own political expediencies and temporary personal political advantage, believe they can lead the American people into an uncompromising position at the continuing expense of the American people.

Mr. President, I have opposed efforts to reduce American troop strength in Europe in the past. The ratification of this treaty will certainly cause me and I am sure it will cause others to reexamine this position. If the German Government is now to put its confidence in a nonaggression treaty with the Russians, why not bring our troops home?

THE BERLIN AGREEMENT

The Soviet Union's threat not to sign the Berlin agreement, if ratification is not forthcoming, bears assessment.

The Berlin agreement is separate and apart from the treaty and when one considers the agreement and looks back on the original four power administration of the city, one is once more reminded of the cunning treachery of the Soviet Union.

The city of Berlin, at the end of World War II, was divided into four sectors—American, English, French, and Russian. Free movement between all sectors of Berlin was a right to citizens of Berlin, along with free access between West Germany and Berlin—not East or West Berlin, but Berlin.

Slowly, the Soviet Union began to impede this freedom of movement. First, as I stated earlier, in 1948 the Berlin blockade, and then intermittently, at will, and as the occasion suited their purposes. Slowly, mine fields, high wire fences, and machine gun towers began to shape the East European Prison. In 1961, the Berlin Wall separated the American, English, and French sectors from the Russian sector and East Berlin was created, with its imprisoned population. Now the Russians want to negotiate a Berlin accord, with the West apparently a willing partner. What the Russians are in effect saying is—now that I have taken away your rights—what will you give me for their return? But even here, their agreement is unilateral. No one mentions freedom of movement for the East Berliners or East Germans to the West; their proposals should not even receive the courtesy of a reply.

This country has continuously acquiesced. It has lacked the intestinal fortitude to require negotiating of fair and equitable agreements. It has participated in agreements of convenience, ignoring the implications, and often at the expense of unfortunate imprisoned populations, so that the West may realize a more harmonious existence with hostile governments and agreements with hostile power—without uttering a word—and at the expense and long-term detriment of the American people. This must stop.

If the West Germans want this treaty ratified, if they feel it is important to them, even at the expense of the continued Soviet cancerization of Europe, then they must pay the price—not we.

A TREATY PROPOSAL

If the Russians are truly interested in peace, then let the treaty be truly a peace treaty. Let it provide for the military reduction of both NATO and Warsaw Pact powers. To date, the Russians have refused to address themselves to this point. Let the treaty provide free East-West access. To date, this treaty ignores the rights of the East Germans and East Berliners and the ethnic Germans in occupied lands to visit their relatives in the West.

Let the treaty provide for the dismantling of the Berlin Wall, the elimination of the minefields, the high wire fences and machinegun towers. Let the Soviet Union show desire for peace, by giving self-determination to the peoples, all the way from Estonia to the Black Sea. But let us not encourage continued Soviet erosion of Europe through Western acquiescence, and particularly through the government of the Federal Republic of Germany's expedient desire for peace in the perpetuation of a political image. Let us not create the illusion of peace—let us stand firm and demand true peace.

Let us demand from the Soviet Union the concrete expression for the desire of peace through actions that can be seen and felt—not written rhetoric which finds itself hidden in the files of government. The Russo-German Treaty, in my opinion, is an ill-conceived instrument of expediency. It holds nothing of substance for the West; except perhaps the temporary political gratification of one government. It provides for yet another incursion by the Soviet Union into the Western domain. It is truly a unilateral treaty, to which I am wholeheartedly opposed, and to which all men who desire true peace, should be opposed.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. Allen). At this time, in accordance with the previous order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with speeches by Senators limited to 3 minutes.

THE UNITED STATES, THE SDR-DEVELOPMENT ASSISTANCE "LINK" AND UNCTAD III

Mr. JAVITS. Mr. President, I wish to call the Senate's attention to a situation which very importantly involves the future economic development of the less developed world and the actions the administration is taking with respect to it.

It is signalized by a lead editorial in the Washington Post today, entitled "Two Nixon Breakthroughs on Development," and features also a speech made by the Administrator for AID, Dr. John Hannah, on April 20, 1972, before the International Development Conference here in Washington, and also the remarks of a Treasury spokesman regarding the SDR-development assistance "link."

Clearly the administration is taking positive steps to strengthen the ties between the United States and the developing world as the world UNCTAD conference unfolds. The initiatives of the administration fall into two related areas:

First, to expand the negotiating forum which then will undertake the task of reforming the world's monetary system to include representatives of the developing world—Under Secretary of the Treasury Volcker has now announced that the major nations of the world now appear ready to accept a 20-nation negotiating forum which would include the representatives of 10 developing nations to replace the "rich man club" Group of Ten. Thus, in slightly more than a month, the suggestion of Secretary Connally that "the representational pattern of the IMF Executive Board provides one possible approach" is on the road to becoming a reality.

Second, to consider an SDR-development assistance "link" as SDR's become established as a growing and important new international monetary reserve unit in the international monetary system.

Dr. John Hannah, the Administrator of the Agency for International Development, stated in a prepared speech in Washington on April 20 that—

> Giving the developing countries special access to SDRs—the new reserve assets administered by the IMF—could provide an additional $2 billion a year or more in external financial resources. The United States in the past did not favor these proposals because we wished to avoid overloading the new SDR system. By now, the system has proven its acceptance and workability. SDRs will play an important role in the present restructuring of the international monetary system. The position we are taking at UNCTAD is to support, in parallel with other developed countries, a full study by the IMF of how SDRs can be used to support development in the LDCs. I believe the United States will support such proposals although complex questions of timing, volume, procedures, and negotiations will have to be resolved. If we are to carry out our fair share of the total responsibility, I see no better way to do it.

This statement is entirely consistent with the concurrent resolution Congressman Reuss and I introduced in the Congress on March 17 which recommended that a "link" be established between special drawing rights and development assistance. It is my expectation and I would assume the expectation of the world that the spokesman of the U.S. delegation at UNCTAD III will soon reiterate Dr. Hannah's position in an official statement before UNCTAD III.

The United States clearly cannot afford to be less forthcoming on this crucial issue than the other major developed nations of the free world. I note that at the recently concluded meeting of the European Common Market Finance Ministers in Rome that their spokesman, Italy's Minister Colombo, indicated agreement was reached that SDR's should be used as an indirect form of development assistance. The spokesman of the Japanese Government at UNCTAD III was similarly forthcoming.

It is my strong view that if the United States wishes to strengthen its ties with the developing world and if developing world cooperation is sought in the upcoming negotiations on the reform of the international monetary system that all appropriate efforts should be taken to insure that the "link" does not become a "bad trip" for the United States. As Dr. Hannah has pointed out, the United States has had difficulties meeting internationally negotiated or its own agreed-to commitments in the development assistance field including the adoption of a generalized preferences scheme, our IDA contributions, and the 1-percent AID target which was agreed to by the nations of the world at the 25th anniversary session of the United Nations.

Despite newspaper reports to the contrary, I find Dr. Hannah's statement consistent with the formulation of a Treasury Department spokesman that the "first priority" in any discussion of the reform of the international monetary system is the future role of the SDR in this system. Everyone would agree that SDR's have to be alive and well as an international reserve asset before the "link" can become a reality. Similarly, however, it would be unfortunate if the "link" concept were not alive and well at the time the nations of the world make their next decision on the future allocation of SDR's particularly if there is to be a 3-year tranche of SDR allocations as in the past.

After all, the future peace, well-being and security of the world depends heavily upon bringing up the developing countries and closing the gap, which is increasing rather than narrowing, between the standards of living in the developed countries, the industrial countries, and the standards of living in the developing countries.

So it is my view, Mr. President, the administration's moves along these lines are very constructive, and I hope that they will persevere in them, and that that is the position which the United States will not only take itself, but will utilize every means at its command for the purpose of bringing about agreement on the part of the other major industrial nations of the world.

I ask unanimous consent that Dr. Hannah's speech and the Washington Post editorial of April 28 be made part of my remarks.

There being no objection, the editorial and speech were ordered to be printed in the RECORD, as follows:

TWO NIXON BREAKTHROUGHS ON DEVELOPMENT

The Nixon administration, confounding its critics on this issue—including, we cheerfully confess, ourselves—has quietly taken a couple of giant steps toward doing its fair share to help the world's poor. So giant and so quiet are these steps, in fact, that most of the world is unaware they have been taken.

The first step, disclosed in Paris last week and confirmed in Washington, was a turnabout on the sensitive issue of debt repayment. Such repayments by the developing countries now total about $6 billion a year and are increasing at twice the rate of their export earnings, making progress in development incredibly difficult. In Paris, the United States and 13 other government creditors agreed to let Chile delay payment of most of its debt falling due in the 14 months beginning last November

On its part, Chile agreed to make "just compensation" for nationalized properties. Thus ended, at least for the year, the ugly possibility that the United States would use its multilateral creditor's leverage to force settlement of its bilateral compensation disputes. This is a major policy breakthrough by Mr. Nixon, at once enlightened and generous. AID Director John Hannah confirmed it explicitly the next day in a Washington speech, saying that "multilateral debt relief agreements" can become a substantial source of external aid for poor countries with big debt problems. That's most of them.

The second American step offers conceivably even more promise. It was contained in Mr. Hannah's disclosure that the United States would agree to a full study by the world's rich of how to "link" distribution of the new international reserve known as Special Drawing Rights (SDR) or "paper gold" to development. Previously the United States had refused even to study the poor's demand for such a "link." But under the spur of having to present a position on the issue at the United Nations Conference on Trade and Development currently meeting in Santiago, it formulated a position—and a positive one of great potential *mutual* benefit. The poor would get a means of buying more desperately needed goods and services from the rich; the rich would be able to increase their exports, thereby improving their own payments balances and employment alike. Mr. Hannah spoke of providing to the developing countries "an additional $2 billion a year or more" in SDRs—no paltry sum.

Rescheduling debts and distributing more SDRs to the poor do not by any means fulfill all of the United States' political requirements and moral obligations to the rest of the world. Not only will these new policy announcements take time and fuss to implement, and they will be implemented only selectively, but other steps are required. Lowering tariff barriers to the poor's exports remains a priority project to be tackled by the President as soon as political conditions permit. More development aid, especially in the soft loan category, is essential, and so are better arrangements to stabilize commodity prices. This list is not meant to be inclusive.

The debt and SDR policies, nonetheless, are major moves, belying the administration's image up to now as an international Scrooge. They can be of real value to the developing countries, and of course to the United States too. And they are ways of transferring resources to the poor—ways which spare the President his ever more bruising aid battles on Capitol Hill. Bilateral aid seems to be becoming no more than a glorified technical assistance program. But that may be just as well, if the President succeeds in opening up new channels of responsibility elsewhere.

THE UNITED STATES AND THE DEVELOPING WORLD

(By John A. Hannah)

I

One of the most felicitous developments in recent years has been the Green Revolution. The work of the plant breeders in producing new productive varieties and the use of fertilizers and pesticides have yielded exceptional increases in the production of cereal grains. India is currently self-sufficient in food grains—a feat that a few years ago would have been regarded as difficult to achieve as the American landings on the moon.

The Green Revolution sometimes encounters second generation problems. Problems such as susceptibility to new plant diseases requiring new measures to control them and new research to develop resistant varieties. This was not unexpected.

Development, basically, is a process of challenges and solutions. Each new generation of problems requires new solutions—new answers.

As of now development assistance has second generation problems. Like the Green Revolution, development assistance programs enjoyed a period of vigorous growth. Beginning with the Marshall Plan, Point IV and evolving through the interim programs and U.S. A.I.D., the concept was adopted and adapted by most of the developed countries. The resulting bilateral assistance programs supplemented by the U.N. agencies and the World and Regional Banks have yielded resources and results beyond anyone's early expectations.

But in recent years, the growth of development assistance has been stunted. Transfers of official development assistance have grown only marginally since 1967. In the United States we are completing the most difficult 12 months in the history of the Foreign Assistance program. Bilateral aid was reduced substantially by the Congress. At one point, the Senate actually voted the program following its debate of issues pertaining to the Vietnam war. Funding for the World Bank and other multilateral institutions has been reduced and delayed. We have been unable to proceed with legislation granting trade preferences to less developed nations. The negotiations on untying bilateral aid were interrupted by the realignment of the international monetary system. For U.S. development assistance, this year has been—in the words of the drug culture—a bad trip.

But the problems affecting development assistance—like the second generation problems affecting the Green Revolution—are neither fatal nor permanent. The concept of Development Assistance has enduring validity.

The United States will not become a world drop-out. We remain committed to doing our fair share in the common effort to help the people of the developing countries help themselves move in the direction of utilizing their resources for providing lives of better quality for all of their people.

At this period in history our country is evolving new relationships with developed and developing countries—relationships which inevitably affect the scope and content of development assistance programs.

II

Looking ahead, I would like to comment on three factors which appear important in the evolving relationships between the developed and the developing countries.

First, there will be increasing diversity in the patterns and goals of development as developing countries confront new problems in this increasingly complex and rapidly changing world.

Second, the developing countries will increasingly expect to be treated as equals in their dealings with the developed world.

Third, the developed countries and the less developed countries may discover a greater mutuality of interests as they seek to solve their basic problems of growth and change.

Let me comment briefly on these three points.

First, the old belief that the path to growth in the poor countries lay in learning the ways of the West has been decisively undermined in recent years. This morning's session—labeled, perhaps over-dramatically, the "Crisis In Development Strategies"—pointed out that the developing countries confront many new problems—problems which did not face the developed countries in the earlier days of their development. For instance:

The labor forces in many developing countries are growing at far faster rates than were experienced in the western developed countries, or in Japan.

The developing countries face particularly acute problems of income distribution, which require new methods and programs. For instance, it is estimated that if India relied solely on rapid growth of agriculture and national income to solve its nutrition problem it would be more than 30 years before the lowest third of India's population could afford an adequate diet.

In education, the developing countries cannot continue to emulate Western style educational systems. Education budgets have been rising twice as fast as GNP in most LDCs, but half of all their children are still out of school because there are no schools for them, no teachers, no books. The developing countries have the need to develop non-traditional, low-cost systems of education, if they are to roll back the tide of illiteracy. For the country with a per capita GNP of $200 per year or less, it is futile to advocate universal educational opportunities in Western type schools with 30 or fewer students per school room, teachers with graduate degrees, modern visual aids and all the rest. Their economies cannot support that kind of a school system.

I could give other examples. But the basic point is that many of the major problems facing the poor countries have either not been duplicated in Western experience or are not solvable with *existing* Western technology and institutions. They are different problems. They require new types of public and private institutions, new policies for allocating resources, new means for delivering services, and, in some cases, new technologies.

The severe problems of unemployment, underemployment and income distribution require new development formulas which achieve a better harmony between growth and equity.

As the developing and developed countries grapple with these problems it is reasonable to expect: First, that we will find more experimentation and variety in patterns and goals of development among different countries. We see some of this today. For example, India's increasing attempts over the years to find its own patterns for solving its poverty problem and the current interest in some of the approaches to development in the People's Republic of China.

Second, that as the donor countries become increasingly concerned with the new problems, their approach to the developing countries should tend to become less prescriptive and more cooperative. The old tutorial relationship—born of the belief that we in the West possessed the readymade answers for the problems of the underdeveloped—should diminish. Hopefully there will evolve a more collaborative problem solving approach.

The developing countries will appropriately press for increasing recognition of their right to influence donor policies and the course of worldwide development assistance. We see many signs of this today: the growing resistance to directive styles of assistance; the United States agreement to have its economic policies reviewed by the Latin American countries instead of always the other way round; the increasing restiveness with developed country dominance of the multilateral institutions; and the prominent current example of the UNCTAD now meeting in Santiago, Chile. There the developing countries are pressing their right to influence the restructuring of trade and monetary systems.

A headline in a recent issue of the *Journal of Commerce* summed up what I think will be a major theme for this decade. It was: *"Poor Lands Demand Decisive Influence."*

Finally, perhaps paradoxically, as the developing countries face new problems and evolve new solutions we may discover a greater mutuality of interests. It is possible that methods and procedures found by the poor countries to be useful in solving their urban problems may be useful in developed societies. We can expect that some of the truly unique experiments in effective low-cost education will come from the poor countries. They may have relevance to our country. This may also be true in health care and in other areas. The truism that we are all developing countries and can learn from one another may increasingly be a reality as well as a cliché.

III

What does this imply for United States assistance programs? Although the problems of development are changing, the need to transfer resources, training and expertise from the developed to the less developed remains undiminished.

The Person Commission estimated that the developing countries would require $16.2 billion a year in official assistance from the developed countries by 1975 to sustain a six percent annual growth rate. The UNCTAD estimated a total resource gap of about $37 billion in 1980. While such estimates are highly tentative, no one seriously questions that the amount of resource transfers which will be needed from the developed countries to achieve reasonable growth in the developing countries is significantly higher than that now flowing.

There will be strong efforts by the developing countries to establish mechanisms for resource transfers which avoid the incursions on dignity and independence which some of the developing countries feel are inherent in current assistance programs. Many of these issues are front and center at the UNCTAD III meetings in Santiago. Key items include these three: (1) *expansion of LDC exports and trade preferences;* (2) *earmarking a larger share of SDR's for use by developing countries;* and (3) *debt relief*. I would comment briefly on each of them.

The United States is committed to the adoption of a system of generalized tariff preferences. Secretary Rogers has again recently confirmed the intention of this Administration to introduce generalized preference legislation in Congress.

The submission of a bill has been delayed because of the concern that it might be counterproductive and encourage the possibility of protectionist rather than liberalized trade policies. It is hoped that the climate will be more favorable next year. Whether such legislation passes may hinge on continued recovery in the domestic economy and a clearer indication of the effects monetary restructuring will have on our international economic position. I am confident that the United States in its own best interest will eventually approve trade preference legislation.

Giving the developing countries special access to SDRs—the new reserve assets administered by the IMF—could provide an additional $2.0 billion a year or more in external financial resources. The United States in the past did not favor these proposals because we wished to avoid overloading the new SDR system. By now, however, the system has proven its acceptance and workability. SDRs will play an important role in the present restructuring of the international monetary system. The position we are taking at UNCTAD is to support, in parallel with other developed countries, a full study by the IMF of how SDR's can be used to support development in the LDCs. I believe the United States will support such proposals although complex questions of timing, volume, procedures and negotiations will have to be resolved. If we are to carry our fair share of the total responsibility, I see no better way to do it.

Annual debt repayments by the LDCs now total about $6 billion a year and are increasing at twice the rate of LDC export earnings. Multilateral debt relief agreements can become a substantial source of LDC external finance for individual developing countries with large debt problems.

The World Bank has taken the position that it will encourage developed countries to grant debt relief and will take the lead in working out guidelines for doing so, but that it will not grant relief of debts owed to it. We recognize that the Bank must maintain its credit ratings in world capital markets. But we hope that the Bank will find ways to participate in multilateral debt relief arrangements by being willing to consider rescheduling for debts owed it.

When and how these proposals for debt, trade preferences, SDRs and other more exotic proposals will be agreed upon is difficult to predict. The end of the decade may well find a large fraction of resources transferred from the developed countries to the LDCs flowing through these channels.

President Nixon has made it clear that an important part of our policy for future development assistance is to encourage the growth and use of multilateral institutions. These institutions grew with surprising vigor in the 1960s. Loans authorized by the World Bank, IDA, and the regional banks rose from $1.3 billion in 1962 to $3.3 billion in 1970. This Administration plans to give full support to continuing this growth.

We must recognize that while many in Congress support multilateralism, there are many others who do not. We must also recognize that the United States cannot unilaterally build multilateral institutions. If these institutions are to retain their international character, increases in U.S. contributions must be matched by comparable increases in other donor contributions. It will be a long-term job to work out the required agreements with other countries to substantially increase the proportion of total resources flowing through multilateral channels.

The World Bank has taken the lead in coordinating aid programs and providing guidance for donors and counsel for recipients. This relationship is well established and fully supported by the United States.

Now, what about the bilateral assistance administered by the Agency for International Development? Many of you have often listened to me and I will make this overview very concise.

First, this Administration will continue to work for the separation of economic development assistance from Military Assistance Programs and from Supporting Assistance programs in Vietnam, Laos, Cambodia, Thailand, Jordan, Israel, and other countries where our political or security interests are engaged. This proposal was part of the foreign assistance legislation which the President sent to Congress a year ago tomorrow. Congress deferred action last year and agreed to give it serious consideration this year. It is now evident that action will be postponed until after this fall's election. We hope the Congress will act on it early next year.

The marriage of long-term development assistance with short-term military and supporting assistance in a single Foreign Aid bill was a product of the cold war. But these programs have different objectives, and a divorce is long overdue.

Second, U.S. bilateral assistance will concentrate on assisting developing countries find answers to a limited number of basic *human* problems: problems such as food production and nutrition, population growth, and health and low-cost education systems. The solution of some of these problems requires new technologies and institutions. Our country's great store of scientific knowledge, our problem solving approaches, our capacity to provide applied and useful training programs for foreign nationals, and the capabilities of our professional people can make great contributions in these and other areas.

We should not forget that our U.S. AID training programs have provided training for more than 160,000 persons now returned to their own countries and these former trainees are well qualified for important roles in development programs. Many of them have demonstrated high competence in the service of their governments, and across the board in civilian pursuits.

We will increasingly emphasize research, innovation and joint problem solving programs with the developing countries.

We will devote significant emphasis to building the capacity of U.S. private institutions such as universities, foundations, voluntary agencies, cooperatives, farm groups, labor groups and other groups to provide assistance in these basic problems.

The pervasive objective is to focus our loans, grants, research funds and other resources *on a limited number of basic development problems* where U.S. technical skill and experience can make a significant contribution.

We will give increasing attention to the problems of employment, income distribution, and equity.

The proper focus for U.S. bilateral aid is on the basic problems of people. People are at the center of development. Development is meaningful only if it can be translated from impersonal statistics, and graphs, and measures, and emphasis on GNP into more and better food, education, health, and jobs for people.

Above all, no matter how rugged and unrewarding life may be for this generation in the least developed countries, there must be justifiable hope that life may be better for their children.

U.S.A.I.D. will increasingly combine its bilateral financial resources with research and U.S. technical skills to address—jointly with the recipient countries—a relatively limited number of development problems which are basic to human welfare. *This is the direction in which we are headed.*

If we are to succeed, consistent, continuous, and understanding help "where it counts" will be required from you and your friends. We have been traveling a rough road. It may not get much smoother until the war in Indochina is wound down. When that time comes, I am certain that if the people of America have all the facts before them they will insist that our country be a responsible part of tomorrow's world, and play a responsible role in it.

In closing I return to a point made earlier. The pace and direction of development assistance will increasingly be determined by the developing countries themselves. Their problems must be solved in their countries by their people. At best external aid can only provide encouragement and help for the peoples in the assisted countries as they move in the direction of harnessing their resources to improve the quality of life for all of their people.

That is what U.S.A.I.D. should be about.

QUORUM CALL

The PRESIDING OFFICER. Is there further morning business?

Mr. AIKEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. AIKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIETNAM

Mr. AIKEN. Mr. President, the reason I am speaking today is that this morning I read on page 14638 of the CONGRESSIONAL RECORD of yesterday a statement by the chairman of the Committee on Foreign Relations, referring to what I had said earlier, wherein he said:

> I have never heard that the North Vietnamese have demanded as a condition for a political settlement the surrender of weapons given to the South Vietnamese.

I had stated repeatedly that that was one of the demands the enemy were making of us in South Vietnam. So this morning I ask unanimous consent to have printed in the RECORD the terms which were submitted to us in Paris on February 3, 1972, and repeated only yesterday.

There being no objection, the terms were ordered to be printed in the RECORD, as follows:

NLF "TWO POINT" "ELABORATION" OF THE "SEVEN POINTS"—FEBRUARY 3, 1972, NGUYEN VAN TIEN—DEPUTY HEAD OF NLF DELEGATION AT PARIS TALKS

(The proposal was reported in Paris session of April 27, 1972.)

Proceeding from the fundamental rights of the Vietnamese people and the South Vietnamese people's right to self-determination, the Provisional Revolutionary Government of the Republic of South Vietnam wishes to elaborate on the two key problems in the seven-point solution to stop the U.S. war of aggression, and to put a complete end to the "Vietnamization" policy as follows:

1. Regarding the withdrawal of U.S. troops and the cessation of the U.S. air war and all U.S. military activities in Vietnam.

The U.S. Government should stop its air war and all military activities in Vietnam, rapidly and completely withdraw from South Vietnam all U.S. troops, advisers, military personnel, weapons and war materials and those of the other foreign countries in the U.S. camp and dismantle the U.S. military bases in South Vietnam.

The U.S. Government should set a specific terminal date for the complete withdrawal from South Vietnam of all U.S. troops, advisers, military personnel, weapons and war materials and those of the other foreign countries in the U.S. camp without posing any condition whatsoever. This specific terminal date will also be the terminal date for the release of all militarymen of the parties and of the civilians captured during the war (including the U.S. pilot captured in North Vietnam).

2. Regarding the political problem in South Vietnam.

The U.S. Government should really respect the South Vietnamese people's right to self-determination, put an end to all interference in the internal affairs of South Vietnam. Nguyen Van Thieu and his machine of oppression and constraint, instruments of the U.S. "Vietnamization" policy, constitute the main obstacle to the settlement of the political problem in South Vietnam. Therefore, Nguyen Van Thieu must resign immediately, the Saigon administration must end its warlike policy, disband at once its machine of oppression and constraint against the people, stop its "pacification" policy, disband the concentration camps, set set free those persons arrested on political grounds and guarantee to the people the democratic liberties as provided for by the 1954 Geneva agreements on Vietnam.

After the above has been achieved, the Provisional Revolutionary Government of the Republic of South Vietnam will immediately discuss with the Saigon administration the formation of a three-segment government of national concord with a view to organizing general elections in South Vietnam, to elect a constituent assembly, work out a constitution, and set up a definitive Government of South Vietnam. The general elections will be held according to procedures agreed upon among the political forces in South Vietnam so as to ensure effectively their free, democratic and fair character.

Agreement on the above two key problems will make it easy to resolve the other problems with a view to ending the war, and restoring peace to Vietnam. For its part, the Provisional Revolutionary Government of the Republic of South Vietnam is prepared to negotiate an overall solution for the purpose of signing a comprehensive agreement.

If the U.S. Government really wants a peaceful settlement of the Vietnam problem, it should respond to the seven-point solution whose two key problems have been elaborated above, and it should engage in serious negotiations at the Paris conference of iVetnam.

Mr. AIKEN. I shall not read them all, but here is one of them:

> The U.S. Government should stop its air war and all military activities in Vietnam, rapidly and completely withdraw from South Vietnam all U.S. troops, advisers, military personnel, weapons and war materials and those of the other foreign countries in the U.S. camp and dismantle the U.S. military bases in South Vietnam.

I do not know what could be plainer than that, that they are demanding that we withdraw all defensive weapons which we have given to the South Vietnamese people to defend themselves. Also, a question has been raised, that when I said that 200,000 people were killed in North Vietnam between the years 1950 and 1956 or 1957, that this statement may not be exactly correct. The figure of 200,000 is the best estimate that I can get from talking with officials of that government and refugees who got out of the country in time to save their own necks, and from officials of our country and officials of other countries as well. That figure, 200,000, is an estimate, I admit. But if the slaughter was as low as 100,000, it was not justifiable that we should stand by and see them slaughtered, and that is why we helped move 900,000 of them to the south.

It is not justifiable now that we should yield to the demands of the enemy to leave the 900,000 refugees helpless so the north can get hold of them and give them the same punishment they gave those who were not able to get out in time.

I ask unanimous consent to have printed in the RECORD a colloquy which took place between Secretary Rogers and myself on April 17, 1972, when several members of the Foreign Relations Committee, including the chairman, were present.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

COLLOQUY

The CHAIRMAN. Senator Aiken.

Senator AIKEN. I have only two or three questions, Mr. Secretary. I am not going to base those questions on conditions which existed in the war between the states in 1861 to '65 because I don't recall a few hundred thousand Southerners had been butchered in the North previous to the invasion of the South.

So my question first is, President Eisenhower directed many of our ships to move refugees from North Viet Nam to South Viet Nam in 1954, I believe. Approximately 900,000 people were moved. What was the reason that President Eisenhower took, well, say, advantage of this situation to move all of those people out of North Viet Nam? Was there any good reason for it?

Secretary ROGERS. I don't believe I know the answer to that.

Senator AIKEN. The answer to that is the North Vietnamese had already killed 200,000 of these people. They had butchered them. And after that we, the United States, this hardboiled country, used its ships to move about 900,000 more people out of North Viet Nam to the South in order to keep them from suffering the same fate. I think I am correct on that.

Secretary ROGERS. Yes, that is in answer to the question the Chairman asked me.

Senator AIKEN. You partly answered it in your testimony earlier. Do you think that the nature of the North Vietnamese has been changed since?

Secretary ROGERS. No, I do not.

Senator AIKEN. Since those days when they deliberately slaughtered two hundred thousand—that is the best estimate I can get, Probably some of the State Department people can give a better one.

Secretary ROGERS. Senator, I don't think they have changed. I don't think they have any intentions of living up to international law. As you know, they haven't lived up to the Geneva Convention on the treatment of prisoners of war. There is no indication they have any respect for international law at all. And I think that if we pull out of South Viet Nam quickly, as some have suggested, that it would result in a horrible massacre.

Senator AIKEN. And weren't about 750,000 of those refugees taken out because of religious beliefs?

Secretary ROGERS. That is correct.

Senator AIKKEN. Between 700,000 and 900,000 in all had to clear the country of North Viet Nam to get into the South.

Secretary ROGERS. That is right.

Senator AIKEN. Now, as I understand it, there are people in this country who have spoken, people who are quite prominent from time to time, demanding that we accept the North Vietnamese terms for ending the war over there.

Now, these terms, as I understand it, call on us to repudiate the government of South Viet Nam; is that correct?

Secretary ROGERS. That is correct.

Senator AIKEN. And also to remove the weapons which we have furnished to the South Vietnamese people with which to defend themselves; is that correct?

Secretary ROGERS. That is correct.

Senator AIKEN. And if we did that do you think that would do away with any prospect of bloodshed in South Viet Nam after we complied with their demand?

Secretary ROGERS. No, of course it would greatly increase the prospect of bloodshed.

Senator AIKEN. And also the charges made that Vietnamization is not working anyway. I read a story which appeared in one of the Nation's big newspapers on April 9, in the New York Times, telling how the people who owned their homes and worked their farms up in the North were not giving them up and becoming refugees simply on command of the North Vietnamese but were fighting back just as the Americans did at Lexington and Concord some two hundred years ago. Is that correct? I have never seen that story anywhere else. I found it inadvertently in the middle of this big newspaper. I thought it was a very illuminating story.

Secretary ROGERS. That is correct, and I think that is overlooked, at least the papers don't seem to say much about it, is that the government of South Viet Nam has provided weapons for over a million people in South Viet Nam, one out of every 17. If there was great opposition to the government it would be difficult for the government to do that. I think these recent weeks show that people are supporting the government of South Viet Nam and are fighting very courageously to protect their own country.

Senator AIKEN. To what extent do the Viet Cong enter into the picture now compared with what they used to?

Secretary ROGERS. Very little now because the whole fighting is being borne by the North Vietnamese.

Senator AIKEN. And isn't it true some of those who were regarded as Viet Cong or NLF, or whatever they call it, are now fighting for their own homes?

Secretary ROGERS. Yes, that is correct, there have been quite a few defectors now fighting to protect South Viet Nam.

Senator AIKEN. I think it was a rather hideous story being written from 1961 to '69. I do recall we had 543,000 men there by 1969 put in there over my objection, and by the way, the question is now being asked "why didn't you consult the Congress in advance before attacking Hanoi, bombing Hanoi or Haiphong Harbor?"

This is not a question, but I would like about one minute to speak for myself. I was at the White House in 1966, I believe it was, about February, when several of us, I believe including you, Mr. Chairman, were called down there, not to be consulted but to be told that bombing of North Viet Nam was to begin then. It had been decided on. Among those present were Secretary of State Dean Rusk, Secretary McNamara, President Johnson, Chief of Staff and so on, probably 15 people in all. I recall that I protested that decision to bomb the North as vigorously as I could—that I told those prominent people there I wasn't President, I didn't have authority, I wasn't even Vice President, so I couldn't do anything about that, I wasn't even Secretary of State, but I told them,—

Secretary ROGERS. You are getting pretty low.

Senator AIKEN. And I don't want to be now. That that action would prolong the war, it would not reduce the infiltration of either men or arms from the North, and I do recall turning to Secretary McNamara and telling him if he went ahead with that bombing he would put this country in hell. Well, whether it has been hell or not is a matter of opinion. Some people in this world have evidently rejoiced but others agree that it has been a hellish experience that we have had, but there is no comparison between the bombing of Haiphong today and the bombing of Haiphong then when I thought the United States was clearly the aggressor.

Today I feel that by committing its entire military strength into the invasion of a neighboring country that North Viet Nam is the aggressor. I am satisfied that they are going to lose, I am satisfied if any other country put them up to this, this aggression at this time, that that country is not doing itself much good.

And so I have got that off my chest. I have been carrying it now for about 6 or 7 years, at least, and I do believe there is no comparison between the situation in 1966 and now in 1972. I would not want to stand by and see two million people butchered in South Viet Nam even if two-thirds of them do happen to be of different religious faith than my own. I think we now have an obligation, a humane obligation to consider their security.

Secretary ROGERS. Thank you, I thank you very much. I think the American people have great respect for your statement. I appreciate that statement.

Senator SYMINGTON. Thank you, Mr. Chairman.

Mr. Secretary, on October 7, 1968, when campaigning for the Presidency at a UPI conference in Washington, Mr. Nixon said and I quote: "At the present time 90 percent of the bombing over North Viet Nam has been discontinued. The 10 percent that is now being continued is for tactical military purposes to protect the forces in the DMZ zone. I would not raise that level of bombing."

Do you have any comments on that?

Secretary ROGERS. No, I don't, Senator.

Mr. AIKEN. I just want to read an excerpt from this colloquy.

I said:

> Senator AIKEN. Now, as I understand it, there are people in this country who have spoken, people who are quite prominent from time to time, demanding that we accept the North Vietnamese terms for ending the war over there.
>
> Now these terms, as I understand it, call on us to repudiate the government of South Viet Nam; is that correct?
>
> Secretary ROGERS. That is correct.
>
> Senator AIKEN. And also to remove the weapons which we have furnished to the South Vietnamese people with which to defend themselves; is that correct?
>
> Secretary ROGERS. That is correct.
>
> Senator AIKEN. And if we did that do you think that would do away with any prospect of bloodshed in South Viet Nam after we complied with their demand?
>
> Secretary ROGERS. No, of course it would greatly increase the prospect of bloodshed.

Another statement made by——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRIFFIN. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. I yield my 3 minutes to the Senator from Vermont.

Mr. AIKEN. I noticed also the statement by my chairman, on page 6726:

> We have abandoned our ancient tradition of nonintervention in other people's affairs and of allowing other people to settle their affairs in accordance with their own traditions and capacities.

Mr. President, we have no tradition of nonintervention with the affairs of other countries. We can go back to the days of John Adams, and find that since then we have, more than 100 times, I would say, interfered in the affairs of other countries, usually—almost inevitably—in a good cause.

I shall not undertake to put the list of our foreign involvements in the RECORD at this time. I simply say that the Monroe Doctrine was an interference with the affairs of European countries which wanted to settle and colonize the Western Hemisphere.

We had the case of Theodore Roosevelt taking the Panama Canal. We had the Spanish-American War, as it is called, where we went to the defense and obtained the liberation of Cuba and the Philippines from Spain. We had the Boxer Rebellion in China. We went into the Dominican Republic in 1903, and into Haiti, and in World War I we mixed into the affairs of Europe very substantially.

As I say, there have been more than a hundred cases of interference. However, I did not approve—I have not approved at any time—of the military interference to the extent to which we went into Indochina. But when it is said that by becoming involved in Vietnam we are abandoning tradition, that is shear nonsense, because our tradition, other folks might say, has been one of interference in the affairs of other countries. If anyone wishes, I can submit a list of perhaps a hundred instances. But nearly every intervention on our part has been in the interest of our own security or a humane cause.

At the present time, although I want to see complete withdrawal from South Vietnam at the earliest possible moment, I admit we are interfering with the desires of North Vietnam when we try now to prevent them from retaking perhaps more than a million people who escaped their vengeance in North Vietnam from 1954 through 1956.

So I am inserting these documents in order to keep the record accurate.

ORDER FOR THE SENATE TO PROCEED TO CONSIDERATION ON MONDAY OF THE SUPPLEMENTAL APPROPRIATION BILL FOR FISCAL YEAR 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, immediately following the disposition of the amendment by the Senator from Wyoming (Mr. McGEE) to restore the full authorization for USIA, the Senate proceed to the consideration of Calendar No. 732, H.R. 14582, the supplemental appropriation bill for fiscal year 1972.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR ADJOURNMENT FROM MONDAY UNTIL 10 A.M. TUESDAY, MAY 2, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next, it stand in adjournment until 10 a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TUESDAY UNTIL WEDNESDAY, MAY 3, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Tuesday next, it stand in adjournment until 12 o'clock noon on Wednesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

S. 2743. A bill to establish a working capital fund for the Bureau of Land Management of the Department of the Interior, and for other purposes (Rept. No. 92–766).

By Mr. BURDICK, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 9545. An act to amend the Revised Organic Act of the Virgin Islands to provide that the Legislature of the Virgin Islands shall prescribe the minimum age for membership in the legislature (Rept. No. 92–767).

ADDITIONAL COSPONSOR OF A BILL

S. 3393

At the request of Mr. COOK, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3393, a bill to amend title XVII of the Social Security Act to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment.

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY AUTHORIZATION ACT OF 1972—AMENDMENT

AMENDMENT NO. 1171

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. COOK. Mr. President, when Congress passed the National Traffic and Motor Vehicle Safety Act in 1966 it empowered the Secretary of Transportation to establish safety standards for motor vehicles to protect the public "against unreasonable risk of death and injury in motor vehicle operation."

Since then, the Nation has made many real gains in this area and the Department of Transportation and its safety division, the National Highway Traffic Safety Administration, deserve much of the credit.

The required energy absorbing steering system, for example, which partially collapses on impact, reduces injuries 30 percent according to a scientific study published by the Highway Safety Research Center at the University of North Carolina.

But there is one safety regulation issued by DOT that I find quite disturbing and about which I have been very outspoken. I have been critical of this standard not for what it requires by way of new safety measures, but for what it fails to require.

It is Motor Vehicle Safety Standard 208, the so-called air bag standard, which mandates completely automated occupant restraint devices on new cars beginning in 1975.

Few people realize that this proposal also strikes completely from Federal auto safety regulations the requirement for safety belts. After August 15, 1975, there simply will not be any seat belts in new cars, unless the owner decides to install them himself, paying a retail price likely to be three times what the belts would cost in mass installation.

It further strikes me as a peculiar and particularly questionable practice to induce the premature implementation of a radically new technology and simultaneously eliminate from Federal safety standards the only objectively tested occupant restraint mechanism.

Perhaps the fact that seat belts will not be required safety equipment should not concern me so much, since only about 25 percent of the people use them, which seems to be why DOT embarked on the road to passive restraints.

But it is particularly bothersome because, despite all of DOT's claims for the air bag, there appear to be some painfully serious problems that ultimately are going to affect the Nation's motorists.

And I feel strongly that until we are assured and shown that every single major problem has been solved, and until it can be demonstrated conclusively that passive restraints—no matter by what name they are called—can perform 100 percent of the time as effectively and efficiently as seat belts, then I think we owe it to the public to assure them that seat belts will be available in every car they buy.

So today, Mr. President, I offer an amendment to S. 3474, a bill "to amend the National Traffic and Motor Vehicle Safety Act of 1966," that expresses the will of the Congress that seat belts should continue as mandatory safety equipment until such time as actual experience with the air bags indicates that seat belts provide no measurable safety benefit.

In no way should this amendment be interpreted as a move to thwart the authority of the Department of Transportation, because I fully support every effort to discover more and better ways of keeping people alive, of keeping them from being hurt in most auto crashes. Rather, it should be viewed as some small measure of added insurance for the motorist until we know more about the new technology that Detroit and European automakers are rapidly perfecting.

Mr. President, when the passive restraint rule was first issued, the primary reason was to get into use a system that would protect more people than the seat belts that get only about 25 percent use. It seemed at the time there was no way to get people to buckle up.

Today, just 3 short years later, we know differently. First, there is the ignition interlock belt system that precludes starting of the car unless belts ar buckled about the occupants. Tests have shown this system to increase belt use of about 75 percent.

Within the last year Australia has boosted seat belt use to about 75 percent and in one State there the fatality rate has dropped 50 percent because of a law that simply requires people to use seatbelts when in a car. In fact, one Ohio city has had a similar law for 6 years—and the police there report a high rate of belt use.

Interest in such laws is growing in many quarters. Both the president of Ford Motor Co., Lee Iacocca, and Richard Gerstenberg, chairman of General Motors, have expressed their support. The National Safety Council has voted to endorse mandatory use laws. And proposals for mandatory use have been introduced in at least 10 State legislatures.

So, it is possible to get people to use belts, even without a massive promotional and educational program that would be highly desirable and productive.

On top of that, there is more than ample proof that safety belts are effective, and I am told that superior, more advanced safety belts are being tested.

One of the most detailed analyses of seat belt efficiency was reported by Volvo, the Swedish automaker. In over 28,000 accidents there were no fatalities among safety belt users in crashes up to 60 miles per hour. Last fall, a General Motors researcher, W. D. Nelson, analyzed 235 fatal accidents and found that only 1 percent of injuries to safety belt users were fatal.

In a very excellent study done by the Highway Safety Research Center at the University of North Carolina, it was found that safety belts reduced injuries and fatalities an average of 43 percent in all accidents, and up to 59 percent in high speed crashes.

Mr. President, I find it difficult to understand how anyone could look at these and other statistics that show how much seatbelts can do to save lives and reduce both the number and the seriousness of injuries, and fail to be impressed.

I think it is important to keep these facts in mind when examining arguments for and against passive restraints, primarily because it can be demonstrated that there are acceptable alternatives to accelerated implementation of the air bag technology, and that safety belts have an intrinsically high value in terms of life-saving capability.

What are some of the problem areas in the field of passive restraints, primarily the air bag, that should prompt us to keep safety belts?

First, there is the matter of reliability. So far in the history of air bags it has not been demonstrated that on a production line basis they will work absolutely perfectly all the time. These are man-made devices; we would be foolish if we believed that they will be perfect. Secretary Volpe himself said last December that we must be absolutely certain of 100 percent reliability, nothing less. So, as a very practical matter, seat belts will offer back-up protection in the event of failure or just as importantly in the event of premature or inadvertent operation. That is one reason I have been very outspoken in criticizing the elimination of seat belts, which are a proven, inexpensive safety system.

In recent weeks, the Department of Transportation has conducted crash tests of two "experimental safety vehicles" in Phoenix, Ariz. Both vehicles, equipped with air bags and dummies designed to simulate human passengers, were crashed into a solid barrier at about 50 miles per hour. Neither vehicle was equipped with seat belt systems. Secretary Volpe last week exclaimed that the "eyes of the country" were focused on the most recent test. My eyes, Mr. President, were focused on the dummies, and last week, when the vehicle crashed into the barrier, I watched with horror as the dummies were thrown into the windshield. Seat belts obviously would have prevented such an occurrence, despite the failure of the air bags to deploy. As it was, had those dummies been real people, one or more would have been killed.

Second, there is the matter of protection in multiple collisions. Little credence can be given claims that air bags are going to be manufactured to reinflate for impact after impact after impact, when there still are problems with single bag deployment. Safety belts, on the other hand, have been proven capable of giving continued protection throughout the crash ride.

Next, there are serious questions about the capability of air bags for protection of occupants in all crash modes. While they may be ideal in high speed head-on crashes, some apparently valid questions have been raised about their worth in side collisions and roll-over collisions. I think it worth noting that many deaths occur when occupants are thrown out of cars to be smashed to the ground or crushed beneath the vehicle. It is a well known fact that belts keep occupants inside the car where they are much safer.

Recently the Office of Science and Technology issued a report outlining the effects of regulatory actions on motor vehicle costs. Part of the report addressed itself to passive restraints, and it had this to say:

> An important observation to be made is that there is no passive restraint technique yet developed that can, by itself, provide adequate side-impact and roll-over protection, even at the lower speeds, despite technical compliance with MVSS 208. In addition to the use of air bags, structural changes must be made in the vehicle to prevent intrusion into the passenger compartment in side-impact collisions, and either structural changes or belts are needed to prevent ejections from the vehicle in side-impacts or roll-overs. In contrast, active restraints, specifically, lap-shoulder belts, mitigate ejections in roll-overs and side-impacts without structural changes. Moreover, extensive front-seat design changes are required to provide the structural strength to restrain rear-seat passengers in frontal collisions when air bags are used.

A few weeks ago General Motors issued a "Report on Progress in Areas of Public Concern," which included comments by Louis Lundstrom, who heads and coordinates all automotive safety for GM. I found some of his observations quite interesting.

For instance, Mr. Lundstrom said General Motors does not yet have a practicable passive restraint system for rear-seat occupants, and he stated that air cushions as presently being developed would be of no use in rear end collisions. And the cost of the new systems, he said, would be "substantial."

Another concern must be the action that preceded an accident—what happens to the car and driver before a crash occurs. Often drivers will swerve violently in an attempt to avoid a collision, and they usually slam on their brakes forcefully.

If there is no crash, there is no deployment of airbags and occupants, particularly children, risk being tossed about the interior of the car. Also, drivers face the possibility of sliding out from behind the wheel, losing control of the vehicle. Again, these are situations in which seatbelts will be valuable.

Mr. President, the obstinate refusal of the NHTSA to reinstate the mandatory seatbelt requirement has been carried beyond the point of reason. Without making a value judgment as to the effectiveness of airbags, there is no longer any doubt as to the effectiveness of seatbelts. They can, and do, save lives. Last week they would have saved the dummies.

Since my last statement on this problem to the Senate, I have received hundreds of letters from people throughout the country, urging my continued efforts to "save the belts." There has also been substantial editorial endorsement for the maintenance of the seatbelt requirement. There is no question that seatbelts should be retained, until proven to be of no safety benefit. If they save only one life or prevent one person from sustaining permanent injury, they are worth the minimal cost of installation.

Mr. President, I again urge the NHTSA to amend its passive restraint standard to preserve the seatbelt requirement. As a precaution against bureaucratic inertia however, I am today introducing legislation to remedy this unjust and inexcusable situation.

FOREIGN RELATIONS AUTHORIZATIONS ACT OF 1972—AMENDMENT

AMENDMENT NO. 1172

(Ordered to be printed and to lie on the table.)

Mr. McGEE. Mr. President, yesterday I developed, in a speech on the floor, the dimensions of my concern over what the Foreign Relations Committee did to the USIA authorization for fiscal 1973.

As a result of the committee action slashing the USIA authorization, next Monday I will be offering a straight up and down amendment to restore the full amount of the authorization. You may recall that the committee cut the authorization by $45 million or nearly 30 percent. I believe this to be unwise at this time, and I would like to say a little more about why I think it unwise.

As I stated yesterday, there can be no serious question about the need for a Government information program or the importance of the USIA's function in the conduct of our foreign affairs. Its efforts are closely integrated with the activities of other U.S. agencies engaged in foreign relations, and its role is a permanent one.

Therefore, Mr. President, I ask your indulgence to make a few remarks reflecting my deep concern over the actions of the Senate Foreign Relations Committee in dealing with the authorization legislation for USIA for fiscal year 1973. The $45 million slash in funds would virtually gut the capabilities of the U.S. Government to effectively present the views of the American people throughout the world. This action, in my judgment, is ill-timed and ill-conceived. Let me detail for you briefly what these cuts will mean in real, concrete, terms.

The Voice of America will be crippled. Twenty-five foreign languages will have to be dropped, six major transmitter facilities will be closed down, and more than 900 experienced valuable employees will be terminated. Among the languages to be dropped are Latvian, Lithuanian, Estonian, and all East European languages.

Mr. President, I have traveled widely as a Senator of the United States, as most of us have, and I have made it a particular point to look into the effectiveness of the VOA wherever I have gone. Without exception, I have found it to be highly respected, responsible, and listened to. All over the world, VOA's name newscasters are recognized. Guides at the exhibits in the Soviet Union who were drawn from VOA for temporary duty, time and again find their voices recognized and excitement sweeps through a hall full of Soviets as the word spreads, "Look, there is Nikita Barsky, it is Nikita, it is Nikita." I hardly need to underline the significance of such a reaction in a closed society. Massive Soviet jamming efforts, resumed to the hour, as Soviet tanks rumbled into Czechoslovakia in 1968 reflect the appeal VOA broadcasts have in the U.S.S.R.

The cut proposed by the Foreign Relations Committee, because of its structure and rigidity of form, will abolish all USIS activities in 30 countries and severely reduce them in many others.

USIS will be abolished in Guyana where the battle for power between Moscow-inspired Cheddi Jagan and the more moderate Forbes Burnhan has kept a tragic country divided between blacks and Asiatics; Trinidad, a vital Caribbean port with more than one-half billion dollar U.S. investments and one of the pillars of constructive Caribbean efforts toward regional government and closer relations with the United States; Bulgaria, one of the most hermetically sealed countries in the world; the Dominican Republic, which only a few years ago was the scene of one of our great foreign policy crises; most of the countries of Central America, important to the United States politically, economically, and historically; Libya and Kuwait, two of the great reservoirs of petroleum of the Western World, upon which the entire Western economy has come to depend; and 17 countries in Africa.

Let me say a few words about Africa, particularly. As you know, as chairman of the Foreign Relations Committee Subcommittee on Africa, this part of the world is especially close to my heart.

In sub-Saharan Africa, the cutback would require the elimination of all U.S. informational and cultural activities normally handled by USIS in more than half of the countries comprising 50 million black Africans. Out of 28 countries where USIS posts now operate, as many as 15 could lose the entire program—library, cultural activities, film, press, radio programing—everything. In five more countries, a total of 11 branch posts and reading rooms outside the capital cities are tentatively slated for closing. The other eight countries, not small enough to be eliminated altogether and not large enough to warrant branch post operations, will be cut drastically.

These developments, taken together with the elimination of most of the African division of the Voice of America—except for French broadcasting—and the demise of the single printed medium for reaching people throughout the continent—the picture magazine Topic—means in effect that all efforts to communicate with 50 million Africans will have been largely curtailed by the U.S. Government.

The message to the remaining 250 million Africans is to be drastically watered down, and in the case of the 120 million inhabitants of five top priority countries—Cameroon, Ethiopia, Ghana, Nigeria, and Zaire—virtually the entire effort would, perforce, be limited to minimum activities in the capital city. This reduction will not only cut out people and offices, but all facilities available to them for doing their job. Because of concurrent reductions in support services back in Washington as well as cutbacks in sheer budgetary support, such standard devices which have been used by USIS posts throughout the world as publication of weekly or biweekly newsletters, and the mailing of special materials of interest to educators, editors, youth leaders, union leaders, and the like, the projection of films, and staging of lectures, seminars, and discussions, will also have to be cut.

In human terms, the reduction of program activities in Africa would mean the elimination of 43 American officers assigned to Africa—out of a total of 100.

This it should be borne in mind, is the necessary impact of this fund cutback on a continent full of people with a number of specially legitimate questions to ask of America. This continent, plagued with disease, illiteracy, underdeveloped commercially, industrially and agriculturally, only a decade from colonial rule, seeks new directions and new ideas to help fulfill its peoples' aspirations. It is not interested in adopting outsiders' ideologies, but it is desperately in need of know-how—straightforward pragmatic answers to questions of social, cultural, and technological organization vital to its move into a modern world. It has exhibited great respect and affinity for the American experience and enthusiasm for the vitality and promise of the American example.

Mr. President, I can only think of one justification for an action like this which would strip our Government of its ability to communicate successfully the views of the American people to the rest of the world. That would be the coming of the millennium in political terms—the end of political competition and pressure between ourselves and the other super powers in the world; the achievement of genuine peace and trust. We all know this day has not yet arrived. Those of us who have any doubts need only read the statements of Chairman Brezhnev who, reiterates again and again the unyielding position of the Soviet Union that political competition and ideological struggle must be relentlessly pursued. President Nixon in his U.S. Foreign Policy for the 70's statement stated:

> The United States and the Soviet Union are ideological adversaries and will remain so. We are political and military competitors. . . .

I submit, Mr. President, that in these circumstances, the irresponsible massive reduction of the capability of the United States in information and cultural affairs which would result from this bill would amount to simple unilateral political disarmament and political suicide.

Mr. President, we are not talking about billions. This is not the Nation's defense budget. Savings accomplished in the magnitude of $45 million are not going to settle this country's fundamental economic crises, nor renew its cities, nor end its educational inequalities. What it will do, however, is jeopardize the capability of the U.S. Government to protect the interests of the American people and win the time necessary to muster the massive resources necessary to cope with our own internal problems.

In sum, Mr. President, I urge the Members of the Senate to support my resolution which proposes the restoration of the full request for the budget authorization of USIA.

Mr. President, I ask unanimous consent that the text of my amendment be printed at this point in my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1172

On page 21, beginning with line 20, strike out through line 26 on page 22 and insert in lieu thereof the following:

Sec. 201. There are authorized to be appropriated for the United States Information Agency for fiscal year 1973, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) $194,213,000 for "Salaries and Expenses" and "Salaries and Expenses (special foreign currency program)", except that so much of such amount as may be appropriated for "Salaries and Expenses (special foreign currency program)" may be appropriated without fiscal year limitation;

(2) $5,036,000 for "Special International Exhibitions" and "Special International Exhibitions (special foreign currency program)", which amount may be appropriated without fiscal year limitation; and

(3) $1,000,000 for "Acquisition and construction of radio facilities", which amount may be appropriated without fiscal year limitation.

On page 29, line 11, strike out "(a)".

ANNOUNCEMENT OF HEARINGS ON THE PROPERTY TAX

Mr. METCALF. Mr. President, on behalf of Senator MUSKIE, the chairman of the Subcommittee on Intergovernmental Relations, Committee on Government Operations, I would like to announce that the subcommittee will begin hearings on May 4 and 5 on the property tax system.

The hearings will be held in room 3302 of the New Senate Office Building, at 10:00 a.m.

Anyone wishing to file a statement with respect to the property tax should contact the chief clerk of the subcommittee, Mrs. Lucinda T. Dennis, at 225-4718.

ADDITIONAL STATEMENTS

DR. LAURENCE N. WOODWORTH, RECIPIENT OF CIVIL SERVICE AWARD

Mr. FULBRIGHT. Mr. President, this evening, April 28, the chief of staff of the Joint Committee on Internal Revenue Taxation will receive a "Career Service Award for Sustained Excellence" from the National Civil Service League. The league also confers awards for "Special Achievement," and Dr. Woodworth's citation is special even for them. It recognizes Dr. Woodworth's outstanding contributions to Government during his 28 years on the joint committee staff and his tenure as chief of staff since August 1964.

It is well known to the members of the Senate Finance Committee that Larry Woodworth has one of the most demanding positions in Washington. For instance, during the deliberations on the Tax Reform Act of 1969, the talk was that 3 years of work was done in about 9 months. Instrumental in the process of research, analysis, and drafting was the joint committee staff led by Dr. Woodworth.

I must say that to operate at peak mental efficiency in such an atmosphere of pressure does indeed take an extra measure of stamina as well as technical and administrative skills of a high order.

We members of the Senate Committee on Finance have seen Dr. Woodworth apply these skills year after year as difficult and complex revenue measures have been shaped, considered, modified, fought over, and enacted. The staff, which he has developed and trained, has been most helpful to the members of the committee.

An additional measure of Dr. Woodworth's value is the experience which he brings to his job from his activities outside of Congress, such as his positions in municipal government, active participation in the National Tax Association, and as a fiscal adviser to the Governor of Maryland. For example, I would think that his experience as mayor and as city council member of Cheverly, Md., adds valuable insight into current Congressional deliberations on revenue sharing.

In my opinion, the excellent work of Dr. Woodworth's has made a significant contribution to the tax legislation of this country and to the quality of its Government. He has earned this high honor, and I would like to add my commendation to that of the National Civil Service League.

JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES OF 1973

Mr. COOK. Mr. President, I would like to take this opportunity to announce that the Joint Congressional Committee on Inaugural Ceremonies of 1973, created pursuant to Senate Concurrent Resolution 63 of the 92d Congress, held its organizational meeting on Monday, April 24, 1972. The meeting was held in the office of the Speaker, and Senator B. EVERETT JORDAN of North Carolina was unanimously elected chairman of the joint committee. This is the third time the distinguished chairman of the Senate Committee on Rules and Administration has been unanimously elected to serve in this illustrious capacity.

The members of the Joint Committee on Inaugural Ceremonies in addition to Senator B. EVERETT JORDAN, chairman, are Senate Majority Leader MIKE MANSFIELD, Senator MARLOW W. COOK, Speaker CARL ALBERT, House Majority Leader HALE BOGGS, and House Minority Leader GERALD R. FORD.

TRIBUTE TO SENATOR RANDOLPH

Mr. MONDALE. Mr. President, I have always felt the greatest sense of respect and admiration for my friend and distinguished colleague, JENNINGS RANDOLPH, the senior Senator from West Virginia. A few days ago, I had an opportunity to go to West Virginia and find out how deeply those sentiments are shared by the people of his State. It was a profoundly rewarding experience, one I should like to bring to the attention of the Senate.

The occasion was the 17th annual banquet of Weirtonian Lodge No. 183, Order Italian Sons and Daughters of America. A crowd of more than 500 people attended the meeting, which took place Wednesday, April 26, 1972.

At that banquet in Senator RANDOLPH'S honor, a 17-year-old Eagle Scout, Michael "Mickey" Ceran, received a special tribute from the Boy Scouts and the community for his bravery in saving the lives of two people during the past 2 years. Mickey had also received honors from the Fort Steuben Area Council for his courage.

I was deeply impressed by the remarks of Mickey Ceran and others who spoke at the dinner, including the Rev. Father James Altmeyer, chairman, Mike Sinicropi, and Daniel Grossi, who served as toastmaster.

But I was particularly moved by the comments of Mr. Guy V. Mendola, the national president of the Order of the Italian Sons and Daughters of America, I think Senators would enjoy reading his comments, because Mr. Mendola expressed very clearly the qualities we have all admired in Senator RANDOLPH.

Mr. President, I ask unanimous consent that the complete text of Mr. Mendola's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF GUY V. MENDOLA

It is a pleasure and privilege for me to visit again with my brothers and sisters of Weirtonian Lodge . . . to break bread with them on this very special occasion . . . and to participate with them in their salute to a distinguished American . . . one who has been a close friend and who holds an honorary membership in the Order Italian Sons and Daughters of America . . . the Honorable Jennings Randolph, United States Senator from West Virginia.

Senator Randolph has played a major role in bringing many distinguished Americans to this city as guests of Weirtonian Lodge. It is most appropriate that tonight we salute him and pay tribute to him as a most distinguished leader and a truly great American.

As we pay tribute to Senator Randolph tonight, I am reminded of the words of the late John F. Kennedy—who, incidentally, was one of the distinguished visitors hosted by this lodge shortly before he became president of the United States. Our martyred president made the following observation about men who are chosen to serve in high public office:

"When at some future date, the high court of history sits in judgment of each of us . . . recording whether in our brief span of service we fulfilled our responsibilities . . . our success or failure, in whatever office we may hold, will be measured by the answers to four questions . . . were we truly men of courage . . . were we truly men of judgment . . . were we truly men of integrity . . . were we truly men of dedication."

It is my sincere belief that Senator Randolph could answer all those questions in the affirmative, because in his long record of public service he has exemplified courage, judgment, integrity and dedication in the discharge of the duties of his office and in his fulfillment of his responsibilities to the people of West Virginia and to his fellow-Americans.

As fraternalists and as Americans, we need the vision and direction which good leaders like Senator Randolph can give us. We need that vision and direction so that each one of us might provide our country during its present period of crisis with the moral courage and cultural stamina which our ancestors have always provided. Our adherence to our essential tradition of the brotherhood of man under the fatherhood of God imposes upon us the need for demonstrating that kind of moral courage and cultural stamina in everything we do. Only then can we be truly united in the accomplishment of our high purpose as responsible and concerned Americans and emulate the example of your friend and my friend, Senator Jennings Randolph.

This is the challenge and crusade of our day. It is the kind of challenge we must accept and a crusade we must rally behind if we are to make the kind of contribution we must make as we begin the hard, long, exciting task of building a greater America. Only then will we be ready to explore new dimensions of human aspiration and achievement. As fraternalists and as good Americans we can afford to do no less.

As National President of the Order Italian Sons and Daughters of America, I want to breach the non-partisan political policy of my office for the first time tonight.

I want to state most affirmatively that were I a resident of this great neighboring state of West Virginia, I would work for and I would vote for the re-election of our distinguished friend, Senator Randolph.

NATIONAL MATERIALS POLICY

Mr. BOGGS. Mr. President, the St. Louis Post-Dispatch recently published a very interesting article analyzing the interim report issued earlier this month by the National Commission on Materials Policy.

As this interim report is of great interest to many Senators, I ask unanimous consent that the article by William K. Wyant, Jr., be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Salvage—Do Not Discard, Materials Panel Urged

(By William K. Wyant, Jr.)

Washington, April 21.—The United States is running short of raw materials and must find ways of shifting from the "use and discard" approach to salvage and reuse, the National Commission on Materials Policy reported this week.

Until shortly before World War II, this country's export of minerals exceeded its import. By 1970 it was buying minerals worth about 4 billion dollars more than those it sold abroad. The commission warned that the net trade deficit could reach 60 billions a year by the year 2000.

"In the case of a majority of our basic materials," the presidential panel said in its first interim report, "the gap between our requirements and the remaining easily accessible world supplies is widening."

To illustrate the bind the United States is in, the commission recalled that world production of 31 principal minerals more than doubled in dollar value from 1950 to 1968—to 77.4 billions from 37.1 billions—while this country's output increased only to 18.5 billions from 14.2 in 1968 dollars.

In 1950 the United States was producing 38.2 per cent and consuming nearly 42 per cent of world production. By 1968 this country was producing less than 24 per cent and consuming less than 28 per cent of the world total. In 1968 dollar value, however, American consumption increased to 21.6 billions over from 15.6 the period.

"The unmistakable conclusion . . . is that as the nation's needs continue to grow and as per capita consumption of materials in other countries increases at an even faster rate than ours, it becomes increasingly difficult for the United States to fill its ever-growing deficit by imports, even at increasing prices," the interim report said.

The United States, the commission said, enjoyed vigorous industrial and economic growth over the last century, building up "the highest standard of living in the world." The panel blamed complacency for the nation's failure to develop new sources of materials at home—a failure reflected in more and more dependence on foreign sources.

Both in the acquisition of materials and in the disposal of waste, the panel said, conflicts can occur between the need for the raw stuff of industry and the quality of the environment.

The commission noted that technology and the increasing affluence of the nation's society had nearly doubled the amount of solid waste generated by each person daily. In urban areas, waste collection has soared from under three pounds for each person a day in 1920 to five pounds in 1970.

There has been a change in the character of the waste, it was pointed out, because it contains more and more materials that are nonbiodegradable—that is, that do not deteriorate normally when thrown away. Total solid waste produced in the nation in 1969 has been estimated at more than 4.3 billion tons.

The commission's final report is due on June 30, 1973. Congress created the commission in the Resource Recovery Act of 1970. President Richard M. Nixon appointed the members last June. Chairman is Jerome L. Klaff, president of H. Klaff and Co., of Baltimore.

Other members are Lynton Keith Caldwell, professor of political science at Indiana University; J. Hugh Liedtke, president of Pennzoil United, Houston; Lee W. Minton, president emeritus of the glass Bottle Blowers Association, Philadelphia; Frederick Seitz, president of Rockefeller University, New York; Secretary of the Interior Rogers C. B. Morton and Secretary of Commerce Peter G. Peterson.

The commission's staff is directed by James Boyd, former director of the Bureau of Mines and president of the Copper Range Co.

In 1970, the commission reported this week, the United States imported all of its primary requirements of chromite, columbium, mica, rutile, tantalum and tin. It imported more than 90 per cent of its aluminum, antimony, cobalt, manganese and platinum, more than half its asbestos, beryl, cadmium, flourspar nickel and zinc, and more than one third of its iron ore, lead and mercury.

The commission emphasized the importance of "secondary processing"—the recycling of materials after a product has been made and used, and the reclamation of waste during the manufacturing process.

In the report is a list of key materials that are to be given intensive study for the purpose of improving their recycling. The list includes iron and steel, the alloying elements chromium and nickel, and aluminum, copper, lead, magnesium, zinc and precious metals.

Glass, oil, paper, plastics, rubber and textiles are also on the list. Special attention will be given to municipal and industrial wastes, as well as to certain consumer wastes like junked automobiles.

DEATH OF FRANK L. BOYDEN, FORMER HEADMASTER OF DEERFIELD ACADEMY

Mr. BROOKE. Mr. President, it is with deep regret that I learned of the loss of one of America's most inspirational educators and molders of men. Frank L. Boyden, who for 66 years served as headmaster of Deerfield Academy, died Wednesday in his home in Deerfield.

Frank Boyden was a big man, though he stood only 5 feet tall. And he guided three generations of Deerfield boys through adolescence and on to distinguished service in every imaginable calling.

He had originally planned to enter the law, and went to Deerfield as headmaster in 1902 for a year in order to save money to enter law school. But his stewardship of Deerfield continued until his retirement in 1968, and in spirit it shall continue for as long as the academy endures.

When Frank Boyden arrived at Deerfield shortly after the turn of the century, the fate of the academy was much in doubt. With only 14 students and a meager endowment, Frank's task was immense. At first he drove around the countryside seeking to enroll students. But it was not long before Deerfield was able to choose from among the top students in the country.

As headmaster, Frank Boyden ruled with a warm heart, rather than an iron hand. For years his office was in the front corridor of the academy's main building, and he was always available to his students to whom he provided constant and individual assistance. The story is told that when someone donated money for a new office, he declined to use the desk that faced the campus and instead used a chair near the door—as close as he could get to the corridor—so that he could see the students as they went by. And students never failed to come to him, whether in their triumphs or troubles.

Under his tutelage, there developed some of our Nation's finest leaders in the 20th century. While he remained a modest man, others would not let him escape the acclaim he deserved. His fellow educators recognized his brilliance and compassion, and 23 colleges and universities awarded him honorary degrees.

But I am sure, to Frank Boyden, the greatest reward was the success and happiness of those whom he nurtured and guided to maturity.

Frank Boyden's legacy will endure for ages because it is embodied in the thoughts and deeds of thousands of Deerfield graduates who are leaders in their fields of endeavor.

To them, I offer my condolences for the loss of a mentor without parallel. To his widow, Helen, and his two sons, John and Theodore Boyden, his daughter, Elizabeth Boyden, and his grandchildren, I offer my deepest sympathy in their loss of a wonderful husband, father, and grandfather.

I ask unanimous consent that an article about Frank Boyden, published in the Boston Globe of April 26, 1972, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Frank L. Boyden Dies; Spent His Life Building Deerfield Academy

(By Jean Caldwell)

Deerfield.—Frank L. Boyden, who came to spend one year as headmaster of a faltering Deerfield Academy in 1902 and stayed on for 66 years to build it into one of the nation's finest secondary schools, died in his home early yesterday morning. He was 92.

He was a little man—5 feet—and he used to describe his method of raising funds by saying: "I just look old and frail and sick."

But Boyden wielded power far beyond that, perhaps, of any other educator of the century. His power came from the fact that he understood boys, he loved people, he had a showman's flair that was coupled with a deep sincerity, and a willingness to do everything for this school from raising $100,000 in an afternoon to replacing bits of turf dug up by player's cleats from the football field.

When Boyden became headmaster in 1902, Deerfield had 14 students—some of them regarded as terrors by the townsfolk. The trustees weren't sure whether to close the school or to try to keep it going. Several of Boyden's Amherst classmates had been offered the job. He was the only one who applied.

He planned to stay for one year, save his money and enter law school. It was 20 years before he gave up the idea.

In the beginning he would drive around the countryside in a buggy trying to persuade country boys to enroll in the Academy. After a time he had his pick of the top students in the country.

He always found room for the boys, no one else wanted. Boys who were kicked out of

Andover and Exeter came to Deerfield and went on to do brilliantly in college.

His offices were in the front corridor of the main building. This was the busiest spot in the school. He could sit there and sense the mood of the school, could spot an individual boy who was troubled. Much later, someone gave money for a lovely office to be built off the main corridor. He never sat at the desk which commanded a splendid view of the campus but in a chair near the door, as close as he could to the corridor. He wanted, he said, to see everyone who came by.

Under his leadership, the Deerfield Academy had no catalogue and no printed set of rules. He didn't mind making exceptions for a single boy and then getting agreement from the student body that the exception was to be an exception.

His graduates went on to become doctors, lawyers, bankers, but most, especially, educators.

When he first came, the school was too small to field a team so he played on the baseball team with the boys. He played on the team until he was 35 and was coach for the football, basketball and baseball teams until he was almost 80. He went to every game up to the beginning of March and would sit on the bench with the players.

Last year, the National Football Foundation and Hall of Fame presented him with its "Distinguished Americans Award."

Twenty-three colleges and universities awarded him honorary degrees. But the presidents of many more paid him a higher tribute—they sent their sons and grandsons to him to be educated.

He insisted on fresh flowers in every building and at least a single flower on every table in the dining room. But when it came to fees, he often would tell parents to "pay what you are able." At one time a fifth of the student body was there under this arrangement.

He got the boys together at least once a day because he felt this was what families should do.

The campus switchboard was in his rear parlor and for years—until he was 82—he was the one to answer the phone when it rang between 10:30 p.m. and 7:00 a.m.

When his wife rejoined his faculty after the birth of their third child, he warned her that should a dispute ever arise between her and one of the boys, he would side with the boys.

Her alma mater got even with him for keeping her worried about her job despite the fact that she was one of the school's outstanding teachers. When Smith College gave her an honorary degree, the citation read: "To Helen C. Boyden, who, with some small help from her husband, built a great school."

But he would say of her: "She is much more important than I am. She has a wonderful sense of humor and deep affection for the boys. She has more influence on the boys than I have. She makes them want to do the work. Her judgment is excellent. It is interesting that a combination such as the two of us could get together. I don't know that I've ever known her really. She could have been the head of any school.

For ten years, from 1960 to 1970, he was chairman of the board of trustees of the University of Massachusetts. He was instrumental in obtaining fiscal autonomy for the university and presided over it during its period of greatest growth.

Robert C. Wood, president of UMass, noted Boyden's efforts in planning for the medical school in Worcester and the UMass-Boston campus.

"Men of the stature of Frank Boyden are a grace to their epoch," he said. "His vitality and energy on behalf of the University of Massachusetts were legend. We shall miss him, but his endeavors are his monument and he will not be forgotten."

In 1967 President Lyndon Johnson awarded him the Presidential Citation for Distinguished Service.

He leaves his wife, Mrs. Helen (Childs) Boyden, whom he married in 1907; two sons, John C. of Yarmouth Port (who retired as Deerfield Academy admissions director in 1969, one year after his father) and Theodore C. of Atlanta, Ga. and a daughter, Miss Elizabeth Boyden of Deerfield, and two grandchildren.

Private family services will be today in the First Church of Deerfield. Burial will be in Laurel Hill Cemetery in Deerfield.

There will be a public memorial service tomorrow at 2:00 p.m. in the Deerfield Academy Memorial Building.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, which will be stated.

The legislative clerk read as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

INCREASING THE LIMIT ON DUES FOR U.S. MEMBERSHIP IN INTERNATIONAL CRIMINAL POLICE ORGANIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 733, H.R. 11350.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

H.R. 11350, to increase the limit on dues for U.S. membership in the International Criminal Police Organization.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments, on page 1, line 5, after the word "thereof", strike out "$55,000" and insert "$100,000"; at the beginning of line 8, strike out "unpaid balance of the dues for the calendar year 1970. There" and insert "unpaid balance of the dues for the calendar years 1970 and 1971. There"; and, on page 2, at the beginning of line 3, strike out "$23,000" and insert "$55,000".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEVENSON). The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

Mr. FULBRIGHT. Mr. President, the foreign relations authorization bill now before the Senate serves to bring together legislation to authorize appropriations for the Department of State, U.S. Information Agency, Arms Control and Disarmament Agency, and Peace Corps.

For these four agencies the committee recommends a total authorization of appropriation amounting to $916,971,000, consisting of the following:

Sixty hundred forty-eight million dollars for the Department of State, including $85 million to recover resettlement costs for refugees from the Soviet Union.

One hundred fifty-five million dollars for the U.S. Information Agency.

Thirty-two million dollars over the next 2 years for the Arms Control and Disarmament Agency, of which almost $10 million will be used in fiscal 1973 for seismic research under the agency's direction.

Eighty-two million dollars for the Peace Corps.

The total authorization of $917 million is $43 million over the budget request and is $135 million more than was appropriated for these agencies in fiscal 1972. The $43 million increase over the fiscal 1973 budget request is accounted for by the committee's action to support an $85 million authorization to assist in the resettlement of Jewish and other refugees from the Soviet Union.

The committee's action on all of these money items is spelled out in the report, and by and large, the administration fared rather well, given the serious reservations that a number of members of the committee have about our foreign affairs establishment.

Mr. President, as an indication of these doubts, the committee adopted a number of policy provisions. The bill we submit includes the following provisions:

It prohibits the use of funds for the purpose of maintaining or supporting U.S. forces in hostilities in Indochina after December 31, 1972, subject to an agreement for the release of prisoners of war and an accounting for those listed as missing in action.

It creates a commission to make a long-range, in-depth study of the governmental mechanisms and programs for the making and conduct of foreign policy.

It requires a 10-percent cutback within the next fiscal year of the number of U.S. Government personnel of certain agencies who are stationed abroad.

It prohibits distribution of U.S. Information Agency materials to the U.S. public.

It prohibits propaganda activity in behalf of foreign governments by U.S. agencies and requires attribution of all Government information prepared for distribution abroad.

It establishes a grievance procedure for Foreign Service personnel.

It requires that promotion within the Foreign Service be based on individual merit as determined by impartial selection boards.

It repeals the provision of law allowing the importation of chrome ore from Rhodesia in violation of a United Nations Security Council decision.

It establishes a Bureau of North American Affairs and a Bureau of South American Affairs in the Department of State.

It requires Senate approval of all persons chosen to use the title of ambassador or minister.

It encourages more candid testimony to congressional committees by witnesses from the foreign affairs agencies.

It transfers the principal responsibility for seismic research from the Department of Defense to the Arms Control and Disarmament Agency.

Mr. President, Members of the Senate should be aware that the Department of State and U.S. Information Agency authorization legislation contained in this bill represents a significant departure from the procedure followed in previous years. Heretofore, both the Department of State and the U.S. Information Agency operated under a permanent authorization of appropriation. Such a procedure afforded the Committee on Foreign Relations and the Congress little opportunity to exercise significant legislative oversight of the activities of the principal agencies concerned with foreign policy or to make their views known on a regular basis about the operations and programs of these two foreign affairs agencies. Last year the committee recommended and the Congress approved legislation to correct this situation by requiring periodic authorization of the activities of both the Department of State and the U.S. Information Agency. The provision contained in the Foreign Assistance Act of 1971 will enable the authorizing committees to carry out their oversight functions more effectively and to request the Department of State and the U.S. Information Agency to be more responsive to the authorizing committees and to the Congress as a whole.

Exercise of the oversight function has been well served by this new procedure. With respect to the objective of making these agencies more responsive to the legislative needs of the committee and the Congress, the evidence to date is less than encouraging. The committee still has several requests outstanding for information from the Department of State and the Information Agency. In fact, the hearing record itself is not yet complete because all of the information requested has not been supplied. This lack of responsiveness to requests for information on the part of the Department of State and the U.S. Information Agency indicates a disregard for the letter and spirit of the law. Congress wrote into the Foreign Assistance Act of 1971 the following:

> The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.

The committee initiated this provision of law because of the increasing difficulties it has had in recent years in acquiring information from the executive branch which it needed to fulfill its legislative oversight responsibilities. Despite the committee's and the Congress' best efforts, however, culminating in the legal requirement, the committee was notified in mid-March, for example, that the U.S. Information Agency's country program memoranda documents would not be made available to the committee or the Congress for the purpose of using these documents to review and evaluate the agency's current authorization request of $200 million.

In view of this denial—based on a dubious claim of executive privilege—the committee voted 9 to 4 to reduce that agency's request by a total of $45 million or about a quarter of the budget estimate. The report explains the committee's action in the following way:

> The information contained in the Agency's Country Program Memoranda and other planning documents may provide a full and adequate justification for the $200 million authorization. The Committee has no way of knowing. It was in effect asked to approve this request "in the blind." It could not do so. And in the absence of such information and justification, the Committee believes the taxpayers of the country ought to be given the benefit of the doubt.

Mr. President, the committee's decision to bring the authorizing legislation for the Department of State, U.S. Information Agency, Arms Control and Disarmament Agency, and Peace Corps together in a single bill represents an effort to focus attention on the size, the lack of central direction, and the proliferation of Government agencies involved in the field of foreign affairs. The four agencies covered by this legislation do not, of course, exhaust the list of foreign affairs agencies by any means and, in fact, one could reasonably claim that even the four taken together constitute a small part of the entire foreign policy apparatus of our Government. This apparatus is such that one wonders if the Department of State is capable at the present time of controlling or significantly influencing the foreign policy of the United Sates. Even at our overseas posts, it is evident that the sheer number of representatives from other agencies makes it impossible for the Department of State to be the servant of the President, or even the master of its own house, except on paper—and very thin paper at that. The committee report points out, for example:

> Of the 21,814 U.S. civilian employees serving overseas on December 31, 1971, only 3,409 are engaged in regular State Department activities.
>
> In addition to the civilian agency personnel . . . as of September 30, 1971 there were 3,210 people from the Defense Department abroad serving as military attachés or connected with military aid programs. The proliferation of activities abroad by other agencies is illustrated also by overseas spending. Of the $6,021,635,000 spent abroad by U.S. Government agencies in FY 1971, only $153,577,000 or two percent was attributable to the Department of State.

This situation indicates that multiple Federal agencies have overseas missions of their own, often leaving the foreign service to provide administrative services rather than dealing with significant foreign policy subjects such as economic and military aid, trade, information and other subjects of vital concern. Those executive branch agencies which have a foreign-policy input in Washington—ranging from the Department of Agriculture to the Department of Defense to the Department of Treasury—have their representatives abroad and their policy guidance frequently turns counter to that of the Department of State. In turn this condition means that many ambassadors spend as much time trying to straighten out interagency squabbles in the embassy as in attending to legitimate affairs of state.

Mr. President, in a nutshell there is something seriously wrong with the foreign affairs structure of our Government. As the report states:

> The results of the Committee's study this year make it apparent that the present foreign policy machinery does not serve the Executive Branch, Congress, or the public.

And the report goes on to point out that:

> Most significant foreign political, military, and economic policy issues are decided through the systems set up under the National Security Council and the International Economic Policy Council, whose personnel refuse to appear before Congressional Committees.

But in terms of resource allocation and foreign policy priorities, the report finds:

> There is no single place in the Executive Branch for the systematic establishment of priorities for use of our nation's resources for foreign policy purposes. And, in Congress, because of the number of Committees involved in the authorization and appropriations processes, there is also no focal point for Congressional oversight. In effect, the apparatus for foreign policy is like a bureaucratic no man's land, with every agency pursuing, to a significant extent, its own objectives without effective control by either Congress or the Executive Branch.

In view of these findings, Mr. President, the committee recommends that the Congress endorse the following statement:

> The Congress finds that during the last quarter of a century there has been a proliferation of agencies of the United States Government with respect to the formulation, management, and conduct of, and the collection of information relating to, the Nation's foreign policy. This proliferation has resulted in the diminution of both the President's and the Congress' respective powers with respect to the formulation and implementation of foreign policy, the less effective coordination and control of such policy, the distortion of traditional policymaking processes and the waste of the taxpayers' money through overlapping of functions and duplication of effort. It is the purpose of this act to establish a study commission which will submit findings and recommendations to provide a more effective system for the formulation and implementation of the Nation's foreign policy.

The specifics of the study commission proposal are contained in title VI of the bill. Briefly, the commission would be composed of 12 distinguished members, two from the Senate, two from the House, two from the executive branch and six from private life. The mandate given the commission is a broad and farreaching one:

> The Committee intends that the Commission shall study all aspects of the governmental system for making and conducting policy as well as current programs and activities relating to our foreign policy. The Committee expects the Commission to give special consideration to Congress-Executive Branch relationships, including, but not limited to, the issues of executive privilege, access to information, the security classification system, and more effective ways to further the intentions of the drafters of the Constitution concerning the coordinate-relationship of the Congress and the President in the formulation of foreign policy. With respect to the Executive Branch, it is the Committee's intent that the Commission shall consider the activities of all agencies and offices within the Executive Branch which have an impact on foreign policy or the conduct of our affairs abroad, including all interagency arrangements for the control and coordination of all matters relating to foreign policy.

The Commssion is given 2 years to carry out this mandate and is required to report to the President and the Congress no later than June 30, 1974. The committee believes this ought to be sufficient time for the Commission to conduct a comprehensive, indepth study of the organizational and administrative ills facing our Nation's foreign policy structure, and to develop the kind of recommendations that will serve to cure them.

Mr. President, perhaps the most convincing testimony to the need for a thorough review of the Nation's foreign policymaking processes is that which arises from the lessons and experiences of Vietnam—a foreign policy failure of monumental proportions. And just as we must act to correct the procedures that helped produce this failure, so too must we act to end the failure itself.

To bring this failure to an end, the committee voted 9 to 1 in favor of the Case-Church amendment, which is title VII in the bill now before us. This proposal would prohibit the expenditure or obligation of funds to continue U.S. participation in the war in Indochina after December 31, 1972, subject to the release of prisoners held by North Vietnam and its allies and an accounting for all Americans who have been held or known to those governments. Consideration of this amendment presents every Member of the Senate with an opportunity to indicate whether or not he favors continued U.S. involvement in the Indochina war.

Cast in its simplest terms a vote against this amendment will be a vote to continue the war. The central issue is whether there is any justification in terms of our Nation's interest at this point in time for the continued use of American military forces in Southeast Asia. The burden of proof rests upon those who would continue the war. It is up to them to justify to the American people why additional billions should be spent and why additional lives should be risked.

The evidence which supports the case for ending American involvement is unambiguous: 55,000 American dead, 300,000 wounded, hundreds of Americans imprisoned and missing, the devastation of a vast region of Southeast Asia, more than a million Asian dead, a war debt approaching $200 billion, an economy racked by inflation and unemployment, a society rent apart by social discord, and a government whose prestige and credibility has been seriously eroded.

What possibly can be accomplished that would justify the continued drain of our resources and weakening of the strength of our Nation?

The responsibility for the policies which have brought us to where we are today in Indochina is one which must be shared by both the legislative and executive branches of our Government. The fact that the initiative for precipitating, enlarging and continuing direct U.S. involvement in the war came from the executive branch under successive Presidents obscures but does not alter the fact that the legislative branch has authorized and appropriated every dollar which this war has cost. It is clear that in the absence of affirmative action by the Congress to prohibit further expenditures, the war—under one guise or another—will go on.Until now the Congress has refused to take upon itself the responsibility for terminating American involvement. We in the Senate should delay no longer in facing up to this responsibility.

It will be argued that vague and fearful consequences could flow from the adoption of this amendment—the "enslavement" of South Vietnam, a "bloodbath," the "destabilization" of Southeast Asia, a wave of reaction and recrimination here at home and a loss of face by the United States. There is no more certainty that any of these debatable consequences will flow from the adoption of this amendment than there is that its defeat will assure the realization of objectives which appear as far from realization under this administration as they were in preceding administrations. On the other hand, we can be certain that if funds for the war are not cut off, the very real costs which I have already enumerated will continue to mount. This is the certain responsibility which we in the Congress will incur if we continue to authorize the war. If we should end this war, I believe the American people and our friends abroad will approve our action.

By enacting the Case-Church amendment the Senate would be writing into law what I believe to be the preponderant sentiment of the American people—to end the killing, to determine the fate of those missing and to recover our prisoners. It would have been and still would be preferable for the executive branch to join with the Congress in a coordinated effort to realize these objectives. Unfortunately, the executive branch by its recent actions has demonstrated its continued adherence to an additional objective—the continued defense of the Government of South Vietnam. This is not only a discredited objective but it is also one which on the basis of experience renders impossible the realization of the others. The United States has already done all that it could reasonably be expected to do for the Government of South Vietnam. Thus, there appears to be no alternative but for the Congress to define in law, using the power of the purse, those specific and limited objectives which it believes to be valid. The enactment of the Case-Church amendment would represent a fulfillment of the Senate's responsibility to the people and of its responsibilities under the Constitution as a coordinate branch of government. Let us assume this responsibility so that at last an end can be written to this tragic war.

THE CASE-CHURCH AMENDMENT

Mr. CHURCH. Mr. President, the distinguished Senator from New Jersey (Mr. CASE) and I have circulated among our colleagues a letter of explanation concerning the Case-Church amendment to the State Department-USIA authorization bill. We enclosed with the letter the text of the amendment and the pertinent part of the report of the Committee on Foreign Relations which relates to it.

I ask unanimous consent that the letter and enclosures be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., April 25, 1972.

DEAR COLLEAGUE: Our amendment to the State Department-USIA Authorization bill is designed to give the President's program of

Vietnamization the best possible chance for success. We commend the President for his policy of troop withdrawals; we also believe that it is necessary to place a date certain on American military participation in the war. Unless a definite deadline is fixed, we believe South Vietnam will permit us to carry the burden of its defense indefinitely.

The Senate passed the Mansfield amendment three times last year. But, because it lacked any enforcement provision, the President chose to disregard it.

We think, then, that it is time to give effect to the policy approved three times last session by utilizing Congress' power of the purse. Case-Church does this. It allows time for the orderly withdrawal of the balance of our military forces from Indochina and for South Vietnam to assume the responsibility for its own defense; it takes effect on or after December 31, 1972, provided there is a satisfactory agreement to release our POWs and an accounting for our MIAs is given. Overall, the amendment, if enacted, would be a powerful incentive for Hanoi to release our men.

A copy of the Case-Church amendment, approved by the Foreign Relations Committee by a vote of 9 to 1, is enclosed, along with the pertinent part of the Committee Report. We hope that you will find it possible to vote with us to keep this measure in the bill.

Sincerely,

CLIFFORD P. CASE,
U.S. Senator.
FRANK CHURCH,
U.S. Senator.

TITLE VII—TERMINATION OF HOSTILITIES IN INDOCHINA

SEC. 701. Notwithstanding any other provision of law, none of the funds authorized or appropriated in this or any other Act may be expended or obligated after December 31, 1972, for the purpose of engaging United States forces, land, sea, or air, in hostilities in Indochina, subject to an agreement for the release of all prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972—S. 3526

TITLE VII. TERMINATION OF HOSTILITIES IN INDOCHINA

Section 701, hereafter referred to as the Case-Church amendment, would bring about a total withdrawal of all American military forces from Indochina, provide an inducement for the release of American prisoners of war and an accounting of those Americans missing in action, and reinforce Title VI of Public Law 92–156 (known as the Mansfield amendment). It is also designed to give the President's program of Vietnamization the best possible chance for success.

The Case-Church amendment utilizes Congress' power of the purse. It prohibits the expenditure or obligation of funds for the maintenance or support of United States military forces in or over North or South Vietnam, Cambodia, or Laos, on or after December 31, 1972. This means that, beyond this explicit date, the purse strings will be drawn shut and there will be no financing of American armed forces for the purpose of engaging any further in the war on the Indochina peninsula, once an agreement is reached for the release of U.S. prisoners of war now held by the Government of North Vietnam and forces allied with that Government as well as an accounting for all Americans missing in action who have been held or known to be held by the North Vietnamese or its allies. The Committee is convinced that the best way to get American prisoners home, other than through a negotiated settlement, is to bring all of our troops, airmen, and sailors home. That is the objective of this provision.

Case-Church, on the other hand, does not prohibit the furnishing of military assistance nor the maintenance of traditional Military Assistance Advisory Groups (MAAGs) in the countries of Indochina. U.S. monies and materiel can be provided the various governments of Indochina, but participation by U.S. personnel shall be limited to small numbers of technicians responsible for the distribution and end-use checking of said monies and materiels only. Advisers of any kind are barred from involvement throughout Indochina, as they are already in Cambodia by Section 7 of Public Law 91–652 (known as the Cooper-Church amendment). There shall also be the normal diplomatic complement of military attaches.

The Case-Church provision, approved by a vote of 9-1, is the latest attempt by the Committee to bring about an orderly and rapid termination of our military involvement in the war in Indochina. It follows on the two Cooper-Church amendments which are now law. These bar the introduction of U.S. ground combat troops into Laos, Thailand, and Cambodia, plus American military advisers in Cambodia. It follows the repeal of the Gulf of Tonkin Resolution. It follows the Mansfield amendment which passed the Senate three times last year and was enacted into law, setting a government policy to terminate U.S. military operations in Indochina by a date certain and withdrawing all our forces contingent upon the release of all American POWs. Another Cooper-Church amendment to end U.S. military involvement in Indochina was deleted from the Foreign Assistance Authorization bill by the Senate last October 28th by one vote.

The Case-Church provision is an example, too, of the Committee's efforts to restore the proper Constitutional balance between Congress and the Executive branch in matters of war and peace. In 1969, the Senate voted for the Commitments Resolution; on April 13, 1972, the Senate passed the War Powers bill, making explicit what the President can and cannot do vis-a-vis the Constitution in engaging the armed forces of the United States in hostilities.

The Committee believes that for American national interest to be served and for the President's policy of Vietnamization to succeed, America's allies in Indochina must be put to the test of defending themselves against hostile forces without U.S. military involvement and back-up support. Such a time is now, and five years or 20 years from now.

After so many years of U.S. participation in the Indochina war, it is the strong view of the Committee that the United States has fulfilled its commitment in arming and assisting as well as in engaging in combat for another country. In fact, the United States has done everything legitimately possible for South Vietnam to help it stand as a nation on its own two feet. If it is unable to do so now, neither the bombing of North Vietnam, the use of more devastating military tactics, or the continued presence of Americans will enable it to do so. If the South Vietnamese are to become self-reliant on the battlefield, then 1972 is the year for total American military withdrawal and for a total take-over of the war by the peoples of Indochina themselves.

Mr. McGEE. Mr. President, this body will soon be voting on the State Department-U.S.I.A. authorization bill which includes a proposed grievance system for Foreign Service employees.

While not commenting on the merits of such a system, I would like to point out a letter I received from Mr. David Abshire, Assistance Secretary of State for Congressional Relations, who offered his analysis of section 109 of the authorization bill.

I also will not offer comment on the objections to the proposed grievance system offered by Mr. Abshire. However, I think it worthwhile to have these views available to any Senator who might wish to consider them.

Therefore, I ask unanimous consent that Mr. Abshire's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 27, 1972.

Hon. GALE W. MCGEE,
Committee on Foreign Relations,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGEE: The Department of State appreciates this opportunity to comment upon the proposed grievance system for Foreign Service employees which would be imposed on the foreign affairs agencies by Section 109 of the Bill providing authorization for their appropriations, S. 3526.

After consultation with experts inside and outside the Government, the Department last August established a completely revised and expanded grievance system for the officers and employees of the Foreign Service known as the "Interim Grievance Procedures." The system is working and is working well. Employees are using it. Cases are moving with dispatch. Decisions are providing meaningful redress.

The Chairman of the Interim Board is the distinguished former Director of the Federal Mediation and Conciliation Service, Mr. William E. Simkin. The other two public members are retired Ambassador William R. Tyler and Alexander B. Porter, permanent umpire for the Reynolds Metals Corporation and the United Steel Workers. All nine members of the Board were subject to the approval of employee organizations before they were appointed.

Since the Board began its work last December it has received 51 cases from the three foreign affairs agencies (State, USIA and AID). Nine have been referred back to the employing agency for further informal review. Six have been dismissed or withdrawn. The Board presently has 20 under active consideration. Of the 16 complaints which have been decided on the merits by the Board, 13 findings have been all or in part in the complainant's favor and 3 have been in favor of management.

While we believe this interim system is an excellent one, we are committed under Executive Order 11636 to sit down with our employees and develop a definitive grievance procedure. We will do this as soon as elections under Executive Order 11636 can be held. Meanwhile, the experience we are getting under the interim procedures is invaluable.

The Department's objections to the proposed legislation however are not based solely on the fact that we have a sound and effective interim grievance procedure and an appropriate framework—involving both the Department's management and its employees—for developing definitive procedures. The Department's objection is also based on the contents of the Senate Bill. The Bill as drafted is unworkable and would seriously impair the effectiveness of the Department and the Foreign Service.

Under the proposed legislation a Foreign Service employee could bring a complaint objecting to—almost literally—anything. According to the language contained in the Bill's definition of a grievance, a complainant could bring an action against any assignment which is proposed for him. He could bring an action against an assignment which has been given to another employee which the grievant thinks he should have had instead. Similarly grievants could bring actions for their own failure to be promoted and also against the promotion of someone else. Complaints could be brought against almost any form of oral or written criticism of the complainant, or indeed, against oral or written praise of any other employee.

Since exceptions formerly expressed in a similar bill, S. 2659, do not appear in the proposed legislation, there is a danger that complaints might even relate to the substantive aspects of the President's foreign policy and to general management policies of the foreign affairs agencies. Grievance procedures for individuals are singularly inappropriate for both of these subjects. The consultations with recognized employee organizations required under Executive Order 11636 are specifically designed for collective comment by employees on the content of personnel policies.

Once a complaint is filed the whole machinery would inevitably be brought into play, since a formal hearing would be required in every case. Many man-hours would be required for the complainant and management to prepare for and participate in these hearings. The complainant has the right of unlimited interrogatories and depositions of any one under the control, supervision or responsibility of the Department, without the need of Board approval. A multiplicity of Departmental witnesses for both the complainant and the defendant could be expected. Indeed, it might be said that the Department of State would no longer be a department of diplomats, but a department of litigants.

The burden on management and personnel officials would be further increased by this Bill since it would make the procedures available to litigate alleged grievances of former Foreign Service personnel (or their survivors dating back to 1924.)

Under the Bill, sitting in judgment of the Department for its current and historical decisions will be a Board totally outside the Department. The Board will consist of a series of adversary three-member panels with management naming one member, the organization which has won the right to represent employees naming a second member and, if these two cannot agree on the third, the choice is given to the Chief Judge of the U.S. Court of Appeals for the District of Columbia Circuit. Given the adversary relationship of the other two Board members, the Judge's appointee will probably be the decisive figure on the Board. Because of the extraordinary scope of the Board's authority the practical effect of this legislation would be to give the Judge's appointee a paramount role to that of the Secretary of State in much of the direction of the Foreign Service.

The Board would be given the power to order the Department to suspend any action which is related to, or may affect, a grievance pending before the Board. Under this authority the urgent dispatch of an officer abroad could be held up if another officer desired the assignment and filed an action with the Board. The promotions of hundreds of officers could be held up on the complaint of a single individual. An Ambassador could be required to retain an officer on his staff whom the Ambassador had found completely unsuitable. There are no exceptions to the Board's power in this regard.

The Bill gives the Board plenary authority to direct the Secretary to grant such relief as it deems proper, with the sole exception that in the case of a grievance relating to promotion, assignment or selection out the Secretary could decline to accept a recommendation of the Board if—and only if—in a fully documented statement personally signed by the Secretary and furnished to the grievant, he determines that "the foreign policy or security of the United States will be adversely affected." While this language purports to give the Secretary some discretion, it is in fact a serious and undesirable invasion of necessary management discretion.

In cases related from the beginning to promotion or assignment, the Secretary could be forced by the Board to make unwise assignments or recommend promotion to the President of persons other than the best qualified if the Secretary could not justify a refusal on the narrow grounds of an adverse effect on the foreign policy or security of the United States. Even this limited authority of the Secretary with respect to assignments and promotions recommended by the Board would disappear if the initial grievance was unrelated to promotion, assignment or selection out. Thus, for example, if the Board in one of these latter cases determined a particular assignment to be appropriate recompense, the Secretary would be powerless to deny the assignment even if he determined that the security of the United States would be seriously impaired thereby.

Another of the serious deficiencies of the Bill is that by not requiring any precondition to the filing of a grievance with the Board and at the same time requiring a hearing in "any case filed with it," the Bill would virtually preclude the informal resolution of grievances. Procedures for the informal consideration of grievances are required by the Civil Service Commission for other federal employees, and are included in most collective bargaining agreements in the private sector. The Department sees no justification for the elimination of this feature which is generally regarded as serving the interests of both employees and management. It has proven its value to the Foreign Service in our experience under the interim grievance procedure. The requirement of a hearing in every case would place an impractical burden on the Board and, as can be testified to by members of the Interim Board, would actually inhibit the just resolution of many grievances.

Also the requirement that hearings should be open unless the Board for good cause determines otherwise is, in the Department's opinion, a reversal of priorities. To protect the personal privacy of all employees—the grievant, the accused, and witnesses, to promote candor in testimony, and to permit expeditious handling of grievances, the hearings should be closed. This is consistent with current Civil Service practice.

One final comment on the substance of the Bill. It would permit an employee by the simple act of filing a grievance to, for example, divest the Civil Service Commission from jurisdiction in discrimination cases, divest the Board of the Foreign Service from jurisdiction in separation for cause proceedings, or, indeed, divest the grievant of his substantial rights in seeking disability retirement. Our interim grievance procedures avoid this problem of "shopping" among remedial procedures by excluding from the jurisdiction of our Board those matters (such as sex or race discrimination) where other established procedures adequately protect employee rights.

While the foregoing are our major concerns, there are a number of technical deficiencies which we have not commented upon, but which we shall be glad to point out if you wish.

This, in summary, is why we oppose the proposed legislation. If any legislation is to be enacted at this time, we believe it should be limited to a brief statement of general principles within which the employee-management relations system can work out definitive procedures.

Sincerely yours,

David M. Abshire,
Assistant Secretary for Congressional Relations.

AMENDMENT OF AGRICULTURAL ADJUSTMENT ACT OF 1938, AS AMENDED

Mr. TALMADGE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 13361.

The PRESIDING OFFICER (Mr. Stevenson) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 13361) to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. TALMADGE. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Talmadge, Mr. Jordan of North Carolina, Mr. Chiles, Mr. Miller, and Mr. Curtis conferees on the part of the Senate.

QUORUM CALL

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now again be a period for the transaction of routine morning business with statements limited therein to 3 minutes, and that that period be limited to not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER ON PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY, MAY 2, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, immediately after the recognition of the two assistant leaders under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR H.R. 11589 TO BE LAID BEFORE THE SENATE ON TUESDAY, MAY 2, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of morning business on Tuesday next, the Chair lay before the Senate Calendar Order No. 727, H.R. 11589, to authorize the foreign sale of certain passenger vessels, and that the unfinished business be temporarily laid aside until H.R. 11589 has been disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNOUNCEMENT OF ANTICIPATION OF CLOSED SESSION ON TUESDAY, MAY 2, 1972

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, following the disposition of H.R. 11589 on Tuesday it is anticipated that the distinguished Senator from Alaska (Mr. GRAVEL) will make a motion that the Senate go into closed session.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and this very well may be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORTS UNTIL 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs may be authorized to file committee reports until 5 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR SENATOR McGEE TO HAVE UNTIL 5 P.M. TODAY TO SUBMIT AN AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Wyoming (Mr. McGEE) may have until 5 p.m. today to submit his amendment—dealing with the restoration of funds authorized by USIA—for printing.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows:

The Senate will convene at 10 a.m. After the two assistant leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business, S. 3526. The pending question at that time will be on the adoption of the amendment offered by the able Senator from Wyoming (Mr. McGEE), to restore the full authorization for the USIA. There is a time agreement on that amendment limiting debate not to exceed 4 hours. The agreement also provides that no amendment to the amendment may be offered.

I would judge that the rollcall vote on the adoption of that amendment will not occur before 1:30 p.m.

Upon disposition of that amendment, the Senate will then temporarily lay aside the unfinished business on Monday, and will proceed to the consideration of H.R. 14582, an act making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes. There is a time limitation for debate on that bill of 3 hours, and a time limitation on any amendment, debatable motion, or appeal of 30 minutes. At least one rollcall vote thereon can be expected.

On Tuesday, for the further information of Senators, the Senate will take up the bill to authorize the foreign sale of certain passenger vessels, H.R. 11589. There is a time agreement allotting 2 hours for debate on the bill, 1 hour on any amendment in the first degree, and one-half hour on any amendment to an amendment, debatable motion, or appeal. A rollcall vote or rollcall votes are anticipated thereon.

Following the disposition of the ship sales bill on Tuesday, a closed session will occur, the distinguished Senator from Alaska (Mr. GRAVEL) having indicated to the joint leadership that it is his intention to move for a closed session during the day. If that motion is seconded, as presumably it will be, the Senate will go into closed session. There could be rollcall votes during that closed session. And Senators are therefore alerted to that possibility.

ADJOURNMENT TO MONDAY AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock a.m. on Monday next.

The motion was agreed to; and at 11:30 a.m. the Senate adjourned until Monday, May 1, 1972, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 28, 1972:

IN THE ARMY

The nominations beginning Lael J. Abbott, to be lieutenant colonel, and ending John J. McCamley, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on Apr. 17, 1972.

IN THE MARINE CORPS

The following-named staff noncommissioned officer for appointment to the grade indicated in the Marine Corps, subject to the qualifications therefor as provided by law:

William D. Rusinak

HOUSE OF REPRESENTATIVES—*Friday, April 28, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The just shall live by his faith.—Habakkuk 2: 4.

Creator and Ruler of the world, the Father of all people, we pray for our beloved country—that she may be established upon moral virtues and religious faith, that all ill will, injustice, and selfish greed may be swept away by Thy spirit and that honor, justice, and working for the good of all may flourish among us.

During these days inspire us with the assurance that Thou art with us and with that confidence may we learn to love, to forgive, and to have greater faith in Thee and in our country.

Bless Thou the fellowship we enjoy together this day.

In the spirit of Christ, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

GENERAL PHILLIPS OF WYOMING

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, Wyoming citizens were pleased to notice yesterday the announcement that Defense Secretary Laird has named Air Force Lt. Gen. Samuel C. Phillips to become the Director of the National Security Agency effective August 1. Sam Phillips, the former director of the Apollo lunar program when American astronauts first set foot on the moon, is now the commander of the Air Force space and missile systems organization.

He is a native of Wyoming, and his efforts as a young man to educate himself, to pull himself up by his own bootstraps to the career of national leadership he enjoys today, is legendary in

Wyoming. It was my good fortune to know him as a fellow student at the University of Wyoming in the years prior to World War II. He exemplifies the finest traditions in American citizenship, and we in Wyoming are proud to recognize his latest advancement in the service of his Nation.

HOUSING CONSTRUCTION CONTINUES AT HIGH LEVEL

(Mr. WIDNALL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WIDNALL. Mr. Speaker, private housing starts remained at an unusually high level in March. The Commerce Department reports that private housing starts totaled nearly 2.4 million units at a seasonally adjusted annual rate. While this is somewhat below the extraordinary rate of housing starts in February, March homebuilding activity was still exceptionally high compared to the historical record. During the 1960's, for example, private housing starts never reached even the 1.6-million-unit level for any month.

Monthly statistics tend to bounce around a great deal, and a more reliable indication of underlying trends can be found in quarterly data. Housing starts averaged 2.5 million units for the first 3 months of this year, 35 percent above the first quarter of 1971, and 12 percent above the fourth quarter. This healthy rate of advance helps fuel our growing economic expansion and provide new housing for the Nation's families.

Other figures suggest that the rate of housing construction will remain high. New housing permits totaled nearly 2 million in March, about the same as the unusually high average for the previous 6 months. And there is evidence that mortgage rates are holding steady. The Federal Home Loan Bank Board announced that interest rates on conventional new home mortgage loans in March averaged less than 7.4 percent, significantly below the nearly 7.7-percent rate of 6 months earlier.

The surge in homebuilding added $4.6 billion to the growth of the GNP during the first quarter. The signs are that this sector will continue to play an important role in our economic expansion.

RECESS

The SPEAKER. Pursuant to the authority granted the Speaker on Tuesday, March 28, 1972, the Chair declares a recess subject to the call of the Chair to receive the former Members of the House of Representatives.

Accordingly (at 12 o'clock and 4 minutes p.m.), the House stood in recess subject to the call of the Chair.

RECEPTION OF FORMER MEMBERS OF THE CONGRESS

The SPEAKER of the House presided.

The SPEAKER. On behalf of the Chair and of the Chamber, I consider it a high honor and a distinct personal privilege to have the opportunity of welcoming so many of our former Members and colleagues as may be present here for this occasion. We all pause to welcome them. This is a bipartisan affair, and in that spirit the Chair is going to recognize the floor leaders of both parties.

The Chair now recognizes the distinguished gentleman from Louisiana (Mr. Boggs).

Mr BOGGS. Mr. Speaker, I join with the Speaker and with the distinguished minority leader in welcoming back so many of our former colleagues.

As I look about and see the faces of so many old friends, I feel as if we have never really been separated, and in many ways that is quite true, Mr. Speaker. Only one who has served in this body or in the other body shares the fraternity that we share. Together we have sought to serve our country and together we have sought, as best we could, to resolve the problems of our times.

So in truth and in fact, all of you are still a part of us—and soon all of us here will join you.

The Honorable Sam Rayburn, one of the great Speakers of this House, liked to say, and I have heard him say it so many times, that to serve here just for one term was the greatest honor that the people could confer on a citizen of this country.

All of you have had that great honor and that great distinction. I am pleased to see that you have joined together in an association and a group that has a permanent secretary in order to give continuity to that service even after you have ceased to be a Member.

I am informed that the members of your association now number almost 500 which, of course, indicates the great bipartisan interest that exists in this endeavor. I am told that one of your founding members has gotten so enthusiastic that he had had to withdraw as the cochairman here today because he wants to come back, not as an alumnus, but as an active Member of this body. Of course, I wish him well.

So again let me join with the Speaker of the House and with the minority leader in saying—this is your day and you take over and we will enjoy meeting with you and listening to you.

The SPEAKER. The Chair recognizes the distinguished minority leader, Hon. Gerald R. Ford, of Michigan.

Mr. GERALD R. FORD. Mr. Speaker, I am honored, as you are and the distinguished majority leader to welcome all of the former Members back on their second anniversary as an organization at a function of this kind.

Mr. Speaker, the distinguished majority leader and I, along with all of our contemporary Members, have the opportunity to make speeches and express our views on the floor of the House almost daily when the House of Representatives is in session. Too, we want to hear from you.

Therefore, it might be wise for me to follow a practice that we still have, and which you had, and that is to ask unanimous consent to revise and extend my remarks.

But, I would feel remiss if I asked that permission without making one or two personal observations.

We still have, as we have had in the past, differences that are expressed on the floor of the House, some partisan and some within each party. But those things happened when you were here, and I suspect that they will probably happen after we will have left.

But the thing that impresses me today, as it impressed all of you, is that the friendships you make here both within your own party and with others across the aisle are the best friendships—at least that I have ever made in my lifetime.

There is a certain depth in those friendships that go on and on and on, and for good reason: They are made after long association in struggling with problems that are of great import to the country. Those friendships, in my opinion, are a significant factor in making the House the greatest legislative body in the history of the world.

I often say, and I think you would understand it better than most groups that listen, this body is the people's House. All of you, as all of us still here, were elected. Nobody is appointed. The fact that we have to go back to put our record on the line once every 2 years and seek the support of our people makes us far more responsive to the legitimate demands and viewpoints of a certain portion of the Nation's population.

All of you were proud at the time you served here. We are proud to have you back, because your contributions over the years were substantial and significant. But we think the fact that you are back as alumni indicates your continuing interest in the problems of our country, problems that you worked on that still need your help.

Let me say again, Mr. Speaker, I welcome all of you, and we look forward to seeing you in 1973 on your third anniversary visit to the House of Representatives.

The SPEAKER. The Clerk will now call the roll of former Members of the House of Representatives.

The Clerk called the roll of former Members of the Congress and the following former Members answered to their names:

O. K. Armstrong, Missouri.
Laurie Battle, Alabama.
Marion T. Bennett, Missouri.
John W. Boehne, Jr., Indiana.
Frances P. Bolton, Ohio.
J. Floyd Breeding, Kansas.
Charles B. Brownson, Indiana.
Willard S. Curtin, Pennsylvania.
Joseph Carrigg, Pennsylvania.
Joseph Casey, Massachusetts.
J. Edgar Chenoweth, Colorado.
Victor Christgau, Minnesota.
Jeffrey Cohelan, California.
Albert M. Cole, Kansas.
Harold D. Cooley, North Carolina.
Willard S. Curtin, Pennsylvania.
Laurence Curtis, Massachusetts.

Vincent J. Dellay, New Jersey.
Leonard Farbstein, New York.
Ivor D. Fenton, Pennsylvania.
Homer Ferguson, Michigan.
Phil Ferguson, Oklahoma.
Paul A. Fino, New York.
John R. Foley, Maryland.
Harlan Hagen, California.
John R. Hansen, Iowa.
Ralph R. Harding, Idaho.
Porter Hardy, Jr., Virginia.
Ralph Harvey, Indiana.
Patrick J. Hillings, California.
Earl Hogan, Indiana.
Evan Howell, Illinois.
DeWitt S. Hyde, Maryland.
Edouard V. Izac, California.
W. Pat Jennings, Virginia.
August E. Johansen, Michigan.
Lester R. Johnson, Wisconsin.
Marvin Jones, Texas.
Walter H. Judd, Minnesota.
Edna F. Kelly, New York.
Frank Kowalski, Connecticut.
Theodore R. Kupferman, New York.
Melvin R. Laird, Wisconsin.
Clifford G. McIntyre, Maine.
Hervey G. Machen, Maryland.
D. R. (Billy) Matthews, Florida.
Edwin H. May, Jr., Connecticut.
George Meader, Michigan.
Walter H. Moeller, Ohio.
A. S. Mike Monroney, Oklahoma.
Abraham J. Multer, New York.
Frank C. Osmers, Jr., New Jersey.
Howard W. Pollock, Alaska.
Stanley A. Prokop, Pennsylvania.
Robert Ramspeck, Georgia.
Kenneth A. Roberts, Alabama.
John M. Robison, Jr., Kentucky.
Byron Rogers, Colorado.
Walter E. Rogers, Texas.
Harold M. Ryan, Michigan.
Byron N. Scott, California.
Alfred D. Sieminski, New Jersey.
Lynn E. Stalbaum, Wisconsin.
Maurice H. Thatcher, Kentucky.
Clark W. Thompson, Texas.
James E. Van Zandt, Pennsylvania.
George M. Wallhauser, New Jersey.
Fred Wampler, Indiana.
John Bell Williams, Mississippi.

The SPEAKER. The Chair announces that 68 former Members of Congress have responded to their names.

The Chair is going to recognize the distinguished gentleman from Minnesota (Mr. Judd) and the Chair would like, when Mr. Judd takes the floor, to ask the distinguished gentleman from Texas (Mr. Jones) to take the gavel.

Mr. JONES occupied the chair.

Mr. JUDD. Mr. Speaker, we deeply appreciate the courtesy of the Speaker in calling a recess today in a special session of the House on a Friday for the purpose of honoring the Former Members of Congress by receiving us in this Chamber. I am sure every member of the Former Members of Congress wishes me to express for him personally our appreciation of your kind remarks, along with the words of welcome from the majority leader, the distinguished gentleman from Louisiana, Mr. HALE BOGGS, and the minority leader, the distinguished gentleman from Michigan, Mr. GERALD R. FORD.

Mr. Speaker, you have certainly gone beyond the call of duty in inviting to the Chair Judge Marvin Jones, who will later be introduced for some comments by the gentleman from Georgia, Mr. Ramspeck, who will be shuttling back and forth with me as we introduce the Representatives of the various Congresses.

First let me explain why I as the vice president of Former Members of Congress, am here today instead of the president and founder of the organization, the Honorable Brooks Hays.

Let me read from the FMC bylaws, article 6(d):

> All membership rights shall be automatically suspended for any Member who becomes a candidate for election to the United States Senate or House of Representatives, and any such Member who is elected shall have his membership automatically terminated.

That is the reason the gentleman, formerly from Arkansas, and now from North Carolina, Mr. Hays, is not here. He became a candidate 2 months ago for election to the House, and therefore his membership in FMC is suspended.

As vice president, I am charged under our bylaws with exercising the functions of the president when he is not present.

Incidentally, I may mention that there are six other members of our organization whose membership is also suspended because they are running for the House or the Senate.

I do not believe anything needs to be said today about the purposes of this organization. Mr. Hays and I discussed those here last year. It was felt, first of all, that the close friendships established during our years in these bodies were precious and it was too bad to let them drop and not to maintain the fellowship and warm personal relations developed here.

A second reason for forming FMC, I believe, was a feeling that we as former Members, after we had left the Congress, had not done all we might for the benefit of our country. Our bylaws state that this organization, Former Members of Congress, Inc., can take no action on any political issue, and no officer or member can use this body or his membership therein for or against any political issue before our country, for or against any legislation before the House or the Senate or any State legislature, or for promotion of, opposition to, any candidacy, his own or any other.

To be useful, this organization must be totally bipartisan—or more important, nonpartisan. We are now only Americans no matter how divided we were by the aisle when we were sitting as Members of the Congress.

I would like to emphasize again what was brought up in our annual business meeting this morning, that this organization as such is not trying to influence the conduct of affairs in the U.S. Government, whether by the legislative, the judical or the executive branch. We do believe, however, that there are some situations, especially in our own colleges and universities, and in our hometowns, in which we might perhaps be useful, when called upon, to help people understand better than they do the decisionmaking and legislative processes that have made this House what we believe, as the gentleman from Michigan so well said, is the greatest legislative body in the world, along with the U.S. Senate. We are dedicated to this country and this Congress and we hope that we can be useful, whenever opportunity arises, to make such experiences as we have had available, not so much to the Congress as to the people of our country.

Now, Mr. Speaker, may I report on our membership? A total of exactly 400 former Members of Congress have joined and paid dues. That is a little more than half of all the former Members of both Houses we have been able to locate. I may add that we did not get many new members this last year because 1971, an odd-numbered year, is not one in which there are many active Members who become eligible for membership in our organization of former Members.

We do not wish anyone any bad luck in the elections coming up this even numbered year. But in addition to the some 35 Members of the House and the Senate who have announced they are not going to run again, and who will be eligible after next January 3, for our organization, there may be some who are retired for other than voluntary reasons by next January. I assure you they will be more than welcome to join us in Former Members of Congress, Inc.

Mr. Speaker, during the last 2 years, we have lost 17 former Members by death. I should like to read their names and honor them by inclusion in the record of this meeting.

John G. Alexander, Minnesota;
Earl H. Beshlin, Pennsylvania.

You will recall that Mr. Beshlin was with us last year, over 100 years of age. He came to the Congress with you in 1917, Judge Jones. He said he was elected as a Democrat Prohibitionist. Unfortunately, in the last year he has passed on.

The others are:

C. W. "Runt" Bishop, Illinois;
Robert B. Chiperfield, Illinois;
William O. Cowger, Kentucky;
Frank P. Graham, North Carolina;
Noble J. Gregory, Kentucky;
Bourke B. Hickenlooper, Iowa;
Edgar W. Hiestand, California;
George Huddleston, Jr., Alabama;
Harold O. Lovre, South Dakota;
John Esten Miles, New Mexico;
B. J. Monkiewicz, Connecticut;
Gerald P. Nye, North Dakota;
Charles E. Swanson, Iowa;
James W. Trimble, Arkansas;
Sinclair Weeks, Massachusetts.

In our business meeting this morning we had a memorial service in their honor.

Now, I should like to yield to the distinguished gentleman from Georgia, Mr. Ramspeck, senior Democrat member of the FMC board of directors, for whatever remarks he may wish to make, and then we will introduce the representatives of the various Congresses here represented.

Mr. RAMSPECK. Thank you, Mr. Judd.

Mr. Speaker, I have never forgotten my first term as a Member of this House and, therefore, I am not going to make any speech.

The SPEAKER. Will the distinguished gentleman from Georgia suspend until the Chair can call to the chair the distinguished gentlewoman from Ohio (Mrs. Bolton)?

Mr. RAMSPECK. I shall be glad to, Mr. Speaker.

(Thereupon, Mrs. Bolton assumed the chair.)

Mr. RAMSPECK. During the first term which I served in 1929 and 1930, I was sitting back in the cloakroom having a sandwich one day when some Member was out here in the well of the House making a ripsnorting speech. The gentleman from Colorado (Mr. Taylor), who had been here a long time, remarked to those of us sitting there and said, "That young fellow may regret that speech." He said, "When I first came here 20 years ago, I made a lot of speeches and I cannot think of a one of them I would give a nickel for, but there are some in that permanent RECORD I would give $1,000 to get out."

Madam Speaker, it is my privilege to present to this group here today for 1-minute speeches and to tell you what they want to say, the Representatives on the Democratic side, beginning with the senior Representative here who entered the Congress in the 65th Congress.

He was a most distinguished and illustrious Member of this House, a man who in my opinion during the early days of the depression did as much, if not more, than any other leader of the House to alleviate some of the difficulties of that depression.

Madam Speaker, I now call upon the distinguished gentleman from Texas, Mr. Marvin Jones of the 65th Congress.

Mr. JUDD. Madam Speaker, will the gentleman yield just temporarily?

Mr. RAMSPECK. Yes.

Mr. JUDD. I think it was understood, was it not, that these first two distinguished Members, the oldest in terms of beginning their service and in terms of years, were to have a little more liberty under the 1-minute rule?

Mr. RAMSPECK. That is correct, Dr. Judd.

Mr. JONES of Texas. Madam Speaker, the distinguished majority and minority floor leaders, and ladies and gentleman of the Congress, I do not feel quite that old, but I suppose that I entered Congress before about half of you discovered America. It is rather difficult to win an argument with the calendar.

Madam Speaker, it gives me infinite and inexpressable pleasure to have the privilege of again addressing this distinguished body which I have always regarded as the greatest legislative body, and along with the Senate, the greatest Congress, in all the world. I have been, as all Members have been jealous of the prerogatives of this body.

On behalf of the entire organization of ex-Members I want to thank the officials of this House for their generous courtesy in allowing us to blow off a little steam.

As a matter of fact, we are about the best emissaries the Congress has in all parts of the United States. In all parts of the country that there are many people who do not realize that of the 3 million people who work for the U.S. Government, only 537 are elected by the people. I have told that fact many times. This number includes 100 Senators, 435 Members of the House, the President and the Vice President. They are the only ones that the people have a right to call to account in the House every 2 years, and in the Senate every 6 years, but in fact approximately one-third of the Senate every 2 years. If some group is seeking a selfish advantage or seeking some favorite legislation and can persuade the public to lose their faith in their chosen representatives by accusing Congress of dragging its feet, they have it made.

Liberty is one of the priceless possessions any people can have. We talk about giving people liberty, but we cannot give them liberty. We may give them an opportunity for liberty, but if they have not equipped themselves to keep it, they will not be able to keep it; they will lose it overnight.

That is ABC.

The Members of Congress are in the limelight always. They are subject to attack. When I first fell from grace and got into politics, I found out things about myself that I had never even suspected. Still men and women will still brave its dangers. In their willingness to do so rests the hope of the retention of representative government.

I believe a majority of the Members of the Congress, or a great many of them, at least, are lawyers, and most of them have read Blackstone, or know about Blackstone, and they will remember that in the early days when the king could do no wrong and was a dictator, they had what they called the wager of battle. If two people had a civil suit each one of them would select someone to do their fighting for them, usually on horseback. The man who won that fight, either using lances or swords, won the lawsuit for his principal. But slowly and gradually, like the rising of the sun, people began to realize that there was a question of right or wrong involved, and that the question of who won the physical contest left wholly untouched the question of who was right.

Then they began to realize that they must have laws and courts, so that a suit might be determined not by physical contest, but on the question of right and justice.

I wonder when the nations of the world are going to discover that principle?

It may be a long way off but when we reach the point that the people of the world are willing to take that course, it will be by the art of persuasion and agreement, rather than contest.

Liberty and law are as intimately linked as the law of supply and demand. You cannot have one without the other. For instance, we talk about stopping colonialism, but I believe that some of the former colonies go into dictatorships almost as soon as they are turned loose. They break up into tribal wars.

Courage, education, industry, and faith are the priceless ingredients of liberty, or the preservation of liberty anywhere, any time and any place.

How can a man protect his rights if he does not understand them, and how can he understand them without a knowledge of the past and the present? One must search the musty pages of history to find the secret of a nation's greatness, or the cause of a nation's fall.

You will recall that Thomas Jefferson said one time that nearly anybody can stand adversity, but that he could not say that much for prosperity. And I hope that the young people, who are going to take over pretty soon, and their distant tread can now be heard—sometimes I think it is not very far distant—will understand this. Each generation has the advantage of the accomplishments and should do better than the previous generation. A pygmy standing on the shoulders of a giant can see farther than the giant ever saw. I should be disappointed if they do not do better.

I happen to think they are going to do better. I have visited campuses all over the United States. I have been sitting on the U.S. court of appeals for the last several years, all over the United States, because the courts are behind, and they like to have extra help. I have been able to visit these campuses, and I have found that a great majority of the young people want to do something. I hope that none of them will get the idea, however, that governments are organized to make things easier for them. Life should be an adventure filled with the priceless thrill of work and accomplishment.

I think we are living in the most wonderful period in the world's history.

We are going through—from one epoch into another—on a sort of blind express. I do not know what is over there, or what is coming. But I do know this. We are not going back—we do not go back. We are under the pressure of change and a great many people are accepting the doctrine that Congress is dragging its feet. Selfish interests are trying to take away the prerogatives of the Congress; and those people who have a purpose to serve in making anything like a rubber stamp out of the Congress, or in abusing the means of propaganda.

Then some dictator then—that is the first step for a dictatorship and the loss of liberty.

Now we are going through a process of change. Old forms are being discarded. New discoveries are being found. The earth, the sea and the sky are filled with hidden secrets planted by the Creator as a challenge to the human race. There is no limit to human accomplishment. We have only scratched the surface.

I do not get a chance to express myself very often in a body like this—so I thank you for your generous attention and I want to assure you that I shall continue, as will all of the other members of this organization, to be the emissary of the Congress, and to tell the public again that Congress should never be asked to pass hurried, ill-considered legislation—they should have a chance to conduct a full hearing and hear both sides. Poor legislation is worse than no legislation.

I believe in the U.S. Government, her history, her institutions, and her people. Knowing the glories of her past I have implicit faith in her people. Old forms are being discarded as they are outgrown. Truth, unfettered by out-worn creeds and dogmas are knocking at the portals of humanity. I hope that the best of the past will be blended with the best of the new in a course of continued growth and progress.

The SPEAKER. The Chair would like to call to the chair the gentlewoman from New York (Mrs. Kelly).

The Chair recognizes Dr. Judd.

Mrs. KELLY occupied the Chair.

Mr. JUDD. Madam Speaker, it is my privilege now to introduce one who I believe is the oldest man in years who has ever addressed this body, Maurice H. Thatcher, former Congressman from Kentucky from 1923 to 1933.

Prior to that he had been Governor of the Panama Canal Zone 1910–13, and had always been very active in matters concerning the Panama Canal and its well-being.

He said he is a little shaky in his legs and I asked him if he wanted to sit down while he addressed us and he said—"No, sir, I will stand up."

I assure you he is not shaky in his mind. We are all honored that we have the chance today to honor this very great man who has never lost one bit of his interest in our country and in the Congress of the United States, the Honorable Maurice H. Thatcher.

Mr. THATCHER. Madam Speaker and former Members of the House, and any present Members, if they are present of the House and of the Senate, I am very glad indeed that I have been granted this day to be with you.

This Chamber of the House of Representatives is the heartbeat of the United States. The House of Representatives is the heartbeat of America. I suppose that the most fruitful years of my life were perhaps spent in the Congress.

I suppose you can hear me. I am reminded in that connection of a story down in my part of the world, Kentucky, about a man in his cups who attended a free lecture one night in a certain city, and the lecturer was talking about the advance of science. He had a weak voice and could not be heard. He did not know much about the subject that he was presenting.

The man attending the lecture took a seat in the rear and he tried to listen. He could not hear except the mumbling of the speaker. He got up and pointed a shaking finger at the speaker, and cried out, "Louder and funnier."

The well of the House recalls to me many interesting experiences. Naturally. I served 10 years here. I remember that on one occasion Congressman Eslick, of Tennessee—I think he was from Columbia, which is a sort of garden spot in Tennessee—came to the well to speak. He had heart trouble. We were good friends. I thought he ought not to try to speak. I came down and took a seat near him. He was speaking on behalf of the bonus, which was a vital question at that time. He sat right over there somewhere, and I sat in the front row near him because I knew he was suffering with this affliction. He rose to speak, and I remember his words. He was picturing the plight of certain soldiers who came back to wife and family without any resources.

He said, "We will now turn from this sordid picture." And with those words he fell. I sprang to ease him down, and when he fell he was dead. Dr. Calver, House physician, came in and pronounced him dead.

I remember so many scenes that transpired here. It is a great experience to serve in the Congress of the United States.

I have been for a great many years the only surviving Member of the Commission of Seven on the Isthmus and the Canal Zone. I was the civilian member and the Civil Governor of the Canal Zone and in charge of civil affairs. I was able to bring to bear much of my experience in Panama in legislation on behalf of the canal and the Canal Zone and the employees there. After I left Congress, I was still interested in Panama Canal projects and the affairs of the Isthmus.

I was the author in Congress of the bill which became legislation that provided for the establishment of the Gorgas Memorial Laboratory under the supervision of the Gorgas Memorial Institute of Tropical and Preventive Medicine Inc., with the power to establish a laboratory in Panama City for research touching the cause and prevention of tropical diseases. That bill was an enabling act carrying an original appropriation or authorization of $50,000 annually. Now it is a million dollars. It is the greatest institution in the world of its character. I served as its vice president for 40 years or more, all without compensation, and throughout that time I have served as general counsel, and I am now general counsel and honorary president of the Institute, which supervises the work of the laboratory.

So my various experiences in the past always served me in the House when I was a Member of this distinguished body.

I prepared just a short statement here which I will read, and then it can go into the Record for whatever purpose it may be able to serve.

My service of 10 years—5 terms—1923–33, was in an era far different from that which now prevails. That period was one of comparative peace. This is an age of violence. Man is now utilizing the fruits of science for evil purposes.

Mankind must learn that the divine intent is that progress shall be marked with beneficence, rather than evil; that his potential for good is far greater than is his potential for evil; that his mission in life is evolutionary rather than revolutionary; that peace is better than war; that peace and calm are conducive to true and realistic progress. He also must come to the complete realization that however much delayed, destiny wills that the moral values will finally obtain; and that he must labor to apply with ever-increasing force, the lessons of the past. Mirth and music mitigate somewhat the tragedies of life and death.

The moral principle is the greatest gift of heaven to man. It comprehends the spiritual values. Morality is simply what is best for all concerned.

Faith is reasoned hope. If hope endures, faith endures, and reason.

The trait of reason must dominate and control all human life. All lesser animals live only by instinct.

Thanks to the laws of mathematics, men have visited the moon, a miracle of miracles. On yesterday I saw on the TV color set the splashdown of Apollo 16 in the appointed place in the Pacific Seas thousands of miles away. If the laws of mathematics are eternal and unchanging, so are the moral laws, and whosoever defies them will perish in weakness and infamy.

What is true of individual human beings is true of nations. Righteousness exalteth a nation. Extreme partisanship must be shunned. What is best for the country must be the guide and slogan if we are to survive.

Washington fully understood the perils of unrestrained partisanship and gravely warned against its practice. He was objective, cautious, and sought in all his labors for the cause he espoused to be wise and just.

Since I left congressional service it seems to me that the human race has deteriorated. It has been my hope that science may change the mortal direction. I repeat my observation, that what is best is moral and what is not best is immoral. Evil is the misuse of that which is good.

All of which is trite, yet must be as everlastingly repetitive as the multiplication table.

It has been suggested here and now that I read a verse written by me the other day, and I accept this suggestion and close accordingly. This is a verse I wrote.

I have always been interested in national parks and national monuments. I was the author in the Congress of the legislation that made the Mammoth Cave Region into a national park, the Mammoth Cave National Park.

This is a sonnet about the Statue of Liberty, which here is personified in speech:

STATUE OF LIBERTY (NEW YORK HARBOR)

(By Maurice H. Thatcher)

In awe I stand—gift of a sister nation—
  To this land of hope and opportunity.
I bear a giant torch in approbation
  Of what the people are; I symbolize the free.
Aliens from other portions of the Planet,
  Troop hither, under law, from near and far.
The urge involved—there's naught to ease or ban it!
  The migrants find the inward-swinging gates ajar.
They seek the solace of these pleasant regions,
  And wish to share each and every blessing
With the native born. They are the ardent legions;
  And soon all worths they find and are possessing.

The dregs are barred—not those of science, art;
The productive poor, and the pure in heart!

APRIL 12, 1972.

The SPEAKER. The Chair requests the distinguished gentleman from Wisconsin (Mr. Laird) to take the gavel.

The SPEAKER pro tempore (Mr. Laird), The Chair recognizes the gentleman from Minnesota (Mr. Judd).

Mr. JUDD. Mr. Speaker, I hope you have not developed militaristic tendencies in your present position, but from now on, if we go much over the 1-minute rule, you are authorized to apply the rules of the House.

I would like to introduce at this time a Representative of the 71st Congress, the Honorable Victor Christgau, of my own State of Minnesota.

Mr. CHRISTGAU. Mr. Speaker, former Members of Congress, and Members of Congress. The 71st Congress was elected during the campaign of 1928, and some of you will recall that was between the then Secretary of Commerce Herbert Hoover and the Governor of the State of New York, Al Smith.

One of the underlying issues during that campaign was farm relief legislation, but underlying that great controversy was also the subject of prohibition, which did not quite surface during the 1928 campaign but did during the next presidential election.

Both presidential candidates, Mr. Hoover and Mr. Smith, promised farm relief legislation. President Hoover shortly after he was inaugurated called the Congress into a special farm relief session on April 15, 1929. Two of the issues that came up in connection with farm relief legislation were the revision of the tariff and the adoption of an Agricultural Marketing Act. The Congress adopted both of those provisions.

The Agricultural Marketing Act turned out to be ineffective to meet the depression situation in agriculture at that time. Some of you will recall that during 1929 in the industrial sector there was great prosperity but in the farm sector there was a depression.

One of the issues during that Congress was whether or not the Agricultural Marketing Act should contain a provision for surplus control. The Hon. Marvin Jones of Texas at that time was the leader on the Democratic side on the Committee on Agriculture, and he offered the debenture plan as a method of meeting the surplus farm problem. The Hoover administration, however, opposed it, and it was not enacted. The Senate adopted it by one vote, but it was defeated in the conference committee.

The Agricultural Marketing Act failed to meet the needs of agriculture and I think largely on the basis that nothing was done to take care of the surplus farm producers, which Congressman Jones was trying to meet with the debenture plan.

After the Agricultural Marketing Act was passed by the House early in the 1929 special session they took up the matter of the Hawley-Smoot tariff bill. That likewise became an ineffective law. I took a trip to Europe shortly after the House passed that bill and visited a number of countries of Europe and found that there was a tremendous reaction against the United States taking that action in connection with the raising of tariffs. For example, when I went to Holland the people there said, "If you do not buy our tulips"—and we had placed a tariff on them—"we will not buy your automobiles." In Belgium the slogan was, "Patriots ride in Belgian cars" as part of the propaganda against the proposed tariff.

Because the tariff was blamed by the Democrats at that time as being partly responsible for aggravating the depression, it became a great issue in the next campaign.

You may recall that the Hoover administration was defeated by Gov. Franklin Roosevelt of New York.

So, the 71st Congress on the two great issues that were brought before it was unable to meet the problems of the day.

Mr. Speaker, one of the outstanding Members of the 71st Congress who was associated with one of the great issues that later was brought before the Congress, namely legislation to control abuses in the labor field, and I refer to Mr. Fred Hartley of New Jersey who was one of the younger Members of the 71st Congress. As you know, he later on became chairman of the Committee on Labor and was the coauthor of the Taft-Hartley law which was one of the attempts made by Congress at that time to meet some of the problems of labor.

Mr. Speaker, it has been a great privilege to be here today and I thank you for this privilege.

The SPEAKER pro tempore (Mr. LAIRD). The Chair recognizes the gentleman from Georgia (Mr. Ramspeck).

Mr. RAMSPECK. Mr. Speaker, it is my privilege to call on the gentleman from Oklahoma, Mr. Phil Ferguson, representing the 72d Congress, for a short statement.

Mr. PHIL FERGUSON. Mr. Speaker, the reason that I look so much younger than these other people is the fact that I was one of the youngest Members on the Democratic side when I was elected.

I had a little word of advice. The Speaker told me when I opposed the Townsend plan, I would not be in Congress long. Sure enough, he was right. I just served 3 terms.

Mr. Speaker, I have one other observation. When I was in Congress the Army was then still plugging for more appropriations for the horse cavalry. I think today the infantry is in about the same situation as the cavalry was then. I speak rather knowledgeably about the infantry. I was a marine in World War II, a foot soldier, and the infantry did the fighting then just as it does now, but it is out of date.

Mr. Speaker, I hope and pray that we have all of the sophisticated weapons available, including the knowledge of outerspace, protecting us at this time and not depend on the old conventional methods of warfare.

Thank you.

The SPEAKER. Before the gentleman from Georgia proceeds, the Chair would like to pass the gavel to a former distinguished chairman under whom the chair served for many years.

Will the distinguished gentleman from North Carolina (Mr. Cooley) please come forward?

The SPEAKER pro tempore (Mr. COOLEY). The Chair recognizes the gentleman from Georgia (Mr. Ramspeck).

Mr. RAMSPECK. Mr. Speaker, the 73d Congress will be represented by another Texan, the great State from whence a great many fine Members of this body have come.

I now yield to the distinguished gentleman from Texas (Mr. Clark W. Thompson).

Mr. CLARK W. THOMPSON. Mr. Speaker, I have been given my instructions, and I want to tell the rest of you this, by none other than the Speaker pro tem right now. I have just been reading the instructions to the cochairmen right here and I take note that the words, "Stick to the 1 minute" have been underlined three times.

So, Mr. Speaker, I shall abide by those instructions and merely bring the greetings of the 73d Congress to all of you and tell you what a great privilege it is to be back here. Further, I wish to express the hope that each succeeding meeting for a long time will see us all here again.

Thank you so much.

Mr. Speaker, I yield back the balance of my time.

Mr. JUDD. Mr. Speaker, I am not quite sure who is going to speak for the 74th Congress. Mr. Sterling Cole and Mr. Byron Scott were named. Mr. Cole was here; however, I do not see him at this moment, and also Mr. Scott is not here. How about Joe Casey? I have Joe Casey down on the list of the 72d Congress. Is that right?

Well, Mr. Speaker, we will just have to proceed from the 74th Congress to the 75th Congress. So, Mr. Speaker, I will yield to the gentleman from Georgia (Mr. Ramspeck) to announce the speaker for the 75th Congress.

Mr. RAMSPECK. Mr. Speaker, it is my great privilege and honor to introduce as the speaker for the 75th Congress the distinguished gentleman from California, (Mr. Izac).

The SPEAKER. Before the gentleman from California proceeds, the Chair wishes to pass the gavel to his old friend, the distinguished gentleman from Indiana (Mr. Harvey).

Mr. HARVEY occupied the chair.

Mr. EDOUARD IZAC. Mr. Speaker and Members of the House, and my former colleagues, I can think of many things, of course, that happened during the 75th Congress, but there is one humerous occurrence that I believe you would all like to hear about.

We were elected, as you will remember, in November of 1936, and we came down here to Washington in 1937, and there was no patronage, and everybody looked at everybody else, and said, "What, no patronage?" Because practically all of us had brought at least one friend from the home district, hoping to give him some kind of an appointment down here, either as a policeman, or to run an elevator, or something of that kind.

Well, as it happened, we had a chairman, and I presume they have the same kind of setup today, and this chairman announced to all of us, we new Members, "Unfortunately, there are no patronage jobs available."

As a matter of fact, we found out later he had seven of his own. But that did not help us any.

Fortunately, they did, later on, recognize the man I brought with me from San Diego, and he was put in the document room, and there he served with distinction for over 30 years, and he has just recently been retired.

So, when you come down to Washington for the first time do not always look for patronage.

Thank you.

The SPEAKER pro tempore (Mr. HARVEY of Indiana). The Chair now recognizes the gentleman from Minnesota (Mr. Judd).

Mr. JUDD. Mr. Speaker, I have the great honor of introducing as the representative of the 76th Congress, the Honorable Frances P. Bolton of Ohio.

The SPEAKER. Before the distinguished gentlewoman from Ohio (Mrs. Bolton) proceeds, the Chair would like now to pass the gavel to the distinguished gentleman from Oklahoma, one of our former great colleagues, Mike Monroney.

Mrs. FRANCES P. BOLTON. Mr. Speaker, former Members of the House, and those very good people who have stayed around to greet us, I first want to say one thing: And that is that just before we began this session two of my Ohio members had to leave, one was Senator Bricker, and the other was Bill Hess, great friends of all of us, but I wanted to have them have the credit of this meeting, and of having come for the business meeting this morning.

It is wonderful to be here, is it not? And it is wonderful to stand in this Chamber again. However, I have often heard my family say, "Well, mother, just remember that a few words will do a great deal more than a great many." So I am not going to say very much, and I am sure that that will be a great relief to all of you.

But the fact is that I think as a whole we former Members are not appreciating quite what our value can be to our country. I hope very much as we meet annually, and certainly under the very fine leadership first of the great Brooks Hays, and now of Walter Judd, that we will really take hold of something which will bring knowledge of what this House does before the country, and what it can do in the minds of our children, our grandchildren, and our great-grandchildren—and I now have one great-great-child—and for many others.

So I hope that as you go home from here that you will take with you a new sense of Washington—mercy, what a lot of new roads and things they have here now—and we are going to be so grand when we drive up here. I could hardly remember my old space in the garage, but I am glad I got it, and I am glad to be here.

You remember coming in here at any time of the day or night, and seeing the Capitol, and that dome? Does it not do something to you? Well, just be sure it keeps on doing something to you so that you can pass that feeling on to your children, grandchildren, and great-grandchildren, and so that they can pass it on their great-grandchildren. For it is America.

Thank you.

Mr. JUDD. I now have the privilege of introducing the speaker for the 77th Congress, Hon. J. Edgar Chenoweth of Colorado.

Mr. CHENOWETH. Mr. Speaker and my colleagues, both of the present Congress and those who formerly served in this body, which is so rich in memories, I bring you greetings from the 77th Congress. I am delighted to be here today. Evan Howell, of Illinois, and I are the only former Members here today.

This is an unexpected pleasure. I never thought that I would again have the privilege of addressing the House of Representatives. It is a thrilling experience for me.

I came here on January 3, 1941, in the 77th Congress. I recall Speaker Sam Rayburn stated he had realized the ambition of his life that day when he was elected Speaker of the House of Representatives.

One of the first legislative battles of the 77th Congress was a fight between Michigan and Arkansas as to which State was going to lose a seat in the House, after the 1940 census. Michigan prevailed. The debate was most interesting.

Then the first major piece of legislation in the 77th Congress was the lend-lease bill. Do you remember that measure? The argument was made it would keep us out of war.

Then I remember the summer of 1941. President Roosevelt was gone for a time and no one knew where he was. Where was he? Out in the Atlantic with Churchill drawing up the Atlantic Charter.

Then you remember Pearl Harbor in December of that year, and the declarations of war against Japan and Germany. I remember distinctly, I believe it was the day after Christmas of 1941, when Churchill addressed a joint session of the Congress in the Senate Chamber. Many Members had gone home for Christmas, but Mrs. Chenoweth and I were here. I recall one statement he made. He said:

> I am happy to report to my people that the United States is now in the war with us.

I remember March 1, 1954, when the Puerto Rico fanatics used the House Chamber for a shooting gallery. The next day I received a call from Colorado. I was asked, "Where were you yesterday—why didn't you get shot and get some publicity." It just happened that I was handling the rule on the Republican side at the time the shooting started, at the request of Leo Allen of Illinois, chairman of the Rules Committee. The bill provided for importation of Mexican labor and was very controversial. Shortly after I took over the shooting started. It sounded like firecrackers. You remember the rest of the story and how five of our colleagues were wounded.

I used to show visitors from Colorado where I was standing and the bullet holes in the table next to me. However, I realized no danger, and fortunately escaped injury.

It is wonderful to be here with you today. There are so many happy memories that come back to me, when I see my old colleagues with whom I served in the House. I concur in the statement that the finest friendships in the world are made right here on the floor of this House. I am delighted to see all of you. I shall cherish happy memories of our service together as long as I live. Thank you very much.

Mr. JUDD. I am glad that we have a representative for the other body to speak for the 78th Congress, which is my own Congress, Senator Homer Ferguson of Michigan.

Mr. Homer Ferguson of Michigan.

Mr. HOMER FERGUSON of Michigan. Mr. Speaker, former Members of Congress, and Members of the House and Senate in the present session: It is such an honor and privilege to appear in this well today that I am bound to say a few words on this occasion. I will ask the Chair to measure the time of a minute and call me to order, because I am not accustomed to these regulations of 3 or 5 minutes.

My friends, as I was sitting here listening to my good friend, Marvin Jones, I could not help but be deeply impressed by the great speech which he made. If you will carry his thoughts to the public, it will be well worthwhile.

I have had the privilege of serving in the three branches of the Government. The legislative as a U.S. Senator; the executive, as U.S. Ambassador to the Philippines; and both the State and Federal judiciary. In the judiciary, it was our duty to insure to all Americans that great motto carved on the front of the Supreme Court—"Equal Justice Under Law." In the Senate, and equally here in the House of Representatives, it was our duty to make those laws which are to be applied to all citizens equally by the judiciary. And in the executive, it was our duty to see that those laws were thoroughly carried out.

I am happy, as I stand here and look up, to see the inscription, "In God We Trust" still carved above the American flag. It was my privilege to sponsor the Senate bill that inserted in our Pledge of Allegiance to the Flag, the words under God." I say privilege because those who pledge allegiance to our flag should realize that our Nation exists under God and it is our God-given and inspired right to represent the great people of this country in the Congress.

I thank you again for the privilege of addressing you once more.

The SPEAKER pro tempore (Mr. MONRONEY). The gentleman yields back 15 seconds of his time.

Mr. JUDD. Mr. Speaker, I am compelled to make an announcement. We have 13 more former Members to speak and we have 8 minutes before we are scheduled to board buses to go to the Department of State and the Department of Defense. A word to the wise.

It is now my privilege to introduce from the 79th Congress Hon. Albert M. Cole of Kansas.

Mr. COLE. Mr. Speaker, this is a week

of notable returns—Apollo from the moon, Henry Kissinger from Moscow, and another notable return I think will be ignored by the press. I do not think Walter Cronkite will have it on the news tonight. I doubt that Jack Anderson will even disclose it in his column. I am referring to my return to the well of the House.

But more important than that, of course, is that we are here today to honor the Members of Congress, those who have served and those who are now serving. Important indeed is that. But in addition to that, we want to focus the attention of America on this House of Representatives, because we all believe that it provides for the people of America a symbol of freedom.

The significant return today, however, is that of this organization, former Members of Congress.

Today we honor Congress and the men who serve in that great body.

More than honoring, I suggest we may focus the attention of America on this unique people's institution of advocacy, action, and protection.

When all shouts, anger, tears, abuse, and frustrations fade away, the strength and achievements of Congress become the living symbol of our freedom.

Thank you very much.

Mr. RAMSPECK. Mr. Speaker, it is my privilege to introduce from the 80th Congress the gentleman from New York (Mr. Multer).

Mr. MULTER. Mr. Speaker, may I remind those who heard the story, that stories throughout this country do change from time to time, and the story that came from Kentucky to New York is presently told about the same speaker and same gentleman, seated in the rear of the auditorium who called out, as we tell it, "I can't hear you," and a Member in the front row replied, "I can, and I'll change seats with you."

This is one of the nice things about our coming to this rostrum to speak. Anybody can leave without even asking to be excused.

May I plagiarize very briefly the remarks of our distinguished majority leader, the gentleman from Louisiana, (Mr. BOGGS) and our minority leader, the gentleman from Michigan (Mr. FORD) by saying that most of us remember, who served under the great speakership of Sam Rayburn, the gentleman from Texas, his constant repetition of "I love this House." I believe that love is inculcated into every last Member of this House on the day when we take our oath, and it remains with us as long as we live.

Then, too, as pointed out by the minority leader, our organization, if it survives and does anything, will prove that we can disagree but never be disagreeable. The purpose, if nothing else, of our organization will be to prove that this House of Representatives and the Senate, the Congress of the United States, is a living institution to be respected and revered, so that we can go on from strength to strength.

Mr. RAMSPECK. Mr. Speaker, it is my privilege to call upon the distinguished gentlewoman from New York, Mrs. Edna F. Kelly, to represent the 81st Congress.

Mrs. EDNA F. KELLY. Mr. Speaker, to speak from the well of the House was a privilege and a great honor. To have the opportunity to speak again in this august body is a greater privilege and honor—and a great responsibility. We must recognize this privilege and let the sitting Members know we pay heed to their responsibilities in these trying days and wish them God's guidance in their efforts to preserve the absolute principles upon which our country is established. I thank them for making this day possible.

Mr. JUDD. Mr. Speaker, it is my pleasure to introduce as a Representative of the 82d Congress, Mr. O. K. Armstrong of Missouri.

Mr. ARMSTRONG. Mr. Speaker, present Members of this great body, and my colleagues who are former Members. I am sure we all appreciate the honor of being here, as every one of my predecessors at this lectern has said. I consider it a great honor to say this word of appreciation on behalf of the members of the class of 1950, the 82d Congress, and still a most distinguished group.

I am sure all of us since our terms here, whether we served for a short time or long, have been introduced somewhere as "a former Member of the Congress."

I always appreciate the honor, but I feel a little humble about what happened on the first day of my term. My wife and I drove up in our battered car to Washington. The next morning when Congress was to begin, we drove up to the Capitol. Even in that day we had to look for a place to park. I noticed a sign in front of the Capitol which said, "Reserved for Members of Congress." I nudged my companion and said, "That is us." So we drove in as if we owned the place.

I had not any more than turned off the ignition when I heard a voice shouting at me which said, "You cannot park there." I looked out of the car. There was this great big policeman, 8 feet tall, and 4 feet wide. Some Members may remember him. He was shaking his billy-club at me, and he said, "You cannot park there!" I said, "Why can I not park here?" He said, "That is reserved for Members of Congress."

I said, "Officer, they just got through electing me out in Missouri." He thought that over for a minute, and then he said, "Well, Mister, please excuse me. You just did not look smart enough to be a Member of Congress!"

That was not the reason I dropped out of Congress after one term. Some Members may remember the inimitable Congressman Dewey Short. In my State in the region I had served, the "other party," as my party called it, in its unwisdom put my district in with that of Dewey Short. I did not want to oppose that veteran, so I dropped out of the race for reelection.

But I have some great memories, as we all do, of our service here. I remember a word of advice I got that first week. I thought, well, I would look in on and talk to the great Speaker, the gentleman from Texas, Mr. Rayburn. I said:

"I am a freshman Member. Have you a word of advice?" He said, "Mr. Armstrong, I have. Just because you have been elected to Congress, don't think that all the wisdom of the world resides in you." And I never forgot that.

I never forgot one other thing, Mr. Speaker, and that was indelibly impressed upon my mind. I remember a great speech of a great general by the name of Douglas MacArthur. After he had been relieved, unwisely, in my opinion, of his commend in the Far East, he came to speak to a joint session of Congress. He said one thing that I wish our President at the other end of Pennsylvania Avenue, and everyone who serves in both the House and the Senate today, could remember at this time of crisis in our history. I heard that great general say: "There is no substitute for victory." He was right. There was no substitute for victory in war and there never will be, when we defend the liberties of humanity.

Thank you, ladies and gentlemen.

Mr. RAMSPECK. Mr. Speaker, to represent the 83d Congress, I call upon the gentleman from Florida (Mr. Matthews), whose friends call him Billy.

Mr. D. R. (BILLY) MATTHEWS. Mr. Speaker, I am delighted to represent my colleagues of the 83d Congress; we think, if one would evaluate quality, one of the two best freshmen classes, Mr. Speaker, who ever sat in these hallowed halls.

After leaving Washington, I have gone back to the grass roots of America, and I am teaching at the Santa Fe Junior College in Gainesville, Fla. I want to bring you greetings from the faculty and the student body of that great school.

We have much in common, former Members of Congress and instructors. We both are inclined to know how to live in genteel poverty.

You will recall that sometimes in the cloakrooms we would say that Congress would be a magnificent place in which to serve if you did not have to answer the roll, if you did not have to answer your mail, and if you did not have to run for reelection. Well, teaching would be magnificent and perfect if you did not have to call the roll, grade the papers, and work for tenure.

In closing, Mr. Speaker, I am going back to the grass roots of America to work in the classroom. This week we are studying about the Congress of the United States. I am going to talk about the etiquette of dialog that is so magnificently demonstrated here. I am going to talk about the synthesis that makes possible the merging of 1,000 different views into workable legislation. And I am going to talk about the progress we are making in the solution of problems. So often we just do not get the facts about the progress we are making.

I would challenge myself and you, my beloved colleagues, to do your part in making this country a better place in which to live.

I would challenge my college youth, whom I have the honor of teaching, for the future, and I would plead with them not to use escape mechanisms but to get into the mainstream of American life so that we can all say, after we have done our work, "indeed this is a little bit better country in which to live because of my service."

Thank you.

Mr. JUDD. Mr. Speaker, there is supposed to be one more from that Congress in the form of our Defense Secretary, Mr. Laird, but we are a little late and I expect he has had to go. He has already been honored by you, sir, by your inviting him to occupy the chair.

We will move on to the 84th Congress, to August Johansen. I do not see him here now. He was here, but he is gone.

Mr. RAMSPECK. Mr. Speaker, for the 85th Congress I call on Leonard Farbstein of New York.

Mr. FARBSTEIN. Mr. Speaker and my colleagues, I want to say that for me as a Representative of that class it is a great thrill to be back in these hallowed halls, even though we are only former Members of Congress.

I know, for myself, I did not realize how important this body was and the effect and influence this body has upon the commonweal and the general public until after I had left it.

So all I can say is the Members of this House need only carry the flag and great honor will prevail.

For the Class of "85", I want to say our great wish is first to be able to live until we attain that number, and from then on we will worry about the future.

Thank you very much.

Mr. RAMSPECK. Mr. Speaker, for the 86th Congress I call upon Mr. Fred Wampler of Indiana.

Mr. WAMPLER. Mr. Speaker and Members of this distinguished body: I want to brief my remarks, if I may, and carry you back a few years to Terre Haute, Ind., when a great American came to Terre Haute, Ind., to try to reelect a Congressman who was representing flood control. His concluding remark before combined civic organizations was "There was no issue so complex that it cannot be reconciled through the ingenuity of man." He went back to Texas. This was possibly his last public appearance for the Honorable Speaker Rayburn of the House of Representatives became ill and never returned to Washington.

It is my privilege and honor today to come back to the House bringing you the words of this great American, hoping that we can live the words that he expressed in Terre Haute, Ind., on that day. His message will never be forgotten.

Thank you very much.

Mr. RAMSPECK. Mr. Speaker, representing the 87th Congress, I call upon a gentleman from Idaho (Mr. Ralph Harding).

Then we go to the 88th Congress, and I call upon Mr. Harold Ryan of Michigan.

Mr. RYAN. Mr. Speaker, Members of the Congress, and my colleagues who are former Members of Congress, the alumni Members of the 87th and 88th Congresses are deeply grateful for the opportunity that they did have in serving in this Congress and making their various contributions. We like to think that we did add a little bit to help carry on the great Government of the United States and to help in some way even to make it better as time went on. We are also grateful for the opportunity given us in creating and developing some of the best friendships a person could ever have.

There were many good things that were done in our freshman years which are too numerous to talk about, but at the same time one of the outstanding events which occurred—and I was not on that particular committee—was, under the leadership of our great President then, John F. Kennedy, we attempted to make plans to the moon.

President Kennedy did say at that time that we would be the first country to put a man on the moon, and it was during my freshman year here that appropriations were wisely made by the Committee on Appropriations and given to the Space Committee in order to develop plans so that this dream could actually be realized.

Because of succeeding appropriations and with a tremendous amount of work done by thousands of great Americans and with contributions made by many people, we have witnessed the fact that the United States is the first nation to place a man on the moon.

This will be one of the outstanding memories, of course, in my career.

I, like many others, am grateful for the opportunity to be here once again, because, as someone said, we never knew that we would ever have the chance again to grace this podium.

Mr. RAMSPECK. Mr. Speaker, representing the 89th Congress, I call upon the gentleman from Wisconsin (Mr. Stalbaum).

Mr. STALBAUM. Mr. Speaker, you know, the 89th had a lot of freshman Members, and just about at this time in the debate someone would move to cut off all further debate at the end of 2 minutes. I feel a little bit that same way today, so I merely want to give my greetings to all of the Members here from the Members of the 89th Congress and extend these greetings to the Former Members of Congress Club. It is a pleasure to be here speaking for all of them, and I hope we have many more of these meetings.

Thank you.

Mr. JUDD. Mr. Speaker, for the 90th Congress I have the honor to present the gentleman from Alaska (Mr. Pollock).

Mr. POLLOCK. Mr. Speaker, my distinguished colleagues, former colleagues and associates in Former Members of Congress, it is wonderful indeed to stand before you in the well where so much history was born, where great men of America before me have stood, and to have the experience of sharing with all of you the opportunity once again to answer the rollcall in these hallowed Chambers of the United States House of Representatives, truly the greatest deliberative body in the world.

I was privileged indeed a few years ago to represent the people of the great State of Alaska as the Congressman for Alaska. In Alaska we have one U.S. Congressman and two U.S. Senators. I always felt I had a doubly difficult and challenging job in representing my Alaskan constituents, for I had to do the work of two Senators—and I loved every minute of it. My friends, our 90th Congress Club does not have many members in Former Members of Congress Inc. We really do not have sufficient vintage yet to have very many members in this unique organization. I would like to mention, however, one of our distinguished former Members is George Bush, who is now the United States representative to the United Nations in New York, and, of course, Tom Kleppe, the Administrator of the Small Business Administration was in our class. Jim Smith, of Oklahoma, who is the Administrator of the FHA was another. I have had the distinguished privilege of serving under our President as the Deputy Administrator of the National Oceanic and Atmospheric Administration. And with sadness, I must mention that there is another former Member of the 90th Congress who is no longer with us, and that is my good friend and close colleague, Bill Cowger of Kentucky, who died recently while still a young man. His death was untimely.

One thing more, those of you who will be retiring from Congress this year, voluntarily or otherwise, let me say we will sincerely regret seeing you leave this active role in the service of our great Nation; but know also we welcome you into our ranks. We welcome you into membership in this illustrious and prestigious organization—the Former Members of Congress.

Thank you, Mr. Speaker.

Mr. SIEMINSKI. Will the gentleman yield?

Mr. JUDD. I am glad to yield to the distinguished gentleman.

Mr. SIEMINSKI. Mr. Speaker, things change. When I first visited the House Chamber on a hot summer day in the early 1930's, the Speaker was cooled by a small fan on his desk. Spitoons were everywhere.

When I came to the House as a Member in the early 1950's, the Chamber was air cooled, one spitoon stood out near Speaker Sam Rayburn's chair. We voted by voice.

Now, I read, the House will vote by push button; will it soon come to pass that people will guide their Representatives in the Congress on pending legislation by some signal?

Would it help the Members of the House and the Senate form a more perfect Congress if citizens could express their wishes on pending legislation via telephone to computer terminals for relay to the Hill?

Thus, guided by an expression of his constituency on legislation, the Member could vote it up or down as the facts allowed.

Feasible? Expensive? Perhaps.

It is estimated the present Congress will spend about $24 million during the calendar year on franked mail to keep the people informed. Plus an estimated $4½ million on air mail and special delivery. Twenty-eight million dollars a year to keep the people informed. A small price to pay for freedom.

Between elections, what would it cost to keep the Congress informed of the wishes of our citizens on legislation before it is debated for passage?

Would dial-a-vote via telephone to computer terminals for relay to Congress help it become a more perfect body, if that is possible?

Things do come to pass, do they not?

Mr. JUDD. For those of you who are still active Members of the Congress, and those of you who will be retiring voluntarily, or otherwise, this year, I want to say on behalf of all of us that while we deeply regret the facts of political life that may cause you to be leaving your active service in the U.S. Congress, we will certainly welcome you into our fellowship in Former Members of Congress, should you care to join us.

Thank you very much.

Mr. Speaker, a good many former Members wrote or called to express their regrets that they could not attend today's activities, beginning with our two honorary presidents, President Richard Nixon and former President Lyndon B. Johnson, and our honorary chairman, our beloved former Speaker, the Honorable John W. McCormack, the latter not only wrote to express his regrets, but also sent a check for support of the organization.

Mr. Speaker, I ask unanimous consent to include in these remarks the names of these former Members who have sent regrets at not being able to be present in person.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

(The list referred to follows:)

E. Ross Adair, of Indiana, now U.S. Ambassador to Ethiopia.
George Bush, of Texas, now U.S. Ambassador to the United Nations.
Katherine Byron, of Maryland.
Louis B. Capazzoli, of New York, Associate Justice of Supreme Court of N.Y. Appellate Division.
Thomas B. Curtis of Missouri.
Ed Foreman of New Mexico.
Hadwen C. Fuller of New York.
Angier Goodwin of Massachusetts.
Charles Hoeven of Iowa.
John Davis Lodge, now, U.S. Ambassador to Argentina.
Eugene Keogh of New York.
Donald McGinley of Nebraska.
Catherine Norrell of Arkansas.
M. Blaine Peterson of Utah.
David Potts of New York.
Katherine St. George of New York.
Neil Staebler of Michigan.
Joseph Tydings of Maryland.
Albert Vreeland of New Jersey.
Basil Whitener of North Carolina.

The SPEAKER. The Chair will state that the majority leader, when we go back in the House, will ask unanimous consent on behalf of all former Members attending this session to revise and extend their remarks.

Mr. JUDD. Thank you, Mr. Speaker.

There are two more items. One is a report of the nominating committee and of the actions taken by the annual meeting of FMC this morning regarding the members elected to the board of directors and the officers for the new year.

Mr. Speaker, for that purpose, I yield to the chairman of the nominating committee, the distinguished former Member from Alabama, Mr. Laurie Battle.

(Mr. BATTLE asked and was given permission to revise and extend his remarks.)

Mr. BATTLE. Mr. Speaker, as chairman of the nominating committee I am the board of the Former Members of Congress as they were elected unanimously this morning. They were all running, after careful selection, in a manner that all of us would liked to have run originally, and that is without opposition.

We have four Members who have graduated from the Board of Directors, the Honorable Brooks Hays, Jed Johnson, Frances Bolton, and James Van Zandt.

Replacing these distinguished former Members will be the Honorable Joseph Barr, Eugene Keogh, Thomas Kuchel, and George Meader. They will serve for 3 years.

In addition, we have former Senator Ralph Yarborough who is running for public office as I understand it and he will be replaced by the Honorable Jeffrey Cohelan who will serve for 1 year.

The Honorable Edna Kelly will not be able to attend the meetings of the board for the coming year so she will be replaced by former Senator Joseph Tydings. He will serve for 2 years.

And, saving the best for last, Mr. Speaker, the new president of the Former Members of Congress board of directors is the Honorable Walter Judd and the new vice president is the Honorable Joseph Tydings.

I thank you.

Mr. JUDD. Mr. Speaker, the wives and widows of former Members of Congress had a meeting this morning and decided to organize an auxiliary to FMC. They have been in the gallery during this session. They already have more than 150 charter members. They too, desire to maintain their friendships of yesterday.

In closing, once again I wish to express on behalf of every Member of the FMC, Mr. Speaker, our great appreciation for your courtesy and that of the majority and minority leaders, and of the other Members of the Congress, for giving us this opportunity to be received by you in this historic Chamber.

Thank you very much.

The SPEAKER. The Chair again wishes to thank the former Members of the House for their presence here today.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 o'clock and 15 minutes p.m.

PRINTING OF PROCEEDINGS HAD DURING RECESS AND PERMISSION TO REVISE

Mr. DENHOLM. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD and that all Members and former Members here who spoke and those here during the recess have the privilege of revising their remarks and to include extraneous material therein.

The SPEAKER. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

FEDERAL HOME LOAN BANK BOARD

The SPEAKER. Under a previous order of the House, the gentleman from North Carolina (Mr. JONAS) is recognized for 10 minutes.

Mr. JONAS. Mr. Speaker, last Wednesday, April 26, 1972, the House voted approval of the action taken by the Committee on Appropriations in denying the Federal Home Loan Bank Board the right to use the funds provided for in H.R. 14582, to finance the transfer of the Fourth District Home Loan Bank from Greensboro, N.C., to Atlanta, Ga. Following is the exact language of the prohibition:

> *Provided*, That none of the funds made available for administrative or nonadministrative expenses of the Federal Home Loan Bank Board by this Act shall be used to finance the relocation of all or any part of the Federal Home Loan Bank from Greensboro, North Carolina, nor for the supervision, direction or operation of any district bank for the fourth district other than at such location.

Under the limitation of time in effect during the debate on H.R. 14582, there was no opportunity to develop all of the facts which show that the decision of the FHLBB to transfer this bank from Greensboro to Atlanta was hastily made—without prior notice to the member savings and loan associations or to the employees or to the public—and was made in a manner which indicates that the move was ordered without the careful consideration such an important decision deserves.

This decision by the FHLBB seems to have been an arbitrary one. Every reason given originally by the FHLBB to justify the decision has been demolished by the facts developed during two hearings conducted by the Appropriations Committee having jurisdiction over the FHLBB budget. The story of what transpired and the pertinent facts should be recorded so that all Members of Congress and others who read this record may see how a Government agency, charged with the responsibility of supervising the Home Loan Bank system, used its authority in an arbitrary manner and without any real consideration of the consequences of its action. Only Congress can force this Board to follow the rule of reason and I think Congress will take that action when the facts are known.

I am therefore taking this time in order to explain what transpired and to show some of the consequences of this arbitrary decision made by the FHLBB.

Mr. Speaker, the Federal Home Loan Bank system is composed of 4,301 savings and loan associations. The country is divided into 12 districts and there is a Federal Home Loan Bank in each district. District 4 is composed of 698 insured associations in Maryland, the District of Columbia, Virginia, North Carolina, South Carolina, Georgia, Florida, and Alabama.

The Federal Home Loan Bank for the fourth district has been located in Greensboro, N.C., for the last 22 years. This district leads the entire country in the number of insured associations and in net assets of member associations—$30.6 billion.

The Greensboro Federal Home Loan Bank is supposed to be run by a 12-man board of directors, eight of whom are selected by the member associations and four are appointed by the Federal Home Loan Bank Board. There is one vacancy on this Board at the present time. The Chairman of the Board is Mr. Clyde Perry of Florida and he is one of the members who was appointed by the FHLBB.

The fourth district of the Federal Home Loan Bank system, with its bank located in Greensboro, has had tremendous growth during the last 5 years as the following facts will show:

During this period the fourth district had the greatest net savings inflow of any of the 12 districts.

During this period the fourth district has led the country in attracting new savings.

During the past 4 years the member associations in the fourth district have closed a higher dollar volume of mortgage loans than any other district except the San Francisco district. However, during 1971 Greensboro moved ahead of San Francisco and led the country in this category.

As of December 8, 1971, home loan bank personnel in Greensboro consisted of the following:

District bank employees	73
Examination personnel	20
Federal Home Loan Mortgage Corporation personnel	5
Total	98

The Federal Home Loan Bank system is supervised by a 3-man Board as the Federal Home Loan Bank Board, and is composed of the following:

Mr. Preston Martin of California, Chairman;

Mr. Carl Kamp of St. Louis, Mo.;

Mr. T. Hal Clarke of Atlanta, Ga.

On December 8, 1971, the Federal Home Loan Bank Board, located here in Washington, adopted resolution No. 71-1304 which stated that "effective immediately" the Fourth District Federal Home Loan Bank, located in Greensboro, N.C., is hereby moved and relocated at the city of Atlanta, Ga. And its name is hereby changed from the Federal Home Loan Bank of Greensboro to the Federal Home Loan Bank of Atlanta.

Resolution No. 71-1304 was adopted by the Federal Home Loan Bank Board without any public notice, without any public hearing, without any prior discussion with the Board of Directors of the Bank, without any notice to the 98 employees, and without giving the 698 member associations, who actually own the Bank, any opportunity to be heard about the proposed transfer of the Bank from Greensboro to Atlanta.

SEQUENCE OF EVENTS

The following sequence of events, I believe, clearly demonstrates that this was an arbitrary, and unreasonable act by the Federal Home Loan Bank Board; and that in taking this action the Board displayed a lack of sensitivity to the rights of the 98 people employed in Greensboro and a cynical disregard for the views and opinions of the member associations who own the Bank:

On December 5, 1971, Sunday, a Federal Home Loan Bank Board member, Mr. T. Hal Clarke, stopped off in Greensboro on his way to his home in Atlanta for a conference with Mr. Fogarty, who is the president of the Bank but not an elected Director. On page 9 of the printed hearings, conducted on December 15, 1971, by the Subcommittee on HUD-Space-Science-VA of the House Committee on Appropriations, which subcommittee annually reviews the budget of the Federal Home Loan Bank Board as required by the Federal Corporation Control Act, Mr. Clarke made the following statement:

> I told him (Mr. Fogarty) the way the Board was thinking. The decision hasn't been made at that point. But after the study made here we had pretty well come to a conclusion. I told him that we wanted him to be the first one to really know the Board's plans.

Mr. Clarke returned to the District of Columbia from Atlanta and on December 8, 1971, Wednesday—3 days after Clarke's conference with Fogarty mentioned above—the Federal Home Loan Bank Board had a meeting here in Washington, which lasted only 15 minutes, during which a number of items of business were disposed of including adopting resolution No. 71-1304 which stated that "effective immediately" the Greensboro bank is moved to Atlanta.

The Greensboro Bank Board of Directors had a regular monthly meeting scheduled to convene in Palm Beach, Fla., on December 10, 1971, Friday—2 days following the meeting of the FHLBB at which resolution No. 71-1304 was adopted. During that bank board meeting in Palm Beach, a resolution was adopted approving the transfer.

One of the directors of the Greensboro Bank Board, Mr. Mel Thompson of North Carolina, said about that ratification meeting in Palm Beach that the transfer was presented to the bank board as an accomplished fact—and that the bank board members felt that they had no alternatives but to approve the action which had already been taken "effective immediately" by the FHLBB here in the District of Columbia.

The fact that the FHLBB ordered the transfer "effective immediately"—2 days before the bank board met in Palm Beach—indicates that the FHLBB was contemptuous of the bank board and only sought its approval after the transfer had been ordered for "window-dressing" and in order to be able to claim that this transfer had been made with the approval of the bank board. To seek approval after the transfer had been ordered was adding insult to injury and, in my judgment, was a shabby tactic unworthy of use by a supervising Federal agency.

The "effective immediately" resolution was adopted by the FHLBB on December 8, 1971, stated that the board had "carefully considered" relocating the bank to Atlanta. However, the minutes of the FHLBB meeting on December 8, 1971, which entire meeting lasted only 15 minutes, disclose no discussion of the proposed move and the minutes of previous meetings are silent on this subject. So there was no discussion of the proposed transfer in any official meeting of the FHLBB. Moreover, although the FHLBB was aware of the fact that the Greensboro Bank Board met regularly each month, there is no record of this proposed transfer ever having been presented to the bank board for consideration or discussion until after the "effective immediately" resolution had been adopted on December 8, 1971.

Mr. Preston Martin, Chairman of the FHLBB, and Mr. T. Hal Clarke, member of the FHLBB from Atlanta, both testified that the decision to transfer the bank to Atlanta was made after a study had been conducted and it had been determined that the move would promote efficiency and serve the best interests of the 698 member institutions. However, in our hearings on December 15, 1971, the FHLBB board members could not tell the committee:

First. How many of the 98 employees in Greensboro would move to Atlanta or how many would resign rather than move from Greensboro.

Second. How many of the 98 employees in Greensboro own their homes and would have to sell them in order to move to Atlanta.

Third. What it would cost the bank to make the transfer of all its activities to Atlanta.

Fourth. Comparison of the cost of living in Atlanta against Greensboro.

Fifth. What would be done with the brand-new bank-owned building in Greensboro, which cost $1,736,694.72, and had been occupied less than 2 years.

In view of the inability of the members of the FHLBB to answer any of the foregoing questions at our hearing on December 15, 1971, it is pertinent to inquire what the so-called study consisted of? It would appear that there was very little study made and that the FHLBB arbitrarily decided to force the Greensboro bank to abandon that brand-new building in Greensboro and move the bank to Atlanta without even considering what the transfer would do to 98 employees and without even consulting the member institutions or considering the cost of the transfer.

It would be hard to find an example of a more arbitrary action, or a more cynical display of the use of raw power, by a Federal bureau to force its will upon the owners of a financial institution it had been given the responsibility of supervising.

LACK OF INDUSTRY SUPPORT FOR THE TRANSFER

In resolution No. 71-1304, which was adopted summarily by the Federal Home Loan Bank Board at a meeting here in Washington on December 8, 1971, lasting only 15 minutes, it was stated in the preamble that industry groups—meaning savings and loan associations—continued to express a desire to have the bank relocated. And in a hearing conducted by our subcommittee on this matter on December 15, 1971, it was stated by Mr. Preston Martin, Chairman of the Board, and Mr. T. Hal Clarke, the member of the board from Atlanta, that many industry people had expressed a desire to have this bank transferred and that many individual members of the bank's board of directors had expressed similar wishes.

In a subsequent hearing conducted by our committee on March 13, 1972, it was again stated that at various meetings around the district many industry people had expressed a desire for this transfer and that it had been discussed with certain members of the Board of Directors of the bank, although it was admitted that these discussions did not occur in any official meeting of the bank board but at conventions and other meetings.

Although asked to identify the industry people with whom the proposed transfer had been discussed, Mr. Clarke was unable to name a single one. In the March 13, 1972, hearing, Mr. Clarke made the following statement:

> I could conjure up, I suppose, from my memory some of the individuals (industry people) that I have talked to over the past at the various meetings.

But I repeat that he was unable to identify or name a single industry person who had recommended this transfer or with whom he had even discussed it.

Asked to identify members of the Greensboro Bank Board, other than those from Georgia and Florida, with whom the proposed transfer had been discussed, Mr. Clarke was able to identify only three: Mr. Clyde Perry, who lives in Florida and who was appointed to the Greensboro Bank Board by the Federal Home Loan Bank Board; Mr. Forrest Abbott of South Carolina, who was also appointed to the Bank Board by the Federal Home Loan Bank Board; and Mr. John W. Stadtler, member from the District of Columbia.

This record demolishes the argument that this proposed transfer had widespread support throughout the industry and shows conclusively that the subject was never even presented to the Greensboro Bank Board in any official meeting prior to the "effective immediately" resolution adopted December 8, 1971; and it also shows that only informal and casual conversations about the transfer were had with only three members of the Greensboro Bank Board and two out of the three were appointees of the Federal Home Loan Bank Board.

In this connection it is pertinent to point out that Mr. Clyde Perry, of Florida, who is a member—now Chairman—of the Greensboro Home Loan Bank Board by appointment of the Federal Home Loan Bank Board, was one of the bank directors Mr. T. Hal Clarke said he had discussed this move with in advance. Now this same Mr. Perry was chairman of the building committee for the Greensboro Bank building from the initial planning to its completion and dedication in May of 1970. If there was any demand or sentiment from the 4th District Savings and Loan Associations to move the Greensboro bank to Atlanta, pray tell me why Mr. Perry did not voice that demand and sentiment before the new bank building was constructed in Greensboro at a cost of $1,736,694.72? If the bank was ever going to be moved from Greensboro to Atlanta, prudence would have dictated that the move should have been made before that magnificent new building was constructed in Greensboro.

The predecessor chairman to Mr. Preston Martin of the FHLBB has stated that there was no pressure or reported sentiment to locate the new building anywhere in the 4th District other than in Greensboro where the bank had been operated for the last 22 years. This plus the fact that Mr. Perry was chairman of the building committee when the new building was constructed in Greensboro, indicates that whatever sentiment exists within the industry to transfer this bank to Atlanta developed after Mr. T. Hal Clarke, who resides in Atlanta, took his place on the three-man Federal Home Loan Bank Board.

If there was indeed widespread demand throughout the industry to abandon the magnificent new building in Greensboro and transfer the bank to Atlanta, and if the Federal Home Loan Bank Board had been even remotely interested in the views of the members of the bank board or the member associations who own the bank, some advance notice would have been given that the Board was contemplating moving the bank so that objections, if any, could have been heard and considered. It would have been an easy matter to present this proposal to the Greensboro Bank Board because that Board met every month and, as I have already indicated, the December meeting had already been set to be held in Palm Beach 2 days following the meeting of the Federal Home Loan Bank Board here in Washington when the "effective immediately" resolution was adopted. This precipitous action causes the question to be raised—why the haste? What made it so necessary to act hastily on December 8, 1971, in the face of the fact that the bank board was to have a meeting 2 days later? If the FHLBB had been interested in obtaining the views of the bank directors, it could easily have waited until after the December 10 meeting of the bank board in Palm Beach and could have sent a representative to that meeting to explain the need for this transfer and to solicit, in advance, the approval and recommendation of the bank board.

These strange circumstances indicate a disposition on the part of the FHLBB to take official action, without any advance notice to anybody, so as to present the bank Board with a fait accompli—as much as to say that this is what we have done: we would like your approval as an afterthought or as window dressing so we can be able to say to critics that the bank Board approved the transfer; but since we have a legal right to do it, we have already moved the bank and you might as well approve it because it will not do any good to object to it now.

I think Mr. Mel Thompson was correct when he stated that the matter was presented to the bank board as a fact that had already been accomplished and that the only alternative then was to approve the action already taken or have a confrontation with the Federal Home Loan Bank Board.

COST OF THE MOVE

A recital of the following facts will prove conclusively that this move to Atlanta is going to be costly and extravagant:

The bank in Greensboro presently occupies a magnificent building, less than 2 years old, which cost $1,736,694.72. It is located four blocks from the center of the business district of Greensboro and its accessibility is rated superior from all areas of the city.

It is a two-story office building with a basement. It was constructed to accommodate a third story if and when additional space should be required. The record shows that "the building was also constructed to look like new for 20 years with a minimum of maintenance."

The architects' estimate is that it would cost from $500,000 to $550,000 to add a third story. However, the bank officials in Greensboro have obtained an estimate from the construction firm that built the building that it would cost from $720,000 to $864,000 to add the third story.

There are 175 parking spaces on the lot upon which the bank sits, thus providing adequate parking for the 98 employees and for 75 additional employees if and when needed.

Although the Federal Home Loan Bank Board members who testified in our original hearing on December 15, 1971, could not at that time tell the committee what it would cost to transfer the bank to Atlanta, for the simple reason that figures on that subject had not been developed although the members testifying stated that careful study had been given before the move had been directed, subsequently the Board provided the committee with supplementary information answering the questions they could not answer in December. Included in the supplementary information provided the committee was an itemized estimate that the out of pocket cost of making the transfer of the bank and personnel to Atlanta would be $339,768.

If you add the first year's rent for space in Atlanta, which will be $279,852, it appears that the cost to the bank to move, plus 1 year's rent on the new space in Atlanta, will aggregate $619,620, or just about what it would cost to add a third floor to the building. And I am speaking so far only about money costs and have not said anything at all about the disruption of the family life of 98 employees who will have to uproot themselves from Greensboro and move to Atlanta or resign. I will discuss the effect of this transfer on employees a little later, but before doing so I wish to point out another incredible act in the sequence of events which transpired.

I have previously stated that the Board members could not answer any questions about what this transfer would cost when we had our first meeting on December 15, 1971, but that subsequently they provided that information. The committee did not receive it until after Congress reconvened in January. We proposed to explore this move again in our regular hearings when the FHLBB was due to appear before subcommittee on March 13, 1972. The supplementary material consisted of a large volume of statistical and other information and it required some time to analyze. Moreover, since our regular meeting was coming up on March 13, the committee did not see any necessity of scheduling a special hearing and planned to go into the subject more thoroughly in our regular hearing on March 13.

A few days before that hearing was scheduled, information came to the committee that the bank was on the verge of signing a lease for office space in Atlanta. I could not believe that the FHLBB would authorize or approve the signing of a lease in the face of our forthcoming hearing and before the committee had an opportunity to discuss the cost of the transfer and the other questions raised about it with the Board. Therefore, during the middle of the week prior to our scheduled hearing on Monday, March 13, 1972, I undertook to reach Mr. Preston Martin, Chairman of the FHLBB, on the telephone to urge him to have the signing of a lease held up until after our hearing on the following Monday, March 13, 1972. I was informed that all members of the FHLBB were out of town so I spoke with Mr. Arthur W. Leibold, Jr., the General Counsel of the FHLBB, and presented my request to him. He told me that he would communicate with the Board members and advise me of their decision later in the day. Late that afternoon Mr. Leibold called me back on the telephone and told me that the Board members held a long-distance telephone conference following which they instructed him to advise me that the Board respectfully declined to follow my suggestion to hold up the signing of a lease in Atlanta.

The committee was later provided with copy of a lease of four floors in an Atlanta office building which purports to have been signed on March 10, 1972. This is a 5-year lease of 44,776 rentable square feet at a rent of $23,321 a month or $279,852 per year. The 5-year cost of this space will be $1,399,260. The attorney for the Greensboro bank wrote a letter to the FHLBB here in Washington, prior to the execution of this lease, inquiring as to the desirability of inserting an escape clause in the lease so that the bank could get out from under it in the event Congress should pass legislation introduced last December to require a plebiscite of the member associations before a home loan bank should be moved. Mr. Leibold responded to that inquiry in a letter dated March 6, 1972, advising the bank's attorney that such an escape clause would not be necessary and that the pending legislation "does not require the lease to contain a provision dealing with that contingency" and advising that the execution of a formal lease could proceed, subject to final approval by the FHLBB.

Here was a suggestion by the bank's attorney that an escape clause should be inserted in the lease in case the bank might be later prevented by law from occupying the space, and we have the spectacle of the Board's General Counsel telling the bank's attorney that an escape clause would not be necessary.

Here we also have the spectacle of the FHLBB declining to hold up the execution of a lease that might cost the bank $1,400,000 in rent when it already owned a $1,800,000 building in Greensboro which it was proposed to abandon—refusing to hold up the execution of a lease for 3 days until the already scheduled hearing could be conducted.

Now I ask again why all of this haste? What was the spur that motivated the FHLBB to act so precipitously, and what caused the General Counsel of the Board to recommend against an escape clause?

Can it be that the owners of the space in Atlanta were so anxious to get their space rented at a monthly rental of $23,321 that they were able to persuade the FHLBB to rush madly ahead to get that lease executed before we could continue our hearings on March 13?

I am informed, although I have not yet been able to verify the information, that the building in Atlanta was completed during the summer of 1971 and that the space finally rented to the bank has been vacant ever since.

BURDEN ON EMPLOYEES

As already indicated, on December 8, 1971, there were 98 personnel, including bank employees, examination staff, and Federal Home Loan Mortgage Corporation employees, in Greensboro. Between the time of the announcement that the bank was being moved and our subsequent hearing on March 13, 1972, 10 of the bank employees had resigned, including a senior vice president. The supplementary information furnished the committee following that original hearing indicates that 47 of the 98 personnel in Greensboro have indicated that they will not move to Atlanta, including 36 bank employees, nine of the examiner staff, and two of the mortgage corporation people. Only 36 of the personnel on board in Greensboro have indicated that they will move to Atlanta, including 27 bank employees, six of the examination staff, and three of the mortgage corporation staff.

This indicates that more than half of the employees and personnel on board in Greensboro have declined to move to Atlanta; and no wonder, because many of them have lived in Greensboro for more than 10 years, own their homes and have their children in school, and have become participating citizens in the community life of Greensboro.

These people who are not going to move will have to be replaced by the bank if it moves to Atlanta and the bank will be handicapped for lack of experienced and trained personnel. One of the reasons advanced by the FHLBB as a reason why they were not concerned over the prospect of finding replacements in Atlanta for those who will not move is that the regional office of the Civil Service Commission is in Atlanta and its facilities could be utilized. But it turns out that one of the estimated cost items of the move is $12,000 to pay an employment agency in Atlanta to find replacements for personnel who do not move.

But in addition to all this, the supplementary material furnished by the FHLBB shows that this move is going to impose a serious burden on the personnel who do move because of the substantially higher cost of living in Atlanta over Greensboro.

In Atlanta, for example:

Food is higher—103.5 against 93.4;

Housing is higher—115.7 against 99.5;

Utilities are higher—99.1 against 96.8;

Health care is higher—94.8 against 92.

Only an item called "miscellaneous" is shown to be higher in Greensboro than in Atlanta. The Board does not identify any items that make up "miscellaneous."

But the material furnished by the Board shows, in summary, that the overall composite index for Atlanta is 7-percent higher than for Greensboro.

In addition, there is no parking furnished with the lease in Atlanta whereas there are 175 parking spaces available in Greensboro. So all employees who use automobiles to get to work in Atlanta will have to find a place to park and pay parking fees.

There can be no doubt about the fact that this move, if finally consummated, is going to be a damaging blow financially to the 98 employees now located in Greensboro. It is unconscionable that a Federal bureau would run roughshod in this fashion over the rights of loyal employees and make such an important decision before even considering how expensive the move would be not only to the bank but to the employees, and without giving any consideration to the upheaval this move will cause in the family life of this large number of employees who I think have a right to expect better treatment than this at the hands of a Government bureau.

ACCESSIBILITY TO FEDERAL RESERVE BANKS

One of the arguments advanced by the FHLBB to support their decision transferring the Greensboro bank to Atlanta is that Atlanta is the financial center of the South, and that the home loan bank needs to be in the same city with Federal Reserve Banks, Regional offices of the FDIC and the Comptroller of the Currency, and regional offices of other Government agencies.

This argument is demolished by the following facts:

During the time the home loan bank has been in Greensboro, it has developed and progressed to the point where it leads all of the 12 district banks in savings inflow, increase in net assets, and number of mortgage loans closed. These facts indicate that the bank has not been handicapped in the past in being located in Greensboro.

Excluding Atlanta, home loan banks are located in only four cities around the country in which there are also Federal Reserve banks and regional offices of the FDIC and the Comptroller of the Currency.

Home loan banks are located in seven cities across the country where there are no Federal Reserve banks and no regional offices of the FDIC or Comptroller of the Currency. These cities are: Pittsburgh, Cincinnati, Indianapolis, Des Moines, Little Rock, Topeka, and Seattle.

I caution Congressmen who represent these named cities to be watchful lest they wake up one morning and discover that the FHLBB, without any notice to the directors of the banks in those cities, and without any notice to the member associations, and without any notice to the bank employees, and without any notice to the public, has arbitrarily moved the home loan bank to some other city.

CONGRESSMAN RODINO'S PROGRAMS ON HEALTH, CRIME, AND DRUG ABUSE

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 10 minutes.

Mr. RODINO. Mr. Speaker, as we near the end of the 92d Congress, I wish to report my activities and accomplishments of the House Judiciary Committee in the areas of health, drug abuse control, and crime prevention.

During my 24 years in Congress I have consistently supported measures to improve the health and welfare of this country. Likewise, the Judiciary Committee, of which I am ranking Democratic member, has approved major drug abuse and crime control legislation—The Narcotics Addict Rehabilitation Act of 1966 and the Omnibus Crime Control and Safe Streets Acts of 1968. In early 1970, I developed a comprehensive three-pronged attack on the drug abuse problem.

NARCOTICS CONTROL—THE RODINO PLAN

First I introduced legislation to provide for medical supervision and treatment of every known addict. Second, this bill would enable law enforcement officials to conduct vigorous crackdowns on one of the most evil criminals in our society—the narcotics pusher. The third step in my program, which authorizes the President to cut off foreign aid to any country that fails to cooperate in halting international drug traffic, was enacted into law in February. I have emphasized that the problem of drug abuse must be attacked on all levels of government: local, national, and international.

On the local level, I have worked closely with DARE, New Well, and Odyssey House to promote programs for the successful treatment of drug addicts. On the national level, I have stressed for many years the need for providing the necessary funds to declare an all-out war on drug abuse.

As a result of my continuing efforts, the President has finally recognized that drug addiction is a national crisis requiring emergency action by the Congress and the administration. On the international level, I was the Chairman at the last scientific meeting of NATO's North Atlantic Assembly. This Assembly unanimously adopted my resolution to authorize international cooperation in attacking this problem and to provide funds in developing nonaddictive heroin substitutes. Also, as a result of my initiative, a United Nations fund for drug control has been created to study all aspects of this truly international problem.

CRIME PREVENTION AND CONTROL

One of the primary responsibilities of the Judiciary Committee is to enact legislation for the prevention and control of crime.

In 1965, my committee processed the Law Enforcement Assistance Act to strengthen crime control programs by providing grants to local and State agencies. In 1971, all LEAA programs for New Jersey totaled $11,870,000 and over 1,000 students are now enrolled in law enforcement education programs.

In 1968, I was one of the authors of the Omnibus Crime Control and Safe Streets Act, which provides funds to State agencies to assist in the prevention of crime. One of the most important programs undertaken as a result of this act was a narcotics education project to warn the youth of this country of the dangers of drug abuse. Furthermore, my Judiciary Committee is planning to hold hearings next month on proposed changes to this act, to provide compensation to policemen and firemen who are injured and to the survivors of those killed in the line of duty.

RODINO'S HEALTH PROPOSALS

In this Congress I have introduced and promoted a number of measures that would significantly improve every citizen's opportunity to receive better health care.

A major proposal is my Health Security Act, to establish a national health insurance system covering all U.S. citizens. It would be financed by a combination of payroll taxes and general revenues. I strongly believe an adequate, comprehensive health insurance system is the next step after enactment of medicare to assure all our citizens their right to proper health care.

Other measures are not as far reaching, but just as crucial in attacking specific health problems. One would create a national blood bank program to assure a supply of clean, healthy blood to everyone. It is vitally needed to halt the terrible increase in hepatitis and other diseases contracted from blood transfusions. Recently New Jersey's health commissioner warned that the odds are 99 to 1 that New Jersey citizens having blood transfusions will develop hepatitis.

Another of my bills amends the Vocational Rehabilitation Act to provide expanded aid for kidney disease victims who must rely on kidney machines for survival. I am glad to say it was included in the vocational rehabilitation bill that recently passed the House.

On another front, I have introduced a bill to attack the dreadful spread of venereal disease. Since the early 1960's syphilis and gonorrhea have increased alarmingly. Gonorrhea especially is a problem in Newark, which has the highest rate in the Nation. It is shocking to realize that experts estimate there is a huge "reservoir" of about 800,000 carriers spreading the disease without knowing they have it.

I have also sponsored a bill to authorize use of our maximum resources and efforts to find the cause and prevention for the sudden infant death syndrome (SIDS). The death of babies, occurring for no visible reason, is one of the most tragic problems facing parents. An estimated 10,000 babies die each year for no known reason.

Tuberculosis is still a menace, and unfortunately Newark leads all the country's cities in the rate of new TB cases. Nationally the rate was 18.3 persons for every 100,000 people—in Newark it is 77 new TB cases. It is shocking that no funds were authorized for TB detection and control programs for this fiscal year, so I have urged the House committee to add money in the new health budget.

Nearing enactment is the sickle cell anemia bill to establish programs for detection and prevention of this blood disease that primarily affects black citizens. Another bill I recently introduced, and which I believe will be brought up soon, is to authorize similar programs for Cooley's Anemia. This is a related blood disease that mainly affects people of Italian and Greek descent, but now has spread to people of many origins because of intermarriage.

Finally, I have just introduced a major bill to launch an all-out attack against diseases of the heart and blood vessels, the lungs and blood, similar to the bill last year that made a national goal to wipe out cancer.

I am committed to the cause of bringing better health care for all Americans—it is literally a matter of life and death.

PROJECT SANGUINE

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, today I have called upon the Secretary of Defense, Melvin Laird, to eliminate Wisconsin as a possible site for Project Sanguine.

It is my belief that Project Sanguine either should not be built at all, or if it is built, should be moved to a location in Texas.

A careful reading of the environmental impact statement recently prepared by the Navy reveals that there would be substantial advantages economically, technically, and environmentally in moving the project to Texas.

Economically, the Navy's own statement indicates, construction costs would be cheaper on a site such as the open, flat, dry land in Texas. The need to build in or near the hills, rivers, streams, and lakes in Wisconsin would only add to the cost of building the project.

Texas' warmer climate would allow quicker and cheaper construction. In addition, a warm climate that is also dry would cut the maintenance costs on the system drastically. A site in northern Wisconsin would be hampered by long, cold winters, slowing construction. The harshness of the weather would further increase the cost of maintaining the system.

Several scientists, most notably, Dr. Alwyn Scott and Dr. Michael McClintock of the University of Wisconsin have raised serious questions about the technical feasibility of Project Sanguine. Among the problems cited by several scientists is the existence of rather wet soil on the Wisconsin site. The wetness of the soil can potentially interfere with the transmittal of Sanguine radio messages. This problem would clearly be solved by a move to Texas where the land is very dry. Hence, there are technical advantages to a move to Texas.

There also appears to be lower environmental costs in the move to Texas. If built in Wisconsin, Project Sanguine would invariably cause disruption to water resources. The building of Sanguine would entail construction near and possibly under surface water resources. The building of Sanguine may also disrupt groundwater resources throughout northern Wisconsin.

Rather than move Sanguine to Texas, the other possibility that I hope Secretary Laird will consider is not building Project Sanguine at all.

Project Sanguine appears to offer only very marginal increases in the capability of the United States to communicate with its submarines at sea. Yet the economic and environmental costs of Project Sanguine remain unknown.

Already $50 million has been spent on research and development for the project. In this year's budget, the Navy is requesting an additional $12 million. The final cost of Project Sanguine is not clear but will surely run into hundreds of millions of dollars.

Environmentally, the potential for damage for Project Sanguine is enormous. Water resources, plants, animals, and possibly even human beings could be harmed by long term exposure to a system such as Project Sanguine.

In addition to the economic and environmental considerations, a number of scientists have raised questions of technical feasibility. The Navy has never adequately answered its critics on any of these grounds: economics, environmental and technical feasibility.

Thus, I have requested Secretary Laird to remove Wisconsin from the list of possible sites for Project Sanguine and either move the project to Texas or not build Sanguine at all.

The letter to Secretary Laird follows:

WASHINGTON, D.C.,
April 28, 1972.

Hon. MELVIN R. LAIRD,
Secretary of Defense, Department of Defense, The Pentagon, Washington, D.C.

DEAR MR. SECRETARY: I am writing to request that you eliminate Wisconsin as a possible site for Project Sanguine and choose between building in Texas or not building it at all.

A careful study of the latest environmental impact statement reveals economic, technical and even environmental advantages to a site in Texas.

I am still convinced that to build Sanguine would be a mistake. But it is clear to me from the impact statement that Wisconsin should be eliminated as a site for the project and the only sensible choice now is between building it in Texas and not building it at all.

The Navy itself admits in the impact statement that a site in Texas would result in lower construction cost because the site in Texas is flat and dry, not heavily forested like Northern Wisconsin.

In addition, I believe the changes for extensive environmental damage may be reduced by moving Sanguine to the flat, dry plains of Texas. This Texas site will not result in the destruction of vital water resources that would occur in Northern Wisconsin.

In order to build Sanguine in Northern Wisconsin, it would be necessary to dig around, near, and possibly under the large numbers of rivers, streams and lakes in that area causing disruption of the natural flow of both surface and groundwater.

Careful study of the Navy's impact study also discloses that Texas' warmer climate would permit more rapid construction of the project cutting costs for both the building and maintaining the Sanguine system.

The site in Texas would probably be near large metropolitan areas such as Austin and Dallas-Fort Worth which would reduce transportation and material costs, according to the Navy. The Navy states in the impact statement that location of the system near a metropolitan area would cut costs.

As you may know, several scientists have raised serious questions about the technical feasibility of Project Sanguine. One of the factors that has been cited as a possible technical problem is the relative wet state of the Wisconsin land. The site in Texas by comparison is dry.

While many environmental questions remain unanswered, it is clear that economically and technically it would be wise to construct Sanguine at a lower environmental and economic cost or not build Sanguine at all.

I understand that the site in Texas is under serious consideration and that members of the Texas delegation have been informed about the possibility of Sanguine being built in their state.

I look forward to an early reply from you about whether the site for Project Sanguine would be moved from Wisconsin to Texas or if the Project will not be built at all.

Thank you very much for your cooperation.

Sincerely,

LES ASPIN,
Member of Congress.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. JONAS, for 10 minutes, today.

(The following Members (at the request of Mr. GERALD R. FORD) to revise and extend their remarks and include extraneous material:)

Mr. HALPERN, for 5 minutes, today.

(The following Members (at the request of Mr. DENHOLM) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. RODINO, for 10 minutes, today.

Mr. ASPIN, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GERALD R. FORD) and to include extraneous material:)

Mr. HUNT.

Mr. GUDE.

Mr. NELSEN.

Mr. DERWINSKI.

Mr. GUBSER.

Mr. HALPERN in two instances.

(The following Members (at the request of Mr. DENHOLM) and to include extraneous material:)

Mr. GONZALEZ in two instances.

Mr. RARICK in three instances.

Mr. HAGAN in three instances.

Mr. REES in two instances.

Mr. FOUNTAIN in two instances.

Mr. ROGERS of Florida in five instances.

Mr. ROONEY of New York in two instances.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until Monday, May 1, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

1914. Under clause 2 of rule XXIV, a letter from the Acting Secretary of Transportation, transmitting a draft of proposed legislation to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard reservists for emergency augmentation of regular forces; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NEDZI: Committee on House Administration. House Joint Resolution 55. Joint resolution proposing the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the U.S. Navy (Rept. No. 92-1032). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11627. A bill to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes; with amendment (Rept. No. 92-1033). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. QUIE:

H.R. 14693. A bill to retain November 11 as Veterans Day; to the Committee on the Judiciary.

By Mr. REUSS (for himself and Mr. ZABLOCKI):

H.R. 14694. A bill to amend the Internal Revenue Code of 1954 to raise needed additional revenues by tax reform; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

381. The SPEAKER presented a memorial of the Legislature of the State of Delaware, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

NO AMNESTY FOR DRAFT DODGERS

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 27, 1972

Mr. SCHWEIKER. Mr. President, I was recently invited by the American Legion magazine to submit a statement on the question "Should Congress Grant Amnesty to Draft Dodgers?" I am opposed to amnesty to draft dodgers. I ask unanimous consent that my statement, which appeared in the April 1972 edition of the American Legion magazine, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OPPOSING VIEWS BY CONGRESSMEN ON THE QUESTION: SHOULD CONGRESS GRANT AMNESTY TO DRAFT DODGERS? "NO"

I am opposed to legislation by the Congress to grant amnesty to draft dodgers.

Since 1965, more than 2.5 million men have served our country in Vietnam. Undoubtedly many of these men did not wish to go. But they accepted their responsibilities. To grant amnesty to those who did not accept these responsibilities would be an injustice to the sacrifices made by those many who did, and their families.

More than 55,000 of these men lost their lives serving our nation in Vietnam. How can we answer to their memory, and to their surviving loved ones and friends, and explain their personal sacrifices if we retroactively exempt from the law those who refused service, and thereby violated existing law?

The war is winding down. But thousands of American troops still remain. How can we grant amnesty when the war is still going on, when thousands of young Americans are still risking their lives, and when additional young men are currently subject to the draft and to service this year in Vietnam?

Our system of representative democracy could not exist if we accepted selective obedience to our laws, or did not enforce all our laws. We enjoy many benefits of a free society, including the privileges of influencing public policy through public debate. But we must also bear the burdens of a free society by obeying our laws, paying our taxes and honoring all the collective restraints that enable each individual to be free. I fear the precedent for the future that Congress would set if we were to begin to permit individuals or groups to decide for themselves which laws they could obey, and which they could ignore or violate.

Traditionally, individuals who have felt obliged to make their views known by breaking the law in an act of "civil disobedience" have also been prepared to take full responsibility for their act. For whatever reasons they have felt compelled to knowingly break the law, they have also recognized the duty of the government to enforce that law, and have accepted the punitive consequences of such action. I think this principle should apply equally well here.

I feel certain that the vast majority of the American people are opposed to amnesty, and would not want their elected representatives to enact such laws.

Proponents of amnesty cite it as a "healing" step in a country emotionally divided over the Vietnam War. To the contrary, I fear that granting amnesty would prompt further divisiveness and resentment among the vast majority of our citizens, including those who accepted their responsibilities, and whose lives have been affected by it.

MR. ISTVAN B. GEREBEN SPEAKS TO HUNGARIAN FREEDOM FIGHTERS FEDERATION U.S.A.

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. HOGAN. Mr. Speaker, Mr. Istvan B. Gereben, cochairman of the Hungarian Freedom Fighters Federation U.S.A., recently delivered a speech before a joint meeting of the executive committees of the Washington and Baltimore chapters of the federation.

In that speech, drawing on the cruel and bitter lesson he and his fellow Hungarian-Americans learned at the hands of the Communists, he stressed the importance of negotiating with communism's leaders only from a position of strength.

I now insert his speech into the RECORD:

SPEECH OF ISTVAN B. GEREBEN

Fifty-four years ago, on January 8, 1918, President Wilson delivered his famed "Fourteen Points" speech which instantly became the single great manifesto of World War I. It was western democracy's answer in its first full-dress debate with international communism.

It raised a standard to which men of good will in all nations could rally. Wilson hoped that the Fourteen Points Address will lead to conversation with the powers at war concerning the conclusion of peace. Forces beyond his control prevented complete vindication of the Points. The Armistice Agreement of November 11, 1918, was made upon the bases of Wilson's Fourteen Points. The Peace Treaty of Versailles violated every one of the principles expressed by Wilson and the Allied press repudiated his proposal. Senator Lodge blocked U.S. entry in the League of Nations.

It was a series of secret agreements between the participants of the Peace Conference which prevented every attempt at peace on the basis of self-determination.

The man who waged the war to end all war was a good man. He was a man who deeply believed in peace. Woodrow Wilson helped make the world safe for idealism.

He set an example to our present President who said on February 18, 1971 that: "By following that example, by not fearing to be idealists ourselves, we shall make the world safe for free man to live in peace."

We Hungarian-Americans—whose roots are in the Carpathian Basin, which suffered the most from the Peace Treaty which torpedoed the loudly and continuously professed principle of self-determination and sunk it to the position of a rather stale joke—are keenly aware of the dangers posed by being an idealist. We hope that our President, who does not fear to be an idealist, will make the world safe for free men to live in peace. We hope that he will achieve his goal for all men by creating an atmosphere which will allow all men to be free; we hope that he will succeed in what President Wilson failed: the practical implementation of the principle of self-determination for all nations, weak and strong.

We sense a grain of humility when the President presents himself as pure idealist. We know better. His three Foreign Policy Reports to the Congress reveal that he is a realist inspired by high ideals, a practical policy maker, a staunch negotiator who represents freedom's interests in a series of negotiations with enemies of everything we cherish. Survival, peace are his announced goals. We wish him well, hope and pray for his success.

As one American with strong ties to people suffering under totalitarian oppression I must express some concern over the implementation of the philosophical convictions upon which this Administration is proceeding to reshape American policies to the requirements of the new realities.

The President in his Address to the United Nations: General Assembly on September 18, 1969 said:

"It is not my belief that the way to peace is by giving up our friends or letting down our allies."

The unfortunate wording of the Shanghai communique, jointly signed by Prime Minister Chou En-lai and the President, seems to contradict this statement. More clarification and explanation is needed to calm the concern of our citizens with Hungarian background. For us the President's virtual disavowal of a solemn American treaty obligation seems unprofitable and potentially dangerous.

The opening policy to China was welcomed in our circles with understanding of its necessity.

The method chosen for the execution of that policy, however, was not necessarily approved by all of us.

The choice of China itself as the place of the meeting was—in the opinion of many of us—a generous gesture towards a government which labeled us as "imperialist dogs" for too many years and continuing to do so even after the summit. The attendance of a "ballet"—with an obvious and degrading reference to the head of an allied state—by the President and Mrs. Nixon is rated by us as tasteless diplomacy.

In general the chance—provided by the ending of a sterile and barren relationship between Communist China and the United States—to cause alarm and discomfort in the Kremlin is received among us with cautious hope. The price—Taiwan—we paid for this hope is high. We react to the Shanghai communique with the same nervousness that we felt after Britain's Prime Minister Neville Chamberlain—sacrificing Czechoslovakia on the altar of appeasement of tyranny—returned from Munich with the proud announcement of his "peace in our time" deal with Chancellor Adolph Hitler of Nazi Germany. Whether the meaningful results from the visit of the U.S. entourage to Peking will justify our hope or our nervousness still remain to be seen.

The initial step to replace bipolarism in world politics with more differentiated, triangular or quadrilateral relations will bring its results, good or bad, to a tired, apathetic world.

We are in near agreement on the President's Vietnam policy. Most Americans, among them the nationalities, are convinced of the soundness of the Vietnamization Program.

We sincerely hope that the Viet-Cong offensive presently in progress will be successfully stopped by the forces of South Vietnam. It must be observed that most of the heavy weapons used in this offensive were supplied by the Soviet Union, which is trying to project the image of peacemaker, champion of virtue. This is the Soviet Union which will be visited by our President in search for peace, a generation of peace. In the light of this action of the Soviet Union, can we be as optimistic as seemingly our President is, about the future of our world?

We joyfully notice the presidential statements assuring us that Vietnam will not be forced into a settlement contrary to the interests of the self-governing, self-sufficient, self-respecting people of South Vietnam.

I do not have the audacity to comment on our policy towards Latin America. The problems of that continent are not very well known to me.

One observation, however, seems appropriate: Our friends on the South deserve more attention, more understanding and a more vigorous effort to bring them into the material wealth that the Western Nations so fortunately possess.

In a little more than one month the President will visit Moscow. As in the case of his recent visit to the Peoples' Republic of China, Mr. Nixon's trip is part of his Administration's steady effort to achieve his main foreign policy goal: a generation of peace. We are, we were at war with the Soviet Union. We wage a cold war against each other. This war is still on on more than one front. We want an end to this cold war. We want to change the era of confrontations to the era of negotiations. The good will on the part of the United States has been repeatedly expressed.

It is the dictate of the circumstances of the world struggle that the Soviet Union will not undertake anything which would mean either total war or total peace. The Soviets could not accept total war. If it were nuclear, the risk would be too high. If it were not nuclear, Russia's cumbersome and oppressive regime would probably collapse, and the satellite nations would rise as one man against its tyranny. But a general peace would also be undesirable; it would mean the loss of the red flag of revolution. The navigators who are determining the course of the World must keep this in mind when sailing in the shallow waters of negotiation.

Now on the eve of Mr. Nixon's journey to the Kremlin may we quote from the two most successful leaders of Communism, Lenin and Stalin. Lenin said: "in war/cold or hot/never tie your hands with considerations of formality. It is ridiculous not to know the history of war, not to know that a treaty is the means of gaining strength." And Stalin wrote: "A diplomat's words must have no relation to action—otherwise what kind of diplomacy is it? Words are one thing, actions another. Good words are a mask for the concealment of bad deeds. Sincere diplomacy is no more possible than dry —— or iron wood."

According to these axioms, the masters and their pupils used international agreements and treaties as a particularly effective weapon in the Communist arsenal of strategic and tactical maneuvers to get and keep us off balance, to exploit our weaknesses.

We recall the statement of Leonard Schapiro, dean of Soviet Studies in Great Britain, given to the Subcommittee on National Security and International Operations of the Senate Government Operations Committee: "Soviet policy is unremittingly dynamic. It is not directed toward achieving equilibrium or balance of forces, or peace, or collective security . . . Its ultimate aim is victory, which means communist rule on a world scale. However unrealistic this aim may seem, it is the case that it has been thoroughly inculcated into the minds of all Soviet leaders from Lenin onwards for over 50 years."

From the President's determination to go to the Kremlin summit meeting with Mr. Brezhnev, we conclude that he is convinced either that the Russians changed to honor the written word, gave up their aim, or that he can outmaneuver them. We hope that one of the possibilities is a reality.

It is comforting to us that many statements have been made in regard to American commitments to the defence of common interests with the free half of Europe. Americans of Polish, Czech, Slovak, Hungarian, Rumanian, Bulgarian and German origin were pleased to hear the repeated repudiation of the Brezhnev Doctrine by the President and Secretary Rogers.

The American view of the proposed Conference on European Security, as expressed by the speeches of Undersecretary Johnson (Feb. 19, 1971) and Secretary Rogers (Dec. 1, Dec. 8, 1971; and January 4, February 24, 1972) cannot be faulted by anyone who knows the area, the problems and intentions of the participants and the realistic possibilities.

A joint memorandum of the American Hungarian Federation, the Hungarian Freedom Fighters Federation U.S.A. and the Federation of Free Hungarian Jurists, which was submitted to the President, Members of Congress and Secretary Rogers in 1969, describes one approach—an approach favored by us—detailing the proposed solution to the problems which must be addressed by a Conference on European Security if it convenes. In general we object to a Conference which results in a degraded role of America in the Atlantic Community, a guarantee of the post-war status quo in Europe and which does not endorse the principle of self-determination and does not assure the sovereignty of the participants and of all those who are affected by the results of the Conference.

A major issue among ethnic Americans is the controversy surrounding Radio Liberty and Radio Free Europe. We know that Senator Fulbright is the key to solve the problem. We, however, respectfully request the Administration and the Congress to do whatever is possible to maintain these radios. We—if anyone—know the multiplicity of problems facing the managers and operators of these stations and other establishments of Free Europe Inc. Based on the reports prepared by the Library of Congress for Mr. Fulbright, we are convinced that the functions performed by these stations are essential and especially useful at the present time when America must keep all of the options at its disposal open to succeed in the series of negotiations with Russia and the Iron Curtain Countries to which Radio Liberty and Radio Free Europe beam the voice of freedom.

I must express our concern caused by the increasing efforts of the Communist Hungarian Government in the United States in order to discredit American-Hungarians prominent in public life and infiltrate Hungarian churches, associations and other cultural, educational and political organizations.

The arrival of the new ambassador, Dr. Karoly Szabo, signaled a new and aggravated offensive against those who oppose the policies and methods of Mr. Kadar's regime.

Our open and free society provides the Communist diplomats with opportunities unimaginable under their own system. The opening of two consulates, in New York and in Cleveland, will greatly enhance the successful operation of the well-trained and highly skilled propagandists and agents of the Hungarian regime, still kept in power by Soviet bayonets.

The stand taken by the President on the issue of the Holy Crown of Saint Stephen is very much appreciated. According to State Department sources the recently published reports speculating about the possibility of the Crown's return to the Communist Hungarian Government are erroneous. The President's letter to Cardinal Mindszenty, stating that there are no plans for the release of the Crown from U.S. custody and a State Department announcement declaring that the United States has conducted no negotiations with the Government of Hungary on the subject of return of the Crown and is not preparing to conduct such negotiations are received with much relief. We hope that the coming months will not change the determination of our President in this matter.

We also have to express our appreciation for the President's personal greetings sent to Cardinal Mindszenty on the occasion of his 80th birthday. The telegram is interpreted by us as repudiation of rumors about ill feelings between the Cardinal and the United States government. The President's kind and friendly words mean concern for, and recognition of a former guest of America and the Primate of Hungary.

Security and detente are said to be the two pillars of the common policy of the NATO countries. These two pillars are of equal importance and rank. It would be unwise to pursue a policy of detente without security and also vice versa: a security policy without the will for detente would amount to nothing else but continuation of the cold war.

Security is provided by strength, military, spiritual, moral. But above all it requires strength of will to be strong! We want to be strong! We want the United States to be strong! We want our President to be strong! We want him to explore all avenues of peace. We want him to be an idealist, the Wilson of the 1970's without allowing secret diplomacy to destroy principles and instead of solving, creating problems. We know he wants an end to confrontations, he works for detente. But we do not want him to be the Chamberlain of the 1970's. We do not want him to appease! We want him to remain the President who said: "We must be more resourceful than ever in the pursuit of peace, and at the same time more determined than ever in the maintenance of our defense. For even as many things are changing in the world of the 1970's, one fact remains: American strength is the keystone in the structure of peace. . . . The strength that commands respect is the only foundation on which peace among nations can ever be built."

CAREERS FOR THE 1970'S

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Thursday, April 27, 1972

Mr. GRIFFIN. Mr. President, every 2 years the Department of Labor publishes a comprehensive occupational outlook handbook which is widely used by counselors and educators who help young people in selecting courses of study and careers.

The 1972–73 edition of the handbook is now available.

I ask unanimous consent that a summary of the handbook, entitled "Occupational Outlook Handbook in Brief," be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

OCCUPATIONAL OUTLOOK HANDBOOK IN BRIEF—1972-73 EDITION

PROFESSIONAL AND RELATED OCCUPATIONS

BUSINESS ADMINISTRATION AND RELATED PROFESSIONS

Occupation	Estimated employment 1970	Average annual openings to 1980[1]	Employment prospects[2]
Accountants	491,000	31,200	Excellent opportunities. Strong demand for college trained applicants. Graduates of business and other schools offering accounting should have good prospects.
Advertising workers	141,000	5,400	Slow growth. Opportunities will be good, however, for highly qualified applicants, especially in advertising agencies.
Marketing research workers.	23,000	2,600	Excellent opportunities especially for those who have graduate degrees. Existing marketing research organizations are expected to expand and new research departments and independent firms set up.
Personnel workers	160,000	9,100	Favorable outlook, especially for college graduates with training in personnel administration. More workers will be needed for recruiting, interviewing, and psychological testing.
Public relations workers.	75,000	4,400	Rapid increase due to population growth and rise in level of business activity. An increasing amount of funds will be allocated to public relations work.

CLERGYMEN

Occupation	Estimated employment 1970	Average annual openings to 1980[1]	Employment prospects[2]
Protestant ministers	295,000	9,700	Competition keen in some denominations. Many clergymen will find work in social work, education, and as chaplains with the Armed Forces.
Rabbis	6,500	300	Number of rabbis probably will be inadequate. Growth in Jewish religious affiliation and in the number of synagogues, along with demand for rabbis to work with social welfare and other Jewish affiliated organizations, should continue.
Roman Catholic priests.	60,000	2,200	Growing number needed. Number of priests ordained insufficient to meet the needs of newly established parishes, expanding colleges, and growth of the Catholic population.

CONSERVATION OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980[1]	Employment prospects[2]
Foresters	22,000	1,000	Number of forestry graduates may more than meet demand. Private owners of timberland and forest products industries should employ increasing number of foresters. Demand in the Federal Government is expected to remain stable.
Forestry aides	11,000	1,300	Favorable opportunities, especially for those who have post-high school training in forestry. The number of aides required by forest products industries and the Federal Government is expected to increase.
Range managers	3,600	60	Declining employment opportunities in the Federal Government because scientific and technical duties will be done increasingly by natural scientists. The decline will be somewhat offset by increasing employment opportunities in the private sector.

COUNSELING OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980[1]	Employment prospects[2]
Employment counselors.	8,000	1,100	Excellent opportunities for those who have master's degrees or experience in the field. Graduates with bachelor's degrees and 15 hours of counseling-related courses wil! find favorable opportunities in State and local employment.
Rehabilitation counselors.	13,000	1,600	Shortage occupation. Excellent opportunities for those who have graduate work in rehabilitation counseling or in related fields.
School counselors	54,000	5,200	Very rapid employment increase, reflecting continued growth of counseling services and some increase in secondary school enrollments.

ENGINEERING OCCUPATIONS

(Estimated employment, 1970=1,100,000; average annual openings to 1980[1]=58,000)

Occupation	Estimated employment 1970	Average annual openings to 1980[1]	Employment prospects[2]
Aerospace engineers	65,000	1,500	Long-run outlook favorable but employment opportunities fluctuate periodically. Currently, openings may fall short of the number seeking employment.
Agricultural engineers	13,000	600	Rapid increase due to the growing mechanization of farm operations, increasing emphasis on conservation of resources, and the broadening use of agricultural products and wastes as industrial raw materials.
Biomedical engineers	3,000	120	Excellent prospects for those who have graduate degrees. Increased research and development expenditures will create new jobs in areas such as prosthetics, cybernetics, instrumentation systems, computer usage, and environmental pollution.
Ceramic engineers	10,000	500	Rapid increase in requirements due to growing use of ceramic materials, nuclear energy programs and electronics as well as in consumer and industrial uses.
Chemical engineers	50,000	1,700	Moderate growth from expansion of the chemical industry and large expenditures for research and development. Opportunities also will arise in new areas of work such as environmental control.
Civil engineers	185,000	10,000	Expanding opportunities from growing needs for housing, industrial buildings, and highway transportation systems. Urban environmental problems such as air pollution also should require additional civil engineers.
Electrical engineers	235,000	12,200	Very rapid growth related to demand for electrical equipment to automate and mechanize production processes, especially for items such as computers and numerical controls for machine tools, and for electrical and electronic consumer goods.
Industrial engineers	125,000	8,000	Very rapid growth in employment resulting from the increasing complexity of industrial operations, expansion of automated processes, and continued growth of industries.
Mechanical engineers	220,000	10,100	Rapid employment growth due to demand for industrial machinery and machine tools and increasing technological complexity of industrial machinery and processes.
Metallurgical engineers	10,000	500	Rapid increase in number of workers needed by the metalworking industries to develop metals and new alloys as well as adapt current ones to new needs, and to solve metallurgical problems in the efficient use of nuclear energy.
Mining engineers	5,000	100	Favorable opportunities through the 1970's. The number of new graduates in mining engineering entering the industry may be fewer than the number needed to replace those who retire or die.

Footnotes at end of table.

HEALTH SERVICE OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980[1]	Employment prospects[2]
Chiropractors	16,000	900	Favorable outlook although only a small growth in demand is expected. Anticipated number of new graduates will be inadequate to fill openings.
Dental assistants	91,000	9,200	Excellent opportunities, especially for graduates of academic programs.
Dental laboratory technicians.	33,500	2,900	Very good outlook for well-qualified technicians and trainees. Best opportunities for salaried positions in commercial laboratories and the Federal Government.
Dental hygienists	16,000	3,100	Supply will continue to be inadequate to meet demands of the growing population. Very good opportunities both for full-time and part-time workers.
Dentists	103,000	5,400	Very good opportunities. Limited capacity of dental schools will restrict supply of new graduates.
Dietitians	30,000	2,300	Very good opportunities for both full-time and part-time workers due to expanding programs in hospital and nursing facilities and in other institutions.
Electrocardiographic technicians.	9,500	1,600	Excellent opportunities due to increased reliance by physicians upon electrocardiograms in diagnosing heart disease and upon electrocardiographs in monitoring patients under intensive care.
Electroencephalographic technicians.	3,000	950	Excellent opportunities as EEG's are used more to diagnose brain diseases and to monitor brain activity.
Hospital administrators.	17,000	1,000	Very good opportunities for those who have master's degrees in hospital administration. Applicants without graduate training will find it increasingly difficult to enter this field.
Medical assistants	175,000	20,000	Excellent opportunities, especially for graduates of 2-year junior college programs. The shortage of physicians, the increasing complexity of medical practice, and the growing volume of paperwork will add to demand.
Inhalation therapists	10,000	2,100	Excellent opportunities related to the greater demand for health services. The benefits derived from releasing nurses and kindred personnel to perform their primary duties should also increase demand.
Medical laboratory workers.	110,000	13,500	Excellent opportunities for new graduates with bachelor's degrees in medical technology. Demand will be particularly strong for those who have graduate training in biochemistry, microbiology, immunology, and virology.

OCCUPATIONAL OUTLOOK HANDBOOK IN BRIEF—1972-73 EDITION—Continued

HEALTH SERVICE OCCUPATIONS—Continued

Occupation	Estimated employment 1970	Average annual openings to 1980[1]	Employment prospects[2]
Medical record librarians.	13,000	1,500	Excellent opportunities for graduates of approved medical record librarian programs.
Occupational therapists.	7,500	1,150	Excellent opportunities. Demand is expected to exceed supply as interest in the rehabilitation of disabled persons and the success of established occupational therapy programs increases.
Occupational therapy assistants.	6,000	1,300	Excellent opportunities, particularly for graduates who have received the title of certified occupational therapy assistant (COTA) from the American Occupational Therapy Association.
Optometrists	18,000	800	Favorable outlook. By the mid-1970's, new graduates may approximate demand because of expected expansion of optometry schools.
Optometric assistants	5,000	300	Moderate employment increase resulting from an expanding population, more elderly people and white-collar workers, and a wider recognition of the importance of good vision for efficiency at work and in school.
Osteopathic physicians	13,500	950	Excellent opportunities. Greatest demand in States where osteopathy is widely accepted as a method of treatment.
Podiatrists	7,000	250	Favorable opportunities for new graduates to establish their own practices as well as to enter salaried positions in other podiatrists' offices, hospitals, extended care facilities, and public health programs.
Pharmacists	129,000	5,100	Employment will grow as a result of new drugs, increasing numbers of pharmacies, and insurance plans covering prescriptions.
Physical therapists	15,000	1,600	Excellent prospects as demand continues to exceed supply. Increased public recognition of the importance of rehabilitation will result in expanded programs to help the disabled.
Physical therapy assistants.	10,000	2,200	Excellent opportunities, particularly for graduates of 2-year junior college programs.
Physicians	305,000	22,000	Shortage occupation. Excellent opportunities for employment, as limited capacity of medical schools restricts supply of new graduates.
Veterinarians	25,000	1,500	Very good outlook. Supply will be restricted by limited capacity of schools of veterinary medicine.
Radiologic technologists.	80,000	7,700	Very good outlook for both full-time and part-time workers, primarily as a result of the expansion in the use of X-ray equipment to diagnose and treat diseases.
Registered nurses	700,000	69,000	Very good outlook. Opportunities as administrators, teachers, clinical specialists, public health nurses, and in research are excellent for nurses who have graduate training.
Sanitarians	15,000	1,100	Very favorable opportunities for college graduates. A bachelor's degree in environmental health is preferred, although a degree in one of the basic sciences generally is accepted.
Speech patholigists and audiologists.	22,000	2,200	Good opportunities, especially for those who have completed graduate study. Increasing emphasis on the master's degree by Federal and State Governments will limit opportunities at the bachelor level.
Surgical technicians	25,000	2,600	Excellent opportunities, particularly for junior college graduates.
MATHEMATICS AND RELATED OCCUPATIONS			
Actuaries	5,200	300	Excellent opportunities. Strong demand for recent college graduates who have backgrounds in mathematics and have passed actuarial examinations.
Mathematicians	75,000	4,600	Favorable outlook for Ph. D. graduates to teach and do research. Because of the large number of mathematicians projected to receive bachelor's degrees, competition for entry positions will be keen.
Statisticians	24,000	1,400	Very good opportunities for new graduates and experienced statisticians in industry and government.
NATURAL SCIENCE OCCUPATIONS			
Geologists	23,000	500	Favorable prospects for graduates with advanced degrees; those who have bachelor's degrees probably will face competition for entry positions.
Geophysicists	8,000	500	Favorable outlook, especially for those who have graduate degrees. Geophysicists will be needed to operate highly sophisticated equipment to find concealed fuel and mineral deposits; explore the outer atmosphere and space; and solve problems related to water shortages, flood control, and pollution abatement.
Meteorologists	4,400	200	Favorable outlook. Space-age activities contribute to demand. Those who have advanced degrees will be in special demand to conduct research, teach in colleges and universities, and engage in management and consulting work.
Oceanographers	5,400	300	Favorable outlook for those who have advanced degrees. The importance of the ocean in national defense as well as a source of energy, minerals, and food will open up new opportunities for specialists.
LIFE SCIENCE OCCUPATIONS			
Biochemists	14,000	800	Good employment opportunities especially for those who have Ph. D. degrees to conduct independent research or to teach. The greatest growth will be in medical research.
Life scientists	180,000	9,900	Rapid increase in employment through the 1970's. However, the number of life science graduates also is expected to increase rapidly and result in keen competition for the more desirable positions. Those who hold advanced degrees, especially Ph. D.'s, should have less competition than those who hold bachelor's degrees.
PHYSICAL SCIENTISTS			
Astronomers	1,300	100	Employment opportunities will be favorable but higher level positions will be filled by persons with a doctorate. Bachelor's or master's degree recipients will have favorable prospects primarily as research and technical assistants.
Chemists	137,000	9,400	Favorable outlook. Chemists will continue to be needed to perform research and development work. They also will be needed to teach at colleges and universities, where the strongest demand will be for those who have Ph. D. degrees.
Food scientists	7,300	400	Favorable employment outlook at all degree levels as a result of an expanding population demanding a greater variety of quality convenience foods—both in and outside the home.
Physicists	48,000	3,500	Favorable opportunities, particularly for those who have advanced degrees to teach at colleges and universities. Physicists will be required in substantial numbers to do complex research and development work.
PERFORMING ARTISTS			
Actors and actresses	15,000	800	Applicants greatly outnumber jobs available. Moreover, many actors are employed in their profession for only a small part of year.
Dancers	23,000	1,500	Limited opportunities. The number of applicants exceeds the number of jobs available. Best outlook is for those trained to teach.
Musicians and music teachers.	210,000	11,100	Overcrowded field. Keen competition among performers. Some openings may result from the expanded use of video cassettes and cable TV. Best prospects are in teaching.
Singers and singing teachers.	75,000	4,300	Highly competitive field. Some opportunities should result from the expanded use of video cassettes and cable TV, but best prospects remain in teaching.
SOCIAL SCIENTISTS			
Anthropologists	3,100	200	Rapid increase, especially in the college teaching field. Some positions will be found in museums, archeological research programs, mental and public health programs, and in community survey work.
Economists	33,000	2,300	Excellent opportunities for those who have graduate degrees in teaching, government, and business. Young people with bachelor's degrees will find employment in Government and as management trainees in industry and business.
Geographers	7,100	500	Favorable outlook. Demand will be strong in teaching and research for those who have Ph. D.'s. Those who have master's degrees or less face competition. Colleges and universities will offer the greatest number of opportunities, although employment is expected to rise in government and in private industry.
Historians	15,500	1,000	Favorable opportunities in teaching and archival work for experienced Ph. D.'s. New Ph. D. recipients and those with lesser degrees will encounter competition; teaching positions available for those meeting certification requirements.

Occupation	Estimated employment 1970	Average annual openings to 1980 [1]	Employment prospects [2]
Political scientists	11,000	700	Very good prospects for those who have Ph. D. degrees and are interested in college teaching. More limited prospects for those with master's degrees or less.
Sociologists	12,000	800	Good prospects for those who have Ph. D. degrees, but those with only master's degrees will face considerable competition. Very good opportunities in college teaching and in nonteaching fields dealing with social and welfare problems and the implementation of legislation to develop human resources.
TEACHERS			
College and university teachers.	335,000	10,800	Good employment propsects at 4-year colleges for those who have Ph. D. degrees and at 2-year colleges for those who have master's degrees. New Ph. D.'s will face stronger competition for openings as their numbers grow each year.
Kindergarten and elementary school teachers.	1,260,000	52,000	New graduates may face keen competition for jobs during the 1970's. Young people seeking their first teaching assignment will find schools placing greater emphasis on their academic work and the quality of their training. Nevertheless, employment opportunities may be very favorable in urban ghettos, rural districts, and in geographic areas where teaching salaries are low and better paying opportunities are available in other fields. The outlook also will be favorable for teachers who are trained to work with handicapped children. Many students, however, who are preparing for elementary teaching as a career will have to direct their studies toward other careers.
Secondary school teachers.	1,015,000	38,000	Opportunities will be very favorable in some geographic areas and in subject fields such as the physical sciences. Increased demand for teachers trained in the education of mentally retarded or physically handicapped children is expected. Nevertheless, if past trends of entry and reentry continue, the supply of secondary teachers will significantly exceed requirements.
TECHNICIANS			
Draftsmen	310,000	16,300	Favorable outlook, especially for those having post high school training in drafting.
Engineering and science technicians.	650,000	33,000	Favorable opportunities. Demand strongest for graduates of post-secondary technician training schools to fill more responsible jobs. Industrial expansion and complexity of products and manufacturing processes will increase demand.
Food processing technicians.	3,400	150	Favorable opportunities, especially for graduates of post-secondary technical training programs. The complexity of processing convenience foods under higher quality and safety standards will result in a need for more technicians in many areas of the food industry.
WRITING OCCUPATIONS			
Newspaper reporters	39,000	1,650	Favorable opportunities for young people with exceptional talent and ability to handle news about highly specialized and technical subjects. Weekly or daily newspapers in small towns and suburban areas offer the most opportunities for beginners.
Technical writers	20,000	1,000	Good prospects for those having college courses in writing and technical subjects plus writing ability.
OTHER PROFESSIONAL AND RELATED OCCUPATIONS			
Airline dispatchers	1,200	60	Few openings because field is very small.
Air traffic controllers	20,000	800	Moderate increase as a result of growth in the number of airport towers and the need to provide services for private planes.
Architects	33,000	2,700	Favorable opportunities for registered architects. Growth in nonresidential as well as residential construction. Homeowners' growing awareness of the value of architects' services also will spur demand.
Broadcast technicians	22,000	500	Technical advances, such as automatic programing and remote control of transmitters, will keep employment from growing However, deaths and retirements will create some openings.
College career planning and placement counselors.	2,800	200	Very rapid increase in employment as students and colleges increase in number and as greater recognition is given to the need for counseling—especially of minority group students and students of low income families.
Commercial artists	60,000	2,500	Favorable outlook for well-trained and qualified workers. Young people with only average ability and little specialized training will face keen competition and have limited opportunity for advancement.
Flight engineers	8,500	500	Very rapid increase due to the rise in the number of large jet-powered aircraft that require flight engineers.
Ground radio operators, and teletypists (civil aviation).	7,850	50	Overall employment will decline because of the use of more automatic communications equipment. A small number of workers will be needed each year to replace those who retire or die.
Home economists	105,000	6,700	Favorable prospects. Greatest demand for teachers, but business also should increase demand for these workers especially in research and development.
Industrial designers	10,000	300	Favorable opportunities for talented college graduates. Those with training in industrial design may face competition from architectural and engineering graduates who have artistic talent.
Interior designers and decorators.	15,000	700	Good opportunities, but those without formal training will find it increasingly difficult to enter this field. The number employed by department and furniture stores is expected to rise.
Landscape architects	10,000	600	Professional opportunities will expand due to continued growth of parks and recreation facilities in metropolitan areas and the rising interest in city and regional planning.
Lawyers	280,000	14,000	Good prospects in salaried positions with well-known law firms and as law clerks to judges for graduates of outstanding law schools, or for those who rank high in their classes. Growth in demand will stem from business expansion and the increased use of legal services by low- and middle-income groups.
Librarians	125,000	11,500	Good opportunities, especially in school libraries for those who have advanced degrees.
Library technicians	76,000	7,200	Outlook excellent, particularly for graduates of academic programs. The increasing needs of a growing population for library services will contribute to demand.
Photographers	65,000	2,000	Competition in commercial and portrait fields is keen but opportunities exist for those who are talented and well trained. Demand for industrial photographers is expected to be strong.
Pilots and copilots	49,000	4,800	Rapid increase because of growth in the number of aircraft as well as in the increasing number of flights.
Programers	200,000	34,700	Very rapid employment growth, especially in firms that use computers to process business records or to control manufacturing processes. Professionally trained personnel to handle both programing and systems analysis will be increasingly in demand.
Psychologists	40,000	3,700	Excellent opportunities for those who have a doctorate; less favorable for those with only a master's degree. Strong demand in mental hospitals, correctional institutions, mental hygiene clinics, and community health centers.
Radio and television announcers.	17,000	1,000	Moderate increase in employment as new radio and television stations are licensed. Entry jobs easier to get in radio than in television because of the greater number of radio stations, especially small ones, that hire beginners.
Recreation workers	13,500	1,700	Excellent opportunities for the well qualified and good opportunities for those without related training in local governments and voluntary agencies, religious groups, and the Federal Government.
Social workers	170,000	18,000	Very good prospects for those who have training in city and bachelor's degrees in social work. Many part-time jobs for qualified women with experience.
Surveyors	52,000	2,400	Best prospects for persons with post-secondary school training in surveying. Demand will be stimulated by urban development and highway construction.
Systems analysts	100,000	22,700	Excellent opportunties due to rapid expansion of electronic data processing systems in business and government.
Underwriters	55,000	2,740	Favorable opportunities especially in metropolitan areas.
Urban planners	8,000	750	Very good prospects for those who have training in city and regional planning. Construction of new cities and towns, urban renewal projects, and beautification and open space land improvement projects will spur demand for these workers.

Footnotes at end of table.

OCCUPATIONAL OUTLOOK HANDBOOK IN BRIEF—1972-73 EDITION—Continued

MANAGERIAL OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980[1]	Employment prospects[2]
Bank offices	174,000	11,000	Employment is expected to grow rapidly as the increased use of computers enables banks to expand their services.
City managers	2,600	200	Excellent opportunities especially for persons with master's degrees in public or municipal administration.
Conductors (railroad).	37,500	1,200	Moderate number of opportunities resulting from the need to replace workers who retire or die.
Industrial traffic managers.	18,000	700	Moderate employment increase. Strong demand is expected for specialists who can classify products to obtain the lowest possible freight rates.
Licensed merchant marine officers.	11,000	------------	Employment decline due to competition from foreign ships and construction of new ships that can operate with fewer officers. Employment decline will more than offset openings from retirement and deaths.
Managers and assistants (hotel).	195,000	14,400	Favorable outlook, especially for those who have college degrees in hotel administration.
Purchasing agents	167,000	5,400	Good prospects. Demand strong for business administration graduates who have courses in purchasing. Demand also will be strong for graduates with backgrounds in engineering or science to work in firms manufacturing chemicals, complex machines, and other technical products.

CLERICAL AND RELATED OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980[1]	Employment prospects[2]
Bank clerks	510,000	29,600	Employment will increase slowly. Introduction of data processing equipment, will decrease demand for check sorters and bookkeeping machine operators but increase demand for electronic data processing workers.
Bank tellers	153,000	14,700	Very rapid increase as banks continue to expand their services. An increasing proportion will be employed part-time during peak hours.
Bookkeeping workers.	1,340,000	74,000	Slow growth. Use of electronic data processing equipment and other bookkeeping machines will limit employment increase.
Cashiers	847,000	64,000	Very favorable outlook especially for those with typing or other special skills. Many opportunities for part-time workers.
Claim adjusters	114,000	4,500	Rapid employment growth due to expanding insurance sales and resulting claims.
Claim examiners	29,000	780	Limited opportunities. Fewer examiners will be needed to process claims due to the increasing use of computers. Some openings will result from deaths or retirements.
Electronic computer operating personnel.	200,000	34,200	Employment will increase very rapidly due to growth in the number of computer installations. Beginners may find it easier to qualify for openings because technological advances have made computer equipment easier to operate.
File clerks	169,000	15,300	Rapid employment growth resulting from the long term growth of business and the need for more and better recordkeeping. However, the increasing use of computers to arrange, store, and transmit records may begin to limit growth.
Front office clerks (hotel).	61,000	4,500	Rapid increase in employment as number of hotels, motels, and motor hotels increases.
Office machine operators.	365,000	20,800	Moderate increase as the growing volume of paperwork more than offsets the effect of automated recordkeeping systems and advances in office automation and interoffice communications.
Receptionists	298,000	23,500	Moderate increase in employment. Young applicants may face competition from more experienced workers. Automation should not affect receptionists as their work is of a personal nature.
Shipping and receiving clerks.	379,000	12,000	Slow increase as laborsaving equipment enables large firms while using fewer clerks to handle a greater volume of merchandise.
Station agents (railroad).	9,900	100	Although employment will continue to decline, a limited number of opportunities will result from the need to replace experienced agents who retire or die.
Stenographers and secretaries.	2,833,000	247,000	Rapid employment growth. Best opportunities for those with stenographic skills.
Stock clerks	500,000	23,000	Moderate increase in employment. Growth will be due to business expansion. However, electronic computers that control inventories can be expected to limit growth.
Telegraphers, telephoners, and towermen (railroad).	12,000	------------	Mechanization of yard operations, new communications devices, and other innovations will continue to reduce the number of workers needed. Employment decline will more than offset openings from retirements and deaths.
Telephone operators	420,000	28,000	Large number of openings to replace women who leave work due to family responsibilities. However, direct dialing and other automatic devices will restrict employment growth in telephone companies. Most growth will occur in stores, factories and other businesses that use private branch exchange (PBX) switchboards.
Traffic agents and clerks (civil aviation).	45,000	4,800	Rapid increase in employment because of anticipated growth in passenger and cargo traffic.
Typists	670,000	61,000	Favorable outlook especially for typists who have other office skills. Increasing use of duplicating machines will eliminate some routine typing.

SALES OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980[1]	Employment prospects[2]
Automobile parts countermen.	68,000	2,600	Continued employment growth related to increasing number of motor vehicles and a growing variety of replacement parts.
Automobile salesmen.	120,000	4,300	Moderate employment increase as car sales rise over the long run, but most openings will result from turnover.
Automobile service advisors.	20,000	700	Moderate increase as a result of more automobiles. Opportunities best for those who have some experience in automobile repair.
Insurance agents and brokers.	350,000	19,000	Moderate employment increase. Despite an expected increase in the number of policies, insurance selling will remain keenly competitive.
Manufacturers salesmen.	510,000	25,000	Favorable opportunities for well-trained workers, but competition will be keen. Best prospects for those trained to handle technical products.
Real estate salesmen and brokers.	226,000	14,800	Many new positions will be created to serve growing population, but most openings will result from turnover.
Retail trade salesworkers.	2,500,000	131,000	Good prospects for both full-time and part-time workers. Most demand for workers who are skilled in salesmanship and well informed about their merchandise.
Securities salesmen	200,000	11,800	Good opportunities.
Wholesale trade salesworkers.	539,000	27,700	Good opportunities. Demand will be stimulated by increase in business activity and the growth of specialized services offered by wholesale houses.

SERVICE OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980[1]	Employment prospects[2]
Barbers	180,000	7,700	Slow increase in employment. Trend to longer hair will keep employment from growing as fast as male population.
Bartenders	160,000	8,700	Moderate increase as new restaurants, bars, and hotels open.
Bellmen and bell captains (hotel).	33,000	1,500	Slow employment increase. Although some openings will result as new hotels and motor hotels are built, the fast growing motel business, with its emphasis on informality, employs few bellmen.
Building custodians	2,200,000	70,000	Opportunities will be favorable due to the construction of new apartments, hospitals, offices, recreation centers, and other buildings. Improvements in cleaning and maintenance technology will limit growth.
Cooks and chefs	740,000	4,900	Moderate increase as new restaurants and hotels open. Opportunities will be especially good for the well qualified because highly skilled cooks and chefs are in short supply.
Cosmetologists	484,000	43,000	Very good opportunities for beginners as well as experienced workers. Part-time work also available.
FBI special agents	7,900	(1)	Employment expected to rise as FBI responsibilities grow. Turnover rate is traditionally low.
Firefighters	180,000	11,800	Many new job openings as fire departments enlarge staffs or paid workers replace volunteers. Competition in large cities will be keen.
Guards and watchmen.	200,000	15,700	Moderate growth due to the increasing number of plants, offices, banks, stores, and schools as well as the mounting incidence of crime and social unrest.
Hospital attendants	830,000	111,000	Very rapid rise in employment. Most openings occur in hospitals, but some exist also in nursing and convalescent homes and other long-term care facilities.
Housekeepers and assistants (hotel).	33,000	2,600	Most openings will occur from the need to replace workers who retire or die. Some new openings will become available in newly built hotels, motor hotels, and luxury motels.
Police officers (municipal).	332,000	17,000	Very good opportunities for qualified applicants. Trained specialists in electronic data processing, engineering, and social work are becoming essential.
Licensed practical nurses.	370,000	58,000	Good opportunities as health facilities continue to expand and as licensed practical nurses are increasingly used in work not requiring the skills of a registered nurse.

Occupation	Estimated employment 1970	Average annual openings to 1980 [1]	Employment prospects [2]
Models	58,000	1,900	Moderate increase in employment. Although full-time work should remain highly competitive, part-time opportunities will be favorable.
Private household workers.	1,558,000	16,000	Excellent employment opportunities. Demand will be stimulated by rising family incomes and larger numbers of women working outside the home. However, many jobseekers are unwilling to accept domestic work despite its availability.
Social service aides	50,000	(3)	Many jobs have been generated by antipoverty legislation. A wide variety of new jobs for unemployed and low-income persons is expected to result from the new careers program.
State police officers	41,000	2,900	Very rapid increase in employment. The greatest demand will be for highway patrol officers.
Stewardesses	35,000	(3)	Very favorable job opportunities because of expected increases in air travel and the 30 percent turnover each year.
Waiters and waitresses.	1,040,000	67,000	Moderate employment increase as new restaurants and hotels open. Many additional openings will arise because of high turnover.

CRAFTSMEN

BUILDING TRADES

Occupation	Estimated employment 1970	Average annual openings to 1980 [1]	Employment prospects [2]
Asbestos and insulating workers.	25,000	900	Moderate growth resulting from the anticipated rise in volume of construction. Increasing use of pipe in manufacturing processes and in air-conditioning and refrigeration installations will spur demand for these workers.
Bricklayers	175,000	8,500	Rapid employment increase is expected as construction activity expands along with the popularity of structural and ornamental brickwork in buildings.
Carpenters	830,000	46,000	Rapid employment increase resulting from rise in construction activity.
Cement masons (cement and concrete finishers).	65,000	3,500	Very rapid increase resulting from construction expansion and growing use of concrete and concrete products.
Electricians (construction).	190,000	12,000	Very rapid increase in employment as construction expands and more electric outlets, switches, and wiring are needed for appliances, air-conditioning systems, electronic data processing equipment, and electrical control devices.
Elevator constructors	15,000	6,000	Moderate employment increase resulting from the anticipated expansion in new industrial, commercial, and large residential building, and from the modernization of older installations.
Floor covering installers.	40,000	2,000	Rapid employment increase resulting from expansion of construction and wider use of resilient floor coverings and wall-to-wall carpeting.
Glaziers	10,500	500	Rapid increase in employment. Expansion of construction and the increasing use of glass in building construction will create very favorable long-range outlook.
Lathers	30,000	1,500	Rapid increase related to anticipated growth in construction and to new plastering methods that require lathing.
Operating engineers (construction machinery operators).	310,000	15,000	Rapid employment growth resulting from increasing use of machinery for construction, particularly for highways and heavy construction.
Painters and paperhangers.	390,000	22,000	Rapid employment increases are expected as construction expands and more use is made of new materials such as polyester and vinyl coatings, and fabric, plaster, and other wall coverings. Painters also will be needed for maintenance work.
Plasterers	35,000	1,000	Slow increase resulting from growth in construction. New materials and methods have expanded use of plaster, but drywall construction will limit employment growth.
Plumbers and pipefitters.	350,000	20,000	Rapid growth as construction increases. Increasing industrial activities related to nuclear energy and the greater use of refrigeration and air-conditioning systems will provide many job opportunities. Maintenance, repair, and modernization of existing plumbing and heating systems also will create additional jobs.
Roofers	60,000	3,000	Rapid increase resulting mainly from new construction growth and repairs on existing structures. Technological innovations may limit growth somewhat.
Sheet metal workers	60,000	2,500	Rapid increase due to greater use of heating, air conditioning. and refrigeration systems required in all types of structure.
Stonemasons, marble setters, tile setters, and terrazzo workers.	30,000	1,000	Little increase in employment due to decline of stonemasonry in modern architecture.
Structural-, ornamental-, and reinforcing-iron workers, riggers, and machine movers.	85,000	4,000	Rapid increase due to expansion in construction. Improved competitive position of steel as a construction material will spur demand for these workers.

Footnotes at end of table.

MACHINE OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980 [1]	Employment prospects [2]
All-round machinists	530,000	16,600	Slow growth expected as metalworking activities expand. Much of the growth will occur in maintenance shops where more workers will be needed to repair machinery.
Instrument makers—mechanical.	8,000	400	Rapid increase resulting from the growing use of instruments in manufacturing processes and research and development work.
Machine tool operators.	425,000	9,600	Technological developments, such as numerically controlled machine tools, will limit need for additional operators. However, many openings will result from retirements or deaths.
Setup men (machine tools).	70,000	2,600	Moderate increase due to expansion of metalworking activities. Numerically controlled machine tools may change job duties.
Tool and die makers	165,000	4,700	Despite technological advances in toolmaking, which restrict growth, employment is expected to increase slowly because of expansion of metalworking industries.

MECHANICS AND REPAIRMEN

Occupation	Estimated employment 1970	Average annual openings to 1980 [1]	Employment prospects [2]
Air-conditioning, refrigeration, and heating mechanics.	115,000	7,900	Very rapid increase in air-conditioning mechanic employment due primarily to continued growth of home air-conditioning. Oil burner mechanics may find openings limited since relatively few new homes have oil heating systems.
Aircraft mechanics	140,000	6,000	Rapid growth because of substantial increase in the number of aircraft in operation. Openings will occur in both firms providing general aviation services and in independent repair shops.
Appliance servicemen	220,000	11,000	Rapid increase as a result of growth in the number and variety of household appliances.
Automobile body repairmen.	100,000	4,500	Moderate increase as a result of growing number of traffic accidents.
Automobile mechanics	610,000	23,300	Moderate increase as a result of more automobiles and added features such as air-conditioning and exhaust control devices. Greater shop efficiency will limit growth.
Bowling pin machine mechanics.	6,000	140	Little or no change in employment due to improved pinsetting machines which require fewer repairs. A small number of openings will occur as a result of retirements or deaths.
Business machine servicemen.	80,000	6,000	Very rapid growth. Outlook particularly favorable for those trained to service computers and associated equipment.
Diesel mechanics	85,000	4,100	Rapid increase due to expansion of industries that are major users of diesel engines.
Electric sign servicemen.	8,000	450	Rapid increase due to business expansion and increasing use of electric signs.
Farm equipment mechanics.	53,000	1,400	Slow increase due to declining number of farms and increased reliability of farm machinery.
Industrial machinery repairmen.	180,000	9,000	Rapid increase due to growing amount of machinery needed to fabricate, process, assemble, and inspect industrial production materials.
Instrument repairmen.	95,000	5,900	Very rapid growth due to the increase in use of instruments for scientific, industrial, and technical purposes.
Jewelers and jewelry repairmen.	15,000	500	Little or no employment change. Despite growing demand for jewelry, greater efficiency will limit the need for new workers. Turnover will create a small number of openings.
Maintenance electricians.	250,000	11,000	Moderate increase mostly from the need to replace workers who retire or die.
Millwrights	80,000	3,100	Moderate increase, related to new plants, additions of new machinery, changes in plant layout, and maintenance of increasing amounts of complex machinery.
Motorcycle mechanics	5,000	250	Rapid increase due to growing popularity of motorcycles, minibikes, and snowmobiles Seasonal fluctuations in the demand for workers because cycling activity increases in summer and declines in winter.
Television and radio service technicians.	132,000	4,500	Rapid increase related to growing number of radios, televisions, phonographs, and other consumer electronic products.
Truck and bus	115,000	5,200	Rapid increase in truck mechanic employment resulting from more freight transportation by truck. Little change in bus mechanic employment because decline in local bus transit is expected to offset increased intercity bus travel.
Vending machine mechanics.	18,000	700	Moderate increase due to expansion of automatic merchandising.
Watch repairmen	15,500	500	Little or no employment change because most new watches will cost little more to replace than repair. Replacement needs will create small number of job opportunities.

OCCUPATIONAL OUTLCOK HANDBOOK IN BRIEF—1972-73 EDITION—Continued

PRINTING (GRAPHIC ARTS) OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980 [1]	Employment prospects [2]
Bookbinders and related workers.	30,000	700	Increasing mechanization of bindery operations will reduce employment.
Composing room occupations.	185,000	3,400	Slow employment decline despite greater volume of printing. Technological changes in equipment make it possible to set type faster using fewer operators. Knowledge of electronics and photography increasingly important for operation of new equipment. Openings will result from need to replace workers who die or retire.
Electrotypers and stereotypers.	5,000	------------	Moderate decline in employment caused by technological change. despite increased printing volume. Employment decline will more than offset openings from retirements and deaths.
Lithographic occupations.	80,000	2,600	Moderate increase as more commercial printing firms and small and medium size newspaper publishers use offset presses.
Photoengravers	17,000	60	Slow decline as a result of more efficient equipment and the increasing use of offset printing which requires no photoengravings.
Printing pressmen and assistants.	85,000	2,400	Moderate employment increase because of growth in the amount of printed materials.

TELEPHONE INDUSTRY OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980 [1]	Employment prospects [2]
Central office craftsmen.	92,000	3,700	Rapid growth in employment due to increasing demand for telephone service and data communication systems.
Central office equipment installers.	22,000	675	Moderate growth resulting from the need to install equipment in new central offices and replace obsolete equipment in existing offices. Knowledge of electronics becoming increasingly important in this occupation.
Linemen and cable splicers.	40,000	900	Little or no change in the number of linemen due to greater use of laborsaving devices such as pole-lifting equipment and earthboring tools. Moderate increase in number of cable splicers. Replacement needs will create some openings.
Telephone and PBX installers and repairmen.	102,000	5,300	Rapid increase due to demand for telephones and PBX and CENTREX systems.

OTHER CRAFT OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980 [1]	Employment prospects [2]
Automobile trimmers and installation men (automobile upholsterers).	9,000	400	Moderate growth due to increased demand for replacement and repair of automobile upholstery and convertible tops. More durable fabrics will limit growth.
Blacksmiths	12,000	400	Mass-production of metal parts should reduce employment. A small number of openings, however, will occur as experienced blacksmiths retire or die.
Boilermaking occupations.	25,000	700	Slow growth. More efficient production techniques will keep employment from growing as fast as demand for boilers and related products.
Coremakers (foundry).	26,000	550	Little or no change due to the growing use of machine-made cores. Nevertheless, openings will occur as workers retire or die.
Dispensing opticians and optical mechanics).	26,000	700	Moderate increase in dispensing optician employment as a result of rising demand for eyeglasses and contact lenses. However, more efficient methods of producing lenses will keep optical mechanic employment from growing.
Foremen	1,488,000	56,500	Moderate increase due to industrial expansion and the need for increased supervision as industrial production processes become more technical.
Furniture upholsterers.	33,000	750	Opportunities favorable. Demand for qualified workers is expected to continue to exceed supply despite little or no change in employment. Openings will occur as workers die or retire.
Locomotive engineers	35,000	1,400	A limited number of openings will occur each year, primarily as a result of the need to replace engineers who retire or die.
Locomotive firemen (helpers).	17,200	------------	Limited opportunities for employment.
Molders (foundry)	55,000	1,500	Little or no change because of the trend toward machine molding and the increasing use of permanent molds and shell molds. Openings will develop, however, as workers retire or die.
Motion picture projectionists.	15,000	625	Slow growth in employment. Stiff competition from experienced projectionists who are unemployed or underemployed.
Patternmakers (foundry).	21,000	600	Little or no change due to the greater use of metal patterns that can be used many times to make identical molds. However, openings will arise as workers retire or die.
Shoe repairmen	25,000	1,000	Little or no increase because more people buy new shoes rather than repair old ones. Nevertheless, opportunities are favorable for the highly skilled because the number being trained is insufficient to meet replacement needs.
Shop trades (railroad)	82,500	800	The need to replace experienced workers who retire or die will create a limited number of openings.
Stationary engineers	200,000	4,500	Little or no change because larger boilers and automatic controls make it possible to increase capacity without corresponding increases in employment. However, openings will become available as workers retire or die.

OPERATIVES
DRIVING OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980 [1]	Employment prospects [2]
Intercity busdrivers	25,000	700	Most job opportunities in this slowly growing occupation will result from the need to replace drivers who retire or die.
Local-transit busdrivers	69,000	300	Although the number of local bus drivers is declining, a few opportunities exist for new workers to replace drivers who retire or die.
Local truckdrivers	1,200,000	35,000	Moderate increase as a result of anticipated growth in volume of freight.
Routemen	240,000	2,600	Little change in overall employment. However, many job opportunities will result from the need to replace routemen who retire or die.
Taxi drivers	100,000	1,800	Although number of drivers is declining, high turnover results in need for some replacements.
Truckdrivers, over-the-road	655,000	21,000	Moderate increase. Economic growth of the Nation and continued decentralization of industry will increase demand for intercity trucking.

OTHER OPERATIVE OCCUPATIONS

Occupation	Estimated employment 1970	Average annual openings to 1980 [1]	Employment prospects [2]
Assemblers	865,000	44,000	Moderate long-run increase despite continuing automation of assembly processes. Employment sensitive to changes in business conditions and national defense needs, particularly in plants that produce automobiles, aircraft, and other durable goods.
Automobile painter	30,000	1,100	Moderate increase due to growing number of traffic accidents.
Brakemen (railroad)	75,000	800	Opportunities in this declining occupation will result from the need to replace brakemen who retire or die.
Electroplater	17,000	650	Moderate increase, related to expansion of metalworking industries and use of the electroplating process on a greater variety of metals and plastics.
Gasoline service station attendants	410,000	13,300	Moderate increase for both part-time and full-time workers resulting from growing consumption of gasoline and other service station products.
Inspectors	665,000	29,700	Moderate employment increase due to industrial expansion, the growing complexity of manufactured products, and rising quality standards.
Meatcutters	190,000	5,000	Little or no employment change. More efficient meat cutting and distribution methods will limit the need for new workers, but openings will arise as experienced meatcutters retire or die.
Parking attendants	52,000	600	Slow growth as most new parking facilities are expected to be the self-park variety.
Production painters	115,000	3,700	Slow employment increase as greater use of automatic sprayers and other laborsaving innovations curb need for additional workers.
Photographic laboratory occupations.	37,000	2,200	Rapid increase despite greater mechanization of film processing equipment.
Power truck operators	200,000	5,100	Employment increase will be slow, as more efficient power trucks and other mechanized materials-handling equipment are developed. Most openings will result from the need to replace workers who retire or die.
Signal department workers (railroad).	11,200	------------	Improved signaling and communications systems, which require less maintenance and repair, will reduce the number of workers needed. Employment decline will more than offset openings from retirements and deaths.
Stationary firemen (boiler).	71,000	100	Employment expected to decrease moderately as result of more automatic centralized equipment, but some openings will occur from the need to replace workers who retire or die.

Occupation	Estimated employment 1970	Average annual openings to 1980 [1]	Employment prospects [2]
Unlicensed merchant seamen.	31,000	------------	Employment decline due to competition from foreign ships and construction of new ships which can operate with fewer men. Small number of openings due to deaths and retirements. However, on net balance employment decline will more than offset openings from retirements and deaths.
Waste water treatment plant operators.	30,000	2,100	Rapid employment growth resulting from the construction of new treatment plants and the modernization of existing ones.
Welders and oxygen and arc cutters.	535,000	22,000	Rapid increase in welder employment, related to growth in metalworking industries and wider use of welding. Growth in cutter employment, on the other hand, will be restricted by greater use of mechanized cutting equipment.
LABORERS (NONFARM)			
Bridge and building workers (railroad).	10,500	------------	Employment decline due to increased use of power tools and other laborsaving equipment, and new materials which require less maintenance. Employment decline will offset openings resulting from retirements and deaths.
Track workers (railroad).	54,900	400	Mechanized equipment and new materials for roadway construction will continue to reduce employment. Several thousand workers are hired each year to handle seasonal rush, but opportunities for year-round employment are limited.
Construction laborers and hod carriers.	815,000	25,500	Despite large increases in construction mechanized equipment may limit demand for these workers. Nevertheless, thousands of openings will arise annually.

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[1] Due to growth and death, retirement, and other separations from the labor force. Does not include transfers out of the occupation.

[2] The Bureau of Labor Statistics assessment of the 1980 occupational and industry outlook is based on a projected labor force of 100,700,000 in 1980, Armed Forces of 2,700,000, and a resulting labor force of 98,000,000. The employment outlook presented in the Handbook also assumes: (a) maintenance of high levels of employment through the 1970's, (b) that no major event will alter economic growth substantially, (c) that economic and social patterns and relationships will change at about the same rate as in the recent past, (d) that scientific and technological advancement will continue at about the same rate as in recent years, and (e) that the United States will no longer be fighting a war. Defense expenditures will be reduced from the peak levels of the Vietnam conflict but a still guarded relationship between the major powers will permit no major reduction in armaments.

[3] Estimate not available.

HUNT-WESSON FOODS, U.S. FOREST SERVICE, AND CHILDREN JOIN IN CREATION OF NATIONAL CHILDREN'S FORESTS

HON. ALAN CRANSTON

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Thursday, April 27, 1972

Mr. CRANSTON. Mr. President, each year more than one-half million acres of valuable forest lands are ravaged by fire in the United States. This tragic loss of forest land means more than the destruction of trees, for forests also provide homes for wildlife, recreational areas for man, and ground cover to prevent siltation of rivers and streams.

To bring life back to these fire-ravaged lands, the U.S. Forest Service has developed the "cooperative outdoor environmental program," combining the expertise of the Federal Government and the resources of private industry.

Hunt-Wesson Foods, Inc., of Fullerton, Calif., is the first corporation to participate in the program. Through a series of advertisements, Hunt-Wesson has promised to plant a tree in one of three national forests for every child sending in a label from one of its products. To date, over 1½ million labels have been received.

The national forests to benefit from the Hunt-Wesson trees are the George Washington National Forest in Virginia, California's San Bernardino National Forest, and the Mark Twain National Forest in Missouri. They contain areas designated by the Forest Service as those most in need of reforestation and designated to be national children's forests.

The first of the three national children's forests is being dedicated today in Virginia, on the 100th anniversary of that State's Arbor Day. The dedication will include the planting of a symbolic tree by Steve Dixon, a 15-year-old from North Vernon, Ind., who sent in the 1-millionth label for the Hunt-Wesson reforestation project. In addition, a time capsule containing the names of all the young people sending in labels will be placed in the forest.

The remaining two children's forests are scheduled to be dedicated later this year.

Hunt-Wesson Foods, Inc., and its president, Edward Gelsthorpe, deserve special commendation for pioneering in this important project to replenish the burnt-out areas of the national forests and for stimulating more than 30 other corporations to inquire about participation in the tree-planting program.

DEVINE POLL IN CENTRAL OHIO

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. DEVINE. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

CENTRAL OHIO VOTERS OPPOSE AMNESTY AND BUSING

WASHINGTON, D.C., April 27.—Representative Samuel L. Devine (R-Columbus) today revealed the results of his Public Opinion Poll mailed to over 180,000 families in the Central Ohio area.

Devine stated over 25,000 persons had indicated their personal preferences to 9 questions with many interesting comments.

The poll, according to Congressman Devine, disclosed the 12th district residents oppose amnesty, legalizing marijuana, but favor legalizing abortion at the Federal level, the President's welfare reform program, and increasing Social Security benefits.

The majority narrowly feel network TV is not fair, and favor national health insurance, but 86% answering listed busing as the least desirable for quality education.

The actual poll results are as follows:

	Percent	
	Yes	No
1. Do you favor granting amnesty to those who fled the country to avoid military service?	20½	79½
2. Do you favor legalizing the use or possession of marijuana?	19	81
3. Do you favor Federal legislation to legalize abortion? (Presently controlled by State laws)	60	40
4. Do you favor the Family Assistance Plan of guaranteed annual income providing work incentives to replace the present welfare system?	69	31
5. In which order do you feel the following are most important to improving the quality of education?		
a. busing to achieve racial school balance (5)		
b. more Federal aid to public schools (3)		
c. Federal aid to private and parochial schools (4)		
d. increased emphasis upon technical and vocational training (1)		
e. a change of local property tax as the basic source of funds for public education (2)		
6. Do you feel that a national health insurance program is needed?	54½	45½
7. Would you favor a program of no-fault automobile insurance on a national level?	72	28
8. Do you feel network television fairly presents both sides of most issues?	46½	53½
9. Do you favor social security benefit increases proportional to cost of living increases?	82½	17½

FOREIGN AFFAIRS AND PRESIDENTIAL POLITICS—RARICK REPORTS TO HIS PEOPLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. RARICK. Mr. Speaker, I recently reported to my people on foreign affairs and presidential politics. I insert the report at this point:

RARICK REPORTS TO HIS PEOPLE ON FOREIGN AFFAIRS AND PRESIDENTIAL POLITICS

The new U.S. international policy based on the myth of three superpowers; i.e., the U.S., Soviets, and Red China, thus far has accomplished nothing except to accommodate the communist revolution and increase distrust for our country the world over. The little reported reaction of smaller nations has been amazement at U.S. appeasement of the communist powers. To the communist powers and their satellites, our softening attitude has served to incite them to new bold initiatives by misleading them into thinking that their long range goal of world conquest can now be achieved with the help of capitalist technology and financing.

In the realm of practical politics, a leadership of three world superpowers, two of which are communist, can only result in our losing on any peace issue unless our vote is cast with one or both of the communist powers.

The beginning of the end of the coexistence alignment in which the U.S. was regarded as the leader of the free world commenced last fall with the U.S. invention of a fictitious two-China policy to accommodate both Red China and Free China in the U.N. At the time of the vote it was public knowledge that Presidential Advisor, Henry Kissinger, was in Peking, Red China. This was taken by some delegates as a U.S. endorsement of Red China; and in the ensuing vote Nationalist China, a charter member and original organizer of the U.N., was expelled. Red China was not only seated but was also given a permanent vote on the Security Council, thus authorizing a veto over every U.N. action not to its liking.

The much publicized TV tours, toasting and socializing of the U.S. President with Chou en Lai, the Number two Chinese party leader, came next. At least the new "friendship" was much publicized by the free world media.

The effect of the new U.S. accommodation of the two communist "superpowers" had immediate repercussions the full consequences of which are not yet evident—at least to the American people. Many governmental leaders who had heretofore, in deference to U.S. leadership, ignored or shunned the communists hastened to enter into trade and diplomatic relations with them.

There has been a noticeable decline in U.S. prestige especially in Latin America where, for years through such American controlled forums as the Organization of American States, our Latin American neighbors resisted communism such as that practiced by their neighbor Castro in Cuba. Many of our American neighbors were unaware that President Nixon's new role was politically motivated and accepted it as U.S. foreign policy. The extent of damage to our influence and prestige in South America is still undetermined. Chile, under the leadership of a Marxist-Communist President, interpreted the new alignment as a sign of weakness—by seizing U.S. properties and more recently the telephone facilities of ITT. Other left-leaning Latin American countries have been encouraged to similar acts of piracy against our government and American interests.

In Panama, a pint-sized country under a Red military dictator, renewed demands with threats of force have been made that the U.S. surrender the Panama Canal which is as historically American as the Statue of Liberty in the New York Harbor. Nor have all of our losses of prestige occurred in Latin America.

The world sat idly by while in the Near East the two major communist "superpowers" redivided the spoils of the old British Colonial Empire, India and Pakistan. Supposedly, India, supported and armed by the Soviets, invaded and conquered its former State, East Pakistan, which was allied through West Pakistan with Red China. The end result was a Soviet victory with the establishment of a puppet government now known as Bangladesh. Because of lack of knowledge of the religions and social customs in these two States as well as the absence of objective news reporting, the American people as well as our Administration became polarized and confused in selecting a favorite communist power to support. As a consequence, some Americans supported India and in so doing approved of Soviet-backed armed aggression of East Pakistan, other Americans backed the Pakistan. Red Chinese coalition, while a few Americans couldn't understand why we should be involved at all and in fact approved of our staying out of the entire communist agitated squabble.

Supposedly, our government, which was committed to friendly relations with both sides, aligned itself morally to Pakistan while the U.N. under the control of both communist "superpowers" sat idly by and did nothing. As a result, the U.S. lost on all fronts. India is now more obligated to Russia than ever before, the new Soviet colony of Bangladesh is so frigid to the U.S. that our foreign aid is given to her through the U.N. Pakistan's military leaders blame their defeat on failure of more American involvement on their behalf. The defeated Pakistan military leaders having suffered loss of public confidence have lost power, and their successor has lifted all martial law which can only mean that Pakistan has become or will shortly be a Red Chinese buffer colony.

Another notable event which reflects on U.S. foreign prestige occurred in Turkey, which is separated from West Pakistan only by the Kingdom of Iran. The Turks, of whom 98% are Moslem, have historically been anti-communist and since World War I a close ally of the U.S. In fact, Turkey is a member of NATO.

Quite recently, the Turkish Prime Minister Nihat Erim visited Washington for talks and was accorded state honors. On his return to Turkey, he either resigned or was removed from office as a result of growing anti-American pressures in Turkey. The Turks, it must be remembered, were allies of Pakistan. Following the Pakistani defeat they were visited by Soviet Premier Brezhnev which was an historic first, since communism is outlawed in Turkey. The Turks may have felt that the U.S. should have rendered more aid to Pakistan. Or it may have been because of religion they are in sympathy with their Arab brothers. If so, Turkish public opinion is further aggrieved by our pro-Israel stand in the Middle East. While supposedly our Middle East policy is one of non-intervention except to protect territorial integrity from aggression, the policy has been extended to a balance of arms rationale which in actual practice has resulted in overarming the Israelis to offset or counterbalance the numerical superiority of Arabs.

In the Far East, Japan, after years of isolation from her Red Chinese and Soviet neighbors, protesting bitterly that our diplomats had not given any advance notice of our new communist alignment, rapidly followed our role in attempting to establish diplomatic exchanges and trade relations.

On April 9 at the ceremonies commemorating the Battle of Bataan, Philippine President Marcos, a staunch anti-communist and long-time friend of the American people, used the Bataan tragedy to warn his Philippine people against placing too much dependence on American support. He pointed out that the Philippines are no longer under the all-powerful protection umbrella of the United States and should never again depend solely on others for its security. Less than a week later the Philippines along with their neighbors, Indonesia, Malaysia, Thailand, and Singapore, met at a meeting of the Association of Southeast Asian Nations reportedly to adopt a concept of "national resilience" for backup military alliance of a hard line national policy following Red Chinese admission to the U.N. and President Nixon's visit to Red China. Noteworthy, the five Asian members agreed not to establish diplomatic relations with Red China.

In Europe, those countries which were not as fast as President Nixon to accommodate the communist world immediately followed U.S. direction.

The Republic of West Germany, under the present leadership of the socialist Chancellor Willy Brandt, entered into treaty negotiations with Moscow supposedly to lay the groundwork for new talks on Berlin and to ease East-West tensions, but which could well lay the groundwork for reunification of all of Germany as a Soviet puppet state subject to the Brezhnev Doctrine. The proposed Bonn-Moscow Treaty is now being considered for ratification by the West German Government. Because there is widespread fear of the Treaty and ever-increasing public opposition, President Nixon had been invited to accommodate the Russian propaganda machine by being a guest in Moscow at about the time of the crucial vote on the German treaty. Many West Germans haven't forgotten that at the time Nationalist China was expelled from the U.N. and Red China was seated, Mr. Kissinger was in Peking. They may feel that the timing of President Nixon's visit to Moscow as well as to communist Poland is but a strange coincidence, but it certainly does not help American prestige in this pro-Western country for its people to be led to believe that our President's trip to Moscow means that we support West Germany becoming another Soviet colony. Too many Germans have been to the Berlin Wall to swallow this red propaganda.

Over all, what facts and information any observer can gather must prove conclusively that the President's "peace politics" have not only helped the cause of international communism, but have backfired to the detriment of the American people as well as on the President's political future.

While other presidential aspirants have compaigned State to State, President Nixon has campaigned from country to country to create an image of international peacemaker. In so doing, he had defused much of the left wing war dissent. Perhaps the President's political advisers had planned the peace overtures to communist nations to wrest the "peace" initiative from the extreme left wing in this country and remove this opposition to the President's political future. This might be good politics for domestic consumption if all international conditions remained unchanged, but the President's attempt to exploit the communist leaders offered them an entree into the American news and consequently have given them the opportunity to influence the next presidential election by aiding the candidate of their choosing.

The international communists are experts at grasping political opportunities. Witness the massive build-up of Soviet arms and materials in North Vietnam, the Russian military advisers in Hanoi, and the Soviet-encouraged invasion of South Vietnam, forcing of the retaliatory U.S. bombing of North Vietnam to protect our U.S. men and our South Vietnamese allies.

Overnight, the new peace image of President Nixon has been shattered. The presidential aspirant preferred by the communists has been catapulted into the popular political role of the new "peace" leader merely by expressing vocal opposition to President Nixon's action.

The recent air strikes against Haiphong Harbor reportedly damaging several Russian ships and the Statement of the Secretary of Defense that no limits were set on bombing of North Vietnamese targets led many to believe that the Nixon Administration had decided to seek a military victory.

But in response to a charge that the U.S. government now saw no hope of a negotiated settlement and was after military victory, the Secretary of Defense was quick to counter that we were not seeking a military victory, and the State Department noted that any damage to Soviet ships in Haiphong "was inadvertent and regrettable."

With the increased tempo of the war has come a new surge of war protests across the land.

Some of the protest activities would legally be considered treasonous if a declaration of war existed. The recent demonstration of April 19 in which peaceniks petitioned the Soviet Embassy here in Washington to "avenge Hanoi and Haiphong" and "send more missiles to shoot down more U.S. planes", is such an example. But such activities calling for the enemy to kill U.S. men are not anti-war or peace—they are anti-U.S.

By now one would suppose that the President and his advisers would have become aware that rather than their using the communists for political gain, the communists are using our leaders. Yet, the President continues to play politics with the war by thinking he can maintain a peace image by trade and dialogue with the communist "superpowers" which supply the arms, the planes, missiles, and tanks to the communist forces in Vietnam.

The further ridiculousness of the situation is that from 1947 to 1970, the United States provided the Soviet Union with over $186 million in foreign aid and the Soviets are at this time seeking to negotiate a compromise settlement on their debt so that they can qualify for additional taxpayers' support through foreign aid.

On April 11 we read where President Nixon chastised Moscow for supplying arms to Hanoi.

Last night in his nationwide telecast on the war, the President was very guarded in his remarks so as to in no way implicate his up-coming host, the Soviet Union, as being responsible for supplying the arms and equipment behind the invasion of South Vietnam which in turn provoked his ordering the bombing in North Vietnam. His telecast was so moderated that it was obviously a product of the Soviet negotiations which had been carried on by his advisor, Henry Kissinger during his four-day junket to Moscow. Every precaution is apparently being taken at high levels to censor any anti-Soviet remarks so as not to jeopardize the President's mission to Moscow.

We also read where the President was desiring to liberalize trade with that same nation. Earlier the U.S. Secretary of Agriculture announced from Moscow that we were planning to exchange corn and feed grain to the Russians in return for Soviet oil. Speculation has it that although the Arab states control 70% of the world's oil, much of it discovered and developed by U.S. money and technology, the Arabs are too pro-Soviet to trade with the U.S.—so we deal with Russia. This so even if it is necessary to lend the Soviets $7 billion to hunt for the oil.

The latest Alice in Wonderland follows the seizure of ITT property by the Red government of Chile and the claim for reimbursement by the U.S. corporation against the U.S. taxpayers to the tune of $89.6 million. The Soviet Union, which apparently expects to have some control over its colony's newly acquired telephone company, has announced that the Black Sea and Baltic Insurance Company, a subsidiary of the Soviet State Insurance Company, has agreed to re-insure $26 million of insurance written to protect U.S. investors against expropriation by developing nations such as communist Chile.

All known events involving our government's new policies indicate a consistent influence or direction toward international one-world control and a complete loss of national sovereignty. U.S. taxpayers are forced to subsidize communist countries called developing nations while communist guerrillas using communist "superpowers" military equipment continue aggression by military as well as psychological warfare the world over.

We hear only of peace, progress, cooperation and interdependence, but our national leaders have never been able to make a deal to free our POW's and return them to their loved ones.

Is it really the world that is getting smaller or is it the sphere of U.S. influence and the number of U.S. allies that are decreasing?

CREDIT WHERE CREDIT IS DUE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. HORTON. Mr. Speaker, as the House closes its final legislative session of this week, I would like to take a few moments to pay tribute to those who help to make our work possible.

This week has been designated as National Secretaries' Week in order to afford well-deserved recognition to the hundreds of thousands of women who enable the workings of government and business in America to be carried on in an orderly, cheerful, and efficient manner. Personally, I believe that the scope of National Secretaries' Week should be expanded to include recognition for all career women. The day is long past when it was sufficient to pat working women on the back for providing neat typing, filing, and cheerful smiles on Monday morning. Today, the career professional woman plays a role in the economy and institutions of this Nation equal in importance to that of her male counterpart. Without downgrading the vital work of secretaries, "girl Fridays" and stenographers, the professional woman affords creativity, innovation, human insight, and other executive-type talents which enhance the quality of work in every organization where professional women are found.

Nowhere is this more evident than here on Capitol Hill, where well over 3,000 secretaries and professional women keep the legislative and constituent service work of Congress in high gear.

As an appropriate and very well-deserved part of the celebration of National Secretaries' Week, I would like to take this opportunity, Mr. Speaker, to give credit where credit is due, insofar as my own congressional staff is concerned.

I am proud to employ 12 highly qualified and dedicated professional women on my Washington and district office staffs, in full- or part-time positions, including five working wives. In the presence of my colleagues, who I am certain are equally grateful to their own Hill professionals, I would like to publicly recognize for outstanding service the following female professionals employed on my staff.

Christine Boehly, Susan Brands, Michaele Burgin, Pamela Cowdery, Linda Crowley, Karen Fling, Linda Lauman, Joyce Newton, Lucyna Norment, Noreen O'Hagan, Carol Scully, and Susan Tammen.

Without their tireless hard work and selfless service, and that of their colleagues in other congressional and senatorial offices, it would be impossible for us to provide the proper caliber of service and representation to our more than 200 million constituents—the American people.

RESPONSIBILITY OF THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

HON. WILLIAM D. HATHAWAY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. HATHAWAY. Mr. Speaker, I would like to make the point today that there are two sides to the coin of responsibilities of the Occupational Safety and Health Administration, or OSHA as it is called, which is just a year old. Most often we look at the side that deals with the number of deaths, disabling injuries and illnesses in the private sector of the economy. We tend to forget that OSHA also has prime responsibility for the safety and health of Federal employees as well.

This Federal effort is a formidable task by itself: Some 120 Federal departments and agencies employing about 3 million civilians working at some 5,000 different occupations. All these jobs are comparable to those of private industry—with identical hazards.

Fortunately, and probably due to increased emphasis on Federal safety and health campaigns since 1965, last year we saw disabling injuries in the Federal workforce drop to a record low of six per million employee-hours worked—down 22.1 percent since 1965. This compares with 15.2 injuries per million employee-hours worked in the private sector in 1971.

But OSHA is not resting on the accomplishments of preceding Federal safety programs. Instead, it is moving to assure Federal employees safe and healthful workplaces. A bipartisan Congress gave OSHA one tool to help accomplish this—the Williams-Steiger Act of 1970, and President Nixon followed with another—Executive Order 11612 of last July.

These actions permit OSHA to provide guidance to Federal departments and agencies to help them carry out their responsibilities, and to evaluate each agency's program annually. With agency consent, OSHA can conduct necessary investigations into the effectiveness of individual agency programs.

An important part of this assistance is a safety management information system which is being implemented to support the needs of the Federal safety and health effort by reporting injuries, deaths and illnesses on a scale comparable to data from the private sector.

The Executive order provides for a 15-member Federal Safety Advisory Council that includes five representatives of labor organizations, more than in any other previous safety agency. This council has developed an administrative staff and subcommittees to set priorities and deal with future safety campaigns, the annual Federal Safety Conference, the President's Safety Awards, reporting systems, and how best to use the services of field chapters.

HOUSE CONCURRENT RESOLUTION 597

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. CHARLES H. WILSON. Mr. Speaker, today, in the House of Representatives, I have introduced House Concurrent Resolution 597, a measure which, if enacted, will put an end to the bloodshed, human suffering, and destruction which has been inflicted upon Southeast Asia for the past 25 years.

This resolution draws on many of the proposals that have been previously introduced in Congress, but in addition, it also contains a number of unique, and very responsible approaches toward a plan for lasting peace in Southeast Asia. The measure seeks not only to end the involvement of the United States in the war, but also to put an end to the war itself. It calls on the initiator of the supervised withdrawal of all foreign troops and war material from Southeast Asia. The resolution is also the most responsible policy for assuring the safe and swift return of all our prisoners of war.

The concern of the American people about the war has been heightened by the recent escalation caused by the invasion of South Vietnam by 14 divisions of North Vietnamese troops and our retaliatory bombing raids. House Concurrent Resolution 597 is born out of this concern and the need for new and positive measures to bring this dreaded and needless war to an end.

The resolution follows the intent expressed by the Democratic Caucus in its vote of April 19, 1972. It recognizes that the U.S. Congress cannot through legislation impose an agreement on the warring parties, nor obtain the release of our prisoners of war. Its only recourse is to withhold or deny funds needed to carry out the military plans of the administration. The withholding of funds serves only to encourage the enemy and might very well jeopardize the safety of our forces that remain in the war zone. This resolution calls upon all involved parties to negotiate an agreement that will not necessitate action that would endanger our forces.

The resolution which I have introduced establishes seven broad objectives to be achieved through negotiation; either in Paris, through the good offices of the Secretary General of the United Nations, or otherwise.

These objectives are: First, to end the war; second, to repatriate the prisoners of war; third, to settle political issues; fourth, to guarantee the peace; fifth, to alleviate human suffering; sixth, to guarantee self-determination to the people of Vietnam; and seventh, to reunite the American people.

To achieve the above objectives, which I believe the American people support, the resolution provides for a series of negotiated steps. The United States would take all available means to bring about the following:

An immediate cease fire;

Release of all prisoners of war to the custody of a neutral country to be voluntarily repatriated by the International Red Cross;

Announcement of a date certain for complete and final withdrawal of all foreign military personnel from both North and South Vietnam;

Withdrawal of all North Vietnamese military forces from South Vietnam, Cambodia and Laos;

Concurrent withdrawal of all foreign military forces from North and South Vietnam;

A cessation of arms shipments and war materials to North and South Vietnam by the United States, the Soviet Union and by China;

Free elections in both North and South Vietnam supervised by the United Nations to determine:

a. Whether the two countries should be reunited;

b. What form of government will prevail if the people vote to reunite;

c. What form of government will prevail in each country if the countries vote to remain separate;

Supervision and enforcement of the peace in Vietnam, Laos, and Cambodia by the United Nations; and

Economic aid to both North and South Vietnam by the United States and other members of the United Nations.

I want to end the war.

I want to stop the killing of Americans by Asians, of Asians by Americans, and of Asians by Asians.

I want to see the prisoners returned to their homes.

I want lasting peace.

And I want to help bind up the terrible wounds of the people in Indochina, as we did with enemy and friendly nations after World War II.

Without a negotiated agreement and an enforced peace in Indochina, the war will go on for years; millions more will die and increasing numbers of prisoners will be imprisoned for additional years, or for the remainder of their lives in festering cells.

If an end to the war, an end to the killing, and the repatriation of the prisoners is what we really want, House Concurrent Resolution 597 is the path to follow, and one which I believe all men of good will and compassion will support.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

THE GREAT AMERICAN TRAIN ROBBERY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. PICKLE. Mr. Speaker, on April 17, of this year Mike Wallace of the CBS new program "60 Minutes" hosted a program entitled "The Great American Train Robbery." In this newscast Mr. Wallace interviewed gangs of petty thieves who openly admitted to stealing from the railroads. The program showed films taken by railroad security police of thieves in action. They would walk boldly into the railroad yard, break open a freight car and carry off as much as they wanted. Every type of merchandise imaginable has been taken: guns, whisky, color TV's, furniture and food.

The Great American Train Robbery delved into a giant, complicated, and virtually unseen problem facing today's consumer and the entire transportation industry. On the surface this may look like petty thievery, a carton at a time, but the cost has been estimated at well over $225 million a year—and all paid for in higher insurance rates and higher prices for the consumer.

Moreover, petty thievery is not the only problem. As I have repeatedly said, the only group doing its job in the business of cargo security is organized crime, all the rest—the industries, labor, insurance companies, the regulatory agencies, the police, the courts—and the Congress—are too busy passing the buck.

Cargo theft is a national problem. In the last year, Government and business have greatly stepped up their efforts to cut down on this theft, but more tools are needed than they presently have to fight this problem. One big stumbling block is the lack of knowledge of what is being stolen, who is stealing it, where it is going after the theft, and how much is actually being stolen.

Congress has avoided the issue long enough. The time to act is now. Citizens can no longer be expected to make up for the losses caused by organized crime. The Nation is demanding better cargo security. The transcript of the CBS program 60 Minutes which follows tells why.

The transcript follows:

60 MINUTES' "GREAT TRAIN ROBBERY"

WALLACE. Time was when there was romance in railroading even on these freight cars back in the Depression Days, especially, when there were the tales of the free and easy life of the hobos who rode these cars from coast to coast. The railroad dick might go after you but not too hard because afterall, times were tough and all a fellow would steal on these cars was a free ride and a place to sleep. Well, the romance has gone out of railroading. And if a railroad dick goes after you now he means it. Because you're a thief and you're costing his railroad big money.

The railroad thieves live right along the tracks. These are the Chicago and Northwestern yards in Chicago, but the neighborhood here is like the neighborhoods that railroads run through in most big cities. . . . The Slums, the ghettoes where the poor, the unemployed, the drop-outs, sometimes the drug addicts, have learned that they can come out on the tracks and go shopping for almost anything that they want.

These thieves are stealing in the Bronx in New York City, filmed by railroad security police. It may look like petty thievery, a carton at a time, but investigators in Washington say it adds up to $225 million dollars a year. Second only to the stealing on the truck lines. The railroads dispute the total value of the stolen goods, perhaps, because they don't want to frighten away their customers. As for the thieves, a group of them in Chicago told us all the items that they've stolen.

Man. It ain't nothing you can name on the tracks that we ain't never got off of. We've got TV's, beds, guns, rifles——

Man. Mini-bikes.

Man. Mini-bikes, windows, couches, furniture, meat, we got meat off the other night. He knows it and he's coming around trying to bust somebody today for it. Trying to bust his brother for it today. But lookee, here, we're just too swift for them, they just can't catch us. We (indistinct)

Wallace. All right, now, how many guys work at a time.

Group. (indistinct)

Wallace. All right now, do you really have walkie-talkies or you're kidding?

Group. (indistinct)

Man. They have walkie-talkies—we got it off their tracks.

Man. These walkie-talkies are so you know, they can pick up the frequency on the walkie-talkies, pick up the frequency of the radio and that way we'll know when the man is coming.

Wallace. You have your own walkie-talkies?

Man. Right.

Man. Yeah, we have our own.

Wallace. Now this is the truth? What's the biggest hit you've ever made?

Man. Guns.

Wallace. Guns.

Man. Whiskey and guns.

Wallace. And how big was that and what did you do with the guns and the whiskey?

Man. I ain't gonna tell you what we did.

Group. (Laugh.)

Man. Well, I'll tell you what we did with the whiskey, you know, taverns and jive, we've got these dudes, we're dealing whiskey, you know, like the manager, you know, he might want to buy whiskey so we sell him a couple of cases for about forty dollars or fifty dollars a case like that there.

Wallace. And what about the guns?

Man. We deal the guns to different people, you know, different gangs.

Wallace. How many guns did you get?

Man. We got a couple crates of guns, what? Two or three crates of guns off.

Wallace. What do you do with your money?

Man. Look at that young boy getting out of that '72—(indistinct) (wild)

Man. He bought that fully paid (indistinct)

Man. Clothes (indistinct) (wild)

Wallace. Are these guys Track Blazers?

Man. Yeah, they're Track Blazers.

Man. Give me the microphone.

Man. Tell him how you get the money to buy that '72?

Stole it right on the tracks, right? (wild, laughter)

Man. Right up there.

Wallace. A shrewd railroad thief knows just how to go about stopping a freight train as it makes its way slowly through a city. We're not conducting a course in railroad thievery here, so I won't show you just how, but I can tell you this. With just this hand I can flip a lever over here and separate, uncouple, this freight car from that one just as easily as that. With this hand, I can flip a lever and stop this entire freight train dead in its tracks. Once the train is stopped, then you go to work on the individual cars.

From the beginning of railroading until about ten years ago it was that seal on a freight car that used to frighten the railroad thief off. If that seal were broken it was a federal offense and the thieves used to be afraid of the feds. Well, it's still a federal offense to break the seal, but the thieves don't worry about the feds anymore. They come into a railroad yard, pick up a spike like this one . . . stick it in like this and begin to twist. Now, this is the only lock that is on a good many freight cars. As you can see, it takes no time at all to get rid of that seal, open the car and get inside and get what you want.

Security police prowl the yards checking the seals. Only rarely finding a carload that would be hard to hit if the thief had enough time. No locks, just an occasional board, nails and wires. NO locks because the railroads have never found a way to get the keys where the cars are when it's time to open them.

If goods are stolen, the railroads have to pay the bill even though the shipper packs the car himself. The railroads would like the shipper to seal the cars better, but so far they're not having much luck. If you wanted to steal it wouldn't take long to learn your way around a freight yard. Cars sit alone on sidings and you can often tell where the hot cargo lies. This car for example, a container from Japan is almost certainly filled with television sets or some other top dollar communications gear. And we could sniff the tobacco aroma in this cigarette shipment from the south. And does it pay to advertise? Not in the freight yards it doesn't. Police wish the manufacturers would quit advertising their goodies to thieves.

One Miller's High Life car rolled in while we were filming and just twenty minutes later here in Camden, New Jersey, it had been broken open. Several cases were stolen, a lot of single cans were gone. Sometimes a passing trainman gives in to temptation.

This is only part of the stealing that was filmed in New York City in only a few days . . . by railroad police. It's worse at night. The railroads say they need more help from the federal and local governments to put a stop on this crime. And they argue that they are the victims of the problems of the big city slums. They made this film to prove it. This is the railroad's own narrator.

Narrator. Here's a scene of a more experienced group of five looters. It's 3:25 PM Saturday the 17th, again in the Harlem River Receiving Yard. The five cartons of paper products removed, three of the looters take theirs and go. Brown shirt and red shirt decide to stash theirs near the fence and take two more from another car . . . apparently with the intention of returning later for the first two cartons.

But there's no honor among thieves. As they disappear with their booty two younger boys appear from the other direction. When they're sure that the older youths are gone, they hijack the first two cartons.

Looting apparently knows no age limit. These children were filmed at the Market Switch at 6 PM, Friday the 16th carrying cartons left by older thieves.

Stealing from the railroad becomes a way of life.

Wallace. Later that afternoon, this man was spotted in the same yard . . .

By the time that he had taken his carton two more thieves were on their way to the freight car.

A railroad policeman radioed the New York City Police for help and the cameraman managed to spot one of the thieves getting away.

The police stopped one looter, a plainclothesman made the arrest, while the other officer rounded up the remaining thief further down the block. Each of these suspects was arrested, booked, tried and convicted.

Many of them here in New York bear the needle marks of the heroin addict. They support their habit by stealing from the tracks.

We were frankly astonished by a conversation we had near the tracks in Chicago . . . we were talking with a gang of young thieves who call themselves "The Track Blazers," when who happened by but their adversary, Penn Central Detective Tom Bossius. He would like to lock them all up, if he could.

What I don't understand Tom, is how come you're so friendly with these guys? Here are men, very young men, who acknowledge that they pilfer, that they steal out of the railroad. Here is a fellow who is a Penn Central Officer, you have a nice relationship, they know Tom, you know them and nothing happens.

Det. Well, the reason that I know them all and they know me is because I've arrested each one of them or one of their buddies.

(Wallace). Q. You guys call yourself the Track Blazers?

Man. Right.

Wallace. Who's the leader of this crowd?

Man (boy). Me.

Wallace. You?

Man. Me and a dude named Willie Wine.

Wallace. Now how old are you?

Man. Seventeen.

Wallace. You look like a little fellow to be the leader of this whole big crowd. Why——

Man. That's nature.

Wallace. That's nature. And do you guys agree that he's the leader?

Group. Yeah, yes.

Wallace. What makes this young fellow the leader?

Man. Because I've got the heart. (indistinct) know what I'm hitting. And I ain't scared of nothing, you know, like I go in—and I'm telling them now, I'm going to tell you I'm not. I'll go up in the yards, you see, and I know I can't get busted in the yards. Because lookee here, there's many fences over there and I know Tom ain't gonna be beating me climbing no fence—(laughter). And he ain't gonna catch me if once I get over that first fence, because I get in the dark and I'm gone. And he don't know where I'm at then.

Wallace. You live right here, you just go right on to those tracks right over here?

Man. Yes.

Group. Yeah.

Wallace. Not day time, night time?

Group. Day time, night time, any time.

Man. Except until he got on days. (Laughter.)

Wallace. Until Tom here got on days. (Wild.)

Wallace. Now, let's say that you've gotten the stuff, how do you get rid of it, who takes care of that, anybody here?

Man. Me.

Wallace. You?

Man. Yeah.

Wallace. All right, tell me about it?

Man. You see, like if you get something off, like most times you get something off the railroad track the people in the neighborhood most of them can use. So all you have to do is go about asking, you know, from door to door, asking.

Wallace. Yeah.

Man. If they want to buy it. And if they want to buy it they go ahead and take it, you know, because it will mostly be clothes and furniture, stuff like that because they need it around their house.

Wallace. And then—but do you ever go

downtown or does some fence someplace else buy the stuff, lots of it?

Man. Yeah, we go—but not downtown, no place like that. We go you know, out of this neighborhood to different people, you know, a little south, [???] And we dispose of it there.

Wallace. And for cash?

Man. Yeah, for cash money. They give us a lump sum—they give us one lump sum.

Wallace. Tom, tell me something . . . is this young fellow telling me the truth or is he putting me on?

Det. I'd say it's about forty sixty. Forty percent truth and sixty percent baloney.

Wallace. Well, even then——

Man. What about the time we got almost a hundred TV's out there——

Det. They only remember the times that they had real big hits, that's the only times they really remember. The times that they go to jail, the times that they have to sit in court, the times that their mothers come down and crying at the station "My son didn't do it." And we catch him in the act, they don't remember them times.

Wallace. Tom, how many of these guys, how many of these fellows have you caught with the goods?

Man. I say about two.

Det. About ninety-five percent of them.

Wallace. What do you mean ninety-five percent.

Det. At least everyone of them. (wild)

Wallace. Let me talk to him first. You say you've caught ninety-five percent of them.

Det. Right.

Wallace. Well, how come they're out here on the street?

Det. The judges let them go. Juveniles, they don't prosecute them like adults get prosecuted. They have to be arrested at least three times in one year in order to go to court with them.

Wallace. Well, has nobody here ever been put away for doing anything of this sort?

Man. Yeah, I was put away a day.

Wallace. For one day?

Man. Yeah . . . that's all they could hold me for, they didn's have nothing on me, you know.

Wallace. What did you take?

Man. Oh, five color tv's. (laughter)

Wallace. Seriously, you had taken five color television sets?

Man. Yeah.

Wallace. And all they gave you was a day?

Man. That's all I got was a day.

Wallace. How come?

Man. Could keep——(wild).

Wallace. This fellow here.

Man. He got put away for some time, six months.

Wallace. Six months.

Man. For some candy bars and (indistinct) (wild)

Wallace. All right, let him tell me now, what happened, who got you and what happened?

Man. Tom got me.

Wallace. And?

Man. And they held me down, you know, called the man and took me down to the station. I went to court the next day and they draped six months on me. (indistinct)

Wallace. Six months. All right, tell me, this fellow did get six months. . . . .

Det. Correct.

Wallace. How did you find him?

Det. How did we find him? We observed him stealing and then we kept a constant surveillance, watched them while they took all the goods out and then arrested—(laughter)—Tried to arrest him.

Wallace. What do you mean "tried to arrest him"?

Det. Well, there were so many of them that night, I think there was about five or six of them the night we arrested him, I think we got two or three out of the six. We have so much to protect it's hard to say how much they can get away with. If they get twenty guys in a group and hit a trailer, they can get away with as much as they want.

Wallace. They can get away with as much as they want . . . . unless some changes are made.

Tom Fogerty is chief of security for the Illinois Central and he showed us some simple devices that would make stealing more difficult for the thieves.

Fogerty. This is one of the first and simplest devices that was used. It's merely heavy wire that's placed in the sealing device—bend it and make a twist. Round and round. And then twist it very tightly into place.

Wallace. What else you got?

Fogerty. We've got a new more sophisticated device that consists of a very high strength cable which is much more difficult to remove or cut.

Wallace. Most of the pictures that we get show young blacks doing most of the thievery. Are young blacks responsible for most of the thievery in the yards?

Fogerty. They're responsible for a lot of it. I think primarily because quite often they're at the residence of the underprivileged area, the ghetto area. This is where, unfortunately, many of the railroads lie. So this is why there's a preponderance of it. In any area where you have mass population with the freight cars you have that problem irregardless of (indistinct).

Wallace. What we have shown you may look like pennyante petty crime, but it accounts for more than three-quarters of all railroad thievery. In this age of technical wizardry it would seem to this layman that somebody could come up with something better than cables and wires to put a stop to these young Track Blazers. On the railroads, on the highways, at the airports and on the docks, cargo theft now amounts to about a billion and a half dollars every year. The Congress is finally pushing the Department of Transportation to do something about it because in the final analysis, all the costs of cargo theft are passed on to the consumer and that is you and me.

SCHUYLER EFFORT RESTORES DOWNING

HON. JOHN G. DOW

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. DOW. Mr. Speaker, I recommend to my colleagues and their constituents a visit to the Smithsonian Institution to view the recently rededicated Andrew Jackson Downing Memorial Urn which is situated at the east front of the Smithsonian "castle."

Andrew Jackson Downing, a well-recognized creator of the Hudson River gothic architectural style in the mid-nineteenth century, was also instrumental in developing the plan for the Mall in Washington, D.C. and New York City's Central Park. In 1852, at the age of 37, Downing was killed in a tragic riverboat fire on the Hudson River. Calvert Vaux, Downing's partner, subsequently designed a memorial urn to Downing and it was erected under the direction of President Fillmore on the Capitol Mall in 1856, where it remained until 1966 when it was removed to make way for construction of a Mall underpass.

A little over a year ago, I received a call from David Schuyler, a resident of Newburgh, N.Y., who was at that time a student of American history at American University. Along with his professor, Dr. Charles McLaughlin, he had discovered the Downing Memorial Urn in a storage facility belonging to the National Capital Parks Service in Brentwood, Md. Mr. Schuyler asked me to have the Smithsonian Institution release the urn and arrange to have it sent to the Hudson River Valley and erected at an appropriate location there rather than leave it in some abandoned storage area.

I approached the Smithsonian and requested the release of the urn. However, my request aroused interest among Smithsonian officials and they decided to rededicate the urn. The renowned sculptor Renato Lucchetti of Arlington, Va., was commissioned to restore the urn and Smithsonian designated a prominent place for it on the Mall.

To me this is a prime example of the good that can come from an involved and interested constituent working with his Congressman for the benefit of his district.

Last Tuesday, the Smithsonian held a simple, but moving ceremony at the east front of the "Castle" to restore the urn to its original setting. Although I would have liked to claim this beautiful classical urn for the Hudson Valley, I am nevertheless pleased to see it take such a prominent place on the Mall.

The dedication plate reads: "He was born, he lived, and he died on the Hudson." All Hudson Valley residents join in my pride of this memorial, I am sure.

WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. STEIGER of Wisconsin. Mr. Speaker, many years may pass before we here in the Congress can effectively judge just what the Nation's employers are doing to assure the congressional intent stated in the Williams-Steiger Occupational Safety and Health Act of 1970 to ". . . assure so far as possible every working man and woman in the Nation safe and healthful working conditions . . ."

Obtaining compliance with this legislation is a formidable task indeed: Almost 60 million employees in about 5 million establishments are covered.

Since it formally came into being on April 28 last year, OSHA has concentrated on recruiting, training and putting to work an effective compliance staff in a decentralized field structure, making inspections to assure standards are being observed.

Since it can never have enough compliance officers to inspect every establishment frequently, OSHA has had to set priorities. First attention is given to investigating catastrophes and fatalities; second, to investigating complaints by employees; third, to activities in target industries with high injury rates and health hazards; and fourth, to inspecting a random cross section of establishments of all sizes and types all across the Nation.

I am sure many of us in this Chamber have received complaints from employers in our States that the compliance officers are too tough. At the same time, we hear from labor unions that the inspectors are too lenient. Obviously, the truth must lie somewhere in between.

It must be remembered that a trigger for passage of the act was the fact that voluntary efforts had not worked, as evidenced by the steadily rising injury frequency rate for the last decade. So any new Federal inspection inevitably would produce protests. OSHA therefore has established a policy of administering the law firmly but fairly. In its first year, OSHA seems to have done an effective job of staying within the guidelines we in the Congress wrote. It is our hope that this will continue. If it lapses, then it is up to the Congress that wrote the act to make any changes that seem necessary.

OIL SHALE LANDS ENVIRONMENTAL ACT OF 1972

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. VANIK. Mr. Speaker, in December of this year, the Department of the Interior is going to begin accepting bids on six sites of land, two each in Colorado, Utah, and Wyoming, for the purpose of leasing the land, 17,000 square miles or, 10,880,000 acres—an area equivalent to that of Massachusetts, New Jersey, and Delaware—for the development of an oil shale industry.

What is oil shale? It is a nonporous rock which contains solid hydrocarbons. When this rock is crushed and heated to over 900° F., the solid hydrocarbons liquify and form an oil with a very low sulfur content, of high quality.

It has been estimated that well over 2 trillion barrels of oil are trapped in the lands of Colorado, Utah, and Wyoming with 80 percent on federally owned lands. The current potential dollar value of this natural resource on our public lands is over $8 trillion.

According to some sources, 1 square mile of land 2,000 feet thick could supply the energy needs of this country for 1 year.

In light of the fantastic national treasure which this land represents, it is imperative that we carefully prepare for the proper management of this vast new resource, for it could supply our energy needs for centuries to come.

But, if we are to rely on this new source of oil—new to us because the British and Chinese have been producing oil in this manner in small quantities for decades—it would be wise for us to develop this energy supply for the public's benefit, economically, and above all else, in an environmentally sound fashion.

The bill which I am introducing today will insure all three of these goals now, before we are committed to a management policy that fails to protect the public interest.

This legislation will insure that all potential environmental hazards will be met and dealt with in a sound manner.

We can not tolerate the unconscienable destruction of the wilderness area of the Rocky Mountains. There are canyons, cliffs, valleys, and rivers of still unspoiled beauty. Also, over 300 species of animals make their homes in these wilderness areas. This land is one of the last great wilderness areas in our Nation.

My bill will minimize the effect of the onslaught of oil development on these lands. It will insure that existing air and water quality acts are enforced to their utmost; that a rigorous reclamation and revegetation process of the spent lands will be undertaken.

This will include a preliminary study of the land to inventory the ecology in each area of development. The outcome of these studies will be a comprehensive plan to restore the spent lands as nearly as possible to their original condition. This means that not only will air pollution from the refining process be controlled, not only will water pollution from the mining procedure and processing be controlled, but also that the reclamation and revegetation of the lands will be strictly controlled.

Upon passage of this bill, the tailings—the shale after the oil has been removed—must be deposited and contoured in such a manner that it resembles the natural terrain. Also, the land must be revegetated with indigenous plant life.

This Nation has the chance to show that it has learned a most instructive lesson in witnessing the near total destruction of land wherever coal strip mining has occurred. In my own State of Ohio, and in 24 other States, entire mountains and hillsides have been leveled and left barren.

If strip mining is permitted in the oil shale lands of the western Rockies, we run into the potentiality of another Appalachia. It is my intent that there be no surface mining of oil shale.

For an example of what has happened in the coal mining regions of Ohio, Prof. Arnold Reitze of the National Law Center at the George Washington University in the June 1971 issue of the Case Western Reserve Law Review, states that 67,920 acres and 1,200 miles of streams have been adversely affected by surface mining of coal. Also, he reports that—

> In Meigs County in southeastern Ohio, the destruction of 3,000 acres ended much of the excellent hunting for bob whites, cottontails, deer, and grouse. The results of most reclamation efforts demonstrates that the industry spends little as legally possible to reclaim ruined land.

Reitze quotes an article in the December 1969 issue of American Heritage:

> But the real shattering of the ecology of a mountain begins after the strip miners have come and gone, and the resulting troubles continue for years at a cost no one studying the problem is as yet able to estimate. Even before the rains hit them, the spoil banks begin to move. Full of churned-up slate and mangled trees, spoil banks are highly unstable affairs and slowly succumb to the pull of gravity with a dry, sliding sound one can actually hear. Then, when the inevitable mountain streams strike, rushing water slides into them like a knife. Landslides will block streams and highways and in the words of a government report, "economics and aesthetic values (are) seriously impaired." But apart from spoil bank damage, even ordinary erosion will cause extraordinary damage in no time. Water races off the mountain loaded with silt, gravel, and the sulphuric acid that drains out of exposed coal or its overlying strata. Shining with mustard-colored coal silt and poisoned by mine acid, thousands of . . . creeks and streams are quite literally "dead"; nothing lives in them; the putrid water is good for nothing, and it stains and poisons just about anything it comes in contact with.

In oil shale lands, we are talking about the tributaries of the Colorado River which is the water supply of Arizona, New Mexico, part of California, Nevada, and Colorado.

As a result of the coming shale development, an influx of people, as workers in the industry and as auxiliary personnel, will flow into the area, perhaps as many as 47,000 people during the first 6 years of development, with many more to come in the future. Therefore, a new town development plan will need to be devised. My bill instructs the Secretary of Housing and Urban Development to construct such a plan.

The strength in my bill lies in the fact that the enforcement and the development of environmental guidelines is placed in the hands of the Administrator of the Environmental Protection Agency. EPA has shown that it can fight environmental offenders, whereas the Department of the Interior has constantly begged for the exploitation of our natural resources for the benefit of big business; in this case, the oil industry.

The bill imposes a 2-percent tax on gross revenue earned from the sale of oil produced from oil shale. The proceeds from this tax will be placed in a trust fund to be administered by the Administrator of the Environmental Protection Agency. The purpose of this fund is to provide a source of capital for the complete reclamation and revegetation of the lands.

Since May of 1965, when the first oil shale hearings were held before the Committee on Interior and Insular Affairs of the Senate, volumes upon volumes of literature on this subject have been published discussing every aspect in the development of the oil shale industry. It is now time to act before our last great natural resource is exploited at the hands of the huge oil companies.

If the Federal Government is going to lease these oil shale lands, we must make certain that the lands return a significant amount of revenue into the National Treasury. A recent General Accounting Office review of Federal land leases in regard to coal mines showed that "the Government has not received equitable royalties for coal produced on Federal lands."

It should be pointed out that as of today, the Department of the Interior is planning to lease the lands at the audaciously low price of 50 cents per acre.

To insure that the land is not given away, I am today introducing a second bill which will amend the Mineral Leasing Act of 1920 by raising the yearly rental fee from 50 cents per acre to $500 per acre as well as put the leasing of the lands under the supervision of the Administrator of the Environmental Protection Agency. This bill will also impose a 25-percent royalty fee on gross sales of all oil produced from oil shale.

To point up further this situation, let me now include some information concerning the oil industry's contribution to the National Treasury, or rather the non-contribution which must be corrected.

In 1970, the total receipts for the American petroleum and related industries amounted to $72,623,310,000. Of this figure—which is nearly equal to our defense budget—$68,757,314,000 is listed as tax deductible.

This leaves $3,398,161,000 as taxable income. During 1970 the oil industry paid $1,724,881,000 in income tax.

This situation depicts an outrageous run on the Federal Treasury.

Not only have the oil companies succeeded in avoiding their fair share of the tax burden, but they have significantly and needlessly damaged our environment.

My proposed legislation, if passed, will be a great step in the direction of correcting these abuses.

In conclusion, Mr. Speaker, I would like to close with a very timely remark made by an astute Republican Senator 110 years ago, the Honorable J. S. Morrill, author of the famous Land Grant Colleges Act:

> From the seeming vastness of our public lands, magnified by all the wastes, mountains, waters, and deserts, it has been thought impossible to overestimate their extent or value; and on the theory that they were inexhaustible, they have always, when sold, been held at an inconsiderable price—scarcely more than the fees for transferring record of title in older countries—and, when given away, the mile-squares have been bestowed with a lavishness only equaled in the days of feudalism.

The bill I am introducing will attempt to end the abuses of the past from continuing to ruin the future of the Nation.

It is my hope that this legislation will receive early hearings to insure that further delay will not lead to further destruction.

LAW DAY

HON. JACK EDWARDS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. EDWARDS of Alabama. Mr. Speaker, the President of the United States has requested that Monday, May 1, be observed as Law Day 1972 in our Nation. I joined in that request.

The lawyers of our country certainly deserve the praise and commendation of this body for their work in the furtherance of justice. But Law Day is not just a day for members of the legal profession. It is a day which Congress established to remind every citizen that the rule of law is a thread which runs through our entire social, economic, and governmental structure.

The law enables men and women to conduct their lives in an ordered, predictable fashion. The law provides for equal opportunity and unbridled potentiality. It allows change, but directs this change through the channels of reason.

We should continue to strengthen and improve our legal institutions, remembering that "injustice anywhere is a threat to justice everywhere." We must continue to push for wider acceptance of the responsibilities of citizenship just as we work to safeguard the corresponding rights. But on Law Day 1972, it is good to pause and reflect on the accomplishments of the greatest legal system in the world.

AAFES OUT OF STEP—AGAIN

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. GUBSER. Mr. Speaker, under leave to extend my remarks, I am inserting in the RECORD today an editorial from a recent issue of Exchange and Commissary News concerning some questionable policies of the Army-Air Force Exchange Service.

I am concerned that these policies deny military families an important convenience in being able to learn from an advertisement whether a product is available in the exchange. In addition, it seems to me that action might constitute restraint of trade and is an interference with free-enterprise business firms, which is certainly beyond the prerogative of the Exchange Service.

I suppose the policies derive from a desire to avoid having the exchanges appear in competition with private retailers. The objective might be commendable, but the reasoning is ridiculous. The Navy and Marine Corps exchanges and all service commissaries get along very well without any such artificial restrictions on suppliers. AAFES has no right to set itself up as judge of business firms in this way; a company has a right to set its own advertising policy. One thing we do not need is additional secrecy in procurement matters. And we do not need unnecessary policies which hide information from military families.

The editorial follows:

EVERYONE OUT OF STEP BUT AAFES? AGAIN!

Once again AAFES is out of step with the policies of NSRO, the Marine Corps Exchange System, and the commissary branches of all Services with its new policy strongly prohibiting any firm from noting in its promotional literature, radio or TV broadcasts, print advertising or any other medium that its products are sold in Army or Air Force exchanges. (For full text of directive see page 3, November *E&C News.*)

Even such an innocuous phrase as "available in your base exchange" to help acquaint customers with a new product, or new line, will put a supplier in the position of being vulnerable to losing his PAB and his sales to AAFES. Without trial or due process, of course.

By contrast neither the Navy exchange system nor the Marines have such a policy. In the case of commissary stores, such phrases are encouraged as officials feel they help advise customers of new items, or specials, and thus help move merchandise as well as provide an information service to the customer.

Under the harsh AAFES rules, the president of a large firm which may be proud of its sales and service to military personnel could not even refer to the fact in a speech or his firm could be barred from doing further business with AAFES.

It is interesting that this prohibition applies to suppliers only. One division of AAFES encourages post and base newspapers to run shopping columns calling attention to what is available in the post or base exchange. Some Army and Air Force exchanges also publish flyers and other promotional materials with the same purpose in mind.

It might be noted here also that AAFES has a strict policy of prohibiting a firm from mentioning it has a Price Agreement Bulletin with AAFES. Neither the Navy nor Marines have any such rule. The commissary systems encourage firms to list their SB numbers to make ordering easier for the ordering clerks.

We recognize that the government has a legal right to protect the names "Post Exchange, Base Exchange, PX" etc. . . and in the past this has resulted in the prevention of civilian retail stores from using those terms which might mislead customers. The legal basis for this has been established.

Interestingly enough the General Services Administration has, for the first time, published the broad names of items it purchases. This is in line with government policy on greater disclosure in the areas of procurement.

Thus a vendor cannot admit he sells to AAFES. AAFES in turn will not reveal the names of firms it buys from nor the dollar amount. And all procurement is then kept in total secrecy. As the Congress recently noted in a related case, this only encourages more collusion, more dishonesty, more corruption. AAFES should know. It has had its share of it.

Once again AAFES stands alone.

TRIBUTE TO SECRETARIES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. ANDERSON of California. Mr. Speaker, in the field of business and industry, in the professions and in government, the successful operation of an office is based on the skills and attitudes of its secretaries.

National Secretaries Week, a period set aside to recognize the essential function of secretaries as the backbone of management, is now being observed.

I am sure my colleagues will agree that they could not function nearly as well without the unselfish and professional assistance which their secretaries provide daily.

I would like to say thank you and congratulations to the secretaries on my staff: Lanelle Talbert, Alice Smith, Edna

May Ong, Margo Shildkret, Sandra Nelson, Anna Ramirez, Ada Castle, Lucille Sanchez, and Pamela Avent. The mature office skills, initiative, judgment, and loyalty which they bring to their work each day are exceeded only by their hard work and spirit of helpfulness and cheer.

HEREDITY NOT CONSIDERED FOR NATIONAL SCIENCE FOUNDATION RESEARCH

HON. JOHN R. RARICK

OF LOUISIANA

Thursday, April 27, 1972

Mr. RARICK. Mr. Speaker, the noted Soviet scientist, Trofim Lysenko, opposed and rejected the theories of heredity accepted by most geneticists. Lysenko's theory, that environment controlled all, was consistent with atheistic Marxian ideology and won him the support of the party. By ordering into practice his theory that environment could change spring wheat into winter wheat, the Supreme Soviet caused millions of Russians to die from famine. And in Russia, it was the rankest heresy for any Party member even to suggest that winter wheat was inherently different from spring wheat. The spring wheat just refused to comply with Lysenko's theory that environment controls all life even though assisted by decree from the Supreme Soviet.

Yet in our country today we continue to pour billions of taxpayers' dollars into educational experiments, the busing of schoolchildren, an equal employment bureaucracy, urban renewal, model cities, and a myriad of progressive social experiments, all based on the fallacious assumption that an improvement or change in environment will mysteriously raise the level of intelligence, create initiative, and control behavior.

The time-proven theories of heredity are labelled as taboo in polite discussions, forbidden in political considerations, and feared as revealing undisputable truths.

This week the House appropriated $673.8 million to the National Science Foundation for fiscal year 1973. Many of the research programs are designed to determine why the many Federal projects based upon the common acceptance of environmentalism as a positive science have failed. No authorization of money was invested to utilize the many statistics and the available experience to get at the root causes of many problems or to seek honest solutions by scientific research to determine the relationship of heredity to educational achievement and intelligence. So long as our politicians and social scientists continue to waste the taxpayers dollars on fighting effects instead of investigating causes, our problems will become complex to where as in Lysenko's time, we too will have a famine—a cultural famine.

If the genetic traits of nature in a minute grain of spring wheat cannot be altered by environment, can we much longer afford to ignore the genetic peculiarities of man?

This same body which authorized $673.8 million for scientific research, including such items as the Watts riot in 1960, and demographic research on the Chinese population, refused to support my offered amendment for research in genetics.

I include the text of my amendment to the National Science Foundation appropriations along with supporting remarks, and a biographical sketch on Lysenko:

AMENDMENT OFFERED BY MR. RARICK

Mr. RARICK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RARICK: Page 2, line 15, insert a new subsection:

"(a) not less than the amount stipulated for the purpose of 'Scientific Research Project Support' in category (1) of section 1 shall be available for that purpose, and of such amount not more than $10,000,000 shall be available for research to determine the relationship of heredity (genetics), to educational achievement and intelligence and the application of such findings to the improvement of educational practices."

The remaining subsections of section 2 shall be renumbered subsections (b), (c), and (d) accordingly.

(Mr. RARICK asked and was given permission to revise and extend his remarks.)

Mr. RARICK. Mr. Chairman, with billions of taxpayers' dollars being invested in busing of schoolchildren, the development of an equal employment bureaucracy, urban renewal, model cities, and a myriad of social experiments all based on what experience is proving to be the fallacious assumption that an improvement or change in environment will somehow mysteriously raise the level of intelligence and initiative, there is an imperative need for research to inquire into and determine the relation of heredity to educational achievement and intelligence for the improvement of educational practices and to develop solutions to educational problems based on facts and scientifically derived truths.

For example, last month a reassessment was made of the 1966 Coleman report which had been compiled at Johns Hopkins University. Daniel Moynihan, a social scientist and former aide to President Nixon, participated in the new analysis and reportedly had this to say: "It still came out about the same way" confirming Coleman's principal finding that nonschool factors, particularly family background, are much more important in determining educational achievement than anything connected to the school—and this included equipment, class size, or teacher preparation.

The theory of social justice that holds intelligence can be suppressed because of social injustices is not sufficiently tested as a scientific basis on which to develop research and the future course of our country. The commonly advanced notion that social injustices have been the primary cause of poverty and inequality, without any consideration of genetic differences in human capacity, is unfair and unjust to all concerned. To attempt to solve our problems without using available evidence of statistics gained by experience is irresponsibility.

If every social injustice on earth were removed tomorrow, there would still be many people who would remain relatively poor and there would still be widespread differences in intelligence, initiative, and status. Since conflicting views exist in the academic community regarding the relative importance of genetics and environment in the level of educational achievement and intelligence, I feel that scientific studies of the genetic aspects of our Nation's human potential and human quality problems would be meaningful and should be undertaken in the interest of objectivity.

The roles of both heredity and environment in determining the level of academic achievement and intelligence have been prejudged by society because of emotional bias and without sufficient scientific evidence.

My amendment merely points out the existence of a crying need to seek facts upon which to base honest solutions and calls for research to determine the relation of heredity to educational achievement and intelligence and the application of the findings toward improving educational practices.

The search for truth regardless of where it may lead should be the basis for all scientific studies. This basic study is imperative if we are to find the answers to our problems.

I urge adoption of my amendment.

[From the McGraw-Hill "Encyclopedia of Russia and the Soviet Union"]

BIOGRAPHICAL SKETCH OF TROFIM DENISOVICH LYSENKO

Lysenko, Trofim Denisovich (1898–), biologist and agriculturist. Fellow Ac. of S., Ukrainian SSR (1934), All-Union Ac. of Agricultural S. (1935); fellow and member of the executive board, Ac. of S., USSR (1939). Hero of Socialist Labor (1945). Since 1937, member of the Supreme Soviet and vice chairman of the Council of the Union. Graduate of the Poltava School of Horticulture (1917) and the Institute of Agriculture (1925) in Kiev. Associated with the Kirovabad Experimental Selective Center (1925–29); head of the All-Union Institute of Genetics in Novorossiysk and of the Institute of Genetics, Ac. of S. (1940), President of the All-Union Academy of Agricultural Sciences (1938). A discipline of V. I. Michurin, L became known for his vernalization process of seeds of spring wheat which, he claimed, endowed it with characteristics of winter wheat. L's doctrine that characteristics acquired through environmental influences are inherited has become a highly controversial subject. He opposed and rejected the theories of heredity accepted by most geneticists ("Weismanism-Mendelism-Morganism"). Being in line with the Marxian ideology, he won the support of the party. The teaching of biology in the USSR was adjusted to L's theories. The peak of L's power was reached in 1948, when a great conclave was summoned at the Lenin Academy of Agricultural Sciences on July 31 to "consider the situation in the biological sciences." Stalin gave his personal support to L and, at the time, any scientist who was opposed to L's doctrine became subject to reprisals. His most renowned opponent, Nikolay I. Vavilov, the leading geneticist in the Soviet Union, died in a Siberian concentration camp during World War II. Presently, L has moved to the background and other theories are officially accepted. Author of *Heredity and Its Variability* (1943; English 1946); *The Science of Biology Today* (English, 1949); *Problems of Genetics, Selection, and Seed Processing* (6th ed., 1952); *Stage Development of Plants* (1952). Stalin prizes (1941, 1943, 1949), six Orders of Lenin, Order of the Red Banner of Labor, and others. (*See also* GENETICS.)

MOORHEAD SPEAKS AT 92D BIRTHDAY OF SHAARE TORAH CONGREGATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. MOORHEAD. Mr. Speaker, Shaare Torah Synagogue in Pittsburgh is the city's oldest Orthodox Jewish congregation. Recently it celebrated its 92d birthday. I was honored by being asked to give the evening's main address.

I include my remarks in the RECORD at this time and thank Rabbi Bernard Poupko of Shaare Torah for his invitation:

REMARKS OF CONGRESSMAN WILLIAM S. MOORHEAD

Rabbi Poupko, ladies and gentlemen, friends and neighbors. It is indeed a pleasure for me to be here with you to help celebrate the Shaare Torah's 92d birthday.

As the oldest orthodox congregation in the city of Pittsburgh, you should be proud of the contributions made to Jewish culture of our city by your synagogue groups and your members and the congregation as a whole.

I know that you realize how fortunate you are to have the brilliant Dr. Poupko as your spiritual leader. He has been a wise counsel to me on the dilemma of Soviet Jews wishing to emigrate to Israel, and he has made the same contribution to national orthodox Jewry.

I know my friends in the State Department are aware of Dr. Poupko's activities.

I met with one of the officials who works on the Soviet Desk at the State Department the other day and he was telling me about a contest the Russian Embassy was running for its residents. The contest asked them to guess how many times Mrs. Nixon would say "pandemonium is going to break out" after she welcomed the bears to the National Zoo. First prize was a week's vacation in Moscow. Second prize turned out to be two weeks vacation in Moscow.

Speaking of vacations, two friends of mine went on a hunting vacation together in Canada.

Arriving at the main hunting lodge they found no vacancies. However, since they traveled so far they decided they would go hunting anyway.

That evening, coming out of the dense woods, they knocked at the door there. Although she was a widow and alone, she agreed.

About six months later, the one friend received a letter from a lawyer in Canada.

He immediately called his hunting buddy and mentioned the letter and said that he was a bit confused.

"By any chance, did you have an affair with that woman?" asked the guy who had received the letter.

"Yes, I did, Bernie, but I meant to explain that to you," the other said.

"And did you give her my name?" Bernie went on.

"Well, I meant to explain that, too," the friend offered guiltily.

"Don't bother," said Bernie, "the woman died and willed me her farm."

Last October, I had the honor and pleasure of addressing the Rally for Soviet Jewry at the YMHA in Oakland.

I was heartened at the time by the outpouring of concern by Jews in the United States for the plight of Jews living in the Soviet Union.

I urged all present to continue their peaceful activities protesting the actions of the Soviet government.

I said, with hope your activities would assist the emigration of as many as 10,000 Jews to Israel. I was wrong, thank god. By the end of 1971, more than 13,000 Jews left Russia to settle in Israel. It is these kinds of statistics on which one likes to err.

I encouraged many of you last fall to maintain your actions and to keep applying the pressure to local and national elected officials and to the Soviet government. Your efforts have continued and because of this, I think we can expect a record number of emigres' to leave Russia and settle in Israel this year. You earn a well-deserved pat on the back.

After a slight slump in departures around the first part of this year, more than 3,000 left in March, one of the highest monthly totals yet, bringing to slightly more than 8,000 the number of Jews leaving Russia in 1972. If this keeps up through the end of the year Israel's population will be swelled by some 30 thousand plus.

Good news in deed. But there is better news.

For a very long time, many of us in the House of Representatives have sought practical means by which our government can assist in alleviating the plight of Soviet Jews caught unwillingly behind the Iron Curtain.

As your elected leaders in Congress, what have we done about the difficulties? Some of us have gone to the Soviet Union, as I did last summer, to try to find out first hand what is it in the Russian psyche that generates such hostility and fear. Some Congressmen travel to Israel and look at the problem from another angle. I have also been in Israel.

Or some of us introduce legislation to lobby our own government, in this case the President and the State Department, to make a firm gesture on behalf of Soviet Jewry, to let the world know where the greatest nation in the world stands in this intellectual and cultural program, that the Russian government is perpetrating.

It has long been my belief that the problems suffered by Jews in the Soviet Union and elsewhere are not difficulties that should be faced by them alone. These are fundamental questions of human rights and human dignity that should concern all men everywhere. They are matters between all governments not simply the burden of a single people or ethnic group.

This is why I have pledged my efforts and office to any measure or action which offers your people relief from the Russian bear.

There are those who say that Jews and Gentiles in the United States should not get involved in the internal affairs of the Soviet Union.

Unfortunately, this too often is the attitude adopted by our State Department and the Arabists in government who fear that any positive action vis-a-vis Israel or Soviet Jews will anger the Middle East sheiks from whom we get oil.

I am not sure if the President is being influenced by these people or not. He has taken action which can be interpreted as both pro and anti-Israel.

But if I am in a quandary about what the President's motives are, I have no doubts about where the sentiments of Congress exist.

In this year alone, more than 48 different bills and resolutions supporting the cause of Soviet Jewry and Israel have been introduced into the House. I have introduced three of these bills in addition to sending two letters to President Nixon on the issue. Many identical actions have taken place in the Senate. And these activities are beginning to bear fruit.

On Monday, April 17 the following resolution was read to the House of Representatives:

Whereas in the Soviet Union men and women are denied freedoms recognized as basic by all civilized countries of the world, indeed by the Soviet Constitution; and

Whereas the Jews and other religious minorities of the Soviet Union are being denied the means to sustain their identity inside that country and the opportunity to maintain that identity by moving elsewhere; and

Whereas the right freely to emigrate, which is denied Soviet Jews, is a right affirmed by the United Nations Declaration of Human Rights, adopted unanimously by the General Assembly of the United Nations: Now, therefore be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President of the United States of America shall take immediate and determined steps to—

(1) call upon the Soviet Government to permit the free expression of ideas and the exercise of religion by all its citizens in accordance with the Soviet Constitution; and

(2) utilize formal and informal contacts with Soviet officials in an effort to secure an end to discrimination against religious minorities; and

(3) request of the Soviet Government that it permit its citizens the right to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights; and

(4) raise in the General Assembly of the United Nations the issue of the Soviet Union's transgression of the Declaration of Human Rights, particularly against Soviet Jews and other minorities.

The House passed this ringing declaration by a vote of 360 to 2, with one voting present.

On the same day in the Senate, the Senate Foreign Relations Committee reported favorably an authorization bill, calling for some $85 million dollars in assistance to Israel to help in settling Soviet Jews. The House committee working on the same issue is considering voting out the identical provision. I might add that the Nixon Administration has, and is, opposed to this expenditure for refugee settlement.

This is the kind of positive assistance you should demand, and have every reason to expect, from your government.

I don't buy that State Department malarky about angering the Arabs or upsetting the delicate detente we have constructed with the Soviets.

There is a multitude of reasons, about 20,000 immigrants, to date, that prove what we have been doing is the right thing. And those who protest that our voice is but a cry in the wilderness, that it will do no good, that it will be ignored by the Soviet government or worse that it will spur the Russians to more anti-Jewish actions, are wrong. They are the spineless voices of the status quo, people who cannot understand the meaning of the cry "Next year in Jerusalem."

I will never listen to them and I know that you will not.

When I visited the Soviet Union for several weeks last summer, I came away with several very stark impressions.

"The overriding sensation that one gets in Russia is of a heaviness. It is a backward slow-moving country struggling to modernize.

"Homes are built with production in mind rather than the people who will live in them.

"Life is drab and colorless and made unbearable at times by the continual pressure of filling out forms, waiting in lines, meeting quotas and the general regimentation of the country."

However, I was impressed with some of the physical characteristics of the Soviet Union.

Moscow has an enviable urban transit system, which Soviet workers can take almost anywhere in the city for only five kopeks.

American planners would turn green with envy and rejoice in the low level of air pollution in Soviet cities which is a result, naturally, of the far fewer automobiles.

The New York or Pittsburgh slum-dweller would welcome the low income Muscovite's apartment, with its clean surroundings, free from drug addiction and street crimes. The average Soviet citizen can secure this very functional shelter for a mere 4% of his monthly income.

The officials of our National Arts and Humanities Foundation, I'm sure would envy the ease with which their counterparts in the Soviet Union can devote untold treasures to the rehabilitation of historic locations, to cultural museums, and can receive unlimited subsidies for the ballet, the theater, and even the circus.

Poverty exists in the Soviet Union. But I observed none of the abject, debilitating urban poverty which afflicts a portion of American society.

There are things in the Soviet Union from which we could profit. But this selfish interest can never overshadow the realization that the Soviet people enjoy these items at the expense of something far more dear—their individual freedom.

My discussions with Soviets about treatment of Jews were met with either hostile or blank retorts.

They deny that they are singling out Soviet Jews for any special treatment. The unfortunate thing is that anti-semitism is so rooted in the Soviet culture that few Russians realize just how they are abusing Jews.

I'm sure few Russians would describe as anti-semitic, a novel being widely disseminated, while I was in the Soviet Union.

Yet the work, which had an original printing of 200,000 copies, though containing some malicious cartoons of a number of non-Jewish Soviet liberal intellectuals is blatantly antisemitic. Even the non-Jewish villains and weaklings are charged with glorifying "Einsteins and Eisensteins" while denigrating Russia's cultural achievements. Of the novel's two central Jewish villains, one, named Dubavin (who shamefully conceals his Jewish first name and patronymic) is not only a repulsive corrupter of innocent Russian maidens, but, as I learned later in the novel, also a foreign spy. In his spying activities, his alias is "Henry Schwartz"; his accomplices and friends also have Jewish names. The other Jewish villain, Naum Goltser, is sinister to the point of grotesqueness. He is linked to a foreign journalist named Jack Sidney Davie, who is expelled from the USSR for smuggling "narcotics and Zionism," in the novel, Goltser is a lecher who forces a Russian girl into unnatural sex acts. He is also a purveyor of narcotics, although he himself would not touch the stuff. To top it off, Goltser commits two murders, both related in gruesome detail; one of the victims is his girl friend, a narcotics addict, and the other his own mother.

The Soviet policy which permits or encourages the publication of such works is not only anti-semitic it is essentially anti-individual, anti-religion and anti any non-Russian culture which cannot be collectively controlled.

The message which I tried to impart to the Russians while I was visiting their country and which should be the long-range objective of all is this.

The Soviet Union must realize it is an established power which does not face any real external threat, need not fear competitive ideas, need not fear those who criticize Soviet society, or those who seek to kindle their religious and cultural heritage.

I don't know if my proselytizing did any good.

For, on my trip to Russia, I found the average Soviet citizen a decent enough fellow. However, in Soviet officials, by and large, I encountered only rudeness, incompetency, and brazenness.

I am not a violent man. I try not to be an angry man. My tools are reason and conciliation. Yet I was so angered by a verbal assault on our country by one Comrade Arbutov, head of the Soviet U.S.A. think-tank, I purposely baited him and then wideeyed, and bushy-tailed, asked him to describe the Soviet adventures in Hungary and Czechoslovakia. He flushed red (no pun intended) and our discussion ended quickly.

While traveling in Russia, I had my passport and my schedule, checked, re-checked, and examined again by so many different officials—all acting quite normally—that I developed an instant aversion to any bureaucrat.

The only way I can describe it is to ask you to conjure what it would be like to have to apply for your driver's license, take your operator's test, file your income tax, your will, and seek a divorce all within a day's time—and then repeat the process every few days or so. This kind of clerking and filing goes on with every significant action of the individual in the Soviet Union whether it's changing jobs, traveling to the country, purchasing food and home goods or whatever.

I cannot describe the feeling my family and I felt once we crossed the Soviet borders and arrived, finally in England. The proverbial weight leaped from our shoulders and we could once again relax and answer to nobody but ourselves and God.

While in the Soviet Union, and in Europe, I grew to realize the importance of our Radio Free Europe and the Voice of America-type broadcasts.

Our news broadcasts beamed into Russia, they really have a salutary effect on those people behind the Iron Curtain who wish to know what really is happening in the world. This applies doubly to those Soviet Jews who feel the Russian Bear stepping on their neck more than most.

Several months ago, I joined with some of my colleagues, in a resolution urging inclusion of Yiddish-language broadcasts over the Voice of America. The evidence was clear to me that a substantial portion of Soviet Jews speak Yiddish as their second, or even first language. Yiddish broadcasts, if only a few minutes a day, would indicate in a concrete way our compassion and warm feelings towards the Soviet Jews.

It was a very modest request.

Although it is hard to believe, the Director of the U.S. Information Agency, Mr. Frank Shakespeare, and several high-level Nixon Administration officials refused to comply.

They summoned a variety of largely irrelevant and misleading arguments to defend their position.

At briefings, they stated and implied that Yiddish broadcasts, no matter how innocuous in content, were inconsistent with our Government's policy of not disturbing the Kremlin.

Is this the moral fiber which characterizes American history? Is this the broad dissemination of differing points of view so piously claimed by the Voice of America? I think not.

It is here where I admit confusion over the Nixon doctrine toward Soviet Jews and their desire to go to Israel.

The Administration opposes Yiddish language broadcasts. It opposes $85 million for resettling Soviet Jews in Israel.

Yet, newspaper reports to the contrary, I have been informed that Golda Meir was quite satisfied with her meetings with the President and with the military package we pledged to Israel.

Apparently Nixon took a resolute stand regarding Israel's integrity and its problems with its Arab neighbors.

I think Nixon the pragmatist realizes that maintaining a bastion of democracy amid so many unfriendly nations, no matter what the costs, is a wise move especially in light of our dependence on Middle Eastern oil, the strategic importance of the Mediterranean and, possibly, the Suez Canal—if it is ever reopened. For these reasons and others the United States must guarantee that Israel remains strong. I can remember my friend Felix Putterman of the Jewish War Vets saying to me three years ago, "Nixon will be good on Israel but he'll stink on everything else." Grudgingly, I'll agree, Felix . . .

As pleased as we all are at the fact that Golda Meir was pleased, there is something which we all should be quite concerned about. It is something which I have already written to the President about and a matter, I suspect, you will want to alert your friends in Washington to.

Without commenting on the veracity of the Washington rumor mill, I was informed by a good source that Mr. Nixon's agenda, when he talks with Soviet leaders, does not, I repeat does not, include the subject of the Soviet treatment of its Jewish citizens.

I know you are asking yourselves, how does Bill Moorhead know this? And I tell you that I don't know, for sure, but before coming to Pittsburgh, one of the more reputable Jewish lobbyists in Washington called and told me this. I think enough of him to act solely on the possibility that because of the SALT talks, because of adventures in Southeast Asia and because of our reapproachment with the Chinese, President Nixon doesn't want to sour the borscht with talk about a few million Jews who are suffering under Soviet oppression.

I hope this is not an example of the "benign neglect" the Nixon Administration seemingly has reserved for another of America's minority groups.

I contend that good will between nations is desirable and should be a paramount consideration of the President. However, this goodwill should not be bought at the expense of 3 million Soviet Jews.

The modern day Pharoahs of the Soviet Union have shown that they are vulnerable to the harsh light of public opinion and the demand, "let my pepole go."

Demands for freedom and displays of affection for Israel, like the ones some Soviet citizens have engaged in recently, would have been crushed in the past with the full power of the omnipotent Soviet secret police apparatus. Leaders of such demonstrations would have been dumped unceremoniously into prison, labor camps, and insane asylums. Instead, the Soviet government has adopted a more flexible response. It is this chink in the Soviet armor on which we must concentrate our efforts.

We must work on this vulnerability and continue to implore the President, the State Department and all else who make direct inputs into our relations with the Russians that our Nation will not stand by and wring its hands while the Jews of the Soviet Union are abused.

I pledge all the influence my office and position can summon to this end.

PAYROLL MISTAKES AT ENVIRONMENTAL PROTECTION AGENCY

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. TIERNAN. Mr. Speaker, yesterday I noted in the RECORD some payroll difficulties experienced by Environmental Protection Agency employees who have been transferred from other Federal agencies to EPA. The list of errors and mistakes are compounded with each passing payday. To enumerate, here are some of the complaints I have received from employees of the Northeastern Water Supply Laboratory, Narragansett, R.I.:

First, some paychecks not received; second, State tax not withheld; third, withholding tax; fourth, health and insurance benefits; fifth, union dues not withheld; sixth, pay raise not included; seventh, charitable deductions not withheld; eighth, incorrect LWOP status;

ninth, incorrect social security number; 10th, incorrect spelling of names; 11th, short hours of pay: 32 hours, 20 hours, 16 hours; and 12th, incorrect amounts in pay checks.

It is somewhat understandable even in this day and age of the computer that one of these discrepancies might occur on occasion. But does it have to happen every payday? Must it be routine? Is there no end in sight?

My office has called the Payroll Accounts Office a number of times in the past 4 months and no one answers the phone. On the few occasions that someone did respond to the ring of Alexander Graham Bell and a message was left, there was no return call made.

I have finally decided that the only way I might be able to help straighten out this typical bureaucratic blooper is to shed a little congressional light on the matter. Thus, I intend to speak out every day the House is in session until this dipsy doodle affair is resolved to the satisfaction and peace of mind of every employee at the Northeast Lab. If EPA cannot fix a little bookkeeping problem, how will it ever save us from environmental extinction?

This morning I received a copy of a letter to EPA from one of my beleaguered constituents who has somehow managed to retain his excellent sense of humor throughout this whole sorry mess. I take liberty at this point in the RECORD to include the letter, written by Donald L. Winslow of the Northeastern Water Supply Laboratory, Narragansett, R.I. Mr. Winslow, like Will Rogers, tells it like it really is:

NORTHEASTERN WATER SUPPLY LABORATORY,
Narragansett, R.I., April 25, 1972.

STAFF ENVIRONMENTAL PROTECTION AGENCY
PAYROLL ACCOUNTS OFFICE,
Waterside Mall, Washington, D.C.

LADIES AND GENTLEMEN: Congratulations! You have won a major victory and certainly one which could not have been accomplished without the cooperation of "All Hands". Commencing with the errors in my pay of 12-25-71 I decided to raise my flag, hoist my standards, and fight the battle of corrections. Thinking that errors could and should be corrected I contacted Senator Pell. Some of my fellow workers contacted their senators, congressmen and the National Association of Government Employees. Surely the combined efforts of these gentlemen could correct the situation. However, I am sadly forced to admit that you rose to the occasion and defeated them in small skirmishes by sending out dispatches assuring all interested parties that all was in order and being corrected. Excellent maneuver! Even I was lulled into false security.

Then you regrouped and penetrated my lines by over-paying me, under-paying me, (two occasions), with-holding money for government quarters, misspelling my name on my savings bonds, shorting me 240 hours annual leave, shorting me 161 hours sick leave, all this left me bloody but unbowed until you delivered the coup-de-grace of not paying me at all. Surrender is in order, my sword is on its way C.O.D.

This leaves no alternative but to draw my pay out of my meager savings account (losing interest) and trying to carry on. Ah, the sad lot of a loser. In the future whatever you care to send will be appreciated, no matter how small. But please, no more "nothing checks".

Now I shall take up another battle. Small skirmishes are in order with my mechanic (minor repairs to my Volkswagon), my dentist (major repairs to my third molar and a small spot on a canine), and the Dean of Housing at the University of Nebraska, where my son presently in residence is in danger of being evicted. As the weather has turned somewhat warmer fuel oil will be no problem. I do have a small reserve so the basic needs, food, clothing and shelter shall continue to be met. However, these are the problems of the defeated and of no concern to you. Will endeavour to keep you posted on my activities as I know they must be of interest to you.

Once more, let me congratulate you. You fought a good fight!

Sincerely,

DONALD L. WINSLOW.

THE SICKNESS OF THE SWEDISH PARTY IN POWER

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. RARICK. Mr. Speaker, observers have long felt that Prime Minister Palme and his ultrasocialist regime presently in power were more interested in violence for profit than for peace.

Now, Mr. Palme's foreign aid official, Klackenberg, is quoted in a Stockholm news interview as strongly supporting the Democratic Republic of North Vietnam and Castro's Cuba.

In the 1971-72 fiscal year, Swedish aid to Hanoi is scheduled to be over $16 million or exceeding one-tenth of Sweden's entire foreign aid program. Castro's Cuba is scheduled to receive $3 million and the Swedish International Development Authority has allocated $1.7 million to buy guns and military equipment for African guerrilla movements to slaughter whites in Mozambique, Angola, Rhodesia, and Southwest Africa.

And while Sweden aids the enemy fighting us in Vietnam, the United States in fiscal years 1946-71 provided Sweden with foreign assistance totaling $135,300,000.

The civilized world which has accepted the Swedes as pacifists and unwarlike should be shocked at the Swedish Government's "progressive" contributions to subsidize revolution and escalate world tensions. The average Swedish taxpayer would probably complain except that he is being told that his money is being used abroad in the interests of progress, humanity, and world peace.

Can it be that Mr. Palme's party has aspirations to receive the Nobel "peace" prize?

A related newsclipping follows:

[From the London Observer, Apr. 27, 1972]

POLITICS SHAPES SWEDISH AID POLICY

(By Roland Huntford)

STOCKHOLM.—Swedish aid to the underdeveloped countries has for some time suggested political as well as purely charitable aims. Confirmation appeared recently in a newspaper interview here with the Foreign Ministry official in charge of Swedish technical aid, Lennart Klackenberg.

Klackenberg referred to a principal official aim of Swedish technical assistance as contributing "to social and economic leveling." This is also one of the goals of Sweden's Social Democratic government at home.

"Our future efforts," said Klackenberg, "ought therefore in the first place to be concentrated on those countries which seek to effect structural changes with social justice in view." This promotion of democracy is an explicit aim of Swedish technical assistance.

"To me," said Klackenberg, "democracy means that people shall have the possibility of influencing the development of the society in which they live . . . In my view, the Democratic Republic of Vietnam (North Vietnam) and Cuba have come further in this field than many other countries."

It may seem odd that the official representative of a Western country should defend Communist regimes for their advancement of democracy, but it is perfectly consistent with the new direction of Swedish aid, which is to favor countries defined as "progressive." Cuba and North Vietnam are considered in the forefront of such states.

In the 1971-72 fiscal year, Swedish aid to Hanoi is scheduled to be more than $16 million of the total Swedish technical assistance of $116 million. After India, with $21.4 million, North Vietnam received the largest slice. Cuba received $3 million, more than Zambia, Botswana, Lesotho and Swaziland.

The population of Sweden is about 7.5 million, and foreign aid amounts to 0.56 per cent of the gross national product. The American foreign aid percentage is 0.4.

Swedish aid to North Vietnam is for reconstruction, although it could be interpreted as an indirect contribution for Hanoi's war effort, releasing funds for other purposes, since it has been allotted while the war is in progress.

The Swedish International Development Authority also supports African liberation movements. For 1971-72, $1.7 million has been allotted in aid to nationalist groups in the Portugese African possessions, in Rhodesia and Namibia (Southwest Africa).

This aid is given for "humanitarian purposes", notably medical services and education in the territory under rebel control, since Swedish neutrality precludes military help. But it is the total that counts, so that money granted for civilian purposes has the effect, as in North Vietnam, of releasing funds for military operation.

Sweden exercises a selectivity in channelling this kind of aid: Thus, one movement in Mozambique and one in Angola get aid, while their rivals are neglected. In Rhodesia, two organizations have been supported, with a total of $33,000 being divided between them.

The Swedish position is that their kind of neutrality is not inconsistent with taking a stand on questions of the day, provided that Sweden is not involved in the hostilities.

However, trade follows aid. The Swedes obviously calculate that helping liberation movements will gain favor in black Africa and help exports.

In the case of Cuba, technical aid, relatively modest in extent, has been given in the areas of birth control, education and public health. It may be a coincidence, but certain Swedish firms, notably in medicine and agricultural machinery, have gained Cuban orders since aid was granted.

NOBODY'S WAR BUT HANOI'S

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. BAKER. Mr. Speaker, since President Nixon has responded to the North Vietnamese invasion of South Vietnam in the most realistic way he could, there has been a great deal of rhetoric about the U.S. role in the war and what the President is doing to escalate the conflict. Conveniently forgetting all of the sins of past administrations, some of the members of the liberal press and the candidates and would-be candidates they espouse are now calling this Mr. Nixon's war.

In this regard, it is interesting to note a column by John P. Roche which appeared in this morning's edition of the Washington Post. Mr. Roche cannot be considered as a spokesman for the Nixon administration so I feel his contention that this is "Nobody's War but Hanoi's," carries some substance upon which these erstwhile fingerpointers who are anxious to shift blame when it serves their own purposes should reflect.

The April 27 column by Mr. Roche, "Nobody's War But Hanoi's," as it appeared in the Washington Post, follows:

NOBODY'S WAR BUT HANOI'S

(By John P. Roche)

When the North Vietnamese launched a conventional invasion of the South, complete with Soviet-made T-54 tanks and other heavy equipment, you might have thought that the question of who was doing what to whom would be conclusively settled. This was straight, naked aggression. Not even the most dedicated opponent of the war could argue that amphibious tanks were being constructed in peasant huts by the Viet-cong.

Yet in subsequent weeks we have heard some of the strangest explanations of what allegedly occurred: some commentators have virtually suggested that President Nixon personally sponsored the invasion. When the bombers went north, the howl went up that we had escalated the war, and Sen. J. W. Fulbright suggested that we had provoked Hanoi by breaking off the Paris talks. Fulbright's logic was bizarre—in effect, he said that since we had refused to give the North Vietnamese what they want, they had no recourse except to go for military victory. The submerged premise of this extraordinary syllogism is, of course, that they are right and we are wrong.

Similarly, a letter to The New York Times from eight members of the House of Representatives contained this remarkable paragraph: "The President of the United States has called off the regular (Paris) meetings ... And only this week the United States launched a massive air attack on both South and North Vietnam. In short, there are no signs of any moral leadership on the part of the administration to end the killings and the destruction of countries now." (4-16-72)

The Congressman did not even mention the North Vietnamese invasion!

The harsh fact is that in terms of the arrangements made in 1968 as a precondition for a full bombing halt, the President was completely justified in taking the air war to the north. There has been a great deal of fudging about whether or not the Hanoi regime accepted any "understandings" and some people seem to have had odd memory lapses. What occurred in 1968 was that we insisted as a precondition for a total bombing halt that Hanoi agree (1) to respect the inviolability of the DMZ; (2) to cease shelling the cities of South Vietnam; and (3) to permit American aerial reconnaissance of the North.

It is true that Hanoi's representatives never signed on the dotted line; there is no formal piece of paper. But the President of the United States was assured by the Soviets that Hanoi would go along with these terms. Without that assurance Lyndon Johnson told me he would never have agreed to a total halt: "It would be strictly a one-way proposition."

This is not just a matter of recollection. At the time, Secretary of Defense Clark Clifford went on CBS-TV, "Face the Nation," and said in response to a question about the quid pro quo we had extracted from Hanoi, "The situation is that we had certain understandings reached with the North Vietnamese in Paris. They involved the DMZ and the shelling of the cities and the question of reconnaissance. There is the area of agreement." (12-15-68).

What Hanoi has done in the last few years is lay the groundwork for a heavy invasion through the DMZ. Four roads were built and supplies were stockpiled immune to air attack. And then they came in. They have been rocketing Saigon and other cities. In sum, they broke the agreement and, to repeat, Mr. Nixon is correct: all bets are off.

"Johnson's War," in other words, *has not* become "Nixon's War." The war is now and always has been "Hanoi's War."

THE STATUE OF LIBERTY AND EVERGLADES NATIONAL PARK

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. CARTER. Mr. Speaker, there was placed in the CONGRESSIONAL RECORD by Senator COOPER of Kentucky, fine verses descriptive of major national parks, written by a former Member of this Chamber, Maurice H. Thatcher of Kentucky. His verses in so-called sonnet form, are most apt and descriptive.

The principal national parks thus described in their essential features, are all familiar to Mr. Thatcher who has personally visited each of them, including, of course, Mammoth Cave National Park in Kentucky, for which in Congress he sponsored legislation for its creation.

Recently he has written similar verse descriptions of the Statue of Liberty—a national park unit, and the Everglades National Park, a vast area in the State of Florida.

Mr. Thatcher, who, by the way, will become 102 years of age on next August 15, is the only surviving ex-Member of Congress who has passed the centenary milepost.

Recently, Mr. Thatcher has received honorary awards from various organizations which have been noted in these pages. His latest such honor, as shown in the Green River Republican, of Morgantown, Ky. and Butler County—his youthful home, carried a notice in its issue of April 6, 1972 of the Kentucky Society of the Sons of the American Revolution silver medal award for good citizenship to Mr. Thatcher.

I insert as part of these remarks the two sonnets just mentioned, and the Green River Republican story.

The material follows:

STATUE OF LIBERTY

(New York Harbor)

(By Maurice H. Thatcher)

In awe I stand—gift of a Sister Nation—
  To this land of hope and opportunity.
I bear a giant torch in approbation
  Of what the people are; I symbolize the free.
Aliens from other portions of the Planet,
  Troop hither, under law, from anear and far.
The urge involved—there's naught to ease or ban it!
  The migrants find the inward-swinging gates ajar.
They seek the solace of these pleasant regions,
  And wish to share each and every blessing
With the native born. They are the ardent legions;
  And soon all worths they find and are possessing.
The dregs are barred—not those of science, art;
The productive poor, and the pure in heart!

April 12, 1972.

EVERGLADES NATIONAL PARK

(By Maurice H. Thatcher)

How great are works of Nature! There is nought
  That's made, she did not make—all for Man to see
And use—as much as well he can. Inwrought
  Is human life; and after, what may be
Man cannot know—it is beyond his ken.
  How broad is Nature's aim-and-scope! Her Cause
And course confound. How will death strike, and when?
  All live, precariously, by Nature's laws.
In marshy stretches of the Everglades,
  Nature creates all that she wants or wills;
Waste-bourne of freaks, which the quester oft invades;
  Where monsters are; and wading birds; and odds and ills!
In this sub-tropic world there's set apart
A sea-bound realm for science and for art.

April 23, 1972.

THATCHER AWARDED CITIZENSHIP MEDAL

The Kentucky Society, Sons of the American Revolution, awarded its silver Good Citizenship medal Saturday to former Congressman Maurice Thatcher, who will be 102 in August. He is a former Butler Countian.

Thatcher, the only living member of the original Isthmian Canal Commission, now lives in Washington. The new $20 million bridge over the Panama Canal is named in his honor.

He served five terms as congressman from the Louisville district and also was Civil Governor of the Panama canal zone from 1910 until 1913.

THE RAMPS ARE UP!

HON. NICK GALIFIANAKIS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. GALIFIANAKIS. Mr. Speaker, the snow is beginning to melt on the northern slopes of the Balsam and Smoky Mountains in western North Carolina, and that can only mean one thing—the ramps are up!

Now for the uninitiated among you, the ramp is a distinctive member of the lilly family, a viciously pungent wild onion that grows in the moist woodland areas in the Eastern United States. To be truly appreciated it must be peeled and eaten raw, or mixed with ham and eggs, and so all can share this glorious and odiferous occasion, North Carolina goes on an annual spring ramp-age.

This year April 30 has been proclaimed Ramp Sunday by King of the Ramps, Secretary of State Thad Eure, and the North Carolina Society of Friends of the Ramp, Inc., are busy preparing for the annual ramp festival that day, complete with mountain music, dancers, State Senator Zeb Alley as master of ceremonies, and 25 bushels of ramps.

American Legion Post No. 47 is sponsoring this event in Waynesville, N.C., and several thousand otherwise sane people will gather, the scent of challenge in the air, to gorge themselves on the woodland wildflower and to generally just run ramp-ant. Many perhaps relish the prospect of upsetting the champion ramp eater, Commissioner of Agriculture James Graham, who broke a record for total number of ramps eaten at one sitting that had stood for over 50 years—he ate three.

It is rumored that the ramp can open up your pores and drive away disease and I, for one, think there might be something to that. It has been observed that after eating a ramp one can drive just about anything away—wives or husbands, friends, dogs, and skunks. Unfortunately, the North Carolina Society of the Friends of the Ramp must disavow any knowledge of participants after the festival, for they are not in a position to provide housing for those reeking of ramp breath, or clothespins for noses of spouses.

There are those who would seek, I am sorry to say, to "lower the ramp" in the eyes of others, but there is one true maxim when it comes to the Ramp Festival—it is better to eat one ramp than to curse the festival.

You see, this is not a spectator sport, unless you remain 100 yards up wind at all times, and even then, should the wind shift, the only known anecdote is a mouthful of raw ramp.

So with the ramp scent in the air—not to be confused with Ransid—all are invited to our mountain slopes to stalk the wild ramp, and relish this delectable day. Even if you cannot make it, I am sure if you are anywhere near our State you will get wind of the event.

IMPORTANCE OF MINING

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. JOHNSON of California. Mr. Speaker, Mr. Lee I. Rowland of Mariposa, Calif., is a mining engineer, active in the Western Mining Council efforts to convey to the people of this Nation the necessity for a sound mining industry for the stability of our Nation's economy.

Mr. Rowland has been very active in working with small mine operators and prospectors in trying to encourage recognition of their efforts and trying to help them achieve a decent standard of living from their small mining operations. This is, of course, very difficult. Mr. Rowland has called to my attention an open letter to the Congress of the United States approved by the Mariposa County of Western Mining Council and signed by Mr. Don L. Rencher, the chapter president, and James Law, the chapter secretary.

So that my colleagues here in the House of Representatives may share in the thoughts expressed by the Mariposa County chapter of the Western Mining Council, I insert the open letter to Congress in the RECORD at this point:

APRIL 17, 1972.

OPEN LETTER TO THE MEMBERS OF THE U.S. CONGRESS, WASHINGTON, D.C.

GENTLEMEN: Since the stability of our national economy is completely dependent upon the Mining Industry it is of vital importance to encourage and support the discovery, development and productive operation of all mineral deposits.

To mention only a few of all the activities of mankind dependent upon the Mining Industry: There would be no transportation facilities such as automobiles and other automotive equipment nor the highways over which such equipment travels; no railroad trains nor the rails over which they travel; no airplanes, passenger, freight or warships and no bridges over streams or other bodies of water. There would be no lumbering industry; no food processing and canning equipment and no manufacturing equipment of any kind.

For further facts concerning the importance and necessity of the Mining Industry reference is hereby made to the article "All Activities of Mankind Are Dependent Upon the Mining Industry" published in the January 29, 1969 issue of the Congressional Record at Page E 595.

In view of the foregoing irrefutible facts Mariposa County Chapter of Western Mining Council, Inc., does hereby go on record as vigorously opposed to the repeal of the 1872 Mining Law, the passing of any law or legislation, especially Senate Bill S. 921, which would hinder or prohibit the discovery, development, productive operation and patenting of mineral deposits.

There are only two basic industries, they are Mining and Agriculture. We might exist without mining but would return to savagery almost overnight.

Your action based on the studied consideration of the facts contained herein will be greatly appreciated, not only by Mariposa County Chapter of Western Mining Council, Inc., but by all citizens who realize the facts herein set forth.

Respectfully submitted by
MARIPOSA COUNTY CHAPTER OF WESTERN MINING COUNCIL, INC.
DON L. RENCHER, *President.*
JAMES LAW, *Secretary.*

THE AIR WAR IN LAOS

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. McCLOSKEY. Mr. Speaker, prior to U.S. involvement in Southeast Asia, the small rural country of Laos was one of the most peaceful in the world. It was a lovely country of perhaps 9,500 small villages, with a culture built around family respect, community involvement, and subsistence agriculture. Laotians like to "write poetry and make love," as one U.S. military adviser said to me when I visited Vientiane a year ago.

In the CONGRESSIONAL RECORD, volume 117, part 19, pages 24581–24603 and 24755–24767, are recorded the debates which subsequently occurred between the gentleman from California, CHARLES S. GUBSER, and myself with respect to U.S. bombing practices in north Laos. The issue was whether or not U.S. bombing had destroyed Laotian villages. The State Department's able Ambassador, William Sullivan, had stated that the knew of only eight villages being hit "by mistake" during his 4 years in Vientiane. Hundreds of refugees had given contrary testimony to USIA investigations, alleging the destruction of their homes by U.S. bombing. Since that debate, a large number of veterans of the war in Southeast Asia, including combat pilots, have corroborated my supposition that U.S. aircraft bombed hundreds of Laotian villeges under a program begun secretly in 1964 and sharply escalated by President Nixon in 1969. That bombing, in view of the weapons used and the tactics involved, may very well violate The Hague and Geneva Conventions. It is apparently still going on.

The details of the air and ground war have now been specifically confirmed by hundreds of veterans who participated. Those details support the conclusion of the bombing of Laotian villages which I had suggested a year ago. To give the House some samples of the actual practices pursued by our Armed Forces in a country with whom we are not at war, I have excerpted unclassified statements given me by a number of U.S. war veterans.

The facts disclosed corroborate both the extensive destruction and devastation caused by the bombing in northern Laos and the deception practiced upon the American people and the Congress by the personnel of the Departments of Defense and State who were cognizant of these operations.

This deception of the Congress is particularly bothersome, inasmuch as it was apparently deliberate.

As ex-Los Angeles Times reporter Arthur Dommen wrote, in the Washington Post, about the secrecy of the government policy:

> There were many reasons for this policy. Among them was certainly the desire to avoid possible congressional inquiry into what was going on, and thus possible restrictions on the operation.

In view of the recent B–52's bombing of Hanoi and Haiphong, I think it appropriate that there be inserted in the CONGRESSIONAL RECORD relevant excerpts from the statements of the Air Force personnel involved. Many of the individuals who provided information to me expressed the desire that their names and units be kept confidential because of fear of retaliation on the part of the services involved.

I have honored these requests, where made, in the following summary of testimony:

THE AIR WAR IN LAOS

"I would be given flights of fighter-bombers by the aerial command post and occasionally I would guide the fighter-bombers into villages," said one Air Force major still on active duty who directed high-altitude by radio from his low-flying 0-1 spotter plane.

"We referred to this as 'opening up villages.' It happened on numerous occasions, primarily in the hooches [houses] located up on the side of the mountains, particularly the Bolovans Plateau and north up the Trail network," says the 15-year veteran who flew over Laos in 1967.

"The villages in river valleys were hard to see," he said, "and so a pilot had to fly fairly low in order to identify them for aerial strikes.

"The bombers used 500-pound bombs, CBU [cluster bomb unit] antipersonnel bombs and napalm for the destruction of hooches. I would almost say it was fairly common practice to destroy villages during the period I was flying over Laos," he said. "To my knowledge no requests for approval of destruction of villages were ever denied by higher authority."

The Pentagon and its Congressional supporters maintain in public that only military targets have been bombed. Until now, they have claimed that all U.S. pilots and other air war veterans support this assertation.

The Major called McCloskey's office "as a matter of conscience," he said, because he had had a "change of thinking" about bombing inhabited villages. Like some others who fear reprisals, he asked that his name not be used.

The 24 veterans whose statements are included here include 15 servicemen still on active duty. In addition to seven pilots, statements were obtained from three aircraft navigators, three photograph interpreters, three intelligence specialists, a photographer processor, a combat photographer, and six in other specialties. All gave direct or indirect evidence of the deliberate bombing of villages. Another two war veterans talked about efforts to cover up U.S. military activities.

Michael A. Lewis of Ann Arbor, Mich., a former Air Force staff sergeant is one of the three photo interpreters, all of whom viewing numerous aerial photos of villages bombed by U.S. planes.

"All the villages in southern Laos below the 17th degree line were already wiped out when I got to Vietnam in June, 1969," Lewis says. "They were all gone."

"I saw photos of the Plain of Jars [in northern Laos] ," says Lewis, who worked at Tonsonhut AFB in South Vietnam with the 12th Air Force Command's Reconnaissance Intelligence Technical Squadron, the unit which does final evaluations on aerial photos from Laos. "The bombed areas had been destroyed. The people were gone from the area. The photos showed [bomb] craters.

"I saw photos of Attopeau, in southern Laos, after it was bombed. It was pretty well wiped out—all there were left standing were the walls. It was bombed after the enemy took it and our side withdrew," he says. "I also saw photos of Moung Soui on the Plain of Jars after it was bombed. It had been leveled."

"If there are supposed to be 200,000 people living in Pathet Lao-controlled areas of southern Laos, I don't know where they're all living because every place I saw was pretty well wiped out . . . No more villages were left along the Ho Chi Minh Trail area," he says. "They'd been bombed . . . there were bomb craters in dozens and dozen of villages."

Russell Heller Jr. of Boise, Idaho, an Air Force photo interpreter at Udorn AFB from November, 1968, to November, 1969, says, "We wouldn't normally look for villages which were destroyed. I just might pick them up out of the corner of my eye. We were just concerned with trucks and military targets like that. We didn't write up damage to villages or towns or water buffalo. I just assumed they weren't targets. You have a different frame of mind over there.

The third Air Force photo interpreter, now serving his second tour of duty at Udorn AFB, who saw photo evidence of village bombing, says, "I saw photographs of between 10 and 25 villages destroyed—all with bomb craters. There were a lot of vehicles destroyed in the villages, indicating they were live villages, inhabited.

"The only place people could exist up there [the Plain of Jars] would either be in a dense jungle or in a cave," he says. "And there were signs from the photography that there was much activity in caves—basically paths leading from caves to water, ponds or streams, or to a rice paddy.

"We were bombing caves," he says. "A single path, non-vehicle, was enough for us to bomb. All human activity was considered enemy activity."

Although the U.S. is spending an estimated $1 billion annually to carry on the bombing of Laos, Congress has rarely exercised its authority to investigate the seven-year bombing campaign. A notable exception is the staff report issued in August by the Senate Security Agreements subcommittee which said the latest figures available, those for April, show the U.S. is conducting 400 bombing sorties over Laos every day.

Not surprisingly, some U.S. officials say the primitive land-locked kingdom is the most heavily bombed nation in the history of aerial warfare.

Jerry M. Tinker, staff consultant to the Senate Refugee subcommittee, says he doesn't doubt that hundreds of villages in Laos have been bombed. He calls the bombing campaign a greater atrocity than the My Lai massacre and adds:

"We only know the tip of the iceberg in Laos and it's pretty horrible. At least in the My Lai massacre the soldiers had a chance to discriminate.

Unlike the Air Force major, the other six combat pilots interviewed all flew higher-altitude planes, at a later date, mostly 1969 and 1970, and generally in northern Laos. They are unanimous in reporting that the villages they saw, most of them on the Plain of Jars, had all been destroyed.

One of the pilots, an Air Force captain who was stationed in 1969 at Udorn AFB, says that on one sortie over Laos he saw a large building marked as a hospital. He says he was ordeded to bomb it and did so.

Typical of the pilots was an Air Force captain who flew an F4 jet on 170 sorties over Laos between January, 1970, and January, 1971. He says, "I only saw the remains of some villages. The town of Ban Ban at the intersection of Routes 7 and 61 in northeast Laos was on the map, but we couldn't find it on the ground. There was only the intersection of two roads. No sign of a village."

Jon Randolph Floyd of Austin, Tex., is a former Marine captain and pilot who flew an A6 Intruder over Laos from Feb. 13, 1968, to July 26, 1968, before many of the villages in Pathet Lao territory had been destroyed.

"To the extent that I knew, we were bombing villages all the time," Floyd says. "Our bombing was generally just a matter of releasing bombs at certain coordinates."

Other air war veterans on the bombing of Laotian villages:

Capt. Gary Hemingway, an Air Force electronics warfare officer who flew over Laos in an EC–121 reconnaissance plane and who is now stationed at Fairchild AFB, Washington, says:

"I logged 500 hours combat time, 90 per cent of it over Laos, while I was flying out of Korat AFB, Thailand. We crossed the Plain of Jars frequently to operate near the North Vietnamese border, but I do not recall seeing any villages left standing on the Plain."

Former Air Force Capt. Thomas J. Mangan, a navigator who flew over Laos in an EB–66 high altitude electronic warfare plane, was stationed at Takhli Royal Thai AFB, Thailand, from June, 1968, to June, 1969.

Now living at 2894 the Grand Concourse, the Bronx, Mangan says "the number of missions, the mass number of bombs and the attitude of the pilots made it almost inevitable that hundreds of villages would be destroyed.

Former Air Force Sp/5 Giacomo Liberatore of 720 E. 53d St., Brooklyn, who flew about a dozen missions over Laos between Feb. 14, 1969, and Nov. 26, 1969, as an airborne sensor specialist on an OV1A Mohawk prop jet, says, "I remember several hooches beside a wide river in southern Laos which had been used for target practice in the spring of 1969. There were a number of instances like this. There were craters upon craters upon craters."

Former Air Force Capt. Gary H. Mundt of Denver, who supervised the handling of aerial photography equipment at Udorn AFB in 1969 says aerial photos showed that "the number of non-military targets bombed was high and the number of military targets hit was low."

"I saw about 50 villages in Laos with my own eyes which had been destroyed. With some of them I could still see bomb craters," says a rescue helicopter crewman who flew over enemy territory in Laos to pick up downed American bomber pilots.

"Some of the bombed villages were north of the Plain of Jars, some were in eastern Laos in Sam Nuea Province," says the crewman who was an Air Force combat photographer and gunner with the 601st Photographer Group at Udorn AFB, Thailand, from July, 1969, to July, 1970. "I saw them all from the air, from my 53C Jolly Green Giant rescue helicopter."

The crewman saw more than he liked. In a telephone interview, he talked reluctantly and insisted that his name not be used. Now living in Brandon, Ore., he is planning to move soon to a remote area in Canada.

Unlike the rescue crewmen, most servicemen who provide the support and logistics for the air war never see Laos. They work on bases in Thailand and South Vietnam or on aircraft carriers. Crewmen on B52s drop their bombs from 30,000 feet and don't see their targets. And jet crewmen, who bomb at 10,000 feet, seldom see their victims.

The Laos air war is a jigsaw puzzle: Each participant sees only his small part; a picture emerges only when many of the small parts are put together. Putting the puzzle together is complicated by the reluctance of servicemen to talk, some because they fear revealing classified information, most because they fear reprisals. Twenty-one air war veterans contacted by McCloskey's office refused to talk even when promised anonymity.

Although the air war is a jigsaw puzzle for most participants, Michael A. Lewis, a former Air Force staff sergeant with the Reconnaissance Intelligence Technical Squadron, 12th Air Force, at Tonsonhut AFB, Vietnam, says intelligence reports show that Air Force officials know the effect of the bombing on Laos' civilian population.

"I read the daily intelligence reports and the prepared books of intelligence in the two-story Intelligence Library at the 12th Air Force Command headquarters," he says. "They say the reason the people were leaving the villages was because the planes were bombing the fields and villages and cattle.

"The intelligence reports, based on interviews with refugees, say that the bombing caused the people to live in caves and subsist by farming at night," says Lewis, who was at the headquarters from June, 1969, to June, 1970. "Then, after the bombing was further intensified, the reports say the people were forced to move to the west [government-controlled] areas."

Some American officials feel the westward migration forced on the Laotians by U.S. bombing is having two favorable results: It deprives the Pathet Lao and North Vietnamese Communists of the civilian population upon whom they rely for food and workers; and the indigents supposedly blame the Communists for the U.S. bombing.

Jerry M. Tinker, staff consultant for the Senate Refugee subcommittee, believes that some local U.S. officials have deliberately bombed Laotian civilians to force this type of migration. However, he does not believe that this has been a deliberate overall U.S. policy, formed at the highest level.

Tinker says that even the civilian bombing which the U.S. admits is "astonishingly high." He cites the Defense Dept. figures, published by his committee on Sept. 28, 1970, which show eight bombing accidents in which 97 Laotian civilians were killed and 74 injured.

Deputy Asst. Secretary of State William H. Sullivan, who is in charge of East Asian and Pacific affairs and who was the ambassador to Laos during the mid-1960s, testified April 22 before the Senate Refugee Subcommittee that 700,00 refugees have been generated during the decade in which the U.S. has been bombing Laos.

Although he denied that any of the bombing was aimed at civilians, Sullivan said, "Most Lao civilians learn very quickly that bombing necessarily follows the North Vietnamese." The government witnesses claimed, however, to know of only eight villages which had been bombed by mistake during the period of 1964 through 1969.

Entirely aside from the estimated $1-billion-a-year air war which is conducted predominantly from Thailand and South Vietnam, a heavily censored staff report published in August by the Senate Security Agreements Subcommittee indicates the extent to which the U.S. now runs Laos.

The report says that this year the embassy is supervising the expenditure of $232.2 million—more than six times the Lao Government's budget this year—for military and CIA costs.

Among the few Americans who get a close look at what George Orwell called the "vague frontiers" of the new kind of war are the U.S. combat troops who have been fighting for years on the ground in Laos, secretly and contrary to denials made by President Nixon at a news conference on March 6, 1970, the same news conference at which he first acknowledged America's secret seven-year bombing campaign in Laos.

Paul Withers, a former member of the Army's Special Forces who is currently undergoing surgery in a Boston veterans hospital for war wounds, says, "I am one of hundreds of American Special Forces who fought, killed, died and were wounded in both northern and southern Laos beginning in 1965. Until now, the facts of our fighting have remained a secret from the public and Congress.

"I myself spent a year, from January to December, 1966, was wounded twice, killed over 50 people, and during that year know of at least 20 fellow Americans who were killed fighting on the ground," he says.

"Eyewitness accounts of the bombing of villages, the stationing of American Special Forces in northern and southern Laos carrying on active combat roles," he says. "There were 1100 American combat soldiers stationed in Laos, divided into 12-man A teams. I know of 15 villages which were bombed."

Corroborating Withers' account, an Army sergeant said, "President Johnson in 1968 and President Nixon in 1969 fervently denied the presence of any U.S. combat troops in either Laos or Cambodia. I can and will testify to the contrary.

"In October and November, 1969. I was co-located with two members of the 5th Special Forces Group, Command and Control North, on a mountain accessible only by air . . . which served as a communications link for CCN teams operating clandestinely within Laos and manned usually by two 'sanitized' Americans (not identifiably American) and six mercenaries.

"Their missions ranged from critical intelligence gathering to often inhumane but 'authorized' acts," he said, "which were in blatant contravention of the Hague and Geneva Accords.

"Since my service in Vietnam I have become increasingly incensed with the distortions and outright lies perpetrated on the public by Presidential Administrations and our military," he says. "I am therefore fully committed, to the point of possible criminal prosecution, to present the truth. I have served with distinction throughout my military career."

One unpublished refugee survey uses the words of surviving relatives to describe how the U.S. bombing campaign, still going on, struck at Laotian civilians 74 times, killing 108 persons.

"All of the villagers were living in holes then," says Nang Sida, a young Laotian mother whose husband, Tit Van Di, was killed in Ban Nasay village in northern Laos.

"But Tit Van Di went back to the village to get some things to take to the holes," she recalls. "While he was in the village the jets bombed before he could flee.

"At that time the planes came many times every day; four or five times even at night," she said. "Sometimes the T28s would drop the big bombs [500-pound high explosive bombs] first and then the jets would drop the bombi [hundreds of small, round anti-personnel bomblets]."

Like Nang Sida's husband who was killed at noon, Nov. 11, 1968, most of the civilian fatalities in the survey occurred in 1968 and 1969. The intensity of the bombing in 1969 forced the refugees to migrate west from the Pathet Lao zones to refugee camps under government control.

The 88-page "Survey of Civilian Casualties Among Refugees from the Plain of Jars" was completed earlier this year by Walter M. Haney, an American fluent in Lao who worked three years in Laos for the International Volunteer Services and later the Lao Ministry of Education.

Haney visited 10 refugee camps, containing 8500 refugees, and reported only casualties which could be described in detail by family members. The bombing victims were killed by U.S. jets and U.S.-supported Laotian T28 bombers.

The survey reported that 21 civilians, mostly children 3 to 10 years old, died from two types of biological warfare materials dropped from planes. Another 60 persons were reported killed by mines, artillery and small arms. In only 7 per cent of the fatal bombing incidents did the refugees say Pathet Lao troops were present in their village.

In response to a letter from Haney on his conclusions that the U.S. practiced biological warfare on some occasions and extensively bombed civilians, Asst. Secretary of State Harrison M. Symmes referred to Haney as "an objective, conscientious individual" and called his survey "a serious, carefully prepared piece of work." However, he added:

"We do not . . . accept your conclusion that bombing of the civilian population was intensive . . . U.S. forces, of course, do not employ poisonous weapons in Laos."

One refugee who said he viewed intensive bombing from below the bombs and still has multiple injuries to prove it is Thso Phom, 43, of Ban Muang village.

"I was coming back from the upland rice field to my house," Phom recalls. "A bombi exploded, hitting me on the foot, hand, arm and back. The bombi had been dropped by a jet two or three hours earlier. I had hidden in a hole when the jet dropped the bombs. I thought they had all exploded, but they hadn't.

"The bombi are little bombs, this size (indicating a sphere 4 or 5 inches in diameter). They drop all over the village and explode, pum, pum, pum, pum. After they've all exploded, some more explode, just like someone set them off. But they really just explode by themselves," he says. "The bombi come from a big cannister that explodes in the air, scattering the little bombs.

"I was treated in a Pathet Lao hospital, but I still can't work in the field. I can only hold a spade with one hand," he said. "Even when I go walking I can't keep up with my friends because I have to walk very slowly . . . When they operated they took out a bone in my foot and I still have some pellets from the bomb inside my leg and arm.

"The jets and T28s came for many years . . . They bombed every, every, every day. Jets, T28s, jets, T28s. They bombed everything: buffalos, houses, people, everything," he says. "If they saw you they would bomb. We had to work at night or early in the morning.

"In the daytime we slept," he says, laughing. "After cooking we had to put out the fires. We couldn't let them see the fire. If it was so cold that we had to make a fire then we had to keep branches handy so if we heard the sound of a plane we could put out the fire."

Haney's survey corroborates the findings of two U.S. Information Service refugee surveys, one formerly classified "secret" and the other "confidential," which were published last April by the Senate Refugee subcommittee.

One of the surveys covered 226 refugees from 96 villages. Among those questioned, the survey found 95 per cent said their villages had been bombed; 75 per cent said their homes had been damaged by bombing; 61 per cent had seen at least one person killed by bombing; and about 33 per cent had seen bombing as early as 1964.

The second USIS survey reported that the majority of 97 refugees from three predominantly Pathet Lao-controlled provinces said they could not eke out more than a bare subsistence living because of repeated bombing.

Haney's report includes these refugee interviews:

Sao Phohng of Ban Mene village describing the death of her 80-year-old father, Ai Tao, by napalm: "When the planes dropped the burning oil Ai Tao was hit. He couldn't get his clothes off fast enough. He was badly burned. Bumps came out all over his body and then they burst and his eyes burst also. Four days later he died."

Sao Leh of Ban Nhat village on the death of her son, Xieng Thong Chan, in December, 1968: "Thong Chanh had gone to the forest to find things to eat and there was no place for him to hide when the planes came. The planes came every day, mostly F105s. When the bombi little pieces hit a person they twisted and turned inside the body."

Sao La of Ban Phou Houm village: "My sons, Khamsing, 8, and Khamseum, 4, were killed on Sept. 27, 1969. They were playing near a rice field. They were too little to know enough to run when the planes came. I have three children left."

Pho Xieng Onh of Ban Pung village: "My mother, Me Sao Douang, my father, Pho Tithanta, my two young cousins and another woman were killed in July, 1966. They were at home. A big, big bomb set everything on fire. Mother was burned up. Father was burned up. The children were burned up. Everything was burned up."

Me Sao Chanta of Ban Pung village: "My husband, 38, and three of my children, Sao Bouavan, 12, Sao Bouathong, 9, and Sao Tui, 8, died from a big bomb from a jet. They hid in the hole when the planes came, but the planes dropped bombs near the hole. They were killed by bomb fragments."

Tit Khamsing of Ban Vene village on the death of her son, Thao Sisouphan, 8, in June, 1969: "All of the family was in a hole together. The jet dropped big bombs. Sisouphanh was hurt inside. He ran around like he was drunk. He died 15 days later."

Xieng Pa of Ban Bousk village on the death of his daughters, Nang Khamphanh, 3, and Nang Phon, 2: "In June, 1967, jets came at noon with big bombs. Most of the adults in the village had gone to work in the upland rice field. Khamphanh and Phon were in the village. Both girls were killed."

Bouavan, a young man from Ban Chuay village, on the death of his mother, Sao Da, 54, and younger brother Boua Thong, 14, in November, 1969:

"They had gone to get rice in the upland rice field. When they were returning the jets and T28s came over. They ran for the holes but couldn't reach safety in time. Nine villagers died at the same time. In those days the planes came very often, eight or ten times each day."

Twenty-one of the Lao families Haney interviewed reported that they had relatives die from biological warfare materials that were ejected from a big bomb which broke open in the air.

They described two types of lethal materials: one that looked like white granules of salt, and another that looked like long, thin strips of silver and gold paper. Some of the refugees said the materials were dropped frequently and that the villagers used sticks to bury them in the ground.

Sao Di of Ban Mene village said the biological materials killed her sister, Sao Si, 8 and her daughter, Sao Ba, 5: "The planes had dropped poison—the gold and silver paper. Sao Si and Sao Ba were curious and picked some up before I could do anything. They either ate it or just smelled it. They became very drunk. Sao Si threw up. Both died the next day."

U.S. Ambassador McMurtrie Godley is able to run a ruthless bombing campaign, according to a U.S. refugee relief officer recently returned after seven years in Laos, because he operates behind a curtain of secrecy.

"Ambassador Godley's idea of diplomacy is 'more bombs,' and, believe me, that is quite literal," said the Agency For International Development official in a recent telephone interview. He said he personally saw 20 villages which had been destroyed by bombs.

"Godley is a military proconsul," he says. "I talked with him quite a few times. He was continually fighting for more sorties. His idea of winning the war in Laos was dropping more bombs.

"He doesn't care about the refugees. Frankly, he doesn't give a damn," says the Lao-speaking official. "As far as he's concerned the bombing is the price the people have to pay for getting liberated."

He recalls seeing a bomber attack in 1969 in which several thousand civilians were attacked when they were caught in the open in a valley near Ban San Noi. Thirty or 40 persons were killed. He helped take many of the injured to a hospital.

The refugee official, who still works for the government, believes the attack was deliberate and he cites two other instances in which he says a deliberate decision was made to bomb inhabited villages in northern Laos, Xieng Khouangville and Khang Khai.

Are the civilians still being bombed?

"Let me put your mind at ease," he replies. "There are so few civilians left under the Pathet Lao, particularly in the Plain of Jars area that it doesn't matter. There's nobody left out there."

"Godley can run the country like a military proconsul because nobody back at home knows what is going on there," he says. "There is lying and deception about everything.

"Congress wouldn't tolerate what is going on," he says. "If they knew what is happening, they would balk at just the amount of money that is being spent."

Throughout the air war the U.S. ambassador has had the responsibility of approving each target scheduled for bombing. However, news reports indicate this responsibility may have been shifted recently to the Air Force's tactical headquarters at Udorn AFB, Thailand.

Several servicemen describe the deception which has shrouded the air war for seven years:

An Air Force sergeant who served in a sensitive administrative position at Udorn AFB in 1969 and 1970 says, "Australian newsmen were often allowed on the base, but not American newsmen.

"One day in May or June, 1970, we received word that an American newsman was coming to Udorn from Bangkok on a commercial Thai plane," he says. "They immediately stopped operations, including bombers scheduled to take off, until the security police caught him two hours later. I figure any organization that paranoid must be doing something wrong."

The sergeant said the base's Combat News Service was a "big joke" because it wasn't allowed to report any combat news, even news readily available.

The sergeant, who kept a dairy, made this entry on Feb. 19, 1970:

"True military form: The air war in Laos steps up and AF sends down not less than three "secret" messages telling us to keep our mouths shut and not say a word about what is going on up north. In effect, the messages ordered us not to say anything to any news media when questioned, but, rather, to give the staid comment, 'No comment.' "

A week later the sergeant's entry on Feb. 26, 1970, states:

"Air operations into Laos have noticeably increased . . . Udorn is launching more than 200 individual missions every day. The F4 fighter-bombers have stepped up their activities . . . Air America has been flying constant airlift missions in their C130 and C123 aircraft carrying mostly 500-pound bombs for the Royal Lao AF T28s and ammunition for ground troops.

"The amount of secret messages re-asserting the order to 'keep your mouths shut' is in direct proportion to the amount of querries we receive from the civilian press."

Michael A. Lewis, an Air Force staff sergeant with the Reconnaissance Intelligence Technical Squadron at Tonsonhut AFB, Vietnam, in 1969 and 1970 says, "I saw photos of damage from a B52 raid on the Plain of Jars at a time when the U.S. government officially denied it was using B52s there."

"At the 7th Air Force Command headquarters," Lewis says of the command he worked for in Vietnam, "the standard joke was that if burning villages showed black smoke that indicated petroleum storage so it was OK to tell the generals at the daily briefing about bombing the village. It could be classified as a probably enemy storage area.

"But if the smoke was white," he says, "they didn't tell the generals about it because the bombing was unauthorized."

A photo interpreter who is serving his second tour of duty at Udorn AFB says of his earlier service there:

"Shortly after I arrived in November, 1969, an official IPRA [Immediate Photo Intelligence Report] was written up on a strike on a herd of water buffalo in a river in Laos. At least two were killed. As a result, our officer-in-charge ordered us never to put in an IPIR which reported on water buffalo that had been killed by bombing."

Paul Withers of Boston, a former Special Forces soldier, and an Army sergeant said the U.S. conducted regular ground combat operations inside Laos while Presidents Johnson and Nixon insisted publicly that no U.S. soldiers were stationed there.

"Because I have refused to keep quiet about my fighting in Laos," Withers says, "the FBI has spoken to my mother and harassed my family. I was offered a job, for which I'm not qualified because I don't have a college degree, with the Veterans Administration on condition I not talk about Laos."

Jon Randolph Floyd, a former Marine captain who flew an A6 Intruder over Laos in 1968 says, "Everything we were doing in Laos was officially described as armed reconnaissance. But this was a joke because we had no reconnaissance facilities. About six or eight planes were going into Laos each night to bomb."

One question remains: Why, regardless of all the deception, doesn't the U.S. follow its own Rules of Engagement which bar any bombing within 500 meters of a village, a village being defined as one standing hut?

A former Marine captain who flew a helicopter in Vietnam in 1967, attributes the widespread bombing of villages to a double standard in which pilots are inoculated, beginning in training schools.

"In the training schools they taught us the difference between official policy and what we really do. After lectures in the ready room at the New River Marine Air Station, N.C., where I went for operational training with the Marine Medium Helicopter Squadron 365, the instructor would say, 'The class is over. Now this is what we really do. If you tell anybody about this we'll deny it.'

"You were encouraged to lie a lot," he says. "They would tell us to call up on the radio and say we're taking fire and say it's an emergency and to send something to wipe them out in this or that village.

"After I went over there I saw numerous instances of this double standard.

"At an all-pilots meeting of the Marine Medium Helicopter Squadron 362 at the Ky Ha Base, Vietnam, we got a notice saying the practice of throwing prisoners out of helicopters in flight will not go on any more. The division leader, a captain, read the notice, put in down and said, 'From now on count your prisoners when you land, not when you get on.'

"This captain was telling us very, very explicitly that we should keep on doing it," he said, "but we should make sure that the lists of prisoners don't show anyone missing."

Do the top military commanders know what is really happening, that villages are being bombed?

"I don't understand how they could know and condone it," the former Marine pilot replies. "But I don't understand how they could not know that we were bombing villages."

An Air Force sergeant who served in a sensitive administrative position during 1969 and 1970 at Udorn AFB, Thailand, kept a diary on the U.S. air war in Laos and efforts to keep it secret. Still on active duty, he agreed to have it published but asked that his name not be used. Excerpts from his diary follow:

July 19, 1969: After lunch I helped burn the accumulation of classified photographs and film we had no further use of in the office. They have a bombing halt in North Vietnam (NVN) but not in Laos. The countryside in the photographs we destroyed looked like a bombers' test range.

July 23, 1969: During April, May and June of 1969 Udorn sent 3884 reconnaissance flights and 3077 air strikes up the northern sector of Laos and NVN (an operation code-named Barrel Roll). This count does not include the more than 12,000 air strikes and reconnaissance missions flown in southern Laos (code-named Steel Tiger) during the same period by this and other U.S. bases in Thailand.

Aug. 1, 1969: This morning a "gaggle" flight of 24 F4s [jet bombers] was sent north into Laos. Each plane was loaded with 18 500-pound bombs. Many of these bombs were fitted with "extenders" so they would explode about four feet above ground level [for anti-personnel use]. They all drop their payload over the same general area.

Aug. 26, 1969: The F4s go north loaded with bombs and return empty. Our ammunition people are kept busy 24 hours a day.

Sept. 6, 1969: Two "ranch hands" had to make crash landings here this morning. "Ranch hands" are C123 airplanes that have been converted into aerial spraying units. They spray the countryside in Laos with chemical defoliants.

Sept. 9, 1969: I learned today that an F4 went down 15 miles from here last week. Both pilots escaped injury but their payload of approximately 1700 pieces of "gravel" were scattered over the Thai countryside.

"Gravel" is a name given to baseball-size contact bombs which are packed with explosives and ball bearings. They are designed to explode on contact if dropped from high altitude or, if dropped from treetop level, will explode when stepped on. An explosive ordnance disposal team was sent to the crash site to recover this "gravel" but was able to locate only 700 bomblets. About 1000 are still missing.

Sept. 11, 1969: Another "gaggle" flight was sent north this morning at 11:30. Most of the F4s carried 500-pounders equipped with extenders. This just doesn't fit—extenders are used as anti-personnel weaponry and all our reports say that enemy troop activity in Laos is practically at a standstill.

Sept. 19, 1969: This afternoon at 5:30, 17 F4s left here for Laos. This was another "gaggle" flight and each aircraft was loaded with 10 CBUs (cluster bomb units, the most frequently used anti-personnel bombs).

Sept. 21, 1969: The air war was slowed down to almost a standstill today due to heavy rains and fog. I think one reason I enjoy these days so much is because of the silence. It's such a change not to hear jets roaring down the runway nearly every five minutes.

Sept. 22, 1969: Another "gaggle" flight of 19 F4s took off from here at 3:30 this afternoon . . . Each plane was armed with 10 500-pounders—190 bombs totalling 95,000 pounds of death.

Sept. 24, 1969: Another "gaggle" flight of 24 F4s went north into Laos this afternoon . . . Post-strike photographs taken by an RF4 showed approximately 100 dead. These were the ones caught out in the open—the area hit was adjacent to the jungle.

A message classified "secret" has been received from 7th Air Force saying, in effect, that elephants and water buffalo in northern Laos and, in specific, the Plain of Jars, have been declared "legal targets" for all USAF aircraft . . .

A short while later, a visiting staff officer from Pacific Air Force Headquarters (a rated F4 pilot) made a flight with the 432d Tactical Reconnaissance Wing in an F4 over Laos. Upon his return, he boasted about killing three water buffalo with his ten 500-pound ordnance load.

Nov. 1, 1969: Two North Vietnamese 37mm antiaircraft artillery pieces, captured on the Plain of Jars, were brought on base. One was set up in front of 7/13th Air Force Headquarters; the other, in front of the 555th Tactical Fighter Squadron area.

Nov. 5, 1969: A greater number of air strikes than usual went north into Laos today, but I don't have an exact number to record. We don't have as many planes returning with battle damage now as we had, say, one month ago. This leads me to believe that targets are again taking a "non-military" swing.

Nov. 6, 1969: Thai pilots are working with Lao pilots—both flying T28s—under the direction of the CIA and Lao Gen. Vang Pao. Air America provides forward air controllers (low-flying planes) to mark the targets with smoke rockets.

Nov. 12, 1969: Almost every one of the U.S. bases in Thailand had planes up north in Laos last night.

Dec. 1, 1969: The night missions are thundering overhead right now at 9:30 p.m. They will be back in exactly an hour and a half. There are no more "long missions" over Laos now. The missions are being flown at 4,500 feet now instead of 200 feet and lower. Nixon doesn't want any more F4s lost over Laos now. Hits in the aircraft are now looked upon as errors instead of "heroic battle scars." Apparently, Nixon doesn't want any more publicity on our "secret war" through plane losses.

Dec. 2, 1969: First we bombed them out of their villages on the Plain of Jars; then we bombed them out of the jungle; now, we're after the Laotians in their caves in the karst (rock) deposits. As of March 1, 1970, aircraft flying out of Udorn (certain selected ones) will be carrying a heavier piece of ordnance—the 2000-pound bomb.

The feeling is that this bomb will cause the karst to crumble and burn the people in their caves. I wonder what kind of medal will be given those who fly these mission?

Feb. 18, 1970: Our planes are stepping up their air strikes into Laos . . . and are hitting the Plain of Jars from one end to the other.

Feb. 19, 1970: True military form: The air war in Laos steps up and AF sends down not less than three "secret" message telling us to keep our mouths shut and not say a word about that is going on up north. In affect, the messages ordered us not to say anything to any news media when questioned but, rather, to give the staid comment, "No comment." Our "bombing for containment" strategy in the "other war" is not working.

Feb. 22, 1970: Udorn in a bee hive of activity. All the strike aircraft here, including F4s, T28s, AC47s, AC119s, reconnaissance planes, FACs, ACCS planes, KC130s and Jolly Greens, are flying over Laos, particularly the Plain of Jars, doing their work.

Feb. 26, 1970: Udorn is launching more than 200 individual missions every day. The F4 fighter-bombers have stepped up their activities, carrying more CBU anti-personnel bombs than any other type.

Air America [American Airlines planes chartered by the CIA] has been flying constant airlift missions in their C130 and C123 aircraft carrying mostly 500-pound bombs for the Royal Lao AF T28s and ammunition for ground troops.

The amount of "secret" messages re-asserting the order to "keep your mouth shut" is in direct proportion to the amount of queries we receive from the civilian press.

INTERNATIONAL BORDER? NEAT TRICK

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. JACOBS. Mr. Speaker, the following is a quote from the President's speech last night:

> What we are witnessing here—what is being brutally inflicted upon the people of South Vietnam—is a clear case of naked and unprovoked aggression across an international border. The only word for it is invasion.

Mr. Speaker, the following is a fact:

> The Conference recognizes that the essential purpose of the agreement relating to Viet-Nam is to settle military questions with a view to ending hostilities and that the military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary—Paragraph 6, 1954 Geneva Accords, July 21, 1954.

Now I know why they say that the only thing we learn from history is that we do not learn from history.

IMPORTS TOOK 15 PERCENT OF DOMESTIC MARKET IN FEBRUARY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. GAYDOS. Mr. Speaker, in the absence of any announcement to the contrary, our State Department apparently has not yet reached agreement with foreign steelmakers to limit their shipments into this country. As a result, our steel industry and its workers are still taking it on the chin.

American Iron & Steel Institute has just issued its report on steel imports for the first 2 months of 1972, and foreign steel constitutes nearly 15 percent of all steel marketed here. The penetration of foreign imports is particularly severe in stainless steel where 23 percent of the total apparent domestic supply came from abroad.

Other steel markets also were hit hard: imported unfabricated structural steel accounted for nearly 24 percent of domestic supply; pipe and tubing, 17.6 percent; plates, 18.6 percent; and sheets and strip, 11.9 percent.

Alloy steel imports totaled 33,000 tons in February, more than double the January figure, and pig iron imports totaled nearly 53,000 tons that month—more than 10 times the January total.

Mr. Speaker, I am inserting the AISI news release into the RECORD for the benefit of my colleagues and anyone else who may think our Nation's steel industry is not in trouble.

IMPORTS TOOK 15 PERCENT OF DOMESTIC MARKET IN FEBRUARY

WASHINGTON.—Foreign steel constituted 15 15 percent of the apparent U.S. supply of steel in February, and just under 15 percent of all steel marketed in the United States during the first two months of 1972.

These are the main conclusions of an American Iron and Steel Institute analysis of latest available U.S. government import statistics.

According to data, 1,129,000 tons of foreign steel mill products and 9,000 tons of fabricated structural shapes and steel blanks entered the country in February. This compares with 1,093,000 tons of mill products and 11,000 tons of fabricated structurals and steel blanks that arrived here during January.

Through the first two months of this year, imports of steel mill products, fabricated structurals and blanks had reached 2,243,000 tons. Of this total, 48,000 tons were alloy steel and 34,000 tons were stainless steel.

In the case of stainless steel, the 34,000 tons imported in the first two months of 1972 was 23 percent of the total apparent domestic supply of these high-value specialty steels during that period.

Import penetration of other key steel product markets was also quite severe, according to the Institute.

The 210,000 tons of unfabricated structural steel imported in January and February accounted for nearly 24 percent of the apparent domestic supply of this product in the first two months of 1972.

Other significant steel imports during this period were: 196,000 tons of pipe and tubing, or 17.6 percent of domestic apparent supply; 246,000 tons of plates, or 18.6 percent of apparent U.S. supply; and 797,000 tons of sheets and strip, or 11.9 percent of apparent domestic consumption.

February saw a sharp rise in alloy steel imports. They totalled 33,000 tons for the month—more than double their January figure.

Even more dramatic was the surge in pig iron imports. They hit nearly 53,000 tons in February—more than ten times January's total.

Japan—with 401,000 tons—and member nations of the European Economic Community—with 397,000 tons—supplied 71 percent of February's steel imports. This raised two-month, 1972, steel imports from Japan to 870,000 tons, and the EEC's two-month total to 763,000 tons.

Together, Canada and the United Kingdom contributed another 15 percent of February's imports. Canada shipped 97,000 tons into the U.S. during the month, raising its 1972 total to 177,000 tons. The 74,000 tons of steel which arrived from the United Kingdom in February boosted its two month total to more than 131,000 tons.

Another 160,000 tons of steel arrived from other countries during February. This included 38,000 tons from Mexico, 27,000 tons from Korea, 21,000 tons from Poland, and 15,000 tons from Brazil.

TELEPHONE PRIVACY—XIX

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. ASPIN. Mr. Speaker, I am presently circulating a "Dear Colleague" letter on the telephone privacy bill (H.R. 13267), which has already been cosponsored by 28 Members.

This bill would give individuals the right to indicate to the telephone company if they do not wish to be commercially solicited over the telephone. Commercial firms wanting to solicit business over the phone would then be required to obtain from the phone company a list of customers who opted for the commercial prohibition. The FCC would also be given the option of requiring the phone company, instead of supplying a list, to put an asterisk by the names of those individuals in the phone book who have chosen to invoke the commercial solicitation ban.

Those not covered by the legislation would be charities and other nonprofit groups, political candidates and organizations, and opinion polltakers. Also not covered would be debt collection agencies or any other individual or companies with whom the individual has an existing contract or debt.

As I noted in a statement on March 9, I have received an enormous amount of correspondence on this legislation from all over the country. Today, I am placing a 17th sampling of these letters into the Record, since they describe far more vividly than I possibly could the need for this legislation.

These letters follow—the names have been omitted:

Virginia Citizens
Consumer Council,
Alexandria, Va., April 20, 1972.

Congressman Les Aspin,
House of Representatives,
Washington, D.C.

Dear Congressman Aspin: On behalf of the Virginia Citizens Consumer Council, an organization representing approximately 150,000 Virginia residents through individual and organizational memberships, I would like to thank you for introducing your bill to restrict telephone solicitation.

We get many complaints, both written and oral, from members and others who are sick and tired of being annoyed, especially at dinner hour, by persistent salesmen. The recreational land developments, which have been organizing periodic blitz campaigns, calling not just once but several times in a short period, are the main target of the complaints we get.

Last year, we checked with a couple of our lawyers on ways to outlaw this type of phone soliciting and they couldn't come up with anything too constructive except for licensing the solicitors out of business. Your proposal is much better, and if the phone company is willing to note in the phone book the names of people who will not want to be solicited, this seems like a wonderful solution. Hopefully, the people who publish the city directory type of books will also have to note this information. If your bill does not require such publishers to note which people don't want phone calls, I think it should.

I am concerned about all the exclusions you allowed and hope there would be a good way of policing them. I agree that non-profit organizations should be excluded, but the problem will be to differentiate among such groups. Maybe a solution would be to exclude anyone who is not paid for what he is doing and make everyone else abide by your restrictions. Some of the nonprofit groups, like the organization of allegedly handicapped or blind people selling light bulbs, seem kind of suspicious and annoying to me. I think you must also require any advertising, even by nonprofit groups, to meet standards of accuracy.

I'd very much like to have a copy of your bill and also like to be kept informed of its progress. Since we are nearby, we would be happy to testify in favor of it should hearings be scheduled. We would also be happy to work with your staff on behalf of this bill to the extent we can. If there are particular Virginia Congressmen whom you think would be interested in our position, for example, please feel free to show them this letter.

Sincerely,

Complaint Coordinator, VCCC.

General Cassette Corp.,
Phoenix, Ariz., April 18, 1972.

Hon. Les Aspin,
U.S. House of Representatives, Washington, D.C.

Dear Mr. Aspin: It is with considerable delight that I have read of your bill opposing telephone solicitors. This menace is growing more serious in our home every day. The sooner it is acted on, the more pleasant life will be.

By copy of this letter, I am pleading for support from Senators Goldwater and Fannin.

Very truly yours,

——— ———.

Wellesley, Mass.

Representative Les Aspin,
Wisconsin.

Dear Representative Aspin: This bill long over due. I am writing my representatives from Massachusetts to make sure that they support this bill which eliminates one of today's most obnoxious invasions of privacy. We have been forced to using an unlisted number to avoid telephone salesmen much to the inconvenience of many of our friends. Good luck.

Sincerely,

——— ———.

VIETNAM SERVICEMAN WRITES ABOUT INVASION

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. TALCOTT. Mr. Speaker, I insert a copy of a letter from a constituent serviceman now in South Vietnam:

April 20, 1972.

U.S. Congressman Burt L. Talcott,
House of Representatives,
Washington, D.C.

Dear Sir: This may be an appropriate time to let you know what I as one of your constituents know and think about the increased military activity over here.

I hope you are not persuaded to believe those idiots who are insisting that we are the aggressors—any intelligent person who doesn't read UPI or AP stories would know it is not so. South Vietnam has been viciously attacked, with Soviet made tanks quite near Saigon, two provinces over-run by tanks and anti-aircraft guns set up on South Vietnamese soil.

I have yet to read a wire story or hear a Democratic candidate who does not sound like a cheerleader for the other side. The most demoralizing issue for the U.S. troops involved in this war is the treatment by the press and politicians. Fortunately civilian control is firmly rooted in our military philosophy or there would have been a coup long ago—to be here, to see what happens, and then listen to the liberal prattle that seems to know little truth, or limit, is very discouraging.

I have talked to many people. I spent a couple of days at U Tapao also talking to B-52 crews just back from Haiphong, and most of us feel that North Vietnam has so overextended itself that we could end this conflict and political sparring by pressing strongly till they call "Uncle". They are in the open—sitting ducks in their Soviet equipment. Yet, some so-called Americans drag their feet and call us aggressors—our country has been adequately duped by propaganda and "demonstrations of unknown volition" that it is quite possible that our nation may lose to verbage instead of steel. The Communists are talking us out of a victory with the assistance of American leaders who have been processed for the last 10 years so that they react against, not for, the American fighting man and our allies. The South Vietnamese are dubious allies, but where is the line drawn?

Please tell the President that he should stand his ground—he must not give in to pressure from people like Kennedy and Muskie—what opportunists!

Every American here is in danger—which we understand and generally accept as part of our duty, even though we may not like it. Of course there are the rockets (launched by "well meaning, non-aggressive" Viet Cong, naturally) and the NVA in many areas. I have not delievered supplies to An Loc and probably won't as I have little experience at aerial delivery, but my friends are going—creates a funny mixed emotion—don't want to go but feel like I'm not doing my part. On that target, we have had several wounded, one killed and lost one airplane. The pilots crash landed that one and the crew was picked up immediately with all surviving. One small arms fire wound and a broken arm. A real miracle that any survived. I took some troops to Hue 10 days ago. They were the Americans who supposedly refused to go into the field—another wire service figment of imagination (a bold faced lie!).

Sure wish the South Vietnamese would move up Route 13. They don't seem to be interested enough.

Maybe we should all "write-in" Barry Goldwater in '72. This mess would have been ended long ago if the '64 elections had elected him. We need a leader who is strong and not influenced by loud-mouthed minorities. Mr. Nixon is just not forceful enough. Sometimes he seems unsure and lets others influence too much. He seems to vacillate—tell him to pick a course and follow it. We don't know what to expect next. Let's be men and stand up or get out. This slinking around like serpents is not like us—we cannot operate at our best in these conditions. I don't like the thought of people being killed, North or South Vietnamese, but better than us—and they want US. Remember this.

Thank you for listening.

Respectfully,

——— ———.

I think we should listen attentively to our citizens who are intimately involved on the scene.

We seldom hear from those who are the most knowledgeable and most candid. We are continuously swamped with news releases from reporters who are motivated to produce stories, to meet deadlines, to arouse readership interest and, yes, even to promote political points of view. I believe the occassional report by men on the scene may be as illuminating as the news reports and may add useful perspective.

FRED COLLINS WINS THE ANNUAL CARL ALBERT ORATORICAL CONTEST

HON. CARL ALBERT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. ALBERT. Mr. Speaker, early in my congressional service I established the Carl Albert Oratorical Contest, an annual event open to college freshmen and sophomores attending the colleges and universities located in the Third Congressional District of Oklahoma. Contestants representing the following schools, all of which held preliminary contests, participated in the finals held on April 13, 1972, at Seminole Junior College, Seminole: Southeastern State College, Durant; East Central State College, Ada; Carl Albert Community College, Poteau; Eastern Oklahoma State College, Wilburton; Murray State College, Tishomingo; Seminole Junior College, Seminole; and for the first time, Langston University, Langston, which is a new university addition to the third district, following a recent legislative reapportionment of our State.

This contest has grown in size and popularity over the years and with each event I am increasingly impressed by the talented young men and women who participate. Their orations are frequently of outstanding quality, well based intellectually and delivered with great professionalism.

Fred Collins, a freshman student at Southeastern, who earned a 4.0 grade average this academic year, and is a member of the band and choir, won the 1972 contest with his oration "And the Beat Goes On." It has been said that music and mathematics are natural companions; Fred has demonstrated the same compatibility between oratory and rhythm.

I think the Members will agree that he has made a stirring statement of contemporary problems that will reach not only Fred's peers but all concerned human beings. Pray God it will also motivate us to join constructive young people in responding to "the true beat of America" which is not apathetic but caring, hopeful rather than despairing.

Fred Collins' oration follows:

AND THE BEAT GOES ON

And the beat goes on. Drums keep pounding rhythms to my brain, and the beat goes on. So go the words of the song written by Sonny and Chere which was popular during the middle 1960's. To them the *beat* was the changing modes of everyday life; the styles of dress the younger ideas, and even the ideas adhered to by the Now Generation.

However, times have changed and the beat has taken a new meaning. Now whenever someone talks about the beat it means more; in short, it has become the heartbeat of America. What does it sound like? Listen closely, and let me describe it.

Beat number one—

In New York City a young woman is returning to work one sunny afternoon. As she walks on the smoothed pavement of the city many other people pass her by, each attending to his or her own needs or wants or desires. Suddenly, an assailant attacks the young woman, and there before literally thousands of people beats and stabs the woman to death. The viewers of this tragedy stop, look, and then simply pass on by.

Beat number two—

In Appalachia a little girl goes out in the back yard of her home to play. The home is nothing more than a two room shanty, hastily thrown together one day many years ago. It is ill-equipped to withstand the cold that comes early in the mountains. The father of the little girl is basically an honest, hard working man, when he has a job. But he has no job, and furthermore he has no skill with which to get a job. He just sits in his home and stares at the newspaper covered wall in desolation and hopelessness. And the little girl? She is doomed to walk a vicious tightrope that will lead her in a spiraling downhill circle and keep her right where she is, in utter and abject poverty.

Beat number three—

This time the beat is in Selma, Alabama; Los Angeles, California, in the Watts section; in Detroit, Michigan: and Washington, D.C. It is two men, both of whom love their country, both of whom would do almost anything for it and both of whom hate each other. One is White. The other is Black. They hate one another because of a mere biological function of the genes which determined that they would have skins of a different color. Their hatred for each other has led to violence, bloodshed, property damage, and even death.

It isn't a very pretty picture, is it? And yet, if one listens to the afternoon news or reads the headlines in the daily newspaper that is exactly what is to be perceived. Superficially at least, it looks as though the heartbeat of America is something that is faltering, unstable, and in its death throes. However, I stand here today to say to you that what I have just described is *not* the true heartbeat of America. It is something very much different. It is the little things that make up the real life's blood of this nation. It is the thing which we read about on page fifteen, or twenty, or thirty, of the Newspaper. It is to be found on the page after the Society or Sports page.

In New York City perhaps there was a demonstration of apathy when the young lady was killed, but that is the exception, not the rule. The rule is to be found elsewhere such as the small community of Meridian, Oklahoma, which is served by the Honorable Carl Albert. Here two-year old Jarrod Keith Holding had defective kidneys. The doctors told his parents unless young Jarrod received kidney treatments he would die within the year. His parents could not afford the tremendous expense involved in the treatments and it seemed as if he was doomed to a premature death. Somehow the people in the community found out about the imminent tragedy. Action started almost immediately to help. These people begged, pleaded, and bargained with the company that made the machines which would save the young boy's life to find out just how much it would take to get the machine. And it was his community that led the drive to collect a million boxtops from a popular brand of cereal to purchase the kidney machine which would give Jarrod a new lease on life. Yes, people do care.

And where there is hopelessness there is also hope. In 1964 there was no such thing as an anti-poverty program as such. Then it seemed as if the people of America had awakened to the unpleasant fact that nearly thirty-eight million people lived in total poverty. By 1965 the Federal anti-poverty program came into being. States started getting into the act, and pretty soon private industry began efforts of their own. Today several years later the problem of poverty is still with us, but we are winning that war. Statistics prove that someone who is poor today has a better chance of bettering himself than at any other time in our history. To make a long story short we have begun to spread hope among those in the horrid grip of poverty . . .

Perhaps no problem has ever plagued the American people as much as the hatred between the races has. It has been with us since the early seventeenth century and has caused more disruption to society in the 1960's than even the war in Vietnam. In 1968 the Spirit which we call America got fed up with the senseless destruction the war between the races had caused so it set up a commission to study the problem and from that commission came several suggestions to help solve the problem. One of them was the establishment of police community relations programs in cities across the United States. The programs were started in such places as Dallas, Houston, Tampa, New York, Los Angeles, practically every major city in the U.S. To show you just how successful they have been please allow me to ask one question: when was the last time you read of a major racial riot?

It has gone even further than that. In Georgia, one of the states of the deep south a young Black man was drowning, a white man saved him; in Chicago three white youths were trapped in a blazing building. Black fireman saved them. People are beginning to see other people *as* people, not just skin colors, as humans deserving respect and not as some animal that should be kept in subservience. . . .

That, my friends, is the true heartbeat of America. It is a spirit that opens up its arms and says, *where there is apathy I will care; where there is hopelessness, I will give hope;* and, *where there is hatred I will love* . . .

And the beat goes on. The true beat of America which doesn't make the headlines every day goes on, but it is there nevertheless, growing stronger and more vigorous with each fleeing moment.

HANOI'S NAKED AGGRESSION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. KEMP. Mr. Speaker, I would like to bring to the attention of my colleagues two articles about the North Vietnamese invasion of the south. These articles help put in perspective the aggression by the north and I hope they will clear up the unnecessary confusion about the critical nature of the invasion and our reaction to it:

NOBODY'S WAR BUT HANOI'S

(By John P. Roche)

When the North Vietnamese launched a conventional invasion of the South, complete with Soviet-made T–54 tanks and other heavy equipment, you might have thought that the question of who was doing what to whom would be conclusively settled. This was straight, naked aggression. Not even the most dedicated opponent of the war could argue that amphibious tanks were being constructed in peasant huts by the Viet-cong.

Yet in subsequent weeks we have heard some of the strangest explanations of what allegedly occurred: some commentators have virtually suggested that President Nixon personally sponsored the invasion. When the bombers went north, the howl went up that we had escalated the war, and Sen. J. W. Fulbright suggested that we had provoked Hanoi by breaking off the Paris talks. Fulbright's logic was bizarre—in effect, he said that since we had refused to give the North Vietnamese what they want, they had no recourse except to go for military victory. The submerged premise of this extraordinary syllogism is, of course, that they are right and we are wrong.

Similarly, a letter to The New York Times from eight members of the House of Representatives contained this remarkable paragraph: "The President of the United States has called off the regular (Paris) meetings . . . And only this week the United States launched a massive air attack on both South and North Vietnam. In short, there are no signs of any moral leadership on the part of the administration to end the killings and the destruction of countries now." (4–16–72)

The Congressmen did not even mention the North Vietnamese invasion!

The harsh fact is that in terms of the arrangements made in 1968 as a precondition for a full bombing halt, the President was completely justified in taking the air war to the north. There has been a great deal of fudging about whether or not the Hanoi regime accepted any "understandings" and some people seem to have had odd memory lapses. What occurred in 1968 was that we insisted as a precondition for a total bombing halt that Hanoi agree (1) to respect the inviolability of the DMZ; (2) to cease shelling the cities of South Vietnam; and (3) to permit American aerial reconnaissance of the North.

It is true that Hanoi's representatives never signed on the dotted line; there is no formal piece of paper. But the President of the United States was assured by the Soviets that Hanoi would go along with these terms. Without that assurance Lyndon Johnson told me he would never have agreed to a total halt: "It would be strictly a one-way proposition."

This is not just a matter of recollection. At the time, Secretary of Defense Clark Clifford went on CBS–TV, "Face the Nation," and said in response to a question about the quid pro quo we had extracted from Hanoi, "The situation is that we had certain understandings reached with the North Vietnamese in Paris. They involved the DMZ and the shelling of the cities and the question of reconnaissance. There is the area of agreement." (12–15–68).

What Hanoi has done in the last few years is lay the groundwork for a heavy invasion through the DMZ. Four roads were built and supplies were stockpiled immune to air attack. And then they came in. They have been rocketing Saigon and other cities. In sum, they broke the agreement and, to repeat, Mr. Nixon is correct: all bets are off.

"Johnson's War," in other words, *has not* become "Nixon's War." The war is now and always has been "Hanoi's War."

THE PRICE U.S. MUST PAY IF HANOI CONQUERS

(By Crosby S. Noyes)

It is reassuring to be told by so many eminent journalists, politicians and aspiring presidential candidates that the United States has no interests in Vietnam worth worrying about.

It is the more reassuring because these same journalists, politicians and presidential candidates are openly proposing to arrange for a Communist victory in Vietnam. They would do this, they say, by withholding from South Vietnam the means of resisting aggression from the North. And a great number of Americans apparently agree that this would be a fine, moral and enlightened thing to do.

So one wonders how these people define American interests and whether they have really thought about the consequences of a Communist victory in Vietnam. The answer is that they have not thought very much. For if Americans have an interest in world peace, the consequences of what happens in Vietnam are likely to be very important indeed.

And not just for the people most immediately involved. At this point, it probably is true that most Americans simply don't give a damn about the fate of 15 million South Vietnamese.

The inevitable death of thousands of them in the event of a Communist victory is dismissed lightly as "The Old Blood-bath Theory"—not because they don't believe it will happen, but because it will happen 8,000 miles away and because there won't be any American television cameras around to record the unpleasantness.

The same indifference applies to "The Old Domino Theory." Many Americans accept with equanimity the inevitability that a Communist victory in Vietnam will be quickly followed by the extinction of Laos and Cambodia as independent states. The probability that Thailand will have to fight or adopt policies amenable to the predominant Communist Asian powers is treated as a matter of no great consequence.

Indeed, one gathers that if the whole Asian subcontinent should fall under the domination of China and the Soviet Union, many Americans would feel themselves delivered from an unwelcome responsibility. There is a widespread feeling that what Asians may do to other Asians is no business of ours. And there is a considerable admiration of communism as an efficient way to organize the energies of backward peoples.

The United States, furthermore, is in an excellent position to pave the way to Communist domination in Asia. The whole idea of the "containment" of communism is now thoroughly discredited in the eyes of our more advanced thinkers. And since "containment" in practice consisted largely of offering support and assistance to countries which felt themselves threatened by Communist aggression, the implication is quite obvious that this support and assistance should now be withdrawn.

The same so-called liberal presidential candidates who now self-righteously proclaim their intention to betray South Vietnam at the first opportunity would hardly be regarded as reliable allies by any Asian leader. Many Asians would prefer to fight and die rather than live under communism. But unfortunately, the question of whether they will have the opportunity and the means of making that choice is very largely up to the Americans to decide.

That decision in infinitely more problematical today than it has been for a generation. For when it comes to discussing what American "interests" may be involved in a defeat in Vietnam, surely the greatest interest is what a defeat would imply for the United States itself. It is hard to avoid the conclusion that the result would be devastating for many years to come.

We are told that Americans are demoralized, confused and divided as the result of seven years of trying, at great cost, to save the independence of a small Asian nation. Can anyone doubt what the moral and psychological effect would be of the failure of that effort—particularly when that failure is contrived and promoted by the duly consecrated political leadership of the nation?

We may be able to write off the South Vietnamese as a nation unworthy of existence, despite the fact that they have fought and died for their freedom for 30 years. But can we as easily write off 50,000 young Americans who also have fought and died for a cause which we are now told is not in our national interest?

The answer quite simply is that we cannot. The trauma of a defeat in Vietnam would put this country out of business as a world power for a very long time and the damage would not be limited to the United States. The commitment of the world community to the deterrence of aggression has been eroded to the point where it may require a major international calamity to restore it. And this enormously increases the probability that the aggression and the calamity will occur.

ALENE B. DUERK, FIRST LADY ADMIRAL

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. LATTA. Mr. Speaker, I am pleased to inform the House that the Navy today for the first time in its 197-year history named a lady admiral—Alene B. Duerk, an Ohio native, who joined the service 29 years ago. I am also honored to claim her as one of my constituents.

Captain Duerk, head of the Navy Nurse Corps, was nominated for promotion to flag rank along with 49 men. The nominations were approved by President Nixon and are subject to Senate confirmation.

Captain Duerk joined the Navy in 1943 after receiving her nursing diploma from the Toledo, Ohio, Hospital School of Nursing.

During World War II she served in naval hospitals in Portsmouth, Va., and Bethesda, Md., and later was assigned to duty aboard the hospital ship *Benevolence*, where she cared for the sick and wounded in the final assaults against Japan.

After the war, Captain Duerk was released from the service, but remained in the Naval Reserve only to be recalled to active duty in June 1951. She served in various nursing and administrative posts through the 1960's and was named Director of the Navy Nurse Corps in May 1970.

A Pentagon spokesman said Secretary of Defense Melvin R. Laird was "particularly pleased" that the Navy now has for the first time a lady admiral.

I extend my heartiest congratulations to Admiral Duerk and commend the Navy on its choice.

CURTIS TARR—A DISTINGUISHED AMERICAN

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. JOHNSON of California. Mr. Speaker, it was with a great deal of pleasure that I learned a few days ago of the nomination of an old friend, Curtis W. Tarr, to be the new Under Secretary of State for Coordinating Security Assistance Programs.

Would I be out of line to brag a little today and say "I told you so"?

You may recall that several months ago when Curtis Tarr became the Director of Selective Service, I stood before this body and outlined this fine young man's qualifications and told you that I anticipated he would do a tremendous job in a very difficult and controversial assignment.

All of us remember the prize-winning picture of Curtis Tarr flooring a young antagonist who had tried to make a citizen's arrest on Curtis Tarr. This was indeed a memorable picture, but the true measure of the man and the job which he performed in this extremely difficult capacity is found in the fact that the draft has gradually retired from the list of more controversial issues facing this Nation.

This happened because of the universal respect which this man earned, among young and old alike, for the manner in which he performed the task of Director of the Selective Service System. This respect was earned, regardless of what individuals may have thought about the System that he administered.

Curtis Tarr is a former resident of Chico and I was pleased that a recent editorial in the Enterprise Record newspaper of that community pointed up so effectively the reasons for his success as Director of Selective Service. Mr. Speaker, I would like to share with my colleagues this editorial entitled "The Draft, the Young and Curtis Tarr."

Before concluding I would like to predict that the respect which Curtis Tarr earned from the people of this Nation will be shared by people from throughout the world as he becomes active in his new capacity. The appointment of Curtis Tarr to this position, which is new to our governmental structure, is an excellent one and I wish him literally all the success in the world. I know that ours will be a better world for the work which he is about to undertake.

The editorial follows:

THE DRAFT, THE YOUNG, AND CURTIS TARR

Although factors of coincidence have been primarily responsible, it still is pleasant to contemplate the fact that the Selective Service system—commonly known as the draft—has been gradually retreating from the list of controversial topics since former Chicaon Curtis W. Tarr took over as director two years ago.

The chief factor, of course, has been the steady reduction of American participation in combat operations in Vietnam. Troop withdrawals from the peak total of 540,000 down to a May 1 estimate of 69,000 have enabled the armed forces to get by with a lot fewer draftees.

Another important factor has been the determination of the Nixon Administration to field an all-volunteer Army by mid-1973, when the present draft law will expire.

Yet the evidence is good that the presence of Curtis Tarr in the post of Selective Service director also has had a great deal to do with the lessening of expressions and acts of animosity toward the draft during the past two years. Tarr, whose parents (Mr. and Mrs. F. W. Tarr) still reside in Chico, is former president of prestigious Lawrence University in Wisconsin and held a civilian executive post in the Air Force before reluctantly accepting a "draft" from President Nixon to take over the Selective Service position.

It will be remembered that the man Tarr succeeded in that post—Gen. Lewis B. Hershey—had long been considered a hateful symbol of oppression by millions of young men fearful of and opposed to the draft.

Gen. Hershey had held the directorship since the draft was established in 1940, just prior to World War II. He was dedicated to the post and, to his credit, his service was exemplary. As he grew older, however, the distance between him and draft-age generations widened, his humorless single-mindedness further isolated him from the young public and he ultimately reaped all the blame for everything that was harsh and unfair in the Selective Service system.

Curtis Tarr, the new director, was a sharp and favorable contrast to Gen. Hershey in almost every aspect. Standing a trim 6-foot-7, the youthful (46 when sworn in) Tarr seemed almost like a contemporary to young men accustomed to associating the draft with Gen. Hershey, then well into his 70s.

Additionally, Tarr had the advantage of long experience as a scholar and educator, able to "relate," so to speak, with even the brightest of young intellectuals in the draft-age group.

Yet Tarr did not adopt a "go along to get along" attitude in his relationship with the young. Rather, on one occasion he made front-page news by successfully pushing off some rabble-rousing demonstrators who had entered his office with the intention of handcuffing him and making a symbolic "arrest" of the Selective Service system.

In the main, young people ultimately found themselves able to respect the new draft director, even though they still disliked the system. This factor—in company with the others cited above—helped bring about the circumstances under which no significant anti-draft demonstrations have been held for many months.

For example, there were not even any pickets on the scene in Washington last week when the lottery was held to determine the possible order of 19-year-old call-ups in 1973. Previous lottery sessions had been the target of crowds of pickets.

Also, it is a fact that most of the announcements Tarr has been making in recent months have been of the type that tend to convince young people that the draft really is being "phased out."

For instance, draft quotas have not even been set for this year—and Tarr's office announced several weeks ago that no inductees will be called at all during the first three months of the year.

This is in keeping with what now appears to be a well-established trend. Some 289,000 young men were drafted in 1969. But the number fell to 163,000 in 1970 and dropped even lower to only 98,000 last year.

It is to be hoped, of course, that the nation will indeed be able to devise and depend upon an all-volunteer system on the schedule anticipated by the President Then Curtis Tarr will turn out to be not only the second and most-respected Selective Service director, but also the last.

ENVIRONMENTAL PROTECTION ACT OF 1972

HON. JOHN W. BYRNES

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. BYRNES of Wisconsin. Mr. Speaker, I am today introducing the Environmental Protection Act of 1972 on behalf of the administration.

The bill contains several amendments to the Internal Revenue Code that would encourage the preservation of our coastal wetland areas, encourage rehabilitation instead of demolition of historic structures of older buildings in our urban areas, and reduce restrictions in present law on allowable deductions for the contributions of partial interest in land to be used for conservation purposes. The bill would eliminate existing incentives in our tax laws that run counter to our overall environmental objectives in these areas and also provide some new incentives that would encourage the private sector to make investments in harmony with our objectives of improving the environment. The overall revenue effect is negligible, but is expected to result in a slight increase in revenues.

I believe the administration proposals are worthy of careful consideration by the Congress at the earliest possible date, and I am introducing the legislation for this purpose. I am appending to my remarks a section-by-section analysis explaining in more detail the provisions of the bill:

SECTION-BY-SECTION ANALYSIS OF THE ENVIRONMENTAL PROTECTION TAX ACT OF 1972

TITLE I—SHORT TITLE, ET CETERA

Title I labels the Act as the "Environmental Protection Tax Act of 1972," and specifies that all amendments contained in the Act are amendments to the Internal Revenue Code.

TITLE II—PRESERVATION OF COASTAL WETLANDS

Section 201

Section 201 adds a new subsection (n) to section 167 of the Code, providing that the depreciation deduction for property constructed, reconstructed or erected in the coastal wetlands may be computed only by use of the straight-line method of depreciation. A similar rule is applied in the case of buildings constructed on sites where a registered historic structure has been demolished.

The limitation of depreciation methods will apply with respect to property placed in service after December 31, 1972.

Section 202

Section 202 amends section 1245 of the Code to provide that gain on the disposition of improvements located in coastal wetlands will be treated as ordinary income to the extent of all depreciation deductions claimed with respect to such improvements. This amendment will apply to dispositions of property placed in service in the coastal wetlands after December 31, 1972.

Section 203

Section 203 of the bill adds a new subparagraph C to sections 175(c)(1) and 182(d)(1) of the Code, providing, in effect, that certain land clearing expenditures and certain soil and water conservation expenditures (such as expenses for draining, dredging or filling) with regard to coastal wetlands are not deductible under the special rules of Code sections 175 and 182. Thus, these expenses would have to be capitalized. Disallowance of deductions for these expenditures would apply to taxable years beginning after December 31, 1972.

Section 204

Section 204 of the bill adds a new section 280 to the Code, providing in effect that no deduction for interest and taxes will be allowed where it is attributable to land under development and associated improvements in the coastal wetlands. However, these deductions would be allowed to the extent of any income derived from such coastal wetlands. The amount of such disallowed deductions is to be charged to the capital account.

This section will apply to taxable years beginning after December 31, 1972.

Section 205

Section 205 of the bill defines coastal wetlands as areas of open water, marsh, swamp, etc., corresponding to types 12 through 20 in Circular No. 39 of the Fish and Wildlife Service of the U.S. Department of Interior, which are of biological significance, are influenced by tidal water, and which lie shoreward within the territorial sea of the three fathom depth line as shown on National Oceans Survey Marine Charts. It is further provided that the Secretary of the Interior, after consultation with the Secretary of Commerce, will provide the Secretary of the Treasury with a detailed description (in the form of maps) of lands which fall within this definition.

Section 205 also defines certified wetlands improvements which will be exempt from the provisions of the Act. Certification requires a finding by the Secretaries of the Interior and Commerce that the improvement does not conflict with regulations and does not require an environmentally undesirable degree of draining, dredging, or filling.

TITLE III—HISTORIC PRESERVATION

Title III contains provisions intended to encourage preservation of historic buildings and structures certified by the Secretary of the Interior as registered or qualified for registration of the National Registry. In addition to the provisions of Title III, Section 201 of the Bill limits depreciation to the straight-line method in the case of buildings constructed on sites which were formerly occupied by demolished historic structures.

Section 301

Section 301 adds a new section 189 to the Code, permitting a 5-year write-off of rehabilitation expenditures incurred with respect to historic structures which are used in the taxpayer's trade or business or held for the production of income provided that property acquired in connection with such expenditure is otherwise eligible for the depreciation allowance.

On the disposition of a certified historic structure, gain would be treated as ordinary income to the extent that the special write-off provided under this section exceeded the depreciation deduction which would have otherwise been allowable (without regard to this provision). This section would apply with respect to all expenditures made after the date of enactment of the bill.

Section 302

Section 302 would add a new section 281 to the Code (while redesignating the present section 281 as section 291). Under the new section 281, no deduction would be allowed for amounts expended in the demolition of a registered historic structure, or for the undepreciated cost of such a structure. Both items would have to be allocated to the basis of the land. The section would apply to all demolitions occurring after the date of enactment.

TITLE IV—REHABILITATION

Section 401

Section 401 would add a new subsection (o) to the general depreciation rules of section 167. Under this new provision, if a taxpayer substantially rehabilitated depreciable property, he would be permitted to elect to compute depreciation with respect to his preexisting basis in the building as though the entire structure was first placed in service by him. This will permit a taxpayer who purchases a used building and rehabilitates it to utilize so-called accelerated methods of depreciation, a privilege which is not now accorded taxpayers under the law.

In order to qualify for this special treatment, the amounts added to capital account during a 24-month period must be at least $5,000 in amount and must be greater than the undepreciated cost of the property, determined at the beginning of the 24-month period. The provision is effective with respect to such expenditures incurred after June 30, 1973.

TITLE V—CHARITABLE TRANSFERS FOR CONSERVATION PURPOSES

Title V provides several amendments to the charitable contribution provisions in section 170 of the Code, the effect of which is to permit a charitable contribution deduction for certain types of transfers which are not presently allowed under the law. Specifically, section 501(a) provides that a charitable deduction will not be denied on the transfer of a partial interest in property, where the interest is either an easement of 15 or more years duration granted exclusively for conservation purposes, or is a remainder interest in real property which is granted exclusively for conservation purposes. "Conservation purposes" mean the preservation of open land areas for public outdoor recreation or education, or scenic enjoyment; the preservation of historically important land areas or structures; or the protection of natural environmental systems.

These amendments would apply with respect to contributions made after the date of enactment of the bill.

PRESIDENTIAL CANDIDATES

HON. ROGER H. ZION

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. ZION. Mr. Speaker, it is regrettable that the left-wing candidate for President has tied his political future to a Communist victory in Southeast Asia.

His statement this morning charging our President with 20,000 deaths is inaccurate, reprehensible, and irresponsible.

The real tragedy is that his wicked and reckless statement gives aid and encouragement to the Communist invaders.

Any man who tries to rise to power over the bodies of a subjugated people is not worthy of a line on an American ballot.

IN MEMORIAM TO NEW JERSEY'S MOST DISTINGUISHED SENIOR CITIZEN: THE HONORABLE LOUIS RETTBERG

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. ROE. Mr. Speaker, I ask my colleagues here in the House to join with me, the members of the Wayne Golden Age Circle, residents of my congressional district and the State of New Jersey in tribute to one of our most distinguished senior citizens and my dear personal friend, the Honorable Louis Rettberg, who passed away on February 22, 1972. Our condolences are extended to his daughter and her husband, Doris and Phillip Langler, to his son Paul's widow, Mrs. Helen Rettberg, and to his grandchildren.

Louis Rettberg was a young 92 years of age at the time of his death. He was born in Green Point, Brooklyn, and adopted Wayne, N.J. as his hometown in 1952. He was married in 1909 and lost his beloved wife Ethel in 1929.

Louis served on numerous municipal committees and made an outstanding contribution to the development and enhancement of our community—particularly in providing quality leadership to our senior citizens—all in the cause of good will, friendship, and the everlasting dignity of his fellow man. He was one of the founders of the Wayne Golden Age Circle and as editor of their newsletter enriched the spirit and re-creation of all of our people through the many programs he fostered for the enjoyment and richness of their leisure hours. All of us have been deeply touched by his exemplary wisdom, dedication, and sincerity of purpose in achieving excellence in the quality of life and its fulfillment.

His beautiful, graceful Spencerian style of handwriting evidenced his love for the arts and his pride in his cultural heritage. He has modestly accepted awe and applause that were extended to him on his handicraft by referring to it as a must to secure his first job in an office in 1895, when, he would comment, "only the lawyers used typewriters then."

In the course of his extraordinary lifetime, Louis Rettberg has seen the greatest wonders of man and has met each day's challenge with a zeal and purpose that we can well take heed of and admire. I share the great pride of his family in his accomplishments and am privileged to have been numbered amongst his many, many friends.

I ask my colleagues to join with me in a moment of silent prayer to the memory of a distinguished American, the Honorable Louis Rettberg of the township of Wayne, county of Passaic, State of New

Jersey. May his children and grandchildren soon find abiding comfort in the faith that God has given them and in the knowledge that Louis is now under His eternal care.

FIRE KILLS

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. HALPERN. Mr. Speaker, every 2 seconds a fire breaks out in the United States; every 2 minutes a home goes up in flames; and every 40 minutes one of our citizens dies in a fire. Measured in terms of lives, fire killed 12,200 people in 1970. In addition, $2,263,918,000 in property losses were reported.

Counting the lives that are lost and the maiming and injuries to about a quarter of a million victims of all ages—including deaths and injuries to firefighters—some fire research experts have estimated that the dollar cost to the Nation in fire losses and in increasing costs of fire protection equals about 1 percent of the gross national product.

Mr. Speaker, the firefighters of America are valiant, courageous, and dedicated individuals. I wish to pay tribute to them by inserting into the RECORD two statements on the role of our firemen. Chief Joseph E. Galvin of the 12th battalion in New York City has written an excellent article entitled, "Now Listen to a Firefighter's Plea," and an article by Raymond Gimmler, president of the Uniformed Fire Officers Association, includes sections of the Galvin article deleted from the New York Times publication.

In addition, Mr. Speaker, I should like to call attention to the fact that I will soon introduce legislation designed to urge local governments to adopt regulations to protect against fires in high rise buildings. A safety plan, sprinkler systems, exhaust shafts, fire signs, signal and voice communication systems and elevator fire protections are all of the utmost importance in preventing fires in high rise buildings. I urge my colleagues to support my upcoming House joint resolution in this area, as well as other firefighter legislation being proposed in this Congress.

The articles follow:

[From the New York Times, Jan. 20, 1972]

NOW LISTEN TO A FIREFIGHTER'S PLEA

(By Joseph E. Galvin)

During my firefighting career I've been blown from the roof of a blazing pier, have had the man next to me on a hose line gasp and die as we tried to advance into a burning tenement, have had a woman relieve herself as we carried her down an aerial ladder from a blazing Harlem tenement in a snowstorm.

I've worked seven hours in a blizzard while soaked to the skin, and had to be taken to a hospital as a result; I once literally tore the arms from a dead firefighter who was trapped beneath a truck.

I've saved lives and have had mine saved several times by my brother firefighters. I've suffered injuries ranging from scalds and burns to a form of "combat fatigue." I've been taken to the hospital, unable to walk, due to the swelling in my heels resulting from sliding the firehose pole over twenty times during one single night tour in Harlem. I've been in building collapses to assist in the removal of victims when the building was threatening to collapse over our heads and bury us.

I've also been cursed, punched, assaulted and insulted by so-called "toughs" so many times that, incredibly, I'm almost inured to it. I've fought off a group of hoodlums who had surrounded our apparatus and were attempting to steal our tools and equipment. However, and this is quite important, I am not alone nor am I unique. Many other professional firefighters have endured much more than I, and will carry terrible physical and emotional scars to their graves.

To be a member of a ladder company crawling around the smoke-filled rooms of an occupied tenement, searching for possible fire victims, while three or four rooms are afire in the apartment directly below, is one of the most demanding tasks required of a human being. To be given the assignment of cutting a hole in a building's roof to effect ventilation so that the engine company down below can advance its line, when every enlargement of the hole allows super-heated smoke and gases to blast into one's face, demands the ultimate in dedication and raw guts.

The human body is subjected to such a high level of punishment during the performance of these tasks that no one, and I mean no one but a firefighter, would place his body in close proximity to the immediate area. You see, professional firefighters as a rule have life spans approximately seven years less than the average male.

Few of this city's citizens realize that some fire units respond to over seven thousand alarms during the year, and that each time they do the firefighters are subjected to tremendous emotional strain—not knowing whether the alarm will be a tragedy or a false alarm. I've seen some of my men leave their firehouses after the completion of their tour of duty almost disoriented from fatigue and the effects of noxious gases. To respond to over twenty alarms during one night tour and get three or four tough fires, back to back, is a terrible experience. What motivates men to perform this task?

After almost twenty years of working with and observing firefighters in every conceivable emergency, I've concluded that the glue which holds this great department together is a combination of brotherhood and love. The misery, suffering and pain which we firefighters share creates a bond which those outside the fire service cannot comprehend. Wives, mothers, sweethearts—none can intrude into this unique fraternity that comes from being truly brothers. This spirit of comradeship grows from the development of mutual respect and admiration which each man has for another; and is a form of love. And that special love which men in combat develop for one another is indeed a wonderful thing to share in, or even to observe. We firefighters endure hardships and share experiences which we'll never forget even if we live to be 200. The crucible of arduous fire duty welds us into a tough steel-like chain, which may be strained, but never parted.

In recent years we have all but been inundated by television shows, newspaper and magazine articles, movies and books describing the problems of the law-enforcement officer (all valid) during this era of "crime in the streets." This has resulted in hundreds of millions of dollars being granted by both state and Federal agencies to police departments throughout this country.

Doesn't "crime in the streets" and the Safe Streets Act relate to malicious false alarms, arson, assaults on and shooting at professional firefighters? Cannot we in the fire service acquire the aid of someone to forcefully bring to the attention of our citizens a truly honest picture of the firefighter's life? And death? Does it have to be left to a nonerudite individual like myself, so obviously out of my element, to attempt to get across the message that this noble calling—the saving of lives—takes a terrible toll?

What is needed is the effective spotlighting of the firefighter's problems; the unique skills required of the job and the need for aid—new equipment, research and development programs, a newer type of lightweight mask (the mask widely used now, developed for World War II, weighs thirty pounds and can be used up in less than ten minutes).

It should be just as easy for a firefighter to attend a course at a university as it is for a policeman, but the work schedules now in effect in the New York City Fire Department make it very difficult for a fireman and almost impossible for an officer.

Won't someone please come forward to help us?

[From the Civil Service Leader, Feb. 15, 1972]

THE LIFE OF A FIREFIGHTER

(By Raymond Gimmler)

Recently a member of the Uniformed Fire Officers Assn., Battalion Chief Joseph E. Galvin, wrote a very moving article that was reprinted in The New York Times.

Chief Galvin's stark portrayal of the life of a firefighter ended with a plea to the community for help. One of the items he mentioned was the antiquated equipment New York City's firefighters must work with. This problem was also the subject of one of my recent Civil Service Leader columns.

I'm happy to report today that someone in the Fire Department obviously was listening to Chief Galvin, and was reading The Leader, too. At promotion ceremonies recently, Chief of the Department John T. O'Hagan devoted most of his speech to a promise that the Fire Department was seeking research programs to produce the best and most modern equipment available for firefighters' use. A subsequent press release by the Department told of contact with the Federal Government's National Aeronautics and Space Administration for the production and testing of new uniforms that withstand heat better.

There was another thread that wound itself through Chief Galvin's article in The Times—a plea to the media to pay some attention to the plight of the firefighters. But because of space limitations, The Times edited out much of that portion of his manuscript. I would like to quote those unpublished paragraphs written so eloquently by Chief Galvin:

"If news correspondents, in order to get a firsthand look at, and an insight into men's reactions and character during a frontal assault on a heavily defended island, can accompany the first wave; if Robert Trumbull could sail on one of our submarines in the Pacific during World War Two to gain some empathy with the submarines; if Walter Cronkite could fly with an American bomber crew on a raid over Europe in 1944; if present day reporters can go out with riflemen in Viet Nam; and if big city reporters can accompany policemen on 'shoot-outs' and riots; then why cannot a skilled reporter accompany a crew of firefighters as they crawl down a long smoke- and heat-filled hall in a Harlem tenement?

"He could observe the men choke, gasp, vomit and suffer while their officers lead them, exhorting them with 'come on, push in, there are kids in there.'

"Reporters covering fire stories limit their observations to those made from the building's exterior, and enter the building only after the fire is extinguished. Photographers take pictures of heavy appliances directing mighty jets of water into fire buildings while virtually ignoring the snaked hose lines entering the buildings. I suppose they don't realize that on the business end of those hose lines are small groups of dedicated men, led by skilled officers, giving up a portion of their lives. You, see professional firefighters as a rule have life spans approximately seven years less than the average male."

Well, Chief Galvin certainly sets out the challenge for an enterprising, courageous reporter. I am dead certain that there are many young journalists who would want to accept that challenge. I wonder if there are any assignment editors reading this column.

CONSTITUTIONAL SCHOLARS COMMENT ON PROPOSED BUSING MORATORIUM ACT

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. CELLER. Mr. Speaker, in an effort to assist Members of the House to assess the serious constitutional issues raised by the President's proposed Student Transportation Moratorium Act (H.R. 13916), I insert in the Record letters from six outstanding constitutional law authorities who comment on H.R. 13916. The authors of these communications include: Prof. Alexander M. Bickel, Yale Law School; Prof. Harold W. Horowitz and Prof. Kenneth L. Karst, University of California Law School; Prof. Milton Katz, Harvard Law School; Prof. William Van Alstyne, Duke University Law School; and Prof. Sidney B. Jacoby, Case Western Reserve University Law School.

In addition, I insert in the Record a letter expressing opposition to the proposed moratorium act and signed by members of the faculties of the following three law schools: Harvard Law School, University of Pennsylvania Law School, and Columbia Law School.

The letters follow:

Yale Law School,
New Haven, Conn., April 7, 1972.

Hon. Emanuel Celler,
U.S. House of Representatives,
Committee on the Judiciary,
Washington, D.C.

Dear Mr. Chairman: I have been away, and so have been unable to make an earlier answer to your letter of March 21 concerning H.R. 13916, the President's moratorium bill.

In my judgment, the constitutional validity of the moratorium depends in the first instance on the constitutionality of the mandatory provisions of the President's second bill, H.R. 13915. Legislative moratoriums, forgiving repayments of debts or of interest on debts for the time being, have been upheld in the past, when they have been, on the ground that legislatures have power to regulate the property interests of creditors; not—short of the martial law situation—on any general ground that the legislature may temporarily stop a court from doing something that the legislature has no power to prevent permanently. Of course, if Congress can permanently forbid busing below the sixth grade or across district lines, it may forbid it temporarily. But if not, the question has to be whether Congress is credibly in train of doing something else, which is within its constitutional power, and which exigently requires the courts to stay their hands temporarily in order to enable Congress to achieve its end. (The declarative, admonitory and financial provisions of H.R. 13915 can scarcely be deemed exigently to require a moratorium.) Unless the question is put this way, rather closely and with built-in qualifications, the argument in behalf of the moratorium, whatever its trappings, necessarily boils down to the claim that Congress always has plenary power to suspend enforcement of Constitutional rights. But the "judicial power the United States" is vested by Article III of the Constitution in the courts, not in Congress, and ever since John Marshall's decision in *Marbury v. Madison*, the judicial power has been held to be supreme over the legislative, so far as the application and enforcement of the Constitution is concerned. Since the Court cannot be asked to guess what Congress might have a mind to do, or to deliver an advance, abstract judgment on the constitutionality of hypothetical future laws, I would think, moreover, that no plausible claim for the validity of a moratorium can be made unless the moratorium is attached to the very legislation which, in the view of Congress, renders it exigent.

Everything hangs, therefore, on the validity of the mandatory provisions of the second bill. The strongest proposition supporting the constitutionality of these provisions is that even where individual constitutional rights are in question, Congress, though it cannot overrule the judicial definition of the substance of those rights, has power to prescribe appropriate remedies for effectuating them, and to forbid the courts to employ other remedies. But the line between substance and remedy is not so clear as this proposition would have it. As the late Professor Henry M. Hart Jr. pointed out, "the denial of one remedy while another is left open, or the substitution of one [remedy] for another is very different" from the "denial of *any* remedy." Hart and Wechsler, *The Federal Courts and the Federal System* 312, 313 (1953).

In a companion case to the *Swann* case of last spring (*North Carolina State Board of Education* v. *Swann*), the Supreme Court had before it a North Carolina statute that provided as follows:

"No student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of creating a balance or ratio of race, religion, or national origins. Involuntary busing of students in contravention of this article is prohibited, and public funds shall not be used for any such busing."

The Court declared the statute unconstitutional because it operated "to hinder vindication of federal Constitutional guarantees." Not only the prohibition of assignments of students on account of race, but even the prohibition against assignments for the purpose of creating racial balance, said the Court, "must inevitably conflict with the duty of school authorities to disestablish dual school systems." For even though racial balance was not mandated by the Constitution, some ratios were likely in many cases to be useful starting points in the shaping of a remedy. An absolute prohibition of ratios, even as a starting point, interfered unconstitutionally with the shaping of appropriate remedies. The same was true of the prohibition against busing. Bus transportation, said the Court, as it had noted in its main opinion in the *Swann* case, "has long been an integral part of all public educational systems, and it is unlikely that a truly effective remedy could be devised without continued reliance upon it."

Is there reason to think that Congress has any more power than the states to deprive the federal courts of a means that the Supreme Court has said may be essential for giving effect to the Constitutional rights declared in *Brown* v. *Board of Education*? To be sure, Congress has power, which the states lack, to regulate the jurisdiction of federal courts, and to govern their procedure and their choice of remedies. So it did in the Norris-LaGuardia Anti-Labor Injunction Act of 1932, for example. But there it deprived courts of the power to grant a remedy historically viewed as extraordinary. The remedy ordinarily available was not affected. And in the vast number of its applications, the Norris-LaGuardia Act was not concerned with remedies for the denial of constitutional rights.

The short of it, it seems to me, is this. The Supreme Court has held that there are cases in which the only effective remedy for school segregation is to order more extensive busing of children below the sixth grade than has been used before, and may hold that busing across district lines is essential. If in such a case, having determined that but for the more extensive busing or the crossing of district lines the segregation of schools would go unremedied, the Court should accept the command of Congress that it may not administer what it regards as the essential remedy, the Court will have accepted a more far-reaching limitation on judicial power, a greater qualification of the power of judicial review established by *Marbury* v. *Madison* than ever before in its history, greater than in the Reconstruction case of *Ex parte McCardle*, which is itself aberrational, and which in common with the late Professor Hart I read as a fairly narrow holding. Theoretically, to be sure, state courts retain power to order busing of any sort below the sixth grade. But exercise of the appellate jurisdiction of the Supreme Court is restricted in this regard, in this specific regard only, and with specific substantive consequences. And the general jurisdiction of lower federal courts, otherwise also unaltered, is also restricted in this specific regard. The power of Congress to regulate judicial jurisdiction has never been held to enable Congress to change specific substantive results. It should not be, and cannot be—not consistently with *Marbury* v. *Madison*.

Faithfully yours,

Alexander M. Bickel.

University of California,
Los Angeles, Calif., March 30, 1972.

Hon. Emanuel Celler,
Chairman, Committee on the Judiciary,
U.S. House of Representatives,
Washington, D.C.

My Dear Mr. Celler: This is in response to your letter asking for my comments on H.R. 13916, the "Student Transportation Moratorium Act of 1972." I have asked my colleague, Kenneth Karst, to join me in responding.

It would not be wise, we believe, to enact this legislation. We base this conclusion on a weighing of the potential benefit and harm which would result from adoption of the moratorium.

This bill would stay the implementation of the transportation aspects of any order of a federal court entered after enactment of H.R. 13916 until July 1, 1973, or the enactment of legislation such as H.R. 13915. The stay is said, in Sec. 2(a)(5), to be needed because there is a substantial likelihood that pending consideration by the Congress of H.R. 13915 many local educational agencies will be required to implement desegregation plans "that impose a greater obligation than required by the fourteenth amendment and permitted by" H.R. 13915. Consideration of the moratorium proposal requires, therefore, an understanding of the provisions of H.R. 13915.

H.R. 13915 declares that only dual school systems (deliberate segregation) and the "vestiges" of dual systems are violations of the equal protection clause. Failure to attain racial balance, and the assignment of students to the schools nearest their places of residence are said, in sections 202 and 203, not to be denials of equal educational opportunity. The use of transportation of students as a remedy for denial of equal educational opportunity is narrowly restricted by sections 402 and 403. H.R. 13915 thus states congressional interpretations of the equal protection clause of the fourteenth amendment, with declarations that only some types of racial separation in the public schools are in violation of the amendment, and that some types of remedies for unconstitutional state action shall not be given effect. On the first of these questions the Congress would be declaring an interpretation of the Constitution on an issue on which the United States Supreme Court has not yet ruled. On the second of the questions the Congress would be declaring that the Court's interpretation of the equal protection clause in the *Swann* case should no longer be given effect. There are, of course, substantial questions whether this legislation would be constitutional, in light of the much-discussed statements in the opinions in *Katzenbach v. Morgan* and *Shapiro v. Thompson*.

What the proposed moratorium would accomplish would be the effective temporary enactment of the very substantive provisions of H.R. 13915 whose constitutionality is dubious. The Congress would be declaring that, pending its own deliberation of these serious constitutional issues, the constitutional rights of school children are to be deferred. But in the case of a school child, whose education goes on from year to year until graduation, to "defer" a right means the denial of the right. During the congressional deliberations on H.R. 13915, we believe that Congress should leave the *Swann* decision undisturbed. For the same reasons, Congress should not, as an "interim" measure, prevent federal courts from using the remedy of transportation in cases in which those courts find constitutional violations with respect to "de facto" school segregation.

The issues before your Committee with respect to the proposed moratorium, in other words, are not separable from the issues concerning H.R. 13915 itself. The denial of constitutional rights should not casually be enacted. There is great potential harm, real and symbolic, in telling black children, North and South, that the Congress is deliberating on whether it should deny them a desegregation remedy, that if Congress does deny that remedy there is a considerable likelihood the denial of the remedy will be held to be unconstitutional, and that in the meanwhile the Congress is going to deny them that remedy. This harm, we believe, plainly outweighs any benefit (benefit to whom?) to be gained from a moratorium.

Sincerely,

HAROLD W. HOROWITZ,
KENNETH L. KARST,
Professors of Law.

LAW SCHOOL OF HARVARD UNIVERSITY,
Cambridge, Mass., April 5, 1972.

Hon. EMANUEL CELLER,
Chairman, Judiciary Committee, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN CELLER: I am writing to recommend that you use your office and influence to oppose President Nixon's recently introduced bills, the "Student Transportation Moratorium Bill" and the bill "To Further the Achievement of Equal Educational Opportunity". I have read and analyzed both bills with care.

The President's proposed measures do not seek to have Congress regulate alleged excesses in the mandatory reassignment of pupils and in busing in a selective and sensible way. On the contrary, they seek to place far-reaching, rigid, and mechanical limitations on the exercise of judgment by courts, government departments and administrative agencies alike. In effect, the President's bills would seek to counter alleged excesses in a good direction by replacing them with clear excesses in a bad direction.

I recognize that serious questions about various aspects of busing have been raised by conscientious citizens, both black and white. In the administration of any policy, however wise and important, it is possible for administrators—or courts—at times to take steps that are unnecessary and misdirected. In such cases, the appropriate remedy would be to insist on good sense and good judgment, not to throw out the baby with the bath.

The situation calls for moderation, careful judgment, and a painstaking selection of appropriate targets. The President proposes to bring up two blunderbusses to fire in all directions.

Sincerely yours,

MILTON KATZ,
Henry L. Stimson Professor of Law Director, International Legal Studies.

DUKE UNIVERSITY,
Durham, N.C., April 11, 1972.

EMANUEL CELLER,
Chairman, U.S. House of Representatives, Committee on the Judiciary, Washington, D.C.

DEAR CONGRESSMAN CELLER: I have read H.R. 13916 as you requested, and I believe that its basic provision, Section 3(a), is quite clearly unconstitutional as a violation of that separation of powers which precludes Congress from directing an Article III Court to apply a different and more restrictive interpretation of the Constitution than that which the Supreme Court has already determined to be required. In essence, the constitutionality of this bill cannot be sustained consistent with the description of judicial power in ***Marbury* v. *Madison***, 5 U.S. (1 Cranch) 137 (1803), ***Martin* v. *Hunter's Lessee***, 14 U.S. (1 Wheat) 304 (1816), ***Cohens* v. *Virginia***, 19 U.S. (6 Wheat) 264 (1921) and ***United States* v. *Klein***, 80 U.S. (13 Wall.) (1872). The reasons for this conclusion are these.

By *Brown* v. *Board of Education*, 347 U.S. 483 (1954) it was settled that a local educational agency may not segregate public school children according to race. In 1968, a similarly unanimous Supreme Court held that the substantive constitutional entitlement of equal protection included affirmative assurance of access to schools not identifiable by race, and that further delay or postponement of such access was itself unconstitutional. *Green* v. *County School Board*, 391 U.S. 488, 439 (1968):

"The burden on a school board today is to come forward with a plan that promises realistically to work . . . now . . . until it is clear that state-imposed segregation has been completely removed."

In brief, in the Court's view the *timing* of relief in behalf of plaintiffs was held to be an inseparable part of their substantive constitutional right to equal protection and no longer simply one of several factors within the discretion of lower courts (or legislative bodies) to consider in fashioning an appropriate remedy. The point was reiterated the following year, in *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19, 20 (1969):

"[C]ontinued operation of segregated schools under a standard of allowing 'all deliberate speed' for desegregation is no longer *constitutionally* permissible." (Emphasis added.)

So declaring, the Supreme Court held that "the Court of Appeals should have denied all motions for additional time."

That immediate vindication of the substantive right to equal protection, may, in a given case, necessarily include provision for transportation, moreover, is settled by *Swann* v. *Board of Education*, 402 U.S. 1 (1971). Where the local educational agency had operated a dual system and where it had also manipulated its authority over site selection and school location, minimum effective immediate relief necessarily involved some busing of students not previously bused and some busing of students to schools to which they were not previously bused. Fully recognizing that complementary measures should also be employed and that "an objection to transportation of students may have validity when the time or distance of travel is so great as to either risk the health of the children or significantly impinge on the educational process" (402 U.S. at 30–31), the Court in *Swann* then observed:

"Desegregation plans cannot be limited to the walk-in school. * * * In *Green, supra*, this Court used the term "feasible" and by implication, "workable," "effective," and "realistic" in the mandate to develop "a plan that promises realistically to work, and . . . to work *now*." On the fact of this case, we are unable to conclude that the order of the District Court [requiring busing] is not reasonable, feasible and workable." *Ibid.*

Equally significant were two companion cases decided the same day with *Swann*. In the first of these, *Davis* v. *School Commissioners of Mobile County*, 402 U.S. 33, the "desegregation" plan acceptable to the court of appeals utilized "unified geographic zones, and no transportation of students for purposes of desegregation." *Id.* at 36. Reversing, the Supreme Court declared:

"[I]nadequate consideration was given to the possible use of bus transportation and split zoning. For these reasons, we reverse the judgment * * * and remand the case for the development of a decree 'that promises realistically to work, and promises realistically to work *now*'." *Id.* at 38.

In the other case, *North Carolina State Board of Education*, 402 U.S. 43, the Supreme Court unanimously affirmed the judgment below declaring a state statute unconstitutional insofar as it attempted to forbid "involuntary" busing or the use of public funds for any such busing:

"[S]tate policy must give way when it operates to hinder vindication of federal constitutional guarantees. * * * As noted in *Swann*, bus transportation has long been an integral part of all public educational systems, and it is unlikely that a truly effective remedy could be devised without continued reliance upon it." 402 U.S. at 46.

With this settled background, we may now consider the effect (and the constitutionality) of the proposed Moratorium Act in a particular case arising late this summer, 1972. Additional children shall doubtless come of school age by that time, none of whom will previously have been bused to any school. According to the Act, no court of the United States may enter and implement an order assuring them of busing. Some of these children, however, doubtless live in public housing which the district court has in *Swann*, previously determined to have been situated as it is for purposes of racial segregation. The nearest school, moreover, is one which the district court has previously determined also to have been situated as it is for purposes of racial segregation. The entire district is that which historically operated a dual system, with bad faith noncompliance by the local educational agency years after *Brown*. It is unimaginable under these circumstances, in light of the foregoing authority I have briefly recapitulated in this letter, that the federal court would not regard the implementation of a new busing order in behalf of these children as indispensable to the vindication of their substantive constitutional right to equal protection. Reliance by the defendant school board upon the Moratorium Act must thereupon result in a firm and unexceptional decision by the federal court that that Act is beyond congressional power and doubly unconstitutional:

1. As a federal statute authorizing state

action denying substantive equal protection, it is violative of the implied equal protection clause of the fifth amendment. See *Shapiro* v. *Thompson*, 394 U.S. 618 (1969) ("Congress may not authorize the States to violate the Equal Protection Clause.") See also *Bolling* v. *Sharpe*, 347 U.S. 497 (1954).

2. As a federal statute which leaves jurisdiction in an Article III court to hear and to decide the constitutional question presented by the plaintiffs, but which then mandates a result inconsistent with that which the court would otherwise determine within its province to interpret the law of the Constitution, it violates the separation of powers:

"So if a law be in opposition to the Constitution; if both the law and the Constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the Constitution; or conformably to the Constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty." *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, (1803).

3. While the Moratorium Act omits state courts from its ban, it evidently applies to mandate the result of Supreme Court review of state court judgments inconsistent with *Swann*. In permitting the Supreme Court to take appellate jurisdiction, but in precluding it from rendering a judgment it otherwise deems essential correctly to decide the case in accordance with its own interpretation of the fourteenth amendment (*e.g.*, to reverse and to remand with direction to grant relief involving some busing), the Moratorium Act violates the separation of powers once again. Cf. *United States v. Klein*, 80 U.S. (13 Wall.) 128 (1872) with *Ex Parte McCardle*, 74 U.S. (7 Wall.) 506 (1868). To paraphrase the late Professor Hart, the power of the Supreme Court to decide the case at all must necessarily include the power to decide it according to the Constitution. See Hart, *The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic*, 66 Harv. L. Rev. 1362 (1953).

This, in essence, is a succinct statement of my views respecting the unconstitutionality of the Moratorium Act and there frankly is no need to qualify them further. Because of what I understand to be the different views elsewhere offered to sustain this bill, however, it may be well to put some of these into perspective. One such view is that this bill purports to be an exercise of congressional power pursuant to section five of the fourteenth amendment, the power to enforce the provisions of section one (including the guarantee of equal protection) by "appropriate legislation." That this bill is not maintainable pursuant to that claim of power seems to be evident from all of the following considerations:

1. It nowhere purports to provide any remedy at all for those otherwise found to be denied equal protection by compulsory assignment to racially segregated schools in a *Swann*-type case; it is, in this respect, utterly different from the separate bill submitted by the Administration. Neither does it purport to find that others whom a federal court may include within an order contemplating busing are thereby denied equal protection, or that their exclusion from any such order is essential to assure them of equal protection. As it does not at all preclude state courts from entering *Swann*-type orders, moreover, it is simply not connected with providing uniform means of assuring equal protection.

2. To the extent that the Moratorium Act contemplates additional legislation which might, when adopted, be thought to provide different but equivalent remedies for the enforcement of equal protection without further busing, it could be sustained only by requiring the Supreme Court to render an advisory opinion respecting the constitutionality of that other statute which has neither been adopted in fact nor properly before the Court for adjudication. This, of course, is itself beyond the authority of the Supreme Court to do. See *Muskrat v. United States*, 219 U.S. 346 (1911); *Hayburn's Case*, 2 Dall. 409; *United States v. Ferreira*, 13 How. 840; *Gordon v. United States*, Appendix, 117 U.S. 697; *Correspondence & Public Papers of John Jay*, vol. 3, p. 486.

3. In forbidding any further provision for transportation even when essential in the view of the federal court for the immediate vindication of the substantive constitutional right to equal protection, without providing any alternative which, in the view of Congress, is either a better alternative or at least an equivalent alternative, the bill cannot be said to be one which "enforces" the right to equal protection. Rather, it is one which abridges that right, and no such authority is granted by section five of the fourteenth amendment. See *Katzenbach v. Morgan*, 384 U.S. 641, n. 10 (1966); *Shapiro v. Thompson*, 394 U.S. 618 (1969); *Oregon v. Mitchell*, 400 U.S. 112, 128 (1971):

"Congress may only 'enforce' the provisions of the amendments and may do so only by 'appropriate legislation.' Congress has no power under the enforcement sections to undercut the amendments' guarantees of personal equality and freedom from discrimination, see *Katzenbach v. Morgan*, 384 U.S. 641, 651 n. 10 (1966)."

See also *Bivens v. Six Unknown Federal Narcotic Agents*, 403 U.S. 388 (1971).

The bill in fact appears to be founded on a claim of congressional authority derived from Article III, plus the necessary and proper clause of Article I, of the Constitution. Presumably, it is derived from the power of Congress to provide for such inferior federal courts as it deems appropriate, and to make such exception and regulation of the Supreme Court's appellate jurisdiction as it deems expedient. There is, no doubt, great latitude of authority in these powers, but I think it clear from the materials and authority set forth earlier in this letter that the Moratorium Act is not sustainable on such a basis. It does not deny jurisdiction to hear the case, it does not withdraw authority to consider a claim otherwise presented in the case, it does not propose the substitution of some remedy believed to be more appropriate than that which it withdraws, nor does it simply foreclose a remedy inessential to provide consistent still with the power to decide the case. Rather, it operates to mandate a judicial result otherwise foreclosed by the Supreme Court's interpretation of what the *Constitution* requires as part of adjudication. As it would make the courts the instrument of adjudication inconsistent with the exercise of judicial power, it violates the separation of powers and is, accordingly, unconstitutional. Neither the labor injunction cases nor the depression moratorium statutes are similar in this respect, and neither affords suitable precedent to sustain this Act. Rather, the sense and sensibility of *Marbury v. Madison* is at stake here, and nothing short of an amendment to the Constitution may properly destroy it.

Sincerely,

WILLIAM VAN ALSTYNE.

CASE WESTERN RESERVE UNIVERSITY,
Cleveland, Ohio, April 14, 1972

Hon. EMANUEL CELLER,
Congressman, House of Representatives, Chairman, House Judiciary Committee, Washington, D.C.

DEAR CONGRESSMAN CELLER: Thank you very much for your letter of March 29, 1972, with which you enclosed a copy of H.R. 13916 (the proposed "Student Transportation Moratorium Act of 1972", before your Committee); you also enclosed copies of H.R. 13915 and H.R. 13983 (different versions of the "Equal Educational Opportunities Act of 1972", both before the House Committee on Education and Labor).

I have undertaken to study the bills carefully, concentrating on H.R. 13916, and have reached the conclusion that there is a serious constitutional objection to H.R. 13916. I should like it to be understood that my constitutional objection is addressed to only one basic provision of H.R. 13916 (Sec. 3), and then only to a particular application of the bill. There are, of course, some broader constitutional questions involved in H.R. 13916, principally whether the proposed "Equal Educational Opportunities of 1972" and, with it, the "Student Transportation Moratorium Act of 1972" are constitutionally valid in the light of the Supreme Court's descision in *Swann* v. *Charlotte-Mecklenberg Board of Education*, 402 U.S. 1, 29–31 (1971), which in interpreting the Fourteenth Amendment and *Brown* v. *Board of Education*, 347 U.S. 483 (1954), sanctioned the use by the courts of more extensive busing as a device for accomplishing desegregation. I assume *arguendo*, without subscribing to it, the principle that the substantive provisions of the "Equal Educational Opportunities Act of 1972" (Title II of H.R. 13915, and Title I of H.R. 13983) are a constitutionally valid "enforcement" by Congress pursuant to Section V of the Fourteenth Amendment to the Constitution. Nevertheless, it is my opinion that Section 3 of H.R. 13916 violates the Constitution, not for any reasons of constitutional equal protection, but for being contrary to the broad constitutional principle of separation of powers and the principle of the independence of the judiciary. In particular, I should like to direct my attention to a situation where a lower court has ordered more extensive busing as a device of desegregation and where in certain circumstances under section 3(a) of H.R. 13916 the implementation of such court orders would be stayed perhaps until July 1, 1973. In other words, you have a situation here where Congress attempts to nullify, or at least postpone, a court decision because it desires in the future to establish a standard different from that which was established by the court; by the proposed bill Congress attempts to change the equitable effect of the previous court decree. (It should be noted that in the case at hand the standard laid down by the court in the exercise of its equitable powers involves a constitutional question).

Such an attempt by Congress, in my opinion, violates the principle of the independence of the judiciary, and the Supreme Court opinion of *United States* v. *Klein*, 80 U.S. (13 Wall) 128 (1871), supports that view. The *Klein* opinion, of long standing, has never been questioned and, in fact, was in 1962 referred to in full detail by Mr. Justice Harlan in the celebrated *Glidden Company* v. *Zdanok* opinion (370 U.S. 530, at 568 (1962)) as demonstrating an "unconstitutional attempt to invade the judicial province by prescribing a rule of decision in a pending case." I shall attempt to describe the *Klein* situation in fuller detail in order to show its importance in the present case but before doing so I should like to make it clear that certain broader issues are not involved in my attack: I am not here contending that Congress may not have taken away the *jurisdiction* of the courts to handle desegregation matters. H.R. 13916 does not attempt to deprive the courts of *jurisdiction* in desegregation matters; thus, H.R. 13916 does not abolish court *jurisdiction* in matters under Title IV of the Civil Rights Act of 1964 (78 Stat. 241, 246 (1964)). I am not here concerned with the question whether such a provision would have been desirable or, in some situations, may have been unconstitutional. Consequently, we are not here concerned with the many different types of case which have sanctioned Congressional annulment of the courts' *jurisdiction* to hear a case. Thus, the following cases, for instance, are of no relevance here: *District of Columbia* v. *Eslim*, 183 U.S. 62 (1901) (repeal sanctioned of a *jurisdictional* act though prior thereto plaintiff had recovered judgment in the lower court); *Burner* v. *United States*, 343 US. 112 (1952) (change of statutory language held to have ended *jurisdiction* of a pending suit); *Lauf* v. *E. G. Shinner & Co.*, 303 U.S. 323, 330 (1938) (generally sustaining the power of Congress to limit the *jurisdiction* of the inferior courts of the power of Congress to limit the *jurisdiction* of the inferior courts of the United States); or the celebrated *Ex parte McCardle* case (74 U.S. (7 Wall.) 506 (1869)) (the famous habeas corpus decision, which, in a later opinion (*Bruner* v. *United States*, *supra*) the Supreme Court summarized as holding that "when a law conferring *jurisdiction* is repealed without any reservation as to pending cases, all cases fall with the law"). None of these cases are of relevance here because H.R. 13916 does not attempt to annul jurisdiction; it seeks to prescribe for the judiciary a rule of decision in pending cases. Nor is there any need here for considering the general provisions on the effect of repealer statutues (1 U.S.C. § 109) since H.R. 13916 in no way attempts to repeal any statute. It merely seeks to nullify existing interpretations of statutory, and in fact constitutional, provisions.

The facts in *United States* v. *Klein* were as follows: The Captured and Abandoned Property Act had authorized suit in the Court of Claims for the return of seized Confederate property on proof that plaintiff had given no aid or comfort to the rebellion. In *United States* v. *Padelford*, 76 U.S. (9 Wall.) 531 (1869) the Supreme Court had ruled that the statute was satisfied when the claimant had received a pardon under a Presidential general amnesty. Immediately thereafter Congress, while the appeal in the *Klein* case was pending, enacted a rider to an appropriation bill, forbidding proof of loyalty by pardon. In *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1871), the Supreme Court held this statute unconstitutional. Recognizing that Congress had "complete control over the organization and existence" of the Court of Claims, the Supreme Court stated the act amounted to a "rule of decision, in causes pending, prescribed by Congress. . . . What is this [the act] but to prescribe a rule for the decision of a cause in a particular way? In the case before us, the Court of Claims has rendered judgment for the claimant and an appeal has been taken to this court. We are directed to dismiss the appeal, if we find that the judgment must be affirmed, because of a pardon granted to the intestate of the claimants. . . . Can we do so without allowing that the legislature may prescribe rules of decision to the Judicial Department of the government in cases pending before it? We think not: . . . We must think that Congress has inadvertently passed the limit which separates the legislative from the judicial power. It is of vital importance that these powers be kept distinct." (at 145, 146, 147)

In my opinion, this clear holding in the *Klein* strongly suggests that, similarly, the "student Transportation Moratorium Act of 1972" is unconstitutional. In both situations there was a prior Supreme Court ruling (*United States* v. *Padelford* and *Swann* v. *Charlotte-Mecklenburg Board of Education*, respectively); in both situations the Supreme Court decision had interpreted a prescribed scheme (in the *Klein* case prescribed by statute; here even more directly prescribed by the Constitution); and in both situations an attempt is made to change the rule of decision in pending cases. Certainly there are some differences between two situations (the *Klein* case being a suit against the federal government, etc.) but I believe that these dissimilarities are minor. The basic matter is that, like in *Klein*, H.R. 13916 is a violation of the fundamental doctrine of separation of powers.

As indicated, these comments are basically limited to H.R. 13916, but it should be noted that the broad constitutional principle, enunciated in the *Klein* opinion, of an attempted interference with the judiciary would seem to apply specifically also to a certain provision of the "Equal Educational Opportunities Act of 1972" (section 406 of H.R. 13915 and sec. 306 of H.R. 13983). Under the proposed rule there would be a mandatory reopening of previous court orders decreeing desegregation under the Civil Rights Act. Aside from the larger constitutional questions involved, such a solution, in my opinion, would also raise the *Klein* questions as a possible interference with the judiciary. The Supreme Court's opinion in *Pope* v. *United States*, 323 U.S. 1, 8–9 (1944), when mentioning the *Klein* holding, suggested that that case under certain conditions also prohibits a Congressional act from setting aside a judgment in a case already decided. Such an unconstitutional attempt, it might be urged, would be made in the above-mentioned sections of the "Equal Educational Opportunities of 1972."

In summary, I should like to emphasize that my comments are not addressed to the broad constitutional arguments against H.R. 13916, which are based on the Fourteenth Amendment and which would attempt to show that H.R. 13916 in certain situations would deprive individuals of constitutional rights. Quite aside from these broad arguments, my comments are intended to show that, even if the Fourteenth Amendment arguments were invalid, H.R. 13916 would suffer from its violation of the constitutional principle of separation of powers. Finally, I have sought to demonstrate another fact: even assuming that there is broad, unlimited power in Congress to abolish the *jurisdiction* of the courts—and there may be legitimate reasons for doubting the broad scope of such power—the *Klein* principle shows that Congress does not, as a "minor" power, possess the authority, without changing a statute, to prescribe a rule of decision for the courts in pending litigation. Such an attempt is being considered by the Supreme Court an unconstitutional interference with the judiciary, in violation of the principle of separation of powers. In other words, Congressional power to abolish *jurisdiction* does not, as a "minor" matter, include authority to violate the principle of separation of powers.

These comments were included in a letter addressed to you, Mr. Chairman, which thanked you for sending me the pertinent bills. Of course, I hereby give you full authority to utilize the comments in any way you desire and to include them as part of the record of hearings on H.R. 13916.

Very respectfully yours,

SIDNEY B. JACOBY,
Professor of Law.

STATEMENT SIGNED BY LAW SCHOOL FACULTY MEMBERS

The undersigned law teachers are strongly opposed to the two bills proposed by President Nixon for passage by Congress on the subject of busing of school children. We believe that the two bills, if enacted, would sacrifice the enforcement of constitutional rights, impair the functions of the judiciary under a rule of law, and jeopardize improved schooling for many, many children. More specifically, our reasons for opposition are as follows:

(1) The Supreme Court declared the segregated dual school system unconstitutional in the *Brown* case 18 years ago. For much of that period, opponents of the *Brown* decision have successfully avoided and delayed its enforcement. Only recently has the enforcement process achieved any momentum. Enactment of the two bills at this time will certainly be seen—by blacks and whites alike—as a major break in the Nation's resolve to realize the constitutional rights of black children under the *Brown* decision. Moreover, the very proposal of these bills—especially given the psychological impact of the President's speech—will seriously hamper and may well cripple efforts now under way to achieve compliance with *Brown*.

(2) The two bills call for a very substantial change in the standards and modes of enforcement of *Brown* by the courts. Their enactment by Congress under Section 5 of the Fourteenth Amendment invokes a rarely exercised power whose limits are not at all clear. Strong doubts of constitutionality exist, with constitutional lawyers differing as to the outcome if the bills were to become law and their legality tested in the courts.

Whatever may be the scope of the Congressional power, the proposed bills clearly would misdirect it. The President is encouraging Congress to react in a panic to busing, as though that were the key issue, when he should be exercising his leadership to calm the public and to call on Congress to deal with busing as one aspect of a comprehensive program for ending dual systems of segregated schools. This failure of leadership is highlighted by two key facts. According to Administration sources, while about 40 per cent of the Nation's school children are bused to school, at most 1 per cent or 2 per cent of this total are bused for reasons of desegregation. Secondly, in calling for an expenditure of 2.5 billion dollars on "inner-city schools," the Administration has not added one dollar to existing programs or proposals it has previously made. The net effect of the present proposals is to cut back sharply on existing remedies for segregation while offering little or nothing in their place.

(3) The two bills involve a needless and dangerous disruption of the proper relationships between the President and the Congress on the one side and the Supreme Court and other federal courts on the other. As recently as one year ago in the *Swann* case, in light of almost 20 years of experience with enforcing *Brown*, the Supreme Court approved of court-ordered busing as one means of disestablishing dual school systems—a means which in particular cases might be necessary to bring about a unitary, desegregated school system. The Court did not insist that busing was required in any mechanical way or that its disadvantages should be ignored by federal judges.

The President has suggested that lower federal courts have gone beyond the Supreme Court—and in his view, improperly so. One would then expect the Administration to press appeals of these decisions to the Supreme Court, and perhaps to ask that Congress mandate stays of execution pending the appeals. Instead, the Administration presents proposals which amount to a declaration of no confidence in the courts and a repudiation of what they have done under the Constitution and laws of the United States. If we take the President at his word, this is premature and unnecessary. It risks the very undermining of the Supreme Court's standing that the President has on other occasions said should be avoided.

(4) One need not be an advocate of large-scale busing to see the harms and dangers in the proposed scheme. Serious questions about various aspects of busing have been raised by both blacks and whites. But the Administration has not asked Congress to regulate alleged excesses of busing in a selective, sensitive way. Rather, the Administration seeks to eliminate all busing as a remedy for desegregation by placing rigid, mechanical limitations on it. The practical effect is that busing could no longer be used even as a minor but necessary part of a desegregation plan that emphasized, for example, new

geographic districts, or school pairings. It is in cases of this kind that the threats to the enforcement of *Brown* and to the proper role of the courts are clearest.

We call on Congress to reject the two proposed bills on busing.

Signed by the following members of Harvard Law School:

Paul M. Bator, Derrick A. Bell, Jr., Gary Bellow, Derek C. Bok, Stephen G. Breyer, Victor Brudney, Clark Byse, A. James Casner, Abram Chayes, Archibald Cox, John P. Dawson, Richard H. Field, Paul A. Freund, Charles M. Haar, Philip B. Heymann, Benjamin Kaplan, Andrew L. Kaufman, and Lance Liebman.

Louis Loss, John H. Mansfield, Michael J. McIntyre, Karen S. Metzger, Frank I. Michelman, Arthur R. Miller, Albert M. Sacks, Frank E. A. Sander, David L. Shapiro, Richard B. Stewart, Arthur E. Sutherland, Donald T. Trautman, Laurence H. Tribe, Donald F. Turner, James Vorenberg, Lloyd L. Weinreb, and Ralph U. Whitten.

We call on Congress to reject the two proposed bills on busing.

Signed by the following members of the University of Pennsylvania Law School:

Martin J. Aronstein, Paul Bender, Paul W. Bruton, Martha A. Field, David Filvaroff, Jefferson B. Fordham, Daniel I. Halperin, Howard Lesnick, Clarence Morris, William Nelson, Covey Oliver, Richard Sloane, Edward Sparer, Ralph S. Spritzer, and Bernard Wolfman.

We call on Congress to reject the two proposed bills on busing.

Signed by the following members of Columbia Law School:

Curtis J. Berger, Harlan M. Blake, George Cooper, Harold S. Edgar, E. Allan Farnsworth, Wolfgang G. Friedmann, William R. Fry, Nina M. Galston, Richard N. Gardner, Harvey J. Goldschmid, Frank P. Crad, Louis Henkin, Harold L. Korr, and Louis Lusky.

Michael C. Meltsner, Arthur W. Murphy, Harriett Rabb, Albert J. Rosenthal, Leonard M. Ross, Benno C. Schmidt, Abraham D. Sofaer, Philip G. Schrag, Michael L. Sovern, Peter L. Strauss, H. Richard Uviller, Walter Werner, William F. Young, and John M. Kernochan.

KENNEDY CENTER CHRONOLOGY

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. JOHNSON of California. Mr. Speaker, I take this opportunity to call to the attention of the Members of this body an article that appeared in the February program of the Kennedy Center for the Performing Arts. It is a thumbnail sketch and history of the coming into being of the Kennedy Center, prepared by a man who played a major role in its development, the center's general counsel, the distinguished Ralph E. Becker.

I place the article in the RECORD at this time so that all of us who are interested in the center—and that includes the millions of our citizens across this great country—may know firsthand of those who are chiefly responsible for the legislation that became law, the law that eventually became the brick and mortar of the Kennedy Center.

The article follows:

KENNEDY CENTER CHRONOLOGY

The September 8, 1971, inauguration of the John F. Kennedy Center for the Performing Arts provided Washington with a cultural center second to none. Four Presidents participated in making this dream a reality. In 1958, President Eisenhower signed the legislation creating a national cultural center. In 1962, President Kennedy approved a design change to that which we now see on the banks of the Potomac. In 1964, President Johnson signed legislation renaming the Center the John F. Kennedy Center for the Performing Arts. And in 1969, President Nixon signed legislation permitting the Center to be completed; he attended the openings of the Concert Hall and Eisenhower Theater in 1971.

The enactment of the legislation creating the Center was bi-partisan in nature, and the fact that it has been fully supported by four Presidents attests to its wide support. The co-authors of this bi-partisan legislation included Senators Wiley, Saltonstall, Fulbright and Clark; Congressmen Thompson, Wright, Kearns and Fulton. With the exception of Senator Wiley and Congressman Fulton, they have all served on the Board of Trustees, and Senator Fulbright and Congressmen Thompson and Wright have been members of the Board since its inception in 1958.

When the legislation was first introduced, it provided for a small site on the Mall which would have been insufficient for a performing arts center and which was also being claimed as a site for the Air Museum. Through some very complex negotiations including exchanges of land, the Center was shifted to the beautiful Potomac River site.

To name all of those who assisted in obtaining critical legislation would be impossible. However, no piece of the chronology of the Kennedy Center would be complete without applauding the work of the respective legislative committees of Congress and their staffs—The Public Works Committees of the House and Senate, and the Appropriations Committees of the House and Senate. From the very beginning many in Congress have worked through difficult times to complete the project: Senator Chavez, Chairman of the Senate Public Works Committee, succeeded by Senators McNamara and Randolph (the present Chairman) and the ranking Republican, Senator Cooper; Senators Jordan, Gravel, Boggs and Weicker of the Subcommittee, who have been ever attentive to the Center's needs. Their counterparts on the House side have been equally helpful: Congressman Buckley, Chairman of the House Committee on Public Works, succeeded by Congressman Fallon and the present Chairman, Congressman Blatnik, and the ranking Republicans Congressmen Auchincloss, Cramer and now Harsha; and Congressman Jones, Chairman of the House Subcommittee on Public Buildings and Grounds and the present Chairman, Congressman Gray, and the ranking Republican Congressman Grover. They were assisted in no small measure by the Appropriations Committee Chairman of the Senate. Senator Hayden, who was succeeded by Senator Russell and the present Chairman Senator Ellender, with the ranking Republicans Senators Mundt and Young; and on the House side Congressman Mahon as Committee Chairman and Congressman Kirwan as Subcommittee Chairman, succeeded by Congresswoman Hanson, with the ranking Republicans Congressmen Bow, Riefel and Harrison. Members of the House and Senate staff have also provided continued and sage guidance. Richard Sullivan, Clifton W. Enfield, J. B. Huyett, Jr., Barry Myers, Bailey Guard; also, Eugene Wilhelm, George Evans and Paul Eaton.

Nor can one overlook the tremendous assistance of such institutions as the Smithsonian Institution, of which the Center was made a bureau, the National Park Service, The National Capital Planning Commission and the General Services Administration, the Center's agent for design and construction.

The first Chairman of the Center was Arthur Flemming, Secretary of HEW, and its Executive Vice Chairman, who later served as Chairman, was L. Corrin Strong, formerly Ambassador to Norway, appointed by President Eisenhower. Mr. Strong provided strong financial and moral support in a time of great need.

Edward Durell Stone was engaged as the architect for the Center in 1959 and produced plans for the Center in 1961. At this time, Roger Stevens was appointed by President Kennedy as Chairman of the Board of Trustees of the Center. Mr. Stevens was instrumental in changing the concept submitted by Mr. Stone; and, in 1962, a new concept evolved which reduced the cost substantially and made the structure even more beneficial and practical. President Kennedy and General Eisenhower approved of this concept.

In 1962, the Center sponsored a telecast across the country to raise money, in which General and Mrs. Eisenhower, speaking from Atlanta, Georgia, joined with President Kennedy on closed-circuit TV to urge public support for the Center. On October 12, 1963, shortly before his assassination, President Kennedy assembled over 100 top business leaders and received their pledge and support to furnish money for the Center. The late President was planning a massive campaign for support when the tragedy took place.

Although many projects were being renamed for President Kennedy after this tragedy occurred, it was agreed by many members of Congress and other interested persons that because of President Kennedy's dedication and devotion to the arts, the Center would be a fitting memorial to him. His family agreed that it would be appropriate to permit the Center to be renamed after President Kennedy as his sole memorial in the nation's capital. Therefore, in 1964, President Johnson signed legislation authorizing the change in name and providing further federal support. The ground-breaking occurred in 1964, with President Johnson doing the honors and construction began in earnest in 1967. When President Nixon assumed office in January, 1969, his administration continued to support the Kennedy Center.

In addition to the unprecedented bi-partisan support of four Presidents and the Congress, millions of Americans—school children, college students, philanthropists, corporations and people from all walks of life—have made individual contributions in memory of the late President. Over 20 foreign nations have also memorialized the late President by contributing gifts. Congress has furnished matching funds and a borrowing authority for about two-thirds of the cost of the Center.

Thus, four Presidents, untold numbers of Americans and foreign nations have supported and worked unceasingly to provide the nation's capital with a performing arts facility which will equal those found throughout the world. As a result, the American public and foreign visitors may enjoy the finest in the performing arts in this living memorial to John F. Kennedy.

RALPH E. BECKER,
General Counsel.

WE PROMISE

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. ST GERMAIN. Mr. Speaker, our efforts to protect the environment have inspired many citizens to take a new look at the world we live in. I found this message by Mrs. Mary A. Riefler most relevant:

WE PROMISE

In loving memory to: President John F. Kennedy, Congressman, John E. Fogarty, and Joan Robbins.

We promise God with each winter—spring—summer and fall that we will love, preserve and protect the world that we were born into
Somewhere along the way we have taken it for granted
The winter's first snow—sleigh rides—and happy children
The first robin and the flowers that bloom with spring
The summer sun—the beaches—the water we swim and sail on
The autumn's golden leaves—the fresh crisp air we breath
We promise we will no longer fail to cherish your gifts
We promise God that we will love, preserve and protect your legacy bestowed upon us at birth—
This beautiful world you once gave to us!

URBAN ACTIVISM: THE FIGHT TO STEM THE BLIGHT

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. ROSTENKOWSKI. Mr. Speaker, on March 18 and 19, representatives of 228 community organizations from 50 American cities convened the first National Housing Conference in the auditorium of an elementary school in the heart of my congressional district. This conference, which was called together by the members of the West Side Coalition, a growing organization which represents nine church and community groups on the West side of Chicago. These groups have banded together in attempt to solve the real estate and housing problems which have come to plague their community.

The conference was not called by professionals, nor was it conducted by professionals. The people that came to Chicago for this meeting shared but one common element—concern about the future of their neighborhoods. The conference was not without its problems, nor was it without its disagreements. But the problems and the disagreements were put aside in the effort to reach a common ground—a ground from which they all could work to save their communities. This gathering in Chicago, was a true example of the rise of the much talked about "new populism," the grassroots activism which has gained much attention in recent months. It was an encouraging demonstration of how people of all colors and ethnic indentity could find it possible to work together.

The basic spirit of this conference was captured very well in an article published in the Chicago Tribune on Sunday, April 23. I insert this article by Perry Wood in the RECORD at this point, because I feel that we can all learn a lesson from these ethnic and racial minorities who gathered in Chicago in a display of urban unity:

URBAN ACTIVISM: THE FIGHT TO STEM THE BLIGHT

(By Perry L. Weed)

The sign covering the rear wall of the auditorium of St. Sylvester's Elementary School read "People's Politics Can Make the Difference." Acting on this slogan, representatives of 228 community organizations from 50 American cities convened the National Housing Conference at 3027 W. Palmer St. in a deteriorating while ethnic community.

The convention, held March 18 and 19, can be characterized as a desperate effort by these urban representatives to save their communities.

Gale Cincotta, a Chicago housewife and community organizer as well as the dominant force in organizing and coordinating the convention, sounded the rallying cry with her welcoming remarks:

"Chicago is my city. For others, it's Detroit or Philadelphia. The city is our life. We don't want to live anywhere else. No one is going to push us out, whether it be government, realtors, or the big money combines who think they are controlling our lives. What for so long have been considered natural phenomena—changing neighborhoods and deteriorating cities—are not natural. It's a plan and somebody is making a lot of money out of changing neighborhoods." She concluded: "What in the hell are we going to do about it?"

Urban populism dominated this convention of 1,000 white ethnics, blacks, and Spanish-Americans. Committed to preserving their neighborhoods and to reforming existing housing programs, the three groups remained under the same roof for two days and cooperated with one another.

The delegates, while largely from the older industrial cities of the Northeast and Great Lakes region, came from cities in 24 states and the District of Columbia to voice their grievances about governmental and private housing practices.

The Rev. Geno Baroni, director of the National Center for Urban Ethnic Affairs and the emerging national spokesman for ethnic America, told the delegates the purpose for the Chicago gathering was to sensitize established institutions to urban problems; to develop community organizations and leaders; to bring white ethnics, blacks, and Spanish-Americans together to promote cooperation, coalition, and group action.

Father Baroni's center is committed to the advancement of the ethnic movement. The center cosponsored and underwrote most of the expenses for the National Housing Conference.

While racial and ethnic conflict permeated the activities of the conference, the dominant interest was in the well-being and stability of the neighborhoods inhabited by the delegates. Group styles were varied and old hostilities surfaced but the delegates agreed that white ethnic, black, and Spanish-American cooperation is imperative if their neighborhoods are to be saved.

Almost all of the delegates fell into the $5,000 to $10,000 income category and their socio-economic class coupled with their common concern about decent housing and safe neighborhoods held them together. The villians were the Federal Housing Authority; George Romney, secretary of housing and urban development; and public and private housing burocrats.

Given the white ethnic sponsors and setting of the convention, there seemed a distinct possibility that the conference would develop into a racist organization to impede black and Spanish-American residential "invasions." While the National Center for Urban Ethnic Affairs provided money and organizational assistance, it was the white ethnics of the Chicago's West Side Coalition who made the convention possible.

The West Side Coalition, a loose umbrella organization of 42 community organizations, claims to represent a half million residents of Chicago's West Side and over the year and a half of its existence, it has concerned itself with housing and real estate abuses. The coalition is dominated by the Northwest Community Organization, Our Lady of the Angels Church, and the Organization for a Better Austin.

A major interest of these three predominately white ethnic organizations is to keep poor blacks and Spanish-Americans out of their community, for they are perceived as a threat to the stability of their neighborhoods and lifestyle.

Indeed, these dominant groups of the West Side Coalition called for the most critical vote of the convention on their resolution to declare a six-month moratorium on further FHA mortgage loans. Regardless of legitimate complaints by blacks and Spanish-Americans about FHA abuses, they correctly saw that the resolution adversely affected them and allied with young and poor white delegates to narrowly defeat it.

No debate or vote at the convention raised the passions of the delegates to a higher level.

It was not until noon of the second day that leaders caucused to plan for the few remaining hours of the convention and for organizational follow-up.

The West Side Coalition leaders recommended a follow-up committee of elected representatives from each HUD region. The proposal was negatively received by Walter Brooks of the Northeast Community Organization of Baltimore. Brooks countered with a suggestion that each delegation appoint one of its own members and they meet in late April in another city.

Brooks emerged as the convention's most significant leader. While he demonstrated exceptional leadership skills, Brooks, a 39-year-old black, also became a symbol of black and white cooperation. Taking over temporarily for the chairman designated for the first day and immediately demonstrating his parliamentary skills, he remained chairman for the convention's duration.

MOVEMENT IN INFANCY

This black leader and the black delegates had an influence at the convention that was disproportionate to their numbers. The fewer than 100 black delegates took more than one-third of the debate time, were more sure of their positions and more articulate in expressing themselves.

By contrast the white ethnic movement, as it has come to be called and as it expressed itself at the conference, seemed in its infancy. Most white delegates were Polish, Italian, Irish, Lithuanian, and Ukrainian Americans and their limited unity was expressed in the commonality of their race, their Roman Catholicism, and a somewhat higher socio-economic position.

A few Lutheran ministers attended but the more than 20 Roman Catholic priests exerted a strong influence. A priest was the keynote speaker, four or five priests were among the leaders of the West Side Coalition, a priest gave the invocation, another introduced Mayor Daley, still another introduced Sen. Fred Harris (D., Okla.), and priests moderated panels and led workshops.

Only one of the 228 community groups—the Polish-American citizens—was explicitly organized along ethnic lines. It would be erroneous, however, to say that ethnic and racial loyalties were of minimal importance.

Altho difficult to assess, strong undercurrents of ethnic and racial feeling flowed thru the activity of the convention. Blacks and Spanish-Americans held numerous caucuses for their own groups. However, when white delegates met, their black and Spanish-American delegation members were included.

Delegations were internally segregated on the convention floor along racial lines. Most Spanish-American delegations were Puerto Rican, some Mexican-Americans. No all-black delegation was in evidence and most blacks were not from Chicago. Many of the blacks present seemed to embrace a middle class ideology.

The Spanish-American delegations, as a group, were insecure as participants at the convention. Altho numbering more than the blacks, their insecurity and distrust surfaced immediately as they demanded that all important remarks be repeated in Spanish, a virtually impossible task given the overloaded schedule and highly impractical given the small number of people actually unable to understand English. Skillfully avoiding a majority put-down, the convention tabled their motion and some key statements and resolutions were translated.

During the heated debates concerning the translation both black and white spokesmen quickly recognized and warned that a Spanish walkout would mean—the "little people" were fighting among themselves and "big business" stood to benefit from their divisions. The outburst and tacit threat of a walkout dramatized the Spanish-American's self-consciousness but strategically meant that for the remainder of the convention they would not go unnoticed.

The convention passed more than a dozen resolutions, held seven workshops, and conducted panels on real estate abuses, insurance, FHA, and mortgages. While demonstrating that democracy is a messy business, delegates who wanted to speak lined up in front of the five microphones evenly distributed thruout the floor of the convention and were each allowed three minutes.

With few exceptions, delegates were not interrupted as they spoke and many revealed a high level of sophistication.

Too often, however, this kind of democracy meant the mechanical recognition by the chair of a delegate, intense advocacy for three minutes and then the recognition of another delegate and advocacy or comment or a different point. The marvel was that so much diversity, frustration, and resentment was packed into an overcrowded auditorium and remained together for over two days without exploding.

HELD BEFORE CONVENTIONS

The convention was deliberately scheduled three days before the Illinois electoral primary. Two Democratic Presidential candidates, five senators, four representatives, and Mayor Daley addressed the delegates. Organizers were criticized for giving them too much time, but the politicians were generally well received.

By the second day, the delegates grew impatient with the politicians to whom they feel the conference had provided a forum while eliciting no specific gains.

Showing his usual caution, Daley did not commit himself to attend until one week before the convention. Daley's appeal to white ethnics was apparent. He spoke unchallenged. The delegates were honored with his presence. They knew that he had blocked scattered public housing sites in the all-white neighborhoods of Chicago and nodded with approval as he blamed the housing crisis on the federal government, and thereby exonerated himself.

Sen. Edmund Muskie's failure to accept his invitation offended many delegates. Senators George McGovern and Harris were received enthusiastically.

While George Wallace's name and resistance to busing school children were only mentioned by the political celebrities and aroused little sympathy among the delegates, Wallace is increasingly perceived by many as a Populist alternative, in part, perhaps, because he is a segregationist but more because he purports to speak for "the little people."

Although the convention was conceived and organized in less than three months, it accomplished its primary purposes and was a success in the eyes of its conveners. The need for federal reform of housing and FHA programs was dramatized. Receiving nationwide press coverage, the convention momentarily caught the public's attention. Two days after the convention, the HUD regional director for the Midwest announced that his office was going to require strict enforcement of FHA guidelines in the financing of existing structures.

The conference has nationalized the housing movement by establishing a loose federation of 228 community organizations from across the nation. The convention legitimized the followup activities of a steering committee.

During her opening remarks, convention coordinator Mrs. Cincotta urged, "Let's make this our corporate board here in Chicago. Let's declare war on the forces that are destroying our cities."

One delegate from each organization was elected to form a steering committee authorized to act on behalf of the National Housing Convention. The steering committee will be meeting again in Baltimore next weekend. This representative committee will determine future strategy in the battle against blight.

BAILING OUT OF VIETNAM

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. WYLIE. Mr. Speaker, as I sat here yesterday listening to the debate on a resolution providing information on Indochina, I could not help but wonder as to the motives of the proponents. It is to the credit of this body that it was soundly defeated. The debate recalled to mind the vote in the Democratic caucus last week calling for the immediate endings of all U.S. military involvement "in and over" Indochina.

On Saturday, April 22, 1972, the Columbus Citizen-Journal, a Scripps-Howard newspaper published in my district, printed a most thought-provoking and timely editorial concerning the action of the Democratic caucus with regard to President Nixon's effort to stem the callous North Vietnamese invasion of the Republic of South Vietnam.

I concur with the views expressed in this editorial and respectfully recommend it to my colleagues as food for thought.

The editorial follows:

[From the Columbus (Ohio) Citizen-Journal, Apr. 22, 1972]

BAILING OUT OF VIETNAM

The Democratic caucus in the House of Representatives has voted to pull the rug from under President Nixon's Vietnam policy—a move as unwise as it is badly timed.

By an overwhelming vote of 144 to 58, the Democrats denounced Nixon's renewed bombing of North Vietnam.

Then they ordered the House Foreign Affairs Committee, which the party controls, to draft within 30 days a bill promptly ending all U.S. military involvement "in and over" Indochina, subject only to a return of American prisoners and an accounting of the missing.

Finally, almost as an afterthought, they condemned the "military invasion of South Vietnam by North Vietnam."

This latter move revealed the cynicism and political motivation of the Democrats maneuver. In the same resolution, they (A) disapproved of the current Communist invasion and (B) sought to deprive South Vietnam of its best chance of beating back the invasion: support by U.S. air power.

In the past the House has been a strong bulwark of the President's policy on gradual and responsible withdrawal from Vietnam. It had steadily toned down or sidetracked extreme antiwar measures coming from the more dovish Senate.

We would like to think that the caucus' turnabout resulted from war weariness or a genuine change in conviction and not the heady approach of Election Day.

Whatever the motive, the move itself enormously complicates Nixon's efforts to pull out of Vietnam, leaving behind a regime that has a chance of defending itself.

The timing of the vote was perfect—if its purpose was to encourage Hanoi during its invasion and to dishearten our South Vietnamese allies in a moment of great peril.

At the Democratic caucus there was much talk about it being the time to make peace, but nobody was brutally honest enough to say what an abrupt withdrawal of American air power from Indochina would mean.

It would mean peace all right—the peace of the grave—imposed on South Vietnam, Cambodia and Laos by the ruthless clique of commissars from Hanoi.

NIXON'S PROPOSED ANTIBUSING LEGISLATION CONDEMNED BY JUSTICE DEPARTMENT LAWYERS

HON. JOHN CONYERS, JR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. CONYERS. Mr. Speaker, all too rarely do we see the kind of conscience, independence of will and forthrightness of spirit that has been shown by two different groups of attorneys in the Civil Rights Division of the Justice Department in their timely evaluation of the Nixon administration's proposed antibusing and antiblack legislation.

This administration has cynically raised the specter of busing as an unfair, ill-conceived plan that is foisted on helpless school districts by inconsiderate, thoughtless Federal judges—even though it is not measurably increasing throughout the land. Why? Because it serves as a smokescreen to divert attention from the illegal war in Vietnam that drags on, as well as the rising rates of unemployment and inflation that escalate hand in hand. It also conceals the abandonment of inner cities to the black, the poor, and the aged who have nowhere else to go. These are the real issues of our time which can only be solved by the commitment and resolve of the Federal Government.

I add these remarks to suggest the administration's motive to my lawyer friends at Justice who so correctly resist legislation which would not only become extremely poor national policy, but would no doubt be held unconstitutional as well.

[Letter to the editor]

[From the Washington Post, Apr. 25, 1972]

Ten Black Lawyers at Justice: Congress Should Reject Busing Bills

Believing as we do that much of the progress that has been made in the school desegregation area in recent years is being seriously threatened, and believing as we do, that our continued silence would be an abdication of our moral obligation to advance the cause of civil rights, we, the undersigned black attorneys of the Civil Rights Division, Department of Justice, wish to state publicly our disenchantment with the recent regressive trend in this area, including the anti-busing bills now before Congress.

First, and fundamentally, busing is not a real issue; it is instead a sham, a "last straw" embraced by those who have disappointedly watched busing and other tools of desegregation bring blacks to the better schools, wherever they are. Quite frankly, we as ardent students of the civil rights struggle, have concluded that the recent fervor in the area of busing is nothing more than a thinly veiled attempt to sacrifice the rights of minority children to racist pressure groups and political expedience. Those parents screaming the loudest about the welfare of their children, are the same ones who reverently expose their children to violent protests, vile rhetoric, long school boycotts and vivid displays of lawlessness including the burning and overturning of school buses. The school administrators, most prolific about maintaining quality education, were the same ones who were most inarticulate when it came to explaining disparities in the black and white schools, and the same ones who advocated the establishment of inadequate all-white "freedom schools." The politicians most vocal about the efficacy of using children to cure society's ills were among those most shamefully silent when black children were bused to perpetuate the same ills.

We realize, of course, that there are a number of anti-busing advocates who are righteous self-styled liberals, and who would disassociate themselves from the above characterizations and innocently inquire why must our children be bused? Why? Because much of the desegregation that you claim to be so proud of has been made possible only through busing. Why? Because judges who have heard not rhetoric, but the detailed facts that the press shields the public from, have proclaimed busing essential for effective desegregation. Why? Because the Supreme Court has stated that the Constitution requires desegregated schools and that busing is an acceptable tool to accomplish this goal. That's why!

More frightening, however, than the simple awareness that there are so many, in and out of government, who are maliciously attempting to undermine the rights elucidated in Brown v. Board of Education and its progeny, is the realization of how desperate they are. Recent developments, including proposed "moratoriums" and Constitutional amendments, tell us in no uncertain terms that there are those so determined to keep the two societies separate and distinct, that such traditionally American concepts as the sanctity of the Constitution, the "separation of powers," as well as "oaths of office" will willingly be sacrificed. Quite clearly they, and their unwitting allies, have no qualms about raping the 14th Amendment, prostituting the courts, and defaming the efforts of those who have worked so hard to promote desegregation, including those who have put their economic and political lives on the line.

What we have been witnessing, when stripped of its shroud of innocence, is an attempted roll-back, a camouflaged effort to resurrect the concept of "separate but equal," and a deliberate effort to make the advancement of desegregation circular, beginning and ending with Plessy v. Ferguson. We are indeed observing a metamorphosis during which "benign neglect" is being transformed into malignant hypocrisy.

To avoid such a consequence, to restore faith in those who have appallingly watched government attorneys switch from plaintiffs' to defendants' counsel table, and to serve notice on recalcitrant school boards, vacillating politicians, and run-of-the-mill racists that minority children will enjoy their full constitutional rights, we hereby urge Congress to reject the anti-bussing, anti-black bills now before them.

John W. Davis, Savannah Potter, Ethel A. Ollivierre, Samuel J. Flanagan, Squire Padgett, Michael A. Middleton, Nate Friends, Calvin D. Hawkins, Donald Pailen, Lisbon C. Berry.

WASHINGTON.

Text of letter from 95 Justice Department attorneys addressed to congressional leaders:

DEAR SIRS: As attorneys working in the field of civil rights we wish to urge the Congress to reject any proposal which would limit the power of federal courts to remedy, through busing, the unconstitutional segregation of public school children.

We believe that the enactment of any such legislation would raise serious constitutional questions and would be inconsistent with our national commitment to racial equality.

[From the Washington Post, Apr. 26, 1972]

Dissent in the Ranks at Justice

We observed, without particular pleasure, a week ago, that the Nixon administration's latest departure in school desegregation politics—the President's proposed "anti-busing" legislation—had produced a familiar reponse. As had been true of his earlier efforts, Mr. Nixon's 1972 revisions (or would-be revisions) of the law found his cabinet officers divided in their interpretations of the new policy and advocates of both segregation and desegregation keenly aware of the element of sham underlying it. The operative analogy was with the summer of '69, when the rearranged guidelines policy was announced and the administration ultimately went into court (the Mississippi cases) to argue against its own previously held position. This year it is again in court (the Nashville case is a prime example) arguing against desegregation plans it did much to bring about. So you could say that it was only to be expected that history would repeat itself in yet another crucial respect: the attorneys of the Civil Rights Division of the Justice Department would rise up (as they did in 1969) and publicly express their disapproval, if not downright revulsion, at what was going on.

You could say it was only to be expected, that is, if the formulation did not make the whole thing sound a bit too mechanical, if it did not leave out of account the particular courage and independence of spirit that characterize those Division lawyers who have stepped forward to make known their opposition. Yesterday we printed on our letters page a forceful condemnation of the kinds of legislation Mr. Nixon has submitted to Congress signed by ten black attorneys in the Civil Rights Division of the Department. A second letter also urging Congress to reject the legislative fruits of the "anti-busing" mania was signed by ninety-five attorneys in the Division and forwarded to key members of Congress. Both groups, in our judgment, took a right and necessary and highly valuable step and did so at no inconsiderable risk to their careers. So now we have, in addition to the impressive testimony of so many others against the proposed Nixon legislation, the testimony of a group of men and women specially qualified by profession and expertise to speak on the subject. Can the administration argue that roughly two-thirds of the attorneys in its employ in the Civil Rights Division are incompetent or wrongheaded or unqualified to judge? We welcome the dissent of the protesting attorneys. We wish more people in the administration who shared their views shared their courage.

TESTIMONY OF JUDGE BERNARD FRIEDMAN ON THE URGENT NEED FOR PAROLE REFORM

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. VANIK. Mr. Speaker, today, April 27, I had the honor of introducing Judge Bernard Friedman of the Cuyahoga County, Ohio, Court of Common Pleas, to the members of the House Judiciary Committee's Subcommittee on Prison Reform.

Judge Friedman, a distinguished jurist, is a national expert on the problems of prison and parole reform, and last year was appointed chairman of Governor Gilligan's "Ohio Citizens' Task Force on Corrections."

The judge testified today on the urgent need for major improvements in the Nation's system of parole and probation services. As he pointed out, our present system of penal correction has completely failed to provide effective correction and rehabilitation of convicted persons. As Judge Friedman said in his testimony:

> We have a system which is callous, retrograde and punitive which takes sick men and destroys every spark of decency and self-respect in them.

Because of the importance of Judge Friedman's testimony, I would like to enter it in the RECORD at this point and commend it to the attention of all the Members of the Congress:

Remarks by Judge Bernard Friedman

At the outset, I wish to take this opportunity of expressing my appreciation for your kind invitation to appear before your Committee relating to the proposed legislation on penal reform.

To properly introduce myself, I have been an elected Judge to the Court of Common Pleas of Cuyahoga County, Ohio, for the past ten years, having had the experience as Presiding Judge on several occasions handling the criminal docket of our County.

In addition thereto, in the latter part of January, 1971, Governor John J. Gilligan of Ohio designated me as Chairman of the Ohio Citizens' Task Force on Corrections and we commenced on our assignment in February, 1971. This Committee was composed of approximately 29 people from throughout the State including Judges, County Prosecutors, Sheriffs, Sociologists, Doctors, Lawyers, Church people and others.

Our study and examination of the various aspects of our penal institutions presented a very bleak picture which I believe is equally true of other states in the Union.

Upon our initial examination, our Task Force concluded that the Adult Corrections System "is not a system per se." In reality, it is a series of poorly articulated, multipurpose and philosophically incompatible subsystems. There has been little, if any, consensus on long-range goals; no coordination of activities; no machinery for resolving innate, self-defeating procedures; no coherent ideology; and little attempt to dissolve system-boundaries to improve the overall functioning of the system. This, I am sure, is equally true of many of our correctional institutions throughout the United States.

Therefore, the time has arrived for us to take significant steps in improving our system with the objective of being a more unified Adult Corrections System.

The need for overhauling our penal institutions has been articulated many times in recent years. Calls for change have come from such distinguished sources as Chief Justice Burger; Dr. Milton Eisenhower, Chairman of the Commission on Violence; The President's Crime Commission; Former Attorney General of the United States, Ramsey Clark, and others.

Yet, very little has been done except Presidential Commissions, dozens of legislative reports, many State Task Forces, and more than 500 books and articles have pleaded for prison reforms. The system remains as immovable as concrete—largely because life behind the walls is still a mystery to the public.

We have a system which is callous, retrograde and punitive which takes sick men and destroys every spark of decency and self-respect in them. Our prisons are an assembly line in the most diverse criminal activity such as perversion—of continuing drug addiction. Expertise is developed in lying, stealing, cheating, informing and learning, as I have stated, the trades of criminal operation upon their release. The only real sport in our institutions—as is true in others as well—is sex perversion. Those who resist sex attempts upon them are generally punished for being trouble-makers.

Let me point out to you some of the statements that have been made at various times by people who are familiar and who have studied our situation—

The U.S. Joint Commission on Correctional Manpower and Training in an 80-page report which took years in preparation and which Commission included 95 private and public agencies involved in the penal field stated:

"The national affliction of crime in the streets could best be described as crime in the prisons. Our crime rate will continue to worsen until our prisons undergo fundamental reforms."

The Commission also stated in its report that approximately 66% of the 200,000 inmates in state and federal prisons are repeat offenders. The Commission concluded its report by saying:

"The Public and the legislators must understand that there can be no solution to the problem of repeating offenders as long as harsh laws, huge isolated prisons, token programs and discriminatory practices that deprive offenders of employment, education, and other opportunities are tolerated."

On February 21, 1970, in a significant policy speech, Chief Justice Burger stated:

"Put a man behind walls and not to try and change him is to deny him his humanity and ours."

On June 28, 1971, Chief Justice C. William O'Neill of the Ohio Supreme Court stated:

"80% of the serious crimes committed in this country are perpetrated by people who have been apprehended by police, tried in courts, and convicted of a previous crime. This is a dismal failure. A failure not of law enforcement agencies—not of the courts—but by the system of corrections."

Many of my friends and others who are well-meaning and concerned have reproached me on the work of the Task Force. To summarize, they have stated, "With the serious increase of crime on the person and property, why do you give so much attention to helping the criminal rather than the citizen who suffers so much and is constantly in fear in his home and on the street?" "Why do you show compassion and sympathy for the inmate and try to improve his condition of confinement?" "Why not send more and more of those who commit crimes to the institutions for longer periods of time which would be a deterrent to crime?"

To these people and the majority who have been conditioned this way, I can only answer, "I am not compassionate nor sympathetic to those who commit crime. The opposite is true, for crimes of violence have been committed on my family and property." Studies have shown that commitment, in fact, is generally not a deterrent and that commitment under existing conditions in our institutions becomes a place for further development of more serious criminal activity. We must be aware of the fact that approximately 98% of those committed are released to society and it has been stated that approximately 60% of those released are returned to the institutions within five years. And what is the percentage of the remaining 40% who do not return but commit crimes and are not caught?

So actually from a practical and realistic standpoint, our concern primarily is not to be compassionate and sympathetic in helping the people who commit the crime, but our concern is for society as a whole for the person who does not violate the law, the person who believes in safety on the streets, the peaceful enjoyment of his home and the protection of his family on their person and property.

This was our aim and goal and this was the purpose of the establishment of the Task Force by Governor Gilligan. To this challenge we directed ourselves to study the conditions as they exist and to find ways and means of improvement in our penal institutions to reduce the commitment of crime of those inmates who are confined. I might say that there are some inmates within our institutions that are beyond rehabilitation and perhaps society would be better off if they are kept out of our community for the rest of their lives. However, there are a great many of the inmate population who, if given the proper guidance, education and vocational training and concern by the citizens of the community to assist with a helping hand for job placements and in other areas, these offenders can be rehabilitated and would not revert to criminal activity upon release.

Since the proposed legislation before you is primarily directed in the field of probation and parole, I will direct my attention to that area and will not get into the other phases of our penal corrections system. However, a comparison between our Task Force recommendations and your proposed legislation clearly shows agreement and understanding in said area.

In our study with relation to alternatives to incarceration, our Commission made the following recommendations:

A. Probation and Parole.

1. We recommend the addition of a parole officer level for advancement purposes in conjunction with salary increases.

2. It is recommended that there be improvement in the overall working environment in local offices by application of modern management methods and in the improvement of physical working conditions. A professional management analysis of the operation of local offices would be most profitable.

3. We strongly recommend that the Adult Parole Authority cooperate fully with the State Bar Association in setting up seminars dealing with parole procedures and processes.

4. In regard to the Parole Board and its operation, the Task Force recommends the following:

a. The Parole Board should establish and publish guidelines defining what will constitute cause for continuance.

b. An inmate should be released at the expiration of his minimum term in the absence of compelling reasons to the contrary. There is *no* evidence that longer incarceration improves an inmate's chances for community success; there is abundant evidence that it does not. The burden of proof, after the minimum sentence has expired, should be upon the Parole Board to show why he should not be released.

c. It is recommended that an inmate have access to information in his file bearing on his parole hearing in order that he may be able to intelligently respond to inquiries of the Parole Board regarding the contents of his file.

d. We recommend that the Parole Board advise inmates of their decision for continuance, explicitly setting forth their reasons for the denial in writing, as soon as possible.

e. Parole Board hearings should be subject to the Administrative Procedure Act, which provides for review and appeal.

f. The institutional Parole Officer should participate at parole hearings, counsel with the inmates afterwards, discuss parole decisions with them, and follow-through on program recommendations.

g. The Citizens' Advisory Board and inmate advocates should have unrestricted access to parole board hearings and records.

5. It is recommended that parole violation hearings be conducted in the city or locality where the reported violation occurred—where the witness and evidence are accessible to both sides. The quantum of proof should be at least "clear and convincing proof" and the parolee should have the rights to retain counsel and to call witnesses. Where it is determined by the Adult Parole Authority that the parolee's return to the institution is warranted, the parolee shall be so notified in writing before re-institutionalization. The notice shall state with specificity the reasons for his return; all decisions on parole board hearings should be appealable as a matter of right.

6. We recommend that an innovative demonstration project be established in Cleveland, such a project designed to deliver more adequate direct correction services in the face of problems of an urban-crisis community.

7. We recommend the following, as does the National Council on Crime and Delinquency in their appended report:

a. Use of individual treatment plans and parole supervision.

b. Contracting for services of private agencies to implement treatment goals.

c. Employing staff specialists with specific skills and training to work with specialized caseloads.

d. Simple research to test effectiveness of policy changes and innovative programs.

B. Community-Based Services.

1. We recommend that the Division of Correction adopt the standards for community-based treatment centers as prescribed by the American Correctional Association.

2. Small community-based correction centers should be established in which training may be given nearer the individual's home in existing community facilities.

3. We recommend that state-operated community treatment facilities such as pre-release guidance centers and halfway houses be developed. We further recommend that the Adult Parole Authority should increase subsidies to approved halfway houses and encourage and assist development of additional private halfway houses.

4. The use of ex-inmates as para-professionals in community-based programs should be initiated.

5. We strongly urge the Courts of Common Pleas to use local community-based correctional treatment facilities as an alternative to institutional commitment. We further urge the Adult Parole Authority to use such facilities as a condition of parole.

Examining proposed House Resolution No. 13118 and also House Resolution No. 13292, which are most commendable and which are in line with what we have recommended in Ohio, I wish to express my opinion as to the following:

(1) I commend you for sponsoring an independent Board of Parole with the powers as set forth in said legislation. To have the Justice Department exercise the process of prosecution and at the same time having a direct responsibility with the process of parole is inconsistent with good practice.

(2) Of particular interest to Title I is the fact that the President will be enabled to appoint nine new members to the Board, and *Ex-offenders* would be placed on the Board, which is a substantial step forward.

(3) Under paragraph 4204, one notes that prisoners become eligible for parole after serving one-third of their term or after serving ten years of a life sentence. In Ohio, the minimum to date of parole for a lifer is 25 years, and under our proposed Revised Code now pending in the Legislature it would be extended to 35 years. Consequently, your provision for a maximum period as to eligibility for parole as to a life sentence in 10 years is commendable.

(4) Under paragraph 4206, one of the factors the Board may take into consideration is specified in number 9, "the prisoners conduct during his term of imprisonment." There is little evidence that conduct in prison is related to success on the streets. In fact, there appears to be substantial evidence that the better inmates in prison—in terms of ability to conform to the rules of the institution—are those more likely to have been socialized into criminal behavior and therefore to know how to "beat the system" in the prison. Many "mess-ups" in the prisons become model citizens on the outside. Therefore, it is my opinion that this Board may be considering a variable not related to release determination.

(5) Under paragraph 4208, a mandatory maximum continuance ("flop") is two years following the initial hearing, with subsequent parole determination hearings to be held annually thereafter. This certainly is an improvement in the right direction.

(6) Under paragraph 4209, a maximum period of incarceration of one year following the date of parole determination has been specified. I am concerned with relation to the waiting period after the Board has already determined the person to be paroleable.

(7) Under paragraph 4210, a number of procedures occur which parallel very closely our recommendations in the *Final Report*. I commend that section to you, particularly (a) and (b). The prisoner would be allowed to consult with his attorney prior to parole determination hearing, would receive written notice of such hearing, would be allowed to communicate with any person concerning his hearing, be represented by an attorney, be allowed to appear and testify on his own behalf, and be allowed to see full and complete record of parole determination. *However, there appears to be no overt attempt to suggest to the prisoner how he might improve his behavior and successfully escape failing at a second or subsequent parole determination hearing.*

(8) On page 19, lines 3 to 6, the Parole Board would be allowed to issue a certificate of determination. I might suggest considering a provision to expunge the record of first offenders successfully terminating parole without formal application or court procedure. This question of expungement is particularly relevant to page 20, lines 8 to 17.

(9) On page 23, lines 4 through 18, which is concerned with possible revocation of parole, the same safeguards recommended by your legislation were also recommended by our Task Force for the State of Ohio *with one exception, lacking in your bill, the availability of legal counsel for the potential parole violator.*

With relation to Title II of the Bill, "National Parole Institute," I believe this is a most commendable undertaking to be adopted and to be supervised by the Board of Parole. The provision for such an institute to collect and disseminate information concerning the parole processes and parolees and to make recommendations to all levels of government; to improve the parole process and rights of parolees; to promote changes in the State and local laws and to make grants and enter into contracts with other groups, agencies or persons to develop new programs, methods, to develop curriculums for education of persons in the parole process and to encourage and recruit personnel would be a most significant step in the right direction to help the various states in the most neglected field of parole processes.

As to Title III, "Grants to States," and "States Plans," this is a most vital and needed legislation already too long delayed and neglected.

The provisions contained and set forth under Title III provide as follows: The development and operation of community-oriented programs for supervision of and assistance to parolees.

It further provides that the State parole system should include exoffenders in capacities for which they have knowledge and expertise.

It provides for minimum procedures for parole or re-parole of prisoners or parolees; periodic hearings at intervals of not less than two years; personal appearance and testimony of the prisoner at such hearings; files, reports and other documents to be used at the hearing are to be made available to the prisoner before the hearing; prisoner has the right to counsel or other qualified individual to represent him or to waive it; the prisoner is to be notified of the decision and in particular, if denied, the reason for the denial. The decisions are to be expeditious and appellate review would be essential in case of denial.

In addition thereto, where there is re-imprisonment or parole violation, a hearing would be established and prior to the hearing the parolee is to receive what I consider to be a Bill of Particulars and any other documents to be used at the hearing and would be entitled to representation unless intelligently waived; also provide for the expeditious disposition of the case and if there is a denial the reasons to be stated specifically. Also subject to appellate review.

In our study on Penal reform we found the most frequent complaint of inmates is directed to the lack of communication between parole personnel and the inmates. When information is not made available to a person who is denied parole it tends to build up a great resentment in the individual and generally is a big factor in what has development in the various strikes and insurrections in penal institutions.

I wish to impress on the members of the Judiciary Committee the obvious need of corrections escaping the traditional institutional emphases of the past. The future lies in the community, not in the prisons. An end of federally-subsidized funding for building construction should be seriously considered with the exception of building halfway houses, in the approximate area of 25 beds.

In the same vein, I wish to bring to your attention the filtering process inherent in probation, parole, shock probation, and shock parole. As these interact with work and education release, and home furloughs, a very small residue of the very tough will be retained in prisons. These would be a very intractible, hostile, aggressive, and disruptive group of inmates, and can be expected to deliver maximum destruction to the society and to the institution in which they are housed. New and innovative approaches in handling, treating, and rehabilitating these offenders must be sought. The Division of Correction in the State of Ohio has a drug treatment program running at Chillicothe Correctional Institution, which holds promise for a portion of the residual "hard-nosed" offenders, and is an area which could be pursued in more depth. I might suggest that the Judiciary Subcommittee consider the long-range impact of parole, probation, and alternatives to incarceration. In such a case, it would be necessary to provide funds for expertise, support and technical assistance to those states which are pursuing vigorously such an alternative to incarceration program. It is ironical that those states which would pioneer in alternatives, early release, and short sentences will have a hard core residue and a greater potential for disruption within their institutions. It seems, although this is not true, that one simply cannot win for losing.

I believe that your efforts in this direction and the efforts of my committee in behalf of the State of Ohio as I have indicated are not only predicated strictly on fairness but also are predicated on protecting the public. If crime is to be reduced, if the streets are to be made safe, if the public is to be protected, and if law is to prevail and order established, then the Adult Corrections Systems must be altered, renovated and changed until it becomes an effective means of reducing crime. At present, corrections is a well-documented failure. Institutionalizing of people increases rather than decreases crimes. The use of long sentences further increases the probability of this undesirable outcome. These changes are necessary.

In conclusion, I again wish to thank you for the opportunity that you have afforded to me in this very vital field of penal corrections. State and Federal changes are necessary.

My best to all and I certainly hope that my appearance here in some way or manner will help in this direction.

ECOLOGY ROLE OF LABOR'S PEOPLE

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. JOHNSON of California. Mr. Speaker, at the present time the National Water Resources Council is considering some proposed standards and procedures for planning the use of water and related land resources. As part of this consideration hearings were held in San Francisco March 14. One of the witnesses at these hearings was Edward Park, a legislative representative of the International Union of Operating Engineers in California. Mr. Park who had a long and distinguished career in organized labor including a tremendously effective role in labor's international peoples programs has as long as I have known him demonstrated a tremendous awareness of the problems people of this and other nations face and a concern for solving these problems. From a background of a lifetime of dedicated service to solving people problems and to making the world a better place for people to live, Eddie Park addressed himself to the active role now being undertaken by labor's people in the tremendous responsibility of preserving our ecology.

I thought Mr. Park's comments at the National Water Resources hearings in San Francisco very appropriate and realistic and accordingly I would like to share with my colleagues in the House of Representatives his comments on the ecology role of labor's people:

ECOLOGY ROLE OF LABOR'S PEOPLE

My name is Edward Park. I'm here on behalf of the Western States Conference of Operating Engineers, AFL–CIO, which comprises some 200,000 members in 13 western states and Alaska. I'm also here on behalf of the California State Building and Construction Trades Council which represents some 370,000 building tradesmen in the State of California. I am also speaking for the California State Conference of Carpenters—some 120,000 members; the California Conference of Operating Engineers and for a number of other labor groups who have asked me to present their case, representing the other crafts, not necessarily the building trades crafts, but other crafts and working people in California. From the title of these organizations I'm sure that your first assumption will be that I am here simply speaking for more jobs, jobs at any price, that I and the members of these labor organizations are dedicated to paving the world or constructing dams in everybody's back yard and destroying the wild life and the beauty of the western states.

Before you jump to these conclusions, I would like to point out to you that, particularly in the organization of Operating Engineers, not only in the western states but nationwide, that the history of our membership, the very dedication of our membership to outdoor life is well known and well documented wherever these men travel and work and ply their trades. They are fishermen, they are recreationists, they are men who enjoy the great outdoors, not just in their capacity of improving it and building it.

I would further point out to you that although we're the working end of most of these projects, we neither have control of their design, their planning, organization and ultimate acceptance by whatever group of people is involved—we should have, we expect to have and we will have a great deal to say in the very near future, because we still are greatly involved in all those community activities that each of you are . . . in the schools that we build, in the buildings that the federal government here finds its offices in, in the dams that we return to with our children and families for recreation, in the community structures such as hospitals and veterans buildings, city halls and whatever, wherever a structure rises to service the great majority of the people. We have never been and are not now concerned with jobs only, we, as citizens and taxpayers, are concerned with what the job creates and what the construction projects produce after they are created.

There are a great many members in labor who are strongly involved in the ecological movement on a pragmatic and hard working basis. There are a great many members in the labor movement who are involved in the preservation of wild life and who are members of the Sierra Club and other such organizations. There are a number of labor organizations which support these groups, and I myself, in their highest and noblest aims, am in full support of protection and care of the ecology. We in labor have a further responsibility than just ecology, which is that additional responsibility of all community members and all thinking men. We have a duty to our members, not just to provide them with work, which is essential if they are to survive economically, we have a duty to keep them informed as to what in the current socio-political-economic life benefits them. We have a responsibility to provide them with decent living conditions as well as decent working conditions. I would point out to you that we're closer to being effective in providing the better working conditions than we are in the urban living conditions. We are now and have been involved in every major social change that has taken place since labor began to organize and to make itself heard throughout the land.

I'm impressed with the testimony on both sides, and I say both sides—the sides of the people who are in support of water construction projects and the people who are against the construction of any projects that may in some way disorient the ecological chain that exists around these projects. I'm not going to attempt to bore you with a great number of statistics, although these are available to labor through our Research Departments, although they tell us that the working man in California and throughout the west is faced with serious unemployment and economic maladjustment which may bankrupt many of our smaller communities completely and increase the growing hardships of living in our great urban centers.

I would point out to you that we in labor are much more involved in people ecology than we are in just creating construction projects or just preserving the ecology. We're concerned with that social progress, those social benefits that improves life styles and affects every member in our organization. When we cease to be concerned about this, then there will be no need for us and there will no longer be a labor movement.

I have heard a great deal of the dissertation with some surprise, although both sides have pointed out some socioeconomic preservation values in most of those projects they either support or oppose. It seems to me that there has been a great deal lacking in consideration for the urban poor, for the poverty-level worker and exister, for the great urban areas who will be the first to suffer in any cutback in the continuous improvement of those services that he needs to improve his life and to build a better life for himself. I can't conceive that a young black in the ghetto of Oakland or a young Mexican-American in San Jose, is really more concerned about these minor ecological ramifications than he is about his children, his ability to pay his rent, his ability to buy food and provide clothing and shelter for his family and himself, his ability to gain a notch in the social structure that allows him to enjoy the many munificent benefits of this great country of ours.

I would point out to you that the diminution of any project affecting any of those services, education, medicine, medical welfare, hits first and hardest at the deprived, the already deprived. This isn't to say that a great many of our members in the labor movement have never had access to much of what you consider your rights and much of what they only know as luxuries. It's interesting to me that the representatives of the so-called "little people" have said that a number of these projects, since they only work out as subsidies for private agri-groups and large farmers and large developers are somehow missing the primary purpose of water conservation, water utilization, water storage and water development. It is true that a certain percentage of this water will be used, I am sure, to support the burgeoning population in California. It's also true that there is an underlying current existing throughout our state, for that matter throughout great portions of the west, that if they were articulated in any place except among friends, would be considered contemptuous, racist, snobbish and parochial, and this is the currency that—let's stop everything, let's not build any more schools, our school bonds are failing, let's don't build any more streets, roads, highways, our transportation system is not sufficient to support the great population growth, and let's don't supply any more water. Let's stop the dams, let's stop the water projects, let's stop everything—because if we do, maybe everybody will stop coming and maybe those who are here and insecure and living on the fringes of the social system will leave. I'm afraid this is a false assumption, and a false premise, because history points out that this has never been the case, in the course of world development. People do not abandon large, deplenished, under-serviced urban areas simply because they lack certain things, they simply adjust, or when things become too difficult, when the impossibility of their situation to get a portion of the economic benefits of the state or the city are magnified and become overwhelming, they rebel, and in their rebellion they destroy. We find that this is not, as I say, an articulated thing, it's simply an underlying conspiracy, it would seem to me, on the part of those privileged who already have access to great sections of this nation's nature, wild life and recreation, to preserve those areas for their own use, their own privileged pursuits of pleasure and joy.

On the other hand, I am equally concerned with those representing the different water districts, both municipal and state and regional-wide who may have become devoted to the cause of that group of agriculturists, large farmers, large developers who see everything good in every water project and who don't bother to put in those elements of ecology, both bird and people, that would go a long way toward helping them justify and provide and dedicate their efforts to a greater mass of the people. I would bring to your attention that in recent months, for that matter, in recent weeks, we have had warnings from the experts in the United Nations that water is in terribly short supply throughout the world and that ultimately we may all have to move to assigned areas in order to enjoy the benefits in water and to use that part of the land which can produce food and foodstuffs to survive on. However, we think the needs of Labor's membership dictates the need for more water development and conservation, more water storage and flood control—not less—and more concern for increasing available power—not less—if the increased interest rate, or anything else delays meeting the public need we will stand against it!

I would also point out to you a corollary situation where a U.N. group recently announced that it would take something like 40 billion dollars to save the Mekong River and the Mekong Delta, the large breadbasket, rice basket if you will, of the Vietnamese and that section of Asia. There are warnings and portents and I am sure that there must be a middle ground between the doomsayer and the happiness forever group—that say this nation in ten thousand years or fifty thousand years will run out of its natural resources, will be overpopulated, its ecology will be unlivable, and either by that time we will have discovered—will have to have discovered, an inhabitable planet or all melt away in smog or freeze to death in ice, or whatever the particular group employed in pursuing these studies finds relevant. I'm a pragmatist in this sense, I don't expect to be living ten thousand years from now, I'm concerned with today's man, I'm concerned with his well being. We in the labor movement are very concerned with progress in this country. We're sure not for abandoning it all to technology. As you know, we have to a great extent fought the over-technological developed in many industries and in many cases have been right. We're sure not for polluting or building more smoke stacks and, of course, we're for purifying the water and improving all those urban and ex-urban and suburban conditions that will improve the life style of the great majority of the people of the United States.

Although the nation's flood control efforts now over a hundred years old, we have never succeeded in totally stopping the ravages of the Mississippi River Basin, the sporadic ravages that occur such as occurred in West Virginia recently, where a whole community and hundreds of people were killed because of an overemphasis on ecology and an underemphasis on safety. We understand that things can't happen overnight or in a day, a year or years, and we accept that work and progress have to be subjected to what's best for the majority of the people. On the other hand, we cannot in all good faith support any privileged groups, whether it be the giant agri-corporation in the Valleys, or the privileged few who want to turn everything into parks so that they, who are in a position economically, can enjoy these great vistas. My eye, to paraphrase the biblical phrase, is on the sparrow, and the sparrow is our member. We want him to work, we want him to have the benefits of a safe and well-supplied life style, sufficient water, pure, sufficient transportation, sufficient protection from want, everything that goes with giving a man those things that the Declaration of Independence and the Constitution were conceived to guarantee. We truly are concerned with his life and his liberty and his pursuit of happiness.

My feelings—the feelings of Labor—are that we cannot accept administrative regulations which would halt or delay, and in some cases completely destroy, a great number of water projects throughout the West. We have to look at those built-in ecological benefits and at those built-in economic benefits that would provide for a better service for more people. On the other hand, we can't in any manner support any effort, harassment, injunctions, et al. either locally, nationally or regionally that halt well-thought out construction projects, whether they be simply those dams so badly needed in the California water program to curb floods and protect those people in the course and paths of those floods which have destroyed businesses, homes and properties over the years. We can't see anything unreasonable in controlling rivers, which by the very definition of the number of bills that have been introduced recently in Sacramento, are called wild, we can't see any disservice to the great majority of our members in creating new and easily accessible recreation areas, unless those recreation areas are priced out of their ability to enjoy and utilize. We see nothing wrong with improving our whole system. We are many years behind in the construction of good hospitals, good schools, good buildings of all sorts. We've watched efforts to chrome-plate ghettos, we've watched efforts to improve existing structures, we've watched preservation efforts to retain historical buildings, many of which are dangerous and unsafe, and seldom improved to meet the safety criteria and standards that we would set for our working men. All this we've seen as sporadic and many times poorly planned and undeliverable promises to those members of not only the minority groups within labor, but those members of labor itself.

Gentlemen, I, on behalf of labor, and on behalf of all the people here, would hope that those representing the water districts and the ecologists, attempting to retain some of the beauty and wild life of our nation, I would point out to you that the relative problem involved in any major construction project, whether it be water, transportation, or whatever, should be based on the number and kind of people served! And I say kind reservedly, not meaning to say that, for instance, in Marin County, if they need a new civic center designed by Frank Lloyd Wright and then decide they don't want any more water because they don't want any more people, then that's not their right and that we should take the civic center away from them, I'm simply saying that our system of priorities has to consider the disintegration of our major urban areas. We have got to produce and provide the necessary power, the necessary water, all those necessary facilities that provide the service that is going to be needed by those great numbers of people who are increasingly moving towards these urban centers and who expect to exist, work and live there in reasonable comfort, I think that this consideration should be the paramount consideration on any type of project, and I think that projects shouldn't be justified on the basis of the return, and the cost plus the cost minus or whatever. Secondly, I think once we've considered the necessities of the people, that we should consider the necessities of the ecology. I wouldn't separate these by any great extent but I would not let one outweigh the other. I think that we must find within the communities, within the small, large or whatever size areas, those projects that are necessary and badly needed now, by a great mass of the people. Now as to the cost of the projects, as to the expense to be borne, we know and experience has taught us that ultimately the yoke of productive economics fall flat on the shoulder of the working man. We would like to see this adjusted to some extent, we would have to agree with several of those speakers that the just portion of cost of water projects should be borne by those who are going to gain the greatest benefits. I think this should be true of any of those projects which we may term as social, i.e., transportation, water, power and I think it behooves the working man, particularly the working core, not to be misled by either faction but to stand up and demand that he be shown the economic benefits, the recreational benefits, the service benefits involved in any of these projects.

For instance, I am very sure that the young working black in the ghetto in Oakland is not necessarily concerned with the big agri-group in the Valleys who will enjoy the benefits of much of these water programs. I think he is probably concerned with the price of lettuce, with the price of baloney, with the price of beans, if he isn't, I know that his wife or mother or father or those who take care of the breadwinning within the family unit are concerned. I am sure that each community realizes that no matter what they do in, say Berkeley, to attempt to improve the benefits available through the City of Berkeley, that if they don't have sufficient electricity, if they don't have sufficient pure water, if they don't have adequate transportation systems, if they don't have adequate schools and hospitals and city streets, that they're going to suffer, and I think more and more you're going to find labor and labor's members demanding an accounting of this as part of their participation in water projects, transportation projects in all manner of construction projects.

We in California, and of course, we throughout the west, have watched with some unhappiness, some misunderstanding, and I might add—a great deal of disgruntlement, at the efforts of a few individuals to stop progress completely, to stop work completely, to stop, if you will, the working member's check completely. Although, as I pointed out earlier, we are perfectly willing to spend time, effort with both sides of the question, we would ask that the government and that the commissioner reevaluate this thing, this whole system of water projects, municipal water districts, state, area-wide, whatever they may be, on the basis of what the ultimate benefit will be to the working man. In doing this, we are sure that a new look can be taken at the productivity ratio, at the socio-economic ratio, and at the environmentalist's concern. We would like to suggest that both labor, the environmentalist and those people representing water projects throughout the west and Alaska and any place in the country would put together a concerned group of citizens who share a genuine interest in meeting and resolving problems concerning both ecology, water and power supplies and services that benefit the laboring man throughout the nation.

I doubt very seriously that we can resolve all these issues within the framework of the Water Resources Council, but I'm sure that with the efforts of this great body, and with the dedication of the number of people I've heard testify here, we can begin a small revolution, that doesn't separate us and put us on opposite sides, that doesn't find us clawing at each other's throats and interests, that doesn't find us belittling the efforts of one another, but that we as honest, concerned citizens supporting our country and its people, can sit down and relate to and come up with those compromises and understandings that would allow us to continue with the necessary progress, the necessary jobs, the necessary protection of the environment that would best benefit ourselves, our children, and our children's children.

On behalf of labor, I would like to thank you very much for allowing me to make this address. I would also, just for the record, point out that as a result of the so-called declination of water projects in the State of California alone we expect to lose some 28 million, almost 29 million working hours for the members of labor if the seven per cent interest rate goes into effect. As you know, the unemployment rate in California is extremely high now. We cannot afford now and we could never afford to lose this many working hours without having a great deal of concern, a great deal of unhappiness, a great deal of hardship worked on the members of not only the building trades unions, but those other unions that benefit at the end of what the building trades unions construct and the healthy economy that their paychecks produce within the communities where they live and work.

I would be happy, and I am sure that all the members of labor would be happy, to support both sides of this issue, if those realistic questions that I asked you, i.e., how does this project benefit those members of the working class?—how many of those members does it benefit, what is the economic impact, if it's felt or if it's not built, on those people in the great urban areas or exurban areas, what does the future portend if such a project is not built and developed—are answered. I'm sure that there are a number of people who have testified here and who, if they walked to their faucet tomorrow morning and turned it on and no water came out, would invoke a little concern. I'm sure there are a number of people who have testified here who have the necessary affluency to hire a desalting plant and desalt the water on the beautiful coast they live on and supply themselves. I'm sure that a great many of them could at best buy their water purified and in jugs and what have you, and could afford to have it brought in to the kitchen or the house or the back yard.

Gentlemen, I don't represent members who have this affluency. The trade unions represent those people who must work, day to day, week to week, must pay rent, must pay taxes, must buy homes, must have available those services that are necessary for their daily existence. These are not privileged people, privileged in the sense that they have the economic wherewithal to supplant any failure on the part of power, or transportation or electricity, but they are a great group of people and unless you place these considerations that I brought to your attention into future projects, into the ecological movement and effort, you're going to find that the largest number of people in the country are going to be unhappy.

Thank you very much.

LUKE J. FARRELL, JR.

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. EILBERG. Mr. Speaker, I should like to offer my admiration and to commend a fine fellow, Luke J. Farrell, Jr., and the organization he represents, the Knights of Columbus.

On April 22, I, along with members and friends of the Knights, Our Lady of Lourdes Council 4546 and the Delaware, Pa., Board of District Deputies, gathered at a testimonial at Cannstatter's to honor my friend Luke.

Luke is completing his second term as the highest elected officer of the Knights of Columbus in Pennsylvania. Like the organization in which he has served, Luke has been responsible for doing good things for other people, regardless of the sacrifices to himself.

The fact that a man such as Luke would spend so much time and energy in the Knights of Columbus, of course, speaks so highly of the organization itself.

As State deputy, Luke provided dynamic leadership and he has inspired his brother knights to a new and vigorous involvement in vital areas which are of concern to the church, to the order, and to the communities of Pennsylvania.

Part of the commendation to Luke reads:

> He is a bulwark of Columbianism, in action and has labored tirelessly for our cause and that of the church. He has shown compassion for the rights of those who cannot speak for themselves, the unborn. His leadership has shown us the way to make our strong voices heard throughout the State and the Union.

Luke is a 22-year member of the Philadelphia Police Department and holds three citations for bravery from the department. He served his country during World War II and holds five battle stars. Former Mayor James H. J. Tate appointed him to the nominating panel for the Philadelphia Board of Education.

Indeed, Luke Farrell is a man deserving of the fine honor the Knights have bestowed upon him at his testimonial.

FOOD PRICES CONTINUE TO RISE

HON. CHET HOLIFIELD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. HOLIFIELD. Mr. Speaker, while I was in my 19th Congressional District of California during the Easter recess, I met with a group of citizens who are, with good reason, concerned about the continuing increase in food prices.

While we are told on one hand that the wage-price control program is working, the housewives in my home district find the price of a marketbasket of food to be increasing each month. Fresh foods and meats are without any controls whatever at any level of the marketing process. Also, a large percentage of other food items on the grocer's shelves are without control.

I have joined my constituents in the belief that it is now time for the administration to take the matter of food prices in hand or for the Congress to begin to think in terms of required controls.

I want to insert in the RECORD at this point a petition for action on increasing food prices which was presented to me by the citizens of California's 19th Congressional District:

PETITION—MARCH–APRIL 1972

> We, the undersigned, are greatly concerned about the continuing increase in food prices, despite the fact that we are told a price control program has been in effect for several months.
>
> We hereby petition our elected government officials, the business interests involved, and the public in general to take the necessary steps to put an end to the continuing rapid increase in food prices that affect America.
>
> Chet Holified, Wilfred L. Simendinger, Edward J. LeClair, David M. Dinks, A. J. Martin, Herbert D. Carlton, Joseph S. Whetesete, Jr., Hal Flora, Alexander Googorian.
>
> Michael Broussard, Georgia Duster, John M. Duster, Linda Cauchon, Richard Talley, Kathleen C. Talley, Roberta A. Lombardi, Mr. and Mrs. Alfred Morales, Mr. and Mrs. Michael B. Walker.
>
> Robert C. Forrest, Mrs. J. Couch, Mrs. Pennington, Ann Weiss, Lany Weiss, David G. Monfort, Bernard C. Schaefer, Mildred Schaefer, Mrs. Robert Hall, Patricia Schissler.
>
> Peggy Nolan, Sue Livingston, Ilene Hobincheck, Bonnie Weiss, Sue A. Funk, Jerry Bartley, Danell Bartley, Ken Copps, Barbara Beck.
>
> Mrs. Janna Gossen, Dale Gossen, Mrs. Janice Cross, Mrs. Mary Diaz, Henry Diaz, Betty Marschbe, Toni Plaez, Mrs. Robert Warrick, Alan B. Cross.
>
> Elaine C. Lawrence, Lucille J. Cross, Gladys Dunlop, Terry Harris, Violet Gentile, Judy Atchison, Barbara Guthrie, Carol Stone, Linda Henera.
>
> Mildred Medlin, Ralph L. Bass, Flossie Dickey, Bob Dickey, Randolph R. Kentfield, Beverly Kentfield, D. Federico, Vern Drake.
>
> Emily Valenzuela, Ray A. Reafen, Bonnie Goodrell, Anita Augenstein, Darlene Foreman, Jeff Leonard, George A. Harris, Wanda Harris, John J. Mohan.
>
> Betty Lauterborn, Jean Henderson, Randy Henderson, Marie Coale, Tito Flores, Gary Lisignoli, C. Hargon, Michael J. Cortello, Gonzalo DeLeon.
>
> Richard T. Minjares, Mrs. Veda L. Triviso, Richard Chavel, Debra L. Huffman, Janice Noce, Richard Niedahausen, Eva Niedahausen, Mrs. Faustino J. Guterrez, John J. Gorgas.
>
> Reta D. Gorgas, Edward V. Triviso, Claude J. Klug, Mrs. Betty Baling, Mrs. Mary Nolan, Mrs. Don Cornelison, Carolyn S. Cunningham, Oland Keenan.
>
> Davis S. Tanner, John L. Boussard, Mr. and Mrs. Leonard Clayton, Bernadette Broussard, Floyd H. Erickson, Janice M. Erickson, Mr. and Mrs. Albert J. Garcia.
>
> Lupe S. Perez, Ollie G. Harrison, Carol J. Moore, Terry L. Hanley, Michael L. Long, Carrie Berry, Jean Younkin, Norma Fernandez, Sheila Hood.

HANOI'S WAR

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. CEDERBERG. Mr. Speaker, during the past 3 weeks we have again been hearing the hackneyed breast-beating of the left, crying about the supposed immortality of the renewed bombing of North Vietnamese military targets in response to the escalation of hostilities in South Vietnam. Some of the more virulent attacks on our President have come from those supposedly responsible men who would assume his position of leadership following the November elections.

It is interesting to note, however, that not a single voice among this group is raised to decry the naked aggression on the part of the enemy which precipitated our increased air activity. No one has even whispered the fact that the most recent action on the part of the enemy has stripped away any pretense which may have existed about this conflict being an insurgent "war of national liberation." This conflict is now, and always has been, the attempt of one nation to militarily overthrow the duly constituted government of another.

In this connection, Mr. Speaker, I would like to bring to the attention of my colleagues an article by John P. Roche which appeared in the Washington Post today, which I believe places the current situation in perspective. No one can call Mr. Roche an apologist for the Nixon administration. He has, on many occasions, expressed his displeasure with much of what the President has done. In this instance, however, he places the blame right where it belongs—I think that responsible Americans in all walks of life can and should do likewise:

NOBODY'S WAR BUT HANOI'S

(By John P. Roche)

> When the North Vietnamese launched a conventional invasion of the South, complete with Soviet-made T-54 tanks and other heavy equipment, you might have thought that the question of who was doing what to whom would be conclusively settled. This was straight, naked aggression. Not even the most dedicated opponent of the war could argue that amphibious tanks were being constructed in peasant huts by the Vietcong.

> Yet in subsequent weeks we have heard some of the strangest explanations of what allegedly occurred: some commentators have virtually suggested that President Nixon personally sponsored the invasion. When the bombers went north, the howl went up that we had escalated the war, and Sen. J. W. Fulbright suggested that we had provoked Hanoi by breaking off the Paris talks. Fulbright's logic was bizarre—in effect, he said that since we had refused to give the North Vietnamese what they want, they had no recourse except to go for military victory. The submerged premise of this extraordinary syllogism is, of course, that they are right and we are wrong.
>
> Similarly, a letter to The New York Times from eight members of the House of Representatives contained this remarkable paragraph: "The President of the United States has called off the regular (Paris) meetings . . . And only this week the United States launched a massive air attack on both South and North Vietnam. In short, there are no signs of any moral leadership on the part of the administration to end the killings and the destruction of countries now." (4-16-72)
>
> The Congressmen did not even mention the North Vietnamese invasion!
>
> The harsh fact is that in terms of the arrangements made in 1968 as a precondition for a full bombing halt, the President was completely justified in taking the air war to the north. There has been a great deal of fudging about whether or not the Hanoi regime accepted any "understandings" and some people seem to have had odd memory lapses. What occurred in 1968 was that we insisted as a precondition for a total bombing halt that Hanoi agree (1) to respect the inviolability of the DMZ; (2) to cease shelling the cities of South Vietnam; and (3) to permit American aerial reconnaissance of the North.
>
> It is true that Hanoi's representatives never signed on the dotted line; there is no formal piece of paper. But the President of the United States was assured by the Soviets that Hanoi would go along with these terms. Without that assurance Lyndon Johnson told me he would never have agreed to a total halt: "It would be strictly a one-way proposition."
>
> This is not just a mat-time, Secretary of Defense Clark Clifford went on CBS-TV, "Face the Nation," and said in response to a question about the quid pro quo we had extracted from Hanoi, "The situation is that we had certain understandings reached with the North Vietnamese in Paris. They involved the DMZ and the shelling of the cities and the question of reconnaissance. There is the area of agreement." (12-15-68).
>
> What Hanoi has done in the last few years is lay the groundwork for a heavy invasion through the DMZ. Four roads were built and supplies were stockpile immune to air attack. And then they came in. They have been rocketing Saigon and other cities. In sum, they broke the agreement and, to repeat, Mr. Nixon is correct: all bets are off.
>
> "Johnson's War," in other words, has nŏt become "Nixon's War." The war is now and always has been "Hanoi's War."

FORBES MAGAZINE ATTACKS CATERPILLAR CO.

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. MICHEL. Mr. Speaker, it has come to my attention that the May 1 issue of Forbes magazine has printed an editorial which attacks the Caterpillar Co. whose world headquarters are in my hometown of Peoria, Ill. It has become fashionable today to attack U.S. business, which is guilty of giving us the highest standard of living in the world's history, providing millions of jobs, and making our lives a lot easier than the good old days which some seem to believe we should step backward to recapture.

The Forbes editorial says:

> A GOOD GIANT STUMBLES
>
> It's always a disappointment when we witness a Good and Godly Corporation hit the low road after decades on the high one.
>
> In the quality and ingenuity of its products; in its treatment of employees, distributors, and customers; in its public relations and advertising, Caterpillar for years has always been an outstanding example of enlightened self-interest.
>
> Their current advertising—blatant car-accident scare stuff—lobbies all out for making secondary roads wider, straighter, flatter—as if road spending didn't have a sufficient hunk of present government revenues, as if there were not other crying needs needing a tiny fraction of the money being spent on highways.
>
> I guess Caterpillar has accustomed us to expecting a broader view from them than this crude self-serving.

The Caterpillar ads are realistic. It is embarrassing that a magazine such as Forbes, which presumes to speak with authority, does not realize that highway funds are earmarked. They cannot be spent for any other Federal function. What the Caterpillar firm is trying to point out is that there are other roads besides the interstate highways—which apparently the editors of Forbes have never left—and that rural Americans also have the right to decent, safe roads. Anyone who has driven over some of the tortuous, narrow back-country highways in American knows that we have a big job of straightening and widening to do.

The interstate highway system now has 33,000 out of 42,500 miles complete—about 77 percent. We are spending around $3 billion a year on it. Much of the remaining mileage has been tied up in court proceedings and controversy over rights-of-way—a lot of it in urban areas where routing and the acquisition process is tedious.

The Nixon administration has proposed a single urban fund program, which in addition to moving some of the highway trust funds into urban transit systems, also provides for the rural Federal-aid fund and the rural general transportation fund, to channel more than $400 million a year into select and supplemental roads, which will replace the designation now given to primary and secondary highways.

The Caterpillar Co. as Forbes points out grudgingly, has always maintained a high-caliber operation in its advertising, in its products, and in its treatment of ts employees. It is unworthy of a magazine such as Forbes to ignore basic facts in order to make a crotchety point of its own displeasure. Caterpillar makes no case for starving any other Federal function to increase road expenditures.

Rural Americans pay gasoline taxes for their cars, as do the millions who live in the Nation's smaller cities, towns, and hamlets. They deserve good roads just as much as the urban masses. Secretary of Tranportation Volpe touched upon this problem in his remarks to the American Road Builders Association at their meeting in New Orleans on Monday of this week when he said:

> The funding levels for these new proposals would insure a higher quality rural road system than presently exists. And for the first time, Federal funds could be used to help build county roads and bridges—so vital to mobility in rural communities. Our recommendation is that the new Rural General Transportation Fund start off at $200 million annually beginning in FY 1974, and increase to $400 million annually for FY 1976 through 1979, for transportation capital expenditures in rural areas.
>
> This, of course, is in addition to $800 million annually for the regular, rural aid system. Priorities under the new Rural Federal Aid System would be established locally, to give rural people the same flexibility that is being made available to urban areas.
>
> This program recognizes the diverse transportation needs of this Nation.

Caterpillar has seen this need, and is doing a great public service in calling attention to the need for a switch from emphasis on the interstate, which is nearing completion, to the intrastate highways that have been going to potholes, and are long overdue for the straightening, widening, and flattening that Forbes seems to begrudge our rural residents.

Perhaps the editors of Forbes should travel a few miles out into the country and get some fresh air and a few fresh facts about road needs in the Nation today.

PONDERING THE FREEZE DISASTER

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. SISK. Mr. Speaker, too often those in other occupations regard the risk inherent in agriculture as someone else's problem.

They hear too much about Federal crop subsidies and not enough about our shrinking agricultural establishment.

They know too little and too late, often at the expense of their pocketbooks, of the risk the farmer takes from the weather when he plants his crop.

In most of the Nation, he is dependent on the beneficence of nature, the vagaries of the weather, for his loss or his gain.

He is totally unable to determine when he hitches the tractor to the planter whether it will be blight, rust, the boll weevil, the grasshopper, that reaps the harvest. He does not know whether it will rain too much too early, or too little too late.

We in this modern day and age have done a great deal to control our environment. In some areas we have to a slight degree been able to precipitate rainfall, or make up its lack with irrigation water.

But we have not been able to stop

rainfall or snow. We cannot make it warmer or colder. When a sudden freeze hits, a million orchard heaters are too few and the energy to fuel them too expensive.

So for the most part the farmer is at the mercy of tempestuous and temperamental changes in the weather, to say nothing of the market, and maybe a hundred other factors.

An editorial in the Fresno Bee on April 1 entitled "Pondering the Freeze Disaster" forcefully brought home to those not in agriculture the meaning the loss of his livelihood is to a farmer.

I insert the editorial so that all of us, in cities and towns, in urban life, may know what a farmer's risk can entail:

PONDERING THE FREEZE DISASTER

It is hard for a city man to understand fully what has happened to growers of crops destroyed by the unseasonable cold which followed unseasonable heat.

He can read about the freeze and if he drives in the country he can see how the lush green grape vines have wilted and turned an ugly dark brown in many places. He can note that the Board of Supervisors has asked Gov. Ronald Reagan to declare Fresno County a disaster area in order to make low-interest federal loans available. He can try to think about what a $50 million crop loss means.

But still, to the city man, it is all rather abstract. All he knows, from his own experience, is that it got rather hot and then it got rather cold and he was hardly discomforted at all. By the time he climbed out of bed on those crucial days the freeze had come and gone and the only evidence he saw at firsthand was the distant pall of smoke from orchard heaters and other burning devices the desperate growers had used.

It would be appropriate, though, for the city man to reach out to the country man at times like these; to ponder what a difficult business it is to nurse crops to harvest, and how vulnerable the grower is to the whims of nature; to recall how he felt when his newly planted backyard grevillea was ruined by an early frost in October and then to image what it would be like if this was his livelihood as well as a growing thing he treasured.

The valley moves to the rhythm of the crop-dusting season. When that rhythm is interrupted, we all should feel distressed.

CAPITAL PUNISHMENT SHOULD NOT BE ABOLISHED

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. CRANE. Mr. Speaker, there has been much discussion in recent days about the question of capital punishment. The Supreme Court of California, for example, declared that capital punishment was "cruel and unusual," and although it based its decision on provisions of the California State constitution, rather than the U.S. Constitution, there is increasing pressure upon the Supreme Court to come to a similar conclusion.

Those who argue against capital punishment state that not only is it "cruel and unusual," but also express the view that it does not, in fact, act as a deterrent against crime. If it is "cruel" and does not even perform the function of deterrence, they argue, then it should be eliminated.

In the current discussion of this subject the defense of capital punishment often is not given the serious consideration which it merits. Such a defense was presented before the House Judiciary Committee on March 16, 1972, by Frank G. Carrington, executive director of Americans for Effective Law Enforcement.

Mr. Carrington begins his testimony by noting that—

> If capital punishment should be abolished, it should be by legislative action rather than by judicial fiat.

The issue, Mr. Carrington stated—

> Is properly one to be determined by the democratic process.

In December 1970, in a State constitutional election, the voters of Illinois rejected a proposition abolishing the death penalty, casting 1,218,791 votes against abolition to 676,302 for abolition, a margin of almost 2 to 1. This was cited by Mr. Carrington as evidence of public opinion with regard to this question.

More important, perhaps, are the substantive reasons why capital punishment should be retained. Setting forth the view of Americans for Effective Law Enforcement, Mr. Carrington notes that—

> We believe that if the threat of capital punishment were to be a real, rather than an imagined, threat potential murderers in many cases would, in fact, be deterred from killing. Evidence to support this contention is to be found in a study conducted in 1970 and 1971 by the Los Angeles Police Department in an effort to measure the deterrent effect of the death penalty.

The study referred to involved a compilation of statements taken from persons who had been arrested for crimes of violence. Of 99 persons who gave a statement as to why they were unarmed during the commission of their crimes or why they did not use their weapons, the results were classified as follows: Fifty—or 50.5 percent were "Deterred by fear of death penalty from carrying weapon or operative weapon." Only 7—or 7.07 percent were "Unaffected by death penalty because it was no longer being enforced." Ten were "undeterred by death penalty, would kill whether it was enforced or not" and 32—or 32.3 percent were "Unaffected by death penalty because they would not carry a weapon in any event, primarily out of fear of being injured themselves or of injuring someone else."

Mr. Carrington notes that—

> Thus we see a 5-to-1 ratio of deterrence over nondeterrence as reported by individuals who were in the best position to make such a judgment: the perpetrators themselves.

The testimony concludes that—

> If capital punishment was once again to be made a real threat and that swift and sure execution followed upon conviction of the classes of murders we have discussed—the deterrent effect would be tremendous.

I wish to share Mr. Carrington's testimony together with my introductory remarks which outline his background with my colleagues, and insert them into the RECORD at this time.

The material follows:

INTRODUCTORY REMARKS BY SENATOR CRANE

Mr. Chairman: I am pleased to introduce to this Subcommittee one of my constituents who has been invited to testify today: Mr. Frank Carrington, the Executive Director of Americans for Effective Law Enforcement.

Mr. Carrington appears here today as one well-qualified, professionally, academically, and by experience to testify about matters pertaining to the criminal justice system. He is an attorney, a graduate of the University of Michigan Law School; he has been awarded a Master of Laws Degree in Criminal Law from Northwestern University Law School and he has extensive police experience having served as a U.S. Treasury Agent and as a Police Legal Advisor to the Chicago and Denver Police Departments.

Americans for Effective Law Enforcement (AELE) is a national not-for-profit citizens organization the purpose of which is to give a voice to the law abiding citizen in our criminal justice system. I have been on AELE's mailing list almost from its inception and I am impressed with its objectives and accomplishments. I might add that AELE is totally non-partisan as is indicated by the fact that it has received the enthusiastic endorsement of former Attorney General John Mitchell and of Senator John L. McClellan. This Subcommittee is holding hearings upon a matter of the greatest importance—whether or not capital punishment is to be retained—I believe that AELE can aid the Subcommittee in its deliberations.

PREPARED STATEMENT BY FRANK G. CARRINGTON

Mr. Chairman, my name is Frank Carrington. I reside at 1341 Chestnut Street, Wilmette, Illinois. I am an attorney, and hold a Master of Laws degree in criminal law from Northwestern University. I have been in law enforcement work for the past 10 years, serving as a United States Treasury Agent and as a Police Legal Advisor with the Chicago and Denver Police Departments. I am currently the Executive Director of Americans for Effective Law Enforcement, Inc., 228 North La Salle Street, Chicago, Illinois.

Americans for Effective Law Enforcement, Inc. (AELE) is a national, not-for-profit organization, the purpose of which is to give a voice to the law-abiding citizen in our criminal justice system. AELE has been described as a conservative counterforce to the American Civil Liberties Union (ACLU) in the area of the criminal law.[1] AELE believes that the right of the law-abiding citizen to be reasonably free from criminal harm should not be subordinated to the increasingly contrived "rights" which are being accorded to the violent and lawless elements in this country. To this end, AELE seeks to represent, here, and in the criminal courts, nationwide, the views of the law enforcement community and the interest of the actual and potential victims of crime in America. A summary of the aims, activities and accomplishments of AELE, together with a listing of its Board of Directors and Advisory Board, is contained in the brochure attached hereto as Exhibit # 1.

AELE'S POSITION ON THE ISSUE OF CAPITAL PUNISHMENT

AELE does not believe that capital punishment should be abolished in federal or state criminal justice systems. Our reasons for this position are set forth below, however, at

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Footnotes at end of article.

this juncture we wish to state, as emphatically as possible, our view that *if* capital punishment should be abolished, it should be by legislative action rather than by judicial fiat. We refer, of course, to the recent decision of the California Supreme Court which banned the death penalty in that state as "cruel or unusual punishment."[2] In our opinion the California court in so holding substituted sociological abstractions for the law, and, based upon the *personal* feelings of the six majority justices, negated the very clear will of the California Legislature and of the citizens of that state. (According to Tom Wicker, an anti-capital punishment columnist, mail to the California Supreme Court chambers is running 2-to-1 in favor of capital punishment. See: *The New York Times*, March 7, 1972, p. 37m, col. 1).

The issue of abolishment or retention of the death penalty is properly one to be determined by the democratic process. For example, in December of 1970, in a state constitutional election, the voters of Illinois rejected a proposition abolishing the death penalty, casting 1,218,791 votes *against* abolishment to 676,302 *for* abolishment, a margin of almost 2-to-1.[3]

Be that as it may. That is, in fact, a legislative hearing; and we are here to express our opposition to the abolishment of the death penalty by legislative action for the following reasons:

CONSIDERATION SHOULD BE GIVEN TO THE VICTIMS OF CRIME

AELE is, frankly, a victim-oriented organization. We believe that many of those who advocate the abolition of the death penalty evidence a highly unrealistic and lofty disregard for: (a) the plight of the actual victims of countless murderers and (b) the safety of the *potential* victims of those who will kill in future.

Insofar as the actual victims are concerned, consider these questions: Who can name just *one* of the eight nurses murdered by Richard Franklin Speck? Likewise, if one of Charles Manson's victims had not been a famous movie actress, who would be able to recall the names of any of those who were murdered by Manson and his foul clan?

Yet the names Richard Speck and Charles Manson are, in truth, "household words" in the United States and, while their victims are lying in their graves, active efforts, evidenced by these proceedings, are under way to save Manson, Speck and others from the consequences of their acts.

We submit that past and future victims of crime *are* deserving of our consideration, especially in view of the fact that, beyond any question, our racial minorities and ghetto-dwellers are the principal victims of violent crimes, including those crimes for which the death penalty is provided.[4] We concur with Illinois State Senator Raymond Ewing, a black, who refused to vote for a moratorium on the death penalty in Illinois because:

> I realize that most of those who would face the death penalty are poor and black and friendless. *I also realize that most of their victims are poor and black and friendless and dead.*[5] (emphasis supplied)

Our concern for the victims of murders leads inevitably to the abolitionist response that the execution of the death penalty upon killer "A" will not bring his victim "B" back to life. This is, of course, true; but the question goes deeper than that. The fact that "A" is executed will not, concededly, bring "B" back to life; however, such arguments ignore the fact that although "B" is beyond resurrecting, the fact that "A" has been executed for the crime: (1) may well deter "C", "D" and "E" from following "A"'s example of killing and (2) *will* make absolutely certain that "A" will never kill again.

This brings us to the main bases for our contention that capital punishment should not be abolished: the deterrence of capital crimes and the incapacity of a killer, once executed, to kill again.

CAPITAL PUNISHMENT AS A DETERRENT

We believe that if the threat of capital punishment were to be a real, rather than an imagined, threat potential murders in many cases would, in fact, be deterred from killing. Evidence to support this contention is to be found in a study conducted in 1970 and 1971 by the Los Angeles Police Department in an effort to measure the deterrent effect of the death penalty.[6] The study involved a compilation of statements taken from persons who had been arrested for crimes of violence. Those interviewed had either been unarmed during the commission of their crimes or had been armed but did not use their weapons. Of 99 persons who gave a statement as to why they went unarmed or did not use their weapons the results were classified as follows:

Los Angeles Police Department Study of the Deterrent Effect of the Death Penalty, February, 1971

1. Deterred by fear of death penalty from carrying weapon or operative weapon, 50 (50.5%).
2. Unaffected by death penalty because it was no longer being enforced, 7 (7.07%).
3. Undeterred by death penalty, would kill whether it was enforced or not, 10 (10.1%).
4. Unaffected by death penalty because they would not carry weapon in any event, primarily out of fear of being injured themselves or of injuring someone else, 32 (32.3%).

Thus we see a 5-to-1 ratio of deterrence over non deterrence as reported by individuals who were in the best position to make such a judgment: the perpetrators themselves.

The conclusions drawn from this study by the Los Angeles Police are as follows:

> 1. The adoption of an effectively enforced death penalty system is a deterrent in the prevention of homicides. II. Though the death penalty has not been removed from the statutes in California, many suspects believe in reality that no death penalty exists as it is not being enforced. III. Some suspects, while realizing that the California death penalty exists in name only, disclose that the certainty of an executed death penalty sentence would deter them from being armed while committing crimes."

The report also notes that:

> *If this study contained only one and not the 50 documented cases supporting the fact that the death penalty is a deterrent, there should be no question of its retention and enforcement.* In 1970 in the City of Los Angeles, 394 innocent people were victims of an unlawful execution without the right of due process of law. (emphasis supplied)

Additionally, Justice Marshall McComb of the California Supreme Court (who was the sole dissenter in the *Anderson* case in which the California Supreme Court held the death penalty to be "cruel or unusual") had, in an earlier case,[7] cited, as evidence of the deterrent effect of the death penalty, another series of examples of violent criminals who did *not* kill because of the threat of death involved for capital crimes.

We are submitting verbatim these examples from Justice McComb's opinion as a part of our statement because we believe that they indicate very clearly the true deterrent nature of capital punishment. We urge this Subcommittee to consider them with care. These are cases in which lives were *actually saved* because a would-be killer, *by his own admission*, was deterred, by the threat of the death penalty, from murdering others in the course of violent crimes.

The cases cited by Justice McComb are as follows:

> (i) Margaret Elizabeth Daly, of San Pedro, was arrested August 28, 1961, for assaulting Pete Gibbons with a knife. She stated to investigating officers: 'Yeh, I cut him and I should have done a better job. *I would have killed him but I didn't want to go to the gas chamber.*'
>
> (ii) Robert D. Thomas, alias Robert Hall, an ex-convict from Kentucky; Melvin Eugene Young, alias Gene Wilson, a petty criminal from Iowa and Illinois; and Shirley R. Coffee, alias Elizabeth Salquist, of California, were arrested April 25, 1961, for robbery. They had used toy pistols to force their victims into rear rooms, where the victims were bound. When questioned by the investigating officers as to the reason for using toy guns instead of genuine guns, all three agreed that real guns were too dangerous, *as if someone were killed in the commission of the robberies, they could all receive the death penalty.*
>
> (iii) Louis Joseph Turck, alias Luigi Furchiano, alias Joseph Farino, alias Glenn Hooper, alias Joe Moreno, an ex-convict with a felony record dating from 1941, was arrested May 20, 1961 for robbery. He had used guns in prior robberies in other states but simulated a gun in the robbery here. He told investigating officers that he was aware of the California death penalty although he had been in this state for only one month, and said, when asked why he had only simulated a gun, '*I knew that if I used a real gun and that if I shot someone in a robbery. I might get the death penalty and go to the gas chamber.*'
>
> (iv) Ramon Jesse Velarde was arrested September 26, 1960, while attempting to rob a supermarket. At that time, armed with a loaded .38 caliber revolver, he was holding several employees of the market as hostages. He subsequently escaped from jail and was apprehended at the Mexican border. While being returned to Los Angeles for prosecution, he made the following statement to the transporting officers: 'I think I might have escaped at the market if I had shot one or more of them. *I probably would have done it if it wasn't for the gas chamber.* I'll only do 7 or 10 years for this. I don't want to die no matter what happens, you want to live another day.'
>
> (v) Orelius Mathew Stewart, an ex-convict, with a long felony record, was arrested March 3, 1960, for attempted bank robbery. He was subsequently convicted and sentenced to the state prison. While discussing the matter with his probation officer he stated: 'The officer who arrested me was by himself, and if I had wanted, I could have blasted him. *I thought about it at the time, but I changed my mind when I thought of the gas chamber.*'
>
> (vi) Paul Anthony Brusseau, with a criminal record in six other states, was arrested February 6, 1960, for robbery. He readily admitted five holdups of candy stores in Los Angeles. In this series of robberies he had only simulated a gun. When questioned by investigators as to the reason for his simulating a gun rather than using a real one, he replied that *he did not want to get the gas chamber.*
>
> (vii) Salvador A. Estrada, a 19-year-old youth with a four-year criminal record, was arrested February 2, 1960, just after he had stolen an automobile from a parking lot by wiring around the ignition switch. As he was being booked at the station, he stated to the arresting officers: "I want to ask you one question, do you think they will repeal the capital punishment law. *If they do, we can kill all you cops and judges without worrying about it.*'
>
> (viii) Jack Colevris, a habitual criminal with a record dating back to 1945, committed an armed robbery at a supermarket on April 25, 1960, about a week after escaping from San Quentin Prison. Shortly thereafter he was stopped by a motorcycle officer. Colev-

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Footnotes at end of article.

ris, who had twice been sentenced to the state prison for armed robbery, knew that if brought to trial, he would again be sent to prison for a long term. The loaded revolver was on the seat of the automobile beside him, and he could easily have shot and killed the arresting officer. By his own statements to the interrogating officers, however, *he was deterred from this action because he preferred a possible life sentence to death in the gas chamber.*

(ix) Edward Joseph Lapienski, who had a criminal record dating back to 1948, was arrested in December 1959 for a holdup committed with a toy automatic type pistol. When questioned by investigators as to why he had threatened his victim with death and had not provided himself with the means of carrying out the threat, he stated, *"I know that if I had a real gun and killed someone, I would get the gas chamber."*

(x) George Hewlitt Dixon, an ex-convict with a long felony record in the East, was arrested for robbery and kidnaping committed on November 27, 1959. Using a screwdriver in his jacket pocket to simulate a gun, he had held up and kidnaped the attendant of a service station, later releasing him unharmed. When questioned about his using a screw driver to simulate a gun, this man, a hardened criminal with many felony arrests and at least two known escapes from custody, indicated his fear and respect for the California death penalty and stated, *"I did not want to get the gas."*

(xi) Eugene Freeland Fitzgerald, alias Edward Finley, an ex-convict with a felony record dating back to 1951, was arrested February 2, 1960, for the robbery of a chain of candy stores. He used a toy gun in committing the robberies, and when questioned by the investigating officers as to his reasons for doing so, he stated: *'If I had a real gun and killed someone, I would get the gas, I would rather have it this way.'*

(xii) Quentin Lawson, an ex-convict on parole, was arrested January 24, 1959, for committing two robberies, in which he had simulated a gun in his coat pocket. When questioned on his reason for simulating a gun and not using a real one, he replied that *he did not want to kill someone and get the death penalty.*

(xiii) Theodore Roosevelt Cronell, with many aliases, an ex-convict from Michigan with a criminal record of 26 years, was arrested December 31, 1958, while attempting to hold up the box office of a theater. He had simulated a gun in his coat pocket, and when asked by investigating officers why an ex-convict with everything to lose would not use a real gun, he replied, *'If I used a real gun and shot someone, I could lose my life.'*

(xiv) Robert Ellis Blood, Daniel B. Gridley, and Richard R. Hurst were arrested December 3, 1958, for attempted robbery. They were equipped with a roll of cord and a toy pistol. When questioned, all of them stated that they used the toy pistol because *they did not want to kill anyone, as they were aware that the penalty for killing a person in a robbery was death in the gas chamber.* (Emphasis in the original)

On a related point, we often hear the arguments of those who would abolish capital punishment that the ever increasing numbers of murders in the United States indicate that capital punishment, which is still in effect in most states, is not a deterrent to crime. This argument might have some validity if capital punishment had for the past few years constituted a genuine threat; however, it is common knowledge that because of judicial, legislative, and other legal maneuverings against the death penalty there have been no executions in this country since 1967 and very few executions before then. As a result the threat of capital punishment is not taken seriously by many killers. We submit that it is highly likely if in certain carefully delineated classes of crimes (premeditated murder, felony-murder, killing of law enforcement officers and prison guards, murder for hire, and multiple murder) the death penalty for the convicted perpetrator would be swift and sure, homicides would in fact decline in number.

THE "SECOND MURDERS"—KILLINGS BY PERSONS WHO HAVE KILLED BEFORE BUT WHO, NOT HAVING BEEN EXECUTED, HAD THE OPPORTUNITY TO KILL AGAIN

The brief of the State of California in its petition for rehearing in the *Anderson* case cites, at pages 17 and 18, cases in which persons who had been once convicted of murder had killed again, either in prison, after escaping, or after being paroled. Summaries of six such cases follow:

People v. Purvis, 52 Cal. 2d 871, 346 P. 2d 22 (1959)

In 1950 defendant was convicted of second degree murder of his wife and sentenced to prison. In 1954 he was paroled. In 1957 he murdered a woman and was convicted with the death penalty imposed. The California Supreme Court affirmed judgment but ordered a retrial on issue of penalty.

People v. Gilbert, 63 Cal. 2d 690, 408 P. 2d 365 (1965)

Gilbert was convicted in 1947 of second degree murder for killing a fellow prisoner at San Quentin. He was released on Parole in 1959 and convicted of burglary in 1960. He escaped in 1965 and committed a series of armed bank robberies. In 1964 he killed a police officer while committing a bank robbery. Gilbert was convicted of first degree robbery and kidnapping and received the death penalty.

People v. Robles, 2 Cal. 3d 205, 466 P. 2d 710 (1970)

Robles was serving life sentence for first degree murder. He had a prior conviction for assault with intent to commit murder. While in prison, he murdered an inmate by striking him on the head and then cutting his throat from ear to ear. Robles was convicted of first degree murder and received the death penalty. The California Supreme Court reversed the penalty.

People v. St. Martin, 1 Cal. 3d 524, 463 P. 2d 390 (1970)

Defendant was serving a life sentence for second degree murder and robbery in the first degree. While a guard was trying to restrain him, defendant plunged a knife three times into an inmate's chest killing him. Defendant was convicted and given the death penalty. The California Supreme Court reversed the judgment.

People v. Peete, 28 Cal. 2d 306 (1946)

Defendant was convicted of murder in 1921 and after 18 years was released from prison. In 1944 defendant murdered another person and this time received the death penalty.

People v. Hall, 199 Cal. 451 (1926)

Hall escaped from prison while serving a life sentence for murder. Subsequently he committed another murder and was convicted and received the death penalty. The California Supreme Court reversed judgment.

People v. Morse, 70 Cal. 2d 711

Morse, serving a sentence of life imprisonment for two murders garrotted a fellow prisoner who owed him some cigarettes. Sentenced to death for this murder, Morse had the judgment reversed by the California Supreme Court.

Cases such as these, and other similar cases, nationwide, clearly indicate that misguided leniency towards one who has been proven to be a murderer can result in the loss of the lives of the victims of "second killings." Abolitionists often couch their opposition to the death penalty in terms of "reverance for human life;" however, this reverance appears to be directed solely towards the lives of the killers. It ignores the fact that the lives of the innocent "second victims" have also been taken—lives that could have been saved if one who had already demonstrated a potential for killing had not been given a "second chance" to kill again.

EASY PAROLE LAWS

In California a "life sentence" actually means that the individual convicted is eligible for parole in seven years.[8] Other states provide for parole eligibility after relatively short periods of confinement. Parole laws such as these indicate our preoccupation with the criminal and our total amnesia with regard to such rights to life as the victims might have had. Who can guarantee that, after a given period of years, Sirhan Sirhan, Richard Speck, Charles Manson and his followers or James Earl Ray might not be paroled by a high-minded parole board who saw before them an apparently repentant and rehabilitated individual? We believe that there are certain individuals who are, quite simply, not fit to return to society again (for example the person or persons who planted operable bombs of extreme explosive power aboard two airliners last week, in an attempt to extort two million dollars from Trans-World Airlines). Yet overly lenient parole laws, coupled with our tendency to deny any thought to the victims of crime, could act to return the most hideous of murderers to the community—perhaps to kill again.

SPECIAL CASES—LAW ENFORCEMENT OFFICERS AND PRISON GUARDS

We have, in the foregoing sections, spoken of our overall concern for the actual and potential victims of homicides. We turn now to two special cases: law enforcement officers and prison guards.

1. Law Enforcement Officers

In our society we have placed the responsibility for the prevention of crime and the apprehension of criminals squarely upon our law enforcement officers. As a part of their duty to protect the public, they must seek out confrontations with the criminal element which others are privileged to avoid. The average citizen who sees an armed robbery, a street mugging, or an attempted rape in progress has, as a general rule, no duty to intervene. Not so the policeman. On duty or off he must attempt to apprehend the perpetrator. Between 1966 and 1970, 261 law enforcement officers were killed answering disturbance call, responding to crimes in progress and making arrests (except traffic arrests).[9]

It is precisely because we require the policeman to engage in face-to-face confrontation with criminals on a day-to-day basis that they should be considered as special cases when we consider the punishment to be accorded to their killers. *AELE takes the unequivocal position that the punishment for the murder of a law enforcement officer engaged in his duties should be death.*

Consider the tragic statistics of law enforcement officers killed during the five year period 1967 to 1971:

1967	76
1968	64
1969	86
1970	100
1971	125

We believe that if a *non-commutable* death sentence were the *only* penalty upon conviction of the murderer of a law enforcement officer, these statistics would rapidly decline.

The other side of the coin is also true. As we have mentioned, "life imprisonment" in California now means that the convict is eligible for parole in seven years. In a recent case in Illinois the murderer of a policeman received a "tough" sentence of 100 to 200 years; the killer will, however, be eligible for parole in eleven years and three months. We believe that parole laws such as these make the already dangerous job of a law enforcement officer infinitely more hazardous. When an armed robber, rapist or fleeing killer is cornered by a police officer he may well consider that killing the officer in order to escape apprehension may well be the best option open to him in view of the current lack of enforcement of the death penalty and our overly lenient parole laws.

A policeman, in his day-to-day confrontation with criminals, deserves the fullest protection that the law can give him; and that protection is assuredly *not* present in a state, such as California, where the would-be cop-killer knows that, if apprehended, seven years in prison may be the total penalty that he must face.

2. Prison Guards and Corrections Officers

Just as policemen are required to confront the criminals on the streets, prison guards confront them daily in our correctional institutions. Prison guards go unarmed among their charges and are vulnerable at any time to an attack. In the notorious "Soledad Brothers" case a guard was thrown to his death from a third floor tier, and, in the Attica riots and the escape attempt of George Jackson from San Quentin prison, unarmed guards were murdered by inmates.

Prison guards, like law enforcement officers, deserve the maximum protection of the law. We favor the death penalty for the killing of any prison guard or corrections officer while he is on duty.

CONCLUSION

AELE's presentation herein may be considered a hard line approach to the issue of capital punishment. If this is, indeed, true, the hard line approach is based upon our preoccupation with the rights of the actual and potential victims of murderers (most of whom will be members of minority races and ghetto dwellers) rather than with those of the murderers themselves. Additionally, we have a special regard for the safety of law enforcement and correctional officers.

We believe that if capital punishment was once again to be made a *real* threat and that swift and sure execution followed upon conviction of the classes of murders we have discussed herein, the deterrent effect would be tremendous. The execution of a human being by the state is never a pleasant thing; however, we believe that such executions would, in fact, deter potential murderers and prevent "second killings" by those who have already been proven to be killers, that the saving of these innocent lives far outweighs any concern that we should have for convicted killers, and that capital punishment should clearly be retained and made a reality once more.

Respectfully Submitted,
FRANK CARRINGTON,
Executive Director, Americans for Effective Law Enforcement, Inc.

FOOTNOTES

[1] See: "A Counterweight to ACLU Thrives" by Fred P. Graham, *New York Times*, Feb. 22, 1971, page 30m.

[2] *California v. Anderson*, —— Cal. ——, Criminal No. 13617, Supreme Court of California (February 18, 1972).

[3] Illinois Secretary of State, Constitution of the State of Illinois and the United States, 13, 15 (1971).

[4] See e.g., Crime Control Digest, March 25, 1970, page 7, in which is described a study by Stanford Criminologist Herbert L. Packer which concluded that ghetto residents are 100 times as likely to become victims of violent crime as their more affluent suburban counterparts. See also: "Black Crime Preys on Black Victims" an Associated Press study appearing in the *Denver Post*, August 23, 1970, page 35; and *"Black Law and Order"* in the *National Observer*, May 10, 1971, page 1.

[5] *Chicago Tribune*, "Ban Death Penalty, State House Visit Urges" April 15, 1971, section 1, page 1, col. 5.

[6] Los Angeles Police Department, Detective Bureau, Administrative Analysis Section, A Study by the Los Angeles Police Department on Capital Punishment II (February, 1971). This study was cited by the State of California in the Supreme Court of the United States in *Aiken v. California*, October Term 1971, No. 68–5027.

[7] *People v. Love*, 56 Cal. 2d. 720, 336, P. 2d. 33, (1961) (McComb, Jr., dissenting).

[8] California Penal Code, Section 3046.

[9] FBI Uniform Crime Reports 1970.

THE EXTRATERRESTRIAL IMPERATIVE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. TEAGUE of Texas. Mr. Speaker, the eminent scientist and space program statesman, Dr. Krafft A. Ehricke, has defined some profound but significant issues in a New York Times article of Friday, March 31. Dr. Ehricke, who has had years of association with the advancement of technology in this country and with the aerospace industry, is eminently qualified to comment on the importance of making near space an integral part of our daily lives. The article eloquently states the case for the development of near space for utilitarian purposes. I commend the article to your reading:

[From the New York Times, Mar. 31, 1972]

THE EXTRATERRESTRIAL IMPERATIVE

(By Krafft A. Ehricke)

LOWNEY, CALIF.—Man's nature is attuned to an infinite, indestructible world. Earth has ceased to be such a world, and therein lies the great crisis of our time.

The dream that world peace will assure boundless growth has been relativized by mankind's apparently headlong approach to population, pollution and resources barriers. Meanwhile, his worst habits—shortsightedness and a paranoiac fear of himself—are alive and well; the latter devouring unbelievable amounts of resources which would more than suffice to overcome the crises, the former contending that Man has finally come to face insurmountable obstacles and must stop growing or die.

If we value what has been achieved since the Renaissance, technology must advance. Technology yields industry and production, providing more than minimum-survival living standard. Technology gives us access to nature, the infinitesimal and the infinite, stretching the human mind and making it grow in a million dimensions. Renouncing this means to cease growing. To cease growing means to make a grim past the future's only option.

Civilization is a state of mental growth. But civilization cannot prevail without adequate material living standard. It is no coincidence that more progress, however imperfect, has been made toward humaneness since the Renaissance than in all previous history. But the majority of mankind still lingers below adequate living standards. It would be insane for the "haves" to rejoin the "have-nots" instead of employing their resources to assure growth and an unlimited future for all. Therefore, growth must continue.

Industrial civilization has benefited mankind greatly. Between 1900 and 1970, world productivity increased tenfold. The ratio of "haves" to "have-nots" rose from one in seven to one in 2.6. Still, differences in living standards are too great and the lowest level to low. Sharply divergent growth trends in industrial societies' wealth and developing countries' populations widen the differences dangerously. Therefore, continued global development is imperative even at zero population growth.

But global development can no longer mean just continued industrialization of our planet. Earth as a place to live for *both* Man and nature must, during the next hundred years, take increasing priority over Earth as an object of industrial exploitation. But, like nature, Man must "exploit" to live. Once civilizations had to be based on slave labor. Then machines relieved Man, placing the burden on biospheric resources. Further growth leads us beyond our planet, because technology will soon be able to exploit extraterrestrial resources on a growing scale. Life once was on the verge of extinction before learning to rely on an extraterrestrial resource through the biotechnological feat of photosynthesis. Once again, Man, the cutting edge of terrestrial life, has no rational alternative but to expand the environmental and resource base beyond Earth.

Global development, therefore, must be based on an open-world concept and include both the development of extraterrestrial resources and the wiser management of our terrestrial resources. This is the Extraterrestrial Imperative. Its central goal is the preservation of civilization. The central premise must be the indivisibility of Earth and space (including other worlds). This indivisibility has dual significance. Astroecologically, it promises (a) a broadening of mankind's resource base; (b) development of advanced technologies in the service of mankind, free of biospheric constraints and social complications, and (c) gradual separation from Earth of geoincompatible production processes—that cannot be integrated satisfactorily into the great physical, chemical and biological cycles of Earth. Geoecologically, it promises integration of geocompatible industrial processes into the terrestrial cycles—a benign industrial revolution minimizing pollutive and biocidal side effects and requiring global management with extensive use of satellites and space stations.

The resulting division of labor represents maximum compatibility of activity with environment. Earth's nonuniqueness is as much a key to our future as is its uniqueness. Not all industrial processes are categorically bound to Earth. Growing independence of Earth is merely a logical consequence of our earlier emancipation from "nature." For example, beyond Earth full and efficient use can be made of nuclear technology for power generation for Earth without thermal pollution; for raw material extraction without chemical pollution; for manufacturing without increasing environmental burdens; and for economic transportation of extraterrestrial products to terrestrial consumers.

There was a time when the human mind was slow to accept growing evidence that Earth is not a flat center of the universe. Now the concept of a closed, isolated world must be overcome. Viewing our Earth from space should make it obvious that the world into which we can now grow is no longer closed. By ignoring this new reality, current predictive world dynamic models fail. Adhering to an obsolete closed-world view, they despair of our future growth prospects. The Extraterrestrial Imperative enjoins us to grow and live through openworld development which contains all the futures the human mind can hold.

JIM HUBBELL RETIRING

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. GUDE. Mr. Speaker, on May 5, Mr. Hubbell will clear his desk and retire from the Veterans' Administration, bringing to an end a remarkable career with this great organization.

This young man, only a few months past his 55th birthday, is leaving an enviable record of service and achievement for the younger generation of veterans joining the Veterans' Administration for career opportunities to emulate.

Jim is a native of Bedford, Ohio, attending the local schools and then graduating from Oberlin College in 1938 with an AB degree, and in 1940, achieving his MA at the University of Cincinnati. This was followed by a short term teaching at the Grand River Academy in Ohio—but this was soon interrupted by the approaching war clouds.

He enlisted in Ohio's famous 107th Cavalry, which was called into Federal service in October 1941. His potential was soon recognized by appointment to officers candidate school—becoming a second lieutenant, Chemical Warfare Service, in 1942. Following stateside duty assignments, he was transferred to the rapidly developing Army Air Corps and shipped to the Pacific theater of operations. His overseas duties covered much of the far-flung area until after V–J Day—and then back to the States for separation as a captain in March 1946.

While becoming a brandnew lieutenant may have been important to a young serviceman, a ceremony in the chapel at Edgewood Arsenal 2 weeks later became a real milestone. On November 13, 1942, Miss Virginia Clements of Talbottom, Ga., became the bride of Lieutenant Hubbell and was with him stateside until his departure for overseas—and greeted him in California when he returned. Three sons have been born to this union: William, Richard, and James. William is now a second lieutenant, U.S. Army stationed in Germany. There was the unexpected death of Richard on May 22, 1971; and James is with his parents at 10703 Brunswick Avenue in Kensington, Md. They are members of the Hughes Methodist Church at Plyers Mill Road and Georgia Avenue.

Returning to civilian pursuits in March 1946, he was attracted by an opportunity to be of service to his wartime comrades—joining the Veterans' Administration in the San Francisco branch 12 office that same month. Starting as a trainee, GS–7, he soon earned an advancement in the personnel field and in 1949 was the chief of field administrative section for branch 12's personnel service. He was transferred to VA's central office in July 1949, and started an enviable record of progress—becoming the director, personnel service, for the Department of Veteran's Benefits in September 1957. More important assignments followed: Executive assistant to the chief benefits director; acting area field director for area 4; and then, the assistant director for personnel for all of VA's widespread personnel program. In September 1965, a dream of all VA career people began to become a reality—he was detailed as acting manager of the sensitive Veteran's Benefits Office followed by confirmation as manager in February 1966. The title was changed to director in June 1970.

Two significant patterns stand out in his career: his constant effort to improve himself for further advancement by school and study; and recognition of his talents by his superiors with important awards for outstanding performance and superior accomplishments in his assigned duties.

He started to add to an already adequate educational background as soon as he came with VA by attending specialized courses at the University of California and Golden Gate College in San Francisco. Since being transferred to Washington, a few high spots have been attendance at the Brookings Institute, the Federal Executive Institute at Charlottesville, Va., and receiving a masters degree in public administration from the George Washington University.

Outstanding ratings, superior accomplishment awards, and letters of commendation are found throughout his record, with several of these being signed by the incumbent Administrator of Veterans Affairs. One of the most significant was a letter dated July 20, 1971, from Administrator Donald E. Johnson recognizing an outstanding performance for the fiscal year 1971 in which operations at the VBO improved markedly; the U.S. Veterans Assistance Center had become one of the most successful in the Nation; and his personal efforts in the field of equal employment opportunity all attested to his personal leadership.

Nationally recognized veterans organizations have accorded recognition to his efforts and his empathy by numerous awards and citations. These include: The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS, Veterans of World War I, and the Maryland Veterans Commission.

His coworkers in VA, from central office and his own Veterans Benefits Office, plan a dinner to honor both Jim and "Ginney" on Wednesday, May 3, and wish them well in their future pursuits.

I wish to take this opportunity to add my personal best wishes to Jim Hubbell and am certain that all of my colleagues in the House of Representatives join me in this wish.

PRESIDENT NIXON MUST INTERCEDE WITH SOVIET LEADERS ON BEHALF OF THE UKRAINIAN PEOPLE

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. JAMES V. STANTON. Mr. Speaker, I have this day written a letter to the President of the United States which is self-explanatory and which I insert in the RECORD for the information of my colleagues and the public. The letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 27, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: Last week, as you know, I had occasion to write to you urging that, on your forthcoming trip to the Soviet Union, you make known your views relative to the plight of the Jewish people in that unhappy country. Today, I must write to you again on behalf of still another group in the Soviet Union who are victims of oppression. And again I ask you to intercede with the Soviet leaders—to attempt to do whatever you can on behalf of this much larger group—the Ukrainians.

I trust you will certainly find a place for this issue on your proposed agenda. Whether the plight of the Ukrainians is discussed formally or informally, publicly or privately, specifically or generally, directly or indirectly, is not at all as important as your earnestness in bringing it up, your persistence in terms of a followthrough and the results you achieve.

As a Member of the House of Representatives, I do not have the Constitutional duty, as do Members of the Senate, to advise you in the conduct of United States foreign policy. But being a Member of the House puts me in closer touch—at least in my District—with the feelings of the people. I want to report to you in this connection that, even though persons of Ukrainian descent are not numerous in my District, relatively speaking, nonetheless the people of Ohio's 20th District are on the whole outraged and appalled at the treatment accorded to national and religious minorities of all kinds in the repressive Soviet State.

Many of my constituents are Irish Catholics, and I believe the unfortunate events in Ulster—which prompted some earlier letters to you from me—cause these persons to identify with the persecuted Ukrainians. As a matter of fact, my constituents are of diverse ethnic backgrounds, and they take pride in what they are—and they also take pride in the fact that they live in a country that permits them, and even encourages them, to be what they are. This being the case, it is readily discernible why there should be advocacy on behalf of Ukrainians in a Congressional District where there are so few Ukrainians.

Naturally, the interests of the United States itself will predominate in your mind as you confer with the leaders of the Soviet Union. This is as it should be. But I have seen no evidence so far of any clash between the interests of this country and those of the Ukrainian minority in the Soviet Union. (As you know, the ironic aspect of this situation is that, theoretically, the Ukrainians inhabit an "independent" Soviet Republic which sends its "own" delegation to the United Nations).

Rather, it has always been in the broad interest of the United States to call attention to persecution of people wherever it exists, and to the denial of human rights everywhere. I submit to you that America must assert itself again and again as a champion of freedom in order to retain its leadership of the free world.

Don't you agree that a word or two from you might help, and that, uttered under the proper circumstances, it certainly could do no harm? I would appreciate your views on this subject. In the meantime, I attach for your information a letter I received recently from Cleveland's Olena Teliha Branch of the Ukrainian Gold Cross.

Yours very sincerely,
JAMES V. STANTON,
Member of Congress.

UKRAINIAN GOLD CROSS,
IN THE UNITED STATES OF AMERICA,
Cleveland, Ohio, April 12, 1972.

Hon. JAMES V. STANTON,
U.S. Congress,
Washington, D.C.

DEAR SIR: Recent reports in our nation's newspapers indicate that there has been a series of arrests in Ukraine of dissident intellectuals whose sole crime, it would appear, was a protest against the Russification of their country. Nineteen such arrests have been made in recent weeks, including those of such noted men as Vyacheslav Chornovil, a journalist whose writings have been published here by McGraw-Hill, Ivan Dzyuba, whose book, "Internationalism or Russification?" has been published in five languages, and Ivan Svitlychny, a literary critic.

Further arrests are expected and are being executed under an article of the Ukrainian criminal code which prohibits promulgation of "deliberately false fabrications defaming the Soviet state." This is obviously an elastic article used by the Soviets to suppress any view contrary to their own.

As constituents, we ask that you strongly urge President Nixon, that when he is in Moscow, he request that such arrests end; that the Soviet Union honor the guarantees of civil liberties incorporated in its own constitution and those it pledged itself to with the United Nations Declaration of Human Rights; that he insist that political prisoners not be exploited as slave labor—specifically on projects which come under the provisions of the recently expanded United States-Soviet trade agreements.

Sincerely yours,

WOLODYMYRA KAWKA,
President.
MARUSIA POPVICH,
Secretary.

THE COUNCIL ON FOREIGN RELATIONS—1971

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. RARICK. Mr. Speaker, the prestigious CFR—dedicated to one-world government, financed by a number of the largest tax-exempt foundations, and wielding such power and influence over our lives in the areas of finance, government, business, labor, military, education, and mass communications media—should be familiar to every American concerned with good government and with preserving and defending the U.S. Constitution and our free enterprise system.

Yet the Nation's "right-to-know machinery"—the news media—usually so aggressive in exposures to inform our people remain conspicuously silent when it comes to the CFR, its members, and their activities. And I find that few university students and graduates have even heard of the Council on Foreign Relations.

The CFR is the establishment. Not only does it have influence and power in key decisionmaking positions at the highest levels of government to apply pressure from above but it also finances and uses individual and groups to bring pressure from below to justify the high level decisions for converting the United States from a sovereign constitutional Republic into a servile member state of a one-world dictatorship.

So that our colleagues may be informed about the membership of this powerful organization of the elite, I insert in the RECORD its membership list as given in the "Annual Report, Council on Foreign Relations, Year Ending June 30, 1971" followed by an article entitled "The Council on Foreign Relations—America's Unelected Rulers" which lists the members of the Council on Foreign Relations nominated and appointed by President Nixon to government posts:

ANNUAL REPORT, COUNCIL ON FOREIGN RELATIONS, YEAR ENDING JUNE 30, 1971

MEMBERSHIP

The Membership Committee has continued its effort to achieve and maintain a diversified and balanced membership. In recommending to the Board candidates for election, the occupational, professional and intellectual composition of the membership as a whole is as important a factor as the qualifications of individual candidates. There is interest in attracting to the Council those whose expertise and backgrounds reflect new disciplines and varying points of view, and the Committee is particularly interested in younger people of exceptional promise. In accordance with the recommendations of a membership review made by the Board two years ago, the Committee will continue to seek members from groups and areas in which the Council is under-represented.

During the past year two sub-committees were in operation for this purpose. Alfred C. Neal, of the Council's Board, headed an *ad hoc* panel to seek exceptionally qualified candidates from the business community. Kenneth W. Thompson, of the Membership Committee, served as chairman of a committee on term memberships which will suggest for membership each year five to ten young men and women, in the age range of 21 through 27, for terms of five years each. The first group of term members was admitted in the fall.

As of June 30, 1971, there were 1,484 members (an increase of 17 during the preceding fiscal year), of whom 688 were resident and 796 non-resident.

Lorna Brennan,
Membership Secretary.

Resident members

A

Abel, Elie; Abram, Morris B.; Akers, Anthony B.; Albrecht-Carrier, Rene; Aldrich, Winthrop W.; Alexander, Archibald S.; Alexander, Robert J.; Allan, F. Aley;

Allen, Philip E.; Alley, James B.; Allport, Alexander W.; Alpern, Alan N.; Altschul, Arthur G.; Altschul, Frank; Ames, Amyas; Ammidon, Hoyt;

Anderson, Robert B.; Anschuetz, Norbert L.; Armour, Norman; Armstrong, Hamilton Fish; Armstrong, Wilis C.; Ascoli, Max; Attwood, William; Ault, Bromwell.

B

Backer, George; Baird, Charles F.; Baldwin, Robert H. B.; Ball, George W.; Ballard, Allen B.; Bancroft, Harding F.; Banks, Louis L.; Barber, Charles F.; Barber, Joseph; Barker, Robert R.;

Barlow, William E.; Barnds, William J.; Barnes, Robert G.; Barnett, Frank R.; Barrand, Harry P., Jr.; Barrett, Edward W.; Barzun, Jacques; Bassow, Whitman; Bastedo, Philip; Bator, Peter A.;

Becker, Loftus E.; Beebe, Frederick S.; Beinecke, William S.; Bell, David E.; Benjamin, Robert S.; Benton, William; Beplat, Tristan E.; Berger, Peter L.; Bernstein, Robert L.; Bessie, Simon Michael;

Bienstock, Abraham L.; Bingham, Jonathan B.; Birkelund, John P.; Black, Joseph E.; Black, Peter; Blough, Roger M.; Blough, Roy; Blum, John A.; Bogdan, Norbert A.; Bolte, Charles G.

Bonsal, Dudley B.; Borch, Fred J.; Borton, Hugh; Bowers, John Z.; Boyd, Hugh N.; Boyd, William M, 2nd; Bradshaw, Thornton F.; Braxton, Carter M.; Breck, Henry C.; Brennan, Donald G.;

Brisco, Milo M.; Brittenham, Raymond L.; Bronk, Detlev W.; Brooks, John W.; Brown, Courtney C.; Brown, Irving; Brown, Walter L.; Brownell, George A.; Brzezinski, Zbigniew; Bullock, Hugh;

Bundy, McGeorge; Burden, William A. M.; Burgess, Carter L.; Burkhardt, Frederick; Burnett, John G.; Burns, Patrick Owen; Bush, Donald F.; Bush, George H. W.; Bushner, Rolland H.; Butcher, Willard C.; Butler, William F.; Buttenwieser, Benjamin J.

C

Cabell, Richard A.; Cahill, Jane P.; Calder, Alexander, Jr.; Calhoun, Alexander D.; Camp, Hugh D.; Campbell, John C.; Campbell, John Franklin; Campbell, Nicholas J., Jr.; Canfield, Cass; Canfield, Franklin O.;

Carey, Andrew G.; Carroll, Mitchell B.; Carter, George E.; Carter, William D.; Cary, William L.; Case, John C.; Cates, John M., Jr.; Chace, James C.; Chase, W. Howard; Chittenden, George H.;

Christopher, Robert C.; Chubb, Hendon, 2nd; Chubb, Percy, 2nd; Church, Edgar M.; Clay, Gen. Lucius D.; Cleveland, Harold van B.; Coffin, Edmund; Cohen, Jerome B.; Cohen, Stephen B.;

Coles, James S.; Collado, Emilio G.; Colwell, Kent G.; Conant, James B.; Conant, Melvin A.; Conner, John T.; Considine, Rev. John J., M. M.; Cook, Howard A.; Coolidge, Nicholas J.; Coombs, Charles A.; Cordier, Andrew W.;

Costanzo, G. A.; Cotter, William R.; Coughran, Tom B.; Cousins, Norman; Cowan, Louis G.; Cowles, Gardner; Crassweller, Robert D.; Creel, Dana S.; Cummings, Robert L.; Curtis, Gerald L.; Cusick, Peter.

D

Darlington, Charles F.; Darrell, Norris; Davidson, Ralph K.; Davis, John A.; Davison, W. Phillips; Dean, Arthur H.; Debevoise, Eli Whittney; DeCubas, Jose; De Lima, Oscar A.; Deming, Frederick L.;

Dennison, Charles S.; De Rosso, Alphonse; Derryck, Vivian L.; De Vries, Henry P.; Diebold, John; Diebold, William, Jr.; Dillon, Clarence; Dillon, Douglas; Dilworth, J. Richardson; Dodge, Cleveland E.; Dolin, Arnold;

Donahue, Donald J.; Donnell, Ellsworth; Donovan, Hedley; Dorr, Goldthwaite H.; Dorwin, Oscar John; Douglas, Lewis W.; Douglas, Paul W.; Dubinsky, David; Duffy, James H.; Durkee, William P.

E

Eagle, Vernon A.; Eaton, Frederick M.; Edelman, Albert I.; Edelstein, Julius C. C.; Edwards, Howard L.; Eichelberger, Clark M.; Elliott, L. W.;

Elliott, Osborn; Elson, Robert T.; Emmet, Christopher; Engel, Irving M.; Ewing, Sherman; Ewing, William, Jr.; Exter, John.

F

Feer, Mark C.; Field, William Osgood, Jr.; Finger, Seymour M.; Finlay, Luke W.; Finletter, Thomas K.; Finn, James; Finney, Paul B.; Fleck, G. Peter; Ford, Nevil;

Forrestal, Michael V.; Fowler, Henry H.; Fox, Joseph C.; Fox, William T. R.; Frankel, Charles; Franklin, George S., Jr.; Frasche, Dean F.; Fredericks, J. Wayne; Frelinghuysen, Peter H. B.;

French, John; Freudenthal, David M.; Freund, Gerald; Friele, Berent; Friendly, Henry J.; Frye, William R.; Fuerbringer, Otto; Fuller, C. Dale; Funkhouser, E. N., Jr.

G

Gage, Harlow W.; Gallatin, James P.; Gardner, Richard N.; Garretson, Albert H.; Garrison, Lloyd K.; Garvin, Clifton C., Jr.; Garvy, George; Garwin, Richard L.; Gates, Thomas S.; Gelb, Richard L.;

Geneen, Harold S.; Gideonse, Harry D.; Gillespie, S. Hazard; Gilpatric, Roswell L.; Golden, William T.; Goldin, Harrison J.; Goldstone, Harmon H.; Goodrich, Leland M.;

Gordon, Albert H.; Grace, J. Peter; Graff, Robert D.; Granville, Maurice F.; Grazier, Joseph A.; Greenfield, James L.; Griffith, Thomas.

Grimm, Peter; Gross, Ernest A.; Groover, Allen; Gruson, Sydney; Gurfein, Murray I.

H

Hager, Eric H.; Haight, George W.; Halaby, Najeeb E.; Halberstam, David; Hall, Floyd D.; Hamilton, Edward K.; Hamilton, Fowler;

Hance, William A.; Harari, Maurice; Harrar, J. G.

Haskell, Broderick; Hauge, Gabriel; Hauser, Rita E.; Hayes, Alfred; Hayes, Samuel P.; Haynes, Ulric, Jr.; Haywood, Oliver G.; Hazard, John N.; Heath, Donald R.; Heckscher, August; Helander, Robert C.; Hellman, F. Warren; Helm, Harold H.; Henderson, William.

Henkin, Louis; Herod, W. Rogers; Herzog, Paul M.; Hester, James M.; Hickey, William M.; Highet, Keith; Hill, James T., Jr.; Hilsman, Roger; Hochschild, Harold K.; Hochschild, Walter; Hoffman, Paul G.; Hoglund, Elis S.; Hoguet, Robert L.

Hohenberg, John; Holland Kenneth; Holmes, Alan R.; Holt, L. Emmett, Jr.; Homer, Sidney; Hoover, Lyman; Horn, Garfield H.; Horton, Philip C.; Hottelet, Richard C.; Houghton, Arthur A., Jr.; Hovey, Allan, Jr.; Howard, John B.; Howell, John I.; Hughes, Thomas L.; Hurewitz, J. C.; Hyde, Henry B.; Hyde, James N.

I

Inglis, John B.; Ireland, R. L., 3rd.; Isaacs, Norman E.; Iselin, O'Donnell; Issawi, Charles.

J

Jackson, Elmore; Jackson, William E.; James, George F.; Jamieson, J. K.; Jaretzki, Alfred, Jr.; Jastrow, Robert; Javits, Jacobs K.

Jessup, Alpheus W.; Jessup, John K.; Jessup, Philip C.; Johnson, Joseph E.; Jones, David J.; Jones, Gilbert E.; Josephson, Willian H.

K

Kahn, Herman; Kaminer, Peter H.; Kane, R. Keith; Kassof, Allen H.; Katzenbach, Nicholas de B.; Keezer, Dexter M.; Keiser, David M.; Kempner, Maximilian W.

Kenney, F. Donald; Keppel, Francis; Kern, Harry F.; Kettaneh, Francis A.; King, Frederic R.; Kirk, Grayson; Kleiman, Robert; Knight, Douglas.

Knight, Robert Huntington; Knoppers, Antonie T.; Knowlton, Winthrop; Koenig, Robert P.; Korbonski, Andrzej; Kreidler, Robert N.; Kristol, Irving.

L

Labouisse, Henry R.; Lacy, Dan M.; Landry, Lionel; Larkin, Arthur E., Jr.; Larmon, Sigurd S.; LaRoche, Chester J.; Lary, Hal B.; Laukhuff, Perry.

LeBaron, Eugene; Lehman, John R.; Lehman, Orin; Lehrman, Hal; Leonard, James G.; Leroy, Norbert G.; Leslie, John C.; Levy, Walter J.

Lewis Flora; Lieberman, Henry R.; Lilienthal, David E.; Lilley, A. N.; Lindquist, Warren T.; Lindsay, George N.; Lindsay, John V.; Linen, James A.

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Loy, Frank E.; Lubar, Robert A.; Lubin, Isador; Luce, Charles F.; Luckey, E. Hugh; Ludt, R. E.; Luke, David L., 3rd.; Lyford, Joseph P.

M

McCance, Thomas; McCarthy, John G.; McCloy, John J.; McCloy, John J., 2nd.; McColough, C. Peter; McDermott, Walsh; McKee, James W., Jr.; McKeever, Porter; McLean, John G.; MacEachron, David W.

MacGregor, Ian K.; MacIntyre, Malcolm A.; Macomber, John D.; Maffry, August; Manning, Bayless; Manshel, Warren D.; Mark, Rev. Julius; Markel, Lester; Marron, Donald B.; Martinuzzi, Leo S., Jr.

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Moe, Sherwood G.; Moore, George S.; Moore, Maurice T.; Moore, Rt. Rev. Paul, Jr.; Moore, Walden; Moore, William T.; Moorman, Elliott D.; Morgan, Henry S.; Morgenthau, Hans J.: Morley, James William; Morris, Grinnell; Morrisett, Lloyd N.

Morse, David A.; Mosely, Philip E.; Moyers, Bill D.; Muir, Malcolm; Mulford, David C.; Munroe, George B.; Munroe, Vernon, Jr.; Munyan, Winthrop R.; Murden, Forrest D., Jr.; Murphy, Grayson M.P.; Murphy, J. Morden; Muse, Martha T.

N

Nagorski, Zygmunt, Jr.; Neal, Alfred C.; Nelson, Clifford C.; Nelson, Merlin E.; Newton, Quigg, Jr.; Nichols, Thomas S.; Nielsen, Waldemar A.; Nimitz, Chester W., Jr.; Nolte, Richard H.; Nolting, Frederick E., Jr.; Notestein, Frank W.; Novak, Michael; Noyes, Charles Phelps.

O

Oakes, John B.; Ogden, Alfred; Olmstead, Cecil J.; O'Neill, Michael J.; Osborn, Earl D.; Osborn, Frederick H.; Osborne, Stanley de J.; Ostrander, F. Taylor, Jr.; Overby, Andrew N.; Overton, Douglas W.

P

Pace, Frank Jr.; Page, Howard W.; Page, John H.; Page, Walter H.; Paley, William S.; Palfrey, John G.; Parker, Philo W.; Passin, Herbert; Patterson, Ellmore C.; Patterson, Frederick D.

Patterson, Herbert P.; Paul, Roland A.; Payne, Federick B.; Payne, Samuel B.; Payson, Charles Shipman; Pearson, John E; Pennoyer, Robert M.; Perkins, James A.; Perkins, Roswell B.; Perry, Hart.

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Polk, Judd; Poor, J. Sheppard; Potter, Robert S.; Powers, Joshua B.; Pratt, H. Irving; Probst, George E.; Pulling, Edward; Pusey, Nathan M.

Q

Quigg, Philip W.

R

Rabi, Isidor I.; Reber, Samuel; Reed, J. V., J.; Reed, Philip D.; Reid Ogden R.; Reid, Whitelaw; Resor, Stanley R.; Reston, James B.; Rheinstein, Alfred; Richardson, Arthur Berry;

Riegleman, Harold; Riesel, Victor; Riordan, James Q.; Robbins, Donald G., Jr.; Roche, James M.; Rockefeller, David; Rockefeller, John D., 3rd; Rockefeller Nelson A.; Rockefeller, Rodman C.; Rockhill, Victor E.; Rodriguez, Vincent A.;

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S

Sachs, Alexander; Salisbury, Harrison E.; Saltzman, Charles E.; Sargeant, Howland H.; Schachter, Oscar; Schaffner, Joseph Halle; Schiff, John M.; Schiller, A. Arthur; Schilling, Warner R.; Schlesinger, Arthur, Jr.;

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T

Talbot, Phillips; Tavoulareas, William P.; Taylor, Arthur R.; Thomas, Evan; Thomas, H. Gregory; Thompson, Earle S.; Thompson, Kenneth W.; Todaro, Michael P.; Tomlinson, Alexander C.; Topping, Seymour;

Townsend, Edward: Trager, Frank N.; Traphagen, J. C.; Travis, Martin B., Jr.; Trees, James F.; Trippe, Juan Terry; Trowbridge, Alexander B.; Tuchman, Barbara; Tweedy, Gordon B.

U

Uzielli, Giorgio.

V

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W

Walker, A. Lightfoot; Walker, George G.; Walkowicz, T. F.; Wallace, Martha R.; Warburg, Eric M.; Ward, F. Champion; Warfield, Ethelbert; Warner, Rawleigh, Jr.; Wasson, Donald; Watson, Thomas J., Jr.;

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Winslow, Richard S.; Wood, Thomas A.; Woodward, Donald B.; Woolley, Knight; Wriggins, W. Howard; Wriston, Henry M.; Wriston, Walter B.; Wyle, Frederic S.

Y

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Z

Zagoria, Donald S.; Zorthian, Barry; Zurcher, Arnold J.

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B

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D

Dale, William B.; Dallin, Alexander; David, Donald K.; Davidson, Alfred E.; Davies, Rodger P.; Davis, Nathanael V.; Davis, Nathaniel; Davison, Daniel P; Dawkins, Maj. Peter M.; Dean, Edgar P.;

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E

Eberle, W. D.; Eckstein, Alexander; Edwards, A. R.; Edwards, Robert H.; Edwards, William H.; Einaudi, Mario; Eliot, Theodore L., Jr.; Elliott, Byron K.; Elliott, Randle; Elliott, William Y.;

Ellsberg, Daniel; Emeny, Brooks; Emerson, Rupert; Enders, Thomas O.; Enthoven, Alain C.; Eppert, Ray R.; Ernst, Albert E.; Estabrook, Robert H.; Evans, John K.; Everton, John Scott.

F

Fahs, Charles B.; Fainsod, Merle; Fairbank, John King; Fairbanks, Douglas; Falk, Richard A.; Farmer, Garland R.; Farmer, Thomas L.; Feis, Herbert;

Fenn, William P.; Ferguson, Glenn W.; Fifield, Russell H.; Finkelstein, Lawrence S.; Firestone, Harvey S., Jr.; Fishel, Wesley R.; Fisher, Adrian S.; Fisher, Roger;

Flanigan, Peter M.; Florinsky, Michael T.; Ford, Thomas K.; Forkner, Claude E.; Fosdick, Raymond B.; Foster, William C.; Frampton, George T., Jr.; Frank, Charles R., Jr.; Frank Isaiah; Frankel, Max; Free, Lloyd A.; Freeman, Fulton; Frey, Donald N.; Fried, Edward R.; Friedman, Irving S.; Fuller, Carlton P.; Fuller, Robert G.

G

Gallagher, Charles F.; Gallagher, John F.; Ganoe, Charles S.; Gant, George F.; Gardner, John W.; Garthoff, Raymond L.; Gaud, William S.; Gaylord, Bradley; Geertz, Clifford; Geier, Paul E.;

Geiger, Theodore; George, W. H. Krome; Gerhardt, Maj. Gen. H. A.; Gerhart, Gen. John K.; Gibney, Frank B.; Griffin, Brig. Gen. Sidney F.; Gil, Peter P.; Gilbert, Carl J.; Gilbert, H. N.; Gilchrist, Huntington;

Gilpatric, Chadbourne; Gilpin, Robert G.; Ginsburgh, Brig. Gen. Robert N.; Gleason, S. Everett; Glennan, T. Keith; Goheen, Robert F.; Goldberg, Arthur J.; Goldberger, Marvin L.; Goldman, Guido; Goldman, Marshall I.;

Goodhart, Arthur L.; Goodpaster, Gen. Andrew J.; Gordon, Kermit; Gordon, Lincoln; Gornick, Alan L.; Gorter, Wytze; Graham, Katharine; Grant, James P.; Graubard, Stephen R.; Gray, Gordon;

Green, Joseph C.; Greene, James C.; Greene, Brig. Gen. Michael J. L.; Greenwald, Joseph A.; Griffith, Brig. Gen. Samuel B., 2nd; Griffith, William E.; Grondahl, Teg C.; Gruenther, Gen. Alfred M.; Guillion, Edmund A.; Gurganus, William R.

H

Hall, John W. Halle, Louis J., Jr.; Halperin, Morton H.; Hamilton, Thomas J.; Hanes, John W., Jr.; Hansell, Maj. Gen. Haywood S., Jr.; Harbison, Frederick; Hare, Raymond A.; Hargrove, John L.; Harriman, W. Averell;

Harris, Irving B.; Harris, James T., Jr.; Harris, Patricia Roberts; Harsch, Joseph C.; Hart, Augustin S.; Hart, Parker T.; Hartley, Fred L.; Haskins, Caryl P.; Haviland, H. Field, Jr.; Haynes, Maj. Gen. Fred;

Hays, Brooks; Heintzen, Harry L.; Heinz, H. J., 2nd; Heldring, Frederick; Henderson, Julia; Henderson, L. J., Jr.; Henderson, Loy W.; Herter, Christian A., Jr.; Hesburgh, Rev. Theodore M., C.S.C.; Hewitt, William A.

Hill, George Watts; Hills, Robert C.; Hinshaw, Randall; Hirschman, Albert O.; Hitch, Charles J.; Hobby, William P., Jr.; Hofer, Philip; Hoffman, Michael L.; Hoffmann, Stanley; Holbrooke, Richard C.; Holst, Willem; Holt, Pat M.;

Hoopes, Townsend W.; Hoover, Herbert W., Jr.; Hopkins, D. Luke; Hopper, Bruce C.; Hormats, Robert D.; Horton, Alan W.; Hoskins, Harold B.; Houghton, Amory; Houghton, Amory, Jr.; Hovde, Frederick L.; Huglin, Brig. H. C.; Huizenga, John W.;

Humphrey, Hubert H.; Hunsberger, Warren S.; Hunt, James Ramsey; Hunter, Clarence E.; Huntington, Samuel P.

I

Irwin, John N., 2nd; Iverson, Kenneth R.

J

Jacobson, Harold K.; Jaffe, Sam A.; Jansen, Marius B.; Jenney, John K.; Jessup, Philip C., Jr.; Johnson, Gen. Harold K.; Johnson, Howard C.;

Johnson, Howard W.; Johnson, James A.; Johnston, Henry R.; Johnstone, W. H.; Jones, Peter T.; Jones, Thomas V.; Jordan, Col. Amos A., Jr.; Jorden, William J.

K

Kahin, George McT.; Kaiser, Philip M.; Kalinski, Felix A.; Karmarck, Andrew M.; Katz, Milton; Katzenbach, Edward L., Jr.; Kaufmann, William W.; Kaysen, Carl; Kearns, Doris; Kelly, George Armstrong.

Kempner, Frederick C.; Kenen, Peter B.; Keniston, Kenneth; Kennan, George F.; Killefer, Tom; Killian, James R., Jr.; Kimberly, John R.; King, James E., Jr.; King, John A., Jr.; Kintner, Col. William R.;

Kissinger, Henry A.; Kitchen, Jeffrey C., Knorr, Klaus; Knowlton, Maj. Gen. William A.; Kohler, Foy D.; Kohler, Walter J.; Korbel, Josef; Korry, Edward M.; Kotschnig, Walter M.; Kraft, Joseph.

L

Lacy, Alex S.; Ladejinsky, Wolf; La Farge, Francis W.; Laing, R. Stanley; Laise, Carol C.; Lake, William A. K.; Lamontagne, Raymond A.; Lampert, Lt. Gen. James B.; Lamson, Roy, Jr.; Lang, Robert E.;

Langer, Paul F.; Langer, William L.; Langsam, Walter Consuelo; Lanham, Maj. Gen. Charles T.; Lansdale, Maj. Gen. Edward G.; Larry, R. Heath; Lasswell, Harold D.; Lawrence, William H.; Laybourne, Lawrence E.; Laylin, John G.;

Lazarus, Ralph; Leddy, John M.; Lee, Charles Henry; Lee, Vice Adm. John M.; Leghorn, Richard S.; Leich, John F.; Lemnitzer, Gen. Lyman L.; Lerner, Michael; Le Sueur, Larry; Levine, Irving R.;

Levy, Marion J., Jr.; Lewis, John P.; Lincoln, Gen. G. A.; Linder, Harold F.; Lindley, Ernest K.; Lindsay, Franklin A.; Lingle, Walter L., Jr.; Linowitz, Sol M.; Lipson, Leon; Little, David; Little, L. K.;

Lockard, Derwood W.; Lockwood, Manice de F., 3rd; Lockwood, William W.; Lodge, George Cabot; Lodge, Henry Cabot; Long, Franklin A.; Longstreet, Victor M.; Loomis, Henry; Loucks, Harold H.; Lovestone, Jay; Lynch, Edward S.; Lyon, E. Wilson.

M

McCabe, Thomas B.; McClintock, Robert M.; McCone, John Alex; McCormack, Maj. Gen. James; McCracken, Paul W.; McCutcheon, John D.;

McDaniel, Joseph M., Jr.; McDougal, Myres S.; McFarland, Ross A.; McGee, Gale W.; McGhee, George C.; McGiffert, David E.; McHenry, Donald F.; McKay, Vernon; McKinney, Robert M.; McLaughlin, Donald H.;

McLean, Donald H., Jr.; McNamara, Robert S.; McNeill, Robert L.; McQuade, Lawrence C.; MacArthur, Douglas, 2nd; MacChesney, A. Brunson, 3rd; MacDonald, Gordon J. F.; MacDonald, J. Carlisle; MacIver, Murdoch; MacLaury, Bruce K.;

MacVeagh, Lincoln; Machold, William F.; Maddox, William P.; Mallinson, Harry; Mallory, George W.; Mallory, Walter H.; Malmgren, Harald B.; Manning, Robert J.; Mansager, Felix N.; Marcy, Carl;

Marshall, Burke; Marshall, C. Burton; Martin, Edwin M.; Martin, Malcolm W.; Martin, William McC., Jr.; Marvel, William W.; Mason, Edward S.; May, Ernest R.; Mayer, Ferdinand L.;

Mayer, Gerald M.; Meagher, Robert F.; Meck, John F.; Merchant, Livingston T.; Merillat, H. C. L.; Merriwether, Duncan; Metcalf, George R.; Meyer, Albert J.; Meyer, Charles A.; Meyer, Cord, Jr.;

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Morgan, George A.; Morgenstern, Oskar; Morse, F. Bradford; Morton, Louis; Mudd, Henry T.; Muller, Steven; Munger, Edwin S.; Munoz Marin, Luis; Munro, Dana G.; Murphy, Robert D.; Myers, Denys P.

N

Nason, John W.; Nathan, Robert R.; Nelson, Fred M.; Neustadt, Richard E.; Newman, Richard T.; Nichols, Calvin J.; Nichols, William I.; Nitze, Paul H.; Norstad, Gen. Lauris; Nover, Barnet; Noyes, W. Albert, Jr.; Nye, Joseph S.

O

O'Connor, Roderic L.; Oelman, R. S.; Oliver, Covey T.; Olson, Lawrence; Olson, William C.; Olvey, Lt. Col. Lee D.; Osborne, Lithgow; Osgood, Robert E.; Owen, Henry.

P

Packard, George R.; Paffrath, Leslie; Palmer, Norman D.; Pantzer, Kurt F.; Park, Richard L.; Parker, Barrett; Parker, Daniel; Parkhurst, George L.; Parsons, John C.; Patterson, Gardner;

Patterson, Hugh B., Jr.; Paul, Norman S.; Pearce, William R.; Peardon, Thomas P.; Pedersen, Richard F.; Pell, Claiborne; Pelzer, Karl J.; Penfield, James K.; Perera, Guido R.;

Peretz, Don; Perkins, Courtland D.; Petersen, Howard C.; Peterson, Peter G.; Petty, John R.; Phleger, Herman; Pierotti, Roland; Piquet, Howard S.; Plank, John N.;

Platig, E. Raymond; Platt, Maj. Gen. Jonas M.; Pogue, L. Welch; Poletti, Charles; Polk, William R.; Pool, Ithiel DeSola; Posvar, Wesley W.;

Power, Philip H.; Power, Thomas F., Jr.; Praeger, Frederick A.; Price, Don K.; Prizer, John B.; Putzell, Edwin J., Jr.; Pye, Lucian W.

Q

Quester, George H.

R

Radway, Laurence I.; Ranis, Gustav; Rathjens, Greorge W.; Ravenal, Earl C.; Ravenholt, Albert; Ray, George W., Jr.; Read, Benjamin H.; Redmon, E. Hayes; Reeves, Jay B. L.; Rehm, John B.;

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Rostow, Walt W.; Roth, William M., Jr.; Rouse, Robert G.; Rowen, Henry S.; Rubin, Seymour J.; Ruina, J. P.; Rush, Kenneth; Rusk, Dean; Ryan, John T., Jr.

S

Salomon, Irving; Salzman, Herbert; Samuels, Nathaniel; Satterthwaite, Joseph C.; Sawyer, John E.; Scalapino, Robert A.; Schacht, Henry B.; Schaetzel, J. Robert; Schelling, Thomas C.; Schiff, Frank W.;

Schmidt, Adolph W.; Schmoker, J. Benjamin; Schorr, Daniel L.; Schuyler, Gen. C. V. R.; Schwab, William B.; Schwebel, Stephen M.; Scoville, Herbert, Jr.; Seaborg, Glenn T.; Seabury, Paul; Sedwitz, Walter J.;

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Simpson, John L.; Sisco, Joseph J.; Skolnikoff, Eugene B.; Slocum, John J.; Smith, Gerard C.; Smith, Horace H.; Smith, Robert W.; Smithies, Arthur; Smyth, Henry DeW.; Solomon, Anthony M.;

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Spencer, William C.; Spiegel, Harold R.; Sprague, Robert C.; Sprout, Harold; Staley, Eugene; Stanley, Timothy W.; Stason, E. Blythe; Stassen, Harold E.; Stein, Eric;

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T

Tanham, George K.; Tannenwald, Theodore, Jr.; Taylor, George E.; Taylor, Gen. Maxwell D.; Tennyson, Leonard B.; Thayer, Robert H.; Thompson, Llewellyn E.;

Thompson, James C., Jr.; Thorp, Willard L.; Timberlake, Clare H.; Tobin, James S.; Trezise, Philip H.; Triffin, Robert; Truman, David B.; Turkevich, John; Tuthill, John W.; Tyler, William R.

U

Ullman, Richard H.; Ulmer, Alfred C., Jr.; Upgren, Arthur R.

V

Vaky, Viron P.; Valentine, Alan; Van Dusen, Rev. Henry P.; Van Slyck, DeForest; Vernon, Raymond; Volcker, Paul A.

W

Wagley, Charles W.; Wahl, Nicholas; Wait, Richard; Walker, George R.; Walker, Joseph, Jr.; Wallich, Henry C.; Walmsley, Walter N.; Waltz, Kenneth N.; Ward, Rear Adm. Chester; Ward, Robert E.

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Yntema, Theodore O.; Young, T. Cuyler; Youngman, William S.; Yudkin, Maj. Gen. Richard A.

Z

Zimmerman, Edwin M.

[From Network of Patriotic Letter Writers, Pasadena, Calif.]

The Council on Foreign Relations—America's Unelected Rulers

Today the C.F.R. remains active in working toward its final goal of a government over all the world—a government which the *Insiders* and their allies will control. The goal of the C.F.R. is simply to abolish the United States with its Constitutional guarantees of liberty. And they don't even try to hide it. *Study No.* 7, published by the C.F.R. on November 25, 1959, openly advocates "building a new international order [which] must be responsive to world aspirations for peace, [and] for social and economic change . . . an international order [code word for world government] . . . including states labeling themselves as 'Socialist' [Communist]."

The reason is evident to those who have studied its membership for this little known semi-secret organization to be called "the Establishment." (See Chart 7) International banking organizations that currently have men in the C.F.R. include Kuhn, Loeb & Company; Lazard Freres (directly affiliated with Rothschild); Dillon Read; Lehman Bros; Goldman, Sachs; Chase Manhattan Bank; Morgan Guaranty Bank; Brown Bros. Harriman; First National City Bank; Chemical Bank & Trust, and Manufacturers Hanover Trust Bank.

Among the major corporations that have men in the C.F.R. are Standard Oil, IBM, Xerox, Eastman Kodak, Pan American, Firestone, U.S. Steel, General Electric and American Telephone and Telegraph Company.

Also in the C.F.R. are men from such openly Leftist organizations as the Fabian Socialist Americans for Democratic Action, the avowedly Socialist League for Industrial Democracy—(formerly the Intercollegiate Socialist Society), and the United World Federalists which openly advocates world government with the Communists. Such devotedly Socialist labor leaders as the late Walter Reuther, David Dubinsky and Jay Lovestone have also been members of the C.F.R. In theory, these men and organizations are supposed to be the blood enemies of the banks and businesses listed above. Yet they all belong to the same lodge. You can see why that fact is not advertised.

The C.F.R. is totally interlocked with the major foundations and so-called "Think Tanks." Included in the interlock are the Rockefeller, Ford and Carnegie foundations and the Rand Corporation, Hudson Institute, Fund for the Republic and Brookings Institute "Think Tanks."

The fact that the C.F.R. operates in near-complete anonymity can hardly be accidental. Among the communications corporations represented in the C.F.R. are National Broadcasting Corporation, Columbia Broadcasting System, *Time, Life, Fortune, Look, Newsweek, New York Times, Washington Post, Los Angeles Times, New York Post, Denver Post, Louisville Courier Journal, Minneapolis Tribune,* the Knight papers, McGraw-Hill, Simon & Shuster, Harper Bros., Random House, Little Brown & Co., Macmillan Co., Viking Press, *Saturday Review, Business Week* and Book of the Month Club. Surely the C.F.R. could get a few blurbs of publicity if publicity were desired. If it seems impossible that one entity could control such a vast array of firms, it is because most people do not know that the so-called founders of such giants as the *New York Times* and NBC were chosen, financed and directed by Morgan, Schiff and their allies. The case of Adolph Ochs of the *Times* and David Sarnoff of RCA are examples of this control. Both were given early financial aid by Kuhn, Loeb & Company and Morgan Guaranty.

The American middle-class is being squeezed to death by a vise. In the streets we have avowed revolutionary groups such as the Students for a Democratic Society (which was started by the League for Industrial Democracy, a group with strong C.F.R. ties), the Black Panthers, the Yippies, the Young Socialist Alliance. These groups chant that if we don't "change" America, we will lose it. "Change" is a word we hear over and over. By "change" these groups mean Socialism. Virtually all members of these groups sincerely believe that they are fighting the Establishment. In reality they are an indispensible ally of the Establishment in fastening Socialism on all of us. The naive radicals think that under Socialism the "people" will run everything. Actually, it will be a clique of *Insiders* in total control, consolidating and controlling all wealth. That is why these schoolboy Lenins and teenage Trotskys are allowed to roam free and are practically never arrested or prosecuted. They are protected. If the Establishment wanted the revolutionaries stopped, how long do you think they would be tolerated?

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Robert E. Osgood, Operations Staff of the National Security Council.

Frank Pace, Jr., Member of the President's Foreign Intelligence Advisory Board.

Richard F. Pedersen, Counselor of the State Department.

Sen. Claiborne Pell, Rep. to 25th Session of the General Assembly of the U.N.

John R. Petty, Assistant Secretary of the Treasury for International Affairs.

Christopher H. Phillips, Deputy Rep. in the U.N. Security Council.

Alan Pifer, Consultant to the President on Educational Finance.

Isidor I. Rabi, Consultant-at-Large to the President's Science Advisory Committee.

Stanley R. Resor, Secretary of the Army.

Elliot L. Richardson, Union Secretary of State—now head of the Dept. of Health, Education and Welfare.

John Richardson, Jr., Assistant Secretary of State for Educational and Cultural Affairs.

James Roche, Board of Directors, National Center for Voluntary Action; Member, National Commission on Productivity.

David Rockefeller, Task Force on International Development.

Nelson A. Rockefeller, Head of a Presidential Mission to Ascertain the Views of Leaders in the Latin American countries.

Rodman Rockefeller, Member, Advisory Council for Minority Enterprise.

Robert V. Roosa, Task Force on International Development.

Kenneth Rush, Ambassador to the Federal Republic of Germany.

Dean Rusk, General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

John D. Rockefeller III, Chairman, National Commission on Population Growth and the American Future.

Nathaniel Samuels, Deputy Undersecretary of State.

Adolph William Schmidt, Ambassador to Canada.

Joseph J. Sisco, Assistant Secretary of State for the Middle East and South Asia.

Dr. Glenn T. Seaborg, Chairman of the Atomic Energy Commission.

Gerard Smith, Director of the Arms Control and Disarmament Agency.

Henry DeW. Smyth, Alternate Rep. of the 13th Session of the General Conference of the International Atomic Energy Agency.

Helmut Sonnenfeldt, Operations Staff of the National Security Council.

John R. Stevenson, Legal Advisor of the State Department.

Frank Stanton, U.S. Advisory Commission on Information.

Robert Strausz-Hupé, Ambassador to Ceylon and the Maldive Republic.

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Franklin Hayden Williams, President's Personal Representative for the Negotiation of Future Political Status with the Trust Territory of the Pacific Islands.

Walter Wriston, Member, National Commission on Productivity.

Charles W. Yost, Ambassador to the United Nations.

PRIVATE PENSION TRANSFER ACT

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, last April 19, I introduced H.R. 14470, the Private Pension Transfer Act, a bill aimed at removing an inequitable pension credits tax from employees moving from one job to another. The bill represents a step towards the "portability" of pension credits, a long overdue reform which allows pension moneys to move as the worker moves.

The act amends the Internal Revenue Code to allow employees to withdraw their retirement credits upon leaving a job and reinvest them in a new plan without those credits being subject to income tax. Our tax laws now permit the gains from a house sale to be tax exempt if they are reinvested in a new home within a taxable year. We can apply a like principle to transferred retirement credits and permit them to be shifted without a tax liability.

The House Committee on Ways and Means will, on May 8, open hearings which are very pertinent to the present bill. The committee will be covering tax proposals affecting private pension plans, and I have learned that testimony on H.R. 14470 will be entirely in order. I plan to testify for the measure during those hearings and hope that other interested Members would also offer their support.

Today I reintroduce the bill with a long and eminent, almost perfectly bipartisan list of cosponsors. They include: Messrs. BINGHAM, BROYHILL of North Carolina, COLLINS of Illinois, CONTE, DANIELSON, DERWINSKI, DOW, FRENZEL, GALLAGHER, GARMATZ, GROVER, GUDE, HALPERN, HAMMERSCHMIDT, Mrs. HICKS of Massachusetts, Messrs. HORTON, HOSMER, KING, LEGGETT, MCCORMACK, MATHIS of Georgia, MIKVA, MOSS, QUILLEN, RANDALL, ROBINSON of Virginia, SCOTT, SMITH of New York, J. WILLIAM STANTON, SYMINGTON, and THONE.

REMARKS OF ASSISTANT SECRETARY OF AGRICULTURE CLARENCE D. PALMBY

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. GOODLING. Mr. Speaker, it is a rare occasion when one brief report clarifies a lot of unpublicized factors so highly important to American agriculture and its international implications. That is why I particularly appreciated the remarks of Assistant Secretary of Agriculture Clarence D. Palmby before the German-American Chamber of Commerce in New York City, April 19.

The Assistant Secretary outlined what is taking place in international trade, the enormous position of agriculture in U.S. balance of trade, and current developments which constantly change the outlook not only of our Government but those of other nations around the world.

I was impressed with one statement by Assistant Secretary Palmby which appears to be the basic theme of his discussion. He said:

> . . . there is increasing recognition that trading partners no longer can view trade in agriculture and in industry as taking place in separate arenas.

A strong switch from grain consumption to meats is becoming apparent throughout the world, not just in the United States. It is this factor that brings greater opportunity for American agriculture to provide our extra grain for these new markets—as feed for livestock to supply the wants and needs of more people at home and abroad.

The kind of positive thinking displayed by the Assistant Secretary is of real value in raising the hopes of our farmers as we look forward to additional markets that will make once burdensome surpluses into valuable assets benefiting America's agriculture and people everywhere.

I commend Assistant Secretary Palmby's talk to fellow Congressmen as "must" reading to obtain a better view of our agricultural position in today's rapidly changing international patterns:

REMARKS OF ASSISTANT SECRETARY OF AGRICULTURE CLARENCE D. PALMBY

I am glad to have the chance to meet with the German-American Chamber of Commerce. I have enjoyed my association, both here and abroad, with German businessmen, farmers, educators and government officials over a good many years, and it is always good to get together again.

And I am particularly glad for the opportunity to talk with you today because this has been a period of considerable discussion between the United States and the European Community, including Germany, of economic policies—particularly grain policies.

Most of you, I am sure, do not keep the agricultural polices of Europe or the United States uppermost on your "worry lists," but I suggest that, as businessmen and traders, you should be aware of what is happening "down on the farm," so to speak, in our respective countries.

I say this because I think there is increasing recognition that trading partners no longer can view trade in agriculture and in industry as taking place in separate arenas.

Certainly Germany and the United States are good trading partners, and agriculture plays a very important role in this relationship.

Last year, in calendar 1971, the United States imported $3.6 billion worth of non-agricultural products from the Federal Republic of Germany. German makers of transport equipment had the biggest stake in this market—$1.4 billion worth. Imports of German machinery approached $1 billion.

In that same year, the United States exported to Germany, non-agricultural products valued at $2.2 billion. That was a negative balance of $1.4 billion so far as the United States is concerned—a deficit that would be difficult to live with.

This gap was narrowed by agricultural trade between the two countries. The U.S. imported $74 million worth of farm commodities from West Germany in 1971, and at the same time we exported to Germany something like $700 million worth of U.S. farm products, when you included those commodities transshipped through the Netherlands and other countries.

So trade in agricultural products showed a plus balance for the United States of more than $600 million. It narrowed the gap in overall trade—farm and non-farm—to about $800 million in favor of West Germany.

We, naturally, would like to narrow that gap still further by shipping more U.S. farm products to Germany, and I think that each of you, whether you import automobiles or wine, has a stake in this agricultural trade because it is almost a truism that trade in one sector of the economy tends to stimulate trade in another.

With that brief background, I would like for a few minutes to discuss what we have been talking about with Europe in terms of agricultural trade and agricultural policy.

It is no secret that the United States is suggesting that the European Community and Germany follow a different course with respect to grains, the foundation of the agricultural systems on the two continents, and a product which we produce in great quantity and competitively.

We have been urging upon our European friends a grain agriculture tuned more toward the market—towards the wants and needs of the people who consume the products of the farm.

As consumers everywhere enjoy rising incomes they turn toward animal proteins—livestock products—for an increasing share of their diet.

We have recognized this in U.S. agriculture, and under the impact of growing affluence in the United States, we have over the past two decades or so shifted our farm policies to emphasize the production of livestock, particularly quality beef.

With increases in consumer demand for grain as food limited largely to population growth, we have been moving grain to the consumer as livestock products, and this has resulted in a substantial increase to U.S. farmers of their gross receipts and net incomes.

Per capita beef consumption in the United States from 1950 to 1970 rose by 80 percent—from 63½ pounds to 114, and poultry consumption more than doubled.

A striking feature of this period was the large increase in the proportion of high quality beef produced for consumption—it went up by 267 percent during this period. Similar changes occurred in poultry meats.

Clearly, the housewives of the United States have been ready and able to spend more of their disposable incomes on high quality livestock products—particularly beef and poultry—and they are doing so.

What has this meant for grain consumption in the United States?

In the case of wheat, total consumption from 1950 to 1970 was up only moderately. Wheat as food showed hardly any increase, but its use as feed has doubled in the past few years over the 1950 levels and this is one of the bright spots in the wheat picture.

On the other hand, corn usage went up by 67 percent—and that represents two billion bushels, a very substantial increase.

The most important factor in this increase was the production of livestock, and particularly the feeding of cattle. Corn fed to all livestock went up by 43 percent, while corn consumed by cattle just about doubled from 600 million bushels to nearly 1.2 billion bushels.

In terms of exports, wheat shipments began to level off in the early sixties and while they continue above the levels of the fifties, the trend has not been up.

Corn exports rose by more than five times to 687 million bushels in 1965. Since then, they have shown no upward trend.

What I have been trying to show you, very briefly, is that U.S. farm policy has become directed toward the use of grain, rather than its storage or its export at a costly subsidized price, and that we have had some success.

We do not pretend that our farm programs are perfect—far from it—but they are aimed at helping farmers to compete more effectively for markets at home and abroad, based on the principle of comparative advantage.

We have been suggesting to the European Community that it move away from its traditional support of artificial grain prices toward stronger support of the livestock segments of the economy.

There are hopeful signs. The livestock industry is growing, even under the difficulties of a grain-protective policy. During the decade of the sixties, for example, poultry numbers in Germany went up by 59 percent and hog numbers by 34 percent from the average of the previous four years.

But there is as yet no quality beef industry in the EC, and despite the prosperity in Europe and the increase in livestock production, the average per capita consumption of poultry, eggs and beef remains far below that of the United States.

For my part, I feel the European housewife is just as ready and able as the American to serve more good beef.

There are, I think, several reasons why the Community has not yet moved to a course that would enable her to put more of these quality livestock products on the kitchen table.

One reason, paradoxically, is the strength of the German economy. Let me explain: The appreciation of the deutsche mark has made German farm support prices higher in relation to those in other Community countries. This is not permitted under the Community's Common Agricultural Policy, where prices are to be the same in each member state. Three times in the last five years, therefore, Germany has been asked to cut farm prices to bring them down to a common Community level. Germany feels prices in the other Community countries should come up to the German level instead.

Second, the Community has relied on price support increases to maintain farm income. Farmers and their governments have been distrustful or afraid of the cost of other means, such as direct income payments, to support farm income.

This attitude is beginning to change, however. For example, on March 16, Germany's Minister of Agriculture, Josef Ertl, said in an interview with the *General Anzeiger* that he intends to propose a Community review of the income situation and Community support policies. He said this examination will include the question of direct income subsidies.

Another reason that the Community has been slow to revise its agricultural policy has been the need, particularly in recent months, to give prior attention to other economic and monetary matters.

If the Community is to avoid another disruption of the Common Agricultural Policy on account of diverging exchange rates, the Community must make progress toward economic and monetary union—the adoption of joint policies to assure that the relative strength or weakness of one Community country can be supported by the Community as a whole.

We recognize the problems that our European friends face when we urge them to orient their grain production more toward the market.

On the other hand we also see great benefits:

to the European housewife who spends up to twice as much of the family income as the American housewife on food.

to the European consumer who eats half as much beef per person as the average American.

to both Europe and America in increased trade, because greater U.S. sales to Europe make possible greater European sales to the United States.

Continual rounds of variable import levy increases by the Community not only frustrate these objectives, but gravely aggravate international trade problems.

The price increases just approved by the Community for the 1972–73 marketing year are 4 to 5 percent for grains. At present world price levels this means, for example, a 7.5 percent increase in wheat levies, and an 11 percent increase in corn and barley levies.

In 1970, EC imports of products falling under its grain regulations totaled $1.3 billion. You can understand our concern over these increases if you will imagine for a moment that they were instead, increases in U.S. duties on $1.3 billion of imports into the United States.

Those are some of the matters that we in U.S. agriculture have been discussing with our counterparts in the European Community, and I appreciate the opportunity that you have given me to discuss them with you today.

I hope you will agree with me that the concerns of agricultural trade can't be isolated from those of industry—that each country has its own comparative advantage in production, some in one sector, some in the other, and that each must be dedicated to the greater movement of goods for the benefit of all. This requires that the policies of no sector can be considered alone.

REMARKS OF H. E. ANGEL SAGAZ, AMBASSADOR OF SPAIN, ON THE OCCASION OF THE OPENING OF THE HISPANIC MUSEUM OF PENSACOLA, FLA., APRIL 21, 1972

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. SIKES. Mr. Speaker, it was the great privilege of the people of Pensacola in my district to have as a recent honored guest representing his country, His Excellency Angel Sagaz, the Ambassador of Spain. Ambassador Sagaz was in Pensacola to attend the Fiesta of Five Flags. This is Florida's leading historic pageant and it is based on the landing of Don Tristan de Luna at Pensacola in 1559 to found the Spanish colony.

During the distinguished ambassador's visit, he officially dedicated the Hispanic Museum of Pensacola, an occasion in which I also was privileged to participate. The dedication commemorated the formal acknowledgement of the Pensacola historic district as a national historic site an entry on the National Registry of the National Park Service. The Hispanic Museum is an impressive building which provides another link in the long and warm association between Spain and the people of Florida from Florida's Spanish colonial heritage to the present.

Ambassador Sagaz' inspiring remarks were very favorably received by his audience and I am happy to request that they be reproduced in the Congressional Record.

Remarks of H. E. Angel Sagaz

Ladies and Gentlemen: It is both a pleasure and a privilege for me to participate today in the opening of the Hispanic Museum of Pensacola, and I would like to thank all those whose enthusiasm and dedication has made possible, to so great a degree, the realization of this museum.

In a world where suffering and despair so often prevail, where there is opposition and strife among peoples, an event such as this, which promotes the cultural awareness of the common heritage and beauty shared by the United States and Spain is a most praiseworthy undertaking. No other place could be more appropriate for such an endeavour than the State of Florida where, more than four centuries ago, Spaniards founded the first community in what is today part of the United States. No other city is more appropriate than Pensacola, witness to the great victory of the Spanish Governor, Bernardo de Galvez, during the War of American Independence.

As the Spanish philosopher, Ortega y Gasset pointed out, a museum perpetuates an era in the life of a nation. In the dress, paintings, furniture, and in other objects of art, the past is preserved. And the past, that is to say, History, helps to interpret the present, and can serve as an inspiration for the future. Thus, the Hispanic Museum of Pensacola has before it a most constructive and worthy mission.

The cultural sphere is, without doubt, a privileged instrument in promoting mutual understanding among nations. If economic problems and ideological questions can be the roots of divergencies or conflicts of interests, cultural relations are invariably beneficial. In positive ways they contribute effectively to the mutual progress of Nations.

With this in mind, I am very pleased that the "Agreement of Cooperation and Friendship" signed between the United States and Spain in August of 1970 stressed to such a great extent our mutual cooperation in the cultural, educational and scientific spheres. Various programs are already underway, as I may state that my country has deep interest in realizing to the fullest extent all opportunities in these fields.

The common past linking our countries, which this Hispanic Museum of Pensacola exemplifies so brilliantly, today unites us in a dynamic present. It opens the way to a future, filled with the hope of great achievements, thanks to the joint efforts of private citizens, governments and institutions, such as this fine Museum.

ISRAEL CELEBRATES 24TH BIRTHDAY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. ROSENTHAL. Mr. Speaker, last week many Members of this body joined in a salute to Israel on the occasion of her 24th birthday. We were guests at a luncheon in honor of His Excellency, the Ambassador of Israel, Lt. Gen. Yitzhak Rabin in the Rayburn Building on April 19. The luncheon was sponsored by the American-Israel Public Affairs Committee as part of its 13th annual policy conference. The host of this luncheon, as in the past, was our distinguished New York colleague, dean of the House, Emanuel Celler.

Leaders of the Senate and House joined in reaffirming American support for Israel's development and survival. I would like to introduce into the Record the significant statement made by the Ambassador of Israel, as well as the remarks of the chairman of the House Committee on Foreign Affairs, the Honorable Thomas E. Morgan; the greetings of the distinguished Speaker of the House, the Honorable Carl Albert, who followed Dr. Morgan, and the greetings of the Honorable Gerald R. Ford, minority leader of the House.

The presiding officer on this occasion was Mr. Irving Kane, of Cleveland, chairman of the American-Israel Affairs Committee, a veteran and distinguished leader of the American Jewish community.

The gathering at the luncheon also heard addresses by Senator Javits of New York and the acting minority leader of the Senate, Senator Robert P. Griffin of Michigan.

Their remarks follow.

Remarks of Emanuel Celler

I have always been interested in Israel. I sought to get votes for its creation at the United Nations back in the early days because I knew that the flame of democracy would burn in Israel. Where that flame burns, we must nurture it. Israel holds a torch of freedom for all, and we must uphold that torch.

The United States has given ample evidence of support for Israel with economic aid and the supply of sophisticated weapons through military sales credits. We have not been niggardly in our help to Israel, and we have given ample evidence that we will continue our aid.

Israel has no physical resources. She has no iron, she has no bauxite or coal or oil, but she has that which is far more worth while. She has the spiritual, the cultural and the human values which we must indeed support and which we will support.

Israel will do wonders, great wonders, if Israel has the means. It is our duty to keep Israel viable and growing.

REMARKS OF LT. GEN. YITZHAK RABIN

Mr. Chairman, distinguished members of the Congress, distinguished members of the Administration, ladies and gentlemen:

Your presence, the warm words of friendship that were heard here on the Capitol Hill from the leaders of the Congress of the United States, today on the 24th anniversary of Israel independence, serve to reaffirm the friendship and understanding between the largest democracy in the world and the tiny and only free and democratic state in the Middle East.

We, in Israel, celebrate our Independence Day in our own way. We remember and commemorate those who have fallen in the defense of Israel. We rejoice and celebrate our achievements. But more than that, we reflect. We recall what has happened in the last year, what has been achieved, what has not been achieved. We look ahead to see what needs to be done in the future to advance Israel in every field of life.

Allow me to look back to the last year—between the 23rd anniversary of Israel's independence and the 24th.

I would say that the most significant developments in the last year can be summed up, first, by noting the overall improvement in the situation in the Middle East as it affects Israel. Secondly, there is increasing realization that a complicated conflict cannot be solved merely by good words or by beautiful words—that sometimes the long way toward a solution is the surest way. And the third signicant development is a growing awareness on the part of some of the Arab countries and the Soviet Union that reliance on the use of force—war and shooting—would not lead to what they expected to achieve and might not serve their own purposes.

All me, first, to talk about a subject which I believe is close to all of us—the improvement of relations between your country and ours that has taken place in the last year.

I would say that the first point is the deepening of the understanding of Israel's position among the American people, in the United States Congress, and in the United States administration. Allow me to quote from the report which was submitted to Congress by the President on February 9, 1972, on the situation in the Middle East. It is written on page 135 in which the President describes Israel's position. I quote:

"The Israelis seek concrete security. To them this means more than an Arab offer of formal peace. It means Arab willingness to let Israel exist on terms which do not leave it vulnerable to future reversal of Arab policy. To Israel, security will require changes in its pre-1967 borders as well as such additional protection as demilitarization and international guarantees might provide. Israel points out—and cites the recent war in South Asia as an example—that a formal state of peace does not by itself assure security, and that international guarantees are no substitute for the physical conditions and means for security. In the absence of a settlement negotiated by the parties without pre-conditions, Israel continues to hold the territories captured in the 1967 war."

I wouldn't say that the United States Government has accepted this Israeli position. But the deep understanding of Israel's position is the beginning of a realization of the problems that the United States will have to tackle in the Middle East.

Second, there is growing realization that it is the parties to the conflict who, through negotiations, should reach a settlement and that the powers have no right to make deals behind the backs of the parties and to impose them on the parties.

Allow me again to quote—this time from a report by the Secretary of State on U.S. foreign policy, on March 7, 1972. I quote:

"Four Power talks in New York have been held from time to time among France, Great Britain, the Soviet Union and ourselves. The positions of the four participants in these talks differ in important respects. The Soviet Union argues that the Four Powers should work out an agreed position on substantive issues to guide Ambassador Jarring in his negotiations with Israel and the Arabs. The United States, on the other hand, has maintained that a genuine peace settlement can only come from an agreement reached by the parties directly involved in the dispute and not from terms devised by Ambassador Jarring, the Four Powers or the Security Council. We did, however, agree to discuss in the Four Power forum the matter of supplementary guarantees for an overall settlement. The Soviets, however, have said they are unwilling to limit Four Power discussions to this question until agreement was reached on withdrawal. The last meeting took place on September 9, 1971."

The third point of improvement in American-Israeli relations is the realization on the part of the United States Government that regardless of how desirable it would be to go from war to peace in one act, realistically the best way at this moment in time to approach the process of peacemaking is through an effort to bring about an interim settlement. Israel has responded positively to the American initiative to negotiate an interim agreement in close proximity talks between Egypt and Israel on the reopening of the Suez Canal and normalization of civil life in that area.

For these talks to start, we lack only one thing—a positive response on the part of Egypt. The realistic political option to move towards peace has been offered by the United States, has been accepted by Israel, has not yet been responded to by Egypt.

The fourth point of improvement, for which Israel is more than thankful to the President of the United States—President Nixon—is his decision to translate the principle of maintaining the balance of power from words to deeds. Israel has been granted all its requests for arms needed for its defense. And it has been proved that all fears that such an act by the United States would bring an escalation of the arms race or might interrupt and destroy the cease-fire have not materialized. Indeed, I would say the opposite is true.

The fifth point, for which we thank the Congress of the United States is the legislation that has been approved by the Congress of the United States. Israel has been given the means to finance the purchase of arms and thus to relieve, to a certain extent, the heavy burden of defense that must be carried by Israel's people.

I would like to take this special opportunity to thank every member of the Congress for what has been done in order to make it possible for Israel to continue its development and at the same time to carry the burdens of defense.

I would say that the close relations that have been established between Israel and the United States have proved an effective deterrent to the Russians and to other countries in the area from taking any decision on a deadline for a resumption of hostilities unless their demands are fulfilled. I think that at the present time this common policy of offering an option for political negotiations and helping Israel to strengthen its defense and its economy is the best formula to prevent a renewal of hostilities and to move towards peace.

Therefore, I would say that at the present time the relations between our two countries have reached a peak of understanding since the outbreak of the six-day war.

In the Middle East the cease-fire continues. There is no imminent threat of breaking it, and the strength of Israel deters those who may be tempted to do so.

It was announced today that the Prime Minister of Israel would go to an official visit to Rumania. It is the first official visit of any Prime Minister of Israel to any Communist country in the last 24 years.

I don't have to add very much to what has been said about the unique phenomenon that came about as a result of the courageous determination of members of the Jewish community in the Soviet Union who risked everything and acted in a way that opened the gates of the Soviet Union for emigration to Israel on a scale that was unprecedented during the 50 years of Communist regime in Russia.

All this gives us encouragement and shows us that if we are determined, if we are courageous, if we do not seek quick solutions, if we follow the long and the hard road towards peace, then peace, in the long run, will be achieved.

We look ahead to the future. We know that we still face hardships and we will have to turn for understanding and help from the United States, from the American people, from the United States Congress, and from the United States President. What has been achieved last year gives us the confidence and the courage and the hope that we have set our foot on the right path towards what all of us would like to achieve . . . a real, durable and lasting peace in the Middle East.

STATEMENT BY IRVING KANE

This function is a major part of the Annual Conference of AIPAC. We meet each year in Washington to consider how we can best serve the cause of American-Israel friendship—how we can deepen their mutual commitment—how we can help to achieve an Arab-Israel peace.

And so it is appropriate that we take counsel with our Congressmen—today, as we shall tomorrow with the Department of State.

As you know, AIPAC is a non-partisan organization. We have always appealed to and won support from both sides of the aisle.

We and our predecessors have brought our story to the national political conventions since 1944, when both parties came out for restoration of the Jewish Commonwealth.

This year we shall again present our views to the Platform Committee of both conventions in the hope that we may again win bipartisan reaffirmation of American interest and support for Israel. We urge you who will be participating in these conventions, to help us achieve this objective.

Much has happened in the 12 months since we last met. Much of it has happened as a result of the initiative of the Congress, and we who are concerned about the survival and peace of Israel, offer you our thanks.

At this luncheon last year our Committee appealed to our Government to take measures to strengthen Israel's economy and defense. Since then the Congress has taken the initiative and included a supporting assistance grant in the Foreign Aid bill, the first such grant to Israel since 1959. In addition, Congress approved military credits, to enable Israel to acquire the weapons she must have, to deter further aggression against her.

Late last year, there was a renewed demonstration of support by the Congress, when 78 members of the Senate and 257 members of the House sponsored resolutions urging the United States, "without further delay," to take affirmative action on Israel's request for Phantom planes, and to provide such supporting equipment and assistance as are essential to maintain Israel's deterrent capability. That resolution also reaffirmed "the importance of secure and defensible borders as a vital element in a peace settlement to be negotiated by the parties themselves."

By this action, the Congress was informing the Administration that the people of our country are committed to Israel's survival. And equally important, the message was being conveyed to the Arab states and to the Soviet Union.

We have seen a convergence of American and Israeli interests in the Near East. United States recognition of Israel's economic and military needs is a manifestation of the closer relations that have developed since we last met. The Administration has responded vigorously in support of Israel.

There is now a far better understanding of America's interests and responsibilities in the Near East and we warmly commend the Administration for its much firmer commitment.

This year, we again urge you to give sympathetic consideration to Israel's needs for military credits and a supporting assistance grant. The Soviets, who have already provided Egypt and other Arab states with military equipment to the tune of many billions of dollars (some say over five billion), continue to provide them with sophisticated weapons, and at the rate, according to one estimate, of $5 million per day.

Some 20,000 Russian personnel are now stationed in Egypt—a sinister threat to Israel. There should be no diminution or relaxation in our support or in our vigilance.

For their part, the Israelis themselves have shouldered the major burdens of defense. They do not ask for our soldiers. They are prepared to defend themselves and are paying a huge price. They have gone deeply into debt.

And now there is a new and moving chapter in Israel's history. Since she was established, Israel has opened her doors and given sanctuary to every Jew in search of home and freedom. Now suddenly, for whatever reasons, Russian Jews are allowed to make their way to Israel. But their absorption constitutes a new challenge to the Israelis. Many of you in the Senate and House have sponsored the pending legislation to assist Israel to discharge this enormous responsibility.

We are pleased to note that recently the Senate Foreign Relations Committee voted to include in the authorization for the Department of State the sum of $85 million for this purpose. We are hopeful that this legislation will win final approval.

We appeal to you for your support of this humanitarian undertaking. You have—so many times in the past—reaffirmed the close ties of friendship between the U.S. and Israel. We trust that you will continue to do so, in the still perilous times ahead.

REMARKS OF REPRESENTATIVE THOMAS E. MORGAN

Thank you, Mr. Kane, Mr. Ambassador and my colleagues in the House and ladies and gentlemen. I am glad to have this opportunity to join the American Israel Public Affairs Committee in its salute to the distinguished Ambassador of Israel and, of course, in the celebration of the 24th birthday of Israel.

I had the high privilege of addressing the American Israel Public Affairs Committee conference about eight years ago on its tenth birthday and, at that time, I noted that in the House Foreign Affairs Committee room we had helped write a little of the history of the Jewish people. And from that vantage point, we have been able to watch with deep sympathy the struggle of the Jewish people to establish the State of Israel, and to maintain an unfinished struggle to win peace for its people.

For it is a fact that Congress endorsed the Balfour Declaration in 1922 and called for the Jewish Commonwealth in 1945. And in 1951 the House Foreign Affairs Committee was the first legislative body to vote economic aid for Israel.

In the first three years of its existence, Israel welcomed some 684,999 displaced persons and almost doubled its population. In 1951 we voted a grant for Israel of $50 million to resettle these Jewish refugees, along with a grant to integrate the Arab refugees into the economy.

That was a long time ago. Israel has made remarkable progress on the economic front and now we were able to terminate economic aid and grant assistance in the 1950's. At that time, we had generously helped Arab countries in the area, Jordan, Lebanon and several others. Our hope was that this could bring some semblance of peace by raising the standards of their people. And that they would turn away from hostilities and begin to work for cooperation among the people in the Middle East.

But no. The Soviet Union intervened in the Middle East in another way. It began to send weapons to Egypt, and in its own behalf and in its own communistic way and ambitions, it stimulated an arms race in the area. The record clearly shows that the Soviet Union has set the pace in the arms race, and that our country has reluctantly followed.

As a consequence, the peoples of the area have been compelled over a period of years to divert most of their resources from economic and social development to military procurement and training. Countries in that area, exposed to the neverending threat of war, cannot allocate to development the resources they find so difficult to acquire. U.S. capital and capital around the world was very, very difficult to direct into that area.

Now, deplorably, the Soviet Union has exploited many conflicts in the area to gain power, threatening the countries which have been friendly to the United States and which have tried to develop social institutions.

Last year, recognizing the defense problems and their effect on the Israel economy, and taking note of Israel's tremendous external debt, the House Committee on Foreign Affairs recommended a supporting assistance program—a grant for Israel—and this was approved by the Congress. Now, of course, the House Foreign Affairs Committee cannot take full credit because many Senators in this room—I see Senator Symington, etc.—took part in this conference with the conferees of the House and agreed on earmarking this first supporting assistance grant for Israel since 1951.

I am pleased to note here today that the Administration has taken the bait, and, on its own initiative, has this year recommended a further grant of supporting assistance to Israel.

Israel has two images. One is the image of a country able to defend itself and to preserve its independence because its people are deeply committed to life and freedom. A people that lost so many people by oppression cherishes every life. A second image of Israel appeals to the highest humanitarian impulses. It is an extraordinary fact that the 650,000 Jews who established the State of Israel in 1948 threw open their gates and gave sanctuary to double their number.

Now, once again, this image of Israel shines clearly before us as Israel opens its doors to the Jews from the Soviet Union, who came in search of a new life. The absorption of the Soviet Jews is another glowing chapter in Israel's history.

I believe that Congress is resolved to offer a partnership of the American people in this splendid undertaking. In your remarks, Mr. Kane, you said that the Senate has already beaten the House in the mark-up of the U.S. State Department in a bill which adds $85 million for the resettlement of these people from the Soviet Union. I don't know whether this is the proper vehicle or not, but I want to assure you that the House will find the proper vehicle and will go over to the other side of the Capitol I can't say there is going to be an appropriation of $85 million, but I can assure you that if we can sit down with Senator Symington's committee we will come out with a piece of legislation that will authorize the appropriation.

It will be up to Si Kenen and your organization to do the lobbying with the Appropriations Committee, but I'm almost certain that, with the lead taken by the other body, the House will follow and that there will be legislation on the statute books that will give us the authorization if I know Si Kenen here and the job he does in Washington, and I know some of the other people who have been working in behalf of Israel on Capitol Hill and all around the country, I am sure that there will be an appropriation that can be used for the great purpose of bringing these people back to their homeland and establishing them in a country where they will be free to do as they please.

I hope on this 24th birthday of Israel that we can look forward to peace in that part of the world—when the people of Israel can sit down with their neighbors and they can really talk together. I don't know whether we can be so optimistic as to say that next year, on Israel's 25th birthday, there will be peace in the Middle East. But I think we can be a little bit optimistic and say that next year, on your Silver Jubilee, Mr. Ambassador, that we will be further along the road toward stability in that part of the world and that your great and dynamic country will be able to use its resources to help the whole area to move forward economically. If Israel did not have to spend the majority of its income for weapons of defense, if Israel could import needed raw materials and make full use of energy resources and know-how, as Congressman Celler has said, what a great job it could do for civilization in that part of the world. Thank you.

REMARKS OF SPEAKER OF THE HOUSE CARL ALBERT

Mr. Chairman, Mr. Ambassador, Congressman Celler, Congressman Morgan and ladies and gentlemen, colleagues. I apologize, first of all, for not being here from the beginning. The House has been operating under a privileged point ever since we convened and I will have to leave soon because we are in a quorum call. But I would like to make just two or three observations.

First, I want to associate myself with the remarks of the distinguished Chairman of the Committee on Foreign Affairs, most of whose speech I was able to hear, to assure him, and you, that I will help him in any way I can to drive that vehicle through the House and also help lobby the Appropriation Committee at the appropriate time.

May I say, further, that I want to congratulate the great State of Israel, which I have had the honor of visiting, on its 24th anniversary. Ever since its birth, Israel has lived under the shadow of war and yet it has been able, in hostile surroundings, to become not only a showcase for democracy in an area where democracy is almost unknown, but also a dynamic showcase for democracy for liberty-loving people around the world.

REMARKS OF REPRESENTATIVE GERALD R. FORD

Mr. Ambassador, my colleagues in the Congress and distinguished guests and visitors. It is again a privilege to say a very few words on this occasion. In the previous meetings such as this, I set forth in greater detail my own views and some suggestions that at the time seemed desirable.

I am glad to be here this afternoon just to say hello and to welcome all of you. And I am glad to note that some of the things that all of us on both sides of the aisle—and all of you and many like you throughout the country have favored—have now materialized, particularly the growing friendship between Israel and the United States and the growing and greater impact of our friendship in the Middle East.

I look forward to the observations and comments of my dear friend, Chairman of the House Committee on Foreign Affairs, and my colleague from Michigan, Senator Bob Griffin. I don't think you could have gotten two finer spokesmen for your annual luncheon in the Capitol.

Thank you very much.

REMARKS BY SENATOR ROBERT P. GRIFFIN

It is a high personal privilege to be with you as your organization observes the 24th birthday of the State of Israel; and as you honor one of the great Ambassadors in the diplomatic corps of the world.

Within the month, Israel will be 24 years old. As we look back over that quarter-century, we see a *world* racked by wars and conflicts, interspersed with brief periods of calm and peace.

Here in America we talk about prospects for a generation of peace.

But Israel's only memory is a generation of *war*. And, even when there is an absence of open warfare in the Middle East, there have been constant threats and incidents of violence.

As Patrick Henry expressed it in 1775: "The gentlemen may cry: 'peace, peace,' but there is no peace."

Yet, I believe there is reason today to view the outlook for peace with some guarded hopefulness. There *is some* good news amid all the bad news which seems to be flooding the papers.

It is bad news, of course, that there still is no treaty of peace in the Mid-East nor even direct negotiations required to produce such a treaty. There continues to be strict restrictions placed on Jews in some countries who want to emigrate to Israel.

But there are also some reasons for hope and optimism.

There has been some loosening—some slight relaxations of those restrictions—as a result of world public opinion pressure.

The cease-fire in the Middle East which this Administration helped to initiate, does continue in effect. Notwithstanding the occasional skirmishes and the bombastic oratory that surfaces from time to time, there seems to be an awareness throughout the world that a major new war in the Middle East could be disastrous for the world.

The prospects for peace are enhanced. I suspect that the word of the U.S. is credible—that we have a President who says what he means—and who means what he says. That is important to the prospects for peace—not only in Indo-China but in the Middle East as well.

Near the end of his State of the Union message three months ago, President Nixon said: "In the final analysis, America is great *not* because it is strong, *not* because it is rich, but because it is good.

There *was* a time when a statement *like that* would have been regarded as obvious. It's the kind of remark you expect to hear at Fourth of July ceremonies.

Today, unfortunately the climate in our country seems to be different. Today, such a modest remark could even be regarded under the heading of hot controversy. Today we live in an era when it is almost more common to hear those who denounce our country, its history, its traditions, its principles, its achievements, its dreams and its people.

I suggest Israel is *also great*—not because it is strong (which it is), not because it has taken a barren wasteland and turned it into unparalleled prosperity (which it has), but because it is good.

The Words of Emma Lazarus at the base of the Statue of Liberty, in New York, could as well be displayed at the Lod Airport in Tel Aviv:

"Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tossed to me.
I lift my lamp beside the golden door!"

Today the world has another and relatively young land of hope for millions of the world's immigrants—and that new land, of course, is Israel.

In the face of many obstacles and discouragements, increasing numbers of Jews are applying to leave Russia—and reluctantly the Soviet Government has been granting more and more visas.

Indeed, 13,000 were granted in 1971—that was a record year.

Earlier this year, President Nixon urged freedom of emigration for Soviet Jews. This is precisely what is provided for by Article 13 of the United Nations Declaration of Human Rights.

The President will have many things to discuss on his forthcoming trip to the Soviet Union—and one that he should include is the matter of the oppression of Soviet Jews.

This is and must be an issue of bona fide concern to the American people—not only because of our close ties to Israel—the many family ties with Jews in Russia—but also because of the strong traditions—the strong interest of this country in freedom including freedom to emigrate.

Accordingly, I will recommend strongly that President Nixon take up this matter during his talks at the highest level with the Soviet Government in the near future.

But the burden of America's aid for the Jews of Eastern Europe and the Soviet Union is not the President's alone.

There are other things that we in Congress can do. For example, we can pass the $85 million State Department bill to help Soviet Jews.

I believe the fight to preserve the voice of Radio Free Europe and of Radio Liberty is another example. Some cities say these broadcasts are relics of the Cold War. Opponents say the usefulness of these radio stations has passed.

In my view, their function is not a question of war—cold or hot. It is a question of *freedom.*

The Soviets have not been able to suppress the circulation of typewritten newspapers that circulate now. And the Soviets cannot effectively prevent the people behind the Iron Curtain from learning the truth by listening to radio broadcasts that reach across national borders.

In the face of the facts as they are, there should be no doubt about the need for radio stations that carry the truth behind the Iron Curtain.

Israel has demonstrated to the world its ability to stand on its own feet, muster its own defense, and progress by its own genius. In a sense, it stands as a prime example of the application of the Nixon doctrine—under which the United States does not seek to fight the wars of others, but does extend the hands of aid and friendship to those who are prepared to fight for their own freedom.

The United States can be proud that we have played a major role in stabilizing the situation in the Middle East in many ways. Since 1969, there has been an impressive flow of American economic and military assistance to Israel.

Indeed, during the period since 1969, we will have provided Israel with more economic and military aid than in the entire period between 1948 and 1969. So President Nixon has kept his word; he has *kept* all commitments he made in 1968.

And President Nixon has been working in diplomatic channels to encourage negotiations that would bring the peace and security that is needed.

Beyond extending military aid and friendship in the interest of peace, as we continue to do, there are other things that the United States *can* do to promote acceptance of the reality of Israel.

Among these, my good friend, Gerry Ford, who is here today, has proposed that we move the American Embassy from Tel Aviv to Jerusalem since Jerusalem is designated by Israel as the actual capital of the nation.

At the present time, some of the smaller nations have their embassies in Jerusalem, while others are represented in Tel Aviv.

Such a move would have a dramatic impact on the community of nations which share our concern for Israel and the Middle East.

REMARKS OF SENATOR JACOB K. JAVITS

We are all signally honored by the outstanding number of members of the House of Representatives and the Senate who are here today. And, of course, we are all greatly honored by the presence of Israel's Ambassador to the United States, who has made such an extraordinary record, Ambassador Rabin. . . .

For many years I have been able to tell you that there is no single individual on Capitol Hill who has more credibility in matters affecting the best relations between the United States and Israel than your own, your very own, Mr. Kenen. There's nobody else. And this has represented an extraordinary service. In my judgment, Si Kenen's adherence to this cause, ever since before Israel became a State, is one of the important reasons why it is possible to get miracles in the House, under Mannie Celler's gifted direction. But we also do miracles in the Senate. Seventy-seven senators, for example, joined together at the most crucial moment to let the President know that the course to pursue in respect to Israel was the course of arming it effectively so that it could defend itself.

Your organization is highly respected. For many years it was headed by Rabbi Bernstein, who is with us today, and it is now headed in a very effective way by Irving Kane, giving the Middle West a look in . . . I wish to add every encouragement I can to the work of this group and more than anything else to testify, which is the most important thing I can do, having been associated with this effort for so long, to its unbelievable effectiveness and to the unusually high credibility it has gained here in Washington.

A WOODSMAN'S PRAYER

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. SIKES. Mr. Speaker, John McMahon who is one of Florida's leading foresters has also a fine knack for expressing himself in prose and poetry. The American Forests for April 1972, carries one of his works entitled "A Woodsman's Prayer." I insert it in the CONGRESSIONAL RECORD at this point:

A WOODSMAN'S PRAYER

(By John McMahon)

Lord, let me be as a tall green tree
Upright and pleasing unto thee
Thankful for my humble birth
And for my time upon the earth.

Lord, as I reach to touch the sky
Keep me in your watchful eye
And if I grow too tall and wide
Prune away my foolish pride.

Be with me Lord, as the seasons pass
And my dreams fade like the grass
The years will help me understand
That my life is in your hands.

I know time's axe will cut me down
And lay my bones upon the ground
Then Lord, I pray, remember me
In gardens of your memory.

CARGO THEFT—A NATIONAL DISGRACE

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. PICKLE. Mr. Speaker, today I would like to insert in the RECORD for the Members' attention a March 20, 1972, article which appeared in Traffic World describing the Treasury Department efforts to curb cargo theft. This article was written by Eugene T. Rossides, who is Assistant Secretary of the Treasury. The Treasury Department is in a key position to help curb cargo theft through the Customs Bureau.

WHAT U.S. CUSTOMS IS DOING TO STOP CARGO THEFT

(By Eugene T. Rossides)

Early in this Administration, President Nixon directed a concerted attack on organized crime and drug smuggling. This concerted attack became Treasury's highest priority in the area of law enforcement.

The long neglected problem of cargo theft fell into both of these priority areas and Treasury quickly developed an action plan to combat it. The hearings held by the Senate select committee on small business headed up by Senator Bible focused attention on the nationwide nature of this problem and in 1971 the Interagency Committee on Cargo Security, chaired by the Department of Transportation, was formed to coordinate the response of the various agencies of the Federal Government.

I am pleased to report that Treasury has spearheaded this effort at all airports and seaports of entry and that substantial progress is being made. Passage of the Administration's proposed legislation—the customs port security act—would, in my judgment, result in the reduction to a minimum of cargo theft at all airports of entry throughout the United States within six months to one year, and a dramatic reduction of cargo theft at all seaports of entry within one year.

The estimate that cargo theft amounts to over $1 billion annually has received much attention and does underscore the magnitude of the problem. However, the depredations of cargo thieves actually cost much more: in lost sales, markets, and jobs, in swollen insurance rates, and especially in unfair competition to the honest businessman. The government is also affected. Treasury may not be able to collect customs duties and internal revenue taxes on imported merchandise that has vanished and income taxes are lost because importers have lower incomes and claim deductions for their uninsured theft losses. The loss of export cargo hurts our precarious balance of payments.

To stop this drain on the economy, the Treasury Department developed in 1969 a three-pronged program to curtail cargo theft at our airports and seaports of entry. Our goals were to improve physical protection for cargo, to tighten up carriers' accountability for cargo in their custody, and to obtain needed additional authority to combat this problem with full effectiveness.

The Bureau of Customs was charged with implementing this Treasury program, and the following is a report of what has been done.

The first phase of the program involved writing regulations to increase the protection given cargo in international trade and to ward off potential criminals from cargo areas. Most of these regulations became effective on April 1, 1971. They require all carriers to have special areas for the storage of high value and broken packaged merchandise and an adequate number of lockable vehicles to handle such cargo. Failure to comply will result in the denial of a permit to unlade international cargo. The regulations also provide for the use of a special pick-up document at places in a port where there is a high incidence of theft or pilferage. And there are other provisions aimed at identifying the role of organized criminals in cargo theft.

The new rules, which merely apply sound security measures where laxity has been a tradition, were developed partly out of Customs' experience with a pilot project still in progress at Kennedy International Airport in New York. Measures prescribed in the regulations have been put into practice there, plus others recommended by Customs for greater cargo security, such as locked boxes to keep papers out of unauthorized hands, and the use of cameras which simultaneously photograph the person who receives the merchandise, his identification card and the pick-up form.

The program has been getting results. According to the Airport Security Council, in the program's first year reported cargo thefts at JFK declined by 28 per cent, and dollar value of stolen goods by 69 per cent (from $3.3 million). For the six-month period ending November 31, 1971, reductions of 27 per cent in number and 45 per cent in value, were achieved. This trend has continued to date.

Similar pilot projects have been started at selected piers in New York and the San Francisco waterfront is next. The initial results in New York are very encouraging.

The second phase of the Treasury Department's program was to develop statistics which would enable us to pinpoint the specific piers, terminals or warehouses, and the types and values of merchandise most involved in cargo theft. By regulations which also became effective April 1, 1971, we now require carriers to agree with importers on delivered quantities, and to report any discrepancies in manifested merchandise—whether shortages or overages. This new procedure was initially designed solely to improve the accountability for cargo landed in the United States because the tariff act requires that duty be paid on such cargo even if the intended consignee never receives it. An important by-product of this program is precise information on cargo thefts—the location, the commodity and the value.

The lack of precise data on thefts has impeded every law enforcement agency investigating cargo crimes by making it impossible to find out the extent and location of thefts and pilferage, or even the fact that they have been committed! In such cases, of course, legitimate business and taxpayers suffer the loss, and the criminals remain at liberty to strike again. This is a problem which Customs still faces.

The system for reporting losses to Customs must be improved substantially if it is to be of maximum assistance to Customs and the importing public. Carriers are not reporting all losses, and some are filing inaccurate or unsusbtantiated reports. A recent spot check throughout the nation revealed that the explanations given for shortages (other than theft loss) were not substantiated in about 28 per cent of the cases, and in some ports it was over 50 per cent.

To promote more accurate loss reporting, Customs officers have been checking cargo unladings and tallying deliveries. Carriers which suffer losses, but fail to report them on the appropriate form, CF 5931, are subject to penalties. Since this program originated in April, 1971, Customs has issued a substantial number of penalty notices for this violation and we will continue to crack down until we have full compliance with the law.

To date most loss reports have come from Customs inspectors and carriers. Importers and insurance companies, which surely have an immediate interest in cargo theft, have not contributed to our fund of knowledge about it.

The importing public would be helping itself by reporting shortages to Customs. Importers can obtain refunds of estimated duties if they file shortage reports. Insurance companies could also avoid paying claims for duties, in many instances, by requiring importers to file loss reports and obtain refunds of duties. Apart from the economic incentive, however, it must be stressed that prompt and complete reports of losses provide us with essential data for fighting cargo theft.

The third prong of the Treasury Department's program is the passage of federal legislation which will help government and industry develop as much strength to protect international cargo as criminals have to attack it. The proposed law identifies and plugs the loopholes still existing in Customs' control of the movement of international cargo. Called the customs port security act (S. 1654, the Bennett bill, and the identical H.R. 8476, the Mills-Byrnes bill), it has been referred to the Senate finance and the House ways and means committee. Its main features are the establishment of national standards for cargo security, the screening of persons seeking access to high-risk areas, and the restructuring of certain penalties to facilitate the prosecution of criminals—including the petty thief.

The customs port security act would give the Secretary of the Treasury authority to establish national standards for cargo security at Customs ports of entry. The standards would relate to matters such as special storage areas for high-value merchandise, lighting, fencing, alarm systems, patrols and guards, and separate private parking areas.

In the meantime, to provide guidance to industry and Customs officers in locating and correcting security problems, Customs has prepared a 14-page manual, "Standards for Cargo Security." These standards will form the basis for the national standards to be issued pursuant to the customs port security act. They constitute the physical and procedural security measures which we believe should be implemented by most terminal operators to provide a minimum level of cargo protection. Implementation of the simple, but effective measures recommended in this pamphlet should produce a significant reduction in cargo theft and we, therefore, hope there will be a substantial degree of voluntary observance of these standards by the industry.

Indeed some cargo-handling firms have already begun to plug up holes in their security systems. However, cargo security is by no means adequate at every port. Incomplete or spotty protection just does not work.

Thus, the thrust of the bill now before Congress is to empower the Secretary of the Treasury to make certain that minimum security measures are adopted at all international ports of entry.

Because these national standards may not be sufficient to curb theft in all instances, the bill also authorizes the Secretary to designate special Customs-security areas within ports where he finds there is an unusual risk of theft. Customs-security areas would be subject to even more stringent security measures. The Secretary would have the authority to license businesses whose employees have access to Customs-security areas, and to approve identification cards for anyone seeking access. Customs officers would carry out these procedures and control the restricted areas.

By requiring the same minimal security standards at all ports and terminals, the proposed legislation avoids any port obtaining a competitive advantage over another—a major defect of some regional programs to combat cargo theft. At the same time it controls costs by spotting Customs-security areas only where and when they are needed: Not an entire port if a dock area could be specified as especially vulnerable to theft, not an entire airport if a particular carrier terminal could be pinpointed. Treasury, in fact, expects that few Customs-security areas will be established and that those that are will not be needed long.

This is an action program which would make maximum use of the funds allocated to it. It also ties in with the two top priority concerns of President Nixon—the drive to stop smuggling of narcotics and dangerous drugs into the United States and the campaign against organized crime. If drug smugglers can steal their packages from the carriers, they do not have to worry that a Customs officer will discover the contraband when he opens the packages for examination. If cargo terminals function as supermarkets for thieves, organized crime, which fences or disposes of much of the loot, will flourish.

The Treasury Department and its action arm, the Bureau of Customs, views passage of the customs port security act as an appropriate development of Customs' inherent strength. The bureau is the only enforcement agency with a presence, and over 180 years experience, in the nation's ports. To carry out its mission to collect revenue and to intercept contraband, it has acquired an expertise in cargo matters that is second to none.

Customs inspectors, import specialists, special agents, patrol officers, and others, are continuously protecting cargo by their routine functions. An essential part of their jobs is to look for facts and circumstances which would indicate a possible theft or the potential for theft.

Customs inspectors observe the discharge of merchandise from ships, aircraft, trucks, railroad cars, and other vehicles. They reconcile manifests with entry documents, and compare the actual number of containers, and the markings on them, with the line items on the manifests. It is at this point that they discover possible losses. Inspectors also give special personal attention to merchandise with a high risk of theft and supervise its discharge.

Customs special agents are renowned for their interceptions of dangerous drugs and their pursuit of smugglers of drugs and other contraband. But they also spend much of their time investigating possible fraud against the U.S. revenue and reported cargo thefts.

Customs has also stationed squads of special agents and patrol officers in New York, San Francisco, and Los Angeles. Their sole task is to uncover cargo theft and pilferage, and apprehend the persons responsible.

The immediate vital need is the passage of the customs port security act. The legislation is supported by groups which know about international cargo, including the Commerce and Industry Association of New York, the American Importers Association and the Transportation Association of America. Although the Treasury Department's security program centers on international cargo, a by-product should be improved security for much domestic cargo flowing through or temporarily stored at the same port facilities.

While Customs can lead the way, businesses engaged in handling cargo must do their part. This was the key to success at JFK Airport. Customs helped develop a few common sense rules. The airlines at JFK—under the guidance of their own Airport Security Council—pitched in with determination to protect the cargo they handled. This is the sort of joint effort that brings results.

I believe that the tide is turning in the war on cargo theft. With only a modest addition of funds and authority, Treasury, with the cooperation of industry, should be able to reduce cargo theft at our major airports and seaports to a minimum within a very short time. That would be an accomplishment of which we could all be proud.

HUNGARIAN FREEDOM FIGHTERS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. DERWINSKI. Mr. Speaker, I remind the Members that there are many organizations in the country who have had by their personal experiences and the motivation for their existent knowledge of the insidious nature of communism. Prominent among these is the Hungarian Freedom Fighters Federation, U.S.A. Their native land of Hungary is still subject to the misrule of a Soviet military imposed government. Having suffered the entire post-World War II European political history, they certainly know whereof they speak.

It is, therefore, with special emphasis that I direct the attention of the Members to a speech delivered by Istvan B. Gereben, cochairman of the Hungarian Freedom Fighters Federation, U.S.A., at the joint meeting of the executive committees of the Washington and Baltimore chapters of the Hungarian Freedom Fighters Federation, U.S.A., held on Friday, April 14, 1972, at the Watergate Hotel in Washington, D.C.

SPEECH BY ISTVAN B. GEREBEN

Mr. Chairman, Members of the Committees, Ladies and gentlemen, fellow Freedom Fighters!

Fifty-four years ago, on January 8, 1918 President Wilson delivered his famed "Fourteen Points" speech which instantly became the single great manifesto of World War I. It was western democracy's answer in its first full dress debate with international communism. It raised a standard to which men of good will in all nations could rally.

Wilson hoped that the Fourteen Points Address will lead to conversation with the powers at war concerning the conclusion of peace. Forces behind his control prevented complete vindications of the Points. The Armistice Agreement of November 11, 1918 was made upon the bases of Wilson's Fourteen Points. The Peace Treaty of Versailles violated every one of the principles expressed by Wilson and the Allied press repudiated his proposal, Senator Lodge blocked U.S. entry in the League of Nations.

It was a series of secret agreements between the participants of the Peace Conference which prevented every attempt at peace on the basis of self-determination.

The man who waged The War to end wars was a good man. He was a man who deeply believed in peace. Woodrow Wilson helped make the world safe for idealism.

He set an example to our present President who said on February 18, 1971 that; "By following that example, by not fearing to be idealist ourselves, we shall make the world safe for free man to live in peace."

We, Hungarian-Americans who's roots are in the Carpathian Basin, which suffered the most from the Peace Treaty which torpedoed the laudly and continuously professed principle of self-determination and sunk it to the position of a rather stale joke—are keenly aware of the dangers posed by being an idealist. We hope that our President, who does not fear to be an idealist, will make the world safe for free men to live in peace. We hope that he will achieve his goal for all men by creating an atmosphere which will allow all men to be free, we hope that he will succeed in what President Wilson failed: the practical implementation of the principle of self-determination for all nations, weak and strong. We sense a grain of humility when the President presents himself as pure idealist. We know better. His three Foreign Policy Reports to the Congress reveal that he is a realist inspired by high ideals, a practical policy maker, staunch negotiator who represents freedom's interests in a series of negotiations with enemies of everything we cherish. Survival, peace are his announced goals. We wish him well, hope and pray for his success.

As one American with strong ties to people suffering under totalitarian oppression I must express some concern over the implementation of the philosophical convictions upon which this Administration is proceeding to reshape American policies to the requirements of the new realities.

The President in his Address to the United States General Assembly on September 18, 1969 said:

"It is not my belief that the way to peace is by giving up our friends or letting down our allies."

The unfortunate wording of the Shanghai communique, jointly signed by Prime Minister Chou En-lai and the President, seems to contradict this statement. More clarification and explanation is needed to calm the concern of our citizens with Hungarian background. For us the President's virtual disavowal of a solemn American treaty obligation seems unprofitable and potentially dangerous.

The opening policy to China was welcomed in our circles with understanding of its necessity. The method chosen for the execution of that policy however was not necessarily approved by all of us.

The choice of China itself as the place of the meeting was—in the opinion of many of us—a generous gesture towards a government which labeled us as "imperialist dogs" for too many years and continuing to do so even after the summit.

The attendance of a "ballet"—with an obvious and degrading reference to the head of an allied state—by the President and Mrs. Nixon is rated by us as tasteless diplomacy.

In general the chance—provided by the ending of a sterile and barren relationship between Communist China and the United States—to cause alarm and discomfort in the Kremlin is received among us with cautious hope. The price—Taiwan—we paid for this hope is high. We react to the Shanghai communique with the same nervousness that we felt after Britain's Prime Minister Neville Chamberlain—sacrificing Czechoslovakia on the altar of appeasement of tyranny—returned from Munich with the proud announcement of his "peace in our time" deal with Chancellor Adolph Hitler of Nazi Germany. Whether the meaningful results from the visit of the U.S. entourage to Peking will justify our hope or our nervousness still remain to be seen.

The initial step to replace bipolarizm in World politics with more differentiated, triangular or quadrilateral relations will bring its results, good or bad, to a tired, apathetic world.

We are in near agreement on the President's Vietnam policy. Most Americans, among them the nationalities are convinced of the soundness of the Vietnamization Program.

We sincerely hope that the Viet-Cong offensive presently in progress will be successfully stopped by the forces of South Vietnam. It must be observed that most of the heavy weapons used in this offensive were supplied by the Soviet Union, who is trying to project the image of peacemaker, champion of virtue. This is the Soviet Union which will be visited by our President in search for peace, a generation of peace. In the light of this action of the Soviet Union can we be as optimistic as seemingly our President is about the future of our world? We joyfully notice the presidential statements assuring us that Vietnam will not be forced in a settlement contrary to the interests of the self-governing, self-sufficient, self-respecting people of South Vietnam.

I do not have the audacity to comment on our policy towards Latin America. The problems of that continent are not very well known for me. One observation however seems appropriate: Our friends on the South deserve more attention, more understanding and a more vigorous effort to bring them into the material wealth what the Western Nations so fortunately possess.

In a little more than one month the President will visit Moscow. As in the case of his recent visit to the Peoples' Republic of China Mr. Nixon's trip is part of his Administraition's steady effort to achieve his main foreign policy goal: a generation of peace. We are, we were at war with the Soviet Union. We wage a cold war against each other. This war is still on, on more than one front. We want an end to this cold war. We want to change the era of confrontations to the era of negotiations. The good will on the part of the United States has been repeatedly expressed.

It is the dictate of the circumstances of the world struggle that the Soviet Union will not undertake anything which would mean either total war or total peace. The Soviets could not accept total war. If it were nuclear the risk would be too high. If it were not nuclear, Russia's cumbersome and oppressive regime would probably collapse, and the satellite nations would rise as one man against its tyranny. But a general peace would also be undesirable; it would mean the loss of the red flag of revolution. The navigators who are determining the course of the World must keep this in mind when sailing in the shallow waters of negotiation.

Now on the eve of Mr. Nixon's journey to the Kremlin may we quote from the two most successful leaders of Communism, Lenin and Stalin. Lenin said: "in war—cold or hot—never tie your hands with considerations of formality. It is ridiculous not to know the history of war, not to know that a treaty is the means of gaining strength." And Stalin wrote: "A diplomat's words must have no relation to action—otherwise what kind of diplomacy is it? Words are one thing, actions another. Good words are a mask for the concealment of bad deeds. Sincere diplomacy is no more possible than dry water or iron wood."

According to these axioms the masters and their pupils used international agreements and treaties as a particularly effective weapon in the Communist arsenal of strategic and tactical maneuvers to get and keep us off balance, to exploit our weaknesses. We recall the statement of Leonard Schapiro, dean of Soviet Studies in Great Britain given to the Subcommittee on National and International Operations of the Senate Government Operations Committee: "Soviet policy is unremittingly dynamic. It is not directed toward achieving equilibrium or balance of forces, or peace, or collective security . . . Its ultimate aim is victory, which means communist rule on a world scale. However unrealistic this aim may seem, it is the case that it has been thoroughly inculcated into the minds of all Soviet leaders from Lenin onwards for over 50 years."

From the President's determination to go to the Kremlin summit meeting with Mr. Brezhnev, we conclude that he is convinced either that the Russians changed to honor the written word, gave up their aim, or that he can outmaneuver them. We hope that one of the possibilities is a reality.

It is comforting to us that many statements have been made in regard to American commitments to the defense of common interests with the free half of Europe. Americans of Polish, Czech, Slovak, Hungarian, Rumanian, Bulgarian and German origin were pleased to hear the repeated repudiation of the Brezhnev Doctrine by the President and Secretary Rogers.

The American view of the proposed Conference on European Security, as expressed by the speeches of Undersecretary Johnson Feb. 19, 1971, and Secretary Rogers, Dec. 1, Dec. 8, 1971; and January 4, February 24, 1972, cannot be faulted by anyone who knows the area, the problems and intentions of the participants and the realistic possibilities. A joint Memorandum of the American Hungarian Federation, the Hungarian Freedom Fighters Federation U.S.A. and the Federation of Free Hungarian Jurists which has been submitted to the President, Members of Congress and to Secretary Rogers in 1969, describes one approach—an approach favored by us—detailing the proposed solution to the problems which must be addressed by a Conference on European Security if it convenes. In general we object to a Conference which results in a degraded role of America in the Atlantic Community, a guarantee of the post-war status quo in Europe and which does not endorse the principle of self-determination and does not assure the sovereignty of the participants and of all those who are affected by the results of the Conference.

A major issue among ethnic Americans is the controversy surrounding Radio Liberty and Radio Free Europe. We know that Senator Fulbright is the key to solve the problem. We, however respectfully request the Administration to do whatever is possible to maintain these radios. We—if anyone—know the multiplicity of problems facing the managers and operators of these stations and other establishments of Free Europe Inc. Based on the reports prepared by the Library of Congress for Mr. Fulbright, we are convinced that the functions performed by these "stations" are essential and especially useful at the present time when America must keep all of the options at his disposal open to succeed in the series of negotiations with Russia and the Iron Curtain Countries to which Radio Liberty and Radio Free Europe beam the voice of freedom.

I must express our concern caused by the increasing efforts of the Communist Hungarian Government in the United States in order to discredit American-Hungarians prominent in public life, and infiltrate Hungarian churches, associations and other cultural, educational and political organizations. The arrival of the new ambassador, Dr. Karoly Szabo signaled a new and aggrevated offensive against those who oppose the policies and methods of Mr. Kadar's regime. Our open and free society provides the Communist diplomats with opportunities unimaginable under their own system. The opening of two consulates, in New York and in Cleveland, will greatly enhance the successful operation of the well trained and highly skilled propagandists and agents of the Hungarian regime, still kept in power by Soviet bayonettes.

The stand taken by the President on the issue of the Holy Crown of Saint Stephen is very much appreciated. According to State Department sources the recently published reports speculating about the possibility of the Crown's return to the Communist Hungarian Government are erroneous. The President's letter to Cardinal Mindszenty, stating that there are no plans for the release of the Crown from U.S. custody and a State Department announcement declaring that the United States have conducted no negotiations with the Government of Hungary on the subject of return of the Crown and it is not preparing to conduct such negotiations are received with much relief. We hope that the coming months will not change the determination of our President in this matter.

We also have to express our appreciation for the President's personal greeetings sent to Cardinal Mindszenty on the occasion of his 80th birthday. The telegram is interpreted by us as repudiation of rumors about ill feelings between the Cardinal and the United States government. The President's kind and friendly words mean concern for and recognition of a former guest of America and the Primate of Hungary.

Security and detente are said to be the two pillars of the common policy of the NATO countries. These two pillars are of equal importance and rank. It would be unwise to pursue a policy of detente without security and also vice versa: a security policy without the will for detente would amount to nothing else but continuation of the cold war.

Security is provided by strength, military, spiritual, moral. But above all it requires strength of will to be strong! We want to be strong! We want the United States to be strong! We want our President to be strong! We want him to explore all avenues of peace. We want him to be an idealist, the Wilson of the 1970's without allowing secret diplomacy to destroy principles and instead of solving, creating problems. We know he wants an end to confrontations, he works for detente. But we do not want him to be the Chamberlain of the 1970's. We do not want him to appease! We want him to remain the President who said: "We must be more resourceful than ever in the pursuit of peace, and at the same time more determined than ever in the maintenance of our defense. For even as many things are changing in the world of the 1970's, one fact remains: American strength is the keystone in the structure of peace. . . . The strength that commands respect is the only foundation on which peace among nations can ever be built."

Thank you!

APOLLO 16 RETURNS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. TEAGUE of Texas. Mr. Speaker, the voyage of astronauts Young, Duke, and Mattingly has again given America and the world an example to be copied. Their sterling performance and outstanding achievements are a triumph for man in his attempt to understand the unknown. We all share a degree of relief in their safe return and pride in their rigorous exploration. With only Apollo 17 remaining in the lunar flight program, the editorial in the New York Times of April 27 outlines the importance of continuing an aggressive space program in cooperation with the other nations of the world. I commend this editorial to your reading.

Apollo 16 Returns

Astronauts Young, Duke and Mattingly have returned to the hero's welcome they deservedly received yesterday. Despite recurrent difficulties—climaxed by the first "wave off" from the moon last week—Apollo 16 turned out to be one of the most successful of lunar expeditions thus far. Orion's two-man crew spent more time exploring the lunar surface than any previous moon visitors; they collected and brought back a larger load of lunar rock and soil samples than any previous Apollo mission; and, not least important, they uncovered some major scientific surprises—notably in regard to lunar magnetism—which must profoundly affect all future scientific thinking about the moon.

By revealing so much that was unexpected about lunar geology and lunar magnetism, Apollo 16 reminded us once again that man's study of the moon is but in its infancy, and that the great bulk of the moon's territory is still completely unexplored. This is true even of the side of the moon facing earth, while the side always turned away from earth has never been visited at all, either by human explorers or by unmanned scientific probes. Yet only one more manned lunar mission is now scheduled—the flight of Apollo 17 at the end of this year.

Study of the moon is really study of the origin of the earth and of the solar system we all inhabit. The secrets of creation—at least so far as man's tiny corner of the universe is concerned—may well be uncovered by a sufficiently energetic and imaginative moon exploration program. Here is a project which calls out insistently for execution through international cooperation, based upon the realization that what unites men of all nations, ideologies, colors and races is far more important than what divides them.

As the Apollo program draws to an end, its enormous successes underline the opportunities on the moon and compel all men to lift their eyes to the heavens if they would understand whence and how our species, our world and our solar system came into being.

CURRENT LAWS AND REGULATIONS OF OUR SELECTIVE SERVICE SYSTEM

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. GONZALEZ. Mr. Speaker, there is no one document which contains all of the current laws and regulations of our Selective Service System.

Documents have been released here and there; some have been in the Federal Register, some are memos to draft boards amending existing regulations.

Although the attached material is quite lengthy, I feel that the importance of having this information available to my colleagues and to the American public warrants my inserting it at this time:

Military Selective Service Act

Sec. 1. Policy and intent of Congress.—(a) This Act may be cited as the "Military Selective Service Act ———."

(b) The Congress hereby declares that an adequate armed strength must be achieved and maintained to insure the security of this Nation.

(c) The Congress further declares that in a free society the obligations and privileges of serving in the armed forces and the reserve components thereof should be shared generally, in accordance with a system of selection which is fair and just, and which is consistent with the maintenance of an effective national economy.

(d) The Congress further declares, in accordance with our traditional military policy as expressed in the National Defense Act of 1916, as amended, that it is essential that the strength and organization of the National Guard, both Ground and Air, as an integral part of the first line defense of this Nation, be at all times maintained and assured.

To this end, it is the intent of the Congress that whenever Congress shall determine that units and organizations are needed for the national security in excess of those of the Regular components of the Ground Forces and the Air Forces, and those in active service under this title, the National Guard of the United States, both Ground and Air, or such part thereof as may be necessary, together with such units of the Reserve components as are necessary for a balanced force, shall be ordered to active Federal service and continued therein so long as such necessity exists.

(e) The Congress further declares that adequate provision for national security requires maximum effort in the fields of scientific research and development, and the fullest possible utilization of the Nation's technological, scientific, and other critical manpower resources.

Sec. 2. (Repealed)

Sec. 3. Registration.—Except as otherwise provided in this title, it shall be the duty of every male citizen of the United States, and every other male person residing in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder. The provisions of this section shall not be applicable to any alien lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status in the United States.

Sec. 4(a). Training and service in general.—Except as otherwise provided in this title, every person required to register pursuant to section 3 of this title who is between the ages of eighteen years and six months and twenty-six years, at the time fixed for his registration, or who attains the age of eighteen years and six months after having been required to register pursuant to section 3 of this title, or who is otherwise liable as provided in section 6(h) of this title, shall be liable for training and service in the Armed Forces of the United States: *Provided,* That each registrant shall be immediately liable for classification and examination, and shall, as soon as practicable following his registration, be so classified and examined, both physically and mentally, in order to determine his availability for induction for training and service in the Armed Forces: *Provided further,* That, notwithstanding any other provision of law, any registrant who has failed or refused to report for induction shall continue to remain liable for induction and when available shall be immediately inducted. The President is authorized, from time to time, whether or not a state of war exists, to select and induct into the Armed Forces of the United States for training and service in the manner provided in this title (including but not limited to selection and induction by age group or age groups) such number of persons as may be required to provide and maintain the strength of the Armed Forces.

At such time as the period of active service in the Armed Forces required under this title of persons who have not attained the nineteenth anniversary of the day of their birth has been reduced or eliminated pursuant to the provisions of section 4(k) of this title, and except as otherwise provided in this title, every person who is required to register under this title and who has not attained the nineteenth anniversary of the day of his birth on the date such period of active service is reduced or eliminated or who is otherwise liable as provided in section 6(h) of this title, shall be liable for training in the National Security Training Corps: *Provided,* That persons deferred under the provisions of section 6 of this title shall not be relieved from liability for induction into the National Security Training Corps solely by reason of having exceeded the age of nineteen years during the period of such deferment. The President is authorized, from time to time, whether or not a state of war exists, to select and induct for training in the National Security Training Corps as hereinafter provided such number of persons as may be required to further the purposes of this title.

No person shall be inducted into the Armed Forces for training and service or shall be inducted for training in the National Security Training Corps under this title until his acceptability in all respects, including his physical and mental fitness, has been satisfactorily determined under standards prescribed by the Secretary of Defense: *Provided,* That the minimum standards for physical acceptability established pursuant to this subsection shall not be higher than those applied to persons inducted between the ages of 18 and 26 in January 1945: *Provided further,* That the passing requirement for the Armed Forces Qualification Test shall be fixed at a percentile score of 10 points: *And provided further,* That except in time of war or national emergency declared by the Congress the standards and requirements fixed by the preceding two provisos may be modified by the President under such rules and regulations as he may prescribe.

No persons shall be inducted for such training and service until adequate provision shall have been made for such shelter, sanitary facilities, water supplies, heating and lighting arrangements, medical care, and hospital accommodations for such persons as may be determined by the Secretary of Defense or the Secretary of Transportation to be essential to the public and personal health.

The persons inducted into the Armed Forces for training and service under this title shall be assigned to stations or units of such forces. Persons inducted into the land forces of the United States pursuant to this title shall be deemed to be members of the Army of the United States; persons inducted into the naval forces of the United States pursuant to this title shall be deemed to be members of the United States Navy or the United States Marine Corps or the United States Coast Guard, as appropriate and persons inducted into the air forces of the United States pursuant to this title shall be deemed to be members of the Air Force of the United States.

Every person inducted into the Armed Forces pursuant to the authority of this subsection after the date of enactment of the 1951 Amendments to the Universal Military Training and Service Act shall, following his induction, be given full and adequate military training for service in the armed force into which he is inducted for a period of not less than four months, and no such person shall, during this four months period, be assigned for duty at any installation located on land outside the United States, its Territories and possessions (including the Canal Zone): *Provided,* That no funds appropriated by the Congress shall be used for the purpose of transporting or maintaining in violation of the provisions of this paragraph any person inducted into, or enlisted, appointed, or ordered to active duty in, the Armed Forces under the provisions of this title.

No person in the medical, dental, and allied specialist categories shall be inducted under the provisions of this subsection if he applies or has applied for an appointment as a Reserve officer in one of the Armed Forces in any of such categories and is or has been rejected for such appointment on the sole ground of a physical disqualification.

No person, without his consent, shall be inducted for training and service in the Armed Forces or for training in the National Security Training Corps under this title, except as otherwise provided herein, after he has attained the twenty-sixth anniversary of the day of his birth.

(b) Length of service.—Each person inducted into the Armed Forces under the provisions of subsection (a) of this section shall serve on active training and service for a period of twenty-four consecutive months, unless sooner released, transferred, or discharged in accordance with procedures prescribed by the Secretary of Defense (or the Secretary of Transporation with respect to the United States Coast Guard) or as otherwise prescribed by subsection (d) of section 4 of this title. The Secretaries of the Army, Navy, and Air Force, with the approval of the Secretary of Defense (and the Secretary of Transportation with respect to the United States Coast Guard), may provide, by regulations which shall be as nearly uniform as practicable, for the release from training and service in the armed forces prior to serving the periods required by this subsection of individuals who volunteered for and are accepted into organized units of the Army National Guard and Air National Guard and other reserve components.

(c) Enlistment; Reservists' active duty; Volunteers for induction; N.S.T.C.—(1) Under the provisions of applicable laws and regulations any person between the ages of eighteen years and six months and twenty-six years shall be offered an opportunity to enlist in the regular army for a period of service equal to that prescribed in subsection (b) of this section: *Provided,* That, notwithstanding the provisions of this or any other Act, any person so enlisting shall not have his enlistment extended without his consent until after a declaration of war or national emergency by the Congress after the date of enactment of the 1951 amendments to the Universal Military Training and Service Act.

(2) Any enlisted member of any reserve component of the Armed Forces may, during the effective period of this Act, apply for a period of service equal to that prescribed in subsection (b) of this section and his application shall be accepted: *Provided,* That his services can be effectively utilized and that his physical and mental fitness for such service meet the standards prescribed by the head of the department concerned: *Provided further,* That active service performed pursuant to this section shall not prejudice his status as such member of such reserve component: *And provided further,* That any person who was a member of a reserve component on June 25, 1950, and who thereafter continued to serve satisfactorily in such reserve component, shall, if his application for active duty made pursuant to this paragraph is denied, be deferred from induction under this title until such time as he is ordered to active duty or ceases to serve satisfactorily in such reserve component.

(3) Within the limits of the quota determined under section 5(b) for the subdivision in which he resides, any person, between the ages of eighteen and twenty-six, shall be afforded an opportunity to volunteer for induction into the Armed Forces of the United States for the training and service prescribed in subsection (b), but no person who so volunteers shall be inducted for such training and service so long as he is deferred after classification.

(4) Within the limits of the quota determined under section 5(b) for the subdivision in which he resides, any person after attaining the age of seventeen shall with the written consent of his parents or guardian be afforded an opportunity to volunteer for induction into the Armed Forces of the United States for the training and service prescribed in subsection (b).

(5) Within the limits of the quota determined under section 5(b) for the subdivision in which he resides, at such time as induction into the National Security Training Corps is authorized pursuant to the provisions of this title, any person after attaining the age of seventeen shall with the written consent of his parents or guardian be afforded an opportunity to volunteer for induction into the National Security Training Corps for the training prescribed in subsection (k) of section 4 of this title.

(*d*) *Transfer to Reserves; N.S.T.C.*—(1) Each person who hereafter and prior to the enactment of the 1951 Amendments to the Universal Military Training and Service Act is inducted, enlisted, or appointed and serves for a period of less than three years in one of the armed forces and meets the qualifications for enlistment or appointment in a reserve component of the armed force in which he serves, shall be transferred to a reserve component of such armed force, and until the expiration of a period of five years after such transfer, or until he is discharged from such reserve component, whichever occurs first, shall be deemed to be a member of such reserve component and shall be subject to such additional training and service as may now or hereafter be prescribed by law for such reserve component: *Provided,* That any such person who completes at least twenty-one months of service in the armed forces and who thereafter serves satisfactorily (1) on active duty in the armed forces under a voluntary extension for a period of at least one year, which extension is hereby authorized, or (2) in an organized unit of any reserve component of any of the armed forces for a period of at least thirty-six consecutive months, shall, except in time of war or national emergency declared by the Congress, be relieved from any further liability under this subsection to serve in any reserve component of the Armed Forces of the United States, but nothing in this subsection shall be construed to prevent any such person, while in a reserve component of such forces, from being ordered or called to active duty in such forces.

(2) Each person who hereafter and prior to the enactment of the 1951 Amendments to the Universal Military Training and Service Act is enlisted under the provisions of subsection (g) of this section and who meets the qualifications for enlistment or appointment in a reserve component of the armed forces shall, upon discharge from such enlistment under honorable conditions, be transferred to a reserve component of the armed forces of the United States and shall serve therein for a period of six years or until sooner discharged. Each such person shall, so long as he is a member of such reserve component, be liable to be ordered to active duty, but except in time of war or national emergency declared by the Congress no such person shall be ordered to active duty, without his consent and except as hereinafter provided, for more than one month in any year. In case the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force determines that enlistment, enrollment, or appointment in, or assignment to, an organized unit of a reserve component or an officers' training program of the armed force in which he served is available to, and can without undue hardship be filled by, any such person, it shall be the duty of such person to enlist, enroll, or accept appointment in, or accept assignment to, such organized unit or officers' training program and to serve satisfactorily therein for a period of four years. Any such person who fails or refuses to perform such duty may be ordered to active duty, without his consent, for an additional period of not more than twelve consecutive months. Any such person who enlists or accepts appointment in any such organized unit and serves satisfactorily therein for a period of four years shall, except in time of war or national emergency declared by the Congress, be relieved from any further liability under this subsection to serve in any reserve component of the armed forces of the United States, but nothing in this subsection shall be construed to prevent any such person, while in a reserve component of such forces, from being ordered or called to active duty in such forces. The Secretary of Defense is authorized to prescribe regulations governing the transfer of such persons within and between reserve components of the armed forces and determining, for the purpose of the requirements of the foregoing provisions of this paragraph, the credit to be allowed any person so transferring for his previous service in one or more reserve components.

(3) Each person who, subsequent to June 19, 1951, and on or before August 9, 1955, is inducted, enlisted, or appointed, under any provision of law, in the Armed Forces, including the reserve components thereof, or in the National Security Training Corps, prior to attaining the twenty-sixth anniversary of his birth, shall be required to serve on active training and service in the Armed Forces or in training in the National Security Training Corps, and in a reserve component, for a total period of eight years, unless sooner discharged on the grounds of personal hardship, in accordance with regulations and standards prescribed by the Secretary of Defense (or the Secretary of Transportation with respect to the United States Coast Guard). Each such person, on release from active training and service in the Armed Forces or from training in the National Security Training Corps, if physically and mentally qualified, shall be transferred to a reserve component of the Armed Forces, and shall serve therein for the remainder of the period which he is required to serve under this paragraph and shall be deemed to be a member of the reserve component during that period. If the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, or the Secretary of Transportation with respect to the United States Coast Guard, determines that enlistment, enrollment, or appointment in, or assignment to, an organized unit of a reserve component or an officers' training program of the armed force in which he served is available to, and can, without undue personal hardship, be filled by such a person, that person shall enlist, enroll, or accept appointment in, or accept assignment to, the organized unit or officers' training program, and serve satisfactorily therein.

(e) Pay and allowances.—With respect to the persons inducted for training and service under this title there shall be paid, allowed, and extended the same pay, allowances, pensions, disability and death compensation, and other benefits as are provided by law in the case of other enlisted men of like grades and length of service of that component of the armed forces to which they are assigned. Section 3 of the Act of July 25, 1947 (Public Law 239, Eightieth Congress), is hereby amended by deleting therefrom the following: "Act of March 7, 1942 (56 Stat. 143–148, ch. 166), as amended". The Act of March 7, 1942 (56 Stat. 143–148), as amended, is hereby made applicable to persons inducted into the armed forces pursuant to this title.

(f) Civilian compensation.—Notwithstanding any other provision of law, any person who is inducted into the armed forces under this Act and who before being inducted into the armed forces under this Act and who before being inducted, was receiving compensation from any person may, while serving under that induction, receive compensation from that person.

(g) National Security Council—The National Security Council shall periodically advise the Director of the Selective Service System and coordinate with him the work of such State and local volunteer advisory committees which the Director of Selective Service may establish, with respect to the identification, selection, and deferment of needed professional and scientific personnel and those engaged in, and preparing for, critical skills and other essential occupations. In the performance of its duties under this subsection the National Security Council shall consider the needs of both the Armed Forces and the civilian segment of the population.

(h) (Repealed)

(i) (Terminated)

(j) National Advisory Committee, Medical.—The President shall establish a National Advisory Committee which shall advise the Selective Service System and shall coordinate the work of such State and local volunteer advisory committees as may be established to cooperate with the National Advisory Committee, with respect to the selection of needed medical and dental and allied specialist categories of persons. The members of the National Advisory Committee shall be selected from among individuals who are outstanding in medicine, dentistry, and the sciences allied thereto, but except for the professions of medicine and dentistry, it shall not be mandatory that all such fields of endeavor be represented on the committee.

In the performance of these functions, the National Advisory Committee and the State and local volunteer advisory committees shall give appropriate consideration to the respective needs of the Armed Forces and of the civilian population for the services of medical, dental, and allied specialist personnel; and, in determining the medical, dental, and allied specialist personnel available to serve the needs of any community, such committees shall give appropriate consideration to the availability in such community of medical, dental, and allied specialist personnel who have attained the thirty-fifth anniversary of their birth.

It shall be the duty of the National Advisory Committee in conjunction with the State and local volunteer advisory committees to make determinations with respect to persons in residency training programs who shall be recommended for deferment for the purpose of completing such residency programs, and in making such determinations shall give appropriate consideration to the respective needs of the Armed Forces and the civilian population. The National Advisory Committee in conjunction with the State and local volunteer advisory committees are further authorized to make appropriate recommendations with respect to members of the faculties of medical, dental, veterinary, and allied specialists schools, schools of public health, and with respect to physician, dentists and veterinarians engaged in essential laboratory and clinical research, having due regard to the respective needs of the Armed Forces and the civilian population.

(k) Decrease in period of service; Operation of National Security Training Commission and Corps.—(1) Upon a finding by him that such action is justified by the strength of the Armed Forces in the light of international conditions, the President, upon recommendation of the Secretary of Defense, is authorized, by Executive order, which shall be uniform in its application to all persons inducted under this title but which may vary as to age groups, to provide for (A) decreasing periods of service under this title but in no case to a lesser period of time than can be economically utilized, or (B) eliminating periods of service required under this title.

(2) Whenever the Congress shall be concurrent resolution declare—

(A) that the period of active service required of any age group or groups of persons inducted under this title should be decreased to any period less than twenty-four months which may be designated in such resolution; or

(B) that the period of active service required of any age group or groups of persons inducted under this title should be eliminated,

the period of active service in the Armed Forces of the age group or groups designated in any such resolution shall be so decreased or eliminated, as the case may be. Whenever the period of active service required under this title of persons who have not attained the nineteenth anniversary of the day of their birth has been reduced or eliminated by the President or as a result of the adoption of a concurrent resolution of the Congress in accordance with the foregoing provisions of this section, all individuals then or thereafter liable for registration under this title who on that date have not attained the nineteenth anniversary of the day of their birth and have not been inducted into the Armed Forces shall be liable, effective on such date, for induction into the National Security Training Corps as hereinafter established for initial military training for a period of six months.

(3) There is hereby established a National Security Training Commission (herein called the Commission), which shall be composed of five members, three of whom shall be civilians and two of whom shall be active or retired members of the Regular components of any of the Armed Forces. Of the three civilian members, not more than two shall be of the same political party. Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate, from among persons of outstanding national reputation. The President shall select the Chairman of the Commission from among its civilian members. No person who has been on active duty as a commissioned officer in a regular component of the Armed Forces shall be eligible for appointment as a civilian member of the Commission. The Commission shall have a seal which shall be judicially noted. At such time as the Commission shall be appointed, in accordance with this paragraph, there shall be established a National Security Training Corps.

(4) The term of office of each member of the Commission shall be five years, except that (A) the terms of office of the members first taking office shall expire, as designated by the President at the time of appointment, two at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years, after the date of enactment of this paragraph; and (B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. Members of the Commission, other than active members of the Regular components of the Armed Forces, while actually serving with the Commission, shall receive a per diem of not to exceed $50 for each day engaged in the business of the Commission and shall be allowed transportation and a per diem in lieu of subsistence of $9 while away from their homes or places of business pursuant to such business.

(5) The Commission shall, subject to the direction of the President, exercise general supervision over the training of the National Security Training Corps, which training shall be basic military training. The Commission shall establish such policies and standards with respect to the conduct of the training of members of the National Security Training Corps as are necessary to carry out the purposes of this Act. The Commission shall make adequate provisions for the moral and spiritual welfare of members of the National Security Training Corps. The Secretary of Defense shall designate the military departments to carry out such training. Each military department so designated shall carry out such military training in accordance with the policies and standards of the Commission. The military department or departments so designated to carry out such military training shall, subject to the approval of the Secretary of Defense, and subject to the policies and standards established by the Commission, determine the type or types of basic military training to be given to members of the National Security Training Corps.

(6) The Commission is authorized, subject to the civil-service laws and the Classification Act of 1949, to employ and fix the compensation of such officers and employees as it deems necessary to enable it to perform its functions.

(7) Not later than four months following confirmation of the members of the Commission, the Commission shall submit to the Congress legislative recommendations which shall include, but not be limited to—

(A) a broad outline for a program deemed by the Commission and approved by the Secretary of Defense to be appropriate to assure that the training carried out under the provisions of this Act shall be of a military nature, but nothing contained in this paragraph shall be construed to grant to the Commission the authority to prescribe the basic type or types of military training to be given members of the National Security Training Corps:

(B) measures for the personal safety, health, welfare and morals of members of the National Security Training Corps;

(C) a code of conduct, together with penalties for violation thereof;

(D) measures deemed necessary to implement the policies and standards established under the provisions of paragraph (5) of this subsection; and

(E) disability and death benefits and other benefits, and the obligations, duties, liabilities, and responsibilities, to be granted to or imposed upon members of the National Security Training Corps.

All legislative recommendations submitted under this paragraph shall be referred to the Committees on Armed Services of the two Houses, and each of such committees shall, not later than the expiration of the first period of 45 calendar days, of continuous sessions of the Congress, following the date on which the recommendations provided for in this paragraph are transmitted to the Congress, report thereon to its House: *Provided,* That any bill or resolution reported with respect to such recommendations shall be privileged and may be called up by any member of either House but shall be subject to amendment as if it were not so privileged.

(8) No person shall be inducted into the National Security Training Corps until after—

(A) a code of conduct, together with penalties for violation thereof, and measures providing for disability and death benefits have been enacted into law; and

(B) such other legislative recommendations as are provided for in paragraph (7) shall have been considered and such recommendations or any portion thereof shall have been enacted with or without amendments into law; and

(C) the period of service required under this title of persons who have not attained the nineteenth anniversary of the day of their birth has been reduced or eliminated by the President or as a result of the adoption of a concurrent resolution of the Congress in accordance with paragraph (2) of this subsection.

(9) Six months following the commencement of induction of persons into the National Security Training Corps, and semiannually thereafter, the Commission shall submit to the Congress a comprehensive report describing in detail the operation of the National Security Training Corps, including the number of persons inducted therein, a list of camps and stations at which training is being conducted, a report on the number of deaths and injuries occurring during such training and the causes thereof, an estimate of the performance of the persons inducted therein, including an analysis of the disciplinary problems encountered during the preceding six months, the number of civilian employees of the Commission and the administrative costs of the Commission. Simultaneously, there shall be submitted to the Congress by the Secretary of Defense a report setting forth an estimate of the value of the training conducted during the preceding six months, the cost of the training program chargeable to the appropriations made to the Department of Defense, and the number of personnel of the Armed Forces directly engaged in the conduct of such training.

(10) Each person inducted into the National Security Training Corps shall be compensated at the monthly rate of $30: *Provided, however*, That each such person, having a dependent or dependents as such terms are defined in the Career Compensation Act of 1949, shall be entitled to receive a dependency allowance equal to the sum of the basic allowance for quarters provided for persons in pay grade E-1 by section 302(f) of the Career Compensation Act of 1949 as amended by section 3 of the Dependents' Assistance Act of 1950 as may be extended plus $40 so long as such person has in effect an allotment equal to the amount of such dependency allowance for the support of the dependent or dependents on whose account the allowance is claimed.

(11) No person inducted into the National Security Training Corps shall be assigned for training at an installation located on land outside the continental United States, except that residents of Territories and possessions of the United States may be trained in the Territory or possession from which they were inducted.

(1) Active duty and commissions of medical, dental, and allied specialists.—(1) The President may order to active duty (other than for training), as defined in section 101(22) of title 10, United States Code, for a period of not more than twenty-four consecutive months, with or without his consent, any member of a reserve component of the Armed Forces of the United States who is in a medical, dental, or allied specialist category, who has not attained the thirty-fifth anniversary of the date of his birth, and has not performed at least one year of active duty (other than for training). This subsection does not affect or limit the authority to order members of the reserve components to active duty contained in section 672 of title 10, United States Code.

(2) For the purposes of computation of the periods of active duty (other than for training) referred to in subsection (1), credit shall be given for all periods of one day or more performed under competent orders, except that no credit shall be allowed for periods spent in student programs prior to receipt of the appropriate professional degree or in intern training.

(3) Any person who is called or ordered to active duty (other than for training) from a reserve components of the Armed Forces of the United States after September 5, 1950, and thereafter serves on active duty (other than for training) as a medical, dental, or allied specialist for a period of twelve months or more shall, upon release from active duty or within six months thereafter, be afforded an opportunity to resign his commission from the reserve component of which he is a member unless he is otherwise obligated to serve on active military training and service in the Armed Forces or in training in a reserve component by law or contract.

(4) Any physician or dentist who meets the qualifications for a Reserve Commission in the respective military department shall, so long as there is a need for the services of such a physician or dentist, be afforded an opportunity to volunteer for a period of active duty (other than for training) of not less than twenty-four months. Any physician or dentist who so volunteers his service, and meets the qualifications for a Reserve commission shall be ordered to active duty (other than for training) for not less than twenty-four months, notwithstanding the grade or rank to which such physician or dentist is entitled.

Sec. 5. (a) Selection.—(1) The selection of persons for training and service under section 4 shall be made in an impartial manner, under such rules and regulations as the President may prescribe, from the persons who are liable for such training and service and who at the time of selection are registered and classified, but not deferred or exempted: *Provided*, That in the selection of persons for training and service under this title, and in the interpretation and execution of the provisions of this title, there shall be no discrimination against any person on account of race or color: *Provided further*, That in the classification of registrants within the jurisdiction of any local board, the registrants of any particular registration may be classified, in the manner prescribed by and in accordance with rules and regulations prescribed by the President, before, together with, or after the registrants of any prior registration or registrations; and in the selection for induction of persons within the jurisdiction of any local board and within any particular classification, persons who were registered at any particular registration may be selected, in the manner prescribed by and in accordance with rules and regulations prescribed by the President, before, together with, or after persons who were registered at any prior registration or registrations: *Provided further*, That nothing herein shall be construed to prohibit the President, under such rules and regulations as he may prescribe, from providing for the selection or induction of persons qualified in needed medical, dental, or allied specialist categories pursuant to requisitions submitted by the Secretary of Defense: *And provided further*, That notwithstanding any other provision of law, except section 314 of the Immigration and Nationality Act (8 U.S.C. 1425), no person who is qualified in a needed medical, dental, or allied specialist category, and who is liable for induction under section 4 of this title, shall be held to be ineligible for appointment as a commissioned officer of an Armed Force of the United States on the sole ground that he is not a citizen of the United States or has not made a declaration of intent to become a citizen thereof, and any such person who is not a citizen of the United States and who is appointed as a commissioned officer may, in lieu of the oath prescribed by section 1757 of the Revised Statutes, as amended (5 U.S.C. 16), take such oath of service and obedience as the Secretary of Defense may prescribe: *And provided further*, That—

(1) No local board shall order for induction for training and service in the Armed Forces of the United States any person who has not attained the age of nineteen unless there is not within the jurisdiction of such local board a sufficient number of persons who are deemed by such local board to be available for induction and who have attained the age of nineteen to enable such local board to meet a call for men which it has been ordered to furnish for induction.

(2) no local board shall order for induction for training and service in the Armed Forces of the United States any person who has not attained the age of nineteen, if there is any person within the jurisdiction of such local board who (i) is as much as ninety days older, (ii) has not attained the age of nineteen, and (iii) is deemed by the local board to be available for induction; and

(3) no local board shall order for induction for training and service in the Armed Forces of the United States an alien unless such alien shall have resided in the United States for one year.

(2) Repealed by Public Law 91-124.

(b) Quotas.—Quotas of men to be inducted for training and service under this title shall be determined for each State, Territory, possession, and the District of Columbia, and for subdivisions thereof, on the basis of the actual number of men in the several States, Territories, possessions, and the District of Columbia, and the subdivisions thereof, who are liable for such training and service but who are not deferred after classification, except that credits shall be given in fixing such quotas for residents of such subdivisions who are in the Armed Forces of the United States on the date fixed for determining such quotas. After such quotas are fixed, credits shall be given in filling such quotas for residents of such subdivisions who subsequently become members of such forces. Until the actual numbers necessary for determining the quotas are known, the quotas may be based on estimates, and subsequent adjustments therein shall be made when such actual numbers are known. All computations under this subsection shall be made in acordance with such rules and regulations as the President may prescribe.

(c) Grade or rank in Armed Forces of medical, dental, and allied specialists.—Notwithstanding any other provision of law, any qualified person who—

(1) is liable for induction; or

(2) as a member of a Reserve component is ordered to active duty,

as a physician, or dentist, or in an allied specialist category in the Armed Forces of the United States, shall, under regulations prescribed by the President, be appointed, reappointed, or promoted to such grade or rank as may be commensurate with his professional education, experience, or ability: *Provided*, That any person in a needed medical, dental, or allied specialist category who fails to qualify for, or who does not accept, a commission, or whose commission has been terminated, may be used in his professional capacity in an enlisted grade.

(d) Whenever the President has provided for the selection of persons for training and service in accordance with random selection under subsection (a) of this section, calls for induction may be placed under such rules and regulations as he may prescribe, notwithstanding the provisions of subsection (b) of this section.

(e) Notwithstanding any other provision of this Act, not more than 130,000 persons may be inducted into the Armed Forces under this Act in the fiscal year ending June 30, 1972, and not more than 140,000 in the fiscal year ending June 30, 1973, unless a number greater than that authorized in this subsection for such fiscal year or years is authorized by a law enacted after the date of enactment of this subsection.

Sec. 6(a) Exemptions from registration and service.—(1) Commissioned officers, warrant officers, pay clerks, enlisted men, and

aviation cadets of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, and the Environmental Science Services Administration; cadets, United States Military Academy midshipmen, United States Naval Academy; cadets, United States Air Force Academy; cadets, United States Coast Guard Academy; midshipmen, Merchant Marine Reserve, United States Naval Reserves; students enrolled in an officer procurement program at military colleges the curriculum of which is approved by the Secretary of Defense; members of the reserve components of the Armed Forces, and the Coast Guard, while on active duty; and foreign diplomatic representatives, technical attachés of foreign embassies and legations, consuls general, consuls, vice consuls and other consular agents of foreign countries who are not citizens of the United States, and members of their families, and persons in other categories to be specified by the President who are not citizens of the United States, shall not be required to be registered under section 3 and shall be relieved from liability for training and service under section 4, except that aliens admitted for permanent residence in the United States shall not be so exempted:

***Provided,* That any alien lawfully admitted for permanent residence as defined in paragraph (20) of section 101(a) of the Immigration and Nationality Act, as amended (66 Stat. 163, 8 U.S.C. 1101), and who by reason of occupational status is subject to adjustment to non-immigrant status under paragraph (15)(A), (15)(E), or (15)(G) of such section 101(a) but who executes a waiver in accordance with section 247(b) of that Act of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status, shall be subject to registration under section 3 of this Act, but shall be deferred from induction for training and service for so long as such occupational status continues.**

Any person who subsequent to June 24, 1948, serves on active duty for a period of not less than twelve months in the armed forces of a nation with which the United States is associated in mutual defense activities as defined by the President, may be exempted from training and service, but not from registration, in accordance with regulations prescribed by the President, except that no such exemption shall be granted to any person who is a national of a country which does not grant reciprocal privileges to citizens of the United States: *Provided,* That any active duty performed prior to June 24, 1948, by a person in the armed forces of a country allied with the United States during World War II and with which the United States is associated in such mutual defense activities, shall be credited in the computation of such twelve-month period: *Provided further,* That any person who is in a medical, dental, or allied specialist category not otherwise deferred or exempted under this subsection shall be liable for registration and training and service until the thirty-fifth anniversary of the date of his birth.

(2) Commissioned officers of the Public Health Service and members of the Reserve of the Public Health Service while on active duty and assigned to staff the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or assigned to the Coast Guard, the Bureau of Prisons, Department of Justice, or the Environmental Science Services Administration shall not be required to be registered under section 3 and shall be relieved from liability for training and service under section 4. Notwithstanding the preceding sentence, commissioned officers of the Public Health Service and members of the Reserve of the Public Health Service who, prior to the enactment of this paragraph, had been detailed or assigned to duty other than that specified in the preceding sentence shall not be required to be registered under section 3 and shall be relieved from liability for training and service under section 4.

(b) Veterans' exemptions.—(1) No person who served honorably on active duty between September 16, 1940, and the date of enactment of this title for a period of twelve months or more, or between December 7, 1941, and September 2, 1945, for a period in excess of ninety days, in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, the Public Health Service, or the armed forces of any country allied with the United States in World War II prior to September 2, 1945, shall be liable for induction for training and service under this title, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title.

(2) No person who served honorably on active duty between September 16, 1940, and the date of enactment of this title for a period of ninety days or more but less than twelve months in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, the Public Health Service, or the armed forces of any country allied with the United States in World War II prior to September 2, 1945, shall be liable for induction for training and service under this title, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title, if—

(A) the local board determines that he is regularly enlisted or commissioned in any organized unit of a reserve component of the armed force in which he served, provided such unit is reasonably accessible to such person without unduly interrupting his normal pursuits and activities (including attendance at a college or university in which he is regularly enrolled), or in a reserve component (other than in an organized unit) of such armed force in any case in which enlistment or commission in an organized unit of a reserve component of such armed force is not available to him; or

(B) the local board determines that enlistment or commission in a reserve component of such armed force is not available to him or that he has voluntarily enlisted or accepted appointment in an organized unit of a reserve component of an armed force other than the armed force in which he served.

Nothing in this paragraph shall be deemed to be applicable to any person to whom paragraph (1) of this subsection is applicable.

(3) Except as provided in section 5(a) of this Act, and notwithstanding any other provision of this Act, no person who (A) has served honorably on active duty after September 16, 1940, for a period of not less than one year in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard, or (B) subsequent to September 16, 1940, was discharged for the convenience of the Government after having served honorably on active duty for a period of not less than six months in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard, or (C) has served for a period of not less than twenty-four months (i) as a commissioned officer in the Public Health Service or (ii) as a commissioned officer in the Coast and Geodetic Survey, shall be liable for induction for training and service under this Act, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title.

(4) No person who is honorably discharged upon the completion of an enlistment pursuant to section 4(c) shall be liable for induction for training and service under this title, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title.

(5) For the purposes of computation of the periods of active duty referred to in paragraphs (1), (2), or (3) of this subsection, no credit shall be allowed for—

(A) periods of active duty training performed as a member of a reserve component pursuant to an order to call to active duty solely for training purposes;

(B) periods of active duty in which the service consisted solely of training under the Army specialized training program, the Army Air Force college training program, or any similar program under the jurisdiction of the Navy, Marine Corps, or Coast Guard;

(C) periods of active duty as a cadet at the United States Military Academy or United States Coast Guard Academy, as or a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any of such academies;

(D) periods of active duty in any of the armed forces while being processed for entry into or separation from any educational program or institution referred to in paragraphs (B) or (C); or

(E) periods of active duty performed by medical, dental, or allied specialists in student programs prior to receipt of the appropriate professional degree or in intern training.

(c) Reserve components exemptions.—(1) Persons who, on February 1, 1951, were members of organized units of the federally recognized National Guard, the federally recognized Air National Guard, the Officers' Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, the Coast Guard Reserve, or the Public Health Service Reserve, shall, so long as they continue to be such members and satisfactorily participate in scheduled drills and training periods as prescribed by the Secretary of Defense, be exempt from training and service by induction under the provisions of this title, but shall not be exempt from registration unless on active duty.

(2)(A) Any person, other than a person referred to in subsection (d) of this section, who—

(i) prior to the issuance of orders for him to report for induction; or

(ii) prior to the date scheduled for his induction and pursuant to a proclamation by the Governor of a State to the effect that the authorized strength of any organized unit of the National Guard of that State cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction under this title; or

(iii) prior to the date scheduled for his induction and pursuant to a determination by the President that the strength of the Ready Reserve of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction, under this title;

enlists or accepts appointment, before attaining the age of 26 years, in the Ready Reserve of any Reserve component of the Armed Forces, the Army National Guard, or the Air National Guard, shall be deferred from training and service under this title so long as he serves satisfactorily as a member of an organized unit of such Reserve or National Guard in accordance with section 270 of title 10 or section 502 of title 32, United States Code, as the case may be, or satisfactorily performs such other Ready Reserve service as may be prescribed by the Secretary of Defense. Enlistments or appointments under subparagraphs (ii) and (iii) of this clause may be accepted notwithstanding the provisions of section 15(d) of this title. Notwithstanding the provisions of subsection (h) of this section, no person deferred under this clause who has completed six years of such satisfactory service as a member of the Ready Reserve or National Guard, and who during such service has performed active duty for training with an armed force for not less than four consecutive months, shall be liable for induction for training and service under this Act, except after a declaration of war or national emergency made by the Congress after August 9, 1955. In no event shall the number of enlistments or appointments made under authority of this paragraph in any fiscal year in any Reserve component of the Armed Forces or in the Army National Guard or the Air National Guard cause the personnel strength of such Reserve component or the Army National Guard or the Air National Guard, as the case may be, to exceed the personnel strength for which funds have been made available by the Congress for such fiscal year.

(B) A person who, under the provision of law, is exempt or deferred from training and service under this Act by reason of membership in a reserve component, the Army National Guard, or the Air National Guard, as the case may be, shall, if he becomes a member of another reserve component, the Army National Guard, or the Air National Guard, as the case may be, continue to be exempt or deferred to the same extent as if he had not become a member of another reserve component, the Army National Guard, or the Air National Guard, as the case may be, so long as he continues to serve satisfactorily.

(C) Except as provided in subsection (b) and the provisions of this subsection, no person who becomes a member of a reserve component after February 1, 1951, shall thereby be exempt from registration or training and service by induction under the provisions of this Act.

(D) Notwithstanding any other provision of this Act, the President, under such rules and regulations as he may prescribe, may provide that any person enlisted or appointed after October 4, 1961, in the Ready Reserve of any reserve component of the Armed Forces (other than under section 511(b) of title 10, United States Code), the Army National Guard, or the Air National Guard, prior to attaining age of twenty-six years, or any person enlisted or appointed in the Army National Guard or the Air National Guard or enlisted in the Ready Reserve of any reserve component prior to attaining the age of eighteen years and six months and deferred under the prior provisions of this paragraph as amended by the Act of October 4, 1961, Public Law 87-378 (75 Stat. 807), or under section 262 of the Armed Forces Reserve Act of 1952, as amended, who fails to serve satisfactorily during his obligated period of service as a member of such Ready Reserve or National Guard or the Ready Reserve of another reserve component or the National Guard of which he becomes a member, may be selected for training and service and inducted into the armed force of which such reserve component is a part, prior to the selection and induction of other persons liable therefor.

(d) Officers' training; Deferment of students authorized.—(1) Within such numbers as may be prescribed by the Secretary of Defense, any person who (A) has been or may hereafter be selected for enrollment or continuance in the senior division, Reserve Officers' Training Corps, or the Air Reserve Officers' Training Corp, or the Naval Reserve Officers' Training Corps, or the naval and Marine Corps officer candidate training program established by the Act of August 13, 1946 (60 Stat. 1057), as amended, or the Reserve officers' candidate program of the Navy, or the platoon leaders' class of the Marine Corps, or the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or appointed an ensign, United States Naval Reserve, while undergoing professional training; (B) agrees, in writing, to accept a commission, if tendered, and to serve, subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the United States Coast Guard) not less than two years on active duty after receipt of a commission; and (C) agrees to remain a member of a regular or reserve component until the eighth anniversary of the receipt of a commission in accordance with his obligation under the first sentence of section 651 of title 10, United States Code, or until the sixth anniversary of the receipt of a commission in accordance with his obligation under the second sentence of section 651 of title 10, United States Code, shall be deferred from induction under this title until after completion or termination of the course of instrucion and so long as he continues in a regular or reserve status upon being commissioned, but shall not be exempt from registration. Such persons, except those persons who have previously completed an initial period of military training or an equivalent period of active military training and service, shall be required while enrolled in such program to complete a period of training equal (as determined under regulations approved by the Secretary of Defense or the Secretary of Transportation with respect to the United States Coast Guard) in duration and type of training to an initial period of military training. There shall be added to the obligated active commissioned service of any person who has agreed to perform such obligatory service in return for financial assistance while attending a civilian college under any such training program a period of not to exceed one year. Except as provided in paragraph (5), upon the successful completion by any person of the required course of instruction under any program listed in clause (A) of the first sentence of this paragraph, such person shall be tendered a commission in the appropriate reserve component of the Armed Forces if he is otherwise qualified for such appointment.

If, at the time of, or subsequent to, such appointment, the armed forces in which such person is commissioned does not require his service on active duty in fulfillment of the obligation undertaken by him in compliance with clause (B) of the first sentence of this paragraph, such person shall be ordered to active duty for training with such armed force in the grade in which he was commissioned for a period of active duty for training of not less than three months or more than six months (not including duty performed under section 270(a) of title 10 (United States Code), as determined by the Secretary of the military department concerned to be necessary to qualify such person for a mobilization assignment. Upon being commissioned and assigned to a reserve component, such person shall be required to serve therein, or in a reserve component of any other armed force in which he is later appointed, until the eighth anniversary of the receipt of such commission pursuant to the provisions of this section. So long as such person performs satisfactory service, as determined under regulations prescribed by the Secretary of Defense, he shall be deferred from training and service under the provisions of this Act. If such person fails to perform satisfactory service, and such failure is not excused under regulations prescribed by the Secretary of Defense, his commission may be revoked by the Secretary of the military department concerned.

(2) In addition to the training programs enumerated in paragraph (1) of this subsection, and under such regulations as the Secretary of Defense (or the Secretary of the Treasury with respect to the United States Coast Guard) may approve, the Secretaries of the military departments and the Secretary of the Treasury are authorized to establish officer candidate programs leading to the commissioning of persons on active duty. Any person heretofore or hereafter enlisted in the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, or the Coast Guard Reserve who thereafter has been or may be commissioned therein upon graduation from an Officers' Candidate School of such Armed Force shall, if not ordered to active duty as a commissioned officer, be deferred from training and service under the provisions of this Act so long as he performs satisfactory service as a commissioned officer in an appropriate unit of the Ready Reserve, as determined under regulations prescribed by the Secretary of the department concerned. If such person fails to perform satisfactory service in such unit, and such failure is not excused under such regulations, his commission may be revoked by such Secretary.

(3) Nothing in this subsection shall be deemed to preclude the President from providing, by regulations prescribed under subsection (h) of this section, for the deferment from training and service of any category or categories of students for such periods of time as he may deem appropriate.

(4) It is the sense of the Congress that the President shall provide for the annual deferment from training and service under this title of the numbers of optometry students and premedical, preosteopathic, preveterinary, preoptometry, and predental students at least equal to the numbers of male optometry, premedical, preosteopathic, preveterinary, preoptometry, and predental students at colleges and universities in the United States at the present levels as determined by the Director herein.

(5) Notwithstanding paragraph (1), upon the successful completion by any person of the required course of instruction under any Reserve Officers' Training Corps program listed in clause (A) of the first sentence of paragraph (1) and subect to the approval of the Secretary of the military department having jurisdiction over him, such person may, without being relieved of his obligation under that sentence, be tendered, and accept, a commission in the National Oceanic and Atmospheric Administration instead of a commission in the appropriate reserve component of the Armed Forces. If he does not serve on active duty as a commissioned Officer of the National Oceanic and Atmospheric Administration for at least six years, he shall, upon discharge therefrom, be tendered a commission in the appropriate reserve component of the Armed Forces, if he is otherwise qualified for such appointment, and, in fulfillment of his obligation under the first sentence of paragraph (1), remain a member of a reserve component until the sixth anniversary of the receipt of his commission in the National Oceanic and Atmospheric Administration. While a member of a reserve component he may, in addition to as otherwise provided by law, be ordered to active duty for such period that, when added to the period he served on active duty as a commissioned officer of the Environmental Science Services Administration, equals two years.

(e) Aviation cadet applicants.—Fully qualified and accepted aviation cadet applicants of the Army, Navy, or Air Force who have signed an agreement of service shall, in such numbers as may be designated by the Secretary of Defense, be deferred, during the period covered by the agreement but not to exceed four months from induction for training and service under this title but shall not be exempt from registration.

(f) Officials.—The Vice President of the United States; the governors of the several States, Territories, and possessions, and all other officials chosen by the voters of the entire State, Territory, or possession; members of the legislative bodies of the United

States and of the several States, Territories, and possessions; judges of the courts of record of the United States and of the several States, Territories, possessions, and the District of Columbia shall, while holding offices, be deferred from training and service under this title in the armed forces of the United States.

(g) Ministers of religion.—(1) Regular or duly ordained ministers of religion as defined in this title, shall be exempt from training and service, but not from registration, under this title.

(2) Students preparing for the ministry under the direction of recognized churches or religious organizations, who are satisfactorily pursuing full-time courses of instruction in recognized theological or divinity schools, or who are satisfactorily pursuing full-time courses of instruction leading to their entrance into recognized theological or divinity schools in which they have been preenrolled, shall be deferred from training and service, but not from registration, under this title. Persons who are or may be deferred under the provisions of this subsection shall remain liable for training and service in the Armed Forces under the provisions of section 4(a) of this Act until the thirty-fifth anniversary of the date of their birth. The foregoing sentence shall not be construed to prevent the exemption or continued deferment of such persons if otherwise exempted or deferrable under any other provisions of this Act.

(h) Deferment for occupations, dependency, fitness; extended liability; criteria—Except as otherwise provided in this subsection the President is authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service in the Armed Forces of any or all categories of persons whose employment in industry, agriculture, or other occupations or employment, or whose continued service in an Office (other than an Office described in subsection (f)) under the United States or any State, territory, or possession, or the District of Columbia, or whose activity in study, research, or medical, dental, veterinary, optometric, osteopathic, scientific, pharmaceutical, chiropractic, chiropodial, or other endeavors is found to be necessary to the maintenance of the national health, safety, or interest: *Provided*, That no person within any such category shall be deferred except upon the basis of his individual status: *Provided further*, That persons who are or may be deferred under the provisions of this section shall remain liable for training and service in the Armed Forces under the provisions of section 4(a) of this Act until the thirty-fifth anniversary of the date of their birth. This proviso shall not be construed to prevent the continued deferment of such persons if otherwise deferrable under any other provisions of this Act. The President is also authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service in the Armed Forces (1) of any or all categories of persons in a status with respect to persons (other than wives alone, except in cases of extreme hardship) dependent upon them for support which renders their deferment advisable, and (2) of any or all categories of those persons found to be physically, mentally, or morally deficient or defective. For the purpose of determining whether or not the deferment of any person is advisable, because of his status with respect to persons dependent upon him for support, any payments of allowances which are payable by the United States to the dependents of persons serving in the Armed Forces of the United States shall be taken into consideration, but the fact that such payments of allowances are payable shall not be deemed conclusively to remove the grounds for deferment when the dependency is based upon financial considerations and shall not be deemed to remove the ground for deferment when the dependency is based upon other than financial considerations and cannot be eliminated by financial assistance to the dependents.

Except as otherwise provided in this subsection, the President is also authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service in the Armed Forces of any or all categories of persons who have children, or wives and children, with whom they maintain a bona fide family relationship in their homes. No deferment from such training and service in the Armed Forces shall be made in the case of any individual except upon the basis of the status of such individual. There shall be posted in a conspicuous place at the office of each local board a list setting forth the names and classifications of those persons who have been classified by such local board. The President may, in carrying out the provisions of this title, recommend criteria for the classification of persons subject to induction under this title, and to the extent that such action is determined by the President to be consistent with the national interest, recommend that such criteria be administered uniformly throughout the United States whenever practicable; except that no local board, appeal board, or other agency of appeal of the Selective Service System shall be required to postpone or defer any person by reason of his activity in study, research, or medical, dental, veterinary, optometric, osteopathic, scientific, pharmaceutical, chiropractic, chiropodial, or other endeavors found to be necessary to the maintenance of the national health, safety, or interest solely on the basis of any test, examination, selection system, class standing, or any other means conducted, sponsored, administered, or prepared by any agency or department of the Federal Government, or any private institution, corporation, association, partnership, or individual employed by an agency or department of the Federal Government.

(i) Deferment of students.—(1) Any person who is satisfactorily pursuing a full-time course of instruction at a high school or similar institution of learning and is issued an order for induction shall, upon the facts being presented to the local board, have his induction postponed (A) until the time of his graduation therefrom, or (B) until he attains the twentieth anniversary of his birth, or (C) until he ceases satisfactorily to pursue such course of instruction, whichever is the earliest. Notwithstanding the preceding sentence, any person who attains the twentieth anniversary of his birth after beginning his last academic year of high school shall have his induction postponed until the end of that academic year if and so long as he continues to pursue satisfactorily a full-time course of instruction.

(2) Any person who while satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution is ordered to report for induction under this title, shall, upon the appropriate facts being presented to the local board, have his induction postponed (A) until the end of the semester or term, or academic year in the case of his last academic year, or (B) until he ceases satisfactorily to pursue such course of instruction, whichever is the earlier.

(j) Conscientious objectors.—Nothing contained in this title shall be construed to require any person to be subjected to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. As used in this subsection, the term "religious training and beliefs" does not include essentially political, sociological, or philosophical views, or a merely personal moral code. Any person claiming exemption from combatant training and service because of such conscientious objections whose claim is sustained by the local board shall, if he is inducted into the armed forces under this title, be assigned to noncombatant service as defined by the President, or shall, if he is found to be conscientiously opposed to participation in such noncombatant service, in lieu of such induction, be ordered by his local board, subject to such regulations as the President may prescribe, to perform for a period equal to the period prescribed in section 4(b) such civilian work contributing to the maintenance of the national health, safety, or interest as the Director may deem appropriate and any such person who knowingly fails or neglects to obey any such order from his local board shall be deemed, for the purposes of section 12 of this title, to have knowingly failed or neglected to perform a duty required of him under this title.

The Director shall be responsible for finding civilian work for persons exempted from training and service under this subsection and for the placement of such persons in appropriate civilian work contributing to the maintenance of the national health, safety, or interest.

(k) Duration of exemption or deferment.—No exception from registration, or exemption or deferment from training and service, under this title, shall continue after the cause therefor ceases to exist.

(l) Minority discharges.—Notwithstanding any other provisions of law, no person between the ages of eighteen and twenty-one shall be discharged from service in the armed forces of the United States while this title is in effect because such person entered such service without the consent of his parent or guardian.

(m) Moral standards.—No person shall be relieved from training and service under this title by reason of conviction of a criminal offense, except where the offense of which he has been convicted may be punished by death, or by imprisonment for a term exceeding one year.

(n) Appeals; Occupational deferments.—In the case of any registrant whose principal place of employment is located outside the appeal board area in which the local board having jurisdiction over the registrant is located, any occupational deferment made under subsection (h) of this section may, within five days after such deferment is made, be submitted for review and decision to the appeal board having jurisdiction over the area in which is located the principal place of employment of the registrant. Such decision of the appeal board shall be final unless modified or changed by the President, and such decision shall be made public.

(o) Except during the period of a war or a national emergency declared by Congress, no person may be inducted for training and service under this title unless he volunteers for such induction—

"(1) if the father or a brother or a sister of such person was killed in action or died in line of duty while serving in the Armed Forces after December 31, 1959, or died subsequent to such date as a result of injuries received or disease incurred in line of duty during such service, or

"(2) during any period of time in which the father or a brother or a sister of such person is in a captured or missing status as a result of such service.

As used in this subsection, the term 'brother' or 'sister' means a brother of the whole blood or a sister of the whole blood, as the case may be."

Sec. 7. (Repealed)

Sec. 8. Bounties; Substitutes; Purchases of release.—No bounty may be paid to induce any person to be inducted into an armed force. A clothing allowance authorized by law is not a bounty for the purposes of this section. No person liable for training and service under this Act may furnish a substitute for that training or service. No person may be enlisted, inducted, or appointed in an armed force as a substitute for another. No person liable for training and service under section 4 may escape that training and service or be discharged before the end of his period of training and service by paying money or any other valuable thing as consideration for his release from that training and service or liability therefor.

Sec. 9. Reemployment.—(a) Any person inducted into the armed forces under this title for training and service, who, in the judgment of those in authority over him, satisfactorily completes his period of training and service under section 4 (b) shall be entitled to a certificate to that effect upon the completion of such period of training and service, which shall include a record of any special proficiency or merit attained. In addition, each such person who is inducted into the armed forces under this title for training and service shall be given a physical examination at the beginning of such training and service, and upon the completion of his period of training and service under this title, each such person shall be given another physical examination and, upon his written request, shall be given a statement of physical condition by the Secretary concerned: *Provided,* That such statement shall not contain any reference to mental or other conditions which in the judgment of the Secretary concerned would prove injurious to the physical or mental health of the person to whom it pertains: *Provided further,* That, if upon completion of training and service under this title, such person continues on active duty without an interruption of more than seventy-two hours as a member of the Armed Forces of the United States, a physical examination upon completion of such training and service shall not be required unless it is requested by such person, or the medical authorities of the Armed Force concerned determine that the physical examination is warranted.

(b) In the case of any such person who, in order to perform such training and service, has left or leaves a position (other than a temporary position) in the employ of any employer and who (1) receives such certificate, and (2) makes application for reemployment within ninety days after he is relieved from such training and service or from hospitalization continuing after discharge for a period of not more than one year—

(A) if such position was in the employ of the United States Government, its Territories, or possessions, or political subdivisions thereof, or the District of Columbia, such person shall—

(i) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform the duties of any other position in the employ of the employer, be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case;

(B) if such position was in the employ of a private employer, such person shall—

(i) if still qualified to perform the duties of such position, be restored by such employer or his successor in interest to such position or to a position of like sensiority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform the duties of any other position in the employ of such employer or his successor in interest, be restored by such employer or his successor in interest to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case, unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so;

(C) if such position was in the employ of any State or political subdivision thereof, it is hereby declared to be the sense of the Congress that such person should—

(i) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform the duties or any other position in the employ of the employer, be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case.

(c) (1) Any person who is restored to a position in accordance with the provisions of paragraph (A) or (B) of subsection (b) shall be considered as having been on furlough or leave of absence during his period of training and service in the armed forces, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was inducted into such forces, and shall not be discharged from such position without cause within one year after such restoration.

(2) It is hereby declared to be the sense of the Congress that any person who is restored to a position in accordance with the provisions of paragraph (A) or (B) of subsection (b) should be so restored in such manner as to give him such status in his employment as he would have enjoyed if he had continued in such employment continuously from the time of his entering the armed forces until the time of his restoration to such employment.

(3) Any person who holds a position described in paragraph (A) or (B) of subsection (b) shall not be denied retention in employment or any promotion or other incident or advantage of employment because of any obligation as a member of a reserve component of the Armed Forces of the United States.

(d) In case any private employer fails or refuses to comply with the provisions of subsection (b), subsection (c)(1), subsection (c)(3), or subsection (g) the district court of the United States for the district in which such private employer maintains a place of business shall have power, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of such provisions, specifically to require such employer to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action: *Provided,* That any such compensation shall to . . . and shall not be deemed to diminish any of the benefits of such provisions. The court shall order speedy hearing in any such case and shall advance it on the calendar. Upon application to the United States Attorney or comparable official for the district in which such private employer maintains a place of business, by any person claiming to be entitled to the benefits of such provisions, such United States Attorney or official, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of any motion, petition, or other appropriate pleading and the prosecution thereof specifically to require such employer to comply with such provisions: *Provided,* That no fees or court costs shall be taxed against any person who may apply for such benefits: *Provided further,* That only the employer shall be deemed a necessary party respondent to any such action.

(e) (1) Any person who is entitled to be restored to a position in accordance with the provisions of paragraph (A) of subsection (b) and who was employed, immediately before entering the armed forces, by any agency in the executive branch of the Government or by any Territory or possession, or political subdivision thereof, or by the District of Columbia, shall be so restored by such agency or the successor to its functions, or by such Territory, possession, political subdivision, or the District of Columbia. In any case in which, upon appeal of any person who was employed immediately before entering the armed forces by any agency in the executive branch of the Government or by the District of Columbia, the United States Civil Service Commission finds that—

(A) such agency is no longer in existence and its functions have not been transferred to any other agency; or

(B) for any reason it is not feasible for such person to be restored to employment by such agency or by the District of Columbia.

the Commission shall determine whether or not there is a position in any other agency in the executive branch of the Government or in the government of the District of Columbia for which such person is qualified and which is either vacant or held by a person having a temporary apopintment thereto. In any case in which the Commission determines that there is such a position, such person shall be restored to such position by the agency in which such position exists or by the government of the District of Columbia, as the case may be. The Commission is authorized and directed to issue regulations giving full force and effect to the provisions of this section insofar as they relate to persons entitled to be restored to positions in the executive branch of the Government or in the government of the District of Columbia, including persons entitled to be restored under the last sentence of paragraph (2) of this subsection. The agencies in the executive branch of the Government and the government of the District of Columbia shall comply with such rules and regulations and orders issued by the Commission pursuant to this subsection. The Commission is authorized and directed whenever it finds, upon appeal of the person concerned, that any agency in the executive branch of the Government or the government of the District of Columbia has failed or refuses to comply with the provisions of this section, to issue an order specifically requiring such agency or the government of the District of Columbia to comply with such provisions and to compensate such person for any loss of salary or wages suffered by reason of failure to comply with such provisions, less any amounts received by him through other employment, unemployment compensation, or readustment allowances: *Provided,* That any such compensation ordered to be paid by the Commission shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions, and shall be paid by the head of the agency concerned or by the government of the District of Columbia out of appropriations currently available for salary and expenses of such agency or government, and such appropriations shall be available for such purpose. As used in this paragraph, the term "agency in the executive branch of the Government" means any department, independent establishment, agency, or corporation in the executive branch of the United States Government.

(2) Any person who is entitled to be restored to a position in accordance with the provisions of paragraph (A) of subsection (b), and who was employed, immediately before entering the armed forces, in the legislative branch of the Governnment, shall be so restored by the officer who appointed him to the position which he held immediately before entering the armed forces. In any case in which it is not possible for any such person to be restored to a position in the legislative branch of the Government and he is otherwise eligible to acquire a status for transfer to a position in the classified (competitive) civil service in accordance with section 2(b) of the Act of November 26, 1940 (54 Stat. 1212), the United States Civil Service Commission shall, upon appeal of such person, determine whether or not there is a position in the executive branch of the Government for which he is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the Commission determine that there is such a position, such person shall be restored to such position by the agency in which such position exists.

(3) Any person who is entitled to be restored to a position in accordance with the provisions of paragraph (A) of subsection (b) and who was employed, immediately before entering the armed forces, in the judicial branch of the Government, shall be so restored by the officer who appointed him to the position which he held immediately before entering the armed forces.

(f) In any case in which two or more persons who are entitled to be restored to a position under the provisions of this section or of any other law relating to similar reemployment benefits left the same position in order to enter the armed forces, the person who left such position first shall have the prior right to be restored thereto, without prejudice to the reemployment rights of the other person or persons to be restored.

(g) (1) Any person who, after entering the employment to which he claims restoration, enlists in the Armed Forces of the United States (other than in a reserve component) shall be entitled upon release from service under honorable conditions to all the reemployment rights and other benefits provided for by this section in the case of persons inducted under the provisions of this title, if the total of his service performed between June 24, 1948, and August 1, 1961, did not exceed four years, and the total of any service, additional or otherwise performed by him after August 1, 1961, does not exceed five years, provided that the service in excess of four years after August 1, 1961, is at the request and for the convenience of the Federal Government (plus in each case any period of additional service imposed pursuant to law).

(2) (A) Any person who, after entering the employment to which he claims restoration enters upon active duty (other than for the purpose of determining his physical fitness and other than for training), whether or not voluntarily, in the Armed Forces of the United States or the Public Health Service in response to an order or call to active duty shall, upon his relief from active duty under honorable conditions, be entitled to all of the reemployment rights and benefits provided by this section in the case of persons inducted under the provisions of this title, if the total of such active duty performed between June 24, 1948, and August 1, 1961, did not exceed four years, and the total of any such active duty, additional or otherwise, performed after August 1, 1961, does not exceed four years (plus in each case any additional period in which he was unable to obtain orders relieving him from active duty).

(B) Any member of a Reserve component of the Armed Forces of the United States who voluntarily or involuntarily enters upon active duty (other than for the purpose of determining his physical fitness and other than for training) or whose active duty is voluntarily or involuntarily extended during a period when the President is authorized to order units of the Ready Reserve or members of a Reserve component to active duty shall have the service limitation governing eligibility for reemployment rights under paragraph (2) (A) of this subsection extended by his period of such active duty, but not to exceed that period of active duty to which the President is authorized to order units of the Ready Reserve or members of a Reserve component: *Provided*, That with respect to a member who voluntarily enters upon active duty or whose active duty is voluntarily extended the provisions of this paragraph shall apply only when such additional active duty is at the request and for the convenience of the Federal Government.

(3) Any member of a reserve component of of the Armed Forces of the United States who is ordered to an initial period of active duty for training of not less than three consecutive months shall, upon application for reemployment within thirty-one days after (A) his release from that active duty for training after satisfactory service, or (B) his discharge from hospitalization incident to that active duty for training, or one year after his scheduled release from that training, whichever is earlier, be entitled to all reemployment rights and benefits provided by this section for persons inducted under the provisions of this title, except that (A) any person restored to a position in accordance with the provisions of this paragraph shall not be discharged from such position without cause within six months after that restoration, and (B) no reemployment rights granted by this paragraph shall entitle any person to retention, preference, or displacement rights over any veteran with a superior claim under the Veterans' Preference Act of 1944, as amended (5 U.S.C. 851 and the following).

(4) Any employee not covered by paragraph (3) of this subsection who holds a position described in paragraph (A) or (B) of subsection (b) of this section shall upon request be granted a leave of absence by his employer for the period required to perform active duty for training or inactive duty training in the Armed Forces of the United States. Upon his release from a period of such active duty for training or inactive duty training, or upon his discharge from hospitalization incident to that training, such employee shall be permitted to return to his position with such seniority, status, pay, and vacation as he would have had if he had not been absent for such purposes. He shall report for work at the beginning of his next regularly scheduled working period after expiration of the last calendar day necessary to travel from the place of training to the place of employment following his release, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control. Failure to report for work at such next regularly scheduled working period shall make the employee subject to the conduct rules of the employer pertaining to explanations and discipline with respect to absence from scheduled work. If that employee is hospitalized incident to active duty for training or inactive duty training, he shall be required to report for work at the beginning of his next regularly scheduled work period after expiration of the time necessary to travel from the place of discharge from hospitalization to the place of employment, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control, or within one year after his release from active duty for training or inactive duty training, whichever is earlier. If an employee covered by this paragraph is not qualified to perform the duties of his position by reason of disability sustained during active duty for training or inactive duty training, but is qualified to perform the duties of any other position in the employ of the employer or his successor in interest, he shall be restored by that employer or his successor in interest to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case.

(5) Any employee not covered by paragraph (3) of this subsection who holds a position described in paragraph (A) or (B) of subsection (b) of this section shall be considered as having been on leave of absence during the period required to report for the purpose of being inducted into, entering or determining by a preinduction or other examination his physical fitness to enter the Armed Forces of the United States. Upon his rejection, upon completion of his preinduction or other examination, or upon his discharge from hospitalization incident to that rejection or examination, such employee shall be permitted to return to his position in accordance with the provisions of paragraph (4) of this subsection.

(6) For the purposes of paragraph (3) and (4), full-time training or other full-time duty performed by a member of the National Guard under section 316, 503, 504, or 505 of title 32, United States Code, is considered active duty for training; and for the purpose of paragraph (4), inactive duty training performed by that member under section 502 of title 32, or section 301 of title 37, United States Code, is considered inactive duty training.

(h) The Secretary of Labor, through the Bureau of Veterans' Reemployment Rights, shall render aid in the replacement in their former positions of persons who have satisfactorily completed any period of active duty in the armed forces of the United States or the Public Health Service. In rendering such aid, the Secretary shall use the then existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.

(1) Right to vote; Poll tax.—Any person inducted into the armed forces for training and service under this title shall, during the period of such service, be permitted to vote in person or by absentee ballot in any general, special, or primary election occurring in the State of which he is a resident, whether he is within or outside such State at the time of such election, if under the laws of such State he is otherwise entitled to vote in such election; but nothing in this subsection shall be construed to require granting to any such person a leave of absence or furlough for longer than one day in order to permit him to vote in person in any such election. No person inducted into, or enlisted in, the armed forces for training and service under this title shall, during the period of such service, as a condition of voting in any election for President, Vice President, electors for President or Vice President, or for Senator or Member fo the House of Representatives, be required to pay any poll tax or other tax or make any other payment to any State or political subdivision thereof.

(j) Reports of separation.—The Secretaries of Army, Navy, Air Force, or Transportation shall furnish to the Selective Service System hereafter established a report of separation for each person separated from active duty.

Sec. 10(a) Selective Service System; O.S.S.R.—(1) There is hereby established in the executive branch of the Government an agency to be known as the Selective Service System, and a Director of Selective Service who shall be the head thereof.

(2) The Selective Service System shall include a national headquarters, at least one State headquarters in each State, Territory, and possession of the United States, and in

the District of Columbia, and the local boards, appeal boards, and other agencies provided for in subsection (b)(3) of this section.

(3) The Director shall be appointed by the President, by and with the advice and consent of the Senate.

(4) The functions of the Office of Selective Service Records (established by the Act of March 31, 1947) and of the Director of the Office of Selective Service Records are hereby transferred to the Selective Service System and the Director of Selective Service, respectively. The personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Office of Selective Service Records are hereby transferred to the Selective Service System. The Office of Selective Service Records shall cease to exist upon the taking of effect of the provisions of this title: *Provided,* That, effective upon the termination of this title and notwithstanding such termination in other respects, (A) the said Office of Selective Service Records is hereby reestablished on the same basis and with the same functions as obtained prior to the effective date of this title, (B) said reestablished Office shall be responsible for liquidating any other outstanding affairs of the Selective Service System, and (C) the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Selective Service System shall be transferred to such reestablished Office of Selective Service Records.

(b) Officials, employees, and boards; Printing; Paroles; Leases.—The President is authorized—

(1) to prescribe the necessary rules and regulations to carry out the provisions of this title;

(2) to appoint, upon recommendation of the respective governor or comparable executive official, a State director of the Selective Service System for each headquarters in each State, territory, and possession of the United States and for the District of Columbia, who shall represent the governor and be in immediate charge of the State headquarters of the Selective Service System: *Provided,* That no State director shall serve concurrently in an elected or appointed position of a State or local government without the approval of the Director; to employ such number of civilians, and to order to active duty with their consent and to assign to the Selective Service System such officers of the selective service section of the State headquarters and headquarters detachments and such other officers of the federally recognized National Guard of the United States or other armed forces personnel (including personnel of the reserve components thereof), as may be necessary for the administration of the national and of the several State headquarters of the Selective Service System;

(3) to create and establish within the Selective Service System civilian local boards, civilian appeal boards, and such other civilian agencies, including agencies of appeal, as may be necessary to carry out its functions with respect to the registration, examination, classification, selection, assignment, delivery for induction, and maintenance of records of persons registered under this title, together with such other duties as may be assigned under this title: *Provided,* That no person shall be disqualified from serving as a counselor to registrants, including service as Government appeal agent, because of his membership in a Reserve component of the Armed Forces. He shall create and establish one or more local boards in each county or political subdivision corresponding thereto of each State, territory, and possession of the United States, and in the District of Columbia. The local board and/or its staff shall perform their official duties only within the county or political subdivision corresponding thereto for which the local board is established, or in the case of an intercounty board, within the area for which such board is established, except that the staffs of local boards in more than one county of a State or comparable jurisdiction may be collocated or one staff may serve local boards in more than one county of a State or comparable jurisdiction, when such action is approved by the Governor or comparable executive official or officials.

Each local board shall consist of three or more members to be appointed by the President from recommendations made by the respective Governors or comparable executive officials. In making such appointments after the date of the enactment of the Act enacting this sentence, the President is requested to appoint the membership of each local board so that to the maximum extent practicable it is proportionately representative of the race and national origin of those registrants within its jurisdiction, but no action by any local board shall be declared invalid on the ground that any board failed to conform to any particular quota as to race or national origin. No citizen shall be denied membership on any local board or appeal board on account of sex. After December 31, 1971, no person shall serve on any local board or appeal board who has attained the age of 65 or who has served on any local board or appeal board for a period of more than 20 years. Notwithstanding any other provision of this paragraph, an intercounty local board consisting of at least one member from each component county or corresponding subdivision may, with the approval of the Governor or comparable executive official or officials, be established for an area not exceeding five counties or political subdivisions corresponding thereto within a State or comparable jurisdiction when the President determines, after considering the public interest involved, that the establishment of such local board area will result in a more efficient and economical operation. Any such intercounty local board shall have within its area the same power and jurisdiction as a local board has in its area. A local board may include among its members any citizen otherwise qualified under Presidential regulations, provided he is at least eighteen years of age. No member of any local board shall be a member of the Armed Forces of the United States, but each member of any local board shall be a civilian who is a citizen of the United States residing in the county or political subdivision corresponding thereto in which such local board has jurisdiction, and each intercounty local board shall have at least one member from each county or political subdivision corresponding thereto included within the intercounty local board area. Such local boards, or separate panels thereof each consisting of three or more members, shall, under rules and regulations prescribed by the President, have the power within the respective jurisdictions of such local boards to hear and determine, subject to the right of appeal to the appeal boards herein authorized, all questions or claims with respect to inclusion for, or exemption or deferment from, training and service under this title of all individuals within the jurisdiction of such local boards. The decisions of such local board shall be final except where an appeal is authorized and is taken in accordance with such rules and regulations as the President may prescribe.

There shall be not less than one appeal board located within the area of each Federal judicial district in the United States and within each territory and possession of the United States, and such additional separate panels thereof, as may be prescribed by the President. Appeal boards within the Selective Service System shall be composed of civilians who are citizens of the United States and who are not members of the armed forces. The decision of such appeal boards shall be final in cases before them on appeal unless modified or changed by the President. The President, upon appeal or upon his own motion, shall have power to determine all claims or questions with respect to inclusion for, or exemption or deferment from training and service under this title, and the determination of the President shall be final. No judicial review shall be made of the classification or processing of any registrant by local boards, appeal boards, or the President, except as a defense to a criminal prosecution instituted under section 12 of this title, after the registrant has responded either affirmatively or negatively to an order to report for induction, or for civilian work in the case of a registrant determined to be opposed to participation in war in any form: *Provided,* That such review shall go to the question of the jurisdiction herein reserved to local boards, appeal boards, and the President only when there is no basis in fact for the classification assigned to such registrant. No person who is a civilian officer, member, agent, or employee of the Office of Selective Service Records, or the Selective Service System, or of any local board or appeal board or other agency of such Office or System, shall be excepted from registration or deferred or exempted from training and service, as provided for in this title, by reason of his status as such civilian officer, member, agent, or employee;

(4) to appoint, and to fix, in accordance with the Classification Act of 1949, the compensation of such officers, agents, and employees as he may deem necessary to carry out the provisions of this title: *Provided,* That the compensation of employees of local boards and appeal boards may be fixed without regard to the Classification Act of 1949: *Provided further,* That any officer on the active or retired list of the armed forces, or any reserve component thereof with his consent, or any officer or employee of any department or agency of the United States who may be assigned or detailed to any office or position to carry out the provisions of this title (except to offices or positions on local boards or appeal boards established or created pursuant to section 10(b)(3) may serve in and perform the functions of such office or position without loss of or prejudice to his status as such officer in the Armed Forces or Reserve component thereof, or as such officer or employee in any department or agency of the United States:

Provided further, That an employee of a local board having supervisory duties with respect to other employees of one or more local boards shall be designated as the "executive secretary" of the local board or boards: *And provided further,* That the term of employment of such "executive secretary" in such position shall in no case exceed ten years except when reappointed;

(5) to utilize the services of any or all departments and any and all officers or agents of the United States, and to accept the services of all officers and agents of the several States, Territories, and possessions, and subdivisions thereof, and the District of Columbia, and of private welfare organizations, in the execution of this title;

(6) to purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies upon orders placed by the Public Printer or upon waivers issued in accordance with section 12 of the Printing Act approved January 12, 1895, as amended, and to obtain by purchase, loan, or gift such equipment and supplies for the Selective Service System, as he may deem necessary to carry out the provisions of this title, with or without advertising or forman contract;

(7) to prescribe eligibility, rules, and regulations governing the parole for service in the armed forces, or for any other special service established pursuant to this title, of any

person convicted of a violation of any of the provisions of this title;

(8) subject to the availability of funds appropriated for such purpose, to procure such space as he may deem necessary to carry out the provisions of this title and Public Law 26, Eightieth Congress, approved March 31, 1947, by lease pursuant to existing statutes, except that the provisions of the Act of June 30, 1932 (47 Stat. 412), as amended by section 15 of the Act of March 3, 1933 (47 Stat. 1517; 40 U.S.C. 278a), shall not apply to any lease entered into under the authority of this title;

(9) subject to the availability of funds appropriated for such purposes, to determine the location of such additional temporary installations as he may deem essential; to utilize and enlarge such existing installations; to construct, install, and equip, and to complete the construction, installation, and equipment of such buildings, structures, utilities, and appurtenances (including the necessary grading and removal, repair or remodeling of existing structures and installations), as may be necessary to carry out the provisions of this title; and, in order to accomplish the purpose of this title, to acquire lands, and rights pertaining thereto, or other interests therein, for temporary use thereof, by donation or lease, and to prosecute construction thereon prior to the approval of the title by the Attorney General as required by section 355, Revised Statutes, as amended;

(10) subject to the availability of funds appropriated for such purposes, to utilize, in order to provide and furnish such services as may be deemed necessary or expedient to accomplish the purposes of this title, such personnel of the armed forces and of Reserve components thereof with their consent, and such civilian personnel, as may be necessary. For the purposes of this title, the provisions of section 14 of the Federal Employees' Pay Act of 1946 (Public Law 390, Seventy-ninth Congress) with respect to the maximum limitations as to the number of civilian employees shall not be applicable to the Department of the Army, the Department of the Navy, or the Department of the Air Force.

(c) Delegation of authority.—The President is authorized to delegate any authority vested in him under this title, and to provide for the subdelegation of any such authority.

(d) Gifts.—In the administration of this title, gifts of supplies, equipment, and voluntary services may be accepted.

(e) (Repealed)

(f) Settlement of claims.—The Director is authorized to make final settlement of individual claims, for amounts not exceeding $500, for travel and other expenses of uncompensated personnel of the Office of Selective Service Records, or the Selective Service System, incurred while in the performance of official duties, without regard to other provisions of law governing the travel of civilian employees of the Federal Government.

(g) Director's report to Congress.—The Director of Selective Service shall submit to the Congress semiannually a written report covering the operation of the Selective Service System and such report shall include, by States, information as to the number of persons registered under this Act; the number of persons inducted into the military service under this Act; the number of deferments granted under this Act and the basis for such deferments; and such other specific kinds of information as the Congress may from time to time request.

(h) If at any time calls under this section for the induction of persons for training and service in the Armed Forces are discontinued because the Armed Forces are placed on an all volunteer basis for meeting their active duty manpower needs, the Selective Service System, as it is constituted on the date of the enactment of this subsection, shall, nevertheless, be maintained as an active standby organization, with (1) a complete registration and classification structure capable of immediate operation in the event of a national emergency, and (2) personnel adequate to reinstitute immediately the full operation of the System, including military reservists who are trained to operate such System and who can be ordered to active duty for such purpose in the event of a national emergency.

Sec. 11. Emergency medical care.—Under such rules and regulations as may be prescribed by the President, funds available to carry out the provisions of this title shall also be available for the payment of actual and reasonable expenses of emergency medical care, including hospitalization, of registrants who suffer illness or injury, and the transportation, and burial, of the remains of registrants who suffer death, while acting under orders issued under the provisions of this title, but such burial expenses shall not exceed the maximum that the Administrator of Veterans' Affairs may pay under the provisions of section 962(a) of title 38, United States Code, in any one case.

Sec. 12. Penalties.—(a) Any member of the Selective Service System or any other person charged as herein provided with the duty of carrying out any of the provisions of this title, or the rules or regulations made or directions given thereunder, who shall knowingly fail or neglect to perform such duty, and any person charged with such duty, or having and exercising any authority under said title, rules, regulations, or directions who shall knowingly make, or be a party to the making, of any false, improper, or incorrect registration, classification, physical or mental examination, deferment, induction, enrollment, or muster, and any person who shall knowingly make, or be a party to the making of, any false statement or certificate regarding or bearing upon a classification or in support of any request for a particular classification, for service under the provisions of this title, or rules, regulations, or directions made pursuant thereto, or who otherwise evades or refuses registration or service in the armed forces or any of the requirements of this title, or who knowingly counsels, aids, or abets another to refuse or evade registration or service in the armed forces or any of the requirements of this title, or of said rules, regulations, or directions, or who in any manner shall knowingly fail or neglect or refuse to perform any duty required of him under or in the execution of this title, or rules, regulations, or directions made pursuant to this title, or any person or persons who shall knowingly hinder or interfere or attempt to do so in any way, by force or violence or otherwise, with the administration of this title or the rules or regulations made pursuant thereto, or who conspires to commit any one or more of such offenses, shall, upon conviction in any district court of the United States of competent jurisdiction, be punished by imprisonment for not more than five years or a fine of not more than $10,000, or by both such fine and imprisonment, or if subject to military or naval law may be tried by court martial, and, on conviction, shall suffer such punishment as a court martial may direct. No person shall be tried by court martial in any case arising under this title unless such person has been actually inducted for the training and service prescribed under this title or unless he is subject to trial by court martial under laws in force prior to the enactment of this title. Precedence shall be given by courts to the trial of cases arising under this title, and such cases shall be advanced on the docket for immediate hearing, and an appeal from the decision or decree of any United States district court or United States court of appeals shall take precedence over all other cases pending before the court to which the case has been referred.

(b) Any person (1) who knowingly transfers or delivers to another, for the purpose of aiding or abetting the making of any false identification or representation, any registration certificate, alien's certificate of nonresidence, or any other certificate issued pursuant to or prescribed by the provisions of this title, or rules or regulations promulgated hereunder; or (2) who, with intent that it be used for any purpose of false identification or representation, has in his possession any such certificate not duly issued to him; or (3) who forges, alters, knowingly destroys, knowingly mutilates, or in any manner changes any such certificate or any notation duly and validy inscribed thereon; or (4) who, with intent that it be used for any purpose of false identification or representation, photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of any such certificate, or any colorable imitation thereof; or (5) who has in his possession any certificate purporting to be a certificate issued pursuant to this title, or rules and regulations promulgated hereunder, which he knows to be falsely made, reproduced, forged, counterfeited, or altered; or (6) who knowingly violates or evades any of the provisions of this title or rules and regulations promulgated pursuant thereto relating to the issuance, transfer, or possession of such certificate, shall, upon conviction, be fined not to exceed $10,000 or be imprisoned for not more than five years, or both. Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of any certificate not duly issued to him, such possession shall be deemed sufficient evidence to establish an intent to use such certificate for purposes of false identification or representation, unless the defendant explains such possession to the satisfaction of the jury.

(c) The Department of Justice shall proceed as expeditiously as possible with a prosecution under this section, or with an appeal, upon the request of the Director of Selective Service System or shall advise the House of Representatives and the Senate in writing the reasons for its failure to do so.

(d) No person shall be prosecuted, tried, or punished for evading, neglecting, or refusing to perform the duty of registering imposed by section 3 of this title unless the indictment is found within five years next after the last day before such person attains the age of twenty-six, or within five years next after the last day before such person does perform his duty to register, whichever shall first occur.

Sec. 13. Nonapplicability of certain laws.—(a) Nothing in sections 203, 205, or 207 of title 18 of the United States Code, or in the second sentence of subsection (a) of section 9 of the Act of August 2, 1939 (53 Stat. 1148), entitled "An Act to prevent pernicious political activities", as amended, shall be deemed to apply to any person because of his appointment under authority of this title or the regulations made pursuant thereto as an uncompensated official of the Selective Service System, or as an individual to conduct hearings on appeals of persons claiming exemption from combatant or noncombatant training because of conscientious objections, or as a member of the National Selective Service Appeal Board.

(b) All functions performed under this title shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) except as to the requirements of section 3 of such Act. Notwithstanding the foregoing sentence, no regulation issued under this Act shall become effective until the expiration of thirty days following the date on which such regulation has been published in the Federal Register. After the publication of any regulation and prior to the date on which such regulation becomes effective, any person shall be given an opportunity to submit his views to the Director on such regulation, but no formal hearing shall be required on any such regulation. The requirements of this subsection may be waived by the President in the case of any regulation if he (1) determines that compliance with such requirements would materially impair the national defense, and (2) gives public notice to that effect at the time such regulation is issued.

(c) In computing the lump-sum payments made to Air Force Reserve officers under the provisions of section 2 of the Act of June 16, 1936, as amended (U.S.C., title 10, sec. 300a), and to Reserve officers of the Navy or to their beneficiaries under section 12 of the Act of August 4, 1942, as amended (U.S.C., title 34, sec. 850k), no credit shall be allowed for any period of active service performed from the effective date of this title to the date on which this title shall cease to be effective. Each such lump-sum payment shall be prorated for a fractional part of a year of active service in the case of any reserve officer subject to the provisions of either such section, if such reserve officer performs continuous active service for one or more years (inclusive of such service performed during the period in which this title is effective) and such active service includes a fractional part of a year immediately prior to the effective date of this title, or immediately following the date on which this title shall cease to be effective, or both.

Sec. 14. Civil relief.—Notwithstanding the provisions of section 604 of the Act of October 17, 1940 (54 Stat. 1191), and the provisions of section 4 of the Act of July 25, 1947 (Public Law 239, Eightieth Congress), all of the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, including specifically article IV thereof, shall be applicable to all persons in the Armed Forces of the United States, including all persons inducted into the Armed Forces pursuant to this title or the Public Health Service, until such time as the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, is repealed or otherwise terminated by subsequent Act of the Congress: *Provided*, That, with respect to persons inducted into the armed forces while this title is in effect, wherever under any section or provision of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, a proceeding, remedy, privilege, stay, limitation, accounting, or other transaction has been authorized or provided with respect to military service performed while such Act is in force, such section or provision shall be deemed to continue in full force and effect so long as may be necessary to the exercise or enjoyment of such proceeding, remedy, privilege, stay, limitation, accounting, or other transaction.

Sec. 15. Notice of title; Voluntary enlistments.—(a) Every person shall be deemed to have notice of the requirements of this title upon publication by the President of a proclamation or other public notice fixing a time for any registration under section 3.

(b) It shall be the duty of every registrant to keep his local board informed as to his current address and changes in status as required by such rules and regulations as may be prescribed by the President.

(c) If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remainder of the title, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(d) Except as provided in section 4(c), nothing contained in this title shall be construed to repeal, amend, or suspend the laws now in force authorizing voluntary enlistment or reenlistment in the Armed Forces of the United States, including the reserve components thereof, except that no person shall be accepted for enlistment after he has been issued an order to report for induction unless authorized by the Director and the Secretary of Defense and except that, whenever the Congress or the President has declared that the national interest is imperiled, voluntary enlistment or reenlistment in such forces, and their reserve components, may be suspended by the President to such extent as he may deem necessary in the interest of national defense.

Sec. 16. Definitions.—When used in this title—

(a) The term "between the ages of eighteen and twenty-six" shall refer to men who have attained the eighteenth anniversary of the day of their birth and who have not attained the twenty-sixth anniversary of the day of their birth; and other terms designating different age groups shall be construed in a similar manner.

(b) The term "United States," when used in a geographical sense, shall be deemed to mean the several States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

(c) The term "armed forces" shall be deemed to include the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard.

(d) The term "district court of the United States" shall be deemed to include the courts of the United States for the Territories and possessions of the United States.

(e) The term "local board" shall be deemed to include an intercounty local board in the case of any registrant who is subject to the jurisdiction of an intercounty local board.

(f) The term "Director" shall be deemed to mean the Director of the Selective Service System.

(g) (1) The term "duly ordained minister of religion" means a person who has been ordained, in accordance with the ceremonial ritual, or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies thereof in public worship, and who as his regular and customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed or principles of such church, sect or organization.

(2) The term "regular minister of religion" means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

(3) The term "regular or duly-ordained minister of religion" does not include a person who irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or organization and does not include any person who may have been duly ordained a minister in accordance with the ceremonial rite or discipline of a church, religious sect or organization, but who does not regularly, as a bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed of principles of his church, sect or organization.

(h) The term "organized unit". when used with respect to a reserve component, shall be deemed to mean a unit in which the members thereof are required satisfactorily to participate in scheduled drills and training periods as prescribed by the Secretary of Defense.

(i) The term "reserve component of the armed forces" shall, unless the context otherwise requires, be deemed to include the federally recognized National Guard of the United States, the federally recognized Air National Guard of the United States, the Officers' Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, and the Coast Guard Reserve, and shall include, in addition to the foregoing, the Public Health Service Reserve when serving with the armed forces.

Sec. 17. Repeal of conflicting laws; Appropriations; Termination of induction.—(a) Except as provided in this title all laws or any parts of laws in conflict with the provisions of this title are hereby repealed to the extent of such conflict.

(b) There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this title. All funds appropriated for the administrative expenses of the National Security Training Commission shall be appropriated directly to the Commission and all funds appropriated to pay the expenses of training carried out by the military departments designated by the Commission shall be appropriated directly to the Department of Defense.

(c) Notwithstanding any other provisions of this title, no person shall be inducted for training and service in the Armed Forces after July 1, 1973, except persons now or hereafter deferred under section 6 of this title after the basis for such deferment ceases to exist.

Sec. 18. Utilization of industry.—(a) Whenever the President after consultation with and receiving advice from the National Security Resources Board determines that it is in the interest of the national security for the Government to obtain prompt delivery of any articles or materials the procurement of which has been authorized by the Congress exclusively for the use of the armed forces of the United States, or for the use of the Atomic Energy Commission, he is authorized, through the head of any Government agency, to place with any person operating a plant, mine, or other facility capable of producing such articles or materials an order for such quantity of such articles or materials as the President deems appropiate. Any person with whom an order is placed pursuant to the provisions of this section shall be advised that such order is placed pursuant to the provisions of this section. Under any such program of national procurement, the President shall recognize the valid claim of American small business to participate in such contracts, in such manufacturers, and in such distribution of materials, and small business shall be granted a fair share of the orders placed, exclusively for the use of the armed forces or for other Federal agencies now or hereafter designated in this section. For the purposes of this section, a business enterprise shall be determined to be "small business" if (1) its position in the trade or industry of which it is a part is not dominant, (2) the number of its employees does not exceed 500, and (3) it is independently owned and operated.

(b) It shall be the duty of any person with whom an order is placed pursuant to the provisions of subsection (a), (1) to give such order such precedence with respect to all other orders (Government or private) theretofore or thereafter placed with such person as the President may prescribe, and (2) to fill such order within the period of time prescribed by the President or as soon thereafter as possible.

(c) In case any person with whom an order is placed pursuant to the provisions of subsection (a) refuses or fails—

(1) to give such order such precedence with respect to all other orders (Govern-

ment or private) theretofore or thereafter placed with such person as the President may have prescribed;

(2) to fill such order within the period of time prescribed by the President or as soon thereafter as possible as determined by the President;

(3) to produce the kind or quality of articles or materials ordered; or

(4) to furnish the quantity, kind, and quality of articles or materials ordered at such price as shall be negotiated between such person and the Government agency concerned; or in the event of failure to negotiate a price, to furnish the quantity, kind, and quality of articles or materials ordered at such price as he may subsequently be determined to be entitled to receive under subsection (d); the President is authorized to take immediate possession of any plant, mine, or other facility of such person and to operate it, through any Government agency, for the production of such articles or materials as may be required by the Government.

(d) Fair and just compensation shall be paid by the United States (1) for any articles or materials furnished pursuant to an order placed under subsection (a), or (2) as rental for any plant, mine, or other facility of which possession is taken under subsection (c).

(e) Nothing contained in this section shall be deemed to render inapplicable to any plant, mine, or facility of which possession is taken pursuant to subsection (c) any State or Federal laws concerning the health, safety, security, or employment standards of employees.

(f) Any person, or any officer of any person as defined in this section, who willfully fails or refuses to carry out any duty imposed upon him by subsection (b) of this section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than three years, or by a fine of not more than $50,000, or by both such imprisonment and fine.

(g) (1) As used in this section—

(A) The term "person" means any individual, firm, company, association, corporation, or other form of business organization.

(B) The term "Government agency" means any department, agency, independent establishment, or corporation in the Executive branch of the United States Government.

(2) For the purposes of this section, a plant, mine, or other facility shall be deemed capable of producing any articles or materials if it is then producing or furnishing such articles or materials or if the President after consultation with and receiving advice from the National Security Resources Board determines that it can be readily converted to the production or furnishing of such articles or materials.

(h) (1) The President is empowered through the Secretary of Defense, to require all producers of steel in the United States to make available, to individuals, firms, associations, companies, corporations, or organized manufacturing industries having orders for steel production or steel materials required by the armed forces, such percentages of the steel production of such producers, in equal proportion deemed necessary for the expeditious execution of orders for such products or materials. Compliance with such requirement shall be obligatory on all such producers of steel and such requirement shall take precedence over all orders and contracts theretofore placed with such producers. If any such producers of steel or the responsible head or heads thereof refuses to comply with such requirement, the President, through the Secretary of Defense, is authorized to take immediate possession of the plant or plants of such producer and, through the appropriate branch, bureau, or department of the armed forces, to insure compliance with such requirement. Any such producer of steel or the responsible head or heads thereof refusing to comply with such requirements shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than three years and a fine not exceeding $50,000.

(2) The President shall report to the Congress on the final day of each six-month period following the date of enactment of this Act the percentage figure, or if such information is not available, the approximate percentage figure, of the total steel production in the United States required to be made available during such period for the execution of orders for steel products and steel materials required by the armed forces, if such percentage figure is in excess of 10 per centum.

Sec. 19. Saving provision.—Nothing in this title shall be deemed to amend any provision of the National Security Act of 1947 (61 Stat. 495).

Sec. 20. **Effective date.**—This title shall become effective immediately; except that unless the President, or the Congress by concurrent resolution, declares a national emergency after the date of enactment of this Act, no person shall be inducted or ordered into active service without his consent under this title within ninety days after the date of its enactment.

Sec. 21. Authority to order reserve components to active Federal service.—Until July 1, 1953, and subject to the limitations imposed by section 2 of the Selective Service Act of 1948, as amended, the President shall be authorized to order into the active military or naval service of the United States for a period of not to exceed twenty-four consecutive months, with or without their consent, any or all members and units of any or all Reserve components of the Armed Forces of the United States and retired personnel of the Regular Armed Forces. Unless he is sooner released under regulations prescribed by the Secretary of the military department concerned, any member of the inactive or volunteer reserve who served on active duty for a period of 12 months or more in any branch of the Armed Forces between the period December 7, 1941, and September 2, 1945, inclusive, who is now or may hereafter be ordered to active duty pursuant to this section, shall upon completion of 17 or more months of active duty since June 25, 1950, if he makes application therefor to the Secretary of the branch of service in which he is serving, be released from active duty and shall not thereafter be ordered to active duty for periods in excess of 30 days without his consent except in time of war or national emergency hereafter declared by the Congress: *Provided*, That the foregoing shall not apply to any member of the inactive or volunteer reserve ordered to active duty whose rating or specialty is found by the Secretary of the military department concerned to be critical and whose release to inactive duty prior to the period for which he was ordered to active duty would impair the efficiency of the military department concerned.

The President may retain the unit organizations and the equipment thereof, exclusive of the individual members thereof, in the active Federal service for a total period of five consecutive years, and upon being relieved by the appropriate Secretary from active Federal service, National Guard, or Air National Guard units, shall, insofar as practicable, be returned to their National Guard or Air National Guard status in their respective States, Territories, the District of Columbia, and Puerto Rico, with pertinent records, colors, histories, trophies, and other historical impediments.

Sec. 22. Procedural rights.—(a) It is hereby declared to be the purpose of this section to guarantee to each registrant asserting a claim before a local or appeal board, a fair hearing consistent with the informal and expeditious processing which is required by selective service cases.

(b) Pursuant to such rules and regulations as the President may prescribe—

(1) Each registrant shall be afforded the opportunity to appear in person before the local or any appeal board of the Selective Service System to testify and present evidence regarding his status.

(2) Subject to reasonable limitations on the number of witnesses and the total time allotted to each registrant, each registrant shall have the right to present witnesses on his behalf before the local board.

(3) A quorum of any local board or appeal board shall be present during the registrant's personal appearance.

(4) In the event of a decision adverse to the claim of a registrant, the local or appeal board making such decision shall, upon request, furnish to such registrant a brief written statement of the reasons for its decision.

PART 1600—MAINTENANCE OF HIGH ETHICAL AND MORAL STANDARDS OF CONDUCT BY OFFICERS AND EMPLOYEES OF THE SELECTIVE SERVICE SYSTEM

SUBPART A—GENERAL PROVISIONS

1600.735–1 Conduct Requirements in General.—(a) The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government.

(b) Employees of the Selective Service System shall conduct themselves in such a manner that the work of the System is effectively accomplished; shall be courteous, considerate, and prompt in dealing with or serving the public and shall conduct themselves in both their official and personal lives in a manner that will not bring discredit or embarassment to the Selective Service System.

(c) Employees shall observe the applicable laws and regulations governing participation in political activities; avoid any discrimination because of race, color, religion, national origin, or sex; economically utilize, protect, and conserve Federal property entrusted to them; and conduct all their official activities in a manner which is above reproach and free from any indiscretions or acceptance of gratuities or favors which would cast doubt or suspicion upon themselves or the administration of the Selective Service System.

1600.735–2 Definitions.—The following definitions shall govern in this interpretation of regulations in this part.

(a) "Employee" means an officer or employee of the Selective Service System including uncompensated persons, but does not include a special Government employee or a member of the uniformed services.

(b) "Executive order" means Executive Order 11222 of May 8, 1965.

(c) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(d) "Special Government employees" means a "special Government employee" as defined in section 202 of Title 18 of the United States Code who is employed in the executive branch, but does not include a member of the uniformed services. Excluding a person in the uniformed services, that section covers an officer or employee who is appointed or employed, with or without compensation, to perform temporary duties, either on a full-time or intermittent basis, for not more than 130 days in any period of 365 consecutive days. (For the benefit of Reserve and National Guard Officers it should be noted that under that section a Reserve or National Guard Officer, unless otherwise an officer or employee of the United States, is classified as a special Government employee while on active duty solely for training and if serving on active duty involuntarily is classified as a special Government employee during the whole period of his involuntary service. A Reserve or National Guard Officer who is involuntarily serving a period of extended active duty in excess of 130 days is classified as an officer of the United States and is subject to all of the prohibitions imposed by the conflict-of-interest laws.)

(e) "Uniformed services" has the meaning given that term by section 101(3) of Title 37 of the United States Code, which states that " 'uniformed services' means the Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Science Services Administration, and Public Health Service."

1600.735-3 Applicability to members of the uniformed services.—The Executive order applies to all officers and employees in the executive branch but the Civil Service regulations (5 CFR Part 735) and the regulations in this part do not. Separate regulations containing essentially the same provisions will be published by the agencies having jurisdiction over the members of the uniformed services.

1600.735-4 Informing employees of standards of conduct.—(a) The provisions of this part and available counseling service shall be brought to the attention of all compensated and uncompensated employees and special Government employees of the Selective Service System immediately after this part is issued and seminannually thereafter. New employees and special Government employees shall be informed thereof at the time of their appointment. A copy of this part shall be kept permanently posted on all bulletin boards and a copy shall be given to each employee and special Government employee.

(b) A presentation of "ethics in government" shall be included in orientation programs for new employees, in supervisory training courses, and in staff training conferences.

1600.735-5 Counseling service.—(a) The Director of Selective Service shall designate a counselor for the Selective Service System to serve as the designee to the Civil Service Commission on matters covered by the regulations in this part. The counselor shall be responsible for coordination of the counseling service as provided in paragraph (b) of this section and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by this part are available to deputy counselors.

(b) The Director of Selective Service shall designate deputy counselors for the Selective Service System. Deputy counselors shall give authoritative advice and guidance to each employee and special Government employee who seeks advice and guidance on questions of conflicts of interest and on other matters covered by this part.

1600.735-6 Reviewing statements and reporting conflicts of interest.—All statements of employment and financial interests submitted under section 1600.735-62 shall be forwarded to the Director of Selective Service through the counselor. The employee or special Government employee shall be given an opportunity to explain any conflict of interest or any appearance of conflict.

1600.735-7 Disciplinary and other remedial action.—(a) In addition to any penalty prescribed by law appropriate disciplinary action shall be taken or initiated by the superiors of employees and special Government employees who violate laws, rules, or regulations on conduct or fail to observe the standards of conduct prescribed in this part.

(b) When, after consideration of the explanation of the employee or special Government employee provided by section 1600.735-6, the Director of Selective Service decides that remedial action is required, he shall take immediate action to end the conflicts or appearance of conflicts of interest. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee or special Government employee of his conflicting interest;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment. Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, executive orders, and regulations.

SUBPART B—ETHICAL AND OTHER CONDUCT AND RESPONSIBILITIES OF EMPLOYEES

1600.735-20 Proscribed actions.—An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

1600.735-21 Gifts, entertainment, and favors.—(a) Employees of the Selective Service System shall not solicit or accept, directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment, or loan which is, or may appear to be, designed to in any manner influence official conduct particularly from a person who:

(1) Is seeking to obtain contractual or other business or financial relations with the Selective Service System; or

(2) Has interests that may be substantially affected by the performance or nonperformance of his duty.

No gift shall be accepted whenever the employee has any reason to believe that it would not have been made except for his official position or that the donor's private interests are likely to be affected by his actions or actions of the Selective Service System.

(b) Appropriate exceptions to paragraph (a) of this section include those that:

(1) Govern obvious family or personal relationships (such as those between the parents, children, or spouse of the employee and the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Permit acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) Permit acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(4) Permit acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(e) Neither this section nor section 1600.735-22 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967.

1600.735-22 Outside employment and other activity.—(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government.

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or this part. However, an employee shall not, neither for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Director of Selective Service gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(d) [Revoked]

(e) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law.

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

1600.735-23 Financial interests.—(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law or the provisions of this part.

1600.735-24 Use of Government property.—An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

1600.735–25 Misuse of information.—Employees shall not disclose official information without either appropriate general or specific authority under regulations of the Selective Service System, and shall not, directly or indirectly, make use of, or permit others to make use of, official information in the possession of the Selective Service System, not made available to the general public, for the purpose of furthering a private interest. Nothing in this section shall be construed as directing any employee to withhold unclassified information from the press or public. This section is intended solely to limit prior distribution of confidential information to an individual or group of individuals where the possession of such information would give the individual or individuals advantages not accorded to other citizens.

1600.735–26 Indebtedness.—An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require the agency to determine the validity or amount of the disputed debt.

1600.735–27 Gambling, betting, and lotteries.—An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

1600.735–28 General conduct prejudicial to the Government.—An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

1600.735–29 Miscellaneous statutory provisions.—Each employee shall acquaint himself with the statutes relating to his ethical and other conduct as an employee including:

(a) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service". (Appendix C to this part.)

(b) Parts of Chapter 11 of Title 18, United States Code relating to bribery, graft, and conflict of interests. (Appendix A to this part.)

(c) Other laws concerning the conduct of employees. (Appendix B to this part.)

SUBPART C—ETHICAL AND OTHER CONDUCT AND RESPONSIBILITIES OF SPECIAL GOVERNMENT EMPLOYEES

1600.735–41 Applicable regulations.—The ethical and other conduct of special Government employees shall be governed by this subpart and such other provisions of this part as may be specifically applicable.

1600.735–42 Use of Government employment.—A social Government employee shall not use his selective service employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

(a) A special Government employee shall not use inside information obtained as a result of his selective service employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this part, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) Special Government employees may teach, lecture, or write in a manner not inconsistent with section 1600.735–22 in regard to employees.

1600.735–44 Coercion.—A special Government employee shall not use his selective service employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

1600.735–45 Gifts, entertainment, and favors.—(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with his agency anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) Special Government employees are subject to such appropriate exceptions as are authorized for employees in section 1600.735–21.

1600.735–46 Miscellaneous statutory provisions.—Each special Government employee shall acquaint himself with the statutes relating to his ethical and other conduct referred to in section 1600.735–29.

SUBPART D—REGULATIONS GOVERNING STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS

1600.735–61 Form and content of statements.—The statements of employment and financial interests required under this subpart for use by employees and special Government employees shall contain the information required by the Commission in the Federal Personnel Manual.

1600.735–62 Employees required to submit statements.—Except as provided in section 1600.735–63, the Director of Selective Service shall require statements of employment and financial interests from the following:

(a) The Deputy Director of Selective Service.

(b) The Chief, Office of Public Information.

(c) The General Counsel.

(d) The Chief, Office of Legislation and Liaison.

(e) The Assistant Deputy Director for Operations.

(f) The Assistant Deputy Director for Administration.

(g) Each State Director of Selective Service.

(h) Employees paid at a level of the Executive Schedule in Subchapter II of chapter 53 of title 5, United States Code.

Other positions may be designed from time to time by the Director of Selective Service.

1600.735–62a Employee's complaint on filing requirement.—An employee required to submit a statement under the provisions of this part who believes that his position has been improperly included under section 1600.735–62 may have the decision to include the position reviewed under the Selective Service grievance procedures.

1600.735–63 Employees not required to submit statements.—A statement of employment and financial interests is not required by this subpart from an agency head, a Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, or a full-time member of a committee, board, or commission appointed by the President. These employees are subject to separate reporting requirements under section 401 of the Executive order.

1600.735–64 Time and place for submission of employees' statements.—An employee required to submit a statement of employment and financial interests under the provisions of this part shall submit that statement to the Director of Selective Service not later than:

(a) Ninety days after the effective date of this part if employed on or before that effective date.

(b) Thirty days after his entrance on duty, but not earlier than ninety days after the effective date, if appointed after the effective date.

1600.735–65 Supplementary statements.—Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of Title 18, United States Code, or Subpart B of this part.

1600.735–66 Interests of employees' relatives.—The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

1600.735–67 Information not known by employees.—If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

1600.735–68 Information prohibited.—This subpart does not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employees connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

1600.735–69 Confidentiality of employees' statements.—Each statement of employment and financial interests, and each supplementary statement, shall be held in confidence. The Director of Selective Service, or qualified employees designated by him, shall review and retain the statements. Employees so designated are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. Information from a statement may not be disclosed except as the U.S. Civil Service Commission or the Director of Selective Service may determine for good cause shown.

1600.735–70 Effect of employees' statements on other requirements.—The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohiibted by law, order, or regulation.

1600.735-71 Specific provisions for special Government employees.—(a) Each special Government employee shall submit a statement of employment and financial interests which reports:

(1) All other employment; and

(2) The financial interests of the special Government employee which the Director of Selective Service determines are relevant in the light of the duties he is to perform.

(b) The Director of Selective Service may waive the requirement of paragraph (a) of this section for the submission of a statement of employment and financial interests in the case of a special Government employee who is not a consultant or an expert when he finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(c) A statement of employment and financial interests required to be submitted under this section shall be submitted not later than the time of employment of the special Government employee as provided in the agency regulations. Each special Government employee shall keep his statement current throughout his employment with the agency by the submission of supplementary statements.

Appendix A—Bribery, Graft, and Conflict of Interest Laws

1. (a) Section 203 of Title 18 of the United States Code makes it unlawful for a Government officer or employee (including a special Government employee, as provided in paragraph 1(b) below) to, directly or indirectly, ask, receive, or agree to receive any compensation for any service rendered on behalf of another person before any department, agency, or officer of the United States in relation to any proceeding, contract, claim, or other particular matter in which the United States is a party or has a direct and substantial interest.

(b) Section 203 also makes it unlawful for a special Government employee to, directly or indirectly, ask, receive, or agree to receive any compensation for any services rendered on behalf of another person before any department, agency, or officer of the United States in relation to any proceeding, contract, claim, or other particular matter in which the United States is a party or has a direct and substantial interest (i) in which he has participated personally and substantially in the course of his Government duties or (ii) if it is pending in his department or agency and he has served therein more than 60 days in the immediately preceding period of 365 days, even though he has not participated in the matter personally and substantially.

2. (a) Under section 205 of Title 18 of the United States Code it is unlawful for a Government officer or employee, other than in the proper discharge of his official duties, (i) to act as agent or attorney for prosecuting any claim against the United States, including a claim in court, whether for compensation or not, or to receive a gratuity, or a share or interest in any such claim, for assistance in the prosecution thereof, or (ii) to act as agent or attorney for anyone else before a department, agency, or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

(b) Section 205 has a limited application to a special Government employee and makes it unlawful for him to act as agent or attorney only (i) in a matter involving a specific party or parties in which he has participated personally and substantially in his governmental capacity, and (ii) in a matter involving a specific party or parties which is before his department or agency, if he has served therein more than 60 days in the immediately preceding period of 365 days.

3. Section 207 of Title 18 of the United States Code makes it unlawful for a former officer or employee, including a former special Government employee, to act as agent or attorney for anyone other than the United States in any particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as a Government officer or employee. Section 207 also makes it unlawful for any former officer or employee for one year after his Government employment ceases to appear personally as agent or attorney for another before any court or department or agency of the Government in connection with any particular matter in which the United States is a party or is directly and substantially interested and which was within the area of his official responsibility as a Government officer or employee within one year prior to the termination of such responsibility.

4. Under section 208 of Title 18 of the United States Code it is unlawful for an officer or employee, including a special Government employee, to participate personally and substantially in any Government action, proceeding, or other particular matter in which to his knowledge, he, his spouse, minor child, or partner has a financial interest, or in which a business or nonprofit organization with which he is connected or is seeking employment has a financial interest.

5. Section 209 of Title 18 of the United States Code makes it unlawful for an officer or employee to receive, and for anyone to pay him, any salary or supplementation of salary from a private source as compensation for his services to the Government. Section 209 does not apply to a special Government employee or to anyone serving the Government without compensation, whether or not he is a special Government employee.

6. Under the provisions of section 13(a) of the Military Selective Service Act of 1967, sections 203, 205, and 207 of Title 18, United States Code, do not apply to uncompensated officers or employees of the Selective Service System or to the members of the National Selective Service Appeal Board.

Appendix B—Other Laws Concerning the Conduct of Employees

1. Section 1913 of Title 18 of the United States Code prohibits lobbying with appropriated money.

2. Section 7311 of Title 5 and section 1918 of Title 18 of the United States Code prohibits Federal employment of persons who are disloyal or assert the right to strike against the Government.

3. Section 784 of Title 50 of the United States Code prohibits the employment of a member of a Communist organization.

4. Section 798 of Title 18 of the United States Code and Section 783 of Title 50 of the United States Code prohibits the disclosure of classified information and section 1905 of Title 18 of the United States Code prohibits the disclosure of confidential information.

5. Section 7352 of Title 5 of the United States Code concerning the habitual use of intoxicants to excess.

6. Section 638a(c) of Title 31 of the United States Code prohibits the use of Government vehicles or aircraft for other than official purposes.

7. Section 1719 of Title 18 of the United States Code prohibits the use of official envelopes or labels to avoid payment of postage on private mail.

8. Section 1917 of Title 18 of the United States Code prohibits the use of deceit in an examination or personnel action in connection with Government employment.

9. Section 1001 of Title 18 of the United States Code prohibits fraud or false statements in a Government matter.

10. Sections 285 and 2071 of Title 18 of the United States Code prohibits the concealing, mutilation, destruction, or other improper use of Government documents or records.

11. Section 508 of Title 18 of the United States Code prohibits certain improper activities relating to Government transportation requests.

12. Sections 641, 643, and 654 of Title 18 of the United States Code prohibits the embezzlement of Government money or property, the failure to account for public money, and the embezzlement of the money or property of another person in the possession of an employee by reason of his employment.

13. Subchapter III of Chapter 73 of Title 5 of the United States Code and sections 602, 603, 607, and 608 of Title 18 of the United States Code prohibits certain political activities (Under section 13(a) of the Military Selective Service Act of 1967, 5 U.S.C. sections 7324-7327 do not apply to uncompensated officers and employees of the Selective Service System or to members of the National Selective Service Appeal Board).

14. Section 219 of Title 18 of the United States Code prohibits an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act.

Appendix C—House Concurrent Resolution 175, 85th Congress, Second Session

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including officeholders:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that public office is a public trust.

PART 1602—DEFINITIONS

1602.1 Definitions to Govern.—The definitions contained in section 16 of the Military Selective Service Act of 1967, and the definitions contained in this part shall govern in the interpretation of the regulations in this chapter.

1602.2 Aliens.—(a) The term "alien" means any person who is not a national of the United States.

(b) The term "national of the United States" means (1) a citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

1602.3 County.—The word "county" includes, where applicable, counties, independent cities, and similar subdivisions, such as the independent cities of Virginia, the parishes of Louisiana, and the towns of the New England States.

1602.4 Violator.—A "violator" is a person required to be registered under the selective service law who fails or neglects to perform any duty required of him under the provisions of the selective service law.

1602.5 Governor.—The word "Governor" includes, where applicable, the Governor of each of the States of the United States, the Board of Commissioners of the District of Columbia, the Governor of Puerto Rico, the Governor of the Virgin Islands, the Governor of Guam, and the Governor of the Canal Zone.

1602.6 Inducted Man.—An "inducted man" is a man who has become a member of the armed forces through the operation of the Selective Service System.

1602.7 Induction Station.—The term "induction station" refers to any camp, post, ship, or station at which registrants who have been designated by a local board to fill a call are received by the military authorities and, if found acceptable, are inducted into military service.

1602.8 Military Service.—The term "military service" includes service in the Army, the Air Force, the Navy, the Marine Corps, and the Coast Guard.

1602.9 Registrant.—Except as otherwise specifically provided, a "registrant" is a person registered under the selective service law.

1602.10 Selective Service Law.—The term "selective service law" includes the Military Selective Service Act of 1967, and all the rules and regulations issued thereunder.

1602.11 State.—The word "State" includes, where applicable, the several States of the United States, the City of New York, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Canal Zone.

1602.12 Singular and Plural.—Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular, except where the context clearly indicates otherwise.

1602.13 Continental United States.—The term "continental United States" means the District of Columbia and all of the several States of the United States except the States of Alaska and Hawaii.

1602.14 Numbers.—Cardinal numbers may be expressed by Arabic or Roman symbols.

PART 1603—SELECTIVE SERVICE PERSONNEL IN GENERAL

1603.1 Citizenship.—No person shall be appointed to any position, either compensated or uncompensated, in the Selective Service System who is not a citizen of the United States.

1603.2 Voluntary Services.—Voluntary services in the administration of the selective service law may be accepted and should be encouraged.

1603.3 Uncompensated Services.—The services of registrars (except as the Director of Selective Service may otherwise provide), members of local boards, medical advisors to the State Directors of Selective Service, advisors to registrants, and all other persons volunteering their services to assist in the administration of the selective service law shall be uncompensated, and no such person serving without compensation shall accept remuneration from any source for services rendered in connection with selective service matters.

1603.4 Oath of Office and Other Forms.—(a) Every person who undertakes to render voluntary uncompensated service in the administration of the selective service law shall, before he enters upon his duties, execute an Oath of Office and Waiver of Pay (SSS Form 400).

(b) Every person who undertakes to render compensated service in the administration of the selective service law shall execute an oath of office in the form prescribed by the United States Civil Service Commission, Standard Form 61.

(c) Compensated and uncompensated personnel appointed for duty in the Selective Service System shall execute such other forms as are required by law, Executive order of the President, the regulations of the United States Civil Service Commission, or the Director of Selective Service.

(d) When executed in the manner hereinbefore provided, the Oath of Office and Waiver of Pay (SSS Form 400) and such other forms as may be required shall be filed in accordance with instructions issued by the Director of Selective Service.

1603.5 Termination of Appointment.—The appointment of any deputy, officer, agent, employee, or other person engaged in the administration of the selective service law, whether with or without compensation, may be terminated by resignation, death, or removal, or, in appropriate cases, by transfer or retirement.

1603.6 Removal.—(a) Any person, other than a compensated civilian officer or employee, engaged in the administration of the selective service law may be removed by the Director of Selective Service. The Governor may recommend to the Director of Selective Service the removal, for cause, of any person engaged in the administration of the selective service law in his State. The Director of Selective Service shall make such investigation of the Governor's recommendation as he deems necessary and upon completion thereof shall take such action thereon as he deems proper.

(b) Any compensated civilian officer or employee engaged in the administration of the selective service law may be removed in accordance with the rules and regulations of the United States Civil Service Commission.

1603.7 Suspension.—The Director of Selective Service may suspend any deputy, officer, agent, employee, or other person engaged in the administration of the selective service law, pending his consideration of the advisability of removing any such person. Suspensions of persons entitled to veterans' preference under the Veterans' Preference Act of 1944, as amended, shall be in accordance with the regulations prescribed by the United States Civil Service Commission pursuant to the Act. During the period that any such person is suspended, he shall be disqualified to act in his official capacity.

1603.8 Vacancies.—Vacancies may be filled in accordance with instructions issued by the Director of Selective Service.

PART 1604—SELECTIVE SERVICE OFFICERS NATIONAL ADMINISTRATION

1604.1 Director of Selective Service.—The Director of Selective Service shall be responsible directly to the President. The Director of Selective Service is hereby authorized and directed:

(a) To prescribe such rules and regulations as he shall deem necessary for the administration of the Selective Service System, the conduct of its officers and employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property.

(b) To issue such public notices, orders, and instructions as shall be necessary for carrying out the functions of the Selective Service System.

(c) To obligate and authorize expenditures from funds appropriated for carrying out the functions of the Selective Service System.

(d) To appoint, and to fix, in accordance with the Classification Act of 1949, as amended, so far as applicable, the compensation of, such officers, agents, and employees as shall be necessary for carrying out the functions of the Selective Service System.

(e) To procure such space as he may deem necessary for carrying out the functions of the Selective Service System by lease pursuant to existing statutes except that the provisions of the act of June 30, 1932 (47 Stat. 412), as amended by section 15 of the act of March 3, 1933 (47 Stat. 1517; 40 U.S.C. 278a), shall not apply to any lease so entered into.

(f) To perform such other duties as shall be required of him under the selective service law or which may be delegated to him by the President.

(g) To delegate any of his authority to such officers, agents, or persons as he may designate, and to provide for the subdelegation of any such authority.

(h) To purchase such printing, binding, and blankbook work from public, commercial, or private printing establishments or binderies upon orders placed by the Public Printer or upon waivers issued in accordance with section 12 of the Printing Act approved January 12, 1895, as amended, and to obtain by purchase, loan, or gift such equipment and supplies for the Selective Service System, as he may deem necessary to carry out the functions of the Selective Service System, with or without advertising or formal contract.

1604.6 National Selective Service Appeal Board.—(a) There is hereby created and established within the Selective Service System a civilian agency of appeal which shall be known as the National Selective Service Appeal Board hereafter referred to as the National Board. The President shall appoint members of the National Board from among citizens of the United States who are not members of the Armed Forces, and he shall designate one member as Chairman of the National Board. The National Board may sit en banc or, upon the request of the Director of Selective Service or as determined by the Chairman of the National Board, in panels, each panel to consist of at least three members. The Chairman of the National Board shall designate the members of each panel, and he shall designate one member of each panel as chairman. A majority of the members of a panel shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present shall decide any question. Each panel of the National Board shall have full authority to act on all cases assigned to it. The National Board, or a panel thereof, shall hold meetings in Washington, D.C., and, upon request of the Director of Selective Service or as determined by the Chairman of the National Board at any other place.

(b) The National Board or a panel thereof is authorized and directed to perform all the functions and duties vested in the President by that sentence of section 10(b)(3) of the Military Selective Service Act, which reads as follows: "The President, upon appeal or upon his own motion, shall have power to determine all claims or questions with respect to inclusion for, or exemption or deferment from training and service under this title, and the determination of the President shall be final." The National Board, upon appeal to the President taken under

Part 1627 of these regulations, shall classify each registrant, giving consideration to the various classifications which a local board might consider, and shall give effect to the provisions of the Military Selective Service Act and the regulations promulgated thereunder, and the established policies of the Director of Selective Service.

(c) The National Board shall be in all respects independent of the Director of Selective Service except that the Director of Selective Service shall provide for the payment of the compensation and expenses of the members of the National Board, shall furnish that Board and its panels necessary personnel, suitable office space, necessary facilities and services. The Director of Selective Service shall establish the order, by category, in which appeals by registrants will be considered, but he shall not determine the sequence in which appeals within a given category shall be processed. The Director of Selective Service and the Chairman of the National Board shall furnish to each other such information, advice, and assistance as will further the attainment of the objectives of the Military Selective Service Act and promote the effective administration of the Act.

(d) Each member of the National Board shall: (1) Devote so much time to the affairs of the National Board as its responsibilities may require, (2) be compensated as provided in paragraph (e) of this section, and (3) while on the business of the National Board away from his home or regular place of business, receive actual traveling expenses and per diem in lieu of subsistence in accordance with rates established by Standardized Government Travel Regulations as amended.

(e) The compensation of each member of the National Board shall be governed by the following: (1) The member shall be compensated at an hourly rate for such time as is actually spent by him in the work of the National Board, or a panel thereof without limitation as to the number of hours compensable in any one day, (2) the member shall be compensated at an hourly rate for travel time away from his home or regular place of business while en route to or from any meeting of the National Board or while otherwise traveling on business of the National Board, but the compensable time for any trip to or from any such meeting or other business shall be limited to 8 hours, (3) duties performed on, and travel time occurring on a Saturday, Sunday, or holiday shall be compensable as if performed or occurring on any other day of the week, (4) the compensation shall be in accord with the provisions of section 5332 of title 5, United States Code, and (5) the compensable hours per week, Sunday through the following Saturday, shall not exceed 40 hours and the compensation in any pay period shall not exceed one twenty-sixth (1/26) of the governing annual rate of compensation.

STATE ADMINISTRATION

1604.11 Governor.—The Governor of each State is authorized to recommend a person to be appointed by the President as State Director of Selective Service for his State, who shall represent the Governor in all selective service matters.

1604.12 State Director of Selective Service.—Subject to the direction and control of the Director of Selective Service, the State Director of Selective Service for each State shall be in immediate charge of the State Headquarters for Selective Service and shall be responsible for carrying out the functions of the Selective Service System in his State. The State Headquarters for Selective Service shall be an office of record for selective service operations only, and no records other than selective service records shall be maintained in such office.

1604.13 State Director of Selective Service for New York City.—The Governor of the State of New York is authorized to recommend a person to be appointed by the President as State Director of Selective Service for New York City, who shall represent the Governor in all selective service matters within the City of New York. Subject to the direction and control of the Director of Selective Service, the State Director of Selective Service for New York City shall be in immediate charge of the State Headquarters for Selective Service for New York City and shall be responsible for carrying out the functions of the Selective Service System within the City of New York. The State Director of Selective Service for the State of New York shall have no jurisdiction in selective service matters within the City of New York. The State Headquarters for Selective Service for New York City shall be an office of record for selective service operations only, and no records other than selective service records shall be maintained in such office.

1604.14 Staff of State Headquarters for Selective Service.—(a) Subject to applicable law and within the limits of available funds the staff of each State Headquarters for Selective Service shall consist of as many officers, either military or civilian, as shall be authorized by the Director of Selective Service.

(b) In accordance with limitations imposed by the Director of Selective Service, the State Director of Selective Service is authorized to appoint such civilian personnel as he considers are required in the operation of the State Headquarters for Selective Service.

APPEAL BOARDS

1604.21 Area.—In the Canal Zone, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, the State of Hawaii, the State of Idaho, the State of Montana, the State of Wyoming, and each State of the United States constituting one Federal judicial district, each State Director of Selective Service shall establish one appeal board area which shall comprise the entire State or possession. In each State which is divided into two or more Federal judicial districts, except the State of New York and the City of New York, each State Director of Selective Service shall establish for each such district an appeal board area which shall comprise the entire district. The State Director of Selective Service for the State of New York shall establish for each Federal judicial district or portion thereof in that State located outside of the City of New York an appeal board area which shall comprise the entire district or portion thereof. The State Director of Selective Service for New York City shall establish for each of the Federal judicial districts located partly within the City of New York an appeal board area which shall comprise the entire portion of such district located within the City of New York.

1604.22 Composition and appointment of appeal boards.—The Director of Selective Service will prescribe the number of members for the appeal board and panels thereof for each appeal board area. The President upon recommendation of the respective Governor, shall appoint members of appeal boards from among citizens of the United States who are residents of the area for which the respective beards have jurisdiction.

1604.23 Designation.—(a) When there is one appeal board in a State the board shall be called "Appeal Board for the State of ————" and, if the appeal board consists of more than one panel, each panel shall be given the designation "Appeal Board for the State of ————, Panel No. ————", in numerical order.

(b) Except in the State of New York and in the City of New York, when there are two or more appeal boards in a State, each board shall be called "Appeal Board for the Selective Service System in the ———— Federal Judicial District of the State of ————" and, if an appeal board consists of more than one panel, each panel shall be given the designation "Appeal Board for the Selective Service System in the ———— Federal Judicial District of the State of ————, Panel No. ————", in numerical order.

(c) In the State of New York each appeal board shall be called "New York State Appeal Board for the Selective Service System in the ———— Federal Judicial District" and, if an appeal board consists of more than one panel, each panel shall be given the designation "New York State Appeal Board for the Selective Service System in the ———— Federal Judicial District, Panel No. ————", in numerical order.

(d) In the City of New York each appeal board shall be called "New York City Appeal Board for the Selective Service System in the ———— Federal Judicial District" and, if an appeal board consists of more than one panel, each panel shall be given the designation "New York City Appeal Board for the Selective Service System in the ———— Federal Judicial District, Panel No. ————", in numerical order.

1604.24 Jurisdiction.—The appeal board shall have jurisdiction to review and to affirm or change any decision appealed to it from any local board in its area or any decision appealed from any local board not in its area when such appeal is either transferred to it in the manner provided in these regulations, or is appealed to it by or on behalf of any registrant whose principal place of employment is located in its area or submitted to it in the manner required by law.

1604.25 Disqualification.—No member of an appeal board shall act on the case of a registrant who is his first cousin or closer relation, either by blood, marriage, or adoption, or who is an employer, employee, or fellow employee, or stands in the relationship of superior or subordinate in connection with any employment, or is a partner or close business associate of the member. If because of such provision, or for any other reason, an appeal board cannot act on the case of a registrant, and there is no panel of the appeal board to which the case may be transferred, the appeal board shall transmit such case to the State Director of Selective Service for transfer to another appeal board.

1604.26 Organization and Meeting.—Each appeal board or panel shall elect a chairman and a secretary. A majority of the members of an appeal board or panel when present at any meeting shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on a question or classification, the board shall postpone action until it can be decided by a majority vote. If any member is absent so long as to hamper the work of the board, the chairman of the board or panel concerned shall recommend to the State Director of Selective Service that such member be removed and a new member appointed.

1604.27 Minutes of Meetings.—Each appeal board or panel of an appeal board shall keep minutes of each of its meetings.

1604.28 Signing Official Papers.—Official papers issued by an appeal board or panel may be signed by the clerk "By direction of the Appeal Board," if he is authorized to do so by a resolution duly adopted by and entered in the minutes of such appeal board or panel, provided that the chairman or a member of an appeal board or panel must sign a particular paper when specifically required to do so by the provisions of a regulation or by an instruction issued by the Director of Selective Service.

MEDICAL ADVISORS TO THE STATE DIRECTORS OF SELECTIVE SERVICE

1604.31 Medical Advisors to the State Directors of Selective Service.—The President may appoint, upon recommendation of the Governor, from qualified physicians, one or more medical advisors to each State Director of Selective Service. It shall be the duty of such medical advisors to furnish such advice concerning the physical and mental condition of registrants as the State Director of Selective Service may require.

ADVISORS TO REGISTRANTS

1604.41 Advisors to registrants.—Advisors to registrants may be appointed by the Director of Selective Service upon recommendation of the State Director of Selective Service to advise and assist registrants in the preparation of questionnaires and other selective service forms and to advise registrants on other matters relating to their rights and liabilities under the selective service law. The names and addresses of advisors to registrants within the local board area shall be conspicuously posted in the local board office.

LOCAL BOARDS

1604.51 Areas of local board.—The State Director of Selective Service for each State shall divide his State into local board areas and establish local boards in accord with instructions of the Director of Selective Service. There shall be at least one local board in each county except where the Director of Selective Service approves the establishment of an intercounty local board. When more than one local board is established with the same geographical jurisdiction, registrants residing in that area will be assigned among the local boards as prescribed by the Director of Selective Service. The State Director of Selective Service may establish panels of local boards in accord with instructions of th Director of Selective Service.

1604.52 Composition of local boards.—The Director of Selective Service shall prescribe the number of members of local boards and intercounty local boards.

1604.53 Designation.—The State Director of Selective Service shall assign each local board and each intercounty local board within the State a specific identifying number by which it shall be known. Such identifying numbers shall be assigned in numerical sequence beginning with the numeral 1.

1604.54 Jurisdiction.—The jurisdiction of each local board shall extend to all persons registered with or subject to registration with that local board. It shall have full authority to do and perform all acts within its jurisdiction authorized by law.

1604.55 Disqualification.—(a) No member of a local board shall act on his own case or on the case of a registrant who is his first cousin or closer relation, either by blood, marriage, or adoption, or who is an employee or employer, or who is a fellow employee, or stands in the relation of superior or subordinate in connection with any employment, or is a partner or close business associate of the member. If because of this provision a majority of a local board cannot act on the case of a registrant, the local board shall request the State Director of Selective Service to designate another local board to which the registrant shall be transferred for action on his case.

(b) The local board shall be disqualified to consider the classification of any registrant who is a government appeal agent, associate government appeal agent, advisor to registrants, or employee of such local board and in each such case it shall advise the State Director of Selective Service of its disqualification. The State Director of Selective Service shall then designate another local board to classify such registrant, and the registrant shall be transferred for classification to the local board thus designated.

1604.56 Organization and Meeting.—Each local board shall elect a chairman and a secretary. A majority of the members of the local board shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on any question or classification, the board shall postpone action on the question or classification until it can be decided by a majority vote. If any member is absent so long as to hamper the work of the local board, the chairman of the local board shall recommend to the State Director of Selective Service that such member be removed and a new member appointed.

1604.57 Oath of Witnesses.—A member of the local board shall administer the following oath to every person testifying before the local board:

"You swear (or affirm) that the evidence you give in the matter now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God."

1604.58 Minutes of Meetings.—Each local board shall keep a record of each meeting of the board on Minutes of Local Board Meeting (SSS Form 112) which shall be filed by the local board as minutes of its meetings.

1604.59 Signing Official Papers.—Official papers issued by a local board may be signed by any compensated employee of the local board if he is authorized to do so by resolution duly adopted by and entered in the minutes of the meetings of the local board: *Provided,* That the chairman or a member of the local board must sign a particular paper when specifically required to do so by the Director of Selective Service.

MEDICAL ADVISORS TO THE LOCAL BOARDS

1604.61 Medical Advisors to the Local Boards.—The President may appoint for each local board, from qualified physicians recommended by the Governor, one or more medical advisors to advise the local board regarding the physical and mental condition of its registrants. The State Director of Selective Service may authorize any duly appointed medical advisor to a local board to perform such functions for any local board within the State.

1604.62 Disqualification.—No medical advisor to the local board shall advise a local board regarding the physical or mental condition of any registrant who is his first cousin or a closer relation either by blood, marriage, or adoption, or who is an employee or employer or stands in relation of superior or subordinate in connection with any employment, or is a partner or close business associate of such medical advisor to the local board.

INTERPRETERS

1604.81 Authorization and Oath.—(a) When necessary, the local board is authorized to use interpreters.

(b) The following oath shall be administered to an interpreter each time he is used by a local board:

"You swear (or affirm) that you will truly interpret in the matter now in hearing. So help you God."

PART 1605—COMPENSATED CIVILIAN EMPLOYEES

EMPLOYMENT IN GENERAL

1605.1 Appointment and Tenure.—Subject to the provisions of section 1605.31(b), and the provisions of section 10(b) (4) of the Military Selective Service Act of 1967 with respect to the tenure of Executive Secretary of Local Boards, all civilian officers and employees engaged in carrying out the functions of the Selective Service System who receive compensation from the United States for their services as such shall be appointed in accordance with the provisions of the Federal Civil Service Laws and the regulations of the U.S. Civil Service Commission issued pursuant thereto. Persons entitled to veterans' preference under the provisions of the Veterans' Preference Act of 1944 shall be given preference in employment and retention in employment.

COMPENSATION IN GENERAL

1605.11 Fixing Compensation.—(a) The compensation of all positions, with the exception of positions in local board and appeal board offices, shall be fixed in accordance with the provisions of the Federal Civil Service Laws and the regulations of the United States Civil Service Commission issued pursuant thereto.

(b) The compensation of all positions in local board and appeal board offices shall be fixed in accordance with instructions given and limitations imposed by the Director of Selective Service.

NATIONAL HEADQUARTERS EMPLOYEES

1605.21 Appointment and Tenure.—The Director of Selective Service shall determine the number and duties of compensated civilians to be employed by National Headquarters for Selective Service, and may designate an appointing officer to employ individuals approved by him or pursuant to his direction to fill such positions.

EMPLOYEES OF STATE HEADQUARTERS AND OTHER OFFICES WITHIN THE STATE

1605.31 Appointment and Tenure of Employees of State Headquarters and Other Offices Within State.—(a) In accordance with instructions given and limitations imposed by the Director of Selective Service, the State Director of Selective Service shall determine the number and duties of compensated civilian employees to fill positions in the State Headquarters for Selective Service, appeal boards, local boards, and other selective service offices within the State. The State Director of Selective Service may designate an appointing officer to employ individuals approved by him or pursuant to his direction to fill such positions.

(b) Subject to instructions given and limitations imposed by the Director of Selective Service, the principal supervisory compensated employee in every local board or a panel of such board which has an independent staff that is responsible only to the panel, and local board compensated employees having responsibility for supervising the work of two or more local boards shall be appointed as the "Executive Secretary" of the local board or local boards. Appointments of "Executive Secretary" shall be limited to 10 years but may be extended for additional 10-year periods by the State Director of Selective Service.

(c) Except with the prior approval of the State Director of Selective Service, no person shall be employed in any compensated position in any local board office or appeal board office who is related to any member of the local board or appeal board as close as or closer, by blood, marriage or adoption than a first cousin; provided, this paragraph shall not apply to any veteran or former member of the Merchant Marine who under the laws of the United States has restoration rights to his former position with the local board or appeal board.

(d) The State Director of Selective Service, when he deems it to be in the best interest of the Selective Service System, may authorize the appointment of Executive Secretaries to serve two or more local boards.

PART 1606—GENERAL ADMINISTRATION

GENERAL

1606.1 Administration of Oaths Generally.—(a) Unless a specified person is designated to administer an oath required under the provisions of the regulations in this chapter, any civil officer authorized to administer oaths generally, any commissioned officer of the armed forces assigned for duty with the Selective Service System, any member or clerk of a local board or appeal board, any government appeal agent or associate government appeal agent, any advisor to registrants, any postmaster, acting postmaster, or assistant postmaster, may administer such oath.

(b) Whenever an oath is required, an affirmation in judicial form, if made by a person having conscientious scruples against the taking of oaths, shall be sufficient compliance.

(c) No fee or charge shall be made for the administration of oaths in the execution of the selective service law.

COMMUNICATIONS

1606.11 Letters.—Communication should generally be by letter. Official letters in execution of the selective service law may be sent in official penalty envelopes.

1606.12 Telegrams, Radiograms, and Cablegrams.—Official telegrams, radiograms, and cablegrams may be used for official business when speed is essential. The probable hour when the addressee will actually receive such a message, as compared to the probable hour when he would receive an ordinary or air mail letter, should be considered. Reasonable economy is necessary, and a more complete statement can usually be made in a letter.

1606.12 Long Distance Telephone.—Long distance telephone service may be used for official business at Government expense when absolutely essential. It is relatively very expensive and much more subject to faulty understanding between the parties than are written messages.

1606.14 Personal Messages.—No personal inquiries or messages shall be sent by official envelope, or at Government expense by telegram, radiogram, cablegram, or telephone. Messages regarding leave of absence, payment of salary, or expense account, and similar messages fall under this prohibition.

RECORDS IN GENERAL

1606.21 Records To Be Maintained.—(a) In addition to all other records required by the regulations in this chapter to be kept by selective service offices, each such office shall keep a full set of Selective Service Regulations and such forms as pertain to its functions. All such offices shall be required to keep up, day by day, amendments, memoranda, changes, and all other pertinent information published by the Director of Selective Service.

(b) Each selective service office shall retain all correspondence received and a copy of all correspondence sent in its files until authorization for its disposition is received from the Director of Selective Service.

1606.22 Protection of Records.—Selective service offices shall take all possible care to keep records from being lost or destroyed. Under no circumstances shall a record be entrusted to any person not authorized to have it in his custody. When the person charged with the custody of a record transmits or delivers it to another, he shall place a notation showing the person or agency to which it is transmitted or delivered in his files in the place from which the record was withdrawn. When cover sheets of registrants are transmitted by mail a strict accounting shall be maintained of the dispatch and receipt thereof.

1606.23 Entries on Records.—Selective service offices shall make entries on records with typewriter, black ink, or rubber stamp, except where the use of one is specifically directed. Red ink shall be used only as specifically directed.

1606.24 Signatures.—Signatures affixed to official papers of the Selective Service System must be written in pen and ink by the person signing. Rubber stamp facsimiles will not be used.

CONFIDENTIAL RECORDS

1606.31 What Records Confidential.—Except as provided by law or by the regulations in this part, the records in a registrant's file and the information contained in such records shall be confidential.

1606.32 Availability and Use of Confidential Records and Information.—(a) Information contained in records in a registrant's file may be disclosed or furnished to, or examined by, the following persons, namely:

(1) The registrant, or any person having written authority dated and signed by the registrant: *Provided*, That, whenever the time of the expiration of such authority is not specified therein, no information shall be disclosed, furnished, or examined under that authority after the expiration of a period of one year from its date.

(2) The legal representative of a deceased or incompetent registrant, or where there is no legal representative appointed for the estate of a deceased registrant, his next of kin; *Provided*, That proof of the registrant's death and proof of the relationship of the next of kin to the registrant have been submitted and are in his file. For the purpose of this subparagraph, the next of kin to the registrant shall be limited to his widow, child, mother, father, brother, or sister.

(3) All personnel of the Selective Service System while engaged in carrying out the functions of the Selective Service System.

(4) Any other agency, official, or employee, or class or group of officials or employees, of the United States or any State or subdivision thereof upon written request in individual cases, but only when and to the extent specifically authorized in writing by the State Director of Selective Service or the Director of Selective Service.

(b) Information contained in records in a registrant's file may be disclosed or furnished to, or examined by, a United States Attorney and his duly authorized representatives, including agents of the Federal Bureau of Investigation, whenever the registrant has been reported to the United States Attorney as a delinquent or for prosecution for violating the Military Selective Service Act of 1967, or the rules, regulations, or directions made pursuant thereto.

(c) Notwithstanding any other provisions of the regulations in this part, information contained in any record in a registrant's file may be disclosed or furnished to, or examined by, any person having specific written authority from the Director of Selective Service. No person shall use any information so disclosed, furnished, or examined for any purpose other than that designated in such written authority.

(d) No information shall be disclosed or furnished to, or examined by, any person under the provisions of this section, until such person has been properly identified as a person, or as the authorized representative of an agency, entitled to so obtain such information.

(e) Where a registrant has been indicted under the Military Selective Service Act of 1967 and must defend himself in a criminal prosecution, or where a registrant submits to induction and thereafter brings habeas corpus proceedings to test the validity of his induction, it is the policy of the Selective Service System to furnish to him, or to any person he may designate, one copy of his selective service file free of charge. Any other registrant may secure a copy of his file upon payment of the fees prescribed in section 1606.57(b).

1606.33 Forwarding Registrant's File to State Director of Selective Service.—A local board, on written request of the State Director of Selective Service of the State in which such local board is located, shall forward to such State Director of Selective Service the complete original file of any registrant under the jurisdiction of such local board.

1606.34 Waiver of Confidential Nature of Information.—The making or filing by or on behalf of a registrant of a claim or action for damages against the Government or any person, based on acts in the performance of which the record of a registrant or any part thereof was compiled, or the institution of any action against the Government or any representative thereof by or on behalf of a registrant involving his classification, selection, or induction, shall be a waiver of the confidential nature of all selective service records of such registrant, and, in addition, all such records shall be produced in response to the subpena or summons of the tribunal in which such claim or action is pending.

1606.35 Subpena of Records.—(a) In the prosecution of a registrant or any other person for a violation of the Military Selective Service Act of 1967, the Selective Service Regulations, any orders or direction made pursuant to such act or regulations, or for perjury, all records of the registrant shall be produced in response to the subpena or summons of the court in which such prosecution or proceeding is pending. Any officer or employee of the Selective Service System who produces the records of a registrant in court shall be considered the custodian of such records for the purpose of this section.

(b) Except as provided in paragraph (a) of this section, no officer or employee of the Selective Service System shall produce a registrant's file, or any part thereof, or testify regarding any confidential information contained therein, in response to the subpena or summons of any court without the consent, in writing, of the registrant concerned, or of the Director of Selective Service.

(c) Whenever, under the provisions of this section, a registrant's file, or any part thereof, is produced as evidence in the proceedings of any court, such file shall remain in the personal custody of an official of the Selective Service System, and permission of the court be asked, after tender of the original file, to substitute a copy of the file with the court.

1606.37 Disclosure or Furnishing of Information Relating to Physical or Mental Condition.—Information relating to the physical or mental condition of a registrant may be disclosed or furnished to the appropriate civil authorities by a medical advisor to the State Director of Selective Service or a medical advisor to the local board where he is required by law to report diseases or defects noted therein.

1606.38 "Disclose," "Furnish," and "Examine" Defined.—When used in this part, the following words with regard to the records of, or information as to, any registrant shall have the meaning ascribed to them as follows:

(a) "Disclose" shall mean a verbal or written statement concerning any such record or information.

(b) "Furnish" shall mean providing in substance or verbatim a copy of any such record or information.

(c) "Examine" shall mean a visual inspection and examination of any such record or information at the office of the local board or appeal board as the case may be.

1606.39 Searching or Handling Records.—Except as specifically provided in these regulations or by written authority of the Director of Selective Service, no person shall be entitled to search or handle any record.

1606.40 Furnishing Lists of Registrants.—Lists of registrants may be prepared and posted or furnished only as provided in these regulations or in accordance with written instructions from the Director of Selective Service.

1606.41 Addresses of registrants.—The addresses of registrants are confidential information.

1606.42 Disclosing Information to Former Employers.—A State Director of Selective Service may disclose to the former employer of a registrant who is serving in, or who has been discharged from, the armed forces whether the registrant has or has not been discharged and, if discharged, the date thereof, upon reasonable proof that the registrant left a position in the employ of the person requesting such information in order to serve in the armed forces.

SELECTIVE SERVICE FORMS

1606.52 Special Forms Must Be Authorized.—Whenever conditions within a State makes it necessary a form not prescribed by the Director of Selective Service or mentioned in the regulations in this chapter or the directives issued thereunder, the State Director of Selective Service shall, prior to adopting the proposed form, submit three copies thereof, together with a brief statement of the necessity and proposed use, to the Director of Selective Service. The form shall not be used until approved by the Director of Selective Service.

FURNISHING INFORMATION UNDER ADMINISTRATIVE PROCEDURE ACT

1606.55 Information to be made available.—Section 3(a)3 of the Administrative Procedure Act, as amended by Public Law 90-23, provides in part that each Federal Government agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedures to be followed, shall make the records available to any person.

1606.56 General policy.—(a) It is the general policy of the Selective Service System to make information available to the public unless the disclosure thereof would constitute a clearly unwarranted invasion of personal privacy or is prohibited under law or Executive order or relates to internal memoranda, letters or manuals the disclosure of which would interfere with the functions of the Selective Service System. The Director of Selective Service reserves the right to make exceptions to the general policy in a particular instance giving due weight to the right of the public to know and the interests of the individual or individuals involved.

(b) Memoranda, correspondence, opinions, data, staff studies, information received in confidence, and similar documentary material prepared for the purpose of internal communication within the Selective Service System or between the Selective Service System and other organizations or persons generally are not information available to the public.

1606.57 Service charges for information.—(a) The Selective Service System furnishes the public free of charge reasonable quantities of information that has been printed or otherwise reproduced for that purpose.

(b) Requests for copies of identifiable documents or records other than those furnished free under paragraph (a) of this section or by purchase under paragraph (c) of this section, will require the payment of fees, in advance, as set forth in this paragraph.

(1) Requests for these documents or records shall be made in writing to the appropriate State Director of Selective Service at the address given in section 1606.58(f) If the request is based on a discovery motion granted by a United States District Court, a copy of the motion shall be attached to the request.

(2) The schedule of fees is

(i) For copies of cover sheets reproduced by a private concern at requester's expense: $5 per hour, or fraction thereof in excess of one-quarter hour, for employee's time to monitor the reproduction, computed from the time of his departure until his return to his post.

(ii) For copies of identifiable documents other than Cover Sheets (SSS Form 101); $1.00 per page, which cost includes time for searching and reproducing the document.

(iii) Documents or files will not be released to any requester until these fees are paid in full by check or money order made payable to the Selective Service System.

(c) Copies of the Military Selective Service Act of 1967, the Selective Service Regulations, and Local Board Memoranda are offered for sale and may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

(d) Current Operations Bulletins, which are temporary in nature, may be inspected at the office of any local board, the office of the State Director of Selective Service for any State, or at the Office of Public Information, National Headquarters, Selective Service System.

(e) Each local board maintains a Classification Record (SSS Form 102), which contains the name, selective service number, and the current and past classifications for each person registered with that board. This record is open to inspection by the public.

1606.58 Places where information may be obtained.—(a) The information contained in a registrant's selective service file is confidential, and may be revealed only upon strict compliance with the provisions of section 1606.32 of this part. Requests for information concerning a registrant shall be addressed to the local board where he is registered.

(b) Information concerning records obtained under the Selective Training and Service Act of 1940, Public Law 26, 80th Congress, establishing the Office of Selective Service Records, and those records acquired under the Military Selective Service Act of 1967 which are in Federal record depots of the several State Headquarters of Selective Service, is governed by the provisions of Part 1670—Records Administration in Federal Record Depots, of these regulations. Such information is confidential, and will be furnished by the State Director of Selective Service for the State where such records are kept when the person requesting the information shows to the satisfaction of the State Director that he is qualified to receive such information under the provisions of section 1670.8 of Part 1670.

(c) Records contained in the standby-reserve folder of a member of the Standby Reserve of the Armed Forces are confidential, and may be revealed to a person requesting information therefrom only when such person shows to the satisfaction of the Executive Secretary or clerk of the local board that he is qualified to receive such information under the provisions of section 1690.22 of Part 1690—Determination of Availability of Members of the Standby Reserve of the Armed Forces for Order to Active Duty.

(d) Requests for information concerning the administration of the Military Selective Service Act of 1967 within a particular State shall be addressed to the State Director of Selective Service for the State involved.

(e) Requests for information concerning the national administration of the Military Selective Service Act of 1967 shall be addressed to the Office of Public Information, National Headquarters, Selective Service System, 1724 F Street NW., Washington, D.C. 20435.

(f) Addresses of the office of the State Directors of Selective Service are as follows:

State and address

Alabama: Room 818, Aronov Building, 474 South Court Street, Montgomery, AL 36104.

Alaska: Room 248, Federal Building, 619 Fourth Avenue, Anchorage, AK 99501.

Arizona: Room 202, Post Office Building, 522 North Central Avenue, Phoenix, AZ 85004.

Arkansas: Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

California: Federal Building, 801 I Street, Sacramento, CA 95814.

Canal Zone: Post Office Box 2014, Balboa Heights, CZ (200-A Administration Building).

Colorado: Building 53, Room B 2906, Denver Federal Center, Post Office Box 25206, Denver, CO 80225.

Connecticut: Post Office Box 1558, Hartford, CT 06101.

Delaware: Prices Corner, 3202 Kirkwood Highway, Wilmington, DE 19808.

District of Columbia: 441 G Street NW., Washington, D.C. 20001.

Florida: 19 McMillan Street, Post Office Box 1988, St. Augustine, FL 32084.

Georgia: 901 West Peachtree Street NE., Atlanta, GA 30309.

Guam: Post Office Box 3036, Agana, Guam 96910 (RiCalvo Building, second floor, Hernan Cortes Avenue and Soledad Drive).

Hawaii: Post Office Box 4006, Honolulu, HI 96813 (Hawaiian Life Building, fifth floor, 1311 Kapiolani Boulevard, Honolulu, HI 96813).

Idaho: 550 West Fort Street, Room 480, Federal Building, Boise, ID 83702.

Illinois: 405 East Washington Street, Springfield, IL 62701.

Indiana: Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

Iowa: Building 68, Fort Des Moines, Des Moines, Iowa 50815.

Kansas: New England Building, Suite 320, 508 Kansas Avenue, Topeka, KS 65603.

Kentucky: 220 Steele Street, Frankfort KY 40601.

Louisiana: Building 601-5-A, 4400 Dauphine Street, New Orleans, LA 70140.

Maine: Federal Building, 40 Western Avenue, Augusta, ME 04330.

Maryland: 31 Hopkins Plaza, Room 1110, Baltimore, MD 21201.

Massachusetts: John Fitzgerald Kennedy Federal Building, Room 2312, Government Center, Boston, Mass. 02203.

Michigan: Post Office Box 626, Lansing, MI 48003 (Arnold Building, 1120 East May Street, Lansing, MI).

Minnesota: Room 1503, Post Office and Customhouse, 180 East Kellogg Boulevard, St. Paul, MN 55101.

Mississippi: Cameron-Walker Building, 4785 Interstate 55 North, Jackson, MS 39206.

Missouri: 411 Madison Street, Jefferson City, MO 65101.

Montana: Post Office Box 1183, Helena, MT 59601 (616 Helena Avenue, Helena, MT).

Nebraska: 941 O Street, Lincoln, NE 63508.

Nevada: 1511 North Carson Street, Carson City, NV 89701.

New Hampshire: 55 Pleasant Street, Room 337, Post Office Box 427, Concord, NH 03301.

New Jersey: 402 East State Street, Trenton, NJ 08608.

New Mexico: Post Office Box 5175, Santa Fe, NM 87501 (The New Mexico National Guard Complex, 2600 Cerillo Road).

New York State: Federal Building, 441 Broadway, Albany, NY 12207.

New York City: Federal Building, Room 2337, 26 Federal Plaza, New York, NY 10007.

North Carolina; 310 New Bern Avenue, Post Office Box 26008, Room 448, Raleigh, NC 27611.

North Dakota: Federal Building, Post Office Box 1417, Bismarck, ND 58501.

Ohio: 85 Marconi Boulevard, Columbus, OH 43215.

Oklahoma: 417 Post Office Courthouse Building, Oklahoma City, Okla. 73102.

Oregon: 355 Belmont Street NE., Salem, OR 97301.

Pennsylvania: Post Office Box 1266, 228 Walnut Street, Harrisburg, PA 17108.

Puerto Rico: 398 Fernandez Juncos Avenue, San Juan, PR 00906.

Rhode Island: 1 Washington Avenue, Providence, RI 02905.

South Carolina: 1801 Assembly Street, Columbia, SC 29201.

South Dakota: Annex Box 3105, Rapid City, SD 57701.

Tennessee: Room 500, 1717 West End Building, Nashville, Tenn. 37203.

Texas: Room G161, Federal Building, 300 East Eighth Street, Austin, TX 78701.

Utah: 333 South Second East, Salt Lake City, UT 84111.

Vermont: Federal Building, Post Office Box 308, Montpelier, VT 05602.

Virginia: 400 North Eighth Street, Richmond, VA 23240.

Virgin Islands: Post Office Box 360, Charlotte Amalie, St. Thomas, VI 00801.

Washington. Post Office Box 5247, Tacoma, WA 98405 (Washington National Guard Armory, South 10th and Yakima).

West Virginia: Federal Office Building, Charleston, W. Va. 25301.

Wisconsin: Post Office Box 2157, 1220 Capitol Court, Madison, WI 53701.

Wyoming: 308 West 21st Street, Cheyenne, WY 82001.

1606.59 Time for Obtaining Information.—A request for information under these regulations may be made in writing or orally during business hours on a regular business day. When information to be furnished is not readily available, the employee responsible for obtaining the information shall make it available within a reasonable time.

1606.60 Identification of Information Requested.—Any person who requests information under these regulations shall provide a reasonably specific description of the information sought so that it may be located without undue search or inquiry. Information that is not identified by a reasonably specific description is not an identifiable record, and the request for that information may be declined.

1606.61 Public Information Policy.—In addition to the policies relative to the disclosure of information when requested by a member of the public, the Selective Service System has a positive public information policy under which information is brought to the attention of the public. Under this policy, the Selective Service System brings to the public, through news releases, regular question and answer releases, pamphlets, and educational courses for distribution to high schools; information concerning important events, the application of the Military Selective Service Act of 1967, Selective Service Regulations, and the functions of the Selective Service System. Orientation books, containing background information on the Selective Service System, are also available for distribution to clubs, libraries, schools, business firms, labor unions, religious bodies, and other oragnizations. Information concerning sources and location of research material will be supplied, upon request, by the Office of Public Information, National Headquarters, Selective Service System.

1606.62 Request for names, addresses and and personal data concerning officials and employees.—(a) In accordance with Federal Personnel Manual Letter 294–1, March 17, 1966, issued by the Civil Service Commission, the names, position titles, grades, salaries, and duty stations of employees of the Selective Service System are public information.

(b) The names of board members and advisors to registrants will be posted in an area available to the public at each board office to which such personnel are assigned.

(c) In accordance with the reasoning of Federal Personnel Manual Letter 711–8, August 2, 1967, issued by the Civil Service Commission the home addresses and other personal data concerning the officials designated in paragraph (b) of this section will not be released unless (1) the person to whom the data relates consents to such release or (2) the board chairman determines in writing, after consultation with the person to whom the data relates, that disclosure would not harm such person, and would not constitute a clearly unwarranted invasion of his personal privacy.

1606.63 Demands of courts or other authorities for records or information protected by these regulations.—(a) Authority to release records or information the disclosure of which is prohibited or restricted by these regulations, including personal information bearing on the qualifications of an official to serve in the position he occupies, is reserved to the Director of Selective Service. A request, demand or order to produce such information (hereafter "demand") will not be honored by any employee of the System without prior approval of the Director.

(1) Whenever such demand is made upon an employee of the System by or through a court or other authority, he will immediately notify the Director of Selective Service and the United States Attorney for the district in which the issuing court or other authority is located.

(2) If response to the demand is required before instructions from the Director of Selective Service are received, the employee responsible for responding shall request the United States Attorney to represent him, shall appear before the court or other authority, shall cause the court or other authority to be furnished a copy of this section and section 1606.62, and shall cause it to be informed that the demand has been or is being, as the case may be, referred for the prompt consideration of the Director of Selective Service. The employee or his representative should respectfully request the court or other authority to stay the demand pending receipt of instructions from the Director of Selective Service.

(b) If the court or other authority declines to stay the effect of the demand, or rules that the demand must be complied with regardless of the instructions from the Director of Selective Service, the employees will respectfully decline to comply with the demand (*United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462, 71 S.Ct. 416).

PART 1607—FINANCE ADMINISTRATION

1607.1 Disbursement of Funds.—Disbursements of funds shall be made in accordance with United States Government fiscal procedures and such rules and regulations pertaining thereto as may be prescribed by the Director of Selective Service.

1607.2 State Director of Selective Service May Authorize Certain Expenditures.—Subject to the provisions of applicable regulations and to any limitation imposed by the Director of Selective Service, the State Director of Selective Service, or his designee, may authorize such lawful expenditures as he determines to be necessary for the operation and maintenance of the Selective Service System in his State.

1607.4 Limitation on Obligations.—Obligations may be incurred only for purposes authorized by law and in amounts not in excess of funds authorized by the Director of Selective Service.

1607.5 Report of Obligations.—A report of obligations incurred shall be submitted for each State Headquarters at such times and in such manner as the Director of Selective Service may prescribe.

PART 1608—PAYMENT FOR PERSONAL SERVICES

1608.1 Payments.—Compensated civilian personnel of the Selective Service System shall be paid on bi-weekly payrolls in accordance with instructions issued by the Director of Selective Service.

PART 1609—EXPENDITURES OTHER THAN FOR PERSONAL SERVICES

PROPERTY, EQUIPMENT, SUPPLIES, OFFICE SPACE, AND SERVICES

1609.1 Procurement.—(a) The procurement of necessary property, equipment, supplies, office space and services for the Selective Service System shall be accomplished under the direction of the Director of Selective Service and only by his duly authorized representatives.

(b) In each State the procurement of property, equipment, supplies, office space, and services, unless otherwise provided for by regulations or instructions of the Director of Selective Service, shall be performed by the State Director of Selective Service, or his designee.

(c) No contract shall be negotiated or entered into for the procurement of supplies or services from any firm or company with which any persons authorizing or making the purchase is in any way connected as a member, officer, agent, or employee.

(d) Except when circumstances justify other action, the procurement of property, equipment and supplies shall be accomplished through the General Services Administration.

(e) The selective service law permits the Selective Service System to accept, by loan or gift, equipment and supplies.

1609.2 Requisitions.—Equipment, supplies and services required by selective service offices within the State will be obtained by requisition on the State Director of Selective Service, or his designeee.

1609.11–Lease of Offices.—(a) When practicable, the offices of State Headquarters, local boards, and appeal boards should be located in rent-free premises.

(b) When premises for offices cannot be secured rent-free, they may be leased in the manner prescribed by the Director of Selective Service.

1609.12 Alterations, improvements, and repairs.—The State Director of Selective Service may authorize in writing alterations, improvements, and repairs to State Headquarters, local board, and appeal board premises in the manner prescribed by the Director of Selective Service.

TELEPHONE AND TELEGRAPH IN STATE OFFICE

1609.21 Telephone: Authorization.—(a) A telephone may be installed in State Headquarters for Selective Service and in the office of a local board or appeal board when requested by the chairman. Telephones shall be used for official business only.

(b) Contracts, when required, for telephone installation shall be executed by the General Services Administration.

1609.22 Certification of Bills.—(a) Telephone and telegraph bills shall contain the class of persons designated by the State following certificate signed by a person or class of persons designated by the State Director of Selective Service:

I certify that the above account is correct and that the service was rendered for prompt transaction of official business.

(b) With reference to long distance telephone tolls, attention is called to the following statutory provisions: "* * * hereafter no part of this or any other appropriation for any executive department, establishment, or agency shall be used for the payment of long distance telephone tolls except for the transaction of public business which the interests of the Government require to be so transacted; and all such payments shall be supported by a certificate by the head of the department, establishment, or agency concerned, or such subordinates as he may specially designate, to the effect that the use of the telephone in such instances was necessary in the interest of the Government." (Sec. 4, act of May 10, 1939, 53 Stat. 738; 31 U.S.C. 680(a))

(c) The Director of Selective Service will designate one or more certifying officers at State Headquarters for Selective Service for the purpose of executing the following prescribed certificate which shall support all payments of official long distance telephone calls:

"Pursuant to section 4 of the act approved May 10, 1939, 53 Stat. 738. I certify that the use of the telephone for the official long distance calls listed herein was necessary in the interest of the Government."

(d) Telegrams, cablegrams, and radiograms on official business shall be endorsed "Selective Service System—Official Business—Government rate" and shall indicate the class of message (telegram, day letter, night letter). On the face of the message the sender shall make the following certificate:

"I certify that this mesage is on official business necessary for the public service in the administration of the selective service law."

(Signature).

(Official title.)

VOUCHERING PROCEDURE

1609.31 Invoices and Other Claims.—Invoices and other claims for payment from Federal funds appropriated to the Selective Service System shall be vouchered and certified in accordance with instructions issued by the Director of Selective Service.

TRAVEL AND SUBSISTENCE

1609.41 Travel: Authorization.—(a) To the extent provided by appropriation made therefor, the following may authorize travel at Government expense in carrying out the functions of the Selective Service System:

(1) The Director of Selective Service or any other official designated by him.

(2) The State Director of Selective Service, for the travel of the personnel of the Selective Service System of his State to any point within the boundaries of his State, unless travel beyond such boundaries is required in answer to a subpoena issued by the United States District Court, or has been authorized by the Director of Selective Service.

(b) Travel of members of the armed forces assigned to duty with the Selective Service System shall be authorized in the manner prescribed by the Director of Selective Service.

(c) A local board or a person duly authorized by the Director of Selective Service or the State Director of Selective Service may authorize the transportation of registrants by commercial carrier or privately owned vehicle whichever would be in the better interest of the Government.

1609.42 Travel and Subsistence Expenses.—Except as otherwise provided for by law or in section 1609.43, the amount of travel and subsistence expense or the per diem allowance is fixed in Standardized Government Travel Regulations.

1609.43 Special Provisions Concerning Travel and Subsistence Expenses.—(a) The travel of a person serving without compensation in carrying out the functions of the Selective Service System shall be specifically authorized, and such person so authorized may be reimbursed in accordance with applicable law and regulations governing travel of uncompensated personnel at Government expense for transportation and traveling expenses incurred while traveling on official business, including travel from home to the office of the board to which such person is assigned and return.

(b) The rates of the per diem in lieu of actual expenses for subsistence authorized by law and regulations represent the maximum allowable and not the minimum. It is the responsibility of the issuing official to authorize only such per diem rates as are justified by the nature of the travel. Care should be exercised to prevent the fixing of a per diem rate in excess of that required to meet the necessary authorized expenses.

(c) Members of the armed forces who are on active duty in the service of the United States and assigned to duty with the Selective Service System, when properly authorized to travel, shall be reimbursed from selective service funds at rates authorized by the Director of Selective Service.

1609.44 Government Requests for Transportation.—Government requests for transportation shall be used for official travel by air, land and water, including inland waterways, and shall be issued only by those persons designated by the Director of Selective Service or the State Director of Selective Service for:

(a) Transportation of registrants.

(b) Travel of officers and employees engaged in carrying out the functions of the Selective Service System.

1609.45 Government Requests for Meals or Lodgings for Civilian Registrants.—Government requests for meals or lodgings for civilian registrants shall be issued only by a local board or a person duly authorized by the Director of Selective Service or the State Director of Selective Service. They shall be issued for purposes and in such values as the Director of Selective Service may prescribe.

EMERGENCY MEDICAL CARE, HOSPITALIZATION, AND TRANSPORTATION AND BURIAL OF REMAINS

1609.51 Claims.—(a) Funds appropriated for the operation and maintenance of the Selective Service System shall be available for payment of actual and reasonable expenses of (1) emergency medical care, including hospitalization of registrants who suffer illness or injury, and (2) the transportation and burial of the remains of registrants who suffer death, while acting under travel orders issued by or under the authority of the Director of Selective Service. Burial expenses shall not exceed the maximum prescribed in section 11 of the Military Selective Service Act in any one case. No expenses arising from the illness, injury, or death of a registrant shall be payable under the provisions of this section when such illness, injury, or death occurs while the registrant is performing civilian work contributing to the maintenance of the national health, safety, or interest which he has been ordered to perform by the local board.

(b) The term "emergency medical care, including hospitalization" as used in this section shall be construed to mean such medical care or hospitalization that normally must be rendered promptly after occurrence of the illness or injury as a result of which it is required, and discharge by a physician or facility subsequent to such medical care or hospitalization shall prima facie terminate the period of emergency.

(c) The death of a registrant shall be deemed to have occurred while acting under orders issued by or under the authority of the Director of Selective Service if it results directly from an illness or injury suffered by the registrant while so acting and occurs prior to the completion of an emergency medical care, including hospitalization, occasioned by such illness or injury.

(d) Claims for payment of expenses incurred for the purposes set forth in paragraph (a) of this section shall be presented to the State Director of Selective Service of the State in which the expenses were incurred, who shall determine whether the claim shall be allowed or disallowed, in whole or in part, subject to appeal within 60 days to the Director of Selective Service.

(e) Payment of such claims when allowed shall be made only (1) directly to the person or facility with which the expenses were incurred, or (2) by reimbursement to the registrant, a relative of the registrant, or the legal representative of the registrant's estate, for original payment of such expenses.

(f) No such claim shall be paid unless it is presented within the period of one year from the date on which the expenses were incurred.

(g) No such claim shall be allowed in case it is determined that the cause of injury, illness, or death was due to negligence or misconduct of the registrant.

PART 1610—PROPERTY ACCOUNTABILITY

1610.1—Property of the United States.—(a) All equipment and supplies of whatever character acquired by the Selective Service System by purchase with Government funds, transfer from another Federal agency, donation, are the property of the United States and shall be used solely for the transaction of Government business.

(b) All equipment and supplies shall be accounted for in the manner prescribed by the Director of Selective Service.
Service.

(c) The classification of property as between expendable and nonexpendable shall be determined by the Director of Selective Service.

1610.2 Government Property; Responsibility and Accountability.—(a) The State Director of Selective Service shall designate for each selective service office in the State an officer or a compensated civilian employee who shall be responsible for property of the United States in the possession of that office.

(b) The State Director of Selective Service, or his designee, shall be accountable for all U.S. Government property purchased by, or issued, transferred, or donated to the Selective Service System within his State, and accurate records of such property shall be maintained and reports rendered as may be prescribed by the Director of Selective Service.

1610.3 Transfer of Responsibility and Accountability.—The transfer of responsibility and accountability for Government property shall be accomplished in the manner prescribed by the Director of Selective Service.

1610.4 Nonexpendable Property; Lost, Stolen, Destroyed, Damaged, or Unserviceable.—Whenever any article or nonexpendable property is lost, stolen, destroyed, damaged, or becomes unserviceable through fair wear and tear in service it shall be cleared from the records by means of a report of survey. The reports of survey shall be prepared and processed in accordance with instructions issued by the Director of Selective Service.

1610.5 Obsolete Blank Forms: Disposition of.—Obsolete blank forms and other printed matter shall be disposed of only as ordered by the Director of Selective Service.

PART 1611—DUTY AND RESPONSIBILITY TO REGISTER

1611.1 Persons Required to be Registered.—(a) Except as otherwise provided by the regulations in this part, it shall be the duty of every male citizen of the United States, and every other male person, except an alien male person who is in a medical, dental, or allied specialist category, residing in or who hereafter enters the United States, who shall have attained the 18th anniversary of the day of his birth and who shall not have attained the 26th anniversary of the day of his birth on the day or any of the days fixed for registration by Presidential proclamation to present himself for and submit to registration under the provisions of section 3 of the Military Selective Service Act at such time or times and place or places, and in such manner as is required by proclamation of the President and the regulations of this part. Every alien male person who is in a medical, dental, or allied specialist category residing in the United States or who hereafter enters the United States, who shall have attained the 18th anniversary of the day of his birth and who shall have not attained the 35th anniversary of the day of his birth on the day or any of the days fixed for registration by Presidential proclamation is required to present himself for and submit to registration under the provisions of section 3 of the Military Selective Service Act at such time or times and place or places, and in such manner as is required by proclamation of the President and the regulations of this part.

(b) Every male person required to register shall present himself for and submit to registration before a duly designated registration official or the local board having jurisdiction in the area in which he has his permanent home or in which he may happen to be on the day or any of the days fixed for his registration.

1611.2 Persons Not Required to be Registered.—(a) Under the provisions of section 6(a) of the Military Selective Service Act the following persons are not required to be registered;

(1) Commissioned officers, warrant officers, pay clerks, enlisted men, and aviation cadets of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Na-

tional Oceanic and Atmospheric Administration and the Public Health Service;

(2) Cadets, U.S. Military Academy;

(3) Midshipmen, U.S. Navy;

(4) Cadets, U.S. Air Force Academy;

(5) Cadets, U.S. Coast Guard Academy;

(6) Midshipmen, Merchant Marine Reserve, U.S. Naval Reserves;

(7) Students enrolled in an officer procurement program at military colleges the curriculum of which is approved by the Secretary of Defense;

(8) Members of the reserve components of the Armed Forces, the Coast Guard, and the Public Health Service, while on active duty, provided that such active duty in the Public Health Service that commences after the enactment of the Military Selective Service Act is performed by members of the Reserve of the Public Health Service while assigned to staff any of the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or while assigned to the Coast Guard, the Bureau of Prisons of the Department of Justice, or the National Oceanic and Atmospheric Administration; and

(9) Foreign diplomatic representatives, technical attaches of foreign embassies and legations, consuls general, consuls, vice consuls, and other consular agents of foreign countries who are not citizens of the United States and members of their families.

(b) A male alien who is now in or who hereafter enters the United States and who has not been admitted for permanent residence in the United States shall not be required to be registered under section 3 of the Military Selective Service Act, and shall be relieved from liability for training and service under section 4 of said Act, provided:

(1) He is lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status in the United States;

(2) He is a person who has entered the United States and remains therein pursuant to the provisions of section 11 of the agreement between the United Nations and the United States of America Regarding the Headquarters of the United Nations as approved August 4, 1947 (61 Stat. 756);

(3) He is a member of a group of persons who have been temporarily admitted to the United States under an arrangement with the government of the country of which they are nationals, or an appropriate agency thereof, for seasonal or temporary employment, and continues to be employed in the work for which he was admitted;

(4) He is a national of a country with which there is in effect a treaty or international agreement exempting nationals of that country from military service while they are within the United States; or

(5) He is a person who has entered the United States and remains therein pursuant to the provisions of the Agreement between the parties to the North Atlantic Treaty Regarding the Status of their Forces, or the agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff, or the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty.

(c) Each alien who is in the category described in paragraph (b)(1) of this section must have in his possession and available for examination any visa or other official document which was issued to him by a diplomatic, consular, or immigration officer of the United States evidencing that he is within the United States pursuant to the provisions of section 101(a)(15) of the Immigration and Nationality Act.

(d) Each alien who is in the category described in paragraph (a)(9) of this section or who is in one of the categories described in paragraph (b) (2), (3), (4), and (5) of this section must have in his personal possession, at all times, an official document issued pursuant to the authorization of or described by the Director of Selective Service which identifies him as a person not required to present himself and submit to registration.

1611.3 Change of Status.—Except as otherwise provided by the regulations in this part, every male person who would have been required to be registered on a day or one of the days fixed by Presidential proclamation except for the fact that he was in one of the categories described in section 1611.2 shall present himself for and submit to registration before a local board when a change in his status removes him from such category.

1611.4 Registration of Male Persons Separated From Armed Porces.—Every male person who (a) has been separated from active service in the Armed Forces, the National Oceanic and Atmospheric Administration or the Public Health Service, (b) has not been registered prior to such separation, (c) would have been required to be registered except for the fact that he was in such active service on the day or days fixed for his registration by Presidential proclamation, and (d) has not discharged his current military obligation under the Military Selective Service Act shall present himself for and submit to registration before a local board within the period of 30 days following the date on which he was so separated.

1611.6 Inmate of Institution.—Unless he has already been registered, every person subject to registration who is an inmate of an insane asylum, jail, penitentiary, reformatory, or similar institution shall be registered on the day he leaves the institution.

1611.7 Responsibility for Performance of Duty.—(a) Every person subject to registration is required to familiarize himself with the rules and regulations governing registration and to comply therewith.

(b) Every person who, on the day or one of the days fixed for registration, is required to be registered is personally charged with the duty of presenting himself before the proper officials and submitting to registration.

(c) The duty of every person subject to registration to present himself for and submit to registration shall continue at all times, and if for any reason any such person is not registered on the day or one of the days fixed for his registration, he shall immediately present himself for and submit to registration before the local board in the area where he happens to be.

(d) Persons required to present themselves for and submit to registration shall not be paid for performing such obligation nor shall they be paid travel allowances or expenses.

PART 1612—REGISTRATION DUTIES

NATIONAL DUTIES

1612.1 Responsibility of Director of Selective Service.—Whenever the President by proclamation or other public notice fixes a day or days for registration, the Director of Selective Service shall take the necessary steps to prepare for registration and, on the day or days fixed, shall supervise the registration of those persons required to present themselves for and submit to registration. The Director of Selective Service shall also arrange for and supervise the registration of persons who present themselves for registration at times other than on the day or days fixed for any registration.

STATE DUTIES

1612.11 Responsibility of State Director of Selective Service.—The State Director of Selective Service shall supervise the registration of persons who present themselves for registration before local boards in his State. Each State Director of Selective Service may, with the approval of the Director of Selective Service, make such modifications of the procedures outlined in the regulations contained in this part as may be necessary in order to properly effect a complete registration.

LOCAL BOARD DUTIES

1612.21 Duties of Chairman of Local Board.—(a) Whenever the President by proclamation or other public notice fixes a day or days for registration, the chairman of the local board, under the general supervision and direction of the State Director of Selective Service, shall take necessary action to prepare for registration in his local board area. On the day or days fixed for registration, he shall supervise the registration of those persons who present themselves for registration.

(b) No expense shall be incurred in connection with the registration except upon the prior approval of the State Director of Selective Service.

1612.22 Establishing and Making Ready Places of Registration.—(a) The chairman of the local board shall procure, designate, and establish within the boundaries of the area of his local board as many suitable places of registration as are necessary for the efficient accomplishment of the registration.

(b) The chairman of the local board shall make certain that all places of registration are made ready prior to the time fixed for registration and are open on the day or days and during the hours fixed for registration in the Presidential proclamation.

1612.23 Registrars.—(a) Any member or compensated employee of a local board may perform the duties of registrar without special appointment. The chairman of the local board may appoint as registrars qualified persons whose services can be secured without compensation. When the services of registrars cannot be secured without compensation, the chairman of the local board will recommend the appointment by the State Director of Selective Service of registrars on a compensated basis. Compensated employees of the local board shall serve as registrars whenever possible in lieu of appointing other persons as registrars to serve with compensation.

(b) Each person who is appointed as registrar to serve without compensation shall execute an Oath of Office and Waiver of Pay (SSS Form 400) before undertaking any duties as registrar.

(c) For each place of registration the chairman of the local board shall designate a chief registrar who shall be responsible to him for the proper conduct of the registration at each such place.

(d) The chairman of the local board shall see that all registrars are instructed in their duties and are familiar with the regulations and procedures governing the registration.

1612.24 Interpreters.—Whenever the services of interpreters are necessary in conducting the registration, the chairman of the local board may appoint such interpreters as may be necessary pursuant to the provisions of section 1604.81 of this chapter.

1612.25 Care and Custody of Registration Cards and Registration Certificates.—The chairman of the local board is charged with the care and custody of the Registration Cards (SSS Form 1) and the Registration Certificates (SSS Form 2) received by him from the State Director of Selective Service. He shall guard against their loss or destruction and shall not permit anyone to tamper with them and shall warn all persons concerned against entrusting them to the custody of unauthorized persons.

PART 1613—REGISTRATION PROCEDURES

1613.1 Registration procedures.—Persons required by selective service law to register shall be registered in accord with procedures prescribed by the Director of Selective Service.

1613.2 Local board of jurisdiction.—The local board having jurisdiction over the place of residence entered in item 2 of the Registration Questionnaire (SSS Form 100) at the time of initial . . .

Part 1617—Registration Certificate in General

1617.1 Effect of failure to have unaltered registration certificate in personal possession.—Every person required to present himself for and submit to registration must, after he has registered, have in his personal possession until his liability for training and service has terminated his Registration Certificate (SSS Form 2) prepared by his local board which has not been altered and on which no notation duly and validly inscribed thereon has been changed in any manner after its preparation by the local board. The failure of any person to have his Registration Certificate (SSS Form 2) in his personal possession shall be prima facie evidense of his failure to register. When a registrant is inducted into the Armed Forces or enters upon active duty in the Armed Forces, other than active duty for training only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his Registration Certificate (SSS Form 2) to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officer shall return the certificate to the local board that issued it.

1617.2 Effect of date of birth that appears on Registration Card (SSS Form 1).—The date of birth of the registrant that appears on his Registration Card (SSS Form 1) on the day before the lottery is conducted to establish his Random Selection Sequence will be conclusive as to his date of birth in all matters pertaining to his relations with the Selective Service System.

ISSUING DUPLICATE OF REGISTRATION CERTIFICATE

1617.10 Duty of Registrant Separated From Active Duty in Armed Forces.—Every registrant who is separated from active duty in the Armed Forces and who does not have a Registration Certificate (SSS Form 2) shall, within 10 days after the date of his separation, request his local board to issue to him a duplicate Registration Certificate (SSS Form 2). The registrant shall make this request by a letter mailed to his local board or on a Request for Duplicate Registration Certificate or Notice of Classification (SSS Form 6) which he shall file with his own or any other local board.

1617.11 Issuing of Duplicate Registration Certificate.—A duplicate Registration Certificate (SSS Form 2) shall be issued to a registrant by the local board with which he is registered upon receipt of his request therefor made by letter or on a Request for duplicate Registration Certificate or Notice of Classification (SSS Form 6) and the presentation of satisfactory proof to the local board that the Registration Certificate (SSS Form 2) of the registrant has been lost, destroyed, mislaid, or stolen.

1617.13 Return of Registration Certificate to Local Board.—Whenever a registrant at the time he receives a duplicate Registration Certificate (SSS Form 2) from his local board has in his possession any such certificate previously issued to him by the local board or thereafter finds or regains possession of any such certificate previously issued to him, it shall be the duty of the registrant to immediately return to the local board the certificate previously issued to him upon his receipt of the duplicate certificate or upon his thereafter finding or regaining possession of such certificate previously issued to him.

Part 1619—Cancellation of Registration

1619.1 Cancellation of registration by local board.—The local board may cancel the registration of a person who has improperly registered at a time when he was exempt from registration and there has been no subsequent change in his status which would render him liable for registration, except the local board will not cancel the registration of any registrant who is 17 years of age and has volunteered for induction with the written consent of his parents or guardian, or, if such a registrant has been inducted into and remains in the Armed Forces as the result of his premature registration, while he remains in the Armed Forces.

1619.2 When cancellation authorized by Director of Selective Service.—The Director of Selective Service may authorize or direct the cancellation by a local board of the registration of any particular registrant or of a registrant who comes within a specified group of registrants. Whenever the Director of Selective Service authorizes or directs the cancellation of the registration of any particular registrant or of a registrant within a specified group of registrants, the local board shall cancel the registration and shall take such other action as the Director of Selective Service may prescribe.

Part 1621—Preparation for Classification

1621.2 Selective Service Number.—(a) Every registrant shall be given a selective service number which shall identify him, the State within which he is registered, the local board with which he is registered, and his year of birth. The selective service number shall be a composite number made up from four numbers determined in the manner provided in this section.

(b) The first element of the selective service number, reading from left to right, shall be the number representing the numerical position of the State in which the registrant is registered as shown on the following list of States, Territories, and possessions:

1. Alabama.
2. Arizona.
3. Arkansas.
4. California.
5. Colorado.
6. Connecticut.
7. Delaware.
8. Florida.
9. Georgia.
10. Idaho.
11. Illinois.
12. Indiana.
13. Iowa.
14. Kansas.
15. Kentucky.
16. Louisiana.
17. Maine.
18. Maryland.
19. Massachusetts.
20. Michigan.
21. Minnesota.
22. Mississippi.
23. Missouri.
24. Montana.
25. Nebraska.
26. Nevada.
27. New Hampshire.
28. New Jersey.
29. New Mexico.
30. New York.
31. North Carolina.
32. North Dakota.
33. Ohio.
34. Oklahoma.
35. Oregon.
36. Pennsylvania.
37. Rhode Island.
38. South Carolina.
39. South Dakota.
40. Tennessee.
41. Texas.
42. Utah.
43. Vermont.
44. Virginia.
45. Washington.
46. West Virginia.
47. Wisconsin.
48. Wyoming.
49. District of Columbia.
50. New York City.
51. Alaska.
52. Hawaii.
53. Puerto Rico.
54. Virgin Islands.
55. Guam.
56. Canal Zone.

(c) The second element of the selective service number shall be the number of the registrant's local board within the State. Each State Director of Selective Service shall assign each local board and each intercounty local board within his State a specific identifying number in numerical sequence beginning with the numeral 1, by which it shall be known.

(d) The third element of the selective service number shall be the last two digits of the year in which the registrant was born. For example, if a registrant was born in 1928, the third element of his selective service number would be the number 28.

(e) The fourth element of the selective service number shall be the number assigned to the registrant by his local board among the other registrants of the local board having the same year of birth. Every local board shall assign each of its registrants who were born in the same year a specific identifying number in numerical sequence, beginning with the numeral 1. A separate series of identification numbers shall be so assigned to registrants of each year of birth. Identification numbers shall be assigned to registrants by a method most convenient to the person assigning them, provided that each time a number is assigned the next number in sequence for a given year of birth is used.

1621.3 Method of Writing Selective Service Number.—(a) Where four blocks are provided on any form for the entry of the selective service number, the first element of the selective service number shall be entered in the left block and the remaining three elements of such number entered consecutively from left to right in the remaining three blocks. For example, the selective service number to be given to a registrant in Alabama (1), registered with Alabama Local Board No. 24 (24), born in the year 1928 (28) and being number 206 among the registrants of his local board who were born in 1928, would be entered in the four blocks as follows: Block 1; block 24; block 28; block 206.

(b) Where the four blocks are not provided for the entry of the selective service number, each of the four elements of the number, written from left to right, shall be separated by a hyphen. For example, the selective service number of the registrant mentioned in paragraph (a) of this section would be written without the blocks as follows: 1–24–28–206.

1621.9 Furnishing Registration Questionnaire (SSS Form 100).

(a) The local board shall furnish a Registration Questionnaire (SSS Form 100) to each registrant according to the rules prescribed by the Director of Selective Service.

(b) The date upon which the Registration Questionnaire (SS Form 100) is furnished shall be entered in the Classification Record (SSS Form 102).

1621.10 Time Allowed To Return Questionnaire.—

(a) Unless the local board grants an extension of time as provided in paragraph (b) of this section, the registrant shall complete and return his Registration Questionnaire (SSS Form 100) within 10 days after the date on which it is mailed to him.

(b) If the registrant has a valid reason, the local board may grant him an extension of time for returning the Registration Questionnaire (SSS Form 100).

1621.11 Special Form for Conscientious

Objector.—A registrant who claims to be a conscientious objector shall offer information in substantiation of his claim on a Special Form for Conscientious Objector (SSS Form 150) which, when filed, shall become a part of his Classification Questionnaire (SSS Form 100). The local board, upon request, shall furnish to any person claiming to be a conscientious objector a copy of such Special Form for Conscientious Objector (SSS Form 150).

1621.12 Claims for, or Information Relating to Deferment or Exemption.—The registrant shall be entitled to present all relevant written information which he believes to be necessary to assist the local board in determining his proper classification. Such information should be included in or attached to the Registration Questionnaire (SSS Form 100) or a Current Information Questionnaire (SSS Form 127) and may include any document, affidavits, or depositions. The affidavits and depositions shall be as concise and brief as possible.

1621.13 Inadequate Questionnaire.—When a registrant's Classification Questionnaire (SSS Form 100) omits needed information, contains material errors, or shows that the registrant failed to understand the questions, the local board may return the Classification Questionnaire (SSS Form 100) to the registrant for correction and completion and direct him to return the same so completed and corrected on or before a specified date.

1621.14 Securing Information From Welfare and Governmental Agencies.—(a) The local board is authorized to request and receive information from local welfare and governmental agencies whenever such information will assist it in determining the proper classification of a registrant.

(b) The local board is authorized to request the State Director of Selective Service to secure information from State or National welfare and governmental agencies when such information will assist it in determining the proper classification of a registrant.

1621.15 Subpena Power of Local Board.—To the extent necessary for carrying out its function, the local board shall have authority (a) to subpena any person to appear before it, (b) to direct such person to produce such papers and records as may be deemed necessary, and (c) to require him to testify, under oath, in regard to any pertinent matter within his knowledge. It shall be the duty of any person subpenaed to appear, to produce the papers and records described in the subpena, and to testify. The local board shall use for the purpose a Subpena to Witnesses to Appear Before Local Board (SSS Form 161). The original of such a subpena shall be served upon the individual who is required to appear as a witness. Such service may be made by any person who is 21 years of age or over, and it shall be made in the manner provided by the law of the State in which the subpena is served. Any person subpenaed may be compelled to appear and testify before the local board in the same manner as persons subpenaed by a court of the United States may be compelled to appear and testify in proceedings before such court. The local board may apply to a court of the United States for summary aid to compel a person within its jurisdiction who has failed or refused to testify to appear before such local board, to produce such papers and records as may be deemed necessary, or to testify.

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

GENERAL PRINCIPLES

1622.1 General Principles of Classification.—(a) It is the local board's responsibility to decide the classification in which each registrant shall be placed. Each registrant will be considered as available for military service until his eligibility for deferment or exemption from military service is clearly established to the satisfaction of the local board. The local board will receive and consider all information, pertinent to the classification of a registrant, timely presented to it. The mailing by the local board of a Current Information Questionnaire (SSS Form 127) to the latest address furnished by a registrant shall be notice to the registrant that unless information is presented to the local board, within the time specified for the return of the questionnaire, which will justify his deferment or exemption from military service the registrant will be classified in Class 1–A.

(b) In classifying a registrant there shall be no discrimination for or against him because of his race, creed, or color, or because of his membership or activity in any labor, political, religious, or other organization. Each such registrant shall receive equal justice.

1622.2 Classes.—Each registrant shall be classified in one of the following classes:

CLASS 1

Class 1–A: Available for military service.

Class 1–A–O: Conscientious objector available for noncombatant military service only.

Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.

Class 1–D: Member of reserve component or student taking military training.

Class 1–H: Registrant not currently subject to processing for induction.

Class 1–O: Conscientious objector available for alternate service.

Class 1–W: Conscientious objector performing alternate service in lieu of induction.

CLASS 2

Class 2A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.

Class 2–C: Registrant deferred because of agriculture occupation.

Class 2–D: Registrant deferred because of study preparing for the ministry.

Class 2–S: Registrant deferred because of activity in study.

CLASS 3

Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.

CLASS 4

Class 4–A: Registrant who has completed military service.

Class 4–B: Officials deferred by law.

Class 4–C: Aliens.

Class 4–D: Minister of religion.

Class 4–F: Registrant not qualified for military service.

Class 4–G: Registrant exempted from service during peace.

Class 4–W: Conscientious objector who has completed alternate service in lieu of induction.

CLASS I

1622.10 Class I–A: Available for Military Service.—In Class I–A shall be placed every registrant who has failed to establish to the satisfaction of the local board, subject to appeal hereinafter provided, that he is eligible for classification in another class.

1622.11 Class I–A–O: Conscientious Objector Available for Noncombatant Military Service Only.—In Class I–A–O shall be placed every registrant who would have been classified in Class I–A but for the fact that he has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in combatant training and service in the Armed Forces.

1622.12 Class I–C: Member of the Armed Forces of the United States, the Environmental Science Services Administration, or the Public Health Service.—In Class I–C shall be placed:

(a) Every registrant who is, or who by enlistment, or appointment becomes a commissioned officer, a warrant officer, a pay clerk, an enlisted man or an aviation cadet of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, Environmental Science Services Administration or the Public Health Service.

(b) Every registrant who is a cadet, United States Military Academy; or a midshipman, United States Navy; or a cadet, United States Air Force Academy; or a cadet, United States Coast Guard Academy.

(c) Every registrant who by induction becomes a member of the Army of the United States, the United States Navy, the United States Marine Corps, the Air Force of the United States, or the United States Coast Guard.

(d) Exclusive of periods for training only, every registrant who is a member of a reserve component of the Armed Forces and is on active duty, and every member of the Reserve of the Public Health Service on duty prior to the enactment of the Military Selective Service Act of 1967 or who after such enactment is on active duty and assigned to staff the various offices and bureaus of the Public Health Service including the National Institutes of Health, or assigned to the Coast Guard, or the Bureau of Prisons of the Department of Justice, or the Environmental Science Services Administration.

1622.13 Class I–D: Member of Reserve Component or Student Taking Military Training.—(a) In Class I–D shall be placed any registrant who prior to attaining the age of 18 years and 6 months, and prior to the September 3, 1963, became by enlistment or appointment a member of an organized unit of the Army National Guard or the Air National Guard. Such registrant shall remain eligible for Class I–D so long as he continues to serve satisfactorily as such member or as a member of another reserve component, the Army National Guard, or the Air National Guard, as the case may be.

(b) In Class 1–D shall be placed any registrant who (1) has been selected for enrollment or continuance in the Senior (entire college level) Reserve Officers' Training Corps, or the Air Reserve Officers' Training Corps, or the Naval Reserve Officers' Training Corps, or the Naval and Marine Corps officer candidate program of the Navy, or the platoon leader's class of the Marine Corps, or the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or is appointed an ensign, U.S. Naval Reserve, while undergoing professional training; (2) has agreed, in writing, to accept a commission, if tendered, and to serve subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the U.S. Coast Guard), not less than 2 years on active duty after receipt of a commission; and (3) has agreed to remain a member of a regular or reserve component until the sixth anniversary of his receipt of a commission. Such registrant shall remain eligible for Class 1–D until completion or termination of the course of instruction and so long thereafter as he continues in a reserve status upon being commissioned except during any period he is eligible for Class 1–C under the provisions of § 1622.12.

(c) In Class 1–D shall be placed any registrant who is a fully qualified and accepted aviation cadet applicant of the Army, Navy, or Air Force, who has signed an agreement of service and is within such numbers as have been designated by the Secretary of Defense. Such registrant shall be retained in Class 1–D during the period covered by such agreement but in no case in excess of four months.

(d) In class 1–D shall be placed any registrant who is a student enrolled in an officer procurement program at a military college the curriculum of which is approved by the Secretary of Defense.

(e) In Class 1-D shall be placed any registrant who prior to August 1, 1963, enlisted for a period of eight years in a unit of the Ready Reserve of any reserve component of the Armed Forces under the provisions of section 262 of the Armed Forces Reserve Act of 1952, as amended. Such registrant shall remain eligible for Class 1-D so long as he continues to serve satisfactorily, as determined under regulations prescribed by the Secretary of the department concerned, as a member of such reserve component or of another reserve component, the Army National Guard, or the Air National Guard, as the case may be.

(f) In Class 1-D shall be placed any registrant, other than a registrant referred to in paragraph (b) or (g) of this section, who—

(1) prior to the issuance of orders for him to report for induction; or

(2) prior to the date scheduled for his induction and pursuant to a proclamation by the Governor of a State to the effect that the authorized strength of any unit of the National Guard of that State cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction; or

(3) prior to the date scheduled for his induction and pursuant to a determination by the President that the strength of the Ready Reserve of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction;

enlists or accepts appointment, before attaining the age of 26 years, in the Ready Reserve of any Reserve component of the Armed Forces, the Army National Guard, or the Air National Guard. Such registrant shall remain eligible for Class I-D so long as he serves satisfactorily as a member of an organized unit of such Ready Reserve or National Guard, or satisfactorily performs such other Ready Reserve service as may be prescribed by the Secretary of Defense, or serves satisfactorily as a member of the Ready Reserve of another reserve component, the Army National Guard, or the Air National Guard, as the case may be.

(g) In Class I-D shall be placed any registrant who at any time has enlisted in the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, or the Coast Guard Reserve and who thereafter has been commissioned therein upon graduation from an Officers' Candidate School of such Armed Force and has not been ordered to active duty as a commissioned officer. Such registrant shall remain eligible for Class I-D so long as he performs satisfactory service as a commissioned officer in an appropriate unit of the Ready Reserve, as determined under regulations prescribed by the Secretary of the department concerned.

(h) In Class I-D shall be placed any registrant who is serving satisfactorily as a member of a reserve component of the armed forces and is not eligible for Class I-D under the provisions of any other paragraph of this section: *Provided*, That for the purposes of this paragraph, a member of a reserve component who is in the Standby Reserve or the Retired Reserve shall be deemed to be serving satisfactorily unless the armed force of which he is a member informs the local board that he is not serving satisfactorily.

16622.14 Class I-O: Conscientious objector available for alternate service.—In Class I-O shall be placed every registrant who would have been classified in Class I-A but for the fact that he has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces.

1622.16 Class I-W: Conscientious objector performing alternate service in lieu of induction.—In Class I-W shall be placed any registrant who has entered upon and is performing alternate service contributing to the maintenance of the national health, safety, or interest, in accordance with the order of the local board.

1622.18 Class I-H (Holding Classification): Registrant not subject to processing for induction.—In Class I-H shall be placed any registrant (a) who is not currently subject to processing for induction according to these regulations and the rules prescribed by the Director of Selective Service, or (b) who is 26 years of age, whose liability for training and service has been extended to age 35, and who is not in a medical, dental or allied specialist category.

CLASS II

1622.20 General Rules for Classification in Class II.—(a) On the local board is placed the responsibility, under applicable rules and regulations, of deciding which men should be deferred because of their civilian activities. It is in the national interest and of paramount importance to our national security that civilian activities which are contributing to the national health, safety, or interest should be disrupted as little as possible, consistent with the fundamental purpose of the Military Selective Service Act of 1967.

(b) No deferment from training and service shall be made in the case of any individual except upon the basis of the status of such individual.

(c) The local board may avail itself of the assistance of all Federal, State, or local agencies to obtain information which will help it to determine whether a claim for occupational deferment should be granted.

(d) No local board, appeal board, or other agency of appeal of the Selective Service System shall be required to postpone or defer any person by reason of his activity in study, research, or medical, dental, veterinary, optometric, osteopathic, scientific, pharmaceutical, chiropractic, chiropodial, or other endeavors found to be necessary to the maintenance of the national health, safety, or interest solely on the basis of any test, examination, selection system, class standing, or any other means conducted, sponsored, administered, or prepared by any agency or department of the Federal Government or any private institution, corporation, association, partnership, or individual employed by an agency or department of the Federal Government.

1622.21 Length of Deferments in Class II.—(a) Class II deferments shall be for a period of one year or less. If there is a change in the registrant's status during the period of deferment in Class II, his classification shall be reopened and considered anew.

(b) At the expiration of the period of a registrant's deferment in Class II, his classification shall be reopened and he shall be classified anew in the manner provided in part 1625 of this chapter. The registrant may be continued in Class II for a further period of one year or less if such classification is warranted. The same rules shall apply when classifying a registrant at the end of each successive period for which he has been classified in Class II.

(c) Nothing in this section shall be construed to require the local board to retain in Class II any registrant when the reason for his occupational classification has ceased to exist.

1622.22 Class 2-A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.

(a) In Class 2-A shall be placed any registrant whose continued service is found to be necessary to the maintenance of the national health, safety, or interest in an activity identified as essential by the Director of Selective Service upon the advice of the National Security Council, provided that any registrant in Class 2-A under the provisions of this paragraph in effect prior to April 23, 1970 may be retained in such class so long as he qualified under those provisions. In addition, any registrant qualified for classification in Class 2-A prior to such effective date may be placed and retained in such class if request thereof has been made prior to such effective date.

(b) In Class 2-A shall be placed any registrant who (1) was satisfactorily pursuing an approved full-time course of instruction, not leading to a baccalaureate degree, in a junior college, community college, or technical school during the 1970-71 academic school year, (2) is engaged in an approved apprentice training program which he began prior to July 1, 1971, or (3) is satisfactorily pursuing approved full-time training, begun prior to July 1, 1971, in a technical or trade school not on an academic year. Deferment under the authority of this paragraph will continue until such registrant fails to pursue satisfactorily such full-time course of instruction or training or until the expiration of the period of time normally required to complete such course of full-time instruction or training.

1622.23 Necessary Employment Defined.—(a) A registrant's continued service in an occupation identified pursuant to section 1622.22(a) shall be considered to be necessary to the maintenance of the national health, safety, or interest only when all of the following conditions exist:

(1) The registrant is, or but for a seasonal or temporary interruption would be, engaged in such activity.

(2) The registrant cannot be replaced because of a shortage of persons with his qualifications or skill in such activity.

(3) The removal of the registrant would cause a material loss of effectiveness in such activity.

(b) A registrant's activity as an apprentice in an apprentice training program may be considered to be necessary to the maintenance of the national health, safety, or interest when all of the following conditions exist:

(1) The apprentice training program meets the standards and requirements prescribed by the Director of Selective Service based upon the recommendations of the Secretary of Labor.

(2) The program has been accepted by the Director of Selective Service for deferment purposes.

(3) The registrant has satisfactorily completed in the program a minimum amount of training prescribed by the Director of Selective Service.

(4) The registrant is satisfactorily pursuing his training in the program and meeting the requirements, and standards of performance prescribed by the Director of Selective Service.

(c) Revoked.

1622.23a Standards and Requirements for Apprentice Training Programs and Acceptance of Such Programs for Deferment Purposes Under Paragraph (b) of Section 1622.23.—(a) Under the provisions of subparagraph (1) of paragraph (b) of section 1622.23 an apprentice training program must meet all of the standards and requirements prescribed in paragraphs (b), (c), and (d) of this section.

(b) The apprentice training program must be an organized plan, written or implied, embodying the terms and conditions of employment, training, and supervision of one or more apprentices in one or more apprenticeable occupations, as defined in paragraph (c) of this section, and subscribed by a sponsor who has undertaken to carry out the apprentice training program. The sponsor may be an employer of labor, a joint apprenticeship committee, a trade union, a group of employers of labor, or an association of journeymen.

(c) The apprentice training program must offer apprentice training in an occupation which—

(1) customarily has been learned in a practical way through training on-the-job;

(2) requires 4,000 or more hours of work experience to learn;

(3) is clearly identified and commonly recognized throughout the industry;

(4) requires during each year of apprenticeship the completion of 144 hours or more of organized and systematic related trade instruction designed to provide the apprentice with learning in theoretical and technical subjects related to the occupation;

(5) is not merely a part of an occupation normally learned through apprenticeship;

(6) involves a development of skill sufficiently broad to be applicable in like occupations throughout an industry rather than of restricted application to the products of one employer; and

(7) does not fall within any of the following categories:

(i) selling, retailing or similar occupations in the distributive field;

(ii) managerial occupations;

(iii) clerical occupations;

(iv) professional or semi-professional occupations including occupations for which entrance requirements customarily include education of college level; or

(v) agricultural occupations which include occupations such as the growing of crops, fruits or nuts, and the raising of livestock or poultry.

(d) The apprentice training program must have been in operation with apprentices actually being trained therein for a period of at least one year.

(e) Each State Director of Selective Service is authorized to accept for deferment purposes apprentice training programs within his State which are submitted to him by the sponsors of the programs when the programs meet the standards and requirements prescribed in paragraphs (b), (c), and (d) of this section. Any program so submitted to the State Director of Selective Service which is not so accepted by him may be submitted to the Director of Selective Service for his consideration for such acceptance. In making requests to the State Director of Selective Service for such acceptance of apprentice training programs sponsors shall comply with the following procedures:

(1) If the apprentice training program has been registered with a State apprenticeship agency the certificate of such agency stating that the program meets all the standards and requirements prescribed in paragraphs (b), (c), and (d) of this section shall accompany the request for acceptance when it is submitted to the State Director of Selective Service by the sponsor for consideration.

(2) If the apprentice training program is registered with the Bureau of Apprenticeship of the United States Department of Labor the certificate of that agency stating that the program meets all the standards and requirements prescribed in paragraphs (b), (c), and (d) of this section shall accompany the request for acceptance when it is submitted to the State Director of Selective Service by the sponsor for consideration.

(3) If the apprentice training program has not been registered with either a State apprenticeship agency or the Bureau of Apprenticeship of the United States Department of Labor, the certificate of the sponsor stating that the program meets the standards and requirements prescribed in paragraphs (b), (c), and (d) of this section shall accompany his request for acceptance when it is submitted to the State Director of Selective Service.

(f) Under the provisions of subparagraphs (3) and (4) of paragraph (b) of section 1622.23 a registrant's activity as an apprentice in an apprentice training program may be considered to be necessary to the maintenance of the national health, safety or interest when all of the following conditions exist:

(1) The program sponsor has submitted to the local board a request for the occupational deferment of the registrant accompanied by the certificate of the sponsor that (i) the apprentice training program has been accepted for the purpose of deferment by the State Director of Selective Service for the State within which the program is being operated or by the Director of Selective Service, and (ii) the registrant is meeting the conditions prescribed in subparagraph (2) of this paragraph.

(2) The registrant currently is meeting all the standards and requirements of the apprentice training program and is satisfactorily performing and progressing in his on-the-job training and related trade instruction.

1622.24 Class II–C: Registrant Deferred Because of Agricultural Occupation.—(a) In Class II–C shall be placed any registrant who is employed in the production for market of a substantial quantity of those agricultural commodities which are necessary to the maintenance of the national health, safety, or interest, but only when all of the conditions described in Paragraph 1622.23(a) are found to exist and only if the registrant was classified in Class II–C prior to the effective date of this paragraph in its present form. In addition, any registrant qualified for classification in Class II–C prior to such effective date may be placed and retained in such class if request therefor has been made prior to such effective date.

(b) The production for market of a substantial quantity of agricultural commodities should be measured in terms of the average annual production per farm worker which is marketed from a local average farm of the type under consideration. The production of agricultural commodities for consumption by the worker and his family, or traded for subsistence purposes, should not be considered as production for market. Production which is in excess of that required for the subsistence of the farm families on the farm under consideration should be considered as production for market.

1622.25 Class II–S: Registrant Deferred Because of Activity in Study.—(a) In Class 2–S shall be placed any registrant who requests such classification, who was satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution of learning during the 1970–1971 regular academic school year and who is satisfactorily pursuing such course, such classification to continue until such registrant completes the requirement for his baccalaureate degree, fails to pursue satisfactorily full-time course of instruction, or attains the 24th anniversary of the date of his birth, whichever occurs first.

(b) In determining eligibility for deferment in Class II–S, a student's "academic year" shall include the 12-month period following the beginning of his course of study.

(c) A student shall be deemed to be "satisfactorily pursuing a full-time course of instruction" when, during his academic year, he has earned, as a minimum, credits toward his degree which, when added to any credit earned during prior academic years, represent a proportion of the total number required to earn his degree at least equal to the proportion which the number of academic years completed bears to the normal number of years established by the school to obtain such degree. For example, a student pursuing a four-year course should have earned 25% of the credits required for his baccalaureate degree at the end of his first academic year, 50% at the end of his second academic year, and 75% at the end of his third academic year.

(d) It shall be the registrant's duty to provide the local board each year with evidence that he is satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution of learning.

1622.26 Class II–S: Registrant Deferred Because of Activity in Graduate Study.—(a) In Class II–S shall be placed any registrant who is satisfactorily pursuing a course of graduate study in medicine, dentistry, veterinary medicine, osteopathy, optometry or podiatry, or in such other subjects necessary to the maintenance of the national health, safety, or interest as are identified by the Director of Selective Service upon the advice of the National Security Council.

(b) Revoked

1622.27 Class 2–D: Registrant deferred because of study preparing for the ministry.

(a) In Class 2–D shall be placed any registrant who is a student preparing for the ministry under the direction of a recognized church or religious organization, who is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school, or who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been preenrolled.

(b) A registrant will be deemed to be satisfactorily pursuing a full-time course of instruction when he is making proportionate progress. For example, if the registrant is enrolled in a 4-year course of instruction, the registrant must complete at least one-fourth of the total requirements by the end of the first academic year, at least one-half by the end of the second academic year, at least three-fourths by the end of the third academic year, and all requirements by the end of the fourth academic year. The registrant's academic year, for the purpose of this paragraph, shall terminate on the anniversary of his entrance into the course of study.

CLASS III

1622.30 Class III–A: Registrant With a Child or Children; or Registrant Deferred by Reason of Extreme Hardship to Dependents.—(a) In Class III–A shall be placed any registrant whose induction into the armed forces would result in extreme hardship (1) to his wife, divorced wife, child, parent, grandparent, brother, or sister who is dependent upon him for support, or (2) to a person under 18 years of age or a person of any age who is physically or mentally handicapped whose support the registrant has assumed in good faith: *Provided*, That a person shall be considered to be a dependent of a registrant under this paragraph only when such person is either a citizen of the United States or lives in the United States, its Territories, or possessions.

(b) The term "child" as used in this section shall include a legitimate or an illegitimate child from the date of its conception a child legally adopted, a stepchild, a foster child, and a person who is supported in good faith by the registrant in a relationship similar to that of parent and child but shall not include any person 18 years of age or over unless he is physically or mentally handicapped.

(c) In Class III–A shall be placed any registrant who prior to the effective date of this paragraph in its present form submitted to his local board information establishing his eligibility for deferment on the grounds of fatherhood under regulations in effect prior to such date, or who is so classified prior to such date, and who continues to maintain a bona fide family relationship in their home with his child or children, except that this paragraph shall not apply to any registrant who subsequently becomes a physician, dentist, or veterinarian.

(d) In the consideration of a dependency claim, any payments of allowances which are payable by the United States to the dependents of persons serving in the Armed Forces of the United States shall be taken into consideration, but the fact that such payments of allowances are payable shall no be deemed conclusively to remove the grounds for deferment when the dependency is based upon financial considerations and shall not be deemed to remove the grounds for deferment when the dependency is based upon other than financial considerations and cannot be eliminated by financial assistance to the dependents.

1622.30a. Registrants Included in the Term "Allied Specialist Category" as Used in Paragraph (a) of Section 1622.30.—Revoked.

CLASS IV

1622.40 Class IV–A: Registrant Who Has Completed Service; Sole Surviving Son.—(a) In Class IV–A shall be placed any registrant who falls within any of the following categories:

(1) A registrant who subsequent to September 16, 1940, was discharged or transferred to a reserve component of the Armed Forces for the convenience of the Government after having served honorably on active duty for a period of not less than six months in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard.

(2) A registrant who has served honorably on active duty after September 16, 1940, for a period of not less than one year in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard.

(3) A registrant who has served on active duty for a period of not less than twenty-four months as a commissioned officer in the Environmental Science Services Administration or in the Public Health Service, provided that such period of active duty in the Public Health Service as a commissioned reserve officer commencing after the date of enactment of the Military Selective Service Act of 1967 shall have been performed by the registrant while assigned to staff any of the various offices and bureaus of the Public Health Service including the National Institutes of Health, or while assigned to the Coast Guard, or the Bureau of Prisons of the Department of Justice, or the Environmental Science Services Administration.

(4) A registrant who has served on active duty subsequent to June 24, 1948, for a period of not less than 12 months in the armed forces of a nation determined by the Department of State to be a nation with which the United States is associated in mutual defense activities and which grants exemption from training and service in its armed forces to citizens of the United States who have served on active duty in the Armed Forces of the United States subsequent to June 24, 1948, for a period of not less than 12 months; *Provided*, That in computing such 12-month period, there shall be credited any active duty performer by the registrant prior to June 24, 1948, in the armed forces of a country allied with the United States during World War II and with which the United States is associated in such mutual defense activities: *And provided further*, That all information which is submitted to the local board concerning the registrant's service in the armed forces of a foreign nation shall be written in the English language.

(5) A registrant who after becoming a member of a unit of the Ready Reserve of a reserve component of the Armed Forces by enlistment prior to August 1, 1963, under the provisions of section 262 of the Armed Forces Reserve Act of 1952, as amended, has continued to serve satisfactorily as such member or as a member of another reserve component, the Army National Guard, or the Air National Guard, as the case may be, and who completed eight years of such satisfactory service during which he has performed an initial period of active duty for training of not less than three months.

(6) A registrant who after becoming a member of an organized unit of the Army National Guard or the Air National Guard by enlistment or appointment prior to attaining the age of 18 years and 6 months and prior to September 3, 1963, has continued to serve satisfactorily as such member or as a member of another reserve component, the Army National Guard, or the Air National Guard, as the case may be, and who has completed eight years of such satisfactory service during which he has performed active duty for training with an armed force for not less than three consecutive months.

(7) A registrant who after becoming a member of the Ready Reserve of any reserve component of the Armed Forces, the Army National Guard, or the Air National Guard by enlistment or appointment on or after September 3, 1963, and prior to attaining the age of 26 years, has served satisfactorily as such member or as a member of another reserve component, the Army National Guard, or the Air National Guard, as the case may be, and who has completed six years (or eight years if so obligated under the provision of section 6(d)(1) of the Military Selective Service Act of 1967) of such satisfactory service during which he has performed active duty for training with an armed force for not less than four consecutive months.

(8) A registrant who after completion of six years of satisfactory service as a member of one or more reserve components of the Armed Forces has ceased to be a member of any reserve component of the Armed Forces.

(9) A registrant, other than a registrant referred to in subparagraph (5) or (6) of this paragraph, who has completed six years of satisfactory service as a member of one or more of the Armed Forces including the reserve components thereof.

(b) For the purpose of computation of periods of active duty referred to in subparagraphs (1), (2), or (3), of paragraph (a) of this section, no credit shall be allowed for—

(1) Periods of active duty training performed as a member of a reserve component pursuant to an order on call to active duty solely for training purposes;

(2) Periods of active duty in which the service consisted solely of training under the Army specialized training program, the Army Air Force college training program, or any similar program under the jurisdiction of the Navy, Marine Corps, or Coast Guard;

(3) Periods of active duty as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any of such academies;

(4) Periods of active duty in any of the Armed Forces while being processed for entry into or separation from any educational program or institution referred to in subparagraphs (2) or (3) of this paragraph; or

(5) Periods of active duty performed by medical, dental, or allied specialists in student programs prior to receipt of the appropriate professional degree or in intern training.

(6) Periods of active duty of members of the Reserve of the Public Health Service commencing after the date of enactment of the Military Selective Service Act of 1967 other than when assigned to staff any of the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or the Coast Guard or the Bureau of Prisons of the Department of Justice, or the Environmental Science Services Administration.

1622.41 Class IV–B: Officials Deferred by Law.—In Class IV–B shall be placed any registrant who is the Vice President of the United States; a governor of a State, Territory or possession, or any other official chosen by the voters of the entire State, Territory or possession; a member of a legislative body of the United States or of a State, Territory or possession; a judge of a court of record of the United States or of a State, Territory or possession, or the District of Columbia.

1622.42 Class 4–C: Aliens.—(a) In Class 4–C shall be placed any registrant who is an alien and who has not resided in the United States for 1 year. When such a registrant has been within the United States for two or more periods (including periods before his registration) and the total of such periods equals 1 year, he shall be deemed to have resided in the United States for 1 year. In computing the length of such periods, any portion of 1 day shall be counted as 1 full day. When any such registrant has resided in the United States for 1 year, he shall be classified as available for military service unless he is found to be eligible for another classification for a reason other than his alien status.

(b) In Class 4–C shall be placed any registrant who is an alien who establishes that he is exempt from military service under the terms of a treaty or international agreement between the United States and the country of which he is a national, and who has made application to be exempted from liability for training and service in the Armed Forces of the United States.

(c) In Class 4–C shall be placed any registrant who is an alien and who has departed from the United States. If any registrant so classified under this paragraph returns to the United States, his classification shall be reopened and he shall be classified anew.

(d) In Class IV–C shall be placed an alien who has registered at a time when he was required by the selective service law to present himself for and submit to registration and thereafter has acquired status within one of the groups of persons exempt from registration.

(e) In Class 4C–shall be placed any registrant who is an alien lawfully admitted for permanent residence as defined in paragraph (20) of section 101(a) of the Immigration and Nationality Act, as amended (65 Stat. 163, 8 U.S.C. 1101), and who by reason of occupational status is subject to adjustment to nonimmigrant status under paragraph (15)(A), (15)(E), or (15)(G) of such section 101(a) but who executes a waiver in accordance with section 247(b) of that Act of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status. A registrant placed in Class 4–C under the authority of this paragraph shall be retained in Class 4–C only for so long as such occupational status continues.

1622.43 Class 4–D: Minister of religion.—In Class 4–D shall be placed any registrant who is a regular or duly ordained minister of religion as defined in section 16(g) of the Military Selective Service Act.

1622.44 Class 4–F: Registrant not qualified for military service.—(a) In Class 4–F shall be placed any registrant who is found under applicable physical, mental, and moral standards to be not qualified for service in the armed forces either currently, or in time of war or national emergency declared by the Congress, except that no such registrant whose further examination or reexamination may be justified shall be placed in Class 4–F until such further examination as the Director of Selective Service deems appropriate has been accomplished and such registrant continues to be found not qualified for military service.

(b) In Class 4–F shall be placed any registrant in the medical, dental, and allied specialist categories who has applied for an appointment as a Reserve officer in one of the Armed Forces in any of such categories and has been rejected for such appointment on the sole ground of a physical disqualification.

1622.45 Class 4–G: Registrant exempted from service during peace.—In Class 4–G shall be placed and registrant who meets the requirements of section 6(o) of the Military Selective Service Act or section 101 (d)(3) of Public Law 92–129: *Provided,* That no registrant who volunteers for induction shall be placed or retained in Class 4–G.

1622.46 Class 4–W: Registrant who has completed alternate service in lieu of induction.—In Class 4–W shall be placed any registrant who subsequent to being ordered by the local board to perform alternate service in lieu of induction has been released from such service by the local board after satisfactorily performing the work for a period of 24 consecutive months or has been released from such service by the Director of Selective Service.

MISCELLANEOUS PROVISIONS

1622.60 Director May Direct That Eligibility for Particular Classification be Disregarded.—The Director of Selective Service, notwithstanding any other provisions of the regulations in this chapter, may direct that any registrant shall be classified or reclassified without regard to his eligibility for a particular classification.

PART 1623—CLASSIFICATION PROCEDURE

1623.1 Commencement of Classification.—(a) Each registrant shall be classified as soon as practicable after his registration.

(b) The registrant's classification shall be determined on the basis of the official forms of the Selective Service System and such other written information as may be contained in his file: provided that the board shall proceed with the registrant's classification whenever he fails to provide the board in a timely manner with any information concerning his status which he is requested or required to furnish. Since it is imperative that appeal agencies have available to them all information on which the local board determined the registrant's classification, oral information shall not be considered unless it is summarized in writing and the summary placed in the registrant's file. Under no circumstances shall the local board rely upon information received by a member personally unless such information is reduced to writing and placed in the registrant's file. None of the provisions of this section shall impair the power of the local board to take notice of the birthday of any registrant and of the fact that the Congress has made registrants of his age liable for induction for military service and in the absence of any other information, when the registrant has failed to furnish such information within the time prescribed, to classify the registrant as available for military service.

1623.2 Consideration of Classes—Every registrant shall be placed in Class 1–A under the provisions of section 1622.10 of this chapter except that when grounds are established to place a registrant in one or more of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class I–A–O considered the highest class and Class I–C considered the lowest class according to the following table:

Class: 1–A–O, 1–O, 2–A, 2–C, 2–S, 2–D,; 3–A, 4–B, 4–C, 4–D, 1–H, 4–P; 4–A, 4–G, 1–W, 4–W, 1–D, 1–C.

1623.3 Physical Examination.—Physical examination of registrants classified in Class 1–A, Class I–A–O, or Class I–O shall be accomplished under the provisions of part 1628 of this chapter.

1623.4 Action To Be Taken When Classification Determined.—(a) As soon as practicable after the local board has classified or reclassified a registrant (except a registrant who is classified in Class I–C because of his entering active service in the armed forces) shall mail a notice thereof. When a registrant is classified in Class 2–A, Class 2–C, Class 2–D, or Class 2–S, the date of the termination of the deferment shall be entered on such notice.

(b) After each local board meeting, a notice listing the registrants who have been classified or whose classification has been changed, shall be posted in a conspicuous place in the office of the local board. When a person is unable to ascertain the current classification of a registrant from the posted notice, an employee of the local board, upon request shall consult the Classification Record (SSS Form 102) and shall furnish the person making the inquiry the current classification of such registrant.

(c) In the event that the local board classifies the registrant in a class other than that which he requested it shall record its reasons therefor in his file. The local board shall inform the registrant of such reasons in writing at the time it mails to him a notice of his classification.

1623.5 Persons Required To Have Notice of Classification (SSS Form 110) in Personal Possession.—Every person who has been classified by a local board must have in his personal possession until his liability for training and service has terminated a valid Notice of Classification (SSS Form 110) issued to him showing his current classification. When any such person is inducted into the Armed Forces or enters upon active duty in the Armed Forces, other than active duty for training and only for active duty for the sole purpose of undergoing a physical examination, he shall surrender his Notice of Classification (SSS Form 110) to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officer shall return the notice to the local board that issued it.

1623.6 Wrongful Possession of, or Making, Altering, Forging, or Counterfeiting, Notice of Classification (SSS Form 110) Prohibited.—It shall be a violation of these regulations for any person to have in his possession a Notice of Classification (SSS Form 110) issued to some other person, or to permit a Notice of Classification (SSS Form 110) issued to him to be in possession of any other person except as provided in the instructions upon such form; or to falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or to willingly aid or assist another to falsely make, alter, forge, or counterfeit, any Notice of Classification (SSS Form 110), or to utter or publish as true, or cause to be uttered or published as true, or have in his possession with the intent to utter or publish as true, any such false, altered, forged, or counterfeited Notice of Classification (SSS Form 110); or to exhibit or present to any person any such false, altered, forged, or counterfeited, Notice of Classification (SSS Form 110), knowing the same to be false, forged, altered, or counterfeited.

1623.7 Issuing a Duplicate of a Lost, Destroyed, Mislaid, or Stolen Notice of Classification (SSS Form 110).—A duplicate Notice of Classification (SSS Form 110) may be issued to a registrant only by the local board which mailed the original Notice of Classification (SSS Form 110) to him upon his written request therefor . . . and the presentation of proof satisfactory to the local board that his Notice of Classification (SSS Form 110) has been lost, destroyed, mislaid, or stolen.

1623.9 Registrants Transferred for Classification.—(a) After returning the Classification Questionnaire (SSS Form 100), and before the local board of origin has undertaken the classification of a registrant, he may be transferred to another local board for classification if he is so far from his local board as to make complying with notices a hardship.

(b) After returning the Classification Questionnaire (SSS Form 100), a registrant may be transferred to another local board for classification at any time (1) when the local board cannot act on his case because of disqualification under the provisions of section 1604.52a or section 1604.55 of this chapter, or (2) when a majority of the members of the local board, or a majority of the members of every panel thereof if the board has separate panels, withdraw from consideration of the registrant's classification because of any conflicting interest, bias, or other reason.

(c) The State Director of Selective Service may transfer a registrant to another local board for classification at any time (1) when any member of the local board cannot act on the registrant's case because of disqualification under the provisions of section 1604.52a or section 1604.55 of this chapter, or (2) when the State Director of Selective Service deems such transfer to be necessary in order to assure equitable administration of the selective service law.

1623.10 Procedure Upon Transfer for Classification.—(a) The local board from which the registrant is transferred shall prepare, in triplicate, an Order for Transfer for Classification (SSS Form 114), shall send one copy thereof to the registrant, and shall transmit the original to the local board to which the registrant is transferred, together with all papers pertaining to the registrant except the Registration Card (SSS Form 1) and the remaining copy of the Order for Transfer for Classification (SSS Form 114). The local board from which the registrant is transferred shall, with red ink note the transfer in the "Remarks" column of the Classification Record (SSS Form 102).

(b) The local board to which the registrant is transferred shall classify the registrant. It shall follow the same procedure as in the case of one of its own registrants if a request for hearing, a request for reopening, or an appeal is filed. It shall give the same notices and maintain the same records as are sent and maintained for its own registrants, except that it shall use a separate page in its Classification Record (SSS Form 102) for transferred registrants and shall make all entries on that page in red ink. The local board to which the registrant is transferred shall prepare a duplicate Cover Sheet (SSS Form 101). After the classification, after the hearing, when requested, and after the determination on appeal, when taken, the local board to which the registrant is transferred shall return to the local board of origin all papers pertaining to the registrant except the duplicate Cover Sheet (SSS Form 101) and the Order for Transfer for Classification (SSS Form 114). In the proper column of the Classification Record (SSS Form 102) the local board to which the registrant is transferred shall note the date of the returning of the papers.

(c) The classification made by the local board to which a registrant is transferred shall be appealed through that local board only. The local board of origin shall accept and enter on its records, without any change, the classification reported by the board which classified the registrant. If the local board of origin receives new information that might affect the registrant's classification, the board shall send the information and the registrant's file to the board to which he was transferred for further consideration; provided, that if the disqualification of the local board or other reason for the original transfer for classification no longer exists, the local board may consider the new information and classify the registrant in the same manner as if he had never been transferred for classification.

PART 1624—PERSONAL APPEARANCE BEFORE LOCAL BOARD

1624.1 Opportunity for personal appearance.—(a) Every registrant after his classification is determined by the local board, except a classification which is determined upon an appearance before the local board under the provisions of this part, shall have an opportunity to appear in person before the local board.

(b) A registrant who has filed a claim for classification in Class 1–O, Class 1–A–O, or Class 3–A. Upon his request, shall be afforded an opportunity to appear in person before the local board before his classification is determined by the local board. Should such registrant appear in person before the local board in advance of his classification being determined, the provisions of § 1624.4 shall apply and he shall not be afforded an opportunity to appear concerning such classification after such determination.

1624.2 Request for personal appearance.—A registrant, other than one who has filed a request in accord with §1624.1(b), who desires a personal appearance before his local board, must file a written request therefor within 15 days after the local board has mailed a Notice of Classification (SSS Form 110) to him. Such 15-day period may be extended by the local board when it is satisfied that the registrant's failure to request a personal appearance within such period was due to some cause beyond his control.

1624.3 Appointment for personal appearance.—The local board, not less than 15 days (unless the registrant requests an earlier appointment) in advance of the meeting at which he may appear, shall inform the registrant of the time and place of such meeting and that he may present evidence, including witnesses, bearing on his classification. Should the registrant fail to appear at such meeting, except for good cause that he establishes to the satisfaction of the local board, he shall not be afforded an opportunity to appear at a subsequent meeting. The registrant must file a written statement of the reasons for his failure to appear at his scheduled meeting within 5 days after such failure or the registrant will be deemed to have waived his right to an opportunity to appear at a subsequent meeting of the local board. Such period may be extended by the local board when it is satisfied that the registrant's failure to file a written statement of the reasons for his failure to appear at his scheduled meeting within 5 days was due to some cause beyond his control.

1624.4 Procedure during personal appearance before local board.—(a) a quorum of the local board shall be present during all personal appearances.

(b) At any such appearance, the registrant may present evidence, including witnesses, may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the local board in determining his proper classification. Such information shall be in writing or if oral, shall be summarized in writing by the registrant and, in either event, shall be placed in the registrants file. The information furnished should be as concise as possible under the circumstances.

(c) A registrant is entitled to such time for his personal appearance as is reasonably necessary for the fair presentation of his claim. Normally 15 minutes shall be deemed adequate for this purpose, consistent with the informal and expeditious processing required in selective service cases. If it appears to the board that further time is reasonably necessary, the board shall extend the time. During the time available to a registrant, he may present the testimony of not more than three witnesses.

(d) If the registrant does not speak English adequately he may appear with a person to act as interpreter for him. Such interpreter will not be deemed to be a witness unless he testifies in behalf of the registrant.

(e) No registrant may be represented at his personal appearance before the local board by anyone acting as attorney or legal counsel, but a registrant may invite an attorney to appear solely as a witness.

1624.5 Procedure when registrant fails to appear.

(a) Whenever the registrant for whom a personal appearance has been scheduled fails to appear in accord with such schedule, the local board shall consider any explanation of such failure that has been filed within 5 days (or extension thereof granted by the local board) after such failure in accordance with § 1624.3. Should the local board determine that the registrant's failure to appear for his personal appearance was without good cause, or if within 5 days (or extension thereof granted by the local board) after such failure to appear the registrant offers no explanation of such failure, the registrant will be deemed to have had his personal appearance and the local board (1) will take such action with respect to the classification of a registrant who has requested a personal appearance following his classification as is appropriate in light of the provisions concerning reopening of classification in § 1625.2, or (2) of this chapter if such registrant requested a personal appearance in advance of his classification in accordance with § 1624.1(b), the local board shall classify the registrant. The local board will notify the registrant of the action taken by Notice of Classification (SSS Form 110) or letter, as appropriate.

(b) A notation that the registrant has failed to appear before his local board shall be entered on his Registration Questionnaire (SSS Form 100).

1624.6 Procedure of local board following personal appearance.

(a) After the registrant has appeared before the local board, it shall again classify the registrant and, as soon as practicable thereafter, it shall mail notice thereof on Notice of Classification (SSS Form 110) to the registrant. In the event that the local board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in his file. The local board shall inform the registrant of such reasons in writing at the time it mails his Notice of Classification (SSS Form 110).

(b) A notation that the registrant has appeared before his local board shall be entered on his Registration Questionnaire (SSS Form 100).

1624.7 Appearance before local board stays induction or order to report for alternate service.—The local board shall not issue an order for a registrant to report for induction or for alternate service in lieu of induction either during the period afforded the registrant to request a personal appearance before the local board or, if the registrant has requested such appearance, during the period such personal appearance is pending. Any order to report for induction or for alternate service which has been issued during either of such periods shall be ineffective and shall be canceled by the local board.

PART 1625—REOPENING AND CONSIDERING A NEW REGISTRANT'S CLASSIFICATION

REOPENING REGISTRANT'S CLASSIFICATION

1625.1 Classification Not Permanent.—(a) No classification is permanent.

(b) Each classified registrant shall, within 10 days after it occurs, report to the local board in writing any fact, such as, but not limited to, any change in his occupational, marital, military, or dependency status, or in his physical condition, that might result in his being placed in a different classification.

(c) The local board shall keep informed of the status of classified registrants, except those classified in Class 1–H. Registrants may be questioned or physically or mentally reexamined, employers may be requested to furnish information, police officials or other agencies may be requested to make investigations, and other steps may be taken by the local board to keep currently informed concerning the status of classified registrants.

1625.2 Reopening of classification.—(a) The local board will reopen and consider anew the classification of a registrant (1) upon the written request of the Director of Selective Service or the State Director of Selective Service and upon receipt of such request shall immediately cancel any order to report for induction or alternate service which may have been issued to the registrant; (2) who is in Class 1–H and becomes subject to processing for induction according to these regulations and the rules prescribed by the Director; (3) in any classification for the purpose of classifying him in Class 1–H according to these regulations and the rules prescribed by the Director; (4) upon the written request of the registrant that is accompanied by written information presenting facts not considered when the registrant was classified or which, in the opinion of the board, justify a change in the registrant's classification; or (5) upon its own motion if such action is based upon facts not considered when the registrant was classified which, in the opinion of the board, would justify a change in the registrant's classification: *Provided*, That in the event of subparagraphs (4) or (5) of this paragraph the classification of a registrant shall not be reopened after the local board has mailed to such registrant an order for induction or alternate service or, in the event the order to report for induction or alternate service was postponed and a subsequent letter from the local board establishes the date for induction or for reporting for alternate service, unless the local board first specifically finds there has been a change in the registrant's status resulting from circumstances over which the registrant had no control.

1625.3 [Revoked.]

§ 1625.4 Refusal to reopen and consider anew registrant's classification.—When a registrant files with the local board a written request to reopen and consider anew the registrant's classification and the local board is of the opinion that the information accompanying such request fails to present any facts in addition to those considered when the registrant was classified or, even if new facts are presented, the local board is of the opinion that such facts, if true, would not justify a change in such registrant's classification, it shall not reopen the registrant's classification. In such a case, the local board (a) shall record in the registrant's file the reasons for its decision not to reopen his classification, and (b) shall advise the registrant by letter of its decision not to reopen his classification and the reasons therefor.

CLASSIFICATION ANEW

1625.11 Classification Considered Anew When Reopened.—When the local board reopens the registrant's classification, it shall consider the new information which it has received and shall again classify the registrant in the same manner as if he had never before been classified. Such classification shall be and have the effect of a new and original classification even though the registrant is again placed in the class that he was in before his classification was reopened.

1625.12 Notice of Action When Classification Considered Anew.—When the local board reopens the registrant's classification, it shall, as soon as practicable after it has again classified the registrant, mail notice thereof.

1625.13 Right of Appeal Following Reopening of Classification.—Each such classification shall be followed by the same right of appearance before the local board and the same right of appeal as in the case of an original classification.

1625.14 Cancellation of order to report for induction or for alternate service by reopening of classification.—The reopening of the classification of a registrant by the local board shall cancel any order to report for induction or alternate service which may have been issued to the registrant, except that if the registrant has failed to comply with either of those orders, the reopening of his classification thereafter by the local board for the purpose of placing him in Class 4-C shall not cancel the order with which he failed to comply.

PART 1626—APPEAL TO APPEAL BOARD

1626.1 Who may appeal.—The Director of Selective Service and the State Director of Selective Service as to the local boards in his State may appeal from any determination of a local board at any time. The registrant may appeal to an appeal board from his classification by the local board except his initial administrative classification into Class 1-H.

1626.2 Time limit within which registrant may appeal.—The registrant must file his appeal and his request for a personal appearance before the appeal board, if such personal appearance is desired, within 15 days after the date the local board mails to the registrant a Notice of Classification (SSS Form 110) or letter pursuant to § 1624.5 of this chapter. At any time prior to the date the local board mails to the registrant an Order to Report for (SSS Form 252) or Order to Report for Alternate Service (SSS Form 153), the local board will permit him to appeal even though the period for taking an appeal has elapsed, if it is satisfied that his failure to appear within such period was due to some cause beyond his control. If the local board grants an extension of time to appeal to the registrant, he may within such extended period also request a personal appearance before the appeal board.

1626.3 Procedure for taking an appeal.—(a) Any person entitled to do so may appeal to the appeal board by filing with the local board a written notice of appeal. If the Director of Selective Service or the State Director of Selective Service appeals to the appeal board he shall place in the registrant's file a written statement of his reasons for taking such appeal.

(b) Whenever an appeal is taken from a local board's classification by the Director of Selective Service or the State Director of Selective Service, the local board shall notify the registrant in writing of the action, the reasons therefor, and inform him that (1) his appeal will be considered by the appeal board for the area in which his local board is located unless he files, within 15 days from the date on the letter of notification, a written request with the local board that the appeal be considered by the appeal board having jurisdiction over the area in which is located his principal place of employment or residence and (2) he may request a personal appearance before the appeal board if he files with the local board within 15 days from the date on the letter of notification a written request for such personal appearance. The 15-day period may be extended by the local board when it is satisfied that the registrant's failure to file a written request within such period was due to some cause beyond his control.

(c) If the registrant is taking the appeal, he may also request an opportunity to appear in person before the appeal board having jurisdiction over the area in which is located his principal place of employment or residence. The notice of appeal need not be in any particular form, but must include the name of the registrant and his request. Any notice shall be liberally construed so as to permit the appeal.

(d) The appeal board for the area in which the registrant's local board is located shall consider the appeal of the registrant's classification unless the registrant has timely filed with his local board a written request that the appeal be considered by the appeal board having jurisdiction over the area in which is located his principal place of employment or residence.

(e) The registrant may attach to his appeal a statement specifying the reasons he believes the classification inappropriate, directing attention to any information in his file which he believes received inadequate consideration, and setting out more fully any information which was submitted.

1626.4 Review by appeal board.

(a) The appeal board shall consider appeals in the order of the relative imminence of induction of the registrant, the most imminent being considered first, unless otherwise directed by the Director of Selective Service, in which event appeals shall be considered in such order as the Director of Selective Service shall prescribe.

(b) Upon receipt of the registrant's file, the appeal board shall ascertain whether the registrant has requested a personal appearance before the appeal board. If no such request had been made, the appeal board may classify the registrant not less than 15 days after the receipt of the registrant's file.

(c) Not less than 15 days (unless the registrant requests an earlier appointment) in advance of the meeting at which his classification will be considered, the appeal board shall inform any registrant who has requested a personal appearance that he may appear at such meeting and present evidence, other than witnesses, bearing on his classification. Should the registrant fail to appear at such meeting, except for good cause he establishes to the satisfaction of the appeal board, he shall not be afforded an opportunity to appear at a subsequent meeting. The registrant must file a written statement of the reasons for his failure to appear at his scheduled meeting within 5 days after such failure or the registrant will be deemed to have waived his right to an opportunity to appear at a subsequent meeting. Such 5-day period may be extended by the appeal board when it is satisfied that the registrant's failure to file such written statement was due to some cause beyond his control.

(d) A registrant is entitled to such time for his personal appearance before an appeal board as the board determines is reasonably necessary for the fair presentation of his claim, consistent with the informal and expeditious processing required in selective service cases, but shall not be entitled to present witnesses. No registrant may be represented at his personal appearance before an appeal board by anyone acting as attorney or legal counsel.

(e) At any such personal appearance, there shall be present a quorum of the members of the board to which the registrant may present evidence, may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the board in determining his proper classification. Such statement shall be summarized in writing by the registrant and shall be placed in the registrant's file. The information furnished should be as concise as possible under the circumstances.

(f) The appeal board shall classify a registrant who has requested a personal appearance after (1) he has appeared before the board, (2) he withdrew his request to appear, (3) he waived his right to an opportunity to appear, or (4) he failed to appear without establishing to the satisfaction of the appeal board good cause therefor. When a registrant appears before the appeal board, only those members of the appeal board before whom the registrant appeared shall classify him.

(g) In reviewing the appeal and classifying the registrant, the appeal board shall not receive or consider any information other than the following:

(1) Information contained in the record received from the local board;

(2) General information concerning economic, industrial and social conditions; and

(3) Oral statements by the registrant and written evidence submitted by him to the appeal board during his personal appearance.

(h) The appeal board shall classify the registrant, giving consideration to the various classes in the same manner in which the local board gives consideration thereto when it classifies a registrant.

(i) In the event that the appeal board classifies the registrant in a class other than that be requested it shall record its reasons therefor in his file. The local board shall inform the registrant of such reasons in writing at the time it mails his Notice of Classification (SSS Form 110).

1626.5 Procedure of local board when advised of decision of appeal board.—When the local board receives notice of the decision of a case by the appeal board, it shall mail a Notice of Classification (SSS Form 110) to the registrant, and enter upon such form the record of the vote of the appeal board as follows: "Vote of appeal board—Yes______ No______." At the time of mailing of the Notice of Classification (SSS Form 110), the local board, if the classification by the appeal board was not by unanimous vote, shall notify the registrant in the manner prescribed by the Director of Selective Service of his right to appeal to the National Selective Service Appeal Board.

1626.6 Appeal stays induction or order to report for alternate service.—The local board shall not issue an order for a registrant to report for induction or for alternate service in lieu of induction either during the period afforded the registrant to take an appeal to the appeal board or during the period such an appeal is pending. Any order to report for induction, or for alternate service in lieu of induction, which has been issued during either of such periods shall be ineffective and shall be canceled by the local board. Whenever an appeal to the appeal board has been taken during the time allowed for taking appeals by a person entitled to do so, any order to report for induction or for alternate service which has been previously issued to the registrant shall be ineffective and shall be canceled by the local board.

PART 1627—APPEAL TO THE PRESIDENT

1627.1 Persons who may appeal to the President.

(a) The Director of Selective Service, the State Director of Selective Service of the State in which the local board which classified the registrant is located, or the State Director of Selective Service of the State in which the appeal board is located may appeal to the President from any determination of an appeal board at any time prior to the induction of the registrant.

(b) When a registrant has been classified by the appeal board and one or more members of the appeal board dissented from that classification, he may appeal to the President within 15 days after the mailing by the local board of the Notice of Classification (SSS Form 110) notifying him of his classification by the appeal board. The local board may permit any registrant who is entitled to appeal to the President under this section to do so at any time prior to the date the local board issues to him an order to report for induction or for alternate service, even though the period of taking such an appeal has elapsed. If it is satisfied that his failure to appeal within such period was due to some cause beyond his control.

1627.2 Procedure for taking an appeal to the President.

(a) An appeal to the President may be taken by the Director of Selective Service (1) by mailing to the local board, through the State Director of Selective Service, a written notice of appeal or (2) by placing in the registrant's file a written notice of appeal and, through the State Director of Selective Service, advising the local board thereof.

(b) An appeal to the President may be taken by the State Director of Selective Service (1) by mailing to the local board a written notice of appeal and directing the local board to forward the registrant's file to him for transmittal to the Director of Selective Service or (2) by placing in the registrant's file a written notice of appeal and advising the local board thereof. Before he forwards the registrant's file to the Director of Selective Service, the State Director of Selective Service shall place in such file a written statement of his reasons for taking such appeal.

(c) An appeal to the President by the registrant shall be taken by filing with the local board a written notice of appeal. Such notice need not be in any particular form but must state the name of the registrant and the fact he wishes the President to review the determination of the appeal board.

1627.3 Procedure on appeal to the President.

(a) When an appeal to the President is taken by the Director of Selective Service or a State Director of Selective Service, the local board shall notify the registrant that the appeal has been taken. If the registrant's file is in the local board's possession, it shall forward the entire file to the State Director of Selective Service and the local board shall enter on the Classification Record (SSS Form 102) under "Remarks" the date the file is forwarded or the date it receives notice that an appeal to the President has been taken.

(b) When an appeal to the President is taken, the State Director of Selective Service shall check the file which is in his possession or which is forwarded to him to be sure that all procedural requirements have been properly complied with, including notice to the registrant that such an appeal has been taken, and, if he discovers any procedural defects, return the file for correction. If any information has been placed in the file which was not considered by the local board in making the classification from which the appeal to the President is taken, the State Director of Selective Service shall review such information and, if he is of the opinion that such information, if true, would justify a different classification of the registrant, return the file to the local board with instructions to reopen the registrant's classification and classify the registrant anew.

(c) When the State Director of Selective Service has complied with the provisions of paragraph (b) of this section, he shall, unless the file is returned to the local board, forward the file to the Director of Selective Service.

(d) Whenever the Director or State Director appeals to the President, the registrant shall be notified by his local board in writing of the action and informed that if he desires to appear before the National Board he must, within 15 days from the date on the letter of notification, request such an appearance in writing, addressed to his local board. Such 15-day period may be extended by the local board when it is satisfied that the registrant's failure to request an appearance within such period was due to some cause beyond his control. The local board shall forthwith notify the National Board of the registrant's request to appear before it.

(e) If the registrant is taking the appeal, he may at the same time also file a written request with the local board to appear before the National Board. The local board shall forthwith notify the National Selective Service Appeal Board of such request.

1627.4 Procedures of the National Selective Service Appeal Board.

(a) An appeal to the President is determined by the National Board by its classification of the registrant.

(b) The National Board shall proceed forthwith to classify any registrant who has not requested a personal appearance after the specified time in which to request a personal appearance has elapsed.

(c) Not less than 5 days in advance of the meeting at which his classification will be considered, the National Board shall inform any registrant who has requested a personal appearance that he may appear at such meeting and present evidence, other than witnesses, bearing on his classification. Should the registrant fail to appear at such meeting, except for good cause he establishes to the satisfaction of the National Board, he shall not be afforded an opportunity to appear at a subsequent meeting. The registrant must file a written statement of the reasons for his failure to appear at his scheduled meeting within 5 days after such failure or the registrant will be deemed to have waived his right to an opportunity to appear at a subsequent meeting. Such 5-day period may be extended by the National Board when it is satisfied that the registrant's failure to file a written statement within such period was due to some cause beyond his control.

(d) The registrant is entitled to 15 minutes for his personal appearance. The National Board may, in its discretion extend the time of the registrant's personal appearance. No registrant may be represented at his personal appearance before the National Board by anyone acting as attorney or legal counsel. The registrant shall not be entitled to present witnesses.

(e) At any such appearance, the registrant may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the National Board in determining his proper classification, at the time he requests a personal appearance.

(f) The National Board shall classify a registrant who has requested a personal appearance before the National Board, (2) he has withdrew his request to appear, (3) waived his right to an opportunity to appear, or (4) failed to appear without establishing to the satisfaction of the National Board good cause therefor. When a registrant appears before the National Board, only those members of the Board before whom the registrant appeared shall classify him.

(g) In reviewing the appeal and classifying the registrant, the National Board shall not receive or consider any information other than the following:

(1) Information contained in the registrant's record received from the local board;

(2) General information concerning economic, industrial, and social conditions; and

(3) Oral statements by the registrant and written evidence submitted by him to the Natonal Board during his personal appearance.

(h) In the event that the National Board classifies the registrant in a class other than that he requested it shall record its reasons therefor in his file. Upon the receipt by the local board of a written request by the registrant mailed within 30 days after the mailing of a Notice of Classification (SSS Form 110) in accord with § 1627.6 it shall furnish to such registrant a brief statement of the reasons for the decision of the National Board.

1627.5 File to be returned after appeal to the President is decided.—When the appeal to the President has been decided, the file shall be returned to the local board through the appropriate State Director of Selective Service.

1627.6 Procedure of local board after file is returned.—When the file of the registrant is received by the local board it, shall: (a) Mail a Notice of Classification (SSS Form 110) to the registrant and (b) enter on the Classification Record (SSS Form 102) and on the Classification Questionnaire (SSS Form 100) the classification given the registrant by the President and the date of mailing of the Notice of Classificaton (SSS Form 110).

1627.7 Appeal to the President stays induction.—The local board shall not issue an order for a registrant to report for induction either during the period afforded the registrant to take an appeal to the President or during the period such appeal is pending. Any order to report for induction which has been issued during either of such perods shall be ineffective and shall be canceled by the local board. Whenever an appeal to the President has been taken by a person entitled to do so, any order to report for induction which has previously been issued to the registrants shall be ineffective and shall be canceled by the local board.

Part 1628—Examination of Registrants

1628.1 Who will be examined.—(a) Every registrant, before he is ordered to report for induction or ordered to perform alternate service contributing to the maintenance of the national health, safety, or interest, shall have his acceptability for military service determined under standards of acceptability prescribed by the Secretary of Defense, except that a registrant who has volunteered for induction or a registrant who has failed or refused to report for and submit to an armed forces examination may have his acceptability determined at the time he reports for induction.

(b) The Director of Selective Service shall prescribe procedures for the selection and delivery of registrants for armed forces examination.

(c) Based on lists of various medical conditions or physical defects that disqualify registrants for service in the armed forces, as may be issued from time to time by the Surgeon General of the Department of the Army, the local board, under such rules and regulations as the Director of Selective Service may prescribe shall determine whether a registrant who has or who may have such disqualifying medical condition or defect shall be delivered for an armed forces examination.

1628.2 Preliminary determination of acceptability.—(a) Whenever the local board has reason to believe that a registrant has a disqualifying medical condition or physical defect enumerated in the list described in § 1628.1(c), it shall determine whether (1) he has such medical condition or physical defect, (2) he should be delivered for armed forces examination, or (3) only the medical information in such registrant's file together with the medical advisor's recommendation, if applicable, shall be forwarded to the AFEES for review and determination. In making this determination, the local board shall consider the report and recommendation, if available, of a medical advisor following a medical interview.

1628.3 Registrants to be given medical interview.—Whenever the local board is of the opinion that a registrant has one or more of the disqualifying medical conditions or physical defects which appear in the list described in § 1628 1(c), it may order the registrant to present himself for medical interview at a specified time and place by mailing to such registrant a Notice to Registrant to Appear for Medical Interview (SSS Form 219). It shall be the duty of the registrant to present himself to the medical advisor to the local board at the time and place designated and to submit to examination.

1628.4 Duties of medical advisors to local board.—The medical advisor to the local board shall (a) give each registrant who presents himself for medical interview such examination as he deems necessary to determine whether the registrant has one or more of the disqualifying medical conditions or physical defects which appear in the list described in § 1628.1(c), or (b) review each affidavit of a reputable physician or official statement of a representative of a Federal or State agency referred to him by the local board. No laboratory or X-ray work shall be authorized but reports of laboratory or X-ray work performed previously and presented by the registrant may be given consideration by the medical advisor. From such examination or review, the medical advisor to the local board shall determine whether the registrant has one or more of the disqualifying medical conditions of physical defects which appear in the list described in § 1628.1 (c) and shall report his findings to the local board.

1628.5 Transfer for medical interview.—Any registrant who has received a Notice to Registrant to Appear for Medical Interview (SSS Form 219) and who is so far from his own local board that presenting himself to the medical advisor of his local board would be a hardship may file a written request with the local board having jurisdiction of the area in which he is at that time located for his transfer for medical interview to that local board. The local board with which the request for transfer for medical interview is filed shall forward the request to the registrant's own local board.

1628.6 Order To Report for Armed Forces Examination.—(a) In accordance with instructions of the Director of Selective Service, the State Director of Selective Service shall periodically issue to each local board in his State an Examination Call on Local Board (SSS Form 202) for registrants to be delivered for armed forces examination and the time and place fixed for their delivery.

(b) A local board member, or the Executive Secretary or clerk if so authorized, shall select and order for Armed Forces examination registrants in accordance with the instructions of the Director of Selective Service. The date specified for reporting for such examination shall be at least 15 days after the date on which the Order to Report for Armed Forces Examination (SSS Form 223) is mailed, except that a registrant who has volunteered for induction may be ordered to report for such examination on any date after he has so volunteered.

(c) The local board shall also order for armed forces examination those registrants who have not attained age 26 and who have not previously had such an examination, who request such an examination. Requests for examinations must be submitted in writing to the registrant's local board. The local board shall establish a specific date for the examination, which date shall be within 60 days of the receipt of the applicant's request, and the registrant shall be given written notice thereof at least 15 days prior to the date of such examination. A registrant shall have the right to receive only one preinduction examination on his own request. The Director of Selective Service may temporarily suspend the provisions of this paragraph for particular States or particular local boards if he determines that the number of such requests, if granted, would adversely affect the processing of men toward induction or would increase the total workloads of the respective Armed Forces Examining and Entrance Stations beyond their capacities. If any registrant is found acceptable upon examination at his request, he will not be selected for induction until his random sequence number is reached.

1628.7 Postponement of armed forces examination.—The issuance of an Order to Report for Armed Forces Examination (SSS Form 223) may be delayed or the forwarding of a registrant under such an order may be postponed to the same extent and in the same manner as provided in § 1632.2 of this chapter with reference to an Order to Report for Induction (SSS Form 252); provided, that any such delay or postponement under the provisions of this section shall terminate whenever the local board determines that the induction of the registrant is imminent, in which event the local board shall order the registrant to report for armed forces examination.

1628.8 Transfer of registrants for examination.—(a) Any registrant who has received an Order to Report for Armed Forces Examination (SSS Form 223) and who is so far from his own local board that reporting to his own local board would be a hardship may, subject to the provisions of this section, be transferred for armed forces examination to the local board having jurisdiction of the area in which he is at that time located.

(b) Any such registrant desiring to be so transferred shall immediately report to the local board having jurisdiction of the area in which he is at that time located, present his Order to Report for Armed Forces Examination (SSS Form 223) and apply for transfer by completing Part 1 of Transfer for Armed Forces Examination or Induction (SSS Form 230).

(c) The registrant shall be required to report in accordance with the Order to Report for Armed Forces Examination (SSS Form 233), which he received from his own local board, if his application for transfer is disapproved.

1628.9 Transfer for armed forces examination directed by Director of Selective Service.—(a) The Director of Selective Service may direct that a particular registrant or a registrant who comes within a described group of registrants be transferred for armed forces examination to such local board or local boards as he shall designate.

1628.10 Duty of registrant to report for and submit to armed forces examination.—(a) When the local board mails to a registrant an Order to Report for Armed Forces Examination (SSS Form 233), it shall be the duty of the registrant to report for such examination at the time and place fixed in such order unless, after the date the Order to Report for Armed Forces Examination (SSS Form 233) is mailed and prior to the time fixed therein for the registrant to report for his armed forces examination, the local board cancels such Order to Report for Armed Forces Examination (SSS Form 223) or postpones that time when such registrant shall so report and advises the registrant in writing of such cancellation or postponement.

(b) If the time when the registrant is ordered to report for armed forces examination is postponed, it shall be the duty of the registrant to report for armed forces examination upon the termination of such postponement and he shall report for armed forces examination at such time and place as may be fixed by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for armed forces examination when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for armed forces examination to his local board and to each local board whose area he enters or in whose area he remains.

(c) Upon reporting for armed forces examination, it shall be the duty of the registrant (1) to follow the instructions of a member, executive secretary, or local board clerk as to the manner in which he will be transported to the location where his armed forces examination will take place, (2) to obey the instructions of the leader or assistant leaders appointed for the group being forwarded for armed forces examination, (3) to appear for and submit to such examination as the commanding officer of the examining station shall direct, and (4) to follow the instructions of a member, executive secretary, or clerk of the local board as to the manner in which he will be transported on his return trip from the place where his armed forces examination takes place.

PART 1630—VOLUNTEERS

1630.1 Who May Volunteer.—(a) Any registrant who has attained the age of 18 years and who has not attained the age of 26 years may volunteer for induction into the Armed Forces by completing and filing with his local board an Application for Voluntary Induction (SSS Form 254) which shall be completed and filed in duplicate if he has not attained the age of 18 years and 6 months.

(b) Any person who has attained the age of 17 years and who has not attained the age of 18 years may volunteer for induction into the Armed Forces by completing and filing with his local board two copies of the Application for Voluntary Induction (SSS Form 254) on both copies of which the consent to his induction has been signed by his parents or guardian.

1630.2 Where Person May Volunteer.—(a) If a man has been registered and desires to volunteer for induction, he may so volunteer only through his own local board. If a man has not been registered and desires to volunteer for induction, he may register and then volunteer, but may do so only through the local board having jurisdiction of the area in which his place of residence is located.

(b) A registrant who is so far from his local board that it would be a hardship for him to appear in person at such local board in order to volunteer may present himself at the local board having jurisdiction of the area in which he is at the time located, and such local board shall assist him by correspondence or other means to volunteer through his own local board to the end that all uncompleted procedure with reference to such man's registration, classification, selection, and induction may be completed as soon as possible, including when necessary, transfer for classification, transfer for physical examination, transfer for delivery, or any of such steps which may be considered proper for the purpose.

1630.3 Registration of Certain Volunteers.—(a) If a person who is required to be registered but who has failed to register volunteers for induction, he shall be registered and shall be given a selective service number in the same manner as in the case of a late registrant.

(b) If a person not required to be registered volunteers for induction, including a person who volunteers under the provisions of paragraph (b) of section 1630.1, he shall be registered and shall be given a selective service number in exactly the same manner as any other registrant.

(c) In registering the volunteer, the local board shall follow the procedure set forth in Part 1613 of this chapter, and the local board for the area in which is located the place of residence of the registrant indicated in item 2 of the Registration Card (SSS Form 1) shall have jurisdiction of such registrant.

1630.4 Classification of Volunteers.—When a man files an Application for Voluntary Induction (SSS Form 254) under the provisions of section 1630.1, he shall be classified as soon as possible and placed in a class available for military service unless:

(a) Disregarding all other grounds for deferment, he would be classified in Class II–A, Class II–C, or Class III–A;

(b) He is the Vice President of the United States, a Governor of a State, any State official chosen by the voters of the entire State, a member of the Congress of the United States, a member of a State legislative body, or a judge of a court of record of the United States or of a State, required to be deferred by law; or

(c) He is found to be physically, mentally, or morally not qualified for service in the Armed Forces.

PART 1631—ALLOCATION OF INDUCTIONS

1631. Random selection sequence for induction.—The Director of Selective Service shall establish a random selection sequence for induction. Such random selection sequence will be established by a drawing to be conducted in Washington, D.C., once each year on a date the Director shall fix, and shall be applied nationwide. The random selection method shall use 365 days or, when appropriate, 366 days to represent the birthdays (month and day only) of all registrants who, during the calendar year within which occurs the date fixed for the drawing, shall have attained their 19th but not their 20th year of age. The drawing, commencing with the first day selected and continuing until all 365 days or, when appropriate, 366 days are drawn, shall be accomplished impartially. The random selection sequence thus obtained shall, in accordance with the Selective Service Regulations, determine the order of selection of such registrants. The random sequence number thus determined for any registrant shall apply to him so long as he remains subject to induction for military training and service by random selection. A random sequence number established for a registrant shall be equivalent, for purposes of selection, to the same random sequence established for other registrants in other drawings, including the drawings of December 1, 1969, and of July 1, 1970, and the random selection sequences obtained in those drawings shall continue to determine the order of selection of the registrants covered thereby in accordance with the Selective Service Regulations. Selection among registrants who have the same random sequence number shall be based upon the supplemental drawing conducted December 1, 1969, which determined alphabetically a random selection sequence by name.

1631.2. Allocation of inductions under random selection.—When persons are selected for training and service in accordance with random selection, allocations of inductions shall be placed under such rules and regulations as the Director of Selective Service may prescribe.

1631.3. Calls by the Secretary of Defense.—The Secretary of Defense may from time to time place with the Director of Selective Service a call or requisition for men required for induction into the Armed Forces. The Secretary of Defense may also from time to time place with the Director of Selective Service a call or requisition for men in any medical, dental, or allied specialist category required for induction into the Armed Forces.

1631.4. Allocations by the Director of Selective Service.—(a) The Director of Selective Service shall, upon receipt of a call or requisition from the Secretary of Defense for men to be inducted into the Armed Forces, issue a call or requisition to the several States.

(b) Upon receipt of a call or requisition from the Secretary of Defense for men in a medical, dental, or allied specialist category to be inducted into the Armed Forces, the Director of Selective Service shall issue a call or requisition to the several States.

1631.5 Allocations by State Director of Selective Service.—The State Director of Selective Service shall direct each local board to select and deliver men for induction in accordance with the rules and regulations as the Director of Selective Service may prescribe.

1631.6 Action by local board upon receipt of allocation.—(a) When an allocation is received from the State Director of Selective Service, the Executive Secretary or clerk, if so authorized, or a local board member shall select as provided herein, and issue orders to report for induction to those men required to fill the call from among its registrants who have been classified in Class 1–A or Class 1–A–O and have been found acceptable for service in the Armed Forces and to whom a Statement of Acceptability (DD Form 62) has been mailed: *Provided*, That notwithstanding Part 1628 or any other provision of these regulations, when a registrant in whatever classification has refused or otherwise failed to comply with an order of his local board to report for and submit to an Armed Forces examination, he may, after he is reclassified into Class 1–A or 1–A–O be selected and ordered to report for induction even though he has not been found acceptable for service in the Armed Forces and a Statement of Acceptability (DD Form 62) has not been mailed to him, and in such case the Armed Forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined: *Provided further*, That a registrant who has volunteered for induction may be selected and ordered to report for induction to fill an induction call notwithstanding the fact that he has not been found acceptable for service in the Armed Forces and regardless of whether or not a Statement of Acceptability (DD Form 62) has been mailed to him, but in such case the Armed Forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined.

(b) Registrant shall be selected and ordered to report for induction in the following categories and in the order indicated:

(1) Volunteers who have not attained the age of 26 years in the sequence in which they have volunteered for induction.

(2) Nonvolunteers in the Extended Priority Selection Group in the order of their random selection procedures prescribed in accordance with § 1631.1.

(3) Nonvolunteers in the First Priority Selection Group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(4) Nonvolunteers in each of the lower priority selection groups, in turn, within the group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(5) Nonvolunteers who have attained the age of 19 years during the calendar year but who have not attained the age of 20 years, in the order of their dates of birth with the oldest being selected first.

(6) Nonvolunteers who have attained the age of 26 years in the order of their dates of birth with the youngest being selected first.

(7) Nonvolunteers who have attained the age of 18 years and 6 months and who have not attained the age of 19 years in the order of their dates of birth with the oldest being selected first.

(c) Definitions:

(1) Extended Priority Selection Group consists of registrants who on December 31 were members of the First Priority Selection Group whose random sequence number had been reached but who had not been issued orders to report for induction.

(2) First Priority Selection Group:

(i) 1970. In the calendar year 1970, nonvolunteers in Class 1–A, 1–A–O, or 1–O born on or after January 1, 1944, and on or before December 31, 1950, who have not attained the 26th anniversary of the dates of their birth.

(ii) *1971 and later years.* In the calendar year 1971 and each calendar year thereafter, nonvolunteers in Class 1–A, Class 1–A–O, Class 1–O or Class 1–H who prior to January of each such calendar year have attained the age of 19 years but not of 20 years and nonvolunteers who prior to January 1 of each such calendar year have attained the age of 19 but not of 26 years and who during that year are classified into Class 1–A, Class 1–A–O, Class 1–O or Class 1–H.

(3) Lower priority selection groups: One or more priority selection groups lower than the First Priority Selection Group in a given year.

(4) "Reached" random sequence number: A registrant's random sequence number will be deemed to have been "reached" if such number is equal to or lower than the random sequence number set by the Director of Selective Service or the highest random sequence number to be ordered for induction for that calendar year for any registrant in that priority selection group.

(d) Procedures:

(1) Local boards shall identify registrants in the appropriate groups as provided in this section.

(2) Members of the First Priority Selection Group on December 31 in any calendar year whose random sequence numbers have not been reached by that date, or members of any subgroup which was not reached during such calendar year, shall be assigned to the priority selection group which is next below the First Priority Selection Group for the immediately succeeding calendar year.

(3) On December 31 of each year, each priority selection group below the first priority selection group shall be reduced one step further in priority. In this manner the second priority selection group would become the third, the third would become the fourth, and so on.

(4) Members of the First Priority Selection Group on December 31 in any calendar year whose random sequence number had been reached but who had not been issued order to report for induction during the calendar year shall be assigned to the Extended Piority Selection Group for the immediately succeeding calendar year.

(5) Members of the Extended Priority Selection Group who have not been issued orders to report for induction and originally scheduled for a date prior to April 1 shall forthwith be assigned to the lower priority selection group to which they would have been assigned had they never been assigned to the Extended Priority Selection Group; except that members of the Extended Priority Selection Group who would have been ordered to report for induction to fill the last call in the first quarter of the calendar year but who could not be issued orders shall remain in the Extended Priority Selection Group and shall be ordered to report for induction as soon as practicable. Circumstances which would prevent such an order shall include but not be limited to those arising from a personal appearance, appeal, pre-induction physical examination, reconsideration, judicial proceeding, or inability of the local board to act.

(6) Any registrant assigned to a lower priority selection group or the Extended Priority Selection Group, who while in such priority selection group receives a deferment or exemption, and who subsequently is reclassified into Class 1–A, Class 1–A–O, or Class 1–H, shall be assigned to the priority selection group which, at the time of such reclassification, is in the same corresponding position as was the priority selection group of which he was a member when he received such deferment or exemption.

(7) A registrant in category (b) (2), (3), or (4) (paragraph (b) (2), (3), or (4) of this section) can be inducted under those provisions after he has attained the age of 26 only if he has extended liability and has been issued an order to report for induction prior to such birthday.

(8) Within category (3) and (4) listed in (b) (paragraph (b) (3) or (4) of this section) there shall be a subgroup consisting of registrants who have a wife whom they married on or before August 26, 1965, and with whom they maintain a bona fide family relationship in their homes. Registrants in any such subgroup shall be subject in all respects to this section except that they shall be selected after other registrants in the group of which that subgroup is a part.

1631.7 Registrants who shall be inducted without calls.—(a) Notwithstanding any other provision of the regulations in this chapter, any registrant enlisted or appointed after October 4, 1961, in the Ready Reserve of any reserve component of the Armed Forces (other than under section 511(b) of title 10, United States Code), the Army National Guard, or the Air National Guard, prior to attaining the age of 26 years, or any registrant enlisted or appointed in the Army National Guard or the Air National Guard prior to attaining the age of 18 years and 6 months and prior to September 3, 1963, and deferred under the provisions of section 6(c)(2)(A) of the Military Selective Service Act which were in effect prior to September 3, 1963, or any registrant enlisted in the Ready Reserve of any reserve component of the Armed Forces prior to attaining the age of 18 years and 6 months and prior to August 1, 1963, and deferred under section 262 of the Armed Forces Reserve Act of 1952, as amended, who fails to serve satisfactorily during his obligated period of service as a member of such Ready Reserve or National Guard or the Ready Reserve of another reserve component or the National Guard of which he becomes a member as certified by the respective armed force, shall be ordered to report for induction by the local board regardless of the class in which he is classified and without changing his classification. Any registrant who is ordered to report for induction under this paragraph shall be forwarded for induction at the next time the local board is forwarding other registrants for induction or at any prior time when special arrangements have been made with the induction station, without any calls being made for the delivery of such registrants. Whenever the local board desires to deliver such a registrant specially, it shall request the State Director of Selection Service to make the special arrangements for the time and place at which the registrant may be delivered for induction.

(b) At the induction station, each registrant who is forwarded for induction under paragraph (a) of this section shall be inducted into the armed force of which the reserve component in which the registrant is a member is a part.

(c) Notwithstanding any other provision of law, any registrant who has failed or refused to report for induction shall continue to remain liable for induction and when available shall be immediately inducted.

PART 1632—DELIVERY AND INDUCTION GENERAL

1632.1 Order to Report for Induction.—(a) Immediately upon determining which men are to report for induction, the local board shall prepare for each man an Order to Report for Induction (SSS Form 252). The date specified to report for induction shall be at least 30 days after the date on which the Order to Report for Induction (SSS Form 252) is mailed, except that a registrant who has volunteered for induction may be ordered to report for induction on any date after he has so volunteered.

(b) Any registrant who has been ordered for induction and who is distant from his local board of origin, must report at the time and place specified on the notice ordering him for induction, unless he voluntarily submits to processing for induction at any Armed Forces Examining and Entrance Station and is actually inducted into the Armed Forces on or before the third day prior to the day that he was required to report in accordance with his local board's induction order.

(c) If the registrant is inducted or if the registrant is found not qualified for induction pursuant to paragraph (b) thereof, the Armed Forces Examining and Entrance Station shall inform the local board which ordered the registrant for induction of such event, and in either even the registrant shall not be required to comply with the local board's order.

1632.2 Postponement of Induction.—(a) In case of death of a member of the registrant's immediate family, extreme emergency involving a member of the registrant's immediate family, serious illness of the registrant, or other emergency beyond the registrant's control, the local board may, after the Order to Report for Induction (SSS Form 252) has been issued, postpone until a date certain the time when such registrant shall report but such date shall not be later than 60 days from the date of such postponement. In case of imperative necessity, the local board may grant one further postponement to a date certain but such date shall not be later than 60 days from the date of such postponement.

(b) The Director of Selective Service or any State Director of Selective Service (as to registrants registered within his State) may, for a good cause, at any time prior to the issuance of an Order to Report for Induction (SSS Form 252), postpone the issuance of such order until such time as he may deem advisable, or the Director of Selective Service or any State Director of Selective Service (as to registrants registered within his State) may, for good cause, at any time after the issuance of an Order to Report for Induction (SSS Form 252), postpone the induction of a registrant until such time as he may deem advisable.

(c) The local board shall postpone the induction of a registrant in accord with section 6(i)(1) or section 6(i)(2) of the Military Selective Service Act.

(d) The local board shall issue to each registrant whose induction is postponed a Postponement of Induction (SSS Form 264). A copy of such form shall be mailed to the State Director of Selective Service, and a copy filed in the registrants Cover Sheet (SSS Form 101). The local board shall note the date of the granting of the postponement and the date of its expiration in the "Remarks" column of the Classification Record (SSS Form 102).

(e) A postponement authorized in paragraph (b) or (c) of this section in excess of 40 days or without limit may be terminated when the issuing authority so directs and upon not less than 30 days nor more than 40 days notice to the registrant. The registrant shall then report for induction at such time and place as may be fixed by the local board.

(f) No registrant whose induction has been postponed shall be inducted into the Armed Forces during the period of any such postponement. A postponement of induction shall not render invalid the Order to Report for Induction (SSS Form 252, which has been issued to the registrant but shall operate only to postpone the reporting date and the registrant shall report on the new date without having issued to him a new Order to Report for Induction (SSS Form 252).

TRANSFER FOR INDUCTION

1632.9 Certain Registrants May Request Transfer for Induction.—Rescinded.

1632.10 Transfer for Induction Directed by Director of Selective Service.—(a) The Director of Selective Service may direct that a particular registrant or a registrant who comes within a described group of registrants be transferred for induction to such local board or local boards as he shall designate.

(b) Whenever the Director of Selective Service has directed that a registrant shall be transferred for induction, the registrant's own local board or the clerk thereof shall take the following actions:

(1) Prepare in quadruplicate Transfer for Armed Forces Physical Examination or Induction (SSS Form 230) by inserting in Part 1 the date, the name, selective service number, and present address of the registrant, the name and address of the local board to which the registrant is transferred, and the words "Transferred for induction by direction of the Director of Selective Service" and by completing Part 3 of the form.

(2) Mail one copy of Transfer for Armed Forces Physical Examination or Induction (SSS Form 230) to its State Director of Selective Service and file one copy in the registrant's Cover Sheet (SSS Form 101).

(3) Mail to the local board to which the registrant is transferred for induction the original and one copy of Transfer for Armed Forces Physical Examination or Induction (SSS Form 230), the original and three copies of the Record of Induction (DD Form 47), all other records referred to in subparagraph (2) of paragraph (a) of section 1632.5, and any other records designated by the Director of Selective Service.

(4) Enter a notation that the registrant has been transferred in the "Remarks" column of the Classification Record (SSS Form 102).

(c) When the local board to which the registrant has been transferred for induction receives the papers from the registrant's own local board, as provided in paragraph (b) of this section, it shall proceed to deliver him for induction as soon as practicable.

INDUCTION

1632.14 Duty of Registrant to Report for and Submit to Induction.—(a) When the local board orders the registrant for induction it shall be the duty of the registrant to report for induction at the time and place ordered by the local board. If the time when the registrant is ordered to report for induction is postponed, it shall be the continuing duty of the registrant to report for induction at such time and place as may be ordered by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for induction to his local board.

(b) Upon reporting for his scheduled induction as ordered by his local board, it shall be the duty of the registrant (1) to follow the instructions of a member or clerk of the local board as to the manner in which he shall be transported to the location where his induction will be accomplished, (2) to obey the instructions of the leader or assistant leaders appointed for the group being forwarded for induction, (3) to appear at the place where his induction will be accomplished, (4) to obey the orders of the representatives of the Armed Forces while at the place where his induction will be accomplished, (5) to submit to induction, and (6) if he is found not qualified for induction, to follow the instructions of the representatives of the Armed Forces as to the manner in which he will be transported on his return trip to the local board.

1632.15 Forwarding Registrants for Induction.—When the registrants who are to be forwarded for induction have assembled, the local board shall proceed as follows:

(a) The roll shall be called, using the previously prepared Delivery List (SSS Form 261) and noting any absences thereon in the "Remarks" column. If any registrant fails to report for delivery, fails to report at the place of induction, is transferred to another local board for delivery, or is found not qualified for induction, the local board shall not furnish a replacement for such registrant.

(b) A leader and assistant leaders shall be appointed and each given a completed Appointment of Leader or Assistant Leader (SSS Form 340). Leaders and assistant leaders shall have such authority as is necessary to deliver the group to the place of induction.

(c) The leader shall be given the following in a sealed packet:

(1) The original and two copies of the Delivery List (SSS Form 261).

(2) For each registrant being forwarded, the original and three copies of the Record of Induction (DD Form 47), all other records referred to in subparagraph (2) of paragraph (a) of section 1632.5, and any other records designated by the Director of Selective Service.

(d) When it is necessary, travel tickets or transportation requests, and meal and lodging requests for the group, covering their trip to the place of induction, shall be issued. The leader shall be instructed to deliver the sealed packet containing the original and two copies of the Delivery List (SSS Form 261), the originals and three copies of the Record of Induction (DD Form 47), and all other information concerning the registrants in the group to the commanding officer of the induction station or to his representative.

(e) The local board shall inform all registrants in the group, who are reporting for scheduled inductions as ordered by their local boards, that it is their duty to obey the instructions of the leader or assistant leaders during the time they are going to the place of induction; that they will be met by representatives of the Armed Forces at the place of induction; that while they are at the place of induction they will be subject to and must obey the orders of the representatives of the Armed Forces; that they must present themselves for and submit to induction; and that, if they are found not qualified for induction, the representatives of the Armed Forces will, to the extent prescribed by the regulations of the Armed Forces, provide transportation and subsistence for their return trip.

(f) The local board shall mail one copy of the Delivery List (SSS Form 261) to the State Director of Selective Service and shall file one copy.

1632.16 Induction.—At the induction station the selected men who have been forwarded for induction and found qualified will be inducted into the Armed Forces.

DISPOSITION OF RECORDS

1632.20 Records Returned to Local Board.—(a) The commanding officer of the induction station will return to the local board the following documents concerning registrants forwarded for induction:

(1) The original Delivery List (SSS Form 261), indicating in column 4 the disposition of each registrant forwarded for induction.

(2) For each registrant inducted, a copy of the Record of Induction (DD Form 47), a copy of the Report of Medical Examination (Standard Form 88), and any previous records of induction and reports of medical examinations submitted.

(3) For each registrant found not qualified for service in the Armed Forces, the original and one copy of the Record of Induction (DD Form 47), the original Report of Medical Examination (Standard Form 88), one copy of the Report of Medical History (Standard Form 89), and one copy of the Application for Voluntary Induction (SSS Form 254) submitted.

(b) Except as otherwise provided in section 1632.10, the local board, upon receipt of the documents described in paragraph (a) of this section, shall take the following action:

(1) File the original Delivery List (SSS Form 261).

(2) For each registrant inducted, file the copy of the Record of Induction (DD Form 47) and the copy of the Report of Medical Examination (Standard Form 88) in the Cover Sheet (SSS Form 101).

(3) For each registrant found not qualified for service in the Armed Forces, file the original Record of Induction (DD Form 47), the original Report of Medical Examination (Standard Form 88), the copy of the Report of Medical History (Standard Form 89), and any copy of the Application for Voluntary Induction (SSS Form 254) in the Cover Sheet (SSS Form 101) and forward to the State Director of Selective Service the copy of the Record of Induction (DD Form 47).

1632.21 Disposition of Other Records by the Armed Forces.—The commanding officer of the induction station will dispose of the documents described below concerning registrants forwarded for induction as follows:

(a) For each registrant inducted, retain the original and two copies of the Record of Induction (DD Form 47), the original and two copies of the Report of Medical Examination (Standard Form 88) together with any X-ray film, two copies of the Report of Medical History (Standard Form 89), and any copy of the Application for Voluntary Induction (SSS Form 254) submitted.

(b) For each registrant found not qualified for service in the Armed Forces, retain two copies of the Record of Induction (DD Form 47), one copy of the Report of Medical Examination (Standard Form 88) together with any X-ray film, and one copy of the Report of Medical History (Standard Form 89).

(c) Retain one copy of the Delivery List (SSS Form 261).

(d) Forward one copy of the Delivery List (SSS Form 261) to the State Director of Selective Service.

RECLASSIFICATION

1632.30 Classification of Registrants Inducted or Finally Found Not Qualified.—Upon receiving notice from the induction station that a selected man who has been forwarded for induction has been inducted or finally found not qualified for service in the Armed Forces, the local board shall reopen his classification and classify him anew.

1632.31 Registrants Enlisted in the Armed Forces.—When the local board receives official information showing that a registrant has enlisted in the Armed Forces, it shall reopen his classification and classify him anew.

PART 1641—NOTICE

1641.1 Notice of Requirements of Military Selective Service Act of 1967.—Every person shall be deemed to have notice of the requirements of the Military Selective Service Act of 1967, upon publication by the President of a proclamation or other public notice fixing a time for any registration. This provision shall apply not only to registrants but to all other persons.

1641.2 Failure To Take Notice.—(a) If a registrant or a person required to present himself for and submit to registration fails to perform any duty prescribed by the selective service law, or directions given pursuant thereto, within the required time, he shall be liable to fine and imprisonment under section 12 of the Military Selective Service Act of 1967.

(b) If a registrant or any other person concerned fails to claim and exercise any right or privilege within the required time, he shall be deemed to have waived the right or privilege.

1641.3 Communication by Mail.—It shall be the duty of each registrant to keep his local board advised at all times of the address where mail will reach him. The mailing of any order, notice, or blank form by the local board to a registrant at the address last reported by him to the local board shall constitute notice to him of the contents of the communication, whether he actually receives it or not.

1641.5 Classification Record (SSS Form 102).—The Classification Record (SSS Form 102) shall be open to the public at the local board office. It shall be the duty of each registrant to keep himself informed of his status, and any entry concerning him on the Classification Record (SSS Form 102) shall constitute due legal notice thereof to him and to all other interested persons.

1641.6 Computation of Time.—The period of days allowed a registrant or other person to perform any act or duty required of him shall be counted as beginning on the day following that on which the notice to him is posted or mailed.

1641.7 Reporting by Registrants of Their Current Status.—(a) It shall be the duty of every classified registrant, until his liability for training and service has terminated, to keep his local board currently informed of his mailing address, and, in accord with instructions of the Director of Selective Service, facts concerning his status that the local board requests.

(b) A classified registrant shall submit to his local board in writing all information which the local board may at any time request from him concerning his occupational, marital, family, dependency, or military status or his physical condition or his receipt of a professional degree. The registrant shall submit such information to his local board within 10 days after the date on which the local board mails him a request therefor, or within such longer period as may be fixed by the local board.

PART 1643—PAROLE

1643.1 Parole—General.—Any person required to register under the provisions of the Military Selective Service Act of 1967, and any proclamation of the President thereunder, who is convicted of a violation of any of the provisions of the Military Selective Service Act of 1967, or any rules or regulations prescribed thereunder, shall be eligible for release from custody on parole for service in the Armed Forces of the United States or for civilian work contributing to the maintenance of the national health, safety, or interest, in the manner and under the conditions provided for in the regulations in this part.

1643.2 Authority To Grant Parole.—In accordance with the procedures specified in section 1643.3 and upon the recommendation of the Director of Selective Service, as authorized in section 1643.4, the parole of a convicted person provided for in section 1643.1 may be granted by the Attorney General if in his judgment it is compatible with the public interest and the enforcement of the Military Selective Service Act of 1967. In recommending the parole of any such person, the Director of Selective Service shall also recommend whether he should be paroled (a) for induction into the Armed Forces of the United States, (b) for induction into the Armed Forces of the United States for noncombatant service, but only in cases in which the person's claim for exemption from combatant service has been sustained in his latest classification on the merits by his local board or by the appeal board in the case of an appeal, or (c) subject to the provisions of section 1643.10(a) of this part, for assignment to civilian work contributing to the maintenance of the national health, safety, or interest in lieu of induction into the Armed Forces of the United States. If the parole is granted by the Attorney General, it shall conform to such recommendation.

1643.3 Application for Parole and Recommendation of Director of Selective Service—(a) Any person who has been convicted of a violation described in section 1643.1 may apply to the Attorney General for parole. He shall submit with his application a consent in writing to induction, or if he claims to be a conscientious objector to both combatant and noncombatant service, shall execute a consent to assignment to civilian work contributing to the maintenance of the national health, safety, or interest.

(b) If the Attorney General determines that the application for parole should receive consideration, he shall cause the applicant to be physically and mentally examined in the light of Armed Forces induction standards and to be given an intelligence test. A written report shall be prepared setting forth the level of mental ability attained in the test.

(c) The papers executed under section 1642.31 and paragraphs (a) and (b) of this section, including the chest X-ray film and the report of serology, shall be transmitted to the Director of Selective Service by the Attorney General with a request that the Director of Selective Service determine whether he will recommend the parole.

1643.4 Action Upon Recommendation or Advice of the Director.—The Director of Selective Service shall either recommend to the Attorney General that the registrant be paroled or shall advise the Attorney General that he does not recommend the parole of the registrant, and he shall forward the papers and chest X-ray film and report of serology referred to in section 1643.3, together with a copy of his recommendation or advice, to the appropriate State Director of Selective Service for transmittal to the proper local board.

1643.5 Induction of Paroled Registrant.—(a) If the Attorney General grants parole to a registrant for induction into the Armed Forces, or for induction into the Armed Forces for noncombatant service only, he shall send the local board a certified copy of an order suspending parole supervision of the registrant during military service.

(b) Upon receipt of the certified copy of the order suspending parole supervision, the local board shall proceed to order the registrant to report for induction in the same manner as in the case of a delinquent registrant. Whenever the institution in which the registrant is confined is not located within the area over which his local board has jurisdiction, the registrant shall be transferred for induction, in the manner provided in section 1632.10 of this chapter, to the local board having jurisdiction of the area in which such institution is located. Arrangements shall be made by the Attorney General for the delivery of the registrant to the examining and entrance station of the Armed Forces so that he may comply with the order to report for induction.

(c) In addition to other records required to be forwarded by a local board in delivering a delinquent registrant, for each paroled registrant there shall be forwarded to the examining and entrance station of the Armed Forces:

(1) the written consent of the registrant to induction;

(2) the certified copy of the order suspending parole supervision of the registrant during military service granted by the Attorney General;

(3) a certified copy of a statement from the Director of Selective Service recommending such parole which will indicate whether the individual is paroled for induction into the Armed Forces for combatant or noncombatant service;

(4) the report of the registrant's intelligence test;

(5) the original and three copies of the Report of Medical Examination (Standard Form 88) completely filled out by the examining physician of the institution of custody;

(6) the Report of Medical History (Standard Form 89);

(7) Serology (Standard Form 514c) original and duplicate copy; and

(8) the chest X-ray films which were completed by the institution physician.

The Delivery List (SSS Form 261) should be separate from any other delivery list and should identify the registrants as paroled registrants.

1643.6 Reclassification of Registrant.—The local board shall reopen the classification of a registrant who is granted a parole by the Attorney General and is delivered for induction. If the registrant is inducted into the Armed Forces he shall be placed in Class I-C. If he is rejected at the induction station he shall be placed in the lowest class for which he is determined to be eligible under the provisions of section 1623.2 of this chapter.

1643.7 Disposition of Person Paroled Who Are Not Inducted into the Armed Forces.—Any person who, under the provisions of the regulations in this part, is granted a parole for service in the Armed Forces of the United States but is not actually inducted into such Forces shall be returned to a penal or correctional institution to complete the sentence originally imposed.

1643.8 Disposition of Persons Paroled Who Are Inducted into the Armed Forces and Who are Discharged Under Other Than Honorable Conditions.—Any person who is paroled for service in the Armed Forces of the United States and who after induction into such Forces is discharged therefrom under other than honorable conditions (other than "honorable discharge" or "general discharge") shall, if there remains uncompleted any portion of the sentence originally imposed, be returned to a penal or correctional institution or to parole status as a civilian as may be determined in accordance with law.

1643.9 Disposition of Persons Paroled Who Are Inducted into the Armed Forces and Who Are Discharged Under Honorable Conditions.—(a) Any person who is paroled for service in the Armed Forces of the United States and who, after induction and before completion of the service specified in the order granting the parole, is discharged from such Forces under honorable conditions ("honorable discharge" or "general discharge") shall be permitted to remain on parole until the termination of his sentence subject to the provisions of law with respect to Federal prisoners on parole.

(b) Any person who is paroled for service in the Armed Forces of the United States and who is inducted into such Forces and completes his period of service under honorable conditions ("honorable discharge" or "general discharge") as required by the Military Selective Service Act of 1967, shall be discharged from further confinement and supervision.

1643.10 Parole for Assignment to Civilian Work Contributing to the Maintenance of the National Health, Safety, or Interest.—(a) No person shall be considered for parole for the purpose of assignment to civilian work contributing to the maintenance of the national health, safety, or interest unless his conviction and incarceration resulted from his failure or refusal to perform civilian work ordered by his local board pursuant to Part 1660 of this chapter.

(b) If the Attorney General grants a parole to a person for assignment to civilian work contributing to the maintenance of the national health, safety, or interest, the Attorney General shall send to the local board a certified copy of his order paroling the registrant for such assignment.

(c) Upon receipt of a certified copy of an order paroling a registrant for assignment to civilian work contributing to the maintenance of the national health, safety, or interest, the State director shall direct the Executive Secretary or clerk, if so authorized, or a local board member of the registrant's local board to order him to a job which the State director selects as appropriate for him to perform.

(d) Any person paroled for assignment to civilian work contributing to the maintenance of the national health, safety, or interest, who fails or refuses to perform any such work satisfactorily, shall be reported by the Director of Selective Service to the Attorney General who may, in his discretion, revoke the parole of such person and return him to a penal or correctional institution to complete the sentence originally imposed with or without credit for the time spent on parole as the Attorney General may deem appropriate.

1643.11 Authority of the Attorney General to Control Parolees.—The Attorney General may impose such terms and conditions as he may deem proper upon any person paroled under the provisions of this part. Paroles authorized by this part may be revoked at any time in the discretion of the Attorney General. In any such case the parolee shall be returned to the proper penal or correctional institution to complete the sentence originally imposed.

1643.12 Application of General Parole Laws.—Nothing in the regulations in this part shall be construed to limit or restrict the application of the parole provisions contained in Title 18 of the United States Code.

1643.13 Functions of Board of Parole and Other Officials.—References in the regulations in this part to the Attorney General shall be construed to refer to the Board of Parole or to other officers or employees of the Department of Justice insofar as such references involve functions vested by statute in, or delegated by the Attorney General to, the Board of Parole or other officers or employees of the Department of Justice.

PART 1655—REGISTRATION OF UNITED STATES CITIZENS OUTSIDE OF THE UNITED STATES AND CLASSIFICATION OF SUCH REGISTRANTS

GENERAL

1655.1 Applicability of Regulations in This Part.—The registration of citizens of the United States outside of the United States not previously registered and the classification of registrants who are outside of the United States shall be governed by the provisions of the regulations in this part and the provisions of such other regulations in this chapter as are not in conflict with the provisions of this part.

REGISTRATION

1655.2 Duty to Register.—(a) Unless he is a person excepted from registration by section 6(a) of the Military Selective Service Act of 1967, every male citizen of the United States outside the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, and the Canal Zone who has not been registered and who on July 31, 1952, had attained or who thereafter shall have attained the eighteenth anniversary of the day of his birth and who on July 31, 1952, had not attained the twenty-sixth anniversary of the day of his birth, is required, on the day or days fixed by Proclamation of the President, to present himself for and submit to registration before—

(1) any diplomatic or consular officer of the United States who is a citizen of the United States, all of whom are hereby appointed chief registrars; or

(2) any other person who may be appointed by the Director of Selective Service as chief registrar; or

(3) any registrar appointed as provided in section 1655.3.

(b) Any person subject to registration under the provisions of this section who, because of circumstances over which he has no control, is prevented from presenting himself for and submitting to registration on the day or any of the days and in the manner required by the Proclamation of the President, shall present himself for and submit to registration immediately upon its becoming possible for him to do so.

1655.3 Appointment of Registrars.—Any chief registrar is authorized to appoint any reliable citizen of the United States as a registrar. Whenever necessary such appointment may be made by mail. Before entering upon his duties, every person appointed as chief registrar or as registrar shall sign the oath of office portion of the Oath of Office and Waiver of Pay or Compensation—Foreign (SSS Form 450) and, unless he is in the employ of the United States, also shall sign the waiver of pay or compensation portion of that form. When so signed, the Oath of Office and Waiver of Pay or Compensation—foreign (SSS Form 450) shall be transmitted to the Director of Selective Service.

1655.5 District of Columbia Local Board No. 100 (Foreign).—(a) There is hereby created and established a local board designated as District of Columbia Local Board No. 100 (Foreign) which shall consist of three or more members and which shall have its office in the District of Columbia. Such local board shall act as an independent local board and shall have all the rights, powers, duties and responsibilities of a local board.

(b) District of Columbia Local Board No. 100 (Foreign) shall have jurisdiction for all purposes under selective service law over any person who at the time of his registration under the provisions of the regulations in this part does not designate for entry on line 2 of his Registration Questionnaire (SSS Form 100) an address of a place within the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone.

PART 1660—ALTERNATE SERVICE

1660.1 Responsibility for Administration.—(a) The State director, under the supervision of the Director, will assure compliance with the law, the regulations, and Selective Service policy concerning the program of alternate service for registrants who have been classified in class 1–O.

(b) The State director of the State in which a registrant is registered will have primary responsibility for the initial placement of the registrant in alternate service. That State director will coordinate any job placement activities in any State outside his own with the State director of that State. In assigning a registrant outside his own State, the assigning State director must have the approval of the "receiving" State director or the Director of Selective Service.

(c) Alternate service to be performed outside the geographical area under the jurisdiction of any State director will be administered by the Director of Selective Service after the assignment to such work has been made by the State director.

1660.2 Examintaion of Registrants.—A registrant classified in class 1–O shall be ordered to report for Armed Forces examination in the same manner as any other registrant. If he fails to report for or submit to this examination, or if he is found to be qualified for service, he shall be ordered to the appropriate alternate service job when his Random Sequence Number is reached.

1660.3 Volunteer for alternate service.—Only registrants classified in Class 1–O may volunteer for alternate service in lieu of induction. Any registrant in Class 1–O may submit Application of Volunteer for Alternate Service (SSS Form 151) to his local board. If the volunteer wishes to propose jobs which he feels would be approved for his alternate service he will submit each job on an Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) simultaneously with his completed Application of Volunteer for Alternate Service (SSS Form 151). The State director will approve or disapprove the proposed jobs. If the registrant fails to locate a suitable job or if the job submitted on the Employer's Statement of Availabilty of a Job as Alternate Service (SSS Form 156) are not approved, the State director will not request the issuance of the Order to Report for Alternate Service (SSS Form 153) until 60 days after the registrant would have begun processing in accordance with § 1660.4 had he not volunteered. After the 60-day period has ended, the State director may direct the local board to order the registrant to an available job.

1660.4 Selection of Nonvolunteer for Alternate Service.—(a) A nonvolunteer will not be ordered to perform alternate service in lieu of induction before registrants with his RSN who are classified in Class 1–A or 1–A–O are ordered for induction.

(b) When a registrant in the medical, dental, or allied specialist category is classified in Class 1–O, he will be ordered to alternate service in lieu of induction at the time that he would have been called for induction if he were in Class 1–A or 1–A–O.

(c) When the RSN of a registrant classified in Class 1–O is within the range of RSNs which are currently being reached for induction, the local board will send him Selection for Alternate Service (SSS Form 155), and retain a copy in the Registrant File Folder (SSS Form 101). Conscientious Objectors Skills Questionnaire (SSS Form 152) and three copies of Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) will also be sent to the registrant at this time.

(d) Mailing of the Selection for Alternate Service; Rights and Obligations of Conscientious Objectors in the Alternate Service Assignment Process (SSS Form 155) by the local board is the effective beginning of processing for alternate service in lieu of induction for the affected registrant. If the registrant has not been ordered to an alternate service job with a reporting date within 270 days after he has exhausted his 60-day job search, he will be placed in a lower priority selection group. Delays in processing due to litigation instituted by the registrant, litigation pending against the registrant, or a postponement of processing for alternate service granted the registrant under §1660.7 will not count toward the 270-day time period.

1660.5 Eligible Employers of Registrants Performing Alternate Service.—Employment which may be considered to be appropriate as alternate service in lieu of induction into the Armed Forces by registrants who have been classified in Class 1–O shall be limited to the following:

(a) Employment by the U.S. Government, or by a State, Territory, or possession of the United States or by a political subdivision thereof, or by the District of Columbia;

(b) Employment by a nonprofit organization, association, or corporation which is primarily engaged either in a charitable activity conducted for the benefit of the general public or in carrying out a program for the improvement of the public health or welfare, including educational and scientific activities in support thereof, when such activity or program is not principally for the benefit of the members of such organization, association, or corporation, or for increasing the membership thereof; or

(c) Employment in an activity of an organization, association, or corporation which is either charitable in nature performed for the benefit of the general public or is for the improvement of the public health or welfare, including educational and scientific activities in support thereof, and when such activity or program is not for profit.

1660.6 Eligible Jobs for Registrants Performing Alternate Service.—(a) Five elements will be considered as a basis for determining whether a specific job is acceptable as alternate service for a registrant classified in Class 1–O:

(1) *National Health, Safety or Interest.* The job must fulfill specifications of the law and regulations.

(2) *Noninterference with the competitive labor market.* The registrant cannot be assigned to a job for which there are more numerous qualified applicants not in Class 1–O than spaces available. This restriction does not prohibit the approval of special programs such as Peace Corps or VISTA for alternate service by registrants in Class 1–O.

(3) *Compensation.* The compensation will provide a standard of living to the registrant reasonably comparable to the standard of living the same man would have enjoyed had he gone into the service.

(4) *Skill and talent utilization.* A registrant may utilize his special skills.

(5) *Job location.* A registrant will work outside his community of residence. Subparagraphs (3), (4), and (5) of this paragraph are waiverable by the State director when such action is determined to be in the national interest and would speed the placement of registrants in alternate service.

1660.7 Assigning Alternate Service.—(a) Processing of the registrant for assignment to alternate service will continue even though he fails to return SSS Form 152 (Conscientious Objectors Skills Questionnaire) within 15 days.

(b) The registrant will submit Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) to the State director, who will determine whether the work is acceptable. A letter from an employer may, at any time, substitute for such SSS Form 156. When a job is approved, the State director will direct the Executive Secretary or clerk, if so authorized, or a local board member of a registrant's local board to issue an Order to Report for Alternate Service (SSS Form 153). Any time the State director disapproves a job proposed on Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) submitted by the registrant, he will inform the registrant of his decision within 10 days after the State director receives such form.

(c) At any time following 60 days after a registrant's SSS Form 155 (Selection for Alternate Service; Rights and Obligations of Conscientious Objectors in the Alternate Service Assignment Process) has been mailed, if the registrant has submited no SSS Form 156 (Employer's Statement of Availability of a Job as Alternate Service) or if the submitted jobs have been disapproved, the State director may direct the Executive Secretary or clerk, if so authorized, or a local board member of a registrant's local board to order him to a job which the State director selects as the registrant's alternate service.

(d) A registrant classified in Class 1–O may take a job anticipating that it might later be approved as alternate service. If such a job is approved, the registrant will be credited with having performed acceptable service, when in fact he has performed such service, from the date he started the job, or the date he was classified in Class 1–O, whichever is later. No more than 24 months of service will be required. Time spent looking for an initial job is not creditable toward the 24 months of service.

(e) A registrant who prior to the lapse of the 60-day period established in paragraph (c) of this section, finds a job (jobs), but whose job(s) is (are) not approved by his State director, may request that the State director's decision(s) be reviewed by the Director prior to his being mailed an SSS Form 153 (Order to Report for Alternate Service). The registrant's case will be considered by the Director on only one occasion prior to his initial assignment to alternate service. However, he may request a review of as many as three such adverse decisions on jobs in this one review. The Director will either approve a job proposed by the registrant or, if the 60 days have elapsed, authorize a mandatory work order. Decisions by the Director will be carried out by the appropriate State director and local boards and their employees.

(f) Any reason for granting a postponement for an induction order is sufficient for granting the postponement of processing for alternate service in lieu of induction.

(g) A registrant in Class 1-W, working in an approved job, may request the supervising State director to transfer him to a new job. The request must be made while the registrant is working in an approved job, and the registrant must remain on the job until the transfer is accomplished. The registrant must at the time of the request, offer an alternative job to the State director for approval as alternate service. If the new job is approved, the State director may direct the registrant's local board to order him to the new job.

1660.8 Performance of Alternate Service.—Any registrant who knowingly fails or neglects to obey an order from his local board to perform alternate service contributing to the maintenance of the national health, safety, or interest in lieu of induction or who constructively fails or neglects to obey such order by his failure to comply with reasonable requirements of an employer shall be deemed to have knowingly failed or neglected to perform a duty required of him under the Military Selective Service Act. The registrant shall have failed to meet the standards or failed to perform satisfactorily if he did not meet the standards of performance demanded by the employer of his other employees in similar jobs.

1660.9. Administration of Alternate Service.—(a) Whenever a registrant is refused employment by an employer who had previously agreed to hire him, whenever the registrant refuses employment, whenever a registrant's employment is terminated, or whenever he leaves his job, the State director administering the registrant's case will consider the circumstances surrounding the refusal, termination, or departure to determine whether the registrant had failed to perform his job or to conduct himself satisfactorily.

(b) Whenever the State director has reason to believe that a registrant refused or constructively refused employment, or was relieved for cause or left his job unjustifiably he will conduct an investigation which will include the following steps; obtain a statement from the former employer describing the circumstances, send such statement to the registrant; obtain a statement from the registrant in his defense, if he wishes to make one; and compile any other evidence he feels is relevant. He will then determine whether the termination was for cause or whether the departure was unjustifiable. If he determines that the registrant's departure was without justification he will report the registrant for prosecution.

(c) If, after completing the investigation in accord with paragraph (b) of this section, the State director finds no failure of the registrant to perform satisfactorily he will order the registrant to another job as quickly as possible. A local board member of the registrant's local board or the Executive Secretary or clerk if so authorized, as the direction of the State director, will issue a new work order when any transfer or reorder is required. If the registrant complies with the order to report to the new job, the intervening time between jobs will not constitute a break in the required period of alternate service.

(d) The State director may direct the Executive Secretary or clerk, if so authorized, or a local board member of the registrant's local board to reassign and reorder a working registrant at any time that he determines the original job ceases to be acceptable as alternate service as defined in § 1660.6.

(e) The Director of Selective Service or the State Director of Selective Service will issue travel orders, tickets or transportation requests and meal and lodging requests to the registrant, upon his request, for his travel (1) from the office of his local board or local board nearest the place of his residence at the time he is selected for alternate service to the place of performance of the alternate service to which he is ordered within the United States, (2) for his return travel from such place to the office of the local board from which he traveled to the place of performing alternate service upon his satisfactorily completing his period of work or his travel to any other place upon his satisfactorily completing his period of alternate service whenever the cost of such transportation would not exceed the cost of travel to the local board from which he traveled, and (3) for his travel from one place of employment to another when his employment is transferred under the provisions of paragraph (c) or (d) of this section.

1660.10 Release from Alternate Service.—The State director of the State in which a registrant is working or the Director, when the registrant is not under the supervision of a State director may release a registrant prior to his completion of 24 months of service upon a determination of a hardship, medical, or other bona fide basis for such early release. If the registrant is working outside the State in which he is registered, the decision should be made in consultation with the State director of the State in which the registrant is registered. When such a release takes place prior to completion of 6 months of alternate service, the State director of the State in which the registrant is registered may direct a reopening of the registrant's classification by the local board.

1660.11 Completion of Alternate Service.—(a) After a registrant has completed his alternate service obligation, the State director will return (through another State director if necessary) the registrant's selective service file to the appropriate local board.

(b) When the local board receives the registrant's selective service file, it shall inform the registrant that he has satisfactorily completed his alternate service. He shall be classified in Class 4-W.

1660.12 Information Concerning Alternate Service.—A registrant who is outside the area of his local board may seek information relative to any aspect of processing for alternate service from the local board or State director of his new place of residence. The assisting State director or local board will not assume the responsibility of the State director or local board of jurisdiction.

PART 1670—RECORDS ADMINISTRATION IN FEDERAL RECORD DEPOTS

1670.1 Applicability of Regulations in This Part.—The provisions of the regulations in this part shall govern the administration, preservation, custody, use, and availability of all records which are now in or may hereafter be placed in Federal record depots which shall include (a) all extant records obtained under the Selective Training and Service Act of 1940, as amended, which are in the possession of the Selective Service System, (b) all extant records obtained under Public Law 26, 80th Congress, which are in the possession of the Selective Service System, and (c) all records obtained under the Military Selective Service Act of 1967 which have been or may be designated for placement in such depots by the Director of Selective Service.

1670.2 Federal Record Depots.—Within each State Headquarters for Selective Service, as a division thereof, the Federal record depot established under the Office of Selective Service Records shall be continued and operated with the functions of maintaining custody of and preserving and servicing all records which are now in or may hereafter be placed in such depot, which records shall remain intact therein, subject to the provision of such directives as may hereafter be promulgated by the Director of Selective Service.

1670.3 Federal Record Depot for National Headquarters.—A Federal record depot shall be established at National Headquarters for Selective Service for the custody, preservation, servicing, and disposal of such records as may be designated by the Director of Selective Service.

1670.4—Protection of Records.—(a) Records of or in the physical custody of the Federal record depots of the Selective Service System shall not be loaned, transmitted, or delivered into the physical custody of any person or agency other than an official or office of the Selective Service System without the approval of the Director of Selective Service. When records are transmitted between offices of the Selective Service System in different States, they shall be channeled through State Headquarters for Selective Service. When cover sheets of registrants are transmitted by mail between Federal record depots and other offices of the Selective Service System, strict accounting shall be maintained of the dispatch and receipt thereof.

(b) Selective service personnel shall take all possible care to keep records from being lost or destroyed. Under no circumstances shall a record be entrusted to any person not authorized to have it in his custody. When the person charged with the custody of a record transmits or delivers it to another, he shall place a notation showing the person or office of the Selective Service System to which it is transmittted or delivered in his files in the place from which the record was withdrawn.

1670.5 Confidential records.—All records obtained under the Selective Training and Service Act of 1940, as amended, except Registration Cards (DSS Form 1) and Classification Records (DSS Form 100), and all records obtained under Public Law 26, 80th Congress, and the Military Selective Service Act of 1967, which are in Federal record depots of the several State Headquarters for Selective Service and the information contained in such records shall be confidential, and shall not be available in any manner or used for any purpose except as provided by the regulations in this part. Information on Registration Cards (DSS Form 1) and information contained in Classification Records (DSS Form 100) shall be available to the public.

1670.6 "Registrant," and "Registrant's File" Defined.—(a) When used in the regulations in this part, the term "registrant" shall be deemed to mean a person who registered under the provisions of the Selective Training and Service Act of 1940, as amended, or the Military Selective Service Act of 1967, whose cover sheet is in a Federal record depot.

(b) When used in the regulations in this part, the term "registrant's file" shall include his cover sheet, if any, and contents.

1670.7 "Disclose," "Furnish," and "Examine" Defined.—When used in this part, the following words with regard to any record in a Federal record depot, or to information contained in any such record, shall have the meaning ascribed to them as follows:

(a) "Disclose" shall mean a verbal or written statement concerning any such record or information.

(b) "Furnish" shall mean providing in substance or verbatim a copy of any such record or information.

(c) "Examine" shall mean a visual inspection and examination of any such record or information at the office and in the presence of a State Director of Selective Service or his designated agent.

1670.8 Availability and Use of Confidential Records and Information.—(a) Information contained in records in a registrant's file may be disclosed or furnished to, or examined by, the following persons, namely:

(1) The registrant, or any person having written authority signed by the registrant.

(2) The legal representative of a deceased registrant upon presentation of letters tes-

tamentary or letters of administration, or where there is no legal representative appointed for the estate of a deceased registrant, his next of kin; provided, that proof of the registrant's death and proof of the relationship of the next of kin to the registrant have been submitted and are in his file. For the purpose of this subparagraph the next of kin of a registrant shall be limited to his widow, child, mother, father, brother, or sister.

(3) All personnel of the Selective Service System while engaged in carrying out the functions of the Selective Service System.

(4) United States Attorneys and their duly authorized representatives, including agents of the Federal Bureau of Investigation.

(5) Any agency, official, or employee, or class or group of officials or employees, of the United States or any State or subdivision thereof, but only when and to the extent specifically authorized in writing by the State Director of Selective Service or the Director of Selective Service.

(b) Notwithstanding any other provisions of the regulations in this part, information contained in any record in a Federal record depot may be disclosed or furnished to, or examined by, any person having specific written authority from the Director of Selective Service. A State Director of Selective Service may disclose or furnish information to, or permit the examination thereof by, any such person but only when and to the extent and for the purpose designated by such written authority of the Director of Selective Service. No person shall use any information so disclosed, furnished, or examined for any purpose other than that designated in such written authority.

1670.11 Supplying Information—In General.—Requests for information contained in the records in a Federal record depot should be made either in writing or in person. No such information shall be supplied until the person making the request has been identified as a person, or as an authorized representative of an agency, entitled to obtain such information pursuant to the regulations in this part.

1670.12 Searching or Handling Records.—Except as specifically provided by regulations in this part or by written authority of the Director of Selective Service, no person shall be entitled to search or handle any record which is in a Federal record depot.

1670.16 Supplying Information to the Congress.—All communications received by State Directors of Selective Service from individual members of Congress, from committees of the House of Representatives, or the Senate, or from the Congress as a body, requesting information from the records in a Federal record depot shall be forwarded to the Director of Selective Service for reply.

1670.17 Subpena of Records.—(a) In the prosecution of a registrant or any other person for a violation of the Selective Training and Service Act of 1940, as amended, or of Public Law 26, 80th Congress, or of the Military Selective Service Act of 1967, or any regulations issued under any of said laws, or any orders or directions made pursuant to any such laws or regulations, or in any Federal court proceeding arising out of the Selective Training and Service Act of 1940, as amended or Public Law 26, 80th Congress, or of the Military Selective Service Act of 1967, all records of the registrant may be produced in response to the subpena or summons of the court in which such prosecution or proceeding is pending.

(b) Except as provided in paragraph (a) of this section, no officer or employee of the Selective Service System shall produce a registrant's file, or any part thereof, in response to the subpena or summons of any court without the consent, in writing, of the registrant concerned, or of the Director of Selective Service.

(c) Whenever, under the provisions of this section, a registrant's file, or any part thereof, is produced as evidence in the proceedings of any court, such file shall remain in the personal custody of an official of the Selective Service System, and permission of the court be asked, after tender of the original file, to substitute a copy of the file with the court.

1670.18 Supplying Lists of Registrants.—A State Director of Selective Service, upon request, may supply lists of names of registrants inducted or enlisted into the armed forces to local governmental, civic, patriotic, or fraternal organizations for the purpose of preparing honor rolls of men who have served in the armed forces. In the preparation of such lists of names, no distinction shall be made or indicated between registrants enlisted and registrants inducted, nor will addresses, branch of service or other information be given. No such list shall be supplied in any case where the State Director of Selective Service has reason to believe that the list will not be used for the purpose requested, or will be used for a commercial purpose.

Part 1690—Determination of Availability of Members of the Standby Reserve of the Armed Forces for Order to Active Duty

1690.1 Authority of Local Boards.—(a) Local boards are authorized to determine the availability of members of the Standby Reserve of the armed forces, male or female, for involuntary order to active duty under section 672(a) of title 10 of the United States Code, as amended, in time of war or national emergency declared by the Congress or whenever otherwise authorized by law, except when it is determined by the Director as provided in section 1690.15.

(b) Hereafter in this part a member of the Standby Reserve is referred to as a "reservist" which term shall include both male and female members of the Standby Reserve.

1690.2 Local Board Which Has Jurisdiction.—(a) Whenever a member of the Standby Reserve of the armed force is to be ordered involuntarily to active duty, in time of war or national emergency declared by the Congress or whenever otherwise authorized by law, the reservist, will be ordered by his armed force to report immediately to any selective service local board convenient to him for a determination of his availability for active duty. Copies of such orders should be provided to the Director of Selective Service.

(b) Notification shall be fully and sufficiently accomplished by the Reserve Component concerned through the mailing of the orders addressed to the reservist concerned at the mailing address which records of the activity mailing the orders indicate as the most recent one furnished by that individual as an address at or from which official mail will be received by or forwarded to him.

(c) Absence of indication of delivery, or return as undeliverable, of orders addressed as above is alike immaterial as respects its efficacy as notice to or notification of the reservist concerned.

(d) It is the responsibility of each member of a Reserve Component to assure that the military records pertaining to him accurately and currently reflect a mailing address at which he can be reached.

(e) Notwithstanding the provisions of paragraph (a) of this section, the Director of Selective Service may, at any time, designate the local board which shall have jurisdiction to determine the availability for order to active duty of any reservist.

1690.3 Quorum, Meetings, and Disqualification of Local Board and Its Members.—The provisions of sections 1604.52a, 1604.55, and 1604.56 of this chapter and the provisions of paragraphs (b) and (c) of section 1623.9 of this chapter concerning the quorum, meetings, and disqualification of a local board and the disqualification of members of a local board with respect to the classification of a registrant shall be applicable to a local board and its members when determining the availability of a reservist for order to active duty under this part.

1690.4 Minutes of Meetings of Local Board.—A record of each meeting of the local board held for the purpose of determining the availability of a reservist for order to active duty shall be kept by the board on Minutes of Local Board Meeting—Standby Reserve (SSS Form 82) which shall be completed in duplicate. The original shall be filed in the local board office as minutes of such meetings and the copy shall be forwarded to the State Director of Selective Service.

1690.5 Standby Reserve Folder (SSS Form 90).—The local board shall open an individual file for each reservist who reports to the local board as prescribed in § 1690.2 by preparing a Standby Reserve Folder (SSS Form 90) which file hereafter in this part is referred to as the "standby reserve folder." Every paper and document pertaining to the determination of the availability of the reservist for order to active duty, except such papers and documents as may be designated by the Director of Selective Service, shall be filed in his standby reserve folder.

1690.6 Standby reserve questionnaire (SSS Form 80).—(a) The local board shall furnish a Standby Reserve Questionnaire (SSS Form 80) to each reservist for immediate completion by the reservist at the local board.

(b) When appropriate, the reservist shall be given the opportunity to submit additional written information, including information from dependents and employers, within 5 working days after he has completed the Standby Reserve Questionnaire.

1690.7 Assignment of Standby Reserve Number.—(a) After a reservist who is not required to be registered under the Military Selective Service Act of 1967, has completed the Standby Reserve Questionnaire (SSS Form 80), the local board shall assign the reservist a standby reserve number, if he has not previously been assigned a standby reserve number by this local board. The first element of the standby reserve number, reading from left to right, shall be the number of the State in which the local board is located as shown on the list of States, Territories, and possessions in paragraph (b) of section 1621.2 of this chapter. The second element of the number shall be the number of the reservist's local board within the State. The third element of the number shall be assigned in numerical sequence, beginning with the numeral 1, according to the sequence in which the local board assigns standby reserve numbers to nonregistrant reservists. The fourth element of the number shall be the one of the following symbols which identifies the Standby Reserve of which the reservist is a member: "A" for Army Reserve, "AF" for Air Force Reserve, "N" for Naval Reserve, "MC" for Marine Corps Reserve, or "CG" for Coast Guard Reserve.

(b) The local board shall keep a record of all standby reserve numbers it assigns to reservists on the Standby Reserve Register (SSS Form 81). Once a standby reserve number has been assigned to a reservist, the same number shall never be used again.

1690.8 Duty of local board to determine reservist's availability promptly.—(a) Notwithstanding any previous determinations of availability, local boards shall determine the reservist's availability promptly by holding a special local board meeting if necessary, or, if a meeting cannot be held, by telephone poll with the Executive Secretary or clerk. In determining the availability of a reservist for order to active duty and his category consideration shall be given to (1) the information contained in his Standby Reserve Questionnaire (SSS Form 80), (2) such other written information as may be contained in his standby reserve folder, and, if he is a registrant, in his Cover Sheet (SSS Form 101), and (3) current instructions issued by the Director of the Selective Service.

(b) Standby reservists determined by the local board to be available for military service shall promptly proceed to station of initial assignment as prescribed in the orders issued by the Reserve Component concerned; those Standby reservists determined by the local board to be not available for military service will proceed back to their home and so notify the reserve Component who issued orders with the least practicable delay.

1690.9 Category I-R: Reservist Available for Order to Active Duty.—In Category I-R shall be placed every reservist who is found to be available for order to active duty.

1690.10 Category II-R: Reservist Not Available for Order to Active Duty Because of Civilian Occupation.—In Category II-R shall be placed any reservist whose continuance in his civilian employment, occupation, activity, or other endeavors in time of war or national emergency declared by the Congress is found to be more essential to the maintenance of the national health, safety, or interest than the performance by him of active duty in the Armed Forces.

1690.11 Category III-R: Reservist Not Available for Order to Active Duty by Reason of Extreme Hardship to Dependents.—(a) In Category III-R shall be placed any reservist who is found to be not available for order to active duty solely because his performance of active duty in the Armed Forces in time of war or national emergency declared by the Congress would result in extreme hardship (1) to the reservist's husband, wife, divorced wife, child, parent, grandparent, brother, or sister who is dependent upon the reservist for support, or (2) to a person under 18 years of age or a person of any age who is physically or mentally handicapped whose support the reservist has assumed in good faith: *Provided*, That a person shall be considered to be a dependent of a reservist under this paragraph only when such person is either a citizen of the United States or lives in the United States, its Territories, or possessions.

(b) The term "child" as used in this section shall include a legitimate or an illegitimate child from the date of its conception, a child legally adopted, a stepchild, a foster child, and a person who is supported in good faith by the reservist in a relationship similar to that of parent and child but shall not include any person 18 years of age or over unless he is physically or mentally handicapped.

1690.12 Category IV-R: Reservist Not Found Available for Order to Active Duty Who Is Not Eligible for Another Category.—In Category IV-R shall be placed any reservist who is not found to be available for order to active duty and who is not eligible for either Category II-R or Category III-R.

1690.13 Reconsideration and Redetermination by Local Board of Reservist's Availability and Category.—(a) The local board shall reconsider and redetermine a reservist's availability for order to active duty and his category upon request of the Director of Selective Service or the State Director of Selective Service.

(b) The local board may reconsider and redetermine a reservist's availability for order to active duty upon request of the reservist if such request is received by the local board within 5 days after the reservist receives notice of his category and if such request is accompanied by written information presenting facts not considered when the reservist's category was determined, which, if true, would justify a change in the reservist's category. If the local board is of the opinion that the information accompanying such request fails to present any facts in addition to those considered when the original determination was made, or even if new facts are presented, the local board is of the opinion that such facts, if true, would not justify a change in the reservist's category it shall not reconsider and redetermine the reservist's availability.

1690.14 Government appeal agent.—In accordance with the provisions of section 1604.71 of this chapter, it shall be the duty of the Government Appeal Agent and, in his absence or inability to act or at his direction, the duty of the associate Government Appeal Agent:

(a) To recommend to the local board a reconsideration and redetermination of a reservist's category where the interest of justice, in his opinion, requires such action and to submit to the local board, any additional information which has caused him to arrive at his decision that the case should be reconsidered;

(b) To forward recommendation to the Director for resolution of the reservist's availability under the provisions of section 1690.15 when, in the opinion of the Government Appeal Agent, local action under paragraph (a) of this section, requires further consideration and resolution at the Director level.

1690.15 Determination of Availability and Category by Director of Selective Service.—Notwithstanding any other provisions of this part, the Director of Selective Service may at any time determine whether any reservist is available or not available for order to active duty and place the reservist in any category he may deem appropriate. Such action under this section by the Director of Selective Service shall be final unless he thereafter requests the local board to reconsider and redetermine the reservist's category.

1690.16 Notification and Recording of Availability and Category.—As soon as practicable after the local board has determined or redetermined the reservist's availability and category and also after the local board receives notice of the determination of a reservist's case by the Director of Selective Service, the local board shall:

(a) Enter on the Standby Reserve Questionnaire (SSS Form 80) a notation of the determination of the reservist's availability and category.

(b) Inform his original local board of jurisdiction by letter of the determination of availability if he is a registrant or a standby reservist of that local board.

(c) Inform the reservist as to determination of his availability as soon as possible.

1690.17 Notifying Armed Force of Availability of Reservist.—The local board shall notify the armed force of which a reservist is a member of his availability for order to active duty in accordance with the instructions in his military orders.

1690.18 Records Which Are Confidential.—The records in a reservist's standby reserve folder and the information contained in such records shall be confidential.

1690.19 Availability and Use of Confidential Records and Information.—(a) Information contained in records in a reservist's standby reserve folder may be disclosed or furnished to, or examined by, the following persons:

(1) The reservist, or any person having written authority signed by the reservist.

(2) All personnel of the Selective Service System while engaged in carrying out the functions of the Selective Service System or the functions conferred by this part.

(3) Any person having specific written authority from the Director of Selective Service.

(b) In the prosecution of a reservist for a violation of the Military Selective Service Act of 1967, the regulations in this chapter, any orders or directions made pursuant to such act or regulations, or for perjury, any records in the reservist's standby reserve folder shall be produced in response to the subpena of the court in which such prosecution is pending.

(c) Except as provided in paragraph (b) of this section, no officer or employee of the Selective Service System shall produce a reservist's standby reserve folder, or any part thereof, or testify regarding any confidential information contained therein, in response to the subpena of any court without the consent, in writing, of the reservist concerned, or of the Director of Selective Service.

(d) Whenever, under the provisions of this section, a reservist's standby reserve folder, or any part thereof, is produced as evidence in the proceedings of any court, such folder shall remain in the personal custody of an official of the Selective Service System and permission of the court be asked, after tender of the original folder, to substitute a copy of the folder with the court.

1690.20 Identification of Records of Reservists.—All forms in the titles of which the words "Standby Reserve" do not appear and all other records used by the Selective Service System in carrying out the functions conferred by this part shall be identified by stamping or otherwise placing thereon the words "Standby Reserve."

NEW AGE MAGAZINE ARTICLES

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. SIKES. Mr. Speaker, the New Age magazine published in Washington, D.C., is the official publication of the Supreme Council of Scottish Rite Freemasonry. It is a worthy publication which consistently upholds the belief in the traditions which made America great. It contains many interesting articles on surprisingly varied subjects. For instance, the April 1972 issue contains articles on both Frederick the Great and Franklin Delano Roosevelt. Their contents are so interesting that I submit both for reprinting in the RECORD:

THE MEDICAL MARVELS OF FREDERICK THE GREAT

(By Irving I. Lasky, M.D.)

"A society which employs itself only in sowing the seed and bringing forth the fruit of every kind of virtue in my dominion may always be assured of my protection. It is the glorious task of every sovereign and I will never cease to fulfill it." The Masonic devotion and affection that King Frederick had for Freemasonry was thus exemplified in July, 1774, when he granted his protection to the National Grand Lodge of Germany and officially approved of the treaty, by that Grand Lodge, with the Grand Lodge of England. Frederick II was King of Prussia from 1740–1786. He was known as "Frederick the Great" for his military success in 1746 against Maria Theresa of Austria, but Frederick was "Great" in many non-military fields also. Contrary to his father's wishes for a strictly military upbringing, Frederick showed preponderant intellectual leanings, a love for music, literature, and a freethinking philosophy.

The ideal government became, for Frederick, an "enlightened" but "absolute" monarchy serving the welfare of the people under the ruler's sense of responsibility. He immediately put his humane principles into practice. Exiled scholars were recalled, torture was abolished, and penalties for crime were mitigated. Lavish patronage was extended to music and the arts, and an opera house was built in Berlin. This *roi philosophe* (philosopher king) held court with outstanding minds from all over Europe; but it soon became clear that he was also a statesman and soldier and in no way planned to inaugurate an easy-going regime.

In the subsequent decade of peace (1746–1756), following the war with Austria, a matured King devoted all his energies to the service of the state. Frederick's own literary work reached its height in his *Histoire de Mon Temps* (*History of My Times*), vastly superior in style, clarity and political judgment to most other contemporary academic writings. It was also in this period of his life that this King accomplished what may be accorded the medical marvels of that day and, for that matter, this very time.

Medicine in Frederick's lifetime was exceedingly meager. Diagnosis was made by establishing the rate of the pulse and by gauging the body temperature. Fever was judged by complexion of the skin and delirium, not by thermometer readings. The clinical thermometer, as we know it today, was not in general use until James Thompson established the absolute scale in thermometry in 1849. A further diagnostic criterion was the examination of the urine. Few diseases were actually known: gout, intermittent fevers (malaria), smallpox, the plague, typhus, dysentry, influenza, veneral disease, hemorrhoids, kidney stones and hernia.

Treatment for the last two was surgery (without anesthesia or antisepsis which were not known). Veneral disease was treated with mercury ointment and vapors. For malaria there was cinchona bark, also known as Jesuit bark, now known as quinine. Because of its effect in malaria cases, it was sometimes also used on all feverish diseases. Smallpox was ever present and led to the first attempts at inoculation. In gout the recommendation was a careful diet and abstention from "red meats, wine, and high living." Gout was thought to be a disease of the well-born and well-to-do. It was believed that turning to more frugal habits would be the cure. We now know, however, that gout is a disease of the metabolism which can be effectively treated with proper medication.

The diet, therefore, has very little to do with causing the disease. In the case of plague, there was only prayer. Wounds, injuries, and fractures were treated by surgeons and Feldschers (paramedics), who took charge and did the best they could under the circumstances.

Frederick was not a well man. In retrospect, it is thought that he suffered from an inherited disease known as porphyria. His chronic gastric colics, violent sweating, moodiness, painful limbs, and dark red urine (which accounts for the name of this disease) attest to this diagnosis. Porphyria is usually diagnosed by the urine turning dark red when it is exposed to light. This color change results from the effect of the light rays on the porphyrins. This substance is found to be normally present in the body tissue and not in the urine. Its presence in the urine, as in the case of Frederick, is abnormal and is diagnostic of porphyria.

It is a well-known dictum in medicine that individuals who suffer from a disease know that disease best. A person with diabetes, as an example, will know a great deal about this disorder, how to treat it, and how to control it. Most probably this is related to man's basic desire for survival.

Therefore Frederick the Great, similarly, wanted relief from his pain and suffering. He used his brilliance, high office, and those opportunities that prevailed therefrom to accomplish his "medical marvels" not only for himself but for his fellowman as well.

In the army, for instance, the king ordered that the wounded be not left to their fate. It appears, therefore, that it was Frederick the Great (not Napoleon's Baron Larry or the American Civil War) who conceived the idea of and introduced field hospitals and mobile (the so-called "flying") ambulances.

To supplement this service for the soldiers, Frederick hired a group of well-schooled physicians, the "young Aesculapes" as he called them, suitable in wartime staffs for the army hospitals and troops. He instructed his court physicians to figure the cost of a well-run field hospital as well as a perfectly stocked field pharmacy. The Prussian military medical service served as a model for all armies.

The King's concern for military medicine was vastly overshadowed by enormous problems relating to public health and hygiene in general. He took measures to control the frequent epidemics of plague, cholera, smallpox and typhus. He undertook the intelligent use of quarantine when it seemed indicated. Frederick actually attempted to disarm two of the most devastating diseases of the day—rabies and smallpox.

Smallpox was the first disease that had ever given rise to attempts at preventive medicine. The earliest records on the prevention of smallpox came from China in the twelfth century. Inoculation was practiced by applying ground and pulverized scab from the skin of victims of light cases of the disease. In order to make Prussia safe from smallpox, the King commissioned several English physicians to carry out inoculations in Berlin and to train Prussian doctors in this method. Thus Frederick the Great had succeeded in introducing the first important public health measure in the kingdom of Prussia.

The King studied anatomy with the dedication of a first-year medical student, proclaiming that no one could possibly aspire to be a good physician and surgeon who was not conversant thoroughly with the anatomy of the human body. Still today the fundamental training period in basic science for the young physician starts with the elemental anatomy of earthworms, crayfish, frogs, sharks, and cats—eventually leading to dissection of the human body.

Frederick read most of the contemporary medical journals and, whenever an article struck him as pertinent to his own health or any patients about whom he was concerned he would cut it out and send it to the attending physician with the request that he consider the treatment. He furthermore collected samples of various vegetables or mineral drugs that came into his possession and requested that they be analyzed by his physicians and that a determination be made of their value in certain diseases. Such preparations were subsequently put into general use for the sick and wounded of that day. The surprising similarity of this interest and what medical scientists do today in collecting and reporting important data for such similar purposes is quite remarkable.

Besides the aspect of general medicine, Frederick was also involved in the theory of the medical and natural sciences on an international platform. His foremost interest was in the fundamentals of fertilization and conception. His other interests in "spontaneous regeneration," with which he disagreed, and the circulation in embryos and cold-blooded animals were the original efforts in what is known as the "basic sciences."

King Frederick the Great, although a nonconformist and iconoclast in many ways, remained a highly religious man to the day of his death. During one of the most trying moments of his personal life, he made a sketch on the flyleaf of his Bible of a man on his knees with two swords hanging crosswise over his head. At the bottom are these words from Psalm 73:

"Whom have I in heaven *but thee?* and *there is* none upon earth *that* I desire beside thee. My flesh and my heart faileth: *but* God *is* the strength of my heart, and my portion for ever."

It is understandable that Frederick's wisdom kept him aloof and totally indifferent to any aspect of German nationalism. He himself would have viewed his likeness with strenuous reservations had he seen it as it was frequently shown during the Nazi regime, side by side with the anti-Masons Hitler, Goering and Goebbels. These despots, in the final analysis, destroyed everything Frederick the Great had wanted to build.

The death mask of King Frederick reveals much of his character and, as it were, his life history. The most powerful mark left on the face is that of regal dignity and self-discipline. One may also perceive a touch of resignation. Even more clearly expressed is the sense of peace which stems from the satisfaction of accomplishment and having done one's work to the best of one's ability.

The credo of Scottish Rite Masonry—"the cause of human progress is our cause, the enfranchisement of human thought our supreme wish, the freedom of equal rights to all people everywhere, the end of our contention"—was assuredly embodied in the medical marvels of Frederick the Great.

FRANKLIN DELANO ROOSEVELT

(By Walter W. Hubbard)

Four of the thirteen United States Presidents known to have been Masons had the distinction of serving two full terms: Washington, Monroe, Jackson and Franklin Delano Roosevelt, popularly known as F.D.R. The latter, however, who was the 12th of our Masonic Chief Executives and an Empire State Democrat, had overwhelming public support at the polls on *four* successive occasions. His White House occupancy exceeded the *combined* terms of William H. Harrison, Garfield, Taylor, Harding, Fillmore and Kennedy.

January 30, 1882, was a day of rejoicing for James and Sara Delano Roosevelt of Hyde Park, New York, when their son, Franklin Delano, only child of his father's second marriage, arrived. The boy's mother was 26 years younger than her husband, who died while Franklin was in his teens, and she played a dominant role in F.D.R.'s life, even after he became President.

As a youngster, Franklin was healthy and robust, a factor which influenced his later physical and mental life. Many years later, N. G. Werthing, a United States Government graphologist, was shown penmanship samples of a teen-age boy and asked to comment. "It has great maturity, drive, organization, leadership. If that's really a 15-year old boy, I want to know what happens to him," said Werthing. "Then they told me it was Franklin Roosevelt's writing."

The family being well-to-do, Franklin's early education was acquired under private tutors and through trips abroad. Later, when enrolled in Groton School in Massachusetts, he learned to speak, read and write French and German. An exemplary student, he graduated in 1900, at the age of 18.

It was then he met a New Jersey-born President whose eight hectic years in the White House were drawing to a close. "Franklin," said Grover Cleveland, "I hope you never become President."

Four years at Harvard earned F.D.R. his degree, plus a year of graduate work. He majored in history, edited the *Harvard Crimson*, had an active social life, and went on to three years at Columbia University Law School. Admitted to the bar in 1907, he practiced law for three years.

In 1905, when he was 23, he married Anna Eleanor Roosevelt, a distant cousin and daughter of Elliott and Anna L. H. Roosevelt. President "Teddy E. Roosevelt, a fifth cousin of F.D.R. and uncle of Eleanor, gave the bride away. A daughter, named after her mother, and five sons were born between 1906 and 1916. A summer home was acquired on Campobello Island, New Brunswick, Canada, where the family enjoyed canoeing, swimming, sailing and rowboating.

In 1910, F.D.R.'s first public office resulted from a patronizing nomination by his party for State Senator from Dutchess County, New York, from whence no Democrat had been elected in half a century. Taking the nomination seriously, Roosevelt motored over every rural road, visiting farmers and freeholders, and won by a substantial majority.

During his first year at Albany, and being of Dutch descent, he applied for Masonic membership in Holland Lodge No. 8 in New York City. He was Raised November 28, 1911.

For the young man who, as a member of Harvard's 1902 debating team, had said that Pearl Harbor could play a major role for the United States Navy, life's outlook was rosy. He had a New York City townhouse on East 65th Street, still extant. Through common ancestry, blood and marriage, he was related to 11 United States Presidents: Washington, John Adams, Madison, John Quincy Adams, Van Buren, William H. Harrison, Taylor, Grant, Benjamin Harrison, Theodore Roosevelt and Taft. He could also claim relationship with Jefferson Davis, President of the short-lived Confederate States of America.

From 1913 to 1920, he was Assistant Secretary of the Navy, a position his Masonic cousin, Theodore, had held under Masonic President McKinley. President Wilson sent him to Europe on World War I Army inspections and, in 1919, in charge of demobilization.

After being defeated in his bid for the Vice Presidency in 1920, he resumed law practice with the firm of Emmet, Marvin and Roosevelt, and became vice president of Fidelity & Deposit Company.

While vacationing on Campobello Island in August, 1921, Roosevelt suffered a poliomyelitis attack, which hopelessly paralyzed both legs. He was to spend the rest of his life using crutches, wheelchairs, canes and leg braces. Jonas Edward Salk, later to become a doctor and developer of a polio vaccine, was then but a boy of seven.

Mrs. Sara Roosevelt, F.D.R.'s mother, early set the stage for the invalid's permanent, convalescent Hyde Park retirement. F.D.R. and Eleanor had other ideas, however, which were agreed upon before he was carried on a stretcher from their Campobello home. In his New York townhouse he strengthened shoulder and arm muscles by wrestling with his sons, climbing stairs and operating his homemade wheelchair. Geopolitical studies were continued through extensive reading and stamp collecting. Months of treatments were spent at Warm Springs, Georgia, where Roosevelt gave land, money and legal talent to create the Warm Springs Foundation, and where, more than 20 years later, he died in 1945.

Less than three years after being stricken at Campobello, he returned to practicing law, and in 1924 he presented the name of Governor Alfred E. Smith to the Democratic presidential convention as the party's standard bearer. At the 1928 convention he again proposed Smith and, at the New York State convention, received, himself, the nomination for Governor of the Nation's most populous state. Smith lost his presidential bid, but F.D.R. landed in Albany's Executive Mansion.

While Governor, Roosevelt received in Albany on February 28, 1929, the Degrees of the Scottish Rite (Northern Masonic Jurisdiction), and became a Noble in Cypress Shrine Temple. Membership in the Grotto, Tall Cedars of Lebanon, and honorary memberships in other Masonic Lodges, Almas Shrine Temple in Washington, and National Sojourners followed. Later, during his second year in the White House, he became the first Honorary Grand Master. Order of DeMolay. Three sons, Elliott, James and Franklin D., Jr., also became Masons.

Being re-elected New York's Governor by nearly three-quarters of a million votes made F.D.R. the leading contender for the Presidential nomination in 1932, and he was nominated on the fourth ballot at the convention in Chicago. (It was, significantly, the year Japan's Navy—jealous of its Army's 1931 seizure of Manchuria—launched a major attack on Shanghai, setting an example Hitler was to follow eight years later.) F.D.R. flew to the Windy City to accept the nomination, becoming the first President-to-be to use air travel.

Seventeen days before taking office, Roosevelt, while visiting Miami, was shot at by Joseph Zangara, whose bullets injured several persons and killed Chicago's Mayor Cermak. The State of Florida tried, convicted and executed the criminal within 33 days.

F.D.R. was the last President to be inaugurated on March 4th, and the first to be inaugurated on January 20th. He was also the first whose mother could have voted for him, as she was alive when he was inaugurated and lived, in fact, until 1941.

From March 4, 1933, when F.D.R. assumed office and enunciated a Latin American "Good Neighbor" policy, until his death on April 12, 1945, when the Nazis were throwing in the towel, the sum total of Roosevelt's activities during 12 years and 39 days in office looms larger than those of any other President. Most of his administration's accomplishments, from a financial and unemployment crisis to a Churchill-Stalin conference two months before he died, are familiar to every wearer of a Masonic apron.

F.D.R.'s White House residency divides itself, roughly, into three periods: Four years to rescue the Nation from a depression, four years to prepare for the conflict Hitler and Hirohito were making inevitable, and four years to put America on the way to winning World War II.

The first period, starting with a bank "holiday," included monumental reforms and social advances now a part of our everyday lives.

The second period commenced with the start of World War II, on July 7, 1937, at Peking, 90 days after which F.D.R. delivered his "quarantine" speech against aggressors. It included Japan's *U.S.S. Panay* bombing on December 12, 1937, which sought to determine if Uncle Sam was too lethargic, cowardly or disinterested to fight, with Hitler joining the war 21 months later. It included, too, F.D.R.'s swap of old-age destroyers for bases, the military draft, and efforts to beat Germany in creating an atom bomb.

The last period ranged from Pearl Harbor to Patton's plea to Eisenhower to take Berlin before the Communists did. Roosevelt favored this, but death saved him from the frustration of learning that United States troops remained outside the city while Red armies surged into the German capital.

The remains of our 32nd President rest beneath a plain white marble monument, beside a similar one for his wife, in a small rose garden at Hyde Park. Visiting there, we might remember the President's words and take heart:

"The only thing we have to fear is fear itself. . . . In every hour of our national life a leadership of frankness and vigor has met with that understanding and support of the people themselves which is essential to victory."

SECOND SUPPLEMENTAL APPROPRIATIONS, 1972

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 26, 1972

Mrs. GRASSO. Mr. Speaker, the valiant effort to secure a record teller vote on the Stephens amendment to appropriate $650 million for HUD's section 702 program for basic water and sewer facilities grants was unsuccessful despite the crying need in towns throughout the country for funding of these essential services.

Last June I supported a similar amendment regarding this important issue. At that time localities searching for funds for water and sewer projects were informed that no money was available. To provide some of these needed funds, the House approved the Stephens-Widnall amendment to the Agriculture Appropriations Act which has since become law.

Yet, 10 months later, the need for these funds is as pressing as ever.

Projects funded by the Stephens amendment would have helped to meet the ever-increasing problem of waste disposal. This amendment would have been a necessary complement to the Water Pollution Control Act which provides funds for sewage treatment plants. Without sewer lines, the plants are useless.

Mr. Speaker, continually, vital local projects which remain unfunded come to our attention. If we are to realize our goal of clean water, then we must provide resources that will permit the construction of water and sewer lines.

Funds for this program will not only benefit the environment. They will also stimulate our economy through the creation of jobs—jobs desperately needed to ease the continuing unemployment problem in our Nation. I sincerely trust that the conference report which, of necessity, will emerge from this legislative exercise, will provide the additional funding so urgently needed.

NATIONAL SECRETARIES WEEK

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. BROYHILL of Virginia. Mr. Speaker, for the 21st consecutive year, National Secretaries Week is being observed, April 23–29, 1972, with Secretaries Day being designated as April 26. The theme "Better Secretaries Mean Better Business" is stressed to promote the significance of teamwork throughout the business world.

In 1952, in cooperation with the U.S. Department of Commerce, the National Secretaries Association—International—now the largest secretarial association in the world, originated Secretaries Week. The involvement of all secretaries for this observance reemphasizes the importance of continued loyalty of secretaries to their employers and their responsibility to their profession.

Official proclamations are issued throughout the United States and Canada designating Secretaries Week and Secretaries Day. Locally, Mayor Beatley, of Alexandria, has presented a proclamation to the local Secretaries Week Committee recognizing Secretaries Week, and Mayor Washington, of the District of Columbia, will soon present his proclamation to the committee.

Locally, District of Columbia, Capital and Bethesda Chapters, of the National Secretaries Association—International—sponsored such events as: Church services on April 23 at St. John's Lafayette Square, with brunch afterward; a Secretaries Day banquet on April 26, at the Touchdown Club of Washington, with guest speaker Patti Cavin, a member of COST, and musical entertainment by Davey Jones; and a luncheon and fashion show on April 29, at the Kenwood Country Club.

VIETNAM CHILD CARE AGENCY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. FRASER. Mr. Speaker, on April 5, 1972, Dr. Joseph C. Kiser, a cardiovascular surgeon practicing in Minneapolis, Minn., testified before the Senate Foreign Relations Committee in behalf of the Vietnam child care agency bill. I am a sponsor of similar legislation in the House.

Dr. Kiser has been affiliated with the Metropolitan Medical Center in Minneapolis, an institution involved in providing hospital care for heart-crippled Vietnamese children.

Much human misery and suffering already has been caused by the war in Vietnam and now thousands of new refugees are fleeing from the combat areas. This child care legislation is aimed at fulfilling in part the moral obligation we have to help rebuild the devastated society of South Vietnam.

Dr. Kiser's fine statement follows:

TESTIMONY OF DR. JOSEPH C. KISER

Mr. Chairman, distinguished members of the Committee: Thank you for this opportunity to speak to you about the problems of the children of South Viet Nam. I am Joseph C. Kiser, a cardiovascular surgeon practicing in Minneapolis, Minnesota.

For the past two and one-half years, my associates and I at Metropolitan Medical Center in Minneapolis have been engaged in a program which offers remedial surgery for Vietnamese children suffering from crippling heart defects.

When considered in the total picture of the medical needs of the children of Viet Nam, our program is really a pitifully small contribution. But, for the purposes of consideration of the bill before you today, the program is important in what its existence says about the scope and nature of medical needs in Viet Nam, and what attempts are being made to meet those needs, and about who is and who is not attempting to meet them.

Let me begin by telling you about TRAN THI PHU, a 16 year old Vietnamese girl. On April 26th, 1971, she was identified by physicians of a German Red Cross hospital ship as having severe heart problems. The physicians' report to us described her as being very thin, with a pronounced blueness due to oxygen starvation, labored breathing and given to much coughing. They recommended her as a candidate for our program. It is very likely that on that same day the U.S. airline which has brought all our patients from Viet Nam at no cost could have put her on board a plane for Minneapolis. We at Metropolitan Medical Center, within a very few days of her arrival, could have scheduled her surgery and accomplished it at no inconvenience to our regular patients.

Five months later, on November 26, 1971, Tran Thi Phu was still in Vietnam. She was still there because there was no one available to initiate and monitor the lengthy, tedious process of obtaining administrative clearance from the Vietnamese Government for her to come to the United States. Prior to that time 17 children had come to Minneapolis for treatment, but at the time Tran Thi Phu's problems were discovered, the volunteer person who had done the processing for the others had been called out of Viet Nam. No one who could devote the several hours of time, several days a week, over as many as three months, to accomplish this task had been found to replace him. On November 27, 1971, Tran Thi Phu died of heart failure.

The dangers of irregular service, or of gaps in service are characteristic of volunteer efforts. Yet today volunteer efforts by private American voluntary agencies are virtually alone in carrying the burden of humanitarian assistance to the children of Viet Nam.

While on the one hand the United States Government, according to press reports, has spent 120 billion dollars to wage war in Viet Nam, its Agency for International Development's budget for medical assistance to Viet Nam has been reduced from 10.5 million dollars in 1967 to 2.7 million in 1971. Only an "infinitesimal" amount, according to the Senate Refugee Subcommittee, is expended on support for a few organizations working with Vietnamese war victims.

Not long ago we wrote one of our Minnesota congressmen asking what the United States government is doing by way of humanitarian assistance for the children of Viet Nam. Appropriately, he forwarded the inquiry to the State Department. The State Department sent a booklet dated March, 1971, entitled "South Viet Nam—Assistance Programs of U.S. Non-Profit Organizations", published by the Technical Assistance Information Clearing House. This booklet described 33 programs operated by U.S. non-profit organizations in Viet Nam, and 31 U.S. non-profit organizations that provide aid to Vietnamese institutions. Of the 64 total programs—many of them operating on an extremely limited scale—it appears that only 42 offer any kind of medical assistance. Even one of the best of these programs—the American Medical Association's Volunteer Physicians for Viet Nam—can put only 12 to 16 doctors in the field at any given time, according to information in this booklet.

In Viet Nam, the primary source of medical care for Vietnamese people is the government of Viet Nam itself. A colleague who has spent several years in Viet Nam with a voluntary medical project informs us that the Vietnamese government has only one dollar to spend on medical care per person per year. Yet that amount represents 20 per cent of its non-military budget.

It is clear that the dollar amount for medical assistance to the people of Viet Nam by their government is grossly inadequate. The same seems true of the assistance now being provided by U.S. voluntary agencies. Furthermore, as I have pointed out, the nature of the service the latter can provide is often irregular and uncertain.

When you consider those conclusions in the light of the overwhelming medical needs of the children of Viet Nam, the picture becomes very black. The same colleague I referred to previously tells us that one out of every five children in Viet Nam will die before reaching the age of five from causes not involving war injuries. He cites bacillary dysentary, pneumonia, tuberculosis and cholera—all preventable and remediable diseases—as the primary causes of these deaths.

Our experiences in treating Vietnamese children with heart defects in Minneapolis gives a hint of the kind of health problems children in Viet Nam face. For example, the very first treatment that must be given on their arrival is to rid them of the intestinal parasites that have been present in nearly every case. These children have not been accustomed to eating meat and other protein foods in adequate quantity. Fresh milk is to them an exotic American beverage. Dental caries are prevalent. Though it could be provided while they are with us, treatment for dental problems, other than extractions, has not been recommended by those who are familiar with the diet in Viet Nam and with the probabilities of continued dental care in the villages of Viet Nam.

The very existence of the heart defects we are treating suggests a great deal about the conditions under which children are born and live in Viet Nam, and about how they affect their health. Of the seventeen Vietnamese children we have treated to date, fourteen were afflicted with *congenital* heart defects—that is, they were born with malfunctions of the heart. Congenital heart defects are not all unavoidable. Some are inherent, but more often they result from inadequate or unfavorable pre-natal conditions. Malnutrition in the mother can cause congenital heart defects. Illnesses suffered during pregnancy can cause congenital heart defects.

Last night four additional Vietnamese children suffering from congenital heart defects arrived at Metropolitan Medical Center for surgery, and four more are being processed to come. During the short span of this program, the names of at least a dozen or more similarly afflicted Vietnamese children have crossed my desk, children who, for one reason or another, sometimes death, have never reached us. We have knowledge of at least five others who have been treated for the same problem at other hospitals in the United States. An unknown number have been sent to Switzerland and Germany for similar care.

Given the lack of diagnostic and treatment facilities in Viet Nam today and the correspondingly slim chances of a child's ever being identified as having a congenital heart defect; and given the fact that in virtually every such case, the child's situation must come to the attention of some volunteer agency or individual who has the initiative and the time to discover and pursue help for him in an out-of-country facility, it is indeed remarkable that such a large number of South Vietnamese children so afflicted have become known to us.

In this respect, our experiences enable us to speak with authority on the need for enactment of Section 2, Subsection b(4) of the bill under discussion today, which relates to establishment of training in matters of child health care and pre-natal and post-natal care. One of the first children we treated at Metropolitan Medical Center was a three-year-old girl with extremely severe congenital heart anomalies. In her case, complete repair was not possible but palliative measures have extended her life by perhaps a few decades. At least one of this child's several siblings was similarly afflicted—and the mother of these children has born at least one additional child. This family and others like them would certainly benefit from the measures proposed.

Hopefully, at some time in the future, measures taken after enactment of this bill will reduce the number of children being born in Viet Nam with congenital defects. But what of the children already born with such defects and those now being born. At present, with its meager medical budget and with such large numbers of children dying from more easily remediable causes—to say nothing of those suffering injuries resulting from combat action—the South Vietnamese government cannot logically justify allocating its financial resources to the development of such highly complex and costly capabilities as that required for open heart surgery.

The majority of Vietnamese children with heart defects can be salvaged by therapeutic surgery available in many hospitals across the United States, and in light of the medical picture in Viet Nam, it is appropriate that they be treated in the United States. But do not conclude that treatment in the United States through voluntary programs is the answer. The Minneapolis project and the few others like it that have been able to survive are dependent on too many tenuous arrangements. We have established a charity fund for the project, but it alone cannot provide all the required financial support. Private organizations, private businesses, and individual volunteers cannot be depended upon indefinately to finance every aspect of this program.

The key reason that I was able to tell you about the four children that arrived in Minneapolis last night is that five months ago a group of concerned citizens of Minnesota discovered the need and, since then, have been raising enough money out of their own pockets each month to pay to have the processing work done in Viet Nam. This group numbers no more than thirty, none of whom, I would guess, earns over $15,000 a year, and they have had a struggle to raise their monthly quota on time. They are very willing, but none of us knows how long their resources will continue to equal their concern and generosity.

I need hardly state I suppose that as long as combat action continues in Viet Nam, the task of trying to meet the medical needs of children in Viet Nam will be like that of Sisyphus, condemned forever to push a very heavy rock up a steep hill, only to have it roll back down as it nears the summit.

Apart from all that, it appears to me that the measures proposed in this bill are necessary and apropriate. I believe further that it is necessary and appropriate to expand these measures to provide not only for prevention of disease among the children of Viet Nam, but to provide assistance in amelioration of those already faced with health emergencies, so that the preservation of South Viet Nam's human resources need not be dependent upon the fortunes and foibles of volunteers, but will be assured by legislation that will enable all of America's capabilities to come into play.

Thank you again.

QUESTIONS AND ANSWERS

Senator Pell. Thank you very much. What is the number of surgeons who can handle—who have had adequate training in Vietnam. Are there any men who can give heart surgery there?

Dr. Kiser. Zero.

Senator Pell. Zero. Why would that be? I thought they had received their own training in France and other centers of medicine; some of them have?

Dr. Kiser. Well, as you are well aware, even the risk of heart surgery in this country varies a great deal across the United States. The risk of heart surgery in Vietnam, I would say, would be extremely high. Precisely why that occurs is a complex answer. Ten years ago you could number on one hand the places in the United States where the risk of obtaining heart surgery was reasonable. Now in most major cities the risk averages probably 10%. Vietnam has got to be at least 10 years behind us. The risk of a child being operated there would be close to 90%, I would think.

Senator Pell. When you say risk, you mean chance of death?

Dr. Kiser. Right. So it is totally unreasonable, I think, for a child to submit to heart surgery there until such time as the level of their training and support services can be brought up to where they are in this country.

We have great hopes of establishing relationship in Saigon with the group there so that we can help them come to that level; but that takes time.

Senator Pell. Do you have any knowledge of the relative height of medical advance in Saigon versus Hanoi?

Dr. Kiser. No; I don't. I am sorry, I don't have that.

Senator Pell. In Saigon as opposed to, or South Vietnam as opposed to Cambodia and Laos?

Dr. Kiser. No; I really don't. Our only contact has been with South Vietnam.

Senator Pell. Do you, as a medical man, have any views as to why the mortality rate of children, of infants, is 90% in South Vietnam?

Dr. Kiser. With heart surgery problems?

Senator Pell. No; no; in general. I am leaving heart surgery.

Dr. Kiser. I really don't. All I can speak about is what we have observed in our program of heart surgery; that is really the only knowledge that I have.

Senator Pell. Does Medico have any teams of doctors in South Vietnam, to the best of your knowledge?

Dr. Kiser. I can't answer that. Certainly not doing complex surgery such as this.

Senator Pell. If you wanted to send out a team to Saigon, are conditions adequate in hospitals there so that Americans can perform heart surgery?

Dr. Kiser. I really don't think so. I think it is impractical. The cost involved would be far greater. We already can get the children here absolutely free and we need relatively little per child to do them here, and the children then go home alive and well. The cost for establishing and maintaining a facility such as this in Vietnam, would be prohibitive at this time.

THE OPENING OF THE GULF ISLANDS NATIONAL SEASHORE IN PENSACOLA, FLA.

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. SIKES. Mr. Speaker, on Friday, April 21, in Pensacola, a meeting was held which marked the formal opening of the Gulf Islands National Seashore. Our principal guest of honor was the Honorable Rogers C. B. Morton, Secretary of the Interior. Other honored guests were: Congressman Wayne Aspinall, chairman of the House Committee on Interior and Insular Affairs, and Congressman William M. Colmer, who was cosponsor with me of the authorizing legislation for the project, and Honorable Nathaniel P. Reed, Assistant Secretary of the Interior.

It was indeed a happy occasion for me to see this excitingly beautiful and historic project officially launched. I have been confident from the inception of efforts to make it an actuality that it would in time to come be one of the really important attractions of the Nation in preserving priceless treasures of nature and of history for posterity.

The master of ceremonies for the program was Mr. J. Earle Bowden, editor of the Pensacola News-Journal, and vice chairman of the Gulf Islands National Seashore Advisory Commission. His opening remarks give marvelous insight into the dream for a Gulf Islands National Seashore. They are so well stated that I have claimed the privilege of asking that they be reproduced in the Congressional Record. Mr. Bowden, who sparked the long campaign for the Gulf Islands project, used these remarks prior to introducing me. It was then my privilege to introduce Congressman Colmer, Congressman Aspinall, and Secretary Morton.

Subsequent to the luncheon program, the deed for Fort Pickens State Park, representing over 8 miles of Santa Rosa Island, and comprising both gulf and bay beaches was presented to Secretary Morton by Maurice Harling, representing Florida Governor Reubin Askew; and the official transfer papers for an additional 7.9 miles of Santa Rosa Island was presented by Henry C. Lane, Chairman, Escambia County Commissioner.

Mr. Bowden's opening remarks follow:

Ladies and gentlemen, distinguished governmental leaders on behalf of the Seashore Commission, the U.S. Navy and the Pensacola Area Chamber of Commerce, we welcome all of you . . . we honor you . . . for the people in this room have worked diligently at all levels of community endeavor to bring us to this day.

The day we talk about a magnificent national recreation project . . . the day we preview the years and the labors that have led to the creation of a national park in this historic harbor . . . the day a member of President Nixon's Cabinet came here to tell us of plans and hopes and dreams of the years ahead, the generations to come, the vast national potential of a great national resource, the Gulf Islands National Seashore.

Today we travel the barrier islands to recreation, history, heritage. From the Mississippi Sound west to Destin Pass. From Fort Massachusetts to Fort Pickens. From Santa Rosa Island to the Mississippi Islands. From Perdido Key to the stately old trees in Naval Live Oaks Reservation.

Indeed it's a new era in our town—a new, refreshing thought—this national park coming into reality after all of those dreams seemingly washing ashore unnoticed. It marks a New era of appreciation for those of us who really do love the heritage of the Gulf Coast.

The magnificent natural beauty. The ecological uniqueness. Treasures glistening sugar white, uncluttered, unspoiled on barrier islands rimming the coastlines of Florida and Mississippi. With most significant military and social history . . . its Indian and early colonial culture . . . its developing lifestyles spanning more than four centuries, from the arrival of the Spanish in the 16th century to the hoisting of Old Glory over Fort San Carlos de Barrancas . . . the intriguing, history-shaping events that weigh heavily upon the chapters of American history.

Today, in this room, not far from our historic harbor—and not far removed from the atmosphere of 19th century America, the stately forts and landmarks that helped shape America . . . we have a symbolic representation of that great heritage.

From the individual citizen of our region who loves the land and the American story and has been willing to fight to save it . . . the military leadership whose command responsibilities in the 1970s typify the duty and devotion of early military commanders who handled the defenses and the campaigns of our Gulf Coast . . . and the city and the county and West Florida and Tallahassee and Washington leaders who govern our land . . . and who, sometimes—as on this day—recognize and set aside and preserve and enhance and protect a few bits and pieces of unspoiled America . . . who are willing to work to create an ecological storehouse unequalled anywhere along America's vanishing coastline.

It has not been easy; in fact, it has been an exhausting task, pulling together what will be America's eighth national seashore. It has keen minds and perseverance to conceive and develop the idea and the plan that surely in our lifetime will be a model for coastal communities that refuse to spoil their natural treasures . . . that choose to live with nature, not selfishly, not destructively. But in the interest of the nation. And the American people.

Many, many years ago the dreams and hopes came while our forts crumbled and bleached in the sun. And with the growing thrust of an accelerated conservation movement, came the concept of combining natural heritage with human history, and the National Park Service gave serious attention to this unique recreational park.

So, we have been discovered.

And now, finally on this historic day, the nation will discover us.

But we're here today to make things happen.

And the people here came to make things happen. People who work tirelessly to put this project into Congress . . . and the men who worked on the legislation . . . put the language in the bill; and the men who at the Executive level are entrusted with this great development . . . and we must acknowledge the men of the National Park Service who face the tough challenge of creating from these environmental and historical treasures one of the great parks of our land.

We should recognize everyone here today, but that would leave no time for some more important actors in this drama. But there are many here today who should be singled out for special introduction.

First, let us welcome our generous hosts.

The Navy, as you know, is a big factor and a major participant in the Seashore development. And Navy officials here and in Washington have been most helpful and cooperative in working with Park Service personnel to help establish the national monument area of the seashore.

And much of this cooperative spirit in recent months has come from the ranking Naval commander of our region. I'd like to introduce the newest Naval innovator, the first commander of all Navy training, Vice Admiral Malcolm Cagle, who is also director of Navy Education and Training.

And the enterprising lumber baron from Century who helped make this luncheon possible, the president of the Pensacola Area Chamber of Commerce, Warren Briggs.

And it is indeed a pleasure and a privilege to have a man who reflects the strong Spanish heritage of our city and our region, the new ambassador from Spain, His Excellency, Senor Don Angel Sagaz. We feel sure the people of your country will appreciate what we do here today.

It's always a pleasure to have this man back in Pensacola. He's a dynamic individual and his work as assistant Interior Secretary in charge of the National Park Service in recent months has certainly brought to life the Gulf Islands Seashore. The former director of Florida's environmental Control Agency under both Governor Kirk and Governor Askew, Nathaniel Reed.

And this man has been running night and day since moving to Tallahassee to coordinate development plans and land acquisition in Florida and Mississippi. He's the guy who has fought the battles in recent months, the director of the Florida-Caribbean District of the National Park Service, Joe Brown.

And representing Governor Askew, a former newsman, the sage of the Tallahassee press corps, the press representative of our Governor from Pensacola, Maurice Harling; representing the City of Pensacola, the Mayor pro tem, Dr. Paul Bruno; and, of course, the chairman of the Escambia County Commission, Ret. Marine Brig. Gen. Henry Lane.

And in the audience, the newly appointed manager of the Florida portion of the Seashore, our new neighbor who did a great job with the development of the DeSoto National Monument at Bradenton, Arthur Graham.

We need only three words to recognize the woman who battled long and hard for this park. She's always a great bundle of enthusiasm and energy, the little lady who led the forces into battle, the firebrand of the Citizens for the Seashore, Mary Turner Rule (Mrs. Ron Reed of Seattle, Wash.) Mary Turner left us some time ago, but the legacy of her energies will forever be remembered by Pensacolians. Welcome home.

And, of course, one of the brighter spots of our Fiesta Week, Miss Florida from Winter Park, Miss Barbara Jo Ivey.

Last evening, I was privileged to be among more than 500 newspaper editors who attended a reception for the American Society of Newspaper Editors at the White House.

I told President Nixon that I would be back in Pensacola today with Secretary Morton, Secretary Reed, Congressman Sikes, Congressman Colmer and Congressman Aspinall to participate in this Seashore Luncheon.

"They are good men," the President said. "Very good men. And you will have a good park."

We're here to listen to these good men talk about our good park.

I had the pleasure of introducing this next gentleman when I was in the 10th grade at a small West Florida high school in 1944.

And he has not lost his enthusiasm for his country and its heritage. And much of his heart and soul is in the Gulf Islands National Seashore.

The senior member of the Florida congressional delegation, a retired major general in the U.S. Army Reserve, a strong right arm of the U.S. military, a former weekly newspaperman, a member of Congress since 1940, chairman of the House Military Appropriations subcommittee, the co-sponsor of the Seashore legislation, a face well known here and throughout America, The Honorable Bob Sikes who will introduce our distinguished guests from Washington. Congressman Sikes . . .

WES FARRELL

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. REES. Mr. Speaker, a rather remarkable and unique combination of artist and businessman has come to my attention. He is Wes Farrell—a young, talented man in his early thirties, who in the short period of 6 years has developed his Wes Farrell Organization, a major independent music publishing and record company, into a dominant position in the entertainment industry.

Farrell formed the West Farrell Organization in 1966, with the personal premise "that music had to be part of a total creative environment in order to achieve its full potential."

In the less than 6 years since its inception, he has created on both the east and west coasts a major publishing, producing, and commercial management complex.

It controls divisions devoted to record production, theatrical and television production, motion pictures, commercials for radio and television, music publishing and artist management.

Farrell garnered the NARM Award last year for the biggest selling single record of the year, "I Think I Love You" by the Partridge Family which he produced on the Bell Records label.

Over the past 18 months, Farrell as writer, producer or publisher has sold approximately 40 million records and tapes.

He recently formed a division to produce an animated music series for television. Discussions are now on with networks and potential sponsors.

Also, in recent weeks the Wes Farrell Organization and RCA Records formed a new record label, Chelsea Records, the product of which will be manufactured and marketed by RCA Records. Top talent in all areas—singers, writers, composers—are being assembled under this new label.

Wes Farrell is the musical inspiration and guiding force behind the staggering success of David Cassidy and the Partridge Family.

Farrell combines a highly analytical mind with a thorough business background. Extremely articulate, Wes is so tuned in to the youth culture that he often acts as a spokesman for his industry.

He wears success with dignity and constant openmindedness.

Wes Farrell is, indeed, an outstanding example of American enterprise at its highest level.

AAFES OUT OF STEP—AGAIN

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. GUBSER. Mr. Speaker, under leave to extend my remarks, I am inserting in the RECORD today an editorial from a recent issue of Exchange and Commissary News concerning some questionable policies of the Army-Air Force Exchange Service.

I am concerned that these policies deny military families an important convenience in being able to learn from an advertisement whether a product is available in the exchange. In addition, it seems to me that action might constitute restraint of trade and is an interference with free-enterprise business firms, which is certainly beyond the prerogative of the exchange service.

I suppose the policies derive from a desire to avoid having the exchange appear in competition with private retailers. The objective might be commendable, but the reasoning is ridiculous. The Navy and Marine Corps exchanges and all service commissaries get along very well without any such artificial restrictions on suppliers. AAFES has no right to set itself up as judge of business firms in this way; a company has a right to set its own advertising policy. One thing we do not need is additional secrecy in procurement matters. And we do not need unnecessary policies which hide information from military families.

The editorial follows:

EVERYONE OUT OF STEP BUT AAFES? AGAIN!

Once again AAFES is out of step with the policies of NSRO, the Marine Corps Exchange System, and the commissary branches of all Services with its new policy strongly prohibiting any firm from noting in its promotional literataure, radio or TV broadcasts, print advertising or any other medium that its products are sold in Army or Air Force exchanges.

Even such an innocuous phrase as "available in your base exchange" to help acquaint customers with a new product, or new line, will put a supplier in the position of being vulnerable to losing his PAB and his sales to AAFES. Without trial or due process, of course.

By contrast neither the Navy exchange system nor the Marines have such a policy. In the case of commissary stores, such phrases are encouraged as officials feel they help advise customers of new items, or specials, and thus help move merchandise as well as provide an information service to the customer.

Under the harsh AAFES rules, the president of a large firm which may be proud of its sales and service to military personnel could not even refer to the fact in a speech or his firm could be barred from doing further business with AAFES.

It is interesting that this prohibition applies to suppliers only. One division of AAFES encourages post and base newspapers to run shopping columns calling attention to what is available in the post or base exchange. Some Army and Air Force exchanges also publish flyers and other promotional materials with the same purpose in mind.

It might be noted here also that AAFES has a strict policy of prohibiting a firm from mentioning it has a Price Agreement Bulletin with AAFES. Neither the Navy nor Marines have any such rule. The commissary systems encourage firms to list their SB numbers to make ordering easier for the ordering clerks.

We recognize that the government has a legal right to protect the names "Post Exchange, Base Exchange, PX" etc. . . . and in the past this has resulted in the prevention of civilian retail stores from using those terms which might mislead customers. The legal basis for this has been established.

Interestingly enough the General Services Administration has, for the first time, published the brand names of items it purchases. This is in line with government policy on greater disclosure in the areas of procurement.

Thus a vendor cannot admit he sells to AAFES. AAFES in turn will not reveal the names of firms it buys from nor the dollar amount. And all procurement is then kept in total secrecy. As the Congress recently noted in a related case, this only encourages more noted collusion, more dishonesty, more corruption. AAFES should know. It has had its share of it.

Once again AAFES stands alone.

HEALTH CARE FOR THE ELDERLY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. ROSENTHAL. Mr. Speaker, this Nation has chronically neglected its responsibility in providing the elderly with adequate health care. Today, millions of our senior citizens are being deprived of the level of health care which they both deserve and require. Adequate health care is not a privilege to be enjoyed solely by the wealthy but is a fundamental right of all Americans.

Lack of financial resources is the root cause of the many problems which plague our elderly in times of ill health. Most of our elderly live on fixed retirement incomes which cannot keep pace with the astronomical increases in doctors' and hospitals' fees, and which are further diluted by spiraling inflation and increased taxes. As a result, our older Americans, even with medicare and medicaid, are unable to meet the costs of health care.

An elderly person, on the average, pays $791 a year for medical bills. Over the past 3 years, room charges in hospitals have increased 65 percent, doctors' fees have climbed 12 percent, and the costs of drugs have risen 5 percent. Health bills for the country's approximately 20 million elderly citizens are currently averaging $800 million a year, nearly six times the total for children and triple that for individuals in the 19 to 64 age bracket. With 25 percent of our elderly living in poverty, and another 25 percent close to it, something must be done to make certain the elderly receive adequate health care.

But cost is only one factor limiting the utilization of health services by the elderly. Lack of adequate coverage under medicare and medicaid is another important area of concern. Medicare, for example, does not cover home drugs, dental care, eyeglasses, hearing aids, many diagnostic and treatment services, long-term nursing home care, routine physical examination, and other preventive health services. In addition, medicare recipients must pay a monthly premium—currently $5.60, but going up to $5.80 in July—to obtain partial coverage for physicians' services. For an elderly couple, the premium charge alone for supplemental, part B, medical insurance amounts to $134.20 per year. This charge, by itself, exceeds the monthly social security benefits of $131 for the typical retired worker. In short, medicare was never intended to meet all health-service costs, and experience has shown that it has done even less than expected.

The Federal-State health care plan, medicaid, has likewise proven to be ineffective in meeting the health needs of our needy elderly. The services to be provided under medicaid are left largely to the discretion of economy-minded State legislatures. Thus, for example, the New York State Legislature has twice reduced the level of exempt income for medicaid applicants and recipients and has consistently voted to limit the types of medical service that the program would cover.

The limitations associated with medicare and medicaid inhibits many older individuals from seeking out health services and, by doing so, acts as a barrier to optimal health. This, in turn, retards the development of preventive health services that might help many elderly people avoid illness and institutionalization. Prolonged hospital or nursing home stays, besides being excruciatingly expensive, can have a tragic psychological impact on an elderly patient.

Says Dr. Amos N. Johnson, past president of the American Academy of Family Physicians:

> When people are isolated from their normal environments, no longer see their friends and loved ones, no longer contribute to society, they regress and die.

Another major problem affecting the health care of the elderly is the status and background of the present health manpower pool. It is common knowledge that there are insufficient numbers of physicians, dentists, nurses, therapists, and psychologists to meet the overall health requirements of the Nation. With respect to the elderly, this shortage is further aggravated by the fact that the care of our elderly citizens is usually neglected in the physician's training. Elderly persons with ailments that can only be eased or managed and with the certainty of death—the ultimate defeat for the physician—lying ahead, do not offer instant rewards for members of the medical profession and the elderly, as a consequence, are denied adequate attention by doctors and others in the health sciences field.

What then can be done to guarantee the elderly adequate health care? A big first step would be the adoption of a comprehensive prepaid national health insurance plan covering all U.S. residents. A bill embodying such provisions has been introduced in Congress by Senator KENNEDY and Representative GRIFFITHS. I am proud to be a sponsor of that legislation. Passage of such legislation, however, would not abolish the personal doctor-patient relationship, a most desirable feature of health care. Nor would this bill mean that the Government owns and operates all facilities and everybody works for the Government.

What I envision is a true partnership between the private and public sectors, between the health professional and the patient. There will be Government financing and administrative management accompanied by private provision of personal health services through private practitioners, institutions, and other providers of medical care.

Only a few weeks ago, I introduced the Social Security Amendments Act of 1972, a bill which, if enacted, would go a long way toward assuring the elderly of adequate health care. One of the bill's most salient features is the extension of medicare coverage to include the out-of-hospital prescription drugs, thus eliminating the need for the elderly to be admitted to hospitals in order to qualify for medicare coverage of drug purchases. While the elderly represent only 10 percent of our population, they account for 25 percent of the Nation's prescription drug expenditures, or about $1 billion a year.

My bill would also eliminate the present 100-day limit on posthospital extended care services under the hospital insurance program and would exempt individuals with less than $4,800 gross annual income from paying for their supplemental medicare coverage.

Free annual physical examinations for

the elderly are also provided. This provision would encourage preventive care rather than crisis treatment, possibly eliminating the need for future extended hospital stays and avoiding the harmful side effects associated with such an occurrence. It would contribute to a healthier elderly population.

The state of medical care for the elderly is anything but healthy. It is a national disgrace that millions of individuals who have worked so diligently throughout the years to make this Nation great should now, in their "golden years," be deprived of adequate health care.

The elderly of this country have become "forgotten citizens." They have their own special problems, interests and needs which, all too often, have gone unnoticed. We, in Congress, as well as the public at large, have a moral obligation to help older Americans live a more comfortable and healthy life.

ADAM POWELL: A BLACK APPRAISAL

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. ROONEY of New York. Mr. Speaker, the New York Times of today, April 28, 1972, contains a very interesting article written by Mr. Roy Wilkins, executive director of the National Association for the Advancement of Colored People. It pertains to my longtime friend and former colleague, the late Honorable Adam Clayton Powell, and reads as follows:

ADAM POWELL: A BLACK APPRAISAL

(By Roy Wilkins)

The unique disturber, Adam Clayton Powell Jr., is dead. Our white folks fretted and moralized and wondered and kept up running "analyses" trying to find out what made Adam tick. They classified Negroes by the degree of their approval or disapproval of Adam, only to shake their bewildered heads when blacks came up with the same answers for Adam that whites would give on whites occupying the same spot.

Adam was a perfect example of a man who made the system work for his people. He thoroughly enjoyed all his endeavors as he worked to benefit his constituents, whom he believed to be not just those in this Harlem district, but all the disadvantaged in the nation. Now he prodded the system, lashing with a brash, disrespectful vocabulary at first one, whom he in his scornful estimation classed as an enemy, then, without warning, at another.

It is the fashion among "black" historians and commentators to believe that the civil rights struggle began in the nineteen-sixties with the marches and jailings. Nothing of course, could be farther from the truth. These events were but a new phase of an old struggle to which many unsung black and white heroes and heroines had contributed.

Let no one assert that Adam was so busy with his fancy plans that he ignored the plight of his people. In his Abyssinian Baptist Church, during the years of the Great Depression, he operated a day nursery for working mothers, a grocery store and other services all with a staff of twenty workers. He got jobs in 125th Street by demands, marches and selective buying campaigns.

But his great service was rendered after his election to Congress. His talents and his ability cut through the booby traps of legislation to find the harm directed at the poor and black populations. He became a maverick. It was his continued re-election that finally brought him the chairmanship of the powerful House Committee on Education and Labor.

Adam Powell showed how the system could work if one worked at it. He had a brilliant career as a committee chairman and helped speed the enactment of many pieces of social legislation, including Title 7 of the Civil Rights Act of 1964.

He ran afoul of the moral astigmatism that abounds in America. People who benefited from practices which were not 100 per cent legitimate ganged up on Adam for what they considered his unorthodox behavior. Most Negro Americans are firmly convinced that the punishment meted out to Adam was "by the book" primarily because he was black, because he thumbed his nose at his accusers and because he was unafraid.

He was controversial, even among his own people. But he was also colorful and acted his part on the world stage with a style (whether one agreed with him or not) that evoked reluctant admiration. So, he went off on racial and personal tangents? What matter, even if his barbs made one wince?

He showed to a superb degree how the American electoral and legislative processes can be made to work for an abused citizenry. For this time alone, disregarding his flamboyance and his wisecracks, white America, plagued on the race problem, should say a prayer for Adam Clayton Powell. We need desperately his special combination of the sharpened stick and the sweet-sour carrot.

NATIONAL TEXTILE WEEK

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. DORN. Mr. Speaker, it is a very special pleasure during this first National Textile Week to pay tribute to the more than 2½ million Americans associated with the American textile community. As an organizer and now Secretary of the House Informal Textile Community we are especially aware of the magnificent contributions made to our national economy and our national defense made by the textile industry. In our area, every businessman, every professional man, every church and every charitable organization is dependent on the well-being of the textile industry. And in terms of national defense, the textile industry is second only to steel.

The textile industry is America's first industry. It was the beginning of the American Industrial Revolution. Starting with Slater's Mill in New England, the textile and apparel industry now provide employment for more than 2½ million Americans. Although our oldest industry, the textile industry is alive with bold new ideas, with modern and efficient production techniques. Most important, however, are the outstanding Americans associated with the industry at all levels. In our area we are especially aware of and grateful for their splendid contributions made to every aspect of community improvement.

Mr. Speaker, we are now hopeful that the industry can plan and project with some certainty for continued progress. This would have been impossible without some relief from the ruinous flood of cheap, low wage imports that threatened the very life of the American textile community. Throughout the Nation, but especially in our area, the textile industry has been a unique gateway to well-paying industrial jobs for important segments of our population. In many of our smaller towns and cities, the economy is totally reliant on textiles. As Secretary of the Informal Textile Committee we are hopeful that our committees efforts for orderly international trade in textiles and apparels and the efforts of the administration have produced the circumstances necessary for the continued growth of this vital national asset. We enthusiastically endorse this national recognition of the textile industry and salute those millions of dedicated, devoted, and patriotic Americans who comprise the textile community.

SMALL BUSINESS SUPPORTS BUSING AMENDMENT

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. HUNT. Mr. Speaker, I am sure everyone is aware of the hearings currently in progress in the House Judiciary Committee on legislation proposing an amendment to the Constitution relative to school busing and neighborhood schools.

I wish to call to your attention the statement submitted by the legislative director of the National Federation of Independent Business, an organization representing the interests of more than 305,000 small business member firms spread throughout the United States. It will interest you to know that when NFIB polled its members in February on the question of busing, the response was the largest ever in the organization's 29-year history. An overwhelming 86 percent answered in the affirmative on the proposition of "a constitutional amendment prohibiting compulsory assignment or busing of children to schools on the basis of race, creed, color, or national origin".

Mr. Speaker, I commend the position of the National Federation of Independent Business, as expressed in the following statement, to all the Members of this body:

TESTIMONY OF JAMES A. GAVIN, LEGISLATIVE DIRECTOR OF NFIB

Mr. Chairman, distinguished members of this Committee. My name is James A. Gavin, Legislative Director of the National Federation of Independent Business. On behalf of our more than 305,000 member firms across the United States, I want to thank you for this opportunity to present our testimony on busing before you today.

The National Federation of Independent Business is the largest organization of its kind in the world. We represent the views of the small, independent businessman. These views are current, and are based upon our regular, systematic pollings of all member firms on important issues pending before the Congress. This, the Federation has done continually since its inception back in 1943.

In February of this year, we polled our member firms on the question of busing.

Specifically, we polled the question regarding a proposed constitutional amendment prohibiting compulsory assignment or busing of children to schools on the basis of race, creed, color or national origin. Our members reacted by giving us the largest return of completed ballots ever received in the 29-year history of our organization.

The results showed: 86% for a constitutional amendment; 9% against; 5% no opinion.

With such a large return, and with such a wide disparity in the results, there can be no doubt where the small, independent businessman of America stands on the question of forced busing. An in-depth study of the returns indicate the results show little geographical variation.

Although polling only the constitutional amendment approach, we interpret the tremendous response we received as evidence that people want relief—through the quickest, most practical approach available—from the consequences of forced busing.

Some typical unsolicited comments from the respondents show the National range involved. I would, just briefly, like to call to your attention a few of these:

"Forced anything is unAmerican"—a Minnesota plastics manufacturer

"Busing children to an inferior school does not improve the school or the teacher."—a California businessman

"I am in favor of non-forced integration."—a Texas building supplier

"Forced busing can never work. All it can do is aggravate and separate communities and neighbors."—No state or occupation given

Mr. Chairman, the question of forced busing is one of the most emotional issues to confront 20th Century Americans. All throughout the width and breadth of our land, people are upset and dismayed over busing, as unelected theoreticians not only blunt and thwart the intent of the Law of the Land, but in so doing use innocent school children as one would use pawns in a game of chess.

Literally countless times every school day across America, children are uprooted from neighborhood schools and bused 5, 10, 15, 20 miles, and in many cases even further, to an unfamiliar school in unfamiliar surroundings *only* to achieve some egalitarian theory of racial balance.

I have mentioned thwarting the law. It does not take the proverbial Philadelphia lawyer to recognize that the 1964 Civil Rights Act expressly forbids assignment of pupils to schools on account of race. Going even further back to the 1954 Supreme Court decision in the *Brown vs. Topeka* case, the high court held that assignment of pupils to schools strictly because of their particular race was unconstitutional. This decision made no mention of forced racial quotas.

Today, however, we have made a complete cycle back to 1954. The busing of children solely on the basis of race is as wrong today as it was in the past. And today, the courts—despite the 1964 Law of the Land enacted by the Congress—hold that race must be a factor in the forced assignment of children to public schools.

Busing tramples upon the very principle the 1954 *Brown* case sought to establish. White children are shipped here, black children are shipped there, in the Carolinas red children are shipped somewhere else, while on the West Coast yellow children are shipped elsewhere. All this is done to obtain what the theoreticians call "racial balance."

Let me emphasize again that all this is being done with complete disregard for the wishes of the majority of parents of *all* races. And, regrettably, this is being done *because* of the color of a child's skin. What could be more unAmerican? Is not justice color blind?

The most recent Gallup poll on busing reveals that 76 per cent of the public opposes busing. Some 47 per cent—or a majority of those blacks expressing their views on the subject—were opposed to it.

Among the reasons given by those opposed were:

1—Children should go to school where they live; busing is unfair to them and to their parents.

2—Busing is an unneeded and undesired expense; the money could be better spent improving the quality of education for both races.

3.—The time spent on long bus trips is enervating to the child, as well as a waste of time.

Of those 18 per cent who favored forced busing, their chief reasons were:

1—Busing will upgrade the quality of education for blacks.

2—It will improve race relations in the Nation.

The remaining six per cent had no opinion.

Proponents of forced busing are worlds apart from the view adopted by the recent grass roots Black National Political Convention meeting in Gary, Indiana. The Convention, according to a report in the Washington Post of March 13, 1972, "Condemned busing to achieve school desegregation as 'rascist, suicidal methods' that are based on the 'false notion that black children are unable to learn unless they are in the same setting as white children.' "

The newspaper report states that the Convention stand was taken "by a loud, overwhelming voice vote" of the delegates.

William Raspberry, in his column in the same newspaper on January 20, 1972, wrote:

"Virtually no one wants busing on the level it would take to integrate the schools in most metropolitan areas.

"I, for one, would be willing to take one step backward, to honest desegregation. That is, let us move forthrightly against any attempt at official discrimination. But at the same time, let us end the humiliation of chasing after rich white children.

"And it is humiliating. For one thing it says to black children that there is something inherently wrong with them, something that can be cured only by the presence of white children. Some of us don't believe that.

"Some of us believe that given adequate resources, financial and otherwise, black children can learn, no matter what color their seatmates happen to be." For informational purposes., William Raspberry is a respected black journalist in Washington news circles.

Busing, we believe, has yet to disclose what tangible value can be gained for the children involved. Instead, only negative results surface in the issue. Quality education no longer exists. Forced busing has caused just plain, everyday Americans, in addition to parents and grandparents, to become more and more alarmed over the issue.

Unless—and until—a remedy is found, these millions upon millions of our citizens will, without doubt, reflect their frustration and consternation at the polls come Election Day.

This volatile and emotional issue, we believe, can only be effectively defused by a Constitutional Amendment. The weak argument advanced by some that the Constitutional Amendment approach would take too long is folly. Consider the rapidity with which the latest Constitutional Amendment granting to 18-year-olds the right to vote in state elections was adopted.

However, should this Committee decide not to report a measure calling for a Constitutional Amendment on busing, perhaps it will publicly encourage the various states to hold referendums on busing, thereby allowing rank and file Americans to express publicly their feelings on this issue.

Perhaps if this course is pursued, the various states will, through their legislatures, petition for a Constitutional Convention on the forced busing issue. Maybe even such a Convention would not then be necessary, for certainly it would be obvious to all in the Congress exactly how the American people feel regarding busing of school children.

Federation members strongly favor the Constitutional Amendment approach. An Amendment would provide a sane, uniform law that would be applicable all over the United States equally *without* regard to race.

We urge that such legislation be favorably reported as soon as possible.

Thank you.

INCREASED GOVERNMENT CONTRIBUTION UNDER FEDERAL EMPLOYEES HEALTH BENEFITS

SPEECH OF

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. FRENZEL. Mr. Speaker, it was with regret that yesterday I was compelled to vote against H.R. 12202, the Federal Employee Health Benefits Act.

A key factor in my decision to oppose this bill on final passage was the earlier addition of the Waldie amendment. The Waldie amendment added at least $100 million per year extra cost to H.R. 12202 which was calculated to cost in total, after the Waldie amendment, nearly $1 billion per year more.

The real inequity in the Waldie amendment is that the Postal Service employees had established their own collective bargaining units and did their own bargaining under the Postal Service Corporation Bill. In the middle of the present contract the Waldie amendment would give them a $100 million package of employee benefits which could only destroy the credibility of future collective bargaining.

If the Federal Government is to underwrite the health insurance benefits of postal workers, it would seem to me that we really don't need the Postal Service Corp., and we should then go back to the old way. Under the Waldie corporation, this one special group of Federal employees has a chance to eat its cake—the extra health insurance benefits—and have it—extra wages under the bargaining agreement—too.

The debate on this subject also indicates that the Postal Service Corp. cannot absorb the extra costs of the Waldie amendment, and will have to pass it on to all the mail users in our country in higher postage rates. Since these employees have already received substantial raises under their bargaining agreement, it seems to me that the people of the U.S. would not take too kindly to stamp increases to service this health insurance cost.

With the Waldie amendment and the other high costs of benefits to other Federal Government employees, H.R. 12202 far exceeds the budget at a time when I think it is absurd for the Congress to authorize or appropriate more when the budget itself threatens to show a multi-billion-dollar deficit for the third year in a row. If we are trying to be serious about inflation, we should certainly look to our own appropriating process and make sure we did not add to a budget that is too high and has too much red ink in it already.

I believe that improvements are needed in the Federal employees health insurance program and that the Federal Government has a responsibility to accept a greater share of the costs of these programs. I believe that H.R. 12202 has some excellent features which should become law. However, burdened as it was by the Waldie amendment, H.R. 12202 did not earn my vote.

TRIBUTE TO WALTER LANTZ

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. REES. Mr. Speaker, next month Mr. Walter Lantz will celebrate his golden anniversary as a motion picture producer. This is, so far as I know, a record of longevity unmatched by any producer now active in either animation or live action. The occasion will be observed on May 23, when a tribute will be paid to him by Universal Studios, with which he has been associated for 43 years.

Mr. Lantz is the creator and producer of Woody Woodpecker. Through Woody and his many other cartoon characters, he has brought laughter to motion picture and television audiences around the world. Woody, for example, is presently seen in 72 countries.

When Mr. Lantz was 15 he worked for the Gregory La Cava cartoon studio in New York, and was thus firmly on the ground floor of the fledgling but booming cartoon profession. He drew such memorable characters as the Katzenjammer Kids, Happy Hooligan, Krazy Kat, and Mutt and Jeff.

In 1926 he decided to pack his bags and head for Hollywood. For more than a year he wrote stories and gags for Mack Sennett, and in 1928 he joined Universal Studios. For the next 10 years Mr. Lantz produced the popular Oswald Rabbit cartoons. He also produced the first technicolor cartoon, "The King of Jazz," featuring Paul Whiteman's orchestra and a young singer named Bing Crosby.

Mr. Lantz married Broadway and screen actress Grace Stafford in 1941. The newlyweds' honeymoon had scarcely begun when a persistent bird pecked his way through the roof of their cottage and permanently into their lives. The Lantzes named their intruder Woody Woodpecker, and Walter became intrigued with the idea of using the bird as an animated character. Woody gained instant audience favor following his introduction into one of Mr. Lantz's Andy Panda cartoons. Soon a new star was born, one that would eventually be heard, enjoyed, and recognized by millions of people throughout the world. Last year Woody celebrated his 30th birthday. The Lantzes work as a team; Mrs. Lantz has been Woody's voice for many years.

In November of 1969 the Lantzes set out on a USO-sponsored tour of wounded servicemen. They visited every one of the 24 hospitals in the U.S. Pacific Command, including outposts in Japan, the Philippines, Guam, Okinawa, and Korea. They toured for 31 days and flew more than 30,000 miles in all.

New honors will be tended Mr. Lantz this summer, soon after his golden anniversary. "Zagreb '72," the international animated film festival, will salute Walter Lantz as one of the great pioneers in this unique art form, one which knows no language barriers and is truly universal.

I am certain that my colleagues will want to join me in paying tribute to Mr. Lantz for his 50 years of outstanding service to both the motion picture industry and cartoon lovers everywhere.

"LET'S TELL OUR STORY!"

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. SIKES. Mr. Speaker, the Farm Bureau magazine, Floridagriculture, for March 1972, has an excellent editorial from the pen of Walter J. Kautz, president, Florida Farm Bureau Federation. It tells an important story and the Nation should listen.

The editorial follows:

LET'S TELL OUR STORY!

(By Walter J. Kautz)

Our public image should be rated at the top of the list of major concerns for which we must find satisfactory answers in agriculture.

The average farmer and rancher is literally flabbergasted, amazed and stunned by the volume of bad publicity agriculture is getting, free of charge, in so many different areas. The food producer is painted as some kind of public criminal as a reward for toiling for years and years to produce food without enjoying the level of prosperity received by most other segments of our economy.

As so many of our smart friends have pointed out, no one has forced the farmer to stay on the land. Many of them haven't stayed because economics forced them off. Many have stayed because of their love for the rural life, and many because they have no other trade. The fact that so many of our rural youth are leaving the farm is a true indicator of their appraisal of the future potential of farming. They have no intention of toiling from daylight to dark only to reap a harvest of criticism from the American public as their reward.

Many members both singularly and collectively in the agricultural community are burning midnight oil seeking the best methods for telling our side of the story to the consuming public—for example, the fact that the American family spends only 17 per cent of its income for food compared to 50 per cent in Russia and even higher in other countries.

Judging from the reaction of the housewife to increased food prices since the enactment of Phase II it is apparent that the public isn't interested nor do the consumers want to hear the facts about cheap food.

Our national policy of cheap food for its people has been accepted as a right by the consuming public rather than as a reward for outstanding accomplishment by producers of food. In order for our government to subsidize the cheap food policy, many of our farmers have been forced to feed at the public trough against their will. Our liberal friends have been having a hayday with this one.

Since only 5 per cent of our population is directly involved in food production, it is questionable that anything we might say about why food prices should be higher would be acceptable to the consumer.

Human nature being what it is, housewives within our own ranks have been known to be real critical of higher prices they have to pay for food products not produced on their own farm. While the ranch family may be happy to receive a living wage from increased meat prices, this same family may resent having to pay more for milk, eggs and vegetables.

Again, many of the consumers that are crying about higher food prices after going to the grocery store need to look in their basket and see how many items purchased are food items and what percentage of the grocery check involves toiletries, cigarettes, washing powders and a long list of other household and personal requirements. It's so easy to lump all these items together and then be critical of higher food prices.

Convenience packaging and various stages of food preparation which are a real blessing to working mothers are services which add to the cost of food but add not one cent to the farmer's return. Transportation and handling costs of raw and processed food products which have increased with each labor settlement, again increase the cost of food without any benefit to the producer.

We need to tell this story to consumers so they will understand why higher prices paid to the producers are justified and needed if they are going to continue to supply food requirements?

While we may need to tell our story to a public with an unwilling ear to listen, we must concentrate on a marketing system which will permit producers to charge for their products on the same basis that industry does, that is, cost of production, plus a return on investment. We cannot expect our consumers to pay any more than they have to, nor can we price our commodities any higher than absolutely necessary. Within this framework we must proceed. We must be able to project an image of businessmen capable and willing to solve our problems in a complex world. We can and we must!

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, April 28, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

HOUSE OF REPRESENTATIVES—*Monday, May 1, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

They that wait upon the Lord shall renew their strength.—Isaiah 40: 31.

Eternal God and Father of us all, grant that we may feel Thy sustaining presence and Thy supporting spirit as we set out upon the duties of this day. May we realize anew that the highest joys and the most enduring satisfactions come to those who do Thy will and who walk in Thy ways.

May our faith in the power of righteousness and the strength of love never be dimmed by doubt as we endeavor to solve the problems that confront our Nation in these troubled times.

Now and always may we be inspired by Thy spirit to promote those principles which make for national unity, world peace, and justice for all.

In the Master's name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment, a joint resolution of the House of the following title:

H.J. Res. 1029. Joint resolution to authorize the President to issue a proclamation designating the month of May of 1972 as "National Arthritis Month."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 11350. An act to increase the limit on dues for U.S. membership in the International Criminal Police Organization;

H.R. 11417. An act to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation for the purpose of purchasing railroad equipment, and for other purposes; and

H.J. Res. 748. Joint resolution amending title 38 of the United States Code to authorize the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new State medical schools; the improvement of existing medical schools affiliated with the Veterans' Administration; and to develop cooperative arrangements between institutions of higher education, hospitals, and other public or nonprofit health service institutions, and the Veterans' Administration to develop and conduct educational and training programs for health care personnel.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 13361) entitled "An act to amend section 316(c) of the Agricultural Adjustment Act of 1938, as amended," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. JORDAN of North Carolina, Mr. CHILES, Mr. MILLER, and Mr. CURTIS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 652. An act to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes;

S. 2208. An act to improve the laws relating to the regulation of insurance in the District of Columbia, and for other purposes;

S.J. Res. 182. Joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in Farmfest—U.S.A. and the World Ploughing Contest in September 1972; and

S.J. Res. 213. Joint resolution to authorize and request the President to issue a proclamation designating October 6, 1972, as "National Coaches Day."

RESIGNATION AS MEMBER OF THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation as a Member of the House of Representatives:

WASHINGTON, D.C.,
April 28, 1972.

Hon. CARL ALBERT,
Speaker of the House of Representatives, U.S. Congress, Washington, D.C.

DEAR MR. SPEAKER: This is to inform you that I have today advised the Governor of the Commonwealth of Massachusetts by letter, copy attached, of my resignation from the House of Representatives, 92d Congress, effective as of the close of business May 1, 1972.

With high esteem, I am,
Respectfully yours,
F. BRADFORD MORSE.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

ESTABLISHING A COMMISSION ON REVISION OF JUDICIAL CIRCUITS

The Clerk called the bill (H.R. 7378) to establish a Commission on Revision of the Judicial Circuits of the United States.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, at the last call of the Consent Calendar I asked several questions, which do show in the RECORD, concerning the need for an additional commission, and asking for explanation as to why this should not be a regular function of the Department of Justice, and wondering if it should not be debated and appear somewhere other than on the Unanimous-Consent Calendar.

At that time, due to unforeseen problems, there were not on the floor those able to supply answers. I would be glad to yield at this time for discussion, although I am still of the firm opinion that this type of bill should be considered under some of the other techniques, preferably under a rule and open for amendment. I will be glad to yield to my colleague, the dean of the House, the gentleman from New York.

Mr. CELLER. Thank you very much. The redrawing of the lines for the circuit courts is a matter of real importance, you will admit, and it would appear that all concerned approved this bill. This includes the Chief Justice of the United States, the chief judges of the 11 circuit courts of appeals, the Department of Justice, and the American Bar Association. It was passed unanimously by the House Judiciary Committee. We found no opposition whatsoever to the provisions of the bill.

For that reason we felt it should be placed upon the Consent Calendar. I am very happy, however, to expatiate a bit longer on it if that is desired.

Mr. HALL. Mr. Speaker, I appreciate my distinguished colleague's recitation of the events leading up to this, and I must say with all kindness that in spite of the liturgy of unanimity and the consent of all before whom it has appeared up to this time, it does not include myself, of whom unanimous consent is being asked. The main reason it does not, is because it does establish another 12-man commission to make recommendations only, and this would be, of course, a considerable cost to the Government, and they would have all the per diem, the travel, the prerogatives, and so forth.

I just thoroughly feel that this should be debated, or at the very minimum brought up under suspension of the rules, rather than by unanimous-consent request. I am sure the gentleman in his plethora of leglislative experience through the years, would understand that request on the part of any one Member.

Mr. CELLER. I understand the request, but I hope I might eliminate the gentleman's objections with some more explanations concerning the bill, if the gentleman will permit me to do so.

Mr. HALL. Mr. Speaker, I would always be receptive to the distinguished dean of the House.

In the meantime, Mr. Speaker, I do ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

LAND TRANSFER TO THE STATE OF TENNESSEE

The Clerk called the bill (H.R. 9676) to authorize the conveyance of certain lands of the United States to the State of Tennessee for the use of the University of Tennessee.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, this bill has been on the Consent Calendar previously and was put over without prejudice—and I underline "without prejudice"—because it involves a change in the rules by legislative action of the executive branch, General Services Administration, and whether or not the cause is worthy would depend on the individual point of view.

It is now listed under suspension of the rules and, therefore, on this Consent Calendar call I ask that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

LAND RELEASE IN ARKANSAS

The Clerk called the bill (H.R. 5404) to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Arkansas Game and Fish Commission, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 5404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of subsection (c) of section 32 of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1011(c)), the Secretary of Agriculture is authorized and directed to release on behalf of the United States with respect to lands designated pursuant to section 2 hereof the condition in a deed dated October 2, 1969, conveying lands in the State of Arkansas to the Arkansas State Game and Fish Commission, which requires that the lands so conveyed be used for public purposes and provides for a reversion of such lands to the United States if at any time they cease to be so used.

Sec. 2. The Secretary shall release the condition referred to in the first section of this Act only with respect to lands covered by and described in an agreement or agreements entered into between the Secretary and the Arkansas State Game and Fish Commission in which such State agency, in consideration of the release of such conditions as to such lands, agrees:

(a) that if lands with respect to which the condition is released are exchanged, they shall be exchanged for lands or other property of approximately comparable value and that the lands so acquired by exchange shall be used for public purposes; and

(b) that proceeds from a sale, lease, exchange, or other disposition of lands with respect to which the condition is released shall be held in a separate fund open to inspection by the Secretary of Agriculture and shall be used by the Commission for the acquisition of lands to be held or used for public purposes.

Sec. 3. Upon application all the undivided mineral interests of the United States in any parcel or tract of land released pursuant to this Act from the condition as to such lands shall be conveyed to the Arkansas State Game and Fish Commission for the use and benefit of the Commission by the Secretary of the Interior. In areas where the Secretary of the Interior determines that there is no active mineral development or leasing, and that the lands have no mineral value, the mineral interests covered by a single application shall be sold for a consideration of $1. In other areas, the mineral interests shall be sold at the fair market value thereof as determined by the Secretary of the Interior after taking into consideration such appraisals as he deems necessary or appropriate.

Sec. 4. Each application made under the provisions of section 3 of this Act shall be accompanied by a nonrefundable deposit to be applied to the administrative costs as fixed by the Secretary of the Interior. If the conveyance is made, the applicant shall pay to the Secretary of the Interior the full administrative costs, less the deposit. If a conveyance is not made pursuant to an application filed under this Act, the deposit shall constitute full satisfaction of such administrative costs notwithstanding that the administrative costs exceed the deposit.

Sec. 5. The term "administrative costs" as used in this Act includes, in addition to other items, all costs which the Secretary of the Interior determines are included in a determination of (1) the mineral character of the land in question, and (2) the fair market value of the mineral interest.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL FOREST VOLUNTEERS

The Clerk called the bill (S. 1379) to authorize the Secretary of Agriculture to establish a volunteers in the national forests program, and for other purposes.

There being no objection, the Clerk read the bill as follows:

S. 1379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized to recruit, train, and accept without regard to the civil service classification laws, rules, or regulations the services of individuals without compensation as volunteers for or in aid of interpretive functions, visitor services, conservation measures and development, or other activities in and related to areas administered by the Secretary through the Forest Service. In carrying out this section, the Secretary shall consider referrals of prospective volunteers made by ACTION.

Sec. 2. The Secretary is authorized to provide for incidental expenses, such as transportation, uniforms, lodging, and subsistence.

Sec. 3 (a) Except as otherwise provided in this section, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(b) For the purpose of the tort claim provisions of title 28 of the United States Code, a volunteer under this Act shall be considered a Federal employee.

(c) For the purposes of subchapter I of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, volunteers under this Act shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply.

Sec. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not more than $200,000 shall be appropriated in any one year.

Sec. 5. This Act may be cited as the "Volunteers in the National Forests Act of 1971".

With the following committee amendments.

Page 2, line 12, strike out the word "provision" and insert in lieu thereof the word "provisions";

Page 3, line 1, strike out the figure "$200,000" and insert in lieu thereof the figure "$100,000"; and

Page 3, line 4 strike out the words "of 1971" and insert in lieu thereof the words "of 1972".

The committee amendments were agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING COURT OF CLAIMS TO IMPLEMENT ITS JUDGMENTS FOR COMPENSATION

The Clerk called the bill (H.R. 12392) to amend title 28, United States Code, section 1491, to authorize the Court of Claims to implement its judgments for compensation.

There being no objection, the Clerk read the bill as follows:

H.R. 12392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 1491 of title 28, United States Code, is amended by adding thereto the following:

Sec. 2. This Act shall be applicable to all judicial proceedings pending on or instituted after the date of its enactment.

With the following committee amendment:

Strike all of lines 5 through 10, inclusive, and insert: ": 'To provide an entire remedy and to complete the relief afforded by the judgment, the court may, as an incident of and collateral to any such judgment, issue orders directing restoration to office or position, placement in appropriate duty or retirement status, and correction of applicable records, and such orders may be issued to any appropriate official of the United States. In any case within its jurisdiction, the court shall have the power to remand appropriate matters to any administrative or executive body or official with such direction as it may deem proper and just.' "

(Mr. DONOHUE asked and was given permission to extend his remarks at this point in the Record.)

Mr. DONOHUE. Mr. Speaker, the bill H.R. 12392, amended as recommended by the committee, would add language to the existing provisions of section 1491 of title 28, United States Code, so that the Court of Claims would be authorized to complete the relief afforded by a monetary judgment under its existing jurisdiction which would be an incident of and collateral to that judgment. The court would be authorized to order restoration to office or position, placement in appropriate duty or retirement status, and correction of applicable records. As to any case within its jurisdiction, the amended bill would authorize the court to remand appropriate matters to administrative or executive bodies or officials with such directions as the court deems proper or just.

The committee has been advised by the

Administrative Office of the United States that, in substance, the bill H.R. 12392 has the approval of the Judicial Conference of the United States. The Department of Justice has advised the committee that with the language now embodied in the committee amendment the bill would be acceptable to that Department.

The basic jurisdiction of the Court of Claims, sometimes referred to as its jurisdiction under the "Tucker Act," is found in the first paragraph of section 1491 of title 88, United States Code.

H.R. 12392, as amended by the committee, would simply add the following two sentences to that paragraph:

> To provide an entire remedy and to complete the relief afforded by the judgment, the court may, as an incident of and collateral to any such judgment issue orders directing restoration to office or position, placement in appropriate duty or retirement status, and correction of applicable records, and such orders may be issued to any appropriate official of the United States. In any case within its jurisdiction, the court shall have the power to remand appropriate matters to any administrative or executive body or official with such direction as it may deem proper and just.

As has been noted, the primary purpose of this legislation is to enable the Court of Claims to provide for restoration to or placement in appropriate duty or retirement status as an "incident of and collateral to" the money judgments it now renders in civilian and military pay cases. The witness appearing in behalf of the Department of Justice at a hearing on this bill on March 1, 1972, stated as a practical matter this type of collateral relief generally follows the entry of a money judgment since the agency involved can provide such relief by administrative action. However, should such action be refused, the successful plaintiff in the Court of Claims must institute a second proceeding in a U.S. District Court for restoration.

I might observe, Mr. Speaker, that this bill is not intended to alter the scope of review by the Court of Claims in military pay cases. Thus the amended bill does not extend the classes of cases over which the Court of Claims has jurisdiction, and it is not intended to confer jurisdiction over any type of case not now included within its jurisdiction. When the Court of Claims does have jurisdiction over any case before it, this bill will enable the court to grant all necessary relief in one action. Accordingly, the provision of the bill which authorizes the Court of Claims to issue orders, as an incident of and collateral to its monetary judgment, directing placement in appropriate duty status, is not intended to have any effect on the finality provision of 10 U.S.C. 876.

The majority of suits based on contracts entered into with the United States are filed in the Court of Claims is now inadequate. Where a board of contract appeals has made findings of fact under the Disputes Clause of a Government contract, review by the Court of Claims is limited by the Wunderlich Act, 41 U.S.C. 321, 322 (*United States* v. *Utah Const. & Mining Co.*, 384 U.S. 394 (1966)). After the Court of Claims decides the case, proceedings in the court must be stayed while the board makes additional findings of fact or determines the amount of damages. The district courts have concurrent jurisdiction with the Court of Claims as to such matters (28 U.S.C. 1346(a)) up to $10,000 and in contract cases the district courts can exercise the power of remand in appropriate cases, but it has been held that the Court of Claims has no such remand power, *United States* v. *Carlo Bianchi & Co.*, 373 U.S. 709 (1963); *Anthony Grace & Sons* v. *United States*, 170 Ct. Cl. 757, 345 F. 2d 808 (1965). The enactment of this bill would provide the Court of Claims with the power to remand such cases and would provide an additional tool for the handling of these cases.

The aim of modern practice to avoid repetitive law suits and to make it possible to dispose of all the claims and to adjudicate all of the rights of the parties in a single proceeding, H.R. 12392, with the revised language proposed by the committee, would implement that objective. The committee has concluded that its enactment would improve the administration of justice in the Court of Claims by simplifying the procedure and reducing the costs incurred in litigation and in the pursuit of administrative remedies. It is recommended that the amended bill be considered favorably.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ENCOURAGING VEGETABLE GARDENING

The Clerk called the Senate concurrent resolution (S. Con. Res. 75) to urge each American family to plant a vegetable garden.

There being no objection, the Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 75

Whereas inflation, nutrition, physical fitness, and recreation are national concerns;

Whereas a family can save on food costs, fight inflation, improve nutrition, get healthful exercise, and have fun together by planting a vegetable garden;

Whereas many citizens of the Nation have already realized the many advantages of planting a vegetable garden;

Whereas the pleasure, profit, and fulfillment of growing your own vegetables has been recognized by publications with worldwide circulation;

Whereas patriotic citizens planted victory gardens during World War II at the urging of the President of the United States for the purpose of conserving national resources and combating inflation;

Whereas our Nation is currently engaged in battle against the ravages of inflation and malnutrition, and vegetable gardens are a potent weapon against both;

Whereas the American way of fighting a problem is not boycotts and is not mere passing of laws, but is self-help and unity in pulling and working together; and

Whereas the planting of vegetable gardens will provide more food for the family's budget and will increase the vegetable supply and bring food prices down for apartment dwellers without space for gardens: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That each American family is urged, where practicable, to plant a vegetable garden for the purpose of fighting inflation, saving money, getting exercise, and having the fun and pleasure of family vegetable growing.

(Mr. DORN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. DORN. Mr. Speaker, this concurrent resolution was introduced in the other body by my distinguished and able friend, Senator JAMES ALLEN of Alabama. It is my great honor to sponsor this resolution in the House. We are all deeply grateful to the great chairman of the House Agriculture Committee, the Honorable W. R. "BOB" POAGE, and to the members of the committee for so promptly reporting out of committee this resolution.

Mr. Speaker, this resolution urges every American family to plant a vegetable garden for the purpose of fighting inflation, saving money, getting exercise, and having the fun and pleasure of family vegetable growing. Just as "victory gardens," planted during World War II, helped to fight inflation and conserve national resources, vegetable and flower gardens today are desirous for the same reasons and for proper nutrition. It is not too late to plant a garden for peace, for therapy, peace of mind and it will give us a greater appreciation of nature and our environment.

Mr. Speaker, again, I commend my great colleagues, Senator ALLEN and Chairman POAGE, for sponsoring and supporting this outstanding resolution and it is my pleasure to join them.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

AUTHORIZING LOAN OF CORNELIA FASSET PAINTING, "THE ELECTORAL COMMISSION OF 1877," TO THE NATIONAL PORTRAIT GALLERY OF THE SMITHSONIAN INSTITUTION

The Clerk called the Senate concurrent resolution (S. Con. Res. 59) to authorize the loan of the Cornelia Fasset painting, "The Electoral Commission of 1877," to the National Portrait Gallery of the Smithsonian Institution.

There being no objection, the Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 59

Resolved by the Senate (the House of Representatives concurring), That the Architect of the Capitol shall, on behalf of the Congress, lend the Cornelia Fasset painting, "The Electoral Commission of 1877", located in the Capitol, to the Smithsonian Institution for the National Portrait Gallery exhibit of political memorabilia relating to elections from 1796 to 1968. Such loan shall be made so that the portrait shall be available for display by the National Portrait Galley not later than May 2, 1972, and under procedures that will assure its proper preservation, display, and return to the Capitol as soon as practicable after September 5, 1972.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2770, FEDERAL WATER POLLUTION CONTROL ACT

Mr. DORN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 2770) to amend the Federal Water Pollution Control Act, with a House amendment thereto, insist on the House amendment and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina? The Chair hears none, and appoints the following conferees: Messrs. BLATNIK, JONES of Alabama, WRIGHT, JOHNSON of California, ROE, HARSHA, GROVER, DON H. CLAUSEN, and MILLER of Ohio.

STRONG UPWARD TREND IN INDEX OF LEADING ECONOMIC INDICATORS

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Speaker, the Department of Commerce has reported that the index of leading economic indicators rose strongly in March, continuing the sharp upward trend of the last 9 months. Movements in the index generally anticipate similar shifts in the economy. The rise of 0.9 percent last month to 136.1 percent of the 1967 average is, therefore, most encouraging.

Overall, the index rose 2.9 percent in the first 3 months of this year, following a 2.8-percent rise in the last 3 months of 1971. Over the last 6 months the total rise of 5.7 percent comes out to almost 1 percent a month. That is, of course, a very strong performance and provides, according to Harrold C. Passer, Assistant Secretary of Commerce for Economic Affairs, "a clear signal that economic expansion will continue."

Of the eight indicators available for March, five improved. New factory orders for durable goods, new orders for plant and equipment, the ratio of price-to-unit labor costs among manufacturers, industrial materials prices, and stock prices all improved. Two other indicators, the average workweek and building permits, declined. Initial claims for unemployment insurance, which are treated inversely in the overall index, increased.

Mr. Speaker, the continued strong upward trend in the index of leading indicators provides the basis for continuing confidence in the economic expansion which has been aided by the President's new economic policy.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CARE FOR NARCOTIC ADDICTS

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2713) to amend title 18 of the United States Code to authorize the Attorney General to provide care for narcotic addicts who are placed on probation, released on parole, or mandatorily released.

The Clerk read as follows:

S. 2713

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3651 of title 18 of the United States Code is amended by inserting the following paragraph before the last one:

"The court may require a person who is an addict within the meaning of section 4251(a) of this title, or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201), as a condition of probation, to participate in the community supervision programs authorized by section 4255 of this title for all or part of the period of probation: *Provided,* That the Attorney General certifies a suitable program is available. If the Attorney General determines that the person's participation in the program should be terminated, because the person can derive no further significant benefits from participation or because his participation adversely affects the rehabilitation of other participants, he shall so notify the court, which shall thereupon, by order, make such other provision with respect to the person on probation as it deems appropriate."

SEC. 2. Section (a) of section 4203 of such title is amended by inserting the following paragraph between the third and fourth:

"The Board may require a parolee, or a prisoner released pursuant to section 4164 of this title, who is an addict within the meaning of section 4251(a) of this title, or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201), as a condition of parole or release to participate in the community supervision programs authorized by section 4255 of this title for all or part of the period of parole: *Provided,* That the Attorney General determines that the person's participation in the program should be terminated, because the person can derive no further significant benefits from participation or because his participation adversely affects the rehabilitation of other participants, he shall so notify the Board of Parole, which shall thereupon make such other provision with respect to the person as it deems appropriate."

SEC. 3. Subsection 343(b) of part I of title III of the Public Health Service Act is repealed.

The SPEAKER. Is a second demanded?

Mr. WIGGINS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. EDWARDS of California. Mr. Speaker, the purpose of S. 2713 is to amend title 18 of the United States Code to provide authorization for the treatment and rehabilitation of narcotic addicts who are placed on probation, released on parole, or mandatorily released. Under title II of the Narcotic Addict Rehabilitation Act of 1966, narcotic addicts who are sentenced under that title are eligible for treatment within prison and are then released for aftercare in their communities when they become eligible for probation, parole, or mandatory release. However, approximately 30 percent of the 11,000 people committed to Federal prisons each year have drug-related problems or have been convicted of drug-related crimes, and only 1 or 2 percent of these estimated 3,500 drug-dependent persons are currently being treated under title II of NARA. S. 2713 provides authority for the treatment and rehabilitation, in community-based facilities during probation, parole, or mandatory release of those drug-dependent persons who cannot receive treatment under the Narcotic Addict Rehabilitation Act.

The U.S. Bureau of Prisons has already established narcotic rehabilitation programs for non-NARA addicts in the Federal institutions located in Lewisburg, Pa.; Terre Haute, Ind.; Petersburg, Va.; El Reno, Okla.; Lompoc, Calif.; and Fort Worth, Tex. Under the general authority to provide for the "treatment, care, rehabilitation, and reformation" of Federal offenders—18 U.S.C. 4001. At present there are approximately 200 Federal prison inmates involved in the institutional phase of the program. S. 2713 has been requested by the administration to provide the Attorney General with clear authority to move those prisoners who are now involved in the program into aftercare treatment in their local communities under the terms of their probation, parole, or mandatory release.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I am glad to yield to the gentleman.

Mr. HALL. Mr. Speaker, I will say to the gentleman that I appreciate his opening statements in support of S. 2713. Frankly, it hits me as quite a surprise that such additional legislation and funding should be necessary. I full well understand that this applies under the new proposal to those who have been convicted of felonies and are paroled or released mandatorily, or on completion of term; and maybe it even gives some authority—although I doubt it gives much enforcement authority—for continued treatment under parole while in their own communities, as the gentleman has stated. The question naturally evolves—Why in the name of Heaven have not these people been "wrung out" as we say in the profession, and shifted to the U.S. Federal Department of Justice prison for defective delinquents and treated either "cold turkey," or by slow withdrawal, or the substitution process, or some other technique while they are serving their regular sentences with prejudicial decision?

Now, Mr. Speaker, I want to say further in framing my question that we all know that in the past the health facilities of the prisons have been supplied by the commissioned officers corps of the U.S. Public Health Service, and ofttimes in situations where the facility is primarily directing treatment or rehabilitation, the medical director also wears the hat of "warden," or director of the prison facility.

We know here in the Congress that the Public Health Service, for reasons that are quite unexplainable, have been shutting down narcotic treatment facilities at Lexington and at Fort Worth, one of which the gentleman mentioned.

It is just completely unconscionable and nonunderstandable to me as to why we are having the facilities closed down on the one hand and then being asked to vote for additional legislation for patchwork, crazy-quilt type of attempt to rehabilitate narcotic addicts on the other.

We all know that some of them will never be rehabilitated anyway.

We all know of the success on the other hand of the adaptation of psychiatric judgment and social rehabilitation, removing a prime cause of why they took up the "crutch" of narcotics in the first place. But, be that as it may, I certainly do not understand why they are not wrung out and treated, in order to get maximum benefit of treatment today, while they are serving under the Department of Justice prison system in these cases of judicially determined sentences.

Mr. EDWARDS of California. Mr. Speaker, if the gentleman will yield, I thank the gentleman for his very valuable observations.

I would agree with the gentleman that it is shocking that we are not doing a better job.

However, as I pointed out in my statement only 1 or 2 percent of these estimated 3,500 drug addicts are being treated under the NARA program. However, this bill will permit treatment while they are making their progression from prison life to life as an American citizen in their own communities.

Mr. HALL. Well, I will say to the gentleman, if he will yield further, that I understand that, as I said in the preamble to my remarks. But, he still has not answered the question of why it is that there is not treatment or cure, or at least that they receive the maximum benefit of treatment while in a prison hospital in anyone of our prisons while they are undergoing their sentences.

The real fact of the matter is, that by inference at least the necessity for a bill such as this implies that they are continuing their habit while serving their sentences and, this, of course, is sometimes true because of the lack of proper security on the part of the prison. I know that this has happened.

I will say to the gentleman from California that in my hometown where the hospital for the Department of Justice prison for all defective delinquents is located, that they found the smuggling of amphetamines and/or "speed" and a few other things brought right into the prison by some of the workers. However, this has been stopped.

But, there is still no active program, perhaps with the exception of this hospital whereby they can be "wrung out" and cured before they are discharged and, thus, this bill would not be necessary as a follow up.

Mr. EDWARDS of California. Of course, the distinguished gentleman from Missouri is an eminent doctor and is far more conversant in this subject matter than I am. However, the testimony which we received during the course of the hearings on this subject indicated that there is a drying out process that most prisons indulge in and some are effective and some are not. If he is a heroin addict and is a prisoner, and is incarcerated in a relatively drug-free atmosphere, then the problem of his addiction is not as acute.

It becomes terribly acute once he has been released, and is back in the drug culture where old habits, old associates are present. So that is when the narcotic addict who has been relatively clean, or 100 percent clean during his prison incarceration, is most likely, almost inevitably, to fall and once again pick up his old habits.

Mr. HALL. That brings up a very interesting question of definition of "cure," under those circumstances, and indeed it is a paradox that we would have to have after-parole authority like this.

But, Mr. Speaker, I thank the gentleman for his explanation.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Iowa.

Mr. GROSS. What is the cost of this bill?

Mr. EDWARDS of California. The cost is set forth in a letter from Norman A. Carlson, Director of the Bureau of Prisons, U.S. Department of Justice, and this can be found on page 6 of the report, where it is estimated that the cost in fiscal year 1973 is $600,000 for the treatment of 300 probationers, and will increase at the rate of several hundred thousand dollars per year until the year 1977, when the annual cost is estimated to be $4.2 million, at a cost per patient of $2,400 for 1,100 addicts under treatment.

Mr. GROSS. If the gentleman will yield further, why do you project this over a 5-year period? What for?

Mr. EDWARDS of California. I believe that that is in accordance with the House rules.

Mr. GROSS. In accordance with the House rules?

Mr. EDWARDS of California. Yes.

Mr. GROSS. You could have made it for 1 year, could you not, or 2 years?

Mr. EDWARDS of California. I believe that the House rules call for a 5-year estimate, so that the Members may better judge whether or not they will support the bill.

Mr. GROSS. I thank the gentleman.

Mr. WIGGINS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio (Mr. McCulloch).

Mr. McCULLOCH. Mr. Speaker, I urge the House today to pass S. 2713, legislation which I believe will fill an important gap in the Federal share of the nationwide effort to rehabilitate drug addicts and other drug abusers.

S. 2713 is the amended Senate counterpart of H.R. 11352, which I introduced last year at the request of the Department of Justice. The essential purpose of the bill is to make it possible for Federal probationers, parolees, and mandatorily released offenders who are narcotic addicts or other drug dependent persons to participate in the community-based aftercare treatment programs which the Attorney General was authorized by title II of the Narcotic Addict Rehabilitation Act of 1966 to establish for the benefit of addicts conditionally released from confinement under the provisions of the act.

Because of the numerous restrictions on eligibility for treatment in NARA programs, there are, according to the U.S. Bureau of Prisons, literally thousands of regular inmates of Federal penal institutions who have drug abuse problems of varying degrees of severity, including many "hard" narcotic addicts.

Approximately 200 of these inmates are undergoing treatment, by such means as group therapy and individual counseling, within the prisons, reformatories or hospitals in which they are confined. Some of them who are otherwise eligible and suitable for parole or mandatory release have made sufficient progress with respect to their drug problems to merit conditional release under supervision, but there is presently no statutory authority for the continuation of their treatment on an outpatient basis as an incident of their Federal parole supervision.

Likewise, Federal judges sometimes encounter offenders who appear to be proper candidates for probation but who suffer from an addiction or other drug dependence problem which could and should be treated on an outpatient basis in the community if a suitable treatment program were available.

Both the courts and the parole board, of course, already possess inherent powers to impose reasonable conditions of probation, parole, or mandatory release, as the case may be. In some cases it may be reasonable to require the offender to participate in a suitable program of psychiatric therapy, counseling, or guidance which he can afford or which may somehow be available to him at no personal expense. Thus, while sections 1 and 2 of the bill speak in terms of the power of the courts and of the parole board to require identified drug abusers to undergo treatment, the true purpose and effect of these provisions are to provide a means for such persons to receive the treatment they need by authorizing their acceptance into the aftercare treatment programs already established under title II of NARA.

The Committee on the Judiciary favorably reported S. 2713 without amendment, by unanimous vote. As sent to us by the Senate, the bill differs from that which I introduced in two respects: First, it opens up the title II NARA aftercare programs to offenders who are drug dependent as well as those who are drug addicted; and two, it repeals the inconsistent and outmoded provisions of section 343(b) of the Public Health Service Act. The Department of Justice supported both amendments before they were adopted by the Senate and, accordingly, supports the bill before us today.

I, too, view these two features of the present bill as improvements which make it more, not less, worthwhile.

Mr. Speaker, the enactment of this legislation will enable our Federal judges and parole board to exercise their discretionary authority to impose reasonable conditions of probation, parole, and mandatory release more effectively and productively than ever before, where drug addicted or dependent offenders are concerned. I strongly entreat the House to pass this bill.

Mr. WIGGINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in supporting the enactment of S. 2713, I join with my good friend and colleague from California who chairs the subcommittee of the Committee on the Judiciary which reported this bill to the House, the gentleman from California (Mr. EDWARDS), and with the very distinguished ranking minority member of the committee, the gentleman from Ohio (Mr. MCCULLOCH), who himself introduced very similar legislation last October.

The purpose of this bill is simple: to make it possible for Federal probationers, parolees and mandatorily released offenders to receive help for their drug addiction or other drug abuse problems at federally sponsored treatment centers in their home communities.

While courts and parole officials already have the discretionary authority to require conditionally released offenders to make reasonable efforts toward their own rehabilitation, all too often there is, as a practical matter, no suitable drug treatment program open to the drug addicted or dependent offender in which he can be required to participate without thwarting the very purposes of supervised release in the community.

This bill authorizes the acceptance of these conditionally released Federal offenders into the aftercare treatment programs established originally for the community supervision of narcotic addicts committed for treatment under the provisions of title II of the Narcotic Addict Rehabilitation Act of 1966.

Without altering the eligibility requirements of NARA itself, S. 2713 would enable Federal judges and the parole board to require offenders who are dependent on "soft" drugs such as amphetamines and barbiturates, as well as those who are "hard" drug addicts, to undergo treatment if the Attorney General certifies to such authority that a suitable program is available. An offender's participation in a treatment program could be terminated if it is found not to be beneficial to him, or if his participation becomes detrimental to the best interests of other patients.

Section 3 of S. 2713 repeals the provisions of the Public Health Service Act enacted many years ago which operate, in effect, to render narcotic addicts and other drug dependent prisoners ineligible either for parole or for release by commutation of sentence unless they are found to be totally cured. Knowledge gained through the tragic experience of a vastly increased addict population throughout the country in recent years makes it clear that such a flat prohibition against the parole of addicts is likely to retard, rather than foster, their eventual rehabilitation.

It is now considered doubtful that a heroin addict, for example, can ever be certified as no longer being addicted, despite remission of his overt symptoms for long periods of time, just as is true for chronic alcoholism. Thus, to say that an addict cannot be paroled until he is no longer an addict may literally be to require the impossible.

On the other hand, the repeal of section 343(b) of the Public Health Service Act will not compel the parole board to grant parole to anyone. The purpose and effect of section 3 of S. 2713 is to enable the parole board to consider the case of each addict or drug dependent prisoner on its individual merits, taking into account the current state of his drug abuse problem, the availability of adequate treatment facilities outside the penal system, and all other factors normally considered in deciding whether to grant or deny parole.

Likewise, if section 343(b) of the Public Health Service Act is repealed, inmates who are addicts or other drug dependent persons may be mandatorily released because of accumulated "good time" under the provisions of chapter 309 of title 18, United States Code, on the same basis as other prisoners. The existence of a treatable drug abuse problem should no more automatically disqualify an inmate from mandatory release, or parole, than should alcoholism, tuberculosis or heart trouble—any one of which may conceivably have been brought on by conduct which was more or less "voluntary" on the part of the inmate.

In short, section 3 of the bill has no purpose or effect other than to remove an inflexible and outmoded barrier to the parole or release by commutation of sentence of an addicted or drug dependent prisoner simply because of his drug abuse problem. Whatever entitlement to parole or commutation of sentence may occur will be an individual matter with each addict-inmate and his case will be reviewed by the proper officials accordingly.

Finally, it should be noted that this bill will make it possible for a Federal judge or the board of parole to require a probationer or parolee who first becomes duly identified as a drug abuser after he is conditionally released to participate in a NARA treatment program, just as such requirement can be imposed on one so identified at the time he is placed on probation or parole.

Mr. Speaker, this legislation is straightforward, progressive and effective in rounding out the Federal Government attack on the epidemic of drug abuse. I most earnestly urge the House to pass S. 2713.

Mr. Speaker, we have before us today a relatively modest piece of legislation, but a necessary one, nevertheless. It has the support of the Attorney General. It has the support of the Bureau of Prisons. It received no objection in our committee, and it should be enacted by the House today.

Mr. Speaker, in partial response to some of the comments made by our distinguished colleague, the gentleman from Missouri (Mr. HALL), certainly no implication should be made that a prisoner who is released after having been confined in a Federal institution has received narcotics in that institution, and therefore is in need for the services provided in this bill. In reality, the problem of the drug addict is not merely physical addiction. The psychological addiction is most difficult to treat. That goes on in prison in a drug-free environment. This bill will permit it to go on after the probationary or mandatorily released person is out in the community.

Mr. Speaker, I heartily endorse the legislation, and urge its passage.

Mr. GROSS. Does this new program supplant any others presently in operation? There are halfway houses and rehabilitation centers all over the country of one kind or another?

Mr. WIGGINS. No, this legislation does not replace any other program. It merely gives flexible authority in those programs now in existence. At the present time some of these programs authorized under the Narcotic Addict Rehabilitation Act cannot treat drug dependent persons because they are not addicts as defined presently in the narcotic addict rehabilitation act, nor may they treat certain classes of offenders such as those who have been guilty of violent crimes and those who have been involved in trafficking in drugs.

This legislation would give to existing agencies the flexibility to treat that class of individuals.

Mr. GROSS. Let me ask my friend, the gentleman from California a question that I asked the other gentleman from California (Mr. EDWARDS).

Why a 5-year program?

Mr. WIGGINS. This is permanent legislation, I will say to the gentleman.

There is a 5-year projection of the cost solely for the benefit of Members so that they may get a view of the anticipated costs of the program.

Mr. GROSS. That is the Members of the House?

Mr. WIGGINS. Yes, sir.

Mr. GROSS. Members of Congress—is that who you are talking of when you say "Members"?

Mr. WIGGINS. That is right—yes, sir.

Mr. GROSS. How do you know what the situation will be 5 years from now, from two viewpoints—the first being the necessity for a continuation of this program after a year or two, and second, the ability of the taxpayers to pay the bills to take care of the ne'er-do-wells from now on and in perpetuity.

Mr. WIGGINS. The precise answer to that, I will say to my friend, the gentleman from Iowa, is that we do not know the answers. If this legislation is not needed or too expensive next year, then a bill would be in order to remove it from the statute books.

Mr. GROSS. The gentleman from California is well acquainted with the fact that it is almost impossible to dispense with something of this kind once it is put on the statute books. Will the gentleman agree that very few of them are ever abandoned or abolished?

Mr. WIGGINS. I do agree with my friend, the gentleman from Iowa, but that should not deter us from doing that which is now necessary.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman.

Mr. McCLORY. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, will the gentleman respond to this question for me? As one who participated in the hearings which were held on this legislation and which is recommended here today, I would summarize this bill (S. 2713) as one which expands and clarifies existing legislation. It would offer to those who are offenders and who are incarcerated in Federal penitentiaries the opportunities for drug treatment and rehabilitation which presently are offered to those who are released from custody; is that correct?

Mr. WIGGINS. Yes, in general that is so.

The purpose of this legislation is to grant additional authority to treat those offenders who are presently excluded by reason of certain definitions in existing legislation.

Mr. McCLORY. I thank the gentleman.

Mr. Speaker, I want also to recall that this legislation was recommended to the committee by the Department of Justice. It is a constructive change and is needed. It can contribute toward reducing the incidence of drug addiction, particularly as it affects those who are in custody and incarcerated in our Federal penitentiaries.

Mr. Speaker, I thank the gentleman for yielding.

Mr. GROSS. Mr. Speaker, will the gentleman yield once more?

Mr. WIGGINS. I yield to the gentleman.

Mr. GROSS. I thank the gentleman for yielding.

Did the committee make any effort at all to pull together any facts and figures with respect to other areas of government where money is being expended for the care and rehabilitation of drug addicts?

Mr. WIGGINS. I will answer the gentleman in this way. Legislation dealing with the treatment of a drug dependent person is covered by several committees of the Congress. The jurisdiction of the Committee on the Judiciary primarily focuses upon title XVIII and the Narcotic Addict Rehabilitation Act.

In that connection we recognize that the act is in need of general review. The Judiciary Committee, and the subcommittee upon which I serve, is undertaking such a review. We have had it under study heretofore and we are continuing hearings starting next week.

However, this bill is a small change and one that is presently needed. It would not prejudice any further review of the total problem. I would answer further by saying that the Committee on the Judiciary within its jurisdiction is undertaking an overall review of the Narcotic Addict Rehabilitation Act.

Mr. GROSS. I assume that this study and review, once it is completed, will be made available to all Members of Congress. When does the gentlemen anticipate that it will be completed?

Mr. WIGGINS. I do not know for a certainty when it will be completed. We held hearings last year on this subject which were inconclusive. We have held hearings this year. Hearings are scheduled again for next week. It is my belief, and I am sure I speak for the chairman of the subcommittee, that the subcommittee believes the need for revising the Narcotic Addict Rehabilitation Act to be a matter of great importance, and we will proceed as expeditiously as possible.

Mr. GROSS. As with the subject of welfare and poverty in this related area, we are confronted with bills here all the time. Committees come before the House asking for approval of bills with no information whatever upon the proliferation, and the consequent complaints of the proliferation all through the Federal Government, and here again it appears that we are confronted with a similar situation. I do not know how many hundreds of millions of dollars are already being spent on drug addiction and the care and rehabilitation of addicts. I would hope that in the future the House would have the benefit of some kind of review which would bring the figures together, bring the information together, the cost of these things before advocates come to the House floor asking for additional expenditures; $10 million may not sound like very much, and it is treated, I am sorry to say, with altogether too little regard by too many Members of the Congress; $10 million is still a lot of money when you have to go out and legitimately put it together.

I thank the gentleman.

Mr. WIGGINS. I am sympathetic with the position just expressed by the gentleman from Iowa. This is not a new program at all. It is merely a refinement of an existing program, providing a flexible authority that does not now exist. I am sure if the Judiciary Committee were to recommend to the House a brandnew program involving a wholly new approach for the treatment of addicts, we would supplement that recommendation with all the appropriate figures.

Mr. BROYHILL of Virginia. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I am pleased to yield to the gentleman from Virginia.

Mr. BROYHILL of Virginia. Mr. Speaker, I rise in support of S. 2713, to provide care for narcotic addicts who are placed on probation, released on parole, or mandatorily released after conviction under Federal laws.

When Congress enacted the Narcotic Addict Rehabilitation Act of 1966, providing for treatment of narcotic addicts convicted under Federal laws, we did not include offenders convicted of crimes of violence, offenders convicted of importing or selling narcotics unless doing so enabled them to support their own drug habits, offenders who had other felony charges against them, or offenders who had been convicted of felonies on more than two prior occasions. We thus rendered ineligible for treatment the large majority of addicts who are sentenced under Federal laws and who, as the most hardened, dangerous and involved in drug trafficking, would be of most benefit to society if they could be permanently turned from their addiction to good physical and mental health.

Our committee colleagues advise us that 30 percent of all Federal prisoners have drug-related problems or have been convicted of drug-related crimes. However, only 1 or 2 percent have been under the special sentencing provisions of the 1966 Act. They say that the U.S. Bureau of Prisons has established narcotic rehabilitation programs in several of its institutions, in which addicts become a part of a separate community in the prison where they receive therapy designed to help them overcome their problems which led to their addiction. Unfortunately, the institutional program, under controlled conditions, cannot fully prepare them for the pressures they will face when released on parole. This legislation will make possible aftercare counseling, both individually and in groups, to direct them away from the lifestyles which led them to drugs and crime.

Also included would be offenders who have not been a part of an institutional program, such as probationers and parolees who may be casual experimenters with drugs and who may be in danger of becoming addicts.

Mr. Speaker, we all know that addicts are sick men and women who need medical treatment and guidance, regardless of whether their sickness has led them to serious crime. Every addict we turn onto our city streets untreated poses an immediate threat to himself and to every other law-abiding citizen as well. We must leave no stone unturned in our effort to make them well before we release them and keep them well as they reenter society. I believe this legislation will prove a giant step in that direction and I urge its enactment.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. EDWARDS of California. In further reply to the question asked by the gentleman from Iowa of the gentleman from California (Mr. WIGGINS) and to which the gentleman from California has already addressed himself most completely, the General Accounting Office, at the request of the subcommittee, is auditing five major cities of the United States in relation to this program: San Francisco, Los Angeles, Chicago, New York, and Washington, D.C.

The first report has been completed and will be available for distribution today or tomorrow, and that includes the cost-per-addict in Washington, D.C. It is really a very complete report. At the hearings to which the gentleman from California (Mr. WIGGINS) has referred, beginning next week the committee will examine in great detail the Federal efforts and the District of Columbia efforts to meet this giant problem in Washington, D.C. We think the hearings will be very informative and will give us some idea where we stand on drugs in the country, because there really is not very much information. There is an awful lot of rhetoric.

The gentleman from Iowa speaks about the great cost of drugs in the United States and rehabilitation costs. The State of New York spends a lot more money than the total Federal effort.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Louisiana.

Mr. BOGGS. I should like to commend the gentleman from California and the members of the committee for reporting this legislation. I know in my city the number of drug-related crimes continues to increase. If we would compare the cost of a program to treat one addict with the cost resulting from one addict stealing to $200 to $300 a day to satisfy his addiction, I suspect that we would observe the costs of the program are greatly lower than the other cost.

The difference is that this is a constructive program seeking to arrest or cure the addiction and thus preventing crime. I hope this bill will be adopted and that the program, both gentlemen from California referred to, will be implemented in full once these studies have been completed. I know of no more acute problem before this Nation today than the addiction among our young people.

Mr. WIGGINS. Mr. Speaker, I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I think no one argues the fact that narcoticism or addiction to drugs is a tarnish on the escutcheon of the United States. Few thinking people would argue about the difference between the cost of rehabilitation or the cost of incarceration for life in order to contain the habit.

The point still stands, Mr. Speaker, that we are adopting a patchwork solution to this problem. For example, 2 weeks from today, H.R. 9503 will be before this body from the Committee on Armed Services, and it relates to shoring up and implementing the need for additional drug care and, indeed, just as in this case, a follow-on after the discharge from the service, for continuing care.

The gentleman considered, and, indeed, the report has referred to the fact that this simply aids and improves existing regulations to carry out one additional treatment facility or continued enforceable treatment.

Personally, I shall vote for it, not only because the drug treatment center that remains is in my hometown, but also because it is the only method we have, in view of the aforementioned paradoxes.

But, Mr. Speaker, I find the words of the two gentlemen from California about these reports that are coming in, to be paramount and most worthwhile. I am encouraged by their statements. I hope they will be made available in the RECORD for all Members to see.

The fact of the matter is that in the continuing investigation, the Subcommittee on the Judiciary which has brought this legislation and has brought in these excellent reports should carefully examine the ambivalent position of the Department of Justice hospital facilities in prison—and I use "ambivalent" because it is managed by the U.S. Public Health Service. The nefarious and insidious fact of the matter is that there is some design to eliminate the U.S. Public Health Service going on right now before the eyes of Congress, and I might say in contradiction to the desires of the Congress.

It is incongruous and paradoxical that we have to use this patchwork approach to a serious national problem which affects not only the militia from which all military derive, but also affects the military.

Mr. WIGGINS. Mr. Speaker, I concur in the remarks of my friend, the gentleman from Missouri. A portion of the bill before us is evidence of the patchwork nature of the existing drug legislation. It is necessary to repeal subsection 343 of title III of the Public Health Service Act in order to give effect to the programs authorized in the Narcotic Addict Rehabilitation Act found in title 18.

The studies under consideration at the present time hopefully will be a step toward bringing all these programs together in a more comprehensive Federal effort.

Mr. DORN. Mr. Speaker, we are making progress in the effort to curb crime and drug abuse, but we must do more. The bill before us today is a step in the right direction, as it is designed to provide additional supervision and care for drug addicts after they are released from prison. A large portion of the increasing crime that has plagued all sections of the Nation is directly linked to drug addiction. Addicts are driven to steal in order to "feed the habit."

The tragic loss of life and the sickeningly high rate of robbery and burglary is in part a result of addicts being driven to support the habit by any means. Often we find that an addict returns to a life of crime shortly upon being released from prison for a previous offense. This bill is intended to reduce this constant repetition of the crime cycle, because it makes possible additional supervision and care for addicts who have served time for various crimes in Federal prisons.

Mr. Speaker, the Congress recently has taken a number of actions to deal with this national crisis of drug abuse and crime. In our veterans programs we have taken action to assure that soldiers who become addicted will receive treatment. We are pleased that our House Veterans Affairs' Committee and the House passed last year the Veterans' Drug Treatment and Rehabilitation Act. This bill would authorize a treatment and rehabilitation program in the Veterans' Administration for any serviceman, veteran, or exserviceman suffering from drug abuse or drug dependency, regardless of his discharge.

Our bill made it clear that a less than honorable discharge that was due to drug problems would not prevent an ex-serviceman from receiving drug treatment from the VA. Our committee simply felt that under the strain and stress of active military service, to acquire drug addiction must be recognized as one of the hazards of service. The Congress also recently took action to enact legislation establishing the Special Action Office for Drug Abuse Prevention.

This Special Action Office will coordinate and supervise Federal drug abuse efforts. This Federal office will assist the efforts of State law enforcement officials who are really on the frontlines of the daily battle against this cruel and insidious disease of drug dependency.

I enthusiastically support the bill before us today to extend the care and supervision of addicts after the release from prison. This is another indication that the Congress will take the necessary action to curb the national disgrace of crime and drug abuse.

We will continue our efforts to control this problem by stepping up the attack against the pushers and the profiteers who would ensnare our young people, even elementary school students, in a life of crime, disease, and deprivation.

Mr. HALPERN. Mr. Speaker, I wish to express my full support for S. 2713—a bill designed to provide care for narcotic addicts and drug-dependent persons who are placed on probation, released on parole, or mandatorily released.

In 1966 this body enacted the Narcotic Addict Rehabilitation Act in reaction to the spread of the drug problem during the 1960's. This legislation brands narcotic addiction as a disease which must be treated, rather than a matter for punitive correctional action. One of the key aspects of this law is the substitution, in some cases, of civil commitment for the usual incarceration, for purposes of rehabilitating an addicted criminal. This step marked a new era in the Federal Government's approach toward the narcotics problem.

While approximately 11,000 people per year are sentenced to terms in Federal prisons, over 30 percent of this number suffer from drug addiction or are convicted of drug-related crimes. It is lamentable, however, that the Narcotic Addict Rehabilitation Act—NARA—mentioned above, excludes five categories of offenders from rehabilitation programs:

First. An individual charged with a crime of violence;

Second. An individual charged with unlawfully importing, selling, or conspiring to import or sell, a narcotic drug;

Third. An individual against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served: Provided that an individual on probation, parole, or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment;

Fourth. An individual who has been convicted of a felony on two or more occasions;

Fifth. An individual who has been civilly committed under this act, under the District of Columbia Code, or any State proceeding because of narcotic addiction on three or more occasions.

It is a tragic oversight that only 1 or 2 percent of addicted or drug-dependent offenders have qualified under the special sentencing provision of NARA. There is great need for legislation to assure that drug rehabilitation programs will be accessible to all Federal offenders who are in need of such treatment.

The bill before us today authorizes an expansion of drug treatment and rehabilitation to those otherwise ineligible Federal offenders who are under community supervision or mandatory release. The community treatment phase authorized by S. 2713 complements the drug abuse programs already undertaken by the U.S. Bureau of Prisons for non-NARA addicts in the institutions located in Lewisburg, Pa.; Terre Haute, Ind.; Petersburg, Va.; El Reno, Okla.; Lompoc, Calif.; and Fort Worth, Tex., under general authority to provide for the treatment, care, rehabilitation, and reformation of Federal offenders.

However, an institutional program cannot fully prepare these individuals for the return to their communities. Aftercare and counseling in the community is essential to assist these non-NARA Federal offenders in establishing a drug-free and crime-free life style. S. 2713 authorizes such aftercare as a necessary adjunct to the supervision already provided by U.S. parole officers.

S. 2713 authorizes, as well, community-based drug treatment for offenders who have not taken part in an institutional drug program. Individuals on Federal probation or those released outright from a Federal prison would be eligible for treatment. U.S. probation officers would be provided an alternative to revocation of probation and incarceration of an addict or drug-dependent person.

Mr. Speaker S. 2713 is similar in intent to a measure which I introduced earlier this session—H.R. 14190, a bill which would amend the eligibility requirements of NARA. I am, therefore, in full support of all the provisions of S. 2713, and urge my colleagues to approve this critical legislation.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and pass the bill S. 2713.

The question was taken.

Mr. WIGGINS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 325, nays 0, not voting 108, as follows:

[Roll No. 130]

YEAS—325

Abbitt
Abernethy
Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Ashley
Aspin
Aspinall
Badillo
Baker
Baring
Barrett
Begich
Belcher
Bennett
Bergland
Biaggi
Blackburn
Blatnik
Boggs
Boland
Bolling
Bow
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrnes, Wis.
Byron
Cabell
Carey, N.Y.
Carlson
Casey, Tex.
Cederberg
Celler
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Clay
Colmer
Conable
Conte
Conyers
Cotter
Coughlin
Crane
Curlin
Daniel, Va.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Denholm
Dent
Derwinski
Devine
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Duncan
du Pont
Dwyer
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fisher
Flood
Flynt
Foley
Ford, Gerald R.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Fuqua
Garmatz
Gaydos
Gettys
Giaimo
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Gross
Grover
Gubser
Haley
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hathaway
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hutchinson
Ichord
Jacobs
Johnson, Calif.
Johnson, Pa.
Karth
Kastenmeier
Keating
Keith
Kemp
King
Koch
Kuykendall
Kyl
Kyros
Landrum
Latta
Leggett
Lennon
Lent
Link
Lloyd
Long, Md.
Lujan
McClory
McCloskey
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKevitt
McKinney
McMillan
Mahon
Mallary
Mann
Martin
Mathias, Calif.
Mayne
Mazzoli
Meeds
Melcher
Michel
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Mitchell
Mizell
Monagan
Montgomery
Moorhead
Morgan
Morse
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Pelly
Perkins
Pettis
Peyser
Pike
Poff
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Rarick
Rees
Reid
Reuss
Riegle
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruth
Ryan
Satterfield
Saylor
Scherle
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Ullman
Vander Jagt
Vanik
Vigorito
Waldie
Ware
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Fla.
Zablocki
Zion
Zwach

NAYS—0

NOT VOTING—108

Anderson, Tenn.
Bell
Betts
Bevill
Biester
Bingham
Blanton
Brademas
Brown, Mich.
Byrne, Pa.
Caffery
Camp
Carney
Carter
Chappell
Chisholm
Clark
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Corman
Culver
Daniels, N.J.
de la Garza
Dellums
Dennis
Dickinson
Diggs
Dowdy
Dulski
Eckhardt
Edmondson
Edwards, Ala.
Edwards, La.
Eshleman
Fish
Flowers
Ford, William D.
Fountain
Fulton
Galifianakis
Gallagher
Gibbons
Gray
Gude
Hagan
Hanna
Harsha
Hastings
Hungate
Hunt
Jarman
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Kee
Kluczynski
Landgrebe
Long, La.
McKay
Macdonald, Mass.
Madden
Mailliard
Mathis, Ga.
Matsunaga
Metcalfe
Mikva
Miller, Calif.
Minshall
Mollohan
Moss
Nichols
Patman
Pepper
Pickle
Pirnie
Poage
Podell
Pryor, Ark.
Randall
Rangel
Rhodes
Roberts
Ruppe
St Germain
Sandman
Sarbanes
Scheuer
Schmitz
Seiberling
Staggers
Stanton, James V.
Stokes
Stubblefield
Stuckey
Udall
Van Deerlin
Veysey
Waggonner
Wampler
Whalen
Whalley
Wilson, Charles H.
Yatron
Young, Tex.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Dulski with Mr. Hastings.

Mr. Waggonner with Mr. Rhodes.

Mr. Charles H. Wilson with Mr. Bell.

Mr. Staggers with Mr. Gude.

Mr. James V. Stanton with Mr. Carter.

Mr. Yatron with Mr. Biester.

Mr. Fulton with Mr. Whalley.

Mr. Roberts with Mr. Collier.

Mr. Mikva with Mr. Whalen.

Mr. Miller of California with Mr. Mailliard.

Mr. Daniels of New Jersey with Mr. Sandman.

Mr. Corman with Mr. Wampler.

Mr. Carney with Mr. Harsha.

Mr. Chappell with Mr. Ruppe.

Mr. Brademas with Mr. Schmitz.

Mr. Jones of Alabama with Mr. Betts.

Mr. Kluczynski with Mr. Hunt.

Mr. Matsunaga with Mr. Cleveland.

Mr. Moss with Mr. Dennis.

Mr. Nichols with Mr. Minshall.

Mr. Pickle with Mr. Pirnie.

Mr. Stubblefield with Mr. Landgrebe.

Mr. Diggs with Mr. Scheuer.

Mr. William D. Ford with Mr. Kee.

Mr. Stokes with Mr. Gray.

Mr. Clark with Mr. Eshleman.

Mr. Young of Texas with Mr. Camp.

Mr. Macdonald of Massachusetts with Mr. Brown of Michigan.

Mrs. Chisholm with Mr. Madden.

Mr. Blanton with Mr. Fish.

Mr. Anderson of Tennessee with Mr. Jonas.

Mr. Van Deerlin with Mr. Veysey.

Mr. Rangel with Mr. Galifianakis.

Mr. Fountain with Mr. Dickinson.

Mr. Mollohan with Mr. Collins of Texas.

Mr. Mathis of Georgia with Mr. Edwards of Alabama.

Mr. Hungate with Mr. Udall.

Mr. Hanna with Mr. Byrne of Pennsylvania.

Mr. Bevill with Mr. Bingham.

Mr. Jones of Tennessee with Mr. Long of Louisiana.

Mr. Stuckey with Mr. Patman.

Mr. Collins of Illinois with Mr. Podell.

Mr. Dellums with Mr. Eckhardt.

Mr. Randall with Mr. Sarbanes.

Mr. St Germain with Mr. Hagan.

Mr. Flowers with Mr. Gallagher.

Mr. Jones of North Carolina with Mr. Pryor of Arkansas.

Mr. Jarman with Mr. Kazen.

Mr. Caffery with Mr. Gibbons.

Mr. Culver with Mr. Metcalfe.

Mr. McKay with Mr. Seiberling.
Mr. de la Garza with Mr. Pepper.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CIVIL RIGHTS COMMISSION

Mr. CELLER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12652), to extend the Commission on Civil Rights for 5 years, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(j) of the Civil Rights Act of 1957 (42 U.S.C. 1975a(j); 71 Stat. 635), as amended, is further amended by striking therefrom the first and second sentences and substituting therefor the following: "A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States."

SEC. 2. Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b(a); 71 Stat. 635), as amended, is further amended by striking therefrom "the sum of $100 per day for each day spent in the work of the Commission," and substituting therefor "a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of title 5, United States Code, prorated on a daily basis for each day spent in the work of the Commission,".

SEC. 3. Paragraph (1) of subsection (a) of section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a); 71 Stat. 635), as amended, is further amended by inserting immediately after "religion," the following: "sex." and paragraphs (2), (3), and (4) of subsection (a) of such section 104 are each amended by inserting immediately after "religion" the following: ", sex".

SEC. 4. Section 104(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975c(b); 71 Stat. 635), as amended, is further amended by striking therefrom "January 31, 1973" and substituting therefor "the last day of fiscal year 1978".

SEC. 5. Section 105 of the Civil Rights Act of 1957 (42 U.S.C. 1975d; 71 Stat. 636), as amended, is further amended as follows:

In section 105(a) by striking out in the last sentence thereof "as authorized by section 15 of the Act of August 2, 1946 (60 Stat. 810; 5 U.S.C. 55a), but at rates for individuals not in excess of $100 per diem," and substituting therefor "as authorized by section 3109 of title 5, United States Code, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS–15 of the General Schedule under section 5332 of title 5, United States Code".

SEC. 6. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e; 71 Stat. 636), as amended, is further amended to read as follows:

"SEC. 106. For the purposes of carrying out this Act, there is authorized to be appropriated for the fiscal year ending June 30, 1973, the sum of $6,500,000, and for each fiscal year thereafter through June 30, 1978, the sum of $8,500,000."

The SPEAKER. Is a second demanded?

Mr. McCULLOCH. Mr. Speaker, I demand a second.

PARLIAMENTARY INQUIRY

Mr. HALL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HALL. May I inquire if the gentleman from Ohio is in opposition to the bill?

The SPEAKER. Is the gentleman from Ohio in opposition to the bill?

Mr. McCULLOCH. I am not in opposition to the bill.

Mr. HALL. Mr. Speaker, I demand a second.

The SPEAKER. Is the gentleman from Missouri opposed to the bill?

Mr. HALL. I am, Mr. Speaker.

The SPEAKER. The gentleman qualifies. Without objection, a second will be considered as ordered.

There was no objection.

Mr. CELLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the first major civil rights legislation enacted following the post-Civil War period was the Civil Rights Act of 1957, legislation to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

A key part of that act created a bipartisan Commission on Civil Rights mandated, in part, to "study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution" and to "appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution." The Commission was given 2 years to complete its work.

The quality of the Commission's work as an independent fact-finding agency quickly installed it as one of the most respected agencies of the Federal Government, with strong support from both sides of the aisle. In recognition of the need for such an agency and the caliber of its work, Congress extended the life of the Commission in 1959, again in 1961, again in 1963, again in 1964, and again in 1968—a total of five times.

The investigations, studies, and reports of the Commission have served as the predicates for all of the major civil rights legislation enacted in the last 15 years.

Unlike other agencies in the civil rights field, the Commission on Civil Rights has no enforcement responsibilities and no enforcement powers. Its strength lies in the fact that it has no ax to grind, no vested interests to pursue or protect. It can be and has been completely detached, impartial, and analytical. It can and does point up our progress as well as our shortcomings. It is a mirror for our self-evaluation.

Wisely complementing its own work with some 700 people serving on advisory committees in each of the 50 States and the District of Columbia, the Commission has practical "eyes and ears" from coast to coast assisting in the gathering of the information essential to the fulfillment of its mandate.

Among the more important undertakings of the Commission in recent years is the monitoring of the programs enacted by the Congress. The information it gathers is useful not only to the Congress and its committees, but to the executive branch as well. Its recommendations for correcting deficiencies and strengthening civil rights enforcement efforts have been well received and most effective.

It is important to remember that the mandate of the Commission goes beyond color discrimination. As a result, the Commission has done, and is doing, much work with respect to Mexican-Americans, the American Indian, Puerto Ricans, and others. Civil rights problems of Asian-Americans, religious groups, those with Spanish surnames, and persons in the administration of justice pipeline—from arrest through imprisonment—are within the Commission's program goals for the next 5 years.

In his state of the Union message of January 20, 1972, President Nixon recommended the extension of the life of the Civil Rights Commission and the expansion of its jurisdiction to include discrimination on account of sex.

Thereafter, on January 25, 1972, the able and distinguished Chairman of the Commission, Father Theodore M. Hesburgh, submitted to the Speaker of the House of Representatives draft legislation to carry out the President's recommendations.

My esteemed distinguished colleague from Ohio (Mr. McCulloch), always in the vanguard of civil rights advance, joined me in the bipartisan sponsorship of H.R. 12652 on the following day and the bill was referred to the Committee on the Judiciary.

On February 24, 1972, Subcommittee No. 5 held a hearing on the legislation. The measure was vigorously supported in oral testimony by one of the Civil Rights Commissioners, by the Assistant Attorney General who heads the Civil Rights Division of the Department of Justice, and by the president of the National Federation of Business and Professional Women's Clubs. Enthusiastic written support was received from the Executive Office of the President, the Secretaries of HEW and Labor, the Chairman of the Equal Employment Opportunity Commission, the American Civil Liberties Union, the League of Women Voters, the Women's Equity Action League, and Members of Congress. These communications may be found in the printed text of the hearings.

The principal purpose of the bill is, of course, to extend the life of the Civil Rights Commission. Under the bill, its final report will be due the President and the Congress by June 30, 1978, rather than January 31, 1973.

A second major purpose of the bill is to extend the jurisdiction of the Commission to sex discrimination. The President's Task Force on Women's Rights and Responsibilities, in its report entitled "A Matter of Simple Justice," said in April of 1970:

> Perhaps the greatest deterrent to securing improvement in the legal status of women is the lack of public knowledge of the facts and the lack of a central information bank.

I am as opposed to sex discrimination as I am to discrimination based on color, religion, or national origin, and I am convinced that the Civil Rights Commission can make a great contribution toward the appraisal of the extent of sex discrimination, and toward its elimination. This expansion of the Commission's jurisdiction is consistent with all I have urged on this floor in the past—let us find the facts and pinpoint our remedies.

The bill effectuates three less significant changes in the basic charter of the Civil Rights Commission:

First. Section 1 would provide that the fees and mileage which may be paid witnesses subpenaed to appear before the Commission shall be the same as those paid witnesses in the Federal courts. At present, Commission witnesses receive $6 per day, 10 cents per mile, and $10 per day subsistence when they attend so far from their residences as to prohibit their return home from day to day. Hereafter, witnesses before the Commission will receive $20, 10 cents, and $16, respectively.

Second. Section 2 would increase the compensation of the Commissioners from a flat $100 per day to the daily equivalent of the compensation of a level IV in the Federal Executive Salary Schedule. At present, this is $146.15. Committee investigation and correspondence from the Office of Management and Budget indicate that this conforms with current levels of compensation and with current practice.

Third. Section 5 would increase the maximum compensation which may be paid consultants to the Commission from a flat $100 per day to the daily equivalent of the compensation paid for positions at the maximum rate for a GS–15 of the General Schedule. At present, this is $127.92. Here, too, committee investigation and correspondence from the Office of Management and Budget indicate that this comports with current levels of compensation and current practice.

Section 6 of H.R. 12652 would authorize a maximum appropriation of $6,500,000 for the fiscal year ending June 30, 1973, and $8,500,000 for each succeeding fiscal year through June 30, 1978. As originally introduced it contained an open-ended authorization for appropriations for each year. In reporting the bill, the Committee on the Judiciary has substituted reasonable, specific dollar ceilings based on information submitted to it by the Commission concerning its program plans for the next 5 years.

At present the Civil Rights Commission is operating under an authorization of $4 million for fiscal 1973. Despite this, and in anticipation of the enactment of legislation to extend the life of the Commission, the President, in his budget message this past January, requested $4,821,000 for the Commission for fiscal 1973. This request does not reflect any allowance for the expanded jurisdiction. It is estimated that sex discrimination jurisdiction will require approximately $1 million in fiscal 1973, and an additional $1¼ million in each succeeding fiscal year, for the handling of complaints, revision of Commission publications, evaluation of Federal programs and policies, proposed studies, and serving as a clearinghouse for all pertinent information. Also, the Commission is planning a proposed Asian-American program, which is sorely needed, at an approximate cost of $250,000. Approximately $250,000 would permit the Commission to study major civil rights issues of immediate national concern, that is, emergency situations as they arise.

In succeeding years, it is contemplated that the sex discrimination program would be further developed and expanded, along with the other ongoing and new projects of the Commission. It is also contemplated that the regional offices will be more adequately staffed to permit them fully to serve and work with the State advisory committees, the "grass roots" operations, to reach their fullest potential in ferreting out and reporting on activities in their respective jurisdictions.

This legislation is part of the legislative program of the President. It was reported by subcommittee and full committee without a dissenting vote. It is sorely needed. I urge overwhelming House approval.

Mr. BARRETT. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I am glad to yield to the distinguished gentleman from Pennsylvania.

Mr. BARRETT. Mr. Speaker, I rise in support of the bill before us, dealing with the Commission on Civil Rights, H.R. 12652. The purpose of the bill has been fully and clearly set forth by the chairman of the Committee on the Judiciary, the gentleman from New York, Congressman CELLER.

It is especially fitting that this matter come before the House on this day, May 1, which has been proclaimed as Law Day. Fifteen years ago, by a joint resolution of the Congress and proclamation of the President, the first day of May of each year was set aside as "A Special Day of Celebration by the American People in Appreciation of their Liberties." It was envisioned by the Congress and the President as a day of contemplation and rededication to the ideals of equality and justice under law.

In that same year, 1957, the Commission on Civil Rights was created. While not intentionally designed nor intended to complement Law Day, it seems to have in actuality done so. The Commission has served this country well. Its investigations, studies, and reports have served as the predicates for much of the civil rights legislation enacted in the last 15 years, as well as for executive action taken during this period. Truly the Commission has heretofore fostered the ideals of equality and justice under law. The amendment extending the jurisdiction of the Commission to sex discrimination will enable it to more fully support those ideals.

In considering this bill, I truly believe that we should be persuaded by these matters of concern and not the dollars involved. For we should all agree that if these dollars are needed to support the efforts of the Commission and achieve the ideals as enunciated in our Constitution they are dollars well spent.

Mr. Speaker, there may be some who have reservations concerning this measure—but I for one have not and strongly urge my colleagues to vote for passage.

Mr. RYAN. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I am glad to yield to the gentleman from New York.

Mr. RYAN. Mr. Speaker, I rise in support of H.R. 12652, a bill extending the life of the Civil Rights Commission. In the 15 years since its inception, the Commission has shown an unfaltering commitment to equality for all Americans. Granted no enforcement powers, it has shown a unique ability to carry out the purposes for which it was created to collect and study information, investigate complaints, submit reports, appraise Federal laws and policies, and serve as a national clearinghouse for information regarding denial of equal protection of the laws. The Commission's comprehensive reports and substantive recommendations have served as the basis for a great deal of legislative and executive action in the area of civil rights in the past 15 years.

The legislation before us today would not only extend the life of the Commission, but also expand its jurisdiction, to include discrimination because of sex. At present, the Commission is empowered to conduct inquiries into cases of discrimination on the basis of race, color, religion or national origin only. It has exercised its present jurisdiction with thoroughness and dedication. Surely this same diligent effort will be made in connection with any additional responsibilities it assumes in the area of sex discrimination.

Yet, there is another reason for giving the Commission this new area of responsibility. The power to look into cases of sex discrimination is currently distributed among several agencies of the Federal Government. For example, the Equal Employment Opportunity Commission is responsible for administering title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, religion, color, sex or national origin. And indeed, according to William H. Brown, Chairman of the EEOC, of the approximately 81,000 charges of employment discrimination which this agency has received since 1965, about 25 percent have been charges based on sex discrimination. The Department of Labor is also charged with responsibility in this area, in accordance with its duties under the Equal Pay Act and the activities of the Women's Bureau in relation to women's rights.

What is needed is a central coordinating agency to conduct an in-depth analysis of the many aspects of sex discrimination, to evaluate the effectiveness of existing Federal programs as well as to propose alternate ways of combatting this type of discrimination. The Civil Rights Commission has proven itself to be an exceptionally competent fact-finding body and has demonstrated a capacity for utilizing the data which it compiles, for developing concrete plans of action. It is uniquely suited for this additional function.

The magnitude of the problem of sex discrimination has been finally brought center stage; it should be attacked simultaneously on many fronts. The first step was taken by the Congress with the passage of the equal rights amendment of which I was a cosponsor and which, I am pleased to report, has thus far been ratified by 16 States. Giving the Civil Rights Commission the power to inquire into sex discrimination is another step.

I urge passage of this legislation. The Civil Rights Commission is crucial to the continuing struggle to insure full equality for all Americans.

Mr. HALL. Mr. Speaker, I am glad to yield 5 minutes at this time to my distinguished colleague from Ohio (Mr. McCULLOCH.)

Mr. McCULLOCH. Mr. Speaker, I have served in this body for nearly a quarter of a century. During that time it has been my privilege to participate in some historic developments in our quest to provide equal opportunity for all Americans. We have legislated to open public accommodations, employment, and housing to all regardless of race or color. And we have written into the law strict safeguards protecting the right to vote.

These have been momentous steps on the road to equal opportunity. But we are not at journey's end. We have yet to see whether these laws shall stand as unnoticed monuments to past victories or shall survive as living, working tools of social progress.

The U.S. Commission on Civil Rights has played no small role in this story. Since the time of my arrival in Washington in 1947, there has been a national discussion about the need for a commission on civil rights. For in that year the newly established White House Committee on Civil Rights recommended that Congress establish such a commission.

That happened 10 years later—in 1957. At that time the most pressing problem was discrimination in voting against blacks, which the Commission immediately investigated. Since then, the Commission investigations have focused on other minority groups and other problems. The hearings and reports of the Commission have provided the legislative foundation for the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Fair Housing Act of 1968, and the Equal Employment Opportunity Act of 1972.

As these measures were placed on the statute books, the Commission increased its efforts to monitor enforcement of these laws by the Federal Government in accordance with the congressionally imposed duty to "appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution." Today, this is one of the Commission's most sensitive and necessary undertakings.

In 1957 the Commission was created as a temporary agency. However, the Commission's work has been so indispensible that the Congress, each time the Commission's life was scheduled to expire, has extended its life. This again is such a time.

H.R. 12652, which I have cosponsored, would extend the Commission's life until the close of fiscal year 1978. It would also expand the jurisdiction of the Commission to cover discrimination on account of sex. It would increase the appropriation authorization of the Commission commensurate with its increased duties.

Throughout the quarter of a century that I have served in this body, I have fought many battles for the cause of human rights. Soon I will retire. I trust that I will do so with the assurance that the Civil Rights Commission will continue, its lease on life renewed, to stir the conscience of the Nation so that a divided people, laying aside its prejudices, may become one nation, indivisible, with liberty and justice for all.

Mr. HALL. Mr. Speaker, I yield at this time 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in enthusiastic support of H.R. 12652 which would extend the life of the U.S. Civil Rights Commission for 5 years through June 30, 1978, and expand its jurisdiction to include inquiries into sex discrimination. The bill authorizes a $6.5 million appropriation in fiscal year 1973, of which $4 million has already been authorized, and an $8.5 million annual authorization for fiscal years 1974 through 1978. I think it is important to emphasize that this bill has the full backing of the administration. In his state of the Union message of January 20, 1972, President Nixon urged both a 5-year extension for the Commission and the broadening of its jurisdiction to encompass sex-based discrimination. The bill also has the endorsement of the Leadership Conference on Civil Rights which comprises some 128 national organizations including civil rights, labor, religious, and civic organizations. In a letter addressed to all Members of Congress, Leadership Conference Legislative Chairman Clarence Mitchell stated, and I quote:

> During the 14 years of its existence, the Commission has proved its value many times. Its investigations into the discrimination suffered by the nation's minorities groups, its many reports and statements have done much to focus national attention on injustices and to help Congress formulate programs for correcting those injustices.

I would especially want to second Mr. Mitchell's comment on the value of the Commission to the Congress. Since its inception in 1957, the Civil Rights Commission has earned a first-class reputation for its thorough investigations and its high-quality studies and reports. And these investigations and reports have in turn helped to lay the groundwork for much of the civil rights legislation passed during this period. They have also proved of invaluable assistance to four successive administrations in shaping the goals, policies, and programs in the area of civil rights.

Mr. Speaker, permit me to address myself briefly to the major new feature of this legislation—the extension of the Commission's jurisdiction to sex discrimination. At the very moment the equal rights amendment to the Constitution approved by this Congress is working its way through the State legislatures in the ratification process. There has been a heightened awareness in the Congress and in the Nation in recent years of pervasive and persistent sex discrimination in all walks of life. Approximately 25 percent of the 81,000 employment discrimination complaints received by the Equal Employment Opportunity Commission since 1965 have been charges based on sex discrimination, and the number of charges and cases are growing steadily. In a letter to the House Judiciary Committee dated February 22, 1972, EEOC Chairman William H. Brown III endorsed this expansion of the Civil Rights Commission's jurisdiction with the following words:

> Since the problem of sex discrimination continues as one major aspect of the entire concept of civil rights in this country, and since the Civil Rights Commission is the agency best qualified to examine and provide guidance in this complex and subtle area of civil rights, it should be granted jurisdiction to examine problems of sex discrimination along with its studies of other forms of discrimination.

In a letter addressed to all Members of this body, Osta Underwood, National President of the Business and Professional Women's Clubs of America, put it this way, and I quote:

> Discrimination on the basis of sex is a fact of life for the American woman, but the extent of this discrimination is not fully known. We believe that, because of its position of independence and impartiality, the Commission can explore all areas of sex discrimination and can contribute greatly toward making equality under the law for men and women a reality.

Mr. Speaker, I am in full agreement on the rationale and need for delegating to the Civil Rights Commission the additional responsibility of making inquiries into sex-based discrimination. Such information will be of immeasurable benefit to all three branches of government as together we move to eradicate the last vestiges of discrimination based on sex.

In conclusion, Mr. Speaker, I urge my colleagues to join me in approving this most important legislation to extend the life and broaden the jurisdiction of the U.S. Civil Rights Commission. On five separate occasions the Congress has given its vote of confidence to the Commission by extending its life. I am confident we will do so again today.

Mr. HALL. Mr. Speaker, I yield 2 minutes to our colleague from Illinois (Mr. McCLORY), a member of the Committee on the Judiciary.

Mr. McCLORY. Mr. Speaker, in expressing my support for a 5-year extension of the Commission on Civil Rights and for expanding the jurisdiction of the Commission to include the subject of sex discrimination, I would like to add the hope that the Commission will investigate and report on areas of progress in reducing discrimination and will, from time-to-time, highlight examples for others to emulate in working toward the ultimate goal of eliminating all discrimination in human relationships.

A most flagrant practice of many who seek to end discrimination is to lump all human beings together on the basis of race, color, sex, or other identifiable characteristic—and to charge deficiencies or other human inadequacies on such a broad general scale. In my opinion, the Commission has yielded to this practice—particularly in its so-called "clearing house" function. While the explanation is given that such broadsides are leveled for purposes of "discussion" and do not necessarily reflect the views of the Commission or its individual members, still, the failure to balance progress with inaction, and the good with bad, must tend to exacerbate tensions and frustrate many positive efforts toward harmonizing human attitudes notwithstanding differences in color, race, and—now—sex.

There is an alarming tendency toward separatism which can only gain headway if groups particularly identified by some distinct physical characteristic are encouraged to be set apart or remain separate. How much better to level our attack against discrimination by working consistently for equality of opportunity in housing, employment, education, and all other human experiences.

The Civil Rights Commission has excellent opportunity to provide the broad framework within which our American society can become totally integrated with greatly expanded opportunities for women and for the various racial and ethnic minorities to enjoy the full benefits of citizenship through better education, better housing, and better job opportunities—including far broader participation in executive and professional positions. With such a goal, the role of the Civil Rights Commission could be greatly enhanced—and dramatically converted to become the main catalyst for a truly egalitarian society in which narrow attitudes born of discrimination are reduced to an inconsequential minimum.

Mr. HALL. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, I thank the gentleman for yielding me this time.

I have not always agreed with the legislative proposals of the great Committee on the Judiciary on this subject, or with the action of the Civil Rights Commission itself, and would strongly associate myself with the remarks of the gentleman from Illinois concerning the need for a more positive approach of encouragement by the Commission rather than one which is punitive and negative.

I rise in support of this legislation, however, because, whatever deficiencies the Commission may have, it is both an indication and an instrument of this Nation's continuing commitment to the cause of equal rights.

This is a Nation that was founded on the proposition that there are inalienable rights of man which cannot lawfully be taken away or abrogated by any level of government. The guarantees of the Bill of Rights and of the Constitution of the United States as amended do and must apply to every individual in this society without exception.

Mr. Speaker, North, South, East, and West we must make sure that every child born in this country, regardless of race or sex, is given his or her fair chance to rise to that child's full stature, and is encouraged to fulfill whatever gift God has placed within him. Until we do so we rob ourselves as well as our children. We cannot know what child in this society may discover the cure for cancer if he or she is given a chance.

We do know with certainty, however, that the Nation is filled with human resources which constitute its greatest wealth. America can only fulfill her own great dream when every American can find his place in the sun and is permitted and encouraged to become the most and the best it is in him to be.

Nor are such basics as equal and exact justice before the law or equal employment opportunity benefits to be bestowed or withheld by government. Rather, they are rights to be recognized, honored and protected at any cost.

The protection of the constitutional rights of the people is a Federal responsibility and a national concern. Discrimination and injustice are national, not regional, problems.

The local government and the community leadership of my own city of Birmingham, Ala., recognize our obligation to work together across ethnic and racial lines toward a better life for all our people. We are determined to help lead the way toward a solution to the problems which divide our country and its people. The biracial efforts of my city toward this end figured importantly in its being named an All-America City by Look magazine and the National League of Municipalities in 1970. And in this centennial year, as we begin our second century, many of us look forward to building in Birmingham, Ala., an alabaster city undimmed by human tears. Some of us believe there is virtually no limit to what American citizens living in freedom and striving toward justice can accomplish together.

Mr. Speaker, the Constitution is precious to the people I represent—and whoever loves or would uphold the Constitution must honor the constitutional rights of the people. tOherwise, our whole system of law becomes a whited sepulchre filled with dead men's bones and all the fine words about "liberty and justice for all" become "a tale told by an idiot, full of sound and fury, signifying nothing."

There must be a continuing national commitment to the unalienable rights of man, with which he was endowed by his Creator. It is for this reason I rise in support of this legislation.

Mr. HALL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, first let us set the record straight. This is no longer a debate on civil rights, nor even of adding the question of sexual discrimination which has been outlawed by the law of the land, or thereunto under the prerogatives of this Commission.

The question and only issue is whether or not, purely and simply, we shall continue for 5 years and 5 months the Civil Rights Commission, or any other commission to which has been farmed out the duty of existing committees of the legislature, and the duties of the Department of Justice downtown, for some unknown reason at greatly increased rates.

Mr. Speaker, I submit that the functions of the Civil Rights Commission have been extended five times for 2-year periods, and they have not rendered substantive reports that have had an effect on the Nation and by definition is a failure. I think it is time that we took this in hand. I can see no reason for extending the life of the Commission for 5 years and 5 months while enhancing and adding increased travel and witness fees for those harbingers of doom, and bleeding hearts, that travel across the country at the taxpayers' expense in order to cause trouble and raise the nitty-gritty and ofttimes inconsequential views, and produce harassment and repetitive insults to the function of good government.

This would not happen if the proper people were taking care of and overseeing the laws passed by the Congress. So I say, why 5 years and 5 months? Why level off at an increased plateau of up to $8.5 million a year for a commission that has not yet produced a report? It would be much better if we would come in here with a bill and with legislative fiat enact it into the statutes saying, "Complete your job in 6 months, and get the report in, or get out, and you are dissolved therewith."

That is the way to end government by commission instead of government by law.

I am amazed that it takes a nonlawyer from the Ozarks to make this point.

I cannot imagine why we should presume that as long as the civil rights law is working that we should expend more in fiscal year 1973 than the $4 million that we have already authorized, and why we should "guessticulate" or speculate that we are going to need $8.5 million each subsequent year through 1978. I know that one of the reasons is that the Commissioners themselves have not and do not do their work, and they are hiring consultants to the Commission, just as the Judiciary has had the Commission appointed to do its work, and the Department of Justice the same way. I can see no reason why we should further subsidize all department and interest groups as we did in the Poverty Corps where all of the funds go to the warriors, and none go to the stricken. So, we have here a failure by definition, a nonlegislative authority, and hence again a government by referral. I say the Commission has lasted long enough already, and that it is time we pull the string on this legislative enactment, and cut off the funds therefor.

Mr. MIZELL. Mr. Speaker, will the gentleman yield?

Mr. HALL. I am glad to yield to the gentleman.

Mr. MIZELL. Mr. Speaker, I thank the gentleman from Missouri for yielding.

Mr. Speaker, I rise in opposition to this appropriation. I do it because I have very strong feeling that this Commission is not carrying out its responsibility in the spirit or in the manner for which it was established.

I refer to the CONGRESSIONAL RECORD of March 6, page 6986, and a statement that I inserted in the RECORD which questioned the testimony of the director of the Commission of Civil Rights before the Committee on the Judiciary while the committee was hearing testimony on a proposed constitutional amendment to prohibit forced busing. In his testimony he left the impression that in the Winston-Salem school district in North Carolina, everything was going just great. He based that on the Commission's investigation of the Winston-Salem school system.

The SPEAKER. The time of the gentleman from Missouri has expired.

Mr. HALL. Mr. Speaker, I yield myself 1 additional minute and continue to yield to the gentleman.

Mr. MIZELL. When it was checked out, we found the investigation by the Commission totaled four telephone calls to individuals in Winston-Salem. His testimony was completely misleading to the committee about the situation that exists in the Winston-Salem school system.

I understand since the Commission testimony, they have sent some of their personnel down to Winston-Salem to investigate. It is apparent to me, they did not want to be confused with the facts before they presented their erroneous testimony.

Mr. HALL. Mr. Speaker, I thank the gentleman for his astute observation.

The record is replete with the actions of the functionaries created by this legislative Commission adverse to the national interest, and I say it is time that we put a stop to it, Mr. Speaker.

Mr. CELLER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker and my colleagues, as this discussion moves on, it becomes clear why we are asking for a 5-year extension of the Civil Rights Commission. Because what is at issue is what has been at issue during the 14 years that the Commission has been in existence—that is the attainment of civil rights for all Americans.

This Commission is not a failure. It has not been causing the troubles that it has reported. We have used the Commission as a basis for gathering factual information on all of the civil rights legislation that was presented here in 1964 when public accommodations were in question and in 1965 in reference to the voting rights act and a couple of years back on the extension of the voting rights act.

It has brought to us completely independent information, from members of a commission who have each consistently displayed the highest integrity.

The chairman, Father Hesburgh, the president of Notre Dame University, I think has done a remarkable job. He is independent. He is fair. He has been thoughtful and constructive. The information provided by this Commission has been extremely important to us. It is not a failure.

Maybe some day we will not need a Civil Rights Commission, but we needed it far longer than the 14 years that we have had it. I cannot even foresee us not still needing it at the end of these 5 years. That is some measure of the enormity of the racial questions still unresolved in America today.

The question then is whether we are going to pull this country together and the Congress shares that responsibility. The very minimum that we can do is to ask for a body that will furnish us without fear or favor and without partisan consideration the information that is necessary for us to legislate.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Speaker, I rise in support of this legislation. I think the existence of the Commission has been extremely important in looking into all aspects of discrimination, and after marshaling the facts, making recommendations to correct them.

The power of the Commission is the power of persuasion that those facts have exerted. I think the work the Commission has done in past years has been significant. The Commission's efforts will be considerably strengthened by the inclusion of jurisdiction over discrimination against sex. We need information about women who are the sole support of their families and who have been prevented from obtaining mortgage loans simply because they are women. We need a thorough-going investigation of the credit and banking industry and its loan housing and real estate practices in regard to women. We need to know about the nature of the access to public accommodations. We need to examine discriminatory practices against women—students, professors, and administrators—in educational institutions. We need an industry-by-industry, union-by-union examination of where women are in employment.

I hope that this legislation will considerably strengthen the efforts that have been made in this country to expose discrimination and will create a society in which both men and women can participate equally.

Mr. Speaker, the evolution of the new American woman has begun. For me, the most remarkable development in the past decade has been the way in which women from so many different backgrounds and occupations have begun to fight and organize for their rights. Hundreds of thousands of women are stirring and becoming involved in all aspects of political and social change to a degree that has never before occurred in our culture. Thousands of women are in law and medical schools today where formerly there were only hundreds. Twenty-nine million women currently work full time or part time, and more are entering the labor market daily—at a far greater percentage than men.

All over America, women are getting together to challenge a way of life that has made them an oppressed majority. The discrimination which operates against women is of a qualitatively different sort than that inflicted upon blacks and other minorities. It is far more subtle and pervasive, penetrating the experience of women of all races: Preventing us from obtaining jobs and earning equal pay for equal work; preventing us from going on to graduate education; preventing us from rising through the ranks of a profession—and thereby effectively vitiating the great American myth that hard work and perseverance alone can carry a person from rags to riches.

The decisive, winning battle in our fight for our rights—to obtain equality in jobs, education and professions—is still a long way off.

We must enlist all the resources of our Nation to bring to light and eliminate all discrimination practices against women, just as we have been doing for racial minority groups.

One of the most important tools we could have would be the resources and spirit of the Civil Rights Commission. Since 1957, the U.S. Commission on Civil Rights had researched and reported on the Federal Government's civil rights enforcement efforts. Discrimination and attendant abuses in the areas of housing, voting, education, and employment as well as the administration of justice, which have a direct or indirect repressive effect on our minorities have been carefully documented and detailed in reports beginning in 1959. The chief function of the Commission has been to gather the facts that can lead to changes in the abusive patterns found. The Commission cannot prosecute or cut off funds. It cannot file suits or remove officeholders. The power of the Commission is the power of persuasion that the facts exert. They are an independent agency with unlimited scope—they are free to look into any aspects of the discrimination problem, and after marshaling the facts, make recommendations to correct it.

In the past 13 years, of 185 formal recommendations made, action in one form or another has been taken on 118—63.8 percent. This is a commendable record. But the glaring omission is the lack of facts and recommendations to combat sex discrimination. If H.R. 12652 is passed, it will be a positive mandate by Congress directing the Commission to undertake studies and reports similar to those which have proven so successful in combating racial discrimination.

For example, we need information about women who are the sole support of their families, and who have been prevented from obtaining mortgage loans simply because they are women. We need a thorough investigation of the credit and banking industry and its loan practices in regard to women. We need an investigation into housing and real estate practices. We need to examine access to public accommodations. We need to explore the more subtle aspects of employment discrimination, and we need massive studies on an industry-by-industry and union-by-union basis in this area.

I hope that Congress will extend the jurisdiction of the Civil Rights Commission so that we will be able to ferret out and expose that discrimination which precludes women from being effective members of a free and equal society, and I urge the enactment of this bill.

I yield back the balance of my time.

Mr. HALL. Mr. Speaker, I yield 3

minutes to my friend from Iowa (Mr. Gross).

Mr. GROSS. Mr. Speaker, I want to commend my colleague from Missouri for the excellent statement he made in opposition to this bill and the outrageously increased spending it provides. What this country needs as badly as anything else and certainly needs far more than a continuation of the Civil Rights Commission is a commission to stop the discrimination against the taxpayers of this country. They are the people who are going to have to pay the bill, this doubly costly bill for the perpetuation of this outfit. They are the people who are going to have to pay for the increase to $128 a day for consultants hired by the Commission. They are the people who are going to have to pay for the doubled witness fees.

Yes, we need a commission in behalf of the taxpayers to stop the discrimination against them. I know of no reason for a continuation of this particular Commission, and I would like to ask the chairman of the committee on what basis of justification the cost of the Commission was practically doubled. It will be more than doubled, from $4 million a year at present to $8.5 million in the last 4 of the 5 years of its operation. On what basis was this kind of figure arrived at? What is the justification for it?

Mr. CELLER. Mr. Speaker, will the gentleman yield?

Mr. GROSS. Yes, of course I yield.

Mr. CELLER. I can give the gentleman an answer, but I am not sure I can give him understanding.

Mr. GROSS. The gentleman has told me that before. Try it on for size and see what you can accomplish.

Mr. CELLER. I will say to the gentleman the President's budget already provides for $4,821,000 for the Commission's operation in fiscal year 1973.

To this we must add the cost of the sex discrimination program, $1 million, the specific costs of the bill—including increased compensation for Commissioners, increased witness fees, an increased consultant fee maximum—a proposed Asian-American program, and funds for responses to civil rights emergencies.

I say to the gentleman from Iowa that all these figures will be passed on by the Appropriations Committee. These are only authorizations. Whether the Commission will get these funds depends upon the recommendations of the Appropriations Committee and the actions of this Congress. So the amount of money is not final.

For fiscal year 1974 and the succeeding fiscal years the sex discrimination program will continue to develop and expand, along with the other ongoing and new projects of the Commission.

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. HALL. Mr. Speaker, I yield the gentleman from Iowa 2 additional minutes.

Mr. GROSS. Mr. Speaker, I think I get the general idea. There was no reasonable justification.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I would say to my distinguished friend, the gentleman from Iowa, in response to his question, it says in the report on page 2, under paragraph 3:

> 3. Section 5 would increase the maximum compensation which may be paid consultants to the Commission from a flat $100 per day to the daily equivalent of the compensation paid for positions at the maximum rate for a GS–15 of the General Schedule. At present, this is $127.92.

We are trying to "keep up with the Joneses," and coupled with that is the fact that we are extending the life of this Commission and not allowing it to die, all of which is causing the increase.

Mr. GROSS. And there is no more on the part of the Judiciary Committee and others who support this bill to consider a commission to study the demands on the taxpayers of the country.

I will say to my friend, the gentleman from Missouri, that I wonder when some consideration is going to be given to the taxpayer.

Mr. HALL. I will say in answer to the gentleman that if there ever was a commission that proved that nothing persists like once legislated delegation of authority in Washington, this proves the case. The taxpayer or a commission in his behalf will never be recognized as long, as under the sacred name of rights, we continue to give away individual freedoms and liberties for greater security or for the delegation of the process to someone else, which we do regularly in this Congress and in these bureaus by constitution of authority, and spending the other fellow's moneys.

Mr. CELLER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, as to the consultants, I wish to state that the bill increases the maximum which may be paid consultants from $100 a day to $127.92 per day. The estimated cost will be $2,500 for a whole year for all consultants. That is what we are arguing about. It is a trifling sum.

Mr. Speaker, agencies which pay the same maximum to consultants as is contemplated in this bill namely the $127.92 per day include the General Services Administration, the National Labor Relations Board, the Equal Employment Opportunity Commission, and the Department of Justice.

Agencies which pay more than that provided in the bill include the Department of Commerce, the Cabinet Committee on Opportunities for Spanish Speaking People, and the National Commission on Libraries. Also, Economic Stabilization Act consultants may be paid at the higher rate.

I might also say to the distinguished gentleman from Missouri (Mr. Hall) that this is not the first time we have extended the life of the Commission for 5 years. We did that very same thing in 1967, when we extended the life of the Commission for 5 years.

Beyond that, as to the statement that the Commission is a law unto itself, that certainly is contrary to fact. The Commission is not a law unto itself. It makes recommendations which are passed on by this Congress. We must determine whether those recommendations are sound or whether they are unsound. We must determine whether we are going to convert those recommendations into law or not. We are the final arbiters, not the Commission, so it is fallacious to say the Commission in a law unto itself. It is not a law unto itself.

Mr. Speaker, for these and a great many other reasons, I do hope we will get the sufficient two-third majority to pass this bill.

Mr. DRINAN. Mr. Speaker, the arguments pro and con on the issue of equal rights for women and men have been previously made in this House in the context of the Equal Rights amendment which we passed by an overwhelming vote last October.

In furtherance of the objectives of that amendment, we have before us today a proposal, which I support enthusiastically, to extend the jurisdiction of the Civil Rights Commission to sex discrimination.

I share the view of my colleagues on the Judiciary Committee, as expressed on our report on this bill, that—

> There is a continuing need for an agency to gather the facts necessary to an independent, impartial appraisal of where we are in the civil rights field and the directions in which we should head. The record of the Civil Rights Commission justifies the previously demonstrated confidence of the Congress in it as that agency.

The Civil Rights Commission has well served a necessary function in identifying the racial injustices in our society. I am entirely persuaded that such a function must be served with respect to sex discrimination.

Injustice is not susceptible to amelioration until it is specifically located. With respect to discrimination against women—as so much current literature indicates—we are now at the stage of social development we were at with respect to racial injustice a generation ago.

Women have had the right to vote for 52 years. Progress comes slowly in the matter of human rights, but this bill is, in my judgment, real progress. I urge its enactment.

Mrs. HICKS of Massachusetts. Mr. Speaker, I support H.R. 12652, a bill to extend the Commission on Civil Rights for 5 years, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission.

At the annual dinner of the Massachusetts Association of Women Lawyers, NettaBell Girard Larson, president-elect of the National Association of Women Lawyers delivered an address dealing with discrimination which I would like to share with my colleagues as being most timely with regard to H.R. 12652:

THE CONCEPT OF EQUAL RIGHTS

(By NettaBell Girard Larson)

Good evening, distinguished ladies and gentlemen. It's indeed a pleasure to be in your lovely city of Boston once again. It's a double pleasure to have the opportunity to speak to you on my favorite subject—women and the concept of Equal Rights for Women! The last time I was in Boston, Senator Barry Goldwater was here campaigning for the Presidency. I was delighted to have the opportunity to vote for him. I was, and still am, an avid Goldwater fan. I will admit it was a disappointment to me when he was among the eight Senators who voted against adoption of the Equal Rights Amendment, as was my Senator from Wyoming, Clifford Hansen. However, because to me the concept of Equal Rights embodies the right of choice, I would defend their right of choice in this regard.

And—speaking of choice, I have worked with women and for women since I was old enough to tell the difference between the sexes, and I have loved every minute of it. I should say at the outset that in addition to the joy I have experienced in working for and with women, I have also enjoyed working for and with men and have learned to *love* them in the process, for the very things they do that we do not or would not want to do—many of which are so obvious they need not be mentioned.

The first exposure I had to feminism was the jingle I heard as a pre-school child which goes something like this: "Reuben, Reuben, I've been thinking what a grand world this would be, if all the men were transported, far beyond the Northern Sea". Reuben, of course counters with the same jingle directed at Rachel. And this expresses very well the strict equality of the sexes at about age 4 before the idea of inequality is ever conceived or any reality thereof ever experienced. Little girls think such of little boys at age 4 that it does not seem incongruous to them to recommend their transportation to way beyond the Northern Sea. I might add that many radical feminists seem to share this feeling. I would not, however, wish to cast the men out of society or wish to place them in inferior or distant position. And I suspect that most of you would not recommend such drastic action either. What I would hope for though is that I might, and you might and every woman and every person as well, might have the right to choose her or his course of action on a purely voluntary basis in a society which does not unduly restrain that right. To me, this is what the concept of "Equal Rights" is all about—the opportunity for every person, regardless of color, birth, religion or sex (or regardless of any other differential, such as wealth) to have the right of free choice.

You are all familiar with the history of the 19th Amendment—how women first began voting on an equal basis with men in 1869 in the territory of Wyoming and how, by 1919, the Woman's Suffrage Amendment was ratified by the last state, Tennessee; so I do not need to add my comments in that area. With the adoption of the Equal Rights Amendment on March 22, 1972 (which if ratified by 37 states within the next seven years will become the 27th Amendment to the U.S. Constitution) it is more important to examine the "concept" of equal rights and to trace its evolution and development. (I might add in passing that Tennessee became the 10th state last week—Hawaii was the first—to ratify the ERA. Connecticut refused—the legislature apparently concluded that women had enough rights already since they evidenced strong opposition in giving them more.)

In discussing the concept of equal rights, it is not difficult to pinpoint its origin. The concept of equal rights for women was never present in the violent eras of our history. In primitive caveman cultures the woman was dragged bodily into the cave by the man who captured her. She was a possession, a chattel, if you will. Even when the violence is not so outwardly obvious, if its principles exist—woman belongs to man. The prevailing morals of any particular time are held not only by those whom they benefit but by those, too, who appear to suffer from them. Their domination is expressed in that fact—that the people from whom they claim sacrifice also accept them. Under the "principle of violence", woman is the servant of man. And, under that principle, she shares the attitude to which the New Testament has given the most terse expression in I Cor. vi, 9: "Neither was the man created for the woman; but the woman for the man." The principle of violence recognizes only the male. Thus the right to choose a man does not belong to the woman. The basic change from the servant basis for woman has evolved, interestingly enough not from the efforts and rebellions of woman but through an increased awareness by man. The principle of violence and the great dominion of man has in these eras come into conflict with the nature of sexual intercourse and for sheer sexual reasons, man must, in his own interest, eventually weaken this dominion. For it is against nature that man should take woman as a will-less thing.

The sexual act is a mutual give and take, and a merely suffering attitude in the woman diminishes man's pleasure. Therefore, to satisfy himself, he must awaken her response. The victor who has dragged the slave into his marriage bed, the buyer who has traded the daughter from her father must court for that which the violation of the resisting woman cannot give. To this is added a second factor—the sexual act gradually becomes an extraordinary psychic effort which succeeds only with the assistance of special stimuli. This becomes more and more so in proportion as the individual is compelled by the principle of violence—which makes all women owned women and thus renders more difficult sexual intercourse—to restrain his impulses and to control his natural appetite. The sexual act now requires a special psychic attitude to the sexual object. This is love—unknown to the primitive man and to the man of violence, who used every opportunity to possess without selection. The characteristic of love, the overvaluation of the object, cannot exist when women occupy the position of contempt which they occupy under the principle of violence. For under this system she is merely a slave—but it is the nature of love to conceive her as a queen by her king.

Where the principle of violence dominates, polygamy is universal. Every man has as many wives as he can defend or afford. By its nature, polygamy was never an institution for the poor man; the wealthy and the aristocratic could alone enjoy it. But with the latter, it became increasingly complex to the extent to which women entered marriage as heiresses and owners, were provided with rich dowries, and were endowed with greater rights in disposing of the dowry. Thus, monogamy has been gradually enforced by the wife who brings her husband wealth. In order to protect legally the property of wives and their children, a sharp line is drawn between legitimate and illegitimate connection and succession as evidenced by the evolution of the theory at common law that the wife retains control of all property she owned prior to her marriage and by the often complicated laws specifying descent and distribution. The relation of husband and wife through this evolution process from violence to mutual need and respect is more and more becoming acknowledged in the concept of a contractual relationship.

As the idea of contract enters the Law of Marriage, it breaks the rule of the male, and makes the wife a partner with equal rights. From a one-sided relationship resting on force, marriage has thus become a mutual agreement; the servant becomes the married wife entitled to demand from the man all that he is entitled to ask from her. Step by step she has won the position in the home which she holds today. Nowadays the position of the woman differs from the position of the man only in so far as their peculiar ways of earning a living differ. This evolution of marriage has taken place by way of the law relating to the property of married persons. Woman's position in marriage was improved as the principle of violence was thrust back; and as the idea of contract advanced in other fields of the Law of Property it necessarily transformed the property relations between the married couple. The wife was freed from the power of her husband for the first time when she gained legal rights over the wealth which she brought into marriage, and which she acquired during marriage, and when that which her husband customarily gave her was transformed into allowances enforceable by law. This, marriage, as we know it has come into existence entirely as a result of the contractual idea penetrating into this sphere of life.

All our cherished ideals of marriage have grown out of this idea. That marriage unites one man and one woman, that it can be entered into only with the free will of both parties, that it imposes a duty of mutual fidelity, that a man's violations of the marriage vows are to be judged no differently from a woman's, that the rights of husband and wife are "essentially" the same; these principles develop from the contractual attitude to the problem of marital life. No people can boast that their ancestors thought of marriage as we think of it today. Science cannot judge whether morals were once more severe than they are now. We can establish only that our views of what marriage should be are different from the views of past generations and that their ideal of marriage seems immoral in our eyes.

I differ most strongly with the radical wing of Femininism which holds firmly to the standpoint that women must fight for liberation from the "yoke of marriage" so that she might be free to satisfy her sexual desires and to develop her individuality. The reason that I differ with this standpoint is because it overlooks the fact that the expansion of woman's powers and abilities is inhibited not by marriage, not by being bound to man (because he is also bound to her) or not by being bound to children and household, but by the more absorbing form in which the sexual function affects the female body. Pregnancy and the nursing of children claim the best years of a woman's life, the years in which a man may spend his energies in great achievements. One may believe that the unequal distribution of reproduction is an injustice of nature, or that it is unworthy of woman to be child-bearer and nurse, but to believe this does not alter the fact that physiologically, man cannot bear children—there is no choice involved! A woman may be able to choose whether or not to bear children. But—the fact remains that when she does become a mother, with or without marriage, she is prevented from leading her life as freely and as independently as man.

The evolution which has led from the principle of violence to the contractual principle has based the relations of marriage on free choice in love. The woman may deny herself to anyone, she may demand fidelity and constancy from the man to whom she gives herself. Only in this way is the foundation laid for the development of woman's individuality.

So far as Feminism seeks to adjust the legal position of woman to that of man, so far as it seeks to offer her legal and economic freedom to develop and act in accordance with her inclinations, desires and economic circumstances—it is not just or only part of a "woman's" movement. It is part and parcel of the great liberal or liberation movement, which advocates the opportunity of free choice through peaceful and free evolution and toward which many Americans have been striving throughout the history of our great country.

"Woman's struggle to preserve her personality in marriage is part of that struggle for personal integrity which characterizes the rationalist society of the economic order based on private ownership of the means of production. All mankind would suffer if woman should fail to develop her ego and be unable to unite with man as equal, freeborn companions and comrades. Thus the meaning of the feminist question is essentially woman's struggle for personality. But the matter affects men not less than women, for only in cooperation can the sexes reach the highest degree of individual culture.

The surge of the feminist movement toward the passage of the Equal Rights Amendment has played an important part in the liberation movement. And, although the application of the Equal Rights Amendment has limitations—the movement toward equality of treatment under the law has created a new awareness of the psychology of equality and its ratification should be instrumental in the development of the female ego.

Now that you know where I stand in this area, let's take a look at where the law stands and then consider what laws and practices might be affected by ratification of the Equal Rights Amendment.

With the recent adoption of the 27th Amendment by the United States Congress, the 70's indeed look as though they will be the decade of women and for women, but hopefully not to the exclusion of the men.

The Equal Rights Amendment reads "equality of rights under the law will not be denied or abridged by the United States or by any State on account of sex". The basic reason for the necessity of such an amendment is that in the present legal structure some laws exclude women from legal rights, opportunities or responsibilities; some are framed as legislation conferring special benefits or protection on women; others create or perpetrate a separate legal status without indicating on their face whether the positions of women rank below or above the positions of men. The fundamental legal principle underlying the Equal Rights Amendment then, is that the law must deal with particular attributes of individuals not with the classification based on the broad and impermissible attribute of sex. There presently exist in the various states over one thousand state laws as well as innumerable restrictions and practices, that discriminate against women, according to information presented at Hearings on the Equal Rights Amendment.

These present laws and restrictions can be broken down into some 15 categories as follows:

1. State laws placing special restrictions on women with respect to hours of work and weightlifting on the job.
2. State laws prohibiting women from working in certain occupations.
3. Laws or practices operating to exclude women from state colleges and universities (including higher standards required for women applicants to institutions for higher learning and in the administration of scholarship programs).
4. Discrimination in employment by state and local governments.
5. Dual pay schedules for men and women public school teachers.
6. State laws providing for alimony to be awarded under certain circumstances to ex-wives but not to ex-husbands.
7. State laws placing special restrictions on the legal capacity of married women or on their right to establish a legal domicile.
8. State laws that require married women but not married men to go through a formal procedure and obtain court approval before they may engage in an independent business.
9. Social Security and other social benefits legislation which give greater benefits to one sex than to the other.
10. Discriminatory preferences based on sex in child custody cases.
11. State laws providing that the father is the natural guardian of the minor children.
12. Different ages for male and female in (a) child labor laws, (b) age for marriage, (c) cut-off of the right to parental support and (d) juvenile court jurisdiction.
13. Exclusion of women from the requirement of the military selective service act of 1967.
14. Special sex-based exemptions for women in selection of state juries.
15. Heavier criminal penalties for female offenders than for male offenders committing the same crime.

Of these categories the area, as you might imagine, which interests me the most and one in which the Amendment will have considerable impact is the area of marriage relations. Although the last hundred years have seen a tremendous change in marriage law, there are still some such laws that do not apply equally to husbands and wives. The state laws in this area which are discriminatory relate to: women's right to property, inheritance, guardianship, management of earnings, the control of a family's wealth, payment of alimony, the retention of the wife's maiden name and the retention of her original domicile for voting and payment of taxes. For example, the common law decrees that in addition to the control of property acquired *before* marriage, the incoming property acquired by each spouse *during* marriage remains separately owned, but there is a catch rather like the classic "Catch 22" which is, that since most women after marriage do not have the opportunity to acquire much earnings and property of their own, they often don't end up with much. In seven of the eight community property states, Arizona, California, Idaho, Louisiana, Nevada, New Mexico and Washington, although the wealth is shared, the husband has the conclusive right to manage and control the estate. Only Texas has eliminated this inequity by amending its community property law to provide that "each spouse shall have sole management, control and disposition of that community property which he or she would have owned if a single person". California, Florida, Nevada and Pennsylvania require wives to obtain the Court's approval to set up their own businesses. Other states still place some type of restrictions on married women's contractual capacity. Under Kentucky law for example, though a married woman generally has full contractual capacity, she is, with some exceptions, prohibited from being a joint maker on a note or surety on a bond or obligation of another unless her husband joins with her. No such restriction is imposed, however, upon her spouse. There are only four states which recognize a married woman's right to acquire her own domicile, independently of her husband for all purposes without limitations.

So called crimes of passion, murder or manslaughter provoked by adultery, provide bias in favor of husbands. For example, in Texas, where what is called the "unwritten law defense" still applies, a husband who kills his wife's lover has under this a complete defense, but a wife who kills her husband's mistress has no similar justification. In North Carolina, if a wife kills her husband, half the property passes immediately to the husband's estate. The other half is held by the wife during her lifetime, but on her death passes to the estate of the husband. On the other hand, if the husband kills his wife, he holds all the property during his life although it goes to the wife's estate on his death.

Only fifteen states prescribe the same minimum age for marriage for males and females where parental consent is not required. The remaining states permit girls to be married without parental consent three years earlier than boys. Even at the lower ages where parental consent is necessary, statutes maintain a comparable differential between irreducible marriage ages of the sexes, with only ten states, prescribing a uniform age for boys and girls under these circumstances.

That is a quick thumb nail sketch of some of the marriage laws which might be affected by ratification of the Equal Rights Amendment.

In short, the effect that ratification of this Amendment would have on women would be substantial. It would be a giant step forward in the great liberation movement which advocates, as I mentioned earlier, the opportunity of free choice for all individuals.

There can be no doubt that women lawyers have come a long way since 1872! That was the year that the United States Supreme Court (in *Bradwell* v. *Illinois*, 16 Wall. 130 (1872)) upheld a state statute barring women from the practice of law, stating: "Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life." In the future, the legal profession can expect to see an increase in the number and percent of women. By way of illustration: In Massachusetts for example, there are 12,905 lawyers, 392 of which are women, or 3.5%, as determined by the "1971 Lawyer Statistical Report" published by the American Bar Foundation in 1972. That report also states that although there was a population decline in Massachusetts over the last five years, of 5.69%, the percentage of lawyers increased 6.54%. Boston, with a population of 641,071 has 5,277 lawyers with 172 women or approximately 3.4%. Just for fun, I want to mention for a comparison basis some of the figures for another state, in fact my home State of Wyoming. Wyoming, which has 475 lawyers in the entire state, with a population of 310,000, 13 of which are women, for 2.9%. In 1961, there was a total enrollment in law schools of 41,499, of which 1,497 were women. In 1971, the total enrollment in law schools was 94,468, of which 8,114 were women. In the entire country, according to the American Bar Foundation Report, there are 355,242 lawyers, of that, 9,103 or 2.8% are women. These figures show the enrollment figure of women law students to be almost as high as the total number of women lawyers. I think it would be obvious to all of us that the increase in enrollment of women in law schools all over the country indicates that the number as well as the percent of women lawyers will soon be rising.

So where does this put women lawyers in the seventies? It definitely puts us in a position of active participation. No longer are we, as American women, complacent or just aware of the problems. Now that the 60's have created an awareness of the problems concerning Equal Rights for women, we are now working to do something about them. As women lawyers through active participation in the legislative and judicial process, we can help insure that every woman has the opportunity to make a choice as to the type of work she wants to pursue and the type of life she wants to lead. The adoption of the Equal Rights Amendment has created the thrust of the 70's—we must carry it forward. It is my prediction that we will, as women lawyers and as concerned Americans, and that the Decade of the 70's will indeed be the decade *of* women and the decade *for* women to most enjoy being people.

The SPEAKER. The question is on the motion offered by the gentleman from New York, (Mr. CELLER) that the House suspend the rules and pass the bill H.R. 12652, as amended.

The question was taken.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 265, nays 66, not voting 102, as follows:

[Roll No. 131]

YEAS—265

Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Aspin
Aspinall
Badillo
Barrett
Begich
Bennett
Bergland
Biaggi
Boggs
Boland
Bolling
Bow
Brasco
Bray
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Mass.
Burlison, Mo.
Burton
Byrnes, Wis.
Carey, N.Y.
Carlson
Casey, Tex.
Cederberg
Celler
Chamberlain
Clancy
Clausen, Don H.
Clay
Collins, Ill.
Conable
Conte
Conyers
Cotter
Coughlin
Curlin
Danielson
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Denholm
Dent
Derwinski
Diggs
Dingell
Donohue
Dow
Downing
Drinan
Duncan
du Pont
Dwyer
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Flood
Ford, Gerald R.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Fuqua
Garmatz
Gaydos
Giaimo
Goldwater
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Halpern
Hamilton
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Horton
Hosmer
Howard
Hutchinson
Ichord
Jacobs
Johnson, Calif.
Johnson, Pa.
Karth
Kastenmeier
Keating
Keith
Kemp
King
Koch
Kuykendall
Kyl
Kyros
Latta
Leggett
Lent
Link
Lloyd
Long, Md.
Lujan
McClory
McCloskey
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKevitt
McKinney
Mallery
Mann
Martin
Mathias, Calif.
Mayne
Mazzoli
Meeds
Melcher
Miller, Ohio
Mills, Ark.
Minish
Mink
Mitchell
Monagan
Moorhead
Morgan
Morse
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Konski
O'Neill
Patten
Pelly
Perkins
Pettis
Peyser
Pike
Poff
Preyer, N.C.
Price, Ill.
Pucinski
Quillen
Rangel
Rees
Reid
Reuss
Riegle
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
Saylor
Schneebeli
Schwengel
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Springer
Staggers
Stanton, J. William
Steed
Steele
Steiger, Wis.
Stratton
Sullivan
Symington
Talcott
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Ullman
Vander Jagt
Vanik
Vigorito
Waldie
Ware
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Fla.
Zablocki
Zion
Zwach

NAYS—66

Abbitt
Abernethy
Andrews, Ala.
Archer
Ashbrook
Baker
Baring
Belcher
Blackburn
Brinkley
Broyhill, Va.
Burke, Fla.
Burleson, Tex.
Byron
Cabell
Clawson, Del
Colmer
Daniel, Va.
Davis, Ga.
Devine
Dorn
Fisher
Flynt
Gettys
Goodling
Griffin
Gross
Hagan
Haley
Hall
Hammerschmidt
Hébert
Henderson
Hull
Landrum
Lennon
McMillan
Mahon
Mathis, Ga.
Michel
Mills, Md.
Mizell
Montgomery
Passman
Powell
Price, Tex.
Purcell
Rarick
Robinson, Va.
Rousselot
Runnels
Ruth
Satterfield
Scherle
Scott
Snyder
Spence
Steiger, Ariz.
Stephens
Stuckey
Taylor
Teague, Tex.
Terry
Thompson, Ga.
Waggonner
Whitten

NOT VOTING—102

Anderson, Tenn.
Bell
Betts
Bevill
Biester
Bingham
Blanton
Blatnik
Brademas
Byrne, Pa.
Caffery
Camp
Carney
Carter
Chappell
Chisholm
Clark
Cleveland
Collier
Collins, Tex.
Corman
Crane
Culver
Daniels, N.J.
de la Garza
Dellums
Dennis
Dickinson
Dowdy
Dulski
Eckhardt
Edmondson
Edwards, Ala.
Edwards, La.
Eshleman
Fish
Flowers
Foley
Ford, William D.
Fountain
Fulton
Galifianakis
Gallagher
Gibbons
Gude
Hanna
Hastings
Hillis
Hungate
Hunt
Jarman
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Kee
Kluczynski
Landgrebe
Long, La.
McKay
Macdonald, Mass.
Madden
Mailliard
Matsunaga
Metcalfe
Mikva
Miller, Calif.
Minshall
Mollohan
Moss
Nichols
Patman
Pepper
Pickle
Pirnie
Poage
Podell
Pryor, Ark.
Quie
Railsback
Randall
Rhodes
Roberts
St Germain
Sandman
Sarbanes
Scheuer
Schmitz
Seiberling
Stanton, James V.
Stokes
Stubblefield
Udall
Van Deerlin
Veysey
Wampler
Whalen
Whalley
Wilson, Charles H.
Yatron
Young, Tex.

So the bill, as amended, was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Mikva and Mr. Miller of California for, with Mr. Long of Louisiana against.

Mrs. Chisholm and Mr. Daniels of New Jersey for, with Mr. Jones of North Carolina against.

Mr. Van Deerlin and Mr. Moss for, with Mr. Fountain against.

Mr. Stokes and Mr. James V. Stanton for, with Mr. Roberts against.

Mr. Brademas and Mr. Foley for, with Mr. Bevill against.

Mr. Matsunaga and Mr. Fulton for, with Mr. Chappell against.

Mr. Charles H. Wilson and Mr. Hanna for, with Mr. Jones of Alabama against.

Mr. Macdonald of Massachusetts and Mr. Yatron for, with Mr. Collins of Texas against.

Mr. Kluczynski and Mr. Podell for, with Mr. Nichols against.

Mr. Hunt and Mr. Gude for, with Mr. Flowers against.

Mr. Biester and Mr. Quie for, with Mr. Schmitz against.

Mr. Sandman and Mr. Eshleman for, with Mr. Camp against.

Until further notice:

Mr. Byrne of Pennsylvania with Mr. Rhodes.
Mr. Madden with Mr. Hastings.
Mr. Carney with Mr. Whalen.
Mr. Hungate with Mr. Hillis.
Mr. Blatnik with Mr. Cleveland.
Mr. Stubblefield with Mr. Jonas.
Mr. Pepper with Mr. Pirnie.
Mr. Pickle with Mr. Betts.
Mr. Randall with Mr. Wampler.
Mr. Udall with Mr. Rhodes.
Mr. Anderson of Tennessee with Mr. Bell.
Mr. Clark with Mr. Railsback.
Mr. Corman with Mr. Mailliard.
Mr. Dulski with Mr. Crane.
Mr. William D. Ford with Mr. Veysey.
Mr. Mollohan with Mr. Minshall.
Mr. Metcalfe with Mr. McKay.
Mr. Kazen with Mr. Dellums.
Mr. Young of Texas with Mr. Collier.
Mr. Scheuer with Mr. Galifianakis.
Mr. Jones of Tennessee with Mr. Whalley.
Mr. Bingham with Mr. Fish.
Mr. St Germain with Mr. Dennis.
Mr. Patman with Mr. Edwards of Alabama.
Mr. Sarbanes with Mr. Eckhardt.
Mr. Gallagher with Mr. Edmondson.
Mr. Culver with Mr. Landgrebe.
Mr. Seiberling with Mr. Pryor of Arkansas.
Mr. Blanton with Mr. Jarman.
Mr. Caffery with Mr. Dickinson.
Mr. Gibbons with Mr. de la Garza.

The result of the vote was announced as above recorded. The title was amended so as to read: "A bill to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills S. 2713 and H.R. 12652.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

LAND TRANSFER TO THE STATE OF TENNESSEE

Mr. PURCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9676) to authorize the conveyance of certain lands of the United States to the State of Tennessee for the use of the University of Tennessee, as amended.

The Clerk read as follows:

H.R. 9676

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is authorized and directed to convey, without consideration, to the State of Tennessee for the use of the University of Tennessee, Knox County, Tennessee, all right, title, and interest of the United States in and to the real property referred to as the United States Cotton Field Station, Knox County, Tennessee, containing 90.45 acres, more or less, more specifically described in section 2 of this Act.

SEC. 2. The real property referred to in the first section of this Act is more specifically described as follows:

Beginning at a point in the forks of Tipton Pike and the new road, the southwest corner of a tract of land conveyed by J. H. Lewis to Harriet H. Lay by deed dated January 18, 1932, and registered in Deed Book 519, page 468, in the Register's Office of Knox County, Tennessee; thence with the center of the Tipton Pike south 53 degrees 30 minutes west 964 feet to a point in the center of said pike; thence with same south 55 degrees 30 minutes west 353 feet to a point in the center of said pike; a corner of the tract of lands of Hall and Gibson; thence with the lands of said Hall, north 27 degrees 25 minutes west 1,867 feet to the center of the main line of the Southern Railway, north 31 degrees, east 1,955 feet to a point at the intersection of said main line and spur track thereof; thence with said spur track north 33 degrees 45 minutes east 115 feet; north 35 degrees 10 minutes east 258 feet; north 48 degrees 35 minutes east 276 feet to the center of an old road; thence with said old road south 4 degrees 45 minutes east 957 feet; south 11 degrees 45 minutes east 1,261 feet to a point at the junction of said old road and the new road and a lane leading east therefrom; thence with said new road south 10 degrees 50 minutes east 875 feet to the beginning, containing 90.45 acres, more or less.

SEC. 3. The real property conveyed pursuant to this Act shall be used consistent with the purposes of the University of Tennessee, including but not limited to, the promotion of the breeding of livestock (including the right to lease such property for such purposes to East Tennessee Artificial Breeders Association, or to any other nonprofit organization chartered by the State of Tennessee).

SEC. 4. The University of Tennessee shall pay the cost of such surveys as may be necessary to carry out this Act and shall bear all other expenses in connection with the preparation and recording of the legal documents necessary to carry out this Act.

The SPEAKER. Is a second demanded?

Mr. TEAGUE of California. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. PURCELL. Mr. Speaker, the purpose of this bill, H.R. 9676, is to authorize and direct the Secretary of Agriculture to convey, without consideration, to the State of Tennessee, for the use of the University of Tennessee, all right, title, and interests of the United States in and to real property referred to as the U.S. Cotton Field Station, located in Knox County, Tenn. It would require that the property be used in a manner that is consistent with the purposes of the university, specifically including its purpose to promote the breeding of livestock. The bill would also specifically authorize the university to lease the property to the East Tennessee Artificial Breeders Association, or any other nonprofit organization chartered by the State of Tennessee, for breeding purposes. There are about 90 acres involved.

Since January 29, 1935, the tract of land included in this bill was owned by the U.S. Department of Agriculture. It was used by the Department as a cotton field station until 1968, and on September 23, 1970, was reported as "excess" property. General Services Administration accepted the property on March 3, 1971, and assumed full responsibility on April 1, 1972.

Since the land has been transferred to the General Services Administration the bill was amended to authorize the Administrator of General Services Administration to convey the property in question.

During the hearings before the Subcommittee on Department Operations of the Committee on Agriculture, which were held on December 15, 1971, the University of Tennessee assured the subcommittee that the property would be used for very valuable public use. The committee found that not only would a livestock breeding facility be of benefit to the State of Tennessee, but also would be of great benefit to the entire region and eventually to producers and consumers throughout the Nation. It was also felt that the university could use portions of this tract for other university uses as well.

The General Services Administration opposed the transfer as a matter of principle but did not offer any concrete alternative use. Accordingly, the subcommittee unanimously approved the bill as did the full committee.

As to the amount of money involved, the Department of Agriculture and the U.S. Government paid $6,000 for the property when it was purchased in 1935. The Department of Agriculture spent $40,665 on subsequent improvements, making a total investment of $46,665.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. PURCELL. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, inasmuch as in my official capacity as chairman of the minority objectors to the Consent Calendar, I did ask that this bill be put over without prejudice. I want to say I appreciate the gentleman's lucid statement, and I have three questions. No. 1, if the gentleman stated it, I failed to perceive why this should not go through the regular GSA routine of priorities for assignment of Federal surplus properties, since the University of Tennessee would have the very highest priority, second only to the Federal agencies, over anyone else?

Mr. PURCELL. The University of Tennessee has an urgent need for the land. It was the belief of the Committee on Agriculture that by this measure the area agriculture, as well as general industry of agriculture, would keep the use of this property and not have some other entity that would be less effective, in terms of agricultural use, and less needy than the University of Tennessee might have.

The gentleman from Tennessee (Mr. DUNCAN) may have an explanation in addition to this, and if he does, I will be glad to yield to him for that purpose.

Mr. HALL. If the gentleman will continue to yield for the other questions, I will say the gentleman from Tennessee has met with me and supplied in writing, part of the answers to this question in the hopes it could go through on the Consent Calendar.

However, one of the criteria agreed to by the entire House on the Consent Calendar is that bills must not only be unanimously reported by the committee and also less than $1 million, but also have favorable departmental reports.

That leads to my second question, before the gentleman from Texas yields to the gentleman from Tennessee. I do understand from reading the report that there are adverse departmental reports. Is this true?

Mr. PURCELL. On that I can answer the gentleman's question. There is, as a matter of procedure, inasmuch as this property had been declared surplus, and the General Services Administration had assumed some degree of jurisdiction over it, I understand as a matter of principle or a matter of course that GSA formally opposes any transfer out of their jurisdiction, but they did not make any actual material objection. The property has been declared surplus. There was no true significant objection to the transfer. GSA made no alternative suggestions regarding the use of the property.

Mr. HALL. Regardless of the GSA "attitude," the Committee on Agriculture favors this transfer, as I understand it.

Mr. PURCELL. By a unanimous vote; yes.

Mr. HALL. May I ask, finally, why should not this exchange be at fair market value, instead of an outright gift from the taxpayers' possessions?

Mr. PURCELL. A good question. This procedure follows the policy of most committee actions with which I am familiar, when another Federal or State governmental agency is involved. The beneficiary here is a State university, which certainly is a nonprofit institution, and it will be used for a nonprofit purpose. This practice has been found to be in the general best interests of the Nation. We thought there would be more good accomplished if the property were used for named purposes.

Mr. HALL. I thank the gentleman.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. PURCELL. I yield to the gentleman from New York.

Mr. MURPHY of New York. Is this transfer in the nature of a transfer of property from GSA to the University of Tennessee or to the State of Tennessee?

Mr. PURCELL. The transfer would be from the U.S. Government. The property has been under the jurisdiction of the Department of Agriculture, although GSA technically has taken over the use of it. It would be transferred from the U.S. Government to the University of Tennessee.

Mr. MURPHY of New York. Did the State of Tennessee intercede at all on this transfer of property?

Mr. PURCELL. I am not aware of it, if it did. The representative of the University of Tennessee appeared before the committee. There was no representative of the State as such, that I am aware of.

Mr. DUNCAN. Mr. Speaker, will the gentleman yield?

Mr. PURCELL. I yield to the gentleman from Tennessee.

Mr. DUNCAN. The transfer would be to the State of Tennessee. Of course, the

University of Tennessee is an arm of the State. The U.S. Department of Agriculture would transfer this to the State of Tennessee for use by the University of Tennessee.

Mr. MURPHY of New York. The State did cooperate and ask for the property from the Federal Government for the use of the University of Tennessee.

Mr. DUNCAN. The State has a program and is providing thousands of dollars to set up this artificial breeding facility with other facilities of the university.

Mr. MURPHY of New York. I should like to compliment the gentleman from Tennessee and the gentleman from Texas on what I believe is a very fine transfer of property to a university of a State for educational purposes.

I have been trying for the past 3½ years to get the General Services Administration to assist in transferring 200 acres in my district for the health and education and recreational use of citizens in my district. The property was formerly known as Miller Field on Staten Island. Instead, the General Services Administration is persisting in going through with a land transfer for a ramshackle hotel in downtown Washington, and the city of New York and the State of New York will not even help the local people ask for this property that has been public property for the past 80 years.

I should like to compliment the Governor of Tennessee and also the Members of Congress from Tennessee and also the Members of Congress from Texas for assisting a community to benefit from lands that are public lands and that will be certainly dedicated to a public purpose, whereas in the district in which I am located they are going for a special and private interest.

I thank the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. PURCELL. I yield to the gentleman from Iowa.

Mr. GROSS. Do I correctly understand that there is no reverter clause in the bill?

Mr. PURCELL. In the deed, or in the bill?

Mr. GROSS. In other words, if this nonprofit institution, which would be the beneficiary of the transaction, should not use it for that purpose, or abandon it at sometime in the future, there is no provision for its reversion back to the Federal Government?

Mr. PURCELL. For the answer to that I will yield to the gentleman from Tennessee, in whose district this is located.

Mr. DUNCAN. The university representative at the hearing indicated and said that they would have no objection to a reverter clause in the transfer. Of course, the bill itself sets out it will be used consistent with purposes of the University of Tennessee. There is no objection to a reverter clause being placed in the deed.

Mr. GROSS. I would have liked to have been assured that there is a reverter clause in it.

Let me ask this question: Why should this cost the Federal Government, as I understand it does on page 2 of the report, $130,000?

Mr. PURCELL. This is the appraised value of the property. There is no new money of any kind of the U.S. Government going into it. The Government has spent about $46,600 over a period of over 30 years. They paid $6,000 for the property and paid the balance for improvement, but there is no new money of the Government going into it.

Mr. GROSS. Then, the gentleman is saying there is no additional cost to the Federal Government as a result of this legislation?

Mr. PURCELL. There is no additional cost to the Federal Government as a result of this bill.

Mr. GROSS. I thank the gentleman.

Mr. TEAGUE of California. Mr. Speaker, I support this bill and yield such time as he may desire to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Speaker, on March 22 of this year, H.R. 9676 was reported favorably to the House by the unanimous consent of a full House Committee on Agriculture.

This bill is a land conveyance measure which provides that the property conveyed pursuant to this act shall be solely for educational and other purposes consistent with the purposes of the University of Tennessee, including, but not limited to, the promotion of the breeding of livestock. This includes the right, if the University so desires, to lease the property for this purpose.

The committee report recognized that the public interest would be served through passage of this bill when it stated:

> The University of Tennessee demonstrated to the Committee that it would and could put this property to a very valuable public use. The Committee found that not only would a livestock breeding facility be of benefit to the state of Tennessee, but also would be of great benefit to the entire region and eventually to producers and consumers throughout the nation.

The State of Tennessee and its university have employed their technical and managerial resources to plan for the most valuable and productive use of this land. I am convinced that as a result the Congress in years to come will point with pride to the benefits derived by the public through the conveyance of this property.

This bill will include a reverter clause in the conveyance deed so that if the land were used for something other than public purposes by the university, it would revert back to the United States.

Our future is tied to the availability and proper use of our land. H.R. 9676 makes land available to our citizens in a way which will bear fruit for future generations. Your favorable vote today will help insure that well planned land use is the key to America's future growth.

Mr. BADILLO. Mr. Speaker, I am voting against this legislation today not because I do not believe it seeks to achieve a legitimate purpose, but rather because it authorizes a transfer of land to the University of Tennessee without an adequate determination whether there are other potential applicants who might make better use of the property.

The committee report indicates that while the land involved has been declared excess, it has not been declared surplus. Had the latter declaration been made, the Department of Health, Education, and Welfare would have been in a position to determine whether there were other qualified applicants. Enactment of this bill precludes that process and clearly gives the University of Tennessee an unfair advantage.

We in Congress usually place great emphasis on open, competitive bidding for Federal contracts and property. That principle should be applied in this case, and since the bill before us contradicts that principle, I am voting against it.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. PURCELL), that the House suspend the rules and pass the bill H.R. 9676, as amended.

The question was taken.

Mr. ANNUNZIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 319, nays 9, not voting 105, as follows:

[Roll No. 132]

YEAS—319

Abbitt
Abernethy
Abourezk
Adams
Addabbo
Alexander
Anderson,
  Calif.
Anderson, Ill.
Andrews, Ala.
Andrews,
  N. Dak.
Annunzio
Archer
Arends
Ashley
Aspin
Aspinall
Baker
Baring
Barrett
Begich
Belcher
Bennett
Bergland
Biaggi
Blackburn
Blatnik
Boggs
Boland
Bolling
Bow
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrnes, Wis.
Byron
Cabell
Carey, N.Y.
Carlson
Casey, Tex.
Cederberg
Celler
Chamberlain
Chappell
Clancy
Clausen,
  Don H.
Clawson, Del
Clay
Collins, Ill.
Colmer
Conable
Conte
Conyers
Cotter
Coughlin
Crane
Curlin
Daniel, Va.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Denholm
Dent
Derwinski
Devine
Diggs
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Duncan
du Pont
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fisher
Flood
Flynt
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Fuqua
Garmatz
Gaydos
Giaimo
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Grover
Gubser
Hagan
Haley
Halpern
Hamilton
Hammer-
  schmidt
Hanley
Hansen, Idaho
Harrington
Harsha
Harvey
Hathaway
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hutchinson
Ichord
Jacobs
Johnson, Calif.
Johnson, Pa.
Jonas
Karth
Kastenmeier
Keating
Keith
Kemp
King
Koch
Kuykendall
Kyl
Kyros
Landrum
Latta
Leggett
Lennon
Lent

Link
Lloyd
Long, Md.
Lujan
McClory
McCloskey
McClure
McCollister
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKevitt
McKinney
McMillan
Mahon
Mallary
Martin
Mathias, Calif.
Mathis, Ga.
Mayne
Meeds
Melcher
Michel
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Mitchell
Mizell
Monagan
Montgomery
Moorhead
Morgan
Morse
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Pelly
Perkins
Pettis
Peyser
Pike
Poff
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Rangel
Rarick
Rees
Reid
Reuss
Riegle
Robinson, Va.
Rodino
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Sandman
Satterfield
Saylor
Scherle
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stratton
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Tiernan
Ullman
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Ware
White
Whitehurst
Whitten
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Fla.
Zablocki
Zion
Zwach

NAYS—9

Abzug
Ashbrook
Badillo
Gross
Hall
Mann
Robison, N.Y.
Ryan
Smith, Calif.

NOT VOTING—105

Anderson, Tenn.
Bell
Betts
Bevill
Biester
Bingham
Blanton
Brademas
Byrne, Pa.
Caffery
Camp
Carney
Carter
Chisholm
Clark
Cleveland
Collier
Collins, Tex.
Corman
Culver
Daniels, N.J.
de la Garza
Dellums
Dennis
Dickinson
Dowdy
Dulski
Dwyer
Eckhardt
Edmondson
Edwards, Ala.
Edwards, La.
Esch
Eshleman
Fish
Flowers
Foley
Ford, William D.
Fountain
Fraser
Fulton
Galifianakis
Gallagher
Gettys
Gibbons
Gude
Hanna
Hansen, Wash.
Hastings
Hillis
Hungate
Hunt
Jarman
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Kee
Kluczynski
Landgrebe
Long, La.
McCormack
McKay
Macdonald, Mass.
Madden
Mailliard
Matsunaga
Mazzoli
Metcalfe
Mikva
Miller, Calif.
Minshall
Mollohan
Moss
Nichols
Patman
Pepper
Pickle
Pirnie
Poage
Podell
Pryor, Ark.
Randall
Rhodes
Roberts
St Germain
Sarbanes
Scheuer
Schmitz
Seiberling
Stanton, James V.
Stephens
Stokes
Stubblefield
Thompson, N.J.
Udall
Van Deerlin
Veysey
Wampler
Whalen
Whalley
Widnall
Wilson, Charles H.
Yatron
Young, Tex.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Widnall.
Mr. Matsunaga with Mr. Gude.
Mr. Bevill with Mr. Dickinson.
Mr. Moss with Mr. Mailliard.
Mr. Nichols with Mr. Edwards of Alabama.
Mr. Macdonald of Massachusetts with Mr. Minshall.
Mr. Charles H. Wilson with Mr. Stokes.
Mr. Stubblefield with Mr. Carter.
Mr. James V. Stanton with Mr. Biester.
Mr. Jones of Alabama with Mr. Schmitz.
Mr. Kluczynski with Mr. Rhodes.
Mr. Mazzoli with Mr. Hillis.
Mr. Pickle with Mr. Betts.
Mr. Flowers with Mr. Fish.
Mr. Foley with Mr. Cleveland.
Mr. Gettys with Mr. Camp.
Mr. Roberts with Mr. Esch.
Mr. William D. Ford with Mrs. Chisholm.
Mr. Podell with Mr. Metcalfe.
Mr. Daniels of New Jersey with Mr. Hunt.
Mr. Corman with Mr. Bell.
Mr. Culver with Mr. Collier.
Mr. Anderson of Tennessee with Mr. Long of Louisiana.
Mr. Hanna with Mr. Veysey.
Mrs. Hansen of Washington with Mrs. Dwyer.
Mr. Van Deerlin with Mr. Wampler.
Mr. Yatron with Mr. Eshleman.
Mr. Young of Texas with Mr. Collins of Texas.
Mr. Dulski with Mr. Hastings.
Mr. Fountain with Mr. Dennis.
Mr. Fulton with Mr. Landgrebe.
Mr. Randall with Mr. Pirnie.
Mr. Mollohan with Mr. Whalen.
Mr. Mikva with Mr. Dellums.
Mr. Jones of Tennessee with Mr. Whalley.
Mr. Clark with Mr. Kee.
Mr. Brademas with Mr. Jones of North Carolina.
Mr. Blanton with Mr. Kazen.
Mr. Hungate with Mr. Scheuer.
Mr. Byrne of Pennsylvania with Mr. Bingham.
Mr. Caffery with Mr. Miller of California.
Mr. Patman with Mr. Udall.
Mr. St Germain with Mr. Sarbanes.
Mr. Stephens with Mr. Seiberling.
Mr. de la Garza with Mr. Edmondson.
Mr. Fraser with Mr. Eckhardt.
Mr. Gallagher with Mr. Galifianakis.
Mr. Pepper with Mr. McKay.
Mr. Gibbons with Mr. McCormack.
Mr. Madden with Mr. Jarman.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PURCELL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

TREASURY DEPARTMENT POSITIONS

Mr. MILLS of Arkansas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13334) to establish certain positions in the Department of the Treasury, to fix the compensation for those positions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) so much of the Act of February 17, 1922, as amended, as relates to the Under Secretary, and the Under Secretary for Monetary Affairs, in the Department of the Treasury (31 U.S.C. secs. 1004 and 1005), is amended to read as follows:

"There shall be in the Department of the Treasury a Deputy Secretary, an Under Secretary, and an Under Secretary for Monetary Affairs, each to be appointed by the President, by and with the advice and consent of the Senate. They shall perform such duties in the Office of the Secretary as may be prescribed by the Secretary of the Treasury. The President may, in appointing the Under Secretary, designate him as 'Counselor'.

"The Deputy Secretary of the Treasury, in case of the death, resignation, absence, or sickness of the Secretary of the Treasury, shall perform the duties of the Secretary until a successor is appointed or such absence or sickness shall cease."

(b) There shall be in the Department of the Treasury two Deputy Under Secretaries who shall be appointed by the President, by and with the advice and consent of the Senate. They shall perform such duties in the Office of the Secretary as may be prescribed by the Secretary of the Treasury. The President may, in appointing any Deputy Under Secretary, designate him as "Assistant Secretary of the Treasury". Any person designated as Assistant Secretary of the Treasury under the preceding sentence shall not be taken into account in applying section 234 of the Revised Statutes, as amended (31 U.S.C. sec. 1006).

(c) Section 234 of the Revised Statutes, as amended (31 U.S.C. sec. 1006), is amended by striking out "four" and inserting in lieu thereof "five".

(d) Section 3 of Reorganization Plan Numbered 26 of 1950 (64 Stat. 1280) is hereby repealed.

SEC. 2. (a) Section 5313 of title 5 of the United States Code is amended by inserting as paragraph (6) the following:

"(6) Deputy Secretary of the Treasury."

(b) Paragraph (10) of section 5314 of such title 5 is amended to read as follows:

"(10) Under Secretary of the Treasury (or Counselor)."

(c) Section 5315 of such title 5 is amended as follows:

(1) By striking "(4)" at the end of paragraph (23) and inserting in lieu thereof "(5)".

(2) By adding at the end thereof the following new paragraph:

"(96) Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury) (2)."

(d) Section 5316 of such title 5 is amended by striking out paragraphs (28) and (64).

SEC. 3. (a) Except as otherwise provided in this section, this Act shall take effect on its date of enactment.

(b) Any officer holding an office when this Act takes effect shall not be required to be reappointed to such office by reason of the enactment of this Act. Subsection (d) of the first section of this Act and subsection (d) of section 2 of this Act shall take effect upon confirmation by the Senate of Presidential appointees to fill the successor positions created by this Act.

(c) Until January 21, 1973, no person within the Treasury Department who has been occupying a position under the Executive Schedule and who is hereafter appointed to a position created or authorized by this Act shall receive an increase in basic pay by virtue of such appointment.

The SPEAKER. Is a second demanded?

Mr. BYRNES of Wisconsin. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Arkansas.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the purpose of the pending bill, H.R. 13334, is to establish certain positions in the Department of the Treasury and to fix the compensation for those positions. The bill deals exclusively with official positions in the Treasury Department, and its enactment has been requested by that Department.

Specifically, the principal feature of this bill would create a new position of Deputy Secretary of the Treasury, to be classified as a level II position in the executive schedule. The incumbent of this position would be the Acting Secretary in the absence or disability of the Secretary. This is consistent with proposals made by the President for other departments. This new position would be filled by appointment by the President by and with the advice and consent of the Senate.

Additionally, the proposed legislation would provide that: first, the President in appointing an individual to the present level III position of Under Secretary of the Treasury may designate such individual 'Counselor"; second, the present position of Assistant Secretary for Administration is to be filled in the future by Presidential appointment by and with the advice and consent of the Senate, rather than as at present by appointment of the Secretary with the approval of the President; and third, two other Treasury positions now filled by appointment by the Secretary are to be filled in the future by appointment by the President by and with the advice and consent of the Senate. These latter positions will be entitled Deputy Under Secretary of the Treasury, or, at the option of the President, Assistant Secretary of the Treasury, and will replace the current positions of Deputy Under Secretary for Monetary Affairs and Special Assistant to the Secretary for Congressional Relations.

The proposed legislation recognizes the increasing importance of some of the top Treasury positions, and the inadequacy of the amount of support available to the Secretary of the Treasury. Secretary Connally has said that he needs these top-level positions to be able to properly perform his duties as Secretary of the Treasury. There has been no change in top-level Treasury positions for several years, and in many instances its positions are below the levels of other major cabinet positions. In the meantime, the responsibilities of the Secretary of the Treasury have steadily increased.

It is provided under the bill that no Treasury employee occupying a position under the executive schedule is to receive an increase in basic pay by virtue of being appointed to any of these new positions until January 21, 1973.

Mr. Speaker, enactment of this legislation will strengthen the top-level staff in the Treasury Department thus enabling the Secretary of the Treasury to perform his duties more effectively and efficiently. The Committee on Ways and Means is unanimous in urging its favorable consideration by the House.

Mr. GROSS. Before yielding his time, will the gentleman yield for a question?

Mr. MILLS of Arkansas. I will be glad to yield.

Mr. GROSS. This means the addition of one top-level official. Is that correct?

Mr. MILLS of Arkansas. That is true; the bill provides one new level II position in the executive schedule.

Mr. GROSS. And it means pay increases for practically all the top level, does it not?

Mr. MILLS of Arkansas. The gentleman has not followed my statement. I pointed out there is no pay increase involved in any of these positions prior to January 21, 1973.

Mr. GROSS. All right. It still means a pay increase.

Mr. MILLS of Arkansas. The pay increase that would be possible for the new Deputy Secretary, if a present Under Secretary is selected, is from a job that now pays $40,000 to one which pays $42,500. However, this increase could not go in until after January 21, 1973.

Mr. GROSS. So that implicit in this shuttling process, this addition to the members of top-flight officials in the Treasury Department—implicit in this is pay increases for practically all of the other top officials.

Mr. MILLS of Arkansas. No.

Mr. GROSS. And the Deputy Secretary himself.

Mr. MILLS of Arkansas. It is my recollection there are only three positions involved where there would be an increase in pay as of January 21, 1973.

Mr. GROSS. And the only justification for this is that the Secretary of the Treasury says his officials are lagging behind?

Mr. MILLS of Arkansas. No. That is not the only reason. If it had been the reason, the Committee on Ways and Means would not have reported it. Presently the Treasury Department is about the only major department that comes to my mind where there is no level II position holder who can serve as acting Secretary in the absence or disability of the Secretary. They now have two Under Secretaries, one charged with responsibility over monetary matters and the other with responsibility over administration and tax matters.

Mr. GROSS. Will the gentleman yield further?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. GROSS. The Treasury Department has been lobbying for a Federal Financing Bank which they claim will provide better management of the Government's debts, among other things.

Is this beefing up and salary increase business in the Treasury Department for the purpose of providing a nucleus for this new bank that they would like to have created?

Mr. MILLS of Arkansas. I wish to assure the gentleman, as did Mr. Charles E. Walker in a letter to you dated April 27 that there is no connection whatsoever between the bill now pending and the administration's proposed legislation to establish a Federal Financing Bank, and no action has been taken on this latter proposal.

I can assure the gentleman that there is no connection between these two proposals.

Mr. GROSS. Let me point out something to the gentleman in connection with the creation of this new bank in the Treasury Department. It provides for the appointment of a board of directors but it does not provide for a single staffer, not one, not even an executive director. Where does the gentleman suppose they intend to get the warm bodies to man this new bank for financing and better management of the debt?

Mr. MILLS of Arkansas. As the gentleman knows, this bill to establish a Federal Financing Bank is pending in our Committee on Ways and Means. However, there has been no committee consideration of it whatsoever.

I do not recall anyone in the administration talking to me personally about it and urging its consideration.

Frankly, I have not yet had an opportunity to study the proposal. However, I am sure there is no connection whatsoever between that proposal and the one that is pending before us at this time.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I am glad to yield to the gentleman from Wisconsin.

Mr. BYRNES of Wisconsin. I think it may be of interest to the gentleman from Iowa to recognize that, for instance, what we are talking about here and what the administration is proposing is a new set up dealing with debt management in a sense, but no change is made by this particular legislation in the situation as far as personnel involved in that management is concerned.

We do not make any change in the special assistant for the Secretary in charge of debt management. That does not change.

Mr. MILLS of Arkansas. That is right.

Mr. BYRNES of Wisconsin. So, it seems to me that it is perfectly clear that this bill has no direct relationship to the other.

Mr. MILLS of Arkansas. That is right.

Mr. BYRNES of Wisconsin. This bill has no direct relationship to what is being proposed in that field whatsoever.

Mr. MILLS of Arkansas. I think the gentleman is completely correct.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. MILLS of Arkansas. Mr. Speaker, I yield myself 3 additional minutes.

Mr. GROSS. Mr. Speaker, will the gentleman yield further?

Mr. MILLS of Arkansas. Yes, I yield further to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Now, I notice that the gentleman from Wisconsin said there was no "direct connection." The point I am trying to make is that I am convinced there is an indirect connection.

Mr. MILLS of Arkansas. There is no direct, indirect, or any other connection between these two proposals; none at all.

Mr. GROSS. I have never in my life seen a bill that called for the creation of a new banking institution or any other kind of institution in the Federal Government that did not provide for some people to operate it.

Mr. MILLS of Arkansas. I appreciate the gentleman calling my attention to these defects in that proposal, because I have not had a chance to look at it.

Mr. GROSS. We are being called upon to vote on it this afternoon and I still insist there is a connection between the two.

Mr. MILLS of Arkansas. The bill which we are being called upon to vote is H.R. 13334 and not the other bill to which reference has been made.

Mr. GROSS. I wonder why this bill, H.R. 13334, went to the Ways and Means Committee?

It is the Post Office and Civil Service Committee that ordinarily handles legislation of this kind.

Mr. MILLS of Arkansas. That was my thought when it came to our committee initially. I thought it was within the jurisdiction of the Post Office and Civil Service Committee. However, I was told by the Speaker, who presumably sought the advice of the Parliamentarian, that it was within the jurisdiction of our committee.

It is now my understanding that the Ways and Means Committee has always handled bills dealing with top policymaking positions in the Department of the Treasury.

Mr. GROSS. So, the Post Office and Civil Service Committee only takes care of the peons and peasants; is that correct?

Mr. MILLS of Arkansas. I do not know about that. However, I have heard of no objection from the other committee because the bill was referred to our committee.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Speaker, did I understand the gentleman to quote the Secretary of the Treasury as saying he could not do his job right without these additional positions?

Mr. MILLS of Arkansas. I did not quote him, but I gathered from discussions that it was more difficult for him to do his job in the way he wanted to do it without these positions in his Department.

Mr. JACOBS. I might say that with inflation and recession at the levels that they are in this country I knew he was not doing his job right. I think it would be admirable for him to acknowledge the reason for that, and maybe this is important legislation.

Mr. MILLS of Arkansas. I think it is important legislation.

Mr. LENNON. Mr. Speaker, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from North Carolina.

Mr. LENNON. I thank the gentleman for yielding to me, and I think the gentleman knows I have great respect for him as the chairman of the important Committee on Ways and Means, but I would ask the gentleman did he, as a member of the Committee on Ways and Means, as a result of these hearings, become convinced of the necessity of these positions in these new slots in the Department of the Treasury?

Mr. MILLS of Arkansas. The committee was unanimous in this opinion.

Mr. LENNON. No; I asked the gentleman did he become so convinced?

Mr. MILLS of Arkansas. Yes, absolutely.

Mr. LENNON. Did you get the impression that the other members of the Committee on Ways and Means were convinced of the necessity of the creation of these new slots?

Mr. MILLS of Arkansas. I did.

Mr. LENNON. I thank the gentleman.

Mr. MILLS of Arkansas. The committee was unanimously of that opinion.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, this is a simple and straight-forward bill providing for a new executive level II position of Deputy Secretary of the Treasury.

The Treasury Department, with all of the important responsibilities that it has, is one of the few agencies of government that does not have a Deputy Secretary to act in the capacity of the Secretary in case of his absence, sickness, resignation, or death. The Departments of States, Justice, Defense, and Transportation all have comparable positions, and such a position will facilitate coordination of the fiscal and monetary responsibilities of the Treasury Department.

In addition to the four Assistant Secretaries under present law that are executive schedule IV levels, there is presently an Assistant Secretary of the Treasury for Administration, a Deputy Under Secretary for Monetary Affairs, and a Special Assistant to the Secretary for Congressional Relations. The latter three positions are not subject to Senate confirmation. While the Special Assistant to the Secretary for Congressional Relations is also a level IV executive position, the Assistant Secretary for Administration and the Deputy Under Secretary for Monetary Affairs are level V positions.

The committee felt that the assignments all of these officers are charged with are sufficiently comparable in complexity and responsibility that all of the positions should be level IV positions in the executive schedule subject to Presidential appointment and confirmation by the Senate. The bill makes these changes providing that these seven positions will all be executive level IV positions—two of the seven are now level V positions—designated as Assistant Secretaries.

I want to emphasize that the bill also provides that no Treasury employee occupying a position under the executive schedule is to receive an increase in basic pay by virtue of being appointed to any of these positions until January 23, 1973.

Let me say at this point that I disagree completely with the statement made by the gentleman from Indiana (Mr. JACOBS) with respect to the competence and the ability of the Secretary of the Treasury, Mr. Connally. I want to say on this floor that I think he is doing an admirable job in a very difficult position, with very serious responsibilities. The outstanding performance of the Secretary is in spite of the differences in organizational structure this bill is designed to correct. He is able, and I will stand up here and defend him even though he is not necessarily of my political party.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. Certainly, since I have used the gentleman's name.

Mr. JACOBS. Mr. Speaker, I think the gentleman from Wisconsin stated it very accurately when he said the Secretary was not necessarily of the gentleman's party. But let me ask the gentleman, when was the last time that the gentleman went to the grocery store to buy things, and if he did, whether he thinks that the Secretary of the Treasury is doing an exceptionally good job?

Mr. BYRNES of Wisconsin. Let me suggest that I think the Secretary of the Treasury, Mr. Connally, and Mr. Kennedy who preceded him, have set a better example of trying to promote fiscal responsibility and prevent inflation than has been set by the majority party in this Congress. I think there is plenty of responsibility for all to bear.

Mr. JACOBS. Mr. Speaker, if the gentleman will yield further, let me say that this Congress, if I am correctly informed, has reduced the President's current budget by literally $5 billion, so that we are doing our part.

Mr. BYRNES of Wisconsin. This bill provides an important but limited change in the organizational structure of the Treasury that is in no way related to the irrelevant opinions expressed by the gentleman from Indiana. In my remaining remarks, I would like to address myself to the legislation before the House, and issues germane to the bill.

The SPEAKER. The time of the gentleman from Wisconsin has expired.

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield myself 1 additional minute.

This housekeeping legislation does not have any relationship to any other bills pending before the committee or before the Congress. We are simply dealing with an administrative problem that the Department faces. We want at least to make the housekeeping problems the Treasury Department faces in discharging its immense responsibilities as small as they can be.

The amendments were recommended by the Secretary of the Treasury and, anybody who has any knowledge of the administrative problems that the Treasury has to deal with is completely in support of this legislation.

Mr. Speaker, I yield to the gentleman from Arkansas (Mr. MILLS).

Mr. MILLS of Arkansas. Mr. Speaker, let me just say this about this whole operation.

I do not know of any department of government that has more onerous responsibilities right now than does the Treasury Department—not only in the managing of the debt but as to our dealing in international affairs and monetary affairs and all of these things together.

I do know that at this top level, of the policy level, the Secretary of the Treasury is undermanned. All of the other Departments of Government have what we are asking for the Treasury Department.

Mr. BYRNES of Wisconsin. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I would like to express my complete confidence in the present management of the Treasury Department.

I think any effort to pin higher grocery prices on Treasury is rather specious.

Personally, I would like to see the House support the requested organizational change. Secretary Connally is entitled to a modest realinement of this sort which he feels will improve operation of the Department. We should give him a vote of confidence in this way.

Mr. BYRNES of Wisconsin. Mr. Speaker, I have no further requests for time.

Mr. MILLS of Arkansas. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Arkansas (Mr. MILLS) that the House suspend the rules and pass the bill H.R. 13334, as amended.

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 271, nays 56, not voting 106, as follows:

[Roll No. 133]

YEAS—271

Abbitt
Abernethy
Abourezk
Adams
Addabbo
Alexander
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashley
Aspin
Aspinall
Badillo
Baker
Baring
Barrett
Begich
Belcher
Bergland
Blackburn
Boggs
Bolling
Bow
Brasco
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrnes, Wis.
Byron
Cabell
Carey, N.Y.
Carlson
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Clay
Collins, Ill.
Colmer
Conable
Conte
Cotter
Coughlin
Curlin
Daniel, Va.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Denholm
Donohue
Dorn
Downing
Drinan
Duncan
du Pont
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fisher
Flood
Flynt
Ford, Gerald R.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Fuqua
Garmatz
Gettys
Giaimo
Goldwater
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Grover
Gubser
Hagan
Haley
Halpern
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harrington
Harvey
Hathaway
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Karth
Keating
Keith
Kemp
Kluczynski
Koch
Kuykendall
Kyl
Kyros
Landrum
Leggett
Lennon
Lent
Lloyd
McClory
McCloskey
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKevitt
McKinney
McMillan
Mahon
Mallary
Mann
Martin
Mathias, Calif.
Mazzoli
Meeds
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mizell
Monagan
Montgomery
Moorhead
Morgan
Morse
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nix
O'Hara
O'Konski
O'Neill
Passman
Patten
Pelly
Perkins
Pettis
Peyser
Poff
Powell
Preyer, N.C.
Price, Ill.
Purcell
Quie
Quillen
Railsback
Rangel
Rees
Reid
Reuss
Riegle
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Ruppe
Ruth
Saylor
Schneebeli
Schwengel
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Spence
Springer
Staggers
Stanton, J. William
Steed
Steele
Steiger, Wis.
Stephens
Stratton
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Ullman
Vander Jagt
Vanik
Vigorito
Waggonner
Ware
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Young, Fla.
Zablocki
Zion
Zwach

NAYS—56

Abzug
Anderson, Calif.
Ashbrook
Bennett
Biaggi
Bray
Conyers
Crane
Dent
Derwinski
Devine
Dow
Gaydos
Goodling
Gross
Hall
Harsha
Hays
Hechler, W. Va.
Hicks, Wash.
Hutchinson
Ichord
Kastenmeier
King
Latta
Link
Long, Md.
Lujan
Mathis, Ga.
Mayne
Melcher
Michel
Mink
Mitchell
Nelsen
Obey
Pike
Price, Tex.
Pucinski
Randall
Rarick
Roncalio
Roybal
Runnels
Ryan
Sandman
Satterfield
Scherle
Scott
Skubitz
Snyder
Steiger, Ariz.
Waldie
Whitten
Wolff
Yates

NOT VOTING—106

Anderson, Tenn.
Bell
Betts
Bevill
Biester
Bingham
Blanton
Blatnik
Boland
Brademas
Byrne, Pa.
Caffery
Camp
Carney
Carter
Celler
Chisholm
Clark
Cleveland
Collier
Collins, Tex.
Corman
Culver
Daniels, N.J.
de la Garza
Dellenback
Dellums
Dennis
Dickinson
Diggs
Dingell
Dowdy
Dulski
Dwyer
Eckhardt
Edmondson
Edwards, Ala.
Edwards, La.
Esch
Eshleman
Fish
Flowers
Foley
Ford, William D.
Fountain
Fulton
Galifianakis
Gallagher
Gibbons
Gude
Hanna
Hansen, Wash.
Hastings
Hawkins
Hébert
Hillis
Hungate
Hunt
Jacobs
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Kee
Landgrebe
Long, La.
McKay
Macdonald, Mass.
Madden
Mailliard
Matsunaga
Metcalfe
Mikva
Miller, Calif.
Minshall
Mollohan
Moss
Nichols
Patman
Pepper
Pickle
Pirnie
Poage
Podell
Pryor, Ark.
Rhodes
Roberts
Rodino
St Germain
Sarbanes
Scheuer
Schmitz
Seiberling
Stanton, James V.
Stokes
Stubblefield
Terry
Udall
Van Deerlin
Veysey
Wampler
Whalen
Whalley
Wilson, Charles H.
Yatron
Young, Tex.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Rhodes.
Mr. Stubblefield with Mr. Dickinson.
Mr. Bevill with Mr. Esch.
Mr. Nichols with Mr. Dennis.
Mr. Daniels of New Jersey with Mr. Gude.
Mr. Mikva with Mr. Whalen.
Mr. Miller of California with Mr. Mailliard.
Mr. Moss with Mr. Dellenback.
Mr. Pickel with Mr. Collins of Texas.
Mr. Roberts with Mr. Ashbrook.
Mr. St Germain with Mr. Fish.
Mr. Fulton with Mr. Hillis.
Mr. Foley with Mr. Collier.
Mr. Dulski with Mr. Terry.
Mr. Dingell with Mrs. Dwyer.
Mr. Corman with Mr. Bell.
Mr. Clark with Mr. Whalley.
Mr. Carney with Mr. Dellums.
Mr. Brademas with Mr. Cleveland.
Mr. Anderson of Tennessee with Mr. Carter.
Mr. Jones of Alabama with Mr. Betts.
Mr. Macdonald of Massachusetts with Mr. Hastings.
Mr. Matsunaga with Mr. Diggs.
Mr. Rodino with Mr. Hunt.
Mr. Sarbanes with Mr. Metcalfe.
Mr. James V. Stanton with Mr. Minshall.
Mr. Van Deerlin with Mr. Pirnie.
Mr. Charles H. Wilson with Mr. Schmitz.
Mr. Yatron with Mr. Biester.
Mr. Blanton with Mr. Wampler.
Mr. Madden with Mr. Landgrebe.
Mr. Mollohan with Mr. Camp.
Mr. Flowers with Mr. Edwards of Alabama.
Mr. William D. Ford with Mr. Stokes.
Mr. Fountain with Mr. Veysey.
Mr. Gibbons with Mr. Hungate.
Mr. Hawkins with Mr. Bingham.
Mr. Hanna with Mr. Scheuer.
Mr. Jones of North Carolina with Mr. Udall.
Mr. Young of Texas with Mr. Long of Louisiana.
Mr. Caffery with Mr. Jacobs.
Mr. Byrne of Pennsylvania with Mr. Kee.
Mr. Celler with Mr. Kazen.
Mr. Patman with Mr. Seiberling.
Mr. Edmondson with Mr. Eckhardt.
Mr. Pepper with Mr. Podell.
Mr. Gallagher with Mr. Galifianakis.
Mr. McKay with Mrs. Chisholm.
Mr. Culver with Mr. de la Garza.
Mrs. Hansen of Washington with Mr. Jones of Tennessee.
Mr. Pryor of Arkansas with Mr. Eshleman.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ADDITION TO LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I take this time to announce an addition to the legislative program for Wednesday, when we will call up H.R. 14655, authorization for the Atomic Energy Commission to issue temporary operating licenses for nuclear power reactors. The bill will be considered under an open rule with 1 hour of debate.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, when did the gentleman say the bill will be called up?

Mr. BOGGS. It will be called up on Wednesday next.

Mr. GROSS. I thank the gentleman.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Speaker, as I understand, this is a bill that is really to follow on with the bill we considered and approved a week or so ago, and that this bill would give the AEC the permit authority to do what the EPA legislation authorized a week or so ago?

Mr. BOGGS. The gentleman is correct. I might add in connection with that that those in charge of this program say that it is very desperately needed legislation.

PERSONAL EXPLANATION

Mr. CHAPPELL. Mr. Speaker, I was absent when the bill S. 2713 was taken up today. Had I been present and voting I would have voted "yea."

THE GROWING AND SERIOUS ENERGY CRISIS

(Mr. BURLESON of Texas asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BURLESON of Texas. Mr. Speaker, in recent days, innumerable articles in the papers have discussed the growing and serious energy crisis confronting our Nation. There have been several important hearings before Senate and House Committees outlining the problem. Unfortunately, our Nation has been too slow in recognizing this situation. The cornerstone of the prosperity of our Nation is adequate energy resources that have been available to our people. Consequently, the problem of an adequate energy supply must be a matter of deepest concern to this Congress and the solution to our energy crisis must have high priority in the work of the Congress.

I am informed that several major pipeline suppliers of natural gas to the eastern part of the United States are currently unable to deliver their contractual obligations. They have proceedings pending before the Federal Power Commission for authorization of proposed methods of curtailing deliveries below contract obligations. I am informed that unless substantial new domestic reserves of gas are found and dedicated to the many pipelines that originate in the gulf coast area of our Nation, within a few years these pipelines will be operating at substantially below their present levels of delivery. This will mean widespread unemployment and possibly it could mean that many existing users of natural gas for domestic use will be curtailed in the amount of gas they can use to heat their homes and their water and to cook their food.

The Columbia Gas System, a large integrated natural gas system who supplies much of the gas that is consumed in the greater metropolitan area of Washington, Baltimore, and Richmond, has developed an "action program." I request permission that this action program be incorporated in my remarks.

I would urge my colleagues insofar as action is required by this Congress to consider and act promptly on certain key legislation. The Columbia Action Program specifies that the legislation in H.R. 2513 and S. 2467 is urgently needed. This legislation has been pending in this Congress since early last year. I would hope that it would be reported promptly out of the committees in the House and Senate so that it could be considered and acted upon in this session of Congress.

Heretofore, it has been very tempting for some Members of Congress and spokesmen for consumer-minded groups to criticize the Federal Power Commission for granting higher rates to producers. I have been assured by people in whose judgment I have great confidence that substantially higher prices must be paid for gas in the field in order to provide the necessary economic incentives for undertaking the vast domestic exploratory program that is necessary.

I am advised that in 1956, approximately 16,000 wells were drilled in this country. Since that time, there has been a steady decline in the number of wells drilled and in 1971 less than half of that amount of wells were drilled. Clearly, unless you drill for oil and gas, you will not find it, and you will not produce it. During the same period of time, the demand for gas was sharply rising.

The expansion of domestic exploration for and development of both oil and gas reserves must be a key objective of Congress effort during the next several months. In the meantime, Congress should be examining carefully those further steps such as adequate funding of the necessary research that will produce adequate reserves of energy in the future.

The oil and gas industry have put this Congress on notice of the crisis confronting our Nation. They have indicated some of the steps that must be taken, and taken now. We must recognize the urgency for action. Congress can do no less than act with deliberate haste on the various programs that have been suggested to us.

Mr. Speaker, the following is a proposal by the Columbia Gas System, Inc., which outline makes a lot of practical sense to me.

AN ACTION PROGRAM TO HELP CORRECT THE NATIONAL ENERGY CRISIS

Although this Action Program is directed to correcting the gas shortage, it will alleviate the total energy crisis by contributing, directly and indirectly, to adequate supplies of other energy—nuclear, coal, oil and electricity.

NATIONAL ENERGY CRISIS FACTS

1. The welfare of the nation and its citizens is directly dependent upon an adequate availability of energy fuels.

2. The nation is in the beginning stages of an energy crisis with increasing shortages of all forms of energy.

3. The situation is worsening day by day and unless the public recognizes the problem and urges government to cooperate with industry for early solution, it could go from crisis to disaster as early as the winter of 1973–74. Industries could be shut down because of lack of energy, resulting in great unemployment; homes and commercial establishments could be without sufficient energy for their daily needs.

4. The day of low cost energy is past. The prices of all forms of energy must increase sharply if the nation is to have the supplies it needs. Congress, the Administration and the public must be prepared for such higher energy costs and greater efforts must be exerted to conserve energy by stopping wasteful practices.

These facts are evident from an abundance of studies and official energy reports. They lead to the inescapable conclusion that early development of adequate supplies of energy must have the highest priority among our national goals.

Following first in summary and then in detail is an Action Program for achieving such priority as to gas, which presently provides almost one-third of the nation's energy needs and is already unable to meet current demands.

SUMMARY OF AN ACTION PROGRAM TO HELP CORRECT THE NATIONAL ENERGY CRISIS

I. Domestic exploration and development must be greatly expanded as soon as possible.

A. Higher producer rates must be approved.

B. Sale of U.S. leases for exploration must be expanded and accelerated.

C. Sanctity of contract legislation must be enacted.

II. Nonhistoric sources of gas must be made available promptly.

A. Oil and gas from Prudhoe Bay in Alaska must be brought to market without further delay.

B. Practical import policies for LNG and synthetic gas feedstocks must be established.

C. Coal gasification research and development must be accelerated.

D. A joint U.S.-Canadian Energy Board must be created.

III. The National Environmental Policy Act must be amended for clarification and more orderly administration.

IV. A Department of Natural Resources must be established.

V. The Administrative Process must be streamlined so as to provide more timely responses to issues.

EXPLANATION

I. Domestic Exploration and Development Must Be Greatly Expanded

For the last four years more gas has been used in the lower 48 states than has been found. This trend must be reversed as quickly as possible.

A. Producer rates

The Federal Power Commission should allow substantially higher rates than those presently in effect to insure an expanded exploratory program on the North American Continent. The Administration, as well as Congress, and the public must understand the inevitability of the increasing cost of exploration.

Under heavy pressure from consumer representatives, the FPC set the price for producers' natural gas at levels which have proved to be not only below its economic value but wholly inadequate to justify exploratory efforts. This underpricing perhaps more than any other single factor is the basic cause of the gas shortage today. It had a twofold result—it increased demand for gas and it discouraged exploration for gas to meet such demand. Thus, between 1956 and 1971, the number of exploratory wells drilled declined over 50% leading directly to an inadequate development of new reserves.

New reserves will also be costly since the less costly reserves have already been developed. The cost of offshore wells and deeper wells is of a different magnitude (in 1969—average onshore well—$68,726; average offshore well—$559,309; average cost of Alaskan well—$2,087,000!). The capital requirements of the petroleum industry (oil and gas) in the 1971–1985 period for exploration, development and production needed to meet U.S. demands is over $100 billion.

We urge immediately substantially higher producer rates. In recognition of the severe gas supply shortage, the Federal Power Commission has proposed in its Rule-making at Docket R–441 a procedure whereby prices higher than existing area rates can be paid for gas. This is a major procedural step toward achieving the objective of higher producer rates.

We urge that in an orderly but relatively prompt manner the Federal Power Commission phase out the concept of "vintaging" of gas, i.e., different prices for old gas and new gas.

Until such time as vintaging of gas prices has been phased out and higher field prices can be realized, we urge FPC to permit pipelines to continue to assist in financing "development" of gas reserves.

B. LEASE SALES

The amount of federal land made available for exploratory efforts must be substantially increased, both in the Gulf of Mexico and on the continental shelf off the Atlantic Coast. Federal lease sales must be held more frequently with greater areas of land involved.

Lease sales in the Gulf of Mexico must involve a minimum of 450,000 acres annually through the balance of the decade if there is to be any hope of even holding production of gas from that area at its present level. As older fields in the Gulf decline in production, new fields must be developed to replace their production. Expanding delivery of gas from offshore waters will require a program of leasing in the Atlantic and the first steps must be taken in the near future to provide necessary lead time for exploration and development.

It is urged that the Department of Interior relax its efforts to maximize bonuses received for leases and implement the President's pledge to make more public land available for exploration. Currently there is a contradiction of federal policy—keep prices of gas low, but obtain high prices for leases.

C. Sanctity of Contract Legislation

Congress should pass the bills now before it which will: first, assure producers that approved contract prices and other economic terms of contracts will not subsequently be changed by Federal Power Commission order; and, second, set more realistic standards for determining gas prices. These measures (H.R. 2513 and S. 2467), known as the Sanctity of Contract bills, can contribute significantly in providing the economic incentive that producers must have to undertake costly drilling programs.

This comprehensive legislation is responsive to the great need to assure producers of their contract prices, the lack of which assurance is a substantial deterrent to producers; this lack is compounded by the fact that under present conditions a producer whose rate has been retroactively reduced has no choice but to continue the sales he committed to make at a higher rate. This legislation has widespread industry support; it has widespread Congressional support; it has strong support from the Administration. Its prompt enactment would remove significant barriers in fixing realistic amounts of natural gas to the interstate pipelines. It is an essential part of a total program for increasing incentives for exploration and production of gas. This legislation is needed to attract desperately needed amounts of natural gas to the interstate market. Without it there will be increasing inequities in the distribution of available gas and inefficiencies in its use by encouraging intrastate, as distinguished from interstate sales.

II. Nonhistoric sources of gas must be made available promptly.

Historic domestic sources of gas cannot fully satisfy the nation's growing requirements, therefore, the prompt development of nonhistoric sources of gas is essential.

A. Oil and Gas from Alaska

Construction of the trans-Alaskan oil line must be permitted to move forward at the earliest possible date. Not only is the high quality oil from the North Slope of Alaska needed to supplement present domestic supplies, but the gas associated with this oil must be added to the nation's supply total by the latter half of this decade. The gas from Alaska cannot be produced until oil production begins, so that the line needed to bring out the oil must be built. Only after this work begins can the project of constructing a gas pipeline from the area get under way. Both projects will be extremely costly and require some four to five years to complete. The environmental benefits of the clean energy to come from development of Northern Alaska oil and gas will far offset any possible minimal adverse impact on the vast Alaskan wilderness.

The gas industry will also need assistance and cooperation from the national administration and Federal Power Commission to make possible the delivery of gas by pipeline from Alaska through Canada to the lower 48 states.

B. Import Policies for LNG and Synthetic Gas Feedstocks

Practical import policies for liquefied natural gas (LNG) and feedstocks for synthetic pipeline quality gas should be promulgated as soon as possible. There are problems of national security and balance of payments, which can and must be reconciled with the fact that synthetic pipeline quality gas and LNG are the quickest means of expanding the nation's gas supply.

C. Coal Gasification Research and Development

Research and development of the gasification of coal must be pursued vigorously in the years immediately ahead. Coal gasification offers one of the most promising sources of gas in the 1980's and thereafter. Thus, adequate funds should be appropriated each year for coal gasification research. The existing joint industry-government program for accelerating the construction of pilot plants for gasification of coal should be funded promptly. The industry portion of $10 million for the first year of the program has already been committed; the government portion of $25 million for the next fiscal year is still pending before Congress.

This appropriation should be approved promptly and measures taken to assure continuation of the funding in the future.

D. Joint U.S.-Canadian Energy Board

The National Administration should seek to create as soon as possible a joint U.S.-Canadian Energy Board to help coordinate programs which would make Alaskan and Canadian natural gas available to the United States market. The joint Board should be a clearinghouse for expediting all matters necessary for the development and delivery of such gas.

III. Clarification of the National Environmental Policy Act

The National Environmental Policy Act (NEPA), passed in 1970, had as its objective the improvement of the environment and quality of life. *This objective must be achieved.* However, because of the vague standards set forth in NEPA and because of unwieldly procedures often used by administrative agencies to implement the Act, the initial actions under NEPA have paradoxically obstructed efforts to supply the American people with clean burning natural gas. The result is not only a serious imbalance between the ecological and energy needs of the nation, but, in the ultimate analysis, an imbalance between different environmental considerations. Congress should promptly review the Act, including current administrative and judicial interpretations thereof, and amend the Act to clarify certain of its provisions and administrative procedures.

Recent Court decisions and dissents to those court decisions point up the need for Congressional review so that environmental considerations will be placed in their proper perspective in terms of the nation's overall goals. Indicated procedural requirements have already delayed many needed energy projects, and unless modified, they could delay many more for indeterminate periods.

As NEPA is interpreted and administered, any private citizen can in effect stall in the courts virtually any energy project, without regard to the directness of his interest in the project, the need of vast numbers of others for it, or the added costs inherent in such delay. The Alyeska Pipeline, needed to bring oil and gas from North Alaska to the lower 48 states, and the Southern Louisiana Offshore lease sales, particularly needed to maintain existing gas service to the northeastern states, are tragic examples of how the nation's severe energy shortage is hostage to procedural exploitation of NEPA by environmental activisits of limited perspectives.

IV. A Department of Natural Resources

The President's Departmental Reorganization Program, contained in his Message to Congress dated March 29, 1971 and embodied in S. 1431, should be enacted; amended, however, in accordance with S. 1025, to include the Environmental Protection Agency in the Department of Natural Resources.

The objective of organizing federal efforts more effectively is essential to needs of the 1970's. The cause of much malfunction of government machinery is the fragmented structure for solving the complex problems confronting the nation. This is particularly true with respect to energy problems.

There are over 60 federal agencies sharing responsibility for gas and oil matters. The result is a lack of overall energy direction; e.g., (a) contrary to the overriding need for providing incentives for exploration, the Interior Department's federal lands leasing policies are designed to maximize the bonuses paid to the government with the dual adverse effect of increasing the cost of gas to producers and so to consumers, and of draining away from producers capital they could better use in exploration and development, (b) the contrast between enormous research funds appropriated for civilian atomic energy and the relatively trifling funds for coal gasification and other mineral research, (c) the absence of well-defined policy as to importing supplemental gas, such as LNG and feedstock for synthetic gas, and (d) the lack of any priority for energy needs in fixing national goals.

A single Department of Natural Resources would enhance the possibility of broadening the scope and accelerating the industry-government research effort beyond the present coal gasification efforts.

The proposed amendment placing environmental administration in the new Department is essential so that all environmental factors can be recognized and evaluated as part of a natural resource program. Inclusion of this function in the new Department will permit such evaluation in a more orderly fashion and in a manner consistent with national goals.

Current studies looking toward sound energy programs for our nation are now under way in both Houses of Congress. It is essential that such studies promptly concentrate on necessary governmental actions, such as those proposed in this document, to alleviate the growing energy crisis. A single Department of Natural Resources could more efficiently and effectively implement the Action Programs developed from such studies.

V. Timely response in the administrative process

The Administrative Process has not and is not responding quickly enough. For example:

The Permian Basin Proceeding, instituted in 1961, was not completed for nearly seven years. A second layer of proceedings is now in process.

The Southern Louisiana Area Rate Proceeding, also instituted in 1961, was decided in early 1969, but at that time it was clear that the prices arrived at were inadequate and the Commission initiated AR69–1 to determine a new price. It took over two years for the Commission to fix a new price. This price is already wholly inadequate.

Efforts to correct the gas supply situation are being thwarted by delay. No one would deny the right of due process, but neither should anyone be permitted to exploit the adversary process for tactical reasons unrelated to the merits, which is now possible in view of the virtually unlimited rights of intervention, hearings, and judicial review. Congress, the National Administration, Administration agencies, and the Court must help establish procedures for quickly considering, reconciling or resolving the conflicting interests of all parties in the energy scene. Administrative procedures must be streamlined so as to provide fair consideration of all points of view without thwarting completely the timing of programs and projects directed to correcting the gas supply situation.

In line with this suggestion, Congress should resist introducing further conflict and delay such as are inevitably involved in the enactment of various provisions of the Consumers Protection Act.

THE OVERALL ENERGY SITUATION

While the shortage is becoming dramatically clear as to natural gas, it is by no means limited to natural gas.

a. Natural gas which in 1971 provided 33% of the nation's energy requirements is not available in sufficient volume to meet today's demands, and its reserves are increasingly deficient to meet new demands. FPC Staff Report No. 2 shows a natural gas shortage of 0.9 trillion cubic feet in 1971, projected to 9 trillion in 1980 and to 17 trillion in 1990.

b. Oil which in 1971 supplied 44% of the nation's energy needs is also in short supply. The nation is increasingly dependent on foreign oil imports, with all its related uncertainties.

c. Coal in 1971 supplied 18% of our energy needs. While the nation has substantial reserves, environmental requirements limit their utilization. Substantial research and development programs are needed to develop new technology to make these vast reserves available, e.g., coal gasification and programs to remove pollutants so coal can be used directly. Such projects are long-term, so coal cannot be counted on as an immediate or short-term alternative to other energy fuels.

d. Hydropower provided about 4% of energy needs in 1971 and is being counted on to continue to supply an even smaller portion of total energy needs in the future.

e. Nuclear energy, which in 1971 provided less than 1% of our energy needs, is being counted on to provide a substantial portion of the nation's future energy needs, but not significantly so before around 1985; in the meantime it is already far behind schedule and more costly than expected because of environmental delays.

It is thus clear that energy in any of its forms is in short supply. Unless we face up to the problem immediately, the more than 41 million present customers of natural gas (roughly equivalent to 150 million users), and many prospective new consumers, including householders and employees of businesses that depend upon gas, will find their service and jobs increasingly endangered. As the same situation applies or soon will apply to all energy fuels, the nation's economy, in fact the whole level of our civilization, will suffer, unless affirmative action is promptly and incisively taken. The American people can no longer take for granted, and they must recognize they can no longer take for granted, an adequate supply of energy.

PARIS PEACE TALKS

(Mr. O'HARA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'HARA. Mr. Speaker, like most Americans, I applaud President Nixon's decision to resume the Paris peace talks—negotiations which this administration had broken off prior to the massive North Vietnamese invasion of the South. I am pleased that the President has receded from his earlier insistence that we would participate in no further talks until the present offensive was ended.

I likewise applaud the President's continued troop pullout, even though the withdrawal of our land-based forces has been accomplished by a buildup of U.S. naval personnel in the waters off Vietnam.

But I am dismayed that the President, in bellicose fashion, insists that "we will not be defeated," and that the North Vietnamese "cannot be allowed to win" a battlefield victory—for this is the kind of thinking that led us deeper and deeper into the quagmire of war in Indochina.

Without regard to what justifications there may have been for our initial presence in South Vietnam, the United States has long since discharged whatever obligation we may have had to the people and the government of that tragedy-riddled nation. We have already invested more than we have a right to invest: We have expended the lives of 50,000 young Americans; we have spilled the blood, mutilated the flesh, and shattered the bones of a hundred thousand other Americans; and we have poured untold treasure down the rathole of that war.

President Nixon said: "Let us end the war in Vietnam." I know the American people share this sentiment. But the President has talked of ending the war before, yet it still drags on.

The time has come to substitute deeds for words. Let us call a halt to this senseless war and set a date for the ending of all U.S. involvement in and over Indochina, subject only to the release of our men held prisoners of war and a strict accounting of the men listed as missing in action.

I intend to work vigorously for legislation to accomplish this goal. I will not be deterred by the President's rhetoric which denies the constitutional role of the Congress in waging war and seeking peace, and which seeks to impugn the patriotism of those of us who are alarmed by his continued show of bravado at this late date.

ONE NEED NOT BE JEWISH TO LOVE FREEDOM BUT—

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, yesterday, Sunday, April 30, more than 100,000 Americans marched down Fifth Avenue in New York City in support of Solidarity Day for Soviet Jews—to give a visible support to the Soviet Jews now suffering cultural genocide in the U.S.S.R. Through the ages when freedom has been extinguished in any land the first victims of oppression have been the Jews. Unfortunately there are very few countries which at some stage in their history have not persecuted its Jewish citizens. At the present time the largest Jewish minority suffering from state persecution live in the Soviet Union. The cry of that oppressed people is "Let those of us who wish to live in Israel leave and to treat equally with every other nationality living within the U.S.S.R.'s borders those of us who remain."

At the demonstrations held yesterday in Dag Hammerskjold Plaza I met two more Soviet Jews whose lives had touched mine. One was Serafinma Kaminskaya, wife of Lassal Kaminsky, now a prisoner in a Soviet prison camp and Boris Kochubiyevsky, one of the first Soviet Jews to speak out against the U.S.S.R.'s oppression of its Jewish minority and to ask leave to emigrate to Israel. The Soviet Government's response to his protest and request was to send him to prison.

I first met Serafinma Kaminskaya in Leningrad in April, 1971 when I went to the U.S.S.R. for the express purpose of talking with the families of Soviet Jews then in prison and awaiting trial. Never did I expect to see Serafinma Kaminskaya again. Her last words to me as I left her Leningrad home were unforgettable—"do not forget us". Her plight and that of the family of Lev Yagman, with whom I also met, represent for me the plight and danger in which so many Soviet Jewish families find themselves.

I first became aware of Boris Kochubiyevsky when I carried a sign about 2 years ago in front of the Soviet Mission in New York City demonstrating against the Soviet government's arrest and imprisonment of that young man. The sign I carried bore his name and the similarity of our names made the demonstration for me, even more meaningful.

These two courageous people spoke at yesterday's rally calling those who believe in freedom for all people—Jews and non-Jews alike—to speak out against the Soviet Union's refusal to allow all who wish to leave the U.S.S.R. to do so and against the Soviet Union's special restrictions imposed on those Jews who wish to practice their religion.

Yes, Mr. Speaker, one need not be Jewish to love freedom but when you have suffered more than others from discrimination on the part of governments, through the millennia, one does learn to love it more than others who accept it as common place.

THE VOICE OF AMERICA

(Mr. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, the House will soon be considering the appropriation bills for fiscal year 1973. Among them will be the appropriations bill for the Departments of State and Justice which includes, among other things, funds for the U.S. Information Agency.

In this regard, I must say that I share the concern of many of my colleagues with respect to the recommendations coming to us from the other body for the funding of the USIA and, more particularly, the Voice of America. The other body is recommending that appropriations for USIA be cut by 23 percent and that the level of funding for the Voice of America be reduced by about 30 percent.

The USIA assists our Government in carrying out its role as the chief spokesman for the Western World. The USIA and the Voice of America, by and large, I believe are doing a good job of telling the story of events and life in our country.

When compared with the programs of other nations, it becomes apparent that the USIA and the Voice of America are relatively modest programs. At its present level of 780 broadcast hours weekly, the Voice of America trails badly behind the Soviet Union, the People's Republic of China, and even Egypt.

The Soviet Union today speaks to the world in 84 languages for 1,900 hours a week. The United States, by comparison, speaks in 35 languages for 1,400 hours a week. If the recommendations of the other body become final, the United States will speak to the world 454 hours in only 11 languages. This would be about one-third the weekly programing of Radio Cairo, to say nothing of Moscow and Peking. The USIA itself would be forced to close its doors in 30 countries around the world.

Since 1968, the level of funding for the USIA has been declining, and the operating budget request for fiscal year 1973 of $200 million on a constant dollar basis is 14 percent below the 1968 total.

For these reasons, I believe it would be a mistake if the recommendations of the the other body prevail.

The need for the USIA is not diminishing. Other nations are increasing their international broadcasting. The need to present a balanced view of life in America is greater now than ever before. If anything, the need to tell America's story is greater than ever before. For the Congress to adopt the course recommended by the other body, I believe, would be a shortsighted policy indeed.

An excellent article in the New York Times of April 30, 1972 bears reading by all of us:

[From the New York Times, April 30, 1972]

USIA: WILL THE VOICE BECOME A WHISPER?

(By Ted Szulc)

WASHINGTON.—A normal week has 168 hours. But the radio broadcasting week has, cumulatively, about 20,000 hours, having nearly doubled in volume in the last 10 years as big, medium and small powers filled the airwaves around the clock in a babel of uncounted foreign tongues to harangue, threaten, condemn, cajole, praise, educate, amuse and inform in an unending carousel of international electronic propaganda.

The United States, in its role as the West's chief spokesman, has been the second loudest voice in this contest for the attentions of hundreds of millions of people, though it has ranked far behind the Soviet Union. The Russians speak to the world in 84 languages for 1,900 hours a week, the Americans in 35 languages for some 1,400 hours.

The American voice in the airwaves may, however, be sharply lowered in the next few months unless the United States Senate changes its present view that this Nation's propaganda efforts must be drastically curtailed.

The three official United States broadcasting organizations—the Voice of America, Radio Free Europe and Radio Liberty—may be crippled in varying degrees by June 30, the end of the current fiscal year, if Congress does not authorize new funds for them. Separate legislation and different problems are involved in each case, but the common denominator is the growing sentiment in the Senate that policies of détente toward the Communist powers are turning propaganda programs into "cold war relics," as Senator J. William Fulbright put it—and that propaganda costs too much anyway.

The Voice in its world-wide English and foreign-language programs concentrates on newscasts, news commentaries and analyses of United States and international events as well as on special programing such as live reports on the moon flights and the well-known jazz sessions.

Radio Free Europe, broadcasting in five Eastern-European languages, and Radio Liberty, in 18 of the languages spoken in the Soviet Union, are tailored specifically to discuss internal events in the listeners' countries, often providing detailed information on situations that the local controlled media do not provide. They are, for example an important element in keeping listeners in the area apprised of developments concerning intellectual dissent there.

For years the fiction has been maintained in Washington that Radio Free Europe and Radio Liberty were private institutions supported by public contributions. In fact they were financed by the Central Intelligence Agency. To end the fiction—and to keep the broadcasts going—the Nixon Administration has asked Congress for a specific $40-million appropriation for the stations. If this request is denied, the two outlets will presumably vanish.

As for the Voice of America, its parent organization, the United States Information Agency, warned last week that unless a 30 per cent cut in the agency's radio budget ordered by Senator Fulbright's Foreign Relations committee is restored, the worldwide American broadcasting program will be slashed to 454 hours weekly in 11 languages. That is about one-third of the output of Radio Cairo, to say nothing of Moscow and Peking.

Under the Senate committee's recommendations, the over-all U.S.I.A. budget would be cut by about 25 per cent—from $200-million to $154-million. The cuts would mean the firing of 2,360 of 9,877 agency employes here and abroad and the closing of information operations in 30 foreign countries. All the agency's propaganda functions would be affected but the Voice of America, stated to receive $36-million instead of the $52-million it asked, would be the hardest hit. The more so since the U.S.I.A. is not permitted to shift funds within its budget to help the Voice.

Mr. Fulbright's annoyance with United States propaganda programs—but especially the broadcasting—seems to stem from what he sees as the contradiction between President Nixon's trips to Peking and Moscow and the Administration's requests for money to denounce Communism and its works. Senator Fulbright and a number of his colleagues also tangled with top U.S.I.A. officials on several specific operational topics and finally ordered the budget cut when President Nixon invoked "executive privilege" to deny the committee access to the agency's operational projections on a country-by-country basis.

The Administration must now carry the fight to the floor of the Senate and then the House of Representatives where those favoring the status quo are likely to ask these questions: Should the United States embark on unilateral "propaganda disarmament" when the other powers are increasing their efforts? Would the world's political balance really be served by a half-silence on the part of the United States when millions of transistor radios are tuned to foreign broadcasts? Would even relative impartiality be aided by shrinking the Voice of America news reports and having the British Broadcasting Corporation almost alone as a Western spokesman?

On the other hand, critics of the U.S.I.A.'s operations under the Nixon Administration were especially annoyed by the expenditure of public funds to produce for foreign showing controversial cinema and television films on topics like the Vietnam war and the "Silent Majority," by the apparent waste in the commissioning by the U.S.I.A. of virtually secret public opinion surveys in foreign countries; and by the frequently sanctimonious tone of the agency's output, possibly suggesting to the listener overseas that the opinions of the White House are the opinions of all Americans.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman from Louisiana yield?

Mr. BOGGS. I am happy to yield to the minority leader.

Mr. GERALD R. FORD. I compliment the distinguished majority leader for bringing this matter to the attention of the House. I congratulate him on what obviously is going to be a strong position he has taken. I fully support it and totally endorse it.

Mr. BOGGS. I thank the gentleman. So far as I know the USIA has always been a bipartisan operation.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I am happy to yield to the gentleman from Wyoming.

Mr. RONCALIO. I thank my esteemed majority leader for yielding. I hope we will not concur in the Senate USIA cut. I should like to direct the attention of Members to my remarks just inserted in the RECORD regarding the tremendous record of the USIA. I believe the program has served a great purpose over the years, and we need it now more than ever. I hope the Members will read my statement in the CONGRESSIONAL RECORD above.

Mr. BOGGS. I thank the gentleman.

PERSONAL EXPLANATION

Mr. BOLAND. Mr. Speaker, I was not recorded on the rollcall vote No. 133 having been detained on account of official business with a Massachusetts delegation.

Mr. Speaker, if I had been here, I would have voted "yea."

PERSONAL EXPLANATION

Mr. HAGAN. Mr. Speaker, on rollcall No. 130 I was unavoidably detained because of attending to some important business with my constituents. Had I been here, I would have voted "yea."

TRIBUTE TO THE LATE ARTHUR E. SUMMERFIELD—A FORMER POSTMASTER GENERAL OF THE UNITED STATES

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, it is with great sadness and regret that I note the death of the former Postmaster General of the United States, Mr. Arthur E. Summerfield.

A dedicated public servant, a highly successful businessman, and a tireless worker on behalf of the Republican Party, Arthur Summerfield was also known to many of us on Capitol Hill as simply a good friend who was never too busy to extend a helping hand where needed.

He served as Postmaster General during the 8 years of the administration of President Dwight D. Eisenhower, and worked at modernizing and improving postal services. He changed the Nation's drab green mailboxes to the now familiar red, white, and blue—introduced the ballpoint pen in place of the not infrequently empty or leaky pens once prevalent in post offices—and revived the custom of issuing memorial stamps bearing the likenesses of former Government officials.

He fought a successful battle against mail-order pornography and obscenity, and through his continued efforts hundreds of would-be purveyors of filth were arrested and put out of business.

Arthur Summerfield entered politics in 1940, working for the Wendell Willkie campaign of that year. He was named chairman of the Republican National Strategy Committee in 1949, and in 1952 he helped nominate Dwight D. Eisenhower for President of the United States.

It was characteristic of Arthur Summerfield that, although he left school at age 13 to take an office boy's job, he had the motivation and drive necessary to become the head of one of the largest automobile dealerships in the country—Summerfield Chevrolet, which he founded in 1929.

Dedication is a quality associated with those gifted individuals who point their lives in one direction—and who strive to remain true to their beliefs and values, never swerving from their sense of direction and purpose.

Mr. Speaker, Arthur E. Summerfield was such a man, and the direction he followed led him to a full lifetime of service to his community, his State, and to our great Nation.

LAW DAY

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, this being Law Day I think it would be worthwhile to reflect on the writings of Frederic Bastiat, a French parliamentarian, who in 1850 wrote a treatise on the role of government entitled "The Law." Mr. Bastiat wrote in the France of the Second Republic, when the nation was experiencing the continuing turmoil of the Revolution of 1848—a nation in which the rule of the mob had replaced the rule of law.

In defining the role of law Bastiat writes:

> The law is the organization of the natural right of lawful defense. It is the substitution of a common force for individual forces. And this common force is to do only what the individual forces have a natural and lawful right to do: to protect persons, liberties, and properties; to maintain the right of each, and to cause justice to reign over us all.

We, as lawmakers, would be well advised to remember this definition. This is the spirit of the law embodied in the Constitution. It was the general acceptance of the idea that the only function of the law is to protect the freedom of the individual that has accounted for America's greatness. It is this definition which we must vigorously defend if we as citizens are to remain able to think, act, worship, and trade as we desire. We must see to it that the law protects the freedom of the individual and is not used as an instrument of moral, economic, social, or political coercion.

Law, as Bastiat points out, is a defensive concept. Its purpose is to defend the rights and property of the individual. When a law is enacted that is designed to alter the beliefs of a man or deny him the right to act as he desires, it is not a defensive law. Laws such as this attempt to coerce the individual and thus are inherently inimical to his right to freedom. The law can be the instrument of oppression—but law should be the defender of freedom.

I think on Law Day we should remember that we owe our liberty to a legal system that is designed to prevent coercion of the individual by either government or other individuals. For Law Day I think it appropriate to remember Frederic Bastiat's comments on the relation between liberty and law:

> In short, is not liberty the freedom of every person to make full use of his faculties, so long as he does not harm other persons while doing so? Is not liberty the destruction of all despotism—including, of course, legal despotism? Finally, is not liberty the restricting of the law only to its rational sphere of organizing the right of the individual to lawful self-defense; of punishing injustice?

MOUNTAIN BROOK HIGH SCHOOL SUPPORTS THE PRESIDENT

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. BUCHANAN) is recognized for 5 minutes.

Mr. BUCHANAN. Mr. Speaker, the war in Vietnam is tragic. The wanton aggression of the North Vietnamese in their invasion of South Vietnam is a drive to perpetuate the war and to force down the throats of the South Vietnamese a government they do not want.

President Nixon has responded to this wanton aggression of North Vietnam with bombing attacks on major military installations and supply routes.

The reasons for this response are many. First, it is necessary to protect the lives of the remaining American forces there. Second, the people of the Republic of Vietnam have a right to self-determination. Third, the memories of the massacres at Hue when North Vietnam seized that city in 1968 dictate that we attempt to prevent another tragedy of this type.

Prior to this invasion, President Nixon's Vietnamization program was making headway toward disengaging the United States militarily from Vietnam while leaving that country in better position to defend itself and to determine its own future.

These efforts were making headway toward peace in South Vietnam.

The invasion by North Vietnam imperiled all of these goals—troop withdrawal, self-determination, and peace. There have been some in this country who have decried the bombing without recognizing the actions which prompted it, specifically the massive attack by virtually the entire North Vietnamese Army into South Vietnam.

In my judgment, the majority of the American people, however, do realize the necessity for the bombing and the President's reasoning in taking such a step at this time. Included in this group are 500 young people and faculty of Mountain Brook High School in Birmingham, Ala.

A resolution recently passed by this group in support of the President's efforts in South Vietnam toward peace and self-determination is contained in the following telegram which I include in the RECORD for the edification of the House:

BIRMINGHAM, ALA.,
April 25, 1972.

Congressman JOHN BUCHANAN,
Washington, D.C.:

Be it resolved that the following students and faculty of Mtn. Brook High School congratulate President Nixon on his willingness to stand behind his commitment to the people of South Viet Nam and the American troops as they withdraw and protect this action through the use of force. The North Vietnamese have shown they are not willing to talk peace by their aggression in the country of South Viet Nam. We believe, as do most Americans, that we need a generation of peace. Until our enemy realizes that we are going to stand behind the commitments we have made, we should continue measures to gain a lasting peace.

Marian McClure, Michael Koslin, Cynthia Stein, Susan Mazer, Peck Horton, Leigh Stephenson, Pat Hays, Paul White, Becky Rice, Lisa Schiffman, Carter Morris, Lane Friedman, Virginia Ladd, Fred Crawford, Marshall Hyatt, Louise Tate, Dot Kitchings, Linda Baldwin, Robin Lewis, Lynn Turnbrell, Susan Little, Paul Greevy, Glenn Estess.

Richard Dewberry, Liz McDavid, David Freedman, Robbie Anderson, Francis Devore, Frank Russell, Ellen Mears, Phil Roberts, Trey Smith, Dave Lanford, Marlene Fern, Hal Roberts, Steve Kailman, Becky McCary, Debbie Johnson, Beth Gundersen, David Hawkins, Sessions Dickson, Owen Gray, Tip Mitchell, Chris McGahee, Tim Kilec, Robert Andrews.

Joe Gravlee, Bob Thim, Jim Abernathy, Robin Byrne, Terry Izen, Lee Bartlett, Marty Wilson, Deryl Moss, Debbie Roberts, Dan Elliott, Langdon Nelson, Mike Collinsworth, David Dixon, Janne Quinn, J. Howell, Murray Liehter, Elizabeth Morrow, Jeanne Attkisson, Susan Weaver, Rosa Harvill, Bobby Humphreys, Michele Raffel.

Barbara Hale, Mary Garron, Billy Eastwood, Will Harrison, Francie Seibels, Ken Stone, Greg Womack, Andy Black, Frank Mapes, James Dick, Patricia Brown, Daniel Word, Bill Peerson, Jackie McSwain, Anne Terry, Laurie Lynch, Jim Cooper, Ann Mason, Claire Williams, Jay Cohen, Beverly Reecks, Liz Beattie.

Jane Blackwell, Alma Jones, Jane Gray, Dan Elliott, Sally McCormack, Barry Pearson, Mason Dillard, Chip Braswell, Hank Poellnitz, Bedford Smith, Dan Carmichael, Virginia Cox, Betsy Hicks, Sam Baker, Phil Mulkey, David Hall, Laura Holt, Ben Davis, Mike Yeilding, Amy Weil, Dian Cook, Lee Davis, John Buchanan.

Laurie Barker, Lee Ofeman, Bob Abele, Stuart Coleman, Barbara Finch, Bob Hendrix, Malcolm Crittenden, Gordon Mowery, Mark Hilly, Robert Morast, Millanie Marcus, Ida Altelan, Randy Beech, Mike Evans, Dian Gillespy, Janet Striplin, Kathy Akin, Leigh Turner, Eve Jackson, Marcia Blacks, Don Horne.

Bert Owens, Ben Davis, Don Tineannon, Fred L. Roberts, Paul Pinkerton, Mike Alyson, Bill Fineberg, Ruth Bastor, Cathy Vaughan, Renee Roisse, Stephen Crawford, Bill Strange, Jr., Wood Wilson, Jr., Lisa Stern, Susan Smith, Leslie Luck, Randy Padawer, Andy Gant.

Mims Maynard, Lynne Anderton, Steve Hardwick, Mark Jaffe, Sheldon Sokol, Tootie Wood, Peyton Sherrord, Gail Gunter, Miles Hazzard, Monroe Jones, Judy Mills, Helen Ratcliff, Wayne Nelson, Tommy Tucker, Lee Brantley, Barbara McTerrin.

Lisa Large, Dwight DuBois, Fletcher Hukkios, Sandy King, Jay Johnson, Lynn Head, Bet Pless, Rob Saunders, Franklin Spear, Cindy Sherrell, Jim Schmaskey, Kathy Reiser, Betsy Denton, Ed Moore, Steve Layarus, Wade Geisking, Keith Lovell, John Yeilding, Cassie Crow, Doug Foust, Byron Howells.

Chip Whitehead, Fred Moore, John Schienurt, Wes Hamilton, Chris Dennis, Stuart Mosh, Graham Tayloe, Tommy Burns, Pat O'Sullivan, Conrad Rayfield, Kimberly Goeff, Gary Glasgow, Jay Weatherly, Lee Clark, Judy Cockrell, Betty Eich, Margie Stewart, Sandy Friedman, Susan Tilson, Dian Cook, Amy Thomas.

Jim Chenowett, Julie Thomas, Georgia Mapes, Dara Adams, Jim Wesson, Marias Eysaud, Robin Waltall, Emily Slappey, Ray Watkins, Andy Rochester, Brooks Yeilding, Dan Blount, Bill Forsyth, Kim Ratliff, Marcia Brewer, Lisa Stern, Dale Rice, Debbie Belton, Marcia Cotton, Goode Price, Judy Kimberling.

Linda Hutchins, Ginger Spencer, Ray Watkins, David Howard, Clyde Jones, Bary Eagleson, Allen Boggs, Bill Fincannon, Charlie Willson, Elaine Dollar, Helen Hacker, Michelle Poppletan, John Cox, Dorothy Alford, Peggy McDaniel, Susan Hennigan, Jan Hindhoret, Cathy Palmer, Jeanie Alexander, Denise Findlay, Jackie Curtis.

Stephanie Zinder, Ken Bruno, Susan Reed, Ann Lennion, Deborah Traylor, Cherryl Mullins, Teresa Hart, Liza Orrell, Linda Jefferson, Rhonda Kerlin, Lauren Walker, Gary Musick, Barbara Schreter, Grag Coe, Patty Scott, Mike Yielding, Lawrence Burnetts, David Schley, Owen Scott, Alan Barton.

Dan Bryan, Stevens Oberm, Charlie Lurie, Beverly Penfield, George Moss, Kelly Straken, Patti Jones, Becky Green, Mike Price, Douglas Cook, Jonne Hoverton, Max Roseman, Ken Seals, Winston Gilmore, Kathy Button, Susan Houpt, Julian Davis, Bobby Davis, Girann Barnes, Louise Price.

Margaret Dick, Ronnie Rict, Jim Gray, Hewart Young, Nancy Johnson, Billy Wood, Sally Grace, Graham Taylor, Cobbdwyan Hagan, George Matthews, Susan Hartsfield, Jean Hill, Hollis Davis, Buffer Drennen, Frank Fowlkes, Tony Luckie, Louis Montgomery, Jack Benners, Tynes Stringfellow, George Kontos, Jimbo Head.

Rob Conolly, Kay Conaway, Jane Rast, Sue Koehn, Emor Lawrence, Dave Camp, Emeel Safern, Carolinda Lanford, Dan Whitaker, Augusta Slaem, Genie Ray, Leesa Lewis, Jon McDonald, Ken Kingerly, Jeff Clayton, Richard Schnan, Mac Edwards, Mark Miller, Mike Randle, Lisa Paden, Melynda McNeil.

Mike Thompson, Ray Collins, Porter Hall, Billy Pritchard, Cy Beasley, Mike Webb, Susie Welden, Laney Norred, Holland Cox, Harold Bowron, Vivian Lokey, Gin Jordan, Brooks Henerson, Lou Ann Davis, Tom Mardway, Peggy Trafton, Ken Pack, Keith Morgan, Barbara Baneradt, Paul Mitts, Lillie East, Beth Hargrove, Lynne McCaleb.

Suzanne Bowron, Trisha Whitehead, Janis Zeanah, Betsy Skelton, Ann Cushing, Ben Feryer, David Hall, Allen Thomberry, David Stein, Charles Hoken, Donny Patton, Holman Head, John Zancrofs, Carolyn Foster, Didd Head, Lillie Parker, Margaret Hughes, Ginny Perkins, Marian Simms.

Janet White, Frank Pritchard, Leon Hamrick, Steven Shirley, Harvey Dickson, Nan Carley, David Kelpe, Kelly Ireland, Billy Noles, John Bretz, Kathy Green, Mark Biggens, Stewart Perlman, Charles Muse, Allen Hammack, Babette Norman, Judy Stewart, Karen Williamson.

Frank Kreis, Tommy Mayfield, Steve Shaw, David Kanter, Carole Howard, Alvin Atlas, Alan Routman, Donald Goldstein, Michael Sparks, David Broda, Cindy Shapiro, Michael Seligman, Malenie McCoy, Dotty Still, David Williamson, Sandra Collier, Cathy Wilson, Ted Bostwick, Sheryl Johnson, Eddie Humphrey.

Susan Wood, Glenda Ritchie, Renee Hyatt, Nancy Lazarus, Denny Marcus, Devan Ard, Anette Watson, Mike Mayer, Sheri Lapidus, Amy Cherner, Jeff Padawer, Derby Dorsky, Dorothy Renneker, Kenny Esrig, Vivian Yeilding, Joel Benners, Ed Saeven, Linda, Wittichen, Doug Call, Paul Green.

Robin Lurie, Debra Snow, Brian Larson, Johnny Kelsoe, Oscar Price, F. Stephens, Billy Blair, Mike Graham, Walter Kennedy, John Levine, Lise Tapidus, Nancy Goldberg, Jane Brewer, Paul Nagrodzlin, Alan Waintraub, Betsy Cooper, Judy Kimerling, Edward Levin, Ann Mason, Cassandra Golden.

Amy Isefield, Wayne Nelson, Tommy Fox, Phil Roberts, Laird Barrett, David Faulkinberry, Ty Limbaugh, Henry Teel, Tommy Scott, Bettie Bromberg, Butch Busby, Linday Schulhafer, Debbie Kiessner, Enar Hoff, Mary Lyll, George Ann Parker, Keith Womack, Malia Crayar, Delois May, Addie McGriff, Cathy Bowers.

Patty Trafton, Philip Holt, Kathy Cox, Gordon Paul, Tande Barnes, Annie Stein, Joel Barasch, Chris Venus, Mowry Musgrove, Wally Bromberg, Rod Scott, Ellen Thim, Marlea Itchings, Hortevel Smith, Bobby Franklin, Emory Ellis, Eddie Dorn, Steve Breckenridge, Susan Bancroft, Beverly Penfield, Hal Manly, Al Garver.

Petti Stumpf, Mike Anderton, Rob Ballard, Elsie Sparrow, Beverly Morrow, Mary B. Williams, Lynne McCaleb, Jim Gates, James Dent, John Burroughs, Greg Echols, Coke Matthews, Jim Rowe, Holly Coates, Jeff Preston, Lowry Drennen, Dianne Smith, Jeff Porterfield, Susan Metcalfe.

Lanny De Lapp, Richard Stone, Graham Myll, Beth Kesmodel, Elaine Arbucke, Elaine Fowler, Sarah Johnson, Mike Munger, Julie Edwards, Ann Price, Beth Frello, Jack Inglis, John Nickols, Bill Johnson, Billy Wood, Anne Brackman, Marie Miller, Penny Taylor, Annell Haughton, Betsy Winfree, Carol Lee Dell.

Debbie Bennett, Marie Diffa, Mary Stewart, Dawn Winkler, Carol Frew, Ruth Morrow, Cornelia Wingate, Kelly Roobi, Don Duffee, Rosalyn Pritchie, Neil Tyson, David Metzel, Alfred Stewart, Bill Watson, Dot Morast, Laura Brickman, Dianne Minger, Bob Stephenson, Fran Smyer, David Jones.

Donny Plosser, Porter Mitchell, Dianna Sell, Leslie Hunter, Mark Collinsworth, Robby Taylor, Annetta Seyler, Patricia Jaffe, Garry Rickard, Walter Fletcher, Greg Cox, Burgin Kent, Leigh Gary, Debbie Guthrie, Martha Nall, Bill Greene, Jack Barttlett, Dickie Simmons, Hunter Price, Debbie Ward, Mark Schneider.

Susan Andrews, Marsha Wilborn, Julie Jessup, Brandie Jordan, Hallie Head, Les Porterfield, Betty Schneider, Margaret Burg, Pattie Hammond, Caldwell Berry, Bill Leny, Kathie Taylor, Karen Edwards, Carol Owen, Chuck Just, Steve Wright, Biddy Miller, Mark Kialland, Paul Yacko, Nelson Weaver, Lisa Robinson.

Jam Gravlee, Danny Woodson, Lynn Peterson, Ann Tutwiler, Salia Posey, Vivian B. Yeilding, Carlisle Jones, Carol Perkins, Mike Conway, Merrie Yeager, Lesa Anderson, Alice Maring, Robin Tant, Jimmy Cooke, Boo Mason, Brian Judd, Connie Porter, Coach Lasson, Melissa Morris, Tana Groover, Margaret Wiggins, Sally Lanch, June Wood, David Clark, Bill Pate, Jay Norris, Deanna Owens.

Chip Hayelrig, Chip Phillips, Ann Cochran, Claude Rhee, Janet Boyd, Collelay Cleille, Merritt Burgin, David Evans, Marion Simmons, Sue Wiggul, Dendy Burgaine, Doug Dewitt, Gwen Hendrix, Max Breckenridge, Judy Spira, Tom Frye, Miller Kennedy, James Cook, Jim Kennedy, Howard Holbert, Susan Schiffle, Scott Scholl, Cindy Hamilton, Lynn Watson, Arch Long.

ANNUAL LAW DAY OBSERVANCE

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. Hogan) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, today is Law Day. I was privileged to make a speech this afternoon before the Federal Bar Association and the Judge Advocates Association at the Pentagon in commemoration of Law Day.

Mr. Speaker, the speech is as follows:

A Speech by Representative Lawrence J. Hogan at the Annual Law Day

As the resolution designating this as Law day says, this is a time to pause and rededicate ourselves to the ideal of equality and justice under the law and to cultivate that respect for law which is so vital to a civilized society. It is also an opportunity to pause and review what kind of progress we are making toward those goals.

While there is evidence of a prevalent disrespect for the law today, paradoxically, interest in the legal profession is booming.

Consider the experience of Washington area law schools for a moment.

Georgetown, which has facilities for about 600 new students, has received between about 6,000 applications for the 1972–73 academic year. This is roughly the same number as last year when applications virtually doubled. George Washington University's National Law Center has received over 5,000 applications for 400 places. Catholic University's Columbus School of Law has approximately 2,200 applications for 210 openings.

But, unfortunately, a great many of our law students today have little understanding of how our system works. Either because they are impatient with your progress toward a fully just society or because they misunderstand the proper role of the legal profession—many of our law schools and an ever growing number of lawyers have embarked on a false and dangerous course which threatens the critical balance of power between the legislative and judicial functions in our society.

The new breed of lawyers who see themselves as social activists is, in many cases, trying to short circuit the constitutional process that has served us so well for nearly 200 years. They are trying to usurp the function of the legislative branch. In short, they want the courts to make the law as well as interpret and define it.

The perils of this course are obvious. If the courts make laws as well as interpret and define them, there is virtually no check on their power. What some view as a short cut to a social utopia could well become a social nightmare and bring an end to our governmental system of checks and balances.

Usurping the legislative function by the courts is the first giant step toward a society run by legal technocrats who would write their own laws, pass on their validity and then monitor their implementation. Such power would be disturbingly similar to that wielded by the high priests in ancient Egypt.

I am not trying to suggest we are on the verge of such a society, only that we have been pushed down that path and it is time to plant our feet firmly before we go any farther.

I believe our law schools share part of the blame for this situation because they have failed to teach many of their students the proper function of the law and the lawyer.

One example comes to mind immediately—the group of law students who picketed the law firm representing the Dow Chemical Company for making napalm which was being used in Vietnam. Their action demonstrated an appalling lack of knowledge of the American legal process. Under our system everyone has the right to the best possible legal representation. That principle holds for a welfare recipient, an indigent criminal and the Dow Chemical Company. The fact that law students would picket a law firm for defending *any* client is incomprehensible to me and indicates total disrespect for, and lack of understanding of, our system of justice and the role of a lawyer in our society.

I think the law schools have failed their students in another way—by diluting the quality of the offerings in the traditional and vital disciplines in order to meet the demands for so-called "socially relevant" courses.

Many of the courses being offered might be relevant for a social scientist, but they are not relevant in a law school curriculum when they direct a student's energy and intellectual pursuit away from the law itself before he has even learned the rudiments of legal thinking and legal principles.

In addition, the vast smorgasbord of courses and the specialists who teach them have increased the cost of law school tremendously. In fact, the skyrocketing costs of legal education have pushed such education out of the reach of millions of Americans and created the very real possibility that legal education will become almost exclusively the province of a privileged elite. When I graduated from Georgetown Law School in 1954, my recollection is that tuition was $12 per credit hour. Today it is $80 per credit hour and is increasing to $88 this fall.

Of course, the distortion of the proper roles of the legal profession and the courts is not confined to some law schools and students.

We have only to look to the recent Richmond school busing decision which ignored legal boundaries and ordered consolidation of suburban school districts with the Richmond School District to see a classic example of a judge overreaching his authority to achieve what he—not the legislature (or the people who speak their will through the legislature)—what he construes to be a socially desirable course of action. The busing of 78,000 students will be the result if his decision stands.

To my mind, the court there has literally tried to make its own law. The judge, in fact, first suggested to the Richmond school system that an appropriate method to achieve the proper racial mix in the schools would be to strip away the legally established political boundaries and consolidate the school districts.

Then, when such a proposal was submitted to him, he ordered its implementation. The court, in effect, wrote its own law and is now trying to impose it without any regard to the separate function of the legislative side of government.

All of us recognize that the legislative process is frequently slow—frustratingly slow—in responding to the needs of the people, especially the oppressed and disadvantaged. But that is the nature of the process, of the push and shove, pull and tug, as the people make their feelings known to their elected representatives.

The making of new laws ought to be a slow, deliberate, painstaking process. That's why our legislatures debate issues so comprehensively and weigh all points of view. When we're dealing with the rights, property and lives of our people we should proceed carefully and cautiously, and the laws which are enacted should and usually do represent a good consensus of what the people want and need.

The individual might personally disagree with the result, but, under our democratic system, we are all obliged to obey the law until it is repealed or changed. To do otherwise leads to anarchy and the total breakdown of an orderly, people-run society.

The success of our system of government depends upon the consent of the governed. The people know they have a full voice in the shaping of our laws, and they know that their legislators, their elected representatives, must be directly responsive to their will. Under those circumstances they have shown themselves willing to submit to the will of the majority and our system has survived and flourished.

But, on the other hand, Federal judges, are responsible to no electorate. They are not subject to removal by the ballot box. And that is as it should be if the judiciary is to function properly and independently as a check on the legislature. But the system falls apart when the courts seek to assume a legislative role. When this happens, you will have not the rule of the people, but rule by fiat. Then the people will have no voice, no power and democracy will be dead!

When the courts usurp the legislative role and rob the people of their right to influence the making of laws, we see a growing loss of respect for the law. The public will not stand for "legislation without representation."

While preserving the respective, independent roles of our three branches of government, we must direct the energies of our legislative and executive branches toward solving our social problems and eradicating the injustices and inequities in our system.

Among other things that means we must find ways to insure the equal protection of the law for the poor, the forgotten, the oppressed and the disadvantaged. And that means the dedication of lawyers in government to that cause.

In particular I would like to see programs go forward which make the legal talents of government lawyers available to the indigent in their full time.

Unfortunately, at the present time, as members of the Federal Government these government lawyers may not participate in court-appointed counsel programs.

Obviously, government attorneys should be barred from participating in trials in which there is an actual conflict of interest between service to a client and the Government, but the blanket exclusion of a Federal criminal case creates a category that is too broad and denies the indigent accused access to a wealth of talent.

Primary emphasis in appointed-counsel systems has necessarily been directed toward criminal cases where counsel is constitutionally required. But justice also demands that the poor be represented in our civil courts as well and that means we must make certain our current legal assistance programs are truly helping the poor as they were designed to do.

The other most serious problem of concern to the bar is, of course, the inability of our courts to meet basic constitutional "speedy trial" requirements. Most courts are plagued by huge and unmanageable backlogs of cases which, while delaying justice on the civil side of the docket, are most serious on the criminal side. Not only does long delay between arrest and trial make a fair trial more difficult, but such delay is a major contributing factor to our high rate of recidivism. Such delay, invites plea-bargaining, and encourages potential criminals to continue careers in crime since there is a good chance they will never be apprehended, or, even if they are apprehended, they may never have to face trial.

Thanks to Congress' reform of the District of Columbia court system, in which I was privileged to play a leadership role, trial delays are no longer a court trademark here. In February, the first anniversary of the establishment of the Superior Court was celebrated with the release of statistics showing that:

Misdemeanor cases are now tried within four weeks instead of seven.

Felony cases are tried within five to six weeks instead of two years.

Civil cases are tried within seven months instead of two years.

Misdemeanor suspects who waive their right to a jury trial are usually tried within seven days.

That's the kind of court reform that's needed in every judicial system in the country.

Only through effective reorganization of our court systems can we meet the new challenges that are placed upon our judicial system today. Only if all citizens can be provided with real and ready access to the courts will we be able to maintain confidence in our legal system.

Another factor which affects confidence in our legal system is insisting that all laws be obeyed. In this context, I'd like to refer to those among us—a small minority—who are clamoring for amnesty for draft dodgers and deserters.

I am vehemently opposed to amnesty not only because I feel that it would be a disservice to those who did answer their country's call, especially those who gave their lives or were wounded or imprisoned but for an even more basic reason. I oppose amnesty because, if we allow some of our citizens to choose the laws they wish to obey and those they wish to disobey, the result will be anarchy. So, as we celebrate Law Day today, we should recognize that continuance of our civilized society under law, it is essential that all citizens obey all laws.

There are those among us who would destroy our system and paradoxically replace it with a system of government which allows no dissent. Our system gives us—the people—the power to change our government and change the laws which govern us. In their misguided zeal to achieve what they think will be a social utopia they run the risks of destroying the system of government by laws which is not only our best hope but the best hope of all men in the world who love liberty.

As we honor Law Day, we should rededicate ourselves to preserving and improving this system of government.

Mr. Speaker, also, because this is Law Day, I think it was uniquely appropriate that I met on the steps of the Capitol today with a delegation of men from the Veterans of Foreign Wars who presented to me and to the gentleman from Maryland (Mr. GARMATZ) a petition signed by some 1,700 Marylanders urging that the Congress not grant amnesty to those who have left this country to evade the draft laws or those who have deserted from service in the armed services.

I think it is appropriate that this occurred on Law Day, Mr. Speaker, because, if our system of government by law—which we are commemorating today—is to survive, it is absolutely essential that all citizens obey all laws. That includes those who might disagree with certain activities being engaged in by our Government. As citizens, they have the right to disagree. But as citizens they do not have the right to disobey the law.

So I assured that delegation from the VFW, Mr. Speaker, that I would do everything I could to oppose the enactment of legislation granting amnesty to those who have refused the call of their country.

TREATMENT AND REHABILITATION OF NARCOTIC ADDICTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 10 minutes.

Mr. MURPHY of New York. Mr. Speaker, I fully support S. 2713, the administration's proposal to provide for the treatment and rehabilitation in community-based facilities during probation and parole or mandatory release from Federal institutions drug dependent persons who cannot receive treatment under the Government's addict rehabilitation law. As I pointed out to Members on March 4, 1971, there are serious and sometimes crippling flaws in the 1966 Federal Narcotic Addict Rehabilitation Act. For example, the act denies the treatment established under this law to large classes of addicts.

It excluded addicts charged with housebreaking or burglary—despite the fact that this is a major addict crime.

It excluded addicts who had previously failed under three or more civil commitments—despite the fact that experience has shown that relapse is a part of the rehabilitation process.

It excluded addicts with two or more felony convictions—despite the fact that cases such as a 21-year-old addicted auto thief could have two felony convictions.

It denied a person eligibility for civil commitment in lieu of prosecution if he was charged with the sale of dependent drugs for his own personal use—despite the fact that we passed a law in 1970 taking such people out of the serious criminal category.

It limited treatment to only those people addicted to the opiate drugs including heroin and eliminated persons dependent on or addicted to the depressant and stimulant drugs including the goof balls, barbiturates, the pep pills, amphetamines, and the hallucinogens such as marihuana and LSD—despite the fact that persons were no longer abusing one drug but many and we now have "multiple drug abusers."

So it is gratifying to see that we will now be removing these restrictions from drug dependent Federal prisoners who are not now eligible for treatment under NARA after they are released from prison.

But what about treatment for these people during their long months or years of incarceration. As I pointed out a year ago, these restrictions were eliminating the bulk of the addicts who might benefit from treatment while in prison. As a matter of fact, the Federal Bureau of Prisons, as a result of these exclusionary clauses had to set up a stop-gap secondary drug treatment program similar to NARA in an effort to get treatment to Federal addicts who needed it but were excluded under the current Federal law.

This treatment program within a treatment program began on June 1, 1971, and is treating those offenders currently in the Federal prison population for whom drugs are a contributing cause to their criminal behavior but who do not qualify under NARA. There is no need for two programs to handle the same kinds of addicts. My proposed amendment would eliminate the need for such a wasteful process.

So while S. 2713 is a left-handed step in the right direction I feel the more logical approach would be to eliminate the cause of this illogical situation at the source. Which is what my amendment to the original act would accomplish. It would do this by eliminating the severe restrictions of eligibility and open up treatment for all drug abusers, not just heroin addicts. If this approach is reasonable after addicts and drug abusers have been released from an institution, it is certainly reasonable to apply this approach at the very beginning of their incarceration.

In any given year almost a third of our Federal prisoners, which means as many as 7,000 inmates, have had problems with drug abuse. Yet only 1 or 2 percent of those committed are eligible for treatment under the Narcotic Addict Rehabilitation Act.

This is absurd.

Rather than chip away at the periphery of our addict population, we should make a congressional commitment to go right to the core of this motherlode of Federal addicts by providing the law, the Federal funds, and the personnel necessary to make a serious impact on narcotics and crime.

I commend the administration of the goals of the current legislation, but I implore them to get at the heart of the problem and support legislation still before the Judiciary Commitee, H.R. 5612, which is designed to bring the treatment of Federal prisoners who are drug addicted or drug habituated into the 1970's.

I can understand the argument of those who say that NARA for the 1960's was perforce modest because it was a beginning and because a structure of programs and funding had to be established from scratch.

But we are beyond that now.

The President has called narcotic addiction our No. 1 domestic problem.

The Congress is appropriating millions upon millions of dollars to combat the drug traffic and addiction.

We have burgeoning treatment programs all over the Nation.

We have practically instituted a "Manhattan project" for the elimination of drug abuse.

We can certainly apply this kind of an effort to our Federal prison system and I ask Members to join with me in doing so.

I ask that my statements of March 4, 1971, and June 23, 1971, on the Narcotic Addict Rehabilitation Act be printed at this point in the RECORD.

THE INTRODUCTION OF THE DRUG DEPENDENT PERSONS REHABILITATION ACT OF 1971, MARCH 4, 1971

(By Representative JOHN M. MURPHY)

I introduce for appropriate reference a bill to provide new procedures for the civil commitment of drug dependent persons and to expand the scope of the provisions of titles 18 and 28 of the United States Code relating to the treatment of drug dependent persons in criminal proceedings, and for other purposes; the "Drug Dependent Persons Rehabilitation Act of 1971."

This is the second in a series of crime bills I announced I would be introducing during the coming weeks.

In January of last year the Congress passed a strong law enforcement oriented drug bill which became the law of the land in October of 1970. I supported that bill because it was necessary to cope with the growing army of young drug users who are being arrested at the rate of one every five minutes in the United States.

However, I feel it is now time that the focus of Congress should be on legislation that is directed at the rehabilitation and treatment of the drug addict and the drug abuser.

That is the goal of the legislation I introduce today.

The Narcotic Addict Rehabilitation Act was enacted in 1966 in response to the serious narcotic problem in America during the mid-sixties and represented the first major change in the attitude of the Federal Government toward the treatment and rehabilitation of narcotic addicts.

I was in agreement with the goals of that Act and worked for its passage.

The Act provided an alternative to imprisonment for heroin addicts either charged with or convicted of certain Federal offenses. It provided for their commitment to treatment and rehabilitation for extended periods of time. The addict was under custody while in a hospital or other institution and supervised aftercare was provided in the community after their release from custody.

In addition, the Act established procedures for the voluntary commitment of narcotic addicts, who had neither been charged with nor convicted of offenses, but who were in need of treatment for their addiction and could be successfully treated and returned to their communities.

As the legislation was passed, however, it denied some or all of the treatment established under this law to large classes of addicts.

It excluded addicts charged with housebreaking or burglary.

It excluded addicts who had previously failed under three or more civil commitments.

And it excluded addicts with two or more felony convictions.

The present bill broadens the coverage to include these categories of addicts who are, in the main, most in need of help.

Drugs, by their very nature, make an addict ineffectual and indifferent, unable to hold an honest job. Without legitimate resources he must seek money for his drugs through crime. Traditionally, his loss of drive led him to the easy way out—committing crimes of a non-violent nature. And crime has always been the principal source of money for the addict and so most genuine addicts have a record of two or three felony convictions.

The trapped, the cornered, the panicked *sick* addict is one who may resort to violence. That is not to say heroin causes the addict to panic—it is rather the lack of the drug and the threat of withdrawal that causes him to sometimes strike out blindly, hysterically or in a deadly manner. And because there are more addicts today, there are more of them involved in serious crimes.

So it is not unusual for a 19 or 20 year old addict to have two felony convictions.

Further, there is ample testimony that three prior civil commitments should not prevent an addict from benefitting from treatment the fourth or fifth time around.

Indeed, research shows that the more relapses an addict experiences, the closer he is to ultimate abstinence and rehabilitation.

Addiction is a chronic disease where relapse is the expected rather than the exceptional behavior. We know that every relapse may bring the addict closer to ultimate rehabilitation. And we know that with proper help, addicts tend to grow out of their dependence on drugs as they get older.

Even more important, however, since treatment programs for addicts differ throughout the country, both in nature and quality, and since all such programs can be expected to improve as we gain more experience, failure under any program in the past should not deny an addict the improved treatment methods of the future.

Now that the NARA has been in operation for a period of time, we have received increasingly more evidence that the original restrictions often exclude those very addicts who could obtain the greatest benefit from the treatment offered under the Act.

Because of those early restrictions, the Act has been called self-defeating and the criteria for eligibility has been termed "absurd" by recent witnesses before Congress.

Let me emphasize this by pointing out that during the first 21 months the Act was in operation, only 74 addicts were civilly committed under Title I in lieu of prosecution.

This is the record of a law that was hailed as a "breakthrough" in our efforts to treat addicts.

I think it is a sorry record when we consider the fact that there may be as many as 100,000 heroin addicts in the United States.

This revision of the Narcotic Addict Rehabilitation Act is of great significance. When the original Act was passed, I was concerned over the features I have just described which I consider inimical to its success. After having reviewed the performance of this program and after discussing it with those who know its operation intimately, I think this is the appropriate time to replace it with a new progressive program.

I believe the changes contained in the bill I propose today will improve the treatment of narcotic addicts not only at the Federal level, but in the entire nation.

It will do so because it will set an example for the states to follow.

As my colleagues will recall, the Narcotic Addict Rehabilitation Act of 1966 contained four titles:

(1) The first title provided for the civil commitment and rehabilitation of narcotic addicts in lieu of prosecution of the charges against the addict;

(2) the second title provided for sentencing to commitment for the treatment of addicts in lieu of sentencing to a penal institution;

(3) the third title provided for the voluntary civil commitment of addicts who were not charged with nor convicted of offenses; and,

(4) the fourth title provided for rehabilitation and posthospitalization, aftercare programs and for assistance to states and localities.

The legislation that I now offer would expand the scope of coverage of drug abusers by not only including narcotic addicts, that is, those addicted to the opiate drugs including heroin, but also persons dependent upon the depressant and stimulant drugs, including the pep pills (amphetamines), the goof balls (barbiturates), and the hallucinogens such as marihuana and LSD.

If this bill is adopted, persons either charged with or convicted of Federal offenses, or even persons not charged, would be eligible for Federal treatment and rehabilitation programs for their dependence upon the barbiturates—doctors at the Federal narcotic hospitals indicate that they have more problems with physical withdrawal of many barbiturate addicts than with those addicted to the opiates—or any one or a combination of the other drugs including the depressants, stimulants and hallucinogens.

There is a myriad of drug abuse existing in the United States and persons not only become addicted to narcotics, but become physically and psychologically dependent upon a wide range of drugs.

It is only logical then to change the Federal law and to open up our programs of hospitalization, treatment and rehabilitation to those who have fallen victim to any of the various types of drug abuse, not just heroin or opiate addiction.

This is true because basically these individuals share the same deficiencies and problems.

Estimates of the abuse of these drugs vary, but if only 10 percent of the 12 million Americans who have tried marihuana become habituated to its use, then we have a serious problem. The same is true with regard to the millions of individuals who are abusers of the depressant and stimulant drugs.

In any case, physical withdrawal can be achieved in a relatively short time. The far more serious problem is psychological or emotional dependence which is shared by all types of drug dependent persons.

It may be true that more property crimes are committed by hard narcotics abusers, because of their intense craving for the drug, but such crimes are not unknown among other drug abusers. This means treating all drug users will reduce more crime than just treating one category of narcotic offenders.

I proposed further to broaden the law's coverage to provide that persons with two prior felony convictions and three previous civil commitments could be eligible for treatment and rehabilitation under titles I and II of the Act for the reasons I have outlined.

This means that hundreds of drug dependent persons presently excluded from coverage under this Act would have medical treatment made possible.

I would delete from the definition of crime of violence, as in the current law, the offenses of housebreaking and burglary.

These are fundamentally property crimes which comprise the bulk of offenses committed by addicts.

Many members of both Houses fought these exclusionary provisions when the statute was under consideration.

Subsequent events have proven that these provisions *were* mistakes. The amendments I introduce today are consistent with the medical view that many addicts who are treatable are eliminated from treatment.

A further desirable feature of my bill allows a person to be eligible for civil commitment in lieu of prosecution if he is charged with the sale of dependent drugs for his own personal use. This is completely in line with the provisions of the recently enacted "Comprehensive Drug Prevention and Control Act of 1970."

There are compelling reasons for expanding the facilities for the treatment of drug dependent persons.

Recent testimony before Congress indicates that the neighborhood of only 50 percent of the people committed under the Narcotic Addict Rehabilitation Act can be retained for treatment because of a shortage of staff and facilities.

Dr. Stanley F. Yolles, the former Director of the National Institute of Mental Health claims that the capabilities of the two main treatment centers at Lexington, Kentucky, and Fort Worth, Texas are chronically overtaxed.

Yet the estimates of the Institute show that increasingly more addicts will be committed to treatment in the years to come.

The total number of committed narcotic addicts alone is expected to surpass the 10,000 mark by 1975. This compares to only 2,438 patients committed under this law in 1970, the bulk of whom were non-offenders. The offender addicts were denied treatment because of the reasons I have just set forth.

That is why I have provided that not only facilities and programs of the Public Health Service be utilized but that other facilities, either approved or established by the Secretary of Health, Education and Welfare, be used for the treatment of all drug dependent persons.

This law should reach the largest possible number of drug dependent persons in the nation who can benefit from treatment.

That is why I want to make more people eligible.

And the facilities to treat them should be made available.

That is why I have provided for an expansion of the services available for such treatment.

Since supplying such a program for drug dependent offenders is the most effective approach to the drug problem, I hope this bill will receive strong support from my colleagues in both Houses.

H.R. 5612: AMENDMENTS TO THE NARCOTIC ADDICT REHABILITATION ACT OF 1966, JUNE 23, 1971

(By Representative JOHN M. MURPHY)

Mr. Chairman and members of the committee, I appreciate the opportunity to appear here today to testify on my bill, H.R. 5612, to provide new procedures for the civil commitment of drug dependent persons.

The amendments expand the scope of the Narcotic Addict Rehabilitation Act of 1966 (NARA) to include in the definition the term "drug dependent persons," replacing the previous definition of a narcotic addict. This means persons not only addicted to the opiates (heroin, morphine, and the synthetic opiates), but also persons with drug dependencies on the amphetamines, barbiturates, marihuana, the hallucinogens, or a combination of these, would become eligible for Federal treatment and rehabilitation under this amendment. As you know, NARA contained four titles which I will briefly summarize as a reference point.

Title I provided for the civil commitment and rehabilitation of narcotic addicts in lieu of prosecution of charges against the addict. ("Drug dependent persons" covered by this amendment.)

Title II provided for sentencing to commitment for treatment of addicts in lieu of sentencing to a penal institution. ("Drug dependent persons" covered by this amendment.)

Title III provided for voluntary civil commitment of addicts not charged with nor convicted of an offense. (Drug dependent persons covered by this amendment).

Title IV provided for rehabilitation and post-hospitalization for care programs and for assistance to states and localities.

The original Narcotic Addict Rehabilitation Act had amended three previously existing laws and added a completely new law, title III, the civil commitment provision. In effect, the old NARA really only had one new title (III)—the rest of the legislation amended existing law (titles 18 and 28 U.S.C. and section 341 of the Public Health Service Act). I decided that in order to simplify and focus on the major section of the bill I would move the civil commitment of non-criminal addicts to title I. (Since the inception of NARA, 91% of those treated have come under title III as opposed to 9 percent under title I.) I then combined the criminal users under title II (titles I and II of NARA that is, the civil commitment and rehabilitation of drug dependent persons, and placed the beefed up treatment section under title II. Title IV of my bill contains the conforming amendments.

Under my amendment, certain preclusions to eligibility for handling under NARA have been deleted from the law so that (1) persons with two previous convictions or with three prior civil commitments would be eligible for treatment (2) persons convicted or charged with crimes of burglary and housebreaking would be made eligible for treatment; and, (3) persons charged with sale for their own personal use would become eligible for treatment just as convicted persons are eligible under old title II of NARA.

In title I of my bill (title III of NARA) the term "related individual" has been deleted so that only the addict himself could make the application for civil commitment rather than a relative.

The definition of hospital of the Public Health Service has been broadened to include other treatment facilities approved by either the Surgeon General or the Attorney General.

Finally, section 341 of the Public Health Service Act has been broadened to include "drug dependent persons" as addicts.

Mr. Chairman, as you all know, the Narcotic Addict Rehabilitation Act was enacted in 1966 in response to the serious narcotic problem in America during the mid-sixties, and represented a major change in the attitude of the Federal Government toward the treatment and rehabilitation of opiate addicts.

Those of us in Congress who had high hopes for the program were disappointed at the results that were achieved in the first years of operation. However, I believe that the leadership at the National Institute of Mental Health and at the Federal Bureau of Prisons has begun a program that has promise for the future. In my discussions with officials at NIMH and at the Bureau of Prisons I was impressed by the desire on the part of the managers of this law at the administrative level to see it function at a greater level of efficiency and with broader scope in the years to come. In talking to these people I have become aware of certain restrictions and shortcomings in the law which H.R. 5612 attempts to rectify. For example, as the earlier legislation was passed, it denied treatment to a large percentage of our Federal addicts because it excluded addicts charged with housebreaking or burglary, addicts who had previously failed under three or more civil commitments, and addicts with two or more felony convictions.

I have discussed my amendment with officials in both the Bureau of Prisons and at NIMH. Three years ago they would have objected to the removal of these restrictions because of the newness of the program and the shortage of treatment personnel. However, they now feel that NARA has progressed to the point where they could and should handle these offenders under the progressive provisions of the law.

The face of drug addiction has changed greatly in the United States since the congressional hearings of 1965–1966. In times past, the drug choice of different abusers appeared to be mutually exclusive, that is, once a heroin user, always a heroin user; once a barbiturate addict, always a barbiturate addict. However, in recent years, we have seen the phenomenon of multiple drug use where heroin users may use a wide variety of drugs. Conversely, multiple drug users now dabble in heroin. Because of this, I think the law should be changed to cope with the problem of the seventies—the multiple drug abuser. That is why my amendments would expand our Federal drug treatment programs by including those persons dependent upon the depressant and stimulant drugs including the amphetamines (pep pills), the barbiturates (goof balls), and the hallucinogens (marihuana and LSD). Further, my amendment would provide that persons with two prior felony convictions or three previous civil commitments be made eligible for treatment and rehabilitation.

This means that hundreds of drug dependent persons presently excluded from rehabilitation programs would have medical and psychological treatment made available. For example, to date under the NARA program under title II in the Bureau of Prisons, five institutions housing intensive treatment units have studied 1,077 cases. Of these 744 have been accepted for treatment. The remaining 333 cases were found ineligible and were rejected primarily because of two or more felony convictions on their record. It became increasingly evident to the management of the Bureau of Prisons that while a large segment of the offender population with drug problems did not meet the standards for inclusion under NARA for treatment, they had needs the same as those who were eligible. As a result of these exclusionary clauses, the Bureau of Prisons has begun to set up a stop-gap secondary drug treatment program similar to NARA in an effort to get at Federal addicts who need treatment but who are excluded under current law.

This treatment program within a treatment program began on June 1, 1971, and it will treat those offenders currently in the Federal prison population for whom drugs are a contributing cause to their criminal behavior but who do not qualify under NARA. There is no need for two programs to handle the same kinds of addicts. My proposed amendment would eliminate the need for such a wasteful process.

Figures made available to me indicate that under title II even though the number of inmates is comparatively small, the plan does seem to work. As of December 30, 1970, 414 inmates had been released to aftercare following an average institutionalization of slightly over 15 months. 297 or 72% were still active, and 28% had violated or absconded. I feel the fact that 72 percent were in a relatively law abiding condition is a tremendous improvement over the old figures we used to hear of a 2% cure rate of addicts in Federal institutions. I feel that the provision to expand those eligible under NARA is a critical one. Only 1,000 addicts have been found to be eligible. This despite the fact that 30 percent of all admissions to the Bureau of Prisons have regularly used narcotics or marihuana.

That means that in any one year, between 6,000 and 7,000 Federal prisoners are regular users of drugs.

There is ample evidence that three civil commitments should not prevent an addict from benefiting from treatment the fourth, fifth, or even the ninth or tenth time around. Medical experience has shown that the more relapses an addict experiences the closer he is to ultimate abstinence from narcotics and partial if not total rehabilitation. Addiction is a chronic disease where relapse is the expected rather than the exceptional behavior. Medical experience has shown that every relapse may bring the addict closer to rehabilitation and that with proper help addicts tend to mature out of their dependence on drugs, especially after the age of 30.

Most important of all, however, the three previous civil commitment exclusion did not take into consideration the fact that the treatment programs for addicts differ throughtout the country both in nature and quality and since all such programs can be expected to improve as we gain more experience, failure under any programs can be expected to improve as we gain more experience, failure under any program in the past should not deny an addict the improved treatment methods of the future. While many Members of Congress anticipated it, experience has now proven that the original restrictions have excluded many of those addicts who could obtain the greatest benefit from treatment offered under the act. In testimony before congressional committees, legal groups who represent drug addicts on a day to day basis have testified that the act is self-defeating and that the standards for eligibility border on the absurd.

In this amendment I have recommended deletion from the current law the offenses of housebreaking and burglary from the definition of crime of violence. According to officials from NIMH and the Bureau of Prisons, these are fundamentally property crimes which make up a large percentage of the offenses committed by narcotic addicts and drug dependent persons. In 1966 many Members of both Houses fought this particular exclusionary provision, especially those in the field of law enforcement who were familiar with the crimes of drug addicts. Events since the passage of the act have proven that these provisions were over-reactive. The amendment we are discussing today is consistent with the socio-legal-medical view that large numbers of addicts who are actually treatable were eliminated from treatment and given straight confinement in penal institutions.

For example, Charles P. Lamb, Jr., a prominent Washington attorney who served on the Legal Aid Agency of the District of Columbia testified before a congressional committee on the experience of that agency with the restrictions in NARA. He said, "After the passage of NARA, many defendants who were in need of hospitalization were denied it because they did not fall within the criterion of an 'eligible offender'. Specifically, excluded from the scope of the act are those who have been convicted of housebreaking at night. A rather absurd criteria. Consequently, many addict defendants who had to be incarcerated and could not qualify for NARA could get no treatment whatsoever, the Lorton Reformatory being totally lacking. The defendants could expect little more than to serve out the 3 to 9 or 5 to 15 year sentences with little hope for parole and to re-enter the community as they had left—a drug addict in remission."

Under the old law we provided that a related individual could sign a petition and civilly commit a person who is addicted. A father could turn in his son. A wife could turn in her husband, and so forth. Experience under title III of NARA has shown that this provision has not met the expectations of its advocates. If an addict is not motivated to treatment it is difficult to force him into a treatment program, especially if he is committed or has not been arrested for any crime.

Officials at NIMH who run the NARA program have told me of case after case of failure with this type of commitment because the addict was intractable and simply did not want treatment. In one bizarre case in New York City, a wife turned in her addict husband. He subsequently pulled a gun on the psychiatrist in charge and threatened to murder him if he did not certify him, the addict, ineligible for treatment. For this reason, the professionals in this area have supported the deletion of the term "related individual." Experience in various state civil commitment programs supports this position. For example, Milton Luger, the chairman of the Narcotic Addiction Control Commission for New York State informed my staff that civil commitments by a relative or a third party constitute "the most difficult cases to handle in treatment." These addicts are most resentful because they are put in against their will. Their attitude is that "somebody else turned me in." Luger claimed that they are not motivated for treatment and that there is "little we can do with them."

Another State where addicts can be turned in by a relative or a third party is in California. In that State there are two classes of petitioning. Either by a relative or a friend, or by a police officer or probation officer. Roland Wood, the head of the entire California narcotic addiction program informed my staff that only four percent of the addicts in California's treatment program (130 cases) were admitted by relatives in 1970. Seven percent were committed by police officers or probation officers. While California has experienced minimum success with the commitments made by relatives, in the latter category Wood explained that the addicts experience great resentment in having been "kidnapped" and are much more intransigent and difficult to treat than those people who turn themselves in. The California experience is not really comparable to NARA, however because there is no minimum amount of time that a civilly committed addict must serve. The minimum is zero. This means that, unlike NARA where the addict is advised that treatment may last 42 months with a possible 36 months in an institution, the addict is not faced with the prospect of spending long periods of time in incarceration.

While this is an area of some controversy, I feel the facts speak for themselves. Psychologically, and in terms of treatment, the total experience in the United States with civil commitment by a relative or a third party has not been successful. I would urge the committee to consider this amendment to remove the term "related individual" from the civil commitment provisions of NARA.

Another desirable provision in H.R. 5612 would allow a person to be eligible for civil commitment in lieu of prosecution if he has been charged with the sale of dependent drugs for his own personal use. This is a justifiable provision in my district and is completely in line with the provisions of the Comprehensive Drug Abuse Prevention and Control Act which passed the Congress just last year.

Finally, the amendment stipulates that not only the facilities and programs of the Public Health Service, but that other facilities approved or established by the Secretary of Health, Education and Welfare, be used for the treatment of all drug dependent persons. The reasons for this are obvious to anyone who reads the newspapers. They are compelling. We must expand the Nation's facilities for the treatment and rehabilitation of drug dependent persons.

We not only have an out of control drug problem in this country, but we also have the problem or our returning servicemen, young boys who have been exposed in a foreign land to an avalanche or highly potent, easily available heroin, marihuana, opium, and all the drugs commonly found in the pusher's bag of drugs. This means there are thousands upon thousands of returning servicemen who will need immediate and long range treatment for drug dependency. Yet recent testimony before Congress indicates that only 50 percent of the people committed under NARA could be retained for treatment because of a shortage of staff and facilities. And while a major step has been taken with the doubling of funds available to the Narcotic Addict Rehabilitation Branch of NIMH for fiscal year 1972. I am certain that this will not be enough to handle the colossal drug problem that is facing this Nation.

In summation, Mr. Chairman, I offer this bill as a vehicle to expend the commitment of the United States Congress to the treatment and rehabilitation of our young addicts here at home and those who will return from serving their country overseas. Until now, the Federal program for addiction has fallen far short of our expectations. The narcotic Addict Rehabilitation Branch at NIMH reported to me that there were 10,481 addicts in some phase of treatment as of April 30, 1971. 1,860 were in Fort Worth, Lexington and 5 community in-patient facilities. Another 8,416 were in 23 community programs funded by NARA grants.

This is not nearly enough when we realize the size of the addict problem in this country.

However, we have established under NARA a cadre of people with expertise in the field and it has set up a sub-structure of patient care and community assistance grants that *should* be expanded and *must* be expanded as quickly as possible to handle our rampaging drug problem.

That is what my amendment is designed to do: *Make all drug dependent persons eligible* who need treatment, and *make all the facilities and assistance available* for those who need it.

Mr. Chairman, I have some exhibits that I would like to have included in the record relative to the NARA program and a brief comparison of my bill with NARA.

TITLE COMPARISON OF NARA AND H.R. 5612

Public Law 89–793—NARA

Title I. Civil commitment in lieu of prosecution. (Amended title 28 U.S.C.).

H.R. 5612—Drug Dependent Persons Rehabilitation Act of 1971

Title I. Civil Commitment of persons not charged with criminal offense. (Similar to title III of NARA.)

Public Law 89–793—NARA

Title II. Sentencing to commitment for treatment. (Amended title 18 U.S.C.)

H.R. 5612—Drug Dependent Persons Rehabilitation Act of 1971

Title II. Sec. 201—Civil commitment and rehabilitation of drug dependent persons. (Amends title 28 U.S.C.) (Similar to Title I of NARA.)

Sec. 202—Drug dependent persons (Amends title 18 U.S.C.) (Similar to title III of NARA.)

Public Law 89–793—NARA

Title III. Civil commitment of persons not charged with any criminal offense.

H.R. 5612—Drug Dependent Persons Rehabilitation Act of 1971

(Similar to Title I of H.R. 5612.)

Public Law 89–793—NARA

Title IV. Rehabilitation and post-hospitalization care programs and assistance to states and localities.

H.R. 5612—Drug Dependent Persons Rehabilitation Act of 1971

(No change.)

Public Law 89–793—NARA

Title V. Sentencing after conviction for violation of law relating to narcotic drugs or marihuana.

H.R. 5612—Drug Dependent Persons Rehabilitation Act of 1971

(No change.)

Public Law 89–793—NARA

Title VI. Miscellanous provisions (Amends Sec. 341 of the Public Health Service Act.)

H.R. 5612—Drug Dependent Persons Rehabilitation Act of 1971

Title III. Rehabilitation programs under the Public Health Service Act. (Amends Sec. 341 of the Public Health Service Act.)

NARCOTIC ADDICT REHABILITATION BRANCH—PATIENT DATA

Number of patients remaining in Branch treatment programs, as of—

	NARA I	NARA III	Grants	Total
Apr. 30, 1971	205	1,860	8,416	10,481
June 30, 1970	159	1,497	3,165	4,821
June 30, 1969	80	991	2,021	2,862
June 30, 1968	35	272	([1])	307

[1] No data.

New York State civil commitments

1969:	
Total	538
Spouse	30
Parent	445
Other relative	46
Friends	2
Others	8
1970:	
Total	1,525
Spouse	58
Parents	1,284
Other relative	162
Friends	5
Others	16

CONGRESSMAN RODINO'S JOBS, TAX REFORM, AND LAW-ENFORCEMENT PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 10 minutes.

Mr. RODINO. Mr. Speaker, undoubtedly the unemployment crisis in the Nation is a top, if not the priority, domestic problem we face. The President's economic policy makes little attempt to do anything about it, and the March unemployment rate rose sharply to 5.9 percent.

JOBS NOW

I believe the way to help end unemployment is to simply make jobs. Therefore I have sponsored legislation to create 1.15 million public service jobs. It authorizes $3 billion this fiscal year and $10 billion when fully operating.

A conservative estimate places the new need at almost 20 million decent jobs. This includes the underemployed and unemployed, those working at substandard wages and those who have given up looking for jobs. The problem therefore directly affects 72 million Americans.

Equally serious is the need to improve our public services—education, health, urban renewal, law enforcement, environmental control, transportation, and recreation. With enactment of my "Jobs Now" bill, we can immediately make jobs that would put people to work staffing hospitals and day care centers, renovating our streets and cities, helping maintain essential sewer and antipollution works, and improving our parks and recreational facilities.

An important element in my bill is that the jobs created would not be dead end ones, but real jobs with built-in training and educational opportunities. It would also provide the services so desperately needed in our urban centers. For areas of very high unemployment, such as the city of Newark, a special employment and economic development program under the bill would provide direct aid.

TAX REFORM

It is essential that we move ahead to reform our tax system, and I have sponsored two tax bills to cut out loopholes and provide the Federal money needed to meet our urgent public needs.

One is a major bill to establish a fairer tax structure and to raise more funds for the Federal Government. In theory our tax rates are supposed to be set according to one's ability to pay. In fact, because of special exemptions, incentives, and interpretations of tax laws, this theory is a farce. My major proposal would bring more revenue to the Government, help reduce Federal deficits, and also give lower income persons more available money to spend for essentials.

Along with this bill, I have also sponsored my "quick yield" tax reform bill. This stresses closing loopholes that either reduce jobs or do nothing to create them. At the same time it raises funds without hurting job-creating efforts. I estimate it would provide $7.5 billion in new funds by closing loopholes that now allow wealthy citizens to avoid paying their fair tax share. It is appalling to realize that in some instances low- and middle-income people pay a much higher percentage of their incomes in taxes than the very wealthy. In 1970, 112 persons with more than $200,000 incomes paid no Federal taxes.

A more minor bill, but one that affects all Americans, is my proposal to undertake a study to find ways to simplify income tax forms. It is hard enough to have to come up with money for tax payments when the costs of essentials such as food and shelter are so high. But this agony is worse when our citizens must worry about complicated tax reforms. In 1970 over 70 percent of all taxpayers had outside help in preparing their returns. Middle and lower income taxpayers pay too much in taxes because of all the loopholes for the rich and special interest groups. And then they pay what is actually an added tax by being forced to use outside tax aid.

CRIME CONTROL AND PRISON REFORM

The Omnibus Crime Control and Safe Streets Act of 1968, and a 1970 amendment to this act, both of which I sponsored, have greatly assisted law enforcement efforts at the local level. Programs established under this act provide our police officers with the very latest means of dealing with crime and of capturing criminals.

In 1971, the Law Enforcement Assistance Administration—LEAA—which provides funds for such programs, allotted a total of $11,870,000 for the State of New Jersey, with over 1,000 students now enrolled in law enforcement education programs.

Total LEAA funds for 1971 which have been allotted to Essex County, including East Orange and Newark, total $1,115,754. As examples, special grants under this program have provided $98,740 to East Orange to establish a juvenile delinquency program; $192,547 for a model defendant employment project to assist the courts; and $125,470 to set up a police cadet project for Newark. This act has also provided $19.1 million for drug abuse treatment and rehabilitation programs.

I have supported legislation to amend that act in the 92d Congress to provide for Federal funding of emergency narcotic treatment programs operated by State correctional institutions in connection with probation and other work release programs. This amendment has passed the House of Representatives and is awaiting action by the Senate.

A subcommittee of the Committee on the Judiciary, of which I am a member, has been holding hearings since May 1971 on the subject of prison reform and the parole system, to try to discover why the correctional systems have failed to provide vocational education training, medical care, counseling, and all other services necessary to assist ex-offenders.

The past tendency of the public to ignore the existence of deplorable conditions in our prison systems is at an end. Since most people now recognize the need for providing increased Federal funds to State and local correctional systems, the future looks promising. These hearings have ranged across a broad spectrum of problems involving corrections—from those facing the administrators, to those confronting the correctional officer, the inmate and the former inmate. I have sponsored legislation in this connection to provide assistance to States for improving our parole systems and for establishing fair and equitable parole procedures.

I actively supported the Gun Control Act of 1968, which bans interstate mail-order sale of long guns and ammunition, and prohibits sales to minors and nonresidents of a State; and the Organized Crime Control Act of 1970, which is aimed at racketeering, corruption, and organized crime in our major cities.

I have also sponsored legislation in this Congress to establish an Institute of Continuing Studies of Juvenile Justice. This bill, which has just passed the House, would enable us to review and strengthen our policies and practices in the area of juvenile justice.

MORE TROUBLE IN THE NAVY PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, cost overruns, lengthy delays, and serious technical problems are plaguing the Navy's plan to build two ships known as ARS's and two minisubs known as deep submergent rescue vehicles which are designed to rescue disabled submarines.

Apparently the Navy is again in deep trouble in another procurement program. The minisubs are too slow, very unreliable, and unable to dive as deeply as the Navy hoped according to a recent General Accounting Office staff study. Apparently the Navy is lucky that the little subs even can float.

Cost overruns for the two ships and the two minisubs now total a whopping $159 million.

The two ASR ships for which the Congress originally appropriated $32.9 million now are expected to cost at least $88 million.

In addition, the Alabama Dry Dock & Shipbuilding Co. of Mobile, Ala., is now demanding an additional $16 million for the two vessels in claims.

The General Accounting Office staff study reports that the minisubs have increased in costs from $16.6 million per vessel to $102 million for each sub. Despite a decrease in the number of minisubs from 6 to 2, costs have skyrocketed $104 million. The two minisubs are also 4½ years behind their original schedule.

Clearly the Navy's attempt to build decent rescue ships has turned into one huge costly mess. Mr. Speaker, when will these cost overruns end?

COMPREHENSIVE TEST BAN (CTB) ON NUCLEAR DEVICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 10 minutes.

Mr. FRASER. Mr. Speaker, late this week the gentleman from Ohio (Mr. WHALEN), the gentleman from New York (Mr. BINGHAM) and myself intend to introduce a resolution calling upon the President to propose that the limited nuclear test ban treaty of 1963 be expanded to include testing underground. This week we are seeking cosponsors for this resolution. Several Members have already indicated that they will join us in this effort: the gentleman from New York (Mr. ROSENTHAL); the gentleman from Pennsylvania (Mr. NIX); the gentleman from Ohio (Mr. MOSHER); the gentleman from New Jersey (Mr. FORSYTHE); the gentleman from Illinois (Mr.

MIKVA); the gentleman from Maryland (Mr. MITCHELL); the gentleman from New York (Mr. HALPERN); the gentleman from Michigan (Mr. NEDZI); the gentleman from New York (Mr. BADILLO); and the gentleman from California (Mr. LEGGETT).

Mr. Speaker, on Friday, April 28, Stephen S. Rosenfeld devoted his Washington Post column to "The Steps Beyond A SALT Agreement." One of these steps is a comprehensive test ban—CTB—a measure our resolution seeks to encourage. Mr. Rosenfeld points out that—

> . . . a CTB, however firm a lid on the arms race it might have been in 1963, is worth much less now: that is the measure of how far the nuclear genie has gotten out of the bottle.

This is not an argument for more delay. The nuclear genie will be much further out of the bottle a year from now than it is today. This is why we believe our resolution deserves attention today.

A copy of our resolution and the Rosenfeld column follow. This resolution is identical to the Senate Hart-Mathias effort alluded to in Rosenfeld's column.

[From the Washington Post, April 28, 1972]

THE STEPS BEYOND A SALT AGREEMENT

(By Stephen S. Rosenfeld)

Some of us in relief, some in rage, we're all accustomed to seeing the military industrial complex plan the next "generation" of arms. Now we're seeing something else: parallel efforts by the "arms control complex," a more diffuse group but one which seems to be growing, to plan the next generation of arms controls.

Presumably Mr. Nixon intends to go beyond the first-stage "SALT One" agreement due to be signed in Moscow next month. Certainly plenty of people in his administration hope so: diplomats interested in a saner world, professional arms controllers, military officers who'd rather spend their budgets on non-hardware items, atomic energy officials eager to do more "peaceful" work, and so on. But the President has hidden his hand. Out of a belief that this is the right way to bargain with Russians, he has chosen instead to threaten them with big new American weapons programs unless they come across at Helsinki.

So the visible part of the push to do more is coming from outside: in general terms from a public tired and scared of the arms race; in particular, from politicians whose conviction or convenience inclines them to get out in front on arms control for reasons of budget, peace, re-election or what have you. There are, moreover, plenty of experts around, many of the alumni of past administrations, to provide technical backup. For two years, the Federation of American Scientists has lobbied ardently on Capitol Hill for arms control, and for other science- and-society issues. Recently, an Arms Control Association, which is tax-exempt and can't lobby, was organized to do studies and spread the word.

It's true enough that the government, in particular the President, retains the initiative on formal arms control measures, as on so much else in foreign affairs. But between 1948 (Universal Military Training) and 1969 (ABM), no authorization or appropriation bill faced significant challenge on the floor in Congress, and now challenge is routine. The extent to which the anticipation of challenge induces the administration to pare back its weapons requests, and the committees to cut back these requests further, can only be estimated, but certainly it's happening. The turnaround is there for everybody to see—including the Russians, whom the President supposedly is threatening with a big-arms-budget stick.

One index of the change is to recall the real tensions which hovered over President Kennedy's efforts to gain Senate ratification of the partial test ban treaty in 1963. Obviously uncertain whether his diplomatic handiwork would pass the muster of the Joint Chiefs and the likes of Senator Henry Jackson, Kennedy made huge damaging concessions, promising, for instance, an "aggressive" underground testing program. A decade later, Vietnam and much else has made it inconceivable that many of us would respond to similar pressure from the Chiefs. Though still a devotee of military vigilance, Jackson this week got 3.1 per cent of one state's Democratic primary vote, 1.3 per cent of another's.

The result is that the Congress, far from offering resistance to the President's arms control projects (seabed treaty, SALT, etc.), accepts them gratefully and begs for more. Mr. Nixon has promised to submit the ABM-limit part of a SALT One agreement to the Senate; no matter what the shape of the agreement emerging in Moscow, ratification is widely expected to be a breeze. Just as Mr. Nixon, a Republican with unassailable credentials as an anti-Communist, could become the first President to go to Peking, so he has a political latitude in arms control that no previous Democrat enjoyed. Indeed, in this sphere of policy, the worry of his critics—in Congress and elsewhere—is not that he will exceed his "authority" or latitude, but that he will use too little of it.

While the SALT talks have been going on, the President has pleaded the necessity of secrecy in order to conduct the negotiations, and to avoid Congressional pressure on himself in the process. Such breaks as there have been in the secrecy appear to have had no effect on the talks. The Senate, after a few early and ineffective gestures (a MIRV moratorium, MIRV escrow), has settled back and let the President do it his own way.

Only now, as SALT One draws near a close, is the Senate trying to get back into the game. Its leading candidate is, naturally enough, a vehicle that would require its own participation: a treaty—specifically, a comprehensive test ban (CTB) that would cover underground tests as well as the surface, space and underwater tests banned in 1963.

A CTB would halt further testing of nuclear warheads. Advocates see it as a step at once slowing the Soviet-American arms race and stabilizing the existing strategic balance, and strengthening Moscow's and Washington's mutual attempt to keep more countries from going nuclear. The big powers have long professed to favor a CTB, but disagreement on on-site inspection—Russians reject it, we insist on it—has spared both of them the need to make a real decision. The administration's readiness to forego on-site inspection for SALT One has cut much ground from under its insistence on the same for a CTB. Advances in seismology and in general strategic understanding have left just about everybody this side of Henry Jackson ready to have a go at it.

But a CTB, however firm a lid on the arms race it might have been in 1963, is worth much less now: that is the measure of how far the nuclear genie has gotten out of the bottle. The Arms Control Association recently listed other desirable steps: a moratorium on all strategic-weapons construction, limitation on further missile flight testing, restrictions on certain anti-submarine warfare developments, reduction in numbers of strategic war delivery vehicles. The administration—any administration—has its work cut out for it. Congress and public are doing much of the cutting.

H. RES. ——

Resolution calling on the President to propose an extension of the nuclear test ban treaty to include underground testing

Whereas prior to 1963 there were earnest efforts by the United States to achieve a total nuclear test ban treaty in the hope of curtailing the burdensome and dangerous arms race between our Nation and the Soviet Union; and

Whereas inability to achieve agreement on methods of verifying a ban on underground tests frustrated hopes for a comprehensive treaty, and resulted in acceptance in 1963 of a limited test ban; and

Whereas the massive underground testing which has since continued on both sides has constantly fueled the burdensome nuclear arms race without promoting national or interntional security; and

Whereas steady and continuing scientific progress in seismology now makes it possible using national means alone, to monitor underground events down to levels so small that any remaining undetected or unidentifiable events would have no controlling military significance; and

Whereas the early achievement of total nuclear test cessation would have many beneficial consequences: imposing finite limits on the nuclear arms race; releasing resources for peaceful uses; protecting our environment from growing testing dangers; creating a more favorable international arms control climate; helping to win acceptance by more nations of the crucial nuclear nonproliferation treaty; making more stable agreements it is hoped will result from the current SALT negotiations: Now, therefore, be it

Resolved, That in the interest of promoting negotiations for general cessation of the nuclear arms race and advancing international security, the House calls upon the President to propose to the Soviet Union and the other nuclear powers an expansion of the limited test ban treaty to include testing underground and to strive for its prompt acceptance.

LAW DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. ICHORD) is recognized for 30 minutes.

Mr. ICHORD. Mr. Speaker, I think it appropriate on Law Day to cite Webster's definition of law:

> A binding custom or practice of a community; a rule of conduct or action prescribed or formally recognized as binding and enforced by a controlling authority.

Beyond that definition, Mr. Speaker, is the fact that the law of this land, under our beloved Constitution, has been a prime mover in the force that made this Nation the world's greatest bastion of freedom.

For as John Locke remarked:

> Whenever law ends, tyranny begins.

Consider, Mr. Speaker, that the American nationality is unique. It is not based upon common race, common religion or common ancestry but on a common belief in and commitment to freedom under law.

America is composed of the English, Scotch, Welsh, Irish, Germans, Italians, Poles, Africans, Indians—both of the East and West—Frenchmen, Spaniards, Finns, Swedes, Lebanese, Danes, Armenians, Croatians, Slovenians, Greeks, Luxembourgers, Chinese, Japanese, Filipinos, Puerto Ricans—the list could go on virtually forever.

As the poet Emma Lazarus said:

> America has fashioned a nation from the wretched refuse of Europe's teeming shores.

I would add not only Europe's shores but those also of Asia and Africa.

We have fashioned a nation from this raw—and often rough—material under a common law inherited from Great Britain but modified to meet our own unique interests.

Nothing else could have created a nation out of such diverse background of individuals.

As Eric Hoffer, the longshoreman-philosopher, says:

> America is the only new thing in history.

It was to a large degree the law that made it so.

Like the other lawyers in this House, I am aware that while the law is flexible, bending with the needs of change, it is also a very fragile and precious possession.

Abraham Lincoln noted this when he said in his second annual message to Congress:

> A nation may be said to consist of its territory, its people and its laws. The territory is the only part which is of certain durability.

So, Mr. Speaker, let those of us in this House—which has been called the greatest deliberative body in history—pray as we continue to change and modify the laws of the land, that we continue to accomplish it with the aim of achieving durability and stability but without shattering the fragility.

Mr. MEEDS. Mr. Speaker, based on freedom under law, our Nation celebrates Law Day in recognition of the importance of law to our way of life.

In order for Law Day to have meaning for the whole Nation, law must serve all our citizens. In times past, law better served those who could pay for lawyers. Without access to the legal system, those who could not pay were forced to redress their grievances on the outside—often in the streets. Legal Services has helped change this.

Legal Services has given nearly everyone access to our legal system. By providing staffs of lawyers in 850 neighborhood Legal Services offices around the country, the Office of Economic Opportunity has placed the doors of justice before the economically disadvantaged.

With those doors open, Legal Services has apprised millions of indigents of their civil rights. Presently there are 1,800 Legal Services attorneys obtaining legal satisfaction for inequities confronting approximately 600,000 poor Americans.

Legal Services has not been without interference and detractors. On January 10, 1972, the Philadelphia Inquirer said:

> Vice President Spiro T. Agnew indicated strongly Sunday that he would act to cut off funds for the Camden Legal Services as soon as he returned to Washington.

Interference like this raises the question of how long those doors of justice will remain open to the poor.

OEO legislation now pending in the Senate would establish Legal Services as an independent corporation, free from political interference.

Prompt and positive action by the other body will help keep those doors of justice open—Law Day will continue to have important significance for the Nation and its citizens.

Mr. WOLFF. Mr. Speaker, today I am pleased to join with my colleagues in observing the day set aside to pay tribute to our system of freedom under the law. I am of course referring to Law Day sponsored by the American Bar Association in conjunction with State and local bar associations.

We are indeed privileged to live in a society where our system of law enhances individual rights and freedoms. We are painfully aware of other countries less fortunate than ours where law has become synonymous with tyranny and oppression or where the absence of law has allowed anarchy to become the way of life. Since the beginnings of America, we have been blessed with a just and democratic system of law which has advanced both order and freedom in our society.

As legislators we are especially sensitive to the need for equitable, comprehensive laws and for the just enactment of those laws. On Law Day it is particularly appropriate that we reflect on the role which we as Representatives play in enacting the laws which govern this country. We ourselves could not meet the grave responsibilities which this role places upon us if we did not hold a deep respect for our system of law itself. As lawmakers we not only have a responsibility to enact sound laws but to foster respect for the law and to aid the public in understanding the workings and effects of law on our way of life. Since Law Day was first established by Presidential proclamation in 1958, we have set aside one day in the year to pay tribute to our system of freedom under the law which has contributed so greatly to the strength and spirit of America. I am honored to join with the lawmakers and law enforcers throughout the country in observing Law Day in 1972.

Mr. MIZELL. Mr. Speaker, 47 years ago, Calvin Coolidge accepted the "splendid misery" of the U.S. Presidency, and in his inaugural address, the usually taciturn statesman spoke eloquently of the need for respect for the law.

He said:

> In a republic, the first rule for the guidance of the citizen is obedience to law. Those who want their rights respected under the Constitution and the law ought to set the example themselves of observing the Constitution and the law.
>
> Those who disregard the rules of society are not exhibiting a superior intelligence, are not promoting freedom and independence, are not following the path of civilization, but are displaying the traits of ignorance, of servitude, of savagery, and treading the way that leads back to the jungle.

Those words, first spoken nearly half a century ago, still challenge us today, and they are perhaps more timely and speak more directly to our generation than to his.

Today the Nation celebrates Law Day, a day set aside every year for Americans to rededicate themselves to the precepts and ideals of law and justice.

One year ago today, demonstrators bent on violence and disruption descended on Washington with the avowed purpose of "closing down the Government." They failed, and law prevailed.

Those kinds of tactics, so often employed in the past decade, seem now to have been retired, and reason has been restored. This is not only a defeat for the perpetrators of violence; it is a victory for us all.

For those protests were an example of the kind of irresponsible and self-destructive demonstrations that cast a dark shadow on the constitutional right to "petition the Government for a redress of grievances."

I support every American's right to disagree with established policies. We should not fear the word "dissent," but we must always guard against distorting it, either by violent demonstrations or by blind condemnation of all forms of protest.

As we celebrate Law Day this year, and rededicate ourselves to law and order in the best sense, we must distinguish between the right to dissent and the way we choose to exercise that right.

As we have learned through painful and often tragic experience, those protests which seek only to demolish the old order, with no thought given or action pledged to the construction of a new and better one, are travesties of dissent and invitations to repression.

That kind of dissent will not solve the problems of our society; it will merely add to them. It will not assist those actively engaged in the often agonizing task of making national policy; it will hinder their efforts.

But most importantly, the use of violence in protest substitutes confrontation for negotiation, and terror for reason, discards persuasion while inviting alienation, and so distorts issues and feelings that "dissent" becomes more a threat than a right, then possibly not a right at all.

We cannot let that happen, because legitimate dissent is too important to a free society. The right to disagree is the essence of freedom, but the responsibility to abide by the law is both the foundation and the protector of our freedom. And in that freedom, our strength and our greatness and our future lie.

So on this Law Day 1972, let us all resolve that though we serve no man, we shall serve the law.

Mr. LINK. Mr. Speaker, I am pleased to join with my distinguished colleagues in commemorating Law Day.

North Dakota Gov. William L. Guy has also joined in this annual observance. I would like to insert his proclamation at this point in the RECORD:

STATE OF NORTH DAKOTA,
EXECUTIVE OFFICE,
Bismarck, April 14, 1972.

PROCLAMATION

During this critical period in our nation's history of special trial and challenge, it is more important than ever before that we recognize the vital role and essential place of the rule of law to national stability and individual freedom;

It has been said that the law is the strongest link between man and freedom. Our present day liberties are the result of the sacrifices and dedication of those who came before us and persevered to give us individual rights under law;

In a government in which the individual is the key, the citizen must exercise his franchise wisely, give of his time and efforts for the betterment of society and the advancement of mankind, be informed on important state and national issues, and teach the principles of good citizenship, by example, in the home and in the community;

The Congress of the United States and the President, by proclamation, have designated Monday, May first, as Law Day USA. On the occasion of the 15th nationwide observance of Law Day, let each of us seek an increased understanding of, and respect for, the rule of law and the role of law.

Now, therefore, I, William L. Guy, Governor of the State of North Dakota proclaim Monday, May 1, 1972, as

"LAW DAY USA"

In witness whereof, I have hereunto set my hand and caused the Seal of the State of North Dakota to be affixed this 3rd day of April, 1972.

WILLIAM L. GUY,
Governor.

Mr. Speaker, I believe that in this election year it is important to recognize the key role that our elections serve in rule by law. Elections give meaning to the all important phrase of democracy, "government by consent of the governed."

This year, elections represent another important milestone in broadening the franchise. For the first time, 18-, 19-, and 20-year-olds will be able to vote in all elections. Also, the Democratic Party has taken steps to open the party structure to broader participation by all, and to insure a democratic system for nomination of its Presidential candidate.

Mr. Speaker, I know that each of us recognize the important role of elections in rule by law. Each of us serves at the pleasure of the voters—we know that every vote counts.

Mr. KEMP. Mr. Speaker, throughout our nearly two centuries as a democracy, we in America have traditionally looked to our courts as vehicles for change and redress.

After all, the courts are the logical and correct forums in which to decide issues. They are intended to promote orderly and peaceful conduct. They are receptive to fresh, idealistic viewpoints. They contain the machinery that effects meaningful changes.

However, as happens to almost any institution with the passage of time, some problems have begun to burst forth on the legal system. The principles of justice have remained as constant and firm as ever; but the legal machinery for dispensing that justice shows signs of sputtering.

Recognizing the problems, the American Bar Association, and its over 1,000 State and local associations, have taken action to increase the efficiency and fairness of the legal system.

For instance, I imagine most of you are familiar with the growing problem of courtroom congestion. If you are not, suffice to say that there exists in today's courts a legal logjam of immense proportions.

Basically, this congestion is due to two factors: First, an increase in litigation—something which, in a complex society, we cannot do much about; and second, a tradition that has thrust upon our judges the job of handling the business end of the courts as well as handling their caseloads. By the business end, I refer to the everyday scheduling, recordkeeping, and other administrative details which every organization must maintain.

To remedy this situation, the American Bar Association has inaugurated a program to train a body of skilled executive court administrators who, employing advanced business methods and technological aids, will handle the administrative duties of the court on a full-time basis, freeing the judges for more courtroom duty. This type of modernization will increase efficiency.

In addition to efficiency, the legal profession is also aiming to increase the fairness of the legal system by overhauling some of the machinery. This certainly does not mean that I would seek to change any of the hallowed principles of justice in the courts. By all means, the hard-earned rights and procedural safeguards inherent in our system will remain intact. The bar's efforts will be directed to make procedures more uniform, perhaps simpler, so that the disparity between the operating methods of one court and another will become less significant.

One of the most ambitious projects ever undertaken by the American Bar Association has been the formulation of a system of "minimum standards" of procedure for both our State and Federal courts that would cover the entire spectrum from trial through appeal. By making procedures more standardized, we will increase not only the efficiency but also the fairness of the system, because everyone who comes before any court in our land will receive the same basic treatment.

In addition, the legal profession will recommend a set of "judicial standards" so judges in all courts will have a common standard of reference in handling various situations, such as courtroom disruptions.

Another area of concern is the shortage of competent trial lawyers in rural and metropolitan areas. You must understand: not every lawyer is a skilled trial advocate. In recent years lawyers, just as people in other fields, have tended to specialize, often gravitating to areas of the law which involve very little trial work. Even though most lawyers will do a very competent job with the case matter itself, a lawyer who is not trained in the details of trial work can become another source of slowness, delay, and thus more courtroom congestion. With this in mind, the American Bar Association has established a special institute to provide young lawyers with postgraduate training to better prepare them for trial work and teach them the latest skills. Eventually, the legal profession hopes to make this type of prerequisite for trial work.

All of these actions on the part of the American Bar Association represent attempts to strengthen the legal process. As I have mentioned, the keynotes are on increased efficiency and fairness. In commemorating "Law Day U.S.A." in 1972, I join with Americans everywhere in examining the legal profession's role in improving the system.

But Law Day is also a day in which all citizens—inside and outside the legal profession—take stock in the values of living under a system that protects individual rights and promotes a free society.

For everyone, Law Day serves as a reminder of the rights we all enjoy. Because they are protected by law, these rights are constant. But their vitality can't be taken for granted; they must be nurtured and sustained by all of us. This means exercising our rights and responsibilities of citizenship by participating in community affairs, keeping informed on the issues, respecting and upholding the law, practicing good citizenship in the home, serving on juries when called, and, of course, voting.

So, strengthening the legal process in America involves more than just the legal profession's efforts to improve the system's working apparatus. It involves the efforts of everyone to make the system a strong, integral part of our lives.

Mr. Speaker, the more exercise we give our legal process, the stronger it will become. And the stronger it becomes, the better the quality of life for all of us. At this point, as a tribute to the Buffalo, N.Y. Bar Association, I include an article on why we observe Law Day.

WHY WE OBSERVE LAW DAY

What is Law Day USA? How did it come into being? Why do we observe it? Is it recognized widely?

Law Day is set aside May first each year by joint resolution of Congress and Presidential proclamation as "a special day of celebration by the American people in appreciation of their liberties" and as an occasion for "rededication to the ideals of equality and justice under law."

The annual nationwide event is not a *"lawyers' day,"* but rather an occasion for honoring the place of law in our lives, for learning how the law and our legal system operates, and for examining how the law can better serve our people and nation.

Law Day USA was conceived in 1957 by Charles S. Rhyne, a Washington, D.C., lawyer and then president of the American Bar Association, the 150,000-member national organization of the legal profession in the U.S.

On the occasion of the first observance of Law Day USA in 1958, President Dwight D. Eisenhower stated:

"It is fitting that the American people should remember with pride and vigilantly guard the great heritage of liberty, justice and equality under law . . . It is our moral and civic obligation as free men and as Americans to preserve and strengthen that great heritage."

Rhyne said: "Today, after 350 years, the greatest strength of America lies in this concept of individual liberty under law. Other systems of government have produced great scientists, great musicians and other outstanding achievements. But no system has produced the individual freedom which exists in America. . ."

Our nation, through its citizens, pauses once each year to reflect on our legal heritage and the role of law in an ever changing society.

The special event is a day for reminding all citizens of the United States of the rights they hold under the Constitution and Bill of Rights which are protected by law: free speech, free press, free assembly, freedom of religion, the right to legal counsel and a trial by one's peers if accused of crime.

It is a day, too, when all the people of the United States are asked to consider their individual duties as responsible citizens. Such as: 1) The duty to be informed on issues of government and community affairs, 2) To vote in elections, 3) To respect the rights of others, 4) To practice and teach the principles of good citizenship in their home, 5) To serve on juries if called, 6) To obey, respect and uphold the law, and 7) To support those institutions and persons charged with law enforcement.

The primary purpose of the observance is to emphasize the values of living under a system of laws and independent courts that protect individual freedom and make possible a free society. That Law Day USA occupies only a single calendar day merely is symbolic. It is an annual reminder that while the principles embodied in the observance are constant, their vitality cannot be taken for granted, but must be nurtured and sustained by every citizen every day of the year.

Law Day USA has received the endorsement of many prominent national organizations, including the National Governors' Conference, United States Conference of Mayors, National Education Association, National Conference of Bar Presidents, Rotary, Lions, Kiwanis and Optimist International, the U.S. Junior Chamber of Commerce, American Heritage Foundation and the National Congress of Parents and Teachers.

The observance takes many forms. More than 1,800 Law Day USA chairmen, representing city, county, state and district and federal bar associations throughout the country, annually present special programs on or near May 1 to help dramatize the social and cultural values of our system of laws and courts. Programs include addresses by leaders in government, education and law; sermons; mock trials; courthouse tours; town meetings; essay contests; school assemblies; and college and university campus seminars.

Law Day has become one of the most widely recognized and celebrated events of the year.

An estimated 27,000 separate Law Day programs are held each year throughout the country with more than 1,000,000 persons in attendance. The objectives of Law Day USA are brought forcefully to public attention by the nation's communications media. Well over 100,000,000 persons in the United States, and some 50,000,000 others in 37 foreign countries, hear or see the Law Day message through their daily newspapers or radio and television stations.

Mr. RONCALIO. Mr. Speaker, today is Law Day. It is customary on this day to attack communism abroad for its revolutions and to praise America at home for its orderly, legal evolution. I would like to do something else today. I would like to remind my fellow citizens and my colleagues of the legal profession that, just because a process of change or stability is both orderly and legal, does not mean that it is necessarily fair. As a great French writer, Anatole France, once wrote at the turn of the century:

> The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.

The irony of this remark is obvious—as are its dangerous implications if carried out. We must not allow law to become the weapon of a power elite, if law is also to remain a texture which is expected to bind this country together. As Justice Felix Frankfurter once so eloquently put it:

> As judges we are neither Jew nor Gentile, neither Catholic nor agnostic. We owe equal attachment to the Constitution and are equally bound by our judicial operations whether we derive our citizenship from the earliest or the latest immigrants to these shores. As a member of this Court I am not justified in writing my private notions of policy into the Constitution, no matter how deeply I may cherish them or how mischievous I may deem their disregard.

One way in which law might be maintained as an impersonally fair force in the world is to insure that it offers places within its profession for people from as many diverse backgrounds as possible. For this reason, I applaud the excellent inner city programs at such institutions as Georgetown and Howard Law Schools, programs which both admit people who would never otherwise come in contact with the law—except at its receiving end—and which encourage students to deal with a special class of social problems of which they would otherwise remain ignorant.

In this connection, too, I am proud of the University of Wyoming College of Law, of which I am an alumnus. This law school should be proud, also, that it has encouraged young people to enter the profession of law who otherwise might not have aspired to such a calling. Begun in 1920 as a very modest institution which had only three professors teaching classes in their offices it graduated only three students in 1923. Nonetheless, the school's high standards won it the instant approval of the American Bar Association and membership in the Association of American Law Schools.

The law school is still comparatively small, with a faculty of 11 full-time teachers and three lecturers who instruct a student body of no more than 150. But its standards both for admittance and for training remain very high. Its primary function is the training of lawyers. This includes mastering "the law" and its various methodologies. A student not only learns to appreciate his role as advocate, but his obligation to serve as counselor as well. Students are inculcated with the knowledge that, as lawyers, much will be expected of them; their communities will look to them as public leaders and they will frequently be consulted on business and personal affairs. They are made to realize that they must have broad backgrounds and must learn and internalize the social responsibilities of their profession.

The University of Wyoming College of Law has a distinguished law review for its best second and third year students. It also maintains a unit in the Wyoming Water Resources Research Institute, partially funded under the Water Resources Research Act of 1964. This unit is called the Land and Water Law Center, which channels a major part of faculty and student research into the natural resources area, which are so vital to Wyoming and the West. The center publishes a Land and Water Law Review, which has attained national recognition in this very specialized and important area of inquiry. Like many national law schools, the University of Wyoming College of Law maintains a Wyoming Defender Aid Program, a statewide student legal aid service to supplement the defense of indigent persons accused of crime. Finally, the College of Law supports a legal services program, under which students staff a law office in downtown Laramie and provide legal services to economically disadvantaged members of the community, under the supervision of a faculty member.

One cannot praise the University of Wyoming College of Law too highly. It has done much toward making Wyoming's lawyers—particularly its young ones—some of the finest, most competent and most progressive in the Nation.

Mr. JOHNSON of California. Mr. Speaker, it is a privilege and a pleasure to join my colleagues in the House of Representatives, and the citizens throughout this great Nation in celebrating Law Day, a day which has been set aside to express appreciation for our liberties and to reaffirm our loyalty to the United States of America.

With the enactment of Senate Joint Resolution 169, we have been encouraged to give special emphasis to the law enforcement officers of the United States for their dedication to their sworn duties—protecting the lives and property of all Americans.

It is sincerely hoped that all Americans will join on May 1 in paying tribute to these fine men who each day place their lives on the line in the performance of their duties.

I am proud to be an American. I enjoy the freedoms which we have, and our law enforcement officers, with their dedication to duty, and who are our thin line of defense here at home, who contribute a great deal to our ability to enjoy those liberties for which our forefathers fought and died.

I want to commend and thank the law enforcement officers throughout the United States for a job well done. I urge them to wear their uniform with pride, to take pride in their job, and above all to continue their efforts to become professionals in every way.

In conclusion, I would like to urge all law enforcement agencies and officers and every American citizen to also celebrate May 14, which was established as Peace Officers Memorial Day and the week of May 14 to May 20, which was established by Congress as Police Week.

Mr. FRENZEL. Mr. Speaker, it is always the lawyers who lead the charge on Law Day. That is no surprise. Well-fed lawyers have much to be thankful for on Law Day.

But reverence for law and respect for our judicial system is not the exclusive province of lawyers. As a member of an oppressed minority of non-lawyers in this House, I commend my lawyer colleagues, especially the gentleman from Missouri (Mr. HUNGATE) for providing time to pay tribute to our system of freedom under law.

It has become quite fashionable now to debunk any institution which cannot react instantaneously to individual whims. Our judicial system has not been immune to this criticism. It can stand criticism, and even its greatest admirers will admit that much improvement is needed.

However imperfect our government of laws and our judicial system may be, they have for nearly 200 years stood as protectors of the rights of free citizens in a free society.

Therefore, on Law Day 1972, I look back with pride in representative government's most successful system of law, and I look forward with anticipation to the continuing improvement of that system.

Mr. BEGICH. Mr. Speaker, the 87th Congress of the United States established by joint resolution Law Day U.S.A. to pay tribute to our system of freedom under law. This is a day set aside for observance of the law—those principles of conduct governing human behavior that are recognized as binding by society. It is with pride that I join my colleagues in commemorating this special occasion.

Law is one of the keystones of our society. Since the very beginning when man first lived together in communities, law has played a fundamental role in preserving order and enabling individuals to live together in peace and harmony. Without these rules of behavior limiting certain types of destructive action, there would be no order and man would possess little chance of progressing to a higher form of society, let alone even survive.

Observance of, and respect for the law, is essential to freedom, for law and liberty go hand in hand. Yet, despite its tremendous importance, it is not enough to simply say we must observe and respect the law. Rather, our laws must be made deserving of respect and obedience. We must advance equality and justice under law such that those subject to its governance will want to obey, and, indeed, will revere the law.

We hear so much about a lack of law and order these days, and of crime on the streets, that we sometimes fail to recognize the existence of reasons for such lawlessness. We must not condone this behavior, and we all must put an end to it, but we must also realize that certain social and economic conditions in our country must change before we can ever realistically hope to remove such deviancy.

We are all well aware of the fact that laws are formed by individuals in a society to serve certain beneficial purposes. People come together and determine certain acceptable codes of conduct to better enable them to satisfy their desires. This being so, it is only realistic to recognize that this not being served by the laws and social codes, but instead are actually hurt by them are not going to respect these laws. It is also a fact that there continue to exist in this great Nation of ours basic economic and social inequities. Our laws and values, therefore, must change to eradicate these inequities.

It is common knowledge that street crime in America is essentially an urban phenomena. The root causes of this crime reach deep into our cities, to those neighborhoods where poor black and white youths know nothing but substandard housing, inadequate public services, inferior educational facilities, racism, poverty, and heroin addiction. Trapped within the decaying inner cities by circumstances beyond their control, they are consigned to a life without hope. These conditions naturally foster despair. Despair generates desperation and desperation breeds crime. With no chance of achieving anything meaningful within the system, they quite understandably though inexcusably, will do so outside the system and reason and law.

The solution to this tragedy lies in rebuilding our cities, thereby rebuilding hope and opportunity. An unprecedented reordering of our national priorities is essential, however, before a realistic redevelopment plan can be implemented. The distortion of present priorities is reflected in this Nation's allocation of $80 billion to defense, but less than $500 million for safe streets.

Three fundamental purposes of Law Day as set forth in the original resolution are: First, advance equality and justice under law; second, encourage citizen support of law observance and enforcement; third, foster respect for law and understanding of its essential place in American life. Let us take these goals to heart not just for today, but for each coming day. It is not by believing in these goals and purposes, but rather by living them, that we will achieve a more just, and more lawful, and better America.

Mr. TERRY. Mr. Speaker, 11 years ago the Congress set aside May 1 as Law Day and proclaimed it a "special day of celebration by the American people in appreciation of their liberties" and as an occasion for "rededication to the ideals of equality and justice under law."

It is a symptom of the times that such a special celebration is necessary. All over the country our judicial system has been backed into a corner by groups bent on anarchy. Their activity goes on under the guise of legitimate dissent.

The aim of Law Day is to dramatize the values of living under a system of laws and independent courts that protect individual freedom and make possible a free society. This protection of individual freedom does not give a person the right to block streets, public buildings and deny freedom to their fellow citizens by preventing them from entering these streets or buildings.

I want to emphasize here that I do not at all find fault with the legitimate dissenters who lecture, write, and otherwise demonstrate in support of their positions. I only object when this demonstration impinges on the individual rights of other citizens.

Law Day is a day for reminding all citizens of the rights they hold under the Constitution and Bill of Rights and the protection of the law: Equal protection and equal justice, equal educational and economic opportunity; a voice in free elections; free speech, press and assembly; and the right to legal counsel and a prompt trial if accused of a crime.

But more than this, it is also a day when all citizens are asked to take a hard look at their own responsibilities with respect to these rights. It is their duty to obey and respect the law as it stands; and if they object to the laws, they should work within the system to get them changed. It is their duty to keep informed on issues of government and community welfare and to assist the agencies of law enforcement. And most of all it is their duty to respect the rights of others.

We must realize that our entire system of laws represents the accumulated wisdom of Christian-Judaic heritage. It is not the result of whimsical judgments by anonymous groups or individuals. The sooner we again grasp this fact, the more meaningful Law Day and our laws will become.

Mr. DORN. Mr. Speaker, it is a very special honor and pleasure on this Law Day 1972 to pay tribute to the American legal profession.

Since the early days of the Republic, the legal profession has taken a decisive role in shaping our Nation's history. As a nonlawyer, I am especially grateful for the fact that so many learned lawyers serve here in the Congress. In fact, more than half of the membership of both Houses of the Congress are members of the legal profession. More than any other profession, members of the legal profession are constantly aware that any truly civilized society must live by certain well understood rules. In the Congress and in the legislatures of the sovereign States, men of the law serve with distinction and skill in dealing with, drafting and enacting complex statutes. The entire Nation owes a debt of gratitude to this distinguished public-minded profession.

Mr. Speaker, ours is a nation of laws, not of men. The Congress, the Chief Executive and the Supreme Court are all bound by our Nation's basic law, the Constitution. And in these times of stress and changes, it is well for all to remember that the only way for truly lasting and effective change is under the law. Law means protection for the weak and the less advantaged. In situations of chaos and anarchy it is always the weak and the downtrodden who suffer most. The law has always been the most effective tool for social change and betterment. Dedicated lawyers throughout our history have responded to defend and protect the persecuted and the weak. In our service as Congressmen we often find situations where the most serious personal or commercial problems could have been avoided easily by the briefest consultation with an attorney. Whenever appropriate we urge our people to consult with members of the legal profession before taking steps that could lead to serious consequences.

Yes, Mr. Speaker, it is especially appropriate that we commemorate this Law Day on a day which in some other nations is given over to marching troops, rockets and saber rattling. Our national salute to the men of the law emphasizes the fact that our Nation is based on the law and led by men committed to liberty and freedom for all under the law.

It is most fitting and proper, too, Mr. Speaker, that today is also officially recognized by law as Loyalty Day. In 1958 the Congress passed and President Eisenhower signed legislation providing that May 1 "is to be set aside as a special day for the recognition of the heritage of American freedom." Loyalty Day and Law Day, both celebrated on May 1, recognize that ours is a free nation under law, where the individual has basic, inalienable rights that cannot be destroyed in the name of an all-powerful party or State.

Mr. McCLORY. Mr. Speaker, today we commemorate Law Day, a celebration of America's commitment to equal justice for all, achieved through due process of law. I am proud—I believe we can all be proud—of this tradition, which has made it possible for our citizens to enjoy a higher degree of freedom and liberty than any other people at any other time in history.

Mr. Speaker, I regret that this sentiment is being disparaged—and indeed, avowedly attacked—by certain segments of American society—including some members of the legal profession itself. We hear an attorney named William Kunstler proclaiming:

> There is a disquieting probability that the legal subsystem itself is nothing more than the new tyrants' most reliable weapon to ward off any seemingly potent threat to the continuation of yesterday into tomorrow . . . In the last analysis, due process of law is exactly what the high and mighty say it is.

Mr. Kunstler proclaims that:

> We've gone into the age of the clenched fist. Since protest is not listened to, we must turn to other forms.

Mr. Speaker, those who adhere to this philosophy would undermine a civilization based on the premise that progress—human progress, as well as material progress—cannot take place without orderly process. They would deny all that has been created through its facilities.

Mr. Speaker, I for one am not about to give up on the American system of justice merely because in a few scattered instances, it is imperfect. On the contrary, I take pride that those instances are so few. On this Law Day, 1972, I hope that all Americans will join in these words uttered 134 years ago by Abraham Lincoln:

> Let me not be understood as saying there are no bad laws, nor that grievances may not arise for the redress of which no legal provisions have been made. Bad laws, if they exist, should be repealed as soon as possible; still, while they continue in force . . . they should be religiously observed.

Mr. CORMAN. Mr. Speaker, today, May 1, marks the 15th annual observance of Law Day U.S.A. Law Day, set aside by joint resolution of the Congress and by Presidential proclamation, is a special day for celebration by the American people for "rededication to the ideals of equality and justice under law." It is a privilege to join with my colleagues in paying tribute to the role of law in our society and to commit myself anew to the respect and observance of the law which alone can insure the spirit of liberty for all equally.

It has often been said that the strongest link between man and freedom is the law. Our present day liberties are the result of the sacrifices and dedication of those who came before us and persevered to give us individual rights under the law.

If law is the foundation for democracy, then it must be defined as the system of principles governing human affairs. Over 200 years ago Dr. Samuel Johnson defined the law as "the last result of human wisdom acting upon human experience for the public good." For Dr. Johnson good laws were those which were based upon human wisdom and human experience—not upon whim or pressure or fancy statistics. But more important, good laws were enacted for the public good, as opposed to any private or individual sector of society. Good laws were those which encouraged liberty and equal justice for all.

Historically in our society the law has provided the framework within which the most noteworthy advances in establishing quality of rights and opportunities in housing, education, and employment have been achieved. Such developments as voting rights, school desegregation, equal employment opportunities, and the use of Federal funds without discrimination readily demonstrate that law and legal authority have constituted a bridge to important gains in social justice throughout the United States.

Although there is much left to be done to improve the quality of man's life, society is learning to work within itself for its own perfection and benefit. As Martin Luther King, Jr. once said:

> Injustice anywhere is a threat to justice everywhere.

Therefore, the judicial system must continually strive to implement the will of the people as consistent with the Constitution and fundamental principles of democracy. The Federal courts lead the way for the improved status of mankind. But they must not be repressed. They must be allowed to continue to expand rather than diminish the original objectives of our founding fathers—equality under law.

If democracy is to succeed then people must believe the laws are for the public good and therefore respect them. Whether or not we build a better society depends upon the degree of trust and confidence the people have placed upon the judicial process. Only when the legal system serves the purposes of the people will each individual have the opportunity to get ahead and lead a full and meaningful life.

In commemorating Law Day U.S.A. in 1972, we must take stock in the values of living under a system that protects individual rights and promotes a free society. We must all be responsible for upgrading and improving our judicial system for good laws have never served one man well without serving all men well. And since the individual is the key in our Government, he must be given equal opportunity to exercise the rights and privileges he enjoys under our Federal and State constitutions. Only through a sound judicial system can this be accomplished.

GENERAL LEAVE

Mr. LINK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous matter on the special order given today by the gentleman from Missouri (Mr. ICHORD), on Law Day, 1972.

The SPEAKER. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

AFTER 83 DAYS, STILL NO WORD FROM PRESIDENT NIXON ON TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, it has now been 83 days since House Ways and Means Committee Chairman WILBUR MILLS wrote President Nixon asking the President to forward the tax reform proposals he promised to Congress last September. In his February 7 letter, Chairman MILLS asked that the President's tax reform proposals be sent by March 15 so the Congress would have time act on them in this session The President has ignored Chairman MILLS' request.

Two days after Chairman MILLS' letter, on February 9, the House passed legislation increasing the temporary Federal debt ceiling from $430 billion to $450 billion. However, this temporary increase in the ceiling expires on June 30, 1972, so the administration must come back to Congress for further debt ceiling legislation before that time. The February 9 ceiling increase passed by a comfortable 100-vote margin, 247 to 147, with Democrats supporting it almost 2 to 1—155 to 78. However, a large number of Democrats made it clear at that time that they did not intend to vote for a further increase in the debt ceiling in June unless President Nixon took some meaningful action on tax reform.

More than a month later, when it became clear that President Nixon was not going to meet Chairman MILLS' March 15 deadline for submission of tax reform proposals, the full House Democratic Caucus put the President on notice more explicitly. At its March 15 meeting, the Democratic Caucus, noting that "full Presidential support is needed to assure passage of meaningful, revenue-raising tax reform," formally resolved that:

> [It] is the sense of the Caucus that passage of legislation further increasing the federal debt ceiling will be jeopardized unless the President either publicly supports a meaningful, revenue-raising tax reform proposal, or, at least, sets forth the tax preferences or loopholes which in his judgment Congress may attempt to rectify without confronting a Presidential veto.

The next day, Congressman CHARLES VANIK, the sponsor of the caucus resolution, sent a copy of it to President Nixon. Congressman VANIK pointed out that legislation has been introduced in the House which would surely meet the caucus definition of meaningful, revenue-raising, tax reform, calling the President's attention to H.R. 13877, a $7.25 billion "quick-yield" tax reform package introduced by myself with 60 Democratic sponsors, and H.R. 11058, introduced by Congressman JAMES CORMAN and 47 other House Members. Since then, similar legislation (S. 3378) has been introduced in the Senate by Senator GAYLORD NELSON and 11 other Democrats.

Thus there is no dearth of proposals. Furthermore, we are not asking the President embrace every section of these bills. Indeed, if pressed, we are not asking that he embrace them at all; all we ask is that he let us know which provisions he will not veto. As past experience has shown, passing tax reform legislation is no easy task, and it is hardly an unreasonable request to ask the President to give some assurance that the whole exercise will not be undone by one of his vetoes. Given his past record of vetoing meritorious legislation, he can scarcely assert that this is an idle concern on our part.

But despite the reasonableness of our request, there has been no response from the President. Instead, he has sent forth his Secretary of the Treasury to flay and denounce tax reform and all of those who advocate it. Testifying before the Senate Finance Committee on February 28, Secretary Connally said the administration had no intention of submitting tax reform proposals to the Congress, and was aghast at the suggestion that there might be such things as "loopholes" in the Federal tax system:

> Now, when you talk about loopholes, I do not consider a capital gains provision of the tax laws as a loophole. I do not consider depletion allowances as a loophole. This is a very conscious decision made by this Congress over almost half a century to stimulate the development of mineral resources of the country. . . . We do not need to reduce it. . . [If] we were looking at the interest of the United States, we would probably provide a greater incentive.
>
> There was a provision in that [1969] tax reform bill to disallow tax-free municipal bonds, but you could not pass it and you ought not to pass it. . . . [It] is not a loophole. Nothing about it is a loophole.

Secretary Connally went forth again to smite the tax reformers in a speech to the American Society of Newspaper Editors on April 19. He expressed his dismay at "people running over the country today" talking about the inequities and loopholes in the tax program "as if the entire thing was a monstrosity and evil in its concept, and iniquitous in its administration."

The Secretary again went through his refrain about there being no such thing as a tax loophole:

> [Are] they talking about charitable deductions to churches, museums, educational institutions? That is a loophole? I don't think it is, but that's what they're talking about.
>
> Are you talking about knocking out, eliminating the interest deductions on home mortgages? That's a loophole; that's what they're talking about. I don't call that a loophole.
>
> You talk about capital gains. I don't want to destroy the real estate industry of the country or the financial institutions of the country. I don't want to see the Dow-Jones hit 500 in a week's time by knocking out capital gains. I don't think it is a loophole. It is a conscious decision made by the Congress of the United States. I don't call it a loophole.
>
> You talk about interest-free municipal bonds. That's a loophole by some definitions; not in my book.

And so on in that vein. There is more than a little bit of setting up and then knocking down of strawmen in this, since few of those "people running over the country" are proposing reforms quite so draconian as the Secretary implies. the quick-yield tax reform bill, for example, contains nothing about the mortgage interest deduction or charitable contributions. But that is not the important point. What is important is what is revealed about the attitude of the Secretary of the Treasury toward tax reform.

Over the years, the Treasury Department has stood out as virtually the sole defender of the integrity of our tax system and of the interests of the average taxpayer. The beneficiaries of tax loopholes have had no trouble finding sophisticated and highly-skilled lawyers and lobbyists to defend their loopholes. But it was the Treasury Department that spoke up for the average taxpayer. What Secretary Connally's comments show is that the Treasury has now gone over to the other side. The Treasury has lined up with the oil men, wealthy investors, real estate speculators, hobby farmers, and those with great inherited wealth in opposition to the average taxpayer who has no loopholes, no lawyers, and no lobbyists. Instead of acting as a counterweight to the special interests, the Treasury now acts as the fearless defender of the strong.

But the day of reckoning is approaching. There will be another vote to increase the debt ceiling in June. If there is no change of attitude on the part of President Nixon and his Treasury Secretary, they may find themselves presiding over a government which cannot pay its bills. If the ceiling is not raised in June, the Treasury will not be able to issue any new securities, 5 million Federal employees will go unpaid—including President Nixon, Secretary Connally, and myself—27 million social security beneficiaries will not receive their checks, and millions of people throughout the country who receive veterans' benefits, unemployment compensation, welfare payments, and government contract payments will not be paid.

If this happens, there should be no doubt whose fault it is. The blame will be on the head of Richard Nixon, for he has only to tell us what tax reforms he will not veto, and the debt ceiling increase will sail through with ease.

If he does not, the debt ceiling increase will be in trouble. It is clear that the President needs substantial Democratic support to pass another increase in the debt ceiling. There are only 200 Members who have supported all four of the President's requests for an increase in the debt ceiling, and more than half of them—110—are Democrats. Ninety-two Members, including 40 Republicans, have voted against every Nixon debt ceiling increase request.

If the vote on the debt ceiling becomes a vote on tax reform, a President looking for votes will find slim pickings among Democrats. He will have to start looking among those members of his own party who have deserted him so often in the past. The President may be able to find enough reluctant converts among them to squeak by, but they will scarcely thank him for forcing them to vote against tax reform and for higher deficits in an election year. But that is the President's problem.

OFFICE OF EDUCATION CONSIDERING ESTABLISHMENT OF NATIONAL EDUCATION RENEWAL SITES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, the Office of Education has for some time been considering the establishment of national education renewal sites, which would be formed by a combination of several other Federal education programs. This subject was discussed at length in the Senate during the debate on S. 659, at which time it was recommended that the Commissioner of Education should not institute this proposal without specific congressional approval.

In my own State of Illinois, representatives of the State Office of Education are quite concerned about this renewal site concept. Money for this proposed program would come partly from funds previously allocated for innovative and exemplary programs under title III of ESEA. In Illinois title III has worked to our satisfaction, and in my opinion it would indeed be unfortunate if title III money were put to other uses.

I have written to my good friend, the Honorable CARL PERKINS, chairman of the Committee on Education and Labor, and have asked the chairman to look into this matter.

BICYCLING IN NEW YORK CITY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, with the warm weather of the past several weeks, many people have turned to the bicycle as a convenient means for getting to work and home again—and often one that actually reduces the time of travel, particularly during rush hour. The demand for bicycles now outweighs the supply with an anticipated 9 to 10 million bikes to be sold this year. With more and more bikes on the road, it is becoming imperative—both from the motorist's and bicyclist's points of view—that localities act to provide cyclists with exclusive bike lanes and bike paths. I have introduced a bill, H.R. 9369, that would give States and localities assistance in developing these lanes and paths and the needed bicycle facilities through the highway trust fund. This legislation is currently under consideration by the Public Works Committee and has received support from the Department of Transportation.

It is in the interest of the country and particularly the cities to promote bicycling as a serious form of transportation. With the present inadequacies of public transportation in so many cities, bicycles can go a long way in relieving downtown auto traffic congestion and pollution. They take up little room, make no noise, emit no pollution, and mechanically are very simple.

To encourage bicycling and to make it safe, preferential lanes and paths must be provided. I have proposed that lanes be set aside for cyclists on some of the major avenues in my own city, New York. Unfortunately, Mayor Lindsay has only been willing to put up signs recommending particular streets for cyclists; this of course does little good since the 30-pound bicycle must continue to share the street with 3,000-pound cars. But cycling enthusiasm in New York City is mounting and hopefully the cyclists will indeed finally gain equal rights on the road. Of interest was a report in The Gramercy Herald of last week of bicycling in New York City. With the thought that this report of Pat Tague on what is happening in one of our cities might be of interest to our colleagues, I am placing it in the RECORD.

[From the Gramercy Herald, Apr. 28, 1972]

ON A BICYCLE BUILT FOR TWO

(By Pat Tague)

When William Buckley ran for Mayor in 1965, one of his proposals was for the construction of elevated bike lanes throughout the city, which he felt would free the bicyclist from the dangers of cars, taxis, trucks, and other instruments of destruction. Not too many took Buckley's campaign seriously. When he talked about bike lanes in the city, even fewer people took his campaign seriously.

Only ten years ago the bicycle was the primary mode of transportation for the younger set and almost all bikes were sold to youngsters. Simple bikes, consisting of two wheels, a serviceable handlebar, and a halfway comfortable seat . . . for the rich kids perhaps a little chrome that rusted four days after the bike was purchased. A kid's biggest thrill, next to his first pair of shoes without laces, was the day the training wheels came off, and he was able to ride the two wheeler with just two wheels.

But times have changed, Buckley has changed (possibly, but that's an entirely different story) and the bicycle industry has changed. Perhaps changed is not the right word, increased is better at a phenomenal rate that even the bicycle manufacturers find hard to believe.

Gene Bauer, the owner of the Second Avenue Bike Shop (at 22nd Street) says that almost 80 per cent of the bikes he sells are for people over 21. No longer the simple bikes, in fact they don't make the simple bikes that I knew and loved any more. The vogue is imported French bikes with 10 gears, hand brakes instead of the dependable foot brakes, high-rise handle bars and handle bars that curve at crazy angles, bikes that can cost almost two hundred dollars. For the cheapsters, the three speed bikes (still no foot brakes) are the least you can do.

Bob Denison, who owns the 14th Street Bicycle Discount House as well as two other bike shops uptown, says that almost ⅔ of the bikes he sells are for adults. Almost all go in for the 10 speed bikes, and the few tykes that come into the store go for the small "spider" bikes with high rise handle bars and 3 speed shifts, that make the bike look like a small Harley-Davidson.

Why are adults riding bikes? Driving a car was half the reason most kids used to think that Peter Pan had it all wrong. Both Bauer and Denison are convinced "The high cost of transportation is the main reason. With rapid transit rates rising every other year, and taxi rates hot on the heels of the Apollo teams as they head for the moon, it just costs too much money to get around town. But bikes are cheap (relatively) and fast, considering how long it takes to crosstown during rush hour (only slightly less that it takes to go to the moon). The average city dweller can buy a bike with what it would cost him in ordinary transit fares for three months (not counting aspirins). In 1965 (the transit fare was only 15 cents. Remember?), there were about 5 million bicycles in the U.S. This year the bicycle industry expects to sell more than 9 million bikes and estimates for bikes in the city run as high as 250 thousand.

Of course, there are other reasons for the increase in two wheel enthusiasts, Ecology and physical fitness among them. There is no air pollution from bikes, and almost as important, little noise pollution. And while jogging used to be the most popular means of keeping fit, cycling has it beat, especially with the 10-speed bikes which the manufacturers like to say 'can turn a mountain into a mole hill.' Exercise is all right but everything in moderation. Physical fitness buffs defend the use of the ten speed bikes, saying they can go longer and easier on the 10 speeds than the old style bikes.

The increase in the number of bicycles and their riders have caused some problems. To paraphrase the TV commercial, the large number of bikes have given the hub cap thieves a new line of business. One bike shop owner in the city who sells more than 60,000 bikes a year says that more than one-third of his customers tell him they are buying a new bike because their old one was stolen. Both Bauer and Denison echo the same thought but the 13th Precinct had reports of only 70 bikes stolen last year. The problem is two fold. With some bikes costing nearly $200, the chrome of a nice imported bike must surely put a gleam in every junkie's eye. And a lot of those $200 bikes are secured with a $1.50 chain and lock. With nearly everyone buying bikes (junkies ride the subways too) bikes are fairly easy to resell.

Another major problem is repairs. When I bought a bike years ago, the man gave me a pair of pliers and said, "Good luck kid." Fooling around with an imported bike with gear shifts, hand brakes, cables, etc., could give an engineer headaches. A flat tire on the rear wheel is almost impossible to fix without professional help. Fortunately both Bauer's and Denison's shops have repairmen on duty at all times, and both give guarantees with the bikes they sell. In fact, both bike shops give riding lessons for those who are purchasing their ten speed bikes. (It's like driving a Ferrari only you use your feet. That's only a slight exaggeration. The world speed record for bikes is 129 mph which probably did not prompt the phrase, "Look Ma, no hands.")

The biggest indication that bicycling is the fastest growing form of recreation throughout the country is that politicians are beginning to recognize bikers in their campaign platforms. Last October, Mayor Lindsay ordered a number of bike lanes in the City. However, they were not exclusively for the bicyclists, only recommended. Unfortunately for His Honor, the idea was termed a "deadly hoax" by Democratic Councilman-at-Large Eldon Clingan who would rather have exclusive lanes, a la Mr. Buckely. Congressman Ed Koch has a bill pending in Washington that would permit states and municipalities to use federal highway trust funds for the construction of bicycle lanes and paths. Secretary of the Interior Rogers Morton has approved two Land and Water Conservation Fund grants that total almost $800,000 to develop scenic waterfront bikeways in Southtern California. And two states, Washington and Oregon, allow highway funds to be used for the construction of bicycle paths.

If bicycles continue to increase, it will probably be only a matter of time before they are officially recognized by the federal government, that is, placing toll booths on the bicycles paths.

A TRIBUTE TO THE U.S. INFORMATION AGENCY

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, from jungle to tundra, from orchard to desert, the U.S. Information Agency has told the story of America, its people and its principles. It has sent it out by plane, ship, train, sampan, camel, and elephant. "Mohlam" singers, like the troubadours of old, have sung the story in jungle villages where no newspapers nor radio sets exist. USIA's audience is the world. To reach this audience it uses all media, press, radio, motion pictures, television, libraries, traveling exhibits, and the personal contacts of its 1,836 Foreign Service officers. It has sought to give a true picture and to correct misinformation circulated by forces somewhat less than friendly.

Historically, the Agency came out of World War II information programs. The Voice of America, USIA's radio arm, broadcast from London all during the war, while the Office of War Information's press service dropped leaflets on occupied countries and supplied foreign newspapers with accounts of Allied purposes and progress. At the end of hostilities the President authorized and Congress approved a permanent information program. It first served as a Department of State facility, then became a separate agency August 1, 1953.

It has taken nearly 10 years for USIA to build up its present worldwide operation, to establish its posts and contacts abroad, train its personnel and complete its delicate negotiations with foreign governments and agencies. As of April 1, 1972, there are 9,491 employees, including the 1,835 foreign service officers stationed in 101 countries, 5,097 non-American employees hired locally in the host countries, and 2,558 civil service personnel.

The action of the Senate Foreign Relations Committee in cutting USIA's operating funds would throw out of work about 2,360 of these employees. It would shut down operations completely in 30 countries, and close branch posts, with their libraries and reading rooms, in other countries. It would cut the entire program more than a fourth.

The Voice of America now broadcasts about 780 hours weekly in 35 languages—the Soviet Union broadcasts 1,903 hours weekly in 84 languages; China, 1,304 hours weekly in 38 languages. Under the proposed cut, USIA would broadcast only 454 hours a week in 11 languages. It would cut down seven of its relay stations, diminishing the vast audience that has enjoyed its news of moonlandings, elections, inventions, and American music.

USIA's publications have been an eloquent part of its program. They are handsomely illustrated magazines, periodicals and pamphlets that picture American institutions and personalities, explaining our schools, labor unions, government procedures, agriculture, showing our art, literature, and theater, our achievements in space, our activities on the moon. Among these are the prestige magazine, America Illustrated, published in Russian and Polish; Topic, a magazine issued in English and French for sub-Sahara Africa; Al Majal, published eight times a year in Arabic for the Near East and North Africa; Dialogue, an intellectual quarterly in 10 languages; Problems of Communism, a bimonthly journal for the Far East. In all, USIA distributes 37 magazines in 29 languages. It also sends pamphlets, posters, and leaflets to more than 100 countries.

Of these, the Polish edition of America Illustrated and Topic probably would be dropped. About 85 percent of our one-country periodicals would go. The Agency's worldwide daily newsfile would be cut between 30 and 50 percent. The file sends out intact the speeches of American officials, legislators, and educators, so that foreign newspapers and radio stations have the full text and not merely controversial passages selected for their sensational appeal.

The motion picture and television service would be slashed nearly 50 percent, with one of its two production studios shut down, entirely. The Agency would eliminate completely its satellite transmission, leaving no voice for the nation that perfected this medium. Television has been one of USIA's most potent presentations—people may question what they read and hear, but they believe what they see. Millions around the world watched our astronauts, for instance, take off into space, and saw man's first footsteps on the moon.

If crippled and riddled now, USIA might rise again in some less troubled time—when less needed. With its present experienced staff scattered to the winds, it would have to recruit and train new people; renovate or rebuild its dusty installations; reexplore its sources, and renegotiate its foreign arrangements. All this would be at great cost in time and money.

China, Russia, and Egypt have no such plans to muffle their voices.

FOOD PRICES: THE FARMER IS NOT TO BLAME

(Mr. LEGGETT asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, the recent increase in food prices has provoked considerable resentment across the Nation. This is understandable for a number of reasons.

For one thing, food is a basic necessity and is universally purchased. A change in food prices, unlike a change in airline or typewriter prices, affects everybody.

In addition, food is purchased frequently: at least once per week for the average family. A man who buys a 1972 automobile for $3,800 probably would not remember that his comparably equipped 1968 model only cost $3,200; if he does remember, he will probably assume the increased cost is justified by improvements, and in any case he will figure he can afford it because of the wage increases he has received during the past 5 years, besides the car can be financed. But a housewife who shops every week is going to notice that a pound of chuck steak is $1.09 when it was only $1.03 2 weeks earlier, and only 89 cents 8 months earlier. She will see no quality improvement to justify the increase, and little income improvement to help her afford it. So she has a nightmare vision of the cost of living taking off like a moon rocket, and so does her husband.

Their understandable concern is further heightened by the present restrictions on wage increases. Naturally, their first instinctive response is to assume that food producers are making inordinate profits, and to resent it strongly.

But the fact is, farmers are not getting rich. They are having a better year than last year, but that is not saying much. Farming is still a high-risk, low-profit occupation for most farmers, and thousands of families will be forced to give up farming this year, as they have in past years.

Let us look at the figures. Consider the change, from 1951 to the present, of the following factors:

Dividends: up 200 percent.

Wages: up 229 percent.

Retail food: up 47 percent.

Farm prices: up 9 percent.

Farmer's share of retail food dollar: down 22 percent.

Proportion of per capita disposable income spent on food: down 35 percent.

It is clear that food prices have risen more slowly than other basic economic indicators, that farm prices have risen more slowly than retail food prices, and that food has become cheaper in real terms of the family budget.

It may be argued that 1951 was an unusually high year for food prices. So let us consider what has happened since 1967, which was the average year for farm prices—that is, as was the case with most sectors of the economy, it was poor compared to the rest of the Kennedy-Johnson years but excellent compared to the succeeding Nixon years.

In 1967, the farmer received 39 percent of the retail price of a choice steer.

Today, he receives 37 percent of the total price.

In 1967, parity was 74 percent. Now it is 72 percent.

Now let us consider more immediate measures: What has happened during the last month?

During the month ended March 15, farm prices fell 2 percent. Beef prices dropped 0.6 percent. Hog prices dropped 10 percent.

Clearly, the farmer is not to blame. But if we look elsewhere for a "devil theory" explanation, it is pretty hard to find the devil. The supermarkets cannot fairly be blamed; as always, their prices are highly competitive and they operate on small profit margins. Feedlot operators and wholesalers are doing comfortably, but there are no exorbitant profits being made there either.

Instead, the increase in food prices appears to be attributable to the sum of a number of factors:

First. Food prices are highly elastic; price varies radically in inverse proportion to supply.

Second. Each of the many middlemen between the producer and the consumer operates on a more or less fixed percentage profit margin. This means an increase in price received by the farmer is not only passed onto the consumer, but each middleman adds on an additional increase of similar proportions for himself.

Third. There was a corn blight last year, which served to raise the cost of feed about 15 percent.

Fourth. Feed lot labor costs have risen 20 percent in the last 2 years.

Fifth. Supermarket wages have risen dramatically, along with the rest of organized labor. In the Washington area, there was a 15-percent increase in August 1970 followed by another 15 percent increase at the end of the wage-price freeze. These are some of the representative hourly wages currently being paid, including benefits:

Meat manager	$7.38
Meat cutter, basic	6.61
Cashier, 2 years' experience	5.54
Porter	4.28

These are quite substantial wages. A "cashier with 2 years' experience" can mean a 19-year-old youth with a high school education doing work which can be learned in a few hours at most. He gets $11,500 per year not including overtime.

Sixth. Pressures of competition force supermarkets to use a long leadtime before raising prices in response to increased costs. The recent price increase simply resulted from the effect of all the above factors peaking at the same time.

Supermarkets also observe a long leadtime in lowering prices, to make up for the profits they lost on the way up. Now that costs are coming down, I hope the light of publicity will induce retailers to shorten their downward leadtime somewhat and to lower prices as quickly as possible.

There seems to be no easy way to prevent a recurrence. I am reluctant to advocate controls on fresh food prices, but at the same time, we all know that an increase in food prices hits hardest at the poor who can least afford it; this is not a happy state of affairs.

Perhaps we should begin to think of a system of controls to be triggered only if the increase in the price of a particular food product, seasonally adjusted, over a 3-month period exceeds the rise in the Consumer Price Index over the same period by more than 25 percent. The controls could then be invoked at the retail level; alternatively, middlemen and retailers could simply be ordered to pass along all increases in farm prices without adding a cut for themselves. The controls would then automatically be canceled when the retail price fell back to the required correspondence with the Consumer Price Index.

NAVY SHIPYARD MODERNIZATION STAMPEDES TO THE REAR

(Mr. LEGGETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, recently figures were published in a certain national weekly shipbuilding publication indicating that perhaps private shipyards were not getting their share of the Navy's business.

As a practical matter, the record should be set straight. The private share of repairs, alterations, conversions, and new construction was 32.7 percent in 1953 and has steadily grown like a hog to a high of 76.8 percent in 1967, 74.3 percent in 1970, 72.1 percent in 1971, 71.4 percent in 1972, and 72.9 percent in 1973.

Even in the areas of repairs, alterations, and conversions alone, the private yard share has grown from 7 percent in 1953 to 40.8 percent in 1967, has averaged better than 35 percent over the past 5 years and is programed at 34.6 percent over the next fiscal year.

The distorted figures are inaccurate in the way that they were presented. The correct analysis as prepared by the commander of the Naval Ship Systems Command follows:

DEPARTMENT OF THE NAVY,
NAVAL SHIP SYSTEMS COMMAND,
Washington, D.C., April 19, 1972.

HON. ROBERT L. LEGGETT,
House of Representatives,
Washington, D.C.

DEAR MR. LEGGETT: This is an interim reply to your letter of April 11, 1972, requesting confirmation of the figures on Fiscal Year (FY) 1971 apportionment of Navy shipwork between public and private yards that appeared in a recent issue of the "Shipyard Weekly" of the Shipbuilders Council of America.

The figures published are correct. However, the figures do not include Government Furnished Equipment (GFE) and the data on conversions provided to Senator Tower represents only awards made in FY 1971. The tabulation that we customarily assemble as the Naval Shipwork Table includes for conversions the total program amount (without regard to award date) allocated for each year's program, including GFE, possible change orders, and end-cost escalation. A copy of our most recent updating of the Naval Shipwork Table is enclosed.

If a ship conversion authorized and funded in FY 1971 is actually awarded in FY 1972, it is not included in the tabulation provided to Senator Tower, but it is reflected in the FY 1971 conversion totals of the Naval Shipwork Table.

The information requested in your aforementioned letter is being assembled and you may expect it in about two weeks.

Sincerely yours,

N. SONENSHEIN,
Rear Admiral, USN, Commander, Naval Ship Systems Command.

SHIPWORK ALLOCATION BETWEEN NAVAL/PRIVATE SHIPYARDS, FISCAL YEARS 1953–73

[Dollar amounts in thousands]

Fiscal year	Repairs and alterations [1]				Conversion [2]				Total repairs, alterations and conversion			
	Naval	Private	Total	Percent private	Naval	Private	Total	Percent private	Naval	Private	Total	Percent private
1953	$301,700	$32,800	$334,500	9.8	$132,691	0	$132,691	0	$434,391	$32,800	$467,191	7.0
1954	285,600	55,600	341,200	16.3	93,211	0	93,211	0	378,811	55,600	434,411	12.8
1955	255,400	76,400	331,800	23.0	148,850	0	148,850	0	404,250	76,400	480,650	15.9
1956	294,000	77,200	371,200	20.8	224,876	$10,521	235,397	4.5	518,876	87,721	606,597	14.5
1957	269,400	64,200	333,600	19.2	414,435	196,282	610,717	32.1	683,835	260,482	944,317	27.6
1958	293,300	67,700	361,000	18.8	229,254	0	229,254	0	522,554	67,700	590,254	11.5
1959	299,500	57,500	357,000	16.1	312,409	38,799	351,208	11.0	611,909	96,299	708,208	13.6
1960	350,900	63,500	414,400	15.3	94,418	11,869	106,287	11.2	445,318	75,369	520,687	14.5
1961	347,300	79,700	427,000	18.7	141,350	0	141,350	0	488,650	79,700	568,350	14.0
1962	394,300	133,400	527,700	25.3	205,944	32,400	238,344	13.6	600,244	165,800	766,044	21.6
1963	309,909	140,487	450,396	31.2	288,300	186,200	474,500	39.2	598,209	326,687	924,896	35.3
1964	315,053	150,972	466,025	32.4	393,862	148,364	541,226	27.4	708,915	299,336	1,008,251	29.7
1965	432,962	148,620	581,582	25.6	22,700	71,900	94,600	76.0	455,662	220,520	676,182	32.6
1966	511,044	349,619	860,663	40.6	166,100	20,650	186,750	11.1	677,144	370,269	1,047,413	35.4
1967	664,088	352,494	1,016,582	34.7	25,000	121,500	146,500	82.9	689,088	473,994	1,163,082	40.8
1968	667,896	264,106	932,002	28.3	128,900	211,500	340,400	62.1	796,796	475,606	1,272,402	37.4
1969	665,022	235,521	900,543	26.2	131,400	128,700	260,100	49.5	796,422	364,221	1,160,643	31.4
1970	593,331	214,358	807,689	26.5	188,200	149,100	[3] 337,300	44.2	781,531	363,458	1,144,989	31.7
1971	686,583	135,118	821,701	16.4	182,800	403,200	[3] 586,000	68.8	869,383	538,318	1,407,701	38.2
2 (budgeted)	763,234	180,167	943,401	19.1	226.800	270,500	[3] 497,300	54.4	990,034	450,667	1,440,701	31.3
3 (budgeted)	695,876	222,353	918,229	24.2	296,900	302,200	[3] 599,100	50.4	992,776	524,553	1,517,329	34.6

[1] Includes obligations for overhauls, restricted availabilities, FRAM MK II, alterations; service craft, reserve fleet and NRT repairs and alterations; inactivations, activations, does not include MSC repairs.

[2] Program value.

[3] Excludes post delivery and outfitting included in ship costs in prior years.

SHIPWORK ALLOCATION BETWEEN NAVAL/PRIVATE SHIPYARDS, FISCAL YEARS 1953–73

[Dollar amounts in thousands]

Fiscal year	New construction [1]				Total repairs, alterations, conversions and new construction			
	Naval	Private	Total	Percent private	Naval	Private	Total	Percent private
1953	$256,390	$303,059	$559,449	54.2	$690,781	$335,859	$1,026,640	33.7
1954	0	427,818	427,818	100.0	378,811	483,418	862,229	56.1
1955	320,288	415,218	735,506	56.5	724,538	491,618	1,216,156	40.4
1956	388,411	861,380	1,249,719	68.9	907,287	949,101	1,856,388	51.1
1957	549,686	1,010,601	1,560,287	64.8	1,233,521	1,271,083	2,504,604	50.7
1958	303,302	1,281,300	1,584,602	80.9	825,856	1,349,000	2,174,856	62.0
1959	474,131	1,376,699	1,850,830	74.4	1,086,040	1,472,998	2,559,038	57.6
1960	86,160	429,615	515,775	83.3	531,478	504,984	1,036,462	48.7
1961	483,702	1,488,935	1,972,637	75.5	972,352	1,568,635	2,540,987	61.7
1962	772,371	1,602,824	2,393,195	67.7	1,372,615	1,786,624	3,159,239	56.6
1963	273,192	1,888,108	2,162,300	87.3	872,401	2,214,795	3,087,196	71.7
1964	321,945	1,390,818	1,712,763	81.2	1,030,860	1,690,154	2,721,014	62.1
1965	441,100	1,361,476	1,802,576	75.5	896,762	1,581,996	2,478,758	63.8
1966	255,300	1,390,436	1,645,736	84.5	932,444	1,760,705	2,693,149	65.4
1967	6,500	1,827,300	1,833,800	99.6	695,588	2,301,294	2,996,882	76.8
1968	0	510,700	510,700	100.0	796,796	986,306	1,783,102	55.3
1969	0	351,600	351,600	100.0	796,422	715,821	1,512,243	47.3
1970	0	1,900,500	[2] 1,900,500	100.0	781,531	2,263,958	3,045,489	74.3
1971	0	1,709,500	[2] 1,709,500	100.0	869,383	2,247,818	3,117,201	72.1
1972 (budgeted)	0	2,018,500	[2] 2,018,500	100.0	990,034	2,469,167	3,459,201	71.4
1973 (budgeted)	0	2,149,900	[2] 2,149,900	100.0	992,776	2,674,453	3,667,229	72.9

[1] Program value.

[2] Excludes post delivery and outfitting included in ship costs in prior years.

STUDENT ANTIWAR VIOLENCE

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, the reaction of some Americans to the air and naval support being given the South Vietnamese by President Nixon is bereft of any reason. Of all the protests lodged against the President's policies, the actions of college students are the most lacking in logic. How unreasoning some of these campus protests are is succinctly pointed out in an editorial which appeared April 23 in the Detroit News. I commend a reading of this editorial to all of my colleagues. The editorial follows:

Student Antiwar Violence: An Illogical Protest

Hoping to attend class but barred at the door by a classmate, a college student asks the telling question: "What does the protest against the war in Vietnam have to do with whether I enter this classroom or not? I don't see the connection."

The connection seems to be missing between much of the protest rhetoric and the protests themselves.

The main effort of the current anti-war drive is the student strike. Somehow, not learning is equated with not supporting the war. And while not in the classroom, demonstrations, disruptions, sit-ins, blockades and confrontations—in short, everything to disturb peace on campus—become the plea for peace in Vietnam. Only a sophomore could devise these tactics for the stated goal.

At the University of Maryland, peace demonstrators resorted to skyrockets, roman candles, Molotov cocktails and rocks to impress police with their pacifism. It is doubtful the police were persuaded, hidden as they were behind armorplated Jeeps.

University of Michigan President Robben Fleming, running fast to keep up with the students he is supposed to lead, told students that President Nixon's decision to renew the bombing was cause for their "profound sorrow and discouragement." Fleming apparently made no attempt to point out that the President's own feelings must be sorrow and discouragement in the extreme at having to make the decision.

Can anyone believe the President did not agonize over the bombing? Can anyone believe the President was not disappointed when the North Vietnamese launched a major invasion? Compared to the soul-wrenching decisions in an administration that hoped to announce a speed-up in final troop withdrawals, Fleming's comments about sorrow and discouragement are gratuitous.

Columbia University President William McGill actually went to court to prevent faculty and nonstriking students from entering university buildings. He did it, he says, because of the "deep sense of anguish" on campus. The expression of that supposed "sense of anguish" forced an assistant dean to use 30 helmeted policemen to break a two-day student blockade of Columbia's School of International Affairs.

What McGill interpreted as anguish apparently was a youthful feeling of elation at finding an excuse for disturbing the peace.

We can, of course, survive gratuitous handwringing and sophomoric logic. What we fear is the violence of so-called pacifism. To think that a student or a policeman may be injured or killed on campus during a protest against killing in Vietnam is as tragic as it is incongruous.

And if it happens, you know where the campus "pacifists" will place the blame—on the "violence-prone" Establishment, of course.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Corman, for Monday, May 1, 1972, on account of official business.

Mr. Eshleman (at the request of Mr. Gerald R. Ford), for the remainder of this week, on account of medical reasons.

Mr. Byrne of Pennsylvania (at the request of Mr. O'Neill), for today, on account of illness.

Mr. Matsunaga (at the request of Mr. McFall), today, on account of official business.

Mr. Mikva (at the request of Mr. McFall), for today, on account of official business.

Mr. Pickle (at the request of Mr. McFall), for today, on account of illness in the family.

Mr. Pepper (at the request of Mr. Bennett), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Sebelius) and to revise and extend their remarks and include extraneous matter:)

Mr. Anderson of Illinois, for 1 hour, on May 2.

Mr. Halpern, for 5 minutes, today.

Mr. Crane, for 5 minutes, today.

Mr. Buchanan, for 5 minutes, today.

Mr. Hogan, for 5 minutes, today.

(The following Members (at the request of Mr. Link) and to revise and extend their remarks and include extraneous matter:)

Mr. Murphy of New York, for 5 minutes, today.

Mr. Rodino, for 10 minutes, today.

Mr. Aspin, for 10 minutes, today.

Mr. Gonzalez, for 10 minutes, today.

Mr. Fraser, for 10 minutes, today.

Mr. Ichord, for 30 minutes, today.

Mr. Reuss, for 30 minutes, today.

Mr. Rostenkoski, for 5 minutes, today.

Mr. Edwards of California, for 60 minutes, on May 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Hogan, and to include a speech on Law Day.

(The following Members (at the request of Mr. Sebelius) and to include extraneous matter:)

Mr. King in five instances.

Mr. Anderson of Illinois.

Mr. Riegle.

Mr. Derwinski in three instances.

Mr. Hosmer in two instances.

Mr. Wylie.

Mr. Young of Florida in five instances.

Mr. Chamberlain in two instances.

Mr. McEwen in five instances.

Mr. Halpern in three instances.

Mr. Quie.

Mr. Michel in seven instances.

Mr. Wyman in two instances.

Mr. Arends.

Mr. Zwach.

Mr. Shoup in three instances.

Mr. Zion.

Mr. Terry.

Mr. Davis of Wisconsin in two instances.

Mr. McClory in three instances.

Mr. Railsback in two instances.

Mr. Sebelius in two instances.

Mr. Bob Wilson in two instances.

Mr. Broyhill of Virginia.

Mr. Wydler in two instances.

Mr. Kemp in two instances.

(The following Members (at the request of Mr. Link) and to include extraneous matter:)

Mrs. Hicks of Massachusetts in three instances.

Mr. Dingell in two instances.

Mr. Conyers in 10 instances.

Mr. Gonzalez in three instances.

Mrs. Grasso in 10 instances.

Mr. Downing.

Mr. Meeds.

Mr. Mathis of Georgia.

Mr. Bergland.

Mr. Rarick in three instances.

Mr. Fountain in two instances.

Mr. Casey of Texas.

Mr. Harrington in two instances.

Mr. Vanik in two instances.

Mr. Link.

Mr. Montgomery.

Mr. O'Hara.

Mr. Celler.

Mr. Ashley.

Mr. Diggs in five instances.

Mr. Wright.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 652. An act to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes; to the Committee on Banking and Currency.

S. 2208. An act to improve the laws relating to the regulation of insurance in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

S.J. Res. 182. Joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in Farmfest—U.S.A. and the World Ploughing Contest in September 1972; to the Committee on Foreign Affairs.

S.J. Res. 213. Joint resolution to authorize and request the President to issue a proclamation designating October 6, 1972, as "National Coaches Day; to the Committee on the Judiciary.

ENROLLED JOINT RESOLUTION SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 1029. A joint resolution to authorize the President to issue a proclamation designating the month of May of 1972 as "National Arthritis Month."

ADJOURNMENT

Mr. LINK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Tuesday, May 2, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1915. A communication from the President of the United States, transmitting an amendment to the request for appropriations for fiscal year 1973 for the U.S. Information Agency (H. Doc. No. 92-286); to the Committee on Appropriations and ordered to be printed.

1916. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to make certain changes in selection board membership and composition, and for other purposes; to the Committee on Armed Services.

1917. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to provide for the temporary promotion of ensigns of the Navy and second lieutenants of the Marine Corps, to provide that these appointments may be made by the President alone, and for other purposes; to the Committee on Armed Services.

1918. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various facilities projects proposed to be undertaken for the Air Force Reserve, pursuant to 10 U.S.C. 2233(a)(1); to the Committee on Armed Services.

1919. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the annual report on applications for court orders made to Federal and State courts to permit the interception of wire or oral communications, pursuant to 18 U.S.C. 2519; to the Committee on the Judiciary.

1920. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1921. A letter from the Secretary of Transportation, transmitting the Department of Transportation's analysis of urban highway public transportation facility needs, pursuant to section 144 of the Federal Aid Highway Act of 1970; to the Committee on Public Works.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COLMER: Committee on Rules. House Resolution 951. A resolution providing for the consideration of H.R. 13089. A bill to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes (Rept. No. 92-1034). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 952. A resolution providing for the consideration of H.R. 14015. A bill to amend section 2(3), section 8c(2), section 8c(6)(I), and section 8c(73(C) of the Agricultural Marketing Agreement Act of 1937, as amended (Rept. 92-1035). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 953. A resolution providing for the consideration of H.R. 14655. A bill to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for nuclear power reactors under certain circumstances, and for other purposes (Rept. 92-1036). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 14695. A bill to coordinate State preferential primary elections for the nomination of candidates for the office of President, and for other purposes; to the Committee on House Administration.

By Mr. BOLAND:

H.R. 14696. A bill to amend the Internal Revenue Code of 1954 to carry out tax reforms; to the Committee on Ways and Means.

H.R. 14697. A bill to amend the Internal Revenue Code of 1954 so as to allow a deduction for certain amounts paid by a taxpayer for tuition and fees in providing a higher education for himself, his spouse, and his dependents; to the Committee on Ways and Means.

H.R. 14698. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the basic personal income tax exemption allowed a taxpayer; to the Committee on Ways and Means.

By Mr. CHAMBERLAIN:

H.R. 14699. A bill to strengthen and improve the private retirement system by establishing minimum standards for participation in and for vesting of benefits under pension and profit-sharing retirement plans, by allowing deductions to individuals for personal savings for retirement, and by increasing contribution limitations for self-employed individuals and shareholder-employees of electing small business corporations; to the Committee on Ways and Means.

By Mr. COUGHLIN:

H.R. 14700. A bill to authorize the Secretary of State to furnish assistance for the resettlement of Soviet Jewish refugees in Israel; to the Committee on Foreign Affairs.

By Mr. DRINAN (for himself, Mr. Rooney of Pennsylvania, and Mrs. Hicks of Massachusetts):

H.R. 14701. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. FRASER:

H.R. 14702. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Saint Croix River, Minn. and Wis., as a component of the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

By Mr. GROSS:

H.R. 14703. A bill to amend chapter 311 of title 18 of the United States Code to require the Board of Parole to make public a written statement of the considerations upon which it grants parole in each case; to the Committee on the Judiciary.

By Mr. HATHAWAY:

H.R. 14704. A bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress; to the Committee on Foreign Affairs.

By Mr. KING:

H.R. 14705. A bill to amend title II of the Social Security Act to increase the amount of a widow's or widower's benefit from 82½ to 100 percent of the insured individual's primary insurance amount; to the Committee on Ways and Means.

By Mr. McCLURE:

H.R. 14706. A bill to amend the Internal Revenue Code of 1954 to provide that certain homeowner mortgage interest paid by the Secretary of Housing and Urban Development on behalf of a low-income mortgagor shall not be deductible by such mortgagor; to the Committee on Ways and Means.

By Mr. MORSE:

H.R. 14707. A bill to make illegal the manufacture of thin-gage steel drums; to the Committee on Interstate and Foreign Commerce.

By Mr. RODINO:

H.R. 14708. A bill to establish an independent Board of Parole, to provide for fair and equitable Federal parole procedures, to establish a National Parole Institute, and to provide assistance to the States for the operation of fair and adequately staffed parole systems, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of New York:

H.R. 14709. A bill to amend chapter 44 of title 18, United States Code, to strengthen the penalty provision applicable to a Federal felony committed with a firearm; to the Committee on the Judiciary.

By Mr. STEIGER of Wisconsin (for himself, Mr. Matsunaga, Mr. Bob Wilson, Mr. Bennett, Mr. Andrews of North Dakota, Mr. Don H. Clausen, Mr. Clay, Mr. Conte, Mr. Coughlin, Mr. Frenzel, Mr. Gude, Mr. Mailliard, Mr. Mallary, Mr. Mosher, Mr. Railsback, Mr. J. William Stanton, and Mr. Thomson of Wisconsin):

H.R. 14710. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes; to the Committee on Armed Services.

By Mr. VANDER JAGT:

H.R. 14711. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

H.R. 14712. A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 14713. A bill to amend title 32 of the United States Code so as to bring National Guard technician positions within the competitive service; and for other purposes; to the Committee on Armed Services.

By Mr. BRASCO:

H.R. 14714. A bill to provide military assistance to Israel in order to assist in the resettlement of Russian refugees; to the Committee on Foreign Affairs.

By Mr. HOGAN:

H. Con. Res. 598. Concurrent resolution expressing the sense of Congress with respect to those individuals who refused to register for the draft, refused induction or being a member of the Armed Forces fled to a foreign country to avoid further military service; to the Committee on Armed Services.

By Mr. WILLIAMS:

H. Con. Res. 599. Concurrent resolution to seek the resurrection of the Ukrainian Orthodox and Catholic Churches in Ukraine; to the Committee on Foreign Affairs.

By Mr. HARRINGTON:

H. Res. 950. Resolution providing for the consideration of the joint resolution (H.J. Res. 253) to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

382. By the SPEAKER: Memorial of the Senate of the Commonwealth of Massachusetts, relative to setting a date for U.S. withdrawal from Southeast Asia; to the Committee on Foreign Affairs.

383. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to Federal-State revenue sharing; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

222. By the SPEAKER: Petition of the mayor and City Council, Seattle, Wash., relative to the Federal food stamp program; to the Committee on Agriculture.

223. Also, petition to Ralph Boryszewski et al., Rochester, N.Y., relative to creation of a House Select Committee on Impeachment; to the Committee on Rules.

SENATE—*Monday, May 1, 1972*

The Senate met at 10 a.m. and was called to order by Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, Ruler of men and nations, we thank Thee this day for the revelation of Thy law in nature and in Thy Word, and for the higher law of love made known by Thy Son. Be with all who create, all who interpret, all who administer, and all who enforce the law. Support them as the guardians of our safety. Accord them a place of honor and gratitude among the people. Guide those whose mission is to correct, reform, and rehabilitate offenders. Make us a people obedient to Thy laws and the laws of this Republic that we may go from strength to strength in advancing Thy kingdom of brotherhood, justice, and peace.

In the name of Him who came not to destroy but to fulfill the law. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 1, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. GAMBRELL thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal and the proceedings of Friday, April 28, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL AND JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on April 26, 1972, the President had approved and signed the following act and joint resolution:

S. 766. An act to authorize the disposal of zinc from the national stockpile and the supplemental stockpile; and

S.J. Res. 169. Joint resolution to pay tribute to law enforcement officers of this country on Law Day, May 1, 1972.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. GAMBRELL) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 12202) to increase the contribution of the Federal Government to the costs of health benefits, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 12202) to increase the contribution of the Federal Government to the costs of health benefits, and for other purposes, was read twice by its title and referred to the Committee on Post Office and Civil Service.

WAIVER OF THE CALL OF THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rules VII and VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. GAMBRELL) laid before the Senate the following letters, which were referred as indicated:

PROPOSED AMENDMENT OF TITLE 10, UNITED STATES CODE

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to make certain changes in selection board membership and composition, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

INVOLUNTARY ACTIVE DUTY FOR COAST GUARD RESERVISTS

A letter from the Acting Secretary of the Department of Transportation submitting proposed legislation to authorize involuntary active duty for Coast Guard reservists for emergency augmentation of regular forces (with accompanying papers); to the Committee on Commerce.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States submitting, pursuant to law, a report entitled "Employment Security Operations—the Impact of a Computerized

Job Bank in Baltimore, Md." (with accompanying report); to the Committee on Government Operations.

PROPOSED CONTRACT FOR RESEARCH PROJECT

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with the Perkin-Elmer Corp., Pomona, Calif., for a research project entitled "Development of an Optical Carbon Monoxide Detector System" (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

A letter from the Director, Administrative Office of the U.S. Courts, transmitting, pursuant to law, a report of that Office, for the calendar year 1971 (with an accompanying report); to the Committee on the Judiciary.

REPORTS OF THE AMERICAN ACADEMY OF ARTS AND LETTERS AND THE NATIONAL INSTITUTE OF ARTS AND LETTERS

A letter from the assistant to the president, the American Academy of Arts and Letters, New York, N.Y., transmitting, pursuant to law, reports of that academy and the National Institute of Arts and Letters, for the year 1971 (with accompanying reports); to the Committee on the Judiciary.

REPORT ENTITLED "AN ANALYSIS OF URBAN HIGHWAY PUBLIC TRANSPORTATION FACILITY NEEDS"

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "An Analysis of Urban Highway Public Transportation Facility Needs" (with an accompanying report); to the Committee on Public Works.

INTERIM STANDARDS REPORT BY COMMITTEE ON MOTOR VEHICLE EMISSIONS

A letter from the President, National Academy of Sciences, transmitting, pursuant to law, an interim standards report by the Committee on Motor Vehicle Emissions, of that Academy (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. GAMBRELL):

A resolution of the General Assembly of the State of Rhode Island; to the Committee on the Judiciary:

"S. 3482

"Resolution ratifying the proposed amendment to the Constitution of the United States insuring equality of rights which shall not be denied or abridged by the United States or by any State on account of sex

"Whereas, Equality of rights under the law ought not to be denied or abridged by the United States or by any state on account of sex; and

"Whereas, Recognition of the basic equality of women and protection of their basic rights must be emphatically resolved; and

"Whereas, The house of representatives of the United States and the United States senate, by the constitutional vote of two-thirds (⅔) of each house concurring therein, did enact during the sessions of the ninety-second congress of the United States of America in 1971–1972 a proposed amendment of the constitution of the United States; and

"Whereas, Said proposed amendment was submitted to the states for ratification and said proposed amendment to the constitution of the United States of America is in the following words, to wit:

" 'ARTICLE ——

" 'SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

" 'SEC. 2. The congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

" 'SEC. 3. This amendment shall take effect two years after the date of ratification.'

"Now, therefore, be it Resolved, That the general assembly of the State of Rhode Island and Providence Plantations does hereby ratify the above proposed amendment to the constitution of the United States of America; and be it further

"Resolved, That certified copies of this resolution be immediately transmitted by the secretary of state of the State of Rhode Island and Providence Plantations to the president of the United States, the president of the senate of the United States, the speaker of the house of representatives of the United States and the administrator of general services of the United States."

A resolution adopted by the City Council of Seattle, Wash., praying for revision of the regulations and guidelines of the food stamp program; to the Committee on Agriculture and Forestry.

A resolution adopted by Medford Barracks No. 2202, Veterans of World War I, Medford, Mass., supporting the action of the President relating to the invasion by the Army of North Vietnam; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, adversely, without amendment:

H.R. 7117. A bill to amend the Fishermen's Protective Act of 1967 to expedite the charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes (Rept. No. 92–769).

By Mr. ANDERSON, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 9019. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Jicarilla Apache Tribe in Indian Claims Commission docket numbered 22–A, and for other purposes (Rept. No. 92–768).

By Mr. ALLOTT, from the Committee on Interior and Insular Affairs, with an amendment:

S. 1140. A bill to authorize the sale of certain lands of the Southern Ute Indian Tribe, and for other purposes (Rept. No. 92–770).

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

H.R. 13753. An act to provide equitable wage adjustments for certain prevailing rate employees of the Government (Rept. No. 92–771).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

S. 855. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes (Rept. No. 92–772);

S. 3380. A bill to permit immediate retirement of certain Federal employees (Rept. No. 92–773); and

HR. 8083. An act to amend title 5, United States Code, to provide a career program for, and greater flexibility in management of, air traffic controllers, and for other purposes (Rept. No. 92–774).

ORDER FOR STAR PRINT OF S. 3537

Mr. CASE. Mr. President, on behalf of Senators HART, McGOVERN, CRANSTON, and myself I would like to ask unanimous consent for a star-print on S. 3537, a comprehensive school lunch-school breakfast reform bill which we recently introduced. Due to a clerical mistake, one vital section was omitted from the bill. I would like now to submit the proper draft of the bill, to be replaced as S. 3537.

The PRESIDING OFFICER (Mr. GRAVEL.) Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BELLMON:

S. 3561. A bill to exempt from taxation certain property of the National Society Colonial Dames XVII Century in the District of Columbia. Referred to the Committee on the District of Columbia.

By Mr. HATFIELD:

S. 3562. A bill for the relief of Moo Soo Hwang. Referred to the Committee on the Judiciary.

By Mr. GURNEY:

S. 3563. A bill to incorporate World War I Overseas Flyers, Inc. Referred to the Committee on the Judiciary.

By Mr. FANNIN:

S. 3564. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Havasupai Tribe of Indians in Indian Claims Commission docket numbered 9, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. STEVENS:

S. 3565. A bill to amend the Fishermen's Protective Act of 1967 in order to provide certain protection for U.S. fishermen and fish resources. Referred to the Committee on Commerce.

By Mr. HOLLINGS:

S.J. Res. 228. A joint resolution to pay tribute to law enforcement officers of this country on Law Day, May 1, 1973. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BELLMON:

S. 3561. A bill to exempt from taxation certain property of the National Society Colonial Dames XVII Century in the District of Columbia. Referred to the Committee on the District of Columbia.

Mr. BELLMON. Mr. President, I am today introducing a bill to exempt from taxation certain property of the National Society Colonial Dames XVII Century in the District of Columbia.

The society is a nonprofit organization with patriotic, historic, and educational objectives. Among the activities of the society is researching and marking historic sites over the country and aiding in their preservation. It fosters research and preservation of American 17th century colonial and genealogical records; financially aids education of American youth; commemorates the heroic deeds of our ancestors, and maintains a library specializing in 17th century American colonial data, and a library of heraldry.

The society has 165 chapters in 33 States: Alabama, Arkansas, California, Colorado, Connecticut, the District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, and West Virginia.

The organization maintains a national headquarters in a late 19th century brick mansion at the corner of New Hampshire Avenue and N Streets NW., in Washington, D.C. Because of security problems and increasing costs for maintaining an old structure, plus some attractive offers from developers for purchase of the property, the society has considered moving its headquarters to a publicly owned historic site in Virginia or Maryland. However, its members not only like the idea of having the national headquarters in the Nation's Capital, but they also enjoy coming to Washington to attend the annual conference each April and board of management meetings in October.

The membership also is proud that for 17 years it has been able to restore and maintain a 19th century house and thus preserve one of the few remaining landmarks of that era in the city.

Mr. President, the president general of the National Society Colonial Dames XVII Century is Mrs. Olen Delaney of Oklahoma City. In behalf of Mrs. Delaney and the membership of this worthy organization, I submit this legislation to grant a real estate tax exemption for the society's national headquarters property.

By Mr. GURNEY:

S. 3563. A bill to incorporate World War I Overseas Flyers, Inc. Referred to the Committee on the Judiciary.

Mr. GURNEY. Mr. President, I am pleased and proud today to introduce legislation which would grant a Federal charter to the World War I Overseas Flyers, one of our proudest and most patriotic veterans' organizations.

These men all saw action over the skies of Europe during the First World War, They fought bravely and gallantly, and their noble deeds are known to all.

Now, they have joined together "to promote peace and goodwill among the peoples of the United States and all the nations of the earth; to preserve the memories and incidents of the air service of the great war 1917–18; to cement the ties of love and comradeship born of the service."

These are indeed noble aims, Mr. President. They remember what they did and why they fought, with serious pride, and now they seek to preserve the friendship made and the warm spirit of camaraderie fostered by those brave days. More important, they hope to be able to help bring about peace in our troubled world, which is the noblest aim of all.

Mr. President, I feel a special bond of affection for these fine gentlemen, because my great and good friend and our late colleague, Spessard L. Holland, was a member of this proud fraternity, having served as a member of the 24th Aero Squadron. I feel it would be a fitting tribute to Spessard Holland's memory, and to all his brave comrades if we grant the World War I Overseas Flyers a Federal charter.

I ask unanimous consent at this time to have the text of the bill printed following these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Lawrence C. Ames of Oakland, California; Lucas V. Beau, of Washington, District of Columbia; Louis L. Carruthers of Memphis, Tennessee; John M. Davies of the Commonwealth of Virginia; Howard Eales of Washington, District of Columbia; Harold L. George of Los Angeles, California; Percival G. Hart, of Beverly Hills, California; Charles W. Kerwood of Washington, District of Columbia; Reed G. Landis of the State of Arkansas; John A. Logan of Washington, District of Columbia; John P. Morris of Washington, District of Columbia; Martin F. Scanlon of Washington, District of Columbia; Carl Spaatz of the State of Maryland; Leigh Wade of Washington, District of Columbia; and Ira Milton Jones of the State of Wisconsin and their successors, are hereby created and declared to be a body corporate by the name of "World War I Overseas Flyers, Incorporated" (hereinafter in this Act referred to as the "corporation"), and by such name shall be known and have perpetual succession. Such corporation shall have the powers and be subject to the limitations and restrictions contained in this Act.

COMPLETION OF ORGANIZATION

SEC. 2. A majority of the persons named in the first section of this Act are authorized to complete the organization of the corporation by the selection of officers and employees, the adoption of bylaws, and the doing of such other acts as may be necessary to complete the organization of the corporation.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation shall be:

(1) To promote peace and good will among the peoples of the United States and all the nations of the earth;

(2) To preserve the memories and incidents of the Air Service of the Great War 1917–1918;

(3) To cement the ties of love and comradeship born of service; and

(4) To consecrate the efforts of its members to mutual helpfulness and service to their country.

CORPORATE POWERS

SEC. 4. The corporation shall have power—

(1) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(2) to adopt, alter, and use a corporate seal;

(3) to appoint and fix the compensation of such officers and employees as its business may require and define their authority and duties;

(4) to adopt and amend bylaws, not inconsistent with this Act or any other law of the United States or any State in which it is to operate, for the management of its property and the regulation of its affairs;

(5) to make and carry out contracts;

(6) to receive contributions or grants of money or property to be devoted to the carrying out of its purposes;

(7) to acquire by purchase, lease, or otherwise, such real or personal property, or any interest therein, wherever situated, necessary or appropriate for carrying out its objects and purposes and subject to the provisions of law of the State in which such property is situated (A) governing the amount or kind of real or personal property which similar corporations chartered and operated in such State may hold, or (B) otherwise limiting or controlling the ownership of real or personal property by such corporations;

(8) to transfer, encumber, and convey real or personal property; and

(9) to do everything and anything reasonably necessary, proper, suitable, convenient, or incidental to the aforesaid purposes or which may properly be done in furtherance thereof.

PRINCIPAL OFFICE; SCOPE OF ACTIVITIES; DISTRICT OF COLUMBIA AGENT

SEC. 5. (a) The principal office of the corporation shall be located in Milwaukee, Wisconsin, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place, but may be conducted throughout the various States, territories, and possessions of the United States.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation. Service upon, or notice mailed to the business address of, such agent, shall be deemed notice to or service upon the corporation.

MEMBERSHIP

SEC. 6. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as set forth in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION: RESPONSIBILITIES

SEC. 7. (a) Upon enactment of this Act, the membership of the initial board of directors of the corporation shall consist of the persons named in the first section of this Act.

(b) The initial board of directors shall hold office until the first election of a board of directors. The number, manner of selection (including filling of vacancies), term of office, and powers and duties of the directors shall be set forth in the bylaws of the corporation. The bylaws shall also provide for the selection of a chairman and his term of office.

(c) The board of directors shall be the governing board of the corporation, and a quorum thereof shall be responsible for the general policies and program of the corporation and for the control of all funds of the corporation. The board of directors may appoint committees to exercise such powers as may be prescribed in the bylaws or by resolution of the board of directors.

OFFICERS; ELECTION OF OFFICERS

SEC. 8. The officers of the corporation shall be those provided in the bylaws. Such officers shall be elected in such manner, for such terms, and with such duties, as may be prescribed in the bylaws of the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the corporation shall inure to a member, officer, or director or be distributable to any such person during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of reasonable compensation to officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the corporation's board of directors.

(b) The corporation shall not make loans to its members, officers, directors, or employees. Any director who votes for or assents to the making of such a loan and any officer who participates in the making of such a loan, shall be jointly and severally liable to the corporation for the amount of such a loan until the repayment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation and its officers and directors as such shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

BOOKS AND RECORDS; INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having authority under the board of directors, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. The provisions of sections 2 and 3 of the Act of August 30, 1964 (36 U.S.C. 1102, 1103), entitled "An Act to provide for audit of accounts of private corporations established under Federal law" shall apply with respect to the corporation.

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 15. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with this Act, the bylaws of the corporation, and all other Federal and State laws applicable thereto.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 16. The corporation shall have the sole and exclusive right to use the name "World War I Overseas Flyers, Incorporated". The corporation shall also have the exclusive and sole right to use, or to allow or refuse the use of, such emblems, seals, and badges as have heretofore been used by the World War I Overseas Flyers, Incorporated (a corporation incorporated under the laws of the State of Wisconsin), in carrying out its program and the right to which may be transferred to the corporation. Nothing in this section shall be construed to interfere or conflict with established or vested rights.

TRANSFER OF ASSETS

SEC. 17. The corporation may acquire the assets of the World War I Overseas Flyers, Incorporated, chartered in the State of Wisconsin, upon discharge of all of the liability of such corporation and upon complying with all laws of the State of Wisconsin applicable thereto.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 18. The right to alter, amend, or repeal this Act is expressly reserved.

By Mr. STEVENS:

S. 3565. A bill to amend the Fishermen's Protective Act of 1967 in order to provide certain protection for U.S. fishermen and fish resources. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, on June 29 of last year, I introduced S. 2191. This bill was amended by the Senate Commerce Committee after hearings on the subject and was passed out in a form identical to H.R. 3304. On December 23 of last year President Nixon approved the bill, which is now Public Law 92-219 (85 Stat. 786). The act as passed differs to a certain extent from S. 2191 as I introduced it. For example, S. 2191 required the Secretary of Commerce to make certification directly to the Secretary of the Treasury who would then be required to prohibit the importation without granting the President discretion to act as he saw fit. Upon subsequent examination of the subject, the committees, both House and Senate, in their collective wisdom came to the conclusion that it would indeed be best for the President to have the discretion to make the final decision in this important matter. As the hearings and deliberations on these bills progressed, I, too, was persuaded that the President of the United States must have the discretion to act wisely as he sees fit.

However, there was another substantial difference between S. 2191 and H.R. 3304. S. 2191 expanded the acts constituting grounds for certification by the Secretary of Commerce to include, first, conducting fishing operations in the territorial waters or the contiguous fisheries zone of the United States; second, destroying equipment owned by U.S. fishermen; or third, engaging in any other activity which endangers U.S. fish resources. These three grounds are, of course, in addition to the present basis for such a certification—conducting fishing operations in a manner or under circumstances which diminish the effectiveness of an international fishery conservation program.

Because H.R. 3304 was of such importance that action was immediately required, it was deemed best, and I did not protest, to provide immediate sanctions for foreign nationals violating international fishery conservation programs. I, therefore, did not at that time press for the inclusion of the additional three grounds for certification and possible importation prohibition. Because H.R. 3304 is now public law and we have implemented a program to deal with those countries which callously disregard international fish conservation programs, I should like to reintroduce the essence of these additional grounds for prohibition as contained in S. 2191. I am doing so in order that Congress may consider the necessity of inclusion of these additional grounds for certification and prohibition.

In recent months I have on many different occasions indicated the need for such legislation and have introduced numerous bills on the subject. I have also inserted many statements in the CONGRESSIONAL RECORD in an attempt to rectify this deplorable situation. For example, on March 6 of this year, I introduced S. 3299, a bill requiring the forfeiture of the monetary value of all fish aboard any vessel caught fishing in the contiguous zone. At that time in my introductory statement I gave a brief indication of the seriousness of the problem.

On pages 53303 and 53304 of the March 6 CONGRESSIONAL RECORD, I inserted several letters from U.S. attorneys across the country, indicating the value of the fish and the number of vessels seized during the last 5 years in our territorial waters. Since March 6, I have received a report, Foreign Fishing Activities—Bering Sea and Gulf of Alaska—1970, published by the Enforcement and Surveillance Division of the National Marine Fisheries Service, Alaska region, and printed in Juneau, Alaska, in November 1971. I shall refer to a number of the tables contained therein, which are of particular importance, and I should like to append these as exhibits.

Exhibit 1—table 8—depicts the unauthorized entries of foreign vessels into U.S. territorial waters off Alaska in 1970. Exhibit 2, table 9, depicts foreign vessels within the U.S. contiguous fishery zone—the 9-mile-wide strip of water immediately beyond our 3-mile territorial sea—off Alaska in 1970. Exhibit 3 is the list I inserted in the CONGRESSIONAL RECORD along with S. 3299 on March 6 enumerating the vessels seized during the last 5 years for violation of American territorial waters off all U.S. coasts.

Mr. President, I believe these three charts will graphically depict the seriousness of the present situation.

The difficulties encountered by fishermen whose gear has been totally destroyed by foreign nationals is also well documented. Only last year two of Alaska's most valuable and modern fishing vessels were completely stripped of their gear by Soviet trawlers off the Alaska coastline. These vessels, the *Viking King* and *Viking Queen*, and another vessel, the MV *Endeavor*, were the subjects of considerable Soviet harassment prior to their disablement. I am attaching as exhibit 4 several of the letters I received from the owners and from the Departments of State, Commerce and Transportation on the subject. These letters graphically illustrate not only the occurrences in the Bering Sea on March 3, 1971, and the extent of the damage suffered by all three vessels, but more importantly, the total inability of the United States to deal with the Soviet fleet.

As the attached correspondence indicates, the United States was able to exert no legal compulsion on the offenders because the incident occurred in a fish sanctuary in international waters and because our present laws permit no unilateral recourse. The loss of this gear required both vessels to travel to Seattle to be reoutfitted. Such repairs could only be effected after a long delay. Needless to say, the financial loss fell not only on the vessel owners themselves, but also upon their fishermen employees and on those who were depending upon processing and transportation of the catch for a substantial portion of their yearly income. Fortunately, the Soviet Union has recently agreed to negotiate concerning reimbursement of the vessel owners. However, any reimbursement at all is extremely problematical and distant. I commend the Soviet Union for their negotiation offer and urge that they make speedy recompense. However, I believe the whole incident strongly demonstrates the need for strict laws to prevent the recurrence of just such an incident again in the future.

Last October I received a letter from Mr. Ed Fuglvog, a trawler captain from Petersburg, Alaska. This letter is one of the most amazing I have ever received in my entire public career. It indicates in detail with attached charts an amazing destruction of gear that he personally experienced at the hands of Russian trawlers. He even enclosed a piece of Russian trawl web which one of his bottom halibut hooks brought up near the scene of his gear destruction. This web clearly indicates that not only was the Russian fleet destroying American fishing gear in the area, but that it was also trawling for halibut and other bottom fish in violation of good fish conservation practices.

Unfortunately, there is no way to reproduce the net itself, the most graphic piece of evidence, in the CONGRESSIONAL RECORD. However, it along with the original letter, is available in my office files for any of my colleagues or their staffs who might wish to view them. I have attached a copy of Captain Fuglvog's letter as exhibit 5.

Unfortunately, these two cases are not the only examples of destruction of American fishing gear by foreign fleets. To indicate the extent of the problem, I have attached table 13 which indicates the total damage to U.S. fishing gear by foreign fishing vessels off Alaska in 1970. This I have identified as exhibit 6.

Needless to say, other types of illegal fishing activity also present serious problems and should serve as grounds for possible prohibition. Such activities include harassment of American fishermen and illegal and unsportsman-like fishing activities wherever they occur and which may or may not be specifically prohibited or destructive of fishing equipment. Other activities would include the violation of foreign fish-licensing laws resulting in the depletion of U.S. fish resources.

Mr. President, these serious problems will not solve themselves. Although for many years we have been party to numerous fish conservation conventions, most such treaties require enforcement by the violator's home country. Such nations have usually been notoriously lax in prosecuting their own citizens. As tables 10 and 11 indicate, these treaties have totally failed to achieve their purpose. These tables are attached as exhibits 7 and 8 respectively.

There are, however, several means by which we can protect our own fish resources. The first is by the enactment of tougher treaties—treaties giving coastal nations control over their own fish resources and providing enforcement authority in the coastal state wherein the violation occurred rather than in the violator's home country. I am now pressing for just such action by the U.S. delegation to the Law of the Seas Conference.

The second step we must take is to increase our surveillance and protective activities off our coast.

I am informed that there are presently over 300 foreign vessels fishing off Alaskan waters alone. To patrol the Bering Sea, an area of 873,000 square miles, the Coast Guard has allocated but a single vessel, the U.S.S. *Mellon*. In that area alone are over 120 Russian and 140 Japanese fishing vessels. South of the Aleutians the Coast Guard has allocated but one additional vessel to patrol an area from the Alaska Peninsula to the southern tip of the Alaskan southeastern panhandle. These two vessels patrol an area with a coastline greater than that of the entire contiguous United States and have jurisdiction over fish resources at least equal to those in the remaining 49 States combined. Tables 5 and 6, attached as exhibits 9 and 10, depict respectively the summaries of U.S. Coast Guard vessel fisheries patrols off Alaska in 1970 and U.S. aerial fisheries patrols off Alaska for the same year. These tables similarly indicate the need for additional patrol and survillance commitments to protect Alaskan fisheries.

A third solution is the one to which this bill is addressed—the stiffening of penalties for those nations committing illegal fishing practices.

Mr. President, I believe this bill is of the utmost importance and request that my colleagues review my statement carefully as well as the exhibits attached to it. I request unanimous consent that the text of the bill be printed in its entirety in the CONGRESSIONAL RECORD at this point and followed by the several exhibits.

There being no objection, the bill and exhibits were ordered to be printed in the RECORD, as follows:

S. 3565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 8 (a) of the Fisherman's Protective Act of 1967, as amended by Public Law 92–219, is amended to read as follows: "When the Secretary of Commerce determines that nationals of a foreign country are, directly or indirectly, (1) conducting fishing operations in a manner or under circumstances which diminish the effectiveness of an international fishery conservation program, (2) conducting fishing operations which are prohibited in the Act entitled 'An Act to prohibit fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the Untied States and by persons in charge of such vessels,' approved May 20, 1964 (16 U.S.C. 1081 et seq.); (3) destroying equipment owned by United States fishermen; or (4) engaging in any other activity which endangers United States fish resources, the Secretary of Commerce shall certify such fact to the President."

EXHIBIT 1

TABLE 8.—UNAUTHORIZED ENTRIES OF FOREIGN VESSELS INTO U.S. TERRITORIAL WATERS, 1970

Date	Nationality	Vessel	Location	Remarks
Apr. 13	Japanese	Cargo Yoho Maru, TK1–689	1.7 miles off St. George Island 56–34N 169–26W.	Coast Guard aircraft with NMFS agent sighted subject vessel drifting in position shown. Instructed vessel by message block to depart and observed her leaving territorial waters.
Apr. 13	Soviet	Tanker Mozyr and SRTM freezer trawlers 8484, Avtogenshchik, 8442, Olenyok, Apparatchik, Ossorka, and Verabelik and RT trawler Adler.	0.8 miles off Marmot Island 58–17N 151–50W.	Coast Guard aircraft sighted subject vessels fueling in position shown. Other Coast Guard aircraft and Cutters dispatched. Trawlers departed U.S. waters by arrival of 1st Cutter. Master of tanker arrested and fined $1,500 for oil pollution violation.
May 3	Canadian	Longliners Diana II and	1.8 miles off Barren Island 54–43N 131–22W.	Coast Guard helicopter sighted subject vessels near longline gear in positions shown. Instructed vessels by message blocks to depart and they complied. Cutter with NMFS agent dispatched and retrieved illegal gear. Gear and halibut taken were released to custody of and disposition of violation assumed by State of Alaska.
		Tradewind 3	1.7 miles off Club Rocks 54–47N 131–20W.	
June 5	South Korean	Trawlers Tae Yang No. 203 and Tae Yang No. 205.	0.4 miles off Tanaga Island in Tanaga Bay 51–43.5N 177–59W.	NMFS research vessel reported subject vessels anchored inside Tanaga Bay. Coast Guard Cutter with NMFS agent dispatched to investigate and found subject vessels anchored in position shown. Vessels seized for failure to give notice of arrival at U.S. port or place (33 CFR 124.10) and fined $500 each.
July 22	Japanese	Stern trawler Zuiyo Maru No. 3 and reefer Eiko Maru.	1½ miles off Spray Cape, Unalaska Island 53–38N 167–08W.	U.S. crab vessel reported subject vessels in positions shown. No patrol unit available for investigation.
		Stern trawler Soyo (possibly Shoyo) Maru and reefer Bansun (possibly Banshu) Maru.	2½ miles off Spray Cape, Unalaska Island 53–39N 167–07W.	
Aug. 6	Japanese	Unidentified trawler	2½ miles off Puffin Bay, Baranof Island.	U.S. NOAA vessel reported subject vessel fishing in area shown. Coast Guard aircraft investigated and could locate no vessels in area.
Aug. 26	Japanese	Stern trawler Zuiyo Maru and cargo Hoyo Maru.	2 miles off Skan Bay, Unalaska Island 53–41N 167–08.5W.	ADF & G patrol ship reported subject vessels transshipping in position shown. Coast Guard Cutter diverted to investigate and found subject vessels anchored near same position 2.3 miles offshore. Vessels ordered to leave territorial waters and complied.

EXHIBIT 2

TABLE 9.—FOREIGN VESSELS WITHIN U.S. CONTIGUOUS FISHERY ZONE OR OPERATING IN VIOLATION OF IMPLEMENTING AGREEMENTS, 1970

Date	Nationality	Vessel	Location	Remarks
June 15	Japanese	Stern trawler Akebono Maru No. 11.	10 miles off Cape Cross 57-50N 136-51W.	U.S. fishing vessel reported subject vessel fishing in position shown. Coast Guard aircraft dispatched and sighted subject vessel outside contiguous fishery zone.
June 16	Japanese	Stern trawler Akebono Maru No. 11 Shinnichi Maru No. 31.	11.6 miles off Yakobi Island 56-57N 136-55W.	ADF & G test fishing vessel sighted subject vessels fishing in position shown. No unit available for investigation.
June 27	Japanese	Stern trawler Akebono Maru No. 11.	9.3 miles off Yakobi Island 57-48.5N 136-47W.	Coast Guard aircraft sighted subject vessel and maintained "hot pursuit" for 9½ hours until Coast Guard Cutter overtook and seized the vessel. Master fined $10,000 and settlement of $20,000 was reached in lieu of a civil suit against the vessel.
June 28	Japanese	Unidentified trawler	8 miles off Hogan Island	U.S. fishing vessel reforted an unidentified trawler fishing in position shown. Delay between sighting and receipt of report precluded investigation.
Aug. 18	Japanese	Longliner Kaki Maru No. 18	9.8 miles off Middleton Island 59-18.5N 146-05W.	Coast Guard Cutter with NMFS agent sighted subject vessel fishing in position shown. Vessel seized. Master fined $10,000 and settlement of $25,000 reached in lieu of civil suit against vessel.
Aug. 20	Japanese	Longliner Kiyo Maru No. 51	9.7 miles off Cape Edgecumbe 56-57N 136-06W.	Coast Guard aircraft sighted subject vessel fishing in position shown. Rotating Coast Guard aircraft maintained "hot pursuit" for 16 hours until Coast Guard Cutter overtook and seized the vessel. Master fined $10,000 and sentenced to 1 year imprisonment (suspended) and settlement of $34,950 reached in lieu of civil suit against vessel.
Sept. 27	Japanese	Stern trawler Kyoyo Maru	10.2 miles off Atka Island 51-50N 174-13W.	Coast Guard Cutter sighted subject vessel fishing in position shown and maintained "hot pursuit" for 18 hours until vessel stopped and was seized. Master fined $10,000 and sentenced to 1 year imprisonment (suspended) and settlement of $39,625 reached in lieu of civil suit against vessel.
Nov. 22	Soviet	Unidentified trawler	3.5 miles off Unimak Island 54-36N 163-07W.	U.S. fishing vessel reported subject vessel fishing in position shown. Coast Guard aircraft with NMFS agent dispatched to investigate found 9 Soviet ships in the nearby Sanak Island loading zone but none in position of reported violation.
Dec. 5	Japanese	Stern trawler Zuiyo Maru and cargo Banshu Maru No. 2.	3.5 miles off Unimak Island	Coast Guard Cutter with NMFS agent sighted subject vessels transshipping in position shown, an area not authorized by the United States-Japan CFZ Agreement. In accordance with existing instructions the vessels were boarded and ordered to depart and they complied.

EXHIBIT 3

Date	Name of vessel	Nationality	Territory seizure made	Monetary penalties	Violation in=
Mar. 2, 1967	SRTM 8-413	U.S.S.R	Alaska	$5,000	Territorial sea.
Mar. 22, 1967	SRTM 8-457	do	do	10,000	CFZ.
July 16, 1967	Tenyo Maru No. 3	Japan	do	5,000	Territorial sea.
Aug. 3, 1967	SRTM 8-457	U.S.S.R	do	20,000	CFZ.
June 3, 1969	Zenpo Maru	Japan	do	5,500	CFZ.
Do	Koai Maru	do	do	3,500	CFZ.
Sept. 22, 1969	Matsuei Maru	do	do	10,000	CFZ.
May 3, 1970	2 long-liners	Canada	do	5,000	Territorial sea.
June 27, 1970	Akebono Maru	Japan	do	30,000	CFZ.
July 2, 1970	Conrad	West Germany.	Massachusetts.	20,000	CFZ.
Aug. 18, 1970	Kaki Maru	Japan	Alaska	35,000	CFZ.
Aug. 20, 1970	Kiyo Maru No. 18	do	do	$45,000	CFZ.
Sept. 17, 1970	Clipper II	Canada	do	5,000	Territorial sea.
Sept. 27, 1970	Kyoyo Maru	Japan	do	50,000	CFZ.
Feb. 10, 1971	SRTM 8484	U.S.S.R	do	50,000	CFZ.
Feb. 24, 1971	Lambda 54 Lambda 102 Lambda 91 Sondero 25	Cuba	Florida	25,000	CFZ.
July–August 1971	3 trawlers	Canada	Washington	1,500	Territorial sea.
July 9, 1971	All Star	do	Alaska	3,800	Do.
Aug. 18, 1971	Vodolaz	U.S.S.R	do	50,000	CFZ.
Nov. 6, 1971	Ryusho Maru No. 5.	Japan	do	115,000	CFZ.

(EXHIBIT 4)

PETERSBURG FISHERIES, INC.,
Petersburg, Alaska, March 4, 1971.

Hon. TED STEVENS,
Senate Office Building,
Washington, D.C.

DEAR TED: We have been having one hell of a problem in the eastern Bering Sea this past week. Our two crab boats, *Viking Queen* and *Viking King*, have been fishing north of Unimak Island since January 15th. The weather has been absolutely terrible and they have fished a total of seven days the first month they were out there. None the less our fellows have kept struggling and have been picking up a few crab.

Last Saturday a Russian fleet of four stern trawlers moved in the "pot sanctuary" area and started dragging right where our gear was. As of last night, March 4th, our two boats had lost a total of twenty-four crab traps with a value of approximately $10,000. Yesterday they reported one fleet of ten Russians and a mother ship and another fleet of seventeen Russians and a third fleet of ten Japanese plus a mother ship, all north of Unimak Island approximately 20 to 30 miles off shore.

The Coast Guard cutter *"Sorrel"* was in the area on Saturday and then, for some reason of prior scheduling, went south of the peninsula and headed for Kodiak or Cordova. Imediately the foreign fleets moved into the area, which they are bound by international treaty to stay out of, and started dragging up our crab traps. The first part of the week, March 1st and 2nd, there was a tremendous storm up there so our boats had to find shelter in the Unimak Pass area but on Wednesday, the 3rd of March, they returned to the grounds and found this great concentration of foreign gear.

Finally on Wednesday, March 3rd, the Coast Guard got a plane to the area and was able to fly over the foreign fleets and photograph them in action. I understand that there will be a cutter back in this area by this weekend and hopefully this will resolve the problem. Not, however, our terrific gear losses.

I do not know how many other boats are fishing in the area but I do know that Carl Moses's boat the *Oceanic* suffered gear losses and another boat, the *Flood Tide* is reported to have lost 15 pots this week.

I think this points out several things, Ted. One is that the foreigners are not overly concerned with international agreements if they do not think they will get caught. The second is that we do not have sufficient surveillance in this area to assure that they abide by their agreements.

I feel that we should have a Coast Guard cutter stationed in Unalaska year around. Unalaska is now one of our major fishing ports. The nearest cutters to that area presently are in Adak and Kodiak which leaves a tremendously large unprotected area, not only from surveillance but also from the search and rescue viewpoint. There are probably a hundred boats fishing in this area in the winter months, including the Sand Point crab fleet, the Squaw Harbor shrimp fleet and the King Cove-False Pass crab fleet as well as Dutch Harbor and Unalaska

I have been working closely with Ernie on this problem this week and he has been most helpful. Unfortunately Bud Weburg was replaced last Monday and Harold Hanson has not had very much experience in this field, in addition Harry Reetze, of the N.M.F.S., has been away from Juneau so we were not able to work directly with him.

I have been working with Lew Williams to get some good press coverage on this deplorable situation and hope, with your help, to bring the whole problem into focus.

It is a tough enough job to keep a fishing fleet working in the Bering Sea in the winter time without having the additional threat of being trampled by foreign fishermen on our shores.

I would appreciate anything you can do.

Very truly yours,
BOB THORSTENSON.

PETERSBURG FISHERIES, INC.,
Seattle, Wash., April 2, 1971.

Senator TED STEVENS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: In connection with the recent violation by the Soviet vessel CPT 4538, our vessels the M/V "Viking King" and the M/V "Viking Queen" lost respectively 35 and 5 King crab pots.

We therefore enclose our invoice for 40 pots at $426.16 or a total of $17,046.40.

We also feel that we are entitled to charge for lost fishing effort, which we are including in our invoice.

Very truly yours,
RICHARD C. KELLY,
Controller.

INVOICE

Soviet Vessel CPT 4538,
Embassy of the U.S.S.R.,
Washington, D.C.

King Crab Pots costing as follows:

7 x 7 pot	$165.00
Buoys 2 at $10.50	21.00
Buoy 1	6.90
33 fathoms nylon line at $1.00	33.00
100 fathoms poly. prop. line at $.82	82.00
4 fathoms poly. prop. line at $1.27	5.08
1 bait decanter	.68
Labor for rigging pot	22.50
Shipping cost—Seattle to Dutch Harbor	90.00
Total	426.16
40 pots at $426.16	17,046.40

Lost catch for the above pots March 22 to May 1, 1971 (scheduled departure of Viking King for Seattle. The vessel is returning to Seattle due to the gear shortage).

Present average of remaining pots is 25 legal King Crab per pot.

Pots are hauled every third day.

Average weight per crab is six pounds.

Pots are emptied and rebaited on the average of every third day.

39 remaining days divided by 3 equals *13 pots haulings.*

40 pots x 25 King Crab x 6 pounds x 13 haulings equals *78,000 lbs. King Crab lost.*

78,000 lbs. King Crab at 21¢ per lb. (current price) equals *$16,380.00.*

Total Invoice, $33,426.40.

Make check payable to Petersburg Fisheries, Inc. Fishermen's Terminal, Seattle, Wash. 98119.

PAN-ALASKA FISHERIES, INC.,
Monroe, Wash., March 24, 1971.

Hon. Senator TED STEVENS,
Senator from the State of Alaska,
Juneau, Alaska.

SIR: As you are no doubt aware, we have been having serious problems with the flagrant violations of the Japanese and Russians in the negotiated pot-sanctuary area in the Alaska Bering Sea.

Two days ago, one of our vessels, the M/V Endeavor, lost 42 king crab pots that were dragged off of their original locations by these foreign vessels. These pots have a value in excess of $350.00 per pot, which made this vessel sustain a loss of over $14,000.00.

Other vessels, such as the Viking King, Viking Queen and Sea Spray, have had similar experiences in the last three weeks which have been protested but have not seemed to produce results on the trawling operations in this area. Major concessions were given in the negotiations with the Russians to restrict the crab quota in the Bering Sea, raising the size limitations and prohibiting trawling operation in the pot-sanctuary area, but needless to say, the concessions that were given to them such as, calling at U.S. Ports for refueling, supplying and R & R have been one-sided as they have not stopped and obviously, do not intend to stop fishing with the illegal gear in this area. We as the largest packer of King Crab have whole-heartedly supported the Alaska Department of Fish and Game in all the conservation methods recently taken, such as (quotas, pot limits, registration area, and Season.)

Now, we find ourselves having to take necessary steps to protect the King Crab Fishing Industry being abused by these international violations.

This has got to stop. If we can't have protective measures, such as Coast Guard Surveillance of these areas, then these fishermen should be reimbursed for their pot losses. It seems to us that protection of one's resources is equally as important as protecting one's Country.

I can only impress on you, that we need **all the help** possible and all the pressures brought to bear on stopping this problem, or the individual companies and fishermen will be forced to revert back to taking the matter into their own hands in protection of their property, which could lead to serious consequences.

May I please hear from you on behalf of Pan-Alaska Fisheries, Inc. and also, as President of Northwest Fisheries Association, which represents all the major fish processors in Alaska, Washington and Oregon.

Sincerely,

RONALD JENSEN,
President.

DEPARTMENT OF STATE,
Washington, D.C., March 19, 1971.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: The Secretary has asked me to reply to your letter of March 4 regarding fishing by foreign vessels in a sanctuary area north of Cape Sarichef on Unimak Island, Alaska.

The areas in question is that area of the southeastern Bering Sea described in paragraph 3 of the Appendix to the Agreement of February 12, 1971 between the United States and the Soviet Union relating to fishing for king and tanner crab. In that area, "Unless otherwise agreed by the two Governments, only pots may be used to capture king crabs and tanner crabs for commercial purposes and no trawling may be conducted for other species . . ." This area, commonly known for obvious reasons as the "crab pot sanctuary", is depicted in the small chart attached, it being understood that the sanctuary includes only the waters seaward of the 12-mile fishery limit. The provisions of the February 12 Agreement regarding this sanctuary are the same as those of the previous Agreement between the two Governments on the subject, that of January 31, 1969.

On February 27, a Coast Guard air patrol, acting on a report from the American fishing vessel *Viking Queen,* observed four Soviet vessels trawling in the sanctuary area. Message blocks were dropped advising these vessels that they were operating in violation of the Agreement. The message blocks were not retrieved but the Soviet trawlers brought aboard their gear and got under way. A Coast Guard surface vessel was on the scene the following day but detected no further violations.

On March 3 a Coast Guard air patrol observed nine Soviet trawlers fishing in the sanctuary. Again message blocks were dropped to all vessels observed in violation. During the operation three of the nine vessels attempted to obscure their identification, as had one of the vessels at the time of the observation on February 27. Coast Guard surface vessels in the area during this period informed two Soviet transport ships of the provisions of the Agreement and the violations observed.

On receipt of this information, the Department called in an officer of the Soviet Embassy on March 5 to protest these violations of the Agreement. We have had no specific response so far to our representations on the subject, but there have been no reported observations of violations since those of March 3.

The provisions of the Agreement are enforced by each Government against its own nationals and vessels; no authority is provided for enforcement against nationals and vessels of the other country. In view of this, and since the area in question is part of the high seas beyond United States jurisdiction, the Coast Guard had no authority to seize the offending vessels.

We understand that the *Viking Queen* and perhaps other vessels have reported losses of fishing gear resulting from these trawling operations and that affidavits on this are in preparation. The Department will, of course, give careful consideration to any such documents with a view to such further action as may be appropriate.

I hope the foregoing will be helpful. If there is any further information we can provide, please let me know.

Sincerely,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

DEPARTMENT OF STATE,
Washington, D.C., April 1, 1971.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: The Secretary has asked me to reply to your letter of March 22 regarding the continuing problem of violations by Soviet trawlers of the so-called "pot sanctuary" area north of Unimak Island. I refer also to my letter of March 19 on this subject.

On March 19, pursuant to our earlier approach of March 5, we gave the Soviet Embassy a tabulation of such sightings up to that date. The Soviet representatives informed us that the information they had received from Moscow was to the effect that investigation has disclosed no evidence of violations by Soviet vessels. We pointed out that in view of the officially confirmed reports available to us this was obviously an unsatisfactory response.

On March 24 following two additional reports of sightings of Soviet vessels trawling in the area, we again protested this matter to the Soviet Embassy in vigorous terms. Simultaneously, the Regional Director in Juneau of the National Marine Fisheries Service, Mr. Harry Rietze, was attempting to establish communications with the Soviet fleet commander with a view to arranging a meeting of the two to discuss this problem. We understand that the Soviet fleet commander has now responded and has said that he would advise Mr. Rietze shortly concerning the proposal for a meeting. The Agreements between the United States and the Soviet Union contain provisions for such meetings between local representatives for the solution of various kinds of problems.

With respect to Japanese activities, we have informed the Japanese Embassy of sightings of Japanese vessels trawling in this area. Such activities by Japanese vessels are not a violation of the Agreements with the United States. However, the Japanese Government has in the past informed us that as a domestic measure it continues to prohibit trawling by its nationals and vessels in a larger area of the southeastern Bering Sea which encompasses the "sanctuary" area. Thus, trawling by Japanese vessels is a violation only of Japanese Government regulations, although it is obviously a matter of concern to us and we seek to bring such incidents to the attention of the Japanese authorities.

The Japanese have the same rights, of course, as American fishermen to set crab pots in this sanctuary area for the purpose of taking king or tanner crab, and we have reports that Japanese vessels are in fact engaged in this activity at the present time. It is possible, therefore, that some of the reports of Japanese vessels in the area may reflect entirely legitimate activities under the Agreements.

We trust that the latest representations and the communications between United States and Soviet local authorities will lead to a speedy solution of this problem. Meanwhile, we intend to take all practicable steps to correct the situation.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

DEPARTMENT OF COMMERCE,
Washington, D.C., April 13, 1971.
Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: Thank you for your letter regarding Soviet trawling in areas of the Bering Sea closed to fishing with mobile gear by a U.S.-Soviet agreement renewed February 12, 1971.

On March 31, 1971, a meeting took place between the Commander of the Soviet fleet in the Bering Sea, and officials of the U.S. Coast Guard and the National Marine Fisheries Service. The U.S. Delegation included Robert McVey, Associate Regional Director, National Marine Fisheries Service, Juneau, Alaska, and Commander Schneider, Chief, Intelligence and Law Enforcement Division, 17th Coast Guard District.

Mr. McVey presented written and photographic documentation of Soviet violations in the pot sanctuary area in the eastern Bering Sea. The Soviet fleet Commander said it had been his understanding that the agreement establishing the pot sanctuary area had expired January 31, 1971. He claimed that the renewal of the agreement on February 12, 1971, was not reported to the fleet on the fishing grounds until March 6, 1971. He indicated he would investigate all violations reported after March 6, 1971, and penalize the masters of any vessels involved.

He also indicated that the Soviet fleet in the eastern Bering Sea had been removed to an area west of 170° W, which is beyond the pot sanctuary area. He gave assurances that there would be no further violations of the sanctuary during 1971 and 1972 while the present agreement is in effect.

We are very concerned about the incidents that took place before the meeting with the Soviet fleet Commander was arranged. We will continue to work closely with the U.S. Coast Guard and the Department of State in efforts to insure that compliance with the agreement is maintained in the future.

Sincerely,

WILLIAM M. TERRY,
Acting for Philip M. Roedel, Director.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C. April 22, 1971.
Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR TED: This is in response to your letters of March 11 and 22, 1971 concerning sightings of foreign vessels in the Unimak Island crab pot sanctuary.

As you are aware, the US-USSR King Crab Agreement of February 12, 1971 provides that no trawling may be conducted for any species in a described area north of Unimak Island and lying seaward of the nine mile fisheries zone contiguous to the territorial sea of the United States. This Agreement also specifies that each government will apply the measures of the Agreement to its nationals and vessels. Therefore, since the sanctuary in question is considered by the United States to be a high seas area, and the Agreement does not provide for coastal state enforcement, the Coast Guard's role in this regard is to conduct surveillance of the area, investigate reports of non-compliance and collect information to support appropriate action through diplomatic channels.

Since February 27 the date the *Viking Queen* reported foreign trawlers dragging in the crab pot sanctuary, Coast Guard vessels and aircraft have patrolled the area almost continuously. Message blocks dropped from aircraft, informing Soviet trawlers that they were in violation of the Agreement, have been ignored. Therefore, it appears that this increased presence of Coast Guard forces has had no deterring effect and that the present patrol effort provides sufficient information for diplomatic protest, the only means of censure in this situation.

However, Coast Guard and National Marine Fisheries Service representatives did arrange for a meeting with the Soviet fleet commander. During this meeting, held on April 2, the fleet commander gave a verbal personal and a written guarantee that there will be no further violations of the crab pot sanctuary for the duration of the Agreement.

Japanese trawling in the halibut nursery grounds north of Unimak Island is a matter of concern to the United States but, again, since this fishing is in an area which the U.S. government recognizes as high seas the Coast Guard has no authority to restrict these operations. However, the Japanese Government has enacted domestic regulations which prohibit trawling in this area and, again, the Coast Guard's role is to conduct surveillance of the area, investigate reports of non-compliance and collect information to support diplomatic protest.

The matter of assigning additional Coast Guard resources to the Aleutian area is, of course, one which must be weighed against overall requirements for the deployment of resources. This is an area of continual review but, although units from other Pacific Districts are regularly assigned to supplement Alaska patrol during periods of the greatest foreign fishing activity no redeployment of a high endurance cutter or reassignment of resources from other areas is anticipated.

I hope that this information will be of help If you find the need for any additional information, do not hesitate to ask.

Sincerely,

——— ———.

EXHIBIT 5

PETERSBURG, ALASKA,
October 20, 1971.
Hon. THEODORE F. STEVENS,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: The afternoon of the 24th of September we were in the process of setting our halibut gear consisting of 4 sets with 13 skates in each set. We were setting in depths from 100 fathoms to 90 fathoms and was midway through the 2nd set when we noticed some large boats ahead of us. Upon determining that they were part of a foreign trawl fleet we turned at a right angle to the starboard for 5 minutes and then made the same move again so that we were headed in the opposite direction. We continued in this direction with the remainder of our gear hoping we would be at a safe distance from the foreign trawlers.

We placed a blinking buoylight on the last end of the last set and then dropped the anchor nearby. About 0230 the next morning we a woke to begin hauling our gear back. We were surprised and concerned when we discovered we were surrounded by boats for there were lights all around us. Daylight does not appear until approximately 0700. There were boats moving by us at slow speeds, apparently towing their nets as there was activity on the decks.

We hauled one set back, 13 skates, and there was very little fish of any kind caught. The previous trip in the same area yielded considerable halibut plus assorted species such as gray cod, black cod and turbot. There was about 250 pounds of halibut or close to 20 pounds per skate average which is considered extremely poor. This average held up for the remaining gear that was hauled during the day.

The next set was very much the same, except that we hauled back only 10 full skates and half of another. Three and one-half skates were lost, plus one 45 lb. anchor, 150 fathoms of buoyline, one bag and flagpole. The next end of the third set should have been close by but was not where it should have been.

We had to run to the other extreme end and haul from there and back. The entire set was hauled back without incident. During this time Russian trawlers were towing from the deep part of the edge and up towards shallower water. The next set had eleven and one half skates left on it, a loss of 2½ skates, plus 1 anchor, 150 fathoms of buoyline, one bag and one flagpole.

We conducted an extensive search for our missing gear with no sightings of any flags. Altogether we lost five skates of gear, 300 fathoms of buoyline, two 45 lb. anchors, 5 fathoms of ⅝″ galvanized chain, two 75″ buoy bags and 2 flagpoles for a total value of $764.50. In addition we were not able to use as much gear during the trip. We had 40,600 pounds and hauled 699 skates averaging 58.1 lbs. per skate and we could have more if we had our full string during the trip. We had some spare gear with us that we used to replace what was lost. However, if we had no losses we could have hauled a total of 728 skates and at a 58.1 lb. average would have given us a total of 1685 pounds more. At 39¢ per pound, which we received for our fish, would have meant an additional $657. Therefore, our total loss considering gear and fish would come to approximately $1,421.50.

When it was apparent that our gear was lost we were able to read numbers on three of the boats and these were recorded in the logbook. It is not known which boat was involved in our gear because of the distance between our ends and the various trawlers. There were at least seven Russian ships in sight most of the time. The name and number of one ship was the Ternery, no. 0987. The other two were 06981 and T6–1935.

The entries in the logbook includes the loran readings IL6 and IL7 at each end of each set. When all the gear was in I notified the Coast Guard in Kodiak and gave them the loran reading IL6–3291, IL7–2788 as the position where our gear was lost. I also stated the value of the gear lost as approximately $1,000.

We were forced to leave this area and move somewhere else. We felt we were being escorted away from the area as ship number T6–1935 moved along with us for a considerable distance.

Information constantly given to the fisherman indicates that the foreign trawlers are towing their gear above the bottom for perch, thus not tampering with bottom fish. The obvious decrease in fish caught plus the fact we had a portion of trawl web brought up on one of our hooks near where one of our ends had parted clearly shows that trawls are bouncing along the bottom and scooping up everything in its path.

The efforts of the International Halibut Commission becomes more meaningless as a regulatory body because we cannot control the areas foreign fleets operate. We are no longer operating on a sustained yield basis but on successive seasons of diminishing returns and it will become worse before it ever improves. The very slow growth rate of halibut means that it will be years before the younger fish can replace those that have been caught by foreign fleets. With the effort on pollock in the Bering Sea and the high mortality rate of the hundreds of thousands immature halibut caught in these foreign trawls they are destroying entire yearly quotas had they been allowed to mature. What is there to look forward to?

We would appreciate any effort you make that will lead to the recovery of our loss.

Sincerely,

ED FUGLVOG,
Captain, M/V Symphony.

P.S.—I have pictures of several of the vessels that were in the area which will be sent to you as soon as they have been developed.

EXHIBIT 6

TABLE 13.—DAMAGE TO U.S. FISHING GEAR BY FOREIGN FISHING VESSELS, 1970

Date	Reported by—	Alleged offender	Location	Losses and remarks
		CRAB GEAR		
Feb. 28	Glen E. Evans, F/V selief	Soviet freezer-trawler SRTM 8426 and 4 unidentified freezer-trawlers.	Chiniak Gully off Kodiak, 57–32N. 151–37W.	8 pots lost, 1 buoy marker damaged. Observed the SRTM 8426 trawl through crab pot string. Severed and damaged buoys surfaced behind the Soviet trawler.
Mar. 5	Oscar Joos, F/V Mordic	2 unidentified Soviet freezer-trawlers	20 miles north northeast of Ugak Island and 15 miles off Cape Chiniak.	2 pots lost. Observed Soviet vessles fishing within ⅓ mile of where missing pots should have been.
Apr. 18	Gilbert J. Johnson, F/V Beluga	Soviet freezer-trawlers Sargassa, SRTM 8451 and 1 unidentified.	Chiniak Gully off Kodiak, 57–28N. 151–35W.	6 pots lost. Observed subject vessels trawling very near the Beluga's gear. Coast Guard helicopter with NMFS Agents sent to investigate found 7 Soviet freezer-trawlers in area of loss.
Apr. 23–30	do	Unknown (believed to be Soviet trawlers).	do	19 pots lost. No foreign vessels seen in area during subject period but Soviet trawlers caused earlier losses in same area.
Apr. 8–27	James R. Fogle, F/V Invincible	do	do	9 pots lost. On Apr. 8 unidentified Soviet trawlers were seen fishing very near the Invincible's gear.
Apr. 26	William K. Kukahiko, F/V Aleutian Queen.	3 unidentified foreign trawlers	Eastern Bering Sea, 56–15N. 161–51W.	3 pots lost. Observed 3 trawlers fishing near his pot gear. The trawlers moved off when approached. Found Japanese tangle net entangled in 1 of his crab pots.
Apr. 29	Malcolm S. McDonald, F/V Pacific Fisher.	Unidentified Japanese vessels of Shikishima Maru fleet.	Eastern Bering Sea, 55–51N. 165–21W.	5 pots lost. Several unidentified Japanese fishing vessels and the factory ship Shikishima Maru seen in area of pot gear.
May 1	do	Unidentified Soviet trawlers	Eastern Bering Sea, 56–12N. 161–51W.	3 pots lost. Observed Soviet trawler fishing in area of pot gear.
		HALIBUT GEAR		
Mar. 29	Dale M. Samuelsen, F/V Eclipse	Japanese stern trawler Akebono Maru No. 15.	Central Bering Sea, 57–00N. 173–30W.	12 skates and associated gear valued at $1,220 lost. Subject vessel trawled through Eclipse's longline gear five times. Attempts by Eclipse to indicate the presence of her gear were not understood or were ignored.

EXHIBIT 7

TABLE 10.—VIOLATIONS OF FISHERIES LAWS AND REGULATIONS IMPLEMENTING INTERNATIONAL AGREEMENTS, 1970

Vessel	Nationality	Type	Violation	Date	Remarks
Longliner Milbanke Sound	Canadian	IPHC	Failure to file statistical return within 96 hours of final landing.	Apr. 23	Referred to Canadian authorities.
Gill-netter Kofuku Maru No. 32	Japanese	INPFC	Possessing salmon within INPFC abstention area	May 27	Seized and custody transferred to Japanese Fisheries Agency. Vessel impounded 25 days.
Gill-netter Dai Ichi Maru No. 8	do	INPFC	do	June 2	Seized and custody transferred to Japanese Fisheries Agency. Dismissed by Japan without penalties.
Gill-netter Koyo Maru	do	INPFC	do	June 17	Do.
Gill-netters Kiku Maru No. 28, Seifuku Maru No. 21, and Choyo Maru No. 31.	do	INPFC	Fishing salmon within INPFC abstention area	June 19	Documentation of violations (detected by patrol aircraft) sent NMFS, Washington, D.C., for relay to Government of Japan. Dismissed by Japan without penalties.
Longliner Misty Moon	Canadian	IPHC	Failure to validate at Sand Point prior to fishing area 4B.	Sept. 26	Referred to Canadian authorities and fined $100.

EXHIBIT 8

TABLE II.—FOREIGN VESSELS FISHING IN VIOLATION OF CRAB AGREEMENTS, 1970

Date	Nationality	Vessel	Location	Violation	Remarks
Feb. 19	Soviet	SRT trawlers Ural, Klin, Algol, Kosmonaut Egorov, Eridan, Konus, Pogranichnik, Shtil, Kastor, Podosknovets, Urup, Pavel Popovich, and 6 unindentified trawlers.	Eastern Bering Sea, 55–28N. 165–05W.	Trawling within Unimak Island pot sanctuary.	Coast Guard aircraft with NMFS Agent sighted subject vessels fishing near position shown. Message blocks dropped to Soviet vessels informing them of their violation.
Apr. 13	do	Factory ship Konstantin Sukhanov	Eastern Bering Sea, 56–42N. 161–25W.	Undersized king crab [1]	Detected by NMFS Agent during boarding. Documentation forwarded to Washington, D.C., for possible protest to Government of the U.S.S.R.
May 13	do	Factory Ship Pavel Chebotnyagin	Eastern Bering Sea, 56–12N. 162–41W.	do.[1]	Do.
Sept. 14–15	Japanese	Factory ship Chichibu Maru No. 2 and crab pot fishing boats Nitto Maru No. 28, Benten Maru No. 25, and YM2–643.	Central Aleutians, 155–22N. 179–33W.	Fishing crab in waters not fished historically by Japan.	Coast Guard aircraft with NMFS Agent sighted subject vessels fishing in position shown. Subsequent patrols did not locate vessels. Documentation of violation forwarded to Washington, D.C., and transmitted to Japanese Government in Tokyo, November 1970.

[1] Undersized tangle net was also observed but there was no evidence that such nets had been fished.

EXHIBIT 9

TABLE 5.—SUMMARY OF U.S.-VESSEL FISHERIES PATROLS, 1970

U.S. patrol vessels			Number of sightings of foreign vessels				
Name	Period of patrol	Miles patrolled	Japanese	Soviet	South Korean	Canadian	Total sightings
Storis	Jan. 5–Dec. 18	25, 084	277	267	25	0	569
Confidence	Feb. 2–Dec. 4	11, 988	75	35	22	3	135
Resolute	Apr. 2–May 22	7, 191	134	51	0	0	185
Bittersweet	May 4–6 and Oct. 27–30	1, 438	4	0	0	0	4
Yocona	May 17–July 15	7, 160	85	5	3	2	95
Ironwood	June 14–July 5	3, 712	7	0	37	5	49
Venturous	July 15–Aug. 27	8, 102	137	1	0	8	146
Citrus	Aug. 6–14	1, 053	0	1	0	0	1
Sweetbrier	Sept. 15–18	1, 116	3	0	0	4	7
Clover	Sept. 20–22	768	1	0	0	1	2
Balsam	Sept. 21–29	1, 399	19	11	2	0	32
Total		69, 011	742	371	89	23	1, 225

EXHIBIT 10

TABLE 6.—SUMMARY OF U.S. AERIAL FISHERIES PATROLS, 1970

	Number of patrols	Hours flown	Miles patrolled	Number of foreign ships sighted				Total sightings
				Japanese	Soviet	South Korean	Canadian	
Kodiak Air Station	109	732.4	137,993	1,883	935	37	28	2,883
Annette Air Station	78	378.1	52,736	187	0	0	0	192
Total	187	1,110.5	190,729	2,070	935	37	28	3,075

By Mr. HOLLINGS:

Senate Joint Resolution 228. A joint resolution to pay tribute to law enforcement officers of this country on Law Day, May 1, 1973. Referred to the Committee on the Judiciary.

LAW DAY

Mr. HOLLINGS. Mr. President, today is Law Day, America's annual observance of respect for the judicial system. I am proud that this year, through congressional approval of my resolution, the scope of the celebration has been widened to include special recognition for the country's law enforcement personnel.

For many years, Law Day has been a tradition observed in courtrooms and classrooms. The observance has been by, and for, judges and lawyers and law students. It has been a day reserved for the theorist of law.

But law does not begin in the quiet of courtrooms and class buildings. It operates in patrol cars and on the beat and in precinct stations. By the Congress' recent action, signed into law by the President on April 27, 1972, we have allocated a portion of Law Day to the practitioners of law. Sheriff's deputies, highway patrolmen, police men and women—these people are a part of the legal profession. In fact, they are its very foundation.

Our law enforcement personnel face formidable challenges today in protecting our rights and properties. Nineteen policemen were killed in ambush in 1970. Political activism fills the streets, and our law officers must be both safety personnel and diplomats, trying to maintain a balanced perspective about what is free speech and what is anarchy. While legislators and citizens talk about prison reform, prison guards encounter the daily hazards created by our neglect of the penal system. Will we forget the guards at Attica?

We must not forget, and that is what this Law Day is all about. Today we give our law enforcement personnel their well-earned praise and appreciation.

Congress in 1961 dedicated May 1 as Law Day, focusing on national rights and liberties under law. I hope that Congress, through appropriate legislative action, will continue what we have begun in 1972. I hope the Congress will see that each year a part of Law Day belongs to the law officer. I am reintroducing my resolution to attain this goal and I hope for earlier action next year. This year's action by the President came too late to prepare a full observance. We can do better in 1973, and we owe our law enforcement personnel no less than our full attention.

I ask unanimous consent that the new joint resolution be printed in its entirety at this point in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S. J. Res. 228

Whereas the first day of May of each year was designated as Law Day, U.S.A. and was set aside as a special day of celebration by the American people in appreciation of their liberties and in reaffirmation of their loyalty to the United States of America; and of their rededication to the ideals of equality and justice under law in their relations with each other as well as with other nations; and for the cultivation of that respect for law that is so vital to the democratic way of life: Be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the celebration of Law Day, May 1, 1973, special emphasis be given by a grateful people to the law enforcement officers of the United States of America for their unflinching and devoted service in helping to preserve the domestic tranquillity and guaranteeing to the individual his rights under the law.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 117

At the request of Mr. Stevens, the Senator from Washington (Mr. Magnuson) was added as a cosponsor of S. 117, a bill for the relief of Angelia R. Reyes.

S. 144

At the request of Mr. McGee, the Senator from New York (Mr. Buckley) was added as a cosponsor of S. 144, a bill to amend the Internal Revenue Code with respect to ammunition recordkeeping requirements.

S. 738

At the request of Mr. Cranston, the Senator from Illinois (Mr. Percy) was added as a cosponsor of S. 738, a bill to amend the Immigration and Nationality Act with respect to the waiver of certain grounds for exclusion and deportation of permanent residents for possession only of marihuana, by the U.S. Attorney General.

S. 1690

At the request of Mr. Gurney, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 1690, a bill relating to the trial and review of criminal actions involving obscenity.

S. 2851

At the request of Mr. Allott, the Senator from Texas (Mr. Bentsen) was added as a cosponsor of S. 2851, a bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions.

S. 3514

At the request of Mr. Proxmire, the Senator from California (Mr. Tunney) was added as a cosponsor of S. 3514, the Menominee Restoration Act.

S. 3538 AND S. 3539

At the request of Mr. Robert C. Byrd for Mr. Bayh, the Senator from Michigan (Mr. Hart), the Senator from Minnesota (Mr. Humphrey), the Senator from Oklahoma (Mr. Harris), the Senator from Virginia (Mr. Spong), the Senator from Illinois (Mr. Stevenson), the Senator from Massachusetts (Mr. Kennedy), the Senator from New Hampshire (Mr. McIntyre), the Senator from Maine (Mr. Muskie), and the Senator from New Mexico (Mr. Montoya) were added as cosponsors of S. 3538, a bill to amend the Controlled Substances Act to require identification by manufacturer of each schedule II dosage unit produced; and S. 3539, a bill to amend the Controlled Substances Act to move certain barbiturates from schedule III of such act to schedule II.

SENATE JOINT RESOLUTION 191

At the request of Mr. Cranston, the Senator from Iowa (Mr. Hughes) was added as a cosponsor of Senate Joint Resolution 191, designating the week of May 1–7, 1972, as "National Bikecology Week."

SENATE JOINT RESOLUTION 225

At the request of Mr. Griffin for Mr. Schweiker, the Senator from Minnesota (Mr. Humphrey) was added as a cosponsor of Senate Joint Resolution 225, to prevent abandonment of railroad lines.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE JOINT RESOLUTION 160

At the request of Mr. Fulbright, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of Senate Resolution 160, expressing the sense of the Senate with respect to U.S. policy toward Cuba.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972—AMENDMENTS

AMENDMENT NO. 1173

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER (for himself, Mr. Bellmon, Mr. Bennett, Mr. Brock, Mr. Buckley, Mr. Curtis, Mr. Dole, Mr. Dominick, Mr. Fannin, Mr. Fong, Mr. Gurney, Mr. Hansen, Mr. Hruska, Mr. Thurmond, and Mr. Tower) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

AMENDMENT NO. 1174

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted an amendment intended to be proposed by him to the bill (S. 3526), supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 891

At the request of Mr. Ribicoff, the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), and the Senator from Massachusetts (Mr. Kennedy) were added as cosponsors of amendment No. 891 intended to be proposed to the bill (H.R. 1), the social security amendments of 1972.

AMENDMENT NO. 914

At the request of Mr. Hatfield, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of amendment No. 914, intended to be proposed to the bill (S. 3108), the Military Procurement Authorizations Act of 1973.

AMENDMENT NO. 955

At the request of Mr. Stevenson, the Senator from Wisconsin (Mr. Nelson) was added as a cosponsor of amendment No. 955, intended to be proposed to the bill (H.R. 1), the social security amendments of 1972.

ANNOUNCEMENT OF OPEN HEARINGS BY SUBCOMMITTEE ON PARKS AND RECREATION

Mr. BIBLE. Mr. President, I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Parks and Recreation at 10 a.m. on June 8, in room 3110 New Senate Office Building, on the following bill:

S. 2473, to amend the Land and Water Conservation Fund Act of 1965 so as to authorize the development of indoor recreation facilities in certain areas.

NOTICE OF HEARINGS BY SUBCOMMITTEE ON JUVENILE DELINQUENCY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Indiana (Mr. Bayh) and notice of hearings to be held by the Subcommittee on Juvenile Delinquency.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Bayh on Barbiturate Legislation and Notice of Hearings on Illicit Barbiturate Traffic and Use

Mr. President, the Subcommittee on Juvenile Delinquency, of which I am Chairman, has been conducting an intensive investigation into the abuse of psychotropic drugs, particularly by our Nation's youth. Our hearings last summer on S. 674, a bill to more strictly control the manufacture and distribution of amphetamines and similar substances, played a persuasive role in the decision by the Bureau of Narcotics and Dangerous Drugs to more carefully regulate these substances. During February of this year the Subcommittee heard testimony on the abuse of diet pills and the efficacy of these substances in the short-term treatment of obesity.

The Subcommittee has pursued its investigation of the abuse of psychotropic drugs with particular emphasis on the problem of barbiturate abuse. We quickly learned that barbiturates present a threat to the health of this nation that may well be more serious than amphetamines and even heroin.

I am deeply concerned that barbiturate abuse may indeed become the number one drug problem facing our Nation. The investigation and hearings conducted by my subcommittee have revealed a dramatic increase both in the availability of these dangerous drugs and in the extent of abuse. The problem is reaching epidemic proportions. We cannot afford to wait.

Until we have developed a more complete legislative record, it is difficult to predict what corrective legislation would be most effective in dealing with this problem. But it is clear that a substantial problem exists, and in order to focus the testimony of those who will appear before the Subcommittee, I have introduced two pieces of legislation.

The first bill S. 3539 would provide for the rescheduling of four commonly abused short acting barbiturates from schedule III to schedule II of the Controlled Substances Act. This change would subject these particular barbiturates to stricter production and distribution controls as well as to more stringent import and export regulations. The second bill S. 3538 would require all manufacturers and producers of solid oral form barbiturates to place identifying marks or symbols on their products. This would facilitate police efforts in tracing barbiturates diverted to the illicit market back to the original production and distribution sources.

We are not yet sure whether either or both of these measures will be necessary to deal effectively with the abuse problem. However, they will provide a clear issue for future hearings and investigations of the Subcommittee. We intend to gather a wide range of opinion from people active in the area of drug abuse control as well as from the pharmaceutical manufacturers on the need for these or other legislative measures.

The Subcommittee will consider these bills and suggested alternative proposals during the coming months before recommending specific legislative action.

Since Thursday, April 27, 15 Senators have become cosponsors of these two bills. I wish to commend the following Senators for their swift action: the Senator from South Dakota (Mr. McGovern), the Senator from Wyoming (Mr. McGee), the Senator from Rhode Island (Mr. Pastore), the Senator from Connecticut (Mr. Ribicoff), the Senator from California (Mr. Tunney), the Senator from Minnesota, (Mr. Mondale), the Senator from Missouri (Mr. Eagleton), the Senator from Oklahoma (Mr. Harris), the Senator from Michigan (Mr. Hart), the Senator from Minnesota (Mr. Humphrey), the Senator from Virginia (Mr. Spong), the Senator from Illinois (Mr. Stevenson), the Senator from Massachusetts (Mr. Kennedy), the Senator from Maine (Mr. Muskie), the Senator from New Hampshire (Mr. McIntyre), and the Senator from New Mexico (Mr. Montoya). I urge my colleagues to support these two measures.

The hearings schedules for April 26 and 27 have been rescheduled for May 2 and 3 and will focus on illegal diversion of legitimately produced barbiturate materials and pills; illicit barbiturate traffic; and law enforcement responses to the diversion and illegal distribution of these dangerous substances.

The hearings will begin at 10:00 am in Room 3110 New Senate Office Building. Any person who wishes to submit a statement for the record should notify Mathea Falco, Staff Director and Chief Counsel of the subcommittee at 225–2951.

ANNOUNCEMENT OF OPEN HEARINGS BY SUBCOMMITTEE ON PARKS AND RECREATION

Mr. BIBLE. Mr. President, I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs at 10 a.m. on May 25, in room 3110, New Senate Office Building, on the following bill:

S. 866, to establish the French Pete Creek Intermediate Recreation Area in the State of Oregon.

NOTICE OF HEARINGS ON REVISION OF FEDERAL COURT APPELLATE SYSTEM

Mr. BURDICK. Mr. President, I wish to announce that open public hearings have been scheduled before the Subcommittee on Improvements in Judicial Machinery on Senate Joint Resolution 122, a joint resolution to create a commission to study and recommend a revision of the appellate system of the Federal courts. Hearings will be held on May 9 and 10, 1972, in room 457 Old Senate Office Building and on May 11, 1972, in room 1202 New Senate Office Building. The hour is 10 a.m. on all three days.

The Judicial Conference of the United States has recommended that the several circuits be geographically realined. Legal scholars have questioned whether this is anything but a short-term remedy and have pointed out that the problems of our circuit courts, brought on by increased caseloads, are in need of long-term solutions. At these hearings, we will be privileged to hear from the chief judges of the busiest circuit courts, from the Director of the Federal Judicial Center, and from legal scholars.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, 6306 New Senate Office Building.

ADDITIONAL STATEMENTS

"THE KEEPING OF THE REPUBLIC"—LAW DAY ADDRESS BY SENATOR ALLEN J. ELLENDER AT McNEESE STATE COLLEGE, LAKE CHARLES, LA.

Mr. ELLENDER. Mr. President, I ask unanimous consent to have printed in the Record the text of the Law Day address entitled "The Keeping of the Republic," delivered by me at McNeese State College, Lake Charles, La., on April 29, 1972.

There being no objection, the address was ordered to be printed in the Record, as follows:

"The Keeping of the Republic"

(By Senator Allen J. Ellender)

Almost 200 years ago, an obscure but nonetheless historic conversation occurred on a Philadelphia sidewalk at the close of the Constitutional Convention in which the structure of our American government was established. A certain Mrs. Powel of Philadelphia, mingling with those who were waiting outside Independence Hall, stopped Benjamin Franklin, a major architect of our liberties, and asked:

"Well, Doctor, what have we got—a Republic or a Monarchy?"

Weary from the hours of the long deliberation, yet ever hopeful for freedom's survival, Franklin responded: "A Republic—if you can keep it."

A Republic—a government of laws and not of human caprice,

—a government in which power was to be delegated to responsible, democratically elected representatives who would serve the common good,

—a government guided by men of good conscience who value truth and who put their talents and energies to the public interest rather than to their own.

I have taken this theme as a guide to my remarks for this occasion in which, as Americans, we celebrate Law Day. We engage in such public gatherings as this to reaffirm our commitment to our tradition of ordered liberty under law. In these troubled days, that tradition is on the defensive. It is under attack from many quarters—not least from those who vigorously claim its protection while assaulting its integrity.

The clear responsibility of those who cherish this heritage—your responsibility and mine—is to honor the counsel of Franklin to keep the Republic. We must protect and keep it not only by defending it against its enemies without and within, but also by giving free obedience to its laws, and by upholding its fundamental institutions.

Of supreme importance, too, we must as a people find ways to rekindle in our youth the fire of enthusiasm for both its achievements of the past and its promise for the future.

It has been said often—and well said—that "eternal vigilance is the price of liberty." But today, as our people assemble across the land or pause to reflect upon the meaning of Law Day, let it be said that vigilance means more than defense, more than maintaining military strength (important as that may be in the world of today). It means, as well, vigilance for liberty, vigilance for law, vigilance for freedom. It means not only keeping watch, but keeping faith with the heritage of America.

One of the greatest Republics in the ancient world—that of Rome—gradually lost its distinctive, sturdy, self-reliant tradition. At one point it was the shining product of a system based on obedience to law. For all its faults and imperfections, it did enjoy several major institutions which underpinned its greatness. There was dignity of the family. There was a sense of civic responsibility. There was a well-formulated code of virtue and courage and honor. There was what the Romans called pietas, or reverence for the divine. These things constituted then as now the life blood of a free society. Where faith in the basic institutions of a society is absent or weak, that society is truly imperiled.

Our task in America today is to restore that faith, to revive the enthusiasm of the apathetic, to dispel the corrosive negativism of the cynical. Only by so doing can we hope to preserve and maintain the Republic.

If there are things wrong with America, let us move to set them right, confident that we can if we will. No matter what we find amiss, we have the capacity to correct it, if we will simply allow ourselves to be moved by the traditions from which our Nation has risen to take its place in the world community as a champion of human freedom and human dignity.

"Where there is no vision," wrote the author of the Book of Proverbs, "the people perish."

It is that very lack of vision—of enthusiasm, born of love—which afflicts too many of our people today. We confront it at every hand and in every area. It is the key to what is called loss of credibility or failure of nerve, a weakening of confidence in the American system, and an attendant decline in that innovative spirit which has made this Nation great.

It is not so much that people have turned against the system: that kind of utter alienation and open hostility is still—thank God. In my view it is confined to a very small (if vocal) minority. Rather, it is the complacency of the majority—the unhappy tendency to take for granted all that we have and are—which is at the heart of our dilemma. One analyst has called this disease "creeping meatballism."

These are difficult days for patriotism. It is unfashionable in many quarters to speak of love for one's country. Yet love—true love—is never cirtical. Love in its maturity—involves nothing more—and nothing less—than a deep and unshakable loyalty, a commitment of heart and mind which transforms both lover and loved.

So it is with patriotism: to love this land is to live and to act in its behalf, to be guided by concern for its well-being, to seek ever increasing realization of its ideals and promises for all our people.

To love America is to honor its basic institutions—the family, the church or synagogue, the school, and above all—the law. If one believes that certain laws require changing, the system itself makes that change possible by peaceful means. Only those who have lost faith will turn to violence or coercion to achieve their ends.

Having said these things—having, as it were, diagnosed the problem, what then is the remedy? The symptoms are rampant and visible; the solution is not so easily defined. Partly, it is a matter of knowledge—of historical perspective. Here in America we shall soon be celebrating our 200th anniversary as a Nation: think of it, barely two centuries of National life—and reflect on the kind of society we have built.

Sir Charles P. Snow, the eminent English scientist and novelist—and a sharp-eyed, sympathetic observer of the American system has written: "From the discovery of agriculture until today, the overwhelming majority of human lives have been those of peasants, as uncared for as animals, ill-fed, over-worked, dying young, servile. That had been the fate of 90 percent of the human beings who have ever lived, probably far more. There are three billion people alive in the world today. Of these, at least a third have enough to eat, some kind of medical care, a chance of education. That is a far higher proportion of men removed from stark need than there has ever been before." It is here in America that for the first time in history the possibility of a decent life for the average man was set forth as the fundamental goal of social—"life, liberty, and the pursuit of happiness."

We sometimes quote tributes from other lands, since distance may give a clearer perspective to what America has been and is. "It is worth saying over again," the London Times has written of America, "that no nation has ever come into the possession of such power for good or ill, for freedom or tyranny, for friendship or enmity among the peoples of the world, and that no nation in history has used these powers, by and large, with greater vision, restraint, responsibility and courage."

Although we are proud—and rightly so—to call ourself a young nation, we easily forget an important comparison among nations: I speak of the proud fact that the United States, under the present Constitution, has had a longer life unchallenged and unchanged by violent rebellion than any other great nation on earth except Great Britain. The reason for this long life for democracy is the fact that the way has been open to peaceful change in our laws and refinement of our institutions by means of an orderly political process. What Daniel Webster called "the great right and the great duty of self-government" has been made possible in this land by "education and the diffusion of knowledge" and by acceptance of the law as the instrument of order and the guarantor of liberty.

Apart from law, liberty descends into anarchy and, eventually, into tyranny. Ordered liberty under law is our surest safeguard for the survival of individual freedom today as in the past. It is the function of Law Day to remind us of this simple yet profound fact, so essential to the keeping of the Republic, in Franklin's phrase.

The keeping of this Republic is, in fact, a sacred trust passed through each generation of Americans from the Founding Fathers, a trust which calls upon each new generation to be good and faithful stewarts. The keeping of that trust requires the surety of faith in God, the author and source of both liberty and law.

In a nutshell, ladies and gentlemen, the thing we are really talking about is the fact that only by a system of laws can we hope to protect ourselves from oppressive government. If we allow more rule by men rather than by laws, we will certainly come to a terrible end.

In this regard and to conclude my message this evening, I will relate to you a little story from Confucius. One day Confucius, while walking through the countryside, came upon an elderly woman who was crying and kneeling by a grave. She told Confucius that her husband had recently been killed by a tiger. She told him further that her eldest son and her father had also been killed by tigers in years gone by. Confucius asked her, "Why then do you not leave this place?" Her answer was, "Because there is no oppressive government here." Confucius then said, "Remember this my children: Oppressive government is more terrible than tigers."

Another way of stating this rule is that a good system of laws, managed by men of good conscience, and sustained by faith in the future, is the only thing that stands between us and tyranny—which as Confucius said, is more terrible than tigers.

ABOVE AND BEYOND THE CALL OF POLITICS

Mr. BELLMON. Mr. President, Paul John, editor of the Sulphur, Okla., Times-Democrat, is not only a highly respected Democratic newspaperman, but also an astute observer of the political scene.

Like many Oklahomans, he supports President Nixon's efforts to achieve peace with honor in South Vietnam. In a recent newspaper column, he wrote:

> No one wants out of Vietnam more than President Nixon. But he also has a duty and responsibility to the nation which is above and beyond the call of politics.

In that same column, Paul Jones offered some advice to members of his own political party regarding the Vietnam issue. His wise and thoughtful comments are worth sharing, because they are pertinent to the current debate over the President's actions in supporting the South Vietnamese in their resistance to the invasion by North Vietnam.

Mr. President, I ask unanimous consent that Mr. John's column be printed in the RECORD.

There being no objection, the editorial

was ordered to be printed in the RECORD, as follows:

THE ANVIL CHORUS

(By Paul John)

Democrats will fare a lot better this summer and fall if they will quit rushing to the microphone every time President Nixon makes a new move in his efforts to extricate us from South Vietnam with honor and without turning South Vietnam over to the Communists for a gigantic blood bath.

The recent bombing of Hanoi and Haiphong was long overdue. What we are seeing in South Vietnam is raw aggression from the north. North Vietnam has denied for years that its troops were in South Vietnam. That hypocrisy has now been dropped and North Vietnam has committed the best of its remaining divisions from the home front in an effort to knock out South Vietnam.

Americans must realize that President Nixon is getting out of South Vietnam as fast as possible. We, and the McGoverns and the Muskies, must also realize that if we abandon the South Vietnamese to slaughter, the day will come when our friends in the world will have departed and people of the United States will be face to face with the same problem now facing South Vietnam. In that day we will not have the choice of fighting OR dying. We will have only one choice. Fighting AND dying. We believe that is why President Nixon will use American air and sea power to prevent this from happening in South Vietnam. There is simply no place in the world where aggression can be condoned without signing our own death warrant.

Our presence in South Vietnam was to prevent a take-over by the North Vietnamese. The United States has been victorious in this limited goal. In fact, the war is being won right now by South Vietnamese troops, who will stop the offensive from the North. Sooner or later, the North Vietnamese will disappear back into the jungles for the long trek back home.

The bombing of Hanoi and Haiphong serves two purposes. It destroys North Vietnamese war materials and it tells Russia and China that the United States will not permit the enslavement of the people of the south.

This war would have ended long ago except for the aid and comfort given the enemy by such leaders as Senator Fulbright, and Democratic hopefuls McGovern, Kennedy and more recently, Muskie.

The final stages of the war in Vietnam are nonpolitical. Democrat leaders simply harm their own cause when they make political attacks upon the President as a result of moves in southeast Asia.

No one wants out of Vietnam more than President Nixon. But he also has a duty and responsibility to the nation which is above and beyond the call of politics.

There is only a short time left for Democrat hopefuls to quit asking that victory be turned into defeat.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I should like to report that according to current Census Bureau approximations, the total population of the United States as of today is 209,056,511. This represents an increase of 87,973 since April 1, and an addition of 1,851,733 since May 1 of last year, an increase which is about twice the population of Baltimore, Md.

ISOLATIONISM

Mr. McGEE. Mr. President, this country emerged from World War II with the determination that we would not doom ourselves to repeat the mistakes of the past.

But, as Columnist Crosby Noyes pointed out in the Sunday Star, with a growing isolationism in this country, we may once again find ourselves in a parallel situation to that which existed immediately after World War I.

As Mr. Noyes pointed out:

> That period started with a strong reassertion of legislative prerogatives by a Republican-controlled Congress. It was, in effect, a reaction to the fantastic expansion of presidential power assumed by Woodrow Wilson in the course of the war. It ushered in an era of rockbound isolationism in American foreign policy that was to last until the outbreak of World War II in 1939.

Although we may not be destined to repeat the tragic history of the past, recent events have given us sufficient reason to doubt that we can stem this tide of growing isolationism.

Therefore, I ask unanimous consent that Mr. Noyes column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DEMOCRATS FEEL NEW ISOLATIONISM RUNS DEEP

(By Crosby S. Noyes)

The problem of accurately assessing the mood of the country and the political results it is likely to produce is a critical one in this election year. It is hard to recall an election in which basic national policy was more at stake.

I realize that isolationism is a dirty word in American politics, but it may not be for very much longer. The mood of the nation today and the response of the political leadership to that mood have striking—and chilling—parallels to the situation that existed immediately after World War I.

That period started with a strong reassertion of legislative prerogatives by a Republican-controlled Congress. It was, in effect, a reaction to the fantastic expansion of presidential power assumed by Woodrow Wilson in the course of the war. It ushered in an era of rockbound isolationism in American foreign policy that was to last until the outbreak of World War II in 1939.

The period was marked at the outset by the refusal of the Senate, in 1919 and again in 1920, to ratify the Treaty of Versailles, establishing the League of Nations. Having assumed a commanding influence over the next two decades it reflected faithfully the prevailing isolationist sentiment in the country.

The neutrality acts of 1935 and 1937 which prohibited the shipment of arms to belligerent nations effectively tied President Roosevelt's hands during the period of buildup to World War II. At one point the Congress even considered limiting its own war-making powers by a proposed constitutional amendment requiring the submitting of a declaration of war to a popular referendum.

Exactly to what extent this long period of American isolation helped to promote the aggressive expansionism of Japan and Germany and the final plunge into world conflict may be open to argument. But certainly there has been a firm consensus since the war that the United States could never again afford the luxury of withdrawing from its role as a major world power.

And yet today in the country and the Congress the symptoms are all too familiar.

In the Senate, the move toward a first-class constitutional confrontation with the Executive Branch seems irreversible. In the name of "no more Vietnams," proposals for drastically limiting the war-making powers of the President are gathering strong support.

So are other moves to set a date for a final withdrawal from Vietnam, to cut off support for military operations elsewhere, to withdraw our forces from NATO, to curtail the President's authority to make commitments under executive agreements with foreign countries.

The Senate is up in arms over what it deems an abuse of executive privilege by the Nixon administration. It is venting its anger by threatening to cripple the overseas operations of the U.S. Information Service in a way that would be certain to undermine American influence throughout the world.

And this may be only the beginning. In the developing electoral contest, virtually all of the liberal Democratic candidates are competing with each other in just how far they would go. What seems likely to emerge from the convention in Miami is a platform pledging drastic cuts in our Armed Forces and a candidate dedicated to the proposition of "reordering our priorities" to purely domestic concerns.

It also is entirely possible that such a candidate could be elected next November. President Nixon, in making his bid for re-election, is betting on a basic stability in the American electorate when it comes to national policy. His assumption is that a drastic turn toward a new isolationism will be rejected by a majority of voters.

But the congressional leadership and the liberal Democratic candidates are at least as sensitive to political trends in the country as the President is. They are responding to what they perceive as a profound sea-change of public sentiment. In exploiting "the war" as the central issue of the coming election, they are appealing directly to a growing mood of isolationism.

It may be that they are mistaken. It may be that Nixon is right and that a majority of Americans understand what it would mean if one of the two genuine world powers should abandon its responsibilities and retreat into a long period of isolationism. It may be that they understand how unsettling this would be to the world balance of power and how dangerous in terms of the ambitions of our adversaries.

The tragic history of the past, perhaps, is not destined to repeat itself. But we will not be certain for some time to come.

OBSERVANCE OF LAW DAY IN DELAWARE

Mr. BOGGS. Mr. President, as it has for the past 10 years, Congress has proclaimed today, May 1, as Law Day. This day is set aside as a time for Americans to appreciate the liberties which our laws protect and which no other country on earth claim, and also to rededicate themselves to the ideals of law and justice, on which our society rests.

As a sponsor of the joint resolution proclaiming Law Day, I am particularly pleased that special note has been taken of the debt of gratitude we owe to the courageous and dedicated law enforcement officials who work tirelessly to guard our safety and preserve our liberties.

Mr. President, I have long advocated a variety of programs benefiting our public safety officers, including policemen, correction officers, and firemen. These range from Federal assistance for volunteer firemen training to a national correctional personnel training program, to death benefits for those in these hazardous occupations. It is, therefore, a great satisfaction to me that Law Day 1972 will lend special recognition to those men and women in law enforcement professions.

The Delaware State Bar Association has planned what I believe is a very meaningful observance of Law Day in the State of Delaware. In an effort to bring Delaware's legal community closer to the young people of the State, the State bar association has, over the past few months, urged junior and senior high schools to invite young lawyers to address their student bodies on drug laws. The response has been excellent. In all, about 50 young attorneys have visited different schools to speak on this subject.

Tonight, in a culmination of these sessions, a simulated trial will be held at Brandywine High School near Wilmington, Del. The State bar association is providing transportation for over a thousand young people who will attend the session. The trial, which will raise legal issues surrounding drug abuse, will follow the format of an actual court proceeding. The Honorable William T. Quillen, associate judge of the Superior Court of Delaware, will preside. A jury of 12 students will render a verdict at the conclusion of the proceedings. The trial will be followed by a discussion period.

Mr. President, this promises to be an unusually informative and stimulating session for all concerned. I am happy to note that it will be carried on radio for those who will be unable to attend.

All of those participating in this fine program: Students, lawyers, school officials, police, and broadcasters, are to be congratulated. The credit for initiating this imaginative program goes to the Delaware State Bar Association's president, Edmund N. Carpenter II, and to the chairman of its Law Day activities, Steven J. Rothschild, both attorneys in Wilmington.

I commend them on their efforts, which have made Law Day 1972 a truly meaningful observance in Delaware.

DECLINING VALUE OF THE DOLLAR

Mr. SYMINGTON. Mr. President, as we consider the vast new sums being requested of the American taxpayer for national security, let us recognize that a sound economy is also an indispensable component of any true security.

In that connection, I ask unanimous consent that an article this morning in the Wall Street Journal, "Gold Quote in Europe Pushed to New High as Speculators Still Doubt Dollar's Worth," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOLD QUOTE IN EUROPE PUSHED TO NEW HIGH AS SPECULATORS STILL DOUBT DOLLAR'S WORTH

(By Ray Vicker)

LONDON.—European speculators, still uncertain about the dollar's fate, have pushed the price of gold to a new high.

Their bidding propelled bullion on the London market Friday to $49.60 an ounce, the highest since foreign central bankers pulled out of the so-called free market in March 1968. In late unofficial trading after the market's close, the quote soared as high as $50.05 an ounce.

At the time of last December's monetary realignment, by contrast, gold was selling in London at $42.75 an ounce.

Traders on the principal bullion marts in London and Zurich attributed much of gold's brillance in the eyes of speculators to nagging doubts about the dollar's worth.

The dollar actually has shown some strength on international currency marts. Massive assaults on the greenback have subsided in recent weeks, and foreign central bankers haven't had to absorb hoards of dollars to prevent the currency from tumbling below the value set in Washington last Dec. 18.

But speculators note that the dollar still carries a premium rate on the European loan market. Last Friday, for instance, borrowers paid 6½% interest to obtain dollars for one year. But borrowers of West German marks paid only 5%, and the charge for Dutch guilders was 4½%. For the Swiss franc, in a class by itself because Switzerland always has followed a policy of low interest rates, the fee was only 3 13–16% for a one year loan.

The dollar's higher rate reflects lenders' expectations that the currency may be worth less at a repayment in a year.

But if the dollar is suspect, consider the pound sterling with an even costlier fee. The one-year borrowing rate for that currency on the European market is 6⅞%.

Some traders also see gold's strength as a move away from the hard currencies that were speculator favorites in past months. The international Harry Schultz letter, a London-based investment advisory closely followed by gold and currency speculators, puts the case this way:

"What appears to have been totally overlooked by everyone is that investors and speculators in European hard-currency nations have generally been standing on the gold sidelines for many months. They opted for hard currencies, feeling they would enjoy greater appreciation than in gold bullion. Their calculations proved correct. Now many European investors feel that, at least temporarily, the hard currency bandwagon joy ride is over. They're going back to gold."

Industry observers don't see any rush out of marks, Swiss francs or Japanese yen, to name but a few of the stronger currencies. But they said the switching is just enough to strengthen the gold price. And more switching is possible as six-month and one-year mark, franc and other non-resident time deposits start maturing overseas.

Brokers in the field said it doesn't take much of a switch to influence gold's price. Sharps, Pixley & Co., a London bullion trader, said recent volume has been "relatively light." But Sharp's account, "It is simply persistent demand in a market lacking supplies that is forcing prices up."

WEST GERMAN TREATIES

Mr. GURNEY. Mr. President, I have been following with great interest, as I think all Americans should, the newspaper accounts of the current political struggle going on in West Germany over ratification of the so-called nonaggression treaties with Poland and the Soviet Union. I am deeply disturbed that these accounts state, as if it were fact, that rejection of these treaties by the West German Parliament would be a setback for Germany, the United States and the cause of world peace. Such statements could hardly be further from the truth.

In my view, the rejection of these treaties by the Bundestag would do much more for European stability and world peace than any ratification.

These treaties which Communist Russia is so anxious to see ratified are cleverly drafted for the benefit of Russia and to detriment of West Germany.

Chancellor Brandt's ostpolitic is well named, if these treaties are an example. For Brandt's ostpolitic is indeed favorable to the East—that is, Communist East Germany and the Soviet Union—and is unfavorable to the West—that is, West Germany and the United States.

What the American public needs to understand about these treaties is that they are completely one sided. For instance, the treaty with the Soviet Union provides that neither side shall use force or the settlement of force, using instead the U.N. Charter as a guide in the peaceful settlement of disputes. On the surface that sounds good, but when one looks at the U.N. Charter there are two articles—53 and 107—that give the Soviet Union the right to intervene by force in West Germany. If the treaty is to mean anything or if it is not to be one-sided, it should specifically stipulate that the Soviet Union gives up its rights under those two articles. But, of course, the treaty does not do that, meaning that West Germany surrenders its right to use force while the Soviets retain theirs.

The treaties have also been painted by the press and by their supporters as a detente between East and West and as an eventual step toward German reunification. No one is arguing that an easing of cold war tensions is not desirable or that German reunification has not been a long-held objective of the United States, Britain, France, and West Germany. What is being asked is how can a treaty, that provides that the borders of the "German democratic republic"—the first time East Germany has ever been recognized by its unofficial Communist name in a treaty—be considered inviolate, help those causes along? All this provision would do would be to officially sanction, protect and make permanent a second German state, one completely controlled by the Communist bloc.

If history tells us anything, it should tell us that the Soviet Union will never permit the reunification of Germany under anything other than its own terms. For the Soviet Union reunification must carry with it the mechanisms of control; the entire postwar history of Europe demonstrates that the Soviet Union is determined to control as much of Europe as possible. How else does one explain the violation of the Yalta agreements on Poland, the takeover of Eastern Europe, the invasion of Hungary in 1956, the construction of the Berlin wall in 1961, the invasion of Czechoslovakia in 1968 or the Soviet refusal to sign a peace treaty with Germany providing for reunification of Germany as an independent nation.

One must also consider what West Germany would get in return for this giveaway. We are told that it would pave the way for a European Security Conference and a reduction of East-West tensions. But how valuable is such a security conference and how would it reduce East-West tensions? The main value I see in such a security conference would accrue to the Soviets. To be "successful"—meaning to reach any agreement—such a conference would have to sanction the status quo—meaning the maintenance of Communist control over East Europe and East Germany. It would also have the effect of weakening NATO, which is likewise in Russia's interest. If the Russians were really interested in mutual reduction of tensions they would agree to negotiate with NATO for arms reduction—which they have consistently refused to do—or they would be more willing to come to an agreement with the United States in the strategic arms limitation talks—SALT. Still another gesture the Soviets could make would be to reduce their massive troop concentration in Eastern Europe. But, none of these things are happening, leading to the inescapable conclusion that the only terms by which the Soviets will agree to reduce tensions are those by which they can increase their sphere of influence and control in Europe. This policy of ostpolitik—of indulging in such wishful thinking about Soviet motives—is playing right into the hands of the Russians.

We hear also that economic agreements between the Soviet Union and West Germany would be threatened by rejection of these treaties. Maybe so, but it seems to me that the future of the West German economy is much more dependent on the continued strength of the Western European community. If the bonds between West Germany and the rest of Western Europe are weakened by ties to the Soviets, West Germany will be the real loser. The Soviets would like nothing better.

Also, in this context, it should be remembered that those who are opposing this treaty are from the same party and, in many cases, are the same people who were responsible for West Germany's truly remarkable postwar economic recovery. If they feel this treaty is not in the best interest of West Germany, people who use this economic argument should think twice about its validity.

Another set of arguments the treaty proponents have been putting forth with great regularity is that the United States favors a decrease in tensions and that West Germany should make the best deal possible before the United States pulls out of Europe. Those who adhere to the first line of reasoning base their argument on Secretary of State Rogers' statement about the Berlin agreements—yet to be ratified—being the "cornerstone" of improved relations. However, this argument conveniently forgets that the United States signed the four power Berlin agreements before the Soviets made ratification of the West German nonaggression treaties a precondition to their adherence. Also, conveniently forgotten is the fact that the U.S. has never officially endorsed either the nonaggression treaties or the policy of Ostpolitik.

As for the second line of reasoning, the recent events in Vietnam should convince just about everyone that the United States is not yet ready to crawl into its shell and abandon its world responsibilities. Traditionally, Europe has been a major area of U.S. concern—and there is no reason to think we are about to withdraw now or in the near future. However, if West Germany ratifies these treaties it can only strengthen the hand of the Soviet Union in the upcoming talks with President Nixon. If they can point to a break in the anti-Communist front in Western Europe, the President will be in a poorer negotiating position. This can only encourage the Soviets to try and exact a higher price for any agreement on arms limitations or for any agreement on a reduction of support to North Vietnam.

Still another argument we hear for the treaties is that, if they are not ratified, the Berlin agreements will not be implemented. But since these do not apply to East Berlin, where the problem really is, and do not bring down the Berlin wall, how big a loss are they? In a number of instances we are dealing for rights already granted us by agreements in 1945 and 1946 but withheld by the Soviet regime in accordance with its well-known practice of violating an agreement whenever it is convenient.

In addition, the Soviets would lose any hope for that European security conference they want so badly. Given the fact such a conference is all to their advantage, such a result should cause those of us in Western Europe and the United States no sorrow whatsoever.

Finally, treaty proponents base their optimism concerning the value of the treaties on the premise that ratification holds the promise of a reduction in cold war tensions. But how valuable is that promise—or any Soviet promise for that matter? The recent invasion of South Vietnam by 120,000 North Vietnamese regulars backed by Russian tanks, guns, ammunition, petroleum and supplies should be another grim reminder of the worthlessness of a Communist promise. By launching this blatant invasion, Hanoi, with the full backing of the Soviet Union, violated both the 1954 Geneva accords and the 1968 agreements that led to a halt in the bombing of North Vietnam. There is no reason to believe they would live up to their word in Europe, if their goal of controlling as much of Europe as possible was in any way compromised.

No one would like to see an end to cold war tensions more than this Senator, but I do not believe one-sided compromises do anything to reduce tensions. Rather, the opposite is true. For this reason, this Senator is most concerned about the wisdom of ratifying these treaties in particular and about the policy of ostpolitik in general. I cannot help but feel ratifying treaties that ultimately give benefit only to the Soviet Union are not in the best interests of either West Germany or the United States and for that reason they should be defeated.

Defeat of the treaties would not only avert the possibility of weakening the Western Alliance but would also lay the groundwork for more meaningful and realistic negotiations in the future. It is little wonder the Soviets are pushing so hard for ratification; demonstrating to them they cannot get concessions of real substance in exchange for vague promises will, in the long run, benefit the cause of world peace. Because I am so concerned about the threat to the peace these treaties offer, to say nothing of the threat to the free European Community and to the quarter century of close friendship between the United States and West Germany, I can only hope that the West German Budestag, in its wisdom, will set these treaties aside and challenge the Soviets to make meaningful concessions—like tearing down the Berlin wall. Only in this way can a lasting peace be achieved.

ESCALATION OF THE VIETNAM WAR—STATEMENT BY NATIONAL COUNCIL OF JEWISH WOMEN

Mr. HART. Mr. President, there has been made available to me a persuasive statement on the Vietnam war, issued April 21, 1972, by the National Council of Jewish Women. The Council calls upon the Government of the United States to withdraw all American troops from Indochina and to "immediately resume the negotiations in Paris in the hope that some agreement can be reached to end the senseless killing of innocent people."

I ask unanimous consent that this statement expressing opposition also to bombing the environs of Hanoi and Haiphong be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The National Council of Jewish Women on a number of occasions has expressed grave concern about the continuation of the Indo-China war which has maimed, crippled and killed or left homeless millions of people and produced several hundred thousand American casualties. We have urged our government, at various times, to work for an immediate cease fire, to withdraw all our troops from Vietnam and to bring an end to a war which is causing so much social unrest and division among our people. It was our hope that the withdrawal of our troops meant an end to American involvement in a struggle which has continued for several decades.

We do not believe that President Nixon's decision to bomb the environment of Hanoi and the Harbor of Haiphong and the possibility that our government might mine the harbor under certain circumstances, demonstrate his previously stated commitment to end the war through negotiations. On the contrary, it is our view that these military operations imply a military solution to the war and are conducive to the sparking of a confrontation with the allies of Hanoi and a possible widening of the war.

We implore the United States Government to resume the negotiations in Paris immediately in the hope that some agreement can be reached to end the senseless killing of innocent people. We further urge the withdrawal of all American forces.

The commitment of the National Council of Jewish Women to work untiringly for world peace impels us to urge upon our government every possible action for the achievement of this goal. We urge Congress to reassert its Constitutional authority and responsibility in the conduct of United States foreign policy.

THE QUIET REVOLUTION

Mr. PEARSON. Mr. President, amid the more strident proponents for change in America, there is a quieter but no less forceful movement taking shape. This movement is composed of Americans who have experienced—and caused—more change than any one group in the history of our Nation.

These people are the 20 million Americans age 65 and older who have helped make this Nation what it is today. In every field, at every level of society, these men and women have accomplished the changes which turned this Nation from an adolescent in the world community to the most powerful, complex, and industrialized country on the globe.

Today, our senior citizens have accepted a new challenge. They are engaged in a quiet revolution to change their image and role in American life. Retired Americans are refusing to yield their places in the mainstream of our society. They are revolting against the institutions and attitudes which deny them opportunities to use their energies and talents as full participants in our national life. Above all, they are proving by their own actions that ability, creativity, dedication, and wisdom cannot be measured in terms of years.

Next month, Mr. President, is Senior Citizens' Month, an appropriate time to consider what Congress and the Nation can do to help our older citizens and, more importantly, to recognize what older Americans are doing to help themselves. For in the final analysis, older Americans want to be first-class citizens, partners in the progress of this Nation. They believe that they have earned the right to choose their own lifestyles, to retain the same options that other citizens enjoy, to reap the benefits of comfort and security which they have worked to provide for others throughout their lives.

Our task, therefore, is to provide the elderly with more options, with greater opportunities to enrich their own lives, with the chance to rekindle the spirit of purpose, dignity, and independence which is woefully lacking in the lives of millions of older Americans today. By doing so, we will be heeding the warning of our beloved and respected former colleague, the late Senator Winston Prouty of Vermont, who said:

> We are short-changing both the United States and our older citizens when we refuse to give older Americans a chance to participate as fully as they can in our national life.

WHAT CONGRESS MUST DO

INFLATION AND INCOME MAINTENANCE

Mr. President, we are all aware of the grim statistics: Half of all Americans over the age of 65 are living in or near poverty, and one of every two retired workers living in poverty today is "poor" for the first time in his life. If these are what are called "The Golden Years," then surely our Nation ought to be ashamed.

Two factors contribute to this deplorable situation: inflation and inadequate income. We are all affected by inflation, of course, and are all deeply concerned about it. Yet it is our older citizens, whose life savings and financial security are being eaten away by this cruel economic disease, that have the most to lose. So I would venture to say that older Americans are unanimous in their support of efforts by Congress and the administration to reverse this trend.

We must develop in this country an equitable, effective, adequate system of income maintenance by improving both our present social security mechanism and our system of public and private pensions. Legislation now in the Senate will hopefully alleviate part of this problem by increasing minimum benefits, tying future benefit increases to increases in the cost of living, and for the first time, providing a basic income "floor" for older citizens. I am also hopeful that President Nixon's pension reform message and the pension hearings in the Labor and Public Welfare Committee will stimulate action to reform and improve our system of public and private retirement plans.

Despite these efforts, however, our work has only begun. For as long as older Americans are denied a share in the fruits of their labors, Congress must continue to act in their behalf.

HOUSING AND PROPERTY TAX RELIEF

Over 70 percent of Americans over age 65 own their own homes. Yet, few if any of the myriad of Federal and State housing programs developed during the last 20 years recognize this fact and directly benefit elderly homeowners. All the while, many of our older citizens are in danger of losing their homes because of ever-increasing property taxes and maintenance costs.

It is becoming quite clear that we must have property tax relief for both the older citizen and the middle-aged homeowner. While several States and localities have developed property tax relief programs for older residents, they can only be temporary solutions to a serious and complex dilemma. What is really needed is a new system which can provide new sources of revenue to States and communities for necessary public services. There are, to be sure, many approaches to this end, including a measure I have sponsored providing a credit on Federal taxes to all elderly homeowners and renters. Similarly, adoption of legislation to end the States' dependence on the property tax will help provide relief to millions of older Americans who must bear this intolerable and often inequitable financial burden.

For those who do not own their homes, the situation is equally serious. There is an acute shortage of low-cost housing designed for older Americans. In the past, we have included housing programs for the elderly in general programs for all low-income persons, with the result that the special needs of the elderly often go unmet. I believe that the Senate acted to correct this problem when it adopted recently an amendment by the distinguished senior Senator from Illinois (Mr. PERCY) creating the post of Assistant Secretary for Housing for the Elderly within the Department of Housing and Urban Development. This action emphasizes the need for greater concern and better coordination within the Department on housing programs for older Americans.

Whatever the type of housing, our older citizens must retain the right to choose their own surroundings. The construction of so-called "retirement communities" and "senior citizen housing projects" throughout the Nation in recent years by both the Government and the private sector has resulted, in part, from the desire of many older Americans to live with persons of similar age and with similar interests. But we should not make what is desirable for some mandatory for all. The continued construction and planning of segregated housing for the elderly—housing which is often nothing more than a geriatric ghetto—leaves them with fewer and fewer alternatives. I believe that the Federal Government has a responsibility to insure old Americans freedom of choice in housing.

HEALTH CARE

Mr. President, many older Americans are now living in fear—fear of catastrophic illness, fear of medical neglect, fear of their inability to afford adequate health care. This fear is more easily understood when the findings of the Special Committee on Aging are considered:

> America's medical bill in 1970 amounted to $70 billion, 11 percent more than in 1969 and approaching three times the amount ten years ago.
>
> Of the growth in medical expenditures in the last decade, fully 60 percent can be attributed to inflation—not additional or better health services.
>
> Since 1960, medical costs have gone up twice as fast as the cost of living; hospital costs five times as fast.
>
> In the two-year period ending June 30, 1969, health expenditures for the aged rose to 42.2 percent, twice as fast as expenditures for younger people.

Thus, it is our older citizens, who most need medical care, that are often the least able to obtain it because of its high cost or inaccessibility.

Several programs have been proposed to alleviate many of the problems in our present health care system, including one which I have cosponsored and which has received the endorsement of the American Medical Association. In my opinion, any plan for national health insurance adopted by the Congress must include two primary considerations:

> 1. It must guarantee the availability of comprehensive, quality health care to all Americans, regardless of age or the ability to pay. Comprehensive care should include preventive, curative, therapeutic, rehabilitative and long-term care; and
>
> 2. It must recognize the fact that simply providing a system of benefits is not the answer by taking into account the relationship of cost effectiveness, manpower, distribution of services, organization and research, as well as price, in the total health care picture.

Finally, we must reaffirm for all our citizens the fact that good health is a right, not a privilege based upon youth or wealth.

Mr. President, passage by Congress of the Conquest of Cancer Act, as well as Senate approval of the National Heart, Blood Vessel, Lung, and Blood Act underscore the need for medical research, yet another concern of millions of our older citizens. While we continue our efforts to cure or control cancer, heart disease, and other terminal illnesses, we must also expand our efforts to find cures for debilitating illnesses, such as arthritis, which cause great pain and limit the ability and mobility of many older Americans.

No account of health care for the elderly would be complete, unfortunately, without mention of nursing home care in America. While many of these homes continue to provide excellent care, some, as President Nixon so forcefully emphasized last year, are little more than "dumping grounds for the dying" and "warehouses for the unwanted." I am heartened by the determination of the President and Congress to improve the standards of nursing home care throughout the Nation, and I trust that the Congress will support steps to eliminate the substandard nursing home.

RETIREMENT AND EMPLOYMENT

Mr. President, an obvious example of this Nation's attempt to force the elderly out of the mainstream of life can be found in our employment and retirement policies. The mistaken tendency to equate youth with productivity, combined with a "recession psychology"—the belief that older people must retire to make room for young workers in a limited job market—has created the shortsighted and discriminatory concept of compulsory retirement. This policy causes unnecessary financial hardship and contributes to mental and emotional deterioration among the elderly. Furthermore, it deprives our Nation of the services of millions of knowledgeable, experienced and dedicated men and women—a truly valuable resource.

In 1967 the Congress passed the Age Discrimination in Employment Act—a declaration that discrimination based upon age is just as evil and just as damaging to this society as racial or religious discrimination. However, the lack of proper enforcement of the provisions of this Act is a matter of increasing concern to Congress. It seems to me that age discrimination in firing is just as wrong and should be just as illegal as age discrimination in hiring, and I would hope that action will be taken to provide effective enforcement of this important act.

It may seem presumptuous to talk about more jobs for older Americans at a time when the general unemployment rate is high, but let me stress that I am not merely talking about paid positions. As the noted gerontologist, Dr. Nathan W. Shock, remarked recently:

> We've not really accepted the importance of voluntary work. With the male, we've still got a culture that says, basically, unless you get a paycheck, what you're doing isn't worth doing.

In the next few years, I hope to see far greater emphasis placed on the concept of voluntary service—service which is ideal for many older persons who do not need or want salaried positions but still wish to remain active and involved. Older Americans have proved again and again that they can perform valuable service to society. We must strive to make this type of opportunity the rule rather than the exception.

In the final analysis, Mr. President, we must establish a national policy through which an individuals' opportunity for employment—whether it be gainful or voluntary—is limited only by his ability or desire, not by his age.

TRANSPORTATION

Mr. President, when we hear tragic stores about older men and women who are spending years isolated in their rooms, we should remember that many such tragedies occur not because there people have no place to go, but rather because they have no way to get there.

The problem is one of total "mobility," since many older Americans have as much difficulty negotiating a flight of stairs or going through a revolving door as they have traveling across town or across the Nation. Wider doorways and ramps for wheelchairs, elevators and escalators instead of stairs, automatic doors, safety railings—all of these may seem insignificant to those who can move about without pain, but they are of vital concern to thousands of persons who cannot. In all new construction—homes, offices, stores and other structures—these problems must be recognized. In the construction of public facilities, the inclusion of safety and comfort features should be mandatory.

Our present system of mass transportation is designed for those who can walk through huge airports, endure crowded trains, and stand for long periods at bus stops and carry their own luggage. It seems quite clear that our transportation planners are going to have to redesign this system so that the elderly and others can have better access to it. Ideas such as a bill I have offered providing reduced air, rail, and bus fares, as well as other ideas such as mini-bus service, more convenient bus routes, reasonably priced taxi service, and other innovations must be included in this planning. Finally, we must attempt to expand programs such as meals-on-wheels so that the elderly will have access to necessary services even if they do not have access to transportation.

Thus, when considering transportation for the elderly, we are really concerned with barriers to mobility. And as long as these barriers exist, we can never create a truly comprehensive system of transportation which will serve all Americans.

WHAT OLDER AMERICANS ARE DOING

Mr. President, I have painted a grim picture of aging in America, and with good reason. Yet, there is another side—a brighter side—to this story. Millions of older Americans—the quiet revolutionaries—are refusing to accept the constrains imposed upon them because of their age. Instead, they have found that retirement can be a golden opportunity to contribute something of value to our society, to help themselves by helping others, to undertake new adventures in living.

To find examples of this new attitude among older Americans, one need look no further than the many organized and national senior citizens groups. Among these are the American Association of Retired Persons and National Retired Teachers Association—the largest combined organization of older Americans in the country. These two associations represent over 3.7 million retired citizens—nearly one-fifth of all Americans over age 65. And they are growing at the rate of more than 2,000 members per day.

Behind the many commendable accomplishments recorded by these and other groups is a new concept of aging, a new approach to growing old in America. Members of these associations are proving that old age is a privilege, not a punishment, an opportunity, not a limitation.

These, Mr. President, are the "quiet revolutionaries". Theirs is a revolution of promise, of progress, of equality and compassion. With our help, they can succeed in contributing further to the accomplishments of this Nation, making a better place not for them alone, but for all of us as well.

LAW DAY, 1972

Mr. **BURDICK**. Mr. President, today, on May 1, we once again celebrate Law Day. It is odd, I think, that our country, which has so carefully based itself on a government of laws, did not create this day until recently.

Law is the essential prerequisite to our freedom. For our system to be effective, our citizens must have enough confidence in the law to obey it voluntarily. This has always been an essential point, but at a time in our history when many of our traditional institutions are crumbling, when counter-cultures are thriving and when old values are being rejected, confidence in the justice of our laws is especially vital.

People must believe that laws will be applied fairly to all and that every individual who comes before a court—from a corporation president to a ghetto teenager—will be subject to the same standard of justice.

Recent newspapers have been full of stories about the alienation and distrust of the American voter. If the voter and citizen come to feel that the law will not judge them fairly, then this distrust and alienation will be complete. Laws will not be respected and the fabric of our society will fall apart.

We must be concerned about both the content and the administration of our laws. As chairman of the Subcommittees on Judicial Machinery and National Penitentiaries, this has been a central concern of mine. In some cases, the administration of justice becomes the content of the law. Maladministration of the law effects people just as much as if a bad law were passed in the first place. If criminal punishments are to be effective, then the convicted offender must receive a just punishment. If civil cases are to be adjudicated fairly, it cannot take 5 years for an injured party to receive his just compensation. Justice delayed is justice denied, and our courts must be forums for fair and efficient justice—not endurance contests.

On this Law Day, I hope our citizens will stop to think about how important our laws and those who administer and enforce them are. In order for our system to succeed, we must have efficiency and justice from the top, where laws are

are made, to the bottom where the fines and punishments are handed out. It is our judicial system that sets us apart from many other nations in the world. Let us then resolve on this Law Day to preserve and strengthen that system of justice.

THE 10TH OF MAY: RUMANIA'S INDEPENDENCE DAY

Mr. TAFT. Mr. President, the 10th of May is the national holiday of the Rumanian people, celebrating three great events of its history.

On May 10, 1866, Charles, Prince of Hohenzollern-Sigmaringen, a scion of the southern and catholic branch of the Prussian royal family, was proclaimed in Bucharest Prince of Rumania, and thus founded the Rumanian dynasty. It was the successful outcome of the nation's long struggle to acquire the right of electing as its sovereign a member of one of the Western non-neighboring reigning families in order to put an end to the strifes and rivalries among native candidates to the throne. This ardent wish, though officially expressed as far back as 1857 by the Moldevian and Wallachian Assemblies—the "Ad-hoc Divans"—convened as a result of the Paris Treaty of 1856, was nevertheless opposed by the Russian and Austrian empires, equally disquieted by the growth in power and prestige of the young bordering nation they both secretly hoped to absorb some day. It was due to unrelenting efforts made and wise steps taken by Rumanian patriots, and also to the constant diplomatic assistance of Napoleon III, Emperor of the French—to whom Prince Charles was related through the Beauharnais and Murat families—that all political obstacles were gradually removed and what was to be the prosperous and glorious reign of Charles I could be inaugurated on May 10, 1866.

Eleven years later, on May 10, 1877, during the turmoil of the Russo-Turkish War, the Principality of Rumania, until then nominally a vassal of the sultan, proclaimed her independence by severing the old and outdated bonds that linked her with the Ottoman Empire. This independence had to be fought out on the battlefields south of the Danube, where the young Rumanian Army, as an ally of Russia, played a noteworthy part in the defeat of the Turkish forces. The Congress of Berlin of 1878 confirmed Rumania's independence and conferred Europe's official recognition, a bright page in the country's dreary history though marred unfortunately by the loss of Bessarabia, cynically wrenched by Czar Alexander II and his government from the ally who helped them obtain victory over the Turks.

Another 4 years elapsed after the Rumanian people had proclaimed their independence and a further step was taken as they decided to raise their country to the rank of a kingdom. On May 10, 1881, Charles I was crowned, by the will of his people, King of Rumania. A prosperous era, which lasted over six decades, opened on that day for the nation. Its apex was attained when national unity within the historic boundaries was reached after World War I. The socially progressive country had now become a factor of peace and equilibrium in the southeast of Europe.

During all those years and up to the present time, Rumanians have cherished and revered the 10th of May as their national holiday, the anniversary of happy and glorious events in their history, in which achievements of Monarchy and people were interwoven. It remains the symbol of their permanency and perseverence through woes and hardships to reach the ultimate end of freedom and well being.

The ruthless foreign rule which now oppresses the Rumanian nation has not been able to uproot the people's attachment to the traditional celebration of the 10th of May. In order to try and alter at least its significance, official celebrations were shifted from the 10th to the 9th of May, anniversary of the Soviet victory. But, though flags are now hoisted on May 9. Rumanians in their captive homeland celebrate in their hearts the following day, awaiting with faith and courage the dawn of new times, when freedom shall be restored to them.

WASTING TAXPAYERS' MONEY

Mr. PROXMIRE. Mr. President, the Racine, Wis., Journal-Times editorialized on April 10 about waste in Pentagon procurement.

The editorial ends with this paragraph:

> People in government need to be sensitive to the wants of the people back home who foot the bills. They should sense that people now are more than just tired of hearing the same old promises, promises, promises of candidates. They are angry. They want action. What needs to be done is for government to take a hard look at its system and devise means to be responsive to the people.

I agree. This Government must become more responsive. It must remember it is here because of the people. We take their money in taxes. We have an obligation to see that it is spent wisely.

Wasting money is not wise spending. The purpose, in this case national defense, is absolutely necessary. About that there can be no doubt. But wasting money in the process cannot be defended—it cannot be defended as good business, as good government, or as good national defense.

Mr. President, I ask unanimous consent that the Journal-Times editorial be printed in the RECORD.

Wasting Taxpayers' Money

Taxpayers who are justly critical of the waste of money by government should be wrathful over the recent revelations at a Washington hearing on naval procurement of how their dollars are spent.

Two major areas were covered at a hearing of the Joint Economic Committee's Subcommittee on Priorities and Economy in Government, with Sen. William Proxmire as chairman.

One concerned a message from the chief of naval operations on how best to spend $400 million by June 30, the end of the government's fiscal year, with the implication that if the money is not spent, next year's funds might be cut.

The other tied in, concerned the haziness with which the Navy settled millions of dollars of claims by civilian ship building contracting firms without any real proof that the government was responsible for delays and added costs.

Senator Proxmire lit the fuse to the first problem—how to spend $400 million quickly—by reading a document from Adm. Elmo R. Zumwalt, chief of Naval operations, in which it was suggested consideration be given to such measures as expediting the provisional payment of contractor claims and using unlimited overtime on certain ship overhauling and transport projects.

Dated Feb. 9, the memo noted that the Secretary of the Navy had just promulgated the fiscal year "outlay targets" more than $400 million above those in the earlier 1972 budget.

The admiral's message pointed out the difficulty of achieving the spending in the short time remaining before the fiscal year ends June 30 and the importance of avoiding shortfall to avoid cuts in the 1973 fiscal year funds.

We do not know how valid the Navy's budget needs for procurement might be. Apart from that, however, out of fairness to the Navy it must be said that although there is no justification for rush spending to support next year's budget requests, part of the fault also lies in the system by which funds are budgeted. Such funds expire at the end of a fiscal year and yet were not available until the current fiscal year was half over.

Senator Proxmire long has been a foe of waste in the military, and there are those who criticize him as using it as a political weapon to further Proxmire.

Those prepared to scoff for that reason, might be interested in the opinions of Sen. Charles Percy, Illinois Republican, and former Deputy Secretary of Defense David Packard, one of the most esteemed civilians to serve this country.

Percy, commenting on when he was a naval procurement officer 29 years ago during World War II in Washington, said the feeling then was one was being commended for spending more money faster than any other department. As a senator, he said, he has seen no change.

Percy said, "I never wasted more money faster in my life than I did then and I have been working hard ever since to make it up to the U.S. Government. But I did it under orders.

"Now the Congress must share some responsibility in this respect and it is the system and the procedure. You would think in 29 years we would be able to improve it, and I am somewhat shocked to find that the same incentive system has gone on, probably the same commendation letters will go out when the money is expended."

Packard on one occasion said, "Defense procurement is a mess." Upon receiving the Forrestal Award recently, he made a speech in which he spoke about the tendency of contractors to buy into contracts and the way they are bailed out after getting into difficulties.

"We are going to have to stop this problem of people playing games with each other. Games that will destroy us if we do not bring them to a halt."

Packard has said that contractors should be held to the line: "Although some companies may be forced to suffer financially because of this concept it will not be a major disaster to the country if we cannot get the military-industrial complex to play the game straight. Until and unless we can stop this attitude we are going to continue to waste the taxpayers dollars, get less defense for the dollars we spend."

Naval spokesmen at the hearing included several who said some civilian claims were almost fraudulent.

The aim of the hearings is to devise some methods for combating waste and inefficiency that is going on at the federal level.

People in government need to be sensitive to the wants of the people back home who foot the bills. They should sense that people now are more than just tired of hearing the same old promises, promises, promises of candidates. They are angry. They want action. What needs to be done is for government to take a hard look at its system and devise means to be responsive to the people.

SOIL CONSERVATION

Mr. PACKWOOD. Mr. President, the Soil Conservation Service and the Oregon Game Commission have worked together for the past several years in an effort to turn southwestern Oregon's badly depleted meadows into green, fertile ranges. It is an experimental program, used to select the best species of grasses and legumes for a variety of soils and purposes. The information provided by these tests will help to refurnish rangelands throughout the State of Oregon.

Mr. President, the details of this excellent project are outlined in an article written by O. Eugene Hickman. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A PLOT TODAY, A RANGE TOMORROW

(By Eugene Hickman)

For several years the Oregon Game Commission and the Soil Conservation Service have been cooperating in testing dryland grasses and legumes in southwestern Oregon.

The primary purpose of the experimental plots is to determine the adaptability of various grasses and legumes of various grasses and legumes to the climate and soils in that part of the state.

The Game Commission uses the data to select the best adapted species for local areas where wildlife forage plantings are needed. These areas include badly depleted meadows and grassland in high-elevation deer summer range and the low-elevation oak-grassland that is important as winter range for deer.

The data also provide guidelines for establishing perennial grass seedings on the Kenneth Denman Management Area, a large tract of land managed by the Oregon Game Commission for wildlife. There, both cover and food are needed for pheasants and other upland game birds.

SCS uses the data from the experimental plots to help farmers, ranchers, and other landusers within the local conservation districts select the best species for various types of soils and for various uses, such as livestock forage, stabilization of critical and eroded areas, road cutbanks, and fills.

Southwestern Oregon is somewhat unusual in that it is in a transitional zone amid the dry continental climate of eastern Oregon, the Mediterranean-type climate of California, and the mild, moist climate of the Willamette Valley. Native plants from all three areas often intermingle in this region forming a delicate ecological balance that is easily disturbed by man's activities. Where man has disrupted this balance and left the grasslands in poor condition, natural recovery is extremely slow. Some areas have been nearly denuded, and others have been dominated by weeds for many years.

Common species and seeding techniques for eastern Oregon, California, and the Willamette Valley have needed considerable testing in this region. Range seedings, for the most part, have not been successful. But now, as more and more species prove successful in the experimental plots, more and more rangeland will be revegetated and improved.

Since the first test plot was established by the two agencies in 1965, SCS has established more than 20 additional plots, eight in cooperation with the Game Commission.

Nearly all seedings must be made during October, just before fall rains begin. Each plot is seeded to various grasses and legumes that have value for livestock forage, wildlife habitat, or conservation plantings. Test species are selected from those that show promise in regions surrounding southwestern Oregon. Fertilizers are applied on some plots, and broadcast seeding is compared with drill-type seeding on other plots.

Because there are several critical stages in the development of a seedling, information is collected periodically so that the progress of each species can be documented and evaluated. Data collection usually begins on new plots in December, to determine if germination has occurred. Plant height and stand density are estimated at this time.

Early the following spring the new plot is checked to determine how each species survived the winter. A third evaluation is made at the beginning of summer to record plant height, stand density, and the severity of competition from annuals. During the second growing season another evaluation is made to determine the degree of survival through the hot, dry summer. Yearly observations are made thereafter to evaluate further progress.

If a species fails, it is hoped that sufficient data will have been collected to determine why it failed. When a species succeeds, SCS and the Oregon Game Commission have another tool to use in their efforts to aid range, wildlife, the soil, and the environment.

JOINT TAX COMMITTEE CHIEF OF STAFF HONORED

Mr. LONG. Mr. President, it is with pleasure that I report to the Senate that Dr. Laurence N. Woodworth, Chief of Staff of the Joint Committee on Internal Revenue Taxation, has been given the Career Service Award for Sustained Excellence by the National Civil Service League at ceremonies held last week.

As chairman of the Committee on Finance, and in alternate years of the Joint Committee, which Dr. Woodworth directly serves, I have had an unusual opportunity to observe his performance at close range.

It is well known on both sides of the Capitol that Larry's abilities in coordinating the manifold economic, statistical, drafting—and sometimes diplomatic—tasks which underlie the development of the Nation's tax legislation have been extraordinary in every respect.

As an individual, Larry's modesty is extraordinary. You will not find his biography in the Congressional Staff Directory. He has prepared a biographical sketch which, however, he will release only with reluctance. As a result, Larry and his signal contributions to the field of tax legislation are less well known than they should be.

I should like to partially repair this omission by asking unanimous consent that Larry's short-form biography be printed in the RECORD at the the conclusion of my remarks. There are, of course, many other entries that could be made, including the honor bestowed on him by the National Civil Service League.

It is not often that we are given the satisfaction of publicly recognizing such extraordinary achievement. After 28 years on the staff, I think Dr. Woodworth can stand a little recognition, and I offer my hardiest congratulations for the true and sustained excellence of his work as Chief of Staff of the Joint Committee on Internal Revenue Taxation.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL DATA ON LAURENCE N. WOODWORTH

Born in Loudenville, Ohio, March 22, 1918. Son of Rev. Alfred R. and Nora S. Woodworth. Attended schools in Perry, Cleveland, and Galion, Ohio. Graduated first in class from Fredericktown High School in 1936.

Attended Ohio Northern University 1936–40. Sigma Phi Epsilon, 4 years Varsity Debate, Varsity "N" Association, President YMCA, Editor Northern Review, Alpha Phi Gamma, Who's Who in American Colleges. Graduated second in class with high distinction. Received honors and award for excellence in scholarship, campus activities and personal qualities.

One of 10 selected on a nationwide basis to receive the Alfred P. Sloan Fellowship to the University of Denver, 1940. Received Master of Science in Government Management 1942, University of Denver.

Received Doctor of Philosophy in Public Administration from New York University in 1960. Received honorary Doctor of Laws from Juniata College in 1965 and honorary Doctor of Public Administration from Ohio Northern University in 1966.

Has been on the staff of the Joint Committee on Internal Revenue Taxation since July 1, 1944. Became Chief of Staff on August 1, 1964. While on the staff of the Joint Committee on Internal Revenue Taxation, has participated in the development of most tax legislation since 1944, including the Internal Revenue Code of 1954, the Revenue Acts of 1962 and 1964, and the Tax Reform Act of 1969.

Previously employed by the Civic Research Institute, Kansas City, Mo. (1942–43) and by Tax Foundation, New York City (1943–44).

Married Margaret Bretz (Ohio Northern University, B.S. 1940); four children, ages 13 to 15. Served six years as Mayor of Cheverly, Maryland. Formerly member of Town Council for nine years. Former State President, Maryland Municipal League. Member Maryland Commission on State and County Finance 1962–64 and Member Maryland Governor's Fiscal Commission 1969–70. Formerly, Sunday School Superintendent and Chairman of Administrative Board, Cheverly Community Church. Currently Teacher, Young Adult Class.

ED CLIFF, FOREST CHIEF, RETIRES

Mr. BENNETT. Mr. President, over the weekend one of the Nation's most dedicated public servants retired. He is Edward P. Cliff, who served as Chief of the Forest Service for 10 years and who, I am proud to say, is a native of Utah.

Ed was born in Heber City, Utah, and is a graduate of Utah State University in Logan, Utah. His work as a Government forester spans four decades and began in the State of Washington. Between that assignment and the one as head of the U.S. Forest Service, Ed served for a time in Ogden, Utah, as assistant regional forester in charge of the Division of Range Management. He became the ninth Forest Service chief on March 18, 1962.

Ed has directed the Forest Service through a decade of immense growth and redirection. It has also been a stormy period for all agencies dealing with conservation of the Nation's natural resources. While many self-styled ecologists have pushed their pet programs for salvaging the country's environment, Ed has led his Agency quietly and efficiently in its own great efforts to wisely manage our resources and clean up the environment.

During his tenure, Congress created a National Wilderness Preservation System, made up in part from National Forest lands; forest and land management research was expanded, and the multiple use concept of forestry developed. Under this concept, equal emphasis is placed on noncommodity values of the forest, such as recreation, water management, and wildlife, along with the commodity aspects, including timber, forage, and minerals.

Mr. President, I am sure I speak for all Members of the Senate in publicly thanking Ed Cliff for his excellent leadership of the Forest Service during the past decade.

DEVELOPMENT OF MINERAL RESOURCES OF THE OUTER CONTINENTAL SHELF

Mr. ELLENDER. Mr. President, I come before the Senate today to speak on a subject of great importance to the State I represent and to the Nation as a whole.

As I did in testimony on April 5 before the Senate Committee on Interior and Insular Affairs, I am today restating and reaffirming my strong views as to at least one positive step by which this country can better satisfy its energy demands. I am here to urge a more productive development of the mineral resources of the Outer Continental Shelf.

As you might imagine, this matter is of extreme importance to my State of Louisiana and to my constituents. This is so because the single, most productive segment of the OCS is that which is adjacent to the State of Louisiana. I need not explain what impact the disruption of orderly OCS development in the last 2 or 3 years has had on the lives of my people and on the economy of my State.

A NATIONAL PROBLEM

But it is not my intention today to dwell on the peculiar and particular ways in which this matter affects my people. I have addressed the Senate and its committees on this point on many other occasions. I want, instead, to point out in the strongest possible terms the effect that inefficient and disorderly OCS development has on the people of all our States. I want to explain to those colleagues who might not realize it just what bearing it has on the entire American economic posture, both nationally and internationally.

I want to point out to Senators from the Midwest and the East that their constituents, too, are hurt by the failure to develop OCS energy sources in the Gulf of Mexico and elsewhere. This is not a Louisiana problem or a coastal States problem. It is national—even international—in scope.

I have been impressed in recent days by the testimony of many experts who have appeared before the Senate Committee on Interior and Insular Affairs. Many of them offered irrefutable statistics describing the severe and worsening nature of our energy crisis. They have stressed the OCS role in recent years in assuming an increasingly important role in providing the oil and gas this Nation needs.

They have pointed out that in 1965 OCS production was only 5 percent of the national total but that in 1970 it was 10 percent. In 1980 it is estimated that 25 percent of oil and 20 percent of gas production will come from the OCS—providing, of course, that orderly development of our resources there is allowed to continue and to expand.

RENEWAL OF OFFSHORE LEASING

I have also been impressed in recent weeks by the determined efforts of Secretary Rogers Morton and other officials of the Department of the Interior to break the log-jam on continued OCS mineral development. They feel, as I do, that there is a particularly critical need for new discoveries of natural gas, which now supplies one-third of our total energy requirement but which we are consuming at a much faster rate than we are discovering new reserves.

Assistant Secretary Hollis Dole of the Department of the Interior summarized the trends in consumption and discovery of natural gas. He said in part:

> In 1970, gas demand was 22 trillion cubic feet and reserves were estimated at 265 trillion cubic feet. The reserve-to-production ratio is currently 11.7 to 1, compared with 20 to 1 in 1960. By 1980, gaseous fuel consumption would reach 33 trillion cubic feet—if the gas were available. Between 1971 and 1980, cumulative gas demand would amount to 275 trillion cubic feet, an average of 27.5 trillion cubic feet per year. However, annual additions to proved gas reserves have averaged only 15.2 trillion cubic feet in the past five years. The best five-year annual rate of additions to new reserves ever attained was about 22 trillion cubic feet.

It is obvious, Mr. President, that our reserve-to-production ratio will continue to decline until we reach the point at which neither homeowners nor industrial users will be able to count on supplies of natural gas beyond a year-to-year basis. That trend cannot be allowed to continue.

I am highly pleased that almost a month ago, on March 31, Secretary Morton moved in a positive way to reschedule a major lease sale offshore Louisiana. He did so by filing the Interior Department's preliminary environmental impact statement, which began the running of a mandatory 90-day waiting period which must precede a call for bids on the OCS tracts in question.

A simple bit of arithmetic indicates that these bids might be called for as early as July 1, although the complex nature of the matter might cause it to be delayed for a few days beyond the minimum legal waiting period.

Mr. President, I ask unanimous consent to have printed in the RECORD the Interior Department's press release of March 31, describing the action then being taken.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

> INTERIOR CONSIDERING TWO OIL AND GAS LEASE SALES FOR OUTER SHELF OFF LOUISIANA DURING CALENDAR 1972
>
> The Department of the Interior announced today that consideration is being given to two oil and gas lease sales on the Outer Continental Shelf in the Gulf of Mexico, offshore Louisiana, during calendar year 1972.
>
> A new draft environmental statement on the first of the sales—offshore Eastern Louisiana, tentatively slated for this summer—will be filed Friday, March 31, with the Council on Environmental Quality. It involves 78 tracts totaling 366,440 acres estimated to be capable of producing from 75,000 to 150,000 barrels of oil per day, plus between 200 and 400 million cubic feet of natural gas daily by the sixth year after leasing.
>
> A second sale also offshore Louisiana is contemplated by Interior's Bureau of Land Management for late autumn this year, and a draft environmental statement on that potential sale is scheduled to be issued within a few months, to be followed by public hearings, officials said. This sale originally had been planned tentatively for May 1972. Number and location of tracts will be announced in the near future.
>
> The draft environmental statement for the potential summer sale covers the tracts involved in a lease sale originally scheduled for December 21, 1971. Public hearings had been held September 8 and 9 in New Orleans, but court action in mid-December caused Interior to retain the envelopes containing the bids unopened and sealed in a bank vault for nearly 30 days. The envelopes never were opened. They were returned to the bidders.
>
> Public comments on the draft environmental statement for the potential summer sale are invited for 45 days beginning April 1, 1972. They should be addressed to the Director, Bureau of Land Management (310), Department of the Interior, Washington, D.C. 20240.
>
> The document has been released by the Bureau for review by Secretarial officials, other Federal agencies, and State and local agencies. Members of the public may obtain copies at $2.00 each from the Director of BLM at the address above.
>
> Specific descriptions of the tracts may be obtained from the New Orleans office of BLM or from the Metairie, La., office of the U.S. Geological Survey.
>
> The document is considerably more detailed than the previous environmental statements issued last year. In line with an opinion issued in January 1972 by the U.S. Court of Appeals for the District of Columbia Circuit, it also contains discussions of the impact of various possible alternatives to a sale of oil and gas leases.

LOUISIANA: A SPECIFIC CASE

Mr. ELLENDER. Mr. President, I suppose we could talk in generalities for a week or a month and review again all the statistics which seem so strongly to call for expanded OCS development. But at this point, I would like to get down to one particular case whose close examination might help us better understand the overall folly and illogic unduly impeding the orderly search for and production of oil and gas on our Outer Continental Shelf.

The case in point is the proposed Louisiana sale on which the preliminary environmental impact statement is now pending and on which the final statement should be filed 30 to 45 days from now if all goes well.

Mr. President, as you might suspect, I was greatly distressed early this year when Federal District Judge Charles

Richey enjoined the Department of the Interior from proceeding with this proposed Louisiana—OCS—lease sale. He did so on the grounds that the Department's environmental impact statement was inadequate. No doubt the judge acted conscientiously and sincerely, but let me point out the truly fantastic list of consequences and overtones, both immediate and long-range, of the good judge's decision. Among these . . .

First, the irony that in exchange for avoiding the possibility of water pollution by an oil spill there is now the certainty of air pollution from the burning of coal and fuel oil that will be used in place of the clean-burning natural gas, which was in particularly high prospect of being produced from the OCS tracts in question;

Second, the certainty that several thousand of my constituents will be either unemployed or underemployed between now and the time at which this troublesome matter is resolved;

Third, the certainty that many residential consumers not only in my State but in many Midwestern and Eastern States will be forced to turn for lack of natural gas—to more expensive, less desirable and dirtier sources for heating and cooking in their homes;

Fourth, the certainty that industrial consumers of natural gas in all these States will be more and more subject to rationing of gas and to shutdowns during periods of high residential demand;

Fifth, the certainty of injuring and restraining the growth of many industrial users whose plans for plant expansion and for additional hiring of labor depends directly on the guaranteed availability of natural gas;

Sixth, the certainty that both industries and municipalities in these many States will be increasingly at the mercy of the fines and penalties imposed on them under FPC rules for using more than their monthly, daily, or—in some cases—their hourly ration of our shrinking reserves of natural gas;

Seventh, the certainty that our already disastrous balance of payments position will deteriorate even more as we are formed to import the petroleum and the gas that might have been produced from the tracts in question;

Eighth, the certainty that we will become additionally dependent on potentially unreliable foreign sources for whatever amounts of oil and gas might have come from these tracts;

Ninth, the certainty that the Federal Treasury has been deprived of the several hundred million dollars of lease, bonus, and royalty moneys and corporate taxes that would have resulted from the sales and from the production which would have occurred;

Tenth, the certainty that the Government will either have to cut back programs or go out and borrow 6 percent money—or a combination of both—to make up for the substantial amount of income not realized from the lease and the production that would have ensued;

Eleventh, the certainty that our own oil companies and drilling companies will be further convinced that they should get out of American waters and spend their capital, do their hiring, produce their oil, and sell it to American consumers from the more stable and predictable business situation in foreign lands—thereby compounding even farther our balance of trade, dependency, fiscal, and unemployment problems in years to come.

Mr. President, I have cited 11 certain and serious consequences that are now happening as a result of the way our laws work in seeking to prevent the possibility of offshore oil spills. It is indeed appropriate that the Committee on Interior and Insular Affairs should be reviewing the subject. It would be well if other committees which have jurisdiction would reexamine the laws that are now on the books to see if they are not being over applied in cases such as this, to the great detriment of the country.

FIND THE SCIENTIFIC FACTS

Now let me be the first to say that if the facts demanded it, then we should buckle down and prepare to suffer to an injurious consequence of our failure to proceed with the lease sale. If it were really necessary, we should make do without OCS oil and gas production of any kind.

My question of the Senate, however, is whether such an extreme result is necessary at all and whether the law and various environmental protection agencies of the Government are doing a responsible job of determining exactly what are the scientific facts of the matter. In particular, I have recommended that the Committee on Interior and Insular Affairs inquire into the following:

First. What specific steps have the Interior Department and the Environmental Protection Agency taken to define in acceptable legal terms the well-recognized ecological benefit to marine life that results from placing drilling platforms and production platforms offshore? It is an uncontested fact that the best fishing in the Gulf of Mexico is at the base of our offshore platforms. I have even heard it said that new varieties of fish have been attracted to the gulf as an indirect result of these platforms.

If there are specific ecological benefits derived from OCS drilling operations, there should be a well-defined system for crediting these against the alleged ecological damage that might result from various types of oil spills that might come from these same operations.

Second. What specific steps have the Coast Guard, the Department of the Interior, and the Environmental Protection Agency taken to work out technically sound and legally acceptable forecast charts on how much of the typical offshore oil spill can be recovered at sea before it can cause any ecological damage at all?

We have spent several million dollars to date on developing sophisticated oil-recovery devices. It seems to me that all of this investment can and should be translated into some predictable capacity for accomplishing the appointed task.

If, for instance, we could predict that equipment now being developed could pick up 50 percent of the typical individual spill or 50 percent of the combined spills that might be expected to occur during a certain period, then the estimated ecological damage of such potential spills should also be cut in half in calculating the advisability of proceeding with OCS development.

Another area where forecast charts might be easily devised is the one involving application of certain types of microbes and enzymes to oil spills with the result of changing the chemistry of the oil and making it either harmless or actually breaking it down into elements that can be absorbed into the marine food chain.

Third. What specific steps have been taken by the EPA, the National Bureau of Standards, the Department of the Interior, the National Marine Fisheries Service and other Federal agencies to define exactly what is the chemistry and the detailed ecological effects of an offshore oil spill?

ECOLOGICAL BENEFIT?

It has even been suggested that under some conditions and on total balance an offshore oil spill is an ecological benefit to more forms of marine life than those to which it is a detriment. This might sound like a farfetched notion.

However, when we realize that microbes and enzymes have been used experimentally to transform crude oil into cattle feed, is it also possible that marine enzymes, microbes and even tiny shellfish and plantlife at sea might attack the oil and begin rendering it ecologically harmless. These processes might even add the oil to the food chain of the sea, as described in the previous argument.

On this point, I ask unanimous consent to have printed in the RECORD two newspaper articles describing scientific inquiries whose results seem to downplay the harmful effects of oil spills as well as of certain other types of chemical pollutants.

One article is from the National Observer. It is entitled "That Big Oil Spill Off Santa Barbara Caused Little Damage to Marine Life." Without going into great detail on the subject, it tells how a team of about 40 researchers from a number of California universities did an in-depth study of the after effects of the gigantic oil spill there and found that "harm to plants and animals in the channel had been much less than predicted and that the area was recovering well."

The article states further that:

> The report concluded that only marine birds and a small species of barnacle were harmed severely by the oil.

It also says that:

> In the several months since the study was published, however, no serious scientific challenge to the honesty of its conclusions has emerged. Indeed, though the study continued to have its critics, it is gaining new acceptance among some scientists who didn't take part in the research.

The other article, entitled "Pollution, Good For Fish," is from the Houston Post of November 13, 1971. In this article, Dr. Carl Oppenheimer, director of the Marine Science Institute of the University of Texas, suggests that many pollutants in proper quantities are "not the pure poison they are cracked up to be, but are instead a nourishing feast for fish and shellfish."

While I do not endorse or vouch for the scientific conclusions which these articles seem to suggest, I do urge the Senate to note the possibility that offshore oil spills might not be as ecologically damaging as some have advertised them to be.

The possibility that such might be the case should be the subject of intense inquiry because of the obvious effect such a conclusion could have in simplifying and promoting the Nation's entire program for developing the resources of the Outer Continental Shelf.

There being no objection, the articles were ordered to be printed in the RECORD as follows:

[From National Observer, July 26, 1971]

REPORT OF A SCIENTIFIC STUDY: THAT BIG OIL SPILL OFF SANTA BARBARA CAUSED LITTLE DAMAGE TO MARINE LIFE

(By Roy H. Copperud)

When an offshore Union Oil Co. well blew out on Jan. 28, 1969, spewing hundreds of thousands of gallons of oil into the Santa Barbara Channel, it was widely predicted that the waterway no longer would support marine life.

The immediate effects of the spill were depressing enough. A thick, gooey layer of oil coated the water and sloshed up on the beaches. An estimated 3,500 to 4,000 sea birds out of a population of 12,000 died after becoming coated with oil. Most commercial fishermen thought it useless to put out in their boats.

And so, deep skepticism greeted a scientific report last February. The report concluded that harm to plants and animals in the channel had been much less than predicted and that the area was recovering well. The skepticism was especially intense because the $240,000 to finance the study has been put up by the Western Oil and Gas Association, made up of oil companies. Criticism that the study was a whitewash was widespread.

Confidence in the findings, perhaps, was affected also because Dr. Dale Straughan, who directed the research, is not only a woman, but 31 years old, attractive, and given to wearing miniskirts.

In the several months since the study was published, however, no serious scientific challenge to the honesty of its conclusions has emerged. Indeed, though the study continued to have its critics, it is gaining new acceptance among some scientists who didn't take part in the research.

The grant for the study was offered to the Allen Hancock Foundation at the University of Southern California. Dr. Straughan, who was at the university on a post-doctoral fellowship, was already regarded as an expert on marine pollution in her native Australia. The grant was accepted by the university on the condition that the oil industry would have no influence on the study and that the findings would be published regardless of what they disclosed.

Dr. Straughan recruited experts from Southern Cal, the University of California campuses at Santa Barbara and Santa Cruz, and the Johns Hopkins University. About 40 researchers worked on the project.

SOME KEY FINDINGS

Whales and seals were among the animals reported as having suffered from the oil, but the 18-month-long study found the mortality of neither had risen. The California Department of Fish and Game said it had found no decrease in the fish catch in the channel for the months following the spill, compared with the like period in 1968, nor was there any evidence of a decline in the fish population. Though Santa Barbara fishermen generally avoided the oily waters, fishermen from elsewhere continued to work in the channel.

Dr. Straughan's report concluded that only marine birds and a small species of barnacle were harmed severely by the oil. The Undersea Gardens, a Santa Barbara Harbor Aquarium that circulates surrounding sea water in its tanks, reported no abnormal loss of life among its specimens even when the surface of the harbor had a six-inch layer of oil. Marine divers in the area reported no evidence of underwater contamination.

Criticism of the report as rigged almost died out in the light of public approval from some distinguished scientists who did not take part in the study. One of them is Dr. Wheeler North, professor of environmental science at the California Institute of Technology.

NOT COMPREHENSIVE?

A leading dissenter in the scientific community is Dr. Max Blumer, a senior scientist at the Woods Hole Oceanographic Institution in Massachusetts. He says that the study was not comprehensive enough.

The study found that for hundreds of years there has been, and continues to be, natural seepage of oil into the channel from fissures in the sea bottom. The result of this may be that oil-sensitive creatures long since departed from the area, or that some of them may have developed a tolerance for oil.

Another point brought out was that just before the spill, unusually heavy winter rains had occurred, causing a tremendous runoff of fresh water, some of it containing pesticides from orchards. This in itself would have had an adverse effect on marine life in the channel. Much of the oil adhered to particles of the 80,000,000 tons of sediment swept into the channel by the floods, and settled to the bottom by a depth of 1,800 feet, reported Dr. Ronald L. Kolpack of the University of Southern California.

Marine life is known to have been declining steadily in the channel over the past 30 years for reasons not yet known. Dr. Straughan says she does not pretend that the study is the last word on the subject. One of her principal conclusions was that it is often difficult to isolate the effect of oil pollution from other causes.

[From the Houston Post, Nov. 13, 1971]

POLLUTION GOOD FOOD FOR FISH?

(By Harold Scarlett)

Pollution may actually be increasing the seafood yield of Galveston Bay, a University of Texas marine scientist said Tuesday.

Dr. Carl H. Oppenheimer said a lot of pollutants, in proper quantities, are not the pure poison they are cracked up to be, but are rather a nourishing feast for the bay's fish and shellfish.

Oppenheimer pointed to federal fishery reports which he said show a steady upsurge in seafood landings from Galveston Bay in recent years—from 6.9 million pounds in 1967 to 12.4 million pounds in 1970.

"Galveston Bay's fish catch has doubled over the past four years, which I think is probably due to an increase in productivity from the waste materials or pollution, if you want to call it that," Oppenheimer said.

Oppenheimer is director of the Marine Science Institute, a research branch of the University of Texas, at Port Aransas.

He disclosed his views in a letter to Hugh C. Yantis, Jr., executive director of the Texas Water Quality Board. His letter was triggered by last week's federal pollution conference, which was based on a federal contention that pollution is damaging shell-fish production in Galveston Bay.

Oppenheimer urged a thorough statistical analysis of bay fish catches to determine whether changes in water quality "might in reality in some cases be beneficial with respect to fish productivity."

Elaborating on his letter in a telephone interview, Oppenheimer said:

"I'm not advocating that position is what we need to do, but that sensible management could come in and separate positive pollutants from negative pollutants."

The scientist said a lot of pollutants are nutrients.

"Properly distributed sewage treatment material could be beneficial if correctly managed," Oppenheimer said. "Many byproducts from industrial firms are nonharmful nutrients.

"On the other hand, many materials highly toxic in concentrated form could become nutrient when diluted. Most anti-biotics can become nutrients at a very low level. Many heavy metals will stimulate population at very low levels."

Joe Teller, deputy director of the water board, said that technically speaking there is nothing fishy about Oppenheimer's views.

"I concur to a certain extent with what he says," Teller said. "We do have too much pollution going into the bay system right now. But I don't think we ought to go to zero pollution."

The water board has cited figures to show that it has curbed pollution going into the Houston Ship Channel and thence into Galveston Bay during the same years that fish landings have risen. Asked about this apparent contradiction in Oppenheimer's position, Teller said:

"We did have too much pollution in the past. But I think now we've got it headed toward balance, and so seafood production is increasing."

Teller recalled that as a boy growing up in East Texas, he used to bait fishing holes with cottonseed cakes. "With those cottonseed cakes, we would catch fish when nobody else could," he said, "but isn't cottonseed cake pollution if you put in too much of it?"

Mr. ELLENDER. Mr. President, there is no question that the chemistry and ecological impact of an oil spill in salt water at sea is radically different from one in a fresh water lake or stream. So is there a difference between the final chemical results of a spill far at sea and one so near to shore that the oil is soon on a beach or in an estuary or a marsh.

But just what are the specific differences in each case? What are the facts as they affect each of many different and competing forms of marine life? Is the typical spill more messy and ugly than it is dangerous?

Is it possible that we are unnecessarily punishing ourselves and even undermining the national economy through extreme measures to avoid any spills whatever from OCS drilling operations while the deliberate spillage and dumping from the world's shipping fleets each day equal twice the entire volume of the Santa Barbara spill in 1969?

URGENT NEED FOR ACTION

Mr. President, it seems to me that we cannot sit idly by while all of these questions are being looked into. We must find some means in the interim to proceed with the much needed development of our natural resources. We have a particular need to find more natural gas for use as the least environmentally harmful of our major energy sources.

In his testimony to the Committee on Interior and Insular Affairs late last month, Assistant Interior Secretary Hollis Dole described the significant technological advances that have been made and are in process of being implemented to reduce the incidence of spills from OCS drilling operations. He pointed out that there has been a great reduction in incidents of noncompliance with regulations and that small leaks and spills have been cut in half. New safety systems, he said, have already prevented several platform fires from becoming major disasters.

In conclusion, therefore, I wish to urge that the administration propose and the Congress adopt a plan for OCS development which will avoid areawide "freezes" and injunctions against orderly offshore exploration, drilling, and production. I think, too, that we need to safeguard against application of our environmental protection laws in ways that have insufficient relationship to the scientific facts and to the many complex and urgent needs of our national economy.

In effect, we should not only allow OCS development to continue, we should strongly encourage and promote it as a matter of national policy. If more safety precautions are needed as a means of avoiding oil spills, then those efforts should be directed toward those functions on each individual drilling platform which have actual bearing on the potential of a spill.

If a platform's operations and safety standards do not meet the criteria which has been found essential to protect against the danger of pollution, I would be the first to encourage you to shut that operation down until necessary corrective measures are taken. Our shrimpers and oystermen, our sportsmen, our beaches, and the wildlife and marine life of Louisiana and the Nation all deserve and must have reasonable protection from such damage.

However, such protection need not be at the expense of the economy of the State and at the costs of thousands of jobs held by hard-working citizens of Louisiana. Nor should it be at the expense of the Federal Government, which stands to lose vast sums in lease, bonus, and royalty payments at a time when there is an urgent need to balance the national budget. Nor should it be at the expense of residential and industrial consumers of natural gas across the entire country, who for lack of natural gas would have to turn to fuels that are more expensive and that are much worse polluters of the environment than is natural gas.

Our efforts should be directed, instead, toward a more individualized watch—well-by-well, platform-by-platform—over the operating procedures and safety measures employed by the industry.

OIL IMPORT REFORM NEEDED NOW

Mr. PROXMIRE. Mr. President, I have spoken often of the need to reform our present oil import quota system. President Nixon's own Cabinet Task Force on Oil Import Control after 11 months of careful study concluded that the oil import quota program was not adequate and events have proven the task force correct.

Unfortunately, politics have prevented the needed reform. Fortunately, we have an alternative: the courts. Under our system of government we have recourse to the courts when our Government is not obeying the law. I think it is quite clear that the present oil import quota does not meet the legal requirements established by Congress when we passed the Trade Expansion Act of 1962, and I am pleased that the New England Governors, Consumers Union and Public Citizen, Inc., have taken this issue to court.

I ask unanimous consent that their complaint be printed in the RECORD so that we may all examine the issues the suit raises.

There being no objection, the complaint was ordered to be printed in the RECORD, as follows:

COMPLAINT FOR DECLARATORY JUDGMENT INJUNCTION, AND RELIEF IN NATURE OF MANDAMUS

INTRODUCTION

1. This suit challenges the program which restricts the importation of crude oil and its derivatives into the United States. The program is based on authority delegated to the President in 1958 and 1962 trade legislation to limit imports which threaten to impair national security. The program was established by a 1959 Presidential proclamation, which, as amended, sets levels of permissible imports of crude oil and oil products into the United States and sets specific import levels for oil from Canada and Mexico. Separate rules are established for determining the levels of oil imported into the western United States and into the rest of the country. The program further allocates rights to import oil among refiners and others. The oil import program requires consumers to purchase mainly derived from domestic crude oil which sells for approximately $3.40/barrel, rather than foreign produced crude oil which sells at a world price of between $1.80 and $2.40/barrel. As a result, consumers pay approximately five billion dollars more for oil per year. Plaintiffs contend that this program is unconstitutional and is not authorized by the statute, and that the program's administration is inconsistent with the Presidential proclamation.

JURISDICTION

2. The jurisdiction of this court is based on 5 U.S.C. 702, 703, which provide judicial review of the acts of agencies of the United States; 28 U.S.C. 1361, which authorizes the district courts to entertain an action in the nature of mandamus compelling an officer of the United States to perform a duty owing to plaintiffs; 28 U.S.C. 1331, which gives district courts jurisdiction over cases involving federal questions in which the amount in controversy is over $10,000; and 28 U.S.C. 1337, which gives district courts jurisdiction over any action arising under federal stautes regulating commerce. The amount in controversy exceeds $10,000 without interest or costs.

PARTIES

Plaintiffs

3. The New England Governors' Conference is an organization of the six governors of the New England States—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. It is suing individually and on behalf of its members—Kenneth M. Curtis, governor of the State of Maine; Deane C. Davis, governor of the State of Vermont; Frank Licht, governor of the State of Rhode Island; Thomas J. Meskill, governor of the State of Connecticut; Walter R. Peterson, governor of the State of New Hampshire; and Francis W. Sargent, governor of the Commonwealth of Massachusetts. All of the members of the New England Governors' Conference are purchasers of oil products, including fuel oil and gasoline.

4. The agencies of the State of Connecticut purchase approximately 5,700,000 gallons of No. 2 fuel oil and 8,800,000 gallons of gasoline per year. The agencies of the State of Maine purchase approximately 3,900,000 gallons of No. 2 fuel oil and 4,100,000 gallons of gasoline per year. The agencies of the Commonwealth of Massachusetts purchase approximately 5,100,000 gallons of No. 2 fuel oil and 6,500,000 gallons of gasoline per year. The agencies of the State of New Hampshire purchase approximately 1,300,000 gallons of No. 2 fuel oil and 1,300,000 gallons of gasoline per year. The agencies of the State of Rhode Island purchase approximately 2,400,000 gallons of No. 2 fuel oil and 1,600,000 gallons of gasoline per year. The agencies of the State of Vermont purchase approximately 2,400,000 gallons of No. 2 fuel oil and 3,000,000 gallons of gasoline per year.

5. Consumers Union of U.S., Inc., is a nonprofit membership organization, with approximately 350,000 members, chartered in 1936 under the laws of the State of New York to provide information and counsel to consumers about their purchases and to represent consumer interests. Consumers Union engages in extensive testing of products and publishes test results and general information for consumers. It takes public positions on many significant issues of importance to consumers and advances those positions in administrative agency proceedings and before the courts. Consumers Union publishes Consumers Reports, a monthly magazine which is purchased by over two million persons. Consumers Union purchases No. 2 fuel oil to heat its administrative offices and testing facility in Mount Vernon, New York, and gasoline for automotive travel by its employees connected with their work and for the testing of automobiles and other products.

6. Consumers Union is suing on its own behalf and on behalf of its members. These members are purchasers of fuel oil, gasoline, and other oil products.

7. Public Citizen, Inc., a consumer of petroleum products, is a non-profit corporation organized under the laws of the District of Columbia with purposes, among others, of increasing governmental accountability to the public through various means, including litigation. Over fifty thousand citizens who consume petroleum products support Public Citizen and its aims and activities and have made monetary contributions to its work.

8. Consumers throughout the United States paid approximately five billion dollars more for petroleum products in 1969 as a result of the oil import program. If the program continues, the annual additional cost to consumers will be approximately 8.4 billion dollars per year by 1980. The increased consumer costs are generally highest in New England. It was estimated in 1969 that the average increased cost to every resident as a result of the oil import program was $29 in Connecticut, $41 in Maine, $35 in Massachusetts, $39 in New Hampshire, $32 in Rhode Island, and $45 in Vermont.

Defendants

9. Rogers C. B. Morton is the Secretary of Interior of the United States. He has been delegated the responsibility by the President to administer the oil import quota program. Presidential Proclamation 3279, as amended, 24 Fed. Reg. 1781.

10. Gene P. Morrell is the Director of the Office of Oil and Gas of the Department of Interior. The Director has been delegated by the Secretary of Interior the authority conferred upon the Secretary by the President under Presidential Proclamation 3279, as amended. Oil Import Reg. 1 (Rev. 5), Sec. 2, 36 Fed. Reg. 21284.

11. George A. Lincoln is the Director of the Office of Emergency Preparedness of the

United States. The Director has the responsibility under the Trade Expansion Act of 1962, 19 U.S.C. 1862(b), to investigate the effects on national security of imports of an article, to determine such effects, and then to advise the President if imports of the article "threaten to impair the national security," so that the President can review the determination and, if he concurs, can act to adjust imports to protect against this threat. The Director also has the responsibility to maintain a constant surveillance and to determine whether any increase of prices of crude oil or its products or derivatives after the date of the 1959 proclamation is necessary to accomplish the national security objectives of the oil import quota program. Presidential Proclamation 3279, as amended, Sec. 6(a).

FACTS

Background

12. Until the late 1920's, large amounts of foreign crude oil were imported into the United States—24 percent of total demand in 1921—without objection from the domestic oil industry. Technological improvements and extensive exploration in the 1920's resulted in the discovery of vast reserves and increased domestic production. Domestic oil companies first proposed import controls at that time, and organized the Independent Petroleum Association of America for the avowed purpose of reducing imports.

13. Modest import duties were imposed on oil in 1932. Revenue Act of 1932, Sec. 601 (c)(1), (4) 47 State, 259, 260, later embodied in Int. Rev. Code of 1954, Sec. 4521. In 1933, pursuant to the Petroleum Code adopted under the National Industrial Recovery Act (Art. III, Sec. 1, 48 Stat. 195), the Secretary of the Interior imposed a voluntary import quota of approximately 4.5 percent of domestic production. The import quota terminated in 1935 when the NIRA was found unconstitutional. Imports, however, remained stabilized at about the level permitted under the Code, "as a result of voluntary action on the part of a few companies which controlled the production of crude in Venezuela and other Latin American countries." Oil Import Digest of the National Petroleum Refiners Association, A-13 (8-7-70).

14. During World War II, with demand for petroleum products far above domestic capacity, foreign sources of supply were considered and pressures to impose import controls subsided. By the late 1940's, the postwar production boom began to catch up with demand and anti-import sentiment in the industry again rose. The issue was debated between the international companies and independent domestic producers within the National Petroleum Council, an industry advisory group established by the Executive in 1946. In 1949, an amendment to the Reciprocal Trade Act to limit oil imports to 5 percent of demand was defeated by only one vote in the Senate.

15. In February 1955, an Advisory Committee on Energy Supplies and Resources Policy, appointed by President Eisenhower, reported that, if the imports of crude and residual oil should "exceed significantly" the respective proportions that these imports bore to the production of domestic crude in 1954, "the domestic fuel situation could be so impaired as to endanger orderly industrial growth which assures military and civilian supplies necessary to the national defense." The thrust of the Committee's findings was that the petroleum supply situation was adequate and that oil imports at 1954 levels had no ill effects upon domestic production capacity and exploration incentives. The Committee did not undertake a comprehensive study of the relationship of oil to national security, and did not study the degree, if any, imports in excess of 1954 levels would impair the national security. Such a study was thought too complex and time consuming, and necessary data was not available.

16. The 1955 Trade Agreements Extension Act contained the precursor of the authority on which the present oil import program is based. Section 7 authorized the President to restrict imports upon a finding of the Director of the Office of Defense Mobilization (later the Office of Civil and Defense Mobilization, the Office of Emergency Planning, and now the Office of Emergency Preparedness) that imports of the product "threatened to impair national security." 69 Stat. 162.

17. In 1957, the President appointed another committee to consider the oil import issue. That committee, referring to the 1955 report, concluded that 1957 imports would exceed the 1954 level and that this would result in decreased domestic exploration and production which, in the event of a serious emergency, would prevent the country from meeting "national security needs." The Committee did not make a national security study; an interdepartmental committee was established to undertake such a study, but the study was never completed.

18. On July 29, 1957, the President promulgated a Voluntary Oil Import Program which was not successful.

Present oil import program

19. The Trade Agreements Extension Act of 1958, 72 Stat. 673, provided the underlying authority for the 1959 Presidential proclamation establishing the present program. Section 8 of the Act provided that the Director of Defense Mobilization should investigate an article subject to inquiry, determine whether the quantities of or circumstances surrounding the import of the article threatened to impair the national security, and, if so, inform the President so that the President could make a determination and act, if necessary, to adjust imports. Considerations to be taken into account in making the finding of national security were generally described.

20. The text of the relevant subsections are as follows:

"(b) Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Director of the Office of Emergency Planning (hereinafter in this section referred to as the 'Director') shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from other appropriate departments and agencies, to determine the effects on the national security of imports on the article which is the subject of such request, application, or motion. If, as a result of such investigation, the Director is of the opinion that said article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall promptly so advise the President, and, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security as set forth in this section, he shall take such action, and for such time as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not so threaten to impair the national security.

"(c) For the purposes of this section, the Director and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and service including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Director and the President shall further recognize the close relation of these economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security."

These provisions were reenacted without change as Section 232 of the Trade Expansion Act of 1962, 76 Stat. 877, 19 U.S.C. 1862.

21. On February 27, 1959, the Director of the Office of Civil and Defense Mobilization, referring to the 1957 report, found that "crude oil and the principal crude oil derivatives and products are being imported in such quantities and under such circumstances as to threaten to impair the national security." On March 6, 1959, the President's Special Committee to Investigate Crude Oil Imports made a report to the President describing the outline of a mandatory oil import program. On the basis of this finding and this report, the resident, on March 10, 1959, issued Presidential Proclamation No. 3279 establishing the Mandatory Oil Import Program, which, as changed in subsequent years, is the subject of this litigation.

22. No quota has ever been imposed on any commodity other than oil and oil products under the "national security" provisions of the 1955, 1958, or 1962 laws.

23. On March 25, 1969, the President created a Cabinet Task Force, consisting of the Secretary of Labor (chairman), Secretary of State, Secretary of the Treasury, Secretary of Defense, Secretary of the Interior, Secretary of Commerce, and Director of the Office of Emergency Preparedness, to undertake the first comprehensive review of the program by a Cabinet-level committee.

24. The present program divides the United States into five administrative districts and establishes the overall levels of oil import restriction. For the West Coast states and Hawaii (District V), the overall limit is set at the difference between domestic supply and demand. For the rest of the country (Districts I–IV), the level was set at 12.2% of estimated production within those districts. It is now set at a specified number of barrels per day determined on the basis of the 12.2% figure with adjustment adding approximately another 2%. Numerous subcategories are established within the overall limit. Although once exempt from the limit, Canadian oil, except on the west coast, and Mexican oil are now subject to special quotas which are subtracted from the overall limits. Special rules apply to Puerto Rico and the Virgin Islands. The program allocates permitted imports among domestic refiners and others through the grant of licenses called "quota tickets," distributed mainly on the basis of refinery "inputs," the amounts of oil used in their refineries. Domestic oil is considerably more expensive than foreign oil; licensees, therefore, realize a benefit from their quota tickets of about the difference in the delivered price of domestic and foreign oil. The ultimate result of the import program is that consumers are forced to purchase products derived from high priced domestic oil or allocated imported oil rather than products derived from foreign oil that could be imported at substantially lower prices. Since the program, which is implemented through Oil Import Regulation 1

(Revision 5) promulgated by the Secretary of Interior, is highly complex, this complaint will describe in more detail below only those portions of the program which are relevant to this litigation.

National Security

25. Before imports can be restricted under Section 232, the Director of what is now the Office of Emergency Preparedness must conduct an investigation and must find that imports of the product in question would "threaten to impair the national security" and so advise the President. On the basis of such advice, the President must adjust imports unless he finds that imports do not threaten to impair the national security.

26. In connection with the "national security" determination, the Cabinet Task Force found, on the basis of an analysis of legislative history, that (paragraph 110 of the Cabinet Task Force report, later referred to by paragraph citation only):

"The purpose of Section 232 is quite clearly not to give protection *per se* to domestic industry. Section 232(c) makes the impact of imports on individual industries relevant, but only to the ultimate determination of 'whether such weakening of an internal economy may impair the national security,' * * * No determination under Section 232 or its predecessors has ever been made on the ground of economic impact alone, and in a generally healthy economy it cannot be presumed that unrestricted trade in any one sector would itself impair the national security."

The Task Force further found that (paragraph 401):

"[T]he governing statute authorizes government intervention in support of domestic price and production only for the extraordinary and compelling purpose of protecting national security—either in order to prevent a weakening of the internal economy which would be so serious as to impair the national security or to safeguard military and essential civilian consumption against reasonably possible foreign supply interruptions that cannot be overcome by feasible replacement steps in an emergency."

27. The Cabinet Task Force found that the 1959 findings of the Director of the Office of Civil and Defense Mobilization and the 1959 report of the President's Special Committee to Investigate Crude Oil Imports—the two documents on which the mandatory oil import program is based (see Complaint paragraph 21 above)—as well as previous governmental reports on this subject, "did not articulate with any precision the objective standards used in appraising the threat to national security." It pointed out that no specific findings had been made explaining how the national security would be damaged by higher imports (paragraph 108).

28. Section 232 creates a limited exception to the general purpose of the Trade Expansion Act which is to promote freer trade. The basic purpose of the Act was:

"Through trade agreements affording mutual trade benefits—

"(1) to stimulate the economic growth of the United States and maintain and enlarge foreign markets for the products of the United States agriculture, industry, mining, and commerce;

"(2) to strengthen economic relations with foreign countries through the development of open and non-discriminatory trading in the free world; and

"(3) to prevent Communist economic penetration."

29. The Cabinet Task Force concluded that "it is evident that national security [under Section 232] requires a balanced appraisal of possible detriments as well as benefits arising from import restrictions—in terms of foreign relations and foreign trade policy in general" (paragraph 109). These factors were analyzed neither in the 1959 Presidential proclamation, the findings of the Director of the Office of Civil and Defense Mobilization, nor the report of the President's Special Committee to Investigate Crude Oil Imports.

30. The present oil import program is purportedly related to national security on the following grounds. In the absence of import restrictions, the present domestic wellhead price of oil would decline to the world market price; high-cost wells would shut down; spare capacity in more efficient wells now being conserved would be soon drawn into production; and new domestic development and exploration would decline, with the result that imports would supply a larger share of petroleum needs. At some future time, a substantial volume of such foreign oil might be cut off to our military, political or economic detriment. The reasoning continues that, although oil import restrictions guarding against these contingencies induce inefficient use of our resources and impose a higher price on consumers, these costs must be borne because of the possible national security effects of the potential cutoff and the political leverage foreign governments would possess because of dependency on their oil.

31. Neither this nor any other explanation of the oil import program has ever rationally related it to protecting the national security. Allegedly, the principal purpose of the oil import program is to ensure that adequate oil supplies are available in case of war or other national emergency.

In fact, the oil import program has encouraged the depletion of domestic oil sources and will leave the United States dependent on foreign sources. If the oil import program is maintained and present trends continue, it is predicted that the United States domestic supply, including Alaskan resources, will be exhausted in less than thirty years. In sum, the program has created the dependency and the risk to security that it was allegedly intended to avoid.

32. If the oil import program were logically related to securing adequate oil supplies for American use in times of national emergency, the program should, as the Cabinet Task Force found (paragraphs 405b and 427b), treat imports from friendly sources the same as domestic products if those imports can reach the United States by means of transportation which cannot readily be disrupted. In fact, the program has not done so.

(a) These principles were originally recognized in the oil import program which allowed unlimited oil imports overland from Canada and Mexico outside the general quota. Pres. Proc. No. 3279, Sec. 1 (a) (4), as amended, by Pres. Proc. No. 3290, 24 Fed. Reg. 3527. In 1962 however, this provision was changed, even though a national security determination was not made that the change was needed and imports from Canada and Mexico were deducted from the overall overseas import quota. Pres. Proc. No. 3279, as amended by Pres. Proc. No. 3509, 27 Fed. Reg. 11985. If Canadian oil and Mexican oil are virtually indistinguishable from domestic production for the purposes of national security, there is, of course, no legitimate reason to reduce overseas imports because of imports from these secure sources. The Cabinet Task Force found restrictions on overland imports from Canada were "non-security limitations" and therefore recommended ending these limitations and the policy of subtracting these imports from the general quota (paragraph 303; see paragraph 427b).

(b) More recently, quotas have been established directly limiting imports of Canadian oil to all but the western United States and limiting imports of all Mexican oil. The first quota on Canadian oil was established in March, 1970 (Pres. Proc. No. 3279, as amended by Pres. Proc. No. 3969, 35 Fed. Reg. 4321), and the quota for 1972 is 540,000 barrels per day (Pres. Proc. No. 3279, Sec. 1A(a) (2), as amended by Pres. Proc. No. 4099, 36 Fed. Reg. 24203; Oil imports Reg. 1 (Rev. 5), Sec. 29(c)). The Mexican quota for 1972 is 30,000 barrels per day. Pres. Proc. No. 3279, Sec. 1A(h), as amended by Pres. Proc. No. 4025, 35 Fed. Reg. 19391. There is no national security justification for limiting imports from secure foreign sources.

(c) Refineries have generally not been allowed to use the oil imported from Canada or Mexico as the basis for obtaining allocations of overseas imports. Allocations to refineries for overseas imports are calculated on the basis of "inputs" used by these refineries. Pres. Proc. No. 3279, Sec. 3 (b) (1); Oil Import Reg. 1 (Rev. 5), Sec. 22 (k) (2). These inputs consist of domestic production, to stimulate use of domestic oil, and have excluded foreign production. The Cabinet Task Force found that there was no national security reason to discriminate against secure Canadian and Mexican oil or to discourage such imports (paragraph 314e). Subsequent to the Cabinet Task Force report, Presidential Proclamation No. 3279 was changed to consider Canadian oil admitted under the quota as refinery input, although Canadian non-quota oil is not considered refinery input. Pres. Proc. No. 3279, as amended by Pres. Proc. No. 4025, 35 Fed. Reg. 19391. This change is directly inconsistent with national security considerations. Canadian oil imported subject to a quota is presumably not the equivalent of domestic oil for national security purposes. On the other hand, Canadian oil not subject to a quota is presumably the equivalent of domestic oil. Consequently, national security would require non-quota Canadian imports be considered as inputs, rather than vice versa.

(d) The oil import program has recently been modified to allow Canadian imports to enter by inland waterway as well as overland, and to eliminate any requirement that Mexican oil enter the United States overland. Pres. Proc. No. 3279, Sec. 1A(d), as amended by Pres. Proc. No 4018, 35 Fed. Reg. 16357, and Sec. 1A(h), as amended by Pres. Proc. No. 4025, 35 Fed. Reg. 19391. Previously, as noted above, Mexican oil could enter the United States outside the quota only if it entered overland. Since no pipeline existed from Mexican wells to the United States, oil was shipped from Mexico by ocean to Brownsville, Texas. It was there transferred to trucks which crossed back over the Mexican border, then turned around, and reentered the United States. The oil was then shipped by ocean to the east coast of the United States. This oil was deemed until 1970 to have entered the United States "overland" and was therefore not subject to a quota. Yet, at the same time, the quota was applied to oil entering the United States by boat from Canada across the Great Lakes or by rail from Canada to southern Alaska since a short inland waterway was crossed by rail ferry. This compelled Alaskan dependence, at that time, on such products shipped via the same waterways from the State of Washington. These policies demonstrate the lack of relevancy of the oil import program, as it has been administered, to national security.

33. One of the principal purposes of the oil import program is allegedly to encourage development of domestic reserves so that domestic capacity would be available, if needed, in emergency situations. However, the program makes no effort to allocate oil imports in such a way as to encourage development of reserves.

(a) Imports are allocated to refineries (Press. Proc. No. 3270, Sec. 3, as amended by Pres. Proc. No. 24 Fed. Reg. 1781) rather than to companies which explore for or produce oil. Domestic exploration for oil has declined substantially since the start of the oil import program.

(b) An allocation formula has been developed to promote small business rather than encourage exploration or production of domestic oil. Small refining companies receive a higher percentage of imports per unit of refinery input than large refineries. For example, in Districts I–IV, the percentage of imports granted relative to domestic input is 21.7 percent for the first 10,000 barrels per day and 3.8 percent over 100,000 barrels. In District V, the percentage of imports granted for the first 10,000 barrels is 67.5 percent and only 5.6 percent over 100,000 barrels. Oil Import Reg. 1 (Rev. 5), Sec. 10(b), 11(b).

34. Residual fuel oil, which is used largely for heating purposes by large institutions and for power generation by utilities, is no longer subject to quota restrictions in District I (the east coast). Oil Import Reg. 1 (Rev. 5), Sec. 12. As a result, imports of residual fuel oil have steadily risen in District I. As of 1970, residual fuel oil constituted 40 percent of the heating fuel market in that District. This dependence on foreign oil has been permitted because domestic refineries have steadily reduced their output of residual fuel oil in order to produce gasoline, jet fuel, and other oil products of higher value and with a higher profit margin. The Cabinet Task Force said, "[o]ne may wonder whether the security test should be different when imports do not threaten the profits of the domestic industry than when they do" (paragraph 310).

35. The Cabinet Task Force analyzed the almost entirely different import programs which have been established in District V (the west coast) and Districts I–IV (the rest of the country) (see Complaint paragraphs 42–49 below). It found that (paragraphs 305 (b), 305c) :

"Separate treatment for District V is inconsistent with the Districts I–IV principle that import restrictions insure against the risks of interruption of foreign supplies. By discouraging the development of interdistrict oil flows, the program has tended to perpetuate greater District V dependence on foreign oil.

* * * * *

"The conclusion indicated by our analysis is that continued separate treatments cannot be justified on grounds either of security or of equitable geographic distribution of the cost of the program."

See also paragraph 307c.

36. The Cabinet Task Force concluded its study with the following national security findings (paragraph 421) :

"The fixed quota limitations that have been in effect for the past ten years, and the system of implementation that has grown up around them, bears no reasonable relation to current requirements for protection either of the national economy or of essential oil consumption. The level of restriction is arbitrary and the treatment of secure foreign sources internally inconsistent. The present system has spawned a host of special arrangements and exceptions for purposes essentially unrelated to the national security . . ."

Continued validity of 1959 determination

37. Even though Section 232(b) of the Trade Expansion Act of 1962 authorizes the President only "to take such action, and for such time, as he deems necessary," the President did not establish any time limit in the 1959 Presidential proclamation. Since 1959, there has been neither a finding by the Director of the Office of Emergency Preparedness that the national security presently requires the oil import program generally or oil restraints at any particular level, nor such a determination by the President on the basis of the Director's findings. Various changes in the proclamation have formally and perfunctorily referred to national security, but no meaningful or reasonably thorough analyses or findings were ever made or referred to in connection with these changes. The Director of the Office of Emergency Preparedness concurred in the Cabinet Task Force report, which found that the present program bears no reasonable relationship to protecting national security.

38. The oil import program was based on the assumption that domestic production could supply essentially the same share of demand as it did in 1954. In 1959, the Special Committee to Investigate Crude Oil Imports and the Director of the Office of Civil and Defense Mobilization concluded that the national security would be endangered if imports rose proportionately faster than domestic production and, on this basis, recommended voluntary and then mandatory restraints. The Cabinet Task Force has concluded, however, that "the growth of domestic energy demand is such that imports will have to supply an increasing share of our market" and that imports will rise from 19 percent in 1968 to 27 percent in 1980, even if the present import program continues (paragraph 233 and Table C). Consequently, the basic assumption on which the oil import program was based is invalid today.

39. The distinction between the methods for establishing quotas in District V and Districts I–IV was based on the fact that, at the time the program began in 1959, domestic production in District V could not meet demand. However, since 1959, Districts I–IV have developed as large a percentage deficit between demand and production as District V, and District I alone has a much larger percentage deficit. Nevertheless, the decision to create two different oil markets within mainland United States has not been changed.

40. Numerous important changes have been made in the proclamation since 1959. Perhaps most important were the determinations, first, to deduct Canadian overland imports from the general quota (Pres. Proc. No. 3279, Sec. 2(a)(1), as amended by Pres. Proc. No. 3693, 30 Fed. Reg. 15459), and, second, to place a quota on Canadian imports into Districts I–IV (Pres. Proc. No. 3279, Sec. 1A(a)(2), as amended by Pres. Proc. No. 3969, 35 Fed. Reg. 4321). Neither an appropriate investigation nor a determination has been made that the import of Canadian oil threatened to impair national security nor has such an investigation or determination been made as to any other changes in the oil import program.

41. The Cabinet Task Force concluded with regard to the national security requirement under Section 232(b) of the Trade Expansion Act, that, "after ten years it is obvious that a contemporary judgment is required" and that the 1959 judgment of the Director of the Office of Civil and the Defense Mobilization cannot now be controlling (paragraph 101). The Cabinet Task Force further found that "present quota levels do not reflect current judgments about the relationship between the national security and domestic production on imports" and that an annual report and periodic adjustments are needed (paragraph 302; see also paragraph 345.)

Geographic Discrimination

42. The oil import program divides the country into five districts plus Puerto Rico. District I consists of Maine, New Hampshire, New Jersey, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, West Virginia, Virginia, North Carolina, Georgia, Florida, South Carolina, and the District of Columbia. Pres. Proc. No. 3279, Sec. 9(b), as amended by Pres. Proc. No. 3389, 26 Fed. Reg. 507, 811. District V consists of Arizona, Nevada, California, Oregon, Washington, Alaska, and Hawaii. *Id.*, Sec. 9(e). Districts II–IV consist of all the other states not in District I or District V. *Id.*, Sec. 9(c).

43. There are in reality two distinct oil import programs—one for District V and one for the rest of the United States. The quota for District V is based on the estimated difference between oil production and demand in the district. Pres. Proc. No. 3279, Sec. 2(b), as amended by Pres. Proc. No. 3328, 24 Fed. Reg. 10133. The quota for Districts I–IV has been 12.2 percent of estimated production in the districts, although it is now stated as a specified number of barrels per day based on the 12.2% figure with adjustment. The latter method has the effect of allowing the state authorities in Louisiana and Texas who prorate oil production in their states to control in large measure both production levels and import levels in Districts I–IV and thereby to effect significantly price levels.

44. The distinct nature of the oil import programs in Districts I–IV and District V is made clear by other provisions of the oil import program. For example, while a refinery or petrochemical plant may exchange its imported crude oil for domestic oil, the imported oil must be processed in the same district for which the allocation was made. Oil Import Reg. 1 (Rev. 5), Sec. 17(b)(4). Refineries in Puerto Rico and the Virgin Islands are allowed to export refined products only to Districts I–IV with the exception of Sun Oil which, for some unknown reason, can also export to District V.

45. These restrictions have helped produce independent markets in Districts V and I–IV. The Cabinet Task Force found that, while the Rocky Mountains obstruct flows between the two areas, these flows do exist in some volume and would increase if the oil import program was not administered to encourage isolation of these two markets (paragraph 305). As a result of this isolation, a pipeline between the two areas only handles approximately half of its capacity, and no new pipelines have been constructed.

46. The different methods of establishing quotas have allowed District V to import a far higher proportion of the oil it uses than Districts I–IV. For example, in 1968 District V imported 18.5 percent of its demand, and Districts I–IV were allowed to import only 9.9 percent. As a result of the lower prices for imported oil and of the separation of the markets in District V and Districts I–IV, prices on the west coast have generally been below those in Districts I–IV. This means that consumers in Districts I–IV are paying higher prices for oil and oil products than they would if the geographical discrimination did not exist. The Cabinet Task Force noted that if import restrictions into Districts I–IV were reduced, a unitary, national level of prices could be established, decreasing prices in Districts I–IV (paragraph 305d).

47. Presidential Proclamation No. 3279 stated that the reason for the original difference in treatment between District V and Districts I–IV was that District V was an area where domestic production could not cover demands while Districts I–IV had excessive production which had to be limited by state regulatory bodies. However, today, Districts I–IV have a deficit comparable to District V and District I, considered by itself, has a far larger deficit than District V. The Cabinet Task Force found that there is no more reason for District V to be treated separately than for District I (paragraph 306f).

48. The oil import program makes numerous other distinctions between Districts I–IV and District V.

(a) Canadian oil imported overland or by inland waterway into Districts I–IV is limited by quotas to 540,000 barrels a day in 1972, but there is no restriction on such imports into District V. Pres. Proc. No. 3279, Sec. 1(a)(4), 1A(a)(2), as amended by Pres. Proc. No. 4099, 36 Fed. Reg. 24203. This means that lower-priced Canadian oil is prevented from entering Districts I–IV as freely as District V.

(b) Importers with a license to import crude oil can use only 15 percent of their allocations for unfinished oils in Districts I–IV as opposed to 25 percent in District V. Oil Import Reg. 1 (Rev. 5), Sec. 10(c), 11(c). Unfinished oils are products which have been refined beyond crude oil but which will be refined even further. Pres. Proc. No. 3279, Sec. 9(h), as amended by Pres. Proc. No. 3389, 26 Fed. Reg. 507, 811.

(c) Allocations among refineries are different for Districts I–IV and District V. For Districts I–IV, the allocation is made on the basis of 21.7 percent of input for below 10,000 barrels per day of input; 13 percent of input for 10,000 to 30,000 barrels per day of input; 7.6 percent for 30,000 to 100,000 barrels per day of input; and 3.8 percent for input above 100,000 barrels per day. Oil Import Reg. 1 (Rev. 5), Sec. 10(b). For District V, the allocation is made on the basis of 67.5 percent of input for input of 0 to 10,000 barrels per day; 16.9 percent of input for inputs of 10,000 to 30,000 barrels per day; and 5.6 percent for inputs above 30,000 barrels per day. *Id.*, Sec. 11(b).

(d) Refineries in District V are entitled to additional allocations of one barrel of imported crude oil for every barrel they manufacture of low-sulphur residual fuel oil of less than .5 percent sulphur content in order to meet local air pollution requirements. Pres. Proc. No. 3279, Sec. 3(b)(5), as amended by Pres. Proc. No. 3794, 32 Fed. Reg. 10547: Oil Import Reg. (Rev. 5), Sec. 11A(b). This allocation is added to the overall quota from District V. In contrast, a regulation was adopted in 1968 for Districts I–IV to allow the allocation of an additional barrel of imported crude oil for every barrel of Western Hemisphere residual fuel oil with at least 2 percent sulphur content and which was desulphurized to not over 1 percent sulphur content in order to comply with government requirements. Oil Import. Reg. 1 (Rev. 5), Sec. 26 (a)(1), (c)(1). This allocation was to be in addition to the general quota for Districts I–IV. Id., Sec. 26(b). The provision, however, was suspended in 1969 and is still not operative. 34 Fed. Reg. 7535. As a result the oil import program does not provide assistance for air pollution control in Districts I–IV which is given in District V and provides additional oil imports into District V which are less expensive than domestic oil. The distinction cannot be justified either on the basis of national security or more severe air pollution problems in District V.

(e) Refineries of oil in District V are entitled to allocations for "low sulphur residual fuel oil" which is either produced in a foreign country and has no more than .5 percent sulphur content or is manufactured in a foreign trade zone and meets local government requirements. Pres. Proc. No. 3279, Sec. (3)(b)(5), as amended by Pres. Proc. No. 3794, 32 Fed. Reg. 10547; Oil Import Reg. 1 (Rev. 5), Sec. 28(a). No similar provision has been adopted for Districts II–IV. Consequently, the oil import program has failed to give the assistance to controlling air pollution in Districts II–IV which has been given in District V. This distinction cannot be justified either on grounds of national security or of a more severe air pollution problem in District V.

(f) Allocations are provided to import feedstocks for refineries or petrochemical plants in foreign trade zones in District V if this is "consonant with the objectives of Proclamation 3279." Oil Import Reg. 1 (Rev. 5), Sec. 27(a). No such provision has been adopted for Districts I–IV.

49. The Cabinet Task Force found that the separate treatment of Districts I–IV and District V has tended to perpetuate greater dependence by District V on foreign oil "and cannot be justified either on grounds of national security or equitable geographical distribution of the cost of the program" (paragraphs 305b and 305c; see paragraphs 307c and 429).

Justification of price increases

50. Section 6(a) of Presidential Proclamation 3279, provides that the Director of the Office of Civil and Defense Mobilization "shall maintain a constant surveillance of imports of petroleum and its primary derivatives in respect of the national security." It further states that:

> "In the event prices of crude oil or its products or derivatives should be increased after the effective date of this proclamation, such surveillance shall include a determination as to whether such increase or increases are necessary to accomplish the national security objectives of the act of July 1, 1954, as amended, and of this proclamation."

51. In 1959, the price of domestic crude oil was approximately $2.80/barrel, and the world market price was between $1.25 and $1.90/barrel. Prices of crude oil and its derivatives have been increased many times since 1959. The domestic wellhead price is presently approximately $3.40/barrel, and the world market price is between $1.80 and $2.40/barrel. The wholesome tank car price of No. 2 home heating oil in New England has increased from 9.4 cents per gallon in 1964 to over 12 cents per gallon in 1971; the retail price has increased in that period from 15.37 cents per gallon to 19.84 cents per gallon. Recently, prices of some oil products were increased in August 1971, one week before price controls were publicly announced, and in April 1972.

52. Neither the Director of the Office of Emergency Preparedness nor any of his predecessors has ever made a determination that any of these price increases is necessary to accomplish the national security objectives of the statute or proclamation. His only study relating to prices was a Report on Crude Oil and Gasoline Price Increases of November 1970, completed by the Director of Emergency Preparedness in April 1971. The Director recognized the obligation to make a determination pursuant to Section 6(a). He concluded "that the November price increases were not required to meet any national security objectives" related to short term considerations but he made no conclusions concerning long term national security considerations.

CAUSES OF ACTION

1. Section 232 of the Trade Expansion Act, 19 U.S.C. 1862, which provides the statutory authority for the mandatory oil import program, establishes extremely general and unspecific criteria purportedly relating to national security for the exercise of this authority. If the authority of the executive branch under Section 232 is not strictly confined to protecting the national security, a serious issue would be raised under Article I, Section I of the Constitution concerning whether Section 232 constitutes an unconstitutional delegation of power.

The oil import program is not authorized by Section 232 because:

(a) As described in Complaint paragraphs 25–31 above, neither the 1959 findings of the Director of Civil and Defense Mobilization nor Presidential Proclamation No. 3279 nor any other studies relied on in 1959 analyzed the threat to national security as required by the statute before a quota can be imposed;

(b) As described in Complaint paragraphs 32–36, above the oil import program neither was designed nor is presently operated to protect national security. Instead, it was designed and now operates primarily to protect the American oil industry from competition from imports at substantially lower prices. As a result, many of the principal provisions of the oil import program are either irrelevant to, or actually damage, national security, including (1) the depletion of American oil reserves; (2) the restrictions on imports from Canada, and (3) the division of the country into two separate oil markets and the discrimination against Districts I–IV.

(c) As described in Complaint paragraphs 37–41, no finding has been made since 1959 that oil imports continue to threaten to impair the national security even though significant changes have occurred concerning factors considered by the President in 1959 which would be relevant to any current finding and even though major changes have been made in the oil import program.

(d) As described in Complaint paragraph 40, no finding was made that oil imports from Canada threatened to impair the national security when a quota was imposed on overland imports from Canada for the first time in 1970.

2. Presidential Proclamation No. 3279 and Oil Import Regulation 1 (Rev. 5) violate Article I, Section 8, Clause 1 and Article 1, Section 9, Clause 6, of the Constitution since, as described in Complaint pargraphs 42–49, they impose import restrictions which are not uniform throughout the United States and give a preference to ports in District V over those of Districts I–IV.

3. Presidential Proclamation No. 3279 and Oil Import Regulation 1 (Rev. 5) violate the due process clause of the Fifth Amendment by discriminating arbitrarily and without rational basis, as described in Complaint paragraphs 42–49, against Districts I–IV.

4. Presidential Proclamation No. 3279 and Oil Import Regulation 1 (Rev. 5) violate Section 232 of the Trade Expansion Act since the Act does not authorize different import restrictions, as described in Complaint paragraphs 42–49 above, for different areas of the United States.

5. The oil import program, as implemented, violates Section 6(a) of Presidential Proclamation No. 232, because, as complaint paragraphs 50–52 above describe, the Director of Emergency Preparedness has failed to determine whether price increases are necessary to accomplish the national security objectives of the statute.

RELIEF

Wherefore plaintiffs respectfully request that this Court:

1. Declare that the oil import program or its implementation violates Article I, Section 8, Clause 1, Article I, Section 9, Clause 6, and the due process clause of the Fifth Amendment of the United States Constitution, Section 232 of the Trade Expansion Act, and Presidential Proclamation No. 3279, as alleged in the five causes of action.

2. Enjoin the defendants from continuing to impose quotas on oil imports into the United States under Section 232 of the Trade Expansion Act, Presidential Proclamation No. 3279, or Oil Import Regulation No. 1 (Rev. 5) unless and until a program is adopted which is fully consistent with the Constitution, Section 232, and Presidential Proclamation No. 3279.

3. Enjoin the defendants from operating or enforcing oil import quotas unless and until:

(a) The Director of the Office of Emergency Preparedness has made current findings, based on thorough investigation and analysis of all factors relevant to protecting the national security, which show that oil imports are threatening to impair the national security and that import quotas at a specified level are necessary to protect the national security;

(b) The President has issued a proclamation based on the findings of the Director of the Office of Emergency Preparedness which establishes an oil import program reasonably designed to protect the national security; and

(c) The Director of the Office of Emergency Preparedness has made a determination as to whether each oil price increase since 1959 was necessary to accomplish the national security objectives of Section 232.

4. Even if the present oil import program is found in other respects to be valid, enjoin the defendants from:

(a) Operating or enforcing a different quota system for different areas of the country; or

(b) Imposing a quota on oil imports from Canada without a finding that such imports threaten to impair national security.

5. Order defendant Director of the Office of Emergency Preparedness to make current findings based on analysis of all factors relevant to protecting the national security, as to whether:

(a) Oil import quotas are needed to protect the national security and whether the present program in fact protects the national security;

(b) Oil import quotas on Canadian oil are needed to protect the national security and whether the present program restricting Canadian oil in fact reasonably protects the national security.

6. Order defendant Director of the Office of Emergency Preparedness to determine whether past oil-price increases were necessary to accomplish the national security objectives of Section 232 and to make similar determinations as to all future oil-price increases.

7. Order defendants to pay the costs of this suit.

8. Provide such other relief to the plaintiffs as the Court may consider just and proper.

Richard A. Frank.
Joseph Onek.
Bruce J. Terris.
Attorneys for Plaintiffs.

James S. Erwin, Attorney General, State of Maine; Richard J. Israel, Attorney General, State of Rhode Island; James M. Jeffords, Attorney General, State of Vermont; Robert K. Killian, Attorney General, State of Connecticut; Robert H. Quinn, Attorney General, State of Massachusetts; Warren B. Rudman, Attorney General, State of New Hampshire; Alan Morrison, Attorneys for Public Citizens, Inc.

April 27, 1972.

VISIT TO SOVIET UNION BY SECRETARY BUTZ

Mr. ALLOTT. Mr. President, Secretary of Agriculture Earl L. Butz, as we all know, has recently returned from an historic visit with leaders of the Soviet Union. The possibility of large sales of grain to the Soviet Union and the resulting potential stimulus to American agriculture is exciting. I applaud the Secretary's initiatives. So that Senators can more fully acquaint themselves with the Secretary's activities on this mission to the Soviet Union, I ask unanimous consent that an address by the Secretary to the Fort Wayne Press Club at Fort Wayne, Ind., on April 21, be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

ADDRESS BY SECRETARY OF AGRICULTURE EARL L. BUTZ

I would like to report to you on our recent mission to the Soviet Union. This mission was vitally important for the United States as a nation, and for farmers in particular.

I was invited to Russia by Soviet Minister of Agriculture Matskevich, who has twice visited the United States. He first came in 1955 leading a dozen Russian farmers for the first visit of such a Russian group to the United States. That was during the Eisenhower Administration while I was Assistant Secretary of Agriculture. In my official capacity, I went to the airport at New York City to welcome the Russians. I was the first American that Minister Matskevich shook hands with when he touched American soil 17 years ago.

Last December he returned to the United States and we were together for two long conversations and a couple of luncheons in Washington, at the start of his American tour and again at the close of his American tour. At that time, Minister Matskevich issued an official invitation to me. As President Nixon's plans for his May 22 trip to Russian developed, and as the possibilities for further trade in grains with Russia began to unfold, the plans were set.

Our mission had two main purposes: (1) to improve United States relations with Russia; and (2) to explore the possibilities of United States grain trade with Russia.

Did we achieve our goals? I think we did. *The entire trip produced an open atmosphere for further discourse between Russia and the United States.*

The highlight of our journey, which occurred the evening before our return from Russia, was spending nearly an hour and a half with Soviet General Secretary Leonid Brezhnev. U.S. Ambassador Beam and I were the only Americans in the room. Minister of Agriculture Matskevich was there and the interpreter. We had a very frank and open discussion. Our exchange covered the problems involved in expanding trade between our two nations and the desirability of expanding trade and furthering exchanges of various kinds between our nations.

This meeting was historic. This was the first time that General Secretary Brezhnev had met in private discussion with an American representative since he took office in 1964. The meeting was carried on the front page of Pravda—the Soviet Party Official Newspaper—and was reported as having taken place in an "unforced" atmosphere, which officially tags it as a friendly visit.

Our unprecedented meeting with General Secretary Brezhnev as well as the cordial treatment accorded us by Minister Matskevich and the Russian people helped open the way for more friendly relations between us and the Soviets. I mingled with the Russian people, made speeches where curious Russians gathered and spoke to them about food, trade, peace, and prosperity—and I was heartened by their warm and spontaneous applause.

And—we were able to carefully plant the seed for potential sales of U.S. grain to Russia.

Most of our journey focused on Russian agriculture and trade in grains. Minister of Agriculture Matskevich was a most cordial host. He met us at the Airport and then escorted our party on a number of farm visits. We visited a cooperative farm, a state farm which included some processing facilities, and a cultural center on one of the farms. We saw the 150-year-old Russian Botanical Garden; a state farm just outside Moscow where they have more than 120 acres under glass in a very efficient, attractive and obviously well-managed vegetable production plant; and a horse breeding farm near Moscow.

We had a favorable impression of the Russian people we saw. The farm people were genuinely friendly. The people on the streets were colorfully dressed and appear healthy. One should not discount the fact that the Russian people have made progress in the last 25 years, and this is the main standard that the Russian people have to judge—they compare what they now have with what they had before. To them that is progress.

There is evidence that the Russians are allowing more incentives to enter their system. Maybe they don't get paid off in more money for doing a good job, but they do get some amenities that are an incentive. The Russian people can also put extra money in a state bank and draw interest. They can buy a cooperative apartment if they don't want to wait until they get better quarters furnished by the state.

We saw incentives on farms, too. In the villages where the farmers live, they have individual plots of ground where they have fruit trees and a vegetable garden. They also have some individually owned livestock—and these do better than the state-owned livestock—as one would expect. The individual owner can sell some of his livestock products—again, a recognition of more incentive creeping into the system. A considerable part of Russian agricultural production comes from private plots and privately-owned livestock.

Russian productivity is increasing. Sooner or later this type of rising productivity reflects itself in a rising standard of living—now reflected in Russian housing, dress and diets. It's an old cycle. After you get enough to eat, you then try to make the diet more exciting. You no longer eat to live; you live for more excitement.

The Russian government has given the people reason for their rising expectations by publicizing the goal in the current five-year plan of increasing the protein component in the Russian diet by 25%. In other words, the Russians are looking forward to more meat, meat that comes from grain-fed livestock.

Although we could see only a small fraction of Soviet agriculture—and even though that which we saw was carefully selected for us—the grain situation was fairly clear. Russia has had a hard, cold winter with little snow cover. Even Moscow has had little snow. There has been considerable winterkill of wheat, and there is a definite lack of moisture. Both General Secretary Brezhnev and Minister Matskevich readily admitted this situation in our discussions.

Russia now needs added grain because her people are moving in the direction of a rising level of living and a rising level of expectations regarding animal protein in their diet. Now that the Russian government has acknowledged this as a goal, it makes it difficult if they do not follow through. That's why Russia will be in the market for grain, and that's where we come in.

Russia can buy some wheat from Canada, Australia, and France—but there is little corn available anywhere in the world except in the United States; and we are, of course, about the only country with soybeans available in any quantity. They want what we've got—and we've got what they want! So, we talked about trade.

A special grain trading team accompanied me to Moscow. I made the opening statement on the part of the United States in the formal discussions between our trading team and the team of the Russian Ministry of Foreign Trade. Then our trading team, headed by Assistant Secretary of Agriculture Clarence Palmby, remained in Russia for further negotiation.

The real thrust of these negotiations was to explore the respective trade positions of the two governments. These were the first formal talks over such matters. The negotiations were used by both sides to establish their formal, opening positions. These discussions will continue as a part of other negotiations between the countries.

I discussed the possibilities of grain trade in great detail with Minister Matskevich and with General Secretary Brezhnev. These discussions and the work of the negotiating team have led to better understanding of Russia's food needs, of our ability to supply coarse grains and soybeans, and the issues which must be resolved to arrive at meaningful and substantial trade in the years ahead.

So—in terms of the goals of the mission—it was very successful.

But, like everything else that we put in the ground—no matter how carefully we ready the soil and plant the seed, lots of things can happen and lots of other work has to be done before the harvest. There are several important items that have to be worked out.

The greatest issue appears to be terms of credit.

Our export sales of grain are made by commercial trading firms, and it is not easy to substitute government credit for a commercial sale on our side to a state trading monopoly on the other side. But these difficulties aren't necessarily insurmountable.

We are currently offering Russia the opportunity to buy grains in the United States on identically the same terms we offer any other nation in the world. We have certain limitations imposed by the Congress on the rate of credit we can extend, and the length of credit terms. Our maximum term as set by the Congress is three years, and the allowable interest rate is the going rate, now 6⅛ percent. It's not easy for the Soviet leaders to understand the difficulties of revising a law in the United States. For example, one of the Russian negotiators who wanted lower interest rates turned to me and said—"Well, you're the Minister of Agriculture, why don't you change the law?" It was obvious that they never saw a Secretary of Agriculture before a Senatorial Committee in Washington!

The volume of any grain sale is still a major item in the negotiations.

It might well be that we will be negotiating for annual sales of something in excess of $200 million worth of coarse grains and soybeans. This is based upon our best calculations—and frank discussions with General Secretary Brezhnev and Minister Matskevich—of the amount of grain Russia will need to boost her meat supply enough to keep the commitment made to the Russian people.

Part of the consideration will be what the United States might buy in return.

It would be unrealistic to think that it would be possible for Russians to make a purchase from the United States in the magnitude of $200 million without selling something in return. I pointed out that we fully understand that, to develop that kind of trade on a long-term basis, we have to develop a two-way trade. The only way that the Russians can pay for $200 million worth of grain each year is with exports. In that connection, we discussed the current explorations taking place on development of the natural gas and petroleum reserves in northern Russia which are very substantial, and which represent items we're going to need in 10 years. The Continental United States is now virtually doubling its energy requirements every 10 years, and by the latter half of the 1970's we'll be desperately in need of energy.

General Secretary Brezhnev indicated that he would also like to develop a list of consumer commodities for which we might consider trading, and Ambassador Beam said that he would be happy to receive such a list through the Office of Foreign Trade. I anticipate that such a list will be developed.

There is also a question about the length of any agreement.

I have assured the Russians that they are absolutely safe in building up their livestock population based on a continuing supply of coarse grains and soybeans from the United States, because it will always be there. We have 70 million acres in reserve now that has been taken out of production that we can put back in as needed. We produce corn and soybeans efficiently; we are truly the world's breadbasket in the Corn Belt and Great Plains areas. We have the world's largest contiguous area of fertile soil, adequate rainfall, good growing season, well-capitalized farms, and well managed farms. We have the capacity to meet our end of a long-term grain trade agreement with the Russians.

Our negotiations are just beginning, and there are many things to be worked out, but I am confident.

The Russians are tough—but they are also smart. I made one critical point with General Secretary Breshnev that struck home. I pointed out that, in the last 20 years in the United States, we have tripled our per capita consumption of poultry meat, and we have doubled our per capita consumption of beef, primarily because we have learned how to balance our rations. We have learned how to put high quality soybean meal, a protein supplement, with corn, which is one of the most efficient energy sources we have, to increase the efficiency of meat production. The General Secretary is vitally interested in efficiency. He quickly grasped this concept—that with a limited amount of energy grain available, if you supplement it well, you increase your efficiency. That point, I believe, helped to convince him that U.S. coarse grains and soybeans together—are needed to enable Russia to meet its commitment of supplying more meat to her people.

I'm confident. It all boils down to this. The expectations of the Russian people are rising. They're doing better and they want to live better. Part of that is eating better—which means they want meat. It takes grain to produce meat. Russia has a shortage of grain and protein. We have the coarse grains. They know we have them. We have the soybeans. They know we have them. So, I am confident that, sometime, we're going to be trading on a substantial basis.

IN THE NAME OF ECONOMY

Mr. CRANSTON. Mr. President, since World War II, the United States has spent $1.1 trillion on arms and war—much of it needlessly, much of it wastefully.

Now, in an attempt to cut back Government expenditures, there is a danger that unwise reductions will be made in our space budget. There can be wise reductions in our space program. There also can be very unwise reductions.

A fine and timely article written by a Los Angeles Times columnist who is attracting a rapidly rising national readership and respect—D. J. R. Bruckner—expresses my own views on the value of the knowledge to be gained from carrying on, in a prudent way, our space program.

I ask unanimous consent to have printed in the Record an article entitled "In the Name of Economy, All Systems Stop," written by D. J. R. Bruckner, and published in the Los Angeles Times of April 17, 1972.

There being no objection, the article was ordered to be printed in the Record, as follows:

In the Name of Economy, All Systems Stop

(By D. J. R. Bruckner)

New York.—Going to the moon may seem old hat to many people. The news media have had a hand in creating this illusion. We did not intend it that way, but the man who is on the street and not in the rocket has seen enough space travel on television and read enough about it, that he may have the notion he has participated in it and no longer finds it exciting. That is a pity, too, because lack of popular excitement makes it easier for the budget-cutters to rip up the space program, a program which, ironically, begins to pay its biggest dividends in knowledge precisely when its probes into space become regular, unexciting, valuable work projects rather than thrilling joy rides.

One of the most striking features of the history of technology in this country has been our repeated failure to develop many of our own best inventions until some other country did it first. A leap of imagination has been followed by a period of uncertainty in many fields of science and technology where Americans have pioneered. The current depression in the space program may be only the downbeat in that historical rhythm.

There will be only one more Apollo moon flight after Apollo 16. In the last three years, since that day when Neil Armstrong first stepped on the moon, the space budget has been reduced steadily, the number of Apollo flights cut back, the proposed grand tour of all the planets in the Solar System by an unmanned vehicle canceled. Even the economizers in Congress must sometimes wonder what has been achieved by these cutbacks; for almost 200,000 jobs in aerospace have been lost.

The Apollo program cost the nation about $25 billion in a decade. The argument one hears in Congress is that spending at this level is too high, that the money should be applied to necessary social programs on earth. It is true that, when your resources are limited, you have to choose which things you want to do. But it is not unreasonable to reckon that, by the time we get out of Vietnam, we will have spent 10 times the Apollo budget on that venture.

Last year Congress, at the urging of the White House, gave business a series of tax breaks that will cost the Treasury nearly twice as much in the next decade as the Apollo program cost in the last. During the Apollo decade we spent at least five times as much on highways as on space. The total Defense Department budget for that decade was at least 24 times as great as the Apollo budget. We spend more every year to pay farmers for not growing food than we ever spent in one year in the effort to go to the moon.

We do all kinds of costly things we need not do. Space exploration budgets suffer, as indeed do all scientific research budgets, if all we get from them is knowledge. One of the strongest arguments now being made for building the proposed space shuttle is that it will be of great military usefulness. The argument may persuade Congress to fund the vehicle, but do we really need another weapon? The great use of the shuttle, in fact, will be as a tool supporting research, including the construction and maintenance one day, one hopes, of a research station on the moon's surface. But, of course, that is not reason enough when one is arguing with Congress about money and national priorities; if we cannot convince ourselves that it will help destroy something, we won't put up the money for it.

And the Apollo program destroyed nothing. It only added a cubit to the stature of every American in the eyes of mankind. It only benefited the understanding, the imagination and the spirit of humanity. It has only opened up enormously fruitful areas of knowledge about how the world we live in was formed, and how it works.

The space exploration program, like the high energy physics research programs (which delve into the tiny insides of matter, while the rockets reach out into its huge extensions) represent the place where technology becomes the living tool of the intellect, allowing the human mind to understand a little of the astonishing poetry of creation.

Every one of us shares in such knowledge and through it we share a little in the lives of the great discoverers of nature, "whose lives," Sir Thomas Browne once said truly, "are pure flames, and they live by invisible suns within them." But for three years now, when budget-trimming time has come in Washington, we have trimmed away the funds for scientific research, for high energy physics, for space research. We will stunt our understanding and lop off pieces of our minds to save money. This is the economizing of brutes and barbarians.

The Apollo program has been a work of merit, even if glory, in a dark time of our history. If any achievement of mankind is remembered, this one will be. To ask whether it was worth it is to ask whether anything is worth what it costs. I, for one, would rather be counted a citizen of that nation which opened up to heavens and sent men to the moon than one of a nation which built more highways than any in history, or was richer than any in history, or as a citizen of that nation which, at unspeakable cost, went to Vietnam.

ADDRESS BY THE VICE PRESIDENT TO MAINE REPUBLICAN CONVENTION

Mrs. SMITH. Mr. President, the Vice President came to Maine this past Friday and said some things that needed to be said. He said them with clarity. What he said should be repeated many times with the dignity in which he said it.

I ask unanimous consent that his address to the Maine State Republican Convention be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Several months ago, in his State of the Union message, President Nixon used the word "good" to describe the United States. "America is great," said the President, "not because it is strong, not because it is rich, but because it is good."

Now there was a time when a statement like that might have been regarded as bland, even obvious. It was the kind of remark you heard at Fourth of July ceremonies. The speaker would say what a fine country the United States was, and everybody would nod absently and wonder when the fireworks began.

Today the climate is different. Today the modest statement that America is a good country comes under the heading of hot controversy. And anyone who has the temerity to utter it does so with the knowledge that many will disagree—and that those who *do* disagree will be treated with respect, even big media.

For we live in a curious era when the national spotlight is forever focused on the paranoid and the masochist and the smear-America cheap shot artist. We live in an era that panders to those darlings of the left who delight in denouncing this country, its history, its traditions, its principles, its achievements, its dreams and its people.

America, shout the cicerones of self-hate, is *not* a good country. America is an evil country. To become a good country, they tell us, we must forsake our heritage. We must overthrow our institutions. We must abandon our beliefs and our methods and our goals. And if we suffer grievously in the process, so much the better. After all, they tell us, we have many sins for which to atone.

And it isn't just the hard-core left that shrills the refrain. You find condemnation of America on the editorial pages of some of our most influential newspapers and magazines. You hear diatribes against America on nationally-broadcast TV and radio programs. You encounter anti-American philippics in our classrooms and our churches and corporate board rooms—even in the Halls of Congress.

I should point out that I am not referring here to criticisms of specific flaws and injustices, for like all societies we have our flaws and our injustices and they should be exposed. And they must be corrected.

What I am talking about are blanket indictments of the Nation as a whole—of Americans as a people—of 200 years of the toil and the sacrifice and the inspiration that hammered a wilderness into the envy of the world.

What I am talking about is the tendency of some of our most esteemed citizens to describe America as bad beyond redemption. Beyond redemption, that is, under our present system of Government.

The extent to which this nihilist mood has engulfed us can be seen in much of the current, Presidential-year oratory. Vicious attacks on America have become standard items in the campaign kits of men who aspire—or have aspired—to our Nation's highest office.

Of New York Mayor John Lindsay, for example. Shortly before announcing his candidacy for President, he devoted an entire speech to a condemnation of the United States. It was during this talk that he called America "the most violent Nation on earth." But I shouldn't be too critical of Mayor Lindsay. He did make one major contribution to the national welfare. He saw the handwriting on the wall and stopped running for the Presidency.

And Senator Muskie has also exhibited a singular lack of enthusiasm for his native land. At the time of the Attica prison uprising, the Senator sympathized openly with the inmates who, in his words, "would rather die than live another day in America." Not in prison, you will note. "In America." It's easy to see how Senator Muskie feels about this country. In fact, during the Presidential primary campaigns in New Hampshire and in Florida, Senator Muskie asked his audience this question, "Wouldn't it be nice if we had a country we can love, believe in, work for and die for?" Well, I have news for the Senator. We have such a country. It's called the United States of America.

And then there is Senator McGovern, who recently called America "sin-sick," and Senator Kennedy, who has stated that "our national spirit is in eclipse."

Perhaps nothing reflects this mood of self-abasement so clearly as the reaction by certain members of Congress to the news just about a month ago that North Vietnam, in violation of specific agreements and the basic principles of international law, had invaded its neighbor to the south and that America had responded by bombing the assault columns along with military installations in North Vietnam.

The response by Senate Democrats was immediate and vigorous.

Senator Muskie of this State denounced the "shocking development" and warned of the possibility of "irreparable harm" and a "serious international incident."

Senator McGovern termed the events "sickening" and "immoral" and "reckless." "It was all," said the Senator, "a desperate gamble."

Senator Humphrey was somewhat more restrained. He used the phrase "most unfortunate."

Senator Kennedy spoke of a "senseless, reckless policy," "a bloodbath" and "a dangerous and extravagant exercise in brinkmanship."

Senator Fulbright referred to the situation as "drastic," "barbarous," "inhumane" and "obscene."

Senator Tunney called it a "horrible and tragic mistake."

Senator Hartke was appalled by the "massive savagery" and "terror"; Senator Mondale was sickened by the "slaughter and folly and deception" and Senator Pell was "saddened and sick at heart."

Now what was it that was so "shocking" and "sickening" and "immoral" and "reckless" and "senseless" and "barbarous" and "inhumane" and "obscene" in the eyes of these aroused Democratic Senators? Was it the unprovoked, vicious invasion of South Vietnam by the tanks and infantry of North Vietnam? Was it the systematic destruction of South Vietnamese villages by North Vietnamese artillery? Was it the hurling of rocket and mortar rounds into the cities? Was it Hanoi's flagrant disregard of international agreements?

Of course it wasn't. Those Democratic Senators have difficulty thinking of anything derogatory to say about this ruthless nation that has already invaded three of its neighbors—Laos, Cambodia and South Vietnam. They have no words of disapproval for the Hanoi regime that seems intent on swallowing up Southeast Asia in precisely the same way that Adolf Hitler swallowed up half of Europe.

No, ladies and gentlemen, the words I mentioned a while back—the harsh, bitter, vituperative words—were used by Senators Muskie and McGovern and Humphrey and Kennedy and Fulbright and Tunney and Hartke and Mondale and Pell to describe, not the actions of the North Vietnam invaders, but those of *the United States of America. Their* country, as well as ours.

And what did the United States do to warrant this invective? What was our terrible crime? Well, in the eyes of the Democratic high command we committed the unpardonable sin of responding to the invasion. We deployed our air power to help South Vietnam defend its villages and its people against the onslaught from the north . . . *and to protect the lives of American soldiers still on duty there* . . . soldiers, I might mention, who were sent over to Vietnam by the two previous Democratic Administrations and are now being brought back by President Nixon.

To the Democrats, this was a serious escalation of the war and, in their Alice in Wonderland world, it was not the attackers who escalated the war, but the defenders. It was not the invaders, but those who tried to stop the invasion. It was not the armored columns from North Vietnam rolling into South Vietnam, but the American airplanes sent out to halt these columns.

And on April 20th, the Democrats in the House of Representatives made their views official by adopting an astounding resolution that criticized the President of the United States for his "dangerous escalation" of the war. This is the President who has brought back from Vietnam almost a half million American soldiers sent over by his Democratic predecessors. This is the President who offered Hanoi the most generous peace terms ever offered an enemy of the United States. And this is the President they accuse of escalating the war.

Then came the incredible letter from Madame Binh, head of the Vietcong delegation to the Paris peace talks. She wrote to the members of the United States Congress, urging them to repudiate their President, to condemn America's actions in Vietnam and to support the efforts of the Hanoi regime.

Obviously encouraged by America's pro-Vietcong activists, Madame Binh was, in effect, asking the Congress of the United States to collaborate with the enemy.

Did those Democratic Congressmen who were so quick to denounce President Nixon at least reproach Madame Binh for her unbelievable impertinence? Of course not. There has been no affirmative answer to telegrams from Bob Dole asking Senators McGovern, Humphrey, Muskie and Kennedy to reject the Binh letter and to declare their opposition to Hanoi's policy of aggression.

Nor did the Democrat-controlled Senate reply affirmatively to Senator Goldwater's request for a vote on what he described as "a simple resolution condemning aggression and supporting the government which we all serve."

He made the request in a memorable speech on the Senate floor—a speech that was shamefully, but predictably, ignored by the major news media. In it, he referred to the Vietnam-related activities of the Senate Democrats as "the most selfish brand of politics I have ever seen indulged in, in this country."

He said President Nixon had done more than anyone else in the world to end the war in Vietnam, and he added that "never has an American President had so little help . . . from the opposition party" in trying to achieve peace.

Senator Goldwater recalled the well-publicized incident on the morning of April 19th when 20 American radicals showed up at the Soviet Embassy and made a formal request for more Russian military aid to North Vietnam. These members of the People's Committee for an N.F.L. victory, as they called themselves, carried signs saying "Avenge Hanoi and Haiphong" and "Send More Missiles to Shoot Down More U.S. Planes."

"I wonder," said Senator Goldwater, "if Senator McGovern feels 'a sense of horror' when he reads about Americans agitating in the streets for more equipment to kill American fighting men."

In repeating his call for a vote on the resolution supporting the U.S. Government, Senator Goldwater made this statement:

"If we don't take some action of this kind very soon the Senate of the United States will look for all the world as though it was taking orders directly from Mrs. . . . Binh. . . . Her letter received worldwide publicity. It should be formally rebuffed by Senate action on my resolution."

But as you know, Madame Binh's letter was not rebuffed. It was not rebuffed because some Americans seem to have become so blinded by their opposition to this war and by their hostility to this Administration that they have apparently forgotten whose side we are on. So let me remind them. United States airmen and sailors are fighting gallantly today on the side of the victims of naked Communist aggression. We are *not* on the side of the Hanoi aggressors.

Yet some United States Senators continue to act as though we were. They are outraged by our bombardment of the North Vietnamese invaders, but strangely silent about the indiscriminate enemy shelling of South Vietnamese civilians.

They are fearful that our actions against the invaders might antagonize the Soviet Union, but they fail to ask whether Soviet support for the invasion should antagonize the United States.

They vilify and badger and harass the leaders of the United States, but they can find nothing wrong with the leadership of this country's enemies.

They have taken the old Stephen Decatur line and twisted it into a grotesque parody of itself. No longer is it "our country, right or wrong." To them, it is "our country, always wrong."

To me, ladies and gentlemen, an essential difference between President Nixon and his Democrat critics is that he believes this is a good country and they do not. What other reason could they have for belittling and besmirching and berating America, as they do? Why else would they continually find fault with this country's principles and institutions? What other explanation could account for the fact that, whenever America is criticized by another nation, they always seem to be standing four-square behind the other nation?

It is more than anger at those who malign our country that prompts me to speak up today. I do so because I am convinced that, by creating an atmosphere of doubt and despair, the defamers of America are inhibiting the efforts of dedicated Americans who want to make this good Nation of ours an even better one. To work effectively for improvement, you have to believe in the essential wholesomeness of what you are improving. Some of our more outspoken critics obviously do not believe in the essential soundness of America, and they are doing their best—or perhaps I should say worst—to infect others with their own destructive melancholia.

I sometimes think we Americans are too close to America to appreciate it . . . to realize what a truly wonderful country this is. We do not love America enough because we take it for granted, because we have basked for so long in the freedom and the luxury and the security of our great country.

Perhaps you have to live in another land to grasp completely the glory of America. And foreigners do seem to grasp it. Millions of them exhibit their knowledge in the most meaningful way possible—by doing everything in their power to come to the United States. There can be no doubt that if all the immigration and emigration barriers around the world were suddenly lifted, the biggest human caravan of all would head our way.

While many other nations post guards along their borders to keep their citizens *in*, America must patrol its borders to keep illegal aliens *out*. Last year, the Immigration Service turned back 340,000 illegal immigrants along just one boundary of the United States, and it is known that many illegal aliens managed to slip through, despite our efforts. Some of them pay as much as $250 to smugglers to cross the border, and all of them run the risk of imprisonment or injury or both.

Can you, in your wildest imagination, conceive of hundreds of thousands of people trying to get themselves smuggled into Cuba? Or North Vietnam? Or some of the other pleasure spots idealized by the New Left?

I think a most moving expression of a non-American's attitude toward this Nation can be found in Mary Antin's *The Promised Land*. In it, she recalls her emotions when, as a teenager growing up in Europe, she heard she was moving to the United States.

"At last I was going to America," she wrote. "Really, really going, at last! The boundaries burst. The arch of heaven soared. A million suns shone out for every star. The winds rushed in from outer space, roaring in my ears, 'America, America!' "

Mary Antin put into words what so many of us feel and cannot say. But feel it we do. That is why the enemies of America, both at home and abroad, will never succeed. That is why the American ethic—those qualities of decency and honor and self-reliance and, yes, patriotism, upon which this Nation was founded and through which it has flourished—that is why these fundamentals of Americanism will always prevail. For, contrary to the irresponsible and shameful rhetoric of some of our Democrat opponents, America *is* a good country. And with all our strength—with all our dedication, we are going to keep it that way.

CRITIQUE OF THE FINANCE COMMITTEE WELFARE PROPOSAL

Mr. RIBICOFF. Mr. President, the welfare program tentatively approved by the Committee on Finance represents a long step backward on the road to welfare reform.

The Finance Committee proposal leaves intact the existing, widely discredited welfare system, although at lower payment levels, and adds on top of it an overlapping jumble of wage subsidies, social security tax rebates, childrens' allowances, work disincentives, and subpoverty wage programs.

Rather than coordinate and improve the operation of our welfare program, the committee proposal compounds the lack of coordination by scattering new programs throughout the Federal Government. The new "workfare" programs would be administered by the Departments of Labor, HEW, Treasury, and a new Federal Employee Corporation in addition to 1,152 administrative units at the State and local level which already handle the AFDC program.

The committee's proposals supposedly increase work incentives, but the combined effect of the disparate array of income supplements, tax rates, and job programs is to discourage people from working. Welfare recipients will be in a continuing state of confusion about how to relate to all the offices and programs involved.

Even more importantly, however, the vast majority of welfare recipients who are unable to work would be frozen at a payment level of $2,400 for a family of four or more payable by the Federal Government. No incentives or requirements for the States to make supplementary payments are included in the committee's plan. As a result, most welfare recipients would suffer massive payment cutbacks.

The costs of the committee proposal would exceed those of H.R. 1 by over $10 billion and would cover some 30 million people. Yet much of the money for the program would not be concentrated on the poorest of the poor. Instead, large amounts would go to those earning relatively more money. Administrative costs would also be increased since records would have to be maintained and transferred between many different Federal, State, and local agencies.

A more detailed analysis of the committee proposal illustrates the confusion and inequities inherent in the plan.

I. WELFARE FOR UNEMPLOYABLE FAMILIES WITH DEPENDENT CHILDREN

The committee proposal would retain the present AFDC Federal-State program for families without an employable adult at a payment level of $2,400 for a family of four or more—$1,500 less than the poverty level. The Federal Government would pay 100 percent of this cost rather than matching State costs at formulas now varying between 50 and 83 percent.

But the Federal Government would provide absolutely no financing of payment levels above the $2,400 level, leaving the States free to pay nothing in addition. My proposal would require the States to supplement above a $3,000 basic payment up to a January 1971 level and even H.R. 1 would provide incentives in the form of Federal assumption of administrative costs for those States which chose to make supplemental payments.

The effect of the committee's proposal is that recipients in over 30 States whose payment levels now exceed $2,400 for a family of four would be threatened with cutbacks in payments. My proposal would assure that no one receives less under welfare reform than he or she receives under AFDC.

The committee proposal would also establish residency requirements for welfare—requirements which repeatedly have been held unconstitutional as a violation of the equal protection clause of the 14th amendment.

The problems of the AFDC program lie beyond abuses and loopholes which can be plugged. They lie in the very structure of the program. Lines of responsibility are split up between the Federal Government, 54 State level jurisdictions and 1,152 local administrative units of varying degrees of inefficiency. Payment levels are inadequate. And the present program is structured to encourage family disintegration, discourage work, demean the recipients, and assure inefficiency and inadequacy.

What is needed is an entirely new program—the family assistance plan—where lines of responsibility are clearly drawn—at the Federal level.

The new program which I have proposed does just that. Administrative responsibility would rest at the Federal level in a coordinated partnership between the Departments of HEW and Labor. Experience in the Social Security Administration has shown that the Federal Government is best equipped to handle the payment functions of income maintenance. Most service functions would be left at the local level where people knowledgeable about specific local conditions can tailor programs to meet the needs of people.

II. WELFARE PROGRAMS FOR EMPLOYABLE ADULTS

The committee proposal for employable adults is a complicated and tangled web of programs, subsidies, rebates, allowances, and makework programs almost defying description and certainly defying understanding by participants in the program.

Included in the "Workfare" program is a wage subsidy administered by the Employment Services of the Department of Labor, a payment to individuals by the Internal Revenue Service equaling 10 percent of wages covered by social security, and a children's allowance administered by a newly created Federal Employment Corporation, to which all employable welfare recipients would be referred. The inequities of these subsidies are obvious.

A. WAGE SUBSIDY

A wage subsidy would be paid by the Employment Service equaling three-fourths of the difference between a low wage in private or certain public jobs and the minimum wage. Such a subsidy would encourage employers to pay low wages since they could expect the Federal Government to pick up the costs of higher wages. In addition to this wage depressant effect, workers would be better off only if they worked longer hours. Nothing would be done to upgrade hourly wages.

This Nation should avoid a policy of encouraging workers to work more than 40 hours a week for subpoverty wages. Raising wage levels would be wiser. Furthermore, recipients would not be automatically eligible for the wage subsidy. They would have to apply to the local employment service—agencies which have consistently fallen down on the job of providing jobs and services to the poor.

The wage subsidy would only apply to jobs paying between $1.20 and $1.60 per hour. Thus, the most impoverished workers—those in jobs which pay less than $1.20—would not be aided. This group, comprising well over half a million individuals, is in dire need of assistance.

The wage subsidy has the effect—desired by the committee—of increasing the payment as hours of work increase, but it adds a 75 percent tax rate for earnings above $4,000—certainly no incentive to make more money. In fact, such a tax rate is more confiscatory than either present law, H.R. 1 or the Ribicoff proposal.

B. 10-PERCENT PAYMENT

Participants referred to private sector jobs would receive an additional subsidy of 10 percent of wages covered by social security. This payment, made by the Internal Revenue Service, would only apply to the base hourly wage, not to the wage subsidy portion of hourly income. This payment would be phased out as income rises above the poverty line at a 75-percent rate, thus ending any incentives to move above the poverty line.

Such a proposal rewards those with high hourly wages more than workers with lower hourly wages since the 10-percent subsidy is based on hourly wages. It provides no incentive for a worker to improve his lot, only to work longer hours.

Administratively this proposal would involve the keeping of a huge volume of records and the maintenance and transfer of records between IRS, the Federal Employment Corporation, and perhaps other agencies. Millions of tax records would become a part of the welfare maze.

While I share the view of the committee that it is desirable to relieve the poor of the burden of paying social security taxes—I have publicly supported a social security rebate to impoverished working Americans—I cannot accept the committee proposal since it is part and parcel of an unworkable and inequitable overall plan.

The legislation I have developed—amendment 559—would provide relief from both social security and income taxes through the earnings disregard feature. This is, in determining what is income for the purposes of computing the welfare payment, my proposal disregards the first $720 of income, 40 percent of additional income, and amounts paid for social security and income taxes.

C. CHILDREN'S ALLOWANCE

A children's allowance would be payable by the newly created Federal Employment Corporation at a rate of $25 monthly for the fifth family member, $15 for the sixth family member, and $10 for each additional member. Allowances would be payable only for family members born before June 30, 1973, and would be scaled down when family income reached $300 a month. Above this amount the allowances would be payable to families only if the employable adult worked at least 100 hours a month. Those working between 50 and 100 hours a month would receive only half the allowance and those working below 50 hours would receive nothing.

The result of this proposal is that children would be rewarded or penalized according to the hourly work effort of their parents. Need would not be considered and the only incentive to work would be to put in longer hours, not to upgrade skills or move up the job ladder.

No attempt should be made to equate the committee's restrictive children's allowance with allowances in other countries. In Canada, Denmark, Finland, France, Great Britain, Ireland, and Sweden children's allowances are paid to almost all children without regard to need. In Sweden, for example, all residents with one or more children receive an allowance at a rate of $16 per month per child. There is neither a needs test as in the committee's proposal nor is there a birth cut-off date for eligibility. In none of the countries does the children's allowance embody a philosophy that payments for the needs of infants and youngsters should be based on the hourly work effort of the breadwinner. The committee proposal is a children's allowance, then, only by a long stretch of the imagination.

D. FEDERAL EMPLOYMENT CORPORATION

While the vast majority of welfare recipients are unemployable, the Finance Committee proposal concentrates heavily on the small minority who are employable. The main structure of the program for families with an employable individual is the Federal Employment Corporation.

The FEC would attempt to provide job placement, job development, employability plans and manpower training. All employable adults registering for welfare would be required to become employees of the Federal Employment Corporation as a condition of receiving assistance. The FEC would attempt to place registrants in private jobs at the minimum wage or "subsidized" public or private jobs at less than the minimum wage. The 10-percent supplement would be provided for those taking private jobs and for the nonsubsidy portion of subsidized public or private jobs.

Those not so placed in "regular" jobs would become direct employees of the corporation at $1.20 per hour, far less than either the poverty line or the Federal minimum wage. These employees would receive no wage subsidy or 10-percent supplement. In fact, the FEC employees would be in limbo between Federal and private employment—ineligible for social security, unemployment compensation or workmen's compensation.

These direct corporation employees would be required to perform "useful work which can contribute to the betterment of the community." For mothers with younger children, training to improve the quality of life—improve homemaking, beautifying apartments, acquiring consumer skills—would be provided. The corporation would also provide temporary employment on a "Kelly girl" basis with reimbursement to the corporation. In effect, the Federal Government would be maintaining a subpoverty wage manpower pool at the disposal of the business community.

The concepts embodied in the Federal

Employment Corporation are confused and often erroneous. While the basic idea of making the Federal Government the employer of last resort is a sound one, the downgrading of public service jobs relative to private sector employment is unfortunate. The emphasis on providing "incentives" for workers to move into "regular" private employment by paying corporation employees only $1.20 per hour is absurd at best.

A major problem with the committee's proposal is that the private sector does not have sufficient jobs. In fact, over 5 million Americans are employed. Thus, even with extraordinary motivation, a corporation employee cannot escape his $1.20 per hour job if there are not other jobs. He is doomed to remain at a menial $1.20 per hour salary—$1,500 below a poverty level wage on an annual basis. And the corporation, by paying only $1 an hour for those in manpower training, is discouraging rather than encouraging participants to upgrade their skills and increase their income.

Rather than discouraging public service employment we should be fostering it. It has been estimated that State and local government could utilize as many as 4 million people in public service activities of all kinds—conservation, education, health, recreation, sanitation, criminal justice, child care, consumer protection. It should be obvious to all that our inner-cities are decaying, our air and water getting dirtier and our public services becoming increasingly unable to meet the challenge of providing us with the manner of existence we as Americans desire. Public service jobs should provide workers with at least a poverty-level wage. In this way we can both fight poverty and improve our communities.

NOMINATION OF RICHARD G. KLEINDIENST

Mr. FANNIN. Mr. President, on April 27, the Committee on the Judiciary voted 11 to 4 to reaffirm its earlier recommendation of February 29, 1972, that Richard G. Kleindienst be confirmed as Attorney General of the United States. I would remind Senators that this vote came after the longest hearings on any confirmation in the history of the U.S. Senate. They began on February 22, 1972, and continued through April 27, 1972, with 24 days of testimony, over 3,000 typewritten pages of transcript, and a mountain of documents submitted to the committee.

I observed a good bit of these hearings and have gone over the record. Most of that record has nothing—absolutely nothing—to do with Richard Kleindienst. That part of the hearings which did deal with Mr. Kleindienst produced nothing that indicates he is unworthy of confirmation. From the more than 3,000 pages of transcript, his opponents have laboriously constructed arguments against confirmation that are based on statements taken out of context and strained beyond their meaning. There is nowhere any proof of improper conduct or of any character defect on the part of Mr. Kleindienst that would justify withholding consent to his nomination.

Yet for weeks now, a handful of opponents on the Judiciary Committee have been able to tie up this nomination. Time after time, extensions were granted to allow the opponents to hear more and more witnesses who had less and less to say about Mr. Kleindienst. When it became apparent for all to see that these opponents were stalling, they continued to delay the confirmation for political reasons. The opponents put the same questions to the same witness over and over again, and they ranged far beyond relevant issues. They were allowed to broaden the scope of the hearings. They were permitted to extend the hearings to April 20. They were permitted to extend them again to April 27. Mr. Kleindienst's opponents have had every opportunity to develop the record on all relevant issues.

But I have heard that the stalling is not yet over—that efforts will be made to delay the nomination from coming before the full Senate. In fairness to Mr. Kleindienst and to all concerned, this nomination should be presented to the U.S. Senate without further delay so that the Members of the Senate may decide whether the nominee should be confirmed. Simple justice demands that, after such a trying, time-consuming and unproductive period during which ITT's internal workings were more important than Mr. Kleindienst's qualifications, his nomination be acted upon promptly.

THE EQUAL RIGHTS AMENDMENT

Mr. GURNEY. Mr. President, on March 22, the Senate passed, by an overwhelming margin, landmark legislation assuring equal rights for men and women. The equal rights amendment, in my opinion, was long overdue, and I am personally aware of the great deal of time and effort which was involved in the committee and floor debate on this bill.

Constantly at the forefront in the effort to achieve passage of the equal rights amendment was my friend, the distinguished Senator from Kentucky, Mr. Marlow Cook. During our Judiciary Committee meetings and Senate debate, Senator Cook played a major role in organizing and leading the cause of equal rights supporters. Time and again, in his familiar straightforward manner, he spoke on the background and need for this legislation, and his own convictions about its urgency. I commend Senator Cook on a job well done, and I am pleased to have worked with him on the joint resolution.

Mr. President, in view of his knowledge and interest in this subject, I was most impressed by a recent address to the Louisville Ad Club, in which Senator Cook comments on the practical effects the equal rights amendment will have. I think some people are still unclear as to the meaning of this legislation, and, as usual, Marlow Cook tells it like it is.

I ask unanimous consent that his speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Speech by Senator Marlow Cook

I chose the equal rights amendment as my topic for discussion with you today since I believe it will have beneficial effects for every man and every woman in this room. Its main thrust is to abolish the discriminations against women that are imbedded in our laws, since so many of them are founded on the old English common law principles where women had the status of chattels—of property. But the equal rights amendment will also end legal discriminations against men.

It seems ridiculous to me that the laws of this country should discriminate so arbitrarily. I think it is intolerable that the freest form of government in the world, a government dedicated to the proposition that all persons are equal in the eyes of the law, should draw lines of sex discrimination so unreasonably and unjustly. This is why I have worked so hard to gain passage of the equal rights amendment to the constitution. The discriminations against men and women are so pervasive in our laws, that a constitutional remedy is necessary.

After 49 years, the U.S. Congress finally agreed to the amendment—the House of Representatives by a vote of 354 to 23, and the Senate by a vote of 84 to 8. Eleven States have already ratified the measure and I hope Kentucky will follow their example as soon as its next legislative session begins. Two years after 38 States ratify the amendment, it will become effective. Thus, legislatures will have at least two years to change their laws which discriminate on the basis of sex.

But already I am reading in newspapers, and hearing from some who oppose the amendment, of the most terrible predictions as to what will happen when the amendment becomes effective. Well, the laws will have to treat all citizens equal regardless of their sex. To me this is a matter of simple justice and common sense.

There is already a trend in court decisions to equalize our laws, caused by legislation such as the 1964 civil rights act. But even that measure affects women only in the employment area, since sex discrimination was not included in the areas of equal opportunity in housing and education.

In addition, a change in women's legal status by way of judicial interpretation of the 14th amendment is not presently feasible. The Supreme Court has upheld the position, even as recently as this year, that differences in legal treatment, on account of sex, do not violate the equal protection clause of the 14th amendment so long as the law-making body has reasonable grounds for making such a classification.

The Supreme Court can overrule or ignore its own decisions as its membership changes. But I do not foresee the kind of decision forthcoming that is absolutely necessary to assure all our citizens equal protection and due process of law.

Constitutional amendments do not change. Only the 18th amendment was repealed. And just as the 19th amendment was necessary to assure our women citizens the right to vote in 1920, the 27th amendment is necessary now to assure them their other constitutional rights. The amendment, then, is necessary. But what will be its effects?

Opponents say, for example, that the amendment will mean that women will have to be drafted and sent to combat. Opponents cannot fathom this possibility and even tried, unsuccessfully, on the floor of the Senate, to strip Congress of its power to draft women even in the direst national emergency, and to exempt women from combat areas.

Thank goodness these opponents were not around in the past to tell women to stay in their place when it came time to defend their country. Thank goodness Joan of Arc did not know that she could be exempt from military service when she led the French to victory over the English in the 100 Years' War. Her country could not worry if there would be some inconvenience in the battlefield because men and women would be together. They had to win the war.

Thank goodness Molly Pitcher wasn't denied the opportunity to fight in our Revolutionary War. General Washington so appreciated her valor and prowess that he gave her a lieutenant's commission and placed her name on the roll of honor. She was in the battlefield with her husband, and when he was killed, she took up his gun, with great skill and accuracy. She was recognized as greatly contributing to the winning of the battle, and is credited with saving the cannon from capture by the British.

Thank goodness that Barbara Fritchie did not know that she did not have to enter combat when she said, "Shoot if you must this old gray head" to Stonewall Jackson when he and his Confederate army invaded Frederick, Maryland in our Civil War. She did not mind that she was going to be shot. She just did not want anyone to desecrate the American flag.

And thank goodness Clara Barton wasn't denied the opportunity to care for the wounded on the actual battlefields of the Spanish-American and civil wars because she was female. After her experiences in seeing such misery and the worst possible medical care for the wounded, she founded the American Red Cross to improve such conditions.

I could go on and on recalling the valiant women in this country's history. But I can also say that today, I thank goodness that our servicewomen serving their country in Southeast Asia were not told: "Sorry, because you are a woman, you may not serve your country in a combat area." Some 720 American servicewomen now are in Southeast Asia, and some have died there.

The point is this: Women are willing and capable of defending and serving our country, even in combat if necessary. Our laws not only deny women an equal opportunity of entering military service, since there are limitations on the number of women personnel in some services, but these same laws also deny equal protection of law to men, since only men are drafted.

Under the equal rights amendment, if we have an all-volunteer army, as I hope we will by the time the amendment goes into effect, women could volunteer for service on an equal basis with men. If we still have the draft, women could be drafted, once they pass the tests and meet the standards set, and would be assigned jobs in the military according to the needs of the service. Thus, opponents are incorrect when they say women would be assigned to combat units under present conditions, but in emergencies such as an invasion, they might be so called upon.

I have supported an all-volunteer army for some time. I do not particularly want my four daughters to be drafted any more than I want my son to be. But I would hate to ever tell my daughters and granddaughters not to worry about ever defending their country, that they can depend on their brothers and husbands to do it, even if the country's female population increased from its present 53% to, say 60 or 65%, and even if they, as women, were better able to serve than their brothers. No. As a matter of simple justice, the responsibilities of citizenship should be shared by all. When women serve their country equally with men, they will not only share in the benefits of service—such as job training and experience, and veterans' benefits such as preference over non-veterans in employment and educational, housing, insurance and health benefits—but their status as citizens will rise, since they perform all the duties of citizenship equally with men.

Another dire prediction that opponents raise concerns privacy. They state that all prisons, all accommodations in military bases and all rest rooms will have to be open to both sexes when the equal rights amendment becomes law. They're wrong. They are entirely incorrect. The legislative history of the amendment is what governs its interpretation, and from that it is very clear that the amendment would not force violations of a person's right to privacy. This constitutional right would still permit the state to segregate the sexes in such places as public restrooms, as well as sleeping quarters of public institutions as coeducational colleges, prison dormitories, and military barracks. The traditional power of the State to regulate cohabitation and sexual activity by unmarried persons reinforces the state's power to exercise separation of the sexes in such areas. This argument against the equal amendment was clearly answered in the Senate Judiciary Committee report and I suppose that those persons who continue to repeat it have chosen to disregard the clear intent of the amendment and ignore what courts will look to—the legislative history.

Opponents sometimes express the opinion that the equal rights amendment might adversely affect family life as we know it in America. The amendment only states that our laws shall treat citizens equally, without regard to their sex. It will not affect social customs or amenities. Equalizing family law is the only effect the amendment will have on families, and family law is another area where laws discriminate against both women and men. The equal rights amendment will force courts to judge each case on its merits. Too often now the granting of child custody, child support and alimony is based solely on the prejudices and generalizations that legislatures and courts have made that one party, solely because of their sex, should win. A better way to make a decision is on the facts of the case. Under the 27th amendment, the court would consider the needs of the parties and the ability of each to pay support or to care for children. Thus, the best interests of children would mean more than the sex of one of the parties.

I am sure that the men here can appreciate the justice of no longer forcing a man to pay alimony to his independently wealthy former wife. I am just as sure that the women here can appreciate the justice of making money awards according to the needs of the parties involved. If a woman is a homemaker, her financial status and not her sex would determine her needs in the awarding of support payments for herself and for any of her dependent children. The point of the amendment is to assure that justice is done to all parties, and only the facts of each situation should determine the outcome—not presumptions made because of ancient conceptions of marriage roles.

The equal rights amendment would also abolish the legal restrictions placed on married women, such as upon their property rights, their ability to engage in an independent business and their right to establish a legal domicile. I believe women are homemakers because they want to be homemakers and not because of the laws that restrict their activities outside the home. When we equalize family laws, I believe family life in this country will continue as it always has, or be strengthened.

Opponents of the equal rights amendment never seem to notice those criminal laws which impose longer prison sentences upon offenders because of their sex. Some laws discriminate against male offenders while others discriminate against female offenders. Such laws clearly deny equal protection of the law, yet have been upheld as recently as 1970 and 1971. The 27th amendment would equalize such criminal laws—as well as laws which impose different ages for males and females in child labor, age for marriage, cutoff of the right to parental support, and juvenile court jurisdiction. There is no reason to make sexual distinctions in these areas. We should grant protections and privileges equally to both sexes.

This is true also of our labor laws, the final area I wish to discuss. Opponents state that the equal rights amendment will abolish legislation that protects—that is their description, not mine—women workers. If these laws are truly protective, then courts and legislatures can extend the protections to men. Some headway has already been made in that direction in states like Kentucky which have added sex to their laws assuring equal employment opportunity to all. But it is also possible that courts and legislatures can strike down those laws which do not really protect women at all but restrict them from, for example, lifting over 15 pounds. My wife is a good example of a pretty strong gal. She does not weigh a great deal, but she has brought up five children and she lifts and carries around the house a whale of a lot more than 15 pounds. Women carry 15 pounds every time they lift a child. They work more than 60 hours a week in taking care of a family. So, many of these so-called "protective laws" aren't really protective but restrictive. They lock women out of higher paying jobs—because supervisors need to work overtime occasionally, or to lift more than 15 pounds at times.

We've been protecting women so well that they earn less than men in all lines of employment. In 1970, the median earning for a working woman was only 59% of the median earning for a man, and that was a drop of 5% since 1955. Women have been losing ground in the labor field. We've been protecting them so well that they hold most of the lower paying and less satisfying jobs. What a waste of potential and talent. If these laws really restrict women in their jobs, then they should be abolished.

On the other hand, if protection is really needed, then why should we discriminate against men? Why not protect everyone from a job that could injure their health? Why not set up laws that protect persons according to individual needs and capabilities, and not according to that person's sex?

Those who oppose the equal rights amendment because they fear that women could no longer be protected by labor legislation are not quite facing realities. Truly protective measures should be extended to protect all workers, and restrictive measures should be abolished. In fact, hours and weight-lifting laws can be held unlawful even now, under legislation such as the 1964 Civil Rights Act. The equal rights amendment will only reinforce the directive to State legislatures to equalize their protective labor laws, or the courts will.

And what of the benefits that accrue to workers in the form of social security? These laws discriminate in particular against men. The equal rights amendment would cause some very welcome changes. For example, the annuity of a man retiring at age 62 would have to be computed on the same basis as that of a woman retiring at that age. Right now a husband whose wife worked can receive his wife's social security only if he supplied less than half the family's income during the wife's lifetime. But any wife, even if she is independently wealthy, can claim her husband's benefits.

Any such discriminations in our laws, based solely on sex distinctions, would be abolished under the equal rights amendment—and they should be.

So, in conclusion, I will only add that this country will celebrate its second century of existence in four short years. In all that time our Constitution has been interpreted to contain a flaw. The Constitution provides that all men—all persons—shall be equal before the law of the land. But even made citizens are denied equality under the law and surely our female citizens are. This flaw needs correcting. Legal equality for all citizens is a matter of simple justice and common sense. In fact, I am very sorry that equal rights for women and men is a cause whose time has come. Because this is a cause that should have always been.

NATIONAL MINERALS POLICY

Mr. ALLOTT. Mr. President, the Secretary of the Interior has just submitted to Congress his first report under the Mining and Minerals Policy Act of 1970—Public Law 91–631. I had the honor of sponsoring the measure which became that law, and wish to compliment the Secretary of Interior and his capable staff for the thorough review of our minerals status and the searching analysis made of the problems facing private enterprise in the development and strengthening of our domestic natural resource base in minerals and fuels.

This report is a monumental work, and I am confident that nearly everyone interested in mineral development, the availability of mineral and metal commodities, and energy mineral supplies will find this report a very handy reference work. Those without any particular expertise in mining or mineral commodities will find it especially useful, since the data is succinctly laid out in layman's terms.

Mr. President, I wish to congratulate the many individuals who labored so hard to create this important document for a job well done. It will be of immeasurable value to thousands of decisionmakers, both in government and in private industry. Assistant Secretary Hollis Dole and his Deputy, Assistant Secretary Harry L. Moffett, are deserving of special recognition. It has been their leadership which has brought about the successful completion of this outstanding report.

I also wish to commend the U.S. Bureau of Mines, the U.S. Geological Survey, the Office of Oil and Gas, the Office of Coal Research, and all other agencies and bureaus that contributed to this monumental work.

This report bears out the longstanding concern that many of us in Congress have had as to the capability of our domestic minerals industry to keep pace with our growing needs. Last year our gross national product passed the $1 trillion mark. To support this gross national product level, energy and processed materials of mineral origin valued at over $150 billion were required. Annually we require over 4 billion tons of new mineral supplies—a startling 20 tons per person. This ever-growing appetite for minerals is making us more and more reliant upon foreign sources, and points to the need for policies to encourage not only the efficient development of our mineral resources here at home but to obtain needed supplies from secure foreign sources.

It also underscores the need to accelerate our ability to recycle metals and other mineral commodities. As a follow-on measure to the Mining and Minerals Policy Act, I have introduced S. 2556, which authorizes the construction of a full-scale demonstration plant to reclaim the prodigious amounts of valuable metals found in the residue of municipal incinerators. Present practice is to remove such residue and deposit it in a landfill. Our projected mineral requirements, as displayed by this report, shows clearly that we, as a nation, can no longer afford such waste. As I pointed out in my introductory statement on S. 2556, the economics of the ingenious method of separation developed by the Bureau of Mines appear to be exceptionally good. But, they need to be proven, and that is the purpose of S. 2556. I am happy to announce that the distinguished chairman of the Minerals, Materials and Fuels Subcommittee, Senator Moss, has not only joined me in sponsoring this measure (S. 2556) but has also scheduled hearings on May 12.

It is my belief that this report and its successors will provide information necessary to help us find other solutions to our pressing mineral supply problems.

The report shows that we solely depend upon foreign sources for such important minerals as thorium, rutile, long fiber asbestos, and sheet mica to name a few. We are seriously deficient in supplies of chrome, cobalt, manganese, fluorine, and others. We have a growing gap between supply and demand for many other minerals and metals and also are placing an alarming reliance on foreign sources for our liquid fuels.

The United States uses over 90 important minerals and of these 58 were imported in varying degrees during 1970. More than half of our requirements for 23 minerals were imported, more than three-fourths for 17, and 100 percent for eight. These percentages continue to grow each year.

This reliance occurs because of our deficiencies here at home, the attractiveness of lower cost development abroad, and because of the lack of encouragement for development of U.S. reserves. This reliance on foreign sources has also brought about supply instabilities. Nationalism in both developing and developed nations coupled with expropriation of mineral properties have hampered our ability to maintain some of our foreign sources.

A brief look at some of the report's findings will give us all much cause for concern and should spur the Congress to take all needed steps to further encourage private enterprise to bring out the needed minerals if we are to maintain the high standard of living which means so much to all of us.

In 1950, domestic primary demand for all minerals was $14 billion. In 1971, it rose to $42 billion. In 1970, U.S. primary production of mineral commodities fell over $8 billion short of meeting demand. Projections indicate that in 1985 it will fall $31 billion short, and in the year 2000 it will be $64 billion short. The report estimates domestic primary demand for year 2000 representing 11 billion tons of minerals needed to feed our economy. If we fail to adopt programs to fill this gap, not only will our standard of living suffer but our capability to maintain our national security is likely to be greatly diminished.

The growing gap between mineral supply and demand is also complicated by other deterring factors. Our minerals exploration programs have fallen off, the decline continues in the number of students engaged in studying mineral science and technology, availability of skilled manpower is lessening, technology is not keeping pace with need, environmental constraints are taking their toll of production, and research into all facets of mineral development and production is lagging. These deterrents also come at a time when all nations are reaching out for raw materials to meet their own needs, thus providing heavy competition for the available resources and possibly lessening the supplies that we too may need.

However, these problems are not insurmountable. The minerals report points out that we have ample reserves of a majority of the minerals we need. It emphasizes that a climate must be created which will encourage private enterprise to: invest in development and expansion of domestic resources, step up exploration for new sources of supply, improve technology so that a lessening of environmental impacts will result, increase the recycling and reuse of our mineral supplies, and stimulate new and improved processes both for production and end use. In many instances, close industry-Government cooperation is clearly indicated. We must also seek out and maintain assured foreign supply sources to meet the deficit areas in our total resource needs.

With respect to research, a bill (S. 635) which I introduced and which was cosponsored by a most distinguished group of Senators from both sides of the aisle, passed the Senate on July 19, 1971, and has been ordered reported by the House Committee on Interior and Insular Affairs. The bill would provide a continuing basis for research in mining, mineral processing, and related environmental problems. It is my sincere hope that final action can be taken on this overdue program shortly.

The report also points out:

First. Shortages of skilled manpower must be overcome by accelerated training and education. The bill I mentioned earlier, S. 635, will have some beneficial spin-off of educational opportunities.

Second. Research should be expanded in all areas—technology, production, safety, uses, recycling, and design of materials with a mineral base.

Third. The current organization of the Government for implementation of a national minerals policy is inadequate. However, Assistant Secretary Dole has already taken decisive action, within his authority to correct this situation as much as possible under existing law.

Fourth. Mineral information collection, analysis, and dissemination need to be markedly improved.

Fifth. Mineral transport systems need to be improved to meet modern-day requirements.

Sixth. Creation of industry advisory councils would assist Government in obtaining views and suggestions for consideration in developing policies.

Seventh. Consideration might be given to permitting joint research efforts within industry to accelerate improvement in technology, production methods, environmental controls, safety, and so forth.

Eighth. Acceleration of programs to encourage mineral exploration and the utilization of new prospecting methods on a broad scale basis can be a vital influence. Coupled with this there is a need for strengthening programs to inventory our mineral and fuels deposits.

Ninth. Expanded programs are needed to convert our waste material piles, refuse, and so forth, into economically usable products.

Tenth. The rapidly emerging field of materials systems development is an area requiring Government-industry cooperation. Composite materials and improved combinations of materials can enhance performance and durability. Federal, State, and local governments, through their purchase of goods and services, can strongly influence materials design and selection.

These are but a few of the facets of our mineral supply problem discussed in the report. If Senators will take time to go through this report and appendixes, I believe you will obtain a better understanding of our mineral base, our mineral posture, and the urgency of taking steps now to assure our future.

I should like to call particular attention to the appendixes to this report. I believe it will be a most valuable reference source for all of us—for our educational institutions, industry, and the public. I am sure each of us will find it a ready source of much information we need when considering mineral and fuel-related problems.

It is my contention that if we are to maintain our high standard of living and our security, Government, industry, and the public must work together to create a climate within this country that will encourage investment in development of our domestic natural resources base. Policies and laws that deter this should be reviewed and redirected, else we shall be in dire straits come the next century.

I hope that in our consideration of future legislation affecting our minerals base we do not take actions which will restrain or discourage mineral development in the United States.

Again, I wish to compliment Secretary Morton, Assistant Secretary Dole, Dr. Osborn of the Bureau of Mines, Dr. McKelvey of the Geological Survey, Deputy Assistant Secretary Harry L. Moffett, and their entire team for the high quality and useful format of this important document.

THE PRESIDENT'S SPEECH ON VIETNAM

Mr. FANNIN. Mr. President, President Nixon made an excellent talk last night explaining the situation in South Vietnam and our policy there.

I am deeply gratified to see that President Nixon is holding firmly to the course he has set, that he has not been intimidated by either the military threat or the diplomatic risks abroad, nor by the political rhetoric here at home. There is no question that the vast majority of Americans support the President in his effort to win a just and lasting peace in Southeast Asia and the world, and I believe they understand that peace was never obtained through weakness, nor is it preserved in fear.

It is precisely because the President is willing to do the difficult thing, because he understands the uses and the responsibilities of power, and because he puts the Nation ahead of political expediency, that I think we are going to obtain that generation of peace he has talked about and worked so hard to achieve.

GENOCIDE: PAKISTAN SUPPRESSION OF BANGLADESH

Mr. PROXMIRE. Mr. President, during the past few weeks several of my colleagues and I have issued statements deploring the violence on the Asian subcontinent. Public attention focused on the brief 2-week-war between India and Pakistan and especially on the early actions of the infant state of Bangladesh. At that time I made statements castigating those Bengalis who brutally retaliated against Pakistani collaborators, in the stadium outside Dacca, and I later criticized the intent of the government of Bangladesh to try captured Pakistanis for war crimes.

These acts are wrong and unjustified. They cannot and should not be condoned. But the 2 short weeks of open warfare overshadowed the 9, long, bloody months of Pakistan's suppression of the East. During that time it is estimated that 3 million Bengalis were slaughtered and many thousands more were forced to flee their homes.

Thirty years separate the atrocities of Nazi Germany and the Asian subcontinent, but the body counts are not so far apart. Those who felt that genocide was a crime of the past had a rude awakening during the Pakistani occupation of Bangladesh. Fortunately that period of carnage is now only an unhappy episode of world history, but it has demonstrated that the international community cannot stand back and hope for peace. We must all accept a certain share of the responsibility for actively supporting that peace and preventing further acts of war and atrocity.

For the United States, assuming our share of the effort means ratifying and supporting the Treaty for the Prevention and Punishment of Genocide. For 24 years we have neglected that humanitarian declaration, but the incidents on the Asian subcontinent make this treaty all the more essential.

PSYCHOLOGY OF MURDER

Mr. KENNEDY. Mr. President, I invite the attention of the Senate to an essay published in Time magazine of April 24, entitled "Psychology of Murder." The presentation offers a clear and chilling account of the tragedies of gun crime. It describes the mystique of guns and our apparent national fascination with homicide.

No account of the concern about violence in this country can afford to ignore the stupendous number of guns in American homes. According to the essay, there are enough civilian owned guns in America—over 115 million—to arm every male between 14 and 65. The easy accessibility to guns is clearly a stimulus to murder. Countries that do not permit their citizens to build up awesome arsenals, the way we do, predictably do not suffer the senseless bloodletting that we see in this country.

The essay is a telling account of violence and firearms abuse in American society. I ask unanimous consent that the essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

PSYCHOLOGY OF MURDER

For all its sinister drama, the Mafia's bloodletting accounts for only an insignificant fraction of the killings that occur every year in the U.S. The rising toll sometimes seems to validate H. Rap Brown's mordant dictum: "Violence is as American as cherry pie." In 1970 there were 16,000 criminal homicides in the nation—one every 33 minutes. With the carnage mounting—up 8% from the previous year and 76% over the decade—the U.S. is maintaining its long-held, unhappy distinction of leading advanced Western nations in the rate at which its citizens destroy one another. Philadelphia, for example, with a population of 2,000,000, has the same number of homicides annually as all of England, Scotland and Wales (pop. 54 million).

This murderous pre-eminence, fostered by the nation's longstanding habit of violence, occurs against a background of street crime, political assassination and an almost obsessive violence in movies and television. It has led many behavioral scientists to begin talking about a national "crisis of violence." In the U.S., warns Psychiatrist Thomas Bittker, "violence is practiced as if it was productive." It may have been so far the Stone Age hunter of mammoths, but in the era of H-bombs it is not only non-productive but distinctly suicidal. Man has become so dangerous to himself that his continued existence has been called into doubt.

Saul Bellow's Mr. Sammler reflected gloomily that killing is "one of the luxuries. No wonder that princes had so long reserved the right to murder with impunity." Yet there has always been a democracy of homicide. Ever since Cain slew Abel, murder has been a classless crime. The East Harlem father who hurls his children from the roof is paralleled across the Hudson in the affluent New Jersey suburbs: a Westfield insurance salesman named John List was indicted last winter on a charge of shooting his wife, mother and three children arranging four of the bodies side by side in his mansion's empty ballroom.

Although murder is part of the fabric of history, it has assumed an alarming quality in America today. It is a new truism that violence has become what sex used to be, the object of morbid fascination. A sort of blind Mansonism hangs in the air—an incomprehensible glorification of death and destruction.

However common it has become, murder is still the crime committed by others: men and women dissociate themselves from murders by assuming that all killers are psychotic. But most are not. Psychiatrists do not know precisely how those who have killed are different from those who have not. In contrast to the Mafia's business killing, for example, murder among laymen is generally a very personal matter. In three out of four cases, the murderer and victim know each other; in one out of four, they are related by blood or marriage. An estimated five out of six killers are men, and 60% of murders are blacks—as are 55% of victims. In 1970, 43% of the suspects arrested for homicide were under 25; 10% were younger than 18. Nearly half (45%) of all killings occured in the South, which has about 30% of the nation's population. But the murder rate was highest in big cities: 17.5 murders for every 100,000 inhabitants, compared with 6.4 in rural areas and only 3.8 in the suburbs.

The sheer availability of firearms is undoubtedly a stimulus to murder. There are perhaps 115 million privately owned guns in the U.S. almost one for every male between 14 and 65. Indeed, guns are used in 65% of all U.S. killings. Twenty percent of the victims are dispatched by knife, while poison is rarely used. In Manhattan, there have been two recent cases of murder by bow and arrow, and some years ago another New Yorker attempted murder by rattlesnake. As Princess Sita observed in *Ramayana*, the ancient Indian epic of nonviolence: "The very bearing of weapons changeth the mind of those that carry them."

Most nonprofessional killings are impulsive—done in a flash of anger triggered by a minor insult or a quarrel over money, love or sex. Many are committed by people who, Sociologist Stuart Palmer says, "tend to be overconforming most of the time"—which may help to explain their extreme violence when their rebellious impulses finally break out. Often the killer does not intend to kill, in at least 20% of the cases, he is acting in self-defense.

Sometimes murder can be indirect, an act that Psychoanalyst Joost Meerloo calls psychic homicide: consciously or unconsciously, the murderer pushes someone into suicide. Meerloo cites an engineer who had struggled "all his life with a harsh, domineering and alcoholic father." On a final visit, he took along a bottle of barbiturates, suggesting that they could "cure" his father's addiction. In combination with alcohol, the prescription was fatal.

The impulse to murder seems to be universal, but the reasons that men and women yield to it are as varied and mysterious as human history. To most psychiatrists, murder usually implies a defect in the killer's ego. Sometimes, of course, the motive appears to be nothing more complicated than the desire for material gain. In family murders, a frequent motive is the killer's conviction that no one, not even his wife, understands him. Says Psychiatrist Frederick Melges: "He may expect empathy without communicating his feelings. Paradoxically, attempts at communication may lead to the discovery that the partner does not understand." If that happens, he may feel embittered, deserted and alone, and may strike out in sudden rage at the thwarting of his expectations. A number of criminals, Psychiatrist George Solomon believes, "feel that the only attention they can evoke is punishment," and for them "murder may be a way to be killed." Long before being convicted of murdering his landlady, whom he liked, a New York sculptor named Robert Irwin told a psychiatrist: "I was going to kill somebody so that I would be hung."

Even this crime is less terrifying than what Poet Robert Penn Warren calls "blank, anonymous murder," the motiveless, gratuitous atrocity. In Warren's words: "An old man on a park bench reading his papers, smoking his morning cigar, is dead suddenly because some kid decided to kill him." These days, says Theodore Solotaroff, editor of *New American Review*, "a kind of anarchic murder is in the air."

Anarchic murder is not new. It occurred during the European plague epidemics of the 16th century, when hooligans plundered at will, sometimes cutting the throats of the sick. It was common during the Thirty Years War in the 17th century, when troops ravaged the countryside indiscriminately. New or old, wanton slaughter recalls the question posed by Nietzsche's red judge: "Why did this criminal murder?" Nietzche's reply: "His soul wanted blood; he thirsted after the bliss of the knife."

Not many contemporary thinkers would accept this view of man as essentially savage. True, Freud once believed that human beings are born with an aggressive instinct and that "the aim of all life is death," but he later abandoned the idea. Currently, Ethologist Konrad Lorenz insists that aggression and violence are inevitable because they were bred into man by natural selection during prehistoric times. But there is widespread disagreement with this theory. Psychiatrist Fredric Wertham, for example, considers the Lorenz view "nonsense," calling it "not explanation but rationalization."

Frustration frequently touches off aggressive behavior. It can take many forms, and often arises from a feeling of physical, social or intellectual inferiority. It can also result from physical and psychological brutality inflicted during childhood. Describing one parental attack, a mother told Sociologist Palmer, "I thought the boy was done for. His father knocked him from one end of the house to another like a man gone insane." Observes Palmer: "Perhaps it was coincidence, perhaps it was not. But when he was 24, that same boy beat to death a man 30 years older than himself."

Sometimes the frustration that fires aggression is highly impersonal. Yale Psychoanalyst Robert Jay Lifton links at least some violence to general frustration, anger and anxiety over countless "little deaths"—the failure of national morality, the breakdown of family life and feelings of alienation in a mobile population. Boredom, too, drives people to look for meaning in nihilistic violence, to accept the philosophy "I kill, therefore I am."

Most behavioral scientists believe that aggressive behavior is learned, often by observation, and some are convinced that violence on TV fosters violent behavior in both children and adults. Along with eleven other researchers who carried out studies for the U.S. Surgeon General, Psychologist Robert Liebert asserts that, for healthy as well as disturbed children, "a clear and important link has been shown between TV violence and aggressive behavior." As for the theory that watching TV violence drains off the viewer's own savage impulses, Political Scientist Ithiel de Sola Pool maintains that "if there is any kind of cathartic effect, it is swamped by the incitement effect." A few experts consider the TV-violence controversy something of a red herring. "Even if we did away with all the violence on TV we would have solved nothing," says Psychoanalyst Ner Littner. "There is no such thing as a single simple cause or a single simple solution. Searching for scapegoats allows us to avoid facing the problem of why we are violent, and also postpones the solution."

In the opinion of many behavioral scientists, historians and philosophers, the Viet Nam War, more than any previous conflict, has helped to foster violence at home. One evidence of the war's impact is indicated by a recent national survey of attitudes toward the Calley case. According to Harvard Psychologist Herbert Kelman, many Americans regard Lieut. Calley's behavior at My Lai as normal. That suggests, Kelman concludes, that an alarmingly large segment of the population might be willing to employ extreme violence if ordered to do so.

Even more ominous is the trend toward the philosophical and artistic glorification of violence and death. Following Sartre, many young people believe that "violence is man re-creating himself," and that savagery is a kind of purifying force bearing, as Historian Richard Hofstadter puts it "the promise of redemption." Murder has always been a central theme in the arts. There were killings (off-stage) in the Greek theater. The Shakespearean stage was often littered with bodies by the fifth act. As early as the 19th century, American writers like Melville and Poe were beginning to show what Historian David Davis had called "undisguised sympathy for sublime murders and amoral supermen moved by demonic urges." That sympathy seems to have deepened recently, especially among movie directors. Arthur Schlesinger Jr. speaks of "a pornography of violence," and Critic Pauline Kael complains that "at the movies, they are desensitizing us." She objects to a film like *Straw Dogs* because it equates violates and masculinity. Few psychiatrists would argue with her. Nor would they disagree with critics who object that filmed violence has become the ultimate trip, the stimulus for mind-blowing sensations wilder than any induced by LSD.

Some behavioral scientists, philosophers and aestheticists believe that violence in the arts is not bad *per se* and that it may in fact, be the best means of inspiring a horror of violence. Brutality in films, asserts Robert Lifton, "can illuminate and teach us about our relationship to violence." *The Godfather*, he believes, provides that kind of illumination by brilliantly contrasting the Coreleone family's sunny private life and its brutally dark professional life. Critic Robert Hatch rejects that view, calling the movie a "chronicle of corruption, savage death and malignant sentimentality" that wreaks harm by forcing the viewer "to take sides in a situation that is totally without moral substance." It was chilling, he says, "to hear an audience roar its approval when a young gangster on 'our' side blew the brains out of two gangsters on 'their' side."

That easy empathy with cinema slayings, together with a growing tolerance of real-life brutality, suggests a dismaying conclusion: beneath the surface, Americans may be less alarmed by murder—and more attracted to it—than they care to admit. Just as an individual must become aware of his problems before they can be solved, the nation, too, will have to acknowledge its unhealthy fascination with murder as the first step toward coming to terms with it.

THE NEW JOURNALISM

Mr. ALLOTT. Mr. President, last weekend the Public Affairs Conference Center at Kenyon College in Gambier, Ohio, was the scene of a 4-day conference on "The Mass Media and Modern Democracy."

Among the important papers delivered at this conference was Mr. Robert D. Novak's "The New Journalism."

It is Mr. Novak's contention that in recent years "a rigid conformity has emerged among the Washington press corps." This conformity has encompassed a constantly shifting but always definable catechism of liberal doctrines. This catechism has been inflicted on the public with all the considerable energy at the command of those who favor "advocacy journalism." This is the journalism of those who think that the journalist's job is not to understand the world but rather to change the world.

I ask unanimous consent that Mr. Novak's essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

THE NEW JOURNALISM

(By Robert D. Novak)

On July 14, 1964, at the Republican National Convention in San Francisco, General Dwight D. Eisenhower roused the drowsy delegates when he read this line from the speech written for him: "Let us . . . scorn the divisive efforts of those outside our family, including sensation-seeking columnists and commentators, who couldn't care less about the good of our party." Neither General Eisenhower nor the thousands of journalists covering the convention were quite prepared for the reaction. Delegates rose in their seats with an angry roar, shaking their fists at the glass-enclosed booths containing Huntley and Brinkley, Walter Cronkite and the other famous television journalists. In the tumult, it seemed as though the delegates, who a few nights later would nominate Barry Goldwater for President, were about to storm the broadcast booths.

The incident revealed dramatically an animosity toward journalism by conservatives that had been building for years. In that 1964 campaign and in the years to come, press buses following candidates would encounter jeers and shaking fists time and again. The most intense reaction came from active conservative political workers but was by no means limited to them. Across the land, the journalist, and particularly the television journalist, was distrusted and disliked by the ordinary citizen, who may or may not have considered himself a conservative but surely did not embrace the programs and policies of the liberal establishment.

This deepening change in mass attitudes toward the communications media, in turn, reflected a gradual transformation in the media through the 1960s and into the 1970s. The change was not dramatic transformation but an acceleration of trends begun some twenty-five years earlier. It consisted basically of two developments. First, the journalist working for the television networks, the big news magazines and the important metropolitan press had now become part of the liberal establishment, both in his manner of living and in his ideological commitment. Second, in a later and less fully developed trend, these journalists were increasingly advocating causes of the moment rather than functioning as neutral observers. Taken together, the developments widened the gap between the mass media and the great mass of citizens, a gap that can only result in diminished credibility by the media and, therefore, the inadequate fulfillment of the necessary function by the press in a democratic society.

II

In *Commentary* of March, 1971, Daniel P. Moynihan wrote:

"One's impression is that twenty years and more ago, the preponderance of the 'working press' (as it liked to call itself) was surprisingly close in origins and attitudes to working people generally. They were not Ivy Leaguers. They now are or soon will be. Journalism has become, if not an elite profession, a profession attractive to elites. This is noticeably so in Washington where the upper reaches of journalism constitute one of the most important enduring social elites of the city, with all the accoutrements one associates with a leisured class. (The Washington press corps is not leisured at all, but the style is that of men and women who *choose* to work.)"

Moynihan's article generated a storm of angry rebuttal from Washington journalists. In fact, Moynihan had missed the mark in the details of his formulation. As Martin F. Nolan pointed out in the *Boston Globe*, the press corps contained more alumni of Boston College and the University of Illinois than of Harvard and Yale. Only a tiny fraction of them move easily in the upper social circles of Washington. Even a tinier fraction possess independent financial means. They work because they *must*, not because they *choose* to.

But having pointed out these misperceptions, it must be said that Moynihan is basically on the track. The Washington press corps *had* changed. The employees of the networks, news magazines and important daily newspapers *did* now have a more prestigious position in the society, higher than that of their counterparts in any other Western capital. After years of shamefully poor pay scales, they are now receiving salaries at least commensurate with those paid by the Federal Government.

Partly because of this and partly separate from it, the press corps has been ideologized into a part of the liberal establishment. More and more, the members of the Washington press share in total the world view taken by the dominant liberals who control the Democratic Party. More and more, they share axioms that profoundly influence their coverage of day-to-day events in the worlds of politics and government.

What follows is a list, by no means complete, of axioms shared by the Washington press corps of 1972:

Axiom No. 1: The Vietnam war has been a shameful, immoral episode in American history, which blackens the good name of this Republic. Consequently, the anti-communism which as a policy led to involvement in Vietnam should be subdued and, ultimately, abandoned.

Axiom No. 2: The military-industrial complex is a sinister conspiracy, robbing the nation of its wealth and imperiling its future. To cut defense spending, therefore, is a laudable goal no matter what the international realities.

Axiom No. 3: Severe measures must be taken to prevent the despoiling of the nation's natural resources by pollution industrial and otherwise. If these stentorian measures result in unemployment, that will be unfortunate; but protection of the environment must take precedence.

Axiom No. 4: White racism, as defined by the Kerner Commission report in 1968, is a cancer that must be removed from the American body. That goal must take precedence over any personal inconveniences caused by such devices as forced busing for the racial integration of schools.

Axiom No. 5: The forces of repression in modern America threaten our liberties, a neo-fascist danger becoming a sinister reality under President Nixon and Attorney General Mitchell.

Axiom No. 6: A reordering of priorities is essential and past due so that great quantities of Federal funds can be funneled into the cities for social rebuilding purposes. That a substantial increase in Government spending would result in at least some improvement is scarcely debatable.

Axiom No. 7: A redistribution of wealth in the country is similarly overdue through a realignment of the tax system and a general overhaul in fiscal policy.

The list of axioms is flexible. A year earlier, it surely would have included a belief in the transcendant wisdom of youth, now undermined by the present quiescence on the campus. Whatever the lost contains, it is a considerable amount of ideological baggage for a journalist to be carrying. In short, he is approaching the political and governmental developments he is covering with a set of axiomatic beliefs identical to those held by some political figures and wholly antithetical to others.

These axioms exert a pervasive influence over journalistic coverage. Senator Henry M. Jackson violates so many axioms—the Vietnam war, the military-industrial complex, white racism, the ecology—that no matter what his competence or his own professions of liberalism, he can scarcely be taken seriously. Mayor John V. Lindsay, on the other hand, is so closely in confromity with these axioms that he must be taken seriously, notwithstanding suspicions about his depth or administrative efficiency.

On a broader basis, issues are viewed by the press corps in relation to these axioms. Inasmuch as President Nixon did not write off the Vietnam war as shameful and immoral, his Vietnamization policy is indefensible. In any controversy between environmentalists and industrialists, the environmentalists must be given every benefit of the doubt. The specter of white racism casts its shadow on a vast number of public questions, granting the indisputable benefit of any doubt in behalf of spending programs for the cities or any scheme of racial integration.

To be sure, there are many journalists on the Washington scene who do not share these axiomatic beliefs. But increasingly, a rigid conformity has emerged among the Washington press corps. That reflects in part the conformity in the colleges producing the new journalists. But beyond this, the young journalist who violates these axioms can scarcely expect a rapid rise up the ladder of advancement. A young television network correspondent who reporting reveals a lack of sympathy for environmental protection or racial integration or a reordering of priorities will soon find himself in some professional difficulty with his superiors.

Moreover, the Washington press corps exerts peer group pressure as will any other group. When Washington journalists gather among themselves socially as often they do, there is a startling consensus on the basic perceptions. There may be a difference of opinion on the relative merits of politicians or programs but seldom is there debate about goals or broad principles.

The result is a gap of widening proportions between the national journalist and the mass of Americans, paralleling a gap between liberal politicians and the masses, specifically the white workingman. Whereas the national journalist feels Vietnam is immoral and shameful, the white workingman is angered by the failure to win it. Whereas the national journalist condemns President Nixon's efforts to restrict school busing as demagogic, the white workingman feels a sense of outrage and futility over the whole busing process. Whereas the national journalist is basically convinced that the solution of our national problems lies in the area of governmental spending, the white workingman is disillusioned with the effectiveness of government.

There is, further, a vast difference in the instinctive reaction of the journalists and the white workingman. An example: On March 14, 1972, badly beaten by Governor George Wallace in the Florida Presidential Primary, Senator Edmund Muskie went on national television to denounce Wallace and those who had voted for him. Walter Cronkite, on CBS, immediately commented on the courage and eloquence of Muskie's statement. But polling data shows that a vast majority felt Muskie's statement was graceless and ill-tempered, an attack on the wisdom of the voters of Florida.

The gap between the national journalists and the mass of voters is so basic in its reaction toward life that it can scarcely be bridged. Furthermore, it transcends questions of the journalist's individual background. It really makes no difference whether his school is Ivy League or land grant college, whether his family background is first family or immigrant, whether he comes from Manhattan or Main Street. The national media is a melting pot where the journalists, regardless of background, are welded into a homogeneous ideological mold joined to the liberal establishment and alienated from the masses of the country.

III

Advocacy is by no means a new element in American journalism. The early 19th Century newspapers were open advocates of a political party with no pretense of objectivity. The muckrakers of the Progressive Era were practitioners of advocacy journalism. Until recently, the great conservative dailies of the Midwest followed the example of the *Chicago Tribune* in brazenly espousing, in news columns and editorial columns alike, an undiluted prairie conservatism.

But until the early 1960s, objectivity was at least the goal, though not always achieved, of journalism and journalists. The concept of the journalist openly advocating one point of view or another was abhorrent, at least in theory, throughout the profession. Even today, many journalists who fully subscribe to the axioms outlined above at least give lip service to the concept that these beliefs should not intrude upon the way they report on the news.

The new advocacy journalism became evident in the early 1960s and has been rising steeply since 1970. It is centered among a new generation of journalists who view objectivity in a wholly different light than their senior colleagues and are themselves a reflection of the turbulent 1960s on the college campus.

Sharing the campus consensus, they see the American system as basically corrupt, in need of drastic and immediate revision. It must be changed root and branch; simple reform alone will not do at all. To accomplish this, the young graduate has several options to follow. He may seek a post somewhere in government. He may seek to enter directly into the political process, as a campaign worker. He may join one of the new activist organizations, such as Common Cause or Nader's Raiders. He may join a public interest law firm or a law firm that permits its employees to take time off for public interest work. If wholly despairing of the system, he may seek to promote the revolution as a demonstrator or through an underground organization, though these courses have now become less fashionable.

Or, he may become a journalist. The rise in social status and remuneration of journalism described earlier makes this a more attractive option than would have been the case even a decade ago. But the young activist fresh from the campus enters journalism not solely to seek fame, fortune and adventure as did his predecessors, but to redress the ills of the Republic.

The journalist as advocate makes no pretense at objectivity. He is the avowed enemy of the industrial polluters, and his writing is intended to flay them, not to merely describe and analyze. In any coverage of the Nixon Administration's prosecution and persecution of dissenters, the journalist advocate intends to actively help the cause of the dissenter and stay the repressive hand of the Administration. An advocate-correspondent covering the Pentagon must as his first priority seek out the waste and inefficiency that will discredit the military-industrial complex.

The middle-aged news executives encountering these advocates are appalled by their unconcern with objectivity and resist it. But they may well be fighting a losing battle. In the nationally important media of communications, the shared axioms between the executives and the new advocate journalists make the argument strictly one of objectivity or non-objectivity. Furthermore, the new journalist is fresh from the turmoil of the campus, knowledgeable in skills of organization for dissent. In the news rooms of the great metropolitan newspapers, the executives are encountering young journalists organizing and mobilizing to influence the editorial policies of the newspaper. Far less certain of themselves, the executives can scarcely resist the temptation to retreat.

The full impact of the new generation of journalists is yet to be experienced. But even now, advocacy journalism can be detected in newspapers of national importance. For example, thorough coverage by the Washington Post of the hunger controversy in 1969–70 did not disguise the reporter's obvious belief that Senator McGovern was correct and his opponents incorrect in their assessment of the seriousness of the problem. The Post's accounts left no doubt as to its sympathies in the question; in the news stories, it was implicitly advocating greater expenditures for food distribution to the poor. Again, the accounts of both the Washington Post and New York Times of the recurrent difficulties of the Nixon Administration in dealing with school desegregation in the South have made no pretense at neutrality. Advocacy for vigorous school desegregation and against any compromise is undisguised.

Advocacy journalism also has accelerated in the abbreviated news reports of network television, reaching an audience so much larger than that of the newspapers and news magazines. The coverage by CBS of social welfare legislation during the Nixon Administration, reflecting superb reportage, is unmistakably on the side of vigorous racial integration in the schools, a considerably larger Federal stipend to welfare recipients and a substantial Federal role generally in the solution of social problems. The widely supposed fear cast in the hearts of the network executives by Vice-President Agnew's invective had no apparent effect on this brand of advocacy journalism.

All three networks in their reporting of the school busing controversy have played the role of advocate. By implication, busing is defended as necessary, however unpleasant it might be, whereas the foes of busing are interested wholly in political advantage and catering to popular passions.

After President Nixon addressed the nation with new anti-busing proposals, the immediate analysis over CBS was revealing. One correspondent, not a lawyer and with no access to expert legal opinion at that moment, asserted flatly that the President's proposal was unconstitutional by resorting to the old separate but equal doctrine declared unconstitutional by the Supreme Court in 1954. Disapproval of what Nixon had done was imprinted in his and his colleagues' brief remarks.

All these examples of advocacy journalism, implicit and indirect, involve mature journalists raised in a tradition of objectivity and balance. Their advocacy quite probably is not a conscious design but rather an intrusion on their intentions of objectivity caused by the depth of their adherence to the axioms listed earlier. The sea change in journalism will come if and when the new generation of avowed advocates is ascendant, unencumbered by any obsolete notions of objectivity and balance.

Why not? That is the question posed by the young journalists. Why should a straitjacket hinder their ability to right the wrongs of a corrupt and failed society? And in such a society, what is wrong with advocacy? Indeed, is it not the older generation of journalists who failed to condemn the evils in our land who should be condemned?

Certainly, there is no dishonor to the advocate. He is welcomed in many fields: politics, government, the law, social work, education. Advocacy is an integral part of journalism as well. The editorial writer, the columnist, the writer for journals of opinion all must be advocates by definition.

It is the reporter of news, either in the electronic or printed media, who is subject to heated controversy over advocay journalism. It is in the news columns and on the news broadcasts that the new journalists want to carry on their advocacy.

But to do so subverts the function of the press in informing the citizenry of a Democratic Society. If the evening news telecast and the morning newspaper are advocating positions and policies, how can they be relied upon to report accurately on the news? The problem is aggravated significantly if the advocacy is based on axiomatic beliefs foreign to the mass of citizens. If the vast majority of citizens are clearly opposed to school busing and the national communications media are advocates of school busing, the credibility of the media on this and other questions is eroded and with it the media's ability to fulfill its vital function.

IV

On March 31, 1972, regular North Vietnamese divisions poured across the Demilitarized Zone into South Vietnam to begin three years of relative quiescence in the endless Indochinese War. The reaction by the most prestigious national communications media was remarkable, in keeping with the coverage of the war that had developed over the years.

On April 4, the banner headline of the New York Times declared: "U.S. Says Hanoi Open." The quotations around "invaded" derived from the lead paragraph of a Washington dispatch: "The United States accused Hanoi today of launching an 'invasion' of South Vietnam and said Washington was leaving open all retaliatory options—including renewed American bombing of North Vietnam." Implicitly, the "invasion" was a figment of the imagination of the U.S. Government, not the natural description of massive artillery bombardment preceding columns of armor and infantry pouring down across the border.

That same morning, in the Washington Post, a dispatch from Danang began: "Hanoi's offensive in the northernmost section of South Vietnam means that the Saigon government's stumbling pacification program in that bloody battleground has taken a bad fall." Pacification in Vietnam generally is measured in terms of government control in heavily populated areas, and the North Vietnamese offensive by April 3 had occupied mostly wilderness with a relatively small outflow of refugees. On the basis of that small amount of evidence, the dispatch implied a major defeat in the critical struggle for the countryside. The headline: A Setback for the Pacification Program.

That evening on the three national television networks, a picture of impending doom in the northern provinces of South Vietnam was painted, the South Vietnamese Army in full retreat as it ran from the enemy legions. Flashed on the screen were pictures of hapless South Vietnamese soldiers, who having lost or thrown away their weapons, joined the stream of refugees fleeing from the front line. The televised reports gave the unmistakable impression that the end was near, military collapse at hand. From watching them, no television viewer could have guessed that in a few more days the northern front would be stabilized at a point not much further south than the line of April 4.

These accounts of the early days of the 1972 Communist offensive reflect dominant themes in coverage of the war by the national media that first appeared years before: A disinclination to put the North Vietnamese in the clear aggressor's role (as in the use of quotation marks around "invaded"); a quick trigger in proclaiming the failure of American-managed programs in Vietnam, such as pacification; an inclination to assume the worst in any military confrontation between North Vietnamese and South Vietnamese.

These dominant themes are part of a general pattern of reportage on Vietnam by the national media, encapsulating more than any single other issue the trends discussed earlier in this paper. The view of the Vietnam war given the American public by the national media is shaped by the axiom on Vietnam commonly held by the vast majority of the news correspondents who cover or have covered the scene.

There are practical reasons for much of this. The young journalists who won a name for themselves by critical reporting of the Vietnam war a decade ago—David Halberstam, Neil Sheehan and Malcolm Browne—pointed the way to the young men subsequently assigned there; surely, the Pulitzer Prize does not await he who is positive in reporting the war.

Beyond the practical lies the ideological

Both the correspondents in Saigon and their editors back in Washington and New York share, in overwhelming numbers, axiomatic beliefs about the war. The correspondent, consciously or not, tends to look at the worst side of things. The editor, consciously or not, tends to select news that is negative.

An example occurred last autumn when a CBS correspondent, an excellent reporter with previous Vietnamese experience, visited Binh Dinh Province, the worst hotbed of Communist insurgency in South Vietnam. In absolute terms, the situation in Binh Dinh was dreadful; in relative terms, however, it was much better than it had been only six months past, thanks to an accelerated pacification campaign. The treatment given by the CBS correspondent was that, despite the new campaign, pacification was far off in Binh Dinh. He described the glass of water as half empty rather than half full. Furthermore, the introduction to his account by the network anchorman was to the effect that nothing ever changes for the better in Vietnam.

Both the correspondent and the anchorman in question are known critics of the present war policy, a view which may well have cast a long shadow on their treatment of the Binh Dinh story. But there is another dimension to the problem. Assume the correspondent, inhibiting his own beliefs, approached the story from the standpoint of limited progress being made in Binh Dinh. There is serious doubt that this would have made the evening network news, ostensibly on grounds that the story lacked bite and viewer interest. Here too, however, the beliefs of the editors come into play, though perhaps subconsciously.

The problem can be framed in this pattern, which fits the experience of several young correspondents assigned to Vietnam. Arriving from the United States, the neophyte is prejudiced against the war and looking for the worst. But as he digs into the problem, he discovers new elements of hope and accomplishment that surprise him and, he believes, deserve being reported. The dispatches he writes on these subjects are than relegated to the back pages of a back section of his newspaper. It is the stories of despair and failure that receive front page treatment. This is in the ancient journalistic tradition that man-bites-dog is news whereas dog-bites-man is not. But it also conforms to deeply felt beliefs about Vietnam within the media. The fact that the negative stories also conform to the correspondent's personal beliefs about the war makes it easier for him to write the negative stories that please his superiors and win him advancement.

All of the above concerns, more or less, *subconscious* tailoring of Vietnamese reportage to anti-war beliefs. There is, in addition, *conscious* emphasis on the negative by correspondents in Vietnam who believe in advocacy jouralism and practice it, either clandestinely or openly. Most of these are free-lancers, but some correspondents for national media view their mission as one of undermining U.S. policy in Indochina.

To them, this is the highest form of patriotism. Many are not many years away from the college campus, where U.S. intervention in the Vietnam war was universally perceived as an abominable moral outrage. To be assigned to Vietnam is for them to be given a rare opportunity at advocacy. This is the highest form of patriotism; to retreat to obsolete standards of objectivity would be unthinkable.

The most famous of the journalist-advocates in Vietnam has been Seymour Hersh, winner of the Pulitzer Prize for his exposure of the My Lai massacre. In interviews, Hersh has made no secret of the fact that his avowed purpose in Vietnam is to discredit the U.S. effort there. Obviously, to balance the atrocity at My Lai against Communist atrocities at Hue and elsewhere in the 1968 Tet offensive would not be to his purpose.

Just how many correspondents in Vietnam share Hersh's goals but are less candid about it is impossible to say.

On the surface, it would seem that the new journalism has profoundly affected public opinion on Vietnam. Widespread support for the war in 1965 has gradually changed to widespread opposition. Seldom has the public change in viewpoint been so complete on a major issue in so short a period of time. It would seem that, on this issue at least, the mass media and the masses are together.

But how much the media really converted the masses on Vietnam is debatable. The national media's opposition to U.S. policy, mirroring the attitudes of the peace movement, is that it is ineffective, unwise and immoral; the masses have accepted only that it is ineffective. The national journalists have argued it was indecent of the U.S. to have been in Vietnam; the masses have come to the conclusion that our one and only sin was not winning. The gap between the masses and the media over the underlying moral basis of Vietnam persists.

It may be said that the media played a major role in pushing the masses to the conclusion that the war was unwinnable. That judgment was surely formed by years of televised news from Vietnam putting the military situation in the blackest of terms. Certainly, the great turning point in American public opinion on the war was the great Communist Tet offensive of 1968, where the national media failed badly in reporting the magnitude of the Communist military defeat.

At this writing, a national inquest into who is to blame for Vietnam seems unlikely. But in any such inquest, the media would be sharply attacked for its role and a demagogic politician, following Vice-President Agnew's success, might well whip up a torrent of public hysteria. The potential exists because of the gap between the masses and the media on Vietnam and the lack of restraint by the masses in either consciously or subconsciously shaping the news of the war to fit its own axioms.

On most controversial events of the last decade, the gap between mass media and the masses has been even more obvious than in the case of Vietnam. On no point was the gap more noticeable than in the coverage of the disturbances at the 1968 Democratic National Convention in Chicago by the national journalists, particularly the television networks.

The televised accounts gave the unmistakable picture of a police riot against unresisting young protesters. But polling data shows a wholly different picture perceived by the masses, who felt the networks were distorting an anti-police provocation by organized radicals. So intense was the disbelief by the masses that even indisputable excesses by the police visually portrayed on television were doubted by viewers.

Though the truth of the situation rested somewhere between the version of the media and the perception of the masses and probably closer to the media version, the consensus of disbelief showed a rugged resistance by the television viewer against being forced into new patterns of belief.

On a less violent level is the gap on the school busing question. Television coverage that tends to defend busing has had no effect whatever in diminishing mass abhorrence against the practice. The public believes that busing is irrational, ineffective and against its interests. Television commentators cannot convince it otherwise.

But even if the impact of the national media is limited in transforming public opinion, the effort is not without significance. As the gap widens between the public and the media, so does the media's credibility decline. The media must play a role as watchdog critic in a free society but scarcely can do it effectively if it lacks credibility. If separated from the masses and disbelieved by them, the media is vulnerable constantly to political attack, which could ultimately result in a shrinking of freedom.

An easy corrective is not at hand. Any governmental or quasi-governmental agency to police the press is unconstitutional and unthinkable, the corrective being worse than the malady. Self policing by press boards probably would reflect existing views of the media, which constitute the heart of the problem. Informal watchdogs over the press, such as the journalism reviews around the country, are so dominated by advocates of advocacy journalism that they denigrate examples of objectivity and balance.

The return of the media to a goal of objectivity, balance and nonadvocacy, though difficult to blueprint, is nevertheless essential. Without progress toward this end, the communications media cannot be free from growing fears and dangers in the years to come.

NORTH DAKOTA POLL

Mr. PACKWOOD. Mr. President, in a poll taken by the distinguished senior Senator from North Dakota (Mr. Young), some interesting results have appeared to which I invite the attention of all Senators. More than 10,000 North Dakotans responded to Senator Young's request for comments on some of the most important and controversial issues facing us today.

As we look toward action on permanent transportation strike legislation, and toward a June 1 deadline for two more potentially devastating railroad shutdowns, I wish, especially, to draw the attention of the Senate to question No. 14 in the poll. It reads as follows:

> 14. Do you think Congress should enact permanent legislation which would provide compulsory federal arbitration to end serious transportation strikes, such as the dock strikes, when agreement appears impossible through voluntary arbitration?

The answer to this question was overwhelmingly "Yes." Ninety-three percent of all responses indicated that they felt such legislation should be enacted, with only 7 percent in disagreement.

Mr. President, this points to a clear message from the public that legislation is badly needed, and needed now.

I ask unanimous consent that the entire poll and results be printed in the Record.

There being no objection, the poll was ordered to be printed in the Record, as follows:

From the Office of Senator Milton R. Young

This is the tabulation as of March 14 of the returns from the 70,000 questionnaires I sent out late in February. Returns received after this date will be added to the 11,000 already received. A very high percentage of those returning questionnaires made helpful comments expressing additional views on a wide range of subjects.

Previous similar polls, mailed to every precinct in the state, have quite accurately forecast how North Dakotans voted in the following election.

People identifying themselves as farmers were tabulated separately, as were nonfarmers and students. There was a somewhat higher percentage of returns from farmers than they represent to the total population. Farmers indicated by F; nonfarmers, NF; students, S.

This questionnaire was sent to only 2,000 students, 1,000 each at the University of North Dakota and North Dakota State University. Unfortunately, more were not sent to students and other young people because I didn't have adequate lists. It is interesting to note that the percentage returns from students was as high as those from the other groups. This indicates they have an active interest in issues and politics. They were the only group that showed a preference for any of the Democratic candidates for President—favoring Senator Edward Kennedy over President Nixon. Their views on other questions did not vary greatly from the other groups.

Since President Nixon will undoubtedly be the Republican candidate and the Democrats have many candidates at present, it's possible that when they select their candidate, that candidate's strength in North Dakota could be greater than this poll indicates.

In the following summary, where there was less than a three percent difference in the preferences among groups, only the total tabulation is shown.

1. How would you rate President Nixon's general handling of the war in Vietnam:

[Answers in percent]

GOOD

Total (4,467)	41
Farmer (2,221)	34
Nonfarmer (2,158)	55
Student (88)	30

FAIR

Total (4,252)	40
Farmer (2,901)	44
Nonfarmer (1,221)	31
Student (130)	44

UNSATISFACTORY

Total (2,043)	19
Farmer (1,412)	22
Nonfarmer (552)	14
Student (79)	26

2. Do you believe we should retain a residual military force in Vietnam until all of our prisoners of war are released?

YES

Total (7,976)	77
Farmer (4,853)	77
Nonfarmer (2,959)	77
Student (164)	59

NO

Total (2,428)	23
Farmer (1,439)	23
Nonstudent (876)	23
Student (113)	41

3. Do you favor the President's welfare reform proposal with its guaranteed annual income?

YES

Total (2,992)	30
Farmer (1,709)	29
Nonfarmer (1,187)	32
Student (96)	35

NO

Total (6,835)	70
Farmer (4,184)	71
Nonfarmer (2,473)	68
Student (178)	65

4. If a Presidential election were held now and the choice were between the following persons, for which *one in each group of two* would you vote?

	Total		Farmer		Nonfarmer		Student	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Nixon	5,723	67	2,972	60	2,596	77	155	57
Muskie	2,835	33	1,951	40	769	23	115	43
Humphrey	2,570	31	1,874	40	624	19	72	28
Nixon	5,643	69	2,858	60	2,593	81	192	72
Nixon	5,826	72	2,987	65	2,684	84	155	60

	Total		Farmer		Nonfarmer		Student	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
McGovern	2,230	28	1,625	35	499	16	106	40
Jackson	1,584	21	1,131	27	405	13	48	19
Nixon	5,929	79	3,090	73	2,636	87	203	81
Nixon	5,691	71	2,967	65	2,595	82	129	49
Kennedy	2,289	29	1,573	35	584	18	132	51

5. Which Farm Price Support Program do you like best?

a. The present program (which was in effect last year).

b. The program in effect the previous five years.

[Answers in percent]

a. Total (4,335)	51
Farmer (2,951)	52
Nonfarmer (1,304)	50
Student (80)	42
b. Total (4,109)	49
Farmer (2,695)	48
Nonfarmer (1,303)	50
Student (111)	58

6. Do you believe that price supports under the present program for wheat and feed grains should be increased?

YES Total (8,606)	84
Farmer (5,844)	90
Nonfarmer (2,581)	75
Student (181)	76
NO Total (1,589)	16
Farmer (665)	10
Nonfarmer (867)	25
Student (57)	24

7. Do you approve of the Nixon Administration's farm policies?

YES Total (2,983)	32
Farmer (1,672)	28
Nonfarmer (1,262)	40
Student (49)	22
NO Total (6,369)	68
Farmer (4,330)	72
Nonfarmer (1,870)	60
Student (169)	78

8. Do you favor President Nixon's proposal to abolish the draft and replace it with an all-volunteer armed force?

YES Total (7,437)	72
Farmer (4,598)	74
Nonfarmer (2,644)	70
Student (195)	82
NO Total (2,844)	28
Farmer (1,660)	26
Nonfarmer (1,143)	30
Student (41)	18

9. How would you rate President Nixon's foreign policy decisions?

GOOD:

Total (3,759)	35
Farmer (1,813)	28
Nonfarmer (1,854)	48
Student (92)	31

FAIR:

Total (5,432)	51
Farmer (3,643)	57
Nonfarmer (1,630)	42
Student (159)	57

UNSATISFACTORY:

Total (1,417)	13
Farmer (989)	15
Nonfarmer (394)	10
Student (34)	12

10. Do you approve of President Nixon's trip to:

[Answers in percent]

a. Communist China

YES

Total (9,117)	86
Farmer (5,323)	83
Nonfarmer (3,525)	90
Student (269)	92

NO

Total (1,517)	14
Farmer (1,102)	17
Nonfarmer (393)	10
Student (22)	8

b. Russia

YES

Total (8,414)	83
Farmer (4,888)	80
Nonfarmer (3,265)	87
Student (261)	92

NO

Total (1,715)	17
Farmer (1,223)	20
Nonfarmer (469)	13
Student (23)	8

11. Do you favor trade in both agricultural and industrial goods with Communist China?

YES: (8,871)	85
NO: (1,540)	15

12. Do you favor increased trade in industrial and farm goods with Russia and satellite nations?

YES: (8,604)	83
NO: (1,719)	17

13. How do you believe the President's Phase II wage and price stabilization controls are working?

GOOD

Total (841)	8
Farmer (375)	6
Nonfarmer (442)	11
Student (24)	8

FAIR

Total (5,307)	50
Farmer (3,065)	48
Nonfarmer (2,080)	54
Student (162)	57

UNSATISFACTORY

Total (4,373)	42
Farmer (2,941)	46
Nonfarmer (1,333)	35
Student (99)	35

14. Do you think Congress should enact permanent legislation which would provide compulsory Federal arbitration to end serious transportation strikes, such as the dock strikes, when agreement appears impossible through voluntary arbitration?

YES: (10,013)	93
NO: (702)	7

COMMENDATION OF CITIZEN EXCHANGE CORPS

Mr. GRAVEL. Mr. President, I should like to formally commend the Citizen Exchange Corps for its sustained service in bringing about greater understanding between the U.S.S.R. and ourselves. Theirs is a citizen-to-citizen counterpart program involving visits to the Soviet Union and private meetings with persons there who have similiar interests to visiting Americans. Historically, the Soviets have reciprocated and the Citizen Exchange Corps has done an extensive job of hosting visiting Russians in a nonofficial effective fashion. In short it has great credibility on both sides and its contacts with Soviet citizens are probably wider than any other groups, private, or public.

With this record behind it and the likelihood of holding a "World Congress" in Moscow during 1973 on the subject of international education and private citizen exchanges the CEC has launched yet another effort—a "China Corps." Similarly, the idea here is to promote private exchange visits between citizens of the People's Republic of China and our own citizens in the interest of peaceful coexistence and increased understanding. Accordingly, CEC has "enrolled" hundreds of interested U.S. citizens who would travel to China when that becomes possible. As is the case of CEC visitors to the U.S.S.R., these persons will be nonpolitical persons from all walks of life but will include interpreters and professors who will work in cooperation with their host country counterparts to arrange lectures, discussions and counterpart visits to homes, education institutions, industries, and the like.

The idea is a good one—and, like most good ideas, deceptively simple. As a longtime advocate of normalizing relations between the United States and the People's Republic, I applaud the new CEC initiative and wish them well in this enterprise.

CRISIS IN NUCLEAR FISSION: A HARD WAY TO BOIL WATER

Mr. GRAVEL. Mr. President, according to the Atomic Industrial Forum:

> As of the end of March, it has been one full year since a nuclear power plant in the United States has received a full construction permit or operating license from the AEC—There is little hope that the across-the-board delay will soon end.

Is this delay the fault of environmentalists, hysterics, or kooks? No, the fault is with the technology itself. Even some of the AEC Commissioners are beginning to realize there is a safety crisis, according to the trade journal, Nucleonics Week.

Its front-page article April 20 claims that Chairman Schlesinger is—

> Upset to find that the scientific basis for, and conservatism of, the interim Emergency Core Cooling System criteria are now in doubt after he had been assured by AEC staff of their validity.

Mr. President, I ask consent that this article, entitled "ECCS Situation Growing Steadily More Ominous for AEC, Industry," be printed at the end of my remarks.

PERSONAL INTERVENTION BY SCHLESINGER

Shortly after James Schlesinger's appointment as new AEC Chairman in July 1971, the well-known nuclear critic, Dr. John Gofman, predicted that the Chairman would eventually wonder "how ostensibly objective scientists of the AEC staff perform the miracle of all thinking alike on subjects of great debate outside the AEC headquarters."

One agent of this miracle turned out to be an AEC memo warning AEC-supported scientists that they should "never disagree with official policy" about the adequacy of emergency core cooling systems.

After this memo was discovered and publicized by the national intervenors in early February, Schlesinger personally intervened to encourage witnesses from the AEC's Oak Ridge National Lab to present their views about ECCS "fully and without reservation."

Subsequently, Oak Ridge experts did reveal severe doubts about ECCS performance and adequacy.

In view of their revelations and others, I cannot understand Chairman Schlesinger's support for bills like H.R. 14065 and H.R. 13752, which would accelerate the operation of new nuclear powerplants.

CREDIT WHERE CREDIT IS DUE

However, credit should be given where it is due. Apparently Chairman Schlesinger has at least been fighting, perhaps alone inside the Commission, to find out the facts about ECCS troubles, in spite of probable obstruction by frightened management below.

Is it unrealistic to hope that Chairman Schlesinger, in view of present nuclear safety problems, will find the courage to advocate a temporary nuclear power moratorium?

He would become an American hero overnight. Even the purest capitalists would soon realize that a moratorium is necessary to protect the American economy and industry from uninsurable nuclear power calamities.

Because Chairman Schlesinger is newly involved in atomic energy, he is free from the deep ego involvement which so commonly perverts human perception. He certainly cannot be blamed for nuclear follies of the past.

On the other hand, he will have to share the blame for nuclear accidents in the future, if he fails to take appropriate action now to protect public safety.

A VIGOROUS NEW WARNING

A pertinent editorial about nuclear technology appeared in the American Journal of Public Health, February 1972. It states that there needs to be "an increasing awareness of the consequences, actual or potential, that mistakes may entail for present or future generations."

The Journal then discretely expresses an extremely strong warning:

> Indeed, Cromwell's appeal to the General Assembly of the Scottish Church, "I beseech you in the bowels of Christ, think it possible that you may be mistaken," might well provide the basic position from which to approach the [nuclear] problems discussed above.

COULD JAMES SCHLESINGER BE THE ONE?

Perhaps Chairman Schlesinger is destined to be the man who turns to the other Commissioners, to the Joint Committee on Atomic Energy, and to the nuclear industry, to say, "Think it possible that you may be mistaken."

Already he has warned readers of Science magazine, in the issue of January 14, 1972, that "atoms may or may not be useful."

If it is a mistake to boil water with nuclear fission, which is the most inherently dangerous process known to man, then let us simply pay off our debt to those who explored nuclear electricity for us, as proposed in S. 3223.

Meanwhile, let us get on with the job of gasifying coal and developing solar technologies. A sunshine economy is intrinsically more attractive than a radioactive one.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Nucleonics Week, April 20, 1972]

ECCS SITUATION GROWING STEADILY MORE OMINOUS FOR AEC, INDUSTRY

"The interim criteria are in tatters and AEC is going to have to make some very major decisions," a lawyer who has been following the emergency core cooling rulemaking said this week. Other observers agree. They think AEC will have to choose from among new and possibly arbitrary formulae to add conservatism in ECCS criteria. There is speculation that these will embody one or all of the following: 1. a strict time-temperature formula; 2. tough power density limits well below manufacturers' present usage; 3. an arbitrary across-the-board limitation of reactor operation, say, 30% of rated capacity. Such operating criteria would hold until there has been confirmation of ECCS design adequacy.

The AEC commissioners held a special meeting last week to discuss the ECCS situation with top staff officials. Present were reactors chief Milton Shaw, ECCS task force director Stephen Hanauer, reactor standards chief Edson Case, regulatory director L. Manning Muntzing and general counsel Martin Hoffman. An AEC spokesman said the meeting was called simply to brief the commissioners on what was happening. However, sources close to those attending said it was a tough meeting with "hard questions" on how AEC had gotten into its present position. These sources said AEC chairman James Schlesinger was upset to find that the scientific basis for and conservatism of the interim ECCS criteria are now in doubt after he had been assured by AEC staff of their validity.

Some of those who have followed the rulemaking hearings in detail think there is indeed a crisis for AEC and the nuclear industry. Last week's AEC meeting suggests that the commissioners are beginning to feel similarly. The commission is expected officially to maintain the position that it cannot act or comment until the hearings record is complete; however, it also is expected to keep so abreast of the situation that it will be prepared to take prompt action at conclusion of the hearings.

National Intervenors, the coalition of environmental organizations represented by attorney Myron Cherry, came into the rulemaking hearings with little technical expertise. As one source put it: "They came in here with little idea what they were going to do; they were going to wing it. This, in fact, they did," this source continued, "but in the process they have opened up a Pandora's Box of scientific doubts and bureaucratic heavy-handeness." Witnesses from Oak Ridge National Lab, Aerojet Nuclear and AEC's regulatory staff have expressed varying degrees of doubts that have effectively discredited the alleged conservatism of the criteria and the scientific assumptions on which they were based. Weeks of bullying cross-examination by Cherry have revealed gaps in AEC data, a lack of tests, generous assumptions, and considerable numbers of doubting individuals, especially at Oak Ridge. AEC answers, in effect, that each of these men has only limited expertise; that when all of the data is assembled the big picture is different. AEC may yet prove its case but, with its staff witnesses in such disarray, observers think it unlikely.

The reactor vendors had contended that the interim criteria are needlessly conservative and that the vendors would be vindicated by their testimony on specific of their respective systems. But on the basis of their direct testimony so far, it appears that they will have failed. It is known that the AEC commissioners are considerably disappointed with the substance of the formal prepared testimony of the vendors, which they feel fails to address the critical issues adequately. Observers at the hearings say the computer codes are the most discredited item; that these have been shown to be crude and arbitrary.

Said one vendor source: "The trouble is that there is only so much that we can prove, because most of the assumptions and data relate to AEC-sponsored tests that are outside of our control." He said top management of vendor companies—primarily the three manufacturers of pressurized water reactors—had failed as yet to grasp the full consequences of the predicament in which they may find themselves. He said the situation reminds him of the failure of AEC and industry to grasp the full impact that the National Environmental Policy Act was to have on nuclear plants.

At the ECCS hearings last week, Robert J. Colmar, a senior nuclear engineer in the Div. of Reactor Licensing, stated flatly that some form of power reduction was desirable. Colmar said that at present there is no way of evaluating the course of a loss-of-coolant accident. "In view of the fact," he said, "and in view of the testimony of many knowledgeable people on the subject, it is my feeling that we ought to stay at some power level where a great many of these uncertainties are lessened."

Colmar said the principal concern was low-flooding rates and that there was a need to explore this problem and come up with analyses and solutions to it. He said that if the problem was directly related to another factor, such as steam binding, then that should be dealt with, too; possibly by a design fix. Colmar added: "But I think what we are really striving for is to reach a power level where the problems that we've heard of during this hearing are mitigated substantially." But Colmar admitted that he didn't know how such a reduced power level should be arrived at.

EXTENSION OF TERRITORIAL JURISDICTION FOR 200 MILES

Mr. STEVENS. Mr. President, on March 22, 1972, in the Daily Sitka Sentinel, at page 6, an article appeared which is of particular importance. The article, entitled "SEATA Responds to 'Advocates' Debate," contained a letter to the producers of the "Advocates" television program. It was prepared and drafted by the Southeast Alaska Trollers Association in response to an issue described on one episode of the Advocates. This was the proposition that America should extend its territorial jurisdiction for 200 miles.

I reported in the CONGRESSIONAL RECORD the overwhelmingly favorable response of the American public to that program. However, at that time the response of the fishermen themselves was not available. This article reflects their opinion. For this reason, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEATA RESPONDS TO "ADVOCATES" DEBATE

Southeast Alaska Trollers Association at an Executive Board meeting Sunday night released for publication a letter to "The Advocates".

The letter was written in response to membership request after the NBC–TV showing of the debate on extending U.S. coastal jurisdiction.

The breadth of territorial claims to the sea will be one of the principal subjects at the 1973 international Law of the Seas Conference.

Following is the SEATA letter:

Gentlemen:

Our organization, exceeding 350 members from Alaska to Oregon, and by membership request, wish to comment about your program for U.S. Extended Coastal Jurisdiction.

Our type of fishing is principally "hook and line" and chiefly on Pacific salmon. We should not be confused with the trawl (drag) method as we often are. Some of us troll for tuna, and some are diversified trollers, engaging in the long-line bottom fishery for halibut and sablefish, or inshore in the salmon gill net and seine effort. And some, are small-boat fishermen who supplement their income troll fishing in protected waters such as that in the Alaska Alexander Archipeligo.

We realize we are only a small segment of the national fishery, but we find it incomprehensible a program such as yours can be presented without reference to Alaska as "the nation's greatest fishery today"; quoting the National Marine Fisheries Service.

The general public, and far too many congressmen, visualize a fisherman as a squint-eyed individual clad in a so'wester; a little below the norm in literacy, and fiercely independent.

Independent he has been—the near-last of the free enterprise system to be involved in international diplomacy and bureaucratic dictates. He may be squint-eyed, but he is not illiterate, and he has become distrustful of diplomacy.

The fisherman knows he can no longer "just go fishing and forget the world", for when he sailed in the past 15 years, he was face to face with super foreign fleets on his coastal breeding and rearing grounds—grounds systematically drug the year round. And off which American fishermen sometimes do not fish, partly as a conservation measure, and sometimes by regulation. The excuse the foreigner gives for being there is they "are fishing under-utilized stocks."

Concerned American fishermen can't take much "stock" in that statement when they read, by those purported to know, "that the world fisheries are 70 per cent over-fished", and, by another, that, "the ocean outside the continental shelves are virtual deserts."

The fisherman is distrustful when he hears the term "limited entry" for the simple reason that it is not the American fisherman who has built up, and invaded, these grounds with super fleets—who have made our experts admit to decline of the herring on the Atlantic, the menhaden, and the flounder. It is not they who have caused the decline of ocean perch on the Pacific, the sable fish off Alaska. The American fishing fleet, as also admitted by the experts, is not capable of carrying out that depletion!

Information, such as that declassified and published, from the late Dr. Wilbert Chapman was that, in the 1958 and '60 Law of the Sea negotiations, "the last ditch bargaining material used was FISH" (his emphasis). It was used in an attempt to establish exclusive jurisdiction of the coastal state over the resources of the continental shelf without losing the navigational rights!

What our diplomats did, was trade "fishing rights" for "navigational rights", and the fisherman is not so naive he doesn't know it!—Nor why he now has the foreign fleet to contend with on North American stocks.

Neither are the bulk of American fishermen so naive as not to know that the U.S.-South American "tuna war" is partly involved in the diplomacy for protecting billions of American investments in South American oil, fish, fruit, coffee, rubber and a host of other "programs".

The time has come when the American fisherman, with a good many more American's think a portion of this largess being strewn around the world, might well be used at home—at least in protecting our resources. By every expert projection, our continental shelves are most important; oil, minerals, and, a protein resource for a burgeoning nation.

Oh yes! the fishermen know that "certain rights" were worked out for exploration on "the shelves"—but not for fish! They also know one of the reasons for the gigantic oil lease sale in Alaska was because many of the foreign recipients of our largess, and diplomatic actions, have forced these companies to come home. Most Americans realize that one of the richest countries on earth has developed a "poor image" and does not justify its balance of deficits (including seafood imports), its underemployed, and its national debt.

If this sound far from fishermen, it is not!

The subsidizing of the American fishing fleet, tax write-offs for oil, the paying of American fishing "fines" from everyone's tax dollars will in no way stop the foreign incursion on our continental shelves. To invest in it we must protect it! As one researcher writes, "by the time we get through 'researching' what damage the Russian and Japanese fleets have done to our continental stocks, they will have left for South American waters, and the fishermen will all be broke."

A statement often heard among fishermen, thinking in terms of conservation, is "you know what happened to the whale!" We DO know what happened to the whale! It was put on the endangered species list. Americans no longer take whale, but foreign nations take them just the same!

We fishermen, on both coasts and the National Marine Fisheries Service, know how heavy is this foreign pressure on North American stocks. To cite only one month on Alaska's shelf (Dec. '71) there were 204 Soviet and Japanese vessels. 176 of those were trawlers taking ground fish, ocean perch, flounder, herring and sable fish; all species showing a decline on our coasts, and largely cut of U.S. control. The NMFS estimates (probably conservatively) that the Russian and Japanese take 3 billion pounds of all fish species off Alaska each year.

The Japanese concentration on the last great North American salmon stocks is accomplished by high seas gill net—from which some reports estimate a 70 per cent loss! The Soviets say they take salmon only "incidentally", but one report states they admit to 300,000 salmon (perhaps 3 million pounds) each year, taken "incidentally" in their trawls just in the Bering Sea.

All Northwest fishermen continually witness Soviet trawl fleets moving into concentrations of returning salmon. When reporting violations, the trawlers move outside the 12 mile limit, and fishermen know their calls are monitored. In Japanese and Soviet fish schools the English language is a required subject, at least for fishing masters.

To summarize, we see no effective control for protecting bottom habitat, and the stocks who feed and rear therein, without coastal state jurisdiction over its conservation. Neither is there logic to subsidizing American fleets, and limiting unit effort, so long as foreign fleets have relatively free rights on the continental shelf. The anadromous Pacific salmon, and of course the warm-water tuna, must be considered. But, for the greatest fishery this nation has today there will be no adequate conservation until coastal states have custody of the continental feeding and rearing grounds—for all its inhabitants; ground and shell fish, salmon, the pelagics, birds, whales and even sea otter and fur seal. These grounds are the world's greatest contributors to a renewable protein resource, and they deserve attention of every North American!

Thank you for your program; we wish we could have participated more fully. And, we hope we've justified our stand—for all Americans!

U.S. DEPENDENCE ON FOREIGN FUEL SUPPLY

Mr. STEVENS. Mr. President, some projections indicate that the United States will be depending on foreign nations for as much as 60 percent of its oil and be a significant importer of foreign natural gas by 1985. The cost of this dependence on "cheap" foreign fuel is awesome.

Department of Commerce estimates of the cost of new tankers for crude oil are up to $49 billion.

The Navy says an expansion of the U.S. fleet by almost 60 ships would be necessary primarily to keep the ocean lanes open for U.S.-bound tankers.

Higher prices and taxes are the inevitable consequence of our increasing dependence on foreign fuel supply.

The current issue of Petroleum Independent contains an article relating to this subject titled "Navy Wants Billions To Protect 'Cheap' Foreign Oil." I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NAVY WANTS BILLIONS TO PROTECT "CHEAP" FOREIGN OIL

The cost of "cheap" foreign oil is beginning to look more and more like an economic burden that even the big rich U.S. can ill afford.

With some projections that the nation could be getting as much as 60 percent of its oil from abroad and be a significant importer of foreign natural gas by 1985, the "costs" of building in this kind of dependence on foreign fuels are awesome.

Some of these costs include:

1. Up to 2600 new tankers for crude oil which Andrew E. Gibson of the Department of Commerce estimates would cost up to $49 billion.
2. An expansion in the U.S. fleet by almost 60 ships that would cost several billions and that the Navy says will be needed primarily to keep the ocean lanes open for U.S.-bound oil tankers.
3. A negative impact on the U.S. balance of payments which indicates, conservatively, that the 1985 dollar outflow for petroleum fuels could be $30 billion—$20 billion for oil, $10 billion for liquefied gas.

None of these "costs" reflect fully the rapidly growing prices that will confront consumers for foreign oil and gas. Higher prices and taxes imposed on concession-holding companies in the past year by host governments in the Organization of Petroleum Exporting Countries are considered "only a beginning" by most observers of the foreign oil scene.

Buoyed by their negotiating success in the past year, the OPEC countries now are in initial stages of dealing for direct "participation" in the ownership of operating companies. Their strategy is to claimstake ownership rights nominally, at 20 percent or so, then increase their share by stages until oil concessions revert to host countries late in this century or early in the next.

Success of the OPEC partners in extracting increased dollars, whether through "participation," higher prices, increased taxes, or combination of all three—could substantially hike the dollar outflow and the intolerable impact on the U.S. balance of payments position.

The economic cost of dependency on foreign sources for fuels at levels now being forecast by some government agencies would, of itself, be more than the U.S. could afford—even if buying and paying for the fuels were all the costs involved.

But it is increasingly apparent that the cost of the foreign fuels—and they will be far from "cheap"—will be only a part of the cost of building in a U.S. dependence on foreign supply.

NAVAL OIL PROTECTION?

New elements of costs to consumers and/or taxpayers have been raised regularly, some that nobody had thought of before. The latest of these was embodied in the Navy's appeal for 50 swift new frigates and eight mini-aircraft carriers that would have the assignment of keeping open the sea lanes "for transport of critical resources into the U.S."

Adm. Elmo R. Zumwalt, Jr., chief of naval operations, laid heavy stress in expansion of the U.S. fleet to protect future oil tanker traffic in putting the Navy's $23 billion budget request for fiscal 1973 before the Senate Armed Services committee.

"During the past year," Zumwalt said, "it has become increasingly clear that, by 1985 or so, we will have to import perhaps half of the petroleum we need. The quantities imported by sea will be vast—on the order of 12 million barrels a day."

Adm. Zumwalt said this kind of oil traffic would require up to 1,000 tankers of 70,000-ton capacity delivering foreign oil to the U.S., and he warned the Senators:

"The potential for coercion of the U.S., with or without allies, inherent in this situation is ominous when one considers the measures the Soviets are taking to improve their navy."

In making the Navy's case on its budget requirements. Zumwalt showed the Armed Services committee some 25 slides. Significantly, "U.S. Dependence on Oil Imports—1985," showing the import level at 50 percent of requirements.

A key role in protecting oil tanker movements would be assigned by the Navy to a new "Patrol Frigate" which Zumwalt said is needed to augment and eventually replace World War II vintage destroyers. The "most vital function" of these frigates, he said, would be "to help keep open the sealanes for the transport of critical resources into the U.S.

The Navy wants 50 of these ships, with contract for the "lead (first) ship" expected to be let in 1973. Zumwalt requested $191.5 million for design and procurement of the first of these, and said the 50 would be spread among three contractors.

Should these frigates cost, ultimately $150 million each—the 50 would mean an outlay of $7.5 billion for tanker escorts, not including manning and maintenance. Eight aircraft carriers (Sea Control Ships) that would carry 17 aircraft, including helicopters, and cost about $100 million each, also would have a role in maintaining access to sealanes.

Tanker needs weighed. Levels of potential U.S. dependence on foreign oil by 1985 vary, depending on who is doing the estimating. The Pentagon is planning on the assumption that it will be 12 million barrels a day, but the Department of Commerce anticipates oil imports by the mid-1980's of 14 million barrels daily.

And the Assistant Secretary of Commerce for Maritime Affairs, Andrew E. Gibson, has estimated the new tanker capacity to move that much oil at 2,600 ships of 47,000-ton capacity—or 500 of 250,000-ton capacity for which the U.S. presently does not have any port facilities.

If deepwater port facilities are not provided, at least one each of the East and West Coasts, and another in the Gulf, Gibson estimated, the cost for smaller tankers will be $49 billion. The tankers of 250,000-ton capacity, he said, would cost only about $22 billion, but would require construction of deep water terminal facilities that would cost several hundred millions but may be opposed by environmentalists.

Whether the 1985 U.S. import traffic is in the $49 billion worth of small tankers, or larger ones, protected by 50 new naval frigates or more, it is increasingly apparent that the myth of "cheap" foreign oil is an economic illusion of treacherous proportions.

As IPAA's President, Tom B. Medders, Jr., put it recently:

"There are those who have asked—and will continue to ask—how we can afford to rebuild an adequate (domestic) energy resources base. My answer to that question is another question: How can we afford to neglect this challenge which may be the most important in the history of our country?

"The question our government ought to face up to is simply this: Can we afford the economic cost of dependence on foreign energy supplies in the tremendous volumes that will be needed. The evidence already visible suggests that prospective costs for building in a dangerous dependence on foreign oil and gas would be far greater than the cost of assuring secure supplies from our own resources."

NEIGHBORHOOD YOUTH CORPS

Mr. HART. Mr. President, as we look forward to debates on reforming welfare and reducing unemployment rates, we must not overlook the opportunity we have today to provide jobs this summer for the segment of our population hardest hit by unemployment—our rural and urban poor youths.

We can do that by supporting the increases in funds for the Neighborhood Youth Corps programs recommended by the Senate Appropriations Committee.

Unemployment figures tell the story of the need for these funds.

The jobless rate for teenagers in poverty neighborhoods is 25 percent; for black teenagers in such areas, 34.7 percent.

It is estimated nationally that as many as 1.5 million youths will be eligible to participate in the Neighborhood Youth Corps jobs program this summer.

Under the administration's budget requests, the same as last year, the Neighborhood Youth Corps will only be able to fund 610,000 9-week jobs.

That is not enough.

For example, in Detroit, that could mean less than 15,000 job slots.

Detroit officials report that 35,000 youths could qualify for the program and that public and nonprofit organizations are prepared to offer 25,000 job opportunities, provided the funds are available.

Detroit Mayor Roman Gribbs, members of the Detroit Common Council, Detroit Superintendent of Schools Charles J. Wolfe, and James F. Coughlin, director of the Catholic Youth Organization for the Archdiocese of Detroit, all have written to urge a sharp increase in funds for this program.

The National League of Cities—U.S. Conference of Mayors have made this request a top priority item.

Let me emphasize this is not a big-cities program only. Under the committee's proposed increase, the number of job slots funded in areas smaller than the Nation's largest 50 cities would be increased from 328,000 to 538,000. So poor youths of towns, large and small, across the Nation have a deep interest in what we do today.

Certainly I would be remiss in not thanking the Senate Appropriations Committee in general, and Senator WARREN MAGNUSON, chairman of the Health, Education, and Welfare Appropriations Subcommittee, for approving the large increase.

A number of Senators joined in requesting the subcommittee to provide an extra $200 million, which would have funded 950,000 10-week jobs, and increased appropriations for Neighborhood Youth Corps summer recreation and transportation programs.

The committee recommendation for an increase of $152 million will fund the same number of jobs, but for 9 rather than 10 weeks, and will provide the additional funds for the other programs.

It is my hope then that not only will the Senate give strong support to the committee's action, but that our conferees will be able to convince their House counterparts to accept the higher Senate figure.

As I said in my statement to the Senate Appropriations Subcommittee, to ask our youth to work within the system but to provide no jobs is like inviting a hungry person to dinner but neglecting to tell him where the party is and forgetting to buy the food for the meal.

Also, I want to thank Senator MAGNUSON and the Appropriations Committee for their responsiveness to the plea of several Senators that $9 million be added to this bill so that 26 follow through programs scheduled to be terminated this year can be funded.

One of those programs is in Lansing, and I have been working with officials of the program to reverse the decision of HEW to cut off funds. We can best assure such a reversal by providing the necessary funds today.

NEIGHBORHOOD CONSUMER INFORMATION CENTER

Mr. PERCY. Mr. President, in recent months, the Neighborhood Consumer Information Center—NCIC—has worked vigorously with programs and institutions in the State of Illinois to enable them to improve their services to the low-income community. Assistance was provided for institutions ranging from Northern Illinois University, the Illinois State's Attorney General's Office, and WMAQ television station in Chicago, to community action and model cities programs throughout the State.

It is my understanding that this program was funded by the Office of Economic Opportunity on the hypothesis that, given specialized training in consumer protection and education, interested organizations could then effectively utilize existing structures of local governments to solve their consumer problems. Groups that could avail themselves of such programs included metropolitan consumer agencies designed to help the low-income consumers, community action agencies engaged in consumer affairs, and welfare groups concerned with consumer problems. In order to achieve its objective, NCIC provided technical assistance throughout the Nation, making specialists available to analyze geographic consumer problems and compare them with available remedies. They then conducted training programs in Washington, D.C., to appropriately train staff to negotiate and implement practical solutions.

It was further anticipated that a national program such as this would serve as a focal point for consumer protection agencies to continuously receive technical assistance regarding Federal, State or local aid in solutions to the problems of impoverished consumers.

Under the outstanding leadership of Executive Director Joseph F. Smith, NCIC approaches these problems in a manner best designed to analyze low-income consumer problems. The organization furnishes consumers with timely solutions, plans solutions in accordance with expert analyses, and implements such plans and analyses in the District of Columbia to determine their feasibility and applicability to consumer problems throughout the United States.

Successful approaches are subsequently refined into systematical techniques and procedures that are published and distributed to the community action agencies, model cities programs, private programs, and ombudsman programs of local government across the country. Recently, NCIC released a 300-page "how to do it manual" entitled "Neighborhood Consumer Information Center and Low-Income Consumer Protection." In this manual NCIC has chronicled its history and development, forthrightly describing its failures as well as its successes, in an conscious effort to help others profit from the knowledge and expertise gained over the years.

The empirical data for NCIC analysis is acquired through a complaint division that provides an immediate solution for those consumers who register complaints. This information is subsequently used by the complaint division to demonstrate to merchants, through an accumulation of cases, the deficiencies in their operations and to relate these deficiencies to the deterioration of good will between the merchant and his customers.

This same data is simultaneously used for a remedial consumer education program that enables NCIC's education division to provide practical solutions for problems that consumers can identify with, while at the same time providing them with ample insight in recognizing and avoiding further problems.

Another special aspect of the NCIC program—which no governmental organization could hope to accomplish—is its immediate access to the inner-city community. This facet of its operation becomes especially important in the field of consumer education since inner-city residents often tend to be suspicious of outsiders who attempt to teach "buymanship." Because of this unique access to and trust by the inner-city community, and NCIC's detailed knowledge of low-income consumer complaints, the organization has been an excellent source of information about promising enforcement activity.

Congressman ROBERT ECKHARDT placed a highly informative report written by the Neighborhood Consumer Information Center in the CONGRESSIONAL RECORD of July 10, 1969. The report explains in detail the structure I have outlined. It also presents a penetrating analysis of existing and proposed remedies. Although it has been superseded by NCIC's most recent publication, I recommend that it be carefully read by all who are concerned with consumer protection.

After a consumer education graduation exercise held by NCIC on September 3, 1969, Representative SEYMOUR HALPERN reviewed NCIC's activities in the CONGRESSIONAL RECORD on September 15, 1969. He concluded by stating:

> In short, then, the NCIC has covered the field from A to Z, recognizing all the facets of the consumer problem and providing innovative techniques.
>
> In the case of national organizations, the potential involved in the NCIC program seems so great, that a failure to examine carefully what these bright law students have done in the ghetto community in a positive fashion in a time when American society seems only to conceive of these problems negatively would be a lost opportunity of tragic proportions.

In a news release of October 13, 1970, Mrs. Virginia A. Knauer, Special Assistant to the President for Consumer Affairs, stated:

> The Neighborhood Consumer Information Center has a wealth of information which can be exceedingly helpful to all consumers. They are very knowledgeable about the conditions affecting Black Americans and Spanish-speaking Americans. I think they should be congratulated for cooperating with our office to distribute information to consumers throughout the United States.

Such reaction is typical of the comments on NCIC's excellent work nationwide. I would like to add my own compliments and acknowledge the outstanding services that this program is providing to the citizens of the State of Illinois and the country at large. This is, assuredly, a program deserving of continued Federal encouragement and support.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The Senate resumed the consideration of the bill.

AMENDMENTS NO. 1172

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate amendment No. 1172, which the clerk will state.

The assistant legislative clerk read the amendment as follows:

On page 21, beginning with line 20, strike out through line 26 on page 22 and insert in lieu thereof the following:

"SEC. 201. There are authorized to be appropriated for the United States Information Agency for fiscal year 1973, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

"(1) $194,213,000 for 'Salaries and expenses' and 'Salaries and expenses (special foreign currency program)', except that so much of such amount as may be appropriated for 'Salaries and expenses (special foreign currency program)' may be appropriated without fiscal year limitation;

"(2) $5,036,000 for 'Special international exhibitions' and 'Special international exhibitions (special foreign currency program)', which amount may be appropriated without fiscal year limitation; and

"(3) $1,000,000 for 'Acquisition and construction of radio facilities', which amount may be appropriated without fiscal year limitation."

On page 29, line 11, strike out "(a)".

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, with the time equally charged against both sides on the amendment.

The ACTING PRESIDENT pro tempore. The Chair will make this announcement: Under the previous order, the time is limited on the McGee amendment to 4 hours. After the vote on the McGee amendment, the Senate will proceed to the consideration of H.R. 14582.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McGEE. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to amendment No. 1172 of the Senator from Wyoming to S. 3526.

Who yields time?

PRIVILEGE OF THE FLOOR

Mr. McGEE. Mr. President, I ask unanimous consent that two members of my staff, Mr. Bob Bullock and Mr. Dick McCall, be permitted to be present in the Chamber to assist me through the vote as well as during the debate on this amendment.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. McGEE. Mr. President, few questions have engendered the very widespread interest and concern that this question has with respect to the role of the USIA. I would hasten to add that there is really little disagreement on most of its ramifications, even on the committee itself. As the chairman of the committee, Mr. FULBRIGHT, has stressed in the report, a part of the reason for the action taken to cut the USIA budget by approximately 30 percent was, in effect, to get their attention to reinforce the committee's concern about executive privilege in the relations between the executive branch and the legislative branch.

What this would seem to be saying to us is that in the much larger picture, there is a very broad consensus about the high purpose and the conduct of the USIA, but what is being tested here is the implication of a cut of the dimensions that was carried in the committee's action, for the reasons given in the committee's report. So I have undertaken to initiate this amending action for the purpose of restoring the full authorization figure for the USIA, which would restore approximately $45 million. In a moment, I will have statements from two or three of my colleagues who have asked in particular to have their position reinforced on this question.

It is my understanding that, with the limitations we have agreed to, a rollcall vote on the question will fall somewhere between the minimal interval suggested by the acting majority leader, Senator BYRD, of 1:30 and the other end of the line, roughly 2:30, and that between those two potential points we will indeed arrive at a rollcall vote.

It was a further part of the unanimous-consent agreement of last week that set this up, as a matter of expediting things and as a matter of convenience to the Senator from Wyoming—a gesture which I appreciate very much—that this amendment, at this time, on this issue, would not be open to further amendment today; that the issue is the full restoration.

My concern, Mr. President, has to do with the impact of this cut as a recorded act of the Senate. Its complications in representing what the Senate would intend in this case would go far beyond the halls of this Chamber and would, indeed, carry to almost every corner of the world and be read and misread, interpreted and misinterpreted, by many other governments and peoples.

Among other effects, a cut of this magnitude would require that the agency close its offices completely in some 30 countries, in some 35 branch offices in related areas. It would force the Voice of America to terminate 25 of its 36 language services. It would reduce the agency's television and motion picture capability by 50 percent and stop many of the USIA's most valuable publications abroad.

We may be well advised to remind ourselves that nobody very seriously intended to do all these things; but sometimes our own tactical intents in this body have a way of being misunderstood in many other areas, and in the misunderstanding we never quite succeed in making back the ground that is lost through misinterpretation. It is this that concerns me, too.

I have sat many times, informally, in the Advisory Council of the USIA. I have had occasion to visit many operations of the USIA abroad and, innumerable instances, to examine in depth the dimension of the operation, the scope and the effectiveness, or lack of it, in which it was being conducted. The most recent of those studies of the USIA in the field I made just 2 months ago, in February of this year. I came out again convinced that this, indeed, was one of the most positive and the most constructive and the most necessary of the many things that our country strives to do in projecting its motivations, its role, its objectives to others in the world; and that applies to the countries that speak our language or understand our institutions fully as much as it applies to those areas that would seem to be more remote culturally, linguistically, or institutionally from us.

I think what is fundamental in the question is that whether we have our say or not, others are judging, and they are judging very often from the extremes of headlines, of very short newscasts. In fact, I suppose that is one of the blind spots of which we all have something—that we tend to judge others by the extremes of their action because it gets a bigger play than the things that might be going well. All the more reason why, in a role in which we find ourselves in this decade, it is important that our explanation and our exposition of what we do, what we say, and what we are, not be penalized or curbed by a lesser effort when a greater effort is called for.

The Information Agency enables us to communicate directly to the peoples of other countries. It explains what we think we mean, rather than what others may conclude from the headlines that they think we mean. Suffice it to note that this is important even in our own country in that sense and that there are many interpretations of the news of the day. But here at home we take this for granted, and we even make allowances for it, shall we say.

But there is a certain inclination, which most of us have noted overseas, to regard anything that comes out of the Senate of the United States as something that is far more sacrosanct than we, ourselves, perhaps would expect it to be. Among other governments there is a greater proclivity toward accepting any statement from an elected official as somehow a reflection of official policy of the Government position, and this, too, contributes to the confusion of the interpretation of the United States overseas. The very freedom that we hold dear in this body, to be a free man in our own right as individuals—the freedom to disagree, the responsibility to disagree when we believe it to be our conviction—is one of the great riches of the Senate of the United States. But to say that in parts of the world it does tend to confuse would put it mildly.

That is why it is all the more important that among the input of information going to other portions of the globe there be the input from an agency such as the USIA, which seeks to lay out, for any who will read or who will listen or who will view, a position—or the positions—that reflects American opinion in its government.

The cuts that are now a matter of record by recommendation of the committee, of which I am a member, would tend, in my judgment, to give an impression abroad that we on the committee, whichever way we voted, never intended that much of what we did was aimed tactically at home consumption, such as delivering a message to the executive branch of our own Government, for example. The refinements of the sophistication of competition between the Senate—or Congress—on the one hand, and the executive branch, on the other, are quickly lost upon most foreign audiences, among those who are not close to the mechanisms, the characteristics, and the tradition of competition for ideas and policy that we take for granted on our side.

All major nations and some minor ones recognize the important role of an information agency in its own behalf. I think it is important to underscore that many nations of the world are involved consciously and deliberately in this kind of activity. I would only say that a nation as large as the United States, cast in the role into which history has thrust us, has perhaps a greater concern over this kind of involvement than any other nation in the world.

We are not a nation of soldiers. We have a proud tradition in this country of being a nation of civilians. We decree in the Constitution that only a civilian, in his role as a civilian, shall be President of the United States, and that the Commander in Chief in time of crisis shall be a citizen of the United States rather than a general of the Army.

But in one field we have taken great pride—our history bears it out—and that is in the field of ideas, the field of communication, the field of image projection. We believe that if all the relevant circumstances are surfaced, if all of them are circulated, if all are dialoged, we can only gain.

There are areas of the world, of course, where that is not the case. There are areas where communication is carefully selected, where the news or the information is severely curtailed. Thus, as we look upon our problems around the world in projecting our image, we recognize that the conscious effort to distort whatever the American image may be, to exploit it in its extremes in a moment of crisis, or to blur it or to blot it out, remains the option of a great many other governments.

That being the case, it should underscore that if we are caught doing anything, we should be caught working at projecting the full story of our country's activities in its decisionmaking, in its policy projection, in its goals, and even in the more ambiguous profile of its fondest dreams.

Our record also stands well the test of criticism, the test of ideas, and the test of skepticism. It is the attempt to make sure that these are all surfaced—not just some of them—that deeply involves the energies and the efforts of the U.S. Information Service.

When I was in Eastern Europe last February—in effect, behind the Iron Curtain, I guess we would say—I had occasion to visit again another of the cultural centers that the USIA operates, this one in Bucharest, Rumania. I must say it was, once more, impressive, for here, in low key, with an austere budget, in the simplest of settings, an opportunity had been opened up, for those who were interested, to expose themselves to American culture, to American literature, and to American imagery in many forms.

Mr. FULBRIGHT. Mr. President, will the Senator from Wyoming yield for a question?

Mr. McGEE. I yield.

Mr. FULBRIGHT. Just to keep the record straight, the proposed cut does not affect information centers or libraries. The implication in the Senator's remarks might seem to indicate that we are cutting those, too. But the Senator recognizes that this cut does not affect information centers or libraries, does he not?

Mr. McGEE. The Senator from Wyoming readily recognizes that, and he appreciates the correction from the distinguished chairman of the Committee on Foreign Relations.

The point the Senator from Wyoming is making is that the overall imagery problem we seek to address ourselves to in the use of the USIA is hardly separable into too many categories, for the reason that they are weighed in balance as they seek to project the American story. Thus, it could not be done with the Voice of America alone, for example, and it could not be done with libraries alone, or with cultural centers alone. It is the composite that makes up the total measure that needs to be applied to this operation that we are discussing as the essence of this amendment.

The point is then, that whatever else we may do in these rather uncertain days for some and dark days for others, in our role of leadership around the world, this effort is one of the more sensitive and the one, if we have any doubts at all, that should be tolerated, even in the sense of doubt, as the projector of information and ideas that can only enrich the pool of ideas and the forces influencing opinion elsewhere in the world.

Mr. President, that is my informal statement. In more formal phrasing, let me say that today, this body will vote on my amendment to restore the USIA authorization for fiscal year 1973—an authorization which was slashed by $45 million in the Senate Foreign Relations Committee.

At this time, I would summarize the reasons I feel this cut to be unwise now. The cutback of almost 30 percent of the operating budget of the USIA would, in effect, cripple a small agency with a big and important job.

As I emphasized last week, there can be no serious question about the need for a Government information program of the importance of the USIA's function in the conduct of our foreign affairs. Its efforts are closely integrated with the activities of other U.S. agencies engaged in foreign relations, and its role is a permanent one.

The need for an official information program to support our foreign policy and advance the interest of the United States has been repeatedly recognized by successive Presidents over the past 20 years.

The charge has been made that the USIA is nothing more than a holdover from the cold war. This view is surprising, since certainly none of the other major powers regards official information programs as anachronisms. The Soviet Union leads the world in international broadcasting, both in the number of hours broadcast weekly and in the number of foreign languages used. The People's Republic of China is second. The Soviet Union distributes some 67 magazines in over 15 million copies each year, and eight newspapers in 38 million copies in 20 languages. The U.S.S.R. also sends about 50 million books abroad each year in over 30 languages, and through foreign publishers produces some 8,000 titles in around 100 million copies.

China has an extensive program for the distribution abroad of magazines and books in many languages, and Cuba is extremely active in international broadcasting, as well as in the distribution abroad of magazines, films, and its own version of the news.

It is no exaggeration that the cut of over $45 million proposed in this bill would cripple the U.S. Information Agency. By specifying the cuts for each media and activity while denying the Agency the flexibility to transfer funds between programs, the damage is compounded.

As I pointed out last week, under S. 3526 the Agency's salaries and expenses appropriation has been subdivided into five categories—radio; press and publications; motion pictures and television; centers and related activities; and direction and general support. Funds for four of these five have been cut by 30 percent, and the Director of the Agency is denied the right to change the "mix" of the media used in responding to events and opportunities. It is obviously not possible to plan in advance precisely what media tools will be needed to use total resources most effectively. A missile crisis may require more radio broadcasting. A dramatic space achievement can be exploited by more films and television. An opportunity in Eastern Europe can be seized by the establishment of a new cultural center. These actions cannot be anticipated. Yet this needed flexibility would be precluded under this bill.

Some of the results in this $45 million cut would include the closure of approximately 65 USIA installations abroad, including the total abolition of its posts in some 30 countries. The Voice of America would stop broadcasting in about 25 languages, including some or all of those to Eastern Europe and the Baltic States. It would also have to close down perhaps seven of its 15 relay stations and three of its regional program centers.

The cutback would eliminate the regional magazines distributed throughout Africa, the Arab countries, and the Far East, as well as the highly regarded magazine in Polish, Amerika Illustrated. Between 80 and 90 percent of the magazines the Agency tailors for single country distribution would also have to be dropped.

Mr. President, I have traveled widely as a Senator of the United States, and I have made it a particular point to look into the effectiveness of the Voice of America wherever I have gone. Without exception, I have found it to be highly respected, responsible, and listened to. All over the world, VOA's name newscasters are recognized.

I would like to briefly comment on the impact of this cutback on the USIS. USIS would be abolished in Guyana where the battle for power between Moscow-inspired Cheddi Jagan and the more moderate Forbes Burnhan has kept a tragic country divided between blacks and Asiatics; Trinidad, a vital Caribbean port with more than one-half billion dollars in U.S. investments and one of the pillars of constructive Carribean efforts toward regional government and closer relations with the United States; Bulgaria, one of the most hermetically-sealed countries in the world; the Dominican Republic, which only a few years ago was the scene of one of our great foreign policy crises; most of the countries of Central America, important to the United States politically, economically, and historically; Libya and Kuwait, two of the great reservoirs of petroleum of the Western World, upon which the entire Western economy has come to depend; and 17 countries in Africa.

In sub-Saharan Africa, the cutback would require the elimination of all U.S. informational and cultural activities normally handled by USIS in more than half of the countries comprising 50 million black Africans. Out of 28 countries where USIS posts now operate, as many as 15 could lose the entire program. In five more countries, a total of 11 branch posts and reading rooms outside the capital cities are tentatively slated for closing.

These developments, taken together with the elimination of most of the African division of the Voice of America—except for French broadcasting—and the demise of the single printed medium for reaching people throughout the continent—means in effect that all efforts to communicate with 50 million Africans will have been largely curtailed by the U.S. Government.

Mr. President, it is difficult to understand why the committee proposed such a drastic cut in the Agency's authorization request. The committee report states the decision was based "in large part on the Agency's refusal to make its country program memoranda and other planning information available to the committee as requested." Yet the Agency was only acting under written instructions from the President. While I deplore the excessive use of executive privilege to deny to the Congress the information we need to carry out our legislative responsibilities, I do not think we should make the USIA the victim of an executive-legislative disagreement of principle which is vastly beyond the Agency's authority.

Therefore, I urge Senators to join with me in supporting a restoration of the cut in the USIA's budget authorization.

Mr. SYMINGTON. Mr. President, will the able Senator from Wyoming yield?

The PRESIDING OFFICER (Mr. CHILES). Does the Senator from Wyoming yield to the Senator from Missouri?

Mr. McGEE. I am happy to accept a question from the Senator from Missouri.

Mr. SYMINGTON. The question I would ask, being a member of the Foreign Relations Committee with my able colleague from Wyoming, does he believe, with respect to the country program memorandums requested by the Committee on Foreign Relations and refused in accordance with the memorandum received from the President, that the request was in order; and if so, does he believe this information should be furnished to the committee, or that we should simply appropriate this money, without getting information necessary to understand how it will be expended?

Mr. McGEE. Mr. President, I would say to the distinguished senior Senator from Missouri that I think we have to be very careful about separating a few questions here. I have found that at any time access to the background materials in countries in the USIA program has always been available upon occasion. I found no reluctance to withhold it. And I found even a disposition to discuss them very frankly, even now. However, I think the difference here is that, for whatever reason, the decision by the President, rightly or wrongly, was to override the department's disposition in its candor to treat this as a test of Executive privilege. And I think that is straining it a little bit in this respect, if I may be candid and say so.

The point is that we are talking about authorization here. We are not talking about appropriations. That comes further down the line. I would hesitate for us to risk the consequences of this severe a nature in its implication and the way it would be interpreted abroad.

Mr. SYMINGTON. Mr. President, separating the question, may I ask whether the able Senator from Wyoming believes the Foreign Relations Committee is justified in receiving said information?

Mr. McGEE. I think the Foreign Relations Committee is justified in receiving a great deal more information than it has. As the Senator knows, I have some differences with some members of the committee on how far that goes. However, I think that there has been an overlap the other way, against making some information available to the committee, both in the Pentagon and in this case in the USIA.

Mr. SYMINGTON. The Senator agrees that in this particular case the executive should furnish the information requested. Is that correct?

Mr. McGEE. The USIA was willing to furnish it. That is the agency we are testing. And we sat down and went over some of it. I think it is not a related issue here in the cut, to get into the debate between the executive and the legislative branch on the executive privilege issue. That is what I am trying to separate out at this point.

Mr. SYMINGTON. Does the Senator from Wyoming think the information should be given to the committee?

Mr. McGEE. I think the committee has had the information on these background phases. The question now concerns the public, and that is the old fight we have been in for a long time with the Executive.

Mr. SYMINGTON. As I understand it, the Senator feels the committee already has the information the committee requested.

Mr. McGEE. I feel that all the information on the background for these countries has been available to any member of the committee who wanted to take the time to look at it. The issue is the formal receipt of the information for public purposes, and that I would have reservations about.

Mr. SYMINGTON. I want to be sure I understand the Senator. The Senator would be willing for the committee to have the information on a classified basis; but he thinks it in order not to give the information to the committee on an unclassified basis?

Mr. McGEE. I think that on a classified basis this issue is readily more understandable than on an unclassified basis for the very reason that country planning, even in this field, enters some sensitive areas with regard to other governments. I would like to draw that line very carefully. I think it is a much larger question than just making this information available. It is under what circumstances it should be done.

Mr. SYMINGTON. The Senator believes the Foreign Relations Committee should have this information on a classified basis?

Mr. McGEE. There has been an executive directive, I am told, to most agencies that on the major questions the President would make the decision about executive privilege, not the agency.

Mr. SYMINGTON. In this particular case does the Senator know of any other way the information can be obtained by the committee so as to have knowledge to exercise its responsibility in authorizing the taxpayers' money than refusing to authorize and appropriate said money unless information is obtained that normally would be considered necessary prior to making a decision?

Mr. McGEE. Mr. President, I think there is occasion for the committee to take it as classified information and look at it and make a judgment as to whether to authorize the money. The issue is whether we will treat it as classified or public information. I think it makes a difference.

Mr. SYMINGTON. I thank the Senator.

Mr. McGEE. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement by the Senator from Utah (Mr. Moss), who is representing this country at this moment in an all-important conference in London.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED TO RESTORE FULL USIA FUNDING

(Statement by Senator Moss)

Mr. President, I support Senator McGee's amendment to restore the full 1973 authorization requested by the United States Information Agency.

While I appreciate the sentiments of the Foreign Relations Committee on the Administration's all-too-casual use of "executive privilege" in withholding information needed for Congressional decision-making, I believe a move by the entire Senate to cut the U.S.I.A. funds would be an extremely reprehensible means of retaliation. It would be analogous to cutting off funds to welfare children in order to punish the conduct of their parents.

International communication, through all the media: radio, television, films, books and magazines could, in many parts of the world spell the difference between peace and war. Far from being cut back, the U.S.I.A.'s work in this area should be broadened. Educational broadcasting should more and more supplement Voice of America programming which has traditionally tended to emphasize all too much news and propaganda.

Mr. President, short of outright isolationism, the United States cannot turn its back on the immense potential of communications technology as a means of improving international understanding and economic growth. Cutting the U.S.I.A. program would severely reduce our foreign policy flexibility leaving us with one less tool in assisting the world's peaceful development.

Mr. McGEE. Mr. President, likewise I call attention to a phone call just received from the Senator from Minnesota (Mr. HUMPHREY), who is out tilling the soil, as it were, today. However, he did not want the need for that activity at this moment to cast any kind of uncertainty over where he stands on this issue.

The Senator from Minnesota has made the very strong and very clear statement that he wants to be recorded in favor of the full restoration on this issue. That is an unequivocal endorsement at his request.

Mr. SYMINGTON. Mr. President, will the able Senator say whether or not he would approve holding up this money if the information were refused on a classified basis? If the Executive refused to give us said information on either a classified or declassified basis, would the Senator still feel it advisable to appropriate this money?

Mr. McGEE. Does the Senator's question concern an authorization process or an appropriations process.

Mr. SYMINGTON. I think authorization is becoming more of an issue, along with appropriation.

Mr. McGEE. I want to find out whether the issue involves my membership on the Appropriations Committee or on the Foreign Relations Committee.

Mr. SYMINGTON. My question is: If the administration refused to give the information to the Foreign Relations Committee even on a classified basis, would the Senator from Wyoming still feel it was wise and in the interest of the country to appropriate the money?

Mr. McGEE. I would think it would be wise in this case. I would think this is the wrong agency for the test stand to be taken. I think it is a wrong one. And I would have opposed it had I been able to be there when the vote was taken in committee.

Mr. President, I have here likewise a statement from the distinguished junior Senator from Washington (Mr. JACKSON), who issued a statement this morning in Cleveland, Ohio, in which he gives unequivocal support for the full restoration, singling out for emphasis the symbolism of this action as it will be interpreted by other peoples and other governments around the world, and carrying with it a followup pledge.

I ask unanimous consent that the statement of the Senator from Washington be printed in the RECORD. Later today he will demonstrate how strongly he feels by flying to Washington to cast his vote today for full restoration. And that is a request from the Senator from Washington (Mr. JACKSON) who also is out tilling the soil.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HENRY M. JACKSON

In a short while I shall fly to Washington to cast my vote today on a measure that deeply affects the future of individual liberty. I will be on the Senate Floor this afternoon to help save the people of Hungary, Yugoslavia, Poland, Czechoslovakia and a dozen other countries from being shut behind a curtain of silence that would leave them isolated from the voice of America and cut off from the spirit of the free world.

Later today the Senate will decide whether to continue the activities of the United States Information Agency in bringing to the countries of Eastern Europe, principally through the VOA, the uncensored truth about world affairs. Unless the Senate votes the funds, the Voice of America will have to eliminate broadcasts in Polish, Lithuanian, Bulgarian, Albanian, Czech, Slovak, Estonian, Latvian, Hungarian, Greek, Serbo-Croatian, Slovene, Turkish and Rumanian, among others.

The vote today goes beyond the immediate question of whether the United States will slash its overseas broadcasting programs to fewer hours than are transmitted by Albania. I believe that America has promises to keep. And one of these is to the free flow of the truth wherever our voice can be heard.

I am concerned at the isolationist impulse that lies behind the outrageous effort to deny millions of people living in oppression in East Europe and the Soviet Union access to news from the free world. What are we to say to the student in Budapest or the teacher in Warsaw or the worker in Prague—that America is being misled into a moment of isolationism and that they must therefore get along on Radio Moscow?

Those of us who are proud of America's tradition of free speech have a special obligation to speak for those who have none. All over the world there are brave men and women who risk their liberty every time they tune in forbidden broadcasts from the West. Their governments fear the truth because they know that the spirit of freedom will survive so long as there is access to it.

To cease our efforts to make that truth available—to abandon the people of Eastern Europe—is to abandon ourselves. For much that is great in America has been built by men and women who once lived, or whose parents, once lived, in those countries now behind the Iron Curtain. I am confident that the Senate in its vote today will restore full funding to the United States Information Agency.

Mr. McGEE. Mr. President, I will rest my comments at this time.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. CHURCH. I merely want to observe that both the Senator from Washington and the Senator from Minnesota are indeed tilling the soil, the presidential soil, and it is not surprising, in view of their presidential ambitions, that they would support the Senator in this endeavor because the issue here does represent a tug-of-war between the legislative branch and the executive branch. Therefore, it comes as no surprise to me that both of those distinguished Senators who aspire to be President would hold to the executive view.

Mr. McGEE. Mr. President, I am prepared to yield the floor. I suggest the absence of a quorum.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. Will the time come out of the Senator's time?

The PRESIDING OFFICER. The time will come out of the Senator's time.

Mr. FULBRIGHT. Not to be equally divided?

The PRESIDING OFFICER. No.

Mr. McGEE. Mr. President, I ask unanimous consent that the proceedings under the proposed quorum call not be undertaken.

The PRESIDING OFFICER. The request is withdrawn.

Mr. McGEE. I am glad to yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I join the Senator from Idaho in pointing out that these very ambitious Senators, who no longer think it is very significant to be Members of this body and who would like to move downtown, are supporting the Senator from Wyoming. They see themselves in the White House, also denying Congress information necessary to exercise the legislative function.

Mr. McGEE. Mr. President, will the Senator yield to me for 10 seconds to clear the record?

Mr. FULBRIGHT. I yield 10 seconds to the Senator from Wyoming.

Mr. McGEE. I note that the chairman of the committee and the Senator from Wyoming are in that elite few who are not aspiring to any position downtown.

Mr. FULBRIGHT. That is correct. We are both Senators. I am interested in reestablishing the function of the Senate in our governmental structure, so I do not think that citing the Senator from Washington and the Senator from Minnesota as authorities, I assume, for the purpose of persuading other Members that this is a good move, is a very appropriate one.

Mr. President, the Senator from Wyoming has made various statements about the USIA. I personally think there is very great question about the merits of some of the Agency's activities but that is not the main issue. I am not sure that the record shows what the action of the Committee on Foreign Relations was.

I call to the attention of interested Senators to page 51 of the committee report. The radio activities, assuming the action of the committee stands, will be funded at $36,485,000; motion picture and TV activities, $11,150,000; press and publication activities, $17,914,000; program direction, general support and related activities, $40,914,000. In other words, this is not the death knell of these activities; the committee recommendation is only for a reduction in them.

There is no cut whatever, as I pointed out, in the international fairs and exhibits, none in acquisition and construction of radio facilities, and none in information centers, libraries, and related activities. The committee was very discriminating. This is not an across-the-board cut on all USIA activities; it is on those activities which are deemed by the committee after long study to be justifiable.

Mr. President, while the ostensible purpose of the pending amendment is to restore funds to the USIA budget, Senators should be aware that passage of the amendment will be viewed as a "green light" by the executive branch in its determination to withhold information from the Senate and the Congress as a whole.

I say this, Mr. President, because the origin of the amendment offered by the distinguished Senator from Wyoming stems from the committee's 9-to-4 decision to reduce the USIA authorization request by $45 million, because of the Agency's refusal to make its country program memoranda documents available to the committee. The refusal—based on a claim of executive privilege—was delivered to the committee on March 16, just a few days before the committee began its hearings on the USIA authorization legislation. The lack of this information makes the hearing record and committee's investigation of USIA activities incomplete and disjointed, but, just as important, the decision to withhold the information requested lays the groundwork for a dangerous precedent, which if left unchallenged could result in the further erosion of the committee's efforts to carry out its legislative oversight responsibilities. The President's memorandum on executive privilege to the Director of the U.S. Information Agency states:

> I, therefore, direct you not to make available to the Congress any internal working documents concerning . . . international information activities, which would disclose tentative planning data, such as is found in the Country Program Memoranda . . . and which are not approved positions.

This is just this one instance. The Senator from North Carolina (Mr. ERVIN) in the Committee on the Judiciary has been struggling with similar questions in other areas. The Senator from Missouri, who was here a moment ago, in his Subcommittee on Commitments Abroad time after time ran into the same question of the refusal of the executive branch to furnish to the legislative branch, specifically the Senate, relevant information which is necessary to make a well-reasoned judgment upon the various issues.

Many of those other cases involve some aspect our military activities or intelligence activities, especially in the case of the Subcommittee on Security Agreements and Commitments Abroad so that one could make some case about it being especially sensitive while a war is going on in Asia and that security was involved in a rather specialized way.

But of all the agencies in Government, the one which professes to be telling the truth and informing the world about America is USIA, and to have them refuse to give Congress information seems to me to be almost ludicrous.

This extreme application of the doctrine of executive privilege, is not a constitutional doctrine. Nowhere is it mentioned in the Constitution—it is a concept that is to be applied to only the very personal communications of the President. It used to be confined to the very personal matters of the President. The issue before us does not involve such matters. If we accept the executive privilege claim in this case, Congress might as well forget about trying to exercise any serious oversight or even to be informed about its legislative function. This is the most sweeping claim of executive privilege ever asserted and it raises a number of considerations:

This decision is broad enough to preclude from presidential review future requests for information on all USIA activities. The effect of the decision is to permit working level officials to determine what will and what will not be made available to the committee by labeling the material requested an "internal working document." They could label anything in that way. Nearly anything any committee does could be so considered. The decision serves to foreclose the possibility of the committee and its staff having access to information in the executive branch that runs counter to an official policy position. Again, I emphasize that we are dealing here with an information agency, presumably devoted to informing the world. Certainly, it should inform Congress, which authorizes its activities.

Mr. President, faced with this unacceptable situation, the committee voted to reduce the agency's authorization request, because in the absence of the information sought by the committee, the Members could neither justify the full amount requested nor could they ignore the questionable claim of executive privilege. In explaining their decision on the issue, the report points out:

> The Committee finds this refusal to provide information pursuant to the legislative duty of oversight as set forth in the Legislative Reorganization Act particularly dismaying because first of all it comes from the Information Agency itself—an Agency which should fully appreciate the value of information in the decisionmaking process. The Agency's refusal raises serious doubts as to whether it has such an appreciation and leaves the impression that USIA is willing to supply the Committee and the Congress with only that information which supports one point of view. Such a practice is hardly conducive to building a reputation for a "balanced and objective information program" and is more akin to a straightforward propaganda effort.

As to the specific documents in question, the report states:

> The information contained in the Agency's Country Program Memoranda and other planning documents may provide a full and adequate justification for the $200 million authorization request. The Committee simply has no way of knowing. It was in effect asked to approve this request "*in the blind.*" It could not do so. And in the absence of such information and justification, the Committee believes the taxpayers of the country ought to be given the benefit of the doubt. Accordingly, it recommends a substantial reduction—a reduction of $45 million in the USIA authorization request.
>
> If the Agency decides at a later date to furnish the information requested, the Committee of course would consider a supplemental authorization request.

Mr. President, the claim of executive privilege for the purpose of withholding the USIA's country program memoranda is, I think, particularly questionable given the nature of the documents as described in "The Agency in Brief 1972" an annual USIA publication. This publication states that the Country Program Memoranda:

> Are designed to integrate USIS planning and resource allocation with overall U.S. objectives in the country. The CPM's encompass total Agency resources devoted to the country, including media products and materials supplied from Washington.
>
> After the CPM's are submitted to Washington, the four media services, and other headquarters elements prepare Program Memoranda detailing program plans and resource usage in support of worldwide activities. Area offices prepare Program Memoranda highlighting and summarizing the CPM's and treating program and resource issues of general area concern.
>
> The country and Washington element Program Memoranda become the principal documents for proposing and planning program changes. When proposing changes, the Memoranda must detail explicitly the what, how much, and the why of the proposals, including discussion of possible alternatives.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield to the Senator from Idaho for a question.

Mr. CHURCH. I agree fully with what the distinguished chairman is saying. This is a test case.

Can he think of any other way to obtain a remedy than that of pulling up on the purse strings.

Mr. FULBRIGHT. There is no other. We have exhausted all other remedies that I can think of.

Mr. CHURCH. Yes. Through the years it has become apparent that, as Congress has delegated authority to the Executive, it has lost the means of retrieving that authority, unless it is willing to use the power of the purse. The proposition also applies to classified information, where Congress has given authority to the executive to classify information. and has watched the executive branch throw up a cloak of secrecy on the operations of Government on a scale never contemplated at the time the enabling legislation was enacted. Yet we have given ourselves no way to deal with the problem.

Tomorrow, we are going to have a secret session, if I am correctly informed, the purpose of which is to determine whether a memorandum which has been prominently published in the major newspapers should be inserted into the CONGRESSIONAL RECORD, simply because it bears a classified stamp that the executive has placed upon it.

We have no procedure for determining that question. We have furnished ourselves no congressional method for declassifying information, with the result that one Senator must take it upon himself to do so, relying upon his constitutional immunity from prosecution as a Member of the Senate, and then we must hold a secret session to determine whether or not that Senator has acted properly or whether the majority in this body is willing to have inserted into the CONGRESSIONAL RECORD what is already common knowledge to the American people, for they have read it in newspapers from coast to coast. What an absurdity. If the President is contemptuous of the Congress, it is because——

Mr. FULBRIGHT. Congress has invited it.

Mr. CHURCH. We invite it on ourselves. We make ourselves contemptible. I am sorry the Senate has fallen to such a low estate. I remember the great role played by this body in the last century and the prominent Senators of that period who are still remembered to this day.

Mr. FULBRIGHT. If I may say so, that is why so many Members of the Senate are running for President. They do not regard this forum as significant.

Mr. CHURCH. I must say, in all honesty, I doubt if there is a Senator among us today who will be remembered 10 years after his demise, with the possible exception of the Senator from Arkansas (Mr. FULBRIGHT). That is the living truth. We have invited this low estate upon ourselves.

Now, how do we deal with this situation? Obviously, we can deal with it only if we are willing to assert the last power left to us—the power of the purse—but as soon as we begin to do so, we are immediately told that we must not tamper with executive privilege, we must not tamper with any other authority now firmly entrenched in the executive branch of the Government, for to do so would be to bring down the pillars of the Republic.

Mr. FULBRIGHT. If the Senator will allow me to read a provision in the Foreign Assistance Act of 1971 signed into law in February 1972, Public Law 92–226, I think he will see that we have sought alternatives; we provided, in subsection (b) of section 11 as follows:

> (b) The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to its activities and responsibilities.

One cannot be more positive as to what the law says.

What has happened is that by the use of this very dubious, and what I believe to be unconstitutional procedure, these agencies simply deny information to us.

Mr. CHURCH. May I ask the Senator a question? The power to define executive privilege rests with the executive branch, does it not?

Mr. FULBRIGHT. It assumes it. I do not assume they have it. That is their theory.

Mr. CHURCH. The executive branch defines executive privilege and, having assumed that power, it has extended the scope of executive privilege beyond anything it was originally conceived to be, so that now even committees of Congress cannot get information on legislation before them, because of the misapplication of executive privilege.

Mr. FULBRIGHT. That is correct.

Mr. CHURCH. Yet the authority to define executive privilege lies exclusively in the hands of the Executive.

Mr. FULBRIGHT. That is correct.

Mr. CHURCH. Once again we come back to, What does the Congress do? It has just one recourse—the power of the purse—and that is what we are attempting to do here.

Mr. FULBRIGHT. That is correct. It is just that simple. As a matter of fact, in the discussion preliminary to the action of the committee, I had thought that even the Senator from Wyoming was sympathetic to the idea that Congress and the committee sought to have access to relevant information. It is the only action anybody can think of that has the slightest chance of bringing about a change of attitude on the part of the Executive. This case only illustrates once again how very powerful the Executive is in the Government, when Members of this body, whenever the question arises involving the Executive, feel the pressure so great that they always cave in. As the Senator from Idaho has said, that is what has made us a contemptible body, and it is being recognized as such by more and more people—that we have no authority here, that we have not the will and determination to assert our constitutional prerogatives.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield for a question.

Mr. McGEE. For an observation, due to the fact that my position in this matter has been referred to.

Mr. FULBRIGHT. I yield on the Senator's time if it is to be an observation. I do not know how long his observation is going to be.

Mr. McGEE. I do not mean to filibuster. If I were to do that, I would do it on my own time.

I merely want to raise a point in regard to the question of executive privilege. The attitude is that we are caving in to the Executive; that either we do not respect what this body is doing or we do.

I do not think that is really the issue.

Mr. FULBRIGHT. I think it is the main issue.

Mr. McGEE. We all have deep feelings on that. We want this body to have a more responsible role, and we have deep feelings about it.

Mr. FULBRIGHT. The Senator is not helping us get that. I call to the Senator's attention that the report states that if they will give us the information which I thought at one time he thought we ought to have—I am not sure since his exchange with the Senator from Missouri whether he thinks we ought to have it or not—we said we would give consideration to a supplemental authorization if they made the relevant information available. That is in the report of the committee.

Mr. McGEE. I understand that. But my point to my chairman is that there are very honest genuine and positive differences of degree on this question on the committee and in this body as a whole, and it is not simply one of caving in to the Executive and forfeiting the responsibilities of the Senate.

For example, we want to act wisely on this matter, let us say. Anything we want to know about those background papers we know we have access to now. The difference is whether we have them publicly.

Mr. FULBRIGHT. No, the Senator is incorrect. I cannot yield further to him on my time. We did not ask for the papers on a classified or unclassified basis. They simply refused to give them on any basis.

Mr. McGEE. The Senator can have a look at the papers any time he wants to. Name your country and your paper, and you may have a look at it.

Mr. FULBRIGHT. Mr. President, I do not yield further on my time. The Senator is restating his own speech.

Mr. McGEE. The Senator made allegations about what I said in my speech. I thought the record ought to be clear.

The PRESIDING OFFICER. Does the Senator from Arkansas decline to yield further?

Mr. FULBRIGHT. I decline to yield further on my time. I am glad to debate with the Senator, but he is insisting on using my time for his comments. He can use his own time for his comments if he wishes to do so.

Mr. McGEE. Mr. President, may I ask, on no one's time, a parliamentary inquiry about the time that has been used? Is that permissible, or does it come out of someone's time?

The PRESIDING OFFICER. The time continues to run.

Mr. McGEE. Then I shall not make the request.

Mr. FULBRIGHT. This is from the President's letter:

> I therefore direct you—

This is directed to Mr. Shakespeare—

> not to make available to the Congress any internal working documents concerning the foreign assistance program or international information activities, which would disclose tentative planning data, such as is found in the Country Program Memoranda and the Country Field Submissions, and which are not approved positions.

There is nothing in that whatever to support the view of the Senator from Wyoming that they are willing to make it available on a classified basis. If they had been willing to do that, then there would arise the subsequent question about the appropriateness of this kind of information being held on a classified basis. I do not know whether that would have arisen or not. But that is not the question here. It is the flat refusal on the broadest possible terms to make available information to the committee. It is not unlike the same question that arose before Senator ERVIN's subcommittee with regard to the surveillance by the military of private citizens, et cetera. He ran into a very similar thing. And there are many other examples. We have had many examples, as I say, relating to matters involving military matters, where it has some legitimacy.

But this question of executive privilege is not a constitutional provision. There is no mention of it there whatever. It is an assumed power which Congress has gone along with up to now. The significance of this particular case is that it is a test case, and I submit that this broad statement is utterly unacceptable if you believe in the constitutional system of this country, and if you believe Congress ought to play a significant role in the decisionmaking of our country.

Mr. President, I submit that the Agency's own description of the documents requested makes the executive privilege claim an unacceptable one; there is nothing in the description or in the President's memorandum to indicate that the information sought by the committee involves confidential communications between the President and the Director of the U.S. Information Agency. Rather from the Agency's description of these documents, it is evident that they are the basic planning documents used within the executive branch to review and evaluate USIA's annual budgetary requirements. As such, these documents ought to be available to the committee and the Congress so that in turn we can use this information to evaluate the Agency's budget request and thereby exercise more effectively our legislative oversight responsibilities.

Mr. President, in a very real sense the pending amendment is a test case for the Senate. It raises the question: Does the Senate believe that the U.S. Information Agency, or any other executive agency for that matter, ought to be responsive to the people and the Congress?

Just a few short months ago we in the Senate and the Congress said yes by requiring—for the first time in the history of the U.S. Information Agency—that its activities and programs be authorized periodically, rather than continuing the permanent authorization of appropriation under which it had operated for two decades. The same periodic-authorization requirement was applied to the State Department as well. All of this was done in an effort to make these two executive branch agencies more responsive to Congress by requiring them to keep the proper congressional committees informed and up to date on foreign policy matters. The provision of law requiring periodic authorization of State and U.S. Information Agency also includes the following sanction:

> The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.

This provision of law was written into the Foreign Assistance Act of 1971, which passed the Congress on January 25, 1972 and which was signed by the President on February 7. Now, less than 3 months after the signing of this bill, we find ourselves faced with the same problem which the Committee and the Congress had labored long and hard to correct.

In view of the Executive's challenge to these efforts, the issue before us—posed by the McGee amendment—is whether we are up to the challenge, whether we meant what we wrote into the law just a few short months ago.

Will the Senate assert its right to information so that it can properly discharge its responsibilities or will it bow to the will of the Executive?

Will the Senate demand a voice in the policymaking, decisionmaking processes of our Government or will it permit but one voice, the voice of the Executive to speak for the Government and the people?

The issues raised by the McGee amendment are just this fundamental.

Mr. CHURCH. Mr. President, will the Senator yield at that point?

Mr. FULBRIGHT. I yield for a question.

Mr. CHURCH. I wonder if the Senator would yield for an observation concerning the need to utilize the power of the purse. There is an excellent example, the Mansfield amendment, and the way it was subsequently disregarded by the President. I think the example illustrates in a classic way the need for Congress to enforce the policy positions it takes by utilizing the power of the purse. If the Senator will yield for that purpose, I would appreciate it.

Mr. FULBRIGHT. I yield to the Senator. How much time does he wish?

Mr. CHURCH. I think it will take 5 minutes.

Mr. FULBRIGHT. I yield the Senator from Idaho 5 minutes.

Mr. CHURCH. Mr. President, three times last year the Senate of the United States passed the Mansfield amendment, and it was enacted into law. The first time the Senate approved the Mansfield amendment was June 22, 1971, by a vote of 57 to 42. It was then attached to S. 9718.

On September 30, 1971, the Senate again approved the Mansfield amendment by a vote of 57 to 38. This time it was attached to H.R. 15582, the military procurement authorization bill.

Finally, on November 11, 1971, without a record vote, the Senate approved the Mansfield amendment for a third time.

As I say, Mr. President, it became the law of the land, and as such it clearly enunciated a congressional policy for bringing an orderly termination to our participation in the war in Vietnam.

Listen to the words of the Mansfield amendment as it was enacted into law. It speaks for itself:

> It is hereby declared to be the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina, and to provide for the prompt and orderly withdrawal of all United States military forces at a date certain, subject to the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces. The Congress hereby urges and requests the President to implement the above-expressed policy by initiating immediately the following actions:
>
> (1) Establishing a final date for the withdrawal from Indochina of all military forces of the United States contingent upon the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government and an account for all Americans missing in action who have been held by or known to such Government or such forces.
>
> (2) Negotiate with the Government of North Vietnam for an immediate cease-fire by all parties to the hostilities in Indochina.
>
> (3) Negotiate with the Government of North Vietnam for an agreement which would provide for a series of phased and rapid withdrawals of United States military forces from Indochina in exchange for a corresponding series of phased releases of American prisoners of war, and for the release of any remaining American prisoners of war concurrently with the withdrawal of all remaining military forces of the United States by not later than the date established by the President pursuant to paragraph (1) hereof or by such earlier date as may be agreed upon by the negotiating parties.

Without any question, Congress laid down an orderly policy for terminating our participation in the war. How did the President treat the policy of Congress? One can hardly imagine a more cavalier treatment than the President gave to it. When he signed the law containing the Mansfield amendment, this is what the President said:

> To avoid any possible misconceptions, I wish to emphasize that Section 601 of this Act—the so-called Mansfield amendment—does not represent the policies of this Administration. Section 601 urges that the President establish a "final date" for the withdrawal of all U.S. forces from Indochina, subject only to the release of U.S. prisoners of war and an accounting for the missing in action. Section 601 expresses a judgment about the manner in which the American involvement in the war should be ended.
>
> However, it is without binding force or effect and it does not reflect my judgment about the way in which the war should be brought to a conclusion. My signing of the bill that contains this section, therefore, will not change the policies I have pursued and that I shall continue to pursue toward this end.

The President simply said, "I choose to disregard the policy of Congress. It has no binding effect. I disagree with it, and I will continue to follow my own policy."

It is inconceivable that an American chief executive would have disregarded congressional policy in such a peremptory manner a century ago; it reflects upon the lowered stature of Congress that the President deals with us in this high-handed and cavalier way, dismissing a statutory provision because it does not accord with his view of how American involvement in the war in Vietnam should be concluded.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHURCH. I ask for 1 additional minute.

Mr. FULBRIGHT. I yield 1 additional minute to the Senator.

Mr. **CHURCH**. So, Mr. President, it is clear that if Congress is going to give force and effect to the policy provisions it enacts, it must use the power of the purse. It is all we have left. Of course, we may continue to lay down and permit Congress to be walked over in this way, but history will not deal generously with us for our weakness.

For this reason, the Foreign Relations Committee adopted an amendment to the pending bill, offered by the distinguished Senator from New Jersey (Mr. CASE) and myself, to give teeth to the Mansfield amendment by backing it up with the power of the purse; and the real test of how we stand in this body, will come when the Senate votes, perhaps within the coming week, on whether it is willing to stand behind its own declared policy or whether it prefers to acquiesce in the disavowal of that policy that the President has expressed.

Mr. President, I ask unanimous consent to have the text of the Case-Church amendment printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

TITLE VII—TERMINATION OF HOSTILITIES IN INDOCHINA

SEC. 701. Notwithstanding any other provision of law, none of the funds authorized or appropriated in this or any other Act may be expended or obligated after December 31, 1972, for the purpose of engaging United States forces, land, sea, or aid, in hostilities in Indochina, subject to an agreement for the release of all prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.

Mr. **FULBRIGHT**. I yield myself 5 minutes.

Mr. President, I am reminded by the Senator's reference to the President of another aspect of this matter.

The President made a statement on March 8, 1972, a very short time ago. He signed a new executive order on classification procedures which he described as "establishing a new, more progressive system of classification and declassification of government documents relating to national security."

I ask unanimous consent that the executive order and accompanying statement be printed in the RECORD.

THE WHITE HOUSE—STATEMENT BY THE PRESIDENT

I have today signed an Executive order establishing a new, more progressive system of classification and declassification of Government documents relating to national security. This reform springs from a review that I initiated almost 14 months ago and represents the first major overhaul of our classification procedures since 1953.

By a separate action, I have also directed the Secretary of State to accelerate publication of the official documentary series, "Foreign Relations of the United States," so that historians and others will have more rapid access to papers created after World War II.

Both of these actions are designed to lift the veil of secrecy which now enshrouds altogether too many papers written by employees of the Federal establishment—and to do so without jeopardizing any of our legitimate defense or foreign policy interests.

SHORTCOMINGS OF PRESENT CLASSIFICATION SYSTEM

Unfortunately, the system of classification which has evolved in the United States has failed to meet the standards of an open and democratic society, allowing too many papers to be classified for too long a time. The controls which have been imposed on classification authority have proved unworkable, and classification has frequently served to conceal bureaucratic mistakes or to prevent embarrassment to officials and administrations.

Once locked away in Government files, these papers have accumulated in enormous quantities and have become hidden from public exposure for years, for decades—even for generations. It is estimated that the National Archives now has 160 million pages of classified documents from World War II and over 300 million pages of classified documents for the years 1946 through 1954.

The many abuses of the security system can no longer be tolerated. Fundamental to our way of life is the belief that when information which properly belongs to the public is systematically withheld by those in power, the people soon become ignorant of their own affairs, distrustful of those who manage them, and—eventually—incapable of determining their own destinies.

Yet since the early days of the Republic, Americans have also recognized that the Federal Government is obliged to protect certain information which might otherwise jeopardize the security of the country. That need has become particularly acute in recent years as the United States has assumed a powerful position in world affairs, and as world peace has come to depend in large part on how that position is safeguarded. We are also moving into an era of delicate negotiations in which it will be especially important that governments be able to communicate in confidence.

Clearly, the two principles of an informed public and of confidentiality within the Government are irreconcilable in their purest forms, and a balance must be struck between them.

REVIEW ORDERED IN JANUARY 1971

In order to strike that balance in favor of more complete public disclosure and in keeping with my pledge to create an open Administration, I directed on January 15, 1971 that a review be made of security classification procedures now in effect. An interagency committee was set up to study the existing system, to make recommendations with respect to its operation and to propose steps that might be taken to provide speedier declassification. I later directed that the scope of the review be expanded to cover all aspects of information security.

The Executive order I have signed today is based upon the results of this study, as well as on our own operational experiences under current rules, on findings of similar studies in the past growing out of Congressional hearings, and on a reexamination of the rationale underlying the Freedom of Information Act.

BASIS FOR OPTIMISM

We cannot be assured of complete success in this endeavor. In such a complex field, rules can never be airtight and we must rely upon the good judgment of individuals throughout the Government. Yet I believe that our new approach does provide a basis for considerable optimism. The full force of my office has been committed to this endeavor. The rules have been tightened with great care. In addition, in a critically important shift, we have reversed the burden of proof: for the first time, we are placing that burden—and even the threat of administrative sanction—upon those who wish to preserve the secrecy of documents, rather than upon those who wish to declassify them after a reasonable time.

The new system will become effective on June 1, 1972. Among its most significant features are these:

The rules for classifying documents are more restrictive.

The number of departments and people who can originally classify information has been substantially reduced.

Timetables ranging from 6 to 10 years have been set for the automatic declassification of documents. Exceptions will be allowed only for such information as falls within four specifically defined categories.

Any document exempted from automatic declassification will be subject to mandatory review after a 10-year period. Thus, for the first time, a private citizen is given a clear right to have national security information reviewed on the basis of specified criteria to determine if continued classification is warranted, so long as the document can be adequately identified and obtained by the Government with a reasonable amount of effort.

If information is still classified 30 years after origination, it will then be automatically declassified unless the head of the originating department determines in writing that its continued protection is still necessary and he sets a time for declassification.

Sanctions may be imposed upon those who abuse the system.

And a continuing monitoring process will be set up under the National Security Council and an Interagency Classification Review Committee, whose Chairman is to be appointed by the President.

These rules are explained in greater detail below.

ELEMENTS OF THE NEW SYSTEM

1. Tighter rules for classification

Under the new order, materials can be classified Top Secret, Secret, or Confidential only if their unauthorized disclosure *"could reasonably be expected"* to cause, respectively, exceptionally grave damage, serious damage or damage to the national security. Heretofore, material could be classified if the originator had any expectation of such damage however remote. This new test is intended to reduce the amount of protected information. In addition, the order explicitly directs that the "Top Secret" stamp must be used with "utmost restraint" while "Secret" shall be used "sparingly."

2. Reduction in classification authority

The new order also substantially reduces the number of agencies in the Government authorized to classify information and material. Under current rules, 24 Federal departments and agencies outside the Executive Office of the President have broad classification authority, while several others have more restricted powers. Under the new system, only 12 departments and agencies and such offices in the Executive Office as the President may designate will have authority to originally classify information "Top Secret" and 13 others will have authority to stamp materials "Secret" and "Confidential."

In the principal departments concerned with national security, namely State, Defense and the CIA, the number of individuals who may be authorized to classify material "Top Secret" is also drastically reduced from 5100 to approximately 1860. This authority may be exercised only by the heads of the departments and agencies and certain high officials within their organizations whom the heads must designate in writing. Reductions in classification authority are also being made at the "Secret" and "Confidential" levels.

It is anticipated that by reducing the number of agencies with classification powers as well as the number of people within those agencies who have personal classification authority, we can sharply reduce the quantity of material which enters the Government's classified files.

3. Precise identification of classified information

A major source of unnecessary classification under the old Executive order was the practical impossibility of discerning which portions of a classified document actually required classification. Incorporation of any material from a classified paper into another document usually resulted in the classification of the new document, and innocuous portions of neither paper could be released.

To the extent practicable, each classified document under the new system will be marked to show which portions are classified, at what level, and which portions are unclassified.

4. Rule for declassifying documents

Perhaps the most innovative and crucial aspect of the Executive order I have signed today is the procedure it establishes for the downgrading and declassification of documents. Aside from a small amount of documents which are subject to declassification after a 12-year period as specified by existing regulations the vast majority of documents classified since World War II have never been given a rigorous declassification review and they remain classified to this day. I believe we can cure these ills under the new order.

A. DOCUMENTS CLASSIFIED AFTER MAY 31, 1972

Unless specifically exempted, all documents classified after May 31, 1972, are to be automatically downgraded *and* declassified. "Top Secret" information is to be downgraded to "Secret" after 2 years, to "Confidential" after 2 more years, and declassified after a total of 10 years. "Secret" information is to be downgraded to "Confidential" after 2 years and declassified after a total of 8 years. "Confidential" documents are to be declassified after 6 years.

Information may be exempted from the automatic process only by an official with "Top Secret" classification authority and that official must specify in writing in which of four specific exemption categories the material falls and, where possible, he must also indicate when declassification will in fact occur. The four exemption categories are:

Classified information furnished in confidence by a foreign government or international organization;

Classified information covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods;

Classified information disclosing a system, plan, installation, project or specific foreign relations matter the continued protection of which is essential to the national security.

Classified information which, if disclosed, "would place a person in immediate jeopardy." The jeopardy intended here is physical harm, not personal embarrassment or discomfiture.

Upon request from anyone, including a member of the general public, exempted material is subject to mandatory review by the originating Department after ten years from the date of origin so long as (a) the request describes the record with sufficient particularity that it may be identified, and (b) the record can be obtained with a reasonable amount of effort.

If material is still classified 30 years after the date of its original classification, it shall then be automatically declassified. Classification may be further extended only if the head of the originating Department personally determines in writing that its continued protection is essential to national security or that its disclosure would place a person in immediate jeopardy. In these instances—and I am encouraged to believe that they will be limited in number—the Department head must also specify the period of continued classification.

B. DOCUMENTS CLASSIFIED BEFORE JUNE 1, 1972

Essentially these same standards will be applied to materials classified prior to the effective date of this order, but in view of their vast quantity, the 6–10 year rule for automatic declassification can only be applied to those documents already subject to a 12-year declassification order under current procedures. All others will be subject to the mandatory review process at any time after 10 years from the date of origin, provided the particularity and reasonable effort tests are met. After 30 years all remaining classified information shall be systematically reviewed for declassification by the Archivist of the United States. The Archivist shall continue the protection of this material after the 30-year deadline only if the head of the originating Department so specifies in writing under conditions noted above.

This new responsibility for the Archivist is tailored to fit with Administration plans for an immediate and systematic declassification of World War II documents. On August 3, 1971, I asked the Congress for a supplemental appropriation of $636,000 so that we could begin this project under the direction of the National Archives and Record Service of the General Services Administration. The Congress has not yet responded to this request, but I am hopeful of action this year.

5. Sanctions against over-classification

Unlike the current system, in which officials find it in their own best interest to classify all materials of a questionable nature, I am hopeful that the new Executive order will encourage them to exercise their authority with restraint. The order explicitly states that information shall never be classified "in order to conceal inefficiency or administrative error . . . or to prevent for any other reason the release of information which does not require protection in the interest of national security." More than that, each agency is to provide a means of identifying the classifying authority for each document and each official is to be held personally responsible for the propriety of the classifications attributed to him. Repeated abuse of the process through excessive classification shall be grounds for administrative action.

6. Monitoring the new system

Of critical importance to the effectiveness of my Executive order will be the new administrative machinery designed to ensure that its provision are not allowed to become mere meaningless exhortations. The National Security Council will monitor compliance with the Executive order. In addition, the order creates a small Interagency Classification Review Committee with extensive powers to oversee agency implementation of the new system, and to take action on complaints both from within and from outside the Government on the administration of the order.

Accelerating publication of foreign relations series

My second action today was to direct an acceleration in the publication by the Department of State of the official documentary States." Since 1861, that series has been an invaluable resource for historians and others interested in our past. For many years each publication contained documents written only a few years before, but soon after the Second World War, when Government files were bulging with war papers, a 20-year lag developed between origination and publication. Now, however, the lag has stretched to 26 years and the Department of State is presently publishing materials relating to events of 1946. This delay is too long, and I have directed the Secretary of State to institute immediately a program to reduce this time lag to 20 years, and to accomplish this mission within three years. I have also instructed the Secretary of Defense, the Director of Central Intelligence, and my Assistant for National Security Affairs to cooperate fully with this effect.

MARCH 8, 1972.

THE WHITE HOUSE—EXECUTIVE ORDER

CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL

The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the executive branch.

Within the Federal Government there is some official information and material which, because its bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

This official information or material, referred to as classified information or material in this order, is expressly exempted from public disclosure by Section 552(b)(1) of Title 5, United States Code. Wrongful disclosure of such information or material is recognized in the Federal Criminal Code as providing a basis for prosecution.

To ensure that such information and material is protected, but only to the extent and for such period as is necessary, this order identifies the information to be protected, prescribed classifications, downgrading, declassification and safeguarding procedures to be followed, and establishes a monitoring system to ensure its effectiveness.

Now, therefore, by virtue of the authority vested in me by the Constitution and statutes of the United States, it is hereby ordered:

Section 1. Security Classification Categories. Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security" shall be classified in one of three categories, namely "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as other expressly provided by statute. These classification categories are defined as follows:

(A) *"Top Secret."* "Top Secret" refers to the national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national defense plans or complex cryptologic national security; the compromise of vital and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

(B) *"Secret."* "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

(C) *"Confidential."* "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

Section 2. Authority to Classify. The authority to originally classify information or material under this order shall be restricted solely to those offices within the executive branch which are concerned with matters of national security, and shall be limited to the minimum number absolutely required for efficient administration. Except as the context may otherwise indicate, the term "Department" as used in this order shall include agency or other governmental unit.

(A) *The authority to originally classify* information or material under this order as "Top Secret" shall be exercised only by such officials as the President may designate in writing and by:

(1) The heads of the Departments listed below;

(2) Such of their senior principal deputies and assistants as the heads of such Departments may designate in writing; and

(3) Such heads and senior principal deputies and assistants of major elements of such Departments, as the heads of such Departments may designate in writing.

Such offices in the Executive Office of the President as the President may designate in writing

Central Intelligence Agency
Atomic Energy Commission
Department of State
Department of the Treasury
Department of Defense
Department of the Army
Department of the Navy
Department of the Air Force
United States Arms Control and Disarmament Agency
Department of Justice
National Aeronautics and Space Administration
Agency for International Development

(B) The Authority to originally classify information or material under this order as "Secret" shall be exercised only by:

(1) Officials who have "Top Secret" classification authority;

(2) Such subordinates as officials with "Top Secret" classification authority under (A) (1) and (2) above may designate in writing; and

(3) The heads of the following named Departments and such senior principal deputies or assistants as they may designate in writing.

Department of Transportation
Federal Communications Commission
Export-Import Bank of the United States
Department of Commerce
United States Civil Service Commission
United States Information Agency
General Services Administration
Department of Health, Education, and Welfare
Civil Aeronautics Board
Federal Maritime Commission
Federal Power Commission
National Science Foundation
Overseas Private Investment Corporation

(C) The authority to originally classify information or material under this order as "Confidential" may be exercised by officials who have "Top Secret" or "Secret" classification authority and such officials as they may designate in writing.

(D) Any Department not referred to herein and any Department or unit established hereafter shall not have authority to originally classify information or material under this order, unless specifically authorized hereafter by an Executive order.

Section 3. Authority to Downgrade and Declassify. The authority to downgrade and declassify national security information or material shall be exercised as follows:

(A) Information or material may be downgraded or declassified by the official authorizing the original classification, by a successor in capacity or by a supervisory official of either.

(B) Downgrading and declassification authority may also be exercised by an official specifically authorized under regulations issued by the head of the Department listed in Sections 2(A) or (B) hereof.

(C) In the case of classified information or material officially transferred by or pursuant to statute or Executive order in conjunction with a transfer of function and not merely for storage purposes, the receiving Department shall be deemed to be the originating Department for all purposes under this order including downgrading and declassification.

(D) In the case of classified information or material not officially transferred within (C) above, but originated in a Department which has since ceased to exist, each Department in possession shall be deemed to be the originating Department for all purposes under this order.

Such information or material may be downgraded and declassified by the Department in possession after consulting with any other Departments having an interest in the subject matter.

(E) Classified information or material transferred to the General Services Administration for accession into the Archives of the United States shall be downgraded and declassified by the Archives of the United States in accordance with this order, directives of the President issued through the National Security Council and pertinent regulations of the Departments.

(F) Classified information or material with special markings, as described in Section 8, shall be downgraded and declassified as required by law and governing regulations.

Section 4. Classification. Each person possessing classifying authority shall be held accountable for the propriety of the classifications attributed to him. Both unnecessary classification and over-classification shall be avoided. Classification shall be solely on the basis of national security considerations. In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or Department, or restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security. The following rules shall apply to classification of information under this order:

(A) *Documents in General.* Each classified document shall show on its face its classifications and whether it is subject to or exempt from the General Declassification Schedule. It shall also show the office of origin, the date of preparation and classification and, to the extent practicable, be so marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use Material containing references to classified materials, which references do not reveal classified information, shall not be classified.

(B) *Identification of Classifying Authority.* Unless the Department involved shall have provided some other method of identifying the individual at the highest level that authorized classification in each case, material classified under this order shall indicate on its face the identity of the highest authority authorizing the classification. Where the individual who signs or otherwise authenticates a document or item has also authorized the classification, no further annotation as to his identity is required.

(C) *Information or Material Furnished by a Foreign Government or International Organization.* Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned a United States classification. In either case, the classification shall assure a degree of protection equivalent to that required by the government or international organization which furnished the information or material.

(D) *Classification Responsibilities.* A holder of classified information or material shall observe and respect the classification assigned by the originator. If a holder believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification under his order, he shall so inform the originator who shall thereupon reexamine the classification.

Section 5. Declassification and Downgrading. Classified information and material, unless declassified earlier by the original classifying authority, shall be declassified and downgraded in accordance with the following rules:

(A) *General Declassification Schedule.*

(1) *"Top Secret."* Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the tenth full calendar year following the year in which it was originated."

(2) *"Secret."* Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(3) *"Confidential."* Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(B) *Exemption from General Declassification Schedule.* Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule. An official authorized to originally classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it fails within one of the categories described below. In each case such official shall specify in writing on the material the exemption category being claimed and, unless impossible, a date or event for automatic declassification. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories:

(1) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(2) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(3) Classified information or material disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security.

(4) Classified information or material the

disclosure of which would place a person in immediate jeopardy.

(C) *Mandatory Review of Exempted Material.* All classified information and material originated after the effective date of this order which is exempted under (B) above from the General Declassification Schedule shall be subject to a classification review by the originating Department at any time after the expiration of ten years from the date of origin provided:

(1) A Department or member of the public requests a review;

(2) The request describes the record with sufficient particularity to enable the Department to identify it; and

(3) The record can be obtained with only a reasonable amount of effort.

Information or material which no longer qualifies for exemption under (B) above shall be declassified. Information or material continuing to qualify under (B) shall be so marked and, unless impossible, a date for automatic declassification shall be set.

(D) *Applicability of the General Declassification Schedule to Previously Classified Material.* Information or material classified before the effective date of this order and which is assigned to Group 4 under Executive Order No. 10501, as amended by Executive Order No. 10964, shall be subject to the General Declassification Schedule. All other information or material classified before the effective date of this order, whether or not assigned to Groups 1, 2, or 3 of Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of ten years from the date of origin it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after the effective date of this order as set forth in (B) and (C) above.

(E) *Declassification of Classified Information or Material After Thirty Years.* All classified information or material which is thirty years old or more, whether originating before or after the effective date of this order, shall be declassified under the following conditions:

(1) All information and material classified after the effective date of this order shall, whether or not declassification has been requested, become automatically declassified at the end of thirty full calendar years after the date of its original classification except for such specifically identified information or material which the head of the originating Department personally determines in writing at that time to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the head of the Department shall also specify the period of continued classification.

(2) All information and material classified before the effective date of this order and more than thirty years old shall be systematically reviewed for declassification by the Archivist of the United States by the end of the thirtieth full calendar year following the year in which it was originated. In his review, the Archivist will separate and keep protected only such information or material as is specifically identified by the head of the Department in accordance with (E)(1) above. In such case, the head of the Department shall also specify the period of continued classification.

(F) *Departments Which Do Not Have Authority For Original Classification.* The provisions of this section relating to the declassification of national security information or material shall apply to Departments which, under the terms of this order, do not have current authority to originally classify information or material, but which formerly had such authority under previous Executive orders.

Section 6. Policy Directives on Access, Marking, Safekeeping, Accountability, Transmission, Disposition and Destruction of Classified Information and Material. The President acting through the National Security Council shall issue directives which shall be binding on all Departments to protect classified information from loss or compromise. Such directives shall conform to the following policies:

(A) No person shall be given access to classified information or material unless such person has been determined to be trustworthy and unless access to such information is necessary for the performance of his duties.

(B) All classified information and material shall be appropriately and conspicuously marked to put all persons on clear notice of its classified contents.

(C) Classified information and material shall be used, possessed, and stored only under conditions which will prevent access by unauthorized persons or dissemination to unauthorized persons.

(D) All classified information and material disseminated outside the executive branch under Executive Order No. 10865 or otherwise shall be properly protected.

(E) Appropriate accountability records for classified information shall be established and maintained and such information and material shall be protected adequately during all transmissions.

(F) Classified information and material no longer needed in current working files or for reference or record purposes shall be destroyed or disposed of in accordance with the records disposal provisions contained in Chapter 33 of Title 44 of the United States Code and other applicable statutes.

(G) Classified information or material shall be reviewed on a systematic basis for the purpose of accomplishing downgrading, declassification, transfer, retirement and destruction at the earliest practicable date.

Section 7. Implementation and Review Responsibilities. (A) The National Security Council shall monitor the implementation of this order. To assist the National Security Council, an Interagency Classification Review Committee shall be established, composed of representatives of the Department of State, Defense and Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National Security Council Staff and a Chairman designated by the President. Representatives of other Departments in the executive branch may be invited to meet with the Committee on matters of particular interest to those Departments. This Committee shall meet regularly and on a continuing basis shall review and take action to ensure compliance with this order, and in particular:

(1) The Committee shall oversee Department actions to ensure compliance with the provisions of this order and implementing directives issued by the President through the National Security Council.

(2) The Committee shall, subject to procedures to be established by it, receive, consider and take action on suggestions and complaints from persons within or without the government with respect to the administration of this order, and in consultation with the affected Department or Departments assure that appropriate action is taken on such suggestions and complaints.

(3) Upon request of the Committee Chairman, any Department shall furnish to the Committee any particular information or material needed by the Committee in carrying out its functions.

(B) To promote the basic purposes of this order, the head of each Department originating or handling classified information or material shall:

(1) Prior to the effective date of this order submit to the Interagency Classification Review Committee for approval a copy of the regulations it proposes to adopt pursuant to this order.

(2) Designate a senior member of his staff who shall ensure effective compliance with and implementation of this order and shall also chair a Departmental committee which shall have authority to act on all suggestions and complaints with respect to the Department's administration of this order.

(3) Undertake an initial program to familiarize the employees of his Department with the provisions of this order. He shall also establish and maintain active training and orientation programs for employees concerned with classified information or material. Such programs shall include, as a minimum, the briefing of new employees and periodic reorientation during employment to impress upon each individual his responsibility for exercising vigilance and care in complying with the provisions of this order. Additionally, upon termination of employment or contemplated temporary separation for a sixty-day period or more, employees shall be debriefed and each reminded of the provisions of the Criminal Code and other applicable provisions of law relating to penalties for unauthorized disclosure.

(C) The Attorney General, upon request of the head of a Department, his duly designated representative, or the Chairman of the above described Committee, shall personally or through authorized representatives of the Department of Justice render an interpretation of this order with respect to any question arising in the course of its administration.

Section 8. Material Covered by the Atomic Energy Act. Nothing in this order shall supersede any requirements made by or under the Atomic Energy Act of August 30, 1954, as amended. "Restricted Data," and material designated as "Formerly Restricted Data" shall be handled, protected, classified, downgraded and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

Section 9. Special Departmental Arrangements. The originating Department or other appropriate authority may impose, in conformity with the provisions of this order, special requirements with respect to access, distribution and protection of classified information and material, including those which presently relate to communications intelligence, intelligence sources and methods and cryptography.

Section 10. Exceptional Cases. In an exceptional case when a person or Department not authorized to classify information originates information which is believed to require classification, such person or Department shall protect that information in the manner prescribed by this order. Such persons or Department shall transmit the information forthwith, under appropriate safeguards, to the Department having primary interest in the subject matter with a request that a determination be made as to classification.

Section 11. Declassification of Presidential Papers. The Archivist of the United States shall have authority to review and declassify information and material which has been classified by a President, his White House Staff or special committee or commission appointed by him and which the Archivist has in his custody at any archival depository, including a Presidential Library. Such declassification shall only be undertaken in accord with: (i) the terms of the donor's deed of gift, (ii) consultations with the Departments having a primary subject matter interest, and (iii) the provisions of Section 5.

Section 12. Historical Research and Access by Former Government Officials. The requirement in Section 6(A) that access to classified information or material be granted only as is necessary for the performance of one's duties shall not apply to persons outside the executive branch who are engaged in historical research projects or who have previously occupied policy-making positions to which they were appointed by the President: *Provided*, however, that in each case the head of the originating Department shall:

(i) determine that access is clearly consistent with the interests of national security; and

(ii) take appropriate steps to assure that classified information or material is not published or otherwise compromised.

Access granted a person by reason of his having previously occupied a policymaking position shall be limited to those papers which the former official originated, reviewed, signed or received while in public office.

Section 13. Administrative and Judicial Action.

(A) Any officer or employee of the United States who unnecessarily classifies or over-classifies information or material shall be notified that his actions are in violation of the terms of this order or of a directive of the President issued through the National Security Council. Repeated abuse of the classification process shall be grounds for administrative reprimand. In any case where the Departmental committee or the Interagency Classification Review Committee finds that unnecessary classification or over-classification has occurred, it shall make a report to the head of the Department concerned in order that corrective steps may be taken.

(B) The head of each Department is directed to take prompt and stringent administrative action against any officer or employee of the United States, at any level of employment, determined to have been responsible for any release or disclosure of national security information or material in a manner not authorized by or under this order or a directive of the President issued through the National Security Council. Where a violation of criminal statutes may be involved, Departments will refer to any such case promptly to the Department of Justice.

Section 14. Revocation of Executive Order No. 10501. Executive Order No. 10501 of November 5, 1953, as amended by Executive Orders No. 10816 of May 8, 1959, No. 10901 of January 11, 1961, No. 10964 of September 20, 1961, No. 10985 of January 15, 1962, No. 11907 of March 6, 1963, and by Section 1(a) of No. 11382 of November 28, 1967, are superseded as of the effective date of this order.

Section 15. Effective Date. This order shall become effective on June 1, 1972.

RICHARD NIXON.

THE WHITE HOUSE, *March 8, 1972*.

Mr. **FULBRIGHT**. I read one paragraph from the statement.

> The many abuses of the security system can no longer be tolerated. Fundamental to our way of life is the belief that when information which properly belongs to the public is systematically withheld by those in power, the people soon become ignorant of their own affairs, distrustful of those who manage them, and—eventually—incapable of determining their own destinies.

That is only one paragraph. It is utterly inconsistent with what he actually does. It is another example of a very fine principle in another Presidential statement.

To the extent that the executive branch is successful in its endeavor to withhold information from Congress, the legislative process is undermined and nullified, and we in Congress become little more than a rubber stamp for the executive. Passage of the pending amendment would have the effect of saying to the executive branch that we are a rubber stamp; that any time the administration wants to withhold information from the Congress we will not object, and that whenever the President claims executive privilege, we will not question that claim or the reasons for it. All of these considerations are now before us in this amendment and I hope that every Senator weighs them very carefully.

Mr. President, I want to assure my colleagues that the committee weighed all of these considerations before recommending to the Senate that the U.S. Information Agency authorization request be reduced substantially. Some believe the committee's decision was too indiscriminate and drastic, but those who hold such views should be reminded of the damage, the violence done to the legislative process by the executive's decision to withhold information vital to permitting the elected representatives of this body to make an informed judgment about a matter involving an expenditure of hundreds of millions of the taxpayers' dollars.

Mr. President, in asking that the pending amendment be defeated and that the committee's recommendation be upheld, I invite the attention of Senators to a recent article in the New York Times by Admiral Rickover entitled "The Decline of Congressional Power." The substance of this article has particular bearing on the issue before the Senate.

Admiral Rickover, it will be recalled, received special consideration by Congress some years ago, when it intervened to rescue him from premature retirement. I think Congress acted wisely in doing so. On the whole, Admiral Rickover is a very broad gaged man who has given much thought to our Government and to the problems we face.

Admiral Rickover begins with the following observation:

> As a realist, I must say the only real power Congress has left is the negative power of denying funds.

Mr. President, as lamentable as this may be, I doubt that anyone in this Chamber would take issue with it. Admiral Rickover continues:

> It is, of course, the immense scope and complexity of the governmental activities financed by taxes that has brought out the enormous growth of bureaucratic influence on the way the money collected from the American people is spent. The chairman of the House Appropriations Committee has pointed out that Congress usually makes only relatively small changes in the budget submitted by the Administration. Beyond this, the increasing use of Federal power has—as Madison predicted—allowed the Federal bureaucracy to exercise what in effect are discretionary powers in disposing of public moneys.

In an effort to put the present situation in perspective, the Rickover article goes on to point out:

> Congress may change the Administration's budget by 1 or 2 per cent, but to all intents and purposes Congress no longer has control over the budget. Like any other parliamentary body in a free society, it does, however, have the power of legislative oversight as well as the right to refuse to vote appropriations if it judges that in the past they have not been used in accordance with the laws it has enacted.

In conclusion Admiral Rickover, "as a realistic," is led to the following recommendation:

> Since Congress itself can no longer control in detail how appropriated moneys are spent, its constitutional control of the purse strings now depends more than ever on the judicious exercise of its investigatory function, and on the negative power to refuse funds.

I might point out that these remarks were presented originally in the Admiral's testimony before the Armed Services Committee. I endorse them wholeheartedly and commend them to my colleagues.

I ask unanimous consent that the entire article be printed in the RECORD, together with the correspondence concerning the U.S. Information Agency's refusal to make the documents requested available to the Committee on Foreign Relations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DECLINE OF CONGRESSIONAL POWER

(By H. G. Rickover)

WASHINGTON.—As a realist, I must say that about the only real power Congress has left is the negative power of denying funds. Surely this was never the intention of the framers of the Constitution, nor has it come about by the proper procedure of constitutional amendment. Take the bill to limit the ability of the executive to carry on indefinitely an undeclared war. I thoroughly approve the intent of the bill. But ought it to be necessary? Does not the Constitution vest in Congress and in Congress alone the power "to declare war?"

This clause occasioned hardly any debate in the Constitutional Convention. The executive was at first envisioned, as Sherman of Connecticut put it, as "nothing more than an institution for carrying the will of the legislature in effect," Congress being declared the "depository of the supreme will of the society"!

When the debate opened on the powers of the executive, even those favoring a vigorous single executive, rather than a council or committee set up by Congress, opposed giving him the power to make war—a power which at that time was everywhere the prerequisite of the executive. Fear was expressed that if the executive power within the Federal Government were to encompass peace and war, the President would be rendered a monarch "of the worst kind; to wit, an elective one."

Power seemed extremely dangerous to the founders of our Federal system. They were anxious to vest it where the people could best influence its exercise. I believe we were at that time the only country entrusting the war power to the legislature.

I digress into these historic reminiscences only to support my point that failure to exercise the powers vested in Congress results in their diminution, if not total loss.

It is, of course, the immense scope and complexity of the governmental activities financed by taxes that has brought out the enormous growth of bureaucratic influence on the way the money collected from the American people is spent. The chairman of the House Appropriations Committee has pointed out that Congress usually makes only relatively small changes in the budget submitted by the Administration. Beyond this, the increasing use of Federal power has—as Madison predicted—allowed the Federal bureaucracy to exercise what in effect are discretionary powers in disposing of public moneys.

When Congress does not exercise the power vested exclusively in it to make the laws that govern the United States, its power to do so atrophies. Indeed, I submit that Congress has already lost much of its power by not using it.

Congress may change the Administration's budget by 1 or 2 per cent, but to all intents and purposes Congress no longer has control over the budget. Like any other parliamentary body in a free society, it does, however, have the power of legislative oversight as well as the right to refuse to vote appropriations if it judges that in the past they have not been used in accordance with the laws it has enacted.

It is my firm belief that the present procurement situation can be remedied only if Congress will use these two important powers to compel reform. It is not in the nature of a powerful bureaucracy to improve its way unless prodded by someone with power from without.

Since Congress itself can no longer control in detail how appropriated moneys are spent, its constitutional control of the purse strings now depends more than ever in the judicious exercise of its investigatory function, and on the negative power to refuse funds.

U.S. INFORMATION AGENCY,
Washington, D.C., March 16, 1972.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: In response to your letter of March 1, I am enclosing herewith the President's directive dated March 15 from which you will note that I am unable to comply with your request for the USIA Country Program Memoranda and associated planning documents. I find that the material you request clearly falls within the scope of the President's directive.

My staff and I have carefully examined the so-called Country Program Memoranda and find that, for the most part, these are planning or working documents subject to subsequent discussion and final approval. These documents are under constant review, and programs are changed in the light of changing developments in Washington and in the host countries.

You will note from the President's directive that he wishes the Administration to be wholly responsive to Congressional requests subject only to restrictions necessary for the proper functioning of the Executive Department.

With this objective in view, I shall be happy to supply your Committee with summaries of the approved country objectives together with a description of the activities proposed to implement them. Also, our key officers, including myself and the Assistant Directors for each geographic area, are ready to provide your staff with country-by-country briefings as well as being available at all times for questioning by you and your colleagues.

Sincerely,

FRANK SHAKESPEARE.

THE WHITE HOUSE,
Washington, D.C., March 15, 1972.

MEMORANDUM FOR THE SECRETARY OF STATE, THE DIRECTOR, U.S. INFORMATION AGENCY

As you know, by a memorandum of August 30, 1971 to the Secretary of State and the Secretary of Defense, I directed "not to make available to the Congress any internal working documents which would disclose tentative planning data on future years of the military assistance program which are not approved Executive Branch positions. In that memorandum, I fully explained why I considered that the disclosure of such internal working papers to the Congress would not be in the public interest.

I have now been informed that the Senate Foreign Relations Committee and the House Foreign Operations and Government Information Subcommittee have requested basic planning documents submitted by the country field teams to the United States Information Agency and the Agency for International Development, and other similar papers. These documents include all USIA Country Program Memoranda and the AID fiscal year 1973 Country Field Submission for Cambodia, which are prepared in the field for the benefit of the agencies and the Department of State and contain recommendations for the future.

Due to these new requests for documents of a similar nature to those covered by my August 30, 1971 directive, I hereby reiterate the position of this Administration so that there can be no misunderstanding on this point.

My memorandum for the Heads of Executive Departments and Agencies, dated March 24, 1969, set forth our basic policy which is to comply to the fullest extent possible with Congressional requests for information. In pursuance of this policy, the Executive Departments and Agencies have provided to the Congress an unprecedented volume of information. In addition, Administration witnesses have appeared almost continuously before appropriate Committees of the Congress to present pertinent facts and information to satisfy Congressional needs in its oversight function and to present the views of the Administration on proposed legislation.

The precedents on separation of powers established by my predecessors from first to last clearly demonstrate, however, that the President has the responsibility not to make available any information and material which would impair the orderly function of the Executive Branch of Government, since to do so would not be in the public interest. As indicated in my memorandum of March 24, 1969, this Administration will invoke Executive Privilege to withhold information only in the most compelling circumstances and only after a rigorous inquiry into the actual need for its exercise.

In accordance with the procedures established in my memorandum of March 24, 1969, I have conducted an inquiry with regard to the Congressional requests brought to my attention in this instance. The basic planning data and the various internal staff papers requested by the Senate Foreign Relations Committee and the House Foreign Operations and Government Information Subcommittee do not, insofar as they deal with future years, reflect any approved program of this Administration, but only proposals that are under consideration. Furthermore, the basic planning data requested reflect only tentative intermediate staff level thinking, which is but one step in the process of preparing recommendations to the Department Heads, and thereafter to me.

I repeat my deep concern, shared by my predecessors, that unless privacy of preliminary exchange of views between personnel of the Executive Branch can be maintained, the full frank and healthy expression of opinion which is essential for the successful administration of Government would be muted.

Due to these facts and considerations, it is my determination that these documents fall within the conceptual scope of my directive of August 30, 1971 and that their disclosure to the Congress would also, as in that instance, not be in the public interest.

I therefore, direct you not to make available to the Congress any internal working documents concerning the foreign assistance program or international information activities, which would disclose tentative planning data, such as is found in the Country Program Memoranda and the Country Field Submissions, and which are not approved positions.

I have again noted that you and your respective Department and Agency have already provided much information and have offered to provide additional information including planning material and factors relating to our foreign assistance programs and international information activities. In implementing my general policy to provide the fullest possible information to the Congress, I will expect you and the other Heads of Departments and Agencies to continue to make available to the Congress all information relating to the foreign assistance program and international information activities not inconsistent with this directive.

RICHARD M. NIXON.

MARCH 1, 1972.

Mr. FRANK SHAKESPEARE,
Director, U.S. Information Agency,
Washington, D.C.

DEAR MR. SHAKESPEARE: I am enclosing a copy of Mr. Ablard's letter of February 28 to Mr. Robert Dockery of the Committee staff concerning the status of the Country Program Memoranda prepared by the United States Information Agency. I understand from Mr. Ablard's letter that the Memoranda are regarded as "internal planning or working documents" and as such, the Agency believes that "it would not be appropriate to provide these documents to the Committee."

As you know, the "Agency in Brief 1972" publication describes this material in the following way:

"These CPM's (Country Program Memoranda) are designed to integrate USIS planning and resource allocation with overall U.S. objections in the country. The CPM's encompass total Agency resources devoted to the country, including media products and materials supplied from Washington." (p. 19)

I believe this information would be of interest to all Members of the Committee and of particular assistance to them in connection with the Agency's authorization hearings, beginning March 20.

In view of this, I am requesting that the Agency reconsider its decision and agree to make this information available to the Committee. I should appreciate hearing from you on this matter at your earliest convenience and, hopefully, no later than March 10. If the original decision is maintained, I should like to know what the Agency's legal authority is for withholding this type of information from the Congress.

Sincerely yours,

J. W. FULBRIGHT, *Chairman.*

Enclosure.

U.S. INFORMATION AGENCY,
Washington, D.C., February 28, 1972.

Mr. ROBERT DOCKERY,
Staff Consultant, Committee on Foreign Relations, U.S. Senate.

DEAR BOB: In preparation for authorization hearings on March 20, you have requested that USIA furnish you Country Program Memoranda and USIA Planning Papers. An evaluation of these documents reveals that they are substantially in the nature of internal planning or working documents which are in many cases unapproved and in a raw form. In most cases the CPM is not a final document as such but is an exchange of papers and proposals between the post and the area offices, with suggestions from other departments in Washington. They are, in a real sense, planning documents which are constantly under revision as programs change and developments occur both in the country of operation and in Washington.

Accordingly, it would not be appropriate to provide these documents to the Committee. However, we can provide you a summary of the approved country objectives, activities to implement them, and principal USIA audiences. Also, we can provide an oral briefing on a country-by-country basis to you and your staff colleagues, as well as for any Members of the Committee.

Of course, the Assistant Directors for each geographic area will give testimony before the Committee which can include specific country objectives.

Sincerely yours,

CHARLES D. ABLARD,
General Counsel and
Congressional Liaison.

Mr. FULBRIGHT. Mr. President, I think that Admiral Rickover states the situation very well. The only thing left to Congress to try to restore any influence of any consequence upon the arbitrary exercise of power by the Executive is the power of the purse, and the amendment of the Senator from Wyoming is the best possible test of which I can think.

I consented to the very unusual unanimous consent request of the Senator, not only to accommodate him, but also to get this test case before the Senate.

I regret that more Senators are not interested. Obviously, from observing the attendance in the Chamber at this time, they are not. I do not know whether or not they receive their instructions only from the White House. That remains to be seen. But it is very clear that this is a test of the right of the Senate and of Congress as a whole to have access to fundamental information necessary to the discharge of its responsibilities.

In connection with a comment made by the distinguished Senator from Wyoming earlier, I wonder what his attitude would be—this is just to inquire about his attitude—toward a proposal, in the nature of a contingency, that if and when the Executive made available the information which has been requested by the committee, the amounts as reduced in the committee bill, as I have already stated, on page 51 of the report, would then be made available. Would the Senator be interested in that kind of approach?

Mr. McGEE. On whose time is my response to the chairman's question?

Mr. FULBRIGHT. On my time.

(Disturbance in the Visitor's Galleries.)

The PRESIDING OFFICER. The Chair reminds the visitors in the galleries that approval or disapproval of anything heard on the floor will not be tolerated.

Mr. FULBRIGHT. This is simply to try to get a fix on the Senator's attitude. It seems that the Senator would not wish to use the power of the purse in any way to force the executive to furnish information.

Mr. McGEE. I would have to say that I would not approve of that approach to it, because I think it is the wrong agency and the wrong circumstances. I would not approve of it.

Mr. FULBRIGHT. That is all I want to inquire about at this time.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. FULBRIGHT. I yield myself 3 additional minutes.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 72 minutes remaining.

Mr. FULBRIGHT. Mr. President, as I look over the agencies in this Government, I cannot think of one to which it is more appropriate to apply the test of whether or not Congress is really interested in exercising its oversight responsibilities, whether it really is interested in having a serious role in our Government, than this one, dealing with an information agency from whom we request information about its own activities.

It seems ironic that an agency devoted to informing the people of other countries should decline to inform its own Congress. This raises a serious question whether the agency is really interested in information or whether it is not essentially a propaganda agency that has only incidentally any relation to information as an objective sort of thing. We read many stories about those who are capable of taking a particular candidate and, in a subtle and persuasive manner, creating an image of the candidate that will meet the approval of the people. Apparently, USIA sees itself as doing this sort of thing, rather than providing straight information, and it contributes, I suppose, to the attitude that information as such, is not something to be discussed in public, and certainly not something to be distributed to a congressional committee which has authority to authorize its funds.

Mr. President, I yield the floor for the moment, and reserve the remainder of my time.

Mr. McGEE. Mr. President, I yield myself 1 minute before I yield to the Senator from New York (Mr. Buckley) to say that the New York Times on yesterday published an interesting editorial entitled "Wrecking USIA." I quote from the thrust of it—indeed, as some colleagues have contended that the USIA was a slanted and high-powered soap salesman project, that would be one thing, but as the New York Times editorial writer suggests:

> They are mostly trained professionals in the writing, editing and broadcasting of news and information who try to tell the facts honestly about the United States.
>
> If the U.S.I.A.'s output were heavily slanted and ideological, the Foreign Relations Committee would have a better case. But the agency has generally in recent years been trying to "tell America's story to the world" and to tell it straight.

Therefore, it concludes that this is no time for the meat ax to wreck the USIA.

Mr. President, I ask unanimous consent to have this editorial printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Wrecking USIA

> There is a strong probability that Senator William Fulbright and his Democratic colleagues on the Foreign Relations Committee will miss the target in their campaign to redirect the energies of the United States Information Agency. The committee has voted to reduce the U.S.I.A.'s budget request by nearly 25 per cent, from $200 million to $155 million.
>
> Ostensibly, Senator Fulbright and Frank Shakespeare, the agency's director, are engaged in a dispute over the latter's refusal to make available to the committee its "program memoranda" of various countries. These documents are supposed to set forth the propaganda informational objectives in each country. If the Nixon Administration were to waive its claim of "executive privilege," the memoranda would probably turn out to be boring and irrelevant.
>
> Behind this paper battle, the antagonists are really arguing over Mr. Shakespeare's alleged determination to make his agency a vigorous spokesman for the anti-Communist cold war, while Senator Fulbright protests that such policies serve no useful purpose when President Nixon is making overtures to Russia and China. We characterize Mr. Shakespeare's determination as "alleged" because—aside from some rhetorical flourishes of his own, calculated to impress his boss in the White House and right-wing voters in the country—it is hard to see that he has had much impact on the work of his subordinates. They are mostly trained professionals in the writing, editing and broadcasting of news and information who try to tell the facts honestly about the United States.
>
> If the U.S.I.A.'s output were heavily slanted and ideological, the Foreign Relations Committee would have a better case. But the agency has generally in recent years been trying to "tell America's story to the world" and to tell it straight.

Mr. McGEE. Mr. President, now I yield my colleague from New York (Mr. Buckley) 15 minutes.

The PRESIDING OFFICER (Mr. Nelson). The Senator from New York is recognized for 15 minutes.

Mr. BUCKLEY. Mr. President, I should like to thank my colleague from Wyoming for yielding to me this time. I recall a few minutes ago that he spoke of an important factor in this debate and also conveyed some remarks from the junior Senator from Washington (Mr. Jackson) echoing that same sentiment; namely, discussion of the symbolism at this time in world history of a significant curtailment of some of the activities of the USIA.

I understand from subsequent debate that what is really the issue is not whether there is any merit to the activities, but, rather whether an executive has abused executive privilege in not making information available to the Committee on Foreign Relations.

Unfortunately, I think that the niceties of our internal confidential debate will be lost on those abroad, especially those relying on some of the foreign language broadcasts maintained by the Voice of America as a window on the outside world. These constitutional niceties will be lost if, suddenly, that window is slammed shut.

I hope that my remarks will not be considered irrelevant subject matter if I confine myself to a discussion of the functions of the USIA and, most importantly, its radio informational arm, the Voice of America and the potential effect of its ability to perform its functions if these cuts are not stricken.

I would like to consider at the outset certain of the principal arguments which in the past have been raised against the USIA and particularly against the broadcasting activities conducted mainly through the Voice of America.

First, I think that I should state my basic position, one which is fortified—from what I have been able to observe—

through more than 17 years of extensive private business travel around the globe before my election to the Senate.

First, I believe that in both the shorter and the longer term, it is indispensable for the United States to have a strong, credible, and well financed international information organization.

Second, by and large, the USIA has provided our Nation with just such an organization, principally although not solely because of the quality of its Voice of America programs. These broadcasts have proved accurate and reliable and, therefore, effective in projecting information, news, and commentary which we feel is required if we are to present to the world a proper understanding of events within the United States and of the reasons behind our foreign policy objectives.

Third, I believe that the radio and TV programs which are maintained by the USIA are a most important means by which to convey information to the peoples of the world, because it is the only means of communication which can penetrate the barriers of censorship still erected by so many totalitarian regimes.

I recognize that many do not accept these views but at least we should argue on the merits of the case, based on broad access to information which it is the purpose of the Voice of America to provide less fortunate people.

What are some of the arguments presented against the USIA and against its broadcasting arm?

One is that, somehow, these activities represent an anachronistic relic of the cold war.

It is true that the USIA was created at the outset of the cold war, in the early 1950's. It is also true that the Voice of America had its origins in the hot war—having been founded in 1942.

But this argument fails to make the necessary distinctions between origins and purposes.

The USIA had its origins in the early stages of the cold war, but because of the continuing role which the United States is required to play in world affairs, the purpose of the USIA transcends this origin. That purpose is to present and to support the foreign policy objectives of the United States, to present to the world at large the information required for it to understand the objectives of that policy.

That purpose, stated in its simplest form, as I have suggested, is to support the United States foreign policy. And this is a foreign policy which has not died with a change in the shift or thrust of our policy, but a purpose which must coexist with our foreign policy objectives, whatever they are.

This leads me to a second point which the critics of the USIA have advanced from time to time; namely, that the USIA and the Voice of America are not working to support our foreign policy but are working rather to frustrate it.

These critics say that by carrying news that is often critical of Communist action or which highlights Communist abuse, the Voice of America is working at cross-purposes with President Nixon's efforts to bring about a detente with the Soviet Union.

If this argument were valid, surely we would find the President of the United States among the principal objectors to the activities. And if the arguments were valid, the proper remedy would not be to make arbitrary cuts in the budget, but rather to change the procedures and the management.

In point of fact, President Nixon not only does not consider the activities to be subversive of his effort, but supportive of them.

Mr. President, at this point in the RECORD, I ask unanimous consent to have printed in the RECORD excerpts from a letter from President Nixon to the Voice of America on the occasion of its 30th anniversary, outlining the importance which he believes this organization continues to have in the implementation of American policy.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

LETTER FROM PRESIDENT NIXON TO THE VOICE OF AMERICA ON THE OCCASION OF ITS 30TH ANNIVERSARY

Just as the world has changed in the last thirty years, so too has the Voice of America. It was born in a world at war. Today it continues its important mission in a world in which international tensions have been lowered, even though peace is still not a reality. More and more, men realize that if we are to survive, we must learn to relate to each other better than we have in the past—and that to improve our relationship, we must understand each other better.

Never has the role of the Voice of America been more important than now, since it helps so much in promoting mutual understanding among nations and peoples. Day after day, the Voice of America brings its audience a reliable account of what is happening throughout the world, and direct insights into life and thought in the United States.

Mr. BUCKLEY. Mr. President, in his letter the President emphasizes the Voice of America's task to establish an understanding among nations and peoples. And I would like to stress "peoples" because the USIA has a number of programs for cultural exchange which result from negotiated treaties, for example, with the Soviet Union that allow thereby the circulation of a very excellent magazine about American affairs. This also enables us to maintain certain exhibits and to have guides at these exhibits who have direct contact with the Soviet people. Nevertheless, these activities are limited in their total penetration. But these activities will continue, subject only to the sufferance of the Soviet Government.

The Voice of America, on the other hand, is able to bring about a far broader and more important dissemination of information. It provides the people of the U.S.S.R. and elsewhere with unique sources of news which are beyond the reach of official censors.

It provides these people with facts about the outside world which they otherwise would have no means of learning. It is as important to us now, I submit, that the people of the Soviet Union and elsewhere have access to the facts and to the clearly labeled commentaries of Voice of America as it ever has been. Whether a cold war still exists or not, it is clear that the interests of the United States and the Soviet Union will continue to play an important part here and there around the globe, and notably in the Mideast.

There is increasing evidence that the Kremlin is not entirely insensitive to these internal and external pressures which have been generated by the USIA. I think we saw that most spectacularly in the trial in Leningrad of a group of Jews who were accused of the "hideous crime" of wanting to escape to Israel.

There can be no doubt that these broadcasts have an important impact behind the Iron Curtain.

Mr. President, I cite certain testimony as to the importance of the Western broadcasts.

Russian Author A. Anatoli Kuznetsov, winner of the Stalin Prize, joined eight other exiled scholars and writers to report that these programs—

> Were for us a substitute for a free press nonexistent in our countries . . . to speak the language of a free press and not of the government propaganda . . . makes (them) so attractive to their audiences. To deprive them of that life-line would be indeed a crime against liberty.

Nobel Prize winning Russian Author Alexander Solzhenitzyn, in a New York Times interview, referring to these broadcasts said:

> If we learn anything about events . . . it is from there.

More recently, Representative JAMES SCHEUER, of New York, reported that Jews in the Soviet Union came up to him with tears in their eyes telling how much they appreciated the broadcasts of the Voice of America, saying that these broadcasts "keep hope alive."

True, the Kremlin does not like the Voice of America broadcasts. We notice the large amounts of money which the Soviet Union spends each year trying to jam them, with very limited success, I am happy to report. However, for the life of me, I cannot see why we in this country should tailor our program to help the Soviet Union protect their people from the truth. We spend 780 hours a week broadcasting in 34 different languages in the face of their own intense broadcasting effort of 1,900 hours a week in 84 languages.

I do not see why we should, in order to curry the dubious favor of the leaders of the Kremlin, deny hundreds of millions of persons who thirst for knowledge access to the news from the outside world. Furthermore, I believe it matters that they know the truth, because to the extent that peoples around the world have an understanding as to what is happening in the world, to the extent that they are accurately informed about policies and events in the United States, to that extent can we hope that sanity will ultimately prevail in world affairs.

Yet, if the budgetary cuts provided for by the Committee on Foreign Relations are allowed to remain, it will mean not just a paring back of the activities currently sustained by the USIA, and more particularly by the Voice of America, but it will result in the termination of 23 of the 34 foreign language broadcasts which are now sustained.

These audiences which are being

reached by these 23 language programs now in existence will be cut off from access to this sort of information. I might add that these audiences were built up over a period of years and cannot automatically be put back together if the broadcasts are interrupted for any sizable period of time.

We must understand that credibility is hard to achieve. It has been a history of truth and reliability on the part of Voice of America broadcasting which has developed that credibility and reliability which is an important arm of the American informational system.

It is quite possible that at the present moment access to one or more of these audiences is not critically important to the fulfillment of the present U.S. policy except to the extent that we have a permanent, abiding interest in the survival of truth in the dissemination of information around the world.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McGEE. Mr. President, I yield 3 additional minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 additional minutes.

Mr. BUCKLEY. But we cannot tell today what emergency might arise in the future when it will be critically importtant to us that we be able to reach these same audiences with the credibility required to make them effective.

I suggest, Mr. President, that my assessment of the importance and effectiveness of the Voice of America is shared not just by the administration or other colleagues who agree with my point of view, but by the Soviet Union or it would not have persisted in its sustained effort at jamming.

Mr. President, I want to touch one other aspect which I believe to be critically important in an understanding of the present day function of the U.S. Information Agency and its purpose. Its purpose must be viewed in the context of the communications revolution to which Mr. Frank Shakespeare has referred when he said that we live in a time when hundreds of millions of people are receiving direct access to information through radio and television. If we cut needed funds from an agency engaged in the dissemination of our side of the story, we will have foreshortened our ability to present the American story and thereby support American policy.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McGEE. Mr. President, I yield the Senator 5 additional minutes.

Mr. BUCKLEY. Mr. President, it seems to me that one of the reasons there is objection to the activities of the Voice of America in explaining America's story, is that we have an instinctive distaste for the word "propaganda." It is a distaste which is natural enough, given the fact that we, as a nation, first became exposed to the word in activities of Adolf Hitler and more recently in activities of Radio Moscow with their total reliance on the big lie. I would like to suggest, however, that this is not the sole meaning of the word "propaganda." Propaganda also means telling your story and to the extent we rely on truthful dissemination of the facts, as has been the history of the Voice of America, to that extent must we distinguish between licit, respectable, and responsible utilization of propaganda and illicit forms with which we would not associate ourselves.

But, if it is "propaganda" to tell the facts about the United States, as the Voice of America does every day, so be it. If it is propaganda to attempt to put those facts into context in clearly labeled commentaries, so be it. If it is propaganda to show pride in our Nation as USIA's public affairs offices do in 101 nations around the world, I am all for it. The relevant question is not whether USIA engages in propaganda—we can leave that philosophical conundrum to scholars and savants—but whether what USIA engages in is needed by our Nation.

Perhaps the most important criticism which can be made about USIA is the criticism implicit in the wide misunderstanding of this organization both within and without the Congress. Such a misunderstanding springs not from any resentment against USIA activities but from a lack of interest in the organization for its own sake. Lack of interest can be a fatal criticism to any Government program. In one sense, then, the proposed budget cut has done USIA a favor—it has brought it before the gaze of the Congress where it could be discussed.

I am glad that this happened, because I am deeply convinced that Director Frank Shakespeare is correct when he says we are living in an age of a communications revolution of transistor radios and television satellites, one of the most decisive factors shaping the course of our time. The international flow of information can no longer be sealed off at national frontiers.

There are times, I know, when we all wish it were otherwise. Too much information too swiftly carried to too many people for too many reasons in too many ways—we have seen the world shrink before our eyes and it is as disconcerting as it is strange.

But whatever else it may be, the communications revolution is a fact and within the lifetime of most of us it will probably be one of the most decisive factors in international affairs. The question is not whether we like the communications revolution, but what are we going to do about it and what role should the U.S. Government play in it.

For the first time in human history the attitudes of millions of people have moved from the periphery toward the center of foreign policy decisions. In 1815, a few men could sit around a table in Vienna and carve up Europe for a hundred years. In 1919, a small group of men could once more decide the shape of the West—although the results of their decisions did not last as long as their diplomatic predecessors at Vienna.

Today, however, the phrase "the whole world is watching" is a reality of international affairs that each nation must take into account. The diplomatic briefcase is being matched by the television picture and the transistor radio as a part of international diplomacy.

Whether we like it or not it does matter what millions of people thought when President Nixon got off the plane before the TV cameras in Peking.

Whether we like it or not it does matter what "received opinions" form the basis upon which millions of people will make up their own minds on complicated international problems.

It is no longer, I feel, good enough to use the term "imagemakers" for those who are in the forefront of this revolution for our country. The USIA does not now attempt and never has attempted to make an "image," some two-dimensional, unbelievable figure to fool the world. If it did, it would long ago have been dismissed from every country in which it operates. But today it operates in 101 countries. Now this does not mean that USIA has convinced people in 101 countries about the U.S. position on international issues. It does mean, however, that USIA–VOA has attempted to do, against tremendous opposition from the U.S.S.R. and other countries which generously finance their informational and propaganda programs, what can be done: to speak the truth about our Nation and about the world. USIA–VOA has been effective because it has built a reputation for reliability and truth.

The communications revolution is going to go on no matter what we do here today. If the USIA is cut to the bone, that will not stop the irresistible and all but insatiable appetite of people all over the world to use the new technology.

What is at stake here is the very position of the United States of America toward international understanding. Cut the USIA budget and we cut a link between our Government and masses of people. We will still have our traditional ways of diplomacy. We still need those ways. But those ways no longer suffice.

Cut USIA's budget and we are in effect saying to millions of people: "We are no longer interested in you. We don't want to talk to you, but only to your government. We have lost confidence in our ability to convince millions of the soundness of our foreign policy and of the principles which guide our Nation."

I, therefore, strongly urge that these proposed cuts be restored and that USIA be restored to its rightful place as an essential instrument of American foreign policy in this age of a communications revolution.

CALL OF THE ROLL

Mr. BUCKLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BUCKLEY. It will have to be on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FULBRIGHT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The rollcall was resumed.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FULBRIGHT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The rollcall was resumed, and the following Senators answered to their names:

[No. 165 Leg.]

Allen
Bellmon
Boggs
Buckley
Byrd, Robert C.
Cooper
Ellender
Fulbright
Griffin
Hughes
Javits
Long
McGee
Montoya
Nelson
Percy
Proxmire
Ribicoff
Saxbe
Symington
Taft

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken
Allott
Anderson
Beall
Bennett
Bible
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Case
Chiles
Church
Cook
Cotton
Cranston
Curtis
Dole
Fannin
Fong
Gambrell
Goldwater
Gravel
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Inouye
Jackson
Jordan, Idaho
Kennedy
Metcalf
Miller
Packwood
Pastore
Pearson
Randolph
Roth
Schweiker
Smith
Spong
Stafford
Stennis
Stevenson
Talmadge
Thurmond
Tower
Weicker
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Montana (Mr. MANSFIELD), and the Senator from Missouri (Mr. EAGLETON) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Colorado (Mr. DOMINICK), the Senator from Maryland (Mr. MATHIAS), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER (Mr. NELSON). A quorum is present.

Mr. ALLEN. Mr. President, I ask unanimous consent that the time used in the quorum call just completed not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, acting on behalf of the distinguished Senator from Wyoming (Mr. MCGEE), I now yield 2 minutes to the Senator from Illinois (Mr. PERCY).

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 minutes.

Mr. PERCY. Mr. President, I support restoration of funds for the U.S. Information Agency, because the loss of these funds would severely cripple the Voice of America and other USIA media activities which have the important function of presenting a clear picture of America to the world.

In an era when misinformation is so common, the Voice of America has succeeded in presenting a fair picture of life in the United States to the peoples of many nations. Moreover, it provides a generally objective view of the Western world, which gives listeners in other countries—and particularly in those countries where there is no freedom of information—a better basis for judgments on national and international events.

It is a vital service to those who want to hear another opinion which is different from the official opinion in their countries. And I submit that this is a legitimate function of the U.S. Government.

On my trips to Eastern and Western Europe, I have been told again and again about the value of the Voice of America broadcasts. An elderly refugee from Bulgaria tells that the VOA broadcasts had been an important factor in his life. He called the VOA "an anchor of freedom" which helped him keep up his hope when he was fearful of expressing himself about politics and international affairs. He said he had been not only afraid to speak candidly, but had even been afraid to listen to others who had complaints about the system in Bulgaria. But he was not afraid to put his ear to the radio to hear the Voice of America.

This old man, who now lives with relatives in a Paris suburb, was no different than thousands of others in Communist countries who over the years have expressed their appreciation for the broadcasts of VOA, Radio Free Europe, and Radio Liberty in many ways. We should not let them down.

As we vote today to restore funds for the U.S. Information Agency and the Voice of America, we will be expressing our own support of the proposition that the United States has a right and a duty to speak out to the world and to speak the truth as we see it so that all mav hear. At the same time, we will be expressing our determination that all peoples—especially those in closed societies—may have the opportunity to know more of the truth than their own governments may be willing to share with them.

Mr. ALLEN. Mr. President, I yield 5 minutes to the distinguished Senator from Oklahoma (Mr. BELLMON).

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. BELLMON. Mr. President, all of the great powers of the world, as well as some of the lesser powers, have international broadcasting operations.

The program operated by the United States, commonly known as the "Voice of America," has been recognized as one of the best methods for informing other peoples of the world about our country. It has been described by the National Association of Broadcasters as—

> An instrument of peace (which) has been instrumental in creating a better understanding of this nation, its people and its culture throughout the world.

The Voice of America and its parent organization, the U.S. Information Agency, have been praised and supported by Presidents Eisenhower, Kennedy, Johnson, and Nixon as an important function of this Nation's foreign relations.

At the present time, the United States broadcasts 779 hours a week to countries overseas. In contrast, the Soviet Union's foreign broadcasts total 1,904 hours per week—more than twice as much. China is second to the Soviet Union, with 1,346 hours per week. Next is the Arab Republic of Egypt, with slightly over 1,000 hours per week.

None of these countries is accustomed to wasting money. Yet they consider international broadcasting important enough to establish and keep maintaining broadcast operations that are for the most part bigger and costlier than that of the United States. For example, the United Kingdom broadcasts 725 hours per week, 54 hours less than the United States, yet the BBC has a larger staff than the Voice of America.

The Soviet Union broadcasts in 82 languages, compared to the Voice of America, which broadcasts in 35 languages.

Mr. President, this country's international broadcasting operations, already modest by many standards, are now threatened with a severe cutback which could seriously undermine the position of the United States in international affairs. I refer to the proposed reduction of one-fourth of the agency's budget recommended by the Senate Foreign Relations Committee.

If this $45 million cut is allowed to stand, the Voice of America would be forced to cut its operations to 454 hours of broadcasting weekly in 11 languages. This would put the United States even further behind the Soviet Union, China, Egypt, and other countries.

It would mean that in the arena of world opinion, we would be competing at the level of Portugal and Albania.

This proposed reduction in funds would require the USIA to terminate the services of approximately 2,360 employees, many of them with technical and language skills that would be difficult to replace.

In the words of syndicated columnist, James J. Kilpatrick, "the VOA in short, would be strangled."

In a recent column, Kilpatrick offered some strong reasons for keeping the agency from being further crippled:

> Such folly must be avoided. The USIA, under director Frank Shakespeare, has not engaged in empire building: It has 600 fewer employees than it had four years ago. By comparison with Russia, China, and the United Arab Republic, the United States is waging a modest program of information and propaganda. But the program is vital to our continuing national interest around the world.

Mr. President, the United States has sound reasons for trying to reach the minds of men by means of international broadcasting—to make sure the facts are known, to explain our national policies, to create a climate of good will, to foster cultural friendliness, to promote the cause of peace. In the words of one expert:

> In the last analysis, the major international broadcasters cannot afford to fall behind. They fear to leave the field open to others, whose interests are less than identical at best and sharply inimical at worst.

Mr. President, I have had occasion to visit foreign lands and have heard the Voice of America. I have also spoken at length with some of the American nationals who work in these countries and I know how much they depend on the Voice of America to get the facts about what is going on in this country on a current basis.

I also know, based on conversations I have had with nationals of other countries, how much those individuals, often in effect captives of their governments which are not representative of the people, depend on the Voice of America.

I am therefore at a great loss to understand why the Foreign Relations Committee would recommend this cut.

I feel strongly that the Voice of America is one of the best things this country ever brought forth in the world battle for the minds of men. I feel that it would be the worst kind of false economy for the Senate to go along with this cut.

International broadcasting has risen steadily to a total now of more than 16,000 hours a week. Obviously, other nations attach great importance to it. Before we fade from the field, we had better take a good look at the game, the stakes, and the rationale of both our friends and our competitors. If we drop out of this competition, we will probably never be able to get back in.

Mr. President, I strongly support the restoration of funds cut by the Foreign Relations Committee from the requested authorization.

I yield the floor.

Mr. ALLEN. Mr. President, I now yield 2 minutes to the distinguished Senator from West Virginia (Mr. RANDOLPH) in order that he might propound a question to the Senator from Oklahoma.

The PRESIDING OFFICER (Mr. CRANSTON). The Senator from West Virginia is recognized for 2 minutes.

Mr. RANDOLPH. I wish to propound a question to the able Senator from Oklahoma but more than that, to commend him for the cogent manner in which he has discussed this most important development.

My question is: Why, in the opinion of the Senator from Oklahoma, would the Committee on Foreign Relations request a reduction in support for the U.S. Information Agency when there is an effort now going on to create better understanding among the nations of the world and particularly with the leadership of the United States involved? Can the Senator give me any reason why such a reduction is contemplated?

Mr. BELLMON. I thank my colleague for his comments and his question.

I am afraid I have no answer. I am at a loss even to guess. I have always looked upon the distinguished chairman of the Committee on Foreign Relations as one of the principal proponents of increased international understanding to bring about world peace. To me, this cut is entirely contrary to that principle and all the efforts the chairman of the Foreign Relations Committee has put forth over the years in the cause of world peace.

Frankly, I am at a complete loss to understand this action.

Mr. RANDOLPH. I associate myself with the Senator from Oklahoma and all other Senators who are speaking against the reduction in funding for the Voice of America.

I think it is very important that such a proposal be defeated by this body as evidence that the Senate believes that the program is constructive and aids in international understanding.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. ALLEN. Mr. President, I yield an additional minute to the Senator from West Virginia.

Mr. RANDOLPH. It is an opportunity for clarification of our goals for peace and of recognition of people in one country by recognition of the people in another country. It is in nowise propaganda per se. It is an effort, affirmative in nature, to do what we can, not only to understand other parts of the world and of the peoples living there, but also to present to other peoples and other nations the dedication to peace and understanding by the United States of America.

It has been my privilege on a number of occasions to participate in Voice of America programs.

Mr. BELLMON. Mr. President, will the Senator from Alabama yield me 1 minute, in order to respond to the Senator from West Virginia?

Mr. ALLEN. Mr. President, I yield 1 minute to the Senator from Oklahoma.

Mr. BELLMON. The Senator from West Virginia and I are certainly agreed on this question; but it strikes me that this country, which is at presently generally disenchanted and perhaps frustrated by the war in Vietnam, should be greatly interested in taking any reasonable step to improve international understanding and thus help to lessen the likelihood of future wars, wars such as the one we are now seeking ways to end, both in the cost of American lives and of material.

It strikes me that any investment our country can make to help other countries understand us better, to help to let them see that our purposes are peaceful, and that we are a nation that is dedicated to building a better understanding, would be a far better investment than investments in some of the other things we do.

I cannot understand why we should try to cut back the small amount of money that is here involved, compared with other expenses we have, expenses which perhaps could lead to other misunderstandings and cause other Vietnams.

Mr. RANDOLPH. I am sure that the people of the United States, disagreeing as they do on Vietnam and the level of conflict, agree that it is essential that the United States continue its program of vital communication and the exchange of ideas as accomplished through the Voice of America. I think we would not be responsive and responsible to the people of our country, regardless of their thinking about the issues.

To cut it at this time would be misunderstood. And we do not want that to happen. I shall support the amendment offered by the Senator from Wyoming (Mr. McGEE) providing for full restoration of funds for the USIA and its Voice of America program.

Mr. BELLMON. Mr. President, I agree with the Senator from West Virginia.

Mr. ALLEN. Mr. President, I yield 5 minutes to the distinguished Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. COOPER. Mr. President, I support the amendment of the distinguished Senator from Wyoming to restore to the USIA the funds which were stricken in the Foreign Relations Committee. May I say that the vote in the Foreign Relations Committee was not unanimous. There was strong opposition to the cut. As I recall, at least four members of the committee voted against the cut. I was one of them. I did propose a cut across the board on the ground of economy.

I have had some experience in the past with the programs of the USIA. At the time I was Ambassador to India, I found that the programs which were eagerly sought after and enjoyed, were the book programs, straight news programs, exhibits, trade, and cultural programs. It may be argued that the cut does not reach these programs. However, the 30-percent cut directed at administrative funds would indirectly reach those very effective programs.

There has been the charge of propaganda. The people of these countries are able to distinguish between propaganda and nonpropaganda. There is no great difficulty upon that point, and the USIA under the able leadership of Mr. Shakespeare understand this.

Several years ago I made a trip to the Soviet Union and spent about 10 days in Moscow. It was a very unusual sensation and experience to be cut off from any news of the outside world. The only news one had was either through their papers, or their television programs, and propaganda.

I see nothing wrong in the U.S. Government presenting to other countries, in addition to its educational programs, book programs, cultural, and straight news programs information about our own policies, and providing to people throughout the world news and information about our country.

I remember that Mr. James Michener, the great author, testifying before our committee, was asked about the value of the USIA programs. He said that in his many trips throughout Asia, they provided about the only information available concerning news of the world and the United States and U.S. policies and life. I support strongly the amendment of the distinguished Senator from Wyoming.

As I have said, I thought in the interest of economy that a cut should be made across the board. However, with respect to the question of whether we should dismember the program, which I believe the committee measure would do, I have made my decision and will vote for the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 minutes.

Mr. AIKEN. Mr. President, I was one of the members of the committee who voted to amend this bill to provide for the full 30-percent cut. Actually I thought that a 10-percent cut would have been about right. But I said that if we were to amend it to provide for the full 30-percent cut, we would find out what the public thinks about it.

I found out very soon that every radio station, every television station, every newspaper, and every weekly periodical in the country that took notice of this amendment favors restoring the full 30 percent. Maybe they would go further if it were possible. I believe there may be a reason for the outpouring of support, which I do not plan to go into now. However, I still believe that the USIA can take a 10-percent cut without hurting in any way the work for which it was originally established, and probably the work which should be continued now because of the rather more tense situation with Russia.

So, although I will vote to restore the full amount, I want to make it plain that 10 percent is the cut which ought to be made. I hope that the House of Representatives will enact legislation that will make possible a 10-percent cut, because I believe that 10 percent of this nearly $200 million can be saved.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 7 minutes.

Mr. ALLEN. Mr. President, I support the amendment of the distinguished Senator from Wyoming (Mr. McGEE) to grant the USIA all the funds it has requested for the coming fiscal year; in other words, to restore the cut in the USIA funds recommended by the Committee on Foreign Relations.

Mr. President, at a time when many are critical of the President for sending our planes into North Vietnam and bombing strategic areas, when there is criticism of a military presence in Vietnam, how much better it is if we had a program that projected ideas, information, and intelligence to foreign nations; how much better it is to seek to win them, to win their minds, with persuasion, with information and with ideas instead of with bullets. So, Mr. President, I feel that the program of USIA, the Voice of America, is a most constructive program. It is a program that gives much more benefit to this country and the cause of peace, and to a better understanding between nations than any other similar amount of money spent on any other programs of this country.

If the budget cuts proposed by the authorization bill of the Committee on Foreign Relations is sustained, it will wreck the Voice of America and will, to a large degree, seriously damage the U.S. Information Agency. It will thus effectively reduce the communication between this Nation and a great part of world's inhabitants.

The Voice of America will lose some 958 employees and 25 languages. The Voice of America will drop to ninth place between Albania and Portugal in the number of hours carried by international broadcasters. Can you imagine that, Mr. President? It will drop to ninth place between Albania and Portugal in the number of hours carried by international broadcasters. This leaves the U.S.S.R. with 1,904 hours broadcast per week versus VOA's 454. VOA will drop to tenth place in number of languages. VOA will be on the air in 11 languages—U.S.S.R. in 84. The magnitude of Soviet distortions about news about the United States is startling and one of VOA's most effective efforts is to offset that distortion by broadcasting the truth. Not propaganda but the truth. To have Soviet distortions go unchallenged and uncorrected is a very serious matter to this Nation and to the world.

USIS will close 35 branch posts in 31 countries and eliminate virtually all centrally produced regional magazines. USIA will also discharge 2,300 employees. In short, the Agency will virtually be gutted.

Considering the necessity of communication between people in this day and age this meat ax reduction, devoid of planning or consultation, will be a tragic thing for the United States of America and should not be permitted.

Mr. President, I ask unanimous consent to have printed in the RECORD a "Summary of Impact of $45 Million Cut on USIA Activities."

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF IMPACT OF $45 MILLION CUT ON USIA ACTIVITIES

If USIA must take the $45 million cut proposed in the Senate Authorization Bill, it will mean:

1. *Voice of America* must terminate broadcasting in 25 languages, including all those to Eastern Europe and the Baltic states; close at least 6 and probably 8 of its powerful relay stations; drastically reduce its broadcasting in Spanish and Portuguese to Latin America, Arabic to the Middle East, and specifically tailored English broadcasting; and eliminate the US contribution to RLAS, all special program centers at Beirut, Rhodes, and Cairo, and all special programming. Details are available on the attachment headed "Radio–VOA".

2. Close USIS operations completely in 31 countries and close out 35 branch posts and reading rooms in the remaining countries.

3. Eliminate all centrally produced regional magazines and the prestige magazine Amerika Illustrated in the Polish language, as well as reducing all posts' one-country magazine publications between 80 and 90%.

4. Terminate the services of approximately 2300 employees, of whom approximately 1000 will be Americans. Tabulation appears on the attachment entitled "Staff Reductions".

Mr. ALLEN. Mr. President I ask unanimous consent to have printed in the RECORD a compilation of the number of hours and the number of languages used by countries and programs in foreign broadcasts.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

From the list of top 20 broadcasters:

	Hours (rounded)
1. U.S.S.R	1,904
2. China (PRC)	1,304
3. United Arab Republic	1,304
4. BBC	725
5. West Germany	628
6. Radio Liberty	546
7. RFE	538
8. Albania	480
9. VOA	454
10. Portugal	440

Languages

1. U.S.S.R	84
2. China (PRC)	38
3. BBC	38
4. West Germany	35
5. United Arab Republic	33
6. All India Radio	21
8. China (Taiwan)	17
7. Albania	17
9. Radio Liberty	16
10. VOA	11

Mr. ALLEN. Mr. President, to permit the crippling cuts recommended by the Committee on Foreign Relations to stand would be cause for rejoicing by those governments that have chosen to be our adversaries. They, above all others, would be hard put to believe that America had willfully inflicted such damage upon its own self-interests.

On the other hand, the partial, and in many cases, the total elimination of USIS cultural centers and the dismissal of local staffs would be viewed with shock, dismay and disbelief by government and intellectual leaders who both welcomed and supported our presence and activities over the years, as a valuable adjunct to the relations between their countries and ours. Few would be persuaded that all this had resulted from parliamentary differences or the need to economize—especially since the cultural centers sponsored by other nations would continue to vie for their attention—prominently among them the U.S.S.R. and the countries of East Europe.

No, our departure, which would not be believable in terms of our own self-interest, would inevitably be interpreted by the host countries as a sign that American was losing interest in them—that they had fallen in esteem and importance in our eyes.

This would deal a most damaging blow to the many efforts of this country, over the years, to demonstrate the very opposite—that we do care about the well-being of others, and that we have a decent respect for their opinions. Certainly, such a unilateral withdrawal would in no way serve to dispel the "cold war," which results not from this country's attempts to explain its position to the world, but rather from the increasing attempts of certain countries to impose their will and their way on others.

Let us examine here for a moment the charge that USIA and its radio arm, the Voice of America, are a "remnant of the cold war," and, therefore, an impediment to bettering our relations with the Soviet Union—a charge levelled even more vigorously against Radio Free Europe and Radio Liberty.

The Soviets will, of course, continue to allege that this is so and will require no encouragement from us to do so. Obviously, they would like to be rid of these voices because they speak truth, and have thus obliged the Governments of the U.S.S.R. and East Europe to tamper less with the truth at home. But, a reduction rather than an increase in arbitrary attitudes has resulted, and a more meaningful dialogue with the Soviets has become possible.

Prof. de Sola Poole, an expert on international communications, said the following in a symposium on "Communications with the people of the U.S.S.R":

> Most of the things of a positive character that are happening in the Soviet Union today are explainable only in terms of the influence of the West, for which the most important single channel is radio. There is now enough communication to keep us part of a single civilization, to keep us influencing each other, to assure that any Western idea circulates in the Soviet Union, too. The pessimistic expectation that totalitarianism could develop an accepted heinous civilization of its own by 1984 or any other year has been defeated primarily by the forces of communication, and above all by international radio.

Professor Poole made that statement back in 1965 and he reports that information amassed over the intervening years has further confirmed it.

There is also good evidence that the Soviets themselves no longer regard broadcasts from the West as "cold war" instruments.

The Washington Post, of this April 9, in an article by a very knowledgeable writer on the U.S.S.R., Susan Jacoby, carries a most revealing excerpt from a Soviet book "U.S. Radio in Psychological Warfare," published in 1967.

The excerpt reads as follows:

> In practice, propaganda for the overthrow of the Communist regime has almost disappeared from all American broadcasts to the socialist countries of Europe. Even Radio Free Europe no longer broadcasts such propaganda. . . . The tone of the radio broadcasts has changed significantly. . . . Direct interference in the internal affairs of one country or another in the form of all sorts of advice to radio listeners has almost ceased, and undercover propaganda has left the scene.

That from the mouth of a Soviet spokesman.

And what of the people themselves—do they share the view that the Voice of America is an instrument of the "cold war"—or do they look upon it as a link with a country they view with avid interest—perhaps even with affection?

Let me cite a passage from a letter received this week by the Voice of America from one of its staff members, a young lady now serving as a guide with the U.S. "Research and Development" exhibit, which is attracting tens of thousands of visitors in Moscow:

> The reaction when we tell them . . . we work (at the Voice of America) is incredible—the idea you get is that everyone listens to us. They immediately start naming names (of the people who are featured in our broadcasts). They're interested in everything . . . who works there, who chooses the material, etc. etc.

Christian Science Monitor correspondent, Charlotte Saikowski, sensed some of this when she observed another Voice of America Russian Service staff member, also serving as a guide at the American exhibit in Moscow, being mobbed "like some matinee idol."

Miss Saikowski witnessed an auburn-haired girl, nudging her friend and whispering excitedly—"It's he—it's Nikita—I recognize him by his voice."

"Far from evidencing any hostility," writes Miss Saikowski, "crowds burst into knowing smiles when they learn who he is."

There is abundant evidence of this kind, not only from the Soviet Union and East Europe, but from every country where the Voice of America is heard. Praise outnumbers the brickbats by about a thousand to one. The same applies to our USIS installations around the world. We would be well advised to heed this evidence, and seek to strengthen rather than to muffle the instruments that are contributing to bringing understanding and peace to this troubled world.

Several speakers have already described the effect the proposed reductions would have on the Voice of America. Unfortunately, the end result could be even worse than the statistics show, because of the increase in jamming that could result. Russian language broadcasts might continue to go out over the transmitters that survived the cut, but few if any listeners in the U.S.S.R. might be able to hear them.

For years, the governments of the U.S.S.R. and East Europe have tried to prevent their subjects from hearing news from the outside world, by generating intense patterns of radio interference "jamming." For each VOA—and RFE and Radio Liberty—transmitter there are sometimes as many as a dozen large jamming stations and additional local "jammers" in each heavily populated area, assigned to making it difficult, if not impossible for listeners to understand what is being said under the roar and hiss of the artificial "static".

Even as matters now stand, there are times when the jammers succeed in blotting out much of what is being said, depending on the season, time of day and weather. That is why the VOA has under construction a number of high powered broadcast stations abroad, and has plans for modernizing and beefing up its stations in the United States. The budget cuts would reverse all this, and depending on their severity, limit or even obliterate the U.S. capability of instantaneous communication in time of crisis to the millions of people in this area of the world.

Even VOA's English language broadcasts beamed to Eastern Europe could be seriously affected. Presently unjammed, and thus easily tuned in by the large number of intellectuals to whom English has become the strongest second language, these broadcasts would undoubtedly come under heavy, jamming since the cut would eliminate not only some of the VOA transmitters, but all of the present VOA programs in Polish, Czech and Slovak, Hungarian, Bulgarian, Romanian, Latvian, Estonian, and Lithuanian. The dozens of large and the hundreds of small "city" jammers, thus freed, would be available to concentrate on the one remaining channel of information from the United States.

The proposed elimination of RFE and Radio Liberty, whose transmitters now draw the largest share of Soviet and East European jamming would, of course, compound this effective to the limit. U.S.-sponsored messages to the peoples of East Europe and the U.S.S.R., would face an unprecedented blackout, with unpredictable effect on our very security in any future world crisis. And given the role that international communications can and should play in preventing or attenuating serious misunderstandings, their absence may well make future crises more likely.

I urge Senators not to permit this to happen.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Who's Winning the Propaganda War?", published in the U.S. News & World Report issue of May 1, 1972, which is an interview with Frank Shakespeare, Director, U.S. Information Agency.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHO'S WINNING THE PROPAGANDA WAR?

(Interview With Frank Shakespeare, Director, U.S. Information Agency)

Q. Mr. Shakespeare, just what is the job of the U.S. Information Agency?

A. Its purpose, fixed by law, is to support the foreign policy of the United States. We do that through the process of: one, making clear to the world what that policy is; two, seeking support for that policy where we can gain support, and three, minimizing opposition where it is not possible to gain support. It is also a purpose of USIA to assess international attitudes as they appear relevant to U.S. foreign policy for consideration by the President and the Secretary of State in their formation of that policy.

Q. How do you do all this?

A. We make worldwide radio broadcasts, through the Voice of America, in 35 different languages. We produce television and motion pictures. We have libraries in many countries which contain books, magazines and exhibits. We have press and cultural offices throughout the world.

Q. Can you tell us in more detail how the USIA operates—its radio broadcasts, for instance?

A. The Voice of America operates its own transmitters in key locations around the world. The programs originate here in the U.S., but the transmitters pick up the programs and relay them into every area—such as Eastern Europe, the Soviet Union, China, Southeast Asia, Africa and Latin America.

Q. Do you have any idea of how many hear your broadcasts?

A. No estimate—but it would be in the hundreds of millions.

Q. What sorts of programs do you broadcast?

A. There are three types: news, commentary and music—or, if you will, entertainment. News constitutes roughly 55 per cent of our programing.

Q. What is the nature of your commentary?

A. We quote expressions of American opinion. Those typically would be editorials from leading newspapers or television networks. What we are trying to do is show the general attitude on various issues.

We also do commentary of our own, which is so labeled. And in addition to editorial comment, we frequently give background information, so a news event can be understood by foreigners not familiar with the United States.

Q. All this is for audiences abroad?

A. Yes.

Q. Are these same programs available inside the U.S.?

A. When the U.S. Information Agency was founded under President Eisenhower in the early 1950s, Congress was very concerned that some American President might build up a propaganda organization that he could, in effect, turn on his own people and use to his own political advantage.

In USIA we have a lot of people who are very skilled in the communications art. The temptation for some President to use that skill to seek support for his programs among his own citizens could be very strong. So Congress said the Information Agency could not be used at all in any way that might involve it politically in anything inside the U.S.

That has advantages—and disadvantages. The advantage is obvious. It protects the country from the misuse of an organization of this sort.

The disadvantage is that it creates a certain mystery about what we do and makes it difficult for the American people to learn what their country is doing abroad. Therefore, it's hard for them to make an informed judgment whether to support it or oppose it.

Q. Hasn't USIA been permitted to show some of its work inside the U.S.?

A. The law is a little bit imprecise. It quite clearly says, however, that we can't show anything to the American people which involves a political figure or issue.

Thus, when a film was made by USIA in 1963 on the life of President Kennedy—called "Years of Lightning, Day of Drums"—the film was shown overseas but not here. True, Mr. Kennedy was dead by that time. But there was still the Kennedy family and the Democratic Party, so political considerations were still involved. But this film stirred an enormous reaction overseas. American tourists would come back and say, "Hey, you ought to see this terrific film." So Congress passed a one-time exception to permit the showing of this Kennedy film in the U.S. under certain conditions.

We have also been permitted to make available here on an educational basis some of our products that don't relate directly to domestic politics. We recently made an arrangement with a nonprofit, governmental organization called the National Audio Visual Institute, under which that Institute can take films which are not political and make them available for educational use within the U.S.

IF CURBS ON USIA WERE RELAXED—

Q. Do you think the law should be changed so the American people can see more of what USIA does?

A. From my own point of view, I think that some way should be devised for the people of the United States to have more-ready access to USIA materials, provided there are restrictions that would prevent the material from being misused. It's madness, for example, for us to make a film which wins an Academy Award and which is shown all over the world and the only people who can't see it are the Americans who paid for it.

Q. What films have you made that you think it would be good for Americans to see?

A. Oh, many films. In the last three years we have had three films nominated for Academy Awards. One was a film on the Soviet invasion of Czechoslovakia in 1968. Another was a film on the life of John Steinbeck. And the third was a film called "The Numbers Start at the River," which is a picture of small-town America.

I frankly think there would be much more public support for doing the types of things that need to be done—and that we're trying to do—if people knew more about what we are doing.

Q. How large is the USIA, in terms of people?

A. We have approximately 9,700 people but that can be a misleading figure because roughly 5,000 of those people are foreign employees who work in our libraries and that sort of thing abroad. We have fewer than 4,500 American employees, of whom 1,300 serve overseas and 3,200 serve in the United States.

Q. How much do you spend each year, approximately?

A. Two hundred million dollars.

Q. Does the U.S. need to spend that much for what can be called propaganda?

A. We need it if we're to continue the functions that we now have.

Spending by the U.S. Information Agency today is within 4 per cent—in terms of constant dollars—of the annual appropriation it had the year it was formed, in 1953. Although our budget has gone up from 85 million dollars in our first year to roughly 200 million dollars now, in terms of actual purchasing power our budget is the same, or even smaller.

Q. When the USIA was formed in 1953, the cold war between the U.S. and the Communist world was at its very height. Has the need for the USIA lessened in recent years?

A. If I catch the implication of your question correctly, you imply that the cold war has ended. That, of course, gets into the definition of what the cold war is.

If the definition of the cold war is a struggle of ideologies—a war carried on by means other than military conflict—then the cold war evidently still exists, in terms of a struggle for men's minds.

The question of what we should spend on USIA involves the question of whether we have come to understandings between the major powers of the world which obviate the need for an informational, propaganda effort by the U.S. of the type that we're making.

In my judgment, we obviously have not arrived at such a position. I think it is still necessary—perhaps even more necessary than ever—to continue an important informational effort throughout the world by the United States. If that is to be our national policy, then it requires funds to do it. Whether the funds should be 200 million or not—that is a relative detail.

Q. How successful has the USIA been in its effort to get its story across to people in other countries?

A. I don't know whether I can give you a categorical answer because, in assessing our effectiveness through the years, you would have to assess it on an area-by-area or a country-by-country basis. There obviously have been some cases where we have done well, and some cases where we have not. But you're asking me a general question, so I'll answer it in a broad way:

I think that the Soviet Union has been much more successful than the West, generally, in propagating its point of view and in getting support for it. And I think this is especially remarkable when you consider the substance of what the Communists have to offer and the substance of life in the Soviet Union, as contrasted with the substance of our life and what we have to offer. So I feel that we in the West have done a very inadequate job of presenting the issues in a way in which people can judge them with perception.

Q. How can you measure the relative success or failure of a propaganda program?

A. You can't measure it precisely, because you're talking about changes in the human mind, and you can't put a caliper on that.

In the last decade, there has been an increasing questioning in much of the Western world about our root premises, about the philosophy that we stand for, about our traditions and about the rightness of our approach to human freedom, to the organization of society. In part, that's because we're in a constant stage of evolution, and Americans are a questioning people.

The other side—led essentially by the Soviet Union—adopts a very simplistic, iterative, hard-line, nondeviating approach in saying that its system is the best and that it is the wave of the future, the way the world is going. The other side tells nothing about itself which is bad. The outside world rarely hears about the bad except when it involves an external action of a major sort, such as the Soviet invasion of Czechoslovakia in 1968. It is very, very difficult to get a continuing flow of news stories out of the Soviet Union because of the restrictive nature of their society.

In the West, on the other hand, there is a constant flow of news—both bad and good. We have been in ferment, and many of the problems we are wrestling with are widely reported abroad—often in a disturbing way. So what gets through to many parts of the world is a picture of turmoil and uncertainty in the West, as against an appearance of a sort of solidity within the Communist regimes. This impression of Communist solidity is, in fact, just a cover—but it's what they present to the world.

Now, in that context, I think ideas are formed in the minds of many people that are not in accord with reality. And to the extent that that's true, the Soviet Union has done a better job in the promulgation of its concepts than the West has done.

Q. Under the free American system, is it possible for this country to do a better propaganda job than the Soviets?

A. No, I suppose not.

Now, you have used the word "propaganda," and I have been content to go along with that because in the dictionary sense of spreading information, it's correct. But what we really do in USIA is try to reflect in a panoramic form the sort of life that is lived in the United States.

I think we have not really got down to the fundamentals. We don't concentrate nearly enough on the root, philosophical differences between ourselves—our system—and the alternate choices offered people. We have avoided this out of a certain diplomatic politeness—out of our policy of not interfering in the internal affairs of other countries.

Under the restrictions we impose on ourselves, we never make clear to other people our perception of what are the real choices they face. We in USIA are much more of a reporting agency than an analytical agency. The West generally is that way.

But I do think it would be possible for the West to be much more effective than it is in the propaganda war.

Q. What is the biggest problem you face?

A. Our biggest problem is the lack of a realization in this country that we are involved in psycho-political war—a struggle for ideas. If you weren't in a war of ideas, then you wouldn't need an information agency. But as long as you face strong, aggressive powers that are imperialist by nature—and the Soviet Union is imperialist by nature—then you must have an information agency.

Q. What do you think should be done to improve your effectiveness in this propaganda war?

A. Our basic problem is that we—the United States—have never really decided what our end posture should be in countries such as the Soviet Union and China. We don't have a clear, specific propaganda objective. Until we have that, we can't address ourselves to the problem directly.

So I think that would probably be the central point: We have to decide what, as a people, our objective is as regards influencing minds about the Soviet Union.

Q. Is this a question of national policy?

A. I think it's a whole mix of questions, but that's one of the key considerations.

Q. How is USIA policy set now?

A. Policy, in terms of foreign policy, is set by the President and the State Department. The USIA itself is not a policy-setting agency. It's a policy-implementing agency.

Who decides what policies you implement?

A. There are three or four levels of decision. The top decisions are made at the highest levels, and are passed to us either by the National Security Council or by senior officials in the State Department.

Once a decision is made, then the implementation of that decision is entirely the job of the USIA. In other words, we do the orchestration. But even when we orchestrate on a worldwide basis, the U. S. public-affairs officer in a particular country also has a certain degree of latitude as to the extent to which he emphasizes certain things in his particular country.

Q. Do you agree with this system?

A. I think USIA as an institution is not properly structured within the Government if we are to have a really serious information and propaganda effort.

Let me tell you what I think is needed, and then talk about how it would have to be done structurally:

In an information program, doing a good job does not consist of just brilliant master strokes. There may be brilliant master strokes from time to time if you are lucky and have very good people. But that's not the name of the game.

What is required is a constant, steady effort, because you're dealing with human minds—and that takes time. You have to have clear objectives—know exactly what the nuances are, what are the ultimate objectives—and you have to know exactly the interplay of considerations and forces to accomplish them.

Now, all this means that the head of the Information Agency—and I impersonalize this; I'm talking about structure rather than personalities—the head of the Agency must be involved in those planning sessions and those conferences and those decision meetings in order to know exactly what it is we're trying to achieve. This type of thing cannot be done in a vacuum.

You know, in the United States and in our Government—and this has nothing to do with political parties or Administrations—the word "propaganda" is a scare word. It's related to the work of the Nazi Propaganda Minister, Joseph Goebbels. It's regarded as the big-lie technique, brainwashing. It has the connotation, in effect, of being unclean.

Now, that's absurd. What you're really talking about are the fundamentals of what our country believes, what the West believes in, what we stand for—the root of the whole Judaic-Christian philosophy, the Declaration of Independence.

This whole cold war that is going on in the world is essentially a clash of ideas. If we are not prepared to at least portray and advocate the ideas we believe in, we won't survive.

Certainly the other side is very, very clear about what it wants, about its ultimate objectives. It's very clear that they are seeking to convert men's minds. They do it with ideas when they can. They do it with guns when they can. But they do it.

We, on our side, sort of wish that the whole concept of propaganda and cold war would go away. But it isn't going to go away. Yet we do our propaganda work sort of piece-meal, without careful planning, without even knowing precisely what it is we are trying to bring about. We deal in generalities. We "support the foreign policy of the United States." Sure, everybody here is for the success of the foreign policy of the United States. But the question is: What, specifically, do we want our propaganda to achieve?

So I think that if we are ever to have an effective propaganda operation within the U.S. Government, we must put the director of that operation right into the scheme of things and use the organization as a very finely orchestrated mechanism to achieve our goals. This is not being done in our country, and I think it should be done.

Q. How does Russia or China do this job?

A. In the Soviet Union, everything is totally controlled. The newspapers, the press agencies are Government implements. So is Radio Moscow. All are tightly controlled.

You've noticed that when something happens of a sensitive nature, the Russians won't put out a news story about it for two or three days. Why? Because the guys at the top haven't yet approved the story line—haven't decided exactly what to tell.

Now, we're never going to have any system like that in the United States—and we never should. But the men who understand propaganda warfare more than anyone else are those on the other side—the totalitarians. They deal in it. The Nazis were master propagandists. The Communists are frequently master propagandists. They deal in propaganda as a commodity, and they know its value.

Let me give you an example of how they operate:

During the President's China visit, there was an occasion when a young girl walked into a meeting with something for Premier Chou En-lai that looked like a front-page layout. One of the Americans present asked, "What is she doing here?" And he was told: "She's got the layout for tomorrow's newspaper, and the premier has got to go over the layout of the stories and pictures."

The point is that in Communist countries anything they publish has only one purpose: to advance their aims. Truth is irrelevant. The concern is: Will this help foreign policy?

Propaganda is part of their foreign policy. And that's the reason it's so effective.

MAKING THE MOST OF U.S. KNOW-HOW

Q. Is there any way American propaganda can be made effective without copying the Communist system?

A. Sure. The whole communications revolution was created by the United States. The technology which is the essence of the communications revolution was created in this country. In the use of that technology for the dissemination of ideas and information and entertainment, we were the world's leaders. We dominated motion pictures and television for years. We still do. "Madison Avenue" has become a worldwide cliché for referring to the technique of marketing, and that's the dissemination of ideas.

But when it comes to using this technology or these techniques for disseminating ideas outside our own country—to act in opposition to those who would thrust their ideas down our throats—we don't do that very well. And I think it's basically a matter of will and of planning.

Q. To do the kind of job you think should be done, would you need a greatly expanded USIA, with a lot more people and a lot more money?

A. No. It isn't a question so much of money. It's a question of emphasis and clarity.

Q. If you had a free hand, what would you do?

A. Well, let's take the question of the Soviet Union and talk in terms of specifics.

You have the Soviet Union embarked on a buildup of conventional and nuclear weaponry. They've got their military accelerator down to the floor. They've become a power of awesome military potential. Senator Margaret Chase Smith [Republican, of Maine] a member of the Senate Armed Services Committee has recently warned that if the present trends continue the United States will soon find itself in a position of military inferiority.

Now, one does not postulate that when the Russians get military superiority they will jump us in a direct attack. But they will have much greater freedom for aggressive acts. They can move into areas to their south—around the Persian Gulf, Iraq, Turkey—with considerably more freedom from fear of the United States than they could in the past.

They might gain control of some of these strategic areas by subversion and merely say to us: "Come and get us out if you don't like it." They said it to us in Cuba, and we made them get the missiles out because we were infinitely stronger.

Professors Brzezinski at Columbia and Pipes at Harvard—two of the most knowledgeable and dispassionate observers—are extremely concerned about what might happen to Russian attitudes when they finally get to the point where they can confront us with a Cuba in reverse.

When you have an inherently aggressive ideological society run by limited men, that presents a very dangerous situation for the things that I believe in, and I think we're heading into a very perilous decade for which the American people are not prepared.

Q. Just how does propaganda relate to all this?

A. There is a great deal of discontent within the Soviet Union. It is caused by two factors. One is the dissent of people who want human freedom: civil rights, freedom of religion, freedom to write and publish what they think. That's an intellectual dissent.

The second type of dissent is purely nationalistic, people of other nationalities who don't want to be ruled by the Russians—who, after all, are a minority in the Soviet Union.

So you've got two types of ferment inside the Soviet Union. If in the imperialistic Soviet society there are these broad currents of dissent, then it is clearly to the interest of the West, in my judgment, to relate to those dissents so that they will cause caution on the part of the Soviet regime.

These internal dissents are a great satellites that would stay loyal to Russia if it could get out from under. These are matters that we ought to be addressing ourselves to.

It's essential that we broadcast to the discontented people inside the Soviet Union. Why? One reason is because the dissent of the leading intellectuals is never made known to the people of the Soviet Union except by Western radio. If we don't broadcast such information, it doesn't get in. The Soviet people are not told about [Nobel Prize winner] Solzhenitsyn's dissent, of the Sakharov letter [a letter by nuclear scientist Andrei Sakharov asking freedom for Russians to leave the country at will] or about the fact that 17,000 Catholics in Lithuania signed a protest against the Government.

We must make these discontented people inside the Soviet Union aware that they are not alone, but that there are millions of people who feel the same way they do.

You can do this in a very objective way. You can simply read the novels of Solzhenitsyn, as Radio Liberty does. Or you can report the facts on the Soviet repression of the Nobel Prize to a Soviet citizen—as the Voice of America does. Or you can report the fact that sugar is being rationed in Cuba.

Our policy of not involving ourselves in what is defined as "internal affairs" of the Soviet Union leaves me very uncomfortable.

The Russians have no such qualms. They are very methodical about commenting on the internal affairs of the United States and portraying it as a country torn by racial, regional, political and economic problems.

Now, publicly, it's very difficult to say these things. But look: What we're doing is running libraries and having exhibits, sending paintings around the world. That isn't enough. If any business tried to sell a product—any product—the way we're trying to sell our ideas, then you ought to sell that business short.

NO LONGER "A MARGIN FOR ERROR"

Q. Do you think this country is ready for the kind of effort that you're suggesting?

A. In today's climate, and with the trauma that the Vietnam war has put the American people in, and with its tragic impact on youth, I think it's very questionable whether we can measure up to the type of effort that we're going to need in the years ahead to withstand the pressures that we're going to be up against.

Once we had the big muscle. We had a margin for error, and we could make all kinds of mistakes and still survive. But with Russia's enormous and growing power, we don't have a margin for error any more.

Q. What is your answer to this situation?

A. One answer is: We've got to stay strong. But the other answer is we've got to recognize the nature of the enemy, that we are in a psycho-political war—and we'd better shape up.

The PRESIDING OFFICER (Mr. INOUYE). The time of the Senator has expired. Who yields time?

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. FULBRIGHT. Mr. President, the Senator from Alabama refers to Radio Liberty as if it were a separate operation. He fails to say that it is ours, that it is directed by Americans, and that it is just a part of our over-all communications program overseas. It should not be identified as something apart from the Government's overseas broadcasting efforts.

There are two aspects of this debate so far. The primary reason for the committee's recommendation was to try to protect or reestablish the right of the Senate, the Congress, to obtain information which is necessary for an intelligent evaluation of the effectiveness of a program. The debate subsequent to that centered around whether or not USIA is effective.

The proponents of this amendment simply assume one of the main issues in the debate, namely that USIA performs a useful and necessary function. The Voice of America seems to be attracting the most attention. The committee's action would certainly not stop VOA. The recommendation would simply reduce funding for all radio activities from $52 million to $36 million.

With reference to Radio in the American Sector of Berlin—RIAS—we should not be paying for that; it should be paid for by the Germans. I am told it is a very good radio station that it broadcasts excellent programs in music, as well as dramatic productions. In many parts of the world we spend a great deal of money that is quite useless.

I never understood why we should pay for programs, informing, for example, as we found out during the hearings, the people of Great Britain about the nature of communism, which is what USIA does through the publication of one of its pamphlets. There was an enormous number of these pamphlets being distributed in Great Britain.

I want to mention again the duplication of facilities. In Germany we have any number of radio stations paid for by the armed services. Over the world, there are hundreds of radio-television stations, all paid for by the Department of Defense. That does not appear in this program at all. That covers most of the English-speaking world where our troops are stationed, which is a very large part of the world—certainly all of Germany, much of Western Europe, and parts of Asia. In addition we have such programs as Radio Liberty and Radio Free Europe. They are currently funded at the rate of $32 million for broadcasts to Eastern Europe and Russia——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FULBRIGHT. I yield myself 2 more minutes.

So we cover all of that area at least twice, but the assumption that the more you have, the better it is, I think it is an erroneous one.

I was struck by the comments of the late Ambassador to India, Mr. John Galbraith, who was quoted in the Washington Monthly as follows:

> When he was Ambassador to India, John Kenneth Galbraith was subjected to the agency product. He described it in his diary for May 2, 1961: "The Washington USIA is horrible. Day after day it belches out dreary and boring attacks on the USSR and China in the most repulsive and stinking prose. Nothing could do more to promote neutralism, or anyhow total inattention." Despite frequent cosmetic reassessments, nothing in the intervening nine-plus years invalidates that description.
>
> "Each morning over the air, comes the day's American story," Galbraith wrote President Kennedy. "I can no longer read it for simple reasons of health; five minutes of this wireless file and one loses his breakfast and cannot eat the rest of the day. In two weeks it caused me to lose 20 pounds and I have prescribed it for the Saudi Arabian Ambassador who is badly overweight."

That goes more to the quality of the program, and I think it is instinctive.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield the floor.

Mr. McGEE. Mr. President, I yield 15 minutes to the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, my reason for speaking in some depth is the similar experience to the one with which we are dealing today which arose when I first came to the Senate—the cut of USIA funds over the so-called Arthur Larson incident. The consequences of that experience were vivid, as they would be too, should we proceed in this matter as the committee bill would have us proceed.

May I say first, Mr. President, that I voted against this cut in committee, that I supported a more modest cut, in the hope of heading off this cut, that I am glad the Senator from Wyoming (Mr. McGEE) has done his utmost to restore the former amount.

My own feeling is that this committee action is compounded 50–50 by the charge that they do not need this much money, and the charge that it is the only way we can levy a sanction against the administration for refusing to disclose information which we feel we should have. The issue has to be examined on both counts. If it cannot be justified on either count, then we should restore the full amount. If it can be justified only on one count, we should determine what is the best thing to do on that one count.

I referred to what happened in 1957, the first year I was in the Senate. On that occasion the budget of the U.S. Information Agency—the very same agency involved here—was sought to be cut by about 40 percent, under the leadership of Senator Lyndon Johnson, who was then majority leader of the Senate. His reason was somewhat like this one. The USIA Director, Arthur Larson, made a political speech in Hawaii he had no business making. It was uncalled for. Senator Johnson felt that he ought to be punished for that by having the agency cut to ribbons, which he then proceeded to do.

I was a new Senator, and I hardly had the ability to stand up to the then majority leader, and he had the votes. The Senate rolled over the opposition to this massive cut mercilessly.

What happened? What happened was that for a number of years—this agency limped along and was not nearly the "voice of America" we need to deal with the problems which the United States faces in the world. Good people left and did not come back. It was hard to find new ones. It was difficult to get a really top person to head the Agency; and it took some years before the Agency finally rounded the corner and became, in terms of service to the United States, what it ought to be.

I have my own speech made at that time. The same problems persist in respect to the objections made to the USIA appropriations and the reasons for them. The Russians, at that time, were engaged in a big campaign which they called anticolonialism, but which was, for all practical purposes, anti-United Statesism. They were engaged in a big campaign to unify Germany, but to unify it on Communist terms, with a nonelected democratic government. They were engaged in a big program of de-Stalinization at that time.

In all of these things the voice of the United States could hardly be muted. What were we doing? We were first commenting on the de-Stalinization program undertaken by the Soviet Union. We were commenting on the events in Hungary and Poland, where an effort was made to break the grip of the Iron Curtain. We were engaged in protesting—so reminiscent of the present—the furnishing of arms to Egypt and the effort to subvert Syria on the part of the Soviet Union. We were engaged in an explanation to the world of the enormous nuclear tests the Soviets were undertaking without any notice to anyone, including the United States.

Mr. President, the fact is that we are kidding ourselves about the idea that all is love, peace, and harmony between ourselves and the Soviet Union. It is not, and a lot has to be done to correct our joint situation. I do not think you can end, or even abate, the cold war by unilaterally silencing the Voice of America.

I strongly support the SALT agreements or any agreement which can settle any war or ease any tension. But, Mr. President, this struggle between our respective views continues being waged, and the advantages gained in the struggle—and the propaganda advantage is no inconsiderable factor—will weigh heavily in what concessions the Soviet Union may ultimately be willing to make. Anyone who has visited with the leaders of the Soviet Union, as many Members here have, know that they are very tough, and they have been trained in a hard revolutionary school, and are trying very hard to indoctrinate the world.

We are talking in this bill about expenditures in the range of $150 million and $200 million, Mr. President. The estimates I had seen even then, in 1957, were that the Soviets spent five times that in 1957, in 1957 dollars, which would today be 50 percent more even in those terms, to do their part in the indoctrination of the world.

Mr. President, I deeply believe that we have to maintain at least an effort the size of the USIA. I think as a matter of fact we are being too parsimonious in that, and much too liberal in respect to our defense budget when it relates to the power of diplomacy and the power of persuasion, both of which are very powerful.

I hazard the guess, that even today, with all the bad knocks the United States has taken, what the Voice of America says is still more credible in the world than what Radio Moscow says. I want to keep it that way, and maintain our reputation for credibility by countering the base effects of propaganda and lying over the radio. We should profit from that instead of muting the Voice, and having to put all our eggs in the military hardware basket, through the unbelievably expensive hardware and weapons systems which are costing us so very much already. Indeed, it is almost ridiculous to make the comparison between these two types of expenditures.

Mr. President, my argument is based upon the fact that experience as long ago as 15 years is now being repeated, and because we resent—as we have a right to resent, as Senator Johnson had a right to resent—the fact that the USIA misbehaved, in this case by denying us information on the President's behalf, in that case by an ill-advised policy speech by the head of the agency, it is proposed that we are going to punish them. We will only be punishing ourselves, Mr. President, and I do not want to do that. I do not think it is wise, nor in the interests of our country.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. FULBRIGHT. I do not understand the Senator's view that the committee is punishing them. Does not the Senator accept the theory that the U.S. Senate is entitled to basic information relative to these programs?

Mr. JAVITS. The Senator not only accepts the theory, the Senator accepts the fact and the requirement. But the Senator from Arkansas interrupted me too soon. I have only laid out half my argument, which is the argument regarding the wisdom of cutting the money on the basis that they do not need it or it is going to waste.

Mr. FULBRIGHT. On the basis of our experience, there is no other way that I know of to influence the administration to give basic information to the committee. We have tried writing it in the law. There was an explicit provision in the Foreign Assistance Act of 1971, passed earlier this year, I read it earlier; the executive branch simply ignores it.

This assertion of executive privilege goes beyond any law, and there is nothing else we can do. If we do not wish to have the information, we might as well give up our legislative oversight responsibilities.

Mr. JAVITS. With all respect to the chairman, I have only developed half my argument, as to whether the administration needs the money. We have yet to come to the question as to what is the best thing to do in order to produce the information.

What is the best thing to do to produce the information we have a right to get? In the first place, Mr. President, executive privilege is, after all, a question of their point of view and our point of view. The President, too, is an elected official, and, as I have argued here with some success and with the tremendous aid of my chairman on the War Powers bill, it is a shared responsibility we are looking toward.

We do not want to be the sole judges, but we do not want the President to be the sole judge, either. Therefore, in my view, Mr. President, there are many ways in which we can approach this problem as it really comes to issue. For one, we can subpena the information and actually move to prosecute the official who refuses to produce it. That would throw the matter in the courts. We do that all the time before the Internal Security Subcommittee of the Committee on the Judiciary, and we do it with other witnesses. There is no reason why we cannot do it with someone out of the executive department or with a Government official of the USIA, and test the issue out in the courts. Let the Supreme Court decide whether there is a doctrine of executive privilege, or let them wash their hands of it. Then we will know there is no more orderly remedy than the guerrilla warfare of denying the money.

Second, Mr. President, if we are going to really deny the money, let us do it as a blockbuster. If we really want to—and we have a right to—say "No information, no money," then let us escrow the whole State Department authorization, so that there will be no State Department or USIA unless we get the information we are entitled to. But to aim at a few particular activities because that happens to be the subordinate organization which has denied us the particular piece of information, with a letter from the President himself telling them not to do it, I think is a mistaken way to proceed. It is a mere flesh wound, a glancing blow, ineffective. It will not zero in on expressing our sanction against the President because of the attitude he is taking, escalating the struggle between ourselves and the President to the level at which it ought to be based, to wit, the whole State Department, or the whole Federal Government, for that matter.

Mr. President, there is nothing in the Constitution which requires us to appropriate a thing. We can sit on our hands and do absolutely nothing with regard to any appropriation if we are dissatisfied. One reason I am convinced that Members of the House of Representatives ought to have only 2-year term is that it gives the people a chance to immobilize the Government, if they choose, at very short periods of time. I think that is the reason why the Founding Fathers wrote it as they did into the Constitution.

So, Mr. President, I believe it is unwise to cut the USIA as the committee has done but chopping hard a few of its activities, activities which I believe are important to our national interest.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McGEE. Mr. President, I yield the Senator 1 more minute.

Mr. JAVITS. If we are going to use sanctions, it should be a much bigger and much more effective sanction than this one, directed at this relatively small element of a very major operation on the part of the United States.

For those reasons, I hope the McGee amendment will be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, I yield the Senator from Missouri 5 minutes.

Mr. SYMINGTON. Mr. President, on February 7, 1972, Congress passed a law, Public Law 92-226, I quote section 407 (b) of that legislation:

> The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.

But despite this law, we again find ourselves in a position where the administration in effect says, "We do not want to give you any information regardless of any law."

In this case, it might be considered to request this information, as a compromise, only on a classified basis; but, as I understand it, we are now under unanimous consent have no amendment. Therefore, we must vote it up or down.

I worry about all this money continuing to go out of this country, for many reasons. It is clear as light that we are getting into steadily more serious trouble with respect to the value of our currency. In the Wall Street Journal this morning is an article entitled "Gold Quote in Europe Pushed to New High as Speculators Still Doubt Dollar's Worth." It gives the astonishing information that gold sold at the end of the trading last week at more than $50 an ounce. But each time we come to this floor and request information believed pertinent to any effort to analyze whether there is really justification to authorize and/or appropriate money, there are particular reasons given in each case why we should not bite the bullet of refusing money until we obtained normal adequate information as to plans for its use.

There has been just one case in recent years when the administration was put on notice that unless we received information considered necessary, we would not agree to what was wanted. That was when the distinguished senior Senator from North Carolina said, in effect, "No Flanigan, no Kleindienst." We thereupon received the information in question.

Time and again on this floor, we note well-meaning and dedicated Senators who go the resolution route.

As said before, that is like the man who says, "When I die, I'll leave my wife a million dollars."

His lawyer says, "Don't be silly." You don't have a million dollars."

The man replies, "I know, but it will look great in the papers."

That is what I have come to believe the thrust of these resolutions really amount to, especially in that, to have legislative effect, said resolution must be approved by the House of Representatives.

Once more, we are faced here today with a clear-cut issue: Should we appropriate money—taxpayers' money, not our money—despite being denied information that would make it possible for us to understand what the money was being asked for? We are now denied that information even on a classified basis.

I have no doubt the influence of the administration will be such that it will be difficult to defeat this amendment and the Senate will decide to give this money to this agency. But it is an issue that will come up more and more before this body, if there is any justification under the Constitution, for us being here at all.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. McGEE. I yield 3 minutes to the Senator from Hawaii.

Mr. FONG. Mr. President, I rise to support the amendment offered by the distinguished Senator from Wyoming, and I commend him for taking the initiative to restore the $45.6 million that was cut from the USIA request of $200.2 million.

If we allow the drastic reduction of the USIA budget—amounting to over 22.7 percent—to prevail, we will be jeopardizing the effectiveness of not only the U.S. Information Agency but also our whole program to bring truth and hope behind the bamboo and iron curtains.

If the action taken by the Foreign Relations Committee is allowed to stand, the results would be devastating and tragic. Such a drastic reduction would force the Voice of America to decrease its broadcasts from 780 hours a week in 35 languages to 454 hours in 11 languages. On the other hand, the Soviet Union broadcasts 1,903 hours a week in 84 languages; the People's Republic of China, 1,304 hours a week in 38 languages; Egypt 1,022 hours a week in 33 languages; BBC 725 hours a week in 38 languages.

In addition to the reduced hours of broadcasting. Voice of America would have to shut down seven of its 15 relay stations in the United States and overseas; the motion picture and television service would have to close one of its two production studios; overall motion picture and television production would be cut by nearly 50 percent; television transmissions by satellite would be eliminated; centrally-produced regional magazines and some 85 percent of one-country periodicals be dropped; other press and publications support activities would be reduced between 30 to 50 percent.

Mr. President, that is not all. The committee's recommendation, if adopted, would require the Agency to terminate the services of approximately 2,360 employees—about 1,000 Americans and 1,360 foreign nationals.

USIA would also have to terminate operations in 30 countries and close out 34 branch posts and reading rooms.

Furthermore, the cut would include up to 40 percent of research and training—activities designed to strengthen the quality of USIA operations.

Mr. President, I must confess that I am at a loss to understand the reasoning behind this precipitous and totally unwarranted cut in the USIA budget request. Unlike the proposals for the other departments and agencies of the Federal Government, USIA's budget request, if we allow for the efforts of inflation, is about the same as when the Agency was established in 1953.

More important, I am convinced that such a gagging of the Voice of America, such a smothering of our press and publications, such a blackout of our motion pictures and TV programs, and such a near elimination of U.S. Information Centers overseas would obstruct and weaken America's influence abroad.

Mr. President, I strongly support the amendment offered by the senior Senator from Wyoming, because I think it absolutely essential to our foreign policy operations that the United States have the opportunity to tell its story in a reasonably effective way to the peoples of the world, especially those behind the Iron and Bamboo Curtains.

Gagging the broadcast and information apparatus of the leader of the free world would mark a tragic turn in our attempts to promote the ideas and ideal for which America has stood for 200 years.

America needs the USIA. People trapped behind the Iron Curtain and the Bamboo Curtain need the USIA to inform them of life in the free world. Now is not the time to silence the voice of freedom.

It should not happen; it must not happen; we cannot afford to let it happen; too much is at stake for too little.

The PRESIDING OFFICER (Mr. BUCKLEY). Who yields time?

Mr. FULBRIGHT. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. I yield 10 minutes to the distinguished Senator from Louisiana.

Mr. ELLENDER. Mr. President, I rise to support the bill as reported by the Committee on Foreign Relations. It is my judgment that the amounts authorized in this bill could have been reduced a good deal more than what the committee has seen fit to recommend. This program has been on the books for a long time. In fiscal 1954 the USIA required an appropriation of $84 million for its operations. The program has grown until now the original request for funds is over $200 million for the next fiscal year. There must be a reduction somewhere on these programs, particularly in light of the reasons cited by the committee as well as by my good friend from Missouri (Mr. SYMINGTON).

I wish to say that the cuts recommended would not bring these programs to a halt. It merely curtails them. For instance, consider Radio Free Europe. For the current fiscal year, there was appropriated $50.8 million. This bill would cut the cost back to $36.3 million. That is a cut of only about $14 million, which means the program will keep on going.

For movies and television in the 1972

appropriation, there was $16.2 million and the committee allowed $11.2 million for 1973.

For press and magazines, $28.3 million, and the committee recommended $17.9 million.

For cultural centers, $33.5 million, and the committee recommended $29.6 million—not much of a cut there.

For program direction and administrative expenses, $52.6 million, and the committee recommended $40.9 million. A total here of $136 million was recommended by the committee for the program for the next fiscal year, as against $179 million spent in the current fiscal year.

Mr. President, it has been my observation that the more of these programs we have abroad, the worse things get for us. We have our fingers in the hair of too many nations now.

Take for instance, in Germany, where we have the RIAS program which is operated entirely by the Germans with about two or three Americans to supervise it. Why does not Germany, which is as well off as we are—maybe better today—pay that entire cost? It is for the benefit of Germany. We have had the expense of operating it for many years. It strikes me that since Germany is the principal beneficiary they should assume the cost of operation. But we are told we should bear the expense, to the tune of about $4 million annually, so we can show the Germans that Americans have an interest in them. I think we have shown enough interest in Germany.

We have thousands of soldiers there now. Aside from the RIAS program, we have quite a few radio stations operated by the Army and Navy in that area. It strikes me we are simply doing too much of this type of thing.

The program presented to the Congress by the USIA would employ or pay for the employment of 9,860 people, 4,394 of whom are Americans. Of that amount, 3,173 Americans are employed in this country, as against 1,221 Americans abroad and 5,397 foreigners who operate the programs.

With the condition of our treasury today, I believe it is high time we begin to cut corners. Here is a good place to do it.

Can you imagine, Mr. President, our spending in Western Europe $19.2 million this year to tell them how good we are? A good deal of that money is being used to pay for press services like the AP, the UPI, and other services, in order to furnish information to local papers in Europe. That is above and beyond all of our other contributions to their military security and economic well-being.

Mr. President, those people are well able to take care of themselves. They have a good press there. I do not see why we should be continuing to spend money in that direction.

As I have just indicated, the sum of money we are spending on the RIAS program is over $4 million. It is operated entirely, except for two or three Americans, by the Germans for their benefit. We are told that there is a little contribution coming from the German Government for that program. Because the Germans are so well off—as a matter of fact, financially they are better off than we are now—it is ridiculous to me that we are being asked to contribute this sum entirely from our Treasury in order to take care of a program that inures to the benefit of the Germans. It strikes me, as I have said, that they should be the ones to pay for it.

It strikes me that we should make a beginning to curtail our expenses abroad, and this is a good place to start.

I do hope that the bill as reported by the full committee will be adopted by the Senate.

Mr. FULBRIGHT. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER (Mr. BUCKLEY). The Senator from Arkansas may proceed.

Mr. FULBRIGHT. Mr. President, as has been pointed out, there are two major aspects of the problem. One is access to information bearing on the legislation before us. That is the principal reason why the committee took the action it did. It expressed the view that the Senate has certain constitutional responsibilities and to carry these out it requires certain basic information. I do not know that much further needs to be said about it. If Senators are not sensitive to their role and if they do not believe the Senate has a very important role to play and are perfectly willing for the executive branch to run their affairs, so be it.

As a matter of fact, most people in the world are run by executive departments of one variety or another. Very few legislative bodies are left in the world that have any influence at all. So I guess that one could well say the trend of history is for the abolition of effective legislatures and it may seem foolish to resist the trend. I do not know.

I know there are very few left. I would say that not more than one-third of the human race is run by governments in which there is an effective legislative body. At least two-thirds are run by governments, whether dictatorships or otherwise, in which legislatures take no part. This goes to the fundamental issue before us. It is a question of whether we should insist upon the Senate having access to relevant information gathered at taxpayers' expense by employees of the Government in accordance with the law passed earlier this year.

The other question which has been raised, primarily by the proponents of the pending amendment, is that USIA is a great operation, that it is the salvation of our country.

Mr. President, yesterday I received at my home a special delivery letter from an employee and officer of the USIA. This is written to me on a personal basis by an employee of the USIA with some years of service. I read part of it into the RECORD:

> The word is out around the Agency to brace for high noon, the Monday confrontation, when the friends of the Agency will try to restore your budget cuts, and with them the Agency can go back to doing business as usual.
>
> May one FSIO with years of service in USIA cast a dissenting vote and urge you to hold fast to your cuts? The Agency is sick and ineffectual at the moment and there can be no cure without surgery, possibly not even without death and resurrection. At the moment, work is pro forma as everyone waits for the RIF list. Anxiety is understandable in this time of economic depression, high unemployment, the constant demand of costs.

Mr. President, I digress to point out that it is always difficult to vote for any measure that reduces jobs. However, as the Senator from Louisiana brought out, half of the jobs paid for by this Agency are those of foreigners employed abroad. They are not American jobs at all.

Mr. President, I continue to read from the letter:

> The top ranks have taken care to save themselves, the other jobs go first, of course. Pension rights be damned. Execution lists circulate, members only, never names. Not yet.
>
> And here's the rub. No one seems to have given serious consideration to whether the cut is merited, to whether it would be a useful exercise to take a long cool look at how USIA operates and with what calibre of personnel and to what purpose. No one has developed a plan for a more effective information operation, indeed, to my knowledge, no one has even tried, officially. In short, no one has been doing any discernible constructive thinking at the policy level, apart from "how can we get the cuts restored and save our jobs."
>
> But there are a few simple truths which ought to be stated by someone in the Agency: USIA suffers from a plethora of mediocrity, mediocre men who are highly paid but poorly gifted and who regularly promote each other to higher levels in a pathetic protection society; mediocre programs, mediocre leadership, mediocre output. Standards are low, products are second-rate, policy is ad hoc and simplistic, politically subservient, often naive, always uninspired. It lacks professionalism. The Agency's relationship to the world around it at home and abroad is too often tenuous and hampered by lack of sound, imaginative judgment. The system favours the sycophants, penalizes the independent mind. USIA, as presently constituted and led, suffers from harden arteries, poor hearing, dim logic, adled judgment, ulcers from insecurity, too much rich food at the top and poor circulation at the extremities, and a total inability to stand off and look objectively at itself.
>
> I disagree with you, Senator, on the reasons you have given for eliminating USIA, Radio Free Europe, Radio Liberty. I have lived long enough in foreign lands to understand the vital importance of variety in communications and how essential information is to the intellectual growth. You would condemn a people to intellectual isolation in order to placate a government which is itself only a link in the process of social change. I think you are wrong.
>
> I disagree with your reasons but agree with the USIA action because the Agency will not reconstitute itself without your surgery. If the cuts are restored, nothing will change, the same people will go on making the same mistakes and promoting people like them to perpetuate those dreary programs.
>
> And after you have eliminated the problem, consider this, Senator. There *is* a need for a United States information program abroad. You wrote about the "arrogance of power" and so should recognize the arrogance

> inherent in telling the rest of the world that we have no further interest in what it knows or thinks of us. USIA, as presently constituted and led by its upper echelons, does not do the job but a lean, flexible, imaginative, professional information program, stripped of the present institutionalized mistakes, human and conceptual, could do a solid, low-keyed, factual job. There is a need for both cultural attaches and press attaches, professionals, in our embassies; there is a need for an exchange program managed by thoughtful, seasoned people who don't seek refuge in regulations; there is a need and an intellectual place for small, excellent libraries presenting a wide range of American thought processes, concerns and possible solutions to the problems which bedevil both the US and the rest of the world. What one wants is a small, excellent information service which can reflect and present the best work of our society in the remaining decades of this century. What one sees now is an information agency which is a haven for tired programs and untalented men.
>
> Hold fast, Senator.

That is as good a description of one aspect of this problem as I have ever seen. The USIA has simply grown up without any real examination of its basic premises and of its programs.

Mr. President, this reminds me of the study which was made in depth of these activities some years ago by the Committee on Foreign Relations. These are some of the conclusions reached then with regard to motion pictures, reading from the report of the overseas information program of the United States, the Foreign Relations Committee report of 1953:

> MOTION PICTURES
>
> The showing of films will-nilly merely to attract mass attention for the moment is abortive and expensive. On occasions it is detrimental.
>
> PRESS AND PUBLICATIONS
>
> The Committee has received diverse comments on the press and publications program from all parts of the world, many of them critical. . . . There has been advocacy of the complete abolition of the wireless file on the grounds of its relatively minor value and its competition with the regular commercial news service.
>
> The information service should not become a competitor of commercial news and related services in any areas in which they serve.

Then, on page 20 it states:

> VOICE OF AMERICA
>
> The Committee has paid much attention to a review of the scripts sent out by the Voice. It cannot rate many of them high in message value or purpose. Many of them might well have been omitted.

Mr. President, everything would indicate that it is high time after the more than 20 years existence of this program that something be done. Actually the program developed from the old Office of War Information which was created during wartime. And it has carried on the tradition of broadcasting propaganda. In many cases, I think it presents a very distorted picture of the United States as well as of other countries.

The Senator from New York (Mr. JAVITS) and others have sought to make a case on the merits. I submit that one of the obstacles he was talking about does exist, that the cold war with Russia and the other Communist countries is not any better. It is naive for us to think that love and peace are in the offing. I do not disagree with that.

We have many problems with Russia, but I submit that one of the obstacles to better relations with Eastern Europe and Russia and most of those other countries—although I think our relations have improved over time—but in any case, among the principal irritants are these broadcasts from Voice of America, Radio Free Europe, and Radio Liberty. They contribute to keeping alive the animosity and suspicion which exists between our country and Russia. I said before with regard to Radio Free Europe it seemed to me with the President going to Russia and having just been to China, and having announced a policy of trying to normalize and improve relations with those countries that it is inconsistent to continue a propaganda program designed to arouse the suspicion of the people of those countries against their governments.

I do not think it accomplishes our purposes; it harms our relations. I can well imagine that there are people in Russia who disagree with their leaders' policy of meeting with the President of the United States and who make the same arguments that are made on the floor of this body that there is no hope for better relations with the United States, or that they are kidding themselves to think they can do business with the United States. One of the things they would point out would be the propaganda we engage in.

It has always puzzled me why the Russians have such suspicion with regard to the SALT talks. They had one meeting interrupted by the U-2 incident. Those not disposed to normalized relations with us can point to the Voice of America and Radio Liberty and say, "They do not really mean it, they are kidding us. They continue the old wartime programs of propaganda intended to undermine the stability of our government."

I ask very seriously on the merits whether the program is well designed to accomplish the announced purposes of the President and what I believe to be the overwhelming view of the people of the United States, and that is to bring about better relations with the people of Russia, China, and Eastern Europe.

It seems to me it is high time in this world with nuclear weapons that some other approach to the solution of these international differences be developed; that greater emphasis be placed on cooperation and discussion such as the United Nations offers, than to keep alive the traditional anticommunism which we have been subjected to for so long, to keep that alive by spending $200 million in this case, and many millions of dollars more in the case of Radio Liberty and Radio Free Europe. I am not under any illusion it is going to be easy, but I think some different approach than the one we have had is called for.

Mr. President, I referred earlier to an article by Bruce J. Oudes, who, I see, served with the USIA overseas from 1961 to 1965 and is now an international reporting fellow at Columbia University. So he speaks from substantial experience in the USIA.

Mr. President, the article entitled "The Great Mind Machine" relates to the problem I am talking about and that is the value of the USIA itself.

Just to give a sample of the article, I wish to read one part:

> Much of the time there is a gnawing suspicion that whatever the project of the day might be, you're participating in a giant charade, a hoax.
>
> "What am I doing here?" is a question that often intrudes in the mind of the USIA officer as he goes about his appointed rounds. Why was I hauling those pamphlets across the Sahara? In time the two of us delivered our "freight"—the agency term for its message—to the American Embassy in Nouakchott, and it was duly distributed to its Mauritanian audience. Yet it is hard to imagine that any minds were altered by our pamphlets, either among the illiterate nomads who make up most of the population, or among the tiny literate ruling class, whose ears are tuned to Cairo and Paris. Certainly our message did not prevent Mauritania's rulers from breaking relations with the U.S. during the 1967 Arab-Israeli war. And why was I hustling votes for Moise Tshombe in the Congo? Tshombe won the election with American help, but not because of anything USIA did; the constituency that mattered was the white mercenaries, who voted with their guns, and the kind of U.S. help that mattered was money and arms, and planes supplied by the Central Intelligence Agency. If we won any votes in Katanga, which I doubt, they weren't counted—that's not how power is won and lost in the Congo. Thus the USIA officer's self-criticism centers around feelings of futility; harmless in Mauritania, but distasteful in the Congo.
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> USIA produces a lot of noise. Whether that noise wins any hearts and minds out there is a question to which, fortunately for the agency, there is no statistical answer—for propaganda, unlike soap, cannot be measured in bars sold.

I ask unanimous consent to have printed in the RECORD the full article by Mr. Oudes.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GREAT WIND MACHINE

(By Bruce J. Oudes)

The sight of a wheel rolling off into the desert is of distinct interest if it is one of four carrying you to Nouakchott, the capital of Mauritania.

It happened the visit was a goodwill, more correctly a misguided will, mission. The occasion, replete with rising sandstorm, provided time and conditions for a unique reassessment of the heavy cargo, principally hundreds of pounds of pamphlets explaining the American way of life, which had contributed to the breakdown.

My companion, who had been sent from Washington to see if the United States Information Agency (USIA) was hitting the "target" in West Africa, blew the sand off a brochure on the American economy, one which described the marvelous Detroit motor vehicle, and broke up laughing.

On another occasion, the scene was the Congo and my companion was an American newsmagazine correspondent. We spent a rather wry afternoon driving around the precincts of Katanga distributing a station-wagon load of American-produced "get out the vote" leaflets in Swahili in preparation for an election which, to no one's surprise, ratified Moise Tshombe as the Congo's Prime Minister.

Any officer in USIA has a store of such stories. They are rooted in the frustration of determining the message, the audience, and how the audience is supposed to react to the message. Much of the time there is a gnawing suspicion that whatever the project of the day might be, you're participating in a giant charade, a hoax.

"What am I doing here?" is a question that often intrudes in the mind of the USIA officer as he goes about his appointed rounds. Why was I hauling those pamphlets across the Sahara? In time the two of us delivered our "freight"—the agency term for its message—to the American Embassy in Nouakchott, and it was duly distributed to its Mauritanian audience. Yet it is hard to imagine that any minds were altered by our pamphlets, either among the illiterate nomads who make up most of the population, or among the tiny literate ruling class, whose ears are tuned to Cairo and Paris. Certainly our message did not prevent Mauritania's rulers from breaking relations with the U.S. during the 1967 Arab-Israeli war. And why was I hustling votes for Moise Tshombe in the Congo? Tshombe won the election with American help, but not because of anything USIA did; the constituency that mattered was the white mercenaries, who voted with their guns, and the kind of U.S. help that mattered was money and arms, and planes supplied by the Central Intelligence Agency. If we won any votes in Katanga, which I doubt, they weren't counted—that's not how power is won and lost in the Congo. Thus the USIA officer's self-criticism centers around feelings of futility: harmless in Mauritania, but distasteful in the Congo.

The agency that sends its people on such missions is a 17-year-old cold war hybrid, the descendant of the World War I George Creel committee and then in World War II the Overseas Operations Branch in Elmer Davis's Office of War Information. At the end of the war OWI was transferred to the State Department where William Benton, the advertising man, later a U.S. Senator, nursed it for two years. As the cold war got underway, Benton's office drafted a bill which became the Smith-Mundt Act and put propaganda permanently into the American defense arsenal. Under the Eisenhower Administration in June, 1953, John Foster Dulles rid his beloved State Department of the dirty linen of propaganda work and the name U.S. Information Agency was born. The USIA budget passed the $100 million mark during the Eisenhower years and floated up to its present $175 million mark during the two subsequent Democratic Administrations.

Today USIA produces 66 magazines in 27 languages. Its Voice of America broadcasts 932 hours weekly in nearly three dozen languages using 104 transmitters with a total of 19 million watts. It has assisted foreign book publishers in producing more than 120 million copies of over 14,000 editions since 1950. It operates more than 22 libraries visited by 20 million or more persons annually (down from over 31 million in 1955). It radioteletypes abroad a 10,000-word daily file of Administration statements and packaged stories ready for foreign newspapers to lunk in their columns. It does all this with a staff of 2,139 Foreign Service personnel, a total which will be reduced to about 1,760 by mid-year by Presidential order. Foreign Service personnel, however, are substantially outnumbered by the 2,410 permanent Washington-based employees who try to communicate America to a world they never see.

USIA produces a lot of noise. Whether that noise wins any hearts and minds out there is a question to which, fortunately for the agency, there is no statistical answer—for propaganda, unlike soap, cannot be measured in bars sold. True believers in the agency proclaim its success, their reasoning based on the most powerful of arguments: without USIA, they would be out of a job. The essence of evidence is turned into an asset. Thus, Edward R. Murrow, when he was USIA director, to Congress: "No computer clicks, no cash register rings when a man changes his mind or opts for freedom." True enough, and it is equally true that no computer clicks, etc., when a man *doesn't* change his mind or when he opts for freedom from noise by turning off whatever message the agency is beaming at him. It is, indeed, hard to avoid the suspicion that without the USIA the course of recent history would have been the same, except a bit less noisy. An environmentalist would condemn the agency on charges of word pollution.

Word pollution is a seriocomic reality to the USIA man overseas, flooded as he is by a kind of international junk mail which he must try to foist off on the natives. If he has any concern for the welfare of his audience, he consigns most of what he gets to what is known in the agency as the "circular file"—the waste basket.

When he was Ambassador to India, John Kenneth Galbraith was subjected to the agency product. He described it in his diary for May 2, 1961: "The Washington USIA is horrible. Day after day it belches out dreary and boring attacks on the USSR and China in the most repulsive and stinking prose. Nothing could do more to promote neutralism, or anyhow total inattention." Despite frequent cosmetic reassessments, nothing in the intervening nine-plus years invalidates that description.

"Each morning, over the air, comes the day's American story," Galbraith wrote President Kennedy. "I can no longer read it for simple reasons of health; five minutes of this wireless file and one loses his breakfast and cannot eat the rest of the day. In two weeks it caused me to lose 20 pounds and I have prescribed it for the Saudi Arabian Ambassador who is badly overweight."

In my years with USIA, out of the welter of dreary, hackneyed stories we received overseas, one remains in my memory as typifying the essential silliness of the message I was supposed to feed to the local media. An editor in Washington found a report of a conference on world peace through law that he apparently decided portrayed the U.S. as a peace-loving nation and therefore should be peddled as "news." The "story" quoted the report as saying that 24,000 international treaties had been drafted in the past 20 years. "This represents 80 per cent of all treaties drafted throughout history and indicates a heartening trend toward the avoidance of disputes between nations through resort to treaties." A recent USIA product is the film "The Silent Majority" which was distributed following the November 15 anti-war march in Washington. It was but another in a long line of "policy" films produced by first-rate technicians who have all too little experience abroad. Therefore, the film was produced with a domestic audience in mind more than anything else, a characteristic fault of many USIA productions. The reaction of a non-American to the film is predictable: "The American Embassy wants me to see this film. It says most Americans support President Nixon's Vietnam policy. Hmmm. There must be a lot of Americans who don't support his policy, otherwise they wouldn't have gone to the trouble of making the film." The smart USIA post abroad will not show the film, but will have the political acumen, since it is politically hot, not to be too critical in reports to Washington of what obviously is a sensitive subject. At one point, when only 26 of 106 overseas posts reported screening the film, still fewer posts, 17, reported that they had not shown it; the majority of the agency's posts maintained a tactful silence.

Considered together, the USIA products give one the profound and ironically accurate impression of a country that is trying too hard. The image is not of a nation that is mature, relaxed, confident, capable of taking care of itself and inspiring confidence in others—but rather of one that is young, nervous, uncertain, defensive. It is of course demeaning for the United States government to hustle the votes of the silent majorities from Hong Kong to Ecuador. More than that, the agency's frenetic efforts to win foreign votes for policies already decided upon by the United States give the deceptive impression that the people of those countries do somehow have a say in what America does. When this inevitably proves to be untrue, the backlash of foreign anger is likely to be directed at the propaganda agency, which may be why the USIA's libraries are the preferred target of foreign rioters intent on expressing a hostile opinion of the United States.

Discerning the purpose behind all this sound is not easy. At the agency's Washington headquarters at 1776 Pennsylvania Avenue (the street number was changed when USIA moved in), there is a plaque bearing the statement "Telling America's Story Abroad," a slogan that cries out for a graffito reading "It Floats"—particularly appropriate since the present director, Frank Shakespeare, used to work for Procter & Gamble. But telling America's story abroad is a job already being done by the press, both American and foreign; indeed, no nation is as well covered by the media as the United States. The trouble with the media, in the view of USIA, is that they fail to put events in "context." As the Vice President has observed, the media tend to stress bad news over the good. When, for example, the National Guard kills ghetto rioters, the media focus on the number of dead, overlooking the much greater number of Americans—about 200 million—who were not killed that day. The purpose of USIA, then, is to put events "in context" for the foreign audience by shipping out backgrounders, interpretation, and "in depth" analyses. What emerges is a fill-in-the-blank litany reading something like this:

"President John F./ Robert Kennedy/ Martin Luther King was assassinated/ blacks rioted in American cities/American soldiers killed Vietnamese civilians/ yesterday but the vast majority of Americans are law-abiding citizens who do not/murder their leaders/riot/kill foreign civilians/and therefore they support their President and the program of bringing them together/rehabilitating the cities/finding a just peace in Vietnam/will continue."

Despite such efforts to put America's story in its proper context, USIA is losing ground in the contest for the world's eardrum. The revolution in communications technology has multiplied the means of reaching the audience, leaving the agency, in the words of Dr. Robert Delaney of the Fletcher School of Law and Diplomacy, as a "declining public information voice in a welter of competition." The agency has lost influence even within its own government. During Democratic Administrations, its director sat on the National Security Council, where he could advise on phrasing the American story—but no more, to the regret of Frank Shakespeare, who, in answer to a question about what he would want for his agency, replied: "The USIA Director should sit on the National Security Council."

If you measure where USIA puts its effort, you get the impression that the agency's mission is to Tell the Story not of America, but of America's client governments. Nowhere in the agency's various statements of mission is there specific mention that USIA should try to influence the *domestic* politics of a host country. Yet some of the agency's biggest operations have been in the Congo, Thailand, Laos, and above all Vietnam: countries where the U.S. has been heavily involved in supporting a local government. USIA's brass in the past has fought with other agencies for recognition of the notion that since it has expertise in convincing people of the rightness of the policies of the American government of the day, it should have responsibility for efforts to convince these same host country citizens of the correctness of the policies of their own government of the day. USIA virtually ran the Congolese Ministry of Information while Tshombe was Prime Minister. USIA's empire-building in Vietnam reached its zenith in the 1965–67 period when its agile director in Saigon, Barry Zorthian, managed to bureaucratically capture overall coordinating responsibility for the psychological warfare effort. The agency poured in so much of its limited resources, that at one point it had more officers in Vietnam than in all of Africa. Ultimately, however, USIA, lacking the muscle of the Pentagon, had to relinquish control to the military.

USIA simply is not geared for the secrecy necessary to provide tactful propaganda support to a client government. Its efforts in the gray and black areas, if they become known, ultimately destroy whatever credibility it might have in its open and attributed propaganda. But USIA is a loud-mouth organization that has found it impossible to conceal its comparatively innocuous activities, like the books it has commissioned and the paperback editions and films whose overseas distribution it has subsidized, supposedly in secret. Numerous news stories in the U.S. press have blown the cover on these activities. Lyndon B. Johnson personally blew one himself in 1966 when he revealed to the African diplomatic corps that USIA had produced a new volume on African art that he was presenting each of them—the book billed itself as a private-market publication, with no indication of government subsidy.

USIA's origin in times of war and cold war is doubtless responsible for the agency's curiously old-fashioned style. The 1960's passed unnoticed at the information agency. When the agency goes after heart and mind, it comes on like those pitchmen who dominated the early years of television; word that the soft sell is now in vogue has not reached headquarters. The agency's political style—ferociously anti-communist, terrified of Congress—owes a great deal to the late Senator Joseph McCarthy. McCarthy terrorized USIA during its early days, and the agency seems never to have recovered from that infant trauma. Especially in its choice of books not to put in the shelves of its libraries, USIA acts as if McCarthy and his investigators, Roy Cohn and G. David Schine, were still peering over its shoulder. This gives the agency an antique flavor that is not without a certain charm. Where else but in USIA can you find officials who think that James Baldwin is too black to be read by Africans, and Norman Mailer too raw for Europeans?

People who work for USIA are frustrated for reasons that go beyond the futility of the agency's mission (a thought against which most succeed in insulating themselves). Anyone who joins USIA has professional aspirations in one of three directions: he conceives of himself as a professional diplomat, a journalist, or a cultural administrator. Under the USIA system, he becomes a bit of each but never enough of any one to satisfy his aspiration for professionalism. To a journalist or cultural administrator, a career within the confines of policy guidance cannot be anything but frustrating. Few talented people, told to run a U.S. library abroad, can be happy when they must portray U.S. culture not through book orders based on Books in Print, but rather from a sanitized list pouched periodically from Washington. Similarly, a career diplomat feels silly trying to place propaganda in the local press or playing nursemaid to visiting musicians. Although USIA says it can't give precise figures, it is no accident that one-third or more of those young officers who enter the agency resign after five years or less. USIA's standard defense is that those who leave couldn't measure up in the heat of the diplomatic forge. It is nearer the truth to say most leave to escape a torporific warmth that saps creativity.

The agency's separate-but-unequal relationship to State is particularly resented by those with diplomatic ambitions. The younger USIA officers were recruited, and in part trained, jointly with the State Department. They took the same Foreign Service exam as their State colleagues, becoming second-class citizens only when they checked the wrong box on the question asking whether they would rather work for USIA or State. Now they find their upward mobility blocked, because they are at a disadvantage in competing for any diplomatic post higher than public affairs officer. Only two ambassadorships are held by career men who came up through USIA rather than State.

"Hell, I'm not inferior," one of my former colleagues remarked. "I want to be an ambassador some day but it's highly unlikely I ever will be as long as I'm wedded to USIA as an organization with its own personnel system."

Those who resent the agency's outdated ways have formed the Young Officers Policy Panel (YOPP), dominated by career officers under 35 years old. The movement began spontaneously as a revolt against a new and particularly saccharine training program that brought them back to Washington and ghettoed them off together for an extended period—as it turned out, long enough for them to collectively realize that they were profoundly disturbed by what they learned in their first several years abroad with USIA.

One YOPPie said recently that the movement's success depends on taking advantage of the "old cold warriors' massive inferiority complex." An early problem for them has been internal communication. When they let it be known they planned to start an "underground" publication of their own, agency executives quickly granted them space in the official house organ, "USIA World." Thus, while morale among top-ranking USIA officers is at an unusual low, partly due to the decision to eliminate mostly older officers during the personnel cutback, younger officers are feeling their oats for the first time in USIA's history. YOPPies also make it clear that theirs is an establishment revolution. They have obtained Shakespeare's blessing, and as long as he continues to remain open to their suggestions and moves in what they consider the correct general direction, they say they do not intend to cross him. However, several YOPPies indicate that if things do not change, they will back up their "demands" by quitting while they are still young enough to get a challenging job outside government.

In all fairness to the much criticized Shakespeare, his merits or lack of them are not relevant to a critique of USIA. If he is like his predecessors, he will spend a great deal of time studying the agency's problems, make a few cosmetic changes, and then move on to another job.[1] The only memorable USIA director will be the one who executes a Presidential and Congressional mandate to execute USIA.

Shakespeare, in fact, deserves a bit of sympathy for the unwarranted inferences in the press that he is trying to change the fundamental role of USIA. The advent of the Nixon Administration and Shakespeare "has added a new dimension to the agency's dilemmas," *The New York Times* wrote. "This dilemma, and the latest USIA controversy, is whether the information agency is to speak to the world as the voice of the United States or the voice of the Nixon Administration." That, of course, is nonsense: there is no new "dilemma" under Nixon. The agency has never been the "voice" of the United States, only of the United States government, and what that voice says is dictated by its internal characteristics and by the pressures of Congress and the Administration currently in power.

Although USIA does not lack for would-be reformers—Shakespeare, the YOPPies, a host of outsiders—what they have to offer is simply tinkering with the existing organism. The reforms they propose do not go to the heart of the matter, which is that USIA is offending the eyes and ears of the world with a flow of propaganda that is at best harmless, sometimes dangerous, and always embarrassing to the citizens of a supposedly adult nation. The only way to stop that flow is to turn off the faucet: abolish USIA.

Abolition of the agency does not necessarily mean that all of its functions would be abolished. Three activities might survive the abolition, although at a much lower noise level: a reformed Voice of America, cultural relations, and public diplomacy in the State Department. The first two must be detached from policy guidance by being placed under the control of autonomous corporations, while the third simply means that State would perform what little is worthwhile in USIA's overseas information operations.

The rationale for government-financed broadcasting lies in the fact that nearly one per cent of the American population is abroad as government employees, including the military and their dependents. In addition, perhaps a million more Americans are abroad in private roles. These three million or so Americans, as well as foreign audiences, deserve an intelligent external U.S. broadcast service. There are still many countries that censor incoming mail shipments of newspapers and magazines and "selectively edit" the international wire services before distribution to their local press. Thus, only in international radio broadcasting can a listener be certain that he is getting the entire message, and all the messages, that the sender intends. Intelligent people in most parts of the world rely on the BBC as the most disinterested international news broadcaster. Surely, however, there is room for competition from the U.S., a sort of international Huntley-Cronkite.

Present U.S. broadcast policy originated in wartime. The Voice of America broadcast first in German. Its message to the German people was that the Yanks were coming, keep the faith. In one way or another it was preaching. At the same time the U.S. military recognized the need for "troop information and education" to be carried in its radio broadcasts to American soldiers to counter Axis Sally and Tokyo Rose. It was an easy step then to set up post-war broadcasting along similar lines: one broadcast for foreigners and another for American soldiers abroad. Since Congress wouldn't stand for any possibility that U.S. propaganda might be beamed at Americans, it was logical that VOA broadcasts overseas could not be beamed at Americans overseas.

Foreigners were to listen to propaganda as embodied by the VOA, while American forces abroad were to listen to the whole truth, embodied in the Armed Forces Radio and Television Service (AFRTS). Conveniently ignored was the fact that both broadcast on the same bands. The mere existence of AFRTS confirms to the foreign listener that in VOA he is getting some special package beamed at him and not Americans and therefore, of course, a less credible one. Meanwhile the G.I. who happens to pick up a VOA program can't help but think what strange and different people foreigners must be if they listen to all that stuffy VOA broadcasting. AFRTS, for its part, contributes to the world stereotype of the parochial American. Its treatment of world news is of the depth you might expect from a five-watt "rip and read" radio station in the Corn Belt.

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[1] The recent instruction to overseas libraries to order "conservative" books if their existing collections are "preponderantly liberal" was a classic cosmetic gesture. The library shelves are not preponderantly liberal, nor conservative for that matter; they are preponderantly bland. The library directors may or may not order the conservative gospel; they may or may not display what they order; in no case can one imagine that world opinion will be affected. The real "target" audience for the order was conservatives in the U.S. who would presumably be pleased by reading the news stories about Shakespeare's action.

The distinction between foreign and U.S. military audiences would disappear if the present VOA and Armed Forces radios were merged into a single operation. Congress, in accepting the principle of publicly funded domestic television, has paved the way for the new Voice to be the external service of the Corporation for Public Broadcasting. Its main competitor, the BBC, is also funded by a parliamentary grant and is independent of day-to-day policy control.

The BBC external service was analyzed last year by Britain's review committee on overseas representation headed by Sir Val Duncan. "Because of its independence from government control, which indeed is its main asset in maintaining overseas listeners' belief in the credibility of its news reporting and comment," the Duncan report says, "the BBC, in our view, should continue to be regarded as one of the most effective means of projecting British news and views, and should certainly have a high priority compared with official printed publicity and hand-outs."

Similarly, cultural affairs—most notably, the USIA's libraries, exchange visits, English-teaching overseas, and so on—should be detached from direct government control. Once again, the model is found in Britain: the British Council, which functions much like the BBC. Summing up its review of the British Council, the Duncan committee wrote that it should not "be regarded in any way as a mouthpiece for government policy. To attempt to use it in this way would undoubtedly detract from its status as a cultural organization whose activities are independent of the control of the government of the day."

On this side of the Atlantic, this concept of liberating culture has been widely discussed and endorsed over the years by many people, including at least two former assistant secretaries of state for Educational and Cultural Affairs. At the forefront of the movement are USIA's two Congressionally created watchdog bodies, the Advisory Commissions on Information and Cultural Affairs. Their handicap is that, as full-time news executives and academics, they devote but a fraction of their time to the agency, and therefore they operate on instinct more than any solid operational experience with USIA.

During the Johnson Administration, one of the schemes before the Rusk commission, set up in the wake of the publicity about the channeling of CIA funds to private organizations, would have done much the same thing. Known as Alternative IV, the proposal would have involved creation of a quasi-public commission controlling an organization that would have administered all international, cultural, and educational matters, including USIA libraries.

The details of each of the many schemes proposed over the years differ, but the one point on which they are all most hesitant is whether cultural programs can in fact be untied from propaganda. They seem afraid to approach Congress, afraid that it would never understand the notion that the best propaganda is no propaganda.

Yet Congress long ago established the precedent of a federally-funded, independent cultural body when it created the Smithsonian Institution. The Smithsonian is not without its own problems, but it does serve as a useful model. Private funds are mixed with federal funds. Thus, U.S. cultural programs might be associated directly with it as an international division. Alternately, Congress might prefer to link the international cultural programs with a new National Library. A possibility of considerable potential is that the Smithsonian-type organization would be a suitable vehicle in expanding cultural ties with the Soviets and Eastern Europe, countries which do not now permit a USIA presence separate from that of State.

Operationally, the depoliticized cultural organization would include all USIA libraries and bi-national centers, the English-teaching programs now scattered through several government agencies, and all exchange-of-persons programs now handled by State with the exception of those involving government VIP's. The center director should not be part of the American Embassy's "country team" and should not have diplomatic rank. His status would be something that he, perhaps with his British Council and Alliance Francaise and other cultural colleagues, might negotiate with the host government. The cultural organization should have close ties with American universities and foundations, and its personnel should be encouraged to rotate in and out of academe.

All remaining information and research activities, together with qualified personnel, should be absorbed into the State Department. When the USIA library becomes honest, the USIA officers who now are physically located on the library premises would move back to the chancellery. These would be the public affairs and information officers. Their jobs would be on a par with other embassy jobs such as political, economic, commercial, consular, and administrative work. Public affairs and information officers would be charged specifically with the responsibility of presenting the policies of the U.S. government to those of influence or potential influence who are not formulators of host country policies—in other words, those that the Ambassador does not routinely see. These officers would serve as the Ambassador's press representatives. The public affair officers would no longer be burdened with responsibility for periodic mass mailings around the country, trying to "place" as many inches as possible of wireless file copy in local papers, organizing a large-scale program of film showings, and in general concentrating on the mass approach to communications.

Meanwhile, the "stinking prose" of the wireless file would be eliminated. This radioteletype bulletin would be moved back to the State Department where it originated in 1935. It would be prepared by State's Bureau of Public Affairs and would include texts in English and translation, a summary of the Department's daily noon news briefing, a domestic news summary, and material of regional significance. This would be part of the background material supplied to embassies primarily for their own information rather than for propaganda.

These modest proposals, it should be stressed, are far less important than the primary goal of abolishing the information agency. If the reforms cannot be done well—if, for example, broadcasting and cultural activities cannot be detached from policy control—then it is far better to abandon them along with the rest of the agency's activities. This is a case where it is more important to get rid of the bathwater than to save the baby.

USIA must be abolished for reasons that are essentially aesthetic, not political. We are too mature a people to allow ourselves to be demeaned by the silly huckstering of propaganda, and in a noisy environment everyone owes his fellow creatures a moment of silence. There could be no better time to silence USIA than in the Administration of the man who came into office advising us to "lower our voices." When President Nixon tears down that plaque reading "Telling America's Story Abroad," he might well substitute for it the maxim: that nation sounds best that blathers least.

Mr. FULBRIGHT. I do hope that the Senate will indicate that it has a strong interest in receiving the information requested from the executive branch in connection with the legislation which is before us.

This is a recurring problem. If the Senate in its wisdom does not wish to have the information, I shall be content.

"DON'T SILENCE THE VOICE"

Mr. BENNETT. Mr. President, during much of its 30-year history, the Voice of America's broadcasts to nations with Communist regimes in Europe and Asia have been purposely jammed by electronic interference. However, through persistence on the part of its listeners, and thanks to some ingenious technical devices, the Voice generally has been able to reach its intended audiences.

Today, we in the Senate are faced with the opportunity to succeed where the Communist leaders have failed. If we sustain the crippling cuts in the USIA's budget, the Voice will be silenced in 24 of its 35 languages, including all of those to Eastern Europe and the Baltic States. If we fail to restore the funds that have been cleaved from the USIA's budget, Communist leaders will indeed have special reason for celebration today, which is already observed as May Day in the Communist world.

It is ironic that those same nations which some among us are afraid of insulting by continuing the Voice's work are already far ahead of the United States in their international broadcasting output. The Voice of America currently broadcasts 780 hours weekly in 35 languages.

This is well behind the Soviet Union's 1,903 hours in 84 languages, Communist China's 1,304 hours in 38 languages, and Egypt's 1,022 hours in 33 languages.

If we sustain the fund cuts in the USIA budget which, incidentally, will in effect mean a 30 percent reduction for the Voice of America, the Voice will be cut back to 454 hours weekly in 11 languages.

But quantifying the results of such a drastic cut hardly begins to tell the true story of what a silencing of the Voice will mean. It is documented beyond reasonable doubt that millions of persons living under totalitarian regimes look to the Voice of America for the truth about the United States—a truth that cannot be found in their own censored media. Once that truth is no longer available, the Voice's listeners themselves will suffer, but the biggest loser will be America.

Mr. President, we cannot allow this to happen. We must vote to restore USIA's funds so that all of its programs will continue at a high level and so that this vital instrument of U.S foreign policy will not be undermined.

A recent editorial in the Washington Star tells of the need to save the USIA and the VOA. The editorial, "Gagging the Voice," appeared on April 26. I ask unanimous consent that it be printed following these remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GAGGING THE VOICE

For reasons best known to himself, Senator J. William Fulbright is trying to gut the United States Information Agency and reduce the Voice of America to a faint croak. He must not be allowed to do so.

What Fulbright proposes (in his capacity as chairman of the Senate Foreign Relations Committee) is that USIA's budget request of $200.2 million for fiscal 1973 be slashed to $154.4 million, a reduction of about 23 percent. Further, the senator from Arkansas would deny Director Frank Shakespeare the right to shift funds from program to program, which would mean a cut of about 30 percent in the activities of the Voice of America.

At its present level of 780 hours weekly in 35 languages, VOA trails badly behind the Soviet Union (1,903 hours in 84 languages), Communist China (1,304 hours in 38 languages) and Egypt (1,022 hours in 33 languages), and just barely ahead of Britain (725 hours in 38 languages). If Fulbright has his way, VOA will be cut back to 454 hours weekly in 11 languages, which is about as bush league as you can be and still remain in business. Much of the Voice's service to Eastern Europe and Africa would go by the board and seven of its 15 transmitters would be shut down.

USIA would have to shut its doors in 30 countries. About 1,000 Americans and approximately 1,360 foreign employes (of a total of 9,877), would lose their jobs. Television satellite transmissions would be ended and all other activities would be curtailed.

Why this savage cutback? Has the struggle for men's minds ended? The Russians and the Chinese apparently do not believe so. Has USIA been profligate? Hardly: Its requested staff for fiscal 1973 is 17 percent below the 1968 total; its request for operating funds, in constant dollars, is 14 percent below the 1968 allocation.

The truth is that Fulbright is trying to eviscerate USIA because he is still rankled about the Herschensohn flap, doesn't like Shakespeare personally or ideologically (the USIA director is a conservative) and is piqued at the administration for its refusal, on grounds of executive privilege, to turn over to his committee USIA's "country program memoranda" dealing with proposed propaganda years beyond 1973.

Herschensohn, who called Fulbright "naive and stupid," has since left the agency, and Fulbright ought to be a big enough man to forget that unfortunate incident.

Shakespeare may not be the most brilliant or effective director USIA has ever had, just as Fulbright may not be the finest senator Arkansas ever sent to Washington.

The administration might (or might not) have been wiser to take Fulbright more into its confidence in regard to the question of country programming. But none of this, in the long run, is very important.

What is important is that the United States should have the opportunity to tell its story in a reasonably effective way to the peoples of the world. If USIA lacks that capability, the security of this country will be endangered. Fulbright would deny the agency that capability and still the Voice of America. The Senate should not let him get away with it.

FULL FUNDING FOR USIA

Mr. BROOKE. Mr. President, I rise today in support of the amendment offered by my distinguished colleague, the senior Senator from Wyoming, to restore funds for the USIA.

In doing so, Mr. President, I can well understand the considerations which led the Foreign Relations Committee to cut the USIA budget by $45 million. Congress is charged with the responsibility for appropriating funds to the departments, agencies, and branches of this Government. The appropriations function can best be carried out on the basis of full information regarding both the current and anticipated levels of operation. Where such information is not available, or where it is deliberately withheld, the capacity of the Congress to act responsibly is correspondingly reduced.

I realize that some of these considerations entered into the proposed cutback in funding for USIA. Even so, I cannot in good conscience support so large a reduction in operating funds for this agency. Some Federal programs can sustain budget reductions, and either reduce their operations or concentrate their efforts on securing supplemental funding, without grave injury either to their own function or to the welfare of this country. Such is not the case with the U.S. Information Agency.

The USIA is, quite literally, the "voice of America" to hundreds of millions of people around the world. USIA, and its broadcasting service, the Voice of America, is the only contact which millions of Asians and Africans have with our Nation. Virtually every village in the developing world has at least one radio. Inexpensive transistor radios are the first and sometimes only companion of hundreds of thousands of homeless young men and women seeking work in the teeming cities of the Third World. What will it benefit us, or them, if the only news they hear on their radios is broadcast by the Soviet Union, or China, or Portugal? Where will they learn about American civilization and culture, where will they acquire the capacity to identify with our Nation and its ways, if their only source of contact with the United States is shut off?

Mr. President, I was appalled to learn of the effect which this proposed funding cutback would have on the area of the outside world with which I am most familiar: the continent of Africa. Broadcasts to Africa in English, Swahili, and Arabic would be completely eliminated, as would special VOA placement materials in French, Swahili, Hausa, and Yoruba. This reduction alone would mean that the nearly 30-million people of the East African community—Kenya, Tanzania, and Uganda—who speak English and Swahili, and who are being wooed increasingly by the Soviets and the Chinese, would be left without any radio broadcasts from the United States.

In West Africa, the elimination of English, Yoruba, and Hausa programing would mean the end of all radio contact with the 60 million people of the largest and most important nation in sub-Saharan Africa: our friends, the Nigerians.

Our good relations with the peoples of Africa would be further undermined by the anticipated closing of 15 of our 28 U.S. Information Service posts, and the closing of an additional 11 branch posts and reading rooms. Eliminated from the program entirely would be such small but friendly nations as: Burundi, Chad, the Central African Republic, Dahomey, Gabon, Guinea, Mali, Malagasy, Malawi, Niger, Sierra Leone, Somalia, Togo, and Upper Volta. Also eliminated entirely would be Lesotho, a small black African state completely surrounded by South Africa, yet striving to be free.

In addition, the African area of USIA estimates that branch posts and reading rooms would have to be closed in three major Nigerian cities—Kaduna, Kano, and Ibadan—in four major cities in Zaire—Lubumbashi, Bukavu, Lulumbourg, and Kisangani—in Douala and Buea in Cameroon; in Asmara in Ethiopia; and in Kumasi in Ghana.

Mr. President, I could cite compelling reasons why each of these posts should remain open. Instead, let me mention just a few examples:

The United States maintains a satellite tracking station and military forces in Asmara, Ethiopia. Yet this is a rebellious province which several times in recent years has attempted to break away from the Ethiopian Government. The presence of a USIA post in this area provides a constructive counterpoint to what must seem to be an unpopular and even inflammatory presence on our part.

Lubumbashi is the former Elizabethville in the breakaway Katanga Province in the Congo, scene of dreadful fighting and strong separatist demands during the tragic years of the 1960's. Our presence there serves as a vital and constructive link in our overall policy of favoring the development of a true national consciousness in this giant country girding the waist of Africa.

American policy also favors a strong and united Nigeria. Yet if we close our posts in Kaduna, Kano, and Ibadan, we will cut off our links with two-thirds of the people of this increasingly powerful state, and with a major intellectual center as well. To confine our influence to Lagos and the coast is not in our interests or the interest of the Nigerian Federal Government.

Mr. President, so far I have spoken primarily in terms of America's interests in maintaining a viable and effective communications program with Africa. I would like to dwell for a moment on what our program means, in human terms, to the Africans themselves.

I have landed at remote airstrips in central Africa—bare stretches of hard dirt without terminals or landing lights—and heard the transistor radios of the mechanics and porters blaring out American jazz and American news.

I have visited USIA reading rooms and seen the intensity with which Africans, young and old alike, devoured the books and magazines available there. I have talked with the people using these reading rooms and learned that in many cases they had walked 10 or 20 miles on their day off to spend a few hours in the only library for hundreds of miles around.

I have seen the eagerness and excitement on a man's face as, after traveling for many hours, he arrived at a USIS post and was granted his request for an American made film to show to his club or village.

I have seen the joy on the face of a

teacher when the local USIS officer told him "Yes, I was able to get the textbooks you requested."

Mr. President, we must never forget that for great numbers of people around the world, the only book they may ever read or the only film they may ever see comes from an American information agency post.

Good will for America comes in many packages and many forms. It comes in a bag of better seeds, in the construction of a dam, in medical attention, or in a fleet of buses. But perhaps the most satisfying, most personal—and for us least expensive—kind of good will is that which comes in the books, films, and broadcasts that help to satisfy a world's thirst for the knowledge long denied them. We should be proud to be a part of the effort to educate the peoples of the world, to lift them, and help them lift themselves, from the deep trenches of ignorance and despair. USIA, and the Voice of America, are an important part of this process, and I pray their good work may be allowed to continue.

MAINTAINING OUR CAPABILITY IN INTERNATIONAL COMMUNICATIONS

Mr. BROCK. An important question has been raised recently, in this House and in the public forums, as to whether or not the U.S. Government should be engaging in international cross-cultural communications, or public diplomacy, or, if you prefer, propaganda. Our Government's instrument for this effort, the U.S. Information Agency, has been quizzed and probed and criticized as an anachronistic holdover from the cold war which no longer has a valid reason for existence in this new era of negotiation rather than confrontation.

Anyone who has traveled abroad in recent years, who takes a realistic and mature reading of the forces and the ideas around the world today, will recognize that this question is based on false premises. Those false premises are, first, that the conflict of ideology between communism and freedom is the only concern our Government has had about public attitudes abroad in the post-war world, and second, that that ideological conflict no longer exists in this new era.

No government involved in world affairs today—and especially a major power—can afford to ignore the attitudes of the people, the media, and the political forces they influence. In the free world, those attitudes find their echo and their reflection in the parliaments—the Diet in Japan, the Lok Sabha in New Delhi, the Bundestag in Bonn, the House of Commons in London—and there, in turn, they have their influence on the policies of the governments with which we coexist on the international scene.

If the foreign policies of our own Government are to succeed, they must be understood. The interests and rationals on which they are based must be realized, and the interests and principles which we share with other free countries must be grasped. It would be naive to rely on blind faith that our policies and their rationale, our principles and our concerns, or even that the selfless humanitarianism which has so often inspired our deeds, are self-evident and need no elucidation.

Even if one were to set aside the role of the Communist ideologists there are other forces, other motivations at work to distort, to twist, to misrepresent what we do at home and abroad and why we do it. In Latin America, in Africa, and in South Asia, there are strong forces of nationalism, which openly seek to stimulate anti-American attitudes. In many countries with whose governments we have friendly relations, there are opposition forces seeking to create distrust of us as a weapon against their own governments. In many parts of the less developed world envy of our high standard of living and perhaps fear of our economic power breed hostility and a readiness to believe even illogical criticism of us. Many of us in this Chamber today have heard reports from our constituents or seen reports in the press about the willful distortions of American policies, actions, and motivations that appear frequently on some European television networks. And even when malicious ill-will is not involved, the complexities of American life and the seeming size of many of our problems lead many interpreters abroad astray in their analyses and judgments of us.

Thus, even leaving aside the role of the Communist ideologists, it should be evident to all that a need exists for our Government to measure the cause and degree of those distortions and try to correct them, to act positively to explain our policies, the motives giving rise to them, and the actions we take to implement them. And it is certainly in our own interest to seek foreign understanding of our American complexities, to encourage rational proportions in foreign assessments of our problems. Reasonable men and women around the world will listen and take into account what we say, but only if we are equipped to speak to them in their language, according to their terms of reference, and with understanding of the point of view from which they see us. I submit that this was a major purpose behind the creation of the U.S. Information Agency, and that this is a vital need which that Agency should be meeting today. There is nothing anachronistic about such an Agency and such a role in the furtherance of our foreign policies.

We Americans have a deeply ingrained revulsion for the basis implicit in one meaning of "propaganda," but the word has other meanings as well; setting the record straight, righting the imbalance, correcting the many biases that already exist, and providing enlightenment where understanding is obscured. Recognition and acceptance of the legitimacy of these meanings is a fact of life for the major countries of the free world. Great Britain is known around the world through the BBC, and it has information and cultural programs channeled through 118 centers and 204 libraries abroad. West Germany spends nearly $33 million a year on its international radio broadcasting activities, and its worldwide propaganda activities cost well over $152 million. It has 119 cultural centers in 66 countries. France spends $182 million a year in its international information efforts and has 221 centers and institutes abroad. These so-scalled propaganda activities are accepted as legitimate, indeed as a necessary adjunct of realistic foreign policy, for the major nations of the free world, and are decidedly not regarded as anachronistic.

I said earlier that there would be a legitimate need for the United States to maintain an international information program even if we set aside from our consideration the competitive role of the Communist ideologists, for there are other considerations than ideological conflict of concern to us and our government. But unless we were so blind as to accept the second false premise, that ideological conflict no longer exists between communism and freedom, we cannot ignore that conflict and what it means in terms of our national interests and indeed our security.

There are those who argue that in a period when we are seeking to negotiate with the Soviet Union, we should not impede these efforts at reconciliation by annoying the Russians with expressions of faith in our own ideals of freedom or even with broadcasts of factual news into the closed societies of the Soviet Union and Eastern Europe.

The argument strikes me as a craven retreat from principle. It reminds me of Neville Chamberlain's desire not to annoy Hitler over the Nazi occupation of the Sudetenland and Austria. In all the statements that I have read to date by Russian leaders, whether about detente in Europe or the negotiation of specific agreements, they have made it starkly clear that rapprochement will not extend to ideological accommodation on their part.

The latest example of this was Leonid Brezhnev's statement to the 15th congress of Soviet trade unions on March 20. In explaining the official Soviet attitude toward the forthcoming visit to Moscow by President Nixon, he said:

> In the USSR's foreign policy a firm rebuff to imperialism's aggressive designs is combined with a constructive approach to ripe international problems, and implacability in ideological struggle combines with readiness to develop mutually advantageous relations with states of the opposite social system.

It should be obvious that this "implacability in ideological struggle" represents a dualism in the Soviet approach to detente which should neither surprise us nor deter them as negotiations between us proceed.

But the broadcasts by our official radios into the Soviet Union and Eastern Europe are not intended solely to meet their thrusts in the ideological battleground. We know from much accumulated evidence that people sealed off inside the close societies have a great thirst for information about what is going on in the rest of the world. They know they cannot expect to learn the whole truth through the ideological filters of their own state and party controlled media. So they listen, sometimes with difficulty and with danger. As Nobel laureate Aleksandr I. Solzhenitzin boldly stated, it would be a tragedy if such broadcasts were to be discontinued.

Some may label these broadcasts "cold war," but if so they are not without benefit. They provide the subjects of the closed societies with information they need to compare what Brezhnev called "the opposite social system" with their own. They provide a basis for judgment of American and other western intentions and values. They provide relief from the cultural inbreeding which isolation causes. And repeatedly they have provided Soviet citizens with their first information about developments within their own country. "If we ever hear anything about events in this country," Solzhenitzin said, "it is through them."

While direct evidence probably can never be obtained, there would seem to be little doubt that the window on the world such broadcasts provide is responsible to some degree for the popular pressures on Soviet authorities to provide more and better consumer goods, to allow greater intellectual freedom of expression, to permit even token emigration of Soviet Jews to Israel, to soften the formerly harsh police state controls, and perhaps even to seek detente through specific political negotiations and agreements with "the opposite social systems."

Therefore, these broadcasts as well as the exhibits, the exchanges, the magazine Amerika, and the other activities which the U.S. Information Agency undertakes in regard to the people of Eastern Europe and the Soviet Union are vitally important elements in the exercise of our foreign policy and cannot, with any regard to verity, be called "anachronisms" of no value today.

I should like to make one final point. In the past, whenever this Nation faced a major crisis in the world, we had to scramble to create a corps of hastily assembled amateurs with little experience, equipment, or effectiveness to initiate an international information program. After the Second World War, we had the wisdom to recognize a continuing need for such a program—even though there was such detrimental hesitation and confusion in the effort.

We cannot know what crises our country will face in the future, but it would seem to me to be a matter of elemental prudence to maintain a sound crises capability in international communications. We should have a corps of professionals who have the experience and up-to-date equipment, the knowledge and the calibre to meet the needs of a crisis situation. We can best get this capability by maintaining an adequate information agency geared to provide steady support for the execution of our national policies. We cannot get it by afflicting that agency with fluctuating budgets, repeated personnel cuts, and a failure to recognize the contribution it can make to our national security. These afflictions breed low morale, insecurity, a lack of confidence in public support, and the flight of professional ability from government service.

There is much misunderstanding about us abroad in the world today, much ignorance about our policies and our actions, about our principles and our intentions, about our problems and our will to overcome them. We can never right the balance and set the record straight for all of this in every corner of the world, but as we play our role of a great power in this imperfect world, I believe it is important that our Government and our people have the best agency of international communication that we can devise. To recognize this need and provide for it would be a mark of our maturity in world affairs and of our realism in the execution of our foreign policy.

I ask unanimous consent that the text of James J. Kilpatrick's editorial and a transcript of Forest Boyd's commentary on this subject be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Fulbright's Assault Against USIA Misguided

If the U.S. government were run in the fashion of a major university, it would be necessary to list among the cataloged courses a whole department of J. William Fulbright. Here the persistent student could begin with Introduction to Fulbright, advance through Organic Fulbright, and conclude with seminars in Fulbright. After extended graduate studies a dedicated scholar might understand one of Washington's most puzzling men.

The chairman of the Senate's Foreign Relations Committee was 67 years old this month. A one-time Rhodes scholar lawyer, and university president, he has served in Congress for almost 30 years—two years in the House, 28 years in the Senate. An acknowledged expert in foreign policy, he is widely respected in other fields also.

Surely it would seem inconceivable that such a man, geared to global thinking and trained in the importance of ideas, would set about deliberately to destroy the one agency whose task is to publicize the American idea. Sad to say, that is precisely the course on which the senator from Arkansas is embarked. He is proposing to slash the budget of the U.S. Information Agency by more than 20 percent; in the process, he is proposing to reduce the Voice of America to a whisper.

Three reasons are advanced to explain the senator's inexplicable assault.

It is said that Fulbright gazes in distaste upon Frank Shakespeare, the USIA director, and finds him personally obnoxious. Fair enough. Shakespeare takes a hard line on communism; the senator's approach, if not exactly soft, is perhaps flexible. But directors come and directors go, and the damage that would be done by the proposed budget reduction is far more important than a personality conflict. In the long haul, neither Fulbright nor Shakespeare matters. This program does.

More to the immediate point, it is said the senator is reacting with personal pique to the recent incident in which a USIA filmmaker appeared in a televised interview with Conservative Sen. James Buckley of New York. The filmmaker, Bruce Herschensohn, tactlessly described Fulbright as "naive and stupid." He then resigned, and Shakespeare did not help matters—though he apologized—by giving Herschensohn the USIA's highest award. A fiasco. But, again, Fulbright is too big a man—and he has been called names too many times before—to let a personal indignity provoke so grave a retaliation.

A more plausible explanation lies in the refusal of the USIA, acting on White House instructions, to make publicly available to the Foreign Relations Committee its "country planning papers." These are confidential in-house memoranda, spelling out our propaganda plans, country by country. As such, they are covered by the doctrine of executive privilege. Their publication could cause embarrassment. If this is the sticking point, surely it could be eased by rational compromise.

But we are at this sorry pass: The Foreign Relations Committee, at Fulbright's behest, has voted 9–4 to cut USIA's authorization for fiscal '73 from a requested $200.2 million to $155 million. The recommendation could be overridden, of course, by floor action, but a committee's verdict carries respectable weight.

The Voice of America now carries 850 broadcast hours a week, in 35 languages beamed around the world. The Fulbright slash would cut this program to 454 hours in 11 languages. We would be competing at the level of Portugal and Albania. More than 3,500 professional broadcasters, most of them with irreplaceable language skills, would have to be fired. The VOA, in short, would be strangled.

Such folly must be avoided. The USIA, under Shakespeare, has not engaged in empire building: It has 600 fewer employes than it had four years ago. By comparison with Russia, China, and the United Arab Republic, the United States is waging a modest program of information and propaganda. But the program is vital to our continuing national interest around the world; and Fulbright, who is genuinely a man of the world, must see the need to keep it strong.

One Man's Opinion

This is Forest Boyd in Washington with today's comment, "One Man's Opinion."

There's an old saying that goes, "don't cut off your nose to spite your face." The idea being that for spite one can take some actions that not only hurt the object of your spite but your own vital interests as well.

There is some reason to believe that this kind of spiteful and harmful activity has been going on in Washington in regard to the United States Information Agency. The Senate Foreign Relations Committee has slashed the USIA budget request from $200 million to $155 million which is considered a large slash for one year. Indications are that the cut was not made strictly for economy reasons. It's not that the United States cannot afford $200 million for its Information Agency.

The word going around here is that the Foreign Relations Committee Chairman J. William Fulbright favored the cut just for spite. It seems that the Committee had requested that the USIA provide what is called its Country Program Memoranda. President Nixon ruled that the Agency should not provide the report to the Committee citing that much heard reason now days, "Executive Privilege." So according to the stories Fulbright declared "no report, no money, or at least full funding of the USIA." It's understood that if the President should change his mind the Committee would consider a supplemental appropriation that would bring the funding for USIA up to full strength.

The Washington Post declares that Fulbright wielded the axe in large part to force the President's hand on Executive Privilege. But is it the President who is suffering? Well, at least not just the President. For it seems it is the country of which Fulbright is a part that is harmed by this kind of decision making.

USIA's media programs have been slashed 30 percent across the board without regard for the merits of the various programs. Voice of America's programming would be drastically reduced. I've heard that it means dropping all Spanish language programs, which means no programming beamed to South America except in English. And let's face it, that's no way to reach Spanish speaking people.

It would mean dropping many other foreign language services by the VOA and I believe would drastically curtail programming to Africa. Programs in the Russian language would be retained and beamed to the Soviet

Union. But the cuts in service to other countries would be little short of tragic.

Just take the Spanish programming as one example. When you have the propaganda of Castro, the Soviet Union and Red China flooding the Latin American countries, and when you have already had one big country, Chile, electing a Marxist President, this in my estimation is a very poor time to forfeit the information game to the ideological enemy. It's a little difficult to sell the Voice of America to the American people because we can't hear it here except poorly with a shortwave radio. And hardly any Americans litsen to such propaganda broadcasts as Radio Moscow and Radio Peking.

But it's different in the other countries. They do listen to the Voice of America. When I was in China at the time of President Nixon's visit in February, a number of Chinese questioned me about radio in the United States. They would ask about the Mutual Broadcasting System, my company, and then one asked if it was strictly a domestic service. I would asssure them that it was, that we did not broadcast to foreign countries.

"No connection with the Voice of America?" they would ask, and I would answer, "No connection."

It was hard for them, it seemed, to conceive of private broadcasting companies that were not part of government propaganda. And the conclusion I drew was that they were very familiar with the Voice of America. Just as the Russian author Alexander Solzhenitsyn said the only way he could get information about his country was through Radio Liberty, so I am convinced the only way the Chinese and many other nationalities, particularly Communist countries, can learn what's going on in the world is through such Western broadcast services as the Voice of America. The British Broadcasting Corporation, the BBC, is also popular.

It's just a shame that a dispute between the Foreign Relations Committee and the White House, in which neither side will yield, should curtail the effectiveness and the scope of the Voice of America, and the other functions of the USIA.

And it should be acknowledged that there is probably blame on the administration side too. Some say that the Director of the USIA, Frank Shakespeare, has been an abrasive personality so far as Senator Fulbright is concerned and that by providing the Country Reports as requested by Fulbright all this trouble could have been avoided.

There seems also to be a conflict of ideology or at least of philosophy over the purpose of the USIA and the Voice of America. Shakespeare seems to see it as a propaganda organ, Fulbright thinking it should be an objective information agency. In this regard Fulbright appears to be in conformity with the philosophy of former President Kennedy.

Edward R. Murrow was USIA Director under Kennedy and put out the rule that read something like this: "Always report the truth even if it hurts." He meant that what's happening in the United States should be reported as it is, without glossing over the truth or avoiding the adverse happenings. In that way, by telling the good and the bad, the Agency would be more believable.

Shakespeare has seen the Agency as something more than that. It's been rumored that Mr. Shakespeare will soon leave the USIA to join the Committee for the re-election of the President. Perhaps when he does, the Senate Foreign Relations Committee will be more liberal with USIA money. In the meantime the situation could be quite difficult for USIA and VOA employees and there could be permanent damage to the Agency's work.

This is Forest Boyd in Washington and that's my comment for today.

Mr. HRUSKA. Mr. President, the amendment of the Senator from Wyoming, which would restore to the U.S. Information Agency the budget reductions made by the Foreign Relations Committee, is sensible and worthwhile. It should be adopted.

As a longtime member of the Senate Appropriations Committee I have become familiar with the operations of the U.S. Information Agency. I have visited its installations in the field and have participated in the regular examination of its budgets. The Appropriations Committee has made regular and conscientious examinations of USIA's funds and activities. This Senator remains convinced that the activities of the USIA are highly advantageous to our Government.

Of serious concern is the real probability that, if the reduction of $45 million is allowed to stand, we may be taking action that will severely damage an organization which it has taken many years to develop. On the physical side, I understand we would have to give up radio transmitter sites which may be irreplaceable because the agreements under which they were established could not be renegotiated. The loss in human resources could be even more drastic. According to the U.S. Information Agency, the committee's proposal would result in a loss of some 2,400 employees—Americans and foreign nationals. These are professional people for the most part, with unique language and communications skills. It would take years to replace them. To cripple the organization in this way without the most careful examination of its effectiveness would be a tragic mistake.

I have also learned that these cuts would deny to the Director of the Agency the right to shift funds from one activity to another, and that radio, press activities, motion pictures, television, and most other activities would be cut 30 percent. The cut in radio would mean that the Voice of America would have to stop broadcasting in some 25 out of 36 languages, including all or most of its languages to Eastern European countries. The Agency's excellent magazine, America, which is widely distributed in Russia and Poland would have to be dropped in Poland.

S. 3526, the bill now before us, contains other provisions which would create a nonpartisan study commission to examine in detail the operations involved in our Government's overseas activities—a "Hoover Commission" of the foreign policy and operations area. To make these cuts in the overseas information programs of this country in advance of the benefits of this review and the insight it would provide seems very much lacking in good sense.

Mr. President, this Senator is convinced that it is in the best interests of our country to grant the U.S. Information Agency the funds that its needs to do its job. I, therefore, urge approval of the amendment of the Senator from Wyoming to restore the funds cut from USIA's budget.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from California (Mr. Tunney).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR TUNNEY

Sharp reductions equivalent to about 23 percent of the total budget of the U.S. Information Agency would at this time seriously impair the overseas cultural and informational program of the United States. The Senate should carefully consider whether it is wise or in the national interest to hinder the valuable function of presenting this nation's experiences, views and policies and fostering mutual understanding with other countries.

It is my understanding that the sharp reductions called for in Administrative support would force the Agency to totally eliminate posts and programs in some 30 countries, shut down smaller branch posts and reading rooms and make reductions in the remaining countries in which it could operate. Implementation of the Cultural and Educational Exchanges program of the State Department would be lost in the countries affected; English teaching would not be possible; the range of inter-personal contacts, seminars and lectures, cultural presentations and informal exchanges would drop. A precipitous closeout in what amounts to two regions—much of sub-Sahara Africa and Central America—as well as a reduction in other countries signifies a great deal more overseas—especially in the present international context—than we realize.

It is also my understanding that the reduction of several media elements of USIA inevitably will also hurt the cultural activities of USIA. The Agency's overseas staffs draw widely on the press services, the Voice of America broadcasts and program materials, the periodicals and publications, motion pictures and other materials which would be sharply curtailed by the proposed cuts.

A Nation's culture encompasses all of its ideas, images and symbols, deeds, products, accomplishments, problems and aspirations. A cultural affairs program conveys the most significant and relevant elements of our society to people in other countries. All media are valuable for this exchange.

The proposed reductions would drastically limit the comprehensive exchange of views and ideas.

The various media products of USIA achieve a high standard of technical and substantive quality and fulfill a very specialized need to explore critical areas of mutual interest between this country and others. These materials are needed in any cultural effort overseas because they try to communicate across the wide cultural, social and political differences that exist internationally. They specifically relate American experiences to the needs and interests, aspirations and problems of people in other countries.

Therefore I support the amendment to restore the authorization request for the U.S. Information Agency proposed by my honorable associate Senator McGee.

However, while I do support the McGee amendment, I would like to add that Chairman Fulbright is absolutely correct in urging that the concept of executive privilege has been expanded beyond reasonable limits. I strongly support my colleague from Arkansas' request for access to the USIA's "Country Program Memoranda". It is my belief that the USIA is a hostage in this matter and that they have no part in the decision on whether or not to release the Memoranda to the Congress.

Although I share Senator Fulbright's frustration at the President's use of executive privilege I feel that I must support Senator McGee's amendment. I would hope that before the next USIA-State Department Authorization Bill is considered that steps are taken to provide the Congress with the various "Country Program Memoranda."

Mr. STEVENSON. Mr. President, I am

voting against the amendment of the Senator from Wyoming though I do not now support a 25-percent cut in the operating budget of the USIA.

There are both useful and questionable aspects of our information programs. But whether, or to what extent, the USIA budget should be cut, I cannot say. The doctrine of Executive privilege has been invoked by the administration to withhold necessary information from the Committee on Foreign Relations. The committee is of the apparent belief that the privilege has been improperly invoked. I will vote with it, knowing that funds can be restored to USIA in conference or by a supplemental authorization. But since we cannot be assured that the $45 million sought to be restored by the McGee amendment is necessary, I will not now support the amendment.

Mr. McGEE. Mr. President, as far as I know everyone has had a chance to speak who wanted to say something. I am wondering; if the Senator is willing to yield back the remainder of his time, I could yield back the remainder of my time and we could proceed to vote.

Mr. FULBRIGHT. Yes. If no one else wishes to speak.

How much time remains?

The PRESIDING OFFICER. The Senator from Wyoming has 5 minutes and the Senator from Arkansas has 28 minutes.

Mr. FULBRIGHT. If no one wishes to comment further, I am ready to yield back my time.

Mr. CASE. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield to the Senator from New Jersey.

Mr. CASE. Mr. President, the situation that faces the Senator from New Jersey, and I think other Senators, presents a great deal of dilemma. The Senator from New Jersey favors this program. He recognizes it can be useful but he is not for cutting it. He is equally, as I think his colleagues are, generally interested in obtaining information from the executive branch or anywhere else which the Senate needs to act on matters before it.

The Senator from New Jersey, if there is an opportunity after this vote to express his interest in getting the information from the executive branch on this bill, in another section, perhaps, or in another piece of legislation, will pursue that with interest and as hard as he can. He does not, however, feel that he wants to have his support of this amendment misunderstood by insisting upon a cut which would, if it became law, materially affect the soundness of the program, in his judgment. So he will hold himself ready, after this vote, to pursue the matter of information, if there are ways in which it can be done and an opportunity presents itself, but not by voting to continue the cut. The Senator voted in committee for a 15 percent cut, I think it was, offered by the Senator from Kentucky, as I remember. That failed. It represents the deepest cut, he thinks, that could be made with some safety and without damage to the program. He wishes that there had been a chance, before the vote on the amendment itself, to put these matters in as amendments. The unanimous-consent agreement precluded that. We will have to see what he can do after the vote is taken.

Mr. McGEE. Mr. President, the debate on this amendment today has centered primarily around the issue of executive privilege. This, indeed, is unfortunate because it makes the USIA the victim of an executive-legislative disagreement of principle which is vastly beyond the agency's authority.

The right approach, and I support it wholeheartedly, is the establishment of a study commission as proposed in title VI of this bill, rather than taking a meat-axe approach to an agency which would fall as a victim to the dispute over executive privilege.

The study, which the proposed commission would undertake is, in my view, a welcome and much needed one. The results of the study could make a great contribution to the more effective organization of the foreign affairs agencies of our Government.

But would we not look foolish if we were to make a crippling cut in the U.S. Information Agency, only to have the Commission present us with a recommendation that this agency be restored to its present capabilities—or even augmented?

In my view, this makes little sense. The course of logic would be to await the Commission's findings—not to preempt them now by hastily cutting with no sure sense of the direction we should follow or the damage we would do.

As I had mentioned earlier in the debate when I submitted today's editorial from the New York Times in support of the full authorization for USIA, the Agency is making a good effort to disseminate an accurate and professional image of this country and its involvement in world affairs.

The inferences which could be drawn from the concluding remarks of the senior Senator from Arkansas is that the entire USIA effort is marked by inefficiency and waste—and that this typifies the agency today. However, the distinguished Senator from Arkansas draws upon the conclusions of a report now nearly 20 years old, and even then he fails to present the full impact of the report.

This is a new day and the Agency as now functioning, and not how it functioned 20 years ago, has overcome the criticisms regarding the efficiency of their operation and their technical abilities. It should be pointed out that even in 1953 there was no criticism as to the basic validity of the established programs, including motion picture, broadcasting and press, and publication functions.

We have heard debate on how the USIA's media costs and services have soared over the years.

Yet, the record illustrates that the USIA's real resources and the budgets of all services have declined since 1953 in terms of constant dollars.

USIA as a whole is now 30 percent below where it was 20 years ago in real resources. In the last 5 years it has been cut some 15 percent in money and people. The cut proposed by the Senate committee would leave it over 20 percent below where it has been at any time in its existence.

The overseas information program is now much smaller than it was in the early postwar years. In fiscal year 1953, the last full year before USIA was established, the budgets for programs transferred to the new Agency totaled $123 million, with staffing totals of 14,130. Congress, in setting up USIA, cut these programs back sharply at that time, operating funds were set at $84 million, and staffing was reduced to less than 11,000. The comparable staffing figure in the current year is 9,877.

The requested regular operating budget—excluding the separate appropriations of Special International Exhibitions and Radio Facility Construction—is $194 million. When inflation factors such as pay increases and rising fixed costs are taken into account, this budget figure is approximately $87 million in terms of 1954 dollars. USIA's actual budget in fiscal year 1954 was $84 million.

Therefore, I strongly urge Senators to join my attempt to restore the full authorization for the USIA's budget for fiscal 1973.

I am willing to yield back my time if the chairman of the committee is willing to do likewise.

Mr. FULBRIGHT. Mr. President, I yield back my time.

Mr. McGEE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time on the amendments has been yielded back. The question is on agreeing to the amendments (No. 1172) of the Senator from Wyoming (Mr. McGee). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Ervin), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from North Carolina (Mr. Jordan), the Senator from Washington (Mr. Magnuson), the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Eagleton) and the Senator from Montana (Mr. Mansfield) are absent on official business.

On this vote, the Senator from Mississippi (Mr. Eastland) is paired with the Senator from Oklahoma (Mr. Harris). If present and voting, the Senator from Mississippi would vote "yea" and the Senator from Oklahoma would vote "nay".

On this vote, the Senator from North Carolina (Mr. Ervin) is paired with the Senator from Minnesota (Mr. Humphrey). If present and voting, the Senator from North Carolina would vote "nay" and the Senator from Minnesota would vote "yea."

I further announce that, if present and voting, the Senator from North Carolina (Mr. Jordan), the Senator from Washington (Mr. Magnuson), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Colorado (Mr. Dominick), the Senator from Maryland (Mr. Mathias), and the Senator from Oregon (Mr. Packwood) are necessarily absent.

The Senator from Pennsylvania (Mr. Scott) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. Dominick), the Senator from South Dakota (Mr. Mundt), and the Senator from Oregon (Mr. Packwood) would each vote "yea".

The result was announced—yeas 57, nays 15, as follows:

[No. 166 Leg.]

YEAS—57

Aiken
Allen
Allott
Anderson
Beall
Bellmon
Bennett
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Cook
Cooper
Cotton
Curtis
Dole
Fannin
Fong
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Jackson
Javits
Jordan, Idaho
McGee
Metcalf
Miller
Montoya
Pastore
Pearson
Percy
Randolph
Ribicoff
Roth
Schweiker
Smith
Spong
Stafford
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—15

Church
Cranston
Ellender
Fulbright
Gravel
Hart
Hughes
Inouye
Kennedy
Long
Nelson
Proxmire
Saxbe
Stevenson
Symington

NOT VOTING—28

Baker
Bayh
Bentsen
Cannon
Dominick
Eagleton
Eastland
Ervin
Harris
Hartke
Humphrey
Jordan, N.C.
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Mondale
Moss
Mundt
Muskie
Packwood
Pell
Scott
Sparkman
Tunney
Williams

So Mr. McGee's amendments (No. 1172) were agreed to.

Mr. McGEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 2713) to amend title 18 of the United States Code to authorize the Attorney General to provide care for narcotic addicts who are placed on probation, released on parole, or mandatorily released.

The message also announced that the House insisted upon its amendment to the bill (S. 2770) to amend the Federal Water Pollution Control Act, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Blatnik, Mr. Jones of Alabama, Mr. Wright, Mr. Johnson of California, Mr. Roe, Mr. Harsha, Mr. Grover, Mr. Don H. Clausen, and Mr. Miller of Ohio were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the following concurrent resolutions:

S. Con. Res. 59. Concurrent resolution to authorize the loan of the Cornelia Fasset painting, "The Electoral Commission of 1877", to the National Portrait Gallery of the Smithsonian Institution; and

S. Con. Res. 75. Concurrent resolution to urge each American family to plant a vegetable garden.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled joint resolution (H.J. Res. 1029) to authorize the President to issue a proclamation designating the month of May of 1972 as "National Arthritis Month".

The enrolled joint resolution was subsequently signed by the President pro tempore.

SECOND SUPPLEMENTAL APPROPRIATIONS, 1972

The PRESIDING OFFICER (Mr. Buckley). Under the previouus order, the vote on the McGee amendment having been concluded, the Senate will proceed to the consideration of H.R. 14582, under a unanimous-consent agreement limiting debate on the bill and on amendments thereto. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 14582) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be permitted to proceed for not to exceed 5 minutes without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, the second supplemental appropriation bill for 1972 will be disposed of this afternoon.

Anticipate at least one rollcall vote, certainly, on final passage. There may be amendments to the bill. I know of none, but there could well be, and there could be rollcall votes on such amendments. But Senators should be alerted to the fact that there will be at least one rollcall vote, certainly, on the passage of that bill this afternoon.

I yield to the distinguished Senator from New Hampshire (Mr. Cotton), and ask unanimous consent that he may have 2 minutes in addition to my remaining time without its being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF FORMER SENATOR ROBERT W. UPTON

Mr. COTTON. Mr. President, it is with sadness that I officially inform the Senate of the death of my immediate predecessor in the Senate from New Hampshire, Senator Robert W. Upton, of Concord, N.H. Many of the older Members of this body will recall serving with Senator Upton.

Senator Upton had one of the most distinguished and outstanding careers of any citizen in the history of our State. He was born in 1884, and at his death last Friday night he had reached the age of 88. For many years he was a recognized leader of the New Hampshire bar, one of the ablest lawyers who ever practiced in our State.

He was also very active in the political and civic life of the State. He served as delegate to four Republican National Conventions. He served as chairman of the Republican State committee. He served in several constitutional conventions in the State of New Hampshire, and served as president of a constitutional convention at least once. He was a recognized authority on constitutional law. He was extremely active and influential in the American Bar Association.

Had he not been bearing the burden and been devoted to the practice of law, he could easily, at an early age, have served as Governor of the State of New Hampshire or as U.S. Senator.

He was appointed to the Senate after the death of the late Senator Charles W. Tobey and served for approximately a year in this body. Many will remember his service, because even though his service was brief, he served with distinction on the Committee on Labor and Public Welfare, the Committee on Public Works, and the Committee on Post Office and Civil Service.

Later Senator Upton was appointed to and served on the International War Crimes Review Board in Germany, in 1956.

In speaking of him and expressing the admiration that I hold for him—which is shared by all the people of our State—I am also speaking for my distinguished colleague, the Senator from New Hampshire (Mr. McIntyre), who is unavoidably out of town today. Senator McIntyre started his legal career in the firm of the late Senator Upton and recalls with pride his service with the late Senator Upton.

Senator Upton married Martha Burroughs, who is the sister of the late Sherman E. Burroughs, who served with distinction for many years in the U.S. House of Representatives, from New Hampshire.

Senator Upton leaves six children—five sons and one daughter. Four of his sons are members of his law firm. One of them has served with distinction as Speaker of the New Hampshire House of Representatives and as president of a State constitutional convention. All of them already are recognized as outstanding members of their profession.

I repeat that no man, in my judgment, in the history of the State of New Hampshire served so long, with such distinction, and was more highly respected by all the citizens of the State.

On behalf of Senator McINTYRE and myself—and I am sure on behalf of all the Members of the Senate who knew him and served with him—I extend to his widow, to his sons and daughter, and to his grandchildren our sympathy in their bereavement, but also a deep understanding of the justifiable pride they must feel as they recall the distinguished and remarkable career and great contribution of the late Senator Robert W. Upton.

SECOND SUPPLEMENTAL APPROPRIATIONS, 1972

The Senate continued with the consideration of the bill (H.R. 14582) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes, which had been reported by the Committee on Appropriations with amendments.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. I yield myself 20 minutes.

Mr. President, the pending bill, the second supplemental appropriation bill for fiscal year 1972, recommends appropriations in the amount of $5,063,387,439. A large part of this sum—namely, $2,351,543,728—is necessary to finance increased pay costs.

Executive Order 11637 of December 22, 1971, adjusted the salary rates upward of civilian employees of the Federal Government. Executive Order 11638 of December 22, 1971, provided an adjustment upward on a comparable basis for members of the uniformed services. In addition, Senators will recall that Congress voted a substantial increase for members of the uniformed services effective last November 14, 1971. In view of these orders, together with increases for wage board employees, this sum of over $2⅓ billion must be provided at this time.

In addition, the bill contains funds for general program supplemental appropriations, and I will refer to some of the larger items contained in the 13 chapters of the bill which is before the Senate. The report is on the desk of each Senator, and I believe Senators will find a full explanation for each appropriation made in this bill.

Chapter I relates to the Department of Agriculture and Related Agencies.

The first item under this chapter provides $5 million to make indemnity payments to beekeepers who, through no fault of their own, suffered losses of honeybees after January 1, 1967, as a result of utilization of economic poisons near or adjacent to the property on which beehives were located.

The committee has included $10 million in the bill under the terms of section 16(e) of the Soil Conservation and Domestic Allotment Act, for the purpose of promoting the conservation and economic use of land and of assisting farmers who, because of advanced age, poor health, or other reasons, desire to retire from farming but wish to continue to live on their farms.

The House bill provided $8 million, by transfer, to the Food and Drug Administration for the hire of additional food and drug inspectors, and the committee recommends concurrence with the House proviso.

Chapter II of the bill contains appropriations for the Department of Defense, and after examination of the requirements for retired military personnel retired pay, defense, the committee was able to effect a reduction of $10 million in the amount of the House bill.

The committee has concurred with the House and recommends a total Federal payment of $7,654,000 for the District of Columbia in chapter III of this bill. $3 million is for program items described beginning on page 11 of the report, and the balance of $4,654,000 is required for increased pay costs pursuant to the Executive orders previously referred to.

Foreign operations appropriations are contained in chapter IV of the bill. The committee recommends an appropriation of $320 million to be paid to the International Development Association. The authorizing legislation which was signed into law on March 10, 1972, authorizes three installments of $320 million each. The committee was advised that the appropriation of these funds now is critical if the International Development Association is to be expected to fulfill its role of providing development funds for the poorest nations of the world. The Association has been without regular funds since July of last year and has been able to continue making credit commitments only by using advance contributions of other nations against their pledged subscriptions.

Appropriations for the Department of Housing and Urban Development-Space-Science-Veterans are contained in chapter V of the bill. For comprehensive planning grants, the committee concurs with the House and recommends an appropriation of $40,645,000. The committee has approved an appropriation of $1,924,000 for the Veterans' Administration to carry out the provisions of the exchange and medical information program authorized by Public Law 92–69, approved August 6, 1971. The committee action provides new obligational authority in lieu of the transfer of funds as recommended by the House.

For the Department of the Interior and related agencies, the committee has provided funds in chapter VI totaling $176,619,000.

For management of lands and resources under the Bureau of Land Management, the sum of $16,400,000 is recommended. The committee has provided $17,658,000 for the Bureau of Indian Affairs; $5 million for the Micronesian claims fund; an additional $34,120,000 for construction under the National Park Service; and $54,946,000 for forest protection and utilization under the Forest Service. For the American Revolution Bicentennial Commission, the committee concurs with the House and recommends an appropriation of $2,400,000 to permit the Commission to make grants to the 50 States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and American Samoa to cover portions of the expenses of Bicentennial Commissions in those jurisdictions in accordance with Public Law 92–236.

The chapter in this bill carrying the largest appropriations is chapter VII, which contains appropriations for the Departments of Labor and Health, Education and Welfare. A total of $1,510,413,000 is recommended in this bill for chapter VII.

The committee has seen fit to approve an appropriation of $247 million for manpower training services. This is an increase of $152 million over the budget estimate and over the amount in the House bill. These funds will provide $223,900,000 for the job component for 9 weeks; $1,200,000 for related transportation necessary for youths to participate in the job programs; and $21,900,000 for the recreational support program.

Mr. JAVITS. Mr. President, does the Senator wish to wait until he has finished his remarks, or will he yield to me now?

Mr. ELLENDER. I yield.

Mr. JAVITS. I have heard with great satisfaction the way in which the Appropriations Committee has dealt with the Neighborhood Youth Corps at a time of such serious unemployment, especially affecting the youth encompassed in the program. This is a really fine result. The committee adopted the figure of the U.S. Conference of Mayors as to what they could use. The only change made as between what the mayors felt was vital and the amount now allowed by the Appropriations Committee, is that the committee chose to provide for a 9-week, instead of a 10-week program.

We certainly could hardly expect the committee to do everything we asked. This will be very helpful to the cities. It is a fine result.

Time and again I have spoken on this floor to increase the amount allowed by the Appropriations Committee. So I felt that when that came so close to doing what is needed at the present time, it is one time we should go with the committee. I feel that way strongly.

I feel that the 26 cosponsors of the proposal presented to the subcommittee would like me to express to the distinguished Senator from Louisiana (Mr. ELLENDER), as chairman, our profound appreciation and our gratitude to the subcommittee headed by the distinguished Senator from Washington (Mr.

Magnuson), for the fine result which is reflected by the report of the committee.

Mr. President, I urge the Members of the Senate to support the recommendation of the Senate Committee on Appropriations, contained in this second supplemental appropriation bill, for $247 million for the Neighborhood Youth Corps summer job and recreational programs. This amount exceeds by $152 million the $95 million requested by the administration and allowed by the House.

This is a very commendable and meaningful response to the request which I made when I appeared before the committee on April 19, 1972, on behalf of myself and 26 other Senators, urging such a supplemental to alleviate the job and recreation crises among poor youth in the Nation's urban and rural poverty areas for the coming summer.

It would provide the following additional amounts:

Supplemental funds of $223.9 million for the job component which provides work experience for poor youths between the ages of 14 and 21. When added to the $175.7 million already available for this purpose, it would fund an aggregate of 947,928 9-week opportunities. The House of Representatives had approved a supplemental of only $82.2 million, the amount requested by the administration, for an aggregate of 609,300 9-week opportunities, the same levels as last year, and 338,628 opportunities short of the number documented to me by the National League of Cities-U.S. Conference of Mayors as the minimum required.

Supplemental funds of $21.9 million for the recreational component, providing activities for hundreds of thousands of poor children between the ages of 6 through 12 also as requested by the National League of Cities. The House had accepted the administration's recommendation for a supplemental of only $12.8 million, again the same amount as last year. No funds are currently available for this purpose.

One million two hundred thousand dollars in supplemental funds for transportation necessary to enable youth to participate in the job and recreational programs. The administration had requested no new funds for this purpose; only $1.7 million is now available, again the same amount as last year.

Mr. President, when I appeared before the Subcommittee on Labor-HEW appropriations, I urged a total supplemental of $291.4 million, or $44.4 million more than the committee has chosen to recommend.

The difference lies in the fact that the committee have chosen to follow the recommendation of the administration and the House that the job component be conducted as a 9-week program, as it was last year, rather than a 10-week program as in each previous year.

We felt very strongly that a 10-week program should be maintained not only to provide activities through a greater portion of the summer, but because of its very real effect on the poor. From the standpoint of the poor, the difference between 10 and 9 weeks is more than academic. Poor youth depend upon the wages derived from the program to contribute to the costs of returning to school, and in many cases to the support of their families, and thus help to reduce welfare dependency.

Mr. President, the committee has chosen to meet the need which we documented in terms of slots—an aggregate of 947,928 opportunities—but as a 9-week opportunity for each individual. Given the total amount of funds it felt it could recommend, it has in effect given us its judgement that it would be better to cover more individuals with a 9-week opportunity than a smaller portion of youth with a 10-week opportunity.

Mr. President, I do not wish to question the committee's judgment on this issue because I feel quite frankly that the committee deserves the deepest credit for its early and substantial response to the overall situation. Rather than impede for 1 minute the approval of this supplemental and its implementation at the local level, I shall stand with the committee and its recommendation, which overall is a very gratifying response to the case which we made.

I know that the members of the committee serving as conferees with the House—which as I noted allowed $152 million below that recommended here—will do everything that they can, as they have in past years, to retain the amount adopted here.

This is the fifth year in which it has been necessary for me to seek supplemental funds for this program, and this is the largest supplemental ever recommended by the committee, or accepted by the committee on the floor; in fact it is $130.4 million above the $116.6 million which the committee supported last year.

It reflects a genuine and meaningful response to the youth unemployment situation as it affects poor youth—particularly minorities—who suffer from rates of unemployment running four to five times the norm for the other elements of our society.

I hope and pray that it will be approved here, accepted by the House of Representatives and signed into law by the President.

Mr. President, I ask unanimous consent that there be printed in the Record at this point, a copy of my testimony of April 19, 1972, and a letter dated April 17 which we sent to Warren G. Magnuson, the chairman of the subcommittee, as well as a letter from the National League of Cities-U.S.-Conference of Mayors dated February 23, 1972, and a chart, prepared by that organization showing on a city-by-city basis the needs which would be filled by this supplemental in each of the components, with the modification that the job component would be run as a nine rather than a 10-week program.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony of Senator Javits

Mr. Chairman, I am appearing on behalf of myself and 26 of my Senate colleagues, to urge that the Subcommittee recommend a supplemental appropriation of $291.4-million, under the Manpower Development and Training Act of 1962 for the Neighborhood Youth Corps summer job program, and for related transportation and recreational activities to meet the needs of poor youths in urban and rural areas, during the coming summer. In this request I am joined by Senators Lloyd Bentsen, Quentin N. Burdick, Robert C. Byrd, Howard W. Cannon, Clifford P. Case, Alan Cranston, Thomas F. Eagleton, J. W. Fulbright, Fred R. Harris, Philip A. Hart, Hubert Humphrey, Henry M. Jackson, Frank E. Moss, Edmund S. Muskie, Bob Packwood, Claiborne Pell, Abraham Ribicoff, Robert Taft, Jr., John Tower, John V. Tunney, Harrison A. Williams, Jr., Robert P. Griffin, George McGovern, Walter Mondale, William B. Saxbe and Richard S. Schweiker, each of whom joined with me in a letter dated April 17, 1972 to the Subcommittee in this regard.

If added to the $175.7-million now available, the supplemental appropriation would bring to $467.1-million the aggregate amount available for the coming summer.

As you know, the Administration has requested an additional supplemental appropriation of $95-million for a total of $270.7-million, the same amount as last year, or $196.4-million below the amount which we request.

The following is an itemization of our request in each of the major components of the program, which is administered by the Department of Labor.

$268.3-million for the Neighborhood Youth Corps job program which provides work experience with public and non-profit private agencies, for poor youth between the ages of 14 to 21, giving them earnings enabling them to complete or to continue their education. Under the program, which begins this June, each youth is employed for 26 hours a week at $1.60 an hour over the period of the program. The amount we request, together with the $175.7-million available, would fund 947,928 ten-week job opportunities; the Administration would apply $82.2-million of its requested supplemental for this purpose, to fund an additional 194,000 nine-week opportunities or an aggregate of 609,300 nine-week opportunities, the same funding and opportunity levels as last year.

$1.2-million for related transportation necessary for poor youth to participate in the job program, the Administration would provide $1.5-million out of existing manpower and transportation funds.

$21.9-million for the recreational support program—providing opportunities to children eight through thirteen years of age; no funds are now available for this program. The Administration has requested a supplemental appropriations of $12.8-million for this component, again the same amount as was made available last year.

Our requests are based in each instance upon what the National League of Cities—U.S. Conference of Mayors, representing most of the Nation's cities, has documented as required for this summer.

I ask unanimous consent that there be included in the record a copy of a letter from the National League—U.S. Conference dated February 23, 1972, together with charts documenting these needs on a city-by-city basis: in the job program they show a need for 410,035 opportunities in the fifty largest cities and 537,893 in other areas.

For example, in New York City there is a documented need for 77,500 slots, compared with the aggregate of 40,541 which could be provided if only the Administration's supplemental request is granted. Seattle, Washington needs 5,000 slots; only 2,682 could be provided under the Administration's request.

The situation in smaller cities is similar. For example, Jersey City, New Jersey needs 2,454 positions compared with the 1,498 which could be provided under the Administration's proposed funding levels.

It should be noted that the National League of Cities' figures represent in each case the number which may be effectively used. Actually, the number of youth who could benefit if funds had been made available earlier is much greater. For example, there are 1.7 million youth who could benefit in the job program—almost twice the aggregate number to be covered if our request is granted.

We submit that the supplemental appropriation of the amounts for the Neighborhood Youth Corps summer program, and related transportation, is essential to meet the very difficult employment situation among poor youth. While the current national unemployment rate is at 5.9 percent, the most recently available statistics shows a jobless rate among teenagers in poverty neighborhoods of 25.7 percent, with the rate among black teenagers in such areas at 34.7 percent.

Experience indicates that even if the overall employment situation improves, as we hope it will, poor youth will still continue to have unemployment ranging from four to five times the norm. There are substantial signs that increases in the number of returning veterans, economic cut-backs, and other factors will aggravate further the youth unemployment situation in the coming summer.

Mr. Chairman, in my opinion there is no domestic problem more shocking than that of youth unemployment—except the drug problem to which it relates all too often.

We cannot afford to continue to dash the employment aspirations of so many at such a crucial age.

Unfortunately, we will not be able to look substantially to other public or private resources to deal with the problem. The Emergency Employment Act of 1971, which will provide approximately 130,000 public sector job opportunities in this fiscal year and a similar number in the coming year will not focus upon the needs of poor youth, according to a preliminary survey taken by the Department of Labor only 14 percent of those now covered are in the age group below 21 years of age. Moreover, despite efforts which we hope will be successful, it is likely that general economic conditions will continue to make it difficult for the private sector to take up the slack through such voluntary job programs as those conducted by the National Alliance of Businessmen. The National Alliance—which has a goal of 175,000 jobs for this summer—was able to provide only 150,000 in each of the last two summers, even during times when economic conditions were generally more favorable. I ask that a copy of a letter from the National Alliance of Businessmen be included also in the hearing record.

We do not consider it advisable to cut the program to nine weeks, as proposed by the Administration. It was reduced to a nine-week program for the first time last summer only as a temporary compromise made in the last hour to make very inadequate funds spread as far as possible. From the standpoint of the poor, the difference between ten and nine weeks is more than academic. Poor youth depend upon the wages derived from the program to contribute to the costs of returning to school and, in many cases to the support of their families.

I urge full and early consideration this year so that public and non-profit sponsors will be able to plan effectively and provide youth with meaningful alternatives to continued frustration and restlessness.

Mr. Chairman, while these sums will not meet the total need they are substantial and they will help enormously. I should point out that they will be returned to some extent in that they will permit many parents now on welfare to engage in employment or training since their children will be occupied during the day. Over the long term they should decrease the possibility that youth participants will fall into welfare dependency themselves or find a way of life grounded in juvenile delinquency, drug addiction or crime, which is of such a high cost to society.

As members know, these programs have been of particular concern to me throughout the years, and I have felt it necessary each year—in the context of the supplemental appropriation bill—to seek more funds.

I am most grateful for the consideration that has been extended by the members of this Subcommittee in past years to this program. While we have disagreed on the amounts or what might be a reasonable figure to fight for in Conference with the House the members have been most solicitous and understanding.

U.S. SENATE,
Washington, D.C., April 17, 1972.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor and Health, Education, and Welfare and Related Agencies, Committee on Appropriations, United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing to request that the Subcommittee recommend a supplemental appropriation of $291.4 million, under the Manpower Development and Training Act of 1962 for the Neighborhood Youth Corps summer job program, and for related transportation and recreational activities to meet the needs of poor youths in urban and rural areas during the coming summer. If added to the $175.7 million now available, the supplemental would bring to $467.1 million the aggregate amount available for the coming summer.

As you know, the Administration has requested an additional supplemental appropriation of $95 million for a total of $270.7 million, the same amount as last year, or $196.4 million below the amount which we request.

The following is an itemization of our request in each of the major components of the program, which is administered by the Department of Labor:

$268.3 million for the Neighborhood Youth Corps job program which provides work experience with public and non-profit private agencies, for poor youth between the ages of 14 to 21, giving them earnings enabling them to complete or to continue their education. This amount, together with the $175.7 million available, would fund 947,928 ten-week job opportunities; the Administration would apply $82.2 million of its requested supplemental for this purpose, to fund an additional 194,600 nine-week opportunities or an aggregate of 609,300 nine-week opportunities, the same funding and opportunity levels as last year.

$1.2 million for related transportation necessary for poor youth to participate in the job program; the Administration would provide $1.5 million out of existing manpower and transportation funds.

$21.9 million for the recreational support program—providing opportunities to children eight through thirteen years of age; no funds are now available for this program. The Administration has requested a supplemental appropriation of $12.8 million for this component, again the same amount as was made available last year.

Our requests are based in each case upon what the National League of Cities—U.S. Conference of Mayors, representing most of the Nation's cities, has documented as required for this summer.

Enclosed is a copy of a letter from the National League—U.S. Conference dated February 23, 1972, together with charts documenting these needs on a city-by-city basis: in the job program they show a need for 410,035 opportunities in the fifty largest cities and 537,893 in other areas.

It should be noted that the National League of Cities' figures represent in each case the number which may be effectively used; actually the number of youth who could benefit if funds had been made available earlier is much greater; for example, there are 1.7 million youth who could benefit in the job program—almost twice the aggregate number to be covered if our request is granted.

We submit that the supplemental appropriation of the amounts for the Neighborhood Youth Corps summer program, and related transportation, is essential to meet the very difficult employment situation among poor youth: while the current national unemployment rate is at 5.9 percent, the most recently available statistics show a jobless rate among teenagers in poverty neighborhoods of 25.7 percent, with the rate among black teenagers in such areas at 34.7 percent.

Experience indicates that even if the overall employment situation improves, as we hope it will, poor youth will continue to have unemployment ranging from four to five times the norm; already there are substantial signs that increases in the number of returning veterans, economic cut-backs, and other factors will aggravate further the youth unemployment situation in the coming summer.

Unfortunately, we will not be able to look substantially to other public or private resources to deal with the problem. The Emergency Employment Act of 1971, which will provide approximately 130,000 public sector job opportunities in this fiscal year and a similar number in the coming year will not focus upon the needs of poor youth; according to a preliminary survey taken by the Department of Labor only 14 percent of those now covered are in the age group below 21 years of age. Moreover, despite efforts which we hope will be successful, it is likely that general economic conditions will continue to make it difficult for the private sector to take up the slack through such voluntary job programs as those conducted by the National Alliance of Businessmen. The National Alliance—which has a goal of 175,000 jobs for this summer—was able to provide only 150,000 in each of the last two summers, even during times when economic conditions were generally more favorable.

We do not consider it advisable to cut the program to nine weeks, as proposed by the Administration. It was reduced to a nine-week program for the first time last summer only as a temporary compromise made in the last hour to make very inadequate funds spread as far as possible. From the standpoint of the poor, the difference between ten and nine weeks is more than academic. Poor Youth depend upon the wages derived from the program to contribute to the costs of returning to school and, in many cases to the support of their families.

Of course, these programs will help to reduce welfare dependency by permitting many parents to engage in employment and training programs while their children participate in these programs.

We appreciate very much the consideration which the Committee has extended to the program in the past, and we urge favorable consideration of these requests so that public and non-profit sponsors will be able to plan effectively and provide youth with meaningful alternatives to continued frustration and restlessness.

Sincerely,

Jacob K. Javits, Lloyd Bentsen, Quentin N. Burdick, Robert C. Byrd, Howard W. Cannon, Clifford P. Case, Alan Cranston, Thomas F. Eagleton, J. W. Fulbright, Fred R. Harris, Philip A. Hart.

Hubert Humphrey, Henry M. Jackson, Frank E. Moss, Edmund S. Muskie, Bob Packwood, Claiborne Pell, Abraham Ribicoff, Robert Taft, Jr., John Tower, John V. Tunney, Harrison A. Williams, Jr., Robert P. Griffin, George McGovern, Walter F. Mondale, William B. Saxbe, Richard S. Schweiker.

NATIONAL LEAGUE OF CITIES,
U.S. CONFERENCE OF MAYORS,
February 23, 1972.

The Hon. JACOB K. JAVITS,
United States Senate,
320 Old Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: In response to your request for information, we have made inquiries as to the cities' 1972 needs for the summer Neighborhood Youth Corps slots. The information we have received from the 50 largest cities shows that the total number of slots these 50 large cities could effectively use this summer is 410,035.

On the basis of our contacts with a sample of smaller cities, we estimate that their needs and the number of slots these smaller cities could effectively utilize to total 537,893.

Combining these figures—the total for the 50 largest cities with estimated needs for the balance of the nation—the present real need for 1972 is 947,928 slots nationwide.

We trust that these statistics will be helpful to you in pointing up the critical need for an enlarged appropriation for the summer Neighborhood Youth Corps.

Sincerely,

JOHN J. GUNTHER,
Executive Director, U.S. Conference of Mayors.

PATRICK HEALY,
Executive Vice President, National League of Cities.

SUMMER NEIGHBORHOOD YOUTH CORPS

	Rank in size	Population	Slots: 1971 need	Slots: 1971 actual[1]	Slots: 1972 need	Dollars, 1972 need
Region I: Boston	16	641,000	3,500	3,300	5,000	2,340,000
Region II:						
Buffalo	28	463,000	4,268	2,367	4,268	1,997,424
Newark	35	382,000	14,563	4,750	14,563	6,815,484
New York	1	7,868,000	77,500	40,541	77,500	36,270,000
Rochester	49	296,000	1,000	1,007	4,650	2,176,200
Region III:						
Baltimore	7	906,000	8,000	6,268	9,420	4,408,560
Norfolk	47	308,000	2,625	1,977	2,625	1,228,500
Philadelphia	4	1,949,000	12,500	6,189	12,500	5,850,000
Pittsburgh	24	520,000	2,500	6,164	9,265	4,336,000
Washington, D.C	9	757,000	36,000	11,689	36,000	16,848,000
Oklahoma City	37	366,000	1,000	1,175	1,530	716,040
San Antonio	15	654,000	5,514	3,608	5,514	2,580,500
Tulsa	43	332,000	850	540	1,011	473,148
Region IV:						
Atlanta	27	497,000	3,408	2,391	3,408	1,594,944
Birmingham	48	301,000	2,086	1,777	2,135	999,180
Dade County, Miami	42	335,000	8,226	4,532	8,226	3,849,800
Jacksonville	23	529,000	(2)	927	1,735	811,980
Louisville	38	361,000	3,500	2,062	3,500	1,638,000
Memphis	17	624,000	2,394	1,598	2,394	1,120,400
Nashville	30	448,000	(2)	1,330	2,000	936,000
Tampa	50	278,000	2,887	4,335	6,515	3,049,020
Region V:						
Chicago	2	3,367,000	40,000	25,695	40,000	18,720,000
Cincinnati	29	452,000	3,000	2,102	3,000	1,404,000
Cleveland	10	751,000	10,000	7,392	11,100	5,194,800
Columbus	21	540,000	2,000	1,184	2,000	936,000
Detroit	5	1,509,000	11,670	13,392	25,000	11,700,000
Indianapolis	11	745,000	2,500	1,217	2,500	1,170,000
Milwaukee	12	717,000	3,000	2,295	3,000	1,404,000
Minneapolis	32	434,000	2,735	1,589	2,735	1,280,000
St. Paul	46	310,000	1,025	787	1,025	479,700
Toledo	34	384,000	990	758	990	463,320
Region VI:						
Dallas	8	944,000	2,280	1,728	2,280	1,067,000
El Paso	45	322,000	1,125	830	3,000	1,404,000
Fort Worth	33	393,000	1,178	805	1,507	705,276
Houston	6	1,233,000	3,000	2,732	3,560	1,666,080
New Orleans	19	593,000	5,000	1,914	5,000	2,340,000
Region VII:						
Kansas City	26	507,000	4,000	2,345	4,000	1,872,000
Omaha	41	347,000	700	1,284	1,670	781,560
St. Louis	18	622,000	1,500	3,932	5,910	2,765,880
Region VIII: Denver	25	515,000	2,100	1,203	2,100	982,800
Region IX:						
Honolulu	44	325,000	2,191	513	2,800	1,310,400
Long Beach	40	358,000	20,000	17,983	25,000	11,700,000
Los Angeles	3	2,813,000				
Oakland	39	362,000	5,785	4,493	5,850	2,737,800
Phoenix	20	582,000	17,000	2,824	17,000	7,956,000
San Diego	14	697,000	2,500	3,136	4,510	2,110,680
San Francisco	13	716,000	5,000	3,107	8,000	3,744,000
San Jose	31	446,000	(1)	1,890	3,535	1,654,380
Region X:						
Portland	36	382,000	5,000	1,697	5,000	2,340,000
Seattle	22	531,000	5,000	2,682	5,000	2,340,000
50 largest total			354,490	220,066	410,035	192,268,856
Balance			287,149	328,304	537,893	251,733,924
Total			641,639	548,370	947,928	444,002,780

[1] All figures shown are for 10 week slots.

[2] Included in top 50 as a result of 1970 census.

SAMPLING OF CITIES OTHER THAN 50 LARGEST

	Slots: 1971 need	Slots: 1971 actual[1]	Slots: 1972 need	Dollars, 1972 need
Akron	612	694	1,137	532,200
Albuquerque	600	745	1,000	468,000
Dayton	620	796	1,500	702,000
Gary	1,380	2,714	4,447	2,081,200
Jersey City	1,275	1,498	2,454	1,148,472
Paterson	1,200	900	1,500	702,000
Total	4,687	7,347	12,038	5,633,872

[1] All figures shown are for 10 week slots.

SUMMER YOUTH TRANSPORTATION PROGRAM

	Rank in size	Population	Dollars: 1971 actuals	Dollars: 1972 needs
Region I: Boston	16	641,000	10,700	20,000
Region II:				
Buffalo	28	463,000	7,500	13,000
Newark	35	382,000	23,437	39,500
New York	1	7,868,000	149,130	251,400
Rochester	49	296,000	7,500	12,000
Region III:				
Baltimore	7	906,000	21,100	35,000
Norfolk	47	308,000	7,500	12,000
Philadelphia	4	1,949,000	34,360	42,000
Pittsburgh	24	520,000	12,650	22,000
Washington, D.C	9	757,000	22,960	38,700
Region IV:				
Atlanta	27	497,000	12,080	30,000
Birmingham	48	301,000	13,790	24,000
Dade County, Miami	42	335,000	12,000	23,000
Jacksonville	23	529,000	6,300	14,000
Louisville	38	361,000	7,500	12,500
Memphis	17	624,000	11,860	18,000
Nashville	30	448,000	7,000	12,000
Tampa	50	278,000	7,500	17,000
Region V:				
Chicago	2	3,367,000	42,240	70,000
Cincinnati	29	425,000	7,920	15,000
Cleveland	10	751,000	19,310	35,000
Columbus	21	540,000	8,640	17,000
Detroit	5	1,509,000	36,560	75,000
Indianapolis	11	745,000	8,480	15,000
Milwaukee	12	717,000	47,280	65,000
Minneapolis	32	434,000	12,380	20,000
St. Paul	46	310,000	7,500	12,500
Toledo	34	384,000	7,990	15,750
Region VI:				
Dallas	8	844,000	19,340	23,990
El Paso	45	322,000	38,900	58,900
Fort Worth	33	393,000	8,130	15,000
Houston	6	1,233,000	16,387	45,000
New Orleans	19	593,000	14,790	25,000
Oklahoma City	37	366,000	14,000	25,000
San Antonio	15	654,000	14,570	26,570
Tulsa	43	332,000	7,500	12,500
Region VII:				
Kansas City	26	507,000	13,970	50,000
Omaha	41	347,000	13,500	15,000
St. Louis	18	622,000	25,790	43,500
Region VIII: Denver	25	515,000	18,320	29,000
Region IX:				
Honolulu	44	325,000	7,500	15,000
Long Beach	40	358,000	7,500	16,000
Los Angeles	3	2,813,000	82,870	82,870
Oakland	39	362,000	15,000	28,000
Phoenix	20	582,000	11,740	23,000
San Diego	14	697,000	14,360	30,000
San Francisco	13	716,000	11,970	25,000
San Jose	31	446,000	7,500	8,160
Region X:				
Portland	36	382,000	8,580	13,000
Seattle	22	531,000	19,060	32,100
50 largest total			954,394	1,608,940
Balance of 1971 participants			464,996	783,967
New cities				357,093
Total			1,419,390	2,750,000

SUMMER RECREATION SUPPORT PROGRAM (RSP)

	Rank in size	Population	Dollars	
			1971 actuals	1972 needs
Region I: Boston	16	641,000	168,000	180,000
Region II:				
Buffalo	28	463,000	96,000	120,000
Newark	35	382,000	77,000	140,000
New York	1	7,868,000	1,836,000	2,934,000
Rochester	49	296,000	53,000	95,000
Region III:				
Baltimore	7	906,000	276,000	335,000
Norfolk	47	308,000	132,000	180,000
Memphis	17	624,000	264,000	305,000
Nashville	30	448,000	72,000	150,000
Tampa	50	278,000	132,000	175,000
Region IV:				
Atlanta	27	497,000	143,000	180,000
Birmingham	48	301,000	120,000	170,000
Dade County, Miami	42	335,000	126,000	192,000
Jacksonville	23	529,000	84,000	175,000
Louisville	38	361,000	96,000	130,000
Region V:				
Chicago	2	3,367,000	649,000	2,100,000
Cincinnati	29	452,000	120,000	175,000
Cleveland	10	751,000	163,000	205,000
Columbus	21	540,000	132,000	211,000
Detroit	5	1,509,000	360,000	897,000
Indianapolis	11	745,000	130,000	195,000
Milwaukee	12	717,000	108,000	155,000
Minneapolis	32	434,000	60,000	96,000
St. Paul	46	310,000	36,000	58,000
Toledo	34	384,000	84,000	120,000
Region VI:				
Dallas	8	844,000	228,000	285,000
El Paso	45	322,000	144,000	200,000
Fort Worth	33	393,000	108,000	173,000
Houston	6	1,233,000	350,000	440.000
New Orleans	19	593,000	252,000	300,000
Oklahoma City	37	366,000	108,000	170,000
San Antonio	15	654,000	324,000	400,000
Tulsa	43	332,000	72,000	115,000
Philadelphia	4	1,949,000	528,000	700,000
Pittsburgh	24	520,000	168,000	165,000
Washington, D.C	9	757,000	228,000	364,000
Region VII:				
Kansas City	26	507,000	108,000	130,000
Omaha	41	347,000	48.000	96,000
St. Louis	18	622,000	240,000	384,000
Region VIII: Denver	25	515,000	120,000	170,000
Region IX:				
Honolulu	44	325,000	60,000	99,000
Long Beach	40	358,000	72,000	125,000
Los Angeles	3	2,813,000	552,000	650,000
Oakland	39	362,000	84,000	125,000
Phoenix	20	582,000	144,000	200,000
San Diego	14	697,000	144,000	200,000
San Francisco	13	716,000	180,000	250,000
San Jose	31	446,000	85,000	100,000
Region X:				
Portland	36	382,000	84,000	135,000
Seattle	22	531,000	84,000	129,000
50 largest total			9,966,000	15,928,000
Balance			2,834,000	4,530,000
New cities				1,500,000
Total			12,800,000	21,958,000

Mr. JAVITS. In this connection, I wish to call to the attention of my colleagues, an extremely urgent problem with a great potential for disaster. I refer to the emergence of the so-called "youth gangs." Although presently concentrated in New York, Philadelphia, Los Angeles, and Chicago, the youth gang phenomenon continues to grow. In my own city of New York it is estimated that 150 gangs exist in the South Bronx, Brooklyn, and the Upper West Side alone. The gangs profess an interest in fighting heroin addiction, yet tensions among gangs remain high and there have been periodic outbreaks of violence. Gang related deaths number 15 this year in the Bronx alone; many gang members are heavily armed. The ages of their members run between 10 to 25, thus many would be eligible for the Neighborhood Youth Corp job and recreational components. Many are unskilled dropouts.

Mr. President, this situation deserves attention. These young people should be channeled into constructive activities. There is an urgent need, as a general matter, to develop constructive, well-supervised programs to meet this problem, and I shall make every effort to that end. But I hope that for the present, the Secretary of Labor will use many of these Neighborhood Youth Corp positions with the alleviation of the youth gang problem in mind.

Many of the gang members have high goals, such as neighborhood improvement. In East Los Angeles, for example, nine gangs have united to combat drug abuse and inequities in education. In Chicago with the help of Federal funds, a youth gang now operates a chain of stores.

President Nixon stated in his 1970 speech at the University of Nebraska that:

> Nothing matters more to the future of the Nation than ensuring that our young men and women learn to believe in themselves and believe in their dreams.

It is time that we begin to make that statement a reality for all of our young people.

Mr. President, I ask unanimous consent that an article in the April 3, 1972, edition of Time magazine as well as a news story in the April 16, 1972, edition of the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW YORK SOUTHEAST SIDE STORY

West Side Story, the 1957 Broadway musical about two warring teenage gangs, ends in a hopeful hymn to togetherness: "We'll find a new way of forgiving, somewhere." In the years following, that magical somewhere became in reality a sad nowhere of hard drugs and forgotten loyalties. Now, however, the gangs are back on the streets with a vengeance born of a decade of upheaval. The battleground is no longer Manhattan's West Side but the Southeast Bronx, a predominantly Puerto Rican ghetto where more than 70 "cliques" or "organizations" have formed in the past year. The members—mostly dropouts, reformed junkies, displaced Viet Nam veterans—are older, angrier, better armed and more socially aware. Their avowed enemy is not a rival gang but society. "In essence," says Benjamin Ward, deputy police commissioner for community affairs, "what the kids are saying is: 'Dammit, you've failed us. And if you're not responsible, who the hell is?' "

The conditions that produced the rumbles of the 1950s have, if anything, worsened. The population density of the Southeast Bronx—500,000 people crammed into 5 sq. mi.—is among the nation's highest. Housing, health care, employment and education are woefully substandard. Fifty percent of the children under six have never been immunized against polio. Forty percent of the area's families are on welfare. More than 10% of residents between 15 and 44 are heroin addicts. Says one of Mayor John Lindsay's minority specialists: "The Puerto Rican experience in New York has been a total disaster."

In the Southeast Bronx, the unrest has spawned gangs with such sinister-sounding names as the Savage Skulls, Young Sinners, Savage Nomads, Mongols and Reapers. Each clique has from 20 to 50 members ruled by a president, vice president and warlord. Their "colors," elaborate coats-of-arms stitched to the backs of their denim jackets, depict bloody skeletons, and skulls, fire and lightning. Their arsenals include not only clubs, chains, knives and zip guns but also Molotov cocktails, rifles, shotguns and, say youth workers, hand grenades and machine guns.

Although centered in the Southeast Bronx, the gang subculture exists in Brooklyn, Queens and even Chinatown: pitched battles between immigrant Taiwanese and U.S.-born Chinese youths recently resulted in two homicides. In Castle Hill, a lower middle-class neighborhood in the East Bronx, teachers at Adlai Stevenson High School say that a gang of black girls called the Black Persuaders is one reason for a rash of student transfers. The Persuaders' initiation rite requires the new member to beat up a white girl.

ROOFTOP RIFLES

Frank Gracia, head of a drug-rehabilitation program in the Southeast Bronx, became aware of the gangs six months ago. He told Time Correspondent Leonard Levitt: "We had this street fair, selling sausages for a dime, sodas for a nickel. Well, these kids got in an argument with one of our people, broke his arm and all his fingers. Then they sent their girls over to tell us they wanted to fight us. Now, hell, I've been around. I was in gangs in the '50s. I was a junkie for 15 years before I kicked the habit. So we went over there with bats and clubs. But Jesus Christ, these kids were armed. They had 17 rifles staring down from the rooftops. They're organized. It's a whole new thing."

Gracia says that he eventually achieved an armistice with the gangs because he shared their abhorrence of drugs. "What you got to understand," he explains, "is that these kids now have like a holy war against the pushers. And the reason they hate cops is that the cops are always busting them, never the pushers." That frustration, he claims, caused the rape and murder of an alleged woman pusher three months ago. "The week before," says Gracia, "some of her junkies had stabbed some of the Immortals. The kids went to the 41st Precinct and told the cops: 'You've got 72 hours to get them junkies out of there or we will.' When no arrests were made, they did it themselves."

The police later charged nine gang members with the murder; it is one of nine homicides for which gang members have been arrested in the past year. "The danger," says Ward, "is that there is a fundamental difference between the rhetoric of the leadership and the action of the periphery. The ten to 15 hard-core members in each group just can't control their own people."

That was tragically true of Black Benjie, 25, an ex-junkie respected as a peacemaker between black and Puerto Rican gangs. A member of the Ghetto Brothers, he tried to ward off a rumble four months ago, and was stabbed to death by members of the Immortals and Spades. The next day, through the intercession of the Javelins and Peacemakers, Ghetto Brother President Charlie Melendez met with the Immortals and Spades. After hearing their apology for the "misunderstanding," he decided against a war of revenge. In an extraordinary summit meeting of most of the gangs in the Southeast Bronx, the peace treaty was extended to include the entire "family."

Though a tenuous peace within the family still prevails, the gangs have become increasingly aggressive in their demands for change. Says Ted Gross, head of the city's youth services agency: "The thing is, you could b.s. the gangs of the '50s. Take 'em to a movie, give 'em a basketball, put 'em on a bus for the beach. But these kids today are not the 13- to 18-year-old punks of 15 years ago. They've been around. Now they're in their mid-20s and some even in their 30s. You tell me, how do you b.s. a guy who's been to Viet Nam? If nothing is done to help them, they will become more and more of a police problem. The tragedy is that they are out there virtually crying for help, pleading for someone to listen to them."

SELF-RESPECT

The most encouraging aspect of the gangs is that they are largely drug-free. City Council President Sanford Garelik, among others, feels that their all-out war on drugs may help diminish one of the ghetto's most insidious problems. The Ghetto Brothers, for instance, have developed a reputation as a drug rehabilitation group.

A gang member named Sly, 22, a tall black who lost a college basketball scholarship because of his habit, put it this way: "I was arrested three times for robbery and larceny. Drugs were ruining my life. But then the Brothers got hold of me and wouldn't let me out of their sight. You get a guy on the Jones (drug withdrawal) and that's what you have to do. They watched TV with me, drank wine with me, took me downtown with them, out to eat. They laugh with you, fight with you, but they won't leave you. I've been here six months now and I'd die for these guys. They gave me back my self-respect."

Such feeling among some gang members is genuine, but the conditions that have produced it make the gangs a new kind of menace. Says YSA Commissioner Gross: "The prospects for the coming summer are frightening."

Violence By Youth Gangs Is Found Rising In Three Cities

(By Donald Janson)

Philadelphia, April 15.—A group of black teenagers asked a 15-year-old white boy for a dime on a street on the southwest side here, then stabbed him to death when they didn't get it.

When a 52-year-old white veteran of the Battle of Iwo Jima went to south central Los Angeles to take food to a destitute black friend, a street gang of 15 to 20 black youths waylaid him and beat him to death without provocation.

At New York's newest high school in the Bronx, half of the lavatories are kept locked so security guards can better cope with the rash of assaults and robberies aimed largely at white students by black and Puerto Rican gangs.

In an apparent resurgence of street gang activity, violence by young men from the pre-teens to the early thirties is once again a big problem in some major United States cities.

A nationwide check of 12 cities indicates that the violence is concentrated in the country's four largest cities—New York, Chicago, Los Angeles and Philadelphia. Why the activity is intense now, after a decade of comparative calm, is unclear.

For more than a decade after the rumbles of the nineteen-fifties, the drug scene replaced gang wars as a focal attraction for idle youths in the slums and racially tense neighborhoods of many cities.

Heroin has decreased gang activity in Chicago, the street-gang capital, though 700 gangs retain their identity there, and violent deaths, beating, robberies and shakedowns continue.

"More brothers gettin' killed," said a former "gang-banger," as warring gang members are known on Chicago's black West Side, "because there are more guns. But gang-bangin' itself is dying off. Now, too many brothers are too busy noddin' on the junk."

The slackening in Chicago is allowing the three other major cities to catch up. New York and Los Angeles are experiencing a strong resurgence in street violence. Philadelphia, with 160 killings attributed to street gangs in the last four years, never lost this virulent form of lawlessness in slum neighborhoods.

Differences in pattern from the early rumbles are marked. Gangs still war on each other, but more often now their victims are not members of gangs, often they are passersby chosen at random on the spur of the moment.

RACE SOMETIMES A FACTOR

Often race appears to be a factor in selecting victims. And fatalities are more numerous now because "Saturday night specials," the cheap small-caliber handguns that have become readily available to all, have largely replaced homemade zip guns.

The most aggressive gangs have brazenly widened their "turf" by invading school corridors and even neighborhood homes.

Edward Muir of the United Federation of Teachers in New York said:

"The tragic element that distinguishes this from earlier gang activity is the proliferation of handguns among teen-agers. The 'Saturday night special' has hit the high schools."

Not all of today's gangs are prone to violence. Many work for community betterment and seek to rid their neighborhoods of drug abuse.

Youth workers believe that teen-agers join gangs for self-protection and for a sense of belonging to something, a consequence of a lack of home life and jobs in the slums.

Some gang members condone and even participate in violence out of outrage at a "system" they feel has sentenced them to deprivation.

"Each and everyone of us here hates where we live," said a young member of a Bronx gang during a discussion of gang problems held recently by a community group in New York. "We want out."

"They feel we aren't people, you know," a member of the Black Spades said of the authorities.

"HELP A BROTHER"

In Chicago, a Black Disciple put it this way:

"Gangs give folks something to be proud of. My parents couldn't afford to put me in the Boy Scouts. So me and the rest of our guys started getting together. Our main function is to help a brother. It's a thing where guys care about each other."

So they wear the "colors" of the Flaming Skulls, the Golden Guineas and scores of other big and little gangs. Some form federations of gangs such as the Zulu Nation in Philadelphia. Others remain small, even block size. Most are racially segregated—all black, all Puerto Rican all of Mexican derivation, or all white.

The Crips, a gang growing, prescribes black gloves for the left hand and gold earrings for the left earlobe and favors a walking stick.

One explanation for the name and the canes is that founders at Washington High School were crippled at the time and used walking sticks.

The Crips and other packs of youths such as those who murdered the Iwo Jima marine veteran, N. J. Orr, have been sweeping through south central Los Angeles and Watts, beating, robbing, raping and occasionally killing, sometimes entering homes to do so.

The terror has instilled widespread fear. William F., a typical retired pensioner, will not leave his apartment after dusk. The mother of a 15-year-old girl who was raped by gang members decided that her daughter would not press charges after two weeks of late-night phone calls threatened fire-bombing and window smashing if she did.

350 STUDENTS STAY HOME

Attacks on children going to and from school have become a major problem in each of the gang-ridden cities. Parents have kept 350 students home from Stevenson High School in the Bronx since last September. Others have been transferred to private and parochial schools.

In some New York schools, pupils are afraid to go to the toilet for fear of assault or robbery. Some principals have advised teachers not to remain in their classrooms alone.

In Philadelphia, where street gangs contributed to a 34 per cent increase in major crimes last year, Superintendent of Schools Matthew W. Costanzo proposed a $500,000 program to hire nonuniformed guards to line "safety corridors" to and from schools in gang-infested neighborhoods.

The proposal followed an experiment at Bartlett Junior High School on the south side in which the principal, vice principals and nonteaching staff members acted as guards at opening and closing hours after attendance had dropped to 70 per cent of enrollment.

The principal, Anthony Gian Petro, said that previous patrolling inside the building had been unsatisfactory because children got beaten up outside, and patrolling immediately outside helped only until the children got across the street.

SAFETY PLAN QUASHED

But the safety corridor plan was quashed when Mayor Frank L. Rizzo said that any patrolling should be a police function. He announced a police crackdown on street gangs, but it has yet to stem the violence.

In mid-February, the day after the son of the late actor Ed Begley was beaten, stomped and stabbed by a gang of 25 black youths in Los Angeles in the third such incident of the afternoon, the Los Angeles City Council also ordered a police crackdown.

Billy G. Mills, council president pro tem, said that the increase in murders, robberies and assaults had imposed a "crisis of intimidation and fear" on parts of Los Angeles "by roving groups of young people ranging in age from 10 to 30."

The age range is the same in the other cities. Gang member in each of the four cities ranges from 4,000 to 6,000.

After six months of research by a special force on gangs, Mayor Lindsay of New York announced allocation of $1-million to the city's youth service agency for programs to deal with the resurgence in gangs and gang violence.

The programs will include job training and placement, recreation and remedial education.

"Our goal is not only to break up those gangs already in existence," the Mayor said, "but also to prevent the formation of new ones."

The Chicago police department, which once pursued a hard line, now talks less about breaking up gangs and more about "working with youth organizations and gangs."

Its gang intelligence unit, which once used infiltration, massive raids on living quarters and hundreds of arrests on misdemeanor charges to harass the Black P. Stone Nation (formerly Blackstone Rangers) and other gangs, has been reduced to 60 policemen compared to 220 three years ago.

CHICAGO VIOLENCE REDUCED

The softer line, the incapacitating inroads made by heroin and community patrols formed by black adults have all had an effect in reducing gang violence in Chicago.

So have programs that give gangs something productive to do. Chicago's Conservative Vice Lords, for example, now operate a chain of shops with Federal funds and a gift from W. Clement Stone, an insurance executive and leading financial backer of President Nixon in his political campaigns.

In the draft of a report, soon to be completed, on hearings in Philadelphia last year, the United States Commission on Civil Rights criticized some police methods of dealing with street gangs, for example taking members singly to the "turf" of a rival gang and leaving them there to return home as best they can.

The commission attributed at least one death to this practice, which, it said, appeared to be "designed to exploit the danger of the situation at the expense of the young people rather than to expedite corrective measures."

Not all of the new and continuing gangs are prone to violence. Even most of those that are quick to fight bar hard drugs for members, although a few have become dealers in drugs.

Many gangs have neighborhood improvement goals, such as forceful eviction of pushers, cleanup of streets and back lots, registration of voters and even peace among gangs.

Umoja, a West Philadelphia organization, arranged peace talks in February among several gangs, stressing the senselessness of blacks killing blacks in gang warfare.

Nine East Los Angeles gangs formed the federation of Barrios Unidos to try to end rumbles and turn youthful energies instead toward combating drug abuse, police "harassment" and inequities in education.

UNITED YOUTH FEDERATION

To seek a truce in their sporadic warfare with whites and blacks, a Puerto Rican gang in Milwaukee had pins made saying "United Youth Federation." The pins showed three clenched fists, one black, one brown and one white.

But even the peacemakers walk a tight rope in attempts to bring communication into today's street gang subculture. Sometimes the difficulty is that gang presidents, vice presidents and war lords cannot always control hotheads or gun-loving marginal members.

Robert Benjamin Cornell, 25-year-old vice president of the Ghetto Brothers in the Bronx, was beaten and stabbed to death by members of the Seven Immortals and the Black Spades in December when he sought to negotiate peace among several warring gangs.

In January, Eduardo Vicenty of New York's youth services agency was shot in the head while trying to stop a gang fight. He had helped to get endorsements from scores of gangs for a Family Peace Treaty binding them to negotiate before settling disputes by force.

Last month Anthony Rennies, teen-age member of the Black Assassins in New York, was shot to death while seeking a truce with the Shades of Black.

But while rundown neighborhoods in the largest cities tremble before the depredations of street gangs, smaller cities have had little recurrence of the problem. Some authorities "credit" drugs for this.

"Guys are so busy hustling to get drugs for themselves, or to steal to buy them, that they don't have time to organize gangs," said Al Turner, project manager of the Miami Model Cities Development. "The drug problem has ruled out street gangs here."

In Detroit, where the biggest youth problem also is narcotics, the police department's gang unit changed its name and now handles other matters.

Mr. ELLENDER. I thank the Senator.

Now, Mr. President, when these funds are added to appropriations already available, 947,928 9-week job opportunities will be provided for economically disadvantaged youth, ages 14 to 21, in urban and rural areas, and recreational activities to children 6 through 12 years of age.

The committee has included $40 million for the National Cancer Institute, which was submitted in a supplemental estimate to the Senate after the bill had been reported to the House. These funds are required to meet the critical and immediate need to train additional cancer scientists and to provide more and better facilities for cancer research.

For higher education, the committee recommends an appropriation of $300,400,000 to provide additional financial assistance for students hoping to begin a college education this fall. The complete justification for this recommendation is contained on pages 37 and 38 of the committee report.

For the economic opportunity program under the Office of Economic Opportunity, the committee has provided $30 million to carry out the emergency food and medical services program.

Mr. President, at this point I ask unanimous consent that a brief statement by Senator Magnuson, chairman of the Labor-HEW Subcommittee be printed in the Record at the conclusion of my remarks. The statement outlines in more detail the Senate action on chapter VII than is contained in my brief remarks.

The PRESIDING OFFICER (Mr. Buckley). Without objection, it is so ordered.

(See exhibit 1.)

Mr. ELLENDER. Mr. President, under the legislative chapter, the committee has provided an appropriation of $650,000 for the Joint Committee on Inaugural Ceremonies of 1973. These funds are to be used for the construction of a platform and seating stands and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President on January 20, 1973.

In chapter IX of the bill, the sum of $500,000, including $180,000 to be derived by transfer, has been recommended for the Southwestern Power Administration.

Chapter X contains recommendations for appropriations for the Departments of State and Justice and for certain related agencies.

The committee has provided a total of $94,244,279 under this chapter, which is an increase of $3,908,169 over the House bill. This sum is to be used for contributions to international organizations.

The first item under chapter XI, Department of Transportation, relates to the Coast Guard. The committee recommends the sum of $540,000 for operating expenses, including $140,000 for initiation of the Federal Boat Safety Act and $400,000 to recommission two vessels for augmenting the fishery patrols—one for the Atlantic and one for the Pacific fishing areas. These vessels are to be recommissioned as rapidly as possible by the Coast Guard to meet the urgent need which exists for these increased patrols, which will offer means to effectively reduce harassment and loss of income and livelihood for our fishermen.

For the Federal payment to the airport and airway trust fund under the Federal Aviation Administration, the committee recommendation is $66,138,000, the amount of the budget estimate and the House allowance.

For the Federal Railroad Administration, the committee recommends an appropriation of $270 million for Amtrak for the balance of fiscal year 1972 and all of fiscal year 1973. This is $100 million more than the amount requested for this period. Several members of the committee felt very strongly that this additional $100 million should be provided, and their view prevailed in the committee.

The last regular governmental chapter in the bill, chapter XII, relates to the Department of the Treasury, Postal Service, and General Government.

The committee has concurred with the House in recommending an appropriation of $109,700,000 for the payment to the civil service retirement and disability fund. The committee recommendations provide an appropriation of $1,400,000 for the Commission on Government Procurement; $8,756,000 for construction, public buildings projects; and $399,400 for salaries and expenses of the U.S. tax court.

In chapter XIII of the bill, the committee has provided $5,508,032, the amount of the budget estimate contained in Senate Document No. 92–71, for claims and judgments rendered against the United States.

Mr. President, as I mentioned earlier, there is a 90-page report on the desk of each Member. I have attempted to highlight the major items in the bill, but I would be glad—together with the chairmen of the regular subcommittees—to answer any questions with respect to this bill.

Exhibit 1

Statement of Senator Warren G. Magnuson on H.R. 14582 Second Supplemental

Mr. Magnuson. Mr. President, I shall make only a few brief remarks. Chapter VII of the bill now before the Senate covers the supplemental requests for programs at the Departments of Labor, Health Education, and Welfare and related agencies. The sum recommended in Chapter VII as reported to the Senate is $1,510,413,000. This is $448,812,000 over the budget estimate and $531,512,000 over the House allowance.

In my judgment, Chapter VII includes

adequate funds to meet necessary expenses of the several Departments and Agencies.

The largest single item in this chapter relates to "Grants to States for Public Assistance." The Committee recommended the full amount of $803,441,000 for grants to States which was developed from data accumulated from the States in November, 1971. This is a mandatory spending item wherein the law provides that the Federal Government shall match State expenditures for public assistance.

The Committee is also concerned by the high rate of discrepancies in this program which was recently reported by the Department. The problem most likely stems from the fact that the Department currently has 1152 employees engaged in Federal management of the Public Assistance programs which involve an estimated $13.4 *billions* of dollars for FY 1973 and the efforts of 195,000 State and local employees. Therefore, the Committee has included in this bill the $2,850,000 and 427 positions requested by the Department to enable the Social and Rehabilitation Service to take fast and effective actions to correct these discrepancies. The Social and Rehabilitation Service claims that the positions and its management initiatives will save over $400 million in Federal funds during fiscal year 1973. These savings will be accomplished we are told without the curtailment of benefits and useful services to those persons eligible for those benefits and services.

The Committee also provided $30 million for the Office of Economic Opportunity to carry out the Emergency Food and Medical Services program. This amount, together with the enacted appropriation of $3,500,000, will restore the program to nearly 70 percent of the 1971 program.

These funds will provide the necessary outreach, transportation, and related services that are essential to insure full participation of the poor in the food stamp and food commodity programs of the Department of Agriculture.

The Committee has also included $247 million, an increase of $152 million over the budget estimate and House allowance for a much expanded and much needed Neighborhood Youth Corps program.

The bill also includes $9 million to restore the Follow Through program to the 1971 level. This will prevent the termination of 26 ongoing projects and restore services to over 8300 students.

The Committee has also included $300.4 million for higher education student assistance, an increase of $257.7 million over the budget request. The Senate bill will provide for college work-study grants to 173,000 additional students, educational opportunity grants to 217,000 additional students and NDEA loans to an additional 129,000 students. The Committee has included $5.8 million in the bill for special educational programs for veterans. Only about one-fifth of over 5 million eligible veterans are currently enrolled under provisions of the GI bill; and only a small number of these are from low-income backgrounds. These funds are intended to reach out to returning veterans, especially those who lack a high school diploma, and help them get on the right track—and get the kind of education that will enable them to lead more productive lives.

Other significant items include the full budget request of $5,610,000 to enable the Public Health Service hospitals to operate at the 1971 level and the full request of $40,000,000 for construction of cancer research centers and training of cancer research scientists.

A number of other mandatory items were included in the bill including special language which will permit the expenditure of $21 million of previously appropriated funds for "impacted areas."

Mr. President, the Committee believes these recommendations are sound and they are reasonable.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, after line 12, insert:

CROPLAND CONSERVATION PROGRAM

For necessary expenses to carry into effect the land use adjustment program authorized in section 16(e) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590p(e)), $10,000,000 to remain available until expended.

At the top of page 3, insert:

Environmental Protection National Commission on Materials Policy

For an additional amount of "Salaries and expenses", for the National Commission on Materials Policy, $100,000.

On page 3, line 23, strike out "$154,312,000" and insert "$144,312,000".

On page 4, line 14, strike out "$2,602,000" and insert "$2,233,000".

On page 5, line 3, after the word "expended", strike out "$69,955,000" and insert "$68,000,000; and, in line 4, after the word "That", strike out "$6,500,000" and insert "$4,545,000".

FUNDS APPROPRIATED TO THE PRESIDENT

International Financial Institutions

SUBSCRIPTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment by the Secretary of the Treasury toward the third replenishment of the resources of the International Development Association, $320,000,000, to remain available until expended.

On page 6, line 21, after the word "purposes", insert "and shall remain available until June 30, 1973,".

On page 7, line 5, after "$1,924,000", strike out the comma and "to be derived by transfer from the appropriation for "Medical care", fiscal year 1972".

On page 7, after line 13, insert:

Construction and Maintenance

For an additional amount for "Construction and maintenance", $200,000 to remain available until expended.

On page 7, line 20, strike out "$4,000,000" and insert "$4,308,000".

On page 8, line 17, after "$12,500,000", insert a colon and "*Provided*, That there shall be advanced to each regional association the sum of $1,000,000 in fiscal year 1972 which shall be used solely for organization of the regional corporations and village corporations within each region and to identify land for such corporations pursuant to the Act of December 18, 1971; that such advance shall be credited against the first moneys due to such corporations under this Act and shall first be used to repay any loans advanced to such corporations by any financial organization after December 14, 1971; and that no funds may be advanced by any regional association to any village corporation unless the village for which such corporation was organized is determined by the Bureau of the Census to have had twenty-five or more Native residents living within such village according to the 1970 census."

On page 9, after line 12, insert:

Bureau of Mines

HELIUM FUND

The Secretary is authorized to borrow from the Treasury for payment to the helium production fund pursuant to section 12(a) of the Helium Act to carry out the provisions of the Act and contractual obligations thereunder, including helium purchases, to remain available without fiscal year limitation, $45,300,000, in addition to amounts heretofore authorized to be borrowed. (50 U.S.C. 167; 74 Stat. 918)

On page 10, after line 15, insert:

CONSTRUCTION AND LAND ACQUISITION

For an additional amount for "Construction and land acquisition", $170,000, to remain available until expended.

On page 11, line 7, after "(Public Law 92–203)", strike out "$300,000" and insert "$125,000".

On page 11, line 21, after the word "services", strike out "$95,000,000" and insert "$247,000, to remain available until September 30, 1972".

On page 12, after line 17, insert:

MATERIAL AND CHILD HEALTH

For an additional amount for "Maternal and Child Health", $112,000.

On page 13, after line 2, insert:

National Institutes of Health

NATIONAL CANCER INSTITUTE

For an additional amount for the "National Cancer Institute," $40,000,000, to remain available through June 30, 1973.

On page 13, after line 7, insert:

Office of Education

ELEMENTARY AND SECONDARY EDUCATION

For an additional amount for "Elementary and Secondary Education," $9,000,000, to carry out section 222(a)(2) of the Economic Opportunity Act of 1964 as amended.

On page 13, after line 12, insert:

HIGHER EDUCATION

For an additional amount for "Higher Education," $300,400,000, including $130,200,000 for educational opportunity grants, $75,400,000 for college work-study programs, and $89,000,000 for student loans under the National Defense Education Act: *Provided*, That the funds appropriated herein shall remain available until June 30, 1973.

On page 14, after line 8, insert:

Office of Economic Opportunity

Economic Opportunity Program

For an additional amount for the "Economic Opportunity Program", $30,000,000 to carry out a program of emergency food and medical services, as authorized by section 222(a)(2) of the Economic Opportunity Act of 1964, as amended: *Provided*, That funds appropriated herein shall remain available until September 30, 1972.

On page 14, after line 21, insert:

General Provision

The first proviso to the appropriation made by Public Law 92–48 under the heading "School Assistance in Federally Affected Areas" is amended by striking out "73 per centum" and inserting in lieu thereof "78 per centum."

On page 15, after line 10, insert:

JOINT ITEMS

CONTINGENT EXPENSES OF THE SENATE

JOINT COMMITTEE ON INAUGURAL CEREMONIES OF 1973

For construction of platform and seating stands and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 1973, in accordance with such program as may be adopted by the joint committee authorized by concurrent resolution of the Senate and House of Representatives, $650,000, to remain available through June 30, 1973.

At the top of page 16, insert a new chapter, as follows:

CHAPTER IX

PUBLIC WORKS

DEPARTMENT OF THE INTERIOR

SOUTHWESTERN POWER ADMINISTRATION

OPERATION AND MAINTENANCE

For an additional amount for "Operation and Maintenance", $500,000, of which $180,000 shall be derived by transfer from the appropriation for "Construction," Southwestern Power Administration.

On page 16, line 10, change the chapter number from "IX" to "X".

On page 16, line 23, after the word "organizations", strike out "$9,308,360" and insert "$13,216,529".

On page 19, line 16, change the chapter number from "X" to "XI".

On page 19, line 21, strike out "$140,000" and insert "$540,000".

On page 20, line 4, after "(Public Law 92–75)", strike out "$1,000,000" and insert "$3,000,000".

On page 20, after line 16, insert:

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, as authorized by section 601 of the Rail Passenger Service Act of 1970, as amended, $270,000,000 to remain available until expended: *Provided*, That this appropriation shall be available only upon the enactment into law of authorizing legislation by the Ninety-second Congress.

On page 21, line 4, change the chapter number from "XI" to "XII".

On page 22, line 18, after the word "projects", strike out "$45,958,000" and insert "$8,756,000"; on page 23, line 1, after "$7,151,000", strike out "Courthouse and Federal office building (superstructure), Philadelphia, Pennsylvania, in addition to the sum heretofore appropriated, $14,360,000; Federal Bureau of Investigation building (superstructure), District of Columbia, in addition to the sum heretofore appropriated, $22,842,000;"; and, in line 8, after $1,605,000:", insert "Provided further, That the appropriation for the Federal office building (superstructure), Chicago, Illinois, shall be available only upon the approval of the revised prospectus by the Committees on Public Works of the Congress:".

On page 23, line 18, after the word "projects", strike out "$2,297,000" and insert "$755,000".

At the top of page 24, insert a new chapter, as follows:

CHAPTER XIII

CLAIMS AND JUDGMENTS

For payment of claims settled and determined by departments and agencies in accord with law and judgments rendered against the United States by the United States Court of Claims and United States district courts, as set forth in Senate Document Numbered 71, Ninety-second Congress, $5,508,032, together with such amounts as may be necessary to pay interest (as and when specified in such judgments or provided by law) and such additional sums due to increases in rates of exchange as may be necessary to pay claims in foreign currency: *Provided*, That no judgment herein appropriated for shall be paid until it shall become final and conclusive against the United States by failure of the parties to appeal or otherwise: *Provided further*, That unless otherwise specifically required by law or by judgment, payment of interest wherever appropriated for herein shall not continue for more than thirty days after the date of approval of the Act.

On page 25, after line 1, insert:

SENATE

"Salaries, officers and employees", $1,207,865;

"Office of the Legislative Counsel of the Senate", $6,465;

Contingent expenses of the Senate:

"Senate policy committees", $15,170;

"Inquiries and investigations", $268,950, including $7,345 for the Committee on Appropriations;

"Folding documents", $1,580;

"Miscellaneous items", $1,250;

On page 27, after line 5, insert:

"Senate garage", $2,600;

On page 34, line 5, after the word "Army", strike out "$736,738,000" and insert "$696,738,000".

On page 34, line 7, after the word "Navy", strike out "$464,740,000" and insert "$471,740,000".

On page 34, after the word "Army", strike out "$23,792,000" and insert "$17,792,000".

On page 34, line 15, after the word "Army", strike out "$79,431,000" and insert "$49,431,000".

On page 34, line 19, after the word "Army", strike out "$41,276,000" and insert "$61,776,000".

On page 34, after line 22, insert:

"Operation and maintenance, Marine Corps", $4,549,000;

On page 35, line 5, strike out "$2,106,000" and insert "$10,106,000".

On page 48, line 15, after the word "expenses", strike out the colon and "*Provided*, That none of the funds made available for administrative or nonadministrative expenses of the Federal Home Loan Bank Board by this Act shall be used to finance the relocation of all or any part of the Federal Home Loan Bank from Greensboro, North Carolina, nor for the supervision, direction or operation of any district bank for the fourth district other than at such location".

Mr. ELLENDER. Mr. President, I ask unanimous consent that a technical correction be made, as follows:

On page 14, line 14, strike out the numeral "2" and insert in lieu thereof "5."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YOUNG. Mr. President, I commend the distinguished Senator from Louisiana (Mr. ELLENDER), the chairman of the Appropriations Committee, for a very good explanation with reference to this supplemental appropriations bill.

The bill covers the salary increase costs of other programs. It is rather liberal with respect to welfare and related programs. However, we will probably work some of that out in conference with the House. I believe it is a bill that all the Members of the Senate can support. Most of the money in this bill is needed.

THIRD IDA REPLENISHMENT

Mr. JAVITS. Mr. President, I would like to commend the Appropriations Committee, and specifically the Foreign Operations Subcommittee under the leadership of Senators PROXMIRE and FONG, for its strong stand in support of the administration's request in this supplemental bill for the first year's contributions by the United States to the third replenishment of the resources of the International Development Association—IDA.

Mr. President, there is much more at stake here than an appropriation, much as this money is needed for the efforts of the World Bank group and its IDA affiliate in helping the poorest nations of this world. This appropriation is needed so that the United States can proceed to honor its commitments and ratify this IDA replenishment agreement among the 19 so-called rich nations of the world.

IDA is an idea conceived here in the Congress in a bipartisan effort during the Eisenhower administration and former Senator Monroney of Oklahoma was heavily responsible for this authorization.

It has received the support of every President since that time.

President Nixon has repeatedly urged the Congress to act on this item. When he signed the IDA authorization bill on the 10th of March, he noted:

> The legislation which I sign today is evidence of the willingness of the United States to provide the funds required to carry out these programs. The amounts called for are within our capabilities. They are consistent with and have been taken into account in our budgetary planning. They are essential if the idea of multilateral assistance is to remain a viable concept. And they are necessary if we are to continue to participate constructively in an international effort which has, in large part because of our past leadership, played such a major role in fostering progress in the developing world.

The agreement to replenish IDA resources at a $2.4 billion replenishment level was carefully negotiated by the major donor countries of the world under the leadership of the United States. This agreement was due to come into effect on July 1 of last year, when IDA ran out of commitment authority to make further loans. Since that time 15 nations—other than the United States—have come forward with a total of $454 million to keep IDA's work going while the world awaits the long-delayed U.S. ratification which is contingent on the Congress appropriation process. The sole requirement to bring that agreement into effect is the vote of the U.S. Governors as authorized in legislation passed by the Senate in

October last year and the House earlier this year. A list of donor country advance contributions to the IDA reads:

Advanced contributions to IDA since June 1971

	Million
Canada	$110.0
Denmark	8.0
Finland	4.1
Japan	48.0
U.K.	103.7
Yugoslavia	1.3
Australia	16.0
Germany	72.3
Kuwait	10.8
Sweden	34.0
Norway	6.0
Iceland	.2
Ireland	1.3
Netherlands	22.5
France	25.0
Total	454.0

Americans have become accustomed to thinking of themselves as the most generous people in the world. This pride is certainly genuine. But, today, while in percentage of GNP America's contribution to development assistance programs is continuing to fall, others are coming forward and raising their contributions.

IDA, which the United States helped to create in order to have burden-sharing in development, has become recently an example of this in the important business of helping the poor nations of the world. Fifteen other nations have been carrying the burden. In these months also, our increased contributions to various multilateral organizations—which have not yet been made—were used to justify dramatic and unfortunate slashes in our bilateral assistance programs. And in the trade field, the United States has not been able to proceed with legislation granting tariff preferences to developing nations—again despite the fact that the United States played a leadership role in pushing this policy which the other major industrialized nations have now adopted.

I must point to the effect of these policies on the U.S. expectation that countries of the developing world will cooperate with the United States in the upcoming reform of the international monetary system and the reshaping of the international trading order. The U.S. expectation of cooperation is signaled by Secretary Connally's proposal to increase the size of the negotiating table from a group of 10 rich countries to a group of 20 which will include representatives from the developing world.

I urge that first the Senate and the Congress meet this important obligation of the United States by providing for the full funding of the third IDA replenishment. I want to commend the Appropriations Committee and particularly the leadership of the Foreign Operations Subcommittee for its decisive statement in its report saying that there is "no justifiable reason for delaying action until fiscal year 1973."

In closing let me say that it is particularly important at this period in our history and when a major international conference is underway at UNCTAD III where other developed nations are making new developmental assistance commitments—such as the "link"—that the United States carry its world responsibilities in this vital area. It is these burden-sharing development programs which make a positive contribution toward the type of world we all would like to see.

QUORUM CALL

Mr. ELLENDER. Mr. President, I understand that the Senator from Illinois (Mr. PERCY) desires to offer an amendment.

I suggest the absence of a quorum and ask unanimous consent that the time be charged against my time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 10, line 22, insert the following:

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for maintaining and operating the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $1,500,000, to remain available until expended: *Provided*, That these funds shall be available for obligation only upon enactment into law of S. 1736 by the Ninety-second Congress.

Mr. PERCY. Mr. President, the amendment which I now bring before the Senate will, if accepted, appropriate $1,500,000 to carry out the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. It is a question on which the Senate has already expressed its strong support.

My colleagues will recall that last December when we considered a supplemental appropriations bill, I introduced a similar amendment to provide $1.5 million for the nonperforming arts activities of the Center and it was accepted by an overwhelming majority of the Senate. Prior to introduction of the amendment, hearings were held by the Public Works Committee on authorizing legislation to support the Center's nonperforming arts functions and a letter was transmitted to Senator BIBLE of the Interior Appropriations Subcommittee by the distinguished chairman of the committee, Mr. RANDOLPH, in support of such an appropriation. When I first presented the matter to the Appropriations Committee during our early sessions on the supplemental bill, it was warmly received. Unfortunately, however, the House had not given prior consideration to such an appropriation, therefore, it was deleted in conference on an objection by the House conferees.

Today, I am offering the amendment again, because the House has expressed its intent with respect to funding for the Kennedy Center. Approximately 2 weeks ago the House approved legislation supporting a fiscal year 1972 appropriation for the security, maintenance, and other expenses related to the memorial aspects of the Center. It also approved a proposal to transfer, at the beginning of fiscal year 1973, the nonperforming arts activities of the Center to the National Park Service.

I commend the House for this recent action, because I believe that the $1.5 million is clearly needed as an emergency funding to keep the Center open for daily visitations by nonpaying guests. I also think that the move to turn these responsibilities over to the National Park Service is a good one.

Because the House has clearly stated its support for funding, on an emergency basis, the nonperforming arts functions of the Center, I see no reason why we should not approve the appropriation again. And I am confident that this time the House conferees will concur in the Senate's action.

Mr. President, as a result of Congress failure to approve emergency funding for the nonperforming arts operations, steps had to be taken last December to close the Center for daily visitations. Three months later, on April 1, tours began again for an indefinite time and officials estimate that 12,000 persons a day visit the Kennedy Center. It is the second highest visitation point at the current time of any monument in the city. The Capitol ranks first.

The spring and summer months see many students from all over the country arrive in Washington for what may be to many of them their first glimpse of this magnificent city. Even for those of us who have resided in Washington for several years, visiting the great national memorials, such as the Jefferson, the Lincoln, and the Washington Monuments, can still be an impressive experience. I cannot help but think that the memories of Washington, D.C., which our young people and families take back home with them are greatly enhanced by a visit to the newest memorial to a past President—the John F. Kennedy Center. Unless we move to appropriate funds necessary to keep the Center open, however, it may be forced to close its doors again.

The responsibility of making the Center available during the day to visitors, special workshops and student programs is not a simple one, and it is expensive. There are maintenance costs and guard services that have to be provided. Adequate security must be present to prevent any further vandalism or marring of the Center's beauty. The unfortunate experiences of last fall in which visitors literally ripped down chandelier crystals and cut pieces of carpet from the great hall cannot continue. I have every reason to believe that we can prevent such destruction by increased security and the sale of mementos.

I would like to underscore the point that the total $1.5 million will be expended for those functions unrelated to the performing arts activities of the Center. None of the money will be spent on the building itself or the performing arts aspects of the Center.

In addition, we do not intend to make this an annual request. When the Park Service assumes responsibility for the nonperforming arts aspects of the Kennedy Center, future expenditures for this function will be contained in the overall National Park Service budget.

The trustees and officials of the Kennedy Center are deeply appreciative of the strong support and interest of the Senate in the operations of the Center. Because of the Congress support, completion of the Kennedy Center represents a much needed investment in the performing arts in this country. It ranks among the greatest performing arts structures in capitals throughout the world and certainly is a showcase for the arts in this country. It is as much a monument to the arts as it is to the late President for whom it is named.

I urge that the Senate reaffirm its support for the Kennedy Center by approving this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. ELLENDER. Mr. President, it will be recalled, as the Senator from Illinois stated, that the Senate went on record last year and even suspended the rule in order to put this amendment into the bill. When the bill went to conference the House objected to this appropriation and the item was deleted.

The Senator indicated the House has agreed to the authorization, and the Senator from Illinois has in his amendment a provision which states:

> *Provided*, That those funds shall be available for obligation only upon enactment into law of S. 1736 by the Ninety-Second Congress.

As the chairman of the committee, I know other members of the committee feel that this money will not become available until authorized.

Mr. YOUNG. Mr. President, I yield myself 5 minutes on the bill.

The PRESIDING OFFICER. The Senator is recognized.

Mr. YOUNG. Mr. President, this amendment clearly is subject to a point of order. There is no authorization for this appropriation. It is a good cause but there are many other much more meritorious causes in the United States waiting to be funded because there is no authorization. This matter could well wait for authorization. I know the sentiment of the Senate. It undoubtedly will pass overwhelmingly so I will not raise a point of order, it would be useless.

Mr. ALLOTT. Mr. President, will someone yield to me for 5 minutes?

Mr. ELLENDER. I yield to the Senator from Colorado.

Mr. ALLOTT. Mr. President, last year when this measure came up I tried to get a vote on it before I had to leave for my home State and I could not, so I did not have a chance to express myself on the floor or to vote on this particular appropriation.

I do not believe we have yet received a full and accurate report on the Kennedy Center. If we are going to get into the business of financing the Kennedy Center I can see no other way than for Congress to take over full jurisdiction of the financing. I know this will be very disappointing to the trustees but if we are going to know the amount for which we are going to have to subsidize this institution, an institution which was represented to us constantly as paying its own way, then Congress is going to have to get into the financing. I notice that some of the mistakes made last year are responsible for the necessity of having this $1.5 million appropriated.

I am fully aware, as is everyone, that this is subject to a point of order. I will not exercise my right to raise that point of order since the House has already put this language in. But I do feel and I want to put the Senate on notice that as far as this Senator is concerned if we are going to subsidize the Kennedy Center, and that is what we are doing here, then, in fact, we should take a look at the entire operation and see how much of this so-called nonperforming type of activity should be financed with profits from the Center.

Shows are going on there constantly. I am not satisfied that the Center is getting the sums from the performing troupes that come in that should be received, but my personal belief is that the whole Center should be placed on a self-supporting basis. So when this comes up again I, for one, intend to scrutinize it very carefully. I must say that I have talked with Roger Stevens, who is chairman of the Board of Trustees or president, and I still have not satisfied myself in my own mind that the entire operations of the Center are sharing as much of the expense of the operations of the Center as they might.

Mr. COOPER. Mr. President, will the Senator yield to me?

Mr. ELLENDER. I yield.

Mr. COOPER. Mr. President, I think I may be able to provide some information about this situation as it relates to the Committee on Public Works. As has been said, the Senate approved last year an appropriation of $1.5 million to the Center on an emergency basis. It was not approved by the House. But, this year the House has provided in its public buildings authorization bill an authorization of $1.5 million for the Kennedy Center.

As I recall, it provides also that the operation and maintenance of the Center shall be turned over to the Park Service. The Senate has passed its public buildings bill, and in talking to the chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Delaware (Mr. BOGGS) we have considered that our committee will agree to the House $1.5 million authorization in conference.

That will assume the authorization of $1,500,000.

I do not want to speak for other Members of the Senate, but it is my belief that we would not accept at this time the House provision which would immediately turn the Kennedy Center over for operation and maintenance to the Park Service. We expect to hold hearings and secure the information available about the operation of the Kennedy Center to determine its needs, its liabilities, its sources of income, to hear the views of the General Accounting Office, and Park Service. Last year the Senate did express its approval of the $1,500,000. Now the House has approved the $1,500,000 as far as authorization is concerned. The Senate should approve today the $1,500,000 on an emergency basis. I urge that it do so.

Mr. ALLOTT. Mr. President, may I have 3 minutes?

Mr. ELLENDER. Mr. President, I yield 3 minutes to the Senator from Colorado.

Mr. ALLOTT. Mr. President, an interesting facet of this matter is that there is no member of the Committee on Interior and Insular Affairs on the floor at the moment except myself, and all three of the senior members of that committee are temporarily absent. We have a rather peculiar situation here, where the Public Works Committee is considering legislation to turn the operation of the Center over to the Department of the Interior, which would come under the jurisdiction, I believe, of the Subcommittee on Parks and Recreation, which is headed by the distinguished senior Senator from Nevada (Mr. BIBLE). I am not sure, but I believe that is correct. So we have the peculiar situation here of the Public Works Committee considering turning over this particular facility to the Park Service as a part of the Department of the Interior when the Committee on Interior and Insular Affairs has not been consulted.

I make these few remarks for this reason. I believe if this action is taken, the senior Senator from Nevada, and chairman of the committee, and perhaps the ranking minority member, should be consulted to determine whether or not hearings should be had. I do believe it is very important to ascertain what kind of obligation we are assuming if we turn this facility over to the Department of the Interior, and certainly, from here on out, to put up a warning that there is only one committee of the Senate that can properly deal with this matter, and that is the Committee on Interior and Insular Affairs. I state that only as a personal opinion.

Mr. PERCY. Mr. President, I yield myself 5 minutes.

First, I should like to thank very much indeed the distinguished chairman of the Appropriations Committee and the members of the Appropriations Committee—the Senator from Colorado (Mr. ALLOTT) among them—for not raising a point of order. Any Senator can do so, and certainly it would be proper for him to do so if he felt strongly about it. But this matter has been so thoroughly aired, and the procedure has been established for making certain that there will be committee oversight with respect to this operation, that I can say as one trustee, that, as a member of the minority, and as vice chairman of the board, we welcome such scrutiny and oversight. The trustees have spent much time in fundraising to make sure that the Kennedy Center is a viable and going operation.

I believe there is not a single art center in the world that is not supported, somehow, by public funds. Certainly the studies I have made in Europe indicate that the per capita expenditure which is made here, from the standpoint of the Government, on the arts is among the lowest in the world. The capital expenditure of the German Government, a capitalist country, is 10 to 20 times what ours is.

We have developed the concept that the Center, as much as possible, should be supported by private capital. Certainly the oversight responsibility of the Committee on Public Works is welcomed, just as I have talked a number of times with our own Comptroller General, Mr. Staats, to make sure, as one of the trustees, that we had as careful a study and analysis of the financial operations of the Center as we possibly could get. As I previously reported, I did introduce a resolution to the board asking for the creation of the position of comptroller of the Kennedy Center, a position which would report jointly to the chairman of the board and the board itself.

The Board of Directors and the trustees agreed to the proposal. We are looking for the most competent and capable man we can get.

The memorial aspects of the Center, of course, do cost money. We have not, as the newspapers would indicate this morning, completely solved the problems of vandalism. We have considerably expanded security in the Center, but still we have heavy costs involved in that area.

If we do not have the approval of this measure, the Center may have to be closed. Creditors cannot be asked to extend credit any longer. The Park Service is now owed $250,000 for services rendered. Cleaning bills have not been paid for about 6 months, and that cost is approximately $200,000. The lighting bills have not been paid for 6 months, and that runs to about $300,000.

My amendment is a 1-year request, taking into account the fact that if we do go along with what the House has requested, the National Park Service will take over the operation in fiscal year 1973.

As far as the Kennedy Center is concerned, it has been outstanding in what it has accomplished. Its attendance record has exceeded any expectations. As a visitors center, as I indicated in my earlier comments, it is second only to the Capitol itself, with 12,000 people a day going through it.

I do appreciate, as a trustee of the Center, the words of confidence and counsel, and the understanding to do what has been expressed, and I certainly appreciate the fact that no Senator has raised a point of order.

Mrs. SMITH. Mr. President, will the Senator yield me half a minute?

Mr. YOUNG. Mr. President, I yield 5 minutes to the Senator from Maine.

Mrs. SMITH. Mr. President, I want to associate myself with the expressions offered by the Senator from Colorado with respect to the Kennedy Center.

The PRESIDING OFFICER. Who yields time?

Do Senators yield back their time?

Mr. PERCY. Mr. President, I yield back the remainder of my time.

Mr. ELLENDER. Mr. President, I yield back the remainder of my time.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. ALLEN. Mr. President, I suggested the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wish to call the attention of the Senate——

The PRESIDING OFFICER. On whose time?

Mr. JAVITS. Can the Senator from Alabama yield me time?

Mr. ALLEN. All time has been yielded back.

Mr. JAVITS. Mr. President, I ask unanimous consent to speak for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I wish to call the Senate's attention to a fine provision in this bill relating to the International Labor Organization. We face a considerable problem, Mr. President, in that we are behind in our dues for 2 years. We could lose all our rights in this very important tripartite organization—workers, employers, and Government—to which I have had the honor to be an observer on the part of the United States on a number of occasions.

The other body provided just about enough money to keep us from losing our voting rights. The Senate committee has provided the full amount of the arrearages, leaving the current dues to be taken up in the current appropriation bill.

All of the equities, Mr. President, including the balance of benefit to the United States, in respect to this very important organization, which has an effect on trade as well as the development of the developing countries and the system of freedom in which we believe, and of the free worker—I believe our committee is eminently correct in its position, and I hope very much that the Senate conferees will strongly maintain that position in the conference. I commend the committee very highly upon this provision.

Mr. President, I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENS). Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I raise the point of order that the pending amendment is out of order since it is an appropriation unsupported by an authorization.

Mr. PERCY. Mr. President, I ask unanimous consent that the notice requirement under rule XL be waived and that I may be allowed to move to suspend without the 1 day's notice.

The PRESIDING OFFICER (Mr. STEVENS). Will the Senator let the Chair rule first.

The Chair is advised that the sum provided in the amendment is not authorized by law, and therefore, under rule XVI, is subject to a point of order. The Chair sustains the point of order.

Does the Senator from Illinois wish to make his unanimous-consent request?

Mr. PERCY. Mr. President, pursuant to the unanimous consent, I now move suspension of paragraph 4 of rule XVI——

Mr. ALLEN. Mr. President, unanimous consent has not yet been granted to the Senator's request.

The PRESIDING OFFICER. Will the Senator from Illinois renew his request for unanimous consent?

Mr. PERCY. Has there been objection raised?

Mr. ROBERT C. BYRD. No. Repeat the request.

Mr. PERCY. Mr. President, I ask unanimous consent that the notice requirement under rule XL be waived and that I may be allowed to move to suspend without the 1 day's notice.

Mr. ALLEN. Mr. President, reserving the right to object—and I do not plan to object—as I understand the Senator's request, objection having been made to the amendment as being an appropriation not supported by an authorization, the Senator now moves to suspend the rule or to ask unanimous consent that he be allowed to move to suspend the rule in order that his amendment can be voted on. Such a motion to suspend the rule, if unanimous consent is given, requires a two-thirds vote rather than a simple majority that would have been required some moments ago when the junior Senator from Alabama sought the yeas and nays on the amendment.

The junior Senator from Alabama feels that on an appropriation of $1½ million to the Kennedy Center, such appropriation requiring a suspension of the rule in order that that amendment can be voted on, a yea and nay vote should take place on the suspension of the rule. All of the important questions to come before the Senate——

The PRESIDING OFFICER. Will the Senator from Alaska permit the Chair to inquire, who is yielding time on this matter? There is no——

Mr. ALLEN. This Senator is reserving the right to object and is stating the reason for his reservations.

The PRESIDING OFFICER. There is a unanimous-consent agreement. The Chair is advised that there is no agreement on time——

Mr. ELLENDER. Mr. President, I yield such time as may be required to the Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. Unanimous consent has not been given, so the junior Senator from Alabama reserved his right to object.

The PRESIDING OFFICER. The Senator from Louisiana just yielded some time to the distinguished Senator from Alabama.

Mr. ALLEN. The junior Senator from

Alabama does not need any time, because he has yielded none, because he has merely reserved his right to object to the Senator's request.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ALLEN. I thank the Chair.

So the effect of the point of order having been made is that, instead of requiring a simple majority vote to pass the amendment as we should have had just a few moments ago, had there been a sufficient second to the request of the junior Senator from Alabama, it will now take a two-thirds vote, not just on the merits of the amendment up or down, but on the question of whether the rules of the U.S. Senate shall be suspended in order that this appropriation of $1.5 million shall be considered irrespective of the rules.

Mr. President, we now have an entirely different question presented, not just as to the merits of the appropriation, but before we get to that point we have to decide whether the rules of the Senate should be suspended in order that an appropriation item can be passed without an authorization. Mr. President, I would request at the proper time the yeas and nays on the motion. I understand that has not yet been made. However, I do not reserve an objection to his request that a motion to suspend the rules be in order.

Mr. YOUNG. Mr. President, reserving the right to object, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 2 minutes.

Mr. YOUNG. Mr. President, this is a very unusual procedure. It is a request for $1.5 million that was not presented at all to the Senate Appropriations Committee. No hearings were held on the matter. It is legislation on an appropriations bill.

The author of the amendment knows very well it was subject to a point of order. We had no notice that the Senator was going to offer a motion to override the decision of the Chair. This is a most unusual procedure. I hope that it will not become a practice in the Senate.

I would think that committees that have jurisdiction would be given a little more consideration. I understand that the Committee on Interior and Insular Affairs, if this obligation of maintaining the Kennedy Center is taken over by the Interior Department, would have jurisdiction.

It is being considered by the Public Works Committee. However, another committee has jurisdiction. We will have three committees bypassed, the Committee on Interior and Insular Affairs, the Public Works Committee, and the Appropriations Committee. They are now going to bypass the rules of the Senate by unanimous consent.

I should object, Mr. President, but I will not object in order to save time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President, the question then occurs, does the Senator from Illinois wish to make the motion to suspend the rule?

Mr. PERCY. Mr. President, pursuant to unanimous consent, I move the suspension of paragraph 4 of Rule XVI.

Mr. ALLEN. Mr. President, I ask for the yeas and nays and I would like to discuss it further.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair is advised that each side has 15 minutes on the motion.

Do the Senators yield back their time?

Mr. PERCY. Mr. President, I think a few comments are in order. I will be very brief.

Indeed, this is not the first time that the Kennedy Center has been discussed in the Senate. It has been discussed every step of the way, all the way through, for some years. Every single procedure that has been followed in accordance with the dictates and the mandates of the Congress of the United States.

The Kennedy Center was established as a memorial. It was done long enough ago that it preceded the time that I came to the Senate, 5½ years ago. When I went on the Kennedy Center Board at the request of the then minority leader, the late Senator Dirksen of Illinois, I mentioned to him at the time that I felt I should take the time as a freshman Senator to get familiar with the Senate procedures. However, the late Senator Dirksen convinced me that taking the place of former Senator Saltonstall as a representative of the Senator was an honor that I could not turn down and that they would like to have someone on the board who could give some advice with respect to business procedures and approaches to the financial problems of the Kennedy Center. There has been no objection raised as to the quality of the performance.

The Kennedy Center has certainly justified the decision of the Congress in making it a memorial by virtue of the fact that it has become the second most visited memorial in the entire Washington area, second only to the Capitol Building itself.

Ordinarily, I do not like to use this procedure. There is not any question about that. I would have much preferred that it go through normal channels, as it has in the House. The House has now sent over an authorization bill on the matter. It is being considered by the Senate committee. That is why this amendment has been offered to the Supplemental Appropriations bill. It is subject entirely to a subsequent authorization bill and is not being done over the head of the authorizing committee. Rather, it is being done subject to their subsequent action.

As I understand it, the Appropriations Committee does desire to put through this measure.

This is the last supplemental appropriation we will have. The amendment would provide that the Kennedy Center be reimbursed for the expenses they have been obligated to undertake to fulfill their obligation to have the center operate as a memorial to a deceased President of the United States.

Millions of visitors have come to Washington and have visited the Kennedy Center. The Center must take care of 12,000 visitors a day. That is not a cost which should be attributed to the Center itself. A nonperforming arts center is not really self-sustaining.

Congressional support of the Kennedy Center is in the national interest. Anyone who would imply that such a contribution is not justifiable in the last mile as we go down the road would be shutting his eyes to the tremendous success that the Kennedy Center has been.

I hope that the Senate will support this as it did last year when the same question was presented.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. PERCY. Mr. President, I am delighted to yield to the distinguished Senator from North Dakota, the ranking minority member of the committee.

Mr. YOUNG. Mr. President, I would like to ask the Senator if he has any idea how this money will be spent. We had no testimony before the committee. What would the $1.5 million be spent for? Does the Senator have an itemized statement?

Mr. PERCY. Mr. President, statements have been presented to the Senate in the testimony taken before the Public Works Committee some 6 months ago. The expenditures are essential for the nonperforming parts of the Center which must be incurred in order to keep it as a place of visitation by nonpaying guests.

The expenses consist of the housekeeping functions, the guard and security functions, the lighting that is necessary, and the air conditioning that is necessary.

I reiterate, as I stated before the Senate committee and have stated on the floor before, that the House turned this down last year. However, the Senate did approve the $1.5 million 4 months ago. Because the funding was not previously approved by the House, a point of order was raised by the House conferees and the funds could not be made available.

The House has now approved an authorization bill. We have been assured that if this is included in the second supplemental, they will accept it in the House. We have tried to follow every procedure we could, taking into account the emergency conditions which we were faced with.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. Mr. President, I yield such time as the Senator may require to the Senator from Alabama.

Mr. ALLEN. Mr. President, I oppose the amendment seeking to appropriate $1.5 million for the operation of the Kennedy Center. More than that, however, Mr. President, I oppose the pending question which is not now up and down on the amendment but is an effort to suspend, to set aside, to waive the rules of the Senate in order that a special procedure may be used with respect to this amendment, that procedure being to permit an appropriation without an authorization.

The appropriations measures that we are all concerned with go the usual route;

they receive an authorization, followed by the appropriation measure. Not so with this amendment, though. They come in and they say:

> We need a special procedure here. Yes, we have conflicting opinions, conflicting views, and conflicting interests as between committees of the Senate. There is not yet an authorization for the authorization but let us have the appropriation now and follow it with the authorization, which is just the reverse of what the Senate rules provide.

We all recall the origin of the Kennedy Center. We all recall that it was set up to be a self-supporting organization; that the construction costs were to be paid by private contributions. It was not long, though, before they came in and obtained appropriation after appropriation from Congress until tens of millions of dollars were appropriated for the construction of Kennedy Center.

Then it was said:

> Let us finish the building and the operating costs will take care of themselves. It will be self-supporting. We will not make an effort to get operating expenses out of Congress.

But now we have a request for $1.5 million this year. What will it be for succeeding years? I hope the Senate will not set this appropriation up as a special amendment that requires that the time-honored rules of the Senate be waived and set aside in order that the Senate might vote on this amendment without an authorization.

Let the appropriate committees of the Senate authorize the expenditure of this money before the Committee on Appropriations or before the Senate is called upon to impose its will with respect to this amendment.

Mr. President, I hope that the two-thirds vote for the passage of this amendment will be denied and that the amendment thereby will be rejected.

But let me point out to those Senators who feel some sort of obligation to vote for any appropriation might come before the Senate for the Kennedy Center, and I dare say some in the Senate would support any appropriation no matter how large, by this vote they are not voting against this appropriation. That may be the effect of it but actually what the Senate would be voting on is whether we are going to set aside the rules of the Senate in order that such a dispensation of this amendment may be considered by the Senate.

I do not believe this amendment requires, needs, or deserves the special consideration that would be required to amend or to set aside or to waive the rule of the Senate for this one measure and this one measure alone.

It is not that important. I would be interested in seeing how many Members of the Senate—and maybe there will be two-thirds—want to suspend the rule of the Senate in order that the amendment may be considered out of order. I hope there will not be two-thirds of Senators who vote for the motion.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. ALLEN. I yield such time as the Senator may require.

Mr. RANDOLPH. Mr. President, I appreciate the kindness of my colleague from Alabama. I rise only in order that certain information can be provided to Members of the Senate.

Following a hearing at the request of officials of the Kennedy Center in December 1971, for an authorization of $1.5 million to aid in defraying maintenance and operating expenses, as chairman of the Committee on Public Works and after conferring with the Senator from Kentucky (Mr. COOPER), the ranking minority member of the committee, I requested the General Accounting Office to look into the problem.

I shall ask unanimous consent that I be permitted to insert in the RECORD my letter dated December 30, 1971 to the Honorable Elmer B. Staats, Comptroller General of the United States. I understand the letter was received on January 3 this year by the General Accounting Office.

In following through on the request made in that letter, it is my understanding that the General Accounting Office has for several weeks been involved in checking into this matter. In that letter, I stated:

> The Committee on Public Works proposed to hold hearings on the construction and operation of the Kennedy Center about the middle of 1972. However, I believe the Committee needs additional information on the finances and operations of the Kennedy Center prior to these hearings and, therefore, request your Office to make a study of the financial condition and operations of the Kennedy Center.

I further stated:

> In the area of construction, it would be helpful to know the percentage of construction completed as of January 1, 1972; the cost of such construction; the amount of construction obligations remaining to be paid; and the amount of construction money available for payment when claims are settled.

Then I directed the attention of Mr. Staats to current operations by saying that we need a detailed financial statement either monthly or quarterly from the time the center opened through June 30, 1972. I further stated:

> The expense information supplied should show the cost of administration, electricity, fuel, repairs, cleaning, protection, supplies, and so forth. Income should be broken down to show the revenues from each concession, revenues from the three performance areas, net receipts or losses from shows produced by the Center itself, and revenues from other sources. It will also be helpful to have an organizational chart showing all salaried personnel and the remuneration of each.

The letter stated that it would be appreciated if the report could be submitted to our committee by July 15, 1972. We had hoped that as this study proceeded—we could have the advantage of this information. I am sure that the Senator from Kentucky (Mr. COOPER) and I and other members of the Public Works Committee would want to at least hold a hearing reasonably soon in connection with the authorization of funds on an annual basis to defray the cost of operations.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. ALLEN. Has any of this information come in, justifying this appropriation?

Mr. RANDOLPH. There has been no information received from the General Accounting Office or the Comptroller General of the United States.

Mr. ALLEN. I thank the Senator.

Mr. RANDOLPH. Mr. President, I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 30, 1971.

Hon. ELMER B. STAATS,
Comptroller General of the U.S. General Accounting Office, Washington, D.C.

DEAR MR. STAATS: The Congress has been requested to provide funds on an annual basis to help defray operating costs of the Kennedy Center. The Board of Trustees, through Chairman Roger L. Stevens, has stated that public funds are needed because of additional expenses involved in allowing tourists and sightseers to visit the Center.

The Committee on Public Works proposes to hold hearings on the construction and operation of the Kennedy Center about the middle of 1972. However, I believe the Committee needs additional information on the finances and operations of the Kennedy Center prior to these hearings and, therefore, request your Office to make a study of the financial condition and operations of the Kennedy Center.

In the area of construction, it would be helpful to know the percentage of construction completed as of January 1, 1972; the cost of such construction; the amount of construction obligations remaining to be paid; and the amount of construction money available for payment when claims are settled.

In the area of current operations, it would be useful to have a detailed financial statement, either monthly or quarterly, from the time the Center opened through June 30, 1972. The expense information supplied should show the cost of administration, electricity, fuel, repairs, cleaning, protection, supplies, and so forth. Income should be broken down to show the revenues from each concession, revenues from the three performance areas, net receipts or losses from shows produced by the Center itself, and revenues from other sources. It will also be helpful to have an organizational chart showing all salaried personnel and the remuneration of each.

The Committee anticipates that the Center's request for immediate authorization and appropriation of $1.5 million for fiscal 1972, presented by Mr. Stevens' letter to me of November 22, 1971, and at the hearing held by the Buildings and Grounds Subcommittee on December 2, 1971, will be renewed when the Congress reconvenes. It would be helpful, therefore, to have by mid-February (1) a description of the present financial difficulty being experienced by the Center, with comment on the elements contributing to this situation; (2) a preliminary appraisal of the status of construction and funds available to meet the remaining construction costs as they become due; and (3) a preliminary appraisal of current operating costs and revenues, or other funds, which may be available to meet ordinary and necessary operating expenses, exclusive of costs attributable solely to productions sponsored by the Center itself.

In its final report, your Office may also wish to coment on or make suggestions with respect to (1) the adequacy of the annual reports to Congress required by the John F. Kennedy Center Act (P.L. 85-874, as amended); (2) whether a division of accounts and responsibility for (a) construction, (b) operations and maintenance, and (c) performing arts functions is desirable and appropriate; (3) improved or alternative accounting, operations or management procedures; (4) alternative means and formulas for public, private, and Federal support of the Center; and (5) improved or alternative organizational structure, especially if an amendment to the Act providing for annual Federal financial support should make a change in organizational structure desirable or appropriate.

It would be appreciated if your report could be submitted to the Committee by July 15, 1972.

Truly,

JENNINGS RANDOLPH, *Chairman*.

Mr. RANDOLPH. I also wish to call the attention of Members of the Senate to the hearing that was conducted on the measure amending the John F. Kennedy Center Act by our Subcommittee on Public Buildings and Grounds. It was held on December 2, 1971. Senators may find it helpful to study the record of that hearing and certain material which supplements the actual testimony.

I realize that this brings me to the point of how I feel about the $1,500,000 at the present time. Ordinarily I would indicate to my colleagues that I would be reluctant, frankly, to move in a matter of this type. But I do feel that perhaps there are circumstances which could cause me, as I did a few weeks ago, to support the amendment which was offered by, I believe, the Senator from Illinois (Mr. PERCY) at that time.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. RANDOLPH. That is all I have to say.

The PRESIDING OFFICER. The Senator from Illinois has 9 minutes remaining.

Mr. PERCY. Mr. President, I yield myself 3 minutes.

I would like to point out that, on a measure we considered a short time ago, there is a provision in the bill now under consideration relating to Amtrak, which is also subject to a point of order. That is a matter of $207 million and a matter that is of great consequence. This is a matter of $1.5 million. It has not been dealt with lightly. Many hours have been put into its study.

I should like to point out that in the CONGRESSIONAL RECORD for December 3, 1971, a letter was inserted by the distinguished Senator from West Virginia (Mr. RANDOLPH), addressed to the distinguished chairman of the Subcommittee on the Interior, Committee on Appropriations, the Honorable ALAN BIBLE, stating that hearings had been held by the Subcommittee on Buildings and Grounds of the Committee on Public Works on S. 2900, a bill to authorize the appropriation of $1.5 million to defray certain operating and maintenance costs of the John F. Kennedy Center for the Performing Arts.

The letter, in conclusion reads:

> In light of this situation, the Committee on Public Works would support the inclusion of 1.250 million dollars for this purpose in the Supplemental appropriations bill for fiscal year 1972 only. We are using this method in the knowledge that your Subcommittee is in mark-up this afternoon. It is our intention to hold further hearings during the next session to determine whether a permanent authorization is justified and to review the relationship of the Kennedy Center to the Congress. However, to avoid the closing of the Kennedy Center to public visitors, the Committee believes that an interim appropriation is proper.

I am pleased to learn that there has been no change of mind with the committee since last December. The financial conditions at the center have not changed; they have only worsened financially. The need for these funds has been clearly demonstrated. Although the Kennedy Center was closed to visitation for several months, by sheer pressure of popular demand, it has been reopened. Visitation has been extremely heavy since it has been reopened. The trustees felt the Senate had approved this matter in principle heretofore. The House has approved it, reasonably anticipating that the Congress would stand behind this one request.

It is for these reasons that I suggest to my distinguished colleagues that the Senate suspend the rule in this instance.

The PRESIDING OFFICER. Who yields time? Do Senators yield back their time?

Mr. PERCY. Mr. President, I yield back my time.

Mr. ELLENDER. Mr. President, I think my time has been used.

The PRESIDING OFFICER. The question is on agreeing to the motion to suspend the rule. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. (MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Missouri (Mr. EAGLETON) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Georgia (Mr. GAMBRELL) would each vote "nay."

Mr. COTTON. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Colorado (Mr. DOMINICK) the Senator from Maryland (Mr. MATHIAS), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also the Senator from Arizona (Mr. FANNIN), the Senator from Michigan (Mr. GRIFFIN), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from South Carolina (Mr. THURMOND), would vote "nay."

The yeas and nays resulted—yeas 36, nays 31, as follows:

[No. 167 Leg.]

YEAS—36

Beall
Bennett
Bible
Boggs
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Cooper
Cranston
Fong
Fulbright
Gravel
Hollings
Hughes
Inouye
Jackson
Javits
Kennedy
McGee
Nelson
Pearson
Percy
Randolph
Ribicoff
Schweiker
Spong
Stafford
Stevens
Stevenson
Symington
Taft
Tower
Weicker

NAYS—31

Aiken
Allen
Allott
Anderson
Bellmon
Brock
Buckley
Byrd, Harry F., Jr.
Cook
Cotton
Curtis
Dole
Ellender
Goldwater
Gurney
Hansen
Hart
Hatfield
Hruska
Jordan, Idaho
Long
Metcalf
Miller
Montoya
Proxmire
Roth
Saxbe
Smith
Stennis
Talmadge
Young

NOT VOTING—33

Baker
Bayh
Bentsen
Cannon
Dominick
Eagleton
Eastland
Ervin
Fannin
Gambrell
Griffin
Harris
Hartke
Humphrey
Jordan, N.C.
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Mondale
Moss
Mundt
Muskie
Packwood
Pastore
Pell
Scott
Sparkman
Thurmond
Tunney
Williams

The PRESIDING OFFICER (Mr. STEVENS). On this vote the yeas are 36 and the nays are 31. Two-thirds of the Senators present and voting not having voted in the affirmative, the motion of the Senator from Illinois to suspend the rule is rejected.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. HRUSKA. I move to lay that motion on the table.

Mr. COOPER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. COOPER. Mr. President——

The PRESIDING OFFICER. The motion is not debatable. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. COOPER. Mr. President——

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. COOPER. I asked for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to table, and the Chair advises the Senator from Kentucky that that motion is not debatable. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I also announce that the Senator from Montana (Mr. MANSFIELD), the Senator from Missouri (Mr. EAGLETON), are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. HUMPHREY), would each vote "nay."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Georgia (Mr. GAMBRELL) would each vote "yea."

Mr. COTTON. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Colorado (Mr. DOMINICK), the Senator from Maryland (Mr. MATHIAS), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also the Senator from Arizona (Mr. FANNIN), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. BUCKLEY), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 32, nays 33, as follows:

[No. 168 Leg.]

YEAS—32

Aiken
Allen
Allott
Anderson
Bellmon
Bennett
Brock
Byrd, Harry F., Jr.
Cook
Cotton
Curtis
Dole
Ellender
Goldwater
Gurney
Hansen
Hart
Hatfield
Hruska
Jordan, Idaho
Long
Miller
Montoya
Proxmire
Roth
Saxbe
Smith
Stafford
Stennis
Taft
Talmadge
Young

NAYS—33

Beall
Bible
Boggs
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Cooper
Cranston
Fong
Fulbright
Gravel
Hollings
Hughes
Inouye
Jackson
Javits
Kennedy
Metcalf
Nelson
Pearson
Percy
Randolph
Ribicoff
Schweiker
Spong
Stevens
Stevenson
Symington
Tower
Weicker

NOT VOTING—35

Baker
Bayh
Bentsen
Buckley
Cannon
Dominick
Eagleton
Eastland
Ervin
Fannin
Gambrell
Griffin
Harris
Hartke
Humphrey
Jordan, N.C.
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Mondale
Moss
Mundt
Muskie
Packwood
Pastore
Pell
Scott
Sparkman
Thurmond
Tunney
Williams

So the motion to table the motion to reconsider was rejected.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on the motion to reconsider.

The PRESIDING OFFICER (Mr. GRAVEL). The question recurs on the motion to reconsider——

Mr. COOPER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. COOPER. Mr. President, if the Senate will permit me, I shall be quite brief. I know that many Senators were not here when we were discussing this matter, so I shall take the liberty to review the procedural situation as well as the substantive situation which is now before the Senate.

The Committee on Public Works, to which committee this matter was referred last year, brought to the Senate by a procedure similar to the one today, an amendment to appropriate $1.5 million for the Kennedy Center for emergency reasons. The Senate passed the appropriation. The House refused to appropriate any money because there was no authorization. The House this year has passed its public buildings and grounds authorization bill and has authorized $1.5 million to the Kennedy Center. The Senate has previously passed its buildings and grounds bill without any authorization. Now we go to conference.

While I cannot speak for all Members, Senators RANDOLPH and BOGGS and others on the committee have taken the position that we would accept the $1.5 million in conference for this authorization.

If that occurs—and I believe it will within the next week or 10 days—the authorization will be completed.

The Senate's having, last year, approved the $1.5 million for this same purpose we felt that it would be appropriate to present it again to the Senate. The Senator from Illinois did that. A point of order was raised by the junior Senator from Alabama. The vote was taken on suspending the rule. That vote failed. We are now back to a reconsideration of that motion.

I would like to give, if I can, the facts which led up to the request for an emergency appropriation. I am not a member of the Board of Trustees. The only thing I know is that the matter came before us in the Public Works Committee. We asked the General Accounting Office to make an investigation of the Kennedy Center operations and to report to us fully on those operations, the debt, the income, and such recommendations as it might make about the Center's future operations. No final report has been made. However, I think it would be fair to say that the financial condition is not good. The Center owes a large amount in unpaid bills.

A few minutes ago the Senator from Illinois said that the Center owes bills for lighting, for cleaning, and for other purposes which amount to several hundreds of thousands of dollars. These bills that are unpaid will mount.

We are back in the situation we were in last year. Unless some money is appropriated, we are told that it will be necessary again to close the doors of the Center to the public.

My own judgment is that after the hearings are held by our committee or by the Committee on Interior and Insular Affairs, it will be necessary for the Senate and for the House of Representatives to decide the future status of the Kennedy Center, which obviously has not been able to meet its obligations. They will not be able to, I believe, unless some stronger provision for organization is made for the future.

I took the position, myself, that, because the Senate agreed to appropriate $1.5 million for emergency costs a few months ago and because the House has passed a $1.5 million authorization to which the Public Works Committee of the Senate expects to agree, we ought to approve this is an emergency measure.

I have no idea what this investigation will show. My judgment is that it will show that the Center owes a great deal of money. It may show that there should be revisions in accounting procedures and management. The Senator from Illinois said that if necessary he would move that changes be made. However, under all these circumstances, I hope that the Senate will take the same action it took last year, suspend the rules, and vote to appropriate the $1.5 million. I feel we should continue to support the Center for the Performing Arts, established as a memorial to President John F. Kennedy.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. COOPER. Mr. President, I yielded to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator does not have any time to yield. Who yields time to the Senator from West Virginia?

Mr. COOPER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COOPER. Mr. President, is there a time limitation on this?

The PRESIDING OFFICER. There is a time limitation of 15 minutes to the side.

Mr. YOUNG. Mr. President, I yield 5 minutes on the bill to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. RANDOLPH. Mr. President, I had not intended to speak again on this subject. However, the reasoning of my friend the Senator from Kentucky is correct in this situation. I want to assure the Members of the Senate that hearings will be held in the Public Works Committee based in part upon the information given to us by the Comptroller General of the United States as requested in a letter which I addressed to him late last year.

I subscribe to what the Senator from Kentucky has said. We do believe that there are many procedures in connection with the operation of the Kennedy Center that are less than acceptable.

I feel that way personally after having gone into these matters. However, I believe that is something that we can adjust to in future months following the report of the General Accounting Office to the committee not later than July 15 of this year.

I do not plead with my colleagues. I only ask them to think carefully about the responsibility which I think we all share at this particular time to see to it that the Center does not close. The Center is an important institution within the fabric of the Nation's Capital. I do believe that we should agree to appropriate the money to meet these unusual services with which I am not fully familiar. I ask the Senate to agree to what we have already done and to what the House has now done and to what we will do in our committee a little later in a formal way.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. YOUNG. Mr. President, I have been trying vainly this afternoon to find out how this $1.5 million will be spent. Will it all be spent for janitor service or police? What will it be spent for? It is not for operations. The theater is supposed to be profitable. When we appropriate money, we should ask the agency what it will be used for. Did the Senator's committee get any information as to what this money would be used for?

Mr. RANDOLPH. Mr. President, we have no information at this time, I am very frank to admit to the Senator. I do feel that the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Illinois (Mr. PERCY) are part of this organizational picture.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. RANDOLPH. Mr. President, I yield to the distinguished Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, this money would be administered through the Park Service for permanent police and for guides for people to go through the Center. There has been an unusual amount of vandalism by visitors to the Center who seek mementos. They have taken handles off the wash basins in the rest rooms and have pulled crystals off the chandeliers and engaged in other sorts of vandalism. It is not vandalism in the usual sense. However, they seek to take a memento away from the Center. Money is also needed to pay for the expenses of keeping it open to visitors. It is not for the production of plays, it is for air conditioning and heating and maintenance.

The Center is a monument. It is very popular with tourists, about 12,000 tourists a day have been visiting the Center. More people go through it every day now than any other place in Washington except the Capitol.

We appropriate money to keep up the National Gallery, to keep up the Washington Monument, the Jefferson Monument, and the Lincoln Monument. All of this money would go to maintain the Center as a monument.

This money is not for use in the production of plays or music or other entertainment. It is to keep the building open as a monument for tourists.

I think the chairman of the committee referred to closing the building. I think that what the chairman meant to refer to was closing the Center to tourists. He does not mean that it would be closed as a theater.

I do not know who has the idea that this building is in such deplorable condition. Actually its productions, in the form of concerts, plays, and other performances, have been very successful. It should also be remembered that the investment was not all public money. About one-half was private money.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Louisiana has 4 minutes remaining and the Senator from Alabama has 15 minutes remaining.

Mr. PERCY. Mr. President, may we answer this important question because here it is now, the first of May. The trustees of the Kennedy Center would feel they were not fulfilling the intent of Congress if they closed the Center and were to merely run it as a theater, like National Theater downtown. This was not the intent and purpose and it is not why Congress put so much money in the building. That basic decision was made years ago.

The trustees now have the responsibility to operate the Center as a memorial and that means not just when a person buys a ticket can he go into the theater. Millions of citizens have come here expecting to be able to go through the Center. It takes some degree of inconvenience to get there. It is not too centrally located, and yet 12,000 people a day find their way there.

Now, for months the trustees have operated in accordance with the intent of Congress. The Senate passed this bill last December. The House has now passed an authorization bill. We have been told an authorization bill will be approved by the Committee on Public Works. So the trustees in expending this money and incurring hundreds of thousands of dollars of debt acted in good faith. I have enumerated $700,000 or $800,000 in debts for security, guard service, and cleaning services, to take care of housekeeping and security. We have tried to close the Center and the protest of the public was so great we had to reopen it. When it was closed, there was a great deal of bitterness by people going all the way over to the Center and finding all they could do was walk around it and go inside if they wanted to buy a ticket to a performance in the evening.

It was only for that purpose, the nonperforming arts functions, that these funds are being requested. The record was very detailed last December on this particular point. If we fail to approve this amount, I do not know what the center will do because it has already expended the money it anticipated.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. AIKEN. Is there any way we can find out how much is owed, to whom it is owed, and what it is owed for? I think we are entitled to that information before being expected to vote on this matter.

Mr. PERCY. I can certainly detail $250,000 as being due and payable to the National Park Service for security, that they have provided in good faith that Congress would reimburse them for services rendered. There is $200,000 due and payable to the public service company which provides electricity for heating, lighting, and air-conditioning. I do not know the name of the companies that perform cleaning services but they are private contractors on a competitive bid that provide cleaning services for the Kennedy Center.

Mr. AIKEN. I have heard a suggestion that this matter go over until tomorrow or some other time to get this information to which we are entitled. Congress demands information from the White House at times and does not always get it. This is not the White House, but it seems to me that it would be a simple matter to obtain the amount owed, to whom it is owed, and for what purpose it is owed.

If we get that information it might change some votes, although I am not sure in which direction it would change them. Probably it would be helpful to the purposes of the Senator from Illinois, but I do not know.

Mr. PERCY. The request of the Senator is a very reasonable request. This information was provided to the Committee on Public Works. I am certain it can be dug out in a few hours and provided to the Senate, but I do not have all the material for each of the bills due and payable at this moment.

Mr. COTTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COTTON. Is there any time left at all?

Mr. ALLEN. Mr. President, I yield to the Senator. How much time does the Senator desire?

Mr. COTTON. Two minutes.

Mr. ALLEN. Mr. President, I yield 2 minutes to the Senator from New Hampshire. Then I yield such time to the Senator from Wyoming as he may desire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, in voting against this proposal, as far as this Senator is concerned, my vote does not denote the slightest hostility toward the proposal or any desire to impede the work of the Senate. However, there are several procedural matters involved, and once we start breaking the rules we set a precedent that is rather undesirable.

No one came before the Committee on Appropriations and set forth even the information that has been set forth today by the Senator from Arkansas and the Senator from Illinois. There is no authorization yet. With respect to the Park Service, I expect they will get the money. I also expect, as a member of the Committee on Appropriations, that before very long there will be another supplemental appropriation bill. It would seem to me that it would be up to the committee, of which the Senator from West Virginia is chairman and the Senator from Kentucky is the ranking minority member, to get the authorization through. Somebody should at least come before the Committee on Appropriations and tell us the facts. If we are told of the need, and how the money is to be spent, I think there would be little doubt but what the Committee on Appropriations would respond.

But in my humble opinion, without the slightest desire to hurt the Senators, this is not the way to do it and it is not the proper way to legislate. In fact, I would be the one who would wish to promote the center, but I would feel compelled to vote against it today.

Mr. ALLEN. Mr. President, I yield to the Senator from Wyoming such time as he may desire.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Alabama.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I rise to point out what I think are two rather good reasons for my vote against suspension of the rules: One, it is an unusual procedure and one I think that should be engaged in only sparingly; and, two, I see nothing wrong at all with the imposition of a small fee for going through the Kennedy Center.

We have before the Committee on Interior and Insular Affairs now, and before a conference between the House and the Senate, a conference in which I am a conferee, a proposal to try to work out some agreement on the extension of the golden eagle transport plan, which provides among other things for entrance into national parks, monuments, forests, and other recreational areas.

It is a well-known fact that this sort of building, with the furniture, furnishings, restroom facilities, and so on, is an expensive building to maintain. I do not see anything wrong at all with letting the people who are fortunate enough to go through to pay a small fee for its upkeep.

Mr. President, as a consequence I shall vote no yet another time. I thank my colleague.

Mr. PERCY. Mr. President, if the Senator will yield for a question, if it is a matter of principle, would the Senator also oppose the Amtrak appropriation in the same bill, because it is also subject to a point of order? That is $270 million—not $1.5 million.

Mr. HANSEN. I will vote on that when and if it comes before this body.

Mr. PERCY. It is going to be here.

Mr. HANSEN. I will be here to vote.

Mr. PERCY. On the principle of charging the public, I would agree that that can be faced when we establish a policy that all memorials shall bear a service fee, so that all who visit memorials shall pay; but I do not think it is fair to discern between one and another. If we are going to charge a fee for the Kennedy Center, then we should charge a fee for visitors to the Jefferson Memorial, the Lincoln Memorial, and the Washington Monument.

I simply accepted the fact, before I came to the Senate, that this was accepted as a memorial by the Congress of the United States; that what we are trying to carry out on the part of the trustees is an intent to treat it as any other memorial, and it was so intended by the Congress of the United States.

We in the Congress just waived the fee that used to be charged visitors going through the Capitol, with the objection that it was unbecoming to charge a quarter to go through the Capitol of the United States. I believe there is no charge for that service now. Are we going to reverse that policy and start charging again a fee of 25 cents for the privilege of going through the Capitol?

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Is the distinguished Senator from Illinois speaking on my time?

The PRESIDING OFFICER. It was on the time of the Senator from Alabama.

Mr. HANSEN. I had sat down and I had thanked my colleague. I do not want to impose on the time of the Senator from Alabama.

Mr. ALLEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alabama has 4 minutes remaining. The Senator from Louisiana (Mr. Ellender) has 4 minutes remaining.

Mr. YOUNG. Mr. President, I yield myself 2 minutes.

My friend from Illinois said a fee had been charged for visitors going through the Capitol. There was a charge for a guided tour to take visitors who wished such a tour through the Capitol. That is an entirely different situation.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield back the remainder of my time.

Mr. ELLENDER. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on the motion to reconsider the vote on the motion to suspend. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Ervin), the Senator from Georgia (Mr. Gambrell), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from North Carolina (Mr. Jordan), the Senator from Washington (Mr. Magnuson), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams), are necessarily absent.

I also announce that the Senator from Missouri (Mr. Eagleton), and the Senator from Montana (Mr. Mansfield) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Georgia (Mr. Gambrell), and the Senator from Washington (Mr. Magnuson) would each vote "yea."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "nay."

Mr. COTTON. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Colorado (Mr. Dominick), the Senator from Maryland (Mr. Mathias), and the Senator from Oregon (Mr. Packwood) are necessarily absent.

The Senator from Pennsylvania (Mr. Scott) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

Also the Senator from Arizona (Mr. Fannin), the Senator from Michigan (Mr. Griffin), the Senators from New York (Mr. Javits and Mr. Buckley), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

If present and voting, the Senator from South Carolina (Mr. Thurmond) would vote "nay".

The result was announced—yeas 31, nays 33, as follows:

[No. 169 Leg.]

YEAS—31

Beall
Bible
Boggs
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Cooper
Cranston
Fong
Fulbright
Gravel
Hollings
Hughes
Inouye
Jackson
Kennedy
Nelson
Pearson
Percy
Randolph
Ribicoff
Schweiker
Spong
Stevens
Stevenson
Symington
Tower
Weicker

NAYS—33

Aiken
Allen
Allott
Anderson
Bellmon
Bennett
Brock
Byrd,
  Harry F., Jr.
Cook
Cotton
Curtis
Dole
Ellender
Goldwater
Gurney
Hansen
Hart
Hatfield
Hruska
Jordan, Idaho
Long
Metcalf
Miller
Montoya
Proxmire
Roth
Saxbe
Smith
Stafford
Stennis
Taft
Talmadge
Young

NOT VOTING—36

Baker
Bayh
Bentsen
Buckley
Cannon
Dominick
Eagleton
Eastland
Ervin
Fannin
Gambrell
Griffin
Harris
Hartke
Humphrey
Javits
Jordan, N.C.
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Mondale
Moss
Mundt
Muskie
Packwood
Pastore
Pell
Scott
Sparkman
Thurmond
Tunney
Williams

So the motion to reconsider the vote by which the Senate rejected the motion to suspend the rule was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HOLLINGS. Mr. President, I call up my amendments on parking spaces, first the amendment dealing with square 721 north and square 721 south.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 15, after line 23, insert the following:

CAPITOL GROUNDS

For an additional amount for "Capitol Grounds" to enable the Architect of the Capitol to convert Square 721 North and Square 721 South and the roadway between such squares, now a part of the United States Capitol Grounds, for use for temporary parking facilities for the United States Senate, $130,000, to remain available until June 30, 1973.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, let me just say one word of explanation.

This was the amendment brought to the attention of the Senate last year by the present distinguished Presiding Officer, the Senator from Alaska (Mr. GRAVEL). I have consulted with members of the Committee on Public Works, and have only offered it in order to facilitate a critical need. We have these various blocks down by the Union Station, but this amendment is confined to block 721. We already own it; all we need to do is surface it to prepare it for parking, to relieve a critical situation. There is no intention to ask for the yeas and nays.

Mr. President, the need for additional parking space comes into sharp focus in the present conference we are having on our legislative appropriations bill. We are trying. I have another amendment with respect to the Capitol and parking facilities here.

The Senate side has been extremely shy in comparison to the House side. We have only 2,090 spaces, compared with 4,125 on the House side. The $130,000 would provide an additional 325 parking spaces. The breakdown would be $105,000 for the surfacing; the curb, the chain link fence, and the control stations would be some $10,000; and for adequate lighting there would be an additional $15,000, for a total of $130,000.

I hope the Senate will adopt the amendment.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the Senator from South Carolina has discussed this matter with many members of the Committee on Public Works, and I am sure that the chairman of our Subcommittee on Buildings and Grounds is familiar with the subject matter, as I am.

I feel that it is just an act of equity at this time, and I support the amendment.

Mr. HOLLINGS. I thank the Senator.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. ELLENDER. Mr. President, I have consulted the ranking minority member of the Appropriations Committee, and we have no objection to this amendment.

Mr. HOLLINGS. Mr. President, I yield back the remainder of my time.

Mr. ELLENDER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. HOLLINGS. Mr. President, I call up the other amendment relative to parking on the Capitol Grounds.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 15, after line 23, insert the following:

Capitol Grounds

Acquisition of site: To enable the Architect of the Capitol to acquire on behalf of the United States, as an addition to the United States Capitol Grounds, by purchase, condemnation, transfer, or otherwise, all publicly or privately owned property contained in square 764 in the District of Columbia, and all alleys or parts of alleys contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided*, That any proceeding for condemnation brought under this Act shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided, further*, That for the purposes of this Act, square 764 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided, further*, That, notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding such square shall, upon request of the Architect of the Capitol, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to Part III of Reorganization Plan numbered 3 of 1967, in accordance with any request therefor made by the Architect of the Capitol: *Provided, further*, That, upon acquisition of such real property pursuant to this Act, the Architect of the Capitol is authorized to permit the temporary use of any or all of such property for temporary parking facilities for the United States Senate and House of Representatives, pending its development for permanent use as a park area or a site for additional facilities for the United States Senate and/or House of Representatives, and to incur any necessary expenses in connection therewith: *Provided further*, That the jurisdiction of the Capitol Police shall extend over any real property acquired under this Act and such property shall become a part of the United States Capitol Grounds and be subject to the provisions of 40 U.S.C., secs. 193a–193m, 212a, and 212b; and the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized to enter into contracts and to make such expenditures, including expenditures for personnal and other services, as may be necessary to carry out the provisions of this paragraph; $1,450,000 to remain available until expended.

Mr. HOLLINGS. Mr. President, this has to do with the search by the staff of our committee to find additional parking space. In the next few months we are going to start construction for the inaugural proceedings at the East Front of the Capitol. We have only 321 parking spaces there at the present time. Construction for the inaugural proceedings will eliminate more than half of those parking spaces.

We talk about serving the public, so the public can visit the Nation's Capitol. One thing is crystal clear: You practically have to be a convict in order to get into the Capitol, because you have to violate parking laws unless you park 10, 15, or 18 blocks away. You cannot get near the place.

In the search for additional space, one particular tract of land has been in dispute. It is the old Providence Hospital site. I have not been in contact with the owners. I understand there have been some political implications. It is a tract two blocks from the Cannon House Office Building, at the corner of D Street and Second Street Southeast, known as the old Providence Hospital site. It was bought for development. After the purchase and an attempt by the owners to develop it, the House Office Buildings Commission objected, and it has been stymied for several years. There have been other attempts to use the land. There is no doubt that ultimately, in the next 2 or 3 years, the Congress will come into ownership of this site, and I think now is the time to move forward and obtain it for temporary parking. There is nothing at all on the tract. All that needs to be done is to acquire it in accordance with the appropriate proceedings by the Justice Department and to turn it over to the Capitol Architect. The jurisdiction of the Capitol Police, of course, would be extended to this particular tract.

The total cost for acquisition and preparation for parking, which can be done within 60 to 90 days and provide some 360 additional parking spaces, is $1,450,000.

I urge favorable consideration of the amendment by the Senate.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. COOPER. I was not aware that this amendment would be offered. I am speaking as the ranking minority member of the Committee on Public Works.

This kind of proceeding, of course, is within the jurisdiction of the Public Works Committee. We have discussed the matter of a Senate garage and additional parking at times, but have not yet taken action.

I ask the Senator from South Carolina whether he has any idea how much this property would cost.

Mr. HOLLINGS. Yes. I asked those who studied the matter. Various proposals have been made to actually sell the property to the U.S. Government. A figure of $1,450,000 was obtained by the staff, which would cover the entire amount, not only the acquisition but also the development of the land.

Mr. COOPER. I know the need for parking. However, there has been no opportunity to get the vote on this proposal. I have not seen the maps or plats or the site—the amendment was just now presented. How many Members of this body know exactly where this property is, whether or not it may be needed for other purposes, or what the disposition of the Public Works Committee would be after hearings on it?

Just a few minutes ago, the Senate voted down the amendment which was offered dealing with an existing building, and it had a perfect right to do that upon procedural grounds and also because representatives of the Kennedy Center had not appeared before the Committee on Appropriations to make their case. Here we have a situation in which there has been no authorization, and the Committee on Public Works has not considered this proposal.

We all know about the sprawl of buildings around the Capitol. We would like to see the construction of buildings in the Capitol area and the use of this space follow some coordinated system and attractive plan.

With all due regard for my colleague, I believe this is not the proper way to proceed. The Senate would be asserting jurisdiction, without giving the Committee on Public Works a chance to pass upon the merits and make a decision upon the proposal of the Senator from South Carolina. He is a man of good judgment, but that is not the issue. I hope the Senate will not adopt this amendment.

Mr. HOLLINGS. Mr. President, the concern of the distinguished Senator from Kentucky is what we had in mind, and we worded the amendment accordingly:

> *Provided, further*, That, upon acquisition of such real property pursuant to this Act, the Architect of the Capitol is authorized to permit the temporary use of any or all of such property for temporary parking facilities . . .

We should not dillydally. There is no intent to take—and we could not take—jurisdiction away from the Public Works Committee.

People can be put in jail in connection with parking tickets. My friends and family come here and have difficulty parking, while a vacant lot sits out there, and the Public Works Committee maintains and retains jurisdiction. We would pave it and use it temporarily for parking. If the Public Works Committee says we ought to put a building there or have underground parking, fine.

The language of the amendment is clear. The land could be used temporarily for parking which is very much needed.

Mr. YOUNG. Mr. President, I think that the Senator from South Carolina makes an excellent case. My staff members also get fines. But, in order to be consistent, I will have to oppose the Senator. It is not authorized. It falls in the same category as the one offered earlier by the Senator from Illinois (Mr. Percy). This amendment of the Senator from South Carolina has much more merit, but it falls in the same category.

Mr. HOLLINGS. Like Amtrak, and many other provisions of the bill, when we get right down to it, it is what Senators want or what they do not want. I know the rules. This is a different approach. We have been discussing legislation brought up on the last particular appropriations bill. The Senator from Alaska raised a point on it. We continue to discuss it and then we get into the ramifications and nothing is done. This is only a temporary measure, to acquire property which rightfully will belong to the U.S. Government. The best way to use it at this particular time is as a parking facility. If the Public Works Committee or Congress decides otherwise at a later time, then a decision can be made on it. I would hope that the Senate would join me on this amendment. The actual figure will not exceed $1,450,000 for acquisition including not to exceed $200,000 for the preparation for use as a parking lot.

Mr. COOPER. Mr. President, I believe what the Senator has stated. The matter of parking is a serious problem. This property, as I recall, is a part of the Capitol Grounds. I remember that last fall we discussed parking on the Capitol Grounds on the east side of Union Station, north of Massachusetts Avenue, including a lot fronting on the semicircle around the Lorado Taft sculpture of Christopher Columbus. We did not act on the proposal, and I understood it was to come before the committee again, perhaps later this week. We will have, if this is what we do, a parking lot abutting the Union Station and a sea of cars between what is to be the National Visitors' Center and the view of the Capitol and Senate Office Buildings. Immediately behind the parking lot will be slums.

I think we should give the Architect of the Capitol and the National Capital Planning Commission some opportunity to determine the best use and development of this property. These kinds of proposals, such as changing the front of the Capitol, and taking this big cut through the mall going no place and with no use of it yet, and the other piecemeal developments in the Capitol area—I do not think we should do it in this way. Rather, we should encourage an orderly plan designed to relate the Capitol and other Federal buildings to the structure and function of surrounding neighborhoods, perhaps considering some joint utilization and transitional architecture which could enhance orderly and attractive growth, whether commercial or residential, instead of biting off chunks of isolated property. We could give an example for other places, in fitting groups of Government office buildings into the life of the community.

Mr. HOLLINGS. Mr. President, I yield back the remainder of my time.

Mr. COOPER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. Hughes). The Senator from Kentucky will state it.

Mr. COOPER. Is this amendment subject to a point of order?

The PRESIDING OFFICER (Mr. Hughes). The Chair would advise the Senator from Kentucky that the amendment appears to be legislation on an appropriation bill and, under rule XVI, it is subject to a point of order.

Mr. COOPER. I raise the point of order——

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. COOPER (continuing). That this is legislation on an appropriation bill.

The PRESIDING OFFICER. The Chair sustains the point of order.

The bill is open to further amendment.

Mr. HARRY F. BYRD, JR. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read as follows:

> On page 5, strike lines 15 through 21.

Mr. HARRY F. BYRD, JR. Mr. President, this amendment would eliminate the $320 million proposed to be appropriated for the International Development Association. The United States, as of June 30, 1971, has already contributed $1,112,000,000 to the International Development Association. The committee report states that the proposal is to appropriate an additional $320 million, which is the one under discussion, and then the committee report says the second installment is expected to be appropriated on or before November 8, 1972. That, of course, would add the two together for an additional $640 million for the International Development Association.

I think it is worth bringing into the record that this so-called loan would be repaid over a 50-year period. There would be no repayment for the first 10 years, and then 1 percent repayment during the second 10 years, and 3 percent repayment for the last 30 years.

The distinguished Senator from Missouri (Mr. Symington), on October 19, 1971, brought out the fact that during the fiscal year just concluded, exactly 50 percent of the total new credits on IDA went to only two countries; namely, India and Pakistan. He pointed out that, actually, over the entire life of IDA, 60 percent of all of IDA's loans have gone to India and Pakistan.

The Senator from Virginia has no quarrel with either India or Pakistan. I have a high regard for both countries, but it seems to me that the present budgetary situation facing the United States, with a deficit of $45 billion for the current fiscal year, with a deficit last year of $30 billion, and with a projected deficit for the upcoming fiscal year of $36 billion, at some time along the way we must give some consideration to the taxpayers of the United States and to the solvency of the United States.

The supplemental appropriation bill as brought in by the committee is substantially higher than the administration's request. It seems to me that this is one area where Congress and the Senate in particular should bring about a reduction. We cannot continue to go on shoveling out money all over the world.

Last fall, the Senate reacted adversely to the foreign aid bill but it reversed itself. Here is a significant part of foreign aid. Just because it does not go directly to a particular country but through an international financial institution, such as the World Bank, does not help the taxpayers any.

The sum of $320 million is a major item. If the proposal is to be followed by another $320 million prior to November 8 of this year, here is one item that the Senate could well eliminate.

I urge adoption of my amendment.

Mr. HANSEN. Mr. President, will the Senator from Virginia yield for a question?

Mr. HARRY F. BYRD, JR. I am glad to yield to the Senator from Wyoming.

Mr HANSEN. I should like to ask the Senator: Is it not true that the United States has all around the world quite an enormous number of dollars being held by foreign countries and individuals, which has posed some problems already for our Treasury Department and our balance of payments position?

Mr. HARRY F. BYRD, JR. I say to the distinguished Senator from Wyoming that liquid liabilities to foreigners at the present time now total $65 billion. That is up some $17 billion during the past 18 months. So, as the Senator from Wyoming indicates, that is another reason, it seems to me, why the Senate should go on record as eliminating this huge sum of $320 million from the International Development Association.

Mr. HANSEN. Mr. President, I thank the Senator from Virginia.

Mr. ELLENDER. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 minutes.

Mr. ELLENDER. Mr. President, as chairman of the committee, I must oppose the pending amendment. The subcommittee held hearings on this proposal, and we decided that we should meet our obligations and square with the authorization bill. Committee report contains the following language:

> The committee recommends appropriation of $320,000,000 as the fiscal year 1972 portion of the total authorized U.S. share of $960 million (40%) of the International Development Association's current three-year capital replenishment aggregating $2.4 billion.
>
> The appropriation of these funds now—*in this bill*—is critical if the International Development Association is to be expected to fulfill its roll of providing "bootstrap" development funds for the poorest nations of the world which have a very low threshold of foreign debt capacity. The International Development Association ran out if its regular funds in July of last year and since then has only been able to continue making credit commitments by using advance contributions of other nations against their pledged subscriptions. As of the date this bill is reported—April 27—the International Development Association has 33 loan applications from 23 of the poorest nations of the world with a total value of $473,000,000 which will be ready for final Board action within the next 60 days. To fund these loans, the Association has available only $64,000,000.
>
> Although it was originally anticipated that the Third Replenishment of IDA's capital would become effective as of June 30, 1971, authorization of the U.S. subscription (Public Law 92-247) was not approved until March 10, 1972. The first installment is due within thirty days after the replenishment becomes effective. The second installment, requiring a fiscal year 1973 appropriation, is due on or before November 8, 1972. The committee regards the item as appropriate for fiscal year 1972 supplemental action and sees no justifiable reason for delaying action until fiscal year 1973 when the second payment would also normally be due.

Senators know how I feel on foreign aid. In fact, I voted against the authorization. Nevertheless, we have seemingly committed ourselves to this amount the association's representatives have taken in all of these applications for loans.

Mr. President, as chairman of the committee I hope the amendment is rejected.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. Mr. President, I yield 5 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 5 minutes.

Mr. FONG. Mr. President, the International Development Association—known as the IDA—is the very foundation of our peaceful cooperation with other nations to help the poorest countries of the world. I wish to urge my colleagues to vote today in favor of this supplemental budget request so urgently needed for the replenishment of the IDA's resources. I ask my colleagues to reject the amendment of the Senator from Virginia.

It was the Congress of the United States that saw the need for creating the IDA 12 years ago. The Congress realized that the poorest nations of the world have a very low foreign debt servicing capacity. Their needs for economic development financing were—and still are—much greater than their ability to pay commercial interest rates.

Over the past 12 years, the IDA has provided more than $3.4 billion in concessionary development financing credits, that is, of a long term and at a very low rate of interest.

In July of last year, the IDA exhausted its regular funds and, since that time, has only been able to continue making credit commitments by relying upon advanced contributions by the other 18 industrialized contributors. A month ago the IDA exhausted these advanced contributions. All IDA funds were fully committed or definitely earmarked. Consequently, IDA can no longer make new credit commitments.

The status of IDA now is that the funds which have been contributed by the other 18 nations have already been exhausted and these funds have been made available by those countries in the form of advance contributions. If the United States makes this contribution of $320 million, that will replenish IDA funds.

Now that the other nations have met their commitments and have provided funds for IDA and now that those funds have already been spent, for us to say at this time that we should not pay our contribution of $320 million when other nations have provided their contributions, I would say, would be most unfair.

As of April 27, the IDA had 33 loan applications from 23 of the poorest nations of the world with a total value of $473 million, which will be ready to be committed within the next 2 months. If IDA were to suspend the operations, it would severely impair the development efforts of the poorest countries in the world. Mr. President, our failure to act now would have important foreign policy implications, far out of line with the cost to us.

The other industrialized countries have demonstrated their confidence in the United States and in the principle of burden-sharing—which we have urged so strongly—by making advanced contributions on the good faith that we will participate. Until we do, the full replenishment cannot come into effect.

Before IDA is able to get money from any of these countries, these countries have to sit down together and discuss the amount that is needed. We have sat down with the other countries of the world and have discussed the problem. We have said that we would make our contribution. This is a contribution of $320 million. These other countries have already committed themselves. We have committed ourselves. IDA has been using the money that has been committed. That money has now been exhausted. And for us to renege on our promises would be very bad faith on our part.

It would indeed be tragic if the Congress of the United States—which initiated the IDA in a spirit of international cooperation for the works of peace—should withdraw its support. Let us not be so shortsighted as to refuse to bear our fair share in this major effort to help the poorest nations of the world. Accordingly, I strongly urge my colleagues to join me in supporting the appropriation of $320 million requested by the President and authorized by Congress so that the United States can meet its fiscal year 1972 contribution to the IDA now.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. FONG. I yield.

Mr. COTTON. Mr. President, I was unable to receive some information during the short time the matter was before the committee. With respect to the amendment to the bill, I would like to know, first, as to the portion we are paying into this IDA fund, and, second, as to what will the other 18 nations have already paid with respect to this corresponding installment.

Mr. FONG. Mr. President, according to my figure, the total authorized U.S. share is $960 million—40 percent—of the current 3-year capital replenishment aggregating $2.4 billion. Other countries are contributing slightly under $1.5 billion. And our contribution, as I say, is 40 percent of the total annual contributions.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COTTON. Mr. President, will the Senator yield to me for 1 additional minute?

Mr. ELLENDER. I yield.

Mr. COTTON. I expressed some reluctance in committee on this item. I felt the 40 percent we are paying was a disproportionate share. I did not, however, strenuously oppose it because it represented a commitment, but an authorization is not necessarily a commitment. I merely wish to observe that I love the phrase in the report with reference to "bootstrap nations." I wonder how far below the bootstrap level the United States is at the present time. These bootstrap nations are said to be unable to borrow anything, but they do not owe anything. I think that term "bootstrap" should be left out of future reports because, heavens knows, we have sunk so far below the bootstrap stage financially that for every cent we pay out we are digging down and going further and further in debt for.

I have sympathy for the amendment of the Senator from Virginia.

Mr. FONG. The Senate debated this matter a couple of months ago, and it was only on March 10 that the authorization was signed into law. This appropriation of $320 million is in furtherance of the authorization Congress enacted about 2 months ago.

Mr. ELLENDER. The authorizing legislation also was before the Senate.

Mr. FONG. Yes; since the U.S. share has been negotiated at 40 percent, there is no way we in Congress can now cut down the percentage. But the Treasury Department promised to renegotiate the next time this comes up. We asked them to renegotiate downward, 30 percent or 35 percent. But in this item before us today, we cannot go below 40 percent because we have agreed to pay 40 percent, and it was only a couple of months ago that the Senate passed the authorization.

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. FONG. I yield.

Mr. COTTON. What has been the experience in the past of the distinguished Senator from Hawaii with the departments and agencies charged with the funds of this nature?

Mr. FONG. As a member of the Foreign Operations Appropriations Subcommittee, certainly I would watch members of the Treasury Department next time they come before us for an appropriation. As the ranking minority member on that subcommittee, I promise the Senator I will pursue that matter.

Mr. COTTON. I have every confidence in the Senator but over the years I have heard the State Department tell us that the end of foreign aid was in sight. The next time they said if we would extend foreign aid once more it would only be for 2 more years. Then they said if we would keep it going it would be reduced next year. So I have grown a little cynical through the years.

Mr. FONG. We have told the Treasury Department to work on this problem and they have said they would.

Mr. HARRY F. BYRD, JR. Mr. President, I do not understand why the Senator from Hawaii says that Congress would be reneging on a promise if it fails to appropriate the $320 million. As the Senator from New Hampshire just said, an authorization is not necessarily a commitment.

We know and we have been told many times that the authorization for appropriations to HEW and Education have fallen tens and tens of billions of dollars below the authorization. Almost every authorization bill which comes before the Senate is not matched by appropriations. As I see it, Congress cannot make a commitment and does not make a commitment until the appropriation is made on matters of this type. If you are going to assume that, Mr. President, I see no particular reason to have a Committee on Appropriations. We could let the authorizing committee act if we are going to match dollar for dollar every amount that is to be authorized.

Of course, we know an authorization is not a commitment and we all know that in virtually all cases, except in some of these international appropriations to international financial institutions nine times out of 10 the appropriations are less than the authorization.

I am curious about the paragraph in the report that says as of the date this bill is reported, April 27, the International Development Association has 33 loan applications for a total value of $473 million, or approximately a half billion dollars. I am wondering if the Senator from Virginia could be informed as to just what type loans these are. What are they being used for? We know that over the life of this organization 60 percent of all the funds have gone to India and Pakistan, and we know that India and Pakistan have gotten into war with one another. How much of these funds were used to finance the war on India's part against Pakistan, and how much of these funds were used to finance the war on Pakistan's part against India? So I think before we vote these huge sums we better know what this money is being used for. Is it being used for armaments and military hardware? Can anyone say it is not being used for that purpose?

Mr. President, I yield to the Senator from Hawaii if he will tell us what these 33 loan applications are for, which total $473 million.

Mr. FONG. Mr. President, these applications embrace many projects. For example, in Pakistan, highway engineering project, irrigation engineering project, port engineering project, and irrigation project; in New Guinea, education projects, highway projects, and irrigation project; in other countries, agricultural development projects, power projects, livestock development projects, coffee importation projects.

These are projects for which the World Bank makes loans and these are the loans we are talking about.

Mr. HARRY F. BYRD, JR. Do these loans go directly to the country involved or to the businesses in those countries?

Mr. FONG. I understand they go directly to the country involved.

Mr. HARRY F. BYRD, JR. They go to the country involved and the country then lets the contract?

Mr. FONG. That is what I understand.

Mr. HARRY F. BYRD, JR. What machinery is there for having some assurance that the tax funds are not being siphoned off by government officials in some of these countries where their standards of observation are less rigid?

Mr. FONG. I think the history of the World Bank in this regard has been very good. I understand their losses are very minimal.

Mr. HARRY F. BYRD, JR. Can the Senator assure the Senate that these funds have not been used in the past for military hardware?

Mr. FONG. That I cannot assure the Senator.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. President, I will conclude by saying I think the time has come for the Senate and the Congress to take a much harder look at what we are doing with the tax funds of the American taxpayers. We have already given more than $1 billion for this soft loan window of the World Bank and the World Bank has in turn turned over 60 percent of those funds to two nations, India and Pakistan, two fine nations. I have a high regard for both of them, but I submit that neither of them is in any worse financial condition than the United States. As a matter of fact, I do not think there is any country in the world in worse financial condition than is the United States.

At the end of the next fiscal year, according to the statement submitted by the Director of the Office of Management and Budget, the national debt of the United States will be $493 billion, and 25 percent of that will have been accumulated during the 4-year period ending June 30, 1973. A great deal of that debt is because of these foreign giveaway programs. We mean well. We want to help other countries. To some extent we have an obligation to help other countries. But we also have an obligation to ourselves. We have an obligation to this country. I submit this country is on a very unsound basis financially. It could not be more unsound, in my judgment—to think that by June 30 next year we will have a national debt of $493 billion, and 25 percent of that will have been accumulated during the 4-year period ending June 30, 1973.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Louisiana has two minutes remaining.

Mr. ELLENDER. Mr. President, I yield back my time.

The PRESIDING OFFICER. All remaining time is yielded back.

The question is on the amendment offered by the Senator from Virginia.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce

that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

I further announce that if present and voting, the Senator from Georgia (Mr. GAMBRELL) would vote "yea."

Mr. COTTON. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Colorado (Mr. DOMINICK), the Senator from Maryland (Mr. MATHIAS), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also, the Senators from Arizona (Mr. GOLDWATER and Mr. FANNIN), the Senator from Michigan (Mr. GRIFFIN), the Senators from New York (Mr. JAVITS and Mr. BUCKLEY), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 28, nays 31, as follows:

[No. 170 Leg.]

YEAS—28

Allen
Bellmon
Bennett
Bible
Brock
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cook
Cotton
Cranston
Curtis
Ellender
Gravel
Gurney
Hansen
Hruska
Hughes
Jordan, Idaho
Long
Miller
Montoya
Randolph
Spong
Stennis
Symington
Talmadge
Tower

NAYS—31

Aiken
Allott
Beall
Boggs
Brooke
Case
Chiles
Church
Cooper
Dole
Fong
Hart
Hatfield
Inouye
Jackson
Kennedy
Nelson
Pearson
Percy
Proxmire
Ribicoff
Roth
Saxbe
Schweiker
Smith
Stafford
Stevens
Stevenson
Taft
Weicker
Young

NOT VOTING—41

Anderson
Baker
Bayh
Bentsen
Buckley
Cannon
Dominick
Eagleton
Eastland
Ervin
Fannin
Fulbright
Gambrell
Goldwater
Griffin
Harris
Hartke
Hollings
Humphrey
Javits
Jordan, N.C.
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Moss
Mundt
Muskie
Packwood
Pastore
Pell
Scott
Sparkman
Thurmond
Tunney
Williams

So Mr. HARRY F. BYRD, JR.'s amendment was rejected.

Mr. ELLENDER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed for a third reading, and the bill to be read the third time.

The PRESIDING OFFICER. The bill (H.R. 14582) was read the third time.

ADDITIONAL FUNDS NEEDED FOR EMERGENCY FOOD AND MEDICAL SERVICES PROGRAM

Mr. SYMINGTON. Mr. President, once again the Committee on Appropriations seeks to assure the continuance of the emergency food and medical services program.

Despite express congressional intent to maintain this program at a spending level of $52,700,000 during 1972, the administration continues to withhold all but $3.5 million for emergency food and medical services. Therefore, in this second supplemental appropriations bill, the committee has provided an explicit appropriation of $30 million to carry out this program for poor families in need of nutrition. I support this provision.

Curtailment of this program would mean hardship for many Missourians. Without the assistance it provides, needy infants and pregnant women in St. Louis and Kansas City would no longer benefit from the supplemental food program. Elderly and other homebound poor in the bootheel and rural poverty areas would no longer be able to have essential foods delivered to them at home. Educational programs about good nutrition and preparation of food, particularly surplus commodities, would also be discontinued.

These benefits should not be terminated. I therefore support the committee's action in approving an additional appropriation for the emergency food and medical services program.

Mr. HOLLINGS. Mr. President, I am pleased today to join a bipartisan group of my Senate colleagues in support of the emergency food and medical services program of the Office of Economic Opportunity. I hope our efforts will not be in vain. I, perhaps more than any other Member of this body, know how valuable this program can be to meet the critical health and nutritional needs of poor mothers and children.

What we seek today is approval of an amendment which would provide $30 million extra in the fiscal 1972 budget for the emergency food and medical services. This budget presently contains only $3.5 million following a drastic cut by the Office of Management and Budget. How ironic it is that our Nation was about to see this program really reach its potential, when the budget cutters got hold of it. The program spent more than $42 million in fiscal 1971, reaching thousands and thousands of mothers and children all over the Nation.

Last year, the Congress appropriated an additional $20 million for the program, but OMB refused to release the funds. Then, following an appeal by 42 Members of the Senate, President Nixon once again turned down the program funding.

Mr. President, this kind of performance on the part of the Chief Executive is nothing new in the field of feeding hungry Americans. This cutback is just another example of shortsighted leadership. We have seen the same thing in food stamps, commodity foods, school lunches, school breakfasts, and all of the other feeding programs launched by Congress.

I feel particularly distressed about the emergency food program because it has been such a success in South Carolina.

In fact, this program—more than any other—has been responsible for changing many opinions in my State about so-called Federal giveaway plans. Using this program, our county health officers were able to bring in families for medical checkups, often for the first time. They were able to look at the children and the pregnant or nursing mothers, and could prescribe good food as well as medicines and vitamins.

For the first time, our medical leaders in South Carolina really began to look face to face at the effects of hunger and malnutrition. Findings from these contacts led to our State leaders to expand the food stamp program to every county, and to speed up the rate of participation. But the food stamp program is not enough, because it does not reach those specialized needs of the pregnant woman, the nursing mother, or the child under 1 year of age whose brain is so easily susceptible to damage from lack of nutrition.

In South Carolina, 30 counties are aided by funds from emergency food and medical services: Beaufort, Jasper, Fairfield, Oconee, Pickens, Darlington, Greenville, Lee, Williamsburg, Charleston, Lexington, Richland, Florence, Calhoun, Orangeburg, Berkeley, Colleton, Dorchester, Dillon, Marion, Abbeville, Greenwood, Kershaw, Sumter, Horry, Georgetown, Chesterfield, Marlboro, and Hampton. More than $1.4 million went to this program in my State last year, but under the new budget, they will all virtually be eliminated.

Seven counties participate specifically in what we call the "prescription feeding" program sponsored by OEO. Because of the tremendous success, our outstanding State board of health, under Dr. Kennety Aycock, tried to expand this program to many other counties. But the OEO and the Department of Agriculture said no—there would be no expansion. In fact, I have learned that more than 500 counties around the Nation have been refused permission to take part in the prescription feeding program because the administration had long ago been planning to eliminate it.

Additionally, the University of South Carolina has been funded at about $270,000 annually. The project has involved the testing and treatment of children in Beaufort and Jasper Counties for intestinal parasites, as well as the creation of films and easy-to-understand pamphlets and training aids on parasite control. These programs have been very successful in my State. There is a statewide awareness now of the need for good nutrition and sanitation practices. Employers are beginning to understand that well-fed employees are better workers. Teachers are understanding that well-fed children are good learners and can participate in classroom activities. Doctors are understanding that families from poor neighborhoods are inflicted by a host of nutrition related health problems which can be corrected by food. We are making these breakthroughs in South Carolina, but it is in spite of the administration, not because of it. We have had to fight for every program we have received. This is why we hold them so dearly, and hate to see an agency so insensitive as OMB just wipe out a major program. I hope the record we make on this issue today will compel the White House to take action on this critical need in America.

Mr. COOK. Mr. President, I wish to register my strong support for the amendment to the Second Supplemental Appropriations Act fiscal year 1972 (H.R. 14582) which provides $30 million to be added to the fiscal year 1972 budget for the emergency food and medical services.

I highly commend the Senate Appropriations Committee for approving this amendment and including it in H.R. 14582.

Congressional approval of this amendment will mean that many EFMS programs will be able to continue food and medical services to many needy Americans.

Some of these Americans are in my own State of Kentucky. For example, the Boone Fork Community Kitchen in Fleming, Ky., is funded solely by EFMS money. This community kitchen serves an average of one hot meal a day to 120 of the needy elderly in that county. At one time, the kitchen served 240 elderly persons, but had to cut back due to limitation of EFMS funds. The Boone Fork Comunity Kitchen not only serves those persons who are able to come in but also the elderly who are not able to leave their homes. In such cases, the meals are delivered from the kitchen. In addition to providing food to needy elderly who may otherwise go hungry, the community kitchen employs 11 persons who had been jobless.

Mr. President, it is unfortunate that our present feeding programs are falling short of meeting the nutritional needs of the poor. But it is fortunate that we have such programs as EFMS which attempts to fill the hunger gap until our present feeding programs are expanded to meet this problem.

Without an additional $30 million for EFMS in the budget for fiscal year 1972, hundreds of programs across the country will be forced to close down, including the Boone Fork Community Kitchen.

I strongly urge that this amendment receive full congressional approval.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Washington (Mr. Magnuson).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Magnuson

I am extremely gratified that the Senate Appropriations Committee has concurred with my amendment adding $30 million to H.R. 14582 (the Second Supplemental Appropriations Act) for the Emergency Food and Medical Services (E.F.M.S.) program administered by the Office of Economic Opportunity.

As Chairman of the Labor, Health, Education, Welfare and Related Agencies (O.E.O.) Appropriations Subcommittee, I am keenly aware of the Nixon Administration's drastic and unjustified cutback of E.F.M.S. from $42.2 million in F.Y. 71 to $3.5 million in F.Y. 72. As the senior Senator from the State of Washington, I am also painfully aware that nearly 80,000 individuals in my State are being fed each month by church-sponsored food programs. Several hundred thousand individuals, each month, rely upon food stamps or surplus commodities to meet their basic nutritional needs. E.F.M.S. has less stringent qualifications for participation and could be a great means of assistance to the church-sponsored food programs which rely *totally* for support on voluntary contributions of food and money. Without some governmental assistance, these church-sponsored programs in Washington State can not possibly continue.

Earlier this year, 42 Senators urged President Nixon to continue funding E.F.M.S., but that request was denied on the basis that existing Department of Agriculture programs were adequately meeting the needs of poor and needy citizens.

Mr. President, the figures I have quoted clearly indicate that existing programs are not meeting the needs of the people in Washington State and I am certain that other States, which are also experiencing high rates of unemployment, are also finding existing programs inadequate.

The E.F.M.S. program grew out of the concern sparked by the 1967 hearings which revealed the existence of serious hunger and malnutrition in America. It was intended then, as now, not as a substitute for other direct food assistance programs, but as a flexible tool that might enable all other existing efforts to better alleviate the most serious problems of hunger and malnutrition. Then, as now, its direct assistance efforts are concentrated in the poorest counties where as many as half or more of the poor cannot or do not use food stamp and donated foods programs. Elsewhere, E.F.M.S. money is used to demonstrate more effective methods of dealing with the groups falling outside the normal welfare system (e.g. the "new poor" in Seattle), or problems not the focus of other agencies (e.g. the South Carolina research into internal parasites among the poor). E.F.M.S. grants have established successful models for the feeding of indigent elderly (e.g. the Boone Fork Community Kitchen), and for the monitoring of the School Lunch Program (North Carolina State University). E.F.M.S. has been a key element in local efforts to reach out and identify more of those who might be eligible for the family feeding programs, and has been the principal supporter of the Supplemental Food Program which serves 186,000 pregnant women, new mothers and young infants.

For a relatively small amount of money, the E.F.M.S. has produced a large and valuable dividend in our national effort to alleviate hunger and malnutrition among the poor.

Because the program has no new funding authority, existing programs are being allowed to expire. At the start of this current fiscal year, there were 700 projects in place, worth about $37 million. By April 1, 1972, there were only 400 projects remaining, worth only about $20 million. By the start of F.Y. 73, there may be as few as 150 projects still in place, worth only $10 million. Action in the Second Supplemental is necessary because, without it, additional programs may simply close before the regular authorization/appropriation process can be completed.

The immediate effect of not providing funds through the second supplemental, would be the expiration of remaining programs, releasing staff and facilities that will be difficult to reclaim if the funds are only made available later. In addition, the successful implementation of 1971 food stamp amendments requiring that each state provide outreach for needy persons not yet participating in the program depends in part on the continued existence of the E.F.M.S. In the case of the Supplemental Food Program for pregnant women and young infants, the situation is even more stark; without E.F.M.S. there will not be a Supplemental Food Program.

Mr. President, I ask the Senate Conferees on H.R. 14582 to urge the House Conferees to accede to the Senate Amendment. I know the Conferees will do their best.

Mr. PERCY. Mr. President, I am pleased that the Appropriations Committee has included $30 million for the emergency food and medical services program—EFMS—in the second supplemental appropriations bill.

I wish particularly to commend the chairman of the Labor-HEW Subcommittee, the Senior Senator from the State of Washington (Mr. Magnuson), for his leadership in the effort to provide adequate funds to keep this valuable program alive, funds vital to his own State of Washington as well as many other States.

We cannot allow hundreds of projects which provide desperately needed services to pregnant women and infants, which serve oppressed minorities such as Indians and migrant workers, to be closed down. By acting to prevent these closings by making these funds available, the Senate is once again demonstrating its determination to win the war against hunger and malnutrition in the United States.

The Senate has gone on record again and again over the past 2 years or so to indicate its strong support for EFMS and its desire to see the program effectively implemented. Most recently, 42 Members of this body joined in signing a letter to the President urging that funds not be withheld from these projects. Our efforts have been thwarted by those whose first concern is economy in Government.

To cut this program, however, is false economy. Projects which assure proper nutrition to mothers and their young offspring are a prudent investment, for they reduce the potential for later institutionalization and the public expense associated with that.

In Illinois, 13 projects which serve many thousands of persons throughout the State might be forced to shut down over the next several months if these funds are not provided. Most of the projects provide direct services—food stamps, food purchase vouchers, or certification for food stamps—to needy individuals and families.

The Springfield-Sangamon County project, for example, offers a wide variety of services. In a period of 9 months, 1,620 individuals have been helped with direct food purchases; 444 families have been provided with food stamps; 211 families have received food pantry service; 423 people were given transportation to and from medical facilities; 268 people were given direct medical assistance; 4 teenage pregnancies were aided; 4,500 schoolchildren and 100 elderly citizens were served breakfasts; and 17 cases of malnutrition were identified and treated. That is a marvelous record of accomplishment and the total Federal commitment for the term of the project—which has over a year to run—is only $28,000.

I ask unanimous consent that a table listing the EFMS programs in Illinois be incorporated in the RECORD at the conclusion of my remarks.

Providing food and medical services to the needy must remain a No. 1 priority for the Nation. We must provide these additional funds at this time to indicate our commitment is as strong as ever.

ILLINOIS EMERGENCY FOOD AND MEDICAL SERVICES PROJECTS

Project	Funding level	Term of funding	Termination date	Numbers served
Decatur, Makin County	$33,996	18 months	Feb. 28, 1973	3,009.
Peoria	25,000	1 year	Dec. 31, 1972	300.
Vermillion County	50,000	2 years	June 30, 1973	3,000.
Springfield, Sangamon County.	28,000	do	July 31, 1973	6,932 individuals, 655 families.
Embarrass River Basin CAA	15,000	1 year	Jan. 31, 1973	5,630.
Wabash County	19,122	do	Nov. 30, 1972	996 families.
Shawnee County	15,000	do	Aug. 31, 1972	1,941.
St. Clair County	50,000	do	Dec. 31, 1972	3,500 families.
Madison County	$20,956	do	Unavailable	Unavailable.
Cook County OEO	353,000	Undefined	July 1972 (estimated).	16,300 per month.
Kankakee Land CAP	20,000	1 year	Feb. 28, 1973	3,000.
Project NOW, G.I. Forum, Rock Island.	10,000	do	July 1972	3,000.
Cook County Urban Organization.	472,000	Unavailable	Unavailable	Unavailable.

EDUCATION PROGRAMS

Mr. KENNEDY. Mr. President, I am pleased to take this opportunity to request that the Senate approve the appropriations provided in H.R. 14582, the second supplemental appropriations bill. I am particularly pleased that under the considered concern of the chairman of the Subcommittee on Appropriations for HEW and Labor, this bill includes appropriations for two education programs that I strongly support.

First, the bill includes $9 million that I, along with 17 other Senators requested to continue 26 Follow Through programs. Second, this bill includes the $5.8 million I requested to enable over 10,000 veterans to receive education benefits through the Upward Bound and Talent Search programs.

In addition, I am concerned about the need to provide adequate funding for educational work-study programs. Therefore, I urge the approval of $75.4 million for work study grants to provide academic training for 173,000 students.

Included in the total package of H.R. 14582 are appropriations to supplement funding operations for many worthwhile programs that fully deserve the support of this Senate. However, I am particularly concerned about Follow Through, veterans in Upward Bound and Talent Search, and the work study program. I am concerned because each of these are proven educational programs that deserve to continue offering assistance for needy students.

Only with substantial funding will benefits be available to those who seek their help. For that reason I strongly urge the Senate to approve the following appropriations requests:

FOLLOW THROUGH

First the appropriation of $9 million for a continuation of the Follow Through program in 26 communities is important to the parents and to the 8,350 students enrolled in these projects. The Office of Education announced plans to close the Follow Through programs in Pittsfield, Mass. and in 25 other communities around the country in March 1972. That announcement raised serious questions about the administration's credibility regarding education programs because the administration had assured the Congress that such cuts would not occur. Last year the administration insisted there was no intent to cut back any programs at the time the OE requested a reduction of $9 million in the Follow Through budget.

Nevertheless, it is now necessary for the Congress to restore the funds because the administration seeks to eliminate the programs. I am pleased that the committee agrees with the need to continue with these projects. Nationwide, 91,000 youngsters, enrolled in Follow Through programs, are gaining comprehensive education benefits in kindergarten through grades 3. In reading and in other basic skills, Follow Through students show substantial improvements over those who are not enrolled.

In Pittsfield, Mass. parents overwhelmingly support this program because they approve of the intensive and careful concern shown to their children by the teachers and staff assistants in Follow Through.

I have supported these projects because Follow Through is properly designed to preserve and build on the gains made in Headstart and in other preschool compensatory programs.

Along with Senator STEVENSON and the other Senators who requested the committee to include funds for these projects, I was gratified that the bill reported by the committee includes the funds requested.

VETERANS IN UPWARD BOUND AND TALENT SEARCH

With current public attention focused on the swelling number of veterans returning from Vietnam, I feel it is appropriate that the bill before the Senate today includes funds to assist veterans to seek help in completing their education.

Both Upward Bound and the Talent Search program are intensive projects designed to attract to college campuses those young people who have avoided the quest for college training because they have been denied the proper motivation. Upward Bound has clearly proven its value in assisting over 32,000 students since 1965, who otherwise may have been denied access to college training. Therefore, I am particularly pleased that the subcommittee accepted my request to provide $5.8 million to enable veterans to take advantage of these programs. Accordingly, $4 million will provide slots for 10,000 veterans in Upward Bound; $1 million will be used to seek out some 12,000 veterans through the facilities of Talent Search; while the balance of $800,000 will provide for program administration and staff training. These worthwhile projects are fully deserving of approval by this Senate.

EDUCATIONAL WORK STUDY

Finally, I wish to commend the Appropriations Committee for its expression of concern about the need to continue support for educational work-study programs. These projects, operating in 2,900 institutions offer opportunities to 545,000 needy students to earn funds to support their educational training.

Again, this is a program with a substantial achievement record that fully deserves Senate approval.

In summary, the need for educational assistance through Federal programs is vital across the board. The appropriations included in this bill for education are needed in some instances to maintain on-going projects, and in other cases to slightly extend coverage to new students.

Yet, despite the concerns expressed by the appropriation of these moneys there is a need for even more help in many areas.

The Senate's approval of the funds designated in this bill will at least insure benefits for those who have already accepted the fulfillment of Federal promises.

It is my hope that in approving these appropriations today, we shall show that we continue to believe in those education projects that are designed to raise the academic achievement levels of many of our Nation's needy students.

FUNDS FOR THE KANSAS CENTER FOR THE DEVELOPMENTALLY DISABLED

Mr. DOLE. Mr. President, I wish to express my support for H.R. 14582, the second 1972 supplemental appropriation bill, and urge Senators to approve these needed appropriations. I have a special interest in the passage of this bill because it contains appropriations to provide initial funds for the manpower training program of the university-affiliated mental retardation center in Kansas City, Kans.

The University of Kansas Mental Retardation Center, once operational, will supply health manpower to work with the developmentally disabled in Kansas. It will also provide diagnostic and advisory services along with an organized program for improving delivery of these services. The benefits of this program to the developmentally disabled of Kansas and their families are significant and with the university affiliated programs progressively assuming more of a regional responsibility, the same benefits could eventually become available to the disabled in surrounding States thus, the Kansas can be seen as an important link in the national program to better the lives of the developmentally disabled.

The Kansas University affiliated mental retardation center has faced many problems in its struggle for existence. An application for construction funds for the new building in Kansas City was submitted in 1966. After a 2-year delay, construction funds were finally awarded in 1968, and the facility is now nearly completed. Dr. Richard Schiefilbusch, director of the Kansas UAF, has for several years attempted to obtain maternal and child health program funds for the medical center facility, although applications to MCH services in the Department of Health, Education, and Welfare for this purpose have not been approved because of low MCH appropriations. In 1971, a commitment was made by MCH to fund Kansas if additional funds were made available to MCH by the Congress in 1972. However, even though a higher MCH appropriations request for 1972 did receive congressional approval, inflated operational costs in existing UAF programs exhausted the extra appropriation and made funding of the Kansas UAF an impossibility once again. For much the same reasons, funds for the Kansas UAF were not included in the 1973 MCH budget.

I would emphasize that UAF is at a critical stage in its development. Immediate funding through H.R. 14582 will permit the program to begin operating immediately, and will allow the program to take advantage of the excellent organizational structure which has been established by Dr. Schiefilbusch and his assistants.

A delay in funding would make the program's future very uncertain, because professionals who are tentatively committed to participating in the program will be forced to seek employment with a more certain future. MCH program funds for the University of Kansas Medical Center UAF must be made available now to take advantage of the full potential offered by the work done by Dr. Schiefilbusch to date. For these reasons, passage of this bill is of special concern to the well-being of the disabled in Kansas.

The $112,000 included in this supplemental appropriation for the Kansas UAF will enable the immediate development of a most worthwhile program. The university-affiliated mental retardation center in Kansas City will provide:

First. Urgently need, well-trained health manpower to work with the developmentally disabled.

Second. Referral services for amplex diagnostic and treatment problems.

Third. Advisory and technical services to existing statewide programs.

Fourth. Programs for improving delivery of these services to the handicapped.

Each of these points deserves a brief elaboration.

MANPOWER TRAINING

The State and the area have long needed a full-blown interdisciplinary training program to provide health manpower to work with the developmentally disabled. Planning committees agree upon the need for interdisciplinary training for nurses, nutritionists, occupational therapists, special educators, and pediatricians. The UAF has planned an optimal arrangement for training in these critical areas of State manpower needs.

DIAGNOSIS AND PLANNING

The University of Kansas Medical Center serves Kansas and neighboring areas as a referral center for complex diagnostic and treatment problems. Included are the mentally retarded and those with cerebral disfunctions, learning disabilities, and emotional disturbances. Presently, we are talking about several hundred children and their families who would be accorded improved and coordinated services in the new UAF facility. In addition to diagnostic services, the families can count on improved resources for planning and implementing appropriate placement and followup services. The UAF program would provide a staff to work with communities and other service agencies to assure that critical services are provided and maintained.

ADVISORY AND TECHNICAL SERVICES

Through the State interagency council on developmental disabilities and such agencies as the Kansas Association for Retarded Children, it has become increasingly clear that important educational services, advisory services, short-term training courses, and paraprofessional services are greatly needed by personnel already serving the handicapped in the State. The design is essentially for the UAF through the medical center's newly organized resources to provide technical and professional services to the State in the manner prescribed by the State and arranged through existing channels. The UAF's staff of organized personnel would then be a major resource in the State.

IMPROVEMENT OF SERVICE PROGRAMS

The UAF unit at KUMC will provide for an organized program for improving delivery of services to the handicapped. A critical team of specialists will be composed both of medical and behavioral specialists who will undertake to develop better programs for the preschooled handicapped, for institutionalized handicapped who seek a return to community living arrangements, for culturally impaired handicapped individuals who seek improved education resources, and for parents of handicapped children who seek to improve their own capabilities for training in the homes. Included in the last are minority groups—Indians, Chicanos, urban blacks, and rural poverty groups—who seek critical service improvements for their handicapped children. Many of these programs have already been undertaken, but there is currently a lack of critical manpower for completing the program.

The funds needed to initiate this excellent program are included in H.R. 14582, and I urge Senators to support this legislation and thereby assist Kansas in its effort to better the lives of the developmentally disabled.

THE ALASKA NATIVE FUND

Mr. STEVENS. Mr. President, in this bill, making a supplemental appropriation for the present fiscal year, on page 8, line 17 to page 9, line 5, appears a new proviso concerning the Alaska Native fund. This proviso was added by the Appropriations Committee at my request. It authorizes the advancement to each regional association the sum of $1,000,000 in fiscal year 1972. This sum must be used solely for organization of the regional corporations and village corporations within each region and to identify land for such corporations pursuant to the Alaska Claims Settlement Act. This advance must be credited against the first moneys due to such corporations under the Alaska Native Claims Settlement Act. It must first be used to repay any loans advanced to such corporations by any financial organization after the date of the Native Claims Settlement Act. It limits the village corporations eligible to receive such advancements to those determined by the Bureau of the Census in the 1970 census to have had 25 or more Native residents living within them.

Mr. President, the reason it has been necessary to introduce this legislation is because of an apparent anomaly resulting from two potentially conflicting sections of the Native Claims Settlement Act. Section 6(a)(1)(A) authorizes the appropriation of $12,500,000 during the fiscal year 1972. Section 6(c), however, requires the Alaska Native roll to be completed prior to the distribution among the regional corporations. The latter section also provides that shares of regional corporations not yet organized must be retained in the Alaska Native fund until the corporations are all organized.

The advancement contained in the supplemental appropriation will permit the regional associations to form regional corporations. They will be permitted to form up to 12 such regional corporations. Each such regional association is appropriated the sum of $1 million in the current fiscal year.

The amendment further provides that the moneys advanced to the regional associations are to be used solely for organization of the regional and village corporations within each region and to identify land for such corporations under the Alaska Native Claims Settlement Act. The moneys are to be used by the associations and credited to the moneys granted to the regional corporations.

The legislation further provides that the advancements must be used to repay bank loans advanced to the regional and village corporations by financial organizations after December 14, 1971. This has been necessary because a number of lending institutions have advanced money with the specific understanding that there was to be repayment as soon as possible.

Finally, there is a requirement that eligible villages must contain at least 25 persons. This is the figure used in the Alaska Native Claims Settlement Act to determine eligibility. While some villages may be at a disadvantage and ineligible to receive advanced funds, the provision will permit the expeditious advancement of funds to those villages eligible according to the act on a prima facie basis without unduly delaying the process.

Mr. President, the importance of the Native Claims Settlement Act for our State of Alaska cannot be overemphasized. This is a landmark settlement of many aboriginal Native claims throughout the State of Alaska. The rapid implementation of this act is both necessary and fair. Many Native groups have long awaited the settlement of their claims. Many others are in dire straits financially and desperately need the money forthcoming under the act in order to continue even a minimal existence. Considerable time, up to 2 years, will be necessary to complete the enrollment procedures under section 5 of the act. It will also take considerable time and money to organize the regional corporations under section 7. Until that time under the act, if no amendment is added, funds will be effectively frozen. It is the intent of the Appropriations Committee to alleviate this severe hardship.

At my request, the conference committee on the Alaska Native Claims Settlement Act authorized $12.5 million for the current fiscal year. However, even if this money is appropriated, unless my amendment is adopted it will not be forthcoming immediately, as I have just indicated. One of the agreements made in conference and approved by Congress was the authorization for the $12.5 million in the first fiscal year and $50,000,000 in the second fiscal year. To place these moneys in a fund in the Treasury will be of no use to these regional and village corporations which so vitally need the funds to initiate the work for the Alaska Native people in each area.

Mr. President, I would just like to add one final word. The distinguished Senator from Nevada (Mr. BIBLE) has provided great leadership in this matter. He was a member of the conference committee on the Native Claims Settlement Act itself and has also provided distinguished guidance as chairman of the Interior Subcommittee of the Appropriations Committee. He knows the bill well and the problems the people of my State face. His kindness and thoughtfulness will be long remembered throughout the State of Alaska.

I would also like to thank the distinguished Senator from Louisiana (Mr. ELLENDER) and the distinguished Senator from North Dakota (Mr. YOUNG) who, as the chairman and ranking Republican member of the Appropriations Committee, have also provided a great deal of encouragement and guidance to me. I am also grateful to all the other members of the Senate Appropriations Committee for their encouragement and assistance in this vital matter.

IN SUPPORT OF SEVERAL PROVISIONS

Mr. ROBERT C. BYRD. Mr. President, I wish to express my support for several items contained in H.R. 14582, the second supplemental appropriations bill for 1972, which was reported by the Senate Appropriations Committee on April 27, 1972.

The bill, as reported by the Senate Appropriations Committee, recommends appropriations of $5,063,387,439, which is an increase of $197,444,050 over the budget request and $1,108,934,081 over the amount included in the House bill. It should be pointed out, however, that a large portion of the Senate increase over the House amount is due to the fact that many of the supplemental items were submitted directly to the Senate.

I have long been a strong supporter of increased assistance for education, and I want to go on record as supporting the items contained in this bill for educational activities. The Senate bill contains $300,400,000 for Federal aid to higher education. Included within this total are $130,200,000 for educational opportunity grants; $75,400,000 for college work study grants; and $89,000,000 for national defense student loans.

The Office of Education informs me that within the amounts included in the Senate bill for the Office of Education, West Virginia will receive a total of $3,118,703 for the following educational purposes:

Seven hundred and fifty-three thousand six hundred and forty-nine dollars for national defense education loans; $1,058,246 for work study grants; and $1,306,808 for educational opportunity grants.

There is another educationally oriented program which I have supported and which I commend the committee for funding in this bill, and that is the inclusion of $5,800,000 for Projects Upward Bound and Talent Search. While the amount involved is not large, I believe this program will have a very significant impact on many of our returning veterans who have not previously availed themselves of the opportunity of continuing their educations. This program will be targeted toward veterans and it is specifically designed to place a substantial number of veterans in postsecondary and higher educational institutions, with special emphasis placed on the veteran who does not have a high school equivalency certificate. The primary selection of grantees will be from States with large concentrations of unemployed veterans.

The immediate need for this program is demonstrated by the fact that only one-fifth of an estimated 5,625,000 eligible veterans are currently enrolled under provisions of the GI bill in some form of education or training programs, and, of those who are enrolled, only a small percentage are from low-income, disadvantaged, and/or minority backgrounds.

It is unfortunate that West Virginia has one of the lowest records for utilizing veterans educational benefits. I have been assured that there will be a concentration of these efforts in West Virginia, and I am hopeful that these efforts will result in more West Virginia veterans utilizing their benefits, and thus improving their opportunities to earn a better living for themselves and their families.

I also wish to reiterate my support for the $247 million included in the Senate bill for the Neighborhood Youth Corps summer programs. I was a cosponsor of the amendment offered in the Appropriations Committee, increasing this amount from $95 million to $247 million. This amendment will provide 9-week job opportunities for 947,828 economically disadvantaged youths, ages 14 to 21 in urban and rural areas. I believe that this program is an appropriate mechanism with which to provide work experience for disadvantaged youths in the summer months and that this will do much to alleviate the idleness which too often provides an excuse for social unrest and a tendency toward criminal activities.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. ELLENDER. I yield back my time.

Mr. YOUNG. I yield back my time.

The PRESIDING OFFICER (Mr. STEVENSON). All time having been yielded back, and the bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 14582) was passed.

Mr. ELLENDER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on behalf of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. ELLENDER, Mr. MAGNUSON, Mr. BIBLE, Mr. ROBERT C. BYRD, Mr. MCGEE, Mr. PROXMIRE, Mr. MONTOYA, Mr. INOUYE, Mr. HOLLINGS, Mr. YOUNG, Mrs. SMITH, Mr. HRUSKA, Mr. ALLOTT, Mr. COTTON, Mr. CASE, and Mr. FONG conferees on the part of the Senate.

Mrs. SMITH. Mr. President, I am most gratified that the Senate has acted favorably on my proposal incorporated in my bill S. 2966 by including it as an amendment to H.R. 14582 in title I, chapter I on the appropriations for the Department of Agriculture.

I am disturbed with a misrepresentation being sent to Aroostook County not only that no action had been taken on S. 2966 but that such misrepresentation went even further to charge that "none is planned."

It is most difficult to understand why such a misrepresentation should be made in the face of the actual facts. The most charitable conclusion that I can reach is that the misrepresentation resulted from a failure of someone to make inquiry as to the factual situation before making the misrepresentation.

I sought action on S. 2966 at the first possible time after I introduced it. That first opportunity came when the Senate Appropriations Committee was considering the urgency supplemental appropriations bill on March 14, 1972. I offered S. 2966 as an amendment to that bill. The committee rejected it because it was claimed that the House would not accept any amendments to that bill.

I then notified the committee that I would again offer S. 2966 as an amendment to the second supplemental bill, this bill, H.R. 14582, when it came before the committee. When I did, members of the committee indicated that they would be favorably disposed to accept it.

On April 24, 1972, a week ago, the Appropriations Subcommittee on Agriculture accepted my S. 2966 in the form of an amendment to H.R. 14582 and the full committee approved it on April 27, 1972. Now today the full Senate has approved it.

Surely that is not a record of "no action has been taken and none is planned" as has been represented to at least one Aroostook County farmer.

I am grateful to the Senate for it now has done all that it could in support of S. 2966, which will become law unless the House conferees on H.R. 14582 oppose S. 2966 and refuse to accept it in H.R. 14582.

However, I am most hopeful that this action against the farmers will not be taken by the House conferees. I am hopeful because Representative HATHAWAY has expressed his support for this proposal—and as a member of the House Appropriations Committee, I am sure that Representative HATHAWAY can convince his colleagues on the House Appropriations Committee, who are chosen as House conferees on H.R. 14582 to agree to the Senate's action in putting my S. 2966 proposal in the bill and keeping it in the bill.

The language of the provision in the bill is:

Cropland Conversion Program

For necessary expenses to carry into effect the land use Adjustment program authorized in section 16(e) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590p(e)), $10,000,000 to remain available until expended.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The PRESIDING OFFICER (Mr. STEVENSON). The Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. What is the pending order of business at this time?

The PRESIDING OFFICER. The bill is open to amendment.

AMENDMENT NO. 1175

Mr. STENNIS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The assistant legislative clerk read as follows:

Strike out lines 1 through 12, inclusive, on page 38 of the bill.

Mr. STENNIS. Mr. President, this amendment proposes to strike out title VII, which is all of section 701 on page 38.

I call up that amendment at this time so that it may be made the pending business.

The PRESIDING OFFICER. It is the pending business.

Mr. STENNIS. Mr. President, I do not have any desire to discuss the amendment, particularly, now, and I note that the manager of the bill is not in the Chamber, so there could not be any agreement now about the time limitation or anything like that. I do not think it would be in order now, anyway. But I will address the Senate on this amendment when we reconvene.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I apologize for keeping the Senate in session a wee bit late, especially in view of the fact that many Senators have committed themselves to an engagement tonight. However, had action on the supplemental appropriations bill not been completed today, it would have been necessary to come in early tomorrow, but more importantly, there is a likelihood that fresh amendments would have been prepared overnight, with the result being that the Senate, on tomorrow, would have had to travel over some of the same ground that was plowed today, to say nothing of possible new amendments being offered and additional points of order being made tomorrow.

In view of the fact, therefore, that the Senate has completed its action on the supplemental appropriations bill, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE RECORD TO REMAIN OPEN UNTIL MAY 19 FOR EULOGIES CONCERNING THE LATE JAMES F. BYRNES AND FOR PRINTING OF THE EULOGIES AS A SENATE DOCUMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the eulogies concerning the late James F. Byrnes, former Representative, United States Senator, Governor of the State of South Carolina, Member of the U.S. Supreme Court, and Secretary of State of the United States, be bound and printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I also ask unanimous consent that the RECORD remain open until May 19 so as to permit Senators additional time in which to include eulogies regarding Mr. Byrnes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. This may very well be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR WAIVER OF THE RULE OF GERMANENESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Pastore rule of germaneness be waived during the session tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 o'clock noon tomorrow.

After the assistant leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with the usual 3-minute limitation on statements therein.

Following the transaction of routine morning business, the unfinished business will be laid aside temporarily, under the order previously entered, and the Senate will then take up H.R. 11589, authorizing the foreign sale of certain passenger vessels. There is a time agreement of 2 hours on the bill, 1 hour on any amendment in the first degree, 30 minutes on any amendment to an amend amendment, any debatable motion, or appeal. At least one rollcall vote is expected in connection with that bill.

Following the disposition of the bill, at some time during the afternoon—I do not expect it to be before 2 o'clock—the Senator from Alaska (Mr. GRAVEL) will move that the Senate go into a closed session, under rules XXV and XXXI.

If there is a second to that motion, the Senate will proceed to conduct a closed session. Rollcall votes could occur therein.

Following the closed session, the Senate will return to the consideration of the unfinished business, S. 3526. The pending question at that time will be on the adoption of the amendment by Mr. STENNIS' amendment No. 1175. Depending upon the hour at which the Senate returns to legislative session, at the conclusion of the closed session, the Senate may proceed with further debate on the Stennis amendment tomorrow afternoon.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 noon tomorrow.

The motion was agreed to; and at 6:59 p.m., the Senate adjourned until tomorrow, Tuesday, May 2, 1972, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate May 1, 1972:

DEPARTMENT OF THE TREASURY

John Michael Hennessy, of Massachusetts, to be an Assistant Secretary of the Treasury, vice John R. Petty, resigned.

DIPLOMATIC AND FOREIGN SERVICE

Clinton L. Olson, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sierra Leone.

EXTENSIONS OF REMARKS

PROJECT SANGUINE

HON. GAYLORD NELSON

OF WISCONSIN

IN THE SENATE OF THE UNITED STATES

Monday, May 1, 1972

Mr. NELSON. Mr. President, it is only 10 days or so since I called to the attention of the Senate a very important and critical report on the Navy's proposed Project Sanguine communications system. At that time I said that it seems that the more the scientific community studies Project Sanguine, the more serious is the doubt expressed that the system can work.

Now just a few days later there is further evidence of this growing doubt with the issuance of an equally critical study of Project Sanguine by Drs. Michael McClintock and Alwyn Scott, both of the University of Wisconsin.

To clarify the record I would like to point out that Drs. McClintock and Scott issued a previous study on Sanguine and that the study I reviewed just recently was by Dr. Charles W. Harrison, Jr., of the Sandia Laboratories of Albuquerque, N. Mex., and a member of the review panel selected by the National Academy of Sciences and the National Academy of Engineering to study the feasibility of Project Sanguine.

In this latest study, Drs. Scott and McClintock not only agree with major premises of Dr. Harrison but point to scientific data that substantiates their earlier position that Sanguine would need an unrealistic amount of power or be an extremely slow method of communication. They also described as "highly doubtful" the Navy's proposal that the project can be powered from existing commercial electric power sources.

As I pointed out when discussing Dr. Harrison's report, the Navy apparently is satisfied that the necessary research and development work on Sanguine is very nearly finished and is proposing to advance the project to the so-called validation phase.

Obviously, much more careful analysis of the problems these studies point to must be made before the Congress agrees to this step.

Mr. President, I ask unanimous consent that the report by Dr. Scott and Dr. McClintock, entitled "A Further Technical Appraisal of Sanguine Type Signalling Systems," be printed at this point in the RECORD, to be followed by biographical sketches of Drs. McClintock and Scott.

There being no objection, the report and biographical sketches were ordered to be printed in the RECORD, as follows:

A FURTHER TECHNICAL APPRAISAL OF SANGUINE TYPE SIGNALING SYSTEMS

(By Alwyn Scott, professor of Electrical Engineering; Michael McClintock, senior scientists, Space Science and Engineering Center; and Paul Rissman, graduate student in electrical engineering)

I. INTRODUCTION

On May 3, 1971 the Wisconsin Committee for Environmental Information published a "Report on the Technical Feasibility of Project Sanguine" which concluded that Project Sanguine could not work at the power levels suggested by the Navy.* The reason for this conclusion was that a buried transmitting antenna is extremely inefficient. Thus it must transmit data very slowly and can easily be jammed. Reports coming to a similar conclusion have been made public by Professor A. W. Biggs of the University of Kansas. [1, 2]

Since that time additional information has been made available by the Navy and by others which further weakens the case for Project Sanguine. The purpose of this paper is to review and summarize this additional information.

II. CHARACTER OF THE "LAURENTIAN SHIELD"

The calculations in the WCEI Report were made using the very low value of ground conductivity (5 x 10^{-4} mho/meter) which was suggested by the Navy. [3] Such a low value of ground conductivity assumes that the geological structure of Northern Wisconsin is dominated by the "Laurentian Shield" a large piece of dry granite said to lie just below the surface. Discussions with geologists indicate that this simply is not true. The Wisconsin State Geologist says that the bedrock structure in Northern Wisconsin is very complex [4] (also see Appendix B). F. C. Frischknecht of the U.S. Geological Survey states in a recent report [5]:

"However there is a good possibility that locally the bedrock contains a sufficient concentration of electronically conducting materials [ref. in original text] to render it highly conductive. Previous ground measurements by the U.S. Geological Survey have shown that locally Ironwood Iron Formation and Tyler Slate of the Gogebic Range are highly conductive. Black carbonaceous or graphitic slates have been encountered in drill holes in the areas surveyed [refs.]; these slates [refs.] are likely to be conductive . . . There is also a possibility that water filled shear zones, which are relatively good conductors at VLF frequencies, exist in the area."

and later:

"If a detailed VLF survey were carried out the magnetic field data should be evaluated carefully in an effort to trace bedrock conductors. Such bedrock conductors could have resistivities on the order of 1 ohm-meter or less [1 mho/meter or more], occur in bands hundreds of feet wide, and extend for several miles."

It is well known that as the ground conductivity goes up the efficiency of a buried antenna decreases and the system performance deteriorates. Until there is more detailed knowledge of the ground structure, therefore, the ground conductivity of 5 x 10^{-4} mhos/meter suggested by the Navy and assumed in the WCEI Report must be regarded as optimistic.

It is disturbing to note that although the Frischknecht Report was commissioned by the Navy in support of Sanguine it is not mentioned in a recent Navy discussion of the project[6].

III. SURFACE CONDUCTIVITY

It is assumed by the Navy that the antenna currents will loop several miles down into the low conductivity "Laurentian Shield". This effect is absolutely necessary in order to provide even the marginal system performance anticipated by the Navy. But the bedrock in Northern Wisconsin is covered with a surface layer of ordinary soil which may be up to several hundred feet thick, and, according to the Wisconsin State Geologist, the depth profile of this surface layer has not been surveyed [4]. In the springtime the surface layer will become wet and the conductivity may be as large as 5 x 10^{-2} mho/meter or a factor of 100 larger than the value assumed by the Navy for the ground conductivity. Thus the antenna current may be almost entirely shunted through this surface layer during the springtime rendering the system *totally useless.* The Navy asserts that "only 3 to 5%" of the antenna current will flow through the surface layer but it has been unable to provide either theoretical or experimental arguments to substantiate this claim[7].

IV. PERFORMANCE OF A BURIED ANTENNA

The Navy continues to assert that effects introduced by burying a Sanguine antenna can be neglected [ref. 6, page 14]. They even state incorrectly that this is the position of Professor Biggs and of the authors of the WCEI Report. Beyond the observation that "no contrary theory has been proposed in the literature" they support their assertions only by some recent comparisons between the receiving properties of loop antennas (of five foot diameter) above and below ground. These experiments were carried out at Wendover Air Force Base in Utah and at Plum Island near Ipswich, Massachusetts [9]. These experiments tell *absolutely nothing* about the effects of burial upon a large Sanguine type antenna; the results are only valid for the antenna which was studied, a small loop antenna.

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* The WCEI report was subsequently published in the CONGRESSIONAL RECORD of May 17, 1971, pp. 15378–15386 and in "Environment" September 13, 1971 pages 17–19 and 42–45. It is included as Appendix A to this report.

These are many problems of real engineering concern which arise when an antenna eighty miles long is buried. Some of these are reviewed in this section. To provide a basis for this review the electromagnetic character of a buried antenna has been discussed in some detail in Appendix C.

1. *Thermal expansion problem.* Assuming a winter to summer temperature change of 30°C and an antenna length (L) of 80 miles or 1.3 x 10^5 meters, the linear expansion would be about *100 meters*. This is not a serious problem for an above ground antenna; the wires can simply sag. For a buried antenna it could be *extremely serious*. For example, 100 "sliding joints" each capable of accepting a meter change may be required over the 80 mile length of a single antenna element.

2. *The driving voltage.* The near field inductive reactance is easily obtained by multiplying the value of R given in Part 3 of Appendix C, by 25j to obtain

$$X_L = 185 \text{ ohms}$$

This reactance will be seen at the input terminals of the antenna if the insulation capacitance, and conductance is made small enough. For an antenna current of 150 amperes the input potential would be about 25,000 volts. For a *short, above ground* antenna the driving voltage is not a problem because it is decreased with the length and the necessary voltage can be more easily sustained. For a long buried antenna it could be a *very serious problem.*

One way to reduce this excessive driving voltage would be to match the antenna to the grounding resistors at the ends. Let us assume that

$$R_G = 2 \text{ ohms}$$

and from (12′) we note that the series inductance per unit length

$$l = \frac{25\mu_o}{2\pi}.$$

Setting

$$\sqrt{\frac{l}{c}} = R_G$$

yields

$$c = 1.25 \times 10^{-6} \text{ farads/meter.}$$

This is considerably larger than the value calculated for the simple insulation assumed in Appendix C. Thus "loading" of lumped capacitors would be necessary to obtain a match. But then

$$\sqrt{lc} = 2.5 \times 10^{-6} \text{ seconds/meter}$$

and the antenna would exhibit a transient delay

$$T_D = \frac{1}{2} L\sqrt{lc}$$

$$= .17 \text{ seconds}$$

This is *unacceptable* because the Navy asserts that the antenna will be switched on and off much faster in order to avoid "repeat-back" jamming.

Although antenna inductance appears in design formulas quoted by the Navy [ref. 6, p. 15, eq. 8], its importance is not taken into consideration.

3. *Shunt conductance.* Let us suppose that we make the capacitance per unit length very small and attempt to drive the near field inductance as is discussed above. Then from (5) and (6) of Appendix C

$$\gamma^2 = j\omega lg$$

and this must be small compared with $1/L^2$. If not, there would be significant leakage current through the insulation. Thus

$$g << \frac{1}{\omega l L^2}$$

or

$$g << 1.3 \times 10^{-7} \text{ mho/meter.}$$

This means the shunt resistance to ground for every meter of length of the antenna wire must be maintained large compared with 10 *megohm.* Once again this is not a difficult problem for an overhead wire, but for a long buried wire it is a *very difficult restriction.* This problem is not recognized by the Navy because a formula for the shunt admittance per unit length is assumed [ref. 6, p. 13, eq. 11] which simply *ignores the effect.*

Other difficulties connected with distribution and switching may appear if the Navy actually attempts to operate a buried Sanguine antenna grid [7]. When one considers the time and money which has been spent on Sanguine feasibility research (about $55 million over 11 years), the importance of the buried antenna to the performance of the system, and the ultimate cost of the systems, it is shocking to discover that a *buried Sanguine antenna has never been tested by the Navy.*

V. CALCULATION OF SIGNAL STRENGTH FOR A GRADUAL IONOSPHERIC BOUNDARY

The model used by the Navy to calculate radiated field strengths assumes for analytical convenience a sharp boundary between the upper atmosphere and the ionosphere [6]. In fact the ionsphere appears gradually over an altitude range of about fifteen miles. Recently a new technique for computing radiated field strengths at ELF has been published by Johler and Lewis [10]. This technique (called the zonal harmonic series) has been used to reproduce the classical field strength calculations assuming a sharp ionospheric boundary and then extended to provide a more accurate calculation of radiated field strength assuming the true gradual nature of that boundary.

The results of this study show that the radiated power level is a factor of 100 smaller for the actual graduated ionospheric boundary than for the sharp boundary assumed by the Navy. This work was published in 1969. Over a period of more than two months during the fall of 1971 it was rechecked to see if any error could be discovered. None was found [11].

The Navy chooses to ignore this work which has been carefully prepared, published in the open scientific literature, and carefully rechecked. Consequently all statements made by the Navy concerning power levels and/or integration times should be multiplied by one hundred on the basis of this factor alone.

VI. NOISE LEVELS

It is generally agreed that it is the ratio of signal strength to noise level at the receiver which limits the rate at which information can be transmitted. In the WCEI report only atmospheric noise was considered and a standard average value (60 dB below 1 volt/meter-cps.) available from the open scientific literature was used in the calculations.

The Navy asserts that by using nonlinear clipping this noise level can be reduced by a factor of 100 (to 80 dB below 1 volt/meter-cps.) which would improve the system performance by a factor of 100 [6]. The reference which they give is simply "A. S. Griffiths, Lincoln Laboratory, Lexington, Mass. Private Communication."

Furthermore the Navy ignores the effects of noise generated by the receiving antenna, the receiver or from other equipment within the submarine. While it is appropriate for the critics of Sanguine to ignore such effects in making an optimistic or "best case" analysis, it is by no means allowable for the defenders of the system who should be required to carry through a pessimistic or "worst case" analysis.

Receiver and submarine noise become progressively more important as the submarine goes below the surface. This is because both the signal and the atmospheric noise suffer a re-entry loss of 86 dB and an additional penetration loss of 10 dB for each 45 meters of submerged depth [7]. The Navy indicates that one component of receiver noise could be as large as −150 dB [ref. 6, p. 25, Fig. 7]. At a depth of only 20 meters the atmospheric noise level would be about 90 dB below the assumed surface value of −80 dB or −170 dB. Thus at this depth the atmospheric noise would be 20 dB less or only one hundredth as large as *one component* of the receiver noise according to the Navy's own data. This does not take into account any other sources of noise.

Another difficulty mentioned in the recent Navy report [6] is the *dispersion* of atmospheric noise as it travels through the sea water to a submerged submarine. This dispersion would destroy the supposed "spike-like" character of the atmosphere noise which in turn makes possible the reduction by "clipping" described above. The Navy proposes to get around this difficulty by employing an "inverse ocean filter" (which would need to be carefully adjusted for each submerged level) in order to "re-assemble" the frequency components and permit the reduction of atmospheric noise by a factor of 100 by clipping. It is not clear whether the "inverse ocean filter" has been designed, built and tested, or whether it exists merely as an exploratory concept.

It may be possible for the Navy to reduce the Sanguine noise to the levels suggested in their recent report [6]. But considering the disturbing tendency of Sanguine proponents to ignore any effects which make the system look worse and to assume always that the best case will become an operational reality, one must ask that the theory, design and experimental data for the entire noise reduction scheme be published in the open scientific literature and reviewed by the scientific community before it can be accepted.

VII. JAMMING

The key point in deciding whether a Sanguine type signaling system would be useful depends upon whether or not it could be jammed by a threatened enemy nation. If Sanguine *could* be jammed by a system which costs roughly the same amount or less, then the U.S. would simply waste money and effort. It is important to note that the Navy has admitted verbally that Sanguine can be jammed "as any system can" but that it would cost an enemy nation "too much" to do so. The Navy claimed to have calculated how much more a jamming system would cost than a Sanguine system but says that the result of this calculation is classified [12]. Let us consider various aspects of the jamming question in detail.

1. *Can any system be jammed?* Transmission systems become more difficult to jam when the signal is broadcast from an unknown transmitter location at an unknown frequency and at an unknown time. Clandestine high frequency communication systems in which the transmitting and receiving operators insert matched crystals at a prearranged time are, for all practical purposes, immune from jamming. But a Sanguine signaling system would exhibit none of the characteristics which lead to jamming immunity. The proposed location of the transmitting antenna and the broadcast frequency are well known throughout the world. And since the primary function of Sanguine would be as insurance against a preemptive nuclear strike by another nation. the *time* of broadcast would also be known to that nation.

2. *Repeat back jamming and bandspreading.* One of the many jamming options for a nation threatened by a Sanguine type system would be to rebroadcast the Sanguine

signals with a random phase shift. For an antenna system with about the same size and power input (i.e. cost) as that used for Sanguine, jamming noise would be introduced at the signal power level. The time delay associated with this "repeat-back" jamming scheme would be limited by the time for a electromagnetic signal to travel from Wisconsin to Central Asia. This time is 1/20 second or 50 millisecond. In order to counter repeat back jamming the Navy proposes to switch (or bandspread) to a new frequency (say from 45 cps to 46 cps) every 50 milliseconds.

Although proponents of the Sanguine concept suggest band-spreading as a simple answer to repeat back jamming, it would in fact be very difficult and costly. Consider some of the engineering problems which must be faced. After each two cycles of transmission the entire antenna must be changed to a different frequency. This must be done under operational conditions when the antenna field and its associated power stations are under substantial nuclear attack. It must be done according to a prearranged code or signaling schedule while the antenna power input is changing over to local diesel generators as the commercial power is knocked out. It must be done while a significant fraction of the antenna elements are being destroyed by nuclear blasts and the currents in other elements are being increased to compensate for the damage.

This sounds like an *engineering nightmare*. The transient dynamic performance of large power networks is not well understood under the best of conditions and a Sanguine antenna must operate during the random destruction of the enemy attack. It is *incredibly naive* to ignore the noise associated with this destruction. It may be possible for the Sanguine optimists to solve all these problems and come up with an operational scheme for bandspreading at an acceptable cost, but the public and the scientific community deserve more than vague promises.

3. *The economics of jamming*. The Navy asserts that it would cost an enemy nation "too much" to jam a Sanguine type signaling device. This optimistic assertion ignores the following factors:

a. The enemy would radiate jamming power only during the pre-emptive strike. At all other times his power generating facilities could be applied to economically productive activities.

b. The enemy would not need to design and construct the very complex receiving equipment (band limiting filters, inverse ocean filters, clippers, detectors, cross correlation computers, etc.) which the U.S. would be required to supply for *each* submarine.

c. The enemy would not need to design, construct and maintain in operational condition a buried antenna. Conventional power lines could be employed or special above ground wires could be deployed camouflaged. These would have the double advantage of much lower cost and higher radiation efficiency.

If the Navy expects to be taken seriously with its assertion that the jamming of Sanguine would be too costly, it must supply some carefully prepared and balanced estimates for the detailed scrutiny of the general public.

VIII. CONCLUSIONS

Additional information on Sanguine type signaling sytems which has become available during the past year supports those critical of the project. In particular it is evident that:

a. The Navy ignores the opinions of competent geologists in continuing to assert that the "Laurentian Shield" is a simple piece of low conductivity granite. In a study carried out as part of the Sanguine feasibility research, F. C. Frischknecht of the U.S. Geological Survey has indicated the strong possibility of inclusions of electronically conducting materials and water filled shear zones in the rock structure of Northern Wisconsin. This opinion is shared by the Wisconsin State Geologist and is also supported by recent mining interest in northern Wisconsin. Such conductive regions could *seriously affect the performance* of a Sanguine antenna.

b. The Navy ignores the effect of the surface layer which could render the buried antenna completely useless by shorting out the antenna return currents. The Navy has stated that only 3–5% of the antenna current will flow through this layer but offers *no theoretical or experimental evidence* for this statement.

c. The Navy continues to assert that a buried antenna will operate in a manner identical to an above ground antenna. This assertion is *seriously questioned* by many experts in electromagnetic theory.

d. The Navy ignores the very high shunt resistance which must be maintained by the insulation of a buried antenna wire This resistance must be maintained as the wire thermally expands and contracts, as the ground freezes and thaws, as the wire is attacked biologically, and as the ground is shaken by explosions during a nuclear attack.

e. The Navy ignores the large driving voltages required to force large currents through the large inductive reactance of the antenna wires. These could be 25,000 volts or more and present a very serious design difficulty for an underground antenna.

f. The proper performance of a buried grid antenna is vital to the Sanguine signaling concept. If the antenna will not perform as predicted by the Navy, the entire system will be worthless. The Navy, after 10 years and $55 million of feasibility research, has *never tested a buried Sanguine type antenna.*

g. The Navy ingores recently published field strengths calculations for ELF waves which take into consideration the gradual nature of the ionospheric boundary. These calculations, which have been carefully rechecked, indicate radiated power levels *100 times less* than those assumed by the Navy.

h. The Navy continues to evaluate the performance of the system on the basis of atmospheric noise alone. However using data supplied by the Navy it is easily shown that one component of the receiver noise will *exceed* the low value of atmospheric noise assumed by the Navy by a factor of 100 at a depth of only 20 meters. The receiver noise will become ten times more important for each 45 meters of additional depth.

i. The Navy proposes to respond to the threat of repeat-back jamming by switching the entire antenna field to a new frequency (according to a preassigned code) every 50 milliseconds or about two cycles of the broadcast frequency. The *immense difficulty* of implementing such a modulation scheme under operational conditions of nuclear attack (when the power is changing over from commercial to local diesel units and surviving antenna wires must be raised to higher current levels to compensate for destroyed elements) is ignored by the Navy. Transient problems of this sort are very difficult to analyze under the best of conditions. During a situation of nuclear warfare such transient effects would constitute a *very serious* additional source of system noise.

j. The Navy continues to assert that it would cost "too much" for an enemy nation to jam a Sanguine signaling system, but detailed support for this assertion has not been presented. The assertion appears very doubtful because a) an enemy would need to supply power to a jamming system only during a pre-emptive strike, b) he would not need to design, build and operate the complex receiving equipment proposed for Sanguine, and c) he would not be required to design, construct, and maintain in operational condition a buried antenna.

Considering the time and money which have already been spent on Project Sanguine, the Navy's "feasibility research" must be judged entirely inadequate.

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APPENDIX A: A TECHNICAL FEASIBILITY STUDY OF PROJECT SANGUINE

[From Environment, September 1971]

TALKING TO OURSELVES

(By Michael McClintock, Paul Rissman, and Alwyn Scott)

(NOTE.—Michael McClintock is senior scientist at the Space Science and Engineering Center, Paul Rissman is a graduate student in electrical engineering, and Alwyn Scott is professor of electrical engineering, all at the University of Wisconsin. The authors are also members of the Wisconsin Committee for Environmental Information. The views expressed in this article are those of the authors and are not intended to represent those of the University of Wisconsin.)

It will take nearly two hours to transmit a simple message via a billion-dollar, last-ditch communication system being developed by the Navy. During this time the signal would be hopelessly jammed by the enemy or the nuclear destruction of the world would already have occurred.

In 1969, the U.S. Navy announced plans to build a worldwide communication system which would employ extremely low-frequency radio waves between the continental United States and the U.S. nuclear submarine fleet.[1] About $50 million has already been spent on feasibility studies, and the projections of ultimate cost have been between $750 million and $1.5 billion.[2] What is the U.S. taxpayer receiving for this huge expenditure? Our investigations strongly indicate that the system, called Project San-

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guine, would be unreliable as a last line of defense in our military communications network, the role for which it appears to be designed. As we shall demonstrate, the system is too slow—and therefore subject to electronic countermeasures (jamming) from an enemy—to be useful in the nuclear age. Our calculations show further that even if the amount of electrical power needed to make Sanguine work were increased to the equivalent of three large-scale nuclear power plants for its exclusive use, at greatly increased additional cost, transmission time would still be long enough to make the system easily susceptible to jamming.

The heart of the project is an underground antenna in the form of a huge grid that would cover 6,400 square miles, according to the most recent design. The tentative site for the project is in Wisconsin, and the Wisconsin Committee for Environmental Information became interested because of the possible effects on the environment. During our investigations, however, we became aware of certain technical problems which cast serious doubts on the scientific feasibility of the entire Sanguine concept, environmental questions aside. Our report and research by Professor Albert Biggs of the University of Kansas prompted Senator Gaylord Nelson of Wisconsin to question Naval officials, and as a result, the Navy has indicated that it will request a review of the technical feasibility of Project Sanguine from the National Academy of Science and the National Academy of Engineering.[3]

DESCRIPTION OF THE SYSTEM

The principles of the Sanguine communications sytem are indicated schematically in Figure 1 [not printed in the RECORD]. The system essentially consists of a buried transmitting antenna which radiates an extremely low-frequency (elf) electromagnetic wave (45 or 75 cycles per second) into the air space between the surface of the earth and the ionosphere (about 50 miles above the earth). The transmitting antenna must have physical dimensions comparable with the wave length of the signal. Thus, the extremely low-frequency (very long wave length) radiation of the Sanguine system requires the very large antenna installation discussed here. The wave propagates through the air space to a position above a submarine. A small fraction of the wave power then leaks downward through the rather highly conductive sea water and is received by the submarine[4] along with atmospheric noise (commonly called "static") which originates at many sources.

The Sanguine antenna, of course, is really one link in the transmitting system. Immediately associated with it is electronic equipment that fulfills the basic functions involved in radio communication. The equipment is powered by electricity, in the case of Sanguine by very large amounts of electricity. The first step in the process is generation of a carrier current, which is necessary for production of radio waves. The carrier current is then modulated, which in essence means that the information to be transmitted is impressed on the carrier current in the form of an electrical signal. The transmitting-antenna system then converts the now modulated carrier current into electromagnetic waves which are radiated by the transmitting antenna (Sanguine, in this case) and detected by the receiving antenna (on the submarine). In the submarine, the signal is tuned, amplified, and demodulated to recover the original signal, which can then be reproduced by a teletype printer, loudspeaker, or other devices. Since the Sanguine frequency is so low, noise modulation is impossible, and a more elemental form of modulation must be used. This can be thought of as being analagous in some respects to the familiar Morse code keying of a transmitter, although the more sophisticated method of frequency shift keying will actually be used in Sanguine.

The power fed into the transmitting antenna is indicated schematically in Figure 1. A fraction of this power is actually launched into the wave which propagates through the air space. This fraction is very small for underground antennas operating at low frequencies, and constitutes one of the most serious losses of the Sanguine system. In other words, the underground antenna has inherently low efficiency. The power per unit of surface area in the radiated wave becomes less intense as it propagates away from the transmitting antenna because it spreads out and covers a wider area. There are other propagation losses as well, but we ignore them.

Atmospheric disturbances, such as lightning, radiate random waves into the air at the Sanguine frequency. Such waves can interfere with the proper reception of a Sanguine signal. One of the main requirements of the system must be to insure that the Sanguine signal in the vicinity of a submarine is sufficiently large, compared with the noise power intensity, so that the signal can be reliably received.

The technical data and equations at the end of this article show that a Sanguine system with a sub-surface antenna operated at the power levels suggested by the Navy will have an extremely low data-transmission rate. In our calculations, the benefit of every doubt has been given to Sanguine. Yet a conservative estimate indicates that at least 100 seconds would be required to transmit a single bit of information (a bit, or binary digit, is the binary unit of information capable of expressing such quantities or concepts as "0," "1," "yes," "no," "off," or "on"). About 1.7 hours would be needed to transmit a simple twelve-letter message. Furthermore, Sanguine would be a one-way communication system from the transmitting antenna to the submarine fleet.[2] Thus it would not be a "communication system" in the normal sense. It is clearly a highly specialized system for the transmission of very limited messages (perhaps code words, which convey more complex meaning by indexing to a code book) under conditions that would prevent the use of normal, more efficient communication devices. Such emergency conditions could arise, for example, if a nuclear exchange between nations had ionized a portion of the earth's atmosphere, preventing transmission by conventional systems.

From its easily determined characteristics, then, we conclude that Sanguine's main purpose is to serve as the communications link in a "last strike" capability of this nation. This would be a way to insure the launching of Polaris and Poseidon missiles from our submarines toward preselected targets even if the start of a nuclear war prevented use of normal communication systems. Indeed, an indication of this has already been provided in a news story carried in the Madison, Wisconsin *Capital Times* of March 9, 1971. This story quotes the Navy's John R. Hennessey, director of public and congressional affairs for the Naval Electronic Systems Command in Washington, as saying in reference to Sanguine, "It's got to be survivable. The fact that you can hit back is a good reason for the other guy not to hit you." In other words, the merits of Project Sanguine would appear to rest upon its credibility as a "last strike" weapon system to deter an enemy attack. If a Sanguine signal can be easily jammed, however, the system's credibility is seriously impaired.

JAMMING OF SANGUINE

A recent study of Biggs and Marier[5] pointed out that the Sanguine system is indeed very susceptible to jamming by an enemy nation. An unreliable Sanguine system has little "last strike" strategic value.

A conventional high-frequency communication system is difficult to jam because it can broadcast information very rapidly (in a fraction of a second) and at any one of many available frequencies. Thus it is almost impossible for an enemy to know when and at what frequency he must radiate a jamming signal. Furthermore, in a two-way communication system the receiving station can always request a confirmation of the message.

We shall show that Sanguine would necessarily be a *slow* "communication system." With greater input power the transmission time can be reduced, but no reasonable power input can reduce the transmission time of even a simple message to less than one minute. The Sanguine frequency would therefore be precisely known to anyone who chose to monitor its radiation. Thus an enemy would not need to overpower the Sanguine signal; he would only need to introduce errors into the transmitted message. A submarine commander, of course, would require absolutely reliable information before he launched a nuclear missile.

For the following reasons, the power required to jam a Sanguine system would likely be less than the power needed to operate such a system:

1. A much more efficient above-ground antenna could be used for jamming, since its survivability would not be crucial. For example, a section of a conventional power line could be employed on a part-time basis or specially constructed for the purpose.

2. The jamming antenna could be closer to the submarine than the submarine is to Wisconsin. In this case also, the jamming antenna would require less power.

CONCLUSIONS

We have shown that a Sanguine-type communication system with a buried transmitting antenna either would have an excessively slow message transmission rate or would require an excessive amount of input power. One disadvantage can be traded for the other, as shown in Figure 2. With the power input to the antenna announced by the Navy, for example, the time required to transmit a message of twelve letters would be almost two hours. These conclusions can easily be calculated from both experimental and theoretical work in the scientific literature. The conclusions cannot be contradicted by the assumption that sophisticated receiving equipment will be used since they are an inevitable result of the extremely poor efficiency of underground, low-frequency transmitting antennas.

It should be noted that it is not the low antenna efficiency in itself which casts doubt on the feasibility of Sanguine, but the fact that low antenna efficiency leads to a low data-transmission rate. The slow transmission rate of the Sanguine system makes it susceptible to jamming by another nation. If such a nation were willing to use a long above-ground transmitting antenna for jamming—an easily available power line for example—the power requirement would be far less than that of the Sanguine system. Sanguine would therefore be easy to render ineffective.

Thus, on the grounds that it either requires an unrealistic amount of power or is an extremely slow system of communication, and that these features lead to its susceptibility to jamming, the Sanguine system must be regarded as technically infeasible.

CALCULATING SANGUINE'S EFFICIENCY

In our analysis of the feasibility of the Sanguine system, we first determined the approximate radiation efficiency of the most plausible of the Navy's designs for a Sanguine antenna from well-known relations published in the standard technical literature. There are more accurate ways to do this, but we resorted to the simplest, one which finds agreement among the several investi-

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gators who have published in this field, and which furthermore can be supported by plausible physical arguments. It was adequate for the estimation we made.

Using a power input to the antenna that has been announced by the Navy, we next calculated the signal strength at a point one-quarter of the earth's circumference from the antenna. We then required that the signal strength per unit bandwidth be at least equal to the mean atmospheric noise at the Sanguine frequency, and thus obtained the maximum bandwidth for a receiver designed to detect the Sanguine signal.

Since the bandwidth is inversely related to the response time of the receiver, the time necessary to transmit one elementary "bit" of information is next obtained, and from this, the minimum time required to transmit a message of 60 bits. The time is long, approximately two hours using numbers that are generous to the Sanguine system at every turn. Furthermore, no reasonable power input to the antenna could reduce this transmission time to the fraction of a minute that is required to be certain of sending a message before a jamming antenna were put into operation.

Determination of antenna efficiency

It is clear from the preceding discussion that the antenna efficiency, F, (or the fraction of antenna input power which is actually radiated into the propagating wave) is an important system parameter. The Navy has indicated that [4]

$$F \leq 10^{-4}.$$

We will show here that this value is very optimistic and that a more reasonable value is

$$F = 10^{-6}.$$

The problem of transmission from an antenna buried in the earth has been thoroughly discussed in the scientific literature. In 1942 Sommerfeld and Renner investigated the radiation fields of both vertical and horizontal buried dipole antennas.[6] They showed that the radiation into the air from a buried horizontal antenna (the "Nutzstrahlung" or useful radiation) falls rapidly to zero as the ground conductivity increases. Some of these results were confirmed experimentally by Proctor [7] and summarized by King.[8] In 1952 Wait considered the radiation efficiency of a submerged magnetic dipole,[9] and in 1961 Wheeler published simple formulas for calculating the radiation efficiencies of a buried vertical loop and a buried horizontal dipole.[10] The Sanguine antenna is only a slight modification of the first of these, and the difference is not significant to the calculation of the radiation efficiency of the antenna.

In 1962 Biggs studied the radiation fields of a buried horizontal electric dipole in detail [11] and showed that the effect of burying an antenna to a depth h is equivalent to reducing the radiation field intensity by a factor e^{-h}/ζ where ζ is the electromagnetic skin depth of the earth. Hansen gave a thorough review of the performance of buried antennas in 1963, paying particular attention to the calculation of radiation efficiency.[12] Experimental confirmation of these results was provided by Hasserjian and Guy.[13] More recently Biggs has carried out an extensive study of the performance of antennas buried in the arctic and antarctic regions.[14] Thus, there is no shortage of scientific literature applicable to the Sanguine system, and the application is straightforward.

As the Navy points out, the Sanguine antenna is equivalent to a current loop lying in a vertical plane which penetrates into the earth a distance of the order of ζ, the electromagnetic penetration depth.[4] This antenna is often referred to as a grounded horizontal dipole. The entire antenna system will consist of an array of such elements, the implications of which are considered later.

The efficiency of one element of the antenna for radiation into the appropriately polarized mode (electric vector vertical) can be calculated from the formula [15]

$$F = 8\pi^2\delta^2 L/\lambda^3. \tag{1}$$

This applies to a buried antenna near the surface of the earth. Eq. (1) neglects power loss in the end (or grounding) resistance and in the conductor (or wire) resistance,[10] factors which would reduce the efficiency further. This efficiency will be reduced in addition by the factor

$$e^{-2h}/\delta \tag{2}$$

if the antenna is buried a distance h, where [8]

$$\delta = 1/\sqrt{\pi f \sigma \mu^0} \text{ (meters).} \tag{3}$$

is the electromagnetic penetration depth, and

L is the total length of the antenna (meters)

λ is the wave length in free space (meters).

h is the depth of the antenna (meters).

f is the transmission frequency (cycles per second).

σ is the ground conductivity (mhos per meter).

μ_0 is the magnetic permeability of free space ($4\pi \times 10^{-7}$ henrys per meter).

The ground conductivity in Northern Wisconsin is taken by the Navy as [16]

$$\sigma = 5 \times 10^4 \text{ mhos per meter.} \tag{4}$$

For a system frequency [4]

$$f = 45 \text{ cycles per second.} \tag{5}$$

(We have used the value 45 cycles per second since ionospheric losses become unfavorably high at 75 cycles per second).[17] we find from Eq. (3) that

$$\sigma = 3.3 \times 10^3 \text{ meters.} \tag{6}$$

The free space wave length for a frequency of 45 cycles per second is

$$\lambda = 6.7 \times 10^6 \text{ meters.} \tag{7}$$

Several alternative antenna systems have recently been mentioned in a communication from the Navy to Senator Nelson.[18]

These are divided into "nonsurvivable," "surface survivable," and "deep underground" antennas. As has been pointed out, Sanguine would be primarily useful to provide a "last strike" nuclear capability; thus "nonsurvivable" antennas are of little practical interest. A "surface survivable" system might be of limited practical interest. The most efficient "surface survivable" system suggested by the Navy is a grid 81×81 miles buried near the surface. Of the systems of practical interest proposed by the Navy, this system leads to the most optimistic calculation of antenna efficiency, so this is the one we will consider in detail. Suppose the grid consists of ten elements each 81 miles long running parallel to each other, crossed by another such array perpendicular to the first. For a submarine at a given location, only ten elements are effective in transmitting a signal, so the total antenna length would be 810 miles or.

$$L = 1.3 \times 10 \text{ meters.} \tag{8}$$

Substituting (6), (7), and (8) into (1) yields $F = 3.9 \times 10^6$. Taking conductor and grounding losses into consideration would reduce the efficiency to at most [20]

$$F = 10^{-6} \tag{9}$$

for a "surface survivable" antenna, that is, for a Sanguine-type antenna near the surface of the earth. For shallow depths, the reduction factor given by Eq. (2) can be neglected, but for a "deep underground" antenna the efficiency would become even smaller. Suppose, for example, that the antenna were buried to a depth

$$h = 10^3 \text{ meters,} \tag{10}$$

then the factors given in Eq. (2) would be equal to 0.55. Such an antenna would necessarily be considerably shorter than 810 miles because of the high cost of such long tunnels. Thus we should expect the efficiency to be at least as small as

$$F = 10^{-7} \tag{11}$$

for a "deep underground" antenna. For the present, however, we adopt the more optimistic figure of 10^{-6}.

Feasibility of Sanguine

To evaluate the feasibility of the Sanguine communication concept as outlined by the Navy [4] we have used the following system parameters:

1. Generator power.[4] (Level suggested by the Navy)

$$P_G = 3 \times 10^7 \text{ watts}$$

2. Radiated fraction of generator power. (We use the more optimistic of the two figures calculated in Section III of this report for a "surface survivable" antenna.)

$$F = 10^{-6}$$

3. Height of ionosphere.[17]

$$H = 8 \times 10^4 \text{ meters}$$

4. Circumference of the earth.

$$C = 4 \times 10^7 \text{ meters}$$

As discussed above, only FP_G watts of input power will actually be radiated into the propagating wave. This wave "spreads out" over a greater area as it propagates, and is weakest one-quarter of the way around the earth, assuming no losses into the surface of the earth or to the ionosphere. For submarines located one-quarter of the way around the earth, the cross-sectional area of the atmosphere through which the wave passes equals HC. Thus, at most, the

$$\frac{\text{signal power}}{\text{area}} = \frac{FP_G}{HC} = 10^{11} \text{ watts/meter}^2. \tag{12}$$

Actually, this power would be considerably smaller due to refractive losses into the ionosphere and ground.[17] An alternative way to make this calculation involves consideration of the space between the surface of the earth and the ionosphere as a resonant cavity. This approach would include ionospheric losses which, for simplicity, we have chosen to ignore.

This power level must be compared with atmospheric noise (generated by natural phenomena at the Sanguine frequency) which will interfere with reception of the signal. The atmospheric noise level can be expected to vary greatly with local thunderstorm activity. A mean value for Boulder, Colorado is about 60 decibels below 1 volt per meter in a cycle per second between 10 and 100 cycles per second.[20] (We do not suggest that submarines will actually be located at Boulder. This is simply one of the stations at which reasonably reliable mean atmospheric noise data in the 50-to-100-cycle-per-second range is available.) This corresponds to a

$$\left[\frac{\text{noise power}}{\text{bandwith area}}\right] = 2.5 \times 10^{-9} \frac{\text{watts}}{\text{cycles per second-meter}^2} \tag{13}$$

Dividing (12) by (13) gives a receiver bandwidth of 4 x 10^{-3} cycles per second for which the signal power level will be equal to the mean atmospheric power at Boulder, Colorado. In practice, one would certainly wish to have the signal power level greater than the mean atmospheric noise level because of seasonal and local variations.[21] This would place even more severe requirements on the Sanguine antenna. But again ignoring this effect and adopting the most optimistic

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Footnotes at end of article.

figure for the system, the receiver bandwidth must be at least as small as

$$(14)\quad [\text{receiver bandwidth}] = 4 \times 10^{-3} \text{ cycles/second.}$$

(This narrow bandwidth, of course, can be obtained by using electronic filters at the receiver input, cross-correlation of the receiver output with a known signal wave form, or some combination of the two.)

The receiver bandwidth directly limits the response time of the receiver. It is related to the bandwidth by:[22]

$$(15)\quad [\text{response time}] = \frac{0.4}{\text{bandwidth.}}$$

From (14) and (15) it is evident that the

$$(16)\quad [\text{receiver response time}] = 10^2 \text{ seconds}$$

or almost two minutes.

The receiver response time is the time required for the receiver to determine that the transmitter has changed its state. It is the time necessary to transmit one "bit" or fundamental unit of information. To send a message in the English alphabet, for example, a 5 bit symbol is required for each letter. Thus to transmit a twelve-letter message (for example, "FIRE MISSILES") would require 60 bits of information. Via this system, the sending of such a message would require 6×10^3 seconds or 1.7 hours of transmission time. Other codes might be used, of course, but for such weighty matters as those communicated to missile submarines, this many bits or more would be desirable to prevent error.

Such a lengthy transmission time for a short message is clearly unacceptable for reasonable communications. The receiver bandwidth could be increased and, through Eq. (15), the receiver response time could be shortened if the power input to the antenna were correspondingly increased. To decrease transmission time of "FIRE MISSILES" from 1.7 hours to one minute would require an increase of antenna input power by a factor of 100. This would imply.

$$(17)\quad P_G = 3{,}000 \text{ megawatts}$$

or about three nuclear power stations each producing 1,000 megawatts. The design dilemma according to this very optimistic analysis may be epitomized in the following way:

$$(18)\quad \begin{bmatrix}\text{Number of 1,000}\\ \text{megawatt power}\\ \text{stations}\end{bmatrix} \times \begin{bmatrix}\text{Number of minutes to}\\ \text{transmit the message}\\ \text{“Fire Missiles”}\end{bmatrix} = 3.$$

This relation is illustrated in Figure 2 [not printed in the RECORD] where one sees the necessity of trading an increase in input power to obtain a shorter transmission time. No point on this curve would appear to present an attractive prospect for a reasonable communication system, and yet the Sanguine system can do no better than this.

But even one minute falls far short of acceptability. When the transmission time exceeds a few seconds, the ease of jamming the signal by a foreign nation increases greatly.

It must be emphasized that Eq. (18) is not the result of a "worst case" analysis. On the contrary, whenever there was an uncertainty, we have chosen those parameter values most favorable to the system. In particular we have neglected to consider the following effects which could degrade system performance:

1. Higher ground conductivity near the surface. In calculating antenna efficiency we have used a value for deep-ground conductivity estimated by the Navy.[16] The conductivity near the surface, where near-field losses predominate, will be larger,[22] especially during rainy weather. Due to this factor alone, the antenna efficiency could easily be an order of magnitude (factor of ten) smaller than the value given in Eq. (9).

2. Ionospheric losses. As Wait has shown,[17] ionospheric losses cannot be neglected in a realistic calculation of elf-wave attenuation. Thus Eq. (12) considerably overestimates the signal power per unit area a quarter of the way around the globe. If we had evaluated the system at 75 cycles per second, the antenna efficiency would have increased by a factor of about three, but the increased ionospheric losses would have more than cancelled out this slight advantage.

3. Fluctuation in the noise level. Our calculations were made for an observed average value of atmospheric noise. The instantaneous noise level can be expected to vary considerably about this mean. The system, of course, must be designed to operate reliably at peak noise levels.

4. Reduced efficiencly of "deep underground" antennas. We have estimated in Eq. (11) that the efficiency of a "deep underground" antenna would be at least an order of magnitude less than that for a "surface survivable" antenna. We have not, however, used this lower value of efficiency in our calculations.

5. Attenuation of the signal in sea water. The Sanguine signal will be strongly attenuated as it attempts to penetrate the sea water to a deeply submerged submarine. Eventually the signal would become so weak that other noise sources (thermal noise, electrical noise generated in the submarine, etc.) must be taken into account. We have not considered this effect.

6. Antipodal cancellation. The waves propagated from the Sanguine antenna will cancel at the antipode of Northern Wisconsin. Thus the system would be relatively useless for a large area in the Indian Ocean.

Consideration of these effects would lead to a system evaluation several orders of magnitude less favorable than our "best case" results of Eq. (18) and Figure 2.

Navy tests

After a preliminary version of this report was prepared, we received data from the Navy on the tests which were conducted using a transmitting antenna at Site Alpha in Western North Carolina and Virginia.[24] Important data from these tests are:

1. Power to antenna: 120 kilowatts at 78 cycles per second.
2. Power radiated from antenna: 0.96 watt at 78 cycles per second.
3. Antenna length 175 kilometers on 10-meter-high telephone poles. Effective elevation angle zero; azimuth angle 23 degrees east of north.
4. Maximum distance to submarine 3,864 kilometers.
5. "Minimum observable power" at receiver with an integration time of 300 seconds. (We take this as the response time of the system.)
6. Tests conducted during the first several months of 1963 with receivers at New York, Labrador, Iceland, and Norway.

The results of these tests can be compared with the calculations for response time presented above.

It is important to note (item 6) that these tests were run in the Northern Hemisphere during the winter months. Noise levels in the 10–100 cycle-per-second frequency range can be expected to be 15 decibels (or a factor of 30 in power) higher during the summer months.[20] Thus the system's response time would be increased by a factor of 30 to about 10^4 seconds in order to operate at "minimum observable power" during the summer with a radiated power of one watt and a range of 3,864 kilometers. The figure should be increased even more to allow for reception at 10,000 kilometers and a more reliable receiver power level.

Our calculations in Section IV [see Eq. (16)] indicate a response time of 10^2 seconds for a radiated power of 30 watts. The corresponding response time for a radiated power of one watt to allow direct comparison with the Navy's feasibility test would be

$$3 \times 10^3 \text{ seconds,}$$

in acceptable agreement with our own calculations. Thus on the basis of the Navy's test data it appears that our calculations are conservative in the sense that our results tend to make the Sanguine system look better than it actually would be. The main reason for this discrepancy, aside from the difference in path length, is probably that we have neglected to include in Eq. (12) the refractive losses into the ionosphere and into the ground (propagation losses).[17]

Note, however, that while the Navy's test established that a submarine at "significant depth" can receive an elf signal, it confirmed the essential weakness of the Sanguine concept: The transmission time is too long to prevent jamming.

FOOTNOTES

[1] Brand, F. L. (Captain, USN), "Project Sanguine: A New Voice in the North Wood," speech given at Madison, Wisconsin, March 5, 1969.

[2] U.S. Navy figures in T. J. Murray, "Evaluating Project Sanguine: A Non-Scientist's View," University-Industry Research Program, The University of Wisconsin, Madison, January 1971, p. 16.

[3] Private communication from the office of Senator Gaylord Nelson.

[4] "Sanguine System Environmental Compatibility Assurance Program (ECAP) Status Report," Appendix A, *The ELF Communication Concept*, December 1970.

[5] Biggs, A. W., and D. L. Marier, *A Technical Feasibility Analysis of Project Sanquine*, Northern Environmental Council Report No. 5, September 14, 1970. Professor Biggs is a highly respected scientist with an established research position in the design of underground antennas (see Notes 11 and 14). This report seriously questions the Sanguine communication concept on the basis of the inherent inefficiency of buried antennas at low frequencies. Some questions have been raised concerning the credibility of this report (see Note 2). These questions appear to be misunderstandings of the ambiguities which which often arise in the attempt to explain scientific technicalities to a nonscientific reader. We have examined the NOREC Report No. 5 in detail and feel that its Summary and Conclusions should be given serious consideration.

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[13] Hasserjian, G., and A. W. Guy, "Low-Frequency Subsurface Antennas," *Transactions of the IEEE on Antennas and Propagation*, AP–11, 1963, pp. 225–231.

[14] Biggs, A. W. and H. M. Swarm, "Radiation Fields from an Electric Dipole Antenna in Homogeneous Antarctic Terrain," *IEEE Transactions on Antennas and Propagation,* AP-16, 1968, pp. 201-208. Biggs, A. W., "Dipole Antenna Radiation Fields in Stratified Antarctic Media," *IEEE Transactions on Antennas and Propagation,* AP-16, 1968, pp. 445-448. Biggs, A. W., "Influence of Inclination Angles for Antennas Buried in Arctic Terrain on Space Wave Radiation," *IEEE Transactions on Antennas and Propagation,* AP-17, 1969, pp. 790-795.

[15] Wheeler, *loc. cit.* Hansen, *loc. cit.* Private communications from A. W. Biggs.

[16] "Sanguine System Environmental Compatibility Assurance Program (ECAP) Status Report," December 1970, pp. 2-28.

[17] Wait, J. R., *Electromagnetic Waves in Stratified Media,* Pergamon Press, 1970, Ch. X.

[18] "Alternative Sanguine Systems," Sent by Rear Admiral F. J. Fitzpatrick to Senator Gaylord Nelson on April 8, 1971.

[19] "Some technical aspects of Project Sanguine," received from W. K. Hartell, March 25, 1971.

[20] Watt, A. D., *VLF Radio Engineering,* Pergamon Press, 1967, p. 479, Fig. 5.3.6.

[21] *World Distribution and Characteristics of Atmospheric Radio Noise,* Report 322, International Telecommunication Union, Geneva, 1964, p. 45.

[22] Stewart, J. L., *Circuit Theory and Design,* Wiley, 1956, p. 331.

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[24] "Some technical aspects . . ." *loc. cit.* Merrill, J., "An Overview of ELF Propagation Investigations prior to July 1970," presented at CSC, Falls Church, Virginia, February 17, 1971.

APPENDIX B: MINERAL REPORT FROM NORTHERN WISCONSIN

[From the Capital Times, Oct. 25, 1971]

NEWS FROM THE NORTHERN COUNTIES—ONCE AGAIN, MINING FIRMS HAVE STRUCK IMAGINATION

(By Dan Satran)

For decades there have always been those who just couldn't shake the notion that there may be valuable minerals under the forestland and lakes of upstate Wisconsin.

Other than for iron in where else but Iron County, there have been no discoveries. But under cover of a lot of secretive exploration it seems some ore deposits have been found—and this is being greeted with a mixed reaction. Those with investments in tourism—and many recreational property owners—are horrified at the thought that mining towns may desecrate the almost-pristine forestland.

This was the reaction in Ashland and Iron counties when it appeared known taconite reserves might be mined—and it is the reaction from some today when they read headlines in which state geologist George F. Hanson confirms that north central Wisconsin is undergoing an exploration boom by mining companies looking for valuable minerals. They think they may find them in the Canadian Shield—a rock formation underlying much of northern Wisconsin.

UW area extension agent Herman Smith at Rhinelander says "they are continuing to look over portions of Vilas, Lincoln, Oneida and an area north of Marathon." He said they have discovered deposits and leased land north of Ladysmith.

What kind of minerals do they expect to mine? Smith sees copper "as a subterfuge." He thinks it is something else but he won't go any further for fear he would be considered violating a confidence. One of the mining companies had rented an office in Rhinelander and for several years has been operating a PBY World War II flying boat aircraft in its survey work.

Even when the original plane crashed last year killing several people, the company apparently thought there was sufficient reason to continue the search so they got another PBY into service in the same general area of northern Wisconsin.

Smith said they are utilizing a sophisticated aerial detection method in which underground deposits are discovered in some type of photographic method.

Apparently promising clues led some of the explorers to the suspicion that valuable minerals may be at such locations as: south and west of Eagle River, the Enterprise forest south of Rhinelander and Vilas County forester Walter Mayo said "it seems very possible they have discovered lodes in the Crandon area and Marathon County."

The state geologist's speculation certainly whets the appetite of anyone interested in the prospect of a mining boom at one or more locations in northern Wisconsin.

He indicated in a news story out of Madison last week that there is a good chance the exploratory operations "would lead to economical mining operation." He talked of the probable minerals as being zinc, silver lead and copper.

The suspicion that there may be valuable minerals in northern Wisconsin has persisted since the territory was discovered. Northeast of Eagle River a stream to this day bears the name, "the Golddigger." This is founded on the fact some gold nuggets were found along a tributary around the turn of the century. Primitive-type abandoned mine shafts still exist.

Smith confirms that several years ago mineral explorers had been "drilling out near Deep lake west of Eagle River and north of the city on the west side of the Wisconsin River."

With visions of gold, silver and copper dancing through the heads of the explorers it is evident the search will continue. But Smith says it appears more than idle speculation or daydreaming. He said they may already have a good line on where the minerals are located. But he said the companies "may be trying to tie up land for development in future years."

The state geologist's comments do nothing to cool the enthusiasm and speculation when he is quoted as saying they could "make an announcement that they would start mining any minute."

When the geologist stressed everything is highly secret that is no exaggeration according to Smith. It is a lot more difficult to keep the modern day prospectors from talking about where they're "fishing" than it is to get a musky angler to tell you where he thinks the big lunkers are. But no one doubts they're fishing—and many suspect they're on to something.

APPENDIX C: DESIGN OF A BURIED ANTENNA

In this appendix the design of a buried antenna is discussed in sufficient detail to provide the basis for an evaluation in Section IV.

1. *Antenna material.* Although copper is often mentioned as the basic material, the resistivity-density-price product is about 3½ times that of aluminum. Thus aluminum is clearly the most economical choice. The data to be used are:

conductivity—3.52×10^{7} ohm/meter
density—2.7 grams/c.c.
linear expansion coefficient—25×10^{-6}/°C
price—$0.29 /pound

2. *Wire diameter.* It seems reasonable to take the wire diameter to be twice the electromagnetic skin depth. For aluminum at 45 cps. the skin depth is

$$\delta_1 = 1.25 cm.$$

so a wire diameter

$$D = 2.5 \text{ cm or } 1 \text{ inch}$$

should give a minimum resistance per unit length without going to the added expense and structural problems associated with tubing.

3. *Wiring resistance.* The wire resistance per unit length will be

$$r = \frac{1}{\pi \delta_1^2 \sigma} = \frac{\mu \sigma \omega}{2\pi}$$

$$= 5.65 \times 10^{-5} \text{ohm/meter.}$$

which is independent of the metal used for the wire. The total resistance for an antenna length

$$L = 80 \text{ miles or } 1.3 \times 10^{+5} \text{ meters}$$

is

$$R = rL$$
$$= 7.4 \text{ ohms}$$

4. *Wire cost.* The cost of the aluminum for the wire can be calculated assuming 20 wires, each 80 miles long. This would weigh 3.44×10^{6} pounds and cost

$2.2 million

The corresponding cost for a copper system would be a 3.5 times as great.

5. *Insulation capacitance.* Suppose the aluminum wire is simply wrapped with a 2 mm. thick insulator of relative dielectric constant 5 and buried. The capacitance per unit length would then be

$$c = 1.74 \times 10^{-9} \text{ farad/meter}$$

and the total capacitance for an antenna length of 80 miles would be

$$C = 2.26 \times 10^{-4} \text{ farads.}$$

The reactance of this capacitance at 45 cps. is 15.6 ohms. This is not negligible in comparison with the total resistance and indicates that the effect of the admittance per unit area of the insulator should be carefully considered.

6. *Transmission line equivalent circuit.* The electrical character of a buried antenna wire can be investigated in detail using some results which have recently been obtained for the transmission line equivalent circuit of a simple nerve axon in a conducting medium [8]. In this analysis an inner conductor (or core conductor) of conductivity σ_1 is separated from an outer conductor of conductivity σ_2 by a boundary at radius a with an admittance per unit area Y. The inside and outside impedances are

$$z_i = \left(\frac{1}{\pi \sigma_1 a^2}\right) \left[\frac{k_1 a I_o(k_1 a)}{2 I_1(k_1 a)}\right] \qquad (1)$$

$$z_e = \left(\frac{1}{\pi \sigma_2 a^2}\right) \left[\frac{k_2 a \overline{K}_o(k_2 a)}{2 \overline{K}_1(k_2 a)}\right] \qquad (2)$$

where

$$k_1^2 = j\omega\mu_o\sigma_1 - \gamma^2 \simeq j\omega\mu_o\sigma_1 \qquad (3)$$

$$k_2^2 = j\omega\mu_o\sigma_2 - \gamma^2 \simeq j\omega\mu_o\sigma_1 \qquad (4)$$

and field quantities vary in the (longitudinal) x-direction as exp

$$(\gamma x + j\omega t).$$

The propagation constant along the nerve (or wire) given by

$$\gamma^2 = y(z_i + z_e) \qquad (5)$$

where

$$y = 2\pi a Y$$

$$= g + j\omega c \qquad (6)$$

In (6) c is the capacitance per unit length of the insulation and g is the corresponding conductance per unit length.

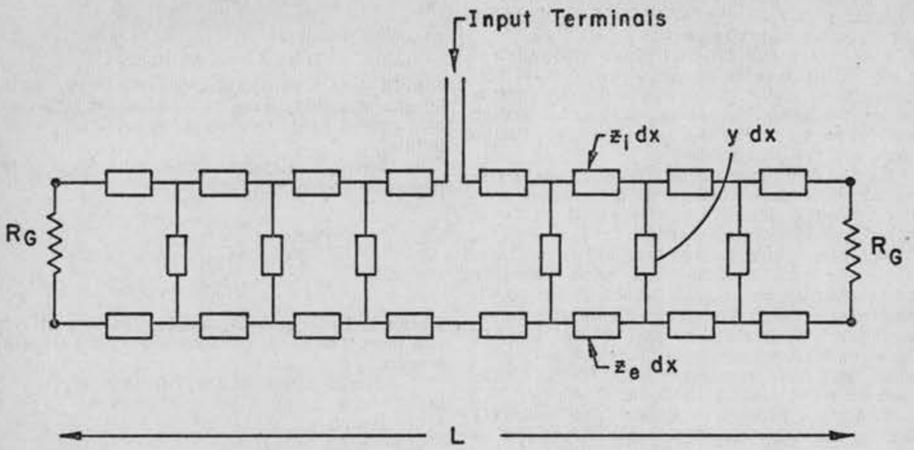

FIG. 1. Transmission line equivalent circuit for a buried sanguine antenna

Some simplifications can be made in this description. First, as is noted in (3) and (4), the penetration depths (δ's) are always small compared with $[\gamma]^{-1}$ so the radical arguments of the Bessel functions in (1) and (2) are governed by the electromagnetic penetration depths. Then, as we saw above, the internal impedance is just the simple resistance.

$$z_i = r$$

$$= \mu_o\omega/2\pi \qquad (7)$$

The external impedance can be written using the small argument approximations for the Bessell functions in (2) since $|k_2a| << 1$.

Thus

$$z_e \simeq \frac{(k_2a)^2}{\pi\sigma_2a^2}\log\left(\frac{1}{k_2a}\right) \qquad (8)$$

where a factor of ½ has been omitted to account for the fact that the external current cannot flow above the ground for a shallow buried antenna. Thus

$$z_e = \frac{\mu_o\omega}{2\pi}\,2j\log\left(\frac{1}{k_2a}\right) \qquad (9)$$

and

$$\frac{1}{k_2a} = \frac{\delta_2}{\sqrt{2}a}\,e^{-i\pi/2} \qquad (10)$$

so

$$\log\left(\frac{1}{k_2a}\right) = \log\left(\frac{\delta_2}{\sqrt{2}a}\right) - j\,\frac{\pi}{2} \qquad (11)$$

The total series impedance per unit length is then

$$z_i + z_e = \frac{\mu_o\omega}{2\pi}\left[1 + \pi + j2\log\left(\frac{\delta_2}{\sqrt{2}a}\right)\right] \qquad (12)$$

The antenna can then be represented as in Fig. 1 where the resistors R_G at the end are the grounding resistors for injecting the antenna current into the earth.

Using the value of ground conductivity

$$\sigma_2 = 2\times10^{-4} \text{ mho/meter}$$

$$\delta_2 = 5.4\times10^{3} \text{ meters}$$

and for a=.0125 meters we find that

$$\text{o}\left(\frac{\delta_2}{\sqrt{2}a}\right) = 12.5$$

but this is not very sensitive to its argument. Thus (12) becomes

$$z_i + z_e = \frac{\mu_o\omega}{2\pi}\,[1 + \pi + 25j] \qquad (12')$$

The first term in the bracket gives the resistance of the antenna wire. The second term gives the resistance of the ground return path (*excluding*, of course, the grounding resistances at the ends). The last term gives the *near field inductance*.

It is important to notice that the near field inductance dominates and the series impedance per unit length is almost a pure inductance.

MICHAEL MCCLINTOCK

Degree: Ph.D. (Physics) University of Colorado Registered Professional Engineer, Colorado and Wisconsin

Present position: Senior Scientist, University of Wisconsin Space Science and Engineering Center

Past consultant to: National Academy of Sciences Special Committee to study disposal of toxic chemicals, 1969 Argonne National Laboratory, 1967–1968 U. S. Atomic Energy Commission, 1956.

Citations: Commendation for Distinguished Service, U. S. Government, 1967

Professional societies: American Physical Society, American Geophysical Union, American Association for the Advancement of Science Society for Social Responsibility in Science, Federation of American Scientists

Miscellaneous: Member of the Scientists' Institute for Public Information, 1969–1971

ALWYN C. SCOTT, PROFESSOR, ELECTRICAL ENGINEERING DEPARTMENT, THE UNIVERSITY OF WISCONSIN

Birth date: December 25, 1931

EDUCATION

S.B. (Physics): Massachusetts Institute of Technology, 1952.

S.M. (Engineer) Massachusetts Institute of Technology, 1958.

Sc.D (Electrical Engineer): Massachusetts Institute of Technology, 1961.

PROFESSIONAL EXPERIENCE

1952–54: Sylvania Physics Research Laboratory, Bayside, N.Y. Development of traveling wave tubes and backward wave oscillators.

1954–57: Department of Defense, Washington, D.C. Development of transistor circuits and microwave antennas.

1957–62: Sylvania Data Systems Laboratory, Needham, Mass. Research Engineer and consultant on computer circuit problems.

Summer 1960: Member of Technical Staff, Bell Telephone Labs., Murray Hill, New Jersey. Development of solution alloy, germanium tunnel diode fabrication.

September 1961—June 1962: Postdoctoral Fellow at MIT. Development of dot alloy gallium arsenide tunnel diodes.

July 1962–July 1963: Assistant Professor, Department of Electrical Engineering, University of Wisconsin.

July 1963–July 1965: Associate Professor, University of Wisconsin.

July 1965 to date: Professor, University of Wisconsin.

THE LOUISIANA "GIANT STEP" PROGRAM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. RARICK. Mr. Speaker, while efforts have been underway for several years to upgrade living conditions in the Nation's cities through such innovative programs as model cities and urban renewal, my State of Louisiana has since 1968 been engaged in a 5-year program to help people in rural areas help develop their communities.

In a recent address to a National Security Management Course at Louisiana State University, Dr. John A. Cox, director of the Louisiana Cooperative Extension Service, gave a description and the results of the 5-year program designated the Louisiana "Giant Step" program.

Since our colleagues with a rural constituency may find of interest this program which has been successful in making rural Louisiana a better place in which to live, I insert the text of Dr. Cox's remarks at this point:

GIANT STEP IN LOUISIANA

A state-wide action based five year educational program called Giant Step was launched by the Louisiana Cooperative Extension Service in January 1968. Leadership by public agencies and private organizations at state, parish community levels were invited to join the university in this undertaking. The broad goals of the program were to:

Bolster the Louisiana economy by helping Louisiana farmers to achieve a 50% increase in gross annual income by 1972.

Strengthen family life as an essential requirement for continued economic, social and cultural progress.

Extend the educational benefits of 4-H club work from 75,000 to 100,000 young people enrolled, then to an additional 30,000 to 40,000 annually by 1972.

Assist the communities of Louisiana in community and resource development activities aimed at providing greater economic and cultural opportunities and preserving the qualities of the rural environment so important to the American character.

To begin the program each subject matter group in agriculture, home economics, 4-H and rural development held a meeting of leaders throughout the state to discuss the situation, establish bench marks and set goals. Likewise, similar meetings were held in each parish, where leaders set goals for their individual parishes. This Giant Step program, as far as the Louisiana Cooperative Extension Organization is concerned, is our total plan of work. The Extension Service leadership recognized that any program progress would be due to the work of many organizations, agricultural agencies, and related groups and without the assistance and cooperation of all groups, the program would be doomed to failure. The program is due to end in December, 1972. During the years, many innovations, changes and new technology have come into being. We in the Extension Service think that progress has been made.

In some areas goals were set too low while some were set too high. Also, forces such as weather, government programs and changes in marketing procedures that could not be foreseen five years ahead altered the ultimate outcome. We feel, however, that the program has been worthwhile and, in most cases, goals will have been met or exceeded by the end of 1972. A review of our methods and our progress through 1971 will summarize the major thrust of extension work in Louisiana.

Our major goal in agriculture is to increase 1967 gross income from 1.9 billion dollars to 2.8 billion dollars by 1972. Let's see how well we have been doing.

We have made giant steps in the field of plant sciences. In 1967 plant science farm income was approximately 508 million dollars and value added by processing and marketing firms was 791 million dollars for a total income of 1.3 billion dollars. Through the combined efforts of farm leaders, agri-business leaders and extension workers, plant science farm income was increased to 660 million dollars and value added income to 1.1 billion dollars for a total income of 1.8 billion dollars, approximately 100 million dollars below our goal for 1972. With good weather this year, we should exceed our total farm and value added goal for plant science of 1.9 billion dollars.

In 1967 farm income from animal science enterprises was about 243 million dollars and value added was about 147 million dollars for a total income of 390 million dollars. Increased emphasis by extension workers on improving calf crop percentages, extensions educational programs on utilizing winter pastures, special dairy management programs and increased efforts to increase swine production resulted in animal agriculture taking a real giant step. By 1971 income at the farm level reached 325 million dollars and value added 196 million dollars for a total income of 521 million dollars. This is only 24 million dollars below our 1972 goal of 545 million dollars.

What have been some of our major gains? Just to list a few, we have increased gross income in 1971 over 1967 for soybeans by 62 million dollars, for cotton by 37 million dollars, for cattle and calves by 32.5 million dollars, and for forestry by 31.4 million dollars.

We in Louisiana Extension have long realized the need to help rural people make their communities a better place to live and we can point with pride to many programs in this important area that were developed long before national attention focused on the rural areas. In addition our community, resource development work in contrast to many other federal agency efforts, can be characterized as a coordinated agency approach aimed at helping the total community.

At the state level we have a state rural development committee. This committee includes representatives from all the USDA agencies, most state agencies that have an interest in rural development and key individuals representing all economic segments of the state.

Attached to the overall committee are six working committees; i.e., agriculture and forestry, industry and commerce, research and information, education and training, recreation, tourism and wildlife, and health and housing. The chairman of each of these working committees, if not already a member of the state committee, is automatically included as a member.

The working committee members are key lay leaders from across the state and state staff level people from the Land-Grant University, state colleges, and state and federal agencies. Actually the membership is relatively fluid as Ad-Hoc committees within the working committee structure are formed to work on a particular problem and then dismissed as soon as the problem is solved.

This enables the various chairmen of the working committees to make use of the best brains available in the state to work on a particular problem.

At the parish level, most of our rural development committees are made up of the four USDA agencies as the core group. However, we subscribe to the idea that the people living in the communities best know what their problems are and we believe that with our help can solve many of them.

Consequently we are helping parish rural development committees conduct problem identification surveys. The surveys have these basic objectives:

1. To identify a group of individuals who are considered, on the basis of their good judgment, as representatives of all the people of the parish.

2. To obtain from these individuals their opinions as to the basic problems of the parish.

3. To urge them to form action groups aimed at solving the problems they have identified.

At this point in time, eight parishes have completed the surveys and now have a core group of respective citizens who have identified their problems, set priorities and formed action groups to work on solving the problems. Since we have initiated this method, we have been amazed at the interest and enthusiasm of both the lay leaders in the parishes and the parish staff people. For example in one of our communities bordering on the Gulf of Mexico an action group composed of camp owners and natives are working together to solve a beach erosion problem and other problems in the community. Previous to the survey these two groups had worked against each other most of the time because of misconceptions steming from lack of communication. After the survey, leaders from the two groups were amazed that they shared common problems. In another parish, after the survey indicated solid-waste was a major problem the police jury passed a resolution indicating they were going to work with the action group in seeking alternative solutions to the problem.

Gentlemen, this is our Giant Step story. We feel that in Louisiana, the Cooperative Extension Service together with other state and federal agencies and key lay leaders have helped the agricultural community, the agri-business community and the people of the State of Louisiana to take a giant step towards making Louisiana an even better place to live.

BRIEF OF SENATOR GRAVEL IN CASE OF GRAVEL AGAINST UNITED STATES OF AMERICA IN SUPREME COURT OF THE UNITED STATES

HON. MIKE GRAVEL

OF ALASKA

IN THE SENATE OF THE UNITED STATES

Monday, May 1, 1972

Mr. GRAVEL. Mr. President, in the interest of making the record complete and readily available, I ask unanimous consent to have printed in the RECORD, by all interested parties, the brief which I filed in answer to the Solicitor General's brief on my case currently before the Supreme Court.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

[In the Supreme Court of the United States, October Term 1971, Nos. 71–1017 and 71–1026]

REPLY BRIEF OF SENATOR MIKE GRAVEL

Mike Gravel, United States Senator, *Petitioner, v.* United States of America, *Respondent.*

United States of America, *Petitioner, v.* Mike Gravel, United States Senator, respondent.

On writs of certiorari to the United States Court of Appeals for the First Circuit.

PART I

The Speech or Debate Clause Prohibits Grand Jury Investigation into the Legislative Acts of a Senator Through the Interrogation of Persons Who Assisted Him in the Performance of His Duties.

1. The Solicitor General has obfuscated a central issue before this Court by creating and then rebutting a non-existent claim. The Solicitor General characterizes this case as involving the question of whether the Speech or Debate Clause "extends" to protecting those who assist a senator from *accountability* for the commission of illegal acts. In fact, this matter is of absolutely no relevance to the narrow issue which is before this Court—namely, whether there is a *privilege against inquiry* under the Clause by the Executive and grand jury into a senator's privileged acts. Throughout these proceedings, Senator Gravel has never ventured a view with respect to whether or not any party with whom he dealt is "bathed" with any kind of immunity from prosecution or accountability.[1] Even assuming, *arguendo,* that an aide or printer may be held accountable for violating a criminal or civil act, see *Powell* v. *McCormack,* 395 U.S. 486 (1969), and *Kilbourn* v. *Thompson,* 103 U.S. 168 (1880), it certainly does not follow that testimony may be procured in violation of the Senator's own privilege. *United States* v. *Johnson,* 383 U.S. 169 (1966); *Ex parte Wason,* L.R. 4 Q.B. 573 (1868); *Rex* v. *Rule,* 2 K.B. 372 (1937). In this respect, the Clause operates precisely as do other testimonial privileges familiar to the courts, such as the attorney-client privilege and the priest-penitent privilege.[2] And the Executive has heretofore stressed the distinction it now blurs; although assistants to the President are clearly accountable for illegal acts, the President has invoked his privilege to prevent them from testifying before congressional committees. (See Brief of Senator Gravel at 110–112).

2. The Solicitor General argues strenuously that the privilege belongs only to senators and representatives (Brief, at 13–17, 31–38). We agree. But this begs the issue of whether the Senator's own privilege is violated when his protected activities are inquired into through an Executive and grand jury interrogation of persons who assisted him. No one would argue that the attorney-client privilege, which belongs exclusively to the client and exists for his benefit alone, could be defeated by questioning the attorney. As the Senate cogently stated in its brief *amicus curiae* (at 5):

"For if the activities are protected as [the Solicitor General] assumes, they should be beyond inquiry."

3. The Solicitor General, while asserting the absence of historical evidence to cast light on the meaning of the Speech or Debate Clause, reasons by purported analogy from the historical development of the freedom from arrest clause (Brief, at 17–22). Apart from the fact that the two clauses appear in the same section of the Constitution, they have no relation to each other. These two privileges are historically distinct. The sole purpose of the privilege from arrest was to protect members from the molestations of civil arrests emanating from suits lodged in inferior tribunals and never had any applicability to criminal proceedings. See generally, T. P. Taswell-Langmead, *English Constitutional History,* 340–348 (4th edition, 1890). The freedom of speech privilege, on the one hand, was specifically designed to preclude harassment and intimidation by the Executive. *Id.,* at 336, 340. Further, there was never any justification, in light of the limited purpose for the privilege from arrest, to "extend" the privilege to aides

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Footnotes at end of article.

in order to vindicate that purpose; and this unwarranted extension was reversed by Parliament itself prior to our Revolution. See generally, C. F. Wittke, *The History of English Parliamentary Privilege,* 39–42 (1921). The abuses and checkered history of the privilege from arrest were well understood by the Framers, who severely limited its scope. *Williamson* v. *United States,* 207 U.S. 425 (1908). See *Long* v. *Ansell,* 293 U.S. 76 (1934). There is no evidence of similar abuses by the exercise of the free speech privilege, and the Framers viewed it as an essential bedrock of separation of powers. *United States* v. *Johnson,* 383 U.S. 169, 178 (1966). That aides can be arrested for robbing a bank or not paying alimony simply has no bearing upon whether they may be interrogated about how and why a senator decided to speak or vote as he did.

4. In the related manner, the Solictor General argues that the "linguistic precision" of the clause reveals that only senators and representatives may not be questioned before the grand jury. He reaches this result by contrasting the wording of the clause with the subject matter wording of its predecessors in the English Bill of Rights, the Articles of Confederation and the state constitutions. As we pointed out in our brief (at 92–93, n. 123), the Committee on Detail wrote the Clause in subject matter terms, and the present language was changed by the Committee on Style without any indication that it intended this difference to be substantive. If indeed the change were substantive, one would have expected, first, that it would have been made other than by the Committee on Style, and that the change would have provoked at least some debate. Not only was there no debate in the Convention, but an exhaustive review of the ratification debates has failed to uncover even a single comment that the Speech or Debate Clause might have a different meaning from that of its predecessors. See, *e.g.,* II *Eliot's Debates* 52–54 (1788) (Massachusetts); II *id.,* at 325, 329 (New York); II *id.,* at 550 (Maryland); III *id.,* at 73 (North Carolina); III *id.,* at 368–375 (Virginia).[3] And this Court has twice affirmed that the Clause is substantially the same as that in the English Bill of Rights. *Powell* v. *McCormack,* supra, 502, n. 20; *United States* v. *Johnson, supra,* at 177–178.

5. In an apparent attempt to reconcile with the case at bar inconsistent positions taken by the Justice Department in prior and pending cases, see, *e.g., Doe* v. *McMillan,* 442 F. 2d 879 (D.C. Cir. 1971); *Barr* v. *Matteo,* 360 U.S. 564 (1959); *Dowbrowski* v. *Eastland,* 387 U.S. 82 (1967), the Solicitor General proposes that those who assisted a Senator should be absolutely immune from civil tort suits, but should be freely inquirable by the Executive and the grand jury about the Senator's privileged acts (Brief, at 24–31, 37–38). The Solictor General apparently realizes that public policy mandates a court-made rule to protect the operation of the legislative process from unrestrained questioning of aides in civil suits, but he refuses to recognize the much stronger, fundamental public policy which led the Framers to protect that process from unrestrained inquiry by co-ordinate but separate branches of government. As this Court said in *United States* v. *Johnson, supra,* at 181:

> "[T]he privilege was not born primarily to avoid private suits . . . but rather to prevent intimidation by the executive and accountability before a possibly hostile judiciary."

Thus, the yardstick for measuring the scope of the legislative privilege in this case is not, as suggested by the Solicitor General, to be borrowed from civil suits such as *Dombrowski* v. *Eastland, supra,* and *Powell* v. *McCormack, supra,* which speak of protecting the legislator from pocketbook loss and distraction. Rather, this Court must look to the historical purposes articulated in *United States* v. *Johnson, supra,* which speaks of preserving separation of powers and of preventing executive intimidation and harassment and hostile judicial action.

In this respect, it is of dispositive weight to note that the United States Senate, in its brief *amicus curiae,* acknowledges the limited application of the Clause in civil suits brought to protect individual constitutional rights, but the Senate strongly asserts the *absolute* applicability of the Clause in separation of powers cases to prevent the grand jury from being turned into an executive instrument of harassment and intimidation. (See Senate's Brief, at 9, 12–13.) As both the Senate and Senator Gravel recognize, the basic flow in the Solicitor General's argument is that it turns the Speech or Debate Clause on its head. It would be a supreme irony for this privilege, which was designed to protect against executive intimidation and was placed in a Constitution which obliges the courts to protect individual rights, to be construed so that the courts deny relief for the violation of secured rights but lend their assistance to the Executive in breaching the wall of separation of powers.

6. The Solicitor General asserts, without any citation of authority, that legislative assistants are not subject to the disciplinary powers of the Senate (Brief, at 9, 34). Even if supportable, the relevance of this assertion is at best dubious, inasmuch as the case at bar does not involve the accountability of such assistants. But, in fact, this assertion is not supportable; for the Senate possesses and has exercised the power to punish wayward aides and assistants of the Senate and of individual members. For example, the Senate tried and expelled its own Sergeant-at-Arms for publishing a libellous article. Senate Journal, January 10, 1933, 159–160, 172–173. Moreover, this Court has recognized that the enumerated powers of each House to make rules for its proceedings (Art. I, sec. 5) necessarily implies the power to punish anyone—member, aide, or complete outsider—who violates those rules. *Anderson* v. *Dunn,* 6 Wheat, 204, (1821); *Jurney* v. *MacCracken,* 294 U.S. 125 (1925). See *Groppi* v. *Leslie,* U.S. , 92 S.Ct. 582 (1972). In fact, in the exercise of that power, the Senate has adopted Rule 36, which specifically provides for the punishment of members and assistants who "disclose the secret or confidential business or proceedings of the Senate." *Senate Manual,* sec. 36 (1967 ed.).[4] Under this same rule, the Senate has established a procedure to waive the testimonial privilege to prevent a miscarriage of justice. Thus, Rule 36 has uniformly been read to permit a Senate aide to testify in any judicial proceeding after being authorized to do so by Senate resolution. See also 2 U.S.C. § 130b (g); *United States Servicemen's Fund* v. *Eastland,* Civil No. 1474–70 (D. D.C., decided October 21, 1971, and discussed in the Solicitor General's brief at 27, n. 15).

In addition, the conduct of a person who assists a senator in the performance of his duties *is* subject to the restraints of the legislative process because the senator himself is responsible to the electorate and to his House for the conduct of such persons. Directly on point is the 1928 censure of Senator Jonathan Bingham of Connecticut who was punished by the Senate because *his aide* violated the standing rules of the Senate by being present during closed executive committee sessions and leaking confidential information to corporate officials. Subcommittee on privileges and Elections of the Senate Committee on Rules and Administration, *Senate Election, Expulsion, and Censure Cases* (Doc. No. 71, 1962, at 125–127).

In any event, we reiterate that the case at bar does not turn on or involve issues of accountability.

7. The Solicitor General suggests that there would be staggering consequences to law enforcement if the Executive and grand jury cannot investigate into the privileged legislative activities of congressmen. First of all, in the past 195 years of the Republic's history, there have been only a handful of cases in which the Executive and grand jury have seen fit to so much as attempt to delve into legislative activity for any purpose. The case most directly on point, the 1797 grand jury investigation of Congressman Cabell for issuing newsletters critical of the Administration's policy toward France, was condemned as a blatant violation of the Constitution. (See our brief at 53–58.) [5]

The Solicitor General's ultimate hypothetical of possible abuse is a conspiracy between a senator and others to deceive the Senate in a speech which he knows to contain false information (Brief, at 34–36). In 1868 this precise situation occurred in England and was the subject of the celebrated decision of *Ex parte Wason,* L.R.. 4QB. 573, where the Queen's Bench held that no criminal proceeding, including the mere filing of an information, could be instituted against a member or outsider for such a conspiracy, for to do so would be impugn the free speech privilege. It is now 104 years later, and England seems to have survived.[6]

PART II

The Publication by a Senator of an Official Public Record of a Subcommittee, of Which He is Chairman, Critical of Executive Conduct in Foreign Relations, is Privileged From Judicial Inquiry by the Speech or Debate Clause.

8. To support his position that the publication of committee reports is not encompassed by the free speech privilege, the Solicitor General places principal historical reliance upon the 1688 case of *Rex* v. *Williams,* 13 How. St. Tr. 1370, 2 Show. K.B. 372, Com. 18, 89 Eng. Rep. 1048 (Brief at 46–47). However, as we discussed in detail in our brief (at 67–75), that prosecution was a classic example of intimidation of a critical legislator by the Crown and of accountability before a hostile judiciary. This case was deemed so violent a breach of the free speech privilege that it was the principal cause of the exile of James II and of the codification of the free speech privilege in the English Bill of Rights. The decision was later condemned as a disgrace to the country and as "decided in the worst of times." *Rex* v. *Wright,* 8 Tr. 293, 141 Eng. Rep. 1396 (1799).

Certainly, no one would suggest that the notorious prosecution of Sir John Eliot in 1629, which led to the first comprehensive declaration of the privilege, can be resurrected as a precedent to narrow the scope of the free speech privilege. The real importance of the *Williams* case lies in the fact that it was "one of the immediate causes of the Revolution . . . [and] the occasion of one of the most important clauses in the Bill of Rights, and probably therefore of the like provision in the Constitution of the United States." C. H. McIlwain, *The High Court of Parliament and Its Supremacy,* 242 (1910). The *Williams* case, therefore, affords significant support to the position that publication of committee records *is* protected by the privilege.

9. The Solicitor General concedes that certain forms of publication are protected from judicial inquiry by the Speech or Debate Clause. He includes therein, to the exclusion of all other forms of publication, committee reports delivered to Members only, and the Congressional Record (Brief, at 40), because "they are the means Congress has selected for informing its membership about its business." Directly contrary to this assertion is the position of the United States Senate, which is more qualified to determine what methods of publication are necessary for its own processes:

Footnotes at end of article.

"One of these duties, important as any other, is the duty of informing other Members, constituents and the general public, on the issues of the day. This is done in many ways, most of which were not technically possible in 1789. Floor debate and belated newspapers reports were practically the only means available at the time of the founding. Now, there are many means of disseminating information: wire services, radio and television, telephone and telegraph, as well as floor debate, newspapers, books, magazines, newsletters, press releases, committee reports, the *Congressional Record,* and legislative services. In today's hectic and complicated world, the various methods of informing vary in effectiveness. Each Member must decide for himself from time to time which issues require ventilation and what methods to use. It is not for the Executive to challenge nor for the Judiciary to judge a Member's choice of issues to publicize or methods of publication regardless of whether they may be considered ill-advised." (Brief of Senate as *Amicus Curiae,* at 6.)

The doctrine of separation of powers and the principles of comity require that this determination by the Senate be adopted by the courts. Otherwise, the courts will adopt for themselves the role of final arbiter of "the means Congress has selected" to inform itself and the electorate (Solicitor General's Brief, at 40).

10. The Solicitor General raises a red herring when he suggests the publication involved herein is somehow different for purposes of the privilege from publication done with official approval of the House (Brief, at 11). This suggestion should be dismissed for four reasons:

(a) At least since *Coffin* v. *Coffin* 4 Mass. 1, 27 (1808), it has been settled that the privilege is personal to the legislator himself and does not depend on "whether the exercise was regular according to the rules of the house, or irregular and against their rules."

(b) The logic of the Solicitor General's argument is that the privilege would protect only Congressmen who are in accord with the majority's sentiment. In terms of importance to democracy, it may well be more important to protect a dissenter.

(c) If an act of a congressman is *ab initio* unrelated to the legislative process, a simple approval of the House cannot magically transmute a nonlegislative into a legislative act.

(d) In any event, even if the approval of the Senate is relevant in this case, the Senate *has* joined Senator Gravel in the assertion of the privilege in this instance of publication (Brief of Senate, at 6).

11. In his argument concerning the alleged lack of relationship of the publication of the Subcommittee record to the legislative process, the Solicitor General sets forth two "facts" which are unsupported in the record and which simply are not true.

(a) The Solicitor General asserts that the chairman of the parent committee "apparently recognized that the republication was not necessary or appropriate to the proper performance of any legislative function, since he refused to authorize it" (Brief, at 42). When this assertion was made by counsel for the Internal Security Division in the District Court before the finder of fact, on the sole basis of an unsubstantiated and hearsay statement in a newspaper article, Judge Garrity refused to so find (App. 88–89). This "fact," even if true, would be irrelevant; but it just so happens, as Senator Dole stated on the floor of the Senate, that it is false. Cong. Rec. S. 4620 (daily ed., March 22, 1972).

(b) The Solicitor General also proffers the following "facts": "[The publication of the Subcommittee record] involved no supplying to the members of Congress of information that they needed in performing their legislative duties. The contents did not relate to any pending Congressional business. The material was neither the product of a Congressional hearing, nor something supplied to Congress to be considered in connection with pending legislative business" (Brief, at 41). There is not even a scintilla of support for these naked assertions in either the record of this case or in the opinions of the courts below. Were judicial notice to be taken about "Congressional business," it would be observed that, at the time of the Subcommittee hearing and of the publication of the record, the Senate was debating the Mansfield Amendment and other pending and potential legislation (*e.g.,* the draft and military appropriations bills) which relate directly to the contents of the Subcommittee record. Surely, the Solicitor General is not suggesting that the war in Vietnam is not the business of Congress.[7]

12. The Solicitor General has taken great liberties in his discussion of prior English and American precedents.

(a) While conceding that "certain republications of Parliamentary debate are now privileged" in England (Brief, at 47), the Solicitor General denies that earlier decisions holding to the contrary were repudiated. In this connection he cites language from *Wason* v. *Walter,* L.R. 4 Q.B. 73 (1868), which treats with approval part of the decision in *Stockdale* v. *Hansard,* 9 Ad. & E. 1, Eng. Rep. 1112 (1839). But that part of *Stockdale* did *not* deal with whether the privilege encompassed publication; it dealt instead with the ruling that a resolution of one House is not binding on the courts. The court in *Wason* agreed with this ruling, but stated that it had "no application where the question is, not whether the act complained of, being unlawful at law, is rendered lawful by the order of the House, or protected by the assertion of its privilege, but whether it is, independently of such order or assertion of privilege, in itself privileged and lawful." *Wason, supra,* at 87, quoted in Solicitor General's brief, at 49. And the court had no trouble in concluding, on the basis of the informing function, that publication of legislative proceedings is "in itself privileged and lawful" because "it is essential to the workings of our parliamentary system, and to the welfare of the nation." *Id.,* at 95. (See Brief of Senator Gravel at 79–80.)

The Solicitor General also appears to take some solace from the fact that *Stockdale* had been overruled by a statute, the Parliamentary Papers Act, 3 & 4 Vict., c. 9 (1840). Yet this act was passed by both the Commons and the Lords, the latter being the High Court of England, and the act declares that the *Stockdale* court misapprehended existing law, including, *e.g., Rex* v. *Wright,* 8 T.R. 293, 101 Eng. Rep. 1396 (1799). The statute's effect is the same as if the House of Lords had reversed the King's Bench on a writ of error. (See Brief of Senator Gravel at 116–121.)

(b) The prior American cases cited by the Solicitor General do not hold "that the legislative privilege for speech or debate does not extend to republication" (Solicitor General's Brief at 49). The comments about "republication" in *McGovern* v. *Martz,* 182 F. Supp. 343 (D. D.C. 1960) were clearly *dicta* since there was no publication except in the Congressional Record; and even in *dicta,* the court suggested that a privilege, albeit qualified by a malice requirement, would apply to other publications. *Id.,* at 347. *Long* v. *Ansell,* 69 F. 2d 386 (D.C. Cir.) aff'd 293 U.S. 76 (1934) was not even a Speech or Debate Clause case; it involved a claim of a Senator that he was immune from service of process because of the privilege from arrest. The only reference to the free speech privilege is in *dictum* in a final, brief paragraph. *Id.,* at 389. On review, this Court did not even refer to the Speech or Debate Clause. 293 U.S. 76 (1934).

In *Hentoff* v. *Ichord,* 318 F. Supp. 1175, 1179 (D. D.C. 1970), the Court held that the Speech or Debate Clause deprived it of jurisdiction to entertain a complaint against congressmen "seeking any remedy" for the publication of a committee record. The Public Printer was enjoined under the doctrine of *Powell* v. *McCormack, supra,* because it was assisting in an action which threatened to violate individual constitutional rights. *Id.,* at 1180. See also, *Hearst* v. *Black,* 87 F. 2d 68 (D.C. Cir. 1936), and *Methodist Federation for Social Action* v. *Eastland,* 141 F. Supp. 729, 731 (D. D.C. 1956) (3-judge court), which dismissed, on principles of separation of powers, actions which sought to enjoin congressmen from publishing information in their possession.

13. We did not in our brief treat the Solicitor General's certified question as to whether congressional aides have a common law privilege to refuse to testify before a grand jury about publication of material introduced by their employers into an official subcommittee record, because we had difficulty understanding the precise thrust of the question and therefore preferred to see the Solicitor General's contention in his brief and deal with it in our reply brief.

However, the Solicitor General appears to deal with the question in three pages (at 52–54), without citation of any relevant authority. In particular, the Solicitor General has not explained how it is that those who assist the President have a privilege, apparently derived from the common law, to refuse to testify before congressional committees about the President's privileged conduct, but that those who assist a congressman do not have the same privilege to be free from interrogation by co-ordinate branches about the congressman's privileged conduct. We therefore feel that *certiorari* with respect to this issue should be dismissed as improvidently granted.

Should the Court nevertheless reach the merits of this question, Senator Gravel feels that there is nothing that he can profitably add to the arguments set forth by the Unitarian Universalist Association in its brief *amicus curiae* in this case (at 30–33), and Senator Gravel thus adopts those arguments. Senator Gravel does, however, re-emphasize his position that no common law privilege is here needed, where the privilege is explicitly set forth in the Constitution, and this Court neither has to resort to implications nor has to fashion judicial substantive law.

CONCLUSION

In conclusion, we join the United States Senate in urging this Court to hold that "[n]either Senator Gravel nor his aide should be required to testify before the Grand Jury, and no other witness should be permitted to testify as to the activities of the Senator or his aide." (Brief of Senate, at 21.)

Respectfully submitted,
ROBERT J. REINSTEIN,
CHARLES L. FISHMAN,
HARVEY A. SILVERGLATE,
ALAN M. DERSHOWITZ,
NORMAN S. ZALKIND,
ROGER C. PARK,
ZALKIND & SILVERGLATE,
Of Counsel.

FOOTNOTES

[1] Consolidated brief of Senator Gravel, at 92–93.

[2] Presumably, for example, the Justice Department could obtain an indictment against Beacon Press officials without resort to questioning parties about the Senator's protected activities, since Beacon's publication of the Subcommittee record is a matter of public record, replete with public announcements and the readily obtainable physical document itself in four volumes. In prosecuting such an indictment, the Justice Department would, of course, be limited in its introduction of evidence by the guidelines set forth in *United States* v. *Johnson, supra,* and this Court, if faced with the question, might decide that, as in England (see Parliamentary

Papers Act, 3 & 4 Vict., c. 9, and *Wason* v. *Walter,* L.R. 4 Q.B. 73 (1868)), printers of such papers are immune from criminal and civil liability. But as we have said, these difficult issues are not present in the case at bar.

[3] In the above debates, the Speech or Debate Clause received only cursory mention and was approved without dissent. In each of the other state debates, there is no recorded mention of the Clause.

[4] The adoption of this standing rule resulted from the censure of Senator Benjamin Tappan of Ohio in 1844 for causing to be published in *The New York Evening Post,* a secret message from President Tyler to the Senate concerning the annexation of Texas. Subcommittee on Privileges and Elections of the Senate Committee on Rules and Administration, *Senate Election, Expulsion, and Censure Cases* (Doc. No. 71, 1962), 11–13. In at least two other memorable cases, the Senate has sat as a judicial body to determine whether members had abused the exercise of their informing function. In the case of Senator Robert M. LaFollette, the Senate dismissed a censure resolution charging disloyalty and sedition based upon a speech given before a political convention, during the First World War, because "the speech did not justify any action by the Senate." *Id.,* at 110.

In the most recent case, arising in 1954, Senator Joseph R. McCarthy of Wisconsin was charged with the "receipt or use of confidential or classified documents or other confidential information from Executive files." *Id.,* at 153.

Although Senator McCarthy was censured for other reasons, the Committee did not recommend censure on these charges because it found "mitigating circumstances." *Ibid.*

[5] See also *Lyon's Case,* Case No. 6646, 15 Fed. Cas. 1183 (C.C.D. Vt. 1798) (our brief at 64–67); *United States* v. *Johnson,* 419 F. 2d 56 (4th Cir. 1969), where the Court of Appeals stated that testimony about Johnson's speech before the grand jury had been "constitutionally impermissible"; *United States* v. *Brewster,* No. 1025, Jurisdiction Postponed, 401 U.S. 935, No. 70–45 (restored to the calendar for reargument) 40 U.S.L.W. 3351.

[6] And, if we may be permitted to observe, the decline of the Empire has never been traced to the decision in *Ex Parte Wason.*

[7] The mere fact that the President saw fit to send the "Pentagon Papers" to Congress rebuts the very assertion of the Solicitor General that the contents of the Subcommittee record do not relate to pending Congressional business.

A third misstatement of fact by the Solicitor General, although of lesser importance, should be brought to the attention of the Court. The Solicitor General states that all 47 volumes of the Pentagon Papers were entered by Senator Gravel into the Subcommittee record and then published by Beacon Press (Brief, p. 3). In fact, however, Senator Gravel did not enter certain documents, including four volumes on negotiations, into the record; and, accordingly, they were not published. This same material also was not published in the Department of Defense's edition of the Papers, which was printed by the Government Printing Office.

LEGISLATION TO PROTECT POLICEMAN GAINS SUPPORT

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. BYRON. Mr. Speaker, last year I joined with over 125 House Members in introducing legislation that would insure the police officer a fair shake and guarantee him the same justice that he is responsible for enforcing. Specifically, the bill would recognize and protect the civil rights of police officers, establishing a Law Enforcement Officers Grievance Commission which would investigate complaints of police officers that arise out of any infringement of rights.

The proposed measure would also formulate a "Law Enforcement Officers Bill of Rights" providing statutory protection for the constitutional rights and privileges of all local law enforcement officers. In this regard, policemen would have the right to bring civil suits against others for damages arising out of official duties and would be given assistance when requested to bring such suits.

Today, we have made some headway, with this legislation being sent to the House Judiciary Subcommittee, chaired by Representative PETER RODINO. Public hearings are the next important step and in this regard I am proud to announce that the International Conference of Police Associations has indicated that they will launch a nationwide mobilization of law enforcement officers to bring about these hearings, and, hopefully, the passage of this important legislation.

The job of a policeman was never easy. Today it is more difficult and hazardous than ever. Surely we must marvel at their ability to maintain a sense of duty, their willingness to submit themselves to the danger inherent in their jobs.

The physical and verbal abuse received by police officers from dissident groups and militants has caused not only police injuries and fatalities, but also a morale crisis among the frontline law enforcement officers of our country. Past efforts at reducing the tensions and eliminating the atmosphere of an adversary relationship between the police and certain segments of the community have largely been concentrated on increasing the rights of defendants without enough regard for the civil rights of police officers.

What we must do is to guarantee to law enforcement officers accused of wrongdoing the same rights and privileges available to any citizen who stands before the bar of justice. I urge all House Members to join with me, and the International Conference of Police Associations, to work toward this goal.

BILL BATES HONORED

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. ARENDS. Mr. Speaker, our late, great colleague, Bill Bates, was one of our strongest proponents in Congress for the development of research for the peaceful uses of Atomic energy. It is heartwarming to know that his efforts are remembered by those who looked to him for leadership in that field through the naming in his memory of the new William H. Bates Linear Accelerator at MIT on April 7, 1972. I believe our colleagues would want to share with the Bates family some of the great satisfaction of that day by reading the announcement provided for the guests at the dedication ceremony.

The dedication ceremony follows:

THE WILLIAM H. BATES LINEAR ACCELERATOR—RESEARCH FACILITY OF THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY

(Named in memory of William Henry Bates 1917–1969—Distinguished Member of the United States House of Representatives from the Sixth Massachusetts Congressional District 1950–1969, and Member of the Joint Committee on Atomic Energy 1961–1969. His intellect, Compassion and Integrity Made Him A Respected Leader and an Honored Champion of Research in the Development of Peaceful Uses of Atomic Energy)

WILLIAM BATES—APRIL 26, 1917—JUNE 22, 1969

William Henry Bates, a native of Salem, Massachusetts, entered the U.S. House of Representatives as Congressman from the Sixth Massachusetts Congressional District in 1950. In February of that year he was elected to fill the seat left by his father, Congressman George F. Bates, who was tragically killed in an airline crash over Washington, D.C., in November, 1949. Like his father, death suddenly claimed William Bates at the pinnacle of his distinguished career, bringing to a close 32 years of continuous and renowned service in the U.S. Congress by an honored family.

Congressman Bates received his B.A. degree from Brown University in economics and political science in 1940 and, while a member of the U.S. Navy, received his M.B.A. degree in 1947 from Harvard University. He began his career of service to his country in 1941 when he enlisted in the U.S. Navy as an apprentice seaman, remaining on active duty until 1950 when he ran for the Congressional seat left by his father. At the time of his election he was a Lieutenant Commander and subsequently rose to the rank of Captain in the Naval Reserve, a rank he held at the time of his death. In November, 1969, he was awarded the National Reserve Officer Association of the United States "Minute Man Hall of Fame Award."

Regarded as an expert on military and defense matters and an ardent spokesman for his constituents, he was elected to eleven terms as U.S. Representative and was a high-ranking member of the important and powerful House Armed Services Committee and the Joint Committee on Atomic Energy. Beginning in 1965, he was appointed to serve as a member of the United States delegation to the NATO Parliamentarians Conference where he was assigned to the Conference's Military Committee.

THE WILLIAM H. BATES LINEAR ACCELERATOR

In 1951, a small linear accelerator was completed at the Massachusetts Institute of Technology by a team of research groups working in both the Institute's Research Laboratory for Electronics and the then Laboratory for Nuclear Science and Engineering. This machine, developed under the leadership of the Department of Physics faculty and staff, found itself among the prototype linear accelerators that emerged following the stimulus of the advances in microwave radar power sources and techniques during World War II.

Operated by the Laboratory for Nuclear Science and Engineering as a research tool, the "17 Mev Linac," as it was known, served over the next decade to generate a number of studies using the accelerator as a source of electrons and gamma rays with which to examine the properties of the atomic nucleus. The machine also provided the focus for the growth of a small but competent group of researchers who, with their students and others in the field, recognized the increasing importance of electrons as probes with which to look at the nucleus of the atom. By the early 1960's, and after a steady progression of pioneering machines developed at M.I.T. and elsewhere, it was clear that further experimental progress required the advantage of electron beams of higher energy and better precision and yield. At this point, the M.I.T. group undertook the task of developing a facility of advanced design suitable for the next generation's effort, leading to the development of the plan for the present 400 million electron volt William H. Bates Linear Accelerator. The formal proposal for a machine of the present specifications was submitted in 1964 to the U.S. Atomic Energy Commission, and Congressional authorization for construction funding was granted in the following year. Permission to proceed with actual construction occurred in 1967, after the establishment by M.I.T., through vital assistance from Congressman Bates and others, of the present site in Middleton, Massachusetts, for the accelerator's location. Funds for construction and site of the basic facility have totalled about $7 million, of which approximately 20 per cent has come from M.I.T. non-government funds and the balance from the U.S. Atomic Energy Commission. In addition, funds for research apparatus for experiments have been acquired by additional Atomic Energy Commission equipment funds allocated through the Laboratory for Nuclear Science research contract with that agency. The Accelerator's operation as a facility and research projects to be undertaken with it are planned through Laboratory for Nuclear Science-Atomic Energy Commission support and, where appropriate, by scientist-users from other universities and institutions through their own research contracts with the AEC, the National Research Foundation, and other sponsors with relevant interest in this field.

With most nuclear exploration beyond the unaided reach of man, experiments and tools needed in such study have become highly complex and costly. During the past few decades, the study of the nucleus and its components has necessitated equipments of such size that require them to be available essentially as national facilities and to a wide community of investigators. The William H. Bates Accelerator, though funded by the U.S. Atomic Energy Commission through M.I.T. for use within its Laboratory for Nuclear Science, will be accessible also, through a formal user's organization, to eligible researchers in the New England area and in the surrounding regions within practicable working proximity. To the extent that its facilities, accommodations, planned extensions, and support will provide, the Accelerator will be made available as broadly as possible to experimentalists throughout the nation as a whole. Toward these ends a Policy Board and a Program Advisory Committee for the Accelerator have been established comprising representative non-M.I.T. membership from among recognized leaders in the field.

As currently being completed, and in the form that will, at first, be usable, the machine will have its major application to research involving the scattering of electrons from a variety of nuclei. Taken together with a large novel magnetic analyzer being built to detect the scattered electrons, the high quality of the Bates Linear Accelerator beam will make possible a large number of precisely controlled experiments.

Such a source of "illumination" for the nucleus of the atom has applicability to a very wide range of scientific studies. The limitations on the immediate development of additional projects is the need for experimental areas and apparatus well beyond the scope of present funding. However, definite extensions to the Accelerator are planned for future years to make it progressively improvable as a tool and increasingly available for research in nuclear physics throughout the United States as truly a national facility of importance.

MARJORIE G. LEMLOW—IN SUPPORT OF HOUSE RESOLUTION 620

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, on April 27, Mrs. Marjorie G. Lemlow, of San Francisco, Calif., chairman of Mothers Support Neighborhood Schools, Inc., appeared before the House Judiciary Committee in support of House Resolution 620. I take this opportunity to share her remarks with my colleagues:

REMARKS BY MARJORIE G. LEMLOW

Mr. Chairman and Members of the Subcommittee: My name is Marjorie G. Lemlow, the chairman of Mothers Support Neighborhood Schools, Inc.; of San Francisco, California.

I wish to express my appreciation for this opportunity to appear before you to express the views of Mothers Support Neighborhood Schools Inc. and Parents & Taxpayers, Inc., as well as thousands of individual citizens of San Francisco.

The public school system of the City and County of San Francisco has had an ongoing fight over the issue of "forced busing" since 1961. My own personal involvement began in 1961, and has continued to date.

I feel certain I can speak safely for 78% of San Francisco's voters, who voted "No" in June 1970 on Proposition H, which posed the following questions:

"Shall the San Francisco Unified School District assign or move elementary school children to schools outside their immediate neighborhood without parental consent?" The vote was Yes 39,484—No 139,007 (see records of the Registrar of Voters, City and County of San Francisco.)

In spite of their mandate from an overwhelming majority of San Francisco's voters, our appointive seven member Board rammed through a major "busing for racial balance" program in September of 1970. This program was known as the Richmond Complex. It involved the pairing of 12 elementary schools, designating 6 schools as grades K–3 and 6 as grades 4–6. This complex required the busing of 6,000 students. The plan originally called for all kindergarten children to remain within the neighborhood school, however, this plan was circumvented in the final program and children of 4 yrs., 9 mos. were forced into the busing program!

In September 1971 our district began Phase I of the largest and most massive movement of public school children in the entire country. A hastily drawn computerized program began the city-wide assignments of 47,000 elementary students, with 25,000 scheduled to be bused solely on race in an attempt to achieve racial balance in San Francisco's 99 elementary schools. Heartless computers separated children from home environment, parental jurisdiction and family ties. Children from one family were known to be assigned to as many as 4 or 5 different schools all over the city.

A phase in program was to begin almost immediately for "racial quotas" within the secondary schools. A board vote has delayed temporarily the racial balance program for the Junior High Schools, with the Senior High program yet to be considered.

The elementary busing program was accomplished because San Francisco has had an appointive board of education for approximately 40 years (with a confirming yes or no vote on the appointments) by the voters.

This system gave San Francisco a Board of Education with a single political philosophy hinging on the political whims of City Hall! We went the usual route of other urban areas! Citizen's committees were chosen and stacked by the board so that the majority's anti-busing opinion was totally ignored. We had countless expensive studies of the district done by fancy consulting agencies such as SRI (Stanford Research Institute). We had and continue to have these same studies plus new administrative positions for implementing racial balance and many outside consultants including a $200.00 per day psychologist. San Francisco has had innumerable "carpet-baggers" coming and going since 1965. They have told us how to racially balance and re-balance our schools, how to psychologically adjust our children, our parents, our teachers and our community. We even had Health, Education and Welfare (HEW) fund the district in the amount of $1,800,000.00 this year under ESAP (Emergency School Aid Program) in order to gain acceptance of total racial balance of our schools! This is nothing more than a sensitivity program aimed at changing values and the directions of academic education. This program concerns itself more with attitudinal changes than with academic achievement and provides the general acceptance of varying substitutes for academic accountability! All of this has happened in a cosmopolitan city renowned for it's tolerance, racial harmony and where integration came naturally within its 49 square miles.

In San Francisco, as in Washington, D.C. and other cities where local boards and Federal Courts have inforced similar racial quotas there is an accelerated exodus of middle-class families. The 1970 Census shows a declining white population of 10.2% whereas the non-white population increased 10.2%. (For a complete ethnic census, please refer to the final sheet of this statement.)

Since the beginning of the massive busing program at the elementary level in September 1971, according to the State Average Daily Attendance Report of October 12, 1971, our Unified School District has lost 6,650 elementary students, a loss of 14%. Where have these children gone? Our district is still searching for the 5,967 students who left without transfers as only 562 students left with legitimate transfers. As of October 1971, 48 new private and parochial schools were established with a known enrollment of 3,918 students. Many of these "freedom schools" were established by parents protesting the destruction of their neighborhood schools. This involvement by the parents so convinced them of the poor quality of public education that it will be difficult to get them to return to the public schools.

In the 4 year period between September 1967 and October 1971, the student enrollment of grades K thru 12 dropped 12,501, whereas the budget increased during the same period approximately $44 million dollars.

San Francisco's Board of Education spends in excess of $140,000,000.00 from all sources per year. This provides approximately $1,750 per student per year, undoubtedly the biggest expenditure in the Nation. Notwithstanding such an exorbitant expenditure per student the achievement scores continue to decline.

In a district where the budget and pupil expenditure have substantially increased each year and achievement scores have declined, the reported incidents of violence are steadily increasing. Since the beginning of the massive busing program September

1971 more violence is prevalent in the elementary schools by far than in the secondary schools—and is not lessening according to the school district's own reports.

In order to guarantee the implementation of racial balance programs already proposed and begun in the district, it was necessary that our Board of Education select a superintendent compatible with these goals. Such a man was found in Dr. Thomas A. Shaheen, a reject from Rockford, Illinois. As a point of interest, Dr. Shaheen was chosen after the district failed to obtain the services of Dr. James E. Allen, former U.S. Commissioner of Education. San Francisco now has the task of ridding the district of Dr. Shaheen whose "innovations" have completely demoralized the administrative and teaching staffs as well as the citizenry at large.

It is for these and many other reasons that I have been delegated to urge this Committee to bring forth House Joint Resolution No. 620 to the floor of the Congress and allow the elected representatives to vote the voice of their constituents!

Honorable Members of the Committee, San Francisco—loved the world over for its cosmopolitan spirit and international good will—stands indicted as a city of de jure segregated schools! How can this be?

Judge Stanley A. Weigel, Federal District Judge, ruled in favor of an N.A.A.C.P. suit filed against the district. The suit alleged San Francisco was a city practicing de jure segregation in its schools. This we refute as no child in San Francisco was being refused admission to any public school because of his race, creed, color or national origin. Because of housing patterns San Francisco did have some schools predominantly of one of its quadri-racial components—Spanish Speaking, Chinese, Black and "Other White"—that's me! Judge Weigel's decision dealt only with Black and White, completely disregarding the Spanish and Chinese Communities which are integral parts of the whole. The decision gave the district six weeks to produce a plan for racial balance which disregarded both the Chinese and Spanish school population. As a result, in spite of the massive bussing many schools that formerly were balanced naturally became more imbalanced and students now face reassignment in September. This could become a perpetual numbers game!

The irony of this entire decision lies in the fact that the N.A.A.C.P. filed an almost identical suit against the district in 1962. Our present Mayor, The Honorable Joseph Alioto, was hired as consulting counsel to defend the school district's policies. The failure of the plaintiffs to appear on the trial date required depositions which were given by the N.A.A.C.P. president and education chairman. These depositions completely exonerated the district of all charges of deliberate segregation and stated there was no gerrymandering of boundaries nor obligation to transport students from their neighborhood schools. The suit was dismissed on December 2, 1964.

In 1967 the U.S. Commission on Civil Rights released a report entitled "Racial Isolation in the Public Schools." This report contained inaccuracies and distortions regarding the San Francisco Public Schools. At that time Mothers Support Neighborhood Schools Inc., did a critical review of the report. It was mailed to President Lyndon B. Johnson, every U.S. Congressman, U.S. Senator, every governor and to the major news media throughout the nation. It was shocking for us to discover within Judge Weigel's decision the same report "Racial Isolation in the Public Schools" being used as a basis on which the finding of de jure segregated San Francisco Public Schools was being established. Clearly contained within this same report was also the table showing San Francisco Public Schools to be among the most highly integregated of the Nation and integrated long before our massive busing programs began.

Nathan Glaser writing for Commentary Magazine states a case against busing extremely well when he writes . . . "something very peculiar has happened when the main impact on an argument changes from an effort to expand freedoms to an effort to restrict freedom." This very important article by Mr. Glaser should be read by every person in this country concerned with the education of young Americans.

Gentlemen, is it not time for control of our schools to be returned to the people through their elected representatives, rather than to have the decisions in the hands of the N.A.A.C.P. and the Federal Courts? In San Francisco, we think it is:

We respect President Nixon's statement on racial balance and his desire for Congress to declare a moratorium on assignment of students for racial balance. In all fairness, however, we must ask, how can there be an effective moratorium on busing—with millions of children already riding buses involuntarily.

We urge again that this committee bring out Resolution No. 620 to the floor of Congress to enable the democratic processes to function. Only then can we get on with the job of educating all of America's children.

Let us Pray!

SAN FRANCISCO RACIAL/ETHNIC CENSUS—PER CENSUS BUREAU

	1970		1960	
	Number	Percent	Number	Percent
White	511,186	71.4	604,403	81.6
Nonwhite	204,488	28.6	135,913	18.4
Black	96,078	13.4	74,383	10.0
Chinese	58,696	8.2	36,445	4.9
Japanese	11,705	1.6	9,464	1.3
Filipino	24,694	3.5	12,327	1.7
American Indian	2,900	.4	1,068	.1
Other nonwhites	10,415	1.5	2,226	.3
Total	715,674	--------	740,316	--------

POPULATION OF SAN FRANCISCO BY ETHNIC GROUPS—U.S. CENSUS, APR. 1 OF EACH YEAR

Ethnic group	1970	1960	1950	1940
Total	715,674	740,316	775,357	634,536
White	511,186	604,403	693,888	602,701
Nonwhite	204,488	135,913	81,469	31,835
Negro	96,078	74,383	43,502	4,846
American Indian	2,900	1,068	331	224
Other nonwhite	105,510	60,462	37,636	26,765
PERCENT IN EACH GROUP				
Total	100.0	100.0	100.0	100.0
White	71.4	81.6	89.5	95.0
Nonwhite	28.6	18.4	10.5	5.0
Negro	13.4	10.1	5.6	.8
American Indian	.4	.1	--------	--------
Other nonwhite	14.7	8.2	4.9	4.2

Source: Francis J. Curry, M.D., Director, Department of Public Health, Oct. 11, 1971.

The April 1, 1970 U.S. Census population for San Francisco was 715,674 a decrease of 24,642 or 3.3% from the 1960 figure of 740,316 and 50,683 or 7.7% from 1950. The only figures yet available for ethnic groups are listed above. The white population decreased to 511,186 in 1970, a loss of 93,217 persons or 15.4% since 1960. Nonwhites increased by 68,575 or 50.5%. Negroes increased by 21,695 or 29.2% while all other nonwhites increased by 46,880 or 76.2%.

WELCOME HOME, APOLLO 16

HON. BOB CASEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. CASEY of Texas. Mr. Speaker, it was my pleasure this past weekend to be in Houston to officially welcome three brave men home from a history-making journey to the moon and back.

The faces of the crowd at Ellington Air Force Base in Houston told a story of dedication and work and self-sacrifice on the part of John Young, Charles Duke, and Ken Mattingly, and on the part of the thousands of technicians and family members who backed up these three men during their space odyssey.

No matter how many journeys this country makes into space or onto the surface of the moon, the excitement and the challenge still make these trips the most valuable and historic missions in the history of the world.

From the moon trips, we continue to gain knowledge about the history of our permanent satellite and of our own planet. We also continue to benefit in the form of a sense of national unity in backing these three frail men as they set out on a course of danger into the unknown, carrying the American flag in peace to the ultimate frontier.

Apollo 16 was an exciting mission—it started on a sour note but eventually turned into "sweet 16" through the superhuman efforts of our astronauts and the crew at Manned Spacecraft Center in Houston.

The faces of the crowd in Houston reflected all the drama, pathos, emotion, and value of our whole space effort. There were smiles, grimaces, tears, anxiety and love.

Three brave men were returning home after advancing the field of science another great step and boosting the world's hopes of finding not only knowledge, but peace, in space.

It would have been hard for a doubting Thomas to retain his reservations about our space program after witnessing that "welcome home" in Houston.

The homecoming atmosphere was dominated by an air of anticipation—the travelers were home and another yet more productive and exciting phase of the space program is around the corner, waiting for those welcoming technicians to begin work.

The Earth Resources Satellite, the Space Shuttle—both promise new and challenging programs to further our knowledge and advance our cause. The Voyage of Apollo 16 has once again shown the world that America can accept and meet every challenge and yet not ignore our own problems here on earth.

I do not believe that anyone will accept the defeat of demonstrating to the world that America is incapable of solving more than one problem at a time, that we are unwilling to meet more than one challenge without neglecting another.

Standing on the platform at Ellington Air Force Base, I felt a sincere wish that all my fellow members of Congress could have been there to welcome home these three heroes and feel the dedication and commitment to our space effort expressed by that crowd.

I sincerely feel that the few doubters we have left in the Congress would have been converted.

Welcome home, Apollo 16, and congratulations to John Young, Charles Duke and Ken Mattingly for a job most well done.

STREAMLINING APPROPRIATIONS PROCESS

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. SHOUP. Mr. Speaker, I want to share with you and my colleagues the full text of a letter from a constituent on an improved approach to our recurring and historically cumbersome task of making fiscal appropriations decisions. Mr. Gerard J. Pesman of Helena, Mont., a retired Federal employee with 24 years of service in Government contracting, has proposed some constructive improvements to our appropriations process. His report deserves your review in our continuing efforts to make Governmental operations more efficient, economical and responsive to the needs of our citizens.

The letter follows:

A few weeks ago Congress passed the Government appropriation bill, several months after the money should have been available. Thus, the abuse of which the Houston Post complained four years ago, in an editorial on January 5, 1968, "Fiscal Year Causes Confusion," is still approved Congressional procedure.

You, Gentlemen, demand that federal employees handle their funds in an economical, business-like manner. Particularly you demand that employees follow sound contracting practices, and your General Accounting Office personnel check our performance and report financial blundering back to you. Yet you, by your actions, force civil service personnel to follow unsound financial practices in order to get their work done. Two of your actions, in particular, make it impossible for federal civil service personnel to use funds economically; your procrastination in considering and passing appropriation bills, and your refusal to set aside adequate contract monitoring travel funds within the amounts appropriated.

Apparently you have the impression that when the appropriation bill is passed the working levels of the Administrative Branch can proceed. Not so! Before bids on proposals can be accepted the funds appropriated must be divided several times down through administrative levels. Contracting officers cannot obligate funds until this division is completed. This dividing procedure also takes time. Thus, except for preparing work statements, contracting work must be held in abeyance while the Senate and House deliberate, or argue with the Administration, and while funds are being distributed. For efficient management it is obvious that the appropriation bill should be passed well before the beginning of a fiscal year.

Inefficiency in contracting is further compounded by the ruling that all funds revert to the general fund at the end of the fiscal year. Thus, contracting personnel have only four or five months in which to issue work statements, evaluate proposals, and award the contracts. Bidders must also make their estimates and submit bids during this interval. Consequently there is a rush at the end of the fiscal year to get funds spent or lose them. Waste of the taxpayer's money is unavoidable under such circumstances.

With respect to travel funds, the rules and regulations for supervising contracts specify that each contractor is to be visited at set intervals. Larger contracts are to be monitored more frequently. This travel requirement is supposed to be listed as a separate item in budget requests, and the funds needed are based upon the requirements specified in the rules and regulations. In spite of this I am told that Congress always cuts travel funds to suit themselves. How then are contract monitors to do their work effectively?

If you interpret the above paragraph as a subterfuge so that civil service personnel can use funds for travel boondoggles you are mistaken. Hotel and motel rooms are monotonously similar, and except for business that is about all the time one has available. Furthermore, airline hostesses are neither that alluring or available. The night clubs?; by the time that civil service personnel are monitoring contracts they are of an age such that a hangover is no novelty. Civil service personnel generally travel from necessity, not from choice.

As elected officials I would expect that you would welcome procedural changes that increase governmental efficiency, and that you would take pride in this increased efficiency. Changing the fiscal year to correspond to the calendar year, making one budget for eighteen months, and thereafter completing budget action by January first as suggested in the Houston Post editorial would accomplish this worthwhile objective. Why not make the change?

NIXON POLICY COMMENDABLE

HON. ROBERT C. McEWEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. McEWEN. Mr. Speaker, I would like to bring to the attention of my colleagues three editorials from daily newspapers located in my congressional district. All three editorials deal with President Nixon's reaction to North Vietnam's invasion of the South, and all three support the President's policy as the most realistic. The editorial written by Mr. Franklin R. Little appeared in the Ogdensburg, N.Y., Journal on April 19, 1972. The editorial written by Mr. Lee Lapensohn appeared in the Plattsburgh, N.Y., Press-Republican on April 19, 1972. The editorial written by Mr. Clark Morrison III appeared in the Oswego, N.Y., Palladium-Times on April 25, 1972.

The editorials follow:

[From Ogdensburg Journal, Apr. 19, 1972]

We Commend President Nixon for His Policy in Vietnam

(By Franklin R. Little)

We support President Nixon's bombing of North Vietnam 100 percent. We admire him for the stand he has taken and we think he deserves the support of every true American.

President Nixon did not involve the U.S. in Vietnam. This was done by Democratic Presidents Kennedy and Johnson. President Nixon is not responsible for committing one American soldier to Vietnam. He inherited the situation. He has made forthright and sincere effort to withdraw American forces from Vietnam and to end our involvement there. He has taken the initiative on a number of occasions and has gone far more than halfway in his proposals for peace to the North Vietnamese. When he was elected he announced that he would withdraw American forces from Vietnam and he has kept his word. American forces there are down to a small fraction of what they were when he succeeded President Johnson and American losses were almost at zero until the Communists made their recent brazen invasion.

President Nixon's honest and sincere efforts to end the war have met nothing but perfidy, treachery and calumny from the North Vietnamese. The North Vietnamese Communists have made a farce of the Paris "peace conference." Instead of meeting the President even part of the way in his sincere efforts to end the war on terms fair to all sides they have heaped scorn and ridicule on the U.S. and on the President. They have consistently lied and mocked the President's honest efforts to end hostilities.

They massed their troops for an invasion of the south just before the President was scheduled to go to China. The purpose of this, of course, was to disrupt his China visit and humiliate him. For some reason the invasion didn't come off just then but it did come off on the eve of his visit to Moscow next month. If there ever was a cold blooded and unprovoked attack, this is it. The South Vietnamese have not attacked the north. All they were seeking was peace and the right to live their own lives in their own country. Suddenly and without warning practically all of the North Vietnamese regular divisions were hurled at the South in an undisguised attempt at quick conquest. The attack was timed so that it would force the President and the U.S. into a most humiliating situation when the President visits Moscow in May. It was confidently hoped by the North that the President would go to Moscow after a major military defeat of our allies, the South Vietnamese, and the destruction of our remaining forces in Vietnam. This would surely put the President in a most embarrassing position when he visits the Kremlin to seek a lessening of world tensions. The only lessening would be strictly on the Communists' terms.

We have never been able to understand how the Communist mind works. The Communists knew that the President was withdrawing American forces from South Vietnam. They could have waited until they were all gone and then could have sought to take over South Vietnam either from within the country or by attack from without. Instead, they waited until the eve of an important international conference between President Nixon and the leaders of Russia in the Kremlin. Their attack cost the needless sacrifice of thousands of lives, incalculable destruction of property, and it placed the lives of every American still in South Vietnam in jeopardy.

Then the Vietnamese had the gall to say that they would resume secret peace talks if the U.S. ended its bombing of North Vietnam. "A halt in the escalation of the war over North Vietnam and the resumption of the Paris talks must be simultaneous," Xuan Thuy, Hanoi's chief Paris delegate said. "Without these two acts there can be no basis for private meetings." No mention was made of the gigantic all-out invasion of South Vietnam by North Vietnam regulars. For some reason this is quite cricket.

We think the President has been extremely patient and forebearing in his attitude toward the hypocritical and deceitful Communists of North Vietnam. He has certainly gone the limit in seeking the end of the war and to let South Vietnam decide its own fate by the free vote of its own people. He has taken abuse and insults for long enough. If he were to walk away and abandon South Vietnam in the face of this brazen invasion no foreign country could ever have any confidence in the word or pledge of the U.S. Our standing in the world would go down to zero. If the blood thirsty Communists of North Vietnam are allowed to degrade and defeat the U.S. and the U.S. is so weak as to surrender, what country can have any confidence in the integrity or the promises of the U.S. in the future?

We commend the President for bombing Hanoi and Haiphong and we hope that he bombs them again and again if necessary to stop the Communists in their tracks. We also commend him for not shaking in his boots for fear the Russians might not like it. The Russians are supplying all of the tanks, artillery, planes, bombs and bullets to the North Vietnamese. We think the U.S. has worried too long whether the Russians would be displeased or not. We believe that honor and the integrity of the U.S. is at stake and we are proud that the President is standing up to defend them and not running away.

We hope that the weakkneed leftist, dovish, selfseeking politicians in the U.S. Senate and the House of Representatives who are supporting the Communists in this unabashed cold-blooded invasion will be smacked down by those Senators and Representatives who still have some red blood in their veins and who still have some loyalty to their country, its promises, its obligations and its word.

[From the Plattsburgh Press-Republican, April 19, 1972]

WHILE THERE, HIT HARDER

(By Lee Lapensohn)

The United States bombed the politically dangerous targets of Hanoi and Haiphong over the weekend and official Washington remained rather mum about the whole thing. Even Vice President Agnew kept his cool and wouldn't respond to the prodding of zealous news reporters.

But the rest of the world, including veteran White House critics, didn't let the event go unnoticed. The Russians beefed and Communists in general castigated us once again for taking what many consider to be drastic steps in an ever-present conflict.

Although we have criticized Mr. Nixon and his administration for failing in the past to cease U.S. involvement in the Southeast Asian war, we cannot criticize him on the recent spate of critical bombings.

It has been our feeling for a long time that we, as a nation, ought to disengage ourselves from the Vietnam war; that South Vietnam ought to stand on its own or fall alone to the North. But to say that while the President keeps us in the war we should not take advantage of available military trump cards would be wrong in every sense. As long as our men are in Vietnam—whether we want them there or not—it is important that we protect them against increasing attacks from the North.

As we have said before, we ought to get out of Vietnam. But until such time as we do that, we ought to take advantage of every military opportunity that's available to us, and that includes the bombing of Hanoi and Haiphong.

[From the Oswego Palladium-Times, April 25, 1972]

THE DOVES IGNORE VIETNAM SUCCESS

(By Clark Morrison III)

In a letter to the New York Times, eight members of the U.S. House of Representatives deplore the escalation of the war in Vietnam. A central paragraph puts the blame squarely where the congressmen believe it belongs:

"The President of the United States has called off the regular meetings of the negotiators at the Paris peace talks. And only this week the United States launched a massive air attack of both South and North Vietnam. In short, there are no signs of any moral leadership on the part of the administration to end the killings and the destruction of countries now."

In the 254 words of the letter, not a word alludes to the massive invasion of South Vietnam by North Vietnamese troops, nor to the killings of South Vietnamese civilians and destruction of their villages by North Vietnamese tanks, mortars and howitzers.

In a hearing before the Senate Foreign Relations Committee, Secretary of State William P. Rogers was asked if the stepped-up fighting was not proof that the administration's policy of Vietnamization had failed. None of the senators suggested that North Vietnamese's invasion, to which it has committed more than 90 percent of its regular forces, might mean just the opposite—that Vietnamization is working.

But a funny thing has been happening on the way to the embarkation ports in Vietnam. That it is ignored by those who, for some reason, hope for the discrediting of Vietnamization, is one thing. That the nation's representatives in Congress seem to be totally unaware of it is quite another.

The fact is that not only has the war been increasingly "Vietnamized," meaning that South Vietnam has taken over more and more of the burden of ground fighting, but the war has also become increasingly "North Vietnamized."

In the Tet offensive of 1968, which was such a telling psychological blow to the American public and to the Johnson administration, nearly every village and city throughout the length and breadth of South Vietnam was subjected to attacks by Viet Cong guerrillas, who seemingly sprang out of the earth—despite the fact that U.S. forces were at a peak of more than half a million men.

At that time, the argument that the conflict was a civil war against a repressive regime in Saigon which we were immorally supporting had more than a little credibility. Little remarked in the United States, South Vietnam since then has made significant strides in land reform and in truly pacifying the countryside.

Today, when U.S. troop strength dwindled to well under 100,000 and no units are engaged in active combat, the current fighting is almost entirely a North Vietnamese operation—a textbook operation involving frontal assaults by armored columns across the Demilitarized Zone, artillery support, logistical lines of supply and all the rest, an operation made possible by weapons and materiel from the peace-loving Soviet Union.

At the Senate hearing, Sen. J. William Fulbright could ask the secretary of state, in sincere anguish at the continued killing and destruction: Why have you (the administration) placed us in the position where we have a Hobson's choice between either surrender or escalation?

Yet when President Nixon undertook to begin the withdrawal of American troops, with the full support of Congress and the vast majority of Americans, each reduction in our strength increased the possibility that we would be faced with one or the other eventuality. North Vietnam was repeatedly warned what our reaction would be.

The real question that should be asked is, why has North Vietnam chosen to attempt an all-out military conquest of South Vietnam, and to humiliate the United States in the bargain, at a time when U.S. withdrawal was so near to being accomplished?

And why aren't more Americans asking that question?

FEDERAL DECISION COULD HELP COUNTRYSIDE

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. ZWACH. Mr. Speaker, 2 weeks ago I went back to Minnesota to testify at an ICC hearing at Redwood Falls in an effort to save a branch railroad line from abandonment.

I cannot stand idly by while yet another obstacle is placed in the path of our people of Countryside America.

We need the railroads in our Minnesota Sixth Congressional District to provide vital transportation for the huge grain crops which we produce because many of our highways are load restricted.

There has been a universal rallying to save our branch line railroads.

Typical of the sentiment is an editorial written by James Ayres, managing editor of the Marshall Messenger, which, with your permission, I would like to insert into the CONGRESSIONAL RECORD so that my colleagues and the thousands of others who read this journal may share in his thinking:

FEDERAL DECISION COULD HELP COUNTRYSIDE

(By James W. Ayers)

Because of federal tax laws, the Chicago and North Western Railway is a company which says it lost money last year.

The revenue derived from the 8.2 miles of track between Sanborn and Wanda garnered a $1,900 profit for the company, say those close to its operation.

Why then abandon a line which is the heart of the economy to Wanda area farmers and members of the Farmers Cooperative Elevator.

Logic doesn't give a reason nor did any of the first-day testimony at Redwood Falls Monday.

When the railroad officials took the witness stand, they told of the unsafe track, the uneven rails, the grass-covered sidings.

They claimed earlier it would cost $300,000 to make the 8.2 miles safe for its use.

Who is to blame for the bad trackage . . . certainly not the elevator of the Wanda civic leaders.

The railroads, which once let its passenger service do anything but service, is now letting its freight service follow the same route.

It would be great if the Interstate Commerce Commission would buck the big business and instruct them to repair and replace worn tracks and continue to serve the small communities of America.

The railroads were first given land by the government and have done little in past decades to keep their free property in shape for the customers.

Perhaps with the aid of a U.S. senator, U.S. congressman, a governor, an attorney general, the chairman of the state Public Service Commission and legislators the federal authorities will see the plight of the countryside.

Too many events are taking place today to give people reasons to leave their small home towns for the large metropolitan areas.

The right decision by the Interstate Commerce Commission could be the start of a fresh approach toward keeping people away from the metro areas in favor of living where they want to live given a choice.

PERFIDY MASKED AS PATRIOTISM

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. BRAY. Mr. Speaker, some things that used to, as a matter of course, mean the gallows or a firing squad or at the very least a good long jolt behind bars are now hailed in certain sick quarters as the "in" thing to do.

The following, by Ben Cole, Washington correspondent of the Indianapolis Star, does an excellent job of telling it like it should be. Ben takes on the latest cheap kick of the antiwar and anti-U.S. fanatics—leaking American military secrets.

As Ben points out—and I agree with him—there is more reason to admire Col. Rudolf Abel, the Soviet Union's master spy, who worked so diligently for Moscow and against this country. At least, here was an honest enemy. And that type is to be preferred any day of the week over home-grown traitors who are so good at knifing their own countrymen, all in the name of being "spies for peace."

The article, from the April 28, 1972 Star, follows:

PERFIDY MASKED AS PATRIOTISM

(By Ben Cole)

WASHINGTON.—A column in the Washington Post recently gave glowing praise to an organization in Boston called the Ad Hoc Military Buildup Committee which has set up shop to leak American military secrets.

Its object, of course, is to hamper the United States effort in Vietnam.

According to the columnist, Nicholas von Hoffman, the Boston group collects intelligence on troop deployment, ship movements and Air Force assignments from dissident servicemen who phone in collect with their reports.

In a time of declared war, the servicemen and the Ad Hoc Committee would be subject to espionage laws. And, in fact, "spies for peace" is how Von Hoffman characterizes them in his laudatory account.

Perfidy is a strange quirk. It is not unusual to find it masquerading as patriotism.

The logic of the antiwar fanatics is that American involvement in Vietnam is wrong, therefore to make the nation's task there more difficult is a demonstration of love for America.

The possibility that such devotion can get a neighbor's son killed, or cause some young mother's husband to be shot down, or might sink a ship—these prospects evidently don't figure in such patriotic idealism.

This is, in fact, not different from the kind of sentiment that motivated Julius and Ethel Rosenberg when they gave the nation's atomic secrets to Soviet spies and became the only Americans executed for such an act.

It is, however, an altogether different kind of patriotism from the kind that brought Col. Abel from the Soviet Union to America to collect such secrets as any volunteers or mercenaries might be willing to supply to their country's Cold War enemy.

Rudolf Abel—nobody knew his real name—was the Soviet spymaster who lived inconspicuously in New York City, gathering American secrets for the Kremlin until he was caught, convicted and sentenced to 30 years in prison. He maintained sphinxlike silence throughout, and he would have served out his term, no doubt, if the U.S. had not at last traded him for U-2 pilot Gary Powers.

Somehow, it is possible to manage a little grudging admiration for Col. Abel, who risked his neck and was silently willing to take the penalty. He lived a lonely and furtive life far from Moscow where his family remained, probably as a kind of surety for his loyalty. Nonetheless, he served his native land faithfully.

His silence contrasts sharply with the behavior of Victor L. Marchetti, who worked for the Central Intelligence Agency as a high-level official. The Justice Department is in the process of seeking court action to keep him from disclosing secrets entrusted to him while he was in the government service.

Marchetti, it is clear, disapproves of the CIA and has said as much in interviews and articles; and he is now said to be writing a book on the subject.

He, too, probably sees this as a form of patriotic protest.

Granted the Vietnam War is unpopular—as manifestly it is with a great number of Americans. Granted, also, that it is a vexing business for a free country to require the services of an agency like CIA.

In a republic, however, there are available many methods of protest. Activity that can hurt fellow countrymen oughtn't be one of them.

SECRETARY BUTZ ON RURAL AMERICA IN THE 1970's

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. MIZELL. Mr. Speaker, during a 12-month period, in any year, we have numerous experts looking into the future of agriculture, but none more profoundly and thoughtfully than Secretary of Agriculture Earl Butz as revealed by his talk in Atlanta, Ga., on April 20.

The Secretary told the land grant college and university presidents, and administrators of agriculture, that farming is going through a period of great transition that will require the "best leadership it can get."

Shifts in patterns of production, and emphasis on new means of providing the Nation and the world with better food and fiber, and making it a better buy for the consumer, are particularly obvious in Southern States. The Secretary called attention to these changes, but also reminded his audience, and farmers generally, that "other tasks and other opportunities of the first magnitude must be faced during the years of this decade."

He cited the problems involved for the Nation's greatest industry, but said the Department of Agriculture prefers to think of them in terms of opportunity in order to provide rural America with the viable base economic plant that will remain on top of all demands of the future.

I commend Secretary Butz' talk to my colleagues, and include it for the RECORD at this time.

AGRICULTURE AND RURAL AMERICA IN THE SEVENTIES

(Address by Secretary of Agriculture Earl L. Butz)

For farmers and the agricultural industry, these are times of unprecedented change—significant, deep-seated change that will continue through the decade of the Seventies and make a lasting impact on the very face of America. Presidents and Administrators of Agriculture of the Land Grant educational institutions are certain to be catalysts and motivators of the changes to come.

Take a good look at the current scene, at events happening right now, and you see a great industry going through transition. New crop programs under the Agricultural Act of 1970, for example, are accelerating shifts in cropping patterns—production is concentrating in regions of greatest efficiency and profitability.

AGRICULTURE IS MOVING TOWARD MARKET-ORIENTED PRODUCTION

With quotas, penalties for over-production, and similar controls removed from production of major crops, farmers are exercising new managerial freedom to plant what and where they want for best market opportunities. We are making determined efforts to curb excess production and work down excess stocks. Farmers are enrolling farms and acreage in set-aside programs at a record-breaking pace for a second straight year.

We are seeing the Nation's biggest industry—with 4.5 million workers—undergoing a fundamental change of course to gear production to the real demands of markets at home and abroad. We are seeing farmers attain a new place of importance as they contribute $6 billion to the U.S. commercial trade balance, which is vital to the stabilization of our international economic relationships.

We are seeing the world's finest food production system improve its efficiency, outpace the growth rate of productivity per man-hour of manufacturing industries, and amply meet the needs of our growing population while increasing exports to foreign markets at record-breaking rates. Food is the first law of life—the first claim any society has on its total resources is to assure sufficient food to keep the people well fed and productive—and American agriculture is proving dramatically its ability to fulfill that vital law.

AGRICULTURE IS WINNING THE BATTLE OVER HUNGER

Because of the unrivaled productive power of American agriculture, farmers are able to play a leading role in conquering mankind's ancient enemy—hunger and malnutrition. The battle is far from over; it will be long; it will be difficult; it will have to be fought domestically and internationally, by private and public means alike. But we are making dramatic progress.

Here at home, President Nixon's campaign to banish poverty-caused hunger has brought about—during the past three years—the most massive effort ever undertaken in world history and now nearly 15 million people are receiving family food assistance; more than 8 million needy youngsters have free or reduced-price meals in school; and close to 25 million children participate in the National School Lunch Program.

Internationally, millions on millions of people can look forward to more food improved diets because trade avenues are being opened up so that American farm commodities can flow to Europe, the Soviet Union, Japan and many other countries. My recent mission to Russia was quite in keeping with the changes that are occurring.

AGRICULTURE IS GAINING STRENGTH FOR GREATER TASKS AHEAD

Agriculture's continuing primary responsibility will be to assure our growing population an ample supply of wholesome food. Yet farmers will face other tasks and other opportunities of the first magnitude during the years of this decade. These missions are being imposed by our affluent and increasingly enlightened society—a society of people concerned with the total economic, social, and natural environment, the total setting in which people will live, do their work, and seek their recreation.

We are beginning to see signs that agriculture is gathering strength. Gross farm income this year is expected to reach an all-time high. Phase II economic controls are helping retard the rise in farm production costs. This leads us to anticipate that farmers' realized net income will also set a record this year. If 1972 turns out the way it now looks that it will, farmers' total realized net income will average $16.4 billion for the four years, 1969 through 1972, compared with an average of $13.8 billion from 1961 through 1968. That's a 19 percent increase—even though it's not enough to satisfy me. The figure for 1972 is expected to range from $17.2 billion to $17.7 billion.

Income per farm is up, on the average, and the same is true of per capita income of farm people. The average disposable income of farm people is catching up some, compared with averages for non-farm people. During the last three years, average disposable income of farm people has averaged 75 percent of that of non-farm people—which is up from 68 percent in the 1961–68 period. We want this to improve, but it's another sign of progress.

We want farmers to do better so that they and their rural neighbors will have more opportunity and a greater incentive to stay in the countryside. We are making progress in that regard, too. The average decline in the number of farms per year during the last three years has been 47,000—compared with the loss of 106,000 farms a year from 1961 through 1968.

The new programs encourage crop specialization, and this is another source of increased agricultural strength. The programs emphasize opportunities for farmers to cash in on improved efficiency and increased productivity. Yet in its broad dimension, modern American farming also has a remarkable capacity to be diverse and flexible, and this likewise is a significant source of strength. Nowhere is the dynamism of agriculture better illustrated than here in the Southland.

Once this region was largely a one-crop economy, when cotton was king. Your institutions and the experiment stations have been intimately involved with the transformation that has taken place—a process of growth and change still underway and certain to continue. Only two decades ago, few persons could have visualized what wonders the combined forces of research and farm enterprise would perform. The South's agricultural base has vastly expanded with the rapid growth in the broiler and egg industry, the increase in livestock production, revolutionizing of peanut production, expansion of soybean output, and the emergence of wood pulp as a leading commodity.

Double cropping, livestock feeding, catfish farming—new products and new methodologies are looming on the southern agricultural scene. We intended to give real meaning to rural development—the generation of opportunities, economic, cultural, and social, all across the board for farmers, for farm families, and for people who prefer to live and work in the rural countryside.

AGRICULTURE WILL HAVE MANY PROBLEMS TO SOLVE

Whether we of the Department and you of the Land Grant institutions are occupied with commercial agriculture or the broader interests of rural America, we can foresee problems ahead that will call on our best brainpower and manpower to solve them.

Many of these problems—which we prefer to approach as opportunities—relate to the national picture; they relate to trends in the attitudes of city people as well as farm people, to research and technological approaches that ought to be pushed now in order to cope with tomorrow's needs. Tomorrow's needs, and tomorrow's standards, are more easily discernible today than they could have been just a few years ago, because we are becoming more sophisticated in our collection and use of knowledge.

When we speak of tomorrow's needs, we refer, for example, to constraints on natural resources that are likely to be imposed on farmers and other users of land and water. We refer to such controversial issues here in the South as clear cutting in forests and clear channelizing of streams—not to mention mirex and the urgency of controlling fire ants. I refer, of course, to the whole question of how best to preserve and enhance the natural environment, without jeopardizing agriculture's ability to produce sufficient food and fiber.

There is also the all-important problem—and opportunity—of how best to achieve balanced national growth, so that rural America can share meaningfully in the Nation's economic expansion during this decade. Here there is no real line of demarcation between agriculture, per se, and rural development, as far as you and I are concerned. We cannot afford to compartmentalize our attention or confine our efforts to bits and pieces—we need to take the broadest possible view of rural America's future.

The Department of Agriculture is deeply committed to the involvement of young people in all aspects of rural development. Young men and women who are now under your charge will be tomorrow's decision makers. We urge you to give them opportunities through youth programs and junior leadership experiences to become actively engaged in the work of infusing new energies into our rural economy. Help them get a feeling for community planning, help awaken their awareness of the need for practical land-use policy determination, help them relate to the work of State and local Rural Development Committees, help them assume some part now in the responsibilities for bringing about controlled, healthy change.

The rural development tasks ahead will call for all the talent, imagination, and energy that each of us can muster—and the involvement of today's young people will be vital.

The same is true of our persistent efforts to improve rural income levels, to improve commodity and livestock production methods, or to improve the flow of products from farms to markets.

And the passage of time will uncover new challenges in food quality and wholesomeness. Science is providing more sophisticated detection devices and techniques. They give us greater ability than we had even a few years ago to observe the relationships between animal health and human health, and the potential effects of feed additives, food preservatives, and other substances. Science is providing new insights into people's nutritional needs and the potentials that lie in food production and food processing to meet those needs.

AGRICULTURE WILL MAKE INCREASING DEMANDS ON LAND GRANT INSTITUTIONS

Who knows what wonders may lie ahead for agriculture and rural America—in chemurgy, hybridization, artificial photosynthesis, genetics engineering, and what some might call biological farming? Who can guess what impact advances like these may have on our productive capacity, and on our future use of land and water resources? The present pace of change in our world of science and technology is so explosive that they can occur much sooner than we expect.

For the more immediate future, we must prepare now—as we are doing—to take entirely new approaches to crop production with emphasis on biological pest controls, for instance. To achieve success, we will need a "total systems approach" to this and all the other problems of agriculture and rural America—better decision-making techniques, better skills, better ideas. And this is where your role takes on paramount importance.

We shall need to mobilize all the resources of education and research to serve all the people of America—because to a greater degree than ever before, the task of agriculture during this decade will indeed be that of serving all the people. Supplying their food. Producing their fiber. Providing much of their home building materials. Safeguarding their precious environmental assets. Creating new opportunities for enjoying life in the countryside. Relieving the pressures of overcrowded cities.

The scope and multiplicity of the tasks ahead are so great that the maximum cooperation of Federal agencies, State institutions, local governments, private organizations, and rural people themselves will be essential. We of the Federal Government can help in many ways—we are already doing so and intend to do more. To cite some examples that come readily to mind—the new Animal and Plant Health Inspection Service, designed to advance health protection and save farmers money; the commodity marketing teams that are making a crash effort to develop new and innovative guidance for small farmers; the new Rural Development Service and expanded credit programs of the Farmers Home Administration; the current intensification of research on pest management methods.

But as we zero in on the problems of farmers and rural America during this decade, it becomes increasingly obvious that critical responsibilities will rest on you. Agriculture will need the best people it can get. Rural America will need the best leadership it can get. The complex of business and industrial enterprises that serve and supply farmers or process agricultural commodities will need the best personnel they can get. And governmental organizations at all levels that are serving agriculture and rural America will need the best talents they can get. Your institutions will be the chief source of supply.

The decade ahead will be full of excitement and accomplishment. We are linked together in a great agricultural industry. We are bonded together by that industry's great needs. We are joined in service to great people—the farmers and rural residents of our country. And our greatest challenge—our greatest need—our greatest opportunity of all—will be to develop people who can carry forward the missions of agriculture and rural America triumphantly.

LAKE BLUFF COMMEMORATES ARBOR DAY

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. McCLORY. Mr. Speaker, Arbor Day 1972 will be commemorated in my home community of Lake Bluff, Ill., on Saturday, May 6. The Lake Bluff observance will take place appropriately in Artesian Park, an historic portion of the community dedicated to activities related to conservation and outdoor recreation.

Mr. Speaker, the Lake Bluff Park District, under the direction of the President of the Park District, Mr. John Donald, will participate in this ceremony. The program has been organized and is being directed by Mrs. Virginia Magnus—a member of the Lake Bluff

Park District Board—and a devoted conservationist in her own right.

Mr. Speaker, it is appropriate that the American Legion and Cub Scouts are cooperating in this ceremony and that the main theme of the event is the planting of new trees. According to my understanding, more than 75 trees have been donated for this purpose—and will be planted throughout the community for the benefit of this and future generations of citizens.

Mr. Speaker, the Arbor Day ceremony this year is particularly significant in that it marks the 100th anniversary of the first Arbor Day established in 1872 by the then Secretary of Agriculture—the late Julius Sterling Morton.

Mr. Speaker, in his Arbor Day message, President Nixon has noted that:

> Today, at a time when our people recognize more than ever before the necessity to preserve, protect and enhance our environment, Arbor Day has a message for each of us.

He concluded that:

> Through the simple but profoundly symbolic act of planting trees, we can build into the American dream the kind of environmental quality we want.

Mr. Speaker, I commend Mrs. Magnus for this commemoration of Arbor Day in Lake Bluff and all who have arranged similar activities in other areas, which, according to the President, have resulted in the planting of millions of trees which would not otherwise have been planted.

Mr. Speaker, I am proud to look forward to my participation in the Lake Bluff Arbor Day observance.

NDEA III HELPS REDMOND HIGH SCHOOL

HON. LLOYD MEEDS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. MEEDS. Mr. Speaker, as a member of the Committee on Education and Labor, I have become familiar with many education programs funded by the Federal Government. Some have proven themselves and Congress has seen fit to continue or increase funding. Others have been dropped for lack of demonstrated value.

One program which I believe has proven its effectiveness, yet may be dropped because the administration's fiscal year 1973 budget includes no funds for it, is title III of the National Defense Education Act. This title provides support to local educational agencies on a 50–50 basis for the purchase of instructional equipment and materials in 10 subject areas, covering the range of the academic curriculum. It reaches schools in all areas, regardless of geography or economic level.

I am disturbed to note that the administration's fiscal year 1973 budget has no mention of this program. I feel that this is one of our educational programs, sparked by the Sputnik concern, that has borne fruit and deserves continued support.

NDEA III has enjoyed wide bipartisan support in the past from Congress and is presently included with an authorization of the $130 million in the higher education amendments. We are deeply concerned with finding more effective teaching tools and methods. This, to me, is one of the ways to do it.

In my own district in Washington State, NDEA III has made possible the development of a new approach to the study of journalism. Using a multimedia approach and a broadened concept of goals, journalism class enrollment has tripled and the entire student body of Redmond High School has become involved to some degree. To me, this is what education is all about.

I include an article describing this project which appeared in the March 1972 English Journal in the RECORD at this point:

MULTIMEDIA IN HIGH SCHOOL JOURNALISM—IT REALLY WORKS

(By Joan A. Newman)

The multi-media approach to journalism at Redmond, Washington, High School has stimulated new enthusiasm from our students, more reactions from their audience, and new growth for the program, all at no extra cost. Our journalism staff produces a newspaper, a newsfilm, and an in-school radio broadcast, as well as doing the darkroom work in black-and-white photography for the paper and the yearbook. The two years we have experimented with the program have convinced us that the multi-media approach is a really workable method for teaching journalism.

We turned to media other than our school newspaper in 1969–70 because printing costs were rising and enrollment in our journalism course was sagging. In the five years since Redmond High School had opened, the cost of printing a four-page paper had risen from $115 to $175, though the annual budget we were allowed had remained fixed at $2500. At $300, the cost of one eight-page issue would have been more than the budget for a whole month.

Furthermore, although the student body had grown from about 1000 to 1450, enrollment in the only journalism class had remained at twenty to twenty-five. An introductory journalism class never had attracted a large enough enrollment to justify keeping it in the curriculum. For instance, one semester nine students had enrolled in the introductory class; another semester a very small introductory journalism group had been rounded out with students who needed an English class to graduate but had no particular interest in journalism.

The school principal was concerned that a disproportionate share of the school budget went to a course that was not growing as the student body expanded. Yet if we had attracted more students to the program, we could not have afforded to publish their efforts anyway.

A film criticism course at Redmond was already drawing an enrollment of 350, so we knew student interest in film was high. We knew that about fifteen minutes of Super-8 film cost a total of $20. Students could make eight fifteen-minute films of school events for the cost of one four-page paper. We decided to try film as a news medium and offered newsfilm production as an elective in the journalism program.

The idea worked! The first year the staff alternated one eight-page newspaper, the *Blaze*, with a twelve- to twenty-five minute *Blaze Newsfilm* each month. Halfway through the year, our principal and the district administration obtained for us a state-Federal grant of $600. We were then able to purchase a Super-8 camera, a Super-8 projector, and editing equipment to replace that which students had brought from home to use. (We also bought a reserve supply of film that we still use for special projects and to keep the program going until regular supplies arrive each fall.)

Newsfilms were shown to the student body in our little theater or on the cafetorium stage during all study periods on show dates. We estimated the audience on any given day at about eight hundred. Content included everything from impromptu snowball fights, visual explorations of the school roofs and storage rooms, and the "Car of the Lot" in action, to gymnastics meets and cross-country practices, the all-school Environment Day, and the girls in the woodshop program. Periodically, students produced reruns for smaller groups who might have missed the original showing or were anxious to see themselves again in a particular sequence.

At the start of the following year, enthusiastic journalism students requested an additional elective, the inschool broadcast. The *Blaze Radio*, as they called it, was incorporated into the program. This project ran into considerable difficulty with equipment, all student-owned except for the school tape recorders. Nevertheless, the broadcast staff put together a bi-weekly program of interviews, sports reports, some spot news, editorials and music commentary, interspersed with "commercials" advertising school events.

Midway through the year, the student body officers all resigned their positions, saying they were unable to accomplish their goals regarding such things as the school dance policy and student desire for open campus because they had no power. The next *Blaze Radio* broadcast included interviews with students and faculty who were asked whether or not they thought the student body officers had been justified in quitting in the middle of the year.

In other broadcasts, editorials covered that question and broader topics such as mass media responsibilities and ethical questions about scholarships offered by groups which discriminate against blacks. In one broadcast feature, two students spoofed educational jargon: "Do you know what a 'building leader' is, Ed?" Another feature took students on a tour of the tunnels underneath the school: "Hey, John, what is this thing, now? (Clank, clank)." A third feature was a visit with the cooks who answered questions about their work schedule and the sources of their recipes. One local business firm actually bought two spots to advertise records. These broadcasts were aired every other Friday during study periods in the cafetorium.

In 1970–71, the staff produced a bi-weekly, four-page newspaper alternating with the broadcasts. The fifteen-minute newsfilms ran on a three-week production schedule. Our budget remained the same, since the broadcasts cost nothing.

During both these years, we found it a good idea to keep the *Blaze* newspaper publishing as much as possible because many of the students still felt most at home working with the print media (newspaper and yearbook). We also retained and expanded somewhat the work the students could do in photography, which some students felt was very important to them. With a larger darkroom we could have accommodated even more students. In fact, the darkroom was one area in which our costs did rise slightly—about $50 for supplies. However, since most of the additional work done in the darkroom was used in the yearbook, that budget absorbed the increase. Students did their own camera work, developing, and printing for just about all the black-and-white photographs in the yearbook. They also did all the photography for the paper and screened the prints for offset reproduction.

By 1971 students could elect to work in any of the four media. Many of them worked in two, some in all four. There was no clear pattern in their choices, except that those who did well in one area seemed anxious to try all the others. At the end of the year, the school acquired a videotape recorder. Some journalism students made plans to videotape and broadcast interviews with the student body and panel discussions of student concerns.

What gains in the teaching of journalism resulted from all this activity? Enrollment in the class jumped from thirty to ninety-four in the two years. These figures include the yearbook staff, which grew from nine to twenty-four in a kind of corollary action. The yearbook was transferred to journalism from the art program in the second year of the multi-media experiment. We assume that either the chance to work in photography or the general shot-in-the-arm given the journalism program by the new approach was responsible. A number of yearbook staff members tried their hand at work on the broadcast and newspaper also.

About 85 per cent of the students' work was used in one medium or another. Some material was channeled into the local weeklies as press releases from the school, but students preferred to see their work in the *Blaze*. From time to time, material originally intended for the newspaper was shortened and used for broadcast instead. One casualty with the larger staff was the use of editorials written by students not on the journalism staff. This situation was unfortunate because the *Blaze* editorial page had drawn students not on the staff into some pretty lively forums in previous years. The content of Redmond journalism now became more exclusively the project of just those students who were able to take the course.

However, we were certainly able to teach many more kinds of students than before. Traditionally, we had enrolled all comers who gave a coherent reason for wanting to take the course, but we had warned applicants that they should have "B or better" grades in English or they might not do well in journalism. Now writing skill was no longer the chief requirement for success, although the ability to organize was still highly important. We could now work with students who could organize by methods other than writing. We could also give more attention to other important communications skills, such as the ability to interview other people successfully, the ability to judge an audience, and the ability to sense how a subject will come across on movie film or in a black-and-white print.

One of the first things we did with a story possibility was to determine whether it could be told best in print, on movie film, in a broadcast, or in a single photograph or series of photographs. At that point the story was assigned to a volunteer working in the medium the staff had selected. Soon, students in editorial or management positions led their own staffs in making these decisions for themselves. They learned the advantages of the four media. They also learned to tell what parts of the same story would have greater effect in one medium than in another.

One such story was the controversy over admitting girls to the Lettermen's Club. The story was covered in the usual way in the news and editorial columns of the *Blaze*. The *Blaze Radio* collected on tape and then broadcast a cross-section of student and faculty opinion on the matter. *Blaze* photographers made pictures of the major personalities in the controversy. The newsfilm contained sequences showing the girls' athletic teams in action while the sound track explained that these were the girls who were asking to be admitted to the all-male club.

The students enjoyed making these decisions. The teacher was able to use this enthusiasm to advantage in teaching them to communicate responsibility. When it came to deciding how a story should be treated, no one said, "Oh, but that's so dull!" in those two years. If anything, students (rather than the teacher) became conscious of possible reactions from authorities and other students. Reactions from students and faculty kept them alert to the effect their work was having on their audience. The more difference there was between what the staff thought they had said and what their audience heard or saw, the more the staff members learned.

On one occasion, broadcast staff members decided to treat a schoolwide grumble about losing basketball games by asking a haphazard sample of students and faculty, "What do you think should be done to improve school sports?" When one interviewer asked this question of a coach, he was told that his question was inflammatory and broadcasting the answers wouldn't do any good anyway. No one else had to explain to the student that rewording the question was necessary if he was going to get the kind of information he was looking for.

The students who wrote an editorial series on student conduct in the *Blaze*, called "Dick and Jane at Mickey Mouse High," learned the same lesson a different way. They attacked lunch line panhandlers and especially the "Weedies for Lunch Bunch." Their work was reprinted in two other Washington school papers as well as being quoted on our own campus. Their success taught them very efficiently how to reach at least one kind of audience with at least one message they felt was important.

There have been, of course, some drawbacks to the multi-media approach, at least as we have used it. We found it difficult to organize the program at first. It has been important to the students in our program for each one to be able to choose his own medium. It has also been important to them to be able to change to another medium or to add another to their repertoires. But it is hard to keep to a production schedule with an unstable staff. Fortunately, the printers are the only people outside the school to whom we are responsible for keeping to production schedules. If enrollment in the course stabilizes in the future, perhaps advanced students will settle into managing positions in the separate media and solve the problem.

It has also been difficult in this program to supervise all the production steps, since so many projects are in the works at once. To overcome this problem, we are thinking with the different media. The broadcast, for instance, could be supervised by a speech-journalism-electronics teaching team. Another possibility is using paraprofessionals, or "teacher aides," to help students with specific techniques, once the techniques have been explained by the teacher.

A third interesting possibility is using individualized instruction materials such as short films, filmstrips, charts, and tapes which explain the separate steps for producing stories in each of the media. Students could use any of these on their own to review or reinforce their understanding of specific techniques, at the time when they needed to use them.

This year, one of our advanced journalism students made a short film accompanied by a sound tape which explained the proper ways to film a moving subject. Another planned a similar lesson to demonstrate the proper use of panning with a movie camera. The teacher made a filmstrip with a sound tape to accompany it, designed to help a student write an effective headline. These are only secondary materials, of course, but using them could take much pressure off the publications advisor.

The drawbacks of the multi-media journalism program we have been working with at Redmond can certainly be overcome. The potential is great for teaching students to communicate effectively. Of course, our program is very young and many possibilities for improving it will have to be explored. But already, we have found, it really works!

BAILING OUT OF VIETNAM

HON. ROGER H. ZION

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. ZION. Mr. Speaker, the attached editorial by Mr. Michael Grehl of the Evansville Press expresses my thoughts entirely. Those "would be" Presidents who have recently demanded that the President "end the war" really mean that he should permit the massacre to start. He cannot end the war by surrendering. You do not end the killing by having one side lay down their arms and stand naked before the Communist murderers.

The article follows:

[From the Evansville (Ind.) Press, April 21, 1972]

BAILING OUT OF VIETNAM

The Democratic caucus in the House of Representatives has voted to pull the rug from under President Nixon's Vietnam policy—a move as unwise as it is badly timed.

By an overwhelming vote of 144 to 58, the Democrats denounced Mr. Nixon's renewed bombing of North Vietnam.

Then they ordered the House Foreign Affairs Committee, which the party controls, to draft within 30 days a bill promptly ending all U.S. military involvement "in and over" Indochina, subject only to a return of American prisoners and an accounting of the missing.

Finally, almost as an afterthought, they condemned the "military invasion of South Vietnam by North Vietnam."

This latter move revealed the cynicism and political motivation of the Democrats' maneuver. In the same resolution, they (a) disapproved of the current communist invasion and (b) sought to deprive South Vietnam of its best chance of beating back the invasion: Support by U.S. air power.

In the past the House had been a strong bulwark of the President's policy of gradual and responsible withdrawal from Vietnam. It had steadily toned down or sidetracked extreme antiwar measures coming from the more dovish Senate.

We would like to think that the caucus' turnabout resulted from war weariness or a genuine change in conviction and not the heady approach of election day.

Whatever the motive, the move itself enormously complicates Mr. Nixon's efforts to pull out of Vietnam, leaving behind a regime that has a chance of defending itself.

The timing of the vote was perfect—if its purpose was to encourage Hanoi during its invasion and to dishearten our South Vietnamese allies in a moment of great peril.

At the Democratic caucus there was much talk about it being the time to make peace, but nobody was brutally honest enough to say what an abrupt withdrawal of American air power from Indochina would mean.

It would mean peace all right—the peace of the grave—imposed on South Vietnam, Cambodia and Laos by the ruthless clique of commissars from Hanoi.

A NEW LOOK AT NUCLEAR SCIENCE

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. HOSMER. Mr. Speaker, last Friday, I had the privilege of keynoting a nuclear science seminar sponsored by the American Physical Society here in Washington.

In my remarks, I tried to paint a picture of the growing national energy crisis and how nuclear energy fits—or does not fit—into the scene. For the information of my colleagues and those interested in this general subject, and extract plus the remarks follow:

KEYNOTE ADDRESS BY REPRESENTATIVE CRAIG HOSMER

Extract: The United States faces an energy and pollution crisis. No immediate alternatives to conventional sources and nuclear power are in sight during this century. Substitute clean nuclear KWs for imported oil. Other suggested remedies include: National Energy Council, increased status for National Laboratories, pollution abatement taxes, Yankee high technology, reactor licensing reforms and self-restraint by scientists in statements beyond their fields of expertise.

At the beginning of the atomic age when the consciences of scientists working for the Manhattan District became uneasy over the destructive potentialities of their efforts, the good, placating thought was always that peace would bring quiet to the nuclear beast and nuclear science would be turned to mankind's eternal blessing.

While in the Philippines waiting aboard a combat loaded Navy assault transport to move out for the invasion of Japan, I heard of the atomic bomb and learned of the quick surrender. At that time, I personally equated nuclear science with some brand of miracle which had blessed me with the prospects of life rather than death on a hostile beachhead. As a matter of fact, somewhat reasonable estimates have been made that the 105,000 deaths at Hiroshima and Nagasaki were a trade off for more than a million that did not occur because the invasion was rendered unnecessary.

What I have said is a grim way to indicate my feeling that nuclear science is neither all good, nor all bad. As with other sciences its blessings are mixed, and the uses to which it is put may at one and the same time be beneficial to some people and detrimental to others. Individual endeavors with which nuclear science may assist are many—medicine, biology, oceanography, agriculture, industry, energy—you name it. But for whatever activity it enables, replaces or augments, there are side effects which may be troublesome to someone:

The thermal effluent of nuclear power plants must be reckoned with;

Isotopes still radioactive after use for medical treatment are creating problems in sewers;

We are stymied in the use of irradiation to preserve foodstuffs because they taste funny;

We have accumulated enough long-lived high-level radioactive wastes to warrant permanent disposal, but nobody wants the stuff in their state; and

Just because things nuclear cannot be seen, heard, felt, smelled or tasted there are people who, 200 years ago would have been out gleefully burning witches, that are today intervening in nuclear reactor licensing cases and enjoying it every bit as much.

During the 25-years since the Atomic Energy Commission has been on the scene I suppose we have got the stars out of our eyes and achieved a realization that nuclear science is not something unique and extraordinary and apart from the real world. We also face up to the fact that nuclear scientists are not really isolated from the ordinary problems that ordinary mortals face. Not that achieving this change in outlook has been easy—but perhaps it has been necessary if the profession and those allied with it are to make the contributions they can and must toward solving the problems of our age and serving the people of our times.

In my remarks today I shall focus on the energy supply problem, but in doing so I must emphasize that most of what I say will also apply to other current and future challenges and opportunities in nuclear science.

THE POWER CRISIS

Despite a growing flood of gloomy warnings, America has yet to grasp the real dimensions of the emerging gap between this country's gradually diminishing energy resources and its rapidly escalating energy demands. As a nation, our attitude is somewhat like that of the man who leaped off the top of a 40-story building. As he passed the 20th floor on the way down, he was heard to remark, "so far, so good." As he passed the 10th floor, he says, "this is beginning to look serious." With respect to an energy crisis, America is just about down to the 5th floor, and soon even the least observant amongst us must come to a realization that things are beginning to look serious.

With respect to electricity, soon we will hit bottom in some regions of the country. If it is not this summer or next winter, it will be sometime within the next 18 months. Brownouts and blackouts are inevitable and when we reach that point nationwide, it may take years, even decades to regain a power sufficiency status.

There are those who recall the early promises by nuclear scientists of practically limitless quantities of power from the peaceful atom at practically no cost at all. We truly believed that we were on the threshhold of perpetual plenty. Thus it is not illogical that some people believe—or at least profess to believe—that this entire "energy crisis" thing is some underhanded machination by the electric companies and the coal and oil industries to frighten the public and hornswoggle Congress into repealing the environmental protection, anti-trust and rate regulation laws.

To those people, let me quote from page one of the Washington Post for just two weeks ago today:

"The richest nation in the world has discovered that it is energy poor, and that this sudden poverty threatens the balance of trade, our attempts to clean up the air and water . . . in fact the energy crisis in America threatens the American way of life."

And there are other warnings. General George Lincoln, Director of the Office of Emergency Preparedness, has cautioned the American public, industry, and government to avoid unnecessary uses of electricity. The President's Consumer Advisor, Virginia Knauer, has started a program to teach people how to conserve electricity. The Labor Department is doing the same for industry. And, the current testimony to the House Interior Committee, a spokesman for the Defense Department expressed very deep concern over the national security implications of power shortages.

Perhaps the most chilling of the recent public statements on the subject came from Federal Power Commissioner John Carver who stated:

"I think our energy shortage is not only endemic, it's incurable. We're going to have to live with it the rest of our lives."

OBSTACLES ON THE ROAD TO POWER

Personally, I am not yet that pessimistic, but it would almost seem that there is a conspiracy afoot to make sure that Carver's prediction comes true.

Despite economic, political and national security hazards our reliance on fossil fuels continues to expand. Oil imports grow at the same rate as our realization that overseas access to this product grows more tenuous. Petroleum exporting countries are becoming price conscience and expropriation minded. Almost every wellhead in North Africa is ultimately under political control of the Kremlin while those of the Middel East are growing more and more vulnerable to Soviet naval and military interdiction. Even without interruption of the supply line it is estimated that by 1985 United States dependence on imported petroleum will double, amounting to $34 billion per year, and no one has any clear idea how that much foreign exchange can be generated to pay for it.

The natural gas situation is likewise bleak. An Interior Department study indicates that under the best conceivable circumstances—domestic production, pipeline imports from Alaska, Canada and Mexico, imported LNG, and coal gasification—this nation can supply only two-thirds of its projected 1990 demand. We will be short by 15 trillion cubic feet a year with virtually no present hopes of getting it. The gas company here in Washington and others nationwide already are restricing service to new customers. In southern California, where the use of natural gas is vital to air quality, the El Paso Natural Gas Company, citing short supply has asked the Federal Power Commission to permit a 26% cut back in gas deliveries.

Coal, fortunately, we have plenty of. But, unfortunately, environmental considerations limit its availability for conversion to energy. Tough new laws on sulphur discharges proscribe its use in urban areas and impending strip mining restrictions in rural areas may make it difficult to get much of it out of the ground.

We may be able to achieve some modest self restraint in the pro-rata use of electricity, gasoline and oil by individuals, but nationally our primary consumption of energy in all forms will about double between now and 1985 because of population growth and the trend toward increasing industralization. Electricity demand will double in less than a decade and account for more than its proportionate share of the overall increase because it is the most efficient source of power for many complex industrial operations and the cleanest form of energy at most points of end use.

Cleanliness where it is put to work looms even larger as a plus factor for using electricity when the work it is put to turns out to be cleaning up messes in the air, the water and on the land which are accumulating around us because we now create trash at a faster rate than nature can recycle it. We have made a national commitment for hundreds of new sewage treatment plants, air pollution control devices and mass transit systems. Recycling technologies can beneficially use large blocks of electric power, particularly where we can generate it in less polluting ways than we have in the past.

Nuclear generated power would seem ideal for this purpose because it does not require chemical combustion. The principle pollutants from chemical energy processes are nitrogen oxides, hydrocarbons, particulates, sulphur oxides and carbon monoxide. Dr. James H. Wright, Director of Environmental Systems for Westinghouse has estimated that chemically non-polluting nuclear generated electricity could replace 60% of the primary sources of energy now used for transportation, 30% of that for process heat, 25% for space heat and 30% of the chemical primary energy used for all other purposes.

Such substitutions together with other antipollution efforts would permit United States energy uses to rise unimpeded to the level predicted for the year 2000 while holding overall pollutant emissions from energy use at today's levels. By reason of the substitution, however, the impact of the emissions on individuals would be considerably less than that borne today because principal points of release would be substantially removed from where people are concentrated.

Regrettably, however, after 25 years of development by nuclear scientists, engineers and technicians, and the expenditure of billions of dollars by government and industry, the nuclear alternative enjoys in many quarters about the same affection as Typhoid Mary. At the precise time when the potentialities of both nuclear electricity and Plowshare stimulation of natural resource production are so badly needed, they have been singled out as whipping boys by a highly-vocal, mixed-bag of tenacious opponents. We are being urged to forego the perfection and use of these technologies on environmental, health, and safety grounds and propositioned to turn to a variety of alternative technologies that are so far off and far out that their possible environmental health and safety deficiencies cannot even be estimated.

ALTERNATIVES TO NUCLEAR POWER

Anyone from a U.S. Senator to a Michigan housewife can concoct new schemes and dust off old ones for generating cheap, clean, environmentally pristine electric power.

We have suggestions for harnessing the wind, the tides, the sun; we should use the energy in the Gulf Stream, the Humbolt Current and the thermal gradients in the oceans; we should tap the bowels of the earth and the outer limits of space for our power. The lady in Michigan plans to generate non-polluting electricity with the methane gas given off from manure piles, an idea which undoubtedly struck her after she read some Senator's speech. A common suggestion is that we by-pass thermal and breeder reactors and go directly to hydrogen fusion which, since we do not know much about it, we cannot deny will be safe, simple, economic, esthetic and great for the environment.

Almost without exception, these pipedreams are accompanied by a demand that this nation abandon nuclear power and spend the money on something else. The trouble is that this nation just cannot wait 30 years for some exotic kind of kilowatts to start flowing down the line. We need energy now and all during those 30 years.

In Joint Committee on Atomic Energy hearings last November we learned that the consensus of the scientific fraternity is that practical, electricity producing fusion reactors cannot be expected until the year 2000. By an enormous additional expenditure that date might be accelerated by a scant 10 years. But even so, it still leaves two decades during which we must look to fossil fuels and the light water and fast breeder reactors because solar cells, manure piles and the like just won't bridge the gap.

The only technically feasible alternatives for augmenting any of these sources of energy during this century appear to be coal gasification, preferably *in situ*, and clean, fully contained Plowshare underground explosions to stimulate recovery of petroleum products. Magnetohydrodynamics is practically alone on the horizon as a technique for improving the conversion efficiency of fossil fuels.

As for Plowshare, geologists estimate that through nuclear stimulation our recoverable natural gas reserves in tight gas formations in the Rocky Mountain region alone could be more than doubled-increased by 317 trillion cubic feet. Similar techniques in impervious oil shale formations might gain access to two trillion barrels of petroleum, which is more than the entire present world supply and past production combined.

Yet, edginess about nuclear bombs and hypersensitivity to environmental critics have prevented our nuclear scientists from really being turned loose on these resources. Despite lipservice for several years, the Plowshare program has suffered a steady decline in funding. The program needs both more money and new legislation to spell out the government's authority to offer Plowshare explosive services to industry on a businesslike basis.

SUGGESTIONS

I suppose that in recommending a particular nuclear program such as Plowshare I am neglecting my obligation as a keynoter to omnipotently and oracularly obfusticate the obvious and the ordinary. Therefore, I shall now return to that duty with fuzzy thoughts on several matters which you may enjoy the luxury of disregarding as the symposium progresses.

NATIONAL ENERGY COUNCIL

On several occasions during the last few years, I have suggested a truly coordinated and unified approach by government to our energy problem. Oil companies have bought up coal and uranium companies and changed into energy companies. A proper response to this consolidation by industry is a similar bunching together of government's related responsibilities for regulation, promotion, pricing, policy, national security and so forth. Moreover, it is a necessity now that we must gear up to overcome serious national energy crisis.

If I did not originate the idea of a National Energy Council patterned along the lines of the National Security Council, I certainly endorse the concept. And, I would hope that if we set up a new Energy Council it will be run with the same flare and wizardry that Henry Kissinger exhibits over at the Security Council.

NATIONAL LABORATORIES

In support of the Energy Council and all other governmental units requiring highly competent in-house scientific research, our excellent Atomic Energy Commission National Laboratories should be elevated within the AEC framework to the status of truly United States National Laboratories Numerous specialized laboratories and research institutions supported as non-defense federal activities ought either to be consolidated into the National Laboratory structure or intertwined with it for programmatic and budgetary purposes. Existing technical activities which are, or even reputed to be, bureaucratic anachronisms should be abolished forthwith. I can think of no finer service to the American public than cutting away the deadwood and getting our scientific talent into an organizational structure actually geared for real results.

YANKEE SUPER-TECHNOLOGY TRADERS

And, real technological results are looming ever larger as the master key to United States fiscal and economic health. Take the projected need I mentioned to import $34 billion worth of petroleum. Our only conceivable opportunity to generate that kind of foreign exchange lies in a concentrated drive to increase our exports where the money is, that is, in high technology items.

Once our trade philosophy sheds the remaining fragments of its do-gooder hang-up left over from Marshall Plan days and begins to cope with the international trade pirhanas of the real world 1970's, the exchange value of our technology capabilities will fast become evident. I suggest that we begin now with orderly programs, rather than later with crash programs, to mobilize American scientists and engineers in the National Labs, universities and industry to back up a new breed of Yankee super-technology international traders.

For one thing, we must deliberately plan and scheme to capture the lion's share of the huge uranium enriching business now developing overseas. Nor should we forget that trading in even the smallest item of export also ought to be arranged on a basis by which the United States, if it is not advantaged, at least is not disadvantaged.

As an example, the AEC is selling radioactive americium to European corporations for fabrication into commercially sold neutron sources for reactor start up and oil well logging. This foreigner buys his americium in bulk and can spread the high cost of shipping it from the US over several sales of finished neutron sources. By contrast, an American fabricator will have to pay almost as much to get each one of his finished sources to the European market because a heavy, bulky shipping cask is required. American industry (a) will be disadvantaged until AEC requires individual shipment of purchases intended for resale and (b) will not be advantaged unless a straightforward embargo is imposed on export of americium for commercial resale.

Americium is but one small example of our failure to turn a U.S. high technology asset into a competitive trade advantage. In the aggregate these neglected opportunities could add up to many billions of dollars of annual profit and foreign exchange. We can no longer afford to give away or to forego that much cash.

POLLUTION ABATEMENT

In a matter closer here to home I am impressed by the statements that our magnificent interdisciplinary National Laboratories are ideally equipped to march at the forefront of the anti-pollution army because they have had so much experience dealing with the chemistry and physics of minute particles. However, I am less impressed by nuclear and other scientists and engineers in our midst who would have the government rush out and set standards for permissable pollution, hire an army of inspectors to monitor all emissions and impose penalties for failure to comply.

We will have to deal with lethal substances directly, tax incentives may be needed in certain fields, but I think that tax disincentives for polluters is the most efficient way to handle the lion's share of pollution abatement problems. President Nixon wants to try emission charges or taxes on sulfur oxides and the same principle is applicable to other kinds of pollutants. Such taxes will force today's external costs of pollution back to the offending factory's doorstep and on to its account books as cost items for emission controls. Today we spend about $9.3 billion on pollution abatement and $7 out of every $10 is from government. We probably need to spend about $100 billion annually and via the tax route $9 of every $10 could come from industry, without further tax burdens on the citizens.

Ordinarily a dissertation on pollution would have no place in a discussion such as this, but, like Vietnam, today the subject so overwhelms us that we must get solutions behind us so we can devote our energies to other problems.

REACTOR LICENSING REFORM

If a comment about pollution has relevance to this audience today, so also does a comment on the licensing, building and operating of nuclear power stations which is confronted with a seemingly endless series of legal, administrative and public relations problems. A substantial part of our misery is self-inflicted, according to Dr. Louis Rosen of Los Alamos, because "we have not taken seriously that part of our responsibility to society which dictates that we explain and interpret and justify our activities in language understandable to the nonspecialist."

If indeed, our problem is education of the public—and I think it is—I recall that when we amended the Atomic Energy Act to provide for public hearings on reactor licensing we did so because we thought the people around where the plant was to be built would come in and listen and learn how to be happy while living around a thousand megawatts or so of nuclear fission. Hardly any of the locals turned out and they still don't. But like no other sport in American history, intervening in nuclear reactor licensing cases has become a coast-to-coast avocation for the fun-loving and a pot-at-the-end-of-the-rainbow for their lawyers. Without particular enhancement of public understanding of the atom or any tangible contributions to nuclear safety, the AEC licensing process has been brought to a screeching halt.

The question whether a reactor is safe has been turned into a courtroom type Perry Mason adversary procedure in which the AEC is maneuvered into trying to prove beyond all reasonable doubt that each reactor it proposes to license is safe. Now, "safe" is an adjective and nobody can prove a description. So bearing the burden of this proof is never possible and legal technicalities afford sharp lawyers endless days to pound home the intimation that so long as a rector cannot be proved safe, it must be unsafe.

The real issue in licensing a rector is assessing the relative degree of risk involved and determining whether that risk is acceptable in return for whatever benefit is anticipated. Individuals do this constantly in choosing their occupations, places of residence, sports preferences and so on. Where the risks and benefits affect large numbers of people, like the availability or non-availability of nuclear electricity, this kind of decision cannot be made individually but is made collectively, by society.

As can be seen, the decision mechanism established by society a few years ago for nuclear power plants has proved inefficient. The judgments involved have been more impeded than assisted by adversary courtroom procedures. And, as bad as the adversary procedure is for this purpose there is a worse way to go about it and that is to turn the whole matter over to the electorate for a vote. That is being attempted by initative Proposition Number 9 on the upcoming California ballot. Amongst other tasks, Proposition 9 hands California's individual lay voters the job of making all technical judgments relating to the costs and benefits of a proposed five year moratorium on nuclear power reactors.

To my mind, a better way than these of going about licensing or not licensing nuclear reactors would be hearings which permit a citizen to come before a public licensing authority and speak his peace about health and safety, environmental matters and so on. After he has done so, the authority, in this case the AEC, can and should seek expert advice on significant technical questions that have been raised. It could and should inform itself otherwise sufficiently to come to a reasoned, rational informed risks/benefits judgment about a particular license application.

No doubt I will be criticized for taking a "big brother will take of you" stance on licensing, but let's face it. Some things are best left to people who know what they are doing . . .

Would you buy an emergency core cooling system—new or used—from a lawyer?

Or, let me put it this way . . .

You cannot anymore adopt seismic design criteria by popular referendum than you can, by act of Congress, repeal the law of gravity.

SHOEMAKER, STICK TO YOUR LAST

As long as I am passing around free advice, I will now direct some of it at forensic minded members of the scientific community who pop off on any subject at any time because they apparently believe that the Almighty has created their brains in closer image to His own than He has for others.

Disregarding the fact that they are laymen in disciplines other than their own, some of them flock together such titles as Union of Concerned Scientists to pronounce olympic judgments on subjects wholly outside the areas of their expertise. Others will act individually. We find a Nobel physicist pushing vitamin pills, an ordinary physicist pontificating on infant mortality, a pediatrician calling for a fast breeder moratorium. Many more who call themselves scientists make a habit of forgetting that they are not qualified to give advice universally on all subjects. Only we politicians enjoy that perogative And, being what we are, the public is well equipped to give what we say the attention it deserves. Unfortunately, the public is not similarly sophisticated about scientific types and that imposes upon them obligations of self-restraint.

I am not, of course, suggesting that individuals in the scientific community should not share the blessings of liberty or enjoy the protections of the Bill of Rights. Nor do I believe that in subjects other than those in which they earned their Ph.D.'s they should be intellectually caponized. But where we find a loud mouth member of the fraternity repeatedly prostituting his degree by declaring himself expert in subjects which he is not, maybe somebody ought to be thinking in terms of some means to "de-doctor" him.

CONCLUSION

By this time my abrasive comments must surely have started the adrenaline flowing and awakened you sufficiently to cope with the day's proceedings. Therefore any function as keynoter has been discharged. So I leave you to your symposium.

You honored me by asking me to be with you and I close by expressing my deep appreciation for that honor and for the splendid contributions that each of you distinguished leaders in nuclear science make to our country.

GENERAL OHMAN HONORED ON RETIREMENT

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. WRIGHT. Mr. Speaker, last Saturday one of the great military aviation leaders of our Nation retired at Bolling Air Force Base after 35 years of distinguished service. He is Maj. Gen. Nils O. Ohman, commander of the Headquarters Command, and his is a unique story—one which truly embodies the precepts upon which our country was founded.

"Swede" Ohman was born in Stockholm and came to these shores, passing through Ellis Island, at age five. His father was an immigrant toolmaker who relocated his family in Massachusetts.

A child of the depression, Swede developed a lasting love affair that has endured throughout his life—the object of this affection being machines that fly. Young Nils Ohman entered West Point and proved to the world that a young Swedish immigrant could match any and outstrip most of his contemporaries. Not only did he excel in scholastic achievement by ranking 18th in his class of 300 but he was an outstanding athlete, having been named to the all-time "All Army" team.

Young Lieutenant Ohman was at Hickam Field, Hawaii, just prior to the infamous Pearl Harbor attack. He returned to the mainland and later set a high-altitude record for the Z-17. No one had ever surpassed 19,000 feet, but this daring young airman set a world record of 42,500 feet without the aid of ground communications and without knowing what fate lay above for him and his crew.

Later, while flying over the Rocky Mountains, all four engines of his aircraft quit. After literally heaving bodily the first man out of the plane, he then made certain the rest of the crew was out, and then grabbed a parachute for himself, only to find that it was not his personal one. Despite serious injuries suffered in his fall, and overriding medical advice, General Ohman returned to serve valiantly in the European theater. Later he flew heroically in Korea and I first had the pleasure of meeting this outstanding American in 1957 when he assumed command of Carswell Air Force Base in my Fort Worth district. Prior and successive assignments have included positions as a West Point instructor, vice commander of Air Training Command and commander of Headquarters Command, the most diversified organization within our Air Force.

Although he was born in Sweden and reared in Massachusetts, we are proud to call General Ohman our very own for Texas. He is retiring there and we hope will afford our area and the entire Nation his continued service as a private citizen.

On Friday, May 5, the citizens of Fort Worth will honor General Ohman for his tremendous contributions to military aviation. And I am proud to note that my 1958 appointee to the U.S. Air Force Academy, Capt. Nils "Bo" Ohman, is presently on duty to follow in his father's distinguished steps.

THE HONORABLE F. BRADFORD MORSE

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. FISHER. Mr. Speaker, I share with my colleagues disappointment in the retirement of F. BRADFORD MORSE. After serving 11 years in the House he has accepted an important position with the United Nations.

During his service here BRAD MORSE has established an enviable record of devoted, conscientious service to his district, the State of Massachusetts, and to the Nation. He is a gifted man, very knowledgeable, and has made valuable contributions in the endless search for solution of many vexing legislative problems. Above all, he is honorable in every respect.

Our colleague is particularly well equipped to serve in the United Nations. His energy, alertness, and capability will be put to good use in that organization. I extend to BRAD my very best wishes for a pleasant and most successful experience at the United Nations.

LITTLE RED RIDING HOOD AID TO COMMUNICATIONS WITH DEAF

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. WYLIE. Mr. Speaker, it has been my good fortune recently to have seen a remarkable reproduction of the ages-old children's story, "Little Red Riding Hood." What makes this document particularly noteworthy to me is that it contains a translation of that old nursery story into Signed English—the manual language by which those who cannot hear nor speak communicate with one another and with hearing people.

The story, "Little Red Riding Hood"—in Signed English—is but the first of a series of colorful booklets and posters dealing similarly with other children's stories and nursery rhymes which will be produced in the next several months by the joint effort of a six-member team and three art students at Gallaudet College—the only accredited liberal arts college in the world dedicated to the education of the deaf.

The purpose of this series of nursery stories and rhymes in Signed English, together with a series of nursery-type posters also using the manual language, is, I am told, twofold. In the first place, these documents, beautifully illustrated in color, will enable deaf children for the first time, as far as I can discover, to enjoy the nursery rhymes which all of us enjoyed as hearing children. But, more importantly, the series will, in effect, provide a sign language teaching manual for hearing parents of deaf children and thus provide a means of improving communications between those parents and their handicapped children.

The first of this series has been of particular interest to me because there is a substantial colony of deaf people in my hometown of Columbus, and also because the State of Ohio maintains there a school for the deaf. Many of its students, after completing the course there, come to Gallaudet for advanced education at the college and graduate levels. I am proud to say that Ohio's State school is progressing in it own programs of education for the deaf as is evidenced by the fact that in the 1961–71 decade, the enrollment of students from Ohio at Gallaudet, where admission is, of necessity, on the basis of competitive examination has increased by 480 percent.

There is another aspect of the production of "Little Red Riding Hood" and the rest of the children's stories that has impressed me. I am told that this project is a "total team effort" carried out by a group of six specialists as a voluntary addition to their normal duties at Gallaudet or, in one case, in private enterprise.

What that adds up to is that the preliminary explorations of the underlying theory of this newly created instructional aid, and the initial productions of the project, have not cost the taxpayers of this Nation one additional penny. Those on the team—five salaried full-time employees of Gallaudet, which is supported in part by Federal appropriations, plus one privately employed commercial artist who himself is deaf—in effect have donated to the project untold hours of overtime, thought, and work involved in its design and execution.

This type of dedication to service to humanity is unfortunately becoming all too rare in our society, but it is the type of dedication that, when put together on the basis of teamwork, can result in an exceptional and valuable product.

I believe the Gallaudet team has done just that in conceiving and developing this phase of what is known at the college as the preschool signed English project. I congratulate the team on its success, but more than that I congratulate Gallaudet College on having within its community staff members and friends who make up a team so dedicated.

This dedicated team is made up of Ralph R. Miller, Sr., the deaf commercial artist who so deftly created the sequenced illustrations for "Little Red Riding Hood," Karen Luczak, the preschool teacher who adapted the text to teach deaf children, and the professional staff of the preschool signed English project, including its director, Dr. Harry Bornstein, who is also director of Gallaudet's office of institutional research, Barbara M. Kannapell—IOR—Lillian B. Hamilton—OIR—and Dr. Howard L. Roy, chairman of the department of psychology.

DRUGS AND YOUTH

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. HALPERN. Mr. Speaker, for many years now I have had the privilege of working with a remarkable woman who has been in the forefront of the battle against drug addiction. Dr. Judianne Densen-Gerber has made an invaluable contribution to the development of drug rehabilitation theory and practice as founder and executive director of New York City's Odyssey House, a psychiatric treatment center for narcotic addicts.

Besides excelling as a professional in every sense of the word as a medical doctor, psychiatrist, and lawyer, Dr. Densen-Gerbert is an exemplary mother of three children. She has recently coauthored, with her 13-year-old daughter Trissa, a most excellent topical and highly relevant book entitled: "Drugs, Sex, Parents and You."

Mr. Speaker, this impressive book uses as its format dialog between a mother and daughter about the difficulties of growing up in a drug-oriented society. Drugs, Sex, Parents and You emphasizes Dr. Densen-Gerber's firm belief that honest discussion and a direct relationship between young people and their parents is the single most effective way of preventing narcotics abuse.

The striking message of this amazingly straightforward book will be of immense benefit to teenagers and parents alike. Mr. Speaker, I wish to congratulate Dr. Densen-Gerber and her daughter Trissa, and to recommend to my colleagues the product of this mother and daughter's praiseworthy efforts.

FINANCIAL STATEMENT OF HON. LAWRENCE J. HOGAN

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. HOGAN. Mr. Speaker, ever since I have been in the Congress I have made a practice at this time of year in placing my financial statement in the CONGRESSIONAL RECORD. I include my statement for this year herewith:

FINANCIAL STATEMENT OF LAWRENCE J. HOGAN AND NORA E. HOGAN, HIS WIFE, APRIL 30, 1972

Assets	
Cash (see schedule A)	$11,981.90
Investments (see schedule B)	7,530.00
Real Estate (see schedule C)	133,000.00
Automobiles:	
1969 Oldsmobile	2,200.00
1971 Ford	1,600.00
1972 Buick	4,000.00
Household furnishings	7,000.00
Total assets	167,311.90
Liabilities	
Accounts payable (misc.)	2,200.00
Central National Bank (auto loan)	3,096.81
Mortgages (see schedule D)	60,667.03
Total liabilities	65,963.84
Net worth	101,348.06

Schedule A—Cash

Congressional Employees Credit Union (sav. acct.)	$200.13
John Hanson Savings & Loan (savings account)	1,205.83
Maryland National Bank (checking account	7,188.00
Sergeant at Arms (checking account)	$3,187.94
Cash on hand	200.00
Accounts receivable	none
Total	11,981.90

Schedule B—Investments

Central National Bank of Maryland stock	$5,200.00
John Hanson Savings and Loan stock	2,330.00
Total	7,530.00

Schedule C—Real estate

Townhouse, Ocean City, Md	$50,000.00
House, Landover, Md. (residence	55,000.00
91.4 acres, Allegany County, Md	28,000.00
Total	133,000.00

Schedule D—Mortgages

Townhouse, Ocean City, Md	$20,800.00
House, Landover, Md	36,786.00
91.4 acres, Allegany County, Md	3,081.00
Total	60,667.03

WAR DISTORTION

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. DAVIS of Wisconsin. Mr. Speaker, an editorial recently printed in the Milwaukee Sentinel articulately reminds us who is the enemy and aggressor in Vietnam. This statement legitimately implicates some of our vacillating political partisans for causing distortion in the reports concerning the present situation in Southeast Asia. The Milwaukee Sentinel is a newspaper competent to present this case. Its chief editorial writer, Mr. Loyal Meek, has had considerable experience as a Senate staffer on Capitol Hill. I commend this reading to all. It separates fact from distortion.

The article follows:

[From the Milwaukee (Wis.) Sentinel, Apr. 25, 1972]

WAR DISTORTED

There is a war going on in South Vietnam. In the light of what has been flooding the news columns and airwaves in the United States, that statement may seem a bit obvious and unnecessary.

Yet from what we have read and heard we get the distinct impression that the fact of the war—that not only are armies clashing but that South Vietnamese civilian men, women and children are being killed and wounded and driven from their homes by invading forces—is being all but forgotten while partisans here in the United States grind other axes.

For instance, there are those partisans apparently so consumed with hate for President Nixon that they can be completely blind to the fact that North Vietnam has invaded South Vietnam. Thus, when President Nixon orders American bombers to react to the Hanoi violations, these blind haters turn things upside down by asserting that it is Mr. Nixon, not the North Vietnamese, who escalated the war.

The sputterings of protest demonstrations also indicate that the fact of the war is mostly forgotten. These scattered activities are described as demands to "end the war." But here again the fact that the latest outburst of killing and suffering was touched off by the Communist invasion is ignored. Instead, the protest is focused on the US for helping the South Vietnamese to defend themselves. The only end to the war they are in effect demanding is total victory for the enemy.

The complete distortion of the facts of the war have reached into the depths of absurdity in Congress. House Democrats adopted a resolution describing the bombings of North Vietnam as a dangerous escalation of the war. Only as an afterthought did they denounce the North Vietnamese offensive.

All of this blindness and distortion about the war has been abetted by the dominant voices of the American news media, which, skillfully using well developed techniques, play up the news and views favoring the other side and play down anything favoring our side.

Sick and tired of this long involvement in Indochina, buffeted by the forces of dissension in their midsts, American citizens understandably are quite willing to ignore the fact that there is a war going on in South Vietnam, that innocent civilians are being killed and wounded and driven from their homes by invading forces.

As practically everyone now agrees, America made a mistake getting into this war. But we can't correct the first mistake by making a bigger one in the way we get ourselves out of the war. And it would be a tremendous mistake to abandon South Vietnam completely and immediately in this, its moment of truth.

The situation calls for the US to remain steady on course. That course was set by President Nixon when he took office in January, 1969. He began a program of troop withdrawal which has seen the number there reduced from nearly 550,000 to under 100,000. He instituted a program of Vietnamization—preparing South Vietnam to fight its own war—and meanwhile sought in vain to get the Communists to negotiate in good faith.

Steady as you go, Mr. President.

THE PROBLEMS OF RFD–USA

HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. HAGAN. Mr. Speaker, most people are aware of how the American people have gravitated into the cities, leaving the wide open spaces more abandoned each year. Not only is the South littered with abandoned tenant farmhouses, but in every section of the country can be seen relatively good houses no longer occupied. Estimates are that 97 percent of the people live on 7 percent of the land.

People have moved into the cities primarily in search of jobs. Mechanization of the farms has made many farm jobs obsolete. Some who have left the farms have been caught up in the excitement of the cities and the so-called good life of suburbia. Even when their city jobs have played out, they insist on remaining, even to the necessity of taking unemployment insurance while they wait for another job. Moving back to the country is probably not the choice of most of the people, once they are accustomed to the offerings of city life.

The R.F.D.–U.S.A. program emanating from the Congress looks promising at first glance, but there are problems. Assuming that rural jobs were available and people left the cities to take the jobs, what then would become of the cities? Finding a balance in the transition will be necessary if no one is to get hurt. Suburbia itself is between the inner city and the rural area, belonging to neither, and yet a big part of the problem.

The present rate of national growth requires that a decision be made soon about relieving the imbalance. It all boils down to how the cities and rural areas can "share their benefits, without aggravating their individual faults."

The lead editorial in the Savannah Morning News of April 20, 1972, entitled "Only the Surface" presents our dilemma in excellent fashion, as follows:

ONLY THE SURFACE

While the attention of Americans is turned more and more to the potential of rural development, advocates have only scratched the surface of seeking this Promised Land.

RFD–USA indeed looks promising. Various congressmen and even the President have sung its praises; former Arkansas Gov. Winthrop Rockefeller made a strong pitch on its behalf this week before the county commissioners gathering at Jekyll Island; the urge to rediscover the wilderness is contained in this year's political cliche called "populism"; and anybody can look out his window at the smog or at the rows of bumper-to-bumper traffic and feel that certain yearning for wide open spaces.

The emotion is there. The cities are rotten; let's make it to the country.

But in these times, to be aware of an alternative is only to increase our frustration. For it is far easier to dream of rural development than to achieve it, and even urban smoke is preferable to clean air where there is no cash to be had.

The problems are many as well as complex. Even if an outward migration was possible, there is the question of what to do with the city. Metropolis, though we might desire it, cannot so easily be tossed on the junk heap like an old car. A balance has to be struck to accommodate both urban and rural lifestyles, and neither government nor the people exercise sufficient control of their respective fates to bring this about without mistakes. Indeed, few have really thought about this process of transition; it sounds attractive, but one also invites more controls and regulation in hopes of obtaining a greater freedom.

If rural areas did offer a greater opportunity for making a living, then the process of transition would be pretty much taken care of. Generally, the work force follows business, rather than the other way around, and job opportunities shifted to rural areas would reverse the population assault on the cities. But again the problem is one of control, for cities can be relieved but not deserted. In fact, one of the greatest complications of modern life is that many people today live neither in the city nor in the country but in the suburbia in-between, and both urban and rural areas are starting to share a mutual decay because of it.

Any Sunday drive in the countryside will convince the average citizen that too many of us are crammed together in too few places, that there is plenty of room elsewhere if only someone would do something about generating its potential. While one romances the country, one also sees her faults. It would be nice to live there, but what about work, or water systems, or health care? The city resident waits for such things to be done before he decides to move; the rural resident waits for such things to be done and, after giving up hope, moves to the city.

Nearly everyone admits the present situation is deplorable, what with 93 per cent of the population crowded into 7 per cent of our land mass—and threatening to get worse. But aside from a few scattered studies and a few committees, the problem which is the cause of many other problems has a lower priority than those very same troubles that it causes. How does one really accomplish this reversal of America's upheaval? How does one save both the cities and the countryside? How can they share their benefits, without aggravating their individual faults?

At the present rate of national growth, we will eventually have to come to some decision. But there is more than enough cause at present for more seriously examining the way we can obtain a proper population and economic balance, without waiting until it gets even more out of control.

MR. S. EUGENE YOUNTS MEETS CHALLENGE

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. MATHIS of Georgia. Mr. Speaker, 1 year ago last month, the University of Georgia opened its newest and one of its most promising service units—the rural development center—on the campus of Abraham Baldwin Agricultural College in Tifton.

The center's first director was Dr. S. Eugene Younts, a native of North Carolina, but now an adopted Georgian. My good friend, Gene Younts, brought to the center the effective leadership needed to achieve the goal of helping rural Georgians realize a better life through economic, educational, and cultural growth.

Georgia's rural development center now serves as a model program for the rest of the Nation.

Dr. Younts is no longer director of the center, but he is still a guiding force behind the program. He has been promoted to the post of vice president for services at the University of Georgia and brings with him impressive credentials and outstanding qualifications. This new job must be demanding even for a man like Gene Younts for the University of Georgia has one of the most extensive service programs of any institution of higher learning in the Nation.

The one unfortunate aspect of Dr. Yount's promotion is that he had to move from Tifton to Athens. He is no longer a resident of the Second Congressional District, but we fully realize that our loss is the State's gain.

I would like to share with my colleagues the following article about Dr. Younts from the winter 1972, issue of Service Report, a publication of the University of Georgia:

VICE PRESIDENT FOR SERVICES: YOUNTS ASSUMES NEW POST

The University of Georgia has a new Vice President.

On January 1, 1972, Dr. S. Eugene Younts assumed the post of Vice President for Services, succeeding J. W. Fanning, who retired after more than 42 years as a public servant.

On the announcement of Dr. Younts' appointment, Mr. Fanning said, "Gene Younts is uniquely trained and qualified to give outstanding and effective leadership to the Service Program of the University of Georgia. I'm sure he will find in this program the same challenges and opportunities for service which I have over the years."

A young man with wavy brown hair and eyes that crinkle when he smiles, Dr. Younts brings to his new office both impressive credentials and a varied background.

A native of North Carolina, he holds both the bachelor's and master's degrees from North Carolina State University and a doctorate from Cornell University.

Prior to assuming his new post, Dr. Younts was the associate dean of the College of Agriculture and director of the Rural Development Center in Tifton. He has also served as vice president of the Potash Institute of North America headquartered in Atlanta. In this capacity, he was responsible for coordinating educational and research programs of the Institute in 13 southern states and Latin America.

An outstanding educator as well as an administrator, Dr. Younts served on the staffs of both the University of Maryland and North Carolina State University. While at N.C. State, he was twice selected as an outstanding instructor in both his school and department and, in 1964, received the annual educational award presented by the Soil Science Society of North Carolina.

Dr. Younts has undertaken his new job with insight and enthusiasm. "We hear much about challenge and opportunity in today's changing world," he says. "Both words are very appropriate for the comprehensive features of the service programs of the University of Georgia.

Dr. Younts has assumed the leadership of one of the most extensive service programs of any university in the nation. In the past, the University has succeeded in martialing its resources to offer aid, assistance and guidance to the citizens of Georgia . . . but with every day comes a new challenge. And Dr. Younts is determined that the University will meet each challenge and change it into an opportunity.

"It is my good fortune to be in the service role at this point in time," he says earnestly. "The University has opportunity to shape the development of the state as it has never had before. The challenge is to deliver the expertise to fit the changing times."

FRANCO-AMERICAN PARLIAMENTARY EXCHANGE PROGRAM

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. RAILSBACK. Mr. Speaker, recently, nine Members of the House returned from a most worthwhile visit to France where, for 10 days at the invitation of the French Government, we were the guests of our French counterpart Members of the Assemble Nationale. As cochairman of the congressional delegation, I would like to describe briefly my impressions and reactions to what we observed during this period.

Our visit was the last half of a second Franco-American parliamentary exchange program; the first half having been the visit to the United States last October of 13 French Deputies, with whom you will recall meeting at that time.

This program was first conceived by Mr. Sargent Shriver later in 1968, when, as Ambassador to France, he saw the need for promoting greater understanding and friendship between France and the United States during a period when relations were at times less amiable than could be desired. He felt—and it appears rightly so—that relations could be improved by promoting a greater understanding of the legislative processes of both countries and of the views of individual legislators of the problems and issues that were of common concern to both countries.

He, therefore, proposed an exchange program for members of both parliamentary bodies, with each member participating in one complete exchange—once as a guest of his counterpart and once as a host of his counterpart in his own country. He further proposed that the participating members would be young—the usual age being somewhat less than 40 years—and represent a wide range of interests, of ideologies, of geographic locations, and of committee responsibilities.

After much planning, the first such exchange took place in September 1969, when 15 French deputies came to the United States. They were given an opportunity to observe at first hand the workings of our Congress, they were received by the Speaker of the House and many other dignitaries and were able to ask and to respond to an infinite number of questions on a wide variety of topics. Within a very short period of time, they were able to acquire a knowledge and understanding of not only the issues and problems that were of concern to us, but also the manner in which we went about resolving our problems and determining our policies.

Equally as valuable, however, was a feature that is unique to this program. Not only did the visiting French deputies stay at the homes of their American hosts, but they also went with the Member to his congressional district for a 2- or 3-day period, seeing the region the Member represented and talking with local officials and constituents. This particular feature of the program was most appreciated by the French deputies and has remained an important part of the subsequent visits.

After the first return visit of nine Congressmen in May 1970, it was recognized by all concerned that the success of the program fully warranted its continuation. Our latest visit confirms more than ever the value to both nations of the exchange. We can assure you that differences in politics and in nationality in no way impeded a full and frank discussion of mutual problems. Despite differences in philosophy, background and language, we were able to develop both an awareness and an understanding of each other's problems and were able to gain new insight into possible solutions of these.

Without going into detail, I would like briefly to outline for you the content of our recent visit, so that you might have a fuller understanding of the nature of the exchange program.

Our first meeting in Paris took place with Ambassador Arthur Watson and we were able to touch upon a variety of topics, of which I might especially mention the problem of narcotics. During our short stay, we were able to discuss this subject—which is of vital concern to both countries—with numerous officials. As a result of our discussions, I am most pleased to report that it is the consensus of our delegation that the French officials are taking all possible measures to counteract what they feel is a potential danger to their citizens and that the extent of cooperation between our two countries in this field is all that could be desired.

We were the guests of Mr. Robert Schumann, the Minister of Foreign Affairs, and talked with him of the international topics that were most pertinent. We were introduced as a delegation to the Members of the Assemblee Generale and delivered to the President of that body, Mr. Achille Peretti, your letter of introduction, Mr. Speaker. He, in turn, asked us to convey to you his kindest regards.

We subsequently met with the chairmen and the members of the Judiciary Committee, the Armed Forces Committee, and the Foreign Affairs Committee of the Assemblee Nationale.

Later, we had the opportunity of meeting with the Minister of the Interior, and the Prime Minister, Mr. Chaban-Delmas very graciously received our delegation and we had a most interesting exchange of views with him.

I must also mention our reception by the municipal council of Paris who presented us with the silver medal of the city and gave us a most interesting tour of the city hall, scene of so many historic events.

We were also the guests at luncheons hosted by Mr. Lucien Neuwirth, Questeur of the Assemblee Nationale and finally of Mr. Peretti on behalf of the entire Assemblee.

Departing from Paris, each Member spent the weekend with his French counterpart in that person's district. For most of us, this was viewed as an unparalleled opportunity to meet the French citizens and the local officials. Without exception, their welcome was warm and sincere. We were able to see the democratic process at work in the towns and villages we traveled to and to enjoy the renowned French hospitality in all its charm.

Our visit also took us to Toulouse, where we were the guests of the regional prefect and the mayor of that city. While there, we also had the opportunity of visiting the French Space Center and seeing the French supersonic "Concorde"; being greatly impressed by this emblem of French technical prowess.

I cannot forget to mention our visit to the medieval city of Carcassone, which provided so perfect a contrast to the space center and, viewing the one after the other, made us aware not only of the long history and the glories of France of the past, but of the fact that this nation is also in the forefront in terms of future glories.

There were many others whom I have not been able to mention who made our visit a delight. I speak for all the other Members—and, I am sure for those wives of Members who accompanied us—when I say "merci, mes amis" and add, the wish "a bientot."

DEERE & CO. AND CONSUMERISM

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. RAILSBACK. Mr. Speaker, the public has become more and more aware of their rights as consumers, and the Congress and the administration have tried to respond accordingly. However, I believe it is highly important to pay special tribute to those companies that are already working in the consumer's interest.

One such company, Deere & Co. is located in Moline, Ill., which I am proud to represent. This manufacturing firm produces John Deere farm tractors and equipment, industrial tractors and equipment, and lawn and garden tractors and equipment.

Recently, Deere & Co., as well as the other top 200 companies on the Fortune 500 List, were asked by Senator Moss what their efforts were in this area. Frank Dickey, vice president of Deere & Co., informed me of the response to Senator Moss. The communication I received will be of encouragement to all who are concerned about the American consumer.

Text of Mr. Dickey's letter follows:

APRIL 18, 1972.

Hon. THOMAS F. RAILSBACK,
House of Representatives,
Washington, D.C.

DEAR MR. RAILSBACK: Recently, Senator Moss asked Deere & Company and the other top 200 companies on the Fortune 500 List to tell him and the Senate Consumer Subcommittee what steps we have "taken voluntarily to meet the increased demands of consumers." Senator Moss' expressed purpose for soliciting such comments is to "balance the public record" and to "remedy a gap in the fabric of consumerism" which now "roundly scores the flaws of business," but fails "to give credit for the good consumer protections which business performs."

We at Deere & Company agree there is a need to balance the record in this regard and, feeling that wider knowledge of the various ways in which Deere responds to the needs and demands of its customers would contribute to this effort substantially, we welcomed the opportunity to pass on to Senator Moss the kind of information he was seeking.

As Deere & Company is a major constituent of yours we thought you would also be interested in becoming aware of Deere's record in this area. Consequently, I'm writing you at this time to pass on to you the same information which we passed on to Senator Moss.

We felt there was a need to respond to Senator Moss' inquiry even though 95% of our sales are to commercial users in agriculture, logging, and the construction industry rather than to "consumers" in the ordinary sense.

Our customers are both knowledgeable and demanding concerning our products. Responding to their needs and requirements better than our competitors do is our principal business challenge—the warrant on which our long-term commercial success depends. Some specific "programs" directed at particular customer needs will be described in this letter. However, nearly every part of our operation is related in some way to this end, and we think the quality of our total performance is more significant (though harder to measure) than any enumeration of formal programs.

From the standpoint of our customer, satisfactory performance consists of doing a good job of producing quality products (at the lowest possible cost to him) and of assisting him in getting the most out of those products. In addition to the obvious prerequisites for doing this job of having modern, efficient production facilities, we believe there are five main areas in which our Company has an excellent record; product selection and design, reliability, service, safety, and education. We will comment on each of these areas.

PRODUCT SELECTION AND DESIGN

The design of agricultural equipment is part of a technological effort in which a whole complex of public and private agencies participates. Developments in machinery are inextricably linked with those in seeds, fertilizer, herbicides and insecticides, and farming methods like new crop spacings and minimum tillage techniques. "Public" bodies such as the United States Department of Agriculture Farm Services, state government extension services, and agricultural colleges perform research in these areas and work directly with "private" enterprises such as suppliers of seed, chemicals, machinery, and, of course, the farmer himself.

The result is there are few industries where technology is as dynamic or important as it is in agriculture, or indeed, where technology has been so dramatically successful. For example, in 1950, one farm worker produced enough to feed and clothe 15.5 people. This increased to 25 to 30 people in 1960, and, by 1970, each farm worker produced enough to take care of 50 people. We have made a major contribution to this advancement through our own development work and through cooperation with agricultural colleges and other contributors to agricultural technology.

In the industrial area, the number of agencies participating in development and, indeed, the variety of problems involved are not nearly as numerous. Nonetheless, productivity, though harder to measure, has increased substantially. For example, in the area of construction contracts, each hour of labor today generates better than 80% more output (i.e., miles of road or square feet of housing) than it did in 1950 and 30% more than in 1960.

As its contribution to these areas, Deere last year spent $56.4-million (4.8% of sales) on research and development, and has consistently devoted a similar portion of its budget to this endeavor.

Once the need is ascertained, the job of meeting that need is turned over to our factories, each of which has a product design group which is familiar with the needs of the customers who purchase the types of products their factory produces. As part of the design process, many hours and much of our research and development budget are devoted to "make sure" testing and retesting in the laboratory and field. In the latter stages, farmers in their fields, industrial customers on their job locations and consumers at their homes test prototype machines in their own way and speak their opinions. It usually requires from five to eight years at Deere to move from the original idea to the finished product coming off the assembly line.

As part of our design goals, we do not believe in the policy of created obsolescence through such devices as annual model changes. Most products retain their model designation and basic appearance for a number of years, though evolutionary changes designed to improve their performance take place on a continuing basis.

RELIABILITY

Deere has set up reliability goals for every product in terms of quality and performance to meet the customer's needs. At every stage of development, beginning with engineering blueprints and specs and extending through engineering testing of prototype parts, assemblies and complete machines, reliability specialists study the data, evaluate it, and make recommendations that will help meet these goals.

These recommendations cover not only the characteristics of individual parts, but the manufacturing processes, tolerance and specification checks, and inspection procedures aimed at delivering a reliable product off the assembly line.

We have established Product Reliability groups which are responsible for carrying ou a formal Reliability Program to accomplish these objectives. They use modern techniques to predict reliability in the design stage and to monitor field performance to catch unanticipated reliability problems as soon as possible. To assure objectivity and freedom from possible bias on the part of the engineers responsible for the basic design, the factory Product Reliability Departments operate independently from the basic design group, reporting directly to the factory manager. Their mission in the manufacturing operation is to constantly upgrade products and increase the hours of successful operation between shop service requirements of all mechanical products.

Of the 38,000 people employed by Deere, 1,200 are directly involved in studies and checks to insure that products meet quality and reliability standards.

SERVICE

Providing service for users of agricultural and industrial equipment is by its very nature even more demanding than the service requirements for users of strictly "consumer" products. For one thing, the farm or industrial operator is usually a "pro," extremely knowledgeable in the operation of his equipment and sure to be critical of its performance. He uses it for one purpose—to make a profit—and is well informed on costs, work output, and returns. The machines he uses are often large and extremely complicated. Because of these circumstances, the availability of prompt, efficient service weighs more heavily in the customer's choice between competitive makes than is true of many other kinds of products. As a result, Deere and its competitors commit a very large share of their marketing effort to service and parts availability.

All Deere dealers, including those who sell only consumer products, are required to provide adequate facilities to service the products they sell, and we attempt to assist them to provide better service in several ways.

First, since service cannot be any better than service training, Deere carries on an intensive training program. It starts at the factory where engineers present information on the function, characteristics, and service and maintenance needs of the equipment, including recommendations of such things as assembly and disassembly procedures, allowable wear tolerances and service procedures, to the members of the Factory Service Department. Next, the Tractor Service Department people conduct a school for each of our branch office service managers and their area service managers. Finally, at the branch office training facilities, last year well over 7,800 dealer servicemen, representing 90% of the dealers, received formal training during the winter and carried their knowledge back to the local service shop.

The winter schools, usually on tractors, are followed by spring and summer evening dealer service "refresher" seminars to prepare servicemen to work on seasonal equipment, such as corn planters, balers, cubers and combines. Ten thousand servicemen and parts men attended these seminars last year.

For dealer service management, the branch offices hold clinics to improve the effectiveness of service managers. Dealers are taught the importance of good service to their business and encouraged to develop a service attitude that "complaints are valuable" because they give the dealer a chance to keep a customer that he might otherwise lose.

For "freshmen" servicemen, many branch offices hold elementary schools limited to 20 "students" who, as part of their training, take a current model used tractor, tear it down completely and then rebuild it, thereby learning through doing all of the major repair techniques required to service our equipment.

Second, we try to help the dealer learn to manage his service operation effectively and have developed a Service Administration Manual to guide them to manage all phases of their service operation in the most effective ways.

Third, we have set up procedures for responding to customer complaints within one or two working days, which focus on seeing that the problem is properly handled by the dealer.

Fourth, we have a modern system of satisfying the customer's need for parts. The average dealer carries 8,000 different parts in stock and strives to provide a 90% "fill ratio." Backing him up are eight Deere U.S. factories and 14 strategically located parts depots. These are now tied together with high speed computers so the total inventory is available to any single customer. The average depot has 65,000 different parts. Hooked together with factories, the depots offer 225,000 different parts. Usually it takes less than an hour to locate a part and less than two hours to put it in the mail. Emergency shipments almost always go by air.

Fifth, when farmers are in the field with a breakdown, the time and distance factor can be critical. To provide "close-by" repair service in areas where regular dealers with shop facilities are far apart, Deere has promoted the "Service Center" concept. Owned by regular full-scale dealers, the Service Centers are operated separately from the main stores for the exclusive purpose of providing repair service and parts. They are located between full-scale dealership operations, substantially reducing the time and distance required to obtain service.

Sixth, last year Deere produced more than 1,400,000 copies of 638 different service publications to help customers operate their equipment properly and help shop people locate parts and make the right kind of repairs. As part of this effort, Deere provides factory written, professionally-edited Operator's Manuals. An important objective of these manuals is to call attention to important safety practices in operating the machine.

For service training, Deere offers three levels of material: (1) "FOS" (Fundamentals of Service) Manuals on the basics of such functions as engines, transmissions and hydraulics, 12 books in all. Created originally for the use of our own dealer personnel, these books are so highly regarded that they are now sold throughout the industry, to colleges and to independent schools. The price charged is nominal, encouraging the training of more competent mechanics for dealers in all makes. (2) Service School Textbooks, which are used at dealer service training meetings along with 35 mm slides. (3) Service or Technical Manuals, complementary to FOS, which deal with the specifics of current John Deere machines with instructions on how to make adjustments and repairs. Though designed primarily for dealer servicemen, these manuals are also available to customers.

An important aspect of service is warranty. We currently extend warranties which, in some situations, are as long as two years. Furthermore, all of our dealers, including consumer product dealers, are required to perform warranty work on the type of products which they sell, regardless of whether they sold the particular unit needing service. This increases the availability of warranty service to the customer. We have consistently improved our warranty service reimbursement policies to insure that dealers are motivated to perform warranty service. In addition to furnishing the parts necessary for warranty repair, we pay dealers at their regular retail service labor rates plus an additional premium on both labor rates and the cost of parts to cover incidental expenses a dealer incurs in performing warranty work. Every effort is made to see that our warranties clearly state the obligations of ourselves, our dealers, and the customer.

SAFETY

Last year, after extensive hearings, the Department of Transportation concluded that the agricultural industry had aggressive and effective tractor safety programs and recommended against setting tractor safety standards under the National Traffic and Motor Vehicle Safety Act of 1966 at the present time.

Operating under the Manager of Safety and Environment at our Moline headquarters, the Product Safety Department staff works directly with the Product Safety Committee at each factory, which is responsible for reviewing proposed products for hazards and making corrective recommendations to the factory manager. The safety recommendations carry great weight in final design decisions.

Deere has always been conscious of safety problems and in three of the most important safety areas, roll-over protection, power takeoff shielding, and vehicle lighting and reflective marking and delineation, we have taken a leading part in the development of industry standards.

Deere pioneered in developing tractor rollover protection, starting in 1959, and began marketing "Roll-Gard" roll-over protection frames in 1966. To overcome the customer's slow response to this safety innovation, Deere gave away $1 million dollars worth of Roll-Gards as prizes at dealer meetings throughout the country to expose farmers to the benefits of these safety devices and speed up their acceptance.

Subsequently Deere allowed the industry to adopt the same concept without restrictions and in 1971 gave the Roll-Gard idea, royalty-free, to the public, so that all manufacturers could make them. Deere played a leading role in the development of standards for roll-over protection for both bars and protective cabs. Today, Deere pictures its agricultural tractors with roll-over protection in all promotional literature. As an example to others, all tractors driven by company employees in experimental work or demonstrations are equipped with roll-over protection.

Late in 1972, Deere expects to introduce another major safety device, a new, fully-shielded power takeoff coupler, which is now in the final stages of design and testing. For many years, traditional power takeoff shields have been a problem because too many farmers considered them inconvenient and removed them, thus exposing themselves to direct accidental contact with the revolving shaft. The new design is so simple, functional and efficient that few farmers are likely to tamper with it.

In the agricultural area and outdoor power equipment area, we have been a leader in industry committees working toward improved safety standards. In addition, Deere has been a leader in developing operator controls similar to those used by the aircraft industry in which control movement is related to function and controls are keyed by shape and color to distinguish them from each other and reduce the chance of operator error.

EDUCATION

While training dealers to improve their service capacity is one of our larger educational goals, we think some other areas are worth mentioning.

First, there are the customer service clinics. Deere's 100 area service managers try to hold at least one Customer Service Clinic per dealer per year. The purpose of this is to acquaint owners with the operation, adjustments and maintenance of their machines—regardless of make—to get better results and greater satisfaction. Deere believes that customer clinics give owners a chance to air their problems, discuss them with other operators and learn how to get top performance from their machines. Special attention is given to safe operation of machines.

Now being developed is a new series of publications, FMO (Fundamentals of Machine Operation) designed to acquaint operators with the "why" of basic machine operation to complement the "how" of traditional operator's manuals. These will give the operator an even better understanding of what it takes to make machines run properly. The FMO Manuals will be basic, written without bias, and will be applicable to other brands as well as John Deere. They will deal with such subjects as Combine Harvesting, Logging, and Preventive Maintenance, Lawn Care and a special book on Safety. These new books will be especially useful at customer clinics.

Finally, in the last several years we have promoted numerous customer tours during which dealers bring in upwards of 15,000 customers annually to our headquarters and factories. This gives our customer's a chance to see exactly how the products they buy are being made and learn of the thinking that goes into all of the elements of the design and manufacturing process that affects them. Time is allowed on each tour for users to meet with people responsible for the design and manufacture of these products and to air their complaints with them.

In an attempt to be brief, the foregoing merely stresses the highlights of the actions we are taking to better serve our customers.

Very truly yours,

FRANK DICKEY,

Vice President, Government Relations.

TAX REFORM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. DERWINSKI. Mr. Speaker, there is plenty of rhetoric, but very little progress being made in sound reform of our tax laws.

The excessive rhetoric and the temptation to use demagoguery in a campaign year is very effectively pointed out in an editorial by WMAQ–TV, channel 5, NBC, Chicago, which was broadcast April 19.

The editorial follows:

EDITORIAL

The political issue this year that has the greatest popular appeal is tax reform. Everyone wants tax reform, especially now that we have completed the unpleasant task of filing our federal income tax returns.

Tax reform is popular with people running for office, too. If a candidate handles this tax issue adroitly, every person who listens to him will be persuaded that his own taxes will be lower if the candidate is elected.

That is a pleasant pipe dream for a spring day. It is satisfying to stand up and cheer when a candidate promises to close the tax loopholes. No one likes loopholes.

But, if the candidate says he wants to eliminate your tax deductions, you might not feel like cheering. Really there is only a subtle difference between a loophole and a deduction. Our definition of a loophole is a legal deduction that allows the other guy to pay less in taxes.

It is also popular these days for political candidates to say they want to get started on tax reform by going after all those nasty millionaries who do not pay a dime in income taxes. In fact, these wealthy non-taxpayers are doing nothing the laws do not permit them to do.

Here's an example. If you are fortunate enough to have an income that puts you in the sixty or seventy per cent bracket, it makes sense to buy municipal bonds. The income from them is tax free, so even if the interest is only four and a half per cent, you get to keep it all instead of paying most of it to the government.

Without this law, local governments would have a problem. They could not borrow money at low interest rates for major improvements because no one would buy the bonds. Governments would have to pay higher rates and all of us would have to make up the difference.

Another tax law allows you to deduct all the interest and local taxes you pay. If you own a house, you know how important this is. If this incentive is removed, far fewer people could afford to buy homes. The construction industry would suffer, which would create a lot of new unemployment.

Our point here is that tax reform does sound like a great idea. Our tax laws are incredibly complicated and full of inequities. But for every reform, there is some consequence that must be considered. We suggest that you listen to the political candidates skeptically. Don't believe anyone who tries to buy your vote with a wild-eyed promise that reform is a simple way to solve all our problems and lower all our taxes.

DINAH SHORE, FIRST LADY OF SONG

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. McCLORY. Mr. Speaker, the First Lady's Breakfast honoring Mrs. Richard Nixon, celebrated before a crowd of more than 1,000 at the Shoreham Hotel last Thursday, April 27, was highlighted by the guest appearance of the celebrated singer and entertainer, Miss Dinah Shore. This highly successful event took on special significance in that it commemorated the silver anniversary of the arrival of President and Mrs. Nixon on the Washington scene. Members of this body are proud to recall that the President's first Washington experience was as a Member of the House of Representatives from California's 12th District from which he was elected in 1946.

Mr. Speaker, the silver anniversary theme was observed in the striking of a new White House Medal for which arrangements were made by the Congressional Club with the U.S. Mint and its Directors, Mrs. Mary Brooks. Each of the guests at the First Lady's Breakfast received one of these new White House Medals containing 40 percent silver and also an attractive silver compact donated by Estée Lauder.

Mr. Speaker, the "surprise" feature at this historic First Lady's Breakfast was, of course, Miss Dinah Shore, whose charm and melodic songs thrilled the great audience which included wives of most of the Members of this body and the other body as well as Mrs. Agnew, spouses of Cabinet Members, Justices of the Supreme Court, Diplomats, and other public and governmental leaders.

Mr. Speaker, special reference should be made of the leadership of the Congressional Club whose President, Mrs. Hale "Lindy" Boggs presided with the skill and grace which typifies this grand woman. The chairmen were Mrs. James Harvey and Mrs. Richardson Preyer.

Mr. Speaker, the program was reported to me to be eventful and highly successful. It ran somewhat ahead of schedule with the result that Miss Dinah Shore was called on to perform 10 minutes ahead of her scheduled appearance.

Mr. Speaker, Miss Shore projected her personality in a manner which was to be expected and she capped her performance with an inspiring rendition of "America the Beautiful." As the program chairman for this event observed in her introduction, "To the First Lady of the land, I present our Nation's first lady of song, Miss Dinah Shore!"

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. SEBELIUS. Mr. Speaker, I am sure my colleagues are often asked the question, What current issue does constituent mail reflect as the No. 1 concern of the congressional district? I am asked this question either by the press or interested constituents.

It is for that reason I would like to commend to the attention of my colleagues two newspaper articles regarding the issue that is currently causing the most concern within my congressional district. I am sure every American is concerned over the paramount issue of doing all that we can to achieve peace in Southeast Asia as well as our efforts to halt inflation and to work to restore law and justice for all of our citizens.

However, as important as these issues are today, the No. 1 concern of citizens in my congressional district is with the Occupational Safety and Health Act of 1970 and the related topic of what Government can do to you as well as for you. The following editorial from the Topeka Sunday Capital-Journal newspaper and the column from the Salina Journal written by John Schmiedler, I think, summarize this particular issue very well. The editorial points out some common-sense drawbacks to this legislation. The column by John Schmiedeler concerns the larger issue summarized by the now famous expression, "Please, Uncle Sam, I'd rather do it myself." I commend these articles to the attention of my colleagues:

[From the Topeka (Kans.) Sunday Capital-Journal, Apr. 30, 1972]

INTENT GOOD; LAW CUMBERSOME

Intentions of Congress in passing the massive Occupational Safety and Health Act of 1970 doubtless were good.

Unfortunately, acts of Congress and enforcement by federal bureaucrats often don't work the way they are intended. A recent news report in the Capital-Journal indicated that's the case with this law.

Purpose of the act was laudable—to protect workers by requiring safety precautions be taken by employers. It spells out work standards to be followed.

These standards have caused much confusion here. They are contained in a book in such great detail a businessman must wade through pages which do not apply to him to find the rules which do.

The act has many local contractors worried for fear they cannot comply with its provisions—or that if they can, compliance may increase costs 20 to 30 per cent.

The government, which on one hand seeks to encourage construction by holding down costs, may—by this law—push them up sharply.

The law applies to most businesses, but strikes hardest at small contractors. Some here say the regulations may force them out of business.

Apparently enforcement of the act will be strict. Employers may call the Occupational Safety and Health Administration for advice on rules. But inspectors will not visit work sites and advise on how to come under the law. If they visit the site and see a violation, the businessman must be cited.

Most fines it is said will be $100, though they can go as high as $1,000. But a Lincoln, Neb., firm was assessed penalties of $36,000 because of alleged continued infraction, and the penalty now is being considered in a hearing.

Few outside of government have the legal and engineering knowledge to advise on the new law.

Responsibility for compliance is on the employer. If an employe is caught breaking a safety rule, the employer is cited. It seems this should be a shared responsibility.

It is too early to judge how the law will operate when employers learn to work under it, but it seems new standards have come rapidly, and are massive and inflexible.

The law raises again the question of whether zeal hasn't taken the place of reason where federal regulations are concerned. The question was raised earlier by Kansas feedlot owners, some of whom went out of business because they couldn't afford to meet state regulations and if they did, they did not know whether federal regulations would let them continue. It has been raised by all drillers whose offshore operations have been limited for fear of oil leak pollution.

Certainly lives and safety of employes must be protected and air and water pollution must be halted. But regulations must be reasonable. They must be enforced in a way that will permit businesses to fill needs of the public for buildings, beef and oil.

Blanket federal regulations sometimes are too inflexible to take into account individual conditions.

More regulatory functions should be left to state and local governments. They are closer to the situation and probably would enforce rules more reasonably.

[From the Salina, Kans., Journal]

DON'T WRAP US ALL IN COTTON!

(By John Schmiedeler)

I know there are times when we need to be protected from ourselves. In almost every instance of "accident", examination uncovers carelessness or a disregard for the rules, many times with tragic consequences.

But, holy smoke, some of the stories coming out of experiences with the inspectors from the Department of Labor's Occupational Safety and Health Act scarcely are to be believed.

A friend of mine with long experience in the construction trade tells of estimates of a 30 percent increase in building costs if OSHA rules are followed religiously.

And another friend, a bricklayer tells of the plastic hard hats now required of everyone down to sidewalk superintendent sailing about in the brisk Kansas wind. "Talk about a hazard! We were chasing those condemned hats all afternoon," he groused. He also complained of the steel-toed shoes which cut into his feet each time he reached for a brick. Won't take much of that to put him off the job with an "occupational illness".

No one can argue that unsafe and unhealthful work conditions should be allowed. And there appears little question some regulation is needed to insure occupational safety.

The problem is to get some kind of evenhanded administration of the reasonable regulation. Do you recall how the "solution" to unsanitary conditions in some urban slaughtering plants closed many community frozen food locker plants in Kansas? Because filth and danger were found in some urban plants, the all-knowing federal government was certain filth and danger abounded in the small country locker plants as well.

Applying a blanket "solution" didn't clean up the cities and left many rural communities unresponsive to the needs of people. And, at the same time, the federal government mouths pious promises about enhancing rural life. I'm danged if I see that it makes sense.

The same kind of blinders-on administration of a safety act—seeking hazards everyplace which may exist someplace—will result in the same kind of destruction.

Big Brother simply cannot roll each of us in protective cotton and expect us not to smother.

Incidentally, did you know mining isn't covered by OSHA? That's because Big Brother already has made the coal mines safe and healthful places in which to work. Try telling that to a miner's widow.

Meanwhile, better wear your safety glasses if you use a spray deodorant. Stuff's under pressure, you know.

WILDLIFE MANAGEMENT INSTITUTE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. DINGELL. Mr. Speaker, so that my colleagues may be aware of the information therein contained, I insert the text of an April 21, 1972, release from the Wildlife Management Institute at this point in the CONGRESSIONAL RECORD.

The text follows:

ANTICONSERVATIONISTS POUNDING CONGRESS ON MARINE MAMMALS

Anti-hunting and animal protectionist groups have launched the second phase of a national newspaper advertising campaign designed to frighten Congress into enacting a law upholding their stated aim to stop all taking of whales, seals, sea otters, polar bears, and other marine mammals, according to the Wildlife Management Institute. Their goal is countrary to what leading marine specialists advise is best for the animals, but that does not deter their emotional stand on this issue.

Current targets for their ire is the Senate Committee on Commerce, chaired by Senator Warren G. Magnuson (Wash.) and its Subcommittee on Oceans and Atmosphere, headed by Senator Ernest F. Hollings (S.C.). Hollings' group recently ended public hearings on H.R. 10420, previously passed by the House, and several Senate bills.

The anti-dumping and protectionist associations are trying to force Magnuson and Hollings to report their bill. Their newspaper ads are stimulating a huge volume of mail to sway the committee's decision. Much of the mail is from persons seriously concerned about the future of marine mammals, but who have little actual understanding of the undesirable result their efforts may bring. Oversimplifications, half-truths, and misleading statements are being used to encourage them to take action that could be contrary to the well-being of marine mammals.

By use of the same tactics, the protectionists succeeded in getting unwise provisions written into H.R. 10420 when it was voted on the House floor. They seek now to gain still more concessions in the Senate version.

Leading wildlife experts and conservationists have advised the Hollings subcommittee that the House-passed bill is seriously deficient. Its greatest and least recognized weakness is its substitution of emotion for proven scientific judgement in the management of marine mammals. H.R. 10420 would forbid any killing of marine mammals, except by special permit, for a period of five years. The Senate subcommittee is considering increasing the moratorium to 15 years. Leading marine experts have told the House and Senate committees that a blanket moratorium is negative, that it could result in more harm than good. Many of the animals are international in their movements and distribution, and the prohibition against taking the animals by Americans will have no effect whatsoever on other nations. In fact, the State Department testified that continued efforts to force a worldwide moratorium could sabotage rational efforts to establish needed and workable international agreements. Some countries are increasingly dependent on marine mammals for food and U.S. blanket closures, will have absolutely no effect on their take. Only international agreements can reduce and regulate such taking.

Experts are advising the House and Senate committees to authorize greatly expanded federal-state cooperative research, enforcement, land acquisition, and management programs for marine mammals. H.R. 10420 virtually rules this out, choosing instead to exert federal preemption over all marine mammals, even those most common to state waters. Federal agencies lack both personnel and equipment to do the job. A bill introduced by Senator Ted Stevens (Alaska) S. 3161, includes the protective measures recommended by marine experts and wildlife specialists. It is receiving little attention, however due to the chaos generated by the emotional proponents of total protection.

Everyone wants the marine mammals protected from future harm. The real question is how it should be done—by emotional reaction which historically has failed or by scientific management that already has all marine mammal populations either under total protection, stabilized, or increasing. Senator Magnuson, Senator Hollings, and other members of the Senate and House are receiving many requests from conservationists that any legislation enacted assure that scientific effort will be focused on the animal's well-being.

CONCERN FOR PLIGHT OF SOVIET JEWS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. HARRINGTON. Mr. Speaker, the city council of Lynn recently spoke out eloquently on the plight of the Jewish population of the Soviet Union. I believe their forceful affirmation of the rights of Soviet Jews—as of all people—to political and religious freedom—is timely and important and at this point I wish to insert it in the RECORD:

PROCLAMATION—1972

CITY COUNCIL,
Lynn, Mass.

Whereas, the Jews of the Soviet Union are denied the right to practice their religion; to study their holy books; and to teach their children the ancient tenets of their faith; and

Whereas, the Jews of the Soviet Union are denied the rights of other nationality groups as guaranteed by the Constitution of the USSR, and are denied the freedom of emigration as guaranteed by the United Nations declaration of Human Rights; and

Whereas, individual religious activity is branded as treason as manifested by the recent closed trials as well as imprisonment without trial.

Whereas, the citizens of Lynn, in the spirit of humanitarianism, call upon the Soviet Government to cease the persecution of their Jewish Citizens and abide by their own constitution in granting to them the right of religious practice and education and the right to emigrate if they so desire.

Now, therefore, we, the City Council of Lynn, join with other cities across the United States in observance of the forthcoming National Soviet Jewry Solidarity Day, Sunday, April 30, 1972, and urge all citizens to demonstrate our concern for the desperate plight of the Soviet Jew.

In witness whereof, I have hereunto set my hand this eleventh day of April in the year of our Lord One Thousand Nine Hundred and Seventy-Two.

Walter F. Meserve,
President.

NADER DIDN'T CHECK FACTS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the Record, I include the following article from the Chamber of Commerce Washington Report:

Chamber Backs Consumer Protection, But * * * Nader Didn't Bother To Check the Facts

Ralph Nader's "disregard for the facts" is evident in his unfounded charges of irresponsible conduct by the National Chamber concerning pending consumer legislation.

That criticism came from Arch N. Booth, executive vice president of the Chamber, in rejecting Mr. Nader's distorted views reported in his syndicated column. In letters to Mr. Nader himself and editors of 29 newspapers, Mr. Booth said the misleading column validated the need for the Chamber to inform its members. Excerpts of the letter to the editors follow:

"If all of Ralph Nader's facts are as inaccurate as those in his recent attack on the Chamber of Commerce of the United States, consumers would do well to examine his accusations and proposed solutions very carefully."

"In a recent column, Mr. Nader said the National Chamber was circulating a 'secret propaganda kit' that contained 'wild statements' concerning a bill for a new federal Consumer Protection Agency. Mr. Nader said the Chamber called the bill 'the most furious (sic) threat to free enterprise and orderly government ever to be proposed in Congress.'

"These statements are not true. Nor is it true that the National Chamber produced this 'secret propaganda kit' suggesting how business groups should protest, hold strategy meetings and engage in other propaganda and lobbying activities. The fact is, the National Chamber has neither produced nor distributed the kit to which Mr. Nader refers.

"What the National Chamber has done regarding the pending consumer protection bill, S. 1177/H.R. 10835, is to produce and distribute various bulletins and papers which analyze the bill and its impact; suggest constructive amendments, and inform our members on this vital issue. Nowhere in this material are the phrases found that Mr. Nader quotes as originating from the National Chamber.

"We regard the furnishing of information on such issues to be our duty, and we will continue to do so. We also would have been happy to provide copies of our material to Mr. Nader, had he bothered to check the veracity of his charges with us.

"In this same column, Mr. Nader's deceptive statements about the bill illustrate further his disregard for the facts, and indicate all the more why we need to inform our members about the true nature of this bill.

"For instance, Mr. Nader states that the Consumer Protection Agency would have 'no authority to regulate or prosecute anybody;' that the agency 'must operate on a tiny yearly budget', and that it 'must stay within the rules of the commissions doing the regulating.'

"None of his three statements is true, based on careful analysis of the pending legislation. From his point of view, Mr. Nader obviously would prefer to minimize the impact of legislation that has passed the House and is nearing a vote in the Senate.

"The fact is, under the proposed legislation, the CPA could cause the regulation or prosecution of nearly any case in which the agency felt consumers were being adversely affected. It would operate on a budget approximately as large as that of the Federal Trade Commission—and this by any measure is not 'tiny'. It would have many investigatory and other powers far beyond those of the commissions doing the regulating. And, as usually happens, the agency would undoubtedly grow in size once created.

"Had Mr. Nader researched his facts, he would have found that the National Chamber has for some time favored increased and strengthened representation for consumers in the councils of government. The National Chamber has consistently testified in favor of a strengthened Special Advisor on Consumer Affairs in the White House. We still continue to maintain that position as more logical and effective, rather than favoring the establishment of yet another federal agency which will be deficient of the clear focus necessary to achieve its objectives.

"As for Mr. Nader, he will serve the public interest better if he will stop to check his facts, and prove his charges before condemning the business community and government through sweeping generalities and innuendoes."

TELEPHONE PRIVACY—XX

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. ASPIN. Mr. Speaker, I am presently circulating a "Dear Colleague" letter on the telephone privacy bill (H.R. 13267), which has already been cosponsored by 28 Members.

This bill would give individuals the right to indicate to the telephone company if they do not wish to be commercially solicited over the telephone. Commercial firms wanting to solicit business over the phone would then be required to obtain from the phone company a list of customers who opted for the commercial prohibition. The FCC would also be given the option of requiring the phone company, instead of supplying a list, to put an asterisk by the names of those individuals in the phone book who have chosen to invoke the commercial solicitation ban.

Those not covered by the legislation would be charities and other nonprofit groups, political candidates and organizations, and opinion polltakers. Also not covered would be debt collection agencies or any other individual or companies with whom the individual has an existing contract or debt.

As I noted in a statement on March 9, I have received an enormous amount of correspondence on this legislation from all over the country. Today, I am placing a 18th sampling of these letters into the Record, since they describe far more vividly than I possibly could the need for this legislation.

These letters follow—the names have been omitted:

Clinton, Conn.,
April 18, 1972.

Dear Congressman Aspin: I was most pleased to read in the Congressional Record of your Telephone Privacy Act (H.R. 14097). To be sure, passage of this bill would be a godsend to millions of people plagued and harassed by over zealous companies.

Telephone soliciting has become one of the most annoying aspects of my life as a student. These businesses seem to think college students are a goldmine eager to spend their parents' money on almost anything. While this may be true to a certain extent, certainly enough soliciting is already done through the omnipresent third-class mail and detachable cards in magazines to satisfy everyone's wants or needs. Besides, unopened junk mail is far more readily ignored than a ringing telephone.

The Telephone Privacy Act has my unequivocal support and hopefully that of a majority of your distinguished colleagues in the Congress.

Sincerely yours,

——— ———.

Solon, Ohio, *April 16, 1972.*

Representative Les Aspin,
House of Representatives,
Washington, D.C.

Dear Representative Aspin: The enclosed clipping from *The Christian Science Monitor* gives me hope that at last something may be done about one of the many advertising annoyances Americans are subjected to. I am a middle-aged housewife, and I couldn't possibly keep track of the "selling" calls I get during the week, from aluminum siding to photographs, cosmetics and recently most persistent of all, real estate developers. They're the worst, with their false, taped messages slanted to seem deceptively personal.

I certainly back your efforts 300%, because I think every American has the right to take a bath, repair a cut finger, get Rover in out of the rain, or just plain collect his thoughts, in peace. I do *disagree* that nonprofit groups should be exempted. Ever since I helped collect for several health funds for two or three years until about four years ago, they have nagged me to do it again. For four years I have been explaining that, due to health problems, I cannot walk from door to door any longer, & *still* they call, though each time I ask to be removed from their list. I'm so mad, I won't give them a dime.

Keep it up, & if this ever comes to a vote, Mr. Vanik will get my backing.

Sincerely,

——— ———.

Alexandria, Va., *April 5, 1972.*

Dear Representative Aspin: Please add my name to those who support your bill to stop unsolicited phone calls. I am tired of running with a half diapered baby to answer a phone and learn a development in Pinehurst, N.C. is sending me an "expressogram," or that a salesman from the Lake Leganore will be in my area "tomorrow night." Magazine and newspaper solicitations run a close second on my list of nuisance callers behind land developers.

Sincerely,

——— ———.

PAPERWORK VERSUS EDUCATION

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. NELSEN. Mr. Speaker, some weeks ago I received a letter from Mr. Darwin Lochner, superintendent of schools, Jamesville Public Schools, Jamesville, Minn., objecting to the amount of paperwork that is necessary to apply for title I aid under the Elementary and Secondary Education Act. Superintendent Lochner points out that the total budget for his school district's operation amounts to about $700,000 a year and that there is more paperwork involved in qualifying for $11,000 in title I aid than there is in handling the district's entire budget.

I brought Mr. Lochner's comments to the attention of the U.S. Office of Education and received a reply from Director Richard L. Fairley of the Division of Compensatory Education. It seems that the statutory requirements of the Elementary and Secondary Education Act have led to a proliferation of paperwork requirements on the part of State and local educational agencies. For the edification of my colleagues I am including this exchange of correspondence in the RECORD at this point in my remarks:

JANESVILLE PUBLIC SCHOOLS
IND. DISTRICT 830,
Janesville, Minn., March 16, 1972.

Hon. ANCHER NELSEN,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. NELSEN: Yesterday I attended an all day seminar on Title I for 1972-73. The purpose of the meeting was to explain what schools had to do to write projects for Title I application.

Federal money is needed in our schools. In fact, it is needed very badly. However, if we have to spend days, weeks, and months writing projects, the value of the money decreases rapidly.

For example, in our school district we are eligible for $11,000.00 in Title I aid. To qualify for this $11,000.00 we must complete in triplicate ten different documents, form a parental involvement committee, designate target schools, etc. We must list *every* child in our school along with family income data, age by year and month, minority status, intellectual development, emotional development, work habits, behavior and adjustment, nutrition and health status and achievement test scores. All of the above requirements are necessary just to complete Part I. They haven't told us what is in Part II yet!

I could go on and on—but I hope my point is clear. Our regular budget is $700,000.00 per year. The school district must prepare more paperwork to qualify for $11,000.00 than it does in preparation for its entire budget. Federal money is needed—not mickey mouse! Please do something to change this deplorable condition soon.

Sincerely,

DARWIN LOCHNER,
Superintendent.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., April 18, 1972.

Hon. ANCHER NELSEN,
House of Representatives,
Washington, D.C.

DEAR MR. NELSEN: This is in response to your inquiry of March 29 addressed to Commissioner Sidney P. Marland on behalf of Superintendent Darwin Lochner, Janesville, Minnesota. His letter concerned the paper work involved in the preparation of the Title I, Elementary and Secondary Education Act, application.

The State educational agency is required to approve only those applications which meet all the requirements of Subpart C of the Title I, ESEA, Regulations, some of which are those types of information your constituent listed. Section 141(a)(1) (enclosed) of the Elementary and Secondary Education Act requires that the Title I programs must be "designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families." To assure itself and Office of Education that it is approving programs which meet the requirements of the law, Minnesota State Department of Education must have sufficient documentation to show 1) that those attendance areas in the school district having high concentrations of children from low-income families have been selected properly, 2) how the educationally deprived children were selected to participate and 3) how the proposed program will meet the special educational needs of the children.

Unfortunately, the law does not exempt local school districts receiving small allocations from any part of the planning or documenation of that planning in the preparation of a Title I application. If there is not sufficient administration funds to defray the expenses, the local district may wish to form a cooperative Title I project with another district.

According to a State Title I official an analysis of the cost of doing a needs assessment showed that in Minnesota school districts it ranged from $.10 to $.20 per pupil.

If we can be of further assistance, please contact us.

Sincerely yours,

RICHARD L. FAIRLEY,
Director, Division of
Compensatory Education.

BRING BACK THE $2 BILL

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. HALPERN. Mr. Speaker, until its discontinuance in 1966, the $2 bill had been an integral part of the currency of the United States throughout its history. It was first issued during the American Revolution by colonists who preferred their currency denominated in dollars rather than in the pounds, shillings, and pence of the English. When a national currency was provided for under the National Bank Act of 1863, the $2 note became a part of that system. It continued to be so throughout the various changes in the system until 1966 when the Treasury announced that these notes would cease to be printed, because there was little demand for them.

The time has come, I feel, to reevaluate this decision and the role of the $2 note in facilitating the Nation's monetary transactions. The $2 note can occupy a very strategic place in the Nation's array of notes. By volume the vast majority of transactions are, of course, carried out by check. However, there are millions upon millions of small but essential transactions which are best executed in cash—the purchase of bread and milk at the corner store or the payment of a taxicab fare, for example. The $2 note would appear a particularly useful denomination to assist in carrying out these kinds of small payments.

The potential demand for the $2 note seems implicit in a number of developments. Ours is a growing population which is steadily increasing its real per capita income. This means that more people will be engaging in more transactions and using more and more coins and bills. The need for the smaller denominations is accentuated, because our population is young. According to the 1970 census nearly 40 percent of the population was under 21. In addition, a richer population is able to afford more kinds of goods and services, the average size of our small transactions, therefore, will tend to increase. A $2 bill will permit us to reduce the number of notes which we must carry to conduct our daily business. It would provide our currency system with added flexibility. Given today's price structure the $2 bill would be a useful bridge between the $1 and the $5 notes.

If the $2 bill is reissued, I feel, its use will be widespread. The American population, perhaps more than any other people, is open minded to new ideas and new products when their worthwhileness and convenience have been demonstrated. This characteristic has been at the foundation of much of the great progress which we have made through the years as a Nation. Once the convenience and flexibility which the $2 note can bring to our currency is appreciated by the public, the $2 note will become again a very valuable and integral part of our system of money.

INSURANCE AGENTS ASK FOR HABITUAL OFFENDER LAWS

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. MONTGOMERY. Mr. Speaker, I would like to call the House of Representative's attention to a particularly noteworthy effort on the part of one of the country's largest organizations of independent business people on behalf of the Nation's motoring public and auto insurance consumers.

The organization is the National Association of Insurance Agents which has developed a model law through which it hopes to strike a blow against the unconscienable number of deaths on the highways of the United States.

Of unique interest in their approach, these insurance people do not ask the Congress to take action or make available public funds. They believe that the 50 States can bring about a marked reduction in the total of 55,000 highway deaths each year through enactment of legislation which contains certain criteria.

The NAIA model law, known as an

Habitual Offender Act, provides these basic criteria for the identification of the most dangerous drivers sufficient time for such drivers to establish their records; a legal process which is painstaking in its attention to providing due process; and firm and decisive penalties for those who continue to flaunt the traffic code and endanger themselves and others using the public roads.

I might add that the Commonwealth of Massachusetts recognized the need for legislation in this area and put into effect an Habitual Offender Act in 1971. It joined the Commonwealth of Virginia and the States of North Carolina, Rhode Island, New Hampshire, and Maine in taking action against dangerous drivers. I understand that the Governor of Indiana has recently signed a similar bill into law.

It would seem that the independent insurance agents' association has accurately discerned a national movement through the enactment of habitual offender legislation. It has made the fostering of this movement a matter of policy and recommended to its affiliated State associations that they undertake active campaigns to obtain enactment in all 50 States.

The habitual offender is defined by the NAIA as the driver who is convicted three or more times for such offense as: vehicular manslaughter; drunken driving; reckless driving; driving without a license or while his license is suspended or revoked; perjury in statements to motor vehicle authorities; and, any felony involving a motor vehicle. Additionally, it provides for the same designation for anyone convicted of 10 or more lesser moving violations.

The penalties include revocation of driving privileges. This revocation stays in effect for at least 5 years and can be lifted only by the court. The court may, at the same time, impose any restrictions it deems necessary when reinstating the habitual offender's license.

The habitual offender who drives following his judgement and is caught and convicted, receives a mandatory prison sentence of 1 to 5 years.

The NAIA stipulates that it is not interested in jailing thousands of drivers. It states that the many worthy educational efforts concerning highway safety of the past have not succeeded. It states further that the threat of severe punishment does have an effect on the number and severity of highway accidents. It points out several examples both domestically and overseas where death and accident statistics dropped when concerted get tough policies were initiated by authorities.

It would seem that the National Association of Insurance Agents has stated the problem accurately. Its recommended solution seems logical. The apparent severity of its penalties are warranted.

Mr. Speaker, I would ask the Members of the House to lend their moral support to the high ideals established by the National Association of Insurance Agents as it moves forward to reduce the tragic number of traffic deaths.

THE PRICE OF EAST-WEST FRIENDSHIPS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. RARICK. Mr. Speaker, simultaneous with the announcement that Quang Tri has fallen to Soviet armor, we are advised that several of the major New York City banks are preparing to make 6-percent loans to the Soviet Union to buy U.S. machinery.

U.S. Maritime Administrator Andrew E. Gibson has been meeting with his Soviet counterpart and announcements are expected that all American ports are to be opened to Soviet vessels, including Soviet flagships departing from Cuban ports.

Secretary of State William Rogers, while denying that the foreign policy of the present administration tends to favor foreign interests at the expense of American interests, is quoted as saying:

> We must pay greater attention to economic matters and pay particular attention to our relationships with our major economic partners.

He is reported as having said the State Department is stepping up export promotion particularly to expand trade with Communist countries.

The Soviets continue to pour military supplies into North Vietnam and, following Henry Kissinger's secret Moscow visit, sent three top Communist officials to Hanoi to reassure that nation of continuing Soviet support against American aggression.

In Germany, the minority coalition government of Brandt is threatened by hostility from the Soviet Union if West Germany does not ratify the Bonn-Moscow treaty which U.S. Secretary of State William P. Rogers insinuates is the keystone of a new East-West climate, mutual and balanced forces reduction—SALT—trade agreements and even President Nixon's mission to Moscow, scheduled for May.

What a price the free world is having to pay so that President Nixon's Moscow junket is not canceled.

I include related newsclippings:

[From the Evening Star, May 1, 1972]

ROGERS CONDEMNS PROTECTIONIST POLICY

(By Lee M. Cohn)

Secretary of State William P. Rogers warned American business leaders today that protectionist policies in international trade would be "disastrous." He also pledged that the State Department will insist on fair treatment by foreign competitors.

"In walling out imports we would run the grave risk of walling in the very U.S. exports that we want to encourage," he said in a speech prepared for the annual meeting of the U.S. Chamber of Commerce.

"Building protectionist walls may seem tempting, but it can lead to retaliation and counter-retaliation," he said.

NONE BE "BEGGAR"

"Today no single country, no matter how powerful, can succeed in a unilateral policy of beggaring its neighbors or of exporting its domestic adjustment problems. It could be disastrous to our national interests to abandon our commitment to a more open world in which our economy, above all others, has flourished."

But Rogers emphasized that other countries must recognize that "openness in one direction means openness in both and that negotiation is a two-way street."

In negotiating international monetary and trade reforms, he said, "We must advance our own interests forcefully and without apology."

Treasury Secretary John B. Connally has obliquely criticized the State Department's approach to international economic negotiations. Connally has implied that some State Department officials have tried to undermine his "tough" bargaining tactics.

DENIES ALLEGATION

Responding to such allegations, Rogers said: "Some segments of the American business community may still believe that the State Department tends to represent foreign interests at the expense of American interests. Nothing could be further from the truth."

Connally has complained that international economic policies are too "fragmented," and that some parts of the government downgrade these issues.

Calling a strong economy essential to U.S. foreign policy, Rogers said, "We must pay greater attention to economic matters and pay particular attention to our relations with our major economic partners."

He said the State Department is stepping up export promotion, and noted particularly efforts to expand trade with Communist countries.

[From the Washington Star, Apr. 30, 1972]

THREE RUSSIANS VISIT HANOI TO RENEW AID PLEDGE

Moscow.—The Soviet Union disclosed yesterday it dispatched three high-ranking officials to North Vietnam just after U.S. presidential adviser Henry Kissinger's secret Moscow visit in order to assure Hanoi of the Kremlin's continued support.

The official Tass news agency identified the Soviet officials as Deputy Foreign Minister Nikolai Firyubin, Communist party Secretary Konstantin Katyushev and Communist party official Igor Ognetov. It said they visited Hanoi from Wednesday to yesterday.

Western diplomatic sources in Moscow said it was possible the Soviet officials might have been carrying some specific proposals that grew out of the talks last weekend between Kissinger and Soviet Communist party leader Leonid I. Brezhnev.

Tass also announced the arrival in Moscow of Le Duc Tho, North Vietnamese politburo member and special adviser to Hanoi's delegation to the Paris peace talks. It said Tho was passing through en route back to Paris from Hanoi.

"INVARIABLE SOLIDARITY"

The developments followed Kissinger's talks with Brezhnev on the Vietnam war and other policy problems during his surprise visit between April 20 to 24.

Kissinger's trip was in advance of a scheduled visit by President Nixon to Moscow beginning May 22 for talks with Soviet officials.

Tass said the three-man Soviet mission conferred with North Vietnamese Premier Pham Van Dong and other Hanoi officials.

"The delegation expressed the feelings of the invariable solidarity of the Soviet people with the heroic struggle of the Vietnamese people against the American aggression," Tass said.

"Questions connected with the development and strengthening of Soviet-Vietnamese relations as well as some questions of mutual interest were discussed in the course of the conversations that passed in an atmosphere of cordiality, fraternal friendship and mutual understanding."

REASSURING VISIT

Western diplomatic sources said they rated the mission as a bid to "assure the North Vietnamese that we're still friends and everything is all right, in the wake of the Kissinger visit and prior to the President's arrival."

They said they thought it was also possible the Soviet officials were acting as "mailmen"—that is, carrying some specific proposals or Soviet appeals that might have grown out of the Brezhnev-Kissinger talks.

The diplomats noted that the United States had agreed to return to the Paris peace talks a few days after Kissinger left Moscow.

The presence of both government and party leaders in the Soviet mission indicated the task was one of the utmost importance and not just a routine review of policy matters, diplomatic sources said.

[From the Washington Post, Apr. 28, 1972]

UNITED STATES-SOVIET ACCORD ON PORTS REPORTED

(By Marilyn Berger)

A wide-ranging shipping agreement that would open American ports to Soviet vessels and allocate a substantial part of the trade between the two countries to Soviet-flag and American-flag ships is expected to be concluded next week.

Details are to be worked out when Maritime Administrator Andrew E. Gibson meets next Thursday with his Soviet opposite number, Igor M. Averin, according to a report appearing today in Business Week magazine.

According to the report the fundamentals of the Soviet-American agreement provide that:

Each country will open 40 ports to the other's vessels on four days' notice of intention to enter. This will replace the existing complex entry clearance arrangements.

The United States will permit Soviet vessels departing from Cuban ports to pick up cargo at U.S. ports, an arrangement not possible now.

Freight rate details on allocated tonnage remain to be settled but are expected to include some subsidy on both sides.

The United States has agreed for the first time to sell bunker fuel to Soviet ships.

Business Week also reported that a "substantial" part of any trade between the two nations will be allocated 50 percent to Soviet freighters and 50 per cent to U.S. flagships. "Substantial" is interpreted to mean a minimum of half the total tonnage. Third-country ships will be allowed to compete for what is left. Informed shipping sources told The Washington Post however, that this part of the deal would not be included in the overall arrangement but would become a side agreement.

Since East Coast Gulf and Great Lakes ports have been closed to Soviet ships, partly because of the refusal of longshoremen to unload them such an agreement would require the assent of the unions. It was learned that Gibson, who is known to have a close working relationship with maritime union leaders was in New York yesterday, apparently to meet with some of them.

It is understood that there is some disagreement among the unions, with the seagoing unions essentially in favor of any agreements that would expand tonnage for U.S. ships and the longshoremen under Thomas W. (Teddy) Gleason tending to stick to an anti-Communist stance that would favor limiting access for ships from the Soviet Union.

However, informed sources in the shipping industry believe that the unions would be willing to go along with an agreement with Moscow that would provide for bilateral shipping arrangements. Gleason has frequently said he would favor measures that would increase tonnage for American-flag vessels and thus increase the number of jobs available for American seagoing unions.

[From the Evening Star, Apr. 28, 1972]

BONN MANEUVERS FOR SHOWDOWN ON OSTPOLITIK

(By Andrew Borowiec)

BONN.—Politicians held almost constant and tense meetings after yesterday's failure of an opposition no-confidence motion in Chancellor Willy Brandt.

At stake in the maneuverings was not only another test of Brandt's survival as chancellor but also the whole concept of West Germany's controversial Ostpolitik or bridge-building toward Communist Eastern Europe.

Opinions vary as to what exactly will change in Europe and the world if the Bundestag, lower house of the West German parliament, refuses to ratify the peace treaties with Moscow and Warsaw.

Brandt's argument is fairly simple and, to many, convincing: The treaties are not only the basis of West Germany's coexistence with her former foes but also the cornerstone of a whole series of diplomatic maneuvers for a permanent east-west detente.

Failure to ratify them, Brandt's supporters say, would sap virtually all east-west negotiations, including the proposed European Security Conference, the project of mutual and balanced forces reductions, trade agreements and even President Nixon's Moscow summit meeting scheduled for May.

RUSSIANS OUTSPOKEN

Above all, they would damage the implementation of the carefully negotiated, agreement to reduce the East German stranglehold on Berlin. The Russians have threatened not to sign the agreement if the Bundestag rejects the treaties. And in the words of U.S. Secretary of State William P. Rogers, the Berlin pact is the touchstone for the achievement of a new east-west climate.

The Russians have not minced their words in various warnings carefully issued over the past few weeks. An analysis of the many attributed and unattributed statements coming out of Moscow shows that the Russians would not hesitate to freeze the dialogue with West Europe, refuse to engage in further arms talks and even consider cutting their trade links with West Germany.

Said Mikhail A. Suslov, member of the Soviet Union's ruling Politburo:

"If the treaty fails to enter into force, West Germany, by losing its political thrust, would also lose its significance to the Soviet Union as an important economic partner."

Added Soviet Foreign Minister Andrei A. Gromyko:

"The treaty furnished the necessary political foundation for a radical turn in Soviet-West German relations and their all-round development. West Germany now faces a choice of either friendship or hostility with the Soviet Union."

In Bonn, not all politicians and diplomats are alarmed by this clearly stern tone of Soviet warnings.

The opposition Christian Democratic Union, trying to unseat Brandt, feels that the Russians are bluffing. It feels that the treaties in the form signed by Brandt do not give West Germany any advantage and should be renegotiated—something the Russians have already refused.

The argument against the ratification goes like this:

So far, the Russians have given very little. Most tangible concessions in the east-west dialogue have been made by the west. By refusing to sign the Berlin pact, the Russians would stand to lose the European Security conference, a pet project of Soviet diplomacy from which the west stands to benefit precious little.

NATO IS IGNORED

The Security Conference—if it is ever held—would mainly solidify the status quo in Europe, or more precisely sanction formally the already existing Soviet sphere of influence reaching into the heart of the continent.

It is pointed out that the Russians have been cool if not hostile to the North Atlantic Treaty Organization's proposed talks for mutual and balanced forces reduction. Until now there has been no invitation from Moscow to receive NATO's special envoy, Manlio Brosio, who has given up all hope and asked to be stricken off NATO's payroll.

In any case, the argument goes, any further troop cuts would only weaken the west, faced with a massive Soviet and satellite conventional army on the other side of the Iron Curtain.

The whole concept of Brandt's policy, his opponents argue, is highly unrealistic and based mainly on wishful thinking. The Soviet Union CDU spokesmen say, has shown no signs of moving toward Brandt's avowed goal of permitting a free dialogue and the movement of persons, goods and ideas between its satellites and Western Europe.

Russia continues to hold its grip on its East European empire and the ratification of the treaties would not change this attitude, Brandt's opponents argue.

The much-heralded Security Conference would achieve little except provide another forum for endless speeches. In the past, all practical negotiations with the Russians have taken place in small, technical committees or on a bilateral basis. One example is Strategic Arms Limitation Talks (SALT) being conducted by the United States and the Soviet Union.

Hence, Brandt's opponents add, the rejection of the treaties would not change much—and even might force the Russians to make a more conciliatory stand.

Still, Ostpolitik is an eye-catching idea which projected a new image of West Germany on the world scene.

The decision as to whether it will continue or die an ignominious death is up to the German parliament with its domestic policy considerations, internal feuds and personality squabbles. That is why Brandt is considering the question of the parliament's dissolution and new elections.

[From the Christian Science Monitor, Apr. 28, 1972]

RUSSIANS STILL POUR SUPPLIES INTO HAIPHONG

(By Paul Wohl)

Russian matériel, which is the backbone of Hanoi's current offensive, continues to pour into North Vietnam via its Port of Haiphong.

By bombing Haiphong, Washington may have hoped, or may yet hope, to stop or curb the inflow of further supplies—even though the effect on the present campaign is debatable.

The Soviet note of protest over the most recent bombing raids against Hanoi and Haiphong admitted the presence of four Soviet cargo vessels. In addition, there were eight Soviet tankers in the port.

And there may well have been more such vessels in the estuary or in the Port of Hon Gai, as well as in Ha Long Bay (north of Haiphong), which was inspected in March by the young and enterprising Soviet Minister of Merchant Marine Timofei B. Guzhenko.

For the past few years the Soviets have taken the calculated risk of sending ships with civilian and military equipment to North Vietnam, taking advantage of the fact that the United States, since 1968, has carefully avoided air raids which could have interfered with Soviet shipping.

BIG "IF" LINGERS

Some observers think that the Vietnam war might have petered out or become a mainly Chinese-supported guerrilla operation if Washington had decided to destroy Haiphong and to blockade or mine the accesses to North Vietnam's ports. It was not done because no one knew whether or not this might have led to a war with the U.S.S.R.

In its reply to Moscow's protest the United States has squarely placed responsibility for the bombing of Haiphong on "the countries which supply offensive equipment to the North Vietnamese and enable them to mount an invasion of South Vietnam."

The Soviets have noticeably stepped up their aid to North Vietnam. A Soviet military mission, led by the commander in chief of the Soviet Air Force and including high-level specialists in both radar technology and missile defense, was in North Vietnam shortly before the present offensive started.

STUDY PUBLISHED

During the first two weeks of March, Soviet shipping minister Guzhenko, accompanied by a bevy of engineers, visited North Vietnamese port facilities and stated that the Soviet Union had given North Vietnam "technical assistance in designing port installations," and that "it supplies sophisticated equipment for North Vietnam's seaports."

Minister Guzhenko, an alternate member of his party's Central Committee, in December published a study of Soviet and United States shipping in which he concluded that the U.S.S.R. was forging ahead of the United States.

On March 15 he boasted that "during 1971, 340 Soviet ships had called at the ports of North Vietnam, delivering roughly a million tons of cargo from the Black Sea and Soviet Far Eastern ports."

On Feb. 7 Radio Moscow announced on its domestic program that the amount of cargo shipped to North Vietnam would increase in 1972. It was recalled that during January of 1972 approximately 60,000 tons of cargo had been shipped to North Vietnam from the single port of Odessa—a 20 percent increase over the same period last year.

In December, a high official of the Black Sea Shipping Administration reported on the Odessa domestic radio in Ukrainian that the Black Sea ports "will deliver half-a-million tons of freight to North Vietnam this year. Fourteen ships now are on their way to Haiphong."

LAGGING AID CRITICIZED

On Feb. 3, a Novosti article criticizing China's lagging aid to North Vietnam stated that the Soviet Union had sent the Vietnamese "missiles, planes, antiaircraft artillery, fuel, munitions, means of transportation." The article claimed, referring to "the world press," that approximately 70 percent of all assistance to North Vietnam originated in the U.S.S.R.

Moscow lately has strengthened its communications with Hanoi. In March, Soviet Minister of Communications Nikolai D. Psurtsev visited North Vietnam and concluded a "bilateral communications agreement" which led to the setting up of two-way teletypewriter installations.

Despite incessant Soviet propaganda in favor of North Vietnam, reports from Eastern Europe have it that the Soviet public at large is not overly enthusiastic about the pouring out of aid.

In January of 1968, when Soviet crews suffered casualties during a United States air raid, Moscow's heroic posture is said to have elicited sad and sarcastic remarks in a seaman's club in a Black Sea port.

[From the Manchester Union Leader, April 24, 1972]

RUSSIANS TRYING TO MAKE HAY IN FAR EAST

(By Ernest Cuneo)

WASHINGTON, April 22.—The principal Russian strategy, at this time, appears to be a pocketing and a by-passing of the Middle East war, in a hasty and brilliant effort to capitalize on the Far East power vacuum left by the United States.

The obvious method, of course, is Russian occupation-domination of the old British Empire lifeline, and this is proceeding spectacularly. Egypt is Russia-dominated and, in a showdown, Russian-occupied.

Russian influence from Gibraltar to Alexandria is supreme in North Africa and, indeed, U.S. naval supremacy in the Mediterranean is compromised. Suez is closed and Russia is the dominant naval power in the Indian Ocean.

Under these circumstances, it was breathtakingly brilliant of the Soviet general staff to prevail upon India to blitz East Pakistan. By this short, swift stroke, Russia emerged with India as a client-state, with India holding Bangladesh as a de facto dominion.

Not the least of the expertise exhibited was the marvelous dexterity by which the Peking government was humiliated and the U.S. government both frustrated and discredited with friend and foe alike in the process.

In any event, the Russians emerged as politically the most dominant, with India militarily dependent, and the United States more or less jockeyed into accepting a considerable measure of the economic liability.

Simultaneously, and with loud trumpetry, the Kremlin has mounted the current North Vietnam offensive. Again, with sheer brilliance, it has risked nothing of Russia's. The offensive, in the first place, is against an announced massive U.S. retreat, so far advanced that the skeletonized forces that remain will find it extremely difficult to defend themselves, let alone assist the South Vietnamese.

From a strategic standpoint, the expulsion of the Americans from Indochina compromises both Hong Kong and Singapore, the twin gems of the British Empire tiara. This was both the strategy and the route of the Japanese in 1941, and both cities fell.

There has been some grumblings, even among the Senate doves, that the Communist offensive in South Vietnam has as its objective the creation of the impression in the Far East that the American evacuation is a military defeat.

The fault, however, is in the United States, where the crushing American military and diplomatic defeat in the Orient has been consistently portrayed as a voluntary American evacuation.

It is nothing of the kind. It is a cut and run policy in which we are being chased to the water's edge. Indeed, should the frightfully weakened U.S. forces succeed in extricating themselves, they will owe absolutely nothing to the gentlemen in Washington who authored their precarious position in the first place.

It will be noted in the Russian strategy that in no case have they moved against strength. In every case, they have moved into a vacuum or against weakness isolated from assistance, as in Bangladesh.

Simultaneously, however, the Kremlin has introduced a vast program to fill these vacuums with its own energies. First and foremost, it has built a huge merchant marine, and is building it further. A merchant marine is the only feasible way a nation can project its power.

Further, the Russians are building a huge Red navy to protect their merchant marine and deny the seas to the United States.

They already have 385 submarines and project a fleet of 600. Hitler nearly won the Battle of the Atlantic with 55.

Finally, Russia is developing its natural resources at a tremendous rate and it has far more natural resources than the United States. Last year, it produced more steel than the United States.

What Russia does not have is the incomparable scientific research, brains and know-how of the United States, nor the wizardry of the Americans in applied scientific disciplines. Obligingly enough, however, the Congress and particularly the naive inland Senators, also have cut American research to the bone, if not the heart.

"In God We Trust" is our national motto, but it appears to be a melancholy fact, that as trustees of human freedom, including our own, God has little enough reason to trust us much further.

SUPERAGENCIES NO CURE FOR BIGNESS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. CRANE. Mr. Speaker, many of those who appear concerned with problems relating to the consumer, the environment, ecology, and similar difficulties inherent in an industrial and technological age give the impression that the programs they are advocating are dynamic and new.

Upon closer study it appears that the programs they are advocating are not new at all, but represent simply a further application of the erroneous doctrine that all societal problems can be solved by governmental action.

If there is pollution of the water, they cry, let us pass a new law and create a new agency. If there are frauds being perpetrated upon consumers, they argue, let us institute a new bureaucracy to police business. If governmental agencies themselves are unresponsive to the needs and desires of the people, they call for still more governmental agencies to police the ones which already exist.

To Mr. Nader's suggestion that corporations be chartered by the Federal Government, Mr. Chamberlain reminds us that this idea is not new at all, but was proposed in the 1930's. He points out that:

> The idea would be okay if governors were incorruptible. But the more that power is centered the more untrustworthy it becomes.

Mr. Chamberlain notes that a Federal incorporating body would be subject to tremendous pressures:

> Fools could use it to wreck the economy by imposing conditions upon business corporations that would result in bankruptcy, stagnation and complete loss of investment lure.

I wish to share this column by John Chamberlain with my colleagues. It appeared in the April 8, 1972, edition of Chicago Today, and is inserted into the RECORD at this time:

SUPERAGENCIES NO CURE FOR BIGNESS

(By John Chamberlain)

American populist radicals begin by distrusting establishments that entrench themselves behind bigness of any sort. Then, with a sublime inconsistency, they propose superagencies to take over from lesser agencies.

American populist radicals begin by distrusting establishments that entrench themselves behind bigness of any sort. Then, with a sublime bigness of any sort. Then, with a sublime inconsistency, they propose superagencies to take over from lesser agencies.

Our Ralph Nader, in trying to deliver us from "corrupt" agencies, are following the thinking that produced the corporative state in pre-World War II Italy and Germany. To save people from oppressive corporative elements. Fascists trusted everything to the supercorporation of the state. I do not imply that our populists are Fascists; they are merely bent on setting up gigantic institutions that will tempt unscrupulous powerseekers to take over.

Ralph Nader's proposal for federal chartering of corporations is just one of many dangerous ideas. In the '30s Sen. O'Mahoney (D., Wyo.) proposed this same thing. The idea would be okay if governors were incorruptible. But the more that power is centered the more untrustworthy it becomes.

A federal incorporating body would be subject to tremendous pressures: Fools could use it to wreck the economy by imposing conditions on business corporations that would result in bankruptcy, stagnation and complete loss of investment lure. In the name of getting good quality, we might end up by getting no goods at all.

There is the idea of compelling advertisers and public relations firms to justify every phrase in a piece of copy to some supercensor connected with the Securities and Exchange Commission or what-not. This is "truth in advertising." But words have shifting connotations that "truth" is a matter of interpretation. A tyrant armed with superagency power could ruin the First Amendment in the course of imposing "truth in advertising."

The Federal Trade Commission already has the power to crack down on business cheaters. Now it is proposed that it be given special control over franchising. Bernard Browning, a business counsellor who runs General Business Services, rightly contends that making complex new rules for franchising would "be an attempt to use a cannon where a fly swatter would be more appropriate." It would penalize "the 98 percent of the honest, hardworking businessmen in America engaged in franchising because of the FTC's desire to get at the dishonest two per cent who can be prosecuted under existing laws against fraud."

We need an overhauling of all our regulatory agency thinking. Most of it is a heritage of the faulty populist crusading of yesteryear, which was based on the fallacy that the cure for bigness is greater bigness.

What we need is voluntarism and more voluntarism. Nader is doing all right as a free-lance adversary without government power. To give him anything more would only create a superagency have been corrupted in the past.

OBJECTIONS TO TITLE III OF H.R. 7130

HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. BERGLAND. Mr. Speaker, the House of Representatives will very soon take up H.R. 7130, a bill amending the Fair Labor Standards Act of 1938. While I am definitely in sympathy with the objectives to increase minimum wage standards, I have some serious doubts about the wisdom of title III.

I am submitting for the RECORD a statement by Cargill, Inc., a Minneapolis-based grain merchandising firm, which reflects a point of view that ought to be considered in any rational discussion of the issue. I insert the analysis at this point in the RECORD. I believe Cargill's objections express a valid point of view and I recommend this reading to my colleagues.

ANALYSIS OF TITLE III OF H.R. 7130

Representative Dent has introduced for himself and others a bill—H.R. 7130—to amend the Fair Labor Standards Act of 1938. H.R. 7130 makes three major changes in that law: it increases the minimum wage; it extends the coverage of the minimum wage law to more workers; and it establishes a means of restricting imports from areas with wage levels substantially below those prevailing in the United States. Our concern is with the last of these changes—set forth in Title III of H.R. 7130.

THE PROBLEM

Title III provides for the regulation of imports of goods in such manner as will correct and as rapidly as possible eliminate any serious impairment or threat of impairment to the health, efficiency, and general well-being of any group of workers in the United States and the economic welfare of the communities in which they are employed from conditions above referred to in the industries providing them employment in which increased imports are a substantially contributing factor.

It also stipulates that in the case of any contract—

(1) which is for the manufacturing or furnishing of materials, supplies, articles, or equipment,

(2) which is an amount exceeding $10,000,

(3) which is to be performed outside any State, but is for goods . . . to be used within a State, and

(4) to which the United States or any agency or instrumentality thereof . . . is a party or under which payment is to be made in whole or in part from loans or grants from, or loans insured or guaranteed by, the United States or any agency or instrumentality thereof,

one of the requirements of the contract shall be that all persons employed in performance of the contract shall "be employed on terms and conditions which are not substantially less favorable to such persons than those which would be required under this Act if the contract were to be performed within a State. . . "

In other words, the first of these provisions would authorize restriction of imports into the United States if those imports were a substantially contributing factor to injury to workers and communities in the United States and if those goods were produced under wage and employment conditions "detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers." For convenience of reference, this might be called the "import-regulating" provision of the Dent bill. The second provision—which is basically a "Buy American" provision—requires that the minimum wage provisions of H. R. 7130 be met in the performance of any contract for manufacturing or supplying goods to which the United States or an agency or instrumentality thereof is a party or serves as a financial participant, guarantor or insurer, even if the contract is to be performed in a foreign country.

The import-regulating provision is objectionable on several grounds: (1) the criteria for its findings are unclear and subject to undue discretion and abuse; (2) by focusing exclusively on labor conditions, it ignores land, capital or technology factors involved in production; (3) imposing import restrictions without guarantees to which the United States is committed in the General Agreement on Tariffs and Trade (GATT) or other treaties and agreements, it prompts retaliation; (4) by circumventing recognized principles of import regulation under Antidumping and Countervailing Duty statutes, it undermines the effectiveness of those statutes and, again, invites retaliation; and (5) by encouraging inflation and by prompting retaliation against U.S. exports, it endangers the health, efficiency and general well-being of U.S. workers.

The "Buy American" provisions are open to objections (2) through (5) above. They also extend application of U.S. law to economic conditions in other sovereign nations, which can have both unfavorable economic and unfavorable diplomatic consequences. Finally, many U.S. manufacturers have been seeking to reduce the use by other nations of national supplier provisions in their contracts; this provision would undermine that effort and endanger substantial markets for U.S. producers.

Consequently, both of these provisions—the import-regulating and the "Buy American"—would sacrifice the health, efficiency and well-being of other American workers; by focusing solely on wage levels while ignoring productivity, capital and land costs and relative levels of technology, it distorts trade patterns and may well undermine the factors which have helped to produce the high standard of living enjoyed by American workers; and protecting low-wage industries in the U.S. while inviting retaliation against our export-oriented industries—which tend to be high-wage industries—could retard improvement of the material well-being of all American workers.

IMPORT-REGULATING PROVISIONS

In the first place, Title III of H.R. 7130 would extend tariff relief to workers when three factors are present—(1) "serious impairment or threat of impairment to the health, efficiency and general well-being of any group of workers"; (2) imports are a substantially contributing cause of this impairment; and (3) those imports come from areas with wage levels considered to be substandard. These criteria are vague. What is "serious impairment"? Are lay-offs evidence of impairment? Are below-average wage increases? Are below-average wages? Are imports ever the "cause" of this impairment, or are they merely symptoms of other causes—like under-capitalization in the industry, failure to keep up with technological change or shifts in consumer demand? Against what standards are wage levels to be measured—American standards or standards in the foreign country? While the bill is unclear on these points, the difficulties to which it gives rise cannot be removed simply by clarifying the language of Title III.

The primary objective of H.R. 7130 is to improve the well-being of American workers. Do import restrictions that "will correct and as rapidly as possible eliminate any serious impairment" serve those interests best? Most people would endorse efforts to provide real employment opportunities to American workers and employment opportunities which offer increasingly higher and better standards of living. Does protecting existing jobs that are being challenged by imports serve this interest better than encouraging greater employment and employment shifts to jobs in industries with greater comparative advantage? The answer clearly appears to be "no".

The total cost of a give product—whether an import, a domestically produced and consumed product, or an export—includes, in addition to wages, productivity, raw material costs, capital and land costs, technology and taxes. Though labor costs of an import may be lower than in the U.S., the actual reason for a lower import price is foreign comparative advantage in any or all of these areas. The lower import price may also be the result of "dumping" or of "bounties" granted by foreign governments to exports.

In these latter two cases, we have Anti-Dumping and Countervailing Duty statutes which can be, and are increasingly being, enforced. If lower import prices result from a combination of real cost advantages in the foreign country, then to focus on labor costs or wage levels will distort trade, and it will distort trade to the disadvantage of American workers by locking them into jobs where they have an underlying and continuing cost disadvantage. Either import barriers would have to continue to mount or else wages would continue to be held down by potential import competition.

Where in the few cases that wage differentials are the sole factor in the lower import price, there is the same problem—either import restrictions must become increasingly severe or U.S. wages in that industry will continue to remain low because of potential import competition. This moves counter to the forces which have generated and support the high level of wages which does prevail in the U.S. High U.S. wages reflect greater productivity of American workers and greater investments in human capital, i.e., investments in upgrading the skills and education of workers.[1] Instead of protecting low-productivity, low-wage jobs, the well-being of American workers would be better served by helping workers to adjust and shift to higher-skill, higher productivity, higher-paying jobs.

A study by Professor Anne O. Kreuger designed to measure both direct and indirect consequences of imposing import restraints to protect industries facing intense import competition underlines some of the adverse welfare consequences of protecting jobs through import substitutions—as the Dent bill's import regulating provisions would do—rather than through export promotion. In the first place, the wage range for industries where employment would be increased by quotas or import restraints had a much higher concentration of wages at the lower end of the wage scale than did industries where employment would be decreased by import restraints. That distribution can be summarized in the following table:[2]

Wage range	Number of industries in group where employment is increased by restraints	Number of industries in group where employment is decreased by restraints
Less than $4,000	1	0
$4,001 to $4,500	2	1
$4,501 to $5,000	2	0
$5,001 to $5,500	1	0
$5,501 to $6,000	1	3
$6,001 to $6,500	1	6
$6,501 to $7,000	1	2
More than $7,000	1	

Secondly, industries where employment would decline as a result of both direct and indirect consequences of protectionist measures had an unweighted average annual wage in 1967 approximately 127% of the annual unweighted average wage for the industries where employment might be increased—$6,758 in the former compared to $5,335 in the latter. Finally, comparing direct and indirect employment effects arising from export-oriented production with direct and indirect employment effects of import-substituting production (and assuming that the latter alternative would not shift costs up and consumer demand down, which is, as she says, an "extreme assumption"), Professor Kreuger found that for the industries she studied, import substitution would decrease total employment by approximately 150,000 or 15 percent. Thus, even without considering the ramifications of retaliation against U.S. exports, measures like Title III of H.R. 7130 which seek to restrain imports would have adverse consequences on employment and the well-being of American workers. This is not difficult to understand once one distinguishes between protecting specific jobs and supporting employment-promoting policies. The Dent bill, in seeking to protect specific jobs, is protecting jobs with the lowest wage levels while actually eliminating jobs with higher wage levels. In other words, Title III's focus exclusively on wage levels is both anachronous and counter-productive.

In addition, H.R. 7130's authorization of greater import restraints violates U.S. commitments under GATT and other international instruments. Without compensation given to our trading partners, these other nations would be free to retaliate against U.S. exports. Since higher import restraints would retard their exports to the U.S., these countries would also be forced by economic and political pressures to retaliate, even though they recognize that such retaliation is counter-productive. Some indication of the industries—and the workers in them—that would bear the brunt of this retaliation comes from the Department of Commerce's "Overseas Business Report" of July 1971. According to this source, American workers most affected by retaliation would be those involved in the electric and non-electric machinery industries, transport equipment and agriculture.

The danger of retaliation against agricultural exports is worth emphasizing. One out of every four harvested acres moves into export. In fiscal year 1971, the U.S. exported $7.8 billion of agricultural commodities. Agricultural exports to the European Community in fiscal year 1971 totaled approximately $1.8 billion and to Japan exceeded $1.2 billion. The tremendous potential for growth in agricultural exports to Japan could be seriously harmed by measures restricting Japanese capacity to export to the U.S. In the European Community, Sicco Mansholt—the man most responsible for their Common Agricultural Policy—proposed in 1969 a consumption tax of $60/metric ton on oilseeds and $30/metric ton on oilcake and meal. While that proposal was defeated then, it remains a serious threat to U.S. soybean and soybean product exports to the EC, which totaled better than $700 million in fiscal 1971.

The potential impact of Title III on less developed countries is particularly disturbing. In the first place, the U.S. has encouraged these nations to undertake industrialization and attempt to reduce costs in order to finance their development and earn foreign exchange. Such a policy is designed not only to help the LDCs but also to permit them to become commercial markets for U.S. exports. If the U.S. were to begin to restrict imports from these countries—as Title III would—at a time when other developed countries are pursuing a generalized preference scheme for the industrial exports of the LDCs, such a policy could have serious economic and political repercussions.

In addition to these unfortunate consequences for international commercial relations, H.R. 7130 would have several domestic consequences inconsistent with its own purpose of improving the well-being of workers. As already mentioned, it would shift resources away from high-wage industries and toward low-wage industries, while at the same time reducing total employment related to international trade. The Kreuger study bears this out, but other economists have reached the same conclusion. For example, Krause and Mathieson point out that ". . . it should be remembered that U.S. exports are labor-intensive relative to U.S. imports, as Leontief established and others subsequently confirmed."[3] Very simply, more and better-paying jobs are generated by capitalizing on comparative advantage than by resisting it.

In addition, retaliation against U.S. exports and U.S. restrictions on imports from other countries tend to force both the U.S. and our trading partners into a recession. At the same time, reducing access to lower cost imports pushes up the cost of living to consumers and, in many cases, input cost for many industries. These pressures—together with the wage demands they generate—all contribute to an inflationary spiral. This not only reduces the real standard of living in the U.S. but tends to price U.S. exports at uncompetitively high levels.

"BUY AMERICAN" PROVISION

This provision not only contributes to the same kinds of problems associated with the import-regulating provision, but it also creates special problems of its own. Foreign governments are likely to retaliate against this "Buy American" provision with "buy domestic" provisions of their own. Governments are important buyers in all countries, and they are frequently the largest or one of the largest customers for high-technology products. Since U.S. companies are frequently among the most technologically sophisticated in both production techniques and in finished products, they are likely to be the biggest losers in any escalation of domestic-supplier preference schemes. Recognition of this fact explains why the U.S. has been among the leaders in seeking to reduce or eliminate schemes which grant preferences to domestic suppliers. Furthermore, preferences to domestic suppliers creates an artificial incentive to build plants in foreign countries in order to get around the trade restraints in such preference schemes. Such developments are more likely to harm than to benefit U.S. workers.

CONCLUSION

Both the import-regulating and "Buy American" provisions of Title III of H.R. 7130 approach the wrong problem in the wrong manner. Rather than contributing to an improvement in worker well-being, they are likely to harm workers. They tax progressive, more highly-paying, more productive industries to preserve low-paying and unproductive jobs. Moreover, instead of offering a means of raising the well-being of workers in those low-paying industries, they are likely only to initiate a vicious circle of rising protectionism rather than rising wages. Finally, the measures would invite retaliation against U.S. exports while shifting the U.S. cost structure upward in an inflationary manner.

Where import competition imposes serious burdens on individual workers and communities, other present policies coupled with more positive adjustment assistance programs promise a better chance of coping with the problems and of raising worker well-being. Anti-Dumping and Countervailing Duty statutes provide a better, and internationally recognized, means of stopping unfair competition. Where the U.S. is becoming uncompetitive through real economic advantages held by foreign producers, programs designed to train workers for jobs in more competitive industries provides a surer guarantee of their long-term well-being. In addition, the realignment of currencies achieved by the Smithsonian Agreement of December 18, 1971, has made U.S. products more competitive with foreign-produced goods. Already, there are positive indications that this has improved the position of many industries that were facing serious competition from imports. One example is the decline in imports of color televisions from Japan in the first two months of this year, coupled with an increase in U.S. production of such sets.

In other words, the protectionist measures of Title III do not result in greater protec-

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Footnotes at end of article.

tion of worker welfare. More and fairer trade will protect and improve the well-being of American workers more substantially and more permanently. Programs to serve this objective already exist or can be formulated in ways which will avoid the counter-productive effects of Title III. Nor is that Title necessary to the other objectives of the Dent bill or other proposals for amending the Fair Labor Standards Act. For these reasons, we urge that Title III of H.R. 7130 be opposed.

FOOTNOTES

[1] See "Trends in U.S. Trade and Comparative Advantage", William H. Branson and Helen B. Junz, Brookings Papers on Economic Activity 2: 1971, 322ff.

[2] "Quotas on American Imports Would Reduce Employment in American Industry", Anne O. Kreuger, *Congressional Record*, Vol. 117, No. 178 (November 19, 1971), H11331.

[3] "How Much of Current Unemployment Did We Import?", Lawrence B. Krause and John A. Mathieson, *Brookings Papers, op. cit.*, 421.

INCONSISTENCY FOR DISTRICT OF COLUMBIA

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. HARRINGTON. Mr. Speaker, I speak today with a sense of embarrassment. I feel embarrassed because the topic of discussion should have been settled a long time ago. District of Columbia citizens should have years back been granted voting representation in Congress. The fact that Congress never granted them this right is inconsistent with some of the basic ideals of this country. It is time we put an end to this inconsistency.

The arguments in favor of this idea are many and have often been made before; the arguments against voting representation are few, and have rarely come to the surface.

For too long, the citizens of the District of Columbia have been governed, but not represented. The same Congress that has ruled over the lives of Washington citizens has denied them a right to be represented in the decisionmaking process. An invisible committee has exercised complete authority over the affairs of this city, remaining unaccountable for the decisions it has reached. Where responsibility has been minimal, control has been maximal. As a result, 40 percent of the residents of Washington continue to live in inadequate housing, 120,000 citizens earn less than $3,000 annually, Washington's infant mortality rate is the second highest in the country, and almost nothing is done to remedy these problems—most innovative legislation is blocked in committee.

We in Congress have supported this system by our slowness in trying to change it. The people of Washington have been slaves to an unresponsive governing body, and we in Congress have been their masters.

In order to correct this situation, I have today filed a resolution to give House Joint Resolution 253 an open rule with 4 hours debate. House Joint Resolution 253 would give voting representation to the District of Columbia by authorizing a constitutional amendment which would allow the District to elect two Senators and as many Representatives as the District's population affords. It is my intention to file a petition to discharge my resolution in 7 legislative days—May 11. This complicated parliamentary method is the only means by which we will be able to get a vote on voting representation for the District of Columbia this year.

Washington is this Nation's Capital, the seat of representative government, yet it remains the only American city without any representation. Washington citizens pay $345 million in Federal taxes each year—an average of $427 per person—but still they have no voice in deciding how this money will be spent. Thousands of Washington citizens have served this country in Vietnam—and hundreds have died—but none has ever had a say in electing the representatives in Congress who sent them there. In sum, citizens of the District of Columbia have been taxed for years—both in money and in lives—yet never have they held any representation in Congress. I need not remind anyone that this country once fought a revolution over this issue of taxation without representation.

Fortunately, in recent years, Congress has begun to take steps, however slowly, toward recognizing District residents as full American citizens. In 1961 we approved the 23d amendment, which gave Washington residents the right to vote in presidential elections. And just this past year, we agreed to seat in the House a nonvoting delegate from the District of Columbia. I believe that by these two actions we established the precedent of providing District citizens with the same rights as other Americans. But we have yet to carry this precedent through to its logical end. That end includes authorizing voting representation for District citizens in both the House and the Senate. I emphasize the word voting because I fail to see how anyone can represent his constituency adequately in the Congress without being given the right to vote. Which one of us would be willing to sacrifice this right?

Washington currently has a population of 746,169 citizens, yet still it lacks voting representation in Congress. Ten of our 50 States, or 20 percent, have smaller populations than Washington, yet they are able to boast two Senators and either one or two Congressmen each. These States include Alaska, Delaware, Idaho, Montana, Nevada, New Hampshire, North Dakota, South Dakota, Vermont, and Wyoming. Certainly no one would argue that these States should be denied their representatives in Congress. In the same way, no one should argue that the District of Columbia should be denied its representatives in Congress.

Our response to the District of Columbia's problems has been painfully slow. In a speech on the House floor nearly 2 years ago, I stated that this lethargic response was all too reflective of the pace of the House in general. The first voting representation amendment for the District was introduced in 1888—over 80 years ago—yet in 80 years it has never come to a full vote before this House. Committees with the power to block this amendment at every step along the line, have effectively denied the rest of Congress from voting on this issue. If we are not careful, the same thing could happen again this year. Only if we show that this time we mean business—that this time we are going to pull out all the stops in our effort to achieve voting representation for the District of Columbia—only then will we have a chance of being successful in our endeavor. The American people are ready and willing to vote in favor of extending basic rights to District citizens—they ratified the 23d amendment with record speed—but they cannot effectively act on their sentiments until we, the Members of Congress, take the first step. That first step is authorization of this constitutional amendment.

Mr. Speaker, I fully believe that anyone who judges this issue rationally would be in favor of voting representation for the District of Columbia. In order to guarantee that no doubts remain, however, let me try to anticipate some of the arguments which may be forthcoming against my proposal and show how shallow these arguments become when they are scrutinized more carefully.

First. The historical argument: This argument goes something like this: "The District of Columbia has never been allowed voting representation before, so why should we allow it now? The framers of the Constitution had specific reasons for denying Washington citizens this right, so why should we violate the original intent of those who signed the Constitution."

This argument seems quite convincing, until this Nation's early history is looked at a bit more carefully. It turns out that the original framers of the Constitution excluded the District of Columbia from voting representation and home rule because they feared that the District's Government could become a threat to the Federal Government. In fact, the impetus for this fear came during the time that the Continental Congress was meeting in Philadelphia. When a mutinous unit of the Pennsylvania militia threatened the Congress, demanding "a settlement of accounts," local police refused to offer the Congress protection. So fearful was this Congress of future attacks that it set up strict controls over the government of its future Capital, Washington.

Government has changed since then, however, and it would today be utter folly to fear that the government of any one American city could have power over the entire Federal Government. The Congress now has the full force of the U.S. armed services behind it. The legitimacy of the Federal Government has long since been established, and its relationship with State and local governments has long since become stabilized. Thus, the so-called historical argument is no longer relevant. Indeed, as Theodore W. Noyes writes in "Our National Capital and Its Un-Americanized Americans":

> Clearly they (the forefathers) had no intention of barring the District forever from

being a part of the Nation politically and from participating in Congress and the national government. . . . There is no prohibition, direct or indirect, against future representation of the District in the Congress. . . .

Second. The non-State argument: This argument states that there are many other non-States besides the District of Columbia. Since none of these areas has voting representation in Congress, there is no reason for Washington to have such a right. If the District received this representation, the argument goes, then all non-States of America would have to receive the same.

This argument does not recognize the unique position of the District of Columbia. All the other non-States, such as the Virgin Islands and Puerto Rico, are territories of America, and thus, able to follow a set procedure for applying for statehood and gaining voting representation. Washington, however, is an exception.

It has no other means of achieving voter representation than by a constitutional amendment such as the one I have proposed.

Third. The Constitutional amendment: Article V of the Constitution says that no State, without its consent, shall be deprived of its equal suffrage in the Senate. Some opponents to voting representation for the District claim that providing Washington citizens with Senators would violate article V.

Article V has never been interpreted that way before, as additional States have sought entry into the United States of America. If it had been, this country would still be made up of only the original 13 States. Because 37 new States have gained voting representation in Congress since the establishment of article V of the Constitution, this clause obviously would not prohibit the District of Columbia from gaining voting representation.

Fourth. Finally, the fact that Washington is predominantly black, tending to indicate that its representatives probably would be black, should in no way be a deterrent to providing voting representation for the District. In fact, it should not be any kind of a consideration at all. Hopefully, we have gone beyond the day when such a factor would be considered.

I believe that the best type of voting representation legislation for the District of Columbia would establish by law the permanent and full representation of Washington citizens in both the Senate and the House.

House Joint Resolution 253, all citizens of Washington would be given the same kind of representation that other Americans now hold. The District would be entitled to two Senators, and as many Representatives as its population afforded. Anything less than this kind of representation would place Washington residents in the position of second-class citizens, a position they have been in far too long. It is time we gave the seat of representative government representation, Mr. Speaker. It is time we gave full voting representation for the District of Columbia. Thank you once again for considering this important issue.

"A PROUD LOOK AT POLONIA AND THE POLES WHO HAVE REACHED THE TOP"

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. PUCINSKI. Mr. Speaker, the Chicago Sunday Tribune performed an outstanding public service in yesterday's edition when it placed into true and historical perspective the role of our Nation's Americans of Polish descent.

Relying on the insight of Mr. John Krawiec, editor of the Polish Daily Zgoda, the Tribune in a most objective manner drew a dramatically true picture of Polish-Americans in this country.

I am placing the article by Mr. Krawiec in the RECORD today so that those who study America's ethnicity will be able to add to their resource material this excellent analysis.

The Chicago Tribune also sought out and interviewed Americans of Polish descent who have reached success in the world of finance and industry.

Americans of Polish descent have a large number of successful fellow citizens they can point to and the Tribune's excellent description of just a handful of these successful businessmen gives us an insight into the kind of successes that Poles have achieved in the United States.

Following are the capsules on seven outstanding Chicagoans of Polish descent who have reached the top.

The article follows:

A PROUD LOOK AT POLONIA

(By John Krawiec)

I am a Pole. That in itself is something special.

That I am a Pole who spent nightmarish times under both the German and Russian occupations of my homeland during World War II and its aftermath; that I was a prisoner in the German-built Auschwitz and Buchenwald concentration camps where I experienced torture, deprivation, and degradation, is also something special.

That I refused to live under the present Communist domination of Poland and, with the help of relatives who had already migrated to America [a country which always was and still is regarded as a second homeland for multitudes of Poles], arrived on these shores, is something special.

Like those who came before me, without technical skills and facing the horrendous language barrier, I dedicated myself to work and education to construct a new life and to confront and overcome the many more crises I was to face. This again, is something special.

And there are thousands and thousands of pre-and post-World War II Polish immigrants who are special.

We all have experienced a disciplined upbringing in our homes in Poland and in America. Our family lives are steeped in the traditions of patriotism and love of country which became stronger with each invasion and occupation of Poland by foreign powers.

Discipline, traditionalism, and self-sufficiency are keys to our character. Maybe you can better understand what we are by viewing what has happened to me in the more than 20 years I've been in Chicago. My background is typical of those who emigrated from displaced persons camps all over Europe. It might also be indicative of American attitudes toward us.

I arrived at my aunt's home in south suburban Posen in June, 1949. Work was scarce during that first postwar recession. However, after a series of seasonal jobs in the area, I decided to move north to seek more opportunities. I spoke no English.

I took a permanent job as a laborer at the Canfield Beverage Co. For months, I lived a daily routine of loading trucks with dozens of heavy cases of soda pop, sometimes more than a thousand quarts a day! One day, the owner of the firm, Art Canfield, happened by. He asked: "Do you enjoy your work?" I still spoke no English, so he called another laborer to interpret. I explained that I liked my job, even tho I was schooled as a journalist in Poland. He was amazed and asked why I did this work for a living.

"I have learned that there are only two ways to make money," I replied. "Either one takes a gun and robs his neighbor, or he works. I prefer the latter." Canfield laughed. He said he liked my "spirit." Several days later I found myself in his office. He said he no longer wanted me to do such work, that he was going to place me in the garage to service trucks and learn auto mechanics.

My instructor there was an Italian who spoke neither Polish or German, the two languages I knew. Somehow, thru deep respect for the problems we shared as immigrants, we managed to communicate. I learned, and I learned much. In a few years, I was accepted as a journeyman by the Machinist's Union.

Meanwhile, with Canfield's encouragement and with his permission to leave work early twice a week, I attended evening courses at Loyola University. With a dictionary as my best friend, I learned English and I received a bachelor's degree in political science.

Between work, school, and study, I managed to find time to participate in several Polish-American organizations. I also became involved in the political affairs of my community and participated in election campaigns as a writer even before becoming an American citizen.

I left the Canfield company in 1959 and subsequent events were not unlike a series of glittering changes in a kaleidoscope. I spent four years as a reporter for the now defunct Polish Daily News. Then I took a job in the sheriff's office as a bailiff in the Criminal Court, and, later, as a social worker in Cook County jail.

In January, 1968, I became editor-in-chief of the Polish Daily Zgoda, an appointment deeply gratifying to me after my involvement in the activities of the Polish National Alliance, the largest Polish-American fraternal order and publisher of the Daily Zgoda.

What was a source of constant amazement, sincere appreciation, and great pride to me during these years was the realization that prewar Polish immigrants accomplished so much in American life.

Many of those immigrants were small farmers who couldn't speak English and had only limited educations. They came as strangers filled with hope and promise. Thru hard work, self-sacrifice and dedication, they not only built comfortable homes for themselves and their families, but also established fraternal and civic organizations and built churches and schools.

The ambitions of those Poles were no different from the ambitions of other ethnic groups here. Human values cannot be segregated and put into ethnic pigeon holes. It is every man's ambition to get ahead, to build security for himself and his family.

Poles, preserving national and religious traditions, and with special emphasis on family life, became the largest group of homeowners in Chicago. Most of them were "people of the soil," born and reared on farms where the sense of ownership was supreme. Therefore, a small lot and even a modest home in this new land gave them a sense of belonging and a status in the community. Without this, they naturally would feel rootless.

Home ownership meant economic stability. They were [and Poles still are] frugal because they knew poverty in the land of their origin. They use credit in a conservative way, limiting it to their honest ability to pay.

The Pole's ethnic consciousness runs deep and stems both from past history and from experiences during World War II, when national suffering led to his strong sense of "Polishness." He attempts to relate to his neighbor in a grass roots manner and he tries to be friendly toward everyone. But it is also natural that he feels more comfortable with people of his own cultural and traditional background.

Polish-American communities in our cities are rapidly dissolving. But as Polish-Americans attain middle class status and move to better neighborhoods and to the suburbs, they still keep their ties with old parishes, support their fraternal organizations, and do not sever ties with old friends.

Witness their attitude toward the celebration of Constitution Day in Humboldt Park. [This year it will be next Sunday.]

The activities of the day reinforce the bonds that hold them together as Poles. It offers them a revival of previous loyalties to their homeland. It means the whole history of their country has done nothing to put a darkness on their consciences. They consider that everything in their history was directed to goodness and loyality to the world around them.

Retaining our Christmas and Easter traditions is most important and enhances our family loyalties. The Christmas *oplatek* [a communion-like wafer] is usually sent to us by relatives in Poland. On Christmas Eve the family gathers and the mother and father take and break the wafer into two pieces.

In turn, each breaks his piece with the sons and daughters. With this ceremony we offer each other health, happiness, luck, or any good wish that is important to the individual at that moment. We also set one extra place at the table. It symbolizes friendship and sharing for anyone who has no family and no place to sit for the holiday.

At Easter the bread, butter and eggs blessed in church end up on our dinner table and symbolize our gratitude for the staples of life. They are shared as we share the *oplatek* at Christmas.

I believe there is no such thing as "a melting pot" in America. It becomes more obvious to sociologists that the national unity and the development of American culture are based primarily on the cultural and ethnic pluralism of our society.

The Poles awareness of social and civic responsibility is such that they probably have the smallest crime rate among ethnic groups. So far, I have not been able to find one single name ending in -ski, -cki, or -wicz among the deserters and draft dodgers and campus revolutionists. But I did find a picture published of an American girl of Polish origin who courageously defended the American flag before a mob of radical students. The girl is the daughter of a veteran of the First Polish Armored division which fought with distinction and valor in France, the Netherlands and Germany in World War II.

Those, who like myself, arrived here after World War II, follow in the footsteps of the earlier immigrants. Together, the "old" and the "new" Polonia, as Americans of Polish heritage are collectively known, contribute much to the well being of the city and country. In spite of these widely recognized and acknowledged values, we seem to be the butt of the "Polish jokes."

We enjoy the lighter side of life. We can and do laugh at ourselves and project our shortcomings in caricature. However, the jokes are devoid of any humor or aesthetic values—they are thoughtless, savage, and uncouth. This we naturally resent. Other Americans would resent them, too, if they knew these jokes are displayed on a special billboard facing the American Embassy in Warsaw, and are reprinted with Communist commentaries in the press. Thus, they are actually helping anti-American propaganda.

America's greatness lies in the pluralism of its culture and tradition, brought here and nurtured by people of diverse ethnic origin. It is still the brightest hope of humanity and the promise of a better future. Let's keep it so by promoting unity and equality of opportunity among ourselves.

According to the gospel of the Polish joke and the thinking of uninformed minds, the Polish people are supposed to be cast from one mold. Unskilled laborer, factory worker, maintenance man, thrifty toter of the shopping bag.

Here we take a look at but a few of the many Poles in Chicago who are having the last laugh. They are prosperous in the business world . . . millionaires or near-millionaires . . . they have "arrived" and there are many, many more like them. They live well, and they are proud of their Polish heritage.

A joke they're not.

—Sheila Wolfe.

LEONARD SLOTKOWSKI

It is hard to imagine a name that has turned more appetites on to Polish sausage than Slotkowski.

"At the beginning, Poles were the base of our business but now everybody eats our products," said Leonard Slotkowski, 55, president and son of the founder of Slotkowski Sausage Company, 2021 W. 18th St.

Joseph Slotkowski, four years removed from Poland and a South Chicago mill worker, opened a small sausage store on Commercial Avenue in 1918. Moves and expansion followed and today Slotkowski sausage and smoked meats are shipped thruout the country.

Leonard, in the business since 1935, said the basic formula of their popular Polish sausage is the same, tho the spicing may change at times.

"Less garlic now than 25 years ago," he said.

WALTER ROPA

If there is a single block within five miles that does not contain at least one house financed thru Peoples Federal Savings & Loan Association, 1618 W. 18th St., Walter Ropa would be very surprised.

Ropa is president of the $24 million family institution. His brother, Stanley, is senior vice president, and another brother, Matt, also a state representative, is treasurer.

Their late father, Casper, a foundryman when he came to this country from Poland in the early 1900s, established the Piast Building and Loan Society in 1912, which served as a forerunner to Peoples Federal.

"Because of the language barrier at the height of immigration, people needed a place where they could save," said Walter Ropa. "Now, we are more public than ethnic, and cater to people of all origins thruout the city and suburbs."

THADDEUS PRZYBYLO

Thaddeus Przybylo was introduced to the food business at the tender age of 14. He had finished grammar school, the depression was on, and the only job he could get was washing dishes in a Greek restaurant.

At 22, Przybylo went into business for himself—a bar on the Northwest Side—with $865 in personal savings and a $400 mortgage. Now 56, he still remembers his first day's receipts: $5.65 total for working from 7 a.m. to midnight.

Today, Przybylo owns the House of White Eagle, popular Polish restaurant and banquet and catering service on a 10-acre site in Niles. Since opening his original restaurant and catering establishment at 2441 W. Division St. in 1947, Przybylo estimates he has served six million people.

He is president of the United Polish American Council.

CHESTER SAWKO

From immigrant factory worker to president of R. S. Coil Spring Manufacturing Company by the age of 42—that's Chester Sawko's traditional American success story. And it's based on the traditional American virtues of hard work, long hours and perseverance.

Sawko and his family were taken from Poland to a Russian labor camp in 1940. Released two years later, they made their way to the United States in 1946. With little formal education, Sawko worked as a copy boy for a Polish newspaper and in a spring factory.

Twelve years ago, with $5,000 in savings, he started making his own, first from his home and then in 1.000 square feet of rented space in Franklin Park. The initial one-man operation now has 55 employees working in two buildings with 22,000 square feet that Sawko owns in Addison.

PAUL SPIEWAK

A $7.20 investment in a newspaper ad started a $4 million business that is still growing for partners Frank Poczatek [Parks] and Paul Spiewak.

"Supplies for the indoor world—wall, floor and ceiling—is the way we describe Century Tile and Carpet Supply," said Poczatek, 44.

Poczatek, son of a Polish born assembler, worked his way thru Roosevelt University, earning a marketing degree in 1950. A man who called at his home to sell tile, which the Poczateks bought, sparked the idea that led Poczatek and Spiewak to place an ad to sell plastic wall tile. They did it at night and on Sunday in addition to working other jobs during the day.

"We just kept placing more ads and finally opened a single little store at 3005 N. Austin Blvd.," said Poczatek. "Then we acquired four adjacent stores, and now have two other locations in Mount Prospect and Lombard."

WALTER KOZIOL

In 13 years, Charmglow Products Inc. has become the nation's largest producer of outdoor lights and gas fired barbecue grills. Walter Koziol, founder and president, was born at 15th Street and Wolcott Avenue, the son of Polish immigrants.

"I left the Marine corps in 1948 and drifted until 1953, when I became a distributor of kitchen equipment for builders in Antioch," said Koziol, 50.

"A man at Northern Illinois Gas Company suggested I make a gas light for outdoor use. I started Charmglow in 1959 with my brothers, Harry and Ted, and a friend, Steve Rzysko."

Five years ago, Charmglow became a division of Beatrice Foods Company.

DENNIS VOSS

The current Man of the Year of the United Polish American Council was born on Fullerton Avenue above a dairy where his immigrant father worked as a route man.

Dennis Voss and his father later started their own dairy service, one of the first independents in the city. But Voss, who had attended an electrical trade school, always wanted to be a builder and since the mid '40s has been an extremely successful one and has participated in a number of major projects in the Chicago area.

Voss, 58, also is chairman of the board of Parkway Bank and Trust Company and First State Bank of Chicago and president of several insurance and travel enterprises.

"I purchased land, made mortgages and purchased more land," said Voss. "It was hard getting those doors open at first . . . hard to get a $25,000 loan. Then, after a while, people call you and want to loan you a million."

Voss is active in numerous civic and charitable endeavors. He is a member of the executive committee of the Illinois Tollroad Commission advisory board and serves on the board of the Metropolitan Fair and Exposition Authority which operates McCormick Place.

IS THE WORLD HEADING FOR MASSIVE FAMINE?

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. QUIE. Mr. Speaker, I submit for the RECORD an interview between Gerald Leach, science correspondent for the London Observer and Dr. Norman Borlaug and Prof. George Borgstrom. Dr. Borlaug is known for developing high-yield varieties of dwarf Mexican wheat and Professor Borgstrom has written "The Hungry Planet."

The interview vividly points out the need for directing out thinking toward the solution of the hunger problem immediately. I commend the article to my colleagues.

IS THE WORLD HEADING FOR MASSIVE FAMINE?

Leach. I'm searching for the answer to a simple question. Is the world heading for massive famine?

Borgstrom. I don't like your question, with its emphasis on the future. How many hundreds of millions are going to suffer extreme food shortages before we recognize that the issue is here today? More than half of the world's population is now on the other side of the hunger gap, and this at a time when we are in the unprecedented situation of adding almost 1 billion people in the 1970s. There is already a serious food shortage, of a dimension the world has never seen before.

Borlaug. I agree, and this is talking only about the quantity of food filling the stomachs. It ignores the deficiency of proteins, especially for the young. The United Nations Food and Agriculture Organization say that about two-thirds of the world is underfed. Whether it's that or a half makes little difference. It's just too darned many.

Leach. So why can't we produce more food?

Borlaug. That would be relatively simple in the immediate future because of the potential productive capacity of countries such as the United States, Canada, Australia, the Soviet Union and Europe. But it wouldn't solve anything. Unfortunately, hunger is inextricably tangled up with poverty. The developing nations can't afford to import food and if they would, they couldn't sell it to their people, most of whom are miserably poor.

Leach. But what if we gave our surpluses away. Would that help?

Borlaug. For a very short time. Then population growth would catch up. Each country must develop its capacity to produce its own food.

Borgstrom. You must also remember there is a dynamic relationship between food and population. Bringing more food to undernourished people means more people; it means an acceleration of growth because it reduces infant mortality. The classic example is China, which trebled its population in the 18th Century largely on the basis of the introduction of corn and the potato. To increase food production without trying very strictly to control population is catastrophic.

Leach. But I want to know how much food production over the whole world could be increased. Let's start with the amount of land that's available for growing it on.

Borgstrom. We often say that the world is using only one-tenth of the land area for cultivation. This is entirely misleading as only about 30 to 35 per cent could reasonably be used to grow vegetation of some sort. What's more, most of the tilled land we have gained in the past 100 years has really come from clearing forests and pastures—in North America we have lost more than half our forest in this way—while most of the remaining pasture land in the world is really poor land: the semi-arid lands of Mexico and Spain or the Soviet Union.

We could certainly expand irrigation of this, but the shortage of readily available water is becoming a limiting factor. This is the century of irrigation. Since the late 19th Century we have multiplied the amount of irrigated land by four to five times, and we will see another doubling before the end of the century.

But despite these enormous accomplishments, the amount of land man has turned into deserts by over-grazing and over-pressure is about five times greater than the amount we have irrigated. In India, one-quarter of the entire acreage has such heavy erosion that the topsoil will be gone before the end of the century. In the Andean region of Latin America, 50 million people are trying to live on soil that is actually vanishing.

Borlaug. All that is true enough, but it's not only man that changes land. So does climate. Look at the Sahara.

Leach. What stops us from opening up new marginal lands for growing food?

Borlaug. It depends what you mean by marginal lands. Why are they marginal? We can produce crops that use rainfall more efficiently. But in desert or semi-arid areas, development of irrigation is the only means of opening up marginal lands. Similarly, in heavy rainfall areas with poor surface drainage (you need large-scale drainage projects to open up the land. Both these approaches require big capital investment.

It's much the same with fertilizers, which are being used to restore high levels of productivity in vast areas of the densely populated regions of the world where the land has been depleted of essential nutrients. But every step we take now in making new marginal lands grow food requires very big investments, whether in fertilizers, irrigation or whatever.

Borgstrom. You can see that clearly in this continent. We are two countries, arid America and humid America. Now they are talking about bringing water from the far northwest of Canada to Mexico and 33 of the states in the United States. But the cost is going to be $100 billion just to get the pipes in and the water flowing. Not many countries can afford this kind of thing.

Leach. So increasing the yield of crops is now the key issue. This is where the green revolution comes in. Dr. Borlaug, you are the pioneer here.

Borlaug. The so-called green revolution is a rather rapid improvement in recent years in production of cereals—mainly with new varieties of wheat, rice, and maize—especially in India and Pakistan, the Philippines, and parts of the near east and North Africa.

In 1965, a very favorable year, India produced about 12 million metric tons of wheat. The harvest last June was 23.3 million tons—almost double. In West Pakistan it went from about 4.3 million tons to about 8 million tons in the same period. Similar but less spectacular increases have been obtained in rice in India.

The green revolution is not a uniform thing and progress is still very small compared with the total need. Yet it has instilled a spirit of hope where there was complete despair before. Wherever you go you can see people sort of catch fire and begin to believe in themselves. The problem is to keep it going. It's just a spark at present. And I can buy only a very little time in which to adjust population growth to reasonable levels.

Leach. But the green revolution has been strongly criticized because these new varieties of rice and wheat demand a lot of water, fertilizers and pesticides, and are being grown over huge areas and are thus very liable to disease.

Borlaug. This is wrong. The point is that with lots of water and fertilizers the new varieties will do very much better than the old. But they'll still do better with the same amounts—they were designed for this. As for disease, well, with large, concentrated populations you just have to grow big areas of the same crops.

When world population was small you could grow little patches of different crops and so lessen the threat from disease and insect pests. We can't do this now and no one is more conscious than I am of the dangers of what we are doing. All you can do is try to incorporate as many different kinds of resistance as possible in your crops and then trust that the good farmer will find out for himself which new varieties do best in his area. But I agree it's an unstable situation and a never-ending problem.

Borgstrom. There's no argument about the tremendous accomplishments of the green revolution. What I would argue about is what it means with regard to our present situation and future potential for growing food. A lot of the much-heralded increase in production from the new varieties has actually been due to getting two crops a year instead of one.

All this means much bigger imputs of water and fertilizers and so on, which can't go on forever. Also, to some extent it has taken land that was used for other crops—crops that had better all-round food value for man. You know, it takes the amount of energy you get from burning five tons of coal to make one ton of nitrogen fertilizer. If you look at the amount of energy that India would have to use to provide enough fertilizer to achieve the productivity of Japan—where yields are four to five times those of India—the answer is absolutely prohibitive. Including the energy cost of irrigation, transporting the fertilizers and so on, you actually have to put more energy in than you get out in increased food.

China is in an equally critical situation. They've done so much in the way of irrigation recently that the main thing they now need to feed their growing population is a tremendous amount of fertilizers. They aren't going to produce these on their own: By the end of the century China will need to use more fertilizers than the whole world is using today—about 70 million tons a year. Whether their waters can stand the pollution involved, I don't know; but in my opinion their need for fertilizers is really the critical thing in the present Chinese political situation.

Borlaug. Well, I have a dream, which I mentioned in my Nobel acceptance speech in 1970, that man will learn to do without nitrogen fertilizers by breeding new plants. Mother nature worked this trick when she put nodules on the roots of legume plants, such as beans and peas. Bacteria in these nodules can take nitrogen from the air and convert it into forms that the plant can use directly. Scientific man must now develop cereals that can do the same.

Leach. Failing this for the moment, are you saying that the whole green revolution thing—the drive for higher yields—can't continue for very much longer because of ultimate shortages of water and fertilizer?

Borlaug. I think it's our only hope, unless you want to write off world civilization right now.

Leach. But is it a hope that can be met in practice?

Borgstrom. I think there is a reasonable chance of managing it for the rest of the century. But that is only under one assumption: That we move to strict population control now, in the 1970s. We have to, because we are already on the verge of the unmanageable.

Borlaug. I wouldn't disagree. We always come back to this population thing.

Leach. You say it can be managed. Bearing in mind all the energy and capital investment involved, can it be managed without causing massive changes in the rich world?

Bogrstrom. I wonder. On its own, a country like the United States can easily increase its food production—which now consumes only 11 to 13 per cent of all the energy used in the country. If you ask whether the hungry world can manage it, this depends on where the raw materials are.

Borlaug. I'd like to add a word here on the politics of the situation. One of the Soviet Union's greatest needs at the moment is fertilizer, and there's already quite a move to develop fertilizer production in Kuwait and North Africa wherever there is natural gas and petroleum. It's quite likely that fertilizers will join oil and other major resources as a major bargaining counter in politics.

Borgstrom. I agree. It may well become the issue.

Leach. What about phosphates? They are essential plant nutrients. Is there enough of them to go around?

Borgstrom. For the next 30 years, yes. We can mine it. But there's not enough around to continue for long after that.

Leach. What happens then?

Borgstrom. Well, phosphate becomes the limiting factor in food production. At present we are pouring most of the phosphates into the sea through sewage. We just can't allow this to go on because we can't get it back from the seas. It's so diluted there that the recovery costs would be absolutely prohibitive. The only answer is that cities must recycle their sewage and put it back on the land: it's essential, indispensable, in the immediate future.

Leach. I want to come back to water. I sense that you believe this is the most critical of all the resources for growing food.

Borgstrom. I'd go further and say that because of water shortages mankind is now only one or two years from starvation. The most characteristic thing about rainfall is its irregularity. Records for India over a century show that each fifth year you have either an excessive monsoon or a short one. Each tenth year you have a short one or a critical flood. Each fifteenth year you have two consecutive bad years. You only need to have a couple of bad years over much of the tropics and, with very little spare food in the world's storehouses, you face inevitable large-scale famine.

One crazy aspect of this is that we put all our costly efforts into storing water when we should be storing food in the good years. The losses from storing water are enormous, but you can easily combat food spoilage.

Borlaug. This is just what I've been trying to say for the past few years. In general I'd agree that water is very critical. But there are places—the great Indian river valleys—where there is ample water underground that is being tapped by simple techniques like sinking tube wells. There is scope for expansion here at little cost. But by and large new water sources are going to involve tremendous capital investments.

Leach. Looking at the whole world, there are obviously severe biological or resource limits to increasing food production. What are the biggest social or political blocks?

Borlaug. In the developing world the biggest block of all is lack of capital for investment. After this, it is a great shortage of technical people who know how to apply science in the fields. They aren't being produced in nearly big enough numbers. The miseries of life on the land are such that once you get an education you want to become a doctor or lawyer or professor—anything but an agricultural scientist. And then there's the whole business of plans and bureaucracy. I have worked in country after country and I have seen so many beautiful plans, none of which I have ever seen executed. Whatever I have been able to do could have been written on one sheet of paper.

Leach. And this is not getting any better?

Borlaug. It's a fight every step of the way. But there is a change in one sense. In India or Pakistan one can see a gleam in the eye of people. Even in the back villages there's hope, there's a spark of confidence in themselves, as they see their crops begin to fluorish with the new green-revolution varieties. You can even nowadays talk to government planners and they'll shake hands with you, instead of saying, "Here's another damned, dirty-handed agronomist." Can we keep this going? I don't know.

Borgstrom. Fundamentally, we need some massive re-education of our presidents, our university presidents, our bank presidents, of everyone—to understand the things we've been talking about here. Everyone has to realize that we do not have all the answers and that the world really is living under constraints which are so far removed from ours in the rich countries. We are basically a luxury club that just has not realized the strict limitations of the globe. This kind of re-education to what's really going on in the world is the only way for our survival.

Borlaug. The first stage is to educate the privileged sectors of the affluent world—and, even more important, of the developing world—to the importance of agriculture and agricultural science, and to show that farming is vital to their welfare and should not be relegated to the lowest rungs of the social ladder.

Borgstrom. I would strongly support this. The urbanized millions of America and Europe have almost entirely lost touch with the complex biological forces and restraints that make life on this planet tick. I think this loss of biological understanding was really the starting point of our ecological crisis.

Most people think it's technology that grows food. Put a carton of milk in front of them and they may know that it comes from a cow, but they don't know, for example, how much water it takes for a cow to make a quart of milk. It takes 1.110 gallons.

Leach. One of the central problems, surely, is the huge flood to the cities that's going on all over the world. The migrants to the cities can't find work while there is massive unemployment back in the rural areas they left. The traditional answer is industrialization on a gigantic scale to provide jobs. But isn't the real answer a huge development of labor-intensive agriculture?

Borgstrom. We are touching on the issue of our times here. And it's been very poorly understood. This flux to the cities is a mass migration on an unprecedented scale: In the 1970s alone we can expect a movement of 400 million people into the cities of the hungry world with, at the same time, another 400 million added to their pressure in the countryside. Now a lot of people think this is merely a repeat of the urbanization of America or Europe, only written a little larger.

In my opinion, this view is fundamentally wrong. For one thing, the urbanization of Europe would never have been possible without the great migrations outwards, especially to America. Such migrations to other areas are hardly possible now. Even more important, the later urbanization of Europe could never have been carried out without food delivered from outside.

Look at the Dutch, for instance. They started urbanizing at the end of the medieval period. And where did they get their food? From the Dutch countryside? No, from the Baltic. The second great food source for the growing European cities was the Ukraine and then came the North American prairies. Without them Europe simply couldn't have done it.

But now, all of a sudden, we say that the hungry world is expected to take care of 400 million extra in the cities and another 400 million on the land by re-doing what we did. There is no basis to it. The type of agriculture we have created, the type of industrial life we have created, the type of urban life we have created— nothing of this is applicable or copyable in the third world.

This is why we are getting cities like Calcutta. If its growing continues it will have 60 million people before 2000. But of course that won't happen: Long before then there will be catastrophes.

Leach. Is there any chance of heading off this crisis?

Borgstrom. Well, there's one country that really has tried to cope with it: China, again. In the 1950s they had a very rapid urbanization and this almost toppled the whole system. So what they did was not only stop the flow to the cities; they actually moved 10 million to 12 million back to the country by providing opportunities there.

They built dams and roads, improved the villages and farmlands, by what we in the West often disparagingly called armies of blue ants. It's really to the credit of China that they didn't use war as an outlet. But the result is that they now have a rational kind of agriculture that uses people to the full of the land—and they don't have a massive urbanization problem. However, with their present population growth, this situation isn't going to be stable for much longer.

Leach. Standing back and looking at the whole picture, what do you think is going to hoppen?

Borgstrom. I think that the forces we have been discussing are so powerful and rapid that in the 1970s we will see very drastic things. I think it will focus on the cities. I think there will be a collapse of production and distribution. We will be trying to do our best but we will not be able to stop the unrest and riots and, I am sorry to say, the killings.

What's more, the reaction of the well-fed world is going to be very erratic. So far we've shown very little responsibility. In the postwar period we've engaged in this rightful armaments race—using up much greater resources than the hungry world is producing—while thinking, as the United States has thought in Vietnam, that we can rule the world through bomb power.

If you look at history you will find that hungry people do not start wars; they start unrest and riots. Those that start wars are those that feel themselves threatened. We, the well-fed, are likely to be the ones that make the foolish acts. All this is why it's so important that we get the younger generation coming in to decision-making and so on.

Leach. Dr. Borlaug?

Borlaug. We've got to deal with the two most basic issues of our times, population and food. If we don't, I think, like professor Borgstrom, there will be increasing unrest in the cities. With their growing size and the complexities of governing them, seemingly minor issues will be blown up into riots, then into civil war. Look what's happened in Pakistan recently.

I would say to the youth of the world that the simple solutions to these very complex problems for which they are looking don't exist. Man still has a lot of beat left in him, and the first thing that's going to disappear unless we can come to grips with these problems is democracy. Then total civilization will follow. I can't say when. There are too many intangibles to put a hard date on the thing—20 years, 30, years, 50 years. But in a reasonable future.

But I've found out in everything I've done that what matters is stimulation. The most important ingredient for constructive change is the will to win, the spark of hope and encouragement. And as I've said earlier, I've seen this spark catch on in many parts of the world. If we could encourage this in young people in the developing world and at the same time get the message across that it's all wasted unless there is a stabilizing of population growth, then there's a chance I just hope we are smart enough to use our brains.

LEACH. Professor Borgstrom, do you see any hope?

BORGSTROM. Yes, I do see a way ahead. It is a drastic way, but there is a possibility that we could walk this way with a chance of getting ahead of these problems. And that is to start creating something that I call universal solidarity: In other words, to stop looking at things merely in terms of what's good for one's own community and start thinking in terms of what is to the benefit of all mankind.

We could really use this present issue about who owns the oceans to get this idea started. If we could get a general declaration in the U.N. General Assembly that the living resources of the oceans belong to mankind, we would have moved a long way in this direction.

The second way ahead is through education. We have the technology to do so much to feed the hungry world: This is not the limiting factor. What does limit us is an insensitivity gap that is quite formidable, right in the midst of christianity. We like to think we are so much better and smarter than the others in the developing world; it's just not true. We could educate everyone to be aware of what the true world situation is in less than five years, using all the resources of the press and TV, and that might make a great difference.

Lastly, we must stop thinking that there are easy solutions to these fearfully complex issues. People go around saying we have a solution in food from the seas, in synthetic food, in hand reform, in irrigation. It's not like that.

Let's be realistic about this: We're not going to remove all hunger. All we can do, if we are sensible, is reduce it below a danger point. As it is now, it's moving rapidly to a very grave universal crisis.

CONGRESSMAN DON RIEGLE REPORTS TO YOU

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. RIEGLE. Mr. Speaker, several times a year I send my constituents a newsletter to help keep them informed about pending legislation in Congress, new laws which may affect them, and my activities in their behalf. At this time, I would like to make this newsletter part of my public recorded by inserting it into the CONGRESSIONAL RECORD:

CONGRESSMAN DON RIEGLE REPORTS TO YOU, MID-TERM, NOVEMBER-FEBRUARY 1972

In ceremonies at Quantico, Virginia, 1st Sergeant Jim Sharp retires with a distinguished record from the United States Marine Corps at age 38 after 20 years of service. He returned from his third, and last, tour in Southeast Asia in October and took up his new responsibilities as my District Representative.

LETTERS FROM KIDS

Our office is receiving more and more letters from young people—both individuals and whole school classes, many in elementary school. I want to share some of these with you because they are touching and revealing of the growing concern and awareness of our young people toward issues in government and politics.

They are asking the tough questions and are an encouraging hope for the future of our country:

DEAR SIR: I would like to know what you think about the Vietnam war. How it could be stopped?

Some people think that the President's trip to China was a waste of money and some think it did us a lot of good. What do you think about it?

Sincerely Yours,

BILL RUPPEL.

DEAR SIR: I think you could do something about saving the trees. We are making to much paper and are killing trees. I think you could start thinking of a new way of making paper please, and start saving the tree they are so beautiful and will you talk me what you are doing about it.

Your truly

JODIE BUTTERWORTH.

DEAR SIR: I would like to know who is being done about pollution and garbage? Why can't they dig holes and drop it in them like in the holes again, instead of throwing it an a incenerator and letting the smellair-smog in the air for us to breathe in.

Your truly,

MISS PAUDA GOODWIN.

DEAR SIR: I am writing this letter for a class project. I would like to know what you think about the presidents visit to China?

I would also like to know what you think about the Viet Nam situation. I do not see why it is not officially a war.

Sincerely,

DAVID FRASIER.

I am in the first grade.

I am 6 years old.

I learn many things in follow through, come to visit us an see. Please help us keep follow through.

PATRICIA PEELER.

SENIOR CITIZENS REPORT

The White House Conference on Aging marked a step forward in the struggle by senior citizens to organize their numbers and strength into a political and problem-solving force. Two of the 3400 national delegates were selected locally in Flint: Mr. Ora Boone, Chrm. Retiree chapter local 659, Nat'l Adv. Council. UAW Retired Workers. Mrs. Doris Kirkland Senior Citizens Services Coord. (Mott Programs, Flint Bd. of Ed.)

In addition I was able to appoint a local person to attend as my personal representative: Gertrude "Trudy" Cross Senior Citizens Services Coord. (Flint Rec. and Park Bd.)

There was some mixed reaction from the conference delegates—some feeling it was a worthwhile forum for senior citizens involvement and consolidation of ideas; others thinking that it was too controlled, and a vehicle for partisan politics.

The conference did:

Maintain the momentum toward a more effective senior citizens lobby

Focus national attention on the concerns of our elderly

Bring together experts in housing, transportation, nutrition, employment, recreation, health care, tax reform

Recommend for action $5,000 income limitation on social security, increased minimum soc. sec. benefits; 120,000 new elderly housing units/year; nat'l elderly lunch programs; transportation services; more research and planning.

New and pending senior citizens legislation

Education: H.R. 11709—free education and recreation services in community schools.

Employment: H.R. 448—community service program and jobs for people age 55 and over.

Health: national health care program, expand Medicare to cover prescription drugs, optometrist service.

Housing: H.R. 13373—additional low and middle income housing.

Nutrition: *New law provides $250 million for low cost meals.

Social security: H.R. 1–5% social security increase, $2,000 income limitation, full benefits to widows/widowers.

Taxes: H.R. 12167—Federal tax credit for property taxes or rent.

Transportation: H.R. 10126—reduced air fares. H.R. 10909—subsidized and low cost transportation for the elderly.

VETERANS BENEFITS

Are you taking full advantage of education training financial aid?

In recent years Congress has provided substantial educational and training benefits for GI's who served 181 days or more of active duty any time after January 31, 1955 or who were disabled on active duty. An estimated 25,000 men and women in Genesee and Lapeer are eligible for these benefits. However, the VA says only 38% are fully using their rightful benefits.

Here is a summary so that you can be informed on exactly what benefits are available for education and training.

Others eligible

Children (18–26 years), wives, widows of vets:

If veteran is totally disabled or died as a result of military service.

Of men who are POW or MIA over 90 days.

Schools and programs acceptable

Colleges, professional, scientific, or technical institutions; public or private elementary, secondary, vocational, correspondence, or business schools; junior or teachers' colleges.

For vets only: on-the-job training (OJT), apprenticeship, flight, cooperative farming or industry training.

Duration of benefits

For vets released before June '66 eligibility ceases May 31, '74.

For OJT, apprenticeship, flight or coopera-training, eligibility ends Aug. 30, '75.

Eligibility period is extended for children and wives of POW's or MIA's.

Amount of allowances

1½ months of assistance per mo. active duty, up to 36 months.

$108–$230 per mo. depending on type of education/training, percent time in school, and number of dependents.

For information on how to qualify contact:

1. VA Regional Office, P.O. Box 1117–A, Detroit, Michigan.
2. IMA Vets Counseling, IMA, Flint.
3. Our Flint Congressional Office.

18–21 YEAR OLDS

A chance to vote for the first time

With the new constitutional amendment, you may register to vote in this November's national election if you are 18 by the day of election. If you are 18 by the May 16 or August 8 primaries, you may register to vote in these elections too.

Help make local and national decisions

In Genesee and Lapeer this year, 22,000 young people 18, 19, and 20 will be eligible to vote and 28,000 21–24 year olds may vote in their first Presidential election. It is estimated that no more than a third are registered yet—so there is a long way to go if young people are to take their rightful part in the political system.

If these 50,000 people register they would represent over 20% of the electorate locally—enough to have a deciding impact on any election.

A chance to run for public office

18 year olds may now run for office except where other laws set an age floor, e.g. state representative must be 21. Some of the offices now open to 18 year olds are county board, township, some school boards.

One important local office is that of Precinct Delegate in the political party of your choice. Delegates will be elected in every precinct on May 16 and will serve for a two year period making most of the important decisions in our local party organizations that ultimately determine state and national decisions. If you wish to run for Precinct Delegate—you may still run as a write-in candidate. For information call your local political party office, or our Congressional office.

How to register

You must go to your local city, town, or township clerk and register in person.

Student gov't leaders and groups in every high school are devoting much time, energy, and skill to organizing new voter registration in a way that best fits their own school and local government. The real kick-off is March 27 thru 31 when some schools will have deputy registrars, others will transport students to the clerk's office, others will distribute literature.

If you have any questions please contact your local gov't clerk, your high school student gov't, or you may call our Congressional office.

NEW TAX DEDUCTION FOR CHILD CARE

Congress has passed, and the President has signed into law, a new tax provision which allows working parents a tax deduction for child care expenses if the child care enables the working parent or parents to be employed. Since it may be months before IRS publishes the guidelines I wanted you to have them now. This benefit is effective beginning January 1 of this year and will be realized on next year's income taxes.

However, it's important to know the provisions now so that proper records can be kept in order to claim the deduction on income earned and expenses incurred during 1972.

The Tax Benefit: deduction up to $400/mo. for household service and dependent care expenses which permit a parent to be employed. Dependent is defined as child under 15, *any* one disabled regardless of age, or a disabled spouse. Of the $400/mo. $200 for one child ($300 for two, and $400 for 3 or more) is allowed for child care expenses outside the home.

Who is Eligible? single parent or married parents employed substantially full-time—at least 3 weeks/mo. or 3½ days/week, any number of months during the year.

Income Limitation: To receive full benefits the combined total gross income of working parents (or single) may not exceed $18,000. Deduction is reduced 50c per dollar of income above $18,000.

Services Qualifying for Deduction:

1. Child care within home: IRS indicates home care would cover entire expenses of a housekeeper if duties include care of child.

2. Child care outside home: Normal babysitters or strictly day-care services qualify. IRS indicates educational services would not qualify unless proven to be the only day care available.

Record-keeping: When possible, pay by check; keep all cancelled checks. Get signed receipt with description of child care services.

If you have questions please contact local IRS office in the local Federal Office Bldg. at:

Church & W. Second Street
Flint, Michigan 48502
Tel. 234–5621, ext. 200

YOUR DISTRICT STAFF

I want to introduce our District office staff so that when you need to be in touch you can know who is there to serve you. I am proud to announce the appointment of Jim Sharp, former Marine Corps 1st Sergeant as my new District Representative. He succeeds Paul Visser who has joined the Massachusetts Mutual Life Insurance Co. in Flint—after five years of outstanding public service to our Congressional district.

Jim Sharp comes to this job with a knowledge of our community gained in 1966–1969 when he was the Marine Corps Public Representative for recruiting, reserve, and community activities. His twenty years of service included combat duty, administrative work, community problem solving and personal counseling.

Working with Jim Sharp are Nancy West and Kathy Nothoff—as a team they handle the whole range of office, community and personal services. Nancy and Kathy carry on the special work of Mrs. Barbara Pritchard of Flushing—who did such an exceptional job working with our staff and with the people of Genesee and Lapeer during her five years in our District office.

We need volunteers

There is so much community service work to do that we invite the help of any who would like to work as a volunteer in our office, part-time or more. Any interest, skill, age group, or amount of time can help in some way. If you are interested, please call or write to our Flint office directly.

This office belongs to you—and if you choose to share in this challenging and interesting work, you can—at the same time—get a new understanding of our community and government.

Our District office staff works in your new District office, 300 Metropolitan Building, 432 North Saginaw Street, Flint 48502, across from the Durant Hotel. Telephone 239–5705.

LIKE TO KNOW MORE ON AN ISSUE OR PROBLEM?

If you would like in depth studies or reports on some issue or problem, our office will be pleased to locate and send you reliable information. In some areas we've done our own analysis; in others we go directly to an authoritative source. If there is a minor cost to purchase a document we will let you know.

Just write: Congressman Donald W. Riegle, Jr., 1408 Longworth Building, Wash., D.C. 20515.

Veterans Benefits.
Senior Citizens Legislation.
Conference on the Aging.
National Health Care.
Reform of Campaign Financing and Disclosure.
Income Tax procedures.
Cable Television.
Drug Abuse.
Small Business Loans.
Federal Programs and Grants.
Draft Law Changes.
Copies of Bills before the Congress.
Committee Reports.
President Nixon's Speeches.
Consumer Product Index.
Agriculture Yearbook.
Price Controls.
Medicare-Medicaid.
Vietnam.
Pension Plans.
Revenue Sharing.
The China-Soviet Dispute.

WORKING WITH YOU

To continue close working contact with local citizens, groups and community problems during Nov.-Feb., I have made 11 trips to the district along with 7 trips by my Washington staff specialists. Here are some of the local working sessions we've had this winter. If there are other needs, problems, or groups that you feel we should be working with, please call our Flint Congressional office so that we can get together.

Housing foreclosure, Feb. 11.
Busing, Feb. 20, Jan. 13,, Nov. 12.
U of M relocation downtown, Mar. 2.
Young people and politics (Bentley H.S., J.C., Powers), Feb. 11, Nov. 6.
New voter registration—Student gov'ts Jan. 29, Dec. 17.
Neighborhood meetings—all citizens (Flint, Grand Blanc, Mt. Morris, Fenton), Jan. 29, Jan. 12.
Genesee Co. Medical Society, Health care, Jan. 13, Nov. 6.
UAW credit union, Feb. 20.
Economics and the business community, Jan. 12.
Drug abuse, Jan. 12, Nov. 6.
Senior citizen concerns, Nov. 12.
Child care, Nov. 12.
U of M alumni, Nov. 13.
Non-profit housing, Nov. 13.
Housing and redevelopment, Dec. 17.
Regional airport expansion, Dec. 17.
Automobile industry and GM concerns, Nov. 4–10.
Aid to local schools, Feb. 25.

WITHHOLDING TAXES ARE TOO HIGH

I have written Secretary of the Treasury, John Connally, requesting a review of the new withholding tax rates stating that these rates

Are too high.

Discriminate against middle and low income people.

Have lowered wage-earners pay checks when they expected gains in take home pay.

Give the false impression that the gov't has raised instead of lowered taxes.

Inhibit consumer expenditures and savings by reducing disposable income.

Could undermine "confidence" in economic recovery.

I have suggested that the Treasury Department consider a gradual change over to avoid the problem of "overwithholding" so that the Treasury would not have the use of money all year which rightfully belonged in the hands of the taxpayer.

Since writing this letter on February 18, other actions are being taken, e.g., the Asst. Sec. of the Treasury has agreed publicly that the system should be re-examined; employers are counseling employees that they can elect to reduce their withholding through the W–4 exemption; the press is focusing on the loss of the purchasing power in the economy.

ENDING THE WAR

While it had been hoped that various initiatives by the President would end the war, including the trip to China—the latest N. Viet offensive and massive re-escalation of US military power clearly shows that the US is still trapped in Vietnam. We are purusing a policy that:

Is too dependent on the action and reaction of the Vietnamese who we have long known must finally settle their own problems. The South Viets. will never be ready to defend themselves as long as they know the US will always come to their rescue;

Has failed to gain the return of US POW's while losing the bargaining power we could have had if we had set a formal date for US withdrawal; and more Americans are being taken prisoner each week;

Unleashes deadly US firepower far beyond the most destructive limits of WWII, killing 1,000 to 2,000 Asians a week in a war we have long said was not worth 1 more American life and not in the strategic interest of the US;

Insists on continuing excessive US military aid to the S. Viet government which still cannot stand on its own after 10 years, $150 billion, and 55,000 American lives. The war still saps US resources at the rate of $10 billion last year ($200 for every American family) when these dollars of yours are badly needed here at home;

Refuses to carry out the clear will of Congress and the American people *already signed into law* to set a specific date for ending US involvement in exchange for US POW's.

I believe we must end US involvement now in sole exchange for US POW's. It is wrong to waste one more life or one more dollar in this war.

ARMY, NAVY, AIR FORCE

Genesee and Lapeer counties have sent 25 young men to the service academies over the last 5 years. This year with the dedicated help of our screening board who have evaluated many applicants, I have nominated 24 outstanding young men for 5 openings allotted our district this year. The academies will review the credentials of these men and select final candidates.

CAMPAIGN REFORM

On Dec. 21, 1970 I testified before the House Committee on Standards of Official Conduct stating that our system of campaign financing and reporting was:

Hopelessly out of date, full of loopholes, unrealistic, unworkable and unenforceable

Discouraging many good men and women from running for office

A major factor in public lack of faith trust, and confidence in gov't and politics

I urged that our political system must be open to healthy and fair competition of all the best people and ideas and offered comprehensive proposals for:

Drastically tightened reporting and disclosure

Workable curbs on excessive contributions and spending

Broader public and Govt. financial participation

Finally over a year later the Congress passed and the President signed the first real reform in 46 years. It includes stronger disclosures, limits on media, limitation of some loopholes especially multiple committees and use of personal wealth. Although this bill is a step forward, frankly it doesn't go nearly far enough. So we will continue to battle for stronger reforms.

CONGRESSIONAL AGENDA

Action 1971

Tax reforms: repeal of auto excise tax, monthly child care deductions, investment tax credit, increase personal exemptions, deduction for political contributions, $1 tax checkoff for Presidential campaigns.

Supersonic Transport (SST) project ended.

10% Social Security increase.

Campaign financing reform: spending ceilings, disclosure.

All-out fight against cancer—new research agency.

Medicaid expanded to cover intermediate care.

18 year old vote constitutional amendment.

13 extra weeks unemployment benefits to states with high unemployment (Michigan qualifies).

Expanded drug treatment and control programs.

Extension of wage/price controls.

Constitutional amendment for school prayer—defeated.

Enforcement powers for Equal Employment Opport. Comm.

Outlook 1972

Women's equal rights constitutional amendment.

Welfare reform.

Revenue sharing.

National health care and/or insurance.

Federal aid for school desegregation.

National voter registration.

Consumer Protection Agency.

Anti-busing amendments.

Expanded fight against pollution.

Fight against sickle cell anemia.

Increase Social Sec. income limitation.

Expanded child day care programs.

National no-fault auto insurance, minimum Fed standards.

Federal st'ds to guarantee pension plans, permit mobility.

The Economy: Controlling the National Debt

This February the Administration requested a $50,000,000,000 increase in the national debt ceiling from 430 to 480 billion. This is equivalent to $1,000 for every U.S. family of 4 on top of the existing debt of 413 billion or $8000 per family.

I voted against the increase because I believe it is vital that there be an overall control on federal spending that will force better economic management by the federal government. The citizen, taxpayer, and consumer cannot be asked to tighten his belt and accept controls—as people have willingly done to help fight inflation—unless the federal gov't faces up to its own econmic problems.

Basic to better economic management and citizen "confidence" is the need to realign our national priorities. These are some areas where a greater portion of our national resources should be allocated—e.g. environment, health, research, community development and education. There are areas where we should cut back—war and excessive military spending, foreign military aid, space, gov't subsidies, public works, etc.

But we will never tackle the priority issues if we don't have to live within reasonable limits. We cannot try to do everything, especially when gov't has not proven itself very effective or efficient in many areas. Here then are some additional factors which I considered in voting against the higher debt ceiling.

Over the four years from 69–72 the federal gov't, thru the Administration, will spend $124 billion more than it takes in. This must stop.

Over the last 10 years our national credit condition has deteriorated. In 1968 we paid $6 billion annual interest alone on our national debt—now we pay $23 billion interest charges every year.

The administration is still spending $10 billion in Vietnam this year that could be going to needs at home. It is stil unclear where the $30 billion/year that was being spent on the war is now going.

The federal gov't plans to add 20,300 new employees this year at a time when wage-earners and consumers have already tightened their belts and signaled "lack of confidence" by increasing personal savings.

There has been a consistent lack of reliable budget projections which has clouded economic management and decision-making.

ENERGY SHORTAGE

HON. THOMAS N. DOWNING

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. DOWNING. Mr. Speaker, last week the Honorable Andrew E. Gibson, Assistant Secretary of Commerce for Maritime Affairs, addressed an overflow crowd of civic and business leaders of the Tidewater area of Virginia at the 52d Annual Martime Banquet of the Hampton Roads Maritime Association in Norfolk, Va.

Assistant Secretary Gibson spoke about the growing energy shortage that confronts this Nation in the next decade. Among the things he said was:

> In view of the mounting dependence on foreign supplies of natural gas, the domestic shipbuilding industry and cryogenic support industries are in a unique position to capitalize on a multi-billion dollar marketing opportunity.
>
> A 70–90 LNG ship program represents a $6.1 billion to $7.8 billion shipbuilding market over the next 13 years. It also would provide 350,000 to 450,000 man-years of work in the shipbuilding and support industries.

An appreciative and concerned audience listened attentively to his words and I believe my colleagues will also be similarly interested. Therefore, I ask that his remarks be made a part of the Congressional Record.

Remarks by A. E. Gibson, Assistant Secretary of Commerce for Maritime Affairs, Before the Hampton Roads Maritime Association 52d Annual Maritime Banquet, Norfolk, Va., April 25, 1972

It is a great pleasure to be with you this evening.

When I first received the invitation to address this audience I had planned to direct my remarks to the importance of seapower, a subject which currently occupies much of our thinking today, and recent events in Viet Nam have once again indicated its vital part of this nation's defensive strength. However, on reflection, I decided, if there is one port community in the United States that does not need to be indoctrinated on the importance of seapower to the nation, it is the Hampton Roads area.

For this area is the personification of seapower and all that it means.

It contains one of our principal naval bases. It encompasses our largest naval and merchant shipbuilding facility. It serves as a principal port of call for merchant shipping and is a major gateway for our international trade.

President Nixon defined sea power in these terms:

"Sea power is the ability of a nation to project into the oceans in times of peace, its economic strength, in times of emergency its defensive mobility."

He then went on to enumerate the elements which constitute sea power by saying:

"Sea power is composed of all those elements enabling a nation to use the world's oceans advantageously for either trade or defense . . . its navy, its merchant shipping, its shipbuilding, its fishing, its oceanographic research, and its port facilities."

The Hampton Roads area is richly endowed in all the vital elements and its citizens are well-grounded in their importance.

So this evening I would like to speak to you on another topic of almost equal importance to our nation and to all of us individually . . . and that is the growing energy shortage that confronts this nation . . . an energy gap that will become more acute with each passing year.

The simple fact is that this nation no longer has sufficient domestic sources of fuel which can be developed quickly and cheaply to keep pace with its ever-mounting demand. As a result it is going to become increasingly depedendent upon foreign energy supplies to supplement domestic production.

This presents some very serious difficulties to the nation since our economy and our national security must be seriously jeopardized by a lack of sufficient energy supplies. And because we, of necessity will have to turn to overseas sources to meet this demand, this situation has very important maritime implications.

FORECAST OF ENERGY DEMAND

The Maritime Administration's studies indicate that the total energy requirement of this nation will reach the equivalent of 62 million barrels of petroleum per day by 1985—as compared to the 33 million barrels consumed daily in 1971. *This means that our energy demand will nearly double in the next 13 years.*

FORECAST OF ENERGY SUPPLIES

In our supply projections for the year 1985, we examined each of the energy sources. For comparative purposes I have expressed all energy statistics in barrels of oil equivalents, rather than trying to take you through the tortuous maze of comparing barrels of oil to tons of coal or cubic feet of gas. Thus, for example, 4½ barrels of oil are the BTU equivalent of one ton of coal.

Our projections for the year 1985 are as follows:

Natural gas will account for the equivalent of 12 million barrels per day.

Coal will provide another 11 million barrels per day.

Nuclear power, hydro-power and oil shale will produce the equivalent of 10 million barrels per day.

The remaining 30 million barrels per day required to meet 1985 energy demands will have to be provided by petroleum.

U.S. PETROLEUM SUPPLIES

In 1970, U.S. petroleum supplies totaled approximately 14.5 million barrels per day. Of this amount 11 million came from domestic sources, 0.75 million came from Canada, and 2.5 million were imported from overseas.

By 1985, we believe domestic production from the present U.S. sources will have dropped to 7 million barrels per day with an additional 3 million barrels per day being produced from Alaska's North Slope and from synthetics. Imports from Canada can contribute to our supply situation but that nation may also be feeling the effects of an energy crunch by 1985.

This means that the United States by 1985 will have to import from offshore sources as much as 18 million barrels per day of foreign crude and refined petroleum products—equivalent to more than 60 percent of our petroleum requirements. As compared to the 2 million barrels per day of refined product imports in 1970 we foresee them doubling to 4 million barrels per day by 1985. Crude imports are expected to increase from roughly 1 million barrels per day in 1970 to nearly 14 million barrels per day in 1985.

Other Federal agencies concerned with this nation's energy needs are forecasting a somewhat lower figure of 12 million barrels per day of petroleum imports by 1985. However, after an exhaustive study of all the relevant factors and developments, we, in the Maritime Administration, believe our assessment is both valid and realistic, and I have noted that these other projections are continually climbing, while to date we have had no reason to reduce ours. Regardless of who is right, we can all agree that the growing energy gap has alarming implications for this nation.

LNG SUPPLY AND DEMAND

As was pointed out, the Maritime Administration's forecast predicts that natural gas will account for the equivalent of 12 million barrels per day of petroleum by 1985. This equates to nearly 25 trillion cubic feet of gas per year. Domestic production is expected to amount to 20 trillion cubic feet, of which 2 trillion would come from Alaska.

We also estimate that Canada would export 1 trillion, with other overseas imports amounting to 2 trillion and possibly coal or oil gasification would produce the remaining 2 trillion cubic feet.

EQUATING ENERGY IMPORTS TO SHIPPING REQUIREMENTS

To handle the 1985 imports, our projections show that 156 million deadweight tons of shipping will be required. This approximates the total tonnage of the world's tanker fleet today.

Roughly two-thirds of the required tonnage will carry the crude imports; another one-sixth will comprise combination liquid and dry-bulk carriers; and the remaining one-sixth will be composed of product tankers as well as liquified natural gas carriers.

THE NIXON MARITIME PROGRAM WILL BOLSTER BULK CARGO FLEET

In October 1970, a major overhaul of this nation's long-standing federal maritime policies and programs was effected by the enactment of the Merchant Marine Act of 1970. This law, embodying a new, far-reaching maritime progrm formulated by President Nixon, for the first time made liquid and dry-bulk vessels eligible for construction and operating subsidies if built for foreign trade service.

Under the previous maritime policies, only liner, or general cargo, vessels were eligible for such forms of assistance. The broadening of the subsidy programs is intended to recognize the fact that liquid and dry-bulk cargoes now constitute nearly 90 percent of this nation's international trade.

Since enactment of the new law, subsidized construction contracts have been awarded for the initial fleet of dry-bulk carriers and tankers. Additionally, the Maritime Administration has pending subsidy applications or commitments to build covering the construction of eight tankers in the 230,000 dwt. size range, and nine liquified natural gas carriers.

We believe bulk carriers will constitute a substantial portion of the vessels to be constructed under President Nixon's 10-year shipbuilding program.

LNG—BIG OPPORTUNITY FOR U.S. OPERATORS AND SHIPYARDS

Our forecast reveals that by 1985 2 trillion cubic feet of liquefied natural gas will be imported annually from overseas. This equates to the need for approximately 70 to 90 LNG carriers to handle these imports.

Present indications are that the domestic cost of building LNG ships of 125,000 cubic meters would be in the $82 to $100 million range, depending upon the cryogenic system and design selected. Whereas the construction subsidy rate on tankers and general cargo ships—representing the difference between foreign and domestic prices for these ships—is presently running at about 41–43 percent, current estimates are that this differential on LNG ships is only about 20–25 percent.

The lower cost differential is attributed to the recognized U.S. leadership in cryogenic technology stemming from our space programs, and the expertise of the U.S. shipbuilding industry in constructing the more sophisticated naval and merchant vessels.

In view of the mounting dependence on foreign supplies of natural gas, the domestic shipbuilding industry and cryogenic support industries are in a unique position to capitalize on a multi-billion dollar marketing opportunity.

A 70–90 LNG ship program represents a $6.1 billion to $7.8 billion shipbuilding market over the next 13 years. It also would provide 350,000 to 450,000 man-years of work in the shipbuilding and support industries.

If the Amercan shipbuilding industry misses this market it will be a tragedy. It would have an adverse impact on our balance of payments. It will result in the loss of vitally needed jobs, and, we will once again watch the Japanese take over a market that American technology has created.

We in the Maritime Administration believe that with the present state of the art in the domestic shipbuilding and cryogenic industries, coupled with the availability of and leasing arrangements, a substantial number of the required LNG vessels can be built in this country and operated under the American flag.

It is anticipated that with a sufficient production run of LNG vessels, the American yards would be able to progressively bring their prices down to foreign levels eventually eliminating the need for construction subsidies altogether and putting them in a position to build LNG ships for export.

U.S. PORT CONSTRAINTS ON VESSEL SIZE

The United States today is ill-prepared to meet the surging requirements for petroleum imports that will rapidly escalate in the years ahead.

The average size tanker in the world fleet in 1970 was 47,000 deadweight tons; the average size under construction exceeds 200,000 dwt. and the largest tankers now in service range between 300,000 and 400,000 dwt.

There are some 50 foreign ports in existence or planned throughout the world that can accommodate vessels of 200,000 dwt. or larger. In the United States there are none. The maximum size ship that can be handled in our ports is 80,000 dwt. and most ports are limited to much smaller size ships.

The U.S. flag tanker fleet which is engaged exclusively in the domestic trades, reflects these port constraints. Of the 234 tankers in the fleet only 27 exceed 45,000 dwt. and the fleet average is 30,000 dwt.

COMPARATIVE TRANSPORTATION COSTS BY TANKER SIZES

Enormous cost savings accrue from the use of very large crude carriers. Transporting crude oil from the Persian Gulf to the U.S. East Coast in 250,000 deadweight ton tankers as compared to moving the same volume of oil in 47,000 deadweight ton tankers would provide transportation cost savings of $3.00 per ton at today's charter rates—which, incidentally, are at the lowest level in 20 years.

If in 1985 our total projected crude oil imports—680 million tons—were transported in 250,000 deadweight ton tankers as contrasted to 47,000-ton ships, the transportation savings in constant 1972 dollars would amount to $2.0 billion annually.

It should be readily apparent, then, that unless the United States develops the port facilities to accommodate the large crude carriers American consumers of imported energy are going to have to absorb excessive transportation costs.

PORT IMPLICATIONS

The draft limitations of U.S. ports represent a serious national problem. Prompt action is needed to develop the facilities to economically handle the projected surge of petroleum imports upon which the nation will become increasingly dependent.

Aggravating the problem is the fact that all plans and projects formulated to date to alleviate the need have come under concerted and effective attacks by environmentalists. This is particularly evident on our eastern seaboard where the need for such facilities is most acute.

The maximum channel depths of 45 feet limit vessel sizes to 80,000 deadweight tons or smaller. Most large crude carriers draw in excess of 70 feet. The cost of dredging present channels to this depth makes this alternative out of the question.

The environmental issue has already been instrumental in the decision of major oil companies to establish deepwater terminals and new refineries in Canada and the Bahamas where properly designed facilities do not face endless harassment and obstruction. The export of such vital facilities is hardly in the national interest from either a defense mobilization or balance of payments standpoint.

DEEPWATER TERMINAL

The most attractive site for facilities to accommodate these large tankers is a deepwater terminal located off the New Jersey-Delaware coast. Ninety percent of the East Coast's refinery capacity is located in this area and the depth of water offshore is ideal. Since waves of 40 to 50 feet are not uncommon to the offshore site, the terminal would have to be protected by a breakwater, probably constructed by the federal government. Private industry would finance the remaining cost of the terminal and such investment appears to be quite feasible.

Significantly, more than 10 percent of the projected cost would be spent on features and devices designed to guarantee against any pollution resulting from an accidental spillage of oil and its added expense is both desirable and necessary.

Although such a terminal would be designed and equipped to provide the most advanced anti-pollution system yet designed, it still can be expected to receive considerable opposition. It is unfortunate that there is so little willingness to consider this nation's needs for economic growth while at the same time realizing the necessity to defend nature and the environment against pollution.

There are some in this country who today are calling for a "no growth" economy complete with brown outs, reduced industrial production and attendant unemployment. I sincerely hope that the day is not far off when public opinion will require that the cost of ecological issues be measured against the economic implications, and that rational procedures will be formulated to foster economic growth while preserving the environment.

NATIONAL DEFENSE IMPLICATIONS OF U.S. ENERGY GAP

The United States, the country with the most ravenous appetite for petroleum, has only 7.6 percent of the known reserve in the Free World, while the Persian Gulf region has some 67½ percent. It should be obvious that the United States has an inherent interest in the strategic balance in, and stability of this area.

The Persian Gulf with two-thirds of the world's petroleum is of vital importance to the Free World. It presently is supplying 60 percent of Europe's oil requirements and 90 percent of Japan's. And the United States will become increasingly dependent on its oil with each passing year. The importance of this area is therefore evident.

Oil literally powers the economies of the Free World's highly industrialized nations.

I do not set myself up as an expert on Middle Eastern affairs, but it is evident from a reading of the newspapers that the Soviets have a deep interest in this area. For example, published reports indicate that the Russian Embassy is one of the largest in Kuwait and the indications are that Russian Naval vessels will soon be in the Gulf.

In the light of these facts we must applaud the efforts of President Nixon which have given a maximum chance for stability in this area while recognizing the interests and needs of the peoples of the Mideast and of the United States. We all recognize not only the importance but also the difficulty of this endeavor.

SUMMARY

To summarize briefly if I may, today the United States finds itself confronted with a serious energy crisis. It is well established that surging demands will progressively outpace domestic supplies in the years immediately ahead, and by 1985 more than half of our petroleum requirements will have to come from foreign sources.

In terms of natural gas many major suppliers are unable to meet current industrial and residential demands for this clean-burning fuel. A very cold winter next year can bring both of these problems to the headlines of your daily newspaper.

The magnitude of our projected energy shortage prompted President Nixon last June to transmit to the Congress a comprehensive Message on Energy Resources, which contained a detailed program to ensure an adequate supply of clean energy for the country in the years ahead. This was the first time a President had ever submitted an energy message to the Congress and attests to the seriousness of the problem and the need for high national priorities to resolve it.

The President's program calls for a broad range of governmental initiatives including expanded research and development of improved nuclear power plants and the technology to facilitate efficient conversion of coal to clean gaseous fuel. It is also intended to spur increased exploration and development of domestic energy sources, and bring our environmental and energy needs into balance.

And, to more effectively harness and coordinate Federal efforts in dealing with our energy needs, the President would establish a single structure within the proposed Department of Natural Resources to oversee these programs.

All of these objectives make a great deal of sense, particularly the consolidation of all Federal energy related programs under a single department.

Impairing the ability of producers and suppliers of energy to meet the mounting demands are the stringent environmental rules and regulations developed in recent years.

But the ecological issues, while they must be met squarely and effectively to clean up and protect our environment, cannot and will not obliterate the necessity of greatly increased energy supplies to keep the wheels of our industry turning.

We believe that the ecological and economic objectives involving our energy requirements are compatible—that the objectives of both can be attained without detriment to each other.

Surely, the time has come to resolve our energy-related problems, to examine the options and alternatives available to us, and to make considered judgments of how the nation's needs and best interests can be served.

And it is readily apparent that we must find the solutions soon, for the time is rapidly running out.

Thank you.

CENTER FOR DEFENSE INFORMATION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. ASPIN. Mr. Speaker, Monday, April 24, the Wall Street Journal contained an excellent article by John Pierson concerning a new organization and its director which will be providing the Congress and the general public information about the Defense establishment.

The Center for Defense Information has been organized in order to gather and disseminate information about military programs, American strategy, and alternatives to the Pentagon's position.

The center's first director will be Rear Adm. Gene La Rocque, retired. Admiral La Rocque brings to the Center for Defense Information 31 years of experience as a naval officer. Admiral La Rocque's experience includes both frontline sea duty and work at the Pentagon. He has commanded more than half of the 6th Fleet and served on the staff of the Joint Chiefs of Staff.

The idea of an institution like the Center for Defense Information is an excellent one. Members of Congress and the general public have very few reliable objective sources outside the Government to assist them in developing opinions on the military's programs.

Mr. Pierson's article entitled "A Weather Eye on the Military" is excellent and I recommend it to my colleagues.

The article follows:

A WEATHER EYE ON THE MILITARY

(By John Pierson)

WASHINGTON.—One day back in the late 1950s, when Gene La Rocque was a young commander working in the office of the Chief of Naval Operations, an admiral called for "a strategic justification of Chaguaramas—and I want it in an hour." A bay off the west coast of Trinidad, Chaguaramas was thought of as a possible refuge for ships in time of war.

Ever attentive to duty, Comdr. La Rocque produced the paper with the required conclusion within the required time. "No one asked me whether we needed a base at Chaguaramas," he recalls a little wistfully.

The incident was but one of many, during 31 years in the Navy, that helped convince him that military men aren't asking the right questions about what they're doing. So on April 1 of this year, Rear Admiral La Rocque resigned his commission, at 53 years of age, and started asking those right questions.

In one way, quitting was a logical step. His career had been in irons since 1968, when a task force he headed concluded that the war in Vietnam couldn't be won, even by more bombing. "That didn't endear me to the Naval aviators," says the Admiral good naturedly. One of those Naval aviators was Adm. Thomas Moorer, then Chief of Naval Operations, now chairman of the Joint Chiefs of Staff.

In another way, quitting was hard. His career, from apprentice seaman volunteer (reserve) to rear admiral spanned three wars, 13 battles, an amphibious landing in the Marshall Islands, a medal for sinking a Japanese submarine, command of half the Sixth Fleet and finally—after the Vietnam study—direction of the Inter-American Defense College. "I can't throw away my uniforms," he tells a visitor to his spanking new townhouse in southwest Washington. "I've been at it too long."

Having been at it so long should be more help than hindrance in his new job as director of the newly formed Center for Defense Information. The admiral likes to call the center "a portion of the loyal opposition." It might better be described as a model counterforce to the Department of Defense.

"A year and a half ago," says Adm. La Rocque, "I met a guy from Stanford Research Institute who said he expected to land a $50,000 contract from the Navy for a study that would prove that the Navy needed 18 attack carriers instead of 15. That made me take a look at all these 'institutes'—Rand, Hudson, the Center for Naval Analysis, there must be 50 of them. They're getting most of their money from the military, and all their studies support increased military spending.

"We need an independent, objective group that will look at the need for military forces from the U.S. point of view rather than from the single-service point of view. National security is the most important thing to the life of a country, but it consists of more than the military.

"We want to take into account the social, economic and political needs of our society." (A framed cartoon waiting to be hung on the admiral's wall shows Uncle Sam behind the wheel of a sports car that has crashed because the tire marked "military" has become vastly overinflated compared to the other three.)

"The military has become far too pervasive and powerful," continues Adm. La Rocque. "Defense tells State it wants a port for ships in Greece and State arranges it. That's so sailors can be near their families. But hell, sailors ought to be serving the nation, not the other way around."

Specifically, the admiral and his crew plan to challenge "basic assumptions" underlying current defense thinking. For example, does the U.S. really need to defend other countries to defend itself? "I'd like to see what share of the defense budget goes to defending the 50 states," he says. "Maybe 25%?"

Do we need three nuclear deterrents—bombers, land and sea-based missiles? Right now, unlike some defense economizers, the admiral thinks we probably do need all three for insurance since "any single weapon system ultimately is going to be countered." But since the Russians are not likely to counter all three at once, does it make sense to do as the military now proposes and build not only a new generation of bombers but also a new line of missile-firing submarines while also shielding our land-based missiles with ABMs?

Is it in the national interest to have a fleet of carriers able to respond quickly in limited conflicts? "If those carriers had been 10 days away from the Gulf of Tonkin in August 1964 instead of right there, we might have had some second thoughts about starting the bombing of North Vietnam." The bombing probably has prolonged the war, he adds.

Instead of spending billions to station a carrier task force in the Indian Ocean, as some Pentagon men now urge, mightn't it be a better investment to spend those billions on dams, schools, roads and malaria control in the countries that ring the Indian Ocean?

While trying to answer big questions like this, the center will carry out routine but vital tasks like maintaining an inventory of U.S. forces, their deployment and justification; a chronological record to measure the promise and performance of new weapons systems; and a ledger of the Pentagon's daily announcements on procurement, manpower and policy. The center will award fellowships for a year's study in Washington to outstanding journalists and young college graduates who want to become expert in military affairs.

If asked, center people will testify before congressional committees. They'll supply congressional committees with nasty but pertinent questions to put to the legions of generals, admirals and systems analysts who testify on behalf of more and evermore defense spending.

Adm. La Rocque likens the center to the International Institute for Strategic Studies in London. The IISS keeps track of the balance of military power (for example, how many tanks NATO has versus the Warsaw pact) and publishes papers challenging conventional military wisdom.

But the IISS has a reputation for objectivity that the center may find hard to match. In part, that's because most of the people who are joining the staff of the center or signing up as consultants are dedicated Pentagon budget cutters and well-known doves.

The list of 37 consultants includes names like Dr. William Corson, a retired Marine lieutenant colonel and author of "The Betrayal," a highly critical study of U.S. counter insurgency in Vietnam; Leslie Gelb, compiler of the Pentagon Papers; Morton Halperin, who quit Henry Kissinger's White House staff over policy matters, and Dr. Ralph Littauer of Cornell, co-editor of another critical book, "The Air War in Indochina."

The admiral says he's going out of his way to fend off "peaceniks who are anti-military and people who've left the military in anger." He won't take money from dovish congressional committees—or from any other congressional committees, Executive Branch agencies, defense contractors or "special interest groups." He also maintains there are some military programs that he'd like to see *increased* rather than cut—anti-submarine warfare, to name one.

But objectivity may be an impossible goal. "Any group that tries to challenge the military power is going to be of a liberal bent," he declares. "We've got to accept that. We're not going to get any money from the Barry Goldwaters, and I don't think I want any."

Objective or not, can the admiral and his men stay the course? Taming the Pentagon monster is the work of a decade or more, and he knows it. "We don't want to be a flash in the pan. We don't want to write one book and then go back and practice law," he says.

"It took Ralph Nader six years of just hard slogging to get established. I think it will take us just as long." (He has already been dubbed the Ralph Nader of the military. Admiral Horatio Whistleblower?)

Whether the foundations that the admiral hopes to tap are willing to commit themselves for a decade is anybody's guess. The Fund for Peace—whose trustees run the gamut from Robert Roosa of Brown Brothers Harriman to Stewart Mott, the General Motors heir—is kicking in enough money to get things started.

"Only time will tell if we can make it," says the admiral. "But I don't have any fear, in the next 10 years, that the military will stop giving us plenty to oppose, or that our economic and social pressures will diminish."

LAW DAY: AN OPPORTUNITY FOR REFLECTION

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. HALPERN. Mr. Speaker, today, we are again reminded that the purpose in designating this date each year as "Law Day" is to provide an opportuntiy for special tribute to our system of ordered liberty and government by rule of law. Since its inception by the proclamation of President Eisenhower in 1958, Law Day has served as the 1 day each year on which we Americans could pause and reflect upon our great legal heritage.

This year the opportunity to pause from the rush of our everyday lives is especially meaningful, for we too often take for granted the freedoms which we enjoy and fail to heed the lessons of liberty learned so long ago by our forefathers.

Although we have become increasingly demanding of our social and governmental institutions, high expectations from our Government is not new. In fact, our continued critical evaluation of our system of government has had the effect or reaffirming our commitments to individual liberty. The result of our continued commitment to individual freedoms has provided Americans with economic and educational opportunities unmatched in any other nation.

In large measure, our success as a country has resulted from the wisdom of those Americans who drafted the Constitution and from those who have devoted their lives to give practical meaning to the Constitution. It is because of the spirit of these people that the basic purpose of our Constitution has remained unchanged from its original statement in the preamble:

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

It became clear at the outset of our Nation that the Constitution was intended to be a living document. In the famous 1819 Supreme Court case, McCulloch against Maryland, Chief Justice Marshall referred to it as a "Constitution intended to endure for ages to come, and, consequently, to be adapted to the various crises of human affairs."

Expressing a similar thought more recently, Justice Benjamin Cardozo described the purpose a constitution should serve this way:

> A Constitution states or ought to state not rules for the passing hour but principles for an expanding future. (Cardozo: Nature of Judicial Process, 83.)

As we look back over our history we see that our Constitution has served us well indeed. Those great freedoms and rights which we cherish so highly have survived because of the respect given to their incorporation in the Constitution. The first amendment protections are especially meaningful today. Free speech, free press, free exercise of religion, the right to peaceable assembly and to petition the Government for redress of grievances have all become an integral part of our legal heritage.

This year on Law Day as we look forward to solutions to today's problems, we must recall that we are the "posterity" for whom the blessings of liberty were secured. Our exercise of those liberties requires that we, in turn, preserve them for the benefit of our posterity.

What Justice Joseph Story wrote over a hundred years ago is equally applicable today:

> It depends upon the present age, whether the national constitution shall descend to our children in its masculine majesty, to protect and unite the country; or whether, shorn of its strength, it shall become an idle mockery . . . (Story: Miscellaneous Writings, 432.)

As I close my thoughts today, I would only remind all Americans, that one way we can surely pass on our legal heritage to the next generation, is to understand the meaning and purpose of our Constitution and our system of government. Perhaps this year Law Day will provide each of us with the opportunity to re-fresh ourselves on our great legal heritage.

I am particularly pleased to note that we are, in fact, moving toward a society that is becoming more and more dependent on law and justice.

At one time legal remedies were only available to the rich, but recent efforts by the Government, concerned citizen groups; and local bar associations have brought legal benefits to middle and lower income people all throughout America. Just last Friday, Guy Halverson, writing in the Christian Science Monitor, said that—

> Perhaps at no time in the recent past has American Law been as articulate and aggressive in reaching the mass public as it is today.

I heartily agree with Mr. Halverson, and I believe it points to a dramatic turn in American confidence in our system of justice. I would like to share with my colleagues the views set down by Mr. Halverson, and I also include in the RECORD the article as it appeared in the Christian Science Monitor:

LAWYERS FOR THE LITTLE MAN

(By Guy Halverson)

CHICAGO.—Jim Sandez, member of a Shreveport, La., union was deep in legal problems. Mr. Sandez (not his real name) was involved in a workman's compensation dispute, had filed for bankruptcy, was a defendant in a drunk driver case, was threatened with eviction by his landlord, and had been a defendant in another auto accident case.

So he sought help—from his union.

Each month he had been paying two cents an hour to the union for legal benefits. Now he decided to make use of the service, for which he had already "paid."

A local Shreveport attorney accepted his case and many of these issues were resolved in his favor.

But most important, Mr. Sandez had had lengthy and detailed association with an attorney—contact that for many working people in the United States has traditionally been precluded by soaring legal expenses as well as an unfamiliarity with the complex workings of the judicial system.

In a small way, Mr. Sandez's case vividly illustrates the dramatic expansion and change now swirling through American law. Often attacked by critics for its alleged stodginess and slowness to change, let alone its courting of middle and upper-income groups, the American bar—which hardly yet militantly seeking solution of social problems—nevertheless is adopting a fervor of activism in many political and social areas.

ENORMOUS PROBLEMS RECOGNIZED

Lawyers themselves concede that the enormous problems of the American judicial system—from court backlogs to high costs to inadequacies in both the administration of justice and the severe shortcomings of corrections agencies—will probably continue for quite a while.

But what's equally as important, the experts insist, is the dramatic steps toward reaching out to the public.

Throughout American history, of course, from colonial times to the present the "little man" has had his defenders, from John Adams (who successfully defended the nine British soldiers involved in the Boston Massacre back in 1770), to Clarence Darrow. But for millions of Americans, "the law" always seemed somehow elusive, out of reach.

The United States legal profession—350,000 attorneys-strong and already the largest in the world (both numerically and in per capita representation)—is now making a concerted effort to reach out to vast groups of lower and middle-income people through referral programs, defender programs, and new prepaid legal insurance programs.

Law schools themselves—currently jammed with the largest enrollment ever—95,000 students with another 137,000 undergraduates taking admission and awaiting entry are becoming more geared toward solving problems of the society while refining the applicability of law training. Courses like constitutional criminal procedures, for example, unique a mere decade ago, are now staples in the curriculum of many schools.

Bar admissions, up 67 percent in 1970 over 1961, continue to swell, even as the bar is seeking to recruit more lawyers from minority communities. All told, it's estimated that the size of the American bar will double between now and 1985.

Whole new areas of law are opening—ranging from consumer and environmental law (often in class actions, itself a relatively new phenomenon)—to undersea and space law. Perhaps equally important, the rising national debate over the concept of no-fault (now primarily in the insurance area), is expected to have far-reaching implications for the adversary system, the role of the attorney, as well as the court system itself.

Proponents—and critics—of the no-fault approach (critic Marvin E. Lewis, of San Francisco, president of the prestigious American Trial Lawyers association sees no fault as "a dangerous erosion of our court system") agree that no-fault could well lead to something other than the adversary system as now known. The concept, critics and defenders agree, might soon also influence other areas of the law, such as product liability.

While there admittedly is far to go (indeed, administrative bookkeeping of courts, particularly on the state level, is hodgepodge from region to region)—lawyers are recognizing more and more the need for uniformity in rules, procedures and administration. Leon Jaworski, a Houston based attorney and president of the giant American Bar Association (which comprises about 45 percent of all attorneys) says that perhaps the most significant development he has noted in recent years has been a "finer streamlining of the use of rule" and a greater "emphasis on uniformity."

ABA PUSHING HARD

The American Bar Association, for example, is promulgating the code of professional responsibility, and implementation of the important Administration of Criminal Justice.

Substantively, the law has increasingly enlarged the scope of individual rights during the past several decades, from the criminal justice to the reapportionment one-man, one-vote decision to outlawing school segregation. And this emphasis on individual rights has had a correlative effect of nudging the lawyer into closer contact with lower-income groups.

"When I first started practicing as a young attorney the states were not obliged to even recognize the Fifth Amendment," Tom Clark, a former justice of the U.S. Supreme Court, told this reporter. "We didn't have even any of the Sixth Amendment rights to counsel. If you were an indigent, you didn't even have a right to the transcript of the trial. We have all these things now."

It's estimated that there are now at least 250 lawyer referral programs around the nation—such as the Chicago Program, where a person is charged between $3 and $5 to determine the nature of the legal problem.

Still, it is the relatively new concept of prepaid legal aid that would, if widely adopted, most certainly revolutionize legal services in America.

The program, which operates somewhat like the Blue Cross plan in health insurance, is currently being tested in a project partly sponsored by the ABA and the Ford Foundation at Shreveport, La.

CALIFORNIA WEIGHS MAJOR STEP

The State Bar of California is also contemplating a statewide program, which, if adopted, is expected to trigger many imitations. The Los Angeles County Bar Association, meanwhile, will shortly set up a program at a cost of about $100 a year for members of a local police-firearm's union. The program will be entirely voluntary.

The pilot Shreveport program, which started in January, 1971, covers some 600–700 laborers, plus their families (about 1,900 people all told). Under the program, the workers contribute about 2 cents an hour or $40 for a comprehensive package of legal benefits and have a free choice of lawyers.

Some 106 people were referred to attorneys during 1971. Of these, 32 cases were settled and paid by the year's end. While the program took in $13,000 in collections, claims totaled around $6,500, with fees and administrative costs picked up by both the ABA and the Ford Foundation.

Significantly, studies indicate that since the workers have adopted the program, landlords have not been as eager to sue their tenants. "Most of the people who have had contact with the program had little encounter with attorneys before," says Ralph Jackson, president of Southwest Administrators, and administrator of the Shreveport plan. In many cases, lawyers found, the workers quite literally were inundated with legal problems by the time they actually got to an attorney.

Thomas Sitken was being sued by two women who claimed to be his wives. One wanted child support; the other, social security payments.

UNION HELP SUCCESSFUL

Like Mr. Sandez, Mr. Sitken (not his real name) also sought help from the union program. His union attorney, whom he selected, immediately took up the case. The claims of the two women were resolved in his favor, and his current marriage was recognized as legal.

Two major bills have already been introduced in Congress pertaining to prepaid legal services—H.R. 13938, introduced by Rep. Frank Thompson (D) of New Jersey, and S. 3386—by Sen. Harrison A. Williams Jr. (D) of New York. Both would allow prepaid services as an employer shared benefit under collective bargaining. At present, Section 302-(C) of the Taft-Hartley Act precludes such a program.

Beyond prepaid legal services, which will greatly expand the outreach of law, there are many private and bar-sponsored special programs around the nation, both in the civil and criminal areas.

In Pittsburgh, a local law firm provides free legal services for the 65,000 members of District 15 of the United Steelworkers of America—a plan started in 1971. The Advocates, a nonprofit corporation in California, represents people of moderate means. The San Diego Bar Association, meanwhile, sponsors Defenders, Inc., and is setting up a defenders program on the appellate level.

Perhaps the best known—and most controversial—legal program for the poor is the legal services program of the Office of Economic Opportunity (OEO). Budgeted at around $65 million, the program, established as part of President Johnson's war on poverty in 1965—attracted criticism recently from Vice-President Spiro T. Agnew for using government attorneys in suits where the government is the defendant. Still, the program has been endorsed by the ABA and continues to win high marks from leaders in inner-city areas.

AID FOR 25.5 MILLION POOR

The agency's 2,000 lawyers operate some 250 community programs in the U.S. and concentrate on services for the 25.5 million Americans determined by the federal government to be on a poverty level. The attorneys, however, only handle civil (as distinct from criminal) cases. Most cases are in the area of domestic relations, consumer affairs, welfare, and job employment matters. Not surprisingly, perhaps, the staff has had major difficulties with turnover—in part, perhaps because of the programs controversiality.

"The whole concept of legal aid has changed the nature of law school education in this nation tremendously," says one top OEO spokesman. "Most major law schools now have courses on poverty law, for example—something unheard of years ago. And, of course, increasing numbers of law firms are now into public service projects themselves."

One OEO case that recently had tremendous influence on the law was Serrano v. Priest in California which led to the California Supreme Court negating dependence on the property tax for financing public education. The case was initiated by the Western Center on Law, an OEO group.

Despite the flurry of activity in legal service-type programs, many young lawyers argue that the bar is still not doing enough and that legal aid is particularly wanting in lower-income criminal cases. "The only lawyers usually taking the public's part in this city are public defenders," says one young attorney with a law firm in Topeka, Kansas. "There's just no great rush here towards public interest-type law. Representation of indigents, moreover," he argues, "has been totally 'relegated' to the young lawyer."

To counteract just such situations—recognized by top leaders of the nation's bar—the ABA is itself pushing so-called "pro bono publico" programs, letting young attorneys use company-paid time to work in public-service projects. At the same time, the bar is seeking to encourage more nonwhites to enter law school. Today, less than one percent of all lawyers are black; there are proportionally even fewer attorneys from other minorities.

LAW SCHOOLS GIVEN CREDIT

But what's most promising to some reformers is the mood of the nation's law schools. Step into any one of the better schools, they assert, and the sense of personal involvement and commitment is quite a new thing—yet somehow reminiscent of many law schools in the "depression America" of the 1930's, when the nation was criss-crossed by currents of social activism.

In a speech to the faculty of Stanford University Law School recently, Robert W. Meserve, a Boston attorney who will become the president of the ABA in August, said that "never before have law students as a whole been as idealistic or as willing to meet the valid demands which society makes on the legal profession."

"Today's law students are fabulously well prepared," says Francis A. Allen, until recently dean of the University of Michigan law School. Mr. Allen recalls that in the years when he first began teaching—shortly after World War II—it was not at all uncommon to find malaprops on test papers. Recently he says, he seldom finds one, sure evidence of the much higher caliber of today's students.

Law teachers are also quick to note that while the much-talked-about marriage between the law and the social sciences is perhaps still more rhetoric than fact, there is still an increasing amount of interdisciplinary work (in other fields of study) by both students and faculty than ever before.

"Law schools are closer to the mainstream than ever before," says Mr. Allen. Nonlaw watchers scanning the remarkable changes in law taking place today would recast that sentence.

Perhaps at no time in the recent past has American law been as articulate and aggressive in reaching the mass public as today.

SAR LEVITAN ANALYZES EXPERIENCE WITH EMERGENCY EMPLOYMENT ACT OF 1971

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. REUSS. Mr. Speaker, Dr. Sar A. Levitan, director of the Center for Manpower Policy Studies at George Washington University, has just written a fine analysis of the experience to date with the Emergency Employment Act of 1971. I include it in the RECORD at this point:

CREATING JOBS IS ONE WAY TO FIGHT UNEMPLOYMENT*

(By Sar A. Levitan)

The persistence for over two years of disturbingly high levels of unemployment in the United States has called forth a variety of nostrums. To stimulate economic activity, the Administration has provided multibillion dollar incentives to business and has claimed the largest budget deficit in peacetime. More recent data, however, suggest that some of the deficit reflected Administration nervousness rather than actual outlays. To cushion the impact of long-term forced idleness, unemployment benefits were temporarily extended though this program has since been discontinued nationally.

Blaming the messenger for the message has also been used to fight unemployment. Since unemployment was critically high in poverty areas, the "solution" was to discontinue the quarterly report of employment conditions in ghetto areas, presumably hoping that the problems would go away if they were not publicized.

But unemployment did not go away and demand for direct action to combat unemployment could not be ignored even though the budgetary deficit was mounting. By the summer of 1971, it had become clear that the Administration "game plan," which called for a slight temporary rise in unemployment in order to reduce inflationary pressures, had not been successful. Although unemployment rose to 6 percent, inflationary pressures continued.

President Coolidge is reported—perhaps apochryphally—to have said that the reason for high unemployment is that many people are not working. Assuming that the unemployed are seeking jobs, Congress decided upon the most direct course of action—creating jobs for those seeking work. But this simple approach was not universally appealing. President Nixon was on record in opposition to federal funding of public employment, lest it revive WPA-type jobs. Though some argued that there was nothing wrong with WPA and that leaf-raking may be useful work when there are leaves to be raked, the Administration's objections had to be overcome in order to create a federal program to subsidize public jobs. In the end, the President indicated that he would accept a temporary program, thus precluding a permanent WPA.

Various interest groups coalesced to support a public employment program. The resulting Emergency Employment Act of 1971 not only promised that the public jobs would be transitional, but also identified a number of eligible target groups. Each person hired had to be unemployed at least a week, working part-time but seeking full-time work, or earning less than enough to lift his family out of poverty, and preference was to be given to Vietnam veterans, former participants in manpower programs, young persons entering the labor force, older workers, migrant workers, persons whose native tongue is not English, welfare recipients, and displaced aerospace workers (table).

To achieve all this, Congress appropriated $1 billion, enough to create about 140,000 jobs. With 5 million people unemployed and with most of the unemployed in the "preferential" categories, there were obviously not enough funds to hire all applicants who claimed priority under the Emergency Employment Act.

It does not help to assess, however, the Emergency Employment Act on the basis of the legislative rhetoric. Preliminary reports indicate that, given the constraints of resources, the Act has lived up to the hopes of its advocates in and out of Congress. Contrary to conventional wisdom about the slow pace of governmental action, EEA showed that government can act swiftly and massively. Within four weeks after the President signed the authorizing legislation, Congress appropriated $1 billion, and hiring of unemployed workers started almost immediately. Within six months, 140,000 people, most of whom would have otherwise been unemployed, were on the job in states, counties, and cities, with federal funds paying 90 percent of their salaries.

Because implementation of the Emergency Employment Act involved not only Congress but the federal bureaucracies at all levels of government, the rapid pace of activity was remarkable. Forebodings that vested interest groups would place obstacles in the program's operations did not materialize. Court actions brought in a few cases to impede the execution of the Emergency Employment Act did not effectively slow down the hiring.

As expected, there was grumbling. Because only about 3 of every 100 unemployed persons could be hired with EEA funds, more were left out than hired. But an analysis of participant characteristics indicates that a real effort was made to spread jobs equitably among claimant groups. For the most part, jobs filled with EEA funds were vacant because of budget stringencies and in most areas the persons hired included professionals, the unskilled, and the poorly educated. Members of minority groups also got a fair share of the jobs reflecting their high incidence of unemployment.

Charges of "politics" could hardly be avoided in an election year. While the feds distributed most of the funds impartially and in accordance with congressional mandate, the Secretary of Labor retained control over 15 percent. Most of these funds were utilized for experimentation and demonstration projects designed to provide insights into massive public employment programs reaching 10 percent or more of the unemployed in an area and job creation for welfare recipients. It happened, however, that Illinois and California, crucial states in the presidential election, received disproportionate shares of the experimental funds and that San Diego, the site of the Republican Convention, was the chief beneficiary of the demonstration projects. While the Administration has yet to explain these choices, it should not be at all surprising that the Administration sought to maximize its potential political leverage.

There were also complaints that the feds failed to use the subsidies to force changes in civil service regulations that stress unreasonable credentialing and that frequently discriminate against minority groups. But to force such reform would have necessarily delayed hiring the unemployed and, on balance, it would seem that the primary function of the Emergency Employment Act was justly emphasized at the neglect of a secondary goal.

The Emergency Employment Act has thus achieved the goal of providing jobs to the unemployed by generating a sense of urgency among all levels of government. Since there remained some five million idle workers even after 140,000 persons were hired with EEA funds, it is quite apparent that most of those hired or others would have remained unemployed in the absence of the emergency legislation.

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*This article is based on an ongoing evaluation of the Emergency Employment Act funded by a grant from the Ford Foundation to the National Manpower Policy Task Force.

In terms of reducing unemployment, the Emergency Employment Act was a bargain. Economists have estimated that a $10 billion increase in GNP is necessary to reduce unemployment by 0.3 percent. EEA cost only $1 billion to reduce unemployment by 0.2 percent and it achieved these salutary results in a minimum amount of time.

EEA's success has generated a great deal of enthusiasm not only for extending the Act but for tripling or quadrupling its appropriations. One bill sponsored by more than a dozen liberal senators would multiply the appropriations 10 times, to $10 billion a year.

There should be little argument that as long as there are idle people needing jobs, the government should create useful work for them. It does not follow, however, that jobs in the public service are preferable to jobs in the private sector. Nor does it follow that the ability of state and local governments to fill some 140,000 jobs means that the federally-subsidized public employment program can and should be tripled or quadrupled. The fact is that employment in state and local governments has risen rapidly since the end of World War II, increasing by 57 percent in the last decade and now exceeding 10 million workers. The widespread complaints by governors and mayors that budgetary stringencies have forced mass layoffs is not borne out by overall statistics. State and local government employment continued to rise even during the recent recession. And while the overall number of unemployed rose by more than 2 million during the two years preceding the passage of the Emergency Employment Act, the increase in unemployed persons previously working in the public sector (state, local, *and* federal) was only 43,000.

The experience of Champaign-Urbana, Illinois illustrates the flimsiness of claims concerning "shortages" in public employment. The area's share of the total $1 billion emergency employment appropriation was initially scheduled to be $125,000 and the local authorities estimated "unmet public needs" of $400,000, a respectable amount above the anticipated federal largesse. The Labor Department unexpectedly selected Champaign-Urbana for one of its demonstration projects and the area's share was raised by half a million dollars. To justify the new federal contribution, the same local authorities soon concocted a new estimate of "unmet public needs" in excess of $1 million. But to suggest that the presumed shortages in state and local governments should be examined critically, is not to argue against creation of new public employment during a period of recession and high unemployment.

Provision should be made not only for expanding public employment during periods of need, but also for turning off federal faucets when economic conditions improve. This could be achieved by providing a trigger mechanism which would become operational when unemployment rises above a certain level and which would be based on the level of "excess" unemployment.

One reasonable approach would be to provide jobs to absorb a stated proportion of the unemployed above a given level. If we accept an interim goal of reducing unemployment to 4 percent, one-fourth of the unemployed above this level could be absorbed by a public employment program. At 6 percent unemployment, for example, the "excess" would be 1.7 million. And the federal government would provide adequate funds to hire roughly 425,000 persons, triple the present rate under the Emergency Employment Act. At $8,000 per job, the annual pricetag would be roughly $3.4 billion. If such legislation had been on the books at the outset of the 1971 recession, more than 400,000 persons might have been on the job before President Nixon vetoed a bill in 1971 which would have provided for a modest public employment program. Since unemployment is unlikely to dip below the 5 percent level in the coming year, enrollment under the proposed trigger mechanism would still provide jobs to some 200,000 unemployed even if recovery continues. It is, therefore, not too late to extend the EEA along the lines suggested, even if optimistic hopes about recovery materialize.

Characteristics of PEP employee records cumulative acts of March 21, 1972

[Characteristics]

Age:	*Percent*
21 or less	11
22–44	71
45–54	11
55–64	5
65 and over	0
Sex:	
Male	72
Female	28
Group:	
White	68
Black	20
American Indian	2
Oriental	1
Spanish American	7
Other	2
Military service status:	
Special veteran	13
Vietnam-era veteran	16
Veteran	17
Nonveteran	54
Disadvantaged	36
Public assistance recipient	11
Education:	
8th or less	8
9th–11th	15
12th	45
13th–15th	18
16th and more	15
Previously employed by agent	11
Weeks unemployed:	
4 or less	32
5–14	27
15 or more	40
PEP hourly wage:	
Under $1.60	2
$1.60–$1.99	12
$2.00–$2.99	46
$3.00–$3.99	27
$4.00–$4.99	8
$5.00 and over	5
Labor force status:	
Unemployed	90
Underemployed	10

THE CONSTITUENT'S RIGHT TO KNOW; THE CONGRESSMAN'S RIGHT TO KNOW

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. CELLER. Mr. Speaker, the cardinal sin of politics is to underrate the intelligence of the voter. But intelligence cannot be exercised without facts. My experience as a Member of the House of Representatives for almost 50 years has taught me that, if nothing else. The voters of my district have proven to me over and over again that they look to performance, to effectiveness, to legislative accomplishments. It is for this reason I set forth for the careful scrutiny of the voters of my congressional district my concrete record so that they may have before them an account of how I have carried out my trusteeship as their Representative. But the duty to know devolves upon a Congressman as well. He should apprise himself of the thinking of his constituents, particularly in areas which have only lately come to the fore. It is this give and take which can make a Congressman truly representative and keep him accountable to the voters who have placed their trust in him to discharge effectively the responsibilities of his office.

91ST CONGRESS

First, a record of the most significant bills introduced by me during the 91st Congress, 1969–70. You will note those bills marked "P.L." are legislative proposals which were enacted into law:

1. H.R. 2165: To empower postal inspectors to serve warrants and subpenas, etc.
2. H.R. 2155: To require national registration of firearms, etc.
3. H.R. 2167: To amend the law re theft and passing of postal money orders.
4. H.R. 2168: To amend the law re counterfeiting of postage meter stamps, etc. Became P.L. 91–448 on 10/14/70. (H.R. 14485)
5. H.R. 2169: To create the U.S. Corrections Service.
6. H.R. 2170: To amend section 4 of the Clayton Act.
7. H.R. 2175: To authorize the Attorney General to admit certain persons to residential community treatment centers. Became P.L. 91–492 on 10/22/70.
8. H.R. 2176: To abolish the death penalty.
9. H.R. 2346: To prohibit certain interlocking corporate relationships.
10. H.R. 3783: To amend the Public Health Service Act to make guaranteed loans to hospitals, etc. (H.R. 11102 became P.L. 91–296 on 6/30/70.)
11. H.R. 4178: To provide a system for the taxation of interstate commerce.
12. H.R. 4242: To amend the Federal Regulation of Lobbying Act.
13. H.R. 4243: To authorize appropriations for Civil Rights Commission. (S. 2455 became P.L. 91–521 on 11/25/70.)
14. H.R. 4244: To amend the law relating to the Administrative Conference of the United States. Became P.L. 91–164 on 12/24/69.
15. H.R. 4249: To extend the Voting Rights Act of 1965 re discriminatory use of tests and devices. Became P.L. 91–285 on 6/22/70.
16. H.R. 4250: To create an independent Federal Maritime Administration.
17. H.R. 4573: To extend life and increase appropriations of National Commission on Reform of Federal Criminal Laws. (H.R. 4297 became P.L. 91–39 on 7–8–69.)
18. H.R. 4574: To admit to U.S. certain inhabitants of Bonin Islands. Became P.L. 91–114 on 7–10–70.
19. H.R. 4801: To assure every American full opportunity for adequate employment, housing, and education, etc.
20. H.R. 6612: To amend the Social Security Act re minimum standards and eligibility.
21. H.R. 6951: To enact Interstate Agreement on Detainers into law. Became P.L. 91–538 on 12–9–70.
22. H.R. 9112: To amend the Immigration and Nationality Act.
23. H.R. 9411: To amend Title 28 re annual salary of court reporters.
24. H.R. 9505: To amend the Immigration and Nationality Act re permanent residents from a contiguous foreign country.
25. H.R 9677: To amend Title 28 re service of jury duty summonses. Became P.L. 91–543 on 12–11–70.
26. H.R. 10067. Appointment of additional judges. (S. 952 became P.L. 91–272 on 6–2–70.)
27. H.R. 10527: To amend the Merchant

Marine Act, to encourage shipbuilding. (H.R. 15424 became P.L. 91–469 on 10–21–70.)

28. H.R. 10683: To permit Federal Government to assist the States in control of illegal gambling. (S. 30 became P.L. 91–452 on 10–15–70.)

29. H.R. 11009: To prohibit use of mails, etc., to send obscene material to minors.

30. H.R. 11183: To amend Social Security Act re eligibility of blind persons.

31. H.R. 11848: To provide income tax deduction for disabled persons re transportation, etc.

32. H.R. 12691: To improve the judicial machinery in customs courts. (S. 2624 became P.L. 91–271 on 6/2/70.)

33. H.R. 12911: To amend the law re retirement of justices and judges of the United States.

34. H.R. 12312: To grant consent of Congress to the Connecticut-New York RR Passenger Compact. (S. 2734 became P.L. 91–159 on 12/24/69.)

35. H.R. 13813: To prohibit unauthorized entry into buildings where President may be temporarily residing. (H.R. 17825 became P.L. 91–644 on 1/2/71.)

36. H.R. 14116: To increase criminal penalties under Sherman Antitrust Act.

37. H.R. 14118: To amend the Immigration and Nationality Act re admission of certain aliens on giving bond.

38. H.R. 14596: To amend the Immigration and Nationality Act to facilitate the entry of foreign tourists into U.S.

39. H.R. 14645: To prohibit certain uses of likenesses of great seal of U.S. and seals of President and Vice President. Became P.L. 91–651 on 1/5/71.

40. H.R. 14646: To consent to Connecticut-New York RR Passenger Transportation Compact. (S. 2734 became P.L. 91–159 on 12/24/69.)

41. H.R. 15374: To eliminate requirement for approval by Attorney General of the title to lands acquired for or on behalf of U.S. Became P.L. 91–393 on 9/1/70. (H.R. 14119)

42. H.R. 15652: To eliminate racketeering in the sale and distribution of cigarettes, etc.

43. H.R. 15937: To impose restrictions on certain advertising and promotional matter in the mails. Passed House on 8/3/70.

44. H.R. 17081: To provide for protection of U.S. probation officers.

45. H.R. 17154: To provide for better control of interstate traffic of explosives. (S. 30 became P.L. 91–452 on 10/15/70.)

46. H.R. 17277: To make federal assistance available to certain Indian tribes residing on State reservations.

47. H.R. 17697: To authorize increased federal participation in cost of projects providing hurricane protection. (Similar to sec. 208 of H.R. 19877, which became P.L. 91–611 on 12/31/70.)

48. H.R. 17825: To amend Omnibus Crime Control and Safe Streets Act of 1968. Became P.L. 91–644 on 1/2/71.

49. H.R. 17855: To extend the availability of the check forgery insurance fund.

50. H.R. 17901: Appointment of a circuit executive for each judicial circuit. Became P.L. 91–647 on 1/5/71.

51. H.R. 18246: To amend the Sherman Act to require prior notification of price increases in certain industries.

52. H.R. 18400: To suspend economic and military assistance to any country failing to act to prevent narcotic drugs from such country entering the U.S. unlawfully.

53. H.R. 18550: To amend law re participation of the U.S. in Interpol.

54. H.R. 18923: To amend the Immigration and Nationality Act.

55. H.R. 19118: To authorize the furnishing of musical recordings and tapes to the blind.

56. H.R. 19158: To create a health security program.

57. H.R. 19735: To assist in the provision of housing for veterans.

58. H.R. 19760: To provide that veterans be provided employment opportunities after discharge at certain minimum salary rates.

59. H.R. 19930: To amend Internal Revenue Code re treatment of charitable contributions.

60. H.R. 19936: To authorize Secret Service protection for visiting heads of foreign governments. (H.R. 14645 became P.L. 91–651 on 1/5/71.)

61. H.J. Res. 179: To amend the Constitution re election of President and Vice President.

62. H.J. Res. 180: To amend the Constitution re representation of D.C. in Congress.

63. H.J. Res. 181: To amend the Constitution re election of President and Vice President.

64. H.J. Res. 282: To amend the Constitution re representation of D.C. in Congress.

65. H.J. Res. 482: To consent to the Mid-Atlantic Air Pollution Control Compact.

66. H.J. Res. 681: To amend the Constitution re election of President and Vice President. Passed House on 9/18/69.

67. H.J. Res. 1305: To consent to amendment of the Waterfront Commission Compact and entering Airport Commission Compact for New York and New Jersey.

92D CONGRESS

Second, a record of the most significant bills introduced by me during the 92d Congress, 1971–72:

1. H.R. 22: To create a national system of health security.

2. H.R. 213: To repeal the "cooly trade" laws. Passed House on 2–22–72.

3. H.R. 234: To amend Title 18, U.S. Code, to prohibit the establishment of emergency detention camps and to provide that no citizen of the U.S. shall be committed for detention or imprisonment in any facility of the U.S. Government except in conformity with the provisions of title 19. Became P.L. 92–182 on 9–25–71.

4. H.R. 1247: To amend the Internal Revenue Code re treatment of charitable contributions.

5. H.R. 1248: To assist in the provision of housing for veterans.

6. H.R. 2269: No funds authorized or appropriated may be used to introduce ground combat troops into Cambodia.

7. H.R. 3244: To amend the Sherman Act to require prior notification of price increases in certain industries anticipating the President's price controls.

8. H.R. 3245: To amend the Clayton Act to prohibit certain corporate interlocking relationships.

9. H.R. 3246: To increase criminal penalties under the Sherman Act.

10. H.R. 3802: To authorize furnishing of musical recordings and tapes to the blind.

11. H.R. 3803: To prohibit use of interstate facilities and mails for transportation of salacious advertising.

12. H.R. 3806: To provide an income tax deduction for work travel for disabled persons, etc.

13. H.R. 4225: To amend the Special Foreign Assistance Act of 1971 re Laos.

14. H.R. 4412: To amend the Foreign Act of 1961 to suspend economic and military assistance to any country failing to prevent narcotics from such country from entering the U.S. unlawfully.

15. H.R. 4430: To establish an Office of Consumer Affairs in the Executive Office of the President and a Consumer Protection Agency.

16. H.R. 4930: To repeal the Connolly Hot Oil Act.

17. H.R. 4933: To terminate the oil import control program.

18. H.R. 5379: To place various public assistance programs in the Social Security Act on a fully federalized basis, etc.

19. H.R. 5435: To establish the Gateway National Recreation Area in New York and New Jersey.

20. H.R. 6068: To establish the Commission on a Universal Service Corps.

21. H.R.6225: To implement Article 1, Section 7 of the Constitution re pocket veto power of President.

22. H.R.6366: To facilitate entry of foreign tourists into United States.

23. H.R. 6513: To increase original authorization of American Revolution Bicentennial Commission.

24. H.R. 6831: To amend the Internal Revenue Code to allow a deduction for expenses incurred by taxpayer in making repairs and improvements to his residence, etc.

25. H.R. 7271: To authorize appropriations for Civil Rights Commission until January 31, 1973. Became P.L. 92–64 on 8/4/71.

26. H.R. 7374: To amend the resolution establishing American Revolution Bicentennial Commission. Became P.L. 92–236 on 3/1/72.

27. H.R. 7375: To remove ceiling on U.S. magistrates salaries.

28. H.R. 7466: To amend the Immigration and Nationality Act.

29. H.R. 7657: To amend the Social Security Act to extend period within which certain special project grants may be made.

30. H.R. 8194: To provide for the protection of U.S. probation officers.

31. H.R. 8273: To amend the Immigration and Nationality Act re American citizen children born abroad.

32. H.R. 8316: To authorize the Attorney General to provide group life insurance program for State and local government law enforcement officers.

33. H.R. 8314: To suspend the death penalty for two years.

34. H.R. 8543: To establish the Gateway National Recreation Area in New York and in New Jersey.

35. H.R. 8484: To impose restrictions on certain hazardous advertising and promotional matter in the mails, etc. Became P.L. 92–191 on 12/15/71.

36. H.R. 8550: To amend the Bail Reform Act of 1966.

37. H.R. 8699: To provide an Administrative Assistant to the Chief Justice of the U.S. Became P.L. 92–238 on 3/1/72.

38. H.R. 8761: To provide States and localities with financial assistance, etc.

39. H.R. 8828: To require national registration of firearms.

40. H.R. 8829: To reduce the minimum age for serving as a Federal juror to 18. Became P.L. 92–269 on 4/6/72.

41. H.R. 8953: Congressional reapportionment.

42. H.R. 8954: To amend the definition "major disaster" in certain Federal laws to include riots, etc.

43. H.R. 9177: To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide benefits to survivors of policemen.

44. H.R. 9222: To correct deficiencies in the law relating to counterfeiting and forgery. Passed House on 9/20/71.

45. H.R. 9223: To increase the limit of dues for U.S. membership in Interpol.

46. H.R. 9230: To authorize discharge from the armed forces on disability by reason of drug addiction.

47. H.R. 9323: To amend the Narcotic Addict Rehabilitation Act of 1966. Passed House on 11/1/71.

48. H.R. 9378: To make additional immigrant visas available for immigrants from certain countries.

49. H.R. 10296: To provide Special Cost-of-Living Pay Schedule for Federal employees in heavily populated metropolitan areas.

50. H.R. 10689: To make it a crime to discharge an employee for his Federal jury service.

51. H.R. 10853: To amend the Urban Transportation Act of 1964.

52. H.R. 11033: To make organized pro-

fessional team sports subject to the Sherman Act.

53. 11131: To amend the Education of the Handicapped Act re homebound children.

54. H.R. 11224: To make organized professional team sports subject to the Sherman Act.

55. H. R. 11350: To increase limit on dues for U.S. membership in Interpol. Passed House on 11/15/71.

56. H.R. 11412: To authorize the Attorney General to provide care for narcotic addicts placed on probation, etc.

57. H.R. 11425: To permit greater involvement of American medical organizations in furnishing health services to developing nations of the world.

58. H.R. 11701: To amend the Internal Revenue Code of 1954 to allow tax credit for college tuition when taxpayer and student agree to repay plus interest.

59. H.R. 12004: To amend the Sherman and Clayton Acts to create an Office of Industrial Organization.

60. H.R. 12184: To eliminate racketeering in sale and distribution of cigarettes, etc.

61. H.R. 12220: To authorize the Secretary of the Navy to provide shoreside facilities for visitors to U.S.S. Arizona at Pearl Harbor.

62. H.R. 12652: To extend Civil Rights Commission for five years, etc.

63. H.R. 12688: To eliminate racketeering in the sale and distribution of cigarettes, etc.

64. H.R. 13022. To authorize the Secretary of State to furnish assistance for resettlement of Soviet Jewish refugees in Israel.

65. H.R. 13185: To implement Convention on the prevention and Punishment of the Crime of Genocide.

66. H.R. 13627: To amend the Urban Mass Transportation Act of 1964.

67. H.R. 13694: To amend resolution establishing American Revolution Bicentennial Commission.

68. H.R. 14227: To amend section 3401 of title 18 U.S. Code, to authorize U.S. magistrates to use probation provision of the Youth Corrections Act.

69. H.J. Res. 253: To amend the Constitution re representation of D.C. in Congress. Approved by Committee on the Judiciary.

70. H.J. Res. 375: To consent to amendment of the Waterfront Commission Compact and entry into Airport Commission Compact for New York and New Jersey. Approved by the Committee on the Judiciary.

71. H.J. Res. 385: To establish Joint Committee on environment.

The 92d Congress has not, of course, come to a close. Many of the bills noted in this recital will become public laws; other bills will be introduced.

When viewed together, these proposals and public laws set forth my basic philosophy: First, to do what I can to preserve and enhance the right of every citizen to be secure in his person, in his home, in his opportunities for a decent job, decent living conditions, decent health facilities, decent schooling; second, to preserve and enhance the individual civil liberties and civil rights of every person; and, third, to bring about a world of peace within a democratic framework.

Time does not permit my detailing the provisions of every one of these bills, but all of those I have selected for inclusion in this RECORD relate to all my efforts to give every person protection and opportunity. I mean by protection:

Protection against fraud, deception, and neglect;

Protection against erosion of democracies in every part of the world;

Protection against inflation;

Protection against pollution of the air and water;

Protection against noise pollution;

Protection against the devastation of our lands and forests;

Protection against erosion of civil liberties and civil rights;

Protection against drug abuse;

Protection against crime;

Protection against the inherent inequities of the draft, and to that end, I favor strongly a volunteer army;

Protection of persons against the international treaties guaranteeing the extradition of hijackers and the safe conduct and return of hostages. Such treaties must be put into effect with strong sanctions against countries which violate the terms of the agreement, denying to the airlines of the offending country or countries landing rights they seek.

I want to emphasize here that the protection against inflation is one of immediate and urgent need. The Congress has given the President standby powers to control prices and wages which he was prevailed upon to use. The purchasing power of the dollar decreases as inflation increases. Houses are not built; jobs evaporate. People living on social security and pensions suffer most.

By opportunities, I mean—

The opportunity to enable each citizen to obtain a good education;

The opportunity to obtain the best of medical care, the best use of health facilities;

The opportunity to obtain low-cost housing;

The opportunity for every person to develop his highest potential without fear of unnecessary wars.

Knowing, as I do, that we must get out of Vietnam, I cosponsored House Resolution 1020, on May 14, 1970, to set an expenditure limitation on the American military effort in Southeast Asia, and on April 17, 1972, I cosponsored the bill, H.R. 14415 and House Concurrent Resolution 579, to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos.

Under opportunities, I would certainly include changes in our immigration law to make it more flexible, to ease the process of reuniting families, to make provision for the entry of refugees, and to bring new seed to this land. Certainly, I must include under opportunities the enactment of a constitutional amendment to enable every vote to count. This can only be done by abolishing the electoral college and instituting instead the direct election of the President and Vice President.

You can easily match every piece of legislation I note herein with every statement of political philosophy.

Over my years of activity in the House of Representatives, I have had enacted over 300 bills and four constitutional amendments which bear my name.

First. The granting of the vote in presidential elections to the District of Columbia;

Second. The abolition of the poll tax in Federal elections;

Third. The filling of the Constitution gap in the matter of Presidential inability; and

Fourth. The lowering of the voting age to 18 years.

This is a record that cannot be matched by any other Representative in the history of the Congress of the United States.

I point to this only to emphasize that my introduction of a bill is not an idle gesture. This kind of record demands the unflagging attention to detail, the ability to negotiate, and the skill to earn the confidence of other Members of the House of Representatives. It means doing one's homework; it means developing skills in the use of parliamentary rules which can only come of long, hard years of learning and experience. To be successful in a forum of 435 Members of the House of Representatives and 100 Senators, with men and ideas competing for attention, your legislative proposals jostling against 20,000 others, and your political philosophy matched against a dozen different kinds, takes the hardihood, the conviction that this exists only in men and women who care. I care.

I also wish to emphasize my work against the erosion of democracies. The world is well aware of the struggles of Israel and Ireland. These are potential danger spots which if not recognized can throw the world into flame. Israel's right to exist as a free nation must be supported at all times. Ireland's right to be free must be supported at all times. My work in this area is well known to my constituents and needs no detailing. I do, however, wish to point to the key role I played in the Attorney General's decision permitting Jews escaping from Soviet persecution to enter the United States.

My drive against monopoly power is by this time well known to you. Unless there is economic freedom of opportunity for all, we cannot maintain the free enterprise system.

I announced that the Antitrust Subcommittee in the 91st Congress would undertake a comprehensive study into the economic and political significance of mergers and acquisitions by conglomerate corporations. A comprehensive examination of documentary information from the files of a selected group of companies was made.

Public hearings in the investigation commenced on July 30, 1969, and were concluded on May 15, 1970. During the course of the hearings, 72 witnesses from the companies that were included in the subcommittee's sample were heard in 25 hearing days, contained in seven volumes that comprise 6,309 pages, and a report that comprises 703 pages. In addition to the witnesses from the corporations involved, testimony was received from representatives of the Department of Justice, the Federal Trade Commission, the Internal Revenue Service, and the Securities and Exchange Commission.

The report includes a survey of current comment on the problems of aggregate and market concentration, a review of the practices of the corporations in the subcommittee's sample that were disclosed in the investigation and a summary of suggested legislative and administrative changes. As a result, I introduced H.R. 12004, to create an Office of Industrial Organization in the Executive Office of the President.

H.R. 12004 would in effect place under the exclusive control of the Office of Industrial Organization all corporate mergers of every name, nature, or description, however large or however small, whether involving a railroad, a bank, a TV station, a radio station, an electric light company, and whether of a service, sales or manufacturing business. This office would replace all present branches of Government now having jurisdiction. It is probably the most far-reaching antitrust proposal introduced in Congress since 1914.

Let us turn to the subject which is one of greatest concern to the country at large and that is safe streets. Of all the crime proposals set before Congress, the Omnibus Crime Control Acts of 1968 and 1970, which I fathered, were the only bills that addressed themselves directly to our dreaded crime in the streets. The 1970 act increased to $650 million the money to be spent currently to curb and control the street crime. It likewise authorizes for the following year $1 billion and for the year thereafter $1.5 billion. It calls for better training of the police, more protective and innovative programs, better riot control, better rehabilitation services, and workable correctional services. This means that the youthful offender will not be put into jails with the hardened criminal and learn all the tricks he never knew before, returning to society to repeat his crimes with greater skill. It calls for new programs to deal with this scourge.

The Judiciary Committee has, as well, processed S. 30, a bill designed to control organized crime, which it is hoped will prove an effective weapon against the criminal syndicates. The Committee on the Judiciary has, as well, processed through the House of Representatives a bill to prohibit salacious advertising.

The following is a list of questions which comes to mind and the answers to which can best serve me to serve the needs of the district. If I were to meet with my constituents one by one, I would ask each one:

Are you in favor of equal tax treatment of single persons and married persons where both husband and wife are working?

Would you be willing, if necessary, to pay more for automobiles which include antipollution features?

Do you approve of a heroin maintenance program for drug addicts?

Do you favor an increase in the number of tuition-free universities?

Do you favor amnesty for those who evaded the draft or deserted from the Army?

Should the 18 to 20-year-olds be drafted for 2 years in a corps devoted to public service?

Should possession and use of marihuana be legalized?

Should the penalties for the sale of marihuana be increased?

Do you favor a national health insurance program under Federal control?

Do you favor additional aid to Israel to help settle Soviet Jews?

Do you favor stricter gun control laws?

Nonprocessed foods like meat and vegetables are not subject to price controls. Should they be?

Should welfare payments be the sole responsibility of the Federal Government under Federal standards?

Do you favor our immediate unconditional withdrawal from Vietnam?

Do you favor our immediate unconditional withdrawal from Vietnam conditioned upon return of our prisoners?

Do you favor a volunteer army?

Shall the Federal Government enact legislation to protect workers' private pension plans?

Do you favor a Department of Consumer Affairs on a Cabinet level?

Are you in favor of greater direct Federal assistance to the city, bypassing the State?

Should military appropriations be reduced?

I wish I could supply all of my constituents with a copy of the Congressional Record so that they, in turn, could supply me with their answers.

My record in the previous Congresses is known to you. Therefore, I have only put forth a portion of the work to which I have devoted myself in this Congress. This accounting of what I believe and how I have performed on these beliefs is a matter of record.

VIETNAM COVERAGE HASN'T BEEN BALANCED

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. DERWINSKI. Mr. Speaker, the issue of press objectivity continues to be debated, and it is quite fascinating to note that many responsible publications are openly questioning the overall balance of the news as reported. Therefore, I direct the special attention of the Members to an editorial which appeared in the Harvey Tribune of April 23. The Harvey Tribune is a publication serving south suburban Chicagoland:

The editorial follows:

Vietnam Coverage Hasn't Been Balanced

For some reason, or many reasons that all seem to fit together, we do not believe that the American public has received a balanced picture of the events in Viet Nam during the past two or three months.

Since American pilots resumed bombing raids over North Viet Nam, the coverage by the news media has been overwhelming. The bombing raids have been lead-off stories on every edition of the six o'clock news and the protests have also received excellent coverage. It would be very difficult to find fault with the coverage of the bombing raids or the reaction to those raids in Washington.

But, for some reason, it just doesn't seem like the build-up of North Viet Nam forces along the borders of South Viet Nam and the raids of Russian tanks and the North Vietnamese regulars into South Viet Nam received quite the same treatment in the news media.

We're not promoting the "good guys" or the "bad guys" in this situation. This war is one of the biggest messes the world has seen and we desperately wish it could be over tomorrow. We also believe that it is extremely important that we obtain the release of our prisoners of war before withdrawing completely from South Viet Nam, because in our view, their lives should be considered the highest priority.

Our complaint here is with the protests about the American bombing raids and no protests whatsoever of arrogant violations of previous agreements by the North Vietnamese. Why weren't the war critics screaming as loudly about the build-up along the borders? Why weren't the pickets walking around the Soviet embassies, protesting the use of Soviet-built tanks and MIGs in Viet Nam. Why is every violation of morality committed by the North overlooked or passed over without comment and every reaction taken by the U.S. the object of protest?

We are not defending President Nixon or his decision. We are defending this country and its right to react to aggression that is as blatant as what occurred along the borders of Viet Nam prior to the bombing raids to protect American soldiers and sailors who are still there.

FREEDOM-LOVING UKRAINIANS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. DINGELL. Mr. Speaker, I have received a letter from the Women's Association for the Defense of Four Freedoms for Ukraine, Inc., regarding the arrest and detention of many Ukrainian intellectuals by the Soviet Union's secret police. I share the concern of the association with regard to the fate of these freedom-loving Ukrainians and wish to join in urging that the Government of the United States, through the United Nations and by direct contact, take affirmative action to secure their release.

For the information of my colleagues, I insert the text of the letter from the association and the text of the statement at this point in the Record.

April 15, 1972.

Hon. John D. Dingell,
Member of Congress,
Washington, D.C.

Dear Sir: During the years 1969, 1970 and 1971 there were many news articles regarding unrest in the Ukraine caused by Soviet Russia's occupation of Ukrainian territory and the constant violation of human rights of the Ukrainian citizens.

With this letter we are taking the liberty of bringing to your attention the current situation in Ukraine with details contained in the enclosed statement.

We are convinced of your interest in the Captive Nations Freedom movement and consider you a friend of millions of Ukrainian Americans, many of whom are now your own constituents who have relatives in Ukraine and for who they have great concern.

We appeal to you to raise the question of unjustice in Ukraine on the floor of Congress and ask the Secretary of State, Honorable William P. Rogers and United Nations Ambassador George Bush to take proper action toward the Soviet Government to release all political prisoners, particularly the intellectuals, ailing, aged and young mothers who have been torn away from their infants who need them so desperately, restore their full rights of citizenship and return them to their homes in Ukraine.

Sincerely yours,

STEPHANIE, LEHETA,
President.
OLGA ROHATYNSKYJ,
Secretary.

STATEMENT OF MRS. ULANA CELEWYCH

On behalf of the Women's Association for the Defense of Four Freedoms for Ukraine, Incorporated, of which I have the privilege of being the National President, I hereby state my shock and indignation and protest against the wave of arrests in Ukraine performed by the Russian Secret Police Force (KGB).

In these restless times many individuals, groups, and statesmen, including President Richard M. Nixon, in order to establish long-lasting peace and prosperity for generations to come, are exhibiting a new approach to satisfy human needs, individual and national rights, and identity.

At the same time, the Soviet Russian Colonial government, founder member of the United Nations Organization, signatory of the Universal Declaration of Human Rights, and so-called "volunteer missioner of good will" for world community, is for Ukrainians, a brutal invader who occupied the Sovereign Ukrainian Republic and by force is holding it in the USSR system.

In conjunction with the existing reality of Russia's constant violation of human rights of the 48 million native Ukrainians on their own territory, (majority of the population, 79%), our organization, in November 1969 presented a petition supported by 5,000 signatures to Ambassador Finger, who accepted on behalf of Ambassador Charles Yost, in which we expressed our concern of the increased terror, russification, restriction for continued education, deprivation of private property, as in the case of Mrs. Valentyn Moroz in Ivano-Frankivsk, a city in West Ukraine, mass arrests of the people in 1961, 1965, 1967, 1969, and 1970, particularly among young scholars who grew up under Soviet occupation and who oppose the Soviet way of life imposed upon them; thus all these things creating an alarming situation in Ukraine for a long time.

In our opinion, Brezhnev is restoring the neostalinism and is again practicing genocide in the Ukrainian nation, particularly on the Ukranian intellectuals.

Now again, on January 14, 1972, over two million Americans of Ukrainian descent in the U.S.A., as well as all Ukrainians throughout the free world were shocked by the news via the UPI and Reuter Press Agencies about the arrest of 11 leading Ukrainian dissident intellectuals on charges of "nationalistic agitation" and deliberate false fabrications defaming the Soviet State. The arrests were carried out on January 11, in the cities of Kiev, Lviv, and Odessa. Later, reports raised the number of arrested to 19, then to 36, and at the present time the figure has grown to 200, and there are possibilities that the number is much higher and it is questionable if the exact number will ever be known in the free world.

Sources said that the arrests were preceeded by a series of raids by the Soviet Secret Police Forces (KGB) on the homes of the dissidents in Kiev, Lviv, and Odessa. Several European newspapers also stated that the KGB had begun a series of raids and interrogations in other large industrial and university cities in Ukraine, including Czernivtsi, Poltava, Kharkiv, Riwne, and Dnipropetrovsk. There the action was directed mainly against younger students, professors, and writers, especially those who had been active in demanding Constitutional and national rights for Ukraine.

Because of the censure and russification policy forbidding free expression in existing government sponsored publications and newspapers, the Ukrainians were forced to establish their own news media for the purpose of objective information.

According to reliable sources, the KGB latest arrests were meant to destroy the writing and circulation of the underground newspaper "Ukrainian Herald" which carries information about secret trials and arrests of Ukrainians, russification, intentions of anti-Ukrainianism, national discrimination, and religious persecution. The latest issue of the Herald contained over 100 typewritten pages of detailed information about Soviet repressions in Ukraine.

Among the arrested on January 11, are Vyacheslav Chornovil, writer and author of the Chornovil Papers; Ivan Dziuba, author of Internationalism or Russification (a study in the Soviet nationalities problem); Ivan Switlychnyj, a literary critic; Wasyl Stus, poet; Ihor Kalynec, poet; and others. Among those arrested are also women. Larissa Karavansky, M.D., wife of Swyatoslav Karavansky who was recently sentenced to many years imprisonment; Irene Stasiv-Kalynec, poetess and wife of Ihor Kalynec; Stephany Shabatura, artist and designer; Stephanie Hulyk, a mother of an 8 month infant and member of the association to preserve historical monuments; and Raisa Moroz, wife of Valentyn Moroz, whose fate is unknown.

We, the members of the Women's Association for the Defense of Four Freedoms for Ukraine, Inc., on behalf of the millions of voiceless Ukrainians in the homeland of Ukraine, and on behalf of Ukrainian prisoners and their families appeal to President Richard M. Nixon, Secretary of State, William P. Rogers, U.S. Ambassador to United Nations, Honorable George Bush, Secretary General of United Nations Organization, Honorable Kurt Waldheim, to the majority and minority leaders of both Houses, and to the Honorable Senators and Congressmen, to raise their voices in support of rights for Ukrainians, and to take proper action towards the Soviet government to release all political prisoners, particularly the intellectuals, ailing, aged, and young mothers who have been torn away from their infants who need them so desperately. It is time to stop the Russian interference in the way of life and of the Constitutional rights of the people of Ukraine.

AID PASSES THE BUCK

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. ASPIN. Mr. Speaker, on April 3d I revealed that 350 Montagnard tribesmen died as the result of a forced movement by Vietnamese officials. According to a document that I released at that time, American officials failed to report the serious health situation in Pleiku province among the two Montagnard hamlets. At that time I wrote to the Director of AID, Dr. John A. Hannah, requesting that he investigate the matter and consider punishing the individuals who are responsible.

I have received a reply from Dr. Hannah indicating that a preliminary investigation has begun. However, rather than admit the responsibility directly for not reporting the deaths of 350 people, the Agency, in a memorandum which I am releasing today, switches the blame to military officials. Apparently, according to AID, it was a military officer who was responsible for the CORDS program in Pleiku province and that officer was responsible for not reporting the situation.

As some of my colleagues may know, CORDS is the joint military-AID venture which is attempting to pacify Vietnam. It is disappointing to see the buck being passed onto military officials. It is my hope that AID and CORDS will conduct a full-scale investigation to determine whether there was any negligence involved in not reporting the death of 350 people to higher officials.

In the past, and possibly even today, lower level bureaucrats have always feared reporting bad news higher up the line. The result is that the bad news gets filtered out and only a rosy picture is reported to senior officials. The failure to report the death of 350 Montagnard tribesmen is an example of this par excellence. Only if bureaucrats at all levels are willing to honestly and forthrightly report the real situation within their area of responsibility can adequate decisions be made by senior officials. It is this kind of phony reporting that got us so deeply involved in Vietnam. It is this same kind of reporting that seems to keep us there.

My only hope is that eventually all our officials will realize that in the long run the truth will be revealed.

Dr. Hannah's reply and the memorandum which the Agency has supplied me follows:

DEPARTMENT OF STATE,
AGENCY FOR INTERNATIONAL
DEVELOPMENT,
Washington, D.C., April 13, 1972.

Hon. LES ASPIN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ASPIN: This replies to your letter of April 3, 1972, in which you inquire as to what punitive action has been taken against A.I.D. officials whom you allege were derelict in their duty in not reporting conditions in certain Montagnard relocation hamlets.

We have requested a full report from the field on this matter and I will give you a detailed reply as soon as it is received.

Sincerely yours,

JOHN A. HANNAH.

P.S. I am asking Matt Harvey to hand deliver this letter to you and to show you the internal quick report furnished me. It is only tentative pending checking with MAC/CORDS in Vietnam.

DEPARTMENT OF STATE,
AGENCY FOR
INTERNATIONAL DEVELOPMENT,
Washington, D.C., April 10, 1972.

Action memorandum for the Administrator.
Through: EXSEC.
From: DCO/SA—Robert H. Nooter.

Problem: To respond to a letter, with attachment, from Congressman Les Aspin alleging that information concerning poor health conditions which resulted in the death of Vietnamese civilians in certain relocated hamlets was suppressed, and asking what disciplinary action you have taken against those AID officials responsible.

Discussion: During the fall of 1970 and first few months of 1971, the Vietnamese Commanding General of Military Region II carried out a series of relocations of Montagnard tribal groups ostensibly to provide them more security from enemy action. These movements were made despite the objection of U.S. authorities in the Military Assistance Command, Office of Civil Operations and Rural Development Support (CORDS).

There are two Montagnard hamlets involved in the matter brought up by Congressman Aspin that were apparently relocated by the Vietnamese officials in December–January 1971. Plei de Groi, which was relocated next to Plei Kotu, a precariously insecure area, but, literally separated from it by barbed wire. These two hamlets seemed to have nothing in common and they completely ignored one another. The other hamlet was Plei Blang Ba (III), located slightly closer to security. The former hamlet, because of inaccessibility, was out of touch and neglected. The latter apparently received some attention. Montagnards exist at a marginal subsistence level and, with any loss in nutrition level, the prevalent diseases of diarrhea, malaria, pneumonia, and tuberculosis can prevail. And, this is what occurred shortly after the relocation. The situation was not discovered on the American side until several weeks after the relocation by which time death had overtaken some 350 of the very old and very young who are always the first to be affected in a situation of malnutrition or starvation. Prompt and remedial actions were taken, and by April of 1971, a medical report was made by a Volunteer Physician indicating the situation was in hand.

Congressman Aspin attaches a draft telegram between CORDS headquarters and DEPCORDS for Region II which states that this situation had not been adequately reported upon officially, and but for informal reports from outside sources being received in Saigon, would not have come to CORDS attention. It indicates that decisive action should be taken against those responsible for failing to properly report this situation.

We have no knowledge here of the authenticity of the draft message which Congressman Aspin has attached. Further, since the allegation would involve reporting by military personnel in Pleiku Province through military channels, the question of negligence and disciplinary action is broader than the Congressman's allegation that AID officials are responsible.

Since this involves the MACV/CORDS organization, the matter has been referred to Saigon with a request that it be investigated and the results promptly reported to Washington.

RURAL WATER SYSTEMS DEDICATED

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. MIZELL. Mr. Speaker, 6 years ago as chairman of the Board of County Commissioners of Davidson County, N.C., I shared in the beginning of what some regarded then as a high visionary plan to put every town, farm, and home in rural Davidson County on a modern water system.

Up to that time, tradition seemed to have ordained that a skimpy and precarious water supply was part of the rural life. You contented yourself with backyard well water or rain water when it rained; and with water by the barrel or bucket, from however far you had to haul it, when the weather ran dry.

Davidson County, which lies at the heart of the North Carolina Piedmont and includes centers of furniture, textile, and other industries such as Lexington, Denton, and Thomasville, counted many opportunities for good development throughout the county.

However, many of these opportunities were menaced by the uncertainty of water supply. Wells in some developing rural residential areas were tainted by seepage from private waste disposal systems. An important furniture factory burned down in one community where there was no central water system, hence no adequate fire department to cope with the emergency.

All the while, an unlimited supply of water was flowing down the Yadkin River along Davidson County's western border. This river, fed from the water-abundant Blue Ridge Mountains, offered a solution to Davidson County's water shortages. But the formidable question was how to get it processed and delivered over the county. How many millions would this cost and where would all the money come from?

Davidson County found the answer. It was accomplished by a great civic effort by people in the rural communities who organized associations that could build and operate public water systems, and steadfast support from the Farmers Home Administration in finding the means to build these systems under the Rural Community Facilities program.

The first move was to organize a water system serving five towns and the intervening countryside, and including a water intake and treatment plant on the Yadkin River. This project was organized by door-to-door effort through local service clubs as a community nonprofit corporation, with some 3,800 families as members and water customers. This North Davidson association became the nucleus of the county-wide rural water plan. Its system was built with loan assistance only—$3.7 million of financing through the Farmers Home Administration.

Similar action followed in four other sections of the county not supplied by lines of the original North Davidson system.

The present result is county-wide water service in Davidson County, perhaps the first such achievement by any rural county in the Nation under the Rural Facilities program. Nearly 650 miles of pipeline follows the highways and country roads all around the county, bringing clean water from the Yadkin River plant to some 14,000 homes, business places and public centers. Water service throughout Davidson County is now of the same quality once reserved for people in the city.

Mr. Speaker, we were privileged to have with us in Davidson County on March 23 Senator B. Everett Jordan, Administrator James V. Smith of the Farmers Home Administration, and Mr. James T. Johnson, the agency's State director for North Carolina, to share in the dedication of these five rural water systems. Jim Smith is an old friend who served in the Congress, and I cannot speak too highly of the work being done on behalf of rural North Carolina by Jimmy Johnson.

People in Davidson County are high in their praise for the invaluable service this agency has rendered in our communities. It is evident that the conscientious interest and understanding of rural problems, the great effectiveness of FHA's delivery of its services, stems from the quality of leadership provided by Administrator Smith. He is a man of farm and rural community background who is gifted with the ability to guide one of the great public service institutions of the Nation, the biggest of all Federal credit agencies that deals directly with the citizen in his home community.

An article in the Dispatch of Lexington, N.C., for March 23, 1972, reports on events of that day in Davidson County and services rendered by the Farmers Home Administration in its rural community facility, housing and farm credit programs. I include the article in the RECORD at this point:

RURAL WATER SYSTEMS DEDICATED

(By Dennis White)

Davidson County's five rural water systems were dedicated this morning by the national administrator of the Farmers Home Administration (FHA), James V. Smith, during ceremonies at the North Davidson water building in Welcome.

Included in the list of dignitaries present for the occasion were Senator B. Everett Jordan, Fifth District Congressman Wilmer Mizell, and state FHA Director James T. Johnson.

At a news conference before the 11 a.m. ceremonies, Smith told of how the FHA is helping Americans "down on the farm." He said the past trend of people leaving the rural areas and moving into the urban areas has caused problems.

This trend was created, he said, because in the past rural America was unable to offer the same advantages as the cities. He pointed out that housing in rural areas was usually inadequate and services such as water and sewer were unheard of.

Congressman Mizell injected that in the past 40 years the country has gone from a 70 percent rural country to a 70 percent urban nation with 70 percent of the people living on only two percent of the land.

Smith also said that 70 percent of the substandard housing was and is in rural America. He said Congress and the administration have taken note of this and are now taking steps to make standard housing available to everyone.

This is accomplished through long-term FHA housing loans, some of which have interest rates as low as one percent.

He pointed out, however, that FHA is not a welfare agency and all loans must be repaid, and while interest in some cases is only one percent, normally it is at the going rate of seven and one-quarter percent.

North Carolina's use of FHA's rural housing loan program is particularly outstanding, Smith emphasized. Ten years ago approximately $5 million in housing loans were made in the state by Farmers Home Administration—this year it will be close to $100 million, Smith said.

Smith pointed out that his agency's rural housing program, in itself, will provide some 8,000 man-years of on-site employment in North Carolina in this fiscal year.

North Carolina's farm family agriculture will continue to be vitally important in the state's rural development progress, Smith said. In many areas of the state, farmers and their income are basic to the economic well-being to local communities. This year, Farmers Home Administration will provide nearly $30 million in farm credit with another estimated $10 million or more from local lenders who will participate with FHA in making simultaneous loans to farmers.

This Administration and the Congress is responding to the needs of rural people as never before, Smith said. "It is almost certain that some kind of omnibus and comprehensive rural development program will be enacted by Congress this year giving Farmers Home Administration greatly expanding authorities to provide more credit to rural people," he said.

Smith seemed pleased at the progress FHA made in North Carolina and said the state should be complimented.

In addition to housing and rural water systems, the state is also a leader in solid waste disposal through programs financed through FHA. Johnson said 12 such programs are now in operation and 30 more are in the planning or development stages.

With five rural water systems, Davidson County is the leader in the state in this area. Mizell said the county is the leader in the nation.

FHA has made loans to the five systems that total almost $13 million. Johnson said the county is not being used as a test or pattern for other such systems and said that so much money has been made available because it was available and there was high quality leadership here in founding the systems.

Smith noted that 10 years ago, his agency had financed only two water systems in the state with loans totaling $532,000; as of January 31 of this year Farmers Home Administration has financed 232 community water and sewer systems with loans of $52.7 million and grants of $8.5 million.

Construction on North Davidson Water Inc. the first and largest of the five systems, was begun in 1967. It was financed by a $3,680,000 FHA loan.

West Davidson Water begun in November 1968, received a $3 million loan; Wallburg Water, begun in 1969, got $1,020,000; Hasty Water, also begun in 1969, got a $1.25 million loan; and East Central Water, begun in 1969, got $2,860,000.

In addition to the loans to the rural water systems, Denton received an FHA loan of $580,000 and an FHA grant of $484,000 to construct a water system for the town.

All five systems are administered by North Davidson Water Inc. that supplies water to all from its filtering plant on the Yadkin River near U.S. 64 West. All billing and maintenance is done by North Davidson.

Today the systems have 646.6 miles of water lines and are serving about 14,000 members. When completed, about 90 percent of the people in rural Davidson County will be served by one of the interlocking systems.

It was brought out during the conference that the water systems are a key in bringing new industry to the county. Jasper Younts, who manages the systems, said five or six small plants have already located on the water systems and since the first of the year 12 to 15 other industries have made inquires.

Senator Jordan said at this point, "It used to be that industry tried to locate near the railroad and power lines, but now they are looking for water."

THE PROBLEMS OF THE SMALL BROADCASTER IN RURAL AMERICA

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. SEBELIUS. Mr. Speaker, recently, TV Guide published a story on television and rural America, which featured a television station in my congressional district. This article typifies the problems and triumphs of the small broadcaster and businessman, especially in rural America. I would like to join TV Guide in paying tribute to Bob Schmidt and his fine staff at KAYS–TV in Hays, Kans., by sharing this article with my colleagues.

WHERE THE DOLLAR HAS TO GO A LONG WAY

(By Martin Mayer)

(Think television is a big-numbers game? Consider this Kansas station, whose biggest asset is a handful of hard-working people.)

Television is a game of big numbers, audiences in the millions and money by the sackful. But the signal from the TV transmitter goes straight out to the horizon and then disappears, and there are lots of places in this big country where the circle of land that can be covered from a transmitting tower offers only small numbers of audience or money, and that's a different game.

Fixed costs tend to be distressingly similar, regardless of the size of the operation. "Whether you have your station in Hays, Kansas, or in Kansas City," says Bernie Brown, station manager for KAYS-TV in Hays, which has a population of about 15,000, "your power bill is the same, your equipment cost is the same, your film cost is the same, and your people cost is the same—except that you do with fewer people, because you have to." Making a living in a small market is something that can be done only by people who care about being broadcasters and have a flair for it.

But the small market also opens interesting opportunities to the resourceful. On a Monday in February 1971, for example, Bob Schmidt, who owns KAYS-TV, learned that KTWU, the educational station in Topeka, was going to telecast (with a color camera borrowed from a Topeka commercial station) the next night's basketball game between Washburn University in Topeka and Fort Hays Kansas State.

Schmidt owns a microwave link between Topeka and Hays, built to serve a cable system he operates in Hays. In the current state of the law, he could carry the Topeka station's coverage of the basketball game on his cable without paying anything for it—"and," he added, stating the obvious—"it would have been better for selling cable."

But he lives here, and was a broadcaster long before he owned cable systems, and he felt it would be worse than undesirable for him to offer so important a feature only to those who were paying for the cable.

To broadcast the basketball game on KAYS, Schmidt would have to pay the educational station for the use of its signal. He made a deal to pay $200 for the use of the picture feed, and sent his sports director (who also handles general news announcing on the KAYS radio station) to go to Topeka and do a more professional announcing job than one could expect from an educational channel. "The microwave makes all this possible," Schmidt says. "Otherwise, the loop alone would cost $3800 for the night, and we can't get but $600 for the game." The $600 came all in one piece from Sandy's, a local chain of hamburger stands. Station manager Brown made the sale.

But the complications were not yet over. KAYS is a CBS affiliate, which meant that Schmidt would have to preempt the CBS programs during the hours of the game. Because the game started at 7:15 (Central Time), he'd also have to pre-empt the hour show CBS was feeding at 6:30, and he'd have to put something on the air.

"We can do a 15-minute coaches show," Schmidt said, "from the gym. That leaves half an hour. Well, we don't have a drug problem here in Hays, but we do have a mental-health clinic, with a director who's here because he wants to live here and bring up his kids here. He's been giving drug lectures at the churches, but nobody comes—maybe 20 or 30 families. So our production director and TV station manager and I went down to talk with him. Would he give the talk for us? He was delighted. That's what we'll put on at 6:30, and even if we reach only 3000 homes, it's a lot more than he's been meeting with."

This could not be just a lecture, of course; it had to be a TV program. So production director Errol Wuertz interviewed the doctor and his assistant, a personable young lady, while station manager Bernie Brown manned the color camera. The show was taped that afternoon for evening broadcast, which is about the same as doing it live: nobody at KAYS has time to edit tape. Among the problems was the fact that the station has only one color camera, restricting the other to the presentation of slides and documents (which can be superimposed on a color background generated electronically in the control room).

There were some awkwardly amateur moments (Schmidt writhed) when the camera swung from one speaker to another, but for a visitor from the biggest city it was a respectable, recognizable interview show with a drug specialist. "I wrote the open and close," Brown said, "and my girl dug out the slides."

Chaffin has two part-time men who can go out and take pictures or interview people. Slides are sometimes preferred, because the newsman on camera, by pushing a button in his desk, can control the operation of the slide carousel that selects the pictures shown on a screen beside his head.

Schmidt himself wanted to be a newspaperman, or maybe a sports announcer. Coming out of Fort Hays College, he got a job with KAYS, then just a radio station, reading the 7 o'clock morning news. He kept it up for 18 years. "It's a great self-discipline," he says, "getting up and doing 7 o'clock news. And it's a great way for people to get to know you. They say, 'There's a go-getter'." Schmidt rose to be manager of the station, continuing all the while to do the 7 o'clock news.

Ultimately, he found allies in town and bought the property. A few years later, KLOE–TV in Goodland, at the western edge of the state, went broke and was taken over by the company that had supplied its equipment, and Schmidt bought it to use as a satellite, distributing to the 4600 residents of Goodland and 20,000 or so others in western Kansas the programs central Kansas hears on KAYS.

The rural nature of the market can be misleading, for Schmidt is a sophisticated broadcaster who knows everything that goes on everywhere; he has held positions in the National Association of Broadcasters and on the affiliates' board that deals with CBS. Twice a year he pays $2200 to ARB for a special audience study of the KAYS market, and when he didn't like the results he made a trip to Beltsville (Md.), just like the owner of a big metropolitan station, to look at all the diaries himself.

In 1970, after commissions, KAYS took in $351,000, of which $87,000 came from the network (which pays Schmidt $75 per hour for prime-time transmissions), $125,000 came from national advertisers (three-fifths of it sold, often as part of a Kansas package, by the rep firm of Avery-Nodel, two-fifths of it sold by Schmidt himself), and almost $139,000 from local advertisers, who include local makers and wholesalers of industrial farming and oil-field equipment.

The total for the year is roughly what the CBS station in New York grosses every three days, but KAYS is expected to deliver a service not greatly different from that in the metropolis.

It is interesting to note the priorities that enable Schmidt to survive—indeed, to profit—on that kind of revenue. First comes the microwave link to Wichita. At the beginning, KAYS got its network shows (then ABC) by putting up a receiving tower that took ordinary broadcast signals off the air from Wichita, and running a one-repeater microwave to the Hays transmitter. The service was technically no better than fair.

For wire services from Wichita, the telephone company wanted $5500 a month. Usually, under complicated contracts, a network pays to connect up to its affiliates, but obviously KAYS wasn't worth $66,000 a year in line charges to any network. Schmidt finally built his own full-service microwave link, for $85,000; with subsequent improvements, the total investment is now, he estimates, about a quarter of a million.

The microwave is good for more than network shows. Schmidt does not have to own any big library of movies; he can plug into KTVH and use its movies, paying, by contract, one-fifth of whatever KTVH paid. Before the microwave link, KAYS did not carry *Mike Douglas*, because the charges for mailing and handling the tapes were greater than the available local revenues could justify; now *Mike Douglas* comes in, with everything else, on the microwave.

The construction of another microwave to Topeka, paid for by the cable system, enables KAYS to take from KTWU not only the occasional basketball game but also *Sesame Street*, which Children's Television Workshop sells to Schmidt for $10 a week, for broadcast on his KLOE satellite.

Schmidt did not go to color until there was used equipment to be bought; then he picked up for $7200 each a pair of used video recorders that had cost their original owner $83,000 each four years before. The one color camera is a vidicon tube job from IVC [International Video Corp.] that is cheap to operate, "but you have to be very careful of your lighting."

The studio was designed, Schmidt says, "to make every variable a constant." The news announcers prepare and control their own slides and films, and can if necessary change the lighting from dials and switches at their desk; when graphics are to be shown on an easel, one of them goes over and moves the cards; when the weather map is displayed (with information from the U.S. Weather Center in Goodland giving KAYS some reverse use of that microwave), the newsman not on camera works the camera. Operation of the console, the telecine chain for films and the video-tape recorders is by a technical staff of four, which also maintains the equipment—a task that requires 20 hours a week for the tape recorders alone.

"We've got a guy who is one of the last of the craftsmen," Schmidt says. "He comes from Germany, carves wood pictures—at night, when he's done farming. So he comes in, shows his things. Or we get the soil conservation district supervisor, or an IRS agent, talking about the new forms. Or maybe there are entertainers who come through, or visiting lecturers at the college."

At noon, Wuertz comes on again, as one of the two anchor men for a news show, and interviewer of two news-related personalities.

Wuertz is on again a 6 o'clock and at 10, doing news and weather, and he also runs the darkroom, developing films for the news shows.

"The only thing I haven't done around here is sell," Wuertz says. "I'm farm director, and assistant news director. But its interesting. Tomorrow at 9:30 I'm interviewing a man with one of the world's best collections of barbed wire—he has 900 varieties. It's something that's just picked up around here recently, collecting barbed wire."

Wuertz is a young man, slight, with a surprisingly rosy complexion, considering his schedule. But in a town like Hays a man can get home to his wife and kids in a few minutes' drive, and running in and out of the studio is not quite what it might be elsewhere.

Station manager Brown, casual and tweedy, has been at KAYS–TV since 1961; before that, for seven years, he had been a barber ("I've also mixed cement and driven a truck"). Schmidt, who was then an on-the-street salesman as well as president of the station, was one of Brown's customers at the barber shop, and one day Schmidt said, "How would you like to carry a briefcase for me?"

Brown also appears on camera, reading some of the local commercials he has sold ("You have to find ways to get jobs done"). Though he makes most of the non-network programming decisions (largely on the basis of what he can sell: "We carry Notre Dame football Sunday morning; I have a friend here in town who has a good business, who's a Notre Dame graduate"). Brown puts most of his time into selling to local advertisers: "We're after the telephone-directory dollar, the match-book-cover dollar. We want half of every advertiser's budget, not all of it. And we outreach everybody around here—you have to buy 57 weekly papers or seven radio stations to cover our area."

KAYS–TV originates half an hour at 9:30 every morning, under the title *Thirty Minutes*, with production director Wuertz interviewing whomever is available; he books the interviews about two weeks in advance. [This program was suspended March 8, mostly because Wuertz was wearing out and needed a few months without a morning assignment. Schmidt expects to start it up again before next fall.—Ed.]

News direction is in the hands of Bob Chaffin, a chunky young man who worked as a disc jockey in a Washington, D.C., radio station and for broadcasters in Topeka, Salina and Hutchinson before coming to KAYS in 1969. His basic tool is the telephone: KAYS buys a WATS line (Wide Area Telephone Service) from AT&T for all of Kansas.

"I try to call every county seat, every sheriff's office, once a week, and I use the weekly papers as a backup and a source for leads. We put a slide on the news show—'KAYS Pays Cash for News Tips.' Then I have a man in Great Bend who has a grudge against the Great Bend newspaper. He has police monitors and a state-trooper radio in his living room, and when something happens he calls all the radio stations and us."

Local shows are very important to KAYS; Schmidt estimates that half of his local revenues are generated "between 9:59 and 10:30"—i.e., in and around the local night news—with another fifth in the early evening news. "Don't get me wrong," Schmidt says. "We would have no audience without the network. But noon is our biggest audience in daytime, except for *As the World Turns*, and people jump from the other networks to our early-evening news block."

Schmidt is also helped by his ownership of a radio station with the same call letters; though the selling operations are separate (and, indeed, competitive), radio people are always available for emergencies.

KAYS does no live remote coverage of anything; there is no mobile equipment. All news film is black-and-white: color film must be sent to Denver for processing. Because the microwave link to Wichita is employed in carrying Mike Douglas at the hours when the network is feeding news material for use in local station broadcasts, the local news show must really be put together out of local material. But that's what Wuertz and Chaffin are for.

The one-story brick building, bumped up half a story for the necessary high ceiling in the studio, stands at the edge of town, and, across the fence from the parking lot, three saddle horses graze gravely, and come to the fence when Schmidt emerges from the office. They are his horses; he loves to ride. Himself a descendant of the German farmers who settled this area in the late 19th century, bringing their wheat and their Catholicism (and forming later a Democratic knot in a Republican state), he knows his community, and everyone knows him. His local advertisers even know what they're buying: "You should see my list for Tuesday night. The local guys don't pay too much attention to the ratings books, but they know when people are watching."

INEQUITIES IN THE RAILROAD RETIREMENT LAWS

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. SHOUP. Mr. Speaker, the railroad retirement laws are currently being studied relative to some of the inequities in the current regulations. Mrs. Virginia Sullivan, homemaker, from Missoula, Mont., is the wife of a longtime railroad employee and can speak knowingly of the seriousmess of the problems involved. Mrs. Sullivan's letter, which follows provides some food for thought on this subject:

MISSOULA, MONT.,
April 20, 1972.

Hon. RICHARD G. SHOUP,
Longworth Building,
Washington, D.C.

DEAR DICK: I understand that in the near future the current Railroad Retirement Act will come up for discussion and revision.

Recently, some gross inadequacies in the present form of the Law have come to our attention. They, presently, adversely affect a close friend. However, should either of us be similarly disabled, we would be in the same unfortunate situation since we are covered by the same Act.

The Railway employee, in this instance, is 52 years old with 30 years of continuous service, always paying on the maximum amount covered. As of last October 1st he was declared totally disabled, having been afflicted by Amatrophic Lateral Sclerosis, which is a fatal degenerative disease of the central nervous sytsem. He has a wife and five children who are still in school. Prior to his disablement, this man's take home pay, as a Rail road Engineer, was in the neighborhood of $1,300 per month.

Upon making application for his disability annuity, it was learned that his total annuity would be $344 per month, with no provision for any further compensation for his wife or children. Needless to say, such a sharp reduction in income would be disastrous to any working man's family.

If this man had been able to work until he was 65, his wife would have received a supplemental annuity and any children under age 22, still in school, would have also been provided for. In addition, he would have qualified for a $70 a month Company pension. Likewise—if he were dead, each of these children would receive compensation as would his wife as their guardian. It stands to reason if a man is disabled prior to age 65 he is more likely to have dependent children who must be provided for. However, the only provision in this case falls under Social Security for some reason, in which case, if, after six months SSA decides this man is totally disabled, then he will be granted an additional $89 per month for the children (all the children—not per child).

Why SSA is involved in this, I do not know since he has always paid into Railroad Retirement. $89 per month would hardly feed one child let alone five.

Here is a case where a hardworking man has always provided well for his family—been a substantial taxpayer and a contributing member of society and because of his unfortunate illness is suddenly reduced to the level of hardship.

It is frightening to realize that one's own family could find themselves in a like unhappy situation and we, therefore, respectfully request that you take whatever steps possible to correct these inequities in the present Railroad Retirement Act.

Sincerely,

VIRGINIA M. SULLIVAN.

A GREAT AMERICAN

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, it is my privilege to acknowledge with pride the long and distinguished career of my illustrious predecessor in the House, the Honorable John W. McCormack, former Speaker, elder statesman, and loyal son of the Bay State of Massachusetts. When the former Speaker retired, I was elected to fill his seat; we were then and are today very good friends. He is and will remain a source of wise counsel and good judgment, informed by the experience of more than a half century in public service. Recently the Boston Record American-Sunday Advertiser published an exclusive interview with him, the content of which will be of great interest to every Member; I have, therefore, placed the text of that interview into the RECORD, together with an editorial tribute from the Record American to one who is remembered with affection and respect not only in his home State, but in Washington and across the Nation. May we heed his warning, and take courage at his good counsel:

A GREAT AMERICAN

Former Speaker John W. McCormack, in retirement, retains the same high degree of patriotic fervor, moral commitment and physical stamina which marked his more than 50 years of public service.

Neither age, personal tragedy, nor separation from the scenes of power, where he played a major role for so many years, have diminished his awareness of—or his interest in—the problems of the day.

Certainly, nothing could be more penetrating than his insight that the first priority of the future is the preservation of the United States—its government, democratic institutions and way of life—from hostility and subversion outside and from decay within.

But as his exclusive interview in the Record American-Sunday Advertiser earlier this week makes unmistakeably clear, he remains confident that the nation will rise above its difficulties because he has detected "signs of an awakening" among its people prepared to stand up for their beliefs.

Massachusetts' elder statesman has spent his lifetime in the company of princes and rulers, exercising more power than most, yet without ever sacrificing the interests of the people he represented to the political system he served.

He has been and is a great American—one of the greatest among us.

JOHN MCCORMACK LOOKS AT HIS COUNTRY: CITES NATION'S DANGERS

(By Bill Duncliffe)

Former Speaker John W. McCormack, as active in retirement as he was during 42 long and honorable years in Congress, took a close but affectionate look at his country in an exclusive interview with the Record American-Sunday Advertiser and declared that:

The Supreme Court decision barring prayer in the public schools has weakened the moral fiber of the nation, and his personal rebuke to the Court for it now hangs above the Speaker's rostrum in the House.

Despite deceptive changes in tactics, Communism retains its ambition to rule the world and its threat to free people is as menacing now as it ever was.

The nation's Number One priority in the years ahead will be the survival of the American form of government, and a strong and vigilant national defense is the price we will have to pay for it.

He is confident the vast majority of American youth will, like the generations that went before them, serve loyally and well in whatever duty or profession to which they are called.

McCormack, despite being retired, has by no means decided to take things easy. He still puts in a full day—and then some—at his office in the Federal Building, seeing people who call on him for help, handling his mail, dictating exhaustively, and making tapes that will go with the papers he has given to Boston University.

And in between times, he fills as many luncheon and dinner speaking engagements as he can manage.

The interview with the 81-year-old elder statesman, the first he has granted to a Boston newspaper since the death of his beloved wife, Harriet, four months ago, covered a wide range of questions about the past, present and future of the country.

To answer them, McCormack drew on the memories, opinions, experience and expert knowledge gained in a career during which he served under eight Presidents, helped make some of the most momentous decisions of this or any other century—and never neglected the interests of the people who sent him to Congress.

And, he declared, he did not regret a minute of it.

The Speaker said there were several things about the present situation of the country that disturbed him, and he cited the apathy toward the danger of Communism, the drift away from the moral law, and a seeming lack of proper concern for the rights of the law-abiding as among them.

But, he declared, there is evidence that the tide may be turning.

"I see signs of an awakening on the part of the people," the Speaker said. "In other words, you find more groups existing to fight pornography, you find more groups being formed to make a fight against militant and unrestricted abortion, and you find more groups who recognize the importance of the moral law in the life of a nation, of any nation—particularly one like ours with its democratic institutions, its government.

"You get as fine an example of that as you could have in the vote recently in Florida on the prayer amendment, where they felt overwhelmingly that some form of prayer, even private meditation, should be permitted in the public schools."

The vote on that issue in the recent primary there was 79 percent in favor, and 21 percent against.

"There's no question," McCormack said, "that the results of the Supreme Court decision on prayer has had a weakening effect on the moral fiber of the nation.

"When the House meets daily, the chaplain offers prayer, and when the Senate meets every day the chaplain there offers prayer.

"I don't see any harm in children going to school, whether it's elementary or secondary school, and allowing the teachers to have them sit or stand in silent prayer"

McCormack maintained that an erosion of the moral code is of extreme danger both to individuals and nations "because nations are nothing but a collective of human beings."

"Family life is the very basis of the strength, or weakness, of a nation or of a society," he said. "If you have a strong family life, you'll have a strong society—particularly where there is a broad middle class—and if you have a weak family life, collectively, you'll have a weak society."

As for his protest against the anti-prayer decision, the Speaker said:

"Above the Speaker's rostrum is the motto of our country, 'In God We Trust.' I might say that it was put there while I was Speaker, and some members of the press asked me if it was a rebuke to the Court.

"I said it just happened to be coincidental with the decision. I think I had enough experience to recognize what they were trying to get me into. I didn't blame them . . .

"Well, I'll be frank and tell you now that it was a mental rebuke of my own to the Supreme court.

"I didn't agree with the decision. They ought to have stated under what conditions it (prayer) could be held."

As for the other issues facing the nation, the Speaker declared:

"Men talk in good faith about our 'first priorities' like water and air pollution, conservation and other things.

"I agree with them, on the domestic level—but they don't specify that. There are so many matters that are our 'first priorities' on the domestic level. But what really is our first priority?

"You can't have any of these questions solved in the American way of life unless we preserve this country of ours. So our first priority is to take those steps that will reasonably guarantee the preservation of the United States of America.

"Now those other things are vitally important, but if a foreign government took over our nation or changed our form of government none of them would be priorities at all.

"So they are all priorities now only if we have the American institutions of government in existence.

"Whether we like it or not we have to have a strong America," McCormack continued, "because there are forces in the world today who would take advantage of a weak America.

"It could be that in the future the Soviet Union—and I'll name names, they're our immediate potential enemy—could create a weaponry system that will overshadow all others.

"If they develop it before we do, they're not going to let us catch up. They'll either blackmail us, or force us to be subject to them. And if we don't, they'll destroy us.

"And yet, so many people in America will probably misunderstand what I say—but I've always spoken my view.

"There are people who think, 'Well, the Soviet Union isn't bent on world domination.'

"Are they bent on it? Yes. Will they attain it? That's another question. Have we seen any evidence of any change in their intent? No, we've seen evidence of a change in their tactics, based on necessity.

"Have we seen any evidence of a change of intent on the part of Red China? No. Their tactics, yes, but their intent, no.

"Does that mean that I think they are going to take over country after country themselves?" McCormack continued.

"No, but they can do it through having governments established that are subject to their domination and dictation, like Czechoslovakia, Poland, and Hungary today, beginning with an imposed coalition government.

"North Vietnam started out the same way. Even Red China, with a coalition government that had Communists in it. But they got rid of the non-Communists very quickly, and what could the people do?

"The Communists controlled the army, the internal police, and the jails, so what could the average person do, if they wanted to live? And the first law of human nature is self-preservation."

McCormack insisted that, despite their differences, Russia and Red China haven't changed their ideology one iota, and he declared:

"I believe it's vitally important for the people of America to realize that the Atlantic Ocean is no longer our first line of defense. And that means we've got to be prepared before the fact (of a possible attack).

"We'll never get another opportunity, like after Pearl Harbor, to prepare ourselves after the fact. Back then, we had time to build up our great natural resources, our economy, manpower and military strength. It took us three years before we started affirmatively on the road to victory in both Europe and the Far East.

"But today, we won't have three seconds.

"If we are going to be prepared, our national defenses will have to be prepared before the fact. We'll never have another opportunity to prepare ourselves after the fact.

"The price for defense is the premium we pay for peace in America, because the only thing the leaders of a nation like the Soviet Union fear is power.

"Now, we want power for peace, but they want it for other things, the internal subversion of other countries.

"If the Soviet Union would disavow in principle and in fact trying to engage in internal subversion with the forces within a nation to overthrow a form of government they don't like, if they want to be a Communist nation economically, why I don't agree with them, but we can live with them.

"So, if they want to disavow their intent of constant interference in the internal affairs of other nations, we'll get along with them all right.

"But until they do, we've got to be on our guard."

McCormack said that the nation, whatever differences there might be on domestic affairs, must be united on the need for remaining strong.

"No matter what the view of any American might be on this or that question, we should be solid in having a strong and adequate national defense," he declared.

McCormack said he was convinced that if Great Britain had had a strong Churchill rather than a weak Neville Chamberlain as prime minister when Hitler began his conquests, World War II would never have happened. And, he maintained, the weakness of the U.S. before the war "played a part in Hitler going ahead from step to step before World War II took place.

"Now, there would have been another war," the Speaker said. "Hitler had a dictatorship that couldn't avert war somewhere, and he had built up a powerful military machine.

"But they would have moved in the direction of the Soviet Union, they wouldn't have gone toward the European nations.

"If there had been someone in England who said to Hitler before the war, 'so far and no farther,' Hitler would not have stood a direct confrontation.

"But he got away with it."

McCormack said he was certain that the majority of the American youth of today will respond to whatever their country requires of them, and he declared he was not unduly disturbed by much of the criticism made of the current generation.

"Before Pearl Harbor, it was somewhat the same," he said. "Why even in Congress there were members who said that the young people were weak, that they couldn't be depended upon in the case of a challenge.

"Yet when we were attacked their patriotism was intense and it came with potency to the front. I have confidence that the great majority of the young Americans of today are the same way."

McCormack's philosophy toward the nation's youth may have been perhaps best expressed in an incident which he said occurred while the student unrest at the University of California in Berkeley was at its height.

"I was Speaker then," he said, "and groups of young people always came to my office to talk to me, to question me. One day a group from Berkeley came, and those who couldn't find chairs sat on the floor.

"We talked for a long while, and when we were through one of them said they'd wondered about my attitude toward them because of the trouble at Berkeley. I told them:

" 'I never condemned all politicians for the mistakes of a few, or all businessmen and bankers for the sins of a few. And I don't condemn all students for what a few do.' When I was through one of them stood and said:

" 'Thank you, Mr. Speaker.'

"I feel the same way about the young people of today."

John McCormack Looks at His Country: Nixon Can Be Defeated in 1972

(By Bill Duncliffe)

The pocketbook problems of high prices and low employment will dominate the 1972 presidential campaign, says former U.S. House Speaker John W. McCormack, and the Democrats can defeat Richard Nixon in November—if they come up with a strong candidate.

McCormack, now retired after 42 illustrious years in Congress, gave his views on his party's political chances during an exclusive and extended interview with the Record American-Sunday Advertiser. Among other topics he touched on were:

His remembrances of the eight Presidents under whom he served.

His feelings when, for 14-months after the death of John F. Kennedy, he was next in line to Lyndon B. Johnson as President.

The admittedly "specious" argument he used to avoid having a bodyguard during that period and why.

His assessment of politics as a career.

McCormack stressed that he is "neutral as of now," on all the Democrats running for the party's presidential nomination. But he was firm and clear in his belief that whoever gets it will have to fight it out with Mr. Nixon on the state of the economy.

"I think the domestic problems, unemployment, living costs, inflation, interest rates and the failure of the Administration to meet the problems of the day will be the big issues of the campaign—unless something unexpected materializes between now and next fall in international affairs.

"Now if the North Vietnamese should conquer the South Vietnamese that might cause a change of public opinion. But generally, I don't think the international situation is going to be a paramount issue in November because if anything adverse flows from Mr. Nixon's visit to China, it won't be until after that time—and the same will be true of his visit to Moscow.

"They'll be a part of the campaign, but not an acute one."

Given those conditions, McCormack said, a strong Democrat can win "because to begin with the majority of the people of America prefer the Democratic Party."

But he added a note of caution:

"The question is that we've got to have someone who will crystalize (the party) into a unity—and that's the problem between now and November."

As for the men who occupied the White House while he was a member of Congress, McCormack said he had little to do with either Calvin Coolidge or Herbert Hoover because he was only a relatively minor member of Congress while they were in office.

He remembered Franklin D. Roosevelt as a "great humanitarian" who gave the nation the leadership it needed to rise above the Great Depression, and who was the architect of the Social Security and unemployment compensation laws, as well as several other measures which made life more livable for the common people.

"The opposition called those bills socialism," he said. "They were trying to create and implant fear in the minds of the very people the legislation was benefiting, and so they called it socialism.

"I call it dynamic democracy."

In the last year of Roosevelt's life, McCormack said, he took part in one of the most secret, most important and most historic meetings of World War II.

"I got a call from Sam Rayburn, who was then speaker, and he asked me to be in his office at 10 o'clock the following morning with Joe Martin, the Republican leader. Gen. George Marshall and Secretary of War Henry Stimson were going to be there.

"Up until then, I hadn't known a thing about an atomic bomb. I heard we were experimenting on some type of bomb, but I didn't know then where it was being researched and where it was being produced.

"Stimson and Gen. Marshall told us that we were in a race with time, that Nazi Germany had started work on an A-bomb before we did, and if they perfected it before we did, we could lose the war overnight.

"The President had started work on the A-bomb out of 'blanket funds' which Congress had appropriated for him, and for which he didn't have to make any accounting. But the project had gotten too big for that, and Stimson and the general asked us to get between $1.6 billion and $2 billion appropriated for the next two fiscal years—without letting the Hitler government know what we were up to.

"We took what they said on faith, and it's well we did. We bid the appropriation by increasing funds for guns and planes more than what was actually needed, and we used a 'transferability clause' which no one except those who were in on it would understand.

"Some weeks later, at hearings before a subcommittee on appropriations, the members began getting close to the knowledge that there was money in the defense bill that shouldn't have been there. Stimson and General Marshall asked us what they should do, and we advised them to take the members of the subcommittee into their confidence.

"They did—and the secret of the Manhattan Project never was leaked. Democracies are like a sieve, but that was one secret that was kept."

Harry Truman, said the 81-year-old McCormack, was a "man of remarkable intuition" who, against the advice of many members of Congress, his own scientific advisers, and the Atomic Energy Commission, made the decision to go ahead with research on the H-bomb.

"And it's a good thing he did," McCormack said, "because we finished our research work, our development, before the Soviets did. If Truman hadn't decided to go on ahead, the Soviets would have perfected the bomb first—and they never would have let us have four, five, or six years to catch up.

"They'd have blackmailed us."

Dwight Eisenhower, McCormack said, was a friendly man with few problems as President.

"I liked him," he declared.

The former speaker said that "once in a while" Eisenhower would propose progressive legislation. And when he did the Democrats supported him.

"One time he recommended increasing the minimum wage from 75 cents to 90 cents," McCormack recalled, "and I remember Sam Rayburn and I—we were for that."

"But I said, 'Sam, we've got to be for more than that. We've got to be for a dollar. Now, if we'd made it $1.15, we might not have agreed—he might have vetoed it, I don't know. But I knew they couldn't kick at a dollar. So we brought it up to that, and we also brought millions of persons who had been excluded from the law under its provisions.' "

John Kennedy had a "thorough grasp of the office of President," McCormack declared and would, had he lived, have succeeded in getting congressional approval of the "very progressive legislation" he had recommended.

After Kennedy's death, his pledges were redeemed by Johnson, who persuaded Congress to make them law. And then, said McCormack, he proposed a program of his own.

"For all practical purposes, you might call those years the Kennedy-Johnson era," McCormack declared, adding:

"I knew Lyndon Johnson since he first came to Congress. He and I were close personal friends. He was a great leader, but if you read the papers you'd find him pictured as a drastic individual with a dictatorial attitude and sharp practices.

"He was just the opposite.

"No leader in the Senate, and no speaker of the House could say to a man, 'You do this!'

"You've got to use different tactics in Congress, because every one of them is elected in their own right and a speaker or a leader who is dictatorial won't last long.

"But you can give strong leadership without being a dictator. That's the most enlightened kind—and that's what Lyndon Johnson gave."

McCormack said Nixon has been "very fortunate," explaining:

"The Democratic leadership and a great majority of the Democratic Party will support a Republican President when he makes progressive recommendations.

"If you study the Eisenhower administration, you'll find that we supported him on domestic matters when he made recommendations that would well have come from a Democratic President."

McCormack said that for the 14 months he was next in line to President Johnson, he didn't want to think too much about it "because if I did my thoughts would be based on the death of the incumbent and that would be—to me—very sordid.

"But being a human being, I couldn't escape saying once in a while. 'Well, McCormack, if you were President, what would you do?' "

He said, however, that he was aware that a President would have many more sources of information available to him than would a member of Congress and would, in making decisions, have more things to consider.

McCormack said that the prospect of his becoming President if Johnson died was, in a sense, frightening.

"The strange thing about it was that I hoped and prayed it would never happen, but if it did I would have assumed the responsibility to the best of my abilities."

Immediately after Kennedy's death—and while it was still feared that Johnson had either suffered a heart attack or had been wounded at Dallas—a Secret Service guard was placed over McCormack.

"Well, that was all right, I didn't mind that," he said. "But that night I was having dinner with Mrs. McCormack in our suite, as I usually did, and she mentioned that she thought there were some FBI men or Secret Service men in the next room.

"They were still there when I went out the next morning, and they said they'd been assigned to guard me. I told them I appreciated their position, but I didn't want to be guarded.

"I called J. Edgar Hoover and the head of the Secret Service and I told them that, but they said they were required by law to guard me.

"I told them that as far as I was concerned that was not so. I said I, as speaker, was head of the Legislative Branch of government, and they were members of the Executive Branch.

"I said that if I permitted them to give me protection, I would be permitting the Legislative Branch to some extent to be weaved into or absorbed by the Executive Branch. And I couldn't permit that.

"Well, I went on along that line. It was a specious argument, but I got away with it—or at least I thought I did. I never saw anyone around me for the next 14 months, so if they did have me under guard they were very, very clever.

"If later I find out that they were with me all the time I'll take off my hat to them, but I didn't want a guard. I felt it was one of the calculated risks that I thought I had to take."

McCormack said he'd never had any ambition to be anything other than what he was—a member of the State Legislature in the beginning and a member of Congress for 42 significant years.

He drew his satisfaction, he said, from the fact that, as a legislator, he could act to help those who looked to him for help.

"I've had 51 years of public office," he said, "nine in the Massachusetts Legislature and 42 in Congress—and I don't regret a minute of it.

"When I went to Congress I never expected—I never thought—I'd be elected majority leader. And I was certain I'd never be elected speaker. But as I look back now, I don't regret one second I've served, because all the years in Congress were challenging ones."

McCormack described politics as "the service of the people," adding:

"For anybody to have the ambition to render honest and trustworthy public service is, I think the finest ambition—outside of the ambition to serve God as a member of the clergy—that anyone can have."

SUBJECT OF SKYJACKING—EDITORIAL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. DERWINSKI. Mr. Speaker, a very timely editorial by WGN—Chicago Continental Broadcasting Co.—which was broadcast April 22–25, is directed to the subject of skyjacking and the progress that is being made against these dangerous and irrational actions. The point effectively made in the editorial is that it is the archaic procedures in our courts which prevent speedy justice.

The editorial follows:

SKYJACKING AND JUSTICE

If figures for the first three months of the year are any indication, sky-jackings and attempted sky-jackings are running 33 percent ahead of the rate for the last two years. Some people say sky-jackings get too much publicity, that too many details are provided, giving would-be sky-jackers too much of a how-to-do-it education. This, to us, is like the ostrich putting its head in the sand. Anyone who is psychologically able to think seriously of attempting to hi-jack an airliner will be able to think of a way to make the attempt . . . hopefully a failing effort.

Others concerned with this problem have pointed to the airlines and the operators of air terminals for failing to take whatever steps are necessary to prevent would-be sky-jackers from getting past the boarding gate. We appreciate the difficult public relations problem faced in trying to provide the airline customer with top-notch service and the minimum of inconvenience. But, from the increasing number of sky-jack incidents, there must be room for improvement here.

However, there is a third area, where a salutory effect might be achieved. In each of the past two years there were 27 sky-jacking attempts in this country. Of these 54 attempts, 30 succeeded. However, of the other 24 cases, in 1970 and 1971, there have been only nine convictions, an indication that speedier justice might make an impression on the guy who wants to fly now . . . and pay . . . never.

MASSACHUSETTS SENATE END THE BOMBING RESOLUTION

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. HARRINGTON. Mr. Speaker, never before in our American history have a people spoken out more strongly and violently about American involvement in a war than they have over the Vietnam conflict, and never have elected or appointed officials at all levels of government clamored for the direction and moral standards that have been so lacking in the present administration's foreign policy in Southeast Asia.

The resolution printed below was adopted by the Massachusetts State Senate on April 26, 1972. It calls on the U.S. Congress to set a date for the total withdrawal from Southeast Asia and represents the State's unequivocal opposition to the President's war policies. I have strongly supported a termination date and will continue to do so. This Massachusetts Senate resolution further demonstrates a national commitment toward that end. The resolution follows:

RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION SETTING A DATE FOR COMPLETE UNITED STATES WITHDRAWAL FROM SOUTHEAST ASIA

Whereas, The most recent stepped-up bombing of the people and territory of North Vietnam is a dangerous escalation of our role in the Indochina war; and

Whereas, This move is a flagrant and direct violation of the declared policy of the Nixon Administration to wind down the war; and

Whereas, The national interest would be best served by setting at once a date for the immediate and complete withdrawal of all material and armed forces—land, sea and air—in and over all of Southeast Asia; and

Whereas, This step is the best and most promising assurance that American prisoners of war now in North Vietnamese hands will be at the earliest time released; now, therefore, be it

Resolved, That the Massachusetts Senate respectfully urges the Congress of the United States to prepare at once legislation designated to accomplish the aforesaid objective and requests the President of the United States to expedite the implementation of such action; and be it further

Resolved, That copies of these resolutions be transmitted by the Clerk of the Senate to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth

Senate, adopted, April 6, 1972.

NORMAN L. PIDGEON,
Senate Clerk.

FAMILY FUN CENTERS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. BOB WILSON. Mr. Speaker, family fun centers continue to attract the attention of community and government leaders all over the country. New centers are being opened each week, until eventually San Diego will have 16 such centers in operation. This should be a challenge for communities nationwide:

THE STORY OF SAN DIEGO'S FAMILY FITNESS CENTERS 3 MONTHS, SIX CENTERS, LIMITLESS BENEFITS

San Diego's Family Fitness Centers are only three months old, yet they have already been the subject of a nationally syndicated news article which was read into the Congressional Record. So many inquiries were received from eleven different states that C. Carson Conrad, Executive Director of the President's Council on Physical Fitness and Sports, visited San Diego to see the program in operation.

The action at Family Fitness Centers is not calisthenics nors is it sports. It is rhythmical movement performed to stimulating music. Often gimmicks—sticks, ropes or hula hoops—are introduced to make the classes more varied and enjoyable. But the basic pattern is always so simple that it can be followed by any child of school age.

ALL IN THE FAMILY

Family Fitness Fun Nights are so satisfying that whole families come back again and again. The regular participants will tell you that three times a week of this creative exercise makes them feel renewed. For some it solves weight problems. For everyone it is helping to combat the sedentary habits that are endangering our national health at all age levels.

A typical Family Fitness Night begins with simple warmups, and continues into approximately one hour of moving about to the accompaniment of music with an exciting beat. Splinter groups are often formed: exercise games for kids, jogging for men and spot reducing for women. All are usually reunited for a final half hour of group games that leave you with a good feeling.

The first Family Fitness Fun Nights began in early October at three City Park and Recreation Centers. They immediately hit capacity or near-capacity attendance, and were so enthusiastically received that plans were made at once to open three additional centers early in 1972. Every few weeks centers will be added until a total of sixteen centers has been reached.

FOR FUN AND FOR FREE

All Family Fitness Fun Nights are free to the public, although the system they employ has been available only at expensive resorts. The instructors are young people who can bring infectious pizazz to their assignments. Tuesday, Wednesday and Thursday evenings are the scheduled nights—consecutively, so that you can work up momentum.

Family Fitness Centers have been introduced in the hope of making San Diegans the fittest citizens of America. To do this, we need to establish a new life style. Experts are in agreement that the most effective way to accomplish this is through pleasant, noncompetitive exercise that will remove tension from the body, anxiety from the spirit and cobwebs from the brain. As Professor Jean Mayer noted Harvard nutritionist wrote in the September issue of *Family Health*, "A mere 15 minutes of active exercise three times a week can do a lot for your heart and health." If your life style finds you sinking into an armchair or switching the television set on more than four or five times a week, then we recommend a change. Exercise can provide you with a happier life, and perhaps a longer and better one.

WAUKEGAN FOLLOW-THROUGH DESERVES FUNDING APPROVAL NOW

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. McCLORY. Mr. Speaker, it is my hope that action may be taken to provide funds for those deserving Followthrough programs which have proven so successful in Illinois and throughout the country.

Mr. Speaker, I have particular reference to the Followthrough program which has been conducted during the past 2 academic years in the Waukegan school district. This program, which has benefited annually more than 400 disadvantaged children in the Carman School, deserves prompt assurance that the program will be continued during the next academic year—commencing in September 1972.

Mr. Speaker, whatever else may be said about the policies of this administration with regard to our public school systems throughout the country, it must be acknowledged that a major part of the program is to assure equality of educational opportunity.

There can be no question but that educational opportunities not otherwise available to minority group children are provided by the Followthrough program at Waukegan, Ill. Indeed, this is an outstanding example for other school districts in the Nation to emulate. Mr. Speaker, in a recent analysis of Followthrough programs throughout the Nation, the University of Kansas at Lawrence, Kans. provided a comprehensive report and analysis on the success of the Waukegan project. In the university's evaluation and analysis, it was found that Waukegan was judged to be "outstanding" on the 17 items included in their analysis. The Carman School ranked at the very top of the list in behavior analysis report.

The program sponsor, Donald Bushell, Jr., on March 29, 1972, concluded his report on the Carman School program in these words:

> From our experience with follow-through projects throughout the nation during the past four years, it is possible to say that few have fulfilled the intent and spirit of this legislation as effectively as Waukegan. It is my hope that you can agree that the Waukegan program should be continued and expanded as a model for other school districts who seek to provide a quality education for all children regardless of income.

Mr. Speaker, while I have some assurance that the Waukegan program will be funded under appropriations to be made for emergency school aid, it would be far better to have funds provided under a supplemental appropriation bill so that plans may be concluded at the earliest possible date to continue this vital program for the deserving and highly motivated young people in my congressional district at Waukegan, Ill.

AMTRAK—EXTENDED

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. SHOUP. Mr. Speaker, convenient, efficient, economical, and reliable public passenger rail service is an important goal the Congress, I, and Montanans have supported. Recently I voted for the appropriations bill to extend the operations of Amtrak for intercity rail passenger service for an additional year. But my further support of the program beyond 1 year will depend upon what corrective actions Amtrak takes to improve their service, equipment and facilities.

I wish to enter in the RECORD a statement on the "Adequacy of Intercity Rail Passenger Service in Montana," by Alfred C. Langley, a Montana Public Service Commissioner. Mr. Langley, with 28 years of passenger rail service experience, points out to the Interstate Commerce Commission some problems Amtrak is experiencing in Montana which need to be resolved.

The statement follows:

ADEQUACY OF INTERCITY RAIL PASSENGER SERVICE

(By Alfred C. Langley)

INITIAL STATEMENT

My name is Alfred C. Langley. Prior to January 1, 1971, when I took office as a Montana Public Service Commissioner, I was employed by the Burlington Northern and predecessor Northern Pacific Railway Company as a fireman and engineer for over 28 years, the last 20 years as an engineer. During 2 years of this period I worked as both an engineer and fireman on every passenger train operating between Livingston and Billings, Montana and worked for 7 years on passenger trains operating between Livingston and Butte, Montana as well as those operating between Livingston and Helena, Montana.

While awaiting arrival of trains I used to mingle with and talk to passengers at the depots. I have deadheaded on various trains and have observed the not so gradual deterioration of passenger train service.

As a Public Service Commissioner my contacts with men presently operating passenger trains is frequent. I still talk with passengers and occasionally ride the trains.

During the Northern Pacific operations of the North Coast Limited, the service was very good up until the early sixties when service started to deteriorate. Service did not improve after the merger. The equipment was getting run down and proper repairs were not made to keep the equipment in top condition. The air conditioning was faulty as was the heating. Since Amtrak has taken over, conditions and service have gotten worse. The equipment is not as good as on the North Coast Limited. Malfunctions of air condition and heating is prevalent and maintenance on equipment operating between Billings and Butte is still a problem. This is the territory with which I am familiar. It seems that at the terminals, they are not interested in thawing out frozen cars, unplugging toilets or making the air conditioning system operate. The primary concern is avoiding any delay regardless of the comfort of the passengers and also to keep additional needed personnel off the payroll.

On the old North Coast Limited, we were pulling an average of ten or eleven cars, mail car, baggage car, four coaches, travelers rest, diner, slumber coach and two sleepers. The train now consists of water baggage car, two or three coaches, diner and two sleepers totaling six or seven cars as a regular train. The smallest count on this train since Amtrak took over, was approximately sixty-two passengers on the Billings, Butte Division, and the highest was four hundred and twenty (420). The average passenger load is ninety-five passengers. Amtrak is carrying about forty percent (40%) more passengers on this run then we were carrying at the same time last year.

Amtrak has come out with a notice on smoking on this train and I cannot see any way it can be made to work. As long as you have seat reservations, there is no possible way you can segregate the smokers from the non-smokers. My suggestion would be to eliminate smoking except in the rest rooms, diner and lounge car.

On January 2, 1972, passengers were not allowed to board No. 9 at Livingston because the train was filled to full visual capacity out of Billings with about fifteen people standing in the aisles and sitting on their luggage. All coach seats, dome seats, and all seats in the lounge car, were filled as well as people sitting in the rest rooms. There were also many coach passengers sitting in the bedrooms and roomettes at Livingston. There were two bedrooms unoccupied to Missoula and people were placed in these two bedrooms at Livingston. Adequate rooms or coaches are not supplied during the holidays and other periods of peak travel.

On January 2, 1972, there were four hundred and twenty (420) people on train No. 9 at Livingston. Upon inquiry in St. Paul as to where coaches were that had been used the year before, we were notified that the coaches were not fit for service and that neither Burlington Northern nor Amtrak would make needed repairs for service. People in coaches are renting pillows with no covers and people in bedrooms do not always have clean linen on beds because adequate supply of clean linen is not provided. Upon inquiry to the porter about clean linen, he makes the statement, "that's all there is, there ain't no more."

Coaches are dirty and unsanitary on the interior, windows are not kept clean, and it is impossible for passengers to enjoy the scenery on a scenic route.

The condition of the North Coast Hiawatha motive power is appalling. Much of the maintenance is done after the locomotive is placed on the train where mechanics and proper tools are not readily available. If a machinist or electrician is needed a call must be made to the roundhouse. With shop facilities at Livingston, Montana, every passenger train should move out of that point with freshly serviced locomotives in the interest of eliminating power failures and unnecessary delays.

The North Coast Hiawatha is operating on a use it or lose it basis. The manner in which it is being operated would indicate that Amtrak is preparing to lose it.

Amtak is not providing modern and efficient rail passenger service over the Southern route through Montana.

SENATE—*Tuesday, May 2, 1972*

The Senate met at 12 noon and was called to order by Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal source of light and life, in whose divine Fatherhood lies the hope of human brotherhood, we lift our prayer to Thee, beseeching Thee to show us the way in our striving for a better world. When we would do good, evil is present with us, and without Thee we are impotent and undone. But in Thy presence we see light to take one step at a time toward the distant goal of Thy kingdom on earth. When the spirit is willing but the flesh is weak, keep us steadfast and unmovable, always abounding in the work of the Lord. Work in and through us Thy holy will for this Nation and all mankind.

Through Him who brings peace and joy. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 2, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. STEVENSON thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, May 1, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT ON GOVERNMENT SERVICES TO RURAL AMERICA—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. STEVENSON) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Agriculture and Forestry:

To the Congress of the United States:

Today, I am transmitting the second annual report on government services to rural America, as required by the Agricultural Act of 1970.

RICHARD NIXON.

THE WHITE HOUSE, *May 2, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. STEVENSON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 1379) to authorize the Secretary of Agriculture to establish a volunteers in the national forests program, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 5404. An act to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Arkansas Game and Fish Commission, and for other purposes;

H.R. 9676. An act to authorize the conveyance of certain lands of the United States to the State of Tennessee for the use of the University of Tennessee;

H.R. 12392. An act to amend title 28, United States Code, section 1491, to authorize the Court of Claims to implement its judgments for compensation;

H.R. 12652. An act to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes; and

H.R. 13334. An act to establish certain positions in the Department of the Treasury, to fix the compensation for those positions, and for other purposes.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the bill (S. 2713), an act to amend title 18 of the United States Code to authorize the Attorney General to provide care for narcotic addicts who are placed on probation, released on parole, or mandatorily released.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. STEVENSON).

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 5404. An act to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Arkansas Game and Fish Commission, and for other purposes; to the Committee on Agriculture and Forestry.

H.R. 12392. An act to amend title 28, United States Code, section 1491, to authorize the Court of Claims to implement its judgments for compensation; and

H.R. 12652. An act to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes; to the Committee on the Judiciary.

H.R. 13334. An act to establish certain positions in the Department of the Treasury, to fix the compensation for those positions, and for other purposes; to the Committee on Finance.

H.R. 9676. An act to authorize the conveyance of certain lands of the United States to the State of Tennessee for the use of the University of Tennessee; to the Committee on Government Operations.

ENROLLED BILL PRESENTED

The Assistant Secretary of the Senate reported that on today, May 2, 1972, he presented to the President of the United States the enrolled bill (S. 2713) to amend title 18 of the United States Code to authorize the Attorney General to provide care for narcotic addicts who are placed on probation, released on parole, or mandatorily released.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INDEFINITE POSTPONEMENT OF SENATE JOINT RESOLUTION 155

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar No. 359, Senate Joint Resolution 155, relating to termination of military operations of the United States in Indochina be indefinitely postponed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WORKING CAPITAL FUND FOR THE BUREAU OF LAND MANAGEMENT OF THE DEPARTMENT OF THE INTERIOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 734, S. 2743.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 2743, to establish a working capital fund for the Bureau of Land Management of the Department of the Interior, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a public land management working capital fund. This fund shall be available without fiscal year limitation for expenses necessary for furnishing in accordance with the Federal Property and Administrative Services Act of 1949, as amended, and regulations promulgated thereunder, supplies and equipment services in support of programs of the Secretary of the Interior which he administers through the Bureau of Land Management, including but not limited to the purchase or construction of buildings and improvements and the purchase of motor vehicles, aircraft, heavy equipment, and fire control equipment within the limitations set forth in appropriations made for the Bureau of Land Management.

SEC. 2. The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

SEC. 3. The fund shall be credited with payments from appropriations and funds of the Bureau of Land Management, other agencies of the Department of the Interior, other Federal agencies, and other sources as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursements.

SEC. 4. There is hereby authorized to be appropriated the sum of up to $3,000,000 to provide initial capital.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–766), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT FROM REPORT NO. 92–766

PURPOSE

The purpose of S. 2743, which was introduced by Senators Jackson and Allott at the request of the Department of the Interior, is to establish a working capital fund for the Bureau of Land Management of the Department of the Interior.

BACKGROUND

S. 2743 is patterned after the act of August 3, 1956 as amended (16 U.S.C. 579b) which provided a working capital fund for the United States Forest Service.

Because BLM operations involve long-range or unexpected commitments of funds, a stable and flexible working capital fund will afford this agency a more efficient method of financing and accounting for various programs and service operations affecting more than 450 million acres of public lands and requiring a variety of special supplies and equipment.

A working capital fund will greatly simplify bookkeeping and contractual arrangements with suppliers and will enable BLM to take advantage of seasonal purchasing and quantity purchasing benefits.

On March 22, 1972, hearings were held before the full committee to consider S. 2743. At that time the Committee received the favorable testimony of the U.S. Department of the Interior.

COSTS

Enactment of S. 2743 will authorize the appropriation of $3 million to provide the initial capital to establish the working capital fund.

RECOMMENDATIONS

The Committee on Interior and Insular Affairs by unanimous vote of the members present in executive session on April 26, 1972 recommends that S. 2743 be enacted.

DEATH OF J. EDGAR HOOVER

Mr. ROBERT C. BYRD. Mr. President, the country, I am sure, was greatly shocked to hear today of the passing of J. Edgar Hoover.

J. Edgar Hoover was an American institution.

As much as any American who ever lived, he gave a lifetime of devoted service to his country. He was dedicated to the basic principles which have made America great. He devoted himself to the public good.

I am glad that he was permitted to remain at the head of the FBI despite his age.

Like all unusual men, he was controversial, but I believe he had many more supporters than detractors.

Under his direction, the FBI has become a symbol of efficiency, dedication to the rule of law, and incorruptibility, which has made the Bureau respected throughout the world.

The FBI, built largely by the determination and hard work of J. Edgar Hoover, and his deep love for his country, will long remain a monument to his memory, and the Bureau will bear the indelible imprint of his strong character for years to come.

Mr. GRIFFIN. Mr. President, I share the regret already expressed by the distinguished acting majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), concerning the death of J. Edgar Hoover.

Few men are legends in their own time. J. Edgar Hoover was. He served America under eight Presidents, and built the FBI into the most respected law enforcement agency in the world.

It is the understatement of ours to say that this man will be very difficult to replace.

SEVEN OUT OF 10 AMERICANS SUPPORT PRESIDENT NIXON'S POLICY ON BOMBING VIETNAM MILITARY TARGETS

Mr. GRIFFIN. Mr. President, it is very interesting that no notice seems to have been taken of a press release issued yesterday by the Opinion Research Corp., a respected polling firm of Princeton, N.Y.

The press release reads in part:

Seven out of 10 Americans support the President's use of United States air and sea power against military installations in North Vietnam as long as the present North Vietnamese offensive in South Vietnam continues. A survey of public reactions to President Nixon's recent televised speech in which he outlined the American position on the recent North Vietnamese invasion of the South shows the public to be solidly behind the President. In a survey conducted by Opinion Research Corporation of Princeton, N.J. respondents were read a series of excerpts from President Nixon's address and were asked for each whether they agree or disagree with the President's position. On the five excerpts tested agreement ranged from 66% to 86%. Following are the five statements tested and the results:

[In percent]

	Agree	Disagree	No opinion
"Our air and naval attacks on military installations in North Vietnam will be continued until the North Vietnamese stop their offensive in South Vietnam"	69	24	7
"I have flatly rejected the proposal that we stop the bombing of North Vietnam as a condition for returning to the negotiating table"	66	27	7
"We refuse to accede to the enemy's demand to overthrow the lawfully constituted government of South Vietnam and to impose a Communist dictatorship in its place"	67	25	8

Mr. President, I ask unanimous consent that remainder of the text to this press release, which seems to have gone unnoticed by the press, be printed in the RECORD.

There being no objection, the remainder of the press release was ordered to be printed in the RECORD, as follows:

[In percent]

	Agree	Disagree	No opinion
"Let us end the war in Vietnam in such a way that the younger brothers and sons of the brave men who have fought in Vietnam will not have to fight again in some other Vietnam at some time in the future."	86	11	

Among virtually all subgroups of the population backing for the President's position remains strong. This is true for both men and women; all regions of the country; both young and old; and Democrats, Republicans, and Independents.

The results of this survey were obtained by telephone interviews conducted among a nationwide representative sample of persons 18 years of age and over. The interviews numbered 1,024 and were conducted during the period April 27–29, 1972.

THE TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 30 minutes, with statements therein limited to 3 minutes.

Is there any morning business?

DEATH OF J. EDGAR HOOVER

Mr. ALLEN. Mr. President, the Nation mourns the death of the Honorable J. Edgar Hoover, director of the Federal Bureau of Investigation since 1924. Mr. Hoover was not only a fearless and incorruptible law enforcement officer, but he was also a loyal and dedicated American whose aim in life was to support, defend, and sustain our great Republic in the lofty principles upon which it was founded.

Mr. President, for some years there has been under construction on Pennsylvania Avenue in the city of Washington a building to house the Federal Bureau of Investigation. Mr. Hoover was dedicated to the final completion of that building, and he looked forward to the time when that building would house the Federal Bureau of Investigation.

I think it was inevitable—certainly now all the more certain—that that building be named after Mr. Hoover.

Mr. HOLLINGS. Mr. President, will the Senator yield?

Mr. ALLEN. Mr. President, I yield to the distinguished Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I just came to the floor. I do not want to speak out of context, but Mr. Hoover recently appeared before the Appropriations Committee. I think the Senator will observe from the printed hearing record that he thought the architecture of that particular building was the greatest monstrosity ever constructed in the city of Washington. It was his hope, therefore, that his name not be connected with the building.

Mr. ALLEN. That was the hope he expressed at that time?

Mr. HOLLINGS. The Senator is correct. That is the hope he expressed. This thing evidently was approved by some Pennsylvania Avenue commission charged with the cultural and architectural arts, or some group, and it is the second most completely wide open building that I have ever seen. There is nothing there, just some posts. It goes up gradually like a misplaced pyramid.

Mr. Hoover himself expressed deep regret that it had this design. He was proud that the Federal Bureau of Investigation would be properly housed, but he said that he hoped his name would not be connected with the building.

Mr. ALLEN. That is not the only monstrosity in the city of Washington.

Mr. HOLLINGS. The Senator is correct. I am trying to prevent a monstrosity connected with the Nation's Capitol right now.

Mr. ALLEN. Mr. President, I agree with the Senator from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, if I may be recognized, I yield my 3 minutes to the Senator from Alabama.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized for an additional 3 minutes.

SENATE JOINT RESOLUTION 229

Mr. ALLEN. Mr. President, I introduce a Senate joint resolution providing that the Federal Bureau of Investigation building be named in honor of the deceased Federal Bureau of Investigation Director, the Honorable J. Edgar Hoover.

The ACTING PRESIDENT pro tempore. The joint resolution will be received and appropriately referred.

Mr. ALLEN. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, the Nation has suffered a great loss in the death of J. Edgar Hoover. I feel that he was one of the really great Americans of our time.

Mr. President, I do not believe in the theory of the indispensable man. I do not believe any man is indispensable. However, if through the years one were to conclude that this is a valid theory, then I think that so far as our country is concerned, J. Edgar Hoover came the nearest to filling the bill.

Mr. Hoover dedicated his entire life to his beloved country.

He dedicated every waking moment, almost, to the Federal Bureau of Investigation, having built that organization from its beginning into the great organization that it is now. It can truthfully be said that if one has seen one Director of the Federal Bureau of Investigation, one has seen them all. And what a great Director he was. What a great American he was.

It was my privilege to have known him, personally. I am very proud of that fact.

I read a few moments ago on the wire services that President Nixon had spoken of his long and close friendship with Mr. Hoover.

That brings to mind a dinner which the then outgoing Vice President Richard M. Nixon had in Washington in January of 1961, just a few days before the inauguration of President Kennedy. That was 11 years ago. Present at that dinner was Mr. Hoover.

I remember so well Vice President Nixon's tribute to Mr. Hoover on that occasion. Then after the dinner, held at a private club, Mr. Hoover and Mrs. Byrd and I, and a few others at the dinner went back to the home of Vice President and Mrs. Nixon and spent a few more hours together. Several of us sat in the Nixon kitchen with Mr. Hoover, one or two of us sipping coffee and one or two of us sipped scotch. So, I know of the longstanding friendship that existed between President Nixon and Mr. Hoover.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ALLEN. Mr. President, if I may be recognized, I yield my time to the Senator from Virginia.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized for an additional 2 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I understand that the distinguished junior Senator from Alabama has introduced a joint resolution to name the new building which will house the Federal Bureau of Investigation in honor of J. Edgar Hoover. I do not know of any more fitting name that could be given to that building than the name of J. Edgar Hoover. Indeed, any other name would be inappropriate.

This country of ours owes Mr. Hoover a great debt.

He dedicated all of his life to the United States. He dedicated all of his life to developing and building and maintaining the integrity of the Federal Bureau of Investigation.

I am glad to associate myself with the distinguished Senator from Alabama in urging that the new building be named in honor of J. Edgar Hoover.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I join in the joint resolution offered by the junior Senator from Alabama. In coming to the floor this morning, I had primarily in mind the matter dealing with the ship sale bill to be discussed in a few moments. I only learned of the passing of J. Edgar Hoover when I arrived here.

I had the personal pleasure in the mid-fifties of being associated with this distinguished public official. At that time I was serving on the Hoover Commission, investigating the intelligence activities of the U.S. Government.

We went very thoroughly into the Central Intelligence Agency, the State Department, the Army, Navy, Air Force Intelligence, the Defense Intelligence, and to some extent into the various branches of the Federal Bureau of Investigation.

In the main we had a chance to look and see the effectiveness of the Justice Department and the Federal Bureau of Investigation when the famous McCarthy case became an issue. If we would remember, Mr. President, at that time Senator Joe McCarthy would not turn over his papers to anyone. Finally he agreed to turn them over to General Mark Clark, then chairman of the task force under the Hoover Commission.

I was assigned, with others, to go over with the Federal Bureau of Investigation and Mr. Hoover personally each one of these papers and each charge. We went into the wee hours of the morning of the next day. It interested me at that time that there was not a single thing that Senator Joe McCarthy had in his so-called papers that the FBI did not have immediate notice of. As soon as I could state the name of a particular subject and reveal the next paper in the deck, immediately Mr. Hoover was on top of it and said, "Yes, we know about this one," or "We know about that one," or "We went into that before," or whatever the case was.

I found Mr. Hoover to be a very thorough, very objective, very effective, and very brilliant law enforcement officer. I realize that in the past several years his competence has come into issue. In fact, it has been suggested on this floor by some who are running for high office that if they were elected to high office their first act would be to discharge Mr. Hoover. This hurt me somewhat.

The law enforcement officers with whom I worked very closely down in my own State at the particular time, year before last, unanimously in convention passed a resolution of appreciation and thanks to J. Edgar Hoover for his leadership and direction of law enforcement in this land. These were men burdened with the duty of trying to keep peace and good order in the cities and urban areas which were then in turmoil and disquiet.

The ACTING PRESIDENT pro tempore. The Senator's 3 minutes have expired.

Mr. ALLEN. Mr. President, I ask unanimous consent that I may be recognized for an additional 3 minutes so I may yield to the Senator from South Carolina.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Alabama.

Mr. President, it so happens that this Congress passed a joint resolution dedicating May 1 of this particular year, 1972 as Law Day to that law enforcement officer. We did that after 4 years of effort, over the objection of the American Bar Association and many other groups. It only reached the President's desk on April 27, 1972, and it was signed into law too late to have effect this year. We have already reintroduced it to have it ready so it will have the right effect and be a tribute and memorial for next year, May 1, 1973.

But it was J. Edgar Hoover who gave credibility and stability to our society, to meet our needs. I saw him only 4 years ago, while conducting hearings for our distinguished colleague from Arkansas (Mr. McCLELLAN) who could not be present at that time.

Again it was somewhat misreported in the press that we were having top secret sessions and Mr. Hoover was abrupt and would not answer questions and on occasion made misleading statements.

The fact of the matter is, the appearance was off the record before the committee and the Director of the FBI, J. Edgar Hoover, stayed for some 4 hours, and he went into every facet of law enforcement, drugs, organized crime, disruption on the campuses, the Berrigan case, and all other matters. I would agree some of his comments about the news media were not well taken, and with which I could not agree. But when it came to the man himself, I had a firsthand knowledge with him 15 or 17 years ago and firsthand experience with him 4 months ago. He impressed us at that hearing with his particular knowledgeability, awareness and objectivity of law enforcement in this country. He was not senile; he was not bullheaded; and he had not gotten, in a sense, the feeling that he was the indispensable man. In fact, we discussed this. The matter of this particular FBI building going up at an increased cost of $1 million every month, was mentioned only in comments about the overruns of the cost and distasteful design. He made comment that he could not agree with that cost overrun and could not countenance the design itself.

But the point of the Senator from Alabama in his resolution is well taken. This will be the FBI Building. Mr. J. Edgar Hoover was the FBI, and it is only appropriate that, despite those observations Mr. Hoover had to make and the misgivings he had on the particular construction, it is proper that it be named in his memory.

I would like to join the distinguished Senator from Alabama and ask him to add my name as a cosponsor on his joint resolution.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from South Carolina for his comments. As the distinguished Senator said, J. Edgar Hoover was the FBI, and it would be inappropriate for the building to be named for anyone other than Mr. Hoover.

I appreciate the request of the distinguished Senator that his name be joined as a cosponsor of the joint resolution. Mr. President, I ask unanimous consent that the name of the Senator from South Carolina be added as a cosponsor of the joint resolution, along with the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. TALMADGE. Mr President, I ask unanimous consent that my name may be added as a cosponsor of the joint resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, very few Americans become a legend in their own lifetime. Mr. Hoover became such a legend in his lifetime. He took over an organization that was inept and inefficient and made of it the greatest investigative law enforcement agency in America.

J. Edgar Hoover was a tough law and order man. He believed in the strength and security of our country and that every American had the right to be free and secure and in public. He believed criminals should be speedily prosecuted and convicted and sentences imposed on them. His record will precede him throughout the annals of American history. He is entitled to the respect and appreciation of all law-abiding Americans everywhere.

I thank the Senator for yielding.

Mr. ALLEN. I thank the Senator from Georgia.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further morning business?

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Stevenson):

A resolution of the House of Representatives of the State of Missouri; to the Committee on Government Operations:

"Resolution

"Whereas, the government of the United States owns vast parcels of land in many of the counties of this state; and

"Whereas, by virtue of the ownership of this land being in the federal government, these counties are denied much needed tax revenues; and

"Whereas, many thousands of acres of this federally owned land are located in some of the poorest counties of the state; and

"Whereas, these counties, like about every county in the state, are in serious financial trouble, and many of them are hard pressed to meet the day-to-day operations of county government; and

"Whereas, county government is the backbone of our federal system of government and is the local unit which provides many of the services needed and desired by the citizens therein; and

"Whereas, county government is presently the unit of government which is most in trouble and danger of extinction; and

"Whereas, although the federal government under its present system of returning funds to local units of government does provide some support for roads and education, nothing is paid to support county revenues; and

"Whereas, if the federal government were to make "in lieu" payments to the counties on the land owned by them on each acre in the same ratio that the county collects taxes on similar privately owned land within the county, much of the financial bind the counties find themselves in would be removed; and

"Whereas, legislation to provide for such an "in lieu" payment is now pending before the Congress of the United States;

"Now, therefore, be it resolved that the House of Representatives of the seventy-sixth General Assembly of the sovereign State of Missouri, meeting in Second Regular Session, memorialize Congress to pass this legislation; and

"Be it further resolved that the House of Representatives especially urge the members of Congress from Missouri to support this legislation; and

"Be it further resolved that the Chief Clerk of the House of Representatives be instructed to send suitably inscribed copies of this resolution to the Clerks of the United States House of Representatives and the United States Senate, to both United States Senators from Missouri, and to each member of the House of Representatives of the United States Congress from Missouri."

A letter, in the nature of a petition, from the executive secretary, from the Mennonite Central Committee, Akron, Pa., praying for an end to American participation in Vietnam; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ANDERSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 538. A bill to declare that certain federally owned lands are held by the United States in trust for the Indians of the Pueblo of Cochiti (Rept. No. 92–775).

By Mr. CRANSTON (for Mr. Hartke), from the Committee on Veterans' Affairs, with an amendment:

S. 2354. A bill to amend title 38 of the United States Code to provide improved and expanded medical and nursing home care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to provide for improved structural safety of Veterans' Administration facilities; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes (Rept. No. 92–776).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

Mary Hamilton, of Illinois, to be a member of the Price Commission.

By Mr. SPONG, from the Committee on Commerce:

Rear Adm. Allen L. Powell, to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration.

Mr. SPONG. Mr. President, from the Committee on Commerce, I report favorably sundry nominations in the Coast Guard which have previously appeared in the Congressional Record and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Charles E. Sibre, and sundry other officers, for promotion in the Coast Guard.

John H. Ingram and sundry other officers, for promotion in the Coast Guard.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PACKWOOD (for himself and Mr. Stevens):

S. 3566. A bill to provide for the regulation of the process by which the people of the United States select the President and Vice President by establishing a series of five regional primary elections at which the people may express their preference for the nomination of an individual for election to the office of President. Referred to the Committee on Rules and Administration.

By Mr. MONDALE:

S. 3567. A bill for the relief of Mrs. Joycelin Bradford. Referred to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. Boggs, Mr. Beall, and Mr. Buckley):

S. 3568. A bill to designate the Federal Bureau of Investigation building now under construction in Washington, D.C., as the "J. Edgar Hoover Federal Building." Referred to the Committee on Public Works.

By Mr. TOWER:

S. 3569. A bill to provide that persons from whom lands are acquired by the Secretary of the Army for dam and reservoir purposes shall be given priority to lease such lands in any case where such lands are offered for lease for any purpose. Referred to the Committee on Public Works.

By Mr. ALLEN (for himself, Mr. Harry F. Byrd, Jr., Mr. Robert C. Byrd, Mr. Hollings, Mr. Talmadge, and Mr. Tower):

S.J. Res. 229. A joint resolution to name the new Federal Bureau of Investigation building the J. Edgar Hoover Building. Referred to the Committee on Public Works.

(Remarks on this joint resolution when it was introduced appear earlier in today's Record).

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD (for himself and Mr. Stevens):

S. 3566. A bill to provide for the regulation of the process by which the people of the United States select the President and Vice President by establishing a series of five regional primary elections at which the people may express their preference for the nomination of an individual for election to the office of President. Referred to the Committee on Rules and Administration.

PRESIDENTIAL REGIONAL PRIMARIES ACT

Mr. PACKWOOD. Mr. President, in behalf of myself and the distinguished senior senior Senator from Alaska (Mr. Stevens), I am introducing legislation establishing five regional presidential preference primaries. In a recent speech on the Senate floor, I outlined the reasons why I consider the enactment of this proposal to be essential.

Mr. President, I ask unanimous consent that my speech of April 7, 1972, together with the text of the Presidential Regional Primaries Act, be printed at this point in the Record.

There being no objection, the speech and bill were ordered to be printed in the Record, as follows:

Statement by Senator Bob Packwood on the Senate Floor, April 7, 1972

THE PRESIDENTIAL REGIONAL PRIMARIES ACT

Mr. President, today I am circulating for cosponsorship and later will introduce legislation establishing five regional presidential preference primaries. This legislation is designed to replace the present mishmash of presidential extravaganzas. These extravaganzas take the form of citrus circuses in Florida and winter carnivals in Wisconsin. They leave the candidates tired and broke. They leave the public bored or bewildered and—far too often—disgusted. Voters understandably ask, "When is this nonsense coming to an end?" In the process, the candidates lose their credibility and the office loses its dignity.

Credibility must be restored to the candidates because, without it, dignity cannot be restored to the most important office in the world. A plan must be devised that somehow, someway dramatically improves the Barnum and Bailey traveling sideshow that is in New Hampshire one week, Florida the next, and does not end until the curtain has come down a total of 24 times.

Congress must meet its responsibility of providing a vehicle for the American people to select the nominee of their party from a wide range of candidates.

I have a plan to effect this change. At the outset, however, let me emphasize that my proposal is not a panacea to cure all the ills which plague our system. It does, however, provide a change in direction which is essential if we are to restore credibility to the candidates and dignity to the office they seek.

My bill would establish a Federal primary elections commission of five members appointed by the President, with the advice and consent of the Senate. The commission would provide general administrative supervision over the regional primaries established in this bill.

My proposal establishes a system of five regional primaries throughout the Nation

Every State is included in one of the following five regions:

(A) Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont.

(B) Illinois, Indiana, Kentucky, Michigan, Ohio, and West Virginia.

(C) Alabama, the Canal Zone, District of Columbia, Florida, Georgia, Maryland, Mississippi, North Carolina, the Commonwealth of Puerto Rico, South Carolina, Tennessee, Virginia, and the Virgin Islands.

(D) Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin.

(E) Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

The first regional primary would be held on the second Tuesday in March, with another primary to be held on the second Tuesday in each of the succeeding four months.

The commission would be directed to meet 70 days prior to the March primary and determine by lot the region in which the first primary would be held. This process would be repeated for each of the remaining regions. In this way, the order of the primaries would not be known in advance.

Under the current system, some candidates begin their campaigns for nomination almost two years prior to the presidential election. They are able to do this because certain States have set primary dates and all of the candidate's money, energy and talent are focused on those particular States. A national primary would not change this. The date would still be known and candidates could still begin their campaigns far in advance.

Under my proposal, however, candidates would not know where the first regional primary would be held until 70 days prior to it. All candidates would be forced to shepherd their limited financial resources until they knew which regional primary would be first.

Practical politics would dictate that a candidate spend most of his available time in the region holding the next primary. In a national primary, by contrast, a candidate would be in Los Angeles today, New York tomorrow, and Florida a day later. The Boise, Idahos and the Keokuk, Iowas would never see the candidate. This whirl-wind approach would fatigue the candidates, sour the voters, and badly erode confidence in government.

In order to qualify for the ballot under my plan, a presidential aspirant must be "generally recognized in national media throughout the United States" as a candidate. Whether a candidate were so "recognized" would be determined by a majority of the commission. If he were not so "recognized," his name could still be added if he either (1) filed a petition signed by one per cent of the registered voters of the region or (2) paid a filing fee of $10,000 which would be refunded if he received five per cent of the vote in the region. A candidate could have his name removed from the ballot if he stated unequivocally in writing that he was not and did not intend to become a candidate for president.

A further weakness of the present primary system is the hit and miss method of selecting delegates to national conventions. About one-third of the States select delegates by direct election sometime between March and July.

In the remainder of the States, delegates are selected through internal party processes. There is no guarantee that delegates will represent the proportional strength of the various candidates in each State. An unjustifiable amount of time, talent, money and energy is spent by presidential aspirants in electing delegates, rather than discussing the issues. Organizers are sent to primary States months in advance. Delegates are interviewed and selected. Slates are formed. A principal campaign organizer for one of this year's major democratic aspirants has said, "the name of the game is delegates." The name of the game should be issues and philosophy. And all of this hocus-pocus delegate selection process is usually removed from and misunderstood by the people.

My proposal would change that. Delegates would not be elected to the national convention. Instead, any presidential candidate who received five per cent of the votes cast in a regional primary would be able to appoint delegates to the national convention according to the percentage of the vote which he received in each State. If a candidate received 40 per cent of the vote in a particular State, he would appoint 40 per cent of the State's delegates to the national convention. This would enable the candidate to concentrate on issues during the campaign and would insure that the delegates represented the candidate's proportional strength in that State, and were dedicated to the candidate's ideals and philosophies. The delegates would be required by law to support their candidate at the national convention until:

1. The candidate releases them; or
2. The candidate receives less than 20 percent of the vote; or
3. Two ballots have been taken.

That, in brief, is my plan. In many ways, it is a reflection of Oregon's primary law. Oregon, as you know, was the first State to adopt a presidential primary statute in 1911 and its primary has become one of the Nation's most prestigious. It is the only State which requires all "nationally recognized" presidential candidates to participate.

Mr. President, there certainly existed valid reasons during the first two decades of this century to change our nominating process. Party bosses were guilty of devious maneuvers. Political meetings were held in saloons or behind closed doors. Conventions took place hours earlier than scheduled. These were clearly the days of the backroom boys and the smoke-filled rooms.

Reformers hoped that by democratizing the nominating process the presidency could be returned to the people. This was the noble goal of those progressives who hoped to wrest the control of American politics from the ruling factions.

The system worked well, however, only so long as the Nation had less than a dozen significant primaries scattered throughout the country. With the proliferation of such primaries, this noble dream has become a nightmare. This innovative reform, conceived in logic, has been tarnished in practice.

Proposals to alter the process of selecting party nominees have been considered since the beginning of the republic. Senator James Hillhouse, for example, suggested in 1808 that we might be protected from the dangers of partisan conflict if retiring senators would simply meet annually and draw lots for a one-year presidential term.

The current presidential primary system has been under fire since primaries were first used extensively in 1912. At that time, Oklahoma Senator Robert L. Owen introduced legislation calling for the direct nomination of presidential candidates. More recently, the distinguished senior Senator from Montana (Mr. Mansfield) and the distinguished senior Senator from Vermont (Mr. Aiken) have proposed a constitutional amendment establishing a national primary for the selection of party nominees.

While I share the dismay of Senators Mansfield and Aiken, I do not believe a national primary provides the best alternative.

A national primary has certain inherent disadvantages that are eliminated by a series of regional primaries. A national primary would favor two types of candidates: (a) those with access to the national news media center in Washington, D.C. and (b) those candidates with easy access to enormous sums of money.

Under a national primary, those candidates outside Washington are placed at a distinct disadvantage. The principal wire services, the three national television networks, and most of the Nation's larger metropolitan newspapers and magazines have reporters in Washington. The media can readily receive the reaction of a United States Ssenator to a major national or international event. A governor, however, is less likely to appear on the evening television newscasts or have his thoughts published.

To understand the situation, it is necessary to recall the change which took place in the 1950's, leaving an indelible imprint on American presidential politics. That change involved a concentration of the media in Washington. More stories about government and politics emanated from Washington and fewer stories were filed from other sections of the Nation.

Governors of large States joined Governors of small States in obscurity. True, the change was gradual, but it is inevitable as the 1960's came into focus that Governors, mayors, and less prominent public officials outside Washington played a smaller role in presidential politics. The big leagues of politics switched almost solely to Washington and the limelight focused on the United States Senate.

As a result, both major party nominees in 1960, 1964, and 1968 had previously served in the Senate. And in 1972, there remains not a single serious candidate for either party's nomination who does not fall into the category of being a present or former United States Senator.

With a single national primary, this trend would undoubtedly continue. Under a regional primary plan, however, a relatively unknown candidate with leadership potential would have an infinitely better chance of securing the party nomination.

In a national primary, an unknown, competent candidate could not defeat a better-known opponent without enormous sums of money. It can be argued, of course, that the cost of campaigning nationwide would be no more than the cost of competing in five regional primaries. This may be true. But if the only primary is a national primary, an unknown candidate could not contemplate participating unless he could raise enough money in advance to guarantee that his name would become a household word. And it would be a very unusual candidate who could raise that much money "on the come."

This is not to say, Mr. President, that there are not great minds or excellent leaders in the Senate today. There are. Nor is it to say that the rich cannot be competent Presidents. They can. I do not believe, however, that it would be in the national interest to limit candidates for President to Senators or the wealthy.

Regardless of the candidates, a national primary would work to the detriment of the electorate. Voters would be forced to make their choice on the basis of slick television commercials or elaborately staged rallies in densely populated areas.

A regional primary would allow a candidate to spend a relatively small amount of time and money in order to determine whether he had widespread support. If he did well in the first primary, he would be off and running.

If he did poorly, he could avoid the embarrassment and expense of hopelessly campaigning nationwide. It would also give his supporters and contributors a chance to become involved with a more viable candidate.

He could enter his first primary and, if he did well, could marshal the organizational and financial backing necessary to garner additional support. His candidacy would have the chance to catch fire and gather momentum.

Most objective observers agree that Jack

Kennedy would not have been the Democratic nominee in 1960 had he not entered the significant primaries and won them all. The primaries were the only way he could show his support among rank-and-file Democrats to the party leaders, who generally opposed his nomination. Kennedy had to prove that a Catholic could be elected president.

In short, regional primaries would allow a candidate to gracefully withdraw if his campaign failed to catch fire. They would also allow a smoldering ember to be built into a blazing bonfire.

Under my measure, moreover, the voters would have a better chance to judge a candidate's true qualifications. "Madison Avenue" would be shelved. A more personal and direct approach would result.

The trademarks of a national primary would be "image" and "style." Neither has substance.

The trademarks of a regional primary would be "issues" and "answers." Both have meaning.

If we are to restore "faith" and "hope" to our system of government, the last thing we can afford is the "impersonal" approach that is bound to result from a national primary.

If we are to return "government to the people" and restore their confidence in that government, we have an infinitely better opportunity through the regional primary concept.

Mr. President, with the conclusion of the Wisconsin primary just 3 days ago, we have observed the results of four state presidential primaries. What, if anything, do these primaries tell us? What do they say about Hubert Humphrey, who lost in Florida without really losing? What about Ed Muskie, who won in New Hampshire without really winning? Or how about Ted Kennedy, who didn't participate at all?

The most important lesson to be learned is the folly of the current method of selecting party nominees.

We must return credibility to the candidates and dignity to the presidency. The regional presidential primary offers the best hope of attaining that admirable goal.

S. 3566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Regional Primaries Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) the proliferation of elections held by States for the expression of a preference for the nomination of individuals for election to the office of President subjects candidates for nomination for election to such office to physical exhaustion, danger, and inordinate expense;

(2) there is no uniformity among State laws with respect to the effect of such elections on delegates to the nominating conventions held by political parties;

(3) the confusion caused by this lack of uniformity in State laws gives rise to cynicism, frustration, and distrust of the nomination process;

(4) the national nominating conventions held by political parties constitute an integral part of the process by which the President is chosen by the people of the United States; and

(5) in order to protect the integrity of the presidential election process and provide for the general welfare of the Nation, it is necessary to regulate the part of the process relating to the nomination of candidates for election to the office of President.

ESTABLISHMENT OF REGIONAL PRIMARIES

SEC. 3. (a) No State shall conduct an election for expression of a preference for the nomination of individuals for election to the office of President except in accordance with the provisions of this Act.

(b) Five regional primaries shall be held during each presidential election year. The first regional primary shall be held on the second Tuesday of March, and an additional regional primary shall be held on the second Tuesday of each of the 4 succeeding months. Seventy days before the date of the first regional primary, the Commission shall determine by lot the region in which that primary is to be held. The Commission then shall determine by separate lot, conducted 70 days before the date of each subsequent regional primary except the last, the region in which each subsequent regional primary is to be held.

(c)(1) At each such regional primary, there shall appear on the ballot, together with the name of the political party with which he is affiliated, the name of each individual who is generally recognized in national news media throughout the United States as a candidate for nomination by a national political party for election to such office, as determined by a majority of the members of the Commission.

(2) An individual whose name is not placed on a regional primary ballot by the Commission under paragraph (1) may have his name and the name of the political party with which he is affiliated appear on the ballot, if he is eligible for election to the office of President, by notifying the Commission in writing that he is a candidate for nomination by a political party (specifying which political party) for election to the office of President, and—

(A) presenting the Commission with a petition supporting his candidacy for such nomination, signed by 1 percent of the registered voters in the region in which he wishes to appear on the primary ballot (not more than 25 percent of the signatures necessary shall come from any State within that region); or

(B) paying a filing fee of $10,000 which shall be refunded if he receives 5 percent or more of the total number of votes cast by members of his political party in the regional primary. The notification and presentation or payment shall be made to the Commission by such date before the primary as the Commission may prescribe, but not earlier than 45 days or later than 35 days prior to the date on which the primary is to be held in that region.

(3) The Commission shall announce—

(A) a tentative list of individuals for whom votes may be cast at a regional primary 70 days before the date of that primary; and

(B) a final list of individuals for whom votes may be cast at a regional primary 30 days before the date of that primary.

(d) The Commission shall not include on the ballot of any regional primary the name of any individual who executes and files with the Commission the following affadavit, executed under oath:

I, ______, being duly first sworn, do depose and say that I am not, and do not intend to become, a candidate for nomination for election, or for election, to the office of President of the United States.

State of ______
County or city of ______
Subscribed and sworn to before me this ______ day of ______, 19__.
[Seal]

____
Name
____
Title

My commission expires ______, 19 __.

(e) Subject to such guidelines as the Commission may promulgate, the regional primary shall be conducted in each State by officials of that State charged with conducting elections. Voters in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. Each voter shall be eligible to vote only for a candidate for nomination by the the party of that voter's registered affiliation. If the law of any State makes no provision for the registration of voters by party affiliation, voters in that State shall register their party affiliation in accordance with procedures promulgated by the Commission.

(f) The chief executive officer of each State shall certify the results of the regional primary held in his State to the Commission within a period of time after such date, not exceeding 15 days, prescribed by the Commission.

APPOINTMENT OF CONVENTION DELEGATES

SEC. 4. (a) A candidate who receives 5 percent or more of the votes cast by members of his political party in a regional primary shall appoint delegates from States within the region within which the primary was held to the national nominating convention held by the political party whose nomination he seeks.

(b) The number of delegates which a candidate shall appoint in any State within that region is a number which is a percentage of the total number of delegates from that State to his party's national nominating convention equal to the percentage of the votes cast by members of his party in that State received by him in the primary.

(c) If a candidate receives less than 5 percent of the votes cast by members of his political party in a regional primary, he may not appoint a delegate from any State within that region. The percentage of the votes cast for such a candidate by members of his political party in any State within that region shall be (1) apportioned among the other candidates of the same political party who received votes in that State on the basis of the number of votes received by each of such other candidates and (2) added to the percentage of the votes received by each of such other candidates in that State for the purpose of determining the number of delegates they may each appoint under subsection (b).

(d) If a candidate fails or refuses to appoint delegates to which he is entitled in any State within a reasonable time, as prescribed by the Commission, the Commission shall appoint delegates pledged to support such candidate at the national nominating convention held by his party. Such delegates shall be bound to support such candidate at the convention to the same extent as if they had been appointed by that candidate.

CONVENTION BALLOTING

SEC. 5. (a) A delegate to a convention held by a political party for the nomination of a candidate for election to the office of President shall vote for the nomination of the candidate who appointed him or for whom he was appointed until—

(1) 2 ballots have been taken; or

(2) such candidate receives less than 20 percent of the vote on a ballot; or

(3) such candidate releases him.

(b) If an individual receives a majority of the votes cast on a ballot, he shall be the nominee of that party for election to the office of President. A subsequent ballot may be taken to reflect the support of the entire convention for such candidate, but the result of the subsequent ballot shall not, in such case, result in the nomination of a different individual for election to such office.

(c) The individual who will be the candidate for a political party for election to the office of Vice President shall be selected by the convention held by that party in accordance with such procedures as it may adopt.

REIMBURSEMENT OF STATES FOR COSTS OF PRIMARY

SEC. 6. Upon application therefor, the Commission shall reimburse each State for the costs it incurs in conducting a regional primary held in accordance with the provisions of this Act. Such applications shall be submitted at such times and in such form, and shall contain such information, as the Commission shall require.

ESTABLISHMENT OF FEDERAL PRIMARY ELECTIONS COMMISSION

SEC. 7. (a) There is hereby established a bipartisan commission to be known as the Federal Primary Elections Commission.

(b) The Commission shall be composed of 5 commissioners not otherwise employed by the Federal Government appointed by the President, by and with the advice and consent of the Senate. Each Commissioner shall be a member of a political party which polled not less than 10 million votes in the presidential election immediately preceding his appointment. Not more than 3 commissioners may be members of the same political party.

(c) The Commission shall select a Chairman from among its members. Three commissioners shall constitute a quorum.

(d) The terms of office of each Commissioner shall be 5 years, except that—

(1) the terms of office of the Commissioners first taking office shall expire, as designated by the President at the time of appointment, 1 at the end of 1 year, 1 at the end of 2 years, 1 at the end of 3 years, 1 at the end of 4 years, and 1 at the end of 5 years, after the date of the first presidential election which occurs after the date of enactment of this Act;

(2) any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(3) upon the expiration of his term of office a Commissioner shall continue to serve until his successor is appointed and has qualified.

(e) The Commission shall have an official seal which shall be judicially noticed.

(f) The Commissioners shall serve without compensation; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(g) The Commission is authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, an administrative officer, and to fix his compensation, without regard to the provisions of chapter 51 and subchapter 53 of such title relating to classification and General Schedule pay rates, at an annual rate not to exceed the annual rate prescribed by section 5315 of title 5, United States Code, for level IV of the Executive Schedule.

(h) The Commission is authorized to appoint and fix the compensation of such other personnel as it deems advisable.

DUTIES OF THE COMMISSION

SEC. 8. (a) The Commission shall meet prior to each regional primary and at such other times as it deems necessary, and shall—

(1) publish tentative and final lists of the individuals for whom votes may be cast in each regional primary ballot and furnish a certified final list of such individuals to the appropriate officials of each State 30 days before a regional primary is to be held in that State;

(2) determine the sufficiency of any petition presented to the Commission under section 3(c);

(3) prescribe the date, after the date of a regional primary, on which the chief executive officer of each State shall certify the results of the regional primary held in his State to the Commission;

(4) promulgate guidelines and procedures to be followed by the States in conducting regional primaries;

(5) review applications for reimbursement submitted under section 6, prescribe the time of submission, form, and information content of such applications, and determine and pay the amount to be reimbursed to each State under such section;

6) consult and cooperate with State officials in order to assist them in conducting regional primaries;

(7) determine by lot in accordance with section 3(b) the order in which the regional primaries are to be held;

(8) receive and hold any filing fee paid under section 3(c)(2)(B) and—

(A) refund that fee to the candidate who paid it if he receives a number of votes in the regional primary with respect to which he paid it equal to 5 percent or more of the total number of votes cast by members of his political party in that primary; or

(B) pay the fee into the general fund of the Treasury if it is not refundable under clause (A) of this paragraph;

(9) appoint delegates when necessary under section 5(d); and

(10) take such other actions as may be necessary to carry out the provisions of this Act.

(b) The Commission shall report to the Congress and the President not later than 180 days prior to the date of the first regional primary to be held under this Act on the steps it has taken to implement the provisions of this Act, together with recommendations for additional legislation, if any, which may be necessary in order to carry out the regional primary system established under this Act.

DEFINITIONS

SEC. 9. As used in this Act, the term—

(1) "Commission" means the Federal Primary Elections Commission established under section 7;

(2) "region" means any of the following five regions:

(A) Region 1 comprises Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Connecticut, New York, Pennsylvania, New Jersey, and Delaware.

(B) Region 2 comprises Michigan, Illinois, Indiana, Ohio, West Virginia, and Kentucky.

(C) Region 3 comprises the District of Columbia, Maryland, Virginia, North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida, the Commonwealth of Puerto Rico, the Virgin Islands, and the Canal Zone.

(D) Region 4 comprises North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, Nebraska, Kansas, Missouri, Oklahoma, Arkansas, Texas, and Louisiana.

(E) Region 5 comprises Washington Oregon, Montana, Idaho, Wyoming, California, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, Hawaii, and Guam.

(3) "regional primary" means an election held in accordance with the provisions of this Act for the expression of a preference for the nomination of individuals for election to the office of President;

(4) "national political party" means a political party whose presidential electors received in excess of 35 percent of the total number of votes cast for all presidential electors in the most recently held presidential election;

(5) "candidate" means an individual who is a candidate for nomination by a political party as its candidate for election to the office of President;

(6) "national nominating convention" means a convention held by a political party for the nomination of candidates for election as President and Vice President; and

(7) "State" means the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, and each of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

REGIONAL PRESIDENTIAL PREFERENCE PRIMARIES

Mr. STEVENS. Mr. President, I join the distinguished junior Senator from Oregon (Mr. PACKWOOD) in cosponsoring legislation establishing five regional presidential preference primaries. This proposal retains the important value of the current system, while avoiding the pitfalls inherent in a single national primary. It provides a dramatic improvement over the current system of selecting party nominees, the kind of improvement that is essential if we are to restore credibility to presidential candidates and dignity to the Presidency.

This is not to say, Mr. President, that there are not distinct advantages in individual State primaries. There are. They worked well, however, only so long as there were less than a dozen significant primaries. With the proliferation of State primaries, there has been a similar proliferation in the number of financially bankrupt and physically exhausted presidential candidates.

The selection of a presidential nominee should not be based on physical endurance nor upon easy access to enormous sums of money. Instead, the decision should be determined by a candidate's ability to lead or to inspire. A series of regional primaries provides the best means of achieving that goal.

Mr. President, our regional primary plan has received widespread support throughout the country. Editorial comment in each of the five regions proposed in our bill has been extremely favorable.

Mr. President, I ask unanimous consent that these editorials and articles on regional primaries be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Brattleboro (Vt.) Reformer,
Apr. 10, 1972]

REGIONAL PRIMARIES GET A BOOST

My Goodness! For the last several weeks on this page, while everyone from the New York Times to Senator George Aiken was denouncing them, we've been defending the presidential primary system. The countersuggestion made here to the Aiken-Mansfield proposal of a nationwide primary was for a system of rotating regional primaries (New Hampshire, Florida, Kansas, etc., one presidential year; Vermont, Alabama, Oklahoma, etc. another year, and so on).

Coming up now with the same idea is U.S. Senator Robert W. Packard, Republican of Oregon. He has proposed five regional primaries to replace the "present mishmash." Under a bill he is introducing, the five contests would take place, a month at a time, beginning in March of Presidential election years. The order (and possibly the states themselves) would be determined by lot.

The current system is a "mishmash", but, as the emergence of George McGovern and the decline of Edmund Muskie has shown, is a democratic method of weeding out the Image Merchants from the issue-oriented campaigners. (Seven primaries might be better than five, but that's a matter of debate).

Senator Packard is a wise man. His proposal obviously is going to draw wide attention—as shown by the fact that Senator Mansfield, coauthor with George Aiken of the National Primary idea, called it "a step in the right direction."

[From the Lansing (Mich.) State Journal, Apr. 17, 1972]

Regional Primaries Might Help

As the 1972 presidential primaries grind along with no clear cut decisions for the Democrats and no real contest among Republicans, it becomes more evident that some more sensible alternative is needed for the future.

The mishmash of confusing issues and election rules in the various states creates conditions where voters do not get a true picture of a candidate's strength and delegate selection procedures are nothing less than incredible.

Sen. Robert W. Packwood, R., Ore., aptly summed it up when he said: "These (primary) extravaganzas take the form of citrus circuses in Florida and winter carnivals in Wisconsin. They leave the candidates tired and broke. They leave the public bored and bewildered and—far too often—disgusted. Voters understandably ask, 'when is it coming to an end?' In the process, the candidates lose their credibility and the office loses its dignity."

Another political observer offered: "What we have is 24 different sets of rules, players and stakes."

The situation, however, is not beyond salvage. Sen. Packwood has an alternative plan which he admits is not a cure-all, but which he said could at least restore some credibility to the present system.

Packwood's idea calls for establishing five regional primaries, through congressional action, which would include all 50 states. Instead of state by state voting, the five primaries would be held in groupings of states on different dates. A federal elections commission would meet 70 days before the first regional primary and determine by lot the region in which the first primary would be held. The process would be repeated for each of the remaining regions.

Packwood believes this would be an advantage to candidates who lack the financial resources to start campaigning many months in advance of the elections in key states where primary dates are established long before the election year.

The senator also proposed a uniform delegate selection process in which candidates in the regional primaries would be entitled to delegate backing at the national convention on the basis of the percentage of the vote he or she received in each state. This is done in some states now, including Michigan insofar as the first two convention ballots are concerned, but for the most part delegate selection is hit and miss.

The Oregon lawmaker said he opposes a single national primary because it would give too much advantage to big name candidates with access to the national media center in Washington or to those with access to enormous sums of money. Regional primaries, Packwood believes, would give lesser known candidates a better chance to plan a serious campaign without going broke before he or she even gets started.

Sen. Packwood's plan seems to make considerable sense and we hope it gets serious consideration. Almost anything would be better than what the senator called the existing "traveling sideshow."

[From the Saginaw (Mich.), News, Apr. 13, 1972]

Young Senator Joins Call for Primary Reform

Add the name of young Sen. Robert W. Packwood, Oregon Republican, to those in Congress who believe the time has come for sweeping reform in the nation's presidential primary election process. Thus one of the Senate's youngest members joins two of its respected veterans, Democrat Mansfield of Montana and Aiken of Vermont, dedicated to this purpose.

Whether Packwood can make his idea swing remains to be seen. But the 39-year-old first termer has announced he is seeking cosponsors for a bill which would reduce the total number of primaries from the present 24 to five. Essentially Sen. Packwood's plan would cut the country and its territories into five regions—thus establishing the base for five regional elections, the first to be held the second Tuesday of March and succeeding ones the second Tuesday in April, May, June and July.

Michigan, for example, in the bill Packwood intends to introduce would fall in Region No. 2 along with Illinois, Indiana, Ohio, West Virginia and Kentucky. Region No. 1 would take in all of the New England states plus New York, Pennsylvania, New Jersey and Delaware.

This is the bare bones of the legislation Packwood is now passing among his colleagues. In addition it calls for the creation of a five-member federal primary elections commission, its members nominated by the President and subject to Senate confirmation.

The real cutie in the Packwood reform proposal, however, comes in the duty it assigns to the commission. It would meet 70 days before the first (March) primary and determine by lot the region in which the first presidential preferential would be held. The young senator from Oregon believes the advantages in this would be in keeping all legitimate presidential aspirants honest, give none the advantage of a campaign or spending head start over another, force all of them to conserve their funds, time and energy.

There is something to be said for this. It has become the style today for many seeking the nation's highest office to begin hitting the road as much as two years before election day. This kind of reform could curb the appetite for travel and keep them in Washington—or wherever—and at work.

The Packwood package would also alter and standardize the traditional delegate process. Delegates would no longer be elected to the national conventions. Instead, any candidate who polled at least five per cent of the vote cast in a regional primary would appoint his delegates to the convention based on the percentage of the vote he received in the regional test. They would remain committed unless released, unless the candidate failed to draw 20 per cent of the vote at the convention—or until two ballots had been taken.

Packwood's blueprint for presidential preferential primary reform may not be perfect. We're not ready to endorse it as the best idea yet in spite of the senator's contention that it is better than the single national primary Mansfield and Aiken have expressed interest in. Likely there will be a variety of plans if Congress gives this the serious consideration it deserves before another national election year rolls around.

Perhaps one primary beats five—but five surely is better than 24. They have turned the whole system into a costly circus that wears out and financially breaks candidates and frazzles the nerves of the country every four years on schedule.

For now, Sen. Packwood should press on in search of co-sponsors. At least he's on the right track and giving a serious matter serious thought.

[From the Flint (Mich.) Journal, April 16, 1972]

Intriguing Answer to Primary Failures

If the current primary elections farce serves no other purpose in the long run, it is probable that it will spark some extensive reforms in our electoral process.

The lack of logic, coherence, and uniformity in the current process has already triggered a proposal by two of the nation's most prestigious legislators, Sen. Mike Mansfield, D-Mont., and Sen. George D. Aiken, R-Vt.

They are supporting legislation which would create a single national primary to nominate candidates for the presidency.

The Flint Journal joins many observers in looking at this proposal with mixed feelings, heavily loaded with reservations. Although it would probably be an improvement over the present brouhaha, it runs directly counter to several other electoral reforms which are sorely needed.

Perhaps the greatest drawback is the evident need for candidates to increase rather than decrease the huge sums of money necessary to make any imprint on the national level in an election campaign. It could strengthen the trend toward restricting candidates to the wealthy or the "adopted sons" of the wealthy.

A second drawback would be the tendency to concentrate the potential candidates among those with a national "image" and reputation, excluding many able persons outside the centers of power and population such as Washington, New York or Los Angeles.

A most interesting alternative has been offered recently by Sen. Robert W. Packwood, R-Ore.

Briefly and inadequately, this is his proposal:

Create a federal primary elections commission of five members to supervise his "regional primary" plan.

Divide the nation into five regions, each to hold a primary at a designated time with all plausible candidates listed on the party ballots.

The regions he proposes would be: (1) Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont; (2) Illinois, Indiana, Kentucky, Michigan, Ohio and West Virginia; (3) Alabama, Canal Zone, District of Columbia, Florida, Georgia, Maryland, Mississippi, North and South Carolina, Puerto Rico, Tennessee, Virginia and the Virgin Islands; (4) Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North and South Dakota, Oklahoma, Texas and Wisconsin, and (5) Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming.

The proposal would have the first primary held on the first Tuesday in March with successive primaries held on the second Tuesdays of the next four months.

Packwood would have his election commission meet 70 days prior to the March primary to draw lots which would determine the order if which each region would hold its election, eliminating favoritism for one area over the other except by chance.

The other major provision of his proposal would be to give each candidate convention delegates determined by his share of each state's popular vote. These delegates would be bound to be the candidate at the national convention until released by the candidate, the candidate receives less than 20 per cent of any vote or two ballots have been taken.

There are, of course, many other aspects of such a plan, and there are many questions raised by so radical a departure from our present practices.

The point will be raised that such a plan would tend to give a regional candidate a big edge if his area was selected first. This is true, but surely the opening primary would be broader and more significant than today's New Hampshire-Florida-Wisconsin openers and surely it would eliminate the practice of picking which primaries a candidate enters in order to create an illusion of strength.

Whether such a plan would increase or lessen the total expenditures in naming a candidate is open to debate, but it is reasonable to think that in contrast with a prolonged national contest intensive regional contests could prove somewhat less costly.

The most appealing claim made by Packwood for his system, however, is his contention it would widen the base for picking presidential candidates.

"The trademark of a national primary would be 'image' and 'style'," Packwood says. "Neither has substance. The trademarks of a regional primary would be 'issues' and 'answers.' Both have meaning."

He argues that a national primary would continue the trend of picking candidates almost exclusively from among Washington figures who have access to the nation's news media. A capable but relatively unknown candidate could not contemplate participating unless he could raise enough money in advance to guarantee his name would become a household word."

On the contrary, he says, a regional primary would allow a candidate to spend a relatively small amount of time and money in order to determine whether he had widespread support. If he did well in the opening primary he would find support for further campaigning. If he did not, he could withdraw gracefully and throw his support to his choice among the more successful candidates.

On the surface, Packwood's proposal has considerable substance and appears the most attractive answer offered so far to this critical governmental problem.

[From the Chicago Today, Apr. 20, 1972]

Overhauling Primary Elections

Coming in the middle of the long, exhausting and increasingly pointless grind of Presidential primary elections, a proposal by Sen. Bob Packwood (R., Ore.) looks as welcome as a soda fountain in Death Valley. Packwood has just introduced a bill setting up a new system of primary elections—one that would, on the face of it, retain the important values of the primary system, while keeping it from becoming the candidate-killing, credibility-destroying endurance contest it now is.

Sen. Packwood's idea is for regional primaries rather than state ones. His bill would divide the 50 states, plus Puerto Rico, Guam and the Virgin Islands, into five regional groups (Region B, for example, would take in Illinois, Indiana, Kentucky, Michigan, Ohio and West Virginia). The bill would also create a five-member federal primary elections commission, one of whose tasks each election year would be to determine by lot the order in which regional primaries would be held.

The first primary would take place on the second Tuesday in March of Presidential election years; the rest would be held on the second Tuesday of each of the four succeeding months. So the whole primary contest would be neatly partitioned into five month-long races, during which candidates could concentrate on one region at a time.

That means a candidate wouldn't have to race from New Hampshire to Florida to Wisconsin to California, desperately judging issues and images to fit each new audience. The regional campaigns would give him a range of issues broad enough to reflect national concerns, yet limited enough to acquaint him with the particular interests of each part of the country. In short, he would have time to talk sense to the voters, instead of being turned into a glassy-eyed exhibit in an extremely costly road show.

In addition to this, Packwood's bill attempts to straighten out the present patchwork system of electing delegates, which varies from state to state and which now forces Presidential aspirants to spend time, money and energy on putting together delegate slates instead of discussing issues. Under Packwood's bill, delegates would not be elected to the national convention; instead, any Presidential candidate who got 5 per cent of the votes in a regional primary would be able to appoint delegates from each state according to the percentage of votes he received there. (If Candidate X, for instance, got 40 per cent of the vote in Illinois, he could name 40 per cent of Illinois' delegates to the convention.)

The delegates, incidentally, would be bound to support their candidate only for the first two votes, or until the candidate's support fell below 20 per cent, or until he released them. So final power to select a Presidential nominee would still rest with the convention. The main difference would be that delegates would reflect their candidate's views and his proportional strength more accurately than they do now.

Packwood's proposal might be strengthened further by adding some limits on campaign spending. But as it stands, it keeps the advantages of the primary system—which would be largely junked by the more sweeping plans for a national primary—while minimizing their disadvantages. The disadvantages are so glaringly obvious right now that Congress should be ready to give this bill a sympathetic hearing. We hope so.

[From the Miami Herald, Apr. 18, 1972]

Seeking the Better Primary Way

Sen. Bob Packwood (R., Ore.) wants to do something about the Presidential primaries. He calls them a "mishmash of Presidential extravaganzas."

We have the feeling that the senator may have hit a tender spot in the nation today. So far, the Presidential road show has proved little, cost a lot, and produced only the crackerbarrel wisdom that voters are fed up with politics as usual.

"These extravaganzas take the form of citrus circuses in Florida and winter carnivals in Wisconsin," according to Sen. Packwood. "They leave the candidates tired and broke. They leave the public bored or bewildered and—far too often—disgusted.

"Voters understandably ask, 'When is this nonsense coming to an end?' In the process, the candidates lose their credibility and the office loses its dignity."

The senator then calls for a plan that "someway dramatically improves the Barnum and Bailey traveling sideshow that is in New Hampshire one week, Florida the next, and does not end until the curtain has come down a total of 24 times."

We like the way the senator states the problem. It has the ring of popular wisdom and we would expect many voters to agree that there must be a better way. It is less certain that the senator has found that better way, but certainly his proposal merits discussion and may yet prove to be what he says.

What the senator suggests is a system of five regional primaries that would begin the second Tuesday in March during Presidential election years. They would be supervised by a five-member Federal Elections Commission.

To limit the amount of advance campaigning, therefore democratizing the chances of the candidates with less money, the primaries would be held in a sequence determined by lots to be drawn 70 days before the date of the first one.

Sen. Packwood sees this as a better solution than a national primary because money would be a reduced factor; a campaign would have to reach into all sections of the country; news media centers in Washington and New York could not dominate; there would be more time for issues and philosophy than in the present scramble caused by geography and mechanics.

There is continued pressure from the voters to find a better way to elect the President. Sen. Packwood's plan deals with the 24 primaries that candidates must run this year as through a gauntlet.

Last year, there was a movement to change the system after candidates were nominated. This had to do with the Electoral College and the threat that third and even fourth party candidates could force a deadlock, throwing the election into the House of Representatives. Also involved was an effort to eliminate the election of minority Presidents (there have been 15 elected Presidents who had less than half the popular vote) through a runoff.

We have the feeling that the nation should go slow in tampering with its basic processes of government, but it seems apparent that improvements in the election system are possible. With this in mind, we think Sen. Packwood has made a contribution toward determining what they should be.

[From the Washington Post, April 18, 1972]

An Orderly Pattern of Regional Elections?

(By Kenneth Crawford)

Robert Packwood of Oregon, a freshman U.S. Senator with fresh ideas, has come up with the most plausible plan yet proposed for reform of the presidential primary election system—if it can be called a system. He suggests, in place of the present crazy quilt of state primaries, an orderly pattern of regional elections.

Like almost everybody else, Packwood has been distressed by what he calls "the present mish-mash of presidential extravaganzas," which leave the candidates "tired and broke" and the public "bored or bewildered and—far too often—disgusted." The present process, he says, costs the candidates their credibility and the office its dignity.

He would divide the country into five rationally composed areas and provide for the conduct of separate preferential primaries on a staggered timetable. A five-man commission would be established to manage this. The first election would be held the second Tuesday in March and the other four on the same date in succeeding months. Lots would be drawn to determine the order of the regional elections. The drawing would take place 70 days before each election, thus limiting the notice candidates would have and discouraging protracted campaigns.

The commission would make up a list of candidates to run in all five primaries, basing its decisions on recognition of their eligibility and qualifications by the national media, print and electronic. A designated candidate could remove his name from the list only by filing an unequivocal statement of non-availability with the commission.

A candidate not recognized by the media and therefore not listed by the commission could run anyway either by filing petitions signed by one per cent of the registered voters in an area or by paying a $10,000 fee, which would be refunded if he received as much as 5 per cent of the vote cast in a regional primary.

Convention delegates would be appointed by the candidates, not elected. Delegate apportionment would be proportional. Thus a candidate who polled 50 per cent of a regional vote would appoint 50 per cent of the region's delegates.

At the nominating convention, delegates would be obligated to stand by the candidates who appointed them for at least two ballots unless released sooner or unless their favorites received less than 20 per cent of the vote on the first ballot.

Packwood's proposed rules derive from the primary law of his own state, which was enacted in 1911, the first in the nation. Oregon lists all the "nationally recognized" candidates on its primary ballot except those who affirmatively declare themselves non-candidates. This has made the state's primary more important than the number of its voters warrants. Presidential candidacies have been made and broken in Oregon.

Introducing his "Presidential Regional Primaries Act" in the Senate, Packwood argued that it would have advantages over the national primary proposed by Majority Leader Mike Mansfield and Sen. George Aiken of Vermont. A national primary would require a run-off if no candidate commanded a 40 per cent plurality the first time around. In effect, then, three national elections might be necessary.

This would be enormously expensive both in effort and money. Only candidates rich themselves or with access to big money could compete. Packwood thinks his system would permit candidates to get their feet wet gradually. Those who failed to do well in the first region could back away and so cut their losses. He believes the regional plan also would conserve the energies of campaigners, permitting them to concentrate in one area at a time rather than fly from South to North and East to West and back again, as they do now.

Packwood claims for his plan the additional virtue that it would give governors, mayors and other out-country leaders a fairer chance for consideration than they now have. Under the present system, he complains, the Washington spotlight has become a virtual necessity for a presidential hopeful because the media are concentrated here. In the last three presidential elections, and in the present one, he points out, the U.S. Senate has supplied most of the candidates. Regional primaries, he contends, would tend to disperse the spotlight's beams.

The regional primaries, Packwood insists, would also take some of the Madison Avenue image-making out of the selection process. Image and style, he thinks, would count for less than it does now or than it would in a national primary campaign. Electioneering, he says, would be more intimate, stressing issues and answers rather than personality sifted through television cameras.

The state-by-state primary system worked well, Packwood concedes, as long as there were less than a dozen scattered states depending upon this method of delegates selection. "But when the system proliferated to the point where more than 20 states were scheduling primaries," he says, "the noble dream of democratization became a nightmare. The innovative reform, conceived in logic, has tarnished in practice."

Packwood defeated Wayne Morse for the seat he now occupies. Since coming to the Senate the young Oregonian has done what more newcomers should do. He has remained aloof from ideological blocs and, lacking the seniority to be entrusted with heavy establishment responsibilities, he has used his time to do some thinking about public affairs. He has proposed legislation to stabilize population and attacked the seniority system which keeps congressional power in the elderly hands of the senators and representatives who have best mastered the art of political survival.

Senator Packwood's five-region primary system would group states and territories this way:

A. Connecticut, Delaware, Maine, Massachusetts, New Hampshire. New Jersey, New York, Pennsylvania, Rhode Island and Vermont.

B. Illinois, Indiana, Kentucky, Michigan, Ohio and West Virginia.

C. Alabama, Canal Zone, District of Columbia, Florida, Georgia, Maryland, Mississippi, North Carolina, The Commonwealth of Puerto Rico, South Carolina, Tennessee, Virginia and the Virgin Islands.

D. Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas and Wisconsin.

E. Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming.

[From the Washington Star, Apr. 23, 1972]

THE PRIMARY EXTRAVAGANZA: TIME FOR REFORM

On they go, those weary men, shuttling back and forth between Pennsylvania and Massachusetts, trying to pick up a last few Democratic votes before Tuesday, already thinking ahead to Ohio and beyond that to Michigan, worried about money and polls and image and countless details, and wondering if they and their party can possibly survive the remainder of this year's 23-state presidential primary schedule.

It is perhaps not all that bad. At this time Senator McGovern and Governor Wallace almost certainly would argue otherwise. Yet from the vantage point of those who care about the well-being of the American political system, the current process of screening presidential candidates leaves a great deal to be desired. It is a hideously expensive, overly long extravaganza in which most of the performers, for reasons partly of their own making and partly out of their control, come off looking very bad. As with any lengthy, tedious, ill-performed show, the public is left alternately bored, bewildered and disgusted. In this case, the consequences are particularly serious, for as Oregon's Senator Packwood recently noted, the aspirants for the presidency of the United States can so easily lose their credibility, and the office itself is diminished in stature.

There must be a better way. But what? The first thing to say is that there is no perfect, or near perfect, or ideal way of operating this kind of selection process. The task boils down to a balancing act, to fashioning the least imperfect system. Several broad courses of action are open:

1. Junk the open primaries and return to a process whereby the party leaders narrow the field of presidential candidates. That is unacceptable and well nigh inconceivable. Although the old smoke-filled rooms were never as bad as legend would have it, the democratization of the presidential selection process, with the popular will directly asserted, has been on the whole a healthy development.

2. Stick to the current system, with but minor alterations. We do not think this is the answer, either. Yet it is not indefensible. The point to be made here is that, despite all the appearances of anarchy, very important benefits flow from the current system that should not be discarded.

First, as this year's Democratic primaries have shown, the candidates have been in touch not just with television cameras and party satraps but with real people—millworkers in New Hampshire, old folks in Florida, factory hands and farmers in Wisconsin. Much of this laying on of political hands ranks as hokum. But much is authentic and, we believe, good for both the candidates and the voters. Second, open primaries, judiciously spaced, serve as a valuable sifter, with the more preposterous hopefuls going early to the sidelines. Third, even an improbable lineup of primaries—New Hampshire (unrepresentative); Florida (the same); Illinois (incomplete slate); Wisconsin (a muddle of crossover voting)—gives the candidates an opportunity to respond to a passing flow of events and to grow from the lessons of either victory or defeat. Fourth, the states can formulate the kinds of election they want, a considerable virtue in this age of centralized power. Fifth, and perhaps most important, the current system provides the dark horse or insurgent a good chance to challenge the party powers and orthodoxy, by proving he can win.

3. A single, national primary. Senators Mansfield and Aiken have advocated this alternative, and it has a certain surface plausibility. We are decidedly opposed to it. Not only would it thrust upon the country the bombast of two national elections (three if a primary runoff were necessary). It would amount to a classic case of throwing out the baby with the bath water.

Out would go many of the advantages of the present system. In would come a selection process geared disproportionately to incumbents or big-money front-runners or media candidates. Depending in the vagaries of political climate, a national primary in the August of a presidential election year might well toss up an inappropriate or divisive winner whom the party at convention time would be all but compelled to support. The more it is examined, the more the national-primary idea falls of its own weight.

4. A middle course, preserving much of the best of the existing system, but streamlining the dizzying disparity of present state election laws, consolidating the number of primary dates and striking a balance between the popular will and the strength and accountability of the political parties. This is the course we believe best, with only this question: What formula can accomplish these purposes?

Here we commend for the most careful consideration two proposals that recently have come forward, one by presidential counselor Robert Finch, the other by Senator Packwood. They differ in some important details, but both aim generally in the same direction, for they are predicated on the correct belief that a federal election law must be passed, stipulating uniform rules for a limited sequence of primaries beginning in the March of a presidential election year. Under such rules, both men agree, the worst aspects of various state election laws would be eliminated. One is the winner-take-all-the-delegates law that California follows. Another is the crossover foolishness that bedeviled the Wisconsin results and is sure to do the same next month in Michigan.

Finch's plan, outlined recently in a thoughtful address, is the more loosely structured. States could opt into the federal system as they chose, with the big inducement the offer that Washington would pick up a big part of the election-cost tab. Candidates, too, would enter voluntarily, choosing to campaign in from none to some to all the states holding primaries on the same day. For the states choosing to take part, a federal commission would control the scheduling and would attempt to group states into representative cross-sections. The plan has much to commend it, although we do not see how it would cut down appreciably on the time and money spent in primary campaigning.

Packwood's idea of reform calls for all 50 states to hold open primaries, whether they want to or not. This we find very questionable. In trying to hold down the frenzy of coast-to-coast campaigning, he would divide the states into five regions, with the five primary dates spaced a month apart. Packwood also has the intriguing idea of drawing lots to determine the order of the regional elections.

The kind of protracted campaigning that has led some presidential hopefuls to set up shop in New Hampshire nearly two years before the general election would be discouraged. The Packwood proposal mandates the inclusion of all legitimate candidates in each of the primaries, a provision that on balance we believe is best. Both plans call for delegate apportionment in each state to be proportional to the voting results, and for delegates to be obligated to stand by the candidates for at least two ballots.

Many critics are sure to say that either of these plans, like the single primary, will work against the dark horse with limited means. It is a valid point. Yet there is a way to get around it. If the primary system is to be brought into coherent form, ways can be devised to provide public financing for campaign expenses, together with expenditure ceilings. Other inconsistencies, we believe, also could be worked out. For example, one sensible compromise between the Finch and Packwood plans would be to give the states the option to hold a primary but to require those that do to conduct it on one of the dates specified in the federal law.

If it is too much to expect legislation this year, it is not too much to hope for—and strongly urge—widespread discussion and debate over feasible alternatives. Not only Congress but the party platform committees, the party organizations, the academics and the public all have a role to play in defining this complex problem and in committing themselves to genuine reform.

[From the Lincoln (Nebr.) Sunday Journal and Star, Apr. 16, 1972]

REGIONALIZING PRIMARIES

Sen. Bob Packwood, Oregon Republican, has come up with an election reform measure that makes more sense than the idea of Sens. Mike Mansfield and George Aiken for a national presidential primary.

Packwood would establish five regional primaries, thus staking out the middle ground between the present system of state primaries and one nation-wide contest. And the middle ground is usually solid.

Grueling as they may be for candidates and confusing for voters, there is a great deal of virtue in the present state primaries.

They force candidates to become familiar with regional concerns and needs. They insure that smaller states, like Nebraska, have a chance to see and assess the contenders. And by their very nature they test the fitness of a person—mental, physical and emotional—for the presidency.

Packwood's proposal would seem to retain most of these advantages. A serious candidate would just about have to visit all five regions and most parts of each region. The educational nature of multiple primaries, for candidate and voter alike, would survive.

Yet by limiting the number of primaries to five, Packwood would forestall their proliferation beyond the point of practicality. That point may be near, state contests having grown in four years from 13 to 24.

Regulated by a federal commission, the Packwood system would assure that all recognized candidates would be tested in each region, while providing reasonable means for a relative unknown to try his luck.

Another apparent virtue is that it would keep the national political conventions. For all their hoopla, the conventions are of some value in bringing party representatives together to fashion a platform and seek some unity of policies, philosophies and personalities.

Packwood's plan, however, would bring more order to the hit-and-miss system of choosing delegates. Each candidate would simply name his own delegates according to the percentage of votes he received in each state.

No one can guarantee that Packwood's proposal would prove superior to what now exists. But it certainly sounds better than a national primary. Congress should consider it seriously.

[From the Salem (Oreg.) Statesman, Mar. 31, 1972]

PRIMARY LIMIT

There is no better argument for a national presidential primary than the 24 separate primaries being held this year.

Primaries are valuable as a testing course for candidates. But the gantlet is getting too long. No one can be expected to hop from one state to another—and almost be in two places at once—for months. The multiplicity of primaries has diluted their individual effectiveness.

A National Institute of Student Opinion poll shows that half of the young people question the value of the individual state presidential primaries, feeling they are too limited and expensive to be justified and they really don't decide the nomination anyway.

But a single presidenial primary would mean that candidates would concentrate their efforts in the most populous states. States such as Oregon, which have been actively courted by candidates for decades, would scarcely get their attention.

Sen. Robert Packwood is promoting the idea of five regional presidential primaries, spaced far enough apart to give candidates an opportunity to give attention to each.

The order of the primaries would be by lot, with the last one or two obviously having the most impact on the party conventions. Limiting the primaries would limit costs. The present system makes it increasingly impossible for a candidate without substantial subsidy to get into the running.

The young people are right. The rush to initiate presidential primaries in each state is self-defeating. It may, however, hasten the day when a nation-wide substitute, perhaps along the lines suggested by Sen. Packwood, will be an obvious necessity.

[From the Portland (Oreg.) Journal, Apr. 17, 1972]

REGIONAL PRIMARY WORTH STUDY

The Journal has tended to favor a national primary to nominate the presidential candidates as a means of putting the power of nominating process directly in the hands of the voters.

Such a system would have the related advantage of diminishing the power plays and the obligations likely to go with them at conventions.

A few years ago, Oregon was one of the few states that gave its voters control over its delegates to the convention and offered them a choice of all candidates for the nomination.

But there has been a great proliferation of state primaries in the last few years. While this is a movement to be welcomed to the extent that it does give more voice to voters it also has led to an impossible hodgepodge of separate elections. Now half of the states have primaries. It is nearly impossible for the candidate to devote either the time or money to wage an effective campaign in each of them.

Since the trend seems to be toward voter determination of the presidential nominees, why not just go all the way toward a single nationwide primary?

No less an authority on the political process than Frank Mankiewicz, a long-time associate of both John and Robert Kennedy and now the manager of Sen. George McGovern's campaign, makes a practical point.

A single primary would tend to hand over the nominations to the persons who were recognized at the outset as the "front-runners," for whatever reason.

In 1968, he said, the race would have been between Lyndon Johnson and George Romney. This year it would be Richard Nixon and Edmund Muskie.

Smaller primaries give the dark horses a chance to prove themselves in a way that would be impossible nationwide, and also provide the test of fire for the acknowledged front-runners.

Since his candidate is one clear example of a man given little chance nationally a couple of months ago, but who has caught the attention of the nation by his performance in a couple of state primaries, Mankiewicz is close personally to the argument he is making.

But he is not suggesting that the series of individual state primaries, making virtually impossible demands of both time and money, is the alternative.

He did in fact react favorably to the proposal made by Sen. Bob Packwood, R-Oreg., of five regional primaries a month apart.

Packwood—long a student of the political system before he became a senator—put together a rather comprehensive proposal with many ideas drawn from Oregon, but limiting the primaries to five regional elections.

Some way the nominating process, as well as the actual election, must be placed more directly into the hands of the voters. Perhaps something along the lines advocated by Packwood would be a logical way to start. It would be an improvement over a growing list of separate and totally different state primaries and might be a reasonable step between the maze we have now and the single national primary.

[From the Ashland (Oreg.) Daily Tidings, April 11, 1972]

PACKWOOD PLAN DUE SOME CAREFUL STUDY

Sen. Bob Packwood has proposed a plan to improve the way the political parties choose their presidential nominees.

There's no doubt that the system can stand some improvement.

Voters nowadays are likely to be more than a little bewildered by the many primary elections and what they mean, if anything.

Packwood has proposed a system of five regional primaries, covering the entire country. The plan is better than the others that call for just one, nationwide primary election.

The regional primaries as proposed by the Oregon senator would still give some opportunity to candidates without a national political power base to test their potential for success in an election.

At the same time the selection procedure of candidates as proposed by Packwood likely would screen out those minor candidates who now clutter up the existing primary election picture.

A disadvantage of Packwood's plan would be that Oregon, for instance, would lose its own cherished primary election. Packwood said he wondered how long Oregon would retain its significance as a primary state in the face of the ever-growing number of such elections.

An indication of how the Oregon primary is likely to become less significant came this week. Sen. Edmund Muskie, lagging behind but still considered a major candidate, announced he would concentrate his remaining resources elsewhere, thereby in effect writing off the Oregon primary.

When Oregon was one of the few primary states, its significance in the presidential election process was large even though the state's population was small. Now there are more than two dozen primary elections, and Oregon's primary has suffered as a consequence.

In light of these considerations, Packwood's proposal deserves some careful study in the Congress.

[From the Albany (Oreg.) Democrat-Herald, Apr. 12, 1972]

HOW ABOUT REGIONAL VOTE

The candidates may not be tired of running yet. Yet the evidence is growing. It will be an exhausted, battered batch of presidential candidates that finishes the New York primary, the nation's last this season, on June 20.

No candidate that goes through this year's wringer of 25 primaries could think they all are necessary. Certainly the public does not. Even by the time Oregon's primary arrives May 23, 16 primaries will be down the drain. That's three more than just four years ago.

But the problem isn't simply the dizzying number of state primaries, of which there'll be 40 in 1976. Much cry for reform results from the imperfect link between the primaries and the eventual nominations.

Only Oregon, California and Massachusetts, for instance, bind their convention delegates to their primary winners. Thus, convention delegates from other states may or may not be bound to follow their state's choices. It all depends on peculiarities in state law.

This would be corrected in *Sen. Bob Packwood's* proposal for five regional primaries. It would allow candidates receiving at least five per cent of the vote to appoint their own convention delegates in proportion to the votes received. The delegates in turn would have to support their candidate for two ballots, until he received less than 20 per cent of a convention ballot or until personally released.

That is one of the more attractive features of *Packwood's* answer to the plethora of primaries. It would make the public's primary votes count in the convention process, which now always isn't true. The convention, after all, is where final nominations are made. And despite talk to the contrary, that will be the case for some time.

[From the Grants Pass (Oreg.) Daily Courier, Apr. 11, 1972]

REGIONAL PRIMARIES

This year there are 24 primaries throughout the 50 states, with candidates hopscotching across the land to this one, then to that, with a tremendous physical toll and some of the most ineffective and wasteful campaigning possible

In fact, the very plethora of presidential candidates probably can be attributed, in part, at least, to the fact that with so many primaries, each and every one of the hopefuls can anticipate finding at least one area of the land where he can emerge with a vote of confidence. And that's what primaries are all about, since the national nomination conventions are not bound to accept primary results anyway—at least not completely.

The popularity explosion among primaries spurred Oregon's junior senator Bob Packwood, to foresee the day not far away when there might well be 50 primaries—maybe even 53 if Puerto Rico, the Virgin Islands and the District of Columbia had separate ones—and that could well spell chaos of a magnitude he didn't want to experience.

So Packwood has proposed a solution—it's one of several, but it solves some of the problems the others do not—in the form of regional primaries. His proposal, to be introduced into Congress, would divide the nation into five regions. Each would hold a primary, with all states in the region voting on the same day. The regional voting dates would be staggered, a month apart, running from March through July, and with the order of the vote being determined by lot 70 days before the first vote. This would forestall any candidate working on a particular area for months, or more, in advance of a specific voting date, to the point of either a special advantage or boredom.

Packwood envisions a national elections board to determine who would go on these primary ballots—copying most of his formula from Oregon's own system.

All generally recognized candidates, as determined from the news media, would be on the ballot unless a candidate specifically withdrew. Others could get onto the list through petition or filing.

Packwood explained that his plan is better than another proposed—that of a single national primary—because that one-shot national plan would tend to load the system in favor of those with already established names—and that would mean primarily those who serve in Washington, D.C. By going to regional votes, regional candidates might build up a national name, a fact he favors.

From the regional primaries would emerge regional winners, who would take delegates in proportion to their votes by states to the nominating conventions, where these delegates would be bound to the candidate for at least two votes.

Packwood's plan, while it appears to answer most of the questions, probably would, if put into effect, make the party conventions even more meaningless than they are becoming now, diluting the work of the party faithful who have earned the right to have a direct hand in the selection of their party's candidate. But his plan wouldn't be as divisive as 50 primaries, particularly if they all follow the trend begun in Oregon of putting everyone on the ticket for a straw vote.

It's unlikely that Packwood's, or anyone's, plan will emerge from the Congress unchanged—if at all—but it is an interesting concept to ponder. And it would put an end to a lot of the current boring week-after-week campaigning. That, alone, would be a blessing.

[From the Eugene (Oreg.) Register-Guard, Apr. 22, 1972]

PRIMARIES: THERE MUST BE A BETTER WAY

(By James Kilpatrick)

PHILADELPHIA.—The Democratic presidential hopefuls take two more jumps on Tuesday in the Grand American National Steeplechase. entries limited to lunatics and other politicians. Surely, surely, there must be a better way.

The metaphor seems apt. According to the Tom Jones tradition, the steeplechase began as a wild race among the landed gentry of 18th century England. They lined up their horses, took aim on a distant steeple, and off they went—over stone walls, chicken coops, and picket fences. They took water jumps, mud jumps, and brush jumps. They terrified the livestock and left the natives open-mouthed. They left a trail of cracked skulls and broken bones, and the weary winner limped home on a winded horse. It was, in its way, great sport.

What remains of this years' field is plunging on. The betting in Boston is that George McGovern will sail over the chicken coop of Massachusetts, while Hubert Humphrey runs around the jump instead. Here in Pennsylvania, Edmund Muskie and Senator Humphrey are galloping through a fog of intra-party politics toward a stone wall. George Wallace, the gray fox from Dixie, has been barking in Pittsburgh and Wilkes-Barre. One week from Tuesday: Indiana.

It is too late to halt the madness now. The candidates are doomed to race on to the richest prize of all—the California stakes in early June, when 271 delegates will be up for grabs in a single purse. After that, Miami. The exhausted winner will have made promises he cannot keep; he will have lost support he sorely needs. The candidates collectively will have raised and spent—or borrowed and spent—something in the neighborhood of $20 million, and the money-raising task must then begin anew.

Twenty-three separate primaries have been scheduled this spring. They are not wholly meaningless; they are telling us something: The remarkable vote for Wallace and McGovern is a manifestation of discontent that cannot go unheeded. But the primaries provide a poor measure of statesmanship: they measure stamina instead. The primaries do not clarify, they confuse.

Two proposals, one old and one new, are being advanced by way of reform. Sens. Mike Mansfield of Montana and George Aiken of Vermont have revived the idea of a single national primary. Sen. Robert Packwood of Oregon is offering a novel plan for five regional primaries instead.

The Mansfield-Aiken proposal is cast in the form of an elaborately detailed, 1,300-word amendment to the Constitution. As such, their resolution is plainly preposterous; they have written a statute, not drafted an amendment. If a change in the Constitution truly is required (authorities disagree), a single sentence would suffice, vesting in Congress the power to provide by law for a national primary system.

Viewing their resolution as a bill, many observers will find the proposal attractive. Mansfield and Aiken recommend a single primary election in August of each presidential year. If none of a party's candidates received a plurality of at least 40 per cent, a run-off would be held four weeks later between the top two. The plan has the virtue of simplicity; it has the defect of nationalizing a political process that until now has rested with the states, and it raises the expensive prospect of three national elections in a three-month span.

Packwood's alternative proposal envisions five regional primaries, one month apart, beginning on the first Tuesday in March. A five-man commission would certify candidates and supervise the balloting. Convention delegates would be awarded on a basis of proportional representation: The candidate who claimed one-third of the vote would name one-third of the delegates. The Packwood plan would retain not only the basic Federal structure but also the party conventions. It offers a vast improvement over the steeplechase madness of 1972.

Neither proposition is likely to be considered in Congress this year. But next year, when the shouting and the tumult die, sober thought must be given to a saner scheme for 1976. That year will mark the 200th anniversary of the great American Revolution. Politically speaking, it's high time for another.

[From the Oregon Journal, Apr. 17, 1972]

REGIONAL PRIMARY WORTH STUDY

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Such a system would have the related advantage of diminishing the power plays and the obligations likely to go with them at conventions.

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But there has been a great proliferation of state primaries in the last few years. While this is a movement to be welcomed to the extent that it does give more voice to voters, it also has led to an impossible hodgepodge of separate elections. Now half of the states have primaries. It is nearly impossible for the candidate to devote either the time or money to wage an effective campaign in each of them.

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Some way the nominating process, as well as the actual election, must be placed more directly into the hands of the voters. Perhaps something along the lines advocated by Packwood would be a logical way to start. It would be an improvement over a growing list of separate and totally different state primaries and might be a reasonable step between the maze we have now and the single national primary.

[From the Sherwood (Oreg.) Tri-City News, Apr. 20, 1972]

Presidential Primaries Need Change

Senator Bob Packwood of Oregon has long been a student of election laws and procedure.

From this background, he has announced a proposal for establishing five regional presidential preference primaries.

In announcing his plan and call for cosponsors he said:

". . . This legislation is designed to replace the present mishmash of presidential extravaganzas. These extravaganzas take the form of citrus circuses in Florida and winter carnivals in Wisconsin. They leave the candidates tired and broke. They leave the public bored or bewildered and—far too often—disgusted. Voters understandably ask, 'When is this nonsense coming to an end?' In the process, the candidates lose their credibility and the office loses its dignity."

"Credibility must be restored to the candidates because, without it, dignity cannot be restored to the most important office in the world. A plan must be devised that somehow, someway dramatically improves the Barnum and Bailey traveling sideshow that is in New Hampshire one week, Florida the next, and does not end until the curtain has come down a total of 24 times."

The Packwood proposal would establish a federally administered system of five regional primaries. The dates for the five regions to vote would be known only 70 days prior to being held. Senator Packwood explains this provision in this manner: "All candidates would be forced to shepherd their limited financial resources until they knew which regional presidential preference primary would be first."

Some of the provisions of the Oregon presidential preference primary would be included in that to qualify for a presidential ballot a candidate must be "generally recognized in the national media throughout the United States" as a candidate. A petition or a filing fee of $10,000 to be refunded if the candidate received five per cent of the vote in the region would provide exceptions to the general recognition method of being included on the ballot.

The latest Oregon law under which Senator Edward Kennedy is included in spite of his protests of non-candidacy would be avoided with Senator Packwood's provision that a candidate could have his name removed from the ballot if he states unequivocally in writing that he was not and did not intend to become a candidate for president.

Oregonians initially enjoyed its unique position as a state where presidential preference primaries made and broke presidential candidates. However, with 24 states now having preferences votes in one form or other Oregon is losing its distinction as the first state to adopt a presidental preference primary in 1911. The 24 states including Oregon contribute to complicating the problem of making the presidential preference take on the aspects of a circus and a sideshow.

As Senator Packwood states:

"The system worked well, however, only so long as the nation had less than a dozen significant primaries scattered through the country. With the proliferation of such primaries, this noble dream has become a nightmare. This innovate reform, conceived in logic, has been tarnished in practice."

Oregonians may not want to lose the spotlight on the political stage which they have enjoyed in presidential election years in recent years, but the situation has developed into too much of a good thing and the situation calls for a change.

[From the Seaside (Oreg.) Signal Apr. 20, 1972]

Packwood's Regional Primaries Offer Chance for Election Reform

The complexity of the present method—or lack of it—for nominating candidates for president is such that a great deal of consideration is being given to a national primary. Now Oregon's Senator Packwood has offered another option, five regional primaries. Dates would not be known until 70 days prior to the election. Each candidate would be empowered to name delegates to the national convention in proportion to the votes he received. Voters would have to vote for candidates of their own political affiliation.

While either a national or regional primary would continue the process of minimizing the importance and the authority of the states, there are compelling arguments for a change, and of the two ideas we believe that Packwood's regional primaries would be the most satisfactory. For one reason they would be held at different times and candidates who do poorly in one would have the opportunity of dropping out, without the necessity for campaigning throughout the United States.

The present system is worse than chaotic. Some states have primaries in which party members are restricted to voting only for candidates of the same political party. Others permit party members to cross over. This is true of Wisconsin and the result is that election is worse than useless. Other states cling to the old process of electing delegates by caucus.

If we are to have a change in the primary system and in the process for naming candidates for president Senator Packwood's proposal seems to offer the most advantages and the least disadvantages.

[From the Los Angeles Times, Apr. 9, 1972]

National Primary Is No Panacea

If the findings of a recent Gallup Poll are an accurate indication, three out of four Americans are ready to scrap the present system of choosing presidential nominees and substitute, in its stead, a single nationwide primary.

There is no question that the idea of a national primary, replacing both the nominating conventions and the individual state primaries, is superficially attractive.

Any such change, however, would in fact be a grave mistake, the good intentions of its proponents notwithstanding.

Current proposals for a national primary have old and honorable antecedents, of course. The idea cropped up during the Progressive Party movement of the early 1900s. President Woodrow Wilson suggested it in 1913.

This year, presidential primaries will have been held in 23 states before the Democratic and Republican Conventions meet to nominate the candidates who will fight it out in the November election.

A lot of people sympathize with the observation by Sen. Robert Packwood (R-Ore.) that four months of primaries "leave the candidates tired and broke. They leave the public bored or bewildered and, far too often, disgusted. In the process the candidates lose their credibility, and the office loses its dignity."

Two of the most respected men in Congress—Sens. Mike Mansfield (D-Mont.) and George Aiken (R-Vt.)—have introduced a proposed constitutional amendment calling for the establishment of a single nationwide primary election. The Democratic and Republican winners would be the nominees—period. The individual state primaries would be eliminated, and the national conventions would meet only to nominate the vice presidential candidate and hammer out a platform.

As the Gallup Poll indicated, the proposal is attracting a lot of public attention and support. Before people begin taking it too seriously, however, they should ponder the strengths of the present systems as well as the weaknesses of the proposed national primary system.

Running in a series of state primaries is hard on the candidates, to be sure. But it serves to let the voters have a good look at them, warts and all. It tests their mettle—a candidate who can't stand up to the physical and emotional rigors of primary campaigning doesn't belong in the White House anyway.

The national primary, being conducted in all 50 states, would be more costly rather than less. And to make the most effective use of their campaign funds, candidates would emphasize TV—thereby giving an advantage to the candidate long on image but perhaps short on substance.

How would eligibility for the national primary be established? Overly strict rules would be undemocratic. But easy entry would mean a long ballot—and the danger that the winner would not be in the mainstream of his party.

By making the nominee completely independent of the convention of the party whose banner he carries into the election, the national primary would erode party responsibility—and therefore accelerate the breakdown of the two-party system.

Finally, it is worth remembering that, in a national primary, the advantage would go more than now to the wealthy candidate and to the initial frontrunner. It would be hard, if not impossible, for a candidate to start with a modest base and work his way into contention.

If there were a national primary this year, for example, the George McGovern forces do not believe their man would ever have got out of the starting gate.

[From the San Francisco Chronicle, Apr. 10, 1972]

Packwood's Plan for the Primaries

After an early spring that has seen weary candidates slogging through the snows of New Hampshire, the swamps of Florida, the frozen corn stubble of Illinois and the blizzardy dairyland of Wisconsin, the American mass audience is, we suspect, already becoming glassy-eyed with too much exposure to televised presidential primary politics. And the year is still young.

The media have had all they could do to create interest in and squeeze significance from the successive confrontations of the Democratic challengers, and as for the Republican primaries, they have pretty much had to give up.

These separate and sovereign elections are well characterized by Senator Bob Packwood, the Oregon Republican, as Barnum and Bailey traveling sideshows.

"They leave the candidates tired and broke," Senator Packwood pronounced. "They leave the public bored or bewildered and—far too often—disgusted. In the process, the candidates lose their credibility and the office loses its dignity."

Senator Packwood is proposing a very interesting reform of our primary system—a reform of a kind which the Gallup Poll shows an overwhelming majority of the American people favor.

He is introducing a bill to establish, by Federal law, not a national primary, which has hitherto been much discussed, but five regional primaries, one to be held each month, beginning in March of presidential election years.

The merit of the Packwood primary would, he feels, be that of enabling candidates to concentrate intensely upon the voters of the region during the month when its election is to be held. It would thus bring the candidates out among the people and somewhat de-emphasize television's impact. He assumes that regional primaries, drawing the voters of around ten States to the polls each month, would give a highly regarded but only regionally known personality, such as a governor, a chance to score a strong tally of conventional delegates from his (or her) part of the country and go with some strength to the national convention, whereas under the present system that would be just about out of the question.

This regional scheme would offer, in the end, all the voters of all the States a chance to be heard in the selection of their party's presidential nominee. It appeals to us as a likely plan for serious consideration in Congress.

[From the San Francisco Examiner, April 22, 1972]

THE PRIMARIES

It is widely contended that there must be a better way of narrowing the field of presidential candidates than the present inclusive and terribly costly system of state primaries.

What developed in our horse and buggy days strikes many people—political experts and lay observers alike—as a demanding and essentially tawdry circus in this electronic age.

Congress, once again, is considering possible solutions. Once again, the major alternative thus far has been the proposal for a single, nation-wide primary instead of the 24 locals now being held.

This time it is advocated in a constitutional amendment offered by Senate Democratic leader Mike Mansfield and Republican Senate dean George D. Aiken.

The trouble with a national primary is that it might have greater evils than the current system.

It would, for example, give an even greater advantage to candidates able to command strong financial backing. It also would tend to favor persons, especially senators, whose activities and opinions get priority attention in the news media.

An intriguing alternative has been proposed by Sen. Robert W. Packwood.

The Oregon Republican has introduced a bill calling for five regional primaries embracing every state.

They would be held once a month in a series limited to the five-month period from early March through July.

Details of the proposal are too complex to outline here, even though they are far less complicated than the wildly varied rules governing the mish-mash of contests now under way.

The advantage of the Packwood plan is—in theory at least—its claim to ensure the best benefits of the present and the suggested national primary systems.

We hope the most careful consideration is given to the Packwood alternative. On its face it seems like a viable and constructive compromise.

In the end it is quite possible that the admittedly wasteful and grueling system of old-fashioned state primaries is still the best method of testing presidential hopefuls.

[From the Santa Ana (Calif.) Register, Apr. 19, 1972]

REGIONAL PRIMARIES PLAUSIBLE

(By Art Siddon)

WASHINGTON.—Sen. Bob Packwood (R. Ore.) appears to have come up with the most plausible solution to date for replacing the present sideshows known as the Presidential primaries.

Packwood has told his Senate colleagues he will introduce a bill establishing a system of five regional Presidential primaries to replace what he called "the present mish mash of Presidential extravaganzas."

The present system crams 23 Presidential primaries into less than four months.

With only five of the primaries down and 18 yet to go, the contenders for the Democratic nomination already are showing signs of fatigue. Millions of dollars have been spent and millions more will follow with no assurance that even when it is over the Democrats will have found a candidate.

As Sen. Mike Mansfield (D. Mont.) has said, the system leaves the candidates "physically exhausted, financially deflated, and, more often than not, politically defeated."

Mansfield and Sen. George Aiken (R., Vt.) has offered their own solution—a single national Presidential primary to be held by both political parties on the same day in August.

Packwood has pointed out that this solution has several flaws.

Under the Mansfield-Aiken plan, if no candidate received 40 per cent of the vote, a runoff would be necessary. This means we could end up with what would amount to three full-scale national elections in one year to pick a President.

A national primary also would tend to favor candidates with the most news media appeal and those with easy access to vast sums of money.

"If the only primary is a national primary, an unknown candidate could not contemplate participating unless he could raise enough money in advance to guarantee that his name would become a household word," Packwood argues.

His alternative would appear to eliminate these flaws.

Packwood's bill would divide the country into five regions by population in which the primaries would be held on the second Tuesday of each month beginning in March and ending in July. The order of the primaries would be determined by lot 70 days before the first primary.

Presumably the candidate would thus not know where the first primary would be held until 70 days prior to it, and this could prevent candidates from beginning campaigns too early.

Under the national system, it would be possible for a candidate to begin campaigning as soon as he decided to become a candidate.

Packwood would keep the national conventions under his plan. The number of delegates each candidate received would be in direct proportion to the percentage of the vote he received in each state.

It seems that the regional primary system would allow a candidate to spend a smaller amount of money testing his appeal in one region before he had to commit himself to the entire race. If he found he wasn't strong, he could withdraw. In a national primary, he would be committed to an expensive nationwide campaign.

The alternative appears to be letting things continue in the direction they are now going or abolishing primaries entirely. To abolish them would leave the selection of Presidential candidates up to the party regulars at the national conventions.

Clearly the regional primary proposal is worth considering.

[From the San Luis Obispo (Calif.) Telegram Tribune, Apr. 13, 1972]

REFORMING THE ELECTION PROCESS

Most Americans assume that in a presidential election year the business of registering to vote, then voting, and then counting the votes is orderly and efficient.

The believe that the process is pretty much the same from state to state . . . and they are wrong.

Rules for registering to vote here are different from the rules there.

The presidential election ballot here might be different from the one there.

When it comes to counting the vote, one area might be honest while another is laced with fraud.

Inconsistency is rife. Nowhere is it more ludicrous than in Wisconsin where the crossover vote is allowed.

In Wisconsin, people of either party can vote in the presidential primary of the other party. This allows partisans to cross party lines and vote for a candidate of the other party who they think will be the easiest to defeat in the general election.

Presidential candidates today are forced to adapt themselves to as many different rules as there are state primary elections. The result is exhausting and expensive for the candidates and complex and confusing to the voters.

This presidential election year as candidates speak, stumble and stump their way through 24 separate primary elections, concerned and sincere politicians are looking for a better way.

Sen. Mike Mansfield (D-Montana) likes the idea of a national presidential primary election just as we have a national general presidential election.

Sen. Robert Packwood (R-Oregon) has suggested five regional primary elections, one to be held each month beginning in March of presidential election years.

He feels the merit of his proposal is that candidates could concentrate upon the voters of a specific region during the month when its election is scheduled. This would be in contrast to this spring's schedule which saw Democratic candidates campaigning in New Hampshire, then chasing to Florida, and then challenging each other in Wisconsin.

Earlier this month in a speech in Fulton, Mo., Robert H. Finch, counselor to President Nixon, proposed a third alternative, a Federal Uniform Election Law.

The Finch plan, which he calls FUEL, is simply a ballot which separates the presidential and congressional candidates from all other state and constitutional offices to be filled in a presidential election year—a federal ballot for federal offices.

There would be the same registration standards for all voters for federal office.

If fraud in the federal voting were suspected, the ballots could be impounded and counted immediately without slowing the vote count on state or constitutional offices.

Finch believes that FUEL also would point up the need for the President to have a political majority in Congress and that FUEL should contain a comprehensive reform of the Electoral College.

It's too soon to determine whether FUEL will ignite the imagination of those interested in reforming the election process.

Right now it is yet another indication that responsible politicians are seeking a more efficient, honest and economical method of giving the citizen a direct voice in the election of federal officials.

STREAMLINING THE PRIMARIES

A P–1 View: Oregon's Sen. Robert W. Packwood has proposed an interesting alternative to the existing presidential primaries.

It is generally agreed that there must be a better way of narrowing the field of presidential candidates than the present inconclusive and terribly costly system of state primaries. What developed in our horse and buggy days strikes many people—political experts and television viewers alike—as a demanding and essentially tawdry circus in this electronic age.

Congress, once again, is considering possible solutions. Once again, the major alternative thus far has been the proposal for a single, nation-wide primary instead of the 24 locals now being held. This time it is advocated in a constitutional amendment offered by Senate Democratic Leader Mike Mansfield and Republican Senate dean George D. Aiken.

The trouble with a national primary is that it might have greater evils than the current system. It could, for example, give an even greater advantage to candidates able to command strong financial backing. It also could tend to favor persons, especially senators, whose activities and opinions get priority attention in the news media.

An intriguing alternative now has been proposed by Sen. Robert W. Packwood. The Oregon Republican has introduced a bill calling for five regional primaries embracing every state. They would be held once a month in a series limited to the five-month period from early March through July.

Details of the proposal are too complex to outline here, even though they are far less complicated than the wildly varied rules which govern the mishmash of contests now under way. The obvious advantage of the Packwood plan is that—in theory at least—it would ensure the best benefits of the present and the suggested national primary systems.

We hope the most careful consideration is given to the Packwood alternative. On its face it seems like a viable and constructive compromise.

[From the Lewiston (Idaho) Tribune, Apr. 9, 1972]

A NORTHWEST PRESIDENTIAL PRIMARY

Sen. Bob Packwood, R-Ore., wants to replace the "present mishmash" of 23 State presidential primaries with five regional primaries that would be conducted one a month in succession.

The state primaries of the present, with all their inconsistencies, have become rather more of a joke this year than in the past. But if they are to be replaced, why bother with regional primaries? Why not skip the second step and go directly to a national presidential primary?

There is no doubt that the Packwood plan would be an improvement. It would trim the number of primaries. It would eliminate the exaggerated influence and the disproportionate expense of small primaries like New Hampshire's. Undoubtedly it would also standardize the primaries.

Under the present system, every state has a separate set of rules and therefore a separate and often misunderstood meaning. Some state primaries permit the candidates for president to decide themselves whether they will enter the contest. The more honest states, such as Oregon, place on the ballot all recognized candidates for president whether the candidates like it or not. Some of the state votes are true primaries binding that state's delegates to back at the national convention the candidate the people have chosen. Some are advisory, mere personality contests not binding on the state's delegation to the national convention. There are dozens of other variations from state to state.

Presumably Packwood's plan would eliminate that. But so would a national primary and without five separate votes. Perhaps the senator is trying to bring some order out of the present chaos without sacrificing the mounting week-to-week drama that takes place as the candidates move from one primary to the next. But that is better stage management than political science.

If Packwood's idea or a national primary ever come to pass, it will probably be some years from now.

Meanwhile, there is a simpler way to begin the march toward regional primaries if not also toward a national one. If the states of Washington and Idaho would join Oregon in holding presidential primaries, and do it on the same day, the nation would have its first regional primary.

There are strong elements of a presidential primary in the procedures Washington and Idaho Democrats are using this year to select delegates to a national convention. (See page 5 for details of the Idaho method.) But those new procedures are so complicated that it would make more sense to simply let the people of Idaho and Washington join Oregon residents in voting directly their choices for president.

And it would be one way of giving the Packwood plan a trial run in the senator's home region.

By Mr. ROTH (for himself, Mr. Boggs, Mr. Beall, and Mr. Buckley):

S. 3568. A bill to designate the Federal Bureau of Investigation building now under construction in Washington, D.C., as the "J. Edgar Hoover Federal Building." Referred to the Committee on Public Works.

Mr. ROTH. Mr. President, for almost half a century, J. Edgar Hoover has served the American people as the Director of the Federal Bureau of Investigation. Last night this extraordinary patriot's lifetime of dedication to the preservation of democracy came to an end. It is only fitting that we today offer our gratitude for the service that he has rendered the U.S. Government.

There could be no more appropriate expression of this gratitude than the conferring of his name on the new FBI building. I cannot imagine a gesture that would have pleased Mr. Hoover more. The resolution which I, together with the senior Senator from my State of Delaware (Mr. Boggs) introduced today would authorize naming the new FBI headquarters the "J. Edgar Hoover Federal Building."

Mr. Hoover literally spent a lifetime in service to the Federal Bureau of Investigation. On May 10, only a week away, he would have celebrated his 48th anniversary as the Director of the famed organization. When Mr. Hoover accepted the post of acting Director of the Bureau in 1924, he faced a formidable task. It is to his credit that the small, poorly organized Bureau became the world-renowned crime-fighting force that it is today. Over the years, the FBI has built a reputation for honesty, loyalty, and competence. FBI agents are accorded the highest respect of any law enforcement officials in the country.

By naming the Bureau's new headquarters the "J. Edgar Hoover Federal Building," we have an opportunity to express for our constituents the respect and admiration that millions of Americans have felt for this exceptional man. I would ask my colleagues to join with Senator Boggs and me in expressing the gratitude of the Nation to the memory of J. Edgar Hoover.

By Mr. TOWER:

S. 3569. A bill to provide that persons from whom lands are acquired by the Secretary of the Army for dam and reservoir purposes shall be given priority to lease such lands in any case where such lands are offered for lease for any purpose. Referred to the Committee on Public Works.

Mr. TOWER. Mr. President, today, I am introducing a bill to give prior owners the right of first refusal when their lands are acquired for building dams or impounding reservoirs. Presently, the Corps of Engineers acquires land from farmers and ranchers for the purpose of building a dam and reservoir. Because construction and the impounding of the water is a very lengthy process, the corps will lease the land back to the owner so that he may continue to make productive use of it. That first lease lasts 5 years. At the expiration of this first lease, if the land is still available, the property is advertised and a lease granted on the basis of competitive bids. The corps does not consider former owners or tenants to have interest in the lands after the termination of the lease.

Mr. President, many of the owners do, indeed, have a very special interest in these lands as long as they are available. The inconvenience and cost of moving stock or facilities unnecessarily is reason enough for these owners to desire to continue use of the land. In fact, I have had several complaints lodged with my office over just this matter.

This bill, if enacted, would provide the former owners or tenants the right of first refusal during the period of their lifetime. If the former owner is a corporation, or other association, the right of first refusal is granted for a period of 50 years. The passage of this legislation will be a step in preventing an inequity, and will insure continuous, productive use of lands under Corps of Engineers control. I urge favorable consideration of this measure.

Mr. President, at this time, I ask unanimous consent that the text of this bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any case where land is acquired by the Secretary of the Army for the purpose of any dam and reservoir project being carried out through the Corps of Engineers and thereafter offered for lease for any purpose the person or persons from whom such land was acquired shall during their lifetime be given priority to enter into such lease upon reasonable terms determined by the Secretary.

Sec. 2. The term "person" as used in this Act includes a corporation, company, association, firm, partnership, society, joint stock company, or other such organization as well as an individual but in any case where such term is used to apply to such an organization the term "lifetime" as used in the first section shall not exceed fifty years.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2397

At the request of Mr. Cook, the Senator from Tennessee (Mr. Baker), the Senator from Michigan (Mr. Griffin), and the Senator from Virginia (Mr.

SPONG) were added as cosponsors of S. 2397, to amend the Airport and Airway Development Act of 1970 in order to provide that the Federal share shall not exceed 75 percent of allowable project costs except with respect to landing aids.

S. 3290

At the request of Mr. BEALL, the Senator from North Dakota (Mr. YOUNG), the Senator from Colorado (Mr. DOMINICK), the Senator from Utah (Mr. BENNETT), and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of S. 3290, a bill to amend certain provisions of title 18, United States Code, relating to youth offenders.

S. 3303

At the request of Mr. PEARSON, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 3303, a bill to amend the Internal Revenue Code of 1954 to exempt certain agricultural aircraft from the aircraft use tax, to provide for the refund of the gasoline tax to the agricultural aircraft operator with the consent of the farmer, and for other purposes.

S. 3495

At the request of Mr. DOLE, the Senator from Wyoming (Mr. HANSEN) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 3495, a bill to provide reimbursement of extraordinary transportation expenses incurred by certain disabled individuals in the production of their income.

S. 3530

At the request of Mr. BEALL, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3530, a bill to provide for the conveyance of certain real property in the District of Columbia to the National Firefighting Museum and Center for Fire Prevention, Inc.

SENATE JOINT RESOLUTION 225

At the request of Mr. GRIFFIN for Mr. SCHWEIKER, the Senator from New Mexico (Mr. MONTOYA) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of Senate Joint Resolution 225, to prevent the abandonment of railroad lines.

SENATE JOINT RESOLUTION 229

At the request of Mr. ALLEN, the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Texas (Mr. TOWER) were added as cosponsors of Senate Joint Resolution 229, a joint resolution to name the new Federal Bureau of Investigation building the J. Edgar Hoover Building.

SENATE RESOLUTION 297—SUBMISSION OF A RESOLUTION DESIGNATING THE J. EDGAR HOOVER FBI BUILDING

(Referred to the Committee on Public Works.)

Mr. HATFIELD (for himself and Mr. GOLDWATER) submitted the following resolution:

S. RES. 297

Whereas J. Edgar Hoover served as Director of the Federal Bureau of Investigation from its creation in 1924 until his death;

Whereas the name of J. Edgar Hoover and the Federal Bureau of Investigation will be linked forever;

Whereas the long and distinguished service of J. Edgar Hoover in Washington deems appropriate the designation of a suitable memorial in Washington;

Whereas a facility in active use would be more appropriate than a static memorial;

Whereas a memorial linking the name of J. Edgar Hoover and the Federal Bureau of Investigation would best serve as an appropriate memorial: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Federal building under construction in the block bounded by 9th St., NW, 10th St., NW, E St., NW, and Pennsylvania Avenue, NW, in the District of Columbia, shall hereafter be known and designated as the "J. Edgar Hoover FBI Building" and that any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the J. Edgar Hoover FBI Building.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 895

At the request of Mr. PEARSON, the Senator from New Jersey (Mr. WILLIAMS) was added as cosponsor of amendment No. 895, intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 1122 AND AMENDMENT NO. 1123

At the request of Mr. TUNNEY, the Senator from Georgia (Mr. GAMBRELL) was added as a cosponsor of amendment No. 1122, intended to be proposed to Senate Concurrent Resolution 33, and amendment No. 1123, intended to be proposed to House Concurrent Resolution 471.

NOTICE OF CHANGE OF TIME OF HEARING ON CERTAIN NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Committee on the Judiciary and at the request of the distinguished chairman thereof (Mr. EASTLAND), I wish to advise that the time of the hearing scheduled on the following nominations has been changed from 10:30 a.m., Thursday, May 4, 1972, to 9:30 a.m., in room 2228, New Senate Office Building:

James M. Burns, of Oregon, to be U.S. District Judge for the District of Oregon, vice Gus J. Solomon, retired.

Norman C. Roettger, Jr., of Florida, to be U.S. District Judge for the Southern District of Florida, vice Ted Cabot, deceased.

Otto R. Skopil, Jr., of Oregon, to be U.S. District Judge for the District of Oregon, vice Alfred T. Goodwin, elevated.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman; the Senator from Arkansas (Mr. MCCLELLAN); and the Senator from Nebraska (Mr. HRUSKA).

ADDITIONAL STATEMENTS

DEATH OF J. EDGAR HOOVER

Mr. JACKSON. Mr. President, J. Edgar Hoover achieved a unique place in the annals of American law enforcement.

As the founding father of the FBI, he created the most effective and respected law enforcement apparatus in the world. He developed a coherent approach to criminal law enforcement in our federal system. He fostered and institutionalized modern criminal investigation methods. And he worked hard to make the expertise of the FBI available to police officers throughout the country, through cooperative efforts and police training programs.

But what J. Edgar Hoover did not do is just as important. He did not let the FBI get involved in politics. He did not let the FBI extend itself into matters better handled by others. And he did not let the FBI be tainted by corruption throughout his long tenure.

In the final analysis, it is the personal qualities of J. Edgar Hoover, his courage, his integrity, his self-discipline, that live on today in the great institution he leaves behind.

THE FINANCE COMMITTEE'S WORKFARE PROPOSAL

Mr. GURNEY. Mr. President, I would like to take this opportunity to express my approval of the action of the Senate Finance Committee on Friday when it substituted a "workfare" plan in H.R. 1 for the highly questionable family assistance plan.

As I have said many times in the past, I favor virtually every part of H.R. 1 except for the family assistance plan. I think the workfare plan, with its minimum income of $2,400 a year is a definite improvement over the guaranteed—work or not—handout of $2,400 that was the heart of the family assistance plan. It is a shame that the wealthiest Nation in the world must subsidize people to get them to work, but that is far better than subsidizing them for being lazy.

There are those who have said this new plan is a barbarous throwback to the leafraking of the 1930's. I can only say that this proposal is a big improvement over the welfare mess we have now and infinitely better than putting an additional 10 million people on a giveaway program.

Moreover, this plan, although quite costly, brings a return on our investment and is more in line with the rest of the bill, which deals with people who have worked all their lives and resent being grouped with many people who have never worked and never plan to.

Mr. President, I would like to call on my colleagues to support this workfare plan which is fairer to the hard working, overburdened American taxpayer and is more consistent with the American work ethic than any other proposal we have seen in this Congress.

THE DEATH OF DIRECTOR J. EDGAR HOOVER

Mr. PELL. Mr. President, I am sad to have learned of the death of J. Edgar Hoover, the Director of the Federal Bureau of Investigation. Director Hoover is the very symbol of the FBI that he created and to which he gave his life. His abhorrence of corruption, his high standards of law enforcement and police work, and his personal drive and courage all contributed to the making of his most important memorial—the Federal Bureau of Investigation itself. It is the most respected and competent anticrime organization in the world today.

There are very few Americans, indeed, who did not come to regard him, not only as a man who gave his life to his Government, but one who became a legend while still in public service.

Mr. John Edgar Hoover was born on January 1, 1895, in the District of Columbia and was educated in public schools. He received his bachelor of law and master of law degrees from George Washington University, and in 1917 he entered the Department of Justice. Within 2 years, he became Special Assistant to the Attorney General. From 1921–24, he was Assistant Director of the Bureau of Investigation; and in May of 1924, he was named Director of the Federal Bureau of Investigation.

His dedication and accomplishments did not go unnoticed; for on March 8, 1946, he was presented the Medal for Merit by the President of the United States. On May 27, 1955, President Eisenhower awarded him the National Security Medal for his outstanding service in the field of intelligence relating to national security. President Eisenhower, on January 27, 1958, presented Director Hoover the "President's Award" for dedicated Federal civilian service. J. Edgar Hoover was a recipient of numerous honorary degrees and awards of merit: outstanding among these was one given on April 28, 1958, from the U.S. Chamber of Commerce, known as the Greatest Living American Award. Finally, I would like to note that the U.S. Senate in 1961 passed a resolution commending Hoover on 37 years of dedicated service to the United States as Director of the Federal Bureau of Investigation.

J. Edgar Hoover will long be remembered as a man of dignity and strong ideals, who gave the Bureau its reputation of being the most professional law-enforcement activity, not only in these United States, but throughout the world. It is my hope that the new FBI building now under construction, the completion of which J. Edgar Hoover will unfortunately be unable to see, will be dedicated as a memorial to this singular American.

URGE PRESIDENT NIXON TO SIGN S. 2713 TO PROVIDE DRUG TREATMENT AND REHABILITATION FOR FEDERAL OFFENDERS ON PROBATION AND PAROLE, INCLUDING THOSE DEPENDENT ON AMPHETAMINES AND BARBITURATES

Mr. BAYH. Mr. President, I wish to commend the Members of the House who by a voice vote of 323 to 0, May 1, 1972, passed S. 2713, a bill to provide care for narcotic addicts and drug-dependent persons who are placed on probation, released on parole, or mandatorily released.

The Senate passed S. 2713 by a voice vote on March 3, 1972.

The bill was favorably reported by the Committee on the Judiciary on February 29.

The Narcotic Addict Rehabilitation Act—NARA—was enacted by the 89th Congress in response to the narcotic problem in this Nation during the mid-1960's. The act embraces the view that narcotic addiction is a disease that should be treated rather than viewed as a matter for punitive penal action. Its declaration of purpose in favor of civil commitment for treatment, in lieu of prosecution or sentencing, was a legislative landmark—a turning point in the Federal approach to drug addiction.

At least 30 percent of the 11,000 people annually committed to serve sentences in Federal prisons have drug-related problems, or have been convicted of drug-related crimes. However, NARA excludes the following adjudicated Federal offenders from authorized rehabilitation programs:

First. An offender who is convicted of a crime of violence.

Second. An offender who is convicted of unlawfully importing or selling or conspiring to import or sell a narcotic drug, unless the court determines that such sale was for the primary purpose of enabling the offender to obtain a narcotic drug which he requires for his personal use because of his addiction to such drug.

Third. An offender against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served: *Provided,* That an offender on probation, parole, or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment.

Fourth. An offender who has been convicted of a felony on two or more prior occasions.

Fifth. An offender who has been committed under title I of the Narcotic Addict Rehabilitation Act of 1966, under this chapter, under the District of Columbia Code, or under any State proceeding because of narcotic addiction on three or more occasions.

Consequently, only 1 or 2 percent of addicted or drug-dependent offenders have qualified under the special sentencing provisions of NARA.

There is an urgent need for legislation to assure that drug treatment and rehabilitation programs will be accessible to Federal offenders who are ineligible for treatment under NARA. Our bill meets this need.

S. 2713 authorizes an expansion of drug treatment and rehabilitation to those otherwise ineligible Federal offenders who are under community supervision or mandatory release. The community-treatment phase authorized by S. 2713 complements the drug abuse programs already undertaken by the U.S. Bureau of Prisons for non-NARA addicts in the institutions located in Lewisburg, Pa.; Terre Haute, Ind.; Petersburg, Va.; El Reno, Okla.; Lompoc, Calif.; and Fort Worth, Tex., under general authority to provide for the treatment, care, rehabilitation, and reformation of Federal offenders (18 U.S.C. 4001).

Yet, an institutional program cannot fully prepare these individuals for their return to the community. Aftercare and counseling in the community is essential to assist these non-NARA Federal offenders in establishing a drug-free and crime-free life style. S. 2713 authorizes such aftercare as a necessary adjunct to the supervision already provided by U.S. Parole Officers.

S. 2713 also authorizes community-based drug treatment for offenders who have not taken part in an institutional drug program. Individuals on Federal probation or those released outright from a Federal prison would be eligible for treatment. U.S. probation officers would be provided an alternative to revocation of probation and incarceration of an addict or drug-dependent person.

As originally introduced by Senator HRUSKA, S. 2713 offered community drug treatment and rehabilitation only to narcotic addicts. Although I supported the bill as introduced, it was my judgment that the scope of S. 2713 should be expanded.

Through the series of hearings on amphetamine and barbiturate abuse conducted by the Juvenile Delinquency Subcommittee, of which I am chairman, I have become increasingly aware of the widespread abuse and dependency on these and other similar dangerous substances. Barbiturate addiction is often more severe and debiliating than heroin addition. Considerable criminal activity is associated with the abuse of amphetamines and barbiturates and with efforts to obtain these dangerous substances.

My amendment, adopted by the Subcommittee on National Penitentiaries, and favorably reported by the Judiciary Committee, expands the community services available under S. 2713 to Federal offenders who are dependent on amphetamines, barbiturates, and other controlled nonnarcotic dangerous substances.

The rationale for this amendment is similar to that which led Congress to enact the Comprehensive Drug Abuse Prevention and Control Act of 1970, which authorized the expansion of treatment and rehabilitation programs under the Community Mental Health Center

Act and the Public Health Services Act to include drug abusers and drug dependent persons as well as narcotic addicts.

I urge President Nixon to sign S. 2713 to assure that the broadest range of treatment and rehabilitation is made available to narcotic addicts and drug dependent persons who are subject to Federal jurisdiction and control.

J. EDGAR HOOVER

Mr. DOLE. Mr. President, in the death of J. Edgar Hoover America has lost its foremost soldier in the fight against crime and lawlessness. From its beginnings he embodied and exemplified the Federal Bureau of Investigation and its traditions of excellence, integrity, and accomplishment. The FBI's reputation as the foremost organization of its kind in the world was built in large measure because Mr. Hoover set the highest and most stringent standards for himself and those who served under him through nearly a half a century and under eight Presidents.

Mr. Hoover's death leaves a void which can never be completely filled. But his career will always stand as a model and an ideal for others who undertake the challenges of serving their country and its people.

INTERNATIONAL TRADE POLICY

Mr. PELL. Mr. President, the position of the United States in international trade, and the strength of the U.S. dollar in international monetary transactions remain matters of continued concern. Mr. Eliot Janeway, the distinguished economist, recently presented a lucid analysis of the problems and policies that underlie the dollar and trade problems confronting our country. I ask unanimous consent that Mr. Janeway's column from the Chicago Tribune-New York News Syndicate, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWIN TRADE POLICY CALLED MISCALCULATION

(By Eliot Janeway)

NEW YORK CITY.—1972's new dollar anxieties have already turned last December's "Smithsonian" dollar deal into a scrap of paper. The renewed weakness of the dollar in European exchange markets is calling for a hard look behind the obvious marketplace question about what's likely to happen next.

Policy, not action, is being called into question by the visible and admitted failure of the December dollar devaluation either to stabilize old dislocations, or to avoid new ones. The arrival on the Washington scene of a new Secretary of Commerce in the midst of a sputtering commercial and financial crisis is a good time for policy review.

What is the most urgent need of business?, is the obvious question to begin with. What does the United States Treasury need now from American business?, is the critical second question. Are present government operations aimed at helping business to help itself and, therefore, to help the government?, is the "last line" question.

ANSWER THE QUESTION

The stockholders' equivalent of a living wage, plus cost-of-inflation adjustment, is the answer to the first question: higher pretax profits is the term for it. The answer to the second question—what the U.S. Treasury needs from business—is as simple.

Just as business always needs a minimum profit to stay in business, so government now needs business profits—and tax revenues from them—maximized if it is to stay in the business of governing. After all, the federal government is a full 50 per cent partner in business profits.

The normal pushing and shoving of American pressure group politics usually obscures this vested interest of the government—and of everybody dependent on the government—in rooting for business to earn more profits in order to pay more taxes. But the bad news surfacing now about higher tax rates coming for nonbusiness taxpayers is serving grim notice that, when the bell tolls for business profits, it tolls for nonbusiness taxpayers too.

TWIN POLICY PACKAGE

In this day of neatly pre-packaged, sloganized thinking, Commerce Secretary Peter Peterson is taking his new office with a proprietary package of twin trade policies. The idea is to export high technology products and let America's trading partners pay for them by importing low technology products.

It sounds like a better deal than it is—for American business, for the American government, and for the economic society whose prosperity depends on the profitability of their partnership. The idea of exporting high technology products and accepting payment by importing low technology products did indeed pay off before the present trouble started.

But that was while the dollar was still above suspicion, not yet under it. That was while overtime was still giving a lift to the labor market, before unemployment was loading a drag on to it. That was while the confidence of Americans in their own affluence was still bolstered by their ability to buy more services from each other instead of selling more goods to their competitors.

SOME STUBBORN PROBLEMS

This twin policy associated with Secretary Peterson's deserved reputation for salesmanship would be paying off still if the weakness of the dollar, the strength of unemployment, the jitteriness of business confidence, and the jump in government borrowings were not, individually and together, stubborn problems of crisis proportions.

The fact that they are, however, is not altogether unrelated to how well this twin policy of exporting high technology products and importing low technology products paid off in the past.

The trouble is that it paid off for the countries on the receiving end of America's high technology products and of the American business investments that sent them overseas. In fact, it paid off doubly for these same countries. They were also on the sending end of the low technology products America has been buying on an ever larger scale.

TIME TO ASK

It is high time that Americans stopped to ask why their government had such little trouble selling this twin policy to America's competitors. The monthly flow of dismaying dollar trade returns, and the daily flow of storm warnings against the international dollar, are providing the answer. Both counts measure the trouble America has bought her way into by overstaying with this twin policy.

Looking behind the sloganized facade and into the marketplace reality, explains why this trade miscalculation has been subsidizing strength for America's competitors and underwriting weakness for America.

High technology products are capital intensive; and their export sales are literally bought with the capital outflows that finance them. Low technology products are labor intensive; and importing them yields jobs to the countries manufacturing them.

The dollar glut abroad and the job shortage here at home did not just happen. To recall a forgotten bitterness from the last depression, "We planned it that way."

THE GENOCIDE CONVENTION: DELAY OF IMPLEMENTING LEGISLATION

Mr. PROXMIRE. Mr. President, it is now over 2 months since the distinguished Senator from Pennsylvania (Mr. SCOTT) introduced legislation to implement the Treaty for the Prevention and Punishment of Genocide.

For 24 years this Chamber has had the treaty before it and for 24 years we have refused to take action. During that time we have seen violence and acts of atrocity flare up around the globe, and yet we have failed to act. One reason for our inactivity was ostensibly the treaty's ambiguity and the absence of clear-cut legislation to implement it effectively. That argument was finally laid to rest with the well-defined and comprehensive legislation introduced by the minority leader.

Still, after these many years of waiting, the Senate continues to drag its feet. Favorable action by the Foreign Relations Committee and the introduction of implementing legislation have had little effect. Two months ago the last meaningful obstacle in the treaty's path was removed and immediate action should have been taken. The United States should reassume her position of moral leadership in the world community.

Therefore I urge my colleagues to prevent further delay and immediately take up consideration of the genocide treaty.

FEDERAL RETIREES

Mr. GURNEY. Mr. President, despite considerable publicity and much debate concerning the plight of our senior citizens, the situation facing the Federal retirees of this Nation, whose fixed incomes have been hit so hard the last few years by inflation, has received little attention.

The number of retired Federal employees continues to increase, but just numbers hardly tell the whole story. What we are talking about is people—people who need help. I have received many letters from Federal retirees who have watched the rampant inflation of recent years eat deeper and deeper into their meager pensions. As a moving letter by one of my constituents, Mr. John Connor of Hollywood, Fla., so eloquently points out, Federal salaries have increased sharply while civil service pensions have not begun to keep pace with the cost of living. Action needs to be taken to correct this inequity, for reasons Mr. Connor puts forth in the most poignant terms. I, therefore, ask unanimous consent that Mr. Connor's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOLLYWOOD, FLA.,
February 20, 1972.

Hon. EDWARD J. GURNEY,
U.S. Senate, New Senate Office Building,
Washington, D.C.

DEAR SENATOR GURNEY: This will acknowledge receipt of the "Congressional Record" reprint, Vol. 118, Washington, Monday, February 7, 1972, No. 15, containing your remarks pertaining to "The State of the Aging".

As you are aware, from past correspondence exchanged between us, I am retired under the U.S. Civil Service Retirement System. Therefore, as you are also aware, I am living on an annuity the amount of which is fixed by the Congressional legislation enacted to govern such an annuity. From events that have occurred since my retirement in 1957, I have come to the conclusion that I have lived too long.

To justify such a statement, the entrance salary to the Grade from which I retired in 1957 has increased over one hundred per cent, according to the last Government Salary Schedule available to me, while my annuity has increased slightly over twenty-two per cent during the worst years of the inflationary spiral experienced in many years of our economic history. However, at this late date, I have abandoned all hope for improvement in the status of the older U.S. Civil Service Retiree.

Those who have been retired for a number of years under the Social Security and Railroad Retirement Acts have not fared any better than the U.S. Civil Service Retiree but all are trying to make out as best we can and, above all else, to stay well.

Under Florida's new Law requiring reexamination of automobile drivers every two years, many senior citizens have been denied the right to continue driving their cars. I agree, this Law was enacted as a measure of safety. Nevertheless, it has imposed a definite hardship on many due to the lack of adequate public transportation in the Hollywood area, as well as adjoining areas.

An article appeared in today's issue of the "Miami Herald" which I am enclosing herewith. It is quite appropriate to your above referenced remarks on "The State of the Aging". Thought you may like to read it.

Will not burden you with further comments pertaining to the aged and aging. At my age, the greatest fear that one has, I believe, is that of a prolonged illness at the tremendous cost of hospitalization and medical care, today. And, the so-called "Nursing Home" has, or is becoming a mere constituent part of huge organizations which have become cognizant of their financial income value by the ever-increasing cost to the patient who must remain therein, yet, providing a minimum of services to the patient.

Keep up your good work in this field of endeavor and some day I am sure it will prove beneficial to the "senior citizen".

Best regards and all good wishes.

Sincerely,

JOHN C. CONNER.

UNIONS, ECONOMISTS, AND REALITY

Mr. HARRIS. Mr. President, the Federationist, the official monthly magazine of the AFL–CIO, published in April 1972 a highly provocative article on the political and economic views of economists as opposed to trade union leaders. The author of the article, the distinguished economist Robert Lekachman, concludes that so-called conservative trade union leaders are more radical on the real issues of fair taxation and income distribution than most liberal economists.

Lekachman points out that men like George Meany have made an important discovery which some economists are still striving to understand. This is the indisputable fact that private power and political influence are significant sources of income and wealth.

Mr. President I ask unanimous consent that Mr. Lekachman's provocative article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNIONS, ECONOMISTS AND REALITY

(By Robert Lekachman)

"The subject of power in American life—political, economic and their intimate relationship to each other—is essentially a mystery. It ought to be a prime area for academic inquiry, but only a few of the less timid—C. Wright Mills, John Kenneth Galbraith, Paul Sweezy, Paul A. Baran and Robert Heilbroner—have attempted it," economic reporter Bernard Nossiter said recently in a book review.

Two of the five economists Nossiter mentioned are dead and the others—Galbraith, Sweezy and Heilbroner—are frequently viewed with suspicion by their colleagues.

And one might add that a second major topic on which amazingly little recent work has been done by the academics is the distribution of income and wealth. Notable exceptions—Robert Lampman of the University of Wisconsin springs instantly to mind—do exist, but the most casual of inspections of the American Economic Review's annual lists of dissertations implies that when a graduate student analyzes inequality it is probably in order to construct a mathematical model elegant enough to earn him his doctorate. All too rarely does the dissertation focus upon the gritty statistics of income and wealth distribution. Still less frequently does the apprentice scholar seek to improve the data or bring them up to date.

In so saying, I allege neither malice nor corruption on the part of my brethren in the academic community. There is no need to be sensational, for elements of technical convenience complement the ideological predispositions of a rather conservative guild as sufficient explanation of the condition.

For most academic economists, unions rank low on their research agenda. In the opinion of a significant professional minority—and this minority is by no means quarantined in Chicago and the outposts of the conservative "Chicago school" of economic thought—unions are a harmful form of market corruption, amounting at worst to monopoly.

Milton Friedman, headmaster of the Chicago school and former adviser to Barry Goldwater, has expressed this position: "Unions have . . . not only harmed the public at large and workers as a whole by distorting the use of labor; they have also made the incomes of the working class more unequal by reducing the opportunities available to the most disadvantaged workers."

In what follows I do not so much argue that unions are in some sense "right" as that my profession is wrong, or at kindest seriously limited, in its version of reality. Why, from the union side, does economics so often appear irrelevant? The beginning of an answer is in the familiar observation that unions prosper as political organizations possibly even more than as economic organizations. Even an oversimplification of union objectives to the single goal of wage-bill maximization does not escape the political. Whose wage bill? Over what period? By whose choice? Politics are arguments within unions and between unions. The shape of an actual contract negotiation inevitably reflects membership moods—prone in recent times to reject the bargains made by union officials—the political strength of these officials and union rivalries and relationships.

This repeats the banal. It is possibly less banal to claim that on serious issues of national importance the natural tendency of many economists, among them charter members of the New Frontier-Great Society wing, is to perceive reality at an angle quite distant from that of even conventional labor leaders. A recent example of the situation is in the differing reactions of the business, labor and academic fraternities to the wage-price freeze featured in Phase 1 of the New Economic Policy.

BUSINESS REACTION

When the National Association of Business Economists surveyed its members in September, the Wall Street Journal said their responses approximated "a composite forecast of the economy in 1972 that sounded as if it were written by a White House speechwriter: Strong steady growth with declining inflation and unemployment and rising profits and stock prices."

The happy group endorse both the wage-price freeze and the continuing controls promised (threatened?) in Phase 2. They corporatively predicted that the gross national product would in 1972 obligingly mount to $1.143 trillion, a salutary $93 billion higher than 1971. Moreover, the real gain in output was estimated at 5.5 percent. Consumer prices were to edge upward by a mere 3.2 percent and unemployment downward to 5.5 percent by mid-1972 and 5.1 percent by year's end. As for corporate profits—best news of all, a euphoric 12 percent improvement over 1971 was expected.

LIBERAL ECONOMIC REACTION

I say at once that I share many of the opinions of Arthur Okun, Walter Heller and Gardner Ackley and for present purposes I take these three—each a chairman of the Council of Economic Advisers during the Kennedy-Johnson years—to be appropriate representatives of Democratic liberalism.

What could I say other than "right on" to Okun's Sept. 1 Joint Economic Committee testimony which castigated the favoritism of the original Nixon proposal to grant corporations a permanent 20 percent tax reduction and a much smaller and more belated concession to consumers? Since in print and lectures I have been screaming for three years for wage and price controls, again I joined Okun in welcoming the freeze. I am in even stronger accord with Heller's stress on the need for enlarged public investment and his warning that unwise tax concessions perilously narrow the resources available.

I don't doubt that the unionists and the liberal economists readily agree on such postures as these. But the liberal economists stopped well short on a road the unionists wished to travel much further. Thus Ackley as "firmly opposed" to "any limitation on profits." "Profits," he argued, "have been excessively low and should be allowed to rise." He dismissed suggestions for an excess-profits tax as a "lousy idea." For his part, Okun joined to similar judgments on profit limitation a 5 percent standard for wage improvements during Phase 2. In doing so, they were in line with most economists, who oppose excess-profits taxes on theoretical as well as administrative grounds. But there are some striking exceptions, among them Henry Wallich, a usually conservative columnist for Newsweek magazine, Lawrence Klein, a leading mathematical economist at the University of Pennsylvania and a group of MIT economists.

I do not wish to exaggerate the differences between unionists and liberal economists. Both groups favor tax benefits to low-income groups, generalized income maintenance, public service jobs and a rich mixture of expenditure on social and environmental projects. Nevertheless, the economists favor these good things within important restraints which in the end separate them from their occasional allies in the trade union movement.

The constraints are of three kinds. In the first place, economists favor social improvement in concert with other objectives, notably renewed economic growth. In the attempt jointly to maximize several desired goals, trade-offs are inevitable. It is tempting for the economist to include among the trade-offs the sanctity of union contracts or immediate improvements in the equity of income distribution.

Second, liberal economists tend to be both judicious and flexible sorts who look rather further into the future than labor leaders can afford to. Of course, when discussing rapid conversion flexibility it is no more than fair to award the Order of Practicality, first class with palms, to Nixon economists like Paul McCracken, Harold Passer and Herbert Stein who have swallowed numerous pre-freeze demonstrations of the unwisdom of the very control abominations that they have retained their positions to design.

By and large liberal economists, keeping an eye cocked toward political tendencies and political possibilities, will accept many half loaves or even thick slices in preference to no bread at all. Laden as it is with coercive features, the Family Assistance Program may nevertheless be endorsed on the grounds that it is a first step toward a negative income tax. An inequitable tax program may also be accepted if it also promises desired economic stimulus.

The third restraint is by far the most important. It is the reminder that liberal economists are economists still. Like their conservative colleagues, liberal economists preserve faith in markets. They tend to believe that markets, with all their imperfections, do allocate resources with reasonable efficiency. And with all its inequities, the existing structure of income distribution does roughly measure a collective market judgment upon the comparative contributions of different human beings and different nonhuman resources. It is hard to avoid thinking that opposition by liberal economists to excess-profits taxation is additionally justified by the absence of any sense of the overpowering inequity of the existing distribution of income by size and function.

As University of Chicago economist George J. Stigler pointed out a dozen years ago in his book, "The Politics of Political Economists," their training has a conservative influence on economists. Thus despite the tendency on the part of many of his colleagues to support causes of which Stigler disapproved, he believes "that the economics profession has been basically more conservative than the educated classes generally. Even the extremes of professional opinions have been less than those outside the profession." There is little need to linger on the familiar evidence for this conclusion. Economists believe in the absence of free lunch. They are addicts of marginal change and devotees of the market as not only a delectable instrument for the registration of consumer choices but just about the only hope of economics as a scientific pursuit. In fact, little has changed since John Stuart Mill asserted in 1848, "only through the principle of competition has political economy any pretension to the character of science."

Overall, economists will display a very general and abiding reluctance to interfere too massively in the operations of the market.

LABOR REACTION

Long before Aug. 15, 1971, AFL–CIO President George Meany had signified his support of an "equitable" income policy which pressed with equal weight upon labor and nonlabor forms of income.

His response to the Nixon program was vehement:

"Today's political cliche—'reordering national priorities'—has been applied with a vengeance by President Nixon. But he applied it in reverse," Meany said in an article in the Washington Post.

"Unprecedented and unhealthy tax relief to corporations would be the ultimate effect of the keystone of the President's new economic program. It would reverse progress in America. The government of compassion which many believed had come into being would be halted. Corporate profit-and-loss charts—not the public need—would have first priority. The poor, the cities and states, federal employes, wage and salary earners—all would foot the bill and the sole beneficiaries would be the wealthy and the corporations."

Meany then proceeded to oppose specific Administration tax proposals as a "radical departure from the concept or a graduated income tax based on ability to pay." As Meany interpreted its impact, the investment tax credit promised little for employment, threatened a tax loss to the U.S. Treasury of $70 billion during the ensuing 10 years and involved a shift of tax burdens from corporations to middle- and low-income taxpayers.

No doubt Meany too has his schedule of tradeoffs. But the overwhelming emphasis upon jobs and equity strongly implies a weighting system different from that of the liberal economists. Indeed the excellent publications of the AFL–CIO repeatedly and ingeniously stress equity, redistribution of income, enlargement of the public sector, universal health care and jobs, job, jobs. In this vein, Nat Goldfinger, director of research, opposed accelerated depreciation on behalf of the AFL–CIO at Treasury Department hearings last summer and a federation pamphlet, "Public Investment: America's New Frontier," made a strong contemporary case for a Galbraithian emphasis on the public sector. The same series included an analysis of the impact of conglomerate mergers as an issue of economic power.

At the national level, the official literature of the trade union movement perceives American society in terms long associated with the "old left." This is to say that in its public positions, the allegedly conservative AFL–CIO is far more concerned than any but a small fraction of economists with concentration of economic power, monopoly and the maldistribution of income, wealth and power.

No doubt I have said enough to suggest answers to the two queries which run through these speculations: Is the academic wisdom really "wise?" Do unions see some things in the real world that the economists don't? My answers are, respectively, no and yes.

On a series of issues which concern trade unions, the standard academic position is, if not unwise, at the least, conservative. Certainly this is true of the immediate issue of wage-price controls. New guidelines of the Kennedy-Johnson variety, tied to national productivity trends, are recipes for the freezing of functional income shares and reaffirmations of the desirability of economic growth as the drug of choice for the ills of the unemployed, black and poor. By implication, these guidelines accept existing distributions of income as, if not just, tolerable.

It is hard for a profession which by and large exaggerates the role of competitive markets not to believe in the general equity of the prices, wages, incomes and ultimate wealth that these markets generate. It is equally true that specialists who encounter notorious difficulty in making interpersonal welfare comparisons and other troubles in the measurement of publicity produced utilities are likely to be tempted by the virtues of tax reduction which leave unchanged the relative position of the economic actors and enlarge the scope of private markets.

Those economists should be honored who have bent their energies to enlargement of the public sector and resistance of the efforts of the unneedy to widen further the loopholes through which inordinate quantities of new wealth flow to them. Is it not odd, nevertheless, how little economic wisdom is available in support of limitations of private advertising, genuinely redistributive taxation and confiscatory inheritance levies? Possibly it is still more odd how little theory seems to apply.

Aside from issues of growth, economists as specialists, as distinguished from economists as politicians, trade union aides, presidential appointees, speech writers or plain citizens, have amazingly little to say about the major social and economic issues that afflict their society. Long ago John Maynard Keynes expressed the hope that "If economists could manage to get themselves thought of as humble, competent people on a level with dentists, that would be splendid." Few of his contemporaries could have confused Keynes with the model dentist. The pity is that our profession is in a fair way to approximating Keynes' dream and supplying technical analyses, like dentures, to anyone who happens to want them.

The contemporary cliché asserts that unions have become increasingly conservative as their members have risen into the middle class and acquired the standard American package of consumer goods car, color TV, air conditioning, barbecue pit and boat. As books like George Washington University's Sar Levitan's collection, "Blue-Collar Workers," and Brendan and Patricia Coy Sexton's "Blue Collars and Hard Hats" usefully demonstrate, not all union members are middle class, many have improved their economic circumstances very little in recent years and large numbers have collected the items in their standard package by dint of moonlighting or the full-time labor of their wives. It doesn't take much of a recession to remind "affluent" unionists just how precarious their recent gains are.

Meany, a Vietnam "hawk" and a hardline anti-communist, often is perceived as an unmitigated domestic conservative or even reactionary. It is, therefore, interesting that the "conservative" head of the "establishment" AFL–CIO—by distant craft origin a plumber—comes on remarkabily radical by comparison with most liberal economists. Even a Meany lives on the edge of the class struggle.

The union experience dictates the ideological stance. At the plant level, local officials struggle hard over job definitions, work rules, new processes, retimings and the minutiae of rest breaks, locker-room facilities, vacation schedules and sick leaves. At contract time, national bargainers fight hard over the division of the sales dollar. Time and again, friendly or hostile Presidents pleasingly or painfully influence the course of negotiations. An armory of federal laws awaits the selective enforcement of Secretaries of Labor and Departments of Justice. On occasion, Congress intervenes. As the external battle is waged, private intraunion fights between old and young, blacks and whites, newcomers and veterans, males and females and skilled and unskilled operatives must somehow be adjusted.

In the end what unions in general can get is no doubt related to productivity just as economists allege. But ordinary unionists or even their leaders ought to be pardoned if they interpret the negotiating process as an exercise in the uses of power. In many or most of the industries in which unions operate successfully, large corporate units sufficiently control their markets that they pass on to their customers the larger wages they agree to pay their employes. Wage restraint on the part of unions is at least as likely to swell corporate profits as it is to moderate corporate prices.

The union model of reality focuses upon politics and power rather than free markets and marginal productivity. Like all models of reality it contains distortions and oversimplifications. Still, when unions assume that in the American economy income and wealth are generated by private and public power as well as by more conventional economic processes, then unions have come to terms with an important aspect of the real world. Yale University's Charlies Reich, in his pre-Greening of America phase, made a fruitful insight when he conveyed a generalization of the notion of private property.

I do not allege that George Meany has enrolled himself in the senior auxiliary of Consciousness III. I do mean that unions have long taken it for granted that private power and political influence are significant sources of income and wealth. I should guess that few intelligent unionists would be startled by the items which appear on Reich's little list of public largesse: income maintenance via welfare, social security and veterans' pensions; government jobs protected by civil service; occupational licenses; bus, trucking, airline and taxi franchises; subsidies to farmers, shipbuilders and so on; access on concessionary terms to grazing, mining and lumbering on public lands; subsidized commercial mail delivery, cut-rate savings-bank and home construction insurance; and free technical information for farmers and corporations. From a Reichian standpoint, Nixon's NEP is a massive exercise in the creation of new property. One can readily identify the lucky winners: industries menaced by imports, the auto industry and the machine tool industry for a start.

By their own lights and mine, unions are right to struggle ferociously over the membership of entities like the Pay Board and Price Commission. If businessmen, apparently forsaking old ideologies, gave three rousing cheers for NEP, it must have been because they had confidence in the good will and practical sympathy of President Nixon's operatives. If the unions reacted with suspicion and hostility, it was because they agreed with the business diagnosis. Necessity compels unions to struggle at every political level for practical advantage.

If you agree as I do with Arthur Burns when he wistfully notes that markets do not work as they used to—if they ever did—or if you perceive market power dominant in manufacturing and medicine, then you are likely to share my conclusion that unions because of their essential economic and political role and despite the middle-class aspirations of some of their members and the hawkishness of some of their leaders, are likely to be both more realistic and more radical than most economists.

SHIPBUILDING WASTE

Mr. PROXMIRE. Mr. President, the Navy, with some justification, has pointed to the changing nature of the Soviet naval military threat and to the need to modernize the U.S. fleet in support of its request for new shipbuilding funds. But the Navy has wasted and mismanaged so much of the funds appropriated to it for shipbuilding purposes that it is difficult to understand how the Navy would solve the problems it has identified, even accepting the Navy's analysis, with more money. The more we give the Navy for shipbuilding programs, the more it seems to waste. The past decade reflects a record of unprecedented mistakes, misguided efforts, and poor results in the shipbuilding program.

A major source of the mess in shipbuilding is the incredible amount of shipbuilders' claims. At present, they total nearly $1 billion. These claims, which seem to be the Navy's way of paying for cost over-runs, have been handled in a way that is so grossly negligent that in some cases, malfeasance is suggested.

A prime example is the claim of the Avondale Shipyards, Inc., arising out of a contract for the construction of seven destroyer escorts. The original amount of the contract was $81.1 million. Last year, the Navy informally, in a closed-door session between flag rank officers and corporate executives, agreed to an "out of court" settlement of $73.5 million, about 90 percent of the value of the contract.

A funny thing happened to this settlement on the way to the pay officer. A civilian claims review group, headed by Gordon W. Rule, rejected the claim on the grounds that it lacked substantiation. This was the first time the Rule group had rejected a claim. Then a funny thing happened to the Rule group.

First, Mr. Rule was eased out of his position. Second, the group itself was abolished and the function of reviewing claims was turned over to a board of admirals.

Meanwhile, Avondale threatened to stop work on the remaining ships if the Navy did not pay it a large chunk of the claim "settlement." The Navy, rather than abiding by the judgment of its own claims review group, proceeded to give Avondale $25 million as a "provisional" payment on its claim. Avondale had previously received $23.5 million as a provisional payment, so that it now is assured of nearly $50 million on the claim.

Not only has the Navy compromised its own negotiating position, it has kowtowed to a crude form of contractor intimidation.

The Navy likes to talk about bargaining chips when it comes to confronting the Soviet threat, but it has a hard time standing up to the threats from its own contractors.

In a lead editorial on April 20, 1972, the Wall Street Journal comments on the sordid claims situation which was disclosed in recent hearings by the Joint Economic Committee. This excellent editorial reviews the facts surrounding the Avondale claim and comments favorably on a suggestion made to the Joint Economic Committee by Gordon W. Rule.

Mr. Rule, who has publicly complained about political interference with the orderly settlement of major shipbuilding claims, would substitute the horse-trading procedures which are now followed by the Navy with an independent assessment of the claims' merits. He would accomplish this worthwhile goal, in part, by imposing a rule making it improper for Members of the House or Senate to intervene directly or indirectly with Pentagon officials while the claims are being adjudicated. In effect, he would surround the claims proceedings with the same stature and dignity of a law suit and, hopefully, elected politicians would refrain from interfering with the claim just as they now refrain from interfering with litigation.

As the Wall Street Journal comments, "These are reasonable proposals."

I ask unanimous consent, to have printed in the RECORD at this point a copy of the editorial that appeared in the Wall Street Journal April 20, 1972.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE CLAIMSMANSHIP GAME

Former Deputy Defense Secretary David Packard last month issued a plaintive appeal for reform in the manner the Pentagon does business with defense contractors. He addressed himself to the way contractors buy into contracts and the way they are bailed out after they get into difficulties: "We are going to have to stop this problem of people playing games with each other. Games that will destroy us, if we do not bring them to a halt."

Sen. William Proxmire, chairman of the Joint Economic Committee of Congress, has been conducting hearings on the military procurement system, and the House Armed Services Committee this week has been examining specific contract controversies. One case examined at length by Sen. Proxmire's committee has been especially revealing and to the point, indicating a need for reform clearly exists.

It involves Avondale Shipyards, Inc., a division of the Ogden Corp., which a decade ago contracted with the Navy to build seven destroyer escorts for $81.1 million. Two years ago, Avondale put in a claim for another $158.3 million it said would be needed to complete the ships. A year ago, the Navy negotiated a tentative settlement of $73.5 million on this claim.

That should have ended it, except for a civilian claims review group under Gordon W. Rule, the Navy's civilian director of procurement control. The Avondale settlement was the first the Rule group refused to recommend in its three years of existence. It argued the claim lacked substantiation. Whereupon the Avondale-Ogden lobby campaigned to get the $73.5 million anyway. The Louisiana congressional delegation—a mighty group that includes the chairmen of the Senate Appropriations and Finance committees, the chairman of House Armed Services Committee, and the House Majority Leader—put the pressure on.

Mr. Rule publicly complained about this congressional interference, without success. First, the Navy Material Command peeled off $23.5 million to keep the ship's abuilding while negotiations continued. Then, when Admiral I. C. Kidd took over the Command, the company announced it had stopped work on the ships and wouldn't proceed until it got more money. Mr. Rule pleaded with the admiral to resist, to hold Avondale to its contract. But the admiral finally said the Navy needed the ships, and peeled off another $25 million. Avondale went back to work. Mr. Rule, told his group was going to be "reorganized," resigned from it.

It would be useless now to criticize the personalities involved in this Avondale affair and hope that next time they would try harder to serve the public interest. Clearly, the system itself has to be changed, as Mr. Packard so strongly argued.

Sen. Proxmire thinks he sees a solution: Take procurement away from the Pentagon and create a separate civilian agency to handle the contracting and claims settlement for the military. Then, at least the service chiefs—who go caps in hand to Congress for weapons and manpower—will not be put in the position of having to say "no" to a member of Congress when asked to "expedite" a claims settlement.

It may yet come to that. But there should be less severe moves that could have the same effect. Mr. Rule, for example, suggests that instead of horsetrading on claims, the Pentagon should independently assess the worth of a claim, accept it, reduce it, or reject it. If the contractor is dissatisfied, he would have to go through an appeals process carrying the burden of proof. Throughout, Mr. Rule proposes treating these claims "as an adversary proceeding just like a case in court."

He would also invest those proceedings with the stature and dignity of litigation. "There should be a canon of ethics in the Bar Association," he says, "that should preclude lawyers running to Congress, calling up the Secretaries, doing a lot of things they wouldn't do for a case in court." He suggests a similar rule for the House and Senate, making it "improper for members of Congress as they are doing today to call constantly, to have meetings, call people up to the Hill, go down and sit with the Secretary, to talk about claims while they are being adjudicated."

These are reasonable proposals. Not that they would eliminate all the jockeying for advantage bound to take place where big contracts are at stake, but they would at least be a good start toward some reasonable rules for the claimsmanship game.

SUPPORT FOR KLEINDIENST NOMINATION

Mr. DOLE. Mr. President, the Committee on the Judiciary has—for the second time—voted a favorable recommendation on the nomination of Richard Kleindienst to be Attorney General of the United States.

Mr. Kleindienst is a highly dedicated, diligent, and respected public servant. He has served for the past 3½ years as Deputy Attorney General and in this capacity has established a well-deserved reputation as one of this country's most vigorous law-enforcement officers and a highly able administrator.

Mr. Kleindienst's abilities and qualifications have been widely recognized and praised by his colleagues in the bar, Government officials on both the State and national levels, and by President Nixon.

The President submitted his nomination with the intention of maintaining and building upon the high standards of professional competence, integrity, and effectiveness established in the Department of Justice under Attorney General John Mitchell.

Mr. Kleindienst's service as Deputy Attorney General, his years as a lawyer in private practice, and his demonstrated capacity for leadership in public service provide the strongest assurance that he will fill this highly important office in such a way as to be a further credit to his distinguished career, to the administration he has served, and to President Nixon.

Mr. President, I intend to vote to confirm Mr. Kleindienst's nomination, and I urge the Senate to give this matter the prompt and expeditious consideration which it deserves.

HOOVER'S FBI, A GREAT LEGACY

Mr. PROXMIRE. Mr. President, J. Edgar Hoover was the length, breadth, and shadow of the FBI. He was their only Director. And under his leadership it became the most respected police organization in the world.

The FBI is the great legacy of J. Edgar Hoover. What a rarity it is that a police organization can be completely free of even the hint of scandal or corruption.

This Nation owes an unusual debt to Mr. Hoover. Ironically that debt is in the very area in which he was most vigorously criticized. He developed a police force consistent with democratic principles. He did this because he insisted on indoctrinating his agents with as zealous a dedication to our civil liberties as to their determination to enforce the law and protect this Nation against its enemies in peace and war.

THE FLORIDA JETPORT CONTROVERSY

Mr. JACKSON. Mr. President, the April issue of Traffic Quarterly includes a provocative comment on the Florida jetport controversy written by two former White House fellows, John M. McGinty and Gerald L. Snyder. They point out, as many of us are aware, that the decision to stop construction of a new jetport in the Big Cypress Swamp has not ended the threat to the Everglades National Park. As the search for a new jetport site continues, we should give careful study to their proposals for using modern transportation technology to solve the basic land use problems involved in building new jetports.

Mr. President, I ask unanimous consent that the article by Messrs. McGinty and Snyder be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A VICTORY FOR CONSERVATION?—THE FLORIDA JETPORT CONTROVERSY

(By John M. McGinty and Gerald L. Snyder)

(Mr. McGinty has been in architectural practice with The McGinty Partnership since 1961 and has also taught architectural design at the University of Houston and Rice University. In 1967–1968 he was on leave of absence, serving one year as a White House Fellow and Assistant to Secretary of the Interior, Stewart L. Udall. His responsibilities there included the development of environmental planning programs for the public lands and territorial possessions of the United States. He is a graduate of Rice University and Princeton University and is currently President-Elect of the Houston Chapter of the American Institute of Architects.)

(Mr. Snyder is a Chartered Financial Analyst who has worked with major investment and banking concerns and served as a consultant to the Overview Corporation in developing a compatible environmental and economic solution to the Florida Jetport site selection controversy. He received his B.A. degree from Yale University and the Master of Business Administration degree from the Harvard Business School. Mr. Snyder was also a White House Fellow, working as Special Assistant to Alan S. Boyd, former Secretary of Transportation, in the areas of leasing, urban mass transit, and airport financing.)

During the Great Jetport Controversy—from the fall of 1969 until President Nixon ruled out the possibility of locating the facility in the Big Cypress Swamp in January 1970—an alternative was brought forward but completely overlooked by decisionmakers, for political reasons and because of a barrage of publicity from conservationists. The proposed solution linked the jetport builders with the conservationists to preserve the Park and, at the same time, to take a step into the twenty-first century with a quantum jump in the application of known transportation technology.

A reexamination of the history of the controversy—and a reexamination of the proposal—may illustrate how seeming adversaries could work together for conservation and progress in their mutual best interests. The concept proposed in this article on the Florida jetport controversy was advanced almost two years ago. However, before the concept was articulated most national magazines already had published articles calling for abandonment of the jetport from the selected site, and it was too late politically to reconsider the merits of a "clean" airport. Now, with passage of time and a reduced emotional atmosphere, a sober reexamination of the concept is appropriate, especially since the Department of Transportation has recently awarded a major consultant contract to select a site. Public attention focused on the remote landing strip concept would cause a thorough examination of its merits and could lead to eventual preservation of the Everglades.

THE PORT AUTHORITY CASE

No serious questions have ever been raised as to the need for a new regional air facility in southern Florida. The Greater Miami system of airports constitutes one of the busiest operational areas in the nation. In July 1969 an Air Transport Association report predicted a potential of 50 million passengers for the system by 1985. This study confirmed estimates of the Port Authority dating back to 1952. Recognizing that the present facility would be saturated by the early 1970s, their plan was to build first a single runway to accommodate the training and transition flights that presently comprise nearly one-third of the operations at Miami International Airport, and then to use the time thus gained to plan and build a regional commercial jetport. The site selected was a 39-square-mile tract adjacent to the Tamiami Trail and astride the Dade and Collier county lines. Construction of the training strip was begun and planning commenced for an integrated highway and high-speed ground line spanning the forty miles to Miami, along with master planning for the terminals and support facilities within the site itself. In November of 1969 the training runway was completed and ready to begin flight operations.

There were many good reasons for the choice of this site. Although not yet seriously overcrowded, Miami International Airport has had a definite negative impact on the urban environment. Normal take-off patterns are directly over the central city, and this poses a constant noise and air pollution problem as well as imminent danger to thousands of people. A distant site for aircraft operations, as all cities are discovering, is the only logical solution to these problems.

From the viewpoint of air traffic, the Big Cypress site was also ideal. It presented no conflicting patterns with the crowded coastal airdromes, and, for this reason, the Federal Aviation Administration (FAA) was an early supporter of the location.

The paradox of the controversy is that while the Dade County Port Authority was both creative and far-sighted in the selection of a site away from the densely populated coast, they failed to recognize that a project of such magnitude would surely have a great environmental impact.

And, they selected a site in the headwaters of Everglades National Park.

IN CONFLICT WITH ECOLOGY

Geographically, Florida from Lake Okeechobee southward to Florida Bay is similar to a teaspoon. Along each coast is a ridge of some ten to fifteen feet in elevation. Between them is a vast, complex aquatic system called the "River of Grass" that drains imperceptibly toward the southwest. Where this fresh water meets the sea it forms a rich nursery for innumerable varieties of marine life and is the foundation for a pyramid of wildlife of all forms.

This "climax region," including Florida Bay, is the Everglades National Park. But the park does not include the entire system of interdependence. Actually, it comprises only one-third of the area, and therein lies the problem. Everything that occurs above the park—drought, drainage, flood, fire, population, land development—has a direct effect on the park itself.

The western half of the water system, consisting primarily of the Big Cypress Swamp, remains largely virgin but highly vulnerable. It is privately owned and already the subject of land speculation over its potential for being drained and filled as sites for suburban and retirement homes. This Big Cypress area was the location selected by the Dade County Port Authority for their training runway and eventual regional jetport.

BASIS OF CONTROVERSY

As the dimensions of the Port Authority's plans became public, the inevitable questions arose and controversy mounted. Under the leadership of conservationist groups, the Port Authority was challenged and engaged in continuing public debate. The U.S. Interior Department, custodians of the National Park, were somewhat slower to react; but, recognizing their direct vested interest, they soon joined the debate. After a flight over the training runway Secretary Walter Hickel denounced the site as one of the worst places he had ever seen for an airport. Since Dade County is a Democratic stronghold in a largely Republican state, this pronouncement escalated the controversy into the political arena and reduced the opportunity to implement any solution based on a rational analysis of the situation.

The national administration was now committed to both sides of the issue. The Department of Transportation had been an early ally of the airport planners and the FAA had contributed both money and early approvals to the site selection and planning process. Therefore, it was decided that an interdepartmental task force should be established to reconcile these viewpoints and to evaluate the impact of the proposed facility in the interests of the United States Government, which, of course, included the park. This was done in early 1969, and the Interior portion of the team, headed by Dr. Luna Leopold of the U.S. Geological Survey, made a thoroughly scientific and substantive report that was released in September 1969.

The major conclusion was that the inevitable *urbanization* of the Big Cypress lands surrounding the jetport would be fatal to the park. The air operations themselves were seen as potentially controllable, but the urban build-up was not. The Leopold Report warned of pollutants that would affect water quality; of draining that would affect water quality and periodicity; of habitat modification that would affect rare and endangered species of wildlife; and of the impact that noise and air pollution would have upon the Miccosukee Indians and visitors to the National Park wilderness.

At the same time, another study was made by an interdisciplinary team organized by the National Academy of Sciences. This study corroborated the scientific findings of the Leopold Report but went on to insist that the jetport itself was crucial only as a potential stimulant to the land speculation and development already at work in the Big Cypress Swamp and that simply removing it would not save the park. It saw that the basic need was a program for permanent preservation of the Big Cypress that would take into account the water needs of the park as well as those of the developing urban strip along the west coast.

Armed with such weighty evidence and with potent allies, the conservation groups began a campaign of national publicity: stories and pictures appeared in *Life, Look, Sports Illustrated, Time, Business Week* and other national publications.

OVERVIEW

Meanwhile, the Dade County Commissioners recognized that their port authority was rapidly getting into an untenable position and took steps to put the program on sounder footing. They employed former Secretary of the Interior Udall's environmental consulting group, Overview, to take an unrestricted look at the situation and to recommend a course of action that would take full cognizance of the total range of environmental issues involved.

After a month of reconnaissance and field work, a memorandum was sent to the former secretary from his team in Miami, sketching a radically new type of airport and, simultaneously, a way to permanently save the Everglades and Big Cypress.

Beginning with the Dulles Airport model where the people-scaled terminal facilities and the jet-scaled landing facilities are phyically separated. Overview proposed to explode this germinal idea to its logical conclusion. Instead of a one-mile separation between people and planes, there would be fifty miles. The landing area would be a remote enclave with no terminal, properly located away from the population centers. The terminal would be in the city where the people want to go, with other modes of urban transit easily accessible.

The *only* link to the runways would be a rapid relay system with 200-mile-per-hour aeromobiles shuttling passengers and freight between the terminal in the city and the airplane itself. No highway would be permitted. Overview observed that even today the technology is available for such a rapid relay system. For example, a tracked air cushion vehicle has already been tested at 240 miles per hour in France. Other studies are under way for its use in the Los Angeles International Airport system. This vehicle can travel over a trestle supported by columns that would in no way impede or alter water flow in the conservation area. It can carry eighty passengers and can be modified to take freight or fuel. It can maneuver off its track—which could be significant in operations on the airfield apron. By the time the jetport would be ready to use these vehicles, their technology could only be improved.

The implications of such a design to the Florida situation were immediately apparent. Noise and danger would be kept out of the urban centers where its environmental impact is greatest. Population build-up around the landing area would be prohibited, thereby eliminating the greatest threat to the headwaters of the park. Local contamination by the airport itself would be minimal because all the people-oriented facilities, such as food and hotel service, car rental, and shopping, would be kept in the city. Nothing would be left but the planes, and technological advances again provide for optimism. For instance, aircraft engine manufacturers have agreed to meet virtually "smokeless" standards by 1972, and there has been steady progress in noise reduction. The landing area would be a clean capsule with its internal life support systems self-contained and controllable. Possibly a small transfer lounge would be available and served only by the aeromobile for passengers going from one plane to another. (In the Miami area transfer passengers are not a large factor.)

As noted in the Leopold and National Academy of Sciences studies, even limited development around the airport could have devastating effects on the ecology of the entire watershed system south of the airport. In order to assure no build-up along its route and to prevent any stops or stations developing in the future, Overview proposed that the aeromobile route traverse the inviolate Conservation Area 3. Under no circumstances could the system be compromised for the traditional type of multistop mass transit facility. It was to be a specialized design for speed and direct service only to the remote point. This was a far cry from what the port authority had envisioned—a huge multi-mode highway corridor.

Overview also proposed the acquisition of the Big Cypress Swamp. They concurred with the conclusion of the National Academy of Sciences Report: "In consequence, the establishment of a large part of the Big Cypress Swamp as a natural conservation area appears necessary both to the preservation of the park and to orderly development along the coast of Collier County. It is imperative that approval for any jetport site in South Florida be contingent on the establishment of this water conservation area and the other safeguard measures discussed in this report."

However, the Big Cypress Swamp, as it affects the park, consists of approximately 1200 square miles of privately held land. Speculation on land around the training site has driven land values to the point where outright public acquisition is beyond normal possibility. The area, once owned by a handful of individuals, has been subdivided into some 30,000 parcels. It took the Federal Government about 20 years to come forth with even the minimal funds necessary to acquire the last inholdings in the park—some $20 million. To expect the government to purchase a tract as large is the Big Cypress would be highly wishful thinking. But, if the remote landing area concept proved feasible, two new factors could ameliorate this condition.

First, once a commitment was made to the new airport concept, land speculation would be over and prices should revert back to their normal level. Second, the extremely favorable economic parameters of the rapid relay shuttle system indicate the possibility of an "environmental surcharge" on the passengers and cargo using the system. Based on projected passenger counts and cargo tonnage, Overview predicted such a surcharge could finance the issuance of revenue bonds for the *immediate* purchase of this land prior to actual airport operations, thus making the plan credible and minimizing the risk. Such bonds were seen as salable when backed by the collateral of the land itself.

A modest rapid relay charge of $2.00 per passenger would compare favorably to charges of the traditional multimodes such as busses, limousines, taxis, and helicopters with rates ranging from $6.00 to $20.00. At $2.00, the rapid relay system would have projected annual passenger revenues of $100 million by 1985, plus freight revenues. Because there would be no cost for the right of way, and because of the extremely simple nature of construction, along with the unusually flat topography, payback of the installation system probably could be achieved in two or three years. With an environmental surcharge of $0.50 per passenger, plus a levy on freight based on ton-mileage, the conservationist could raise at least a *half billion dollars* and, through issuance of a 30-year bond, buy the entire Everglades.

Once the Big Cypress was acquired, Overview proposed that an in-depth ecological study be made and that the final disposition of the land be dependent on the results obtained from the study. A hypothetical model was advanced that showed a small addition to the park along its northwest border, a state water conservation district adjacent to the west coast ridge, and the remainder (including the airport site) as a wildlife sanctuary or recreation area administered, possibly, by the Audubon Society with funds generated by the continuing environmental surcharge.

Although fully cognizant of the fragility of the concepts and the numerous unanswered questions they raised, the Overview team felt them worthy of investigation before a preemptive decision was made to relocate the site outside the Big Cypress Swamp. This was a critical point. Unless the remote landing area were located somewhere in the Big Cypress, the port authority, although it might have the funds, would not have the legal authority to exercise its right of eminent domain to acquire the entire area as an integral buffer zone to the airport proper.

Only a remote landing strip type of airport would be environmentally acceptable in the Big Cypress. At the same time, if such an airport were there, *it alone could provide the legal and financial means for achieving permanent protection of the Big Cypress and thus the Everglades Park.* Together, Overview felt, these two concepts might create a symbiotic coalition for the genuine resolution of the question.

Public reaction to the idea in Miami was enthusiastic. After a Udall briefing, the *Miami Herald* ran a masthead editorial on September 14 lauding the plan and concluded that the only thing possibly wrong with it was that it "sounded too good." The Port Authority was a reluctant bride. They continued to underestimate the political power of the conservationists and never really believed that such a radical departure from their original plans would be necessary in order to protect their initial investment.

With the clear vision of hindsight it seems obvious that the main problem with the Overview concept was its timing. In August, a representative of a leading conservation group made the comment to the Overview team that "if someone would hand me the deed to the Big Cypress, I would reconsider my position." However, when Overview proposed to do just that, he was unwilling. The conservationists had equated saving the Everglades with moving the airport. The public tumult, with its oversimplifications, had catapulted the conservationists to a position of power. To restudy the question, they felt, might allow public interest to flag and give the Port Authority the upper hand again. Such a chance could not be taken, and the anti-jetport campaign was increased.

At a press conference in August, Governor Claude Kirk, facing a reelection struggle, came forth with an offer of "free" state land for the jetport—in Republican Palm Beach County. It was, of course, politically unfeasible for Dade, the only county with the resources to build and operate the jetport, to negotiate such an arrangement, but the conservationists seized on the offer as the one remaining weapon they needed. Under Section 4-F of the Transportation Act, the FAA is required to withhold airspace approval for facilities impinging upon national parks *if there is an alternative location.* This was their trump card. Some seventeen conservationist groups threatened to file a lawsuit under this proviso and pressed the Republican administration into a hasty and politically expedient submission. Without federal approvals, Dade County could not proceed on any course and was therefore forced to acquiesce in the agreement signed on January 15, 1970. The site of the airport would be moved, *and the Everglades lost, not saved.* The inexorable pressures of the private developers assuredly will now, in the not too distant future, utterly and irrevocably destroy the unique wonders of the Everglades.

POST MORTEM

This then was the "victory" which the President applauded. Many others have saluted this apparent turn-about in official policy toward the environment. Not too long ago, moving the airport might indeed have been considered a victory for conservation, but the magnitude of the struggle which we face today for a clean and humane environment requires partnership, not polarity. The old shibboleths holding that progress is the inevitable harbinger of environmental despoilment are out of date.

If there is hope for the preservation or restoration of life-supporting natural habitats in our country, the key must lie in the very technology that threatens it. Thirty billion dollars just to clean up the Great Lakes; the rebuilding of virtually every municipal sewage system in the country; the refitting of thousands of manufacturing plants to clean up the air; the remolding of a wantonly consumptive society; and, eventually, the acceptance of population limits for our land—these tasks simply cannot be done without harnessing the same technical and economic dynamos that have given us our costly affluence.

In his final report to the Dade County Commission, Stewart Udall called for a new social policy whereby those whose activities pose a threat to our common environment should bear the burden—and the cost—of preserving it. Such a policy could be the beginning of a new era of environmental responsibility in which conservation would be a creative science instead of a lost cause.

Man, if he is to live at all, must learn to live at peace within his world—not walled off from it. And if there is hope for achieving such a goal, it will require more from our leadership than empty words betrayed by the hypocrisy of political expediency. It will require statesmanship and commitment to purpose, and from those who would wear the label of "conservationist" it will require positive performance.

THE KLEINDIENST NOMINATION

Mr. DOMINICK. Mr. President, several weeks ago, when the Judiciary Committee unanimously ordered Richard Kleindienst's nomination reported favorably, I announced my support for it. I said I thought he had beeen an excellent Deputy Attorney General, and that he would be an excellent Attorney General.

Mr. President, nothing has happened since then to change my mind.

So, I would now like to take this opportunity to reaffirm my strong support for the nomination of Richard Kleindienst to the office of Attorney General and to express my hope that it will be quickly confirmed.

FOREIGN SERVICE GRIEVANCE—NEWS ARTICLES

Mr. BAYH. Mr. President, my proposal for a Foreign Service grievance procedure has been the center of a long debate within the State Department and between the Department and Congress. The debate has intensified since the Foreign Relations Committee unanimously attached grievance legislation to the State Department authorization bill.

In order to provide my colleagues with some reference points in this debate, I ask unanimous consent that a series of relevant newspaper articles be printed at the end of my remarks. These articles document three important factors: The great potential for injustice in the Foreign Service, the legislation's aim of providing simple due process, and the State Department's opposition to the legislation.

The legislation was attached to the authorization bill because for 9 long months the Department had refused to analyze my grievance bill on its merits. I believe a careful reading of the record will indicate that unfortunately the Department is still responding politically rather than substantively. The Department's reaction is in direct opposition to Foreign Service employees who helped draft the original legislation, have officially supported S. 2659 for nearly a year, and believe congressional action is needed. I urge those interested to read the articles.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Indianapolis Star, Jan. 9, 1972]

WIDOW FIGHTS SAME BUREAUCRACY THAT DROVE DIPLOMAT TO SUICIDE

(By Myra McPherson)

WASHINGTON.—Every day Cynthia Thomas goes to work at the place she feels killed her husband—foggy bottom's sprawling State Department.

Last May, a month after her husband shot himself to death in their Washington home, she was offered a job by Deputy Undersecretary of State for Management William B. Macomber. Jr. and took it. She had her reasons, the most compelling one the fact that she was broke. Two years before, her husband, a foreign service officer, had been "selected out (fired)" without a pension at the age of 46. He repeatedly tried to get a State Department hearing about what he felt was unjust treatment.

He sought hundreds of jobs, painstakingly sending out more than 2,000 applications in two years, and found himself a stranger in civilian life—either overqualified or overaged for what was available. Following him around, for every prospective employer who cared to check, were State Department statements that he was asked to leave because he "couldn't meet the competition." Debts mounted and in his last days he considered a job as night waiter.

Instead, Charles Thomas decided to end it all, thinking, one friend surmised, that he was probably worth more to his wife dead than alive. As a widow she now gets $5,500 a year from a government pension to support their two children, Zelda, 6, and Jeanne Marie, Thomas' teen-aged daughter by a former marriage and now Mrs. Thomas' adopted daughter.

Thomas' suicide could have been just a tragic personal incident, but because of smoldering discontent within the State Department it became the catalyst for one of the bitterest and most protracted controversies concerning hiring policies the State Department has faced in recent years.

The Orwellian phrase "selected out," means simply that one is fired. It is the State Department's system for weeding out people as they move up the career ladder. Proponents of the system call it getting rid of dead wood, critics consider it a cutting down of officers in an arbitrary, capricious, subjective ruthless manner.

Since Thomas' suicide, the system and those running it have been under fire from people both within and without the State Department. "It's sad to say, but in death Thomas may do more to change things than anyone else living," said one foreign service officer (FSO).

Cynthia Thomas and various FSOs are leading an ongoing struggle to torpedo Former Personnel Director Howard Mace's appointment as ambassador to Sierre Leone. A close colleague of his boss, Macomber, Mace has been called the "executioner" by some FSOs who say he is responsible for letting go increasing numbers of veteran FSOs like Charles Thomas. Mace's future as ambassador is now cloudy.

Macomber thinks of the anti-Mace people as a small band of dissidents and denies offering Cynthia Thomas a job was an "act of conscience."

In a three-hour interview Macomber said, "I talked to someone who knew her and said, 'Please tell here after this funeral business to see me.' We do for our widows in straitened circumstances." Asked how many were offered jobs, Macomber said, "Well, there are others." An aide later called to say there were at least four widows given State Department jobs in recent years.

Today Mrs. Thomas writes reports in the science adviser's office as an FSO Class 5, one rank below her husband when he was selected out after 18 years of service. One irony is she finds some of her husband's old reports useful in her work. She makes almost $15,000 a year.

Mrs. Thomas also fights for legislation to change the department, and still carries on her struggle to get her husband reinstated posthumously to the top rank of FSO 1 and to elevate him to ambassador. She says Macomber told her if they made one exception, all the other selected outs "would be coming out of the woodwork." Macomber denies saying that and adds that he reviewed the Thomas case and saw no "reversible error."

Mrs. Thomas at 35 is a slim, attractive brunette, who once considered the foreign service.

A roommate at Sarah Lawrence, where Cynthia majored in international relations, remembers her as a "warm, bubbly, carefree bobby soxer." Still warm, she is also nervous and intense now. But her eyes glow as she talks of her husband.

"He was hard working, a brilliant writer, a generalist in the real tradition of what it used to be."

Mrs. Thomas was in her mid 20s when she met her husband in New York where she was working as a Time magazine researcher to support her embryonic acting career.

It was a quick romance, and they were married in February, 1964.

Then 41, Thomas, nearly 6 feet, blond and young looking, already had lived a life of great diversity and had acquired a cool intellectual reserve that belied his years of struggle as an orphan. He grew up in the home of an older sister at Fort Wayne, Ind., graduated fourth in his high school class, went to Northwestern University on a full scholarship, worked as busboy, janitor, and farm worker to supplement it. "He even peeled onions in a Chinese restaurant," his widow said.

After graduating with a B.S. in economics and government, Thomas was a Navy fighter pilot in World War II, then went to Northwestern Law School, again on scholarship. Later he earned a doctorate in international law and international relations from the University of Paris, became fluent in French and Spanish and had an elementary knowledge of German, Italian and Portuguese.

His first State Department job in 1951 was as political consul at Monrovia, Liberia. Then came jobs as acting consul general in Ghana and economic and commercial officer in Morocco. Thomas seemed to be moving up the ladder well, was put in charge of the Moroccan desk at Washington, then became a delegate to the United Nations General Assembly, then Haiti, where he got good reports and his wife said he ferreted out two Communist parties where none was thought to exist.

After their wedding, the Thomases were sent to Mexico. "I remember I felt I was the luckiest person in the whole world." Zelda was born there and Cynthia acted in a play in Spanish.

But things were not going that smoothly. Joseph Montllor, an immediate supervisor, wrote in 1964, after knowing Thomas briefly, that he showed a "lack of forceful personality to exert leadership." His reason? Thomas did nothing about dismissing his secretary, an acknowledged, and aged, bad typist.

In her testimony before the Senate Foreign Relations Committee concerning Mace's qualifications for ambassador, Mrs. Thomas said, "That is a very tender story because that secretary could have been my husband's mother—she was an older woman and was near retirement."

This report, which went into the files to be seen by the selection committee who decides whether a man is promoted, left in his class, or selected out, was unknown to Thomas for several years.

Two years later, an extremely laudatory report by Foreign Service inspector, Robert McClintock, was lost, misfiled in the records of another Charles W. Thomas. In it, McClintock recommended that Thomas receive immediate promotion to Grade 3 and be assigned to the National War College.

Macomber says the report arrived late anyway, two days after the selection boards met for that year, and that it was put back in time for the next year. However, the error was found, not by State Department officials, but by Thomas, who discovered it when he returned to the states in 1967.

Mrs. Thomas hinges much of her argument on the fact that such "personal blunders" came at a crucial time in her husband's career. The "time in class"—the length of time a FSO is allowed to remain in one grade—had been shortened arbitrarily from 10 to 8 years. This meant that in 1966 he was in his middle years in grade, a time when most are considered for promotion, the State Department theory being that a man who has been in class too long apparently doesn't have the stuff to go higher or he would have been promoted sooner.

An outsider gets extremely confused trying to understand the State Department's basis for letting a man go or promoting him. Not only is the McClintock letter filled with praise ("one of the most valuable officers . . ." "an excellent drafting officer . . ." "promotion long overdue"), so are all of Thomas's other reports in his file except the Montllor letter.

In 1967 first secretary of the embassy Duncan MacKay wrote that Thomas was "suitable for advancement to the highest rank" and spoke of his "brilliantly drafted reports."

Even a special plea from American Ambassador Fulton Freeman, who headed the Mexican embassy, failed to help Thomas. "Surprised and disappointed" Thomas was not on the 1968 promotion list, Freeman wrote that Montllor's comment that Thomas was "not ready for promotion" was "needlessly and unfairly prejudicial and was directly contrary to my own judgment."

He said not only was it a "miscarriage of justice," but added, "I feel even more strongly that the Foreign Service stands to lose an able, effective, competent, dedicated and sincerely respected team if the Thomases are forced to resign because of time-in-grade—a loss which at this critical juncture of the Foreign Service can ill be afforded."

At the time he was selected out in 1968, Thomas' widow testified at the Mace hearings, "he was serving as chief spokesman for the U.S. government at the UNESCO general conference in Paris, Chairman of the U.S. National Commission for UNESCO, Alvin Eurich, wrote "one of the reasons for our notable success in shaping the UNESCO program—was the excellent work done by FSO Charles W. Thomas." He added that his "cool head, easy way with people, linguistic ability and understanding of the political implications of UNESCO's ramified science programs made him a very effective negotiator."

The last efficiency report was a plea to keep Thomas. "In the half year since we first learned of Mr. Thomas' imminent departure," his supervisor wrote, "We have been unable to find a replacement" after a look at personnel files of those "quite senior in rank." He asked to retain Thomas by "converting him to foreign service reserve status," but administration technicalities prevent such a solution.

Larry Cummings, an aide to Senator Birch Bayh (D-Ind.) who tried to get Thomas a hearing before his death, said, "I was appalled at the high recommendations. I saw his entire file. Based on records like that how do you take 200 guys and rank them?" Macomber replies "You'd be amazed at how easy it is to rank these men." As good as Thomas' files were, he said, others were better.

One big problem is reading fitness reports—whether those of the State Department, military or large comporation bureaucracy—is the tradition of polite, semantic exaggeration. In a system where "good" can mean "less than acceptable" and "excellent" mean "good," reviewers learn to read between the lines.

There is, however, no record kept of how one ranks someone against others in his class. In an answer to an appeal Cynthia Thomas wrote to Elliot Richardson in May of 1969, the then acting secretary of state replied, "My review of his situation disclosed that it is not possible to reconstruct precisely the process of comparison with his class 4 peers. No independent records are kept describing particular decisions made during this comparative process, which is, of course, the key to promotion in the continuously narrowing senior officer classes."

Macomber was asked if he said anything unfair about no records being kept of "a comparative process" which is in Richardson's terms the "key is promotion." Macomber said no. He says "It's for the individual's protection.

"The jury doesn't keep records either, does it? One reason is we want to be careful, the last thing we want to show is how someone ranked with others to prejudice next year's panel."

Macomber states Thomas was rated consistently in the middle of class and repeats you'd have to look at all the officers' files in his rank (which are not available) to understand why he was not promoted.

Macomber declined to speak on the record about Thomas. His only observation, after repeated questioning, was that Thomas "was reserved, didn't make friends easily . . . was, some say, withdrawn."

There is no such "withdrawn" phrase in any of the files that, purportedly, only the selection committee sees. However, here were some between-the-lines hints that Thomas could be considered an aloof intellectual to some of the more traditional State Department FSOs.

But even those were countered by another reviewing officer. In Haiti an efficiency report noted that Thomas had been assessed as reserved and not easy to know. "These observations are I think valid, but should not be taken to suggest that he is shy or retiring, rather he is a serious person who takes considerable pride in being objective and unemotional. He is not given to socializing with his superiors, but he develops business contacts carefully and methodically, so that he has an unusually wide range of acquaintances among Haitians," wrote the supervisor.

Mrs. Thomas says theirs was a "different lifestyle" from some of the envoys she described as "enjoying the wine, the servants and associating only with other Americans." The Thomases got to know the intellectuals, the thinkers of the countries they were in, she said.

Mrs. Thomas testified that all personnel letters attempted to convey the "simple impression my husband merely did not measure up to the competition. What they conspicuously failed to mention to senators or prospective employers" asking for an explanation of her husband's status "were the blunders attendant to the misfiling" of report and the "extensive commendations received and ignored by these same personnel authorities."

She repeated the other day, "The whole thing was like a nightmare. Charles was never given a chance to correct it." One problem, an FSO 2 said, is that "the victim who complains is put through a meat grinder. If he writes a rebuttal it mustn't sound like sour grapes."

Macomber consistently says, "Not everyone can be promoted" and that laudatory letters from ambassadors, such as Thomas had, are the rule, not the exception. However, Ambassador Freeman, talking on the phone from his California home, said his Thomas letter was a highly unusual one for him to write.

"There was nothing mediocre about Thomas. He was outstanding. I've seen all the documents in the Thomas case and am pretty well convinced there is real cause for grievance. As far as I'm concerned the State Department attitude is a little too late and too little.

"That was only one of two such instances I can remember becoming personally involved in eight years as ambassador. Both cases I lost. I was very much aware Thomas was in fifth year in class and once you've gone past that you've gone beyond the rubicon as it were. The last three years in grade your chance is practically nil. And there is a stigma about being selected out that is not true if one leaves the military."

Freeman said, with a laugh, "Maybe there was a personal vendatta against me. My letter may have done more harm than good. God knows I've stuck my neck out around there. I could have been the kiss of death."

The hours that the Thomases spent on appeals yielded only frustration. Thomas took with him one year's salary, $17,000 before taxes, but since he took it all at once, the tax bite came out all at once too. The ego bruising went on daily. Thomas had gotten to the final stages in an interview for a job with Mobil Oil in Nigeria. He brought his wife up to New York for the ultimate interview.

Then there was a final question. "Isn't 50 the magic age?" Meaning isn't that the year one can retire with a pension and why wasn't he waiting a few more years.

Mrs. Thomas reflected, "My husband had to say he was being asked to leave. What more do you have to say?"

All the law firms were hiring young men. In his last days. Thomas was a public defender of the indigent at $7.50 an hour when he could find a case. Mrs. Thomas edited a science book of her father's and got paid for that. Two nights before her husband's death, she cooked a dinner for a party, for money, and her husband delivered the food.

"Three days before he died, I asked, 'Isn't it time to ask a favor of somebody?" and he said, "No, I stand on my record.' I said, 'You're a purist and he said 'A profound one.' "

The day he shot himself, Thomas was resting upstairs and told his wife, 'I'm going to take out the $10,000 in the annuity fund at State and open a law office in town." Mrs. Thomas recalls, "I felt relieved."

She still is searching for an explanation of why he killed himself. "He never acted as if this had got him down. Maybe he thought if he took that money out and anything should happen to him. I would have nothing. Maybe it was out of some crazy love for us. Maybe he didn't want to live to be a shadow of himself in his time."

Now, Mrs. Thomas says, she justs wants to "close this chapter and put it all behind me. But I want justice for Charles and all the others first."

[From the Sunday Star, Apr. 23, 1972]

THE FEDERAL SPOTLIGHT—SENATE RIDER SPURS STATE'S GRIEVANCE ROW

(By Philip Shandler)

The Senate Foreign Relations Committee has dropped a bomb on the State Department—a rider on the department's fund-authorization bill which would require a comprehensive grievance procedure for Foreign Service officers.

The tremors have reached the White House and department friends in both the executive and legislative branches have been asked for help in mapping a counterattack.

The legislation would shift control of grievance-handling away from management, and open it to the kind of scrutiny that is anathema to bureaucratic managers.

The measure would effectively wipe out State's unique autonomy in dealing with its professionals.

William B. Macomber, deputy undersecretary for administration, acknowledged that some officials feel that "everybody might as well simply be under Civil Service."

He emphasized, however, that he opposes any move in that direction.

He denied reports that Secretary of State William B. Rogers had angrily ordered a study of legislation that might indeed convert the elite Foreign Service officers to ordinary civil servants.

* * * * *

The Senate committee has been concerned with revamping the personnel system of the Foreign Service for almost a year, in the wake of the suicide of Charles W. Thomas, who had been "selected-cut" of the service without a pension and couldn't find equivalent work.

Macomber has since spearheaded a move for a number of changes, including an "interim" grievance setup that could be modified, he said, in negotiations with the representational organization that employes are to pick in the coming weeks.

However, the two groups vying to exclusively represent the workers—the American Foreign Service Association and the American Federation of Government Employes—both have called for establishment by law of the kind of grievances procedures they want.

And they have found sympathy in the Senate Committee and with Sen. Birch Bayh, D-Ind. Bayh, who is not a member of the committee, has acted at an external prod.

The other day, for example, after the committee—unable to get Rogers to testify publicly on personnel problems—approved its grievance rider 12–0, Bayh announced he'd seek even stiffer legislation.

The rider, engineered by Sen. John Sherman Cooper, R-Ky., calls for establishment of a grievance board consisting of someone picked by the secretary, someone picked by the employe-representation group, and a third picked by the two.

Bayh, however, believes the board should be more independent and more clearly arbitration-oriented. He wants the selections to be made from a panel of 15 persons submitted by the American Arbitration Association.

But even as is, the rider is fiercely opposed by management.

Macomber asserted in a telephone interview that it would shift control of the Foreign Service "from the secretary of State to the chief judge of the Court of Appeals," because it provides for judicial appeal of grievance decisions.

And it would be "limitless" with regard to what constitutes a grievance—"it could be anything you like," he said.

Macomber stressed that management is not alone in its criticism. Both the Senior and Junior Officers Association have started petitions opposing the legislation, he said.

And while there was no confirmation of the reported civil service legislation study, a Civil Service Commission official did say a statement of opposition to the bill is being prepared, in response to a request from the White House's Office of Management and Budget.

Another source said discussions have been held with Sen. Gale McGee, D-Wyo., a member of the Foreign Relations Committee and chairman of the Post Office and Civil Service Committee, to test receptivity to counter-legislation. This could not be confirmed.

Macomber did say that "there's going to be a lot of education" of different people about the legislation in the days ahead.

In the Senate, the day of reckoning is just ahead: The authorization bill is expected to be debated later this week.

The Foreign Relations Committee has agreed to take testimony on Tuesday from John D. Hemenway, a selected-out Foreign Service officer, on what Hemenway says are gross violations by the Foreign Service of its on standards and regulations for promotion.

The International Law Committee of the Federal Bar Association recently expressed "strong support" of the Bayh bill.

And the April journal of the Foreign Service Association—which long has been regarded as an echo of management—contains an editorial accusing the Board of the Foreign Service of being a "prestigious rubber stamp for management. . . ."

That, coming from a former friend, reportedly was the unkindest cut of all to management and generated the talk of a shift to Civil Service.

[From the New York Times, Apr. 24, 1972]

EMPLOYEE GRIEVANCE PLAN IRKS ROGERS

(By Benjamin Welles)

WASHINGTON, April 23.—Secretary of State William P. Rogers was reported today to be incensed over a recent Congressional move to legislate a semi-independent grievance procedure for State Department employes.

Last Tuesday the Senate Foreign Relations Committee—after months of pressure from representatives and individuals with grievances against the Foreign Service—voted to attach the new procedures as a rider to the authorization for the State Department's $555-million budget for next year.

If approved by Congress, the new procedure would sharply curtail the State Department's virtually exclusive control over its 3,500 Foreign Service officers and 20,000 other employes.

Mr. Rogers is said to be especially angered that Foreign Service officers themselves helped prod the Senate into action.

Last spring, for instance, William C. Harrop, then head of the American Foreign Service Association—the major State Department union—urged Congress to write grievance legislation for the department.

SUICIDE FACTOR

The Senate panel's action stems largely from concern following the suicide last April of Charles W. Thomas, a 48-year-old Foreign Service officer who was "selected out"—dismissed—without pension in 1969 after 18 years of service.

Critics have testified to Congressional groups that although the State Department has had a grievance system of its own since 1946, it has quietly blocked virtually all grievances until the recent publicity.

The new procedure voted Tuesday would create a three-member grievance board before which any officer or employe, whether on active duty or separated from the service, or a surviving spouse or dependent could lodge a complaint against "any claim of injustice or unfair treatment."

The board would comprise "independent, distinguished citizens" who would serve for two years at $36,000 a year. One would be named by the Secretary of State and one by whatever employe organization were to be recognized as the exclusive bargaining agent of Foreign Service officers and other employes.

The two board members would, in turn, select the third. If they failed to reach agreement within 10 days, the third member would be named by David L. Bazelon, chief judge of the United States Court of Appeals for the District of Columbia.

ROGERS COMPLAINS

Mr. Rogers was reported to have complained to senior officials that the Senate bill, as drafted, would not only "make virtually everything grievable" but would also in effect "let Judge Bazelon run the State Department."

Mr. Rogers and his senior officials were said to fear not only that discipline might suffer but also that some young Foreign Service officers might use the grievance board to air discontent over the Vietnam war and other political grievances.

There were indications that ranking State Department officers were preparing both to fight the measure when it reaches the Senate floor and to influence prominent House members to kill or amend it when it reaches the lower chamber.

In recent years, as tension has grown between successive secretaries of state and

Senator J. W. Fulbright, chairman of the Foreign Relations Committee, the State Department has turned increasingly to the House for allies to block legislation that it opposes.

The key points in the Senate bill include provision for open hearings, under oath and with full due process for cross examination, for supply by the State Department of all witnesses demanded by the aggrieved party and for access to any document or information considered relevant by the board.

EXCEPTIONS PROVIDED

Findings by the board would be final and binding on the Secretary of State except in cases of promotion, assignment and selection out. In these cases the Secretary would be empowered to reject the board's findings only when he determined that such recommendations "adversely" affected foreign policy or national security. He would be required to fully document his reasoning.

The measure also bars "restraint, interference, coercion, discrimination or reprisal" against a grievance applicant and provides for judicial review of the State Department's or the board's actions.

The American Foreign Service Association, which represents about 7,000 Foreign Service officers and other employes, has strongly urged Congress to legislate grievance procedures in accordance with President Nixon's Executive Order of Dec. 24, 1971, on employe-management relations in the Foreign Service.

The American Federation of Government Employees (A.F.L.–C.I.O.), which is said to include 150 Foreign Service officers and which is competing with the Foreign Service Association for exclusive bargaining jurisdiction, is also backing the new Senate measure.

[From the Washington Post, Apr. 27, 1972]

THE FEDERAL DIARY—FOREIGN SERVICE EYES STATE BOGEYMAN

(By Mike Causey)

State Department has dropped a diplomatic bogeyman among its skittish Foreign Service staff, hinting it may lose elite corps status and its attractive pension program and be put under the Civil Service personnel system.

Foggy Bottom officials are trying desperately to rally support from the Foreign Service officers to put pressure on the Senate to reject a grievance appeals system cleared last week by the Foreign Relations Committee.

One portion of the legislation, called the Bayh-Cooper-Case bill, would set up a three-member grievance board. One member would come from State, one from an employee group and the third would be an impartial public member. The board could overturn many personnel actions now controlled largely by management.

Insiders say Secretary William Rogers hit the ceiling when the Committee bill was cleared, claiming it would give him less management authority than any other Cabinet officer. Shortly thereafter, State's top legal experts were told to find out what it would take to put Foreign Service personnel, who now have their own hiring, promotion and pay system, under the system used for civil servants.

The conversion idea was quickly scotched. State brass decided that the ruckus the rumor would kick up could be used to get the Foreign Service lobby—and the American Foreign Service Association—to use its influence on Capitol Hill to kill the plan.

Congressional staffers who pushed through the reforms—some of which were written by AFSA officials—now fear the association might crumble under pressure from State and oppose the bill they helped draft.

AFSA officials have been told by the Hill aides that if they fail to back the Bayh-Cooper-Case proposals, they can forget about any other beneficial legislation for a long time to come. AFSA has scheduled an open membership meeting today, to discuss its stand.

HILL DISPUTE BOILS—DIPLOMATIC PROMOTIONS STALLED

(By Philip Shandler)

The Senate Foreign Relations Committee held up the usually-routine annual promotion list for the nation's career diplomats and overseas information officials.

Affected are 385 Foreign Service officers and about 175 employees of the U.S. Information Agency, whose names recently were submitted to the Senate by the White House.

Usually, the Foreign Relations Committee passes along the recommendations with little pause.

On Tuesday, however, it granted an unprecedented hearing to a fired foreign service officer who challenged both the qualifications of many recommended officers, and the system by which they were selected for promotion.

In addition, at an executive session yesterday, it received a strong protest from Sen. Claiborne Pell, D-R.I.—himself a former Foreign Service officer—against a promotion-system change instituted recently by USIA director Frank Shakespeare.

These actions came against a background of a year-long protest by employee groups about the State Department's personnel policies, and recent clashes between committee chairman Sen. J. William Fulbright, D-Ark., and USIA officials.

The fired foreign service officer, John D. Hemenway, laid before the committee an analysis he had made of the State Department's Biographic Register. It showed, he asserted that many officers recommended for promotion lacked required language training.

He also asserted that department promotion boards operated "with no established standards of record-keeping, with wheeling and dealing in terms of illegal contacts (by management) with members of the boards, (and) with constantly shifting standards for promotion."

Yesterday, the committee decided to forward the allegations to Deputy Under-Secretary for Administration William B. Macomber and ask his comments, before acting on the Foreign Service promotion list.

Sen. Pell's complaint about the UHIA promotions was aimed primarily at the new system for evaluation to FSI–1, the top rank.

Departing from traditional USIA practice—and that still followed in the foreign service—Shakespeare announced recently that he would ignore the rankings for promotions prepared by the USIA selection board for the top rank, and choose from among those on the list as he saw fit.

This was attacked by some employes as political maneuvering, and Pell opposed it.

A spokesman said the committee might meet next week to reconsder the promotions, if it get plies from Macomber and other officials.

Meanwhile, maneuvering continued for and against a grievance-procedure rider attacked by the committee last week to the State Department's authorization bill.

David M. Abshire, assistant secretary for congressional relations, wrote committee member Sen. Gale McGee, D-Wyo., to outline the State Department's opposition to legislation which would provide for three-person panels to hear virtually any employe grievance, at open hearings, with prescribed access to records, and with broad authority to direct relief.

Abshire argued that this procedure would be cumbersome, time-consuming and would constitute "a serious and undesirable invasion of necessary management discretion."

EX-AIDE ASSAILS FOREIGN SERVICE

WASHINGTON, April 29.—A former Foreign Service officer has shaken the State Department by publicly charging that the department has violated its own standards for promotion and has tampered with confidential personnel files.

In a hearing Tuesday before the Senate Foreign Relations Committee, John B. Hemenway, who is now a civilian employe with the Defense Department, accused the State Department also of trying to deceive the Senate by submitting for confirmation to key posts the names of officers it knew to be unqualified.

After hearing the charges, the Senate committee asked the State Department for details of its promotion and personnel policies.

Mr. Hemenway, who is 45 years old, was dropped from the Foreign Service in 1968 while serving as chief of the Berlin section in the department. He served as an infantry lieutenant in World War II, was graduated from the United States Naval Academy in 1951 and, after entering the Foreign Service in 1951, earned bachelor's and master's degrees at Oxford as Rhodes Scholar. He is rated fluent in Russian and German.

SOUGHT REINSTATEMENT

In 1969, Mr. Hemenway filed a grievance charge against the State Department seeking reinstatement. The hearing—the first ever demanded by a Foreign Service officer and the first accepted by the department in 15 years—is being contested.

Mr. Hemenway testified that among the latest list of 23 Foreign Service officers promoted to class one, the highest grade, 35 per cent speak no foreign language while 30 per cent speak only one. The regulations, he said, call for proficiency in at least two foreign languages before promotion to senior rank.

Of the 45 officers recently promoted to class two, he said, 31 per cent speak no foreign language and 35 per cent speak only one.

Mr. Hemenway charged the management bureau of the State Department with promoting its own staff members to key assignments — including promotion panels — and with tampering with personnel files in violation of regulations.

Mr. Hemenway showed the committee copies of a staff memorandum written last Oct. 1 from John A. Stevenson, State Department legal adviser, to William B. Macomber Jr., Deputy Under Secretary for Management. The Stevenson memorandum criticized widespread illegal access by promotion panels to the "12 to 14 different" files maintained on every officer and recommended that such practices be halted.

"In the Department of State," Mr. Hemenway charged, "you can prove anything in personnel work—or conceal anything—depending upon which files you choose to select for the purpose."

Mr. Hemenway also testified that growing numbers of employes of the bureau of management are being admitted to the Foreign Service without passing examinations. In several cases he said they had "neither college degrees nor language qualifications."

A State Department spokesman, who said that he had not read Mr. Hemenway's testimony, explained that language qualifications for senior officers are "objectives" rather than minimal standards. He conceded that there had been violations of regulance through unauthorized access to personnel files but said that these practices had been stopped.

UNEMPLOYMENT

Mr. PROXMIRE. Mr. President, recently there came to my attention an April article that appeared in the London Times on the Joint Economic Committee's annual report.

It is a source of deep pride to me to serve as chairman of that committee comprised, as it is, of so many outstanding Members of the Congress from both Houses.

The article in question credits the committee report for demolishing the argument advanced by Treasury Secretary John B. Connally that the United States is able to achieve full employment only in time of war. As the report pointed out, this is a falsehood and should never be accorded the dignity of espousal by a U.S. Secretary of the Treasury.

As the Times article points out, unemployment rose under President Nixon because of a deliberate policy of deflating the economy. The policy did not work. It created substantial unemployment but did nothing to alleviate price increase thereby giving this country the worst of two worlds. I ask unanimous consent to have the article printed in the Record.

There being no objection, the article was ordreed to be printed in the Record, as follows:

[From the London Times, Apr. 4, 1972]

U.S. Unemployment—Dissipating a Political Fog To Reveal Humbug

(By Anthony Thomas)

The congressional committee system in the United States, with all its faults, provides a great national service in exposing and clarifying issues that the government would prefer to remain hidden or fudged.

It gives experts, including academic economists, a public platform. It means that the Samuelsons, Okuns and Krauses are not confined to academic reservations in which studies are circulated among a few people of great knowledge and little influence: they can really help to change the direction of policy.

This influence of outside experts is very apparent in the annual report of the Joint Congressional Economic Committee. This has 10 members each from the United States Senate and the House of Representatives and has seven economists on its staff.

The committee does not have any direct legislative authority. Nevertheless, some of its members are both very important legislators and are household names in America, including Hubert Humphrey, William Proxmire, Wright Patman, J. William Fulbright and John Sparkman.

Its primary function is to raise the level of debate on the econmy and it has performed this task brilliantly in shredding the Administration's highly politically motivated explanations for the sharp rise in unemployment in the United States since President Nixon entered the White House—from 3.4 per cent to around 6 per cent.

One Administration excuse is the Vietnam War. It argues that the low level of unemployment that prevailed in the late Sixties was brought about by the war build-up while the high unemployment that now prevails is a consequence of the winding down of the war.

The majority of the members of the Joint Economic Committee concede this argument has an appealing symmetry "that might be persuasive if it were not for the facts". They then quote statistics showing that the Sixties began with a high rate of unemployment and that this rate fell from 6.7 per cent in 1961 to 4.5 per cent in 1965, or well in advance of the spurt in defense spending.

A demolition job is then done on the (Marxist) case advanced by Mr. John B. Connally, the United States Treasury Secretary, that the United States enjoys full employment only at time of war—defined as an unemployment rate of 4 per cent of the labour force.

"Following World War Two, from 1945 to 1948", the committee majority point out, "defence spending dropped from over $80,000m (about £30.768m) to about $12,000m. Throughout that period, unemployment remained under 4 per cent and was 3.8 per cent in 1948."

Mr. Connally's case is further discredited by statistics indicating a simultaneous sharp decline in the rate of unemployment and the level of defence spending in 1954 ad 1955.

The congressional committee is similarly critical of Administration arguments that changes in the composition of the labour force, with a significantly higher proportion of young people and women than there were 15 years ago, have contributed to the recent rise in unemployment.

Comparing 1969, when unemployment stood at 3.5 per cent, with 1971, when it stood at 5.9 per cent, it finds that unemployment for white males aged 20 years and over rose by 119 per cent, for adult white females by 64 per cent and for white teenagers of both sexes by 53 per cent. The comparable figures for non-white workers are 104 per cent, 56 per cent and 28 per cent.

This does not, of course, necessarily disprove the general claim that changes in the composition of the labour force have made it more difficult to achieve in a non-inflationary manner any given reduction in the overall unemployment. But it does mean that suggestions by the Administration that this is an important new reason why unemployment has suddenly become worse are spurious.

The real reason why unemployment has risen under President Nixon is that the government thought it could cure inflation by throwing people out of work. It then found it much harder to reflate the economy than it did to deflate it and started looking for excuses.

The joint economic committee, with the help of expert witnesses, has dissipated a political fog in exposing these excuses as humbug.

THE DEATH OF J. EDGAR HOOVER

Mr. ALLOTT. Mr. President, the death last night of J. Edgar Hoover marks the end of an era. Mr. Hoover was the only man who could have founded, shaped and led the Federal Bureau of Investigation through more than half a century of outstanding service, welding it into the world's foremost law enforcement agency.

He served with incomparable skill and dedication under eight Presidents, bringing to law enforcement and investigation an innovative mind and vast administrative skills. Under his inspired leadership the FBI became a model of what a government agency can do when it brings the right man to the right job at the right time.

Mr. Hoover was the ideal choice to mold for the United States the investigative institution necessary for the complex and dangerous times in which we live.

His contributions have earned him a place of honor in American history.

STAR-BULLETIN LOOKS AT WASTE AND OVERRUNS

Mr. PROXMIRE. Mr. President, Honolulu is an American city that has great dependence on the military for its economic wellbeing. But even in Honolulu, waste in the military is not appreciated. The Honolulu Star-Bulletin makes that clear in two recent editorials.

In one, the newspaper points out that—

Incentives to waste money are built into some of the present Federal budget procedures.

It supports two proposals made recently before the Joint Economic Committee by Senator Percy to help reverse that situation.

In the other, the Star-Bulletin supports the idea of holding contractors to their contracts.

Mr. President, because of the value of these editorial opinions I ask unanimous consent that they be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

Remedy for Over-Runs

President Dwight D. Eisenhower, April 16, 1953: "Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed."

Ike's words above have been quoted from time to time, most recently in the April 9 issue of Parade Magazine.

In Washington, Sen, William Proxmire (D-Wis.) is at work trying to add a footnote to Ike's message.

His footnote: The price of those guns, warships and rockets includes millions, even billions, of dollars in cost overruns.

Testimony before Proxmire's committee shows that it is not uncommon for a Defense Department contractor to finish a job, then submit a bill for hundreds of millions of dollars extra, claiming extra costs.

Lockheed in one instance claimed pay for 243,000 man hours of extra time on a job. Navy auditors could substantiate only 25,000.

Avondale Shipyards put in a claim for $75 million extra on ship construction and held up delivery until the Navy came through with $48 million.

The way of settling these claims today is by negotiation, and that process includes getting friendly Congress members (Avondale, for example, lined up support from Louisiana's influential members of the Armed Service Committees) to pressure the Defense Department.

The competition between the high-paid staffs and lobbyists of the private contractor and the civil servants on the Federal payroll often is extremely unequal. Contractors have a good winning record in these grey areas of finance.

To make matters worse, a number of private firms offer courses in government claims negotiation, and hire government employes to lecture at them.

One such course was scheduled for last week at Walt Disney World, Fla.

Sen. Proxmire's committee recently heard some common sense suggestions on how to deal with matters like this.

The short of it is that a contractor ought to be held to the terms of his contract.

If he wants more than the contract allows be should be made to go to through an adversary proceeding having the same stature and dignity as a case in court.

Every dollar claimed should have to be justified.

More than that, as with a court, there should be no lobbying by lawyers running to Congress, calling up secretaries and applying the kinds of pressures they would never apply on a court.

Former Defense Undersecretary David Packard has seen this problem, and come up with the same remedy—hold the contractor to his contract. For the U.S. Defense Department this would be a rare and wonderful step toward sounder management of the public dollar.

INCENTIVES TO WASTE

Budget-minded U.S. Sen. William Proxmire (D-Wis.) recently sailed into Adm. Elmo Zumwalt, chief of naval operations, for an order to subordinates directing them to get every dollar appropriated by Congress spent before the end of the fiscal year.

Zumwalt's aides defended this as an effort to keep the Navy as strong as possible in the light of the tight congressional budget, and as entirely within the stated intention of Congress.

Sen. Proxmire tended to see it otherwise.

It remained for Sen. Charles Percy (R-Ill.) to focus on the inherent conflict involved and suggest some sensible remedies.

Proxmire was outraged at the prospect of playing fast and loose with the public dollar by the Navy, the likelihood that a directive like Zumwalt's would mean sloppy contracts, more overtime, higher costs, wasted dollars.

Percy made two common sense recommendations:

1. Government procedures ought to be overhauled so that departments aren't penalized for failing to spend every appropriated dollar within the appropriation year.

2. Government agencies willing to relinquish Federal funds and Federal property ought to get credit for it as an incentive to do more of this. They get none now.

Incentives to waste money are built into some of the present Federal budget procedures.

Proposals such as those made by Sen. Percy could help to reverse this situation by offering rewards for prudent management of the public dollar.

TAXES

Mr. HARRIS. Mr. President, at a time when the ordinary American is agonizing over the payment of his Federal income tax, I believe it would be of interest to him to know that 40 percent of all U.S. firms escape income taxes.

IRS statistics are the source of this figure. Available data, according to an April 7 report in the Washington Daily News, does not show how many of these firms escaped taxes because they earned no profits. But IRS officials told the Daily News reporter that most firms which pay no corporate income tax are in the loophole category.

One interesting figure compiled by the Daily News reporter concerns the oil industry. In 1970 of the 7,867 petroleum and natural gas firms, 3,928 reported no tax liability primarily because of various loopholes.

Mr. President, I ask unanimous consent that this article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOME WITH PROFITS DEDUCT AND DUCK: 40 PERCENT OF U.S. FIRMS ESCAPE ALL INCOME TAXES

(By Robert Dietsch)

Internal Revenue Service statistics show that more than 40 per cent of U.S. corporations pay no federal income taxes.

Available IRS data does not show how many of these firms have no profits and how many escaped taxes through deductions, tax credits and other so-called loopholes.

But IRS officials say most firms which pay no corporate income tax are in the loophole category.

A study of IRS reports and discussions with IRS officials by Scripps-Howard Newspapers turned up these other findings:

Of all corporations, almost 40 per cent report no taxable income—either because they operate at a loss or because they take advantake of one or more categories of so-called tax loopholes so that on paper their overall expenses and credits exceed their income.

Of larger corporations which do report taxable income, one in 10 pays no federal income tax. Again, the reason is another set of loopholes—deductions and exemptions permitted from net taxable income.

Two loopholes enable corporations to reduce their income taxes by about 15 per cent. These are the investment tax credit businesses get on spending for plant and equipment and credits on foreign tax payments.

It previously was reported by Scripps-Howard Newspapers that those two tax credits resulted in U.S. Steel, the nation's largest steel producer, paying four times as much 1971 income tax to Venezuela as to the United States.

The data on which these conclusions are based involve corporate accounting periods running from July, 1969, through June, 1970. These are the latest statistics available. But IRS sources believe the conclusions would not be significantly different if later periods were involved.

ERASE PROFITS

If anything, the number of businesses escaping income tax might be greater because of more liberal depreciation and investment credits enacted since mid-1970.

In the July, 1969–June, 1970, period, 1,670,349 corporations filed returns with IRS. Of this total, 619,807 reported no net income for tax purposes. There was no breakdown as to how many had actual losses and were able to "erase" their profits by taking deductions for things like depreciation, amortization and depletion.

Virtually all companies are entitled to deduct those three items from their gross income, just as they are entitled to deduct the cost of materials and wages and salaries.

During the year-long period, corporations deducted $55.6 billion for amortization, depreciation and depletion.

Of the nearly 1.7 million corporations, 1,050,542 told IRS they had some net income subject to tax. But of this total, only 790,363 paid any income tax.

Another 154,000 were classified as small business corporations which under federal tax law were able to pass all profits on to their shareholders, who then paid income taxes instead of the firms.

While there is no actual limit on the size of these firms, they may have no more than 10 stockholders and are mostly small.

This means that 106,179 larger firms which reported taxable income during the year actually paid no income taxes.

They were able to escape taxes mainly by taking advantage of tax credits (or loopholes) not available to all businesses. These credits which can be deducted from taxable income are principally investment tax credits and credits for paying foreign taxes.

FORTY-THREE PERCENT PAY NO TAXES

These figures also mean that out of the nearly 1.7 million corporations, 725,986, or 43 percent, paid no income tax during the year—619,807 because they either had an actual loss or reported no income subject to tax and 106,179 because they reported some taxable income but escaped paying any tax because of the investment and foreign tax credit or other deductions.

The other credits which a corporation can deduct from its taxable income include:

Losses from previous years. Tax experts call this "deducting a net operating loss carryover."

Dividends received from other corporations.

Income from a "Western Hemisphere Trade Corporation," a business operating entirely outside the United States but within Canada and Latin America.

Dividends paid on certain preferred stock.

POLITICAL ISSUE

Democratic presidential candidates have been making an issue out of tax reform, contending that the tax system is too biased in favor of business and wealthy individuals. These Democrats would reduce or end a number of tax advantages for corporations, which they call loopholes, including the 7 percent investment credit given business for new plant and equipment spending, the faster depreciation schedules and the depletion allowance.

Even some Republicans acknowledge that public interest in tax reform is growing.

Individuals as well as corporations have a number of ways to save on taxes, thru exemptions and deductions. But the reformers are generally concentrating on business taxes.

Figures on individual corporations are not available. IRS statistics deal with industries, and reflect the fact that certain industries benefit greatly from loopholes and pay relatively little income tax.

MINERS FARE WELL

Of 14,095 mining firms which filed income tax statements, 7,078—or more than half—reported no taxable income. The bulk of these firms were in the black but erased their tax liabilities by taking advantage of depletion allowances. Of the 7,017 mining firms which reported taxable income, only 4,971 paid any tax. And their tax liability, totaling slightly more than $1 billion, was reduced to $329 million because these firms got $691 million in domestic investment and foreign tax credits.

Of 7,867 petroleum and natural gas firms, 3,928 reported no tax liability. The 3,948 firms with tax liability reduced their taxes from $708 million to $136.4 million because of investment and foreign tax credits.

Salaries and other payments to corporate officers, are legitimate expenses and can be deducted from gross income for tax purposes. In 1964, the corporate officer salary deduction for all corporations was $19.3 billion. In the July, 1969-June 1970, period the total was $26.5 billion. This was an increase of almost 40 percent.

AUTOMOBILE SAFETY BELTS

Mr. STEVENS. Mr. President, when the Senator from Kentucky (Mr. COOK) introduced amendment No. 1171 to S. 3474 last Friday, April 28, he stated that the Department of Transportation plans to eliminate the safety requirement for automobile seat belts when the so-called passive restraints are mandatory.

It also seems to me a serious mistake to immediately remove the one safety item that has been proven effective while requiring something that has yet to be conclusively proven capable of doing the job well, and doing it all of the time.

There is a great deal of evidence to indicate that thousands of lives would be saved each year if a majority of motor vehicle occupants wore safety belts.

There are many people in the country today who, if given the option, would prefer to use safety belts rather than take a chance on air bags or some other new system. And, from the public evidence available, it appears that we still have considerable testing and proving to do before air bags are to be made standard equipment on all new cars.

I believe that, at the very least, safety belts should be kept in all cars, even if other devices are available, and for that reason I support Senator Cook's proposal. But I also feel that motorists should have an option—either air bags with safety belts, one of the more advanced safety belt systems—such as the ignition interlock type.

I have reservations about how well air bags might work in the extreme temperatures of Alaska, and perhaps other Members have similar questions. It seems to me good policy to adopt a slightly more cautious approach and provide that extra measure of protection that lap belts would offer.

I hope the Secretary of Transportation will see it that way also.

FOREIGN SERVICE GRIEVANCE PROCEDURES

Mr. BAYH. Mr. President, the State Department is opposed to the Foreign Service grievance legislation reported out of the Foreign Relations Committee. I believe passage of the legislation is desperately needed; the procedures recommended by the Department have so many loopholes that they would be open to widespread abuse.

Of course, the Department has argued for nearly a year that its interim grievance procedures are completely adequate. I believe that they are not. In order to assist my colleagues evaluate the interim grievance procedures, I submit a critique of the IGP and the Bayh bill, prepared by a former lawyer in the State Department. The Department has also argued that the Bayh-Cooper legislation now before the Senate is far too strong. Study will show that the original Bayh bill is stronger on a number of points; however, the Department, during 9 months of consideration, never protested any specific provisions in my original bill. The recent opposition to the reported legislation is particularly inappropriate in view of previous departmental disinterest in provisions of S. 2023 and S. 2659.

My staff has prepared a detailed comparison of the reported legislation, the original Bayh bill, S. 2659, and the Department's own interim grievance procedures. I ask unanimous consent that a copy of this critique as well as the comparison of the IGP and the Bayh bill be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

DEPARTMENT'S IGP VERSUS BAYH BILL

The Departmental Announcement of August 12, 1971 establishing the so-called interim grievance procedures states that: "The enclosed interim grievance procedures in certain important respects are similar to S. 2023."

An analysis of these interim grievance procedures clearly show, to the contrary, that they differ radically in almost all important elements of due process and fairness from S. 2023, the original version of the Bayh bill.

(1) The IGP denies the employee the *right* to a hearing. Numerous blocks are placed in the path of his obtaining a hearing, as indicated below.

Both the present grievance procedures (Section 1800 of FAM) and S. 2023 provide the employee the *right* to a hearing.

(2) The IGP provides a 100% Management-picked and controlled grievance hearing board and denies the employee the right to name one member of the panel.

Both the present grievance procedures (Section 1800) and S. 2023 provide for a member of the hearing panel to be named by the grievant and an impartial chairman not controlled or exclusively named by Management.

(3) The IGP continue to exclude significantly broad areas from which major grievances are most likely to arise, e.g. selection out, non-promotion, unfair reprisals and discrimination and other acts of a capricious, arbitrary or malicious nature arising in the administration of the personnel system. (It would appear to exclude these acts performed by personnel authorities.)

S. 2023 provides due process and justice through grievance hearings in all these categories where major career damage may unfairly result.

(4) The IGP rivets into the Management and Personnel offices full control over the so-called grievance machinery, staff, procedures, etc. and continues to permit them to change at will to fit narrow concepts of justice and fairness.

S. 2023 places the entire grievance machinery outside of the control and direction of the Management and Personnel authorities and provides for due process and justice as a right under law not subject to unilateral change through arbitrary revision of regulations.

(5) IGP purports to establish the grievance board within the Secretary of State's office and "independent of other agency management." Yet it is the Management and Personnel offices which develop the lists of members, name the members, provide the staff of the Board and control their salaries and facilities, have their staff present during the Board's deliberations, etc.

S. 2023 provides for an independent Board except for one member named by Management and authorizes the Board to fix the salaries of staff it will hire.

(6) IGP provides for an extended, delaying and potentially cruel career-damaging "informal consideration" of the grievance by forcing the victim to go to the very people who committed the acts complained of. This provision "legislates" some of the cruelest aspects of the Foreign Service personnel system by ignoring the human element that a man will risk his entire career by going to a grievance board only when he feels he is in extremis. Worse yet, the IGP requires that the grievant reduce the results of all these delaying steps to writing and then go to the head of Personnel with this product for further "informal" review before he can even get to the grievance board to request a formal hearing. (The record of Personnel authorities in State in re their willingness to permit formal grievance hearings is disgraceful—one in 15 years.)

S. 2023 provides for a clear and unimpeded path to the grievance board for a review of his grievance upon its merits, without subjecting him to a series of dangers or irreparable damage to his career.

(7) The IGP provides not only a most confusion and ambiguous maze of "informal grievance consideration" steps with numerous time hurdles which must be met, but when the Board is reached it is authorized to cut off his relief with a variety of other alternatives than a formal hearing. Additionally, when a formal hearing is authorized, which may well be rare, it could under the IGP wind up with only one member of the panel sitting as the Board. (663.1 (a))

Section 1800 grievance procedures and S. 2023 both provide a clear, unambiguous procedure with none of the "time bombs" and "hurdles" which are imposed by the IGP, to delay and impede justice. The grievant is guaranteed a full and impartial board under S. 2023, at least with respect to two members.

(8) IGP provides for *all* members of the Board and panels, except for the chairman and so-called "public members" to be officers and employees of the Foreign Service. This guarantees that they will all directly or indirectly come under the jurisdiction of Management and also subject to the personnel authorities for their career management.

Both Section 1800 and S. 2023 provide reasonable alternatives to the use of officers and employees of the Foreign Service in the designation of members of the Board.

(9) An incestuous arrangement is provided under IGP for the naming by the Management authorities of three agencies of two member from each agency to serve on what is not even alleged to be an impartial, unbiased grievance board.

S. 2023 avoids, with respect to at least two/thirds of the Board members, this in-house Management-oriented stacking of the grievance panels.

(10) "Public members", who are normally fine citizens but notoriously Management-oriented, are provided for by the IGP to provide public-leavening on the panels. Unfortunately, they are provided from lists maintained by the Management authorities and have themselves served on Selection Boards organized and instructed by management and personnel authorities in the State Department.

S. 2023 makes no provision for such hand-picked representatives of the Management area.

(11) To guarantee Management control of the Grievance Board, lists are prepared and controlled by "M" for selection of the Chairman and of all membership on the Board.

Neither the Section 1820 grievance procedures nor S. 2023 permit such discriminatory and arbitrary control of the grievance procedures to remain in the hands of "M".

(12) IGP does not require a transcript of record to be recorded and prepared.

Section 1820 and S. 2023 require a transcript of record to be maintained and provided to the grievant.

(13) IGP provides for the grievant to have access to the "record of proceedings" only during a formal hearing—which hearing may never be reached on the extended delays provided for—but IGP does not permit such access during the "informal reviews" stage.

Section 1820 and S. 2023 permits the grievant access to all documentation provided to the panel at all stages.

(14) IGP makes provision for the grievant to have a representative only at the formal hearing stage.

S. 2023 makes provision for the grievant to have a representative at all stages.

(Irreparable damage under the maze and ambiguities of the IGP are most likely to occur during the preliminary and "informal" stages.)

(15) Under IGP the Board decides if the employee has a grievance and whether the employee shall have a hearing. (This is merely a continuation of the illegal practices heretofore followed by the personnel authorities.)

In S. 2023 and under Section 1820 the grievant is entitled to a formal hearing. (His right is protected notwithstanding abuses by the authorities in the past. With one exception no repeat no FSO was even allowed to have a hearing in more than 15 years.)

(16) Under the IGP the grievant and his representative can only have access to agency records "as are deemed necessary by the "M" established and controlled Board. (Thus, again, "legalizing" the current illegal situation.

Section 1820 and S. 2023 provide for full access to records they require for a proper presentation of the grievance and its adjudication.

(17) The IGP places extensive restrictions

on so-called "classified and privileged material" being made available to the grievant or made a part of the record of proceedings.

S. 2023 places no restriction on the use of classified material deemed relevant to the Board's investigation of a complaint.

(18) IGP requires no oath to be taken by witnesses.

S. 2023 provides for testimony at hearings to be given under oath.

(19) IGP does not allow open hearings and severely restricts attendance at hearings only to persons having a "direct connection with the grievance."

S. 2023 provides for open hearings unless the employee requests otherwise.

(20) IGP actually provides for a grievance hearing "in absentia", conceivably as a punitive act against the employee if he, as grievant, fails to show up for the hearings.

S. 2023 makes no provision for such punitive continuation or holding of a hearing "in absentia", directed against the grievant for having dared to initiate a grievance action. S. 2023 provides that if grievant is unable to attend his representative must be present for the hearing to continue.

(21) IGP appears to make no provision for the grievant to arrange to have hostile witnesses called. The burden is placed upon the grievant to call "his" witnesses.

S. 2023 places no such burden upon the grievant to call witnesses. The Board calls all witnesses whose testimony is deemed relevant to the issues.

(22) With respect to redress and remedies for the damage underlying the grievance, the IGP is cruelly limited. No promotion may be ordered notwithstanding a finding of extreme damage to a career or promotion prospects; presumably the personnel records may be corrected after months of effort with inherent career-damaging provisions just in seeking the remedy; and a meaningless extension of time-in-grade may be ordered which is hardly of value with the recent 15 years in grade provision.

Persons already selected out even in recent weeks and months are estopped from any access at all to the IGP because they are not on the rolls as of August 12, 1971.

The IGP provides other remedies that have no bearing on the grievant's career or livelihood but have a cosmetic impact to mislead the reader.

(23) The IGP provides only for *"reconsideration* by a subsequent selection board of an employee *who has ceased to be eligible for consideration for promotion or who has been involuntarily retired* as the only remedy involving the possibility of promotion. (Sec. 667.2(5))

(Thus, a man's career must already be *dead* before the board can even recommend only *reconsideration* by a subsequent regular Selection and Promotion Board. What about the 99% of officers who may have suffered severe damage to their careers but are not yet dead?)

S. 2023 permits the grievance board to order an immediate promotion if the ends of justice and decency are thereby served.

(24) IGP appears to provide for the Board to order the reinstatement of an employee with back pay when he has been "wrongfully separated as a consequence of the matter by which the employee is aggrieved."

But this appears to be made meaningless and negated by ambiguous language (Sec. 667.2(6) which drags in the mythology of "comparison by a Selection Board" preventing such reinstatement.

S. 2023 has no such ambiguous, justice-defeating limitations on its redress and remedies.

(25) Perhaps most cruel of all, even the pathetic remedies left to the Board to propose are not binding on the agency. They are merely recommendations at best.

S. 2023 provides for the Grievance Board's decisions to be binding on the Department of State on grievance hearings.

COMPARISON OF S. 3526, S. 2659 AND INTERIM GRIEVANCE PROCEDURE

AMENDING FOREIGN SERVICE ACT OF 1946—SEC. 109

S. 3526, as reported	*S. 2659, original Bayh bill*	*IGP*
Title VI of Foreign Service Act (22 U.S.C. 981) is amended by adding at the end: "Part J—Foreign Service Grievances	Same as S. 3526	No such section; IGP is not a statute.

PROMULGATION AND REVISION OF REGULATIONS—SEC. 692

S. 3526	*S. 2659*	*IGP*
The purpose of Part J is to insure the fullest measure of due process and the just resolution of grievances of Foreign Service Officers, employees and survivors.	No statement of purpose.	The purpose is to establish uniform policies and procedures to consider and decide on grievances of Foreign Service Officers and employees. There is no mention of survivors.

PROMULGATION AND REVISION OF REGULATIONS—SEC. 692

S. 3526	*S. 2659*	*IGP*
The Secretary is allowed to promulgate and revise regulations consistent with the statement of purpose. These regulations may not alter or amend the statutory provisions for due process.	No provision for Secretary promulgating or revising regulations.	No such formal provision; Dep't. may alter at will.

DEFINITIONS—SEC. 692(1)

S. 3526	*S. 2659*	*IGP*
Any officer or employee or previous officer or employee (who is a U.S. citizen), or his survivor may file a grievance. A grievance is any complaint against any claim of injustice or unfair treatment of such officer or employee. Definition includes, but is not limited to: 1. actions leading to deprivation of due process 2. actions related to promotion or selection out 3. the contents of any efficiency report or security records 4. actions in the nature of adverse personnel action and 5. separation for cause.	Any officer or employee of the Service who is a U.S. citizen may file a grievance which must be in writing. Defines grievance and appeal as any complaint against any injustice, unfair treatment of an employee or aspect of his work situation. Definitions include but are not limited to: 1. actions leading to deprivation of due process 2. actions related to promotion or selection out 3. the contents of any efficiency report 4. actions in the nature of adverse personnel action and 5. separation for cause. Grievance does not include matters of foreign policy or the general management of the State Dep't. unless it affects a right accorded an employee. There is no specific mention of security records.	*A grievant may file a formal grievance only after informal discussions have failed.* A formal grievance must follow a complicated outline: it must be in writing; it must identify and clarify the basis of the grievance; it must specify the personal relief requested and it must contain all the correspondence made and received under the informal procedures. A grievance is defined as any matter of concern or dissatisfaction to an employee which is subject to control by his employing agency. *Matters specifically excluded are* personnel assignments, nonselection for promotion or selection for involuntary retirement, and others. There is no mention of security records or actions related to adverse personnel actions. It does not state that a *survivor* of a Foreign Service Officer may file a grievance.

BOARD AND ITS DUTIES—SEC. 692(2)

S. 3526	*S. 2659*	*IGP*
1. The board is composed of independent, distinguished, U.S. citizens, who are not officers or employees of State, USIA, or AID. The board consists of 3 members, one of whom is appointed by the Sec. of State, one of whom is appointed by the employee representative, and one who is appointed by the other 2 members. If the first two members cannot agree on a third within 10 days after the second member is appointed, then	1. The board consists of 3 members, one of whom is designated by the Federal Mediation and Conciliation Service and is designated the chairman, one of whom is appointed by the Dep't., and one of whom is appointed by the grievant. 2. All members serve for 2 year terms except the member appointed by the grievant who serves until the grievant's complaint is disposed. Members of the board are reim-	1. The nine member board is composed of: (a) Two foreign Service employees or officers, each from the dep'ts. of State, USIA and AID. These members are selected by the respective agency directors with the approval of the participating organizations. (b) A chairman which is appointed by the Sec. of State from a list approved by agency directors and participating organizations. (c) Two public members who are desig-

COMPARISON OF S. 3526, S. 2659, AND INTERIM GRIEVANCE PROCEDURE

AMENDING FOREIGN SERVICE ACT OF 1946—SEC. 109

the Chief Judge of the U.S. Court of Appeals for the District of Columbia Circuit (Bazelon) shall appoint the third.

2. Members shall serve 2 year terms and receive compensation at the rate paid an individual at GS-18.

3. The board may obtain facilities and supplies, and appoint and fix the compensation of such officers and employees of the board as it deems necessary. Officers and employees so appointed are responsible solely to the board.

4. The records of the board are maintained by the board and are separate from all other Dep't. records.

5. Provisions are made to deal with additional panels.

bursed by the Dep't. for travel, subsistence and other necessary expenses.

3. The chairman obtains the facilities, supplies, and employees (fixes their compensation) of the board. The chairman also assigns the business of the board to the employees. Expenses of the board are paid out of funds appropriated to the State Dep't.

4. Records of the board are maintained by the board and are separate from Dep't. records.

There is no provision for additional members or panels. There is a specific provision for disqualifications and for filling vacancies on the board.

nated by the chairman from a list furnished by the Sec. and approved by the agency directors and participating organizations.

2. Assignments to the board are for the duration of the IGP. No compensation is specified.

3. The Sec. provides staff support to the board as necessary.

4. The records of the board are maintained by the board. Does not state that the records are separate from Dep't. records.

5. No provision for additional board members.

TIME LIMITS—SEC. 692(3)

S. 3526

1. Present Grievances: The grievant has 6 months after the occurrence of the injustice to file a grievance.

2. Retroactive Grievances: If the grievance arose prior the the date on which regulations are first promulgated, the grievant must then file within 1 year from the date of enactment. Excluded from the computation of any such period is any time during which the grievant could not have reasonably discovered the grounds which are the basis of the grievance.

S. 2659

1. Present Grievances: There is no time limit on filing of grievances which occur after enactment of this act.

2. Retroactive Grievances: The board shall receive and investigate for 1 year subsequent to the date of enactment of this act only grievances (or appeals) of a Foreign Service Officer who has departed the Service prior to the effective date of this act.

IGP

1. Present Grievances: Grievances which occur after regulations are promulgated must be filed wtihin 30 days of occurrence or the date the employee became aware of the occurrence.

2. Retroactive Grievances: A grievance which occurred prior to promulgation of IGP regulations must be filed within 60 days after promulgation of these regulations or discovery of the act or occurrence giving rise to a grievance, whichever is later.

CONDUCT OF HEARING—SEC. 692(4)

S. 3526

1. The board conducts a hearing in any case filed with it. The hearing is open unless the board determines otherwise.

2. The grievant and his representatives are entitled to be present at the hearing.

3. Testimony at a hearing is given by oath or affirmation, which any board member will have the authority to administer.

4. Each party is entitled to examine and cross-examine witnesses and serve interrogatories upon another party and have them answered.

5. Upon request of the board or grievant, the Dep't. must promptly make available at the hearing or by deposition any witness under the control, supervision, or responsibility of the Dep't. If the witness is not made available in person or by deposition within a reasonable period of time as determined by the board, the facts at issue shall be construed in favor of the grievant.

6. Hearings are transcribed verbatim.

S. 2659

1. The board must hold a hearing if an employee requests one within 30 days after filing the grievance or within 30 days of the board's notice that the record failed to sustain the complaint.

2. The hearings are open unless the grievant requests otherwise. The employee and/or his representative may be present at the hearing.

3. Testimony at the hearing must be given under oath or affirmation which the chairman shall have authority to administer.

4. Each party has the right to examine and cross-examine witnesses.

5. The board may request the Dep't. to make an employee available and if in the board's judgment, compliance with its request is essential to a full and fair hearing, the Dep't. must comply with the request within a reasonable period of time as determined by the board, or else the facts at issue will be construed in favor of the employee.

6. A verbatim transcript of the hearing is provided the employee.

IGP

1. If the grievance is not adjudicated through the informal procedures, the board may hold a hearing if in its discretion it thinks the hearing is necessary. The board conducts a hearing in any case where it determines the grievance to be a major one.

2. The hearing is not open to the public or press. The grievant and/or his representative may be present at the hearing but the hearing may proceed without them.

3. There is no mention of testimony under oath or affirmation.

4. Witnesses called by any party, including the board, shall be subject to cross-examination from all other parties.

5. The grievant has the responsibility to arrange for his witnesses to appear (grievant cannot call hostile witnesses). On request of the board, the agency must make an employee available when it is administratively practicable to do so. If it is impractical, the agency must make him available for testimony by deposition. Refusal of a witness to testify after a special request by the board may be deemed by the board to constitute an admission of the grievant's allegations concerning that matter.

6 The board may order a verbatim transcript or written summary of the hearing.

FREEDOM FROM RESTRAINT; RIGHT TO COUNSEL—SEC. 692(5)

S. 3526

Any grievant or witness involved in a proceeding before the board is free from any restraint, interference, coercion, discrimination, or reprisal. The grievant has the right to a representative at every stage of the proceedings. The grievant and his representatives under the control, supervision or responsibility of the State Dep't. are granted reasonable periods of leave to prepare and present the grievance. The same is true for witnesses.

S. 2659

Same as S. 3526 except there is no specific statement on reasonable leave for witnesses to testify.

IGP

Same as S. 3526 except it does not specifically give the grievant the right to a representative at every stage of the proceedings. Language used is "in presenting a grievance" the grievant has a right to representatives.

BOARD'S ACCESS TO DOCUMENTS—SEC. 692(6)

S. 3526

1. The board has access to any document or information considered by the board to be relevant, including but not limited to, the personnel and, under appropriate security measures, security records of such officer or employee, and of any rating or reviewing officer.

S. 2659

Same as S. 3526 except there is no specific provision for security records. Dep't. must provide information within 5 working days of request.

IGP

Board may secure "documentary" evidence during an inquiry. Refusal by an agency to comply with a request by the board for disclosure of a record may be construed by the board in favor of the grievant.

FREEDOM FROM RESTRAINT; RIGHT TO COUNSEL—SEC. 692(5)—Continued

2. Any such document or information requested must be promptly provided by the Dep't. 3. A rating or reviewing officer must be informed by the board if any of his reports are being examined.		

GRIEVANT'S ACCESS TO DOCUMENTS—SEC. 692(7)

S. 3526	*S. 2659*	*IGP*
The Dep't. must promptly furnish the grievant and such document or information (other than any security record or the personnel or security records of any other officer or employee of the government) which the grievant requests to substantiate his grievance and which the board determines is relevant to the proceeding.	Much stronger: there is no specific exclusion of security records; no approval is needed from the board; and a 15-day time limit is imposed on the State Dep't. for furnishing information.	Weaker: Grievant and representative have access to records as are deemed necessary by the board. Classified and privileged material are not available to grievant without approval of board.

SECURITY CLEARANCE—SEC. 692(8)

S. 3526	*S. 2659*	*IGP*
The Dep't. must expedite any security clearance whenever necessary to insure a fair and prompt investigation and hearing.	Same as S. 3526 except purpose is to allow any member of the board, the employee, his counsel, or any witnesses to have access to classified material.	No such provision because security material is not available.

RULES OF EVIDENCE—SEC. 692(9)

S. 3526	*S. 2659*	*IGP*
The board may consider any relevant evidence or information coming to its attention.	Same as S. 3526 but more explicit: The board is not limited to court rules of evidence; cases of doubt are resolved in favor of admissibility; evidence does not have to be formally presented to the board (allows hearsay); and testimony may be received in the form of sworn affidavits or in the form of unsworn statements.	The board is not limited by legal rules of evidence. However, it must maintain reasonable bounds of competency, relevancy and materiality and have the discretion to exclude any testimony or other evidence which is unduly cumulative.

SUSPENSION OF DEPARTMENTAL ACTION—SEC. 692(10)

S. 3526	*S. 2659*	*IGP*
If the board determines that (A) the Dep't. is considering any action (including but not limited to, separation or termination) which is related to, or may affect, a grievance pending before the board, and (B) the action should be suspended, the Dep't. shall suspend such action until the board has ruled upon such grievance.	Same as S. 3526.	No such provision.

RULING BY THE BOARD—SEC. (11)

S. 3526	*S. 2659*	*IGP*
1. If the board determines that the grievance is meritorious in cases not relating to promotion, assignment, or selection out, then its recommendations are directed to the Secretary and are final and binding upon all parties. 2. If the board determines that the grievance is meritorious in any case relating to promotion, assignment, or selection out, then its recommendations are transmitted to the Secretary and are final and binding on all parties except that the Secretary may reject any such recommendation only if he determines that the foreign policy or security of the U.S. will be adversely affected. Any such determination must be fully documented and signed by the Secretary with a copy furnished the grievant. 3. No enumeration of possible remedies. 4. After review of the proceedings and the recommendations of the board, the Secretary must return the entire record of the case to the board for its retention. 5. No officer or employee of the Dep't participating in a proceeding on behalf of the Dep't. can prepare, advise, or otherwise participate in, any review or determination of the Secretary with respect to that proceeding. 6. There is no mention of minimum decisionmaking vote requirements.	1. If the board determines that a complaint relating to a grievance is meritorious, then it directs the Secretary to grant such relief as it deems proper under the circumstances. 2. With respect to complaints of adverse personnel actions, the board forwards the entire investigation records and its recommendations to the Secretary. The Secretary, within 30 days of the submission of a case relating to an adverse personnel action, must either accept the board's recommendations, return the case to the board for further investigation or reject the board's recommendations as detrimental to the foreign policy or security interests of the U.S. 3. Recommendations resolving complaints of adverse personnel actions may include extending the employee's time-in-class; the immediate promotion of an employee; removing any part of an employee's personnel record; and any other recommendations. 4. In any event, the board retains the record of the case. 5. No such provision. 6. A decision, finding, or recommendation of the board must be made only upon a vote of at least 2 members.	1. Following an investigation or hearing the board must make written findings, decisions, and/or recommendations. 2. In deciding grievances, the board has the authority to alter an employee's personnel record, to order a reversal of an administrative decision denying allowances or other compensation, to extend an employee's time-in-class, to order the reconsideration by a subsequent selection board of an employee who has ceased to be eligible for promotion or who has been involuntarily retired, or to order the reinstatement with back pay of an employee. 3. The board can only recommend to the head of an agency promotion, reassignment, or disciplinary action. Within 30 days, the head of the agency must make a written decision. 4. The record of the case is retained by the board. 5. No such provision. 6. Majority vote of members present is considered action by the board.

NOTATIONS—SEC. 692 (12)

S. 3526	*S. 2659*	*IGP*
The board has the authority to insure that no copy of the Secretary's decision to reject a board's recommendation, no notation of the failure of the board to find for the grievant, and no notation that a proceeding has been held, will be entered in the employee's per-	Basically same as S. 3526.	No notation of an employee's participation in a grievance is recorded in his personnel file except in accordance with the orders or recommendations of the board. There is no mention of notations in other Dep't. records.

SUSPENSION OF DEPARTMENTAL ACTION—SEC. 692(10)—Continued

NOTATIONS—SEC. 692(12)

sonnel record or any other Dep't. records, other than the board's records.

RECONSIDERATION—SEC. 692 (13)

S. 3526	*S. 2659*	*IGP*
A grievant whose grievance is found not to be meritorious can obtain reconsideration only upon presenting newly discovered relevant evidence and then only upon approval of the board.	Same as 3526.	No such provision.

ENFORCEMENT—SEC. 692 (14)

S. 3526	*S. 2659*	*IGP*
The board must promptly notify the Secretary, with recommendations for appropriate disciplinary action, of any contravention by any person of any of the rights, remedies or procedures contained in this part or in regulations promulgated under this part.	Same as S. 3526 except there is no mention of regulations promulgated.	The board may recommend to the agency's head any disciplinary action. (Does this include discipline for failure to execute remedies?)

PREVIOUS FILING OF GRIEVANCE—SEC. 693

S. 3526	*S. 2659*	*IGP*
An employee can file a grievance under this part only if he has not formally requested that his grievance be considered under provisions other than this part.	No such provision.	No such provision

JUDICIAL REVIEW—SEC. 694

S. 3526	*S. 2659*	*IGP*
Regulations promulgated or revised, and actions of the Secretary or board pursuant to this legislation, may be judicially reviewed in accordance with the Administrative Procedures Act. The Secretary must promulgate and place into effect the regulations provided by section 692, establish the board, and appoint one member of the board as authorized, within 90 days of enactment of this act.	No mention of judicial review.	No mention of judicial review.

THE LOCKHEED BLACKOUT

Mr. PROXMIRE. Mr. President, as those who have been following the case know, the Emergency Loan Guarantee Board, which has jurisdiction over the Lockheed loan guarantee and Mr. Connally in particular, have denied the Comptroller General of the United States access to the records of the Board.

This is a mistaken situation and an intolerable one. The GAO has general authority dating back to its inception to examine the records of the executive branch of the Government. That authority is granted by law. In every case where Congress has desired that an agency be exempt, it has specifically written that exemption into the law.

Nonetheless, Mr. Connally and the Board have both refused access to the GAO and have refused to appear before the Senate Banking Committee on the issue.

The St. Louis Post-Dispatch in an excellent editorial has condemned this action. It was not only a bad thing to give Lockheed the loan guarantee; it is even worse for public actions to be kept secret. It raises the question, What are they trying to hide?

Mr. President, I ask unanimous consent that the Post-Dispatch editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE LOCKHEED BLACKOUT

It was poor public policy last year for Congress to approve a $250,000,000-loan guarantee to keep the Lockheed Aircraft Corp. solvent, but that mistake having been made it is now inexcusable for Treasury Secretary Connally to deny to General Accounting Office access to certain records pertaining to the deal. By his refusal, while acting in his capacity as chairman of the Emergency Loan Guarantee Board, Mr. Connally has invoked what appears to be a bizarre interpretation of executive privilege, a tactic usually employed by a President to prevent Congress from questioning an assistant. In this case. Mr. Connally is attempting to establish a precedent for an executive agency to deny Congress access to its records.

Mr. Connally has written Comptroller General Staats that it "was not the intent of Congress that the decisions of the board be reviewed by the GAO." The facts, however, are quite the contrary. When Congress passed legislation approving the guarantee, it stipulated that a business receiving such assistance had to provide full information about its condition, a plan for spending the loan and an accounting of such expenditures. These matters clearly are under the purview of the GAO, which has almost unlimited powers to check on Government financial operations. The U.S. Government Organization Manual says the Comptroller is "authorized by law to examine any books, documents, papers, or records—except those pertaining to certain funds for purposes of intercourse or treaty with foreign nations—of any department or establishment."

Lockheed was a model of mismanagement when the Government bailed it out. The public, now that it is underwriting Lockheed, has every right to know whether funds still are being wasted. Beyond this, the Executive must not be permitted to withhold from Congress information on financial arrangements which themselves are the result of legislative authorization.

VIETNAM

Mr. BEALL. Mr. President, nearly 1 month ago, the Republic of Vietnam fell victim to a brutal and unprovoked invasion by the North Vietnamese troops, backed in large measure by other Communist nations. President Nixon, as he warned on numerous occasions, has utilized American air and naval forces with the express purpose of protecting our remaining forces and insuring that the South Vietnamese have at least a reasonable chance to preserve their territorial and administrative integrity as a nation.

Let us look at the record. By July 1, the President will have lowered our troop level from 549,000 men—when he came into office—to 49,000 men, a reduction of 90 percent during the Nixon administration. Our Government has repeatedly offered the most generous terms to the Communists at the peace table in Paris, but has yet to receive more than a barrage of worthless propaganda. Throughout, the South Vietnamese have enormously increased their capability to defend themselves.

There are those in this country who condemn our response to this invasion. Strangely enough, however, they fail to condemn the act that precipitated our defensive action. One editorial which places the current situation in, I think, proper perspective was printed in the Baltimore News-American on April 18, 1972. I ask unanimous consent that it be printed in the RECORD, so that my colleagues might read it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BIG LIE

Hitler has been widely credited with inventing the Big Lie, which means selling an outrageous untruth so vigorously that many people come to believe it. But Hitler didn't invent it.

Long before Hitler, Communist propagandists and their stooges were using the same technique. In their case it usually amounted to blaming an enemy for doing what they themselves already had done.

Today the Communists and their stooges—and their dupes—are still at it. And anyone who questions the remarkable efficiency of this topsy-turvy propaganda ploy needs only to consider its effectiveness in the current Vietnam crisis.

What are the facts? They are that President Nixon, for over three years, has been trying to wind down our participation in the conflict, bringing our troops home while arming our allies to defend themselves.

The facts are that the program was working, that peace and security for South Vietnam was within view. Then the aggressors from the North, armed by Moscow and Peking, suddenly launched their continuing mass invasion across a supposedly demilitarized zone.

What is the resultant propaganda? It is that our subsequent bombing on Hanoi and Haiphong, ordered by Mr. Nixon to protect our residual troops and to aid Saigon, constitutes a criminal escalation of hostilities which could spoil any friendly new accommodations with the Communist world.

The renewed fighting, in effect, becomes all our fault. Hanoi, Peking and Moscow all cry for us to stop the bombing, calling us war criminals in so many words. Incredibly, at home, leading senators and even Democratic aspirants to the White House take up the same refrain.

Now it really is incredible, this refrain from our doves—even though it is hardly new. For years they have instantly echoed and encouraged every grotesque inversion of truth by the Communist propaganda machine. In Washington yesterday, as a continuing example, Sen. J. William Fulbright had this pronouncement to make on our renewed bombings:

"I, for one, cannot possibly understand what consideration warranted these drastic measures."

Sen. Fulbright and his ilk may really not comprehend that the only reasonable response to outrageous assault is counter-attack, and that is the kindest observation possible to make about them.

The Communists, on the other hand, comprehend well that our greatest weakness lies in the foolishness of those who swallow and promote their Big Lies—such as that it is we, and not they, who are responsible for the latest explosion of hostilities in Vietnam.

THE NEW SOUTH

Mr. HARRIS. Mr. President, in the wake of the results of the Florida Democratic Primary we were overwhelmed by the contradictory analyses of scores of political commentators. And once again, many of these commentators chose to write about the so-called New South.

Richard Pettigrew, the progressive Speaker of the House of the Florida Legislature has a better perspective than most of the South of today. And Mr. Pettigrew, unlike so many others, does not see the Wallace vote as a regression on the part of Southern bigots. He says:

> Granted that at least half of the Wallace vote remembered only one thing: George Wallace standing in the schoolhouse door. But the other half of Wallace's voters also see something else. In Florida, he was the only guy who they thought had the guts to stand up to the "system."

Mr. President, Mr. Pettigrew's remarks on the New South were made in a speech at Florida State University, and reprinted in the St. Petersburg Times on April 23. He explains very clearly why voters in Florida—and elsewhere—are seeking to send a message of protest to the Federal-economic complex which dominates America. In Florida, the voters chose to send that message through George Wallace. In other States, they have chosen other candidates willing to take on the political-economic power structure.

Mr. Pettigrew's article should make interesting reading for any of my colleagues interested in what is proving to be a vital new populist movement in America. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NEW SOUTH: ANOTHER POPULIST MOVEMENT?

(By Richard A. Pettigrew)

Ritually every four years it seems that we are afflicted with a batch of articles in the national news media about the New South.

And this phrase "The New South" means a lot of things to a lot of people.

To some it means economic resurgence in the wake of the Civil War.

To others it means the racial progress of the last decade.

There are many new Souths. And every year or so they keep getting newer and newer. And the pavement widens in cities all over the South and the neon-lit hamburger stands and mobile home lots line the entrances and exits to our cities. And we have yellow school buses taking black and white children—peacefully for the most part—to the same schools.

Granted, much of what we hail as progress has been thrust upon us. But we can't doubt that there is a New South and that every year, year after year, it just naturally keeps on getting newer.

Yet in all this picture of our national homogenization, I think we New Southerners should reassess the New South myth—should remember where this myth came from and separate ourselves from the New South proclaimed by Henry Grady and his followers in the late 19th century.

And I think we should remember that the New South of Grady and those whom scholars now call the "New South Redeemers" is still very operative as a theory of government in much of the South today.

In essence that old "New South" was a call for industrialization in the wake of the Civil War and Reconstruction.

It offered the prospect of cheap white labor. And although it took many years following reconstruction to bring the Deep South out of abject poverty, it cannot be argued that some industrialization and a "mixed economy" was essential to the well being of every southern state.

But it was done at a great cost—a cost that still has southern states as the bottom nine in almost every measure of economic position. And it was done at great expense in pride and human misery. To attract industry we prostrated ourselves before the economic barons of the North. We promised no taxes or low taxes on industry. We promised low wages. We made certain that Workmen's Comp. benefits and unemployment benefits are among the lowest in the nation. We strangled unionization and made certain that management had no interferences from employes.

And, perhaps as the crowning insult, we guaranteed the economic interests almost complete control of all governmental decisions. They became the regulated and the regulators.

In spite of the original proclamations of those like Grady who began the New South movement in the 9th century, the myth was used to hold down the populist, agrarian reformers of the 1880s and 1890s.

Many people watching the heavy vote for a tax reformer like Reubin Askew and witnessing the even heavier vote in favor of the corporate tax last November were certain that an extremely different "New South" was arising.

This newest New South would reject the industry-first, progress-at-any-price vision of the original New South Redeemers and begin what some decried as a neo-populism that would begin bringing the working wage of the average working man more in line with the national average.

And so these newest prophets of the newest New South were shocked to see the vote for George Wallace in the Florida primary. And they said that any demagogue who was willing to wave the bloody shirt of race could still attract southern whites away from a populist, reform-oriented program.

Such prophets are short-sighted. Granted that at least half of the Wallace vote remembered only one thing: George Wallace standing in the schoolhouse door. But the other half of Wallace's voters also see something else. In Florida, he was the only guy who they thought had the guts to stand up to the "system." A system which to many is oppressive and unresponsive.

There is no doubt in my mind that Gov. Askew could take his corporate tax question to the voters and today emerge with almost the same vote of the people.

It is too easy for many of us to forget that if the Wallace battle cry was busing, it was also tax reform. It was in reality a vote against "Them" as in the slogan "Send Them a Message."

Who is "Them"?

The Federal Government? Yes. But more than that. "Them" is the whole federal-economic complex. "Them" is ITT and the dropping of tax cases by the Justice Department. "Them" is the industrial polluters. "Them" is the millionaires who don't pay taxes.

What has happened is that through the many inadequacies of Congress, the whole nation has been turned into a special interest haven—a tax haven, a conglomerate haven, a haven for those who would rather pay a few thousand dollars in campaign contributions than millions in taxes or benefits to people.

The New South of special interest favors is no longer confined to just the South. All of America has been turned into the New South of the late 19th century.

So what is the "message" we are sending "Them" from this year's newest New South?

The message of the newest New South is that we have had enough of the special interest favoritism of the old "New South."

If poor southerners of both races have been oppressed by the New South myth, it is also apparent that here in today's New South we are acutely aware of the oppression of a federal government which is firmly in the hands of bureaucrats who dance to their own tune.

The vote for George Wallace is the expression of an individualistic cussedness, a go-to-hell ruggedness that is typically American but that finds itself in the extreme individualism of the Southerner.

It is an individualism that has often resulted in violence but as W. J. Cash said so eloquently in his classic book "The Mind of the South":

"But if I show you Southern individualism as eventuating in violence, if I imply that the pride which was its root was in some sense puerile, I am very far from suggesting that it ought to be held in contempt. For it reached its ultimate incarnation in the Confederate soldier. To the end of his service this soldier could not be disciplined."

There is not a little romanticism in Cash's description of the Southerner as individualist—as rebel.

And yet—as he says—there is truth.

It is the truth of the same grandsons of those men who did swing up that hill at Gettysburg. It is the truth of those Florida citizens who voted "NO" for President. It is the truth of the people who voted against the lobbyists and for the corporate profit tax. It is the truth of all of us—black and white—from the South that no man or government can cross us and get away with it. It is the same cry that began in this country when some rowdy colonists dumped tea into Boston Harbor. It is a cry that was emblazoned on a flag with a coiled snake which proclaimed, "Don't tread on me".

There has been a tendency of progressive Southerners to look at our northern counterparts and shrug our shoulders and to apologize for the Wallace vote of March.

There is no need to apologize. Southern progressives are not strangers to the futile gesture. Southern progressives have been charging up hills and getting shot down ritually for decades.

Southern progressives are perhaps the true embodiment of the same Confederate soldier who charged with Pickett into the mouth of the cannonfire—and got bloody—and took their wounded and retreated down the hill again.

But unlike Pickett's men we don't seem to learn our lessons. Because every couple of years, Newsweek or Time will discover a new set of progressive leaders in the South and will proclaim yet another "New South" and a fresh corps of young idealists will charge up the hill again.

And each time they get stronger. Sometimes we even manage to hold the crest of the hill before the counterattack by the economic interests who have for 100 years relied on racial intolerance to maintain their economic status—those who have everything to gain by keeping the low income black and white fighting each other—instead of the people who are taking advantage of both of them.

But if you think you are confused about what the South is and has been, think of those who recently visited Florida to follow the presidential primary. From all over America they came—the New York Times, the Washington Post, the Los Angeles Times, CBS, NBC, ABC, Newsweek—a month ago it seemed like an endless procession of newswriters and prognosticators all trying to get the pulse of Florida.

They spent a lot of time with Reubin Askew and many state legislators (I don't think many met Sen. William Barrow) and many of them began to think that Florida had really done an about face. Stories about progressive Florida and its progressive leadership were everywhere. And then the shock.

One is tempted to agree with Arthur Schlesinger when he concluded that "politics is random." And in many respects it must be. It could be, incidentally, that only part of Florida is really part of the South.

In Florida we have a real Republican Party, for instance, not just an assemblage of Strom Thurmond Democrats. And we must recognize that Central and South Florida did not for all practical purposes exist in 1861—and they now represent over two-thirds of the population of this state.

In the last few years Florida has changed. Whether it is a change in culture and politics or just a temporary change in leadership, one can only guess.

But look what has been done here in the last few years. While we have weathered the storms of latter day John's Committee—the campus inquisition—we have brought forward a new state constitution and a radically changed governmental structure. We have enacted sweeping tax reforms which have set the special interest lobbyists back 100 years. We have moved insurance reform and divorce reform to lead the nation. And perhaps the most important thing we have done—we have moved aggressive and innovative environmental reform which may save the quality of living in this state.

This, I think, is what is the newest "New South" is all about. It is a cry of rebellion. Not the rebellion of Confederate slave holders. But the rebellion of black and white wage earners and small businessmen who want to recapture their state governments and their federal government so that it will be more responsive to them.

The crities are unclear and muddied now. But the focus is becoming clearer with each passing day.

The votes for Wallace in Florida were votes for change. The votes for Wallace and McGovern in Wisconsin were votes for change.

I think the New South already sees the beginning of a reconciliation of the races. But it is also the beginning of a new set of battles. We will see defeats and setbacks. But we will not, I feel, become leaders of another lost cause.

Because the aim of this New South is not just a New South, but a New America. And I think this time—because our cause is just—we will win.

QUEEN ISABELLA DAY

Mr. PROXMIRE. Mr. President, the Governor of the great State of Wisconsin, Patrick J. Lucey, recently issued a proclamation declaring April 22, 1972, Queen Isabella Day.

It is only fitting that we honor this great Spanish monarch, Queen of Castile and wife of Ferdinand of Aragon. For it was her vision which led to the discovery of the New World by Columbus in 1492. Without her encouragement that voyage which opened North and South America to settlement and development by European nations might never have left its Spanish port.

Not only did Queen Isabella spur on the creation of a new society in the Western Hemisphere, but her keen intellect and determination brought great prosperity to her own Spain. Her leadership and foresight serves as an example for all of us.

Therefore I join with Governor Lucey in commemorating the five hundred and twenty-first anniversary of the birth of Queen Isabella which took place on April 22, and in urging those who value the lessons of history to examine once again the pages of glory marked by the Queen of Castile.

I ask unanimous consent to have the Governor's proclamation be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

A PROCLAMATION

Whereas, the great discovery of the New World in 1492 was made possible through support from Queen Isabella (1451–1504), Queen of Castile, wife of Ferdinand of Aragon; and

Whereas, that voyage opened North and South America to settlement and development by European nations, laying the foundations for contemporary American societies; and

Whereas, Spain prospered under Queen Isabella's clear intellect and resolute energy; and

Whereas, the five hundred and twenty-first anniversary of the birth of Queen Isabella will be observed on April 22, 1972.

Now, therefore, I, Patrick J. Lucey, Governor of the State of Wisconsin, do hereby proclaim Saturday, April 22, 1972, as "Queen Isabella Day" in Wisconsin and urge all citizens to reacquaint themselves with the earliest history of our Nation by honoring this Spanish Queen who was instrumental in making the voyage to the New World a reality.

In testimony whereof, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison, this fifteenth day of March in the year of our Lord one thousand nine hundred and seventy-two.

PATRICK J. LUCEY, *Governor.*

THE F-14 CONTRACT

Mr. EAGLETON. Mr. President, a little over 3 years ago the Navy announced the awarding of its lucrative F–14 fighter plane contract to Grumman Aircraft Corp., one of five aerospace firms competing for it. It has now been established that at least one of these competitors, the McDonnell Douglas Corp. of St. Louis, submitted a lower bid than did Grumman. To date, the Navy has offered the American taxpayer and Grumman's competitors no explanation for this apparent abuse of the competitive process.

The work of the Grumman Corp. on the F–14 has been characterized by numerous technical blunders and an incredible amount of inefficiency. Huge overruns have been reported and the cost of the F–14 is now an astronomical $16.8 million per unit and rising.

The normal Pentagon rationale for failing to award a contract to the low bidder is to claim that the higher bidder had demonstrated superior technical capability. Experience with the F–14 to date shows clearly that such a claim in the case of Grumman was, at a minimum, a gross exaggeration.

Now, some 3 years later, the shady details of an illicit relationship between the Navy and Grumman Corp. have come to light. Jack Anderson, in a column entitled, "The F–14 Story: An Inside Deal," may have provided an interesting insight into the circumstances of the Navy's decision to award the F–14 contract to Grumman.

If the allegations contained in the Anderson story are true, Grumman's competitors and the American public are the victims of collusion.

Anderson alleges that Capt. Joseph Rees, the former head of the Naval Air Systems Command and the Navy's F–111B program, had awarded a secret contract to Grumman in 1964 to redesign the F–111B, an equally unsuccessful predecessor of the F–14 which had been considered unacceptable by the Navy for carrier duty. With this inside knowledge, Grumman assembled a team of engineers to reconstruct the F–111B and propose a version that would be acceptable to the Navy. Captain Rees soon left the Navy and joined the Grumman Corp., where he completed the deal with maximum advantage to himself and Grumman, according to Anderson.

If these allegations are true, the 1969 competition for the F–14 contract was nothing more than a clever charade. Grumman had even more of an advantage than the proverbial "inside track." The race was over before the opening gun and Grumman had already won.

Mr. President, the Anderson column contains very serious charges of collusion between the Navy and Grumman. These charges should be thoroughly investigated and answered before this body appropriates additional funds for the continuation of the F-14 program.

I have transmitted today a letter to the Secretary of the Navy requesting the Navy's justification for awarding the F-14 contract to Grumman over its competitors. I have also requested a response to some of the specific allegations contained in the Anderson article. Perhaps the reply will at least provide the Navy rationale for a very suspicious set of circumstances.

Mr. President, I ask unanimous consent that the article by Mr. Anderson, which appeared in the April 30, 1972, edition of the Washington Post, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE F-14 STORY: AN INSIDE DEAL

(By Jack Anderson)

Valery Markelow, a Russian translator at the United Nations, made an unobstrusive contact with an American engineer, and intelligence officers in both nations leaned forward in anticipation.

The engineer worked for the Grumman Aerospace Corp. He had been involved in the development of the F-14 fighter, which the Navy used to call the plane of the future.

While the Russian agent curried the engineer's favor, the engineer regularly reported on his meetings to the FBI. At last the Russian made his anticipated pitch: He wanted the plans for the plane. The transfer of blueprints was closely observed by J. Edgar Hoover's minions a few weeks ago, and the thwarted spy was hauled off to await trial. Unhappily for him, the translator's job did not give him diplomatic immunity.

Even if the Russian had succeeded in sending the blueprints back to Moscow, the Kremlin would not have been able to unravel the real secret of the F-14 Gumman and the Navy had worked hard to keep it quiet—from the American people more than the Kremlin.

The truth is that the whole initial development of the F-14 was an inside deal, contrived to enhance Grumman's profits and polish the Navy brass. Along the way, a number of retired Navy officers enriched themselves, and the American taxpayers took another beating.

Historically, Grumman has had a virtual monopoly on manufacturing important naval aircraft and, not accidentally, has been a retirement home for old naval aviators with the right connections inside the Pentagon.

Grumman wrangled the subcontract to build the carrier version of the controversial, swept-wing F-111. The company, therefore, was even more aware than the public of that particular plane's failings.

Even after three drastic weight reduction programs, the F-111B was considered too heavy for carrier duty. The plane's primary mission was to carry four 1,000-pound Phoenix missiles. The F-111B, therefore, had to be big. But it also had to be light enough to be launched from carriers.

This was the situation when Grumman's old Navy pilots began chatting with their comrades still on active duty. They soon detected sympathetic vibrations in Capt. Joseph Rees, the Naval Air Systems Command's program manager for the F-111B.

As a result of these conversations, Capt. Rees awarded a secret $1,750,000 contract to Grumman in 1964 to redesign the F-111B. Grumman quietly went ahead with a study.

To save weight, the study advocated removal of features the Navy had originally demanded, such as a crew module designed to save the two pilots at any altitude and at speeds from zero to Mach 2.5.

Thanks to its inside knowledge that the Navy really loathed the F-111B, Grumman secretly assembled a team that cannibalized the plane and reconstructed it into an aircraft the Navy would accept.

Then suddenly Capt. Rees, the former F-111B program manager, left the Navy to join his many friends at Grumman. He was hired to head development of the new plane that he, in his Navy role, had commissioned at a cost of $1,750,000 to the taxpayers.

In April, 1968, the Senate Armed Services Committee voted to stop funds for further work on the F-111B, and gave the Navy $287 million as down payment to develop a substitute plane.

In the beginning, the Navy insisted its new plane should be smaller, lighter and more maneuverable than the F-111B, but should retain its engines, variable swept wings and Phoenix missile system. With amazing speed, thanks to its inside track, Grumman was able to offer an "unsolicited" proposal for such a plane.

Other aerospace firms demanded an opportunity to bid on the program. Their hasty proposals lacked Grumman's incisiveness, but nevertheless provided window dressing. Soon, Grumman was announced as winner of the competition.

While such an incestuous relationship accomplished a great deal for Grumman and some former Navy officers, it did little for the Navy or the nation.

The first F-14 off the production line—a fixed-wing plane—crashed on its second flight. The plane was plagued with weight and performance problems, and its cost has gone up astronomically.

THE CONSUMER PROTECTION ACT

Mr. BENNETT. Mr. President, although I realize that it may be some time before the Senate begins its final consideration of the Consumer Protection Act (S. 1777), a number of questions have been raised that I feel should be brought to the attention of the Senate.

Recent testimony before the Joint Committee on Atomic Energy brought out the fact that there are an increasing number of projects that are being delayed as a result of interventions and court cases instigated by environmental advocates.

While no one seriously questions the need for adequate safeguards in any project involving atomic energy or the need to consider possible effects on the environment, it is becoming increasingly evident that the overzealous activities of some environmentalists are actually doing more harm than good. It is evident that neither the economy or the average American citizen is benefited by having much needed construction held up for months in the courts.

With these experiences still fresh in my memory, I am concerned that in passing consumer protection legislation we not create a vehicle that will be used to involve business and Government agencies in an endless string of court cases and needless delays, as has been done in a number of environmental disputes.

As a means of investigating the possible effects of S. 1777 on the activities of Government agencies I contacted several of them. Typical of the response that I received was the one from the Atomic Energy Commission. Specifically, I requested that they list for me—without obligation—their activities that would become subject to outside intrusion or court appeal under the Consumer Protection Agency bills.

In their response the AEC reported that under this legislation intrusion by consumer groups would be possible in not only formalized AEC proceedings but also in such informal activities as responding to congressional inquiries, drafting and submitting proposed legislation, and other similar activities.

The obvious question arises as to whether or not this is the intent of Congress. If it is not, now is the time for us to be giving consideration to these matters rather than waiting until the legislation is in its final stages.

Mr. President, I ask unanimous consent that the letter that I received from the AEC be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ATOMIC ENERGY COMMISSION,
Washington, D.C., March 17, 1972.

Hon. WALLACE F. BENNETT,
U.S. Senate.

DEAR SENATOR BENNETT: The Atomic Energy Commission is pleased to reply to your letter of January 20, 1972, requesting certain information in connection with two similar bills, H.R. 10835 and S. 1177[1] each styled "Consumer Protection Act of 1971," both of which are now being considered by the Senate. In particular, you have asked for "a list . . . of the formal and informal matters or proceedings that might be subject to the [proposed] Consumer Protection Agency's intervention or participation under the House-passed bill [H.R. 10835] and the Senate version [S. 1177]".

Under both the House bill (Section 204) and the Senate bill (Section 203), the proposed Consumer Protection Agency[2] (hereafter called the "Agency" in this letter) would represent the interests of consumers before Federal agencies and in Federal courts as to matters which would "substantially affect the interest of consumers." The House bill would grant the Agency the authority to petition other agencies to initiate proceedings in such matters,[3] and it provides (Sections 204, 304) that the Agency would have the authority to intervene as a matter of right in any rule making or adjudicatory proceeding as defined in the Administrative Procedure Act (5 U.S.C. 551). As your letter notes, the comparable provision of the Senate bill (Section 203) goes further in that it provides for intervention not only in rule making and adjudicatory proceedings under the Administrative Procedure Act, with a right of judicial review of the denial of intervention as in the House bill, but also extends to "any matter . . . not involving the internal operations of such [other] Agency."

Under S. 1177 the CPA could intervene as a matter of right in "any matter or proceeding not involving the internal operations of such agency." By "proceeding" we take the bill to refer to agency "proceeding" as defined in 5 U.S.C. § 551(12), and therefore as covering both formal and informal rule making, adjudication, and licensing. We understand the exclusion of "internal operations" as covering such things as matters of internal management, routing of papers, assignment of duties, and internal delegations of authorities. AEC proceedings not involving internal operations would include the following:

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[1] H.R. 10835, introduced on September 23, 1971, by Rep. Holifield (and 10 co-sponsors), was reported by the House Government Operations Committee on September 30 (H. Rept. 92-542), and passed by the House on October 14. S. 1177 introduced on March 10, 1971, by Senator Ribicoff (with Sen. Javits), is pending before the Senate Government Operations Committee.

[2] The head of the CPA is designated "Administrator" in the House bill, and "Director" in the Senate version.

[3] If the cognizant agency refused, upon petition of the CPA, to initiate a proceeding, the CPA could seek judicial review of such refusal under the House bill. The Senate version provides for Presidential decision in such a case.

1. Proceedings, including hearings, for the issuance of construction permits or operating licenses for nuclear power reactors, testing reactors, research reactors, and fuel reprocessing plants.
2. Proceedings, including hearings, where appropriate, for the issuance of licenses for possession and use of special nuclear material, source material, and byproduct material. This category would include licenses for the disposal of waste radioactive material, the licensed operation of radioactive waste burial grounds, some licenses to manufacture products containing radioactive material, and some licenses for shipment of such radioactive material.
3. Proceedings for the issuance or amendment of regulations pertaining to the issuance of licenses, or the conduct of licensed activities, included in categories 1. or 2. above.
4. Proceedings for the determination of reasonable royalty fees for patents affected by a public interest, including hearings when requested.

In addition, the following more informal matters may be covered:

1. Contractor selection actions.
2. Contract awards.
3. Assignments of a given portion of research and development to a particular organization.
4. Establishment of AEC prices for special nuclear materials; toll enrichment, etc.

The use of the term "matter" in addition to "proceeding" suggests that something other than formal and informal rule making, adjudication, and licensing may be intended to be covered by S. 1177. If this is the case, the bill would appear to include matters not commonly regarded as any "final disposition" as the term is defined in 5 U.S.C. § 551(6) and to include such matters as the following:

1. Responding to public inquiries and inquiries from members of Congress.
2. Inspections of licensed facilities.
3. Preparation for Congressional hearings and drafting and submission of legislation.
4. Deliberations with respect to contract negotiations and positions to be taken in connection therewith.
5. Telephone conversations between AEC staff and outsiders concerning any particular subject which might be under AEC consideration.

Please contact me if I can be of any further assistance.

Sincerely,

L. MANNING MUNTZING,
Director of Regulation.

J. EDGAR HOOVER

Mr. BUCKLEY. Mr. President, the death of J. Edgar Hoover is a great loss to all who love freedom. He brought to the Federal Bureau of Investigation not only superbly professional talents, but an integrity and respect for law and justice that have made the initials "FBI" synonymous with the highest standards of law enforcement. Among his most important contributions to our Nation was his forthright and eloquent defense of the principles underlying our national life against the attacks, both open and clandestine, of those who would subvert and ultimately destroy those principles. He early recognized the evil of modern totalitarianism and his superb efforts to thwart both the Nazi and Communist attempts at domestic subversion put all Americans in his debt. Today, perhaps more than ever before, our Nation needs the kind of dedication, integrity, and love of country that marked J. Edgar Hoover's life. His death, then, not only saddens all Americans but reminds us how profoundly we will miss his counsel and his wisdom.

VIETNAMESE ORPHAN ACT

Mr. TOWER. Mr. President, I am pleased to join my distinguished colleague from the State of Michigan (Mr. GRIFFIN) in cosponsoring a measure which symbolizes the best of our American instincts—the willingness to open our hearts and share our compassion with those less fortunate than we. I speak of the Vietnamese Orphan Act.

As we approach what we hope are the final hours of a very difficult war, it is fitting that we pause to consider what we can do as a nation—what we can do as individual Americans—in preparation for that peace we have fought so long to achieve.

We have spoken often of "a full generation of peace." Approximately 700,000 children, orphaned or abandoned in South Vietnam as a result of this tragic war in Southeast Asia may never fully appreciate this peace, however, unless we take steps now to help them rebuild lives marred by the sacrifices their parents have made for their nation's freedom. Just as we in the United States should not allow the freedom of an ally—a sovereign nation—to be stripped away by the communist aggressors in Hanoi, we should not now stand by ignoring the tragic innocent victims. These 700,000 children must be given an opportunity to experience and enjoy the peace for which they have suffered so much.

While the South Vietnamese Government is doing everything possible to provide care for these children, its resources, drained by the incredible cost of war, are insufficient to meet the task ahead. Private organizations in the United States and South Vietnam which have attempted to tackle this problem have met almost insurmountable roadblocks. We, in this land of abundance, enjoying the highest standard of living in the world, must not allow these obstacles to prevent us from charting a humanitarian course and relieving the misery of these children.

Mr. President, I would urge my colleagues on the Foreign Relations Committee to give their careful consideration to S. 3534, the Vietnamese Orphan Act, which would facilitate the adoption by U.S. citizens, of Vietnamese children who have been orphaned or abandoned as a result of the war in Southeast Asia. It is a measure which would extend and enforce our American tradition of helping those people throughout the world who do not share our abundance and our good fortune.

This bill would provide for financial assistance to public or private nonprofit international welfare organizations and institutions to assist them in giving legal and technical assistance to prospective foster parents. It would facilitate the transportation of these children to the United States. Further, it would authorize the President to act in conjunction with the South Vietnamese Government in providing for the health, housing, and educational needs of these orphans.

As the foster parent of a young Chinese boy living in Hong Kong, I know how much it can mean to a young child to be given a fair chance to make his own way in this world. I would like to see the helpless, vulnerable victims of this very long war be given the same chance my foster son, Ng Chung-tak, has had since I found him in 1965—a refugee of the Communist takeover of mainland China.

Mr. President, while the war in Southeast Asia has been made a political issue by some, this measure transcends partisan politics. It is a step we can all embrace. I urge its expeditious and favorable consideration.

J. EDGAR HOOVER

Mr. TOWER. Mr. President, FBI Director Hoover was, on many occasions, a most controversial figure, but his devotion to duty and his love of country were unexcelled. His diligence has been responsible for the apprehension of many of the worst public enemies of this Nation. His efforts brought the FBI from a fledgling operation, marked by scandal in the early 1920's, to an efficient, modern, and effective force against crime, bringing to bear the latest scientific techniques.

Mr. Hoover was criticized during his lifetime by those who claimed he was overzealous, those who resented his rigid regulations and those who claimed he was too old to do the job. These criticisms now serve as a monument to his determination to do an excellent job in behalf of the public interest. How much better to be criticized for zeal and determination than for lethargy which would allow criminals to roam free and which would let scandal flourish.

Mr. Hoover served in the FBI since 1924. His 49-year career was extended only through a Presidential waiver when he turned 70 years old.

He was both feared and revered. Throughout his career, he rendered most valuable public service. Replacing him will be difficult, but I urge the President to choose a successor with the same zeal, with the same determination, with the same love of country, as was characteristic of J. Edgar Hoover.

Mr. President, I would like at this time to join my distinguished colleague from the State of Alabama (Mr. ALLEN) in cosponsoring his resolution to name the new Federal Bureau of Investigation Office Building after Director Hoover. It is a fitting tribute to the man who has served the FBI and this Nation for so long, with such distinction.

USIA

Mr. TOWER. Mr. President, the argument has been made repeatedly that USIA is "a relic of the cold war," that it is anachronistic, and that finally it is an "irritant" to the Soviet Union and thereby stands in the way of peaceful negotiations with the Soviet Union.

These charges ought to be looked at carefully, for I believe they are at the root of at least some of the complaints against the Agency.

I reject the idea that the war of ideologies is over and done with. As long as there is in this world an organized body of political thought that seeks to impose its thinking upon others by force, and as long as there are free men who will resist that effort, the war of ideas will continue, and should continue. In short, the part played by USIA in this overall effort of free men to remain free, and to spread the word of freedom to others who are seeking some degree of freedom, is as valid today as when the Agency was created. Indeed as we reduce our military forces, as we lower our physical profile around the world, and as our opposition steps up its efforts to influence the world, the need for an effective information program on our part is infinitely greater.

Now let us turn to the charge that the USIA is an irritant to the Soviet Union, and that by virtue of this irritation that is caused the leaders in the Soviet Union the cause of negotiations is somehow damaged.

There is no doubt, Mr. President, that the USIA does indeed irritate the leaders of the Soviet Union. They would be much happier if they did not have to contend with outside voices telling their people not only what is happening in the world, as we do with the Voice of America, or what is happening inside Eastern Europe, as we do with Radio Free Europe and Radio Liberty. I would readily admit, Mr. President, that these outside voices do act as an irritant to the leaders of the Soviet Union, although I would not say the same with reference to the people of the Soviet Union and Eastern Europe. After all, if they did not want to listen to these voices they could turn off the radio. The facts are, of course, that the people do want to hear, so they listen, and that is what irritates the leaders of the Soviet Union and some people in our own country as well.

But while I would agree that USIA may be an irritant to the leaders of the Soviet Union I would categorically reject the idea that this irritation stands in the way of negotiation.

As ultimate proof of what I am saying we need but to turn to recent history, within the past few days in fact.

The latest issue of Moscow's principal theoretical journal, Kommunist, carried a major article attacking USIA as "the leading U.S. governmental organ for organizing the ideological war against communism."

Then Moscow's domestic radio service, on April 18, carried a long commentary denouncing the Voice of America and other Western broadcasters for broadcasting religious programs into the Soviet Union. The spokesman claimed that USIA did not hit upon the idea of religious broadcasts by accident, but because religion is, and I quote, "the only ideology in our country which can in any way be considered to have mass appeal that is alien to Marxism-Leninism and a Communist world outlook." I ask unanimous consent that the entire article appear in the RECORD at the end of my remarks, Mr. President, and commend its reading to my colleagues. I think they will find it extremely interesting and enlightening.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TOWER. Now to the point: While all this was going on—and it was but merely a drop in the bucket compared to the continuing anti-American, anti-USIA propaganda that emanates from the Soviet Union—while all this was going on, the very same week in fact, the leaders of the Soviet Union were huddling secretly with Mr. Kissinger, preparing for the President's upcoming trip to Moscow. Clearly the leaders of the Soviet Union have a more sophisticated view of propaganda, and its place in the world struggle, than do some in our own country who think that we may be endangering world peace by defending ourselves.

Finally, Mr. President, I might note that on that same day the Moscow Tass International Service carried an article reporting on the proposed budget cut for USIA. Needless to say they found nothing wrong with the idea. Since it is short, I would like to read it at this time:

> Dissatisfaction of the wide circles of the American public with the activities of the U.S. Information Agency which spreads false propaganda materials abroad and which is trying to condition Americans in the spirit of cold war has become so wide that the Senate Foreign Relations Committee was compelled to cut off the budget for activities of the agency in the new fiscal year. During the voting on the financial bill for the State Department, the committee considerably cut down the funds allocated for U.S. Information Agency for making films, for publications, for activities of the radio station "The Voice of America", the main propaganda mouthpiece of U.S. Information Agency.

Mr. President, I hope we are able to convince the leaders of the Soviet Union, by our vote on this amendment, that there is not in fact dissatisfaction among wide circles of Americans over the activities of USIA. The cuts ought to be restored.

EXHIBIT 1

MOSCOW DOMESTIC SERVICE IN RUSSIAN 0910 GMT APRIL 18, 1972

In our programs we have more than once exposed the foreign radio voices which broadcast in the languages of the peoples of Soviet Union. We have discussed these broadcasts' general trend of hostility toward socialism, the methods of anticommunist propaganda employed in them, and the specific examples of slander against our country and against the life of Soviet people.

Today we shall dwell on a further characteristic feature of these radio broadcasts. Their organizers and authors have begun to deal with the theme of religion more frequently now. The *Voice of America*, the BBC, Radio Vatican, Munich's Radio Liberty, Radio Monte Carlo, the Ecuadorian Voice of the Andes and other similar voices enthusiastically relay church services and singing, hand over the microphone to the preachers of various religious denominations, tell of religious life abroad and also devote broadcasts to the position of religiion, the church and believers in our country. What has given rise to this interest in religious themes? What aims are being pursued by the foreign radio propagandists in allotting them so much space in their broadcasts?

We asked Boris Maksimovich Maryanov, executive secretary of the magazine Nauka I Religiya (Science and Religion) to comment. He said:

This phenomenon is, of course, not a chance one. Behind this trend toward religion are to be discerned the quite definite aims and strivings of the ideologists of anticommunism, who are always seeking new means for their psychological warfare which they are waging against our country and against the world of socialism.

As you know, the ideologists of imperialism have for a long time now seen the senselessness and hopelessness of propaganda built on (particular disputes) with socialism.

They are striving to improve to the maximum their anticommunist propaganda, adapt it to the modern age and devise a thought-out system of cunning techniques and methods aimed at instilling in the Soviet citizen the desired ideas and notions. One of these techniques of anticommunist propaganda is now to deal with religious problems. Religion has not been selected for this purpose by chance. In point of fact it is now the only ideology in our country which can in any way be considered to have mass appeal that is alien to Marxism-Leninism and a communist world outlook. For this reason the bourgeois propagandists are hoping in their policy of bridge-building to depend on the believing section of Soviet society with a view firstly to achieving understanding and an identity of views with them on questions of faith and then to incite them against Communism, against the socialist system. The ideologists of anti-communism hope that by dressing up their propaganda in religious clothing they will make it more accessible in the first place to the believers in the Soviet Union. Thus they hope to instill in their minds the views and convictions desirable from the point of view of Western propagandists. A person with a divided consciousness in which the elements of a scientific world outlook coexist with religious notions and sentiments—so they argue—is more receptive to an alien ideology. Religious broadcasts tell, for instance, that the belief in God alone can be the source of high morality; that without religion man is deprived of spiritual existence; that only with the help of religion is it possible to eliminate all evil in the world, to do away with social injustice. Thus an attempt is being made to devalue the teaching of Marxism-Leninism, the program of communist construction in the eyes of the believers; to discredit communist morality, to denigrate the efforts of the fighters for peace, and so on.

Anticommunist propaganda, including radio propaganda, has evolved a system of cliches and speculative devices designed to prove that in the Soviet Union religious freedom does not exist, that the church has been driven underground, that priests and believers are persecuted and imprisoned, and that churches are destroyed. The biased and slanderous portrayal of the status of religious organizations and the position of believers in the USSR and in other socialist countries is accompanied by frenzied exaltation about religious freedoms in the Western world.

In this fashion the anticommunists are striving to instill believers in the countries of socialism with dissatisfaction for the socialist system and to push them along the path of political opposition. The propagandists of anticommunism pin special hopes on those elements—extremely small in number but still met with here and there in our country—which conceal beneath their religiousness their antisocial views and their hostility to the Soviet system and to communism. Remnants of various sects of monarchist and antisocial trend like the true Orthodox Christians or the groups of so-called Initsiativniki who broke away from the Evangelical Christian Baptists and who demonstratively violate the Soviet law—all these and other renegades are now the object of tender concern on the part of religious zealots abroad. Every case of a violator against Soviet laws being brought to justice is used by anticommunist propagandists for fabrications about persecution of the church and believers in the USSR.

Thus the religious problems of the foreign radio broadcasts are just one of the links in the comprehensive ideological brainwashing of Soviet people that the propagandists of anticommunism are conducting with every means at their disposal. This is why it is so important to be able to discern in this apparently inoffensive religious wrapping the poisoning sting of anticommunist propaganda and to be able to give it a rebuff by explaining its true significance to all those who have not yet realized it.

THE RESETTLEMENT OF SOVIET JEWS IN ISRAEL

Mr. HARRIS. Mr. President, I support section 101(b) of the foreign aid authorization bill which authorizes the expenditures of up to $85 million to Israel or another suitable country to assist in the resettlement of Soviet Jews or other similar refugees in that country. This support demonstrates that the plight of ordinary human beings may still have some claim on our Nation's foreign policy.

Last January I visited Israel and had occasion to visit with many Soviet professionals—doctors, dentists, engineers—who had left the U.S.S.R. to make a new home in Israel. I was impressed with the courage of these people, their willingness to sacrifice, their determination to make a better life for themselves and others. I left Israel convinced that the U.S. Congress should do what it could to persuade this administration that these people deserved our support.

Soviet professionals sometimes face unusual difficulties in adjusting to life in Israel or any other country. Doctors, for example, have to learn not only Hebrew, like every other immigrant, but also English, which is the principal scientific language of Israel. Soviet doctors, in addition, have to adjust themselves to a completely different system of medicine. Many require re-training to meet the new standards of their Israeli counterparts.

In assisting these Soviet professionals once they arrive in Israel, a major role is played by a number of nongovernmental organizations which have arisen to meet a new need. While I was in Israel, for example, I became acquainted with the work of the Israeli Organization for Newly-Arrived Professionals from the Soviet Union, the President of which is Dr. Miron Sheskin. Without the assistance of his organization, many newly arrived Soviet professionals would find the problems of adjustment to life in Israel seemingly insurmountable.

I note that the legislation adopted by the Foreign Relations Committee provides that the Secretary shall provide these funds to foreign governments "under terms and conditions he considers appropriate."

The Secretary, and the Department of State, therefore, will make all final decisions on the best use of this money. But in my view Department officials may find that the most efficient way to help the newly arrived Soviet Jews may be to make use of nongovernmental organizations which are trying to meet the special needs of the new immigrants. Since the U.S. legislation does not rule this out, I certainly hope that this possibility will be given careful study. As the number of immigrants increases, the financial pressure on these organizations becomes severe.

Mr. President, at this point I request unanimous consent that an April 16, 1972, article in the New York Times magazine entitled "The Russian Jews Wonder Whether Israel Is Really Ready for Them" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times Magazine, Apr. 16, 1972]

The Russian Jews Wonder Whether Israel Is Really Ready for Them

(By Sol Stern)

Jerusalem.—Immigration to Israel is called *aliyah*, meaning ascent. New immigrants are called *olim*, that is, those who are ascending. The words derive from the early pioneering days of Zionism, but, since independence, they have lost their special meaning. Refugees came to the new state from Europe and the Arab countries seeking a haven, not Zion. Israelis have come to take the constant flow of newcomers for granted, and often treat the latest immigrants with a studied indifference.

The current wave of Soviet Jews is something else again—closer to a classical Zionist *aliyah* than anything most Israelies have ever seen. For the Government, it is a Pandora's box of problems as well as a source of opportunities—in its own way a story as crucial to Israel's future as anything that happens at the Suez Canal.

The previous history of Israeli-Soviet relations hardly prepared Israelis for the exodus. Indeed, until the Six-Day War Israel went to considerable lengths to avoid any confrontation with the Soviet Union on the Jewish question. The pleas made to Soviet authorities by Israeli diplomats always discreetly emphasized the reuniting of families. *Kol Israel*, the Russian-language radio channel beamed into the U.S.S.R., avoided any discussion of Soviet Jewry.

That approach was partly successful. In the years before the Six-Day War more than 5,000 Jews quietly left Russia for Israel. And in 1966 Premier Kosygin publicly affirmed that the "humanitarian reuniting of families" was official Soviet policy.

The Six-Day War disrupted everything. As a result of it, the Kremlin severed all ties with Israel and cut off even the small trickle of immigration. That policy aroused the Soviet Jews themselves. They signed petitions, staged sit-ins, renounced their citizenship, started an underground press and, in some cases, went to jail—all for openly Zionist aims. It caught the whole world, including Israel, completely by surprise.

Israeli officials are still somewhat baffled by the zigs and zags of Soviet policy in response to the internal Jewish resistance. In September, 1968, the Soviet Union began to let out small numbers of Jews in what was apparently, according to one Israeli official, an attempt "to skim off the cream of the movement." For the next two years Jews came out at the rate of about 100 per month. Then came the Leningrad hijack trial in December, 1970—a major effort to break the movement that in fact backfired and had the opposite effect.*

In March, 1971, at the Russians' 24th Party Congress a major decision was taken to let more Jews leave, Israeli experts believe, partly because of pressure from foreign Communist parties. In the next few months Jews came out at the rate of more than 1,000 per month. A second wave came in December, 1971, while Premier Kosygin was traveling in the West.

Estimates are that close to 15,000 arrived in 1971. Observers estimate that 30,000 to 40,000 more will come in 1972. But it is not so much the numbers of immigrants as their attitudes that is beginning to perplex the Israelis. Something classically Zionist happened in the Soviet Union in the years since Israel boarded up its embassy there. The Russian Jews in Israel, in fact, resent being called immigrants. They say that their struggle in the U.S.S.R. was for the right of "repatriation," and they wonder if the Israelis are really ready for them.

The confrontation begins at Lod Airport in Tel Aviv at 5 A.M. That is the usual arrival time of the El-Al charter flight from Vienna carrying the Russians. When they started arriving in large numbers about a a year ago, there were tumultuous, emotional airport scenes, with Golda Meir often on hand. Now the reception is quiet and businesslike. The Russians themselves seem drained of emotion after, sometimes, a three-day trip by rail across Russia and then an overnight flight from Vienna. They straggle off the plane into a cordoned-off reception lounge, rubbing their eyes, still dazed by the experience.

Each plane seems to bring a cross section of Soviet Jewry. There are the deeply religious Georgians, usually arriving in large families, wearing their heavy clothes and fur hats, distinguishable by their dark, almost Oriental, features. Then there are the Jews from the Baltic states occupied by the Soviet Union in 1939. Many still speak Yiddish—some are even old Zionists. Finally there are the better-dressed and more assimilated Jews of the Soviet interior.

No matter where they come from and what their previous life-style, they almost all arrive penniless and dependent on the Government. Each adult has had to pay the equivalent, in rubles, of $1,000 for his Soviet exist visa. For many families that could have meant one or two years' salary. Each is allowed to take out only $100 in hard currency.

Minutes after they get off the plane, even before they are allowed to greet relatives and friends, they are processed by officials of the Ministry of Immigrant Absorption. They go through passport control, receive their new Israeli identity cards and get some pocket money from the Jewish Agency, the institutional arm of World Zionism which collects and disburses most of the money contributed by Jews abroad. Until 1968 the agency did the whole job of immigrant absorption by itself. Now it shares the responsibility with the Ministry of Immigrant Absorption.

After seeing the representative of the Jewish Agency, the new immigrants are ushered into a small room for the most controversial part of the airport absorption process—the assignment of housing. Professionals and university graduates are usually sent off to temporary absorption centers or residential ulpanim (Hebrew schools), where they and their families are maintained at the expense of the Jewish Agency for five months while they study Hebrew and look for jobs. All the other new arrivals are offered immediate housing from a list of newly built flats available to the Absorption Ministry on that particular day. Most of the housing is in the new-development towns far away from the center of the country. The Government workers try to match up locations with each family's particular needs, taking into account proximity of relatives and places of employment. But there isn't a wide range of choice and the decisions are often made in 10 minutes. Within five or six hours of the plane's arrival, all the immigrants have been packed off in a taxi, with their belongings, to their new homes.

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*The case of the 11 defendants put on trial for planning to hijack an Aeroflot plane in Leningrad caused a wave of protests abroad. Nine of the 11 persons who hoped to escape to Sweden and Finland and then to Israel were Jews. All 11 were convicted, but a Russian court commuted the death sentences of two Jews and reduced the prison-camp terms of a few other defendants—perhaps in response to expressions of concern in other countries and to spreading fear among Soviet Jews.

It is all a little mind-boggling to the average Israeli. The penniless immigrant in almost no time is an Israeli citizen, has money in his pocket and is settled in accommodations that many native-born Israelis find beyond their means. Young couples who have just served in the army and cannot find housing become deeply resentful. When they hear that the Russians actually complain about their treatment, the resentment often turns to hostility that could have divisive political consequences.

The issue was raised at a Jerusalem rally of the Black Panthers, the organization of young Oriental slum dwellers who have often gone into the streets to protest poverty and discrimination. One of the Panther leaders, Saadia Marciano, said: "We have no objections to the Russians coming here. We welcome them. But let them come and live in Katamon (a slum neighborhood in Jerusalem populated by North American immigrants who arrived in the nineteen-fifties). Why doesn't the Government give us the new flats? We came here first."

Ironically, there is little resentment toward the affluent American immigants who have also been coming in larger numbers recently (8,000 last year). The reason is that the Americans do much less public complaining. Most of them, moreover, have prepared for their own absorption with previous trips to Israel. They came usually with savings, an apartment and a job waiting for them, and, most important of all, some experience in how to finesse the ubiquitous Israeli bureaucracy.

For the Russians, however, a Government official's decision on a job or an apartment can have a traumatic finality. Often there is no recourse but to shout and scream. Some have staged sit-ins and near-violent protests in Government offices that have gotten big play in the Israeli press. The result has been a distorted, often trivialized, picture of what is disturbing most of the Russians.

They are, in fact, not asking for "more" privileges. What they are bitterly, sometimes desperately, critical of is the quality of the absorption process. They believe that the lack of long-term planning is threatening the future of the whole aliyah and they point, as a warning, to the small trickle of families that have gone back to the Soviet Union. (Recently there was a near-violent confrontation in Vienna between a group of Jews who had just left the Soviet Union and a small group who were on their way back.) Sources in Israel estimate that perhaps 60 families have gone back, and Soviet authorities have made much propaganda capital out of these cases of disillusionment.

One of the most frequently heard criticisms is of the processing at the airport. Many Russians have argued that the policy of assigning permanent housing on the basis of, sometimes, a 10-minute interview at the airport leads to widespread personal and social problems. The new immigrant often finds himself in a new-development town, far from friends and relatives, and without employment to match his skills. But the Government is unwilling to offer him another apartment somewhere else and, since his chances of finding housing on the private market are practically nil, he is locked into an unpleasant and sometimes frightening situation.

The Government built the new towns during the fifties and sixties in some of the more remote areas of Israel, in order to develop regional industries. The housing, thrown up in a hurry, is often bleak and unappealing. Education and social services in the towns are inferior. Native Israelis are enticed to move there by substantial bonuses and income-tax deductions. But there are still many more housing vacancies in the newer towns than in the over-crowded center of the country. The temptation is natural to move the immigrants toward the vacancies.

Spokesmen for the Russians have suggested the setting up for all new arrivals of temporary absorption centers, where job opportunities can be more carefully examined and the immigrants can get a better perspective on their new country before deciding on a place to live. Absorption officials have turned thumbs down on that proposal. They cite the additional cost involved and the Government's population policies. Hillel Ashkenazi, the Director-General of the Ministry of Absorption, explains that if temporary absorption centers were set up the immigrants might never leave, because Government housing is only available in the development towns. "There is a Government policy of spreading out the population," says Ashkenazi. "The immigrant serves that policy of dispersion."

Yehuda Dominitz, deputy director of the Jewish Agency's Department of Absorption, adds: "I know it sounds cruel to decide a man's fate in five minutes at the airport. But if we set up temporary absorption centers all sorts of subjective factors would enter in. The relatives would come and give advice. They would all try to live near Tel Aviv. We would have enormous social problems. With such methods we could never deal with an immigration of 50,000 a year. The present method is cruel but it is the best."

When leading Russian activists hear about such answers from Government functionaries, their blood starts to boil. It begins to sound a little like the place where they came from. If people are needed in the development towns, they say they are willing to serve, but they want to be involved in that decision—not herded off like refugees.

"We're Zionists," says Dr. Yaacov Schultz, recently from Minsk and now in an absorption center in Arad, a new development town. "We want to be *halutzim* (pioneers) but not forced to go anywhere. If we have jobs and can be useful, we'll live in tents."

Despite such pioneering instincts, many educated Russians find Israel disappointing on the cultural level as well. Recently a group of young academic people studying Hebrew at the *Etzion Ulpan* in Jerusalem were talking about their reactions to the new country. Most of them were from Moscow and one of the hardest things to get used to was that their new capital city was downright provincial.

"We're used to a big city that is an international cultural center," said a young woman, formerly a student at Moscow University. "But Jerusalem has no theater, no ballet. The movie theaters are dirty and noisy. The young people here are just not cultured."

On the material level the most serious complaints are heard from professionals who need retraining to meet the standards of their Israeli counterparts. Recently there was a conference of newly arrived Russian doctors. The Minister of Health was invited to what turned out to be a series of vitriolic attacks on the Israeli bureaucracy. Doctor after doctor described in detail the "runarounds" they had been getting from health officials, hospitals, labor exchanges. They spoke about mountains of red tape, long delays, rude officials and, most of all, a sense that Israeli officials were just content to "muddle through."

"Suppose 30,000 engineers arrive here in a few years?" says Dr. Meir Gelfond, a former Moscow activist. "Soviet immigration is here to stay. We don't want to become a burden on the state. But we did expect that someone would have given serious thought to planning for a society of professionals."

Some of the more exotic job-placement problems are illustrated by Ephraim Sevela, a successful 44-year-old film writer and director from Moscow. Sevela was a principal figure in the resistance in Moscow and took part in an audacious sit-in of 24 Jews at the Supreme Soviet in February, 1971. He was permitted to leave the Soviet Union only after a petition on his behalf was signed by 30 international film personalities, including Federico Fellini, Ingmar Bergman and Laurence Oliver.

In Moscow Sevela lived a life of rare privilege. He had a car, a comfortable flat, and was allowed to travel abroad. He was a completely assimilated Russian, yet he did not feel he was a part of Russia. "I decided finally that I wanted to contribute to my own culture. I didn't want to help make a Russian culture."

Just before Sevela's departure for Israel, a top K.G.B. official who had tried to block his emigration told him, a little ruefully, that the income earned by the state from one of his films could finance the construction of a chemical factory. (Most of Sevela's films are sent abroad. One of them. "Fit for Noncombative Service," was shown in New York.) "You are like a hen that lays golden eggs. Why should we give the hen to Israel?"

After six months in Israel, Sevela is troubled; it is not clear that his new country knows what to do with the proverbial hen. Nor is it merely Sevela's personal problem. About 20 other talented Soviet film workers have arrived, and more may come. (Sevela estimated that 50 per cent of the top Soviet film people are Jews.) Almost all those already here are without work. If action isn't taken fast many of them will leave for jobs in the West. (In the past talented directors such as Claude Lelouche of France and Alexander Ford of Poland tried to settle in Israel but left because they couldn't find work.)

The problem is that the Israeli film industry is small and less than mediocre—in part, because of the limited size of the domestic market and the lack of Government encouragement. It is an anomaly that Jews in Western countries dominate the film arts, but in Israel film-making is a disaster. If the new talent from Russia were properly harnessed it could be the catalyst for a film industry that might earn great dividends in cultural prestige for Israel. It could also become a profitable export industry. Sevela's special problem demonstrates that absorption authorities must think in broader terms rather than merely fitting the new immigrants into the existing slots.

"One can be the greatest Zionist," Sevela says, "but if you have cinema in your heart and you can't work you leave. We don't want a new *galut* [exile]. I try to explain this to Government people, to people in the Jewish Agency. We all agree that if Israel can't keep the culture people from the Soviet Union then Zionism is bankrupt."

Besides the practical stumbling blocks to absorption like job and housing problems, the immigrants' own intense ideological Zionism complicates their difficulties. Denied any access to Jewish tradition in Russia, many were sustained in their struggles with the Soviet Government by their belief in Zion. But once in Zion they start to wonder where all the Zionists have gone.

"There have never been any *olim* who arrived in Israel with such high expectations and with such a lack of information about the country. They had a dream—but the realization of the dream is never like the dream itself." So says Dr. Ephraim Ahiram, research director of the Ministry of Immigrant Absorption, trying to explain why the Russians gripe so much.

Some Russians would dispute that analysis. They would put it the other way around. The Russians had plenty of information about Israel. It was the Israelis who lack information about what their Zionist brethren were up to in Russia. That, at least, is the conclusion to be drawn from the experiences of Yasha Kazakov, once of Moscow, now in the Israeli Army.

Kazakov is a slight, curly haired youth with glasses and the look of innocence. But his exploits in the Soviet Union have a kind of David-and-Goliath quality. Several days after the Six-Day War, Yasha, then a 21-year-old student at Moscow University renounced his Soviet citizenship and demanded to be allowed to go to Israel. At the time, this kind of bravura got people sent to prison, and worse. He got away with it, that is, he wasn't sent to prison. He was not allowed to go to Israel, but a year later Yasha tried again. This time he composed a scathing letter to the Supreme Soviet, signed it and smuggled copies out to the West. "I do not want to live in a country whose Government has spilled so much Jewish blood," he wrote ". . . I renounce Soviet citizenship and I demand to be freed from the humiliation of being considered a citizen of the Union of Soviet Socialist Republics."

Then came Yasha's first disillusionment: The letter was available in Israel soon after but wasn't published there until The Washington Post had picked it up six months later. As a result of the foreign publicity, Yasha got his visa to Israel and arrived here in February 1969.

In Israel he discovered, to his dismay, that there was widespread apathy and ignorance about the struggle of the Soviet Jews. Believing that the struggle should be continued from Israel openly and militantly, he gave interviews and made speeches to get the message across. But the Israeli Government was being extraordinarily cautious at the time, he feels. He was advised to play it cool.

Kazakov refused the advice, and even led a demonstration of Hebrew University students in the Knesset to protest the Government's inaction. Later, sympathizers with his cause paid his way to New York where he staged a hunger strike at U.N. headquarters, protesting the Soviet Government's refusal to let his parents out. The Israeli Government not only gave him no support, he says, but advised Jewish organizations to stay away from him. As if to prove the efficacy of the more vocal, militant approach, the Soviet Union let his parents out shortly after.

Last year, in a long interview with an Israeli journalist, Kazakov described the gap between the Zionism of Jews in Russia and what he found in Israel. His first encounters with Israeli students were so disappointing, he reported, that he was embarrassed to tell them of the Hebrew songs the young Russian Jews in the movement sang in Moscow. "They thought I was crazy," says Kazakov. "They didn't know we were part of their organic body. . . . We in Russia, being in prison, knew more about you than you knew about us." It was enough to make him believe that "in Russia exist the only Zionists in the world."

But it wasn't the students who were to blame: The Israeli Government, according to Kazakov, was responsible for the ignorance, was guilty "of being silent and silencing others." The Government was betraying the basic Zionist idea of the unity of the Jewish people. It did not understand that the struggle was indivisible.

"If you made a count of how many Jews were killed for their Zionism in *Eretz Israel* since the Balfour Declaration, you will have less than the number of Jews killed for their Zionism in the Soviet Union. . . . Our front is part of the front. Every Jew who is lost in Russia is one more part of the Jewish people."

Kazakov finally did play a part in turning around the Government's attitude, and, in so doing, almost became the cause of an internal political fight. The year of Yasha's arrival—1969—there were elections in Israel, and some members of the opposition Gahal party's parliamentary list were starting to raise the question of Soviet Jewry. One of them was Binyamin Halevi, a distinguished ex-Justice of the Israeli Supreme Court and one of the judges in the Eichmann trial. In his maiden speech before the Knesset after being elected, Halevi, accused the Government of timidity on the issue of Soviet Jews, telling the story of Kazakov and mentioning that the young man he was talking about was sitting in the gallery. Later, an official of the Government told Halevi that this part of his speech had been stricken from the record and could not be published. The official invoked the military censorship laws, saying that Halevi's statement involved security matters and might endanger Soviet Jewry.

"It [the Soviet Jews' struggle] was a political development of the first magnitude, and it was all being concealed by the Government," says Halevi. In order to force the issue into the public arena he decided to organize a public committee on Soviet Jewry composed of distinguished Israeli citizens. The newspaper Haaretz published a story about Halevi's plan—and then a strange thing happened. Halevi suddenly received a letter inviting him to a meeting to organize a public committee on Soviet Jewry, to be held in the offices of the Foreign Ministry. When he got there he realized he had been successfully coopted. The Israel Public Committee for Soviet Jewry which emerged, and of which Halevi is now a leading member, is nominally independent, but works closely with the Government. Representatives of the Foreign Ministry sit at every meeting and, according to Halevi, play "a guiding role through their control of information." Though it is not exactly what he was looking for, Halevi is satisfied that the committee and the Government are at least moving on the right track. (It was the Israel Public Committee which initiated the Brussels Conference on Soviet Jewry last year.)

The political aspects of the Soviet-Jewry question can be understood more clearly by comparing their situation with that of the 100,000 Jews in Rumania. The Rumanian Government has issued virtually no exit visas for a few years, to either Jews or non-Jews. There isn't even a policy of "reuniting families." Yet there appear to be no campaigns on behalf of Rumanian Jewry in Israel or, for that matter, in other countries where Jewish organizations are active. If Rumanian Jews are protesting, no one seems to know about it.

When questioned about the silence, Israeli officials explain that quiet diplomacy is being used and that there is no reason at this time to disrupt good relations between the two countries. There is substantial trade between the two, and the "opening to the East" which Rumania provides is important to Israel's foreign policy. It is the only East European country that did not break off diplomatic relations with Israel after the Six-Day War. In fact, in 1969, at a time when the flow of Jews from Rumania to Israel was cut off, the two Governments raised the status of their respective diplomatic missions from legations to embassies.

At the recent Zionist Congress, there were discussions about almost every problem of world Jewry—except the status of Rumanian Jews, who constitute the ninth largest Jewish community in the world. But there was a rousing ovation for the Rumanian Ambassador to Israel when he appeared as one of the dignitaries on the opening night of the congress.

Israel officials insist that strong efforts *are* being made through diplomatic channels to secure the release of Rumanian Jews. After all, they point out, such approaches worked in the past. Of the 400,000 Rumanian Jews who survived World War II, 300,000 came to Israel during the nineteen-fifties in a quiet deal with Rumania that involved payment of substantial ransom by Israel. Emigration under the agreement was interrupted in the early sixties, started again after the Six-Day War and then stopped once again by Rumania—for internal political reasons, according to Israeli sources.

As in the Rumanian case, the Israeli Government may believe that the best way to ease restrictions on Jews in Russia is friendly relations with Moscow. But the Israelis seem to want a rapprochment with the Soviet Union for broader foreign-policy reasons as well—and this appears to be a factor in their attitude toward the immigrants. While relations between the two countries have been poor, the hope that they might get better may be one reason Israel has not wanted the Russian-Jew issue to become more of a political irritant than it already is.

Israeli officials now believe the Kremlin concluded that it had blundered in severing relations with Israel. The break left the U.S. as the only big power capable of talking to both sides in the Middle East, and also cost Moscow political leverage with the Arabs. Thus recent moves such as the visit to the Soviet Union by a group of Israeli leftists, the return tour of a semiofficial Soviet delegation and the visit of Victor Louis (a reputed "unofficial" Soviet K.G.B. representative living in Paris) are seen in Israel as Soviet signals that their policy is independent and not irrevocably tied to the Arabs.

The Israelis are not displeased by such approaches. But the immigrants are worried. Many of the Russians are suspicious enough of the effect of a rapprochement on the campaign to free Soviet Jews that they oppose resumption of diplomatic ties.

Their fears are built on the fact that the Government attempts to make sure the activities of the Russian immigrants do not complicate an already sensitive diplomatic situation. Last year a Russian-language publication, *Ahm I* (My People), was started by new immigrants with financial help from the Foreign Ministry. It was closed after the second issue because it started reprinting material from the Russian underground press that the Foreign Ministry considered too provocative. Discouraged by the difficulties of using Israel as a base for a militant campaign, several top activists, such as mathematician Julius Talesin and Victor Fedoseyev, former editor of the underground Zionist publication Exodus, have gone to London to continue their work. There is particularly strong Government and Jewish-Agency pressure to keep new immigrants from speaking out for the democratic movement inside the Soviet Union. "Our experience proves that the Russians can say 'no' to the democratic movement but 'yes' to the Jewish national movement," says Yehuda Dominitz of the Jewish Agency.

An official closely involved in every aspect of Government policy toward Russian Jews offered an explanation of that policy: "We don't want to turn Israel into a general center of anti-Soviet activity. And the Israeli Government doesn't encourage that kind of activity on the part of new immigrants. We have enough problems with the Soviets on the Suez canal and over Jews. We have no interest in taking on the fight for changing Soviet society."

For that reason, the official said, the struggle should not be led by highly emotional new immigrants who might lead it in an anti-Soviet direction. If that happened it might strengthen the hands of those in the Soviet hierarchy who want to cut off immigration. He was not unhappy, said the official, that militants like Talesin had left the country. Nor was he upset that the press abroad had picked up the story about the Foreign Ministry cutting off funds for *Ahm I*. On the contrary, it was good these facts were published. "I *want* the Russians to know that we don't give any money to anti-Soviet activities."

This approach is evident in the broadcast policies of *Kol Israel*. Russian immigrants see the radio network as a potentially powerful weapon in continuing the struggle and complain bitterly about its lack of militancy. They recall that on the day of the Soviet invasion of Czechoslovakia *Kol Israel* was giving reports on tomato and cucumber production in Israel.

The same Government official quoted above explained this as one more signal to the Russians that Israel was not interested in Soviet political problems except as they affect Russian Jews directly. The Kremlin obviously got the message: *Kol Israel* was the only foreign radio network that wasn't jammed during the Czech invasion. "If tomorrow in Russia they arrest 200 democrats, we won't mention it," said the official.

Actually, most of the new immigrants see the struggle from an exclusively nationalist perspective as a fight for Jewish rights. But some of the leading activists anguish over their obligations to democrats such as Vladimir Bukovsky, who gave the Zionist movement much assistance in Moscow and who was recently sentenced to a 12-year term. One of Bukovsky's friends is 44-year-old Michael Zand, an internationally renowned Orientalist who served a stint in a Moscow prison for his leading role in the movement. Zand is now teaching at the Hebrew University and has organized a committee of new immigrants to work for Bukovsky's release. He has also spoken out against the Government's policy of distinguishing between Jewish interests and the liberties of all Soviet citizens.

"One of the most outstanding traditions of the Jewish people is to help those who are oppressed, and especially those who help us," Zand says. "The democrats are noble people who are struggling without hope against one of the most brutal totalitarian regimes in history. They are my friends. I am Jewish, they are Russian. But they are persecuted and I was persecuted by the same totalitarian regime."

No one seems to have done any survey of the political attitudes of the Russians in Israel. But there has been a lot of worried speculation about their right-wing proclivities. Many of them express hostility to deeply cherished Israeli institutions like the kibbutz, which they identify with the Soviet kolkhoz. Labor party leaders have already issued panicky warnings to party workers about the number of Russians who have supposedly signed up with the right-wing opposition party, *Herut*.

Those who are inclined toward *Herut* seem motivated not so much by the party's social program as by its more militant Zionism, which the Russians believe leads to a stronger approach on Soviet Jewry. But, in fact, according to Yehiel Kadishai, *Herut's* parliamentary secretary, the impression of a stampede to his party is exaggerated. It is true that a number of the well-known militants have joined, but Kadishai says most of the new immigrants aren't joining anything. They are fed up with the idea of "the party."

There is little doubt, however, that on the much debated question of Israel's borders the Russians lean heavily toward proponents of a "Greater Israel." At the recent Zionist Congress there was a speech by Boris Kochubievsky, a militant from Kiev who spent several years in a Soviet prison and upon arriving in Israel immediately joined *Herut*. Kochubievsky's line was militantly nationalist and he pleaded with the Israeli Government to hold on to the territories. After the speech I spoke to Grischa Feigin, a former Red Army major and one of the few well-known activists who has joined the ruling Labor party. Feigin wanted it known that Kochubievsky didn't speak for all the Russians. What about the borders, I asked? "On that we all agree," said Feigin. "The territories, Judea and Samaria are part of Israel."

The Russian *aliyah*, 20,000-strong in the last 12 months, has already had a considerable impact on Israeli society, but it is merely the first act of the drama. Everyone in Israel is wondering about the future. How many will really come?

Estimates have ranged from as low as 50,000, the figure given by one of the Israeli leftists who visited the Soviet Union last fall, to a number in the millions, offered by some of the activists themselves. Each guess is as good as the other. There are almost no facts to sustain such estimates. But if one has to play the numbers game, there is at least one indicator that should be taken into account. We know that in order to obtain a Soviet exit visa each Jew must first get a semiformal invitation from a "relative" in Israel. The invitations are called *visovs*, and almost all of them are processed with the help of the Jewish Agency. Sources in the agency indicate that 70,000 to 90,000 *visovs* have already been sent. Since each one is for a family, this could mean that close to 300,000 are already preparing to leave. The departures, moreover, create a snowball effect: the more who leave, the more who are encouraged to think about their status and identity, and the more Soviet anti-Semitism increases, placing additional pressure to leave on those who remain.

On the other hand, the Soviet Government is likely to come up with a strategy to prevent the loss of large numbers of Jews in the nation's scientific-technological elite. Jews make up only slightly more than 1 per cent of the Soviet population, but they constitute more than 7.5 per cent of all scientific and academic workers, and more than 2.5 percent of students in higher education. On a recent list of Lenin Prize winners in science and technology, 15 per cent of the names were Jewish.

The present Soviet policy of allowing more Jews to leave is no doubt partly designed to prevent further alienation among top engineers and scientists. Nevertheless, the Government continues to crank out at an even greater speed official anti-Zionism of the most slanderous and malicious kind—one indication that the Kremlin may not have learned that such propaganda is one of the sparks that can ignite Jewish national feeling.

If the size of the Jewish exodus depends directly on Soviet policy, however, it is also closely linked to what is done by Israel. The question involves much more than the billions of dollars that the Israelis must raise to settle and retrain the Russians. In its fullest dimensions the question is a Zionist one. How much of a commitment, socially and politically, is Israel really willing to make to bring in a maximal Russian *aliyah?* Despite all the rhetoric at the Zionist Congress, that is still an open question which will be hotly debated in the coming months and years. In the process, the very meaning of Zionist principles in modern Israel will surely be thrashed out.

It may seem an irony that the Russian Jews, who are playing such an important role in a renewed Zionist consciousness, were themselves largely unaware of their Jewish identity a few years ago. Actually, it is nothing new in the history of Zionist thought. Powerful contributions to Zionist ideology have always been made by neophytes—men such as Moses Hess, Theodor Herzl and Zeev Jabotinsky, to name just a few who came to their Zionism late in life from a background of European cosmopolitanism. To the believer, the new Russian Zionists are just one more historical example of the mystery of Jewish renewal.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FOREIGN SALE OF CERTAIN PASSENGER VESSELS

The ACTING PRESIDENT pro tempore. Under the previous order, the unfinished business will not be laid before the Senate until the Senate has disposed of H.R. 11589. Under the previous order, the Senate will now proceed to consider that bill. The clerk will state the bill by title for the information of the Senate.

The assistant legislative clerk read the bill by title, as follows:

> A bill (H.R. 11589) to authorize the foreign sale of certain passenger vessels.

The ACTING PRESIDENT pro tempore. How much time does the Senator from Louisiana yield himself?

Mr. LONG. Mr. President, I yield myself 10 minutes.

Mr. President, facing reality is sometimes a difficult and unpleasant task. And so it is with the next item of business.

Today the Senate takes up H.R. 11589. The legislation would authorize the foreign sale of five laid-up U.S.-flag passenger vessels.

The SS *United States* would be purchased by the Government and placed in the national defense reserve fleet. Purchasers, terms and conditions for sale of the other five vessels would be subject to the approval of the Secretary of Commerce. The foreign purchasers would have to post bond to guaranty that the vessels would be made available to the United States in time of emergency, and the vessels could not compete with U.S.-flag passenger vessels for 2 years. The net proceeds from the sale of the vessels would have to be committed within a year to construct new cargo vessels.

These passenger vessels were once proud and majestic carriers of the stars and stripes. They were an important part of the U.S. merchant marine, our fourth arm of defense. They contributed importantly to our balance of payments and provided productive jobs for thousands of Americans.

I wish those things were still true today. But they are not. To believe so is to confuse nostalgia with reality. And to allow nostalgia to triumph over reality is to do a great disservice to our Nation, to our merchant marine, and to our seafaring men.

The present situation with respect to vessels is clearly intolerable. They have been in permanent lay-up for periods extending from 16 months to 4 years. They are making no contribution to our commerce or balance of payments. They are providing no seagoing jobs. They are straining the financial resources of companies that are already hard-pressed. And to argue that these laid up, wasting ships contribute to our Nation's prestige is to make a mockery of their past grandeur.

No Senator has viewed with greater reluctance or reservation the prospect of advancing by several years the time when these vessels could be sold abroad. However, since 1965, these vessels lost over $37 million according to Maritime Administration figures. This was true even though they received large subsidies under the operating differential subsidy program. In the last full year of operation alone, the vessels lost over $10 million. And, Mr. President, to operate these vessels for a full year was costing the taxpayers almost $40 million of taxpayers' money, for the privilege of losing $10 million a year, which is utterly ridiculous.

Many factors contributed to this disastrous financial history: The impact of jet aircraft which deprived these vessels of the point-to-point transportation market for which they were designed; the fact that they are not appropriately designed and configured for the cruising trades; increases in wages and costs without improved productivity; the inability to raise rates because of intense foreign-flag competition for passengers in the cruising trades; the decline in supplemental cargo revenues as ever more efficient cargo vessels entered the competitive picture.

Recognizing the declining position of these vessels, Congress repeatedly in the last 10 years amended the Merchant Marine Act to allow these vessels to maximize revenue and minimize costs. These measures included Public Law 87–45 and Public Law 90–358. Similarly, in addition to the operating differential subsidy program, these vessels were assisted through the earmarking of funds in the Department of Defense appropriation for transportation of personnel. The most recent amendment of the Merchant Marine Act was made in the last Congress, Public Law 91–250.

Nonetheless, these vessels continued to incur staggering losses—over $10 million in the last full year of operation alone. And by the end of 1970, the last of these vessels was laid-up.

That is the reality which confronts us today. The estimated cost of layup is approximately $5 million annually or $47 million for the balance of the useful lives of the vessels. These funds are completely wasted and unproductive.

Last year, the House Merchant Marine and Fisheries Committee held hearings extending over a period of 6 months in an attempt to find a solution to the problem. Those hearings began with the avowed and strongly held objective of finding a means of operating these vessels under the American flag. Finally, after exploring virtually all proposed alternatives, the House committee concluded that massive Federal subsidies of up to $80 million a year would be required to reactivate the vessels. Therefore, the committee, consisting of 37 Members of Congress, urged enactment of H.R. 11589, with only one Member expressing dissenting views. And the House passed H.R. 11589 by an overwhelming vote.

The Senate, the Merchant Marine Subcommittee, of which I am chairman, held hearings on the passenger ship issue at which all interested persons were invited to testify. Representatives of labor, management, the administration, and others testified.

These hearings are filled with exhaustive financial data, studies, and complex projections. We asked for additional data from the companies and the Maritime Administration. Yet the inevitable conclusion is the same: there seems to be virtually no chance that these five vessels can be reactivated for American operation under foreseeable conditions.

Some of these vessels have been laid up for as long as 4 years. In that long period of time, no one has come forward with a concrete proposal and the necessary financing. I seriously doubt whether anyone will. However, in that regard, it should be noted that enactment of H.R. 11589 in no way precludes the purchase of these vessels by Americans. In fact, we would anticipate that in the exercise of his broad discretion with respect to approval of purchasers and the like, the Secretary of Commerce would give preference to any reasonable offer to operate these vessels under the American flag.

Primarily, however, I want to address myself directly to the matter of the effect of this legislation on jobs. For that is a most important matter particularly in these times of recession, high unemployment and tragic economic hardships. It has been charged that enactment of H.R. 11589 will lead to the exportation of jobs. But careful analysis indicates that under existing circumstances precisely the opposite is true. Enactment of the legislation is necessary to assure that our people will be provided jobs.

When these vessels were sailing, they provided about 3,000 shipboard positions. But the last of these jobs disappeared a year ago, and most disappeared 2 or 3 years ago. The layup of these vessels resulted in unemployment for thousands of men and grave economic hardship for their families. But that all occurred before H.R. 11589 and is certainly not a result of the legislation. There is no reasonable possibility that these ships can be reactivated without truly massive Federal subsidies. The administration has made it perfectly clear that it would vehemently oppose providing any such subsidy, which would certainly be characterized as a subsidy for the rich at the expense of the poor.

The subsidy, Mr. President, would have to be about $900 per person per 14-day cruise. Some of us on the Finance Committee are trying to obtain $200 a month for social security beneficiaries who have worked more than 30 years to earn their retirement. It is utterly ridiculous to think of paying about 10 times that much to make it possible for some wealthy American to cruise the Caribbean, enjoying the sunshine down there, while some other American is working and toiling throughout the winter up here, paying taxes to make it possible for him to live in a style that is not at all conceivable for the average citizen paying the taxes.

As a matter of fact, Mr. President, for that kind of subsidy, nearly $2,000 per person per month, it would be possible for the average workingman paying the taxes to support that kind of subsidy to take all his family on a vacation around this land with all the enjoyment any family could conceive of as a family vacation. Think of that, $2,000 a month for one person: a whole family could enjoy a sumptuous vacation with that, even by American standards. I submit that it is utterly ridiculous to think of doing it that way. Even if Congress provided the money, the administration would not spend it. So failure to enact H.R. 11589 will not create or preserve jobs.

On the other hand, under the terms of the legislation the companies are required to commit the net proceeds from the sale of these vessels to constructing new vessels within 1 year. The Maritime Administrator has estimated that this will amount to about $29.3 million, or equity for seven new ships, generating approximately 5,250 man-years of shipyard employment and 420 seagoing jobs. These vessels can make an important contribution to the objectives of the new maritime program we enacted in the last Congress.

The SS *United States*, because of its special defense features, would be acquired by the Government for the defense reserve fleet. It would be acquired at its depreciated book value of approximately $12 million. Of this amount, $6.8 million would represent the cancellation of the existing mortgage on the vessel held by the Government. The other $5.2 million would be in the form of a credit toward construction of new vessels, since, as in the case of the other five passenger vessels, the net proceeds must be committed to new construction within 6 months.

There has been some question as to whether there is any time pressure with respect to this legislation. I believe that there is for several reasons. First, the four companies involved are all in serious financial trouble and each passing day further strains that situation. Second, passenger vessels from other nations, notably Italy and England will soon be on the market thus depressing the price at which these vessels can be sold and, therefore, the number of new ships to be built. Finally, if these vessels are to be outfitted, reactivated, and scheduled for the coming cruising season it must be begun shortly. A delay now would mean no action in this Congress and would mean beginning legislation all over again in the next Congress. It would mean continuing the needless waste for an additional year or two.

In the last Congress, after many years of struggle, we were successful in getting enacted a new maritime program to revitalize our merchant marine. The Merchant Marine Act of 1970 envisions the construction of 300 new ships—which, by the way, could do the work of 1,500 present-day ships—and represented many years of effort by those committed to a new and more vigorous maritime policy. It was a long, hard struggle to get that new 10-year program enacted. The benefits of the new program, if brought to a successful conclusion, are obvious: for our commerce, our defense, our balance of payments, and in creating jobs. However, the fulfillment of the promise of that legislation is seriously in doubt. The financial strain and economic waste of maintaining these unproductive passenger vessels, a drain of approximately $5 million per year even in layup, is one additional obstacle to success in this urgently needed effort. In 1970, we made a commitment to a future that included a vigorous and vital merchant marine by Americans, operated by Americans and flying the American flag. However difficult and unpleasant the task may be, we should not now sacrifice that commitment out of nostalgia and sentimentality.

I therefore urge enactment of H.R. 11589.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. GRIFFIN. Mr. President, is time allocated to this side?

The ACTING PRESIDENT pro tempore. The Senator from Michigan has 60 minutes.

Mr. GRIFFIN. I yield myself 5 minutes.

Mr. President, I rise in support of the pending bill which authorizes the foreign sale of five American passenger vessels—the SS *Constitution*, SS *Brasil*, SS *Argentina, SS Santa Paula, and SS Santa Rosa.*

Under present law these vessels cannot be sold foreign until they have been under the U.S. flag for 25 years, because Federal funds were used to construct them. There are only four U.S.-flag passenger vessels still in active service and all operate on the west coast.

For those who have had the opportunity to travel on these ships they will undoubtedly evoke fond nostalgic memories. But nostalgia is no reason for the Federal Government to pay out over $70 million annually—the amount estimated by the Assistant Secretary of Commerce for Maritime Affairs, Andrew Gibson, to put these ships back into profitable operation—so that a few people can enjoy pleasure cruises. As the report of the Senate Commerce Committee points out:

> In some instances, this would be equivalent to a subsidy of $900 per passenger on a 14-day cruise.

Mr. President, with the current attitude of the American taxpayer, I beileve it would be a gross understatement to predict that he would object to having his taxes go for such purpose.

Despite Government subsidies for the construction and operation of these vessels totaling more than $220 million, the operators of all five of these vessels were suffering substantial losses in the last years prior to layup. From 1965 to 1970, when the last ship was laid-up, these vessels lost over $37 million.

Even in layup these ships are placing a severe financial burden on the owners. Until these vessels reach the end of their 25-year statutory life and can be sold foreign, total estimated layup costs of $47 million will accrue.

Very simply it would be economic nonsense to continue such a situation. If American buyers had been willing and ready to purchase the vessels, this legislation would not have been introduced in the first place. And since the legislation was first considered in the House of Representatives more than a year ago, there has been no substantial proposal proffered by an American buyer.

The two principal objectives of the Merchant Marine Act, 1936, and its subsidy programs are to provide shipping service for the foreign commerce of the United States and for the national defense.

Neither of these objectives will be undermined by the passage of this legislation. The American-flag passenger fleet is designed for an obsolete service—point-to-point transportation. It is not designed for pleasure cruise operation.

As I indicated earlier, it would require over $70 million per year in Federal subsidies to operate successfully the laid-up U.S. passenger fleet. This amount is nearly one-third of total operating differential subsidies earmarked for fiscal year 1973. Yet, in comparison to the operating subsidies required for the handful of passenger vessels in layup, the 1973 budget request of $232 million in opertaing subsidies for cargo ships will support an estimated 205 ship years of operation.

On the other hand, the net proceeds from the sale of the ships will further our foreign commerce by allowing the construction of seven modern, highly productive cargo ships. In addition, the construction of these ships would expand shipyard employment and would provide 420 seagoing jobs.

With respect to the value of the passenger fleet for national defense purposes, concern has been voiced that the sale of the ships to foreigners would impair the sealift capability of our Armed Forces. However, in testimony before the House Merchant Marine and Fisheries Committee, the Undersecretary of the Navy, John Warner, stated:

> While the American flag passenger ships could play a useful role during emergencies their retention for this mission cannot be justified based upon Defense needs because of their high cost.
>
> It is the view of this Department that more responsive and effective administrative passenger lifts can be provided by other Department of Defense airlift/sealift programs than by reliance upon United States commercial passenger ships.

In addition, Under Secretary Warner indicated that several of the new cargo ships, such as the sea barge and the LASH, would have sealift capability.

Furthermore, the bill would require the Federal Government to purchase the largest and fastest U.S. passenger vessel—the SS *United States*—for layup in the National Defense Reserve Fleet. It should be pointed out that the bill to which Under Secretary Warner addressed his remarks authorized the foreign sale of this ship along with the five vessels covered by H.R. 11589.

Finally, H.R. 11589 would further protect the United States by requiring approval of the Secretary of Commerce for each foreign sale, including the purchaser and the terms of the sale. Also, the purchaser would have to agree to make the vessel available to the United States in time of emergency and would be required to furnish a surety bond to back up that agreement.

Thus, the main reasons behind our maritime policy are not at stake in this case unless we fail to pass this legislation. We will not improve our merchant marine by propping up a few passenger vessels as a sentimental gesture. To do otherwise will merely drain off resources vitally needed to expand our cargo fleet.

Mr. President, H.R. 11589 is not a bailout for the owners of the laid-up vessels. The bill would require all existing debts on the vessels to be paid off and would further require the owners to invest the net proceeds of any sale into the construction of new cargo ships within 12 months after sale. This is the first time such a time limit has been placed on the owner of a passenger vessel, the sale of which has been authorized by the Federal Government.

The provisions of the bill take account of national defense concerns and should actually result in improving the American merchant marine.

There is no reason to delay further action on this bill. Jobs will not be saved by such action nor will jobs be created by further layup. On the other hand, jobs will open up if money becomes available to build new cargo ships.

Further delay will only lead to a further diminishing market for these ships. I urge my colleagues to vote for this measure.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HOLLINGS. Mr. President, how is time allocated on the bill? Both sides are for it and I am opposed to it, and I would dislike to ask the proponents for time, unless they want to yield me time to oppose it.

I also have an amendment, but I do not want to use up all the time. The Senator from New York (Mr. JAVITS) also desires to speak on the amendment.

Mr. GRIFFIN. How much time does the Senator wish?

Mr. HOLLINGS. Fifteen minutes.

Mr. GRIFFIN. I yield 15 minutes to the distinguished Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator from Michigan.

Mr. President, the taxpayers were mentioned, and I will take these things up as they were mentioned. I was not relying on the fact that there was so much opposition to the bill. But since the taxpayers have been mentioned, I want to speak out not for the taxpayers specifically, which is a sort of unique stand for the Senator from South Carolina, but I speak out for the National Maritime Union and every facet of organized labor in America.

Joseph Curran appeared at the Senate hearings and stated categorically that he, representing Mr. Meany and the AFL–CIO, and every facet of organized labor, were 100 percent opposed to this bill. They are taxpayers.

A partial list of those in opposition, according to the RECORD on the House side, indicates the following: American Legion, Veterans of Foreign Wars, the Taxpayers Against the Ship Sale—that is a pretty good title—the Seafarers International Union of North America, the Economic Development Administration of New York City, Mayor Daley of Chicago, and all the rest on this list.

They are all taxpayers. I ask unanimous consent to have the list printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST

American Legion; Veterans of Foreign Wars; American Federation of Labor and Congress of Industrial Organization; the Industrial Union Department, AFL–CIO; the AFL–CIO Maritime Committee; the Seafarers International Union of North America, AFL–CIO, the Taxpayers Against the Ship Sale; Economic Development Administration of New York City;

Brotherhood of Painters and Allied Trades; Baltimore Building and Construction Trades Council, AFL–CIO; Baltimore Port Coordinating Council, AFL–CIO; Walter S. Orlinsky, President-Elect Baltimore City Council; International Longshoremen's and Warehousemen's Union; Sandford Garelick, President, New York City Council; J. B. Williams & Co. Inc.; Mayor David T. Kennedy of Miami; Mayor Stephen P. Clark of Metropolitan Dade County;

S. A. Alsop, President, Shipyard Workers, Pascagoula, Miss., and Mississippi Metal Trades Department, AFL–CIO;

Mayor Richard J. Daley, City of Chicago; Robert Kilmarx, Director, "Soviet Seapower Study," Center for Strategic and International Studies, Georgetown University; Les P. Daugherty, President, Chamber of Commerce, Galveston, Texas; Judge Louis Levinthal, Former President, Zionist Organization of America; George Toby, Chairman Jacksonville Convention and Tourist Board; Mayor Ronnie Sizemore, City of Corpus Christi; the Puerto Rican Senate.

Mr. HOLLINGS. They are fairly objective and intelligent taxpayers. Why would they ask that their opposition be registered? Does anyone think that that group would be coming to Congress and saying that they want luxury passenger vessels to be subsidized so the fat cats, as the Senator from Louisiana says, can be paid a $2,000 a month subsidy to run around on pleasure cruises? That is the way it already has been categorized here in the discussion. I would suggest to my distinguished friend that he has gotten his guaranteed income bill mixed up with the ship sale, because what we are going to do is not change the subsidy. We are not going to the payment of operating the vessels themselves. We are going to the fact of whether or not the United States of America should continue a passenger capacity on the high seas of this globe.

Admiral Mahon said a hundred years ago:

> He who rules the seas rules the world.

The United States was launched as a seagoing, seafaring nation. We have been proud of that fact. I have been distressed, as a Member of the U.S. Senate, to be, in a sense, a member of the board of directors of Congress, over a corporation about to go out of business.

You cannot fly a plane, consider the SST. You cannot run a train or Penn Central. And now you cannot run a passenger vessel. We are going out of that business, too. Year in and year out, we have to say to the American people that we are going out of this business, that business, and the next.

In contrast to that, Mr. President, I believe in the old adage in the Broadway song that expresses it better:

> Anything they can do, we can do better.

I think that is the American approach, and let us see what others are doing so we can do it better.

Mr. President, in Sunday's Washington Post, on page G–3, appeared a large advertisement: "The great Bermuda cruises, starting May 17, from Norfolk, by the Cunard *Adventurer*."

On page G–4 is another advertisement—"After 1,110 Years, the Vikings Return to the Mediterranean"—for passenger line service on the Royal Viking Line.

On Sunday, while returning to my duties in the Senate from my home in Charleston, two blocks from my home I passed the Norwegian passenger liner, *Skylark*. It was taking on passengers and had a big sign reading "Welcome Jeffersonians." They were not Jeffersonian Democrats. They were all from the Jefferson Standard Life Insurance Co., from North Carolina, South Carolina, and Georgia. Intermittently, every week, it has been the course for the past 2 months that these passenger liners have loaded on and have been making money on the Caribbean cruises. We know from the hearing record that they have increased from 110,000 passengers in the Caribbean trade last year—over a period of 3 years to over 700,000 last year. They are going, growing, and flourishing. There are other nations doing it however, and not the United States.

There is a vestige of the U.S. passenger business still operating at a profit, which was brought out in contradiction of the Maritime Administrator's statement that no one was making a profit. An undisputed article printed in the RECORD on February 27, 1972, about the west coast companies—that is, the American President Lines and the Pacific-Far East Lines where in an interview, and I quote John A. Traina, Jr., general manager of the American President Lines, Passenger Division.

We are no longer losing money. We made money in our passenger division last year for the first time since 1965. We made over $1 million gross revenue last year. That was hauling very little cargo aboard the two ships. We would make money even if we withdrew the cargo.

So, Mr. President, let us begin with the facts and not with this distortion about taxpayers and lush cruises and $2,000 a month subsidies for everyone that wants to go off and have a ball on a boat. We know that the passenger line service of the United States is in jeopardy. Ships have been laid up but there are still some operating at a profit. However, other countries are enjoying a flourishing trade in the Caribbean and the Mediterranean.

The State government in South Carolina, has issued bonds for the construction of a passenger dock. I allude to those loading on cruise ships one block from my home, going through the cargo terminal there, to get to the ship. They are now going to construct, in order to take on this wonderful luxury business—and it is a business, I emphasize—a passenger terminal down there. So it strikes me that we do have a going, flourishing trade.

I realize the undisputed fact that the Atlantic trade was preempted. But that does not bother me. When the shipowners had these five ships built and they purchased them, they did so with a construction subsidy of some $91 million in costs. That is what the taxpayers paid for. That is what I am worried about. The taxpayers already put $91 million into that construction and they have already put $297 million into the operation of these five ships. They were constructed in 1952 and 1958 and averaged only 15 years in service at this time. Four are 13 years old and one is 21. At the time they bought these ships they had to know that the North Atlantic trade was being superseded by the airlines. When it happened it was no great shock to them. They knew it was coming at the time they took over the business.

But, did they change, and did they start a maritime policy to take advantage of the increase that others were building vessels for, and enjoying a flourishing business in the Caribbean?

Now, on the west coast with, incidentally, Red China and the opening up of relations there, it is foreseeable that the passenger business will pick up more passengers from the west coast, and sail to ports in China itself.

Did they do that? They did not. On the contrary, all of these lines, since the passenger line business was so costly, rather than trying to adjust, tried to go over to a new area of trade instead of trying to get together with the union to see if some adjustment could be made and some other use of the vessels could be had, rather than trying that, they did not do anything.

According to the testimony of the head of the National Maritime Union, they even, as late as 1969, went along with the pension agreement for the National Maritime Union. Then, 2 months after they had negotiated it, they took four vessels and laid them up without notice to anyone. Then they tried selling.

Of course, the facts are, set out in another article. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATE RUSHES TO MEET THE BOAT

WASHINGTON.—In the cubbyholes of the Senate, some lobbyists and legislators are racing the clock in a battle over a little-known bill dealing with the sale of passenger ships.

In this case, time is money. Perhaps as much as $20,000,000 for one shipping line alone hinges on whether the bill can be pushed through before the Senate adjourns for the year, sometime before the end of next week.

Some of the persons involved seem to have made an easy transition from government to industry. For example:

A former administrative aide to the man now in charge of the bill, Senate Commerce Committee Chairman Warren Magnuson (D-Wash.), has just been hired by the ship owners to try to lobby the measure into law quickly. He is Gerald Grinstein, who also serves Sen. Henry Jackson (D-Wash.), a candidate for the Democratic presidential nomination, as a strategist for the northwestern states.

A former lobbyist for the shippers and a past president of the American Merchant Marine Institute is now employed as chief counsel for the House Merchant Marine Committee, which has already approved the bill. He is Ralph Casey.

Two former executives of Grace Lines Inc. are now pushing the bill from within the Nixon Administration. They are Andrew E. Gibson, head of the Maritime Administration, and his assistant, Howard Casey, Ralph Casey's brother. Two ships owned by Grace Lines (which was purchased by the late Spyros Skouras in 1969 and merged into his Prudential Lines are directly affected by the bill.

The bill, H.R. 11589, was approved by the House last week, 253 to 139. It would permit five American-flag passenger ships, built and operated with more than $200,000,000 in federal subsidies, to be sold to foreign shipping interests. And it would almost certainly bring to an end the era of American-flag-transoceanic passenger service from eastern ports.

The ships involved are the Santa Rosa and the Santa Paula, owned by Prudential-Grace; the Brasil and the Argentina, owned by Moore–McCormack Lines Inc.; and the Constitution, owned by the American Export Isbrandtsen Lines.

Under the terms of the subsidies, the ships were not to be sold to foreign interests for at least 25 years after they were built. For the Constitution, that would be until 1975. For the others, which were built in 1958, the prohibition would be in effect until 1983. The companies say the ships cannot be operated at a profit even with the subsidies; all five are now inactive and have been "laid up" for one to three years.

The pressure is now on in the Senate to pass the bill before the holiday recess. Moore-McCormack has a contract to sell the ships to the foreign-flag Holland–America Lines Inc. for $20,500,000, but the option expires Dec. 31. Industry sources believe that Holland–America is having second thoughts about the purchase, and that it might not renew the option if it lapses. Even if a second option is arranged, the sources say, the sale price will probably be considerably lower.

A Holland–America representative declined to comment on the matter last night, and Moore-McCormack president James Barker could not be reached for comment. A Moore–McCormack source said that company officials were very concerned that the lucrative deal might fall through unless the Senate acted before adjourning.

At present, all sources agree, the bill's passage in the Senate remains in doubt. The commerce committee is expected to meet in closed session in the next couple of days to discuss what to do with the bill. Their problem: If the bill is brought directly to the floor without going through the committee, any senator can effectively block the bill by raising an objection. If the bill is taken through the full committee procedure, time may run out.

In the meantime, the National Maritime Union is beginning a strong effort to block the bill and to prevent the sale of ships to foreign interests, which would man them with foreign crews. In a telegram to Sen. William Proxmire (D.-Wis.), Union president Joseph Curran charged that the shipping companies were paying Grinstein, Magnuson's former aide, $100,000 for his few weeks of lobbying. Senate sources said they believed the figure to be much lower; Grinstein could not be reached for comment.

All of the parties interested in the bill have brought pressures on the senators and their staff aides in recent days. "It seems like all of a sudden all kinds of people are interested in this little old bill," said one commerce committee source.

A couple of committee staff members received calls a few days ago that they found quite puzzling. The caller in both cases identified himself as an attorney with the New York City and Washington law firm of Mudge Rose Guthrie and Alexander, President Nixon's former law firm. "The guy really didn't have anything to say," one committee source recalled. He just asked what was going on with [the ship bill]. He didn't express any views on it."

A Newsday reporter asked the former Nixon firm what its interests were in the matter and was told by one of the law firm's associates, John Manning, "I don't believe we can disclose any details of what we're working on . . . It's our policy not to get involved in discussing our business."

The Nixon administration, however, has made it no secret that it wants the bill passed. Maritime Administrator Gibson lobbied vigorously for the bill in order to secure its House passage. At one point, he spent several hours in a private meeting with Rep. Lenore Sullivan (D-Mo.), a member of the Merchant Marine and Fisheries Committee and a chief opponent of the bill, trying, unsuccessfully, to persuade her to give up her fight.

The bill is so important to the administration that it succeeded in winning special mention for the bill in an internal memorandum dated Oct. 28 that was prepared by the office of House Democratic Whip Thomas O'Neill Jr. (D-Mass.). The memo listed nine bills that had just been agreed upon by Democratic and Republican House leaders as being of "major significance." It included such headings as "higher education . . . campaign election reform . . . desegregation . . . minimum wage." But only one carried a note of emphasis: After the bill labeled "foreign sale of passenger ships" was the additional notation: "Administration wants this one."

An aide to O'Neill said that House Republican Leader Gerald Ford had informed the Democratic leadership of how strongly the administration wanted the bill.

Actually, Nixon's interest in the bill benefiting the shippers may have been preceded by a shipper's interest in the President. According to Herbert E. Alexander's book, "Financing the 1968 Election," Skouras contributed $17,450 to Republican political efforts in 1968.

Then in 1969, Skouras and his son sought to purchase the 22 ships of the Grace Line, including the two Grace ships covered by the bill, and merge them with his Prudential Lines. The deal was approved by the Maritime Administration in 1969, and the head, Gibson, withdrew from the decision because he had been a senior vice president with Grace Lines.

The federal approval came only after the investment banking firm of Dillon, Read & Co. Inc. said that it could arrange refinancing of Prudential's $45,000,000 worth of loans needed for the purchase. At that time, the White House assistant in charge of overseeing regulatory agencies, including maritime matters, was Peter Flanigan, who had recently taken a leave of absence from his former job as vice president of Dillon, Read & Co. According to sources on both sides of the Issue, Flanigan has played no role in lobbying for the bill presently before the Congress.

The justification for the subsidies is that a strong foreign trade fleet promotes trade, provides jobs and contributes to the national defense. In recent years, the government has paid up to $400 per passenger on luxury cruises to compensate American-flag owners, whose labor costs are far higher than their foreign-flag competitors.

Despite strong support, the original passenger-ship bill was almost killed in the House. The House Rules Committee voted in October to postpone action on the bill indefinitely, thus effectively killing it. At that point, the chairman of the Merchant Marine Committee, Edward Garmatz (D-Md.), whose campaigns are overwhelmingly financed by marine industries and unons, threatened to resign his chairmanship if the committee did not reverse itself and pass his bill, sources said.

Intense lobbying followed, and a compromise version was agreed upon. Two ships that were in the original bill received new dispensations in the bill now pending. The Independence, owned by American Export; is now to be purchased by Wall Street Cruises Inc., an American-flag operator that thinks it can make a go of it; the United States Lines' namesake ship, the United States, will be purchased by the government for the naval reserve fleet.

Mr. HOLLINGS. For example, the Grace Line, was sold and a substantial profit was taken off by the owners before the sale. They merged with a smaller line, the Prudential Line, and Mr. Skouras of Prudential took over from there. Grace Line was sold at a substantial loss and Prudential had to refinance its debt to borrow money for the purchase.

In other words, it was an uneconomic thing at the time and yet they did it. Now they come to Congress and say, "It is your policy that is a burden on our company."

Another thing that goes into the computer is that they have no idea, as I say, of carrying out the original commitment. They have no one in the particular business now that frankly, wants to persist in this particular service to the people of America and maintain a passenger line service whatever. The fact is, they have been taken over by conglomerates with no mission in the passenger business.

See the testimony of the Moore-McCormick president, a whiz kid who came from Harvard business school specializing in transportation matters. He knows what loses, he knows what wins, he knows how to make a profit. He starts spinning off the losers with no dedication or effort made to operate passenger ships.

Therein is where I think Congress should take action. I think that we in Congress owe a duty to the taxpayers, having put some $388 million in these five ships, to make one last effort, or as they say in the legal profession, "one last clear chance" should be taken. One last effort on behalf of the American merchant marine, should be made to try to preserve in some fashion these vessels for the U.S. flag.

Has such an effort been made that can do that? None has. The opposite has been true. Those charged as maritime administrators with this particular duty, took an opposite view of this obligation, and said we did not have the authority, that it was an economic loss, that the law was burdensome, and "let us sell out." They came before the Senate committee and testified. This was with some disappointment to me, because I have always had a high regard—and still do have—for the integrity of Mr. Gibson. I voted for his confirmation. But I could tell from his testimony, because of my long trial experience what his views were.

For one thing, when he appeared before the committee he stated there were only a few hundred jobs to be gained by this bill. When he testified on the Senate side, he came in with a long statement, puffing his wares as we say, something like the lawyer, Melvin Belli, trying a damage suit for a dollar for each hour of pain. He cited every particular job not only on the vessel but for construction, and indicated many man-hours would be required. All of a sudden, this became the great employment bill when in reality it would create an aggregate net total of 104 jobs.

When I asked him about the Caribbean trade, he became like witnesses before the Judiciary Committee; he did not remember, he did not know. He did not know whether passenger lines were making money in the Caribbean. The Maritime Administrator should know something about competition, having been in the shipping business. He had a part in it. He had been with the Grace Line. He knew what it was all about. But he could not say they were making money. Then when he completed testifying about this, he got to the point where he thought that this Congress was responsible for the whole debacle.

Mr. Gibson's testimony on page 123 has this to say:

> I believe the present law represents an unnecessary burden upon this system.

Then he goes on and explains it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. Mr. President, would the distinguished Senator from Michigan yield me another 10 minutes?

Mr. GURNEY. Mr. President, I yield an additional 10 minutes to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for an additional 10 minutes.

Mr. HOLLINGS. Mr. President, when we had the Maritime Administrator testifying at the hearings, I asked each time if some effort had been made to get the parties together and to knock their heads together and see if somehow, somewhere, we could preserve these vessels for the American flag.

He evaded the question every time. And the record shows that he made no final effort whatever. This dovetails with my experience of yesterday. At a hearing before the Appropriations Committee on the Maritime Commission, we had Mrs. Helen Dietrich Bentley. I do not want to misconstrue her testimony, because she had no testimony on the passenger vessels. However, she was talking about maritime policy and the construction of vessels and how, in this Government, when we think we have accomplished something, as when we approved in 1970 the construction of 300 vessels, 30 a year for 10 years, at a cost of millions and millions of dollars, that in essence was really a self-defeating bill.

She compared Japan with the United States. The Japanese can in a flash give increments for 5 years on the number and type of vessels that are to be constructed, whether cargo vessels, lighter vessels, for what shipping have on line and what character. This is all programed well ahead.

We in the United States on an ad hoc basis build a few vessels. We have a few vessels constructed without a subsidy. However, the ones that are really needed may not be built. There is no comprehensive policy. The same thing is true with this passenger line effort.

I asked Mrs. Bentley what she would do if she had the power to do something about this matter. She said that she would meet with the Maritime Commission and all other parties concerned and knock their heads together and make them get together on a programed policy so that we could compete and have a policy of the United States.

That is what I want to do. Millions of dollars have been invested and we should make an effort and have something done. This effort has not been made at all.

The fact is hearings were held on the Senate side that I did not know about. I was not here at that particular time. When the bill came from the House side it was not referred to committee and no hearings were to be held. The statement was made:

> Well, we have a contract to sell these vessels, and if the option is not exercised by December 31, millions will have been lost.

I asked them what effort had been made to use the ships. Like Representative SULLIVAN on the House side, I could not get any answer. The fact is that the Maritime Administrator has not made that effort.

As a consequence, I will offer an amendment. I will not offer it at this moment. However, I will offer an amendment to allow the General Accounting Office, under Elmer Staats, and his staff to get these parties together so that we might have a study made and find out where the losses and the profits are. We can see whether a consortium can be arranged and see whether that can be operated at a profit. They will report back by September of this year, before Congress leaves town. If this amendment carries and the bill is passed and no later action is taken by either House, this bill will become law. However, if either House disagrees by resolution, after receipt of the GAO report it will not become law.

Mr. President, I am not trying to delay this matter until next year. After 10 years of talking, we never had any very good hearings on either side and have never had this matter seriously considered by the Government.

Mr. President, let us see something about the question of jobs. We are trying not only to maintain passenger service in the American fleet, but are also trying to create jobs. I think it is highly important to sell the idea that we are going to create jobs. The fact is that they are out of jobs now. We know that the jobs are not there. No effort is being made to really operate them in any fashion. The jobs are gone. Those who are seeking the jobs are those who are opposed to the bill. I would think that a fellow would know what would be best for him, and I would think that he would know the best position to take on this measure.

Something has to be done. The Japanese have organized a consortium. The British have also done this.

When we look into the freight trade in this country, we see that it is losing money. Mrs. Bentley testified yesterday before the Appropriations Committee that we are losing money. It will not be long, if this continues, until the freight lines will be in the same condition as the passenger lines.

What I am saying is that before it is too late, we had better confront this problem in a cohesive manner. Let us not go off halfcocked about a $2,000 a month subsidy. We are not wasting any money. Over the next 5 months, the GAO can study this matter. I have talked with Mr. Staats of GAO and he says that he can make the study in that time. We can then know what the alternatives are. We can pursue a congressional policy. And when I say a congressional policy, I mean a comprehensive long-term policy. Other countries are doing it, and they are obviously making a profit. Why are we not doing it? Why are we spending millions of dollars and not doing this.

I had hearings on the Merchant Marine Academy at Kings Point, where I had the honor of serving on the board. Why are they spending millions of dollars there and at eight other marine schools in training operators who will not have any jobs to sail on American-flag vessels?

Why are we not holding hearings on this now. We have held hearings. The Director of Tourism testified at a hearing. He appeared and asked for increases of some $7 million.

The Senator from Louisiana knows that these are programs of the United States and that we ought to get in and compete. Here he is testifying as one arm of the Government that we have to get in there. Every other nation is competing. Where does this go, and who do we compete with. The director of Cunard when he testified introduced an advertisement which reads in part:

> Now you can sail from New York to Britain or France at regular fare and sail back home free. Cunard's special package includes up to 11 full days and nights on the Greatest Ship in the World and up to four days in London or five days in Paris. The free trip home is available only to those people who buy this special vacation package.
>
> This special vacation is offered for people who wish to travel out of the peak summer months.

His testimony was that after running that ad, the ship was filled in 8 days and they had to knock it out of the newspaper for the next weekend.

Others are doing it. Why can we not do it? Have we really made the effort? We have made no effort whatsoever.

The people from the Maritime industry testified before the committee of the Senator from Louisiana that they had priced themselves out of business with certain work practices and regulations and things of that kind. However, Mr. Curran said that he would cut their work force and costs by as much as 50 percent. He said they will try everything.

I will read certain parts of his testimony which I think are very significant, because he went very thoroughly into this matter.

I hold no particular brief for any one group here. This is not to support labor or to support the shipbuilders. It is to support the American taxpayer and a maritime policy. He testified as to the various ideas they had advanced. They had made approaches to the Moore-McCormack Lines.

They called and the telephone call was never answered. They tried to get in touch. They made other proposals of reorganizing.

Then, Mr. Skouras of the Grace Lines appeared and said on page 828 of the Senate hearing transcript that—

> Everything said here today we have no argument with.

The American shipowners are not shipowners. They are wizards at making money. They feel no original obligation under the commitment and no obligation to try to maintain these ships. They feel no obligation to turn these over into school ships for example and they feel no obligation to try to preserve jobs. Their headaches and problems are stockholders' profits and dividends.

With that, Mr. President, I call up my amendment and ask that it be stated so that we can bring this issue before the Senate to see if we can make one last effort.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. **LONG.** Mr. President, I yield myself 1 minute.

I urge the Senator not to call up his amendment yet, because we have time on the bill and I would like to respond to the Senator's argument.

Mr. **HOLLINGS.** I yield to the manager of the bill.

Mr. **LONG.** I thank the Senator. I would like to debate the bill for a few minutes.

Mr. **HOLLINGS.** I will hold up on the amendment.

The **PRESIDING OFFICER.** The Senator from Louisiana is recognized.

Mr. **LONG.** Mr. President, the Senator made a number of statements with which I find myself in disagreement. For one thing, the Senator said an effort was made to pass this bill as though it were a breeze, and that we tried to bypass the committee. I should explain to the Senate that this is a measure which has been delayed, in my judgment, altogether too long. These people are losing $5 million a year on ships that cannot make this Government a nickel.

To needlessly delay this bill is not only an injustice to the people who own these ships, but it is also an outrage to the American taxpayers. At least, that is what I think about it. We should pass this bill as soon as we can.

The bill is being opposed by Mr. Joe Curran. As far as I know that is all the opposition there is: Joe Curran. He is a great labor leader and president of the great National Maritime Union. I do not know why they oppose this bill; that is all, as far as I can detect. I say that for this reason.

It would appear that the AFL–CIO was against the bill. Yet this Senator has been supported by the AFL–CIO many times, and as a Senator managing the bill; working for it; and supporting it, as in the case of WARREN MAGNUSON, who has been supported by labor down through the years.

If that is the case, why have we not heard from Andrew Biemiller? Why has he not contacted us to go on record opposing this bill? If they were as concerned about it, as some others claim, we would have heard about it a long time ago.

I have made the statement repeatedly in Louisiana, and so much so that it is not politically wise, that if I had one union for me I would want it to be the Seafarers International Union. Why have I not heard from men who speak for the Seafarers in my State? They know there are no jobs involved in this measure. It is a matter of those ships sitting there and collecting rust, and losing $5 million, but no jobs. If they can make the money from selling the ships and building new ones, then there are new jobs, there is the potential for new jobs. They do not want to go to war with another union. It is not good business for labor leaders to fight labor leaders. Mr. Curran thinks it is a very important matter.

Then there is Mayor Daley. I admire him, but there has not been a word from him. The VFW; I am a member of the VFW and I am proud to be. I worked with them down through the years. We have not heard from them. Why? They are not deeply concerned with this measure. In my opinion, to say they are is to strain things.

The Senator said this matter grieved him. This bill should have been passed last year. Here we are into 1972. It was my hope that when the bill came over it could be promptly considered. I scheduled a hearing and I had to hold it while the Senate was in session. I am sorry the Senator from South Carolina was not there. He was notified. I conducted hearings and I obtained the facts. We referred the matter to the committee and we got the facts. Then there was the delay and the difficulty of getting a quorum. Probably the Senate could not have acted on it. A single Senator could have kept it from passing.

This year we conducted two hearings. I was at one hearing and at another hearing the Senator from South Carolina was there and I was not. I do not complain about that. I can read the record and read his questions and the answers to his questions and get information in that way. So the Senator from South Carolina has had ample opportunity to make himself heard and explain his position. He still has that opportunity.

The Senator said that others can continue to operate on the high seas and we should be able to do so. The problem is that we pay wages in some cases for some personnel as much as 10 times more than are paid on foreign ships. It requires a greater subsidy for American ships operating in competition with them. That is not a subsidy to people who own the ships. They are making less profit than is most American business. That subsidy is for workers on those ships so that they can have the kind of wage the American economy would like them to have and so they can have jobs that would have been held by foreigners or not at all. Labor gets that and all that management gets is not more than the average profit. In fact, it is less than most businesses in this country receive.

The Senator would have us believe this payment was made to management and that management got the money.

This construction subsidy; who got it? Labor got it. I am proud they did. I helped to make it that way. But our shipyards cannot compete with foreign shipyards.

I am proud to say that in Avondale, La., we have a shipyard where the average man welds more steel together than in any other yard in the country. They have the most productivity in America on a wage-hour basis. Yet we cannot compete with the Japanese because our wages are so much higher than theirs.

We need a construction subsidy, and that goes to labor. Our able and competent management for the shipyards do not make as much as the average manufacturer, and we pay that big subsidy, so our own labor can live well. I want them to have that money. I have fought for that subsidy. So management did not get it; labor got it.

Mr. President, I want to provide more jobs. We ought to be building more ships, and we ought to be competing, too. But we ought to be competing not in areas where we do it worst, but in areas where we do it best. In LASH ships, containerships and efficient cargo vessels. We ought to be doing it in areas involving large amounts of capital investment where a crew of 28 men can operate, for example, a tanker longer than three football fields, of 250,000 tons.

These are enormous, fabulous ships, which can be built in American shipyards and can be manned by a crew of perhaps 28 men and go around the world hauling a tremendous amount of cargo. We are competitive in that area. If it requires any subsidy, it does not take as much. We should be competing in the area where mechanization and American methods make it possible to have a few men hauling an enormous amount of cargo at low cost per unit.

We are less competitive in the area where we have to depend on great numbers of waiters and stewards and maids. We cannot compete there. In those areas, those who can hire Chinese from Hong Kong, Pakistanis, South Americans, can operate far more cheaply than we can, because of the low labor cost. If we compete, we do not compete very well.

There is also a psychological barrier that does not make us compete it this area. Because of the higher standard of living we try to provide for everyone in this country, it is difficult to employ people in personal service jobs.

Americans who travel on those ships complain that they do not get the same kind of service as they do on foreign ships. I can understand that, because these people have been brought up in a country where equality is the standard and where they have a high standard of living

The area where we compete best is one in which a few men can operate large equipment which can carry enormous amounts of cargo, and carry it efficiently.

So we just said that we should shift

away from where we compete poorly and move toward an area where we compete very effectively, where the subsidy—and there is a subsidy—is very small compared to what it would be in the tourist trade business.

The Senator said in his speech that the companies had no idea of carrying out a commitment when they built these ships. At the time these ships were built, the development of aircraft had not come along to the point where it is now. There were not too many transatlantic flights. People considered it a risky thing at the time these ships were built. I recall coming alongside the *United States* in a boat out of Norfolk. I was just out of the service. I was very proud of that flagship of the American fleet of the future. At that time I had flown the Atlantic. But it was not as fast, safe, or convenient as it is now.

What happened? Improved aircraft were developed, and people do not go to Europe by ship any more, not if they are in any kind of hurry. Even foreign ships, with very low wage costs—only 10 percent or less of what we pay—still cannot compete cost-wise in going over there as compared with the cost of going by jet aircraft, by fast point-to-point transportation

Yes, they had every prospect of making money at the time the ships were built. It was like the story of a friend of mine whose father captured the player piano market just about the time the record player came into existence. He captured the market at the wrong time, at the time the public no longer wanted the product. In the same way, the public did not want to go to Europe by ship any more. The public thinks of going to Europe by aircraft, because it is cheaper than going by ship, no matter how low the wage rates are on the ship.

The Senator made the further statement that the Maritime Administrator did not know what he should have known, because the Maritime Administrator did not know whether ships of foreign nations were making money in the Caribbean. The Maritime Administrator knew what he needed to know when he told us there is no way on God's green earth for Americans to make money operating in the Caribbean. I understand he told the Senator from South Carolina that he did not know whether foreigners, with their low wage scales, were making money down there. He did know they had been making money, but a lot more competitors had come in and, because of the competition, they might be making money or they might not. He did not know. But that is irrelevant. The fact is that we cannot make money without additional subsidies.

The Senator said there were two American ship lines operating on the west coast that were making money. The vice president of one of those companies told the staff of the committee, that his line is not making money on passenger ships as stated in a newspaper article. They are losing money. That leaves only one company making money. But on the west coast there is a route from the west coast to Alaska, where no one but American ships can sail. There is no competition. It may be that they are making money where there is no competition.

There is another route from the west coast to Hawaii, where one American shipping company says, with the subsidy paid, you might make a few dollars, because there is no foreign competition. Perhaps it can make a few dollars there. I do not know. But they are not companies operating in the Caribbean.

There is one route around the world in 90 days where I understand they are making money. I do know this: Operating these laid-up ships, it would cost the American taxpayers $40 million in subsidies for the privilege of making somebody lose $10 million a year.

What kind of sense does that make? Who wants to continue that? The man losing the money does not want to do it. President Nixon does not want to do it. He would probably veto such a bill if it were sent to him, on the ground that it is a very poor investment of the taxpayers' money. The Maritime Administrator has told me it is too bad, these poor vessels were taking a terrible beating, but he could not recommend paying any more subsidies.

So here we go out and pay a $40 million subsidy a year, and they say to put them back into operation. The House committee submitted it might cost as much as $80 million a year in subsidies to operate these ships, which works out to a matter of, as I said before, a $900 subsidy for one passenger to sail on the Caribbean for 14 days, or nearly $2,000 subsidy for just one passenger to lie around on the deck in the hot Caribbean sun in January—nearly $2,000 per passenger per month.

Mr. President, I am trying to get poor old grandpa $200 a month under the social security bill, after 30 years of hard work, where he earned something. What justification would I have for giving this man $2,000 a month for nothing, when he could sail on someone else's ship that would not cost the taxpayers of this country a nickel?

Mr. President, I would much rather give 10 grandpas $200 a month than give one rich man $2,000 a month to go sail in the Caribbean. How could I explain that to some workingman, when he could take his family around this country enjoying a vacation the like of which they have never seen before or since for the same amount of money? Why should we give somebody a subsidy of $2,000 a month, which is what the Hollings program would have to be, with poor people paying the taxes so the rich people could play around? Should the poor people be expected to say, "I am happy to do that, to pay a subsidy like that to let the rich people play around. because, bless us, that ship still carries the American flag"?

Mr. President, if we have to subsidize some kind of a vessel, I say let it be a shrimp boat. They do not require a subsidy. Let it be a vessel carrying oil or other cargo. They require very little subsidy. Let it be some other kind of ship.

I submit we should not try to get into that kind of business. These companies tried very hard, and lost money for many years before they gave up the ghost. They cannot compete with the low wage costs around the world, with passenger vessels. These vessels were made to be troop ships if need be, and were made for point-to-point transportation, back in the days where you had first, second, and third class.

They tell me that for the cruise trade everyone wants to be first-class. Why not? Why should I pay for an expensive cruise, and then lie in the bowels of the ship? If I am going for a cruise, I would like to be on the top deck. So it has all got to be first-class, a resort luxury type of thing. You have got to have a lot of entertaining space, to entertain all the people at one time for some of these events. That requires an entirely different type design than some of these old ships have. They are not designed for it. They are not equipped for it.

The ship operators know they cannot do it very well, and there is only one union that seems to think there is any prospect of their operating successfully in the cruise trade, and that is the National Maritime Union.

I say to Mr. Curran that if he can find somebody to buy those ships, let him do it. But it is time that the people who own the ships should be imposed on no longer, to try to operate these ships that are uneconomical and try to subsidize paying their way. To come in here with a subsidy bill to pay $900 for 14 days, or $2,000 for one passenger for 1 month, is simply insupportable, in my judgment.

Mr. HOLLINGS. Mr. President, will the distinguished Senator from Florida yield me 5 minutes?

Mr. GURNEY. I yield 5 minutes to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the floor manager of the bill points out what he would not do, and President Nixon would not do, and we all would not do, that is to come in here with a subsidy bill for $2,000 a month for "fat cats" to lie on the top deck of some cruise ship.

I do not know of any such bill. If he wants to allude to the some $729 million that the U.S. Government has paid out in ship construction and operating subsidies, we can talk about that. But he, as the chairman of the Maritime Subcommittee of the Committee on Commerce, knows better than anyone that neither the President, Senator LONG, nor Senator HOLLINGS is for spending a billion dollars to subsidize ship operation, whether it is for people to lie on the poop deck, the after deck, or up in the smokestacks. But that is not the purpose of this bill.

The bill involves a breach of contract. What is the contract to be breached? When we constructed these vessels, at a cost to the taxpayers of $91 million, we said they shall be operated for a period of 25 years, and then, after the serviceability of the vessels was exhausted, they would be replaced in kind. That is what the shipowners have confronting them, a contract with you and me and the Government and the taxpayers, and they come to us and say, "We want to breach our contract."

I am not asking for a subsidy. The aim

is simply to try to get the boys together in a very complex problem, where the operators can talk about cost, and how they can operate. It is a Captain Blood scheme. We have a hearing, and we put in the record that the two lines on the west coast are making a profit. It has never been denied, but now comes the floor manager and says:

> They told our staff an hour ago that one of them is not making a profit.

What kind of record is that for Senators to make a judgment on? He said:

> They have been doing that for ten years, a long, hard struggle.

Well, if they have been doing that for 10 years, we could find out, as Senators, whether the line was making a profit or not. The only time they ever made that claim was to the staff counsel, an hour ago. That is another reason I name the GAO in my amendment, because they can pinpoint losses in any phase of their operations. These are investment companies, involving more companies, furniture manufacturers and other lines, engaged in part in the operation of passenger vessels and in part in something else—they are one of those conglomerates. I do not know whether they have a Dita Beard. However, that is of no consequence here.

My friend brought up the fact that if you are opposed to him, you are opposed to social security. What kind of person could go for that?

What is the fact? The fact is that my friend says that what really has happened is that he has not heard. Why, all this time he states he has not heard from Paul Hall; that there was one union down in the State of Louisiana, and he would rather have this one union on his side better than anybody else. That is the Seafarer's Union, and had not heard, he says, making it a fight between Paul Hall and Joseph Curran.

That is not the fight. The fight is between the taxpayers of the United States maintaining its U.S. flag on vessels, or turning them over to somebody else where they could go into competition with the two remaining lines making a profit, and put them out of business. As I see it, maybe I see it wrongly, but at least the GAO, after a study of 4 or 5 months, could determine whether we should be engaging in the passenger business and we should not delay it until next year. That is all he says. But Paul Hall had not come to see him. He did not hear from Paul Hall. He did not hear from the Seafarer's Union.

Mr. President, I think what we are all suffering from is a malady I was accused of some years ago, when I was floor leader for a sales tax measure for then Governor Byrnes, a former Member of this body. I had made some 72 talks on it, and when asked if I would yield, I said I would gladly yield, and the man to whom I yielded said, "The trouble with the gentleman from Charleston is that he has an impediment in his speech," referring to my Charleston accent.

I said, "The trouble with you is, you cannot listen."

Is that not our trouble? Where are the Senators? One, two, three, four that I see and the Presiding Officer—I want to include him, too. We get in here, working hot and heavy in debate, but there is no one here to listen. Everybody will come to the back door and ask the fellow standing there. The fellow at the back door will get more votes than either of us will, because we are not listening. The distinguished Senator from Louisiana has not listened.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. Will the Senator yield me 2 additional minutes?

Mr. GURNEY. I yield 2 additional minutes to the Senator.

Mr. HOLLINGS. Paul Hall, in a letter dated November 15 of last year which was made a part of the Commerce Committee record, wrote:

> Please be advised that with respect to H.R. 11589 which will permit the sale of 5 American flag passenger ships to foreign interest. I have been informed that interest in operating these ships has been shown by American businessmen. Therefore, I would appreciate delay in acting on H.R. 11589 until these prospects have been fully explored.

That is the Hollings-Javits amendment. We are trying to explore the various prospects.

> Passage of this bill at this time would foreclose any chance of saving these ships for U.S. flag operation and employment for American seamen.

Just a few weeks ago, Mr. Curran, representing Paul Hall, made this statement, which appears on page 21 of the Commerce Committee record:

> The Seafarers International Union has also joined us in opposition to the bill.

So the distinguished Senator is mistaken. He says we should compete with what we do best. What in the world is that? What have we left to do that is best in this land? If we get a textile bill, they say, "Get out of the business. The Japanese, the Koreans, and Hong Kong and everybody else can do it better." If we get the steel business, they say, "Get out of it. The Japanese and the Germans do it better." If we get into the shoe business, they say, "Go to Italy and get a pair of shoes, boy. You're wasting your time." If we go into aircraft to build the supersonic transport, they say, "Go to France and get a Concorde." With respect to trains, they say, "Go to Switzerland and take a train ride. You'll enjoy it."

Before we go completely out of business, we want to find out what Representatives and Senators think the United States can do best. It cannot win a war. All we rely on is what the Senator from Louisiana said:

> Sorry, big vessels, we got big planes.

In Congress and everywhere else there is silence. Anything we can make bigger, we will go for. What does America do best? Why can we not do this? No one wants to make an attempt. That is my objection.

All Senator JAVITS and I want is for the GAO to look at these shipping lines. They have gotten into investment companies and switched around their profits and priorities. We want that looked into and we want the groups brought together. Bring together the ship operators and others and see if we can work out a solution, and if we cannot, I will go along with the Senator from Louisiana.

If the Senator from Louisiana is prepared, I will call up my amendment.

Mr. LONG. Will the Senator withhold that?

Mr. HOLLINGS. Yes.

Mr. LONG. Mr. President, the Senator says we ought to do those things we know how to do best. He made reference to textiles. I voted for a quota on textiles.

We can earn foreign exchange to protect our balance-of-payments position at far less cost to the American people and the American economy and the American taxpayer by controlling importation of foreign textiles than by subsidizing someone to take a cruise on an American boat for $2,000 per month. I voted for trying to put America ahead with the SST.

The parallel to a quota in foreign trade is by denying foreign transportation the right to compete with our own carriers within this country. We have that. We also have it between the mainland of the United States and Alaska and between the mainland of the United States and Hawaii.

So we have limited the ability of foreigners to compete in this market. But when you are trying to subsidize, with taxpayers' money, people traveling on a Caribbean cruise, that is an area where everybody has a right to compete with one another. I submit that that is a very inefficient way of trying to earn dollar exchange. It is far more expensive to earn dollars for balance-of-payments purposes that way than any other way anyone has suggested. That is the most inefficient way to try to earn money for us.

The Senator made much of the fact that I said I had not heard from Mr. Paul Hall. I have not heard a word from him about this bill. He said that Mr. Hall wrote to Mrs. Sullivan on November 15, 1971. Perhaps he did. That is to Mrs. Sullivan; that is not to the Senator from Louisiana. That is over in the House.

What did he say? He said he understood that somebody might make an offer for some of these ships. Mr. President, that type of thing has been going on and on. Someone goes around behind the scenes and tries to get someone to make an offer for these ships so there will be a basis for postponing the consideration.

I heard that the Governor of Puerto Rico was going to make an offer, and I called him. He is willing to make an offer to buy the ships provided the U.S. Government will pay him what it costs. Theoretically, someone will come forward—and I hope they will—with a proposal that Puerto Rico buy the ships provided the U.S. Government will pay Puerto Rico to do it. Even so, under this bill, Puerto Rico could come forward if they could find an agency of the Government to put up the money.

All these offers disappear when it gets down to a question of put up or shut up. Several times someone has called one of these shipowners and said, "We would like to talk about buying your ship." Why should he not? He is praying that somebody will make him an offer. He makes the appointment, and the man does not show up or calls and cancels the appointment. They have been through that frustrating situation before.

These people have lost more than $2 million since November 15 on these ships that are lying around rusty, which is only a half or a third of what they would cost if they tried to operate them. There is no future in this thing. The people who have operated American ships down through the years know it best of all.

The Senator said that there is no verification of this. The Maritime Administration has checked all this out. They told the shipowners, "You can't keep this up. This is a very inefficient and expensive operation that this country can't afford." We are looking at their books and do not see how they can do this. For a while, some of these shipowners had profits that they could lay against the losses of operating these passenger ships. Eventually, these losses caught up with all of them, and they are all in trouble, and they have had to come in and say, reluctantly, "We hate to get out of this business. We love it. We have been in it for generations. But we cannot continue to take this beating any longer. Please let us sell and put it into the kind of shipping we can handle." We passed laws for those ships with a subsidy that the American taxpayer is willing to sustain, based on the attitude and the reaction of the U.S. Senate and the House of Representatives when we passed a bill to build 300 superships to carry cargo in an area where we can compete most effectively.

Mr. HOLLINGS. Mr. President, will the Senator from Florida yield me 3 minutes?

Mr. GURNEY. I yield 3 minutes to the Senator.

Mr. HOLLINGS. I thank the Senator from Florida.

Mr. President, we are now off onto the question of an offer. The truth of the matter is that the proposal is not to come up with an offer. It would amaze everyone who has been connected with this particular measure if somebody made an offer under the present maritime policy of the United States.

It would be like going down and buying a passenger train. There are plenty of places to invest millions of dollars but I do not think we want to get into a questionable operation. It is said it is a glowing and a growing investment. We also said it is a glowing and growing investment in the Caribbean, to the extent that it should be investigated. What we are trying to say is that some plan be promulgated. Mr. Curran's testimony was that the Kelso plan is worthwhile trying within the Seafarer's and the Maritime Unions and could there not be some joint ownership between the union and management or the shipowners? The Kelso plan was proposed, Mr. Curran testified, but they never did produce that particular plan. The Government has not indicated any encouragement for Americans to come forth to buy or operate the ships. He said he met with the chief prospective operators. They reached an agreement on manning scales and some adjustment of the contracts.

At another point, he says that they would actually cut the cost of labor and they would have to slash it about 50 percent. They went that far but got no response—none whatsoever—to the Kelso plan or any others that were promulgated. We did not run around saying, "You are going to have to have someone come up with an offer." I have talked to the shipowners off the record and they say that the only way to do it is the way the British and the Japanese have done—on a consortium basis; but we could not get the Government and the operators and the unions together.

I did not dream up that idea. I said to the shipowners "Tell me off the record," but they do not want to get in dutch with their competitors. That would be a worthwhile approach because it is working for the British and the Japanese. So my amendment is not seeking offers but is for coming up with a plan for a merchant marine for America. We are paying to train operators in schools, we are paying for construction, and we are paying for all these other things, but we look around and we do not follow through on this. We come through with the sale of vessels, being accused of trying for a subsidy of $2,000 a month for fat cat passengers to sit up on the poop deck. But that is not the point. I would say vote for my amendment that a study be made. It is a self-executing amendment whereby if the GAO report is negative and neither house took action, then the law would take effect and the ships would be sold. I am not trying to delay or be foolish or wooden headed about this, but we have never made the effort in the U.S. Government.

Mr. LONG. Mr. President, fundamental to the Senator's argument is that the American ship operators such as Moore-McCormack have been in the passenger business for many years. United States Lines, American Export, Isbrandtsen Lines, Prudential-Grace Lines, if those people know anything about the shipping business they do know they want to get out of the passenger business. The fact is, those people lost many millions of dollars trying to compete in this area. They were being paid a $450 subsidy for one passenger for a 14-day cruise. Notwithstanding they were losing money, that amounted to a $100 loss per passenger for a 14-day cruise.

I am familiar with the Senator's idea which he just mentioned, relative to schools and hospitals. It does occur to me that by the time they consider this, plus everything else that has been suggested by the Senator from South Carolina, all of which have been explored and not proven out, they will come in and say, "Let us sell the ships and put the money into something where we can operate effectively and require far less subsidy."

The Senator has an amendment here that can lose another $3 million. The Maritime Administration knows, everybody in the business knows, and everyone on the Commerce Committee knows, and the membership of the House Committee on Merchant Marine knows, this country cannot make money operating ships in the passenger trade. It is just that simple.

Mr. HOLLINGS. If the Senator from Louisiana is prepared, I should like to discuss my amendment, if the Senator from Florida will yield me 2 minutes.

Mr. GURNEY. I yield 2 minutes to the Senator from South Carolina.

The PRESIDING OFFICER (Mr. HANSEN). The Senator from South Carolina is recognized for 2 minutes.

Mr. HOLLINGS. On page 92 of the Commerce Committee hearings the testimony was substantially correct that there would be 104 jobs created from the construction of vessels.

He said:

> Your cargo ships built with the proceeds of this bill.

So it is a great employment bill. So that we can get the fat cats off to the top deck, we are going to employ by the sale of two vessels, as the Senator proposes, that they breach their contract on, to bring 104 jobs. That does not put money into the Treasury. I say, if we could get into balance in the next 2 or 3 months, it is not going to cost the Government anything.

Let us make this one last effort and have the Defense Department, the Transportation Department, and the Maritime Commission look over the books of these carriers, if that can be done, for a number of years. The whiz kids who have taken over that business have no interest in the American taxpayers. I think it is highly questionable that they have any interest in providing passenger line capability within this country.

Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. HANSEN). The clerk will report the amendment.

The assistant legislative clerk read as follows:

> At the end of the bill, add the following new sections:
>
> SEC. 3. The Comptroller General of the United States shall make a complete study on whether it is feasible for those vessels included in this act, to be reactivated and operated as passenger vessels documented under the laws of the United States, or to be utilized in any other feasible way while remaining under the ownership and operation of United States citizens. He shall attempt to bring together the necessary parties, including labor, management and government and shall invite comments and proposals from all interested parties. A report of the study results shall be submitted to Congress not later than five months after the date of enactment of this Act.
>
> SEC. 4. (a) (1) No vessels may be sold and transferred under this Act prior to the end of the first period of 30 days of continuous session of Congress occurring after the day on which the Comptroller General submits the report referred to in section 3 of this Act to Congress. Notwithstanding the provisions of this act no vessels may be so sold and transferred if, during that 30 day period, either House passes a resolution stating in substance that that House does not favor such sale and transfer.
>
> (2) For the purpose of paragraph (1) of this subsection—
>
> (A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.

(b) Subsections (c) through (g) of this section are enacted by Congress—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, repectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (c) of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(c) For the purpose of subsections (b) through (g) of this section, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the ——— does not favor the sale and transfer of vessels under the first section of the Foreign Sale of Passenger Vessels Act.", the blank space therein being filled with the name of the resolving House.

(d) A resolution with respect to the sale and transfer of such vessels shall be referred to a committee (and all resolutions with respect to such sale and transfer shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(e) (1) If the committee to which such a resolution has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution, or to discharge the committee from further consideration of any other resolution with respect to such sale and transfer which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to such sale and transfer), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to such sale and transfer.

(f) (1) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to such sale and transfer, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(g) (1) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to such sale and transfer, and motions to proceed to the consideration of other business, shall be decided without debate.

(2) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to such sale and transfer shall be decided without debate.

SEC. 5. This Act may be cited as the "Foreign Sale of Passenger Vessels Act".

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield myself 5 minutes, or as much thereof as I shall require.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I merely want to reiterate in brief what the amendment will do, pending the arrival of the senior Senator from New York, who is a cosponsor of the amendment. He will be on the floor shortly.

This amendment is offered only after discussing it with the Comptroller General of the United States. Why the Comptroller General of the United States? I wanted to have some objective and noninterested party who had the acumen required for the financial end, since we are talking partly about a financial problem. I wanted him to look into the matter, to look at the books, to look at the records, and to look at the profits and the potential. Otherwise I thought, as I said a little while ago, the head of the Maritime Association, Mr. Reynolds, and many other experts in and out of government, in this particular field, could be called upon, on and off the record, for their counsel.

If the amendment is agreed to, they could be brought together, and not from the viewpoint of shipowners or operators representatives. The Maritime Commission, in my opinion, has not made that effort. We could get together the Maritime Commission, the labor representatives, and other representatives and say, as the Senator from Louisiana indicates, that we have to be realistic. We are not as taxpayers going to go into a losing type of operation for passenger service. We are trying to maintain these vessels.

At the very least we should not be selling them to competitors and putting the two remaining lines who now make a profit out of business.

The Comptroller could act immediately to bring together labor, management, and Government. He could invite comment from all interested parties and could report back in not less than 5 months.

I had some misgivings that that would be sufficient time, because I knew that we would be charged with delay and carrying it over until the next Congress which would, in effect, kill it. And that was not our intent.

The Comptroller General could certainly make an important impact on this matter. What would happen then? Unless either House affirmatively turns down the GAO report, then of course the act becomes law. We can pass a ship sale bill today and not delay it long with my amendment.

I hasten to emphasize that there really has been no delay. There was a hysterical push in the closing days of the 1971 session to pass the bill but this is no delay, only a reasonable time to consider alternatives. I have held hearings along with our distinguished chairman, the Senator from Louisiana. I have conducted hearings for him. I think that I have been an active member of that subcommittee. I never heard of this particular measure until it hit our desk. And the word was that the request had been made that the bill not be referred so that we could vote on it immediately.

The Representative from my particular district, Representative MENDEL DAVIS called, and said, "Please give us a hearing." He has now had that hearing.

I had to go through the process of almost being personally assaulted with all kinds of charges, and what have you, that we were trying to snarl the deal. I told them that we were only trying to go ahead and get a hearing.

I was sure that the Maritime Administrator would come forward and thoroughly testify. We had hearings. When I asked him if he would do a study, he said that he would not try to do that. He was adamant. He even accused the Congress of being responsible, saying that we in the Senate and the House of Representatives had caused the problem. He, the Maritime Administrator, is blaming us for the debacle that the shipping industry finds itself in.

If we are to blame, then it is because we have not promulgated a policy that would bring together all members of the industry, in the construction and operation end, in an effort to solve the problem.

As I said before, Mrs. Bentley testified yesterday as the Chairman of the Maritime Commission relative to the construction end of the industry. She did not talk about passenger vessels. And I do not want to mislead anyone. I cannot say whether she would take the administration position in support of the bill.

When we were talking about the millions and millions of dollars involved, she said:

> One thing, Mr. Senator, that might interest you is that when we talked in 1970 about 300 vessels, 30 vessels a year for 10 years, that is not what we accomplished. The likelihood is that rather than 300 vessels, there will be 50 or 60 vessels, because we are going to build vessels of substantially larger tonnage.

She said that there was no comprehensive, program in the Government as to the type of vessels that would be constructed.

She said that the Japanese could tell us over the next 25 years in increments of 5 years, the type of vessels and the shipping lanes upon which they would travel and the business that they would serve. She said that they had it all mapped out and programed.

We in the United States have no program. We asked the Maritime Administrator how we would get one. He said that the White House or the Congress could do it. We will take that up later.

We say that they could bring the parties together and knock their heads together and get a plan and a program. That is what we need, to knock their heads together, to make the labor unions become reasonable, to make the shipowners feel some responsibility, and promulgate a program within that 5-month period.

Mr. President, I yield to the senior Senator from New York, the cosponsor of the amendment, such time as he requires.

Mr. JAVITS. Mr. President, I thank the Senator from South Carolina. The reason I have joined as a cosponsor with the Senator from South Carolina is not because I have any idea as to whether it is feasible, but because he has shown me a way in which it might be done and I was attracted to the way he has advocated.

I wish to see one final effort made to preserve passenger service under the American flag. I wish to see the jobs of thousands of American seamen, many of whom are members of minority groups, preserved. I want an objective study made of the entire matter.

H.R. 11589 is an admission that our maritime policy needs reexamination. Recently, 11 U.S. passenger ships have been removed from service—five were converted into freighters, and six are ships affected by this bill. Five ships, the SS *Brasil*, the SS *Argentina*, the SS *Constitution*, the SS *Santa Rosa*, and the SS *Santa Paula*, are to be sold to foreign buyers. The SS *United States* is to be purchased for the National Defense Reserve Fleet. The five ships were constructed with the aid of about $60 million in subsidies. Section 503 of the Merchant Marine Act of 1936 requires ships built with the aid of such subsidies to remain under the American flag for 25 years. This legislation would remove that restriction.

Of the ships involved, the *Constitution* is 20 years old; the others are only 13 years old. They could provide many more years of quality service to passengers and jobs for American seamen.

Mr. President, it is true that point-to-point passenger service is dying; yet the cruise business is healthy. Cruise traffic out of Miami alone increased from 188,000 passengers in 1967 to over 700,000 in 1971. All of this business went to foreign-flag ships. And two U.S. companies continue to operate passenger service on the west coast at a profit.

Mr. President, the amendment we are offering today would direct the General Accounting Office to make a comprehensive study of the entire situation within 5 months. After receipt of the GAO report, the provisions of the bill authorizing the sale will go into effect within 30 days unless either House of Congress objects—similar to a reorganization plan.

As a member of the Committee on Labor and Public Welfare, I am deeply involved in all of the labor trouble. Indeed, I have an understanding of the matter because of my strong prounion feelings. We know of parts of our economy which might have ground to a standstill. There is the case of the railroads most recently, and the longshoremen's strike. I assure the Senate that I am thoroughly aware of that situation and also with the fact that we have priced ourselves out of the market.

Mr. President, testimony indicated that labor-management relations have improved in the past year. Labor has made great efforts to make it attractive to owners to conduct passenger operations again.

When railroad passenger service was threatened with extinction, the Congress created the National Railroad Passenger Corporation—Amtrak. Could it be that the shipping industry is in the same position as the railroads were several years ago—making no real effort to keep passenger service in operation? It has been alleged that the Maritime Administration has never really attempted to bring all the parties together to work out a solution. It is this one final attempt, Mr. President, which the Hollings-Javits amendment seeks to provide.

Mr. LONG. Mr. President, how much time does the opposition have remaining?

The PRESIDING OFFICER. There is one-half hour to each side.

Mr. LONG. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, there has been suggestion here the union might want to put its money in, too. That is their privilege. I would not advise them to do so. It would appear to be a very poor investment. I would not like to see union pension funds lose their money. That was the view of the trustees of the National Maritime Union trust fund when it was suggested they put in the pension funds to operate these ships, and no one who ever managed them thinks they could be operated successfully.

These ships were built for a purpose that no longer exists, and that is for transport point to point; not for cruise purposes but for transport purposes.

These ships were built to transport passengers from here to Europe or to South America, so there could be first class, second class, and tourist class. If they are going to operate cruise trade you do not want a ship designed in that way. You would want all one class, all first class or luxury, and hopefully all outside rooms.

Then, Mr. President, you would want a large dining hall to entertain everyone at the same time and not one dining room for first-class passengers, and another for second class and tourist class. People do not want to go on a cruise and feel that they are not being treated as first-class passengers. They want to feel they are enjoying the cruise.

These ships were not designed for cruise trade. They have been trying cruise trade because they could not make money at passenger trade. So these people who own the ships have tried everything the mind of man could conceive to make money with them and it could not be done.

They have had $370 million of government subsidy and they have lost about $36 million. So we spend $370 million to make a loss of $36 million.

These people are losing money at the rate of $5 million a year, to have the ships pick up rust and barnacles. If the Senate agrees to the amendment, it would impose on them another $2 million in addition to the $5 million they lost last year. One-half of that loss comes out of the money of the taxpayers, so it would impose more loss on taxpayers, when the logical thing would be to take something that money can be made from. There is only one shipowner on the west coast who is making money.

What is the alternative? To let these people sell the ships and then put them to something that might make money so it will not require as much subsidy, provided it is something we can use rather than not use.

These contracts are required to have a provision that if we need those ships for a national emergency we can have them back. Is that not a better deal and have them turn them back? They have to put up a bond to guarantee we can have them for troop purposes in an emergency. Is it not better to have somebody else maintain them rather than to continue to lose money in something that would no longer serve the purpose for which it was built?

There is no sense trying any other answer. If this amendment is agreed to, I will be here when the term expires saying, "I told you so," and all we will have done will be to lose another $2 million. Is it not enough that they lost $36 million when there was a Government subsidy of $370 million? Is that not enough?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. Mr. President, I yield myself 3 additional minutes.

What would it show if we had the study? It would show that it would cost a certain amount to operate these ships, or you are going to sell them. So I would say the only thing is to amend the contract.

The Senator said we want to breach the contract. Not at all. We have a bad contract as of today and it is a bad contract for the other party as of today. It looked good at the time but it is not good today. What do people do when both have a contract and both are losing money?

Let us work out something that is to our advantage. That is what we say. Let us sell these ships, for which we have no use, and having sold them, let us put this into shipbuilding for which we have a use.

The Senator has said we will not get as many jobs with those new ships as is anticipated. Perhaps not. But we are going to have at least 5,000 solid jobs for Americans to build new ships—and that is something—5,000 good, solid jobs for American shipyard workers to build ships we can use in place of ships we cannot use.

Mr. President, I was urged to offer this same amendment a year ago by a representative of the National Maritime Union. I thought about it, but I was convinced that study would not prove a thing we did not know already.

The fact is that the Maritime Administrator, Mr. Gibson, had the duty—and he is discharging that duty—of watching the operations of these shiplines to see if they make any money, and if not, why not. This is because the Government subsidizes these companies, which keep taking that beating, trying to stay in business. He thought that it did not make sense. He said it is costing a fortune in subsidies and we cannot ask them to lose more money by subsidizing them with more money; that it makes more sense to give them subsidies for ships they can use to make money.

That is what we did when we passed a bill with reference to cargo ships, where we are a far more competitive operator than we are in operating these ships. Here are ships designed for point-to-point passenger service which is no longer being provided by anybody else. They were not designed for the cruise trade and they are poorly equipped for that. They can be used for that, but not by us, where we have to use waiters and stewards and maids to operate those kinds of ships provided by foreign labor, which would operate at less than 10 percent of what it costs to hire Americans to do that kind of work. Why not let them do it and let us manufacture and provide a service where we are more competitive? If they will remove some of the trade barriers, we can manufacture ships to provide service better than they can do it.

I hope the amendment is not agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield myself 5 minutes.

Perhaps I could suggest a live quorum to get our colleagues here to hear the merits of this debate, because it has been a long and hard struggle. It is new to every Sunday who comes in to discuss it.

I first want to express my gratitude to the Senator from New York for his comments. I think he has spoken in a dispassionate manner. I say that because the Senator from Louisiana and I argue very much as we do in political campaigns. We get all heated up. But the Senator from New York, in a dispassionate fashion, has placed before the Senate exactly what is in issue.

No one is assuming that this can or cannot work, that this is or is not an unfeasible plan, but at least a try ought to be made. The companies are to operate these vessels for the American fleet for 25 years and then are supposed to provide another vessel in kind after 25 years.

These were constructed in 1958 and 1959, and have an average age of 12 or 13 years. Can anybody with any perspective then not have seen that the airline traffic was taking over the business in the Atlantic from the regular ship lines?

Incidentally, while that was being taken over, the particular trade in the Caribbean and to Bermuda began to flourish. In fact, it jumped. It went from 188,000 in 1969 to over 700,000 in 1971, and it is continuing to double again this year.

Did they take advantage of that? No. They took a powder, a bug-out, or a cop-out, and some went into the hands of investment companies who became owners without any regard or feeling or obligation under their 25-year contract, and deadlined the ships in layup and allocated all of their losses for tax purposes.

Then the Maritime Administrator says, "You are at fault." This is sort of hard for me to encompass in my mind without some effort being made by the U.S. Government to bring the parties together, to see some type of plan worked out successfully as by the Japanese or the British, which could be promulgated here in the United States.

Again, I have always had the feeling, "Anything you can do, I can do better." That is an old American song, and I believe it applies in this particular instance. I would hope it would start applying in the Congress.

The Senator from Louisiana has made the plea that our time, energies, and money should be applied to what we can do best, and I yet have to know what the suggestion is as to what we know Americans can do best. Sometimes I have my doubts when it comes to textiles or steel or shoes or electronics. They say go to Japan or Italy for your shoes. Go to Hong Kong or Korea when it comes to ships. Go to the Japanese and Norwegian and the British. Let them take over. When it comes to aircraft, let us use the Concorde. When it comes to passenger trains, use the Swiss. We do not know how to run a train.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. I yield myself 5 minutes more.

I got the feeling that I am a member of the board of directors of a business that is going out of business. We are declaring bankruptcy around here every day. We cannot get here from there. There is a problem for every solution. When in doubt, do nothing, and we are in doubt all the time.

Then they talk about saving money. I come out the front door of my home in Charleston and for two blocks I see the street lined up with automobiles. I see a sign "Welcome, Jeffersonians," from the Jefferson Standard Insurance Co., people going on a ship called the *Skylark*, a ship of a Norwegian line. I know as a taxpayer of my State that we have burdened ourselves with debt to construct a passenger terminal to take advantage of this business because we have found it is good public policy and the taxpayers support it. We have investigated and found they are making a profit. It is ongoing. It is a flourishing thing. I see that with my own eyes.

I then go to Senate hearings, and when I get to the hearings they are talking about trade, U.S. Travel Service. I used to have a good friend from North Carolina who initiated this, former Secretary Luther Hodges. Floyd Gilmore was there. I know him. He did an outstanding job. I was rather interested in his presentation—the very thing I was told by the Senator from Louisiana and the sponsors of this bill—that there was no way you can do it. Mr. Thomas of the Travel Service presented his statement. He said:

> Senator, we are not spending enough on advertising. We are not competing. We want $71 million more from you in appropriations so that we can compete and run ads.

This ad reads:

> Cunard, *Queen Elizabeth 2*, the greatest ship in the world.

These are two vessels built by reasonable, sound, and prudent people in the last 2 years. The ad reads,

> Sail to Europe regular fare. Sail home free.

Mr. President, I ask unanimous consent to insert the entire ad in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Sail to Europe Regular Fare, Sail Home Free

Cunard announces round-trip vacations at one-way prices. From $389.

AN ALMOST INCONCEIVABLE BARGAIN

Now you can sail from New York to Britain or France at regular fare and sail back home free. Cunard's special package includes up to 11 full days and nights on The Greatest Ship in the World and up to four days in London or five days in Paris. The free trip home is available only to those people who buy this special vacation package.

This special vacation is offered for people who wish to travel out of the peak summer months.

THE GREATEST SHIP IN THE WORLD

Queen Elizabeth 2 is unquestionably the most magnificent experience on the high seas. She is twice the size of regular cruise ships. She is 13 stories high, three football fields long. But, when you're on board she is warm, friendly, intimate and very exciting.

A TRULY ARISTOCRATIC EXPERIENCE

Room for room, Queen Elizabeth 2 has the largest staterooms, wardrobes and dressing rooms of any ship afloat. For every two passengers, she has one crew member. But, like a good English butler and maid, your steward and stewardesses are there when you want them and not there when you don't want them.

EAT, DRINK, BE MERRY

Queen Elizabeth 2 serves five meals a day, including breakfast, morning bouillon, lunch in a great restaurant, afternoon tea, and a gourmet dinner.

There are nine exciting and different bars, each with its own special atmosphere, and a scotch and water costs 30¢.

And at night on the high seas, roulette, blackjack and dice games continue till dawn at the 736 Sportsman Club. And there are two orchestras, three combos, even classical concerts given at sea by various artists. And you can dance in a ballroom, or a nightclub.

THE OCTOBER 14TH SAILING

For the remarkable price of $389 you can spend five delightful days on The Greatest Ship in the World, then land in Southampton and spend two nights in a good London hotel. Here's what's included in England: all ground transportation, half-day tour of London, all breakfasts, a dinner, a night at the theater, and gratuities. All for as little as $389 or as much as $908, depending upon the accommodations you choose.

Or, for $415, you land at Havre and travel to Paris. There you spend two nights and two full days enjoying one of the most beautiful cities on earth, while staying in a charming French hotel. You'll get a half-day sightseeing trip in Paris, all breakfasts, a dinner at a Bistro, gratuities, and a boat ride on the Seine. You may, if you wish, spend as much as $940.

On October 22nd, you sail for New York.

THE OCTOBER 28TH SAILING

Your $419 fare includes a fine hotel in London for four nights, a half-day tour of London, a full day's tour to Shakespeare country with lunch, all breakfasts, a dinner at the "Talk of the Town" restaurant, a night at the theater, and gratuities. All for as little as $419 or as much as $957.

Or, for just $451, you can spend five full days and nights in Paris. Breakfasts, a tour of Paris, a tour of Versailles, a boat ride on the Seine, and a dinner at a Bistro are included in the price. You may spend as much as $1010.

Minimum rates based on double occupancy of inside, two-bedded room tourist class. Single room prices available on request.

THE FIRST, AND LAST, OFFER OF THIS KIND?

This may be your only chance to enjoy a round-trip experience at a one-way price. For reservations call your Travel Agent or Cunard at (212 983–2512 today. For more information send in the coupon below:

CUNARD, Dept. QET9–17
555 Fifth Avenue, New York, N.Y. 10017

Sirs: Please send me the free brochure on The Greatest Ship in the World plus information on your October 14th and October 28th sailings.

Name ----------------------------------
Address --------------------------------
City ------------ State---------- Zip------
Telephone ------------Area Code ----------

Great ships of British Registry since 1840.

CUNARD—Queen Elizabeth 2—The Greatest Ship in the World

Mr. HOLLINGS. Mr. President, I do not think they are in the business of having fat cats sit on the poop deck at $2,000 a month. I do not think the British are going into that kind of business.

Mr. Thomas said 8 days after they approved the ad they had to cancel it because they had sold out. That is what we want to do. I listened to him there. Then comes the maritime program. We are told that in addition to Kings Point and extra dollars, we want millions of dollars more to run schools. We have to train operators for vessels. We have an on-going maritime policy of the Nixon administration. We are finally going to construct 300 vessels, 30 a year for 10 years, and we have to furnish personnel.

I inquire into this, and I find out a lot of it would depend, they think, on large-scale operations in the passenger trade to employ these trained people.

So I say, "We are paying millions to train them. Others are doing it."

Now I come around to the record, again, before this committee, and this is the uncontradicted testimony, as the Senator from Louisiana says. The article is entitled "Sail Tides of Profits." It is dated February 27, 1972—just 2 months ago. I quote from the article. It says:

> The last four liners flying the American flag operate out of San Francisco and their lines' officials report increased revenues and expanding programs.
>
> "We're no longer losing money," said John A. Traina Jr., general manager of the American President Lines' (APL) passenger division.
>
> "We made money in our passenger division last year for the first time since 1965."
>
> APL operates the SS President Cleveland and SS President Wilson, which this year will visit Europe, Asia and the South Pacific on a world cruise.
>
> Pacific Far East Lines (PFEL) branched out into the passenger liner business recently with the purchase of the *SS Mariposa and SS Monterey*.

Now, this is what bothers me as a junior Senator. I admit willingly that I do not know too much about this particular business.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. HOLLINGS. I yield myself 5 additional minutes.

When I see the statement that Pacific Far East Lines branched out into the passenger line business, I figure they are reasonably sane, prudent men, in business to make a profit.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. PASTORE. I am rather reluctant to get into this debate, but I attended some of the hearings, as the Senator from South Carolina knows.

Mr. HOLLINGS. Yes.

Mr. PASTORE. There is a lot to be said on both sides. I think the Senator from Louisiana is very conscientious and very sincere in the position that he takes. As a matter of fact, unless something happens, as I understand, the lay-up costs are so high that if this continues at status quo, it would not be long, maybe 9 years, before these ships are nothing more than junk, and we will have nothing to deal with one way or the other.

The Senator, as I understand his amendment, has suggested that in order to get at least partial ajudication of this matter, it be entrusted to the Comptroller General of the United States to make a study to determine the feasibility of making these ships operable again. Then he goes on to say that once that report is submitted, at the end of the 5-month period, then, for the first period of 30 days in continuous session of Congress, the matter will stay abated, giving Congress an opportunity at that time to decide whether or not this legislation should more or less be repealed, the sale of the ships should be repealed?

Mr. HOLLINGS. Exactly.

Mr. PASTORE. In other words, he permits the possibility of the sale, subject to these conditions. Am I correct?

Mr. HOLLINGS. That is correct. We pass the bill subject to these conditions.

Mr. PASTORE. The subject I would like to raise is this: I do not know whether the 5-month period the Senator has chosen is an arbitrary figure or an arbitrary time, but it strikes me, as we look at this pragmatically, that if we suggest a 5-month period, that will bring us till some time in October or November. That means, if we invoke the 30-day continuous period, that will bring us to the next session of Congress.

Mr. HOLLINGS. No, sir. That is why it is designed that way. My arithmetic shows May, June, July, August and September, that that is the date they would report, and then we could act if necessary before we would adjourn—that is why it was designed for 5 months, and that is why I counseled with Mr. Staats of the GAO as to whether he could do it in that length of time.

Mr. PASTORE. I was going to suggest, in order to avoid any contention, why not reduce the period to 3 months instead of 5 months, and leave the amendment intact otherwise?

Then it could be argued that whatever is to be determined will be determined in this session of Congress. It all depends, of course, on how long the President waits before he signs it, on when the convention will be held, and on the temperament of Congress as to when it wants to adjourn sine die. But if the Senator took a period of 3 months, I see no harm that could be done to his amendment, and I think there would be more support for it.

In other words, if the President signed the bill any time before the first of June, we would have June, July, and August, then we would have a waiting period of 30 days, and that would take it deep into September or October, and that is just about the time I think we will want to go home sine die.

Mr. HOLLINGS. Mr. President, I think this is a good suggestion, and I appreciate the Senator from Rhode Island suggesting it. I ask unanimous consent that the amendment, wherein it reads, on line 7, next to the last line of section 3, "five months," that the "five" be changed to "three."

The PRESIDING OFFICER (Mr. STEVENS). The Senator needs no unanimous consent. He has the right to modify his amendment, and the amendment will be so modified at his request.

Mr. HOLLINGS. I thank the Chair and I thank my colleague from Rhode Island, because I would like to reiterate that I know I am being assisted, and I agree with the Senator from Rhode Island that the Senator from Louisiana is conscientious in his position.

We are equally conscientious. When I was asked to yield, I was pointing out that there were two lines making a profit, two in particular that cited their profit, and I quoted their vice presidents.

The Senator from Rhode Island talked about junked hulls rusting in the stream. I do not want to add to the junk. But I do not want to sell these ships to foreigners. If everything is true that the Senator from Louisiana says about the Pacific lines, if we sell these ships to foreign lines, they would be put into competition with the Pacific trade, after the 2-year prohibition in the bill and take the last remaining American-flag lines operating in this particular business, and put them into bankruptcy, or idle their going vessels, which they have operated at a profit, and have them become rusted junk. Therefore, I change the 5 months to 3, as the Senator from Rhode Island suggests.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. I yield myself 2 more minutes. I am trying to sum up, unless others wish to be heard on the amendment.

The point is then when you see others making a profit in this business, when you see others investing in the passenger service, when you see American lines making a profit, when you see the sums that this Congress has voted for training personnel, when you see the millions that we are putting in the American Travel Service to expand it, and we find out that this is all a policy promulgated on a continuation of passenger line capability, and then we come here and put them out of business, I just cannot reconcile this in my mind.

I could be very wrong. I do not say I am right. It is not a question of being right or wrong. I just do not think anyone in Government has looked at it. I have tried to bring in the best witnesses, and I am only using an approach I thought of. Mr. Curran did not suggest this to me. He never did suggest an amendment to me. I suggested it after I was disappointed with the showing of the Maritime Administrator in the Senate hearings. But I am reconfirmed in my judgment by the appearance of the Chairman of the Maritime Commission, Miss Helen Dietrich Bentley, from the the State of Nevada. She is an outstanding maritime expert, who has worked in the field for years, and knows the story.

The **PRESIDING OFFICER**. The Senator's 2 minutes have expired. The Senator from South Carolina has 1 minute remaining.

Mr. **HOLLINGS**. I yield myself 1 more minute.

Miss Bentley said, with respect to construction, that this is what we ought to do in our Government—practically the same approach. Again, I am not misquoting her to say that she is in support, or rather that the administration supports, Senator Long's bill. But I hope, before we go forward with it, we will put this 90-day contingency in, and provide that last 3 months' period, that last 90 days, as an effort that should be made to bring the parties together to retain, if possible, those vessels for the American flag.

Mr. **LONG**. Mr. President, how much time do I have remaining?

The **PRESIDING OFFICER**. The Senator has 20 minutes.

Mr. **LONG**. I yield myself 5 minutes.

Mr. President, all this amendment would do would be to make these companies lose more money, and all it will prove is that we were right all the time. The Maritime Administration has checked the companies; they have examined these books and have confirmed that there is no reason to think it would be different if the matter were studied from now to kingdom come.

Look at American Export Lines. They took the *Constitution* out of operation 4 years ago. Look at the chart on page 4. Operating in 1965, a $9,520,000 subsidy, they lost $960,000. The next year, 1966, a subsidy of $10,690,000, and they lost $1,950,000. The following year they got a $12 million subsidy and lost $3,480,000. The following year they got $7,990,000, and they lost $5,970,000.

This proves that if they operate, they lose a great amount of money plus the taxpayers' subsidy which goes down the drain with it. The taxpayers' subsidy is as much as 10 times what is lost in operating the ships.

Look at the *Argentina*, operated in 1965. We paid them a subsidy of $4,910,000, and they lost $1,830,000. We paid them $6,700,000 the next year, and they lost $900,000. The next year we paid $7,469,000, and they lost $410,000.

The losses of the companies are the least thing. The big loss is the loss to the taxpayer. Every time you take the ship beyond the breakwater, you are breaking the taxpayer's back; and the companies know it and so does everybody else.

It would require that we double the subsidy. It is not bad enough that these people lose money and they are begging to be let out of this mess, but every time they lose a dollar, the taxpayers lose $10.

Now we are being urged to move toward a program that they, themselves, think anyone would be a fool even to suggest—$2,000 a month for one passenger to cruise around for a month. That type of situation is utterly ridiculous. It provides no answer to go to the west coast, where only an American shipper can operate, between the mainland of the United States and Alaska, or the mainland of the United States and Hawaii, or the mainland of the United States and an American port, and say that a line is making money over there.

I submit that if these companies had any prospect of making money by operating these ships, they would be operating them and we would not have those ships tied up, and they would not be asking for the right to sell these ships.

Mr. **HOLLINGS**. Mr. President, I yield myself the short time I have remaining to say this:

The statement of the Senator from Louisiana is all premised on operating. These vessels are not being operated. Therefore, there is no loss other than guards to watch them. There is no operating loss, if one votes for or against the measure. It is not costing the Government or the ship operators any money in solving the situation that is stymied at the present time. Of course there are layup costs to pay but these were incurred by conscious choice by the shipowners.

The **PRESIDING OFFICER**. The time of the Senator has expired.

Mr. **HOLLINGS**. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. **LONG**. I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from South Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **ROBERT C. BYRD**. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Georgia (Mr. Gambrell), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from North Carolina (Mr. Jordan), the Senator from Washington (Mr. Magnuson), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from New Hampshire (Mr. McIntyre), and the Senator from Montana (Mr. Mansfield), are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) and the Senator from Georgia (Mr. Gambrell), would each vote "nay."

Mr. **GRIFFIN**. I announce that the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Fannin), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Pennsylvania (Mr. Scott) is absent by leave of the Senate on official business.

The Senator from Kentucky (Mr. Cook), the Senator from Arizona (Mr. Goldwater), and the Senator from Ohio (Mr. Saxbe) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from South Carolina (Mr. Thurmond) would each vote "nay."

The result was announced—yeas 30, nays 48, as follows:

[No. 171 Leg.]

YEAS—30

Allen
Bentsen
Bible
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Eastland
Fulbright
Harris
Hollings
Hughes
Javits
Kennedy
Metcalf
Mondale
Montoya
Nelson
Pastore
Pearson
Pell
Proxmire
Ribicoff
Schweiker
Stennis
Stevenson
Tower
Williams

NAYS—48

Aiken
Allott
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Boggs
Brock
Buckley
Byrd,
Harry F., Jr.
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Ellender
Ervin
Fong
Gravel
Griffin
Gurney
Hansen
Hart
Hatfield
Hruska
Inouye
Jackson
Jordan, Idaho
Long
Mathias
Miller
Packwood
Percy
Randolph
Roth
Smith
Spong
Stafford
Stevens
Symington
Taft
Talmadge
Tunney
Weicker
Young

NOT VOTING—22

Cannon
Cook
Curtis
Fannin
Gambrell
Goldwater
Hartke
Humphrey
Jordan, N.C.
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Moss
Mundt
Muskie
Saxbe
Scott
Sparkman
Thurmond

So Mr. Hollings' amendment was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 641. An act for the relief of Luis Guerrero-Chavez, Guadalupe Guerrero-Chavez, and Alfredo Guerrero-Chavez;

S. 1089. An act for the relief of Robert Rexroat;

S. 1675. An act for the relief of Antonia Plameras; and

S. 1923. An act for the relief of Harold Donald Koza.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 600) expressing the sense of Congress that the body of J. Edgar Hoover should lie in state in the U.S. Capitol, in which it requested the concurrence of the Senate.

FOREIGN SALE OF CERTAIN PASSENGER VESSELS

The Senate continued with the consideration of the bill (H.R. 11589) to authorize the foreign sale of certain passenger vessels.

Mr. WEICKER. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 1, line 9 strike out "and the steamship United States";
>
> On page 3, line 13 strike out all of Section 2 through the period on line 10, page 4.

The PRESIDING OFFICER. Will the Senator from Connecticut state whether he desires to have the amendments considered en bloc?

Mr. WEICKER. I do.

The PRESIDING OFFICER. The amendments will be so considered.

Mr. WEICKER. Mr. President, on my amendments, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, having discussed the question with the offerer of the amendment and the manager of the bill, I ask unanimous consent that the time on the amendment be limited to 20 minutes, to be equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WEICKER. I shall discuss the amendment briefly. It simply affects one factor in the bill. Specifically, it will bring the cost of the proposed legislation down to zero. As written at present, the bill permits the sale of five passenger ships to foreign purchasers under certain conditions.

I voted against the amendment of the Senator from South Carolina (Mr. HOLLINGS). I support that aspect of the bill. My amendment directs attention to that section of the bill which requires payment by the United States of America in the amount of $12,860,000 to repurchase the *United States* and put it in the reserve fleet for possible use as a troop ship. The amendment, however, would allow the owners of the *United States* to dispose of their vessel under the same conditions as the rest of the vessels listed in the bill. Therefore, they will not be discriminated against.

I see no obligation on the part of the Government to make this kind of outlay of funds. The reason given is that it might be necessary to use the vessel as a troop ship in the future. The same reasoning might be applied to the other passenger ships formerly operated under the American flag. The claim is that because the ship is named *United States*, it should therefore be a matter of pride that we lay out, roughly $13 million to retain it under Government control. I submit that if that type of reasoning prevails, all that we would have to do would be to go around the countryside and label something "United States" and that would enable the Government, when the time came, to buy it back. To me, this proposal is clearly for an expenditure of funds that is unnecessary for the purposes of the bill.

To state it again, briefly, the main thrust of the bill is to permit the sale of long unused passenger vessels to foreign investors, with a reinvestment of the funds in shipbuilding in the United States. I commend that aspect of the bill. But to make an exception for this particular vessel, especially when it will entail a cost of $13 million, is unwarranted and uncalled for.

The Senator from Louisiana pointed out, and excellently so, that the moneys being used to support the rich to take passenger cruises could well be used for the benefit of the poor. I say that the same reasoning should apply to this particular expenditure. Therefore, I oppose such an expenditure and hope that I will gain the support of the Senate in saving $13 million, which could certainly be spent in some better way.

Mr. LONG. Mr. President, I yield myself 3 minutes.

Mr. President, this ship could be sold in the future, of course, if the United States saw fit to sell it. However, the *United States* is potentially the best troop ship in the world. I regret that Senators do not have the House hearings on their desks, but I should like to take a moment to explain why I oppose the amendment. The average speed of troop ships is 19 knots. The *United States* moves at 33 knots. It can keep up with cruisers and aircraft carriers at their best speeds.

In terms of numbers of troops, the *United States* is capable of moving 4,600 men compared with only 2,200 on the average troop ship. So the *United States* not only can carry more than twice the number of troops, but it can move them twice as fast.

We are not completely out of emergencies yet; possibly we might need this ship. It was the view of the House Committee on Merchant Marine and Fisheries—and I think it makes sense at this point in time—that it would be well to have this ship around for a while. If we later decide we want to sell it, we could, of course, do so. Also, the House considered the enormous potential of keeping this ship in reserve.

The Senate report reads:

> Of all the passenger vessels in the United States Fleet, the *S.S. United States* has the most significant national defense features, the removal or alteration of wihch would substantially reduce if not destroy the value of the vessel to the United States in times of national emergency.

So I should think the House was wise and that the Senate committee was wise in taking the view that it would be well for the U.S. Government to buy this ship and keep it for a while, to see what might develop. At a future date, it might be decided that we were not going to use the ship, and therefore could dispose of it, as we are authorizing by this bill to be done with the other ships.

I hope that this amendment will not be agreed to for the reasons I have stated, and also in view of the fact that the amendment might tie us up in a controversy with the House for some time. There might be objection on the part of the House to accepting this amendment, or it might cause the Senate to refuse to recede from it. That would occasion another delay and affect legislation which has already been delayed.

I hope the amendment will not be agreed to, although I do think that the Senator from Connecticut has made a good argument for his proposal.

Mr. WEICKER. Mr. President, I yield myself 3 minutes.

I should like to quote from the testimony of Mr. Gibson:

> The Department of Defense has repeatedly testified that they have little or no use for ships as a means of transporting troops although they do consider it—they consider it to have an advantage of the type ship, the size and speed of the *United States*, in reserve.
>
> The fact is in practically 10 years of Vietnam, few, if any, of the troops have been transported by sea. There are no Navy or government-owned troop ships transporting American troops.

Mr. President, I would not want to be responsible for putting 15,000 troops on one vessel. Certainly our experience in the latest war we have waged is that we did not use ships for the transporting of troops.

At a time when we are seeking funds for many valid transportation needs and for education purposes, it is rather extraordinary that we should go ahead and spend $13 million for the purchase of a ship.

It is rather extraordinary that we would set aside $13 million to one corporation. We are not in the business of buying ships we may sell later on or that we may use in a future conflict when all the facts and experience indicate the use of ships as a transport vehicle is on the way out.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. MILLER. I am sorry that I did not hear the Senator's opening remarks. I am curious why the Steamship *Independence* is left in.

Mr. WEICKER. I originally took the *Independence* out also. It seemed to me it left the *Independence* in limbo. We are not buying the *Independence*. But I was told by counsel for the committee there would be all kinds of legal complications if I took the *Independence* out of the bill. That is the reason.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. LONG. Mr. President, I cannot buy the argument that airpower has completely replaced seapower in warfare. If we must evacuate a great number of troops somewhere, they are going to need an airport, and if we do not have the airport, we cannot put the troops on airplanes. Helicopters do not have the range. If we are required to put these troops on a base somewhere to support an assault, or to evacuate a large number of troops, this ship could come in extremely handy. It would be a good ship to have around.

I recall some predictions about how the airlift is going to replace the sealift, and it has not proved out.

Mr. WEICKER. Mr. President, I yield myself 1 minute. I want to point out that the bill is so written that the United States can recapture these ships and use them as troop carriers.

On page 2 of the bill, line 19, subsection (b) it is stated:

> The vessel will be made available to the United States in time of emergency and just compensation for title or use, as the case

may be, shall be paid in accordance with section 902 of the Merchant Marine Act, 1936, as amended.

So with the five we have agreed could be sold to foreign purchasers, we have obtained the right to acquire those ships in time of national emergency. The same would be true of the United States. I do not see why we have to get our hands on this particular one.

The PRESIDING OFFICER. Is all time yielded back?

Mr. WEICKER. I yield back the remainder of my time.

Mr. LONG. Mr. President, I hope we can let these shipowners have this relief they need.

Mr. WEICKER. I have no intention of killing the bill. I think it is excellent legislation. I do not want to pay $13 million to knuckle under to the House. This is serious business and cannot be supported by logic. Under those circumstances I call for the elimination.

Mr. LONG. You pay the $15 million but you still have the ship. That is why you are selling it to the United States for what you could get for it from a foreign power.

I yield back my time.

Mr. WEICKER. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Connecticut. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) and the Senator from New Hampshire (Mr. MCINTYRE) are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL) would vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. FANNIN), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Ohio (Mr. SAXBE) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), and the Senator from South Carolina (Mr. THURMOND), would each vote "nay."

The result was announced—yeas 14, nays 62, as follows:

[No. 172 Leg.]

YEAS—14

Allen
Allott
Beall
Brock
Church
Cotton
Dole
Fong
Hatfield
Hughes
Mathias
Mondale
Proxmire
Weicker

NAYS—62

Aiken
Anderson
Baker
Bayh
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Cooper
Cranston
Dominick
Eagleton
Eastland
Ellender
Ervin
Fulbright
Gravel
Griffin
Gurney
Hansen
Hart
Hollings
Hruska
Inouye
Jackson
Javits
Jordan, Idaho
Kennedy
Long
Miller
Montoya
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Smith
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Tower
Tunney
Williams
Young

NOT VOTING—24

Cannon
Cook
Curtis
Fannin
Gambrell
Goldwater
Harris
Hartke
Humphrey
Jordan, N.C.
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Muskie
Saxbe
Scott
Sparkman
Thurmond

So Mr. WEICKER's amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Do Senators yield back their time on the bill?

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time back from the minority?

Mr. GRIFFIN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on final passage.

The bill (H.R. 11589) was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TALMADGE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT OF THE CIVIL SERVICE COMMISSION—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

Pursuant to the Job Evaluation Policy Act of 1970, I am hereby transmitting the report of the Civil Service Commission required by that Act.

I am pleased to see that the Civil Service Commission believes that by adopting methods and techniques recommended by the Job Evaluation and Pay Review Task Force, it may be possible to make very significant improvements in the Government's job evaluation program. The Task Force has made many other recommendations which would require legislative action and which deserve more careful consideration than has been possible to date.

RICHARD NIXON.

THE WHITE HOUSE, *May 2, 1972.*

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business under the previous order.

The legislative clerk read the bill by title, as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

DEATH OF FEDERAL BUREAU OF INVESTIGATION DIRECTOR J. EDGAR HOOVER

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 600.

The PRESIDING OFFICER (Mr. STEVENS) laid before the Senate a concurrent resolution (H. Con. Res. 600), which was read as follows:

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the body of J. Edgar Hoover should lie in state in the Rotunda of the United States Capitol so that the citizens of the United States may pay their last respects to this great American.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 600.

The PRESIDING OFFICER. Is there objection?

There being no objection, the resolution (H. Con. Res. 600), was considered and agreed to.

NATIONAL SECURITY STUDY MEMORANDUM NO. 1

Mr. GRAVEL. Mr. President, last week I asked unanimous consent to insert in the RECORD National Security Study Memorandum No. 1.

Mr. ROBERT C. BYRD. Mr. President, would the Senator speak a little louder?

Mr. GRAVEL. Yes. I asked to insert in the RECORD National Security Study Memorandum No. 1. Unanimous consent was objected to. At that time I stated I would attempt to bring the matter before this body at another time.

Since that time, I have had circulated to the membership copies of National Security Study Memorandum No. 1, with a covering letter. I have had discussions with the leadership and the minority leadership, and it was agreed that I would, and I am happy to do so, offer to the minority whip the opportunity to second my motion, so that we can go into closed session to take up this matter. So, in that light, in a sense of comity and good spirits and pursuant to rule XXXV, I now move that the doors of the Senate be closed and that the Presiding Officer direct the galleries be cleared.

Mr. GRIFFIN. Mr. President, I am sure the Senator from Alaska knows I will accommodate him to that extent. I second the request. I will indicate that I would like to have a live quorum call immediately, as soon as we go into closed session.

Mr. ALLOTT. Mr. President——

The PRESIDING OFFICER. The issue is not debatable.

Mr. ALLOTT. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. ALLOTT. Rule XXXV provides:

> On a motion made and seconded to close the doors of the Senate, on the discussion of any business which may, in the opinion of a Senator, require secrecy, the Presiding Officer shall direct the galleries to be cleared; and during the discussion of such motion the doors shall remain closed.

I raise the point of order that the motion made is not in conformity with rule XXXV. The Senator has not said it is for the discussion of any business which may in his opinion require secrecy.

The PRESIDING OFFICER. The Chair will advise the Senator from Colorado that he is informed that the RECORD already discloses the question concerning secrecy.

The motion having been made and seconded that the Senate go into closed session, the Chair, pursuant to rule XXXV, now directs the Sergeant at Arms to clear the galleries, close the doors of the Chamber, and exclude all the officials of the Senate not sworn to secrecy.

The question is not debatable.

(At 3:45 p.m., the doors of the Chamber were closed.)

CLOSED SESSION

CALL OF THE ROLL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 173 Leg.]

Aiken
Allen
Allott
Anderson
Baker
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fong
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Javits
Jordan, Idaho
Kennedy
Long
Mathias
Metcalf
Miller
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Smith
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Tower
Tunney
Weicker
Williams
Young

The PRESIDING OFFICER. A quorum is present.

It has been suggested that it be appropriate to have the clerk read section 2 of rule XXXVI, which governs which persons are entitled to be in the Chamber during the closed session, so that there will be no misunderstanding.

The clerk will read section 2 of rule XXXVI.

The legislative clerk read as follows:

> When acting upon confidential or Executive business, unless the same shall be considered in open Executive session, the Senate Chamber shall be cleared of all persons except the Secretary, the Chief Clerk, the Principal Legislative Clerk, the Executive Clerk, the Minute and Journal Clerk, the Sergeant at Arms, the Assistant Doorkeeper, and such other officers as the Presiding Officer shall think necessary; and all such officers shall be sworn to secrecy.

PRIVILEGE OF THE FLOOR

Mr. ROBERT C. BYRD. Mr. President, in accordance with the policy followed heretofore by the distinguished majority leader, I ask unanimous consent that during the closed session the following Senate staff employees be permitted the privileges of the floor to perform their official duties: The Chief Reporter and the Official Reporters of Debates; the Parliamentarian, Floyd Riddick; the Assistant Parliamentarian, Murray Zweben; the Journal clerk, Bernard Somers; the Assistant Secretary of the Senate, Darrell St. Claire; the legislative clerk, James Johnson; the secretary for the majority, J. S. Kimmitt; the assistant secretary for the majority, Patrick Haynes; the secretary for the minority, Mark Trice; the assistant secretary for the minority, William Brownrigg; majority policy committee staff members Charles D. Ferris and Daniel E. Leach; the following officials for the minority: Cecil Holland and Oliver Dompierre; and the following Senate officials: Robert Dunphy, the Sergeant at Arms; William Wannall, the Deputy Sergeant at Arms; and Nicholas Lacovara, the Assistant Sergeant at Arms.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk read section 4 of rule XXXVI of the Standing Rules of the Senate.

The PRESIDING OFFICER. The clerk will read section 4 of rule XXXVI.

The legislative clerk read as follows:

> Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal from the service of the Senate, and to punishment for contempt.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that debate during the closed session not exceed 2 hours, the time to be equally divided between and controlled by the distinguished Senator from Alaska (Mr. GRAVEL) and the distinguished assistant Republican leader, the Senator from Michigan (Mr. GRIFFIN), with the understanding that if additional time is needed, we will act accordingly.

Mr. GRIFFIN. Mr. President, reserving the right to object, it was my understanding, when the distinguished acting majority leader spoke to me earlier, that the time would be divided between the two leaders. But that is all right. I will go along with that.

Mr. GRAVEL. Mr. President, the microphones are not working.

The PRESIDING OFFICER. For the information of all Senators, the microphones are not workable because this is a secret session, and the operator is excluded from the gallery. So we will have to use our vocal chords.

Mr. ALLOTT. Mr. President, reserving the right to object, with all due deference to the acting majority leader and not in any way attempting to limit his desire to get this matter on, I must object to the time limitation.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Would the Senator object to the control of the time—whatever length of time the overall session may be—by those two Senators, up to a limit of 2 hours?

Mr. GRIFFIN. I will object to that.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. GRAVEL. Mr. President, I do not know what can be achieved by these objections, but perhaps it will develop as we move into a colloquy here on the issue.

The issue is not very complex, but it is one on principle, and because of that I think we are all qualified to discuss the principles involved.

However, I did feel that it was very pertinent to pass out these papers, National Security Study No. 1. As of last October 2, there have been 138 such studies.

This study is really the rockbed upon which the present administration has built its foreign policy. I do not want to get into the partisan aspects of it, because I think we are all able to judge that aspect of it. I should like to address myself to the mechanical aspects of it, which of course are fundamentally involved here in our role as legislators and as we view our role within the Constitution as conduits of information to the American people. I felt at this juncture that this should be done collectively.

I am sure that there is no one in this body that can criticize the action I have taken, which is simply to ask this body, under unanimous consent, to place it in the Record. That consent was objected to. I have not done anything further. I now come before the full body to acquaint the membership with this. If this body is willing to put it in the Record, it will be done, and if it is not, then it will not be placed in the Record, and I will bow to the collective will of the Senate in which I am honored and privileged to serve. So I hope we can place that matter aside.

I would like to take just a moment, because I think there is a great deal of confusion as to the classification process. I had the same confusion because had it not been for my experiences elsewhere I do not think I would have become an expert in the field, and I have labored long and hard to acquire this expertise.

I am astounded by the confusion which exists not only in Congress but throughout the Nation with respect to our laws which regard to the regulations governing classification. They are simple. If I could quote what goes with the stamp—take a rubber stamp—it would be marked "Top Secret, Secret, Confidential, Restricted." We affix it to a piece of paper—before I go into that, let me say that when I was 23 years old—when I was 21 years old, I had top secret clearance. When I was 23 years old, after working at Fort Benning, Ga., being an officer and going to CIC school, I was a special agent. I became an adjutant for the Defense Level Counterintelligence Corps. I was adjutant for the CIS, which used the CIC as a cover. The CIS means "Communications Intelligence Service." My job was as a light colonel to another light colonel, who was also 23 years old, to work with him and go around Germany doing wiretapping and letter opening essentially in Western Germany.

Mr ROBERT C. BYRD. Mr. President, will the Senator from Alaska yield for a moment?

Mr. GRAVEL. I yield.

Mr. ROBERT C. BYRD. In the unanimous-consent agreement, I overlooked the necessity for asking unanimous consent that notes be taken for whatever disposition the Senate may later wish to make.

I therefore ask unanimous consent that the official reporters may be authorized to take notes of these proceedings for whatever disposition the Senate may decide later to make of the transcript.

The PRESIDING OFFICER (Mr. Stevens). It there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. GRAVEL. Mr. President, I make these comments not to invite attention to my background, because it is already in the Record, but when I was 23 I could clasify as high as "Top Secret." I spent many weekends, because I had *x* number of safes that I wanted to use for new material so I went through and cleaned then out, and I declassified top secret material as fast as I could. My CO thought it was great, that I was being efficient in getting the job done. Out of curiosity I spent—I was a bachelor at the time—I could not speak German—but I spent a good deal of time reading through the stuff, because I was in charge of a great deal of the stuff. I came to the odd conclusion that a lot of the material was totally innocuous, such as whether a second story job was done in a foreign embassy, and I came to the conclusion that the stuff could be—the microphone is not working—we will not let that guy in—I will talk louder—what I am saying is, when I was 23 I could classify and declassify material which would have an effect on the Senate of the United States.

Mr. President, when I was 23, under some kinds of classification, I had more power than the membership of the Senate at that point in time in history, because I could decide in the national interest what they would know or what they would not know. I was on OD—officer of the day—when we had the riots in Berlin in 1954, and I was the one who transmitted that information to the White House. I was impressed with my authority at that time, although I certainly thought the Senate had more wisdom and power than I did to make important decisions.

But now, as I see it from my present vantage point, I see that 2d Lt. Mike Gravel at that time could have hidden stuff from the Senate which would not have permitted it full knowledge on certain issues, which would not have permitted the Senate to make an intelligent decision, based on its lack of knowledge.

That situation is obviously ridiculous because our second lieutenants there make a determination of the classification material. In fact, the truth is, we have over 200,000 people in this country who classify and declassify information which we in this body do not see. I can only say, gentlemen, that if we do not have the authority to do it, there is no one else in this country that has, because we are the elected representatives of the people—we and the President of the United States are the final authorities. There is no one there after us. If we make a mistake, that is the last mistake that will be made.

Let me read what is on the stamp. This is where the confusion comes in. Whether intentional or not, I do not know, but Senators can judge for themselves. It states: (To be furnished.)

What that does is make reference to law, to leaning on the law, saying that anyone who violates this "Top Secret," "Secret," "Confidential," or "Restricted" warning is subject to the law. Few people go to the law.

The classification process is an Executive order. Quite obviously, an Executive order cannot stop you as Members of Congress from reading or informing yourselves on any subject, because, if that were so, that would mean that the President could pass laws more powerful than you with respect to the information process. Obviously, that could not be tolerated. We make the laws. The President enforces them. But he can issue Executive orders that govern the routing of the documents. But again, the meaning, when they lean on the law, is clear.

Let us go to the Espionage Act, sections 793–794 of the United States Code.

I am quoting from Mr. William G. Florance. Mr. Florance was, for 35 years, involved in classification for the Department of Defense. He is the foremost authority today. He is in retirement—over a year ago. Prior to retirement, he was in charge of all the work, not from the Congress, but from the Executive. He was at the Pentagon.

This is the statement.

> The sections in the espionage laws that make it a crime for an individual to use or disclose information relating to the national defense if—this is underscored—he intends or has reason to believe that the information could be used to the injury of the United States or to the advantage of any foreign nation.

Now the key operative words there are, "if he intends or has reason to believe that the information" would hurt the Nation.

Obviously, I have no such intention. I do not think anyone in this body would want to do anything that would for a flicker hurt this Nation or any human being in this Nation.

As Senators, we serve here to benefit the Nation, in accordance with the oath of office that we took.

We could put that aside. When we do that, not only ourselves but a whole host of Americans and newspapermen, also have no intention to hurt this country.

Who can subjectively deny that the Espionage Act was issued for the handling of the routing of documents and Executive orders? It is something like sin. Is it committed by accident or on purpose? It is a subjective thing. In point of fact, I quote another paragraph here:

> The most serious error is to attempt to pass off every item of information that has a classification mark as being important defense information. That is defined in the espionage law. The law is written as prohibiting disclosure of information because of classification marking rather than the substance notwithstanding the widespread application of the classification marking of information of no real significance. Since 1951, the executive order required that. . . .

And so forth. I think we have come to a very simple premise, and that is that if I were working in the Pentagon and I saw my colleague, the Senator from California (Mr. Cranston), working two stalls down from me and if I were to walk in his office and see a piece of paper on his desk marked "Top Secret," and it was a paper that I had seen in Izvestia, and I told him about that, he would declassify it. If I had not walked in and seen this document and told him that I had seen it in Izvestia, then under the interpretation of the law, someone who would give the information out accidentally, information that had been published in Izvestia, could be prosecuted and be hailed before a grand jury.

Classification is like sin. It is a personal thing. We cannot regulate it.

My colleague, the Senator from New

York, may consider something secret. I may not consider it secret. The Senator from Michigan may not consider it secret, but the Senator from Arizona may consider it secret. We do not reconcile that by passing a law. That is why Congress in its wisdom in passing the Espionage Act could not define this. That is why one has to have the intent that in publishing this information it will harm the country. Otherwise, why do we have to restrict the legislation?

The espionage law is a good law. It is because of some cathartic effect that it has been tied together. I do not know why, but people believe that every time we burp sideways to the people concerning classified material, we do harm to the country. Last week on Sunday, I heard the Secretary of State talk about the movement of troops in North Vietnam. I have been trained, and I do know the difference between order of battle information and troop information. Troop movements are in the order of battle information. So, when the Secretary of State was talking about the 19th Division in North Vietnam, it popped in my ear and made an impression on me.

There is nothing in here that talks about foreign troop movements. What we are talking about is interpretive facts. We are talking about the political fix of the situation. We are talking about the whole philosophical and ideological interpretation of the society of a political nation, an interpretation of what has transpired in the past. This document is 3 years old.

The only reason it is relevant is because it is upon these documents that our present policy being executed today rests. That is why. It is not relevant as to the context of it. This stuff is history. This is no more relevant than the Pentagon papers.

If I could draw a parallel—and I do this not to insult this body, but as a statement of fact—on Monday, the 28th of June, we had delivered to the Congress of the United States two boxes that were marked top secret. We were permitted to go into the room with regulations established. A Senator could not even take notes. That was like a school kid standing at a desk with someone watching him read. The policymakers of the most colossal nation in the world had to stand there like schoolboys. They could not take notes. Of course, if it were possible, one could memorize it. However, we know that we would not have time to do anything like that.

Mr. President, I checked the record. Fifteen members of the Congress went to see these records.

In the middle of October, a week before the Beacon Press published their papers, the Pentagon published the entire volure of this secret study. That was 4 months before the Members of the Congress were treated like schoolboys with regard to this information. Four months later this was published. It is good history, and that is all it is. We hope to learn by history.

My only intent in giving this to the Senate is for the information of the Senators. How can we fulfill our role as policymakers if we are not informed as well as the President? The President has more tools at his disposal, of course. We shall go into the history of how the tools have been built up.

This is one of the reasons prior to being elected that I decided that the President knows more than I about such matters and that I would defer action out of respect for the office.

However, after occupying the office and realizing the information process and how difficult it is and how little time we have, I am not prepared to defer, not when there is loss of life involved.

So, this is an effort to furnish the Senate with the same information that the President of the United States has with respect to the policy being instituted today. I want to say that to the American people because I am very concerned about this. I know that Senators all feel that secrecy is anathema to democracy. It is not any more complex than that.

When the American citizen goes to vote, if he is not informed or if he is merely half informed, he cannot vote intelligently.

Mr. PASTORE. Mr. President, would the Senator yield?

Mr. GRAVEL. I would be happy to yield to the distinguished Senator from Rhode Island.

Mr. PASTORE. Mr. President, having been chairman of the Joint Committee on Atomic Energy, where we deal with very critical information at practically every meeting we hold, I would like to ask the Senator a question. When is a top secret a top secret classification, and who determines it?

Mr. GRAVEL. Under the regulations, it is the head of the department, the designee. We have a new presidential order in that respect. Under that definition of a top secret, it has to be the heads of departments, people in positions of authority, who pass on it. There is no question that we should shrink the number. To have 100,000 people classifying documents is ridiculous.

Mr. PASTORE. Does the Senator mean that once a document has been classified top secret, it is up to the individual whether he should reveal that information on the grounds of whether or not he intentionally intends to injure the country? Is that the only test?

Mr. GRAVEL. Mr. President, in the final analysis that can be the only test. As I posed a question to a colleague once, if a majority were to pursue actions that were immoral and the minority saw this, it would be incumbent upon the minority to do something about it.

To me, the classic example concerns Auschwitz in Germany. That camp was classified information in Germany. It probably had the highest classification. If anyone in the German Government were to have revealed the existence of Auschwitz, it would have been a crime.

At what point in history should men stand up and say that this is wrong? I want everyone to see it so that they will not have to take my word that it is wrong, but can make their own judgments. And in a democracy the risks that go with that have to be endured, because we develop an autocracy from the very fact that some people can classify documents and some people can make determinations of what is right and wrong.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. GRAVEL. Mr. President, I yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I do not quite understand. I thought the Senator from Rhode Island was speaking of his own committee rules as to the secrecy of material. In the Senate we have rules of secrecy. If a Senator violates the secrecy, say of this meeting, he is subject to expulsion under the rules of the Senate, not under an Executive order.

Mr. GRAVEL. The Senator is correct.

Mr. FULBRIGHT. I think that the Senator may be confusing Executive order with the power of the Executive to control the Congress. I thought that the Senator from Rhode Island was talking about the rules of his Senate committee.

Mr. PASTORE. No, that is not correct. I merely said that in our committee we deal with critical information every time we meet. We have documents that are marked "top secret." We have never questioned or challenged that classification.

I know that the procedure has gotten to be very sloppy over the years and has gotten out of hand. Too many documents have been classified top secret. The question is: To whom do we leave the responsibility of preventing that which may harm the security of the country? Is it going to be everyone's responsibility to determine it as he pleases and then go before a court and say, "I had no intention to injure the security of the country"?

Is it going to be up to the individual to do that, or is it going to be a governmental function that determines whether or not a document is secret or not?

I can imagine that there are many, many who think this particular study may be overclassified. I can feel that that way and say that. But the fact remains, however, I have no doubt that many documents are not so overclassified.

I do not think any individual can stand up at any time and say, "I do not think this should have been classified. I do not think this is top secret. I do not mean to injure the security of my country, I am a well-meaning man, and I am going to publish it." I do not think he can get away with it.

Mr. GRAVEL. I would like to give my answer to that.

Mr. PASTORE. Yes, I would like to hear it.

Mr. GRAVEL. I answered the question philosophically. That answer should stay there. Now, I want to answer it technically.

We, the Senate, can determine what we want to classify and we can honor that and guarantee it with our rules. We do. We can expel anyone for breaking this compact we arrived at this afternoon, which is one of silence.

The executive can do the same thing, so that when the executive comes before your committee and gives you information you agree should be classified, you can maintain that classification. But obviously as a policymaker, if they come before your committee and have information you do not think should be classified, you obviously have a right to do what you want with that information; otherwise you may be disregarding your responsibility to the head of the AEC, and I think you are more powerful and important, because you are a Senator, than the head of the AEC. I think that is where the difference comes.

The Executive order governs the Executive. The Espionage Act governs the Executive, Congress, the press, and the Nation.

We have examples in history. Burton K. Wheeler a few days before Pearl Harbor released a study on the levels of our Air Force. It was a top secret study. He released it in Chicago. The reason was to make the case that our Air Force was not prepared to go to war. I do not know if any Senator was then a Member of the Senate, but there was an intensive rhubarb after that. Pearl Harbor overshadowed it and no action was taken against Burton K. Wheeler. These were outright details about the status of our Air Force. We immediately had an attack on us after the information was out.

Another instance occurred in Britain during the Second World War. Minister Sandys released by accident the air defense, all the technical data for the air defense of Britain. You can imagine how important that was. Right after that there occurred the blitzkrieg. They had a great debate in the House of Commons with respect to what to do about Sandys. I am sure they would like to have strung him up by his thumbs. Churchill and Attlee had a landmark debate in which it was said that they must judge him themselves, that he could not be judged by others. Nothing was done. They felt it necessary to rule in favor of the information process.

Nothing happened to Burton K. Wheeler or to Sandys.

Mr. PASTORE. May I ask another question. Let us be more specific. Let us assume that the representative or the Secretary of Defense himself came before our committee. We asked him to produce before our committee the number of bombs, atomic bombs, that have been dispersed throughout the world and where they happen to be. Let us assume that a document comes up and it is marked top secret. For some mistaken reason I get the fanciful idea that if I told the world where these bombs were somehow we would bring about everlasting peace.

Would the Senator say I have the right to divulge that information?

Mr. GRAVEL. Philosophically I would say yes. From a point of history I cited two cases where that happened and nothing happened to the individuals because they could not get to the decision-making process involved.

Second, where does the Senator's judgment begin and end? Where do we draw the line? We do not draw it to the other side of ours. We have to draw it on our side. That is what we are elected for. The people are going to elect good representatives that have good judgment and there will be elected bad representatives that have bad judgment. They will make serious mistakes. But the history of this Nation is replete with instances of our taking that risk. That is what democracy is all about.

Mr. CHURCH. Mr. President, will the Senator yield to me so that I may make an observation?

The PRESIDING OFFICER. The Chair wishes to advise the Senator from Idaho that the microphone is not working because we have no one to operate it.

Mr. CHURCH. I thank the Presiding Officer.

I suggest that it has been through a failure of the legislative process that we have unintentionally placed the Senator from Alaska in his present predicament. I think it is unfair to judge his actions without reflecting on the fact that he has had no procedural alternative but to act as he has acted, given his conviction.

We have passed a law, I must assume, that authorizes the executive branch to classify information. We all realize that far more information has been classified than probably was ever intended by the original enabling legislation.

The Senator is quite correct when he points out that there are thousands of employees in the executive branch who classify information as they please, and also that information is sometimes classified for political reasons, rather than reasons related to the national security. This has happened under both Democratic and Republican administrations and will continue to happen if the law remains unchanged.

Given that set of facts, the Senator from Alaska came into possession some months ago of the Ellsberg papers. He looked at them and concluded they were essentially historic in character. He felt the American people were entitled to know that history. He found nothing in those papers that related to the immediate situation on the battlefield or constituted any hazard to our troops engaged in the war. So he had to say to himself, "How can this information be related to the American people?" Under the existing state of the law, there was no way. Congress had reserved to itself no authority to declassify. Congress had provided no procedure by which either House could challenge the classification placed on any material by the executive branch.

Congress has simply acquiesced in the assumption of that authority by the Executive and thus imposed on ourselves the obligation to adhere to whatever decisions are made with respect to classifying information in the executive branch of Government.

So I ask you: What was the Senator from Alaska to do if he earnestly believed, as I feel he did, that this was information improperly classified, that shed new light on the efficacy of those decision which have kept us in this war?

Well, he answered that question by disclosing the information, and he relied on his constitutional immunity as a Senator of the United States to protect him against prosecution. That is a poor way of doing business, but what other way did we leave him? He is one Member who refused to stay gagged. So he took the only course available to him. He revealed the information on his own responsibility and stood on his immunity as a Senator to protect him against prosecution. It is no fault but our own that we have left ourselves in such position that no Member of this body can challenge an Executive decision classifying information, no matter how foolish that decision may be, no matter how unreleated it might be to the security interests of this country, except by violating the classification and falling back upon his congressional immunity under the Constitution.

I suggest to the Senate that there is a better way to do this. There is a way to regularize this procedure so that the Congress recovers for itself the authority to declassify information that, in the judgment of the Congress, should be made public.

Do not tell me that present procedures forbid such disclosures as the Senator from Alaska has made. They do not. What we do now is to force each Member to assume an individual responsibility and then rely upon his immunity under the Constitution to escape the consequences of his act.

So we do not maintain a secure classification system. We simply force a member to go to the extremes that the Senator from Alaska felt he was obliged to go, in order to disclose information that he believed the American people should have.

Why do we not take that burden from the shoulders of each individual Senator? Why do we not establish, as a matter of law, a procedure by which the Congress may declassify? Why does not this body assume some responsibility in determining whether or not a given memorandum, if you please, ought to remain classified? We could do that. In fact, I should like to propose an amendment, Mr. President, to the law. I would like to read it just so Members who are here may be informed. It seems to me it would go far toward regularizing procedures and that it really deserves the serious consideration of this body.

The amendment I should like to propose, reads as follows:

> Either House of Congress may, under appropriate rules and by a majority vote of the members of that house present and voting, (1) declassify any material classified by a department, agency, or independent establishment of the Executive Branch of the United States government, or (2) change the classification of any such material to a lower classification. Each house of Congress is authorized to adopt rules it considers appropriate to provide procedures by which declassification or change of classification of any such material is to be considered in such house.

The second provision—perfected, I might say, by a suggestion of the distinguished Senator from New York, at the time this matter was before the Foreign Relations Committee—reads as follows:

> Notwithstanding any other provision of law, no civil or criminal proceeding shall be brought or conducted by any officer or

> employee of the United States Government against any person using or receiving or against any person communicating, furnishing, transmitting, publishing, or otherwise making available any material declassified under this section if that material was received or made available after such declassification.

Thus, we would regularize the law and reclaim for Congress the right to declassify information that, in the judgment of either body, acting upon a majority vote, was felt to have been improperly classified.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. CHURCH. Yes; I am happy to yield.

Mr. SYMINGTON. If a paper is classified in the Pentagon Building or in the Atomic Energy Commission or by the State Department—in all three cases by the agencies in question—and it comes over here, as established procedure it is then that we discuss proper classification and what should or should not be declassified.

I can say in all honesty that in most cases when that is done through the proper committees we can obtain declassification of what we think is essential and at the same time we do not run into the risk not only of disclosing an effective war plan but also of hurting people who are working for this Government in foreign countries.

What worries me is that if we get into a general recision of declassification, where people who are not on the committees involved would decide as to what would or would not be done with respect to declassification, I can see where 90 percent of the time they would be right but the 10 percent could be disastrous not only from the standpoint of political operations but also from the standpoint of lives.

What I am not quite clear on is why we cannot proceed as we have done in the committee on which I have the honor to serve with the Senator from Idaho, and other committees, and argue with the various executive agencies any question as to whether a matter should or should not be declassified. Then if there is still a difference of opinion—and if it is the intent of the distinguished Senator from Idaho to pursue the matter—in the interest of the country he could bring the specific disagreements on the specific classifications in question before the Senate and have the decision made on the basis of the extended study and discussion of the agency memorandum we are trying to declassify.

I myself would have great difficulty in voting on the floor for a sweeping decision on the part of the legislative branch to declassify something which it was felt by the people we have elected or appointed should never be declassified from the standpoint of the security of the United States, and I would think we would be in a much better position to present it to the Senate or to the House—I am only speaking in an advisory way about that—and have that body do whatever it wanted to do.

Today or yesterday we finally got a release of some hearings, and I think it is fair to say I feel we got everything that was necessary to present to the Senate and to the people, on the special operations in Laos and Cambodia. There were considerable discussions and a lot of hearings, but the people got it.

If at that time I felt we had not gotten adequate information, I would have been willing and anxious to come to the Senate and say, in a secret session, "Here is the problem." But I cannot see a sweeping declassification, because I do not think, especially with respect to Senators who do not serve on the committees involved, that necessarily their opinion would be superior to those people who are also interested in the security of the country.

Mr. CHURCH. Let me say, I appreciate the Senator's comments, and I think this amendment would meet his concern, because it provides that:

> Each House of Congress is authorized to adopt rules it considers appropriate to provide procedures by which classification or change of classification of any such material is to be considered in such House.

In other words, I would think that this body would do precisely as the Senator from Missouri has suggested, that the matter should lie, in the first instance, with the committee having jurisdiction, and that every effort should be made within that committee to work out an arrangement with the executive branch. More often than not such an arrangement would be worked out. But in those particular cases where the committee feels that a given piece of information ought to be made public, that it is wrongly classified, and the executive agency refuses to accede to the committee's request, and a deadlock develops between the executive and the legislative branches, then I think the question should properly be brought to the entire Senate, so the Senate can hear the case and, by majority vote, can work its will.

Look at this silly business we are in today. We have brought it on ourselves. The Senator from Alaska is going to make a motion, I understand, asking the Senate to place in the RECORD information that has been spread across the front pages of every major newspaper in the country. What an absurdity. Once this information got to the newspapers, whatever protection the original classification gave was lost. It is no longer concealed information or secret information. It is information that is as public as the reach of the New York Times and the Los Angeles Times and the Washington Post and every other newspaper that has spread it out in public print.

Now we must ask ourselves, are we going to refuse to permit information to go into the CONGRESSIONAL RECORD which has already been published and broadcast across the land?

Mr. COOPER. Mr. President, will the Senator yield?

Mr. CHURCH. And the reason for this predicament is that we have failed to provide for ourselves a regular way, an orderly method, for declassification.

Several Senators addressed the Chair.

The PRESIDING OFFICER. So that we may proceed with some regularity, the Senator from Alaska still has the floor.

Mr. GRAVEL. Mr. President, I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I do not think anyone can disagree with the Senator from Idaho. He is arguing that we ought to obey the law, and not violate the law. Consequently I do not think we should set a precedent of violating the law. What we ought to do is pass a resolution calling upon the administration to declassify it, because it has been published and is no longer a secret document. But for us to stand up here and vote, while it is still marked secret, to violate the law I think would be absolutely unprecedented and wrong.

Mr. GRAVEL. Mr. President, will my colleague yield on that point? If I may respectfully make a correction, and I do it most respectfully, there is no law under which that document or this document is classified, so we are using a misnomer when the Senator is talking about violating laws. We would be violating an Executive order. We make the laws, and the only law is the Espionage Act.

If Senators feel these papers will injure the United States, then obviously they should not be made public. But these papers, as the Senator from Idaho has stated, have already been made public. They have not injured this country. I think they have added a substance to the dialog that did not exist. I think the Pentagon papers added a substance to the national dialog that did not exist.

So we break no laws, and I hope we will correct our rhetoric; and as we correct it I think we should correct our viewpoint.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. FULBRIGHT. Either the Senator from Alaska is confused, or someone is. There has been reference here by the Senator from Rhode Island and the Senator from Idaho that there is a violation of the law. I cannot figure out what law it is that is being violated. I understood the Senator from Alaska to say, and no one disputed him, that the only law is the espionage law. The espionage law does not authorize the executive, any executive, to classify anything he feels like.

I would like to ask either Senator who referred to the violation of the law what law they had reference to. I ask this for my own information. I am not aware of such a law; of course, there are a lot of laws I am not aware of, of this nature.

Mr. GRAVEL. Maybe the Senator from Idaho would like to respond.

Mr. FULBRIGHT. What is the origin of that law?

Mr. GRAVEL. I believe the confusion was caused by what I read right at the beginning. The stamp, the classification stamp that has the marking contains this paragraph which leans on the Espionage Act, and when you look at them separately you think it is against the law, but when you lay them together, you know that there is no violation of the law. There has to be intent to do harm to your country in order to violate the law.

Mr. FULBRIGHT. With all deference, I have great respect for the Senator from

Rhode Island. Did he not say that it would be a violation of the law?

Mr. PASTORE. Well, I so understand it.

Mr. FULBRIGHT. I am not trying to outwit the Senator. I want to understand the situation.

Mr. PASTORE. I have not researched the subject, and I cannot put my finger on the particular title in the Code, but I would assume, and I think this can be researched and determined, that there is some authority given to the executive department to mark certain documents secret. I do not think they are doing it willy-nilly; they must have gotten legal authority to do it.

Mr. FULBRIGHT. That is exactly what I would like to know.

Mr. PASTORE. I did not research this. I do not know where he gets his authority. All I know is that it has been going on for some time without challenge.

Mr. GRAVEL. I did.

Mr. FULBRIGHT. My understanding is that the only authority is an Executive order, Executive Order No. 10501 or something like that, which is not a law, and the violation of that by any private citizen, such as any of us, as far as I can see it, cannot be considered a crime unless you can tie it into the Espionage Act, which is quite a different thing. But I only want to understand what the situation is.

Mr. CHURCH. Mr. President, if the Senator will yield, I think the distinguished Senator from Arkansas has spoken accurately of the state of the law, at least as far as I understand it.

The executive branch, for a long time, has followed the practice of classifying materials. I had assumed that this authority had originally been conferred upon the executive branch by an act of Congress, and that the classification process is made pursuant to that act. But we do not have, as England does, a secret papers law. It is a crime in England for any paper to be revealed or disclosed that falls within such a classification.

We have no comparable law. The only criminal statute that we have is the Espionage Act, and I think liability under that act does depend upon criminal intent. So I misspoke myself when talking about the law. I did not mean to confuse anyone. What I was talking about was the regular procedure we have come to follow, the regular classification practice in the executive branch.

But that does not take any of the force from the argument I make that if we are going to permit the executive branch to classify, we ought to retain authority in Congress to declassify in cases where we think classification is inappropriate, improper, or otherwise ill-conceived. That is why I would hope that we might consider such an amendment in the near future.

Just one further remark, and then I shall be finished. If we were to adopt such an amendment, then there would be no ambiguity or confusion about an individual Member disclosing information that is classified. We would have our own rule. We would have our own regularized procedure for determining that. And when a committee failed to reach an agreement on a given case with the executive branch, we could submit it to the entire Senate, and let the Senate make its determination.

But I join with the Senator from Alaska in saying that Congress has fallen to a very low estate when it is willing to allow the Executive to make the full determination, even in cases where we cannot justify that determination, and when we provide to our own Members no means for challenging the classification or for making the information public, in a regularized way.

Several Senators addressed the Chair.

Mr. GRAVEL. I yield to the Senator from Kentucky (Mr. COOPER).

Mr. COOPER. Mr. President, I will do my best.

The Senator was talking about his proposed amendment. Is he referring to covering documents that came regularly to a committee, or would he include documents and information that came from any source?

Senators were speaking a minute ago about the violation of law. I wish I had the Pentagon papers case before me. As I recall, there is a general law against espionage, but it is very difficult to convict anyone on unless such information actually was of assistance to an enemy. I believe there is a law against members of the executive department disclosing, or whatever you call it, taking and giving to others classified information. Would the Senator, by his amendment, apply it to all information secured legally or illegally?

Mr. GRAVEL. If I may address myself to that——

Mr. COOPER. Because that has become a question before the courts.

Mr. GRAVEL. Yes. There is no law covering any member of the executive department any more than any law covering a Member of Congress or a citizen of the United States. The only law is Espionage Act. So a fellow who works for the Pentagon and gives out information, and that information is classified top secret, but it is not injurious to the Nation, there is no law to prosecute him under, because the Espionage Act is inoperative. That is why the case against Daniel Ellsberg is very minorly under the Espionage Act. They cannot get him on that. They are going to try to get him on conspiracy—which is a catch-all—or conversion, like they could probably get me on conversion if I took a Government vehicle and drove it to Baltimore and left the car there. I could be had under conversion, just as I could be had as a citizen for converting these documents. These were Government documents that I acquired—not from the Government, but through private sources. But the person who gave them to me obviously took them from the Government and gave them back to the Government, because I am still a member of the Government. So it is a conversion process. That is the only thing of which I would be guilty.

Mr. LONG. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. LONG. I looked at the memorandum that the Senator from Alaska quoted to us. I gained the impression that he could be somewhat in error in the construction he placed on it. I do not believe that his memorandum quotes verbatim what the statute says, although it may. The Senator's memorandum says—I just, am just trying to recall certain key words from it—that it would be a crime to release certain classified information if you had reason to believe that this could be used to the injury of the United States.

Mr. GRAVEL. Yes.

Mr. LONG. If the document bears the word "secret" right on there, somebody must have thought that this could be used to the injury of the United States. If you see the word "secret," it would seem to me that that puts you on notice that somebody thinks this could be used to the injury of the United States. If you are going to release it, you must know that somebody thought it should not be released, and it seems to me that that act could be construed to place a burden on you that you reveal at your peril when you judge that in no way this conceivably could injure the United States, which is a pretty difficult thing to conclude once you say that you are on notice that it is secret or top secret. Then, it seems to me, you would have to analyze that and say, "No, there is no way; I cannot conceive of any reason to think there is any way this could be used to injure the United States." You are on notice that somebody seems to think it can be the cause of injury, because he marked it secret.

Mr. GRAVEL. The Senator is correct. That is what the memorandum says.

If, in my judgment, when I see this information, when I release this to the American people, and in my judgment I think it will hurt the country, I have violated the Espionage Act. But if in my judgment I do not think this will injure the United States, if I think this will help to stop the killing of Americans, I am bound to release it, in my judgment.

As I said earlier, when I was 23 years old I had more power with respect to classification than I have today, at 41. I was a top secret control officer in Europe. I had five safes behind my desk. I had the combination. I could either classify or declassify. All the reports I wrote as a secret agent—tail jobs, opening people's mail—I had the stamps on my desk.

If the Senator from Louisiana was a Senator in 1953 or 1954, I could have put my stamp on papers that he could not see, and I do not think that is right, because I think that in 1954, if he was a Member of this body, he had more power and more judgment that I did when I was 23.

Mr. LONG. I do not know whether I had. If I saw the secret stamp on that document and I proceeded to release it, that should put me on warning that somebody thought this could injure the United States if released. It seems to me that I would have to have a pretty strong case to conclude that this could not possibly injure the United States. If something was in there that could be used by someone against the best interests of this country, it seems to me that perhaps I ought to recognize that it could be used to injure the United States. It might not; but it could; and if I had any reason whatever to think that it could be used that way, I should not release it.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. CRANSTON. In response to the Senator from Louisiana, I should like to say this:

Quite plainly, the fact that somebody decides to label something "secret" does not mean that he exercised very good judgment and that the security of the country is therefore involved in keeping that secret.

I have been trying to research this matter. Let me cite some examples of instances in which someone thought something should be secret.

Mr. William G. Florence, retired civilian security classification policy expert, testifying before the House committee recently, said:

> Not so very long ago, someone in the Navy Department placed the SECRET marking on some *newspaper* article (!) . . . A special directive had to be published to tell people *not* to classify newspapers.

Plainly, there was an error of judgment.

From a Wall Street Journal article of June 25, 1971:

> Today almost 25 years after the end of World War II, U.S. archives still hold some 100 million pages of classified war records. . . . The government process of declassification is haphazard and cumbersome . . .

Perhaps there was a reason at the time, but there is no reason now for most of that still to be classified.

Arthur Goldberg said, after his experience at the United Nations, in testifying before the House Foreign Operations and Government Information Subcommittee:

> I have read and prepared countless thousands of classified documents and participated in classifying some of them. In my experience, 75 percent of these should never have been classified in the first place; another 15 percent quickly outlived the need for secrecy; and only about ten percent genuinely required restricted access over any significant period of time.

Let me read again from the testimony of Mr. William G. Florence, formerly with Headquarters, U.S. Air Force. He said to the House Committee recently:

> Some time ago, one of the service chiefs of staff wrote a note to the other chiefs of staff stating briefly that too many papers were being circulated with the Top Secret classification. He suggested that the use of that classification should be reduced. Believe it or not, that note was marked Top Secret.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield to the Senator from New York.

Mr. JAVITS. The thing that impresses me about this debate—with all respect to all of us—is really our lack of profound knowledge of the law, which is now going to be decided by the Supreme Court, and lack of profound knowledge of the real problems of policy which are involved.

I will give two examples. It is my best recollection—and I am being very careful in the choice of words—that the reason that dictated my suggestion to Senator CHURCH for a revision of that amendment was a section in the law which gave the Executive the power to classify documents and to punish individuals who would publish or disseminate documents so classified. So I argued that even if we declassified or reclassified, anybody publishing would still be liable under the law for having violated the fact that the Executive had classified, even if we declassified.

So the law had to be changed, and that is what Senator CHURCH cranked into his amendment.

The question of policy is very profound. You have to reconcile your privilege and mine as a Senator to have immunity, notwithstanding the high interests of the country. As to Senator CHURCH's amendment, that is what fouled us up, and that is why we did not actually plow through it with the conviction we might have in the committee—we saw that that would not stand up in the face of our immunity.

Suppose we adopt this amendment. Suppose the Senate did classify. Suppose the Senator said, "In my conscience, even if the Senate did classify, I am still going to read it into the RECORD and anybody can publish it. Then they have the recourse they had under the Pentagon papers, and nothing is going to happen to me, because nothing happened to Burton K. Wheeler."

The question I should like to ask the Senator is this: We realize how important these papers are. They are out, anyhow. There is a school that says they are not out if they are out even if the papers think they published them; it is when we publish them that they are really official and really out. I wonder whether the Senator would think it responsible, in the interest of responsibility, if some small group of Senators, elected by us, right now, should bring into the Senate a recommendation as to how to handle this situation. How do you reconcile the immunity of the individual Senator, the responsibility of the body, and some responsibility—we must recognize its existence—in the executive department for the security of the whole Nation? We have the same responsibility. Will the people be irretrievably damaged if what the Senator wants to publish tomorrow is not published for 2 weeks, so that we may really get a clear sighting, as a body, upon what piece of legislation we ought to adopt, probably separately or in the State Department authorization, upon this question, which is so vexing.

With all fairness to the Senator, I might say that whatever individuals might think about what he did or did not do, he certainly has posed a question which demands resolution.

Senator FULBRIGHT, whom I deeply honor—though on occasion I have not been able to see eye to eye with him—has had this matter very deep in his heart, the question of principle, and he has taken many hard knocks, because he simply would not allow any one man, more than himself, to have the unchallenged right to tell the American people what they should know or should not know. So I ask that question. It is more or less in the genesis of the views of the Senator from Rhode Island (Mr. PASTORE). This is a serious matter, our reconciling three sometimes conflicting points of view—the individual, this body, and the President. Should we not do our utmost to come up with a deeply considered policy, as a body, rather than off the cuff, as it were, to authorize the Senator for generalized reasons, like the public should know, or the information is being denied, a basic policy which the Senate could adopt as a body and stand on before the whole country?

Mr. GRAVEL. I candidly state that I have already made my statement as to my philosophical views with respect to the matter before us. I would be accommodating to that suggestion. It might be the judicious way to go at it. I was impressed with the offer made by the Senator from Idaho (Mr. CHURCH). So I certainly would not want to push this body into a resolution of this matter if we are imminently going to undertake a fundamental change, which is really what I am pushing for to begin with. I want to inform this body and the Nation. so that if this will act as a catalyst, to make us assert some responsibility in this area, I would be happy and certainly would be glad to accommodate the Senate as long as it will consider it with dispatch within the intent of the suggestion of the Senator from New York, realizing the timeliness of this information. So I would be prepared to accommodate whatever this body would be willing to accept in the handling and declassifying of this, and then more permanently to consider action governing its future activities in regard to this matter.

Mr. CASE. Mr. President, if I may add a footnote to the last colloquy that has just taken place, it seems to me it would be sound to end this day's proceedings with a determination that we shall not vote or be asked to vote to open the record today, but that the matter be left for consideration either by a committee or fixed on by the leadership with a later recommendation to us because, I for one, while I yield to no man in my desire that the public should know everything it can know, I am not willing now to vote to open something that I have not had a chance to read myself.

On the argument that all, substantially all, or a greater part of this material has already been made public, so therefore let the rest go out, I say that would really boomerang because the emphasis on lack of understanding for quick action is here. As the greater part of it has already been published and is in the public domain already, the public does not need to have that part, and to have this body take action on it today. Therefore, I would hope that what I sense to be the trend of the thought of the Senator from Alaska would follow out to its logical conclusion, that we might all agree with it, so far as ending today's session is concerned.

Mr. GRAVEL. If I could add, because I realize the seriousness of the way this debate has developed, I have changed my mind and I do not want to push for action today. I was just thinking more in terms of a time certain; but I will be willing to throw that out the window if this body could develop a course of action—a physical course of action. That would satisfy me eminently.

Mr. FULBRIGHT. I want first to ask a question and then to comment.

The Senator from New York (Mr. JAVITS) whom I regard as one of the great lawyers, possibly the best lawyer in this body, and a former attorney general of New York State, referred to the law which authorizes the President to classify material. I have been searching. What is that law that authorizes the President to classify?

Mr. JAVITS. The Senator is right to ask that question. I said that I was drawing on my reference. That was one of the reasons I think we need a little time. It was that section that caused me to make the suggestion to the Senator from Idaho (Mr. CHURCH), which he incorporated.

Mr. FULBRIGHT. As of the moment, though, the Senator cannot think of it?

Mr. JAVITS. Right.

Mr. FULBRIGHT. For the information of the Senate we discussed this matter in the Committee on Foreign Relations. The matter was brought up in the committee by the Senator from Idaho, and the Senator from New York made his contribution, and a very forceful one, as he always does. The committee was favorably disposed—I think the majority was—but for reasons of some doubt, such as the Senator has raised here today, we did not take action. We did not vote it down, but we did not proceed with it.

What the Senator from New York has suggested is the correct way to proceed, if I may say so to the Senator from Alaska, for the further reason that the papers have been already published, practically all of them—I think all of them. But that does not minimize its importance because of what the Senator from Alaska has precipitated here in the Senate. If we proceed to do what the Senator from New York has suggested, and what was suggested in the committee, I think that would be the right way to go about it, because this is a very difficult and puzzling situation. While I have not researched it thoroughly, I have inquired in some depth, and I have not yet been able to find anyone to cite any law authorizing the President to classify as against the right of Congress to information. He took to himself, under an Executive order, as the Senator from Alaska has properly said, to regulate the executive department, which he can do, but it is not a law which applies to the public nor to the Senate. That is a further reason why I think Congress should proceed along the lines of the Senator from Alaska and the Senator from New York.

It is a very difficult question for the committee. The Senator from Missouri, now that he has gotten this final clearance, is relaxed about it. He complained about it. But he was really concerned about the difficulty in getting his hearings cleared. It sometimes took 6 months to get a reasonably simple hearing cleared. It finally worked out.

I would hope that the Senator from Alaska and the Senate as a whole will proceed as the Senator from New York has suggested. It will be very important, now that it has been raised, that we do something along this line. I would certainly back that. I would say to the Senator that if we do this, we will have clarified one of the most puzzling and most difficult parts of law, because it has created a situation where we accuse the President of overclassifying and he is irritated with Congress as a result. It contributes to the misunderstanding and the bitterness between the executive and legislative branches.

The Senator from North Carolina, who was here earlier, has had a similar problem in his committee in the same kind of context, so I think he would be interested. I am very sorry, indeed, that he is not here, the Senator from North Carolina. He is really an expert in this field. He should be a member, I think, of any body which considers this, along with the Senator from New York.

Mr. ANDERSON. Mr. President, I have heard these comments here, that we cannot find anything in the law. Well, how do we suppose the Rosenbergs were convicted of espionage?

How do we suppose the British convicted men like Foster and Lord Haw-haw?

This is the first time I have heard these laws do not exist. I believe that they can be found on the books.

Mr. ALLEN. Mr. President, will the Senator from Alaska yield?

Mr. GRAVEL. I yield.

Mr. ALLEN. Mr President, I thank the Senator from Alaska for yielding to me. He knows the high regard I have for him, having occupied adjoining desks with him in the Senate during the entire last Congress.

However, I cannot support his position in this matter. I am a junior Member of this body, but I am still as interested as any other Senator in the history and traditions of the Senate. I do not approve of using the great U.S. Senate as a catspaw for the release of information that anyone would be unwilling to release on the street corner or in any public building outside of the Senate Chamber.

The distinguished Senator from Alaska has this information. He has had it for some time. He wants to see that it is disseminated throughout the country. However, I do not feel that we ought to allow the Senate to be used as this vehicle. If we permit this to be done this time, we are going to permit the cleaning out of every vault in the Pentagon, the cleaning out of every safe in Washinton, the dusting off of documents, and the offering of them here in the U.S. Senate.

If we are going to establish a precedent for allowing this, that is what we are going to have to face in the days to come.

This suggestion by the distinguished Senator from New York (Mr. JAVITS) merely prolongs the action. I think we ought to decide this question this very afternoon and say to the Senator from Alaska that we do not want him using the U.S. Senate to release information of this sort.

I hope that this matter will be decided right here this afternoon and that we will not leave it hanging and not let the Senator from Alaska entertain the belief that the U.S. Senate is going to allow itself to be used for the release of information that he is not willing to release on his own outside of the Senate Chamber.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ALLEN. I yield to the Senator from California.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from California is recognized.

Mr. CRANSTON. Mr. President, let me say first that I think the Senator from Alaska has performed a useful service in provoking this discussion and the consideration of a matter that is of very serious importance. He has not sought to release this material unilaterally. He sought to do it by unanimous consent of the Senate. Then he sought to read the material into the RECORD. It was then made plain that there would be a secret session if that was done, so that the information would still be withheld.

The Senator from Alaska followed that course and sought merely to discuss it here and not to read it, but to leave it up to the Senate to determine what it felt to be appropriate.

Many constructive contributions have been made in this matter. I think the most constructive was that of the Senator from Idaho (Mr. CHURCH), who discussed the fact that the matter of dealing with this is not how to deal with this as it relates to the Kissinger papers, but how to deal with it in the future when we have problems so that the administration will consider the careful declassification of documents when that is in order.

The Senator from New York (Mr. JAVITS) outlined his suggestion for solving the immediate problem. I came to the Senate Chamber with a procedure to do what the Senator from New York suggests might be a wise course of action in case the approach of the Senator from Alaska (Mr. GRAVEL) of simply having an up and down vote on the release of this information to the public was not decided to be the wise course to follow.

The Senator from Alaska showed himself to be very accommodating. He is prepared to leave it up to us as to whether we want to let each Senator have a chance to read the documents and form his own judgment and determine whether or not it is proper for a secret label to be on all or part of the material.

I have a suggestion, and can probably make it as a unanimous-consent request or tentatively as a motion. However, I will not do it until we have had time to consider the matter, because many of us may not think this is a proper course to take. I can propose this as a unanimous-consent request or make a motion. We can have the material, the so-called Kissinger papers, read into the RECORD, but not for open publication at this point, because it is material that a majority has not yet decided should be read into the RECORD, and we are in a secret session.

I would then suggest that the RECORD be delivered by the chief reporter to the chairman of the Armed Services Committee and that group of Senators whom I will suggest. Then we would have, I think, a group that would serve in the future under the proposal of the Senator from Idaho to look at this material and decide and report to the Senate or to release all of it, none of it, or part of it.

I would like to point out that President Nixon's new classification orders specify in the Executive order that when in the process of the consideration of declassification, the prime purpose should be to label that material that should be declassified, to entirely declassify it and not consider any document in its entirety as a really classified secret.

I would suggest that the members of the committee to discuss this matter be the chairman of the Armed Services Committee, the Senator from Mississippi (Mr. STENNIS), who is also on the Appropriations Committee; that along with him, the ranking Republican member, the Senator from Maine (Mrs. SMITH), who is also on the Appropriations Committee; and since the State Department is involved and there are reports that the State Department is involved in this report, that the chairman of the Foreign Relations Committee, the Senator from Arkansas (Mr. FULBRIGHT) also be on the committee; that the ranking Republican member, the Senator from Vermont (Mr. AIKEN), who is also on the Joint Committee on Atomic Energy, be a member of the committee; that the Senator from North Carolina (Mr. ERVIN), who is also on the Armed Services Committee and on the Government Operations Committee, and is a man who is deeply concerned about this matter and a man who is very learned about this subject of secrecy in Government, also be on the committee; and that the sixth member of the committee be the Senator from Colorado (Mr. ALLOTT), the chairman of the Republican Policy Committee and also a member of the Appropriations Committee; that the Senator from South Carolina (Mr. HOLLINGS), who is also on the Appropriations Committee and a man with experience in military intelligence operations, also be on the committee; that the Senator from Maryland (Mr. MATHIAS), who is on the Government Operations Committee and represents a different viewpoint and has also been involved in considering with great seriousness the great involvement of these matters, be on the committee; and finally that the Senator from Louisiana (Mr. ELLENDER) be on the committee as the President pro tempore of the Senate, and also as a member and chairman of the Appropriations Committee.

I think that we can rely upon the judgment of this group of Senators to decide whether any or all or part of these documents should be released. I throw this out as a suggestion for resolving the problem.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. I yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, is that just as to the question of the publication of it or the consideration of the proposal of the Senator from Idaho?

Mr. CRANSTON. Mr. President, I am suggesting only that we consider these particular papers. The Senator from Idaho will offer his formula for future papers as an amendment to the pending subject.

Mr. FULBRIGHT. Mr. President, I am much more interested in the proposal of the Senator from Idaho than I am in the papers. I do not think that the further publication of the papers is important, except with respect to resolving the question involved here. I hope that we do not overlook the problem of dealing with the other matter which is much more important. That is my point.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, there are two amendments that I would like to make to what the Senator has suggested.

One is that the Senator from Alaska stay his hand and that we do not pass on anything today, reading the material into the RECORD or anything else, that we take whatever course we might decide to settle the point and not come back with a report on the whole issue, including the papers the Senator has offered to read.

As an alternatice, we might consider a group of 10 Senators, five from each side, each appointed by the respective leaders, the Senator from Montana (Mr. MANSFIELD) and the Senator from Pennsylvania (Mr. SCOTT). My guess is that is would probably be very much the same way. That is somehow the way we do things around here. We shy away from a list of names. I feel that it would be practically the same membership.

May I suggest to the Senator from Colorado that we stay our hands today. Let us not force the Senate to make a decision.

If the Senator from Alaska (Mr. GRAVEL) is willing to wait 2 weeks, it will not compromise anything. Let us attack the whole thing generically of what we should do about his statement as a whole Senate.

Let us put that into effect this afternoon. If such a motion is in order, the Senator from California can make it, or I can do it, or any other Senator can do it.

That is my suggestion, that the question of what should be done about secrecy in terms of papers which come into the possession of the Senate or any Senator should be the subject of consideration by a committee of 10 Senators, five from each side, each five appointed by the respective leaders, Senator MANSFIELD and Senator SCOTT, and also in that consideration, what should be done about the specific papers Senator GRAVEL produced, and that the committee report in 2 weeks.

Mr. HOLLINGS. Mr. President, will the Senator from Alaska yield?

Mr. GRAVEL. I yield.

Mr. HOLLINGS. I was trying to listen closely to the Senator but I was interrupted a couple of times. Did I follow the Senator's logic about he sees a Senator in a different position than the average citizen with respect to the classification or declassification of documents? Does the Senator think that we as Senators have any special rights?

Mr. GRAVEL. Under present law today, no.

Mr. HOLLINGS. You do not find we have any rights different than the average citizen. Is that correct?

Mr. GRAVEL. Except as it concerns our immunity from prosecution.

Mr. HOLLINGS. But that is not the way we set out our classification laws. Do we not pass classification laws?

Mr. GRAVEL. There are no classification laws.

Mr. HOLLINGS. Let us get to the point I am assuming the President's Executive orders have the force and effect of law. I know my friend from Arkansas assumes differently, but I know in the same breath he and I both know that if the President were caught violating the law in any way we have more ACLU's and everybody else to try to prove the President violated the law.

Mr. FULBRIGHT. I do not think he has.

Mr. HOLLINGS. But, in a legal sense, if he is.

Mr. FULBRIGHT. I did not say that.

Mr. HOLLINGS. I assume he is obeying the law with his Executive order.

Mr. FULBRIGHT. He is making regulations for control of the executive branch but that is not applicable on all citizens or the Congress.

Mr. HOLLINGS. He enacts a particular classification in accordance with law and executive authority given him by Congress.

If we have not given him that authority, the Senator from Idaho's pleading plea about what could the poor Senator from Alaska do, is answered in the next 5 seconds in his delivery this afternoon. Do what the Senator from Idaho is doing.

We, as special, privileged citizens, 100 of us, have the right, title, and interest, and only the 100 of us, to introduce a bill in the Senate. This is what the gentleman is doing. But what the Senator is trying to do here is confuse the situation by passing a law in executive session by majority vote.

I am back to the fundamental of the gentleman from Rhode Island (Mr. PASTORE) and his logic. You cannot ask us to vote to violate the law. But it is not just delaying here and getting a suit in committee and saying it has the prestige of the membership and the prestige of this group, and that we should go along with it and decide we are going to amend the fundamental law relative to classification. You would pass a law in executive session with one reading.

Mr. FULBRIGHT. I asked three lawyers, Where is the law which authorizes the President to classify? The Senator is assuming the question at issue. If he has such a law I would be glad to have him inform us. The Senator makes this assumption. I would like him to cite it.

Mr. HOLLINGS. If he has a pack of lawyers let him proceed against the President. He has had a pack of lawyers for 2 months looking at this matter. If there were any basis for that by the Senator from Alaska he would long since have had the President of the United States in the position of violating the law. The Senator knows that too.

Mr. FULBRIGHT. No; I do not.

Mr. GRAVEL. There is a case in the courts today where the President is charged with violation of the Mansfield amendment. The Court already ruled. There is nothing anybody can do, because it is his Justice Department. If the Senator says there are people who can force the President to do something, I know differently. I know a group in New York that would like to enlist his services and they will pay well, to do what the Senator thinks should be done. Let us go back to the other point. I would be happy to comment on that.

There is no law that permits classification. The only law we operate under is the Espionage Act. So if my colleague wants to say that giving this out is breaking the law, as Senator PASTORE did, and when Senator PASTORE was challenged by Senator FULBRIGHT he said:

> I do not know the law; it must be in existence.

That is the same point the Senator makes: I do not know the law, but it must be there. That is what is wrong with this country. We assume there is a law but it is not there.

Mr. HOLLINGS. Let us introduce one and spell it out.

Several Senators addressed the Chair.

Mr. ALLEN. Mr. President, I call for the regular order.

Mr. HOLLINGS. Mr. President, will the Senator yield further?

Mr. GRAVEL. I yield.

Mr. HOLLINGS. If there is a vacuum here and no law prevails, let us introduce a proper bill, debate it, have proper hearings, and decide the fundamental question.

I asked the Senator whether we are in a special or different position than the average citizen and the Senator said no. But then, the Senator wants to presume that we are. All other citizens have to respond to three readings of the law, but in executive session, and by majority vote, at his request he would have us amend the law. I do not think that is orderly, I do not think that is legal, I do not think that is appropriate or what persons charged with lawmaking should engage themselves in.

I think we should be upholding laws rather than violating them. We are not in a position of futility, like the average citizen.

Then, there was the plea of the Senator from Idaho: What would the poor man do?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HOLLINGS. Mr. President, are we on a time limitation?

The PRESIDING OFFICER. The Senator must confine himself to the question.

Mr. HOLLINGS. I will get to the question. As an individual Senator you can introduce a bill. Is that not true, Senator from Alaska? But as an individual citizen, you would have been in the soup; but what you are doing is using the Senate body and your immunity as a Senator for an improper approach, for amending the law, and if there is a vacuum, to provide the law where there is not one.

Mr. GRAVEL. The answer is I would not be in the soup any more than Jack Anderson. Nobody touched him and he has been releasing secret documents like they are going out of style. Nobody is suggesting that he broke the law, not even the Justice Department or the President.

I would like to return to the fundamental point. The premise of the Senator's question seems to indicate that if we released these it would break the law. We would not be because there is an Executive order that binds these.

Mr. HOLLINGS. If you believe that why do you not release them? Go out and release them. The Senator does not believe what he is saying. The Senator and I both believe there is a law.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, the hour is getting late, and some Members are drifting away. I wonder if we might come to some conclusion rather quickly that seems to have been generally accepted on both sides, concerning suggestions made by the distinguished Senator from Idaho (Mr. CHURCH), the Senator from New York (Mr. JAVITS), Senators FULBRIGHT, CRANSTON, and others.

I merely pose the question now whether or not a Senator would be willing to present a unanimous-consent request that would ultimately lead to a regularized procedure as outlined by these various Senators.

Mr. CRANSTON. Mr. President, will the Senator yield for that purpose?

Mr. GRAVEL. I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I will read the unanimous-consent agreement I propounded, modified in accordance with the suggestion of the Senator from New York.

The unanimous-consent request would be that the National Security Memorandum No. 1 be considered as read by the clerk in closed session; that the document be delivered by the Chief Reporter to a committee of 10, five to be appointed by the majority leader and five to be appointed by the minority leader; that the committee, with the assistance of sworn and security-cleared personnel of appropriate agencies of the Government, be authorized to expurgate the transcript by deleting any material, if any, the disclosure of which would adversely affect national security; that such expurgated copy be delivered to the Chief Reporter for publication in the CONGRESSIONAL RECORD within 15 days of the appointment of the committee, and that the Chief Reporter turn the original document over to the Secretary of the Senate, to be kept in secret and not to be disclosed without leave of the Senate.

Mr. GOLDWATER. Mr. President, is that the unanimous-consent request?

Mr. CRANSTON. Yes.

Mr. GOLDWATER. Mr. President, reserving the right to object, I think we are losing sight of the whole matter. To begin with, these are stolen documents, and there is a law against stolen documents or stolen anything. Each one of us has an obligation to respect classification. I do not know that there is a law that requires us to do it, but I know the FBI goes into us very carefully before we are given the right to receive or be briefed on or read anything classified.

I thought it was a disgrace this morning when I read that Jack Anderson and the New York Times had received a Pulitzer Prize. If they can get away with that and if, with all due respect, the Senator from Alaska can get away with this, there is not going to be anything left in the U.S. Government that is secret.

I can understand how it can be considered by some that this is overclassified. I think we have far too much classification. But this is not our business. I think if we got into the atomic energy field and something very top secret, in the cosmic, I do not think anybody here is cleared for it. Suppose somebody steals that and gives it to Jack Anderson or a Senator wants to make it a part of the RECORD. That is a matter of national security.

I think this is avoiding the issue. We ought not to appoint a committee. I charge that a member of this body has used stolen material and wants to make capital of it in any way he sees fit, and as a Senator I think, frankly, he should be censured, and I may offer that resolution after I have had a chance to consult with my leaders.

Mr. President, I object.

Mr. GRIFFIN. Mr. President, the word has been used——

The PRESIDING OFFICER. The Chair would inquire if the Senator from Alaska has yielded.

Mr. GRAVEL. I yield.

The PRESIDING OFFICER. The Parliamentarian advises the Chair that this is out of order.

Mr. GRAVEL. Mr. President, I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, the term "stolen documents" has been used several times on the floor. I ask the Senator from Alaska, What is the source of the documents which he seeks to have put into the RECORD? Where did he get them?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. GRAVEL. I would like to answer that question head-on. If I gave the names of the people from whom I got these documents, these people would be indicted and prosecuted. I do not intend to reveal their names. I had a native of my own State try to do it. If I did, it would go to a jury.

Mr. GRIFFIN. Mr. President, the Senator says he cannot reveal the source of his information. The Senator is asking us to take action on his good faith. I ask him again, What is the source of the documents?

Mr. GRAVEL. The sources of the documents were written by Henry Kissinger and they were put out by the White House, and how they were delivered to me is of no importance.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum——

Mr. ROBERT C. BYRD. Mr. President——

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator yield?

Mr. GRAVEL. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I do not believe that the Senator from Alaska has asked yet to put the documents in the RECORD. Am I correct?

Mr. GRAVEL. No, I have not.

Mr. ROBERT C. BYRD. We are getting off the track, in view of the fact that the Senator from Alaska has made no such request, so I wonder if we could not get back to the suggestion I made a moment ago, which I thought was a good one, to wit, that someone might wish to propose a unanimous-consent request providing for further study and action on proposals such as those that were made by the Senator from Idaho (Mr. CHURCH), the Senator from New York (Mr. JAVITS), and other Senators earlier this afternoon, so that we can get on with that business and possibly go back into legislative session soon.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. GRAVEL. I yield.

Mr. JAVITS. In the present temper of the Senate, I doubt very much that anything could be done by unanimous consent. In fact, I doubt that anything would be done.

I would most respectfully suggest, before proceeding, if the Senator will allow me, any Member tomorrow morning in the morning hour can present a resolution to appoint a committee to consider the matter. There is nothing secret about that. It is my intention to do that. I hope very much that those Senators who are interested will join me in that. On the following day the matter will be in order. Then let the Senate proceed in an orderly way.

With all respect and love for my colleagues, I do not think anything, other than that, is going to be served tonight except the exacerbation of Senators and saying things they may wish they had not said.

I would hope very much, therefore, that the session might now be dissolved.

Mr. ALLOTT. Mr. President——

Mr. GRAVEL. Mr. President, I yield to the Senator.

Mr. ALLOTT. No; I want the floor in my own right.

Mr. GRAVEL. Mr. President, I will take the advice of my colleague from New York and state any action should depend on my colleagues and the leadership to arrive at some manner and form to handle this, which I think would be proper and judicious. So at this point in time, I would end my counsel and be glad to see what action will be taken by this body, and obviously hope that action will be taken, and see what happens.

I yield to the Senator from California at this time.

Mr. CRANSTON. Mr. President, I would simply like to ask if, at the end of the debate, before we leave this closed session, I may be recognized for the purpose of simply making the motion that the discussion we have had here today be entered into the RECORD openly. I know of no partisan capital to be made of it and no secrets relating to national security have been discussed here. I think the people are entitled to know what has been said and what our thoughts are on this matter, as representatives of the people. So I ask that I be recognized for that purpose before this session ends being a closed session.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRIFFIN. Mr. President, was a unanimous-consent request made?

The PRESIDING OFFICER. It was not made.

Mr. DOLE. Mr. President, a parliamentary inquiry.

Mr. GRAVEL. Mr. President, I yield the floor at this time. I have nothing further to say.

The PRESIDING OFFICER. The Senator from Kansas is recognized for a parliamentary inquiry.

Mr. DOLE. What is pending before the Senate?

The PRESIDING OFFICER. Presently the unfinished business is before the Senate.

Mr. DOLE. A further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. As I understand it, the Senator from Alaska has made no motion.

The PRESIDING OFFICER. No, and it is the understanding of the Chair that the Senator from Alaska has yielded the floor.

Mr. CRANSTON. Mr. President, I move that the Senate go out of closed session——

Mr. ROBERT C. BYRD. Mr. President, I ask the Senator if he will withhold that.

Mr. CRANSTON. I yield to the Senator.

Mr. ROBERT C. BYRD. Mr. President, before we go out of closed session, I think we all ought to understand that if we do not lift the injunction of secrecy, then nothing that has been said in this debate today can be stated outside this Chamber by any Member or by any officer of the Senate.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I do not think that anything that has been said during the debate could properly be classified as information that should be kept secret, yet any Senator who tells, outside this Chamber, anything that went on in this Chamber, even with reference, for example, to so harmless a thing as the suggestion that there be a committee created, is subject to expulsion by the Senate and any officer of the Senate who inadvertently said the same is subject to being fired and punished for contempt of the Senate.

So before we move to go out of this closed session, I ask unanimous consent, Mr. President, that the injunction of secrecy be lifted and that the proceedings of the debate during the closed session be printed in the RECORD so that the debate may be made public.

Mr. ALLOTT. Mr. President, reserving the right to object, at the time the original motion was made to bring this body into closed session, I raised the point of order that the motion was not properly made because rule XXXV—and I read it—says:

> On a motion made and seconded to close the doors of the Senate, on the discussion of any business which may, in the opinion of a Senator, require secrecy, the Presiding Officer shall direct the galleries to be cleared; and during the discussion of such motion the doors shall remain closed.

Now, I do not raise this as a point again, but are we to believe that after some 3 hours there was really no need for secrecy, and that the Senator who made the motion did not believe it required secrecy?

Mr. ROBERT C. BYRD. Mr. President——

Mr. CRANSTON. Mr. President, I believe I have the floor. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I renew my unanimous-consent request.

Mr. FONG. Mr. President, reserving the right to object, and I shall object.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not object to this unanimous-consent request. Nothing secret or sensitive to national security has been divulged in this Chamber today.

Mr. FONG. I cannot see why we have a secret meeting and then go out and publish it to the whole world.

Mr. ROBERT C. BYRD. The answer to that is very simple. The Senator from Alaska had some material which he had asked to place in the RECORD a few days ago.

Mr. GRAVEL. Mr. President, if I may clarify the chronology, since the effort is being made to foist this on my back, I do not mind responsibility, but I am not going to own up to this one. The Senator from Michigan (Mr. GRIFFIN) seconded the motion. I gave him the opportunity to second it out of comity, because when I had tried to introduce this material into the RECORD, the point was made that the rule would be invoked, and that was the only way I could present it to the body.

Now the point is made that I wanted the secret meeting. I did not want the secret meeting because I contended, of course, that the material was nonsecret. I never wanted it considered secret information. It was the assistant minority leader who foisted this on me.

The PRESIDING OFFICER (Mr. BENTSEN). Senators will please cease conversations, so that all may hear the proceedings.

Mr. ROBERT C. BYRD. Mr. President, I stand corrected. I was under the impression that there was some documentary material on which there was a classified stamp, and there was some effort to place it in the RECORD recently, and that, therefore, there would be some discussion of that material which was classified as secret, thus creating the necessity of having a closed session.

But that is neither here nor there. I would hope the Senator would not object to the unanimous consent request that the debate be made public by printing it in the RECORD.

May I say to the Senator from Hawaii (Mr. FONG) I had the clerk read paragraph 4 of Senate Rule XXXI, into the RECORD at the opening of this session, and it places an unfair burden upon every Member here and every officer of the Senate, because nothing has been said here that ought to be secret or that involves the security of this country, and yet any Senator who goes outside this closed session and divulges anything that was said—be it ever so trivial—is subject to expulsion, and any employee who goes outside this Chamber today and divulges—even inadvertently—what was said is subject to being dismissed from his job and subject also to action for contempt of the Senate.

I do not think we should put that burden upon anyone when nothing that has been said justifies secrecy.

Mr. FONG. Mr. President, I think it is most unfair to ask for a secret session——

Mr. ROBERT C. BYRD. Well, I did not do that.

Mr. FONG. And after 3 hours of debate, to go on and say we are going to publish it to the public. If it is to be a secret session, let us keep it a secret session, so that anything that has been said here will remain a secret. If you are going to have secret sessions, ask for secret sessions, and later on say, "We will publish it," who is going to stand on the floor and speak? A secret session called a secret session will later on be a public session, and we will never have a nonpublic session. That is the reason why I object.

Mr. ROBERT C. BYRD. Mr. President, if unanimous consent fails, I intend to move eventually that this be done.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from Vermont.

Mr. AIKEN. Will the Senator tell me, would it be a violation of the rules or of law to go out, after this meeting, and say the afternoon was wasted? Would that be a violation? As I understand it, it would be.

Mr. ROBERT C. BYRD. That would be left to the judgment of the individual Senator as to whether the afternoon was wasted.

Mr. President, I read paragraph 4 of rule XXXVI again:

> Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal from the service of the Senate, and to punishment for contempt.

I would hope Senators would not object to a request that the injunction of secrecy be lifted, because, in so doing, we are not going to endanger the security of the country. There has been nothing secret said here today, and I just think it removes a burden from any Senator who, if he is asked by anyone, has to say he cannot say a word, but if some Senator should happen to reveal, for example, that there was a suggestion that a committee be appointed to be named by the majority and minority leaders which would look into thus and so and report back by such and such a time, he would then be liable under this section.

I do not think we want to do that. I do not think we want to leave such liability, the content of the debate being what it was, upon any Senator. So I ask unanimous consent, Mr. President——

Mr. ALLOTT. Mr. President, before the Senator makes his unanimous-consent request, may I address this remark to him?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLOTT. We were brought in here this afternoon, all of us, upon the assumption that there was going to be an attempt by the Senator from Alaska to introduce the documents he has in his hand into the RECORD, or some similar maneuver.

I do not know that the existence of the documents has ever been officially confirmed by the President. I am not going to get into the argument as to whether or not the President has the law behind him. But the facts are that there is plenty of law to support the violation in an espionage way of those documents.

We do not know the source of the documents. I have every reason to believe that the fact that they exist outside of the White House, whether in the hands of Jack Anderson or whether in the hands of the New York Times or the Washington Post, or any other newspaper, means that they exist illegally. A mere official reference to those documents in this body can, in my opinion, possibly be, and I think actually is, a violation of the law.

I might say that this Senator received papers from the Senator from Alaska. I was looking for another document on my desk at the time, and happened to pick up an unmarked envelope with just my name on it. Fortunately I had two people in my office at that time, both of them ranking staff members of a committee in Congress, and in looking for another paper I opened it and saw a top paper, some sort of memorandum from Senator GRAVEL. I closed it up immediately, without looking at anything further, and sent it back to him hand-delivered.

This is what I consider to be—and I do consider it to be—my duty in such a case at this time.

We have flagellated ourselves all over the place this afternoon because we have not taken care of these various laws that we might use to declassify information. But, Mr. President, the real question has not been addressed here, and to those on the other side and those of us on this side, I say this: Imagine the most desirable President you would like to see elected, and then imagine him being placed in this position, which is now rampant in this country, and to which not one word has been addressed this afternoon, really, of what we do with those people who steal papers, whether they are logically classified or not, and then sell them or give them or dispose of them for some kind of gratuity or something else of value to people who will publish them.

Believe me, if we do not face up to this basic question in the Senate, there is not a man or woman sitting in the Senate today, either under this administration or one in the future, who will not rue the avoidance of our responsibility.

So I come back to the same problem: We asked for a secret session. The document has been referred to over and over again. Under these conditions, and as a matter of principle alone, I hope that Senators will not ask to have the proceedings under this secret session exposed to the public.

Mr. HART. Mr. President, no one has suggested, have they, that we strike a medal for the fellow who stole them? I understood the Senator from Colorado to say that the law is clear, that it offends the law to steal documents. If we want to strengthen it or modify it, that is one thing. But are we not addressing ourselves to the problem in which we now find ourselves—call it ignorance or uncertainty—namely, we do not know whether when a document, stamped classified so as to prohibit its disclosure, and then is disclosed, whether this is indeed an offense under any law?

Mr. ALLOTT. Mr. President, will the Senator yield for a question?

Mr. HART. Yes.

Mr. ALLOTT. Does the Senator think that any less obligation is owed to the President and his confidential advisers to protect that confidentiality than is owed to a Senator of the United States and a man who he said was in his employ, but who has never taken the oath of office as an employee of the Senate nor been on the payroll? I think we owe that obligation.

I am all for the great, wonderful things people are saying about approaching and tackling this problem. I do not happen to be the chairman of a committee, so I cannot do it. There are chairmen of committees in the Senate who can tackle this problem, and I am sure they will. I would be happy to see them do it. I am not sure but that the executive branch would be happy to see them bring some order out of this chaos.

Mr. HART. I rose only to inquire how our action on making public the events of the last couple of hours should be affected by the respect we owe, whether the law requires it or not, to an executively classified document, which document will not be in the published RECORD. For the reason explained by the Senator from West Virginia, there being general agreement that nothing has been said that affects the security of the Nation, and knowing human nature and the energies of the press, I think we would all be more comfortable under these circumstances if we could publish the RECORD. What harm is there?

Mr. CHILES. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. CHILES. Further than that, further than our own comfort and the fact that we are under an obligation of secrecy, if there is nothing in this RECORD today during these hours that in any way affects the security of this country or in any way affects the proper working of the Senate, are we not also under an obligation to go ahead and make that Record open to the public? Because we do have the special privilege to close these doors and to hold a secret session, and the public cannot participate and the press is not represented here. At the time we have that obligation, do we not have a great obligation—which I feel, and I think many Senators here feel—to make sure that we are not withholding anything from the public that can properly be in their domain, perhaps because of its little political consequence? I do not think this has been that kind of session in that regard. But I feel under a great obligation to see that this session is open, if we can have it open in a proper way, because I think there may be times in the future when we need to have a closed session. I do not think the public is going to stand by and allow its business to take place behind closed doors, if, when that business should be open, it is kept closed.

It is for that reason I feel under a great obligation to try to see that this session is made public.

Mr. HANSEN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, my efforts have been futile thus far, but I am going to ask unanimous consent once again that the injunction of secrecy be lifted and that the proceedings be publicly reported in the Record. I do this once again, calling to the attention of Senators that if any Senator goes out of this Chamber today and the press confronts him when he has left here and asks him what goes on, he can say, "I cannot say it," and that is what I will say. But any Senator who goes out and tells anything that occurred here—even though it be of little importance—is subject to expulsion from the Senate, under the rules. I do not want any Senator—and I do not think it is fair for any Senator—to carry that burden regarding so innocuous a debate.

Mr. GRIFFIN. Mr. President, reserving the right to object, I think it would be a very interesting exercise to see how much of this we will read in the Washington Post tomorrow morning.

Mr. ROBERT C. BYRD. Very well. Any Senator has the right to object, if he wishes to do so. I am just going to ask unanimous consent again.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CHILES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHILES. Is a motion in order?

The PRESIDING OFFICER. A motion is in order.

Mr. CHILES. Mr. President, I so move, but first I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go back into legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. FONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The motion is not debatable. The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ALLOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLOTT. Will the Chair state the question?

The PRESIDING OFFICER. The motion is to go back into open session. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll, and Mr. Aiken voted in the affirmative.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. One Senator has already answered.

Mr. FONG. Mr. President, a parliamentary inquiry.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Ervin), the Senator from Georgia (Mr. Gambrell), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from North Carolina (Mr. Jordan), the Senator from Washington (Mr. Magnuson), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Sparkman), and the Senator from Virginia (Mr. Spong) are necessarily absent.

I also announce that the Senator from Montana (Mr. Mansfield), and the Senator from New Hampshire (Mr. McIntyre) are absent on official business.

I further announce that if present and voting, the Senator from Georgia (Mr. Gambrell) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Fannin), and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Pennsylvania (Mr. Scott) is absent by leave of the Senate on official business.

Also, the Senator from New Jersey (Mr. Case), the Senator from Florida (Mr. Gurney), the Senator from Idaho (Mr. Jordan), the Senator from Maryland (Mr. Mathias), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from South Carolina (Mr. Thurmond) would each vote "yea."

The result was announced—yeas 36, nays 32, as follows:

[No. 174 Leg.]

YEAS—36

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bennett
Boggs
Brooke
Buckley
Cook
Cooper
Cotton
Dole
Dominick
Fong
Goldwater
Griffin
Hansen
Hatfield
Hruska
Javits
Miller
Packwood
Pearson
Percy
Roth
Schweiker
Smith
Stafford
Taft
Talmadge
Tower
Weicker
Young

NAYS—32

Bayh
Bentsen
Bible
Brock
Burdick
Byrd,
Harry F. Jr.
Byrd, Robert C.
Chiles
Church
Cranston
Eagleton
Ellender
Fulbright
Gravel
Hart
Hollings
Hughes
Inouye
Kennedy
Long
Mondale
Montoya
Nelson
Pell
Proxmire
Randolph
Stennis
Stevens
Stevenson
Symington
Tunney
Williams

NOT VOTING—32

Cannon
Case
Curtis
Eastland
Ervin
Fannin
Gambrell
Gurney
Harris
Hartke
Humphrey
Jackson
Jordan, N.C.
Jordan, Idaho
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Muskie
Pastore
Ribicoff
Saxbe
Scott
Sparkman
Spong
Thurmond

So the motion of Mr. Robert C. Byrd that the Senate return to legislative session was agreed to.

OPEN LEGISLATIVE SESSION

Thereupon, at 6:15 p.m., the Senate returned to Legislative session.

Mr. ROBERT C. BYRD. Mr. President, may I say for the information of those Senators who were not present when I earlier moved that the Senate go back into open session that the issue which is at point here is as follows:——

Mr. BENNETT. Mr. President, is the Senate now officially in open session, and if so, are we violating the rule prohibiting disclosure of what took place in closed session, we being in open session at this time?

Mr. ROBERT C. BYRD. Mr. President, what I am saying is not secret.

Mr. BENNETT. The Senator is disclosing what happened in the closed session.

Mr. ROBERT C. BYRD. I am not discussing it off the Senate floor.

Mr. BENNETT. Mr. President, I do not think the rule is that tight, since we are officially in open session.

Mr. ROBERT C. BYRD. We will let the Constitution decide that. I thank the Senator for calling my inadvertence to my attention.

Mr. President, I move that the Senate go back into closed session.

Mr. FULBRIGHT. I second the motion.

Several Senators requested the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, the request for the yeas and nays is not in order on that motion.

The PRESIDING OFFICER. Pursuant to rule XXXV, the Chair directs the Sergeant at Arms to clear the galleries, close the doors of the Chamber, and exclude all the officials of the Senate not sworn to secrecy.

(At 6:16 p.m., the doors of the Chamber were closed.)

CLOSED SESSION

Mr. BIBLE. Mr. President, may we have order? The acting majority leader is certainly entitled to order. Everyone ought to be heard, whatever his views.

The PRESIDING OFFICER. The Senators will cease conversation. The Senator will not proceed until the Senate is in order.

The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, for the information of those Senators who were not present when I earlier moved that the Senate go back into open session, the issue at point here is as follows, as I see it.

The discussion which occurred during the closed session today was not such as would reveal any secret information or anything that would endanger the security of this Nation. There was no effort made on the part of any Senator to include in the Record any documents heretofore stamped classified, secret, or otherwise.

There was merely a debate. And during the course of that debate, suggestions were made as to possible procedures that might be followed for a decision by this body for the declassification of material which might otherwise be stamped classified or secret by the executive branch.

I thought such proposals had merit. There are various Senators here who, I think, at some future date might want to submit resolutions for regularizing procedures for the declassification of documents when improperly labeled secret.

Mr. HANSEN. Mr. President, a point of order.

The PRESIDING OFFICER. Will the Senator from West Virginia yield for a point of order?

Mr. ROBERT C. BYRD. I yield for that purpose.

Mr. HANSEN. Mr. President, I observe that what is being said by the acting majority leader is being taken down in shorthand. Has provision been made that these proceedings be recorded?

The PRESIDING OFFICER. Is it out of order to ask that steps be taken that the remarks be recorded?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the official reporters be authorized to take notes for whatever disposition the Senate might later want to make of the transcript of those notes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I asked unanimous consent repeatedly while we were in closed session that the injunction of secrecy be lifted.

There is nothing here that should be kept secret. There was a closed session. I think all Senator felt, in advance, that there was going to be some discussion of matters which should be kept secret, but as it developed there was no such secret information divulged.

That being the case I feel that the proceedings of the session should be made open to the public. I do not think the Senate should have a closed session for the discussion of secret information, and if no secret information is, in reality, therein divulged—and nobody here maintains that there was—that the proceedings should be kept from the public knowledge. I think the record should be opened.

Furthermore, if the injunction of secrecy is not lifted I would like to call to the attention of Senators the following paragraph of rule XXXVI of the Standing Rules of the Senate:

> Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal from the service of the Senate, and to punishment for contempt.

I want to say to my colleagues again that if any Senator goes out of here and is asked by the press as to what happened during the secret session, and that Senator reveals to the press or anyone else anything what went on in that session—be it ever so trivial—he has subjected himself to possible expulsion from the Senate.

So I think, first, that statements made in a closed session which do not involve the security of this country and which are not sensitive in any way imaginable, should be made public because we are not justified in withholding them from public view; and second, that we ought to lift this injunction of secrecy so that no Senator and no officer of the Senate, under such circumstances, carries the burden that is placed on him by paragraph 4 of rule XXXVI of the Senate.

Therefore, I have tried repeatedly to get unanimous consent to lift the injunction of secrecy.

Mr. President, I now move that the injunction of secrecy be lifted and that proceedings of the Senate during the closed sessions be printed in the Record.

Mr. GOLDWATER. Mr. President, reserving the right to object, and I will not object, although I objected before, I would like to inform the acting majority leader that, during his statement, he said no effort was made to bring this matter to a head. I would propose that we make a motion, which I will make at the proper time, directing that the papers that Senator Gravel tried to get in the Record the other day by unanimous consent be printed in the Record. I will not object to unanimous consent. I think the Senator probably made himself clearer than he did before.

Mr. HANSEN. Mr. President, reserving the right to object, and I shall not object, I would like to observe that, insofar as I can understand, there was nothing disclosed here this afternoon with the exception of the insertion of these documents, that some contended have been stolen, into the secret record.

With respect to those papers, it has been contended by many that all of the pertinent parts have already been published in the New York Times, the Washington Post, and perhaps some other newspapers as well.

So, insofar as the national security is concerned, it seems to me it could not be contended that there is any more reason now to make public all the transpirations of the secret session at this time than earlier, insofar as national security is concerned.

I think it resolves down to this. The Senate has been forced into an unusual situation for purposes that are devious and beyond me, to accomplish other purposes I do not understand for no good reason at all.

However, in deference to my good friend, and a person I admire very greatly, the Senator from West Virginia, our acting majority leader, I shall not object.

Mr. LONG. Mr. President, reserving the right to object, and I think I will object, it seems to me that when we are told that someone has asked for a secret session and that this is a secret session, and everyone can say without any reservation what is on his mind because it will not be released, we have the right to proceed under the theory that this is to remain a secret session.

If any single person has proceeded under the theory that we were in executive session and that that was an entire matter to be kept confidential and not spread across the Record, he has a right to object and to have it respected. Is that not one reason why else a secret session would be called? Would that not be one reason for calling a secret session, so a person can freely discuss what he has on his mind without being subjected to having the matter published, as I have pointed out? If any single person feels that anything has been said that he would object to having disclosed, it should not be released. I am personally inclined to resent a procedure whereby the secrecy is used to promote publicity, so the matter is going to be publicized rather than kept confidential when the idea was to keep this in the bosom of the Senate.

I think I will object.

Mr. FONG. Mr. President, will the Senator withhold his objection?

Mr. LONG. I withhold my objection.

Mr. FONG. Mr. President, it is so easy to get a secret session. The motion is made by one Senator and seconded by another and we are in secret session. It is so easy for any one of us to ask for a secret session just to focus publicity on a subject we want it focused on.

If we are going to have a secret session, let us have a secret session. If we have a secret session every Senator is free to express any opinion he wishes to express and he will be able to do so.

If we are going to follow the procedure of having a secret session and then later revealing it to the public, with everything said being revealed. I object because this is not going to be a secret session and those Senators who would be prone to speak their minds would not feel free to do so if it were not a secret session.

This would be a travesty on the word "secret" and a travesty on the time of Senators called upon to enter into a secret session, if later we publish everything that was said. This would be a mockery of our procedure. Every time a Senator wanted a secret session all he would have to do would be to ask for it.

Mr. President, if we are going to have a secret session, let us have a secret session. Let us not dignify the action of the person who asked for it.

Mr. LONG. If the Senate were to use the procedure we have used in other secret sessions it would be all right with me. Under such procedures remarks are transcribed and anyone who cared to do so could amend or even delete his remarks and then, after the same reasonable period of time the Record was made public. I would have no objection to that procedure.

Mr. FONG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I have stated the case for my motion. I respect the Senator from Louisiana for what he said. I think I have to agree with him in many of the things he has said. I do not think that Senators, however, may I say to my friend from Hawaii, are going to take undue advantage of the opportunity to call for a closed session, inasmuch as such a motion should only be made for the purpose of discussing subjects which they think require secrecy when they ask for such a closed session. The very moment the Senate goes into closed session, a motion is in order to go back into open session, and I do not think the leadership or the Members on both sides would tolerate the use of such motions merely for publicity purposes.

As to the two Senators who asked for this closed session, I think they fully intended, at the time, to make their motions to include in the Record certain documentary material which has had a classification of some sort stamped thereon, but during the course of the debate, they were persuaded by the arguments of the Senator from Idaho (Mr. Church), the Senator from New York (Mr. Javits), the Senator from Arkansas (Mr. Fulbright), and other Senators, that a way should be devised to govern the declassification of innocuous documents. One such procedure would be that of creating a committee to examine such material; and both Senator Gravel and Senator Cranston indicated that they were quite willing to let that committee be created, let it take a look at the material, and then rest on the judgment of that committee.

So I do not think that they took advantage of the rules here today. I think they fully intended initially to move to include into the Record certain matter stamped secret which they felt had been improperly classified and, therefore, ought to be made public.

I think they should be commended for having been persuaded by the arguments to desist, for the time being, at least, in moving to insert the material into the Record. That being the case, there is nothing in the Record that should not be revealed.

I have made the case for my motion, and I now repeat the motion.

Mr. COOK. Mr. President, will the Senator yield, before he makes that motion?

Mr. ROBERT C. BYRD. Yes.

Mr. COOK. I would merely add to that that the Senator from Kentucky would have no objection if tomorrow morning or tomorrow afternoon the Senator would have moved to have the Senate go into closed session and for another Senator to have seconded it. I did not speak on the subject. I was not here during the entire debate. The respective Senators who entered into the debate will have an opportunity to look at the Record, have an opportunity to change or alter their remarks, as the rules permit.

The Senator from California made the motion because he, on his own analysis of what was said, and the acting majority leader, on his own analysis of the discussion, have said that there was nothing in this debate that violated the respective situations concerning which we find ourselves involved in the secret session.

I must say to the Senator that there are many Senators who dutifully walk in and vote a "no" vote. They have no idea of what is in this Record. They have no idea of one word or one paragraph. And yet all we do is say, "We find nothing in this Record that is in violation of the safety of this Nation," and so forth and so forth. Yet the Senators who entered into the debate and took part in the debate should have an opportunity to look at the Record.

I would have no objection if the Senator made the motion tomorrow. As a matter of fact, I do not think the rule would be in here if it was not a charge against Senators that Senators themselves had to assume and Senators themselves had to abide by.

As a matter of fact, I would like to read about it tomorrow. I would like to read about it in the Washington Post because I would like to see how Senators respect the body that they are a part of.

So I only say to the Senator, if a majority of the Senators feel as the acting majority leader feels, that there is nothing in it that anybody is objecting to, that there is nothing in it that Senators who entered into the debate want to change a word of, I would suspect they would not object; but that requirement would not be in the rules if we could not live by it. It is not a bad rule that Members of the Senate are compelled to live by. What is wrong with it? Are we a bunch of blabbermouths? Are they going to decide to have a press conference? This has been my objection for a long time, because I have been in the Commerce Committee time after time in executive session, and I have read about it the next day in the newspapers and wondered how it occurred.

I can only say that maybe it is a test of our own tenor. Maybe it is a test of our own ability to in fact abide by our rules.

Mr. TOWER. Mr. President, is that a rhetorical question that the Senator posed, or does he want an answer?

Mr. COOK. If the Senator wants to have time yielded to him by the acting majority leader, he certainly can answer it.

Mr. HANSEN. Mr. President, will the acting majority leader yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. HANSEN. With all due respect for my chairman, the Senator from Louisiana, let me just make this observation. It occurs to me that there is one significant difference in changing or correcting this secret session record. I know that I have corrected my own record many, many times. It is necessary that I do that so that people might better understand what I was trying to say. But, above and beyond that, what is said and heard in a public meeting is heard by everybody, so that a Senator changes the record and corrects the record at his own risk. If he wants to be held as one who does that habitually, he will be so regarded by the press. But insofar as what was said in secret session is concerned, no one except those of us here heard that, and I would hope that every Senator here this afternoon would agree with me that if there is any value to what was said in secret session, it ought to be recorded, if anybody is doing it, just exactly as it was said.

I simply ask my beloved colleague if he shares the feeling that I have, that there should not be any correction in the Record of the secret session. Does he hold that view?

Mr. ROBERT C. BYRD. I have no objection to that.

Mr. LONG. Mr. President, if the Senator will yield, suppose they took it down wrong? I have had that happen to me many times. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, I move that the injunction of secrecy be lifted and that the proceedings made during the debate be printed in the Record.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. DOMINICK. Is that a divisible motion?

The PRESIDING OFFICER. Technically, it could be divided—that the record be made public in one part, and that it be printed in the Record in the other.

Mr. DOMINICK. It was my understanding that the motion was that we go out of executive session, and the other was that the proceedings be published.

Mr. ROBERT C. BYRD. No.

Mr. DOMINICK. Perhaps the acting majority leader will repeat the motion.

The PRESIDING OFFICER. Will the acting majority leader repeat the motion?

Mr. ROBERT C. BYRD. Mr. President, I move that the injunction of secrecy be lifted and that the proceedings of the debate be printed in the Record.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Connecticut will state it.

Mr. WEICKER. The parliamentary inquiry is whether or not, after a secret has been invoked, it is a proper motion before this body to revoke that session.

In other words, it would be in the nature of an ex post facto motion.

The PRESIDING OFFICER. That has been the practice of the Senate.

Mr. COOK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Kentucky will state it.

Mr. COOK. Did we not go out of a secret session by a vote of 36 to 31, and are we not now in a new secret session, and can we, in a new secret session, take up the matters that we discussed in a previous secret session?

The PRESIDING OFFICER. The Senate is now in a new secret session, as stated by the Senator from Kentucky, and in this session we can take up matters that were discussed in the previous secret session.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas will state it.

Mr. TOWER. Is the motion of the Senator from West Virginia in order?

The PRESIDING OFFICER. The motion is in order, and the motion is debatable.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Does the motion of the distinguished acting majority leader apply to the present closed session, or does it apply to the previous closed session, or does it apply to both, because the motion referred to the closed session?

Mr. ROBERT C. BYRD. Mr. President, I think the Senator has made a very pertinent inquiry, and before I respond further to the inquiry, may I say in explanation to my colleagues who perhaps were not here when I moved to go back into closed session that the motion to remove the injunction of secrecy could only be made in closed session, and could not be made in open session. That is the reason I moved to immediately go back into closed session.

Mr. President, I move——

Mr. COOPER. Mr. President, will the Senator yield briefly?

Mr. ROBERT C. BYRD. I yield.

Mr. COOPER. I think my colleague from Kentucky raised a very valid question. As I recall, I missed the first 5 or 10 minutes, and I am sure many other Senators missed a part of the session.

My own judgment is, from what I heard, that what the Senator from West Virginia said is substantially true, that there was nothing that would affect the security of the Nation.

I do recall when I came in, however, hearing the Senator from Alaska speaking about certain events that had occurred and certain decisions that had been made reflecting upon foreign policy and I think upon the war. I was not able to analyze them very accurately, because I could not hear all of them. But I do think it would be fair for the Members of the Senate, all of us, that we have a chance to look at the Record tomorrow and determine whether we believe any question of security was involved, and then go into another one of these sessions and vote upon it. I think that is only fair.

I do not say that in any derogation of the judgment of the acting majority leader. I say it with some sense of responsibility to all of us. I think my colleague from Kentucky raised a very important question.

Mr. ROBERT C. BYRD. Mr. President, Senators who were present, I am sure, have reached their own judgment as to whether or not anything was said during the debate that was sensitive as to the security of this country. Those Senators who may not wish to vote for the motion may vote "no."

I move, Mr. President, that the injunction of secrecy be lifted from the proceedings that occurred during the first closed session today, and that those proceedings be made public by their having been printed in the Record.

Mr. MILLER. Mr. President, a point of order.

Mr. LONG. Mr. President, I move we adjourn.

Several Senators addressed the Chair.

Mr. GRIFFIN. Regular order, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, that is a motion that is customarily reserved for the leadership, and I hope the Senator from Louisiana will withdraw his motion.

Mr. MILLER. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. MILLER. Do I understand the yeas and nays were ordered on a motion that had previously been put by the acting majority leader?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. MILLER. I thank the Chair.

The PRESIDING OFFICER. Does the Senator from Louisiana withdraw his motion to adjourn?

Mr. LONG. No. Mr. President, I move we adjourn.

The PRESIDING OFFICER. The question is on agreeing to the motion to adjourn.

Mr. HANSEN. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. AIKEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. AIKEN. Do we go back to the pending business tomorrow, or take up new business?

The PRESIDING OFFICER. We would be adjourning in closed session.

Mr. AIKEN. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to adjourn. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Ervin), the Senator from Georgia (Mr. Gambrell), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Jackson), the Senator from North Carolina (Mr. Jordan), the Senator from Washington (Mr. Magnuson), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Sparkman), and the Senator from Virginia (Mr. Spong), are necessarily absent.

I also announce that the Senator from Montana (Mr. Mansfield), and the Senator from New Hampshire (Mr. McIntyre), are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. Gambrell) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Fannin) and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Pennsylvania (Mr. Scott) is absent by leave of the Senate on official business.

Also, the Senator for New Jersey (Mr. Case), the Senator from Florida (Mr. Gurney), the Senator from Idaho (Mr. Jordan), the Senator from Maryland (Mr. Mathias), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. Curtis) and the Senator from South Carolina (Mr. Thurmond) would each vote "yea."

The result was announced—yeas 30, nays 38, as follows:

[No. 175 Leg.]

YEAS—30

Aiken
Allott
Anderson
Baker
Beall
Bellmon
Bennett
Boggs
Buckley
Cook
Cooper
Cotton
Dole
Dominick
Fong
Hansen
Hollings
Hruska
Long
Miller
Packwood
Pearson
Percy
Roth
Smith
Stafford
Taft
Tower
Weicker
Young

NAYS—38

Allen
Bayh
Bentsen
Bible
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cranston
Eagleton
Ellender
Fulbright
Goldwater
Gravel
Griffin
Hart
Hatfield
Hughes
Inouye
Javits
Kennedy
Mondale
Montoya
Nelson
Pell
Proxmire
Randolph
Schweiker
Stennis
Stevens
Stevenson
Symington
Talmadge
Tunney
Williams

NOT VOTING—32

Cannon
Case
Curtis
Eastland
Ervin
Fannin
Gambrell
Gurney
Harris
Hartke
Humphrey
Jackson
Jordan, N.C.
Jordan, Idaho
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Muskie
Pastore
Ribicoff
Saxbe
Scott
Sparkman
Spong
Thurmond

So the motion to adjourn was rejected.

Mr. JACKSON subsequently on May 17 said: Mr. President, on May 2, the Senate met in closed session. I was not present at thi ssession, and I was not recorded on the two record votes which took place.

I announce my position on these votes, as follows:

Leg. No. 174, "nay."

Leg. No. 175, "nay."

Mr. ROBERT C. BYRD. Mr. President, I withdraw my motion.

In order that Senators may have an opportunity to look at the RECORD and to edit it, to expurgate whatever they wish to strike therefrom with respect to their own remarks, and at the same time to accomplish my objective, which I think is a right one—to wit, lifting the injunction of secrecy on the previous closed session—I ask unanimous consent that the notes of the official reporters with respect to the proceedings in the first closed session today be transcribed and placed in the hands of the two assistant leaders, that Senators who participated in the debate during that closed session may examine the transcript—and edit the transcript—and that the transcript then, as edited by the Senators, be printed and made a part of the official CONGRESSIONAL RECORD as of Monday of next week.

The PRESIDING OFFICER (Mr. BENTSEN). Is there objection to the unanimous consent request of the Senator from West Virginia (Mr. ROBERT C. BYRD)?

Mr. ALLOTT. Mr. President, reserving the right to object, I should like to make an inquiry of the distinguished assistant majority leader. This means, in effect, as I understand it, that every Senator could edit his own remarks or delete them. Is that so?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLOTT. I should like to pose this question to the Senator, because I believe there are two or three significant remarks in the RECORD which will have a great influence on future debate or actions on this matter. I wonder whether the Senator would consider simply deferring action on any request about the disclosure until tomorrow morning, at which time I think that many of my colleagues would perhaps be inclined to join him in lifting the secrecy bar on this meeting. I personally heard several remarks in the RECORD this afternoon which, I think, will have great significance. I address that question to the Senator. Please consider it.

Mr. ROBERT C. BYRD. It will be considered.

Mr. BROCK. Mr. President, reserving the right to object, remembering the injunction of caution raised by the Senator from Wyoming, is it the intention of the Senator from West Virginia that such corrections be of an all-inclusive nature, or should they be limited to, as the Senator from Louisiana accurately pointed out, simply a correction of a misprint or a misreporting of the actual statement?

Mr. ROBERT C. BYRD. I should think that would be the proper way, although if a Senator wanted to delete any portion of his statement he should have that right to delete it.

Mr. BROCK. If that is the case, then, I would feel constrained to object because if remarks are deleted in their entirety, then that would leave some of the other remarks out of context and make this debate nonmeaningful in terms of making an accurate report to the public. I have supported the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) throughout the entire proceedings to make this debate public, but I do not think it would serve the interests of the public to make only a part of it public and leave a false impression.

I simply must object unless there is some limitation to correcting only those which are errors in terms of reporting or in completing a statement that was inaccurate or incompletely made.

Mr. TOWER. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. If the unanimous-consent request of the Senator from West Virginia is agreed to, will that mean the injunction of secrecy would still be in effect until next Monday?

Mr. ROBERT C. BYRD. That is right. It would be, until next Monday.

Mr. TOWER. In effect, that remains in effect on Senators, and individual Members of the Senate, too, between now and that time; is that not correct?

Mr. ROBERT C. BYRD. That would be correct, because the RECORD would not be made public until Monday.

Mr. COOK. Mr. President, reserving the right to object, and I will not object, except to say to the distinguished acting majority leader that what this Senator was really trying to get at was to give no more than a short, reasonable period of time for Senators to review their debate, to determine whether they themselves, in their own judgment, had said anything within the framework of the secret session they would consider should be deleted for the purpose of national security, or for other security purposes they might themselves individually deem objectionable to being in the public record.

I would hope that the Senator would merely consider postponing this motion until, let us say, no later than 10 o'clock tomorrow morning and allow Senators to read the RECORD, as the Senator has indicated in his motion, and then, if there is no objection by any Senator at that time, then put the entire matter on the record and get it over with and not just wait until Monday next.

Mr. ROBERT C. BYRD. May I say that nothing will be done with respect to the notes that have been taken down by the official reporters until some action is taken by the Senate in closed session, to direct what should be done with the notes.

May I say further that it is perfectly all right with me to stipulate, instead of Monday next, the day after tomorrow, but I suggested Monday as I thought some Senators might want more time with respect to——

Mr. LONG. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. Yes—just a moment—with respect to the Senator's question as to whether the material should be deleted. It was for the reasons that have been raised by the Senator from Kentucky, I believe, that—to wit, that a Senator might feel something he had said—and he would have that right to make that judgment—was sensitive and should be stricken. That is why I said I felt he should have the right to delete. It makes no difference to me personally what the Senate wants to do.

Mr. COOK. Would the Senator from West Virginia limit his motion to things that a Senator would feel would be sensitive under the respective paragraph that establishes in essence the veil of secrecy over a secret session?

Mr. ROBERT C. BYRD. I will respond to that, but first I yield to the Senator from Louisiana.

Mr. LONG. The Senator from West Virginia has the right to make the motion he did, if he wants to insist on it. Frankly, I think it would be very good to let the RECORD remain classified and confidential for a few days and let Senators have the privilege they have had in other executive sessions, to take a look at their remarks and see if they would like to have them published and, if not, to be the master of their own remarks, we might say, insofar as the sense of it is concerned. That is the way I thought it is usually done in an executive operation.

But, it would serve another purpose, to let this matter remain in the bosom of the Senate. I would be very curious to see if any of this leaks. I would venture the guess that some of these matters will not be confidential in a few days. It will test the statement, "If you want to keep a secret, do not disclose it to the Senate." It might serve a good purpose, to see exactly how good the Senate is in keeping something to itself. So, I will go along with the Senator from West Virginia in what he suggests. It is a very fine suggestion. it might be a very fine thing if we could resolve this whole thing.

Mr. CHILES. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CHILES. I wonder whether the Senator would not consider what the Senator from Kentucky is talking about, whether the time could be shortened to a shorter time, if we possibly could, because while many of us would be amused to see what the press reports tomorrow—and I think we are talking about our remarks—many of us are looking at it not only in amusement but we are also looking at how the Senate will look in the matter. I think that is really what we should be considering here: what will the Senate look like? There probably will be some leaks. There will be reports. Then there are going to be Senators chastising other Senators because there were leaks, and all the reporting is going to be tarring the Senate.

The fact is, we are conducting the people's business behind closed doors. If we do not have to do that, we should not do it. In any period of time, in a shorter period of time, we should open up the veil of secrecy. We should do that. So I think that we should be thinking of how the Senate will look as it conducts the people's business, as we see it at 10 o'clock tomorrow morning. There will be ample time for a Senator to see if he was reported accurately or if he thinks perhaps something had better remain within the veil of secrecy. I would think any Senator is not going to change his remarks. I think basically he is not going to. Many of us were here and did hear the debate because we stayed during the entire debate. It seems to me that would be simple then.

Mr. ALLEN. Mr. President, reserving the right to object, and I do not plan to object, I would like to suggest to the distinguished Senator from West Virginia that the Senate has not decided anything after having been in closed session for more than 4 hours. I wonder if it would not be the better part of wisdom to let this matter remain in abeyance. I assume that we will have another closed session before this matter is finally resolved. Why would it not be better for us to make that request at this time and resolve the question of whether these papers are to be allowed to be introduced into the official RECORD of the Senate rather than deciding this thing piecemeal?

If we decide to make public at this time this 4 or 5 hours of deliberation, which has accomplished exactly nothing, I think it would be better to expunge the whole thing, because tne Senate has accomplished nothing.

Would it not be better to wait until definitive and final action has been taken on the request that has not even been made by the distinguished Senator from Alaska?

If he wants to make the request, let him come in and make it and let the Senate decide that question. Let us not ask the Senate to release something that puts it in a very bad light. With nothing pending before the Senate at all and having to decide the question of going back into closed session, would there not be a reluctance on the part of Senators to engage in a free exchange in another closed session, which I assume will be called for in order to answer the question of whether the document can be introduced.

I hope that the Senator from West Virginia will wait until the Senate has decided the question, and then let the Senate decide whether to release all of the debate.

Mr. ROBERT C. BYRD. Mr. President, may I say in response to the Senator from Alabama, that I think the matter ought to be resolved here and now. If we go into open session, we cannot go into this matter again unless and until we go back into closed session. A motion to lift the injunction of secrecy would have to be made in closed session.

May I say to the Senate that some Senators have raised a question about tomorrow. The Democrats are having a caucus that is scheduled for 9:30 tomorrow morning. The Senate will not go into session until 12 o'clock noon.

I do not see why we cannot resolve this matter. The Senator from Alaska may not press his motion for a month.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order so that the Senator may be heard.

The Senator from West Virginia may proceed.

Mr. ROBERT C. BYRD. Mr. President, in the meantime every Senator is under the burden to which I have already alluded a number of times.

I selected Monday because I felt that if I were to suggest Friday, someone might say: "Let us have a longer period of time." I am agreeable to letting the date be Friday so that we do not keep the RECORD closed very long.

Mr. GOLDWATER. Mr. President, will the Senator yield for an inquiry?

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Arizona for an inquiry.

Mr. GOLDWATER. Mr. President, would the Senator's suggestion as to the revision of the remarks made today go so far as to allow the Senator from Alaska, for example, to remove from the remarks his statement to the effect that he would not divulge the name of the man who got these documents and made them available to him because this man would be immediately indicted. Would the suggestion go that far?

Mr. GRAVEL Mr. President, I assure my colleague that I will not withdraw one word of anything I said.

Mr. HANSEN. Mr. President, reserving the right to object, and I would be most reluctant to object, unless I can be assured by the distinguished acting majority leader and the distinguished acting minority leader that any corrections will be only to make more understandable and more intelligible what was said. I think that without that sort of assurance, I would have to object.

I ask now whether it is the intention of the distinguished acting majority leader and the distinguished acting minority leader, if this unanimous-consent request should be agreed to, that any correction will simply be for clarification only and that there will be no parts of the record taken out which would leave remarks that might then follow, or which could at some later time follow, to be meaningless.

Mr. ROBERT C. BYRD. Mr. President, first of all, I would not be making this unanimous-consent request if I thought that any Senator would, thereunder, include any documentary material which was not ordered during the closed session to be inserted into the record.

Second, I would be very happy to confine my request, as best I can, to embrace the editing of the record by each Senator only in such a way as to make clear the intent of what he was saying so that the public can understand and so that there will be no danger then of appropriate paragraphs or sentences being left out which would make difficult the understanding of subsequent paragraphs or sentences.

Mr. HANSEN. Mr. President, on that basis, I have no objection.

Mr. BROCK. Mr. President, reserving the right to object, may I ask if it would be possible to amend the unanimous-consent request to 1 o'clock tomorrow afternoon so that we could have a little more time?

Mr. ROBERT C. BYRD. Mr. President, I will amend my request and I will repeat it again, to insert Friday in lieu of Monday.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, what is the intent of the Senator from West Virginia as to when the secrecy will be dispensed with and eliminated? Will we do that in a subsequent secret session, or will we make that decision now?

Mr. ROBERT C. BYRD. We would make the decision now, and it would apply to a certain date, which would be Friday.

Mr. HRUSKA. Mr. President, I would be inclined on that basis——

Mr. ROBERT C. BYRD. Mr. President, this has been done before.

Mr. HRUSKA. I know it has been done before. However, many Members of the Senate were not present. They do not know what is in the record. They are not familiar with the record. They will be asked to remove the secrecy injunction without knowing what they are voting on.

Mr. ROBERT C. BYRD. Mr. President, may I say that the injunction of secrecy would not be lifted today.

Mr. HRUSKA. The decision would be made to lift it at some time in the future?

Mr. ROBERT C. BYRD. The decision would be made today to make the proceedings of the previous closed session public by printing them in the CONGRESSIONAL RECORD on Friday.

Mr. DOLE. Mr. President, reserving the right to object, I wonder if, as the distinguished Senator from Florida has indicated, the Senate is probably not being made a spectacle in what has happened.

I wonder if the Senator from Alaska might want to offer whatever he intends to offer. We are in secret session. It has been well advertised, and it has been in the papers that we are having a secret session to consider the introduction of certain material into the record. I think we can resolve the entire matter. I think it rather strange that we go into secret session at the request of the Senator from Alaska to vote upon this matter and then spend 2½ hours deciding on what other Senators must do between now and Monday morning.

Why do we not let the Senator from Alaska offer what he wants to offer? We will vote it up or down, and then we will have answered the question. Did the Senator from Alaska not call for this session?

Mr. GRAVEL. That was stated in the dialog very clearly.

Mr. DOLE. Mr. President, that can still be done by a committee. That can be done at any time.

Mr. GRAVEL. Mr. President, I was very persuaded by the argument put forth by the Senator from New York who tells me that on tomorrow he intends to offer a resolution. I think that might be the best way for this body intelligently and deliberately to act.

I see no reason to pursue that. If I could, I wish to correct the record one more time. It was not my intention to have a closed session. It was the leadership on that side which pushed me into a closed session.

Mr. DOLE. I do not quarrel with the Senator. Facts are facts.

Mr. GRAVEL. I am being criticized.

Mr. DOLE. You are being criticized.

Mr. GRAVEL. It was not my idea. I was pushed into a closed session. I felt this debate from the beginning could have been done in public. I still feel that way.

Mr. DOLE. The Senator is not willing to ask——

Mr. GRAVEL. No. I think this should be done deliberately and the papers made public. I am willing to abide by any system which is the normal way to do it in the Senate. I do not know what more I can do than that.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator from Michigan, the assistant Republican leader, that he was within his rights when he objected to the inclusion of the material in the RECORD some days ago; and by the same token, the Senator from Alaska was within his rights to ask for a closed session, thinking that many Senators might believe the material would be sensitive enough to require a closed session.

Mr President, I ask unanimous consent that the notes of the reporters be transcribed, placed in the hands of the assistant Republican leader and myself, to be kept by those two Senators, and that Senators who participated in the debate may have access to those transcribed notes for the purpose of editing them in such a way as to make them clear to the reading public, and that the edited notes then appear in the CONGRESSIONAL RECORD of Friday next.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I would not object to the first part of the request by the distinguished acting majority leader that the transcript be so placed and available.

I would like, however, to suggest, as the Senator from Kentucky earlier suggested, that we not make the decision tonight to lift the injunction automatically. We can vote on that tomorrow or some other time after Senators not present have had the opportunity to acquaint themselves with the record.

I would suggest that we limit the unanimous-consent request to the first portion thereof.

Mr. BENNETT. Mr. President, reserving the right to object, I would like to address a question to the distinguished acting majority leader. I realize this is probably a little irregular, but the whole process of keeping the record open for 2 or 3 days is rather irregular. I wonder if the opportunity to examine that record might be available to every Member of the Senate and not merely those who made remarks, so that some who could not get in for the debate would have a chance to examine the record.

Mr. ROBERT C. BYRD. Surely. I will modify my request accordingly, so that any Senator may have the opportunity to examine the transcribed notes.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CHILES. I wonder if the Senator agrees with me that there are many of us who stayed here during the entire debate. I hear more said about the Senators who were not here and if they wanted to be here they could be here. I have been here since the entire debate started. I think most Senators now present have been here. I think there is a little more responsibility owed. We keep hearing about those who are not here. I do not know why they are not here. They could have been here if they felt it was important business. We have used references to them quite a bit. We should talk about those Senators who are here and those who did participate in the debate.

Mr. ROBERT C. BYRD. I thank the Senator. There is much justification in what the Senator has said, but I have no objection to other Senators seeing the record.

Mr. CHILES. I do not object to their seeing it, but I am saying we should not be kept from voting now because of four Senators who are not here.

Mr. ROBERT C. BYRD. No. I agree.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, and I shall not object, I wonder whether it is wise for the Senate to leave here tonight with every Member of the Senate under the injunction of secrecy and every newscaster speculating what the Senate did today, and none of us, if we adhere to our commitment and responsibility, is permitted to say anything.

I am wondering if the motion offered by the distinguished Senator from West Virginia could carry a proviso that in spite of the injunction of secrecy, that the distinguished acting majority leader and the distinguished acting minority leader might jointly inform the press in general terms of what has been going on.

SEVERAL SENATORS. No, no.

Mr. HARRY F. BYRD, JR. I do not know how in the world we are going to go through a couple of days with the whole country speculating with respect to what went on during 4 hours in the Senate.

Mr. ROBERT C. BYRD. May I say in response to the Senator that the procedure I have proposed has been used before. It is a suggestion under which we could operate.

Mr. COOK. Mr. President, I might say to the distinguished Senator that that is a noble thought, but I am not sure it goes beyond that. I do not see how that could be done.

Mr. CRANSTON and Mr. STENNIS addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Mississippi had asked me to yield to him earlier. I now yield to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, reserving the right to object, it occurs to me that the most important matter tonight is what kind of precedent we might set.

I remember in committee sessions when we had closed sessions and I was a new Senator. I wanted to feel I was free to say what I wanted to and that the record would not be made public, at least until I had an opportunity to look at it and determine whether I was going to strike it out or not, and had the right to put it before the committee as to whether or not I would be permitted to modify those remarks substantially.

We have handled this matter several times. I am one who has been referred to, where every Senator has a right to come and look at the record and suggest changes in his remarks, or request that they be changed. As I recall, a day was set when the matter would be considered by the Senate as to whether or not it would be made public. As I recall there never was any controversy after that process was gone through.

It might be that here tonight there will not be a unanimous-consent agreement. I do not know. It might be we could not get to a vote.

In view of those circumstances would it not serve the purpose that our two leaders, who are so highly respected, and who are in a little disagreement—might it not be well, in view of all the circumstances and the lateness of the hour, to let this go over until tomorrow and let the two leaders suggest something? The acting majority leader and the acting minority leader might give a waiting period. I do not know. I do not believe there will be a unanimous-consent agreement tonight. I hope I am mistaken.

If not, perhaps the two leaders could give us a solution to this tomorrow. We would not have much time for this record to be kept secret. I do not think it should be kept secret for very long. I think the acting majority leader is right in trying to get the matter handled now.

Mr. ROBERT C. BYRD. Mr. President, may I say in response to the Senator from Mississippi that I want to do anything I can to accommodate and serve the will of the Senate. I want to see the rules upheld, and I do not want to see Senators go out of this closed session of the Senate with a burden on them that is not justified in this instance.

It is perfectly all right with me to follow the suggestion of the able Senator from Mississippi. He has been here much longer than I have. I am not wedded to the idea, I am not "set-jawed," that we have to go out of here tonight having lifted the injunction of secrecy; but I feel it is incumbent on me to do everything I can to see that the injunction is lifted on a debate, the words of which are not sensitive, and which does not contain any matter endangering the security of this country. But I think that any Senator, when he reads the full debate, would have to say that there is nothing therein which could be considered in any way sensitive. In such a situation, Senators and officers of the Senate should not have to keep their lips sealed, under the penalty perhaps of being expelled, in the one case, from the Senate, and in the other, of being dismissed from service and punished for contempt.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. May I say to my dear friend that he need not be worried about somebody being expelled because he is a blabbermouth. We have had some of the worst blabbermouths and worst secret keepers of America in the Senate. I am not referring to the present Senate, but we are not that much better. We have had Senators who have been notorious about hearing what was said even in secret meetings to discuss military affairs at the White House and then calling a reporter and telling him what was said. So we are not all that good, as a group, as secret keepers. It does not make a lot of difference if one is liable to punishment by the Senate. It could happen in theory, but it does not happen in practice.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HANSEN. While I can understand full well the persuasive statement just made by our distinguished colleague from West Virginia, it does occur to me that this point ought to be kept in mind: When a secret session is called for, I think every Senator is thus assured by that action that it is secret, and candor is encouraged and forthrightness is urged. It may be that damage would be done to the assurance which is given by that action. Even though the national security may not be involved and there may be no risk to our country, it does occur to me that, basically, we were admonished. I took it at face value. I thought when the distinguished acting majority leader had read to the Senate what the admonition was, it meant just that. We do not have to worry about other individuals. We have one guy to be concerned about, and that is our own mouth. As far as I am concerned, I am willing to leave it and be accountable to that rule. I think it ought to be left that way. We go around, when we are campaigning, talking about what an honorable institution this is——

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. Senators will cease conversations. Will the Senator withhold his comments until the Senate is in order?

The Senator from Wyoming.

Mr. HANSEN. Mr. President, I overheard something that I would rather not have overheard. It was a very demeaning remark about me, but because it came from a dear friend, I will ignore it.

I do not think there is anything wrong with leaving it this way. We make great moment of the caliber of men that are Members of the Senate. I am not concerned about any employees around here leaking something to the press. I think it might be very interesting and perhaps even chastening to see what happens, and what appears or does not appear in the media tomorrow morning if we leave here this evening with the admonition still fully invoked.

Mr. PERCY. Mr. President, if I could have the attention of the acting majority leader for just a moment, I have not participated in the debate, so that I have no personal embarrassment as to what I may have said or what I may not have said. I think what I am deeply concerned about is the possibility of opening the Senate of the United States to ridicule. If this whole record were published, I think we would have a hard time explaining how we spent 4 hours, with many, many problems this Nation faces, and I for one shall object to publishing and going through a procedure which would enable a Senator to delete whatever the has said. I have said nothing, so I do not have to worry about it; but if some Senator says to another, "You are an s.o.b.," and he deletes that, and someone says, "You are one, too," and that is left in the record, it does not explain what he was responding to, and he is stilled by secrecy from disclosing what was deleted. I think it would be ludicrous to go through this procedure.

I do this with regret, because I want to follow the leadership as much as I can, but I could not permit us to go through this procedure, then publishing the whole record, and then opening up the Senate to ridicule.

We all, in our own families, have disagreements. I would not want the disagreements we have in our family to be published in the newspapers. That is the privilege of having a family—you can have straightforward discussions, and maybe it cleanses something out, and maybe we will not go through the same process again.

I would not want this record to be made a part of the public record. I would be ashamed, having been a Member of this body, for going through this procedure.

I object to the unanimous-consent request that has been made.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that Senators would not delete material, but would merely edit their grammar and clarify their statements for the better understanding of the public.

Mr. PERCY. As I understood the discussion before—maybe I misunderstood it—the statement was made that a Senator could delete remarks—edit, correct, or delete.

Mr. ROBERT C. BYRD. That was the first suggestion, but when objection was made, it was changed.

Mr. PERCY. Now it is left so that it is simply an editing process?

Mr. ROBERT C. BYRD. Yes.

Mr. PERCY. I am sorry. I missed that particular point. That is the part I find most objectionable.

Mr. ROBERT C. BYRD. Yes.

Mr. PERCY. Now may I ask this question? There was some question as to whether or not we were publishing just the first secret session or whether we would publish the entire secret session.

Mr. ROBERT C. BYRD. Just the first secret session, was my request.

Mr. PERCY. There is no standing request to have published anything beyond the first session?

Mr. ROBERT C. BYRD. The first session.

Mr. PERCY. Not having participated in the first session to the full extent, or at all, and having nothing in the record that I would have said, and feeling that there could not be anything that should be deleted, I could withdraw my objection, and I do withdraw my objection. I think someone should object who participated in the first session, if he wants to. [Laughter.]

Mr. FONG. Mr. President, reserving the right to object, I shall object on the ground, first, that if we are going to have a secret session, let us have a secret session. In a secret session every Senator here is supposed to speak with a frank mind, and not be afraid that his remarks will be published, and to be sure that his remarks will not be published. You are going to really stifle freedom of expression if you are going to publish everything that has been said here in a secret session.

Second, if you are going to allow the editing of remarks made, do you really have a truthful record? This record will not be truthful. It will not be truthful to the extent that it has been edited, and something that has not happened here should not be permitted to be given to the public as being said in secret. A Senator may want to edit his remarks, and in the editing he may put something substantive in there which was never spoken on the floor of the Senate, and then you do not have a true record.

In the third place, I want to say that we have not arrived at a resolution of what we were called upon to resolve. No motion has been made. No substantive agreement has been arrived at. To me we are only at the introduction of the subject. We have not even got into the meat of the subject, and yet the request is to let us publish in the record what really happened here. Actually, nothing has happened here. Nothing has happened in the last 4 or 5 hours, and I think it is a travesty on the time of the Senate to have published in the RECORD that we have not done anything.

Let us wait until we have the resolution of what we were called upon to do in secret session, and at that time decide as to whether we would like to publish it publicly or not.

I have objected.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the official reporters' notes be transcribed and the transcript placed in the hands of the two assistant leaders for examination by any Senator and for the proper editing with respect to grammar on the part of any Senator who participated in the debate, and that on Thursday of this week there be a closed session——

Mr. FONG. Mr. President, I rise to object on the same grounds.

Mr. ROBERT C. BYRD. Mr. President, if I may complete my request—that there be a closed session which would be limited to 1 hour—I remove the limitation at this time; I hope to make it later—that there be a closed session for the purpose of discussing the lifting of the injunction of secrecy and the reporting of the proceedings of the first session today.

Mr. FONG. Discussing or deciding the issue?

Mr. ROBERT C. BYRD. Deciding it.

Mr. FONG. The Senator said discussing. We will not decide anything today?

Mr. ROBERT C. BYRD. We would only decide today that the notes be transcribed—otherwise they will not even be transcribed—that they be transcribed and the transcripts placed in the hands of the assistant Republican leader and myself, and that between now and Thursday, any Senator may review them, and that Senators who made statements may edit those statements.

Mr. COOK. As to grammar.

Mr. ROBERT C. BYRD. As to grammar, and that on Thursday—and I would like to say that I would move on Thursday to go into closed session. The only reason I would make the motion would be so that I could do it at a time so convenient as not to interfere, any more than we can avoid, with the rest of the program for Thursday.

Mr. FONG. And at that time we would decide what we want to do?

Mr. ROBERT C. BYRD. At that time we would decide whether or not the notes would be printed in the Congressional Record.

Mr. FONG. Under those circumstances, Mr. President, I withdraw my objection.

Mr. ROBERT C. BYRD. Mr. President, for the convenience of the leadership, I wonder if any Senator would object. I have tried to modify my request so as to meet what would be a middle ground here.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. HRUSKA. So that we understand each other, the injunction of secrecy will continue to obtain up until the time on Thursday that we consider and make a decision?

Mr. ROBERT C. BYRD. Yes.

Mr. HRUSKA. If the discussion is not to lift the injunction of secrecy, it will continue in force; if we make a decision at that time to waive the injunction of secrecy, then we can speak?

Mr. ROBERT C. BYRD. The Senator is correct. In the meantime, the Senator from Michigan (Mr. Griffin) and I would keep the transcribed notes, but would make them available to any Senator in my office or in his—in our own offices, not to be taken out—they could be examined by any Senator, the injunction of secrecy would not be lifted until Thursday, and it would not even be lifted then except by agreement of the Senate in the closed session on Thursday.

Mr. YOUNG. Mr. President, reserving the right to object, I am not going to object. I think it is a good deal.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. Mr. President, reserving the right to object, I have two questions to ask the distinguished acting majority leader.

No. 1, is it the intention of the distinguished acting majority leader to have the rules of the Senate in force?

Mr. ROBERT C. BYRD. Mr. President, I have always sought to enforce the rules of the Senate to the best of my ability.

Mr. HANSEN. That is good enough for me.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, would it be understood that the transcribed transcript then would be available in the closed session on Thursday, to any Senator?

Mr. ROBERT C. BYRD. The transcribed transcript would be. I am going to make this unanimous-consent request just for my own convenience in knowing how to proceed with the scheduling on Thursday. Someone may object to it; I hope they will not, because I have gone as far as I can go in order to accommodate the views of all Senators, and I will do that always.

I ask unanimous consent that such closed session on Thursday be limited to not to exceed 1 hour. I should think we ought to be able to make the decision, with Senators having their opportunity to look at the Record in the meantime, we ought to be able to make a decision within a period of 1 hour, so as not to discommode and dislocate the other business of the Senate, which I think is equally important.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. AIKEN. Will the Senator permit me to commend the 32 absent Senators, who, by comparison, have done such excellent work today? (Laughter.)

Mr. HUGHES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUGHES. What is before the Senate?

The PRESIDING OFFICER. The first unanimous-consent request of the Senator from West Virginia. Is there objection?

Mr. HUGHES. Mr. President, reserving the right to object, I simply want to make the point that I have been on the floor of the Senate since 1 o'clock this afternoon. I shall not be here Thursday. I shall not have an opportunity to review the transcript.

I have not participated in the debate, so it does not make one darn bit of difference to me. But I have been listening with a great deal of interest. I do believe that this matter should be a matter of public record, and I am going to be prohibited from having the opportunity to vote on it, because I shall not be here Thursday, in order to protect those who are not here to read the transcript of the Record.

I would like to ask the acting majority leader if there was one word or one phrase read out of the transcript that the Senator from Alaska brought to the floor of the Senate.

Mr. ROBERT C. BYRD. Not one word of the documentary material which he brought to the Senate today.

Mr. HUGHES. I ask the acting majority leader, as he recalls it, was there one word or one statement made as to troop commitments or anything of that nature with relationship to the national security in the course of the debate today?

Mr. ROBERT C. BYRD. Not that I heard.

Mr. HUGHES. In his opinion, was anything said in relationship to the security of this country today?

Mr. ROBERT C. BYRD. In my personal opinion, nothing.

Mr. HUGHES. I have absolute confidence in the acting majority leader to make the decision for me in my absence as to the relationship to the security of our Nation of the material discussed here today, not only because of knowing his love of country and his adherence to that continuously, but also for the simple reason that nothing was said of any nature at all.

Mr. ROBERT C. BYRD. The Senator is eminently correct.

Mr. HUGHES. You know, I am a little upset by the fact that we spent 4½ hours here, and a lot more, to arrive at no decision about anything, and now we delay that 3 more days. As a result of that, I shall not be here to vote, but I hope at least to be recorded in this session, which it has not even been talked about disclosing, and in this Senator's opinion it has been most obvious why it should never be disclosed, after listening to it this afternoon, but I hope there is some method whereby I can be recorded as voting to reveal this to the American public. Is there any method that can provide that, as to the second session?

Mr. ROBERT C. BYRD. Yes. Mr. President, we have had two closed sessions. I would be perfectly agreeable to making the same request for the second closed session which was earlier made as to the first closed session, and on Thursday make a decision as to whether the injunction of secrecy should be lifted from both closed sessions. I think it should be.

Mr. President, was my first unanimous-consent request agreed to?

The PRESIDING OFFICER (Mr. Hart). Not yet. Is there objection to the first unanimous-consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make the same request with respect to the second closed session.

The PRESIDING OFFICER. Is there objection?

Mr. BROOKE. Mr. President, that is more dangerous than the first unanimous-consent request.

Mr. HUGHES. I agree.

Mr. ROBERT C. BYRD. My view coincides with that of the Senator from Iowa.

Mr. BROOKE. My question is, Will we have an opportunity to vote separately on the second session?

Mr. HRUSKA. Separately from the first session.

The PRESIDING OFFICER. Is there objection to the pending second unanimous-consent request? The Chair hears none, and it is so ordered.

Is there objection to the request that on Thursday there be a time limit of 1 hour—not to exceed 1 hour—during the closed session?

Mr. GRIFFIN. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. May I finish the request?

For the purpose of discussing both closed sessions, for the purpose of making a decision with respect to the injunction of secrecy in regard to both closed sessions, and that the time be equally divided between the two assistant leaders.

Mr. HRUSKA. How much time is there?

Mr. ROBERT C. BYRD. One hour.

Mr. HRUSKA. I had not heard, except the original request, which did say an hour, and then the hour limitation was removed from the unanimous-consent request. Has it been reinserted since?

Mr. ROBERT C. BYRD. Then, I would say not to exceed 2 hours, Mr. President—2 hours with respect to both closed sessions.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return open legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At 7:51 p.m. the doors of the Chamber were opened.)

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HART). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSOR OF A BILL

S. 2354

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Rhode Island (Mr. PELL) may be added as a cosponsor of S. 2354, the Veterans Health Care Reform Act of 1971.

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW; ORDER FOR THE CHAIR TO LAY BEFORE THE SENATE THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two assistant leaders have been recognized, there be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes; and that at the conclusion of the period for the transaction of routine morning business on tomorrow, the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business and the pending question before the Senate?

The PRESIDING OFFICER. The pending business is the unfinished business, S. 3526. The question is on the amendment offered by the Senator from Mississippi (Mr. STENNIS), amendment No. 1175.

Mr. ROBERT C. BYRD. I thank the distinguished Presiding Officer.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 noon tomorrow.

After the two assistant leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of morning business tomorrow, the Chair will lay before the Senate the unfinished business, S. 3526, and the pending question at that time will be on the adoption of Amendment No. 1175 by the distinguished Senator from Mississippi (Mr. STENNIS). Debate will ensue thereon. There is no time agreement on that amendment. Rollcall votes could occur at any time during the day.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 noon tomorrow.

The motion was agreed to; and, at 7:57 p.m., the Senate adjourned until tomorrow, Wednesday, May 3, 1972, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate May 2, 1972:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

I nominate, subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenants

Robert F. Buckley
Melvin N. Maki
Thomas J. Stephens, Jr.
Joseph G. Woods

To be lieutenant (junior grade)

Richard A. Shiro

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade of Lieutenant General under the provisions of section 8962, title 10 of the United States Code:

Lt. Gen. Robert G. Ruegg, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Dale S. Sweat, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

The following officer to be placed on the retired list in the grade of Lieutenant General under the provisions of section 8962, title 10 of the United States Code:

Lt. Gen. Alonzo A. Towner, [redacted] FR (major general, Regular Air Force, medical) U.S. Air Force.

The following officer for appointment as Surgeon General of the Air Force in the grade of Lieutenant General under the provisions of section 8036, title 10 of the United States Code:

Maj. Gen. Robert A. Patterson, [redacted]FR (major general, Regular Air Force, medical) U.S. Air Force.

Lt. Col. Charles M. Duke, Jr., [redacted] for promotion to colonel, line of the Air Force, in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

IN THE NAVY

Lt. Comdr. Thomas K. Mattingly II, U.S. Navy, for permanent promotion to the grade of commander in the Navy in accordance with article II, section 2, clause 2 of the Constitution.

IN THE AIR FORCE

The following Air Force officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, with dates of rank to be determined by the Secretary of the Air Force:

To be captain (Chaplain)

Carney, Robert E., [redacted].
Dabrowski, George J., [redacted].
Geiss, Harold G., [redacted].
Heffernan, Thomas A., [redacted].
Horton, Carl E., [redacted].
Kinney, James W., [redacted].
Massey, Reese M., Jr., [redacted].
Mattox, William H., [redacted].
Mellott, Howard V., [redacted].
Menninga, Arlan D., [redacted].
O'Rourke, Thomas J., [redacted].
Simonson, Andrew C., [redacted].

To be first lieutenant (Chaplain)

Bilderback, Carl E., [redacted].
Browne, Robert H., [redacted].
Callier, Samuel H., [redacted].
Carter, Wilton C., [redacted].
Clayton, Bennie H., [redacted].
Duda, Francis C., [redacted].
Engler, David E., [redacted].
Hancock, Edward N., [redacted].
Huckaday, Albert A. L., [redacted].
Jensen, Harold M., [redacted].
Lipscomb, William W., [redacted].
Matthews, Joseph C., III, [redacted].
O'Leary, Niall F., [redacted].
Reynolds, Marion S., Jr., [redacted].
Sikes, William G., Jr., [redacted].
Sweeney, Leo T., [redacted].
Thomas, Arthur S., [redacted].
White, Wesley V., [redacted].

To be captain (Judge Advocate)

Bailey, Theron S., [redacted].
Benoit, James R., [redacted].
Christo, Thomas A., [redacted].
Cole, Charles R., [redacted].
Cristal, Ronald J., [redacted].
Dakin, Timothy J., [redacted].
Dixon, Richard D. S., III, [redacted].
Dye, Donald H., [redacted].
Ellig, Robert F., [redacted].
Gorman, Richard D., [redacted].
Grablewski, John T., [redacted].
Graham, James H., Jr., [redacted].
Keeshan, James H., Jr., [redacted].
Knox, Michael R., [redacted].
Lingo, Robert S., [redacted].
McGee, Brian E., [redacted].
Muholt, Thomas J., [redacted].
Shea, Gerald C., [redacted].
Thornton, John C., [redacted].
Vansant, John D., [redacted].
Willis, William T., [redacted].

To be first lieutenant (Judge Advocate)

Allen, Robert D. M., [redacted].
Babington, Charles M., III, [redacted].
Balch, Edwin H., Jr., [redacted].
Birkel, James L., [redacted].

Burgersen, Sigurd B., [redacted].
Brasfield, Jeffrey H., [redacted].
Callinan, Michael C., [redacted].
Carnahan, Burrus M., [redacted].
Colon, Francisco J., [redacted].
Curbin, Norman L., [redacted].
Curralio, Carl A., Jr., [redacted].
Davis, Richard J., [redacted].
Deutsch, Randolph W., [redacted].
Dickson, Bernard A., [redacted].
Donat, James L., [redacted].
Dumerer, James E., [redacted].
Duval, Thomas O., Jr., [redacted].
Egeland, Andrew M., Jr., [redacted].
Eshelman, Joseph W., III, [redacted].
Espy, Bennie E., [redacted].
Finley, Gordon B., Jr., [redacted].
Forbes, David P., [redacted].
Harrington, Ellis J., Jr., [redacted].
Hermann, Dale M., [redacted].
Higgins, Robert F., [redacted].
Hines, Michael J., [redacted].
Holden, Ronald R., [redacted].
Holladay, Don G., [redacted].
Holmes, Jay H., [redacted].
Hornbrook, Edwin F., [redacted].
Hoyt, Eugene M., [redacted].
Jaquith, Ceceil J., Jr., [redacted].
Jewett, Robert T., [redacted].
Johnson, David A., [redacted].
Keam, Barret E., [redacted].
Keeble, Allen B., [redacted].
Kewin, Michael J., [redacted].
Kinsolving, Laurence E., [redacted].
Kutzan, Bruce A., [redacted].
Kritoff, Karl W., [redacted].
Kuns, Gary F., [redacted].
Laedlein, Charles E., III, [redacted].
Landsberg, William A. E., [redacted].
Lasater, William R., Jr., [redacted].
Martin, Donald J., [redacted].
McCabe, Harry L., [redacted].
McLaughlin, John J., [redacted].
Meek, Philip A., [redacted].
Miller, Gordon H., [redacted].
Morgan, Roy J., [redacted].
Murray, Kenneth J., [redacted].
Muxlow, Ralph W., II, [redacted].
O'Reilly, John F., [redacted].
Orton, Gary A., [redacted].
Peaco, James W., [redacted].
Prusak, Maximilian M., [redacted].
Prutzman, Peter K., [redacted].
Pyle, Ronny D., [redacted].
Ranciglio, Alessandro J., [redacted].
Robinson, Jack R., [redacted].
Rosson, Loren H., Jr., [redacted].
Russell, Rodney L., [redacted].
Ryan, Patrick M., [redacted].
Sasadu, Chester J., Jr., [redacted].
Scanlin, Thomas D., [redacted].
Schilling, Edwin C., III., [redacted].
Shaughnessy, John R., Jr., [redacted].
Smith, Richard F., [redacted].
Sweeney, Howard P., [redacted].
Tatum, Edwin B., [redacted].
Thumpkins, Stephen K., [redacted].
Tumes, Robert E., [redacted].
Wheeler, Jon S., [redacted].
Whiten, Charles W., Jr., [redacted].
Wickham, Richard J., [redacted].
Wiest, Charles L., Jr., [redacted].
Wilcox, Donald P., [redacted].
Willard, John R., [redacted].
Wright, Daniel P., [redacted].

To be major (Medical)

Gonzalez, Joe V., [redacted].
Guss, Kelly E., [redacted].
Harsa, Richard J., [redacted].

To be captain (Medical)

Armbrustmacher, Vernon W., [redacted].
Barrucas, Albert, [redacted].
Bickel, Rudolf G., [redacted].
Bills, Gary L., [redacted].
Bladowski, John R., [redacted].
Burnfleth, Leslie R., [redacted].
Bradley, Harold F., [redacted].
Campbell, John S., [redacted].
Cole, Lonnie A., [redacted].
Corpening, William S., Jr., [redacted].
Delemos, Robert A., [redacted].
Dietz, James W., [redacted].
Elms, John B., Jr., [redacted].
Eyler, Dennis R., [redacted].
Fielding, Steven L., [redacted].
Finger, Elliott R., [redacted].
Fushee, William S., [redacted].
Fuster, Jerry J., [redacted].
Garrott, Thomas C., [redacted].
Girod, Marvin G., [redacted].
Goodson, John P., [redacted].
Guise, Charles W., [redacted].
Hafermann, David R., [redacted].
Halverson, James L., [redacted].
Hampton, John R., III, [redacted].
Harris, Walter D., [redacted].
Hawley, William J., [redacted].
Henrikson, Ronald A., [redacted].
Herpin, Daniel A., [redacted].
Hoff, Ted E., [redacted].
Holmes, Scott L., [redacted].
Hood, Royce E., Jr., [redacted].
Jacobs, Robert L., Jr., [redacted].
Jernigan, John F., [redacted].
Kaminski, Paul F., [redacted].
Kaplan, Peter D., [redacted].
Kennedy, James J., III, [redacted].
Krege, John W., [redacted].
Lefrak, Stephen S., [redacted].
Loftus, Paul M., [redacted].
Lovelace, Raymond E., [redacted].
Luetje, Charles M., II, [redacted].
Mahady, Ivan B., [redacted].
Martindale, Richard E., Jr., [redacted].
Mazzola, Robert D., [redacted].
McGee, James W., IV., [redacted].
Michaelson, Edward U., [redacted].
Millett, David P., [redacted].
Murphy, Matthew P., II, [redacted].
Nelson, Wilner N. J., Jr., [redacted].
Novicki, Donald E., [redacted].
Osteen, Frank B., [redacted].
Patrick, John W., [redacted].
Plager, Stephan D., [redacted].
Posey, William C., [redacted].
Quinn, Robert J., II, [redacted].
Reider, Daner R., [redacted].
Riveracorrea, Hector P., [redacted].
Schwartz, Jonathan M., [redacted].
Singal, Sheldon, [redacted].
Snider, William J., [redacted].
Taylor, William M., [redacted].
Thomas, Robert F., [redacted].
Tobias, Thurman E., [redacted].
Trick, Lorence W., [redacted].
Verwest, Hadley M., Jr., [redacted].
Walchner, Andreas M., [redacted].
Wertz, Andrew W., [redacted].
Wiesmeier, Edward, Jr., [redacted].
Wilder, Thomas C., Jr., [redacted].
Worrell, Aubrey M., Jr., [redacted].
Yankowsky, William C., [redacted].

To be first lieutenant (Medical)

Abraham, David A., [redacted].
Alexander, Johnny B., [redacted].
Baskin, Harold F., [redacted].
Blumberg, Lawrence B., [redacted].
Boyd, Carl R., [redacted].
Bradshaw, Michael T., [redacted].
Burner, William L., III, [redacted].
Canon, Dennis L., [redacted].
Coburn, Bry H., [redacted].
Coudon, Wilson L., [redacted].
Davis, William M., [redacted].
Day, Ralph W., [redacted].
Duner, Howard C., [redacted].
Dursu, Michael A., [redacted].
Duncan, Roy D., [redacted].
Elliott, Paul T., [redacted].
Feray, Cotton D. E., [redacted].
Fisher, George H., [redacted].
Flanagan, Kirby J., [redacted].
Floyd, John L., Jr., [redacted].
Foster, James E., [redacted].
Gardner, Albert E., [redacted].
Gehring, Gordon G., [redacted].
George, Percy A., [redacted].
Gibb, Paul D., [redacted].
Gilstrap, Larry C., III, [redacted].
Glass, Thomas F., III, [redacted].
Griffin, John J., [redacted].
Harper, William F., [redacted].
Harris, Melvin E., [redacted].
Hastings, John R., [redacted].
Henderson, Judson S., III, [redacted].
Henderson, Richard A., III, [redacted].
Huffman, Gerald E., [redacted].
Huffman, Peter F., [redacted].
Huwiler, William E., Jr., [redacted].
Isernamaral, Jesus H., [redacted].
Jackson, Bruce G., [redacted].
Johnson, Benny D., [redacted].
Jordan, Guillermo H., [redacted].
Kee, Jimmy W., [redacted].
Kish, Karl K., [redacted].
Klarich, John D., [redacted].
Lambert, Joseph G., [redacted].
Lee, Dennis R., [redacted].
Lyle, Russell R., [redacted].
Mack, Leo W., Jr., [redacted].
Makar, James, Jr., [redacted].
Mann, Paul M., [redacted].
McClusky, Oliver E., [redacted].
McCullough, James A., [redacted].
Miller, Bruce D., [redacted].
Mills, William C., III, [redacted].
Moll, Jacob T., [redacted].
Moon, Michael R., [redacted].
Murray, Harry M., [redacted].
Orrison, William G., [redacted].
Paige, Robert W., [redacted].
Parent, Richard E., [redacted].
Patton, Clifton M., Jr., [redacted].
Paullus, Wayne S., Jr., [redacted].
Pedro, Steven D., [redacted].
Pickett, James D., [redacted].
Player, David M., [redacted].
Pritchett, Paul E., [redacted].
Ramus, William D., [redacted].
Randall, Eugene H., [redacted].
Randol, James R., [redacted].
Risser, Christian Frederick, [redacted].
Rist, Toivo E., [redacted].
Roberts, Thomas H., [redacted].
Rogers, William D., Jr., [redacted].
Ruark, Glen W., [redacted].
Sanwick, Steven M., [redacted].
Sbardella, Edward F., Jr., [redacted].
Schriever, Gerry J., [redacted].
Smith, Wayne E., [redacted].
Sostre, Samuel, [redacted].
Sox, David W., [redacted].
Spadoni, James R., [redacted].
Steinbacher, Carl B., [redacted].
Stump, Alfred L., [redacted].
Sykes, James D., [redacted].
Thomas, John H., [redacted].
Thornton, William V. S., [redacted].
Tolley, Douglas G., Jr., [redacted].
Tremblay, Normand F., [redacted].
Trevino, Alfred O., Jr., [redacted].
Vandersarl, Jules V., [redacted].
Vicik, Gary J., [redacted].
Wardinsky, Terrance D., [redacted].
Wells, Thomas T., [redacted].
Westmoreland, Daniel K., [redacted].
Whelan, Gerald P., [redacted].
Witt, Terry J., [redacted].

To be captain (Dental)

Aarestad, Jack C., [redacted].
Aussiker, William H., [redacted].
Began, Thomas J., [redacted].
Burbey, Mark A., [redacted].
Coleman, Robert M., [redacted].
Dinitz, Fred P., [redacted].
Fisher, Howard E., [redacted].
Heldridge, John E., [redacted].
Lawless, John E., [redacted].
Nielsen, Adrian M., [redacted].
Russ, Richard J., [redacted].
Russmeisl, Roman W., [redacted].
Santaniello, Guiseppe P., [redacted].
Young, Stephen L., [redacted].

To be first lieutenant (Dental)

Appeldoorn, Ronald E., [redacted].
Biddle, Harold H., [redacted].
Cook, David A., [redacted].
Cooper, James W., [redacted].

France, Richard A., [redacted].
Gieser, Dennis P., [redacted].
Goopil, Michael T., [redacted].
Hansel, John R., [redacted].
Hebda, Thomas W., [redacted].
Kreig, Louis T., Jr., [redacted].
Langston, John R., [redacted].
Nemcic, Steven D., [redacted].
Neudigate, William C., [redacted].
Parr, William D., Jr., [redacted].
Sinko, Robert M., [redacted].
Steegstra, David A., [redacted].
Steinhoff, Earl D., [redacted].
Stevens, Fredric D., [redacted].
Swain, Dennis M., [redacted].
Thompson, Larry D., [redacted].
Westbrook, Steve D., [redacted].
White, John H., [redacted].
Williams, Howard J., [redacted].

To be captain (*Nurse*)

Anderson, Robert J., [redacted].
Dunahue, Joanne T., [redacted].
Friday, Blanche B., [redacted].
Johnson, Mary K., [redacted].
Sexton, James W., [redacted].

To be first lieutenant (*Nurse*)

Abbott, Henry M., [redacted].
Anderson, Ingrid L., [redacted].
Bachman, Lynne M., [redacted].
Bailey, Raynelle, [redacted].
Bare, Linda Ann, [redacted].
Barry, Margaret J., [redacted].
Biron, Monique C., [redacted].
Blanco, Barbara A., [redacted].
Bowar, David R., [redacted].
Bramble, Elizabet A., [redacted].
Brockett, Wynona, [redacted].
Campbell, Patricia E., [redacted].
Casey, Ann E., [redacted].
Chura, Virginia M., [redacted].
Clagett, Frances N., [redacted].
Clark, Joseph E., [redacted].
Clark, Mary E., [redacted].
Clements, Barbara A., [redacted].
Cundran, Kathleen M., [redacted].
Daigneault, Regina L., [redacted].
Dicke, Marilyn A., [redacted].
Dinklage, Kathleen M., [redacted].
Dunkle, Louise J., [redacted].
Elliott, Barbara A., [redacted].
Evans, Tommie L., [redacted].
Faison, Barbara A., [redacted].
Forsythe, Christine J., [redacted].
Fox, Jacqueline G., [redacted].
Gallo, Agatha M., [redacted].
Gans, Genevieve A., [redacted].
Gathright, Linda A., [redacted].
Gilbert, Kathleen S., [redacted].
Goodwin, Lynn A., [redacted].
Gorder, Clevius D., [redacted].
Gould, Roberta L., [redacted].
Grubor, Darlene A. M., [redacted].
Hale, Georgia A., [redacted].
Hall, Jacklyn I., [redacted].
Halterlein, Kathryn, [redacted].
Henderson, Mary L., [redacted].
Herne, Veronica E., [redacted].
Hodgson, Jean, [redacted].
Jones, Carolyn R., [redacted].
Keith, Joan L., [redacted].
Kenlin, Julianne M., [redacted].
Kirk, Harold E., [redacted].
Klein, Kathylou A., [redacted].
Krawec, Mary A., [redacted].
Kuhlmann, Joanne A., [redacted].
Kunkle, Mary L., [redacted].
Lamborn, Vicki L., [redacted].
Lane, Martin, [redacted].
Lynn, Marie E., [redacted].
Marlin, Carolyn E., [redacted].
McGee, Jane E., [redacted].
McHale, Susan M., [redacted].
McNerney, Rosemary P., [redacted].
Meador, Penelope M., [redacted].
Menzies, James A., [redacted].
Mercer, Kathleen Marie, [redacted].
Milec, Ann M., [redacted].
Miller, Helen E., [redacted].
Mortensen, Chris L., [redacted].
Murphy, Ruth E., [redacted].
Murray, Patricia L., [redacted].
Nancarrow, Ruth L., [redacted].
Neeb, David E., [redacted].
Nicholson, Lindy L., [redacted].
Norris, Mary L., [redacted].
Ohhata, Eileen M., [redacted].
Parkes, Alvin E., [redacted].
Perry, Ada S., [redacted].
Rafter, Myrna L., [redacted].
Ramold, Theresa A., [redacted].
Reid, Jean M. G., [redacted].
Rhone, Judith A., [redacted].
Rugenes, Kathryn A., [redacted].
Sailors, Brenda J., [redacted].
Scholz, Nancy M., [redacted].
Seibold, Margaret A., [redacted].
Shuckey, Carole M., [redacted].
Shuler, Betty J., [redacted].
Sims, Sonia, [redacted].
Spaulding, Penelope, [redacted].
Strauser, Sandra L., [redacted].
Tarp, Clarence D., [redacted].
Turkelson, Richard H., [redacted].
Tribble, Evelyn C., [redacted].
Troutman, Frederick W., [redacted].
Uhing, Dorothy J., [redacted].
Usry, Robert E., [redacted].
Van De Car, Jane E., [redacted].
Vanduyn, Beverly C., [redacted].
Wagstaff, Cathy L., [redacted].
Werth, Susan A., [redacted].
White, Cheryl A., [redacted].
Whitlock, Martha A., [redacted].
Wight, Wendel H., [redacted].
Wysocki, Judith P., [redacted].

To be second lieutenant (*Nurse*)

Kuhlman, Marie A., [redacted].
Rettig, Cathryn J., [redacted].

To be captain (*Veterinarian*)

Bruner, Richard H., [redacted].

To be first lieutenant (*Veterinarian*)

Anspaugh, Victor E., [redacted].
Beach, Ronald T., [redacted].
Booth, Dean L., [redacted].
Card, Richard E., [redacted].
Crisman, Russell O., [redacted].
Easley, James R., [redacted].
Grant, John B., III, [redacted].
Herbold, John R., [redacted].
Holland, James M., [redacted].
Huber, Stephen F., [redacted].
Jernigan, Douglas K., [redacted].
Lammers, William E., [redacted].
Lawer, Daniel R., [redacted].
Miner, Judson C., Jr., [redacted].
Mull, Donn A., [redacted].
Perce, Richard A., [redacted].
Rawlings, Clarence A., [redacted].
Rogers, William A., [redacted].
Rowles, Donald R., [redacted].
Sumers, Rick A., [redacted].
Splitter, Gary A., [redacted].
Taylor, Robert A., III, [redacted].
Wilson, Theodore, Jr., [redacted].
Young, John T., [redacted].
Zacek, Ben A., [redacted].

To be captain (*Medical Service*)

Cragin, Murray, [redacted].
Harsanyi, Charles A., [redacted].
Rutledge, Philip E., [redacted].
Simpkins, George R., [redacted].
Williams, Richard C., [redacted].

To be first lieutenant (*Medical Service*)

Mayu, Billy W., [redacted].
McGough, Richard G., [redacted].
Quintana, Jose B., [redacted].

To be second lieutenant (*Medical Service*)

Call, Scott J., [redacted].
Carlson, Paul R., [redacted].
Carpenter, Dale S., Jr. [redacted].
Edwards, Robert P., [redacted].
Eickhoff, Darrell E., [redacted].
Farmer, Mavoric J., [redacted].
Fessler, David J., [redacted].
Fleming, Eugene C., [redacted].
Gonzales, Eugene, [redacted].
Greene, Hedley W. D., [redacted].
Hanko, James F., [redacted].
Head, William C., [redacted].
Hettick, Larry K., [redacted].
Hooper, James J., [redacted].
Howard, Mark J., [redacted].
Jeffrey, James R., [redacted].
Law, Michael D., [redacted].
McAlpin, Brian A., [redacted].
McDonald, Kent R., [redacted].
McGaughy, Thomas B., [redacted].
Reecer, Philip E., [redacted].
Russell, John P., [redacted].
Schweitzer, Eric C., [redacted].
Smith, Ross C., Jr., [redacted].
Sorum, Larry N., [redacted].
Tremblay, William G., [redacted].
Vandehey, James T., [redacted].
Waggoner, Jerry L., [redacted].
Wyrick, Michael K., [redacted].

To be major (*Biomedical Sciences*)

Endicott, James E., [redacted].
Gasaway, Donald C., [redacted].

To be captain (*Biomedical Sciences*)

Brumlow, William B., [redacted].
Daley, Peter S., [redacted].
Diers, Harold W., [redacted].
Kane, Donald A., [redacted].
McKissick, Jack E., [redacted].
Mehlan, Edmund F., [redacted].
Mudge, Stephanie E., [redacted].
Murphy, John G., [redacted].

To be first lieutenant (*Biomedical Sciences*)

Bargren, Gerald L. K., [redacted].
Cissik, John H., [redacted].
Ferguson, Janet L., [redacted].
Garrett, Hershel A., [redacted].
Howard, Jay M., [redacted].
Kasben, Kathleen M. E., [redacted].
Kuzma, Robert J., [redacted].
Lecain, William K., [redacted].
Padalino, Joseph R., [redacted].
Russi, Nunzio J., [redacted].
Russell, Lonnie D., Jr., [redacted].
Skidmore, Dorothy R., [redacted].
Snedecor, Susan A., [redacted].
Siec, Paul J., [redacted].
Underwood, Frances V., [redacted].
Woodhouse, Robert J., [redacted].
Zellers, Robert H., [redacted].

To be second lieutenant (*Biomedical Sciences*)

Albright, Stephen L., [redacted].
Alworth, Gary M., [redacted].
Anderson, Michael P., [redacted].
Bowles, Charles K., [redacted].
Browne, Michael H., [redacted].
Carter, Robert L., [redacted].
Coburn, Middleton J., [redacted].
Cross, Thomas E., [redacted].
Ferrell, Jack G., Jr., [redacted].
George, Larry C., [redacted].
Greer, Willis A., [redacted].
Kaneshiro, Duane K., [redacted].
Lamb, Neil J., [redacted].
Lefon, Carter C., [redacted].
Lemuns, Jimmie G., [redacted].
McAndrew, James A., Jr., [redacted].
McDermott, Henry J., [redacted].
Morris, Vincent L., [redacted].
Mudryk, Victor, [redacted].
Patrick, Clarence S., [redacted].
Porter, Paul F., [redacted].
Prather, Jefferson B., [redacted].
Rice, Robert M., [redacted].
Rock, James C., [redacted].
Rogers, Timothy P., [redacted].
Ross, Jerry W., [redacted].
Smith, Michael F., [redacted].
Spangler, Stanley G., [redacted].
Stoflet, Yvonne C., [redacted].
Sweeney, Stephen J., [redacted].
Termaath, Stephen G., [redacted].
Warford, Harry S., [redacted].
Warnken, Reimund G., [redacted].
Wasem, Gary A., [redacted].

To be first lieutenant (*Medical Specialist*)

Keller, James L., [redacted].

HOUSE OF REPRESENTATIVES—*Tuesday, May 2, 1972*

The House met at 12 o'clock noon.

Rev. Roy Stewart, Metropolitan Baptist Church, Washington, D.C., offered the following prayer:

Almighty God, we acknowledge Your divine guidance in the founding of our Nation.

Your inestimable gift, the Bible, reveals: "Blessed is the Nation whose God is the Lord." Psalms 33: 12.

Lord, we know that "Righteousness exalteth a nation, but sin is a reproach." Proverbs 14: 34.

The Psalmist said: "All nations that forget God shall be turned into hell." Psalms 9: 17.

In the name of Jesus Christ, God, grant these our National Legislators, wisdom to rely on You for strength and guidance.

"Renew a right spirit within" (Psalms 51: 10) us individually and collectively as a nation under You, God.

Your Word tells us to "Draw nigh to You, God, and You will draw nigh to us." James 4: 8.

For renewal of dedication to Your sovereign will we pray.

May Your Spirit direct every deliberation.

In the name of the Prince of Peace, Jesus Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On April 24, 1972:

H.J. Res. 563. Joint resolution to authorize the President to proclaim the last Friday of April 1972, as "National Arbor Day"; and

H.J. Res. 687. Joint resolution to authorize the President to designate the third Sunday in June of each year as "Father's Day."

On April 26, 1972:

H.R. 9395. An act to authorize the Commissioner of the District of Columbia to enter into agreements with teachers and other employees of the Board of Education of the District of Columbia for the purchase of annuity contracts;

H.R. 9900. An act to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict; and

H.R. 10344. An act to authorize the District of Columbia to enter into the Interstate Compact on Mental Health.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 14582. An act making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 14582) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ELLENDER, Mr. MAGNUSON, Mr. BIBLE, Mr. ROBERT C. BYRD, Mr. MCGEE, Mr. PROXMIRE, Mr. MONTOYA, Mr. INOUYE, Mr. HOLLINGS, Mr. YOUNG, Mrs. SMITH, Mr. HRUSKA, Mr. ALLOTT, Mr. COTTON, Mr. CASE, and Mr. FONG to be the conferees on the part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *May 1, 1972*.

Hon. CARL ALBERT,
The Speaker, House of Representatives.

DEAR MR. SPEAKER: The Clerk of the U.S. House of Representatives received at 3:28 p.m. on this date from the U.S. Marshal an unattested copy of the Summons in a Civil Action together with a copy of the complaint filed by Common Cause and John W. Gardner vs. W. Patrick Jennings, Clerk, U.S. House of Representatives, in Civil Action File No. 848–72 in the United States District Court for the District of Columbia.

The complaint includes a Motion for a Restraining Order claiming that the plaintiffs are being caused irreparable injury and request the Court to enjoin the Clerk from levying certain charges for copies of campaign finance statements and from refusing to allow the plaintiffs to use their own duplicating equipment, as outlined in the complaint. It is my understanding that under Rule 65 of the Federal Rules of Civil Procedure the Court held a hearing on this matter at 3 P.M. this date and that another hearing is scheduled for 3:30 P.M. on May 2, 1972, although the summons requires an answer to the complaint within sixty days after service.

The summons and complaint in question are herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.

[In the U.S. District Court for the District of Columbia civil action file No. 848–72]

COMMON CAUSE, JOHN W. GARDNER, PLAINTIFF, *v.* W. PATRICK JENNINGS, DEFENDANT

[Summons]

To the above named Defendant: W. Patrick Jennings.

You are hereby summoned and required to serve upon Mitchell Rogovin, plaintiff's attorney, whose address, 1229 19th St., N.W., Washington, D.C. 20036, an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JAMES F. DAVEY,
Clerk of Court.

Date: May 1, 1972.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day.

The Clerk will call the first individual bill on the Private Calendar.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 2067) for the relief of Mrs. Rose Thomas.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MARIA LUIGIA DI GIORGIO

The Clerk called the bill (H.R. 2070) for the relief of Maria Luigia Di Giorgio.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MRS. ANNA MARIA BALDINI DELA ROSA

The Clerk called the bill (H.R. 3713) for the relief of Mrs. Anna Maria Baldini Dela Rosa.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CHARLES COLBATH

The Clerk called the bill (H.R. 4310) for the relief of Charles Colbath.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MRS. CARMEN PRADO

The Clerk called the bill (H.R. 6108) for the relief of Mrs. Carmen Prado.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

RENE PAULO ROHDEN-SOBRINHO

The Clerk called the bill (H.R. 5181) for the relief of Rene Paulo Rohden-Sobrinho.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CATHERINE E. SPELL

The Clerk called the bill (H.R. 7312) for the relief of Catherine E. Spell.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DONALD L. BULMER

The Clerk called the bill (H.R. 1994) for the relief of Donald L. Bulmer.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MRS. MARINA MUNOZ DE WYSS (NEE LOPEZ)

The Clerk called the bill (H.R. 5579) for the relief of Mrs. Marina Munoz de Wyss (nee Lopez).

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CARMEN MARIA PENA-GARCANO

The Clerk called the bill (H.R. 6342) for the relief of Carmen Maria Pena-Garcano.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

WILLIAM H. NICKERSON

The Clerk called the bill (H.R. 4064) for the relief of William H. Nickerson.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANTONIO BENAVIDES

The Clerk called the bill (H.R. 2394) for the relief of Antonio Benavides.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MRS. CONCEPCION GARCIA BALAURO

The Clerk called the bill (H.R. 2703) for the relief of Mrs. Concepcion Garcia Balauro.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

ALBINA LUCIO Z. MANLUCU

The Clerk called the bill (S. 559) for the relief of Albina Lucio Z. Manlucu.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MARGARIDA ALDORA CORREIA DOS REIS

The Clerk called the bill (H.R. 6504) for the relief of Margarida Aldora Correia dos Reis.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

EMILIA RUFFOLO

The Clerk called the bill (H.R. 10142) for the relief of Emilia Ruffolo.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

JERRY L. CHANCELLOR

The Clerk called the bill (H.R. 7946) for the relief of Jerry L. Chancellor.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DONALD P. LARIVIERE

The Clerk called the bill (H.R. 8952) for the relief of Donald P. Lariviere.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MR. AND MRS. JOHN F. FUENTES

The Clerk called the bill (H.R. 11045) for the relief of Mr. and Mrs. John F. Fuentes.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ARLINE LOADER AND MAURICE LOADER

The Clerk called the bill (S. 341) for the relief of Arline Loader and Maurice Loader.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MARIA BADALAMENTI

The Clerk called the bill (S. 513) for the relief of Maria Badalamenti.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

LUIS GUERRERO-CHAVEZ, GUADALUPE GUERRERO-CHAVEZ, AND ALFREDO GUERRERO-CHAVEZ

The Clerk called the bill (S. 641) for the relief of Luis Guerrero-Chavez, Guadelupe Guerrero-Chavez, and Alfredo Guerrero-Chavez.

There being no objection, the Clerk read the bill as follows:

S. 641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Luis Guerrero-Chavez, Guadalupe Guerrero-Chavez, and Alfredo Guerrero-Chavez shall be held and considered to have been lawfully admitted to the United States for permanent residence as of May 20, 1958, and the periods of time each of them has resided in the United States since that date shall be held and considered to meet the residence and physical requirements of section 316 of such Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROBERT REXROAT

The Clerk called the bill (S. 1089) for the relief of Robert Rexroat.

There being no objection, the Clerk read the bill as follows:

S. 1089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Robert Rexroat may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Robert Stanley Rexroat, a citizen of the United States, pursuant to section 204 of the Act: *Provided,* That the brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ANTONIO PLAMERAS

The Clerk called the bill (S. 1675) for the relief of Antonio Plameras.

There being no objection, the Clerk read the bill as follows:

S. 1675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Antonio Plameras may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon the filing of a petition in his behalf by Dorothy Person, a citizen of the United States, pursuant to section 204 of such Act. The natural brothers or sisters of the said Antonio Plameras shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FREDI ROBERT DREILICH

The Clerk called the bill (H.R. 2725) for the relief of Fredi Robert Dreilich.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LOUISA DiLEONARDO

The Clerk called the bill (H.R. 3698) for the relief of Louisa DiLeonardo.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MRS. LATIFE HASSAN MAHMOUD

The Clerk called the bill (H.R. 4494) for the relief of Mrs. Latife Hassan Mahmoud.

There being no objection, the Clerk read the bill as follows:

H.R. 4494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Mrs. Latife Hassan Mahmoud shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That, in the administration of the Immigration and Nationality Act, Mrs. Latife Hassan Mahmoud, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LESTER L. STITELER

The Clerk called the bill (H.R. 10676) for the relief of Lester L. Stiteler.

There being no objection, the Clerk read the bill as follows:

H.R. 10676

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, on such terms as it deems just, the United States Postal Service is hereby authorized to comprise, release, or discharge in whole or in part the liability of Lester L. Stiteler, assistant superintendent of the Alcott Station Post Office, Denver, Colorado, to the United States for the loss resulting from the burglary at the Alcott Station Post Office, Denver, Colorado, on November 23, 1967.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VINCENT J. SINDONE

The Clerk called the bill (H.R. 11632) for the relief of Vincent J. Sindone.

There being no objection, the Clerk read the bill as follows:

H.R. 11632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, on such terms as he deems just, the Postmaster General is hereby authorized to compromise, release, or discharge in whole or in part, the liability of Vincent J. Sindone, postmaster of the post office at River Edge, New Jersey, to the United States for the loss resulting from burglary at the main office of the River Edge Post Office on May 20, 1967.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DENNIS YIANTOS

The Clerk called the bill (S. 65) for the relief of Dennis Yiantos.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HAROLD DONALD KOZA

The Clerk called the bill (S. 1923) for the relief of Harold Donald Koza.

There being no objection, the Clerk read the bill as follows:

S. 1923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Harold Donald Koza, lieutenant, United States Navy, retired, of Dothan, Alabama, is hereby relieved of all liability to repay the United States the sum of $4,583.28, representing overpayments of salary paid to him for services he performed as a civilian employee of the United States Army Aviation Center, Fort Rucker, Alabama, for the periods from February 24, 1964, through November 30, 1964, and April 18, 1965, through May 28, 1965, the said Harold Donald Koza having been appointed to such civilian position on February 24, 1964, in violation of section 2 of the Act of July 31, 1894 (repealed effective November 30, 1964), which prohibited the employment of certain retired military officers in a civilian position, and subsequently having been erroneously granted a step-increase and grade promotion based in part upon his illegal period employment prior to December 1, 1964. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States full credit shall be given for the amount for which liability is relieved by this Act.

(b) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Harold Donald Koza the sum of any amounts received or withheld from him on account of the overpayments referred to in subsection (a) of this section.

SEC. 2. (a) For the purposes of all laws, rules, and regulations conferring rights and benefits on Federal employees, including, but not limited to, civil service status, retirement, and retention rights, the service performed by the said Harold Donald Koza from February 24, 1964, through November 30, 1964, as a civilian employee of the Department of the Army shall be held and considered to be valid and creditable Federal service.

(b) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Harold Donald Koza an amount equal to the difference between the salary received by him as a civilian employee of the United States at Fort Rucker, Alabama, for the period from May 29, 1965, to the date of enactment of this Act, and the salary he would have received for such period had he been promoted from step 2 of grade GS-7 to step 1 of grade GS-9 effective as of April 18, 1965.

SEC. 3. No part of the amounts appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the claims referred to in this Act, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SECOND ANNUAL REPORT ON GOVERNMENT SERVICES TO RURAL AMERICA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92–287)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Agriculture and ordered to be printed:

To the Congress of the United States:

Today, I am transmitting the second annual report on Government services to rural America, as required by the Agricultural Act of 1970.

Richard Nixon.

The White House, *May 2, 1972.*

THE LATE HONORABLE J. EDGAR HOOVER

(Mr. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, the Nation is saddened today upon learning of the passing last evening of a great American, J. Edgar Hoover, for over half a century the Director of the Federal Bureau of Investigation.

Mr. Speaker, last year I directed some criticism at some of the policies of the Bureau with which I was in disagreement, but at no time was that criticism directed at the Director. I said it then and I say it now.

Mr. Speaker, there is no man who has served this country with greater dedication, with greater love, and with greater productivity. Mr. Hoover served eight Presidents of the United States, if my memory is correct: Presidents Coolidge, Hoover, Roosevelt, Truman, Eisenhower, Kennedy, Johnson, and Nixon.

He built a great law enforcement agency which became a model of law enforcement agencies throughout the world. He started it, literally, from scratch.

Not only did he establish the Federal Bureau of Investigation, but he coordinated the activities of that Bureau with every police and every sheriff's office in the United States. It became the epitome of success for a police officer to be summoned to Washington to train in the Bureau's school here.

He was eminently fair. He was considerate. But, most of all, I think that he loved his country.

The only job of any consequence Mr. Hoover held was in the Federal Bureau of Investigation. As a matter of fact, Mr. Hoover and the FBI were almost synonymous.

But, now, as all of us must, he has gone to his reward. He has left this earth.

He leaves a great name, he leaves a country which respects and admires the magnificent contribution that he has made to it and to all of us.

Mr. Speaker, it is very difficult to fully comprehend the passing of great men. They are with us so much in spirit and in being that we think about them as always being with us.

I remember the day that Franklin Roosevelt died. It was difficult to comprehend his passing, as it was for so many other people of similar stature. It is equally difficult to comprehend the passing of Mr. Hoover.

In behalf of all the Members I extend to all who were associated with him, and to his family, the sympathy which we all feel at this sad moment.

Mr. GERALD R. FORD. Mr. Speaker, will the distinguished majority leader yield?

Mr. BOGGS. I am happy to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I appreciate the gentleman's yielding to me.

America today grieves over the passing of J. Edgar Hoover.

He served not only eight Presidents, as the gentleman from Louisiana indicated, but literally hundreds of millions of Americans in the most outstanding fashion. J. Edgar Hoover was one of the most capable public officials ever to serve the American people in a position of trust. His death is a great loss to a grieving Nation.

Mr. Speaker, Mr. Hoover was a veritable rock of strength, a man looked to with a feeling that here was an individual with the greatest integrity. He was incorruptible. He was unswerving in his devotion to duty. I cannot think of any other American, certainly in my lifetime who served his Nation more faithfully or more steadfastly.

Mr. Speaker, America's debt to J. Edgar Hoover is great.

He took over the direction of the FBI in 1924 when it was a scandal-ridden and ineffective bureaucracy.

Since Mr. Hoover's tenure as FBI Director began, not one FBI agent has been charged with wrongdoing. Himself, an "honest cop," Mr. Hoover set for the FBI the highest standards and those standards have never been lowered. Under J. Edgar Hoover the FBI achieved a worldwide reputation for excellence. He was a leader of an organization whose crime-fighting record is unsurpassed. Mr. Hoover almost singlehandedly transformed the FBI into the superlative law enforcement agency it became in the thirties and forties and is today.

Mr. Hoover professionalized the FBI. He made crime detection a science. He brought law enforcement out of the dark ages into a new era presided over by technicians and experts. He made the FBI a proud organization and made the American people proud along with it.

America now mourns the death of a great citizen. J. Edgar Hoover's passing leaves a large void.

Mr. BOGGS. I thank the gentleman.

Mr. ALBERT. Mr. Speaker, it was with grevious shock that I learned an hour ago that the eminent Director of the Federal Bureau of Investigation had passed away. J. Edgar Hoover served the FBI since 1917. He gave 55 years, most of his adult life, to serving his country in the manner which he deemed responsive to his conscience and the interests of his country. I do not think there is any doubt in anyone's mind that he was totally dedicated to preserving a law-abiding, orderly way of life in this country. He was first, last, and always a great patriot. He was determined to protect it from its enemies from within and without. Not only in his dedication but in his ability he must be considered one of the greatest officials in the history of our Government.

No man can give more than sum total of his talent and ability, and that, J. Edgar Hoover did for more than half a century. The FBI was a small agency in rather low esteem with limited capabilities when Mr. Hoover joined it many years ago. He built up a force of high quality employees and agents. He saw to it that the FBI employed the most advanced scientific techniques in the prevention and detection of crime. He policed the fronts of crime with courage and he suffered the often unfair onslaughts of those who took a permissive view of his obligation to deter crime and apprehend criminals.

No public servant has had longer tenure, none has given more completely of his energy and ability. Mr. Hoover's prestige was monumental and his standards of personal conduct and professional devotion exceeded by none. He was my friend. I feel a great personal loss in his passing. The country has suffered a grievous blow in the departure of this most eminent protector of justice, law, and order. The Nation will long miss this giant of public servants.

Mr. DENHOLM. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from South Dakota (Mr. Denholm).

Mr. DENHOLM. Mr. Speaker, I join in the statement of our distinguished majority leader, Mr. Boggs and the remarks of our distinguished minority leader, Mr. Ford, and in addition to that, may I say to you and to the Members of the House of the people that I was privileged to be associated with the Federal Bureau of Investigation as a special agent for several years, and I knew J. Edgar Hoover as a man. He has been properly described by the distinguished gentleman from Louisiana and the distinguished gentleman from Michigan today. No American has served his country for so many continuous years. No one has equaled his tenure of office with an equal awesome responsibility of public service. No one has served with greater dedication. Mr. Hoover was a man of compassion, decency, dignity, and destiny. He completed that service last night in his sleep—in the same quiet way that he nobly served a lifetime of duty to America. This is a sad day in May. J. Edgar Hoover is dead.

There are no words to express the gratitude of many Americans for the service of J. Edgar Hoover—a lifetime of devotion to the land he loved. There are no songs to be sung—and I am sure he asked for none. There are some that may rejoice but the multitudes shall sorrow—for today he has left in honor to his surest reward. To all my former associates and those remaining to fulfill the course that he chartered—to all men in law enforcement, to special agents and successors of his duty—I join in sorrow, for today a leader of men—a man among men is no more.

It was Nathan Hale who said lastly in devotion to duty:

> I regret that I have but one life to give for my country.

I personally regret that J. Edgar Hoover had but one life to give to America. He gave it all—and to all he gave it.

Mr. BURLESON of Texas. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from Texas (Mr. BURLESON).

Mr. BURLESON of Texas. Mr. Speaker, I appreciate the majority leader yielding to me that I may join in expressing sadness and regret by reason of the death of a great American, J. Edgar Hoover.

Mr. Speaker, having served in the FBI for a time, I have had the feeling, subconsciously perhaps, that Mr. Hoover was indestructible and that he would be the Director of the Bureau as long as there was a Bureau.

Of course, we know that in our Government no man is indispensable. The structure of our system provides continuity and there will be, but it is difficult at the moment to imagine another with the total dedication and devotion to America as exemplified by this great man in the position he had held all these many years.

It is my understanding that the gentleman from Georgia (Mr. STUCKEY) has ready a joint resolution that the body of J. Edgar Hoover lie in state in the Rotunda of the Capitol, that people may pay their respects. I strongly support that resolution and urge it's approval.

Mr. BOGGS. I thank the gentleman.

Mr. ABERNETHY. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from Mississippi (Mr. ABERNETHY).

Mr. ABERNETHY. Mr. Speaker, and Members of the House, I never had the privilege and great honor of serving with Mr. Hoover in his wonderful agency, as some of my colleagues have; but I was privileged to know him quite well. I regarded him as a friend and respected him as one of the most—if not the most—courageous law enforcement officer this country ever produced.

Today we are a much better law-abiding country than we would have been had it not been for Mr. Hoover.

He respected law. He believed in a nation under law. He led the men of his organization to firmly enforce the laws of our free society. Not the slightest hint of corruption found its way into the worldwide respected Bureau headed by Mr. Hoover.

Mr. Hoover had stability. Occasionally attacked in recent years, particularly by some of those to the left, by Reds and Communists who would overthrow this Government, by just plain radicals, and sometimes by well-intentioned people, he never lost his cool. He simply, as we sometimes say, stuck to his knitting—to the job assigned to him.

He had respect for his fellow man. He had the courage and the character to do exactly that which he was sworn to do and to do it to the very best of his ability. He inspired and instilled into his men and those associated with him over his many years of service the same type of courage that he himself displayed—always putting service above self, above personal reward. Duty came first with him. And so it has been with the men of his organization.

I deeply regret the passing of Mr. Hoover. Often it is said that it is impossible to find a man to fill the place of an able one who has passed on; and although we know that such a statement is in almost every instance an exaggeration, in this instance I dare say there will never be another to gain the height, the respect, and the prestige gained by J. Edgar Hoover as the Director of the Federal Bureau of Investigation.

This Nation has suffered a great loss, a tremendous loss. The entire Nation mourns the passing of this very great man. This is a sad hour for all of us.

Mr. BOGGS. Mr. Speaker, I yield to the gentleman from California.

Mr. DEL CLAWSON. Mr. Speaker, the Nation has lost an exemplary and dedicated public servant. The news we have just received of the death of J. Edgar Hoover inspires a personal reaction for most Americans I am sure. For so long the distinguished Director of the Federal Bureau of Investigation has been a part of the American scene, with his unique, legendary position of national respect surviving all attempts at detraction, that it is difficult to imagine the FBI without him at the helm. Yet the Bureau he has led these many years will continue its vital functions providing a tribute to his organizational genius. Few men could hope to equal his record of achievement in a lifetime. I join in commending that record and expressing the gratitude of most Americans for the governmental service of this competent, hard-working upright man.

Mr. DONOHUE. Mr. Speaker, I desire to join with my colleagues here this afternoon in expressing my deep personal sorrow at the news of the sudden passing of J. Edgar Hoover and in paying tribute to one of the greatest Americans of our time.

In the midst of constantly changing customs and values J. Edgar Hoover remained a national and world champion of those qualities and virtues that our founders regarded as the enduring strengths of this Nation. Integrity, courage, and forthrightness were certainly hallmarks of Mr. Hoover's administration of the Federal Bureau of Investigation from the time of its inception.

As a chief advocate of law and order, as a chief protector of individual rights and as this Nation's chief pursuer of the harsh criminal elements in our society, J. Edgar Hoover gave unselfishly of his time, energy and unsurpassed talents in the service of his fellow Americans.

His unswerving dedication to his unique responsibility and his relentless pursuit of justice won for him the everlasting respect of law enforcement officials throughout the Nation and the world and the grateful respect of our citizenry.

In simple summary, Mr. Speaker, Mr. Hoover's life clearly reflected the ideals and virtues which he held so dear and worked so hard to preserve for all Americans. His patriotism, his devotion to duty and his perseverance served him and this country well. His passing will create a void that will be nearly impossible to fill, but the noble manner in which he carried out his responsibilities will forever be an inspiration to those seeking peace and justice throughout the world.

Mr. BOW. Mr. Speaker, the death of J. Edgar Hoover is a great loss to the American people and I have suffered the loss of a personal friend. Mr. Hoover's service to his Nation has been without precedent in our history. The United States has had no more devoted and loyal citizen. His record will remain an outstanding chapter in our history long after the world has forgotten those who have attacked him so viciously in recent years. A grateful Nation owes the Director all honor and respect. We will miss him. It will be very difficult, indeed, to fill his place.

Mr. SIKES. Mr. Speaker, it was with a deep sense of personal regret that I learned of the death today of my longtime friend, John Edgar Hoover, Director of the Federal Bureau of Investigation.

He was a giant among men and his memory should be honored by a grateful nation. To me it appears highly appropriate that his name should be perpetuated by the FBI Building now nearing completion to stand as a symbol of all he accomplished in his lifetime.

J. Edgar Hoover stood guard over America through the trials of the twenties, the turmoil of the thirties and the horrors of war in the forties, fifties, and sixties, and, until his final breath today he gave no quarter to those who sought to bring down the America he knew and cherished.

Somehow those of us who knew him well never quite accepted the fact that one day he would pass from us. His work through many years stands as a monument to patriotism, love of justice, and dedication to his fellow man. Above all, his was a life devoted to public service through the Federal Bureau of Investigation. He has done much to maintain for future generations the America he loved.

Mr. PRICE of Illinois. Mr. Speaker, the death of J. Edgar Hoover, Director of the Federal Bureau of Investigation, marks the end of an era in the annals of government service. Having served the U.S. Government longer than any man, Director Hoover has earned a special place in American history.

There is no question that Director Hoover has been Mr. FBI. Serving as Director since 1924, J. Edgar Hoover dedicated his adult life to the service of his country. From the time he entered Federal service in 1917, J. Edgar Hoover has been a determined and forceful law enforcement official.

Throughout his career as Director, J.

Edgar Hoover made it abundantly clear that he was in charge. By virtue of his perseverance and dedication J. Edgar Hoover dominated the FBI as no other Government official has any department in the history of our Nation.

I doubt that our country will ever have another J. Edgar Hoover. He is clearly a unique individual whom the American people will long remember as a dedicated and loyal public official.

Mr. EDMONDSON. Mr. Speaker, the death of J. Edgar Hoover is a great loss for America, and signals the end of an era in the field of law enforcement.

In the minds of most Americans, the name of J. Edgar Hoover was synonymous with the Federal Bureau of Investigation, which he led as Director for nearly half a century. More than any other individual, he was responsible for the watchwords of the FBI—Fidelity, Bravery, and Integrity.

Under his dedicated leadership, the FBI became a worldwide symbol for honest and efficient law enforcement, and a model for the development of scientific techniques in the prevention and detection of crime.

In the perilous days of World War II, when the Nation was threatened by sabotage and subversion within our borders, Mr. Hoover's FBI was in the vanguard of the effort to secure our homefront.

In the years that have followed, he has continued to lead that effort, and no American has been more hated or more feared by the forces of organized crime and the organizers of internal subversion and revolution.

In the minds and in the hearts of most Americans, J. Edgar Hoover was a man of unquestioned integrity and complete dedication to his country. He was our first line of defense against the enemies of the Republic—both foreign and domestic.

J. Edgar Hoover spent himself in the worthy cause of law enforcement and national security, and his place in history is assured.

It was a privilege to have served with him in the FBI, and in the service of our country.

Mr. MONTGOMERY. Mr. Speaker, the country has lost a great patriot and an outstanding leader. My personal grief and sorrow at the death of J. Edgar Hoover is great, but it is overwhelmed by the sense of loss that I feel for our Nation.

J. Edgar Hoover's death ends one of the most illustrious careers in the history of our Nation. A great man whose organization produced great men, J. Edgar Hoover was the living symbol of America's commitment to an orderly society in which its citizens could live without fear. A man of supreme faith and undaunted courage, J. Edgar Hoover believed passionately in the inherent good of America; he said what he believed and felt no necessity to apologize for it. His faith and devotion to the causes he defended were never doubted by any man, even his most ardent enemies.

Mr. Hoover, by the force of his powerful personality, his dedication to his country, his devotion to duty, and his single-mindedness of purpose literally built the FBI into the smooth-working, efficient organization we have today. America will sorely miss this great leader. but will long be sustained by the institution which was his life's work.

I join with Americans everywhere in mourning his death and I pray for renewed strength to continue in his absence.

GENERAL LEAVE

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days to extend their remarks on the passing of J. Edgar Hoover.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

HON. J. EDGAR HOOVER

The SPEAKER. The Chair recognizes the gentleman from Georgia (Mr. STUCKEY).

Mr. STUCKEY. Mr. Speaker, today I have introduced a concurrent resolution expressing the sense of the Congress that the body of J. Edgar Hoover should lie in state in the Capitol of the United States.

I cannot think of a more dedicated man than J. Edgar Hoover. He built the FBI to its stature of today and consequently has made this country a safer one both from within and from without.

I think this concurrent resolution expresses in just a small way a show of our debt and our gratitude for what this great man has done for his country.

Also I think it is a very fitting tribute that all of those who loved and admired Mr. Hoover have an opportunity to come by and to express their gratitude and final respects.

J. EDGAR HOOVER TO LIE IN STATE IN ROTUNDA OF U.S. CAPITOL

Mr. STUCKEY. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 600) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 600

Concurrent resoluton expressing the sense of Congress that the body of J. Edgar Hoover should lie in state in the United States Capitol

Resolved by the House of Representatives (the Senate Concurring), That it is the sense of Congress that the body of J. Edgar Hoover should lie in state in the Rotunda of the United States Capitol so that the citizens of the United States may pay their last respects to this great American.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

A GREAT VICTORY FOR DECENCY IN UNITED MINE WORKERS UNION

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, the United States District Court for the District of Columbia last evening handed down a monumental decision throwing out the 1969 election of Tony Boyle in his fraudulent campaign in an attempt to defeat Joseph A. "Jock" Yablonski. Three weeks after the corrupt election, there occurred the most brutal and mindless murders in American labor history, as three wonderful people, Jock Yablonski, his wife and his daughter were shot down in cold blood in their home in Clarksville, Pa.

The trail of blood from these murders leads to the doorstep of some officials of the United Mine Workers Union, and it may lead higher.

The decision of the district court yesterday, throwing out the 1969 election, is a tremendous victory for those who have struggled so long and hard against corruption in the leadership of this great union.

The decision is a tremendous victory for those who have struggled so long and hard against corruption in the leadership of this great union. The coal miners who risk death and injury every day they labor beneath the earth deserve a strong, clean and representative union, and they are now well on their way toward this goal. Several years ago, there were only a few courageous men who spoke out for reform within the union, and these men were led by a man who paid with his life—Jock Yablonski. Since the tragic Yablonski murders, the ranks of the reformers have grown into a mighty army which will not be denied or intimidated. Now the victory is in sight, and a great blow has been struck for decency.

The text of the decision is as follows:

[In the U.S. District Court for the District of Columbia, civil action No. 662–70]

OPINION

James D. Hodgson, Secretary of Labor, United States Department of Labor, Plaintiff, and Mike Trbovich, Intervenor, *v.* United Mine Workers of America, Defendant.

This action was instituted by the Secretary of Labor, United States Department of Labor, as plaintiff, under Titles II and IV of the Labor Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401 et seq.), hereinafter referred to as the Act,[1] for a judgment declaring the election held by the United Mine Workers of America, hereinafter referred to as the defendant or the UMWA, on December 9, 1969, null and void and directing the conduct of a new election under the supervision of the plaintiff, and for an order directing and compelling defendant and its subordinate districts to maintain records as required by Section 206 of the Act (29 U.S.C. 436).

On January 17, 1972, the United States Supreme Court granted Mike Trbovich, a member in good standing of the UMWA, leave to intervene in the Title IV aspects of this action under Rule 24(a) of the Federal Rules of Civil Procedure. *Trbovich v. United Mine Workers of America*, 92 Supreme Court 630 (1972), and he thereafter fully participated in this action, through counsel, as a party plaintiff. Defendant, an unincorporated association engaged in collective bargaining, is an international labor organization engaged in an industry affecting commerce within the meaning of the Act, and maintains a principal office at 900—15th Street, N. W., Washington, D. C., within the jurisdiction of this court.

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[1] Pertinent sections of the Act are attached to this memorandum as an appendix.

Structurally the UMWA is a three-tiered organization composed of the International, District and Local unions. It has twenty-three districts and between 1290 and 1300 locals, with a total membership variously estimated to be between 193,000 and 200,000 in the United States and Canada. Of this number approximately 120,000 are actively engaged in mining coal and the remainder are retired pensioners. At the International level the president shares the responsibility of general supervision of the union with the International Executive Board. The districts are intermediate organizations having supervision over the local unions within their geographical boundaries, thus constituting a direct link between the International and the locals, inasmuch as the International Executive Board members are chosen from the districts. Of the districts, only four are autonomous; two are semi-autonomous and the remainder are provisional districts. In autonomous districts the local union members elect both the district officers and the International Executive Board members. In semi-autonomous districts the officers are appointed by the International President and the International Executive Board member is elected by the local union members. In the provisional districts, i.e. those in trusteeship, the officers are appointed by the International President and the Executive Board members are elected by the International convention. The International President appoints the nominating committee which presents the slate of candidates for the International Executive Board to the convention, and there has never been any opposition to the slate presented to the convention by the nominating committee. Thus it appears that for all practical purposes the International Executive Board members are chosen by the president. The authority to hire and fire most of the district personnel and International representatives puts almost complete control of the entire union in the hands of the president.

On December 9, 1969 the defendant held a regularly scheduled election of International officers, i.e. president, vice-president, secretary-treasurer, auditors, and tellers. The defendant's constitution requires that the election of International officers be conducted in each of its local unions, and clearly indicates that the local union election officials are agents of the International in the conduct of the election and accountable to it for any misconduct.

W. A. "Tony" Boyle, President, George J. Titler, Vice-President, and John Owens, Secretary-Treasurer, were candidates for reelection. On May 29, 1969 Joseph A. Yablonski publicly announced his candidacy for the presidency of the union, and the subsequent election campaign was primarily a bitter confrontation between him and Boyle. The entire Boyle slate was successful, including the candidates for International auditor and credential committee and International tellers. The results of the election were: for president, Boyle 80,577, Yablonski 46,073; for vice-president, Titler 77,379, Elmer Brown 45,151; for secretary-treasurer, Owens 102,346. Owens had been unopposed for reelection.

Alleging numerous violations of the Act and also the UMWA constitution, Yablonski filed an internal challenge to the election results with the International tellers and notified the three principal officers that he intended to present his protest to the next meeting of the International Executive Board as a further step in exhausting his internal remedies as required by the Act (Section 402(a) of the Act) 29 U.S.C. 482(a).

Joseph Yablonski, his wife and daughter were found murdered in their home on January 1, 1970.

On January 1, 1970 defendant's general counsel, acting on behalf of the defendant, requested an immediate investigation of the election by the United States Department of Labor, waiving post election exhaustion of internal remedies required by Section 402(a) of the Act (29 U.S.C. 482(a)). After the official report of the results of the election had been issued, Mike Trbovich, a member in good standing of defendant, through counsel, filed a written complaint with the Secretary of Labor challenging the conduct of the December 9, 1969 election of officers in which he incorporated by reference the complaint filed on December 18, 1969 by Yablonski. Plaintiff, in accordance with the provisions of the Act, immediately conducted an investigation of the complaints and found probable cause to believe that violations of Title IV of the Act had occurred in the conduct of the election at all levels of the union, and had not been remedied at the time of the filing of this action; and in addition that defendant had failed and was still failing to maintain records and to require its subordinate districts to maintain records on matters required to be reported under Title II of the Act (29 U.S.C. 431 *et seq.*), which provides that labor organizations subject to the Act retain the necessary basic information and data from which documents filed with the plaintiff may be verified, explained or clarified and checked for accuracy and completeness as required by Section 206 of the Act (29 U.S.C. 436). Thereupon this suit was filed.

One of plaintiff's principal reasons for asking that the election results be declared null and void is that the defendant used union assets to promote the candidacy of its incumbent International officers. This allegedly occurred through misuse of the union's Journal, the purchase and distribution of campaign materials, the manipulation of salary increases to its employees, and various other ways. The defendant denies any wrong doing in this regard, and claims that in most instances the matters complained of were nothing more or less than normal and traditional union activity.

THE JOURNAL

The United Mine Workers Journal is the official publication of the UMWA and is published and distributed free semi-monthly to the entire membership by a printing company which is furnished with a mailing list for that purpose. All this is completely financed by union funds. The editor of the Journal is an experienced journalist who serves at the pleasure of the International Executive Board which in turn has full power to decide all questions concerning publication, business management and policy. Journalistic policy is subject to the direct influence of President Boyle.

The election of 1964 marked the first time in the history of the union that the International President had been challenged. At that time, though not a serious threat to Boyle, a virtual unknown named Steve "Cadillac" Kochis did run against him. Although the Yablonski candidacy did not surface until May 29, 1969, the incumbent president knew as early as February 1969 that there were two contenders for his office: the same Steve "Cadillac" Kochis, and yet another, named Elijah Wolford.

Beginning with the March 1, 1969 issue and continuing until enjoined by the issuance of a restraining order by Judge Waddy of this court on August 28, 1969, the type of coverage given to the International officers by the Journal clearly supports the charge that it was a campaign instrument for the incumbents. The issues from March 1 through June 1 are replete with speeches, statements and pictures of Boyle, Titler and Owens. The April 15 issue even carried a convention song for Tony Boyle to be sung to the tune of "Hello Dolly," the first verse of which is

"Hello Tony and Hello Johnny, and Hello to Big George Titler, too. You're looking great fellows. We're feeling great fellows to be led by men the likes of all of you."

A none too subtle clue to the determination to use the Journal as an effective campaign sheet is revealed when we note that up to the time Yablonski announced his candidacy he had been mentioned and pictured in the Journal on several occasions. Thereafter we have an entirely different picture. Although admittedly newsworthy because of his prestigious position in the UMWA, Yablonski's announcement of his candidacy, though featured in the commercial press, was accorded not one word of mention in the Journal.

In the five issues from June 15 to September 15 there were no less than 166 references to Boyle, most of them in bold face type along with 16 pictures depicting his various activities. Again it is noted that while there were many references to Boyle's activities in support of the then pending health and safety bills, no mention was made of Yablonski's similar activities as head of the Non-Partisan League, even though the editor of the Journal later conceded that Yablonski had been very active in the long and tedious legislative efforts to get the union's bills through the Congress. In addition there were items which extolled the extraordinary leadership capabilities of Mr. Boyle, comparing him favorably with the late John L. Lewis, and urging the membership to stand behind the officers whom Mr. Lewis personally selected to guide the destiny of the UMWA. True it is that no editorials appeared in the UMWA Journal which directly endorsed Mr. Boyle for reelection or attacked Yablonski's candidacy, but the purpose of the literal saturation of the Journal with items pointing up the day-to-day accomplishments and the great leadership potential of Boyle is clearly discernable. In determining that the Journal was used as a campaign instrument for the incumbents, and particularly as to President Boyle, this court has considered the same factors as did Judge Pratt when he granted the preliminary injunction against its continued use as such, *Yablonski v. UMWA*, 305 F. Supp. 868, 871; and draws the same line that he drew "between the use of the Journal to report the activities of defendant Boyle as president which is permissible and the use of the Journal in such a way in reporting such activities as to promote his candidacy." Both on the grounds of comity and the evidence adduced in the trial, the court finds that the Journal was used as a campaign tool during a critical period of the election campaign, thus constituting a violation of Section 401(g) of the Act. When we take into account the widespread free distribution of the Journal as the official publication of the union to all its members—working and retired alike—the harmful effect of its misuse over a six-month period is far more than a mere possibility. It may well have accomplished its obvious purpose of affecting the outcome of the election.

CAMPAIGN MATERIALS

On October 6, 1969, just two months before the December 9, 1969, election, and at the height of the campaign, the UMWA ordered 5,000 pens from Art Enterprises, an advertising counselling firm. The pen is a ball-point T-ball jotter with a sleeve window in the side, and when the plunger at its top is pressed the names of Boyle, Titler and Owens and the United Mine Workers appear in the window in successive order. These items $9,085.00 and were paid for from UMWA funds. The purchase order was placed by Howard W. Channel, the Assistant to the Secretary-Treasurer of the UMWA, who stated that he did so pursuant to instructions given to him by John Owens, International Secretary-Treasurer. The pens were similar to some which had been distributed at the 1968 convention as souvenirs and several defense witnesses insisted that the October 6, 1969, order was not for the purpose of campaigning, but solely for the purpose of fulfilling demands for additional convention souvenirs. However all of the other evidence in the case relative to this issue point to another objective.

The order was not placed until 13 months after the convention, and when Channel was asked why this was not done much earlier if the purpose was merely to fulfill demands from the field for souvenirs his only explanation was that he was following the instructions of John Owens. Additionally there was testimony that the pens were issued only to those union officials who were Boyle loyalists. William Rosser, the operator of Art Enterprises, testified that Channel asked him how long it would take to fill the order, and when told that it would take five weeks asked for delivery on a sooner date. Rosser further testified that Channel stated to him that he wanted delivery to coincide with the campaign. The pens were distributed in November during the final phase of the campaign. The timing of both the order and distribution of these pens demonstrate the true motive for their acquisition. As a matter of fact one defense witness testified that he picked up some of them along with other campaign materials in the district office and that he used them for campaign purposes. In these circumstances the purchase of these pens constituted an improved expenditure of union funds, and thus another violation of Section 401(g) of the Act.

SALARY INCREASES

Plaintiff claims that the defendant committed another violation of Section 481(g) of the Act by awarding salary increases to persons on its payroll for the purpose of securing their support for the incumbent officers. The defendant denies this accusation and contends that the salary increases were merely in conformity with a long standing UWMA tradition of increasing salaries of their union personnel as they obtain wage increases for their members from the coal operators. The circumstances surrounding the increases appear to be much more helpful to the proper resolution of this issue than the direct testimony relative to the reasons therefor.

The miners received salary increases of $1 per day on April 2, 1964, and a like amount on January 1, 1965. A salary increase of $1,000 for the officers and $600 for other employees of the union was effected on April 1, 1965, one year after the 1964 increase and three months after the one in 1965. April 1, 1965 was the day President Boyle was inaugurated for his first full term as president of the UMWA. The miners received an increase of $1 per day on April 1, 1966 and another increase of $3 per day on October 1, 1968. The officers and employees of the defendant received no increases during those years. On April 1, 1969 the administrative officers of the union received a $1,000 per year raise and the clerical staff one of $600.

Elijah Wolford had announced his candidacy for the presidency of the UMWA on March 20, 1969, and the aspirations of Kochis for the same office were well known by that time. This April 1, 1969 increase for those on the union payroll was the first in four years, and followed the 1966 raise for the miners by three years and the 1968 raise for the miners by six months. In explanation of the obvious deviation from the alleged traditional policy of tieing union employee pay raises to wage increases obtained for the miners, Mr. Owens, defendant's secretary-treasurer, stated that the International officers were "derelict in their responsibility to give them an increase." On the same subject, Mr. Boyle testified "They (union employees) were denied the increase until the following April which was not fair but they were denied it just the same." (Tr. 261).

The miners received a $2 per day increase on October 1, 1969, and on January 22, 1970 the International Executive Board passed a resolution authorizing salary increases for officers and employees of the union to become effective as of January 1, 1970. However, the increase was not promulgated until the secretary-treasurer, Mr. Owens, sent the district secretary-treasurers a letter on April 16, 1970 authorizing the increase retroactive to January 1, 1970. This marked the first time in the history of the UMWA that a pay increase for its employees was made retroactive. It also appears to be the first time that two raises within the short span of eight months (April 1, 1969 and the one retroactive to January 1, 1970) had been effected.

The reelection campaign of Boyle, Titler and Owens was financed in part through contributions to the Miners' Committee for Boyle, Titler, Owens, 815 - 15th Street, N.W., Washington, D.C. The Committee received a total of $142,710 in contributions from 229 persons, virtually all of whom were on the union payroll in 1969. Examination of the various contributions discloses a very definite relationship between their amount and the salary bracket of the contributors.

Those in the highest bracket, i.e. International Executive Board members, district presidents and secretary-treasurers, almost invariably gave $1,000. International representatives and district representatives almost always gave $500. Some contributors conceded the relationship between their salary bracket and the amount of their contribution.

Turning to another aspect of these donations we find that those of eleven individuals employed in District 25 all arrived at the Miners' Committee's office in Washington, D.C. on October 13, 1969. The contributions of the fourteen individuals employed in District 31 arrived on September 19, 1969, and those from District 29's fourteen employees were received on September 9, 1969, and those of the nine employees of District 19 on August 13, 1969.

A similar relationship between salary and the amount of the contribution is seen in the financing of the various district-wide committees formed to support the Boyle-Titler-Owens slate. Except for two individuals in District 17 all donations to the committees operating in Districts 2, 5, 17, 25 and 31 were made by individuals on the payroll of the UMWA or of one of the districts. In each case the contributions of the district officers were significantly higher than those of the lower paid staff members. Temporary, as well as permanent employees were found on the list of contributors. One of these, a Charles Kulp, testified that President Pnakovich of District 31 made it clear that his continued status on the District's payroll was contingent upon his willingness to contribute his so-called fair-share of $175 to a $5,000 personal note signed by the District's officers, the proceeds of which were used to defray campaign expenses. Pnakovich conceded that he expected all paid employees in his District to contribute to the repayment of that $5,000 and that he had made them aware of his expectations.

Shortly after the announcement of the retroactive wage increase of 1970, the political committees organized to support the Boyle-Titler-Owens slate in Districts 17, 29 and 31 repaid debts incurred by reason of their activities in the election campaign.

Defendant urges that the salary increases were justified and consistent with union policy; and that all of the campaign contributions were spontaneous and voluntary. It ascribes mere coincidence to the fact that the last two salary increases—though the first in four years—were only eight months apart and bracketed the successful election campaign of its incumbent officers. The same explanation is suggested for the marked similarity in amounts of the donations and the unusual simultaneity of their receipt from the various districts.

But these circumstances cannot be so easily discounted. All of the evidence on this issue seems to indicate that there was no tradition of salary increases for union employees paralleling wage increases obtained for the miners; or if there in fact was such a tradition, defendant completely ignored it during Mr. Boyle's regime as president.

On the other hand there is a clearly indicated tie-in of the union raises, not to the wage increases for the miners, but rather to the election years for the International officers. The court finds that the defendant timed and manipulated the salary increases for the purpose of throwing them into the election year in an effort to attract the support of its employees for the incumbent officers in terms of services and financial aid. This conclusion is even more compelling when we consider these salary increases in the light of the other violations of Section 401(g) of the Act (29 U.S.C. 481(g)), out of which emerges a demonstrated pattern of using union assets for the purpose of insuring reelection. This further violation of the Act obviously was calculated to affect the outcome of the election, and may very well have done so.

Plaintiff alleges that the defendant frustrated Yablonski in his efforts to cover the polls with his observers, and cites this as a major violation of another section of the Act, and one which most likely affected the outcome of the election.

The UMWA constitution sets out the procedures for the nomination and election of the International officers. The polling takes place at the local unions and the officers of the locals are designated as agents of the International in carrying out the procedures set out in the constitution and the special instructions given them by the International. The officers are personally responsible for any irregularities which may take place in the local unions during the election and may be fined, suspended or expelled by the International for any transgressions. The ultimate responsibility for the conduct of the election and to see to it that the requirements of the Act are carried out rest with the International union.

Section 401(c) of the Act (29 U.S.C. 481(c)) provides:

". . . Adequate safeguards to insure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots."

Observers to oversee the conduct of the voting procedures and the counting of ballots are considered necessary in any election whether national, state, local or otherwise, and are almost invariably specifically provided for by statute or regulation or an organization's constitution. That the importance of election observers was fully appreciated by the defendant is demonstrated by the fact that the president of its District 17 sent out letters to the officers of all the locals directing them to appoint observers for Boyle.

As has been mentioned, the great majority of the districts were in trusteeship, with their officers appointed by the International President, as were the International representatives assigned to the district. The almost 1300 locals where the balloting was to take place were scattered from the east coast to the Rocky Mountain region, many of them in isolated areas. In these circumstances it seems that an affirmative duty is on the International union to provide a modicum of cooperation with an adversary candidate in establishing a procedure which will give him a fair opportunity to place his observers at the polls in order that he may have the protection afforded by the Act. Otherwise, both the letter and the spirit of the Act are undercut.

But this cooperation was not forthcoming. Although it was known that the election was to take place on December 9, 1969, the particular site and hour of the polling was left to the discretion of each local union. Few of the locals had a regular meeting place. Communications from the International were usually addressed to the recording secretary or financial secretary. Many of the locals voted at the mine itself, which might be at some remote place many miles from the address of the local. Many mines had several portals at considerable distances from each other and as many as three shifts, so that there could be any combination of times and places for voting. Obviously no candidate could hope to recruit several thousand observers and get them prepared to be at their stations unless he was assured that he would have some means of determining in advance of election day the time and place of the polling at the various locals.

Yablonski could not obtain the addresses of the various locals from the International, nor was he given any information as to the polling places of the 1964 election which might have been helpful in determining where the polling places for the current election might have been. Finally he decided to write directly to the locals requesting that they inform him of the time and place of the voting. On October 30, 1969 Yablonski delivered to the office of the International union envelopes to be mailed to all local unions. Each envelope contained a form letter addressed to the recording secretaries, and local union officers with a self-addressed post card. The letter requested that the time and place of the balloting be entered on the self-addressed post card and the card be returned. The envelopes were delivered to the International headquarters where an assistant to the secretary-treasurer addressed and mailed them to the local unions. Of 1299 letters and post cards sent out to the locals, only about 300 were returned to Yablonski. By his own efforts and those of his associates Yablonski was able to discover approximately 200 additional polling places. Thus at the time of the election he had between fifty and sixty percent of the total number of locals covered by observers.

When an officer of one of the locals called the general counsel of the UMWA and inquired as to whether he should fill out and return the post card which had been requested by Yablonski, he was told that the United Mine Workers of America took no position on the matter and that he should use his own judgment. The failure and refusal of the UMWA to assume any responsibility for providing sufficient information to Yablonski for him to avail himself of the opportunity to cover the polls with observers constitutes a flagrant violation of the Act which may have had an affect on the outcome of the election.

Plaintiff claims that Yablonski's removal from the directorship of Labor's Non-Partisan League was a reprisal action for his candidacy and thus a flagrant violation of Section 401(e) of the Act (29 U.S.C. 481(e)).

On April 17, 1969 President Boyle appointed Yablonski as Acting Director of Labor's Non-Partisan League, a division of UMWA, effective May 1, 1969. The League is the legislative arm of the union and its principal function is to lobby for legislation favored by the union. The Director of the League is an important and prestigious position, and this was especially true at the time in question because there was then pending in Congress legislation providing for increased safety measures in the mines.

On June 6, 1969, scarcely a week after his announcement as a candidate, and without any prior warning or notice, Yablonski was removed from his position as Acting Director of Labor's Non-Partisan League by his election opponent, Boyle, and ordered to report and work under the direction of a subordinate officer, Michael Budzanoski, President of UMWA District 5, and a leading Boyle loyalist.

This was accomplished by a letter from Boyle to Yablonski in which the assertion was made that the latter was "unable to spend more than an hour or so a day on the job." Boyle refused to respond to several letters of inquiry from Yablonski relative to his dismissal, and at a June 23, 1969, meeting of the International Executive Board obtained approval of his action in relieving Yablonski from his position, but on the entirely different ground that Yablonski had issued a public statement in which he opposed union policies regarding certain mine safety regulations. Shortly thereafter Yablonski brought suit in this court for an injunction to restrain Boyle from relieving him from his position as Acting Director and reinstate him to the same. During the course of that litigation, in response to an inquiry relative to Boyle's firing and transferring Yablonski without notice or warning, Boyle stated, "Mr. Yablonski was on notice, plenty of notice. He gave his own warning on May 20." This was the day when Yablonski announced his candidacy. In the reinstatement suit, which was heard by Judge Corcoran, the defendant union maintained that Yablonski was removed because he favored tougher and stronger mine health and safety legislation than the defendant and its officers advocated for tactical reasons. During the course of the instant trial, the defendant through its officers, advanced a wholly inconsistent reason for the discharge, i.e. that Yablonski favored weaker legislation than defendant.

This record clearly demonstrates that Yablonski's removal and transfer came about as a direct reprisal for his running for president of the union against Boyle, and thus was a violation of the Act.

It is true that Judge Corcoran ordered that Yablonski be restored to his position; but the Act clearly had been violated, and in a fashion which served notice of what might be expected on all officers, employees, and members of the defendant union who might have been Yablonski supporters, but who were also vulnerable to similar reprisals because of the immense power residing in Mr. Boyle. This is the type of violation which very well may have affected the outcome of the election.

Plaintiff charges that the defendant committed numerous violations of Section 401(g) of the Act at the District level by the use of union personnel, funds and facilities in support of its incumbent officers; and emphasizes the potential of these abuses for affecting the outcome of the election by pointing up the importance of the Districts in the overall structure of the organization.

Union funds in the amount of $8,000 were transferred to an attorney by the officers of District 2. It appears that at the time this money was not due and owing to him on account of any services rendered to the District or the UMWA, and that it was transferred by him to the Volunteers Committee for Boyle, Titler and Owens established in District 2.

District 5 is in Pittsburgh, Pennsylvania, and its president is Michael Budzanoski. The District is not financially self-sustaining, and money is borrowed from the International union to cover the expenses which exceed its income. There has never been a problem in obtaining money from the International for its activities and during 1969 large sums were made available to it. Some of the union's money was channeled through the District's treasury to the District's Committee for Boyle, Titler and Owens via a false voucher scheme originated by Budzanoski.

Also voluminous campaign literature was prepared, stored, and distributed from the District headquarters. The campaign committee had no address other than that of the District at 938 Pennsylvania Avenue, Pittsburgh, Pennsylvania 15272.

R. R. Humphrey was the president of District 17 and a Mr. Howell was district representative. In response to a number of inquiries by local union officers with respect to Yablonski's request to be advised of the time and place of the election in their locals, Howell advised them that it was strictly a local union matter and not the concern of the District. By way of contrast on November 26, 1969 Humphrey sent a letter on his official stationery to all local union presidents and recording secretaries in District 17. That letter, typed at the District headquarters by a paid employee of the District on one of its typewriters and thereafter mailed at the District's expense, read in part as follows:

"It is very important and essential that your local union, in addition to the regular tellers, have an observer representing Messrs. Boyle, Titler and Owens. These observers are supposed to sit in the polling place and watch the observers for the other candidates to see that no one does anything wrong. The observers are not there to watch the officers; they are there to watch the members voting. Under the Landrum-Griffin Law, ALL candidates have a right to a poll watcher. Be sure to keep the name of each poll watcher and the party he represents. This is very important. Also, these watchers do not have to be members of the Union."

On November 30, 1969, a little over a week before the election District 23 spent its funds in sponsoring a political rally in Madisonville, Kentucky. Though billed as one of the many Black Lung rallies, it obviously was mainly for political purposes, with a short period devoted to a discussion of the safety issues and, after a brief intermission during which the main participants did not even leave the stage, a full blown campaign rally. It was featured by Boyle making an extensive attack on Yablonski. In addition the District office was used as a depository for the incumbent's campaign materials.

District 25 spent union funds for stationery and the preparation of membership lists in order to complete a mass mailing of campaign literature in support of Boyle, Titler and Owens.

District 28 is a provisional district with 51 locals under its jurisdiction and its president is Carson Hibbitts. Hibbitts helped form a committee of all the employees of the District whose purpose was the reelection of the International officers. Meetings of the committee were held in the District office and campaign literature was prepared in, stored in and distributed from the same.

On June 26, 1969 a letter on the letterhead of the UMWA, Carson Hibbitts, President, District No. 28, was addressed to "All officers and members of all local unions, District 28, United Mine Workers of America." The letter was signed "Carson Hibbitts, President, District 28" and "Ray Thornbury, International Representative." Hibbitts admitted that it bore his signature.

A portion of the letter reads:

"In addition to this, District 28 has set up a voluntary organization for the reelection of our International officers W. A. Boyle, George J. Titler, and John Owens. These men have the proven ability to successfully lead our union in the future as they have in the past. This newly organized group will in the very near future send out information to each and every member pertaining to the record of some of the people who are out to destroy our union.

"The time has come for our members to back our union against the people who are out solely for the purpose of destroying the greatest union on earth, the United Mine Workers of America, along with our present International President, W. A. Boyle, who is being attacked viciously as John L. Lewis was some twenty-five years ago."

This is clearly an official letter from District 28 carrying a vigorous endorsement of the incumbent International officers.

In the late summer of 1969 Thornbury and a number of members of District 28 locals went to Pittsburgh, Pennsylvania, to meet with Michael Budzanoski and Robert Gordon of District 5 and hear them discuss Yablonski's background and lack of qualifications to be president. On August 7, 1969 the District issued checks to some of those attending the meeting at Pittsburgh which included a reimbursement for lost wages as a result of their attendance.

Carson Hibbitts was also president of District 30, another provisional district during the campaign period. The evidence establishes that between May 29 and December 9, 1969 offices personnel and facilities, including storage space, office equipment and supplies, were used to promote the candidacy of the incumbent officers.

The president of District 31, Leonard J. Pnakovich, ordered the staff of the District to participate in the organization of the Boyle-Titler-Owens campaign headquaters. The District office was used as a meeting place for campaign purposes and for the storage and distribution of literature, and a portion of the District's funds were also spent to finance the campaign committee.

The UMWA constitution places the districts in a most important role as supervisors of local union affairs. They settle locals' grievances with employers; they have the power to reverse actions of locals; they can call strikes, punish unauthorized work stoppages, regulate transfer cards, etc. The individual miner is ever aware of its presence. In these circumstances no district officer or employee should in his official capacity attempt to influence an election of International officers. No restriction is placed against their supporting and campaigning for candidates of their choice, just so long as they act as individuals on their own time, but any campaign activity engaged in by them in their official capacities in favor of any particular candidate or the use by such individuals of district funds or facilities constitute a gross violation of Section 401(g) of the Act. (29 U.S.C. 481(g)).

Plaintiff has established such violations and they are particularly serious in this case inasmuch as most of the Districts are in trusteeship where the officers are appointees of the International President and personally responsible to him. In addition they may have affected the outcome of the election.

Widespread and varied misconduct is alleged to have occurred at the local union level; and plaintiff contends that the nature and frequency of the proven misconduct establishes the existence of a pattern and practice throughout the locals.

The most serious of the claimed violations among the locals appear to be a) voting by non-secret ballot, b) campaigning within the polling area, and c) interference with the lawful activity of Yablonski's observers.

The evidence shows that in a great number of defendant's local unions little regard was shown for the requirement that the election be had by a secret ballot. Frequently ballots were marked on walls, chairs, window sills, the backs of other voters, and other places other than a polling booth. Sometimes this occurred under crowded conditions with members voting at the Tellers' table in plain view of officials and observers, or in groups at the same table or elsewhere in the polling place. These conditions, according to plaintiff, made it possible for voters to see how other voters marked their ballots. The defendant on the other hand contends that any body who cared to cast his vote in secrecy could have exercised enough ingenuity to accomplish his purpose.

These loose polling procedures fall short of the Act's specific requirement, and also seem at odds with what has come to be regarded generally as a minimum requirement of the democratic process and free elections.

The record does establish that the defendant allowed campaigning in a substantial number of polling places during the conduct of the election. This practice was widespread. The most prevalent method of campaigning was effected by Boyle partisans through the use of Boyle slate sample ballots and other literature. According to this evidence this literature, and in particular the sample ballots, appeared in various places in the polling places, including the Tellers' tables, on bulletin boards, in the voting booths and on tables at the entrance to the polling place. In many instances they were passed out to voters by the Tellers themselves or Boyle workers within the polling area.

The defendant has characterized the sample ballot issue as a "red herring" of mammoth proportions. It insists that sample ballots are ordinary electioneering materials recognized as perfectly valid by nearly all election regulations. But in taking this view defendant obviously oversimplifies the matter. No one contends that such materials are not acceptable or that their use is illegal or unfair—except within the polling area. Almost universally active campaigning is restricted to a certain distance *away* from the entrance to the polls, and election officials are instructed to vigorously enforce this regulation.

The defendant insists that the sample ballot was not improperly used, and even cites the applicable District of Columbia regulation which provides: "A voter may take sample ballots or such other materials as he may desire into the voting booth." (D.C. Rules & Regulations, Title 37, § 5.5(c) (1970). But another section of the same regulations, § 5.8(b), provides:

"Interference With Conduct of Elections. No partisan or nonpartisan political activity, or any other activity which in the judgment of the Team Captain may directly or indirectly interfere with the orderly conduct of the election, shall be permitted in, on, or within a reasonable distance outside the building used as a polling or vote counting place. The distance deemed 'reasonable' shall be approximately 50 feet from any door used to enter the building for voting. The exact distance will be determined by the Polling Team Captain depending on the physical features of the building and surrounding area. A description of limits for political activity for each polling place shall be available for public inspection at the office of the Board at least twenty-four hours in advance of the opening of the polls. Wherever possible, the limits shall also be indicated by a chalk line or by some other physical marker at the polling place. The term 'political activity' shall include without limitation any activity intended to persuade a person to vote for or against any candidate or to desist from voting."

And the same regulations impose the duty upon the Voting Supervisors to ". . . Remove sample ballots and trash from each vacant booth; and prevent voters from communicating with each other in the voting booth area."

The sample ballot per se is not offensive, but its improper usage cannot be condoned.

There is evidence tending to prove that in many cases Yablonski's observers were thwarted in their activities. In some cases they were held waiting for alleged clearance before performing their duties, and in others they were confined to spots in the polling area which made effective observation impossible.

It appears that these matters complained of at the local level did constitute violations of the Act. It should be remembered that "Congress' model of democratic elections was political elections in this country . . ." *Wirtz* v. *Hotel Employees,* 391 U.S. 492, 504.

The court is certain that all of the violations discussed herein have been established by the standard of proof required by the statute and it is equally certain that when viewed in the light of the Supreme Court's discussion of the "may have affected" language of the Act (Section 402(c), 29 U.S.C. 482(c)), *Wirtz* v. *Hotel Employees,* 391 U.S. 492, 505–9 (1968), the violations may have affected the outcome of the election.

This is true as to any one of the violations on the International level, and also as to some of those ascribed to the Districts, i.e. 163,000 copies of an election bulletin were prepared and distributed to the entire union membership by Budzanoski in District 5. And those violations proven to have occurred within the locals, when viewed in the light of those at the higher levels of the union could well have the cumulative effect of determining the outcome.

In the face of the evidence presented by the plaintiff—All references to the plaintiff are meant to include the Intervenor Plaintiff—the defendant has fallen far short of producing evidence which supports a finding that the violations did not affect the election result. Defendant, of course, urges a contrary view and takes the position that this result should not be disturbed.

Throughout the course of this litigation the court has been ever sensitive to the fact that the Act is not designed to deprive labor unions of control over their own affairs and have them supervised by the courts or any other governmental agency. But in order to reach the defendant's position the court would be forced to swim upstream against the tide of evidence too strong to resist.

SECOND CAUSE OF ACTION

On April 13, 1971 the court granted the Secretary of Labor's motion for a preliminary injunction compelling the defendant to comply with the record keeping requirements of Section 206 of the Act (29 U.S.C. 436). At that time the court found as a fact that defendant, while presenting evidence of corrective measures taken with regard to record keeping as to certain types of disbursements, has not demonstrated that corrective measures have been taken with respect to all of the record-keeping deficiencies found to exist by the court, and the likelihood of further violation is not entirely eliminated, and concluded as a matter of law that the granting of a preliminary injunction compelling defendant to comply with Section 206 of the Act (29 U.S.C. 436) is inappropriate in light of the defendant's past record keeping conduct as found by the court, and its inability to guarantee compliance in all respects in the future. This was after a finding that certain record keeping procedures were violative of Section 206 of the Act.

At the preliminary injunction hearing the defendant had the burden of showing that corrective measures had been taken and failed to do so. No evidence on this score was presented during the trial. Therefore the court finds that the defendant is still in violation of the Act and accordingly concludes that the injunction prayed for under Title II of the Act should be made permanent.

This memorandum opinion shall constitute the court's finding of facts and conclusions of law. Counsel will submit an appropriate order.

WILLIAM B. BRYANT,
Judge.

THE U.S. POSTAL SERVICE IS ENVIRONMENTALLY PERMISSIVE

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, I regretfully report that the U.S. Postal Service is environmentally permissive. Today I appeared before the House Subcommittee on Postal Service to submit the findings of an investigation of the U.S. Postal Service. My findings reveal that the Postal Service has paid little, if any, attention to the provisions of the National Environmental Policy Act in selecting a site for the proposed midsouth regional bulk mail facility.

I question the judgment of the Postal Service and urge my colleagues to consider the facts set forth in my statement.

The statement is as follows:

TESTIMONY FOR MAY 2, 1972, APPEARANCE BEFORE THE HOUSE SUBCOMMITTEE ON POSTAL SERVICE.

Mr. ALEXANDER. Mr. Chairman, and members of the subcommittee, I appreciate your giving me this opportunity to bring to you information regarding the United States Postal Service's plans to locate a bulk mail center in the City of Memphis, Tennessee. I especially want to thank you for this time, as I understand that the principal topic of your hearing today is not related to the bulk mail system plans.

With your permission, I will summarize my statement, and submit a fuller one for inclusion in the subcommittee's records.

I believe that it is time for this committee to consider a serious situation developing in the United States Postal Service. My investigation of the Postal Service's proposal to locate a bulk mail facility for the Mid South within the confines of the City of Memphis has convinced me that the Postal Service is acting in conflict with the intent of the Congress.

It is my contention that the location which has been selected for the Mid South bulk mail facility will violate the intent of the Congress both with regard to the protection of the environment and the development of a balanced national growth policy. To help you achieve a clear understanding of the basis of my position, I would like first to quote from the National Environmental Policy Act of 1969 (NEPA) and from the Housing and Urban Development Act of 1970.

In its "Declaration of National Environmental Policy", Title I, Sec. 101 (a) of the NEPA states:

"The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influence of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with the State and local governments, and other concerned public and private organizations to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."

Section 102 of Title 1 of the NEPA requires, in part, that ". . . all agencies of the Federal government . . ." file environmental impact statements ". . . in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment . . ." I believe that a project which is going to cost at least 23.55 million dollars would have to be considered a "major Federal action". And, the location of it, regardless of where it is, will certainly affect the human environment. This is a subject to which I will return shortly, but first I want to provide you with some excerpts from the Housing and Urban Development Act of 1970.

Title VII deals directly with the subject of national growth policy. I believe that in order to put the Congress' position on this question clearly in focus, it would be worthwhile to quote Title VII, Part A, Sec. 702 in full.

SEC. 702 (a) The Congress finds that the rapid growth of urban population and uneven expansion of urban development in the United States, together with the decline in farm population, slower growth in rural areas, and migration to the cities, has created an imbalance between the Nation's needs and resources and seriously threatens our physical environment, and that the economic and social development of the Nation, the proper conservation of our natural resources, and the achievement of satisfactory living standards depend upon the sound, orderly, and more balanced development of all areas of the Nation.

(b) The Congress further finds that *Federal programs affect the location* of population, economic growth, and character of urban development; that such programs *frequently conflict and result in undesirable and costly patterns* of urban development which adversely affect the environment and wastefully use our natural resources; and that existing and future programs must be interrelated and coordinated within a system of orderly development and established priorities consistent with a national urban growth policy.

(c) To promote the general welfare and properly apply the resources of the Federal Government is strengthening the economic and social health of all areas of the Nation and more adequately protect the physical environment and conserve natural resources, the Congress declares that the Federal Government, consistent with the responsibilities of State and local government and the private sector, must assume responsibility for the development of a national urban growth policy which shall incorporate social, economic, and other appropriate factors.

(d) The Congress further declares that the national urban growth policy should—

(1) favor patterns of urbanization and economic development and stabilization which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources in metropolitan and urban regions as well as in smaller urban places which have a potential for accelerated growth;

(2) foster the continued economic strength of all parts of the United States, including the central cities, suburbs, smaller communities, local neighborhoods, and rural areas;

(3) help reverse trends of migration and physical growth which reinforce disparities among states, regions, and cities;

(4) treat comprehensively the problems of poverty and employment (including erosion of tax bases, and the need for better community services and job opportunities) which are associated with disorderly urbanization and rural decline:

(5) develop means to encourage good housing for all Americans without regard to race or creed;

(6) refine the role of the Federal Government in revitalizing existing communities and encouraging planned, large-scale urban and new community development;

(7) strengthen the capacity of general governmental institutions to contribute to balanced urban growth and stabilization; and

(8) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of urban growth and stabilization, the prudent use of natural resources, and the protection of the physical environment.

When I began my investigation of the Postal Service's plans for the Mid South bulk mail facility more than a year ago, I had two basic concerns. I wanted to be sure that the intent of the Congress with regard to a balanced national growth policy was being complied with. And, I wanted to assure myself that the taxpayers were getting full value for their dollars. In the months since my study began, another concern has developed—about the environmental impact of constructing such a facility in Memphis or any city its size.

My search for information has convinced me that the Postal Service is paying scant, if any, heed to the Congressional intent set out in either Title I of the National Environmental Policy Act of 1969 or Title VII, Part A, Sec. 702 of the Housing and Urban Development Act of 1970.

I have been told by the Postal Service that the "rolling cost" of the 57.1 acre site in Memphis will be $3.55 million. By any method of division you may use, this is $62,000 per acre for land acquisition and site preparation alone. It does not include construction and equipment costs, which I have been told will be $20 million. But, more importantly, the formula for selecting the Memphis site has apparently not taken into account the long-term environmental and uneven development costs which will certainly be generated by the existence of this facility in such a congested metropolitan area.

It is an inarguable fact that people go where the jobs are available, and that the more heavily concentrated the people are, the more serious the environmental impact—both in physical and social terms. The facts which I shall relate to you in a few moments persuade me that the Postal Service has simply ignored a number of cost factors in making their decision. The total bill must surely include those public service costs which inevitably evolve from creating a situation which encourages more human and vehicular congestion in a municipality which already finds its agencies struggling with transportation problems, housing problems, and social welfare problems. It must also include the costs of failing to promote development in lesser populated areas.

It might be useful to refer briefly to a study by Ronald W. Crowley, titled "An Empirical Investigation of Some Local Public Costs of In-Migration to Cities," which was published in the 1970 Winter issue of the Journal of Human Resources. The study involved 94 of the Nation's largest cities. It found that migrants to these cities imposed a per capita public service burden of $72 compared to $8 for non-migrants.

This Mid South bulk mail facility, I am told, will employ 620 persons on a three-shift daily schedule. The drivers for the minimum of 110 and maximum of 230 trucks which are expected to serve the facility daily are not included in that figure.

Now, let us take a look at some facts about the location which the Postal Service has selected for the bulk mail facility and about a location within the Memphis Standard Metropolitan Statistical Area which was rejected.

The selected site is on U.S. Highway 51 South in Memphis Census Tract 78. Bureau of the Census figures show that 17,809 persons made their home in this 137-block area in 1970. The area also encompasses a large cemetery, a large public park (located at a street intersection which will necessarily have to be used by at least some of the mail trucks) and a number of commercial establishments. The site was, at the time of selection, zoned for *residential use.*

Census figures also show that the population of the City of Memphis grew 25.3 per cent—from 497,524 to 623,530—between 1960 and 1970. Shelby County, in which Memphis is located, grew 15.2 per cent—from 627,019 to 722,014—during the same period. In addition, it might be well to look at the average annual unemployment rates. For the nation the figures were 3.5 per cent in 1969, 4.9 per cent in 1970 and 5.9 per cent in 1971. For Shelby County these figures were 2.9 per cent in 1969, 3.6 per cent in 1970 and 4.2 per cent in 1971, consistently lower than the national average.

It is my understanding that the Postal Service requested the Corps of Engineers to evaluate nine possible sites for the facility. The site to which I would direct your attention now is in Crittenden County, Ark., the First Congressional District. Access would have been available to Interstate routes 55 and 40. The cost of the site, including land preparation, has been estimated at less than a million dollars.

This site is in an area which is zoned for industrial use. It is located in Census Tract 308. Only 122 persons were found to be living in the area in 1970. The Census Tract—No. 301—nearest the rejected site contained only 7,278 persons at the time of the census. The principal city in Crittenden County is West Memphis, which has a common boundary with Tract 308. In 1960, West Memphis had a population of 19,374 and in 1970 its population had only reached 25,892. The County of Crittenden went from a population of 47,564 to 48,106 in the ten-year period, an increase of 1.1 per cent.

While the unemployment rate in Shelby County, Tennessee, was consistently lower than the national average for the last three years, the situation in Crittenden County was reversed. In 1969 the average annual rate of unemployment for Crittendon County was 4 per cent. It was 5.7 per cent in 1970, and reached 6.9 per cent in 1971.

Thus, it would seem to me, that in terms of human need and human congestion selection of a site such as the one available in Crittenden County would have unquestionably been in compliance with the Congressional intent to establish a balanced national growth policy and with regard to environmental policy. Whereas, I believe, the choice of the Memphis site is a violation of the expressed intent of the Congress.

It is my understanding that the central reasons for the Postal Service's rejection of the Crittenden County site were the lack of piggyback rail service facilities and traffic congestion on the four-lane route connecting Crittenden County and Memphis, Tennessee.

With your permission, I shall quote here a paragraph from a letter received in my office on March 23, 1972, from Charles Fritzel, Congressional Liaison Officer, for the United States Postal Service. The letter said in part:

"No piggyback sites were found in West Memphis, Arkansas. Trucks using piggyback rail services would be required to cross the Mississippi River into Memphis on a four-lane bridge now carrying over 30,000 vehicles daily. This site was not given priority due to the high incremental truck costs, initial accesss difficulties, and the lack of piggyback services."

Now, let us look at the two principal routes which trucks will have to use in connection with the Memphis location. The Federal Highway Administration tells me that in 1970 U.S. Highway 51 South at the Intersection of South Parkway carried a daily average of 23,750 vehicles. South Parkway is the nearest access route from the selected site to Interstate 55. At the intersection of South Parkway and I-55, the daily vehicle load north of the interchange in 1971 was 47,170 and south of the interchange it was 48,120 vehicles.

The piggyback rail facilities nearest this site are two miles away. Should the Postal Service undertake to build, or have built, such a facility at the bulk mail center, there are railroads already located in close proximity of the Crittenden County site.

There is one other factor which the Postal Service apparently simply did not include in its calculations with reference to traffic between Memphis and West Memphis. That is the six-lane interstate bridge now under construction to link Memphis with Crittenden County. When this bridge opens the site which was rejected in Crittenden County will have a six-lane highway immediately to the north and a six-lane highway immediately to the south.

In view of these facts, Mr. Chairman, I feel compelled again to urge this committee to investigate what appears to be a decision by the Postal Service to ignore the intent of the Congress and expressed in the National Environmental Policy Act of 1969 and the Housing and Urban Development Act of 1970.

Thank you again for giving me the opportunity to appear before your committee and discuss this very serious situation.

HON. J. EDGAR HOOVER

(Mr. TAYLOR asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. TAYLOR. Mr. Speaker, I am proud to join my colleagues in paying tribute to J. Edgar Hoover, the first and only FBI Chief. Under his direction, the FBI has grown from a small investigative arm into the world's most respected crime fighting organization.

Hoover's zeal for professionalism at all levels of law enforcement revolutionized police techniques throughout the country. Officers from the most remote crossroads communities have been given intensive training in the FBI academy to better enable them to serve back home. Some of my own constituents have attended and I have personally witnessed the degree of pride reflected in their faces as they received their diplomas from the Chief himself. And the pride was in Hoover's face because he was proud of what he was doing for the United States.

A year ago I stated:

> The Members of Congress and of the press who are criticizing the FBI and its Director, J. Edgar Hoover, are not speaking for me. This country is fortunate to have had the FBI under the direction of Mr. Hoover during the past 46 years. J. Edgar Hoover has built the FBI into the most effective and respected law enforcement agency in the world, and he deserves the appreciation of this nation.

The FBI has had the responsibility of maintaining the internal security of this Nation and during recent years that has become increasingly difficult and important.

J. Edgar Hoover will live on as an American legend. His contribution to good Government and to the well-being of his fellowman will endure. He will endure as a symbol of courage, integrity, and fearless law enforcement.

TRIBUTE TO KATHERINE H. WHITE

(Mr. WHITE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WHITE. Mr. Speaker, many fine men come to Congress and offer their talents, their hearts, and even their lives in the service of the country. Our lives are rewarding, interesting, combative, challenging, trying. Most of us have been blessed with an understanding and dedicated helpmate throughout the tribulations of campaigning and the sustaining of our good names, who share the triumphs along with the disappointments and heartaches; but the public rarely hears of them or their sacrifices.

In truth the life of a congressional wife is a difficult and somewhat lonely one which revolves about the public career of her husband. Those who join their husbands in the Washington area are removed from home and family other than their own children and their husband, and from home friends they love. When in their home area they are usually well known, involved in the civic, religious, and cultural life of their home community, and often loved. Subsequently they are more severely uprooted in the service of the country than are we the Congressmen—for we return to our district frequently while our ladies normally remain behind with the children. In their absence the public forgets somewhat, and fails to adequately understand their sacrifice or their great value and talents.

I had such a wife, a wonderful and lovely lady who shared my joys and sorrows, who fought beside me and undoubtedly was the major factor in my first election. She too was uprooted from the many things she loved and was just as much a part of the service of her country.

On March 2, 1972, just 2 months ago today, my wife was taken by a tragic accident, and while it may appear to be self-serving to speak of her now, I do so because I think she is symbolic of the grandeur and superb nature of the self-sacrificing congressional wives who ever support and sustain us, but never receive their proper accolades.

My own wife was unusually strongly loved by the people of my district; wherever I went they never failed to ask about her in glowing terms, because many remembered her through occasional appearances and through light interesting articles she wrote for the newspapers of my district in order to share with the people of west Texas her experiences in Washington, and the worthiness of this Nation. People loved to read these articles, men and women alike. They were called "The Lighter Side of Washington," by Kathy White. With love and dedication and without pay she helped me on countless congressional projects.

Shortly after her death, the Public Housing Authority of El Paso, Tex., named a new low-income model housing project after her. Its official name is the Kathy White Memorial Housing Project, popularly known as the Kathy White Apartments. My family is very grateful for this kind remembrance.

At the dedication of this housing project I was privileged to make some remarks in eulogy of my wife, and with your permission I will recite these remarks so that others may know of her and her fine works, and so that her progeny, her friends, and the people of Texas can read of her in public record and of her worthiness. My remarks are as follows:

SPEECH PRESENTED BY RICHARD C. WHITE AT THE DEDICATION OF THE KATHY WHITE APARTMENTS, APRIL 22, 1972

Distinguished guests, ladies and gentlemen, friends of Kathy, this is a day that I feel is very appropriate and a day very personal to me. For today we are here to dedicate an important segment of public housing for El Paso and are naming it for a lady who influenced the spirit of West Texas and a lady whom I loved very deeply and who is loved by many and in turn loved many. More than my wife and the mother of our children, Kathy White was an example and an inspiration to us in her family and to many who knew her closely, for she was womanhood at its best, Americanism at its ideal.

For those of you who did not know her permit me to briefly describe her and mention some of her importance in this life.

Kathy was a very special person for all of us. She came into this world it seems to bring happiness and a beautiful quality of selfless love. She not only liked people, but she loved them as well. To me she epitomized the spirituality, grandeur, and loveliness of American womanhood. She gave so much of herself to her friends, her family, and mankind.

She was not only the most precious thing in my life but she was the loveliest person I have ever known and a person I totally admired and respected. She was petite, like a Dresden-doll with very lovely classic features. She was warm, loving, vivacious, charming, highly intelligent and very perceptive. She made people feel good, she made people feel happy and important with her genuine and humble interest in everyone, regardless of their circumstances in life. She was always friendly and of good humor. She never met a stranger.

She gave us more than love. She gave us refreshing enthusiasm, gentle kindness, courage and faith from one so small, so frail. She was beauty in her features and in her heart. She was the warm sunshine she loved so well, and the happy sensitive humor that hurt no one and gave joy in being alive.

She was an accomplished writer and had so many other talents. She could always find a human side of everyone. She understood people, and even more, wanted to understand people. Her interest in people had no personal or selfish gain other than pure love of humanity. She had the greatest, warmest, most infectious, most genuine personality of any person I have been privileged to know, and there is no doubt in my mind that because of Kathy I first entered the halls of Congress.

She was loved and respected not only in El Paso, but throughout Texas. I have received several thousand communications of concern, sympathy and grief at Kathy's passing from all over the country and from other nations, from people who have known her and considered her a friend. I treasure among these a telegram and letter from President and Mrs. Johnson with whom she had such rapport, letters from President Nixon, Secretary Connally and so many others, all personal.

So in her leaving she took a part of us with her. El Paso and some of the world will not be the same without her. It is certainly better for her having been here. She was a genuine, unasking ambassador of good will where ever she went. She had charmed many of the ladies of the diplomatic corps.

In her leaving she gave us a legacy of herself and left a little of herself in each of us who knew her, and a memory of charm that is bound to warm our hearts as we think back of lively, humorous, fun-loving, happy Kathy.

But Kathy lived beyond her strength and reserves, and a tragic accident took her away before her time. She was as lovely but as perishable as the camellias she loved. The tragedy was compounded because she left while still very productive and vital. Though she was still young in age, in heart, body, and spirit, she had already accomplished much more than most people who have a full course of life. Her life should not be measured in years but by what she had done, and its quality.

Her high school career is typical. Have you ever known one in a fairly large high school who in the same senior year was president of the student body, cheerleader, editor of the school paper, winner of the citizenship award, national honor society, outstanding student, best actress, to mention some. This was the nature of her life.

This was typical of her driving desire to accomplish, to do right, to be involved in the positive acts of mankind.

In her college at then Texas State College for Women, now Texas Women's University, she was secretary of the student body and earned many other recognitions, at the same time she worked part of her way through school. She married me in her third year, and still graduated with highest honors one year ahead of her class.

While rearing a family of three sons she found time to win her master's degree in history and wrote a thesis on Spanish land grants still used by lawyers, courts, and researchers. She became very involved with all nature of civic affairs in El Paso including the presidency of the American Association of University Women of El Paso, one of the largest chapters and most active in the Nation, and here her competency was very apparent.

During the presidential campaign of 1960 she was absorbed in the electoral process of this Nation. And again in 1964 when she proved to be the most important factor in my own election.

In Washington she gained immediate acceptance and leadership through her dynamism, her personality and good will, and through her perceptive intelligence and ability. She brought Texas hospitality and charm to Washington and she became quickly loved.

She was a chairman of a prayer group, president of the Friendship House, a charitable organization for the under-privileged, organized of periodic briefings by the State Department for congressional wives, a project which was immediately successful, and an active member of an international wives organization that sought to extend hospitality of this country to the wives of foreign diplomats. She was the first vice president of the 89th Congressional group, being the wives of all Members of Congress who first entered Congress during the 89th Congress, a rather large group. Some of her many accomplishment are listed in Who's Who of American Women, 1972–73.

She managed to do these, and be a wonderful wife and an excellent mother absorbed in the activities of her children. She had far more friends and activities than even we of her family realized, and she touched more lives than one can imagine. Yet she was so small and frail. Throughout this time she struggled with the frailties of her health, and with courage, sheer spirit, and nerve carried through unabated, cheerful, and in love with life.

She has meant so much to our part of our world that it is unthinkable that the inspiration of her life should be forgotten and that others who follow not know of her example.

This is the nature of the grand lady for whom these apartments are named, not as the Katherine H. White Memorial Housing Project, but as she was in life, the Kathy White Memorial Housing Project, as she would have wanted it, for everyone knew her as Kathy, the vivacious, cheerful, charming, lovely lady of true quality, character, and worth.

I have described her in length not only because I loved and respected her and admired her more each day of our 22 years of marriage, but also because there are other Kathy White's in this Nation now and will be in the future who might otherwise not be known, but who do the most important work of this country, that of rearing a family and keeping a household.

I know of no more important work in America than this, being a wife and a mother, being the cement that holds the family together. I know some women on filling out forms in the blank where it requests "occupation" will look up in bewilderment and some will say "none". Others will hesitantly put "housewife" in their humble way, forgetting that being a housewife is a total 24 hour occupation: wife, mother, and keeper of the family, the keystone of what it's all about; the factor that makes it all work and hold together. I am convinced even more now that the housewife is the key to the unity and perpetuation of the family, and therefore of our country. The man of the house may earn the living for the family, but the living becomes important with the woman in the home.

The site of these apartments is only two blocks from our home, and overlooks the sparkling lights of the city and the beautiful mountain which Kathy loved so well. Kathy had the same vistas.

So it is entirely appropriate that this housing project which will be the home of many families for America, where future citizens and leaders of this country will be reared, should be named for a housewife, and such a magnificent one at that.

I view this day as a triumph for womanhood.

At the conclusion of my remarks, the director of the housing project notified me and the public that a painting is being prepared of Kathy to be hung in the housing project, and a scroll of an editorial by Mr. Robert "Pete" Lee, of the El Paso Herald Post, be also hung in the housing project to remind people of Kathy's worth. I would like to repeat this editorial:

KATHY WHITE

The tragic death in Washington of Mrs. Richard C. White, wife of El Paso's popular Congressman, comes as a shock to all who knew her—and there were thousands who did.

Kathy White was a gay and vivacious young woman, who was her husband's greatest asset and thereby an asset to the far flung district he serves in Congress. Small and slender, she was possessed of a driving enthusiasm and energy and a wonderful friendliness of nature that made her an instant favorite of everyone she met, whether it was on the campaign trail with her husband in West Texas, or in the social circles a Congressman must travel in Washington.

During the early years of the couple's residence in Washington, she was the most enthusiastic, though unpaid, worker on her husband's staff, helping all she could with the flood of paper work that crosses a congressman's desk, until ill health forced her to cut down on her activities. And she never lost her zest for living, nor failed to charm those with whom she came in contact.

With countless others in the 16th District, we extend our deepest sympathies to Congressman White and to his family.

THE HONORABLE J. EDGAR HOOVER

(Mr. HOGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous matter).

Mr. HOGAN. Mr. Speaker, I am sure that my reaction to the news of J. Edgar Hoover's death was typical of all other Americans. I was shocked and saddened. A few weeks ago my wife and I were in his office chatting with him, and at that time he appeared very robust, healthy, jovial, and happy. We had no idea that the end was so close at hand.

This afternoon, Mr. Speaker, I plan to take a special order to eulogize J. Edgar Hoover and I request permission for all Members to revise and extend their remarks in connection therewith.

Mr. Speaker, J. Edgar Hoover has left an indelible mark on the history of this country, but he has also left an indelible mark on those of us who had the great honor and the privilege of serving under him in the FBI. I am sure I speak for all former and present FBI agents when I say that, being associated with the great organization of the FBI, which he created—the discipline, the training, the esprit de corps—was not only a great influence in our lives, but, in my case, and I am sure in all cases of those who had such a privilege, it enriched our lives for all time.

Mr. Speaker, no one will ever be able to really replace J. Edgar Hoover, and the American people will sorely miss him.

RESULTS IN ON QUESTIONNAIRES SENT TO RESIDENTS OF 17TH CONGRESSIONAL DISTRICT OF PENNSYLVANIA

(Mr. SCHNEEBELI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHNEEBELI. Mr. Speaker, more than 22,000 residents of the 17th Congressional District of Pennsylvania have replied to my annual constituent survey. This represents an increase of more than 1,000 over last year's response, and questionnaires are still being returned at a rate of more than 100 per day.

Volunteers, who also mailed the forms, have now completed tabulation of many of these returns.

Voters in our district are most united in their opposition to forced busing as a means to achieve racial balance in public schools. This view is held by 88.2 percent, while only 7.0 percent favor busing; 4.7 percent were undecided.

The prospect of amnesty after our Vietnam involvement for men who avoided military duty during the conflict proved to be one of the most controversial issues on the survey. Opposing amnesty are 47.7 percent while the remaining 52.3 percent allow for some postwar possibility; 34.9 percent would allow amnesty if the individuals devote at least 2 years to public service, 9.6 percent believe the decision should be left to the President, and 7.8 percent believe amnesty should be granted unconditionally.

More than 75 percent of those responding to the survey support both President Nixon's handling of the Vietnam conflict and his China initiatives. Supporting Israel through the sale of military aircraft won the approval of 57.3 percent.

Voters registered the greatest confusion on economic issues. While 45.5 percent are more optimistic about the future of the economy and 31.5 percent are not, a large 23 percent are undecided. At the same time, only one-third think phase II for price and wage stabilization is working reasonably well, 42 percent do not, and 24.4 percent are unsure. Nearly 75 percent believe more trade restrictions are needed to help our domestic industries.

Just over half of the questionnaires show support for large-scale spending to ease unemployment, but only about one-fourth want the Federal Government to share revenues with States without guidelines and restrictions.

The possibility of replacing real estate taxes with some new Federal program to finance schools brought an almost evenly divided response.

In the social category, a majority express support for both Federal aid to public television, and for the federalization of welfare to create a more uniform national approach.

Voters of the 17th District divided over President Nixon's plan for national health insurance, with 41.0 percent for, 44.8 percent against, and 14.2 percent undecided.

Local government could and should do more to protect the environment, say 84.9 percent of those taking part in the survey. Only 30.7 percent indicate that they, themselves, have changed their livings habits in attempts to improve the environment. Congressman SCHNEEBELI noted that many of those who replied negatively said they have always acted out of respect for their surroundings, however.

Although spending for space exploration has been reduced from $5 to $3 billion per year, 60.4 percent believe it should be reduced more. Should moneys from the highway trust fund be used for for mass transit projects? The response was 38.4 percent yes, 49.8 percent no, and 11.8 percent undecided.

Area voters are largely united in their desire for stronger laws to deal with transportation strikes which may cause national emergencies; 84.7 percent support this view.

The details of the survey tabulation follows:

1972 QUESTIONNAIRE RESULTS—CONGRESSMAN HERMAN T. SCHNEEBELI

	Percent
Foreign affairs:	
1. It is estimated that about 70,000 men left the United States to avoid military service during the Vietnam conflict. After U.S. involvement in Vietnam ends, should they be allowed to return, without penalty:	
(a) under no circumstances	47.7
(b) at the President's discretion	9.6
(c) if they will devote at least 2 years to public service	34.9
(d) unconditionally	7.8

	Percent yes	Percent no	Percent undecided
2. Are you satisfied that President Nixon is moving in the direction to end the war in Vietnam?	77.9	14.3	7.7
3. Do you support President Nixon's efforts to open communications with Communist China?	75.1	14.8	10.1
4. Should the United States continue to maintain a balance of power in the Middle East by selling military aircraft to Israel?	57.3	26.1	16.4
5. Do you believe the Congress should legislate some type of trade restrictions to attempt to restore a balance of trade surplus?	74.2	11.8	13.9
Fiscal:			
1. Are you more optimistic about the future of the American economy, as the result of the Administration's new economic program?	45.5	31.5	23.0
2. Would you support spending several billions in tax dollars for government public works projects, to ease unemploymet?	51.6	36.7	11.7
3. Should the Federal Government share $5,000,000,000 of income tax revenues with State and local governments, for unrestricted use without Federal control?	21.8	61.7	10.2
4. Should the Federal Government support local schools via some new federal tax program rather than depend upon the present local real estate tax plan?	45.9	42.6	11.5
5. Do you believe that phase II for price and wage stabilization is working reasonably well?	33.3	42.0	24.4
Social:			
1. I believe the Federal Government should continue to assist financially public (educational) television	59.4	29.1	11.6

	Percent yes	Percent no	Percent undecided
2. Should the Federal Government plan to take over gradually the direction of all welfare programs, to create a more uniform national approach to this problem?	53.4	34.6	12.0
3. Medicare for people over 65 will probably be retained, much as is. In addition, the President has proposed a national health insurance for people under 65. It would provide free care for the indigent, and an employed person's cost would be financed 75 percent by the employer and 25 percent by the employee. Would you favor such a program?	41.0	44.8	14.2
4. Do you favor the busing of students to achieve racial balance in our public schools?	7.0	88.2	4.7
The environment:			
1. Do you believe your local government could and should do more to protect the environment and natural resources of your community?	84.9	9.4	5.7
2. Have you changed your living habits in any way, out of concern for the improvement of the environment?	30.7	58.7	10.6
General:			
1. Expenditures for space exploration have recently been reduced from $5,000,000,000 to $3,000,000,000 per year. Do you favor further reductions?	60.4	30.2	9.4
2. Do you believe that stronger laws should be enacted to deal with strikes that cause or threaten to cause national transportation emergencies, such as the east and west coast dock strikes, railroad strikes, etc?	84.7	11.0	4.3
3. Should monies from the highway trust fund—presently reserved only for highway construction—be made available for mass transit projects also?	38.4	49.8	11.8

THE HONORABLE J. EDGAR HOOVER

(Mr. MAYNE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MAYNE. Mr. Speaker, in mourning the passing of a great American, J. Edgar Hoover, I want to express a special tribute from a group of former special agents of the Federal Bureau of Investigation who served under him in the years leading up to and during World War II.

I refer to the thousands of American lawyers and accountants who probably would not have considered law enforcement as a career in more normal times, but who were attracted by the Bureau's increasing responsibilities for national defense and internal security.

We joined the FBI in great numbers in 1940 and 1941, many of us receiving our appointments while still in law school. Most of us stayed with the Bureau for the duration of the emergency, although some entered the Armed Forces after Pearl Harbor.

We found first the FBI training and later our service in the field to be tough, exacting and very much in the national interest. The Director would not compromise and always demanded the highest possible performance from every agent, as he did from himself. Nothing less would have been adequate to cope with the saboteurs, spies, and draft dodgers who tried to cripple the war effort.

Mr. Speaker, whatever may be said of other arms of our Government, the record is clear that J. Edgar Hoover had prepared the FBI for World War II and was equal to the challenge when it came. The wartime achievements of the FBI alone were more than enough to secure the Director's place in history.

Mr. Speaker, I now hold in my hand and will always treasure the first telegram I ever received from Mr. Hoover, in September 1941. Its first sentence reads:

> You are offered appointment special agent this bureau.

Like thousands of other former agents of the FBI, I am very proud that I accepted that appointment and had the great privilege of serving under Director J. Edgar Hoover during this most crucial period.

TRIBUTE TO THE LATE J. EDGAR HOOVER

(Mr. ARENDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARENDS. Mr. Speaker, the passing of J. Edgar Hoover will be mourned by every true American. No man was more dedicated to the United States as the citadel of freedom.

On the 10th of this month he would have celebrated his 48th year as Director of the FBI. Under his guidance the FBI became the most efficient and most respected law enforcement agency in the world. It has been the guardian of our national security and the protector of our free society founded on ordered liberty under law.

J. Edgar Hoover bent over backward to assure that FBI investigations were impartial and objective. He was a superb administrator, a tough disciplinarian, an able and exceptional man.

We have lost a truly great American to whom all of us owe a debt of gratitude.

FREE MARKET DISCIPLINES?

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, yesterday's announcement by Donald Rumsfeld, Director of the Cost of Living Council, that all wage and price controls would be removed from business firms with fewer than 60 employees is, indeed, welcome news for many employers and employees in this country. It is especially heartening to see our former colleague, Director Rumsfeld, state:

> . . . (it) appears to us that competition will exert pay and price control on these small businesses.

In other words, these estimated 5 million firms, which account for about 28 percent of the Nation's payroll, are being asked to return to a constructive alternative, that is, the free market place. In my opinion, that is what we should do with the entire wage and price control activity and it is my plea that the administration follow suit with the rest of the private enterprise economy and governmental agencies immediately.

The administration is to be complimented for lifting wage and price controls in this segment of the economy and in a proper consideration of "fairness and equity" will undoubtably remove these unworkable controls from other affected areas of the economy.

On November 11, 1971, I addressed my colleagues and stated that:

> The constructive and positive alternative to the use of wage and price controls is the free market. The free market permits the consumer to make the final determination on the basis of the daily free vote of what the consumer intends to either purchase or not purchase.

At that time, I asked that my colleagues review a chapter from the book of Leonard E. Read, "Let Freedom Reign," chapter 8 entitled "Free Market Disciplines." Since my former colleague, Donald Rumsfeld, has suggested that "competition will exert pay and price controls on small businesses"—which really means the free marketplace—I, therefore, ask once again that my colleagues consider the very thoughtful remarks of Leonard Read in his chapter entitled "Free Market Disciplines."

FREE MARKET DISCIPLINES

Contrary to socialistic tenets, the free market is the only mechanism that can sensibly, logically, intelligently discipline production and consumption. For it is only when the market is free that economic calculation is possible.[1] Free pricing is the key. When prices are high, production is encouraged and consumption is discouraged; when prices fall, the reverse holds true. Thus, production and consumption are always moving toward equilibrium. Shortages and surpluses are not in the lexicon of free market economics.

Conceded, the above is no news to those who apprehend free market economics; they well know of its disciplinary influence as regards production and consumption. This alone warrants our support of the free market. However, the free market has two other quite remarkable disciplinary possibilities which have seldom been explored.

Before making that exploration, it is necessary to recognize the limitations of the free market. The market is a mechanism, and thus it is wholly lacking in moral and spiritual suasion; further, it embodies no coercive force whatsoever. In these respects, the market is without disciplinary possibilities.

"Like all mechanisms, the market, with its function for the economizing of time and effort, is servant alike to the good, the compassionate, and the perceptive as well as to the evil, the inconsiderate, and the oblivious."[2] Scrupulousity is not among its characteristics.

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[1] Professor Ludwig von Mises establishes this point, irrefutably, in his book, *Socialism* (London: Jonathan Cape Ltd., 1969).

The free market is a name we give to the economic activities—a short-hand term, we might say—of a people acting freely, voluntarily, privately, cooperatively, competitively. It is distinguished by universal freedom of choice and the absence of coercive force. Ideally, only defensive force—government—is employed to put down fraud, violence, predation, and other aggressions.

Given a society of freely choosing individuals, the market is that which exists as a consequence—it is a mechanism that is otherwise nondefinitive. It is the procession of economic events that occur when authoritarianism—political or otherwise—is absent.

While private enterprise is often practiced in a manner consonant with free market principles, the two terms are not synonymous. Piracy is an enterprise and also private. Many businesses when in league with unions, for instance—willingly or not—feature elements of coercion and thus are not examples of the free market at work.

The free market has only been approximated, never fully attained, and, doubtless, never will be realized. It is an out-of-reach ideal; we can only move toward or away from it. Yet, in the U.S.A., even in these days of a rapidly growing interventionism, the free market flourishes to a remarkable extent. To appreciate this, merely envision the countless willing exchanges—hundreds of millions daily—such as Mrs. Jones swapping a shawl she had made for a goose Mrs. Smith has raised, or the money you pay for a phone call or a quart of milk. In these instances, each party gains, for each desires what he gets more than what he surrenders. In a word. the free market is individual desire speaking in exchange terms. When the desire for Bibles is accommodated in noncoerced exchange, we can conclude, quite accurately, that we are witnessing a market for Bibles. Or, when the desire for pornography is being thus accommodated, we can conclude that there is a market for trash. I repeat, scrupulosity is not a feature of the market.

When the desires of people are depaved, a free market will accommodate the depravity. And it will accommodate excellence with equal alacrity. It is "servant alike to good . . . and evil."

AN AMORAL SERVANT

It is becauuse the free market serves evil as well as good that many people think they can rid society of evil by slaying this faithful, *amoral* servant. This is comparable to destroying the sun because we don't like the shadows we cast or breaking the mirror so that we don't have to see the reflection of what we really are.

When I sit in front of a TV and view trash, I tend to rant and rave at what I'm seeing. Wake up: What I hear and see is a reflection of what's in me! Thus, my only corrective is to read a good book or otherwise cease to patronize such low-grade performances.

The market is but a response to—a mirror of—our desires. Once this harsh reality is grasped, the market becomes a disciplinary force. To elaborate: Say that a person desires, buys, and reads a filthy book. Were he to realize that what he's reading is a picture of what's in his own make-up, such a realization, by itself, would tend to change him for the better. The market would then reflect the improvement. But note that the market has no such effect on those who are oblivious to this fact. *It's the knowledge of this character-revealing fact that makes of the market a disciplinary force.* I am only trying to point out the market's potentiality in this respect.

Instead of cursing evil, stay out of the market for it; the evil will cease to the extent we cease patronizing it. Trying to rid ourselves of trash by running to government for morality laws is like trying to minimize the effects of inflation by wage, price, and other controls. Both destroy the market, that is, the reflection of ourselves. Such tactics are at the intellectual level of mirror-smashing, attempts not to see ourselves as we are. The market's potentiality as a disciplinary force is thereby removed. To slay this faithful, amoral servant is to blindfold, deceive, and hoodwink ourselves. Next to forswearing a faith in an Infinite Intelligence over and beyond our own minds, denying the market is to erase the best point of reference man can have. So much for the first somewhat unexplored possibility of the market as a disciplinary force.

IMPERFECT MAN

Now to the second. This cannot be explained unless we are aware of our numerous shortcomings, of how narrow our virtues and talents really are—everyone's no exceptions.

Let's take, for example, the greatest mathematical genius who ever lived. He's a giant in his field. Yet, without any question, he's a know-nothing in countless other ways. This goes for outstanding generals, chemists, physicists, scientists or whatever brand. No one ever gets more than an infinitesimal peek at the Cosmic Scheme, at the over-all luminosity, even at himself. We must see that the biggest among us is tiny. And one who denies this about himself is displaying the greatest ignorance of all; he doesn't even know how little he knows! "If we wish to know anything we must resign ourselves to being ignorant of much."[3]

Reflect on this human reality, on imperfect man, particularly on the more imaginative and brilliant individuals among us. While they possess an outstanding and remarkable aptitude or two, they, too, are daydreamers. "If only I had a million dollars," is a dream that flashes across countless minds. Many of these specialists want above all else to pursue their own peculiar bent whether it be going to the moon, genetic alteration of other human beings, releasing the atom's energy, or whatever.

Knowing so much about one thing and so little about everything else, they are unable to know what effect their ambitions, if achieved, might have on the human situation. Just as a baby with a stick of dynamite and a match is unaware of what the consequences might be!

The lamentable fact is that scientists, pseudo scientists, and other technologists have been given a wishing well: the Federal grab bag. They, thus, are encouraged to carry out any experiment their hearts desire, without let or hinderance. Leaving aside the destruction of our economy by inflation—featured in the grab bag's financing—they are alarmingly endangering all the people on this earth, even the earth itself. And primarily because they suffer no restraining and disciplinary forces; their passions and ambitions are on the loose!

THE DISCIPLINE OF THE MARKET

The remedy? Let these ambitions be submitted to the discipline of the market precisely as are most other commodities and services. Go to the moon? Of course; that is, when the market permits the venture, if enough people voluntarily subscribe the cash. Release the atom's energy? By all means; that is, when the market is ready for it.

Am I saying that the market has a wisdom superior to the President of the United States, or the Congress, or a bureaucarcy? I am not. The market is a mechanism and is neither wise nor moral. I am only claiming that it has disciplinary qualities. To understand why requires no more than a knowledge of what the components of this mechanism are: millions upon millions of individual preferences, choices, desires. *The market is an obstacle course;* before I can pursue my bent or aptitude or obsession, I must gain an adequate, voluntary approval or assent! No wishing well, this! My own aspirations, regardless of how determined, or lofty, or depraved, do not control the verdict. What these others—impersonal as a computer—will put up in willing exchange for my offering spells my success or failure, allows me to pursue my bent or not.

These are exceptions to this rule, of course. For instance, some of us who may be unable to win the market will, like Van Gogh, face starvation in order to pursue our passions. The threat of starvation, however, is quite a discipline in itself; at least, not much is likely to be uncovered in these circumstances that will destroy life on earth. It takes big financing to do unearthly things.

The market very often returns fortunes for comparative junk and, on occasion, returns nothing at all for great and beneficial achievements—temporarily, that is. Eventually, in a free society, the junk goes to the junk heap and achievements are rewarded.

I believe that anyone should follow his star; but let him do so with his own resources or with such resources as others will voluntarily supply. This is to say that I believe in the market, a tough, diciplinary mechanism. I do not believe in cars without brakes, impulses without repulses, ambitions with check points, wishes run riot. Societal schemes that are all sail and no ballast head society for disaster!

The rebuttal to this line of reasoning is heard over and over again: "But we voted for it," meaning that the Federal grab bag—open sesame with other people's income—has been democratically approved. Granted! But this is nonsense: the fruits of the labor of one man are not up for grabs by others, that is, not rationally.[4] This is not a votable matter, except if one's premise be a socialistic society. What's right and what's wrong are not to be determined at the shallow level of nose-counting or opinion polls. To argue otherwise is to place the same value on the views of morons as you do on your own.

As a disciplinary force over wild aspirations, the President of the United States, a member of Congress, a bureaucrat is not only less effective than the market but less effective than any single buyer or seller in the market. An individual, when a government official, considers only how much of other people's money should be spent. The motivation in this instance favors spending over economizing. The same individual, in the free market, considers how much of his *own* property he is willing to put on the line. The motivation in this instance is self-interest. And this is tough! Ambitions as silly as tracking the meandering of polar bears by a nimbus satellite stand a chance for satisfaction when a grab bag made up of other people's money is readily at hand;[5] whereas, the free market gives short shrift to projects that are at or near the bottom of individual preferences.

True, were personal ambitions subjected to the disciplines of the market, trips to the moon would have to be postponed. Atomic energy might be a phenomenon of the future. Many other scientific explorations—some secret—taking place today in our universities and Federally financed would, under the discipline of the market, still be safely stored in imaginative minds.

This is no argument against technological breakthroughs. It is merely to suggest that these illuminations be financially encouraged only as the free market permits. The resulting steadiness in progress might then be harmonious with an expanded understanding of what it is we really want and can live with.

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[2] See "Value—The Soul of Economics," by W. H. Pitt. *The Freeman*, September, 1969.

[3] John Henry Newman.

[4] For what I consider to be a rationally constructed explanation of this point, see "The Limits of Majority Rule" by Edmund A. Opitz. Copy on request.

[5] See "The Migration of Polar Bears," *Scientific American*, February, 1968.

I repeat, societal schemes that are all sail and no ballast head society for disaster. The free market is ballast—a stabilizer—we might well put to use if we would avoid wreckage in the stormy seas of political chaos.

TRIBUTE TO J. EDGAR HOOVER

(Mr. DANIELSON asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, I was much saddened this morning to learn of the sudden death of J. Edgar Hoover. He served our country for a very long time and had occupied a position of highest prominence probably for a longer time than any other public servant. More than 50 years ago, shortly after World War I, he took over the law enforcement arm of the Department of Justice when it was standing in poor repute and public disfavor. Guided by the highest principles of professional law enforcement, and with a firm but fair hand, he built that organization into the finest law enforcement organization of all time and set a standard of performance which, for more than a generation, has been the standard of the world.

I had the honor of serving for more than 5 years as a special agent of the FBI under Mr. Hoover's direction before and during the early part of World War II. We were a small organization at that time. I clearly recall that when my class graduated from the training school, he came in and visited with us and observed that for the first time, the Bureau's total strength had reached 750. Although the workload for that organization was immense, it was good to be small, for we all knew each other either personally or by reputation. There was a strong sense of oneness in the Bureau, for none of us ever doubted, nor was there reason to doubt, that each of us could at any time rely completely on the support and the integrity of each other. That spirit was felt throughout the Bureau and was the reflection of the dedication and integrity which J. Edgar Hoover brought to the FBI.

Law enforcement will be the poorer now that Mr. Hoover is gone, but both law enforcement and America are infinitely richer because he lived.

THE ABORTION RIGHTS ACT

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Mrs. ABZUG) is recognized for 60 minutes.

Mrs. ABZUG. Mr. Speaker, I am today introducing a bill that will, if enacted, finally and completely affirm the right of every American woman to choose whether or not she will be the mother of a child. H.R. 14715, the Abortion Rights Act of 1972, will give women the freedom of choice so long denied them by restrictive abortion laws which the Federal Government and individual States have passed over the years. These laws have consistently limited and qualified a women's constitutional right to choose whether to terminate a pregnancy.

At the basis of the abortion debate that has gone on in this country since a State passed the first abortion law in the early 1800's is the question of a woman's right to choose.

There are other aspects of the abortion debate—legal, medical, religious, moral, and ethical questions—which for many people, caught up in this difficult period of social transition, present real obstacles to an acceptance of the concept of freedom of choice which is at the basis of the abortion movement.

Abortion is a controversial subject, and there are many diverse views with regard to it. Every woman should have the right to decide for herself whether she wishes to have an abortion. No woman should be required to have an abortion if her conscience forbids it, but no woman should be prevented from having an abortion because the conscience of some other individual would be offended by it. This freedom of choice for each and every female is all that is proposed here. Those who do not believe in abortion will be completely able to go on believing and practicing that tenet, but those whose beliefs are otherwise would henceforth have an equal right to practice their own philosophy.

THE CONSTITUTIONAL RIGHT TO ABORTION

I expect that some questions will be raised concerning the power of Congress to enact a bill such as this. I have researched this question extensively, and I believe that the bill, if enacted into law, would withstand any challenge as to its constitutionality.

Briefly stated—and I am going to discuss this in considerable detail below—the rationale supporting our power to enact this bill is as follows:

First, there exists a constitutional right of privacy, which includes the right of a female to terminate a pregnancy that she does not wish to continue.

Second, this right is a fundamental one, and applies to the States—through the due process clauses of the 14th amendment—as well as to the Federal Government.

Third, there is no countervailing governmental or public interest of a compelling or other nature which would justify the infringement of this right by the Federal Government of by any State.

Fourth, Congress possesses all legislative powers with regard to the Federal Government, and is empowered to enact "appropriate legislation" to enforce the restrictions which the 14th amendment places upon the States.

Fifth, in the exercise of these powers, Congress may prohibit the United States and the States from acting in a manner which "infringes the right of any female to terminate a pregnancy that she does not wish to continue, or which deprives any female of access to adequate medical assistance in the exercise of such right."

The literal wording of the Constitution does not establish a specific right to privacy or right to abortion, but our consideration cannot end with that fact. Many rights have been held to be constitutionally protected even though not expressly set forth in the Constitution. In the "family" context into which the question of abortion falls, there have been held to be constitutional rights to marry, to have offspring, to use contraceptives to avoid having offspring, and the right to control the upbringing and education of one's offspring. *Loving* v. *Commonwealth of Virginia*, 388 U.S. 1 (1967); *Skinner* v. *Oklahoma*, 316 U.S. 535 (1942); *Griswold* v. *Connecticut*, 381 U.S. 479 (1965); Eisenstadt against Baird; *Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925); *Meyer* v. *Nebraska*, 262 U.S. 390 (1923).

Griswold against Connecticut, supra, is the first case to definitively establish that there exists a constitutional right of privacy. The appellants in that case, whose learned counsel, Prof. Thomas Emerson, was among the many people who assisted me in the preparation of this legislation, had given information and instruction to married couples in the use of contraceptive devices and had been convicted as accessories to the violation of a Connecticut statute which prohibited the use of such devices. The seven Justices who voted to reverse the conviction propounded different rationales for so doing, but all four opinions on the majority side agreed that there was a constitutional right of privacy which was unjustifiably violated by the statute in question.

Justice Douglas, writing for the Court, began by noting a number of cases which set forth constitutional freedoms of expression which go beyond the literal wording of the first amendment, but which are necessary to clearly secure the rights which are expressly set forth in that amendment. He continued as follows:

> The foregoing cases suggest that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. [citation omitted] Various guarantees create zones of privacy. The right of association contained in the penumbra of the First Amendment is one, as we have seen. The Third Amendment in its prohibition against the quartering of soldiers "in any house" in time of peace without the consent of the owner is another facet of that privacy. The Fourth Amendment explicitly affirms the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." The Fifth Amendment in its Self-Incrimination Clause enables the citizen to create a zone of privacy which government may not force him to surrender to his detriment. The Ninth Amendment provides: "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.
>
> The Fourth and Fifth Amendments were described in *Boyd v. United States*, 116 U.S. 616, 630, as protection against all governmental invasions "of the sanctity of a mans home and the privacies of life." [Footnote omitted.] We recently referred in *Mapp v. Ohio*, 367 U.S. 643, 656, to the Fourth Amendment as creating a "right to privacy, no less important than any other right carefully and particularly reserved to the people." [Citations omitted.]
>
> We have had many controversies over these penumbral rights of "privacy and repose." [Citations omitted.] These cases bear witness that the right of privacy which presses for recognition here is a legitimate one. 381 U.S., at 484–85.

Justice Goldberg, writing for himself, Chief Justice Warren, and Justice Brennan, stated that the due process clause of the 14th amendment protects fundamental personal rights beyond those specified in the wording of the Bill of Rights:

> * * * The language and history of the Ninth Amendment reveal that the Framers of the Constitution believed that there are additional fundamental rights, protected from governmental infringement, which exist alongside those fundamental rights specifically mentioned in the first eight constitutional amendments.
>
> The Ninth Amendment reads, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." The Amendment is almost entirely the work of James Madison. It was introduced in Congress by him and passed the House and Senate with little or no debate and virtually no change in language. It was proffered to quiet expressed fears that a bill of specifically enumerated rights [footnote omitted] could not be sufficiently broad to cover all essential rights and that the specific mention of certain rights would be interpreted as a denial that others were protected [footnote, citation, Hamilton, Federalist No. 84, omitted] 381 U.S., at 488–89.

Justice Goldberg went on to state that "the right of privacy in marriage" is a basic and fundamental right protected by the ninth amendment, and that it is further a right of the people which is protected from State, as well as Federal infringement, by the due process clause of the 14th amendment.

Justice Harlan, who believed that the due process clause of the 14th amendment stands independently of the Bill of Rights and protects "basic values 'implicit in the concept of ordered liberty,'" 381 U.S., at 500, and Justice White, who spoke of the "freedoms of married persons," 381 U.S., at 507, also found the statute in question unconstitutional.

In the 7 years since the Griswold decision, the right of privacy has been significantly broadened by the courts. Only a few weeks ago, for example, the Supreme Court used it to strike down a Massachusetts law which prohibited only unmarried individuals from using contraceptives. Eisenstadt against Baird, supra. In a long series of decisions by State and Federal appellate courts below the Supreme Court, the right of privacy has also been held to include the right of a female to terminate a pregnancy that she does not desire to continue.

Justice Goldberg's opinion in Griswold contained the first suggestion of this when it referred to the "totalitarian limitation of family size" as being "at complete variance with our constitutional concepts." 381 U.S., at 497. The first decisions directly striking down abortion statutes, however, did not come until the autumn of 1969, and the first case striking down such a law due to its violation of the female's right to abortion was handed down in March 1970.

In *People* v. *Belous*, 71 Cal. 2d 854, 458 P. 2d 194, 80 Cal. Rptr. 354 (1969), *cert. denied*, 397 U.S. 915 (1970), the Supreme Court of California ruled that that State's old criminal abortion statute was invalid because the criteria it laid down, including the requirement that the abortion be "necessary to preserve" the life of the mother, were unconstitutionally vague. The court further noted that "the fundamental right of the woman to choose whether to bear children" is clearly a part of the right of privacy set forth in Griswold and other Supreme Court rulings relating to marriage and the family, 458 P. 2d. at 199.

In *United States* v. *Vuitch*, 305 F. Supp. 1032 (D.D.C., 1969), reversed, 402 U.S. 62 (1970), the district court found that the District of Columbia abortion statute was unduly vague and therefore violative of the due process clause of the fifth amendment. The court went on to note that recent Supreme Court decisions gave "increasing indication" that:

> A woman's liberty and right of privacy extends to family, marriage and sex matters and may well include the right to remove an unwanted child at least in early stages of pregnancy. 305 F.Supp., at 1035.

The Supreme Court reversed the lower court decision in this case because it determined that the statute was constitutional if narrowly construed. It expressly referred to the district judge's comments on the right of privacy, stated that in its opinion, his decision was grounded solely on the vagueness question, and added that its decision was solely on the vagueness question.

The first case to declare an abortion statute unconstitutional squarely on the ground that it violated the mother's right to privacy was *Babbitz* v. *McCann*, 310 F. Supp. 293 (E.D. Wis.), app. dismissed, 400 U.S. 1, injunction granted, 320 F. Supp. 219 (E.D. Wis., 1970), vacated and remanded on other grounds, 402 U.S. 903 (1971). In that case, a three-judge court held that:

> The police power of the state does not . . . entitle it to deny to a woman the basic right reserved to her under the ninth amendment to decide whether she should carry or reject an embryo which has not yet quickened. 310 F.Supp., at 302.

In *Roe* v. *Wade*, 314 F. Supp. 1217 (N.D. Tex., 1970), juris. postponed to hearing on merits, 402 U.S. 941 (1971) a three-judge district court held the Texas abortion statutes unconstitutional "because they deprive single women and married couples of their right, secured by the ninth amendment, to choose whether to have children." 314 F. Supp., at 1221.

The Illinois statute fell in *Doe* v. *Scott*, 321 F.Supp. 1385 (N.D. Ill., E.D. 1971), wherein the court referred to "women's rights to life, to control over their own bodies, and to freedom and privacy in matters relating to sex and procreation," 321 F. Supp., at 1389, and held that the "zone of privacy" recognized by Griswold and its progeny includes the right of abortion within its parameters. A number of other cases, including *Doe* v. *Bolton*, 319 F.Supp. 1048 (N.D. Ga., Atlanta Div., 1970), juris. postponed to hearing on merits, 402 U.S. 941 (1971), *Abromowitz* v. *Kugler* (D.N.J., 1972), and *People* v. *Barksdale*, 1 Crim. 9526 (Dist. Ct. App., 1971), have invalidated abortion statutes in whole or in part due to their violation of the right of a woman to control her own body.

Under our Constitution, even fundamental personal liberties are not absolute. However, where such a right is involved, and a State desires to encroach upon it, "the State may prevail only upon showing a subordinating interest which is compelling," *Bates* v. *Little Rock*, 361 U.S. 516, 524 (1960). In relating this to the right to terminate pregnancy, former Justice Tom Clark's recent article, "Religion, Morality, and Abortion: A Constitutional Appraisal," 2 Loyola U.L.Rev. 1 (1969), stated that—

> [U]nless the State has a compelling subordinating interest that outweighs the individual rights of human beings, it may not interfere with a person's marriage, home, children, and day-to-day living habits. This is one of the most fundamental concepts that the Founding Fathers had in mind when they drafted the Constitution. 2 Loyola U.L.Rev. at 8.

Griswold plainly implies that this strict test must be applied with regard to the right of abortion, and the Belous, Babbitz, Wade, and Scott cases expressly so state.

In Babbitz, supra, the court considered three possible State interest justifications for regulating abortions. The interest of the State in protecting the embryo, the need to protect the life and health of the mother, and the discouragement of nonmarital sexual intercourse were all held to be insufficient grounds for such regulation.

I ask that the text of relevant court decisions, relevant portions of briefs filed in the Supreme Court in the Wade and Bolton cases pending there, a pre-Griswold article by Norman Redlich, and Justice Clark's article be included in the RECORD at the conclusion of my remarks.

It is beyond doubt that a constitutional right of privacy exists and that its scope is quite broad. This right, or zone, includes the right of a female to terminate a pregnancy that she does not desire to continue. This right is fundamental and as such it is binding upon the States under the due process clause of the 14th amendment and subject to infringement only in furtherance of a compelling governmental interest to the contrary. No such compelling interest has been demonstrated to date, and I do not believe that such an interest exists.

THE POWER OF CONGRESS TO STRIKE DOWN STATE LAWS WHICH RESTRICT THE RIGHT TO ABORTION

The Supreme Court has yet to rule on the question of whether there is a constitutional right to abortion. The Wade and Bolton cases have been argued before it and will almost surely be decided before the term ends in June, and the rulings in those cases may enunciate the right which I believe exists. It is also possible that the Court will fail to reach the merits, or that it will decide that the challenged statutes do not violate the 14th amendment. However, even if the Court reaches the last of these possible conclusions, Congress will probably retain the power to pass a statute nullifying State abortion laws.

The only exception to this would be a Supreme Court determination that State abortion laws are constitutionally required; to say the least, it is highly unlikely that the Court will reach this conclusion.

Section 1 of the 14th amendment provides as follows:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which

> shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 5 of that amendment provides that—

> [t]he Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The nature of Congress power, under section 5, to enforce the guarantees set forth in section, was discussed at length in *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966). In enacting the Voting Rights Act of 1965, Congress included a provision that no person who has successfully completed the sixth grade in a public or accredited private school in the United States, including Puerto Rico in which the predominant classroom language was other than English, shall be prevented from voting in any election because of his ability to read or write English. The provision was accompanied by a congressional finding that it was necessary to secure the 14th amendment rights of the persons affected. In 1959, in *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45 (1959), the Supreme Court had ruled that literacy tests, if fairly administered, did not violate the Constitution.

The appellees in Morgan argued that although Congress had the power to enforce the 14th amendment, it could only prohibit State activities which were violative of that amendment, and further, that the courts had the responsibility to make the ultimate determination of whether the prohibited activity was unconstitutional. They argued that since the New York literacy test in question had not been shown to have been unfairly applied, it was constitutionally permitted under the Lassiter decision and not subject to prohibition by Congress.

The Court, by a 7 to 2 margin, rejected this argument. It held that section 5 of the 14th amendment was designed to give Congress "the same broad powers" with respect to carrying out the substantive provisions of the amendment as the necessary and proper clause of the original Constitution, article I, section 8, gave it with respect to carrying out the substantive powers granted in that document:

> § 5 is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment. 384 U.S., at 651.

The test of the constitutionality of a congressional enactment under section 5, was identical to the standard with respect to the necessary and proper clause which was set forth in *McCulloch* v. *Maryland*, 4 Wheat. (17 U.S.) 316 (1819): the law must be designed to enforce a provision of the Constitution; it must be plainly adapted to that end; and it must must not by its terms violate any other provision of the Constitution.

The Court found that the challenged statute satisfied this three-pronged test. It was meant to enforce the equal protection clause of the 14th amendment on behalf of persons who had migrated to New York City from Puerto Rico and who had been denied the right to vote because they could not read or write English. It was "plainly adapted" to enforce this clause because the Congress could and did find that giving these people the vote would enhance their political power and help in assuring that they would not be discriminated against as Puerto Ricans:

> It was well within congressional authority to say that this need of the Puerto Rican minority for the vote warranted federal intrusion upon any state interests served by the English literacy requirement. It was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental services, the effectiveness of eliminating the state restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interests that would be affected by the nullification of the English literacy requirement as applied to residents who have successfully completed the sixth grade in a Puerto Rican school. *It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did.* 384 U.S., at 653 (emphasis added).

The Court also found that the law in question did not violate any other provision of the Constitution.

In other words, Congress has the power to find that a given State statute or activity violates the 14th amendment, and to enact legislation which, in its judgment, will ameliorate that violation, so long as that remedial legislation does not itself violate the Constitution.

The issue of congressional powers under the 14th amendment came before the Court, once again in a voting rights context, in *Oregon* v. *Mitchell*, 400 U.S. 112 (1970). The Voting Rights Act Amendments of 1970 enfranchised citizens 18 years of age and older in Federal, State, and local elections. The amendments also prohibited the use of literacy tests in State and Federal elections and set up limited residence requirements for presidential and vice presidential elections, but these titles of the act, and the Court's treatment of their constitutionality, are not relevant to our discussion of congressional power.

In ruling on the title of the act which lowered the voting age to 18 in State and local, as well as Federal elections, four Justices found it to be entirely unconstitutional and four found it to be entirely constitutional. Justice Black believed that it was constitutional as to Federal elections, but not as to State and local contests, and his swing vote determined the outcome. In rejecting the argument that the decision in Morgan permitted the Congress to find that an age minimum of 21 years violated the equal protection clause and to prohibit the States from enforcing such a minimum, Black stated that the primary purpose of the equal protection clause was to prevent discrimination because of race, and that Congress could not invade an area reserved to the States by the Constitution unless it found that racial discrimination was involved. It is important to note that although Black's opinion in Oregon against Mitchell announced the judgments of the Court, it was his alone, and no other Justice joined him in it.

The other four Justices who voted that Congress could not lower the voting age to 18 for State and local elections did so for a variety of reasons. Justice Harlan presented a lengthy historical discourse which he said indicated that the equal protection clause was not intended to apply to State-imposed limitations on voting rights, even where those limitations were imposed in a racially discriminatory fashion. Justice Stewart, writing for himself, Chief Justice Burger, and Justice Blackmun, based his determination on the ground that while Congress has broad power to determine what action is appropriate to enforce the guarantees of the 14th amendment, it lacks the power to determine the substantive content of those guarantees and to decide what State interests are compelling." Thus, only three, and possibly four, of the members of the Court which decided Oregon against Mitchell raised any questions as to the continuing vitality of Katzenbach.

Thus, Congress has the power to enact this legislation, which would strike down State criminal abortion laws, if it can reasonably find that those laws, either on their face or as applied, violate the constitutional rights of individuals subject to them. I believe that State abortion statutes violate both the due process and the equal protection clauses of the 14th amendment.

As I stated earlier in my discussion of the constitutional aspects of the bill I am introducing today, there is a constitutional right of privacy, and it includes the right of any female to terminate a pregnancy that she does not wish to continue. As a fundamental right, it is part of the "liberty" protected by the due process clause, and is binding upon the States as such. *Griswold* v. *Connecticut*, supra, at 493.

State abortion statutes also violate the equal protection clause, for they clearly discriminate against the poor. Justice Clark's article, for example, refers to "the double standard which permits those with social status and financial ability to obtain abortions, while those in the lower social and economic classes are denied this opportunity," Clark, supra, at 6, and Justice White's concurring opinion in Griswold noted that the effect of the anticontraceptive statutes was to deny disadvantaged individuals, "those without either adequate knowledge or resources" to obtain counseling and assistance in birth control. Women in the upper-middle and upper classes have the wherewithal to either get a friendly physician to perform an abortion when one is needed or to travel to a jurisdiction where abortion is legal. Low income women do not have this opportunity, and it is the action of the State, in enacting and enforcing its abortion laws, which denies it to them. See, *Griffin* v. *Illinois*, 351 U.S. 12 (1956); *Harper* v. *Virginia State Board of Elections*, 383 U.S. 663 (1966); *Williams* v. *Illinois*, 399 U.S. 235 (1970); *Morris* v. *Schoonfield*, 399 U.S. 508 (1970). Even if the Supreme Court were to hold that abortion laws are not unconstitutional per se because there is no constitutional right to abortion, we in Congress could—and should—find that the application of these laws blatantly violates the equal protection clause and strike them down on that basis.

Mr. Speaker, I ask that the text of the decisions of the Supreme Court in Katzenbach against Morgan and Oregon against Mitchell be included in the RECORD at the conclusion of my remarks.

To sum up, there is a constitutional right of privacy which includes the right of a female to terminate a pregnancy that she does not wish to continue. This right is fundamental and binding upon the States under the due process clause of the 14th amendment; also, it may be limited only in furtherance of a compelling State interest, and no such interest has been or can be advanced.

Even if such a right does not exist, State abortion laws are applied in a manner which violates the equal protection clause.

In either case, Congress has the authority to find that these State statutes violate the constitutional rights of individuals and, having made that finding, has the power to nullify them in the exercise of its power to enforce the 14th amendment.

MEDICAL, SOCIAL, AND PSYCHOLOGICAL ASPECTS OF THE RIGHT TO ABORTION

I turn now to the medical, social, and psychological aspects which directly relate to the need for abortion.

One of the main problems is that of the illegal abortionist. He may be anyone from a doctor who is willing to risk his practice because he believes in abortions to a garage mechanic with a penchant for earning a few extra dollars on the side. It is estimated by Dr. Lester Breslow, president of the American Public Health Association and professor of preventive and social medicine at the University of California that at least 1 million illegal abortions are performed in this country every year. This certainly is an extremely serious problem in objective medical terms. It is ironic to note that the main reason for enactment of abortion laws in the early 19th century was that surgical operations that entered the body cavity, even when performed by physicians, were frequently fatal, and that today abortion performed by a physician is seven times as safe as childbirth.

But no one can tell how dangerous an abortion is when it is performed by an illegal abortionist. Thousands of women every day check into hospitals across the country with hideous infections of the uterus, or hemorrhaging or with perforated organs—all as a result of illegal abortions.

When a law is being violated to such a great extent, there must be something terribly wrong with the law. The book, "Abortion Rap," by Diane Schulder and Florynce Kennedy, discusses one case in New York where a teenage girl was having an abortion in a doctor's office, and the police broke in. Her mother, who was in the waiting room, pleaded with them to at least let the doctor finish the operation. They refused and barged in on the operation and took the doctor and the young girl away—in the middle of surgery.

The problem of illegal abortions is excellently discussed by Harvey L. Ziff in a Law Review article entitled "Recent Abortion Reforms (Or, Much Ado About Nothing)." In the article, which appears at 60 Journal of Criminal Law, Criminology and Police Science 3 (1969), he states:

> The nature of the business requires that it be well organized, although illicit abortion services apparently are not controlled by any single organization. The professional abortionist needs an office, medical equipment, and some assistants. Customers must be able to locate him, even though he must maintain a certain amount of anonymity. Intervention by the police must be avoided as well.
>
> The court records in New York reveal the operations of two complex organizations known as abortion "mills" and "rings." The mill is comprised of one or several abortionists working regularly in a single locale and aborting a dozen women daily. The less common ring consists of "interacting abortionists or mills working intermittently at several occasionally changing locations and aborting an even more considerable number of women daily." The rings are clandestine and swiftly operating organizations. They may give the women a code number by telephone and order her to meet the abortion contact in a parking lot. There, the contact may blindfold her and give her sleep-inducing drugs. After the operation he will return her to the parking lot in less than an hour.
>
> A sizable portion of the price charged goes to intermediaries because the successful abortionist requires both business and medical assistants. He needs a shrewd secretary who can gauge the financial status of an applicant in order to charge the highest possible fee. He requires channels to direct patients to him. Physicians and druggists are the primary source of referral; others include women formerly aborted and satisfied with the results, taxi drivers and bell boys. Fees are split with all of these "feeders" except the former patients. The abortionist also has a business agent to handle contracts with the landlord, payment of salaries, bills, bribe money and split fees. The agent is usually a relative or close friend who can be trusted with this confidential position.
>
> Few police officers have any illicit connection with abortionists; however, some do take advantage of the opportunities for extorting a known abortionist who is working in a fixed location. A common practice is to send a decoy, willing to submit to the operation, to the abortionist. The officers stop her as she attempts to leave the office. After "protesting" the legitimate nature of her visit, she "breaks down" and "confesses." The abortionist, who cannot know whether the raid is "legitimate," has no choice but to agree to bribe the officers.
>
> The activities just described should not be tolerated even if one were to assume that illegal abortions are performed in a hygienic manner. The glaring need for adequate revision of the law thus becomes obvious when the suffering inflicted on women as a result of these activities is revealed.
>
> Illegal abortions are a significant contributor to injuries suffered by women. Early commentators estimated five to ten thousand deaths per year are caused by abortions. As the use of antibiotics and increased care has become more common, a lower figure of one thousand deaths per year may now be more accurate. Nevertheless, recent studies in California and New York indicate that criminal abortion remains responsible for more maternal deaths than any other cause. The most common victims are married housewives, with several children, who attempted to abort themselves.
>
> The techniques which cause death are numerous and variable. Several of these are often combined, each contributing to the fatality. Oral medications are commonly followed by direct assaults upon the uterus, apparently after the drugs seemed ineffective. These medications range from Castor oil to turpentine. Fluids injected into the uterine canal include pine oil, lysol, soap, and alcohol. Among the rigid objects forced into the uterus are chopsticks, copper wire, curtain rods, knitting needles, and coat hangers. Air is sometimes forced into the uterus by using a catheter, plastic straw, or football pump. Sepsis, i.e., infection, is the basic medical cause of death. Other medical causes of death, which may be found in combination with each other or with sepsis, include shock, hemorrhage, air or fat embolism, and poisoning.
>
> Even though the aborted woman usually survives, almost all abortions performed by persons other than qualified physicians cause medical complications which require treatment. As in fatal cases, the most common after-effect is sepsis because the uterus is a delicate organ which is highly susceptible to infection. Most women who induce their own abortions fail to take proper hygienic precautions. Mill abortionists, also, often omit elementary aseptic techniques in order to save time in performing operations and increase profits. To treat the infections which result, forty percent of women admitted to hospitals after improper abortions require blood transfusions; the average hospital stay is seven days. In some cases good medical procedure dictates an immediate and total hysterectomy without a delay to assess the effectiveness of antibiotic therapy. All cases of septic abortion call for early diagnosis, treatment, and meticulous supportive care.
>
> The amount of pain and humiliation inflicted by abortionists is staggering. Although physician-abortionists should be capable of operating in a professional manner without causing serious complications, the physician who has become a professional abortionist is almost invariably a deviate. Some are alcoholics who operate with disastrous results while they are intoxicated, and others are sexual perverts, as are many non-physician abortionists. Many criminal abortionists have little or no medical training, and come from the ranks of elevator operators, barbers, and unskilled laborers. Posing as physicians, they may attempt to perform a standard hospital operation known as a dilatation and curettage, or "D&C." The surgeon dilates the cervix, introduces a long, semi-sharp, spoon-shaped instrument called a curette, and scrapes the uterine cavity. Gentleness is the key to a proper operation; only a physician with obstetrical training is qualified to evacuate the uterus. Unskilled hands can easily damage the uterus and other nearby organs when they attempt this delicate procedure.
>
> The lack of medical training is compounded because anesthetics are seldom used, another attempt to complete operations quickly, and also a precaution against a medical accident resulting in complications or homicide. Accordingly, the following account of an abortion is understandable:
>
> Q. What did you feel at that time?
>
> A. Well, there was so much pain—and I just don't—I can't explain it really. I just know it was like my whole stomach was coming out.
>
> When the current laws were originally enacted, all abortions were dangerous procedures. Improvements have taken place in medical practice since that time. The D&C operation will be quite harmless when performed in a hospital under sanitary conditions today. The renowned physician Alan F. Guttmacher stated:
>
> "There is little scientific evidence that in the United States today . . . any marked deterioration in the physical condition of women, aborted for therapeutic reasons in a hospital setting, will take place. . . . If the operation is properly performed so that no infection or laceration of the cervix results, it will have no effect on either the health of the woman or her reproductive future."
>
> In addition to the D & C, an even safer,

> and almost painless, method of performing abortions in the early stages of pregnancy recently has been developed. In this procedure, the vacuum aspiration method, a tube connected to a suction pump is inserted into the uterus. The uteral contents are then evacuated by negative pressure from the pump. Dilatation is often unnecessary, thereby eliminating the need for an anesthetic in many cases. In contrast to the incidence of perforation of the uterus in normal curettage which ranges from 0.09 per cent to 6 per cent, the chance of perforation with vacuum aspiration is virtually 0 per cent; one study reported no cases of perforation in 4,000 pregnancy terminations. Furthermore, the entire procedure requires only one to three minutes.
>
> Obviously, all the suffering women endure because of the restrictive laws which compel them to perform crude and lethal operations on themselves, or submit to the butchery and lechery of criminal abortionists, is unnecessary. If sanitary facilities were made available to these women, this misery would be eliminated.

But there are other problems beside that of the incompetence of the illegal abortionist. What about the child that is the issue of an unwanted birth? What of the future life of a teenaged mother who is herself yet a child? What are the ramifications on society as a whole of one million illegitimate births a year? Many studies have been done on these questions. I would like to discuss a few of them and what they imply.

In 1966 a study was reported in a Scandinavian Psychiatric Journal. The aim of the study was to determine the mental health, social adjustment, and educational level of children born after their mothers had applied for legal abortion on psychiatric grounds, and had been refused. The results showed the damage. Twenty-eight percent of the children underwent some sort of psychiatric care in a clinic or hospital as compared with only 15 percent of the control group. Eighteen percent were classified as delinquents as opposed to 8 percent of the control group. The authors of this study look upon these figures as significant, as well as the following figure of the welfare statistic that 14 percent of the unwanted children were on public assistance, while only 2 percent of the control group was on welfare.

The conclusion to which the authors of the study come is this: The hardships for unwanted children throughout their lives are far greater in every aspect of society than for other children. They go on to say that—

> The very fact that a woman seeks an authorized abortion, no matter how trivial her grounds may appear to some, means that the expected child will run a larger risk than its peers of an inferior standing in life.

The problem of unwanted children is a critical one, and occurs most often in poor families. They are most likely to have larger families, and are more likely to suffer the ill effects of too many children. It has always been the case that if a wealthy woman wanted an abortion, it was available to her. Poor women, on the other hand, have been compelled to bear their unwanted children and to subject them to the deprived environment of poverty. Studies have demonstrated that in the United States alone, there are presently about 5.4 million medically indigent women in need of family planning. Other social ills, not necessarily limited to the poor, affect the families of unwanted children: in an early marriage for instance, the young father is forced out of the educational process and into a job of unskilled labor. He is rarely able to go back to school or into a training program for fear that the little money he is getting would stop coming in.

The child, then, is born in a poverty-subsistence environment, with all the attendant deprivations—lack of education, unstable family situation, malnutrition—which contribute to the creation of an unhappy, unstable adult who has a difficult time adjusting to society. The report goes on to elaborate:

> Children who lack a welcoming and nurturing parental home can be counted along a continuum of extrusion from the family origin. The continuum includes adoption, foster home placement, court action for neglect and dependency, and less severe but indifferent or otherwise unsatisfactory parental role performance within the family of origin.

It further states that—

> Children born and living in their early years under psychological rejection by mothers, social abandonment by fathers, poverty, and other disadvantaged conditions, are exposed to the risk of impaired development which, regardless of all other consequence, is economically important as a cause of inferior earning power at maturity.

The report also discusses the problem of older women, taken out of the labor market when they had children at an earlier age. These mothers usually try to get back into the labor market, but are effectively restricted because of their age, lack of skill and limited educational background.

Another problem is that of how the mother deals with abortion. Our opponents would have us believe that the mother who seeks an abortion is initially abnormal, or if she is not, that the abortion will cause her to have massive feelings of guilt which will haunt her conscience for the rest of her life. This is simply not the case. In a review of studies on the subject, Dr. George S. Walter, in "Obstetrics and Gynecology", published in 1970, says that:

> Consideration of the emotional stresses of parturition would suggest that induced abortion could be a traumatic and damaging episode in a woman's life. Extensive review of the literature reveals that this has not been true. In fact, for the healthy woman with a happy marriage, abortion is most often truly theraputic . . .

He also points out one of the most important reasons why abortion is not part of our national family planning policies attitudes within the health profession itself:

> Abortion is foreign to the attitudes fostered in physicians during their medical training; the gynecologist, the one to do the abortion, has a basic psychological conflict. A whole generation of professional health workers refuses to let the myth die out that abortion will irreparably harm a woman and somehow place a stigma on her. Physicians remain adament. The male physician won't let the woman decide—reminiscent of the moralistic attitude about pain relief in childbirth before Queen Victoria demanded it for herself. The pregnant woman symbolizes proof of male potency, and if the male loosens his rule over women and grants them the right to dispose of that proof when *they* want to, the men then feel terribly threatened lest the woman can, at will, rob them of their potency and masculinity. This flaunting of traditional subservience may be one of the more powerful and less conscious determinants of our irrational opposition to granting women the right to decide matters in this crucial area of their lives. It may also function in the frequent insistence upon sterilization as a "package deal" with abortion. In this way, the male physician can maintain control. . . .

There is also the severe problem of population growth. Although the rate seems to have leveled off, most statisticians agree that at the present rates of birth and death, and at the rate we use up natural resources, we will have an extreme global survival problem by the year 2020.

The President's Commission on Population Growth acknowledges the problem by supporting abortion as one of the acceptable methods of family planning:

> The abortion issue raises a great number of moral, legal, public health and demographic concerns. As a group, the Commission has carefully considered these issues and based on their personal views, individual members of the Commission have resolved these questions differently.
>
> A few members of the Commission are opposed to abortion. These Commissioners consider abortion a remedial measure, and choose to emphasize society's responsibility for improving and enriching the lives of all citizens.
>
> Some Commissioners approve of abortion only under the specific conditions set forth in the American Law Institute model abortion statute. These Commissioners believe that no woman should be forced to bear a child, thereby endangering her physical and mental health. Their concern is that abortion be available only on a limited basis and that it be considered as a last resort to protect life and health.
>
> *The majority of the Commission believes that women should be free to determine their own fertility, that the matter of abortion should be left to the conscience of the individual concerned, in consultation with her physician, and that the states should be encouraged to enact affirmative statutes creating a clear and positive framework for the practice of abortion on request.* (Emphasis added)

CONCLUSION

This bill is the product of many months work and the assistance of many, many individuals and groups active in the fields of women's rights and constitutional law. I would like at this point to express my thanks to a few of them: the Womens National Abortion Action Coalition, WONAAC; the National Organization for Women, NOW; Zero Population Growth, Dr. Barbara Roberts of the Pre-Term Clinic in Washington, D.C., Matilde Zimmerman, Carol Foreman, Professor Thomas Emerson of Yale Law School, Harriet Pilpel and John Rigby.

The introduction of this bill is the beginning of a nationwide effort to secure its enactment. It is now up to the women of this country and their supporters to see that it is considered in public hearings, passed by both Houses of Congress and signed into law by the President.

Not one more child should come into

this world unwanted. Not one more woman should be compelled to carry a child that she does not want. Not one more woman should have to die on the filthy table of an illegal abortionist.

I include the following material:

H.R. 14715

A bill to enforce the constitutional right of females to terminate pregnancies that they do not wish to continue

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) The Congress finds and declares that—

(1) the constitutional right of privacy, embodied in the First, Third, Fourth, Fifth and Ninth Amendments to the Constitution of the United States, and applicable to the States through the due process clause of the Fourteenth Amendment thereto, includes the right of any female to terminate a pregnancy that she does not wish to continue;

(2) this right is a fundamental and inherent right, and is likewise not subject to infringement by the United States or by the several States by virtue of the due process clause of the Fifth Amendment to the Constitution of the United States and the due process and equal protection clauses of the Fourteenth Amendment thereto;

(3) there is no countervailing federal, State, or public interest of a compelling or other nature sufficient to justify the infringement of this right by the United States or any State.

(b) In order to secure the constitutional rights set forth in subsection (a) and this subsection, and in the exercise of its power to enforce the Fifth and Fourteenth Amendments to the Constitution of the United States, the Congress declares that it is necessary to prohibit the United States and the several States from enacting or enforcing any law, State constitutional provision, regulation, policy, or other device which infringes upon the said right in any way, or which deprives any female of access to adequate medical assistance in the exercise of such right.

SEC. 2. Neither the United States nor any State shall enact or enforce any law, State constitutional provision, regulation, policy, or other device which infringes the right of any female to terminate a pregnancy that she does not wish to continue, or which deprives any female of access to adequate medical assistance in the exercise of such right.

SEC. 3. Notwithstanding the amount in controversy, and notwithstanding the provisions of section 2283 of title 28, United States Code, or any successor provision thereto, the district courts of the United States shall have jurisdiction over actions brought to enforce the provisions of this Act, including but not limited to jurisdiction to grant injunctive relief to enforce the provisions of this Act.

SEC. 4. As used in this Act, the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 5. If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

SEC. 6. This Act may be cited as the "Abortion Rights Act of 1972".

A PROTESTANT MINISTER'S VIEW

(By Joseph F. Fletcher, S.T.D.)

It is not possible to speak of "Protestantism's position on abortion" in anything like the way we can speak of Catholicism's, because of the pluralism of Protestant teaching and church organization. Historically, both traditions in Western Christianity have opposed induced abortion, specifically on grounds of alleged homicide in the case of Catholic moralists, and in a less defined, vaguer way by Protestants as a disregard of the "sacredness" of life—a kind of vitalism.[1]

Some Protestant churches, but only a few, have declared themselves on this urgent problem of conscience. To whatever extent the National Council of Churches speaks for pan-Protestant attitudes, advocates of a free and responsible ethics of abortion welcome its 1961 approval of abortion for the sake of the patient's *health*. The Lambeth Conference of 1958, speaking for Episcopalians, allowed abortion for "medical necessity"—which can cover a wide range of health concerns. Perhaps the most positively favorable positions have been taken by the American Baptists (1968), who favor abortion on request in the first trimester of pregnancy, and thereafter upon medical indication, and the Unitarian-Universalists (1968), who would abolish existing laws and leave the decision entirely to duly licensed physicians and their patients. The majority of Protestant churches have remained silent and will probably stay that way until the question is resolved for them in the social-cultural debate. They will not give much leadership, even if their opposition to medically responsible abortion is not as plainspoken and theologically sophisticated as Catholicism's.

Sometimes Protestants take the Catholic position—e.g., Karl Barth and Dietrich Bonhoeffer.[2] Roman Catholics can occasionally come close to the liberal Protestant and Jewish position—e.g., the Jesuit authors Joseph Donceel and Thomas Wassmer, who question the post-Thomas "doctrine" of immediate animation.[3]

As to popular or rank-and-file opinion, the American people at all income and educational levels are pretty well represented in a survey of New York which included 48 discernible subgroups and subcultures.[4] Favoring a change in the State law (which allows abortion only to save the patient's life) were 98 per cent of the Jews, 83 per cent of the Protestants, and—remarkably—72 per cent of the Catholics. When those whose religious affiliations were only nominal were excluded the results were not markedly different: 94 per cent of the Jews, 78 per cent of the Protestants, 63 per cent of the Catholics. Of the entire population 75 per cent favored liberalization of the law, 17 per cent opposed it, and 8 per cent were undecided.

The fact is that the Catholic view of abortion as "murder" and the Protestant taboo have never been convincing, only inhibiting; in the modern world of scientific biology and medicine, combined with an ethics of responsible decision rather than submission to inflexible moral laws, these traditional church positions become more and more archaic.

As Garrett Hardin has pointed out, the real issue is not whether we can justify abortion, but whether we can justify compulsory pregnancy.[5] My personal conviction (or "bias" to those who do not share it) is that we cannot ordinarily justify compulsory pregnancy, that in most situations we ought not to compel anybody either to conceive or bear a child against her will, and that abortion upon request should be morally licit unless medically contraindicated.

My own view—perhaps it is better called a suspicion—is that the motivation behind the historic theological and legislative prohibitions and restrictions on abortion came from conscious and unconscious male chauvinism. Women are still regarded by many as baby machines, pre- and postnatal. There is a widespread *feeling*, nontheological and nondoctrinaire, merely religious and psychosexual, which resists a rational ethics and liberal legislation. This taboo, so typical of Protestantism, expresses itself in tautologies like "a life is a life"—not knowing or offering any metaphysical arguments at all. It is an attitude only, sublogical but highly potent as a culture-dynamic.

People reinforce this feeling, however, with certain prudential (although not usually well-founded) reasons for opposing responsible abortion even if the situation calls for it. These are supposedly pragmatic objections in addition to appeals to metaphysical "doctrines" and predeterminative moral rules. It is said in Protestant circles, as in Catholic, that abortion is bad for the patient's health, that it undermines respect for life, and that it encourages extramarital sex relations. (These objections were all used at one time to oppose birth control.) But maybe an unexpressed and powerful objection is that responsible abortion, especially upon request, may give women the final control over reproduction.

Our task is to reeducate people on a deeper level than logic, not just by trying to show them the morass of inconsistencies in these objections, but at the level of empirical fact and a situational versatility which fits the realities of modern life, of human need, and of social welfare.

There are several basic issues posed by current proposals to ameliorate and relativize the rigid laws and popular morality of the nineteenth century. The first of these oppressive laws in America only came in 1827. Protestantism as such has no clear thought or voice about these issues.

1. *The philosophical issue.* Is abortion a form of homicide? And if so: (1) Why? (2) Under what circumstances is it justifiable?

2. *The ethical issue.* Is abortion inherently and always wrong ("sinful" in theological language)—i.e., is it as such morally evil: If it is wrong only extrinsically and according to the particular situation, what conditions and contexts make it so? What would make it good and right?

3. *The theological issue.* Are we human beings stewards of God's gift of life, ourselves responsible for producing lives carefully and creatively, or are we only subrational instruments of a reproductive process over which we may not exercise any control, i.e., responsibility? A subquestion is: If we may or should exercise a responsible control over the initiation of life, as in the prevention of conception (which Protestantism generally approves), then why not exercise it over the termination of life, as in the interruption of unwanted pregnancies at the start?

4. *The legal issue.* Should anybody be required or compelled to bear a child against her will, and if so, when and why?

5. *The social issue.* Should we tolerate, when it can be prevented, the presence in our common life of unwanted children, defective human beings, or a contaminated genetic pool, and dangerously large numbers of people? Should induced abortion not be a part of our total birth control program and a legitimate means of voluntary parenthood?

Some may wish to add a sixth issue, i.e., a biotheological one. Is a human being a body animated or "infused" by a "soul," or is it a psychophysical organism with certain personal-social characteristics to be determined empirically and experientially—not speculatively, as in the soul theory?

Medicine has a disturbing way of posing new questions of right and wrong, and then of reducing the range or incidence of situations in which the questions arise. For example, obstetrics and gynecology have shown us a way of safely interrupting pregnancy, only later to reduce or narrow the need by preventive care.

The need for surgical abortions may be falling off due to early embryo examinations by which it is possible to foretell deformities by taking amniotic and tissue samples. Preventives such as the antirubella vaccine are at hand. Eventually microbiology and

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Footnotes at end of article.

genetic selection will reduce the frequency of indications for abortion.

The best method of voluntary parenthood now is abortion. The Swedish synthetic abortifacient F6103 is perhaps a prototype of the so-called "morning-after" pill which will shortly replace the mechanical abortion of fertilized ova by IUD's, making abortion much more convenient and reliable.

Indeed, abortion in this prenidation form would appear to be not only the best method of birth control but the only method—since all other methods of voluntary parenthood are forms of conception control, not birth control. The issue over abortion is in fact the only real issue in "birth control," when this term is correctly understood.

The successful thrust of the Abortion Law Reform Association in England in recent years, leading to the Reform Bill of 1967, showed Parliament that the usual religious opposition is rejected by the conscience of the electorate. Our legislatures in America have that lesson coming to them too.

As we detect a growing open-mindedness in both Protestant and Catholic discussions of abortion, we have reason to hope that the lesson will be learned sooner rather than later. As the *aggiornamento* or updating of Catholic and Protestant thinking forges ahead, we can see that the hard test of ecumenical relations is less doctrinal or a matter of what we believe, and more a matter of ethics—of what we *do* about what we believe. Our highest ideals and best values can destroy us if they are trapped by rigid and suffocating rule for or against any human need.

FOOTNOTES

[1] In Eastern Christianity the Greek Orthodox prohibition of abortion is representative.

[2] Karl Barth, *Church Dogmatics*, pp. 415–22, Edinburgh, T. & T. Clark, 1961; Dietrich Bonhoeffer, *Ethics*, pp. 130–31, New York, Macmillan, 1955; cf. also Paul Ramsey, *Dublin Review*, Spring 1967, pp. 1–21.

[3] Joseph Doncell, S.J., *Continuum*, *5*(No. 1):161–71 (1961); Thomas Wassmer, S.J. *Commonweal*, *86*(No. 15):416–18 (1967); cf. also Patrick J. O'Mahoney and Malcolm Potts, *The Month* (London), *38*(Nos. 1–2): 45–50 (1967).

[4] Association for the Study of Abortion, *Newsletter*, *3*(No. 1):2–3 (1968).

[5] Garrett Hardin, *Journal of Marriage and the Family*, *30*(No. 2):246–51 (1968.

A Reform Rabbi's View

(By Israel R. Margolies, Ph. D.)

The basic ethical code that undergirds the faith of Judaism, and indeed much of the faith and philosophy of the Western world, is crystallized in the Ten Commandments. The classic command "Thou shalt not murder (*Lo Tirtzach*)" still remains the most profound moral restraint on what many consider the naturally predatory instinct of man, and a haunting reproach to nations' aggressions and conquests:

The entire question of abortion, whether it is explored from the religious, medical, or legal point of view, hinges on the baffling problem of how to define the fetus. Is it truly a spiritual entity in and of itself, or does it merely contain all of the myriad potentialities of humanity by virtue of its being an integral part of another human being, without, however, possessing an independent life and soul of its own? If the former is true, then the ethical imperative "Thou shalt not murder" is applicable as much to the fetus as to a full-grown man, and we would have to consider abortion for any reason willful murder. If the latter is true, as many of the greatest Jewish scholars believed, then the right to have an abortion would be a perfectly legitimate legal exercise of parental privilege in certain circumstances.

In Exodus 21:21–23, we read: "And if men strive together, and hurt a woman with child, so that her fruit depart, and yet no harm follow, he shall be surely fined, according as the woman's husband shall lay upon him; and he shall pay as the judges determine. But if any harm follow, then thou shalt give life for life." The inference clearly to be drawn from this principle of Biblical law was that the destruction of the fetus was equivalent to damaging property, not to the killing of a human being, for it was a part of the mother, and damages had to be paid for the injury to her. This became a capital offense, or murder, only "if any harm follow," in other words, if the woman herself died as a result of the injury.

According to Rabbinical law in the Talmud, that vast encyclopedia of scholarly interpretations of Biblical law: "If a woman has great difficulty in giving birth to her child, it is permitted to destroy the child to save her life. If the child puts forth its head or most of its body, it may no longer be destroyed to save its mother, because one life must not be pushed aside for another" (Ahalot 7:6). Obviously, the majority of the Rabbis of the Talmudic era, which covered the first five centuries of the common era, did not subscribe to the Pythagorean doctrine that the soul enters at conception. Instead, they were prepared, up to the very moment when the greater part of the child emerged from the womb, to eliminate it for the sake of the mother. It became a living soul, a *Nefesh*, only when it detached itself from its mother, and only then was it deemed to be a human life that may not be pushed aside for another. In Rabbinic terminology, the fetus is "Ayver yerech imo hoo," *pars viscera matrum*—mother's loin, an integral part of the mother's flesh. Indeed, if it should die during birth, or even during the first thirty days of infancy, no funeral service is held, no Kaddish, or memorial prayer for the dead, need be recited, because it is as though, not having been endowed with sufficient *élan vital* and individuality, this child is not considered to have lived at all.

Rabbi Joshua Falk, outstanding Talmudic scholar of the seventeeth century, in his brilliant commentary of M'irat Aynayim on the Choshen Mishpat, 425, end of section 8, declared: "While the fetus is within the body of the mother, it may be destroyed even though it is alive, for every fetus that does not come out, or has not come out into the light of the world, is not described as a *Nefesh* [a living soul]."

Rabbi Jacob Emden, the most gifted Jewish scholar of the eighteenth century, was once questioned regarding the ethical and legal ramifications of abortion. This towering authority answered boldly that it is not only permissible to conduct an abortion in order to save the life of the mother, but even to spare her excessive torture in childbirth.

During the nineteenth century, Rabbi Solomon of Skola, the revered sage who was the author of Bet Shlomo, indicated therein that there can be no objection of any sort to an abortion performed within the first forty days of gestation, and that it may also be done at any time thereafter, if the fetus threatens the life or health of the mother.

The most recent statement on this subject by a universally recognized authority on Jewish morality was that of the late Sephardic Chief Rabbi Ben Zion Uziel in this century. He concluded, after a broad analysis of abortion, than an unborn fetus is prehuman, not a *Nefesh*, a soul, at all, and has no independent life. It is indistinguishable from its mother, and just as a person may choose to sacrifice a limb of his body in order to be cured of a worse malady, so may the fetus be destroyed for the mother's sake.

Precisely because I am a Reform rabbi, and lest my position be susceptible to attack on the grounds that it flies in the face of Jewish tradition, I have deliberately rested my case on the interpretations of sages whose respect for the Orthodox Jewish methods can never be questioned. Naturally, there were others who differed, and decried abortion as a sin, exactly as some religious leaders do today. However, the position of the men whom I have cited remains, in my considered judgment, the most enlightened and accurate standards of ethical Jewish concepts in this challenging field.

It is all too easy to dismiss the entire subject of abortion, as so many holier-than-thou religionists do, under the ominous heading of "sin." I deem such spineless and irrational subservience to the dogmatism of theologians, who speculate with fined detachment upon such matters in their cloistered ivory towers, unbecoming to the rational and largely moral society of a great nation. I suggest that the truly civilized mind would be hard put to devise a greater sin than to condemn a helpless infant to a life of permanent deformity, or to the twilight world of the slum and orphanage, or to the cold environment of a home in which it is not welcome. If there is to be any talk of sin, then here is where it may be found.

If the sexual function of man was meant to be directed strictly to the purpose of procreation, then, like other members of the animal kingdom, he would experience the sexual drive only on regular, set occasions, devised by nature for the perpetuation of the species. The fact is, however, that man, and man alone, has been granted the boon of an unrestricted sexual appetite as an intimate expression of love that is unlimited by time or season. How he exercises this privilege is undeniably of some moral and legal concern to the community. However, as long as men and women find it in their hearts to fulfill their love for and joy in each other through sexual intercourse, there is no law of nature or of God, no ethical imperative or moral compulsion, that requires that such love and joy must perforce lead to conception and birth.

Until a child is actually born into the world, it is literally part of its mother's body, and belongs only to her and her mate. It does not belong to society at all, nor has it been accepted into any faith. Its existence is entirely and exclusively the business and concern of its parents, whether they are married or not. It is men and women who alone must decide whether or not they wish their union to lead to the birth of a child, not the synagogue or church, and certainly not the state.

Judaism declared a long time ago that the essence of religion is not theological, which is speculative at best, or metaphysical, which is a realm both elusive and frustrating, but rather unswerving devotion to ethical standards and moral principles. It is theology and metaphysics that are divisive and even, all too frequently, destructive and repressive. All religions are grounded on ethics, and it is this common foundation and aspiration that transcends the differences, harmonizes, and unites.

Religion, in this highest and most universal sense, calls upon each of us to disavow the old taboos that suggest that family planning and abortion are sinful. Let us assert proudly and honestly that, as creative partners of God, we reserve the right to build our families purposefully and joyfully, not accidentally and reluctantly. Let us declare unequivocally that the sexual relations of human beings and their reproductive consequences are not the business of the state, but rather free decisions that free people have every right to make for themselves in a free society.

A LIBERAL CATHOLIC'S VIEW

(By Joseph F. Donceel, S.J., Ph. D.)

I fully agree with the basic Catholic principle that we are never allowed to kill an innocent human being. Therefore, if there is a real human being from the moment of conception, abortion would have to be considered immoral at any stage of pregnancy. The majority Catholic opinion holds nowadays that there is indeed a real human being from the first moment of conception, or, at least, that we cannot be certain that such is not the case. But there is also a minority Catholic opinion, which has good standing in the church, which was the opinion of her greatest theologian, Thomas Aquinas,[1] and which is now slowly regaining favor among Catholic thinkers. This minority opinion holds that there is certainly no human being during the early stages of pregnancy. I would like to show you briefly why Thomas held this position, how it was given up by his successors on account of erroneous scientific theories, and how, even after these theories had been given up, the Catholic church did not return to her traditional view because of a philosophy which was at variance with her official doctrine of the nature of man.

Traditional Catholic philosophy holds that what makes an organism a human being is the spiritual soul and that this soul starts to exist at the moment of its "infusion" into the body. When is the human soul infused into the body? Nowadays the majority of Catholic thinkers would not hesitate to answer: at the moment of conception. This is known as the *theory of immediate animation*. However, during long centuries Catholic philosophy and theology held that the human soul was infused into the body only when the latter began to show a human shape or outline and possessed the basic human organs. Before this time, the embryo is alive, but in the way in which a plant or an animal is alive. It possesses, as the traditional terminology puts it, a vegetative or an animal soul, not yet a human soul. In more modern terms we might say that it has reached the physiological or the psychological, not yet the spiritual level of existence. It is not yet a human person; it is evolving, within the womb, toward hominization. This is the *theory of mediate or delayed animation*.

Why did Thomas and the great medieval thinkers favor this theory? Because they held the doctrine of hylomorphism, according to which the human soul is the substantial form of man, while the human body is the result of the union of this soul with materiality, with undetermined cosmic stuff, with what was then known as prime matter. Hylomorphism holds that the human soul is to the body somewhat as the shape of a statue is to the actual statue. The shape of a statue cannot exist before the statue exists. It is not something which the sculptor first makes and subsequently introduces into a block of statue. It can exist only in the completed statue. Hylomorphism holds that, in the same way, the human soul can exist only in a real human body.

Although Thomas knew nothing about chromosomes, genes, DNA, or the code of life, he knew that whatever was growing in the mother's womb was not yet, early in pregnancy, a real human body. Therefore he held that it could not be animated by a human soul, any more than a square block of marble can possess a human shape. The medieval thinkers knew very well that this growing organism would develop into a human body, that virtually, potentially, it was a human body. But they did not admit that an actual human soul could exist in a virtual human body. The Catholic church, which had officially adopted the hylomorphic conception of human nature at the Council of Vienne, in 1312, was so strongly convinced of this position that, for centuries, her law forbade the faithful to baptize any premature birth which did not show at least some human shape or outline.

Under the influence of erroneous scientific reports, however, Catholic thinkers gave up this traditional doctrine. In the early seventeenth century, as a result of a combination of poor microscopes and lively imaginations, some physicians saw in embryos which were only a few days old a tiny human being, a homunculus, with microscopic head, legs, and arms.[2] This view of the fetus implied the *preformation theory*, which held that organic development simply consists of the gradual increase in size of organs and structures which are fully present from the very start. If there really were from the beginning a human body, be it ever so small, there might also from the start exist a human soul. Even a microscopic statue must have a shape. Granted the preformation theory, immediate animation was compatible with the hylomorphic conception of man.

The theory of preformation was eventually replaced by the *theory of epigenesis*, which maintains that the organism, far from being microscopically preformed from the start, develops its organs through a complex process of growth, cleavage, differentiation, and organization.

Why did the Christian thinkers not return to the delayed animation theory, which seems to be demanded by their hylomorphic theory of man? The main reason seems to have been the influence of Cartesian dualism. For Descartes, both man's soul and his body are each a complete substance. The soul is a thinking substance, the body an extended substance. This is no longer hylomorphism. To express it in nontechnical language, this is no longer a "shape in the statue" conception, but rather a "ghost in the machine" conception of the human soul. A full-fledged ghost can manage very well with a microscopic machine. If the soul is no longer the formal cause, the constitutive idea of the body, it might well become its efficient cause, that which produces the ovum's development from the start. Instead of being the idea incarnated in the body, it has turned into the architect and the builder of the body. Just as the architect exists before the first stone of the building is laid, so there can be a real human soul from the first moment of conception, before the emergence of a real human body.[3]

This way of explaining embryogeny is not absurd. The Cartesian outlook, although quite unfashionable nowadays, has been held by many great thinkers. This kind of philosophy calls for immediate animation, which is clearly in conflict with the hylomorphic doctrine of man, solemnly endorsed by the Catholic church at the Council of Vienne.

There have been other influences which explain the shift in Catholic opinion. One of them may have been the long-standing opposition of the church to the idea of evolution. Thomas admitted some kind of evolution of the embryo and the fetus in the mother's womb. How could the church admit this evolution in the womb and reject it in the race? Since the Catholic church has finally come around to admitting the evolution of the human body, it might also be willing to return to Thomas's idea of evolution in the womb.[4]

Moreover, once we give up the idea of immediate animation, we can no longer say when the human soul is infused, when the embryo or the fetus becomes a human person. That is why those who want to play it absolutely safe claim that the human soul is present from the moment of conception. They seem to take it for granted that, since we do not known when the human soul is present, we neither can know for sure when it is not yet present. This assumption is false. Let us consider another case, where we do not know when a certain factor is present, while knowing very well when it is not yet present. Nobody can tell with certitude when a child is capable of performing his first free moral choice, but all of us are quite certain that, during the first months or years of his life, a human baby is not yet a free moral agent. Likewise, I do not know when the human soul is infused, when the embryo becomes human. But I feel certain that there is no human soul hence no human person, during the first few weeks of pregnancy, as long as the embryo remains in the vegetative stage of its development.

Some people make much of the following objection to my position. They say that from the very first the fertilized ovum possesses forty-six human chromosomes, all the human genes, its code of life—that it is a human embryo. This is undeniable. But it does not make it a human person. When a heart is transplanted, it is kept alive, for a short while, outside of the donor. It is a living being, a human heart, with the human chromosomes and genes. But it is not a human being; it is not a person.

The objection may be pressed. Not only does the fertilized human ovum possess the human chromosomes; unlike the heart, it will, if circumstances are normal, develop into a human being. It is virtually a human being. I admit this, but it does not affect my position. The fertilized human ovum, the early embryo, is virtually a human body, not actually. Correctly understood, the hylomorphic conception of human nature, the official Catholic doctrine, cannot admit the presence of an actual human soul in a virtual human body. Let me use a comparison again. A deflated rubber ball is virtually round; when inflated, it can assume no other shape than the spherical shape. Yet it does not actually possess any roundness or sphericity. In the same way, the early embryo does not actually possess a human soul; it is not a human person.

Experimental embryology tells us that every single cell of the early embryo, of the morula, is virtually a human body. It does not follow that each of these cells possesses a human soul. When embryologists carefully separate the cells of a morula in lower organisms, each one of these cells may develop into a complete organism. Starting with the pioneering attempts of Hans Driesch, such an experiment has been performed on many animal species. We do not see why it might not eventually succeed with the human embryo. As a matter of fact, nature frequently performs it on human ova. Identical twins derive from one ovum fertilized by one spermatozoon. This ovum splits into two at an early stage of pregnancy and gives rise to two human beings. In this case the defenders of immediate animation must admit that one person may be divided into two persons. This is a metaphysical impossibility.

Throughout my exposition I have taken for granted the hylomorphic conception of human nature. This is in line with the purpose of my essay, which is not only to present a liberal Catholic's view of fetal animation, but also to show that this view seems to be the only one which agrees with the official Catholic conception of human nature. In other words, I submit that Catholics, should give up the immediate animation theory, because it implies a Cartesian, dualistic conception of man, which conflicts with the doctrine endorsed by the Council of Vienne.

In conclusion I would like to say a few words about the standing of hylomorphism among contemporary philosophers. Very few non-Catholic philosophers hold the doctrine

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Footnotes at end of article.

of hylomorphism today. Even among Catholics it has fallen into disrepute, although personally I cannot see how one may avoid dualism without this theory or some theory which resembles it. Hylomorphism is radically opposed to dualism, to the doctrine which considers both the soul and the body as complete substances. Contemporary philosophy, as a rule, is also strongly opposed to this kind of dualism. In this sense, negatively, the doctrine I have defended continues to live; it is stronger than ever, although it may be known by other names.

Both linguistic analysis, the leading philosophy in the English-speaking countries, and existential phenomenology, which tends to dominate the field elsewhere, reject any form of Cartesian dualism.[5] Gilbert Ryle, a leading British analyst, has strongly attacked what he calls "the dogma of the ghost in the machine." And Maurice Merleau-Ponty, possibly France's greatest phenomenologist, defended a doctrine which looks very much like an updated form of hylomorphism. For him there are three kinds of behavior: the syncretic, the amovable, and the symbolic. We might perhaps put it more simply and speak of three levels in man: the level of reflex activity and of instincts, the level of learning, and the level of symbolic thinking. Or again, the physiological, the psychic, and spiritual level. Each lower level stands to the next higher one in the same relation as data stand to their meaning, as materiality stands to the idea embodied in it. The data are not data if they do not possess some meaning, and there can be no meaning which is not embedded in some data. Each higher level presupposes the lower one; there can be no mind before the organism is ready to carry one and no spirit before the mind is capable of receiving it. I submit that this clearly implies delayed animation.

In my opinion there is a great amount of agreement between the contemporary antidualistic trend of philosophy and the hylomorphic conception of man. It is wise therefore to return to this conception or, at least, to accept the conclusions which follow from it. One of these conclusions is that the embryo is certainly not a human person during the early stages of pregnancy, and that, consequently it is not immoral to terminate pregnancy during this time, provided there are serious reasons for such an intervention.

Let me insist on this restriction: the opinion which I have defended may lead to abuses, to abortions performed under flimsy pretexts. I would be among the first to deplore and condemn such abuses. Although a prehuman embryo cannot demand from us the absolute respect which we owe to the human person, it deserves a very great consideration, because it is a living being, endowed with a human finality, on its way to hominization. Therefore it seems to me that only very serious reasons should allow us to terminate its existence. Excesses will unavoidably occur, but they should not induce us to overlook the instances where sufficiently serious reasons exist for performing an abortion during the early stages of pregnancy.

FOOTNOTES

[1] See *Summa contra Gentiles*, II, 88–89; *De Potentia*, Q. 3, Art. 9–12; *Summa Theologica*, I,Q. 118, Art. 1–3.

[2] See H. de Dorlodot, "A Vindication of the Mediate Animation Theory," in E. C. Messenger (ed.), *Theology and Evolution*, pp. 273–83, London, 1949.

[3] The anonymous author of an article in Latin, "De Animatione Foetus" (*Nouvelle Revue Théologique*, 11:163–86,268–89 [1879]), quotes a certain Michael Alberti Germaniae Medicus, who wrote in 1725 "quod a primis conceptionis initiis anima rationalis in foetu adsit, eo quod sine anima illa conceptio fieri nequeat, quae tanquam artifex et architecta sui corporis praesto est; a qua deinde actus formationis dependet" (that the rational soul is present in the fetus from the first beginnings of conception, because the conception cannot take place without this soul, which is there *like the maker and the architect of its body;* hence the act of formation depends on it) (my italics). This sounds like pure Cartesianism.

[4] "For the evolutionistic way of thinking it is more probable that hominization occurs not at the moment of conception, but at a later time of embryonic development," writes J. Feiner in the most recent comprehensive treatise of dogmatic theology, *Mysterium Fidei*, edited by J. Feiner and M. Löhrer, vol. II, p. 581, Einsiedeln, 1967.

[5] Among the few exceptions we must mention J.-P. Sartre, whose dualism constitutes one of the weakest and most controversial aspects of his philosophy.

[Supreme Court of the United States]

APPEAL FROM THE SUPREME COURT OF ERRORS OF CONNECTICUT

Griswold et al. v. Connecticut.

No. 496. Argued March 29–30, 1965.—Decided June 7, 1965.

Thomas I. Emerson argued the cause for appellants. With him on the briefs was *Catherine G. Roraback.*

Joseph B. Clark argued the cause for appellee. With him on the brief was *Julius Maretz.*

Briefs of *amici curiae*, urging reversal, were filed by *Whitney North Seymour* and *Eleanor M. Fox* for Dr. John M. Adams et al.; by *Morris L. Ernst, Harriet F. Pilpel* and *Nancy F. Wechsler* for the Planned Parenthood Federation of America, Inc.; by *Alfred L. Scanlon* for the Catholic Council on Civil Liberties, and by *Rhoda H. Karpatkin, Melvin L. Wulf* and *Jerome E. Caplan* for the American Civil Liberties Union et al.

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Appellant Griswold is Executive Director of the Planned Parenthood eLague of Connecticut. Appellant Buxton is a licensed physician and a professor at the Yale Medical School who served as Medical Director for the League at its Center in New Haven—a center open and operating from November 1 to November 10, 1961, when appellants were arrested.

They gave information, instruction, and medical advice to *married persons* as to the means of preventing conception. They examined the wife and prescribed the best contraceptive device or material for her use. Fees were usually charged, although some couples were serviced free.

The statutes whose constitutionality is involved in this appeal are §§ 53–32 and 54–196 of the General Statutes of Connecticut (1958 rev.). The former provides:

"Any person who uses any drug, medicinal article or instrument for the purpose of preventing conception shall be fined not less than fifty dollars or imprisoned not less than sixty days nor more than one year or be both fined and imprisoned."

Section 54–196 provides:

"Any person who assists, abets, counsels, causes, hires or commands another to commit any offense may be prosecuted and punished as if he were the principal offender."

The appellants were found guilty as accessories and fined $100 each, against the claim that the accessory statute as so applied violated the Fourteenth Amendment. The Appellate Division of the Circuit Court affirmed. The Supreme Court of Errors affirmed that judgment. 151 Conn. 544, 200 A. 2d 479. We noted probable jurisdiction. 379 U.S. 926.

We think that appellants have standing to raise the constitutional rights of the married people with whom they had a professional relationship. *Tileston* v. *Ullman*, 318 U.S. 44, is different, for there the plaintiff seeking to represent others asked for a declaratory judgment. In that situation we thought that the requirements of standing should be strict, lest the standards of "case or controversy" in Article III of the Constitution become blurred. Here those doubts are removed by reason of a criminal conviction for serving married couples in violation of an aiding-and-abetting statute. Certainly the accessory should have standing to assert that the offense which he is charged with assisting is not, or cannot constitutionally be, a crime.

This case is more akin to *Truax* v. *Raich*, 239 U.S. 33, where an employee was permitted to assert the rights of his employer; to *Pierce* v. *Society of Sisters*, 268 U.S. 510, where the owners of private schools were entitled to assert the rights of potential pupils and their parents; and to *Barrows* v. *Jackson*, 346 U.S. 249, where a white defendant, party to a racially restrictive covenant, who was being sued for damages by the covenantors because she had conveyed her property to Negroes, was allowed to raise the issue that enforcement of the covenant violated the rights of prospective Negro purchasers to equal protection, although no Negro was a party to the suit. And see *Meyer* v. *Nebraska*, 262 U.S. 390; *Adler* v. *Board of Education*, 342 U.S. 485; *NAACP* v. *Alabama*, 357 U.S. 449; *NAACP* v. *Button*, 371 U.S. 415. The rights of husband and wife, pressed here, are likely to be diluted or adversely affected unless those rights are considered in a suit involving those who have this kind of confidential relation to them.

Coming to the merits, we are met with a wide range of questions that implicate the Due Process Clause of the Fourteenth Amendment. Overtones of some arguments suggest that *Lochner* v. *New York*, 198 U.S. 45, should be our guide. But we decline that invitation as we did in *West Coast Hotel Co.* v. *Parrish*, 300 U.S. 370; *Olsen* v. *Nebraska*, 313 U.S. 236; *Lincoln Union* v. *Northwestern Co.*, 335 U.S. 525; *Williamson* v. *Lee Optical Co.*, 348, U.S. 483; *Giboney* v. *Empire Storage Co.*, 336 U.S. 490. We do not sit as a super-legislature to determine the wisdom, need, and propriety of laws that touch economic problems, business affairs, or social conditions. This law, however, operates directly on an intimate relation of husband and wife and their physician's role in one aspect of that relation.

The association of people is not mentioned in the Constitution nor in the Bill of Rights. The right to educate a child in a school of the parent's choice—whether public or private or parochial—is also not mentioned. Nor is the right to study any particular subject or any foreign language. Yet the First Amendment has been construed to include certain of those rights.

By *Pierce* v. *Society of Sisters, supra*, the right to educate one's children as one chooses is made applicable to the States by the force of the First and Fourteenth Amendments. By *Meyer* v. *Nebraska, supra*, the same dignity is given the right to study the German language in a private school. In other words, the State may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge. The right of freedom of speech and press includes not only the right to utter or to print, but the right to distribute, the right to receive, the right to read (*Martin* v. *Struthers*, 319 U. S. 141, 143) and freedom of inquiry, freedom of thought, and freedom to teach (see *Wieman* v. *Updegraff*, 344 U. S. 183, 195)—indeed the freedom of the entire university community. *Sweezy* v. *New Hampshire*, 354 U. S. 234, 249–250, 261–263; *Barenblatt* v. *United States*, 360

U. S. 109, 112; *Baggett* v. *Bullitt*, 377 U. S. 360, 369. Without those peripheral rights the specific rights would be less secure. And so we reaffirm the principle of the *Pierce* and the *Meyer* cases.

In *NAACP* v. *Alabama*, 357 U. S. 449, 462, we protected the "freedom to associate and privacy in one's associations," noting that freedom of association was a peripheral First Amendment right. Disclosure of membership lists of a constitutionally valid association, we held, was invalid "as entailing the likelihood of a substantial restraint upon the exercise by petitioner's members of their right to freedom of association." *Ibid*. In other words, the First Amendment has a penumbra where privacy is protected from governmental intrusion. In like context, we have protected forms of "association" that are not political in the customary sense but pertain to the social, legal, and economic benefit of the members. *NAACP* v. *Button*, 371 U.S. 415, 430–431. In *Schware* v. *Board of Bar Examiners*, 353 U.S. 232, we held it not permissible to bar a lawyer from practice, because he had once been a member of the Communist Party. The man's "association with that Party" was not shown to be "anything more than a political faith in a political party" (*id*., at 244) and was not action of a kind proving bad moral character. *Id*., at 245–246.

Those cases involved more than the "right of assembly"—a right that extends to all irrespective of their race or ideology. *De Jonge* v. *Oregon*, 299 U.S. 353. The right of "association," like the right of belief (*Board of Education* v. *Barnette*, 319 U. S. 624), is more than the right to attend a meeting; it includes the right to express one's attitudes or philosophies by membership in a group or by affiliation with it or by other lawful means. Association in that context is a form of expression of opinion; and while it is not expressly included in the First Amendment its existence is necessary in making the express guarantees fully meaningful.

The foregoing cases suggest that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. See *Poe* v. *Ullman*, 367 U. S. 497, 516–522 (dissenting opinion). Various guarantees create zones of privacy. The right of association contained in the penumbra of the First Amendment is one, as we have seen. The Third Amendment in its prohibition against the quartering of soldiers "in any house" in time of peace without the consent of the owner is another facet of that privacy. The Fourth Amendment explicitly affirms the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." The Fifth Amendment in its Self-Incrimination Clause enables the citizen to create a zone of privacy which government may not force him to surrender to his detriment. The Ninth Amendment provides: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

The Fourth and Fifth Amendments were described in *Boyd* v. *United States*, 116 U.S. 616, 630, as protection against all governmental invasions "of the sanctity of a man's home and the privacies of life."* We recently referred in *Mapp* v. *Ohio*, 367 U.S. 643, 656, to the Fourth Amendment as creating a "right to privacy, no less important than any other right carefully and particularly reserved to the people." See Beaney, The Constitutional Right to Privacy, 1962 Sup. Ct. Rev. 212; Griswold, The Right to be Let Alone, 55 Nw. U. L. Rev. 216 (1960).

We have had many controversies over these penumbral rights of "privacy and repose." See, *e.g., Breard* v. *Alexandria*, 341 U.S. 622, 626, 644; *Public Utilities Comm'n* v. *Pollak*, 343 U.S. 451; *Monroe* v. *Pape*, 365 U.S. 167; *Lanza* v. *New York*, 370 U.S. 139; *Frank* v. *Maryland*, 359 U.S. 360; *Skinner* v. *Oklahoma*, 316 U.S. 535, 541. These cases bear witness that the right of privacy which presses for recognition here is a legitimate one.

The present case, then, concerns a relationship lying within the zone of privacy created by several fundamental constitutional guarantees. And it concerns a law which, in forbidding the *use* of contraceptives rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that relationship. Such a law cannot stand in light of the familiar principle, so often applied by this Court, that a "governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms." *NAACP* v. *Alabama*, 377 U.S. 288, 307. Would we allow the police to search the sacred precincts of marital bedrooms for telltale signs of the use of contraceptives? The very idea is repulsive to the notions of privacy surrounding the marriage relationship.

We deal with a right of privacy older than the Bill of Rights—older than our political parties, older than our school system. Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions.

Reversed.

Mr. Justice Goldberg, whom The Chief Justice and Mr. Justice Brennan join, concurring.

I agree with the Court that Connecticut's birth-control law unconstitutionally intrudes upon the right of marital privacy, and I join in its opinion and judgment. Although I have not accepted the view that "due process" as used in the Fourteenth Amendment incorporates all of the first eight Amendments (see my concurring opinion in *Pointer* v. *Texas*, 380 U. S. 400, 410, and the dissenting opinion of Mr. Justice Brennan in *Cohen* v. *Hurley*, 366 U. S. 117, 154), I do agree that the concept of liberty protects those personal rights that are fundamental, and is not confined to the specific terms of the Bill of Rights. My conclusion that the concept of liberty is not so restricted and that it embraces the right of marital privacy though that right is not mentioned explicitly in the Constitution[1] is supported both by numerous decisions of this Court, referred to in the Court's opinion, and by the language and history of the Ninth Amendment. In reaching the conclusion that the right of marital privacy is protected, as being within the protected penumbra of specific guarantees of the Bill of Rights, the Court refers to the Ninth Amendment, *ante*, at 484. I add these words to emphasize the relevance of that Amendment to the Court's holding.

The Court stated many years ago that the Due Process Clause protects those liberties that are "so rooted in the traditions and conscience of our people as to be ranked as fundamental." *Snyder* v. *Massachusetts*, 291 U. S. 97, 105. In *Gitlow* v. *New York*, 268 U. S. 652, 666, the Court said:

"For present purposes we may and do assume that freedom of speech and of the press—which are protected by the First Amendment from abridgment by Congress—are among the *fundamental* personal rights and 'liberties' protected by the due process clause of the Fourteenth Amendment from impairment by the States." (Emphasis added.)

And, in *Meyer* v. *Nebraska*, 262 U.S. 390, 399, the Court, referring to the Fourteenth Amendment, stated:

"While this Court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also [for example,] the right . . . to marry, establish a home and bring up children. . . ."

This Court, in a series of decisions, has held that the Fourteenth Amendment absorbs and applies to the States those specifics of the first eight amendments which express fundamental personal rights.[2] The language and history of the Ninth Amendment reveal that the Farmers of the Constitution believed that there are additional fundamental rights, protected from governmental infringement, which exist alongside those fundamental rights specifically mentioned in the first eight constitutional amendments.

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* The Court said in full about this right of privacy:

"The principles laid down in this opinion [by Lord Camden in *Entick* v. *Carrington*, 19 How. St. Tr. 1029] affect the very essence of constitutional liberty and security. They reach farther than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the government and its employes of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors, and the rummaging of his drawers, that constitutes the essence of the offence; but it is the invasion of his indefeasible right of personal security, personal liberty and private property, where that right has never been forfeited by his conviction of some public offence,—it is the invasion of the sacred right which underlies and constitutes the essence of Lord Camden's judgment. Breaking into a house and opening boxes and drawers are circumstances of aggravation; but any forcible and compulsory extortion of a man's own testimony or of his private papers to be used as evidence to convict him of crime or to forfeit his goods, is within the condemnation of that judgment. In this regard the Fourth and Fifth Amendments run almost into each other." 116 U.S., at 630.

[1] My Brother Stewart dissents on the ground that he "can find no . . . general right of privacy in the Bill of Rights, in any other part of the Constitution, or in any case ever before decided by this Court." *Post*, at 530. He would require a more explicit guarantee than the one which the Court derives from several constitutional amendments. This Court, however, has never held that the Bill of Rights or the Fourteenth Amendment protects only those rights that the Constitution specifically mentions by name. See, *e.g., Bolling* v. *Sharpe*, 347 U.S. 497; *Aptheker* v. *Secretary of State*, 378 U.S. 500; *Kent* v. *Dulles*, 357 U.S. 116; *Carrington* v. *Rash*, 380 U.S. 89, 96; *Schware* v. *Board of Bar Examiners*, 353 U.S. 232; *NAACP* v. *Alabama*, 360 U.S. 240; *Pierce* v. *Society of Sisters*, 268 U.S. 510; *Meyer* v. *Nebraska*, 262 U.S. 390. To the contrary, this Court, for example in *Bolling* v. *Sharpe, supra*, while recognizing that the Fifth Amendment does not contain the "explicit safeguard" of an equal protection clause, *id*., at 499, nevertheless derived an equal protection principle from that Amendment's Due Process Clause. And in *Schware* v. *Board of Bar Examiners, supra*, the Court held that the Fourteenth Amendment protects from arbitrary state action the right to pursue an occupation, such as the practice of law.

[2] See, *e.g., Chicago, B. & Q. R. Co.* v. *Chicago*, 166 U.S. 226; *Gitlow* v. *New York, supra; Cantwell* v. *Connecticut*, 310 U.S. 296; *Wolf* v. *Colorado*, 338 U.S. 25; *Robinson* v. *California*, 370 U.S. 660; *Gideon* v. *Wainwright*, 372 U.S. 335; *Malloy* v. *Hogan*, 378 U.S. 1; *Pointer* v. *Texas, supra; Griffin* v. *California*, 380 U.S. 609.

The Ninth Amendment reads, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." The Amendment is almost entirely the work of James Madison. It was introduced in Congress by him and passed the House and Senate with little or no debate and virtually no change in language. It was proffered to quiet expressed fears that a bill of specifically enumerated rights[3] could not be sufficiently broad to cover all essential rights and that the specific mention of certain rights would be interpreted as a denial that others were protected.[4]

In presenting the proposed Amendment, Madison said:

"It has been objected also against a bill of rights, that, by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration; and it might follow by implication, that those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I have ever heard urged against the admission of a bill of rights into this system; but, I conceive, that it may be guarded against. I have attempted it, as gentlemen may see by turning to the last clause of the fourth resolution [the Ninth Amendment]." I Annals of Congress 439 (Gales and Seaton ed. 1834).

Mr. Justice Story wrote of this argument against a bill of rights and the meaning of the Ninth Amendment:

"In regard to . . . [a] suggestion, that the affirmance of certain rights might disparage others, or might lead to argumentative implications in favor of other powers, it might be sufficient to say that such a course of reasoning could never be sustained upon any solid basis. . . . But a conclusive answer is, that such an attempt may be interdicted (as it has been) by a positive declaration in such a bill of rights that the enumeration of certain rights shall not be construed to deny or disparage others retained by the people." II Story, Commentaries on the Constitution of the United States 626–627 (5th ed. 1891).

He further stated, referring to the Ninth Amendment:

"This clause was manifestly introduced to prevent any perverse or ingenious misapplication of the well-known maxim, that an affirmation in particular cases implies a negation in all others; and, *e converso*, that a negation in particular cases implies an affirmation in all others." *Id.*, at 651.

These statements of Madison and Story make clear that the Framers did not intend that the first eight amendments be construed to exhaust the basic and fundamental rights which the Constitution guaranteed to the people.[5]

While this Court has had little occasion to interpret the Ninth Amendment,[6] "[i]t cannot be presumed that any clause in the constitution is intended to be without effect." *Marbury* v. *Madison,* 1 Cranch 137, 174. In interpreting the Constitution, "real effect should be given to all the words it uses." *Myers* v. *United States,* 272 U.S. 52, 151. The Ninth Amendment to the Constitution may be regarded by some as a recent discovery and may be forgotten by others, but since 1791 it has been a basic part of the Constitution which we are sworn to uphold. To hold that a right to basic and fundamental and so deep-rooted in our society as the right of privacy in marriage may be infringed because that right is not guaranteed in so many words by the first eight amendments to the Constitution is to ignore the Ninth Amendment and to give it no effect whatsoever. Moreover, a judicial construction that this fundamental right is not protected by the Constitution because it is not mentioned in explicit terms by one of the first eight amendments or elsewhere in the Constitution would violate the Ninth Amendment, which specifically states that "[t]he enumeration in the Constitution, of certain rights, shall not be *construed* to deny or disparage others retained by the people." (Emphasis added.)

A dissenting opinion suggests that my interpretation of the Ninth Amendment somehow "broaden[s] the powers of this Court." *Post,* at 520. With all due respect, I believe that it misses the import of what I am saying. I do not take the position of my Brother BLACK in his dissent in *Adamson* v. *California,* 332 U.S. 46, 68, that the entire Bill of Rights is incorporated in the Fourteenth Amendment, and I do not mean to imply that the Ninth Amendment is applied against the States by the Fourteenth. Nor do I mean to state that the Ninth Amendment constitutes an independent source of rights protected from infringement by either the States or the Federal Government. Rather, the Ninth Amendment shows a belief of the Constitution's authors that fundamental rights exist that are not expressly enumerated in the first eight amendments and an intent that the list of rights included there not be deemed exhaustive. As any student of this Court's opinions knows, this Court has held, often unanimously, that the Fifth and Fourteenth Amendments protect certain fundamental personal liberties from abridgement by the Federal Government or the States. See, *e.g., Bolling* v. *Sharpe,* 347 U.S. 497; *Aptheker* v. *Secretary of State*, 378 U.S. 500; *Kent* v. *Dulles,* 357 U.S. 116; *Cantwell* v. *Connecticut,* 310 U.S. 296; *NAACP* v. *Alabama,* 357 U.S. 449; *Gideon* v. *Wainwright,* 372 U.S. 335; *New York Times Co.* v. *Sullivan,* 376 U.S. U.S. 254. The Ninth Amendment simply shows the intent of the Constitution's authors that other fundamental personal rights should not be denied such protection or disparaged in any other way simply because they are not specifically listed in the first eight constitutional amendments. I do not see how this broadens the authority of the Court; rather it serves to support what this Court has been doing in protecting fundamental rights.

Nor am I turning somersaults with history in arguing that the Ninth Amendment is relevant in a case dealing with a *State's* infringement of a fundamental right. While the Ninth Amendment—and indeed the entire Bill of Rights—originally concerned restrictions upon *federal* power, the subsequently enacted Fourteenth Amendment prohibits the States as well from abridging fundamental personal liberties. And, the Ninth Amendment, in indicating that not all such liberties are specifically mentioned in the first eight amendments, is surely relevant in showing the existence of other fundamental personal rights, now protected from state, as well as federal, infringement. In sum, the Ninth Amendment simply lends strong support to the view that the "liberty" protected by the Fifth and Fourteenth Amendments from infringement by the Federal Government or the States is not restricted to rights specifically mentioned in the first eight amendments. Cf. *United Public Workers* v. *Mitchell,* 330 U.S. 75, 94–95.

In determining which rights are fundamental, judges are not left at large to decide cases in light of their personal and private notions. Rather, they must look to the "traditions and [collective] conscience of our people" to determine whether a principle is "so rooted [there] . . . as to be ranked as fundamental." *Snyder* v. *Massachusetts,* 291 U.S. 97, 105. The inquiry is whether a right involved "is of such a character that it cannot be denied without violating those 'fundamental principles of liberty and justice which lie at the base of all our civil and political institutions' . . . ." *Powell* v. *Alabama,* 287 U.S. 45, 67. "Liberty" also gains content from the emanations of . . . specific [constitutional] guarantees" and "from experience with the requirements of a free society." *Poe* v. *Ullman,* 367 U.S. 497, 517

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[3] Madison himself had previously pointed out the dangers of inaccuracy resulting from the fact that "no language is so copious as to supply words and phrases for every complex idea." The Federalist, No. 37 (Cooke ed. 1961), at 236.

[4] Alexander Hamilton was opposed to a bill of rights on the ground that it was unnecessary because the Federal Government was a government of delegated powers and it was not granted the power to intrude upon fundamental personal rights. The Federalist, No. 84 (Cooke ed. 1961), at 578–579. He also argued.

"I go further, and affirm that bills of rights, in the sense and in the extent in which they are contended for, are not only unnecessary in the proposed constitution, but would even be dangerous. They would contain various exceptions to powers which are not granted; and on this very account, would afford a colourable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why for instance, should it be said, that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretence for claiming that power." *Id.,* at 579.

The Ninth Amendment and the Tenth Amendment, which provides, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," were apparently also designed in part to meet the above-quoted argument of Hamilton

[5] The Tenth Amendment similarly made clear that the States and the people retained all those powers not expressly delegated to the Federal Government.

[6] This Amendment has been referred to as "The Forgotten Ninth Amendment," in a book with that title by Bennett B. Patterson (1955). Other commentary on the Ninth Amendment includes Redlich, Are There "Certain Rights . . . Retained by the People"? 37 N. Y. U. L. Rev. 787 (1962), and Kelsey, The Ninth Amendment of the Federal Constitution, 11 Ind. L. J. 309 (1936). As far as I am aware, until today this Court has referred to the Ninth Amendment only in *United Public Workers* v. *Mitchell,* 330 U.S. 75, 94–95; *Tennessee Electric Power Co. v. TVA,* 306 U.S. 118, 143–144; and *Ashwander* v. *TVA,* 297 U. S. 288, 330–331. See also *Calder* v. *Bull,* 3 Dall. 386, 388; *Loan Assn.* v. *Topeka,* 20 Wall. 655, 662–663.

In *United Public Workers* v. *Mitchell, supra,* at 94–95, the Court stated: "We accept appellants' contention that the nature of political rights reserved to the people by the Ninth and Tenth Amendments [is] involved. The right claimed as inviolate may be stated, as the right of a citizen to act as a party official or worker to further his own political views. Thus we have a measure of interference by the Hatch Act and the Rules with what otherwise would be the freedom of the civil servant under the First, Ninth and Tenth Amendments. And, if we look upon due process as a guarantee of freedom in those fields, there is a corresponding impairment of that right under the Fifth Amendment."

(dissenting opinion of MR. JUSTICE DOUGLAS).[7]

I agree fully with the Court that, applying these tests, the right of privacy is a fundamental personal right, emanating "from the totality of the constitutional scheme under which we live." *Id.*, at 521. Mr. Justice Brandeis, dissenting in *Olmstead* v. *United States*, 277 U.S. 438, 478, comprehensively summarized the principles underlying the Constitution's guarantees of privacy:

"The protection guaranteed by the [Fourth and Fifth] Amendments is much broader in scope. The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."

The Connecticut statutes here involved deal with a particularly important and sensitive area of privacy—that of the marital relation and the marital home. This Court recognized in *Meyer* v. *Nebraska*, *supra*, that the right "to marry, establish a home and bring up children" was an essential part of the liberty guaranteed by the Fourteenth Amendment. 262 U.S., at 399. In *Pierce* v. *Society of Sisters*, 268 U.S. 510, the Court held unconstitutional an Oregon Act which forbade parents from sending their children to private schools because such an act "unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control." 268 U.S. at 534–535. As this Court said in *Prince* v. *Massachusetts*, 321 U.S. 158, at 166, the *Meyer* and *Pierce* decisions "have respected the private realm of family life which the state cannot enter."

I agree with MR. JUSTICE HARLAN's statement in his dissenting opinion in *Poe* v. *Ullman*, 367 U.S. 497, 551–552: "Certainly the safeguarding of the home does not follow merely from the sanctity of property rights. The home derives its pre-eminence as the seat of family life. And the integrity of that life is something so fundamental that it has been found to draw to its protection the principles of more than one explicitly granted Constitutional right. . . Of this whole 'private realm of family life' it is difficult to imagine what is more private or more intimate than a husband and wife's marital relations."

The entire fabric of the Constitution and the purposes that clearly underlie its specific guarantees demonstrate that the right to marital privacy and to marry and raise a family are of similar order and magnitude as the fundamental rights specifically protected.

Although the Constitution does not speak in so many words of the right of privacy in marriage, I cannot believe that it offers these fundamental rights no protection. The fact that no particular provision of the Constitution explicitly forbids the State from disrupting the traditional relation of the family—a relation as old and as fundamental as our entire civilization—surely does not show that the Government was meant to have the power to do so. Rather, as the Ninth Amendment expressly recognizes, there are fundamental personal rights such as this one. which are protected from abridgment by the Government though not specifically mentioned in the Constitution.

My Brother STEWART, while characterizing the Connecticut birth control law as "an uncommonly silly law," *post*, at 527, would nevertheless let it stand on the ground that it is not for the courts to " 'substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws.' " *Post* at 528. Elsewhere, I have stated that "[w]hile I quite agree with Mr. Justice Brandeis that . . . 'a . . . State may . . . serve as a laboratory; and try novel social and economic experiments,' *New State Ice Co.* v. *Liebmann*, 285 U.S. 262, 280, 311 (dissenting opinion). I do not believe that this includes the power to experiment with the fundamental liberties of citizens. . . ."[8] The vice of the dissenters' views is that it would permit such experimentation by the States in the area of the fundamental personal rights of its citizens. I cannot agree that the Constitution grants such power either to the States or to the Federal Government.

The logic of the dissents would sanction federal or state legislation that seems to me even more plainly unconstitutional than the statute before us. Surely the Government, absent a showing of a compelling subordinating state interest, could not decree that all husbands and wives must be sterilized after two children have been born to them. Yet by their reasoning such an invasion of marital privacy would not be subject to constitutional challenge because, while it might be "silly," no provision of the Constitution specifically prevents the Government from curtailing the marital right to bear children and raise a family. While it may shock some of my Brethren that the Court today holds that the Constitution protects the right of marital privacy, in my view it is far more shocking to believe that the personal liberty guaranteed by the Constitution does not include protection against such totalitarian limitation of family size, which is at complete variance with our constitutional concepts. Yet, if upon a showing of a slender basis of rationality, a law outlawing voluntary birth control by married persons is valid, then, by the same reasoning, a law required compulsory birth control also would seem to be valid. In my view, however, both types of law would unjustifiably intrude upon rights of marital privacy which are constitutionally protected.

In a long series of cases this Court has held that where fundamental personal liberties are involved, they may not be abridged by the States simply on a showing that a regulatory statute has some rational relationship to the effectuation of a proper state purpose. "Where there is a significant encroachment upon personal liberty, the interest which is compelling," *Bates* v. *Little Rock*, 361 U.S. 516, 524. The law must be shown "necessary, and not merely rationally related, to the accomplishments of a permissible state policy." *McLaughlin* v. *Florida*, 379 U.S. 184, 196. See *Schneider* v. *Irvington*, 308 U.S. 147, 161.

Although the Connecticut birth-control law obviously encroaches upon a fundamental personal liberty, the State does not show that the law serves any "subordinating [state] interest which is compelling" or that it is "necessary . . . to the accomplishment of a permissible state policy." The State, at most, argues that there is some rational relation between this statute and what is admittedly a legitimate subject of state concern—the discouraging of extra-marital relations. It says that preventing the use of birth-control devices by married persons helps prevent the indulgence by some in such extra-marital relations. The rationality of this justification is dubious, particularly in light of the admitted widespread availability to all persons in the State of Connecticut, unmarried as well as married, of birth-control devices for the prevention of disease, as distinguished from the prevention of conception, see *Tileston* v. *Ullman*, 129 Conn. 84, 26 A. 2d 582. But, in any event, it is clear that the state interest in safeguarding marital fidelity can be served by a more discriminately tailored statute, which does not, like the present one, sweep unnecessarily broadly, reaching far beyond the evil sought to be dealt with and intruding upon the privacy of all married couples. See *Aptheker* v. *Secretary of State*, 378 U.S. 500, 514; *NAACP* v. *Alabama*, 377 U.S. 288, 307–308; *McLaughlin* v. *Florida*, *supra*, at 196. Here, as elsewhere, "[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedoms." *NAACP* v. *Button*, 371 U.S. 415, 438. The State of Connecticut does have statutes, the constitutionality of which is beyond doubt, which prohibit adultery and fornication. See Conn. Gen. Stat. §§ 53–218, 53–219 *et seq.* These statutes demonstrate that means for achieving the same basic purpose of protecting marital fidelity are available to Connecticut without the need to "invade the area of protected freedoms." *NAACP* v. *Alabama*, *supra*, at 307. See *McLaughlin* v. *Florida*, *supra*, at 196.

Finally, it should be said of the Court's holding today that it in no way interferes with a State's proper regulation of sexual promiscuity or misconduct. As my Brother HARLAN so well stated in his dissenting opinion in *Poe* v. *Ullman*, *supra*, at 553.

"Adultery, homosexuality and the like are are sexual intimacies which the State forbids . . . but the intimacy of husband and wife is necessarily an essential and accepted feature of the institution of marriage, an institution which the State not only must allow, but which always and in every age it has fostered and protected. It is one thing when the State exerts its power either to forbid extra-marital sexuality . . . or to say who may marry, but it is quite another when, having acknowledged a marriage and the intimacies inherent in it, it undertakes to regulate by means of the criminal law the details of that intimacy."

In sum, I believe that the right of privacy in the marital relation is fundamental and basic—a personal right "retained by the people" within the meaning of the Ninth Amendment. Connecticut cannot constitutionally abridge this fundamental right, which is protected by the Fourteenth Amendment from infringement by the States. I agree with the Court that petitioners' convictions must therefore be reversed.

Mr. JUSTICE HARLAN, concurring in the judgment.

I fully agree with the judgment of reversal, but find myself unable to join the Court's opinion. The reason is that it seems to me to evince an approach to this case very much like that taken by my Brothers BLACK and STEWART in dissent, namely: the Due Process Clause of the Fourteenth Amendment does not touch this Connecticut statute unless the enactment is found to violate some right assured by the letter or penumbra of the Bill of Rights.

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[7] In light of the tests enunciated in these cases it cannot be said that a judge's responsibility to determine whether a right is basic and fundamental in this sense vests him with unrestricted personal discretion. In fact, a hesitancy to allow too broad a discretion was a substantial reason leading me to conclude in *Pointer* v. *Texas*, *supra*, at 413–414, that those rights absorbed by the Fourteenth Amendment and applied to the States because they are fundamental apply with equal force and to the same extent against both federal and state governments. In *Pointer* I said that the contrary view would require "this Court to make the extremely subjective and excessively discretionary determination as to whether a practice, forbidden the Federal Government by a fundamental constitutional guarantee, is, as viewed in the factual circumstances surrounding each individual case, sufficiently repugnant to the notion of due process as to be forbidden the States." *Id.*, at 413.

[8] *Pointer* v. *Texas*, *supra*, at 413. See also the discussion of my Brother DOUGLAS, *Poe* v. *Ullman*, *supra*, at 517–518 (dissenting opinion).

In other words, what I find implicit in the Court's opinion is that the "incorporation" doctrine may be used to *restrict* the reach of Fourteenth Amendment Due Process. For me this is just as unacceptable constitutional doctrine as is the use of the "incorporation" approach to *impose* upon the States all the requirements of the Bill of Rights as found in the provisions of the first eight amendments and in the decisions of this Court interpreting them. See, *e.g.*, my concurring opinions in *Pointer* v. *Texas*, 380 U.S. 400, 408, and *Griffin* v. *California*, 380 U.S. 609, 615, and my dissenting opinion in *Poe* v. *Ullman*, 367 U.S. 497, 522, at pp. 539–545.

In my view, the proper constitutional inquiry in this case is whether this Connecticut statute infringes the Due Process Clause of the Fourteenth Amendment because the enactment violates basic values "implicit in the concept of ordered liberty," *Palko* v. *Connecticut*, 302 U.S. 319, 325. For reasons stated at length in my dissenting opinion in *Poe* v. *Ullman, supra,* I believe that it does. While the relevant inquiry may be aided by resort to one or more of the provisions of the Bill of Rights, it is not dependent on them or any of their radiations. The Due Process Clause of the Fourteenth Amendment stands, in my opinion, on its own bottom.

A further observation seems in order respecting the justification of my Brothers BLACK and STEWART for their "incorporation" approach to this case. Their approach does not rest on historical reasons, which are of course wholly lacking (see Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights? The Original Understanding, 2 Stan. L. Rev. 5 (1949)), but on the thesis that by limiting the content of the Due Process Clause of the Fourteenth Amendment to the protection of rights which can be found elsewhere in the Constitution, in this instance in the Bill of Rights, judges will thus be confined to "interpretation" of specific constitutional provisions, and will thereby be restrained from introducing their own notions of constitutional right and wrong into the "vague contours of the Due Process Clause." *Rochin* v. *California*, 342 U.S. 165, 170.

While I could not more heartily agree that judicial "self restraint" is an indispensable ingredient of sound constitutional adjudication, I do submit that the formula suggested for achieving it is more hollow than real. "Specific' provisions of the Constitution, no less than "due process," lead themselves as readily to "person" interpretations by judges whose constitutional outlook is simply to keep the constitutional in supposed "tune with the times" (*post*, p. 522). Need one go further than to recall last Term's reapportionment cases, *Wesberry* v. *Sanders*, 376 U.S. 1, and *Reynolds* v. *Sims*, 377 U.S. 533, where a majority of the Court "interpreted" "by the People" (Art I, § 2) and "equal protection" (Amdt. 14) to command "one person, one vote," an interpretation that was made in the face of irrefutable and still unanswered history to the contrary? See my dissenting opinions in those cases, 376 U.S., at 20; 377 U.S., at 589.

Judicial self-restraint will not, I suggest, be brought about in the "due process" area by the historically unfounded incorporation formula long advanced by my Brother BLACK, and now in part espoused by my Brother STEWART. It will be achieved in this area, as in other constitutional areas, only by continual insistence upon respect for the teachings of history, solid recognition of the basic values that underlie our society, and wise appreciation of the great roles that the doctrines of federalism and separation of powers have played in establishing and preserving American freedoms. See *Adamson* v. *California*, 332 U.S. 46, 59 (Mr. Justice Frankfurter, concurring). Adherence to these principles will not, of course, obviate all constitutional differences of opinion among judges, nor should it. Their continued recognition will, however, go farther toward keeping most judges from roaming at large in the constitutional field than will the interpolation into the Constitution of an artificial and largely illusory restriction on the content of the Due Process Clause.*

Mr. JUSTICE WHITE, concurring in the judgment.

In my view this Connecticut law as applied to married couples deprives them of "liberty" without due process of law, as that concept is used in the Fourteenth Amendment. I therefore concur in the judgment of the Court reversing these convictions under Connecticut's aiding and abetting statute.

It would be unduly repetitious, and belaboring the obvious, to expound on the impact of this statute on the liberty guaranteed by the Fourteenth Amendment against arbitrary or capricious denials or on the nature of this liberty. Suffice it to say that this is not the first time this Court has had occasion to articulate that the liberty entitled to protection under the Fourteenth Amendment includes the right "to marry, establish a home and bring up children," *Meyer* v. *Nebraska*, 262 U.S. 390, 399, and "the liberty . . . to direct the upbringing and education of children," *Pierce* v. *Society of Sisters*, 268 U.S. 510, 534–535, and that these are among "the basic civil rights of man." *Skinner* v. *Oklahoma*, 316 U.S. 535, 541. These decisions affirm that there is a "realm of family life which the state cannot enter" without substantial justification. *Prince* v. *Massachusetts*, 321 U.S. 158, 166. Surley the right invoked in this case, to be free of regulation of the intimacies of the marriage relationship, "come[s] to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements." *Kovacs* v. *Cooper*, 336 U.S. 77, 95 (opinion of Frankfurter, J.).

The Connecticut anti-contraceptive statute deals rather substantially with this relationship. For it forbids all married persons the right to use birth-control devices, regardless of whether their use is dictated by considerations of family planning, *Trubek* v. *Ullman*, 147 Conn. 633, 165 A. 2d 158, health, or indeed even of life itself. *Buxton* v. *Ullman*, 147 Conn. 48, 156 A. 2d 508. The anti-use statute, together with the general aiding and abetting statute, prohibits doctors from affording advice to married persons on proper and effective methods of birth control. *Tileston* v. *Ullman*, 129 Conn. 84, 26 A 2d 582. And the clear effect of these statutes, as enforced, is to deny disadvantaged citizens of Connecticut, those without either adequate knowledge or resources to obtain private counseling, access to medical assistance and up-to-date information in respect to proper methods of birth control. *State* v. *Nelson*, 126 Conn. 412, 11 A. 2d 856; *State* v. *Griswold*, 151 Conn. 544, 200 A. 2d 479. In my view, a statute with these effects bears a substantial burden of justification when attacked under the Fourteenth Amendment. *Yick Wo* v. *Hopkins*, 118 U.S. 356; *Skinner* v. *Oklahoma*, 316 U.S. 535; *Schware* v. *Board of Bar Examiners*, 353 U. S. 232; *McLaughlin* v. *Florida*, 379 U. S. 184, 192.

An examination of the justification offered, however, cannot be avoided by saying that the Connecticut anti-use statute invades a protected area of privacy and association or that it demeans the marriage relationship. The nature of the right invaded is pertinent, to be sure, for statutes regulating sensitive areas of liberty do, under the cases of this Court, require "strict scrutiny," *Skinner* v. *Oklahoma*, 316 U.S. 535, 541, and "must be viewed in the light of less drastic means for achieving the same basic purpose." *Shelton* v. *Tucker*, 364 U.S. 479, 488. "Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling." *Bates* v. *Little Rock*, 361 U.S. 516, 524. See also *McLaughlin* v. *Florida*, 379 U.S. 184. But such statutes, if reasonably necessary for the effectuation of a legitimate and substantial state-interest, and not arbitrary or capricious in application, are not invalid under the Due Process Clause. *Zemel* v. *Rusk*, 381 U. S. 1.*

As I read the opinions of the Connecticut courts and the argument of Connecticut in this Court, the State claims but one justification for its anti-use statute. Cf. *Allied Stores of Ohio* v. *Bowers*, 358 U.S. 522, 530; *Martin* v. *Walton*, 368 U.S. 25, 28 [DOUGLAS, J., dissenting). There is no serious contention that Connecticut thinks the use of artificial or external methods of contraception immoral or unwise in itself, or that the anti-use statute is founded upon any policy of promoting population expansion. Rather, the statute is said to serve the State's policy against all forms of promiscuous or illicit sexual relationships, be they premarital or extramarital, concededly a permissible and legitimate legislative goal.

Without taking issue with the premise that the fear of conception operates as a deterrent to such relationships in addition to the criminal proscriptions Connecticut has against such conduct, I wholly fail to see how the ban on the use of contraceptives by married

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*Indeed, my Brother BLACK, in arguing his thesis, is forced to lay aside a host of cases in which the Court has recognized fundamental rights in the Fourteenth Amendment without specific reliance upon the Bill of Rights. *Post*, p. 512, n. 4.

*Dissenting opinions assert that the liberty guaranteed by the Due Process Clause is limited to a guarantee against unduly vague statutes and against procedural unfairness at trial. Under this view the Court is without authority to ascertain whether a challenged statute, or its application, has a permissible purpose and whether the manner of regulation bears a rational or justifying relationship to this purpose. A long line of cases makes very clear that this has not been the view of this Court. *Dent* v. *West Virginia*, 129 U.S. 114; *Jacobson* v. *Massachusetts*, 197 U.S. 11; *Douglas* v. *Noble*, 261 U.S. 165; *Meyer* v. *Nebraska*, 262 U.S. 390; *Pierce* v. *Society of Sisters*, 268 U.S. 510; *Schware* v. *Board of Bar Examiners*, 353 U.S. 232; *Aptheker* v. *Secretary of State*, 378 U.S. 500; *Zemel* v. *Rusk*, 381 U.S. 1.

The traditional due process test was well articulated, and applied, in *Schware* v. *Board of Bar Examiners, supra,* a case which placed no reliance on the specific guarantees of the Bill of Rights.

"A State cannot exclude a person from the the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment. *Dent* v. *West Virginia*, 129 U.S. 114. Cf. *Slochower* v. *Board of Education*, 350 U.S. 551; *Wieman* v. *Updegraff*, 344 U.S. 183. And see *Ex parte Secombe*, 19 How. 9, 13. A State can require high standards of qualification, such as good moral character or proficiency in its law, before it admits an applicant to the bar, but any qualification must have a rational connection with the applicant's fitness or capacity to practice law. *Douglas* v. *Noble*, 261 U.S. 165; *Cummings* v. *Missouri*, 4 Wall. 277, 319–320. Cf. *Nebbia* v. *New York*, 291 U.S. 502. Obviously an applicant could not be excluded merely because he was a Republican or a Negro or a member of a particular church. Even in applying permissible standards, officers of a State cannot exclude an applicant when there is no basis for their finding that he fails to meet these standards, or when their action is invidiously discriminatory." 353 U.S., at 238–239. Cf. *Martin* v. *Walton*, 368 U.S. 25, 26 (DOUGLAS, J., dissenting).

couples in any way reinforces the State's ban on illicit sexual relationships. See *Schware* v. *Board of Bar Examiners,* 353 U. S. 232, 239. Connecticut does not bar the importation or possession of contraceptive devices; they are not considered contraband material under state law, *State* v. *Certain Contraceptive Materials,* 126 Conn. 428, 11 A. 2d 863, and their availability in that State is not seriously disputed. The only way Connecticut seeks to limit or control the availability of such devices is through its general aiding and abetting statute whose operation in this context has been quite obviously ineffective and whose most serious use has been against birth-control clinics rendering advice to married, rather than unmarried, persons. Cf. *Yick Wo* v. *Hopkins,* 118 U.S. 356. Indeed, after over 80 years of the State's proscription of use, the legality of the sale of such devices to prevent disease has never been expressly passed upon, although it appears that sales have long occurred and have only infrequently been challenged. This "undeviating policy . . . throughout all the long years . . . bespeaks more than prosecutorial paralysis." *Poe* v. *Ullman,* 367 U. S. 497, 502. Moreover, it would appear that the sale of contraceptives to prevent disease is plainly legal under Connecticut Law.

In these circumstances one is rather hard pressed to explain how the ban on use by married persons in any way prevents use of such devices by persons engaging in illicit sexual relations and thereby contributes to the State's policy against such relationships. Neither the state courts nor the State before the bar of this Court has tendered such an explanation. It is purely fanciful to believe that the broad proscription on use facilitates discovery of use by persons engaging in a prohibited relationship or for some other reason makes such use more unlikely and thus can be supported by any sort of administrative consideration. Perhaps the theory is that the flat ban on use prevents married people from possessing contraceptives and without the ready availability of such devices for use in the marital relationship, there will be no or less temptation to use them in extramarital ones. This reasoning rests on the premise that married people will comply with the ban in regard to their marital relationship, notwithstanding total nonenforcement in this context and apparent nonenforcibility, but will not comply with criminal statutes prohibiting extramarital affairs and the anti-use statute in respect to illicit sexual relationships, a premise whose validity has not been demonstrated and whose intrinsic validity is not very evident. At most the broad ban is of marginal utility to the declared objective. A statute limiting its prohibition on use to persons engaging in the prohibited relationship would serve the end posited by Connecticut in the same way, and with the same effectiveness, or ineffectiveness, as the broad anti-use statute under attack in this case. I find nothing in this record justifying the sweeping scope of this statute, with its telling effect on the freedoms of married persons, and therefore conclude that it deprives such persons of liberty without due process of law.

Mr. Justice Black, with whom Mr. Justice Stewart joins, dissenting.

I agree with my Brother Stewart's dissenting opinion. And like him I do not to any extent whatever base my view that this Connecticut law is constitutional on a belief that the law is wise or that its policy is a good one. In order that there may be no room at all to doubt why I vote as I do, I feel constrained to add that the law is every bit as offensive to me as it is to my Brethren of the majority and my Brothers Harlan, White and Goldberg who, reciting reasons why it is offensive to them, hold it unconstitutional. There is no single one of the graphic and eloquent strictures and criticisms fired at the policy of this Connecticut law either by the Court's opinion or by those of my concurring Brethren to which I cannot subscribe—except their conclusion that the evil qualities they see in the law make it unconstitutional.

Had the doctor defendant here, or even the nondoctor defendant, been convicted for doing nothing more than expressing opinions to persons coming to the clinic that certain contraceptive devices, medicines or practices would do them good and would be desirable, or for telling people how devices could be used, I can think of no reason at this time why their expressions of views would not be protected by the First and Fourteenth Amendments, which guarantee freedom of speech. Cf. *Brotherhood of Railroad Trainmen* v. *Virginia ex rel. Virginia State Bar,* 377 U.S. 1; *NAACP* v. *Button,* 371 U.S. 415. But speech is one thing; conduct and physical activities are quite another. See, *e.g., Cox* v. *Louisiana,* 379 U.S. 536, 554–555; *Cox* v. *Louisiana,* 379 U.S. 559, 563–564; *id.,* 575–584 (concurring opinion); *Giboney* v. *Empire Storage & Ice Co.,* 336 U.S. 490; cf. *Reynolds* v. *United States* 98 U.S. 145, 163–164. The two defendants here were active participants in an organization which gave physical examinations to women, advised them what kind of contraceptive devices or medicines would most likely be satisfactory for them, and then supplied the devices themselves, all for a graduated scale of fees, based on the family income. Thus these defendants admittedly engaged with others in a planned course of conduct to help people violate the Connecticut law. Merely because some speech was used in carrying on that conduct—just as in ordinary life some speech accompanies most kinds of conduct—we are not in my view justified in holding that the First Amendment forbids the State to punish their conduct. Strongly as I desire to protect all First Amendment freedoms, I am unable to stretch the Amendment so as to afford protection to the conduct of these defendants in violating the Connecticut law. What would be the constitutional fate of the law if hereafter applied to punish nothing but speech is, as I have said, quite another matter.

The Court talks about a constitutional "right of privacy" as though there is some constitutional provision or provisions forbidding any law ever to be passed which might abridge the "privacy" of individuals. But there is not. There are, of course, guarantees in certain specific constitutional provisions which are designed in part to protect privacy at certain times and places with respect to certain activities. Such, for example, is the Fourth Amendment's guarantee against "unreasonable searches and seizures." But I think it belittles that Amendment to talk about it as though it protects nothing but "privacy." To treat it that way is to give it a niggardly interpretation, not the kind of liberal reading I think any Bill of Rights provision should be given. The average man would very likely not have his feelings soothed any more by having his property seized openly than by having it seized privately and by stealth. He simply wants his property left alone. And a person can be just as much, if not more, irritated, annoyed and injured by an unceremonious public arrest by a policeman as he is by a seizure in the privacy of his office or home.

One of the most effective ways of diluting or expanding a constitutionally guaranteed right is to substitute for the crucial word or words of a constitutional guarantee another word or words, more or less flexible and more or less restricted in meaning. This fact is well illustrated by the use of the term "right of privacy" as a comprehensive substitute for the Fourth Amendment's guarantee against "unreasonable searches and seizures." "Privacy" is a broad, abstract and ambiguous concept which can easily be shrunken in meaning but which can also, on the other hand, easily be interpreted as a constitutional ban against many things other than searches and seizures. I have expressed the view many times that First Amendment freedoms, for example, have suffered from a failure of the courts to stick to the simple language of the First Amendment in construing it, instead of invoking multitudes of words substituted for those the Framers used. See *e.g., New York Times Co.* v. *Sullivan,* 376 U.S. 254, 293 (concurring opinion); cases collected in *City of El Paso* v. *Simmons,* 379 U.S. 497, 517, n. 1 (dissenting opinion); Black, The Bill of Rights, 35 N.Y.U.L. Rev. 865. For these reasons I get nowhere in this case by talk about a constitutional "right of privacy" as an emanation from one or more constitutional provisions.[1] I like my privacy as well as the next one, but I am nevertheless compelled to admit that government has a right to invade it unless prohibited by some specific constitutional provision. For these reasons I cannot agree with the Court's judgment and the reasons it gives for holding this Connecticut law unconstitutional.

This brings me to the arguments made by my Brothers Harlan, White and Goldberg for invalidating the Connecticut law. Brothers Harlan[2] and White would invalidate it by reliance on the Due Process Clause of the Fourteenth Amendment, but Brother Goldberg, while agreeing with Brother Harlan, relies also on the Ninth Amendment. I have no doubt that the Connecticut law could be applied in such a way as to abridge freedom of speech and press therefore violate the First and Fourteenth Amendments. My disagreement with the Court's opinion holding that there is such a violation here is a narrow one, relating to the application of the First Amendment to the facts and circumstances of this particular case. But my disagreement with Brothers Harlan, White and Goldberg is more basic. I think that if properly construed neither the Due Process Clause nor the Ninth Amendment, nor both together, could under any circumstances be a proper basis for invalidating the Connecticut law. I discuss the due process and Ninth Amendment arguments together because on analysis they turn out to be the same thing—merely using different words to claim for the Court and the federal judiciary power to invalidate any legislative act which the judges find irrational, unreasonable or offensive.

The due process argument which my Brothers Harlan and White adopt here is based, as their opinions indicate, on the premise that this Court is vested with power to invalidate all state laws that it considers to be arbitrary, capricious, unreasonable, or oppressive, or on this Court's belief that a particular state law under scrunity has no "rational or justifying" purpose, or is offensive to a "sense of fairness and justice."[3] If these formulas based on "natural justice," or others which meant he same thing,[4] are to prevail, they require judges to determine what is or is not constitutional on the basis of their own appraisal of what laws are unwise or unnecessary. The power to make such decisions is of course that of a legislative body. Surely it has to be admitted that no provision of the Constitution specifically gives such blanket power to courts to exercise such a supervisory veto over the wisdom and value of legislative policies and to hold unconstitutional those laws which they believe unwise or dangerous. I readily admit that no legislative body, state or national, should pass laws that can justly be given any of the invidious labels invoked as constitutional excuses to strike down state laws. But perhaps it is not too much to say that no legislative body ever does pass laws without believing that they will accomplish a sane, rational, wise and justifiable purpose. While I completely subscribe to the holding

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Footnotes at end of article.

of *Marbury* v. *Madison*, 1 Cranch 137, and subsequent cases, that our Court has constitutional power to strike down statutes, state or federal, that violate commands of the Federal Constitution, I do not believe that we are granted power by the Due Process Clause or any other constitutional provision or provisions to measure constitutionality by our belief that legislation is arbitrary, capricious or unreasonable, or accomplishes no justifiable purpose, or is offensive to our own notions of "civilized standards of conduct."[5] Such an appraisal of the wisdom of legislation is an attribute of the power to make laws, not of the power to interpret them. The use by federal courts of such a formula or doctrine or whatnot to veto federal or state laws simply takes away from Congress and States the power to make laws based on their own judgment of fairness and wisdom and transfers that power to this Court for ultimate determination—a power which was specifically denied to federal courts by the convention that framed the Constitution.[6]

Of the cases on which my Brothers White and Goldberg rely so heavily, undoubtedly the reasoning of two of them supports their result here—as would that of a number of others which they do not bother to name, *e. g.*, *Lochner* v. *New York*, 198 U. S. 45, *Coppage* v. *Kansas*, 236 U. S. 1, *Jay Burns Baking Co.* v. *Bryan*, 264 U. S. 504, and *Adkins* v. *Children's Hospital*, 261 U. S. 525. The two they do cite and quote from, *Meyer* v. *Nebraska*, 262 U. S. 390, and *Pierce* v. *Society of Sisters*, 268 U. S. 510, were both decided in opinions by Mr. Justice McReynolds which elaborated the same natural law due process philosopy found in *Lochner* v. *New York*, *supra*, one of the cases on which he relied in *Meyer*, along with such other long-discredited decisions as, *e. g.*, *Adams* v. *Tanner*, 244 U. S. 590, and *Adkins* v. *Children's Hospital*, *supra*. *Meyer* held unconstitutional, as an "arbitrary" and unreasonable interference with the right of a teacher to carry on his occupation and of parents to hire him, a state law forbidding the teaching of modern foreign languages to young children in the schools.[7] And in *Pierce*, relying principally on *Meyer*, Mr. Justice McReynolds said that a state law requiring that all children attend public schools interfered unconstitutionally with the property rights of private school corporations because it was an "arbitrary, unreasonable and unlawful interference" which threatened "destruction of their business and property." 268 U. S., at 536. Without expressing an opinion as to whether either of those cases reached a correct result in light of our later decisions applying the First Amendment to the States through the Fourteenth,[8] I merely point out that the reasoning stated in *Meyer* and *Pierce* was the same natural law due process philosophy which many later opinions repudiated, and which I cannot accept. Brothers White and Goldberg also cite other cases, such as *NAACP* v. *Button*, 371 U. S. 415, *Shelton* v. *Tucker*, 364 U. S. 479, and *Schneider* v. *State*, 308 U. S. 147, which held that States in regulating conduct could not, consistently with the First Amendment as applied to them by the Fourteenth, pass unnecessarily broad laws which might indirectly infringe on First Amendment freedoms.[9] See *Brotherhood of Railroad Trainmen* v. *Virginia ex rel. Virginia State Bar*, 377 U. S. 1, 7–8.[10] Brothers White and Goldberg now apparently would start from this requirement that laws be narrowly drafted so as not to curtail free speech and assembly, and extend it limitlessly to require States to justify any law restricting "liberty" as my Brethren define "liberty." This would mean at the very least, I suppose, that every state criminal statute—since it must inevitably curtail "liberty" to some extent—would be suspect, and would have to be justified to this Court.[11]

My Brother Goldberg has adopted the recent discovery[12] that the Ninth Amendment as well as the Due Process Clause can be used by this Court as authority to strike down all state legislation which this Court thinks violates "fundamental principles of liberty and justice," or is contrary to the "traditions and [collective] conscience of our people." He also states, without proof satisfactory to me, that in making decisions on this basis judges will not consider "their personal and private notions." One may ask how they can avoid considering them. Our Court certainly has no machinery with which to take a Gallup Poll.[13] And the scientific miracles of this age have not yet produced a gadget which the Court can use to determine what traditions are rooted in the "[collective] conscience of our people." Moreover, one would certainly have to look far beyond the language of the Ninth Amendment[14] to find that the Framers vested in this Court any such awesome veto powers over lawmaking, either by the States or by the Congress. Nor does anything in the history of the Amendment offer any support for such a shocking doctrine. The whole history of the adoption of the Constitution and Bill of Rights points the other way, and the very material quoted by my Brother Goldberg shows that the Ninth Amendment was intended to protect against the idea that "by enumerating particular exceptions to the grant of power" to the Federal Government, "those rights which were not singled out, were intended to be assigned into the hands of the General Government [the United States], and were consequently insecure."[15] That Amendment was passed, not to broaden the powers of this Court or any other department of "the General Government," but, as every student of history knows, to assure the people that the Constitution in all its provisions was intended to limit the Federal Government to the powers granted expressly or by necessary implication. If any broad, unlimited power to hold laws unconstitutional because they offend what this Court conceives to be the "[collective] conscience of our people" is vested in this Court by the Ninth Amendment, the Fourteenth Amendment, or any other provision of the Constitution, it was not given by the Framers, but rather has been bestowed on the Court by the Court. This fact is perhaps responsible for the peculiar phenomenon that for a period of a century and a half no serious suggestion was ever made that the Ninth Amendment, enacted to protect state powers against federal invasion, could be used as a weapon of federal power to prevent state legislatures from passing laws they consider appropriate to govern local affairs. Use of any such broad, unbounded judicial authority would make of this Court's members a day-to-day constitutional convention.

I repeat so as not to be misunderstood that this Court does have power, which it should exercise, to hold laws unconstitutional where they are forbidden by the Federal Constitution. My point is that there is no provision of the Constitution which either expressly or impliedly vests power in this Court to sit as a supervisory agency over acts of duly constituted legislative bodies and set aside their laws because of the Court's belief that the legislative policies adopted are unreasonable, unwise, arbitrary, capricious or irrational. The adoption of such a loose, flexible, uncontrolled standard for holding laws unconstitutional, if ever it is finally achieved, will amount to a great unconstitutional shift of power to the courts which I believe and am constrained to say will be bad for the courts and worse for the country. Subjecting federal and state laws to such an unrestrained and unrestrainable judicial control as to the wisdom of legislative enactments would, I fear, jeopardize the separation of governmental powers that the Framers set up and at the same time threaten to take away much of the power of States to govern themselves which the Constitution plainly intended them to have.[16]

I realize that many good and able men have eloquently spoken and written, sometimes in rhapsodical strains, about the duty of this Court to keep the Constitution in tune with the times. The idea is that the Constitution must be changed from time to time and that this Court is charged with a duty to make those changes. For myself, I must with all deference reject that philosophy. The Constitution makers knew the need for change and provided for it. Amendments suggested by the people's elected representatives can be submitted to the people or their selected agents for ratification. That method of change was good for our Fathers, and being somewhat old-fashioned I must add it is good enough for me. And so, I cannot rely on the Due Process Clause or the Ninth Amendment or any mysterious and uncertain natural law concept as a reason for striking down this state law. The Due Process Clause with an "arbitrary and capricious" or "shocking to the conscience" formula was liberally used by this Court to strike down economic legislation in the early decades of this century, threatening, many people thought, the tranquility and stability of the Nation. See, *e.g.*, *Lochner* v. *New York*, 198 U.S. 45. That formula, based on subjective considerations of "natural justice," is no less dangerous when used to enforce this Court's views about personal rights than those about economic rights. I had thought that we had laid that formula, as a means for striking down state legislation, to rest once and for all in cases like *West Coast Hotel Co.* v. *Parrish*, 300 U.S. 379; *Olsen* v. *Nebraska ex rel. Western Reference & Bond Assn.*, 313 U.S. 236, and many other opinions.[17] See also *Lochner* v. *New York*, 198 U.S. 45, 74 (Holmes, J., dissenting).

In *Ferguson* v. *Skrupa*, 372 U.S. 726, 730, this Court two years ago said in an opinion joined by all the Justices but one[18] that

"The doctrine that prevailed in *Lochner*, *Coppage*, *Adkins*, *Burns*, and like cases—that due process authorizes courts to hold laws unconstitutional when they believe the legislature has acted unwisely—has long since been discarded. We have returned to the original constitutional proposition that courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws."

And only six weeks ago, without even bothering to hear argument, this Court overruled *Tyson & Brother* v. *Banton*, 273 U.S. 418, which had held state laws regulating ticket brokers to be a denial of due process of law.[19] *Gold* v. *DiCarlo*, 380 U.S. 520. I find April's holding hard to square with what my concurring Brethren urge today. They would reinstate the *Lochner*, *Coppage*, *Adkins*, *Burns*, line of cases, cases from which this Court recoiled after the 1930's, and which had been I thought totally discredited until now. Apparently my Brethren have less quarrel with state economic regulations than former Justices of their persuasion had. But any limitation upon their using the natural law due process philosophy to strike down any state law, dealing with any activity whatever, will obviously be only self-imposed.[20]

In 1798, when this Court was asked to hold another Connecticut law unconstitutional, Justice Iredell said:

"[I]t has been the policy of all the *American* states, which have, individually, framed their state constitutions since the revolution, and of the people of the *United States*, when they framed the Federal Constitution, to define with precision the objects of the legislative power, and to restrain its exercise within marked and settled boundaries. If any act of Congress, or of the Legislature of a state, violates those constitutional provi-

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Footnotes at end of article.

sions, it is unquestionably void; though, I admit, that as the authority to declare it void is of a delicate and awful nature, the Court will never resort to that authority, but in a clear and urgent case. If, on the other hand, the Legislature of the Union, or the Legislature of any member of the Union, shall pass a law, within the general scope of their constitutional power, the Court cannot pronounce it to be void, merely because it is in their judgment, contrary to the principles of natural justice. The ideas of natural justice are regulated by no fixed standard: the ablest and the purest men have differed upon the subject; and all that the Court could properly say, in such an event, would be that the Legislature (possessed of an equal right of opinion) had passed an act which, in the opinion of the judges, was inconsistent with the abstract principles of natural justice." *Calder* v. *Bull*, 3 Dall. 386, 399 (emphasis in original).

I would adhere to that constitutional philosophy in passing on this Connecticut law today. I am not persuaded to deviate from the view which I stated in 1947 in *Adamson* v. *California*, 332 U.S. 46, 90–92 (dissenting opinion):

"Since *Marbury* v. *Madison*, 1 Cranch 137, was decided, the practice has been firmly established, for better or worse, that courts can strike down legislative enactments which violate the Constitution. This process, of course, involves interpretation, and since words can have many meanings, interpretation obviously may result in contraction or extension of the original purpose of a constitutional provision, thereby affecting policy. But to pass upon the constitutionality of statutes by looking to the particular standards enumerated in the Bill of Rights and other parts of the Constitution is one thing; to invalidate statutes because of application of 'natural law' deemed to be above and undefined by the Constitution is another. 'In the one instance, courts proceeding within clearly marked constitutional boundaries seek to execute policies written into the Constitution; in the other, they roam at will in the limitless area of their own beliefs as to reasonableness and actually select policies, a responsibility which the Constitution entrusts to the legislative representatives of the people.' *Federal Power Commission* v. *Pipeline Co.*, 315 U.S. 575, 599, 601, n. 4." [21] (Footnotes omitted.)

The late Judge Learned Hand, after emphasizing his view that judges should not use the due process formula suggested in the concurring opinions today or any other formula like it to invalidate legislation offensive to their "personal preferences," [22] made the statement, with which I fully agree, that:

"For myself it would be most irksome to be ruled by a bevy of Platonic Guardians, even if I knew how to choose them, which I assuredly do not." [23]

So far as I am concerned, Connecticut's law as applied here is not forbidden by any provision of the Federal Constitution as that Constitution was written, and I would therefore affirm.

Mr. Justice Stewart, whom Mr. Justice Black joins, dissenting.

Since 1879 Connecticut has had on its books a law which forbids the use of contraceptives by anyone. I think this is an uncommonly silly law. As a practical matter, the law is obviously unenforceable, except in the oblique context of the present case. As a philosophical matter, I believe the use of contraceptives in the relationship of marriage should be left to personal and private choice, based upon each individual's moral, ethical, and religious beliefs. As a matter of social policy, I think professional counsel about methods of birth control should be available to all, so that each individual's choice can be meaningfully made. But we are not asked in this case to say whether we think this law is unwise, or even asinine. We are asked to hold that it violates the United States Constitution. And that I cannot do.

In the course of its opinion the Court refers to no less than six Amendments to the Constitution: the First, the Third, the Fourth, the Fifth, the Ninth, and the Fourteenth. But the Court does not say which of these Amendments, if any, it thinks is infringed by this Connecticut law.

We *are* told that the Due Process Clause of the Fourteenth Amendment is not, as such, the "guide" in this case. With that much I agree. There is no claim that this law, duly enacted by the Connecticut Legislature, is unconstitutionally vague. There is no claim that the appellants were denied any of the elements of procedural due process at their trial, so as to make their convictions constitutionally invalid. And, as the Court says, the day has long passed since the Due Process Clause was regarded as a proper instrument for determining "the wisdom, need, and propriety" of state laws. Compare *Lochner* v. *New York*, 198 U.S. 45, with *Ferguson* v. *Skrupa*, 372 U.S. 726. My Brothers HARLAN and WHITE to the contrary, "[w]e have returned to the original constitutional proposition that courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws." *Ferguson* v. *Skrupa*, *supra*, at 730.

As to the First, Third, Fourth, and Fifth Amendments, I can find nothing in any of them to invalidate this Connecticut law, even assuming that all those Amendments are fully applicable against the States.[24] It has not even been argued that this is a law "respecting an establishment of religion, or prohibiting the free exercise thereof." [25] And surely, unless the solemn process of constitutional adjudication is to descend to the level of a play on words, there is not involved here any abridgment of "the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." [26] No soldier has been quartered in any house.[27] There has been no search, and no seizure.[28] Nobody has been compelled to be a witness against himself.[29]

The Court also quotes the Ninth Amendment, and my Brother GOLDBERG's concurring opinion relies heavily upon it. But to say that the Ninth Amendment has anything to do with this case is to turn somersaults with history. The Ninth Amendment, like its companion the Tenth, which this Court held "states but a truism that all is retained which has not been surrendered," *United States* v. *Darby*, 312 U.S. 100, 124, was framed by James Madison and adopted by the States simply to make clear that the adoption of the Bill of Rights did not alter the plan that the *Federal* Government was to be a government of express and limited powers, and that all rights and powers not delegated to it were retained by the people and the individual States. Until today no member of this Court has ever suggested that the Ninth Amendment meant anything else, and the idea that a federal court could ever use the Ninth Amendment to annul a law passed by the elected representatives of the people of the State of Connecticut would have caused James Madison no little wonder.

What provision of the Constitution, then, does make this state law invalid? The Court says it is the right of privacy "created by several fundamental constitutional guarantees." With all deference, I can find no such general right of privacy in the Bill of Rights, in any other part of the Constitution, or in any case ever before decided by this Court.[30]

At the oral argument in this case we were told that the Connecticut law does not "conform to current community standards." But it is not the function of this Court to decide cases on the basis of community standards. We are here to decide cases "agreeably to the Constitution and laws of the United States." It is the essence of judicial duty to subordinate our own personal views, our own ideas of what legislation is wise and what is not. If, as I should surely hope, the law before us does not reflect the standards of the people of Connecticut, the people of Connecticut can freely exercise their true Ninth and Tenth Amendment rights to persuade their elected representatives to repeal it. That is the constitutional way to take this law off the books.[31]

FOOTNOTES

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[1] The phrase "right to privacy" appears first to have gained currency from an article written by Messrs. Warren and (later Mr. Justice) Brandeis in 1890 which urged that States should give some form of tort relief to persons whose private affairs were exploited by others. The Right to Privacy, 4 Harv. L. Rev. 193. Largely as a result of this article, some States have passed statutes creating such a cause of action, and in others state courts have done the same thing by exercising their powers as courts of common law. See generally 41 Am. Jur. 926–927. Thus the Supreme Court of Georgia, in granting a cause of action for damages to a man whose picture had been used in a newspaper advertisement without his consent, said that "A right of privacy in matters purely private is . . . derived from natural law" and that "The conclusion reached by us seems to be . . . thoroughly in accord with natural justice, with the principles of the law of every civilized nation, and especially with the elastic principles of the common law . . . ." *Pavesich* v. *New England Life Ins. Co.*, 122 Ga. 190, 194, 218, 50 S. E. 68, 70, 80. Observing that "the right of privacy . . . presses for recognition here," today this Court, which I did not understand to have power to sit as a court of common law, now appears to be exalting a phrase which Warren and Brandeis used in discussing grounds for tort relief, to the level of a constitutional rule which prevents state legislatures from passing any law deemed by this Court to interfere with "privacy."

[2] Brother HARLAN's views are spelled out at greater length in his dissenting opinion in *Poe* v. *Ullman*, 367 U.S. 497, 539–555.

[3] Indeed, Brother White appears to have gone beyond past pronouncements of the natural law due process theory, which at least said that the Court should exercise this unlimited power to declare state acts unconstitutional with "restraint." He now says that, instead of being presumed constitutional (see *Munn* v. *Illinois*, 94 U.S. 113, 123; compare *Adkins* v. *Children's Hospital*, 261 U.S. 525, 544), the statute here "bears a substantial burden of justification when attacked under the Fourteenth Amendment."

[4] A collection of the catchwords and catch phrases invoked by judges who would strike down under the Fourteenth Amendment laws which offend their notions of natural justice would fill many pages. Thus it has been said that this Court can forbid state action which "shocks the conscience," *Rochin* v. *California*, 342 U.S. 165, 172, sufficiently to "shock itself into the protective arms of the Constitution," *Irvine* v. *California*, 347 U.S. 128, 138 (concurring opinion). It has been urged that States may not run counter to the "decencies of civilized conduct," *Rochin*, *supra*, at 173, or "some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental," *Snyder* v. *Massachusetts*, 291 U.S. 97, 105, or to "those canons of decency and fairness which express the notions of justice of English-speaking peoples," *Malinski* v. *New York*, 324 U.S. 401, 417 (concurring opinion), or to "the community's sense of fair play and decency," *Rochin*, *supra*, at 173. It has been said that we must decide whether a state law is "fair, reasonable and appropriate," or is rather "an unreasonable, unnecessary and arbitrary interference with the right of individual to his personal liberty or to enter into . . . contracts," *Lochner* v. *New*

York, 198 U.S. 45, 56. States, under this philosophy, cannot act in conflict with "deep rooted feelings of the community," *Halley* v. *Ohio*, 332 U.S. 596, 604 (separate opinion), or with "fundamental notions of fairness and justice," *id.*, 607. See also, *e.g.*, *Wolf* v. *Colorado*, 338 U.S. 25, 27 ("rights . . . basic to our free society"); *Herbert* v. *Louisiana*, 272 U.S. 312, 316 ("fundamental principles of liberty and justice"); *Adkins* v. *Children's Hospital*, 261 U.S. 525, 561 ("arbitrary restraint of . . . liberties"); *Betts* v. *Brady*, 316 U.S. 455, 462 ("denial of fundamental fairness, shocking to the universal sense of justice"); *Poe* v. *Ullman*, 367 U.S. 497, 539 (dissenting opinion) ("intolerable and unjustifiable") Perhaps the clearest, frankest and briefest explanation of how this due process approach works is the statement in another case handed down today that this Court is to invoke the Due Process Clause to strike down state procedures or laws which it can "not tolerate." *Linkletter* v. *Walker*, *post*, p. 618, 631.

[5] See Hand, The Bill of Rights (1958) 70:

"[J]udges are seldom content merely to annul the particular solution before them; they do not, indeed they may not, say that taking all things into consideration, the legislators' solution is too strong for the judicial stomach. On the contrary they wrap up their veto in a protective veil of adjectives such as 'arbitrary,' 'artificial,' 'normal,' 'reasonable,' 'inherent,' 'fundamental,' or 'essential,' whose office usually, though quite innocently, is to disguise what they are doing and impute to it a derivation far more impressive than their personal preferences, which are all that in fact lie behind the decision." See also *Rochin* v. *California*, 342 U.S. 165, 174 (concurring opinion). But see *Linkletter* v. *Walker*, *supra*, n. 4, at 631.

[6] This Court held in *Marbury* v. *Madison*, 1 Cranch 137, that this Court has power to invalidate laws on the ground that they exceed the constitutional power of Congress or violate some specific prohibition of the Constitution. See also *Fletcher* v. *Peck*, 6 Cranch 87. But the Constitutional Convention did on at least two occasions reject proposals which would have given the federal judiciary a part in recommending laws or in vetoing as bad or unwise the legislation passed by the Congress. Edmund Randolph of Virginia proposed that the President

". . . and a convenient number of the National Judiciary, ought to compose a council of revision with authority to examine every act of the National Legislature before it shall operate, & every act of a particular Legislature before a Negative thereon shall be final; and that the dissent of the said Council shall amount to a rejection, unless the Act of the National Legislature be again passed, or that of a particular Legislature be again negatived by [original wording illegible] of the members of each branch." 1 The Records of the Federal Convention of 1787 (Farrand ed. 1911) 21.

In support of a plan of this kind James Wilson of Pennsylvania argued that:

". . . It had been said that the Judges, as expositors of the Laws would have an opportunity of defending their constitutional rights. There was weight in this observation; but this power of the Judges did not go far enough. Laws may be unjust, may be unwise, may be dangerous, may be destructive; and yet not be so unconstitutional as to justify the Judges in refusing to give them effect. Let them have a share in the Revisionary power, and they will have an opportunity of taking notice of these characters of a law, and of counteracting, by the weight of their opinions the improper views of the Legislature." 2 *id.*, at 73.

Nathaniel Gorham of Massachusetts "did not see the advantage of employing the Judges in this way. As Judges they are not to be presumed to possess any peculiar knowledge of the mere policy of public measures." *Ibid.*

Elbridge Gerry of Massachusetts likewise opposed the proposal for a council of revision:

". . . He relied for his part on the Representatives of the people as the guardians of their Rights & interests. It [the proposal] was making the Expositors of the Laws, the Legislators which ought never to be done." *Id.*, at 75.

And at another point:

"Mr. Gerry doubts whether the Judiciary ought to form a part of it [the proposed council of revision], as they will have a sufficient check agst. encroachments on their own department by their exposition of the laws, which involved a power of deciding on their Constitutionality. . . . It was quite foreign from the nature of ye. office to make them judges of the policy of public measures." 1 *Id.*, at 97–98.

Madison supported the proposal on the ground that "a Check [on the legislature] is necessary." *Id.*, at 108. John Dickinson of Delaware opposed it on the ground that "the Judges must interpret the Laws they ought not to be legislators." *Ibid.* The proposal for a council of revision was defeated.

The following proposal was also advanced:

"To assist the President in conducting the Public affairs there shall be a Council of State composed of the following officers—1. The Chief Justice of the Supreme Court, who shall from time to time recommend such alterations of and additions to the laws of the U.S. as may in his opinion be necessary to the due administration of Justice, and such as may promote useful learning and inculcate sound morality throughout the Union. . . ." 2 *id.*, at 342. This proposal too was rejected.

[7] In *Meyer*, in the very same sentence quoted in part by my Brethren in which he asserted that the Due Process Clause gave an abstract and inviolable right "to marry, establish a home and bring up children," Mr. Justice McReyonlds also asserted the heretofore discredited doctrine that the Due Process Clause prevented States from interfering with "the right of the individual to contract." 262 U. S., at 399.

[8] Compare *Poe* v. *Ullman*, 367 U. S., at 543–544 (HARLAN, J., dissenting).

[9] The Court has also said that in view of the Fourteenth Amendment's major purpose of eliminating state-enforced racial discrimination, this Court will scrutinize carefully any law embodying a racial classification to make sure that it does not deny equal protection of the laws. See *McLaughlin* v. *Florida*, 379 U. S. 184.

[10] None of the other cases decided in the past 25 years which Brothers WHITE and GOLDBERG cite can justly be read as holding that judges have power to use a natural law due process formula to strike down all state laws which they think are unwise, dangerous, or irrational. *Prince* v. *Massachusetts*, 321 U.S. 158, *upheld* a state law forbidding minors from selling publications on the streets. *Kent* v. *Dulles*, 357 U.S. 116, recognized the power of Congress to restrict travel outside the country so long as it accorded persons the procedural safeguards of due process and did not violate any other specific constitutional provision. *Schware* v. *Board of Bar Examiners*, 353 U.S. 232, held simply that a State could not, consistently with due process, refuse a lawyer a license to practice law on the basis of a finding that he was morally unfit when there was no evidence in the record, 353 U.S., at 246–247, to support such a finding. Compare *Thompson* v. *City of Louisville*, 362 U.S. 199, in which the Court relied in part on *Schware*. See also *Konigsberg* v. *State Bar*, 353 U.S. 252. And *Bolling* v. *Sharpe*, 347 U.S. 497, merely recognized what had been the understanding from the beginning of the country, an understanding shared by many of the draftsmen of the Fourteenth Amendment, that the whole Bill of Rights, including the Due Process Clause of the Fifth Amendment, was a guarantee that all persons would receive equal treatment under the law. Compare *Chambers* v. *Florida*, 309 U.S. 227, 240–241. With one exception, the other modern cases relied on by my Brethren were decided either solely under the Equal Protection Clause of the Fourteenth Amendment or under the First Amendment, made applicable to the States by the Fourteenth, some of the latter group involving the right of association which this Court has held to be a part of the rights of speech, press and assembly guaranteed by the First Amendment. As for *Aptheker* v. *Secretary of State*, 378 U.S. 500, I am compelled to say that if that decision was written or intended to bring about the abrupt and drastic reversal in the course of constitutional adjudication which is now attributed to it, the change was certainly made in a very quiet and unprovocative manner, without any attempt to justify it.

[11] Compare *Adkins* v. *Children's Hospital*, 261 U.S. 525, 568, (Holmes J., dissenting):

"The earlier decisions upon the same words [the Due Process Clause] in the Fourteenth Amendment began within our memory and went to farther than an unpretentious assertion of the liberty to follow the ordinary callings. Later that innocuous generality was expanded into the dogma, Liberty of Contract. Contract is not specially mentioned in the text that we have to construe. It is merely an example of doing what you want to do, embodied in the world liberty. But pretty much all law consists in forbidding men to some things that they want to do, and contract is no more exempt from law than other acts."

[12] See Patterson, The Forgotten Ninth Amendment (1955). Mr. Patterson urges that the Ninth Amendment be used to protect unspecified "natural and inalienable rights." P. 4. The Introduction by Roscoe Pound states that "there is a marked revival of natural law ideas throughout the world. Interest in the Ninth Amendment is a symptom of that revival." P. iii.

In Redlich, Are There "Certain Rights . . . Retained by the People"?, 37 N.Y. U.L. Rev. 787, Professor Redlich, in advocating reliance on the Ninth and Tenth Amendments to invalidate the Connecticut law before us, frankly states:

"But for one who feels that the marriage relationship should be beyond the reach of a state law forbidding the use of contraceptives, the birth control case poses a troublesome and challenging problem of constitutional interpretation. He may find himself saying, 'The law is unconstitutional—but why?' There are two possible paths to travel in finding the answer. One is to revert to a frankly flexible due process concept even on matters that do not involve specific constitutional prohibitions. The other is to attempt to evolve a new constitutional framework within which to meet this and similar problems which are likely to arise." *Id.*, at 798.

[13] Of course one cannot be oblivious to the fact that Mr. Gallup has already published the results of a poll which he says shows that 46% of the people in this country believe schools should teach about birth control. Washington Post, May 21, 1965, p. 2, col. 1. I can hardly believe, however, that Brother GOLDBERG would view 46% of the persons polled as so overwhelming a proportion that this Court may now rely on it to declare that the Connecticut law infringes "fundamental" rights, and overrule the long-standing view of the people of Connecticut expressed through their elected representatives.

[14] U.S. Const., Amend. IX, provides:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

[15] "1 Annals of Congress 439. See also II Story, Commentaries on the Constitution of the United States (5th ed. 1891): "This clause was manifestly introduced to prevent any perverse or ingenious misapplication of the well-known maxim, that an affirmation in particular cases implies a negation in all others; and, *e converso*, that a negation in particular cases implies an affirmation in all others. The maxim, rightly understood, is perfectly sound and safe; but it has often been strangely forced from its natural meaning into the support of the most dangerous political heresies." *Id.*, at 651 (footnote omitted).

[16] Justice Holmes in one of his last dissents, written in reply to Mr. Justice McReynolds' opinion for the Court in *Baldwin* v. *Missouri*, 281 U.S. 586, solemnly warned against a due process formula apparently approved by my concurring Brethren today. He said: "I have not yet adequately expressed the more than anxiety that I feel at the ever increasing scope given to the Fourteenth Amendment in cutting down what I believe to be the constitutional rights of the States. As the decisions now stand, I see hardly any limit but the sky to the invalidating of those rights if they happen to strike a majority of this Court as for any reason undesirable. I cannot believe that the Amendment was intended to give us *carte blanche* to embody our economic or moral beliefs in its prohibitions. Yet I can think of no narrower reason that seems to me to justify the present and the earlier decisions to which I have referred. Of course the words 'due process of law,' if taken in their literal meaning, have no application to this case; and while it is too late to deny that they have been given a much more extended and artificial signification, still we ought to remember the great caution shown by the Constitution in limiting the power of the States, and should be slow to construe the clause in the Fourteenth Amendment as committing to the Court, with no guide but the Court's own discretion, the validity of whatever laws the States may pass." 281 U.S., at 595. See 2 Holmes-Pollock Letters (Howe ed. 1941) 267–268.

[17] *E.g.*, in *Day-Brite Lighting, Inc.* v. *Missouri*, 342 U.S. 421, 423, this Court held that "Our recent decisions make plain that we do not sit as a superlegislature to weigh the wisdom of legislation nor to decide whether the policy which it expresses offends the public welfare."

Compare *Gardner* v. *Massachusetts*, 305 U.S. 559, which the Court today apparently overrules, which held that a challenge under the Federal Constitution to a state law forbidding the sale or furnishing of contraceptives did not raise a substantial federal question.

[18] Brother Harlan, who has consistently stated his belief in the power of courts to strike down laws which they consider arbitrary or unreasonable, see, *e.g.*, *Poe* v. *Ullman*, 367 U.S. 497, 539–555 (dissenting opinion), did not join the Court's opinion in *Ferguson* v. *Skrupa*.

[19] Justice Holmes, dissenting in *Tyson*, said:

"I think the proper course is to recognize that a state legislature can do whatever it sees fit to do unless it is restrained by some express prohibition in the Constitution of the United States or of the State, and that Courts should be careful not to extend such prohibitions beyond their obvious meaning by reading into them conceptions of public policy that the particular Court may happen to entertain." 273 U.S., at 446.

[20] Compare *Nicchia* v. *New York*, 254 U.S. 228, 231, upholding a New York dog-licensing statute on the ground that it did not "deprive dog owners of liberty without due process of law." And as I said concurring in *Rochin* v. *California*, 342 U.S. 165, 175, "I believe that faithful adherence to the specific guarantees in the Bill of Rights insures a more permanent protection of individual liberty than that which can be afforded by the nebulous standards" urged by my concurring Brethren today.

[21] *Gideon* v. *Wainwright*, 372 U.S. 335, and similar cases applying specific Bill of Rights provisions to the States do not in my view stand for the proposition that this Court can rely on its own concept of "ordered liberty" or "shocking the conscience" or natural law to decide what laws it will permit state legislatures to enact. *Gideon* in applying to state prosecutions the Sixth Amendment's guarantee of right to counsel followed *Palko* v. *Connecticut*, 302 U.S. 319, which had held that specific provisions of the Bill of Rights, rather than the Bill of Rights as a whole, would be selectively applied to the States. While expressing my own belief (not shared by Mr. Justice Stewart) that all the provisions of the Bill of Rights were made applicable to the States by the Fourteenth Amendment, in my dissent in *Adamson* v. *California*, 332 U.S. 46, I also said: "If the choice must be between the selective process of the *Palko* decision applying some of the Bill of Rights to the States, or the *Twining* rule applying none of them. I would choose the *Palko* selective process."

Gideon and similar cases merely followed the *Polko* rule, which in *Adamson* I agreed to follow if necessary to make Bill of Rights safeguards applicable to the States. See also *Pointer* v. *Texas*, 380 U.S. 400; *Malloy* v. *Hogan*, 378 U.S. 1.

[22] Hand, The Bill of Rights (1958) 70. See note 5, *supra*. See generally *id.*, at 35–45.

[23] *Id.*, at 73. While Judge Hand condemned as unjustified the invalidation of state laws under the natural law due process formula, see *id.*, at 35–45, he also expressed the view that this Court in a number of cases had gone too far in holding legislation to be in violation of specific guarantees of the Bill of Rights. Although I agree with his criticism of use of the due process formula, I do not agree with all the views he expressed about construing the specific guarantees of the Bill of Rights.

[24] The Amendments in question were, as everyone knows, originally adopted as limitations upon the power of the newly created Federal Government, not as limitations upon the powers of the individual States. But the Court has held that many of the provisions of the first eight amendments are fully embraced by the Fourteenth Amendment as limitations upon state action, and some members of the Court have held the view that the adoption of the Fourteenth Amendment made every provision of the first eight amendments fully applicable against the States. See *Adamson* v. *California*, 332 U.S. 46, 68 (dissenting opinion of Mr. Justice Black).

[25] U.S. Constitution, Amendment I. To be sure, the injunction contained in the Connecticut statute coincides with the doctrine of certain religious faiths. But if that were enough to invalidate a law under the provisions of the First Amendment relating to religion, then most criminal laws would be invalidated. See, *e.g.*, the Ten Commandments. The Bible, Exodus 20:2–17 (King James).

[26] U.S. Constitution, Amendment I. If all the appellants had done was to advise people that they thought the use of contraceptives was desirable, or even to counsel their use, the appellants would, of course, have a substantial First Amendment claim. But their activities went far beyond mere advocacy. They prescribe specific contraceptive devices and furnished patients with the prescribed contraceptive materials.

[27] U.S. Constitution, Amendment III.

[28] U.S. Constitution, Amendment IV.

[29] U.S. Constitution, Amendment V.

[30] Cases like *Shelton* v. *Tucker*, 364 U.S. 479 and *Bates* v. *Little Rock*, 361 U.S. 516, relied upon in the concurring opinions today, dealt with true First Amendment rights of association and are wholly inapposite here. See also, *e.g.*, *NAACP* v. *Alabama* v. *Alabama*, 357 U.S. 449; *Edwards* v. *South Carolina*, 372 U.S. 229. Our decision in *McLaughlin* v. *Florida*, 379 U.S. 184, is equally far afield. That case held invalid under the Equal Protection Clause, a state criminal law which discriminated against Negroes.

The Court does not say how far the new constitutional right of privacy announced today extends. See, *e.g.*, Mueller, Legal Regulation of Sexual Conduct, at 127; Ploscowe, Sex and the Law, at 189. I suppose, however, that even after today a State can constitutionally still punish at least some offenses which are not committed in public.

[31] See *Reynolds* v. *Sims*, 377 U.S. 533, 562. The Connecticut House of Representatives recently passed a bill (House Bill No. 2462) repealing the birth control law. The State Senate has apparently not yet acted on the measure, and today is relieved of that responsibility by the Court. New Haven Journal-Courier, Wed., May 19, 1965, p. 1, col. 4, and p. 13, col. 7.

[458 P.2d 194]

Rehearing Denied October 1, 1969

The people, plaintiff and respondent, v. Leon Phillip Belous, Defendant and appellant.

Cr. 12739.

Supreme Court of California, In Bank. Sept. 5, 1969.

Defendant was convicted in the Superior Court, Los Angeles County, John G. Barnes, J., of abortion and conspiracy to commit an abortion, and he appealed. The Supreme Court, Peters, J., held that statue making a person who performs abortion punishable unless abortion is necessary to preserve mother's life as statute read before amended in 1967 was invalid where term "necessary to preserve" was not susceptible to a construction which, while satisfying legislative intent, was sufficiently certain to satisfy due process requirements without improperly infringing on fundamental constitutional rights of mother to life and to choose whether to bear children, and convictions of abortion and conspiracy to commit abortion could not stand.

Judgment reversed with directions to dismiss indictment.

Burke, McComb, and Sullivan, JJ., dissented.

A. L. Wirin, Fred Okrand, Zad Leavy and Beilenson & Leavy, Los Angeles, for defendant and appellant.

Thomas C. Lynch, Atty. Gen., William E. James, Asst. Atty. Gen., and Phillip G. Samovar, Deputy Atty. Gen., for plaintiff and repondent.

McCutchen, Doyle, Brown & Enersen, Burnham Enersen, Robert A. Blum, Terry J. Houlihan, San Francisco, Norma G. Zarky, Howard H. Jewel, Oakland, Paul N. Halvonik, San Francisco, William Kelly, Barbara N. Amstrong, Charles E. Beardsley, Los Angeles George A. Blackstone, A. Stevens Halsted Jr., Roderick M. Hills, Leonard S. Janofsky, Los Angeles, Herma Hill Kay, Berkeley, Frederick R. McBrien, Charles T. Munger, Stuart T. Peeler, Samuel O. Pruitt, Jr. Charles E. Riskershauser, Jr., Graham L. Sterling, Charles E. Stimson, Jr., Los Angeles, and Francis M. Wheat as amici curiae on behalf of defendant and appellant.

Charles H. Clifford, Walter R. Trinkaus, J. J. Brandlin, Los Angeles, Thomas J. Arata, Santa Rosa, Richard D. Andrews, Fresno, Cyril A. Coyle, Sacramento, Mazzera, Snyder & DeMartini, Stockton, John F. Duff, San Francisco, William R. Kennedy, Richard G. Logan, Oakland, and Curran, Golden, McDevitt & Martin, San Diego, as amici curie on behalf of plaintiff and respondent.

PETERS, Justice.

Dr. Leon Phillip Belous was convicted in January 1967, after a jury trial, of abortion, in violation of section 274 of the Penal Code, and conspiracy to commit an abortion, in violation of section 182 of the Penal Code, both felonies. The court suspended proceedings, imposed a fine of $5,000, and placed Dr. Belous on probation for two years. He appeals from the order granting probation.

Dr. Belous is a physician and surgeon, licensed since 1931 to practice medicine in the State of California, and specializing in obstetrics and gynecology. He has been on the attending staff of the gynecology department of Cedars of Lebanon Hospital in Los Angeles since 1931, is a fellow of the Los Angeles Gynecology and Obstetrical Society, the American College of Obstetrics and Gynecology, the Abdominal Surgical Society, and the Geriatric Society, and a member of the American Board of Obstetrics and Gynecology. He is on the Board of Directors of the California Committee on Therapeutic Abortion, an organization which seeks to liberalize abortion laws. He is considered by his associates to be an eminent physician in his field.

The prosecution's witnesses, a young woman and her husband, Cheryl and Clifton, testified to the following:

In 1966, Cheryl, then unmarried, believed she was pregnant. A family physician had given her pills which would induce menstruation if she were not pregnant, but the pills did not work. She and Clifton had sometime earlier seen Dr. Belous on television, advocating a change in the California abortion laws. They had never heard of Dr. Belous before. Clifton obtained the doctor's phone number from the television station and phoned Dr. Belous; he explained the problem and that they both were "pretty disturbed," and at their "wits' end" and asked for Dr. Belous' help. Dr. Belous told him there was nothing he could do, but Clifton "continued pleading," and threatened that Cheryl would go to Tijuana for an abortion. Finally the doctor agreed to see them at his office.

Dr. Belous examined Cheryl at his Beverly Hills office and confirmed that she was possibly pregnant. Cheryl was otherwise in good health. The visit lasted about 45 minutes and was very emotional. Both Clifton and Cheryl pleaded for help, cried, insisted they were going to have an abortion "one way or another." The doctor lectured them on the dangers of criminal abortions, and Tijuana abortions in particular, and suggested that they get married. He insisted he did not perform abortions. He refused to recommend anyone in Tijuana. Finally, in response to their pleadings, Dr. Belous gave them a piece of paper with a Chula Vista phone number. He told them an abortion would cost about $500. He gave Cheryl a prescription for some antibiotics and instructed her to return for an examination.

Dr. Belous testified that he was very familiar with the abortion business in Tijuana. He had visited the clinics there to learn about conditions and knew that women who went to Tijuana were taking their lives in their hands. He met Karl Lairtus while in Tijuana and knew from personal observation that Lairtus, licensed to practice in Mexico but not in California, was performing skilled and safe abortions in Mexico. Lairtus wanted to obtain a California license, and sought out Belous' help on a number of occasions. When Lairtus moved from Mexico to Chula Vista, he gave Dr. Belous his address and phone number. When Lairtus moved to Los Angeles, he gave the doctor a Hollywood address, and made it known to the doctor that he was performing abortions. It was Lairtus' number that Belous gave to Cheryl and Clifton. Although he had given out Lairtus' number before, in similar situations, where distraught pregnant women insisted they would do anything, Dr. Belous had no idea how many women actually went to Lairtus.

Cheryl and Clifton made arrangements with Lairtus, and went to the address which Lairtus gave them on the phone. After the abortion was performed, while Cheryl was resting, the police, having been advised by another woman that Lairtus was performing abortions at that address, came to his apartment, followed another couple into the apartment and arrested Lairtus. They found two notebooks containing women's names, ages, dates of last menstration, and physician's names, including Dr. Belous' name, which the police interpreted as the referring doctor with whom Lairtus was to split his fees. On the basis of this information, Dr. Belous was arrested at his office. Lairtus pleaded guilty. **At Dr. Belous' trial,** he testified that, although not solicited, he sent Dr. Belous about $100 as a professional courtesy in about half the cases that he had performed abortions on Dr. Belous' patients. Dr. Belous denied receiving any money from Lairtus.

The substance of Dr. Belous' defense was that he gave Lairtus' phone number to Cheryl and Clifton only because he believed that they would, in fact, do anything to terminate the pregnancy which might involve butchery in Tijuana or self-mutilation; that in face of their pleading and tears, he gave out the phone number of someone whom he knew to be a competent doctor, although unlicensed in this state. The doctor believed that if the young couple carried out their threats, Cheryl's very life was in danger.

Section 274 of the Penal Code, when the conduct herein involved occurred, read: "Every person who provides, supplies, or administers to any woman, or procures any woman to take any medicine, drug, or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life, is punishable by imprisonment in the State prison not less than two nor more than five years."

The statute was substantially unchanged since it was originally enacted in 1850.[1] In 1967, the statute was amended and sections 25950 through 25954 ("Therapeutic Abortion Act") added to the Health and Safety Code. The act extends the lawful grounds for obtaining an abortion.[2] Section 274 is directed towards the abortionist. Under section 275 of the Penal Code (also amended by the Therapeutic Abortion Act), a woman who solicits or submits to an abortion is punishable by up to five years' imprisonment; similarly, under section 276, any person who solicits a woman to submit to an abortion is punishable by up to five years' imprisonment.

We have concluded that the term "necessary to preserve" in section 274 of the Penal Code is not susceptible of a construction that does not violate legislative intent and that is sufficiently certain to satisfy due process requirements without improperly infringing on fundamental constitutional rights.

"The requirement of a reasonable degree of certainty in legislation, especially in the criminal law, is a well established element of the guarantee of due process of law. 'No one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids. * * * "a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law."' Lanzetta v. New Jersey, 306 U.S. 451, 453, 59 S. Ct. 618, 83 L. Ed. 888; see also Connally v. General Const. Co., 269 U.S. 385, 391, 46 S. Ct. 126, 70 L. Ed. 322. Such also is the law of the State of California. People v. McCaughan, 49 Cal. 2d 409, 414, 317 P. 2d 974.

"The required meaning, certainty and lack of ambiguity may appear on the face of the questioned statute or from any demonstrably established technical or common law meaning of the language in question. People v. McCaughan, *supra,* 49 Cal. 2d 409, 414, 317 P. 2d 974; Lorenson v. Superior Court, 35 Cal. 2d 49, 60, 216 P. 2d 859." (In re Newbern, 53 Cal. 2d 786, 792, 3 Cal. Rptr. 364, 368, 350 P. 2d 116, 120.) The requirement of certainty in legislation is greater where the criminal statute is a limitation on constitutional rights. (See Smith v. California (1959) 361 U.S. 147, 151, 80 S. Ct. 215, 4 L. Ed. 2d 205.) On the other hand, mathematical certainty is not required; "some matter of degree" is involved in most penal statutes. (Nash v. United States (1913) 229 U.S. 373, 377, 33 St. Ct. 780, 57 L. Ed. 1232.)

Dictionary definitions and judicial interpretations fail to provide a clear meaning for the words, "necessary" or "preserve." There is, no course, no standard definition of "necessary to preserve," and taking the words separately, no clear meaning emerges. "Necessary" is defined as: "1. Essential to a desirable or projected end or condition; not to be dispensed with without loss, damage, inefficiency, or the like; * * *" (Webster's New International Dictionary (2d ed.), unabridged.) The courts have recognized that "'necessary' has not a fixed meaning, but is flexible and relative." (Westphal v. Westphal, 122 Cal. App. 379, 382, 10 P.2d 119, 120; see also, City of Dayton v. Borchers (Ohio Common Pleas, 1967) 13 Ohio Misc. 273, 232 N.E. 2d 437, 441 ["A *necessary* thing may supply a wide range of wants, from mere convenience to logical completeness."].)

The definition of "preserve" is even less enlightening. It is defined as: "1. To keep or save from injury or destruction; to guard or defend from evil; to protect; save. 2. To keep in existence or intact; * * * To save from decomposition, * * * 3. To maintain; to keep up; * * *" (Webster's New International Dictionary, *supra.*) The meanings for "preserve" range from the concept of maintaining the status quo—that is, the woman's condition of life at the time of pregnancy—to maintaining the biological or medical definition of "life"—that is, as opposed to the biological or medical definition of "death".

Since abortion before quickening was not a crime at common law (Perkins, Criminal Law (1957) 101; Means, The Law of New York Concerning Abortion and the Status of the Foetus, 1664–1968: A Case of Cessation of Constitutionality (1968) 14 N.Y.L. F. 411, 419–422; Stern, Abortion: Reform and the Law (1968) 59 J. Crim. L.C. & P.S. 84, 85) we cannot rely on common law meanings or common law referents (see Lorenson v. Superior Court, *supra,* 35 Cal. 2d 49, 60, 216 P.2d 859; People v. Agnello, 259 Cal.App.2d 785, 790–791, 66 Cal. Rptr. 571).[3]

Various possible meanings of "necessary to preserve * * * life" have been suggested. However, none of the proposed definitions will sustain the statute.

Respondent asserts: "If medical science feels the abortion should be performed as it is necessary to preserve her life, then it may be performed; that is, unless it is performed the patient will die."

Our courts, however, have rejected an interpretation of "necessary to preserve" which requires certainty or immediacy of death. (People v. Abarbanel, 239 Cal.App. 2d 31, 32, 35, 48 Cal.Rptr. 336; People v. Ballard, 218 Cal.App.2d 295, 298, 32 Cal. Rptr. 233; People v. Ballard, 167 Cal.App. 2d 803, 807, 335 P.2d 204.) Justice Fourt, in People v. Ballard, *supra,* 167 Cal.App. 2d 803, 814, 335 P.2d 204, 212, stated: "Surely, the abortion statute (Pen.Code, § 274) does not mean by the words 'unless the same is necessary to preserve her life'

Footnotes at end of article.

that the peril to life be imminent. It ought to be enough that the dangerous condition 'be potentially present, even though its full development might be delayed to a greater or less extent. Nor was it essential that the doctor should believe that the death of the patient would be otherwise *certain* in order to justify him in affording present relief.' [Citations.]" The above language was quoted in People v. Abarbanel, *supra,* 239 Cal.App.2d 31, 34, 48 Cal.Rptr. 336.

In People v. Ballard, *supra,* 167 Cal.App. 2d 803, 813–814, 335 P.2d 211, the evidence established that the woman was "extremely nervous * * * upset, had headaches, was unable to sleep, and thought that she was pregnant. She was agitated, disturbed and had many problems." (Italics omitted.) In People v. Ballard, *supra,* 218 Cal.App.2d 295, 307, 32 Cal.Rptr. 233, it was established that at the time each of the women went to the defendant doctor she was in a "bad state of health" because of self-imposed abortive practices. And in People v. Abarbanel, *supra,* 239 Cal.App.2d 31, 48 Cal.Rptr. 336, the obstetrician performed the abortion after receiving letters from two psychiatrists to the effect that abortion was indicated as necessary to save the woman's life from the "possibility" of suicide. In each of the cases the conviction was reversed.

If the fact of ill health or the mere "possibility" of suicide is sufficient to meet the test of "necessary to preserve her life," it is clear that a showing of immediacy or certainty of death is not essential for a lawful abortion. Two other jurisdictions have also rejected an interpretation of "necessary to preserve" which would require certainty or immediacy of death. (State v. Dunklebarger (1928) 206 Iowa 971, 221 N. W. 592, 596; State v. Hatch (1917), 138 Minn. 317, 164 N.W. 1017.)

After the decision in *Ballard,* the Legislature did not amend the statute to repudiate the rule suggested by that case and to establish a definition requiring certainty of death.[4]

It would be anomalous to uphold a criminal statute against a charge of vagueness by adopting a construction of the statute rejected by the courts of this state as not reflecting legislative intent unless there was a clear showing of a strong public policy or legislative intent requiring adoption of the rejected construction. No such showing has been made with regard to the construction urged by respondent.

Moreover, a definition requiring certainty of death would work an invalid abridgment of the woman's constitutional rights. The rights involved in the instant case are the woman's rights to life and to choose whether to bear children.[5] The woman's right to life is involved because childbirth involves risks of death.[6]

The fundamental right of the woman to choose whether to bear children follows from the Supreme Court's and this court's repeated acknowledgement of a "right of privacy" or "liberty" in matters related to marriage, family, and sex. (See, e.g., Griswold v. Connecticut, *supra,* 381 U.S. 479, 485, 486, 500, 85 S.Ct. 1678, 14 L.Ed.2d 510; Loving v. Virginia (1967) 388 U.S. 1, 12, 87 S.Ct. 1817, 18 L.Ed.2d 1010 [statute prohibiting interracial marriages, violative of Due Process Clause]; Skinner v. Oklahoma ex rel. Williamson (1942) 316 U.S. 535, 536, 541, 62 S.Ct. 1110, 86 L.Ed. 1655 [sterilization laws; marriage and procreation involve a "basic liberty"]; Pierce v. Society of Sisters (1925) 268 U.S. 510, 534–535, 45 S.Ct. 571, 69 L.Ed. 1070, 39 A.L.R. 468 [prohibition against nonpublic schools; same]; Meyer v. Nebraska (1923) 262 U.S. 390, 399–400, 43 S.Ct. 625, 67 L.Ed. 1042 [prohibition against teaching children German language; same]; Perez v. Sharp, 32 Cal.2d 711, 715, 198 P.2d 17; see also Custodio v. Bauer, 251 Cal.App.2d 303, 317–318, 59 Cal. Rptr. 463). That such a right is not enumerated in either the United States or California Constitutions is no impediment to the existence of the right. (See, e. g., Carrington v. Rash (1965) 380 U.S. 89, 96, 85 S.Ct. 775, 13 L.Ed.2d 675 (fundamental but nonenumerated right to vote]; Aptheker v. Secretary of State (1964) 378 U.S. 500, 505–506, 84 S.Ct. 1659, 12 L.Ed.2d 992 and Kent v. Dulles (1958) 357 U.S. 116, 125, 78 S.Ct. 1113, 2 L.Ed.2d 1204 [right to travel]; Bolling v. Sharpe (1954) 347 U.S. 497, 500, 74 S.Ct. 693, 98 L.Ed. 884 [right to attend federal unsegregated schools]; Otsuka v. Hite, 64 Cal.2d 596, 602, 51 Cal.Rptr. 284, 414 P.2d 412 [right to vote]; cf. Finot v. Pasadena City Bd. of Education, 250 Cal. App.2d 189, 199, 58 Cal.Rptr. 520). It is not surprising that none of the parties who have filed briefs in this case have disputed the existence of this fundamental right.

The critical issue is not whether such rights exist, but whether the state has a compelling interest in the regulation of a subject which is within the police powers of the state (Shapiro v. Thompson (1969), 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600; Sherbert v. Verner (1963) 374 U.S. 398, 403, 83 S.Ct. 1790, 10 L. Ed.2d 965), whether the regulation is "necessary * * * to the accomplishment of a permissible state policy" (McLaughlin v. Florida (1964) 379 U.S. 184, 196, 85 S.Ct. 283, 290, 13 L.Ed.2d 222; see also, N.A.A.C.P. v. Button, 371 U.S. 415, 438, 83 S.Ct. 328, 9 L.Ed. 2d 405; Bates v. City of Little Rock (1960) 361 U.S. 516, 527, 80 S. Ct. 412, 4 L.Ed.2d 480; Huntley v. Public Util. Comm., 69 A.C. 62, 69, 69 Cal.Rptr. 605, 442 P.2d 685; Vogel v. County of Los Angeles, 68 Cal.2d 18, 21, 64 Cal.Rptr. 409, 434 P.2d 961; People v. Woody, 61 Cal.2d 716, 718, 40 Cal.Rptr. 69, 394 P.2d 813), and whether legislation impinging on constitutionally protected areas is narrowly drawn and not of "unlimited and indiscriminate sweep" (Shelton v. Tucker (1960) 364 U.S. 479, 490, 81 S.Ct. 247, 5 L.Ed.2d 231; see also, Cantwell v. Connecticut (1940) 310 U.S. 296, 308, 60 S.Ct. 900, 84 L.Ed. 1213; In re Berry, 68 Cal.2d 137, 151, 65 Cal.Rptr. 273, 436 P.2d 273; In re Hoffman, 67 Cal. 2d 845, 853–854, 64 Cal.Rptr. 97, 434 P.2d 353).

It is possible that the definition suggested by respondent, requiring that death be certain, was that intended by the Legislature when the first abortion law was adopted in 1850 and that, in the light of the then existing medical and surgical science, the great and direct interference with a woman's constitutional rights was warranted by considerations of the woman's health. When California's first anti-abortion statute was enacted, any surgical procedure which entered a body cavity was extremely dangerous. Surgeons did not know how to control infection, and mortality was high. (Haagensen & Lloyd, A Hundred Years of Medicine (1943), p. 19.) In 1867, Joseph Lister first published his findings on antiseptic surgery (*id.,* at pp. 241–242), but even in 1883 the techniques he developed were condemned (*id.* at p. 245), and as late as 1895 were not well understood or properly applied by even leaders of the medical profession. (*Id.,* at p. 246; see also, H. Robb (1895) Aseptic Surgical Technique.)

Although development was slow, techniques of antisepsis and asepsis became major general advances in surgery at and after the turn of the century. In due course safe procedures were developed for specific operations. Curettage, used for abortion in the first trimester, became a safe, accepted and routinely employed medical technique, especially after antibiotics were developed in the early 1940's. (Douglas, Toxic Effects of the Welch Bacillus in Postabortal Infections (1956) 56 N.Y.State. J. Med. 3673). It is now safer for a woman to have a hospital therapeutic abortion during the first trimester than to bear a child.[7]

Although abortions early in pregnancy and properly performed present minimal danger to the woman, criminal[8] abortions are "the most common single cause of maternal deaths in California." (Fox, Abortion Deaths in California (1967) 98 Am.J.Obst. & Gynec. 645, 650.) In California, it is estimated that 35,000 to 100,000 such abortions occur each year. (Fox, *supra,* at p. 645.)

The incidence of severe infection from criminal abortion is very much greater than the incidence of death. The Los Angeles County Hospital alone, for example, in 1961 admitted over 3,500 patients treated for such abortions. (Kistner, Medical Indications for Contraception: Changing Viewpoints (editorial) (1965) 25 Obst. & Gynec. 285, 286.) Possibly more significant than the mere incidence of infection caused by criminal abortions is the result of such infection. "Induced Illegal Abortion . . . is one of the important causes of subsequent infertility and pelvic disease." (Kleegman & Kaufman, Infertility in Women (1966) p. 301; see also Curtis & Huffman, Gynecology (6th ed. 1950) pp. 564–566.)[9]

Amici for appellant, 178 deans of medical schools, including the deans of all California medical schools, chairmen of medical school departments, and professors of medical schools state: "These recorded facts bring one face-to-face with the hard, shocking—almost brutal—reality that our statute designed in 1850 to protect women from serious risks to life and health has in modern times become a scourge."[10]

Although we may assume that the law was valid when first enacted, the validity of a law in 1850 does not resolve the issue of whether the law is constitutionally valid today. (Compare, e.g., Gary v. Sanders (1963) 372 U.S. 368, 381, 83 S.Ct. 801, 9 L.Ed.2d 821, with South v. Peters (1950) 339 U.S. 276, 277, 70 S.Ct. 641, 94 L.Ed. 834; Baker v. Carr (1962) 369 U.S. 186, 237, 82 S.Ct. 691, 7 L.Ed.2d 663, with Colegrove v. Green (1946) 328 U.S. 549, 556, 66 S.Ct. 1198, 90 L.Ed. 1432; Brown v. Board of Education (1954) 347 U.S. 483, 495, 74 S. Ct. 86, 98 L.Ed. 873; with Plessy v. Ferguson (1896) 163 U.S. 537, 550–551, 16 S.Ct. 1138, 41 L.Ed. 256.)

Constitutional concepts are not static. Our United States Supreme Court said, regarding the equal protection clause of the Fourteenth Amendment: "We agree, of course, with Mr. Justice Holmes that the Due Process Clause of the Fourteenth Amendment 'does not enact Mr. Herbert Spencer's Social Statics.' [Citation.] Likewise, the Equal Protection Clause is not shackled to the political theory of a particular era. In determining what lines are unconstitutionally discriminatory, we have been confined to historic notions of equality, any more than we have restricted due process to a fixed catalogue of what was at a given time deemed to be authorized to practice surgery, carried out the limits of fundamental rights. * * *." (Harper v. Virginia State Bd. of Elections (1966), 383, U.S. 663, 669, 86 S.Ct. 1079, 1082, 16 L.Ed.2d 169; see also, Perez v. Sharp, *supra,* 32 Cal.2d 711, 727, 198 P.2d 17; Galyson v. Municipal Court, 229 Cal. App.2d 667, 671–672, 40 Cal. Rptr. 446, and cases cited therein ["[A] statute valid when enacted may become invalid by change in the conditions to which it is applied."] See also, Means, *supra,* 14 N.Y.L.F. 411, 514–515.)

In the light of modern medical surgical practice, the great and direct infringement of constitutional rights which would result from a definition requiring certainty of death may not be justified on the basis of considerations of the woman's health where, as here, abortion is sought during the first trimester.

It is next urged that the state has a compelling interest in the protection of the embryo and fetus[11] and that such interest warrants the limitation on the woman's

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constitutional rights. Reliance is placed upon several statutes and court rules which assertedly show that the embryo or fetus is equivalent to a born child. However, all of the statutes and rules relied upon require a live birth or reflect the interest of the parents.[12]

In any event, there are major and decisive areas where the embryo and fetus are not treated as equivalent to the born child. Probably the most important is reflected by the statute before us. The intentional destruction of the born child is murder or manslaughter. The intentional destruction of the embryo or fetus is never treated as murder, and only rarely as manslaughter but rather as the lesser offense of abortion. (Perkins, Criminal Law, *supra*, p. 103; Means, *supra*, 14 N.Y.L.F. at p. 445.)[13]

Furthermore, the law has always recognized that the pregnant woman's right to life takes precedence over any interest the state may have in the unborn. The California abortion statutes, as to the abortion laws of all 51 United States jurisdictions, make an exception in favor of the life of the prospective mother. (See Stern, Abortion: Reform and the Law, *supra*, 59 J. Crim.L.C. & P.S. 84, 86–87; George, Current Abortion Laws: Proposals & Movements for Reform (1965) 17 W.Res.L.Rev. 366, 375.) Although there may be doubts as to whether the state's interest may ever justify requiring a woman to risk death, it is clear that the state could not forbid a woman to procure an abortion where, to a medical certainty, the result of childbirth would be death. We are also satisfied that the state may not require that degree of risk involved in respondent's definition, which would prohibit an abortion, where death from childbirth although not medically certain, would be substantially certain or more likely than not. Accordingly, the definition of the statute suggested by respondent must be rejected as an invalid infringement upon the woman's constitutional rights.

Another definition of the term "necessary to preserve" is suggested by People v. Abarbanel, *supra*, 239 Cal.App.2d 31, 32, 34, 48 Cal. Rtpr. 336, where the court held that an abortion was not unlawful where the obstetrician performed the abortion based on the "possibility" of suicide. *Abarbanel* might be understood as meaning that "necessary to preserve" refers to a possibility of death different from or greater than the ordinary risk of childbirth. To so interpret "necessary to preserve" would mean that in nearly every case, if not all, a woman who wished an abortion could have one. A woman who is denied a desired lawful abortion and forced to continue an unwanted pregnancy would seem to face a greater risk of death, because of psychological factors, than the average woman, because the average includes all those women who wish to bear the child to term. The psychological factor alone, which under *Abarbanel* is a proper consideration, would seem to be decisive. Such a construction of the statute permitting voluntary abortions would render the statute virtually meaningless. Moreover, to determine the right to an abortion solely on the basis of the dangers of childbirth without regard to the relative dangers of the abortion would be contrary to good medical practice.

Nor can the statute be made certain by reading it as "substantially or reasonably" necessary to preserve the life of the mother. In the present context those terms are not sufficiently precise and would be subject to such different interpretations as to add little or nothing to "necessary." Thus, many people may feel that an abortion is reasonably or substantially necessary to preserve life where the risk of death is double or triple the ordinary risk in childbirth. Others may believe that anything which increases the possibility of death is a substantial risk which is not to be undertaken in the absence of countervailing considerations, so that "reasonably necessary" or "substantially necessary" becomes as destructive of the statute as "possibility of death." On the other hand, there may be those who feel that there is no reasonable or substantial necessity until it is more likely than not that the pregnant woman will not survive childbirth. Although in other contexts the implication of words such as "reasonably" and "substantially" may add certainty and avoid other due process objections, in the instant situation the implication of such words would merely increase the uncertainty.

There is one suggested test which is based on a policy underlying the statute and which would serve to make the statute certain. The test is probably in accord with the legislative intent at the time the statute was adopted. The Legislature may have intended in adopting the statute that abortion was permitted when the risk of death due to the abortion was less than the risk of death in childbirth and that otherwise abortion should be denied. As we have seen, at the time of the adoption of the statute abortion was a highly dangerous procedure, and under the relative safety test abortion would be permissible only where childbirth would be even more dangerous. In light of the test and the then existing medical practice, the question whether abortion should be limited to protect the embryo or fetus may have been immaterial because any such interest would be effectuated by limiting abortions to the rare cases where they were safer than childbirth.

The suggested test would involve an application of medical principles. Medical science may be able to tell us the proper method to treat a patient to minimize the risk of death, but without resort to matters outside medical competence, it cannot tell us the circumstances in which the safest treatment should be rejected and a more dangerous treatment followed in order to protect an embryo or fetus.

The new Therapeutic Abortion Act (Health & Saf.Code, §§ 25950–25954), has adopted a test analogous to the suggested one. Under the new statute, abortion is permissible during the first 20 weeks of pregnancy by a licensed physician in an accredited hospital (Health & Saf.Code, §§ 25951, 25953) if it is determined under prescribed procedures either that "There is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother" (Health & Saf.Code, § 25951, subd. (c) (1)), or that "The pregnancy resulted from rape or incest." (Health and Saf.Code, § 25951, subd. (c) (2).) Mental health includes mental illness to the extent that the woman would be dangerous to herself. (Health & Saf.Code, § 25954.) By limiting the abortion to the first 20 weeks, the Legislature has taken into account the danger to the mother of the later abortion and, by requiring the abortion to be performed by a licensed physician in an accredited hospital, has recognized the danger to the mother of other procedures. The further criteria for determining whether an abortion is permissible is the pregnant woman's physical and mental health. Thus, the test established is a medical one, whether the pregnant woman's physical and mental health will be furthered by abortion or by bearing the child to term, and the assessment does not involve considerations beyond medical competence. There is nothing to indicate that in adopting the Therapeutic Abortion Act the Legislature was asserting an interest in the embryo.

Although the suggested construction of former section 274, making abortion lawful where it is safer than childbirth and unlawful where abortion is more dangerous, may have been in accord with legislative intent, the statute may not be upheld against a claim of vagueness on the basis of such a construction. The language of the statute, "unless the same is necessary to preserve her life," does not suggest a relative safety test, and no case interpreting the statute has suggested that the statute be so construed. None of the parties or numerous amici who have filed briefs in the instant case suggest that the statute applies a relative safety test; to the contrary, the position of the parties and amici, including numerous lawyers, doctors, educators, clergymen and laymen, implies that the statute does not apply that standard. Thus, those claiming the statute is invalid urge that the only valid standard would be a relative safety test and that the statute fails to adopt such a test, and those urging the validity of the statute either state or imply that the standard applied is more restrictive. In the circumstances, we are satisfied that the statute may not be construed to adopt the relative safety test as against a claim of vagueness, because the language does not suggest that test and because of the practical evidence before us that men of "common" intelligence, indeed of uncommon intelligence, have not guessed at this meaning.[14]

The problem caused by the vagueness of the statute is accentuated because under the statute the doctor is, in effect, delegated the duty to determine whether a pregnant woman has the right to an abortion and the physician acts at his peril if he determines that the woman is entitled to an abortion. He is subject to prosecution for a felony and to deprivation of his right to practice medicine (Bus. & Prof. Code, § 2377) if his decision is wrong. Rather than being impartial, the physician has a "direct, personal, substantial, pecuniary interest in reaching a conclusion" that the woman should not have an abortion. The delegation of decision-making power to a directly involved individual violates the Fourteenth Amendment. (Tumey v. Ohio (1927) 273 U.S. 510, 523, 47 S.Ct. 437, 71 L.Ed. 749; see also State Board of Dry Cleaners v. Thrift-D-Lux Cleaners, 40 Cal.2d 436, 448, 254 P.2d 29 ["[T]he statute assumes to confer legislative authority upon those who are directly interested in the operation of the regulatory rule * * *."]; Blumenthal v. Board of Medical Examiners, 57 Cal.2d 228, 235, 18 Cal.Rptr. 501, 504, 368 P.2d 101, 104.)

The inevitable effect of such delegation may be to deprive a woman of an abortion when under any definition of section 274 of the Penal Code, she would be entitled to such an operation, because the state, in delegating the power to decide when an abortion is necessary, has skewed the penalties in one direction: *no* criminal penalties are imposed where the doctor refuses to perform a necessary operation, even if the woman should in fact die because the operation was not performed.

The pressures on a physician to decide not to perform an absolutely necessary abortion are, under section 274 of the Penal Code, enormous, and because section 274 authorizes—and requires—the doctor to decide, at his peril, whether an abortion is necessary, a woman whose life is at stake may be as effectively condemned to death as if the law flatly prohibited all abortions.

To some extent the Therapeutic Abortion Act reduces these pressures. The act specifically authorizes an abortion by a licensed physician in an accredited hospital where the abortion is approved in advance by a committee of the medical staff of the hospital, applying medical standards. (Health & Saf.Code, § 25951.) At least in cases where there has been adherence to the procedural requirements of the statute, physicians may not be held criminally responsible, and a jury may not subsequently determine that the abortion was not authorized by statute.

We conclude that the validity of section 274 of the Penal Code before amendment cannot be sustained.[15]

Since section 274 is invalid, Dr. Belous' conviction for violation of section 182 of the

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Footnotes at end of article.

Penal Code, conspiracy to commit abortion, must likewise fall. The judgment is reversed with directions to the trial court to dismiss the indictment.

TRAYNOR, C. J., TOBRINER, J., and PIERCE, J. pro tem., concur.

BURKE, Justice (dissenting).

I dissent.

The defendant was found guilty by jury trial of a wilful violation of the abortion statute as it existed at the time of the offense. That he violated the statute is all but conceded in the briefs filed in his behalf. Although he testified that he directed the young couple to a doctor, unlicensed in California, because he believed that if they carried out their threats of going to Tijuana to procure an abortion the young woman's life would be in danger, he acknowledged upon cross-examination that her life would not have been endangered if she were not aborted. His assertions that he acted in good faith and out of compassion are tainted somewhat by the evidence which showed that he had referred other women to the same unlicensed physician on a number of occasions and that he had participated on at least one-half of those occasions in the fee paid the abortionist.

Had the doctor truly believed that the young woman's life was in danger he could have done what was the common practice of taking the patient to one of the several hospitals in which therapeutic abortions were being performed. To my knowledge there is not one single instance of a decision of the appellate courts of this state in which a doctor or a hospital has been prosecuted for the performance of an abortion where an independent hospital committee deemed the abortion to be necessary to preserve the woman's life. The plain fact is, the jury found it to be, that this doctor, whatever his motive, possessed the intent to assist in procuring the miscarriage of the woman for reasons other than to preserve her life. This is the specific intent which the law requires for conviction.

He supplied to the jury the answer an independent hospital committee undoubtedly would have given him had he seen fit to seek its approval for an abortion—the patient could bear the child without endangering her life; therefore, to abort her would violate the law.

The threatened danger to the woman's life arose only from the couple's assertions that they would seek an illegal abortion by an unlicensed person. To assist them in attaining this goal was to flaunt his profession's own standards and to aid in bringing about a direct violation of the law.

The majority would reverse the conviction by declaring the statute unconstitutional because of asserted uncertainty in the phrase, "necessary to preserve [the woman's] life." [16] This phrase has been an integral part of the California law against illegal abortions from the time of its enactment in 1872 until the 1967 amendment to the section, and similar language was in the original statute adopted in 1850.[17] Thus for over a hundred years in this state doctors, hospital committees, judges, lawyers and juries have been called upon to give the phrase the common sense interpretation which the words appear to me to suggest. For this court over a hundred years later to find the language unconstitutionally vague and uncertain is a "negation of experience and common sense." (United States v. Ragen, 314 U.S. 513, 524, 62 S.Ct. 374, 379, 86 L.Ed. 383.)

Not only was the phrase long used in the California statute, it was also employed at common law (see, e.g., Perkins on Criminal Law (2d ed.) p. 145; Clark and Marshall, Crimes (6th ed.) pp. 688–689) and is or has been in the abortion statutes of many states (see, e.g., Am.Jur.2d, Abortion, § 9, p. 192; 153 A.L.R. 1218, 1266; Smith, Abortion and the Law (1967) p. 7). Implicit in the decisions of this court, as well as those of countless other courts, is the view that the phrase does not render such a statute invalid (see, e.g., People v. Davis, 43 Cal.2d 661, 276 P.2d 801; People v. Gallardo, 41 Cal.2d 57, 257 P.2d 29; People v. Powell, 34 Cal.2d 196, 208 P.2d 974; People v. Wilson, 25 Cal.2d 341, 153 P.2d 720; People v. Rankin, 10 Cal.2d 198, 74 P.2d 71). In State v. Moretti, 52 N.J. 182, 244 A.2d 499, 504 [cert. den. 393 U.S. 952, 89 S.Ct. 376, 21 L.Ed.2d 363] the court stated that when the phrase "lawful justification," as used in a statute prohibiting abortions done maliciously or without lawful justification, is confined "to the preservation of the mother's life," the statute is not subject to constitutional attack on the ground of vagueness. (See also State v. Elliott, 234 Or. 522, 383 P.2d 382, 384–385.)

The proper test as to certainty was stated by this court in People v. Howard, 70 A.C. 659, 665, 75 Cal. Rptr. 761, 764, 451 P.2d 401, 404, to be: " 'A statute should be sufficiently certain so that a person may know what is prohibited thereby and what may be done without violating its provisions, but it cannot be held void for uncertainty if any reasonable and practical construction can be given to its language. As stated in Pacific Coast Dairy v. Police Court, 214 Cal. 668, at page 676, 8 P.2d 140, 143, 80 A.L.R. 1217, "Mere difficulty in ascertaining its meaning, or the fact that it is susceptible of different interpretations will not render it nugatory. Doubts as to its construction will not justify us in disregarding it." [Citation.]' "

The meaning of the phrase "necessary to preserve [the woman's] life" was considered in People v. Ballard, 167 Cal. App. 2d 803, 814–815, 355 P.2d 204, 212, wherein the court stated, "Surely, the abortion statute (Pen. Code, § 274) does not mean by [this phrase] that the peril to life be imminent. It ought to be enough that the dangerous condition 'be potentially present, even though its full development might be delayed to a greater or less extent. Nor was it essential that the doctor should believe that the death of the patient would be otherwise *certain* in order to justify him in affording present relief.' (State v. Dunklebarger, 206 Iowa 971, 221 N.W. 592, 596; see also Rex v. Bourne, 1 K.B. 687 * * *; Commonwealth v. Wheeler, 315 Mass. 394, 53 N.E.2d 4; 23 So. Cal. L. Rev. 523.) In State v. Powers * * * 155 Wash. 63, 67, 283 P. 439, 440, the court satisfied itself with an interpretation of 'necessity to save life' by stating, *'If the appellant in performing the operation did something which was recognized and approved by those reasonably skilled in his profession practicing in the same community * * * then it cannot be said that the operation was not necessary to preserve the life of the patient.'* " (Italic added.) (See also People v. Abarbanel. 239 Cal. App. 2d 31, 34, 48 Cal. Rptr. 336; People v. Ballard, 218 Cal. App. 2d 295, 307, 32 Cal. Rptr. 233.)

Amici for appellant, 178 deans of medical schools, state that the italicized sentence quoted from People v. Ballard, *supra,* 167 Cal. App. 2d 803, 814–815, 335 P.2d 204, is in error because "the medical profession has 'approved' abortions in cases [in which the objective was not to preserve the life of the woman and therefore] clearly outside of Penal Code section 274. Packer & Gampell, Therapeutic Abortion: A Problem in Law and Medicine, 11 Stan.L.Rev. 417, 447. * * *" However, that sentence must be understood to mean recognized and approved by such persons as being required to preserve the life of the patient.

The word "preserve" is defined in the dictionary as "1. To keep or save from injury or destruction; * * * to protect; save. 2. To keep in existence or intact; * * * To save from decomposition * *." (See Webster's New Internat. Dict. (3d ed. 1961).) As used in section 274, the word "preserve" has been regarded as synonymous with "save" (see, e.g., People v. Kutz, 187 Cal.App.2d 431, 436, 9 Cal. Rptr. 626; People v. Malone 82 Cal.App.2d 54, 59, 185 P.2d 870; Stern v. Superior Court, 78 Cal.App.2d 9, 18, 177 P.2d 308), and to save a life ordinarily is understood as meaning to save from destruction i.e. dying—not merely from injury. Thus the precipitation of a psychosis in the absence of a genuine threat of suicide is not a threat to life under section 274. (See Packer and Gampell, Therapeutic Abortion: A Problem in Law and Medicine, 11 Stan. L. Rev. 417, 433, 436.)

That the Legislature used the word "preserve" in the sense of save from destruction also appears from the purpose of the section. The law historically in various contexts has regarded the unborn child as a human being (See Louisell, Abortion, The Practice of Medicine, and the Due Process of Law, 16 U.C.L.A. L Rev. 233, 234–244.) Louisell (at p. 244) quotes from Prosser on Torts (3d ed. 1964) that "[M]edical authority has recognized long since that the child is in existence from the moment of conception, and for many purposes its existence is recognized by the law. The criminal law regards it as a separate entity, and the law of property considers it in being for all purposes which are to its benefit, such as taking by will or descent. * * * All writers who have discussed the problem have joined * * * in maintaining that the unborn child in the path of an automobile is as much as person in the street as the mother." In Raleigh Fitkin-Paul Morgan Mem. Hosp. v. Anderson, 42 N.J. 421, 201 A.2d 537, 538 [cert. den. 377 U.S. 985, 84 S.Ct. 1894, 12 L.Ed.2d 1032] it was held that an unborn child of a woman who did not wish blood transfusions because they were contrary to her religious convictions was entitled to the law's protection and that an order would be made to insure such transfusions to the mother in the event they are necessary in the opinion of the attending physician.

Several statutes show that the California law has been in accord in regarding the unborn child as a human being for various purposes. (See, e. g., Pen.Code, §§ 3706 and 270; Civ.Code, § 29.) [18] In Scott v. McPheeters, 33 Cal.App.2d 629, 634, 92 P.2d 678, 681, the court declared: "The respondent asserts that the provisions of section 29 of the Civil Code are based on a fiction of law to the effect that an unborn child is a human being separate and distinct from its mother. We think that assumption of our statute is not a fiction, but upon the contrary that it is an established and recognized fact by science and by everyone of understanding."

It is reasonable to believe that section 274, as it read at the time in question, was not an exception to the law's attitude respecting the unborn child as a human being and that it was designed to protect not only the mother's life but also that of the child. In view of that purpose it would appear that the Legislature intended that the child would be deprived of his right to life only if in the absence of an abortion there was a danger of the mother's death—not merely of injury to her.

" '[T]he Constitution does not require impossible standards'; all that is required is that the language 'conveys sufficiently definite warning as to the proscribed conduct when measured by common understanding and practices * * * .' United States v. Petrillo, 332 U.S. 1, 7–8, 67 S.Ct. 1538, 91 L.Ed. 1877." (Roth v. United States, 354 U.S. 476, 491, 77 S.Ct. 1304, 1312, 1 L.Ed.2d 1498.) The phrase in question, when applied according to the standard heretofore stated (namely, whether persons reasonably skilled in their profession practicing in the same community recognized and approved the act as being required to save the patient from dying) clearly gives such warning.

Furthermore, section 274 punishes only those who act with " '* * * the intent to

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Footnotes at end of article.

commit a criminal abortion, that is, an abortion for a purpose other than to preserve [i.e. save from destruction] the life of the mother.'" (People v. Abarbanel, *supra,* 239 Cal. App. 2d 31, 34–35, 48 Cal. Rptr. 336, 339; People v. Ballard, *supra,* 167 Cal. App. 2d 803, 817, 335 P.2d 204.) The requirement of such an intent eviscerates much of the majority's claim that the section is impermissibly vague. (See generally Mishkin v. New York, 383 U.S. 502, 507, fn. 5, 86 S.Ct. 958, 16 L.Ed.2d 56; Boyce Motor Lines, Inc. v. United States, 342 U.S. 337, 342, 72 S.Ct. 329, 96 L.Ed. 367.) A person who performs an abortion with such an intent has fair warning that his conduct may violate the law even though he may not be certain where the jury will draw the line on the matter of necessity.

The principal cases relied upon by the majority, in which statutes have been declared unconstitutionally vague, do not support such a finding when applied to the abortion statute. In People v. McCaughan, 49 Cal. 2d 409, 317 P.2d 974, the statute prohibited, among other conduct, "harsh" or "unkind" treatment of a mentally ill person. These words were held not to have an established meaning either at common law or as a result of adjudication. They were held unconstitutionally vague. On the other hand, the phrase "neglect of duty" and the word "cruel" were upheld because they did have such well established meanings, just as do the words utilized in the phrase under attack here.

Lanzetta v. New Jersey, 306 U.S. 451, 453, 59 S.Ct. 618, 83 L.Ed. 888, construed a statute defining "gangster" and making it a crime for anyone to be such a person. The phrase "consisting of two or more persons" was all that purported to define "gang," and the word "gang" was held so vague and uncertain as to violate the Fourteenth Amendment.

Connally v. General Const. Co., 289 U.S. 385, 395, 46 S.Ct. 126, 128, 129, 70 L.Ed. 322, involved a statute requiring a contractor to pay his employees "not less than the *current rate of * * * wages* in the *locality* where the work is performed," and the court held the italicized words unconstitutionally vague. Unlike the statute involved here, the statute in question was a new statute and the court noted that its application "depends, not upon a word of fixed meaning in itself, or one made definite by statutory or judicial definition * * *."

In contrast to these cases, here the challenged statute has a fixed meaning, frequently applied and impliedly interpreted by the courts in the more than one hundred years of its existence. In addition, the statute requires proof of the specific intent to commit a criminal abortion before a person may be successfully prosecuted under it.

There is, of course, a presumption in favor of constitutionality, and the invalidity of a legislative act must be clear before it can be declared unconstitutional. (In re Anderson, 69 Cal.2d 613, 628, 73 Cal.Rptr. 21, 447 P.2d 117.)

The majority cite no authority holding that the term "necessary to preserve [the woman's] life" is impermissibly vague, and I agree with the conclusion as to the constitutionality of the section that is implicit in the multitude of past decisions affirming convictions for illegal abortion, and for murder where death was the result of such an act.

I would affirm the judgment.

McCOMB and SULLIVAN, JJ., concur.

SULLIVAN, Justice (dissenting).

I concur in the views of Justice BURKE. Reading the majority's attack on Penal Code section 274, one would think that the English language which has been the sensitive instrument of our system of law for over 500 years, has lost, by the mere passage of time, all capacity for clarity of expression. The majority strike down the statute solely because they find so vague and uncertain as to offend constitutional standards of due process, a single brief clause of nine words of long and common usage: "unless the same is necessary to preserve her life." There is no mystique enveloping the statute and, as Justice BURKE points out, the clause now challenged has stood the test of over a hundred years, and presumably of countless human incidents falling within its scope, apparently without evoking a single whimpering cry against it.

The mandate of the section is plain and clear, and simply means this: no one shall intentionally procure the miscarriage of a woman unless it is necessary to save her life. "The criminal intent necessary to support a conviction of illegal abortion must show that it was performed for a purpose other than to save [the abortee's] life." (People v. Abarbanel (1965) 239 Cal.App. 2d 31, 34, 48 Cal. Rptr. 336, 338). I dare say that the average man in the street, confronted with this law, would have little trouble in extracting its sense (we hold him accountable to much more complicated enactments); and the doctor, with his professional training and expertise would have even less. We have said that "[i]t is a cardinal rule, to be applied to the interpretation of particular words, phrases, or clauses in a statute or a Constitution, that the entire substance of the instrument or of that portion thereof which has relation to the subject under review should be looked to in order to determine the scope and purpose of the particular provision therein of which such words, phrases, or clauses form a part, and in order also to determine the particular intent of the framers of the instrument in that portion thereof wherein such words, phrases, or clauses appear." (Wallace v. Payne (1925) 197 Cal. 539, 544, 241 P. 879, 881). In the case before us, the challenged clause when so examined, is clear in meaning.

Yet the majority, by engaging in a process of elaborate and lavish analysis, transform that which is simple and lucid into something complex and arcane. Actually the analysis is focused on only three words: "necessary to preserve." Their fair equivalent is "necessary to save" (see People v. Abarbanel, *supra,* 239 Cal. App.2d 31, 34, 48 Cal. Rptr. 336; People v. Ballard (1959) 167 Cal.App.2d. 803, 814, 817, 335 P.2d. 204). Rather than evaluate these words in the light of "the entire substance" (see Wallace v. Payne, *supra* 197 Cal. 539, 544, 241 P. 879), the majority resort to a dissection: "There is, of course, no standard definition of 'necessary to preserve', and taking the words separately, no clear meaning emerges." (Majority opn., p. 358.) In support of this thesis, it is asserted that the word "necessary" does not have a "fixed meaning." In general, few words do.[19] It is further insisted that the definition of "preserve" is "even less enlightening." Accordingly, the majority discard its obvious meaning, that is, "save," as used in the context "to save a life." From such analysis, the opinion concludes "that the term 'necessary to preserve' in section 274 of the Penal Code is not susceptible of a construction that does not violate legislative intent and that is sufficiently certain to satisfy due process requirements without improperly infringing on fundamental constitutional rights." (Majority opn., p. 357) Actually the gist of this is that the three words "necessary to preserve" are so shrouded in darkness that the average man cannot detect what they mean although average men and men above average have had no trouble with them for a hundred years.

I cannot accept so tortured a conclusion, wrenched from a statute which has had its roots in the law's historic solicitude for the priceless gift of life. The statute plainly prohibits an abortion unless it is necessary to save the mother's life. It strains reason to say that this crystal-clear exception to the law is "so vague that men of common intelligence must necessarily guess at its meaning * * *." (Lanzetta v. New Jersey (1939) 306 U.S. 451, 453, 59 S.Ct. 618, 619, 83 L.Ed. 888—see majority opn., p. 357.) And it strains credulity to assume that this defendant, who under the evidence wilfully violated the statute, had to engage in any such guesswork with respect to the law governing his conduct.

I would affirm the judgment.

McCOMB, J., concurs.

Rehearing denied; McCOMB, BURKE and SULLIVAN, JJ., dissenting.

PIERCE, J., sitting pro tem, in place of MOSK, J., who deemed himself disqualified.

FOOTNOTES

[1] Stats. 1850, ch. 99, § 45, at p. 233: "[E]very person who shall administer or cause to be administered or taken, any medicinal substances, or shall use or cause to be used any instruments whatever, with the intention to procure the miscarriage of any woman then being with child, and shall be thereof duly convicted, shall be punished by imprisonment in the State Prison for a term not less than two years, nor more than five years: *Provided,* that no physician shall be affected by the last clause of this section, who, in the discharge of his professional duties, deems it necessary to produce the miscarriage of any woman in order to save her life."

[2] Penal Code, section 274, as amended reads: "Every person who provides, supplies, or administers to any woman, or procures any woman to take any medicine, drug, or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, * * * *except as provided in the Therapeutic Abortion Act * * * of the Health and Safety Code,* is punishable by imprisonment in the state prison * * *." (Stats. 1967, ch. 327, § 3, at p. 1523; italics added.)

The Therapeutic Abortion Act (Health & Saf.Code. §§ 25950–25954) authorizes abortions "only" if the abortion takes place in an accredited hospital (§ 25951, subd. (a)); the abortion is approved by a hospital staff committee consisting of at least three licensed physicians and surgeons (§ 25951, subd. (b)); and there is "substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother" (§ 25951, subd. (c) (1)); the pregnancy resulted from rape or incest (§ 25951, subd. (c) (2)); or the woman is under 15 years of age (§ 25952, subd. (c)).

[3] Compare United States v. Harriss (1954) 347 U.S. 612, 634, 74 S.Ct. 808, 820, 98 L.Ed. 989 (dissenting opinion): "Whoever kidnaps, steals, kills, or commits similar acts of violence upon another is bound to know that he is inviting retribution by society, and many of the statutes which define these long-established crimes are traditionally and perhaps necessarily vague."

[4] The definitions suggested by the two *Ballard* cases and by *Abarbanel* will be discussed later in this opinion.

[5] Dr. Belous' standing to raise this right is unchallenged. (Cf. Griswold v. Connecticut (1965) 381 U.S. 479, 481, 85 S.Ct. 1678, 14 L.Ed.2d 510; Barrows v. Jackson (1953) 346 U.S. 249, 257, 73 S.Ct. 1031, 97 L.Ed. 1586; Parrish v. Civil Service Commission, 66 Cal. 2d 260, 264, 57 Cal.Rptr. 623, 425 P.2d 223.)

[6] E.g., The maternal death rate in 1966 was 0.5 per 100,000 population and 29.1 per 100,000 births. Statistical Abstract of the United States (1968) table 73, at p. 58, table 68, at p. 55.) In California in 1966 the maternal death rate was 2.1 per 10,000 live births. (California Statistical Abstract (1968) table E–3, at p. 67.) As to a particular pregnant woman the risk of death may be greater or lesser.

[7] C. Tietze & H. Lehfeldt, Legal Abortion in Eastern Europe (April 1961) 175 J.A.M.A. 1149, 1152; see also V. Kolblova, Legal Abor-

tion in Czechoslovakia (April 1966) 196 J.A.M.A. 371; K. H. Mehland, Combatting Illegal Abortion in the Socialist Countries of Europe (1966) 13 World Med.J. 84. There are, of course, no comparable data in the United States. However, in California from November 1967 through September 1968, 3,775 therapeutic abortions were reported without a maternal death. (See Annual Report on the Implementation of the Therapeutic Abortion Act, Department of Public Health, Bureau of Maternal and Child Health (January 1969), table 1.)

The only data contrary to the conclusions above is provided by amicus for respondent, relying on Swedish data showing that maternal mortality from giving birth. The Swedish figures are, however, explainable by the fact that abortions in Sweden are often performed during late pregnancy. (See Tietze & Lehfeldt, *supra*, 175 J.A.M.A. 1149, 1152 (e.g., in 1949, 35 percent of Swedish abortions were performed after the first trimester); Hoffmeyer, Medical Aspects of the Danish Legislation on Abortions (1965) 17 W.Res.L.Rev. 529, 544–545.)

[8] The phrases "criminal abortion" and "illegal abortion" are used by the medical profession—and by legal commentators—to encompass all abortions obtained other than from a physician in an accepted surgical environment. Any use of the phrase "criminal abortion" or "illegal abortion" in this opinion merely adopts the common phraseology; no legal conclusion is intended.

[9] There is considerable literature describing the experience of various hospitals with infected abortion. Hospital experience, however, can be assumed to be only the tip of the iceberg. Many badly infected women will be treated at home or in a doctor's office. (Reid, Assessment and Management of the Seriously Ill Patient Following Abortion (March 1967) 199 J.A.M.A. p. 805.) (See, for hospital data, Goodno, Cushner, Molumphey, Management of Infected Abortion (1963) 85 Am.J.Obst. & Gynec. 16 [Baltimore City Hospitals]; Knapp, Platt and Douglas, Septic Abortion (1960) 15 Obst. & Gynec. 344 [The New York Hospital]; Moritz & Thompson, Septic Abortion (1966) 95 Am.J.Obst. & Gynec. 46 [Miami Valley Hospital, Dayton, Ohio]; Stevenson & Yang, Septic Abortion With Shock (1962) 83 Am.J.Obst. & Gynec. 1229 [Detroit Receiving Hospital]; Studdiford & Douglas, Placental Bacteremia: A Significant Finding in Septic Abortion Accompanied by Vascular Collapse (1956) 71 Am.J.Obst. & Gynec. 842 [Bellevue Hospital, New York].)

[10] One of the amici in support of respondent agrees: "There is a substantial risk that abortions performed by persons in unregulated places, will bring injury or even death to the mother."

Authorities recognizing and discussing the tragic health problem created by illegal abortions are legion. (See, e. g., Bates, The Abortion Mill: An Institutional Study (1954) 45 J.Crim.L.C. & P.S. 157; Eastman, Expectant Motherhood (3d ed. 1957) 106 et seq.; Gold, Erhardt, Jacobziner & Nelson, Therapeutic Abortions in New York City: A 20-Year Review (1965) 55 Am.J.Pub.Health 964, 970–971; Guttmacher (ed. 1967) The Case for Legalized Abortion Now; Lader (1966) Abortion; Leavy & Kummer, Criminal Abortion: Human Hardship and Unyielding Laws (1962) 35 So.Cal.L.Rev. 123; Lucas, Federal Constitutional Limitations on the Enforcement and Administration of State Abortion Statutes (1968) 46 N.C.L.Rev. 730; Niswander, Medical Abortion Practices in the United States (1965) 17 W.Res.L.Rev. 403).

[11] It has been pointed out that "embryo" is more accurately descriptive than "fetus" in the instant case. Webster's New International Dictionary, *supra*, states: "* * * In mammals * * * *embyro* is applied only to early stages passed within the mother's body; later (in human embrology, usually after the third month of development) the young is called a *fetus*. * * *" (Italics in original.)

[12] Statutes classifying the unborn child as the same as the born child require that the child be born alive for the provisions to apply. (E.g., Civ.Code, § 29 ["A child conceived, but not yet born, is to be deemed an existing person, so far as may be necessary for its interests in the event of its subsequent birth; * * *"]; Prob.Code, § 250 ["A posthumous child is considered as living at the death of the parent."]; Prob.Code, § 255 [An illegitimate child is the heir of his mother, "whether born or conceived."].)

Similarly, cases holding that a child can recover for injuries caused before his birth require that the child be born alive. The interest protected is that of the child; and the right attaches, not to the embryo or fetus, but to the living child. (Scott v. McPheeters, 33 Cal.App.2d 629, 637, 92 P.2d 678, 93 P.2d 562 [child injured at birth can bring action for injuries]; see also, Carroll v. Skloff (1964), 415 Pa. 47, 202 A.2d 9, 11; Tomlin v. Laws (1922) 301 Ill. 616, 134 N.E. 24, 25; Prosser, Law of Torts (3d ed.1964) at p. 356 ["The child, provided that he is born alive, is permitted to maintain an action * * *."].)

Where the embryo or fetus is allowed to assert rights before birth it is the prospective mother or parents who are bringing the action; thus it is their interest that the law protects. (Kyne v. Kyne, 38 Cal.App.2d 122, 127–128, 100 P.2d 806 [action on behalf of unborn child for support and to establish paternity]; People v. Sianes, 134 Cal.App. 355, 357–358, 25 P.2d 487 [criminal action for nonsupport against father of unborn child]; People v. Yates, 113 Cal. App. Supp. 782, 298 P. 961 [same].) Similarly, in those jurisdictions which recognize a cause of action for the loss of an unborn child, it is the parents' "distressing wrong in the loss of a child" that the law has recognized. (Prosser, *supra*, § 56, at p. 357; Torigian v. Watertown News Co. Inc. (1967) 352 Mass. 446, 448, 225 N.E.2d 926.)

In a case involving a pregnant woman who refused a blood transfusion, in ordering the transfusion the court made clear that it was concerned with the woman, rather than the fetus: "* * * Mrs. Jones wanted to live." (Application of President & Directors of Georgetown Col. (1964)) 118 U.S. App. D.C. 90, 331 F.2d 1000, 1009, cert. denied, 377 U.S. 978, 84 S.Ct. 1883, 12 L.Ed.2d 746, but see Raleigh Fitkin-Paul Morgan Mem. Hosp. v. Anderson (1964) 42 N.J. 421, 201 A.2d 537, 538, cert. denied, 377 U.S. 985, 84 S.Ct. 1894, 12 L.Ed.2d 1032, suggesting that an 8-month pregnant woman could be required to have blood transfusions to protect the unborn child.)

Although sections 3705 and 3706 of the Penal Code, which provide for suspending the execution of a pregnant woman, reflect an interest in the unborn child, the sections do not affect any other significant private interests and thus furnish no basis to evaluate the interest protected or to conclude that the embryo or fetus is equivalent to a born child.

[13] One case has held that, for purposes of the manslaughter and murder statutes, human life may exist where childbirth has commenced but has not been fully completed. (People v. Chavez, 77 Cal.App.2d 621, 624, 626, 176 P.2d 92).

[14] The practical aspects of the need to guess at the meaning of the abortion statute is shown by Packer and Gampell, Therapeutic Abortion: A Problem in Law and Medicine (1959) 11 Stan.L.Rev. 417. A questionnaire survey directed to 29 San Francisco Bay Area and Los Angeles hospitals (*id.*, at p. 423) based on hypothetical cases involving pregnant women seeking abortions yielded the following results (*id.*, at p. 444):

Case No.	Authors' evaluation of legality of abortion	Hospital would perform abortion	
		Yes	No
1	Yes	21	1
2	No	10	12
3	No	6	16
4	No	15	7
5	No	8	13
6	No	8	14
7	Yes	17	4
8	No	5	17
9	Probably yes	10	11
10	Maybe	17	4
11	No	1	20

[15] It has been urged that the Therapeutic Abortion Act is unconstitutional because it contains uncertainties similar to those in the repealed statute, because it infringes on the woman's right to choose whether to bear children, and because the act does not expressly permit an abortion where there is a likelihood that a deformed child will be born. Since the act was adopted after the abortion in the instant case, we do not reach the issue of its validity. * Assigned by the Chairman of the Judicial Council.

[16] Section 274 then read: "Every person who provides, supplies, or administers to any woman, or procures any woman to take any medicine, drug, or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same is *necessary to preserve her life, is* punishable * * *." (Italics added.)

[17] The 1850 statute (ch. 99, § 45, p. 233) provided that every person who did any of the enumerated acts with a specified intent shall be punishable "*Provided*, that no physician shall be affected * * * who, in the discharge of his professional duties, deems it necessary to produce the miscarriage of any woman in order to save her life."

[18] Penal Code section 3706 requires that the execution of a death penalty be suspended if the defendant is pregnant and without regard to the stage of pregnancy.

Penal Code section 270 makes punishable a father's wilful failure to provide a minor child with necessary items and provides that "A child conceived but not yet born is to be deemed an existing person is so far as this section is concerned."

Civil Code section 29 provides in part that "A child conceived, but not yet born, is to be deemed an existing person, so far as may be necessary for its interests in the event of its subsequent birth * * *."

[19] "Words, however, do not have absolute and constant referrents. 'A word is a symbol of thought but has no arbitrary and fixed meaning like a symbol of algebra or chemistry, * * *.' (Pearson v. State Social Welfare Board (1960) 54 Cal.2d 184, 195, 5 Cal.Rptr. 553, 559, 353 P.2d 33, 39.) The meaning of particular words or groups of words varies with the '* * * verbal context and surrounding circumstances and purposes in view of the linguistic education and experience of their users and their hearers or readers (not excluding judges). * * * A word has no meaning apart from these factors; much less does it have an objective meaning, one true meaning.' (Corbin, The Interpretation of Words and the Parole Evidence Rule (1965) 50 Cornell L.Q. 161, 187.)" (Pacific Gas & E. Co. v. G. W. Thomas Drayage Etc. Co. (1969) 69 Cal.2d 33, 38, 69 Cal.Rptr. 561, 564, 442 P.2d 641, 644.)

"Words are used in an endless variety of contexts. Their meaning is not subsequently attached to them by the reader but is formulated by the writer and can only be found by interpretation in the light of all the circumstances that reveal the sense in which the writer used the words." (Universal Sales Corp. v. Cal. etc. Mfg. Co. (1942) 20 Cal.2d

751, 776, 128 P.2d 665, 679, Traynor, J. concurring.)

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305 F. SUPP. 1032

United States of America v. Milan Vuitch. Crim. Nos. 1043–68, 1044–68.

United States of America v. Shirley A. Boyd, Crim. No. 1587–69.

United States District Court, District of Columbia, Nov. 10, 1969.

Licensed physician and nurse's aide charged with abortion in unrelated cases moved for dismissal of indictments. The District Court, Gesell, J., held that it is within police power of Congress to outlaw abortions that are not performed under qualified licensed practitioner of medicine, but that provision in District of Columbia abortion statute making the inducing of an abortion a felony, unless it is done as necessary for preservation of mother's life or health, is invalid for failure to give that certainty which due process of law considers essential in criminal statute and for impinging constitutional rights of individuals, and that statute was severable and only preservation-of-life-or-health standard would be eliminated.

Motion of physician granted and motion of nurse's aide denied.

William H. Collins, Jr., Asst. U.S. Atty., for the United States.

Joseph Sitnick, Washington, D.C., for Vuitch.

Susan Chalker, Legal Aid Agency, for Boyd.

MEMORANDUM OPINION

Gesell, District Judge.

These cases involve motions to dismiss indictment for abortion brought under Title 22, Sec. 201, of the D.C. Code. Vuitch is a physician licensed in the District of Columbia; Boyd is a nurses's aide. There is no relation between the two except that each defendant has moved to dismiss the indictment on the ground that the District of Columbia abortion statute is unconstitutional. The elaborate briefs, replete with authorities and background materials, have been considered, including the brief amicus of the American Civil Liberties Union. The arguments having been completed today, the Court is prepared to rule from the bench because of the public urgency of the matter.

While there have been many prosecutions under this statute over the years, there are very few decisions interpreting it and none of recent vintage. Apart from the wording of the statute itself there is no significant legislative history giving any indication of the underlying congressional intent, either at the time of enactment or subsequent amendment. As far as can be ascertained, this is the first constitutional challenge of the statute and the issues presented in these motions have not been decided in this jurisdiction. The Court has taken judicial notice of the materials cited in the briefs but they are of such common understanding that they need not be elaborated here in any detail.

The statute in question was originally enacted as part of the District of Columbia Code of 1901 and thereafter re-enacted with only slight modification. It provides in pertinent part:

> "Whoever * * * produce[s] an abortion * * * on any woman, unless the same were done as necessary for the preservation of the mother's life or health and under the direction of a competent licensed practitioner of medicine, shall be imprisoned * * *."

A felony penalty of from one to ten years is provided.

Basically the motions attack the statute for vagueness, allege that its practical operation denies equal protection to certain economic and other groups subject to its sanctions and assert a constitutional right of all women, regardless of their circumstances, to determine whether or not they shall bear a child. Constitutional doctrines of recent evolution are referred to by analogy to reinforce the motions.

The statute does not prohibit all abortions. An abortion is permitted where done "as necessary for the preservation of the mother's life or health" and "under the direction of a competent licensed practitioner of medicine." This two-partite exception clearly points up a basic congressional concern with what may broadly be said to be medical factors. The Court has a duty to interpret the statute in a manner consistent with the apparent congressional intent. As the briefs and arguments have emphasized, there are still many health or medical problems created by the varying conditions under which abortions are performed. While there have been many advances in medical knowledge and techniques since 1901, there is nothing before the Court which establishes that abortions may be safely and hygienically performed at various stages of pregnancy except under medical direction. Indeed there is ample evidence, and the parties so assert, that infection and death still often attend clumsy, unskilled terminations of pregnancy performed by non-physicians.

Under these circumstances, it was and still is well within the police power of the Congress to outlaw abortions that are not performed under a "competent", that is, a qualified, licensed, practitioner of medicine.

The true crux of the controversy here concerns the other part of the exception—"as necessary for the preservation of the mother's life or health." It is suggested that these words are not precise; that, as interpreted, they improperly limit the physician in carrying out his professional responsibilities; and that they interfere with a woman's right to avoid childbirth for any reason. The word "health" is not defined and in fact remains so vague in its interpretation and the practice under the act that there is no indication whether it includes varying degrees of mental as well as physical health. While the law generally has been careful not to interfere with medical judgment of competent physicians in treatment of individual patients, the physician in this instance is placed in a particularly unconscionable position under the conflicting and inadequate interpretations of the D.C. abortion statute now prevailing. The Court of Appeals established by such early cases as Peckham v. United States, 96 U.S. App. D.C. 312, 226 F.2d 34 (1955), cert. denied 350 U.S. 912, 76 S.Ct. 195, 100 L.Ed. 800, and Williams v. United States, 78 U.S. App. D.C. 147, 138 F.2d 81, 153 A.L.R. 1213 (1943), that upon the Government establishing that a physician committed an abortion, the burden shifted to the physician to justify his acts. In other words, he is presumed guilty and remains so unless a jury can be persuaded that his acts were necessary for the preservation of the woman's life or health. These holdings, which may well offend the Fifth Amendment of the Constitution, as interpreted in recent decisions such as Leary v. United States, 395 U.S. 6, 89 S.Ct. 1532, 28 L.Ed.2d 57 (1969), and United States v. Gainey, 380 U.S. 63, 85 S.Ct. 754, 13 L.Ed.2d 658 (1965), also emphasize the lack of necessary precision in this criminal statute. The jury's acceptance or nonacceptance of an individual doctor's interpretation of the ambivalent and uncertain word "health" should not determine whether he stands convicted of a felony, facing ten years' imprisonment. His professional judgment made in good faith should not be challenged. There is no clear standard to guide either the doctor, the jury or the Court. No body of medical knowledge delineates what degree of mental or physical health or combination of the two is required to make an abortion conducted by a competent physician legal or illegal under the Code. Other uncertainties in the phrase "as necessary for the preservation of the mother's life or health" are discussed and documented in People v. Belous, Cal., 80 Cal.Rptr. 354, 458 P.2d 194 (1969), and need not be repeated here.

Thus the phrase under discussion will not withstand attack for it fails to give that certainty which due process of law considers essential in a criminal statute. Its many ambiguities are particularly subject to criticism for the statute unquestionably impinges to an appreciable extent on significant constitutional rights of individuals.

At common law abortion prior to quickening was not an offense. In fact, abortion did not become a statutory crime in the United States until about 1830. It has repeatedly been held, even under the D.C. statute, that the woman who aborts commits no offense. Thompson v. United States, 30 App. D.C. 352 (1908). There has been, moreover, an increasing indication in decisions of the Supreme Court of the United States that as a secular matter a woman's liberty and right of privacy extends to family, marriage and sex matters and may well include the right to remove an unwanted child at least in early stages of pregnancy. Griswold v. State of Conn., 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965), Loving v. Commonwealth of Virginia, 388 U.S. 1, 87 S.Ct. 1817, 18 L.Ed. 2d 1010 (1967). Matters have certainly reached a point where a sound, informed interest of the state must affirmatively appear before the state infringes unduly on such rights. The abortion debate covers a wide spectrum of considerations: moral, ethical, social, economic, legal, political and humanitarian, as well as medical. (*See* Abortion, Tietze & Lewit, Scientific American, January, 1969, Vol. 220, No. 1). But it does not appear to what extent Congress has weighed these matters in establishing abortion policy for the District of Columbia beyond an expression of a clear necessity of placing the matter in the hands of competent doctors.

The question is next presented whether the statute is severable, that is, whether it may be read as outlawing abortions except when performed under the direction of a competent physician, eliminating only the preservation-of-life-or-health standard. Boyd, a non-physician, urges that because of the vagueness of the life-and-health phrase, the entire statute must fall. The Court concludes otherwise. The statute still protects a proper legislative and separate legislative objective if the one factor is stricken and the other allowed to remain. The Court is satisfied that the statute is severable, United States v. Jackson, 390 U.S. 570, 88 S. Ct. 1209, 20 L.Ed.2d 138 (1968), Stewart v. Washington, D.C., 301 F.Supp. 610 (1969), and holds that Congress has constitutionally required that abortions be undertaken only under the direction of a competent physician. Title 2–102, 130 of the D.C. Code governing licensing of the healing arts is not sufficient to protect the congressional purpose of limiting abortions to competent physicians. Even if the Court accepts Boyd's claim to standing under liberal criteria of such cases as Baker v. Carr, 369 U.S. 186, 82 S.Ct. 691, 7 L.Ed.2d 663 (1962), and Flast v. Cohen, 392 U.S. 83, 88 S.Ct. 1942, 20 L.Ed.2d 947 (1968), her challenge fails because the statute is severable.

Boyd's further contention that the statute discriminates against the poor and in its present operation denies medical help in city hospitals but is more liberally applied in some private hospitals has considerable support in the sketchy statistics and other data presented. The statute has received differing interpretations in the hospitals. In the light of the Court's ruling, however, there is no reason why the statute cannot henceforth be evenly applied throughout the city in a way which removes the principal basis for existing uncertainty and confusion. National and local policy provides free medical care for the poor. It is legally proper and indeed imperative that uniform medical abortion services be provided all segments of the population, the poor as well as the rich. Principles of equal protection under our Constitution require that policies in our public hospitals be liberalized immediately. Other contentions advanced by Boyd are without merit in view of the rulings made.

The Court cannot legislate. A far more scientific and appropriate statute could undoubtedly be framed than what remains of the 1901 legislation. The asserted constitutional right of privacy, here the unqualified right to refuse to bear children, has limitations. Congress can undoubtedly regulate abortion practice in many ways, perhaps even establishing different standards at various phases of pregnancy, if informed legislative findings were made after a modern review of the medical, social and constitutional problems presented. The Court ventures the suggestion that Congress should re-examine the statute promptly in the light of current conditions.

The motion of Dr. Milan Vuitch in both cases is granted as to him only. The motion of Shirley A. Boyd is denied. These remarks shall constitute the Court's opinion when transcribed. A prompt appeal to the United States Supreme Court under 18 U.S.C. § 3731 is highly desirable.

Counsel shall submit an appropriate order promptly.

Supreme Court of the United States—
[No. 84.—October Term, 1970]

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States, Appellant, v. Milan Vuitch. April 21, 1971.

Mr. Justice Black delivered the opinion of the Court.*

Appellee Milan Vuitch, a licensed physician, was indicted in the United States District Court for the District of Columbia for producing and attempting to produce abortions in violation of 22 D.C. Code 201. Before trial, the district judge granted Vuitch's motion to dismiss the indictments on the ground that the District of Columbia abortion law was unconstitutionally vague. 305 F. Supp. 1032 (DCDC 1969). The United States appealed to this Court under the Criminal Appeals Act, 18 U.S.C. § 3731. We postponed decision on jurisdiction to the hearing on the merits, 397 U.S. 1061, and requested the parties to brief and argue specified questions on that issue. 399 U.S. 923. We hold that we have jurisdiction and that the statute is not unconstitutionally vague. We reverse.

I

The first question is whether we have jurisdiction under the Criminal Appeals Act to entertain this direct appeal from the United States District Court for the District of Columbia. That Act[1] gives us jurisdiction over direct appeals from district court judgments "in all criminal cases . . . dismissing any indictment where such decision is based upon the invalidity . . . of the statute upon which the indictment is founded." 18 U.S.C. § 3731. The decision appealed from is a dismissal of an indictment on the ground that the District of Columbia abortion law, on which the indictment was based, is unconstitutionally vague. This abortion statute, 22 D.C. Code 201, is an Act of Congress applicable only in the District of Columbia and we suggested that the parties argue whether a decision holding unconstitutional such a statute is appealable directly to this Court under the Criminal Appeals Act. The literal wording of the Act plainly includes this statute, even though it applies only to the District. A piece of legislation so limited is nevertheless a "statute" in the sense that it was duly enacted into law by both Houses of Congress and was signed by the President. And the Criminal Appeals Act contains no language that purports to limit or qualify the term "statute." On the contrary, the Act authorizes government appeals from district courts to the Supreme Court in *"all criminal cases"* where a district court judgment dismissing an indictment is based upon the invalidity of the statute on which the indictment is founded.

An examination of the legislative history of the Criminal Appeals Act and its amendments suggests no reason why we should depart from the Act's literal meaning and exclude D.C. statutes from its coverage. The committee reports and floor debates contain no discussion indicating that the term "statute" does not include statutes applicable only to the District of Columbia.[2] We therefore conclude that we have jurisdiction over this appeal under the Criminal Appeals Act.

Our Brother HARLAN has argued in dissent that we do not have jurisdiction over this direct appeal. He suggests that such a result is supported by the decision in *United States* v. *Burroughs*, 289 U.S. 159 (1933), the policy underlying the Criminal Appeals Act, and the canon of construction that statutes governing direct appeals to this Court should be strictly construed.

It is difficult to see how the *Burroughs* decision lends much force to his argument, since that case held only that the term "district court" in the Criminal Appeals Act did not include the then-existing Supreme Court of the District of Columbia. *Id.*, at 163–164. The dissent goes on to suggest the Act should be construed in light of the Congressional purpose of "avoiding inconsistent enforcement of criminal laws." *Post*, at 12. This purpose would not be served by our refusing to decide this case now after it has been orally argued. In the last several years, abortion laws have been repeatedly attacked as unconstitutionally vague in both state and federal courts with widely varying results. A number of these cases are now pending on our docket. A refusal to accept jurisdiction here would only compound confusion for doctors, their patients, and law enforcement officials. As this case makes abundantly clear, a ruling on the validity of a statute applicable only to the District can contribute to great disparities and confusion in the enforcement of criminal laws. Finally, my Brother HARLAN's dissent also appears to rely on the fact that this Court has never accepted jurisdiction over a direct appeal under the Criminal Appeals Act involving the validity of a District of Columbia statute. *Post*, at 13. Since this Court has never either accepted or rejected jurisdiction of such an appeal, it is difficult to see how the complete absence of precedent in this Court lends any weight whatever to his argument. Neither previous cases nor the purpose behind the Criminal Appeals Act provides any satisfactory reason why the term "statute" should not include those statutes applicable only in the District of Columbia.

One other procedural problem remains. We asked the parties to brief the question whether the Government could have appealed this case to the Court of Appeals for the District of Columbia under 23 D.C. Code 105, and, if so, whether we should refuse to entertain the appeal here as a matter of sound judicial administration. That D.C. Code provision states:

"In all criminal prosecutions the United States . . . shall have the same right of appeal that is given to the defendant. . . ."

The relationship between the Criminal Appeals Act and this Code section was considered in *Carroll v. United States*, 354 U.S. 394, 411, where the Court concluded:

"[C]riminal appeals by the Government in the District of Columbia are not limited to the categories set forth in 18 U.S.C. 3731 [the Criminal Appeals Act], although as to cases of the type covered by that special jurisdictional statute its explicit directions will prevail over the general terms of [23 D.C. Code 105]."

Since we have concluded above that this appeal is covered by the Criminal Appeals Act, it would seem to follow from *Carroll* that the Act's provisions control and no appeal could have been taken to the Court of Appeals. Although *Carroll* seems to be dispositive, it has been suggested that it may now be limited by *United States* v. *Sweet*, 399 U.S. 517 (1970), which contains some language suggesting that the Government may be empowered to take an appeal to the Court of Appeals under 23 D.C. Code 105, even when a direct appeal would be proper here under the Criminal Appeals Act. *Id.*, at 518. We do not elaborate upon that suggestion. We only hold that once an appeal is properly here under the Criminal Appeals Act, we should not refuse to consider it because it might have been taken to another court.

II

We turn now to the merits. Appellee Milan Vuitch was indicted for producing and attempting to produce abortions in violation of 22 D.C. Code 201. That Act provides in part:

"Whoever, by means of any instrument, medicine, drug or other means whatever, procures or produces or attempts to procure or produce an abortion or miscarriage on any woman, unless the same were done as necessary for the preservation of the mother's life or health and under the direction of a competent licensed practitioner of medicine, shall be imprisoned in the penitentiary not less than one year or not more than ten years; . . ."

Without waiting for trial, the District Judge dismissed the indictment on the ground that the abortion statute was unconstitutionally vague. In his view, set out substantially in full below,[3] the statute was vague for two principal reasons:

1. The fact that once an abortion was proved a physician "is presumed guilty and remains so unless a jury can be persuaded that his acts were necessary for the preservation of the woman's life or health."

2. The presence of the "ambivalent and uncertain word 'health.' "

In concluding that the statute places the burden of persuasion on the defendant once the fact of an abortion has been proved,[4] the court relied on *Williams* v. *United States*, 138 F. 2d 81 (CADC 1943). There the Court of Appeals for the District of Columbia held that the prosecution was not required to prove as part of its case in chief that the operation was not necessary to preserve life or health. *Id.*, at 81, 83. The court indicated that once the prosecution established that an abortion had been performed the defendant was required "to come forward with evidence which with or without other evidence is sufficient to create reasonable doubt of guilt." *Id.*, at 84. The District Court here appears to have read *Williams* as holding that once an abortion is proved, the burden of persuading the jury that it was legal (*i.e.*, necessary to the preservation of the mother's life or health) is cast upon the physician. Whether or not this is a correct reading of *Williams*, we believe it is an erroneous interpretation of the statute. Certainly a statute that outlawed only a limited category of abortions but "presumed" guilt whenever the mere fact of abortion was established, would at the very least present serious constitutional problems under this Court's previous decision interpreting the Fifth Amendment. *Tot* v. *United States*, 319 U.S. 463 (1943); *Leary* v. *United States*, 395 U.S. 6, 36 (1969). But of course statutes should be construed whenever possible so as to uphold their constitutionality.

The statute does not outlaw all abortions, but only those which are not performed under the direction of a competent, licensed physician, and those not necessary to preserve the mother's life or health. It is a general guide to the interpretation of criminal statutes that when an exception is incorporated in the enacting clause of a stat-

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Footnotes at end of article.

ute, the burden is on the prosecution to plead and prove that the defendant is not within the exception. When Congress passed the District of Columbia abortion law in 1901 and amended it in 1953, it expressly authorized physicians to perform such abortions as are necessary to preserve the mother's "life or health." Because abortions were authorized only in more restrictive circumstances under previous D.C. law, the change must represent a judgment by Congress that it is desirable that women be able to obtain abortions needed for the preservation of their lives or health.[5] It would be highly anomalous for a legislature to authorize abortions necessary for life or health and then to demand that a doctor, upon pain of one to ten years' imprisonment, bear the burden of proving that an abortion he performed fell within that category. Placing such a burden of proof on a doctor would be peculiarly inconsistent with society's notions of the responsibilities of the medical profession. Generally, doctors are encouraged by society's expectations, by the strictures of malpractice law and by their own professional standards to give their patients such treatment as is necessary to preserve their health. We are unable to believe that Congress intended that a physician be required to prove his innocence. We therefore hold that under 22 D.C. Code 201, the burden is on the prosecution to plead and prove that an abortion was not "necessary for the preservation of the mother's life or health."

There remains the contention that the word "health" is so imprecise and has so uncertain a meaning that it fails to inform a defendant of the charge against him and therefore the statute offends the Due Process Clause of the Constitution. See, *e.g., Lanzetta* v. *New Jersey,* 306 U.S. 451 (1939). We hold that it does not. The trial court apparently felt that the term was vague because there "is no indication whether it includes varying degrees of mental as well as physical health." 305 F. Supp. 1032, at 1034. It is true that the legislative history of the statute gives no guidance as to whether "health" refers to both a patient's mental and physical state. The term "health" was introduced into the law in 1901 when the statute was enacted in substantially its present form. The House Report[6] on the bill contains no discussion of the term "health" and there was no Senate report. Nor have we found any District of Columbia cases prior to this district court decision that shed any light on the question. Since that decision, however, the issue has been considered in *Doe* v. *General Hospital of the District of Columbia,* 313 F. Supp. 1170 (DCDC 1970). There District Judge Waddy construed the statute to permit abortions "for mental health reasons whether or not the patients had a previous history of mental defects." *Id.,* at 1174–1175. The same construction was followed by the United States Court of Appeals for the District of Columbia in further proceedings in the same case. *Doe* v. *General Hospital of the District of Columbia,* 434 F. 2d 423; 434 F. 2d 427 (CADC 1970). We see no reason why this interpretation of the statute should not be followed. Certainly this construction accords with the general usage and modern understanding of the word "health," which includes phychological as well as physical well-being. Indeed Webster's Dictionary, in accord with that common usage, properly defines health as "the state of being sound in body or mind." Viewed in this light, the term "health" presents no problem of vagueness. Indeed, whether a particular operation is necessary for a patient's physical or mental health is a judgment that physicians are obviously called upon to make routinely whenever surgery is considered.[7]

We therefore hold that properly construed the District of Columbia abortion law is not unconstitutionally vague, and that the trial court erred in dismissing the indictments on that ground. Appellee has suggested that there are other reasons why the dismissal of the indictment should be affirmed. Essentially, these arguments are based on this Court's decision in *Griswold* v. *Connecticut,* 381 U.S. 479 (1965). Although there was some reference to these arguments in the opinion of the court below, we read it as holding simply that the statute was void for vagueness because it failed in that court's language to "give that certainty which due process of law considers essential in a criminal statute." 305 F. Supp. 1032, at 1034. Since that question of vagueness was the only issue passed upon by the District Court it is the only issue we reach here. *United States* v. *Borden Co.,* 308 U.S. 188 (1939); *United States* v. *Petrillo,* 332 U.S. 1 (1947); *United States* v. *Blue,* 384 U.S. 251, 256 (1966).

The judgment is reversed and the case remanded for further proceedings not inconsistent with this opinion.

Reversed.

FOOTNOTES

[*] The Chief Justice, Mr. Justice Douglas, Mr. Justice Stewart, and Mr. Justice White join in Part I of this opinion. The Chief Justice, Mr. Justice Harlan, Mr. Justice White, and Mr. Justice Blackmun join in Part II of this opinion.

[1] The Act states in pertinent part:

"An appeal may be taken by and on behalf of the United States from the district courts direct to the Supreme Court of the United States in all criminal cases in the following instances:

"From a decision or judgment setting aside, or dismissing any indictment or information, or any count thereof, where such decision of judgment is based upon the invalidity or construction of the statute upon which the indictment or information is founded. . . ." 18 U.S.C. § 3731.

[2] See H. Conf. Rep. No. 8113, 59th Cong., 2d Sess.; H.R. Rep. No. 2119, 59th Cong, 1st. Sess.; H.R. Rep. No. 45 and S. Rep. No. 868, 77th Cong, 1st. Sess.; H. Conf. Rep. No. 2052, 77th Cong., 2d Sess.

[3] The District Judge stated:

"It is suggested that these words [as necessary for the preservation of the mother's life or health] are not precise; that, as interpreted, they improperly limit the physician in carrying out his professional responsibilities; and that they interfere with a woman's right to avoid childbirth for any reason. The word "health" is not defined and in fact remains so vague in its interpretation and the practice under the act that there is no indication whether it includes varying degrees of mental as well as physical health. While the law generally has been careful not to interfere with medical judgment of competent physicians in treatment of individual patients, the physician in this instance is placed in a particularly unconscionable position under the conflicting and inadequate interpretations of the D.C. abortion statute now prevailing. The Court of Appeals established by such early cases as *Peckham* v. *United States,* 96 U.S. App. D.C. 312 (1955), *cert. denied,* 350 U.S. 912, and *Williams* v. *United States,* 78 U.S. App. D.C. 147 (1943), that upon the Government establishing that a physician committed an abortion, the burden shifted to the physician to justify his acts. In other words, he is presumed guilty and remains so unles a jury can be persuaded that his acts were necessary for the preservation of the woman's life or health. These holdings, which may well offend the Fifth Amendment of the Constitution, as interpreted in recent decisions such as *Leary* v. *United States,* 395 U.S. 89 Sup. Ct. 1532, 23 L. Ed. 2d 658 (1965), and *United States* v. *Gainey,* 380 U.S. 63, 85, Sup. Ct. 754, 13 L. Ed. 2d 658 (1965), also emphasize the lack of necessary precision in this criminal statute. The jury's acceptance or nonacceptance of an individual doctor's interpretation of the ambivalent and uncertain word 'health' should not determine whether he stands convicted of a felony, facing ten years' imprisonment. His professional judgment made in good faith should not be challenged. There is no clear standard to guide either the doctor, the jury or the Court. No body of medical knowledge delineates what degree of mental or physical health or combination of the two is required to make an abortion conducted by a competent physician legal or illegal under the Code. . . ." 305 F. Supp. 1032, at 1034.

[4] The trial court also cited *Peckham* v. *United States,* 226 F. 2d 34 (CADC 1955), as dealing with the D.C. abortion law. However, the opinion in that case does not discuss the burden of proof under the statute.

[5] Before 1901 the existing statute allowed abortion only "for the purpose of preserving the life of any woman pregnant . . ." Abert, The Compiled Statutes in Force in the District of Columbia, c. XVI, pp. 158–159 (1894).

[6] H.R. Rep. No. 1017, 56th Cong., 1st Sess.

[7] Our Brother DOUGLAS appears to fear that juries might convict doctors in any abortion case simply because some jurors believe all abortions are evil. Of course such a danger exists in all criminal cases, not merely those involving abortions. But there are well-established methods defendants may use to protect themselves against such jury prejudice: continuances, changes of venue, challenges to prospective jurors on *voir dire,* and motions to set aside verdicts which may have been produced by prejudice. And of course a court should always set aside a jury verdict of guilt when there is not evidence from which a jury could find a defendant guilty beyond a reasonable doubt.

[Supreme Court of the United States—No. 84.—October Term, 1970]

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States, Appellant, *v.* Milan Vuitch.
April 21, 1971.

Mr. Justice White, concurring.

I join the Court's opinion and judgment. As to the facial vagueness argument, I have these few additional words. This case comes to us unilluminated by facts or record. The District Court's holding that the District of Columbia statute is unconstitutionally vague on its face because it proscribes all abortions except those necessary for the preservation of the mother's life or health was a judgment that the average person could not understand which abortions were permitted and which were prohibited. But surely the statute puts everyone on adequate notice that the health of the mother, whatever that phrase means, was the governing standard. It should also be absolutely clear that a doctor is not free to perform abortions on request without considering whether the patient's health required it. No one of average intelligence could believe that under this statute abortions not dictated by health considerations are legal. Thus even if the "health" standard were unconstitutionally vague, which I agree is not the case, the statute is not void on its face since it reaches a class of cases in which the meaning of "health" is irrelevant and no possible vagueness problem could arise. We do not, of course, know whether this is one of those cases. Until we do facial vagueness claims must fail. Cf. *United States* v. *National Dairy Corp.,* 372 U.S. 29 (1963).

[Supreme Court of the United States—No. 84.—October Term, 1970]

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States, Appellant, *v.* Milan Vuitch.
April 21, 1971.

Mr. Justice Douglas, dissenting in part

While I agree with Part I of the Court's opinion that we have jurisdiction over this appeal, I do not think the statute meets the requirements of procedural due process.

The District of Columbia Code makes it a felony for a physician to perform an abortion "unless the same were done as necessary for the preservation of the other's life or health." 22 D.C. Code 201.

I agree with the Court that a physician—within the limits of his own expertise—would be able to say that an abortion at a particular time performed on a designated patient would or would not be necessary for the "preservation" of her "life or health." That judgment, however, is highly subjective, dependent on the training and insight of the particular physician and his standard as to what is "necessary" for the "preservation" of the mother's "life or health."

The answers may well differ, physician to physician. Those trained in conventional obstetrics may have one answer; those with deeper psychiatric insight may have another. Each answer is clear to the particular physician. If we could read the Act as making that determination conclusive, not subject to review by judge and by jury, the case would be simple, as Mr. Justice Stewart points out. But that does such violence to the statutory scheme that I believe it is beyond the range of judicial interpretation so as to read the Act. If it is to be revised in that manner, Congress should do it.

Hence I read the Act, as did the District Court, as requiring submission to court and jury of the physician's decision. What will the jury say? The prejudices of jurors are customarily taken care of by challenges for cause and by preemptory challenges. But vagueness of criminal statutes introduces another element that is uncontrollable. Are the concepts so vague that possible offenders have no safe guidelines for their own action? Are the concepts so vague that jurors can give them a gloss and meaning drawn from their own predilections and prejudices? Is the statutory standard so easy to manipulate that although physicians can make good-faith decisions based on the standard, juries can nonetheless make felons out of them?

The Court said in *Lanzetta* v. *New Jersey*, 306 U. S. 451, 453, that a ". . . statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process."

A three-judge court in evaluating a Texas statutory standard as to whether an abortion was attempted "for the purpose of saving the life of the mother" said:

"How *likely* must death be? Must death be certain if the abortion is not performed? Is it enough that the woman could not undergo birth without an ascertainably higher possibility of death than would normally be the case? What if the women threatened suicide if the abortion was not performed? How *imminent* must death be if the abortion is not performed? Is it sufficient if having the child will shorten the life of the woman by a number of years?" *Roe v. Wade*, 314 F. Supp. 1217, 1223.

The *Roe* case was followed by a three-judge court in *Doe* v. *Scott*, — F. Supp. —, which struck down an Illinois statute which sanctioned an abortion "necessary for the preservation of a woman's life." And see *People* v. *Belous*, 71 Cal. 2d 954, 458 Pac. 2d 194.

A doctor may well remove an appendix far in advance of rupture in order to prevent a risk that may never materialize. May he do the same under the abortion statute?

May he perform abortions on unmarried woman who want to avoid the "stigma" of having an illegitimate child? Is bearing a "stigma" a "health" factor? Only in isolated cases? Or is it such whenever the woman is unmarried?

Is any unwanted pregnancy a "health" factor because it is a source of anxiety?

Is an abortion "necessary" in the statutory sense if the doctor thought that an additional child in a family would unduly tax the mother's physical well-being by reason of the additional work which would be forced upon her?

Would a doctor be violating the law if he performed an abortion because the added expense of another child in the family would drain its resources, leaving an anxious mother with insufficient budget to buy nutritious food?

Is the fate of an unwanted child or the plight of the family into which it is born relevant to the factor of the mother's "health?"

Mr. Justice Holmes, in holding that "unreasonable" restraint of trade was an adequate constitutional standard of criminality, said in *Nash* v. *United States*, 229 U.S. 373, 377, that "the law is full of instances where a man's fate depends on his estimating rightly, that is, as the jury subsequently estimates it, some matter of degree. If his judgment is wrong, not only may he incur a fine or a short imprisonment, as here; he may incur the penalty of death."

He wrote in a context of economic regulations which are restrained by few, if any, constitutional guarantees.

Where, however, constitutional guarantees are implicated, the standards of certainty are more exacting.

Winters v. *New York*, 333 U.S. 507, 514, 519, held void-for-vagueness a state statute which as construed made it a crime to print stories of crime "so massed as to incite to crime," since such a regulatory scheme trenched on First Amendment rights of the press.

The standard of "sacrilegious" can be used in such accordion-like way as to infringe on religious rights protected by the First Amendment. *Joseph Burstyn, Inc.* v. *Wilson*, 343 U.S. 495, 505.

The requirement of a "narrowly drawn" statute when the regulation touches a protected constitutional right (*Cantwell* v. *Connecticut*, 310 U.S. 296, 311; *Thornhill* v. *Alabama*, 310 U.S. 88, 100) is only another facet of the void-for-vagueness problem.

What the Court held in *Herndon* v. *Lowry*, 301 U.S. 242, is extremely relevant here. The ban of publications made to incite insurrection was held to suffer the vice of vagueness:

"The statute, as construed and applied in the appellant's trial, does not furnish a sufficiently ascertainable standard of guilt. . . . Every person who attacks existing conditions, who agitates for a change in the form of government, must take the risk that if a jury should be of opinion he ought to have foreseen that his utterances might contribute in any measure to some future forcible resistance to the existing government he may be convicted of the offense of inciting insurrection. . . . *The law, as thus construed, licenses the jury to create its own standard in each case*." *Id.*, 261, 262, 263. (Italics added.)

If these requirements of certainty are not imposed then the triers of fact have "a power to invade imperceptibly (and thus unreviewably) a realm of constitutionally protected personal liberties." Amsterdam, The Void-For-Vagueness Doctrine in the Supreme Court, 109 U. Pa. L. Rev. 67, 104 (1960).

Abortion touches intimate affairs of the family, of marriage, of sex, which in *Griswold* v. *Connecticut*, 381 U.S. 479, we held to involve rights associated with several express constitutional rights and which are summed up in "the right of privacy." They include the right to procreate (*Skinner* v. *Oklahoma*, 316 U.S. 535), the right to marry across the color line (*Loving* v. *Virginia*, 388 U.S. 1), the intimate familial relations between children and parents (*Meyer* v. *Nebraska*, 262 U.S. 390; *Levy* v. *Louisiana*, 391 U.S. 68, 71–72). There is a compelling personal interest in marital privacy and in the limitation of family size. And on the other side is the belief of many that the fetus, once formed, is a member of the human family and that mere personal inconvenience cannot justify his destruction. This is not to say that government is powerless to legislate on abortions. Yet the laws enacted must not trench on constitutional guarantees which they can easily do unless closely confined.

Abortion statutes deal with conduct which is heavily weighted with religious teachings and ethical concepts.[1] Mr. Justice Jackson once spoke of the "treacherous grounds we tread when we undertake to translate ethical concepts into legal ones, case by case." *Jordan* v. *De George*, 341 U.S.. 223, 242 (dissenting). The difficulty and danger are compounded when religion adds another layer of prejudice.[2] The end result is that juries condemn what they personally disapprove.

The subject of abortions—like cases involving obscenity[3]—is one of the most inflammatory ones to reach the Court. People instantly take sides and the public, from whom juries are drawn, makes up its mind one way or the other before the case is even argued. The interests of the mother and the fetus are opposed. On which side should the State throw its weight? The issue is volatile; and it is resolved by the moral code which an individual has. That means that jurors may give it such meaning as they choose, while physicians are left to operate outside the law. Unless the statutory code of conduct is stable and in very narrow bounds, juries have a wide range and physicians have no reliable guideposts. The words "necessary for the preservation of the mother's life or health" become free-wheeling concepts, too easily taking on meaning from the juror's predilections or religious prejudices.

I would affirm the dismissal of this indictment and leave to the experts the drafting of abortion laws[4] protecting good-faith medical practitioners from the treacheries of the present law.

FOOTNOTES

[1] "There remains the moral issue of abortion as murder. We submit that this is insoluble, a matter of religious philosophy and religious principle and not a matter of fact. We suggest that those who believe abortion is murder need not avail themselves of it. On the other hand, we do not believe that such conviction should limit the freedom of those not bound by identical religious conviction. Although the moral issue hangs like a threatening cloud over any open discussion of abortion, the moral issues are not all one-sided. The psychoanalyst Erik Erikson stated the other side well when he suggested that 'The most deadly of all possible sins is the mutilation of a child's spirit.' There can be nothing more destructive to a child's spirit than being unwanted, and there are few things more disruptive to a woman's spirit than being forced without love or need into motherhood." VII The Right to Abortion: A Psychiatric View, pp. 218–219 (Group for the Advancement of Psychiatry, 1969).

[2] Mr. Justice Clark recently wrote: "Throughout history religious belief has wielded a vital influence on society's attitude regarding abortion. The religious issues involved are perhaps the most frequently debated aspects of abortion. At the center of the ecclesiastical debate is the concept of 'ensoulment' or 'person-hood,' *i.e.*, the time at which the fetus becomes a human organism. The Reverend Joseph F. Donseel of Fordham University admitted that no one can determine with certainty the exact moment at which 'ensoulment' occurs, but we must deal with the moral problems of aborting a fetus even if it has not taken place. Many Roman Catholics believe that the soul is a gift of God given at conception. This leads to the conclusion that aborting a pregnancy at any time amounts to the taking of a human life and is therefore against the will of God. Others, including some Catholics, believe that abortion should be legal until the baby is

viable, *i. e.*, able to support itself outside the womb. In balancing the evils, the latter conclude that the evil of destroying the fetus is outweighed by the social evils accompanying forced pregnancy and childbirth." Region, Morality and Abortion: A Constitutional Appraisal, 2 Loy. L. Rev. 1, 4 (1969).

[3] I have expressed my views on the vagueness of criminal laws governing obscenity in *Dyson* v. *Stein*, decided February 23, 1971 (dissenting opinion). And see the dissent of Mr. JUSTICE BLACK in *Ginzburg* v. *United States*, 383 U. S. 463, 477.

[4] Clark, *supra* n. 2, at 10–11.

Cf. New York's new abortion law effective July 1, 1970, 39 McKinney's Consol. L. § 125.05:

"An abortional action is justifiable when committed upon a female with her consent by a duly licensed physician (a) under a reasonable belief that such is necessary to preserve her life, or, (b) within twenty-four weeks from the commencement of her pregnancy. A pregnant female's commission of an abortional act upon herself is justifiable when she acts upon the advice of a duly licensed physician (1) that such act is necessary to preserve her life, or, (2) within twenty-four weeks from the commencement of her pregnancy. The submission by a female to an abortional act is justifiable when she believes that it is being committed by a duly licensed physician, acting under a reasonable belief that such act is necessary to preserve her life, or, within twenty-four weeks from the commencement of her pregnancy." And see Hall, The Truth About Abortion in New York, Columbia Forum, Winter 1970, p. 18; Schwartz, The Abortion Laws, 67 Ohio St. Med. J. 33 (1971).

[Supreme Court of the United States—No. 84—October Term, 1970]

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States, Appellant, *v.* Milan Vuitch. April 21, 1971.

Mr. Justice Harlan, with whom Mr. Justice Brennan, Mr. Justice Marshall, and Mr. Justice Blackmun join, dissenting as to jurisdiction.

Appellee Vuitch was indicted in the United States District Court for the District of Columbia for violations of 22 D. C. Code 201, the District of Columbia abortion statute. This statute is applicable only within the District of Columbia. On pretrial motion by Vuitch, the indictments were dismissed on the ground that the abortion statute was unconstitutionally vague. The United States appealed directly to this Court under the terms of the Criminal Appeals Act of 1907, 18 U.S.C. § 3731, relying on the provision allowing direct appeal "[f]rom a decision or judgment setting aside, or dismissing any indictment or information, or any count thereof, where such decision or judgment is based upon the invalidity or construction of the statute upon which the indictment or information is founded."[1] It is not contested that, but for this provision of the Criminal Appeals Act, the Government would have a right of appeal to the Court of Appeals for the District of Columbia under 23 D. C. Code 105, which provides:

"In all criminal prosecutions the United States or the District of Columbia, as the case may be, shall have the same right of appeal that is given to the defendant, including the right to a bill of exceptions: *Provided*, That if on such appeal it shall be found that there was error in the rulings of the court during a trial, a verdict in favor of the defendant shall not be set aside."

The Court today—relying on the generic reference to "statutes" and "all criminal cases" in the text of 18 U. S. C. § 3731 and the absence of an express exclusion of statutes applicable only within the District of Columbia—concludes that 18 U. S. C. § 3731 rather than 23 D. C. Code 105 provides the proper appellate route for this case. I must disagree.

I

The historical development of the Government's right to appeal in criminal cases both in the District of Columbia and throughout the Nation is surveyed in *Carrol* v *United States*, 354 U.S. 394 (1957). Section 105 of the D.C. Code was passed in 1901 as § 935 of the Code of 1901. 31 Stat. 1341. Prior to the Criminal Appeals Act of 1907, the Government had no right of appeal in criminal cases outside of the District of Columbia. To remedy this situation, a bill was introduced in the House of Representatives. That bill practically tracked the language of the D. C. statute, and made no provision for direct appeal to this Court. 40 Cong. Rec. 5408. The accompanying House Report described the bill as follows: "The accompanying bill will extend [§ 935] of the code of the District of Columbia to all districts in the United States." H. R. Rep. No. 2119, 59th Cong., 1st Sess., at 2 (1906). That bill passed the House, but the Senate Committee on the Judiciary rejected the House approach of simply extending the provisions of the D. C. appeals statute to the rest of the Nation; the Senate Committee instead substituted a more narrowly drawn measure which enumerated specific substantive categories of criminal cases to be appealable by the Government and allocate jurisdiction over these appeals between the Supreme Court and the then Circuit Courts of Appeals according to the allocation of appellate jurisdiction for civil cases established in the Circuit Court of Appeals Act of 1891. S. Rep. No. 3922, 59th Cong., 1st Sess. (1906). See *Carroll* v. *United States, supra*, at 402 n. 11. Even that bill as narrowed could not pass the Senate; it provoked extended debate in which the opponents of the measure focused on the potential for abuse of individual rights arising from repeated court proceedings, delays in appeals, and restraints on personal freedom while the Government prosecuted its appeal. See generally *United States* v. *Sission*, 399 U.S. 267 (1970). The upshot of these debates was that Senator Nelson, the bill's floor manager in the Senate, agreed to accept a variety of amendments which further narrowed the categories of the cases appealable by the Government and made special provision for the defendant's release on his own recognizance. See 41 Cong. Rec. 2818–2825.[2]

It is at this point that Senator Clarke of Arkansas offered an amendment limiting the Government's right to appeal decisions dismissing indictments or arresting judgments for insufficiency of the indictment to instances where the decision was based upon "the validity or construction of the statute." The purpose of that amendment was described by Senator Clarke as follows:

"Mr. President, the object of the amendment is to limit the right of appeal upon the part of the General Government to the validity or constitutionality of the statute in which the prosecution is proceeding. It has been enlarged by the addition of another clause, which gives the right of appeal where the construction by the trial court is such as to decide that there is no offense committed, notwithstanding the validity of the statute, and in other respects the proceeding may remain intact. I think that is a broad enough right to concede to the General Government in the prosecution of persons in the court.

* * * * *

"In view of the defects that recent years have disclosed, I do not believe it to be sound policy to go beyond the necessities as they have developed defects in our procedure. A case recently occurring has drawn attention to the fact that if a circuit judge or a district judge holding the circuit should determine that a statute of Congress was invalid, the United States is without means of having that matter submitted to a tribunal that under the Constitution has power to settle that question. I do not believe the remedy ought to be any wider than the mischief that has been disclosed. I do not believe that any additional advantages ought to be given to the General Government in the prosecution of persons arraigned in court, but I do not believe the paragraph ought to be perfected in that behalf, so as to provide that there shall be an appeal to the court having authority to give uniformity to the practice which shall prevail in all the courts of the United States, and that they shall be ready to say, and say promptly, what the statute means and whether or not it is a valid statute.

* * * * *

"So I think this amendment gives expression to the prosposition that the remedy we provide here now should be no wider than the defect that has been disclosed in the preceding criminal procedure; and that is that whenever the validity of a statute has been adversely decided by a trial court, wherever its unconstitutionality has been pronounced by a trial court, the Government ought to have the right to promptly submit that to the tribunal having authority to dispose of such questions in order that there may be a uniform enforcement of the law throughout the entire limits of the United States.

"This is the purpose, I have, Mr. President, and having discussed it with the distinguished Senator from Wisconsin . . . and the distinguished Senator from Minnesota [Mr. Nelson], we agreed that that would probably meet the defect." 41 Cong. Rec. 2819–2820. See generally 41 Cong. Rec. 2819–2822.

The bill as thus amended passed the Senate; the House disagreed to the Senate amendment, but yielded in conference. The bill in conference was amended to provide for direct appeals to the Supreme Court. See H. R. Conf. Rep. No. 8113, 59th Cong., 2d Sess. (1907). No explanation was given in the conference report for the exclusive direct appeal route.

I draw from these legislative materials the following relevant propositions: (1) The Congress was definitely advertent to the existence of a governmental appeal right in criminal cases within the District; (2) the Congress explicitly rejected the simple approach of extending the D.C. provision to the Nation; (3) the particular provision of the Act relied on by the Government as supporting its direct appeal in this case was amended with a view to limiting its reach to a relatively precise defect; *i.e.*, the debilitating effect on the enforcement of criminal laws arising from conflicting judicial interpretations; and (4) the substitution of an exclusive direct appeal to this Court, while not expressly explained, is perfectly compatible with the goal of promptly achieving uniformity in construction of statutes applicable nationwide, while at the same time being wholly unnecessary to the resolution of conflicting district court constructions of local D.C. statutes, given the existence of a right of appeal to the Court of Appeals for the District of Columbia.

II

The question of overlap between the appellate routes available to the Government in criminal cases under the D.C. Code and 18 U.S.C. § 3731 was first dealt with by this Court in *United States* v. *Burroughs*, 289 U.S. 159 (1933). In *Burroughs* the defendants were indicted in the then Supreme Court of the District of Columbia for violation of the Federal Corrupt Practices Act, a statute of nationwide applicability. They successfully

Footnotes at end of article.

demurred on two grounds: one involving the construction of the statute, and the other involving the sufficiency of the indictment as a pleading. The Government took an appeal to the Court of Appeals for the District of Columbia under the D.C. appeals statute. The appellate court certified to this Court the question whether it had jurisdiction over an appeal where a § 3731-type challenge was joined with a challenge to the sufficiency of the indictment as a pleading. The Court disposed of the question by holding that the Criminal Appeals Act is inapplicable to any criminal case appealable under the provision of the D.C. Code:

"*The Criminal Appeals Act, in naming the courts from which appeals may be taken to this court, employs the phrase 'district courts;' not 'courts of the United States,' or 'courts exercising the same jurisdiction as district courts.' We need not, however, determine whether the statute should be construed to embrace criminal cases tried in the Supreme Court of the District if § 935 of the District Code were not in effect.* That section deals comprehensively with appeals in criminal cases from all of the courts of first instance of the District and confers on the Court of Appeals jurisdiction of appeals by the Government seeking review of the judgments of those courts. The Criminal Appeals Act, on the other hand, affects only certain specified classes of decisions in district courts, contains no repealing clause, and no reference to the courts of the District of Columbia or the territorial courts, upon many of which jurisdiction is conferred by language quite similar to that of the Code of Law of the District. We cannot construe it as impliedly repealing the complete appellate system created for the District of Columbia by § 935 of the Code, in the absence of expression on the part of Congress indicating that purpose. Implied repeals are not favored; and if effect can reasonably be given to both statutes, the presumption is that the earlier is intended to remain in force. . ." 289 U. S., at 163–164.[3]

The holding in *Burroughs* established a complete separation of the two statutory schemes for Government appeals in criminal cases; the essence of the Court's rationale was a presumption against implied repeals.

In 1942, Congress amended the Criminal Appeals Act to provide for Government appeals to the Courts of Appeals from all decisions dismissing indictments or arresting judgments of convictions except where a right of direct appeal to this Court exists. 56 Stat. 271. The new amendment expressly included the United States Court of Appeals for the District of Columbia as one of the intermediate appellate tribunals to which the Government could appeal;[4] in addition, the Act added a new provision to the Judicial Code establishing appellate jurisdiction in the then circuit courts of appeal "in criminal cases on appeals taken by the United States in cases where such appeals are permitted by law." 56 Stat. 272. The latter provision also expressly incorporated the United States Court of Appeals for the District of Columbia.[5] *Ibid.*

The legislative history of the 1942 amendment offers no explication of Congressional intent in including the D.C. courts within the Act.[6] It is certain that this amendment generates some form of overlap between the two statutory schemes for Governmental appeals in criminal cases. In *Carroll* v. *United States*, 354 U.S. 394, 411 (1957), the Court recognized the new situation created by the 1942 amendment:

"It may be concluded, then, that even today criminal appeals by the Government in the District of Columbia are not limited to the categories set forth in 18 U.S.C. § 3731, although as to cases of the type covered by that special jurisdictional statute, its explicit directions will prevail over the general terms of [the D.C. statute] . . . ."

That, however, leaves open the question which cases come within the categories set forth in 18 U.S.C. § 3731.

III

After this Court's holding in *Burroughs*, it was clear that if Congress wished to effectuate any displacement of the pre-1907 route for Government appeals of criminal cases within the District of Columbia, some express manifestation of its intent was required. The 1942 amendment followed the *Burroughs* decision . . . Since Congress then acted to create some overlap between the two statutes without further limiting the categories of directly appealable criminal cases, it may be argued that we should presume Congress intended, as of 1942, to embrace within the very special appeals procedures of 18 U.S.C. § 3731 criminal cases based upon statutes applicable only within the District.

But that presumption from a completely silent legislative record flies in the face of the principle that statutes creating a right of direct appeal to this Court should be narrowly construed. Cf. *Swift & Co. v. Wickham*, 382 U.S. 111, 128–129 (1965); *Florida Lime Growers* v. *Jacobsen*, 362 U.S. 73, 92–93 (Frankfurter, J., dissenting). And, in light of the legislative history of the 1907 Act and this Court's explicit holding in *Burroughs* that the 1907 Act had no impact on cases appealable under the D.C. provision, it is especially inappropriate to rely on the absence of any further limiting language in the 1942 amendment as a justification for reading the term "statute" as encompassing criminal prosecutions in the District based on local as well as nationwide statutes.

The legislative history of the 1907 Act suggests a perfectly plausible reason for interpreting the language "based upon the invalidity or construction of the statute" as excluding D.C. statutes: that language was put in the Act by Senator Clarke with the express intention of limiting the Act's goal to remedying the precise defect of inconsistent enforcement of criminal statutes arising from the lack of a Government appeal. The Court of Appeals for the District of Columbia constitutes a perfectly adequate appellate tribunal for resolving conflicting interpretations given local statutes by judges within the District of Columbia.[7] Where, however, the Government brings a prosecution in the District of Columbia based on a statute of nationwide applicability, the Court of Appeals for the District of Columbia cannot achieve uniformity in the enforcement of the statute.

As an original proposition, then, a construction of the relevant provisions of the 1907 Act as excluding criminal cases in the District brought under local statutes but including cases brought under nationwide statutes would have been consistent both with the express purpose of Senator Clarke's amendment and the canon of strict construction as applied to direct appeals statutes.[8] But the Court in *Burroughs* too the position that Congress could not displace the preexisting appellate route to any extent without indicating an express intent to do so; *Burroughs*, significantly involved a prosecution under a statute of nationwide applicability. Subsequently, Congress did expressly indicate an intent to displace the alternative appellate route available within the District. The extent of that displacement, I think, should now be measured by the express goal of the relevant provision of the 1907 Act, as limited by Senator Clarke: avoidance of inconsistent enforcement of criminal laws. That theory of legislative purpose—combined with the *Burroughs* holding that Congress should be required to affirmatively indicate an intent to displace the prior appellate route—yields an interpretation of the 1907 Act as amended in 1942 which is consistent with the canon of strict construction generally applied to direct appeals statutes.[9]

IV

I have little doubt that, had the Criminal Appeals Act not been recently amended to dispense with direct appeals to this Court, see n. 1 *supra*, the interpretation of the Act I have suggested would be adopted by the Court. This Court has never taken jurisdiction over a direct appeal from a dismissal of a prosecution brought in the District of Columbia for violation of a statute applicable within the District. It is worth noting that, given the Court's adherence to the principles of *Carroll* v. *United States*, *supra*, the rather absurd waste of our judicial resources on cases such as *United States* v. *Waters*, 175 F. 2d 340, appeal dismissed on motion of the United States, 335 U.S. 869 (1948), and *United States* v. *Sweet*, 399 U.S. 517 (1970), see n. 7 *supra*, could not even be avoided by the exercise of governmental discretion in choosing appellate routes. In light of *Carroll*, I cannot believe that a perfectly acceptable reading of congressional purpose underpinning the definition of categories of cases directly appealable under 18 U.S.C. § 3731 which excludes statutes applicable only within the District of Columbia would have been turned down by the Court.

Of course, the recent elimination of the direct appeal route removes a great deal of the incentive to continue the stringent standards of construction with respect to this statute that have traditionally prevailed in this Court. Indeed, at this stage of the game, the canon of strict construction produces the ironic result of compelling a relatively greater expenditure of judicial energies in assessing our jurisdiction over the remainder of the criminal cases pending in the district courts of the Nation at the time of the most recent amendment than would be involved in deciding those cases on the merits. Nonetheless, this very Term we have indicated that we intend to adhere to the rules of construction evolved by this Court during the long and tortuous history of this statute. *United States* v. *Weller*, No. 77, October Term 1970 (decided February 24, 1971).

The only response we offered to the reading of congressional purpose I have suggested is that the interests of avoiding inconsistent enforcement of criminal laws argues for exercising jurisdiction over this case because similar statutes in other jurisdictions are under attack on vagueness grounds. See the Court's opinion, at [3]. Surely those of my Brethren who subscribe to the views on jurisdiction expressed in the opinion of the Court must recognize that we cannot limit the category of appealable cases under this provision of the Act to prosecutions brought under D.C. statutes which are (a) duplicated in other jurisdictions, and (b) under attack on similar federal question grounds in other jurisdictions. The proffered response is, therefore, not truly a reason for concluding we have jurisdiction over the relevant category of cases; rather, it is a reason for exercising our power in this one case to settle Dr. Vuitch's vagueness claim in spite of the absence of the jurisdictional prerequisites which legitimize the exercise of that judicial power.

V

Having concluded that the Government cannot directly appeal the dismissal of the indictment to this Court under the provisions of 18 U.S.C. § 3731, it also follows that we cannot utilize the remand provisions of that statute to reroute the appeal to the Court of Appeals for the District of Columbia. However, we do have jurisdiction to determine our jurisdiction, and, in the analogous three-judge court situation where an alter-

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Footnotes at end of **article.**

native appellate route exists but the statute according this Court direct jurisdiction over the certain appeals includes no remand procedure, this Court has vacated the judgment of the court of original jurisdiction and remanded the case to that court for the entry of a fresh decree from which timely appeal may be taken to the proper appellate tribunal. *Rockefeller* v. *Catholic Medical Center of Brooklyn & Queens*, 397 U.S. 820 (1970). The instant case, of course, is a criminal prosecution, and there is a consideration not present in the three-judge court situation; *i. e.*, the additional anxiety caused the defendant by virtue of the Government's erroneous choice of appellate routes. But, while 18 U.S.C. § 3731 cannot empower us to transfer the case, that statute is still relevant as an expression of congressional policy to save the Government's appeal where an erroneous choice of appellate routes is made, even at the expense of additional anxiety to the defendant. Accordingly, I think the proper disposition of this case would be to vacate the judgment of the District Court and remand the case for the entry of a fresh judgment from which the Government could take a timely appeal to the Court of Appeals for the District of Columbia pursuant to 23 D.C. Code § 105.

VI

Not withstanding the views on jurisdiction expressed above, and speaking only for myself, and not for those of my Brethren who agree with my discussion of the jurisdictional issue in this case, I have concluded, substantially for the reasons set forth in Mr. Justice Blackmun's separate opinion, that I should also reach the merits. Accordingly, I concur in Part II of the Court's opinion and the judgment of the Court.

FOOTNOTES

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[1] The text of 18 U.S.C. § 3731 was as follows:

"An appeal may be taken by and on behalf of the United States from the district courts direct to the Supreme Court of the United States in all criminal cases in the following instances:

"From a decision or judgment setting aside, or dismissing any indictment or information, or any count thereof, where such decision or judgment is based upon the invalidity or construction of the statute upon which the indictment or information is founded.

"From a decision arresting a judgment of conviction for insufficiency of the indictment or information, where such decision is based upon the invalidity or construction of the statute upon which the indictment or information is founded.

"From the decision or judgment sustaining a motion in bar, when the defendant has not been put in jeopardy.

"An appeal may be taken by and on behalf of the United States from the district courts to a court of appeals in all criminal cases, in the following instances:

"From a decision or judgment setting aside, or dismissing any indictment or information, or any count thereof execpt where a direct appeal to the Supreme Court of the United States is provided by this section.

"From a decision arresting a judgment of conviction except where a direct appeal to the Supreme Court of the United States is provided by this section.

"The appeal in all such cases shall be taken within thirty days after the decision or judgment has been rendered and shall be diligently prosecuted.

"Pending the prosecution and determination of the appeal in the foregoing instances, the defendant shall be admitted to bail on his own recognizance.

"If an appeal shall be taken, pursuant to this section, to the Supreme Court of the United States which, in the opinion of that Court, should have been taken to a court of appeals, the Supreme Court shall remand the case to the court of appeals, which shall then have jurisdiction to hear and determine the same as if the appeal had been taken to that court in the first instance.

"If an appeal shall be taken pursuant to this section to any court of appeals which, in the opinion of such court, should have been taken directly to the Supreme Court of the United States, such court shall certify the case to the Supreme Court of the United States, which shall thereupon have jurisdiction to hear and determine the case to the same extent as if an appeal had been taken directly to that Court."

As noted in *United States* v. *Weller*, No. 77, October Term 1970 (decided Feb. 24, 1971), these provisions were amended by § 14(a) of the Omnibus Crime Control Act of 1970, 84 Stat. 1890 (1971). But cases begun in the District Court before the new statute took effect are not affected. See *United States* v. *Wellar, supra*, at n. 1.

[2] The bill had been amended earlier to require the Government to take an appeal within 30 days. 41 Cong. Rec. 2193–2194.

[3] The Court's opinion characterizes *Burroughs* as having "held only that the term 'district court' in the Criminal Appeals Act did not include the then-existing Supreme Court of the District of Columbia." *Ante*, at [3]. As I read the italicized portion of the above-quoted passage, that is the precise question that the *Burroughs* Court concluded it did *not* have to decide, in light of its holding that the Criminal Appeals Act could not, by implication, effect the repeal of § 935 of the District Code.

[4] These explicit references were subsequently omitted by amendment in 1949, 63 Stat. 97, which altered the language of the statute to conform to the changed nomenclature of the federal courts.

[5] This last provision was an amendment to 28 U.S.C. § 225 (1940 ed.); see 56 Stat. 272 and *Carroll* v. *United States, supra*, at n. 5.

[6] The focus was on the decision to accord the Government a right of appeal to the courts of appeal where no direct appeal to this Court lay. See H.R. No. 45, 77th Cong., 1st Sess. (1941); S. Rep. No. 868, 77th Cong., 1st Sess. (1941).

[7] The Government suggests a construction of the Criminal Appeals Act excluding D.C. statutes would require the Court to exclude other criminal statutes of only limited territorial application, *e.g.*, 18 U.S.C. §§ 1111–1112; (punishing homicide "[w]ithin the special maritime and territorial jurisdiction of the United States"); 18 U.S.C. §§ 1151–1165 regulating offenses within Indian territory). See Gov. Brief, at 15–16. But I would not construe 18 U.S.C. § 3731 as excluding D.C. criminal cases punishable under D.C. statutes because they are of limited territorial application; rather, the point is that given the existence of a prior right of Government appeal, the risks of disuniformity which Senator Clarke described the statute as intended to cure do not exist.

[8] The Government suggests, in its Supplemental Memorandum for the United States, at 6–7, that a construction of the 1907 Act excluding statutes applicable only within the District of Columbia from the scope of the first two provisions leads to the "anomalous consequence" that 18 U.S.C. § 3731 would still allow a direct appeal in a D.C. case where the motion-in-bar provision is concerned. *E.g.*, *United States* v. *Sweet*, 399 U.S. 517 (1970). The alleged "anomaly" would seem to argue for the conclusion that D.C. cases involving the motion-in-bar provision are not directly appealable here, either. Certainly, the Court's disposition in *Sweet* would not foreclose that result.

In any event, the purpose Senator Clarke had in mind in offering his limiting amendment with regard to the first two provisions of 18 U.S.C. § 3731 was rather clearly expressed; that he failed to address himself to the motion-in-bar provision—which, after all, received very little attention in the prolonged debates on the floor of the Senate—hardly justifies an expansive reading of the other provisions of the Act.

[9] The Government relies principally on *Shapiro* v. *Thompson*, 394 U.S. 618, 625 n. 4, as supporting its construction of the generic reference to "statutes" in 18 U.S.C. § 3731 to include statutes applicable only within the District of Columbia. *Shapiro* dealt with 28 U.S.C. § 2282, which requires a three-judge court to hear requests for injunctions against the enforcement of "any Act of Congress" when the ground for the requested relief is the alleged unconstitutionality of the Act. Decisions of such three-judge courts are, under the circumstances set forth in 28 U.S.C. § 1253, directly appealable to this Court. In *Shapiro*, the Court noted at least one prior instance where the Court has taken jurisdiction over a case involving a statute applicable only within the District and then stated: "Section 2282 requires a three-judge court to hear a challenge to the constitutionality of '*any* Act of Congress.' We see no reason to make an exception for Acts of Congress pertaining to the District of Columbia." 394 U.S., at 625 n. 4 (emphasis in original).

The *Shapiro* approach is obviously inappropriate for the present problem. First, despite the Government's assertion to the contrary, see Gov. Brief. at 15, the phrase "*any* Act of Congress" is arguably broader than a generic reference to "statutes." Indeed, the *Shapiro* Court explicitly chose to emphasize the presence of the word "any" in the relevant portion of that statute. Second, while an exercise of jurisdiction in a case where jurisdiction is not challenged is of little precedential value, the Court in *Shapiro* still chose to take note of such a prior case; in the present context, this Court has never taken jurisdiction of a § 3731 appeal involving a statute applicable only within the District.

Third, and most importantly, Congress at the time of the three-judge court Acts altered the principles of both original and appellate jurisdiction for the substantive categories of litigation involved; the new procedural routes reflect crucial considerations of comity between sovereigns and among the branches of the Federal Government. See generally Currie, The Three-Judge Court in Constitutional Litigation, 32 U. Chi. L. Rev. 1 (1964). There is no legislative history supporting the notion that the new procedures were narrowed to alleviate particular defects of inconsistent constitutional interpretation due to the absence of any appellate route for the substantive categories of cases to be included within the Act.

In these circumstances, it is fair to conclude that the principle of strict construction applicable to such statutes must yield to the "inert language" of the statute. Cf. *Florida Lime Growers* v. *Jacobsen*, 362 U.S. 73, 92 (1960) (Frankfurter, J., dissenting).

[Supreme Court of the United States—
No. 84.—October Term, 1970]

On Appeal From the United States District Court for the District of Columbia

United States, Appellant *v.* Milan Vuitch.
April 21, 1971.

Mr. Justice Stewart, dissenting in part.

I agree that we have jurisdiction of this appeal for the reasons stated in Part I of the Court's opinion.

As to the merits of this controversy, I share at least some of the constitutional doubts about the abortion statute expressed by the District Court. But, as this Court today correctly points out, "statutes should be construed whenever possible so as to uphold their constitutionality." The statute before us can be so construed, I think, simply by extending the reasoning of the Court's opinion to its logical conclusion.

The statute legalizes any abortion performed "under the direction of a competent licensed practitioner of medicine" if "necessary for the preservation of the mother's life or health." Under the statute, therefore, the legal practice of medicine in the District of Columbia includes the performing of abortions. For the practice of medicine consists of doing those things which, in the judgment of a physician, are necessary to preserve a patient's life or health. As the Court says, "whether a particular operation is necessary for a patient's physical or mental health is a judgment that physicians are obviously called upon to make routinely whenever surgery is considered."

It follows, I think, that when a physician has exercised his judgment in favor of performing an abortion, he has, by hypothesis, not violated the statute. To put it another way, I think the question of whether the performance of an abortion is "necessary for the mother's life or health" is entrusted under the statute exclusively to those licensed to practice medicine, without the overhanging risk of incurring criminal liability at the hands of a second-guessing lay jury. I would hold, therefore, that "a competent licensed practitioner of medicine" is wholly immune from being charged with the commission of a criminal offense under this law.

It is true that the statute can be construed in other ways, as Mr. Justice Douglas has made clear. But I would give it the reading I have indicated "in the candid service of avoiding a serious constitutional doubt." *United States* v. *Rumley*, 345 U.S. 41, 47.

[Supreme Court of the United States—No. 84.—October Term, 1970]

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States, Appellant, *v.* Milan Vuitch. April 21, 1971.

Mr Justice Blackmun.

Although I join Mr. Justice Harlan in his conclusion that this case is not properly here by direct appeal under 18 U.S.C. § 3731, a majority, and thus the Court, holds otherwise. The case is therefore here and requires decision.

The five Justices constituting the majority, however, are divided on the merits. One feels that 22 D.C. Code § 201 lacks the requirements of procedural due process and would affirm the dismissal of the indictment. One would hold that a licensed physician is immune from charge under the statute. Three would hold that, properly construed, the statute is not unconstitutionally vague and that the dismissal of the indictment on that ground was error.

Because of the inability of the jurisdictional-issue majority to agree upon the disposition of the case, I feel obligated not to remain silent as to the merits. See *Screws* v. *United States*, 325 U.S 91, 134 (1945) (addendum by Mr Justice Rutledge); *United States* v. *Jorn*, 400 U.S. 470, 487–488 (1971) (statement of Black and Brennan, JJ.); *Mills* v. *Alabama*, 384 U.S. 214, 222–223 (1966) (separate opinion of Harlan, J.); *Kesler* v. *Department of Public Safety*, 369 U.S. 153, 174, 179 (concurring opinion of Stewart, J., and dissenting opinion of Warren, C. J.). Assuming, as I must in the light of the Court's decision, that the Court does have jurisdiction of the appeal, I join Part II of Mr. Justice Black's opinion and the judgment of the Court.

[United States District Court, E. D. Wisconsin—March 5, 1970]

Babbitz Case

Sidney G. Babbitz, M.D., Plaintiff, v. E. Michael McCann, District Attorney of Milwaukee County, F. Ryan Duffy, Jr., Judge of the County Court, Milwaukee County, Defendants.

No. 69–C–548.

A physician brought an action challenging constitutionality of Wisconsin abortion statute and sought injunctive and declaratory judgment relief. A Three-Judge District Court held that Wisconsin statute making it a criminal offense to perform an abortion except a therapeutic abortion which is necessary to save life of mother is not unconstitutionally vague or a denial of equal protection of the laws, but is an unconstitution tional invasion of woman's private right to refuse to carry unquickened embryo during the early months of pregnancy.

Declaratory judgment for plaintiff and injunctive relief denied.

Nathaniel Rothstein, Milton R. Bordow and Roy O. Conen, Milwaukee, Wis., for plaintiff.

E. Michael McCann, Dist. Atty., Milwaukee, Wis., for defendants.

Before Kerner, Circuit Judge, and Reynolds and Gordon, District Judges.

Per Curiam.

The plaintiff is a physician who challenges the constitutionality of the Wisconsin abortion statute. He seeks an injunction restraining the defendants from enforcing a part of Wis. Stat. § 940.04 and a judgment declaring it unconstitutional.

A temporary restraining order was denied by the order of a single-judge district court, 306 F.Supp. 400, and the instant three-judge district court was convened to consider the other issues presented. We hold that portions of the statute are constitutionally invalid, but we decline to enjoin the pending state prosecution of the plaintiff.

The plaintiff is being prosecuted by the district attorney of Milwaukee county for allegedly having performed an abortion in violation of § 940.04, Wis. Stats. The statute provides in part as follows:

"(1) Any person, other than the mother, who intentionally destroys the life of an unborn child may be fined not more than $5,000 or imprisoned not more than 3 years or both.

"(2) any person, other than the mother, who does either of the following may be imprisoned not more than 15 years:

"(a) Intentionally destroys the life of an unborn quick child; or

* * * * *

"(5) This section does not apply to a therapeutic abortion which:

"(a) Is performed by a physician; and

"(b) Is necessary, or is advised by 2 other physicians as necessary, to save the life of the mother; and

"(c) Unless an emergency prevents, is performed in a licensed maternity hospital.

"(6) In this section 'unborn child' means a human being from the time of conception until it is born alive."

The state warrant issued against Dr. Babbitz reads as follows:

"That the above named Defendant on the 6th day of September, 1969, in the County of Milwaukee, Wisconsin, did feloniously destroy the life of an unborn child of one, [woman], said offense occurring at number 231, West Wisconsin Avenue, Milwaukee, Wisconsin, said abortion not being advised by two other physicians as necessary to save the life of [woman], the mother of said child, said information being obtained by sworn testimony of [woman] before the Honorable Christ T. Serpahim, County Judge, acting as magistrate."

The complaint asserts that there is jurisdiction in this court pursuant to 28 U.S.C. § 1343, 42 U.S.C. § 1983 and 28 U.S.C. §§ 2201 and 2202; we agree with such position.

The complaint charges that the Wisconsin statute is unconstitutional for violating the first and fourteenth amendments of the United States Constitution and for abridging the mother's right of privacy. Dr. Babbitz has not been charged with having destroyed an unborn child which was "quick", and therefore subsections (2) and (2) (a) of the statute quoted above are not applicable in the instant case. There is no allegation that the state officials are acting in bad faith in prosecuting Dr. Babbitz.

I. ABSTENTION

The plaintiff has alleged a deprivation of rights secured by the Constitution, and serious federal questions are raised here concerning the constitutionality of certain portions of the Wisconsin abortion statute. Since the complaint seeks injunctive relief and since the statute in question has state-wide operation, the designation of a three-judge court was appropriate under 28 U.S.C. § 2281.

The request for an injunction raises a threshold problem of abstention. Congress, in 28 U.S.C. § 2283, has stated a strong policy of abstention, as follows:

"Stay of State court proceedings. A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effecuate its judgments."

Except for those rather recent cases which have noted exceptions to the scope of § 2283, the federal courts have generally given the statute literal application. In addition, the policy of abstention has found expression in a long history of judge-made rules of federal judicial forebearance. Mr. Justice Frankfurter's expressions in Railroad Commission of Texas v. Pullman Co., 312 U.S. 496, 500–501, 61 S.Ct. 643, 645, 85 L.Ed 971 (1941), typify these court-fashioned rules of abstention:

"Few public interests have a higher claim upon the discretion of a federal chancellor than the avoidance of needless friction with state policies, whether the policy relates to the enforcement of the criminal law, Fenner v. Boykin, 271 U.S. 240, 46 S.Ct. 492, 70 L.Ed. 927; Spielman Motor Co. v. Dodge, 295 U.S. 89, 55 S.Ct. 678, 79 L.Ed. 1322; or the administration of a specialized scheme for liquidating embarrassed business enterprises, Pennsylvania v. Williams, 294 U.S. 176, 55 S.Ct. 380, 79 L.Ed. 841, 96 A.L.R. 1166; or the final authority of a state court to interpret doubtful regulatory laws of the state, Gilchrist v. Interborough Co., 279 U.S. 159, 49 S.Ct. 282, 73 L.Ed. 652; cf. Hawks v. Hamill, 288 U.S. 52, 61, 53 S.Ct. 240, 77 L.Ed. 690. These cases reflect a doctrine of abstention appropriate to our federal system whereby the federal courts, 'exercising a wise discretion', restrain their authority because of 'scrupulous regard for the rightful independence of the state governments' and for the smooth working of the federal judiciary."

The abstention policy has also played a role in the development of the law of removal of pending state cases to the federal courts. In City of Greenwood, Miss. v. Peacock, 384 U.S. 808, 828, 86 S.Ct. 1800. 1812, 16 L.Ed.2d 944 (1966), the Supreme Court observed:

"* * * the vindication of the defendant's federal rights is left to the state courts except in the rare situations where it can be clearly predicted by reason of the operation of a pervasive and explicit state or federal law that those rights will inevitably be denied by the very act of bringing the defendant to trial in the state court."

The approach to abstention which this policy requires has been followed by many federal courts without any general exception being recognized for cases arising under 42 U.S.C. § 1983. Boyle v. Landry, 422 F.2d 631 (7th Cir. February 5, 1970); Goss v. Illinois, 312 F.2d 257, 259 (7th Cir. 1963); Smith v. Village of Lansing, 241 F.2d 856 (7th Cir. 1957); Baines v. City of Danville, 337 F.2d 579 (4th Cir. 1964); Vick v. Schiro, 296 F. Supp. 173 (E.D.La.1969). Cf. Cooper v. Hutchinson, 184 F.2d 119 (3rd Cir. 1950).

One of the reasons underlying this practice of refusing to enjoin pending state prosecutions is particularly apposite to the case at bar. In Stefanelli v. Minard, 342 U.S. 117, 72 S.Ct. 118, 96 L.Ed. 138 (1951), a federal court was petitioned to enjoin the use of illegally seized evidence in a state criminal trial. Denying relief, the Supreme Court said, at page 123, 72 S.St. at page 121–122:

"The consequences of exercising the equitable power here invoked are not the concern of a merely doctrinaire alertness to protect the proper sphere of the States in enforcing their criminal law. If we were to sanction this intervention, we would expose every State criminal posecution to insupportable disruption. Every question of procedural due process of law—with its far-flung and undefined range—would invite a flanking movement against the system of State courts by resort to the federal forum, with review if need be to this Court, to determine the issue. Asserted unconstitutionality in the impaneling and selection of the grand and petit juries, in the failure to appoint counsel, in the admission of a confession, in the creation of an unfair trial atmosphere, in the misconduct of the trial court—all would provide ready opportunities, which conscientious counsel might be bound to employ, to subvert the orderly, effective prosecution of local crime in local courts."

Notwithstanding the impressive authority which would bar our enjoining the prosecution of Dr. Babbitz, he presses us to issue such an injunction. Perhaps he draws comfort from the fact that the United States Supreme Court has on two separate occasions expressly reserved ruling on the question whether the Civil Rights Act suspends the anti-injunction provisions of § 2283. Cameron v. Johnson, 390 U.S. 611, 614, n. 3, 88 S.Ct. 1335, 20 L.Ed.2d 182 (1968); Dombrowski v. Pfister, 380 U.S. 479, 484, n. 2, 85 S.Ct. 1116, 14 L.Ed.2d 22 (1965).

Also, the plaintiff may arguably find support for his position from expressions by several of the justices of the United States Supreme Court. For example, in Gorun v. Fall, 393 U.S. 398, 399, 89 S.Ct. 678, 679, 21 L.Ed.2d 628 (1969), four members of the Court referred to "our recent decisions saying over and over again that a federal claim in a federal court should be decided by the federal court and not relegated to a state tribunal".

Finally, it may seem somewhat anomalous that a court may find a state statute unconstitutional and yet deny an injunction against its enforcement by the state. In effect, such a ruling might protect all persons from prosecution except the very man who has persuaded us of the statute's unconstitutionality.

Notwithstanding these arguments, we do not believe that the circumstances of this case justify an exception to the oft-repeated and strong policy of federal abstention, especially in a criminal case. The forebearance required under § 2283 is not lifted in the case at bar by the teachings of Dombrowski v. Pfister, 380 U.S. 479, 85 S.Ct. 1116, 14 L.Ed. 2d 22 (1965). We have already noted that the case at bar does not involve a bad faith enforcement of the abortion statute. In addition, we doubt that the prosecution of Dr. Babbitz has resulted in a chilling of his first amendment rights. A first amendment right is more than a personal right; it is also a public right. When such a right is impinged, the general public is hurt, and the effective functioning of our free society is encumbered.

This may explain why § 2283 is not strictly applied in first amendment cases. We do not accept the plaintiff's claim that his prosecution under the state abortion statute dampened his first amendment rights.

Although the subject of abortion is fraught with highly emotional pressures, we do not find here any "special circumstances" as discussed in Cameron v. Johnson 390 U.S. 611, 618, 88 S.Ct. 1335, 20 L.Ed.2d 182 (1968), which would entitle Dr. Babbitz to injunctive action. Cf. Machesky v. Bizzell, 414 F. 2d 283 (5th Cir. 1969); Romero v. Weakley, 226 F.2d 399 (9th Cir. 1955); 80 Harv. L. Rev. 604, 608–9 (1967).

We believe we must apply the standard established in Douglas v. City of Jeanette, 319 U.S. 157, 163, 63 S.Ct. 877, 87 L.Ed. 1324 (1943); there the Supreme Court observed that it was Congressional policy to leave to the state courts the trial of state criminal cases, and that such proceedings should be enjoined only in exceptional circumstances.

We do not regard this as an exceptional case, and Dr. Babbitz is not entitled to injunctive relief. In the event that the state persists in the prosecution of Dr. Babbitz, we have no reason to doubt that the state courts of Wisconsin will fully vindicate his federal constitutional rights. See Zwicker v. Boll, 270 F. Supp. 131 (W.D.Wis.1967) aff'd 391 U.S. 353, 88 S.Ct. 1666, 20 L.Ed.2d 642 (1968); Soglin v. Kauffman, 286 F. Supp. 851 (W.D. Wis. 1968).

Notwithstanding our denial of injunctive relief, a federal court is obliged to weigh separately the issue of declaratory relief. In Zwickler v. Koota, 389 U.S. 241, 254, 88 S.Ct. 391, 399, 19 L.Ed.2d 444 (1967), the Supreme Court held that the federal district court must decide the "merits of the declaratory request irrespective of its conclusion as to the propriety of the issuance of the injunction". Although it was the application for an injunction which triggered the appointment of this three-judge court under § 2281, we do not understand that the denial of injunction relief precludes us from resolving the declaratory judgment application.

II. VAGUENESS

The plaintiff urges that § 940.04(5), Wis. Stats., is vague and nebulous upon its face. That subsection, quoted above, excepts a therapeutic abortion when it is performed under specified terms. We have examined the challenged phraseology and are persuaded that it is not indefinite or vague. In our opinion, the word "necessary" and the expression "to save the life of the mother" are both reasonably comprehensible in their meaning.

The United States Supreme Court has ruled that a criminal statute must be definite enough to acquaint those who are subject to it with the conduct which will render them liable to its penalties. Lanzetta v. New Jersey, 306 U.S. 451, 453, 59 S.Ct. 618, 83, L.Ed. 888 (1939); Connally v. General Construction Co., 269 U.S. 385, 391, 46 S.Ct. 126, 70 L. Ed. 322 (1926). See also Unconstitutional Uncertainty—An Appraisal, 40 Cornell Law Quarterly, 195, 196 (1955).

We believe that § 940.04(5) sets forth with reasonable clarity and sufficient particularity the kind of conduct which will constitute a violation. Jordan v. De George, 341 U.S. 223, 71 S.Ct. 703, 95 L.Ed. 886 (1951); United States v. Ragen, 31 U.S. 513, 62 S.Ct. 374, 86 L.Ed. 383 (1942). In United States v. Wurzbach, 280 U.S. 396, 399, 50 S.Ct. 167, 169, 74 L.Ed. 508 (1930), Mr. Justice Holmes stated:

"Whenever the law draws a line there will be cases very near each other on opposite sides. The precise course of the line may be uncertain, but no one can come near it without knowing that he does so, if he thinks, and if he does so, it is familiar to the criminal law to make him take the risk."

In People v. Belous, 80 Cal.Rptr. 354, 458 P.2d 194 (1969), the California court found that the words "necessary to preserve her life" in that state's abortion statute were unconstitutionally vague.

While the Wisconsin statute uses slightly different language ("necessary to save"), we doubt that the distinction between the words used in the two statutes is significant. However, we do not share the view of the majority in *Belous* that such language is so vague that one must guess at its meaning.

Slightly different langauge was before the court in United States v. Vuitch, 305 F. Supp. 1032 (D.D.C.1969), which invalidated an abortion law. That statute contained the following expression: "necessary for the preservation of the mother's life or health". The court concluded that the word "health" was vague both in interpretation and in practice. That precise problem is not presented under the terms of the Wisconsin statute.

Our reading of the Wisconsin statute persuades us that it meets the test set forth by the United States Supreme Court in *Connally*, cited above, 269 U.S. at page 391, 46 S.Ct. at page 127:

"And a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law."

The plaintiff also charges that there is confusion in subsection (6), which provides that the words "unborn child" mean "a human being from the time of conception until it is born alive". The plaintiff may have medical or even practical justification for his disagreement with the correctness of this statutory definition of an unborn child, but he fails in his effort to convince us that the Wisconsin legislature was vague or indefinite in its choice of language.

III. EQUAL PROTECTION OF THE LAWS

The plaintiff contends that the statute denies to him equal protection of the laws as guaranteed by the fourteenth amendment. It is urged that medical facilities are not constant throughout the state and that a doctor in a rural area in Wisconsin might be justified in performing a "necessary" abortion, whereas a doctor treating the same patient in Milwaukee would be unwarranted in performing the abortion because of the availability in Milwaukee of superior medical facilities.

We find more cogency in the argument that a wealthy woman, but not a poor one, is able, upon demand, to secure a safe and legal abortion in Japan or some other locale in which abortion is permitted. We take judicial notice of the fact that there are a number of places throughout the world where legal abortions are available. We have also considered the argument that an affluent woman, unlike the poor one, may enjoy a long-standing, personal relationship with a well-paid physician, who might more likely be willing or able to persuade his fellow doctors to authorize a therapeutic abortion. We are reluctant to equate these types of inequality with a denial of a protected right under the fourteenth amendment. We know of no analogous situations which goes as far as the plaintiff would have us go in applying the fourteenth amendment to the case at bar.

There is presently pending in the United States Supreme Court a challenge to the practice of imposing a jail term upon a defendant who is unable to pay an assessed fine. Williams v. Illinois, 396 U.S. 1036, 90 S.Ct. 689, 24 L.Ed. 2d 680, probable jurisdiction noted January 19, 1969, being an appeal from People v. Williams, 41 Ill.2d 511, 244 NE. 2d 197 (1969). We cannot anticipate that the decision in the *Williams* case will buttress plaintiff's contention that there is a denial of equal protection of the laws implicit within the Wisconsin abortion statute.

IV. INVASION OF PRIVATE RIGHTS

The ninth amendment to the United States Constitution provides:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

An examination of recent Supreme Court pronouncements regarding the ninth amendment compels our conclusion that the state of Wisconsin may not, in the manner set forth in § 940.04(1) and (5), Wis. Stats., deprive a woman of her private decision whether to bear her unquickened child.

In terms of the Wisconsin statute, we do not purport to decide the question of a woman's aborting a fetus which has already quickened. We received into evidence the view of a gynecologist that a fetus normally becomes quick at about four and a half months after conception. Dorland's Illustrated Medical Dictionary (24th ed. 1965) defines "quick" as "Pregnant and able to feel the fetal movements." "Quickening" is defined as "The first recognizable movements of the fetus in utero, appearing usually from the sixteenth to the eighteenth week of pregnancy." The plaintiff is being prosecuted under § 940.04(1) and (5); he is not being prosecuted under those portions of § 940.04 which relate to the abortion of a quickened child; therefore, the validity of such provisions are beyond the scope of this opinion.

While problems of over-population, ecology and pollution have been brought to our attention, we deem them secondary as decisional factors in a judicial resolution of the issues at hand. So, too, we find it necessary to set aside arguments involving theological and ecclesiastical considerations.

Obviously, there is no topic more closely interwoven with the intimacy of the home and marriage than that which relates to the conception and bearing of progeny. Recent court cases have considered the sanctity of the right to privacy in home, sex and marriage; however, the concept of private rights, with which the state may not interfere in the absence of a compelling state interest, is one of long standing.

As long ago as 1891, in Union Pacific Railway Co. v. Botsford, 141 U.S. 250, 251, 11 S.Ct. 1000, 1001, 35 L.Ed. 734 (1891), the court said:

"No right is held more sacred, or is more carefully guarded, by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law. As well said by Judge Cooley, 'The right to one's person may be said to be a right of complete immunity: to be let alone.'"

In Meyer v. Nebraska, 262 U.S. 390, 399, 43 S.Ct. 625, 626, 67 L.Ed. 1042 (1923), the United States Supreme Court held that the private right "to marry, establish a home and bring up children" was protected under the fourteenth amendment as an essential liberty. In Prince v. Commonwealth of Massachusetts, 321 U.S. 158, 166, 64 S.Ct. 438, 442, 88 L.Ed. 645 (1944), the court spoke of the "private realm of family life which the state cannot enter".

In Loving v. Virginia, 388 U.S. 1, 87 S.Ct. 1817, 18 L.Ed.2d 1010 (1967), there was a challenge to the constitutionality of a state statute which purported to restrict marriages solely on the basis of race. While the Supreme Court observed, at page 7, 87 S.Ct. at page 1821, that "marriage is a social relation subject to the State's police power," the court held, at page 12, 87 S.Ct. at page 1824:

"The Fourteenth Amendment requires that the freedom of choice to marry not be restricted by invidious racial discriminations. Under our Constitution, the freedom to marry or not marry, a person of another race resides with the individual and cannot be infringed by the State."

See also Skinner v. Oklahoma, 316 U.S. 535, 62 S.Ct. 1110, 86 L.Ed. 1655 (1942); Farrington v. T. Tokushige, 273 U.S. 284, 47 S.Ct. 406, 71, L.Ed. 646 (1927); Pierce v. Society of the Sisters, 268 U.S. 510, 45 S.Ct. 571, 69 L.Ed. 1070 (1925). See, generally, Warren and Brandeis, "The Right to Privacy," 4 Harv.L. Rev. 193 (1890).

Recent decisions have asserted a judicial application of the ninth amendment to the matter of privacy in marital relations and contraception.

In Griswold v. Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965), the court struck down the Connecticut statute which forbade the use of contraceptives. In so doing, the Court noted that the Bill of Rights contains both specific and penumbral guarantees which protect an individual from governmental invasion of the sanctity of his home and the privacies of his life. In the words of the Court, at page 485, 85 S.Ct. at page 1682, many decisions by the Supreme Court "bear witness that the right of privacy which presses for recognition here is a legitimate one." Three of the justices in a concurring opinion stated, at page 491, 85 S.Ct. at page 1685:

"To hold that a right so basic and fundamental and so deep-rooted in our society as the right of privacy in marriage may be infringed because that right is not guaranteed in so many words by the first eight amendments to the Constitution is to ignore the Ninth Amendment and to give it no effect whatsoever."

In People v. Belous, 80 Cal.Rptr. 354, 458 P.2d 194 (1969), the California supreme court invalidated a state statute which made it illegal to perform an abortion on a woman unless it was necessary to preserve her life. The court said, 80 Cal.Rptr. at page 359, 468 P.2d at page 199:

"The fundamental right of the woman to choose whether to bear children follows from the Supreme Court's and this court's repeated acknowledgement of a 'right of privacy' or 'liberty' in matters related to marriage, family, and sex."

The Belous court pointed out, 80 Cal.Rptr. at page 360, 458, P.2d at page 200, that although this protected area of privacy is not explicitly stated in the Constitution, it is a fundamental liberty that is implicit in the penumbrae of the Bill of Rights, and is supported, by analogy, in many past decisions.

In United States v. Vuitch, 305 F. Supp. 1032, 1035 (D.D.C. 1969), the court further observed:

"There has been, moreover, an increasing indication in decisions of the Supreme Court of the United States that as a secular matter a woman's liberty and right of privacy extends to family, marriage and sex matters and may well include the right to remove an unwanted child at least in early stages of pregnancy."

Although no final decision has as yet been rendered, a three-judge court has been convened in New York in a case involving the same issues under consideration here. Hall v. Lefkowitz, 305 F. Supp. 1030 (S.D.N.Y. 1969).

In 2 Loyola University Law Review 1, 8 (April, 1969), former Supreme Court Justice Tom C. Clark concluded from a study of *Griswold* and its predecessor cases:

"The result of these decisions is the evolution of the concept that there is a certain zone of individual privacy which is protected by the Constitution. Unless the State has a compelling subordinating interest that outweighs the individual rights of human beings, it may not interfere with a person's marriage, home, children and day-to-day living habits. This is one of the most fundamental concepts that the Founding Fathers had in mind when they drafted the Constitution."

It is clear that in order to justify the regulation of such fundamental private rights, the state must show a compelling need. In Bates v. City of Little Rock, 361 U.S. 516, 524, 80 S.Ct. 412, 417, 4 L.Ed.2d 480 (1960), the Court stated:

"Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling."

The Supreme Court, in *Griswold,* said, 381 U.S. at page 485, 85 S.Ct. at 1682:

"The present case, then, concerns a relationship lying within the zone of privacy created by several fundamental constitutional guarantees. And it concerns a law which, in forbidding the *use* of contraceptives rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that relationship. Such a law cannot stand in light of the familiar principle, so often applied by this Court, that a 'governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms.' NAACP v. Alabama, 377 U.S. 288, 307, 84 S.Ct. 1302, 1314, 12 L.Ed. 2d 325."

A comparable viewpoint was set forth by the California supreme court in *Belous,* 80 Cal. Rptr. at page 360, 458 P.2d at page 200, where that court said:

"The critical issue is not whether such rights exist, but whether the state has a compelling interest in the regulation of a subject which is within the police powers of the state * * *."

Similarly, in the case at bar, we must decide whether the state of Wisconsin has a sufficiently compelling interest to justify the broad restriction on a woman's inherently personal right that is contained in § 940.04(1) and (5), Wis. Stats.

The defendants urge that the state's interest in protecting the embryo is a sufficient basis to sustain the statute. Upon a balancing of the relevant interests, we hold that a woman's right to refuse to carry an embryo during the early months of pregnancy may not be invaded by the state without a more compelling public necessity than is reflected in the statute in question. When measured against the claimed "rights" of an ambryo for four months or less, we hold that the mother's right transcends that of such an embryo.

We also find no compelling state interest in a need to protect the mother's life. At common law, abortion was not a crime unless the mother was quick with child. People v. Belous, supra, 80 Cal.Reptr. at 358, 458 P.2d at 198. This position was reflected in the original Wisconsin abortion statute, Wis. R.S. 1849, c. 133, § § 10 and 11, enacted in 1849, which only made abortion a punishable offense only if performed upon an unborn quick child. However, in 1858 the abortion statute was revised by elimination of the word "quick," thereby making it an offense to perform an abortion at any time during pregnancy. This change reflected an interest in protecting the life of the mother, for in 1858 any surgical procedure done inside the body was extremely dangerous. Today, many types of surgery, including abortion in the first trimester, are safe and routinely employed medical techniques. People v. Belous, supra, 80 Cal. Rptr. at 360 458 P2d. at 200. Thus, the result of this court's decision that a mother has the right to determine whether to carry or reject an embryo that has not quickened is a return to the common law definition of abortion; this is not a position without well-established precedent in the common law.

We are persuaded that a medical abortion during early pregnancy is not inherently dangerous to the mother. Nor do we find a compelling state interest in connection with the discouragement of non-marital sexual intercourse. The statute involved does not purport to distinguish between married and unmarried women.

We are invited to resolve the philosophical question, raised in some of the amicus curiae briefs, as to when an embryo becomes a child. For the purposes of this decision, we think it is sufficient to conclude that the mother's interest are superior to that of an unquickened embryo, whether the embryo is mere protoplasm, as the plaintiff contends, or a human being, as the Wisconsin statute declares.

There are a number of situations in which there are especially forceful reasons to support a woman's desire to reject an embryo. These include a rubella or thalidomide pregnancy and one stemming from either rape or incest. The instant statute does not distinguish these special cases, but in our opinion, the state does not have a compelling interest even in the normal situation to require a woman to remain pregnant during the early months following her conception.

Under its police power, the state can regulate certain aspects of abortion. Thus, it is permissible for the state to require that abortions be conducted by qualified physicians. The police power of the state does not, however, entitle it to deny to a woman the basic right reserved to her under the ninth amendment to decide whether she should carry or reject an embryo which has not yet quickened. The challenged sections of the present Wisconsin statute suffer from an infirmity of fatal overbreadth.

V. CONCLUSION

The plaintiff is entitled to a declaratory judgment declaring § 940.04 (1) and (5) violative of the United States Constitution. The plaintiff is not entitled to an injunction enjoining the defendants or their successors in office from prosecuting the plaintiff under § 940.04 (1) and (5).

It is so ordered.

[United States District Court, N. D. Texas, Dallas Division—June 17, 1970]

ROE CASE

Jane Roe, Plaintiff, v. Henry Wade, Defendant, v. James Hubert Hallford, M.D., Intervenor.

John Doe and Mary Doe, Plaintiffs, v. Henry Wade, Defendant.

Civ. A. Nos. 3-3690-B, 3-3691-C.

Action for judgment declaring Texas abortion laws unconstitutional and to enjoin their enforcement. The three-judge District Court held that laws prohibiting abortions except for purpose of saving life of the mother violated right secured by the Ninth Amendment to choose whether to have children and were unconstitutionally overbroad and vague, but Court would abstain from issuing injunction against enforcement of the laws.

Order accordingly.

Linda N. Coffee, Dallas, Tex., Sarah Weddington, Austin, Tex., for plaintiffs.

Fred Bruner, Daugherty, Bruner, Lastelick & Anderson, Ray L. Merrill, Jr., Dallas, Tex., for intervenor.

John B. Tolle, Asst. Dist. Atty., Dallas, Tex., Jay Floyd, Asst. Atty. Gen., Austin, Tex., for defendant.

Before Goldberg, Circuit Judge, and Hughes and Taylor, District Judges.

Per curiam:

Two similar cases are presently before the Court on motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. The defendant in both cases is Henry Wade, District Attorney of Dallas County, Texas. In one action plaintiffs are John and Mary Doe, and in the other Jane Roe and James Hubert Hallford, M.D., intervenor.[1]

From their respective positions of married couple, single woman, and practicing physician, plaintiffs attack Articles 1191, 1192, 1193, 1194, and 1196 of the Texas Penal Code,[2] hereinafter referred to as the Texas Abortion Laws. Plaintiffs allege that the Texas Abortion Laws deprive married couples and single women of the right to choose whether to have children, a right secured by the Ninth Amendment.

Defendant challenges the standing of each of the plaintiffs to bring this action. However, it appears to the Court that Plaintiff Roe and plaintiff-intervenor Hallford occupy positions *vis-a-vis* the Texas Abortion Laws sufficient to differentiate them from the general public. Compare Pierce v. Society of Sisters, 268 U.S. 510, 45 S.Ct. 571, 69 L.Ed. 1070 (1925), and Griswold v. Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965),[3] with Frothingham v. Mellon, 262 U.S. 447, 43 S.Ct. 597, 67 L. Ed. 1078 (1923). Plaintiff Roe filed her portion of the suit as a pregnant woman wishing to exercise the asserted constitutional right to choose whether to bear the child she was carrying. Intervenor Hallford alleged in his portion of the suit that, in the course of daily exercise of his duty as a physician and in order to give his patients access to what he asserts to be their constitutional right to choose whether to have children, he must act so as to render criminal liability for himself under the Texas Abortion Laws a likelihood. Dr. Hallford further alleges that Article 1196 of the Texas Abortion Laws is so vague as to deprive him of warning of what produces criminal liability in that portion of his medical practice and consultations involving abortions.

On the basis of plaintiffs' substantive contentions,[4] it appears that there then exists a "nexus between the status asserted by the litigant[s] and the claim[s] [they present]." Flast v. Cohen, 392 U.S. 83, 102, 88 S.Ct. 1942, 20 L.Ed.2d 947 (1968).

Further, we are satisfied that there presently exists a degree of contentiousness between Roe and Hallford and the defendant to establish a "case of actual controversy" as required by Title 28, United States Code, Section 2201. Golden v. Zwickler, 394 U.S. 103, 89 S.Ct. 956, 22 L.Ed.2d 113 (1969).

Each plaintiff seeks as relief, *first*, a judgment declaring the Texas Abortion Laws unconstitutional on their face and, *second*, an injunction against their enforcement. The nature of the relief requested suggests the order in which the issues presented should be passed upon.[5] Accordingly, we see the issues presented as follows:

I. Are plaintiffs entitled to a declaratory judgment that the Texas Abortion Laws are unconstitutional on their face?

II. Are plaintiffs entitled to an injunction against the enforcement of these laws?

I

Defendants have suggested that this Court should abstain from rendering a decision on plaintiffs' request for a declaratory judgment. However, we are guided to an opposite conclusion by the authority of Zwickler v. Koota, 389 U.S. 241, 248–249, 88 S.Ct. 391, 19 L.Ed.2d 444 (1967):

"The judge-made doctrine of abstention * * * sanctions * * * escape only in narrowly limited 'special circumstances.' * * * One of the 'special circumstances' * * * is the susceptibility of a state statute of a construction by the state courts that would avoid or modify the constitutional question."

The Court in Zwickler v. Koota subsequently quoted from United States v. Livingston, 179 F.Supp. 9, 12–13 (E.D. S.C. 1959):

"Regard for the interest and sovereignty of the state and reluctance needlessly to adjudicate constitutional issues may require a federal District Court to abstain from adjudication if the parties may avail themselves of an appropriate procedure to obtain state interpretation of state laws requiring construction. * * * The decision in [Harrison v. N.A.A.C.P., 360 U.S. 167, 79 S.Ct. 1025, 3 L.Ed. 2d 1152], however, is not a broad encyclical commanding automatic remission to the state courts of all federal constitutional questions arising in the application of state statutes * * * Though never interpreted by a state court, if a state statute is not fairly subject to an interpretation which will avoid or modify the federal constitutional question, it is the duty of a federal court to decide the federal question when presented to it. Any other course would impose expense and long delay upon the litigants without hope of its bearing fruit."[6]

Inasmuch as there is no possibility that state question adjudication in the courts of Texas would eliminate the necessity for this Court to pass upon plaintiffs' Ninth Amendment claim or Dr. Hallford's attack on Article 1196 for vagueness, abstention as to their request for declaratory judgment is unwarranted. Compare City of Chicago v. Atchison T. & S.F.R. Co., 357 U.S. 77, 84, 78 S.Ct. 1063, 2 L.Ed.2d 1174 (1958), with Reetz v. Bozanich, 397 U.S. 82, 90 S.Ct. 788, 25 L.Ed. 2d 68 (1970).

On the merits, plaintiffs argue as their principal contention[7] that the Texas Abortion Laws must be declared unconstitutional because they deprive single women and married couples of their right, secured by the Ninth Amendment,[8] to choose whether to have children. We agree.

The essence of the interest sought to be protected here is the right of choice over events which, by their character and consequences, bear in a fundamental manner on the privacy of individuals. The manner by which such interests are secured by the Ninth Amendment is illustrated by the concurring opinion of Mr. Justice Goldberg in Griswold v. Connecticut, 381 U.S. 479, 492, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965):

"[T]he Ninth Amendment shows a belief of the Constitution's authors that fundamental rights exist that are not expressly enumerated in the first eight amendments and intent that the list of rights included there not be deemed exhaustive." * * *

"The Ninth Amendment simply shows the intent of the Constitution's authors that other fundamental personal rights should not be denied such protection or disparaged in any other way simply because they are not specifically listed in the first eight constitutional amendments." (Emphasis added.)[9]

Relative sanctuaries for such "fundamental" interests have been established for the family,[10] the marital couple,[11] and the individual.[12]

Freedom to choose in the matter of abortions has been accorded the status of a "fundamental" right in every case coming to the attention of this Court where the question has been raised. Babbitz v. McCann, 312 F. Supp. 725 (E.D. Wis.1970); People v. Belous, 80 Cal. Rptr. 354, 458 P.2d 194 (Cal. 1969); State v. Munson, (South Dakota Circuit Court, Pennington County, April 6, 1970). Accord, United States v. Vuitch, 305 F. Supp. 1032 (D.D.C.1969). The California Supreme Court in Belous stated:

"The fundamental right of the woman to choose whether to bear children follows from the Supreme Court's and this court's repeated acknowledgement of a 'right of privacy' or 'liberty' in matters related to marriage, family, and sex." 80 Cal. Rptr. at 359, 458, P.2d at 199.

The District Court in Vuitch wrote:

"There has been * * * an increasing indication in the decisions of the Supreme Court of the United States that as a secular matter a woman's liberty and right of privacy extends to family, marriage and sex matters and may well include the right to remove an unwanted child at least in early stages of pregnancy." 305 F.Supp. at 1035.

Writing about Griswold v. Connecticut, supra, and the decisions leading up to it, former Associate Justice Tom C. Clark observed:

"The result of these decisions is the evolution of the concept that there is a certain zone of individual privacy which is protected by the Constitution. Unless the State has a compelling subordinating interest that outweighs the individual rights of human beings, it may not interfere with a person's marriage, home, children and day-to-day living habits. This is one of the most funda-

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Footnotes at end of article.

mental concepts that the Founding Fathers had in mind when they drafted the Constitution."[13]

Since the Texas Abortion Laws infringe upon plaintiffs' fundamental right to choose whether to have children, the burden is on the defendant to demonstrate to the satisfaction of the Court that such infringement is necessary to support a compelling state interest.[14] The defendant has failed to meet this burden.

To be sure, the defendant has presented the Court with several compelling justifications for state presence in the area of abortions. These include the legitimate interests of the state in seeing to it that abortions are performed by competent persons and in adequate surroundings. Concern over abortion of the "quickened" fetus may well rank as another such interest. The difficulty with the Texas Abortion Laws is that, even if they promote these interests,[15] they far outstrip these justifications in their impact by prohibiting all abortions except those performed "for the purpose of saving the life of the mother."[16]

It is axiomatic that the fact that a statutory scheme serves permissible or even compelling state interests will not save it from the consequences of unconstitutional overbreadth. *E.g.*, Thornhill v. Alabama, 310 U.S. Buchanan v. Batchelor, 308 F.Supp. 729 (N.D. Tex. 1970). While the Ninth Amendment right to choose to have an abortion is not unqualified or unfettered, a statute designed to regulate the circumstances of abortions must restrict its scope to compelling state interests. There is unconstitutional overbreadth in the Texas Abortion Laws because the Texas Legislature did not limit the scope of the statutes to such interests. On the contrary, the Texas statutes, in their monolithic interdiction, sweep far beyond any areas of compelling state interest.

Not only are the Texas Abortion Laws unconstitutionally overbroad, they are also unconstitutionally vague. The Supreme Court has declared that "a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law." Connally v. General Construction Co., 269 U.S. 385, 391, 46 S.Ct. 126, 70 L.Ed. 322 (1926). "No one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids." Lanzetta v. New Jersey, 306 U.S. 451, 453, 59 S.Ct. 618, 83 L.Ed. 888 (1939). *See also* Giaccio v. Pennsylvania, 382 U.S. 399, 402–403, 86 S.Ct. 518, 15 L.Ed.2d 447 (1966). Under this standard the Texas statutes fail the vagueness test.

The Texas Abortion Laws fail to provide Dr. Hallford and physicians of his class with proper notice of what acts in their daily practice and consultation will subject them to criminal liability. Article 1196 provides:

"Nothing in this chapter applies to an abortion procured or attempted by medical advice for the purpose of saving the life of the mother."

It is apparent that there are grave and manifold uncertainties in the application of Article 1196. How likely must death be? Must death be certain if the abortion is not performed? Is it enough that the woman could not undergo birth without an ascertainably higher possibility of death than would normally be the case? What if the woman threatened suicide if the abortion was not performed? How imminent must death be if the abortion is not performed? Is it sufficient if having the child will shorten the life of the woman by a number of years? These questions simply cannot be answered.

The grave uncertainties in the application of Article 1196 and the consequent uncertainty concerning criminal liability under the related abortion statutes are more than sufficient to render the Texas Abortion Laws unconstitutionally vague in violation of the Due Process Clause of the Fourteenth Amendment.

II

We come finally to a consideration of the appropriateness of plaintiffs' request for injunctive relief. Plaintiffs have suggested in oral argument that, should the Court declare the Texas Abortion Laws unconstitutional, that decision would of itself warrant the issuance of an injunction against state enforcement of the statutes. However, the Court is of the opinion that it must abstain from granting the injunction.

Clearly, the question whether to abstain concerning an injunction against the enforcement of state criminal laws is divorced from concerns of abstention in rendering a declaratory judgment. Quoting from Zwickler v. Koota,

"[A] request for a declaratory judgment that a state statute is overbroad on its face must be considered independently of any request for injunctive relief against enforcement of that statute. We hold that a federal district court has the duty to decide the appropriateness and merits of the declaratory request irrespective of its conclusion as to the propriety of the issuance of the injunction." 389 U.S. at 254, 88 S.Ct. at 399.

The strong reluctance of federal courts to interfere with the process of state criminal procedure was reflected in Dombrowski v. Pfister, 380 U.S. 479, 484–485, 85 S.Ct. 1116, 1120–21, 14 L.Ed 2d 22 (1965):

"[The] Court has recognized that federal interference with a State's good-faith administration of its criminal laws is peculiarly inconsistent with our federal framework. It is generally to be assumed that state courts and prosecutors will observe constitutional limitations as expounded by this Court, and that the mere possibility of erroneous initial application of constitutional standards will usually not amount to the irreparable injury necessary to justify a disruption of orderly state proceedings."

This federal policy of non-interference with state criminal prosecutions must be followed except in cases where "statutes are justifiably attacked on their face as abridging free expression," or where statutes are justifiably attacked "as applied for the purpose of discouraging protected activities." Dombrowski v. Pfister, 380 U.S. at 489–490, 85 S.Ct. at 1122.

Neither of the above prerequisites can be found here. While plaintiffs' first substantive argument rests on notions of privacy which are to a degree common to the First and Ninth Amendments, we do not believe that plaintiffs can seriously argue that the Texas Abortion Laws are vulnerable "on their face as abridging free expression."[17] Further, deliberate application of the statutes "for the purpose of discouraging protected activities" has not been alleged. We therefore conclude that we must abstain from issuing an injunction against enforcement of the Texas Abortion Laws.

CONCLUSION

In the absence of any contested issues of fact, we hold that the motions for summary judgment of the plaintiff Roe and plaintiff-intervenor Hallford should be granted as to their request for declaratory judgment. In granting declaratory relief, we find the Texas Abortion Laws unconstitutional for vagueness and overbreadth, though for the reasons herein stated we decline to issue an injunction. We need not here delineate the factors which could qualify the right of a mother to have an abortion. It is sufficient to state that legislation concerning abortions must address itself to more than a bare negation of that right.

JUDGMENT

This action came on for hearing on motions for summary judgment before a three-judge court composed of Irving L. Goldberg, Circuit Judge, Sarah T. Hughes and W. M. Taylor, Jr., District Judges. The defendant in both cases is Henry Wade, District Attorney of Dallas County, Texas. In one action plaintiffs are John and Mary Doe, husband and wife, and in the other Jane Roe and James Hubert Hallford, M.D., intervenor.

The case having been heard on the merits, the Court, upon consideration of affidavits, briefs and arguments of counsel, finds as follows:

Findings of fact

(1) Plaintiff Jane Roe, plaintiff-intervenor James Hubert Hallford, M.D., and the members of their respective classes have standing to bring this lawsuit.

(2) Plaintiffs John and Mary Doe failed to allege facts sufficient to create a present controversy and therefore do not have standing.

(3) Articles 1191, 1192, 1193, 1194 and 1196 of the Texas Penal Code, hereinafter referred to as the Texas Abortion Laws, are so written as to deprive single women and married persons of the opportunity to choose whether to have children.

(4) The Texas Abortion Laws are so vaguely worded as to produce grave and manifold uncertainties concerning the circumstances which would produce criminal liability.

Conclusions of law

(1) This case is a proper one for a three-judge court.

(2) Abstention, concerning plaintiffs' request for a declaratory judgment, is unwarranted.

(3) The fundamental right of single women and married persons to choose whether to have children is protected by the Ninth Amendment, through the Fourteenth Amendment.

(4) The Texas Abortion Laws infringe upon this right.

(5) The defendant has not demonstrated that the infringement of plaintiffs' Ninth Amendment rights by the Texas Abortion Laws is necessary to support a compelling state interest.

(6) The Texas Abortion Laws are consequently void on their face because they are unconstitutionally overbroad.

(7) The Texas Abortion Laws are void on their face because they are vague in violation of the Due Process Clause of the Fourteenth Amendment.

(8) Abstention, concerning plaintiffs' request for an injunction against the enforcement of the Texas Abortion Laws, is warranted.

It is therefore ordered, adjudged and decreed that: (1) the complaint of John and Mary Doe be dismissed; (2) the Texas Abortion Laws are declared void on their face for unconstitutional overbreadth and for vagueness; (3) plaintiffs' application for injunction be dismissed.

FOOTNOTES

[1] On March 3, 1970, plaintiff Jane Roe filed her original complaint in CA-3-3690-B under the First, Fourth, Fifth, Eighth, Ninth, and Fourteenth Amendments to the United States Constitution. She alleged jurisdiction to be conferred upon the Court by Title 28, United States Code, Sections 1331, 1343, 2201, 2202, 2281, and 2284 and by Title 42, United States Code, Section 1983. On April 22, plaintiff Roe amended her complaint to sue "on behalf of herself and all others similarly situated."

On March 23, James Hubert Hallford, M.D., was given leave to intervene. Hallford's complaint recited the same constitutional and jurisdictional grounds as the complaint of plaintiff Roe. According to his petition for intervention, Hallford seeks to represent "himself and the class of people who are physicians, licensed to practice medicine under the laws of the State of Texas and who fear future prosecution."

On March 3, 1970, plaintiffs John and Mary Doe filed their original complaint in CA-3-

3691–C. The complaint of plaintiffs Doe recited the same constitutional and jurisdictional grounds as had the complaint of plaintiff Roe in CA–3–3690 and, like Roe, plaintiffs Doe subsequently amended their complaint so as to assert a class action.

Plaintiffs Roe and Doe have adopted pseudonyms for purposes of anonymity.

[2] *Article 1191 Abortion*

If any person shall designedly administer to a pregnant woman or knowingly procure to be administered with her consent any drug or medicine, or shall use towards her any violence or means whatever externally or internally applied, and thereby procure an abortion, he shall be confined in the penitentiary not less than two nor more than five years; if it be done without her consent, the punishment shall be doubled. By "abortion" is meant that the life of the fetus or embryo shall be destroyed in the woman's womb or that a premature birth thereof be caused.

Article 1192 Furnishing the Means

Whoever furnishes the means for procuring an abortion knowing the purpose intended is guilty as an accomplice.

Article 1193 Attempt at Abortion

If the means used shall fail to produce an abortion, the offender is nevertheless guilty of an attempt to produce abortion, provided it be shown that such means were calculated to produce that result, and shall be fined not less than one hundred nor more than one thousand dollars.

Article 1194 Murder in Producing Abortion

If the death of the mother is occasioned by an abortion so produced or by an attempt to effect the same it is murder.

Article 1196 By Medical Advice

Nothing in this chapter applies to an abortion procured or attempted by medical advice for the purpose of saving the life of the mother.

[3] By the authority of *Griswold*, Dr. Hallford has standing to raise the rights of his patients, single women and married couples, as well as rights of his own.

[4] "[I]n ruling on standing, it is both appropriate and necessary to look to the substantive issues * * * to determine whether there is a logical nexus between the statutes asserted and the claim sought to be adjudicated." Flast v. Cohen, 392 U.S. 83, 102, 88 S.Ct. 1942, 20 L.Ed. 2d 947 (1968).

[5] Zwickler v. Koota, 389 U.S. 241, 254, 88 S.Ct. 391, 19 L. Ed.2d 444 (1967); Cameron v. Johnson, 390 U.S. 611, 615, 88 S.Ct. 1335, 20 L.Ed.2d 182 (1968).

[6] 389 U.S. at 250–251, 88 S.Ct. at 396–397. (Citations omitted.)

[7] Aside from their Ninth Amendment and vagueness arguments, plaintiffs have presented an array of constitutional arguments. However, as plaintiffs conceded in oral argument, these additional arguments are peripheral to the main issues. Consequently, they will not be passed upon.

[8] "The enumeration in the Constitution, of certain rights shall not be construed to deny or disparage others retained by the people."

[9] At 492, 85 S.Ct. at 1686 the opinion states: "In determining which rights are fundamental, judges are not left at large to decide cases in light of their personal and private notions. Rather, they must look to the 'traditions and [collective] conscience of our people' to determine whether a principle is 'so rooted [there] * * * as to be ranked as fundamental'. Snyder v. [Commonwealth of] Massachusetts, 291 U.S. 97, 105 [54 S.Ct. 330, 78 L.Ed. 674]. The inquiry is whether a right involved 'is of such a character that it cannot be denied without violating those "fundamental principles of liberty and justice which lie at the base of all our civil and political institutions." * * * ' Powell v. Alabama, 287 U.S. 45, 67 [53 S.Ct. 55, 77 L.Ed. 158]."

[10] Pierce v. Society of Sisters, 268 U.S. 510, 45 S.Ct. 571, 69 L.Ed. 1070 (1925); Meyer v. Nebraska, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed. 1042 (1923); and Prince v Commonwealth of Massachusetts, 321 U.S. 158, 64 S.Ct. 438, 88 L.Ed. 645 (1944).

[11] Loving v. Commonwealth of Virginia, 388 U.S. 1, 87 S.Ct. 1817, 18 L.Ed.2d 1010 (1967); Griswold v. Connecticut, 381 U.S 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965); and Buchanan v. Batchelor, 308 F.Supp. 729 (N.D.Tex.1970).

[12] Skinner v. Oklahoma, 316 U.S. 535, 62 S.Ct. 1110, 86 L.Ed. 1655 (1942); and Stanley v. Georgia, 394 U.S. 557, 89 S.Ct. 1243, 22 L.Ed. 2d 542 (1969).

[13] Religion, Morality, and Abortion: A Constitutional Appraisal, 2 Loyola Univ. L.Rev. 1, 8 (1969). Mr. Justice Clark goes on to write, "* * * abortion falls within that sensitive area of privacy—the marital relation. One of the basic values of this privacy is birth control, as evidenced by the *Griswold* decision. Griswold's act was to prevent formation of the fetus. This, the Court found, was constitutionally protected. If an individual may prevent contraception, why can he not nullify that conception when prevention has failed?" *Id*. at 9.

[14] "In a long series of cases this Court has held that where fundamental personal liberties are involved, they may not be abridged by the States simply on a showing that a regulatory statute has some rational relationship to the effectuation of a proper state purpose. 'Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling.' Bates v. [City of] Little Rock, 361 U.S. 516, 524 [80 S.Ct. 412, 4 L.Ed.2d 480]." Griswold v. Connecticut, 381 U.S. 479, 497, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965) (concurring opinion of Mr. Justice Goldberg). *See also* Kramer v. Union Free School District, 395 U.S. 621, 89 S.Ct. 1886, 23 L.Ed.2d 583 (1969).

[15] It is not clear whether the Texas laws presently serve the interests asserted by the defendant. For instance, the Court gathers from a reading of the challenged statutes that they presently would permit an abortion "for the purpose of saving the life of the mother" to be performed *anywhere* and quite possibly by *one other than a physician*.

[16] Article 1196.

[17] "[T]he door is not open to all who would test the validity of state statutes or conduct a federally supervised pre-trial of a state prosecution by the simple expedient of alleging that the prosecution somehow affects First Amendment rights." Porter v. Kimzey, 309 F. Supp. 993, 995 (N.D.Ga.1970).

[United States District Court, N. D. Illinois, E. D.—Jan. 29, 1971]

JANE DOE CASE

Jane Doe and Sally Roe, suing on behalf of themselves and all others similarly situated, and David N. Danforth, M.D., Charles Fields, M.D., Ralph M. Wynn, M.D., and Frederick P. Zuspan, M.D., suing on behalf of themselves and all others similarly situated, Plaintiffs.

Mary Poe, by her mother, Pauline Poe, suing on behalf of herself, and all others similarly situated, Intervening Plaintiff, v. William J. Scott, Attorney General of the State of Illinois, and Edward V. Hanrahan, State's Attorney of Cook County, Illinois, Defendants,

Dr. Bart Heffernan, Intervening Defendant.

Civ. A. No. 70 C 395.

Action for declaratory and injunctive relief challenging constitutionality of Illinois abortion statute. The three-judge District Court, Swygert, Chief Circuit Judge, held that the Illinois abortion statute, by forcing the birth of every fetus, no matter how defective or how intensely unwanted by its future parents, displayed no legitimately compelling state interest in fetal life which would justify intrusion on woman's privacy which is involved in forcing her to bear an unwanted child; consequently, during the early stages of pregnancy—at least during the first trimester—the state may not prohibit, restrict or otherwise limit women's access to abortion procedures performed by licensed physicians operating in licensed facilities.

Plaintiffs' motion for summary judgment granted and defendants' motion denied.

Campbell, Senior District Judge, dissented and filed opinion.

Sybille Fritzsche, The Roger Baldwin Foundation of ACLU, Inc., Susan Grossman, Chicago, Ill., for plaintiffs; Marshall Patner, Patner & Karaganis, Chicago, Ill., of counsel.

Gordon H. S. Scott, Legal Aid Bureau, Chicago, Ill., for intervening plaintiff Mary Poe.

William J. Scott, Atty. Gen. Bernard Genis, Asst. Atty. Gen., Edward V. Hanrahan, State's Atty., Daniel Coman, James C. Murray, Asst. State's Attys., for defendants.

Dennis J. Horan, Thomas M. Crisham and Jerome A. Frazel, Hinshaw, Culbertson, Moelmann, Hoban & Fuller, Chicago, Ill., for intervening defendant Bart Heffernan.

Before Swygert, Chief Circuit Judge Robson, Chief District Judge, and Campbell, Senior District Judge.

MEMORANDUM OPINION

Swygert, Chief Circuit Judge.

This is an action for declaratory and injunctive relief brought to declare that the Illinois abortion statute[1] is violative of the United States Constitution for one or more reasons.[2] After a three-judge district court was convened the parties were ordered to restrict their arguments to the allegations that the statute is unconstitutionally vague and unconstitutionally invades the privacy of pregnant women. Oral argument was heard, and the case is now before us on a multiplicity of motions including cross-motions of plaintiffs and defendants for summary judgment.

Plaintiffs Doe and Roe, suing anonymously on behalf of themselves and all other women similarly situated, assert that they were unable to obtain legal, medically safe abortions in Illinois because their physicians reasonably believed that they could not perform such an operation upon the plaintiffs without fear of prosecution by defendant law enforcement officials pursuant to the challenged statute. Plaintiff Doe, a woman of means, subsequently had a successful abortion performed in Great Britain, while plaintiff Roe, who is indigent, was compelled to bear an unwanted child since the option of a foreign abortion was economically foreclosed. Plaintiffs Danforth, Fields, Wynn and Zuspan, all licensed physicians, sue on behalf of themselves, and all other similarly situated physicians, alleging that the existence of the challenged statute interferes with and adversely affects their ability to conduct their medical practices with proper regard for their patients' best interests. Intervening plaintiff Poe is a high school girl who was pregnant as a result of a forcible rape and sues anonymously by her mother as next friend asserting the same claims as Doe and Roe.[3]

The principal defendants are William J. Scott, Attorney General of the State of Illinois, and Edward V. Hanrahan, State's Attorney of Cook County, Illinois. Both are law enforcement officials of the State of Illinois who are charged with enforcing its laws, including the challenged statute. Intervening defendant Heffernan is a licensed physician who has been granted leave to appear herein as guardian *ad litem* for those conceived but not yet born.

Defendant Scott asserts that he is not a proper party to this action. Although the Illinois statutes do not make the attorney general the chief prosecutor pursuant to the state's criminal statutes, the leading Illinois

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Footnotes at end of article.

case clothes his office with the same authority as attorneys general at the common law. In Fergus v. Russell, 270 Ill. 304, 110 N.E. 130 (1915), the Illinois Supreme Court held that, although the state legislature may confer powers additional to those inherent in the common law office of attorney general, it may not deprive the office of any of its historical powers and duties as chief legal representative of the state.[4] The court further stated, "[A]t common law the Attorney General was the law officer of the crown and its chief representative in the courts."[5] Furthermore, the attorney general has conceded that he is required to represent the people of the state before the supreme court in all matters in which their interests are apparent and to assist in the prosecution of any criminal trial when he believes the people's interest requires it.[6] Indeed, the overlap of the powers and duties of the state's attorneys of the several counties and the attorney general is such that it appears that, where their powers are concurrent, either officer may initiate appropriate proceedings in the name of the state if the other has not acted.[7] We hold, therefore, that the attorney general is a proper party defendant in this action.

Defendants challenge the standing of the plaintiffs to raise the claims which they assert. The female plaintiffs allege that the operation of the statute deprived them of their asserted right to terminate unwanted pregnancies in the state of their residence. They assert that they have been injured either by having been forced to bear unwanted children or by having to travel to foreign states to obtain abortions by qualified medical personnel. We have no doubt that, "On the basis of plaintiffs' substantive contentions, * * * there * * * exists a 'nexus between the status asserted by the [female plaintiffs] and the claim(s) (they present).'"[8] The standing requirements of Flast v. Cohen, 392 U.S.C. 83, 102 S.Ct. 1942, 20 L.Ed. 2d 947 (1968), are thus satisfied by the litigative posture of the female plaintiffs. Moreover, the physician-plaintiffs have standing to raise the claims of their patients even if we assume that no independent claim of theirs could withstand a motion for judgment on the pleadings.[9] All plaintiffs thus have standing to raise the claims which they assert.

I

Plaintiffs contend that the Illinois abortion statute must be adjudged unconstitutionally vague. We agree. The statute prohibits all abortions except those "performed by a physician * * * in a licensed hospital or other licensed medical facility because *necessary for the preservation of the woman's life.*"[10] Plaintiffs point to the italicized language as the basis for their assertion that the statute is invalid under the due process clause of the fourteenth amendment because of its imprecision. It is clear that, as the Supreme Court has said:

> "No one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids. * * * '[A] statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law.'"[11]

The question thus becomes whether men of ordinary intelligence must guess at the meaning of the words, "necessary for the preservation of the woman's life."

We note at the outset that these words, or substantially identical ones, have convinced some courts that they are incapable of certain interpretation,[12] and other courts have disagreed.[13] If courts cannot agree on what is the essential meaning of "necessary for the preservation of the woman's life" and like words, we fail to see how those who may be subject to the statute's proscriptions can know what it prohibits. On the issue of vagueness, we are in agreement with the reasoning of People v. Belous[14] and Roe v. Wade.[15] One need not inquire in great depth as to the meaning of such words as "necessary" and "preserve" to conclude that the holdings of those cases are correct. "Necessary" has been characterized as vague by the United States Supreme Court[16] and has been similarly described by other courts.[17] It is "a word susceptible of various meanings." It may import absolute physical necessity or inevitability, or it may import that which is only convenient, useful, appropriate, proper, or conducive to the end sought.[18]

The word "preserve" is similarly susceptible of so broad a range of connotations as to render its meaning in the statute gravely amorphous, since it may mean anything from maintaining something in its status quo to preventing the total destruction of something.[19] The treating physician who believes an abortion is medically or psychiatrically indicated thus finds himself threatened with becoming a felon as well as with the possibility of losing his right to practice his profession if he errs in the legal interpretation of a penal statute, the words of which have not been sufficiently definite for courts to agree on their meaning.[20] This is precisely the kind of situation that the void-for-vagueness doctrine is intended to prevent.

II

Aside from the fact that the statute is vague, its practicable effect is to make abortion unavailable to women unless there is a reasonable certainty that death will result from a continuation of pregnancy. This practical effect of the statute constitutes an intrusion on constitutionally protected areas too sweeping to be justified as necessary to accomplish any compelling state interest. These protected areas are womens rights to life, to control over their own bodies, and to freedom and privacy in matters relating to sex and procreation.

The Supreme Court has long recognized that a person possesses a fundamental, constitutionally protected right to privacy and freedom in certain personal and intimate matters, especially those pertaining to the home and family.[21] This right was developed and applied by the Supreme Court to strike down a state's birth control statute in Griswold v. Connecticut.[22] The Court there held that "specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance. * * * Various guarantees create zones of privacy."[23] *Griswold* set out in broad terms the right of married couples to be free from governmental intrusion into their intimate affairs:

We cannot distinguish the interests asserted by the plaintiffs in this case from those asserted in *Griswold*. In both, "[t]he essence of the interest sought to be protected * * * is the right of choice over events which, by their character and consequences, bear in a fundamental manner on the privacy of individuals."[24] It is as true after conception as before that "there is no topic more closely interwoven with the intimacy of the home and marriage than that which relates to the conception and bearing of progeny."[25] We believe that *Griswold* and related cases establish that matters pertaining to procreation, as well as to marriage, the family, and sex are surrounded by a zone of privacy which protects activities concerning such matters from unjustified governmental intrusion.[26]

We do not agree with the defendants that the choice whether to have a child is protected before conception but is not so protected immediately after conception has occurred.[27] A woman's interest in privacy and in control over her body is just as seriously interfered with by a law which prohibits abortions as it is by a law which prohibits the use of contraceptives. The majority of courts which have considered the question have so held, concluding that a woman has a fundamental interest in choosing to terminate a pregnancy. In People v. Belous, *supra*, the California Supreme Court struck down that state's abortion statute, holding:

> "The fundamental right of the woman to choose whether to bear children follows from the Supreme Court's and this court's repeated acknowledgment of a "right of privacy" or "liberty" in matters related to marriage, family, and sex."[28]

In United States v. Vuitch, *supra*, a single district court judge struck down a portion of the District of Columbia abortion statute, saying:

> "There has been, moreover, an increasing indication in decisions of the Supreme Court of the United States that as a secular matter a woman's liberty and right of privacy extends to family, marriage and sex matters and may well include the right to remove an unwanted child at least in early stages of pregnancy. * * * Matters have certainly reached a point where a sound, informed interest of the state must affirmatively appear before the state infringes unduly on such rights."[29]

More recently, in Babbitz v. McCann,[30] and in Roe v. Wade,[31] three-judge courts found that the right to choose whether to bear a child was fundamental and struck down state abortion statutes.

Of course, the determination that women have a fundamental interest in choosing whether to terminate pregnancies does not establish that the Illinois statute is unconstitutional. The critical issue is whether the state has a compelling interest in preventing abortions in the early stages of pregnancy except where the death of the woman is reasonablv certain.[32] A statute which requires a woman to risk physical and emotional harm short of death when a therapeutic abortion would remove that risk does not bear scrutiny as a health measure for the benefit of women.

Moreover, a statute which forces the birth of every fetus, no matter how defective or how intensely unwanted by its future parents, displays no legitimately compelling state interest in fetal life, especially when viewed with regard for the countervailing rights of pregnant women. We do not believe that the state has a compelling interest in preserving all fetus life which justifies the gross intrusion on a woman's privacy which is involved in forcing her to bear an unwanted child. We therefore rule that during the early stages of pregnancy—at least during the first trimester—the state may not prohibit, restrict or otherwise limit women's access to abortion procedures performed by licensed physicians operating in licensed facilities.

In holding that the state has not shown sufficient justification to permit us to uphold its abortion statute in its entirety, we are in agreement with the court's statement in Babbitz v. McCann:

> "The defendants urge that the state's interest in protecting the embryo is a sufficient basis to sustain the statute. Upon a balancing of the relevant interests, we hold that a woman's right to refuse to carry an embryo during the early months of pregnancy may not be invaded by the state without a more compelling public necessity than is reflected in the statute in question."[33]

Accordingly, the Illinois abortion statute, Illinois Revised Statutes, Chapter 38, Section 23-1, is unconstitutional because it is impermissibly vague and unduly infringes women's right to privacy insofar as it restricts or prohibits the performance of abortions during the first trimester of pregnancy by licensed physicians in a licensed hospital or other licensed medical facility.

Footnotes at end of article.

ORDER

1. The foregoing opinion shall stand as findings of fact and conclusions of law.

2. The motion of plaintiffs for summary judgment is hereby granted, and the motion of defendants for summary judgment is hereby denied.

3. The motion of defendant Scott to dismiss this action as against him is hereby denied.

4. All other motions presently outstanding are hereby denied to the extent not expressly granted herein or mooted by or subsumed in the foregoing opinion or this order.

It is therefore ordered, adjudged and decreed:

1. That the Illinois abortion statute, Illinois Revised Statutes, Chapter 38, Section 23-1, be and the same is hereby declared to be violative of the Constitution of the United States and is null and void insofar as it restricts or prohibits the performance of abortions during the first trimester of pregnancy by licensed physicians in a licensed hospital or other licensed medical facility.

2. That the defendants, their officers, agents, servants, employees, and attorneys, and those persons who act in active concert or participation with them be and the same are hereby permanently enjoined, without bond, from executing or enforcing, the Illinois abortion statute, Illinois Revised Statutes, Chapter 38, Section 23-1 against physicians licensed to practice medicine and surgery in all its branches performing abortions during the first trimester of pregnancy in a licensed hospital or other licensed medical facility.

Campbell, Senior Judge (dissenting).

The typically erudite opinion of our distinguished Chief Judge Swygert excellently presents some philosophical reasons for amendment to or repeal of the existing abortion statute by the Illinois Legislature. I must respectfully disagree however when these reasons are advanced to support a judicial determination that the statute "is unconstitutional because it is impermissibly vague and unduly infringes women's right to privacy." Neither the wisdom of this statute nor its conformity to the accepted mores of Illinois in 1971 is the issue before us. As a federal court we are concerned only with the limited question of whether in enacting this statute the people of Illinois have exceeded the limitations of the United States Constitution.

By their foregoing decision and order in this case concluding that those limits have been exceeded, my learned brothers strike down a state statute which has been enforced for one hundred years[34] and impose upon the people of Illinois their own views on this most important and controversial issue concerning public health and morals. In my view this unwarranted intrusion by the federal judiciary into the affairs of Illinois in the name of constitutional interpretation is far beyond properly limited federal powers and is not supported by the facts of this case nor the precedents cited by my brethren.

The basis of the majority decision is twofold: (1) the Illinois statute (and particularly the exception found therein) is so vague as to render it unconstitutional; and (2) by prohibiting the destruction of fetal life the statute invades the privacy of the women and the family entities of Illinois.

On the vagueness question I first observe that we have before us no contention by any party that an actual situation exists where a licensed physician acting in good faith is in jeopardy of prosecution for performing an abortion he believed to be "necessary for the preservation of the woman's life." In other words we are presented with no actual circumstance where the vagueness question is in issue. The rather forced game of semantics urged by plaintiffs and adopted by the majority has not presented any *actual* controversy but is merely a convenient vehicle for these plaintiffs to challenge a law which they believe is unwise and which they have thus far despite heroic efforts been unable to repeal or amend by the legislative process.[35]

A perusal of state and federal criminal codes reveals numerous examples of statutes which have been held constitutional and which are not as clear and definite as this one. Indeed Chief Judge Swygert, in writing his court's opinion upholding the constitutionality of the Illinois disorderly conduct statute, found that the language of that statute prohibiting any act done in "such unreasonable manner as to alarm or disturb another" was not unconstitutionally vague. As stated by him in that opinion: "The Constitution does not require impossible standards of specificity in penal statutes. It requires only that the statute convey 'sufficiently definite warning as to the proscribed conduct when measured by common understanding and practices.'" United States v. Woodard, 376 F.2d 136, 140 (7th Cir. 1967).

His opinion goes on to state, "The statute proscribes conduct that is so unreasonable as to 'alarm or disturb' another and provoke a 'breach of the peace'. The term 'breach of the peace' has never had a precise meaning in relation to specific conduct. Yet from its early common law origin to the present it has received a fairly well defined gloss." (Id. at 141). In our case, however, the same judge concludes that men and women of ordinary intelligence cannot understand the essential meaning of the words, "necessary for the preservation of the woman's life." I find it difficult to reconcile the reasoning in the *Woodard* case with that set forth in the opinion of the majority herein.

The words of the Illinois Abortion Statute taken in their ordinary meaning sufficiently convey definite warning as to the proscribed conduct and "have over a long period of years proved entirely adequate to inform the public, including both lay and professional people, of what is forbidden." Steinberg v. Rhodes, 321 F.Supp. 741, 745 (N.D.Ohio, 1970); Babbitz v. McCann, 310 F.Supp. 293, 297 (E.D.Wis.1970). The statement of the court in the *Steinberg* opinion is appropriate here:—"The problem of the plaintiffs is not that they do not understand, but that basically they do not accept, its proscription." 321 F.Supp. at p. 745.

I find the second conclusion of the majority, that the statute is not supported by a sufficient legitimate state interest, even more disconcerting. As the majority correctly points out, the determination that women have a fundamental interest in choosing whether to terminate pregnancies does not in and of itself establish that the Illinois statute is unconstitutional. The critical issue is whether the state has a sufficient interest in preventing abortion to justify its prohibition. My brothers conclude that the State of Illinois does not have a sufficient interest in preserving fetal life to support the statute before us, when the same is viewed with regard for countervailing rights to terminate pregnancies. It is at this juncture that I again part company with my brothers.

We, as did the Illinois Legislature, have before us the following undisputed facts relating to fetal life. Seven weeks after conception the fertilized egg develops into a well proportioned small scale body. It bears all of the familiar external features and all the internal organs of an adult human being. It has muscles; hands with fingers and thumbs; and the legs have recognizable knees, ankles and toes.

The brain is operative and sends out impulses that coordinate the function of the other organs. Brain waves have been noted at 43 days. The heart beats; the stomach produces digestive juices; the liver manufactures blood cells; and the kidneys begin to function by extracting uric acid from the blood.

In the third month it can kick its legs, turn its feet, curl and fan its toes, make a fist, move its thumb, bend its wrist, turn its head, and even open its mouth and swallow and drink the amniotic fluid that surrounds it. Thumb sucking has been noted at this age and the first respiratory motions have fluid in and out of its lungs with inhaling and exhaling respiratory movements.

In the twelfth week it can move its thumb, in opposition to its fingers. It swallows regularly. It has active reflexes. The facial expressions of a fetus in its third month are already similar to the facial expression of its parents. By the end of that first trimester the fetus is a sentient moving being.

In the third month finger nails appear; sexual differentiation is apparent in both internal and external organs; and vocal chords are completed.

From the twelfth to the sixteenth week the child grows to eight or ten inches in height and receives oxygen and food from its mother through the placental attachment. In the fifth month it gains two inches in height and ten ounces in weight. A doctor will soon hear the heart beat with his stethoscope. It sleeps and wakes and may be awakened by external vibrations.

In the sixth month the fetus develops a strong muscular grip with its hands; starts to breathe regularly and can maintain a respiratory response for twenty-four hours if born prematurely. It may even have a slim chance of surviving in an incubator. A child has been known to survive between twenty to twenty-five weeks old. Indeed, as medical science progresses in the field of detection the date of potential viability moves continually closer to earlier stages of gestation.

Dr. Arnold Gessell, in his publication. *"The Embryology of Behavior,*[36] notes:

"Our own repeated observation of a large group of fetal infants (an individual born and living at any time prior to forty weeks gestation) left us with no doubt that psychologically they were individuals. Just as no two looked alike, so no two behaved precisely alike. One was impassive when another was alert. Even among the youngest there were discernible differences in vividness, reactivity and responsiveness. These were genuine individual differences, already prophetic of the diversity which distinguishes the human family."

Similar facts of fetal life are discussed in detail in a recently published Law Review article, Byrn, Abortion-On-Demand: Whose Morality? 46 N.D. Law. 5 (1970). Professor Byrn concludes:—

"In summary: at eight weeks, after which the great majority of abortions are performed, the fetus is irreversibly organized into a recognizable human-child, is responsive to stimulation, and is possessed of a pumping heart, a functioning circulatory system, an active brain and all other internal organs. From the practical scientific point of view, 'By the eighth week the embryo or fetus, as we now call it, is an unmistakable human being * * *'."

This author also points out that abortion is a violent procedure regardless of the stage of pregnancy. Byrn, Supra, p. 32.

Professor Byrn also relates (at pp. 8-9) the following experience of Paul E. Rockwell, M.D., Director of Anesthesiology at Leonard Hospital, Troy, New York:

"Eleven years ago while giving an anesthetic for a ruptured ectopic pregnancy (at two months gestation) I was handed what I believe was the smallest living human being ever seen. The embryo sac was intact and transparent. Within the sac was a tiny (approx. 1 cm.) human male swimming extremely vigorously in the amniotic fluid, while attached to the wall by the umbilical cord. This tiny human was perfectly developed, with long, tapering fingers, feet and

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Footnotes at end of article.

toes. It was almost transparent, as regards the skin, and the delicate arteries and veins were prominent to the ends of the fingers.

"The baby was extremely alive and swam about the sac approximately one time per second, with a natural swimmer's stroke. This tiny human did not look at all like the photos and drawings and models of 'embryos' which I have seen, nor did it look like a few embryos I have been able to observe since then, obviously because this one was alive!

"* * * When the sac was opened, the tiny human immediately lost its life and took on the appearance of what is accepted as the appearance of an embryo at this age (blunt extremities, etc.)

"It is my opinion that if the lawmakers and people realized that very vigorous life is present, it is possible that abortion would be found much more objectionable than euthanasia."

In my opinion the undisputed medical facts of record herein establish a sufficient state interest in the preservation of life to support the constitutionality of the statute before us.

The majority opinion does not hold that the Illinois statute is void in its entirety or that every statute that prohibits the destruction of fetal life is unconstitutional. Rather, is seems to hold that the people of this State have a legitimate legislative interest in protecting *some* fetal life, but that the present statute which protects, "every fetus, no matter how defective or how intensely unwanted by its future parents, displays no legitimately compelling state interest." I believe what the majority is suggesting is that if the Illinois Legislature had adopted a statute which, while prohibiting abortions generally, permitted the destruction of the "defective" fetus or one that is "intensely unwanted" it would have displayed a legitimate state interest. It seems to me apparent, however, that if the legislature has the power to decide that a *non defective* fetus may not be destroyed, it can also decide that a *defective* fetus may not be destroyed. How much latitude shall judicially be given the legislature in its determination as to what is and what is not a sufficient "defect" to warrant destruction? How unwanted must a potential child be before its parents can demand destruction under the suggested judicial "intensely unwanted" standard? Merely stating these propositions illustrates the extent to which my brothers have wandered into the legislative domain in reaching their decision in this case.

But the majority does not rest its conclusion of unconstitutionality on such a tenuous base. Instead, the majority states: "We therefore rule that during the early stages of pregnancy—at least during the first trimester—the state may not prohibit, restrict, or otherwise limit women's access to abortion procedures * * *" The opinion does not explain or even intimate how it arrived at this constitutional conclusion. It appears to me that my brothers have, by judicial fiat, successfully amended the Illinois statute to permit abortions in the first three months of pregnancy. Ironically, their amendment does not even meet sound legislative standards. No where do they explain how the "first trimester" test was arrived at, or what relationship it might have to the previously discussed notions of defectiveness or unwantedness. What rational basis supports their conclusion that the people of Illinois may have a sufficient interest in protecting the life of a fetus which has matured to the first trimester, but that no legitimate interest exists for protecting a life of a fetus a few days younger? I believe the Illinois Legislature, in adopting the present statute, was less arbitrary even if not as competent as my brothers on these social and moral matters. In my opinion, however, the legislature alone should determine what value society will place on this form of life, regardless of the age of development.

Thus far I have avoided any discussion of the sensitive subject of whether fetal life is "human" life. Admittedly physicians argue as to what point in the fetal development human life commences. As former Supreme Court Justice Tom C. Clark states in the Law Review article quoted by the majority, "Some physicians argue that abortion should be permitted with impunity at any time up to the sixth month of pregnancy since prior to that time the fetus is no more than a growing plant. On the other hand, many eminent physicians believe that the fertilized ovum has human life from the time of conception. In support of this argument they refer to the International Code of Medical Ethics, which states that a physician will maintain the utmost respect for human life, from the time of its conception." Clark, Religion, Morality and Abortion: A Constitutional Appraisal, 2 Loy.U.L.Rev. 1, 5 (1969). Assuming *arguendo* that fetal life is human life, can there be any question but that the State of Illinois has a sufficient legislative interest in its protection? And, in view of the varied opinions in medical science, is not the determination of when human life commences better left to the legislature, rather than the courts? This was the conclusion reached by Mr. Justice Clark in the above quoted article. Significantly, while liberally quoting Justice Clark's article on the subject of abortion (see notes 26 and 27), the majority conveniently ignores its conclusion and admonition as follows:—

"Accommodation of conflicting doctrine is more difficult to achieve in the judicial than in the legislative process. Courts cannot reach out to reform our society. A problem comes to the Court in the form of a justiciable issue and is narrowly drawn, rendering the Court's ruling contracted and finespun. Legislatures, on the other hand, have such facilities for investigation as hearings and may address themselves to the necessities of broad social needs and the correction of evils, both probable and existing. As Mr. Justice Cardozo said, 'Legislation can eradicate a cancer, right some hoary wrong, correct some definitely established evil, which defies the feebler remedies, the distinctions and the fictions familiar to the judicial process.'

"The courts work on a case-by-case system which deals with the past rather than the future. Society would not have the benefit of the sweeping effect of a statute, nor would the doctor have the protection that he is entitled to receive. The case method would be slow, expensive, and possibly disastrous. It is for the legislature to determine the proper balance, i.e., that point between prevention of conception and viability of the fetus which would give the State the compelling subordinating interest so that it may regulate or prohibit abortion without violating the individual's constitutionally protected rights." (At pp. 10–11).

To support their conclusion that the people of Illinois have exceeded the proper bounds of legislative interest, the majority primarily rely on the rationale of the Supreme Court in Griswold v. Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510. But *Griswold* held only that a statute which forbade the use of contraceptives by married couples violated their rights to privacy. In writing the opinion of the Court, Mr. Justice Douglas indicated that the Connecticut statute was "unnecessarily broad" and prevented activities which might otherwise be subject to state regulation. (381 U.S. 485, 85 S.Ct. 1678). The more thorough concurring opinion, written by Mr. Justice Goldberg, stressed that there was in that case no showing that the statute was necessary to accomplish a permissible state interest.

In this case, however, there is in my opinion a valid and permissible state interest—the protection of human life or at least the protection of potential human life in the fetus. In my opinion the statute in question is no broader than is necessary to accomplish this valid and permissible state interest even though it does not distinguish or provide exceptions, as my brothers would prefer, for those which are "defective" or "intensely unwanted," or have not matured to "the first trimester of pregnancy."

In citing *Griswold*, the majority concludes: "we cannot distinguish the interests asserted by the plaintiffs in this case from those asserted in *Griswold*." In other words, in their views, there is no distinction that can be made between prohibiting the use of contraceptives and prohibiting the destruction of fetal life, which as explained above may reasonably be construed to be human life. I find this assertion incredible. Contraception prevents the creation of new life. Abortion destroys existing life. Contraception and abortion are as distinguishable as thoughts or dreams are distinguishable from reality.

As for myself I am confronted with and bound by the plain facts before us people of Illinois have a legitimate and sufficient interest in protecting fetal life to support the statute here considered. I find nothing in the Court's teachings in *Griswold* to the contrary.

No individual right or freedom is ever advanced in this country through an unwarranted intrusion of the judiciary into the proper province of the legislature. Indeed, in these days of pressure groups regularly seeking from courts that which only legislatures can properly give, constitutional government is weakened each time courts place their personal philosophical views above the law.

I would grant the motion of defendants for summary judgment and leave the plaintiffs' cause where under the Constitution it belongs—in the Illinois Legislature.

FOOTNOTES

[1] Ill. Rev. Stat., ch. 38, § 23–1 (1969).

[2] Jurisdiction is based upon 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331, 1343, 2201, 2202, 2281 and 2284.

[3] On March 23, 1970, Poe moved for leave to intervene and for the issuance of a temporary restraining order enjoining the defendants from attempting to enforce the Illinois statute against Poe's physician for terminating her pregnancy. On March 27 Poe was allowed to intervene, but her request for a restraining order was denied. On March 30 the Court of Appeals for the Seventh Circuit issued the temporary restraining order requested by Poe.

[4] 270 Ill. at 337–339, 110 N.E. at 143–144.

[5] 270 Ill. at 336, 110 N.E. at 143.

[6] Ill. Rev. Stat. ch. 14, § 4 (1969).

[7] *E.g.*, People ex rel. Kuntsman v. Shinsaku Nagano, 389 Ill. 231, 59 N.E.2d 96 (1945); People ex rel. Miller v. Fullenwider, 329 Ill. 65, 160 N.E. 175 (1928). *But see* People v. Flynn, 375 Ill. 366, 368, 31 N.E.2d 591, 593 (1940).

[8] Roe v. Wade, 314 F.Supp. 1217, 1220 (N.D. Tex. 1970) (citing Flast v. Cohen, 392 U.S. 83, 102, 88 S.Ct. 1942, 20 L.Fd. 2d 947 (1968)).

[9] Griswold v. Connecticut, 381 U.S. 479, 481, 85 S.Ct. 1678, 14 L.Ed2d 510 (1965); Barrows v. Jackson, 346 U.S. 249, 257, 73 S.Ct. 1031, 97 L.Ed. 1586 (1953).

[10] Ill.Rev.Stat., ch. 38, § 23–1(b) (1969) (emphasis added).

[11] Lanzetta v. New Jersey, 306 U.S. 451, 453, 59 S.Ct. 618, 619, 83 L.Ed. 888 (1939); *accord*, Jordan v. DeGeorge, 341 U.S. 223, 71 S.Ct. 703, 95 L.Ed. 886 (1951); Connally v. General Constr. Co., 269 U.S. 385, 46 S.Ct. 126, 70 I.Ed. 322 (1026).

[12] *E.g.*, Roe v. Wade, 314 F. Supp. 1217, 1223 (N.D.Tex.1970); United States v. Vuitch, 305 F.Supp. 1032, 1034 (D.D.C. 1969); People v. Belous, 71 Cal.2d 954, 80 Cal.Rptr. 354, 458 P.2d 194, 197 (1969), cert. denied 397 U.S. 915, 90 S.Ct. 920, 25 L.Ed.2d 96 (1970).

[13] *E.g.*, Babbitz v. McCann, 310 F.Supp. 293, 298 (E.D.Wis.1970); Rosen v. Louisiana State Board of Medical Examiners, 318 F.Supp.

1217, (E.D.La.1970); Steinberg v. Rhodes, 321 F.Supp. 741 (N.D. Ohio, filed Dec. 18, 1970).

[14] 71 Cal.2d 954, 80 Cal.Rptr. 354, 458 P.2d 194 (1969), cert. denied, 397 U.S. 915, 90 S.Ct. 920, 25 L.Ed.2d 96 (1970).

[15] 314 F.Supp. 1217 (N.D.Tex.1970).

[16] Yu Cong Eng v. Trinidad, 271 U.S. 500, 517–518, 46 S.Ct. 619, 70 L.Ed. 1059 (1926).

[17] *E.g.*, Phillips v. Borough of Folcroft, 305 F.Supp. 766, 770–771 (E.D.Pa.1969); Westphal v. Westphal, 122 Cal.App. 379, 382, 10 P.2d 119, 120 (1932).

[18] Black's Law Dictionary 1181 (4th ed. 1957).

[19] Webster's Third New International Dictionary 1794 (1961).

[20] The problem faced by a treating physician in Illinois is as described in Roe v. Wade, 314 F.Supp. 1217, 1223 (N.D.Tex, 1970):

How *likely* must death be? Must death be certain if the abortion is not performed? Is is enough that the woman could not undergo birth without an ascertainably higher possibility of death than would normally be the case? What if the woman threatened suicide if the abortion was not performed? How *immenent* must death be if the abortion is not performed? Is it sufficient if having the child will shorten the life of the woman by a number of years? These questions simply cannot be answered.

[21] *See, e.g.*, Meyer v. Nebraska, 262 U.S. 390, 399, 43 S.Ct. 625, 67 L.Ed. 1042 (1923); Pierce v. Society of Sisters, 268 U.S. 510, 534, 45 S.Ct. 571, 69 L.Ed. 1070 (1925); Prince v. Massachusetts, 321 U.S. 158, 166, 64 S.Ct. 438, 88 L.Ed. 645 (1944); Loving v. Virginia, 388 U.S. 1, 12, 87 S.Ct. 1817, 18 L.Ed2d 1010 (1967); and Stanley v. Georgia, 394 U.S. 557, 564, 89 S.Ct. 1243. 22 L.Ed.2d 542 (1969).

[22] 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965).

[23] *Id.* at 484, 85 S.Ct. at 1681.

[24] Roe v. Wade, 314 F.Supp. 1217, 1221 (N.D.Tex.1970).

[25] Babbitz v. McCann, 310 F.Supp. 293, 299 (E.D.Wis.1970).

[26] As former Supreme Court Justice Tom C. Clark has said:

"The result of [Griswold and its predecessors] is the evolution of the concept that there is a certain zone of individual privacy which is protected by the Constitution. Unless the State has a compelling subordinating interest that outweighs the individual rights of human beings, it may not interfere with a person's marriage, home, children, and day-to-day living habits. This is one of the most fundamental concepts that the Founding Fathers had in mind when they drafted the Constitution."

Clark, Religion, Morality, and Abortion: A Constitutional Appraisal, 2 Loyola Univ. (L.A.) L.Rev. 1, 8 (1969).

[27] Again, Mr. Justice Clark observed:

"[A]bortion falls within that sensitive area of privacy—the marital relation. One of the basic values of this privacy is birth control, as evidenced by the *Griswold* decision. Griswold's act was to prevent formation of the fetus. This, the Court found, was constitutionally protected. If an individual may prevent conception, why can he not nullify that conception when prevention has failed?"

Id. at 9.

[28] 71 Cal.2d 954, 963, 80 Cal.Rptr. 354, 359, 458, P.2d 194, 199 (1969), cert. denied, 397 U.S. 915, 90 S.Ct. 920, 25 L.Ed.2d 96 (1970).

[29] 305 F.Supp. 1032, 1035 (D.D.C.1969).

[30] 310 F.Supp. 293 (E.D.Wis.1970).

[31] 314 F.Supp. 1217 (N.D.Tex.1970).

[32] As the court stated in Roe v. Wade, 314 F. Supp. 1217, 1222 (N.D. Tex. 1970):

"Since the Texas Abortion Laws infringe upon plaintiffs' fundamental right to choose whether to have children, the burden is on the defendant to demonstrate to the satisfaction of the Court that such infringement is necessary to support a compelling state interest.

See also Bates v. Little Rock, 361 U.S. 516, 524, 80 S.Ct. 412. 4 L. Ed. 2d 480 (1960); Griswold v. Connecticut, 381 U.S. 479, 497, 85 S. Ct. 1678, 14 L. Ed 2d 510 (1965) (Goldberg, J., concurring).

[33] 310 F. Supp. 293, 301 (E.D. Wis. 1970).

[34] The present statute is essentially the same as that enacted in 1874. (R.S. 1874, Ch. 38, Div. 1, § 3.)

[35] Attempts to amend or repeal the present statute failed in the last (1969) session of the General Assembly. New proposals have already been introduced in the present (1971) session.

[36] Harper and Brothers, Publishers (1945), at p. 172.

[United States District Court, N. D. Georgia, Atlanta Division—July 31, 1970]

Mary Doe Case

Mary Doe et al., v. Arthur K. Bolton, as Attorney General of the State of Georgia, Lewis R. Slaton as District Attorney of Fulton County, Georgia and Herbert T. Jenkins, as Chief of Police of the City of Atlanta.

Civ. A. No. 13676.

Supplemental Opinion Oct. 14, 1970.

Class action attacking validity of state abortion statute. A Three-Judge District Court held that claims by physicians and nurses that because of state abortion statute they were not free to perform or counsel obtaining of abortions and were therefore unconstitutionally restricted in practice of their professions did not present justiciable controversy and that statute was invalid to extent it limited cases in which abortion could be performed.

Order accordingly.

Margie Pitts Hames, Tobiane Schwartz, Elizabeth Rindskopf, Bettye Kehrer, Atlanta, Ga., for plaintiffs.

Arthur K. Bolton, Atty. Gen., Tony H. Hight, Asst. Dist. Atty., Atlanta, Ga., for Slaton.

Ralph H. Witt, Atlanta, Ga., for Jenkins.

Ferdinand Buckley, Atlanta, Ga., for unborn child of Mary Doe.

Before Morgan, Circuit Judge, and Smith and Henderson, District Judges.

Per Curiam.

This is an action for declaratory and injunctive relief brought pursuant to 28 U.S.C.A. §§ 2201 and 2202, and 42 U.S.C.A. § 1983 and 28 U.S.C.A. § 1343. It is a class action attacking Ga. Code Ann. § 26–1201 et seq. (1969) Georgia's "Abortion Act."

Plaintiffs claim to represent four subclasses: pregnant women, single or married, wishing legal abortions; licensed physicians who wish to perform or counsel performance of legal abortions; registered nurses who desire to participate in performing or counsel performance of legal abortions; and ministers and social workers who wish to be free to advise abortion in counseling pregnant women.

Plaintiffs seek an order declaring Georgia's Abortion Statute unconstitutional and enjoining its enforcement on various grounds:

(1) the Statute is unconstitutionally vague and indefinite on its face and as applied, failing to provide sufficient warning of the conduct proscribed, in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution;

(2) Georgia's Abortion Statute unconstitutionally abridges a woman's right to decide to terminate an unwanted pregnancy, in restricting that fundamental liberty without an overriding compelling state interest;

(3) the Statute unconstitutionally restricts the right of the physicians, nurses, ministers and social workers to practice their professions;

(4) Georgia's Abortion Statute produces discrimination against poor and non-white women in violaton of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

PENDING MOTIONS

Arthur K. Bolton, sued in his official capacity as Attorney General of Georgia has moved for an order dismissing the claim against him on the ground that no relief could be granted against him since he is not charged generally with the enforcement, application or administration of the Georgia criminal statutes.

As plaintiffs observe, Article VI, § X, Par. II of the Georgia Constitution, Ga. Code Ann. § 2–4502 (1933) requires the Attorney General to represent the State in any civil or criminal case when required by the Governor. Furthermore, he may be required to give the Governor advisory opinions on the abortion statute. Ga. Code Ann. § 40–1602 (1933). Finally, the Attorney General is head of the Department of Law, which is vested with authority and jurisdiction in all matters of law relating to governmental departments, boards and agencies. Ga. Code Ann. § 40–1614 (1943). The Attorney General has sufficient connection with enforcement of the statutes attacked to justify retaining him as a party.[1] See Arneson v. Denny, 25 F.2d 993 (W.D.Wash 1928); Jackson v. Colorado, 294 F.Supp. 1065, 1072 (D. Colo.1968); James v. Almond, 170 F.Supp. 331, 341–342 (E.D.Va.1959); International Longshoremen's & Warehousemen's Union v. Ackerman, 82 F.Supp. 65, 124 (D.Haw. 1948), rev'd on other grounds 187 F.2d 860 (9th Cir. 1951); Bevins v. Prindable, 39 F.Supp. 708, 710 (E.D.Ill.1941). Accordingly, that motion is denied.

The Attorney General has also objected to interrogatories which plaintiffs served for answer by a witness, Roger Rochat, M.D. In view of the disposition of this case made below, no ruling on this motion is necessary.

The motion of Ferdinand Buckley, Esquire, for reconsideration of the revocation of his appointment as guardian and litem will be dealt with in connection with the discussion under MERITS below.

The motion of the National Legal Program on Health Problems of the Poor to submit a brief as *amicus curiae* is granted.

The defendant Lewis R. Slaton, District Attorney of Fulton County, filed motions seeking order requiring disclosure of plaintiff's identity, granting a continuance for discovery for a reasonable time thereafter, and requiring plaintiff to submit to a physical and mental examination. In view of the reasons for which it is held that the complaint of this plaintiff presented a justiciable controversy, these motions are directed toward obtaining information which is not relevant to the case. Accordingly, they are denied.

JURISDICTION

A. Substantial constitutional question

A three-judge court was convened pursuant to 28 U.S.C.A. §§ 2281 and 2284. Such action is proper where plaintiffs attack the constitutionality of a state statute, raising a substantial constitutional question, and seek equitable relief against its enforcement. Idlewild Bon Voyage Liquor Corp. v. Epstein, 370 U.S. 713, 715, 82 S.Ct. 1294, 8 L.Ed.2d 794 (1962).

Plaintiffs here attack the constitutionality of Ga. Code Ann. § 26–1201 et seq. (1969) on the grounds that it infringes rights protected by various Amendments to the United States Constitution. They seek an injunction against enforcement. In light of recent cases on the subject of the Constitutional right to an abortion, this Constitutional question appears substantial. *See* Roe v. Wade, 314 F. Supp. 1217 (N.D.Tex., June 17, 1970); Doe v. Randall, 314 F.Supp. 32 (D.Minn., May 19, 1970); Doe v. Scott, 310 F.Supp. 688 (N.D.Ill., March 27, 1970); Babbitz v. McCann, 310 F. Supp. 293 (E.D. Wis. 1970); United States v. Vuitch, 305 F.Supp. 1032 (D.D.C.1969), app. docketed, No. 1155 (February 5, 1970); California v. Belous, 71 Cal.2d 954, 80 Cal.Rptr.

354, 458 P.2d 194 (1969), cert. den. 397 U.S. 915, 90 S.Ct. 920, 25 L.Ed.2d 96 (1970)).

B. Justiciability

Standing

By motion to dismiss, Lewis R. Slaton, District Attorney of Fulton County, contends that all plaintiffs other than Mary Doe lack standing to maintain this action. The basis for the claims of these plaintiffs is that because they are not free to perform or counsel the obtaining of abortions, they are unconstitutionally restricted in the practice of their professions.

There are certainly instances in which any of these plaintiffs would have standing to claim a constitutional right to practice his profession, and infringement thereof. For instance, few would dispute that a social worker being prosecuted for conspiracy because he (or she) counselled obtaining an abortion, and referred the client to a physician for the abortion, would have standing to seek a declaratory judgment of his (or her) asserted constitutioned right and infringement thereof. *See* Griswold v. Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965).

But absent prosecution or indictment, that these plaintiffs do have standing is more difficult to see. Whether their claim is otherwise justiciable is irrelevant. Flast v. Cohen, 392 U.S. 83, 100 n. 21, 99 S.Ct. 1942, 20 L.Ed.2d 947 (1968). The sole issue is whether there is a logical link between the status they assert (physician, nurse) and the claim they seek adjudicated, or between their status and both the type of enactment attacked and the nature of the constitutional infringement alleged. 392 U.S. at 102, 88 S.Ct. 1942.

Under either test, all the plaintiffs have standings. As physicians, nurses, ministers or social workers they attack a criminal statute potentially applicable to them, on the grounds that it unconstitutionally restricts their rights to practice. Accordingly, the motion to dismiss for lack of standing is denied.

COLLISION OF INTERESTS

Article III of the United States Constitution limits the jurisdiction of the federal courts to cases and controversies. And it is well established that in action for declaratory judgments, a District Court may not render an advisory opinion on the constitutionality of a state statute. Rather there must be "exigent adversity," an actual controversy in which the constitutionality of the statute is drawn into question in a truly adversary context. *See* Golden v. Zwickler, 394 U.S. 103, 108, 89 S.Ct. 956, 22 L.Ed.2d 113 (1969); Poe v. Ullman, 367 U.S. 497, 81 S.Ct. 1752, 6 L.Ed.2d 989 (1961); United Public Workers of America v. Mitchell, 330 U.S. 75, 89, 67 S.Ct. 556, 91 L.Ed. 754 (1947).

Most akin to the instant case is Poe v. Ullman, 367 U.S. 497, 81 S.Ct. 1752, 6 L.Ed. 2d 989 (1961). There, a married couple, a married woman and their physician sought a declaratory judgment that Connecticut's statutes prohibiting the use of contraceptive devices and the giving of medical advice in the use of such devices violated plaintiffs' Fourteenth Amendment rights, depriving them of life and liberty without due process of law. None of the plaintiffs had been indicted or prosecuted under the statutes. There had been only one recorded prosecution for violation of the statutes in the seventy-five years since their enactment, and that single instance occurred twenty years before the declaratory judgment action was brought. The Supreme Court suggested that the lack of a pending prosecution or immediate threat of such prosecution against the particular plaintiffs made the claims non-justiciable, citing United Public Workers of America v. Mitchell, 330 U.S. 75, 67 S.Ct. 556, 91 L.Ed. 754 (1947). Poe v. Ullman, 367 U.S. at 501, 81 S.Ct. 1752. But the Justices went on to find that the lack of recorded prosecutions, the unchallenged, open, ubiquitous public sales of contraceptive devices showed a deeply embedded State policy against enforcement, amounting to a tacit agreement not to prosecute violators of the statutes. The majority therefore held:

"It is clear that the mere existence of a state penal statute would constitute insufficient grounds to support a federal court's adjudication of its constitutionality in proceedings brought against the State's prosecuting officials if real threat of enforcement is wanting." 367 U.S. at 507, 81 S.Ct. at 1758.

However, these three cases seem precedent for the proposition that in the absence of a pending or threatened indictment or prosecution of the particular plaintiffs bringing a declaratory judgment action, a federal court cannot consider the constitutionality of the challenged criminal statute.

However in 1968, the Supreme Court decided Epperson v. Arkansas, 393 U.S. 97, 89 S.Ct. 266, 21 L.Ed.2d 228 (1968), in which a public school teacher argued that the Arkansas statute prohibiting the teaching of evolution was unconstitutional. There was no pending or threatened indictment or prosecution against the teacher. There was no record of any prosecutions under the challenged statute. The teacher's dilemma was solely that (1) the new biology textbooks she was supposed to use in the approaching term contained a chapter on evolution, and (2) her action for a declaratory judgment in state court, granted on the trial level, had been reversed by the Arkansas Supreme Court. The United States Supreme Court majority reached the merits and reversed the decision of the Arkansas Supreme Court in an opinion which summarily brushed aside the question of justiciability. 393 U.S. at 101–102, 89 S.Ct. 266. Apparently, then, the majority felt that the appeal presented a "substantial controversy * * * of sufficient immediacy and reality." Golden v. Zwickler, 394 U.S. 103, 108, 89 S.Ct. 956, 959–960 (1969).

In the instant case, the plaintiff Mary Doe alleges that having properly applied to the Abortion Committee of Grady Memorial Hospital for a legal therapeutic abortion allowed by Ga. Code Ann. § 26–1202 (1969), she was denied an abortion solely on the grounds that her present situation did not come within the terms of Ga. Code Ann. § 26–1202(a)(1) (1969).

Georgia's Abortion Act defines a criminal abortion as the act performed by a person who administers a substance or uses an instrument or other means with intent to produce a miscarriage or abortion. Ga. Code Ann. § 26–1201 (1969). However, Ga. Code Ann. § 26–1202(a) establishes three circumstances under which an abortion shall not be considered a criminal abortion. And Ga. Code Ann. § 26–1202(b) (1969) prescribes procedure which *must* be followed if an abortion is to be authorized by or performed under 1202(a).

Ga. Code Ann. § 26–1202(b) (1969) provides in relevant part:

"No abortion is authorized or shall be performed under this section unless each of the following conditions is met:

* * * * *

(5) The performance of the abortion has been approved in advance by a committee of the medical staff of the hospital in which the operation is to be performed. This committee must be one established and maintained in accordance with the standards promulgated by the Joint Commission on the Accreditation of Hospitals, and its approval must be by a majority vote of a membership of not less than three members of the hospital's staff; the physician proposing to perform the operation may not be counted as a member of the committee for this purpose."

Thus, the denial of plaintiff's application for an abortion, on the grounds alleged, was not the decision of a private physician declining to render professional services, occasioned by the mere existence of Georgia's Abortion Act. The statute confers upon the hospital committee power to grant or deny abortions. A decision denying an application for abortion on the ground that the woman's situation does not fall within one of the three enumerated exceptions is an exercise of that power, which allegedly violated plaintiff's constitutional rights. To this extent then, this statute has been invoked against the plaintiff Mary Doe, causing an alleged constitutional deprivation. Here, there has been actual interference with a claimed constitutional right by the decision of a body which the State has vested with power to grant or deny legal abortions. These circumstances put plaintiff and the defendants on opposite sides of a very real and lively controversy, amenable to judicial resolution.

Accordingly, it appears that Mary Doe's complaint, in this context, presents a justiciable controversy. Since the claims of the other plaintiffs do not stand in such a posture, the Attorney General's motion to dismiss must be granted to that extent.

C. Exhaustion

There is no merit to the defendant Slaton's motion to dismiss for failure to exhaust state remedies. It does not appear that there are any administrative remedies for the denial by a hospital committee of an application for an abortion. And however desirable such a requirement might be for orderly judicial administration, there is no requirement that a litigant in federal court exhaust state judicial remedies, where he is asserting a claim in proceedings other than *habeas corpus* involving a subject over which the federal and state courts have concurrent jurisdiction. As will appear below, the instant case does not involve granting injunctive relief.

THE MERITS

Plaintiff asserts that certain cases leading up to and following Griswold v. Connecticut, 381 U.S. 479, 85 S. Ct. 1678, 14 L.Ed.2d 510 (1965) establish a Constitutional right to privacy broad enough to encompass the right of a woman to terminate an unwanted pregnancy in its early stages, by obtaining an abortion. See Stanley v. Georgia, 394 U.S. 557, 89 S.Ct. 1243, 22 L.Ed.2d 542 (1969); Loving v. Virginia, 388 U.S. 1, 87 S.Ct. 1817, 18 L.Ed.2d 1010 (1967); Skinner v. Oklahoma, 316 U.S. 535, 62 S.Ct. 1110, 86 L.Ed. 1655 (1942) Olmstead v. United States, 277 U.S. 438, 478, 48 S.Ct. 564, 72 L.Ed. 944 (1928) (dissenting opinion of Mr. Justice Brandeis); Pierce v. Society of Sisters, 268 U.S. 510, 45 S.Ct. 571, 69 L.Ed. 1070 (1925); Meyer v. Nebraska, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed. 1042 (1923). While the Court agrees that the breadth of the right to privacy encompasses the decision to terminate an unwanted pregnancy, we are unwilling to declare that such a right reposes unbounded in any one individual. Rather, we are of the view that although the state may not unduly limit the reasons for which a woman seeks an abortion, it may legitimately require that the decision to terminate her pregnancy be one reached only upon consideration of more factors than the desires of the woman and her ability to find a willing physician.

In Griswold v. Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965), the Supreme Court held that the decision to use contraceptive devices is an aspect of a relationship lying within a penumbral zone of privacy created by several fundamental constitutional guarantees, and that a state law forbidding the use of such devices unduly invades that area of protected freedoms with maximum destructive effect upon that relationship. 381 U.S. at 485, 85 S.Ct. 1678. In a concurring opinion, Mr. Justice Goldberg differed with the majority only to the extent stipulating that the right to marital privacy is encompassed in his concept of personal liberty because of the Ninth Amendment, rather than because of penumbral emanations of specific constitutional guarantees.

For whichever reason, the concept of personal liberty embodies a right to privacy which apparently is also broad enough to include the decision to abort a pregnancy.[2] Like the decision to use contraceptive devices, the decision to terminate an unwanted pregnancy is sheltered from state regulation which seeks broadly to limit the reasons for which an abortion may be legally obtained. However, unlike the decision to use contraceptive devices, the decision to abort a pregnancy affects other interests than those of the woman alone, or even husband and wife alone.

Once conception takes place and an embryo forms, for better or for worse the woman carries a life form with the *potential* of independent human existence.[3] Without positing the existence of a new being with its own identity and federal constitutional rights, we hold that once the embryo has formed, the decision to abort its development cannot be considered a purely private one affecting only husband and wife, man and woman.

A potential human life together with the traditional interests in the health, welfare and morals of its citizenry under the police power grant to the state a legitimate area of control short of an invasion of the personal right of initial decision.

The whole thrust of the present Georgia statute[4] is to treat the problem as a medical one. Such approach is reasonable and seemingly sound inasmuch as medical practitioners are in the best position by virtue of training to judge concurrently the basis as well as the risk inherent in such a decision. In this respect, the state moreover has a legitimate interest in seeing to it that the decision—personal and medical—is not one undertaken lightly and without careful consideration of all relevant factors, whether they be emotional, economic, psychological, familial or physical. For example, the legislature might require any number of conditions such as consultation with a licensed minister or secular guidance counselor as well as the concurrence of two licensed physicians or any system of approval related to the quality and soundness of the decision in all its aspects. It certainly has a clear right to circumscribe a decision made by a woman alone or by a woman and a single physician and to guard against the establishment of transient "abortion mills" by the occasional opportunistic or unethical practitioner and the concomitant dangers to his patrons and the public. Such controls and requirements, so long as they do not restrict the reasons for the initial decisions and do not violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment, are properly within the sphere of legislative discretion. In that respect, where abortions may be obtained only from licensed physicians and surgeons, and only after psychiatric consultation, the mere fact that physicians and psychiatrists are more accessible to rich people than to poor people, making abortions more available to the wealthy than to the indigent, is not in itself a violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. *Cf.* Dandridge v. Williams, 397 U.S. 471, 90 S.Ct. 1153, 25 L.Ed. 2d 491 (1970); MacQuarrie v. McLaughlin, 294 F.Supp. 176 (D.Mass. 1968), aff'd 394 U.S. 456, 89 S.Ct. 1224, 22L.Ed.2d 417 (1969).

Moreover, there is an overriding interest in the manner of performance as well as the quality of the final decision to abort. Obvious need for control through licensing, sanitation requirements and proper medical standards in the execution of a legal abortion are examples. Again such decisions address themselves to legislative decision based upon informed judgment.

[11] Having decided that the reasons for an abortion may not be proscribed, but that the quality of the decision as well as the manner of its execution are properly within the realm of state control, the present statute must be examined in such light.

Rather than regulating merely the quality of the decision to have an abortion, and the manner of its performance, the Georgia statute also limits the number of reasons for which an abortion may be sought. This the State may not do, because such action unduly restricts a decision sheltered by the Constitutional right to privacy. See Griswold v. Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965); California v. Belous, 71 Cal.2d 954, 80 Cal.Rptr. 354, 458 P.2d 194 (1969), cert. den. 397, U.S. 915, 90 S.Ct. 920, 25 L.Ed.2d 96 (1970). The question becomes a matter of statutory overbreadth.

[12] Based upon the above, the court finds the following portions of Georgia Code § 26–1202 to be in violation of the constitutional rights of petitioner:

A. Section (a) beginning with the word "because" on line 5 and through subsection (a) (3) in its entirety.

B. Section (b) subsection (3) beginning with the word "because" on line 6 and through the end of said subsection.

C. Section (b) subsection (6) in its entirety.

D. Section (c) in its entirety.

There being no showing to the contrary, the court further finds the remainder of said Code § 26–1202 to constitute a proper exercise of state power within the context of this opinion.[5]

An appropriate formal declaratory judgment may be presented upon request of any party.

ABSTENTION

It is recognized that there is no pending state court proceeding against which the injunction prayed by plaintiff would operate. Nevertheless, the request for injunctive relief is denied, on the same basis as such a prayer would be denied were a state proceeding actually in progress:

"* * * the vindication of the defendant's federal rights is left to the state courts except in the rare situations where it can be clearly predicted * * * that those rights will inevitably be denied by the very act of bringing the defendant to trial in the state court." City of Greenwood v. Peacock, 384 U.S. 808, 1812, 16 L.Ed.2d 944 (1968).

However, under the authority of Zwickler v. Koota, 389 U.S. 241, 88 S.Ct. 391, 19 L.Ed.2d 444 (1967), the Court has proceeded to issue the declaratory relief, in spite of its unwillingness to broadly enjoin future prosecutions under the Act. Accordingly, plaintiff's request for a declaratory judgment is hereby granted. Judgment shall issue in the form described above.

It is so ordered.

SUPPLEMENTAL OPINION

Since the Court's opinion of July 31, 1970, several motions have been filed necessitating this opinion and order.

MOTION OF AMICUS CURIAE

Ferdinand Buckley filed a motion on September 3, 1970, to alter or amend the Court's judgment of August 25, 1970, to rule on several of his earlier motions and prayers. Accordingly, that judgment is hereby amended in the following (See FN) respect:

Mr. Buckley's motion for reconsideration of the order revoking his appointment as guardian *ad litem* for the embryo (or fetus) and his motion to intervene in any representative capacity on behalf of the embryo or fetus is denied. This ruling makes it unnecessary, and the Court declines, to rule on the prayers in the answer and counterclaim Mr. Buckley filed before revocation of his appointment as guardian *ad litem.*

MOTIONS OF JANE ROE

Jane Roe petitions for leave to intervene as a plaintiff, moves for a temporary restraining order, and asks that the Court clarify and enforce its opinion of July 31, 1970. Said petition, and accordingly also the motion and the request are denied for two reasons.

First, the Court is informed by counsel for all concerned that Georgia Baptist Hospital has reconsidered its earlier decision and subsequently granted Jane Roe's application for an abortion. Said action renders the petition of Jane Roe moot, there now being no sufficient collision of interests between Jane Roe and the defendants.

Second, Jane Roe's petition to intervene makes it clear that her controversy was with Georgia Baptist Hospital, and only tangentially with the defendants in this case. Under such circumstances there is no showing that Mary Doe—representing the class of pregnant women denied abortions because of the Georgia statute attacked—could not adequately represent the tangential interest of Jane Roe in this action. *See* Allen Calculators, Inc. v. National Cash Register Co., 322 U.S. 137, 141, 64 S.Ct. 905, 88 L.Ed. 1188 (1944); Durkin v. Pet Milk Co., 14 F.R.D. 374 (W.D.Ark.1953).

In spite of the above, the motion presents an aspect of the case which justifies some amplification of the previous declaratory judgment. The court concludes that this should be done by way of amendment sua sponte. Rule 60(b)(6); Klapprott v. United States, 335 U.S. 601, 69 S.Ct. 384, 93 L.Ed. 266 (1948); Bros. Incorporated v. W. E. Grace Mfg. Co., 320 F.2d 594 (5th Cir. 1963).

The problem relates to the role and function of the "abortion committees" in the several hospitals. Ga. Code § 26–202b(5). The thrust of the original opinion was to carry out the apparent intent of the Georgia legislature by making the ultimate decision on individual abortions a medical one. However, in line with constitutional principles, the ultimate decision cannot be restricted to the three reasons stated in the statute. This left the abortion committee free to decide whether an abortion was "necessary" on the broader medical basis, namely, the totality of circumstances surrounding each patient.

From the motion it is apparent that those committees who have voluntarily adopted the standards promulgated by the American College of Obstetricians and Gynecologists as controlling have placed themselves in the position of being restricted by the same reasons stated in the statute.[6] What is denied directly cannot be accomplished indirectly. It follows that the abortion committees cannot be limited to the stated reasons as the sole basis for approval of an individual abortion, nor can they so limit themselves by the adoption of such standards. Any such action by a hospital committee is declared to be an unconstitutional exercise of delegated power.

In sum, the statutory processes of approval are left standing. The patient is required to obtain the approval of (1) the certifying physician, (2) the two consulting physicians, and (3) the abortion committee of the admitting hospital. Failure to obtain approval at any level necessarily precludes abortion on that application. A majority of the abortion committee shall control its action, whether for approval or for disapproval.

To the extent stated herein, the original opinion is modified.

It is so ordered.

FOOTNOTES

[1] The Court is also aware that the Attorney General regularly interprets State criminal laws and decisions in published opinions and circulars to State judges and law enforcement officers.

[2] We see no connection between this theory and the claimed unlimited right of a woman "to use her body in any way she wishes" read into Griswold by some. There are obvious limitations to the latter such as self abuse, *e.g.* disease, drugs, suicide, etc. and the rights of others in which the state clearly has an interest. Any such theory in its ultimate is flatly rejected.

[3] This view of the impact of conception on the decision not to have children implies that the distinction between a quick and unquick fetus, and even that between embryo and fetus is not relevant here. And since the Court does not postulate the existence of a new being with federal constitutional rights at any time during gestation, the motion of Mr. Ferdinand Buckley for reconsideration of the order revoking his appointment as guardian *ad litem* for the embryo (or fetus) is denied. Mr. Buckley's motion to intervene in such capacity is also denied. However, he has the Court's appreciation for this participation in this litigation as *amicus curiae*.

[4] Apparently patterned after the American Law Institute, Model Penal Code § 230.3 (Proposed Official Draft, 1962).

[5] It is not thereby implied that those provisions constitute the only or best means of state control. On the whole, the present system appears unnecessarily cumbersome, a potential hazard under due process and equal protection considerations.

[6] The Georgia statute requires the hospital to apply standards promulgated by the Joint Commission on the Accreditation of Hospitals. No such restrictive reasons for approval of an abortion are contained therein. However, the voluntary standards promulgated by the American College of Obstetricians and Gynecologists in part limit the grounds for abortion to the three stated statutory reasons: injury to health of the mother; danger of grave physical or mental defect to the child; and pregnancy due to rape. Any such limiting restrictions, as seen, must fail. Likewise, lack of consent by the husband, while it may freely be considered by the committee, may not be automatically established as an absolute bar.

By way of additional comment, good faith administration of the statute as now constituted would prohibit a committee from secretly restricting abortions to those statutory reasons, which the court has already deleted. To the contrary, all relevant factors should be considered and an informed medical judgment made.

[In the Supreme Court of the United
States—No. 70–18, 1971 Term]

Brief for Appellants

Jane Roe, John Doe, Mary Doe, and James Hubert Hallford, M.D., Appellants, v. Henry Wade, District Attorney of Dallas County, Texas, Appellee.

On appeal from the United States District Court for the Northern District of Texas.

Of Counsel:

Norman Dorsen, School of Law, New York University, Washington Square, New York, N.Y. 10003.

Roy Lucas, James Madison Constitutional, Law Institute, Four Patchin Place, New York, N.Y. 10011.

Sarah Weddington, James R. Weddington, 709 West 14th, Austin, Texas 78701.

Linda N. Coffee, 2130 First Nat'l Bank Bldg., Dallas, Texas 75202.

Fred Bruner, Roy L. Merrill, Jr., Daugherty, Bruner, Lastelick & Anderson, 1130 Mercantile Bank Bldg., Dallas, Texas 75201.

Attorneys for Appellants.

Appellants bring this direct appeal from a June 17, 1970 judgment (A. 124–126)[1] of the United States District Court for the Northern District of Texas, Goldberg, Cir. J. and Hughes & Taylor, D.J.J. The judgment related to two separate actions and an action commenced by an intervening plaintiff.[2] As to the action by Appellants John and Mary Doe, the Court found the Does lacked standing and so dismissed their complaint (A. 124, 126), denying declaratory and injunctive relief against enforcement of the Texas abortion law, which prohibits the medical procedure of induced abortion unless undertaken "by medical advice for the purpose of saving the life of the mother." 2A Texas Penal Code art. 1196, at 436 (1961) (A. 126). As to the action by Jane Roe and the complaint of intervenor Dr. Hallford, the court granted the declaratory relief prayed for, declaring the Texas abortion law unconstitutional, but denied injunctive relief against future enforcement of the statute (A. 124–126). Plaintiffs John and Mary Doe appeal from the dismissal of their complaint and the denial of injunctive relief (A. 127). Plaintiff Jane Roe and Intervenor-Plaintiff Dr. Hallford also appeal from the denial of injunctive relief (A. 127).

Appellants submit this brief to show that this is a direct appeal over which the Court has jurisdiction, and that the lower court should have granted declaratory and injunctive relief to the plaintiffs in each of the three actions below.

CITATION TO OPINION BELOW

The June 17, 1970 opinion of the statutory three-judge United States District Court for the Northern District of Texas is reported as *Roe* v. *Wade*, 314 F. Supp. 1217 (N.D. Tex. 1970) (per curiam), and set out at A. 111–123.

JURISDICTION

(i) On March 3, 1970, Appellant Jane Roe filed her original complaint, basing jurisdiction on 28 U.S.C. § 1343(3) (1964 ed.), and complementary remedial statutes, 28 U.S.C. § 2201 (1964); 42 U.S.C. § 1983 (1964). On the same day Appellants John and Mary Doe filed a complaint predicating federal jurisdiction on the same statutes. On March 23, 1970, the District Court granted leave for Appellant James H. Hallford, M.D., to intervene as a party-plaintiff, on the same jurisdictional grounds set out above (A. 22–36). Subsequently, on April 22, 1970, Appellant Jane Roe amended her complaint to sue "on behalf of herself and all others similarly situated" (A. 10). Appellants John and Mary Doe also amended their complaints to assert a class action (A. 15). All appellants, from their respective positions as married couples, pregnant single women, and practicing physicians asked that the Texas abortion law[3] which restricts the medical procedure of induced abortion be declared unconstitutional, and that future enforcement be enjoined. A statutory three-judge United States District Court was requested and convened (A. 6, 8) pursuant to 28 U.S.C. §§ 2281, 2284 (1964).

(ii) The final judgment of the statutory three-judge District Court was entered on June 17, 1970 (A. 124). On Monday, August 17, 1970, all appellants filed with the United States District Court for the Northern District of Texas notices of appeal to this Court (A. 127), pursuant to 28 U.S.C. § 2101(b) (1964), and Sup. Ct. Rules 11, 34 (July 1, 1970 ed.), 398 U.S. 1015, 1021, 1045 (1970) Protective appeals to the United States Court of Appeals for the Fifth Circuit were noticed on July 23, 1970, by Appellant Hallford (A. 134), and on July 24, 1970, by Appellant Jane Roe (A. 133).

(iii) Jurisdiction of this Court to review by direct appeal the three-judge District Court's final judgment denying a permanent injunction is conferred by 28 U.S.C. § 1253 (1964). The question of jurisdiction was postponed to the hearing on the merits by this Court's order of May 3, 1971, 402 U.S. ——.

STATUTES INVOLVED

2A Texas Penal Code art. 1196, at 436 (1961):

"Nothing in this chapter applies to an abortion procured or attempted by medical advice for the purpose of saving the life of the mother."

2A Texas Penal Code art. 1191, at 429 (1961):

"If any person shall designedly administer to a pregnant woman or knowingly procure to be administered with her consent any drug or medicine, or shall use towards her any violence or means whatever externally or internally applied, and thereby procure an abortion, he shall be confined in the penitentiary not less than two nor more than five years; if it be done without her consent, the punishment shall be doubled. By 'abortion' is meant that the life of the fetus or embryo shall be destroyed in the woman's womb or that a premature birth thereof be caused."

2A Texas Penal Code art. 1192, at 433 (1961):

"Whoever furnishes the means for procuring an abortion knowing the purpose intended is an accomplice."

2A Texas Penal Code art. 1193, at 434 (1961):

"If the means used shall fail to produce an abortion, the offender is nevertheless guilty of an attempt to produce abortion, provided it be shown that such means were calculated to produce that result, and shall be fined not less than one hundred nor more than one thousand dollars."

2A Texas Penal Code art. 1194, at 435 (1961):

"If the death of the mother is occasioned by an abortion so produced or by an attempt to effect the same it is murder."

United States Code, Title 28, § 1343(3) (1964):

"The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person: * * *

"(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States . . ."

United States Code, Title 42, § 1983 (1964):

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

United States Code, Title 28, § 2201 (1964):

"In a case of actual controversy within its jurisdiction, except with respect to Federal taxes, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such."

United States Code, Title 28 § 1253 (1964):

"Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges."

QUESTIONS PRESENTED

I. Whether the Statutory Three-Judge Court Improperly Denied Standing, and Declaratory and Injunctive Relief, to the Class of Married Couple Plaintiffs, Who Were Damaged in Their Marital Relations by the Impact of the Statutes in Question, Unable to

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Footnotes at end of article.

Utilize Effective Means of Contraception, at Risk of Serious Injury to Health in the Event of Pregnancy, and Without a Remedy at Law or Equity in the Event of Unplanned Pregnancy?

II. Whether the District Court Should Have Enjoined Future Enforcement of the Texas Abortion Laws on Behalf of the Classes of Pregnant Women Plaintiffs and Physician Plaintiffs, After Having Granted Declaratory Relief, Where an Injunction Was Necessary to Prevent Continuing Grave and Irreparable Injury and to Effectuate the Judgment by Clarifying the Status of the Statute Pending Appeal?

III. Whether These Three Appeals from the District Court Necessitate Plenary Review of Both Jurisdictional and Substantive Features of the Decision Below?

IV. Whether the Provisions in the Texas Penal Code, Articles 1191–1194 and 1196, Which Prohibit the Medical Procedure of Induced Abortion Unless "procured or attempted by medical advice for the purpose of saving the life of the mother," Abridge Fundamental Personal Rights of Appellants Secured by the First, Ninth, and Fourteenth Amendments?

V. Whether the Texas Abortion Law Is Unconstitutionally Vague and Indefinite, in That the Statutory Language Is Not Meaningfully Correlated With Medical Practice, and Provides Wholly Inadequate Warning to Physicians, Their Counsel, Judges, and Jurors, of the Physical, Mental, and Personal Factors Which May Be Considered When Assessing the Applicability of the Statutory Exception?

VI. Whether the Texas Abortion Law, as Applied to Impose Upon a Physician the Burden of Pleading and Proving That a Medical Abortion Procedure Was "procured or attempted by medical advice for the purpose of saving the life of the mother," Violates the Due Process Guarantee of Presumed Innocence and Invades the Privilege Against Self-Incrimination?

STATEMENT OF THE CASE

This appeal was taken by the parties in three independent civil actions heard and decided by a statutory three-judge United States District Court for the Northern District of Texas. *Roe* v. *Wade*, Civ. No. CA–3–3690–B (N.D. Tex., filed Mar. 3, 1970); *Doe* v. *Wade*, Civ. No. CA–3–3691–C (N.D. Tex., filed Mar. 3, 1970); *Hallford, Intervenor* v. *Wade*, Civ. No. CA–3–3690–B (N.D. Tex., filed Mar. 23, 1970).

I. Facts Regarding Appellants Which Gave Rise to the Actions

The facts which gave rise to these three actions will be considered in the context of each class of Appellant-Plaintiffs.

A. Jane Roe

Appellant Jane Roe sued as an unmarried pregnant adult woman on behalf of herself "and all other women who have sought, are seeking, or in the future will seek to obtain a legal, medically safe abortion but whose lives are not critically threatened by the pregnancy" (A. 12). At the time the action was filed, Jane Roe had been "unable to secure a legal abortion in Dallas County because of the existence of the Texas Abortion Laws" (A. 11). She had sought this medical procedure "because of the economic hardship which pregnancy entailed and because of the social stigma attached to the bearing of illegitimate children in our society" (A. 57).[4] Miss Roe admitted that insofar as her own interpretation of Texas law was concerned, her "life [did] not appear to be threatened by the continuation of her pregnancy" (A. 11), other than in a qualitative sense, and in the "extreme difficulty in securing employment of any kind" (A. 57) because of her pregnant condition.

Jane Roe suffered emotional trauma when unable to obtain a legal abortion in Texas (A. 11). She regarded herself as a law-abiding citizen and did not want to participate in a felony offense by obtaining an illegal abortion (A. 57). Also, she had only a tenth grade education and no well-paying job which might provide sufficient funds to travel to another jurisdiction for a legal abortion in a safe, clinical setting (A. 58).

In her complaint filed in federal court, Jane Roe alleged that the Texas abortion law deprived her of various fundamental personal rights protected by decisions of this Court and Amendments to the Constitution, including the "right to safe and adequate medical advice pertaining to the decision of whether to carry a given pregnancy to term."[5]

B. Mary and John Doe

Appellants in the second action are a childless married couple, suing on behalf of all married couples at risk of unwanted pregnancy, and fearful of adverse health consequences. Mary Doe presents the frequent case of a married woman whose health, but not life, would be seriously affected by unwanted pregnancy (A. 17). She has been so advised by her physician (A. 16), and this fact is not contradicted nor challenged in the record. Although her physician has told her to avoid pregnancy for these health reasons, he has also advised her, in light of a neural-chemical disorder, not to use the highly effective oral contraceptives (A. 16). Alternate methods of contraception present significant risks of failure, as detailed on pp. 43–44, *infra*, of this brief.

Mary and John Doe face a realistic risk of unwanted pregnancy which presently injures the harmony of their marital relationship. It was uncontradicted that they "face the choice of refraining from normal sexual relations or of endangering Mary Doe's health through a possible pregnancy" (A. 18). When the class action feature of the Doe claim is taken into account, it is clear not only that a large number of married couples faced a similar dilemma, but also that many of the class would become pregnant during the litigation and be unable to obtain legal abortions in Texas because of the delays involved in securing adequate judicial relief.

According to the 1965 National Fertility Study (NFS), among *married* couples in the United States, nearly 20 percent of all recent births were unwanted. Bumpass & Westoff, *The "Perfect Contraceptive" Population*, 169 SCIENCE 1177, 1180 (1970); Supp. App. 340, 342.[6] Of the 220,000 births in Texas in 1969,[7] 20% would equal 44,000 births resulting from an unwanted pregnancy. Not one of these 44,000 women, however, would have been adequately protected by a judicial proceeding brought *after* pregnancy had begun. A full fifteen weeks passed between the March 3, 1970, filing date of Mary Doe's complaint, and the June 17, 1970, date of the decision on the merits. The medical procedure of induced abortion after the twelfth week of pregnancy poses continually increasing hazards to the patient, as contrasted with the exceptionally safe procedures available in early pregnancy (A. 52; *see also* pp. 30–34, *infra*). For these sensible reasons, Mary and John Doe sought judicial relief to prevent the present injury caused by a realistic fear of unwanted pregnancy shared by the class. The Does raised constitutional claims similar to those of Jane Roe (A. 19–21).

C. James H. Hallford, M.D.

The third separate action was commenced by a complaint filed on behalf of Dr. Hallford as an intervening plaintiff (A. 24–35).[8] Dr. Hallford is a licensed physician in Dallas who complained of the regular and recurring effect of the statute. He pointed out that the statute's terminology gave no guidance as to how it should be applied in the common types of situations wherein a patient requested the medical procedure of induced abortion (A. 27–29, 33, 63–70). The verified complaint and affidavit of Dr. Hallford explain carefully how he and his patients were injured by the statute and the precise manner in which the statute affected his and their conduct in recurring types of instances (*Id.*). For example, his patients had included those seeking medical abortions because of rape, incest, cancer, uncertain or slight danger of suicide, and recent infection with German measles (rubella) (A. 64–65).

No administrative mechanism exists for interpreting the law; the language of the statute does not correlate with the regular and recurring medical indications of patients; and other physicians and hospital committees are extremely reluctant to implicate themselves in a definitive opinion, according to the exeprience of Dr. Hallford (A. 64–70). Moreover, the enforcement practices of police officers were devoid of any effort to seek an explanation from a physician of the reasons for a given abortion (A. 62). The burden of pleading and proving that an abortion was lawful rests with the physician in Texas. Law enforcement authorities and the courts assume that *all* medical abortion procedures are felonious unless the physician proves the contrary. See *Veevers* v. *State*, 354 S.W.2d 161 (Tex. Crim. App. 1962).

To rectify this on-going governmental invasion of the physician-patient relationship, Dr. Hallford brought this action. No relief was requested against the two indictments then pending against him (A. 73, 74). Dr. Hallford's claim was primarily against the continuing impact of the statute upon him, other members of the medical profession, and their patients.

II. Decision by the district court

Argument was heard from the plaintiffs in each action at a single hearing before the three-judge court (A. 75–110). On June 17, 1970, the court entered judgment and issued an opinion dealing with the substantive and procedural questions at issue (A. 111–126).

As to Mary and John Doe, the three-judge court refused to grant either declaratory or injunctive relief, and dismissed the complaint for lack of standing (A. 124). However, Jane Roe and Dr. Hallford were held to have standing to contest the statute.[9] Both presented a "ripe" case or controversy.[10] Abstention was deemed unjustifiable because no reasonably foreseeable state law interpretation would resolve the federal questions.[11]

On the merits, the three-judge court accepted the claims of plaintiffs that "the Texas Abortion Laws must be declared unconstitutional because they deprive single women and married couples of their right, secured by the Ninth Amendment, to choose whether to have children" (A. 116). Reliance was placed on decisions by this Court establishing "[r]elative sanctuaries for such 'fundamental' interest [as] the family,[12] the marital couple,[13] and the individual."[14] Further precedent was found in similar decisions by other federal and state courts,[15] as well as in a major treatment of the abortion question by Retired Justice Tom C. Clark, *see* Clark, *Religion, Morality, and Abortion: A Constitutional Appraisal*, 2 LOYOLA UNIV. (L.A.) L. REV. (1966); reprinted in Supp. App. at 315–326.

Not only were the statutes overbroad, and not justified by a narrowly drawn compelling State interest, but the language of the statutes was unconstitutionally vague. Although a physician might lawfully perform an abortion "for the purpose of saving the life of the [pregnant woman],"[16] the circumstances giving rise to such necessity

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Footnotes at end of article.

were far from clear. The district court detailed a few of the more apparent ambiguities:

"How *likely* must death be? Must death be certain if the abortion is not performed? Is it enough that the woman could not undergo birth without an ascertainably higher possibility of death than would normally be the case? What if the woman threatened suicide if the abortion was not performed? How *imminent* must death be if the abortion is not performed? Is it sufficient if having the child will shorten the life of the woman by a number of years? These questions simply cannot be answered" (A. 121).

After finding the Texas statute unconstitutional on two grounds, the district court considered the propriety of injunctive relief. Without noticing that no criminal prosecutions were pending against appellants Jane Roe, John and Mary Doe, and that Dr. Hallford had not requested specific relief from outstanding indictments, the court declined to enforce the declaratory judgments, citing *Dombrowski* v. *Pfister*, 380 U.S. 479 (1965) (A. 122). The result, which might reasonably have been foreseen by the lower court, was the issuance of a judgment without meaningful effect.

III. Impact of the denial of injunctive relief

In assessing the district court's judgment denying an injunction, it is necessary to look both to facts preceding the decision and those which followed. These will establish beyond a reasonable doubt that the bare declaratory judgment was ignored and was without force or effect.

Over one year after the declaratory judgment was rendered, Appellee-Defendant Wade's office openly avowed to "continue to enforce Articles 1191, 1192, 1193, 1194, and 1196 of the Texas Penal Code in all abortion cases in which indictments are returned by the Dallas County Grand Jury." A copy of the letter to that effect from District Attorney Wade's office to counsel for appellants is included as Appendix A to this brief, *infra*, at A–1.

As verified by Dr. Paul C. MacDonald, Chairman of the Department of Obstetrics and Gynecology, The University of Texas Southwestern Medical School at Dallas, the declaratory judgment had no effect at that institution which "is virtually the only source of medical services available to the medically indigent of Dallas and Dallas County . . . ." Affidavit of Paul C. MacDonald, M.D., Appendix B, *infra*, at B–1. "[T]he only marked impact of the *Roe* v. *Wade* decision was to increase the frustration felt by many of the faculty members . . . regarding the matter of abortion." *Id.* Appellee Henry Wade, District Attorney, is also the official legal counsel for the hospital staffed by members of the medical school faculty. A representative of Wade's office had communicated the decision to ignore the declaratory judgment to Mr. C. J. Price, hospital administrator, who had in turn conveyed the decision to Dr. MacDonald as follows:

"[P]ertinent points which the District Attorney's Office considers of importance are:

1. The law is still what it has been,

The Statutes pertaining to abortion are still on the books,

3. The District Attorney's Office has ruling [*sic*] by the Federal judges under appeal.

4. The Federal judges did not issue any injunctions against the District Attorney to preclude prosecution or following the state law . . . ." Appendix B, at B–4 to B–5.

Since but minimal respect for the federal declaratory judgment was shown by appellees, the medical profession had no choice but to yield to the official law enforcement policy. Otherwise, indictments would have been forthcoming.

Dr. Joseph Seitchik, Chairman of the Department of Obstetrics and Gynecology, The University of Texas Medical School at San Antonio, verified that the District Attorney of Bexar County considered that "the Texas law still stood and that it would still be enforced." Appendix C, at C–4. A similar understanding prevailed at The University of Texas Medical Branch, Galveston. According to Dr. William J. McGanity, Chairman of the Department of Obstetrics and Gynecology there,

"The situation regarding when, under what circumstances, and after what administrative procedures an abortion may be performed in John Sealy Hospital is exactly what it was prior to the June 17, 1970 decision of the three-judge court in *Roe* v. *Wade*. The decision has had no impact on medical practice in the Medical Branch hospitals." Appendix D, at D–3 to D–4.

Not only have the medical centers in Texas continued to fear prosecution after the June 17, 1970 declaratory judgment, but this fear has been realistic. Appendix E to this brief includes an indictment on abortion charges against a physician filed on June 8, 1971, almost a year after the federal decision, and illustrates the basis for anxiety. It is not difficult to understand why 728 Texas women travelled to New York City from July 1, 1970, to March 31, 1971, to obtain legal abortions. Chase, *Abortions to Out-of-State Residents* (June 29, 1971) (Report of the Health Services Administration, City of New York).

RELEVANT BACKGROUND AND MEDICAL FACTS

I. The medical nature of abortion

A. Spontaneous and Induced Rejection of Pregnancy

The standard text on obstetrics and gynecology defines abortion, both *spontaneous* and *induced*, as follows:

"Abortion is the termination of a pregnancy at any time before the fetus has attained a stage of viability. Interpretations of the word 'viability' have varied between fetal weights of 400 g (about 20 weeks of gestation) and 1,000 g (about 28 weeks of gestation). . . . Although our smallest surviving infant weighed 540 g at birth, survival even at 700 or 800 g is unusual." L. Hellman & J. Pritchard, Williams Obstetrics 493 (14th ed. 1971).

Both *induced* and *spontaneous* abortions amount to a rejection of pregnancy. The procedure of *induced* abortion differs from spontaneous not in the result, nor in the under-lying reason for the abortion but primarily in its being conscious and volitional. For example, a patient infected with rubella (German measles) may abort spontaneously, because her *body* rejects a badly damaged embryo. Another similarly situated patient may seek an *induced* abortion as part of a reasoned mental judgment to reject a damaged embryo in favor of a subsequent normal pregnancy. From this perspective, "spontaneous abortion can be regarded as an important biologic mechanism which has evolved in viviparous animals to deal with the numerous embryologic errors arising during development." Potts, *Postconceptive Control of Fertility*, 8 Int'l J.Gyn. & Obst. 957 (1970).

The importance and biologic necessity of spontaneous abortion cannot be denied:

"If spontaneous abortion did not occur, life as we know it would be impossible. At present approximately 1 in 50 of the population is congentially abnormal, but fortunately most defects are minor. If all the abnormal embryos that were conceived survived, then 1 in 10 to 1 in 5 of the population would be abnormal and most of the defects would be gross and incapacitating. Potts, *The Problem of Abortion*, in Biology and Ethics 3 (1969).

Spontaneous abortions cannot be brought about, under current technology, solely by the will of the patient. Yet, the bio-chemical systems of patients play an increasing role in what had previously been regarded as an accidental phenomenon. One recent study of spontaneously aborted embryo showed that 38% "had a chromosomal abnormality." Carr, *Chromosome Studies in Selected Spontaneous Abortions*, 37 Obstetrics & Gynecology 750 (1971). Not only do fetal defects frequently cause spontaneous abortion, but numerous other causes beyond the patient's control, and often working in her favor, appear to be involved. In fact, "[w]hen pregnancy is defined as beginning at fertilization or implantation, then the rate of spontaneous wastage is even higher and many approach 50%." *Potts, supra.*

No law requires that a patient seek or a physician provide treatment to prevent *spontaneous* abortion. Neither nature nor the law values an embryo which the patient's bio-chemical system rejects. In such cases the needs of the patient and the treatment provided by the physician are committed by law in every state to the discretion of the physician and patient. No hospital committees interfere with this relationship; no government programs seek to promote confinement and treatment in cases of threatened spontaneous abortion.

Indeed, spontaneous abortions before the fourth week of pregnancy are "perceived by the patient as delayed menstruation or may not be recognized at all." L. Hellman & J. Pritchard, Williams Obstetrics 496 (14th ed. 1971). This is perhaps the case because in early pregnancy, when the overwhelming number of all abortions take place, embryonic development has scarcely begun. "The 4 weeks old embryo measures 5 mm. [1/5 in.]. . . ." Shettles, *Fertilization and Early Development From the Inner Cell Mass*, in Scientific Foundations of Obstetrics and Gynecology 154 (E. E. Philipp, *et al.*, eds. 1970). As noted in standard embryology texts, "during these early stages, the development of all mammals is fundamentally the same. The specific characteristics of any form emerge but slowly, and relatively late. . . The illustrations of sections of 5-mm human embryos are quite applicable, for example, to similarly located sections of 5-mm pig embryos. The basic plan of early body structure is amazingly similar." B. Patten, Human Embryology 5 (3d ed. 1968).

The 5-mm embryo, for example, still has "a conspicuous *tail*. . . ." L. Arey. Developmental Anatomy 98 (7th ed. 1965((italics in original). Indeed, "[f]or the first week of development the human embryo is invisible to the naked eye. . . ." Potts, *The Problem of Abortion*, in Biology and Ethics 1 (1969).

Neither the medical profession nor state health authorities treat spontaneous or induced abortions prior to 20 weeks of development as events which in any way are comparable to the loss of human life. As one prominent physician recently stated:

"To the medical profession operating within its present framework, the conceptus, prior to twenty weeks of age, does not have the same legal status as one after that time. Should there be an untimely birth before twenty weeks, the act is considered an abortion, not a delivery, and is not listed on the mother's parity record. A birth or death certificate is not required and the body is handled as a pathological specimen without requiring legal interment." Ryan, *Humane Abortion Laws and the Health Needs of Society*, 17 W. Res. L. Rev. 424, 427 (1965).

B. Frequency of Medically Induced Abortion in the United States and Texas

In the United States on the whole, induced abortion under medical auspices was relatively restricted until 1967, when the first of twelve states, Colorado, enacted the American Law Institute abortion law proposal in the Model Penal Code.[17]

Only 5,000 therapeutic abortions were estimated to have been done in the United States medical facilities in 1963,[18] as contrasted with 200,000 to 1,000,000 unwanted pregnancies

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Footnotes at end of article.

thought to be termined annually outside of the clinical setting.[19] These are over and above the "nearly 20 percent of all recent births [which] were unwanted," according to the 1965 National Fertility Study (NFS). Bumpass & Westoff, *The "Perfect Contraceptive"* Population, 169 SCIENCE 1177, 1180 (1970).

Since 1967, the incidence of abortions in medical facilities has risen substantially, but only in the few states which have removed virtually all restrictions that previously differential abortion from other forms of medical treatment. In New York City alone, for example, approximately 120,000 abortions were performed between July 1, 1970 and March 31, 1971.[20] Nearly 40,500 of these women were not residents of New York State![21] 728 were from Texas, and a total of 36,006 were from states with the Texas-type restrictive law.[22] It goes without saying that only the well-informed and financed women from out-of-state were able to undertake the expense and effort to travel to New York.

C. Medical safety aspects of induced abortion in surgical practice

The law on abortion cannot be understood without reviewing the pertinent aspects of medical and legal history which gave rise to the law. When this is done, it becomes abundantly clear that public health considerations motivated this type of legislation, and that these factors no longer justify maintaining such stringent restrictions in the criminal code.

1. Induced abortion in 19th century medicine

In the 1820's when the first American abortion statutes were enacted, there was no medical profession as we know it. Physicians and quacks alike advertised their treatments and potions in the same marketplace. Both had little to offer the public.

Medical science, an infant branch of learning in the 1800's, did not uncover the need for clean hands in gynecological examinations until the 1840's. Even then, "[d]uring the period 1850–70, there was no gynecology worthy of the name. This had to wait for the twentieth century and the development of an understanding of ovarian function, recognition of the details of the menstrual cycle, establishment of safe surgery, and a host of other things. Obstetrics was, of course, old, but it was still in the hands of midwives whose only interest lay in practical problems." McKelvey, *Ninety Years of Obstetrics and Gynecology,* THE LANCET 242 (May 1960).

The first work published in this area was produced by none other than Oliver Wendell Holmes (Cr.), a physician who was better known as a writer and father of the great jurist. Holmes discovered that puerperal fever was spread by physicians who attended infected patients and corpses, and then went into the maternity wards without washing or changing clothes. These findings were first presented to the Boston Society for Medical Improvement on February 13, 1843. Holmes, *The Contagiousness of Puerperal Fever,* 1 NEW ENG. QUARTERLY J. OF MEDICINE 503 (1842–43).

Virtually simultaneous discoveries along the same lines were made by I. P. Semmelweis, working in Vienna:

"The story of Semmelweis is more generally known. His main work was done in the first Women's Clinic in Vienna, where he recognized that the horrible mortality rates from puerperal infection were the result of something which was introduced by the hands of the physicians who examined the women in labor. . . . The average mortality rate in this clinic for the year 1846 was 13.7 per cent, and almost all of this was due to puerperal infection. In May 1847, Semmelweis introduced careful hand washing with various compounds, and for the year 1848, the mortality rate dropped to 1.27 per cent."[23] McKelvey, *Ninety Years of Obstetrics and Gynecology,* THE LANCET 242, 243 (May 1960).

Not until 1867, however, did Joseph Lister put forth the novel concept that *in all surgery* antiseptic techniques were necessary to prevent infection and death. *See* Lister, *On A New Method of Treating Compound Fracture, Abscess, etc.,* 1 THE LANCET 328 (Mar. 16, 1867):

"In 1867, Lister published the first series of cases on the virtue of carbolic acid in the management of compound fractures. Of the 11 consecutive cases, one required amputation, and another died of secondary hemorrhage several months later. The remaining 9 recovered, a remarkable percentage in that era." J. TALBOTT, *Lord Lister (1827–1912)*, in A BIOGRAPHICAL HISTORY OF MEDICINE 755, 756 (1970).

Data on pre-Listerian mortality rates from simple, not to mention complex, surgery present a frightening spectacle.[24] A review of 19th century operations reported the following:

"There were the almost inevitable suppuration of the wound, the putrefaction and sloughing off of tissue, the sickening odor, the high fever, the danger of hemorrhage, the slow healing, the complications of blood poisoning, erysipelas, gangrene and tetanus, the physical and mental anguish, and the uncertainty of the final outcome. *The mortality from major operations was from 50 to 100 percent.*" F. S. LEE, SCIENTIFIC FEATURES OF MODERN MEDICINE (1911) (emphasis added).

Reports on gynecological surgery revealed a recurring theme. Relatively external surgery was undertaken cautiously and rarely. Internal surgery was frowned upon unless death were imminent. As an early history of gynecological surgery pointed out:

"General surgery in the first part of the nineteenth century was in the hands of more skillful surgeons, but it was the surgery of amputations, disarticulations, ligations of large vascular trunks and removal of superficial tumors. Gynecological surgery was limited to the removal of polyps, excision of a hypertrophied clitoris, incision of an imperforate hymen and attempts at repair of a third degree perineal laceration. The more daring undertook repair of a vesco- or recto-vaginal fistula, an occasional ovariotomy, a cervical amputation, or vaginal hysterectomy for malignancy, an abdominal hysterectomy for fibroids or an operation for abdominal pregnancy, amputation of an inverted uterus, drainage of a pelvic abscess and a rare extraction of an extra-foetal mass or even a full term living foetus, either by vaginotomy or abdominal incision. For the greater part of the century, no one ventured a laparotomy for removal of a tubal pregnancy or a tubo-ovarian inflammatory mass. But success and popularization of all these major therapeutic measures awaited the three fundamentals—anaesthesia, asepsis, and haemostatis which ushered in the golden age of surgery and operative gynecology." J. RICCI, DEVELOPMENT OF GYNECOLOGICAL SURGERY AND INSTRUMENTS 279 (1949).

The author emphasized not only the dangers of routine external surgery, but the near impossibility of a patient's recovery from any operation which involved entry into the abdominal cavity. With respect to this contrast in gynecological surgery, Dr. Ricci states:

"If ovariatomy was considered a dangerous operation during the greater part of the nineteenth century, prior to antiseptic decades, intra-abdominal uterine surgery was looked upon as almost impossible. While the most common cause of death in ovariotomy was peritonities, in uterine surgery the added facts of shock and hemorrhage increased the mortality rate. Thus ⅞ of the attempts to remove a fibroid uterus prior to 1863 were either abandoned or ended fatally. The voices of medical practioners rose in unison against this phase of surgery. C. D. Meigs 1848) stated that doing anything about those fibroids was hopeless. He detested all abdominal surgery save that which was clearly warranted 'by the otherwise imminent death of the patient.'" *Id.* at 501–502.

This did not end after 1867. Lister's techniques were slow to reach the United States, and even slower of acceptance. One American physician, Roswell Park, reported with horror his earliest experience in hospitals in this country:

"[W]hen I began my work, in 1876 . . . in one of the largest hospitals in this country, it happened that during my first winter's experience—with but one or two exceptions—every patient operated upon in that hospital, and that by men who were esteemed the peers of anyone in their day, died of blood poisoning, while I myself nearly perished from the same disease. This was in an absolutely new building, where expenditures had been lavish; one whose walls were not reeking with germs, as is the case yet in many of the old and well-established institutions." R. PARK, AN EPITOME OF THE HISTORY OF MEDICINE 326 (1898).

The same experience was reported everywhere in the United States. A significant chapter in this history is the contribution made by the Mayo brothers, who brought antisepsis and safe surgery to Minnesota, and the midwest, and then made improvements from which the remainder of the American medical profession could benefit and learn.

H. CLAPESATTLE. THE DOCTORS MAYO (1941), details this experience. The significant facts are as follows:

(1) By 1874 "only five attempts at ovariotomy[25] had been made in the entire state [of Minnesota]. . . . All five patients had died." *Id.* at 140.

(2) The Senior "Dr. Mayo piled up a record of thirty-six ovariotomies during the decade [1870–1879], with . . . a mortality of twenty-five per cent. . . ." *Id.* at 214.

(3) In the mid-1890's Drs. Will and Charlie Mayo began to perform appendectomies. "Although their mortality rate was not the thirty per cent admitted by some city hospitals it was still twelve to fifteen per cent too high to justify operation if the patient had a chance without it." *Id.* at 305.

(4) "Word of the work of Pasteur and Lister was getting around by 1880, but more as the story of an outlandish new fad than as the report of scientific truth." *Id.* at 143. It was only after a tour of hospitals on the continent of Europe, in 1889, that the Mayo brothers could envision "the prospect of a surgery of expediency, of operating that would not be just a last desperate throw of the dice with death but a means of restoring health. . . ." *Id.* at 269.

The year 1890 was separated by a continent and almost four decades from the 1854 enactment of abortion legislation in Texas.[26] Still, surgical dangers warned against any medical procedure. Induced abortion, in particular, involved internal use of surgical instruments, and the inevitable introduction of infection into the womb. Far better, the legislature obviously deemed, that a woman risk childbirth, than death on the operating table. Only when the risks cancelled themselves out did she have an option.

Today the comparative risks weigh heavily in favor of permitting induced abortion, not as an emergency matter as in 1851, but as an elective medical procedure. Surgery in those times was almost always fatal. As the next section shows, medicine is a different science today.

2. Induced abortion in contemporary surgery

Induced abortion, in medical practice today, is a relatively minor surgical procedure, insofar as risks to the patient's physical or mental well-being are concerned. This excep-

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Footnotes at end of article.

tional safety consideration was noted by Dr. John McKelvey, former head of obstetrics and gynecology at the University of Minnesota:

"Under ideal circumstances, abortions can be done with very little vital risk. The procedures which are open to the poor on the contrary can be very risky not only to the life of the individual but to her future health." McKelvey, *The Abortion Problem*, 50 MINN. MED. 119, 124 (1967).

The degree of safety can be readily seen by comparing patient mortality rates for induced abortion with those of childbirth and other typical medical procedures.

The maternal mortality rate in the United States for 1967 averaged 28.0 deaths per 100,000 live births. For non-whites the rate was almost three times as high, 69.5 deaths per 100,000 live births.[27] The comparable mortality rates for various surgical procedures in the United States, per 100,000 operations, have been as follows: [28] Appendectomy [29]—400 per 100,000; cholecystectomy [30] (gall bladder operation)—1,600 per 100,000; Tonsillectomy/adenoidectomy [31]—5.2 per 100,000.

In the years 1963 to 1968, therapeutic abortions were unavailable in the United States on any large scale. Most patients had to show serious physical or mental disease to obtain the procedure. Of the 9,722 therapeutic abortions in the 1963–68 survey by the Commission on Professional and Hospital Activities only a single death "unequivocally resulted from the operation." [32] This death represents the equivalent of a mortality rate of 10.3 per 100,000 therapeutic abortions. Even this figure is misleadingly high in that the abortion was induced by an abdominal operation (hysterotomy) which poses substantial hazards of its own. Nonetheless, a 10.3 rate is 2.7 times safer than childbirth, 38.8 times safer than appendectomy, and 155 times safer than cholecystectomy, all other factors being equal.

A more correct estimation of the surgical risks from induced abortion can be made by examining the induced abortion mortality rates from jurisdictions in which abortion is available as an elective procedure in cases of contraceptive failure.

The experience in New York State following the amending of the New York State abortion statute to permit elective abortion, the first such experience with abortion on a large scale in the United States, further demonstrates the safety of the procedure. 165,000 abortions were performed in New York City in the first eleven months under the new law. The mortality rate for legal abortion during this period was only 5.3 per 100,000.[33] New York City health officials expect this low rate to decline even further with time. According to City Health Administrator Gordon Chase, "the safety record is improving, probably because doctors are gaining experience with the procedure, and certainly because the proportion of first trimester abortions . . . has been increasing." "Complications are decreasing steadily in both early and later abortions. . . ." [34] That the mortality rate has already declined is evidenced by the fact that not one abortion mortality occurred in the last four months of the eleven month period.

In New York City the percentage of second trimester abortions, which in the City's experience entailed a six times higher complication rate than for first trimester abortions, has fallen to below 25%.[35] Only in eastern Europe, where "almost all legal abortions are performed in the first trimester of pregnancy with the majority in the second month," [36] have mortality rates dropped to as few as 1.2 per 100,000 operations (Hungary: 1964–67, 9 deaths, 739,000 legal abortions).

The extent to which elective induced abortion for healthy women is enormously safer than childbirth and various other medical procedures can be seen by tabulating the figures given above:

Medical Procedure or Event—Mortality per 100,000 procedures

Elective induced abortion (Hungary: 1964–67)	1.2
Tonsillectomy (U.S.: PAS 1969)	5.2
Elective induced abortion (N.Y.C.: 1970–1971)	5.3
Therapeutic induced abortion (U.S.: 1963–68)	10.3
Childbirth (U.S.: 1967)	28.0
Appendectomy (U.S.: PAS 1968)	400
Cholecystectomy (U.S.: PAS 1968	1,600

On another level as well, abortion is a safe procedure: it is without clinically significant psychiatric sequellae. A number of recent studies confirm that abortion does not produce serious psychological side-effects damaging to the mental well-being of the patient.[37]

In sum, the medical procedure of induced abortion, which is severely restricted by the statute involved in this case, is potentially 23.3 (28/1.2) times as safe as the process of going through ordinary childbirth and without psychiatric side-effects.

II. Legal and medical standards of practice regarding induced abortion in Texas and the United States

A. Induced Abortion at Common Law

At common law, abortion could be induced by a physician, midwife, or anyone without penalty, prior to the period of pregnancy called "quickening," *i.e.*, 16–18 weeks. *See* L. AREY, DEVELOPMENTAL ANATOMY 106–07 (Reference Table of Correlated Human Development) (1965 ed.). This principle was accepted in the overwhelming majority of American jurisdictions.[38] From 1828 onward, however, states began to modify the common law rule by legislation which prohibited all forms of abortion (other than spontaneous) at all stages of pregnancy.[39]

B. Legislative History of the Texas Abortion Law

The first Texas law deviating from the common law on abortion was approved February 8, 1954. TEXAS LAWS OF 1854, ch. 49, § 1, at 58, in 3 GAMMEL, LAWS OF TEXAS 1502 (1898). The text is set out in the note below.[40] Two years later, the law on abortion was modified [41] into language which is substantially the same as that of the statute currently in force, 2A TEXAS PENAL CODE arts. 1191–1194, 1196, at 429–36 (1961). Intervening revisions and codifications made no changes of any significance.

The sole evidence of statutory intent is found in the circumstances under which the 1854 Act was passed, and its derivation. As shown earlier in this brief, at pp. 26–29, the dangers of internal surgery in the mid-1800's were formidable. Public health justifications were readily available for outlawing all or most surgery, and intra-abdominal surgery in particular. Indeed, because of the demand for drugs and procedures for interrupting unwanted pregnancy, this area in particular required surveillance to protect the health of women from backroom practitioners, offering drugs and noxious things for bringing about a miscarriage.

Contemporaneous judicial explication of 19th century American abortion legislation can be found in an 1858 decision interpreting the 1849 New Jersey statute, which from all appearances was the likely model for the Texas statute. As stated by the highest court of New Jersey in *State* v. *Murphy*, 27 N.J.L. (3 Dutcher) 112, 114–15 (Supp. Ct. 1858):

"The design of the statute was not to prevent the procuring of abortions, so much as to *guard the health and life of the mother against the consequences of such attempts*. . . . It is immaterial whether the foetus is destroyed, or whether it has quickend or not. * * * "*The offense of third persons*, under the statute regards her as the victim of crime, not as the criminal; as the object of protection, rather than of punishment." (Emphasis added.)

The Reviser's Note to 1829 New York legislation plainly show the same purpose. A section was proposed, but not enacted, to prohibit all major surgical procedures:

"Every person who shall perform any surgical operation, by which human life shall be destroyed or endangered, such as the amputation of a limb, or of the breast, trepanning, cutting for the stone, or for hernia, unless it appear that the same was necessary for the preservation of life, or was advised, by at least two physicians, shall be adjudged guilty of a misdemeanor." [42]

The purpose of this bill was stated by the Revisers:

"Reviser's Note: The rashness of any young practitioners in performing the most important surgical operations for the mere purpose of distinguishing themselves, has been a subject of much complaint, and we are advised by old and experienced surgeons, that the loss of life occasioned by the practice, is alarming. The above section furnishes the means of indemnity [impunity], by a consultation, or leaves the propriety of the operation to be determined by the testimony of competent men. This offense is not included among the mal-practices in manslaughter, because, there may be cases in which the severest punishments ought not to be inflicted. By making it a misdemeanor, and leaving the punishment discretionary, a just medium seems to be preserved." [43]

Even religious doctrine with respect to abortion was unavailable in 1851 to support the law. Pope Pius IX's *Apostolicae Sedis* in 1869 was the first enduring break from the theory that an embryo had life at 40 days if male and 80 days if female. In 1854 induced abortion was not an excommunicable offense when undertaken in the early stages.

Today, only abortions performed in nonmedical environments present significant risks of morbidity and mortality; with proper medical supervision, abortions are safe and simple procedures. In keeping with modern medical practice, this Court would reinforce the purpose of early abortion legislation if it invalidated the statute. This would permit abortions to be done by licensed physicians in adequate medical facilities and discourage abortions by unskilled practitioners. Moreover, it would preserve the 117-year-old purpose of the law, and the common law.

C. CONTEMPORARY LEGISLATION ON INDUCED ABORTION

Item No. 1, p. 1 of the Supplementary Appendix to this brief contains an accurate chart on the current status of laws in the United States regulating the medical procedure of induced abortion. The statutes vary in restrictiveness. Those in Texas and thirty-one other states sharply limit the justifications for abortions to instances wherein the woman's life would otherwise be sacrificed.[44] Others, patterned after the UNIFORM ABORTION ACT (2d Tent. Draft 1970), follow the American Medical Association's position and that of the American College of Obstetricians, by treating induced abortion the same as spontaneous abortion—a medical procedure to be considered in light of the patient's overall life situation.

D. CONTEMPORARY STANDARDS OF MEDICAL PRACTICE REGARDING INDUCED ABORTION

1. National medical organizations

Evidence of American standards of medical practice respecting induced abortion is found in the policy statements of professional organizations. Both the American Medical Association and the American College of Obstetricians and Gynecologists have set standards of professional practice in recent years.

Footnotes at end of article.

ACOG policy sanctions therapeutic and elective abortion "to safeguard the patient's health or improve her family life situation." ACOG recognizes that "abortion may be performed at the patient's request. . . ." Supp. App. at 23. A very similar position was taken by the American Medical Association. The AMA at one time had followed the A.L.I. model, listing four or five vaguely defined situations for sanctioned abortion. This proved unworkable, and the policy was changed in order not to limit the physician's traditional responsibility for evaluating "the merits of each individual case. . . ." Supp. App. at 33.

From this it is clear that the Texas law sharply interferes with professional medical practice.

2. The Texas Medical Association

On May 6, 1966, a special committee to study and consider the modernization of abortion law in Texas was appointed as a result of a resolution adopted by the Texas Medical Association's House of Delegates, meeting in annual convention. This action was prompted by a resolution previously adopted by the Texas Association of Obstetricians and Gynecologists under the leadership of Dr. Hugh Savage calling for the T.M.A. to give serious study to determine the need for modernizing the Texas abortion law.

The Special Committee's report called for amendment of the Texas law to allow abortion in cases of rape, incest, impairment of the physical or mental health of the woman, or substantial risk of a child born with a grave physical or mental defect. The report was approved by the Executive Board of the Association on October 2, 1966. *Report of Executive Board*, TRANSACTIONS OF THE HOUSE OF DELEGATES, TEXAS MEDICAL ASSOCIATION 43 (1967).

The 1968 Report of the Special Committee on Abortion Laws in Texas, TRANSACTIONS OF THE HOUSE OF DELEGATES, TEXAS MEDICAL ASSOCIATION 79 (1968), included the results of a survey of Texas hospitals covering the years 1965–1967. The results indicated that 81 abortions had been done in Texas hospitals for fetal indications, 1 for rape, and 1 for incest, even though such abortions were illegal. It again concluded that the Texas abortion law should be changed.

Further studies were undertaken, and in 1968 a written poll was taken in which the Association's members were asked to state whether they felt the current Texas abortion law should be amended. Of the 9,338 doctors polled, 53% responded. 4,435 physicians stated that they desired a change in the present statute, while 536 responded negatively. Members were also asked to indicate the reasons for which an abortion should be performed. Maternal indications approved by those voting included physical health, mental health, socio-economic factors, and cases of criminal incest and rape. Fetal indications of viral diseases, drug-induced deformities, and diagnosed intrauterine abnormalities were approved. All of the maternal and fetal indications except socio-economic factors were approved by margins ranging from 10 to 1 to 100 to 1. Socio-economic factors were approved by a 3 to 2 margin. *Report of Special Committee on Abortion Laws in Texas*, TRANSACTIONS OF THE HOUSE OF DELEGATES, TEXAS MEDICAL ASSOCIATION 96 (1969).

On September 20, 1970, the Association's Executive Board adopted as policy the recommendation that:

"WHEREAS, Abortion, like any other medical procedure, should not be performed when contrary to the best interests of the patient since good medical practice requires due consideration for the patient's welfare and not mere acquiescence to the patient's demands; and

"WHEREAS, The standards of sound clinical judgment, which, together with informed patient consent should be determined according to the merits of each individual case; therefore be it

"RESOLVED, That abortion is a medical procedure and should be performed only by a duly licensed physician and surgeon in a licensed hospital acting only in conformance with standards of good medical practice, and after proper medical consultation; be it further

"RESOLVED, That no physician or other professional personnel shall be compelled to perform any act which violates his good medical judgment. Neither physician, hospital, nor personnel shall be required to perform any act which violates moral principles which they might hold." *Report of Executive Board*, TRANSACTION OF THE HOUSE OF DELEGATES, TEXAS MEDICAL ASSOCIATION (1970).

This resolution was adopted by the Association's House of Delegates at its 1971 annual convention with the following addition:

"RESOLVED, This definition of position shall not be interpreted as endorsement of abortion on demand or request; further, it shall not be interpreted as endorsement of the use of abortion as a part of a social movement."

III. Relationship between contraception and the medical procedure of induced abortion

Widespread lack of information about contraception, and significant contraceptive failure rates are two of the many factors which must be understood in assessing the impact of abortion laws on families and individuals in Texas and the United States.

A. Lack of Public Access to Information and Medical Service for Family Limitation by Use of Contraceptives

All too frequently it is presumed that people have access to and are able to use highly effective contraceptives, and are themselves at fault in cases of unwanted or unplanned pregnancy. This assumption could not be further from medical reality. Contraception is not widely available in the United States. In fact, Congress passed the *Family Planning Services and Population Research Act of 1970*, Pub. L. No. 91–572 (Dec. 24, 1970), with an overall appropriation exceeding $380 million "to assist in making comprehensive voluntary family planning services readily available to all persons. . . ." National studies on the magnitude of unwanted births, such as data from HEW's 1965 National Fertility Study, for example, showed:

"[In] the period 1960 to 1965 there were 4.7 million births that would have been prevented by 'perfect contraception.' These births represent one fifth of all births during the period. Approximately two million of these births occurred among the poor and the near-poor and half of these among Negro poor and near-poor." [45]

The most recent studies identify as a principal problem the absence of adequate information and services for people with a need to know about contraception, and when that fails, medically induced abortion. As late as the close of 1969, "some 4.3 million women in need of subsidized family planning services were not receiving them insofar as could be determined from reports of organized programs; no programs at all could be identified in 1,636 counties—53 percent of all counties—containing one-fourth of the unmet need. Services continue to be concentrated in relatively few populous counties. . . ." [46]

The basic 1968 study covered each State by county. In Texas a total of 355,120 medically indigent women in need of family planning information were shown to be unserved. This amounted to 89% of such women.[47] These individuals can hardly be thought to be able to protect their marital and personal privacy through contraception, when that is altogether unavailable to them.

Footnotes at end of article.

This deficiency is not confined to patents. Only a few short years ago, a review of texts used in medical schools revealed that "[t]wo thirds of the texts (25 texts) contained either no mention of contraception or only isolated reference to it, with no complete discussion." Tietze, *et al., Teaching of Fertility Regulation in Medical Schools*, 196 J. AMERICAN MEDICAL ASS'N 20, 23 (1966).

Patients have limited access to contraceptive methods and information. Physicians have limited willingness to prescribe contraception. As if this were not enough, contraceptive devices, techniques, and use are far from effective as a means whereby a family can determine how many children they will have and no more.

B. Ineffectiveness of Contraceptives Due to Significant Degree of Failure in Method and Use

The most effective contraceptive known, "the pill" or oral contraceptive, has in practice produced side effects "disagreeable enough to cause a 20 to 40 per cent drop-out rate" among those patients who were informed of and chose to use the method in the first place. E. NOVAK, *et al.*, TEXTBOOK OF GYNECOLOGY 647 (8th ed. 1970). The vast proportion of the population not receiving family planning services never reach that option, of course. Other methods are less effective in practice than the 99% effective oral contraceptive. *Id.* These range from the intrauterine devices, which pose problems of their own and vary in effectiveness, to abstention and rhythm, which are not seriously regarded by the medical profession in this century.[48]

The chart on the following page illustrates the contraceptive failure problem.

FAILURE RATES OF CONTRACEPTIVE METHODS

Method	Pregnancy rates for 100 woman-years of use [49]	
	High	Low
No contraceptive	[50] 80.0	80
Aerosol foam		29
Foam tablets	43.0	12
Suppositories	42.0	4
Jelly or cream	38.0	4
Douche	41.0	21
Diaphragm and jelly	35.0	4
Sponge and foam powder	35.0	28
Condom	28.0	7
Coitus interruptus	38.0	10
Rhythm	38.0	0
Lactation	26.0	24
Steriod contraception (the "pill")	2.7	0
Abortion	0	0
Intrauterine contraception (averages):		
Lippes loop (large):		
0 to 12 months	2.4	
12 to 24 months	1.4	

Source: Berelson et al., "Family Planning and Population Programs," University of Chicago Press, 1966.

SUMMARY OF ARGUMENT

This case presents three separate actions: (1) that of Jane Roe, an unmarried pregnant woman, who sues of behalf of herself and other women unable to obtain a legal abortion because of the Texas abortion laws; (2) that of John and Mary Doe, a childless married couple who sue on behalf of themselves and others similarly situated complaining of the adverse effect of the Texas abortion law on their martial relations; and (3) that of James Hubert Hallford, M.D., a Texas physician who intervenes on behalf of himself and other doctors similarly situated, alleging the constraint of the Texas abortion law on the practice of medicine.

The parties requested that articles 1191–1194 and 1196 of the Texas Penal Code, which make abortion a crime unless performed "upon medical advice for the purpose of saving the life of the mother," be declared unconstitutional and that Defendant Henry Wade be enjoined from instituting future prosecutions thereunder.

The three-judge federal court declared the statutes unconstitutional on two grounds: first "because they deprive single women and married couples of their right, secured by the Ninth Amendment, to choose whether to have children" and are overbroad and not supported by compelling state interests; and second because they are unconstitutionally vague. The court, however, refused to grant an injunction and found that John and Mary Doe had no standing.

Appellants appeal to this Court from the denial of injunctive relief and from the holding that John and Mary Doe have no standing; they urge the Court to go beyond jurisdictional points to a consideration of the merits of the statute in question.

Appellants urge first that John and Mary Doe do have standing to challenge the Texas abortion law and that they do present a case or controversy. The Does are complaining not of a future, anticipated injury resulting from the unavailability of legal abortions, but rather are complaining of the effect that unavailability is currently having upon their marital relationship. They are facing a dilemma forced upon them by the abortion statute: whether to discontinue normal marital intimacies or to risk contraceptive failure, which would be detrimental to Mary's health. Mary could not obtain a legal abortion in Texas since pregnancy would pose no immediate danger to her life. The continuing spectre of pregnancy is having a divisive effect upon their marriage. They are vitally affected by the Texas abortion law and do present a case or controversy within the meaning of those terms as established by prior decisions of this Court. *Flast* v. *Cohen*, 392 U.S. 83 (1968); *Investment Co. Institute* v. *Camp*, 401 U.S. 617 (1971).

Appellants urge that they are entitled to injunctive relief to effectuate the rights established by the decision of the three-judge court and that the court erred in refusing to grant the injunction.

Appellants have suffered and are continuing to suffer irreparable injuries which are both great and immediate, and there is no opportunity for them to eliminate the threat to their rights posed by the abortion statute through the defense of a single prosecution. Under the standards laid down in *Younger* v. *Harris*, 401 U.S. 37 (1971), they have brought their case within those special circumstances where Federal equitable relief against the enforcement of state criminal statutes is justified. *Ex parte Young*, 209 U.S. 123 (1908).

Appellants required an injunction to vindicate their rights; since no injunction was issued, appellee continues to consider the laws to be in force and effect and Dallas physicians, reasonably fearful of prosecution, continue to refuse to perform medical abortions. As a consequence, safe abortion procedures are no more available now in Texas than they were prior to the district court's decision holding the Texas law unconstitutional.

Further, appellants contend that injunctive relief was appropriate and should have been granted since no adequate state remedy is available (particularly as to appellants Roe and Doe) due to the unique Texas division of criminal and civil jurisdiction.

As to the merits, appellants contend that the Texas abortion law is unconstitutional since it interferes with the exercise of fundamental rights and is neither narrowly drawn nor supported by a compelling state interest. *Griswold* v. *Connecticut*, 381 U.S. 479 (1965). The law abridges rights emanating from the First, Fourth, Ninth, and Fourteenth Amendments to seek and receive health care, to privacy and autonomy in deciding whether to continue pregnancy, and, as to physicians, to administer medical care according to the highest professional standards. The right of personal and marital privacy has been recognized by this Court and by numerous state and lower federal courts, and is grievously infringed by the statute in question. The law is unconstitutional since it is overbroad and since it does not support any compelling state interest.

The primary interest asserted by appellee in the lower court was an interest in protecting fetal life, yet appellants have clearly shown that the state's position is fatally inconsistent since it does not exhibit any interest in or provide any protection of fetal life in any circumstance other than the medical procedure of abortion.

Additionally, the Texas abortion law is unconstitutionally vague since it gives no meaningful indication to physicians of the conditions under which an abortion may legally be performed.

Finally, the law in question imposes an unconstitutional burden of proof on a physician accused of having performed an abortion to establish that an alleged abortion was within the statutory exception established by article 1196.

In summary, appellants urge this Court to render a decision holding that the three-judge court erred in refusing to grant injunctive relief; that the three-judge court erred in holding that John and Mary Doe presented no case or controversy and did not have standing to challenge the Texas abortion law; and affirming the decision of the three-judge court that articles 1191–1194 and 1196 of the Texas Penal Code are unconstitutional.

ARGUMENT AND AUTHORITIES

Obviously a single brief cannot present all of the considerations which should be brought to bear on the issue of the constitutionality of the Texas abortion law. Beyond the authority applicable to the questions of injunctive relief and standing, Counsel for the Appellants have chosen primarily to amplify the constitutional issues relied upon by the lower court.

Counsel for Appellants invite this Court's attention to each of the *amicus curiae* briefs filed herein on appellants' behalf. Each presents unique aspects of legal, medical and social factors relating to the question of abortion which this Court is urged to consider in deciding the instant case.

I. The statutory three-judge district court was properly convened and had jurisdiction to grant declaratory relief to the three complaining classes of party plaintiffs.

A. The Class of Adversely Affected Married Couple: Mary and John Doe

1. Standing of Mary and John Doe

The uncontradicted allegations of Mary and John Doe have been discussed at pp. 10–11 of this brief. It is not contested that the Texas abortion law has a recurring, present adverse impact upon their marital relations. This Court has frequently upheld the standing of parties with far less at stake than marital harmony and overall health. As to standing in itself, there exists a "nexus between the status asserted by the litigant[s] and the claim[s] [they present]." *Flast* v. *Cohen*, 392 U.S. 83, 102 (1968). Laws regulating the medical procedure of induced abortion inevitably affect the class of married couples.

2. Case or controversy between the Does and defendant-appellee

Nothing in Article III nor considerations of judicial policy justified the determination below that the Does failed to present a case or controversy.

Regardless of the possibility that a married couple might present a *more* concrete controversy, Mary and John Doe satisfy all of the logical and constitutional prerequisites for invoking the jurisdiction of a court over their controversy with appellees.

Unspecified economic injury between a litigant and a *potential* business competitor was held to create a case or controversy in *Investment Co. Institute* v. *Camp*, 401 U.S. 617 (1971); *accord, Arnold Tours* v. *Camp*, 400 U.S. 45 (1970) (per curiam). Mary and John Doe, who assert a *present* personal injury to their marital harmony, not measurable in economic terms, are in a dilemma of far greater reality than that in *Investment Co. Institute*.

The Arkansas Monkey-Law case, *Epperson* v. *Arkansas*, 393 U.S. 97 (1968), is more akin to this problem. There a teacher posed a case or controversy with state officials because she was inhibited by a statute which had never been enforced. The inhibition in the present case is more serious. Both present a realistic case or controversy, and both cases have been vigorously pursued by the parties. The decisions above, and the long line of loyalty oath cases, show a realistic approach to Article III and recognize that the quantifiable impact of a statute, rather than the imminence of jail, is a sound criteria. *See also LSCRRC* v. *Wadmond*, 401 U.S. 154, 158–59 (1971); *Baggett* v. *Bullitt*, 377 U.S. 360 (1964).

B. The Class of Adversely Affected Pregnant Women Denied Medical Care: Jane Roe

1. Standing of Jane Roe

At the time she filed her complaint, Jane Roe was pregnant and had been denied a legal, hospital abortion in Texas because of the law. She sought to contest the statute on behalf of herself and others presently or in the future similarly situated. The lower court upheld her standing, and this has not been questioned.

2. Case or controversy between the Jane Roes and defendant-appellee

The fact that Jane Roe was forced to continue her pregnancy pending determination of her suit and that she could not then obtain a safe abortion does not moot the appeal in any sense, particularly in light of the class allegations. "The problem is . . . 'capable of repetition, yet evading review,' *Southern Pacific Terminal Co.* v. *ICC*, 219 U.S. 498, 515 (1911). The need for its resolution thus reflects a continuing controversy. . . ." *Moore* v. *Ogilvie*, 394 U.S. 814, 816 (1969). The case is the same as those in which events of nature or conduct by one of the parties threatens to obscure a substantial, on-going problem which must be finally resolved. *See e.g., Gaddis* v. *Wyman*, 304 F. Supp. 713, 717 (S.D. N.Y. 1969), *aff'd mem. sub nom. Wyman* v. *Bowens*, 397 U.S. 49 (1970); *Kelly* v. *Wyman*, 294 F. Supp. 887, 890, 893 (S.D.N.Y. 1968), *aff'd sub nom. Goldberg* v. *Kelly*, 397 U.S. 254, 257 n. 2 (1970). The 728 Texas women who were forced to travel to New York City for medical care from July 1, 1970, to March 31, 1971 [51]—a rate of 81 per month—illustrate the continuing controversy. This Court held that a "mere possibility of [recurrence] . . . serves to keep the case alive." *United States* v. *W. T. Grant Co.*, 345 U.S. 629, 633 (1953). In the present context, mere possibility has been replaced with the inevitability of Texas women being forced to seek out unknown doctors at medical facilities in distant states at great expense.

C. The Class of Adversely Affected Physicians Prohibited on a Regular and Recurring Basis From Providing Necessary Medical Care for Their Patients: James H. Hallford, M.D.

1. Standing of Dr. Hallford

The action on behalf of physicians, represented by Dr. Hallford, alleged throughout the abortion statute directly curtailed the interests in providing adequate medical advise and treatment for patients. These interests are aspects of "liberty," "property," and association directly protected by the Fourteenth and First Amendments. The opportunity to pursue one's profession is en-

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Footnotes at end of article.

compassed within the concepts of "liberty" and "property." This has been the teaching of decisions involving members of and aspirants to the bar, *Willner* v. *Committee on Character and Fitness*, 373 U.S. 96, 102–03 (1963); teachers, *Slochower* v. *Board of Higher Educ.*, 350 U.S. 551 (1956); scientists, *Greene* v. *McElroy*, 360 U.S. 474, 492 (1959); and physicians as well, *Birnbaum* v. *Trussell*, 371 F.2d 672 (2d Cir. 1966).

The present case, therefore, is wholly unlike *Tileston* v. *Ullman*, 318 U.S. 44 (1943) (per curiam). There a physician, who claimed no rights whatsoever of his own, sought declaratory relief against a statute which prohibited *patients* from using contraceptives. Here, physicians are drastically affected by direct enforcement provisions of the challenged statute. Tileston, however, had made "no allegations asserting any claim under the Fourteenth Amendment of infringement of [his] liberty or his property rights." 318 U.S. at 44. It is abundantly clear that the physician sub-class,

> "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions." *Baker* v. *Carr*, 369 U.S. 186, 204 (1962).

2. Standing of the physician-class to assert the rights of patients to seek the medical care of induced abortion

Dr. Hallford also invoked the rights of present, past, and prospective patients. A pregnant woman is generally in no position to undertake protracted litigation to establish her right to an abortion, and none has ever been prosecuted. Neither a physician's rights, nor those of his patients, should depend upon the ability to find a cooperative martyr.

This case, then, is a close parallel to *Griswold* v. *Connecticut*, 381 U.S. 479 (1965), because, "[t]he rights of [patients] are likely to be diluted or adversely affected unless those rights are considered in a suit involving [physicians] who have this kind of confidential relationship to them." 381 U.S. at 479.

Similarly, it has been held in abortion prosecutions that the physician may assert his patient's rights, a proposition which the lower court correctly accepted, and *California* v. *Belous* [52] considered so self-evident as to justify no more than a footnote. In fact, each federal and state court decision in recent months has concluded, without the need for extensive discussion, that physicians in both declaratory and defensive actions have standing to assert the rights of patients. *E.g., United States ex rel. Dr. Jesse Williams, II* v. *Zelker*, — F.2d. —, No. 35381 (2d Cir. July 2, 1971) (Tom C. Clark, J.); *Crossen* v. *Breckenridge*, —— F.2d ——, No. 20852 (6th Cir. June 23, 1971) (Miller, J.). *See also Truax* v. *Raich*, 239 U.S. 33 (1915); *Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925); *see generally* Sedler, *Standing to Assert Constitutional Jus Tertii*, 71 Yale L.J. 599 (1962).

Physicians, in light of their direct involvement in the day to day effects and enforcement of the statute, are situated in much the same way as the defendant-covenantor in *Barrows* v. *Jackson*, 346 U.S. 249 (1953), because here as there "it would be difficult if not impossible for the persons whose rights are asserted to present their grievances before any court." 346 U.S. at 257. In any medical context it is meaningless to speak of physicians without patients and patients without physicians. In law it would be equally meaningless to hold that a physician may not rely upon her or his patients' rights.

3. The recurring case or controversy between the physician-class and defendant-appellee

"There can be little doubt that fear of the law is a determining factor in the policy adopted by hospitals and surgeons, both in the United States and in Great Britain." G. Williams, The Sancity of Life and the Criminal Law 168 (1966). Medical professionals, commendably, do not habitually flout laws in order to contest their validity. This Court, and lower courts, should not force such anti-social conduct by taking an unduly narrow view of the Article III case or controversy requirement. Nothing in Article III, prior decisions by this Court, or considerations of judicial management remotely suggests that a physician must flout a statute, undertake piecemeal defense of repeated prosecutions and risk fines, imprisonment, and license revocation in order to challenge a law which poses concrete cases and controversies in the physician's office day after day.

The nature of the recurring case or controversy produced by the challenged statute is understandable, specific, and fully manageable within sound judicial procedures. Physicians do not simply "feel inhibited" by the restrictions on reasons and procedures for medical abortions in Texas. *See Younger* v. *Harris*, 401 U.S. 37, 42 (1971). They *are inhibited* in a very serious, plainly demonstratable, concrete, and specific manner.

Federal courts in Wisconsin,[53] Colorado,[54] Illinois,[55] North Carolina,[56] and Ohio [57] have faced the same questions of recurring case or controversy, and ruled in the manner suggested by Appellants.

Prospective lawyers are not required to be disbarred or refused admission to the bar in order to contest statutes which affect the conduct of law students. *LSCRRC* v. *Wadmond*, 401 U.S. 154, 158–59 (1971). The teachers in *Epperson* v. *Arkansas*, 393 U.S. 97 (1968), and *Baggett* v. *Bullitt*, 377 U.S. 360 (1964), did not face a court-imposed dilemma forcing them to flout an anti-evolution statute in the Scopes tradition, or risk entanglement in a perjury prosecution which might follow the signing of a loyalty oath.

Similarly, the drug companies in *Abbott Laboratories* v. *Gardner*, 387 U.S. 136 (1967), were permitted by this Court to make a broad attack on labelling regulations promulgated by the Commissioner of Food and Drugs. Physicians, even more than drug companies, "deal in a sensitive (profession), in which public confidence," 387 U.S. at 153, is especially important.

Indeed, even the earlier "ripeness" cases which found no controversy support the presence of a sufficient degree of justiciable adversity on the fact presented here.[58]

A bare majority in *Poe* v. *Ullman*, 367 U.S. 497 (1961), for example, fund no controversy over the unenforced Connecticut law against the use of contraceptives. Justice Frankfurter's plurality opinion relied upon four factors: (1) a history of non-enforcement of the statutes against physicians and patients. 367 U.S. at 501–02; (2) the fact that "contraceptives are commonly and notoriously sold in Connecticut stores. Yet no prosecutions are recorded. . . ." 367 U.S. at 502; (3) the absence of "real threat of enforcement," 367 U.S. at 507; and (4) the failure to find "deterrent effect . . . grounded in a realistic fear of prosecution." 367 U.S. at 508.

Each of these features is different in the present case, and additional considerations make this case even more appropriate for decision, on the merits.

(1) The Texas abortion statutes are regularly enforced by criminal prosecutions and license revocations. In addition, hospital committees in effect enforce the laws within their institutions. Neither *Poe* nor *Griswold* indicated that hospital committees in Connecticut regulated the prescription of contraceptives to patients.

(2) Abortions in Texas hospitals are obviously not "commonly and notoriously" available upon request.

(3) There is more than "real threat of enforcement" of the Texas abortion laws. There is frequent actual enforcement.

The above analysis considers the *Poe* plurality opinion in isolation and assumes the case was correctly decided. However, *Poe* was handed down over persuasive dissents by Justices Harlan and Douglas, and memorandum notations of dissent from Justices Stewart and Black. *Poe* has been repeatedly criticized and suggestions made that it be or was limited to its facts.[59]

Poe appears to be one of the exceedingly few decisions which requires a litigant to invite and undergo criminal prosecution. Ultimately, the physicians prevailed, seven-to-two, four years later. Suppose they had not? The *Poe* decision would have consigned them to accepting the penalty. Other decisions, as Justices Harlan and Douglas pointed out, dissenting in *Poe*, imposed no such Hobson's choice.

Justice Harlan's dissent in *Poe* undertook at length to demonstrate that the majority was in substantial error. 367 U.S. at 522–39. The Justice placed chief reliance on *Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925), and *Truax* v. *Raich*, 239 U.S. 33 (1915). Both permitted anticipatory relief to avoid damage caused by the present *effect* of a statute rather than imminence of enforcement. Significantly, in *Pierce*, "a Court which included Justices Holmes, Brandeis, and Stone rejected a claim of prematureness and then passed upon and held unconstitutional a state statute whose sanctions were not even to become effective for more than seventeen months after the time the case was argued. . . ." *Poe* v. *Ullman*, 367 U.S. 497, 538 (1961) (Harlan, J., dissenting). See also *West Virginia Board of Education* v. *Barnette*, 319 U.S. 624 (1943) (students allowed to challenge possible expulsions prior to actual dismissal, and prior to effective date of rule which, if enforced, would have required expulsion); *Terrace* v. *Thompson*, 263 U.S. 197, 216 (1923) ("They are not obliged to take the risk of prosecution, fines and imprisonment and loss of property in order to secure an adjudication of their rights").

Congress, in passing the Declaratory Judgment Act, recognized the need to provide a federal anticipatory remedy in lieu of defense to a criminal prosecution. A Senate Report reflected this specific concern:

> "It is often necessary, in the absence of the declaratory judgment procedure, to violate or purport to violate a statute in order to obtain a judicial determination of its meaning or validity." S. Rep. No. 1005, 73d Cong., 2d Sess., at 2–3.

In the instant case, physicians positively refrain from treating and advising patients for the reason that they fear criminal prosecution, or administrative sanctions. They are not uninterested citizens urging an academic question, but are a class of citizens greatly affected and deterred by the challenged statutes. As Professor Bickel suggested, in a slightly different context, "it may be true that by hypothesis no more suitable case can ever be constructed, because those who are unjustifiably deterred will never be prosecuted, and what deters them is precisely the prospect of litigation." [60]

In light of the considerations set out above, the lower court correctly recognized the claims of the physician class as presenting a recurring case or controversy within the meaning of Article III.

II. The three-judge court should have granted injunctive relief to the three complaining classes of plaintiffs

The relief sought by Appellants below did not include any order against actual pending or contemplated state court proceedings. Appellants' claims met the requirements of equitable jurisdiction, and posed a situation justifying injunctive relief against future

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enforcement of the abortion statutes. By denying the requested injunction, the Court below in effect failed to enforce the very Constitutional rights which that Court had found to be in jeopardy.

A. Injunctions Against Future Enforcement of State Criminal Statutes Are Proper Absent a Showing of Bad-Faith Enforcement for the Purpose of Discouraging Protected Rights

The District Court based its refusal to issue an injunction on an erroneous interpretation of *Dombrowski* v. *Pfister*, 380 U.S. 479 (1965), stating that:

"This federal policy of non-interference with state criminal prosecutions must be followed except in cases where 'statutes are justifiably attacked on their face as abridging free expression,' or where statutes are justifiably attacked 'as applied for the purpose of discouraging protected activities.' *Dombrowski* v. *Pfister*, 380 U.S. at 489–490. Neither of the above prerequisites can be found here." *Roe* v. *Wade* (314 F. Supp. at 1224; A. 122).

The district court's opinion seemed to require literal threats of bad-faith prosecution for the purpose of discouraging plaintiffs' constitutionally-protected activities before the plaintiffs would have been entitled to an injunction. However, the quoted phrases from *Dombrowski* relate to the appropriateness of abstention in cases where a statute might be construed by a state court to be inapplicable to the conduct of the federal court plaintiff. While the facts in *Dombrowski* included a threat to freedom of expression and bad faith on the part of the local law enforcement officials, the case should not be read as a restriction of the law relating to equitable relief from unconstitutional criminal statutes.

The correct standard by which the claims of the appellants for injunctive relief should have been judged was restated by Mr. Justice Black in *Younger* v. *Harris*, 401 U.S. 37, 47 (1971). The plaintiff must show: (1) irreparable injury; (2) that the irreparable injury is both great and immediate; and (3) that the threat to plaintiff's federally protected rights is one that cannot be eliminated by his defense against a single criminal prosecution. *Ex parte Young*, 290 U.S. 123 (1908), and injunction cases decided since, indicate that the three prerequisites for injunctive relief may be met absent actual threats of bad-faith enforcement.

The actions resulting in *Ex parte Young*, 209 U.S. 123 (1908), were initiated on the day *before* the statute in question took effect. It was not until a temporary injunction had been issued against the attorney general of Minnesota that he took any action against the railroad involved. The pleadings of the plaintiffs merely alleged that *should* the railroad fail to observe the law, "such failure *might result* in an action against the company or criminal proceeding against its officers . . ." *Id.* at 131 (emphasis added). In fact, the plaintiffs were stockholders in the railroad and could not have been subjected to either civil or criminal action. Their interest was only monetary.

In *Truax* v. *Raich*, 239 U.S. 33 (1915), the plaintiff filed his bill in the district court one day after the statute in question (establishing penalties against employers who employed fewer than 80 per cent native-born citizens) was signed into law. The immediate and irreparable injury about to be suffered by Raich, an alien, was that his employer, fearing criminal sanction, was planning to discharge him. After Raich applied for an injunction against the local prosecutor, the employer was arrested. Raich was not arrested, nor was he threatened. There were no allegations of bad faith. Rather, this Court emphasized the inadequacy of the plaintiff's remedy at law and spoke of the exception to the rule against interference with criminal prosecution that existed, "when the prevention of such prosecutions is essential to the safeguarding of rights of property. The right to earn a livelihood and continue in employment unmolested by efforts to enforce void enactments should similarly be entitled to protection. . . ." 239 U.S. at 37–38. (Citations omitted.)

In *Terrace* v. *Thompson*, 263 U.S. 197 (1923), this Court spoke of the "threatened enforcement of the law" in question as being subject to an injunction if necessary to protect federal rights. There was no allegation that the threats were anything more than good-faith willingness on the part of the state officials to enforce a law on the books.

Hygrade Provision Co. v. *Sherman*, 266 U.S. 497 (1925), involving a New York statute establishing penalties for falsely representing meat as "kosher," perhaps represents the "low-water" mark in the quality of allegations necessary to support equitable jurisdiction. The offenses in question were classified as misdemeanors with a maximum fine of $500.00, and the "threats" of prosecution were general, directed to the public. Yet, the Court's unanimous opinion stated that: "if the statutes under review are unconstitutional, appellants are entitled to equitable relief. . . ." 266 U.S. at 500.

Perhaps because of a constant parade into the federal courts of litigants such as those in *Hygrade*, whose anticipated injuries consisted of small fines under economic regulation statutes, this Court began to tighten the prerequisites for equitable interference with state criminal statutes. Thus, in a series of economic regulation statute cases including *Fenner* v. *Boykin*, 271 U.S. 240 (1926); *Beal* v. *Missouri Pac. R.R. Corporation*, 312 U.S. 45 (1941); *Spielman Motor Sales Co.* v. *Dodge*, 295 U.S. 89 (1935); and *Watson* v. *Buck*, 313 U.S. 387 (1941); this Court somewhat narrowed the factual requirement necessary to obtain an injunction. That the substantive law was not changed or narrowed can be gleaned from the individual facts of the cases. In *Fenner*, the state statute made participation in certain assignments for purchase or sale of future commodities a crime. The plaintiffs were commodity dealers. The district court concluded that the statute only applied to gambling transactions, and dismissed the bill. This Court affirmed holding that the plaintiffs should first set up their defense in state court, unless it plainly appeared that such a course would not afford adequate protection. *Fenner, supra*, at 244. Thus, not only was it unclear that the statute jeopardized the plaintiff's federal rights, but it was clear that the validity of the statute depended upon whether it would apply to plaintiffs.

Spielman involved a misdemeanor statute with a maximum $500 fine. The defendant-prosecutor stipulated only one prosecution until a decision on the constitutionality of the state statute was reached and it was not clear that plaintiff's business would be seriously hurt. This Court stressed that the injury must be both great and immediate to warrant equitable relief. Obviously from the facts, Spielman's anticipated injury was not.

Beal also dealt with the problem of single versus multiple prosecutions. The penalty was a fine and it was an issue of fact, undecided by the district court, whether multiple prosecutions were contemplated. If there was to be only one, this Court felt that the injury entailed in a single defense with only the possibility of a fine at stake was not great enough to warrant injunction. *Beal, supra*, at 50.

In *Watson*, the statutes in question (regulating music copyrights) were extremely complicated and had not been construed by the state courts. The district court had enjoined enforcement of the entire statute, whereas only part of it was constitutionally suspect. Whether multiple prosecutions were contemplated was also in doubt. In fact this Court spoke of "an absence of any showing of a definite and expressed intent to enforce particular clauses of a broad, comprehensive and multi-provisioned statute." *Watson, supra*, at 400.

Contrasted with the above cases, the facts of *Hague* v. *CIO*, 307 U.S. 496 (1939), decided during the same period, are particularly enlightening. There, the injuries alleged involved ordinances which among other things flatly prohibited distributing any newspapers, paper, periodical, book, magazine, circular, card or pamphlet on any public street or public place. The plaintiffs had been denied the right to meet, had been arrested and at times "thrown out of town." While much was said in the opinion concerning the "rights and immunities" of citizens of the United States and the states, and whether free speech and assembly were included in the Civil Rights Acts, there was never any indication that only violations of speech and assembly rights would establish a case for equitable relief.

In *Douglas* v. *City of Jeannette*, 319 U.S. 157 (1943), an injunction was denied but the decision did not hinge on the question of threats or bad-faith enforcement to discourage federally protected rights. First, the ordinance was general, relating to all peddlers and was only unconstitutional as applied to plaintiffs and other Jehovah's Witnesses; second, there was no factual allegation of multiple prosecutions and it appeared that the plaintiffs could completely present their claims in the defense of a single suit—especially since this Court had that day held the statute void as to those in plaintiffs' class; third, since the ordinance was not void as to all applications, the district court would have had to attempt to envision all possible applications, enjoining some and leaving others alone; and finally, the rather unique situation that existed in this Court's having declared the ordinance as applied unconstitutional in a companion case effectively mooted whatever injuries might have been suffered in the future by the plaintiffs.

Stefanelli v. *Minard*, 342 U.S. 117 (1951), and *Cleary* v. *Bolger*, 371 U.S. 392 (1963), are often cited as precedents against injunctions involving state criminal process, but both cases involved pending prosecutions. The rights in jeopardy were procedural rather than substantive and involved only the single trials in which the plaintiffs were being prosecuted. Also, another policy, that of avoiding piecemeal review of cases, militated against an injunction.

In *Dombrowski* v. *Pfister*, 380 U.S. 479 (1965), this Court spoke again of the reluctance of federal courts to intervene when a plaintiff's rights might be fully determined in the defense and ultimate Supreme Court review of a single indictment, but held that such was not the situation in the case being considered.

"[T]he allegations in this complaint depict a situation in which defense of the State's criminal prosecution will not assure adequate vindication of constitutional rights." 380 U.S. at 485.

The rights could not be vindicated by setting up a defense in a criminal trial because the prosecutions were in bad-faith and for the purpose of harassment. The special vulnerability of speech to such tactics made the injuries irreparable, immediate and great. This, taken with the bad-faith prosecutions, made out a case for equitable relief. That free expression and bad faith on the part of state prosecutors were the determinative factors in *Dombrowski* cannot be denied, but to hold that these are the only factors justifying an injunction is to ignore the substantive law contained in *Ex parte Young*, 209 U.S. 123 (1908), *Traux v. Raich*, 239 U.S. 33 (1915), and other cases cited above while keying upon the peculiar factual situation to which the substantive law was applied in *Dombrowski*.

That *Dombrowski*-type situations are not the only cases in which federal interference is justified was affirmed by this Court last term in the case of *Wisconsin v. Constantineau*, 400 U.S. 433 (1971). There the threats to the plaintiff's rights were not in the form of threats of prosecution either in good or bad faith. The only criminal sanctions involved applied to those who sold alcoholic beverages to persons whose names had been posted. The statute itself, by allowing officials and relatives to "post" a person's name without notice or hearing, posed the threat to the plaintiff's rights. The rights could not be vindicated by defending a single state prosecution.

B. The question of relief by injunction against the Texas abortion statute is not foreclosed by the decisions in Younger v. Harris and Companion cases

Younger v. *Harris*, 401 U.S. 37 (1971), *Samuels* v. *Mackell*, 401 U.S. 66 (1971), *Dyson* v. *Stein*, 401 U.S. 200 (1971), *Byrne* v. *Karalexis*, 401 U.S. 216 (1971), *Boyle* v. *Landry*, 401 U.S. 77 (1971) and *Perez* v. *Ledesma*, 401 U.S. 82 (1971), all involved, in part, the requested injunction of a *pending* prosecution. Since those plaintiffs who were being prosecuted did not make out a case of bad faith on the part of the local officials, they failed to satisfy the requirement that the threats to their rights must be such that they could not be vindicted in the defense of a single prosecution. As Mr. Justice Stewart pointed out in his concurring opinion to *Younger* v. *Harris*, 401 U.S. 37T, 54–55 (1971):

"[T]he Court today does not resolve the problems involved when a federal court is asked to give injunctive or declaratory relief from *future* state criminal prosecutions."

Although the plaintiff, Dr. Hallford, was being prosecuted under the Texas Abortion Statutes at the time he filed his motion to intervene and complaint, he requested an injunction only against future prosecutions under the statutes, reserving the right to ask for an injunction against the *pending* prosecutions against him (A. 34). In fact, as the record discloses, he never asked the district court to enjoin the pending prosecutions. Plaintiffs Roe and Doe were not in any sense involved in the pending prosecutions. Under the authority of *Hale* v. *Bimco Trading, Inc.*, 306 U.S. 375 (1939), neither the Anti-Injunction Statute, 28 U.S.C. § 2283, nor collateral court-made rules relating to comity would bar their actions as strangers to the pending prosecution of Dr. Hallford. To hold otherwise would be to ignore that three different rights are being claimed: (1) The physician's right to perform an arbortion; (2) the pregnant woman's right to obtain an abortion and (3) the married couple's right to the assurance of abortion as a back-up procedure to protect their marital harmony. Dr. Hallford might fail to vindicate his rights in defending the criminal action. He may rely in part upon the rights of his patients, but there is no guarantee that those rights will be reviewed by this Court. Plaintiffs Doe and Roe are not required to leave the defense of their personal rights to another. *Pearlman* v. *United States*, 247 U.S. 7 (1918). The fact that the pending state action did not involve the same parties as the federal action eliminates the danger the type of gratuitous interference with state court litigation spoken of in *Brillhart* v. *Excess Ins. Co. of America*, 316 U.S. 491, 495 (1942).

In both *Younger* v. *Harris*, 401 U.S. 37 (1971), and *Boyle* v. *Landry*, 401 U.S. 77 (1971), there were plaintiffs who were not being prosecuted under the statutes in question. However, in both instances it was not clear that the statutes prohibited what those plaintiffs wished to do. In *Boyle* the statute involved threatening to commit a criminal offense. The majority opinion by Mr. Justice Black indicates that the plaintiffs were asking for an injunction because they feared bad-faith enforcement of the statutes, not because the statutes on their face forbade any activity in which plaintiffs wished to participate. Since no facts showing that actual threats or arrests had been received were introduced in the district court, plaintiffs failed to make out a case of bad-faith harassment. In *Younger*, the three plaintiffs who were not being prosecuted only alleged that they felt "inhibited" by the statute. It was not clear that the statute would apply to them, nor that their inhibitions were at all justified. *Younger* v. *Harris, supra*, at 57, 58 (Mr. Justice Brennan concurring).

By contrast, Plaintiffs Roe, Doe and Hallford in the present case presented factual allegations to the District Court which clearly brought them within the criteria necessary to invoke equitable relief from the statute. Whether the rights alleged by the plaintiffs are federally protected has yet to be decided by this Court, and arguments related to those rights are treated in this brief in the section on the merits of the statutes in question. Similarly, the arguments relating to the impact of an unwanted pregnancy and a physician's right to use his best medical judgment are also treated elsewhere in this brief. It is enough for purposes of this section to point out that in the case of plaintiff Jane Roe and the class she represents, the economic, social, psychological, and physiological effects of being forced to go through an unwanted pregnancy and deal with an unwanted child certainly represent irreparable injuries. When she and those in her class are forced to continue an unwanted pregnancy their lives are irremediably altered. They have no action for damages or any other traditional legal action which in fact or theory can remedy their situation. That problems concerning pregnancy are both great and immediate obviously follows from even a cursory consideration of the nature of the condition. Plaintiff Roe and those in her class cannot eliminate the threat to their rights by setting up a defense in a single prosecution or any number of prosecutions since under Texas law a woman upon whom an abortion is performed cannot be prosecuted as either a principal or an accomplice. *Gray* v. *State*, 77 Tex. Cr. R. 221, 178 S.W. 411 (1915); *Moore* v. *State*, 37 Tex. Cr. R. 552, 40 S.W. 287 (1897). Plaintiff Roe in her complaint and in her affidavit, which was uncontroverted by the defendant, presented a factual resume consisting of pregnancy out-of-wedlock, social stigma and economic hardship due to that pregnancy, a desire to put an end to that condition, and an inability to do so under conditions which would not jeopardize her life. That there are many in her situation is uncontroverted. If Jane Roe and those in her class have a constitutional right to an abortion, there is but one way to effectuate that right—by enjoining the enforcement of the statute so that physicians will be willing to attend to their health needs.

Plaintiffs John and Mary Doe presented claims and facts to the District court which showed a pervasive and continuing injury to their most intimate marital relations. The Texas abortion statute poses a constant threat to their ability to plan their family and avoid possible injury to Mary Doe's health. Each day that they must face this uncertainty represents a great and immediate injury. Like Plaintiff Roe, there is no way that they can eliminate this threat to the rights of marital privacy by setting up a constitutional defense in a criminal prosecution. Mary Doe could not be prosecuted. While her husband could theoretically be prosecuted as an accomplice should Mary undergo an illegal abortion, his defense on constitutional grounds would come too late to prevent the disruption of their marital relations prior to pregnancy. For it is not their right to end an unwanted pregnancy at present that is being violated by the statute, but rather, the right to engage in normal marital relations with the assurance that should contraception fail, Mary's health would not be endangered. Again, if John and Mary have a constitutional right to the availability of abortion as means to insure normal marital relations, there is only one way they can be secure in that right—the enforcement of the statutes must be enjoined.

Plaintiff Dr. Hallford's threatened rights include his license to practice medicine and earn a livelihood, his right to administer to his patients to the best of his medical ability, and his right to be free from arbitrary regulation which furthers no legitimate state interest. The abortion statute and its enforcement pose a constant threat and interference to those rights. Of course, Dr. Hallford's case for equitable relief differs in one respect from that of the other plaintiffs. He is being prosecuted, so that theoretically he could vindicate his rights by his defense in the criminal prosecution. However, several problems arise in this context. Under Texas law, the State has no appeal in any criminal case. TEX. CODE CRIM. PROC., art. 44.02, TEX. CONST., art. 5, § 26. Therefore, even if Dr. Hallford's trial judge determines that the abortion statute is unconstitutional, the decision would affect only that trial judge. Should Dr. Hallford perform an abortion in the future not within the statutory exception, he could be brought to trial again in a different court before another trial judge who would in no way be bound by the first judge's ruling. Also, how far must Dr. Hallford go in attempting to vindicate his rights? Must he deliberately eschew all other defenses save that based on the Federal Constitution so as to be sure that the issue will be preserved for ultimate review by this Court? If he is acquitted by the jury on the facts he can be prosecuted again if he perform abortions in the future.

C. No Effective State Remedy was Available to Appellants Roe and Doe

The underlying considerations for the professed policy against federal court interference with state criminal process have been stated by this Court many times. They include basic factors unique to federalism, a reluctance to embarrass state officials, and the fact that state courts are under a duty to protect constitutional rights. Despite these considerations, this Court has affirmed time and again that when absolutely necessary to protect federal rights the policy may be set aside. Certainly one basic factor to be considered in determining whether such absolute necessity exists is the availability of a state remedy by which one whose rights are affected may test the allegedly unconstitutional statute.

Due to a rather unique situation existing in Texas, Plaintiffs Roe and Doe had absolutely no effective method of testing the Abortion Statutes in a state court.

The Texas Declaratory Judgment Act, TEX. REV. CIV. STAT. art. 2524–1, only provides a remedy for determining property rights. Furthermore, the general rule is that there is no right to a declaratory judgment involving any penal statute unless property rights are concerned. *State* v. *Parr*, 293 S.W. 2d 62 (Tex. Crim. App. 1956); [61] *Bean* v. *Town of Vidor*, 440 S.W.2d 676 (Tex. Civ. App. 1969).

Likewise, the same general rule applies to injunctions against enforcement of a penal statute. They are not allowed unless property is about to be destroyed. *City of Austin* v. *Austin City Cemetery Ass'n*, 28 S.W. 528 (Tex. 1894); *City of Richardson* v. *Kaplan*, 438 S.W.2d 366 (Tex. 1969).

While the Texas Supreme Court recently held in *Passel* v. *Fort Worth Independent School District*, 440 S.W.2d 61 (1969), that it would be possible in the case of an unconstitutional statute to obtain an injunction

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even though only personal rights are involved, the opinion pointed out that in that case the plaintiffs were not seeking to enjoin prosecutions. *Id.*, at 63.

At best the practical availability of the remedies is still questionable, especially if one seeks to enjoin prosecution under a penal statute. But even if Plaintiff Roe or Plaintiffs Doe could manage to obtain an injunction in state court restraining enforcement of the abortion statutes, they would still not have an effective remedy. The Texas Constitution, Article 5, § 3 grants appellate jurisdiction over civil matters to the Texas Supreme Court, while Article 5, § 5 gives appellate jurisdiction over criminal matters to the Texas Court of Criminal Appeals. Thus if Plaintiffs sought the civil remedy of an injunction, their case would eventually be reviewed in the Texas Supreme Court. But a judgment in their favor from that court would be, in effect, useless since the Supreme Court has ruled that it has no jurisdiction to mandamus a trial court to dismiss a prosecution, even though the statute in question is clearly unconstitutional, because to do so would encroach upon the jurisdiction of the Court of Criminal Appeals. *Pope* v. *Ferguson*, 445 S.W. 2d 950 (Tex. 1969). And in *State ex rel. Flowers* v. *Woodruff*, 200 S.W. 2d 178, 182–183 (Tex. Crim. App. 1947), the Court of Criminal Appeals issued a writ of prohibition to a district court prohibiting it from enforcing its injunction against enforcement of a penal statute, saying that the district court had no jurisdiction to enjoin a penal statute. To do so would deprive the Court of Criminal Appeals of its jurisdiction.

As might be expected there are problems concerning the precedential value of one court's opinion over the other. A dramatic illustration of the problem may be found in *Barnes* v. *State*, 170 S.W. 548, 554 (Tex. Crim. App. 1914), where the Court of Criminal Appeals was dealing with a penal statute which had been ruled constitutional by the State Supreme Court. The Court of Criminal Appeals pointed out that the two courts were of equal dignity, said the Supreme Court's opinion was not binding in any way, and held the statute to be unconstitutional.

Thus had the plaintiffs resorted to state court they could have *at best* gotten a declaratory judgment or injunction which could not be enforced and possibly a decision that would not preclude future prosecutions under the statute. As has been stated before, they could not be prosecuted under the statutes. They were completely without state remedy. Surely no concept of federalism can dictate that these plaintiffs must live with a law that vitally affects their lives—not on occasion, but each day and yet have no right to test that law in a court—anywhere.

D. The Existence of a Pending Prosecution Against One of the Plaintiffs Below Does Not Foreclose Equitable Relief Against Future Prosecutions

Under the *holdings* of this Court, the special considerations and facts present in this case make it one in which federal intervention by injunction is both necessary and proper. The fact that all plaintiffs brought class actions; that no injunction against pending prosecutions was asked; that even if injunctive or declaratory relief might be considered improper in Dr. Hallford's case because of the decision in *Samuels* v. *Mackell*, 401 U.S. 66 (1971), plaintiffs Doe and Roe are claiming rights which are distinct from those of Dr. Hallford and do not and should not have to rely upon him to vindicate those rights; and finally that while Dr. Hallford may have some opportunity to present his claims at the defense of his prosecution, Plaintiffs Doe and Roe have no opportunity whatsoever to test the statutes either by incurring prosecution or seeking state ajudication of their rights, leave no doubt that the *actual holdings* of this Court do not foreclose all of the plaintiffs.

However, certain language in the majority opinion of *Samuels v. Mackell, supra*, at 72–73, and Mr. Justice Brennan's separate opinion in *Perez* v. *Ledesma*, 401 U.S. 93, 118–121, is susceptible to two different interpretations. It might be concluded that in speaking of the reluctance of federal courts to interfere with pending state prosecutions, the same considerations apply to both prosecutions pending against the parties before the federal court and any other prosecutions. Such an interpretation, however, is not only a direct departure from precedent, but if adopted would cause hopeless confusion among the federal courts and render the procedure of testing unconstitutional statutes by suit for injunction into a theoretical tool of interest only to historians.

That such an interpretation is not dictated by *Younger* v. *Harris, supra*, and companion cases is demonstrated by the fact that in both *Younger and Boyle v. Landry, supra*, this Court determined the appropriateness of the relief, which was requested by the plaintiffs who were *not* being prosecuted, on traditional equitable grounds, rather than by merely stating that the pending prosecutions against their co-plaintiffs foreclosed any discussion.

In the present case, Plaintiffs Roe and Doe initially brought their actions with no knowledge of the prosecution pending against Dr. Hallford. Because of his intervention the fact became apparent. Were there other prosecutions pending in other parts of the state? At the time the actions resulting in *Dombrowski* v. *Pfister*, 380 U.S. 479 (1965), were brought, were there other, *good-faith* prosecutions pending in another part of the state? Must a federal plaintiff in Texarkana, Texas, ascertain that the statute he is contesting is not the basis of a prosecution in El Paso, Texas, 780 miles away and must the three-judge court also determine that fact? Obviously, if the statute in question has any vitality at all, there is always the danger that somewhere a state prosecution is pending which will be "affected," if not legally then psychological, by either an injunction or declaratory judgment.

The special concerns over friction between the Federal and State judiciaries do not dictate that injunctions against future prosecutions should never issue when there is a pending state prosecution dealing with the statute in question. Obviously, in the situation posed in *Steffanelli* v. *Minard*, 342 U.S. 117 (1951), and *Cleary* v. *Bolger*, 371 U.S. 392 (1963), friction would be imminent, for the arm of the federal government would literally be interjected into the state court room to pluck out all or part of the case. It is easy to see why such an action would be unseemly. However, in the case of a federal injunction against future prosecutions issued while a prosecution concerning the statute dealt with in the federal action is in process, the state judge may use his own discretion. If he agrees with the interpretation of the federal court, he may stay proceedings pending this Court's review of the injunction and avoid the possible waste of both his time and that of everyone else concerned. If not, he may proceed in the belief that the federal court's ruling on the statute will be reversed.

E. The Special Considerations Underlying the Doctrine of Comity Are Inapplicable to the Present Case

Volumes have been written concerning the principles of comity and federal-state relations in the area of state enforcement of criminal statutes. Appellants do not presume that they could add to the discussions of the historical and philosophical background of that policy in the opinions written in *Younger* v. *Harris* and companion cases last term. That the principles of comity avoid confusion and friction in some instances cannot be doubted, but in cases like the present the very reluctance of federal courts to intervene in the state criminal process produces confusion and friction and wastes the efforts of state judges, juries, and state officials.

The issue is not procedure, as in *Steffanelli*. The issue is not a statute which may proscribe both harmful and protected activity as in *Cameron* v. *Johnson*, 390 U.S. 611 (1968), or *Boyle* v. *Landry* and thus if enjoined would leave the states confused as to what they may or may not legislate against. Rather, the case involves a set of statutes with deep and fundamental constitutional infirmities. Thus, even if federal courts do not intervene, the issue of abortion will continue to cause confusion and delay in the state's criminal process until a decision is reached by this Court.

While it seems likely that eventually the question of whether a woman has a right to an abortion will reach this Court in the context of review of a criminal conviction, that process might very well entail the convening of countless state courts, both trial and appellate, the assembling of countless jurors, and the occupation of countless prosecutors, not to mention the untold anxiety, expense and humiliation of those physicians willing to offer themselves as potential sacrificial lambs to test the statutes.

Added to the waste of manpower will be the unquantifiable effect of the willful violation by respectable citizens of criminal laws for the purpose of testing them. Perhaps it may be moral to defy a law that one considers unjust and unconstitutional, but to hold that "except in rare circumstances" that is the only way to judicially bring about an end to such laws places a stamp of approval on the activity which can lead to chaos. Is the orderly adjudication of suspect statutes to be abandoned to those who delight in confrontation with those who enforce the laws?

Consider the moral dilemma of a Texas trial judge when presented with a constitutional defense to the violation of the abortion statute. He is of course obligated to uphold the United States Constitution. His zealousness in protecting federal rights may equal or surpass that of his brother in the federal judiciary. He may be firmly convinced that the statute is totally unconstitutional. And yet, if he dismisses the indictment the State cannot appeal.[62] The question will be foreclosed from appellate consideration. Another factor he must bear in mind is that if he dismisses the indictment his action may very well become the basis of a political attack when he must run for reelection, turning the question of who will sit on the bench into one not of competence or intellect, but of religion or political philosophy. In the face of such considerations the state judge may feel that he has no choice but to enforce an unconstitutional statute. Far from resenting the "intrusion" of a federal court, he may well welcome the end to his moral quandary—the reprieve from his threatened violation of oath and conscience.

On the state appellate level, the considerations involving the "politicization of the judiciary" also apply since, in Texas, all judges are elected. Also, should the Texas Court of Criminal Appeals hold the statute unconstitutional, the State must either violate Article 5, §26 of the Texas Constitution, which provides that the State shall have no appeal in a criminal case, by appealing the decision to this Court, or let the matter rest.

Contrasted with the problems above, the institution of a suit for injunction in federal court represents a much more orderly, civilized method for the vindication of federal rights. If the three-judge court is unsure of the effects of an injunction upon state law enforcement, the judgment can be stayed pending appeal to this Court. That the in-

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validation of a state statute will cause friction is not denied, but there is no reason to assume that federal-state relations are damaged more in the case of an injunction proceeding than when this Court reverses a conviction based on a statute which until reaching this Court had been ruled constitutional. The friction is caused by the act of intercession of federal constitutional concerns with individual notions of morality and "law and order," not by the particular procedure of intercession. It is not the federal court that interferes with the enforcement of a state statute, but the Constitution itself. Such an interference can never be accomplished without friction, for it is clear that there are many who would repeal that Constitution, especially where it protects the rights of a racial, religious or political minority.

F. Having Decided That the Texas Abortion statute Unconstitutionally Infringes Upon Plaintiff's Rights, the Three Judge Court by Failing to Grant an Injunction Against Future Prosecutions Effectively Failed to Protect Those Rights.

The three-judge court was presented with allegations and uncontroverted fact that set up a class action in which the right of women to have an abortion was claimed. The affidavit of a medical expert, whose qualifications and opinions were uncontroverted by any evidence from the defendant-district attorney, stated that physicians in Texas refused to do abortions because of fear of jeopardizing their careers. Were abortions legal, the physician-expert stated that he and other physicians would perform them. Affidavit of Paul C. Trickett, M.D. (A. 54–55). Plaintiff-Intervenor Dr. Hallford also testified by way of affidavit that physicians in the Dallas area feared criminal prosecution under the abortion statutes and for that reason refused to do abortions (A. 67). The Court below found that:

"Since the Texas Abortion Laws infringe upon plaintiffs' fundamental right to choose whether to have children, the burden is on the defendant to demonstrate to the satisfaction of the Court that such infringement is necessary to support a compelling state interest. The defendant has failed to meet this burden." *Roe* v. *Wade*, 314 F. Supp. 1212 1222 (1970) (A. 118, 119) [footnotes omitted].

Yet, despite the conclusion that rights were being infringed, the Court failed to grant the only relief that could reasonably allow the class bringing the suit to exercise their "fundamental right to choose whether to have children."

In explaining the denial of injunctive relief, the Court below quoted from *Dombrowski* v. *Pfister*, 380 U.S. 479, 484–485 (1965):

"It is generally to be assumed that state courts and prosecutors will observe constitutional limitations as expounded by this Court, and that the mere possibility of erroneous initial application of constitutional standards will usually not amount to the irreparable injury necessary to justify a disruption of orderly state proceedings." *Roe, supra* at 1224 (A. 122).

However, it is precisely the "mere possibility of erroneous initial application of constitutional standards" that effectively foreclose any possibility of the women within the classes represented being able to obtain an abortion. Having obtained an affirmance of their rights these women must still depend on the willingness of physicians to risk prosecution if state officials choose to ignore the declaratory judgment. If the women themselves were subject to prosecution, at least some of them might be willing to take the risk. But they must rely upon strangers for help. In view of the fact that a declaratory judgment "neither mandates nor prohibits state action" *Perez* v *Ledesma*, 401 U.S. 82, 124 (1971) (Brennan, *J.*) individual physicians, having no personal issue at stake, would be foolhardy to risk performing an abortion.

In fact, the declaratory judgment was ignored, as is evidenced by the affidavits of the chairmen of obstetrics and gynecology (Appendices B, C, D at B–1, C–1, D–1) letter from Defendant's office, Appendix A at A–1 and indictments brought since the Three-Judge Court's judgment (Appendix E at E–1). No facts or pleadings were presented to the Court below that could have led to any conclusion but that such would be the case.

Given the affidavits of the physicians, the special problems of the class of women who must rely on others in order to exercise their fundamental rights, and the omission of any evidence whatsoever that Defendant would abide by the declaratory judgment, it follows that the Court below was not relying on any separate factual ground in denying an injunction. Their decision was based wholly on an erroneous view that no allegations had been presented which required that considerations of comity in the area of state criminal enforcement be disregarded.

Although the decision of whether or not to grant an injunction is spoken of as being "discretionary," *Bokulich* v. *Jury Commission of Greene County, Alabama*, 394 U.S. 97, 98 (1969), *Abbott Laboratories* v. *Gardner*, 387 U.S. 138, 148 (1967), it is clear that if the claims of the plaintiffs present "sufficient irreparable injury to justify equitable relief," the case should be remanded with instructions to enter a decree enjoining enforcement of the statute. *Dombrowski* v. *Pfister*, 380 U.S. 479, 497 (1965).[63]

III. The appeals were properly taken directly to this court and represent the entire case for plenary review by this court

The appeals are "from an order . . . denying . . . [a] permanent injunction," pursuant to 28 U.S.C. § 1253. The actions attacked state statutes on constitutional grounds and requested declaratory and injunctive relief from enforcement of the statutes which are applicable statewide. The defendant was and is a state officer and the complaints presented a substantial federal question. Thus all requirements for direct appeal to this Court are met. *Spielman Motor Sales Co.* v. *Dodge*, 295 U.S. 89 (1935). *Bell* v. *Waterfront Commission of New York*, 279 F.2d 853 (2d Cir. 1960).

Although appellants technically "won" the issue of declaratory relief in the Court below, they join with appellee in urging this Court to decide the merits and constitutionality of the Texas abortion statute, regardless of its decision on other aspects of the case. That such action is within this Court's jurisdiction is illustrated by its action in the case of *Carter* v. *Jury Commission of Greene County*, 396 U.S. 320 (1969). There, the plaintiffs had requested (1) a declaration that qualified Negroes were systematically excluded from grand and petit juries; that the Alabama statutes governing jury selection were unconstitutional and that the jury commission was a deliberately segregated agency; (2) injunction forbidding systematic exclusion of Negroes and the enforcement of the jury selection statutes; and, (3) an order vacating the appointments of the Governor to the commission. The three-judge district court found that Negroes were being excluded and enjoined their systematic exclusion. The plaintiffs appealed the denial of injunctive relief against the jury selection statute and the Governor's appointments. In affirming the District Court, this Court not only discussed the questions concerning the constitutionality of the jury selection statute and the Governor's appointments, but also discussed the merits of the district court's finding of systematic exclusion and the injunction against that exclusion. No mention of appeal by the defendants from the granting of the injunction against systematic exclusion is made, so that theoretically the issue was not before the Court.

In a slightly different context, but of value, is Mr. Justice Frankfurter's statement in *Florida Lime and Avocado Growers, Inc.* v. *Jacobsen*, 362 U.S. 73 (1960):

"Cases in this Court . . . have consistently adhered to the view that, in an injunction action challenging a state statute on substantial federal constitutional grounds, a three judge court . . . has—just as we have on a direct appeal from its action—jurisdiction over *all* claims raised against the statute." 362 U.S. at 80, 81.

The statutes here were attacked on the basis of: overbroad denial of the fundamental rights of privacy, choice as to giving birth to children, to seek health care, and to practice medicine without arbitrary restraint; vagueness; and denial of due process concerning burden of proof. It is certain that appellee will base a major portion of his argument on a defense of the statutes, so as to insure that all of the issues above are fully briefed and argued before the Court thus meeting the requirements set out in *Dandridge* v. *Williams*, 397 U.S. 471, 475, n. 6. (1970).[64]

Thus the question hinges, not on this Court's power to reach the merits, but on whether the judicial inefficiency and confusion which will result from its failure to do so outweigh the professed doctrine that the Court will usually avoid reaching a constitutional issue if possible. This Court's willingness to consider the effect of a decision upon pending cases in state and federal courts was illustrated last term in Mr. Justice Black's opinion in *United States* v. *Vuitch*, 402 U.S. 62 (1971).

"In the last several years, abortion laws have been attacked as unconstitutionally vague in both state and federal courts with widely varying results. A number of these cases are now pending on the docket. A refusal to accept jurisdiction here would only compound confusion for doctors, their patients, and law enforcement officials. As this case makes abundantly clear, a ruling on the validity of a statute applicable only to the District can contribute to great disparities and confusion in the enforcement of criminal laws." 402 U.S. at 66.

The confusion spoken of in *Vuitch* has not subsided. The abortion laws of Texas,[65] Wisconsin,[66] Illinois,[67] California,[68] and Georgia[69] have been partially or completely declared invalid as denying fundamental rights, while abortion laws in Ohio,[70] Louisiana[71] and North Carolina[72] have been upheld. At least three appeals involving physicians indicted for violations of abortion statutes are presently pending in state courts.[73]

Appellants respectfully submit that nothing will be gained by another round of consideration by lower courts. It seems obvious that, rather than reaching a consensus, the federal district courts will continue to split on the question. It also seems obvious that this difference of opinion will carry over to the courts of appeals if they are required to decide the issue. Considering its effect on the area of marital relations, illegitimacy, poverty, women's rights, women's mental and physical health, mentally and physically deformed children, and the practice of medicine, the question of abortion potentially and actually affects virtually every person in the United States. The question itself compels an answer and appellants urge this Court to reach the merits.

Footnotes at end of article.

IV. The provisions in the Texas Penal Code, articles 1191–1194 and 1196, which prohibit the medical procedure of induced abortion unless "procured or attempted by medical advice for the purpose of saving the life of the mother," abridge fundamental personal rights of appellants secured by the first, fourth, ninth, and fourteenth amendments, and do not advance a narrowly drawn compelling State interest

As former Supreme Court Justice Tom C. Clark has said:

"The result of [Griswold and its predecessors] is the evolution of the concept that there is a certain zone of individual privacy which is protected by the Constitution. Unless the State has a compelling subordinating interest that outweighs the individual rights of human beings, it may not interfere with a person's marriage, home, children, and day-to-day living habits. This is one of the most fundamental concepts that the Founding Fathers had in mind when they drafted the Constitution." Clark, *Religion, Morality, and Abortion: A Constitutional Appraisal,* 2 LOYOLA UNIV. (L.A.) L. LEV. 1, 8 (1969).

The Constitution does not specifically enumerate a "right to seek abortion," or a "right of privacy." That such a right is not enumerated in the Constitution is no impediment to the existence of the right. Other rights not specifically enumerated have been recognized as fundamental rights entitled to constitutional protection[74] including the right to marry,[75] the right to have offspring,[76] the right to use contraceptives to avoid having offspring,[77] the right to direct the upbringing and education of one's children,[78] as well as the right to travel.[79]

The difficulty in identifying the precise sources and limits of these rights has long been evident. In 1923 in *Meyer* v. *Nebraska,* 262 U.S. 390 (1923), this Court outlined some of the protections afforded by the Due Process Clause of the Fourteenth Amendment:

"While this court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and *some of the included things have been definitely stated.* Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized as essential to the orderly pursuit of happiness by free men." 262 U.S. at 399. [Emphasis added.]

The 1965 Court, in *Griswold* v. *Connecticut,* 381 U.S. 479 (1965), demonstrated the variety of sources of these fundamental rights.[80]

Appellants contend that fundamental rights[81] entitled to constitutional protection are involved in the instant case, namely the right of individuals to seek and receive health care unhindered by arbitrary state restraint; the right of married couples and of women to privacy and autonomy in the control of reproduction; and the right of physicians to practice medicine according to the highest professional standards. These asserted rights meet constitutional standards arising from several sources and expressed in decisions of this Court. The Texas abortion law infringes these rights, and since the law is not supported by a compelling justification, it is therefore unconstitutional.

A. The Right to Seek and Receive Medical Care for the Protection of Health and Well-Being Is a Fundamental Personal Liberty Recognized by Decisions of This Court and by International and National Understanding

In *Jacobson* v. *Massachusetts,* 197 U.S. 11 (1904), the defendant resisted his conviction under a compulsory vaccination statute by asserting "the inherent right of every freeman to care for his own body and health in such way as to him seems best." 197 U.S. at 26. Appropriately, this Court responded that liberties secured by the Constitution are not wholly free from restraint and found the dangers of widespread smallpox justified the statute. Far from downgrading the importance of defendant's asserted rights, however, the Court repeatedly emphasized the imminence of pervasive disease; "the evils of smallpox . . . imperiled an entire population." 197 U.S. at 31. In explaining the principle underlying the decision, the Court paralleled the statute's intrusion to protect national security, and emphasized the compelling interest necessary to justify the invasion of personal rights:

"There is, of course, a sphere within which the individual may assert the supremacy of his own will, and rightfully dispute the authority of any human government—especially of any free government existing under a written constitution, to interfere with the exercise of that will. But it is equally true that in every well-ordered society charged with the duty of conserving the safety of its members the rights of the individual in respect of his liberty may at times, *under the pressure of great dangers,* be subjected to such restraint, to be enforced by reasonable regulations, as the safety of the general public may demand . . . It is not, therefore, true that the power of the public to *guard itself against imminent danger* depends in every case involving the control of one's body upon his willingness to submit to reasonable regulations established under the sanction of the state, for the purpose of protecting the public effectively against such danger." 197 U.S. at 29–30. [Emphasis added.]

The reference for the Court's standard of reasonableness was the compelling interest of the state in meeting the danger of epidemic smallpox. *Jacobson* thus embodies the principle that the personal right to care for one's health is a fundamental right which can be abridged by state law only when justified by a compelling interest.

The personal right to care for and protect one's health in the manner one deems best has been honored by legislatures, except as to measures necessary to check widespread disease and except for the intrusion of restrictive contraception, abortion, and sterilization laws.

Although this Court has not expressly delineated a right to seek health care, the importance of such care has been recognized and the existence of such a right suggested. In *United States* v. *Vuitch,* 402 U.S. 62 (1971), this Court reaffirmed society's expectation that patients receive "such treatment as is necessary to preserve their health." 402 U.S. at 71. In this Court's invalidation of Connecticut's proscription against contraception, Justice White noted that statute's intrusion upon "access to medical assistance . . . in respect to proper methods of birth control." *Griswold* v. *Connecticut,* 381 U.S. 479, 503 (1965) (White, J., concurring).

A right of access to health care has been held necessary in other factual settings. *McCollum* v. *Mayfield,* 130 F. Supp. 112 (N.D. Cal. 1955), involved an accused prisoner injured while in custody awaiting trial. The sheriff and jailer refused him medical care. As a result he became paralyzed. The court upheld a claim for relief under the Civil Rights Act based on deprivation of the plaintiff's life, liberty, and property without due process. *Accord, Coleman* v. *Johnson,* 247 F.2d 273 (7th Cir. 1957); *Edwards* v. *Duncan,* 355 F.2d 993 (4th Cir. 1966); *Tolbert* v. *Eyman,* 434 F.2d 625 (9th Cir. 1970). Custodial patients have been afforded a constitutional right to receive sufficient treatment to provide a realistic opportunity to improve or to be cured. *Wyatt* v. *Stickney,* 325 F. Supp. 781 (M.D. Ala. 1971). *Chrisman* v. *Sisters of St. Joseph of Newark,* Civ. No. 70–430 (D. Ore., July 22, 1971), held that a hospital's refusal, for non-medical reasons, to permit voluntary sterilization of a plaintiff violated her federal rights. And *EDF* v. *Hoerner Waldorf,* 1. E.R. 1960 (D. Mont. 1970), recognized a right to protection of health against environmental pollution.

The existence of other types of state statutes, not under constitutional attack, which affect matters of personal health does not negate the right asserted here. In constrast to laws which intrude upon the protection of personal health, statutes which prescribe working conditions have an indirect, positive impact on the person's well-being. None intrude so far as the assault alleged in *Jacobson* or the compulsory pregnancy asserted here. *See, e.g., Prince* v. *Massachusetts,* 321 U.S. 158; *West Coast Hotel Co.* v. *Parrish,* 300 U.S. 379 (1937). Similarly, laws prescribing requisites for medical practice are designed to assure qualified practitioners, not to impose upon a citizen's person. *See, e.g., Dent* v. *West Virginia,* 129 U.S. 114 (1889); *Graves* v. *Minnesota,* 272 U.S. 425 (1926).

Finally, policy statements of national and international organizations indicate a pervasive recognition of the right to seek health care. For example, the Constitution of the World Health Organization provides:

"The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition."[82]

Congress, in passing the Comprehensive Health Planning Act of 1966, took a similar position:

"[T]he fulfillment of our national purpose depends on promoting and assuring the highest level of health attainable for every person, in an environment which contributes positively to healthful individual and family living. . . ."[83]

Abortion is an accepted medical procedure for terminating pregnancy. *See* pp. 30–35, *supra. Amici* medical organizations recognize the acceptability of abortion, as their policy statements indicate; they draw no distinction between abortion and other medical procedures.

The Texas abortion law effectively denies Appellants Roe and Doe access to health care. Jane Roe was forced to bear a pregnancy to term though an abortion would have involved considerably less risk to her health. *See* p. 34 *supra.* Physicians who would otherwise be willing to perform an abortion in clinical surrounding are deterred by the fear of prosecution. Since Appellant Roe could not afford to travel elsewhere to secure a safe abortion, to avoid continuation of pregnancy she would have been forced to resort to an unskilled layman and accept all the health hazards attendant to such a procedure.[84] Even had she been able to travel out of state, the time required to make financial and travel arrangements would have entailed greater health risks inherent in later abortions. *See* p. 33 *supra.*

B. The Fundamental Rights to Marital and Personal Privacy Are Acknowledged in Decisions of This Court as Protected by the First, Fourth, Ninth, and Fourteenth Amendments.

1. The right to marital privacy

The importance of the institution of marriage and of the family has long been recognized by this Court. Consequently the Court and its members have often affirmed the sanctity of the marital relationship and of the family union. In *Maynard* v. *Hill,* 125 U.S. 190, 211 (1888), marriage was called "the foundation of the family and of society, without which there would be neither civilization nor progress." The opinion of the Court in *Skinner* v. *Oklahoma,* 316 U.S. 535, 541 (1942), spoke of marriage and procreation as being 'fundamental to the very ex-

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Footnotes at end of article.

istence and survival of the race." Mr. Justice Harlan, for example, has written:

"[T]he integrity of [family] life is something so fundamental that it has been found to draw to its protection the principles of more than one explicitly granted Constitutional right. . . . Of this whole 'private realm of family life' it is difficult to imagine what is more private or more intimate than a husband and wife's marital relations." *Poe* v. *Ullman*, 367 U.S. 497, 551–52 (1961) (Mr. Justice Harlan, dissenting).

Mr. Justice Douglas, in delivering the opinion of the Court in *Griswold* v. *Connecticut*, 381 U.S. 479 (1965), wrote of marriage as being "a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions." 381 U.S. at 486.

Most recently in *Boddie* v. *Connecticut*, 401 U.S. 371 (1971), this Court reaffirmed "the basic position of the marriage relationship in this society's hierarchy of values" 401 U.S. at 374, and reiterated that "[a]s this Court on more than one occasion has recognized, marriage involves interests of basic importance in our society." 401 U.S. at 376.

Recognition of the sanctity of the marital relationship has resulted in recognition of a right of marital privacy, or as the *Griswold* decision states, "notions of privacy surrounding the marriage relationship", 381 U.S. at 486, and of rights attendant to the marital state. Protection has been extended to such rights as the rights to marry and have offspring because of their fundamental nature, even though such rights are not expressly enumerated in the Bill of Rights. These decisions support the proposition that there is a sphere of marital privacy and that important interests associated with marriage and family are, and should be, protected from arbitrary government intrusion.

Loving v. *Commonwealth*, 388 U.S. 1, 12 (1967) (alternate ground of decision), specifically held that the due process clause of the Fourteenth Amendment protects "[t]he freedom to marry . . . as one of the vital personal rights essential to the orderly pursuit of happiness by men." *Loving* stands for the proposition that "the right to marry" is protected by the due process clause although not specifically mentioned in the Bill of Rights. Yet the right *to* marry is meaningful only to the extent that there are rights *of* marriage, *i.e.*, rights attendant to the marital state which promote the happiness of the couple.

Associated with the right to marry is the right to have children, if one chooses, without arbitrary governmental interference. This Court unanimously held that "the right to have offspring" is a constitutional protected "human right" which cannot be taken away by a discriminatory statute requiring the sterilization of some persons convicted of crime, but not others similarly situated. *Skinner* v. *Oklahoma*, 316 U.S. 535, 536 (1942). The *Skinner* Court recognized a constitutionally protected right to *have* offspring even though such right is not mentioned in the Bill of Rights; a right *not to have* offspring should be of equal constitutional stature.

Further cases supporting these family rights include *Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925), and *Meyer* v. *Nebraska*, 262 U.S. 390 (1923), both of which were reaffirmed in *Griswold* v. *Connecticut*, 381 U.S. 479, 483 (1965). A unanimous Court in *Pierce* recognized a right to send one's children to private school. This right derived from "the liberty of parents and guardians to direct the upbringing and education of children under their control." 268 U.S. at 534–35. This liberty, and the responsibility it implies, suggests a concomitant right of persons to determine the number of children whose "upbringing and education" they will direct.

Similar in principle is *Meyer*, a 7–2 decision invalidating a State statute which prohibited teaching German to pupils below the eighth grade. The *Meyer* Court stated that the due process clause includes "the right . . . to marry, establish a home and bring up children." 262 U.S. at 399. Again the Court recognized a fundamental right not enumerated in the Constitution entitled to Constitutional protection.

Griswold reaffirms these privacy concepts, and makes it clear that a husband and wife are constitutionally privileged to control the size and spacing of their family at least by contraception.

Taken together, the *Griswold, Loving, Skinner, Pierce and Meyer* decisions illustrate that the Constitution protects certain privacy and family interests from governmental intrusion unless a compelling justification exists for the legislation. The right of a family to determine whether to have additional children, and to terminate a pregnancy in its early stages if a negative decision is reached, is such a right and is fully entitled to protection.

The number and spacing of children obviously have a profound impact upon the marital union. Certainly the members of this Court know from personal experience the emotional and financial expenditures parenthood demands. For those couples who are less fortunate financially and especially for those who are struggling to provide the necessities of life, additional financial responsibilities can be economically disastrous. For families who require two incomes for economic survival, the pregnancy can be ruinous since the wife will generally have to resign her job. In many other situations, such as where husband and wife are working to put themselves through school, pregnancy at a particular time can present a crisis.

Pregnancy can be a significant added problem in marriages. The added pressures of prospective parenthood can be "the last straw."

This Court has previously upheld the right to use contraceptives to avoid unwanted pregnancy.

"[I]t would seem that if there is a right to use contraception, this right must also take account of the fact that most techniques are not 100 per cent protective. If the contraceptive method fails and the *Griswold* right of choice is preserved, it is a strong argument toward recognizing the right to an abortion." [85]

As did the law considered in *Griswold*, "[t]his law . . . operates directly on an intimate relation of husband and wife and their physician's role in one aspect of that relation." 381 U.S. 482. The Texas abortion law in forbidding resort to the procedure of medical abortion, has a maximum destructive impact upon the marriage relationship.

2. The related rights to personal privacy and physical integrity

In addition to rights associated with marital privacy, an overlapping body of precedent extends significant constitutional protection to the citizen's sovereignty over his or her own physical person.

As early as 1891 this Court stated:

"No right is more sacred, [n]or is more carefully guarded . . . than the right of every individual to the possession and control of his own person, free from all restraint or interference of others unless by clear and unquestionable authority of law. As well said by Judge Cooley, 'The right to one's person may be said to be a right of complete immunity: to be let alone.' " *Union Pac. Ry.* v. *Botsford*, 141 U.S. 250, 251 (1891), quoted in *Terry* v. *Ohio*, 392 U.S. 1, 8–9 (1968).

Footnotes at end of article.

This right like all rights, does have some limitations, as illustrated in *Jacobson* v. *Massachusetts*, 197 U.S. 11 (1904), *supra* at 94 *et seq*. Nonetheless, absent a compelling justification, one is entitled to personal autonomy.

In family matters relating to child rearing and procreation, the Court has recognized and sustained individual rights on a constitutional plane. "The freedom to marry . . .," *Loving* v. *Commonwealth*, 388 U.S. 1, 12 (1967); "the right to have offspring," *Skinner* v. *Oklahoma*, 316 U.S. 535, 536 (1942); "the liberty of parents and guardians to direct the upbringing and education of children under their control," *Pierce* v. *Society of Sisters*, 268 U.S. 510, 534–35 (1925); as well as the right, at least of a married woman, to use contraceptives, *Griswold* v. *Connecticut*, 381 U.S. 479 (1965), are all protected constitutionally.

Most recently the Court reaffirmed the "fundamental . . . right to be free, except in very limited circumstances, from unwanted governmental intrusions into one's privacy," *Stanley* v. *Georgia*, 394 U.S. 557, 564 (1969) (Marshall, J.), and embraced with approval Mr. Justice Brandeis' dissent in *Olmstead* v. *United States:*

"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized man." 277 U.S. at 478.

The Chief Justice, then a Circuit Judge, in *Application of Georgetown College, Inc.*, 331 F.2d 1010, 1016–17 (D.C. Cir.) (en banc), *cert. denied*, 377 U.S. 978 (1964), also urged a right to be let alone, in the context of a religious objection to blood transfusions, which could include "even absurd ideas which do not conform, such as refusing medical treatment even at great risk." 331 F. 2d at 1017.

Pregnancy obviously does have an overwhelming impact on the woman. The most readily observable impact of pregnancy, of course, is that of carrying the pregnancy for nine months. Additionally there are numerous more subtle but no less drastic impacts.[86]

3. The right to terminate unwanted pregnancy is an integral part of privacy rights

Without the right to respond to unwanted pregnancy, a woman is at the mercy of possible contraceptive failure, particularly if she is unable or unwilling to utilize the most effective measures.[87] Failure to use contraceptives effectively, if pregnancy ensues, exacts an exceedingly high price.

The court in *Baird* v. *Eisenstadt*, 429 F.2d 1398 (1st Cir. 1970), *prob. juris. noted*, 401 U.S. 934 (U.S. No. 70–17, 1971 Term), recognized the inhumane severity of laws which impose continued pregnancy and compulsory parenthood as the cost of inadequate contraception. The statute there proscribed distribution of contraceptives to unmarried women, but the deciding principle applies to restrictive abortion laws as well.[88]

". . . [P]ersons must risk for themselves an unwanted pregnancy, for the child, illegitimacy, and for society, a possible obligation of support. Such a view of morality is not only the very mirror image of sensible legislation; we consider that it conflicts with fundamental human rights." 429 F.2d at 1402.

Baird involved contraceptives unavailable to unmarried women; this case involves measures unavailable to all women. The impact of the two statutes is identical for the women affected. Moreover, the magnitude of the impact is substantial.

When pregnancy begins, a woman is faced with a governmental mandate compelling her to serve as an incubator for months and then as a ostensibly willing mother for up to twenty or more years. She must often forego further education or a career and often must endure economic and social hardships. Under the present law of Texas she is given no other choice. Continued pregnancy is compulsory, unless she can persuade the authorities that she is potentially suicidal or that her life is otherwise endangered. TEXAS PENAL CODE, arts. 1191–1194, 1196 (1961). The law impinges severely upon her dignity, her life plan and often her marital relationship. The Texas abortion law constitutes an invasion of her privacy with irreparable consequences. Absent the right to remedy contraceptive failure, other rights of personal and marital privacy are largely diluted.

Commentators and courts have articulated and recognized the privacy which restrictive abortion laws invade:

"[A]bortion falls within that sensitive area of privacy—the marital relation. One of the basic values of this privacy is birth control, as evidenced by the *Griswold* decision. Griswold's act was to prevent formation of the fetus. This, the Court found, was constitutionally protected. If an individual may prevent conception, why can he not nullify that conception when prevention has failed?"[89]

The decisions of this Court which implicitly recognize rights of marital and personal privacy have been followed by state and federal court decisions expressly holding the decision of abortion to be within the sphere of constitutionally protected privacy.

That there is a fundamental constitutional right to abortion was the conclusion of the court below in the instant case:

"On the merits, plaintiffs argue as their principal contention that the Texas Abortion Laws must be declared unconstitutional because they deprive single women and married couples of their right, secured by the Ninth Amendment to choose whether to have children. We agree.

"The essense of the interest sought to be protected here is the right of choice over events which, by their character and consequences, bear in a fundamental manner on the privacy of individuals." (A. 116)

That view has been shared by a number of other courts which have considered the question and have affirmed that this is a fundamental right.[90] The progression of decisions by courts which have indicated their recognition of abortion as an aspect of protected privacy rights included the following:

"The fundamental right of the woman to choose whether to bear children follows from the Supreme Court's and this court's repeated acknowledgement of a 'right of privacy' or 'liberty' in matters related to marriage, family, and sex." *California* v. *Belous,* 71 Cal. 2d 954, 458 P.2d 194, 199, 80 Cal. Rptr. 354 (1969), *cert. denied,* 397 U.S. 915 (1970).

"For whatever reason, the concept of personal liberty embodies a right to privacy which apparently is also broad enough to include the decision to abort a pregnancy. Like the decision to use contraceptive devices, the decision to terminate an unwanted pregnancy is sheltered from state regulation which seeks broadly to limit the reasons for which an abortion may be legally obtained." *Doe* v. *Bolton,* 319 F. Supp. 1048, 1055 (N.D. Ga. 1970) (per curiam).

"It is as true after conception as before that 'there is no topic more closely interwoven with the intimacy of the home and marriage than that which relates to the conception and bearing of progeny.' We believe that *Griswold* and related cases establish that matters pertaining to procreation, as well as to marriage, the family, and sex are surrounded by a zone of privacy which protects activities concerning such matters from unjustified governmental intrusion." *Doe* v. *Scott,* 321 F. Supp. 1385, 1389–90 (N.D. Ill.) *appeal docketed sub nom. Hanrahan* v. *Doe,* 39 U.S.L.W. 3438 (U.S. Mar. 29, 1971) (No. 70–105, 1971 Term).

Without the ability to control their reproductive capacity, women and couples are largely unable to control determinative aspects of their lives and marriages. If the concept of "fundamental rights" means anything, it must surely include the right to determine when and under what circumstances to have children.

4. Physicians have a fundamental right to administer health care without arbitrary State interference

The First, Ninth, and Fourteenth Amendments protect the right of every citizen to follow any lawful calling, business, or profession he may choose, subject only to rational regulation by the state as necessary for the protection of legitimate public interests. *See, e.g., Schware* v. *Board of Bar Examiners,* 353 U.S. 232 (1957); *Smith* v. *Texas,* 233 U.S. 630 (1914); *Dent* v. *West Virginia,* 129 U.S. 114 (1889). In reviewing legislation affecting the medical profession, courts have particularly respected the knowledge and skill necessary for medical practice, the broad professional discretion necessary to apply it, and the concomitant state interest in guaranteeing the quality of medical practitioners:

"Few professions require more careful preparation by one who seeks to enter it than that of medicine. It has to deal with all those subtle and mysterious influences upon which life and health depend, and requires not only a knowledge of the properties of vegetable and mineral substances, but of the human body in all its complicated parts, and their relation to each other, as well as their influence upon the mind.

* * * * *

Every one may have occasion to consult [the physician], but comparatively few can judge the qualifications of learning and skill which he possesses. Reliance must be placed upon the assurance given by his license . . . that he possesses the requisite qualifications." *Dent* v. *West Virginia,* 129 U.S. 114, 122–23 (1889).

Similarly, courts have been alert to protect medical practice from rash or arbitrary legislative interference. Thus, the court in *United States* v. *Freund,* 290 Fed. 411 (D. Mont. 1923), invalidated a Prohibition-era statute restricting the amount of alcohol a physician could prescribe:

"It is an extravagant and unreasonable attempt to subordinate the judgment of the attending physician to that of Congress, in respect to matters with which the former alone is competent to deal, and infringes upon the duty of the physician to prescribe in accord with his honest judgment, and upon the right of the patient to receive the benefit of the judgment of the physician of his choice."

Most recently, this Court, in *United States* v. *Vuitch,* 402 U.S. 62 (1971), recognized that "doctors are encouraged by society's expectations . . . and by their own professional standards to give their patients such treatment as is necessary to preserve their health." 402 U.S. at 71. The *Vuitch* decision went on to construe the term health to encompass "psychological as well as physical health," and "'the state of being sound in body or mind.'"

Here, the practice of medicine clearly includes the treatment of pregnancy and conditions associated with it. However, the Texas statute prohibits physicians from administering the appropriate remedy to preserve the patient's health or well-being. Physicians are not required to forego the right to make medically sound judgments and to act upon them with respect to any other human disease or condition. With appropriate consents they may administer electric shock therapy, excise vital organs, perform prefrontal lobotomies and take any other drastic action they believe indicated. They are not indicatable for these actions. However, obstetricians and gynecologists who are asked to abort their patients for sound medical reasons risk a prison sentence if they do so. The statute severely infringes their practice and seriously compromises their professional judgments.

The state must demonstrate a legitimate interest to impair doctors' rights to practice their profession. *Dent* v. *West Virginia,* 219 U.S. 114 (1889). Historically, the interest asserted by the state is a health interest, and courts have upheld laws designed to ensure the quality of medical practice, *e.g., Dent* v. *West Virginia, supra; Douglas* v. *Noble,* 261 U.S. 165 (1923); *Graves* v. *Minnesota,* 272 U.S. 425 (1926). Similarly, statutes have been upheld which require doctors' intervention in sales of medically-related products in order to protect public health. *See, e.g., Williamson* v. *Lee Optical of Oklahoma,* 348 U.S. 483 (1955) (doctor's prescription required for optician to perform eye-glass fitting operations); *see also Head* v. *New Mexico Board of Examiners in Optometry,* 374 U.S. 424 (1963) (prohibition against eyeglass price advertising).

None of the above interests are applicable here, however. The statute in question here does not protect the public from unqualified practitioners. *Cf. Dent* v. *West Virginia,* 129 U.S. 114 (1889); *Douglas* v. *Noble,* 261 U.S. 168 (1923); *Graves* v. *Minnesota,* 272 U.S. 425 (1926); *Schware* v. *Board of Examiners,* 353 U.S. 232 (1957). Rather the statute applies to laymen and physicians alike. Indeed, it endangers patients' health by unduly confining doctors' exercise of medical judgment. This endangering of health distinguishes the case from *Williamson;* the court there afforded broad discretion to the legislature *because public health was at stake.* Further, the statute addresses no other legitimate state interest. *See* pp. 115–124, *infra.*

C. Appellants' Rights to Seek Medical Care, and to Marital and Individual Privacy May Not Be Abridged Unless the State Can Establish a Compelling Interest Which Can Not Be Protected By Less Restrictive Means

In his concurring opinion in *Griswold* v. *Connecticut,* 381 U.S. 479, 497 (1965), Justice Goldberg indicated the stricter standard of review that applies when state laws affect personal rights:

"In a long series of cases this Court has held that where fundamental personal liberties are involved, they may not be abridged by the States simply on a showing that a regulatory statute has some rational relationship to the effectuation of a proper state purpose. 'Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling.'"

This Court has applied the stricter standard to protect marital privacy, *Griswold* v. *Connecticut, supra;* religious freedom, *Sherbert* v. *Verner,* 374 U.S. 398 (1963); freedom of expression and of association, *N.A.A.C.P.* v. *Button,* 371 U.S. 415 (1963); freedom to travel, *Shapiro* v. *Thompson,* 394 U.S. 618 (1968); and access to courts, *Boddie* v. *Connecticut,* 401 U.S. (1971). As argued above, the Texas abortion laws infringe privacy rights here as much as the Connecticut statute did in *Griswold.* As in that case, the compelling interest test is the proper standard for reviewing the Texas statute. See also *Roe* v. *Wade,* 314 F. Supp. 1217, 1222 (N.D. Tex. 1970); *Doe* v. *Scott,* 321 F. Supp. 1385, 1390 (N.D. Ill. 1971); *Babbitz* v. *McCann,* 310 F. Supp. 293, 301 (E.D. Wis. 1970); *California* v. *Belous,* 71 Cal. 2d 954, 458 P.2d

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Footnotes at **end of article.**

194, 80 Cal. Rptr. 354, 360 (1968), *cert. denied* 397 U.S. 915 (1970).

Appellants further urge this Court to reaffirm the personal right to health care recognized in *Jacobson* v. *Massachusetts,* 197 U.S. 11 (1904). The infringements upon personal health care caused by the Texas law are described earlier, pp. 94–98. The physical and psychological harm caused by the statute fully warrants a demonstration of compelling justification to sustain it.

A further constitutional condition of the statute's intrusion upon fundamental rights is that the law must be minimally restrictive:

> "Precision of regulation must be the touchstone in an area so closely touching our most precious freedoms." *Griswold* v. *Connecticut,* 381 U.S. 479, 498 (1965) (Goldberg, J., concurring).

Here, the availability of adultery and fornication statutes to enforce strictures on sexual behavior, the absence of any distinctions based on gestation period in the abortion statute, and its blanket application to gynecologists and laymen alike suggest classifications which are overly broad. To meet these constitutional objections, the State must show that a less restrictive statute will not effectuate any compelling interests it can establish.

D. The Texas Statute Does Not Advance Any State Interest of Compelling Importance in a Manner Which is Narrowly Drawn

1. The statute is not rationally related to any legitimate public health interest

As shown earlier, at pages 30–35, medical abortion is a safe and simple procedure when performed during the early stages of pregnancy; indeed, it is safer than childbirth. This fact alone vitiates any contention that the statute here serves a public health interest. Numerous state and federal courts have taken notice of this fact and concurred that no health rationale supports a statute like the one here. *See, e.g., California* v. *Belous,* 71 Cal. 2d 954, 965, 458 P.2d 194, 200, 80 Cal. Rptr. 354, 360 (1969), *cert. den.,* 397 U.S. 915 (1970); McCann 1. *Babbitz,* 310, F. Supp. 293, 301 (E.D. Wis. 1970), *appeal dismissed,* 400 U.S. 1 (1970) (per curiam); *Doe* v. *Scott,* 321 F. Supp. 1385, 1391 (N.D. Ill. 1971).

Moreover, no concern for mental health justifies the statute, for it does not permit abortion even if a woman's mental health is threatened. Such a view is untenable for the additional reason that abortion is a procedure without clinically significant psychiatric sequellae.

Additional data reveal that statutes like the one here actually *create* "a public health problem of pandemic proportions"[91] by denying women the opportunity to seek safe medical treatment. Severe infection, permanent sterility, pelvic disease, and other serious complications accompany the illegal abortions to which women are driven by laws like this one.[92]

Any notion that less restrictive abortion laws would produce excessive demands on medical resources and thereby endanger public health also is unfounded. The experience in New York City after one year under an elective abortion law dispels any such fears:

> "New York City has accounted for the lion's share of abortions in the State and has been a resource for women all over the country. Nevertheless, the catastrophe many foresaw a year ago failed to materialize: we have been able to serve our residents as well as substantial numbers of out-of-state women, and, most important, we are serving women safely." Chase, "Twelve Month Report on Abortions in New York City" (Health Services Administration, City of New York, June 29, 1971).

Footnotes at end of article.

The absence of a public health problem accompanying less restrictive abortion is indicated by comparative mortality rates: for the first eleven months of operation, the mortality for abortion in New York City is approximately equal to that of tonsillectomy in the United States.[93]

Against this background of medical fact, there is no support whatever for the suggestion that public health is an interest protected by this statute.

2. The statute is not rationally related to any legitimate interest in regulating private sexual conduct

One of the constitutional defects in the Connecticut statute struck down in *Griswold* v. *Connecticut,* 381 U.S. 479 (1965) was its overbreadth; the law there prohibited use of contraceptives by married couples as well as unmarried ones. Thus, the statute could not be justified as a device to discourage pre-marital or extra-marital relations, for it had the same impact on marital relations.

The Texas abortion law operates identically. No distinction is made between married and unmarried women, and married women who seek abortion are not required to reveal whether they were impregnated through a lawful marital relation. The Texas statute, if explained as a deterrent to illegal sexual conduct, is unconstitutionally overbroad for failing to make these distinctions.

Moreover, if the state desires to discourage certain sexual conduct, it may enforce laws prohibiting adultery and fornication. To view the abortion law as protecting public morals by making pregnancy the penalty for forbidden conduct would ascribe a monstrous intention to the Texas legislature. *State* v. *Baird,* 50 N.J.L. 376, 235 A.2d 673, 677 (1967). Furthermore, using the abortion law for such a purpose would be overbroad and beyond the competence of the state. *Baird* v. *Eisenstadt,* 429 F.2d 1938, *jur. noted,* 401 U.S. 934 (1971) (No. 70–17, 1971 Term); *King* v. *Smith,* 392 U.S. 309, 320 (1968); *Griswold* v. *Connecticut,* 381 U.S. 479, 498 (1965) (Goldberg, J., concurring). *See also* Brief *Amicus Curiae* on Behalf of New Women Lawyers, Women's Health and Abortion Project, Inc., National Abortion Action Coalition, at 44 *et seq.*

No evidence exists that limited access to abortion curtails promiscuity, nor is it conceivable that such a correlation could exist. The widespread availability of contraception would seem to be a more significant factor. In any event, from the physician's standpoint, a patient is no less worthy of medical care simply because she has unfortunately conceived out of wedlock. Moreover, as one prominent physician observed, "[t]he fear that the availability of abortion will lead to promiscuity is sheer nonsense. . . ." Ryan, *Humane Abortion Laws and the Health Needs of Society,* 17 W. Res. L. Rev. 424, 432 (1965).

3. The statute does not advance any public interest in protecting human life

As counsel for appellee admitted during oral argument, "the State only has one interest and that is the protection of the life of the unborn child" (A. 104–105). The question then becomes whether this interest is sufficiently compelling to overcome the couple's or woman's fundamental right to privacy and autonomy. In this regard it is revealing to examine other aspects of the State's attitude toward the fetus. Such an inquiry reveals that only in the area of abortion does the State exhibit an interest in the fetus or treat it as having legal personality.

First, the pregnant woman who searches out a person willing to perform an abortion and who consents to, if not pleads for, the procedure is guilty of no crime. Texas courts have repeatedly held that the woman is neither a principal nor an accomplice. *Willingham* v. *State,* 33 Cr. R. 98, 25 S.W. 424 (1894); *Shaw* v. *State,* 73 Cr. R. 337, 165 S.W. 930 (1914); *Moore* v. *State,* 37 Cr. R. 552, 40 S.W. 287 (1897); *Cave* v. *State,* 33 Cr. R. 335, 26 S.W. 503 (1894). Similarly, the women who travel from Texas to states with less restrictive abortion laws in order to secure medical abortions and avoid the alleged state interest in protecting the fetus are guilty of no crime. Moreover, self-abortion has never been treated as a criminal act. The State has failed to seek to deter through criminal sanctions the person whose interests are most likely to be adverse to those of the fetus. This suggests a statutory purpose other than protecting embryonic life.

An unborn fetus is not a "human being" and killing a fetus is not murder or any other form of homicide. "Homicide" in Texas is defined as "the destruction of the life of one human being by the act, agency, procurement, or culpable omission of another," 2A Tex. Pen. Code art. 1201 (1961). Since the common law definition of "human being" is applicable, a fetus neither born nor in the process of birth is not a "human being" within the meaning of those words as they appear in the homicide statute. In *Keeler* v. *Superior Court,* 2 Cal. 3d 619, 470 P.2d 662, 87 Cal. Rptr. 481 (1970), a pregnant woman was assaulted by her former husband; a Caesarean section and examination *in utero* revealed that the fetus, of approximately thirty-five weeks gestation, had died of a severely fractured skull and resultant hemorrhaging. The California Supreme Court held the man could not be guilty of murder; the same result would apply in Texas. A fetus is not considered equal to a "human being," and its destruction involves a significantly lesser penalty."[94]

The State does not require that a pregnant woman with a history of spontaneous abortion go into seclusion in an attempt to save the pregnancy. No pregnant woman having knowingly engaged in conduct which she reasonably could have foreseen would result in injury to the fetus (such as skiing in late pregnancy) has ever been charged with negligent homicide.

No formalities of death are observed regarding a fetus of less than five months gestation. Property rights are contingent upon being born alive. There has never been a tort recovery in Texas as the result of injury to a fetus not born alive. No benefits are given prior to birth in situations, such as workman's compensation, where benefits are normally allowed for "children."[95]

Appellants realize that the fact that states have failed in most instances to protect the rights of the fetus does not automatically mean that a state would not have a compelling interest in doing so. One assumes that if a state had never enacted a statute prohibiting theft, a constitutional right to steal would not necessarily follow. However, the traditional subjects of legislation which bear upon individual liberty have, of necessity, always guided our notions of what the state may or may not do. The fact that the fetus has only been protected in the area of abortion, and not even then when the mother's life is in danger or she performs the abortion herself, together with the strong evidence that abortion laws were passed in response to the dangers of surgery, makes out a strong case for a traditional right of the mother to abort the fetus which was only taken away for her own protection. The converse is that the state has no *traditional* interest in protection of the fetus. If an interest exists, it must be relatively recent in its discovery.

It is sometimes argued that scientific discoveries show that human life exists in the fetus. Scientific studies in embryology have greatly expanded our understanding of the process of fertilization and development of the fetus and studies relating to the basic elements of life have shown that life is not only present in the fertilized egg, sperm and ova but that each cell contains elements which could conceivably constitute the beginning of a new human organism. Such studies are significant to science but only confuse the problem of defining human life.

"When a fetus is destroyed, has something valuable been destroyed? The fetus has the potentiality of becoming a human being. Therefore, is not the fetus of equal value? This question must be answered.

"It can be answered, but not briefly. What does the embryo receive from its parents that might be of value? There are only three possibilities: substance, energy and information. As for the substance, it is not remarkable: merely the sort of thing one might find in any piece of meat, human or animal, and there is very little of it—only one and a half micrograms, which is about a half of a billionth of an ounce. The energy content of this tiny amount of material is likewise negligible. As the zygote develops into an embryo, both its substance and energy content increase (at the expense of the mother); but this is not a very important matter—even an adult from this standpoint is only a hundred and fifty pounds of meat.

"Clearly, the humanly significant thing that is contributed to the zygote by the parents is the information that 'tells' the fertilized egg how to develop into a human called 'DNA.' . . . The DNA constitutes the information needed to produce a valuable human being. The question is: is this information precious? I have argued elsewhere that it is not. . . .

"People who worry about the moral danger of abortion do so because they think of the fetus as a human being, hence equate feticide with murder. Whether the fetus is or is not a human being is a matter of definition, not fact, and we can define it any way we wish." Hardin, *Abortion or Compulsory Pregnancy?* 30 J. MAR. & FAM. No. 2 (May, 1968).

Thus science only leads to a worse quandary for obviously if one goes far enough back along the continuum of human development one encounters the existence of sub-microscopic double-helix molecules which have human life potential. When does something become human? As Judge Cassibry pointed out in his dissent in *Rosen* v. *Louisiana State Board of Medical Examiners*, 318 F. Supp. 1217, 1232 (E.D. La. 1970) appealed docketed 39 U.S.L.W. 3302 (U.S. Dec. 27, 1970) (No. 1010), the "meaning of the term 'human life' is a relative one which depends on the purpose for which the term is being defined." [96]

Once the fact that science can offer no guidance on the question of when human life begins is conceded, arguments concerning preservation of the fetus almost always fall back to the proposition of potential life. Despite disagreements as to when human characteristics are assumed by the fetus, its would-be protectors argue that since there is potential human life present, which, unlike "DNA" molecules *can* be protected, it must be preserved. But matters are not so simple. Obviously all potential life may not be protected. A legislative decision to cut appropriations for slum clearance, for medical facilities, for food subsidies; a declaration of war; a court's refusal to consider the habeas corpus petition of a condemned man—all in some way destroy life. And, to the extent that past exeprience shows that in the future "x" number of lives will be lost if the decisions are made, they are conscious decisions.

It is obvious that the legislative decision forbidding abortions also destroys potential life—that of the pregnant woman—just as a legislative decision to permit abortions destroys potential life.[97] The question then becomes not one of the destroying or preserving potential, but one of who shall make the decision. Obviously some decisions are better left to a representative process since individual decisions on medical facilities, wars, or the release of a convict would tend toward the chaotic. It is our contention that the decision on abortion is exactly the opposite. A representative or majority decision making process has led to chaos. Indeed, in the face of two difficult, unresolvable choices—to destroy life potential in either a fetus or its host—the choice can only be left to one of the entities whose potential is threatened.

The above argument is perhaps only another way of stating that when fundamental rights are infringed upon, the State bears the burden of demonstrating a compelling interest for doing so. The question of the life of the fetus versus the woman's right to choose whether she will be the host for that life is incapable of answer through the legislative fact-finding process. Whether one considers the fetus a human being is a problem of definition rather than fact. Given a decision which cannot be reached on the basis of fact, the State must give way to the individual for it can never bear its burden of demonstrating that facts exist which set up a compelling state interest for denying individual rights.

V. The provisions in articles 1191–1194 and 1196 of the Texas Penal Code, which prohibit medically induced abortions unless undertaken "by medical advice for the purpose of saving the life of the mother" are unconstitutionally vague and indefinite, facially and in application, because the language is not meaningful in medical practice, and provides wholly inadequate warning to physicians, their counsel, judges, and jurors, of which physical, mental, and personal factors may be taken into consideraiton when assessing necessity

Appellants successfully challenged the statutory exception in the lower court on grounds of unconstitutional uncertainty. The provision sanctioning the medical procedure of induced abortion for "saving the life" of the woman, on its face and as interpreted in practice, provides insufficient prior warning of what conduct it proscribes, and what it authorizes. It shows the difficulties encountered when an instrument as blunt as the criminal law crudely attempts to define and regulate "those subtle and mysterious influences upon which life and death depend. . . ." *Dent* v. *West Virginia*, 129 U.S. 114, 122 (1889).

A vast body of case law exists on the problem of unconstitutional uncertainty.[98] This doctrine has, moreover, several complementary, and competing strands. The test most frequently articulated has been that "a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process. . . ." [99]

This is partly because "it would certainly be dangerous if the legislature could set a net large enough to catch all possible offenders and leave it to the courts to step inside and say who could be rightfully detained and who should be set at large." [100]

Clearly, "[v]ague laws in any area suffer a constitutional infirmity," [101] be they of common law antiquity,[102] administrative,[103] or criminal.[104] Furthermore, statutes challenged for vagueness which impinge upon sensitive human rights are to be closely scrutinized. *Grisworld* dealt with "a right of privacy older than the Bill of Rights . . ." [105] and that right is invoked again here, as well as the rights to seek and administer medical care. Thus, "[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedoms." [106]

This Court has never ruled on a vagueness challenge to a similar statute, and accordingly this case must be decided on its own merits as one largely of first impression. *United States v. Vuitch*, 402 U.S. 62 (1971), is in no way dispositive, moreover, having involved not only a differently worded statute, having been based upon no record whatever of statutory application in practice, and having been concerned with *federal* legislation which this Court might construe. The Texas courts have upheld this statute against vagueness claims, *Jackson* v. *State*, 55 Tex. Crim. 79, 115 S.W. 262 (1908), and it stands construed as written. In any event no construction could possibly meet the claim of physicians and patients to access to the medical procedure of induced abortion in cases of contraceptive failure, where the procedure would in no way be detrimental to the patient.

Both medical and legal commentary have recognized the uncertainty of American abortion laws, of which the Texas statute is a typical example. Retired Justice Clark recently remarked:

"The increasing number of abortions subjects physicians to increased dangers of liability for incorrectly interpreting a statute. . . . [D]octors face an uncertain fate when performing an abortion. This uncertainty will continue unless the legislatures or courts provide relief from liability."[107]

Christopher Hietze, M.D., perhaps internationally the most knowledgeable authority on abortion practices and statistics, commented.

"The application of these laws, however, varies greatly between localities and between hospitals."[108]

Similarly, a 1967 study concluded:

"Abortion policies vary not only from hospital to hospital but also from service to service within the same hospital. They also vary widely from doctor to doctor on the same service of the same hospital."[109]

And, as Dr. Alan F. Guttmacher indicated in an early study, "[t]he doctor's dilemma lies in the phrase 'preserving the life of the woman.' " [110]

The medical profession has no experience in applying the provisions of felony statutes to the day-to-day practice of their science.[111] It is not an offense to perform an appendectomy far in advance of rupture, and when only necessary to prevent a risk that might never materialize. General malpractice principles, which take all circumstances into account, govern the physician's everyday practice, not the criminal law. Nor is an instance of malpractice *per se* ever a cause for license revocation, much less criminal prosecution, unless so serious, wanton, and reckless as to constitute criminal negligence. The physician's professional role is directed toward preserving a patient's *health*, that term is used in its broadest sense:

"Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

"The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition." [112]

In no sphere of medicine other than abortion does a criminal statute impose such a burden upon a physician, and in no other sphere of medical practice is treatment restricted by criminal law to those instances in which it is necessary to save the patient's life. The Court might consider the impact on the lives of all citizens if a penal statute prohibited gall bladder surgery, kidney stone removal, the prescription of contraceptives,[113] use of antibiotics, vaccination, or even the taking of aspirin "unless necessary for the preservation of the life or health" of the patient. There are not and never have been such laws or practices.

Footnotes at end of article.

An increasing number of federal and state courts have been asked to declare similarly worded statutes unconstitutionally vague. A comparison of the analysis by invalidating judges with that by others is instructive. The case language discussing vagueness in the two types of decision can be compared as follows:

Vague

"[T]here are grave and manifold uncertainties in the application of Article 1196. How *likely* must death be? Must death be certain if the abortion is not performed? Is it enough that the woman could not undergo birth without an ascertainably higher possibility of death than would normally be the case? What if the woman threatened suicide if the abortion was not performed? How *imminent* must death be if the abortion is not performed? Is it sufficient if having the child will shorten the life of the woman by a number of years? These questions simply cannot be answered." *Roe v. Wade,* 314 F. Supp. 1217, 1223 (N.D. Tex. 1970) (per curiam); Supp. App. at 83.

"If courts cannot agree on what is the essential meaning of 'necessary for the preservation of the woman's life' and like words, we fail to see how those who may be subject to the statute's proscriptions can know what it prohibits. . . . One need not inquire in great depth as to the meaning of such words as 'necessary' and 'preserve' to conclude that the holdings of those cases are correct. 'Necessary' has been characterized as vague by the United States Supreme Court and has been similarly described by other courts. It is 'a word susceptible of various meanings. It may import absolute physical necessity or inevitability, or it may import that which is only convenient, useful, appropriate, proper, or conducive to the end sought.'

"The word 'preserve' is similarly susceptible of so broad a range of connotations as to render its meaning in the statute gravely amorphous, since it may mean anything from maintaining something in its status quo to preventing the total destruction of something." *Doe* v. *Scott,* 321 F. Supp. 1385, 1388–89 (N.D. Ill. 1971); Supp. App. at 128–29.

"Dictionary definitions and judicial interpretations fail to provide a clear meaning for the words, 'necessary' or 'preserve.' There is, of course, no standard definition of 'necessary to preserve,' and taking the words separately, no clear meaning emerges. 'Necessary' is defined as: '1. Essential to a desirable or projected end or condition; not to be dispensed with without loss, damage, inefficiency, or the like; * * * ' (Webster's New International Dictionary (2d ed.), unabridged.) The courts have recognized that ' "necessary" has not a fixed meaning, but is flexible and relative.' (Westphal v. Westphal, 122 Cal. App. 379, 382, 10 P. 2d 119, 120; see also, City of Dayton v. Borchers (Ohio Com. Pl., 1967) 13 Ohio Misc. 273, 232 N.E.2d 437, 441 ['A *necessary* thing may supply a wide range of wants, from mere convenience to logical completeness.'].)

"The definition of 'preserve' is even less enlightening. It is defined as: '1. To keep or save from injury or destruction; to guard or defend from evil; to protect, save. 2. To keep in existence or intact: * * * To save from decomposition, * * * 3. To maintain; to keep up; * * *' (Webster's New International Dictionary, *supra.*) The meanings for 'preserve' range from the concept of maintaining the status quo—that is, the woman's condition of life at the time of pregnancy—to maintaining the biological or medical definition of 'life'—that is, as opposed to the biological or medical definition of 'death'. * * *

"Various possible meanings of 'necessary to preserve * * * life' have been suggested. However, none of the proposed definitions will sustain the statute." *California* v. *Belous,* 71 Cal. 2d 954, 961–62, 458 P.2d 194, 80 Cal. Rptr. 354 (1969), *cert. denied,* 397 U.S. 915 (1970); Supp. App. at 104.

"It is my opinion that the difficulty with the statute in question is not its failure to be phrased in 'numerous paragraphs of fine-spun legal terminology', but rather its attempt to define a medical problem in terms that are not understandable by the medical profession. A continuing complaint of the medical profession is that the laws in general, and judicial decisions, are not responsive to the realities of medical science. It is interesting to note that while the body of the statute condemns the attempt to procure a 'miscarriage', the statute is captioned 'Attempt to procure abortion.' This failure of this statute, and others like it, to observe the medical distinction between abortion and miscarriage has been noted, and it is said that the two terms are used indiscriminately by the courts. . . . I should like to set forth what I believe to be a primary example of the vagueness of the Ohio statute: the suicidal patient.

"A pregnant woman informs her physician that if her pregnancy goes to term she will take her own life. Is an abortion *necessary to preserve* the life of that patient? The patient will not die from any physiological condition related to her pregnancy. Suicide is an intentional act (although, perhaps, not truly a volitional one), and the patient may not, in fact, carry out her threat. Assuming that the physician has strong and valid reasons to believe that his patient will take her own life, does this statute tell him whether he may legally terminate the pregnancy?

"There are other questions created by this statute. How imminent must the threat of death be to warrant an abortion 'to preserve life?' If permitting a pregnancy to go to term would clearly shorten the mother's life by a substantial number of years, would a physician be justified in performing an abortion in accordance with the term 'necessary to preserve her life?'

"An Ohio court has recently defined a 'necessary thing' as follows:

'A necessary thing may supply a wide range of wants, from mere convenience to logical completeness.' City of Dayton v. Borchers, 13 Ohio Misc. 273, 232 N.E.2d 437, 441, 42 O.O.2d 193, 197 (Ohio Com.Pl. 1967)

Such a definition certainly does not advise what is permitted and what is forbidden.

"With regard to the assertion that the lessons of time have compensated for the deficiencies of the statute, I do not find that to be the case. I have endeavored to examine all recorded Ohio decisions construing O.R.C. § 2901.16 and the predecessor thereto, and find that not one of the cases I have reviewed construes the statutory phrase 'necessary to preserve her life', or the language of similar import in the earlier statutes. (A listing of the said decisions is appended hereto). A study of the Ohio case histories offers little guidance to the physician searching for the meaning of the language 'necessary to preserve her life.'" *Steinberg* v. *Brown,* 321 F. Supp. 741, 749–50 (N.D. Ohio 1970) (Green, J., dissenting); Supp. App. at 197–98.

Not Vague

"We have examined the challenged phraseology and are persuaded that it is not indefinite or vague. In our opinion, the word 'necessary' and the expression 'to save the life of the mother' are both reasonably comprehensible in their meaning. * * * [T]he California court found that the words 'necessary to preserve her life' in that state's abortion statute were unconstitutionally vague. While the Wisconsin's statute uses slightly different language ('necessary to save'), we doubt that the distinction between the words used in the two statutes is significant. However, we do not share the view of the majority in *Belous* that such language is so vague that one must guess at its meaning." *Babbitz* v. *McCann,* 310 F. Supp. 293, 297–98 (E.D. Wis. 1970) (per curiam); Supp. App. at 145–46.

"On the vagueness question I first observe that we have before us no contention by any party that an actual situation exists where a licensed physician acting in good faith is in jeopardy of prosecution for performing an abortion he believed to be 'necessary for the preservation of the woman's life.' In other words we are presented with no actual circumstances where the vagueness question is in issue. The rather forced game of semantics urged by plaintiffs and adopted by the majority has not presented any *actual* controversy but is merely a convenient vehicle for these plaintiffs to challenge a law which they believe is unwise. . . .

"The words of the Illinois Abortion Statute taken in their ordinary meaning sufficiently convey definite warning as to the proscribed conduct . . ." *Doe* v. *Scott,* 321 F. Supp. 1385, 1392–93 (N.D. Ill. 1971) (Campbell, J., dissenting); Supp. App. at 132–33.

"Amici for appellant, 178 deans of medical schools, state that . . . 'the medical profession has "approved" abortions in cases [in which the objective was not to preserve the life of the woman and therefore] clearly outside of Penal Code section 274. Packer & Gampell, Therapeutic Abortion: A Problem in Law and Medicine, 11 Stan.L.Rev. 417, 447. * * * ' However, that sentence must be understood to mean recognized and approved by such persons as being required to preserve the life of the patient.

"The word 'preserve' is defined in the dictionary as '1. To keep or save from injury or destruction; * * * to protect; save. 2. To keep in existence or intact; * * * To save from decomposition * * *.' (See Webster's New Internat. Dict. (3d ed. 1961).) As used in section 274, the word 'preserve' has been regarded as synonymous with 'save' * * * and to save a life ordinarily is understood as meaning to save from destruction, i.e. dying—not merely from injury. Thus the precipitation of a psychosis in the absence of a genuine threat of suicide is not a threat to life under section 274." *California* v. *Belous,* 71 Cal. 2d 954, 974–75, 458 P.2d 194, 80 Cal. Rptr. 354 (1969) Burke, J., dissenting); Supp. App. at 112–13. "[O]ne would think that the English language which has been the sensitive instrument of our system of law for over 500 years, has lost, by the mere passage of time, all capacity for clarity of expression. . . . There is no mystique enveloping the statute and . . . the clause now challenged has stood the test of over a hundred years, and presumably of countless human incidents falling within its scope, apparently without evoking a single whimpering cry against it." *Id.* at 979–80 (O'Sullivan, J., dissenting).

"It appears to us that the vagueness which disturbs the plaintiffs herein results from their own strained construction of the language used, coupled with the modern notion among law review writers that anything that is not couched in numerous paragraphs of fine-spun legal terminology is too imprecise to support a criminal conviction. . . . The words of the Ohio statute, taken in their ordinary meaning, have over a long period of years proved entirely adequate to inform the public, including both lay and professional people, of what is forbidden. The problem of the plaintiffs is not that they do not understand, but that basically they do not accept, its proscription." *Steinberg* v. *Brown,* 321 F. Supp. 741, 745 (N.D. Ohio 1970); Supp. App. at 193.

"We have examined the challenged language and are persuaded that it is neither vague nor indefinite, but is instead reasonably comprehensible in its meaning, with its reach delineated in words of common understanding.

"The clause 'unless done for the relief of a woman whose life appears in peril' requires no guessing at its meaning. Rosen focuses upon the words 'relief,' 'appears,' and 'life.' These are widely used and well understood words, particularly when read in the context of section 37:1285(6). We conclude that the statute was intended to permit an induced abortion of an embryo or fetus only when the physician, after due consultation with another licensed physician, determines in good faith that continuation of the pregnancy will directly and proximately result in the death of the woman. In our opinion, the statute so read provides fair warning that Louisiana does not suffer the performance of all medically indicated abortions, however wise in the physician's estimation such an operation might be in a particular case, but rather allows the induced abortion of an embryo or fetus to be performed without sanction only when the life of the mother is directly endangered by the condition of pregnancy itself." *Rosen* v. *Louisiana State Bd. of Medical Examiners,* 318 F. Supp. 1217, 1220 (E.D. La. 1970); Supp. App. at 214.

Little can be added to the analysis offered by numerous distinguished state and federal judges on the vagueness questions raised here. It is sufficient to note that the courts upholding the statute as not vague committed three plain errors. First, the validating courts completely and deliberately ignored the discussions in medical literature which carefully explain why and how interpretative difficulties arise. Second, those courts did not even discuss the various possible interpretations of the statutory language, and point to any likelihood that state courts would adopt or had adopted a specific meaning. Third, the validating courts did not draw the obvious distinction between the fluid and varying standards of ordinary medical practice, and the different standards brought about with respect to induced abortion by the variant ethic views of physicians that are compounded by the threat of felony punishment and license revocation for committing what would at most be a medical misunderstanding in any other context.

VI. Texas Penal Code articles 1191–1194 and 1196, as applied to impose upon a physician the burden of Pleading and Proving that a medical abortion procedure was "procured or attempted by medical advice for the purpose of saving the life of the mother," reverses the due process guarantee of presumed innocence and invades the privilege against self-incrimination

The Texas abortion law comes to this Court with a supplementary gloss of state law that cannot be squared with the Fourteenth Amendment. According to *Veevers* v. *State,* 354 S.W.2d 161, 166 (Tex. Crim. App. 1962), and numerous prior decisions, "[it] is unnecessary for the State to allege that the act was 'unlawfully' done." Although Article 1196 permits the medical procedure of induced abortion in a limited class of cases, the State need not inquire whether the exception applied. As the *Veevers* case held, "[t]his is a separate statute, and it need not be negated in the allegations of the indictment. It would be an affirmative defense available in the proper case to an accused." *Id.* at 166.

The import of the *Veevers* gloss is that a physician may be indicted and tried before a jury each time he undertakes the medical procedure of induced abortion. It is up to him to raise Article 1196 as a defense, admit complicity in the offense, and prove that the medical procedure was done "for the purpose of saving the life of the mother."

Indictments contained in the record (A. 73, 74; Appendix E, E-1 to E-9) illustrate this practice. Law enforcement authorities are free to seek indictments without even the bare courtesy of seeking an explanation from the physician.

Medical literature has shown at least one Dallas, Texas hospital which has generally performed 1 abortion for each 680 deliveries.[114] If this ratio has been consistent on a statewide basis, then the 220,000 births in Texas during 1969 [115] permit an inference that there were also 324 medical abortions done in Texas hospitals. Under Texas law, the physicians, their cooperating associates, and perhaps the hospitals themselves could have been indicted without warning on abortion charges in any of the 324 cases.

This Court's decision in *United States* v. *Vuitch,* 402 U.S. 62 (1971), and the weight of authority, support the contention that lack of medical justification for the abortion "is an objective element of the crime." George, *Current Abortion Laws: Proposals and Movements for Reform,* 17 W. RES. L. REV. 371, 377 (1965). As the Court in *Vuitch* stated:

"Certainly a statute that outlawed only a limited category of abortions but 'presumed' guilt whenever the mere fact of abortion was established, would at the very least present serious constitutional problems under this Court's previous decisions interpreting the Fifth Amendment." 402 U.S. at 70.

An initial infirmity of the *Veevers* rule inheres in its inevitable invasion of the Fifth Amendment privilege against self-incrimination. *Veevers* requires that the physician bring forth evidence that the abortion was necessary to preserve the patient's "life." This means that the accused physician stands mute at penalty of certain conviction because of his failure to testify. If he testifies, however, he must admit the very fact of the abortion, *i.e.,* complicity in one element of the offense, and then attempt to persuade the jury that the second element of the offense was not present. If the jury finds his justifications insufficient, or that his "good faith" was not "good enough," the physician has been convicted upon his own testimony. Moreover, if the jury had not believed the prosecution's evidence that an abortion was performed, the physician's testimony could supply proof from his own mouth of *both* elements of the offense.

Leary v. *United States,* 395 U.S. 6 (1969), teaches that the *Veevers* rule must be held to violate the privilege against self-incrimination. In *Leary,* registration and payment under the Marihuana Tax Act "compelled [an accused] to expose himself to a 'real and appreciable' risk of self-incrimination. . . ." 395 U.S. at 16. Such registration "would surely prove a significant 'link in a chain' of evidence tending to establish . . . guilt." *Marchetti* v. *United States,* 390 U.S. 39, 48 (1968).

So it is with the *Veevers* rule. If the physician comes forward with evidence that the abortion was necessary for medical reasons, he must perforce admit presence at the scene, and performance of the very act charged in the indictment. His own testimony will suffice to corroborate the first element of the offense, namely, that he performed the abortion. Not only will his own testimony provide a "link" in the chain, it may provide both links to a two-link chain, that is, the entire chain. He will have admitted performing the abortion and the jury may not believe his reasons for justification. Accordingly, a weak prosecution case may be fortified and proved from the physician's own testimony. Since *Veevers* requires that testimony, the rule invades the physician's privilege against self-incrimination. Under *Leary,* and earlier supporting decisions,[116] this is not permissible.

The Texas felony abortion statute, as construed in *Veevers,* also violates the due process clause of the Fourteenth Amendment by reversing the presumption of innocence. The physician must take the burden upon himself of proving that the abortion was necessary to save the patient's life. To undertake such proof, the physician must first waive any defense based upon not having participated at all in the alleged offense. He must admit what the indictment states, that he performed the abortion, and prove that the act was justified.

A long line of decisions by this Court, carefully reviewed by the Eighth Circuit *en banc* in *Stump* v. *Bennett,* 398 F.2d 111 (8th Cir. 1968 (*en banc*), establishes the presumtion of innocence on its constitutional plane.[117] As this Court stated in *Deutch* v. *United States*:

"'One of the rightful boasts of Western civilization is that the [prosecution] has the burden of establishing guilt solely on the basis of evidence produced in court and under circumstances assurring an accused all the safeguards of a fair procedure.' Irving v. Dowd, 366 U.S. 717, 729. Among these is the presumption of the defendant's innocence." 367 U.S. 456, 471 (1961).

Plainly, this right is invaded when a physician can be convicted solely because he performed an abortion, and without further proof.

Necessity is not a collateral matter, like self-defense. With respect to abortion, the circumstances under which the procedure was undertaken go to the very heart of the matter. It is not every abortion which the statute condemns, but only a special, opaquely defined class. *Veevers* incorrectly suggests that the exceptions are collateral and affirmative justifications. In every physican case, however, the center of the controversy will be whether the abortion in question fell within the exception. Abortions *per se* are no offense. It is only unnecessary abortions which the statute proscribes. Under a broad definition of "life" there are many necessary abortions. Under other definitions, there may be more. By presuming that all abortions are legally unnecessary, the State may convict, as it did in *Veevers,* upon no more than a showing persuasive to the jury, that the physician performed the abortion. It is presumed, unless the physician shows otherwise, that the abortion was unnecessary. In other words, Texas practice resumes, upon proof of one element of the offense, that the second element is present, that the accused is guilty. This presumption of guilt cannot stand in light of the constitutional status of the presumption of innocence under the due process clause of the Fifth Amendment, as applied through the Fourteenth.

CONCLUSION

For the reasons stated in this brief this Court should reverse the lower court's judgment denying standing to Appellants Doe and denying injunctive relief, declare that the Texas Abortion Statutes, Arts. 1191, 1192, 1193, 1194, 1196, TEXAS PENAL CODE, violate the United States Constitution and remand with instructions that a permanent injunction against enforcement of said statutes be entered.

Respectfully submitted.

Roy Lucas, James Madison Constitutional Law Institute, Four Patchin Place, New York, New York 10011.

Sarah Weddington, James R. Weddington 709 West 14th, Austin, Texas 78701.

Linda N. Coffee, 2130 First Nat'l Bank Bldg., Dallas, Texas 75202.

Fred Bruner, Roy L. Merrill, Jr., Daugherty, Bruner, Lastelick & Anderson, 1130 Mercantile Bank Bldg., Dallas, Texas 75201, *Attorneys for Appellants.*

FOOTNOTES

[1] Citations are to the Single Appendix.

[2] James Hubert Hallford, M.D., filed his Application for Leave to Intervene in the *Roe* case March 19, 1970 (A. 22).

[3] The Law, 2A TEXAS PENAL CODE arts. 1191–1194, 1196, at 429–36 (1961), are set out verbatim, *infra,* at 4-5.

[4] Over 339,200 out-of-wedlock children were born during 1968 in the United States. U.S. BUREAU OF THE CENSUS, *Statistical Abstract of the United States: 1970,* Table 58, at 50 (91st ed.). 80.5% (273,600) of these children were born to women between the ages of 11 and 24 years.

[5] Other rights asserted by Jane Roe were: "the fundamental right of all women to choose whether and when to bear children"; "[the] right to privacy in the physician-

patient relationship"; and the "right to personal privacy" (A. 13). The origin and extent of these rights are discussed *infra*.

[6] "Supp. App." hereinafter refers to the *Supplementary Appendix to Brief of Appellants*, the offset bound volume filed with this brief.

[7] U.S. Bureau of the Census, *Statistical Abstract of the United States: 1970*, Table 57, at 49 (91st ed.).

[8] While Texas does not punish the woman who persuades a physician to abort her, the anti-abortion statute imposes a felony sanction of up to five years for the physician. 2A Texas Penal Code art. 1191, at 429 (1961). Moreover, the physician risks cancellation of his license to practice. 12B Texas Civ. Stat. art. 4505, at 541 (1966); *id* art. 4506, at 132 (Supp. 1969–70). Also, the hospital can lose its operating license for permitting an illegal abortion within its facilities. 12B Texas Civ. Stat. art. 4437f, § 9, at 216 (1966).

[9] Jane Roe and Dr. Hallford had standing because they "occupy positions *vis-à-vis* the Texas Abortion Laws sufficient to differentiate them from the general public" (A. 113). Also, Dr. Hallford had standing to raise the "rights of his patients, single women and married couples, as well as rights of his own" (A. 113, no. 3).

[10] The district court was "satisfied that there presently exists a degree of contentiousness between Roe and Hallford and the defendant to establish a 'case of actual controversy' . . ." (A. 114.)

[11] Zwickler v. Koota, 389 U.S. 241, 248–49 (1967), was sufficient authority to preclude abstention.

[12] *See* Pierce v. Society of Sisters, 268 U.S. 510 (1925); Meyer v. Nebraska, 262 U.S. 390 (1923); Prince v. Massachusetts, 321 U.S. 158 (1944), all cited by the district court.

[13] *See* Griswold v. Connecticut, 381 U.S. 479 (1965).

[14] *See* Skinner v. Oklahoma, 316 U.S. 535 (1942); Stanley v. Georgia, 394 U.S. 557 (1969).

[15] *See, e.g.*, McCann v. Babbitz, 310 F. Supp. 293 (E.D. Wis. 1970) (per curiam); United States v. Vuitch, 305 F. Supp. 1032 (D.D.C. 1969); California v. Belous, 71 Cal. 2d 954, 458 P.2d 194, SO Cal. Rptr. 354 (1969), *cert. denied*, 397 U.S. 915 (1970).

[16] 2A Texas Penal Code art. 1196, at 436 (1961).

[17] Model Penal Code § 230.3(2) (Proposed Official Draft, 1962). The twelve states are Arkansas, California, Colorado, Delaware, Georgia, Kansas, Maryland, New Mexico, North Carolina, Oregon, South Carolina, and Virginia. *See generally* Roemer, *Abortion Law Reform and Repeal; Legislative and Judicial Developments*, 61 Am. J. Public Health 500 (1971); Supp. App. at 329.

[18] Tietze, *United States: Therapeutic Abortions, 1963–1968*, 59 Studies in Family Planning 5 (1970).

[19] Secret induced abortions are inherently incapable of quantification. Nonetheless, one can be certain that the number is very high. For estimates, see Fisher, *Criminal Abortion*, in Abortion in America 3–6 (H. Rosen ed. 1967); M. Calderone (ed.), Abortion in the United States 180 (1958): P. Gerbard *et al.*, Pregnancy, Birth and Abortion 136–37 (1958); F. Taussig, Abortion: Spontaneous and Induced 25 (1936): Regine, *A Study of Pregnancy Wastage*, 13 Milbank Mem. Fund Quart. No. 4, at 347 65 (1935).

[20] Chase, *Twelve Month Report on Abortions in New York City* (Health Services Administration, City of New York, June 29, 1971).

[21] *Id.*

[22] *Id.*

[23] Dr. McKelvey's basic point about the dangers of pre-Lister "medical" care is well taken, although his figures here are somewhat inaccurate. The clinic was known as the "First Obstetric Clinic at the Allgemeines Krankenhaus [General Hospital]," not the Women's Clinic. J. Talbott, *Ignaz Phillip Semmelweis (1818–1865)*, in A Biographical History of Medicine 660 (1970). The mortality rate in 1846 "was 11.4% in the First Division [physicians] and 2.7% in the Second Division [midwives]." *Id.* at 661. Chlorine disinfection was used in 1848 to reduce the First Division mortality rate to "slightly less than the mortality in the Second Division," *id.*, which had been 2.7%. It was 1861, however, before Dr. Semmelweis published his findings in German. I. P. Semmelweis, Etiology, Concept and Prophylaxis of Childbed Fever (1861), *transl. in* 5 Medical Classics 339–715 (1941).

[24] *See generally* H. Robb, Aseptic Surgical Technique With Especial Reference to Gynaecological Operations (1875); C. Haagensen & W. Lloyd, A. Hundred Years of Medicine (1943).

[25] "Ovariotomy" is the abdominal operation for removal of an ovarian tumbor.

[26] Texas Laws of 1854, ch. 49, § 1, at 58, in 3 Gammel, Laws of Texas 1502 (1898).

[27] U.S. Bureau of the Census: *Statistical Abstracts of the United States: 1970*, Table 69, at 55 (91st ed.).

[28] The data are derived from surveys by the Commission on Professional and Hospital Activities, in Ann Arbor, Michigan, which are published in the Professional Activities Survey (PAS) Reporter. Over 1,200 hospitals provide the Commission with data for more than 10 million patients per year. *See PAS Hospitals*, 8 PAS Reporter No. 1, at 1 (Jan. 12, 1970).

[29] *Appendectomy Profile, 1968*, 7 PAS Reporter No. 16, at 1-4 (Dec. 22, 1969).

[30] *Cholecystectomy Mortality*, 8 PAS Reporter No. 8, at 1 (Apr. 20, 1970).

[31] *T. & A Profile*, 8 PAS Reporter No. 5 (Mar. 9, 1970).

[32] Tietze, *United States: Therapeutic Abortions, 1963–1968*, 59 Studies in Family Planning 5, 7 (1970).

[33] Chase, *Twelve Month Report on Abortions in New York City* (Health Services Administration, City of New York, June 29, 1971).

[34] *Id.* at 2.

[35] *Id.*

[36] Tietze, *Abortion Laws and Abortion Practices in Europe*, in V. Advances in Planned Parenthood 194, 208 (1969) (Proceedings of the Seventh Annual Meeting of the American Ass'n of Planned Parenthood Physicians).

[37] Fleck, *Some Psychiatric Aspects of Abortion*, 151 J. Nerv. & Ment. Dis. 42 (1970); Simon, *Psychological and Emotional Indications for Therapeutic Abortion*, 2 Sem'rs in Psych. 283 295 (1970); Margolis, et al., *Therapeutic Abortion Follow-up Study*, 110 Am. J. Ob. Gyn. 243 (1971); Notman, et al., *Psychological Outcome on Patients Having Therapeutic Abortions*, Paper presented at Third International Congress of Psychosomatic Problems in Obstetrics and Gynecology, London, April, 1970 (Available at Beth Israel Hosp., Boston, Mass.); Whittington, *Evaluation of Therapeutic Abortion as an Element of Preventive Psychiatry*, 126 Am. J. Psych. 1224 (1970).

[38] *See* Gray v. State, 77, Tex. Crim. 221, 178 S.W. 337 (1915); Smith v. Gaffard, 31 Ala. 45 (1857); Hunter v. Wheate, 53 App. D.C. 206 (D.C. Cir. 1923); Eggart v. Florida, 40 Fla. 527, 25 So. 144 (1898); State v. Alcorn, 7 Idaho 599, 64 Pac. 1014 (1901); Abrams v. Foshee, 3 Iowa 274, 66 Am. Dec. 77 (1856); Mitchell v. Commonwealth, 78 Ky. 204, 39 Am. Rep. 227 (1879); Lamp v. Maryland, 67 Md. 524, 10 Atl. 298 (1887); Smith v. State, 33 Me. 48, 54 Am. Dec. 607 (1851); Commonwealth v. Bangs, 9 Mass. 387 (1812); Evans v. People, 49 N.Y. 86 (1872); Edwards v. State, 79 Neb. 251, 112 N.W. 511 (1907); State v. Cooper, 22 N.J.L. (2 Zab.) 52, 51 Am. Dec. 248 (1849); State v. Tippie, 89 Ohio St. 35, 105 N.E. 75 (1913); State v. Ousplund, 86 Ore. 121, 167 Pac. 1019 (1917), *appeal dismissed per stip.*, 251 U.S. 563 (1919); Miller v. Bennet, 190 Va. 162, 56 S.E.2d 217 (1949); State v. Dickinson, 41 Wis. 299 (1877). *See generally* Means, *The Law of New York Concerning Abortion and the Status of the Foetus, 1664–1968: A Case of Cessation of Constitutionality*, 14 N.Y.L.F. 411 (1968) [hereinafter Means]. *Contra:* Mills v. Commonwealth, 13 Pa. St. 631 (1850); Willis v. O'Brien, 151 W.Va. 628, 153 S.E.2d 178, *cert. denied*, 389 U.S. 848 (1967); State v. Slagle, 83 N.C. 630 (1880).

[39] *See, e.g.*, N.Y. Rev. Stat., pt. IV, ch. 1, tit. 6, §§ 20–22 (1829); Ill. Rev. Code, § 46 (1827); *see generally* George, *Current Abortion Laws: Proposals and Movements for Reform*, 17 W. Res. L. Rev. 371 (1966); Lucas, *Laws of the United States*, in I Abortion in a Changing World 127 (R. Hall ed. 1970); Roemer, *Abortion Law Reform and Repeal: Legislative and Judicial Developments*, 61 Am. J. Public Health 500 (1971).

[40] Setting out the New Jersey abortion law of 1849 beside the 1854 Texas law is instructive:

> "If any person, with the intent to procure the miscarriage of any woman being with child, unlawfully and maliciously shall administer to her or cause to be taken by her any poison or other noxious thing, or shall use any instrument or any means whatever, with like intent . . . shall be punished . . . ." Texas Laws of 1854, Ch. 49, § 1, at 58.
>
> "[I]f any person or persons, maliciously or without lawful justification, with intent to cause and procure the miscarriage of a woman then pregnant with child, shall administer to her, prescribe for her, or advise or direct her to take or swallow any poison, drug, medicine or noxious thing . . . ." N.J. Laws at 266 (1849).

[41] Texas Penal Code, ch. VII, arts. 531–536 (1857).

[42] 6 Revisers' Notes, pt. IV, ch. 1, tit. 6, § 28, at 75 (1828).

[43] *Id.* This significant historical evidence was first disclosed in Means, *supra* note 39, at 451–453.

[44] *See* Ala. Code. 14, § 9 (1958) (". . . unless the same is necessary to preserve her life or health . . . ."); Ariz. Rev. Stat. Ann. § 13–211 (1956) (". . . unless it is necessary to save her life . . . ."); Conn. Gen. Stat. Ann. §53–29 (1960) (". . . unless the same is necessary to preserve her life or that of her unborn child . . . ."); Fla. Stat. Ann. § 782.10 (1965) (" . . . unless the same shall have been necessary to preserve the life of the mother . . . ."); Idaho Code Ann. tit. 18, § 601 (1948) (". . . necessary to preserve her life . . . ."); Ill. Ann. Stat. ch. 38, § 23–1 (1970) (". . . necessary for the preservation of the woman's life."); Ind. Ann. Stat. § 10–105 (1956) (". . . necessary to preserve her life . . . ."); Iowa Code Ann. § 701.1 (1950) (". . . necessary to save her life . . . ."); Ky. Rev. Stat. Ann. § 436.020 (1970) (". . . necessary to preserve her life . . . ."); La. Rev. Stat. § 14:87 (1951) (". . . unless done for the relief of a woman whose life appears in peril . . ."); Me. Rev. Stat. Ann. tit. 17, § 51 (1965) (". . . necessary for the preservation of the mother's life . . . ."); Mass. Gen. Laws Ann. ch. 272, § 19 (1970) (prohibits unlawful abortions, interpreted by court to allow abortions by a surgeon if, ". . . necessary for the preservation of the life or health of the woman." Kudish v. Bd. of Registration, 248 N.E.2d 264 (1969)); Mich. Stat. Ann. § 28.209 (1967) (". . . necessary to preserve the life of such woman . . . ."); Minn. Stat. Ann. § 617.18 (1964) (". . . unless the same is necessary to preserve her life or that of the child with which she is pregnant . . . ."); Miss. Code Ann. § 2223 (1966) (". . . necessary for the preservation of the mother's life . . . ."); Mo. Rev. Stat. § 559:100 (1953) (". . . unless the same is necessary to preserve her life or that of an unborn child . . . ."); Mont. Rev. Codes Ann. § 94–401 (1969) (". . . necessary to preserve her life . . ."); Neb. Rev. Stat. § 28–405 (1965) (". . . necessary to pre-

serve the life of such woman . . . ."); Nev. Rev. Stat. ch. 201.120 (1967) (". . . necessary to preserve her life or that of the child with which she is pregnant . . . ."); N.H. Rev. Stat. Ann. § 585.13 (1955) (". . . unless by reason of some malformation or of difficult or protracted labor, it shall have been necessary, to preserve the life of the woman . . . ."); N.J. Stat. Ann. § 2A:87-1 (1969) (prohibits abortions when done maliciously or without lawful justification; lawful justification has been interpreted as perhaps being limited to the preservation of the mother's life. State v. Moretti, 52 N.J. 182, 244 A.2d 499, *cert. denied,* 393 U.S. 952 (1968); *compare* Gleitman v. Cosgrove, 49 N.J. 22, 227 A.2d 689 (1967)); N.D. Cent. Code Ann. § 12-25-01 (1960) (". . . necessary to preserve her life . . . ."); Ohio Rev. Code Ann. § 2901.16 (1954) ("necessary to preserve her life . . . ."); Okla. Stat. tit. 21, § 861 (1958) (" . . . necessary . . . to preserve her life . . . ."); P.R. Laws Ann. tit. 33, § 1053 (1969) (". . . necessary to preserve her life . . . ."); R.I. Gen. Laws Ann. § 11-3-1 (1970) (". . . necessary to preserve her life . . . ."); S.D. Comp. Laws Ann. § 22-17-1 (1969) (". . . necessary to preserve her life . . . ."); Tenn. Code Ann. § 39-301 (1955) (". . . to preserve the life of the mother . . . ."); Utah Code Ann. § 76-2-1 (1953) (". . . necessary to preserve her life . . . ."); Vt. Stat. Ann. tit. 13 § 101 (1958) (". . . necessary to preserve her life . . . ."); W. Va. Code § 61-2-8 (1966) (". . . with the intention of saving the life of such woman or child . . . ."); Wis. Stat. Ann. § 940.04 (1958) (". . . necessary . . . to save the life of the mother . . . ."), Wyo. Stat. Ann. § 6-77 (1959) (". . . necessary to preserve her life . . . .").

[45] Bumpass & Westoff, *The "Perfect Contraceptive" Population,* 169 Science 1177, 1179 (1970).

[46] Dryfoos, *et al., Eighteen Months Later: Family Planning Services in the United States, 1969,* 3 Family Planning Perspectives No. 2, at 29 (Apr. 1971).

[47] *Need for Subsidized Family Planning Services: United States, Each State and County, 1968,* Table I, p. 92, cols. 10 & 11 (OEO, 1968).

[48] For discussion of contraceptive-techniques, effectiveness, and the full range of complex factors involved, *see generally* J. Peel & M. Potts, Contraceptive Practice (1969).

[49] The factor of patient *use,* or non-use is always relevant. Well motivated, sophisticated users might have no failure with a contraceptive foam, for example.

[50] The number 80 in the first line indicates that among 100 women utilizing no contraception for one year, 80 will become pregnant.

[51] Chase, *Twelve Month Report on Abortions in New York City* (June 29, 1971) (Health Services Administration, City of New York).

[52] 71 Cal.2d 954, 963 n. 5, 458 P.2d 194, 199, 80 Cal. Rptr. 354, 359 (1969) ("Dr. Belous' standing to raise this right is unchallenged."), *cert. denied,* 397 U.S. 915 (1970).

[53] McCann v. Babbitz, 310 F. Supp. 293 (E.D. Wis.) (per curiam), *appeal dismissed,* 400 U.S. 1 (1970) (percuriam).

[54] Doe v. Dunbar, 320 F. Supp. 1297 (D. Colo. 1970)

[55] Doe v. Scott, 321 F. Supp. 1385 (N.D. Ill.), *appeal docketed sub nom.* Hanrahan v. Doe, 39 U.S.L.W. 3438 (U.S. Mar. 29, 1971) (No 70-105, 1971 Term).

[56] Corkey v. Edwards, 322 F. Supp. 1248 (W.D.N.C.), *appeal docketed,* 40 U.S.L.W. 3048 (U.S. July 17, 1971) (No. 71-92, 1971 Term).

[57] Steinberg v. Brown, 321 F. Supp. 741 (N.D. Ohio 1970).

[58] This is not a case like *Hall* v. *Beals,* 396 U.S. 45 (1969) (per curiam), where no continuing injury whatsoever was present. Nor is *Brockington* v. *Rhodes,* 396 U.S. 41 (1969) (per curiam) pertinent. There the relief sought was limited in nature and rendered impossible to grant by the passage of time.

[59] *See* A. Bickel, The Least Dangerous Branch 143-55 (1962); Note, 62 Colum. L. Rev. 106 (1962); Comment, 50 Calif. L. Rev. 137 (1962). For an excellent general discussion of the "ripeness" question in the context of criminal law, see Note, *Declaratory Relief in the Criminal Law,* 80 Harv. L. Rev. 1490 (1967).

[60] A. Bickel, The Least Dangerous Branch 149-50 (1962).

[61] *Parr* involved an original petition for declaratory judgment by the State of Texas. The petition was denied.

[62] Art. 44.01, Tex. Code Crim. App., states: "The State shall have no right of appeal in criminal actions."

[63] In *Bokulich,* the Court held that the District Court had not "abused its discretion" in failing to grant the injunction; however, it then proceeded to state that the plaintiffs' claims could be raised at their criminal trial and thus the case was not a "proper" one for injunction. 394 U.S. at 98, 99.

[64] See also, Mercer v. Theriot, 377 U.S. 152 (1964); Reece v. Georgia, 350 U.S. 85 (1955); Urie v. Thompson, 337 U.S. 163 (1939).

Professor Wright indicates that while the Court is severely limited in its review of direct appeals under the Criminal Appeals Act, it is not so limited on other direct appeals from district courts. C. Wright, Handbook of the Law of Federal Courts 431 (1963).

[65] The present case.

[66] Babbitz v. McCann, 310 F. Supp. 293 (E.D. Wis.) *(per curiam), appeal dismissed,* 400 U.S. 1 (1970) *(per curiam).*

[67] Doe v. Scott, 321 F. Supp. 1384 (N.D. 1971), *appeals docketed, sub noms.* Hanrahan v. Doe and Hefferman v. Doe, 39 U.S.L.W. 3438 (U.S. Mar. 29, 1971) Nos. 1522, 1523, 1970 Term; renumbered Nos. 70-105, 70-106, 1971 Term).

[68] People v. Barksdale, Docket No. 1 Crim. 9526 (Calif. Ct. of Appeal, First App. Dist., Division 1, July 22, 1971).

[69] Doe v. Bolton, 319 F. Supp. 1048 (N.D. Ga. 1970) (per curiam), *ques. of juris. postponed to merits,* 91 S. Ct. 1614 (1971) (No. 971, 1970 Term; renumbered No. 70-40, 1971 Term).

[70] Steinberg v. Brown, 321 F. Supp. 741 (W.D. Ohio, 1970).

[71] Rosen v. Louisiana State Bd. of Medical Examiners, 318 F. Supp. 1217 (E.D. La. 1970), *appeal docketed,* 39 U.S.L.W. 3247 (U.S. Nov. 27, 1970) (No. 1010, 1970 Term; renumbered No. 70-42, 1971 Term).

[72] Corkey v. Edwards, 322 F. Supp. 1248 (W.D. N.C. 1971), *appeal docketed,* 40 U.S.L.W. 3048 (U.S. July 17, 1971) (No. 71-92).

[73] Hodgson v. State of Minnesota, No. 42966, Minnesota Supreme Court; State v. Munson, South Dakota Supreme Court, State of Kansas v. Jamieson, No. 46150, Kansas Supreme Court.

[74] "The association of people is not mentioned in the Constitution nor in the Bill of Rights. The right to educate a child in a school of the parents' choice—whether public or private or parochial—is also not mentioned. Nor is the right to study any particular subject or any foreign language. Yet the first Amendment has been construed to include certain of those rights." Griswold v. Connecticut, 381 U.S. 479, 482 (1965).

[75] Loving v. Commonwealth, 388 U.S. 1, 12 (1967) (alternate ground of decision).

[76] Skinner v. Oklahoma, 316 U.S. 535, 536 (1942).

[77] Griswold v. Connecticut, 381 U.S. 479 (1965).

[78] Pierce v. Society of Sisters, 268 U.S. 510 (1925).

[79] United States v. Guest, 383 U.S. 745 (1966). What was said by Mr. Justice Stewart in that opinion may be aptly paraphrased to apply in the present context:

"The Constitutional right [of marital privacy] . . . occupies a position fundamental to the concept of our Federal Union.* * * [T]hat right finds no explicit mention in the Constitution. The reason, it has been suggested, is that a right so elementary was conceived from the beginning to be . . . necessary . . ." 383 U.S. at 757.

[80] Justice Douglas, delivering the opinion of the Court that Connecticut could not constitutionally outlaw the use of contraceptives, relied upon the penumbras of specific guarantees in the Bill of Rights, "formed by emanations from those guarantees that help give them life and substance." 381 U.S. at 484. Justice Goldberg, joined by Chief Justice Warren and Justice Brennan, concurred, relying upon the Ninth Amendment. Justice Harlan's concurring opinion stated the inquiry to be whether the statute infringed the Due Process Clause of the Fourteenth Amendment by violating basic values implicit in the concept of liberty. 381 U.S. 500. Justice White found that the law deprived plaintiffs of "liberty" without due process, as used in the Fourteenth Amendment. 381 U.S. 502.

[81] The complaints of appellants invoked the jurisdiction of the district court under the First, Fourth, Fifth, Eighth, Ninth and Fourteenth Amendments (A. 10-11, 15-16, 24). The district court confined its consideration to the Ninth Amendment and vagueness arguments and did not pass upon the "array of constitutional arguments" (A. 116). Appellants have chosen in this brief to stress the application of the First, Ninth, and Fourteenth Amendments. However, the arguments relating to application of other Amendments and particularly the Eighth Amendment, are well developed in the Brief *Amicus Curiae* filed in this case by Attorney Nancy Stearns. Brief *Amicus Curiae* on Behalf of New Women Lawyers, Women's Health and Abortion Project, Inc., National Abortion Coalition, at 34 *et seq.* (Eighth Amendment).

[82] Basic Documents of the World Health Organization 1 (Geneva 1969 ed.). *See also* Curran, *The Right to Health in National and International Law,* 284 New Eng. J. of Medicine 1258 (1971).

[83] Public Law 89-749.

[84] *See* Brief *Amici Curiae* for Planned Parenthood Federation of America, Inc. and American Association of Planned Parenthood Physicians, at 22-24.

[85] Brodie, *Marital Procreation,* 49 Ore. L. Rev. 245, 256 (1970).

[86] For a discussion of the impacts of pregnancy on women *see* Brief *Amici Curiae* or Behalf of New Women Lawyers, Women's Health and Abortion Project, Inc., National Abortion Action Coalition filed herein by Nancy Stearns as follows: employment, at 17-21, 27-28; education, at 21-22; responsibility for the child, at 29-30; emotional, at 38-42.

[87] *See* Brief *Amici Curiae* for Planned Parenthood Federation of America, Inc. and American Association of Planned Parenthood Physicians filed herein. "The Facts About Contraception," pp. 12-21.

[88] *See* Lamm & Davison, *Abortion Reform,* 1 Yale Rev. L. & Soc'l Action, No. 4, at 55, 58-59 (Spring 1971).

[89] Tom C. Clark, *Religion, Morality and Abortion: A Constitutional Appraisal,* 2 Loyola Univ. (L.A.) L. Rev. 1, 9 1969).

[90] *E.g., Doe* v. *Bolton,* 319 F. Supp. 1048 (N.D. Ga. 1970) (per curiam), *ques. of juris. postponed to merits,* 91 S. Ct. 1614 (1971) (No. 971, 1970 Term; renumbered No. 70-40, 1971 Term); Doe v. Scott, 321 F. Supp. 1384 (N.D. Ill.), *appeals docketed sub noms.* Hanrahan v. Doe and Heffernan v. Doe, 39 U.S.L.W. 3438 (U.S. Mar. 29, 1971) (Nos. 1522, 1523, 1970 Term; renumbered Nos. 70-105, 70-106, 1971 Term); Babbitz v. McCann, 310 F. Supp. 293 (E.D. Wis.) (per curiam), *appeal dismissed,* 400 U.S. 1 (1970) (per curiam); California v. Belous, 71 Cal. 2d 954, 458, P.2d 194, 80 Cal. Rptr. 354 (1969), *cert.*

denied, 397 U.S. 915 (1970); People v. Barksdale, ——— Cal. App. 3d ———, ——— Cal. Rptr. ———, 1 Crim. 9256 (Calif. Dist. Ct. App. July 22, 1971); *contra,* Corkey v. Edwards, 322 F. Supp. 1248 (W.D. N.C. 1971), *appeal docketed,* 40 U.S.L.W. 3048 (U.S. July 17, 1971) (No. 71–92); Rosen v. Louisiana State Bd. of Medical Examiners, 318 F. Supp. 1217 (E.D. La. 1970), *appeal docketed,* 39 U.S.L.W. 3247 (U.S. Nov. 27, 1970) (No. 1010, 1970 Term; renumbered No. 70–42, 1971 Term).

[91] Hall, "Abortion in American Hospitals," 57 *Am. J. Pub. Health* 1933, 1934 (1967).

[92] *See Brief Amici Curiae* for Planned Parenthood Federation of America, Inc. and American Association of Planned Parenthood Physicians, at 22–24.

[93] There were 8 deaths in over 150,000 abortions during the first eleven months, a rate of 5.3 per 100,000. Chase, Twelve Month *Report on Abortions in New York City* (June 29, 1971) (Health Services Administration, City of New York). The 1969 mortality rate for tonsillectomy in the United States was 5.2 per 100,000. *T&A Profile,* 8 Professional Activities Survey (PAS) Reporter No. 5 (Mar. 9, 1970).

[94] Abortion, if the woman consented is punishable by confinement in the penitentiary for not less than two nor more than five years. 2A Tex. Pen. Code art. 1191 (1961). The punishment for murder is death or confinement in the penitentiary for life or for any term of years not less than two. 2A Tex Pen. Code art. 1257 (1961).

[95] Although parents of stillborn or miscarried fetuses, have recovered under wrongful death statutes in some states, it is very likely that what is really being compensated is the "mental anguish" of the parents. Prosser, Torts §§ 105, 715 (2nd ed. 1955). The general subject of civil law treatment of the fetus is exhaustively treated in Gordon, *The Unborn Plaintiff,* 63 Mich. L. Rev. 579 (1965), and Lamm & Davison, *Abortion Reform,* 1 Yale Rev. of Law & Soc. Action 55 (1971).

[96] Section 1 of the Fourteenth Amendment of the United States Constitution refers to "All persons born or naturalized in the United States. . . ." There are no cases which hold that fetuses are protected by the Fourteenth Amendment.

[97] "Potential life" is used here in the sense that each living person has a life "potential" in the future which may or may not be realized (i.e., the person may die in the next few moments or live "x" number of years). When speaking of the "potential life" of the mother being destroyed, not only is an actual cessation of brain waves included, but damage to her health, emotional security and happiness—all things which may result from an unwanted pregnancy, in effect those things which can destroy life while leaving a living organism.

[98] *See generally,* Amsterdam, *The Void for Vagueness Doctrine,* 109 U. Pa. L. Rev. 67 (1960); Collings, *Unconstitutional Uncertainty—An Appraisal,* 40 Corn. L.Q. 195 (1955); Aigler, *Legislation in Vague or General Terms,* 21 Mich. L. Rev. 831 (1923); Freund, *The Use of Indefinite Terms in Statutes,* 30 Yale L.J. 437 (1921); Note, 62 Harv. L. Rev. 77 (1948).

[99] Connally v. General Construction Co., 269 U.S. 385, 391 (1926).

[100] United States v. Reese, 92 U.S. 214, 221 (1875).

[101] Ashton v. Kentucky, 384 U.S. 195, 200 (1966) (ancient common law offense of "criminal libel" void for uncertainty).

[102] Lanzetta v. New Jersey, 306 U.S. 451, 454–55 (1939); Champlin Refining Co. v. Corporation Comm'n, 286 U.S. 210, 242–43 (1932). *See also,* United States v. Evans, 333 U.S. 483 (1948), in which the statute had been passed in 1917; and Giaccio v. Pennsylvania, 382 U.S. 399 (1966), in which the statute had been passed in 1860.

As Professor Amsterdam stated in his extensive study of vagueness, "common-law terms may have no more illuminating clarity to the layman offender than the neologisms of Ronsard. . . ." Amsterdam, *supra,* note 136, 109 U. Pa. L. Rev. at 84.

[103] *See, e.g.,* Keyishian v. Regents, 385 U.S. 5889 (1967); Baggett v. Bullitt, 377 U.S. 360 (1964).

[104] Lanzetta v. New Jersey, 306 U.S. 451 (1939).

[105] Griswold v. Connecticut, 381 U.S. 479, 486 (1965).

[106] NAACP v. Button, 371 U.S. 415, 438 (1963).

[107] Tom C. Clark, *Religion, Morality, and Abortion: A Constitutional Appraisal,* 2 Loyola Univ. (L.A.) L. Rev. 1, 7 (1969) [hereafter "Clark"].

[108] Tietze, *Maternal Morality Associated With Legal Abortion,* Proceedings of the Fifth International Conference on Planned Parenthood 24 (Oct. 1955) (Tokyo).

[109] Hall, *Abortion in American Hospitals,* 57 Am. J. Pub. Health 1933, 1935 (1967). Dr. Hall continues:

"The victim of all this confusion is, of course, the American female . . . [S]he must find Doctor X in hospital Y with policy Z in order to have it done." *Id.*

For a vivid illustration of the variations among hospitals in assessing the legality of therapeutic abortion on a given set of facts, see the questionnaire study and analysis of results in Packer & Gampell, *Therapeutic Abortion: A Problem in Law and Medicine,* 11 Stan. L. Rev. 417, 423 (1959). The study, directed to 29 San Francisco Bay Area and Los Angeles hospitals (*id.,* at p. 423) based on hypothetical cases involving pregnant women seeking abortions, yielded the following results (*id.,* at p. 444):

Case No.	Authors' Evaluation of Legality of Abortion	Hospital Would Perform Abortion	
		Yes	No
1	Yes	21	1
2	No	10	12
3	No	6	16
4	No	15	7
5	No	8	13
6	No	8	14
7	Yes	17	4
8	No	5	17
9	Prob. Yes	10	11
10	Maybe	17	4
11	No	1	20

[110] Guttmacher, *Therapeutic Abortion: The Doctor's Dilemma,* 21 J. Mt. Sinai Hosp. 111 (1954).

[111] Materials from medical and psychiatric literature which illustrate the wide-ranging interpretations of language in laws on abortion, and the sometimes arbitrary implementation of these laws include the following authorities:

(1) M. Calderone, (ed.), Abortion in the United States 34–35, 52 (1958):

"[N]ecessity as a sine qua non of performing an abortion . . . leaves the doctor's position perilous and uncertain. * * * The current laws provide no accurate criteria by which the doctor can govern his actions."

(2) White, *Induced Abortions: A Survey of their Psychiatric Implications, Complications, and Indications,* 24 Tex. Reps. of Biology & Medicine 531, 541 (1966):

"[T]he enormous variability in the frequency of therapeutic abortions from one hospital to another . . . must surely reflect, more than anything else, differences in the personal values, religious beliefs, and social ideology of the staffs of the respective hospitals about the matter of abortion."

(3) R. H. Schwarz, Septic Abortion 11 (1968):

"The legal status of abortion varies not only throughout the world but from state to state. Interpretation and enforcement differ from community to community; professional assessment varies from hospital to hospital, and from physician to physician."

(4) Group for the Advancement of Psychiatry, the Right to Abortion: A Psychiatric View 40 (Comm. on Law & Psychiatry, 1970):

"[T]he rate of therapeutic abortion varies dramatically from hospital to hospital within a state, even though all are supposedly governed by the same statutes."

In addition to the above authorities, who stress variations from place-to-place and person-to-person, much research and analysis has examined some of the many reasons why physicians and psychiatrists have difficulty with the statutes, including specific aspects of confusion:

(5) Ryan, *Humane Abortion Laws and the Health Needs of Society,* 17 W. Res. L. Rev. 424, 431 (1965):

"Distinctions between physical and mental health are meaningless in terms of modern medical thinking. Health cannot be divorced from socio-economic factors which influence people's lives since health is a product of these conditions."

(6) White, *supra* no. (2), at 532:

"[T]here are no generally accepted policies, little or no systematically gathered data, and remarkably few well and objectively substantiated points of view among psychiatrists about 'legally' or 'illegally' induced abortions."

(7) Pike, *Therapeutic Abortion and Mental Health,* 111 Calif. Med. 318, 319 (Oct. 1969).

"One of the controversial aspects of the situation is the undeniable effect of sociological factors on an individual's mental health. The stress and consequences of an unwanted pregnancy as they affect mental health must be determined for an individual patient, taking into consideration her total life situation. Factors such as martial status, family support, economic conditions, subcultural attitudes toward the pregnancy, and personality structure all contribute toward her ability to maintain and complete her pregnancy without damage to her mental functioning.

The new law requires physicians to make judgments that are difficult to make, impossible to prove and of crucial importance to the patient's welfare and the welfare of those dependent on her and intimately involved with her."

(8) Sir Dugald Baird, *The Obstetrician and Society,* 60 Am. J. Public Health 628, 635 (1970).

"[E]ven in a basically stable woman, emotional health and subsequently physical health can be undermined by adverse social conditions: for example, substandard housing, overcrowding, illness in other children, elderly or bedridden parents, alcoholic husband, and economic necessity for the mother to work outside the home."

(9) Thompson, Cowen & Berris, *Therapeutic Abortion: A Two-Year Experience in One Hospital,* 213 J.A.M.A. 991, 994 (1970):

"Psychiatric and socioeconomic problems are so intertwined that it is difficult for the Therapeutic Abortion Board to extract the relevant data in order to make a just and lawful decision. . . . In light of the previously stated vagueness of the law, the evaluation of the patient for psychiatric indications has been one of our major problems."

(10) Moyers, *Abortion Laws: A Study in Social Change,* 7 San Diego L. Rev. 237, 241 (1970):

"Although some hospitals in the state have done away with the requirement, most committees still require psychiatric consultation when a request for abortion is presented on this [mental health] ground."

[112] *Constitution of the World Health Organization,* in Basic Documents of the World Health Organization 1 (Geneva 1969 ed.).

[113] Griswold v. Connecticut, 381 U.S. 479 (1965), at least implies that such a requirement would violate the patient's right of privacy, but Connecticut, for obvious reasons, made no such contention.

[114] Hall, *Therapeutic Abortion, Sterilization and Contraceptiion*, 91 AM. J. OBSTETRICS & GYNECOLOGY 518, 524–25, Table VI, line 2 (1965); Supp. App. at 402.

[115] U.S. BUREAU OF THE CENSUS, *Statistical Abstract of the United States: 1970*, Table 57, at 49 (91st ed.)

[116] *See, e.g.*, Haynes v. United States, 390 U.S. 85 (1968); Tot v. United States, 319 U.S. 463 (1943).

[117] Authorities recognizing the constitutional status of the presumption of innocence go back to Cummings v. Missouri, 71 U.S. (4 Wall.) 277, 328 (1866). *See also* United States v. Romano, 382 U.S. 136, 139–44 (1965) (presence at still does not justify inference that accused possesses or controls the still); Speiser v. Randall, 357 U.S. 513, 525–26 (1958); Morissette v. United States, 342 U.S. 246, 274–75 (1952); Morrison v. California, 291 U.S. 82 (1934).

[In the Supreme Court of the United States—October Term, 1971—Nos. 70–18 and 70–40]

MOTION FOR PERMISSION TO FILE BRIEF AND BRIEF AMICUS CURIAE ON BEHALF OF NEW WOMEN LAWYERS, WOMEN'S HEALTH AND ABORTION PROJECT, INC., NATIONAL ABORTION ACTION COALITION

Jane Roe, et al., appellants vs. Henry Wade, appellee.

Mary Doe, et al., appellants vs. Arthur K. Bolton, appellee.

MOTION FOR PERMISSION TO FILE BRIEF AMICUS CURIAE AND TO PARTICIPATE IN ORAL ARGUMENT

Amici, the New Women Lawyers, the Women's Health and Abortion Project, Inc. and the Women's National Abortion Action Coalition, by their undersigned counsel hereby move this Court for permission to file the annexed Brief *Amicus Curiae* in the above-captioned cases and to participate in oral argument.

Amici have requested permission of the attorneys for the parties to file the annexed brief but have not yet received responses from all of them.

Amici have set forth the reasons why they seek to file a brief amicus curiae and why they feel their brief would be of special assistance to the Court in the statement of interest, accompanying their motion. *Amici* believe they have raised aspects of the constitutional issues before this court hitherto unexplored by the parties.

Any decision by this Court in the two cases before it will deeply affect the lives of more than half the citizens of this country. *Amici* are aware that this Court has treated limited aspects of the question of abortion before and recognize the competence of the counsel in the above-captioned cases. Nonetheless, given the gravity of the question of a woman's right to abortion, aspects of which are being raised *de novo* before this Court, and given the fact that some decisions of this Court have turned on arguments raised by an *amicus curiae*, *amici* believe their participation in oral argument could be of assistance to this Court in determining the sensitive and complex issues before it.

Therefore *amici* respectfully urge this Court to grant their motion and permit them to file the requested brief *amicus* and participate in the oral argument of the cases of *Roe* v. *Wade* and *Doe* v. *Bolton*.

STATEMENT OF INTEREST

During the past two years the question of the constitutionality of abortion laws—of the right of a woman to control her own body and life—has become one of the most burning issues for women throughout the country. As women have become aware of the myriad levels of unconstitutional discrimination they face daily, they have become most acutely aware of the primary role which restrictions on abortions plays in that discrimination. As a result, women throughout the country have become determined to free themselves of the crippling and unconstitutional restrictions on their lives. As a major part of their efforts, thousands of women have sought and continue to seek the aid of federal and state courts in their challenges to abortion statutes. In New York State, more than three hundred persons, primarily women sued to have their state laws declared unconstitutional. *Abramowicz* v. *Lefkowitz*, 69 Civ. 4469 (S.D.N.Y.) dismissed as moot on July 1, 1970 when the New York State Statute went into effect permitting the performance of abortions up to twenty-four weeks of pregnancy. In New Jersey more than one thousand women sought the aid of the federal courts. *Abromowitz* v. *Kugler*, 431–1970 D.N.J., argued in December, 1970, and awaiting decision. In Pennsylvania again well over one thousand persons, most of whom were women, similarly sought the aid of the court in *Ryan* v. *Spector*, 70–2527, E.D.Pa. See also Connecticuit, where 858 women sued in *Aberle* v. *Markel*, Civ. Action #14291 D. Conn. (May 14, 1971), dismissed, presently on appeal; and Rhode Island, where over one hundred took similar action in *Women of Rhode Island* v. *Israel*, Civ. Action #4605 (D.R.I.) in which a three judge court has been convened.*

Similar efforts to challenge the abortion laws of their states are being developed by women in other states throughout the country. These women have sought the assistance of the federal courts because of the degree to which restrictions on the availability of abortion have crippled and even destroyed their own lives and lives of many other women.

The organizations listed below share the concern of these thousands of women who have sought the assistance of the courts. Each of the groups has a particular concern to see that these unconstitutional burdens and restrictions on a woman's life be removed.

The issues raised by the Texas and Georgia cases presently before this Court are not local but national issues. The problems raised by restrictive abortion laws are problems of millions of pregnant women.**

Therefore, *Amici* have drawn on cases and statutes throughout the country in order to aid this Court in deeply and fully understanding the problem before it.

The New Women Lawyers is an unincorporated membership association of women lawyers and law students in the New York City area.

Amongst its purposes is to work through the courts to redress the discrimination and oppression which women face under the law.

As women lawyers and law students amici are both members of the class whose interests are before this Court and advocates for that class. Therefore, *amici* have special insight into the problems and issues presented in the two abortion cases which may be of assistance to the Court.

The Women's Health and Abortion Project, Inc., is a non-profit corporation in the State of New York which grew out of the challenge to the constitutionality of the former New York abortion statute. Amongst the purposes of the Project is to counsel, and provide information to women concerning family planning and abortion without fee. Since the liberalized New York abortion law went into effect on July 1, 1970, the Project has counseled thousands of desperate women from across the country who came to New York seeking abortions. The women's Health and Abortion Project therefore has particular concern for and understanding of the problems of women in need of abortion and is particularly concerned with the infringement of women's rights by laws such as those of Georgia and Texas restricting the availability of abortion to women.

The Women's National Abortion Action Coalition is a coalition of women's groups and individual women throughout the country who have united in efforts to eliminate all abortion laws. Many of the individual women within the Coalition are plaintiffs in class action litigation challenging the constitutionality of the abortion laws of their own states. Many others work with pregnancy counseling groups and are members of women's groups whose prime concern is the elimination of discriminatory laws such as abortion laws.

Therefore, the Coalition is particularly concerned about the issues presented in the two cases before this Court, and well suited to understand and present to this Court, to the fullest extent, the tolls which these laws take on the lives of women.

Amici believe that their special perspective on the constitutional issues before this Court will be of assistance to this Court in its deliberations on one of today's most sensitive issues—an issue of overwhelming importance to more than 50% of the nation's population. *Amici* have sought to present aspects of the issue involving the constitutional rights of women which they believe have not been treated by the parties to this litigation or by other amici such as the manner in which the challenged Texas and Georgia statutes deprive women of their rights to life, liberty and the equal protection of the laws guaranteed by the Fourteenth Amendment and the degree to which they constitute cruel and usual punishment in violation of the Eighth Amendment to the Constitution.

Amici, therefore, urge this Court to accept their Brief Amicus in the hope that it will be of assistance in unravelling the crucial constitutional issues before this Court.

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*These actions by women are only a portion of the sweeping challenges on the abortion laws of this country which have taken place in the last two years. The following is a partial list of such challenges. *California* v. *Belous*, 80 Cal. Rptr. 354 (1969), cert. denied, 397 U.S. 915 (1970); *People* v. *Robb*, No. 149005 and 159061, Munic. Ct., Orange Co. Cal. (Jan. 9, 1970); *Babbitz* v. *McCann*, 310 F.Supp. 293 (E.D. Wis., 1970), remanded 91 S.Ct. 1375 (1971); *Kennan* v. *Nichol*, 71–C–118 (W.D.Wisc.); *Hodgson* v. *Randall*, 7 Cr. L. 2186, affirmed, 91 S.Ct. 1656 (1971); *Hodgson* v. *Minnesota*, cert. denied, 41 S.Ct. 1655 (1971); *Doe* v. *Scott*, Civ. Action No. 70 C 395 (E.D.Ill.); *Rosen* v. *Louisiana State Board of Medical Examiners*, 318 F.Supp. 1217 (1970), upholding the constitutionality of the Louisiana statute, Cassibry, J., dissenting. *Rogers* v. *Danforth*, Civ. Action No. 18360–2 W.D.Miss., dismissed September 10, 1970; *Steinberg* v. *Rhodes*, C–70–289, W.D. Ohio; *Doe* v. *Dunbar*, Civ. Action No. C–2402, D.Colo.; *South Dakota* v. *Murson*, Circuit Ct., Pennington Cty. S.D., April 20, 1970; *Walsingham* v. *Florida*, No. 40,210 (Sup.Ct. Fla., July 12, 1971).

**There are three basic types of laws used throughout the United States to prevent the performance of abortion, laws permitting the performance of abortion, a) only when necessary to save the life of the woman, b) when necessary to preserve her life and health and c) the "reform type law which permits abortion for reasons of life and health, as well as when the fetus resulted from rape, incest or when there is a likelihood of fetal deformity, etc. In discussing the constitutional infirmities of abortion laws, amici have not distinguished amongst the different types of laws because regardless of their wording their effect has all been the same—to deny an abortion to nearly every woman who wishes one.

SUMMARY OF ARGUMENT

This is a brief *Amicus* in support of actions challenging the constitutionality of the abortion statutes of Georgia, Georgia Code Annotated § 26-1201 *et seq.* (1969); and Texas, Texas Penal Code Articles 1191, 1192, 1193, 1194 and 1196. The Texas statute permits abortion only when necessary to preserve the life of the pregnant woman. Under the Georgia statute a woman may obtain an abortion only with the approval of a committee of doctors where the abortion is necessary to preserve her life or health, or when the pregnancy resulted from rape, or would result in a deformed child.

Amici have argued that both statutes are void in that they violate the most basic constitutional rights of women.

First, the Texas and Georgia statutes and other statutes which restrict the availability of abortion, deny to women their right to control and direct their lives and bodies as protected by the Fourteenth Amendment's guarantees of life and liberty. Amici have attempted to set forth for this Court the manner in which the status of pregnancy and motherhood severely restricts the life of a woman the way in which an unwanted pregnancy can unalterably change and even destroy her life.

Amici have next shown that despite the fact that both man and woman are responsible for any pregnancy, it is the woman who bears the disproportionate share of the *de jure* and *de facto* burdens and penalties of pregnancy, child birth and child rearing. Thus, any statute which denies a woman the right to determine whether she will bear those burdens denies her the equal protection of the laws.

Carrying, giving birth to, and raising an unwanted child can be one of the most painful and longlasting punishments that a person can endure. Amici have argued that statutes which condemn women to share their bodies with another organism against their will, to be child breeders and rearers against their will, violate the Eighth Amendment's proscription against cruel and unusual punishment.

Finally, *amici* contend there is no compelling state interest in forcing a woman to these deprivations of her constitutional rights. For, it is no longer possible to justify a ban on abortions to protect a woman's health and such a ban is a constitutionally unacceptable method to use to establish a particular moral standard. Furthermore, the argument that the state must protect the life of the fetus when examined closely is in reality a codification of a particular religious doctrine and therefore constitutionally insufficient.

In closing, *amici* have urged that the doctrine of *Younger* v. *Harris* does not bar the Court from deciding this matter before it for in fact Mary Doe in *Doe* v. *Bolton* and Jane Roe in *Roe* v. *Wade* may not challenge the abortion statutes of Georgia and Texas in state criminal proceedings as envisioned in *Younger* and must turn to the Federal Courts to safeguard their constitutional rights.

I. The Georgia and Texas statutes restricting the availability of abortion violate the most basic rights of women to life, liberty, and property guaranteed by the Fourteenth Amendments to the Constitution

Under the Fourteenth Amendment to the Constitution, no state shall ". . . deprive any person of life, liberty, or property without due process of law." The courts have not yet, however, begun to come to grips with the fact that approximately one half of our citizenry is systematically being denied those guarantees of the Fourteenth Amendment. That is exactly the effect of the abortion laws of Texas and Georgia, and nearly every other state in the United States. Amici urge this Court not to shrink from redressing the constitutional wrongs perpetrated on women.

For the first time, this Court has the opportunity to give serious and full consideration to the degree to which laws such as those challenged herein, in denying women the control of their reproductive life, violate their most basic constitutional rights.

In the past two years, the Supreme Court of the State of California, the United States District Court for the District of Columbia below, and the Municipal Court of Central Orange County, California, recognized that it is "the fundamental right of the woman to choose whether to bear children. . . ." *California* v. *Belous*, 80 Cal. Rptr. 354, 359 (1969), Cert. Denied, 397 U.S. 915 (1970). See also, *United States* v. *Vuitch*, 305 F.Supp. 1032 (D.D.C., 1969) reversed on other grounds, 91 S.Ct. 1294(1971); *Roe* v. *Wade*, 314 F. Supp. 1217 (N.D. Tex., 1970) jurisdiction noted, 91 S.Ct. 1610 (1971); *Babbitz* v. *McCann*, 310 F.Supp. 293 (E.D.Wisc. 1970) remanded 400 U.S. 1 (1971); *South Dakota* v. *Munson*, 7th Jud'l District, Pennington Co., S. Dak. (1970); *Doe* v. *Scott*, #70 C 395 (N.D.Ill.) Jan 29, 1971; *California* v. *Robb*, #140, 005 Mun. Ct., Orange Co., Cal., Jan. 9, 1970, and most recently, *Walsingham* v. *Florida*, #40, 210, Sup.Ct. Fla., (July 12, 1971) which overturned convictions of three men convicted of conspiring to commit abortion and cast severe doubt on the constitutionality of the Florida statute, and *City of New York* v. *Wyman*, reported in full, New York Law Journal, May 19 1971, invalidating state restrictions on medicaid reimbursement for abortions. In *Wyman*, Justice Spiegel spoke of ". . . the fundamental nature of the right to terminate pregnancy" and stated that "a woman has a Constitutional right pursuant to the United States Constitution Amendments IX and XIV to terminate an unwanted pregnancy."

The decision by a woman of whether and when she will bear children may be the most fundamental decision of her life because of its far-reaching significance, affecting almost every aspect of her life from the earliest days of her pregnancy.

A. The right to life

Persons seeking to uphold restrictive abortion laws argue that the State has a compelling interest in protecting human life. *Amici* could not agree more. But, we argue that the responsibility of the State runs to persons who are living and that the State may not maintain laws which effect the most serious invasions of the constitutional rights of its citizens.

From the very fact, as noted by the California Supreme Court in *Belous*, that "childbirth involves the risk of death", *California* v. *Belous, supra*, at 359, it should be most obvious that laws which force women to bear every child she happens to conceive raises the most severe constitutional questions under the Fourteenth Amendment.

Nearly ten years ago a medical expert reported that "the risk of life from an abortion, performed by an experienced physician in a hospital on a healthy woman in the first trimester of pregnancy is far smaller than the risk ordinarily associated with pregnancy and childbirth." (Dr. Christopher Tietze, Legal Abortion in Eastern Europe *J.A.M.A.* 175:1149 (1961, April). A recent study of the death rate from childbirth in the United States revealed that there are still 20 deaths per 100,000 pregnancies among American women. *Studies in Family Planning*, 34:6–8 September 1969, Population Council, New York. The same study reported that the death rate due to legalized abortions performed in hospitals in Eastern Europe is 3 per 100,000 pregnancies. And so, in the United States today, giving birth is nearly 7 times more dangerous than a therapeutic abortion.

Furthermore, if a woman truly believes she should not continue an unwanted pregnancy and give birth to and raise an unwanted child, she will not be deterred by the fact that an abortion in her circumstances would be illegal. She will do this despite the great hazards to her physical and mental health—and the great financial expense involved. She will do this even though she knows that under local law she is performing a criminal act.

The very fact that legal abortion is unavailable for most women forces them into an additional hazard to their health and life. Aware of the failure rate of most contraceptives* and afraid of an accidental pregnancy which they will be unable to terminate, millions of women daily expose themselves to the known and as yet unknown dangers of the pill** even though they would prefer not to.

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*There is no such thing as a contraceptive device which is both 100% safe and 100% effective. Oral contraceptives, which have the highest degree of effectiveness are the least safe. However, for a variety of reasons, 15–28% of the women who use the pill stop taking it after two years. The interuterine device (I.U.D.) is not 100% effective though its failure rate has not yet been fully determined. However, to date, 50% of the women who use the I.U.D. have it removed within two years. Sheldon J. Segal, Ph. D., Population Council, and Christopher Tietze, M.D. Population Council, "Contraceptive Technology, Current and Perfected eMthods, Reports of Population Family Planning," issued by the Population Council and the International Institute for the Study of Human Reproduction, Columbia University, October 1969, pp. 9 and 7.

The failure rate for the diaphragm is 12% (that is, of 100 women using the diaphragm in a year, twelve women will become pregnant). The failure rate for the condom is 14%. Ernest Havamann, Ed., Time-Life, Inc. *A Special Report: Birth Control*, New York, 1967, p. 159.

** Although there are not yet definitive conclusions concerning the dangers of oral contraceptives, their safety and general effects on women are sufficiently in question to have warranted full-blown Senate hearing by the Subcommittee on Monopoly of the Senate Select Committee on Small Business which began in January 1970, and continued in February and March. See "Competitive Problems in the Drug Industry," Subcommittee on Monopoly of Senate Select Committee on Small Business, 91st Cong. 2nd Sess. Although there has been a conflict of medical and scientific opinion expressed at the hearings, the response of the government to the question seems to be markedly casual in contrast with its swift action on a somewhat related matter—cyclamates. It certainly leads women to believe that their government is less concerned with their health and safety than with curbing population or with health matters which also affect men. This concern on the part of women was not eased when they observed the action of the Food and Drug Administration with respect to warnings about possible dangers of birth control pills. Following the first part of the Senate hearings the F.D.A. ordered that a leaflet listing in detail the dangers of oral contraceptives be enclosed in each package of pills. *New York Times*, "Warning on Pill Drafted by F.D.A.", March 5, 1970. Only one month later the Department of Health, Education, and Welfare announced that a "compromise" warning would be used. A warning "far shorter and less emphatic about dangers than [the] earlier version." The compromise version not only eliminated nearly the entire list of potential hazards, merely noting there might be side effects and further stated, without any basis in fact, " 'These points were discussed with you when you chose this method of contraception.' " *New York Times*, "Compromise Warning **on** Birth Pill Announced," April 8, 1970.

The fear of accidental pregnancy is so great that even women who have medical histories that indicate that they should not take oral contraceptives feel compelled to do so.*

Thus while governments profess their overwhelming concern for human life, they force their female citizens into the intolerable dilemma of choosing between what in many instances would be a totally irresponsible act of bearing and casting off, or even "raising" an unwanted child or jeopardizing their life and health, both physical and mental, by obtaining an illegal abortion or attempting to self-abort. What is more, this professed concern for life in fact results in hazards to women's lives, often forcing them into the hands of unskilled and unscrupulous persons directly in the face of the guarantees of the Fourteenth Amendment.

B. The Right to Liberty

If the Fourteenth Amendment and its guarantees are to have any real meaning for women, they must not be read to protect only women's physical survival. The Fourteenth Amendment speaks not merely of life, but of life and liberty. For the framers of our Constitution recognized well that it is not life alone which must be protected, but also personal liberty and freedom. Because of that fact, the Constitution has established requirements that neither life nor liberty may be denied a person without the guarantees of due process. As the Court of Appeals for the Second Circuit stated in *Madera* v. *Board of Education of the City of New York*, 386 F.2d 778, 783–4 (2nd Cir., 1967), invoking a longstanding constitutional principle:

'. . . The 'liberty' mentioned in [the Fourteenth] Amendment means, not only the right of the citizen to be free from the mere physical restraint of his person by incarceration, but the term is deemed to embrace the right of the citizen to be free in the enjoyment of all his faculties; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation. . . . '*Allgeyer* v. *State of Louisiana*, 165 U.S. 578, 589, 17 S. Ct. 427, 37 L. Ed. 832 (1897).

The right of liberty is one which is complex and closely related to other rights protected by the Constitution. As stated by this Court in *Smith* v. *Texas*, 233 U.S. 630, 636 (1914).

Liberty means more than freedom from servitude, and the constitutional guaranty is an assurance that the citizen shall be protected in the right to use [her] powers of mind or body in any lawful calling.

The right of liberty has long been seen by this Court as one which is basic to matters of family and children. In *Meyer* v. *Nebraska*, 262 U.S. 390, 399 (1823) this Court stated

Without doubt 'liberty' denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, and acquire undue knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men.

It should go without saying that the liberty to establish a home and bring up children is nearly meaningless if it does not include the liberty to decide when and whether to have those children. Of course, this right to control the timing of one's family is now expressed in *Griswold* v. *Connecticut*, 381 U.S. 479 (1965).

Even this does not circumscribe the limits of liberty, however. As Justice Douglas expressed in his dissent in *Poe* v. *Ulman*, 367 U.S. 497, 516 (1961):

Though I believe that 'due process' as used in the Fourteenth Amendment includes all of the first eight Amendments, I do not think it is restricted and confined to them. . . . The right 'to marry, establish a home and bring up children' was said in *Meyer* v. *Nebraska* . . . to come within the 'liberty' of the person protected by the Due Process Clause of the Fourteenth Amendment. . . . 'Liberty' is a conception that sometimes gains content from the examinations of other specific guarantees . . . or from experience with the requirements of a free society.

Most recently the understanding of personal liberty has come to include such matters as physical appearance—the way in which a person presents himself or herself to the world. In *Breen* v. *Kahl*, 296 F.Supp. 702, 706 (W.D.Wisc., 1969), aff'd 419 F.2d 1034 (7th Cir., 1969), the court ordered the reinstatement of high school students whose hair length did not conform to the school board standard stating:

The freedom of an adult male or female to present himself or herself physically to the world in the manner of his or her own choice is a highly protected freedom. . . .

For the state to impair this freedom, in the absence of a compelling subordinating interest in doing so, would offend a widely shared concept of human dignity, would assault personality and individuality, would undermine identity, and would invade human 'being'. It would violate a basic value 'implicit in the concept of ordered liberty'. *Palko* v. *Connecticut*, 302 U.S. 219, 325. . . .

It would deprive a man or woman of liberty without due process of law in violation of the Fourteenth Amendment. See *Griswold*, 381 U.S. at 499–500 (Harlan, J., concurring).

Accord, *Griffin* v. *Tatum*, 300 F. Supp. 60 (M.D. Ala., 1969); *Westley* v. *Rossi*, 305 F. Supp. 706 (D. Minn., 1969); *Durham* v. *Pulsiter*, 312 F. Supp. 114 (D. Vt., 1970); *Reichenberg* v. *Nelson*, 310 F. Supp. 248 (D. Nebr., 1970).

The concept of the right to liberty is one which has developed from the right to contract in *Allgeyer*, to the right to raise a family in *Meyer*, to the right to control one's own appearance in *Breen*. Surely none of these rights can be seen as more basic, fundamental or worthy of protection than a woman's right to control her body and the nature, direction and quality of her life.

In light of this understanding of the meaning of the guarantees of the Fourteenth Amendment, it is even more critical that this Court carefully examine the ways in which women are systematically deprived of their rights by the abortion laws of Texas and Georgia as well as those of nearly every state in the nation.

It should be obvious that from the moment a woman becomes pregnant her status in society changes as a result of both direct and indirect actions of the government and because of social mores. Except in very rare cases (primarily among the wealthy) she is certainly no longer "free in the enjoyment of all [her] faculties; . . . free to use them in all lawful ways; to live and work where [she] will; to earn [her] livelihood by any lawful calling; to pursue any livelihood or avocation . . .". *Madera* v. *Board of Education of the City of New York, supra* at 783–4.

Pregnancy, from the moment of conception, severely limits a woman's liberty. In many cases of both public and private employment women are forced to temporarily or permanently leave their employment when they become pregnant. The employer has no duty to transfer a pregnant woman to a less arduous job during any stage of pregnancy (should the woman or her doctor consider this advisable); nor is there any statutory duty to rehire the woman after she gives birth. For example, under the New York State Civil Service Law, Rule 3, a female employee must report her pregnancy to the appointing authority not later than the fourth month. The appointing authority then may in his discretion ". . . place the employee on leave *at any time* when in its judgment the *interest of either the department* or the employee would be best served." [emphasis supplied] There is no indication that the employee's medical condition is the critical factor and there are no standards on which the decision is made. What is plain is that regardless of whether the woman wishes and/or needs to continue working, regardless of whether she is physically capable of working, she may nonetheless be required to stop working solely because of her pregnancy. In many if not most states women who are public employees are compelled to terminate their employment at some arbitrary date during pregnancy regardless of whether they are capable of continuing work. See for example *Cohen* v. *Chesterfield County School Board*, Civ. Action No. 678–70–R (E.D.Va.) May 17, 1971; *Schattman* v. *Texas Employment Commission*, Civil Action No. A–70–CA–75 (W.D. Tex.) February 25, 1971; and *LaFleur* v. *Cleveland School Board of Education*, Civil Action No. C–71–292 N.D. Ohio, May 27, 1971.

In Connecticut a directive from the Attorney General in 1938 stated that a pregnant woman could not be employed "during the four weeks previous to and following her confinement." This rule still exists. In fact, such employment is a criminal offense (directed against the employer). This denial of liberty in one's work is accompanied by an unconstitutional taking of property, for Connecticut provides no maternity benefits. A woman is also denied unemployment compensation during her last two months of pregnancy, even when her unemployment is due to some reason other than pregnancy. CGST 31–236 (5). *Janello* v. *Administrator, Unemployment Compensation Act*, 178 A.2d 282, 23 Conn. Supp. 155 (1961). If "total or partial unemployment is due to pregnancy," the woman is completely ineligible for benefits. *Janello, supra* at 156. Even worse, the employer has the absolute, arbitrary right to fire a pregnant woman when, in his estimation, her pregnancy would interfere with her work. *Janello*, supra at 157.

In Louisiana a recent amendment in 1968 of L.S.A.–R.S. 23:1601(6)(b) enables a woman who is forced to leave her employment either by contract or otherwise on account of pregnancy, to qualify for unemployment compensation. But, as illustrated in the case of *Grape* v. *Brown*, 231 So. 2d 663 (Ct. App. La., 1970) the unemployment compensation in no way adequately compensates either for the actual wages lost, or for the denial of liberty which forces a woman to receive unemployment compensation. Mary Grape was employed as a key punch operator by Southwestern Electric Power Co. When she became pregnant she was advised that the company policy required that expectant mothers terminate employment no later than the end of the 150th day of pregnancy and that no leaves of absence would be granted. Thus she was forced onto unemployment compensation and had lost her job.

Mississippi laws curtail even more severely the liberty of a woman and her property. Sec. 7379(a), Miss. Code 1942 Rec. states that a married woman who has left work because of pregnancy is considered to have voluntarily severed her employment without good cause and therefore is not even entitled to unemployment compensation. See *Mississippi Employment Security Commission* v. *Corley*, 148 So.2d 715 (Miss., 1963). Thus, the pregnant woman loses her job, her source of income, and is *forced* to become economically *dependent* on others. The law is most harsh on pregnant women who are heads of households, and depended upon as breadwinners. Statistics show that a very high percent of all working women are in this position, i.e., they must work to support themselves and/or their children.

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* It may be reassuring to note that a high use of abortion is generally coupled with a high use of contraception. That is, women who use contraceptives have "a higher motivation toward fertility control. They are likely to resort to abortion when contraceptive efforts fail. The greater the expectation of avoiding pregnancy through contraception the greater the likelihood of an induced abortion once pregnancy occurs . . ." "What is more, liberalization of abortion laws tends to accompany an increase in the use of contraceptives." *Induced Abortion and Contraception*, paper delivered by Emily Moore at Workshop of National Institute of Child Health and Human Development and National Institute of Mental Health, December 15–16, 1969, p. 12.

But restrictions on a woman's liberty and property only *begin* with pregnancy. A woman worker with children is considered "unavailable for work" (which means that she cannot qualify for unemployment compensation), if she restricts her hours of availability to late afternoon and night shifts so that she may care for her children during the day. Connecticut courts have often held that "domestic responsibilities" are "personal reasons unrelated to employment," *Lukienchuk* v. *Administrator, Unemp. Comp. Act.* 176 A.2d 892, 23 Conn. Sup. 85 (Super. Ct., 1961) or "entirely disconnected from any attribute of employment" *Lenz* v. *Administrator, Unemp. Comp. Act,* 17 Conn. Sup. 315 (Super. Ct., 1951). In one decision the court said that a woman had just *five weeks* to try to rearrange her life and her domestic responsibilities to try to make herself "available for work" according to Connecticut standards (i.e. ready to work at all hours of the day.)

There is only one case that held that a woman who restricted her availability for personal reasons was entitled to unemployment compensation. The woman had *seven* children. *Carani* v. *Danaher,* 13 Conn. Supp. 109 (Super. Ct., 1943).

But the dominant belief is that a woman's "personal reasons" (in most cases, "domestic responsibilities") for seeking work during specific hours are not relevant to employment. Thus, women with home responsibilities (children or husband)—who need or want to work—are considered "unavailable for work." They are denied the freedom "to live and work where they will, to earn their livelihood by any lawful calling" *Allgeyer* v. *Louisiana, supra* and "to engage in any of the common occupations of life" *Meyer* v. *Nebraska, supra*—freedoms that are implicit in the Fourteenth Amendment's "concept of ordered liberty." *Palko* v. *Connecticut,* 302 U.S. 319 (1937). It becomes clear from Connecticut decisions on pregnant working women that the State of Connecticut considers pregnancy a "malady," *Adams* v. *American Fastener Co.,* 7 Conn. Supp. 379 (1939). Under these circumstances, a case can well be made that the anti-abortion law, in compelling a pregnant woman to continue this condition against her wishes, is not merely a denial of liberty, but also an imposition of cruel and unusual punishment on the woman. See Section III *infra.* "Confinement" well describes the situation of the pregnant woman, or mother, who is denied work, or restricted in her work because of an employer's decision on her ability to work.

Here we see how inextricably the rights to life and liberty are mixed and even more how laws restricting abortion deny women both.

Once a woman has given birth, according to the Court of Appeals for the Fifth Circuit, she may still be barred from employment as long as she has pre-school children. *Phillips* v. *Martin Marietta Corp.,* 411 F.2d 1 (5th Cir., 1969). See Section II, *infra,* for a discussion of the treatment of *Phillips* by this Court. Furthermore, if she needs or merely wishes to work while she has preschool children she cannot unless she is fortunate enough to have family who will care for the children or is wealthy enough to hire help. And, though a housekeeper, nurse, or baby sitter is a necessary expense enabling her to work, she may not deduct the salary of that person from her income tax 26 U.S.C. 214 and thus is normally left with little if any of her pay after those expenses are covered.

Thus as long as a woman has young children she is denied the right to obtain employment though her ". . . power to earn a living for [herself] and those dependent upon [her] is in the nature of personal liberty." *Smith* v. *Hill,* 285 F. Supp. 556, 560 (D.N.C., 1968).

A further denial of liberty results from the fact that women are generally forced to arbitrarily end their education because of pregnancy. Until recently, girls who became pregnant were forced to drop out of public school in New York. In New York City, Central Harlem, more than forty percent of the girls who leave school before graduation do so because of pregnancy. Haryou, 1964, *Youth in the Ghetto,* N.Y. Orans Press, p. 185. This still happens in countless other cities throughout the country as well. See, for example, *Perry* v. *Grenada Municipal Separate School District,* 300 F. Supp. 748 (N.D. Miss., 1969). Many women are also deprived of higher education because of college rules requiring that pregnant women leave school.

The importance of education in modern society has been stressed and restressed in recent years, since Chief Justice Warren stated in *Brown* v. *Board of Education,* 347 U.S. 483, 493 (1954):

> Today, education is perhaps the most important function of state and local governments. . . . It is required in the performance of our most basic responsibilities. . . . It is the very foundation of good citizenship. Today it is a principal instrument in awakening . . . cultural values, in preparing . . . for later professional training and in helping . . . to adjust normally to his environment.

It has been recognized more recently that there are special problems for women in obtaining education for though "men and women are equally in need of continuing education . . . at present women's opportunities are more limited than men's." *American Women*: Report of the President's Commission on the Status of Women, 1963, p. 11. Nonetheless, women are robbed of their education and opportunity for any development and self-fulfillment; robbed of their rights to be "free in the enjoyment of all (their) faculties," Madera, *supra,* at 783–4, by chance of an unwanted pregnancy.

The incursions on the liberty of an unmarried woman who became pregnant are even more severe. She too may be fired from her job and is even more likely to be compelled to discontinue her education. Unable to terminate her pregnancy, she is often forced into marriage against her will and better judgment in an attempt to cope with the new economic and social realities of her life. Such marriages are forced on women despite the fact that the right to marry or *not to marry* may not be invaded by the state. *Loving* v. *Virginia,* 388 U.S. 1 (1967).*

Of course, frequently, the man who is responsible for the pregnancy refuses to marry her. Then unable to support herself she may be forced to become a welfare recipient, become part of that cycle of poverty, and expose herself to the personal humiliation, loss of personal liberty and inadequate income that entails.

To further add to her difficulties, the mere fact of her out-of-wedlock pregnancy or child resulting from that pregnancy may be used as "some evidential or presumptive effect" to a decision to exclude or remove her from public housing. *Thorpe* v. *Housing Authority,* 393 U.S. 268, 271 (1969). Thus, having been forced to bear a child she did not want, she may be deprived of her right and ability to provide for herself and her child either because of employer policies or because of her inability to leave the child. Surviving on at least marginal income, she who is most obviously in need of public housing is then deprived of decent shelter because of the existence of that very same child.

For a woman perhaps the most critical aspect of liberty is the right to decide when and whether she will have a child—with all the burdens and limitations on her freedom which that entails. But that has been robbed from her by men who make the laws which govern her.

As early as 1848 women spoke out against the way in which men controlled their lives—denied them of any meaningful liberty. At the Women's Rights Convention held in Seneca Falls, New York, on July 14, 1848, the women spoke of men as follows:

> He has compelled her (woman) to submit to laws in the formation of which she has no voice . . . He has taken all her rights to property, even to the wages she earns. . . . In the covenant of marriage . . . the law (gives) him power to deprive her of her liberty and to administer chastisement. . . . He closes against her all the avenues of wealth and distinction which he considers most honorable to himself. . . . He has denied her the facilities for obtaining a thorough education. . . . He has endeavored in every way that he could to destroy her confidence in her own powers, to lessen her self-respect, and to make her willing to lead an abject life. *Victory, How Women Won It,* National American Suffrage Association, A Centennial Symposium, 1840–1940, H.W. Wilson Co., 1940, pp. 15–25.

Restrictive laws governing abortion such as those of Texas and Georgia are a manifestation of the fact that men are unable to see women in any role other than that of mother and wife. Furthermore,

> So long as he continues to think and write, to speak and act, as if maternity was the one and sole object of a woman's existence—so long as children are conceived in weariness and disgust—you must not look for high-toned men and women capable of accomplishing any great and noble achievement.*

As recently as July 12, 1971 the Supreme Court of the State of Florida reversed three convictions for conspiracy to commit abortion. In the concluding sentence of its opinion the Court stated: "In sum the [abortion] statute intrudes into the area of personal liberty of women and does it crudely in vague, uncertain, archaic language." *Walsingham* v. *Florida, supra,* slip opinion, p. 15, Ervin, J., Concurring.

The Florida statute does not alone abridge a woman's fundamental right to liberty. The statutes of Georgia, Texas and nearly every other state in the nation similarly deny to women throughout the country their most precious right to control their lives and bodies.

II. The Georgia and Texas statutes restricting the availability of abortions deny women the equal protection of the laws guaranteed to them by the fourteenth amendment

The express guarantee of equal protection was originally designed to protect black people. Since that time, its protection has been greatly extended. First the courts extended equal protection to protect Chinese, *Yick Wo* v. *Hopkin,* 118 U.S. 356 (1886). More recently it has been extended to protect aliens, *Taka-*

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*The reaction of forcing a pregnant girl or women into marriage as a "solution" to an unwanted out-of-wedlock pregnancy is exemplified by the ruling of a Maryland court in 1955, waiving the marriage age requirements to permit a thirteen year old pregnant girl to marry. Harold Rosen, M.D., *Psychiatric Implications of Abortion,* A Case Study of Social Hypocrisy, 17 Wes. R.L. Rev. 454, at 454.

*Elizabeth Stanton to Gerrit Smith, December 21, 1857, Stanton Papers, LC, quoted in Andrew Sinclair, *The Emancipation of the American Woman,* Harper Colophon Books, New York, 1966, p. 259.

hashi v. *Fish and Game Commission*, 334 U.S. 410 (1948);

Mexican American, *Hernandez* v. *Texas*, 347 U.S. 475 (1954), and poor persons, *Griffin* v. *Illinois*, 351 U.S. 12 (1956); *Douglas* v. *California*, 372 U.S. 353 (1963), and *Shaprio* v. *Thompson*, 394 U.S. 618 (1969).

Most recently federal estate courts have begun to apply the guarantees of the equal protection of the laws to prohibit discrimination against women.

In *White* v. *Crook*, 251 F. Supp. 401 (M.D. Ala. 1966) exclusion of women and Negroes from Alabama juries was held unconstitutional. In *United States ex rel Robinson* v. *York*, 281 F. Supp. 8, (D. Conn. 1968) differential sentences for men and women were struck down as "invidious discrimination against [women] which is repugnant to the equal protection of the laws guaranteed in the Fourteenth Amendment." In *Kirstein* v. *Rector and Visitors of the University of Virginia*, 309 F. Supp. 184 (E.D. Va. 1970) a three judge court held that the exclusion of women from the University of Virginia violated their rights to the equal protection of the laws. In 1970 a federal District Court in New York held that a public tavern could not deny service to a woman. *Seidenberg* v. *McSorely's Ale House, Inc.*, 317 F. Supp. 583 (S.D.N.Y., 1970).

More recently the Supreme Court of the state of California rejected the ruling of this Court in *Muller* v. *Oregon*, 208 U.S. 412 (1908) to find that laws restricting women from being bartenders except in the most limited circumstances stand in violation of the guarantees of the Fourteenth Amendment. *Sail'er Inn* v. *Kirby*, # 29811 Sup. Ct. Calif. May 27, 1971. Federal district courts have also looked to the guarantees of equal protection to invalidate regulations compelling female employees to take a leave of absence from work because of pregnancy. *Cohen* v. *Chesterfield County School Board*, # 678–70–R (E.D.Va.) (May 17, 1971); *Schattman* v. *Texas Employment Commission*, # A–70–Ca–75 (W.D. Tex.) (April 16, 1971) Order Denying Motion for Relief from Judgment. See also *Mengelkoch* v. *Industrial Welfare Commission*, 437 F. 2d 563 (9th Cir. 1971) holding that plaintiffs' challenge to California protective labor laws raised substantial constitutional questions.

Despite the fact that women are entitled to the equal protection of the laws, one major area in which they are daily denied that protection is in the area of abortion.

Man and women have equal responsibility for the act of sexual intercourse. Should the woman accidentally becomes pregnant, against her will, however, she endures in many instances the entire burden or "punishment."

In obtaining an abortion, the threats and punishments fall on the woman. This happens even where the decision to have an abortion has been a mutual one. Only the woman is subjected to the variety of threats which often accompany the painful search for abortion—the threats of frightened or hostile doctors of giving her name to the police—the threat of subpoena and/or prosecution if the doctor who would help her is arrested.

It is often said that if men could become pregnant or if women sat in the legislatures there would no longer be laws prohibiting abortion. This is not said in jest. It reaches to the heart of the unequal position of women with respect to the burdens of bearing and raising children and the fact that they are robbed of the ability to choose whether they wish to bear those burdens.

And the woman carries an unequal and greater share of the burden, not merely for nine months, but for many years, all in violation of the equal protection of the laws, as we shall discuss below. The abortion laws herefore present a rather unusual constitutional situation. At first glance, it would appear that the concept of equal protection of the laws might not even apply to abortion since the laws relate only to women. However, when we look beyond the face of the laws to their effect, we see that the constitutional test of equal protection must be applied.* For the effect of the laws is to force women, against their will, into a position in which they will be subjected to a whole range of *de facto* forms of discrimination based on the status of pregnancy and motherhood.

As we have discussed at length above, a woman who has a child is subject to a whole range of *de jure* and *de facto* punishments, disabilities and limitations to her freedom from the earliest stages of pregnancy. In the most obvious sense she alone must bear the pains and hazards of pregnancy and childbirth. She may be suspended or expelled from school and thus robbed of her opportunity for education and self-development. She may be fired or suspended from her employment and thereby denied the right to earn a living and, if single and without independent income, forced into the degrading position of living on welfare.

For example, many if not most employers including public employers have policies requiring pregnant women to take a leave of absence or otherwise terminate their employment at a given stage of pregnancy. Recently the case of *LaFleur* v. *Cleveland Board of Education*, #C–71–299 N.D. Ohio, May 12, 1971 upheld one such regulation. *Contra, Cohen* v. *Chesterfield County School Board, supra*, and *Schattman* v. *Texas State Employment Commission, supra*. If she has pre-school age children, employers may refuse to hire her despite the provisions of the Civil Rights Act of 1964 which states that it is unlawful for an employer *"to fail or refuse to hire* or to discharge any individual . . . because of such individual's sex. . . ." 42 U.S.C. 200 e–2(a)(4) (emphasis added), for, according to the Fifth Circuit, it is inconceivable that Congress intended to: exclude absolutely any consideration of the normal relationship of working father to their pre-school age children and to require that an employer treat the two exactly alike in the administration of its general hiring policies. *Phillips* v. *Martin Marietta, supra*, 411 F. 2d at 4.

Only this winter this Court effectively affirmed that court's ruling with Justice Marshall dissenting by holding that—The existence of such conflicting family obligations, if demonstrably more relevant to job performance for a woman than for a man, could arguably be a basis for distinction under § 703(e) of the [civil rights] Act. *Phillips* v. *Martin Marietta Corp*. 91 S. Ct. 496, 498 (1971).

In other words this court said if men refuse to share equally in the care of their children then women may be doubly burdened—they may be burdened with the responsibilities of child care and they may be deprived of employment opportunities as well.

If a woman is unmarried, unless she succeeds in obtaining an abortion, she has no choice but to bear the child, while the man who shares responsibility for her pregnancy can, and often does, just walk away.

As a practical matter, the woman is then alone with the problem of seeking and financing an abortion and if that fails, she is alone paying the expenses of pre-natal care and childbirth and raising and supporting the child. She could seek to establish paternity of the father and therefore some measure of financial responsibility. However, to do this she must expose herself to accusations by the father concerning her sexual behavior as part of his attempt to avoid legal responsibility for the child. In some states she would further be forced to admit the commission of a crime, e.g. D.C. Code § 22–1002 (Crime of Fornication). Furthermore, although in most areas a parent has the legal responsibility to support his or her child whether married or single, e.g. D.C. Code § 22–903, in some of those same places a parent will only be punished for neglect where married—thus the irresponsibility of the man who walks away from the child he has helped to create is reinforced by the rule of law. For example, under New York law the mother is expressly liable for child support if the father is unable to support the child or cannot be found within the state. New York Family Court Act § 414.

In Texas, a father of an out-of-wedlock child has neither the common law nor the statutory duty to support his child. *Home of Holy Infancy* v. *Kaska*, 397 S.W. 2d 208 (Tex. 1965). See also *Lane* v. *Phillips*, 6 S.W. 610 (Tex. 1887), *Beaver* v. *State*, 256 S.W. 929 (Cr. App. Tex., 1923).

Having been forced to give birth to a child she did not want, a woman may be subject to criminal sanctions for child neglect, e.g., D.C. Code § 22–902, if she does not care for the child to the satisfaction of the state. In some states even here the disabilities for the woman are greater than for the man. The New York courts seem to have found as a matter of law that the mother has a greater responsibility for the child than the father. In the case of *People* v. *Edwards*, 42 Misc. 2d 930, 249 N.Y.S. 2d 325 (1964), though the father and mother were jointly indicted for failure to provide shelter and medical attention for their baby, the court held that only the mother could be punished for failing to bring the baby to a doctor when a condition which began with a diaper rash resulted in the child's death. Of course, again, if the woman is unmarried and paternity was never legally established, the woman bears these legal burdens alone.

The unwed mother may suffer additional disabilities by being denied employment because of her status. Courts are gradually recognizing the inequities of so penalizing unwed mothers. Nonetheless, not every woman is in a position to go to court to contest such discriminatory actions and many such policies and practices still exist throughout the country unchallenged.

Even where the father is present, the mother rather than father will be primarily responsible for raising the children. As long as "women, as a class earn less than men." *Gruenwald* v. *Gardner*, 390 F.2d 591 (2d Cir., 1968), and women have less opportunity for advancement**, they, rather than the father, will remain at home to raise the family.

The rulings of the Fifth Circuit and this Court in *Phillips* v. *Martin Marietta, supra*, further reinforce this arbitrary role differentiation, forcing the greater burden on child care on the mother. For in saying that a mother of pre-school age children may constitutionally be denied employment though a father may not, the power and authority of the courts is reinforcing the actions of private employers and society to *force* a woman to 'stay at home and take care of the children' even if she has otherwise provided for their care.

If such a broad range of disabilities are permitted to attach to the status of pregnancy and motherhood, that status must be one of choice. And it is not sufficient to say that the women "chose" to have sexual intercourse, for she did not choose to become pregnant. As long as she is forced to bear such an extraordinarily disproportionate share of the pains and burdens of childrearing (including, of course, pregnancy and childbirth), then, to deprive her of the ultimate choice as to whether she will in fact bear those burdens violates the most basic aspects of "our American ideal of fairness" guaranteed and enshrined in the Fourteenth Amendment. *Bolling* v. *Sharpe*, 347 U.S. 497 (1954).

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* Here, of course, we are discussing not the secondary effect of the laws on persons who perform abortions and who might be men or women, but on the persons who feel the greatest impact of the laws, women.

** See, for example, *Study of Employment of Women in the Federal Government*, 1968; U.S. Civil Service Commission, Manpower Statistics Division, Washington, D.C.

There is yet another way in which women are denied the equal protection of the laws. This Court has shown great concern with the "conception of political equality" *Reynolds* v. *Sims*, 377 U.S. 533, 558 (1964) and particularly with "questions of alleged 'invidious discriminations * * * against groups or types of individuals in violation of the constitutional guaranty of just and equal laws.'" *Reynolds* v. *Sims, supra*, 377 U.S. at 561 citing *Skinner* v. *Oklahoma*, 316 U.S. 535, 536 (1942). Because of this concern, in a line of cases the court has sought to guarantee that each citizen is fairly and equally represented in the legislature which makes laws governing his or her life. See *Baker* v. *Carr*, 369 U.S. 186 (1962), *Reynolds* v. *Sims, supra*, and their progeny. Nevertheless, in the instance of abortion laws one finds the grossest form of lack of representation.

This court can surely take judicial notice of the fact that the state legislatures in Texas and Georgia, like state legislatures throughout the country are composed almost exclusively of men. As the supreme court of the state of Oregon stated in *State* v. *Hunter*, 300 P. 2d 455, 357–7, 208 Ore. 282 (Ore., 1956).

> . . . We believe that we are justified in taking judicial notice of the fact that the membership of the legislative assembly which enacted this statute was predominately masculine. That fact is important in determining what the legislature might have had in mind with respect to this particular statute . . .

Therefore we have a situation in which persons are making laws which could never possibly affect them.*

These laws which are passed largely by men and only affect women were first instituted many years prior to the time that women even had the vote. The Georgia statute was enacted in 1876, the Texas in 1907. This relationship between the legislators and the laws they are making is even more complex than it may appear on the surface. For laws such as the abortion laws presently before this court in fact insure that women never will be able to function fully in the society in a manner that will enable them to participate as equals with men in making the laws which control and govern their lives. For as long as women are unable to control their reproductive lives they will be forced to disrupt their education, forgo their career, and will never be a totally functioning part of the government which determines her rights. Forced to remain at home with her children a woman has neither the time, the money, nor the mobility to either organize an effective lobby on her own behalf or to assert her own rights as a direct participant in the legislative workings of government. The underrepresented city dweller could not realistically look to the rural dominated legislature to rectify the inequality of representation, nor could black people look to a white controlled legislature to eliminate the gerrymandering which cheapened their votes. *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960). Neither can women realistically look to male controlled legislatures to change laws which will return to them the control of their lives and bodies and that may incidentally free them to actively participate in those same legislatures. Therefore, if women are to have their rights redressed they can look only to the courts.*

III. Abortion laws violate the constitutional guarantee against the imposition of cruel and unusual punishment

To understand what having an unwanted pregnancy and child means to a woman, it may be best to consider the following analogy: a group of people are walking along the street. Half the group crosses; the remainder are stopped by a red light. Those stopped by the light are told the following:

"From now on, for about nine months, you are going to have to carry a twenty-five pound pack on your back. Now, you will have to endure it, whether you develop ulcers under the load whether your spine becomes deformed, no matter how exhausted you get, you and this are inseparable.

Then, after nine months you may drop this load, but from then on you are going to have it tied to your wrist. So that, whereever you go this is going to be with you the rest of your life and if, by some accident, the rope is cut or the chain is cut, that piece of rope is always going to be tied to you to remind you of it."

Of course, this analogy is not complete. It does not include the extreme, sometimes excruciating pain and risk of death involved with the process of transferring the pack from your back to your wrist, nor does it fully describe the limitations placed on your liberty by having that load chained to your wrist for a substantial portion, if not all of your life. It does, however, begin to give some picture of the pain and burden of pregnancy and motherhood when both are involuntary. Forcing a woman to bear a child against her will is indeed a form of punishment, a result of society's ambivalent attitude towards female sexuality. The existence of the sexual "double standard" has created the social response that when a woman becomes pregnant accidentally, she must be "punished" for her transgression, particularly if she is single. This punishment falls solely on the woman: she must face the physical burdens and emotional strains of an unwanted pregnancy, the degrading experience of having an illegal abortion "often in filthy motel rooms at the mercy of quacks who are charging exorbitant fees." Ervin, J. concurring, *Walsingham* v. *Florida*, Case No. 40,210 (S.Ct. Fla., July 12, 1971), and if unable to get such an abortion, the responsibilities and trauma involved in raising an unwanted child. The man equally responsible for the pregnancy faces no such punishment.

Those who seek to impose the punishment of forcing a woman to bear a child against her will could not be considering its scope and dimensions. Such a punishment condemns a woman to severe physical burden, pain and labor not only during pregnancy, but also through the birth process and after the child is born, imposing on her years of toil and loss of freedom. To deny an unmarried woman an abortion is even more obviously a punishment and an act of greater cruelty as she is totally alone, with *all* of the physical, financial and social burdens of raising a child.

The Eighth Amendment to the United States Constitution protects all persons against the infliction of "cruel and unusual punishment." Amici contend that the expanding constitutional concern, as expressed by this Court, with practices which "offend the dignity of man", are contrary to "the evolving standards of decency that mark the progress of a maturing society" and punishment "disproportionate to the offense committed" as violative of the Eighth Amendment necessitates a finding that laws restricting abortion are unconstitutional.

In 1910, the Supreme Court in *Weems* v. *United States*, 217 U.S. 349 (1910), repudiated the nineteenth century assumption that the punishments proscribed by the Eighth Amendment were limited to the barbarous practices of seventeenth century England. "The Cruel and Unusual Punishment Clause and The Substantive Criminal Law" 79 Harv. L. Rev. 635, 636–7 (1966). The Court in *Weems*, invalidating a section of the Philippine Penal Code authorizing a sentence of 15 years hard labor and concomitant forfeiture of citizenship rights noted that a "principle to be vital must be capable of wider application than the mischief which gave it birth," 217 U.S. at 373. Further the Court held that the Eighth Amendment "is not fastened to the obsolete but may acquire meaning as public opinion becomes enlightened by a humane justice." 217 U.S. at 367. Underlying the Court's holding was the concept of "proportional punishment" as a "precept of the fundamental law." Significantly, the Court considered the moral stigma and mental anguish suffered as a result of such punishment to be of equal relevance as the purely physical burden imposed.

In *Trop* v. *Dulles*, 356 U.S. 86 (1958), invalidating a punishment of denaturalization for desertion as unconstitutional in violation of the Eighth Amendment, the Court again emphasized the standard of proportion, and the flexible, expansive nature of the Eighth Amendment's ban, while declaring their willingness to apply the Eighth Amendment affirmatively to protect individual liberty. Noting that the "traditional" punishment for desertion was death, the court rejected the notion that "excessiveness" alone was determinative of constitutional validity. Instead, the Court asserted that "the question is whether the punishment subjects the individual to a fate forbidden by the principle of civilized treatment guaranteed by the Eighth Amendment." 356 U.S. at 99. "The basic concept underlying the Eighth Amendment is nothing less than the dignity of man." 356 U.S. at 100. The Amendment, the Court noted, was not a static one; it "must draw its meaning from evolving standards of decency that mark the progress of a maturing society." 356 U.S. at 101. In setting a standard for the application of the Amendment, the Court rejected, as well, an exclusive concern with the physical aspect of punishment, forbidding what it characterized as "the total destruction of the individual's status in organized society, 356 U.S. at 101.

This Court's most recent analysis of the flexibility of the Eighth Amendment is found in *Robinson* v. *California*, 370 U.S. 660 (1962). In that case, the Court held that a state law which made the "status" of narcotics addiction a criminal offense constituted "cruel and unusual punishment in violation of the guarantees of the Eighth Amendment. For Justice Douglas stated in his analysis of the constitutional development of the Eighth Amendment: Douglas, J. concurring at 675.

The historic punishments that were cruel and unusual included "burning at the stake, crucifixion, breaking on the wheel" (*In re Kemmler*, 136 U.S. 436, 446, 10 S.Ct. 930, 933 34 L.Ed. 519) quartering, the rack and the thumbscrew (see *Chambers* v. *Florida*, 309 U.S. 227, 237, 60 S.Ct. 472, 477, 84 L.Ed. 716) and in some circumstances even solitary confinement (See *In re Medley*, 134 U.S. 160, 167–8, 10 S.Ct. 384, 386, 33 L.Ed. 835). The question presented in the earlier cases concerned the degree of severity with which a particular offense was punished or the element of cruelty present. A punishment out of all proportion to the offense may bring it within the ban against "cruel and unusual punishment." See *O'Neil* v. *Vermont*, 144 U.S. 323, 331, 12 S.Ct. 693, 696, 36 L.Ed. 450. So may the cruelty of the method of punishment as, for example, disemboweling a person alive. See *Wilkerson* v. *Utah*, 99 U.S. 130, 135, 25 L.Ed. 345. But the principle that would deny power to exact capital punishment for a petty crime would also deny power to punish a person by fine or imprisonment for being sick.

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*It may be worth noting that the only other major areas of law in which this occurs is with laws governing children and incompetents; that alone may give interesting insights into the views of legislators towards women.

**Amici* have not addressed themselves to the economic discrimination resulting from the application of the abortion laws of Texas and Georgia on the understanding that the issue is being treated fully by other *amici* and by parties to the litigation. *Amici* are deeply concerned, however about the economic hardship and blatant economic discrimination effected by such laws restricting the availability of legal abortion.

The essence of the Eighth Amendment, as evolved in the cases discussed above, lies in its concern with the "disproportionate" nature of the punishment imposed, the moral anguish as well as physical burdens of punishment, the extent to which punishment is a response to an individual's 'status' and is measured by "evolving standards of decency", and offensiveness to the "dignity of man." Laws which force women to endure unwanted pregnancy and motherhood against their will or to become criminals and take the risks to physical and mental health resulting from an illegal abortion are disproportionate to the act for which they are being punished—an act which, in many instances, is not even illegal. Further, *amici* contend that abortions, in fact if not in theory, punish women for private, sexual activity for which only women bear the repercussions of pregnancy therefore punishing them for their status as women and potential child-bearers.

The pain and suffering associated with an unwanted pregnancy or child, is not solely physical pain. The emotional pain and scarring which accompanies an unwanted pregnancy is an equally important and far more lasting form of pain which must be considered in the context of guarantees of the Eighth Amendment, and the emphasis given to mental anguish as a crucial component of "cruel and unusual punishment."[*] According to Dr. Natalie Shainess, who has devoted the majority of her 25-year practice as a psychoanalyst and psychiatrist to the area of feminine psychology and particularly with the experience of being a mother, a woman who does not want her pregnancy suffers depression through nearly the entire pregnancy and often that depression is extremely severe. Furthermore, according to Dr. Shainess that depression continues even after birth may even go into psychotic states, and may result in permanent emotional damage to the woman.

Such potential permanent emotional damage, the risks to physical health and safety which may also result in permanent physical harm, see *Fletcher* v. *State*, 362 S.W.2d 845 (Cr. App. Tex., 1962), and the burdens of taking care of an unwanted child, constitute a form of long-term imprisonment. Such long term imprisonment . . . "could be so disproportionate to the offense as to fall within the inhibition" of the Eighth Amendment. *Hemans* v. *United States*, 163 F.2d 228 (6th Cir., 1947). For most women, bearing and raising an unwanted child is worse, it is *life-term* imprisonment. For the woman, the unwanted pregnancy may also carry with it the trauma of being rejected or mistreated by the man when he learns of the pregnancy. Under such conditions, the child resulting from the relationship would constitute a lasting and omnipresent reminder of the suffering the woman experienced from the man. Such a life-long reminder is a form of constant punishment that the woman should not be forced to face. When she is forced into that situation, however, not only does she suffer emotionally, but her suffering is manifested in her relations with her child. She may vent her anger by physically injuring the child,[*] neglecting the child, or being extremely over protective, virtually "smothering" the child emotionally.

According to New York law as interpreted by its courts, a "child at tender age is entitled to have such care, love and discipline as only a good and *devoted* mother can usually give," *Ullman* v. *Ullman*, 151 A.D. 419, 135 N.Y.S. 80 (1912) (emphasis added); it is entitled to care which includes its "spiritual and moral life" *In re Roe*, 92 N.Y.S. 2d 882, 883, 196 Misc. 830 (Dom. Rel. Ct., 1949). Nonetheless, the State, by its insistence on the right to life for the fetus, practically ensures that once born, the child will receive neither the care, love, nor spiritual and moral life to which it is entitled. If indeed, the unwanted child is a hated child, in denying women the right to abortion Texas, Georgia, and all other states with laws which restrict abortion are punishing not only the mother, but also the very child they claim to protect. Furthermore, under New York law a mother is required to give "care, guidance, supervision, love and affection," *In re Carl*, 174 Misc. 955, 22 N.Y.S. 2d 782, 784 (Dom. Rel., 1940), to the child she never wanted in the first place and she is punished if she is unable to.

By denying women the right to abortion the state is punishing her for her sexual activity with the equivalent of long-term imprisonment and giving her an indeterminate sentence of life with an unwanted child. Sentencing a woman to a full term pregnancy and motherhood against her will is thus a clear violation of her right to be free from cruel and unusual punishment. The words of this Court in *Weems, supra*, are most appropriate in describing such a "sentence."

> [Her] prison bars and [some] chains are removed, it is true after [nine months], but [she] goes from them to a perpetual limitation of [her] liberty. [She] is forever kept under the shadow of [her] crime. . . .
>
> . . . [She] is subject to tormenting regulations that, if not so tangible as iron bars and stone walls, oppress as much by their continuity, and deprive of essential liberty. It may be that even the cruelty of pain is not omitted. [She] must bear a chain night and day. [She] is condemned to painful as well as hard labor. 30 S.Ct. at 549.

Even where the woman decides she cannot endure the pains and penalties of pregnancy and motherhood, which the law attempts to force on her, she is still exposed to what may be the great physical and emotional pain and the far greater danger of illegal abortion. It has long been thought that abortion in and of itself caused substantial destructive emotional effects on women. More recently, however, a number of studies have shown that when abortions are legally obtained women do not suffer psychological harm as a result of their experience, but rather in most cases their emotional status improves and many report that they experience emotional growth as a result of the abortion experience. Pratt, Rappaport & Barlow, *Arch. Gen. Psychiat.*, 20:408–414 (1969).

It is no answer to suggest that the woman may always choose to minimize her pain by placing the child for adoption following birth—performing the function of "commodity" or a "baby breeder." For as one woman has movingly described.[*]

> The kind of trauma of giving a baby up for adoption leaves you with the feeling of—at least I had my feeling about it as a mother—I was a mother who had abandoned my child and I fought against this self-concept.
>
> I prepared to think of myself as a breeder, I was just breeding babies for someone else to take rather than think of myself as a mother who abandoned her baby.
>
> But the guilt—for months after I left the home, I'd wake up in the night crying and sort of rocking my pillow and this feeling sometimes of deprivation but . . . the guilt was stronger than the feeling that someone else had deprived, someone had ripped the baby from my arms.
>
> I would have been more comfortable that way than what I did, because I actually signed the papers and gave the baby up.

For this woman, and for many others, this experience carries with it a further overwhelming sense of guilt at having done something shameful—a sense of guilt which may haunt her for years after and which, in the same person, will not develop in connection with an abortion—even an illegal abortion. Such mental anguish, and the emotional harm which ultimately results is certainly disproportionate to the act for which a woman is being punished, and constitutes cruel and unusual punishment for her.

Finally, some might feel that whereas it may be constitutionally impermissible to deny a married woman an abortion, it is permissible to force an unmarried woman to see her pregnancy and its consequences through as a "deterrent to her immorality." However, not only is such a position unconstitutional, it is irrational. Compared with a married woman, an unmarried woman is likely to experience even greater unconstitutional deprivations of her liberty, as a result of the greater pain and suffering from being forced to bear and raise an unwanted child with no help from the man who is equally responsible for the conception of that child. Furthermore, both she and the child, will become a financial "burden" on the society if she is forced to go on welfare.

Millions of women are now becoming truly conscious of the manifold forms of oppression and discrimination of their sex in our society. They are beginning to publicly express their outrage at what they have always known—that bearing and raising a child that they do not want is indeed cruel and unusual punishment. Such punishment involves not only an indeterminate sentence and a loss of citizenship rights as an independent person as held unconstitutional in *Weems, supra*, great physical hardship and emotional damage 'disproportionate' to the "crime" of participating equally in sexual activity with a man, as held unconstitutional in *Trop, supra*, but is punishment for her 'status' as a woman and a potential child-bearer as held unconstitutional in *Robinson, supra*. As this Court in *Trop* so firmly stated, the concept underlying the Eighth Amendment is "nothing less than the dignity of man" 356 U.S. at 100 and "must draw its meaning from evolving standards of decency" at 101. Abortion laws reinforce the legally-legitimized indignities that women have already suffered under for too long and bear witness to the inferior position to which women are relegated. The total destruction of a woman's status in society results from compelling her to take sole responsibility for having the illegal abortion or bear the unwanted child, and suffer the physical hardship and mental anguish whichever she chooses. Only the woman is punished by society for an act in which she has participated equally, only she is punished for her

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[*] Schulder and Kennedy, *supra*. p. 122.

[*] According to Ray E. Helfer, M.D., who has recently edited a book called *The Battered Child*, University of Chicago Press, 1968, and is an expert in the field, an unwanted pregnancy may be a crisis situation in the three factor pattern which leads to physical abuse of children.

[*] Schulder and Kennedy, *Ibid.*, p. 23.

"status" as child-bearer. In light of "evolving standards of decency that mark the progress of a maturing society", the basis of the Eighth Amendment as set forth in *Trop, supra,* the struggle of women for full and meaningful equality in society over the last hundred years indicates that it would indeed be a sign of the immaturity of our social development if these laws were upheld. White persons have had to readjust their thinking and actions to question whether laws which discriminated against blacks were unconstitutional.

Men (of whom the legislatures and courts are almost exclusively composed) must now learn that they may not constitutionally impose the cruel penalties of unwanted pregnancy and motherhood on women, where the penalties fall solely on them.

IV. There is no compelling State interest justifying the violation of fundamental constitutional rights effected by the challenged abortion laws

Historically under common law and in the early years of American law, abortion was legally permissible before the fetus was "quick" inside the mother. See generally, Cyril S. Means, Jr., "*The Law of New York Concerning Abortion and the Status of the Fetus,* 1664–68: *A Case of Cessation of Constitutionality,*" 14 N.Y.L.F. 411, Feb. 1968; and Roy Lucas, "*Federal Constitutional Limitations on the Enforcement and Administration of State Abortion Statutes,*" 46 N.C. L. Rev. 732, June 1968. The adoption of laws regulating (and almost effectively eliminating) legal abortion came about for a combination of three major reasons, none of which can any longer constitutionally justify the extreme incursion into and violation of protected rights effected by the challenged abortion laws. The three reasons were: (a) "compelling uniform adherence to specified moral norms . . . [by] (l) egal bans on both contraception and all abortion. . . ." Lucas, *supra,* p. 732, i.e., moral norms regarding sexual relations; (b) protecting the health of the mothers from the dangers then inherent in any operation, Lucas, *supra,* p. 732; Means, *supra;* and (c) enforcing the newly established religious concept that the soul was present in the body from the time of conception. Lawrence Lader, *Abortion,* Beacon Press, Boston, 1966.

The operation and effect of the challenged Georgia and Texas abortion laws directly violate plaintiffs' constitutionally protected rights of life, liberty, equal protection. personal privacy of associations and others as well. As the Supreme Court of California stated in *California* v. *Belous,* supra, 80 Cal. Rptr. at 360:

> The critical issue is not whether such rights exist, but whether the state has a compelling interest in the regulation of a subject which is within the police powers of the state (Shapiro v. Thompson (1969), 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600; Sherbert v. Verner, (1963), 374 U.S. 398, 403, 83 S.Ct. 1790, 10 L.Ed.2d 965), whether the regulation is "necessary * * * to the accomplishment of a permissible state policy" (McLaughlin v. Florida (1964), 379 U.S. 184, 196, 85 S.Ct. 283, 290, 13 L.Ed.2d 222; see also, NAACP v. Button, 371 U.S. 415, 438, 83 S.Ct. 328, 9 L.Ed.2d 105; Bates v. City of Little Rock (1960) 361 U.S. 516, 527, 80 S.Ct. 412, 4 L.Ed.2d 480; Huntley v. Public Util. Comm. 69 A.C. 62, 69 Cal. Rptr. 605, 442 P.2d 685; Vogel v. County of Los Angeles, 68 Cal. 2d 18, 21, 64 Cal. Rptr. 409, 434 P.2d 961; People v. Woody, 61 Cal.2d 716, 718, 40 Cal. Rptr. 69, 394 P.2d 813.

The fact that the abortion laws may have been valid when first enacted does not resolve the questions concerning the present constitutionality of the law. *California* v. *Belous, supra,* at 362. Compare *Gary* v. *Sanders,* 372 U.S. 368, 381 (1963) with *South* v. *Peters,* 339 U.S. 276, 277 (1950); *Baker* v. *Carr,* 369 U.S. 186, 237 (1962); with *Colgrove* v. *Green,* 328 U.S. 549, 556 (1946); *Brown* v. *Board of Education, supra,* with *Plessy* v. *Ferguson,* 163 U.S. 537 (1896).

Most persons who seek to justify the constitutionality of abortion laws would now concede that the first two of the three justifications mentioned above are no longer able to sustain abortion laws which take such great tolls on the lives of women.

It is common knowledge that an abortion no longer entails the danger it did in the mid 1800's and early 1900's when the Texas and Georgia abortion laws as well as the laws of nearly all the other states were first enacted. In fact, as pointed out above, there is considerable evidence that abortion now carries about the same, if not lesser risks then childbirth. See p. 10, *supra.* Therefore the medical rationalization to sustain abortion restrictions can be easily dispensed with.

As for the use of abortion laws to ensure the community standard of morality, it should be clear from this Court's decision in *Griswold* v. *Connecticut, supra,* 381 U.S. at 498, Justices Goldberg, Warren and Brennan, concurring that such an argument is not constitutionally sufficient. See also *Walsingham* v. *Florida, supra,* slip opinion, p. 12, which notes that the abortion statutes themselves ". . . [do] not show a compelling state interest in prohibiting premarital sexual intercourse (the prelude to unwed mothers) since [they draw] no distinction between married and unmarried women." In any case it is quite evident that the "community" standard is at present a changing one. Furthermore, we must consider just who is the community. For on this particular issue there are at minimum two communities—the community of men and the community of women. Normally, we cannot and should not consider legislation from such a perspective but in this case we can and must. For, here we have legislation which is made by men [see Page 32–33, supra] who are never directly affected by it (except to the extent that they fear that they themselves might never have been born were there no abortion law). It is women, who at best have an indirect voice in the determination of these laws, who must suffer from them. And it should be plain that the community of women does not support these laws. For centuries they have been seeking and obtaining abortions even at substantial risk to themselves despite the voice of the legislature.

It may well be said that the abortion laws which the states seek to maintain in fact undermine the moral fabric of the community. For, it is those laws which not only force countless women to flagrantly violate the law each year, but forces them into the sordid underworld of criminal abortions.*

However, even assuming the maintenance of a particular standard of morality for men and women were sufficient to sustain some legislation in the area, that legislation could not be drawn in such a way as to consistently place all of its weight and burden on only one sex. For this is just the sort of invidious discrimination prohibited by the Fourteenth Amendment.

Thus we must look to the third rationale for abortion laws. Although it is generally discussed in terms of the "right to life," if we analyze it more closely, the third rationale is actually a means of enforcing the religious concept that the soul is present in the body from the time of conception and therefore must be saved. The use of criminal statutes to enforce the views of one or more particular religious groups is of course proscribed by the First Amendment's Establishment Clause.

Looking closer at the argument that the state must guarantee to every fetus its right to life, we must immediately be struck by tremendous inconsistencies in the state's alleged concern for life.

In fact, claims of great concern for the life of the fetus are at best questionable in practice and turn sour when examined in light of their consequences on the lives of women.

It is clear both from the application of the abortion laws as well as from other areas of law that the concern of the state in the life of the fetus is at best a qualified concern. Firstly, under the laws of many states the fetus has "no legal personality or identity until it sees the light of day." *Endresz* v. *Friedberg,* 24 N.Y. 2d 478, 301 N.Y.S. 2d 65, 70 (1969), and, therefore, an action for wrongful death of a fetus cannot be sustained. See also, *Graf* v. *Taggart,* 43 N.J. 303, 204 A. 2d 140 (1964); *Norman* v. *Murphy,* 124 Cal. App 2d 95, 268 P. 2d 178 (Dis. Ct. App., 1954); *Keyes* v. *Construction Service,* 340 Mass. 633, 165 N.E. 2d 912 (1960); *Powers* v. *City of Troy,* 4 Mich. App. 572, 145 N.W. 2d 418 (1966); *Carroll* v. *Skloff,* 415 Pa. 47, 202 A. 2d 9 (1964), for similar rules in New Jersey, California, Massachusetts, Michigan and Pennsylvania.

What are more laws govering abortion in Georgia as in several other states with supposed "reform laws" show at best a qualified concern for the life of a fetus. Those statutes permit the abortion of a fetus resulting from rape or incest, and in some states a fetus growing within the body of an unmarried woman under the age of fourteen, fifteen or sixteen, or a woman with German Measles, e.g., Colo. Rev. Stat. Ann. § 40–2–50 *et seq.* (Supp. 1967).

In other states, a pregnant woman may not be executed if she is "quick with child". New York Code of Criminal Procedure, §§ 501 *et seq*. Presumably, as was true historically, a woman who is pregnant with an unquick fetus may be executed.* Of course, in that case the fetus wil die with her.

Furthermore, in no other way do the states act to protect the fetus from dangers to its existence. There exist no intensive prenatal care programs for those expectant mothers who do not receive this necessary care. There exist no massive education programs concerning diet, exercise, etc., for expectant mothers. There is no mandatory innoculation against rubella, a crippling disease for a fetus to be affected by. Drugs harmful to the fetus are allowed on the market even though alternative treatment could be utilized. In New York, for example, the State Department of Social Services does not provide additional money for the fetus until the fourth month of pregnancy. Title 18, Codes, Rules and Regulations of the State of New York, § 353.2. Clearly, the states take no affirmative action to care for the fetus in which they claim such a compelling interest. Nor do the governments consistently protect the interest of the children who are subsequently born. * *

**Amici* do not take either the position that women who have abortions are "criminals" or that all persons who are willing to aid women in terminating unwanted pregnancies are criminals. However, there are many persons who unscrupulously profit from women's predicament and misery with little concern for their health and safety.

*For further historical discussion of this distinction between the quick and unquick fetus in New York laws, see Means, *supra,* 14 N.Y.L.F. at pp. 441–3.

** If governments insist that there is a compelling state interest in protecting human life and therefore in outlawing abortions, why is it that these same governments fail to protect the rights of illegitimate children who are subsequently born. Although *Levy* v. *Louisiana,* 391 U.S. 68 (1968), stated that a state cannot treat an illegitimate child differently from legitimate offspring, in *Labine* v. *Vincent,* 91 S.Ct. 1017 (1971), this Court upheld a Louisiana statute which prohibited illegitimate children, though duly acknowledged, from claiming and taking property by interstate succession for their father's estate. There are cases in both the

In light of these facts we must look again at the argument that the state must protect each and every fetus which has been conceived. In order to assert this view one must assume that every fetus is a human being equal in all respects to every living citizen from the moment of conception. Stripped of any religious definitions of when meaningful human life begins, that is when the soul enters the human organism, the various medical procedures for terminating pregnancy that are currently illegal under the challenged laws are not significantly different from some current methods of birth control.**

There is a great variation in positions as to when the essential "humanness" which causes society to protect the life of its citizens actually develops. In fact, the final determination is a philosophical or religious one.

For example, one might consider that the moment of fertilization is the moment of creation of a human being. Under that approach the development of that "life" could not be interfered with from that moment of fertilization. In that case no I.U.D.'s could be legally used by women though they are widely used throughout the country, according to Father Robert F. Drinan, former Dean of the Boston College Law School, and now United States Congressman.

There is no doubt whatever that countless individuals and several opinion molding groups in America are convinced that the Catholic Church is using its persuasion, its prestige and its political power to fight any change in the abortion laws. These individuals and associations are sometimes afraid to speak openly about the role of the Church lest they deepen the Church's antagonism to the causes they espouse. Drinan, Robert F., S.J., *"The Morality of Abortion Laws,"* 14 Cath. Lawyer 190, 195 Summer (1968).

For that reason the political activities of the Catholic Church and its proponents in opposing even *liberalization* of abortion laws remains an open secret which is difficult if not impossible to "prove" in a traditional legal sense. However, in reporting the passage by the Hawaii legislature of a bill repealing that state's abortion law, the New York Times stated that "The Roman Catholic Church waged a long battle to try to keep the abortion bill from passing." New York Times, 2/25/70, 1:5. The Hawaiian experience is plainly not an isolated experience.

Significantly, under the common law there appears to have been no legal proscription against abortion before the fetus was quick within the mother—and it was at that time that the soul was thought to enter the organism. Means, *supra*, at 426–8. At approximately, the time that the view of the Catholic Church shifted concerning the entry of the soul, laws concerning abortion did too—both moving back to the time of conception.**

What is more, according to Rabbi David M. Feldman, Author of ***Birth Control in Jewish Law***, the position of the Catholic Church on the question of abortion is doctrinal rather than a general moral position. The position stems in part from an ancient interpretation of the Hebrew Septuagint, with respect to "ensoulment" leading to the proscription of abortion of a "formed" fetus. Feldman, *Birth Control in Jewish Law*, New York University Press 1968, pp. 257–8 and 269. It further stems from the position of the Church on original sin and baptism, which leads to the conclusion that if a fetus is not permitted to develop to term so that it can be baptized at birth, it is "worse than murder" for then the fetus is doomed to limbo. Feldman, *Ibid.*, pp. 268 and 270.

In contrast with the Catholic approach to abortion, under Jewish law, the welfare of the woman—her pain and suffering—is paramount. Feldman, *Ibid.*, pp. 291–2. In Jewish law, the fetus does not become a *person* until the moment of birth, Feldman, *Ibid.*, pp. 255 and 272. The fetus, at least in the early stages is considered part of its mother's body, Feldman, *Ibid.*, p. 265, and only when its head emerges is it inviolate. Feldman, *Ibid.*, p. 275. Therefore, in any number of situations in which abortion would be permissible under Jewish law it would be forbidden under the laws of Texas and Georgia and nearly every other state in the country as would be more consonant with Catholic doctrine.

Abortion laws throughout the country are thus based on a religious definition of when "human" life begins. As a result, no woman may legally terminate an unwanted pregnancy except under the most limited circumstances, because to do so would offend the religious precepts of others. She then, though forced to adopt certain beliefs, has her personal constitutional freedoms eroded by laws which not only favor one religious doctrine but actually enforce it. Thus, the Texas and Georgia as well as most other abortion laws are in direct conflict with constitutional rule that "[t]he government is neutral, and while protecting all, it prefers none, and it disparages none." *School District of Abington Township* v. *Schempp*, 374 U.S. 203, 215 (1965). As this Court stated in that case:

> The wholesome 'neutrality' of which this Court's cases speak thus stems from a recognition of the teachings of history that powerful sects or groups might bring about a fusion of governmental and religious functions or a concert or dependency of one upon the other to the end that official support of the State or Federal Government would be placed behind the tenets of one or all orthodoxies. 374 U.S. at 222.

Just such fusion deprives countless of women each year of the most basic control over their bodies and their lives in a way which will affect them for the rest of their days, and all in violation of the constitutional proscription against the establishment of religion.

> The establishment of religion's clause of the First Amendment means at least this: Neither a state nor Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or the remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or nonattendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a State nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation between church and state." *Everson* v. *Board of Education*, 330 U.S. 1, 15–16 (1947), citing *Reynolds* v. *United States*, 98 U.S. 145, 164 (1878).

The Texas and Georgia laws governing abortion constitute the most glaring example of the demolition of that wall. Furthermore, insisting that a woman carry to term each and every pregnancy which may occur the state is not only enforcing a particular religious belief but developing a form of right unique in American law. For, in no other instance does the right to live include the right to use another person's body—his or her kidney, heart and lungs. Yet the denial to women the right to an abortion gives a fetus the right to occupy an unwilling woman's body and use not only her uterus but every other organ of her body without her consent.

Thus stripped of the remaining religious justification for the prohibition of abortion, there is no argument sufficient to sustain the abridgement of a women's rights effected by the denial of abortion.

"Where there is a significant encroachment upon personal liberty, the State may prevail only by showing a subordinating interest which is compelling." *Griswold* v. *Connecticut*, *supra*, 381 U.S. at 497, citing *Bates* v. *City of Little Rock*, 361 U.S. 516, 524 (1960).

Amici urge this Court to consider the following questions:

> Are the interests of society being served by a law which exposed over a million women last year to such risks [as described above]? Are the interests of society being served by women bearing unwanted children, subjected to the pressures of an emotionally and financially deprived existence? Are the interests of society being served by the population explosion we are now witnessing? *South Dakota* v. *Munson*, *supra*, slip opinion, p. 9.

Thus the real question is not "How can we justify abortion"? but "How can we justify compulsory childbearing?" Cisler, "Unfinished Business: Birth Control and Women's Liberation," *Sisterhood is Powerful*, ed., Robin Morgan, Random House, 1970, p. 278.

This Court must then conclude, as other courts have across the nation, that,

> Upon a balancing of relevant interest, we hold that a woman's right to refuse to carry an embryo during the early months of pregnancy may not be invaded by the state without a more compelling public necessity than is reflected in the statute in question. *Walsingham* v. *Florida*, *supra*, slip opinion, p. 12, citing *Babbitz* v. *McCann*, *supra*.

And further that,

> The Court can find no compelling interest of the state and concludes that the right to choose to bear or not to bear children is a fundamental right of the individual woman to be exercised in any manner she chooses and which may not in any way be abridged by law. *People* v. *Robb*, *supra*, slip opinion, p. 9.

V. Younger v. Harris does not impair or lessen the jurisdiction, power or responsibility of this court to grant the relief requested

In *Younger* v. *Harris*, 91 S.Ct. 746 (1971), and its companion cases this Court refused to rule on the constitutionality of several state statutes challenged on First Amendment grounds. The Court held that the constitutional objections could and should be raised by the litigants in defense to a criminal prosecution, and the litigants would not be irreparably harmed by raising their constitutional rights in that forum. That is not the case here however.

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states of Georgia and Texas which reveal the same form of discrimination. In *Patterson* v. *Liberty Mutual Insurance Co.*, 147 S.E.2d 64 (1966), the Georgia Court of Appeals refused to allow a posthumous illegitimate child who brought a proceeding to recover compensation for death of the deceased employee, the child's father, to recover. In *Hargrove* v. *Lloyds Casualty Company of New York*, 66 S.W.2d 466 (1933), the Texas Court held that an illegitimate child could not recover compensation for her father's death under Workingman's Compensation Act. Thus there would seem to be a fundamental inconsistency in vigorously protecting the right of the child to be born and then denying that same child equal protection. Such protection of the property of the father from the claims of his out-of-wedlock children may well be yet another factor to encourage men to desert the children they have fathered and the mothers of those children.

**E.G., it is commonly accepted that the intrauterine device (IUD) acts as an abortive agent rather than as a contraceptive which prevents conception.

**This was coupled with crusades in Calvinist theology and New England Puritanism against sex and immorality. Lader, Lawrence, *Abortion*, Beacon Press (1966).

In the two cases before this Court the primary plaintiffs are women in need of abortions. Neither they, nor other women throughout the country, who daily have their rights denied by the Georgia, Texas and other abortion statutes, can turn to the state criminal process for a determination of their rights. For, the violation of their rights does not stem primarily from the fact that they may be prosecuted for having an abortion (though in rare cases they are), but from the fact that a very real threat of criminal prosecution of third parties prevents them from obtaining the medical care they require. As long as abortion laws such as those of Georgia and Texas are in effect they will not be able to obtain abortions. As the Supreme Court of the State of California recognized in *California* v. *Belous*, supra, 80 Cal. Rptr. at 366, since the doctor is risking his own freedom and professional career in performing an abortion, "Rather than being impartial, the physician has a 'direct, personal, substantial, pecuniary interest in reaching a conclusion' that the woman should not have an abortion." The situation of women barred from obtaining abortions by unconstitutional laws is therefore distinguishable from that of appellees in *Boyle* v. *Landry*, 91 S.Ct. 758 (1971). This Court found that they were deterred from exercising their constitutional rights only by their *own* "imaginary or speculative fears of prosecution." 91 S.Ct. at 758. Furthermore, women are not required to entrust the protection of their constitutional rights to a third party which has little interest in protecting those rights. *Perlman* v. *United States*, 247 U.S. 7, 12–13 (1918).

Amici have attempted to show that to require a woman to carry, give birth to and raise a child against her will is indeed irreparable harm sufficient to satisfy the standard of *Dyson* v. *Stein*, 91 S.Ct. 769 (1971), decided with *Younger* v. *Harris*, supra, in which the Court stated that,

> ... federal intervention affecting pending state criminal prosecutions, either by injunction or by declaratory judgment is proper only where irreparable injury is threatened. The existence of such injury is a matter to be determined carefully under the facts of each case.

The rights of women such as Mary Doe and Jane Roe who are denied the abortions they seek must not turn on whether some few medical personnel are courageous enough to open themselves to prosecution by performing the needed abortions, and then challenge the restrictive law in a criminal proceeding. This is too tenuous a thread for millions of women throughout the country to rest their constitutional rights on. In *Younger* v. *Harris, supra*, 91 S.Ct. at 751, this Court noted that it has long been considered appropriate for the federal courts to rule on the constitutionality of state criminal statutes where,

> ... The threat to the plaintiff's federally protected rights [is] one that cannot be eliminated by his defense against a single criminal prosecution. See, e.g., *Ex Parte Young*, 209 U.S. 123, 145–7.

That is exactly the situation before the Court. Women are having their lives and bodies mangled and destroyed daily by abortion laws such as those of Georgia and Texas and cannot look to the state criminal process to rid themselves of the bonds of those laws. This Court must, therefore, exercise the "duty" of the federal courts to hear and decide federal constitutional claims, for the federal courts are the "... primary and powerful reliances for vindicating every right given by the Constitution. ..." *Zwickler* v. *Koota*, 381 U.S. 241, 247 (1967).

CONCLUSION

For the foregoing reasons Amici urge this Court to find Georgia Code Annotated § 26–1201 and Texas Penal Code Articles 1191, 1192, 1193, 1194 and 1196 violate the most fundamental rights of women guaranteed by the United States Constitution.

Respectfully submitted,
NANCY STEARNS
c/o Center for Constitutional Rights,
588 Ninth Avenue, New York, New York 10036.

The attorney for amici wishes to note with appreciation the invaluable assistance of Elizabeth Schneider of New York University School and Chris Stern of Brooklyn Law School in the preparation of this Brief.

RELIGION, MORALITY, AND ABORTION: A CONSTITUTIONAL APPRAISAL

(By Mr. Justice Tom C. Clark) *

2 Loyola Univ. Law Review 1 (1969)

Thought without action is an abortion: action without thought is folly.[1]

Our society is currently in the midst of a sexual revolution which has cast the problem of abortion into the forefront of religious, medical, and legal thought. In my day at the bar all discussion of abortion was taboo. For more than sixty years the American Medical Association had a negative policy respecting abortion. The A.M.A. often sought the prosecution of any doctor who engaged in the practice of abortion, regardless of the merits of the individual situation. Society's general attitude toward abortion was such that the patient was ostracised and the doctor was disgraced. As in so many other facets of its moral code, however, society was hypocritical in its behavior. Despite the public pronouncements against its practice, abortions increased, especially among married women, and judicial action against the participants decreased in proportion.[2]

Some social commentators argue that Freud prepared the way for the Kinsey Report, which in turn set the stage for the sexual permissiveness that Reinhold Niebuhr called "moral anarchism." [3] This permeating permissiveness engendered a need for more efficient birth control methods, such as "the pill," and precipitated the doom of the old hypocrisy.

The law, lagging behind as usual, began to emerge from its quagmire and rid itself of the archaic restraints on abortion. In 1962 the American Law Institute proposed an affirmative policy declaring that the termination of pregnancy is justified whenever (1) its continuance would gravely impair the physical or mental health of the mother, (2) the child would be born with grave physical or mental defects, or (3) the pregnancy was the result of rape, incest, or other felonious intercourse.[4]

Within five years of this proposal, the A.M.A. reversed its negative policy and adopted the A.L.I. proposal with only a few nuances.[5] During the next two years, five states liberalized their abortion laws and adopted the A.L.I. proposal.[6]

A further liberalization occurred in Great Britain with the adoption of the 1967 Abortion Act, which permits doctors to consider the mother's "actual or forseeable environment" in deciding whether an abortion is necessary.[7] The American College of Obstetricians and Gynecologists (A.C.O.G.) recently advocated enactment of similar legislation in this country.[8] While the permissiveness of the legislation would contradict existing laws in all states, the A.C.O.G. made it clear that it does not counsel disobedience to the law. It merely recommended liberalization and repeal of innconsistent laws. It did not, however, advocate the legalization of abortion for any unwanted pregnancy or as a population control device.

Various religious, medical, psychological, and legal organizations have been striving to reach some level of accord on the issues involved in promulgating a realistic and acceptable policy toward abortion. Emphasis on this topic is the result of many factors, including the chaotic state of thinking that prevails among the professions and the public, and the medical, emotional, and legal consequences which aborticide has on today's society.

The Christian Medical Society's symposium on controlling human reproduction provides a recent illustration of the disagreement that exists among professionals concerning abortion. Distinguished clerics, psychologists, doctors, and lawyers sought to determine what course of action should be followed. They were unable to answer many important questions, such as: Is the control of human reproduction against the will and spirit of God? At what stage of the gestation period does the fetus acquire human status? What are the constitutional limitations upon the State in prohibiting or limiting the control of reproduction? I ask myself, "Heaven knows; who can tell? Who shall decide when experts disagree?" These and many other questions must be answered if we are to attain our goal of an aborticide policy that is responsible to modern society's needs and desires.[9]

In a recent conference the Association for the Study of Abortion experienced far greater success in agreeing on an aborticide policy. Dr. Robert Hall, President of the Association, said that the conference was designed to "relate what we know about abortion, and to determine what, if any, extent our attitude toward abortion should change with changing times. . . ." [10] The conference reviewed numerous reports dealing with present abortion laws. One of these reports concerned the effect of California's recently liberalized abortion law. It was noted that while the number of therapeutic abortions performed in California hospitals this year will rise from six hundred to about four thousand, there will continue to be some one hundred thousand illegal abortions performed in that state, because doctors are concerned about risking a prison sentence for an incorrect interpretation of ambiguous provisions of the liberalized law.[11] The conference was also informed that psychiatrists and physicians in various states were referring patients to doctors in states which have more liberal abortion laws. This practice renders the availability of legal abortion dependent upon the woman's ability to reach such states.[12] Many doctors admitted privately that they and most of their non-Catholic colleagues perform several illegal abortions each month. Kenneth R. Whittemere reported that his recent interviews revealed that in one small Southern city, women had a choice between "a chiropractor, an antique dealer, a mid-wife, a mechanic and a doctor dissatisfied with his profession to perform the operation." [13]

The Association reached an almost unanimous conclusion that all abortion laws should be abolished and that the right of childbirth should be left to each woman acting on the advice of her doctor. This would have the effect of removing the issue from the hands of the legislatures and the courts, which are virtually helpless to decide an ethical question as controversial and far-reaching as abortion.[14] Whether or not we agree with the Association's recommendations, it is readily apparent at this point that a uniform scheme concerning abortion is highly desirous.

Throughout history religious belief has wielded a vital influence on society's attitude regarding abortion. The religious issues involved are perhaps the most frequently debated aspects of abortion. At the center of the ecclesiastical debate is the concept of "ensoulment" or "personhood," *i.e.*, the time at which the fetus becomes a human organism. The Reverend Joseph F. Ronseel of Fordham University admitted that no one can determine with certainty the exact moment at which "ensoulment" occurs, but we must deal with the moral problems of aborting a fetus even if it has not taken place.[15] Many

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Footnotes at end of article.

Roman Catholics believe that the soul is a gift of God given at conception. This leads to the conclusion that aborting a pregnancy at any time amounts to the taking of a human life and is therefore against the will of God. Others, including some Catholics, believe that abortion should be legal until the baby is viable, *i.e.*, able to support itself outside the womb. In balancing the evils, the latter conclude that the evil of destroying the fetus is outweighed by the social evils accompanying forced pregnancy and childbirth.[16]

Most civilizations of antiquity prohibited the practice of abortion. Ancient Judaism prohibited birth control except in times of famine.[17] Assyrian law imposed the death penalty upon any person participating in an abortion, including the procurer.[18] Even pagan writers described abortion as an evil act prohibited by law.[19]

The New Testament is devoid of pronouncements bearing directly on the issue of birth control or abortion. The Old Testament, however, does not condemn abortion as a capital offense since the fetus was not regarded as possessing a soul within the Sixth Commandment proscription.[20] It does declare, however, that conception is a gift of God which can be withdrawn at His will.[21] Many theologians today argue that man must not destroy what God has created and that aborting a pregnancy destroys the gift of human life.[22]

The medical profession is far from agreeing on the time at which the fetus becomes a human life. Some physicians argue that abortion should be permitted with impunity at any time up to the sixth month of pregnancy since prior to that time the fetus is no more than a growing plant.[23] On the other hand, many eminent physicians believe that the fertilized ovum has human life from the time of conception.[24] In support of this argument they refer to the International Code of Medical Ethics, which states that a physician will maintain the utmost respect for human life, from the time of its conception. A third view is that the decision to terminate a pregnancy must be made according to the circumstances of the particular case. Among the factors to be considered are the duration of the pregnancy, the physical and mental health of the mother, and the risk of serious fetal abnormality. This places the burden of decision upon the doctor and renders the selection of the physician a governing factor in securing permission to perform a therapeutic abortion.[25]

Sociologists have found themselves in a similar quandary over the issue. Some of these social philosophers argue that man is not merely a chemical machine and that he possesses a soul from the earliest stages of fetal development. Therefore the fetus cannot be destroyed with impunity. The control of human reproduction, according to this view, should concentrate on the prevention of conception rather than on abortion.[26] Other sociologists believe that there is no conclusive evidence or persuasive argument that the fetus is human.[27] Indeed, it cannot interact with other human beings. Therefore, there is no proof of life in the sense that the law contemplates proof of fact.

The moving spirit of the times also raises moral issues that divide the disciplines within themselves. A group of one hundred psychiatrists were questioned on the morality of abortion.[28] Twenty-four agreed that abortion should be available upon demand at an appropriate stage of pregnancy. Fifty-six, however, would require consideration of all of the medical and social factors involved in each case before deciding whether to terminate the pregnancy. Sixteen of those questioned would abort only when actual or threatened maternal disaster was present. Only four expressed other views. While this indicates a vast departure from the Christian concept, it does reveal residuals of morality affecting the opinions of over two-thirds of the group. In other words, over two-thirds of the group would not abort a pregnancy solely on demand.

Despite the fact that religious belief continues to permeate our attitude toward abortion, most people today agree with Justice Holmes that "moral predilections must not be allowed to influence our minds in settling legal distinctions." [29] This is illustrated by the fact that the present change in attitude toward abortion has developed while the need for abortion has diminished as a technique to save the life or health of the mother or to prevent fetal deformities. Despite the medical developments, the demand for abortions has increased astronomically.[30] This indicates a definite change in social mores, which is undoubtedly the result of increased knowledge and use of abortion. This attitude of permissiveness is replacing the hypocrisy that prevailed in the last generation.

A major contributing factor to this change in attitude has been the growing antagonism toward the double standard which permits those with social status and financial ability to obtain abortions, while those in the lower social and economic classes are denied this opportunity. We are in the midst of a worldwide movement to make "the pill" and abortion available in the slums as well as on Fifth Avenue. The statistics illustrate the disparity between the affluent and the nonaffluent. Three counties surrounding San Francisco are relatively affluent. These counties account for sixteen per cent of the live births and fifty per cent of the abortions in California. The less affluent Los Angeles County with its widespread slum areas accounts for sixty per cent of the live births and twenty-three per cent of the abortions in California.[31] These facts demonstrate quite clearly that the affluent areas account for a number of abortions disproportionate to their population density.

The increasing number of abortions subjects physicians to increased dangers of liability for incorrectly interpreting a statute. It appears that doctors face an uncertain fate when performing an abortion. This uncertainty will continue unless the legislatures or courts provide relief from liability. Very few states, if any, will repeal all abortion laws as the Association for the Study of Abortion has recommended. Some states, however, may liberalize their laws in accordance with the A.L.I. suggestion, but we have already seen that in states such as California this is an inadequate remedy in many respects. If the medical profession is to be accorded complete protection, it will have to come through the judicial system.

The Supreme Court of the United States has gone far—some critics contend too far—in permitting individual action in the areas of the Bill of Rights. It has not, however, dealt directly with the problem under discussion, nor do the decided cases cast much light on its solution. The best that we can do is examine related areas and draw some analogies.

In 1922 the Court held that the right "to marry, establish a home and bring up children" was an essential liberty within the guarantees of the Fourteenth Amendment.[29] In 1925 a public school statute requiring attendance exclusively at state schools was declared unconstitutional on the ground that it unreasonably interfered "with the liberty of parents and guardians to direct the upbringing and education of children under their control." [33] This concept was later extended to include "the private realm of family life which the state cannot enter."[34] And in 1960 the Court declared, in very broad language, that where State action significantly encroached upon personal liberty, its action would be invalid unless the State had a compelling subordinating interest in the particular activity.[35] Finally, in *Griswold* v. *Connecticut* [36] the Court struck down the state's statute prohibiting the use of contraceptives. The statute was found to operate upon "an intimate relation of husband and wife" which came within the zone of privacy created by several constitutional fundamental guarantees, the penumbras of which gave protection to the sancity of a man's home and the privacies of his life. The Court determined that the statute was aimed at use rather than regulation and therefore violated the principle that legislation must not be unnecessarily broad. This does not mean that judges are given a free rein to strike down state regulatory statutes. They must look to the collective conscience of our society determining rights are fundamental and therefore protected by the Constitution.

The result of these decisions is the evolution of the concept that there is a certain zone of individual privacy which is protected by the Constitution. Unless the State has a compelling subordinating interest that outweighs the individual rights of human beings, it may not interfere with a person's marriage, home, children, and day-to-day living habits. This is one of the most fundamental concepts that the Founding Fathers had in mind when they drafted the Constitution. No one will deny that a State has a valid interest in regulating the well-being of its inhabitants, especially when it is dealing with children, who are more susceptible to undesirable influences. We have also seen that a State may not unreasonably interfere with the intimate relations of its inhabitants. When deciding on the constitutional restraints imposed on a State's interference with individual rights, the vital question becomes one of balancing. It must be determined at what point the State is interfering with individuals and at what point it is exercising valid authority by regulating the well-being of children.

In his concurrence in Griswold, my brother Goldberg asked whether a decree requiring all husbands and wives to be sterilized after the birth of ten children would be valid. He answered the question in the negative.[37] But suppose that the husband and wife voluntarily submitted to sterilization. Would it then violate the Constitution? I think not. Does it therefore follow that voluntary destruction of the fetus is also protected from interference by the State? Perhaps—unless life is present so that the State's compelling subordinating interest in the life of one of its people predominates. However, I submit that until the time that life is present, the State could not interfere with the interruption of pregnancy through abortion performed in a hospital or under appropriate clinical conditions. I say this because State interference is permissible only if reasonably necessary to the effectuation of a legitimate and compelling State interest.[38] Prior to the time that life is present in the fetus, what interest does the State have? Procreation is certainly no longer a legitimate or compelling State interest in these days of burgeoning populations. Moreover, abortion falls within that sensitive area of privacy—the marital relation. One of the basic values of this privacy is birth control, as evidenced by the Griswold decision. Griswold's act was to prevent formation of the fetus. This, the Court found, was constitutionally protected. If an individual may prevent conception, why can he not nullify that conception when prevention has failed?

The common law courts uniformly held that an infant could not be the subject of a homicide until its complete expulsion from the body of the mother and the establishment of an independent existence.[39] The distinction between fetal life and independent life is that the latter has an independent circulatory system.[40] Hence, where the evidence showed that an infant was killed before its birth was complete or was killed by means

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Footnotes at end of article.

used to assist in its delivery, it was not deemed a homicide.[41] Therefore, under the common law, abortion could not be murder. These concepts and distinctions have been somewhat eroded in recent years. At present the courts do not agree on the time when life begins. The courts, however, have held an accoucheur responsible for prenatal brain damage to an infant in a viable state.[42] In this line of cases, the courts have found that the unborn infant was a separate biological entity and hence a legal one in contemplation of law, indicating a departure from the requirement of an independent existence. From this reasoning the courts may well take the unborn child into their protective custody. Indications of such a trend are illustrated by the abolition of the viability rule in some jurisdictions [43] and the repudiation of the "live birth" doctrine by fourteen states.[44]

To say that life is present at conception is to give recognition to the potential, rather than the actual. The unfertilized egg has life, and if fertilized, it takes on human proportions. But the law deals in reality, not obscurity—the known rather than the unknown. When sperm meets egg life may eventually form, but quite often it does not. The law does not deal in speculation. The phenomenon of life takes time to develop, and until it is actually present, it cannot be destroyed. Its interruption prior to formation would hardly be homicide, and as we have seen, society does not regard it as such. The rites of Baptism are not performed and death certificates are not required when a miscarriage occurs.[45] No prosecutor has ever returned a murder indictment charging the taking of the life of a fetus. This would not be the case if the fetus constituted human life.

It has been urged that the courts are the proper forum to determine when life begins. I submit, however, that the professionals are better able to determine when life begins than are the courts. Tort cases might cast some light on the issue,[46] but I would prefer that the courts yield to the expert testimony of doctors. This testimony would vary greatly, but that is nothing new to our judicial system.

This is not a question that will be easily resolved. Few questions that reach the Supreme Court are. As was stated at the Christian Medical Society's Symposium, "professionals . . . do not wish to play God with human lives, whether in being or inchoate with life. But we can inform our judgment . . . by the widest interchange, airing and consensus. Humility is a large part of every professional's code." [47] It must be remembered that many imponderables are a part of Supreme Court adjudications.

Accommodation of conflicting doctrine is more difficult to achieve in the judicial than in the legislative process. Courts cannot reach out to reform our society. A problem comes to the Court in the form of a justiciable issue and is narrowly drawn, rendering the Court's ruling contracted and finespun. Legislatures, on the other hand have such facilities for investigation as hearings and may address themselves to the necessities of broad social needs and the correction of evils, both probable and existing. As Mr. Justice Cardozo said, "Legislation can eradicate a cancer, right some hoary wrong, correct some definitely established evil, which defies the feebler remedies, the distinctions and fictions familiar to the judicial process." [48]

The courts work on a case-by-case system which deals with the past rather than the future. Society would not have the benefit of the sweeping effect of a statute, nor would the doctor have the protection that he is entitled to receive. The case method would be slow, expensive, and possibly disastrous. It is for the legislature to determine the proper balance, *i.e.*, that point between prevention of conception and viability of the fetus which would give the State the compelling subordinating interest so that it may regulate or prohibit abortion without violating the individual's constitutionally protected rights.

The present climate seems favorable for immediate legislative action. Five states have already led the way.[49] With appropriate action, many more will follow suit in liberalizing their abortion laws. But this process will take less talk and more action. As Nehru once said:

"I am tired of people who merely talk about things. However wise you may be, you can never enter into the spirit of a thing if you only talk about it and do nothing. Even scientists have a tendency to let a wonderful experiment remain an experiment once it has been performed. The next stage somehow does not come. They may well say that the next stage is somebody else's job, but I think if the scientist had a sense of practical application, he would either try to do it himself, or get somebody else to do it. This association of thought with action is, I think, of utmost importance. Thought without action is an abortion; action without thought is folly." [50]

FOOTNOTES

* Associate Justice, Supreme Court of United States (Retired), 1949–67.

[1] *The Wisdom of Nehru*, 34 WISDOM (The Wisdom of India ed. 1960).

[2] R. THOMLINSON, POPULATION DYNAMICS 198–99 (1965).

[3] Niebuhr, *Kinsey and the Moral Problem of Man's Sexual Life*, in AN ANALYSIS OF THE KINSEY REPORTS ON SEXUAL BEHAVIOR IN THE HUMAN MALE AND FEMALE 62 (D. Geddes ed. 1954).

[4] MODEL PENAL CODE § 230.3(2) (Proposed Official Draft, 1962).

[5] Committee on Human Reproduction, *AMA Policy on Therapeutic Abortion*, 201 J.A.M.A. 544 (Aug., 1967).

[6] CAL. HEALTH & SAFETY CODE §§ 25950–54 (West Supp. 1967); COLO. REV. STATS. 40–2–50 (Perm. Cumm. Supp. 1968); GA. CODE ANN. § 26–1202 (effective July 1, 1969), LAWS OF MD. ch. 470 (Supp. 1968); N.C. GEN. STAT. § 14–45.1 (Supp. 1967).

[7] Abortion Act 1967, c. 87, at 2033.

[8] *Just How Great Are the Risks of The Pill?*, MEDICAL WORLD NEWS, May 24, 1968, at 23.

[9] The theological and medical scholars did agree on *A Protestant Affirmation*. It did not undertake to answer any of the questions posed in the text. In substance, the consensus concluded that as to abortion "each case should be considered individually, taking into account the various factors involved and using Christian principles of ethics." It suggested that suitable cases for abortion would fall within the scope of the A.C.O.G. statement, but not including abortion for convenience only or on demand. *See* CHRISTIAN MED. SOC'Y J. (Nov.-Dec., 1968).

[10] Meeting of the Ass'n for the Study of Abortion, Hot Springs, Va., Nov. 18, 1968, reported in N.Y. Times, Nov. 24, 1968, at 77, col. 1.

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] For studies in this area see L. EPSTEIN, MARRIAGE LAWS IN THE BIBLE AND THE TALMUD (1942); L. EPSTEIN, SEX LAWS AND CUSTOMS IN JUDAISM (1948).

[18] H. SAGGS, THE GREATNESS THAT WAS BABYLON 215 (1962).

[79] PAULY'S REAL-ENCLOPĀDIE DER CLASSICHEN ALTERTUMSWISSENSCHAFT (Wisowa ed. 1962).

[20] *Exodus* 3:21.

[21] *Genesis* 1:28, 4:1, 11:30, *Ruth* 4:13.

[22] Montgomery, *How to Decide the Birth Control Question*, CHRISTIANITY TODAY, March 4, 1966, at 10.

[23] Stern, *The Issue of Legalized Abortion*, 88 CAN. MED. ASS'N J. 899 (1963); J. FLETCHER, MORALS AND MEDICINE 152 (1967): address by E. Bidinton, Symposium of Christian Medical Society, Aug., 1968.

[24] *See generally* PHILOSOPHY AND ETHICS IN MEDICINE (M. Gelfand ed. 1968).

[25] *See Therapeutic Abortion*, 98 CAN. MED. ASS'N J. 512 (1968).

[26] R. ETTINGER, THE PROSPECT OF IMMORTALITY 132 (1962). *But see* Hudeeczek, *De Tempore Animatianis Foetus Human Secundum Embryologian Hodierman*, in XXIX ANGELCUM 162–81 (1952). *See also Cryonics and Orthodoxy*, XII CHRISTIANITY TODAY 816 (1968).

[27] Address by John Scanzoni, Ph. D., Assoc-Prof. of Sociology, Indiana Univ., Nat'l Convention of Christian Medical Society, Aug., 1968.

[28] Howells, *Legalizing Abortion*, 1 LANCET 728 (1967).

[29] O. W. HOLMES, THE COMMON LAW, (1881).

[30] *The Cost of Life*, 60 PROCEEDINGS OF ROYAL SOC'Y OF MEDICINE, 1235 (1962); Cogan, *A Medical Social Worker Looks as the New Abortion Law*, 2 BRITISH MED. J. 235 (1968).

[31] N.Y. Times, Nov, 24, 1968, at 77, col. 1.

[32] Meyer v. Nebraska, 262 U.S. 390 (1923).

[33] Pierce v. Society of Sisters, 268 U.S. 510, 534–35, (1925).

[34] Prince v. Massachusetts, 321 U.S.C. 158, (1944).

[35] Bates v. Little Rock, 361 U.S. 516, 524 (1960).

[36] 381 U.S.C. 479 (1965).

[57] *Id*, at 482.

[38] *Id.* at 503 (concurring opinion).

[39] Morgan v. State, 148 Tenn. 417, 256 S.W. 433 (1923).

[40] State v. Prude, 76 Miss. 543, 24 So. 871 (1899).

[41] Evans v. State, 48 Tex. Cr. App. 589, 89 S.W. 974 (1905).

[42] Bonbrest v. Kotz, 65 F. Supp. 138 (D.D.C. 1946).

[43] *See* PROSSER ON TORTS (3d. ed. 1964).

[44] Del Tufo, *Recovery for Prenatal Torts: Actions for Wrongful Death*, 15 RUTGERS L. REV. 61 (1960).

[45] Schwartz, *Abortion and 19th Century Laws*, TRIAL June–July, 1967, at 41.

[46] Kwaterski v. State Farm Mut. Ins. Co., 34 Wis. 2d 14, 148 N.W.2d 107 (1967); Hatala v. Markiewicz, 26 Conn. Supp. 358, 224, A.2d 406 (1966). *Contra*, Norman v. Murphy, 124 Cal. App. 2d 95, 268 P.2d 178 (1954); Marko v. Philadelphia Transp. Co., 420 Pa. 124, 216 A.2d 502 (1966).

[47] Prof. Thomas Lambert, Jr., Editor-in-Chief, American Trial Lawyers Ass'n, former Prof. of Law, Boston Univ.

[48] B. CARDOZO, GROWTH OF THE LAW 134 (1924).

[49] Georgia, Maryland, North Carolina, California, and Colorado.

[50] WISDOM, *supra* note 1.

[37 N.Y.U. Law Review 787 (1962)]

ARE THERE "CERTAIN RIGHTS . . . RETAINED BY THE PEOPLE"?

(By Norman Redlich *)

The overriding constitutional issue of our time has been the split between those who view the Bill of Rights as a firm judicial mandate empowering the Supreme Court to invalidate procedures and statutes which violate its specific prohibitions and those who consider the Bill of Rights more as a general expression of our nation's tenets to be balanced on the judicial scales along with such factors as the legislative needs and the judge's understanding of basic standards of decency and justice.

As a result of constant restatements of strongly held positions, the libertarian justices have conveyed the impression that individual liberties can best be protected by a vigorous enforcement of the first eight

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amendments and by the application of these amendments to the states either in whole or in major part. While this is an understandable position in terms of the great constitutional controversies of the past twenty years, we may be approaching an era where human dignity and liberty will require the protection of rights other than those contained in the first eight amendments. It is the purpose of this discussion to consider whether a libertarian judicial philosophy can stand firmly for a strict interpretation of the Bill of Rights and be sufficiently flexible to meet new and formidable challenges to individual liberty.

THE ADAMSON CONTROVERSY

In 1947 Justices Black and Frankfurter set the stage for what has been a continuing controversy concerning the meaning of the first paragraph of the Fourteenth Amendment. Although Justice Frankfurter did not speak for the Court in *Adamson* v. *California*,[1] and Justice Black was not the sole dissenter, the *Adamson* case connotes to all students of constitutional law the articulate expounding of two divergent constitutional philosophies—Justice Frankfurter's belief in flexible due process and Justice Black's belief that the Fourteenth Amendment was intended to make the Bill of Rights applicable against the states.[2]

A sophisticated observer promptly dubbed the controversy a futile search for objectivity in an area where the subjective views of the individual justices were far more controlling than the verbal formulations of their positions.[3] By divorcing words from the men who speak them, one might argue that a judge concerned with human rights could encompass them within a broad definition of a "scheme of ordered liberty,"[4] and a judge indifferent to such claims could incorporate the Bill of Rights into the Fourteenth Amendment and then interpret their provisions narrowly. Quite often, in fact, proponents of each position have used their different judicial approaches to reach the same result.[5] There are a few instances where judges using a flexible standard of due process have actually reached more libertarian results than did those justices who felt themselves bound by the written Bill of Rights but did not find the asserted claim to be contained within its provisions.[6]

It would be a mistake to conclude, however, that the dispute over the meaning of the Fourteenth Amendment is merely a matter of semantics, that only the results rather than the reasons are important. It is no accident that in the fifteen years since the *Adamson* decision the justices most generally associated with a libertarian approach to individual rights have spoken in terms of the incorporation of specific guarantees of the Bill of Rights into the Fourteenth Amendment, while the adherents of a flexible concept of due process most often find that it is easier to be flexible on the side of the state.

One has only to look at the substantive area of law which gave rise to the *Adamson* decision to see that those who believe that the Fourteenth Amendment incorporates the privilege against self-incrimination will most frequently sustain the individual's claim that the privilege has been violated, while those who view due process as encompassing "those canons of decency and fairness which express the notions of justice of English-speaking peoples"[7] will tend to find that the state procedures do not violate those canons. In cases dealing with the right of the state to discharge an employee who pleads the privilege,[8] or to prevent him from practicing law,[9] or to prosecute someone on the basis of testimony compelled in another jurisdiction under promise of immunity,[10] we generally find a rough division of the Court along the lines suggested by the competing philosophies of the *Adamson* case.

A similar division occurs in cases dealing with the right to counsel. While in recent years the Court has been fairly consistent in its use of the flexible due process standard of *Betts v. Brady*[11] to sustain the right to counsel,[12] in those cases where the claim was denied the dissenters were those who felt that the Sixth Amendment's right to the assistance of counsel should be applied *in toto* as a restriction against the states.[13] In the area of Fourth Amendment protections we find the same pattern.[14]

The years since *Adamson* have confirmed Justice Black's fearful prediction in his dissent: "I fear to see the consequences of the Court's practice of substituting its own concepts of decency and fundamental justice for the language of the Bill of Rights as its points of departure in interpreting and enforcing that Bill of Rights.[15] It requires a high level of courage for justices to strike down existing procedures and statutes when reliance is placed on specific constitutional provisions. But if, instead of relying on specific provisions, judges substitute their own views as to what constitutes basic canons of decency and fairness, then the judge himself, rather than the Constitution, must bear the full brunt of the inevitable public pressures, and the area of individual liberty will inevitably diminish."[16]

THE COMING END OF THE ADAMSON CONTROVERSY

We have seen how the *Adamson* controversy has demonstrated the importance of a written Bill of Rights, as opposed to the vague flexible standard of due process, in the protection of individual liberties. Viewed in the broad sweep of history, the *Adamson* case, and its important predecessor, *Palko v. Connecticut*,[17] brought to the forefront an issue which has inhered in the federal system ever since the Supreme Court in *Barron v. Baltimore*[18] held that the Bill of Rights did not act as a limitation on the powers of the states. The issue may be simply stated: were the states to be raised to the standards emblematized by the Bill of Rights or was the Bill of Rights to be watered down to conform to the lower standards of state governments? The adoption of the Fourteenth and Fifteen Amendments, containing specific restrictions on state power, transferred to the Federal judiciary the ultimate power to resolve the question.

Justice Brennan has painted what is probably the most accurate word picture to describe the role of the Supreme Court in this area when he said: "The Court has opened a door through the Fourteenth Amendment's due process clause. During the last half century the Court has opened that door to admit some of the federal list. Moreover, the Court has indicated that the door may be opened to still more."[19] This is Justice Brennan's restatement of Justice Cardozo's position in *Palko* that certain federal rights have been brought into the Fourteenth Amendment "by a process of absorption."[20]

Judges, teachers and advocates have debated for so long the *Palko-Adamson* question of whether the Fourteenth Amendment was intended to encompass the provisions of the Bill of Rights that they have failed to perceive how near we are to the end of this phase of the controversy.

A long line of decisions has established that the protections of the First Amendment apply equally against the states.[21] Two very recent opinions, *Engel* v. *Vitale*[22] and *Wood* v. *Georgia*,[23] were decided specifically in terms of the "First and Fourteenth Amendments," thus re-emphasizing that the same standard is to apply whether the governmental practice is challenged directly under the First Amendment or indirectly through the due process clause of the Fourteenth Amendment. The Fourth Amendment guarantee against unreasonable searches and seizures was "absorbed" in 1949[24] and given full breadth by *Mapp* v. *Ohio*[25] in 1961.

In *Snyder* v. *Massachusetts*,[26] the Court catalogued some of the rights in the Sixth Amendment and stated that the accused must be informed of the nature of the charge.[27] Moreover, the Court assumed, without squarely deciding, that "the privilege to confront one's accusers and cross-examine them face to face," which is secured by the Sixth Amendment, "is reinforced by the Fourteenth Amendment."[28] We can hopefully and confidently expect that when the Court reconsiders *Betts* v. *Brady* during the October 1962 term,[29] it will finally require the states to assign counsel to indigent defendants in all criminal cases, thereby incorporating fully the Sixth Amendment's guarantee of assistance of counsel.

Only last June the Court held that a California statute which made it a crime to be addicted to narcotics violated the "Eighth and Fourteenth Amendments."[30] And for sixty-five years the states have been compelled to adhere to the commands of the Fifth Amendment that "just compensation" must be paid when private property is taken for public use.[31]

Some provisions of the Bill of Rights have been specifically held not to apply to the states, notably the Seventh Amendment's requirement for a jury trial in civil cases[32] and the Fifth Amendment's provision for a grand jury indictment.[33] Some important areas are uncertain. The Fifth Amendment's protection against double jeopardy, for example, while never excluded from the Fourteenth Amendment,[34] has been narrowly interpreted. At the same time the Court has implied that the defendant's claim might be sustained if an actual case of double jeopardy, as so defined by the Court,[35] were to arise. The Court has stated in dicta that a jury might not be necessary in all criminal cases,[36] but there is good reason for Justice Brennan's apparent skepticism that these dicta would survive a real case in which the state eliminated jury trials for serious crimes.[37]

Assuming the imminent demise of *Betts v. Brady*,[38] the one major protection of the Bill of Rights which remains specifically excluded from application to the states is the privilege against self-incrimination. Despite recent reaffirmation[39] of the rule of the *Adamson* case and *Twining v. New Jersey*,[40] I believe that the time is not far off when the courts will reconsider these cases and hold that the prosecutor may not comment on the defendant's failure to testify, thereby applying the privilege against self-incrimination to the states. Certain aspects of the privilege have already been adopted as part of due process,[41] and the *Mapp* case, in applying the exclusionary rule to the states, indicated strongly that compulsory self-incrimination and unconstitutionally obtained evidence were too closely related to be considered separately.[42] Even before *Mapp*, one member of the Court had said that "a cloud has plainly been cast on the soundness of *Twining* and *Adamson* by our decisions absorbing the First and Fourth Amendments in the Fourteenth."[43] The *Mapp* case reinforces this conclusion. It is important to add that the overruling of *Adamson* and *Twining* would have far less effect on state judicial administration than was caused by the adoption of the exclusionary rule in the *Mapp* case,[44] the free transcript rule in *Griffin v. Illinois*,[45] or some of the other procedural safeguards which have been imposed through the due process clause.[46] All of the states recognize the privilege against self-incrimination, and the vast majority forbid comment by the prosecution on the defendant's failure to testify.[47]

As the Court moves inexorably in the direction of applying the important provisions of the Bill of Rights to the states,

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Footnotes at end of article.

the principal attention will be devoted to the meaning of these provisions rather than to the question of whether they apply at all. The first eight amendments, with relatively unimportant exceptions, would then form the basic ingredients of the rights of all Americans against all governments in our country.

ARE THE FIRST EIGHT AMENDMENTS ENOUGH?

Does the absorption of the major provisions of the Bill of Rights into the Fourteenth Amendment mean that Americans must consider their rights as rooted only in the specific provisions of the first eight amendments and those additional restrictions on governmental power spelled out in the main body of the Constitution?[48] To suggest that the people have judicially enforceable rights other than those specifically enumerated in the Constitution raises for many the spectre of conservative jurists striking down regulator legislation under the banner of "freedom of contract."[49] Justice Black's dissents in *Adamson v. California* and *Betts v. Brady* plead for a concept of judicial review based only on specific constitutional provisions lest another court in another day use a flexible concept of due process to re-enact the sorry history of the mid-1930's.

The New Deal constitutional crisis has understandably had a profound effect on current judicial attitudes. It has left all of the justices in agreement that on matters of economic and social policy the people must have their way unless barred by a specific constitutional prohibition. It has led some justices to extend this attitude of self-restraint to the area of civil liberties in the face of the anti-Communist public pressures of the cold war.[50] And it has caused justices who believe deeply in the specific guarantees in the Bill of Rights to eschew the assertion of "fundamental rights" not found in the Bill of Rights for fear that other justices would use the same words to undermine the Bill of Rights and to impose their personal social and economic philosophies upon the people.[51]

Whatever historical justification may have existed for libertarian justices to confine their thinking about human rights to the specifically enumerated provisions of the Constitution, I believe that the time has come for a fresh appraisal of this attitude. This was an understandable position when the controversy was posed in terms of flexible due process versus a Bill of Rights. As already indicated, however, most of the major provisions of the Bill of Rights have either been incorporated into the Fourteenth Amendment, or are likely to be in the near future. Today we are more concerned with the interpretation of these provisions at both the state and federal level. To assert that the people have certain rights other than those specifically mentioned in the Constitution would not dilute the Bill of Rights but would add to it. Nor should we be concerned that the assertion of such rights would impair the principle of judicial deference on matters of economic and social policy. However valid may have been the fears of Justice Black in 1947, we now have the experience of fifteen additional years from which we can draw the conclusion that this issue is settled.

The well-publicized case concerning the constitutionality of Connecticut's birth control laws may provide the opportunity for a reconsideration of basic judicial attitudes toward the individual's rights in a free society. When the well thought out formulae of the past fail to provide the answer to a case which raises issues of such fundamental importance, perhaps it is time to pause and look for fresh concepts.

THE BIRTH CONTROL CASE

Under Connecticut law any person "who uses any drug, medicinal article or instrument for the purpose of preventing conception shall be fined not less than fifty dollars or imprisoned not less than sixty days nor more than one year or be both fined and imprisoned."[52] In addition, the "accessories" provision of Connecticut's laws permits the punishment "as if he were the principal offender" of any person "who assists, abets, counsels, causes, hires or commands another to commit any offense."[53]

In 1940 the state, in what has been described as a test case, prosecuted two doctors and a nurse as "accessories," charging them with disseminating contraceptive information. The Supreme Court of Errors and Appeals of Connecticut sustained the constitutionality of the act and the state promptly moved to dismiss the information.[54] Three years later the United States Supreme Court held that a doctor, who sought a declaration of unconstitutionality on grounds that the act endangered the health of his patients, did not have "standing to assert" the constitutional question.[55]

In 1961 the Supreme Court in *Poe* v. *Ullman*[56] again refused to decide the constitutionality of the act even though the action for a declaratory judgment was brought by married individuals who claimed that the enforcement of the statute would imperil their health and life. An additional action was brought by the doctor asserting that the statute, by preventing him from giving advice to one of the patients mentioned in the other action, deprived him of liberty and property without due process of law. The Court held that the failure of the state to enforce the statutes "deprives these controversies of the immediacy which is an indispensable condition of constitutional adjudication."[57] Justice Frankfurter's opinion, in which three other Justices joined, said that the patients themselves had no legitimate fear of prosecution and that the doctor's fear of prosecution was too "chimerical" to form the basis of a justiciable controversy either with regard to the doctor or his patients.

Justice Brennan concurred in a brief opinion stating that the proper time to consider the constitutional question is when individuals are prosecuted for the opening of birth-control clinics or when "the State makes a definite and concrete threat to enforce these laws against individual married couples."[58] Justices Black and Stewart dissented on the issue of justiciability and Justices Harlan and Douglas, in separate opinions, argued that the case should have been heard and that the statute was unconstitutional. Since the state has subsequently prosecuted individuals for operating a birth-control clinic and for giving information about the use of contraceptives,[59] it is almost certain that the case will come back to the Court in a form which will compel adjudication.

If one views the Connecticut statute simply as a state regulation of health and morals, there would be little difficulty in sustaining its validity in terms reminiscent of the ringing dissents in the cases where the Court sanctified such concepts as freedom of contract. One could easily transpose the words of the first Justice Harlan, dissenting in *Lochner* v. *New York*:[60]

"Our duty, I submit, is to sustain the statute as not being in conflict with the Federal Constitution, for the reason—and such is an all-sufficient reason—it is not shown to be plainly and palpably inconsistent with that instrument. Let the state alone in the management of its purely domestic affairs, so long as it does not appear beyond all question that it has violated the Federal Constitution. This view necessarily results from the principle that the health and safety of the people of a state are primarily for the state to guard and protect."

At one time or another the leading exponents of the varying judicial philosophies on the Court have expressed themselves in similar terms when dealing with matters which could reasonably be said to affect the safety, health, morals, or general welfare of the state.[61] And it is not difficult to portray the Connecticut statute in those terms. Could not reasonable men believe that the use of contraceptives will encourage adultery and other types of nonmarital sexual relations because the fear of pregnancy is substantially reduced? If the state permits contraceptives to be available for some purposes, it increases the likelihood that they will be available for the purposes which the state has a right to prohibit.[62] Therefore, it is argued, a law which forbids the use of contraceptives and the dissemination of information concerning their use is a reasonable means toward the attainment of a legitimate state objective. The sunday closing law cases recently demonstrated that even Justices most closely associated with protection of individual rights may vote to sustain legislation if no specific constitutional guarantee appears to bar it and if the legislation can be designtaed as within such traditional areas of the police power as safety, health, welfare, and morals.[63]

But for one who feels that the marriage relationship should be beyond the reach of a state law forbidding the use of contraceptives, the birth control case poses a troublesome and challenging problem of constitutional interpretation. He may find himself saying. "The law is unconstitutional—but why?" There are two possible paths to travel in finding the answer. One is to revert to a frankly flexible due process concept even on matters that do not involve specific constitutional prohibitions. The other is to attempt to evolve a new constitutional framework within which to meet this and similar problems which are likely to arise.

FLEXIBLE DUE PROCESS

It is not surprising that Justice Harlan, who has consistently resisted the linking of due process with any specific provision in the Bill of Rights,[64] would have little difficulty invalidating the Connecticut law in a manner quite consistent with his judicial philosophy. His words express the familiar philosophy of *Twining*, *Adamson*, and *Betts v. Brady*:

"Due process has not been reduced to any formula; its content cannot be determined by reference to any code. The best that can be said is that through the course of this Court's decisions it has represented the balance which our Nation, built upon postulates of respect for the liberty of the individual, has struck between that liberty and the demands of organized society."[65]

Unlike the earlier due process cases, however, in *Poe v. Ullman* this approach leads Justice Harlan to invalidate the Connecticut law because it intrudes "the whole machinery of the criminal law into the very heart of marital privacy."[66] Although re-emphasizing that the Fourteenth Amendment does not incorporate any particular amendment or right found in the first eight amendments, Justice Harlan concludes that the Fourth Amendment's concept of "privacy," which has previously been regarded as a fundamental right, includes the privacy of a married couple's sexual relations. When such a right is threatened, it is not enough that the statute is "rationally related to the effectuation of a proper state purpose."[67] The state must demonstrate a compelling justification, which Connecticut failed to do.

Civil libertarians may find this approach more satisfying when it is used to uphold individual rights rather than to deny them, but in either event it is subject to the criticism that it leaves judges without any fixed textual standard in determining which rights are fundamental. By refusing to acknowledge the incorporation of any of the specific provisions of the Bill of Rights, relying instead only on "fundamental" rights, Justice Harlan's philosophy creates the grave danger that Justices may fail to regard as fundamental the more important provisions of the Bill of Rights. It would be difficult for a believer in a strict interpretation of the Bill of Rights to accept Justice Harlan's route to invalidation of the birth control laws.[68]

As Justice Douglas demonstrated in his dissent in *Poe v. Ullman*,[69] however, it is possible to interpret the due process clause of the Fourteenth Amendment to include rights in addition to those specified in the first eight amendments. Justice Murphy expressed this position in his brief dissent in the *Adamson* case, where he said: [70]

"I agree that the specific guarantees of the Bill of Rights should be carried over intact into the first section of the Fourteenth Amendment. But I am not prepared to say that the latter is entirely and necessarily limited by the Bill of Rights. Occasions may arise where a proceeding falls so far short of conforming to fundamental standards of procedure as to warrant constitutional condemnation in terms of a lack of due process despite the absence of a specific provision in the Bill of Rights." Although Justice Douglas had not joined in Justice Murphy's *Adamson* dissent,[71] he clearly adopted this position in *Poe* v. *Ullman* and rejected the idea that the only limits on the exercise of state power were the explicit guarantees of the Constitution.

The substantive right which Justice Douglas sought to protect was the same as that defended by Justice Harlan—the privacy of the marital relationship: [72]

"But when the State makes "use" a crime and applies the criminal sanction to man and wife, the State has entered the innermost sanctum of the home. If it can make this law, it can enforce it. And proof of its violation necessarily involves an inquiry into the relations between man and wife.

"That is an invasion of the privacy that is implicit in a free society."

We have seen that basic to the "incorporation" theory of Justice Black or the "absorption" approach of Justice Brennan is the assumption that the Fourteenth Amendment, either by original intention in 1868 or by subsequent interpretation, includes certain rights which, prior to 1868, were available to Americans only as a protection against intrusion by the federal government. One would be hard pressed, however, to find anything in the first eight amendments which would have barred the United States from adopting for the District of Columbia a law similar to the Connecticut statute. In fact, neither Justices Douglas nor Harlan relied explicitly on any constitutional amendment in reaching the conclusion that the Connecticut law deprives the married couple of liberty without due process of law. Arguably, the due process clause of the Fifth Amendment could serve this purpose, but the narrow scope of the Fifth Amendment's due process clause in substantive areas [73] may have inhibited Justice Douglas from taking this route.

If Justice Douglas has thus accepted the view that the Fourteenth Amendment is not confined, either by original intention or subsequent interpretation, to the federal rights set forth in the first eight amendments, is he not open to the same criticism which Justice Black (originally supported by Justice Douglas) leveled at the *Adamson* majority, namely, that a departure from the text of the Bill of Rights will make it easier for other Justices either to limit the application of those rights or to roam freely across the judicial terrain substituting their own standard of reasonableness for that of the legislature? Justice Douglas attempts to answer these criticisms directly.

He retreats not one inch from his previously expressed view that the Fourteenth Amendment includes the first eight amendments. These rights, he argues, were "indispensable to a free society" in 1791 and the "constitutional conception of 'due process' must, in my view, include them all until and unless there are amendments that remove them." [74] Perhaps there is implicit in the willingness of Justice Douglas to broaden the concept of due process an awareness of the fact that, as we have shown, the major provisions of the Bill of Rights have either been applied to the states or are likely to be so applied in the near future. The danger felt by Justice Black is thus much less real than it was in 1947.

But if the Connecticut statute is invalidated under a concept of due process which speaks of rights "implicit in a free society," does this not invite a repetition of the pre-New Deal experience? The reply by Justice Douglas is that

"The error of the old Court . . . was not in entertaining inquiries concerning the constitutionality of social legislation but in applying the standards that it did. . . . Social legislation dealing with business and economic matters . . . has a wide scope for application. . . . The regime of a free society needs room for vast experimentation. . . . Yet to say that a legislature may do anything not within a specific guarantee of the Constitution may be as crippling to a free society as to allow it to override specific guarantees so long as what it does fails to shock the sensibilities of a majority of the court." [75]

Then, as if to answer the charge from Justice Black that this is nothing more than personal jurisprudence, Justice Douglas says, "This notion of privacy is not drawn from the blue. It emanates from the totality of the constitutional scheme under which we live." [76]

There is unquestionably a difference between this concept of flexible due process and that advocated by Justice Harlan. As applied by Justice Douglas it establishes the Bill of Rights as a minimum protection and it leaves the legislature free to deal with economic and social regulation so long as certain ill-defined rights, not mentioned in the Bill of Rights, are protected. And Justice Douglas correctly points to instances where the Court has seemingly recognized such rights.[77] As a practical matter this approach may enable the Court to allow flexibility to the states in areas where flexibility is called for, while at the same time preventing the states from tampering with such concepts as the right to determine the size of one's family.

AN EXPANDED BILL OF RIGHTS—AMENDMENTS NINE AND TEN

Whatever may be its practical appeal, Justice Douglas' forceful reaffirmation of Justice Murphy's *Adamson* dissent is, nevertheless, hardly likely to fit the intellectual pattern of those Justices who have looked to the Federal Bill of Rights as the source of judicial restrictions on state and federal power. And this is not simply a matter of conceptual neatness. Recent developments in the field of heredity control suggest that governmental intrusions into basic personal relationships may take forms which have hitherto been relegated to the domain of science-fiction.[78] "Selective breeding" may well be within the extended reach of man, in which event federal and state regulation may become a necessity.[79]

The Fourteenth Amendment has frequently been used as a barrier against state action which a majority of the Court finds shocking. But the first eight amendments contain specific restrictions, and except for an interlude when the due process clause of the Fifth Amendment was used to invalidate laws involving economic regulation,[80] the Bill of Rights has not been viewed as devise for substantive review of federal legislation passed pursuant to the enumerated or implied powers.[81] Even the much-criticized opinions of the mid-1930's, striking down key New Deal legislation, were based primarily on a narrow interpretation of certain federal powers rather than on the application of the Bill of Rights.[82]

If we are unable to draw upon any portion of the Bill of Rights to meet problems such as those raised by the Connecticut birth control laws,[83] and other possible similar statutes, limitations on federal action in this area appear quite uncertain, and flexible due process would loom as the best immediate answer to the problem at the state level.

But the Bill of Rights contains two additional amendments—the Ninth and Tenth, whose history suggests that they might be peculiarly suited to meet the unique and important problems suggested by the Connecticut birth control law case.

The Ninth Amendment provides: "The Enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people." The Tenth Amendment, better-known because it has been invoked more often in litigation, provides: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

These two Amendments have frequently been linked together and, particularly in recent years, written off as redundancies adding "nothing to the rest of the Constitution." [84] A careful reading of the words and history of the two Amendments, however, indicates that they were intended to play a role in our constitutional scheme and ought not to be so lightly dismissed.

The Ninth Amendment was drafted by Madison to cope with the problem created by the enumeration of specific rights in a Bill of Rights. Fearing that the enumeration of these rights would imperil others not enumerated, Madison said:

"It has been objected also against a bill of rights, that, by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration; and it might follow, by implication, that those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I have ever heard urged against the admission of a bill of rights unto this system; but I conceive, that it may be guarded against. I have attempted it, as gentlemen may see by turning to the last clause of the fourth resolution." [85]

Earlier, in The Federalist No. 37, Madison expressed the closely allied idea that words were incapable of expressing complex ideas with complete accuracy.[86] The fear that certain rights may have been omitted, and that the vagaries of language might adversely affect other rights intended to be included, led Madison to the Ninth Amendment.

Although the claim has been made that this Amendment was intended to restrict the states as well as the federal government, the sketchy legislative history would seem to support the holding in *Barron* v. *Baltimore* [87] that it was intended to restrict only the federal government. The adoption of the Fourteenth Amendment in 1868, however, provided the framework for applying these restrictions against the states, even though they may have been originally intended to apply only against the United States.

The Tenth Amendment, it will be recalled, speaks not of "rights retained by the people" but of "powers" which are "reserved to the States respectively, or to the people." Were it not for the last four words, the Tenth Amendment could easily be dismissed as a redundancy in a constitution establishing a government of limited powers. These four words—"or to the people"—were not included in Madison's original draft which may account for the fact that when Madison introduced his proposed amendments, he said that the words of the Tenth Amendment "may be considered superfluous. I admit they may be deemed unnecessary; but there can be no harm in making such a declaration, if gentlemen will allow that the fact is as stated." [88]

Footnotes at end of article.

The Senate added the words "or to the people," but we have no record of the Senate debates and this addition did not occasion any further debate in the House, which ultimately accepted the Senate version.[89]

One might argue that the addition of the last four words was intended to place certain powers beyond the reach of the States, but it is extremely unlikely that a decision of such importance would have slipped through the First Congress with no debate.[90] Moreover, the Senate had rejected another of Madison's proposed amendments which would have prevented the states from infringing the right of trial by jury, free speech, free press, and the "rights of conscience." [91] It would be unrealistic to attribute to the Senate an intent to impose ill-defined legally enforceable restraints on the states in light of this rejection.

The principal reason why the Tenth Amendment is currently thought of as a redundancy is that it has been invoked by litigants who have claimed that certain federal laws were unconstitutional because they invaded powers "reserved to the states." As between the federal government and the states the Tenth Amendment *is* a redundancy. Atlhough the Court has on occasion appeared to give substantive content to the Tenth Amendment,[92] these cases can more appropriately be viewed as having been based on a restrictive view of the delegated federal powers. Reliance on the Tenth Amendment in cases like *Hammer* v. *Dagenhart*.[93] and *United States* v. *Butler* [94] resulted from a preliminary decision that the asserted federal power was not within the purview of the commerce clause or the taxing power. When the Court overruled *Hammar* v. *Dagenhart*, it stated, "Our conclusion is unaffected by the Tenth Amendment which . . . states but a truism that all is retained has not been surrendered." [95]

But the Tenth Amendment becomes a "truism" only if it is viewed as defining the division of powers between the federal government and the states. This was all the Amendment contained when Madison described it as "superfluous." The Amendment would not be a truism, however, if the last four words are viewed as delineating powers possessed by neither the federal government nor the states. Since, as we have indicated, the Amendment was not intended to restrict the states, the last four words have meaning only if they were intended to impose additional restrictions on the federal government. The pieces start to fall into place when the Tenth Amendment is considered in conjunction with the Ninth Amendment.

Once "certain rights . . . retained by the people" had been removed from the scope of federal power, it would have been inconsistent to provide that all powers reside either in the federal government or the states. The last four words of the Tenth Amendment must have been added to conform in its meaning to the Ninth Amendment and to carry out the intent of both—that as to the federal government there were rights, not enumerated in the Constitution, which were "retained . . . by the people," and that because the people possess such rights there were *powers* which neither the federal government nor the states possessed.

In an age where men looked to the states as the chief guardians of individual rights, it was not surprising that the barrier of the Ninth and Tenth Amendments was erected against only the federal government. The adoption of the Fourteenth Amendment in 1868 provides the constitutional basis for judicial enforcement of both Amendments against the states.

Thus far, neither Amendment has been specifically invoked by a Supreme Court majority for the protection of individual rights not specified in the Constitution, even though they would appear to have been designed for this purpose. The Ninth Amendment has been mentioned in several cases but no decision has ever been based on it.[96] And while several decisions appear to have been based on the Tenth Amendment, it has not been because of rights reserved "to the people" but because, in the Court's view, the federal government was exercising powers which were not delegated or implied and which were, therefore, reserved to the states.[97]

If the Court decided to approach the Connecticut birth control law through the Ninth and Tenth Amendments, it could start with the strong historical argument that they were intended to apply in a situation where the asserted right appears to the Court as fundamental to a free society but is, nevertheless, not specified in the Bill of Rights. [98] Those Justices who consider the Fourteenth Amendment as having embodied either or all the major portions of the Bill of Rights could appropriately consider the Ninth and Tenth Amendments as "incorporated" or "absorbed" into the first paragraph of the Fourteenth Amendment. Certainly those Justices who have viewed the Fourteenth Amendment as limited only to "fundamental" rights unrelated to the specific provisions of the Bill of Rights should have no difficulty in adopting a Constitutional provision which appears to have been almost custom-made for this approach. The Ninth and Tenth Amendments, moreover, provide a formula for protecting the individual against both the federal and state governments in the enjoyment of these rights, something which the approach of Justice Murphy in *Adamson* and Justice Douglas in *Poe* v. *Ullman* failed to offer.

The Connecticut statute would provide a particularly appropriate vehicle for giving life to these dormant constitutional provisions. A birth control law is totally unlike the regulatory laws of the 1920's and 1930's whose invalidation spurred an entire generation of Justices to keep hands off legislative experimentation in this area. The birth control law invades the privacy of the martial relationship by preventing a married couple from limiting the size of its family. Whether the decision not to have children is based on economic factors, health, simple personal preference, or a multitude of other possible reasons, no government in this country should force a husband and wife to choose between abandoning this most basic of human choices and either breaking the law or abstaining from sexual relations.[99] In Justice Harlan's words, "In sum, the statute allows the State to enquire into, prove and punish married people for the private use of their marital intimacy." [100]

The Court could hold that the Ninth and Tenth Amendments reserve to a married couple the right to maintain the intimacy of the marital relationship without government interference. This would include the right of a married couple to use medically acceptable contraceptive techniques in order to limit the size of their family.

When we move into the question of the right to have children, we run into the compulsory sterilization laws and Justice Holmes' famous quip in *Buck v. Bell:* "Three generations of imbeciles is enough." [101] The Court has specified that the person to be sterilized must be afforded a fair hearing to determine whether he falls within the state-designated category.[102] Moreover, the state must justify its designation of a particular group in terms which are more stringent than usually required for state regulatory legislation.[103] But the constitutional validity of compulsory sterilization laws creates a disturbing precedent for future governmental control of eugenic development.[104] How easily might a judge say, "Three generations of subnormal I.Q.'s is enough."

The Ninth and Tenth Amendments could well form the basis for limiting *Buck v. Bell* to a situation where the evidence clearly demonstrates that the undesirable traits are not only likely to be inherited but are of the nature which, if possessed by an individual, will cause either criminal behavior or a mental state which could justify commitment. This would preclude a legislative majority or an administrator from using the technique of sterilization or selective application of drugs to develop certain physical characteristics in the population or to eradicate others. Rights retained by the people need not necessarily be absolute, just as not all the rights in the Bill of Rights are expressed in absolute terms. The right to have children would be a preferred right which the state could restrict only under the type of strictly circumscribed standards indicated here.[105]

JUDICIAL CRITERIA

What criteria are judges to apply when faced with a claim that the Government is infringing a right reserved to the people and which is not enumerated in the Constitution? Is there any textual standard or have we merely substituted one constitutional formula for another by which judges are to apply their own notions of fundamental justice and fairness?

When the question of standards is posed within the context of the Ninth and Tenth Amendments, rather than in terms of due process, a definite pattern starts to emerge. To comply with the purposes of these Amendments, the textural standard should be the entire Constitution. The original Constitution and its amendments project through the ages the image of a free and open society. The Ninth and Tenth Amendments recognized—at the very outset of our national experience—that it was impossible to fill in every detail of this image. For that reason certain rights were reserved to the people. The language and history of the two Amendments indicate that the rights reserved were to be of a nature comparable to the rights enumerated. They were "retained . . . by the people" not because they were different from the rights specifically mentioned in the Constitution, but because words were considered inadequate to define all of the rights which man should possess in a free society and because it was believed that the enumeration might imply that other rights did not exist.

Let us consider a few examples. The right of employees to contract with employers concerning hours of work, which was the right upheld in *Lochner v. New York*,[106] hardly fits into the scheme of rights set forth in our Constitution. But the right of a married couple to maintain the intimacy of their marital relationship free from the criminal sanction of the state does fit into the pattern of a society which set forth in its national charter that men should be free from unreasonable searches and seizures.[107] Similarly, the state might sterilize an individual upon clear and convincing proof that this particular individual possesses inheritable characteristics likely to produce criminal conduct or insanity. But if the Government were to enforce a policy of selective breeding, designed to produce a genetically superior race, the individual could claim that among the rights reserved to the people is the right freely to choose a spouse and to produce children. Only through the most obnoxious invasion of personal privacy could such a program be enforced. Moreover, a Constitution which specifically provides that a person guilty of treason could not be deprived of the right to transmit property [108] would hardly countenance taking from law-abiding citizens the right to transmit life.

Taking an example from an earlier period, *Crandall* v. *Nevada* [109] held that a state tax on every person leaving the state was unconstitutional. Instead of relying on a specific provision, the Court said that the Constitution established a national government whose existence requires that the people have access to the seat of government, its courts, and its offices wherever they may be located in the several states. It might have added that since the states are forbidden to tax

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Footnotes at end of article.

imports or exports, it would be inconsistent to permit a state to prevent, through taxation or regulation, an individual from reaching a seaport to carry on the business of importing or exporting. Both of these reasons and have justified the result under the Ninth and Tenth Amendments because they are related to the general pattern of government establishment by our Constitution.[110]

The Ninth and Tenth Amendments, unlike other portions of the Bill of Rights, should be viewed as dealing not with absolute rights but generally with preferred rights, where the balancing of interests is appropriate. We are concerned here with areas where there would normally be a presumption of constitutionality and a willingness to uphold the statute if it appears reasonably related to a valid legislative end. When the individual asserts rights recognized under the Ninth and Tenth Amendments, however, the Court should sound a different note: "These are rights which a free society reserves to the people. You may not 'deny or disparage' them by a mere showing of reasonableness. In areas of general economic and social policy we defer to your judgment and your constitutional power. But when you extend this power to regulate rights which we consider an essential ingredient of the free society established by our Constitution, we require overwhelming proof of necessity and the absence of other and less burdensome means to achieve your objectives."

In this realm, as in others, there exists no purely objective set of criteria. That the criteria are loose, however, does not mean that they do not exist. Our Constitution provides the basic text for the delineation of rights retained by the people with respect to which state and federal governments have been denied the power to act. Accordingly, the Ninth and Tenth Amendments should be used to define rights adjacent to, or analogous to, the pattern of rights which we find in the Constitution. They should not be used as a substitute for a vigorous application of those rights which are specified in the Constitution or for the adoption of rights which bear no connection to our constitutional scheme. To define the rights "retained by the people," judges must, of course, make personal judgments. What has been suggested here is a judicial approach for making these judgments which is at least consistent with our constitutional theory and history.

FOOTNOTES

*Norman Redlich is Professor of Law at New York University School of Law.

[1] 332 U.S. 46 (1947).

[2] The Adamson case gave rise to considerable discussion as constitutional lawyers and historians quickly took opposing sides. See, e.g., 2 Crosskey, Politics and the Constitution, ch. 31, 32 (1953); Fairman & Morrison, Does the Fourteenth Amendment Incorporate the Bill of Rights?, 2 Stan. L. Rev. 5, 140 (1949); Kadish Methodology and Criteria in Due Process Adjudication—A Survey and Criticism, 66 Yale L.J. 319 (1957); Comment, 58 Yale L.J. 268 (1949).

[3] Braden, The Search for Objectivity in Constitutional Law, 57 Yale L.J. 571 (1948).

[4] Palko v. Connecticut, 302 U.S. 319, 325 (1937).

[5] See, e.g., Reynolds v. Cochran, 365 U.S. 525 (1961); McNeal v. Culver, 365 U.S. 109 (1961); Rochin v. California, 342 U.S. 165 (1952).

[6] The most outstanding recent example is the Connecticut birth control case, Poe v. Ullman, 367 U.S. 497 (1961). See pp. 796–98, infra. Justice Harlan dissented stating that the Connecticut statute, which made the use of contraceptives a crime, violated the due process clause of the Fourteenth Amendment. Justice Brennan and Chief Justice Warren voted with the majority without stating their views on the constitutional question. Justice Black felt that the court should have decided the case although he withheld his own views on the merits. In Solesbee v. Balkcom, 339 U.S. 9 (1950), Justice Black held that Georgia's procedures for determining the sanity of a man about to be executed did not violate due process. Justice Frankfurter dissented, arguing that when the state attempts to execute an insane man, "The Due Process Clause says to a State: 'Thou shalt not.'" 339 U.S. at 21. He found Georgia's procedures unfair in light of this constitutional prohibition. Compare the positions of Justices Harlan and Brennan on questions of obscenity in Roth v. United States, 354 U.S. 476 (1957).

[7] Adamson v. California, 332 U.S. 46, 67 (1947).

[8] Justices Douglas, Brennan and Black, and Chief Justice Warren dissented in Beilan v. Board of Educ., 357 U.S. 399 (1958), and Lerner v. Casey, 357 U.S. 468 (1958). In Nelson v. County of Los Angeles, 362 U.S. 1 (1960), Chief Justice Warren did not participate, but the other three Justices dissented. In all three cases the technical ground for discharge was that the refusal of the witness to answer showed lack of candor, incompetence, or failure to supply necessary information. In Slochower v. Board of Higher Educ., 350 U.S. 551 (1956), which held that New York City could not discharge an employee solely because of his use of the privilege before a congressional committee, Justice Reed, who wrote the majority opinion in Adamson, dissented in an opinion in which Justices Burton and Minton concurred. Justice Harlan, perhaps the most forceful exponent of the flexible due process approach, also wrote a dissenting opinion. Justices Clark and Frankfurter joined with Chief Justice Warren and Justices Black and Douglas in forming the majority. The fact that Justice Clark wrote the opinions in both the Slochower and Nelson cases indicates how uncertain a flexible concept of due process can be.

[9] Cohen v. Hurley, 366 U.S. 117 (1961) (Justices Black, Brennan and Douglas, and Chief Justice Warren, dissenting).

[10] See Feldman v. United States, 322 U.S. 487 (1944) (4–3 decision). See also Knapp v. Schweitzer, 357 U.S. 371 (1958), where the Court held that a state could compel an answer under a grant of immunity notwithstanding the possibility that the information could be used in a federal prosecution. Chief Justice Warren and Justices Black and Douglas dissented. Justice Brennan concurred with the majority but only after indicating that he wished to reconsider the Feldman case, supra, which had upheld the right of the United States to prosecute under such circumstances.

[11] 316 U.S. 455 (1942).

[12] See Carnley v. Cochran, 369 U.S. 506 (1962); Reynolds v. Cochran, 365 U.S. 525 (1961); McNeal v. Culver, 365 U.S. 109 (1961). See also Ferguson v. Georgia, 365 U.S. 570 (1961); Hudson v. North Carolina, 363 U.S. 697 (1960).

[13] See Quicksall v. Michigan, 339 U.S. 660 (1950); Bute v. Illinois, 333 U.S. 640 (1948); Betts v. Brady, 316 U.S. 455 (1942).

[14] In Mapp v. Ohio, 367 U.S. 643 (1961), which elevated the exclusionary rule to constitutional status and held it binding against the states, the dissenters were Justices Frankfurter, Harlan and Whittaker.

[15] 332 U.S. at 89 (1947).

[16] The importance of specific written constitutional guarantees in a system of judicial enforcement of individual rights is discussed in an article entitled Parchment Barriers, by Edmond Cahn, which will appear in the Winter 1963 issue of the American Scholar.

[17] 302 U.S. 319 (1937).

[18] 32 U.S. (7 Pet.) 242 (1833).

[19] Brennan, The Bill of Rights and the States, 36 N.Y.U.L. Rev. 761, 769 (1961).

[20] 302 U.S. at 326.

[21] See, e.g., Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495 (1952); Everson v. Board of Educ., 330 U.S. 1 (1947); Near v. Minnesota ex rel. Olson, 283 U.S. 697 (1931); Gitlow v. New York, 268 U.S. 652 (1925).

[22] 370 U.S. 421 (1962).

[23] 370 U.S. 375 (1962).

[24] Wolf v. Colorado, 338 U.S. 25 (1949).

[25] 367 U.S. 643 (1961).

[26] 291 U.S. 97 (1934) (defendant's presence at jury view of scene of crime held not required by the due process clause).

[27] Id. at 105.

[28] Id. at 106.

[29] When the Supreme Court granted certiorari in the case of Gideon v. Cochran, 135 So. 2d 746 (Fla. 1961), counsel was requested to discuss the question of whether Betts v. Brady should be "reconsidered." 370 U.S. 908 (1962). See concurring opinion of Justice Douglas in McNeal v. Culver, 365 U.S. 109 (1961), urging the overruling of Betts v. Brady.

[30] Robinson v. California, 370 U.S. 660 (1962). See Note, The Effectiveness of the Eighth Amendment: An Appraisal of Cruel and Unusual Punishment, 36 N.Y.U.L. Rev. 846 (1961), in which the author concluded prior to the Robinson case that the cruel and unusual punishment clause had been incorporated into the Fourteenth Amendment.

[31] Chicago, B. & Q.R.R. v. Chicago, 166 U.S. 226 (1897).

[32] Walker v. Sauvinet, 92 U.S. 90 (1875).

[33] Hurtado v. California, 110 U.S. 516 (1884).

[34] In Palko v. Connecticut it was not necessary for the Court to reach this precise issue because the second prosecution was held not to constitute double jeopardy.

[35] Palko v. Connecticut, 302 U.S. 319, 328 (1937), where Justice Cardozo wrote: "What the answer would have to be if the state were permitted after a trial free from error to try the accused over again or to bring another case against him, we have no occasion to consider. . . . The state is not attempting to wear the accused out by a multitude of cases with accumulated trials."

[36] Palko v. Connecticut, 302 U.S. 319, 324 (1937); Snyder v. Massachusetts, 291 U.S. 97, 105 (1934).

[37] Brennan, supra note 19, at 772–73.

[38] This assumption is based upon the increasing emphasis which the Court seems to be placing on the equal protection clause in connection with the claims of indigents in criminal proceedings. See Smith v. Bennett, 365 U.S. 708 (1961); Burns v. Ohio, 360 U.S. 252 (1959); Griffin v. Illinois, 351 U.S. 12 (1956). See also McNeal v. Culver, 365 U.S. 109 (1961) (concurring opinion). In addition, the Court has applied the Betts v. Brady rule consistently, only to find that the absence of counsel violated due process. The practical effect of the rule is thus to penalize only those who are convicted without counsel and never raise the issue. See Carnley v. Cochran, 369 U.S. 506 (1962); Reynolds v. Cochran, 365 U.S. 525 (1961); Hudson v. North Carolina, 363 U.S. 697 (1960).

[39] See Cohen v. Hurley, 366 U.S. 117, 127–28 (1961).

[40] 211 U.S. 78 (1908). Both Twining and Adamson dealt with the question of the judge's and prosecutor's comments, respectively, on the defendant's failure to testify, and both assumed that such comment violated the privilege.

[41] In Slochower v. Board of Higher Educ., 350 U.S. 551 (1956) the Court held New York could not discharge a teacher merely because he pleaded the privilege before a congressional committee. The state could not draw an inference of guilt from the exercise of the privilege. See the dissenting opinion of Justice Brennan in Cohen v. Hurley, 366 U.S. 117, 159 (1961), in which it is pointed out that the various coerced confession cases are based "in fact" upon the privilege against self-incrimination.

[42] We find that, as to the Federal Government, the Fourth and Fifth Amendments

and, as to the States, the freedom from unconscionable invasions of privacy and the freedom from convictions based upon coerced confessions do enjoy an "intimate relation" in their perpetuation of "principles of humanity and civil liberty [secured] . . . only after years of struggle" . . . . They express "supplementing phases of the same constitutional purpose—to maintain inviolate large areas of personal privacy."

Mapp v. Ohio, 367 U.S. 643, 656–57 (1961). (Footnotes omitted.)

[43] Cohen v. Hurley, 366 U.S. 117, 159 (1961) (dissenting opinion of Justice Brennan).

[44] Approximately half the states, including such important jurisdictions as New York, Massachusetts, New Jersey, Pennsylvania and Ohio had held that unconstitutionally obtained evidence was admissible. See Elkins v. United States, 364 U.S. 206, 224–32 (1960); Day & Berman, Search and Seizure and the Exclusionary Rule: A Re-Examination in the Wake of Mapp v. Ohio, 13 W. Res. L. Rev. 56, 74, n.85 (1961).

[45] 351 U.S. 12 (1956). See Willcox & Bloustein, The Griffin Case—Poverty and the Fourteenth Amendment, 43 Cornell L.Q. 1 (1957); Comment, The Effect of Griffin v. Illinois on the States' Administration of the Criminal Law, 25 U. Chi. L. Rev. 161 (1957).

[46] Foremost among these would be the increasing tendency of the Court to require the assignment of counsel in all cases. See note 38 supra. The extension of the Griffin rule to collateral remedies and to requirements for filing fees would appear to have had more widespread effect than would be occasioned by the incorporation of the privilege against self-incrimination into the Fourteenth Amendment.

[47] 8 Wigmore, Evidence § 2272 (McNaughton rev. 1961).

[48] E.g., the prohibition against ex post facto laws and bills of attainder found in Article I, section 9, and the provision in Article VI that "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."

[49] See Morehead v. New York ex rel. Tipaldo, 298 U.S. 557 (1936); Coppage v. Kansas, 236 U.S. 1 (1915); Lochner v. New York, 198 U.S. 45 (1905).

[50] In Communist Party v. Subversive Activities Control Bd., Justice Frankfurter states that the legislative judgment as to how the threat of Communism "may best be met consistently with the safeguarding of personal freedom is not to be set aside merely because the judgment of judges would, in the first instance, have chosen other methods." 367 U.S. 1, 96–97 (1961). Cf. Barenblatt v. United States 360 U.S. 109 (1959) (opinion of Justice Harlan).

[51] Justice Black, in criticizing the majority's approach to due process in the Adamson case, said, "this formula has also been used in the past, and can be used in the future, to license this Court, in considering regulatory legislation, to roam at large in the broad expanses of policy and morals and to trespass, all too freely, on the legislative domain of the States as well as the Federal Government." 332 U.S. 46, 90 (1947). See also Rochin v California, 342 U.S. 165 (1952) (concurring opinion of Justice Douglas).

[52] Conn. Gen. Stat. Rev. § 53–32 (1958).

[53] Conn. Gen. Stat. Rev. § 54–196 (1958).

[54] State v. Nelson, 126. 412, 11 A.2d 856 (1940).

[55] Tileston v. Ulman, 318 U.S. 44 (1943).

[56] 367 U.S. 497 (1961).

[57] Id. at 508.

[58] Id. at 509.

[59] Connecticut v. Griswall and Connecticut v. Buxton, CR6–5653 and CR6–5654, Conn. Cir. Ct., Jan. 2, 1962, appealed docketed, App. Div., Jan. 12, 1962.

[60] 198 U.S. 45, 73 (1905).

[61] McGowan v. Maryland, 366 U.S. 420, 425–26 (1961) (opinion of Chief Justice Warren); Day-Brite Lighting, Inc. v. Missouri, 342 U.S. 421, 423 (1952) (opinion of Justice Douglas); Lincoln Federal Labor Union v. Northwestern Iron & Metal Co., 335 U.S. 525, 536–37 (1949) (opinion of Justice Black); West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624, 666 (1943) (dissenting opinion of Justice Frankfurter).

[62] See discussion in Comment, 70 Yale L.J. 322, 331 (1960).

[63] See Braunfield v. Brown, 366 U.S. 599 (1961) (opinion of Chief Justice Warren); McGowan v. Maryland, 366 U.S. 420 (1961) (opinion of Chief Justice Warren).

[64] Mapp v. Ohio, 367 U.S. 643, 679 (dissenting opinion); Lanza v. New York, 370 U.S. 139 (1962) (concurring opinion).

[65] Poe v. Ullman, 367 U.S. 497, 542 (dissenting opinion).

[66] Id. at 553.

[67] Id. at 554.

[68] It is interesting to note that although Justice Harlan relied on the right of privacy which he derived from the Fourth Amendment, he dissented vigorously in Mapp v. Ohio and argued against extending to the states the full measure of the constitutional protection of the Fourth Amendment, which, for purpose of the dissent, Justice Harlan assumed to include the exclusionary rule. Mapp v. Ohio, 367 U.S. 643, 678–79 (1961). Thus, in one opinion a right to the privacy of the marital relationship, which has never been specifically included in the Fourth Amendment, is deemed to be protected against the state infringement, while in another case a right which is assumed to be included in the Fourth Amendment is denied application at the state level.

[69] 367 U.S. 497, 509 (1961).

[70] 332 U.S. 46, 124 (1947), Justice Rutledge joined in this dissent.

[71] In Adamson, Justice Douglas joined with Justice Black. Poe v. Ullman appears to mark his first public adoption of the Murphy-Rutledge dissent in Adamson.

[72] 367 U.S. at 520–21.

[73] See notes 80 & 81 infra.

[74] 367 U.S. at 516.

[75] 367 U.S. at 517–18.

[76] Id. at 521.

[77] In Poe v. Ullman Justice Douglas cited Meyer v. Nebraska, 262 U.S. 390 (1923), for the proposition that the Court has recognized the right to "establish a home and bring up children.'" 367 U.S. at 517. The danger of using the due process clause of the Fourteenth Amendment to reach this result, without relying on any provision of the Bill of Rights, is apparent from the very case which Justice Douglas cites, because the paragraph of the Meyer opinion which upholds the right to "establish a home and bring up children" also speaks of "the right of the individual to contract," which few today would defend as being an essential component of liberty, 262 U.S. at 399. Justice Douglas might also have referred to his own opinion in Skinner v. Oklahoma, 316 U.S. 535, 536 (1942), in which he referred to the "right to have offspring" as "basic to the perpetuation of a race," although deciding the case on the basis of the equal protection clause of the Fourteenth Amendment. See concurring opinion of Justice Stone who stated that the statute, which provided for compulsory sterilization, did not afford an opportunity for a hearing "to discover whether . . . [petitioner's] criminal tendencies are of an inheritable type." 316 U.S. 535, 544 (1942). Moreover, in the area of procedural due process we have many instances in which the Court invalidates state trials based on conceptions of "fairness" rather than on a specific guarantee in the first eight amendments. See Alcorta v. Texas, 355 U.S. 28 (1957). See In re Oliver, 333 U.S. 257, 273 (1948), in which Justice Black states that the "right to reasonable notice" and the "right to examine the witnesses against him, to offer testimony" are "basic in our system of jurisprudence." See also Lambert v. California, 355 U.S. 225 (1957), in which Justice Douglas, speaking for the Court, held unconstitutional a statute which required persons who had been convicted of a felony to register within five days of their arrival in Los Angeles. The opinion seems to be based on procedural due process because of a lack of notice of the duty to register. There is a serious question, however, whether procedural due process calls for this type of notice, which appears to be merely the existence of the statute, or whether the opinion is really based on substantive due process concepts of fairness.

[78] See Lasagna, Heredity Control: Dream or Nightmare?, N.Y. Times Magazine, Aug. 5, 1962, p. 7. The author states, "It would seem that while drastic changes in the manipulation of human heredity are not yet here, they are not so remote as one would have thought even a decade ago. . . . Scientists cannot be expected to act in any other way but to accelerate our now limited abilities along the lines of genetic control." Id. at 59, col. 3. See also Engel, The Race to Create Life, Harper's, Oct. 1962, p. 40: "Before long we will have to decide whether we want chemical control of human heredity . . . and if so, how it should be exercised. And we will all have to take part in the decision as citizens. There are problems that are much too important to be left to scientists alone. This is one of them."

[79] If science does develop the means to control eugenic factors or to determine the sex of offspring, few would question the interest of both the states and federal government to regulate the private use of these techniques. How, then do we limit governmental activity in this area? Dr. Lasagna, supra note 78, at 59, quotes Sir Charles Darwin, speaking on the centennial of his grandfather's Origin of Species, as follows: "There can be little doubt that if any country should carry out a eugenic policing for even a few generations, that country should dominate all its neighbors by the sheer increase in the ability of its people. . . . The accuracy of this prediction is unimportant; if large numbers of people believe it to be true, the possibilities are indeed frightening." See Engel, supra note 78.

[80] See Adkins v. Children's Hosp., 261 U.S. 525 (1923), overruled, West Coast Hotel Co. v. Parrish, 300 U.S. 379 (1937). See also Railroad Retirement Bd. v. Alton R.R., 295 U.S. 330 (1935). Justice Douglas in Kent v. Dulles, 357 U.S. 116 (1958), states the proposition that "freedom to travel" is part of the liberty protected by the due process clause of the Fifth Amendment. That case held that Congress had not delegated to the Secretary of State the power to deny a passport because of Communist Party membership. If Congress had actually authorized the Secretary of State to withhold passports for this reason, then presumably the constitutional question raised would have been in terms of the political rights of the First Amendment rather than the due process clause of the Fifth.

[81] In Bolling v. Sharpe, 347 U.S. 497 (1954), the due process clause of the Fifth Amendment was broadened to include the concept of equal protection in matters of racial discrimination. It is unlikely, however, that this decision, which involved the constitutionality of racially segregated public schools in the District of Columbia, could be said to justify the use of the Fifth Amendment as a basis for substantive review of federal legislation. The Court in Bolling v. Sharpe considered equal protection to be "a more explicit safeguard of prohibited unfairness" than due process and held that some forms of invidious discrimination would violate due process. In essence the Court was incorporating into the Fifth Amendment a specific provision whose meaning had been developed through the interpretation of the identical clause in the Fourteenth Amendment. Although litigants have frequently invoked the

due process clause of the Fifth Amendment in attacking federal legislation as unreasonable, we find very few instances where the Court has given substantive content to the provision other than in procedural terms. See Dumbauld, The Bill of Rights 93–98 (1957). In those few instances where such claims have been sustained, the Court has spoken of the legislation as being without reasonable basis. See Railroad Retirement Bd. v. Alton R.R., 295 U.S. 330, 361 (1935); Chicago R.I. & P. Ry. v. United States, 284 U.S. 80, 97 (1931); Adkins v. Children's Hosp., 261 U.S. 525, 554–55 (1923), overruled, West Coast Hotel Co. v. Parrish, 300 U.S. 379 (1937). The difficulty with the birth control law or laws which might attempt "selective breeding" is that they will have a reasonable relationship to objectives which society has a right to effectuate through legislation.

[82] See, e.g., Carter v. Carter Coal Co., 298 U.S. 238 (1936); United States v. Butler, 297 U.S. 1 (1936); Schechter Poultry Corp. v. United States, 295 U.S. 495 (1935); Railroad Retirement Bd. v. Alton R.R., 295 U.S. 330 (1935). Although the Butler case was based in part on the Tenth Amendment, this was because of a conclusion that Congress had no power to regulate agricultural production. Therefore, an expenditure to regulate agricultural production invaded the powers reserved to the states.

[83] Justice Douglas argued, in his dissenting opinion in Poe v. Ullman, that the Connecticut statute violated the First and Fourteenth Amendments because "of course a physician can talk freely and fully with his patient without threat of retaliation by the State." 367 U.S. at 514. It would be extremely unfortunate if those who argue most strenuously for the "absolute" interpretation of First Amendment rights attempt to place within the protection of the First Amendment words which are inseparably linked with conduct which the state has a right to regulate. Surely the state has a right to regulate the practice of medicine. The state may, for example, make it a crime for a physician to give injections of vaccines other than those approved by a state board. May not the state also make it a crime for a physician to advise the patient where these illegal injections may be obtained. Illegal medical practices may take the form of words spoken by a doctor to a patient and the inclusion of such activity within the area of protected free speech would materially weaken the position of those who have correctly, in my view, argued for an absolute prohibition against laws abridging freedom of speech. A similar problem was created in the area of peaceful picketing. See Giboney v. Empire Storage & Ice Co., 336 U.S. 490 (1949); Thornhill v. Alabama, 310 U.S. 88 (1940). In Justice Harlan's dissenting opinion in Poe v. Ullman, the view was expressed that the Connecticut law violates the Fourth Amendment's concept of privacy. Justice Harlan is able to apply the right of privacy in this manner because he does not feel compelled to base a Fourteenth Amendment decision on a particular provision of the Bill of Rights. He can, thus, speak in terms of concepts which undelie a provision of the Bill of Rights without feeling concerned that the particular provision in the Bill of Rights might not be so interpreted if it were brought into play in a case involving the federal government. It is doubtful whether Justices who base their Fourteenth Amendment decisions on specific provisions in the Bill of Rights would follow Justice Harlan's reasoning in Poe v. Ullman.

[84] Dumbauld, supra note 81, at 65.

[85] I Annals of Cong. 456 (1834). The clause referred to contains the present Ninth Amendment.

[86] The use of words is to express ideas. Perspicuity therefore requires not only that the ideas should be distinctly formed, but that they should be expressed by words distinctly and exclusively appropriated to them. But no language is so copious as to supply words and phrases for every complex idea, or so correct as not to include many equivocally denoting different ideas. Hence, it must happen, that however accurately objects may be discriminated in themselves, and however accurately the discrimination may be considered, the definition of them may be rendered inaccurate by the inaccuracy of the terms in which it is delivered.

The Federalist No. 37, at 236 (Cooke ed. 1961).

[87] 32 U.S. (7 Pet.) 242 (1833). In his book on the Ninth Amendment, Mr. Bennett B. Patterson argues that the Amendment was intended from the start as a restriction upon the states. Patterson, The Forgotten Ninth Amendment 13 (1955). There is strong contrary evidence, however. When Madison intended an amendment to restrict the states in his proposal to prevent the states from abridging free speech or press, he was quite specific. See note 91 infra and accompanying text. Moreover, under Madison's original proposal the Ninth Amendment would have appeared as part of Article I, Section 9, which deals with specific restrictions against the Federal Government. I Annals, note 85 supra, at 451–52. It is unlikely that Madison would have inserted at this point a provision designed to restrict the states. Madison's phrasing of the Amendment is different from the final version: "The exceptions here or elsewhere in the constitution, made in favor of particular rights, shall not be so construed as to diminish the just importance of other rights retained by the people, or as to enlarge the powers delegated by the constitution; but either as actual limitations of such powers, or as inserted merely for greater caution." Id. at 452.

[88] I Annals, supra note 85, at 459.

[89] Debate on the Tenth Amendment centered primarily around various attempts to limit the powers of the federal government by providing that all powers not "expressly" delegated are reserved to the states. See I Annals, supra note 85, at 790, 797. See Dumbauld, supra note 81, at 42, n. 32.

[90] Article I, Section 10, imposes certain restrictions on the states, such as the enactment of bills of attainder or ex post facto laws. It is unlikely, however, that the reserved powers referred to these restrictions, because the second clause in the Tenth Amendment makes it clear that the Amendment is dealing with those powers *not* prohibited by the Constitution to the states.

[91] I Annals, supra note 85, at 452, 458. Madison is quoted in the Annals as considering "this to be the most valuable amendment in the whole list." Id. at 784.

[92] See The Constitution of the United States, Analysis and Interpretation 915–21 (Corwin ed.), S. Doc. No. 170, 82 Cong. 2d Sess. (1953).

[93] 247 U.S. 251 (1918).

[94] 297 U.S. 1 (1936).

[95] United States v. Darby, 312 U.S. 100, 124 (1941). See Case v. Bowles, 327 U.S. 92, 102 (1946); Northwestern Elec. Co. v. Federal Power Comm'n, 321 U.S. 119 (1944).

[96] It has been discussed in several cases. See, e.g., United Public Workers v. Mitchell, 330 U.S. 75, 94–96, 99 (1947). For a summary of the judicial interpretation of the Ninth Amendment, see Patterson, supra note 87, at 27–35.

[97] See notes 92–95 supra.

[98] In addition to the Madison statement, note 86 supra, Madison had written to Jefferson in October 1788 explaining his grounds for the omission of a Bill of Rights from the original Constitution. He said, "My own opinion has always been in favor of a bill of rights; provided it be so framed as not to imply powers not meant to be included in the enumeration." Letter From Madison to Jefferson, Oct. 17, 1788, in 5 Writings of James Madison 269–75, at 271 (Hunt ed. 1906).

[99] See Comment, 70 Yale L.J. 322, 328–29 (1960).

[100] Poe v. Ullman, 367 U.S. 497, 548 (1961).

[101] Buck v. Bell, 274 U.S. 200, 207 (1927).

[102] Id. at 206–07.

[103] See Skinner v. Oklahoma, 316 U.S. 535 (1942). In this case a compulsory sterilization law for "habitual criminals" was held to violate the equal protection clause. The customary deferrence which would be accorded to state classifications would not be followed in the case of "legislation which involves one of the basic civil rights of man." In a concurring opinion, Justice Stone stated that the state must afford the individual an opportunity to demonstrate that he does not have the inheritable qualities which the state has assumed are possessed by the entire group.

[104] It should be added that the rapid developments in medical treatment of the mentally ill might completely preclude the state from making the irrevocable decision of sterilization. A trait which one legislature believes to be inheritable might actually be limitable or curable. In that event Buck v. Bell might well be overruled.

While one could conceive of conditions where the state might limit the free choice of adult men and women to marry, the same factors which lead to the limiting or possible overruling of Buck v. Bell would apply with regard to marriage.

[105] For possible attempts to decide the birth control case under other provisions, see discussion pp. 798–802 supra.

[106] 198 U.S. 45 (1905).

[107] It is interesting that Justices Harlan and Douglas both relied on a specific provision in the Bill of Rights to invalidate the birth control law, although they did so within a context of flexible due process. Instead of altering the contours of the Fourth and First Amendments, it would have been possible to rely on the Ninth and Tenth Amendments, as incorporated in the Fourteenth Amendment, using other Amendments to substantiate the claim that the right was of the nature of those reserved to the people.

[108] U.S. Const. art. III, § 3.

[109] 73 U.S. (6 Wall.) 35 (1867).

[110] A similar approach could have been used in Edwards v. California, 314 U.S. 160 (1941), which held invalid a statute making it a crime for a person to bring an indigent person into California. The Edwards case might also have been decided on the basis of the privileges and immunities clause of the Fourteenth Amendment, which was not available at the time of Crandall v. Nevada, supra note 109.

Appeal From the United States District Court for the District of Columbia

Katzenbach, Attorney General, et al. *v.* Morgan et ux.

No. 847. Argued April 18, 1966—Decided June 13, 1966.

Solicitor General Marshall argued the cause for appellants in No. 847. With him on the brief were *Assistant Attorney General Doar, Ralph S. Spritzer, Louis F. Claiborne, St. John Barrett* and *Louis M. Kauder.*

J. Lee Rankin argued the cause for appellant in No. 877. With him on the brief were *Norman Redlich* and *Seymour B. Quel.*

Alfred Avins argued the cause and filed a brief for appellees in both cases.

Rafael Hernandez Colon, Attorney General, argued the cause and filed a brief for the Commonwealth of Puerto Rico, as *amicus curiae,* urging reversal.

Jean M. Coon, Assistant Attorney General, argued the cause for the State of New York, as *amicus curiae,* urging affirmance. With her on the brief were *Louis J. Lefkowitz,* Attorney General, and *Ruth Kessler Toch,* Acting Solicitor General.

Mr. Justice Brennan delivered the opinion of the Court.

This case concerns the constitutionality of § 4(e) of the Voting Rights Act of 1965.[1] That law, in the respects pertinent in this case, provides that no person who has successfully completed the sixth primary grade in a public school in, or a private school accredited by, the Commonwealth of Puerto Rico in which the language of instruction was other than English shall be denied the right to vote in any election because of his inability to read or write English. Appellees, registered voters in New York City, brought this suit to challenge the constitutionality of § 4(e) insofar as it *pro tanto* prohibits the enforcement of the election laws of New York [2] requiring an ability to read and write English as a condition of voting. Under these laws many of the several hundred thousand New York City residents who have migrated there from the Commonwealth of Puerto Rico had previously been denied the right to vote, and appellees attack § 4(e) insofar as it would enable many of these citizens to vote.[3] Pursuant to § 14(b) of the Voting Rights Act of 1965, appellees commenced this proceeding in the Distrct Court for the District of Columbia seeking a declaration that § 4(e) is invalid and an injunction prohibiting appellants, the Attorney General of the United States and the New York City Board of Elections, from either enforcing or complying with § 4(e).[4] A three-judge dstrict court was designated. 28 U.S.C. §§ 2282, 2284 (1964 ed.). Upon cross motions for summary judgment, that court, one judge dissenting, granted the declaratory and injunctive relief appellees sought. The court held that in enacting § 4(e) Congress exceeded the powers granted to it by the Constitution and therefore usurped powers reserved to the States by the Tenth Amendment. 247 F. Supp. 196. Appeals were taken directly to this Court, 28 U.S.C. §§1252, 1253 (1964 ed.), and we noted probable jurisdiction. 382 U.S. 1007. We reverse. We hold that, in the application challenged in this case, § 4(e) is a proper exercise of the powers granted to Congress by § 5 of the Fourteenth Amendment [5] and that by force of the Supremacy Clause, Article VI, the New York English literacy requirement cannot be enforced to the extent that it is inconsistent with § 4(e).

Under the distribution of powers effected by the Constitution, the States establish qualifications for voting for state officers, and the qualifications established by the States for voting for members of the most numerous branch of the state legislature also determine who may vote for United States Representatives and Senators, Art. I, § 2; Seventeenth Amendment; *Ex parte Yarbrough*, 110 U.S. 651, 663. But, of course, the States have no power to grant or withhold the franchise on conditions that are forbidden by the Fourteenth Amendment, or any other provision of the Constitution. Such exercises of state power are no more immune to the limitations of the Fourteenth Amendment than any other state action. The Equal Protection Clause itself has been held to forbid some state laws that restrict the right to vote.[6]

The Attorney General of the State of New York argues that an exercise of congressional power under § 5 of the Fourteenth Amendment that prohibits the enforcement of a state law can only be sustained if the judicial branch determines that the state law is prohibited by the provisions of the Amendment that Congress sought to enforce. More specifically, he urges that § 4(e) cannot be sustained as appropriate legislation to enforce the Equal Protection Clause unless the judiciary decides—even with the guidance of a congressional judgment—that the application of the English literacy requirement prohibited by § 4(e) is forbidden by the Equal Protection Clause itself. We disagree. Neither the language nor history of § 5 supports such a construction.[7] As was said with regard to § 5 in *Ex parte Virginia*, 100 U.S. 339, 345, "It is the power of Congress which has been enlarged. Congress is authorized to *enforce* the prohibitions by appropriate legislation. Some legislation is contemplated to make the amendments fully effective." A construction of § 5 that would require a judicial determination that the enforcement of the state law precluded by Congress violated the Amendment, as a condition of sustaining the congressional enactment, would depreciate both congressional resourcefulness and congressional responsibility for implementing the Amendment.[8] It would confine the legislative power in this context to the insignificant role of abrogating only those state laws that the judicial branch was prepared to adjudge unconstitutional, or of merely informing the judgment of the judiciary by particularizing the "majestic generalities" of § 1 of the Amendment. See *Fay* v. *New York*, 332 U.S. 261, 282–284.

Thus our task in this case is not to determine whether the New York English literacy requirement as applied to deny the right to vote to a person who successfully completed the sixth grade in a Puerto Rican school violates the Equal Protection Clause. Accordingly, our decision in *Lassiter* v. *Northampton Election Bd.*, 360 U.S. 45, sustaining the North Carolina English literacy requirement as not in all circumstances prohibited by the first sections of the Fourteenth and Fifteenth Amendments, is inapposite. Compare also *Guinn* v. *United States*, 238 U.S. 347, 366; *Camacho* v. *Doe*, 31 Misc. 2d 692, 221, N.Y.S. 2d 262 (1958), aff'd 7 N.Y. 2d 762, 163 N.E. 2d 140 (1959); *Camacho* v. *Rogers*, 199 F. Supp. 155 (D.C.S.D.N.Y. 1961). *Lassiter* did not present the question before us here: Without regard to whether the judiciary would find that the Equal Protection Clause itself nullifies New York's English literacy requirement as so applied, could Congress prohibit the enforcement of the state law by legislating under § 5 of the Fourteenth Amendment? In answering this question, our task is limited to determining whether such legislation is, as required by § 5, appropriate legislation to enforce the Equal Protection Clause.

By including § 5 the draftsmen sought to grant to Congress, by a specific provision applicable to the Fourteenth Amendment, the same broad powers expressed in the Necessary and Proper Clause, Art. I, § 8, cl. 18.[9] The classic formulation of the reach of those powers was established by Chief Justice Marshall in *McCulloch* v. *Maryland*, 4 Wheat. 316, 421:

> "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional."

Ex parte Virginia, 100 U.S., at 345–346 decided 12 years after the adoption of the Fourteenth Amendment, held that congressional power under § 5 had this same broad scope:

> "Whatever legislation is appropriate, that is, adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against State denial or invasion if not prohibited, is brought within the domain of congressional power."

Strauder v. *West Virginia*, 100 U.S. 303, 311; *Virginia* v. *Rives*, 100 U.S. 313, 318. Section 2 of the Fifteenth Amendment grants Congress a similar power to enforce by "appropriate legislation" the provisions of that amendment; and we recently held in *South Carolina* v. *Katzenbach*, 383 U.S. 301, 326, that "[t]he basic test to be applied in a case involving § 2 of the Fifteenth Amendment is the same as in all cases concerning the express powers of Congress with relation to the reserve powers of the States." That test was identified as the one formulated in *McCulloch* v. *Maryland*. See also *James Everard's Breweries* v. *Day*, 265 U.S. 545, 558–559 (Eighteenth Amendment). Thus the *McCulloch* v. *Maryland* standard is the measure of what constitutes "appropriate legislation" under § 5 of the Fourteenth Amendment. Correctly viewed, § 5 is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment.

We therefore proceed to the consideration whether § 4(e) is "appropriate legislation" to enforce the Equal Protection Clause, that is, under the *McCulloch* v. *Maryland* standard, whether § 4(e) may be regarded as an enactment to enforce the Equal Protection Clause, whether it is "plainly adapted to that end" and whether it is not prohibited by but is consistent with "the letter and spirit of the constitution." [10]

There can be no doubt that § 4(e) may be regarded as an enactment to enforce the Equal Protection Clause. Congress explicitly declared that it enacted § 4(e) "to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English." The persons referred to include those who have migrated from the Commonwealth of Puerto Rico to New York and who have been denied the right to vote because of their inability to read and write English, and the Fourteenth Amendment rights referred to include those emanating from the Equal Protection Clause. More specifically, § 4(e) may be viewed as a measure to secure for the Puerto Rican community residing in New York nondiscriminatory treatment by government—both in the imposition of voting qualifications and the provision or administration of governmental services, such as public schools, public housing and law enforcement.

Section 4(e) may be readily seen as "plainly adapted" to furthering these aims of the Equal Protection Clause. The practical effect of § 4(e) is to prohibit New York from denying the right to vote to large segments of its Puerto Rican community. Congress has thus prohibited the State from denying to that community the right that is "preservative of all rights." *Yick Wo* v. *Hopkins*, 118 U.S. 356, 370. This enhanced political power will be helpful in gaining nondiscriminatory treatment in public services for the entire Puerto Rican community.[11] Section 4(e) thereby enables the Puerto Rican minority better to obtain "perfect equality of civil rights and the equal protection of the laws." It was well within congressional authority to say that this need of the Puerto Rican minority for the vote warranted federal intrusion upon any state interests served by the English literacy requirement. It was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental services, the effectiveness of eliminating the state restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interests that would be affected by the nullification of the English literacy requirement as applied to residents who have succesfully completed the sixth grade in a Puerto Rican school. It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did. There plainly was such a basis to support § 4(e) in the application in question in this case. Any contrary conclusion would require us to be blind to the realities familiar to the legislators.[12]

The result is no different if we confine our inquiry to the question whether § 4(e) was merely legislation aimed at the elimination of an invidious discrimination in establish-

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ing voter qualifications. We are told that New York's English literacy requirement originated in the desire to provide an incentive for non-English speaking immigrants to learn the English language and in order to assure the intelligent exercise of the franchise. Yet Congress might well have questioned in light of the many exemptions provided,[13] and some evidence suggesting that prejudice played a prominent role in the enactment of the requirement,[14] whether these were actually the interests being served. Congress might have also questioned whether denial of a right deemed so precious and fundamental in our society was a necessary or appropriate means of encouraging persons to learn English, or of furthering the goal of an intelligent exercise of the franchise.[15] Finally, Congress might well have concluded that as a means of furthering the intelligent exercise of the franchise, an ability to read or understand Spanish is as effective as ability to read English for those to whom Spanish-language newspapers and Spanish-language radio and television programs are available to inform them of election issues and governmental affairs.[16] Since Congress undertook to legislate so as to preclude the enforcement of the state law, and did so in the context of a general appraisal of literacy requirements for voting, see *South Carolina* v. *Katzenbach, supra,* to which it brought a specially informed legislative competence,[17] it was Congress' prerogative to weigh these competing considerations. Here again, it is enough that we perceive a basis upon which Congress might predicate a judgment that the application of New York's English literacy requirement to deny the right to vote ot a person with a sixth grade education in Puerto Rican schools in which the language of instruction was other than English constituted an invidious discrimination in violation of the Equal Protection Clause.

There remains the question whether the congressional remedies adopted in § 4(e) constitute means which are not prohibited by, but are consistent "with the letter and spirit of the constitution." The only respect in which appelles contend that § 4(e) fails in this regard is that the section itself works an invidious discrimination in violation of the Fifth Amendment by prohibiting the enforcement of the English literacy requirement only for those educated in American-flag schools (schools located within United States jurisdiction) in which the language of instruction was other than English, and not for those educated in schools beyond the territorial limits of the United States in which the language of instruction was also other than English. This is not a complaint that Congress, in enacting § 4(e), has unconstitutional denied or diluted anyone's right to vote but rather that Congress violated the Constitution by not extending the relief effected in § 4(e) to those educated in non-American-flag schools. We need not pause to determine whether appelles have a sufficient personal interest to have § 4(e) invalidated on this ground, see generally *United States* v. *Raines,* 362 U.S. 17, since the argument, in our view, falls on the merits.

Section 4(e) does not restrict or deny the franchise but in effect extends the franchise to persons who otherwise would be denied it by state law. Thus we need not decide whether a state literacy law conditioning the right to vote on achieving a certain level of education in an American-flag school (regardless of the language of instruction) discriminates invidiously against those educated in non-American-flag schools. We need only decide whether the challenged limitation on the relief effected in § 4 (e) was permissible. In deciding that question, the principle that calls for the closest scrutiny of distinctions in laws *denying* fundamental rights, see n. 15, *supra,* is inapplicable; for the distinction challenged by appellees is presented only as a limitation on a reform measure aimed at eliminating an existing barrier to the exercise of the franchise. Rather, in deciding the constitutional propriety of the limitations in such a reform measure we are guided by the familiar principles that a "statute is not invalid under the Constitution because it might have gone farther than it did," *Roschen* v. *Ward,* 279 U.S. 337, 339, that a legislature need not "strike at all evils at the same time," *Semler* v. *Dental Examiners,* 294 U.S. 608, 610, and that "reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind," *Williamson* v. *Lee Optical Co.,* 348 U.S. 483, 489.

Guided by these principles, we are satisfied that appellees' challenge to this limitation in § 4(e) is without merit. In the context of the case before us, the congressional choice to limit the relief effected in § 4(e) may, for example, reflect Congress' greater familiarity with the quality of instruction in American-flag schools,[18] a recognition of the unique historic relationship between the Congress and the Commonwealth of Puerto Rico,[19] an awareness of the Federal Government's acceptance of the desirability of the use of Spanish as the language of instruction in Commonwealth schools,[20] and the fact Congress has fostered policies encouraging migration from the Commonwealth to the States.[21] We have no occasion to determine in this case whether such factors would justify a similar distinction embodied in a voting-qualification law that denied the franchise to persons educated in non-American-flag schools. We hold only that the limitation on relief effected in § 4(e) does not constitute a forbidden discrimination since these factors might well have been the basis for the decision of Congress to go "no farther than it did."

We therefore conclude that § 4(e), in the application challenged in this case, is appropriate legislation to enforce the Equal Protection Clause and that the judgment of the District Court must be and hereby is

Reversed.

Mr. Justice Douglas joins the Court's opinion except for the discussion, at pp. 656–658, of the question whether the congressional remedies adopted in § 4(e) constitute means which are not prohibited by, but are consistent with "the letter and spirit of the constitution." On that question, he reserves judgment until such time as it is presented by a member of the class against which that particular discrimination is directed.

Mr. Justice Harlan, whom Mr. Justice Stewart joins, dissenting.[22]

Worthy as its purposes may be thought by many, I do not see how §4(e) of the Voting Rights Act of 1965, 79 Stat. 439, 42 U.S.C. §)1973b(e) (1964 ed. Supp. I), can be sustained except at the sacrifice of fundamentals in the American constitutional system—the separation between the legislative and judicial function and the boundaries between federal and state political authority. By the same token I think that the validity of New York's literacy test, a question which the Court considers *only* in the context of the federal statute, must be upheld. It will conduce to analytical clarity if I discuss the second issue first.

The Cardona Case (No. 673).

This case presents a straightforward Equal Protection problem. Appellant, a resident and citizen of New York, sought to register to vote but was refused registration because she failed to meet the New York English literacy qualification respecting eligibility for the franchise.[23] She maintained that although she could not read or write English, she had been born and educated in Puerto Rico and was literate in Spanish. She alleges that New York's statute requiring satisfaction of an English literacy test is an arbitrary and irrational classification that violates the Equal Protection Clause at least as applied to someone who, like herself, is literate in Spanish.

Any analysis of this problem must begin with the established rule of law that the franchise is essentially a matter of state concern, *Minor* v. *Happersett,* 21 Wall. 162; *Lassiter* v. *Northampton Election Bd.,* 360 U.S. 45, subject only to the overriding requirements of various federal constitutional provisions dealing with the franchise, *e.g.,* the Fifteenth, Seventeenth, Nineteenth, and Twenty-fourth Amendments,[24] and, as more recently decided, to the general principles of the Fourteenth Amendment. *Reynolds* v. *Sims,* 377 U.S. 533; *Carrington* v. *Rash,* 380 U.S. 89.

The Equal Protection Clause of the Fourteenth Amendment, which alone concerns us here, forbids a State from arbitrarily discriminating among different classes of persons. Of course it has always been recognized that nearly all legislation involves some sort of classification, and the equal protection test applied by this Court is a narrow one: a state enactment or practice may be struck down under the clause only if it cannot be justified as founded upon a rational and permissible state policy. See, *e.g., Powell* v. *Pennsylvania,* 127 U.S. 678; *Lindsley* v. *Natural Carbonic Gas Co.,* 220 U.S. 61; *Walters* v. *City of St. Louis,* 347 U.S. 231.

It is suggested that a different and broader equal protection standard applies in cases where "fundamental liberties and rights are threatened," see *ante,* p. 655, note 15; dissenting opinion of Douglas, J., in *Cardona, post,* pp. 676–677, which would require a State to show a need greater than mere rational policy to justify classifications in this area. No such dual-level test has ever been articulated by this Court, and I do not believe that any such approach is consistent with the purposes of the Equal Protection Clause, with the overwhelming weight of authority, or with well-established principles of federalism which underlie the Equal Protection Clause.

Thus for me, applying the basic equal protection standard, the issue in this case is whether New York has shown that its English-language literacy test is reasonably designed to serve a legitimate state interest. I think that it has.

In 1959, in *Lassiter* v. *Northampton Election Bd., supra,* this Court dealt with substantially the same question and resolved it unanimously in favor of the legitimacy of a state literacy qualification. There a North Carolina English literacy test was challenged. We held that there was "wide scope" for State qualifications of this sort. 360 U. S., at 51. Dealing with literacy tests generally, the Court there held:

"The ability to read and write . . . has some relation to standards designed to promote intelligent use of the ballot. . . . Literacy and intelligence are obviously not synonymous. Illiterate people may be intelligent voters. Yet in our society where newspapers, periodicals, books, and other printed matter canvass and debate campaign issues, a State might conclude that only those who are literate should exercise the franchise. . . . It was said last century in Massachusetts that a literacy test was designed to insure an 'independent and intelligent' exercise of the right of suffrage. *Stone* v. *Smith,* 159 Mass. 413–414, 34 N. E. 521. North Carolina agrees. We do not sit in judgment on the wisdom of that policy. We cannot say, however, that it is not an allowable one measured by constitutional standards." 360 U.S., at 51–53.

I believe the same interests recounted in *Lassiter* indubitably point toward upholding the rationality of the New York voting test. It is true that the issue here is not so simply drawn between literacy *per se* and illiteracy. Appellant alleges that she is literate in Spanish, and that she studied American history and government in United States Spanish-

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speaking schools in Puerto Rico. She alleges further that she is "a regular reader of the New York City Spanish-language daily newspapers and other periodicals, which . . . provide proportionately more coverage of government and politics than do most English-language newspapers," and that she listens to Spanish-language radio broadcasts in New York which provide full treatment of governmental and political news. It is thus maintained that whatever may be the validity of literacy tests *per se* as a condition of voting, application of such a test to one literate in Spanish, in the context of the large and politically significant Spanish-speaking community in New York, serves no legitimate state interest, and is thus an arbitrary classification that violates the Equal Protection Clause.

Although to be sure there is a difference between a totally illiterate person and one who is literate in a foreign tongue, I do not believe that this added factor vitiates the constitutionality of the New York statute. Accepting appellant's allegations as true, it is nevertheless also true that the range of material available to a resident of New York literate only in Spanish is much more limited than what is available to an English-speaking resident, that the business of national, state, and local government is conducted in English, and that propositions, amendments, and offices for which candidates are running listed on the ballot are likewise in English. It is also true that most candidates, certainly those campaigning on a national or statewide level, make their speeches in English. New York may justifiably want its voters to be able to understand candidates directly, rather than through possibly imprecise translations or summaries reported in a limited number of Spanish news media. It is noteworthy that the Federal Government requires literacy in English as a prerequisite to naturalization, 66 Stat. 239, 8 U.S.C. § 1423 (1964 ed.), attesting to the national view of its importance as a prerequisite to full integration into the American political community. Relevant too is the fact that the New York English test is not complex,[26] that it is fairly administered,[27] and that New York maintains free adult education classes which appellant and members of her class are encouraged to attend.[28] Given the State's legitimate concern with promoting and safeguarding the intelligent use of the ballot, and given also New York's long experience with the process of integrating non-English-speaking residents into the mainstream of American life, I do not see how it can be said that this qualification for suffrage is unconstitutional. I would uphold the validity of the New York statute, unless the federal statute prevents that result, the question to which I now turn.

II.

The Morgan Cases (Nos. 847 and 877).

These cases involve the same New York suffrage restriction discussed above, but the challenge here comes not in the form of a suit to enjoin enforcement of the state statute, but in a test of the constitutionality of a federal enactment which declares that "to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant, classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language," Section 4(e) of the Voting Rights Act of 1965. Section 4(e) declares that anyone who has successfully completed six grades of schooling in an "American-flag" school, in which the primary language is not English, shall not be denied the right to vote because of an inability to satisfy an English literacy test.[29] Although the statute is framed in general terms, so far as has been shown it applies in actual effect only to citizens of Puerto Rican background, and the Court so treats it.

The pivotal question in this instance is what effect the added factor of a congressional enactment has on the straight equal protection argument dealt with above. The Court declares that since § 5 of the Fourteenth Amendment[30] gives to the Congress power to "enforce" the prohibitions of the Amendment by "appropriate" legislation, the test for judicial review of any congressional determination in this area is simply one of rationality; that is, in effect, was Congress acting rationally in declaring that the New York statute is irrational? Although § 5 most certainly does give to the Congress wide powers in the field of devising remedial legislation to effectuate the Amendment's prohibition on arbitrary state action, Ex parte Virginia, 100 U.S. 339, I believe the Court has confused the issue of how much enforcement power Congress possesses under § 5 with the distinct issue of what questions are appropriate for congressional determination and what questions are essentially judicial in nature.

When recognized state violations of federal constitutional standards have occurred, Congress is of course empowered by § 5 to take appropriate remedial measures to redress and prevent the wrongs. See *Strauder* v. *West Virginia*, 100 U.S. 303, 310. But it is a judicial question whether the condition with which Congress has thus sought to deal is in truth an infringement of the Constitution, something that is the necessary prerequisite to bringing the § 5 power into play at all. Thus, in *Ex parte Virginia, supra*, involving a federal statute making it a federal crime to disqualify anyone from jury service because of race, the Court first held as a matter of constitutional law that "the Fourteenth Amendment secures, among other civil rights, to colored men, when charged with criminal offences against a State, an impartial jury trial, by jurors indifferently selected or chosen without discrimination against such jurors because of their color." 100 U.S., at 345. Only then did the Court hold that to enforce this prohibition upon state discrimination, Congress could enact a criminal statute of the type under consideration. See also *Clyatt* v. *United States*, 197 U.S. 207, sustaining the constitutionality of the antipeonage laws, 14 Stat. 546, now 42 U.S.C. § 1994 (1964 ed.), under the Enforcement Clause of the Thirteenth Amendment.

A more recent Fifteenth Amendment case also serves to illustrate this distinction. In *South Carolina* v. *Katzenbach*, 383 U.S. 301, decided earlier this Term, we held certain remedial sections of this Voting Rights Act of 1965 constitutional under the Fifteenth Amendment, which is directed against deprivations of the right to vote on account of race. In enacting those sections of the Votings Rights Act the Congress made a detailed investigation of various state practices that had been used to deprive Negroes of the franchise. See 383 U.S., at 308–315. In passing upon the remedial provisions, we reviewed first the "voluminous legislative history" as well as judicial precedents supporting the basic congressional finding that the clear commands of the Fifteenth Amendment had been infringed by various state subterfuges. See 383 U.S., at 309, 329–330, 333–334. Given the existence of the evil, we held the remedial steps taken by the legislature under the Enforcement Clause of the Fifteenth Amendment to be a justifiable exercise of congressional initiative.

Section 4(e), however, presents a significantly different type of congressional enactment. The question here is not whether the statute is appropriate remedial legislation to cure an established violation of a constitutional command, but whether there has in fact been an infringement of that constitutional command, that is, whether a particular state practice or, as here, a statute is so arbitrary or irrational as to offend the command of the Equal Protection Clause of the Fourteenth Amendment. That question is one for the judicial branch ultimately to determine. Were the rule otherwise, Congress would be able to qualify this Court's constitutional decisions under the Fourteenth and Fifteenth Amendments, let alone those under other provisions of the Constitution, by resorting to congressional power under the Necessary and Proper Clause. In view of this Court's holding in *Lassiter, supra*, that an English literacy test is a permissible exercise of state supervision over its franchise, I do not think it is open to Congress to limit the effect of that decision as it has undertaken to do by § 4(e). In effect the Court reads § 5 of the Fourteenth Amendment as giving Congress the power to define the *substantive* scope of the Amendment. If that indeed be the true reach of § 5, then I do not see why Congress should not be able as well to exercise its § 5 "discretion" by enacting statutes so as in effect to dilute equal protection and due process decisions of this Court. In all such cases there is room for reasonable men to differ as to whether or not a denial of equal protection or due process has occurred, and the final decision is one of judgment. Until today this judgment has always been one for the judiciary to resolve.

I do not mean to suggest in what has been said that a legislative judgment of the type incorporated in § 4(e) is without any force whatsoever. Decisions on questions of equal protection and due process are based not on abstract logic, but on empirical foundations. To the extent "legislative facts" are relevant to a judicial determination, Congress is well equipped to investigate them and such determinations are of course entitled to due respect.[31] In *South Carolina* v. *Katzenbach, supra*, such legislative findings were made to show that racial discrimination in voting was actually occurring. Similarly, in *Heart of Atlanta Motel, Inc.* v. *United States*, 379 U.S. 241, and *Katzenbach* v. *McClung*, 379 U.S. 294, this Court upheld Title II of the Civil Rights Act of 1964 under the Commerce Clause. There again the congressional determination that racial discrimination in a clearly defined group of public accommodations did effectively impede interstate commerce was based on "voluminous testimony," 379 U.S., at 253, which had been put before the Congress and in the context of which it passed remedial legislation.

But no such factual data provide a legislative record supporting § 4(e)[32] by way of showing that Spanish-speaking citizens are fully as capable of making informed decisions in a New York election as are English-speaking citizens. Nor was there any showing whatever to support the Court's alternative argument that § 4(e) should be viewed as but a remedial measure designed to cure or assure against unconstitutional discrimination of other varieties, *e.g.*, in "public schools, public housing and law enforcement," *ante*, p. 652, to which Puerto Rican minorities might be subject in such communities as New York. There is simply no legislative record supporting such hypothesized discrimination of the sort we have hitherto insisted upon when congressional power is brought to bear on constitutionally reserved state concerns. See *Heart of Atlanta Motel, supra; South Carolina* v. *Katzenbach, supra*.

Thus, we have here not a matter of giving deference to a congressional estimate, based on its determination of legislative facts, bearing upon the validity *vel non* of a statute, but rather what can at most be called a legislative announcement that Congress believes a state law to entail an unconstitutional deprivation of equal protection. Although this kind of declaration is of course entitled to the most respectful considera-

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Footnotes at end of article.

tion, coming as it does from a concurrent branch and one that is knowledgeable in matters of popular political participation, I do not believe it lessens our responsibility to decide the fundamental issue of whether in fact the state enactment violates federal constitutional rights.

In assessing the deference we should give to this kind of congressional expression of policy, it is relevant that the judiciary has always given to congressional enactments a presumption of validity. *The Propeller Genesee Chief* v. *Fitzhugh*, 12 How. 443, 457–458. However, it is also a canon of judicial review that state statutes are given a similar presumption, *Butler* v. *Commonwealth*, 10 How. 402, 415. Whichever way this case is decided, one statute will be rendered inoperative in whole or in part, and although it has been suggested that this Court should give somewhat more deference to Congress than to a state legislature,[33] such a simple weighing of presumptions is hardly a satisfying way of resolving a matter that touches the distribution of state and federal power in an area so sensitive as that of the regulation of the franchise. Rather it should be recognized that while the Fourteenth Amendment is a "brooding omnipresence" over all state legislation, the substantive matters which it touches are all within the primary legislative competence of the States. Federal authority, legislative no less than judicial, does not intrude unless there has been a denial by state action of Fourteenth Amendment limitations, in this instance a denial of equal protection. At least in the area of primary state concern a state statute that passes constitutional muster under the judicial standard of rationality should not be permitted to be set at naught by a mere contrary congressional pronouncement unsupported by a legislative record justifying that conclusion.

To deny the effectiveness of this congressional enactment is not of course to disparage Congress' exertion of authority in the field of civil rights; it is simply to recognize that the Legislative Branch like the other branches of federal authority is subject to the governmental boundaries set by the Constitution. To hold, on this record, that § 4 (e) overrides the New York literacy requirement seems to me tantamount to allowing the Fourteenth Amendment to swallow the State's constitutionally ordained primary authority in this field. For if Congress by what, as here, amounts to mere *ipse dixit* can set that otherwise permissible requirement partially at naught I see no reason why it could not also substitute its judgment for that of the States in other fields of their exclusive primary competence as well.

I would affirm the judgments in each of these cases.[34]

FOOTNOTES

[1] The full text of § 4(e) is as follows:

"(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

"(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English." 79 Stat. 439, 42 U.S.C. § 1973b(e) (1964 ed., Supp. I).

[2] Article II, § 1, of the New York Constitution provides, in pertinent part:

"Notwithstanding the foregoing provisions, after January first, one thousand nine hundred twenty-two, no person shall become entitled to vote by attaining majority, by naturalization or otherwise, unless such person is also able, except for physical disability, to read and write English."

Section 150 of the New York Election Law provides, in pertinent part:

". . . In the case of a person who became entitled to vote in this state by attaining majority, by naturalization or otherwise after January first, nineteen hundred twenty-two, such person must, in addition to the foregoing provisions, be able, except for physical disability, to read and write English. A 'new voter,' within the meaning of this article, is a person who, if he is entitled to vote in this state, shall have become so entitled on or after January first, nineteen hundred twenty-two, and who has not already voted at a general election in the state of New York after making proof of ability to read and write English, in the manner provided in section one hundred sixty-eight."

Section 168 of the New York Election Law provides, in pertinent part:

"1. The board of regents of the state of New York shall make provisions for the giving of literacy tests.

"2. . . . But a new voter may present as evidence of literacy a certificate or diploma showing that he has completed the work up to and including the sixth grade of an approved elementary school or of an approved higher school in which English is the language of instruction or a certificate or diploma showing that he has completed the work up to and including the sixth grade in a public school or a private school accredited by the Commonwealth of Puerto Rico in which school instruction is carried on predominantly in the English language or a matriculation card issued by a college or university to a student then at such institution or a certificate or a letter signed by an official of the university or college certifying to such attendance."

Section 168 of the Election Law as it now reads was enacted while § 4(e) was under consideration in Congress. See 111 Cong. Rec. 18664 (Aug. 4, 1965). The prior law required the successful completion of the eighth rather than the sixth grade in a school in which the language of instruction was English.

[3] This litigation on appellees' challenge to § 4(e), and thus on the scope of our inquiry, does not distort the primary intent of § 4(e). The measure was sponsored in the Senate by Senators Javits and Kennedy and in the House by Representatives Gilbert and Ryan, all of New York, for the explicit purpose of dealing with the disenfranchisement of large segments of the Puerto Rican population in New York. Throughout the congressional debate it was repeatedly acknowledged that § 4(e) had particular reference to the Puerto Rican population in New York. That situation was the almost exclusive subject of discussion. See 111 Cong. Rec. 10643–10644 (May 19, 1965), 10675–10689 (May 20, 1965), 15101–15102 (July 6, 1965), 15665–15676, 15712–15713 (July 9, 1965), 18490–18499 (Aug. 3, 1965), 18663–18665 (Aug. 4, 1965); see also Voting Rights, Hearings before Subcommittee No. 5 of the House Committee on the Judiciary on H.R. 6400, 89th Cong., 1st Sess., 100–101, 420–421, 508–517 (1965). The Solicitor General informs us in his brief to this Court, that in all probability the practical effect of § 4(e) will be limited to enfranchising those educated in Puerto Rican schools. He advises us that, aside from the schools in the Commonwealth of Puerto Rico, there are no public or parochial schools in the territorial limits of the United States in which the predominant language of instruction is other than English and which would have generally been attended by persons who are otherwise qualified to vote save for their lack of literacy in English.

[4] Section 14(b) provides, in pertinent part:

"No court other than the District Court for the District of Columbia . . . shall have jurisdiction to issue . . . any restraining order or temporary or permanent injunction against the . . . enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto." 79 Stat. 445. 42 U. S. C. § 1973*l*(b) (1964 ed., Supp. I).

The Attorney General of the United States was initially named as the sole defendant. The New York City Board of Elections was joined as a defendant after it publicly announced its intention to comply with § 4(e); it has taken the position in these proceedings that § 4(e) is a proper exercise of congressional power. The Attorney General of the State of New York has participated as *amicus curiae* in the proceedings below and in this Court, urging § 4(e) be declared unconstitutional. The United States was granted leave to intervene as a defendant, 28 U.S.C. § 2403 (1964 ed.); Fed. Rule Civ. Proc. 24(a).

[5] "SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

It is therefore unnecessary for us to consider whether § 4(e) could be sustained as an exercise of power under the Territorial Clause, Art. IV, § 3; see dissenting opinion of Judge McGowan below, 247 F. Supp., at 204; or as a measure to discharge certain treaty obligations of the United States, see Treaty of Paris of 1898, 30 Stat. 1754, 1759; United Nations Charter, Articles 55 and 56; Art. I, § 8, cl. 18. Nor need we consider whether § 4(e) could be sustained insofar as it relates to the election of federal officers as an exercise of congressional power under Art. I, § 4, see *Minor* v. *Happersett*. 21 Wall. 162, 171; *United States* v. *Classic*, 313 U.S. 299, 315; Literacy Tests and Voter Requirements in Federal and State Elections, Hearings before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary on S. 480, S. 2750, and S. 2979, 87th Cong., 2d Sess., 302, 306–311 (1962) (brief of the Attorney General); nor whether § 4(e) could be sustained, insofar as it relates to the election of state officers, as an exercise of congressional power to enforce the clause guaranteeing to each State a republican form of government, Art. IV, § 4; Art. I, § 8, cl. 18.

[6] *Harper* v. *Virginia Board of Elections*, 383 U.S. 663; *Carrington* v. *Rash*, 380 U.S. 89. See also *United States* v. *Mississippi*, 380 U.S. 128; *Louisiana* v. *United States*, 380 U.S. 145, 151; *Lassiter* v. *Northampton Election Bd.*, 360 U.S. 45; *Pope* v. *Williams*, 183 U.S. 621, 632–634; *Minor* v. *Happersett*, 21 Wall. 162; cf. *Burns* v. *Richardson*, *ante*, pp. 73, 92; *Reynolds* v. *Sims*, 377 U.S. 533.

[7] For the historical evidence suggesting that the sponsors and supporters of the Amendment were primarily interested in augmenting the power of Congress, rather than the judiciary, see generally Frantz, Congressional Power to Enforce the Fourteenth Amendment Against Private Acts, 73 Yale L. J. 1353, 1356–1357; Harris, The Quest for Equality, 33–56 (1960); tenBroek, The Antislavery Origins of the Fourteenth Amendment 187–217 (1951).

[8] Senator Howard, in introducing the proposed Amendment to the Senate, described § 5 as "a direct affirmative delegation of power to Congress," and added:

"It casts upon Congress the responsibility of seeing to it, for the future, that all the sections of the amendment are carried out in good faith, and that no State infringes the rights of persons or property. I look upon this clause as indispensable for the reason that it thus imposes upon Congress this power and this duty. It enables Congress, in case the States shall enact laws in conflict with the principles of the amendment, to correct that legislation by a formal congressional enactment." Cong. Globe, 39th Cong., 1st Sess., 2766, 2768 (1866).

This statement of § 5's purpose was not questioned by anyone in the course of the debate. Flack, The Adoption of the Fourteenth Amendment 138 (1908).

[9] In fact, earlier drafts of the proposed Amendment employed the "necessary and proper" terminology to describe the scope of congressional power under the Amendment. See tenBroek, The Antislavery Origins of the Fourteenth Amendment 187–190 (1951). The substitution of the "appropriate legislation" formula was never thought to have the effect of diminishing the scope of this congressional power. See. *e.g.*, Cong. Globe, 42d Cong., 1st Sess., App. 83 (Representative Bingham, a principal draftsman of the Amendment and the earlier proposals)

[10] Contrary to the suggestion of the dissent, *post*, p. 668, § 5 does not grant Congress power to exercise discretion in the other direction and to enact "statutes so as in effect to dilute equal protection and due process decisions of this Court." We emphasize that Congress' power under § 5 is limited to adopting measures to enforce the guarantees of the Amendment; § 5 grants Congress no power to restrict, abrogate, or dilute these guarantees. Thus, for example, an enactment authorizing the States to establish racially segregated systems of education would not be—as required by § 5—a measure "to enforce" the Equal Protection Clause since that clause of its own force prohibits such state laws.

[11] Cf. *James Everard's Breweries* v. *Day*, *supra*, which held that, under the Enforcement Clause of the Eighteenth Amendment, Congress could prohibit the prescription of intoxicating malt liquor for medicinal purposes even though the Amendment itself only prohibited the manufacture and sale of intoxicating liquors for beverage purposes. Cf. also the settled principle applied in the *Shreveport Case* (*Houston, E. & W. T. R. Co.* v. *United States*, 234 U. S. 342), and expressed in *United States* v. *Darby*, 312 U. S. 100, 118, that the power of Congress to regulate interstate commerce "extends to those activities intrastate which so affect interstate commerce or the exercise of the power of Congress over it as to make regulation of them appropriate means to the attainment of a legitimate end . . ." Accord, *Atlanta Motel* v. *United States*, 379 U. S. 241, 258.

[12] See, *e.g.*, 111 Cong. Rec. 10676, 10680 (May 20, 1965), 15671 (July 9, 1965); Literacy Tests and Voter Requirements in Federal and State Elections, Senate Hearings, n. 5, *supra*, 507–508.

[13] The principal exemption complained of is that for persons who had been eligible to vote before January 1, 1922. See n. 2, *supra*.

[14] This evidence consists in part of statements made in the Constitutional Convention first considering the English literacy requirement, such as the following made by the sponsor of the measure: "More precious even than the forms of government are the mental qualities of our race. While those stand unimpaired, all is safe. They are exposed to a single danger, and that is that by constantly changing our voting citizenship through the wholesale, but valuable and necessary infusion of Southern and Eastern European races. . . . The danger has begun. . . . We should check it." III New York State Constitutional Convention 3012 (Rev. Record 1916).

See *also id.*, at 3015–3017, 3021–3055. This evidence was reinforced by an understanding of the cultural milieu at the time of proposal and enactment, spanning a period from 1915 to 1921—not one of the enlightened eras of our history. See generally Cafee, Free Speech in the United States 102, 237, 269–282 (1954 ed.). Congress was aware of this evidence, See, *e.g.*, Literacy Tests and Voter Requirements in Federal and State Elections, Senate Hearings, n. 5, *supra*, 507–513; Voting Rights, House Hearings, n. 3, *supra*, 508–513.

[15] Other States have found ways of assuring an intelligent exercise of the franchise short of total disenfranchisement of persons not literate in English. For example, in Hawaii, where literacy in either English or Hawaiian suffices, candidates' names may be printed in both languages, Hawaii Rev. Laws § 11–38 (1963 Supp.); New York itself already provides assistance for those exempt from the literacy requirement and are literate in no language, N. Y. Election Law § 169; and, of course, the problem of assuring the intelligent exercise of the franchise has been met by those States, more than 30 in number, that have no literacy requirement at all, see *e.g.*, Fla. Stat. Ann. §§ 97.061, 101.061 (1960) (form of personal assistance); New Mexico Stat. Ann. §§ 3-2-11, 3-3-13 (personal assistance for those literate in no language), §§ 3-3-7, 3-3-12, 3-2-41 (1953) (ballots and instructions authorzed to be printed in English or Spanish). Section 4 (e) does not preclude resort to these alternative methods of assuring the intelligent exercise of the franchise. True, the statute precludes, for a certain class, disenfranchisement and thus limits the States' choice of means of satisfying a purported state interest. But our cases have held that the States can be required to tailor carefully the means of satisfying a legitimate state interest when fundamental liberties and rights are threatened, see *e.g.*, *Carrington* v. *Rash*, 380 U.S. 89, 96; *Harper* v. *Virginia Board of Elections*, 383 U. S. 663, 670; *Thomas* v. *Collins*, 323 U. S. 516, 529–530; *Thornhill* v. *Alabama*, 310 U. S. 88, 95–96; *United States* v. *Carolene Products Co.*, 304 U.S. 144, 152–153, n. 4; *Meyer* v. *Nebraska*, 262 U.S. 390; and Congress is free to apply the same principle in the exercise of it powers.

[16] See, *e.g.*, 111 Cong. Rec. 10675 (May 20, 1965), 15102 (July 6, 1965), 15666 (July 9, 1965). The record in this case includes affidavits describing the nature of New York's two major Spanish-language newspapers, one daily and one weekly, and its three full-time Spanish-language radio stations and affidavits from those who have campaigned in Spanish-speaking areas.

[17] See, *e.g.*, 111 Cong. Rec. 10676 (Senator Long of Louisiana and Senator Young), 10678 (Senator Holland) (May 20, 1965), drawing on their experience with voters literate in a language other than English. See also an affidavit from Representative Willis of Louisiana expressing the view that on the basis of his thirty years' personal experience in politics he has "formed a definite opinion that French-speaking voters who are illiterate in English generally have as clear a grasp of the issues and an understanding of the candidates, as do people who read and write the English language."

[18] See, *e.g.*, 111 Cong. Rec. 10675 (May 20, 1965).

[19] See Magruder, The Commonwealth Status of Puerto Rico, 15 U. Pitt. L. Rev. 1 (1953).

[20] See *e.g.*, 111 Cong. Rec. 10675, 10680, 10688 (May 20, 1965), 15666 (July 9, 1965). See Osuna, A History of Education in Puerto Rico (1949).

[21] See, *e.g.*, 111 Cong. Rec. 15666 (July 9, 1965); Voting Rights, House Hearings, n. 3, *supra*, 362. See also Jones Act of 1917, 39 Stat. 953, conferring United States citizenship on all citizens of Puerto Rico.

[22] [This opinion applies also to *Cardona* v. *Power*, *post*, p. 672.]

[23] The pertinent portions of the New York Constitution, Art. II, § 1, and statutory provisions are reproduced in the Court's opinion, *ante*, pp. 644–645, n. 2.

[24] The Fifteenth Amendment forbids denial or abridgment of the franchise "on account of race, color, or previous condition of servitude"; the Seventeenth deals with popular election of members of the Senate; the Nineteenth provides for equal suffrage for women; the Twenty-fourth outlaws the poll tax as a qualification for participation in federal elections.

[25] The test is described in McGovney; The American Suffrage Medley 63 (1949) as follows: "The examination is based upon prose compositions of about ten lines each, prepared by the personnel of the State Department of Education, designed to be of the level of reading in the sixth grade . . . . These are uniform for any single examination throughout the state. The examination is given by school authorities and graded by school superintendents or teachers under careful instructions from the central authority, to secure uniformity of grading as nearly as is possible " The 1943 test, submitted by the Attorney General of New York as representative, is reproduced below:

NEW YORK STATE REGENTS LITERACY TEST

(To be filled in by the candidate in ink)

Write your name here (First name) (Middle initial) (Last name)

Write your address here.

Write the date here (Month) (Day) (Year)

Read this and then write the answers to the questions.

Read it as many times as you need to.

The legislative branch of the National Government is called the Congress of the United States. Congress makes the laws of the Nation. Congress is composed of two houses. The upper house is called the Senate and its members are called Senators. There are 96 Senators in the upper house, two from each State. Each United States Senator is elected for a term of six years. The lower house of Congress is known as the House of Representatives. The number of Representatives from each state is determined by the population of that state. At present there are 435 members of the House of Representatives. Each Representative is elected for a term of two years. Congress meets in the Capitol at Washington.

The answers to the following questions are to be taken from the above paragraph.

1 How many houses are there in Congress?

2 What does Congress do?

3 What is the lower house of Congress called?

4 How many members are there in the lower house?

5 How long is the term of office of a United States Senator?

6 How many Senators are there from each state?

7 For how long a period are members of the House of Representatives elected?

8 In what city does Congress meet?

[27] There is no allegation of discriminatory enforcement, and the method of examination, see n. 3, *supra*, makes unequal application virtually impossible. McGovney has noted, *op. cit. supra*, at 62, that "New York is the only state in the Union that both has a reasonable reading requirement and administers it in a manner that secures uniformity of application throughout the state and precludes discrimination, so far as is humanly possible." See *Camacho* v. *Rogers*, 199 F. Supp. 155, 159–160.

[28] See McKinney's Consolidated Laws of New York Ann., Education Law § 4605. See generally Handbook of Adult Education in the United States 455–465 (Knowles ed. 1960).

[29] The statute makes an exception to its sixth-grade rule so that where state law "provides that a different level of education is presumptive of literacy," the applicant must show that he has completed "an equivalent level of education" in the foreign-language United States school.

[30] Section 5 of the Fourteenth Amendment states that "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

[31] See generally Karst, Legislative Facts in Constitutional Litigation, 1960 The Supreme Court Review 75 (Kurland ed.); Alfange, The Relevance of Legislative Facts in Constitutional Law, 114 U. Pa. L. Rev. 637 (1966).

[32] There were no committee hearings or reports referring to this section, which was introduced from the floor during debate on the full Voting Rights Act. See 111 Cong. Rec. 10643 (daily ed., May 19, 1965); *id.*, at 15101 (July 6, 1965); *id.*, at 15665 (July 9, 1965).

[33] See Thayer, The Origin and Scope of the American Doctrine of Constitutional Law, 7 Harv. L. Rev. 129, 154–155 (1893).

[34] A number of other arguments have been suggested to sustain the constitutionality of § 4(e). These are referred to in the Court's opinion, *ante*, pp. 646–647, n. 5. Since all of such arguments are rendered superfluous by the Court's decision and none of them is considered by the majority, I deem it unnecessary to deal with them save to say that in my opinion none of those contentions provides an adequate constitutional basis for sustaining the statute.

Supreme Court of the United States—Nos. 43, 44, 46, 47 Origl.—October Term, 1970

On Bills of Complaint.

State of Oregon, Plaintiff, 43 v. John N. Mitchell, Attorney General of the United States.

State of Texas, Plaintiff, 44 v. John N. Mitchell, Attorney General of the United States.

United States, Plaintiff, 46 v. State of Arizona.

United States, Plaintiff, 47 v. State of Idaho.

December 21, 1970.

Mr. Justice Black, announcing the judgments of the Court in an opinion expressing his own view of the cases.

In these suits the States resist compliance with the Voting Rights Act Amendments of 1970, Pub. L. 91-285, 84 Stat. 314, because they believe that the Act takes away from them powers reserved to the States by the Constitution to control their own elections.[1] By its terms the Act does three things. First: It lowers the minimum age of voters in both state and federal elections from 21 to 18. Second: Based upon a finding by Congress that literacy tests have been used to discriminate against voters on account of their color, the Act enforces the Fourteenth and Fifteenth Amendments by barring the use of such tests in all elections, state and national. Third: The Act forbids States presidential and vice presidential electors because they have not met state residency requirements.

For the reasons set out in Part I of this opinion, I believe Congress can fix the age of voters in national elections, such as congressional, senatorial, Vice-Presidential and Presidential elections, but cannot set the voting age in state and local elections. For reasons expressed in separate opinions, my Brothers Douglas, Brennan, White, and Marshall join me in concluding that Congress can enfranchise 18-year-old citizens in national elections, but dissent from the judgment that Congress cannot extend the franchise to 18-year-old citizens in state and local elections. For reasons expressed in separate opinions, my Brothers The Chief Justice, Harlan, Stewart, and Blackmun join me in concluding that Congress cannot interfere with the age for voters set by the States for state and local elections. They, however, dissent from the judgment that Congress can control voter qualifications in federal elections. In summary, it is the judgment of the Court that the 18-year-old vote provisions of the Voting Rights Act Amendments of 1970 are constitutional and enforceable insofar as they pertain to federal elections and unconstitutional and unenforceable insofar as they pertain to state and local elections.

For the reasons set out in Part II of this opinion, I believe that Congress, in the exercise of its power to enforce the Fourteenth and Fifteenth Amendments, can prohibit the use of literacy tests or other devices used to discriminate against voters on account of their race in both state and federal elections. For reasons expressed in separate opinions, all of my Brethren join me in this judgment. Therefore the literacy test provisions of the Act are upheld.

For the reasons set out in Part III of this opinion, I believe Congress can set residency requirements and provide for absentee balloting in elections for presidential and vice presidential electors. For reasons expressed in separate opinions, my Brothers The Chief Justice, Douglas, Brennan, Stewart, White, Marshall, and Blackmun concur in this judgment. My Brother Harlan, for the reasons stated in his separate opinion, considers that the residency provisions of the statute are unconstitutional. Therefore the residency and absentee balloting provisions of the Act are upheld.

I

The Framers of our Constitution provided in Art. I, § 2, that members of the House of Representatives should be elected by the people and that the voters for Representatives should have "the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." Senators were originally to be elected by the state legislatures, but under the Seventeenth Amendment Senators are also elected by the people, and voters for Senators have the same qualifications as voters for Representatives. In the very beginning the responsibility of the States for setting the qualifications of voters in congressional elections was made subject to the power of Congress to make or alter such regulations if it deemed advisable.[2] This was done in Art. I, § 4, of the Constitution which provides:

"The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each state by the legislature thereof; *but the Congress may at any time by Law make or alter such Regulations*, except as to the Place of Chusing Senators." (Emphasis supplied.)

Moreover, the power of Congress to make election regulations in national elections is augmented by the Necessary and Proper Clause. See *McCulloch* v. *Maryland*, 4 Wheat. 316 (1819). In *United States* v. *Classic*, 313 U.S. 299 (1941), where the Court upheld congressional power to regulate party primaries, Mr. Justice Stone speaking for the Court construed the interrelation of these clauses of the Constitution, stating:

"While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of as a right derived from the states, . . . this statement is true only in the sense that the states are authorized by the Constitution, to legislate on the subject as provided by § 2 of Art. I, to the extent that Congress has not restricted state action by the exercise of its powers to regulate elections under § 4 and its more general power under Article I, § 8, clause 18 of the Constitution 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.' " 313 U.S., at 315.

See also *Ex parte Siebold*, 100 U.S. 371 (1879); *Ex parte Yarbrough*, 110 U.S. 651 (1884); *Swafford* v. *Templeton*, 185 U.S. 487 (1902); *Wiley* v. *Sinkler*, 179 U.S. 58 (1900).

The breadth of power granted to Congress to make or alter election regulations in national elections, including the qualifications of voters, is demonstrated by the fact that the Framers of the Constitution and the state legislatures which ratified it intended to grant to Congress the power to lay out or alter the boundaries of the congressional districts. In the ratifying conventions speakers "argued that the power given Congress in Art. 1, § 4, was meant to be used to vindicate the people's right to equality of representation in the House," *Wesberry* v. *Sanders*, 376 U.S. 1, 16 (1964), and that Congress would "most probably . . . lay the state off into districts." And in *Colgrove* v. *Green*, 328 U.S. 549 (1946), no Justice of this Court doubted Congress' power to rearrange the congressional districts according to population; the fight in that case revolved about the judicial power to compel redistricting.

Surely no voter *qualification* was more important to the Framers than the *geographical qualification* embodied in the concept of congressional districts. The Framers expected Congress to use this power to eradicate "rotten boroughs,"[3] and Congress has in fact used its power to prevent States from electing all Congressmen at large.[4] There can be no doubt that the power to alter congressional district lines is vastly more significant in its effect than the power to permit 18-year-old citizens to go to the polls and vote in all federal elections.

Any doubt about the powers of Congress to regulate congressional elections, including the age and other qualifications of the voters should be dispelled by the opinion of this Court in *Smiley* v. *Holm*, 285 U.S. 355 (1932). There, Chief Justice Hughes writing for a unanimous Court discussed the scope of congressional power under § 4 at some length. He said:

"The subject matter is the 'times, places and manner' of holding elections for Senators and Representatives." It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved. . . .

"This view is confirmed by the second clause of Article I, section 4, which provides that 'the Congress may at any time by law make or alter such regulations,' with the single exception stated. The phrase 'such regulations' plainly refers to regulations of the same general character that the legislature of the State is authorized to prescribe with respect to congressional elections. In exercising this power, the Congress may supplement these state regulations or may substitute its own. . . . It 'has a general supervisory power over the whole subject.' " *Id.*, at 366–367.

In short, the Constitution allotted to the States the power to make laws regarding national elections, but provided that if Congress became dissatisfied with the state laws, Congress could alter them.[5] A newly created national government could hardly have been expected to survive without the ultimate power to rule itself and to fill its offices under its own laws. The Voting Rights Act Amendments of 1970 now before this Court evidence dissatisfaction of Congress with the voting age set by many of the States for national elections. I would hold, as have a long line of decisions in this Court, that Congress has ultimate supervisory power over congressional elections.[6] Similarly, it is the prerogative of Congress to oversee the conduct of presidential and vice presidential elections and to set the qualifications for voters for electors for those offices. It cannot be seriously contended that Congress has less power over the conduct of presidential elections than it has over congressional elections.[7]

On the other hand, the Constitution was also intended to preserve to the States the power that even the Colonies had to estab-

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Footnotes at end of article.

lish and maintain their own separate and independent governments, except insofar as the Constitution itself commands otherwise. My Brother **Harlan** has persuasively demonstrated that the Framers of the Constitution intended the States to keep for themselves, as provided in the Tenth Amendment,[8] the power to regulate elections. My major disagreement with my Brother **Harlan** is that, while I agree as to the States' power to regulate the elections of their own officials, I believe, contrary to his view, that Congress has the final authority over federal elections. No function is more essential to the separate and independent existence of the States and their governments than the power to determine within the limits of the Constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices. *Pope* v. *Williams*, 193 U.S. 621 (1904); *Minor* v. *Happersett*, 21 Wall. 162 (1874). Moreover, Art. I, § 2,[9] is a clear indication that the Framers intended the States to determine the qualifications of their own voters for state offices, because those qualifications were adopted for federal offices unless Congress directs otherwise under Art. I, § 4. It is a plain fact of history that the Framers never imagined that the national Congress would set the qualifications for voters in every election from President to local constable or village alderman. It is obvious that the whole Constitution reserves to the States the power to set voter qualifications in state and local elections, except to the limited extent that the people through constitutional amendments have specifically narrowed the powers of the States. Amendments Fourteen, Fifteen, Nineteen, and Twenty-Four, each of which has assumed that the States had general supervisory power over state elections, are examples of express limitations on the power of the States to govern themselves. And the Equal Protection Clause of the Fourteenth Amendment was never intended to destroy the States' power to govern themselves, making the Nineteenth and Twenty Fourth Amendments superfluous. My Brother **Brennan's** opinion, if carried to its logical conclusion, would, under the guise of insuring equal protection, blot out all state power, leaving the 50 States little more than impotent figureheads. In interpreting what the Fourteenth Amendment means, the Equal Protection Clause should not be stretched to nullify the States' powers over elections which they had before the Constitution was adopted and which they have retained throughout our history.

Of course, the original design of the Founding Fathers was altered by the Civil War Amendments and various other amendments to the Constitution. The Thirteenth, Fourteenth, Fifteenth, and Nineteenth Amendments have expressly authorized Congress to "enforce" the limited prohibitions of those amendments by "appropriate legislation." The Solicitor General contends in these cases that Congress can set the age qualifications for voters in state elections under its power to enforce the Equal Protection Clause of the Fourteenth Amendment.

Above all else, the Framers of the Civil War Amendments intended to deny to the States the power to discriminate against persons on account of their race. *Loving* v. *Virginia*, 388 U.S. 1 (1967); *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960); *Brown* v. *Board of Education*, 347 U.S. 483 (1954); *Slaughter House Cases*, 16 Wall. 36, 71–72 (1872). While this Court has recognized in some instances that the Equal Protection Clause of the Fourteenth Amendment protects against discriminations other than those on account of race,[10] See *Reynolds* v. *Sims*, 377 U.S. 533 (1964); *Hadley* v. *Junior College District*, 397 U.S. 50 (1970); see also *Kotch* v. *Board of River Port Pilots*, 330 U.S. 552 (1947), and cases cited therein, it cannot be successfully argued that the Fourteenth Amendment was intended to strip the States of their power, carefully preserved in the original Constitution, to govern themselves. The Fourteenth Amendment was surely not intended to make every discrimination between groups of people a constitutional denial of equal protection. Nor was the Enforcement Clause of the Fourteenth Amendment intended to permit Congress to prohibit every discrimination between groups of people. On the other hand, the Civil War Amendments were unquestionably designed to condemn and forbid every distinction, however trifling, on account of race.

To fulfill their goal of ending racial discrimination and to prevent direct or indirect state legislative encroachment on the rights guaranteed by the amendments, the Framers gave Congress power to enforce each of the Civil War Amendments. These enforcement powers are broad. In *Jones* v. *Alfred H. Mayer Co.*, 392 U.S. 409, 439 (1968), the Court held that § 2 of the Thirteenth Amendment "clothed 'Congress with the power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States.'" In construing § 5 of the Fourteenth Amendment, the Court has stated:

"It is not said the *judicial power* of the general government shall extend to enforcing the prohibitions and to protecting the rights and immunities guaranteed. It is not said that branch of government shall be authorized to declare void any action of a State in violation of the prohibitions. *It is the power of Congress which has been enlarged.*" *Ex parte Virginia*, 100 U. S. 339, 345 (1879). (Emphasis added.)

And in *South Carolina* v. *Katzenbach*, 383 U. S. 301 (1966) (Mr. Justice Black dissenting on other grounds), the Court upheld the literacy test ban of the Voting Rights Act of 1965 under Congress' Fifteenth Amendment enforcement power.

As broad as the congressional enforcement power is, it is not unlimited. Specifically, there are at least three limitations upon Congress' power to enforce the guarantees of the Civil War Amendments. First, Congress may not by legislation repeal other provisions of the Constitution. Second, the power granted to Congress was not intended to strip the States of their power to govern themselves or to convert our national government of enumerated powers into a central government of unrestrained authority over every inch of the whole Nation. Third, Congress may only "enforce" the provisions of the amendments and may do so only by "appropriate legislation." Congress has no power under the enforcement sections to undercut the Amendments' guarantees of personal equality and freedom from discrimination see *Katzenbach* v. *Morgan*, 384 U. S. 641, 651 n. 10 (1966), or to undermine those protections of the Bill of Rights which we have held the Fourteenth Amendment made applicable to the States.[11]

Of course, we have upheld congressional legislation under the Enforcement Clauses in some cases where Congress has interfered with state regulation of the local electoral process. In *Katzenbach* v. *Morgan*, *supra*, the Court upheld a statute which outlawed New York's requirement of literacy in English as a prerequisite for voting as this requirement was applied to Puerto Ricans with certain educational qualifications. The New York statute overridden by Congress applied to all elections. And in *South Carolina* v. *Katzenbach*, *supra* (Mr. Justice Black dissenting on other grounds), the Court upheld the literacy test ban of the Voting Rights Act of 1965. That Act proscribed the use of the literacy test in all elections in certain areas. But division of power between state and national governments, like every provision of the Constitution, was expressly qualified by the Civil War Amendments' ban on racial discrimination. Where Congress attempts to remedy racial discrimination under its enforcement powers, its authority is enhanced by the avowed intention of the Framers of the Thirteenth, Fourteenth and Fifteenth Amendments. Cf. *Harper* v. *Virginia Board of Elections*, 383, U. S. 663, 670 (1966) (dissenting opinion of Mr. Justice Black).

In enacting the 18-year-old vote provisions of the Act now before the Court, Congress made no legislative findings that 21-year-old vote requirements were used by the States to disenfranchise voters on account of race. I seriously doubt that such a finding, if made, could be supported by substantial evidence. Since Congress has attempted to invade an area preserved to the States by the Constitution without a foundation for enforcing the Civil War Amendments' ban on racial discrimintaion, I would hold that Congress has exceeded its powers in attempting to lower the voting age in state and local elections. On the other hand, where Congress legislates in a domain not exclusively reserved by the Constitution to the States, its enforcement power need not be tied so closely to the goal of eliminating discrimination on account of race.

To invalidate part of the Voting Rights Act Amendments of 1970, however, does not mean that the entire Act must fall or that the constitutional part of the 18-year-old vote provision cannot be given effect. In passing the Voting Rights Act Amendments of 1970, Congress recognized that the limits of its power under the Enforcement Clauses were largely undetermined, and therefore included a broad severability provision:

"If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination."

In this case, it is the judgment of the Court that Title III, lowering the voting age to 18, is invalid as applied to voters in state and local elections. It is also the judgment of the Court that Title III is valid with respect to national elections. We would fail to follow the express will of Congress in interpreting its own statute if we refuse to sever these two distinct aspects of Title III. Moreover, it is a longstanding canon of statutory construction that legislative enactments are to be enforced to the extent that they are not inconsistent with the Constitution, particularly where the valid portion of the statute does not depend upon the invalid part. See, *e.g.*, *Watson* v. *Buck*, 313 U.S. 387 (1941); *Marsh* v. *Buck*, 313 U.S. 406 (1941). Here, of course, the enforcement of the 18-year-old vote in national elections is in no way dependent upon its enforcement in state and local elections.

II

In Title I of the Voting Rights Act Amendments of 1970 Congress extended the provisions of the Voting Rights Act of 1965 which ban the use of literacy tests in certain States upon the finding of certain conditions by the United States Attorney General. The Court upheld the provisions of the 1965 Act over my partial dissent in *South Carolina* v. *Katzenbach*, *supra*, and *Gaston County* v. *United States*, 395 U. S. 285 (1969). The constitutionality of Title I is not raised by any of the parties to these suits.[12]

In title II of the Amendments Congress prohibited the use of any test or device resembling a literacy test in any national, state, or local election in any area of the United States where such test is not already proscribed by the Voting Rights Act of 1965. The State of Arizona maintains that Title II cannot be enforced to the extent that it is inconsistent with Arizona's literacy test requirement. Ariz. Rev. Stat. Ann. §§ 16–101. A.4, 16–101.A.5 (1956). I would hold that the

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literacy test ban of the 1970 Amendments is constitutional under the Enforcement Clause of the Fifteenth Amendment and that it supersedes Arizona's conflicting statutes under the Supremacy Clause of the Federal Constitution.

In enacting the literacy test ban of Title II Congress had before it a long history of the discriminatory use of literacy tests to disfranchise voters on account of their race. Congress could have found that as late as the summer of 1968, the percentage registration of nonwhite voters in seven Southern States was substantially below the percentage of registration of white voters.[13] Moreover, Congress had before it striking evidence to show that the provisions of the 1965 Act had in the span of four years had a remarkable impact on minority group voter registration.[14] Congress also had evidence to show that voter registration in areas with large Spanish-American populations was consistently below the state and national averages. In Arizona, for example, only two counties out of eight with Spanish surname populations in excess of 15% showed a voter registration equal to the statewide average.[15] Arizona also has a serious problem of deficient voter registration among Indians. Congressional concern over the use of literacy test to disfranchise Puerto Ricans in New York State is already a matter of record in this Court. *Katzenbach* v. *Morgan, supra.* And as to the Nation as a whole, Congress had before it statistics which demonstrate that voter registration and voter participation are consistently greater in States without literacy tests.[16]

Congress also had before it this country's history of discriminatory educational opportunities in both North and the South. The children who were denied an equivalent education by the "separate but equal" rule of *Plessy* v. *Ferguson,* 163 U.S. 537 (1896), overruled in *Brown* v. *Board of Education,* 347 U.S. 483 (1954), are now old enough to vote. There is substantial, if not overwhelming, evidence from which Congress could have concluded that it is a denial of equal protection to conditions the political participation of children educated in a dual school system upon their educational achievement. Moreover, the history of this legislation suggests that concern with educational inequality was perhaps uppermost in the minds of the congressmen who sponsored the Act. The hearings are filled with references to educational inequality. Faced with this and other evidence that literacy tests reduce voter participation in a discriminatory manner not only in the South but throughout the Nation, Congress was supported by substantial evidence in concluding that a nationwide ban on literacy tests was appropriate to enforce the Civil War Amendments.

Finally, there is yet another reason for upholding the literacy test provisions of this Act. In imposing a nationwide ban on literacy tests, Congress has recognized a national problem for what it is—a serious national dilemma that touches every corner of our Land. In this legislation Congress has recognized that discrimination on account of color and racial origin is not confined to the South, but exists in various parts of the country. Congress has decided that the way to solve the problems of racial discrimination is to deal with nationwide discrimination with nationwide legislation. Compare *South Carolina* v. *Katzenbach, supra,* and *Gaston County* v. *United States, supra.*

III

In Title II of the Voting Rights Act Amendments Congress also provided that in presidential and vice presidential elections, no voter could be denied his right to cast a ballot because he had not lived in the jurisdiction long enough to meet its residency requirements. Furthermore, Congress provided uniform national rules for absentee voting in presidential and vice presidential elections. In enacting these regulations for national elections Congress was attempting to insure a fully effective voice to all citizens in national elections. What I said in Part I of this opinion applies with equal force here. Acting under its broad authority to create and maintain a national government, Congress unquestionably has power under the Constitution to regulate federal elections. The Framers of our Constitution were vitally concerned with setting up a national government that could survive. Essential to the survival and to the growth of our national government is its power to fill its elective offices and to insure that the officials who fill those offices are as responsive as possible to the will of the people whom they represent.

Our judgment today gives the Federal Government the powers the Framers conferred upon it, that is, the final control of the elections of its own officers. Our judgment also saves for the States the power to control state and local elections which the Constitution originally reserved to them and which no subsequent amendment has taken from them.[17] The generalities of the Equal Protection Clause of the Fourteenth Amendment were not designed or adopted to render the States impotent to set voter qualifications in elections for their own local officials and agents in the absence of some specific constitutional limitations.

FOOTNOTES

[1] In Nos. 43 and 44 Oregon and Texas respectively invoke the original jurisdiction of this Court to sue the United States Attorney General seeking an injunction against the enforcement of Title III (18-year-old vote) of the Act. In No. 46 the United States invokes our original jurisdiction seeking to enjoin Arizona from enforcing its laws to the extent that they conflict with the Act, and directing the officials of Arizona to comply with the provisions of Title II (nationwide literacy test ban) and Title III (18-year-old vote) of the Act. In No. 47 the United States invokes our original jurisdiction seeking to enjoin Idaho from enforcing its laws to the extent that they conflict with Title II (abolition of residency requirements in presidential and vice presidential elections) and Title III (18-year-old vote) of the Act. No question has been raised concerning the standing of the parties or the jurisdiction of this Court.

[2] Article I, § 4 was a compromise between those delegates to the Constitutional Convention who wanted the States to have final authority over the election of all state and federal officers and those who wanted Congress to make laws governing national elections, 2 Story, Commentaries on the Constitution of the United States 280–292 (1st ed. 1883). The contemporary interpretation of this compromise reveals that those who favored national authority over national elections prevailed. Six States included in their resolutions of ratification the recommendation that a constitutional amendment be adopted to curtail the power of the Federal Government to regulate national elections. Such an amendment was never adopted.

A majority of the delegates to the Massachusetts ratifying convention must have assumed that Art. I, § 4 gave very broad powers to Congress. Otherwise that convention would not have recommended an amendment providing:

"That Congress do not exercise the powers vested in them by the 4th section of the 1st Article, but in cases where a state shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeably to the Constitution." 2 Elliot's Debates on the Federal Constitution 177 (1876).

The speech of Mr. Cabot, one delegate to the Massachusetts convention, who argued that Art. I, § 4, was "to be as highly prized as any in the Constitution," expressed a view of the breadth of that section which must have been shared by most of his colleagues.

"[I]f the State Legislatures are suffered to regulate conclusively the election of the democratic branch, they may . . . finally annihilate, that control of the general government which the people ought always have . . . *Id.,* at 26.

And Cabot was supported by Mr. Parsons, who added:

". . . They might make an unequal and partial division of the states into districts for election of representatives, or they might even disqualify one third of the electors. Without these powers in Congress, the people can have no remedy; but the fourth section provides a remedy, a controlling power in a legislature, composed of senators and representatives of twelve states, without the influence of our commotions and factions, who will hear impartially, and preserve and restore to the people their equal and sacred rights of election." *Id.,* at 27.

[3] See *Wesberry* v. *Sanders,* 376 U.S. 1, 14–16 (1964).

[4] See, *e.g.,* Act of August 8, 1911, c. 5, 37 Stat. 13.

[5] My Brother STEWART has cited the debates of the Constitutional Convention to show that Oliver Ellsworth, George Mason, Madison, and Franklin successfully opposed granting Congress the power to regulate federal elections, including the qualifications of voters, in the original Constitution. I read the history of our Constitution differently. Mr. Madison, for example, explained Art. I, § 4, to the Virginia ratifying convention follows:

"[I]t was thought that the regulation of the time, place and manner, of electing Representatives, should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. This diversity would be obviously unjust. . . . Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the general government." 3 Elliot's Debates on the Federal Constitution 367 (1876).

And Mr. Mason, who was supposedly successful in opposing a broad grant of power to Congress to regulate federal elections, still found it necessary to support an unsuccessful Virginia proposal to curb the power of Congress under Art. I, § 4. *Id.,* at 403.

[6] See, *e.g., Ex parte Siebold,* 100 U.S. 371 (1879); *Ex parte Yarbrough,* 110 U.S. 651 (1884); *United States* v. *Mosley,* 238 U.S. 383 (1915); *United States v. Classic,* 313 U.S. (1941).

[7] With reference to the selection of the President and Vice President, Art. II, § 1 provides: "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress. . . ." But this Court in *Burroughs* v. *United States,* 290 U.S. 534 (1934), upheld the power of Congress to regulate certain aspects of elections for presidential and vice-presidential electors, specifically rejecting a construction of Art. II, § 1, that would have curtailed the power of Congress to regulate such elections. Finally, and most important, inherent in the very concept of a supreme national government with national officers is a residual power in Congress to insure that those officers represent their national constituency as responsively as possible. This power arises from the nature of our constitutional system of government and from the Necessary and Proper Clause.

[8] "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." U.S. Const. Amend. X.

[9] "The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

[10] My Brother BRENNAN relies upon *Carrington* v. *Rash*, 380 U.S. 89 (1965); *Cipriano* v. *City of Houma*, 395 U.S. 701 (1969); and *Evans* v. *Cornman*, 398 U.S. 419 (1970). These typical equal protection cases in which I joined are not relevant or material to our decision in the cases before us. The establishment of voter age qualifications is a matter of legislative judgment which cannot be properly decided under the Equal Protection Clause. The crucial question here is not who is denied equal protection, but rather which political body, state or federal, is empowered to fix the minimum age of voters. The Framers intended the States to make the voting age decision in all elections with the provision that Congress could override state judgments concerning the qualifications of voters in federal elections.

[11] See: the First Amendment, *e.g., Gitlow* v. *New York*, 268 U.S. 652 (1925); *Cantwell* v. *Connecticut*, 310 U.S. 296 (1940); *Edwards* v. *South Carolina*, 372 U.S. 229 (1963); the Fourth Amendment, *Mapp* v. *Ohio*, 367 U.S. 643 (1961); the Fifth Amendment, *Chicago, B. & Q. R. Co.* v. *Chicago*, 166 U.S. 226 (1897); *Malloy* v. *Hogan*, 378 U.S. 1 (1964); *Benton* v. *Maryland*, 395 U.S. 784 (1969); the Sixth Amendment, *Gideon* v. *Wainwright*, 372 U.S. 335 (1963); *Pointer* v. *Texas*, 380 U.S. 400 (1965); *Klopfer* v. *North Carolina*, 386 U.S. 213 (1967); *Duncan* v. *Louisiana*, 391 U.S. 145 (1968); and the Eighth Amendment, *Robinson* v. *California*, 370 U.S. 660 (1962).

[12] Yuma County, Arizona, is presently subject to the literacy test ban on the Voting Rights Act of 1965 pursuant to a determination of the Attorney General under § 4(a) of the 1965 Act. I do not understand Arizona to contest the application of the 1965 Act or its extension to that county. Arizona "does not question" Congress' authority to enforce the Fourteenth and Fifteenth Amendments when Congress possesses a 'special legislative competence'; and cites *South Carolina* v. *Katzenbach*, 383 U. S. 641 (1966), with approval. Answer and Brief for Arizona, No. 46 Orig., O. T. 1970.

[13] Hearings on H. R. 4249, H. R. 5538, and Similar Proposals before Subcommittee No. 5 of the House Committee on the Judiciary, pt. 3, at 14 (1969).

[14] *Id.*, at 93.

[15] Hearings on S. 818, S. 2456, S. 2507, and Title IV of S. 2029 before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, at 406 (1969–1970).

[16] *Id.*, at 401.

[17] That these views are not novel is demonstrated by Mr. Justice Story in his Commentaries on the Constitution of the United States, vol. II, at 284–285 (1st ed. 1833).

"There is, too, in the nature of such a provision [Article I, § 4], something incongruous, if not absurd. What would be said of a clause introduced into a national constitution to regulate the state elections of the members of the state legislatures? It would be deemed a most unwarrantable transfer of power, indicating a premeditated design to destroy the state governments. It would be deemed so flagrant a violation of principle, as to require no comment. It would be said, and justly, that the state governments ought to possess the power of self-existence and self-organization, independent of the pleasure of the national government. *Why does not the same reasoning apply to the national government?* What reason is there to suppose, that the state governments will be more true to the Union, than the national government will be to the state governments?" (Emphasis added.) (Footnote omitted.)

Supreme Court of the United States—Nos. 43, 44, 46, 47 Orig.—October Term, 1970

ON BILLS OF COMPLAINT

State of Oregon, Plaintiff, 43 *v.* John N. Mitchell, Attorney General of the United States.

State of Texas, Plaintiff, 44 *v.* John N. Mitchell, Attorney General of the United States.

United States, Plaintiff, 46 *v.* State of Arizona.

United States, Plaintiff, 47 *v.* State of Idaho.

December 21, 1970.

Mr. Justice Douglas.

I dissent from the judgment of the Court insofar as it declares § 302 unconstitutional as applied to state elections and concur in the judgment as it affects federal elections but for different reasons. I rely on the Equal Protection Clause and on the Privileges and Immunities Clause of the Fourteenth Amendment.

I

The grant of the franchise to 18-year-olds by Congress is in my view valid across the board.

I suppose that in 1920, when the Nineteenth Amendment was passed giving women the right to vote, it was assumed by most constitutional experts that there was no relief by way of the Equal Protection Clause of the Fourteenth Amendment. In *Minor* v. *Happersett*, 21 Wall. 162, the Court held in the 1874 Term that a State could constitutionally restrict the franchise to men. While the Fourteenth Amendment was relied upon, the thrust of the opinion was directed at the Privileges and Immunities Clause with a subsidiary reference to the Due Process Clause. It was much later, indeed not until the 1961 Term—nearly a century after the Fourteenth Amendment was adopted—that discrimination against voters on grounds *other than race* was struck down.

The first case in which this Court struck down a statute under the Equal Protection Clause of the Fourteenth Amendment was *Strauder* v. *West Virginia*, 100 U.S. 303, decided in the 1879 Term.[1] In the 1961 Term we squarely held that the manner of apportionment of members of a state legislature raised a justiciable question under the Equal Protection Clause, *Baker* v. *Carr*, 369 U.S. 186. That case was followed by numerous others, *e.g.*: that one person could not be given twice or 10 times the voting power of another person in a statewide election merely because he lived in a rural area or in the smallest rural county;[2] that the principle of equality applied to both Houses of a bicameral legislature;[3] that political parties receive the protection under the Equal Protection Clause just as voters do.[4]

The reapportionment cases, however, are not quite in point here, though they are the target of my Brother HARLAN's dissent. His painstaking review of the history of the Equal Protection Clause leads him to conclude that "political" rights are not protected though "civil" rights are protected. The question of what questions are "political" has been a recurring issue in this Court from the beginning, and we recently reviewed them all in *Baker* v. *Carr*, *supra*, and in *Powell* v. *McCormack*, 395 U.S. 486. *Baker* v. *Carr* was a reapportionment case and *Powell* v. *McCormack* involved the exclusion from the House of Representatives of a Congressman. The issue of "political" question versus "justiciable" question was argued *pro* and *con* in those cases; and my Brother HARLAN stated in *Baker* v. *Carr*, 369 U.S., at 330 *et seq.*, and on related occasions (*Gray* v. *Sanders*, 372 U.S. 368, 382; *Westbury* v. *Sanders*, 376 U.S. 1, 20; *Reynolds* v. *Sims*, 377 U.S. 533, 589) his views on the constitutional dimensions of the "political" question in the setting of the reapportionment problem.

Those cases involved the question whether legislatures must be so structured as to reflect with approximate equality the voice of every voter. The ultimate question was whether absent a proper apportionment by the legislature a federal court could itself make an apportionment. That kind of problem raised issues irrelevant here. Reapportionment, as our experience shows, presented a tangle of partisan politics in which geography, economics, urban life, rural constituencies, and numerous other nonlegal factors play varying roles. The competency of courts to deal with them was challenged. Yet we held the issues were justiciable. None of those socalled "political" questions are involved here.

This case, so far as equal protection is concerned, is no whit different from a controversy over a state law that disqualifies women from certain types of employment, *Goesaert* v. *Cleary*, 335 U. S. 464, or that imposes a heavier punishment on one class of offender than on another whose crime is not intrinsically different. *Skinner* v. *Oklahoma*, 316 U. S. 535. The right to vote is, of course, different in one respect from the other rights in the economic, social, or political field which as indicated in the Appendix to this opinion are under the Equal Protection Clause. The right to vote is a civil right deeply embedded in the Constitution. Art. I, § 2, provides that the House is composed of members "chosen . . . by the people" and the electors "shall have the qualifications requisite for electors of the most numerous Branch of the State Legislature." The Seventeenth Amendment states that Senators shall be "elected by the people." The Fifteenth Amendment speaks of the "right of citizens of the United States to vote"—not only in federal but in state elections. The Court in *Ex parte Yarbrough*, 110 U.S. 651, 665, stated:

"This new constitutional right was mainly designed for citizens of African descent. The principle, however, that the protection of the exercise of this right is within the power of Congress, is as necessary to the right of other citizens to vote as to the colored citizen, and to the right to vote in general as to the right to be protected against discrimination."

It was in that tradition that we said in *Reynolds* v. *Sims*, *supra*, at 555, "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restriction on that right strikes at the heart of representative government."

This "right to choose, secured by the Constitution," *United States* v. *Classic*, 313 U.S. 314, 315, is a civil right of the highest order. Voting concerns "political" matters; but the right is not "political" in the constitutional sense. Interference with it has given rise to a long and consistent line of decisions by the Court; and the claim has always been upheld as justiciable.[5] Whatever distinction may have been made, following the Civil War, between "civil" and "political" rights, has passed into history. In *Harper* v. *Virginia Board*, 383 U.S. 663, 669, we stated: "Notions of what constitutes equal treatment for purposes of the Equal Protection Clause *do* change." That statement is in harmony with my view of the Fourteenth Amendment, as expressed by My Brother BRENNAN: "We must therefore conclude that its framers understood their Amendment to be a broadly worded injunction capable of being interpreted by future generations in accordance with the vision and needs of those generations." *Post*, at —. Hence the history of the Fourteenth Amendment tendered by my Brother HARLAN is irrelevant to the present problem.

Since the right is civil and not "political," it is protected by the Equal Protection Clause of the Fourteenth Amendment which in turn by § 5 of that Amendment can be "enforced" by Congress.

In *Carrington* v. *Rash*, 380 U.S. 89, we held that Texas could not bar a person, other-

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Footnotes at end of article.

wise qualified, from voting merely because he was a member of the armed services. Occupation, we held, when used to bar a person from voting, was that invidious discrimination which the Equal Protection Clause condemns. In *Evans* v. *Cornman*, 398 U.S. 419, we held that a State could not deny the vote to residents of a federal enclave when it treated them as residents for many other purposes. In *Harper* v. *Virginia Board*, 383 U.S., at 666, we held a State could not in harmony with the Equal Protection Clause keep a person from voting in state elections because of "the affluence of the voter or payment of any fee." In *Kramer* v. *Union School District*, 395 U.S. 621, we held that a person could not be barred from voting in school board elections merely because he was a bachelor. So far as the Equal Protection Clause was concerned, we said that the line between those qualified to vote and those not qualified turns on whether those excluded have "a distinct and direct interest in the school meeting decisions." *Id.*, at 632. In *Cipriano* v. *City of Houma*, 395 U.S. 701, we held that a state law which gave only "property taxpayers" the right to vote on the issuance of revenue bonds of a municipal utility system violated equal protection as "the benefits and burdens of the bond issue fall indiscriminately on property owner and non-property owner alike." *Id.*, at 705. And only on June 23, 1970, we held in *Phoenix* v. *Kolodziejski*, 399 U.S. 204, that it violates equal protection to restrict those who may vote on general obligation bonds to real property taxpayers. We looked to see if there was any "compelling state interest" in the voting restrictions. We held that "non-property owners" are not "substantially less interested in the issuance of these securities than are property owners," *id.*, at 212, and that presumptively "when all citizens are affected in important ways by a governmental decision subject to a referendum, the Constitution does not permit weighted voting or the exclusion of otherwise qualified citizens from the franchise."[6] *Id.*, at 209. And as recently as November 9, 1970, we summarily affirmed a district court decision (310 F. Supp. 72) on the basis of *Kolodziejski*. *Parish School Board of St. Charles* v. *Stewart*, 400 U.S. ——, where Louisiana gave a vote on municipal bonds issued only to "property taxpayers."

The powers granted Congress by § 5 of the Fourteenth Amendment to "enforce" the Equal Protection Clause are "the same broad powers expressed in the Necessary and Proper Clause, Art. I, § 8, cl. 18." *Katzenbach* v. *Morgan*, 384 U.S. 641, 650. As we stated in that case, "Correctly viewed, § 5 is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment."

Congress might well conclude that a reduction in the voting age from 21 to 18 was needed in the interests of equal protection. The Act itself brands the denial of the franchise to 18-year-olds as "a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed" on them. Section 301(a) (1), Voting Rights Act of 1970, 84 Stat. 314, 42 U.S.C. § 1973. The fact that only males are drafted while the vote extends to females as well is not relevant, for the female component of these families or prospective families is also caught up in war and hit hardest by it. Congress might well believe that men and women alike should share the fateful decision.

It is said, why draw the line at 18? Why not 17? Congress can draw lines and I see no reason why it cannot conclude the 18-year-olds have that degree of maturity which entitles them to the franchise. They are "generally considered by American law to be mature enough to contract, to marry, to drive an automobile, to own a gun, and to be responsible for criminal behavior as an adult."[7] Moreover, we are advised that under state laws, mandatory school attendance does not, as a matter of practice, extend beyond the age of 18. On any of these items the States, of course, have leeway to raise or lower the age requirements. But voting is "a fundamental matter in a free and democratic society," Reynolds v. Sims, 377 U.S. 533, 561. Where "fundamental rights and liberties are asserted under the Equal Protection Clause, classifications which might invade or restrain them must be closely scrutinized and carefully confirmed." Harper v. Virginia Board, 383 U.S. 663, 670. There we were speaking of state restrictions on those rights. Here we are dealing with the right of Congress to "enforce" the principles of equality enshrined in the Fourteenth Amendment. The right to "enforce" granted by § 5 of that Amendment is, as noted, parallel with the Necessary and Proper Clause whose reach Chief Justices Marshall described in McCulloch v. Maryland, 5 Wheat. 316, 421: "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional."

Equality of voting by all who are deemed mature enough to vote is certainly consistent "with the letter and spirit of the constitution." Much is made of the fact that Art. 1. § 4 of the Constitution[8] gave Congress only the power to regulate the "manner of holding elections," not the power to fix qualifications for voting in elections. But *the* Civil War Amendments—the Thirteenth, Fourteenth, and Fifteenth—made vast inroads on the power of the States. Equal protection became a standard for state action and Congress was given authority to "enforce it. See *Katzenback* v. *Morgan*, 384 U.S. 641, 647. The manner of enforcement involves discretion; but that discretion is largely entrusted to the Congress, not to the courts. If racial discrimination were the only concern of the Equal Protection Clause, then across-the-board voting regulations set by the States would be of no concern to Congress. But it is much too late in history to make that claim, as the cases listed in the Appendix to this opinion show. Moreover, election inequalities created by state laws and based on factors other than race may violate the Equal Protection Clause, as we have held over and over again. The reach of § 5 to "enforce equal protection by eliminating election inequalities would seem quite broad. Certainly there is not a word of limitation in § 5 which would restrict its applicability to matters of race alone. And if, as stated in *McCulloch* v. *Maryland*, the measure of the power of Congress is whether the remedy is consistent "with the letter and spirit of the constitution," we should have no difficulty here. We said in *Gray* v. *Sanders*, 372 U.S. 368, 381: "The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote."

It is a reasoned judgment that those who have such a large "stake" in modern elections as 18-year-olds, whether in times of war or peace, should have political equality. As the dissent in *Colegrove* v. *Green*, 328 U.S. 549, 566, made plain, the Equal Protection Clause does service to protect the right to vote in federal as well as in state elections.

I would sustain the choice which Congress has made.

II

I likewise find the objections which Arizona and Idaho make to the literacy and residence requirements of the 1970 Act to be insubstantial.

Literacy. We held in *Lassiter* v. *Northampton Election Board*, 360 U.S. 44, that a State could apply a literacy test in selecting qualified voters provided the test is not "discriminatory" and does not contravene "any restriction that Congress, acting pursuant to its constitutional powers, has imposed." *Id.*, at 51. The question in these cases is whether Congress has the power under § 5 of the Fourteenth Amendment to bar literacy tests in all federal, state, or local elections.

Section 201 bars a State from denying the right to vote in any federal, state, or local election because of "any test or device" which is defined, *inter alia*, to include illiteracy.[9] We traveled most of the distance needed to sustain this Act in *Katzenbach* v. *Morgan*, 384 U.S. 641, where we upheld the constitutionality of an earlier Act which prohibited the application of English literacy tests to persons educated in Puerto Rico. The power of Congress in § 5 to "enforce" the Equal Protection Clause was sufficiently broad, we held, to enable it to establish voting requirements which might pass muster under the Equal Protection Clause, absent an Act of Congress. *Id.*, 648–651.

The question, we said, was whether the Act of Congress was "appropriate legislation to enforce the Equal Protection Clause":

"It was well within congressional authority to say that this need of the Puerto Rican minority for the vote warranted federal intrusion upon any state interests served by the English literacy requirement. It was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental services, the effectiveness of eliminating the state restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interests that would be affected by the nullification of the English literacy requirement as applied to residents who have successfully completed the sixth grade in a Puerto Rican school. It is not for us to review the congressional resolution of these factors. It is enough that we be able to perceive a basis upon which the Congress might resolve the conflict as it did." *Id.*, at 653.

We also held that the Act might be sustained as an attack on the English language test as a device to discriminate. *Id.*, at 654. And we went on to say that Congress might have concluded that "as a means of furthering the intelligent exercise of the franchise, an ability to read or understand Spanish is as effective as ability to read English for those to whom Spanish-language newspapers and Spanish-language radio and television programs are available to inform them of election issues and governmental affairs." *Id.*, at 655.

We took a further step toward sustaining the present type of law in *Gaston County* v. *United States*, 395 U.S. 285. That decision involved a provision of the Voting Rights Act of 1965 which suspended the use of any "test or device," including illiteracy, as a prerequisite to registration in a State which was found by the Attorney General and Director of the Census to have used it in any election on November 1, 1964, and in which less than 50% of the residents of voting age were registered and had voted.[10] Gaston County, North Carolina, was so classified and its literacy test was thereupon suspended. In a suit to remove the ban we sustained it. We noted that Congress had concluded that "the County deprived its black residents of equal educational opportunities, which in turn deprived them of an equal chance to pass the literacy test." *Id.*, at 291. Congress, is was argued, should have employed a formula based on educational disparities between the races or one based on literacy rates. *Id.*, at 292. But the choice of appropriate remedies is for Congress and the range

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Footnotes at end of article.

of available ones is wide. It was not a defect in the formula that some literate Negroes would be turned out by Negro schools.

"It is only reasonable to infer that among black children compelled to endure a segregated and inferior education, fewer will achieve any given degree of literacy than will their better-educated white contemporaries. And on the Goverment's showing it was certainly proper to infer that Gaston County's inferior Negro schools provided many of its Negro residents with a subliterate education, and gave many others little inducement to enter or remain in school." *Id.,* at 295–296.

By like reasoning Congress in the present legislation need not make findings as to the incidence of literacy. It can rely on the fact that most States do not have literacy tests, that the tests have been used at times as a discriminatory weapon against some minorities—not only Negroes but Americans of Mexican ancestry, and American Indians; that radio and television have made it possible for a person to be well informed even though he may not be able to read and write. We know from the legislative history that these and other desiderata influenced Congress in the choice it made in the present legislation; and we certainly cannot say that the means used were inappropriate.

Residence. The residence requirements of § 202 relate only to elections for President and Vice President. Section 202 abolishes durational residency[11] and provides for absentee voting provided that registration may be required 30 days prior to the election. The effect of § 202 is to reduce all state durational residency requirements to 30 days.

In presidential elections no parochial interests of the state, county, or city are involved. Congress found that a durational residency requirement "in some instances has the impermissible purpose or effect of denying citizens the right to vote." § 202(a)(4). It found in § 202(a)(3) that a durational residency requirement denies citizens their privileges and immunities.[12]

The Seventeenth Amendment states that Senators shall be "elected by the people." Article I, § 2, provides that the House shall be chosen "by the People of the several States." The right to vote for national officers is a privilege and immunity of national citizenship. Ex parte Yarbrough, 110 U.S. 651; In re Quarles, 158 U.S. 523, 534; Twining v. New Jersey, 211 U.S. 78, 97; Burroughs v. United States, 290 U.S. 534; United States v. Classic, 313 U.S. 299, 315.[13]

The Fourteenth Amendment provides that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." Durational residency laws of the States had such effect, says Congress. The "choice of means" to protect such a privilege presents "a question primarily addressed to the judgment of Congress." *Burroughs* v. *United States, supra,* at 547. The relevance of the means which Congress adopts to the condition sought to be remedied, the degree of their necessity, and the extent of their efficacy are all matters for Congress. *Id.,* at 548.

The judgment which Congress has made respecting the ban of durational residency in presidential elections is plainly a permissible one in its efforts under § 5 to "enforce" the Fourteenth Amendment.

APPENDIX TO OPINION OF DOUGLAS, J.

Cases which have struck down state statutes under the Equal Protection Clause other than statutes which discriminate on the basis of race.

Statutes which discriminated against certain business

Gulf, C. & S. F. Co. v. *Ellis,* 165 U.S. 150; *Atchison & Santa Fe Ry.* v. *Vosburg,* 238 U.S. 56 (railroad must pay attorney fees if loses suit, but other businesses need not). *Kentucky Finance Co.* v. *Paramount Auto Exchange,* 262 U.S. 544; *Power Co.* v *Saunders,* 274 U.S. 490 (burdens placed upon out-of-state corporations in litigation).

Statutes which favored certain business

Connolly v. *Union Sewer Pipe Co.;* 184 U.S. 540 (exemption from state antitrust law for agricultural goods); *Smith* v. *Cahoon,* 283 U.S. 553 (act exempting certain motor vehicles from insurance requirements); *Mayflower Farms* v. *Ten Eyck,* 297 U.S. 266 (act allowing certain milk dealers to sell at lower than the regulated price); *Hartford Co.* v. *Harrison,* 301 U.S. 459 (statute permitting mutual, but not stock, insurance companies to act through salaried representatives), and *Morey* v. *Dowd,* 354 U.S. 457 (American Express exempted from licensing requirements applied to "currency exchanges").

Taxing statutes struck down

Concordia Ins. Co. v. *Illinois,* 292 U.S. 535; *Iowa-Des Moines Bank* v. *Bennett,* 284 U.S. 239; *Cumberland Coal* v. *Board,* 284 U.S. 23; *Quaker City Cab. Co.* v. *Pennsylvania,* 277 U.S. 389; *Louisville Gas* v. *Coleman,* 277 U.S. 32, *Hanover Fire Ins. Co.* v. *Harding,* 272 U.S. 494; *Schlesinger* v. *Wisconsin,* 270 U.S. 230; *Sioux City Bridge* v. *Dakota County,* 260 U.S. 441; *F. S. Royster Guano Co.* v. *Virginia,* 253 U.S. 412, and *Southern Railway* v. *Greene,* 216 U.S. 400.

Treatment of convicted criminals

Rinaldi v. *Yeager,* 384 U.S. 305 (statute requiring unsuccessful criminal appellants who were in jail to pay cost of trial transcript); *Baxstrom* v. *Herold,* 383 U.S. 107 (statute denying convict a sanity hearing before a jury prior to civil commitment); and *Skinner* v. *Oklahoma,* 316 U.S. 535 (sterilization of some convicts).

Indigents

Douglas v. *California,* 372 U.S. 353 (Rule of Criminal Procedure which did not provide counsel for appeal to indigents); and *Shapiro* v. *Thompson,* 394 U.S. 618 (denial of welfare benefits based on residency requirement).

Legitimacy

Glona v. *American Guarantee,* 391 U. S. 73 (mother denied right to sue for wrongful death of illegitimate child); and *Levy* v. *Louisiana,* 391 U.S. 68 (illegitimate children denied recovery for wrongful death of mother).

Aliens

Truax v. *Raich,* 239 U.S. 33 (statute limiting the number of aliens that could be employed to 20%); and *Takahashi* v. *Fish & Game Commission,* 334 U.S. 410 (denial of fishing rights to aliens ineligible for citizenship).

FOOTNOTES

[1] Strauder was tried for murder. He had sought removal to federal courts on the ground that "by virtue of the laws of the State of West Virginia no colored man was eligible to be a member of the grand jury or to serve on the petit jury in the State. *Id.,* at 304. He was convicted of murder and the West Virginia Supreme Court affirmed. This Court held the West Virginia statute limiting jury duty to whites only unconstitutional:

"We do not say that within the limits from which it is not excluded by the amendment a State may not prescribe the qualifications of its jurors, and in so doing make discriminations . . . [The aim of the Fourteenth Amendment] was against discrimination because of race or color." 100 U. S., at 310.

[2] *Gray* v. *Sanders,* 372 U. S. 368; *Davis* v. *Mann,* 377 U.S. 678; *Swann* v. *Adams,* 385 U. S. 440; *Kilgarn* v. *Hill,* 386 U. S. 120; *Avery* v. *Midland County,* 390 U. S. 474; *Moore* v. *Ogilvie,* 394 U. S. 814; *Hadley* v. *Junior College,* 397 U. S. 50.

[3] *Reynolds* v. *Sims,* 377 U.S. 533; *WMCA* v. *Lorenzo,* 377 U.S. 633; *Roman* v. *Sincock,* 377 U.S. 695.

[4] *Williams* v. *Rhodes,* 393 U.S. 23. We also held in federal elections that the command of Art. I, § 2 of the Constitution that representatives be chosen "by the People of the several States" means that "as nearly as practicable one man's vote in a congressional election is to be worth as much as another's." *Wesberry* v. *Sanders,* 376 U.S. 1, 7–8, and that that meant "vote-diluting discrimination" could not be accomplished "through the device of districts containing widely varied numbers of inhabitants." *Id.,* at 8; *Lucas* v. *Colorado General Assembly,* 377 U.S. 713; *Kirkpatrick* v. *Preisler,* 394 U.S. 526; *Wells* v. *Rockefeller,* 394 U.S. 542.

[5] *Ex parte Siebold,* 100 U.S. 371; *Ex parte Yarbrough,* 110 U.S. 651; *Guinn* v. *United States,* 238 U.S. 347; *United States* v. *Mosley,* 238 U.S. 383; *Lane* v. *Wilson,* 307 U.S. 268; *United States* v. *Classic,* 313 U.S. 299; *United States* v. *Saylor,* 322 U.S. 385.

[6] We noted that general obligation bonds may be satisfied not from real property taxes but from revenues from other local taxes paid by nonproperty owners as well as those who own realty. Moreover, we noted that property taxes paid initially by property owners are often passed on to tenants or customers, 399 U.S., at 209–211.

[7] Engdahl, Constitutionality of the Voting Age Statute, 39 Geo. Wash. L. Rev. 1, 36 (1970).

[8] Art. 1, § 4 provides: "[1] The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chosing Senators.

"[2] The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day."

[9] Section 201(b) defines "test or device" as "any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class."

[10] The constitutionality of that procedure has been sustained in *South Carolina* v. *Katzenbach,* 383 U.S. 301.

[11] This Court upheld durational residency requirements as applied in presidential and vice presidential elections absent an Act of Congress. See *Drueding* v. *Devlin,* 234 F. Supp. 721 (D. Md. 1964), aff'd 380 U.S. 125. Subsequently we vacated as moot a case presenting the same question. *Hall v. Beals,* 396 U.S. 45. The district courts have been faced with the issue of durational residency requirement as they would be applied to congressional elections. Two have concluded the requirement is constitutional. *Sirak* v. *Brown,* —— F. Supp. —— (ED Ohio 1970); *Cocanower* v. *Marston,* —— F. Supp. —— (D. Ariz. 1970). Additionally one other court has refused a preliminary injunction in a case presenting the issue. *Piliavine* v. *Hoel,* —— F. Supp. —— (WD Wis. 1970). Some district courts, however, believe that *Drueding* cannot stand (absent an Act of Congress) after *Carrington* v. *Rash,* 380 U.S. 89; *Kramer* v. *Union School District,* 395 U.S. 621; *Cipriano* v. *City of Houma,* 395 U.S. 701, and *Phoenix* v. *Kolodziejski,* 399 U.S. 204. Accordingly they have held durational residency requirements for congressional elections (and by implication presidential elections) violate the Equal Protection Clause. See *Burg* v. *Canniffee,* 315 F. Supp. 380 (D. Mass. 1970); *Ellington* v. *Blumstein,* —— F. Supp. (MD Tenn. 1970); *Hadnott* v. *Amos,* —— F. Supp. —— (MD Ala. 1970); *Bufford* v. *Holton,* —— F. Supp. —— (ED Vir. 1970).

In none of these cases was an Act of Congress involved.

[12] Article IV, § 2 of the Constitution provides:

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

The Fourteenth Amendment provides in § 1 that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

[13] The cases relied on by my Brother HARLAN, *post,* at —, are not to the contrary. *Snowden* v. *Hughes,* 321 U. S. 1, 6–7, states "The right to become a candidate for *state* office, like the right to vote for the election of *state* officers, . . . is a right or privilege of state citizenship." (Emphasis added.) Arguably *Minor* v. *Happersett,* 21 Wall. 162, is to the contrary, but to the extent its dicta indicated otherwise, it was limited in *Ex parte Yarbrough*. *Breedlove* v. *Suttles,* 302 U. S. 277, overruled by *Harper* v. *Virginia Board,* 383 U. S. 663, involved a poll tax applied in both federal and state elections; it erroneously cited *Yarbrough* for the proposition voting is not a privilege and immunity of national citizenship. *Pope* v. *Williams,* 193 U. S. 621, involved durational residency requirements, but expressly reserved the question of their application to presidential and vice presidential elections. Our holdings concerning privileges and immunities of national citizenship were analyzed less than five years ago by my Brother HARLAN. After referring to *Ex parte Yarbrough,* and *United States* v. *Classic,* he stated that those cases "are essentially concerned with the vindication of important relationships with the Federal Government—*voting in federal elections,* involvement with federal law enforcement, communicating with the Federal Government." *United States* v. *Guest,* 383 U. S. 745, 772 (concurring opinion) (emphasis added).

Contrary to the suggestion of my Brother HARLAN, *post,* at —, we need not rely on the power of Congress to declare the meaning of § 1 of the Fourteenth Amendment. This Court had determined that voting for national officers is a privilege and immunity of national citizenship. No congressional declaration was necessary. Congressional power under § 5 of the Fourteenth Amendment is, as stated, buttressed by congressional power under the Necessary and Proper Clause. Thus even if the durational residency requirements do not violate the Privileges and Immunities Clause, Congress can determine that it is necessary and proper to abolish them in national elections to effectuate and further the purpose of § 1 as it has been declared by this Court.

[Supreme Court of the United States—Nos. 43, 44, 46, 47 Orig.—October Term, 1970]

ON BILLS OF COMPLAINT

State of Oregon, Plaintiff, 43 *v.* John N. Mitchell, Attorney General of the United States.

State of Texas, Plaintiff, 44 *v.* John N. Mitchell, Attorney General of the United States.

United States, Plaintiff, 46 *v.* State of Arizona.

United States, Plaintiff, 47 *v.* State of Idaho.

December 21, 1970. Mr. Justice Harlan, concurring in part and dissenting in part.

From the standpoint of this Court's decisions during an era of judicial constitutional revision in the field of the suffrage, ushered in eight years ago by *Baker* v. *Carr,* 369 U.S. 186 (1962), I would find it difficult not to sustain all three aspects of the Voting Rights Act Amendments of 1970, Pub. L. 91–285, 84 Stat. 314, here challenged. From the standpoint of the bedrock of the constitutional structure of this Nation, these cases bring us to a crossroad that is marked with a formidable "Stop" sign. That sign compels us to pause before we allow those decisions to carry us to the point of sanctioning Congress' decision to alter state-determined voter qualifications by simple legislation, and to consider whether sound doctrine does not in truth require us to hold that one or more of the changes which Congress has thus sought to make can be accomplished only by constitutional amendment.

The four cases require determination of the validity of the Voting Rights Act Amendments in three respects. In Nos. 43 and 44, Oregon and Texas have sought to enjoin the enforcement of § 302 of the Act as applied to lower the voting age in those States from 21 to 18.[1]

In Nos. 46 and 47 the United States seeks a declaration of the validity of the Act and an injunction requiring Arizona and Idaho to conform their laws to it. The Act would lower the voting age in each State from 21 to 18. It would suspend until August 6, 1975, the Arizona literacy test, which requires that applicants for registration be able to read the United States Constitution in English and write their names. It would require Idaho to make several changes in its laws governing residency, registration, and absentee voting in presidential elections. Among the more substantial changes, Idaho's present 60-day state residency requirement will in effect be lowered to 30 days; its 30-day county residency requirement for intrastate migrants will be abolished; Idaho will have to permit voting by citizens of other States formerly domiciled in Idaho who emigrated too recently to register in their new homes; and it must permit absentee registration and voting by persons who have lived in Idaho for less than six months. The relevant provisions of the Act and of the constitutions and laws of the four States are set out in an Appendix to this opinion.

Each of the States contests the power of Congress to enact the provisions of the Act involved in its suit.[2] The Government places primary reliance on the power of Congress under § 5 of the Fourteenth Amendment to enforce the provisions of that Amendment by appropriate legislation. For reasons to follow, I am of the opinion that the Fourteenth Amendment was never intended to restrict the authority of the States to allocate their political power as they see fit and therefore that it does not authorize Congress to set voter qualifications, in either State or Federal elections. I find no other source of congressional power to lower the voting age as fixed by State laws, or to alter State laws on residency, registration, and absentee voting, with respect to either State or Federal elections. The suspension of Arizona's literacy requirement, however, can be deemed an appropriate means of enforcing the Fifteenth Amendment, and I would sustain it on that basis.

I

It is fitting to begin with a quotation from one of the leading members of the 39th Congress, which proposed the Fourteenth Amendment to the States in 1866:

"Every Constitution embodies the principles of its framers. It is a transcript of their minds. If its meaning in any place is open to doubt, or if words are used which seem to have no fixed signification, we cannot err if we turn to the framers; and their authority increases in proportion to the evidence which they have left on the question." Cong. Globe, 39th Cong., 1st Sess. 677 (1866) (Senator Sumner).

Believing this view to be undoubtedly sound, I turn to the circumstances in which the Fourteenth Amendment was adopted for enlightenment on the intended reach of its provisions. This, for me, necessary undertaking has unavoidably led to an opinion of more than ordinary length. Except for those who are willing to close their eyes to constitutional history in making constitutional interpretations or who read such history with a preconceived determination to attain a particular constitutional goal, I think that the history of the Fourteenth Amendment makes it clear beyond any reasonable doubt that no part of the legislation now under review can be upheld as a legitimate exercise of congressional power under that Amendment.

A. Historical setting[3]

The point of departure for considering the purpose and effect of the Fourteenth Amendment with respect to the suffrage should be, I think, the pre-existing provisions of the Constitution. Article I, § 2, provided that in determining the number of Representatives to which a State was entitled, only three-fifths of the slave population should be counted.[4] The section also provided that the qualifications of voters for such Representatives should be the same as those established by the States for electors of the most numerous branch of their respective legislatures. Article I, § 4, provided that, subject to congressional veto, the States might prescribe the times, places, and manner of holding elections for Representatives. Article II, § 1, provided that the States might direct the manner of choosing electors for President and Vice President, except that Congress might fix a uniform time for the choice.[5] Nothing in the original Constitution controlled the way States might allocate their political power except for the Guaranty of a Republican Form of Government, which appears in Article IV, § 4.[6] No relevant changes in the constitutional structure were made until after the Civil War.

At the close of that war, there were some four million freed slaves in the South, none of whom were permitted to vote. The white population of the Confederacy had been overwhelmingly sympathetic with the rebellion. Since there was only a comparative handful of persons in these States who were neither former slaves nor Confederate sympathizers, the place where the political power should be lodged was a most vexing question. In a series of proclamations in the summer of 1865, President Andrew Johnson had laid the groundwork for the States to be controlled by the white populations which had held power before the war, eliminating only the leading rebels and those unwilling to sign a loyalty oath.[7] The Radicals, on the other hand, were ardently in favor of Negro suffrage as essential to prevent resurgent rebellion, requisite to protect the freedmen, and necessary to ensure continued Radical control of the government. This ardor cooled as it ran into northern racial prejudice. At that time, only six States—Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and New York—permitted Negroes to vote, and New York imposed special property and residency requirements on Negro voters.[8] In referenda late that year, enfranchising proposals were roundly beaten in Connecticut, Wisconsin, Minnesota, the Territory of Colorado, and the District of Columbia. Gillette, *supra,* n. 3, at 25–26. Such popular rebuffs led the Radicals to pull in their horns and hope for a protracted process of reconstruction during which the North could be educated to the advisibility of Negro suffrage, at least for the South. In the meantime, of course, it would be essential to bar southern representation in Congress lest a combination of southerners and Democrats obtain control of the government and frustrate Radical goals.

The problem of congressional representation was acute. With the freeing of the slaves, the Three-Fifths Compromise ceased to have any effect. While predictions of the precise effect of the change varied with the person doing the calculating, the consensus was that the South would be entitled to at least 15 new members of Congress, and, of course, a like number of new presidential electors. The Radicals had other rallying cries which they kept before the public in

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Footnotes at end of article.

the summer of 1865, but one author gives this description of the mood as Congress convened: [9]

"Of all the movements influencing the Fourteenth Amendment which developed prior to the first session of the Thirty-ninth Congress, that for Negro suffrage was the most outstanding. The volume of private and public comment indicates that it was viewed as an issue of prime importance. The cry for a changed basis of representation was, in reality, subsidiary to this, and was meant by Radicals to secure in another way what Negro suffrage might accomplish for them: removal of the danger of Democratic dominance as a consequence of Southern restoration. The danger of possible repudiation of the national obligations, and assumption of the rebel debt, was invariably presented to show the need for Negro suffrage or a new basis of representation. Sentiment for disqualification of ex-Confederates, though a natural growth, well suited such purposes. The movement to guarantee civil rights, sponsored originally by the more conservative Republicans, received emphasis from Radicals only when state elections indicated that suffrage would not serve as a party platform."

When Congress met, the Radicals, led by Thaddeus Stevens, were successful in obtaining agreement for a Joint Committee on Reconstruction, composed of 15 members, to "inquire into the condition of the States which formed the so-called confederate States of America, and report whether they, or any of them, are entitled to be represented in either House of Congress . . . ." Cong. Globe, 39th Cong., 1st Sess. 30, 47 (1865) (hereafter Globe).

All papers relating to representation of the southern States were to be referred to the Committee of Fifteen without debate. The result, which many had not foreseen, was to assert congressional control over Reconstruction and at the same time to put the congressional power in the hands of a largely Radical secret committee.

The Joint Committee began work with the beginning of 1866, and in due course reported a joint resolution, H.R. No. 51, to amend the Constitution. The proposal would have based representation and direct taxes on population, with a proviso that

"whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons of such race or color shall be excluded from the basis of representation." Globe 351.

The result, if the southern States did not provide for Negro suffrage, would be a decrease in southern representation in Congress and the Electoral College by some 24 seats from their pre-war position instead of an increase of 15. The House, although somewhat balky, approved the measure after lengthy debate. Globe 538. The Senate proved more intractable. An odd combination of Democrats, moderate Republicans, and extreme Radicals combined to defeat the measure, with the Radicals basing their opposition largely on the fear that the proviso would be read to authorize racial voter qualifications and thus prevent Congress from enfranchising the freedmen under powers assertedly granted by other clauses of the Constitution. See, *e.g.*, Globe 673–687 (Senator Sumner).

At about this same time the Civil Rights Bill and the Second Freedmen's Bureau Bill were being debated. Both bills provided a list of rights secured, not including voting.[10] Senator Trumbull, who reported the Civil Rights Bill on behalf of the Senate Judiciary Committee, stated "I do not want to bring up the question of negro suffrage in the bill." Globe 606. His House counterpart exhibited the same reluctance. Globe 1162 (Cong. Wilson of Iowa). Despite considerable uncertainty as to the constitutionality of the measures, both ultimately passed. In the midst of the Senate debates on the basis of representation, President Johnson vetoed the Freedmen's Bureau Bill, primarily on constitutional grounds. This veto, which was narrowly sustained, was followed shortly by the President's bitter attack on Radical Reconstruction in his Washington's Birthday speech. These two actions, which were followed a month later by the veto of the Civil Rights Bill, removed any lingering hopes among the Radicals that Johnson would support them in a thoroughgoing plan of reconstruction. By the same token they increased the Radicals' need for an articulated plan of their own to be put before the country in the upcoming elections as an alternative to the course the President was taking.

The second major product of the Reconstruction Committee before the resolution which became the Fourteenth Amendment was a proposal to add an equal rights provision to the Constitution. This measure, H.R. No. 63, which foreshadowed § 1 of the Fourteenth Amendment, read as follows:

"The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several states (Art. 4, Sec. 2); and to all persons in the several States equal protection in the rights of life, liberty and property (5th Amendment)." Globe 428.

It was reported by Congressman Bingham of Ohio, who later opposed the Civil Rights Bill because he believed it unconstitutional. Globe 1292–1293. The amendment immediately ran into serious opposition in the House and the subject was dropped.[11]

Such was the background of the Fourteenth Amendment. Congress, at loggerheads with the President over Reconstruction, had not come up with a plan of its own after six months of deliberations; both friends and foes prodded it to develop an alternative. The Reconstruction Committee had been unable to produce anything which could even get through Congress, much less obtain the adherence of three-fourths of the States. The Radicals, committed to Negro suffrage, were confronted with widespread public opposition to that goal and the necessity for a reconstruction plan that could do service as a party platform in the elections that fall. The language of the Fourteenth Amendment must be read with awareness that it was designed in response to this situation.

B. The language of the amendment and reconstruction measures

Sections 1 and 2 of the Fourteenth Amendment as originally reported read as follows: [12]

"Sec. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

"Sec. 2. Representatives shall be apportioned among the several States which may be included within this Union, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever, in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age." Globe 2286.

In the historical context, no one could have understood this language as anything other than an abandonment of the principle of Negro suffrage, for which the Radicals had been so eager. By the same token, the language could hardly have been understood as affecting the provisions of the Constitution placing voting qualifications in the hands of the States. Section 1 must have been seen as little more than a constitutionalization of the 1866 Civil Rights Act, concededly one of the primary goals of that portion of the Amendment.[13]

While these conclusions may, I think, be confidently asserted, it is not so easy to explain just how contemporary observers would have construed the three clauses of § 1 to reach this result.[14] No doubt in the case of many congressmen it simply never occurred to them that the States' longstanding plenary control over voter qualifications would be affected without explicit language to that effect. And since no speaker during the debates on the Fourteenth Amendment pursued the contention that § 1 would be construed to include the franchise, those who took the opposite view rarely explained how they arrived at their conclusions.

In attempting to unravel what was seldom articulated, the appropriate starting point is the fact that the Framers of the Amendment expected the most significant portion of § 1 to be the clause prohibiting state laws "which shall abridge the privileges and immunities of citizens of the United States." These privileges were no doubt understood to include the ones set out in the first section of the Civil Rights Act. To be prohibited by law from enjoying these rights would hardly be consistent with full membership in a civil society.

The same is not necessarily true with respect to prohibitions on participation in the political process. Many members of Congress accepted the jurisprudence of the day, in which the rights of man fell into three categories: natural, civil, and political. The privileges of citizens, being "civil" rights, were distinct from the rights arising from governmental organization, which were political in character.[15] Others no doubt relied on the experience under the similar language of Article IV, § 2, which had never been held to guarantee the right to vote. The remarks of Senator Howard of Michigan, who as spokesman for the Joint Committee explained in great detail than most why the Amendment did not reach the suffrage, contain something of each view. See Globe 2766, quoted at p. —, *post;* nn. 56 and 57, *post;* cf. *Baker* v. *McClung,* 172 U.S. 239, 256 (1898) (dictum).

Since the Privileges and Immunities Clause was expected to be the primary source of substantive protection, the Equal Protection and Due Process Clauses were relegated to a secondary role, as the debates and other contemporary materials make clear.[16] Those clauses, which appear on their face to correspond with the latter portion of § 1 of the Civil Rights Act, see n. 13, *supra,* and to be primarily concerned with person and property, would not have been expected to enfranchise the freedmen if the Privileges and Immunities Clause did not.

Othe members of Congress no doubt saw § 2 of the proposed Amendment as the Committee's resolution of the related problems of suffrage and representation. Since that section did not provide for enfranchisement, but simply reduced representation for disfranchisement, any doubts about the effect of the broad language of § 1 were removed. Congressman Bingham, who was privarily responsible for the language of § 1, stated this view. Globe 2542, quoted at p. ——, post. Finally, characterization of the Amendment by such figures as Stevens and Bingham in the House and Howard in the Senate, not contested by the Democrats except in passing remarks, was no doubt simply accepted by many members of Congress; they, repeating it, gave further force to the interpretation, with the result that, as will appear below, not one speaker in the debates

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on the Fourteenth Amendment unambiguously stated that it would affect state voter qualifications, and only three, all opponents of the measure, can fairly be characterized as raising the possibility.[17] Further evidence of this original understanding can be found in later events.

The Thirty-ninth Congress, which proposed the Fourteenth Amendment, also entered the First Reconstruction Act, c. 153, 14 Stat. 428 (1867). This Act required, as a condition precedent of readmission of the southern States, that they adopt constitutions providing that the elective franchise should be enjoyed by all male citizens over the age of 21 who had been residents for more than one year and were not disfranchised for treason or common-law felony; even so, no State would be readmitted until a legislature elected under the new Constitution had ratified the proposed Fourteenth Amendment and that Amendment had become part of the Constitution.

The next development came when the ratification drive in the North stalled. After a year had passed during which only one northern State had ratified the proposed Fourteenth Amendment, Arkansas was readmitted to the Union by the Act of June 22, 1868, c. 69, 15 Stat. 72. This readmission was based on the "fundamental condition" that the state constitution should not be amended to restrict the franchise, except with reference to residency requirements. Three days later the Act of June 25, 1868, c. 70, 15 Stat. 73, held out a promise of similar treatment to North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida if they would ratify the Fourteenth Amendment. By happy coincidence, the assent of those six States was just sufficient to complete the ratification process. It can hardly be suggested, therefore, that the "fundamental condition" was exacted from them as a measure of caution lest the Fourteenth Amendment fail of ratification.

The Fortieth Congress, not content with enfranchisement in the South, proposed the Fifteenth Amendment to extend the suffrage to northern Negroes. See Gillette, *supra*, n. 3, at 46. This fact alone is evidence that they did not understand the Fourteenth Amendment to have accomplished such a result. Less well known is the fact that the Fortieth Congress considered and very nearly adopted a proposed amendment which would have expressly prohibited not only discriminatory voter qualifications but discriminatory qualifications for office as well. Each House passed such a measure by the required two-thirds margin. Cong. Globe, 40th Cong., 3d Sess., 1318, 1428 (1869). A conference committee, composed of Senators Stewart and Conkling and Representatives Boutwell, Bingham, and Logan, struck out the office-holding provision, *id.*, at 1563, 1593, and with Inauguration Day only a week away, both Houses accepted the conference report. *Id.*, at 1564, 1641. See generally Gillette 58–77. While the reasons for these actions are unclear, it is unlikely that they were provoked by the idea that the Fourteenth Amendment covered the field; such a rationale seemingly would have made the enfranchising provision itself unnecessary.

The Forty-first Congress readmitted the remaining three States of the Confederacy. The admitting act in each case recited good-faith ratification of the Fourteenth and Fifteenth Amendments, and imposed the fundamental conditions that the States should not restrict the elective franchise[18] and "That it shall never be lawful for the said State to deprive any citizen of the United States, on account of his race, color, or previous condition of servitude, of the right to hold office under the constitution and laws of said State." Act of Jan. 26, 1870, c. 10, 16 Stat. 63 (Virginia); Act of Feb. 23, 1870, c. 19, 16 Stat. 68 (Mississippi); Act of Mar. 30, 1879, c. 39, 16 Stat. 81 (Texas).

These materials demonstrate not only that § 1 of the Fourteenth Amendment is susceptible of an interpretation that it does not reach suffrage qualifications, but that this is the interpretation given by the immediately succeeding Congresses. Such an interpretation is the most reasonable reading of the section in view of the background against which it was proposed and adopted, particularly the doubts about the constitutionality of the Civil Rights Act, the prejudice in the North against any recognition of the principle of Negro suffrage, and the basic constitutional structure of leaving suffrage qualifications with the States.[19] If any further clarification were needed, one would have thought it provided by the second section of the same Amendment, which specifically contemplated that the right to vote would be denied or abridged by the States on racial or other grounds. As a unanimous Court once asked, "Why this, if it was not in the power of the [state] legislature to deny the right of suffrage to some male inhabitants?" *Minor* v. *Happersett*, 88 U.S. (21 Wall.) 162, 174 (1874).

The Government suggests that the list of protected qualifications in § 2 is "no more than descriptive of voting laws as they then stood." Brief for the United States, Nos. 46 and 47, Original, at 75. This is wholly inaccurate. Aside from racial restrictions, all States had residency requirements and many had literacy, property, or taxation qualifications. On the other hand, several of the western States permitted aliens to vote if they had satisfied certain residency requirements and had declared their intention to become citizens.[20] It hardly seems necessary to observe that the politicians who framed the Fourteenth Amendment were familiar with the makeup of the electorate. In any event, the congressional debates contain such proof in ample measure.[21]

Assuming, then, that § 2 represents a deliberate selection of the voting qualifications to be penalized, what is the point of it? The Government notes that "it was intended—although it has never been used—to provide a remedy against exclusion of the newly freed slaves from the vote." Brief for the Defendant, Nos. 43 and 44, Original, at 20. Undoubtedly this was the primary purpose. But the Framers of the Amendment, with their attention thus focused on racial voting qualifications, could hardly have been unaware of § 1. If they understood that section to forbid such qualifications, the simple means of penalizing this conduct would have been to impose a reduction of representation for voting discrimination in violation of § 1. Their adoption instead of the awkward phrasing of § 2 is therefore significant.

To be sure, one might argue that § 2 is simply a rhetorical flourish, and that the qualifications listed there are merely the ones which the Framers deemed to be consistent with the alleged prohibition of § 1. This argument is not only unreasonable on its face and untenable in light of the historical record; it is fatal to the validity of the reduction of the voting age in § 302 of the Act before us.

The only sensible explanation of § 2, therefore, is that the racial voter qualifications it was designed to penalize were understood to be permitted by § 1 of the Fourteenth Amendment. The Amendment was a half-way measure, adopted to deprive the South of representation until it should enfranchise the freedmen, but to have no practical effect in the North. It was politically acceptable precisely because of its regional consequences and its avoidance of an explicit recognition of the principle of Negro suffrage. As my Brother BLACK states, "it cannot be successfully argued that the Fourteenth Amendment was intended to strip the States of their power, carefully preserved in the original Constitution, to govern themselves." *Ante*, p. —. The detailed historical materials make this unmistakeably clear.

C. The Joint Committee

The first place to look for the understanding of the Framers of the Fourteenth Amendment is the Journal of the Joint Committee on Reconstruction.[22] The exact sequence of the actions of this Committee presumably had little or no effect on the members of Congress who were not on the Committee, for the Committee attempted to keep its deliberations secret,[23] and the Journal itself was lost for nearly 20 years.[24] Nevertheless the Journal, although only a record of proposals and votes, illustrates the thoughts of those leading figures of Congress who were members and participated in the drafting of the Amendment.

Two features emerge from such a review with startling clarity. First the Committee regularly rejected explicitly enfranchising proposals in favor of plans which would postpone enfranchisement, leave it to congressional discretion, or abandon it altogether. Second, the abandonment of Negro suffrage as a goal exactly corresponded with the adoption of provisions to reduce representation for discriminatory restrictions on the ballot.

This correspondence was present from the start. Five plans were proposed to deal with representation. One would have prohibited racial qualifications for voters and based representation on the whole number of citizens in the State; the other four proposals contained no enfranchising provision but in various ways would have reduced representation for States where the vote was racially restricted. Kendrick 41–44. A subcommittee reduced the five proposals to two, one prohibiting discrimination and the other reducing representation where it was present. On Stevens' motion the latter alternative was accepted by a vote of 11 to 3; Kendrick 51; with minor changes it was subsequently reported as H. R. No. 51.

The subcommittee also proposed that whichever provision on the basis of representation was adopted, the Congress should be empowered to legislate to secure all citizens "the same political rights and privileges" and also "equal protection in the enjoyment of life, liberty and property." Kendrick 51. After the Committee reported H. R. No. 51, it turned to consideration of this proposal. At a meeting attended by only 10 members, a motion to strike out the clause authorizing Congress to legislate for equal political rights and privileges lost by a vote of six to four. Kendrick 57. At a subsequent meeting, however, Bingham had the subcommittee proposal replaced with another which did not mention *political* rights and privileges, but was otherwise quite similar. Kendrick 61; see the opinion of MR. JUSTICE BRENNAN, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL, *ante*, p. —, for the text of the two provisions. The Committee reported the substitute as H. R. No. 63. In the House so much concern was expressed over the centralization of power the amendment would work—a few said it would even authorize Congress to regulate the suffrage—that the matter was dropped. *Ante*, p. —.

The Fourteenth Amendment had as its most direct antecedent a proposal drafted by Robert Dale Owen, who was not a member of Congress, and presented to the Joint Committee by Stevens.[25] Originally the plan provided for mandatory enfranchisement in 1876 and for reduction of representation until that date. Kendrick 82–84. However, Stevens was pressured by various congressional delegations who wanted nothing to do with Negro suffrage, even at a remove of 10 years.[26] He therefore successfully moved to strike out the enfranchising provision and correspondingly to abolish the 10-year limitation on reduction of representation for racial discrimina-

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tion. The motion carried by a vote of 12 to 2. Kendrick 101.

Bingham was then successful in replacing § 1 of Owen's proposal, which read

> "No discrimination shall be made by any State, or by the United States, as to the civil rights of persons, because of race, color or previous condition of servitude"

with the following now-familiar language:

> "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." Kendrick 106.

The summary style of the Journal leaves unclear the reasons for the change. However, Bingham himself had rather consistently voted against proposals for direct and immediate enfranchisement,[27] and on the face of things it seems unlikely that the other members of the Joint Committee understood his provision to be an enfranchising proposal.[28] That they did not so understand is demonstrated by the speeches in the debates on the floor.[29]

Before I examine those debates, a word of explanation is in order. For obvious reasons, the discussions of voter qualifications in the Thirty-nineth Congress and among the public were cast primarily in terms of racial disqualifications. This does not detract from their utility as guides to interpretation. When an individual speaker said that the Amendment would not result in the enfranchisement of Negroes, he must have taken one of two views: either the Amendment did not reach voter qualifications at all; or it set standards limiting state restrictions on the ballot, but those standards did not prohibit racial discrimination. I have already set out some of the reasons which lead me to conclude that the former interpretation is correct, and that it is the understanding shared by the Framers of the Amendment, as well as by almost all of the opponents. The mere statement of the latter position appears to me to be a complete refutation of it. Even on its wholly unsupportable assumptions (1) that certain Framers of the Amendment contemplated that the privileges and immunities of citizens included the vote, (2) that they intended to permit state laws to abridge the privileges and immunities of citizens whenever it was rational to do so, and (3) that they agreed on the rationality of prohibiting the freed slaves from voting, this remarkable theory still fails to explain why they understood the Amendment to permit racial voting qualifications in the free States of the North.

D. In Congress

On May 8, 1866, Thaddeus Stevens led off debate on H.R. No. 127, the Joint Resolution proposing the Fourteenth Amendment. After explaining the delay of the Joint Committee in coming up with a plan of reconstruction, he apologized for his proposal in advance:

> "This proposition is not all that the committee desired. It falls far short of my wishes, but it fulfills my hopes. I believe it is all that can be obtained in the present state of public opinion. Not only Congress but the several States are to be consulted. Upon a careful survey of the whole ground, we did not believe that nineteen of the loyal States could be induced to ratify any proposition more stringent than this." Globe 2459.

In the climate of the times, Stevens could hardly have been understood as referring to anything other than the failure of the measure to make some provision for the enfranchisement of the freedmen. However, lest any mistake be made, he recounted the history of the Committee's prior effort in the field of representation and sufrage, H.R. No. 51, which "would surely have secured the enfranchisement of every citizen at no distant period." That measure was dead, "slaughtered by a puerile and pedantic criticism," and "unless this (less efficient, I admit) shall pass, its death has postponed the protection of the colored race perhaps for ages." *Ibid.*

With this explanation made, Stevens turned to a section-by-section study of the proposed resolution. The results to be achieved by § 1, as he saw it, would be equal punishment for crime, equal entitlement to the benefits of "[w]hatever law protects the white man," equal means of redress, and equal competence to testify. *Ibid.* If he thought the section provided equal access to the polls, despite his immediately preceding apology for the fact that it did not, his failure to mention that application is remarkable.[30]

Turning then to § 2, Stevens again discussed racial qualifications for voting. He explained the section as follows:

> "If any State shall exclude any of her adult male citizens from the elective franchise, or abridge that right, she shall forfeit her right to representation in the same proportion. The effect of this provision will be either to compel the States to grant universal suffrage or so to shear them of their power as to keep them forever in a hopeless minority in the national Government, both legislative and executive." *Ibid.*

Stevens recognized that it might take several years for the coercive effect of the Amendment to result in Negro suffrage, but since this would give time for education and enlightenment of the freedmen, "That short delay would not be injurious." *Ibid.* He did not indicate that he believed it would be unconstitutional. He admitted that § 2 was not so good as the proposal which had been defeated in the Senate, for that, by reducing representation by all the members of a race if any one was discriminated against, would have hastened full enfranchisement. Section 2 allowed proportional credit. "But it is a short step forward. The large stride which we in vain proposed is dead . . . ." Globe 2460.

I have dealt at length with Stevens' remarks because of his prominent position in the House and in the Joint Committee. The remaining remarks, except for Bingham's summation, can be treated in more summary fashion. Of the supporters of the Amendment, Garfield of Ohio,[31] Kelley of Pennsylvania,[32] Boutwell of Massachusetts (a member of the Joint Committee),[33] Eliot of Massachusetts,[34] Beaman of Michigan,[35] and Farnsworth of Illinois,[36] expressed their regret that the Amendment did not prohibit restrictions on the franchise. As the quotations set out in the margin indicate, the absence of such a prohibition was generally attributed to prejudice in the Congress, in the States, or both, to such an extent that an enfrachising amendment could not pass. This corresponds with the first part of Stevens' introductory speech.

Other supporters of the Amendment obviously based their remarks on their understanding that it did not affect state laws imposing discriminatory voting qualifications, but did not indicate that the omission was a drawback in their view. In this group were Thayer of Pennsylvania,[37] Broomall of Pennsylvania,[38] Raymond of New York,[39] McKee of Kenucky,[40] Miller of Pennsylvania,[41] Banks of Massachusetts,[42] and Eckley of Ohio.[43]

The remaining members of the House who supported the Fourteenth Amendment either did not speak at all or did not address themselves to the suffrage issue in any very clear terms. Those in the latter group who gave speeches on the proposed Amendment included Spalding of Ohio,[44] Longyear of Michigan,[45] and Shellabarger of Ohio.[46] The remaining Republican members of the Joint Committee—Washburne of Illinois, Morrill of Vermont, Conkling of New York, and Blow of Missouri—did not participate in the debates over the Amendment.

In the opposition to the Amendment were only the handful of Democrats. Even they, with one seeming exception, did not assert that the Amendment was applicable to suffrage, although they would have been expected to do so if they thought such a reading plausible. Finck of Ohio and Shanklin of Kentucky did not even mention Negro suffrage in their attacks on the Amendment, although Finck discussed the reasons why the southern States could not be expected to ratify it, Globe 2460–2462, and Shanklin characterized the Amendment as "tyrannical and oppressive." Globe 2501. Eldridge of Wisconsin[47] and Randall of Pennsylvania[48] affirmatively indicated their understanding that with the Amendment the Radicals had at least temporarily abandoned their crusade for Negro suffrage, as did Finck when the measure returned from the Senate with amendments.[49]

The other two Democrats to participate in the three days of debate on H.R. No. 127, Boyer of Pennsylvania and Rogers of New Jersey, have been a source of great comfort to those who set out to prove that the history of the Fourteenth Amendment is inconclusive on this issue. Each, in the course of a lengthy speech, included a sentence which, taken out of context, can be read to indicate a fear that § 1 might prohibit racial restrictions on the ballot. Boyer said, "The first section embodies the principles of the civil rights bill, and is intended to secure ultimately, and to some extent indirectly, the political equality of the negro race." Globe 2467. Rogers, commenting on the uncertain scope of the Privileges and Immunities Clause, observed "The right to vote is a privilege." Globe 2538.

While these two statements are perhaps innocuous enough to be left alone, it is noteworthy that each speaker had earlier in the session delivered a tirade against the principle of Negro suffrage;[50] if either seriously believed that the Fourteenth Amendment might enfranchise; the freedmen, he was unusually calm about the fact. That they did not seriously interpret the Amendment in this way is indicated as well by other portions of their speeches.[51]

Two other opponents of the Fourteenth Amendment, Phelps of Maryland and Niblack of Indiana, made statements which have been adduced to show that there was no consensus on the applicability of the Fourteenth Amendment to suffrage laws. Phelps voiced his sentiments on May 5, three days before the beginning of debate.[52] In the course of a speech urging a soft policy on reconstruction, he expressed the fear that the Amendment would authorize Congress to define the privileges of citizens to include the suffrage—or indeed that it might have that effect *ex proprio vigore*. Globe 2398. Phelps did not repeat this sentiment after he was contradicted by speaker after speaker during the debates proper; indeed, he did not take part in the debates at all, but simply voted against the Amendment, along with most of his Democratic colleagues. Globe 2545.[53]

As for Niblack, on the first day of debate he made the following remarks:

> "I give notice that I will offer the following amendment if I shall have the opportunity:
>
> "Add to the fifth section as follows:
>
> "*Provided*, That nothing contained in this article shall be so construed as to authorize Congress to regulate or control the elective franchise within any State, or to abridge or restrict the power of any State to regulate or control the same within its own jurisdiction, except as in the third section hereof prescribed." Globe 2465.

Like Phelps, Niblack found it unnecessary to participate in the debates. He was not heard from again until the vote on the call for the previous question. As Garfield ascer-

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tained at the time, the only opportunity to amend H.R. No. 127 would arise if the demand was voted down. Niblack voted to sustain it. Globe 2545.

Debate in the House was substantially concluded by Bingham, the man primarily responsible for the language of § 1. Without equivocation, he stated:

"The amendment does not give, as the second section shows, the power to Congress of regulating suffrage in the several States.

"The second section excludes the conclusion that by the first section suffrage is subjected to congressional law; save, indeed, with this exception, that as the right in the people of each State to a republican government and to choose their Representatives in Congress is of the guarantees of the Constitution, by this amendment a remedy might be given directly for a case supposed by Madison, where treason might change a State government from a republican to a despotic government, and thereby deny suffrage to the people." Globe 2542.

Stevens then arose briefly in rebuttal. He attacked Bingham for saying in another portion of his speech that the disqualification provisions of § 3 were unenforceable. He did not contradict—or even refer to—Bingham's interpretation of §§ 1 and 2. Globe 2544. The vote was taken and the resolution passed immediately thereafter. Globe 2545.

To say that Stevens did not contradict Bingham is to minimize the force of the record. Not once, during the three days of debate, did any supporter of the Amendment criticize or correct any of the Republicans or Democrats who observed that the Amendment left the ballot "exclusively under the control of the States." Globe 2542 (Bingham). This fact is tacitly admitted even by those who find the debates "inconclusive." The only contrary authority they can find in the debates is the pale remarks of the four Democrats already discussed.[54]

In the Senate, which did not have a gag rule, matters proceeded at a more leisurely pace. The introductory speech would normally have been given by Senator Fessenden of Maine, the Chairman of the Joint Committee on behalf of the Senate, but he was still weak with illness and unable to deliver a lengthy speech. The duty of presenting the views of the Joint Committee therefore devolved on Senator Howard of Michigan.[55]

Howard minced no words. He stated that "the first section of the proposed amendment does not give to either of the classes the right of voting. The right of suffrage is not, in law, one of the privileges or immunities thus secured by this Constitution. It is merely the creature of law. It has always been regarded in this country as the result of positive local law, not regarded as one of those fundamental rights lying at the basis of all society and without which a people cannot exist except as slaves, subject to a depotism [sic]." Globe 2766.

"The second section leaves the right to regulate the elective franchise still with the States, and does not meddle with that right." *Ibid.* Howard stated that while he personally would have preferred to see the freedmen enfranchised, the Committee was confronted with the necessity of proposing an amendment which could be ratified.

"The committee were of opinion that the States are not yet prepared to sanction so fundamental a change as would be the concession of the right of suffrage to the colored race. We may as well state it plainly and fairly, so that there shall be no misunderstanding on the subject. It was our opinion that three fourths of the States of this Union could not be induced to vote to grant the right of suffrage, even in any degree or under any restriction, to the colored race." *Ibid.*

Howard's forthright attempt to prevent misunderstanding was completely successful insofar as the Senate was concerned; at least, no one has yet discovered a remark during the Senate debates on the proposed Fourteenth Amendment which indicates any contrary impression.[56] For some, however, time has muddied the clarity with which he spoke.[57]

The Senate, like the House, made frequent reference to the fact that the proposed amendment would not result in the enfranchisement of the freedmen. The supporters who expressed their regret at the fact were Wade of Ohio,[58] Poland of Vermont,[59] Stewart of Nevada,[60] Howe of Wisconsin,[61] Henderson of Missouri,[62] and Yates of Illinois.[63] The remarks of Senator Sherman of Ohio, whose support for the amendment was lukewarm, see Globe 2986, seems to have been based on the common interpretation.[64]

Doolitle of Wisconsin, whose support for the President resulted in his virtually being read out of the Republican Party, proposed to base representation on adult male voters. Globe 2942. In a discussion with Senator Grimes of Iowa, a member of the Joint Committee, about the desirability of this change, Doolittle defended himself by pointing out that "Your amendment proposes to allow the States to say who shall vote." Globe 2943. Grimes did not respond. Among the Democrats, no different view was expressed. Those whose remarks are informative are Hendricks of Indiana.[65] Cowan of Pennsylvania,[66] Davis of Kentucky,[67] and Johnson of Maryland.[68]

Senator Howard, who had opened debate, made the last remarks in favor of the Amendment. He said:

"We know very well that the States retain the power, which they have always possessed, of regulating the right of suffrage in the States. It is the theory of the Constitution itself. That right has never been taken from them; no endeavor has ever been made to take it from them; and the theory of this whole amendment is, to leave the power of regulating the suffrage with the people or Legislatures of the States, and not to assume to regulate it by any clause of the Constitution of the United States." Globe 3039.

Shortly thereafter the Amendment was approved. Globe 3041–3042.

In the House, there was a brief discussion of the Senate amendments and the measure generally, chiefly by the Democrats. Stevens then concluded the debate as he had begun it, expressing his regret that the Amendment would not enfranchise the freedom.[69] The House accepted the Senate changes and sent the measure to the States. Globe 3149.

E. Collateral evidence of congressional intent

It has been suggested that despite this evidence of congressional understanding, which seems to me overwhelming, the history is nonetheless inconclusive. Primary reliance is placed on debates over H.R. No. 51, the Joint Committee's first effort in the field of the basis of representation. In these debates, some of the more extreme Radicals, typified by Senator Sumner of Massachusetts, suggested that Congress had power to interfere with state voter qualifications at least to the extent of enfranchising the freedmen. This power was said to exist in a variety of constitutional provisions, including Article I, § 2, Article I, § 4, the war power, the power over territories, the guaranty of a republican form of government, and § 2 of the Thirteenth Amendment. Those who held this view expressed concern lest the Committee's proposal be read to authorize the States to discriminate on racial grounds and stated that they could not vote for the measure if such was the correct construction. They were sometimes comforted by supporters of the committee proposal, who assured them that there would be no such effect. From these statements, and the fact that some of those who took the extreme view ultimately did vote for the proposed Fourteenth Amendment, it is sought to construct a counter-argument: if H.R. No. 51, properly interpreted, would not have precluded congressional exercise of power otherwise existing under the constitutional provisions referred to, then § 2 of the Fourteenth Amendment, properly interpreted, does not preclude the exercise of congressional power under §§ 1 and 5 of that Amendment.

This argument, however, is even logically fallacious, and quite understandably none of the opinions filed today places much reliance on it. I do not maintain that the Framers of the Fourteenth Amendment took away with one hand what they had given with the other, but simply that the Amendment must be construed as a whole, and that for the reasons already given, *ante* p. ——, the inclusion of § 2 demonstrates that the Framers never intended to confer the power which my Brethren seek to find in §§ 1 and 5. Bingham, for one, distinguished between these two positions. When it was suggested in the debates over H.R. No. 51 that the proviso would remove preexisting congressional power over voting qualifications, Bingham made the response quoted by my colleagues. Globe 431–432; see pp. ——, *ante*. When it was observed during the debates over the proposed Fourteenth Amendment that § 2 demonstrated that the Amendment did not reach state control over voting qualifictaions, Bingham was the one making the observation. Globe 2542, quoted *ante*, p.——. As Bingham seems to have recognized, the sort of argument he made in connection with H.R. No. 51 is beside the point with respect to the Fourteenth Amendment.

In any event, even disregarding its analytical difficulties, the argument is based on blatant factual shortcomings. All but one of the speakers on whose statements primary reliance is placed stated, either during the debates on the Fourteenth Amendment or subsequently, that the Amendment did not enfranchise the freedmen.[70]

Finally, some of those determined to sustain the legislation now before us rely on speeches made between two and three years after Congress had sent the proposed Amendment to the States. Boutwell and Stevens in the House, and Sumner in the Senate, argued that the Fifteenth Amendment or enfranchising legislation was unnecessary because the Fourteenth Amendment prohibited racial discrimination in voter qualifications. Each had earlier expressed the opposite position.[71] Their subsequent attempts to achieve by assertion what they had not had the votes to achieve by constitutional processes can hardly be entitled to weight.

F. Ratification

State materials relating to the ratification process are not very revealing. For the most part only gubernatorial messages and committee reports have survived.[72] So far as my examination of these materials reveals, while the opponents of the Amendment were divided and sometimes equivocal on whether it might be construed to require enfranchisement,[73] the supporters of the Amendment in the States approached the congressional proponents in the unanimity of their interpretation. I have discovered only one brief passage in support of the Amendment which appears to be based on the assumption that it would result in enfranchisement.[74] These remarks, in the message of the Governor of Illinois, had to compete in the minds of the legislators with the viewpoint of the Chicago Tribune. This Radical journal repeatedly criticized the Amendment's lack of an enfranchising provision, and at one time it even expressed the hope that the South would refuse to ratify the Amendment so that the North would turn to enfranchisement of the freed men as the only means of reconstruction. June 15, 1866, quoted in James 177. In all the other States I have examined, where the materials are sufficiently full for the understanding of a supporter of the Amendment to appear, his understanding has been that enfranchisement would not result.[75]

The scanty official materials can be sup-

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plemented by other sources. There was a congressional election in the fall of the year the Fourteenth Amendment went to the States. The Radicals ran on the Amendment as their reconstruction program, attempting to force voters to choose between their plan and that of President Johnson. From the campaign speeches and from newspaper reactions, we can get some further idea of the understanding of the States.

The tone of the campaign was set by the formal report of the Joint Committee, which Fessenden openly stated he had composed as a partisan document. James 147. Indeed, it was not even submitted to Congress until the day the Senate approved the measure, and then only in manuscript form. Globe 3038. On the delicate issue of Negro suffrage, the report read as follows:[76]

"Doubts were entertained whether Congress had power, even under the amended Constitution, to prescribe the qualifications of voters in a State, or could act directly on the subject. It was doubtful, in the opinion of your committee, whether the States would consent to surrender a power they had always exercised, and to which they were attached. As the best if not the only method of surrounding the difficulty, and as eminnently just and proper in itself, your committee came to the conclusion that political power should be possessed in all the States exactly in proportion as the right of suffrage should be granted, without distinction of color or race. This it was thought would leave the whole question with the people of each State, holding out to all the advantage of increased political power as an inducement to allow all to participate in its exercise. Such a provision would be in its nature gentle and persuasive, and would lead, it was hoped, at no distant day, to an equal participation of all, without distinction, in all the rights and privileges of citizenship, thus affording of citizens, since all would have, through the ballot-box, the power of self-protection.

"Holding these views, your committee prepared an amendment to carry out this idea, and submitted the same to Congress. Unfortunately, as we think, it did not receive the necessary constitutional support in the Senate, and therefore could not be proposed for adoption by the States. The principle involved in that amendment is however, believed to be sound, and your committee have again proposed it in another form, hoping that it may receive the approbation of Congress."

Newspapers expressed the same view of the reach of the Amendment. Even while deliberations were underway, predictions that Congress would come up with a plan involving enfranchisement of the freedmen had gradually ceased. James 41. When the Amendment was released to the press, Andrew Johnson was reported as seeing in it a "practical abandonment of the Negro suffrage issue." Cincinnati Daily Commercial, April 30, 1866, quoted in James 117. The New York Herald had reported editorially that the Amendment reflected an abandonment of the Radical push for Negro suffrage and acceptance of Johnson's position that control over suffrage rested exclusively with the States, May 1, 1866, reported in James 119. The Nation, a Radical organ, attributed the absence of any provision on Negro suffrage to "sheer want of confidence in the public." 2 Nation 545 (May 1, 1866), quoted in James 120. The Chicago Tribune, another Radical organ, complained that § 1 was objectionable as "surplusage," May 5, 1866, quoted in James 123, and later in the same month criticized the measure for "postponing, not settling" the matter of equal political rights for Negroes. May 31, 1866, quoted in James 146. As deliberations continued, the reporting went on in the same vein. The New York Times reported that with elections approaching, "No one now talks or dreams of forcing Negro suffrage upon the Southern States." June 6, 1866, The Cincinnati Daily Commercial and the Boston Daily Journal for June 7, 1866, commented on the Radicals' abandonment of Negro suffrage. James 145.

Much the same picture emerges from the campaign speeches. Although an occasional Democrat expressed the fear that the Amendment would or might result in political equality,[77] the supporters of the Amendment denied such effects without exception that I have discovered. Among the leading congressional figures who stated in campaign speeches that the Amendment did not prohibit racial voting qualifications were Senators Howe, Lane, Sherman, and Sumner, and Congressmen Bingham, Delano, Schenck, Stevens, and Trumbull. See James 159–168, 173, 178; Fairman, *supra*, 2 Stan. L. Rev., at 70–78.

As was pointed out above, all but a handful of northern States prohibited blacks from voting at all, and opposition to a change was intense. Between 1865 and 1869 referenda on the issue rejected impartial Negro suffrage in Colorado Territory, Connecticut, Wisconsin, Minnesota (twice), the District of Columbia, Nebraska Territory, Kansas, Ohio, Michigan, Missouri, and New York. Only Iowa and Minnesota accepted it, and that on the day Grant was elected to the Presidency.[78] It is inconceivable that those States, in that climate, could have ratified the Amendment with the expectation that it would require them to permit their black citizens to vote.

Small wonder, then, that in early 1869 substantially the same group of men who three years earlier had proposed the Fourteenth Amendment felt it necessary to make further modifications in the Constitution if state suffrage laws were to be controlled even to the minimal degree of prohibiting qualifications which on their face discriminated on the basis of race. If the consequences for our federal system were not so serious, the contention that the history is "inconclusive" would be undeserving of attention. And, with all respect, the transparent failure of attempts to cast doubt on the original understanding is simply further evidence of the force of the historical record.

II

The history of the Fourteenth Amendment with respect to suffrage qualifications is remarkably free of the problems which bedevil most attempts to find a reliable guide to present decision in the pages of the past. Instead there is virtually unanimous agreement, clearly and repeatedly expressed, that § 1 of the Amendment did not reach discriminatory voter qualifications. In this rather remarkable situation, the issue of the bearing of the historical understanding on constitutional interpretation squarely arises.

I must confess to complete astonishment at the position of some of my Brethren that the history of the Fourteenth Amendment has become irrelevant. *Ante*, p. —. In the six years since I first set out much of this history,[79] I have seen no justification for such a result which appears to me at all adequate. With matters in this posture, I need do no more by way of justifying my reliance on these materials than sketch the familiar outlines of our constitutional system.

When the Constitution with its original Amendments came into being, the States delegated some of their sovereign powers to the Federal Government, surrendered other powers, and expressly retained all powers not delegated or surrendered. Amend. X. The power to set state voting qualifications was neither surrendered nor delegated, except to the extent that the guaranty of a republican form of government[80] may be thought to require a certain minimum distribution of poltical power. The power to set qualifications for voters for national office, created by the Constitution, was expressly committed to the States by Article I, § 2, and Article II, § 1.[81] By Article V, States may be deprived of their retained powers only with the concurrence of two-thirds of each House of Congress and three-fourths of the States. No one asserts that the power to set voting qualifications was taken from the States or subjected to federal control by any Amendment before the Fourteenth. The historical evidence makes it plain that the Congress and the States proposing and ratifying that Amendment affirmatively understood that they were not limiting state power over voting qualifications. The existence of the power therefore survived the amending process, and, except as it has been limited by the Fifteenth, Nineteenth, and Twenty-fourth Amendments, it still exists today.[82] Indeed, the very fact that constitutional amendments were deemed necessary to bring about federal abolition of state restrictions on voting by reason of race (Amend. XV), sex (Amend. XIX), and, even with respect to federal elections, the failure to pay state poll taxes (Amend. XXIV), is itself forceful evidence of the common understanding in 1869, 1919, and 1962, respectively, that the Fourteenth Amendment did not empower Congress to legislate in these respects.

It must be recognized, of course, that the amending process is not the only way in which constitutional understanding alters with time. The judiciary has long been entrusted with the task of applying the Constitution in changing circumstances, and as conditions change the Constitution in a sense changes as well. But when the Court gives the language of the Constitution an unforeseen application, it does so, whether explicitly or implicitly, in the name of some underlying purpose of the Framers.[83] This is necessarily so; the federal judiciary, which by express constitutional provision is appointed for life, and therefore cannot be held responsible by the electorate, has no inherent general authority to establish the norms for the rest of society. It is limited to elaboration and application of the precepts ordained in the Constitution by the political representatives of the people. When the Court disregards the express intent and understanding of the Framers, it has invaded the realm of the political process to which the amending power was committed, and it has violated the constitutional structure which it is its highest duty to protect.[84]

As the Court is not justified in substituting its own views of wise policy for the commands of the Constitution, still less it is justified in allowing Congress to disregard those commands as the Court understands them. Although Congress' expression of the view that it does have power to alter state suffrage qualifications is entitled to the most respectful consideration by the judiciary, coming as it does from a coordinate branch of government,[85] this cannot displace the duty of this Court to make an independent determination whether Congress has exceeded its powers. The reason for this goes beyond Marshall's assertion that "It is emphatically the province and duty of the judicial department to say what the law is." *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 177 (1803).[86] It inheres in the structure of the constitutional system itself. Congress is subject to none of the institutional restraints imposed on judicial decisionmaking; it is controlled only by the political process. In Article V, the Framers expressed the view that the political restraints on Congress alone were an insufficient control over the process of constitution-making. The concurrence of two-thirds of each House and of three-fourths of the States was needed for the political check to be adequate. To allow a simple majority of Congress to have final say on matters of constitutional interpreta-

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tion is therefore fundamentally out of keeping with the constitutional structure. Nor is that structure adequately protected by a requirement that the judiciary be able to perceive a basis for the congressional interpretation, the only restriction laid down in *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966).

It is suggested that the proper basis for the doctrine enunciated in *Morgan* lies in the relative fact-finding competence of Court, Congress, and state legislatures. *Ante*, p. ——. In this view, as I understand it, since Congress is at least as well qualified as a state legislature to determine factual issues, and far better qualified than this Court, where a dispute is basically factual in nature the congressional finding of fact should control subject only to review by this Court for reasonableness.

In the first place, this argument has little or no force as applied to the issue whether the Fourteenth Amendment covers voter qualifications. Indeed, I do not understand the adherents of *Morgan* to maintain the contrary. But even on the assumption that the Fourteenth Amendment does place a limit on the sorts of voter qualifications which a State may adopt, I still do not see any real force in the reasoning.

When my Brothers refer to "complex factual questions," *ante*, p. —, they call to mind disputes about primary, objective facts dealing with such issues as the number of persons between the ages of 18 and 21, the extent of their education, and so forth. The briefs of the four States in these cases take no issue with respect to any of the facts of this nature presented to Congress and relied on by my Brothers DOUGLAS, *ante*, p —, and BRENNAN, WHITE, and MARSHALL, *ante*, p. —. Except for one or two matters of dubious relevance, these facts are not subject to rational dispute. The disagreement in these cases revolves around the evaluation of this largely uncontested factual material.[87] On the assumption that maturity and experience are relevant to intelligent and responsible exercise of the elective franchise, are the immaturity and inexperience of the average 18-, 19-, or 20-year-old sufficiently serious to justify denying such a person a direct voice in decision affecting his or her life? Whether or not this judgment is characterized as "factual," it calls for striking a balance between incommensurate interests. Where the balance is to be struck depends ultimately on the values and the perspective of the decisionmaker. It is a matter as to which men of good will can and do reasonably differ.

I fully agree that judgments of the sort involved here are beyond the institutional competence and constitutional authority of the judiciary. See, *e.g.*, *Baker* v. *Carr*, 369 U.S. 186,266–330 (1962) (Frankfurter, J., dissenting); *Kramer* v. *Union Free School District No. 15*, 395 U.S. 621, 634–641 (1969) (STEWART, J., dissenting). They are preeminently matters for legislative discretion, with judicial review, if it exists at all, narrowly limited. But the same reasons which in my view would require the judiciary to sustain a reasonable state resolution of the issue also require Congress to abstain from entering the picture.

Judicial deference is based, not on relative fact-finding competence, but on due regard for the decision of the body constitutionally appointed to decide. Establishment of voting qualifications is a matter for state legislatures. Assuming any authority at all, only when the Court can say with some confidence that the legislature has demonstrably erred in adjusting the competing interests is it justified in striking down the legislative judgment. This order of things is more efficient and more congenial to our system and, in my judgment, much more likely to achieve satisfactory results than one in which the Court has a free hand to replace state legislative judgments with its own. See *Ferguson* v. *Skrupa*, 372 U.S. 726 (1963).

The same considerations apply, and with almost equal force, to Congress' displacement of state decisions with its own ideas of wise policy. The sole distinction between Congress and the Court in this regard is that Congress, being an elective body, presumptively has popular authority for the value judgment it makes. But since the state legislature has a like authority, this distinction between Congress and the judiciary falls short of justifying a congressional veto on the state judgment. The perspectives and values of national legislators on the issue of voting qualifications are likely to differ from those of state legislators, but I see no reason *a priori* to prefer those of the national figures, whose collective decision, applying nationwide, is necessarily less able to take account of peculiar local conditions. Whether one agrees with this judgment or not, it is the one expressed by the Framers in leaving voter qualifications to the States. The Supremacy Clause does not, as my colleagues seem to argue, represent a judgment that federal decisions are superior to those of the States whenever the two may differ.

To be sure, my colleagues do not expressly say that Congress or this Court is empowered by the Constitution to substitute its own judgment for those of the States. However, before sustaining a state judgment they require a "clear showing that the burden imposed is necessary to protect a compelling and substantial governmental interest."[88] *Ante*, p. ——; see p. ——, n. 31. I should think that if the state interest were truly "compelling" and "substantial," and a clear showing could be made that the voter qualification was "necessary" to its preservation, no reasonable person would think the qualification undesirable. Equivalently, if my colleagues or a majority of Congress deem a given voting qualification undesirable as a matter of policy, they must consider that the state interests involved are not "compelling" or "substantial" or that they can be adequately protected in other ways. It follows that my colleagues must be prepared to hold invalid as a matter of Federal constitutional law all state voting qualifications which they deem unwise, as well as all such qualifications which Congress reasonably deems unwise. For this reason, I find their argument subject to the same objection as if it explicitly acknowledged such a conclusion.

It seems to me that the notion of deference to congressional interpretation of the Constitution, which the Court promulgated in *Morgan*, is directly related to this higher standard of constitutionality which the Court intimated in *Harper* v. *Virginia Board of Elections*, 383 U.S. 663 (1966), and brought to fruition in *Kramer*. When the scope of federal review of state determinations became so broad as to be judicially unmanageable, it was natural for the Court to seek assistance from the national legislature. If the federal role were restricted to its traditional and appropriate scope, review for the sort of "plain error" which is variously described as "arbitrary and capricious," "irrational," or "invidious," there would be no call for the Court to defer to a congressional judgment on this score that it did not find convincing. Whether a state judgment has so exceeded the bounds of reason as to authorize federal intervention is not a matter as to which the political process is intrinsically likely to produce a sounder or more acceptable result. It is a matter of the delicate adjustment of the federal system. In this area, to rely on Congress would make that body a judge in its own cause. The role of final arbiter belongs to this Court.

III

Since I cannot agree that the Fourteenth Amendment empowered Congress, or the federal judiciary to control voter qualifications, I turn to other asserted sources of congressional power. My Brother BLACK would find that such power exists with respect to *federal* elections by virtue of Article I, § 4, and seemingly other considerations which he finds implicit in federal authority.

Art. I, § 2: "the Electors [for Representatives] in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

Art. I, § 4: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such Regulations, except as to the Places of chusing Senators."

Amend. XVII. "The electors [for Senators] in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures."

It is difficult to see how words could be clearer in stating what Congress can control and what it cannot control. Surely nothing in these provisions lends itself to the view that voting qualifications in federal elections are to be set by Congress. The reason for the scheme is not hard to find. In the Constitutional Convention, Madison expressed the view that "The qualifications of electors and elected were fundamental articles in a Republican Govt. and ought to be fixed by the Constitution. If the Legislature could regulate those of either, it can by degrees subvert the Constitution." 2 M. Farrand, Records of the Federal Convention of 1787, at 249–250 (1911). He explained further in The Federalist No. 52, at 326 (C. Rossiter ed. 1961).

"To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention. The provision made by the Convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established or which may be established by the State itself. It will be safe to the United States because, being fixed by the State constitutions, it is not alterable by the State governments; and it cannot be feared that the people of the States will alter this part of their constitutions in such manner as to abridge the rights secured to them by the Federal Constitution."

See also Federalist No. 60, at 371 (C. Rossiter ed. 1961) (Hamilton), quoted in the opinion of Mr. Justice Stewart, *ante*, p.——, which is to the same effect.

As to presidential elections, the Constitution provides:

"Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors . . . ." Art. II, § 1, cl. 2.

"The Congress may determine the Time of choosing Electors, and the Day on which they shall give their Vote; which Day shall be the same throughout the United States." Art. II, § 1, cl. 4.

Even the power to control the "Manner" of holding elections, given with respect to congressional elections by Article I, § 4, is absent with respect to the selection of presidential electors.[89] And, of course, the fact that it was deemed necessary to provide separately for congressional power to regulate the time of choosing presidential electors and the President himself demonstrates that the power over "Times, Places and Manner" given by Article I, § 4, does not refer to presidential elections, but only to the elections for Congressmen. Any shadow of a justification for congressional power with respect to congressional elections therefore disappears utterly in presidential elections.

IV

With these major contentions resolved, it is convenient to consider the three sections of the Act individually to determine whether

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they can be supported by any other basis of congressional power.

A. Voting age

The only constitutional basis advanced in support of the lowering of the voting age is the power to enforce the Equal Protection Clause, a power found in § 5 of the Fourteenth Amendment. For the reasons already given, it cannot be said that the statutory provision is valid as declaratory of the meaning of that clause. Its validity therefore must rest on congressional power to lower the voting age as a means of preventing invidious discrimination that is within the purview of that clause.

The history of the Fourteenth Amendment may well foreclose the possibility that § 5 empowers Congress to enfranchise a class of citizens so that they may protect themselves against discrimination forbidden by the first section, but it is unnecessary for me to explore that question. For I think it fair to say that the suggestion that members of the age group between 18 and 21 are threatened with unconstitutional discrimination, or that any hypothetical discrimination is likely to be affected by lowering the voting age, is little short of fanciful. I see no justification for stretching to find any such possibility when all the evidence indicates that Congress—led on by recent decisions of this Court—thought simply that 18-year-olds were fairly entitled to the vote and that Congress could give it to them by legislation.[90]

I therefore conclude, for these and other reasons given in this opinion, that in § 302 of the Voting Rights Act Amendments of 1970 Congress exceeded its delegated powers.

B. Residency

For reasons already stated, neither the power to regulate voting qualifications in presidential elections, asserted by my Brother Black, nor the power to declare the meaning of § 1 of the Fourteenth Amendment, relied on by my Brother Douglas, can support § 202 of the Act. It would also be frivolous to contend that requiring States to allow new arrivals to vote in presidential elections is an appropriate means of preventing local discrimination against them in other respects, or of forestalling violations of the Fifteenth Amendment. The remaining grounds relied on are the Privileges and Immunities Clause of Article IV, § 2,[91] and the right to travel across state lines.

While the right of qualified electors to cast their ballots and to have their votes counted was held to be a privilege of citizenship in *Ex parte Yarbrough*, 110 U.S. 651 (1884), and *United States* v. *Classic*, 313 U.S. 299 (1941), these decisions were careful to observe that it remained with the States to determine the class of qualified voters. It was federal law, acting on this State-defined class, which turned the right to vote into a privilege of national citizenship. As the Court has consistently held, the Privileges and Immunities Clauses do not react on the mere status of citizenship to enfranchise any citizen whom an otherwise valid state law does not allow to vote. *Minor* v. *Happersett*, 88 U.S. (21 Wall.) 162, 170–175 (1874); *Pope* v. *Williams*, 193 U.S. 621, 632 (1904); *Breedlove* v. *Suttles*, 302 U.S. 277, 283 (1937); cf. *Snowden* v. *Hughes*, 321 U.S. 1, 6–7 (1944). Minors, felons, insane persons, and persons who have not satisfied residency requirements are among those citizens who are not allowed to vote in most States.[92] The Privileges and Immunities Clause of Article IV of the Constitution is a direct descendent of Article IV of the Articles of Confederation:

> "The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of these States, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States. . . ."

It is inconceivable that these words when used in the Articles could have been understood to abolish state durational residency requirements.[93] There is not a vestige of evidence that any further extent was envisioned for them when they were carried over into the Constitution. And, as I have shown, when they were substantially repeated in § 1 of the Fourteenth Amendment it was affirmatively understood that they did not include the right to vote. The Privileges and Immunities Clause is therefore unavailing to sustain any portion of § 202.

The right to travel across state lines, see *United States* v. *Guest*, 383 U.S. 745, 757–758 (1966), and *Shapiro* v. *Thompson*, 394 U.S. 618, 630 (1969), is likewise insufficient to require Idaho to conform her laws to the requirements of § 202. Mr. Justice Stewart justifies § 202 solely on the power under § 5 of the Fourteenth Amendment to enforce the Privileges and Immunities Clause of § 1 which he deems the basis for the right to travel. Ante, p. ——. I find it impossible to square the position that § 5 authorizes Congress to abolish state voting qualifications based on residency with the position that it does not authorize Congress to abolish such qualifications based on race. Since the historical record compels me to accept the latter position, I must reject the former.

Mr. Justice Brennan, Mr. Justice White, and Mr. Justice Marshall do not anchor the right of interstate travel to any specific constitutional provision. Ante, p. ——. Past decisions to which they refer have relied on the two Privileges and Immunities Clauses, just discussed, the Due Process Clause of the Fifth Amendment, and the Commerce Clause. See *Shapiro* v. *Thompson*, 394 U.S., at 630 n. 8; id., 663–671 (dissenting opinion). The Fifth Amendment is wholly inapplicable to state laws; and surely the Commerce Clause cannot be seriously relied on to sustain the Act here challenged. With no specific clause of the Constitution empowering Congress to enact § 202, I fail to see how that nebulous judicial construct, the right to travel, can do so.

C. Literacy

The remaining provision of the Voting Rights Act Amendments involved in these cases is the five-year suspension of Arizona's requirement that registrants be able to read the Constitution in English and to write their names. Although the issue is not free from difficulty, I am of the opinion that this provision can be sustained as a valid means of enforcing the *Fifteenth* Amendment.

Despite the lack of evidence of specific instances of discriminatory application or effect, Congress could have determined that racial prejudice is prevalent throughout the Nation, and that literacy tests unduly lend themselves to discriminatory application, either conscious or unconscious.[94] This danger of violation of § 1 of the Fifteenth Amendment was sufficient to authorize the exercise of congressional power under § 2.

Whether to engage in a more particularized inquiry into the extent and effects of discrimination, either as a condition precedent or as a condition subsequent to suspension of literacy tests, was a choice for Congress to make.[95] The fact that the suspension is only for five years will require Congress to reevaluate at the close of that period. While a less sweeping approach in this delicate area might well have been appropriate, the choice which Congress made was within the range of the reasonable.[96] I therefore agree that § 201 of the Act is a valid exercise of congressional power to the extent it is involved in this case. I express no view about its validity as applied to suspend tests such as educational qualifications, which do not lend themselves so readily to discriminatory application or effect.

For the reasons expressed in this opinion, I would grant the relief requested in Nos. 43 and 44. I would dismiss the complaint in No. 47 for failure to state a claim on which relief can be granted. In No. 46 I would grant declaratory relief with respect to the validity of § 201 of the Voting Rights Act Amendments as applied to Arizona's current literacy test; I would deny relief in all other respects, with leave to reapply to the United States District Court for the District of Arizona for injunctive relief in the event it proves necessary, which I am confident it will not.

V

In conclusion I add the following. The consideration that has troubled me most in deciding that the 18-year-old and residency provisions of this legislation should be held unconstitutional is whether I ought to regard the doctrine of *stare decisis* as preventing me from arriving at that result. For as I indicated at the outset of this opinion, were I to continue to consider myself constricted by recent past decisions holding that the Equal Portection Clause of the Fourteenth Amendment reaches state electoral processes, I would, particularly perforce of the decisions cited in n. 84, *supra*, be led to cast my vote with those of my Brethren who are of the opinion that the lowering of the voting age and the abolition of state residency requirements in presidential elections are within the ordinary legislative power of Congress.

After much reflection I have reached the conclusion that I ought not to allow *stare decisis* to stand in the way of casting my vote in accordance with what I am deeply convinced the Constitution demands. In the annals of this Court few developments in the march of events have so imperatively called upon us to take a fresh hard look at past decisions, which could well be mustered in support of such developments, than do the legislative lowering of the voting age and, albeit to a lesser extent, the elimination of state residential requirements in presidential elections. Concluding, as I have, that such decisions cannot withstand constitutional scrutiny, I think it my duty to depart from them, rather than to lend my support to perpetuating their constitutional error in the name of *stare decisis*.

In taking this position, I feel fortified by the evident *malaise* among the members of the Court with those decisions. Despite them, a majority of the Court holds that this congressional attempt to lower the voting age by simple legislation is unconstitutional, insofar as it relates to state elections. Despite them, four members of the Court take the same view of this legislation with respect to federal elections as well; and the fifth member of the Court who considers the legislation constitutionally infirm as regards state elections relies not at all on any of those decisions in reaching the opposite conclusion in federal elections. And of the eight members of the Court who vote to uphold the residential provisions of the statute, only four appear to rely upon any of those decisions in reaching that result.

In these circumstances I am satisfied that I am free to decide these cases unshackled from a line of decisions which I have felt from the start entailed a basic departure from sound constitutional principle.

APPENDIX TO OPINION OF HARLAN, J.

Voting Rights Acts Amendments of 1970, Pub. L. 91–285, 84 Stat. 314.

Title II—Supplemental provisions

Application of Prohibition to Other States

SEC. 201. (a) Prior to August 6, 1975, no citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State as to which the provisions of section 4(a) of this Act are not in effect by reason of determinations made under section 4(b) of this Act.

(b) As used in this section, the term "test or device" means any requirement that a

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Footnotes at end of article.

person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

Residence Requirements for Voting

SEC. 202. (a) The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

(b) Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

(c) No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election. If such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

(d) For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(e) If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceeding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

(f) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of a registration that does not include a provision for absentee registration.

(g) Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

Separability

SEC. 205. If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

Title III—Reducing voting age to eighteen in Federal, State, and local elections

SEC. 301. (a) The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

(3) does not bear a reasonable relationship to any compelling State interest.

(b) In order to secure the constitutional rights set forth in subsection (a), the Congress declares that it is necessary to prohibit the denial of the right to vote to citizens of the United States eighteen years of age or over.

Prohibition

SEC. 302. Except as required by the Constitution, no citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if such citizen is eighteen years of age or older.

Effective Date

SEC. 305. The provisions of title III shall take effect with respect to any primary or election held on or after January 1, 1971.

Arizona Constitution

Art. 7, § 2. No person shall be entitled to vote at any general election, or for any office that now is, or hereafter may be, elective by the people, or upon any question which may be submitted to a vote of the people, unless such person be a citizen of the United States of the age of twenty-one years or over, and shall have resided in the State one year immediately preceding such election, provided that qualifications for voters at a general election for the purpose of electing presidential electors shall be as prescribed by law. The word "citizen" shall include persons of the male and female sex.

Arizona Revised Statutes Annotated

§ 16–101. Qualifications of elector

A. Every resident of the state is qualified to become an elector and may register to vote at all elections authorized by law if he:

1. Is a citizen of the United States.
2. Will be twenty-one years or more of age prior to the regular general election next following his registration.
3. Will have been a resident of the state one year and of the county and precinct in which he claims the right to vote thirty days next preceding the election.
4. Is able to read the Constitution of the United States in the English language in a manner showing that he is neither prompted nor reciting from memory, unless prevented from so doing by physical disability.
5. Is able to write his name, unless prevented from so doing by physical disability.

B. At an election held between the date of registration and the next regular general election, the elector is eligible to vote if at the date of the intervening election he is twenty-one years of age and has been a resident of the state one year and the county and precinct thirty days.

C. A person convicted of treason or a felony, unless restored to civil rights, or an idiot, insane person or person under guardianship is not qualified to register.

§ 16–107. Closing of registrations

A. No elector shall be registered to vote in a primary election between five o'clock p.m. of the day which is four months preceding the date of the next general election and six o'clock p.m. of the day of the primary election.

B. No elector shall be registered between five o'clock p.m. of the seventh Monday preceding a general election and six o'clock p.m. of the day thereof. As amended Laws 1958, Ch. 48, § 1.

IDAHO CONSTITUTION

Art. 6, § 2. Qualifications of electors.—Except as in this article otherwise provided, every male or female citizen of the United States, twenty-one years old, who has actually resided in this state or territory for six months, and in the country where he or she offers to vote, thirty days next preceding months, and in the county where he or the day of election, if registered as provided by law, is a qualified elector; provided however, that every citizen of the United States, twenty-one years old, who has actually resided in this state for sixty days next preceeding the day of election, if registered as required by law, is a qualified elector for the sole purpose of voting for presidential electors; and until otherwise provided by the legislature, women who have the qualifications prescribed in this article may continue to hold such school offices and vote at such school elections as provided by the laws of Idaho territory.

IDAHO CODE

Sec. 34—401. Qualifications of voters.—Every person over the age of twenty-one (21) years, possessing the qualifications following, shall be entitled to vote at all elections: He shall be a citizen of the United States and shall have resided in this state six (6) months immediately preceding the election at which he offers to vote, and in the county thirty (30) days: provided, that no person shall be permitted to vote at any county seat election who has not resided in the county six (6) months, and in the precinct ninety (90) days, where he offers to vote; nor shall any person be permitted to vote at any election for the division of the county, or striking off from any county any part thereof, who has not the qualifications provided for in section 3, article 18, of the constitution; nor shall any person be denied the right to vote at any school district election, nor to hold any school district office on account of sex.

34-408. Eligibility of new residents to vote.—Each citizen of the United States, who, immediately prior to his removal to this state, was a citizen of another state and who has been a resident of this state for sixty (60) days next preceding the day of election but for less than the six (6) month period of required residence for voting prior to a presidential election, is entitled to vote for presidential and vice-presidential electors at that election, but for no other offices, if

(1) he otherwise possesses the substantive qualifications to vote in this state (except the requirements of residence and registration), and

(2) he complies with the provisions of this act.

34-409. Application for presidential ballot by new residents.—A person desiring to qualify under this act in order to vote for presidential and vice-presidential electors shall be considered as registered within the meaning of this act if on or before ten (10) days prior to the date of the general election, he shall make an application in the form of an affidavit executed in duplicate in the presence of the county auditor, substantially as follows * * *.

34-413. Voting by new residents.—(1) The applicant, upon receiving the ballot for presidential and vice-presidential electors shall mark forthwith the ballot in the presence of the county auditor, but in a manner that the official cannot know how the ballot is marked. He shall then fold the ballot in the county auditor's presence so as to conceal the markings, and deposit and seal it in an envelope furnished by the county auditor.

34-1101. Absent voting authorized.—Any qualified elector of the state of Idaho who is absent or expects to be absent from the election precinct in which he resides on the day of holding any election under any of the laws of this state in which an official ballot is required, or who is within the election precinct and is, or will be, unable, because of physical disability, or because of blindness, to go to the voting place, and if registration is required for such election, who is duly registered therefor, may vote at any such election, as hereinafter provided.

34-1105. Return of ballot.—On marking such ballot or ballots such absent or disabled or blind elector shall refold same as theretofore folded and shall inclose the same in said official envelope and seal said envelope securely and mail by registered or certified mail or deliver it in person to the officer who issued same; provided, that an absentee ballot must be received by the issuing officer by 12:00 o'clock noon on the day of the election before such ballot may be counted. Said ballot or ballots shall be so marked, folded and sealed by said voter in private and secretly. Provided, that whenever the disability or blindness makes it necessary that the voter shall be assisted in marking his ballot, such voter may have the assistance of any person of his choice in marking his ballot.

Oregon Constitution

Art. II, § 2. Every citizen of the United States is entitled to vote in all elections not otherwise provided for by this Constitution if such citizen:

(a) Is 21 years of age or older * * *.

Texas Constitution

Art. VI, § 1. Classes of persons not allowed to vote

Section 1. The following classes of persons shall not be allowed to vote in this State, to wit:

First: Persons under twenty-one (21) years of age.

Second: Idiots and lunatics.

Third: All paupers supported by any county.

Fourth: All persons convicted of any felony, subject to such exceptions as the Legislature may make.

§ 2. Qualified elector; registration; absentee voting.

Sec. 2 Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one (21) years and who shall be a citizen of the United States and who shall have resided in this State one (1) year next preceding an election and the last six (6) months within the district or county in which such person offers to vote, shall be deemed a qualified elector; provided, however, that before offering to vote at an election a voter shall have registered annually, but such requirement for registration shall not be considered a qualification of an elector within the meaning of the term "qualified elector" as used in any other Article of this Constitution in respect to any matter except qualification and eligibility to vote at an election. Any legislation enacted in anticipation of the adoption of this Amendment shall not be invalid because of its anticipatory nature. The Legislature may authorize absentee voting. And this provision of the Constitution shall be self-enacting without the necessity of further legislation.

Texas Election Code

Article 5.01. Classes of persons not qualified to vote.

The following classes of persons shall not be allowed to vote in this state:

1. Persons under twenty-one years of age.
2. Idiots and lunatics.
3. All paupers supported by the county.
4. All persons convicted of any felony except those restored to full citizenship and right of suffrage or pardoned.

Art. 5.02. Qualification and requirements for voting.

Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one years and who shall be a citizen of the United States and who shall have resided in this state one year next preceding an election and the last six months within the district or county in which such persons offers to vote, and who shall have registered as a voter, shall be deemed a qualified elector. No persons shall be permitted to vote unless he has registered in accordance with the provisions of this code. The provisions of this section, as modified by Sections 35 and 39 of this code, shall apply to all elections, including general, special, and primary elections, whether held by the state, by a county, municipality, or other political subdivision of the state, or by a political party.

FOOTNOTES

[1] The Attorney General of the United States, a citizen of New York, is named as defendant. The jurisdictional basis alleged is Art. III, § 2, which gives this Court original jurisdiction over controversies between a State and a citizen of another State. We held a similar suit justiciable and otherwise within our original jurisdiction in *South Carolina* v. *Katzenbach*, 383 U.S. 301, 307 (1966). The parties have not asked us to reexamine the validity of that ruling, and since the Court has not undertaken to do so, I am content to sustain jurisdiction on the authority of that decision.

[2] In response to inquiries from the Attorney General, Arizona, Oregon, and Texas indicated willingness to abide by § 202 of the Act, governing residency, registration, and absentee voting in presidential elections and to conform conflicting state laws.

[3] The account in the text is largely drawn from J. James, The Framing of the Fourteenth Amendment (1956) (hereafter James), and to some extent from W. Gillette, The Right To Vote: Politics and the Passage of the Fifteenth Amendment (1969) (hereafter Gillette), and B. Kendrick, The Journal of the Joint Committee of Fifteen on Reconstruction (1914) (hereafter Kendrick), as well.

[4] "Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons."

[5] See p. ----, *post*, for the text of these provisions, and for discussion of the contention that they empower Congress to set qualifications of voters in federal elections.

[6] "The United States shall guarantee to every State in this Union a Republican Form of Government."

[7] E. g., Proclamation of May 29, 1865, 13 Stat. 760 (North Carolina).

[8] The texts of the state constitutions are most readily available in F. Thorpe, The Federal and State Constitutions (1909). The qualifications imposed by the various States three years later, when the Fifteenth Amendment was proposed, are presented in tabular form in Hearings on the Voting Rights Bill, S. 1564, Before the Senate Committee on the Judiciary, 89th Cong., 1st Sess., 128-129 (1965).

[9] James 33.

[10] See Globe 209 (Freedmen's Bureau Bill); Globe 211 (Civil Rights Bill).

[11] While formally further consideration was postponed until a date in April, six weeks off, Globe 1095, it was generally understood that "April means indefinitely." 2 Nation 289 (March 11, 1866).

[12] The only change made in § 1 was the addition of the Citizenship Clause by the Senate. Globe 3041. The primary change made in § 2 was to condition reduction of representation on denial or abridgement of the right to vote in certain named elections, rather than to speak generally of denial or abridgement of "the elective franchise." *Ibid.* That section now reads:

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

[13] Section 1 of that Act provided in part that:

"all persons . . . shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding." Act of Apr. 9, 1866, c. 31, § 1, 14 Stat. 27.

[14] In this connection, Professor Fairman's admonition of 20 years ago is even more forceful than it was when he wrote:

"We know so much more about the constitutional law of the Fourteenth Amendment than the men who adopted it that we should remind ourselves not to be surprised to find them vague where we want them to prove sharp. Eighty years of adjudication has taught us distinctions and subtleties where the men of 1866 did not even perceive the need for analysis." Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights? 2 Stan. L. Rev. 5, 9 (1949).

[15] See, *e.g.*, Globe 599 (Sen. Trumbull); Globe 1117 (Cong. Wilson of Iowa, quoting Kent's Commentaries and Bouvier's Law Dictionary); Globe 1152 (Cong. Thayer). There were some, however, who considered the distinction either nonexistent or too uncertain to be a basis for legislation. *E.g.*, Globe 477 (Sen. Saulsbury); Globe 1157 (Cong. Thornton); Globe 1292–1293 (Cong. Bingham).

It hardly seems necessary to point out that the jurisprudential concept of "political" as opposed to "civil" or "natural" rights bears no relation to that class of nonjusticiable issues perhaps inappropriately known as "political questions." See the opinion of Mr. Justice Douglas, *ante*, p.——.

[16] See generally Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights? 2 Stan. L. Rev. 5 (1949), especially at 8–9.

[17] The remarks of these three Democrats, Niblack, Boyer, and Rogers, are discussed at pp. ——, *post*. Also discussed there are the remarks of a fourth Democratic Representative, Phelps, which were delivered before the start of debate on the proposed Fourteenth Amendment.

[18] While this provision might seem useless in light of the Fifteenth Amendment, it was doubltless intended to prohibit the imposition of property or literacy qualifications which, even though fairly applied, would have the effect of disfranchising most of the Negroes. The Radicals had sought to prohibit such qualifications in the Fifteenth Amendment, but were unsuccessful. See Gillette 53, 56–62, 69–72, 76.

[19] While the history indicates that the supporters of the Fourteenth Amendment would have been surprised at the suggestion that the Amendment brought qualifications for state office under federal supervision, office-holding was not the focus of attention during the consideration of the Amendment. Moreover, state power to set voter qualifications, unlike state power to set qualifications for office, is explicitly recognized not only in the original Constitution but in § 2 of the Fourteenth Amendment itself. Whether these distinctions are sufficient to justify testing state qualifications for office by the Fourteenth Amendment is a matter not presented by these cases.

Where the state action has a racial basis, see *Anderson* v. *Martin*, 375 U. S. 399 (1964), I am not prepared to assume that the Fifteenth Amendment provides no protection. Despite the statement in the opinion of Mr. Justice Brennan, Mr. Justice White, and Mr. Justice Marshall, *ante*, p. —, I would find it surprising if a State could undercut the right to vote by taking steps to ensure that all candidates are unpalatable to voters of a certain race. Although an explicit provision on office-holding was deleted from the proposed Fifteenth Amendment at the eleventh hour, the idea that the right to vote without more implies the right to be voted for was specifically referred to by supporters of the Fifteenth Amendment in both Houses of Congress. See Cong. Globe, 40th Cong., 3d Sess., 1425–1426 (1969) (Cong. Boutwell); *id.*, at 1426 (Cong. Butler); *id.*, at 1629 (Sen. Sawyer).

[20] Hearings, *supra* n. 8.

[21] See, *e. .g.*, *Globe* 141–142 (Cong. Blaine); Globe 2766–2767 (Sen. Howard); Globe 2769–2770 (Sens. Wade and Wilson); Globe 3033 (Sen. Henderson).

[22] The Journal is reprinted in Kendrick, *supra* n. 3, at 37–129.

[23] The attempts were not altogether successful. See James 108–109.

[24] See generally Kendrick 18–22. For reasons to be developed below, *post*, p. —, the report of the Joint Committee, H.R. Rep. No. 30, 39th Cong., 1st Sess. (1866), is less useful as an indication of the understanding of the Committee and the Congress than as an indication of the understanding of the ratifying States.

[25] Owen's account of the Fourteenth Amendment is given in Political Results from the Varioloid, 35 Atlantic Monthly 660 (June 1875).

[26] See James 109–112; Gillette 24; Owen, *supra* n. 25, at 666.

[27] See the votes on Stevens' motion to select the alternative which reduced representation rather than that which prohibited racial restrictions on the ballot, Kendrick 52; Boutwell's motion to condition readmission of Tennessee on that State's agreement not to discriminate in its voter qualifications, Kendrick 70; Stevens' motion to strike out the provision of the Owen plan enfranchising Negroes after 1876, Kendrick 101; and the motion to condition readmission of Tennessee and Arkansas on their having provided impartial male suffrage, as well as on conforming their laws and constitutions to the requirements of the proposed amendment (which included Bingham's provision when this motion was made), Kendrick 109.

Bingham was not, however, wholly opposed to Negro suffrage. As chairman of the subcommittee, he reported the equal rights provision which would have empowered Congress to provide for equal political rights and privileges, Kendrick 56, although he was the one who subsequently had that replaced with the first equal rights provision reported to Congress. Kendrick 61. As already noted, the substitute contained substantially identical language, but omitted reference to political rights and privileges. Bingham also voted for Owen's plan, which would have enfranchised Negroes in 1876, when it was first presented. Kendrick 85. In February 1867 he moved to condition readmission of the southern States on impartial male suffrage as well as on the States' ratifying the Fourteenth Amendment and conforming their laws thereto. Kendrick 123.

[28] While any guess as to the motives of Bingham and the other members of the committee is sheer speculation, it is not necessarily true that they believed they were replacing specific language with general. The author of the original plan, for one, seems to have taken the opposite view. He gave the following characterization of § 1 some years later:

"A declaration who is a citizen: unnecessary, if we had given suffrage to the negro; since there could be no possible doubt that an elector, nativeborn, is a citizen of the United States. Also a *specification* of the *particular* civil rights to be assured: out of place, I think, in a constitutional amendment, though necessary and proper in a civil rights bill." Owen, *supra*, n. 23, at 666 (emphasis added).

[29] The proceedings of the Joint Committee are examined in greater detail in the opinion of Mr. Justice Brennan, Mr. Justice White, and Mr. Justice Marshall. Ante, p. —. I agree with their apparent conclusion that the Journal sheds little light on the contemporary construction of the Fourteenth Amendment. One is left to do what he can with the two facts noted at the outset of this section: that of the plans considered by the Joint Committee, all provided either for reduction of representation or for enfranchisement while none provided for both at the same time; and that the Committee consistently rejected provisions to enfranchise the freedmen, with the conceivable exception of a plan which was defeated in the House largely because of the scope of the powers it transferred from the States to the Federal Government.

[30] Unless, of course, one adopts a "conspiracy theory" of the history of the Fourteenth Amendment. Thus far no one has (quite) done so in this context.

[31] "I regret more than I shall be able to tell this House that we have not found the situation [*sic*] of affairs in this country such, and the public virtue such that we might come out on the plain, unanswerable proposition that every adult intelligent citizen of the United States, unconvicted of crime, shall enjoy the right of suffrage." Globe 2462.

[32] I shall, Mr. Speaker, vote for this amendment; not because I approve it. Could I have controlled the report of the committee of fifteen, it would have proposed to give the right of suffrage to every loyal man in the country." Globe 2469.

"So far as I am individually concerned, I object to the amendment as a whole because it does not go far enough and propose to at once enfranchise every loyal man in the country." *Ibid.*

[33] "The proposition in the matter of suffrage falls short of what I desire, but so far as it goes it tends to the equalization of the inequality at present existing; and while I demand and shall continue to demand the franchise for all loyal male citizens of this country—and I cannot but admit the possibility that ultimately those eleven States may be restored to representative power without the right of franchise being conferred upon the colored people—I should feel myself doubly humiliated and disgraced, and criminal even, if I hesitated to do what I can for a proposition which equalizes representation." Globe 2508.

[34] "The second section, Mr. Speaker, is, in my judgment, as nearly correct as it can be without being fully, in full measure, right. But one thing is right, and that is secured by the amendment. Manifestly no State should have its basis of national representation enlarged by reason of a portion of citizens within its borders to which the elective franchise is denied. If political power shall be lost because of such denial, not imposed because of participation in rebellion or other crime, it is to be hoped that political interests may work in the line of justice, and that the end will be the impartial enfranchisement of all citizens not disqualified by crime. Whether that end shall be attained or not, this will be secured: that the measure of political power of any State shall be determined by that portion of its citizens which can speak and act at the polls, and shall not be enlarged because of the residence within the State of portions of its citizens denied the right of franchise. So much for the second section of the amendment. It is not all that I wish and would demand; but odious inequalities are removed by it and representation will be equalized, and the political rights of all citizens will under its operation be, as we believe, ultimately recognized and admitted." Globe 2511.

[35] "I did hope to see the rights of the freedom completely established . . . I did hope . . . that we should have the manhood and magnanimity to declare that men who have wielded the sword in defense of their country are fit to be intrusted with the ballot. But I am convinced that my expectations, hitherto fondly cherished, are doomed to some disappointment." Globe 2537.

[36] "This is a step in the right direction; and although I should prefer to see incorporated into the Constitution a guarantee of universal suffrage, as we cannot get the required two thirds for that, I cordially support this proposition as the next best.'" Globe 2540.

[37] "[If the free slaves had been added] to the thinking, voting men of the southern States, it would be just and proper that that addition should be represented in this body. But we all know that such is not the case. In those States themselves the late slaves do not enter into the basis of local representation. . . .

"Would it not be a most unprecedented thing that when this population are not permitted where they reside to enter into the basis of representation in their own State, we should receive it as an element of representation here. . . ." Globe 2464.

[38] "The second proposition is, in short, to limit the representation of the several States as those States themselves shall limit suffrage. . . .

". . . And why not? If the negroes of the South are not to be counted as a political element in the government of the South in the States, why should they be counted as a political element in the government of the country in the Union? If they are not to be counted as against the southern people themselves, why should they be counted against us?" Globe 2498.

[39] H.R. No. 51 "deprived [the southern States] of all inducement for [the] gradual admission [of the freedmen] to the right of suffrage, inasmuch as it exacted universal suffrage as the only condition upon which they should be counted in the basis of representation at all. . . . I voted against a proposition which seemed to me so unjust and so injurious, not only to the whites of the southern States, but to the colored race itself. Well, sir, that amendment was rejected in the Senate, and the proposition, as embodied in the committee's report, comes before us in a very different form. It is now proposed to base representation upon suffrage, upon the number of voters, instead of upon the aggregate population in every State of the Union. And as I believe that to be essentially just, and likely to remedy the unequal representation of which complaint is so justly made, I shall give it my vote." Globe 2502.

Later, in discussion of § 3, which at that time would have disfranchised certain rebels in federal elections, Raymond remarked that the effect would be to allow "one fifth, one eighth, or one tenth, as the case may be, of the people of these southern States to elect members from those States, to hold seats upon this floor." *Ibid.* It is obvious that the possibility of Negroes' voting in these elections did not cross his mind.

[40] "But this House is not prepared to enfranchise all men; the nation, perhaps, is not prepared for it to-day; the colored race are not prepared for it, probably, and I am sure the rebels are unfit for it; and as Congress has not the moral courage to vote for it, then put in this provision which cuts off the traitor from all political power in the nation, and then we have secured to the loyal men that control which they so richly deserve." Globe 2505.

[41] "This amendment will settle the complication in regard to suffrage and representation, leaving each State to regulate that for itself, so that it will be for it to decide whether or not it shall have a representation for all its male citizens not less than twenty-one years of age." Globe 2510.

[42] "I have no doubt that the Government of the United States has full power to extend the elective franchise to the colored population of the insurgent States. I mean authority; I said power. I have no doubt that the Government of the United States has the authority to do this under the Constitution; but I do not think they have the power. The distinction I make between authority and power is this: we have, in the nature of our Government, the right to do it; but the public opinion of the country is such at this precise moment as to make it impossible we should do it. It was therefore most wise on the part of the committee on reconstruction to waive this matter in deference to public opinion." Globe 2532.

[43] "If South Carolina persists in withholding the ballot from the colored man, then let her take the alternative we offer, of confining her to the white basis of representation . . . ." Globe 2535.

[44] Spalding's speeches are given at Globe 2509–2510. His only remarks addressed to §§ 1 and 2 read:

"As to the first measure proposed, a person may read it five hundred years hence without gathering from it any idea that this rebellion ever existed. The same may be said of the second proposition, for it only proposes that, the bondsmen being made free, the apportionment of Representatives in Congress shall be based upon the whole number of persons who exercise the elective franchise, instead of the population." Globe 2509.

A month later, in the debate over the Amendment when it had returned from the Senate, Spalding expressed his views more clearly:

"I say, as an individual, that I would more cheerfully give my vote if that provision allowed all men of proper age whom we have made free to join in the exercise of the right of suffrage in this country. But if I cannot obtain all that I wish, I will go heartily to secure all we can obtain." Globe 3146.

[45] Longyear's speech is published at Globe 2536–2537. He did not in terms address himself to any section except the third. However, it is not difficult to read his statement that the proposals of the Joint Committee disappointed "the expectations of the people" and his personal hopes as having reference to the absence of any provision on Suffrage.

[46] Shellabarger spoke only briefly, and this in connection with the disfranchising section. In the course of his remarks he expressed the view that congressional power to regulate voter qualifications in federal elections was granted by Article I, § 4. Globe 2512.

[47] "Why is it that the gentleman from Pennsylvania [Mr. Stevens] gives up universal suffrage? Why is it that he and other gentlemen give up universal confiscation? Why is it that other gentlemen give up universal butchery of that people? It is a compromise of what they call principle for the purpose of saving their party in the next election." Globe 2506.

[48] "Gentlemen here admit that they desire [federal control over suffrage], but that the weak kneed of their party are not equal to the issue. Your purpose is the same, and but for that timidity you would now ingraft negro suffrage upon our Constitution and force it on the entire people of this Union." Globe 2530.

[49] "While this [second] section admits the right of the States thus to exclude negroes from voting, it says to them, if you do so exclude them they shall also be excluded from all representation; and you shall suffer the penalty by loss of representation." Globe 3145.

[50] Boyer's speech was made in opposition to a proposal to enfranchise Negroes in the District of Columbia. He then thought Negro suffrage a "monstrous proposition," Globe 176, which was incompatible with "the broad general principle that this is, and of right ought to be, a white man's Government." Globe 175. One of Rogers' harangues on the subject came in connection with the same bill. There he spoke of "the monstrous doctrine of political equality of the negro race with the white at the ballot-box," Globe 198, and launched into an attack remarkable for its vitriol.

[51] Boyer viewed § 3, which at that time would have prohibited voluntary participants in the rebellion from voting in federal elections, as "the most objectionable of all the parts," Globe 2467, as it would disfranchise nine-tenths of the voting population of the South for more than four years. The second section he found objectionable as designed "to reduce the number of southern representatives in Congress and in the Electoral College; and also to operate as a standing inducement to negro suffrage." Globe 2467. These remarks indicate no awareness that the first section would increase the number of voters in the southern States and also render any "inducement" to Negro suffrage unnecessary.

Rogers later in his speech asserted:

"The committee dare not submit the broad proposition to the people of the United States of negro suffrage. They dare not to-day pass the negro suffrage bill which passed this House in the Senate of the United States because, as I have heard one honorable and leading man on the Republican side of the House say, it would sink into oblivion the party that would advocate before the American people the equal right of the negro with the white man to suffrage." Globe 2538.

When H.R. No. 127 was returned by the Senate with amendments, Rogers addressed the House and stated that when the records of the Joint Committee were made public, it would be revealed that the Committee at first agreed to recommend universal Negro suffrage, but reconsidered because of the force of public opinion. Globe Appendix 230. Rogers was himself a member of the Joint Committee, and he presumably was referring to the acceptance and then rejection of Owen's plan for enfranchisement in 1876.

[52] The Amendment, however, had been released to the press on April 28. James 115.

[53] It is not amiss to point out that whatever force Phelps' and Rogers' interpretations may have in the face of the contrary authority, even they foresaw no danger from the Equal Protection Clause as a source of federal power over the suffrage.

[54] Like my colleagues, *ante* p. —, I find it difficult to understand what Bingham meant when he said that "the exercise of the elective franchise, though it be one of the privileges of a citizen of the Republic, is exclusively under the control of the States." Globe 2542. However, I do not find this mysterious sentence to mean that the exercise of the elective franchise is exclusively under the control of the States and Congress, nor do I find it to dilute the force of his explicit statements quoted above that § 1 did not reach the right to vote. The general statements by Bingham and Stevens to the effect that the Amendment was designed to achieve equality before the law, or would be effectuated by legislation in part, likewise do not weaken the force of the statements specifically addressed to the suffrage question quoted above.

[55] Fessenden, however, was present in the Senate and participated in the discussion. See Globe 2763, 2769, 2770. He was therefore in a position to correct any gross misinterpretation of his view or of those of the Committee.

[54] My colleagues, *ante* p. —, point to Howard's reference to *Corfield* v. *Coryell*, 6 Fed. Case. 546 (No. 3230) (CCED Pa. 1823), in order to "gather some intimation of what probably will be the opinion of the judiciary" on the scope of the Privileges and Immunities Clause of § 1. Globe 2765. As the text indicates, Howard rejected Justice Washington's lengthy dictum insofar as it said that the protected privileges and immunities included "the elective franchise, as regulated and established by the laws or constitution of the State in which it is exercised." No other Senator quoted or referred to this portion of Washington's opinion during the debates over

the proposed Fourteenth Amendment. *Corfield*, which held that New Jersey could constitutionally restrict access to her oyster beds to her own residents, was the leading authority on privileges and immunities in the mind of the Thirty-ninth Congress, but it was not the only one. *Campbell* v. *Morriss*, 3 H. & McH. 535 (Md. 1797) (Samuel Chase, J.), and *Abbot* v. *Bayley*, 6 Pick. 89 (Mass. 1827) (Parker, C. J.), were also cited. See Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights? 2 Stan. L. Rev. 5, 12–15 (1949). Both specifically stated that the privileges and immunities protected by Article IV, § 2, did not include the right of suffrage or the right to hold office.

[57] Howard was a very clear-spoken man. When it was suggested, during the debates over the Fifteenth Amendment, that the freedmen were entitled to the ballot by virtue of the Privileges and Immunities Clause of the Fourteenth Amendment, he recalled his role in the framing of that Amendment and said "I feel constrained to say that this is the first time it ever occurred to me that the right to vote was to be derived from the fourteenth article. I think such a construction cannot be maintained." Cong. Globe, 40th Cong., 2d Sess. 1003 (1869). He then referred to the debates, § 2 of the Fourteenth Amendment, and the fact that "Nobody ever supposed that the right of voting or of holding office was guaranteed by the second section of the fourth article of the old Constitution" to bolster his construction of § 1 of the Fourteenth Amendment. *Ibid*.

[58] "I think our friends, the colored people of the South, should not be excluded from the right of voting, and they shall not be if my vote and the votes of a sufficient number who agree with me in Congress shall be able to carry it. I do not agree in this particular with the Senator from Michigan [Mr. Howard]. He yields to the provision in the committee's resolution on the subject reluctantly, because he does not believe three fourths of the State can be got to ratify that proposition which is right and just in itself. My own opinion is that if you go down to the very foundation of justice, so far from weakening yourself with the people, you will strengthen yourself immensely by it; but I know that it is not the opinion of many here, and I suppose we must accommodate ourselves to the will of majorities, and if we cannot do all we would, do all we can. I propose for myself to contend for all I can get in the right direction, and finally to go with those who will give us anything that is beneficial." Globe 2769.

[59] "I should be much better satisfied if the right of suffrage had been given at once to the more intelligent of ["the colored people of the South"] and such as had served in our Army. . . . Believing that this amendment probably goes as far in favor of suffrage to the negro as is practicable to accomplish now, and hoping it may in the end accomplish all I desire in this respect, I shall vote for its adoption, although I should be glad to go further." Globe 2963–2964.

[60] "It declares that all men are entitled to life, liberty, and property, and imposes upon the Government the duty of discharging these solemn obligations, but fails to adopt the easy and direct means for the attainment of the results proposed. It refuses the aid of four million people in maintaining the Government of the people. . . . [But] it furnishes a conclusive argument in favor of universal amnesty and impartial suffrage. . . . The utter impossibility of a final solution of the difficulties by the means proposed will cause the North to clamor for suffrage." Globe 2964.

[61] "I am sorry to have to put that clause [§ 2] into our Constitution, as I am sorry for the necessity which calls upon us to put the preceding clause into the Constitution. I wish there was no community and no State in the United States that was not prepared to say with my friend from Nevada [Mr. Stewart] that all men may be represented in the Congress of the United States and shall be represented and shall choose their own representatives. That is the better doctrine; that is the true doctrine. I would much prefer, myself, to unite with the people of the United States in saying that hereafter no man shall be excluded from the right to vote, than to unite with them in saying that hereafter some men may be excluded from the right of representation." Globe Appendix 219.

[62] Henderson, who had offered a direct enfranchising provision as an alternative to the Committee's first effort in the field of representation, see Globe Appendix 115, stated that he now recognized that "the country is not yet prepared" to share political power with Negroes, and he supported the Committee plan. Globe 3035.

[63] [A]lthough we do not obtain suffrage now, it is not far off, because the grasping desire of the South for office, that old desire to rule and reign over this Government and control its destinies, will at a very early day hasten the enfranchisement of the loyal blacks." Globe 3038.

[64] "There is no reason why the white citizens of South Carolina should vote the politcal power of a class of people whom they say are entirely unfit to vote for themselves. If there is any portion of the people of this country who are unfit to vote for themselves, their neighbors ought not to vote for them." Globe 2986.

There was no indication that Sherman considered South Carolina's disqualification on racial grounds any more improper than Massachusetts' limitations of the franchise to men, which he mentioned in the next breath.

[65] "If you think the negro ought to have the right of voting; if you are in favor of it, and intend it shall be given, why do you not in plain words confer it upon them? It is much fairer than to seek it by indirection, and the people will directly understand you when you propose such a change in the Constitution." Globe 2939.

[66] "What is to be the operation of this amendment? Just this: your whip is held over Pennsylvania and you say to her that she must either allow her negroes to vote or have one member of Congress less." Globe 2987.

[67] "[The second section's] true meaning was intended to be difficult to be reached, but when understood it is a measure which shrinks from the responsibility of openly forcing negro suffrage upon the late slave States, but attempts by a great penalty to coerce them to accept it." Globe Appendix 240.

[68] "It says that each of the southern States, and, of course, each other State in the Union, has a right to regulate for itself the franchise, and that consequently, as far as the Government of the United States is concerned, if the black man is not permitted the right to the franchise, it will be a wrong (if a wrong) which the Government of the United States will be impotent to redress." Globe 3027. Johnson was the only Democratic Senator on the Joint Committee.

[69] "With [the rebel States'] enlarged basis of representation, and exclusion of the loyal men of color from the ballot-box, I see no hope of safety unless in the prescription of proper enabling acts, which shall do justice to the freedmen and enjoin enfranchisement as a condition-precedent." Globe 3148.

[70] Kelley: see Globe 2469, quoted at n. 32, *supra*.

Farnsworth: see Globe 2540, quoted at n. 36, *supra*.

Eliot: see Globe 2511, at n. 34, *supra*.

Higby: see Globe 3978 (debate over readmission of Tennessee despite all-white electorate).

Bingham: see Globe 2542, quoted at p. ——, *supra*; see also Globe 3979 (debate over readmission of Tennessee).

Stevens: see Globe 2459–2460, quoted, at pp. ——, *supra*; Globe 3148, quoted at no. 69, *supra*.

Raymond: see Globe 2502, quoted at n. 39, *supra*.

Ashley: see Globe 2882.

Sumner: see n. 71, *infra*.

Fessenden: see H.R. Rep. No. 30, 39th Cong., 1st Sess. XIII–XIV (1866), quoted pp. ——, *infra*.

Yates: see Globe 3038, quoted at n. 63, *supra*.

Stewart: see Globe 2965, quoted at n. 60, *supra*.

Wade: see Globe 2769, quoted at n. 58, *supra*.

The exception is Senator Wilson of Massachusetts, who did not address himself to this issue. However, he participated in the debates, see Globe 2770, 2986–2987, and was therefore in a position to express disagreement with the interpretation uniformly offered in the Senate.

Secondary reliance is placed on Shellabarger, Cook, Boutwell, Julian, and Lawrence of Ohio. These Representatives, with the exception of Boutwell, see n. 33, *supra*, did not participate significantly in the debates over the Fourteenth Amendment. The substance of their earlier remarks is that Congress had some power, usually by way of the Guaranty Clause, see no. 6, *supra*, to oversee state voter qualifications. Shellabarger also relied on Article I, § 4, see n. 46, *supra*; p. ——, *post*; Julian relied on the Thirteenth Amendment; and Boutwell looked to the Declaration of Independence. The relevance of these views to the scope of § 1 of the Fourteenth Amendment is not apparent.

[71] Stevens: see Globe 2459–2460, quoted at pp. —, *supra;* Globe 3148, quoted at n. 69, *supra;* James 163 (campaign speech in fall of 1866).

Boutwell: see Globe 2508, quoted at n. 33, *supra;* Globe 3976 (debate over readmission of Tennessee).

Sumner did not actually participate in the debates on H.R. No. 127. However, after the caucus of Republican Senators had agreed on the form of the Amendment, Sumner gave notice that he intended to move to amend the bill accompanying the proposed Amendment. This bill, S. 292, provided that any Confederate State might be readmitted to representation in Congress once the proposed Amendment had become part of the Constitution and the particular State should have ratified it and modified its constitution and laws in conformity therewith. The bill is reprinted in H.R. Rep. No. 30, 39th Cong., 1st Sess. V–VI, and in Kendrick 117–119. Sumner's amendment would have provided that a State might be readmitted when it should have ratified the Fourteenth Amendment and modified its constitution and laws in conformity therewith "and shall have *further* provided that there shall be no denial of the elective franchise to citizens of the United States because of race or color, and that all persons shall be equal before the law." Globe 2869 (emphasis added).

Sumner also referred to Negro suffrage as unfinished business in speeches that fall. James 173, 178.

[72] For citations to the state materials, see Fairman, Does the Fourteenth Amendment Incorporate the Bill of Rights? 2 Stan. L. Rev. 5, 84–132 (1949).

[73] Fear that the Amendment would reach voting was expressed in Brevier Legis. Rep. [Indiana] 45–46, 80, 88–89 (1867); Tenn. H. R. J 38 (Extra Sess. 1866); Fla. S. J. 102 (1866); N. C. S. J. 96–97 (1866–1867); S. C. H. R. J. 34 (1866); and Tex. S. J. 422–423 (1866). The last four States rejected the proposed Amendment. Opponents of the Amendment stated or assumed that it would not reach voting qualifications in Ark. H. R. J. 288–289 (1866); Fla. S. J. 8–9 (1866); Report of the Joint Committee on Federal Relations, Maryland H. R. Doc. MM at 15 (Mar. 18, 1867); Mass. H.R. Doc. No. 149, at 7–9, 16–17 (1867); and Wis. S. J. 102–103 (1867). Fla. House J. 76–78 (1866); Ind.

House J. 102–103)1867); and N. H. S. J. 71–72 (1866) are equivocal.

[74] "Are not all persons born or naturalized in the United States and subject to its jurisdiction, rightfully citizens of the United States and of each State, and justly entitled to all the political and civil rights citizenship confers? and should any State possess the power to divest them of these great rights except for treason or other infamous crime?" Ill. H. R. J. 40 (1867).

[75] Ind. House J. 47–48 (1867); Kans. S. J. 45 (1867); Maine S. J 23 (1867); Mass. H. R. Doc. No. 149, at 25–26 (1867); Nev. S. J. App. 9 (1867); Vt. S. J. 28 (1866); W. Va. S. J. 19 (1867); Wis. Assembly J. 33 (1867).

[76] H. R. Rep. No. 30, 39th Cong., 1st Sess. XIII–XIV (1866).

[77] I have found references to only two such speeches, one by Senator Hendricks and the other by one George M. Morgan, a candidate for Congress in Ohio. Cincinnati Commercial, Aug. 9, 1866, at 1, col. 4, quoted in Fairman, *supra* n. —, at 72; Cincinnati Commercial, Aug. 23, 1866, at 3, col. 2, quoted in Fairman, *supra*, at 75.

[78] See Gillette, *supra* n. 3, at 25–27.

[79] *Reynolds v. Sims,* 377 U. S. 533, 589 (1964) (dissenting opinion).

[80] Art. IV, § 4. See n. 6, *supra*, for the text.

[81] The contention that Congress has power to override state judgments as to qualifications for voting in federal elections is discussed below. Pp. —, *infra*.

[82] Amend. XV: "Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

"Section 2. The Congress shall have power to enforce this article by appropriate legislation."

Amend. XIX: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

"Congress shall have power to enforce this article by appropriate legislation."

Amend. XXIV: "Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

"Sec. 2. The Congress shall have power to enforce this article by appropriate legislation."

[83] See, *e.g., Harper* v. *Virginia Board of Elections,* 383 U.S. 663, 670 (1966): "Our conclusion, like that in *Reynolds v. Sims,* [377 U.S. 533 (1964),] is founded not on what we think governmental policy should be, but on what the Equal Protection Clause requires."

[84] Most of the cases in which this Court has used the Equal Protection Clause to strike down state voter qualifications have been decided since 1965. Eight such cases have been decided by opinion. *Carrington* v. *Rash,* 380 U.S. 89 (1965); *Louisiana* v. *United States,* 380 U.S. 145 (1965); *Harper* v. *Virginia Board of Elections,* 383 U.S. 663 (1966); *Katzenbach* v. *Morgan,* 384 U.S. 641 (1966); *Kramer* v. *Union Free School Dist. No. 15,* 395 U.S. 621 (1969); *Cipriano* v. *City of Houma,* 395 U.S. 701 (1969); *Evans* v. *Cornman,* 398 U.S. 419 (1970); *City of Phoenix* v. *Kolodziejski,* 399 U.S. 204 (1970). Other cases have been summarily disposed of. In none of these cases did the Court advert to the argument based on the historical understanding.

Before 1965, although this Court had occasionally entertained on the merits challenges to state voter qualifications under the Equal Protection Clause, only two cases had sustained the challenges. *Nixon* v. *Herndon,* 273 U.S. 536 (1927), held that a Texas statute limiting participation in the Democratic Party primary to whites violated the Fourteenth Amendment. *Nixon* v. *Condon,* 286 U.S. 73 (1932), held that Texas did not avoid the reach of the *Herndon* decision by transferring to the party's Executive Committee the power to set qualifications for participation in the primary. In neither of the *Nixon* cases was the history of the Fourteenth Amendment suggested to the Court. Both cases were argued on the assumption that racial prohibition on voting in state general elections would violate the Fourteenth as well as the Fifteenth Amendment. This potential line of decision proved abortive when *United States* v. *Classic,* 313 U.S. 299 (1941), laid the groundwork for holding that participation in party primaries was included within the "right . . . to vote" protected by the Fifteenth Amendment. See *Reynolds* v. *Sims,* 377 U.S. 533, 614 n. 72 (1964) (dissenting opinion). The *Nixon* opinions were not relied on by the Court in the subsequent white-primary cases, *Smith* v. *Allwright,* 321 U.S. 649 (1944), and *Terry* v. *Adams,* 345 U.S. 461 (1953), and they were not even referred to in the recent cases on voter qualifications cited above.

[85] In this particular instance the other two branches of the Government have in fact expressed conflicting views as to the validity of Title III of the Act, the voting age provision. See H.R. Doc. No. 91–326, 91st Cong., 2d Sess. (1970).

[86] In fact, however, I do not understand how the doctrine of deference to rational constitutional interpretation by Congress, espoused by the majority in *Katzenbach* v. *Morgan,* 384 U.S. 641 (1966), is consistent with this statement of Chief Justice Marshall or with our reaffirmation of it in *Cooper* v. *Aaron,* 358 U.S. 1, 18 (1958):

"[*Marbury*] declared the basic principle that the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the country as a permanent and indispensable feature of our constitutional system."

[87] Contrast *Metropolitan Cas. Inc. Co.* v. *Brownell,* 294 U.S. 580 (1935), relied on by my colleagues. In that case the crucial factual issue, on which the record was silent, was whether casualty insurance companies not incorporated in Indiana "generally keep their funds and maintain their business offices, and their agencies for the settlement of claims, outside the state." 294 U.S., at 585.

[88] It might well be asked why this standard is not equally applicable to the congressional expansion of the franchise before us. Lowering of voter qualifications dilutes the voting power of those who could meet the higher standard, and it has been held that "the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." *Reynolds* v. *Sims,* 377 U.S. 533, 555 (1964) (footnote omitted). Interference with state control over qualifications for voting in presidential elections in order to encourage interstate migration appears particularly vulnerable to analysis in terms of compelling federal interests.

[89] Although Mr. JUSTICE BLACK rests his decision in part on the assumption that the selection of presidential electors is a "federal" election, the Court held in *In re Green,* 134 U.S. 377, 379 (1890), and repeated in *Ray* v. *Blair,* 343 U.S. 214, 224–225 (1952), that presidential electors act by authority of the States and are not federal officials.

[90] At the time these suits were filed only two of the 50 States, Georgia and Kentucky, allowed 18-year-olds to vote, and only two other States, Hawaii and Alaska, set the voting age below 21. In subsequent referenda, voters in 10 States declined to lower the voting age; five States lowered the voting age to 19 or 20; and Alaska lowered the age from 19 to 18. See The Washington Post, Nov. 5, 1970, at A13, col. 5.

[91] "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

[92] At the time the Constitution was adopted, additional restrictions based on payment of taxes and ownership of property, as well as creed and sex, were imposed, making the proposition even clearer.

[93] See Article II: "Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled."

[94] The legislative history of the Voting Rights Act Amendments contains sufficient evidence to this effect, if any be needed.

[95] Cf. the Voting Rights Act of 1965, 79 Stat. 438, which suspended literacy tests only in areas falling within a coverage formula and allowed reinstatement of the tests upon judicial determination that during the preceding five years no tests had been used with discriminatory purpose or effect. 42 U.S.C. (Supp. V) 1973b (a) (1970), amended by Pub. L. No. 91–285 § 3, 84 Stat. 314.

[96] I assume that reasonableness is the applicable standard, notwithstanding the fact that the instant legislation is challenged on the ground that it improperly dilutes the votes of literate Arizona citizens. But see *Kramer* v. *Union Free School Dist. No. 15,* 395 U.S. 621 (1969); n. 88 *supra*.

[Supreme Court of the United States, Nos. 43, 44, 46, 37 Oreg.—October Term, 1970]

On Bills of Complaint

State of Oregon, Plaintiff, 43 *v.* John N. Mitchell, Attorney General of the United States.

State of Texas, Plaintiff, 44 *v.* John N.. Mitchell, Attorney General of the United States.

United States, Plaintiff, 46 *v.* State of Arizona.

United States, Plaintiff, 47 *v.* State of Idaho.

December 21, 1970.

Mr. Justice Brennan, Mr. Justice White, and Mr. Justice Marshall dissent from the judgment insofar as it declares § 302 unconstitutional as applied to state and local elections, and concur in the judgment in all other respects, for the following reasons.

These cases draw into question the power and judgment of Congress in enacting Titles II and III of the Voting Rights Act Amendments of 1970, 84 Stat. 314. The State of Arizona challenges the power of Congress to impose a nationwide ban, until August 6, 1975, on the use of literacy and certain other tests to limit the franchise in any election. The State of Idaho takes issue with the asserted congressional power to find that the imposition of a durational residence requirement to deny the right to vote in elections for President and Vice President imposes a burden upon the right of free interstate migration that is not necessary to further a compelling state interest.[1] Finally, the States of Oregon, Texas, Arizona, and Idaho would have us strike down as unreasonable and beyond congressional power the findings, embodied in § 301(a) of the Amendments, that denying the vote to otherwise qualified persons 18 to 21 years of age, while granting it to those 21 years of age and older, violates the Equal Protection Clause and is, in any event, not reasonably related to any compelling state interest.[2] In Nos. 43 and 44, Oregon and Texas have invoked our original jurisdiction under Article III, § 2, of the Constitution to restrain the Attorney General of the United States, a citizen of New York, from enforcing the 18-year-old voting provisions of the Amendments, *South Carolina* v. *Katzenbach,* 383

Footnotes at end of article.

U.S. 301, 307 (1966). In Nos. 46 and 47, the United States seeks orders enjoining Arizona from enforcing age and literacy limitations on the franchise,[3] and enjoining Idaho from enforcing age, residence, and absentee voting limitations,[4] insofar as those limitations are inconsistent with the 1970 Amendments. Original jurisdiction, again, is founded upon Article III, § 2 of the Constitution. See *United States* v. *California,* 332 U.S. 19, 22 (1947). Since, in our view, congressional power to enact the challenged Amendments is found in the enforcement clauses of the Fourteenth and Fifteenth Amendments, and since we may easily perceive a rational basis for the congressional judgments underlying each of them, we would deny relief in Nos. 43 and 44, and issue the requested orders in Nos. 46 and 47.

I

The Voting Rights Act of 1965, 79 Stat. 438, 42 U.S.C. § 1973 *et seq.* (1964 ed., Supp. V), proscribed the use of any "test or device,"[5] including literacy tests, in States or their political subdivisions which fell within a coverage formula set forth in § 4(b) of the 1965 Act. 42 U.S.C. §§ 1973b (a), (b) (1964 ed., Supp. V). Although we had previously concluded that literacy tests, fairly administered, violate neither the Fourteenth nor the Fifteenth Amendments, *Lassiter* v. *Northampton County Board of Elections,* 360 U.S. 45 (1959), we nevertheless upheld their selective proscription by Congress. *South Carolina* v. *Katzenbach,* 383 U. S. 301 (1966). Canvassing the "voluminous" legislative history of the 1965 Act, we found ample basis for a legislative conclusion that such a proscription was necessary to combat the "insidious and pervasive evil" of racial discrimination with regard to voting. *Id.,* at 308–315. Accordingly, we held the proscription to be well within the power of Congress granted by § 2 of the Fifteenth Amendment. *Id.,* at 327–334. Three years later, in *Gaston County* v. *United States,* 395 U. S. 285 (1969), we sustained application of the ban on literacy tests to a county where there was no evidence that the test itself was discriminatory or that—at least since 1962[6]—it had been administered in a discriminatory manner. Notwithstanding this fact, we noted that the record did contain substantial evidence that in years past, "Gaston County [had] systematically deprived its black citizens of the educational opportunities it granted to its white citizens." *Id.,* at 297. Since this "in turn deprived them of an equal opportunity to pass the literacy test," *id.,* at 291, even impartial administration of an impartial test would inevitably result in just the discrimination that Congress and the Fifteenth Amendment had sought to proscribe. *Id.,* at 296–297; see *South Carolina* v. *Kazenbach,* 383 U. S., at 308, 333–334.

No challenge is made in the present case either to the 1965 Act or to the five-year extension of its ban on "tests or devices" embodied in Title I of the 1970 Amendments. Arizona does, however, challenge §201 of the Amendments, which extends (until August 6, 1975) the 1965 Act's selective ban on the use of "tests or devices" to all States and political subdivisions in which it is not already in force by virtue of the 1965 Act. In substance, Arizona argues that it is and has been providing education of equal quality for all its citizens; that its literacy test is both fair and fairly administered; and that there is no evidence in the legislative record upon which Congress could have relied to reach a contrary conclusion. It urges that to the extent that any citizens of Arizona have been denied the right to vote because of illiteracy resulting from discriminatory governmental practices, the unlawful discrimination has been by governments other than the State of Arizona or its political subdivisions. Arizona, it suggests, should not have its laws overridden to cure discrimination on the part of governmental bodies elsewhere in the country.

We need not question Arizona's assertions as to the nondiscriminatory character, past and present, of its educational system. Congressional power to remedy the evils resulting from state-sponsored racial discrimination does not end when the subject of that discrimination removes himself from the jurisdiction in which the injury occurred. "The Constitution was framed under the dominion of a political philosophy less parochial in range. It was framed upon the theory that the peoples of the several states must sink or swim together, and that in the long run prosperity and salvation are in union and not division." *Baldwin* v. *G. A. F. Seelig, Inc.,* 294 U.S. 511, 523 (1935), see *Edwards* v. *California,* 314 U.S. 160, 173–176 (1941). In upholding the suspension of literacy tests as applied to Gaston County under the 1965 Act, we could see "no legal significance" in the possibility that adult residents of the county might have received their education "in other counties or States also maintaining segregated and unequal school systems." *Gaston County* v. *United States,* 395 U.S., at 293 n. 9.[8]

The legislative history of the 1970 Amendments contains substantial information upon which Congress could have based a finding that the use of literacy tests in Arizona and in other States where their use was not proscribed by the 1965 Act has the effect of denying the vote to racial minorities whose illiteracy is the consequence of a previous, governmentally sponsored denial of equal educational opportunity. The Attorney General of Arizona told the Senate Subcommittee on Constitutional Rights that many older Indians in the State were "never privileged to attend a formal school."[9] Extensive testimony before both Houses indicated that racial minorities have long received inferior educational opportunities throughout the United States.[10] And interstate migration of such persons, particularly of Negroes from the Southern States, has long been a matter of common knowledge.[11]

Moreover, Congress was given testimony explicitly relating the denial of educational opportunity to inability to pass literacy tests in States not covered by the formula contained in the 1965 Act. The United States Commission on Civil Rights reported a survey of the Northern and Western States which concluded that literacy tests have a negative impact upon voter registration "which falls most heavily on blacks and persons of Spanish surname."[12] With regard specifically to Arizona, the Chairman of the Navajo Tribal Council testified that a greater percentage of Navajos are registered in New Mexico, which has no literacy test, than in Arizona.[13]

In short, there is no question but that Congress could legitimately have concluded that the use of literacy tests anywhere within the United States has the inevitable effect of denying the vote to members of racial minorities whose inability to pass such tests is the direct consequence of previous governmental discrimination in education. Almost five years ago, we found in § 2 of the Fifteenth Amendment an ample grant of legislative power for Congress to decree a selective proscription of such tests in certain portions of the country. *South Carolina* v. *Katzenbach,* 383 U.S., at 327–334. We have since held that power ample to cover the proscription of fair literacy tests, fairly administered, which nevertheless operate to disenfranchise racial minorities because of previous governmental discrimination against them in education. *Gaston County* v. *United States,* 395 U.S., at 287, 289–293. Five years of experience with the 1965 Act persuaded Congress that a nationwide ban on literacy and other potentially discriminatory tests was necessary to prevent racial discrimination in voting throughout the country. That conclusion is amply supported in the legislative record and § 201 of the 1970 Amendments is accordingly well within the scope of congressional power.

II

Section 202 of the 1970 Amendments abolishes all durational state residence requirements restricting the right to vote in presidential elections. In their place, Congress has undertaken to prescribe a uniform nationwide system of registration and absentee voting designed to allow all otherwise qualified persons to vote in such elections regardless of the length of time they have lived in a particular jurisdiction. The States are required to keep open their registration rolls for presidential elections until 30 days preceding the election. § 202(d). Persons who have changed their residence within 30 days of the election are, if otherwise qualified, entitled to vote either in person or by absentee ballot in the State of their previous residence, § 202 (e), and the States are compelled to permit the casting of absentee ballots by all properly qualified persons who have made application not less than seven days prior to the election, and returned the ballot to the appropriate officials not later than the closing of polls on election day. §§ 202 (b), (d). Provision must also be made by the States to allow absentee registration. § 202 (f).[14]

Idaho challenges the power of Congress to enact such legislation insofar as it conflicts with Idaho's statutory and constitutional provisions regarding durational residence requirements for voting; regarding absentee voting; and regarding absentee registration.[15] The State's argument in brief is that the Constitution has left to the States the power to set qualifications for voters in both state and federal elections, subject only to certain explicit limitations such as, for example, those imposed by the Fourteenth, Fifteenth, Nineteenth, and Twenty-fourth Amendments. Admitting that unreasonable residence requirements may not withstand judicial scrutiny, *Carrington* v. *Rash,* 380 U. S. 89 (1965), Idaho urges that its 60-day residence requirement is necessary for protection against fraud, and for administrative purposes. In consequence, § 202 of the 1970 Amendments is said to be of no weight against these compelling state interests.

Whether or not the Constitution vests Congress with particular power to set qualifications for voting in strictly federal elections,[16] we believe there is an adequate constitutional basis for § 202 in § 5 of the Fourteenth Amendment. For more than a century, this Court has recognized the constitutional right of all citizens to unhindered interstate travel and settlement. *Passenger Cases,* 7 How. 283, 492 (1849) (Taney, C. J.); *Crandall* v. *Nevada,* 6 Wall. 35, 43–44 (1868); *Paul* v. *Virginia,* 8 Wall. 168, 180) (1869); *Edwards* v. *California* 314 U.S. 160 (1941); *United States* v. *Guest,* 383 U.S. 745, 757 758 (1966); *Shapiro* v. *Thompson,* 394 U.S. 618, 629–631, 634 (1969). From whatever constitutional provision this right may be said to flow,[17] both its existence and its fundamental importance to our Federal Union have long been established beyond question.

By definition, the imposition of a duration residence requirement operates to penalize those persons, and only those persons, who have exercised their constitutional right of interstate migration. Of course, governmental action that has the incidental effect of burdening the exercise of a constitutional right is not *ipso facto* unconstitutional. But in such a case, governmental action may withstand constitutional scrutiny only upon a clear showing that the burden imposed is necessary to protect a compelling and substantial governmental interest. *Shapiro* v. *Thompson,* 394 U.S., at 634; *United States* v. *Jackson,* 390 U.S. 570, 582–583 (1968);

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Sherbert v. *Verner,* 374 U.S. 389, 406–409 (1963). And once it be determined that a burden has been placed upon a constitutional right, the onus of demonstrating that no less intrusive means will adequately protect compelling state interests is upon the party seeking to justify the burden. See *Speiser* v. *Randall,* 357 U.S. 513, 525–526 (1958).

In the present case, Congress has explicitly found both that the imposition of durational residence requirements abridges the right of free interstate migration and that such requirements are not reasonably related to any compelling state interests. 1970 Amendments, §§ 202(a) (2), (6). The latter finding was made with full cognizance of the possibility of fraud and administrative difficulty. Senator Goldwater, testifying at Senate hearings on the bill, pointed out that 40 States presently allow registration until 30 days or less prior to the election.[18] Idaho itself allows registration by those desiring to vote as new residents in presidential elections within 10 days of balloting. Idaho Code Ann. § 34–409 (1963). And Idaho's assertion of the administrative unfeasibility of maintaining separate registration lists for fully qualified voters and for those qualified only for presidential balloting is difficult to credit in light of the fact that the Idaho Constitution, Art. 6 § 2, itself sets separate qualifications for voting in general and in presidential elections. The provisions for absentee voting, as Senator Goldwater pointed out on the floor of the Senate, were likewise "drawn from the proven practice of the States themselves." [19] Thirty-seven States allow application within a week of the election, and 40 permit the marked ballot to be returned on election day.[20] Finally, Idaho has provided no evidence beyond the mere assertion that the scheme of § 202 is inadequate to protect against fraud. But the only kind of fraud asserted is the possibility of dual voting, and Idaho has provided no explanation why the 30-day period between the closing of new registrations and the date of election would not provide, in light of modern communications, adequate time to insure against such frauds. Accordingly, we find ample justification for the congressional conclusion that § 202 is a reasonable means for eliminating an unnecessary burden on the right of interstate migration. *United States* v. *Guest, supra.*

III

The final question presented by these cases is the propriety of Title III of the 1970 Amendments, which forbids the States from disenfranchising persons over the age of 18 because of their age. Congress was of the view that this prohibition, embodied in § 302 of the Amendments, was necessary among other reasons in order to enforce the Equal Protection Clause of the Fourteenth Amendment. See §§ 301(a)(2), (b). The States involved in the present litigation question the assertion of congressional power to make that judgment.

It is important at the outset to recognize what is not involved in these cases. We are not faced with an assertion of congressional power to regulate any and all aspects of state and federal elections, or even to make general rules for the determination of voter qualifications. Nor are we faced with the assertion that Congress is possessed of plenary power to set minimum ages for voting throughout the States. Every State in the Union has conceded by statute that citizens over the age of 21 are capable of intelligent and responsible exercise of the right to vote. The single, narrow question presented by these cases is whether Congress was empowered to conclude, as it did, that citizens 18 to 21 years of age are not substantially less able.

We believe there is serious question whether a statute granting the franchise to citizens over 21 while denying it to those between the ages of 18 and 21 could, in any event, withstand present scrutiny under the Equal Protection Clause. Regardless of the answer to this question, however, it is clear to us that proper regard for the special function of Congress in making determinations of legislative fact compels this Court to respect these determinations unless they are contradicted by evidence far stronger than anything that has been adduced in these cases. We would uphold § 302 as a valid exercise of congressional power under § 5 of the Fourteenth Amendment.

All parties to these cases are agreed that the States are given power, under the Constitution, to determine the qualifications for voting in state elections. Art. I, § 2; *Lassiter* v. *Northampton County Board of Elections,* 360 U. S. 45, 50 (1959), *Carrington* v. *Rash,* 380 U. S. 89, 91 (1965). But it is now settled that exercise of this power, like all other exercises of state power, is subject to the Equal Protection Clause of the Fourteenth Amendment. *Carrington* v. *Rash, supra; Harper* v. *Virginia Board of Elections,* 383 U. S. 663 (1966); *Kramer* v. *Union Free School District,* 395 U. S. 621 (1969); *Evans* v. *Cornman,* 398 U. S. 419 (1970). Although it once was thought that equal protection required only that a given legislative classification, once made, be evenly applied, see *Hayes* v. *Missouri,* 120 U. S. 68, 71–72 (1887), for more than 70 years we have consistently held that the classifications embodied in a state statute must also meet the requirements of equal protection. *Gulf, Colorado & Santa Fe R. Co.* v. *Ellis,* 165 U. S. 150, 155 (1897); see *McLaughlin* v. *Florida,* 379 U. S. 184, 189–191 (1964), and cases cited.

The right to vote has long been recognized as a "fundamental political right, because preservative of all rights." *Yick Wo* v. *Hopkins,* 118 U. S. 356, 370 (1886); see *Reynolds* v. *Sims,* 377 U. S. 533, 562 (1964); *Williams* v. *Rhodes,* 393 U. S. 23, 31 (1968). "Any unjustified discrimination in determining who may participate in political affairs undermines the legitimacy of representative government." *Kramer* v. *Union Free School District,* 395 U. S., at 626. Consequently, when exclusions from the franchise are challenged as violating the Equal Protection Clause, judicial scrutiny is not confined to the question whether the exclusion may reasonably be thought to further a permissible interest of the State. Cf. *Metropolitan Co.* v. *Brownell,* 294 U. S. 580, 583–584 (1935). "A more exacting standard obtains." *Kramer* v. *Union Free School District,* 395 U. S., at 633. In such cases, "the Court must determine whether the exclusions are necessary to promote a compelling state interest." *Id.,* at 627; *Cipriano* v. *City of Houma,* 395 U. S. 701, 704 (1969).

In the present cases, the States justify exclusion of 18- to 21-year-olds from the voting rolls solely on the basis of the States' interests in promoting intelligent and responsible exercise of the franchise.[21] There is no reason to question the legitimacy and importance of these interests. But standards of intelligence and responsibility, however defined, may permissibly be applied only to the means whereby a prospective voter determines how to exercise his choice, and not to the actual choice itself. Were it otherwise, such standards could all too easily serve as mere epithets designed to cloak the exclusion of a class of voters simply because of the way they might vote. Cf. *Evans* v. *Cornman,* 398 U.S., at 422–423. Such a state purpose is, of course, constitutionally impermissible. *Carrington* v. *Rash,* 380 U.S., at 94. We must, therefore, examine with particular care the asserted connection between age limitations and the admittedly laudable state purpose to further intelligent and responsible voting.

We do not lack a starting point for this inquiry. Although the question has never been squarely presented, we have in the past indicated that age is a factor not necessarily irrelevant to qualifications for voting. *Lassiter* v. *Northampton County Board of Elections,* 360 U.S., at 51; *Kramer* v. *Union Free School District,* 395 U.S., at 625–626. But recognition that age is not in all circumstances a "capricious or irrelevant factor," *Harper* v. *Virginia State Board of Elections,* 383 U.S., at 668, does not insure the validity of the particular limitation involved here. *Evans* v. *Cornman,* 398 U.S., at 425–426. Every State in the Union has concluded for itself that citizens over the age of 21 are capable of responsible and intelligent voting. Accepting this judgment, there remains the question whether citizens 18 to 21 years of age may fairly be said to be less able.

State practice itself in other areas casts doubt upon any such proposition. Each of the 50 States has provided special mechanisms for dealing with persons who are deemed insufficiently mature and intelligent to understand, and to conform their behavior to, the criminal laws of the State.[22] Forty-nine of the States have concluded that, in this regard, 18-year-olds are invariably to be dealt with according to precisely the same standards prescribed for their elders.[23] This at the very least is evidence of a nearly unanimous legislative judgment on the part of the States themselves that differences in maturity and intelligence between 18-year-olds and persons over the age of 21 are too trivial to warrant specialized treatment for *any* of the former class in the critically important matter of criminal responsibility.[24] Similarly, every State permits 18-years-olds to marry, and 39 States do not require parental consent for such persons of one or both sexes.[25] State statutory practice in other areas follows along these lines, albeit not as consistently.[26]

Uniform state practice in the field of education points the same way. No State in the Union requires attendance at school beyond the age of 18. Of course, many 18-year-olds continue their education to 21 and beyond. But no 18-year-old who does not do so will be disenfranchised hereby once he reaches the age of 21.[27] Whether or not a State could in any circumstances condition exercise of the franchise upon educational achievements beyond the level reached by 18-year-olds today, there is no question but that no State purports to do so. Accordingly, that 18-year-olds as a class may be less educated than some of their elders [28] cannot justify restriction of the franchise, for the States themselves have determined that this incremental education is irrelevant to voting qualifications. And finally, we have been cited to no material whatsoever that would support the proposition that intelligence, as opposed to educational attainment, increases between the ages of 18 and 21.

One final point remains. No State seeking to uphold its denial of the franchise to 18-year-olds has adduced anything beyond the mere difference in age. We have already indicated that the relevance of this difference is contradicted by nearly uniform state practice in other areas. But perhaps more important is the uniform experience of those States—Georgia since 1943, and Kentucky since 1955—that have permitted 18-year-olds to vote.[29] We have not been directed to a word of testimony or other evidence that would indicate either that 18-year-olds in those States have voted any less intelligently and responsibly than their elders, or that there is any reasonable grounds for belief that 18-year-olds in other States are less able than those in Georgia and Kentucky. On the other hand, every person who spoke to the issue in either the House or Senate was agreed that 18-year-olds in both States were at least as interested, able, and responsible in voting as were their elders.[30]

In short, we are faced with an admitted restriction upon the franchise, supported only by bare assertions and long practice, in the face of strong indications that the States themselves do not credit the factual propositions upon which the restriction is asserted

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to rest. But there is no reason for us to decide whether, in a proper case, we would be compelled to hold this restriction a violation of the Equal Protection Clause. For as our decisions have long made clear, the question we face today is not one of judicial power under the Equal Protection Clause. The question is the scope of congressional power under § 5 of the Fourteenth Amendment. To that question we now turn.

B

As we have often indicated, questions of constitutional power frequently turn in the last analysis on questions of fact. This is particularly the case when an assertion of state power is challenged under the Equal Protection Clause of the Fourteenth Amendment. For although equal protection requires that all persons "under like circumstances and conditions" be treated alike, *Hayes* v. *Missouri,* 120 U.S. 68, 71–72 (1887), such a formulation merely raises, but does not answer the question whether a legislative classification has resulted in different treatment of persons who are in fact "under like circumstances and conditions."

Legislatures, as well as courts, are bound by the provisions of the Fourteenth Amendment. *Cooper* v. *Aaron,* 358 U.S. 1, 18–20 (1958). When a state legislative classification is subjected to judicial challenge as violating the Equal Protection Clause, it comes before the courts cloaked by the presumption that the legislature has, as it should, acted within constitutional limitations. *Kotch* v. *Board of River Pilot Commissioners,* 330 U.S. 552, 556, 563–564 (1947); see *Kramer* v. *Union Free School District,* 395 U.S. 621, 627–628 (1969). Accordingly, "[a] statutory discrimination will not be set aside as the denial of equal protection of the laws if any state of facts reasonably may be conceived to justify it." *Metropolitan Co.* v. *Brownell,* 294 U.S. 580, 584 (1935).[31]

But, as we have consistently held, this limitation on judicial review of state legislative classifications is a limitation stemming not from the Fourteenth Amendment itself, but from the nature of judicial review. It is simply a "salutary principle of judicial decision," *Metropolitan Co.* v. *Brownell, supra,* one of the "self-imposed restraints intended to protect [the Court] and the state against irresponsible exercises of [the Court's] unappealable power." *Fay* v. *New York,* 332 U.S. 261, 282 (1947). The nature of the judicial process makes it an inappropriate forum for the determination of complex factual questions of the kind so often involved in constitutional adjudication. Courts, therefore, will overturn a legislative determination of a factual question only if the legislature's finding is so clearly wrong that it may be characterized as "arbitrary," "irrational," or "unreasonable." *Communist Party* v. *Control Board,* 367 U.S. 1, 94–95 (1961); *United States* v. *Carolene Products Co.,* 304 U.S. 144, 152–154 (1938); *Metropolitan Co.* v. *Brownell,* 294 U.S., at 583–584.

Limitations stemming from the nature of the judicial process, however, have no application to Congress. Section 5 of the Fourteenth Amendment provides that "[t]he Congress shall have power to enforce, by appropriate legislation, the provisions of this article." Should Congress, pursuant to that power, undertake an investigation in order to determine whether the factual basis necessary to support a state legislative discrimination actually exists, it need not stop once it determines that some reasonable men could believe the factual basis exists. Section 5 empowers Congress to make its own determination on the matter. See *Katzenbach* v. *Morgan,* 384 U.S. 641, 654–656 (1966). It should hardly be necessary to add that if the asserted factual basis necessary to support a given state discrimination does not exist, § 5 of the Fourteenth Amendment vests Congress with power to remove the discrimination by appropriate means. *Id.,* at 656–657; *Fay* v. *New York,* 332 U.S. at 282–283; *Ex parte Virginia,* 100 U.S. 339, 347–348 (1880).

The scope of our review in such matters has been established by a long line of consistent decision. "It is not for the courts to re-examine the validity of these legislative findings and reject them." *Communist Party* v. *Control Board,* 367 U.S., at 94. "[W]here we find that the legislators, in light of the facts and testimony before them, have a rational basis for finding a chosen regulatory scheme necessary . . . our investigation is at an end." *Katzenbach* v. *McClung,* 379 U.S. 294, 303–304 (1964); *Katzenbach* v. *Morgan,* 384 U.S., at 653; see *Galvan* v. *Press,* 347 U.S. 522, 529 (1954).[32]

This scheme is consistent with our prior decisions in related areas. The core of dispute over the constitutionality of Title III of the 1970 Amendments is a conflict between state and federal legislative determinations of the factual issues upon which depend decision of a federal constitutional question—the legitimacy, under the Equal Protection Clause, of state discrimination against persons between the ages of 18 and 21. Our cases have repeatedly emphasized that, when state and federal claims come into conflict, the primacy of federal power requires that the federal finding of fact control. See *England* v. *Louisiana State Board of Medical Examiners,* 375 U.S. 411, 415–417 (1964); *Townsend* v. *Sain,* 372 U.S. 293, 311–312 (1963); *Tarble's Case,* 13 Wall. 397, 406–407 (1872); cf. *United States* v. *Darby,* 312 U.S. 100, 119 (1941). The Supremacy Clause requires an identical result when the conflict is one of legislative, not judicial, findings.

Finally, it is no answer to say that Title III intrudes upon a domain reserved to the States—the power to set qualifications for voting. It is no longer open to question that the Fourteenth Amendment applies to this, as to all other, exercises of state power. *Kramer* v. *Union Free School District, supra,* and cases cited. As we said in answer to a similar contention almost a century ago, "the Constitution now expressly gives authority for congressional interference and compulsion in the cases embraced within the Fourteenth Amendment. It is but a limited authority, true, extending only to a single class of cases; but within its limits it is complete." *Ex parte Virginia,* 100 U.S. 339, 347–348 (1880).

C

Our Brother HARLAN has set out in some detail the historical evidence which persuades him that the framers of the Fourteenth Amendment did not believe that the Equal Protection Clause, either through judicial action or through congressional enforcement under § 5 of the Amendment, could operate to enfranchise Negroes in States which denied them the vote. *Ante,* at ———. From this he has concluded "that the Fourteenth Amendment was never intended to restrict the right of the States to allocate their political power as they see fit and therefore that it does not authorize Congress to set voter qualifications in either state or federal elections." *Ante,* at ——. This conclusion, if accepted, would seem to require as a corollary that although States may not, under the Fifteenth Amendment, discriminate against Negro *voters,* they are free so far as the Federal Constitution is concerned to discriminate against Negro or unpopular *candidates* in any way they desire. Not surprisingly, our Brother HARLAN's thesis is explicitly disavowed by all the States party to the present litigation,[33] and has been presented to us only in the briefs *amici curiae* of Virginia and, perhaps, Mississippi.[34] We could not accept this thesis even if it were supported by historical evidence far stronger than anything adduced here today. But in our view, our Brother HARLAN's historical analysis is flawed by his ascription of 20th-century meanings to the words of 19th-century legislators. In consequence, his analysis imposes an artificial simplicity upon a complex era, and presents as universal beliefs that were held by merely one of several groups competing for political power. We can accept neither his judicial conclusion nor his historical premise that the original understanding of the Fourteenth Amendment left it within the power of the States to deny the vote to Negro citizens.

It is clear that the language of the Fourteenth Amendment, which forbids a State to "deny any person within its jurisdiction the equal protection of the laws," applies on its face to all assertions of state power, however made. More than 40 years ago, this Court faced for the first time the question whether a State could deny Negroes the right to vote in primary elections. Writing for a unanimous Court, Mr. Justice Holmes observed tartly that "[w]e find it unnecessary to consider the Fifteenth Amendment, because it seems to us hard to imagine a more direct and obvious infringement of the Fourteenth." *Nixon* v. *Herndon,* 273 U.S. 536, 540–541 (1927); see *Nixon* v. *Condon,* 286 U.S. 73, 83, 87–89 (1932) (Cardozo, J.); *Anderson* v. *Martin,* 375 U.S. 399 (1964); cf. *Raymond* v. *Chicago Union Traction Co.,* 207 U.S. 20, 35–36 (1907). If the broad language of the Equal Protection Clause were to be read as nevertheless allowing the States to deny equal political rights to any citizens they see fit to exclude from the political process, far more is involved than merely shifting the doctrinal basis of such cases as *Nixon* v. *Herndon* from the Fourteenth to the Fifteenth Amendment. For the Fifteenth Amendment applies only to voting, not to the holding of public office; in consequence, our Brother HARLAN's view would appear to leave the States free to encourage citizens to cast their votes solely on the basis of race (a practice found to violate the Fourteenth Amendment in *Anderson* v. *Martin, supra*), or even presumably to deny Negro citizens the right to run for office at all.[35] We cannot believe that the Equal Protection Clause would permit such discrimination.

In any event, it seems to us, the historical record will not bear the weight our Brother HARLAN has placed upon it. His examination of the historical background of the Fourteenth Amendment leads him to conclude that it is "clear beyond any reasonable doubt that no part of the legislation now under review can be upheld as a legitimate exercise of congressional power under that Amendment," *ante,* at —, because the Amendment was not intended "to restrict the right of the States to allocate their political power as they see fit." *Ante,* at —. Our own reading of the historical background, on the other hand, results in a somewhat imperfect picture of an era of constitutional confusion, confusion which the Amendment did little to resolve. As the leading constitutional historian of the Civil War has observed, constitutional law was characterized during the war years by "a noticeable lack of legal precision" and by "[a] tendency toward irregularity . . . in legislation, and in legal interpretation." J. Randall, Constitutional Problems under Lincoln 515–516 (rev. ed. 1951). Nor would the postwar period of Reconstruction be substantially different.

For several decades prior to the Civil War, constitutional interpretation had been a pressing concern of the Nation's leading statesmen and lawyers, whose attention focused especially on the nature of the relationship of the States to the Federal Government. The onset of the Civil War served only to raise new problems upon which the original Constitution offered, at best, only peripheral guidance. The greatest problem of all, perhaps, was the character of the civil conflict—whether it was to be treated as a rebellion, as a war with a belligerent state,

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or as some combination of the two. Another issue concerned the scope of federal power to emancipate the slaves; even President Lincoln doubted whether his Emancipation Proclamation would be operative when the war had ended and his special war powers had expired. This particular issue was resolved by the Thirteenth Amendment, but that Amendment only raised new issues, for some men doubted the validity of even a constitutional change upon such a fundamental matter as slavery, particularly while the status of the eleven Confederate States remained unsettled. See *id.*, 12–24, 59–73, 342–404.

The end of the war did not bring an end to difficult constitutional questions. Two perplexing problems remained. The one was the relation of the former Confederate States to the Federal Government; the other was the relation of the former slaves to the white citizens of the Nation. Both were intimately related to the politics of the day, an understanding of which is essential since the Fourteenth Amendment was presented to the Nation as the Republican Party's solution for these problems. See J. James, The Framing of the Fourteenth Amendment 169–173 (1956) (hereafter James).

The starting point must be the key fact that, as of 1860, the Republicans were very much the Nation's minority party. Lincoln had won the presidency that year with less than 40% of the popular vote, while the Republicans had secured control of Congress only when southern Democrats had left Washington following the secession of their States. The compromise in the original Constitution, by which only three-fifths of the slaves in southern States were computed in determining representation in the House of Representatives and votes in the Electoral College also was a matter of critical importance in 1865; with slavery abolished, southern and hence Democratic power in the House and in the Electoral College would increase. The Republicans had calculated this matter rather carefully; as the *Chicago Tribune* had demonstrated as early as the summer of 1865, the increased southern delegation would need only 29 readily obtainable Democratic votes from the North in order to dominate the House. See James 21–23. But Republicans had no intention of permitting such a Democratic resurgence to occur; in their view, as one Republican Senator observed, Republicans would be "faithless" to their "trust," if they allowed "men who have thus proven themselves faithless" to recover "the very political power which they have hitherto used for the destruction of this Government." Cong. Globe, 39th Cong., 1st Sess. 2918 (remarks of Senator Willey) (1866) (hereafter Globe). Whether one looks upon such sentiments as a grasp for partisan political power or as an idealistic determination that the gains of the Civil War not be surrendered, the central fact remains that Republicans found it essential to bar or at least to delay the return of all-white southern delegations to Congress.

Temporarily, they proposed to do so by refusing to seat Congressmen from the seceded States. They usually justified their refusal on constitutional grounds, presenting a variety of theories as to how the former Confederate States had forfeited their rights by secession. See generally E. McKitrick, Andrew Johnson and Reconstruction 93–119 (1960). But exclusion of southern representatives could not be a permanent solution; a better solution seemed to be to elect at least some Republican representatives from the South by enfranchising the only class which could be expected to vote Republican in large numbers—the freedmen.

According to the census of 1860, Negroes had constituted some 4,200,000 out of the total population of 12,200,000 in the 15 slave States. In two States—Mississippi and South Carolina—Negroes were a substantial majority of the population, while in several other States the population was at least 40% Negro. Thus, Negro suffrage would probably result in a number of Negro and presumably Republican representatives from the South. The difficulty was with the means of bringing Negro suffrage about. Some, including Chief Justice Chase, looked back toward the Emancipation Proclamation and contended that Negro suffrage could be achieved, at least in the South, by means of a presidential proclamation. See James 5–7; 1 W. Fleming, Documentary History of Reconstruction 142 (1906). Others thought congressional legislation the appropriate vehicle for granting the suffrage, see James 13, 52–53; Van Alstyne, The Fourteenth Amendment, The "Right" to Vote, and the Understanding of the Thirty-Ninth Congress, 1965 Supreme Court Review 33, 49–51, while still others argued for a constitutional amendment. See Cincinnati Commercial, Sept. 19, 1865, in James 11–12 (reporting speech of Congressman Bingham). Disagreement over means, however, was but a minor obstacle in the path of equal suffrage; racial prejudice in the North was a far more significant one. Only five New England States and New York permitted any Negroes to vote as of 1866, see Van Alstyne, *supra*, at 70, and extension of the suffrage was rejected by voters in 17 of 19 popular referenda held on the subject between 1865 and 1868. Moreover, Republicans suffered some severe election setbacks in 1867 on account of their support of Negro suffrage. See W. Gillette, The Right to Vote 25–27, 32–38 (1969).

Meeting in the winter and spring of 1866 and facing election in the fall of the same year, the Republicans in Congress thus faced a difficult dilemma: they desperately needed Negro suffrage in order to prevent total Democratic resurgence in the South, yet they feared that by pressing for suffrage they might create a reaction among northern white voters that would lead to massive Democratic electoral gains in the North. Their task was thus to frame a policy which would prevent total southern Democratic resurgence and which simultaneously would serve as a platform upon which Republicans could go before their northern constituents in the fall. What ultimately emerged as the policy and political platform of the Republican Party was the Fourteenth Amendment.[36]

As finally adopted, relevant portions of the Fourteenth Amendment read as follows:

"Sec. 1. . . . No State shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

"Sec. 2. Representatives shall be apportioned among the several States according to their respective numbers. But when the right to vote at any election . . . is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

"Sec. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

The key provision on the suffrage question was, of course, § 2, which was to have the effect of reducing the representation of any State which did not permit Negroes to vote. Section 1 also began, however, as a provision aimed at securing equaltiy of "political rights and privileges"—a fact hardly surprising in view of Republican concern with the question. In their earliest versions in the Joint Congressional Committee on Reconstruction, which framed the Fourteenth Amendment, §§ 1 and 2 read as follows:

"[Section 1.] Congress shall have power to make all laws necessary and proper to secure to all citizens of the United States, in every State, the same political rights and privileges; and to all persons in every State equal protection in the enjoyment of life, liberty and property." B. Kendrick (ed.), The Journal of the Joint Committee of Fifteen on Reconstruction 51 (1914) (hereafter Kendrick).

"[Section 2.] Representatives and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers of persons, deducting therefrom all of any race or color, whose members or any of them are denied any of the civil or political rights or privileges." *Id.*, at 43.

The question which must now be pursued is whether § 1 of the Amendment ever lost its original connection with the suffrage question.

It became evident at an early date that the Joint Committee did not wish to make congressional power over the suffrage more explicit than did the language of the original version of the future § 1. Six days after that section had been proposed by a subcommittee, the full committee refused to adopt an amendment offered by Senator Howard to make the section refer expressly to "political and *elective* rights and privileges," *id.*, at 55 (emphasis added), and refused as well to substitute for the language:

"Congress shall have power to make all laws necessary and proper to secure to all citizens of the United States in each State the same political rights and privileges; and to all persons in every State equal protection in the enjoyment of life, liberty and property."

The following language offered by Congressman Boutwell:

"Congress shall have power to abolish any distinction in the exercise of the elective franchise in any State, which by law, regulation or usage may exist therein." *Id.*, at 54–55.

The committee did agree, however, to return the proposal to a special subcommittee, chaired by Congressman John A. Bingham, which at the next meeting of the full committee reported back the following language:

"Congress shall have power to make all laws which shall be necessary and proper to secure all persons in every state full protection in the enjoyment of life, liberty, and property; and to all citizens of the United States in any State the same immunities and also equal political rights and privileges." *Id.*, at 56.

This language, it seems clear, did not change the meaning of the section as originally proposed, but the next change in language, proposed several days later by Bingham, arguably did. Bingham moved the following substitute:

"The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each state all privileges and immunities of citizens in the several states (Art. 4, Sec. 2); and to all persons in the several States equal protection in the rights of life, liberty and property (5th Amendment)." *Id.*, at 61.

This substitute was accepted by a committee vote of 7–6.

No record of the committee's debates have been preserved, and thus one can only guess whether Bingham's substitute was intended to change the meaning of the original proposal. The breakdown of the committee vote suggests, however, that no change in meaning was intended. The substitute was supported by men of all political views, ranging from Senator Howard and Congressman Boutwell, radicals who had earlier sought to make the section's coverage of suffrage explicit, to Congressman Rogers, a Democrat.

Footnotes at end of article.

Similarly, among the six voting against the substitute were a radical, Stevens; a moderate, Fessenden; and a Democrat, Grider. *Id.*, at 61. Thus, while one might continue to argue that Bingham meant his substitute to do away with congressional power to legislate for the preservation of equal rights to suffrage, one can, with at least equal plausibility, contend that Bingham sought to do no more than substitute for his earlier specific language more general language which had already appeared elsewhere in the Constitution.[37]

Bingham's proposed amendment to the Constitution, as modified, was next submitted to the House of Representatives, where Republicans joined Democrats in attacking it. Republican Representative Hale of New York, for example, thought the amendment "in effect a provision under which all State legislation, in its codes of civil and criminal jurisprudence and procedure, affecting the individual citizen, may be overridden," Globe 1963, while Representative Davis, also a New York Republican, thought it would give Congress power to establish "perfect political equality between the colored and the white race of the South." *Id.*, at 1085. Meanwhile, the *New York Times*, edited by conservative Republican Congressman Henry J. Raymond, wondered if the proposed Amendment was "simply a preliminary to the enactment of negro suffrage." Feb. 19, 1866. Even the Amendment's supporters recognized that it would confer extensive power upon the Federal Government; Representative Kelley, a Pennsylvania radical, who supported the Amendment, concluded, after a lengthy discussion of the right of suffrage, that "the proposed amendment . . . [was] intended to secure it." Globe 1063. Its proponents, however, could not secure the necessary support for the Amendment in the House and thus were compelled to postpone the matter until a later date, when they failed to bring it again to the floor. Kendrick 215.

Meanwhile, the Joint Committee had returned to work and had begun to consider the direct antecedent of the Fourteenth Amendment, a proposal by Robert Dale Owen which Representative Stevens had placed before the committee. Its relevant provisions were as follows:

"Section 1. No discrimination shall be made by any state, nor by the United States, as to the civil rights of persons because of race, color, or previous condition of servitude.

"Sec. 2. From and after the fourth day of July, in the year one thousand eight hundred and seventy-six, no discrimination shall be made by any state, nor by the United States, as to the enjoyment by classes of persons of the right of suffrage, because of race, color, or previous condition of servitude.

"Sec. 3. Until the fourth day of July, one thousand eight hundred and seventy-six, no class of persons, as to the right of any of whom to suffrage discrimination shall be made by any state, because of race, color, or previous condition of servitude, shall be included in the basis of representation.

"Sec. 5. Congress shall have power to enforce by appropriate legislation, the provisions of this article." *Id.*, at 83–84.

Congressman Bingham had not, however, given up on his own favorite proposal, and he immediately moved to add the following new section to the Amendment:

"Sec. 5. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." *Id.*, at 87.

His motion was adopted on a 10-to-2 party line vote, but its adoption was only the beginning of some intricate and inexplicable maneuvering. Four days later, Senator Williams, an Oregon radical, moved to delete Bingham's section, and his motion was carried by a vote of 7 to 5, with radicals Howard and Boutwell and Democrats Grider and Johnson voting for the motion and Stevens, Bingham, and Democrat Rogers voting against. Bingham then moved to submit his proposal as a separate amendment, but he was supported only by the three Democrats on the committee. The committee then agreed to submit the Owen proposal to Congress with only slight modifications, but postponed the submission until after one further meeting to be held three days hence. *Id.*, at 98–100.

At this meeting, the proposed Fourteenth Amendment was substantially rewritten. First, the committee, by a vote of 12 to 2, deleted § 2, which had barred States from making racial discriminations in the enjoyment of the right of suffrage after 1876, and conformed § 3, so as to insure that it would remain in effect after 1876. After making numerous other changes, the committee then concluded its deliberations by replacing Owen's ban in § 1 on discrimination "as to civil rights" with Bingham's now familiar language. Here the vote was 10 to 3, with the majority again containing a full spectrum of political views. *Id.*, at 100–106. The reasons for the rewriting are not entirely clear. The only known explanation was given by Owen in 1875, when he wrote an article recalling a contemporary conversation with Stevens; Stevens had reportedly explained that the committee's original decisions had "got noised abroad," and that, is a result, several state delegations had held caucuses which decided that the explicit references to "negro suffrage, in any shape, ought to be excluded from the platform. . . ." Quoted in *id.*, 302. Thus, the provision for sufferage after 1876 had to be eliminated, but Stevens did not explain why Bingham's version of § 1 was then substituted for Owen's version. Perhaps the changes in § 1 of the Amendment were thought by the committee to be mere linguistic improvements which did not substantially modify Owen's meaning and which did not extend its coverage to political as distinguished from civil rights. But, at the very lease the committee must have realized that is was substituting for Owen's rather specific language Bingham's far more elastic language—language which, as one scholar has noted, is far more "capable of growth" and "receptive to 'latitudinarian' construction." Bickel, The Original Understanding and the Segregation Decision, 69 Harv. L. Rev. 1, 61, 63 (1955). It is, moreover, at least equally plausible that the committee meant to substitute for Owen's narrow provision dealing solely with civil rights a broader provision which had originated and been understood only two months earlier as protecting equality in the right of suffrage as well as equality of civil rights.

The purpose of § 1 in relation to the suffrage emerges out of the debates on the floor of Congress with an equal obscurity. In the search for meaning one must begin of course, with the statements of leading men in Congress such as Bingham and Howard. Bingham, for one, stated without apparent equivocation that "[t]he amendment does not give . . . the power to Congress of regulating suffrage in the several States." Globe 2542. Similarly, Senator Howard, after noting that the Amendment would accord to Negroes the same protection in the fundamental rights as the law gave to whites, explicitly cautioned that "the first section of the proposed amendment does not give to either of these classes the right of voting." Globe 2766.[38] But such statements are not as unambiguous as they initially appear to be. Thus, Howard with that "lack of legal precision" typical of the period, stated that the right of suffrage was not one of the privileges and immunities protected by the Constiution. Globe 2766, immediately after he had read into the record an excerpt from the case of *Corfield* v. *Coryell*, 6 F. Cas. 546 (No. 3230) (CCED Pa. 1823), an excerpt which listed the elective franchise as among the privileges and immunities. Globe 2765. Bingham was equally ambiguous, for he too thought that the elective franchise was a constitutionally protected privilege and immunity. Globe 2542. Indeed, at one point in the debates, Bingham made what is for us a completely incongruous statement:

"To be sure we all agree, and the great body of the people of this country agree, and the committee thus far in reporting measures of reconstruction agree, that the exercise of the elective franchise, though it be one of the privileges of a citizen of the Republic, is exclusively under the control of the States." Globe 2542.

Bingham, that is, seemed to say in one breath first, that the franchise was a constitutionally protected privilege in support of which Congress under § 5 of the Fourteenth Amendment could legislate and then, in the next breath, that the franchise was exclusively under the control of the States.

Bingham's words make little sense to modern ears; yet, when they were uttered, his words must have made some sense, at least to Bingham and probably to many of his listeners. The search for their meaning probably ought to begin with Art. IV, § 2—the Privileges and Immunities Clause of the original Constitution. In the minds of members of the Thirty-Ninth Congress, the leading case to construe that clause was *Corfield* v. *Coryell, supra*, which had listed among a citizen's privileges and immunities "the elective franchise, as regulated and established by the laws or constitution of the state in which it is to be exercised." 6 F. Cas., at 552. Here again is the same apparent ambiguity that later occurred in Bingham's thought—that the franchise is a federally protected right, but only to the extent it is regulated and established by state law. The ambiguity was, however, only apparent and not real, for the Privileges and Immunities Clause of the original Constitution served a peculiar function; it did not create absolute rights but only placed a noncitizen of a State "upon a perfect equality with its own citizens "as to those fundamental rights already created by state law. *Scott* v. *Sandford*, 19 How. 393, 407 (1857). Accord, *id.*, at 584 (dissenting opinion). The Privileges and Immunities Clause, that is, was a sort of equal protection clause adopted for the benefit of out-of-state citizens;[39] it required, for example, that if a State gave its own citizens a right to enter into a lawful business, it could not arbitrarily deny the same right to out-of-state citizens solely because they came from out of State. See *Ward* v. *Maryland*, 12 Wall. 418, 430 (1871). Thus, what Bingham may have meant in indicating that the franchise was included within the scope of the Privileges and Immunities Clause of the Fourteenth Amendment while remaining entirely under the control of the States was that, although the States would be free in general to confer the franchise upon whomever they chose, Congress would have power to bar them from racial or other arbitrary discriminations in making their choices. In short, the Privileges and Immunities Clause might for Bingham have meant the same as the Equal Protection Clause; as he later explained in a campaign speech, § 1 was nothing but "a simple, strong, plain declaration that equal laws and equal and exact justice shall hereafter be secured within every State of this Union . . . ." Cincinnati Commercial, Aug. 27, 1866, quoted in James 160–161.

Footnotes at end of article.

One way, then, to reconcile the seemingly incongruous statements of Bingham is to read him as understanding that, while the Fourteenth Amendment did not take from the States nor grant to Congress plenary power to regulate the suffrage, it did give Congress power to invalidate discriminatory state legislation. In his words, the Amendment took "from no State any right which hitherto pertained to the several States of the Union, but it impose[d] a limitation upon the States to correct their abuses of power." *Ibid.* Others had a similar understanding. Thus, for Charles Sumner, "Equality of *political rights* . . . [did] not involve necessarily what is sometimes called the 'regulation' of the suffrage by the National Government, although this would be best, . . . [but] simply require[d] the abolition of any discrimination among citizens, inconsistent with Equal Rights." C. Sumner, Are We a Nation 34 (1867). Or, as Stevens explained in presenting the Amendment to the House, it merely allowed "Congress to correct the unjust legislation of the States, so far that the law which operates upon one man shall operate *equally* upon all." Globe 2459 (emphasis in original). Clearest of all, perhaps was Thomas M. Cooley in the 1871 edition of his *Constitutional Limitations*, where he wrote:

"This amendment of the Constitution does not concentrate power in the general government for any purpose of police government within the States; its object is to preclude legislation by any State which shall 'abridge the privileges or immunities of citizens of the United States,' or 'deprive any person of life, liberty, or property without due process of law,' or 'deny to any person within its jurisdiction the equal protection of the laws'; and Congress is empowered to pass all laws necessary to render such unconstitutional State legislation ineffectual." T. Cooley, Constitutional Limitations 294 (3d ed. 1871).

There is also other evidence that at least some members of Congress and of the electorate believe that § 1 of the Fourteenth Amendment gave Congress power to invalidate discriminatory state regulations of the suffrage. Thus, Congressman Rogers, a Democrat who had served on the Joint Committee, agreed with Bingham and Howard that "[t]he right to vote is a privilege," Globe 2538, while Congressman Boyer, another Democrat, feared that § 1 was "intended to secure ultimately, and to some extent indirectly, the political equality of the negro race." Globe 2467. A third Democrat, Congressman Niblack, thought the section sufficiently ambiguous to warn that he might, although in fact he never did, offer the following addition to it:

"*Provided*, That nothing contained in this article shall be so construed as to authorize Congress to regulate or control the elective franchise within any State, or to abridge or restrict the power of any State to regulate or control the same within its own jurisdiction, except as in the third section hereof prescribed." Globe 2465.

Republicans also alluded on occasion to their belief that the Amendment might give Congress power to prevent discrimination in regard to the suffrage. Radical Senator Stewart, for example, while unhappy that the Amendment did not directly confer suffrage, nevertheless could "support this plan" because it did "not preclude Congress from adopting other means by a two-thirds vote,[40] when experience shall have demonstrated, as it certainly will, the necessity for a change of policy. In fact it furnishes a conclusive argument in favor of universal amnesty and impartial suffrage." Globe 2964. Likewise, the more conservative Congressman Raymond of New York supported the first section because he thought Congress should have the power to legislate on behalf of equal rights "in courts and elsewhere," Globe 2513, after the radical Congressman Wilson of Iowa had informed him that, "if we give a reasonable construction to the term 'elsewhere,' we may include in that the jury box and the ballot-box." Globe 2505. Congressman Stevens, meanwhile, was informing Congress that "if this amendment prevails you must legislate to carry out many parts of it," Globe 2544, and was looking forward to "further legislation; in enabling acts or other provisions," Globe 3148, while even the Joint Committee submitted the Amendment to the Nation "in the hope that its imperfections may be cured, and its deficiencies supplied, by legislative wisdom . . ." Report of the Joint Committee on Reconstruction, H.R. Rep. No. 30, 39th Cong., 1st Sess., at xxi (1866). Nor did the radical Republican press disagree; as the Lansing State Republican argued in its editorial columns, even "[i]f impartial suffrage, the real vital question of the whole struggle . . . [was] postponed through the mulish obstinacy of Andrew Johnson," "freedom" would "triumph by the adoption of the proposed amendment" and would be followed by "equal rights to all. . . ." July 11, 1866. And, of course, once the Amendment had been ratified, Republicans in Congress began to make speeches in favor of legislation which would implement the Amendment by guaranteeing equal suffrage. See *e.g.*, Globe 40th Cong., 2d Sess., 1966–1967 (1868) (remarks of Congressman Stevens); 3d Sess., 1008 (1869) (remarks of Senator Sumner).

Of course, few of the above statements taken from congressional debates, campaign speeches, and the press were made with such clarity and precision that we can know with certainty that its framers intended the Fourteenth Amendment to function as we think they did. But clarity and precision are not to be expected in an age when men are confronting new problems for which old concepts do not provide ready solutions. As we have seen, the 1860's were such an age, and the men who formulated the Fourteenth Amendment were facing an especially perplexing problem—that of creating federal mechanisms to insure the fairness of state action without in the process destroying the reserved powers of the States. It would, indeed, be surprising if the men who first faced this difficult problem were possessed of such foresight that they could debate its solution with complete clarity and consistency and with uniformity of views. There is, in short, every reason to believe that different men reconciled in different and often imprecise ways the Fourteenth Amendment's broad guarantee of equal rights and the statements of some of its framers that it did not give Congress power to legislate upon the suffrage.

Some men, for example, might have reconciled the broad guarantee and the narrow language by concluding that Negroes were not yet ready to exercise the franchise and hence that a State would not act arbitrarily in denying it to them while granting it to whites. As the debates make clear, proponents of the Amendment did not understand the Equal Protection Clause to forbid States to distinguish among persons where justification for distinctions appeared. See, *e.g.*, Globe 1064 (Congressmen Stevens). At the time the Fourteenth Amendment was adopted, the overwhelming majority of Negro residents of the United States were former slaves living in the Southern States. Most of them were illiterate and uneducated. Except for those few who had been kidnaped by slave traders after reaching adulthood, they had no prior experience with the responsibilities of citizenship. Given this state of affairs, it would hardly be surprising if some of the framers of the Fourteenth Amendment felt that the Equal Protection Clause would not forbid the States from classifying Negroes as a group to be denied the right to vote. Equal protection has never been thought to require identical treatment of all persons in all respects. *Metropolitan Co.* v. *Brownell*, 294 U.S. 580, 583–584 (1935), and cases cited. It requires only that the State provide adequate justification for treating one group differently from another. *Levy* v. *Louisiana*, 391 U.S. 68 (1968). Entirely aside from any concepts of racial inequality that may have been held by some members of Congress at that time, it seems clear that many members had serious reservations about the ability of the majority of Negroes, after centuries of slavery, to cast an intelligent and responsible vote. See, for example, the debates over a proposal to enfranchise Negroes in the District of Columbia in Cong. Globe, 38th Cong., 1st Sess., 2140–2141, 2239–2243, 2248 (1864). Of course, we would not now hold that even the situation existing in 1866 would justify wholesale exclusion of Negroes from the franchise: our decisions have consistently held that a particular group may not be denied the right to vote merely because many, or even most of its members could properly be excluded. *Carrington* v. *Rash*, 380 U.S. 89, 93–96 (1965); *Kramer* v. *Union Free School District*, 395 U.S. 621, 632–633 (1969); *Evans* v. *Cornman*, 398 U.S. 419, 424–426 (1970); cf. Tussman and TenBroek, The Equal Protection of the Laws, 37 Calif. L. Rev. 341, 351–352 (1949). But mere administrative convenience was once thought to be sufficient justification for an overly broad legislative classification, so long at least as the resultant discrimination could be justified as to a majority of the class affected. *Terrace* v. *Thompson*, 263 U.S. 197, 218–222 (1923); cf. *Kotch* v. *Board of River Pilot Commissioners*, 330 U.S. 552 (1947). Rejection of this approach has been the result of a judicial development that could hardly have been known to the framers of the Amendment. Cf. *Baxstrom* v. *Herold*, 383 U.S. 107, 114–114 (1966).

Of course, many Americans in the 1860's rejected imputations that Negroes were unready for the franchise and thus concluded that distinctions between the races in regard to the franchise would constitute denials of equal protection. Congressman Stevens, for one, had no doubt that to allow a State to deny the franchise to Negroes would be to allow it "to discriminate among the same class." Globe 2460. And Negroes, of course, indignantly rejected such imputations, arguing that "[w]e are not all so illiterate as you suppose" and that "even if we were, our instincts have proved better than that 'educated class,' whose 'little learning' prompted them to attempt the impossible thing of destroying this great Republic. . . ." Letter to the Editor, N. Y. Times, Nov. 4, 1866.

Among the men who refused to regard Negroes as ill prepared for the exercise of the franchise, there may have been some who did not understand the subtle distinctions of constitutional lawyers such as Bingham and who thus accepted at face value assurances that the Fourteenth Amendment gave Congress no power over the suffrage. As a result, at least three identifiable groups may have existed within the Republican majorities which enacted and ratified the Amendment—those who thought that Congress would have power to insure to Negroes the same right to suffrage which the States gave to whites, those who thought that Congress would not have such power since Negroes and whites constituted distinct and dissimilar classes for voting purposes, and those who thought Congress would possess no power at all over the suffrage. Perhaps all three such groups did not exist in 1866 in Congress and in the Nation at large, but surely the evidence is not clear "beyond any reasonable doubt" that the only existent group was the last one, consisting of men who, despite the broad language of § 1 and the hints by speakers of its applicability to the suffrage, simply assumed

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Footnotes at end of article.

without developing any analytical framework in support of their assumption that the section would not be so applied.

The evidence, in sum, plausibly suggests that the men who framed the Fourteenth Amendment possessed differing views as to the limits of its applicability but that they papered over their differences because those differences were not always fully apparent and because they could not foresee with precision how their amendment would operate in the future. Moreover, political considerations militated against clarification of issues and in favor of compromise. Much of the North, as already noted, opposed Negro suffrage, and many Republicans in Congress had to seek reelection from constituencies where racial prejudice remained rampant. Republicans in the forthcoming elections thus found it convenient to speak differently before different constituencies; as the Republican state chairman of Ohio wrote, in northern counties of the State "some of our Speakers have openly advocated impartial suffrage, while in other places it was thought necessary, not only to repudiate it but to oppose it." B. R. Cowan to S. P. Chase, Oct. 12, 1866, quoted in James 168. Similarly, Senator Wilson of Massachusetts, when accused shortly after the 1866 elections of misrepresenting the issues of the campaign in Delaware by saying nothing of Negro suffrage, replied that since he had been "in a State where not much progress had been made, I acted somewhat on the scriptural principle of giving 'milk to babes.'" Globe, 39th Cong., 2d Sess., 42. Apparently Congressman Ashley of Ohio acted upon similar principles, for when he was asked after the House had initially approved the Amendment whether Congress had "power to confer the right of suffrage upon negroes in the States," he responded.

"Well, sir, I do not intend to put myself on record against the right of Congress to do that. I am not prepared now to argue the point with my colleague; but I will say to him that when the time comes for the American Congress to take action on the question, I will be ready to speak. I will not say now whether I would vote for or against such a proposition." Globe 2882.

Thus, precise legal analysis and clarity of thought were both intellectually difficult and politically unwise. What Republicans needed, in the words of Wendell Phillips, the former abolitionist leader, was "a party trick to tide over the elections and save time," after which they could "float back into Congress, able to pass an act that shall give the ballot to the negro and initiate an amendment to the Constitution which shall secure it to him." Speech of Wendell Phillips, July 4, 1866, quoted in A. Harris, A Review of the Political Conflict in American, 437 (1876). Similiarly, the *New York Times*, edited by Congressman Henry J. Raymond, a conservative Republican who ultimately would support the Amendment, observed that "all the excitement that had been raised about constitutional amendments . . . has been simply dust thrown in the eyes of the public to cover the approach to the grand fundamental, indispensable principle of universal negro suffrage . . . ." April 27, 1866, quoted in A. Harris, *supra*, at 433.

Not surprisingly, the product of such political needs was an Amendment which contemporaries saw was vague and imprecise. Democratic Senator Hendricks, for example, protested that he had "not heard any Senator accurately define, what are the rights and immunities of citizenship," Globe 3039, while Congressman Boyer, another Democrat, found the first section "objectionable also in its phraseology, being open to ambiguity and admitting of conflicting constructions." Globe 2467. Republicans too were aware of the Amendment's vagueness. Thus, when he presented the Amendment to the Senate, Senator Howard noted that "[i]t would be a curious question to solve what are the privileges and immunities of citizens" and proposed not to consider the question at length, since "[i]t would be a somewhat barren discussion." Instead, like the pre-Civil War Supreme Court,[41] he "very modestly declined to go into a definition of them, leaving questions arising under the clause to be discussed and adjudicated when they should happen practically to arise." Globe 2765.

Thus, the historical evidence does not point to a single, clear-cut conclusion that contemporaries viewed the first section of the Fourteenth Amendment as an explicit abandonment of the radical goal of equal suffrage for Negroes. Rather the evidence suggests an alternative hypothesis: that the Amendment was framed by men who possessed differing views on the great question of the suffrage and who, partly in order to formulate some program of government and partly out of political expediency, papered over their differences with the broad, elastic language of § 1 and left to future interpreters of their Amendment the task of resolving in accordance with future vision and future needs the issues which they left unresolved. Such an hypothesis strikes us as far more consistent with the turbulent character of the times than one resting upon a belief that the broad language of the Equal Protection Clause contained a hidden limitation upon its operation that would prevent it from applying to state action regulating rights that could be characterized as "political." [42]

Nor is such an hypothesis inconsistent with the subsequent enactment of the Fifteenth, Nineteenth, and Twenty-fourth Amendments. Those who submitted the Fifteenth Amendment to the States for ratification could well have desired that any prohibition against racial discrimination in voting stand upon a firmer foundation than mere legislative action capable of repeal [43] or the vagaries of judicial decision.[44] Or they could merely have concluded that, whatever might be the case with other rights, the right to vote was too important to allow disenfranchisement of any person for no better reason than that others of the same race might not be qualified. At least some of the supporters of the Nineteenth Amendment believed that sex discrimination in voting was itself proscribed by the Fourteenth Amendment's guarantee of equal protection. 57 Cong. Rec. 3053 (February 10, 1919). And finally, the Twenty-fourth Amendment was not proposed to the States until this Court had held, in *Breedlove* v. *Suttles*, 302 U. S. 277 (1937),[45] that state laws requiring payment of a poll tax as a prerequisite to voting did not *ipso facto* violate the Equal Protection Clause. Accordingly, we see no reason that the mere enactment of these amendments can be thought to imply that their proponents believed the Fourteenth Amendment did not apply to state allocations of political power. At a dubious best, these amendments may be read as implying that their proponents felt particular state allocations of power a proper exercise of power under the Equal Protection Clause.

Nor do we find persuasive our Brother HARLAN's argument that § 2 of the Fourteenth Amendment was intended as an exclusive remedy for state restrictions on the franchise, and that therefore any such restrictions are permissible under § 1. As Congressman Bingham emphatically told the House, when the same argument was made by Congressman Bromwell:

"There has not been such a construction, in my opinion, of a law which imposes only a penalty, for centuries, if ever, in any country where the common law obtains. The construction insisted upon by the gentleman amounts to this, that a law which inflicts a penalty or works a forfeiture for doing an act, by implication authorizes the act to be done for doing which the penalty is inflicted. There cannot be such a construction of the proviso. It is a penalty. It says in terms that if any of the States of the United States shall disobey the Constitution; . . . that as a penalty such State shall lose political power in this House . . . .

"You place upon your statute-book a law punishing the crime of murder with death. You do not thereby, by implication, say that anybody may, of right, commit murder. You but pass a penal law. You do not prohibit murder in the Constitution; you guaranty life in the Constitution. You do not prohibit the abuse of power by the majority in the Constitution in express terms, but you guaranty the equal right of all free male citizens of full age to elect Representatives; and by the proviso you inflict a penalty upon a State which denies or abridges that right on account of race or color. In doing that we are not to be told that we confer a power to override the express guarantees of the Constitution. We propose the penalty in aid of the guarantee, not in avoidance of it." Globe 431–432; see Van Alstyne, *supra*, at 48–68.

It may be conceivable that § 2 was intended to be the sole remedy available when a State deprived its citizens of their right to vote, but it is at least equally plausible that congressional legislation pursuant to §§ 1 and 5 was thought by the farmers of the Amendment to be another potential remedy. Section 2, in such a scheme, is hardly superfluous: it was of critical importance in assuring that, should the Southern States deny the franchise to Negroes, the Congress called upon to remedy that discrimination would not be controlled by the beneficiaries of discrimination themselves. And it could, of course, have been expected to provide at least a limited remedy in the event that both Congress and the courts took no action under § 1. Neither logic nor historical evidence compellingly suggests that § 2 was intended to be more than a remedy supplementary, and in some conceivable circumstances indispensable, to other congressional and judicial remedies available under §§ 1 and 5. See generally, Van Alstyne, *supra*.

The historical record left by the framers of the Fourteenth Amendment, because it is a product of differing and conflicting political pressures and conceptions of federalism, is thus too vague and imprecise to provide us with sure guidance in deciding the pending cases. We must therefore conclude that its framers understood their Amendment to be a broadly worded injunction capable of being interpreted by future generations in accordance with the vision and needs of those generations. We would be remiss in our duty if, in an attempt to find certainty amidst uncertainty, we were to misread the historical record and cease to interpert the Amendment as this Court has always interpreted it.

D

There remains only the question whether Congress could rationally have concluded that denial of the franchise to citizens between the ages of 18 and 21 was unnecessary to promote any legitimate interests of the States in assuring intelligent and responsible voting. There is no need to set out the legislative history of Title III at any great length here.[46] Proposals to lower the voting age to 18 had been before Congress at several times since 1942.[47] The Senate Subcommittee on Constitutional Amendments conducted extensive hearings on the matter in 1968 and again in 1970,[48] and the question was discussed at some length on the floor of both the House and the Senate.

Congress was aware, of course, of the facts and state practices already discussed.[49] It was aware of the opinion of many historians that choice of the age of 21 as the age of maturity

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Footnotes at end of article.

was an outgrowth of medieval requirements of time for military training and development of a physique adequate to bear heavy armor.[50] It knew that whereas only six percent of 18-year-olds in 1900 had completed high school, 81 percent have done so today.[51] Congress was aware that 18-year-olds today make up a not insubstantial proportion of the adult work force,[52] and it was entitled to draw upon its experience in supervising the federal establishment to determine the competence and responsibility with which 18-year-olds perform their assigned tasks. As Congress recognized, its judgment that 18-year-olds are capable of voting is consistent with its practice of entrusting them with the heavy responsibilities of military service. See § 301(a)(1) of the Amendments.[53] Finally, Congress was presented with evidence that the age of social and biological maturity in modern society has been consistently decreasing. Dr. Margaret Mead, an anthropologist, testified that in the past century, the "age of physical maturity has been dropping and has dropped over 3 years."[54] Many Senators and Representatives, including several involved in national campaigns, testified from personal experience that 18-year-olds of today appeared at least as mature and intelligent as 21-year-olds in the congressmen's youth.[55]

Finally, and perhaps most important, Congress had before it information on the experience of two States, Georgia and Kentucky, which have allowed 18-year-old voting since 1943 and 1955, respectively. Every elected representative from those States who spoke to the issue agreed that, as Senator Talmadge stated, "young people [in these States] have made the sophisticated decisions and have assumed the mature responsibilities of voting. Their performance has exceeded the greatest hopes and expectations."[56]

In sum, Congress had ample evidence upon which it could have based the conclusion that exclusion of citizens 18 to 21 years of age from the franchise is wholly unnecessary to promote any legitimate interest the States may have in assuring intelligent and responsible voting. See *Katzenbach* v. *Morgan*, 384 U.S., at 653–656. If discrimination is unnecessary to promote any legitimate state interest, it is plainly unconstitutional under the Equal Protection Clause, and Congress has ample power to forbid it under § 5 of the Fourteenth Amendment. We would uphold § 302 of the 1970 Amendments as a legitimate exercise of congressional power.

FOOTNOTES

[1] Section 202(a) of the Amendments embodies a congressional finding that

"the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

"(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

("6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections."

[2] Section 301(a) of the Amendments provides:

"The Congress finds and declares that the imposition and application of the requirements that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

"(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

"(2) has the effect of denying citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

"(3) does not bear a reasonable relationship to any compelling State interest."

[3] Arizona Constitution Art. 7, § 2, limits the franchise to those 21 years of age and older. Ariz. Rev. Stat. Ann. § 16–101 (Supp. 1970) requires voters to be able to read the Federal Constitution (in English), and to write their names.

[4] Idaho Constitution, Art. 6, § 2, requires all voters to be 21 years of age or older, and requires 60 days' residence within the State as a precondition to voting in presidential elections. Idaho Code Ann. § 34–408 (1963), further requires that 60-day residents have been citizens of another State prior to their removal to Idaho. Provisions for absentee balloting are contained in *id.*, §§ 34–1101 to 34–1125.

[5] Section 4(c) of the 1965 Act, U.S.C. § 1973b(c) (1964 ed., Supp. V), defines a "test or device" as "any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class."

[6] *Gaston County* was a suit by the county under § 4(a) of the 1965 Act, 42 U.S.C. § 1973b(a) (1964 ed., Supp. V), to reinstate the county's literacy test. The county would have been entitled to do so upon demonstration that, for the preceding five years, no "test or device" had been there used for the purpose or with the effect of abridging the right to vote on account of race or color.

[8] We there reserved only the question of the application of the 1965 Act to suspend literacy tests "in the face of racially disparate educational or literacy achievements *for which a government bore no responsibility.*" *Id.*, n. 8 (emphasis supplied).

[9] Hearings on Amendments to the Voting Rights Act of 1965 before the Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 91st Cong., 1st and 2d Sess. 675 (1970) (hereafter Senate Hearings). Schooling of Indians has for some time been the responsibility of the Federal Government. See *Warren Trading Post Co.* v. *Arizona Tax Commission*, 380 U.S. 685, 690–691 (1965).

[10] E.g., Senate Hearings at 185–187; Hearings on the Voting Rights Act Extension before Subcommittee No. 5 of the House Judiciary Committee, 91st Cong., 1st Sess. 55–57, 223–225 (1970) (hereafter House Hearings).

[11] For example, 1960 census data indicate that from 1955 to 1960, 4,388 blacks moved from Southern States to Arizona, 74,804 to California, and 74,821 to New York. 1 Bureau of the Census, 1960 Census of the Population, pts. 4, 6, 23, 34, and Table 100.

[12] Senate Hearings, *supra* n. 9, at 399; see *id.*, at 400–407.

[13] Senate Hearings, *supra* n. 9, at 678. Tribal Chairman Nakai viewed Arizona's literacy test as the primary cause of this disparity.

[14] The States are permitted, should they desire, to adopt practices less restrictive than those prescribed by the 1970 Amendments. § 202(g).

[15] See n. 4, *supra*.

[16] See the opinion of MR. JUSTICE DOUGLAS, *ante*, at ——.

[17] See *Shapiro* v. *Thompson*, 394 U.S., at 630 and n. 8; *United States* v. *Guest*, 383 U.S., at 757–758.

[18] Senate Hearings. *supra* n. 9, at 282.

[19] 116 Cong. Rec. 3539 (daily ed., Mar. 11, 1970).

[20] *Id.* Idaho Code Ann. §§ 34–1101, 34–1102, 34–1103 appear to allow application to be made at any time. *Id.*, § 34–1121 allows application up to five days before the election for persons in United States service. The ballot may be returned any time prior to noon on election day, *id.*, § 34–1105 (Supp. 1969). Finally, effective January 1, 1971, applications may be made up to 5:00 p.m. the day before the election. *Id.*, § 34–1002 (Supp. 1970). In such circumstances, the argument of administrative impossibility from the viewpoint of Idaho seems almost chimerical.

[21] Idaho, in addition, claims that its interest in setting qualifications for voters in its own election serves without more as a compelling state interest sufficient to justify the challenged exclusion. But there is no state interest in the mere exercise of power; the power must be exercised for some reason. The only reason asserted by Idaho for the exercise of its power is that already mentioned—promotion of intelligent and responsible voting.

[22] 116 Cong. Rec. 3518 (daily ed., Mar. 11, 1970) (Library of Congress, Legislative Reference Service survey).

[23] *Ibid.*

[24] Nor does the California statute, Cal. Welf. & Inst'ns Code § 602 (West 1966), necessarily evidence a contrary conclusion. California permits its juvenile court to waive jurisdiction of persons over the age of 16 to the regular criminal courts, and state practice appears to be that very few if any felony defendants over the age of 18 are ever tried as juveniles. California Continuing Education of the Bar, California Juvenile Court Practice 35–36 (1968). This may well indicate that the California statute reflects merely a legislative conclusion that the slight burden of waiver hearings is outweighed by the possibility, however slight, that a very few individuals between the ages of 18 and 21 might in fact be more appropriately treated as juveniles.

[25] 116 Cong. Rec. 3518 (daily ed., Mar. 11, 1970).

[26] For example, in California any women 18 years old may marry without parental consent, and any man of that age may marry with the consent of one parent. Cal. Civ. Code § 4101 (West 1970). Any married person who has attained the age of 18 is treated in precisely the same way as all persons over the age of 21 with regard to all provisions of the Civil Code, Probate Code, and Code of Civil Procedure, as well as for the purposes of making contracts or entering into any agreement regarding property or his estate. Cal. Civ. Code § 25 (West Supp. 1970). The State Labor Department treats males over the age of 18 as adults. Cal. Labor Code §§ 1172, 3077 (West 1955). Persons over the age of 18 may serve civil process in the State. Cal. Civ. Proc. Code § 410 (West Supp. 1970).

[27] Some States, of course, do attempt to condition exercise of the franchise upon the ability to pass a literacy test. Presumably some 18-year-old illiterates will be literate at 21. But in light of the fact that 81 percent of the disenfranchised class are high school graduates, it would seem that the number of 18-year-old illiterates who are literate three years later is vanishingly small. See Hearings on S.J. Res. 147 and Others before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary, 91st Cong., 2d Sess. 133 (1970) (Senator Goldwater). Of course, for reasons that apply as well to 18-year-olds as to others, we have today upheld a nationwide suspension of all literacy tests. *Ante*, at ——. But in any event, that some 18-year-olds may be illiterate is hardly sufficient reason for disenfranchising the entire class. See *Kramer* v. *Union Free School District*, 395 U.S., at 632–633.

[28] Eighteen-year-olds as a class are better educated than some of their elders. The median number of school years completed by 18- and 19-year-olds two years ago was 12.2; it was 8.8 for persons 65 to 74. Bureau of the Census, Educational Attainment, table 1 (Current Population Reports, Series P–20, No. 182) (1969).

[29] Hawaii and Alaska have, since their ad-

mission to the Union in 1959), allowed the vote to 19-year-olds (Alaska) and 20-year-olds (Hawaii).

[30] See, *e.g.,* 116 Cong. Rec. 3214–3215 (Senator Cook), 3477 (Senators Talmadge and Ervin) (daily ed., Mar. 9, 11, 1970); Senate Hearings, *supra* n. 9, at 343 (Governor Maddox).

[31] The state of facts necessary to justify a legislative discrimination will of course vary with the nature of the discrimination involved. When we have been faced with statutes involving nothing more than state regulation of business practices, we have often found mere administrative convenience sufficient to justify the discrimination. *E.g., Williamson* v. *Lee Optical Co.,* 348 U.S. 483, 487, 488–489 (1955). But when a discrimination has the effect of denying or inhibiting the exercise of fundamental constitutional rights, we have required that it be not merely convenient, but necessary. *Kramer* v. *Union Free School District,* 395 U.S., at 627; *Carrington* v. *Rash,* 380 U.S. 89, 96 (1965); see *United States* v. *O'Brien,* 391 U.S. 367, 377 (1968); *United States* v. *Jackson,* 390 U.S. 570, 582–583 (1968). And we have required as well that it be necessary to promote not merely a constitutionally permissible state interest, but a state interest of substantial importance. *Kramer* v. *Union Free School District, supra; Carrington* v. *Rash, supra; Shelton* v. *Tucker,* 364 U.S. 479, 487–490 (1960); see *United States* v. *O'Brien, supra.*

[32] As we emphasized in *Katzenbach* v. *Morgan, supra,* "§ 5 does not grant Congress power to . . . enact 'statutes so as in effect to dilute equal protection and due process decisions of this Court.' " 384 U.S., at 651 n. 10. As indicated above, a decision of this Court striking down a state statute expresses, among other things, our conclusion that the legislative findings upon which the statute is based are so far wrong as to be unreasonable. Unless Congress were to unearth new evidence in its investigation, its identical findings on the identical issue would be no more reasonable than those of the state legislature.

[33] Brief for the State of Oregon, at 10–13; Brief for the State of Texas, at 10–12; Brief for the State of Arizona, at 19; Brief for the State of Idaho, at 22, 28–30.

[34] Brief *amicus curiae* for the Commonwealth of Virginia, at 13–22; see Brief *amicus curiae* for the State of Mississippi, at 7–11.

[35] Indeed, since the First Amendment is applicable to the States only through the Fourteenth, our Brother Harlan's view would appear to allow a State to exclude any unpopular group from the political process solely upon the basis of its political opinions.

[36] Republicans explicitly looked upon the Fourteenth Amendment as a political platform. See 2 F. Fessenden, Life and Public Services of William Pitt Fessenden 62 (1907); B. Kendrick (ed.), The Journal of the Joint Committee of Fifteen on Reconstruction 302 (1914). See also *post,* pp. —— - ——.

[37] The language appears earlier in Art. IV, § 2.

[38] As the statements of Bingham and Howard in the text indicate, the framers of the Amendment were not always clear whether they understood it merely as a grant of power to Congress or whether they thought, in addition, that it would confer power upon the courts, which the courts would use to achieve equality of rights. Since § 5 is clear in its grant of power to Congress and we have consistently held that the Amendment grants power to the courts, this issue is of academic interest only.

[39] According to *Paul* v. *Virginia,* 8 Wall. 168, 180 (1869), the Privileges and Immunities Clause in Art. 4, § 2, secured to citizens "in other States the equal protection of their laws."

[40] Senator Stewart's statement regarding the two-thirds requirement appears to refer to § 3 of the Fourteenth Amendment, which requires such a majority for legislation granting amnesty to former Confederate leaders.

[41] This Court had taken such an approach in *Conner* v. *Elliott,* 18 How. 591 (1856).

[42] Ironically, the same distinction, between "political" and other rights was drawn by this Court in *Plessy* v. *Ferguson,* 163 U.S. 537, 545–546 (1896). But the Court there concluded, directly contrary to our Brother Harlan's position, that the Fourteenth Amendment applied to "political" rights and to those rights only.

[43] As Thaddeus Stevens had pointed out in urging passage of the Fourteenth Amendment despite the fact that, he felt, some of its guarantees could be enforced by mere legislative enactment, "a law is repealable by a majority." Globe 2549.

[44] Radical disenchantment with decisions of this Court had led, prior to the Fifteenth Amendment, to the Act of March 27, 1868, 15 Stat. 44, withdrawing our appellate jurisdiction over certain habeas corpus cases. See *Ex parte McCardle,* 7 Wall. 506, 508, 514–515 (1868).

[45] *Breedlove* has been overruled by *Harper* v. *Virginia Board of Elections,* 383 U.S. 663, 669 (1966).

[46] For a full collection of the relevant materials, see Note, Legislative History of Title III of the Voting Rights Act of 1970, 8 Harv. J. Legis. —— (1970).

[47] See 88 Cong. Rec. 8312, 8316 (1942).

[48] Hearings on S. J. Res. 8, 14, and 78 before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary, 90th Cong., 2d Sess. (1968); Hearings on S. J. Res. 147 and Others before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary, 91st Cong., 2d Sess. (1970) (hereafter 1970 Hearings).

[49] *Ante,* at ——.

[50] See 116 Cong. Rec. 3503 (daily ed., Mar. 11, 1970); James, The Age of Majority, 4 Am. J. Legal History 22 (1960); Report of the Committee on the Age of Majority Presented to the English Parliament, p. 21 (1967).

[51] 116 Cong. Rec. 3216 (daily ed., Mar. 9, 1970).

[52] 16 Department of Labor, Bureau of Labor Statistics, Employment and Earnings, table A–3 (June 1970).

[53] See also Senate Hearings, *supra* n. 9, at 323 (Senator Kennedy), 116 Cong. Rec. 2938–2939 (daily ed., March 4, 1970) (Senator Mansfield); 3214 (daily ed., March 9, 1970) (Senator Cook). See generally Note, *supra* n. 46, at —— - ——.

[54] 1970 Hearings at 223. Dr. W. Walter Menninger, a psychiatrist, and Dr. S. I. Hayakawa, agreed. *Id.,* at 23, 36.

[55] *E. g.,* 116 Cong. Rec. 2939 (daily ed., Mar. 4, 1970) (Senator Mansfield); 3214–3215 (daily ed., Mar. 9, 1970) (Senator Cook); 3216–3219 (daily ed., Mar. 9, 1970) (Senator Goldwater); 3477 (daily ed., Mar. 11, 1970) (Senator Talmadge, joined by Senator Ervin); 3497–3498 (daily ed., Mar. 11, 1970) (Senator Tydings).

[56] 116 Cong. Rec. 3477 (daily ed., Mar. 11, 1970).

[Supreme Court of the United States, Nos. 43, 44, 46, 47 Orig.—October Term, 1970]

On Bills of Complaint

State of Oregon, Plaintiff, 43 *v.* John N. Mitchell, Attorney General of the United States.

State of Texas, Plaintiff, 44 *v.* John N. Mitchell, Attorney General of the United States.

United States, Plaintiff, 46 *v.* State of Arizona.

United States, Plaintiff, 47 *v.* State of Idaho.

[December 21, 1970]

Mr. Justice Stewart, with whom The Chief Justice and Mr. Justice Blackmun join, concurring in part and dissenting in part.

In these cases we deal with the constitutional validity of three provisions of the Voting Rights Act Amendment of 1970. Congress undertook in these provisions: (a) to abolish for a five-year period all literacy tests and similar voting eligibility requirements imposed by any State in the Union (§ 201); (b) to remove the restrictions imposed by state durational residency requirements upon voters in presidential elections (§ 202); and (c) to reduce the voting age to a maximum of 18 years for all voters in all elections throughout the Nation (§ 302). The Court today upholds § 201's nationwide literacy test ban and § 202's elimination of state durational residency restrictions in presidential elections. Section 302's extension of the franchise to 18-year-old voters is, by virtue of the prevailing opinion of Mr. Justice Black, upheld as applied to federal elections. I agree with the Court in sustaining the congressional ban on state literacy tests, for substantially the same reasons relied upon by Mr. Justice Black. I also agree that the action of Congress in removing the restrictions of state residency requirements in presidential elections is constitutionally valid, but I base this judgment upon grounds quite different from those relied upon by Mr. Justice Black. And finally, I disagree with the Court's conclusion that Congress could constitutionally reduce the voting age to 18 for federal elections, since I am convinced that Congress was wholly without constitutional power to alter—for the purpose of any elections—the voting age qualifications now determined by the several States.

Before turning to a discussion of my views, it seems appropriate to state that we are not called upon in these cases to evaluate or appraise the wisdom of abolishing literacy tests, of altering state residency requirements, or of reducing the voting age to 18. Whatever we may think as citizens, our single duty as judges is to determine whether the legislation before us was within the constitutional power of Congress to enact. I find it necessary to state so elementary a proposition only because certain of the separate opinions filed today contain many pages devoted to a demonstration of how beneficent are the goals of this legislation, particularly the extension of the electoral franchise to young men and women of 18. A casual reader could easily get the impression that what we are being asked in these cases is whether or not we think allowing people 18 years old to vote is a good idea. Nothing could be wider of the mark. My Brothers to the contrary, there is no question here as to the "judgment" of Congress; there are questions only of Congress' constitutional power.

I

I concur in Part II of Mr. Justice Black's opinion, which holds that the literacy test ban of § 201 of the 1970 Amendments is constitutional under the Enforcement Clause of the Fifteenth Amendment. Our decisions establish that the Fifteenth Amendment "nullifies sophisticated as well as simple-minded modes of discrimination. It is onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race." *Lane* v. *Wilson,* 307 U.S. 268, 275; cf. *Gomillion* v. *Lightfoot,* 463 U.S. 339. Because literacy and illiteracy are seemingly neutral with respect to race, creed, color, and sex, we upheld a literacy requirement against a claim that it was invalid on its face under the

Fifteenth Amendment. *Lassiter* v. *Northampton Election Board,* 360 U.S. 45. But in *Gaston County* v. *United States,* 395 U.S. 285, we made it clear that Congress has ample authority under § 2 of the Fifteenth Amendment to determine that literacy requirements work unfairly against Negroes in practice because they handicap those Negroes who have been deprived of the educational opportunities available to white citizens. We construed the 1965 Voting Rights Act in light of the Report of the Senate Judiciary Committee that said, "[T]he educational differences between whites and Negroes in the areas to be covered by the prohibitions—differences which are reflected in the record before the committee—would mean that equal application of the tests would abridge 15th amendment rights." S. Rep. No. 162, pt. 3, 89th Cong., 1st Sess., 16. See also *South Carolina* v. *Katzenbach,* 383 U.S. 301, 308–315.

Congress has now undertaken to extend the ban on literacy tests to the whole Nation. I see no constitutional impediment to its doing so. Nationwide application reduces the danger that federal intervention will be perceived as unreasonable discrimination against particular States or particular regions of the country. This in turn increases the likelihood of voluntary compliance with the letter and spirit of federal law. Nationwide application facilitates the free movement of citizens from one State to another, since it eliminates the prospect that a change in residence will mean the loss of a federally protected right. Nationwide application avoids the often difficult task of drawing a line between those States where a problem is pressing enough to warrant federal intervention and those where it is not. Such a line may well appear discriminatory to those who think themselves on the wrong side of it. Moreover the application of the line to particular States can entail a substantial burden on administrative and judicial machinery and a diversion of enforcement resources. Finally, nationwide application may be reasonably thought appropriate when Congress acts against an evil such as racial discrimination which in varying degrees manifests itself in every part of the country. A remedy for racial discrimination which applies in all the States underlies an awareness that the problem is a national one and reflects a national commitment to its solution.

Because the justification for extending the ban on literacy tests to the entire Nation need not turn on whether literacy tests unfairly discriminate against Negroes in every State in the Union, Congress was not required to make state-by-state findings concerning either the equality of educational opportunity or actual impact of literacy requirements on the Negro citizen's access to the ballot box. In the interests of uniformity, Congress may paint with a much broader brush than may this Court, which must confine itself to the judicial function of deciding individual cases and controversies upon individual records. Cf. *Lassiter* v. *Northampton Election Board, supra.* The findings that Congress made when it enacted the Voting Rights Act of 1965 would have supported a nationwide ban on literacy tests. Instead, at that time "Congress chose to limit its attention to the geographic areas where immediate action seemed necessary." *South Carolina* v. *Katzenbach,* 383 U. S. 301, 328. Experience gained under the 1965 Act has now led Congress to conclude that it should go the whole distance. This approach to the problem is a rational one; consequently it is within the constitutional power of Congress under § 2 of the Fifteenth Amendment.

II

Section 202 of the Voting Rights Amendments of 1970 is a comprehensive provision aimed at insuring that a citizen will not be deprived of the opportunity to vote for the offices of President and Vice President because of a change of residence. Those who take up a new residence more than 30 days before a presidential election are guaranteed the right to register and vote in the State to which they have moved notwithstanding any durational residency requirement imposed by state law, provided, of course, that they are otherwise qualified to vote. Those who take up a new residence less than 30 days before a presidential election are guaranteed the right to vote, either in person or by absentee ballot, in the State from which they have moved, provided that they satisfied, as of the date of their change of residence, the requirements to vote in that State.

A

Congress, in my view, has the power under the Constitution to eradicate political and civil disabilities which arise by operation of state law following a change in residence from one State to another. Freedom to travel from State to State—freedom to enter and abide in any State in the Union—is a privilege of United States citizenship. *Shapiro* v. *Thompson,* 394 U.S. 618; *United States* v. *Guest,* 383 U.S. 745, 757–760; *Truax* v *Raich,* 239 U.S. 33, 39; *Twining* v. *New Jersey,* 211 U.S. 78, 97; *Crandall* v. *Nevada,* 6 Wall. 35. Section 1 of the Fourteenth Amendment provides: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . . ." In discussing the privileges of citizens of the United States within the meaning of § 1, Mr. Justice Miller wrote for the Court in the *Slaughter-House Cases:*

"One of these privileges is conferred by the very article under consideration. It is that a citizen of the United States can, of his own volition, become a citizen of any State of the Union by a bona fide residence therein, with the same rights as other citizens of that State." 16 Wall. 36, 80.

Although § 5 of the Fourteenth Amendment confers on Congress the "power to enforce, by appropriate legislation, the provisions of this article," this Court has sustained the power of Congress to protect and facilitate the exercise of privileges of United States citizenship without reference to § 5. *United States* v. *Guest,* 383 U.S., at 757–760; *United States* v. *Classic,* 313 U.S. 299; *Burroughs* v. United States, 290 U.S. 534. These cases and others establish that Congress brings to the protection and facilitation of the exercise of privileges of United States citizenship all of its power under the Necessary and Proper Clause. Consequently, as against the reserved power of the States, it is enough that the end to which Congress has acted be one legitimately within its power and that there be a rational basis for the measures chosen to achieve that end. *McCulloch* v. *Maryland,* 4 Wheat. 316, 421.

In the light of these considerations, § 202 presents no difficulty. Congress could rationally conclude that the imposition of durational residency requirements unreasonably burdens and sanctions the privilege of taking up residence in another State. The objective of § 202 is clearly a legitimate one. Federal action is required if the privilege to change residence is not to be undercut by parochial local sanctions. No State could undertake to guarantee this privilege to its citizens. At most a single State could take steps to resolve that its own laws would not unreasonably discriminate against the newly arrived resident. Even this resolve might not remain firm in the face of discriminations perceived as unfair against those of its own citizens who moved to other States. Thus, the problem could not be wholly solved by a single State, or even by several States, since every State of new residence and every State of prior residence would have a necessary role to play. In the absence of a unanimous interstate compact, the problem could only be solved by Congress. Quite clearly, then, Congress has acted to protect a constitutional privilege which finds its protection in the Federal Government and is national in character. *Slaughter-House Cases,* 16 Wall., at 79.

B

But even though general constitutional power clearly exists, Congress may not overstep the letter or spirit of any constitutional restriction in the exercise of that power. For example, Congress clearly has power to regulate interstate commerce, but it may not, in the exercise of that power, impinge upon the guarantees of the Bill of Rights. I have concluded that, while § 202 applies only to presidential elections, nothing in the Constitution prevents Congress from protecting those who have moved from one State to another from disenfranchisement in any federal election, whether congressional or presidential.

The Constitution withholds from Congress any general authority to change by legislation the qualifications for voters in federal elections. The meaning of the applicable constitutional provisions is perfectly plain. Article I, § 2, and the Seventeenth Amendment prescribe the qualifications for voters in elections to choose Senators and Representatives: they "shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." The Constitution thus adopts as the federal standard the standard which each State has chosen for itself. *Ex parte Yarbrough,* 110 U.S. 651, 663; *Wiley* v. *Sinkler,* 179 U.S. 61, 64. Accordingly, a state law which purported to establish distinct qualifications for congressional elections would be invalid as repugnant to Article I, § 2, and the Seventeenth Amendment. By the same token, it cannot be gainsaid that federal legislation which had no objective other than to alter the qualifications to vote in congressional elections would be invalid for the same reasons. What the Constitution has fixed may not be changed except by constitutional amendment.

Contrary to the submission of my Brother BLACK, Article I, § 4 does not create in the federal legislature the power to alter the constitutionally established qualifications to vote in congressional elections. That section provides that the legislatures in each State shall prescribe the "times, places and manner of holding elections for Senators and Representatives," but reserves in Congress the power to "make or alter such regulations, except as to the place of choosing Senators." The "manner" of holding elections can hardly be read to mean the *qualifications* for voters, when it is remembered that § 2 of the same Article I explicitly speaks of the "qualifications" for voters in elections to choose Representatives. It is plain in short, that when the Framers meant qualifications they said "qualifications." That word does not appear in Article I, § 4. Moreover, § 4 does not give Congress the power to do anything that a State might not have done, and, as pointed out above, no State may establish distinct qualifications for congressional elections. The States, of course, are free to pass such laws as are necessary to assure fair elections. Congressional power under § 4 is equally broad with respect to congressional elections. *United States* v. *Classic,* 313 U.S. 299. But the States are not free to prescribe qualifications for voters in federal elections which differ from those prescribed for the most numerous branch of the state legislature. And the power of Congress to do so cannot, therefore, be found in Article I, § 4.

This view is confirmed by extrinsic evidence of the interest of the Framers of the Constitution. An early draft of the Constitution provided that the States should fix the qualifications of voters in congressional elections subject to the proviso that these qualifications might "at any time be altered and superseded by the Legislature of the United States." [1] The records of the Committee on Detail show that it was decided to stroke the provision granting to Congress the authority to set voting qualifications and to add in its stead a clause making the qualifications "the same from Time to Time as those of the electors in the several States, of the most numerous Branch of their own Legislatures." [2] The proposed draft reported by the Committee on Detail to the Convention included the following:

"The qualifications of the electors shall be the same from time to time, as those of the electors in the several States, of the most numerous branch of their own Legislatures." Art. IV, § 1.

"The times and places and manner of holding the elections of the members of each House shall be prescribed by the Legislature of each State; but their provisions concerning them may, at any time, be altered by the Legislature of the United States." [3] Art. VI, § 1.

On August 7, Gouverneur Morris moved to strike the last clause of the proposed Article IV, § 1 and either to provide a freehold limitation on suffrage or to add a clause permitting Congress to alter the electoral qualifications.[4] This motion was opposed by Oliver Ellsworth, George Mason, Madison, and Franklin. Ellsworth protested that the proposal favored aristocracy. If the legislature could alter qualifications, it could disqualify a great proportion of the electorate.[5] George Mason voiced a similar objection. "A power to alter the qualifications would be a dangerous power in the hands of the legislature." [6] To the same effect Madison said:

"The right of suffrage is certainly one of the fundamental articles of republican Government, and ought not to be left to be regulated by the Legislature." [7]

The proposed motion was defeated by a seven-to-one vote,[8] and no substantive change in Article I, § 2 was proposed or made thereafter.

Thus, Alexander Hamilton accurately reported the intent of the Convention when he wrote in The Federalist No. 60 that the authority of the national government "would be expressly restricted to the regulation of the *times*, the *places* and the *manner* of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution and are unalterable by the legislature [*i.e.* Congress]." (Emphasis in original.)

Different provisions of the Constitution govern the selection of the President and the Vice President. Article II and the Twelfth Amendment provide for election by Electors. Article II specifies that each State shall appoint Electors "in such manner as the legislature thereof may direct." Because the Constitution does not require the popular election of members of the Electoral College, it does not specify the qualifications which voters must have when the selection of Electors is by popular election. This is left to the States in the exercise of their power to "direct" the manner of choosing Presidential Electors. *Williams* v. *Rhodes*, 393 U.S. 23, 29. When Electors are chosen by popular election, the Federal Government has the power to assure that such elections are orderly and free from corruption. *Burroughs* v. *United States*, 290 U.S. 534. But in *Burroughs* the Court noted of the Act under review: "Neither in purpose nor in effect does it interfere with the power of a state to appoint electors or the manner in which their appointment shall be made." 290 U.S., at 544. The Court quoted with approval the following passage from *Ex parte Yarbrough*, 110 U.S. 651: "[T]he importance to the general government of having the actual election—the voting for those members—free from force and fraud is not diminished by the circumstance that the qualification of the voter is determined by the law of the State where he votes." 290 U.S., at 546. And in *United States* v. *Classic*, 313 U.S. 299, the Court was careful to point out that it is the "right of *qualified* voters within a state to cast their ballots and have them counted" which is a privilege of United States citizenship amenable to congressional protection. *Id.*, at 315 (emphasis added). See also *Corfield* v. *Coryell*, 6 Fed. Cas. 546, 552 (No. 3230) (CCED Pa.).

The issue then is whether, despite the intentional withholding from the Federal Government of a general authority to establish qualifications to vote in either congressional or presidential elections, there exists congressional power to do so when Congress acts with the objective of protecting a citizen's privilege to move his residence from one State to another. Although the matter is not entirely free from doubt, I am persuaded that the constitutional provisions discussed above are not sufficient to prevent Congress from protecting a person who exercises his constitutional right to enter and abide in any State in the Union from losing his opportunity to vote, when Congress may protect the right of interstate travel from other less fundamental disabilities. The power of the States with regard to the franchise is subject to the power of the Federal Government to vindicate the unconditional personal rights secured to the citizen by the Federal Constitution. *Williams* v. *Rhodes, supra;* cf. *Shapiro* v. *Thompson, supra*. The power which Congress has exercised in enacting § 202 is not a general power to prescribe qualifications for voters in either federal or state elections. It is confined to federal action against a particular problem clearly within the purview of congressional authority. Finally, the power to facilitate the citizen's exercise of his constitutional privilege to change residence is one which cannot be left for exercise by the individual States without seriously diminishing the level of protection available. As I have sought to show above, federal action is required if this privilege is to be effectively maintained. We should strive to avoid an interpretation of the Constitution that would withhold from Congress the power to legislate for the protection of those constitutional rights which the States are unable effectively to secure. For all these reasons, I conclude that it was within the power of Congress to enact § 202.[9]

III

Section 302 of the Voting Rights Act Amendments of 1970 undertakes to enfranchise in all federal, state, and local elections those citizens 18 years of age or older who are now denied the right to vote by state law because they have not reached the age of 21. Although it was found necessary to amend the Constitution in order to confer a federal right to vote upon Negroes [10] and upon females,[11] the Government asserts that a federal right to vote can be conferred upon people between 18 and 21 years of age simply by this Act of Congress. Our decision in *Katzenbach* v. *Morgan*, 379 U.S. 294, it is said, established the power of Congress, under § 5 of the Fourteenth Amendment, to nullify state laws requiring voters to be 21 years of age or older if Congress could rationally have concluded that such laws are not supported by a "compelling state interest."

In my view, neither the *Morgan* case, nor any other case upon which the Government relies, establishes such congressional power, even assuming that all those cases were rightly decided.[12] Mr. Justice Black is surely correct when he writes, "It is a plain fact of history that the Framers never imagined that the national Congress would set the qualifications for voters in every election from President to local constable or village alderman. It is obvious that the whole Constitution reserves to the States the power to set voter qualifications in state and local elections, except to the limited extent that the people through constitutional amendments have specifically narrowed the powers of the States." *Supra*, p. ——. For the reasons which I have set out in Part II of this opinion, it is equally plain to me that the Constitution just as completely withholds from Congress the power to alter by legislation qualifications for voters in federal elections, in view of the explicit provisions of Article I, Article II, and the Seventeenth Amendment.

To be sure, recent decisions have established that state action regulating suffrage is not immune from the impact of the Equal Protection Clause.[13] But we have been careful in those decisions to note the undoubted power of a State to establish a qualification for voting based on age. See, *e. g., Kramer* v. *Union School District*, 395 U.S. 621, 625; *Lassiter* v. *Northampton Election Board*, 360 U.S. 45, 51. Indeed, none of the opinions filed today suggest that the States have anything but a constitutionally unimpeachable interest in establishing some age qualification as such. Yet to test the power to establish an age qualification by the "compelling interest" standard is really to deny a State any choice at all, because no State could demonstrate a "compelling interest" in drawing the line with respect to age at one point rather than another. Obviously, the power to establish an age qualification must carry with it the power to choose 21 as a reasonable voting age, as the vast majority of the States have done.[14]

Katzenbach v. *Morgan, supra*, does not hold that Congress has the power to determine what are and what are not "compelling state interests" for equal protection purposes.

In *Morgan* the Court considered the power of Congress to enact a statute whose principal effect was to enfranchise Puerto Ricans who had moved to New York after receiving their education in Spanish-language Puerto Rican schools and who were denied the right to vote in New York because they were unable to read or write English. The Court upheld the statute on two grounds: that Congress could conclude that enhancing the political power of the Puerto Rican community by conferring the right to vote was an appropriate means of remedying discriminatory treatment in public services; and that Congress could conclude that the New York statute was tainted by the impermissible purpose of denying the right to vote to Puerto Ricans, an undoubted invidious discrimination under the Equal Protection Clause. Both of these decisional grounds were far-reaching. The Court's opinion made clear that Congress could impose on the States a remedy for the denial of equal protection which elaborated upon the direct command of the Constitution, and that it could override state laws on the ground that they were in fact used as instruments of invidious discrimination even though a court in an individual lawsuit might not have reached that factual conclusion. Cf. *Swain* v. *Alabama*, 380 U.S. 202.

But it is necessary to go much further to sustain § 302. The state laws which it invalidates do not invidiously discriminate against any discrete and insular minority. Unlike the statute considered in *Morgan*, § 302 is valid only if Congress has the power not only to provide the means of eradicating situations which amount to a violation of the Equal Protection Clause, but also to determine as a matter of substantive constitutional law what situations fall within the ambit of the clause, and what state interests are "compelling." I concurred in Mr. JUSTICE HARLAN's dissent in *Morgan*. That case, as I now read it, gave congressional power under § 5 the furthest possible legitimate reach. Yet to sustain the constitutionality of § 302 would require an enormous extension of that decision's rationale. I cannot but conclude that § 302 was beyond the constitutional power of Congress to enact.

Footnotes at end of article.

FOOTNOTES

[1] 2 M. Farrand, The Records of the Federal Convention (1911) 153.

[2] *Id.*, at 163–164.

[3] *Id.*, at 178–179.

[4] *Id.*, at 201, 207.

[5] *Id.*, at 201.

[6] *Id.*, at 201–202.

[7] *Id.*, at 203.

[8] *Id.*, at 206.

[9] Whether a particular State's durational residency requirement for voters may violate the Equal Protection Clause of the Fourteenth Amendment presents questions which are for me quite different from those attending the constitutionality of § 202. See *Sirak* v. *Brown,* — F. 2d — (CA6 1970); *Cocanower* v. *Marston,* — F. Supp. — (D Ariz. 1970); *Burg* v. *Canniffee,* — F. Supp. — (D Mass. 1970); *Ellington* v. *Blumstein,* — F. Supp. — (MD Tenn. 1970); *Hadnott* v. *Amos.* — F. Supp. — (MD Ala. 1970); *Bufford* v. *Holton,* — F. Supp. — (ED Va. 1970); *Lester* v. *Board of Elections,* — F. Supp. — (DC 1970).

[10] U. S. Const., Amendment XV.

[11] U. S. Const., Amendment XIX; see also *Minor* v. *Happersett,* 21 Wall. 162.

[12] *Carrington* v. *Rash,* 380 U.S. 89 (1965); *Louisiana* v. *United States,* 380 U.S. 145 (1965); *Harper* v. *Virginia Board of Elections,* 383 U.S. 663 (1966); *Katzenbach* v. *Morgan,* 384 U.S. 641 (1966); *Kramer* v. *Union Free School Dist. No. 15,* 395 U.S. 621 (1969); *Cipriano* v. *City of Houma,* 395 U.S. 701 (1969); *Evans* v. *Cornman,* 398 U.S. 419 (1970); *City of Phoenix* v. *Kolodziejski,* 399 U.S. 204 (1970).

[13] See, *e.g.*, cases cited *supra,* n. 12.

[14] If the Government is correct in its submission that a particular age requirement must meet the "compelling interest" standard, then, of course, a substantial question would exist whether a 21-year-old voter qualification is constitutional even in the absence of congressional action, as my Brothers point out. *Ante,* p. —. Yet it is inconceivable to me that this Court would ever hold that the denial of the vote to those between the ages of 18 and 21 constitutes such an invidious discrimination as to be a denial of the equal protection of the laws. The establishment of an age qualification is not state action aimed at any discrete and insular minority. *United States* v. *Carolene Products Co.*, 304 U.S. 144, 152 n. 4. Moreover, so long as a State does not set the voting age higher than 21, the reasonableness of its choice is confirmed by the very Fourteenth Amendment upon which the Government relies. Section 2 of that Amendment provides for sanctions when the right to vote "is denied to any of the male inhabitants of such State, *being twenty-one years of age,* and citizens of the United States. . . ." (Emphasis added.)

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ABORTION LAW REFORM AND REPEAL: LEGISLATIVE AND JUDICIAL DEVELOPMENTS

(By Ruth Roemer, J.D.)

In the three years from 1967 to 1970, a revolution has occurred in the abortion laws and practices in the United States. That revolution is still in process. Our once highly restrictive antiabortion laws have been reformed in 13 states and virtually repealed in four states. No other country has a statute which explicitly makes abortion a matter for decision by the woman and her physician. Although other countries permit abortion on request of the woman under certain circumstances, the four American states have pioneered in treating abortion, as a matter of law, like any other medical procedure.

As a result of recent developments, the United States has become a laboratory in which three different types of legal regulation of abortion can be compared and evaluated. We can also profit from the longer experience of other countries with abortion statutes of varying liberality, although account must be taken of differing family planning programs and systems of delivering health services.

LEGISLATIVE DEVELOPMENTS IN THE UNITED STATES

Three kinds of modernized abortion laws have been enacted in the United States since 1967: (1) Twelve states have enacted all or part of the Model Penal Code first proposed in 1957 by the American Law Institute (ALI), under which abortion is not a crime when performed by a licensed physician because of substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the woman or that the child would be born with grave physical or mental defect, or in cases of pregnancy resulting from rape or incest.[1] (2) One state, Oregon, has expanded the American Law Institute grounds to include a sociomedical ground proposed originally by the American College of Obstetricians and Gynecologists[2] and patterned after a provision of the British Abortion Act of 1967,[3] i.e., that in determining whether or not there is substantial risk to the woman's physical or mental health, account may be taken of her total environment, actual or reasonably foreseeable.[4] (3) Four states—Alaska,[5] Hawaii,[6] New York[7] and the State of Washington (by referendum in November 1970)—have repealed all criminal penalties for abortion, provided only that the abortion is done early in pregnancy and by a licensed physician (Alaska, Hawaii, and Washington also stipulate that the operation must take place in a licensed hospital or other approved facility). Thirty-three states, however, still have laws making abortion a crime except when performed to save the life (or, in a few instances, the health) of the woman. None of these states even requires that the abortion be performed by a licensed physician.

The details of the new laws vary in their provisions.* The key developments relate to six general aspects:

1. All 17 states require that the abortion be performed by a licensed physician.

2. All the states with new laws, except Mississippi and New York, require that the abortion be performed in hospitals, with Kansas also permitting another place designated by law.[8] New York City has recently added the requirement that abortions be performed in hospitals or clinics, and not in doctors' offices.

3. All 17 states allow abortion to save the life of the woman, and also in pregnancies resulting from sex crimes.

All these 17 states (except Mississippi, which authorizes abortion only for rape or to save life) allow abortion to preserve the physical or mental health of the woman. The sociomedical standard of the Oregon law mentioned above is a broader standard than the medical standard of the ALI-style laws.

Seven states set age limits on abortions for statutory rape. These limits may be lower than the age of consent. Thus, in California sexual intercourse with an unmarried girl below the age of 18 constitutes statutory rape; but if pregnancy results, it can be terminated only if the girl is below the age of 15.

All 17 states, except California and Mississippi, allow abortion for fetal abnormality.

4. The maximum time limits within which abortions may be performed vary from 16 weeks in Colorado, New Mexico, and Washington to 26 weeks in Maryland. In Oregon the time limit is 150 days; in Alaska and Hawaii, the fetus must be nonviable; and in New York the time limit is 24 weeks.

5. Medical approval by consultants, boards, or hospital therapeutic abortion committees is required in all states (except Mississippi) with ALI-style laws, although the Model Penal Code did not propose such procedures. In Oregon, two physicians must certify the circumstances justifying an abortion; in Alaska, Hawaii, and New York, only one physician is required.

6. New York and the following ALI-style states have no residency requirement: California, Colorado, Kansas, Maryland, Mississippi, and New Mexico. South Carolina, Hawaii, and the State of Washington have a 90-day residency requirement, and Arkansas, Delaware, North Carolina, and Virginia require four months' residency. Oregon requires that the patient be a resident, and Alaska requires 30 days' residency.

Actual practice, of course, may differ from the provisions of the statutes. In some places, doctors will not perform abortions as late as the statute allows. Nonresidents may not be welcomed even though the state has no residency requirement. Consents, consultations, and committee approvals may be required that are not specified in the statutes. It is also possible that residency requirements may not be strictly enforced and procedures may be more simple than those provided in the statute.

On the federal level, a bill introduced in Congress by Senator Packwood to legalize abortion throughout the nation made no progress. A recent policy enunciated for U.S. military hospitals, however, permits abortions and sterilizations for military personnel, active or retired, and their families, regardless of State or local laws.[9] In October, 1970, a White House task force on the mentally handicapped recommended that, in the interest of both maternal and child mental health, no woman should be forced to bear an unwanted child.

JUDICIAL DEVELOPMENTS IN THE UNITED STATES

Legislative developments have been accompanied by an emerging body of court decisions on the constitutionality of antiabortion laws. The picture changes almost from day to day. As of autumn, 1970, five cases were on the U.S. Supreme Court docket, more than 20 cases were before three-judge federal courts; and excluding the 20 states with federal cases, many of which also had state cases, another 11 states had cases pending in local courts.[10] The following important cases may be noted.

1. In September, 1969, the Supreme Court of California, in the first decision on the constitutionality of any antiabortion statute, invalidated the pre-1967 antiabortion law of California. In a four to three decision in *People* v. *Belous,*[11] the court held the statute unconstitutional on two principal grounds: (1) that the phrase, "necessary to preserve life," was so vague as to be violative of the due process requirements for a criminal law, and (2) that the law was in violation of a woman's fundamental rights to life and to choose whether to bear children. The latter follows from the U.S. Supreme Court's acknowledgment of a right of privacy or liberty in matters related to marriage, family, and sex.[12]

The critical issue defined by the California Supreme Court was whether the state had any legitimate interest in the regulation of abortion which would justify so deep an infringement of the fundamental rights of women. The court held that the state had no such compelling interest. The court said that it would not speak to the constitutionality of the current California Therapeutic Abortion Act, since Dr. Belous was charged under the

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Footnotes at end of article.

*The provisions of all the abortion laws in the United States are summarized in a table, "Current Status of Abortion Laws—August 1, 1970," available upon request from the National Center for Family Planning Services, Health Services and Mental Health Administration, U.S. Department of Health, Education, and Welfare, Rockville, Maryland 20852.

old law. But one might well infer from the decision that the current law may be declared unconstitutional on similar grounds. The court did express the view, however, that the decision to terminate pregnancy under the 1967 Therapeutic Abortion Act was solely a medical one, and so long as the physician follows the procedural requirements of the act his judgment may not later be challenged by a jury or prosecutor in a criminal case.

2. Following the landmark decision of the California Supreme Court, the first decision of a federal court invalidating an antiabortion statute was handed down. In *U.S.* v. *Vuitch*,[13] the U.S. District Court for the District of Columbia held unconstitutional the District of Columbia statute which made abortion a felony unless performed by a licensed physician for the preservation of the mother's life or health. The court held this phrase so uncertain and ambiguous as to invalidate the statute for want of due process, and it recommended appeal to the U.S. Supreme Court. The opinion of Judge Gerhard A. Gessell in *Vuitch* emphasized, as the *Belous* decision had done, the woman's liberty and right of privacy in matters related to family, marriage, and sex and the necessity for demonstrating affirmatively the interest of the state in infringing on such rights. The opinion pointed out the discriminatory application of the statute with respect to women who are poor. This case is now on appeal to the U.S. Supreme Court, which has raised certain jurisdictional questions concerning the propriety of direct appeal to the Supreme Court without first proceeding to the U.S. Court of Appeals for the District of Columbia.

3. In addition to these two decisions which broke new legal ground, a number of other courts have invalidated pre-ALI-style antiabortion laws. These cases have arisen in both federal and state courts.

Three-judge panels of federal district courts have held the pre-ALI-style laws of Texas[14] and Wisconsin[15] unconstitutional because of overbreadth. One court also held the statute void for vagueness, and both courts found the statutes an unconstitutional invasion of private rights and not justified by a compelling interest of the state. Contrary is one federal court which, in a two to one decision, upheld the anti-abortion statute of Louisiana.[16]

Similar suits have been brought in federal courts involving the Arizona,[17] Illinois,[18] and New Jersey laws.[19] Suits challenging the Kentucky[20] and Minnesota[21] laws were dismissed on jurisdictional grounds, and the New York case was dismissed as moot on repeal of New York's antiabortion statute.[22]

State courts have also struck down pre-ALI-style laws. In Illinois, a judge of the criminal court held the abortion statute unconstitutional on grounds of vagueness and infringement on the woman's right to control her body.[23] In Pennsylvania, a county court judge found that that state's statute impinges on constitutionally protected areas and is so broad, unlimited, and indiscriminate that it fails to meet present-day tests for constitutionality.[24] In South Dakota, a circuit court condemned the statute because it interferes with private conduct without serving any vital interest of society.[25] In Michigan, the statute was found defective as infringing on the right of privacy in the physician-patient relationship and as possibly violative of the patient's right to safe and adequate medical treatment.[26] Contra, however, is the Massachusetts Supreme Judicial Court, which upheld the constitutionality of the state's statute prohibiting "unlawful" abortion against a charge of vagueness in a case sustaining revocation of a medical license.[27] Suits challenging other pre-ALI-style laws are still pending elsewhere.[28]

4. Attempts are currently being made to obtain an adjudication of the constitutionality of reformed ALI-style laws.[29] Thus far, only one reformed ALI-style law has been invalidated by a federal court—Georgia's 1968 abortion law. The U.S. District Court in Atlanta held unconstitutional those parts of the 1968 Georgia law that limited the woman's right to abortion to the three ALI grounds.[30] The basis of the court's decision was violation of the woman's right of privacy. Retained as a proper exercise of state power, however, were the requirements for medical consultation, hospital committee approval, hospital accreditation and exemption provisions, and the residency requirement.

On the state level, the California Therapeutic Abortion Act has been challenged in three cases. Two cases involving Doctors Robb and Gwynne are still pending, but preliminary decisions involving these doctors have held the California statute unconstitutional.[31] In *People* v. *Barksdale*, a municipal court in Alameda County held the current California law unconstitutional as violative of the equal protection clause of the 14th Amendment, as a vague and improper delegation of legislative authority to the Joint Commission on Accreditation of Hospitals, as discriminatory between the rich and the poor, as lacking the certainty required for a criminal statute with respect to the definition of mental illness, and as violative of the fundamental right of the woman to make a free choice whether or not to bear children.[32] In rejecting the argument that the state has a compelling interest in protecting the embryo, Judge T. L. Foley added the following poignant words:

> I might say that I belong to the religion that was just referred to, and I dislike to render this opinion. I must follow the law under my oath as a Judge. I am a Catholic which makes it very, very difficult—but my oath of office calls for me to follow the law as stated and set out by the Appellate Courts of this State.[33]

The judicial picture is in constant flux as new cases are filed in federal and state courts; as the defense of unconstitutionality is raised in criminal prosecutions of doctors; as issues are raised concerning jurisdiction of courts and standing of plaintiffs to sue; and as decisions come down and appeals are taken.

On at least eight occasions, the United States Supreme Court has declined to review state court decisions that involved restrictive antiabortion laws.[34] One of these cases was the landmark decision of the California Supreme Court in *Belous*. On October 13, 1970, the court dismissed an appeal from the decision of a three-judge federal court holding the Wisconsin antiabortion statute unconstitutional.[35] Action by the court on the merits of abortion cases will be decisive, but it is possible that some of the cases will go off on questions of jurisdiction or on grounds other than the basic constitutional issues.

Although the final outcome cannot be predicted, three eventualities seem fairly certain. First, more and more states will change their laws in accordance with one or another of the three patterns now prevailing in the United States. Second, as in other nations of the world, moderately reformed laws will be amended to expand the grounds and to simplify the procedures; alternatively, antiabortion laws will be repealed. Third, in every state pressure will mount for making abortion available de facto as well as *de jure* to women, rich and poor, faced with the despair and desperation occasioned by unwanted pregnancy.

RECENT DEVELOPMENTS IN OTHER COUNTRIES

The abortion laws of the world have been described on a five-stage continuum, ranging from the most permissive to the most restrictive.[36] Recent legislative changes show that more and more countries are liberalizing their laws or the interpretation of their laws all along this continuum.

1. *Abortion on the Insistence of the Woman*—No new jurisdictions have joined this category, except the four states in the United States discussed previously. The tightening of the Bulgarian law in 1968[37] in order to encourage population growth has been eased by a 1970 interpretation that allows abortion virtually on request for unmarried women and women having at least one child.[38] The hope is that this interpretation will reduce the number of illegal abortions. In these cases, the Bulgarian law resembles once again the most liberal laws of the USSR and Hungary. Now that the German Democratic Republic has liberalized its policy on abortion, as mentioned below, the only restrictive abortion statutes remaining in eastern Europe are those of Romania and Albania.

2. *Abortion on Social Grounds*—Two Scandinavian countries, Finland and Denmark, have liberalized their statutes further to include social grounds. The 1970 law in Finland specifies, in addition to medical and humanitarian reasons and the age of the mother (under 17 or over 40 or already the mother of four children), the following social ground:

> . . . when the delivery and care of the child would constitute, by reason of the conditions of existence of the woman and her family, as well as other circumstances, a change for her.[39]

A unique provision, relevant for all countries faced with expanding demand for abortions, requires the Finnish Department of Health to assure a sufficient number of qualified physicians and abortion hospitals and also impartial and uniform conduct from physicians.

The Danish law of 1970 permits abortion without authorization of a committee for reasons of life or health or in cases where the woman is over 38 or has four children under age 18 who reside with her.[40] Authorization of a committee is required if the abortion is sought for sociomedical reasons, danger of fetal abnormality, or pregnancy resulting from a sex crime.

Sweden has not yet announced changes in its abortion law which have been under consideration for three years. Various alternatives are bruited about; that abortion may be permitted on the free choice of the woman provided she consults fully with an abortion service or, possibly, that the decision-making process may be decentralized in order to reduce the current delay which drives many women to illegal abortion.

3. *Abortion on Sociomedical Grounds*—Singapore has enacted sociomedical grounds for abortion along the lines of the British Abortion Act of 1967 but with approval required by a Termination of Pregnancy Authorisation Board, except when abortion is to preserve life or health.[41] This is the first Asian country, after Japan, to enact a liberalized abortion law.

The state of South Australia has also enacted an abortion law modeled after the new British law.[42] Similar legislation is under discussion in New South Wales. A poll of general practitioners in Sydney, N.S.W., found that 957 women approached 92 general practitioners with requests for help in obtaining an abortion in a single year.[43] The fact that each general practitioner is confronted with a major dilemma of this kind ten times a year explains the high proportion of general practitioners in Sydney (76%) who favor liberalization of the law.

Since 1965, the German Democratic Republic has liberalized interpretation of its law, so that abortion is now authorized on sociomedical grounds.[44]

Legislation is still pending in India, which in the form proposed would allow abortion on sociomedical grounds and in cases of contraceptive failure.[45]

Experience in England, Wales, and Scotland during the first 18 months of the operation of the 1967 British abortion law reveals

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Footnotes at end of article.

a shift from illegal to legal abortion, a shift from the private sector to the National Health Service, a slowing down of the illegitimacy rate (47% of all abortions in the first 18 months were for single women), and a narrowing of regional discrepancies in the operation of the law.[46] With the aid of voluntary pregnancy advisory services, abortion is being made available to women in all geographic areas and income groups.[47] Attitudes of gynecologists are becoming more sympathetic to applicants for abortion, as reflected by "the granting of National Health Service abortions on an increasing scale and by bodies such as the Royal College of Obstetricians and Gynecologists taking a sincere, if belated interest in contraception and sterilisation." [48] The most serious problem appears to be the universal need for improving contraceptive services and practices.

4. *Abortion on Medical Grounds*—Canada [49] and Peru [50] have broadened their abortion laws to permit abortion on the grounds of danger to the life or health of the woman.

5. *Abortion Only to Save the Life of the Woman*—This category has lost adherents. It will continue to do so as current law reform activities in many countries, e.g., France, increase in tempo.

INSIGHTS FROM ABROAD

As the United States moves into the problems associated with providing medical care under its new abortion laws, several lessons from the experience of other nations seem relevant.

1. A liberal abortion law will transfer a number of illegal abortions to safe, clinical practice; but as long as restrictions in grounds or procedures remain, some illegal abortion will persist.[51] Initial experience under the California Therapeutic Abortion Act confirms this finding.[52] Therefore, experience in the four states that have removed virtually all restrictions will be extremely important.

2. The earlier in pregnancy that abortion is provided, the less tendency there is to resort to illegal abortion. In eastern Europe, where abortion is generally done early in pregnancy, illegal abortion has been almost eliminated. The reverse is true in Sweden, where administrative procedures delay authorization for legal abortion. The U.S. laws specify time periods within which the abortion must be performed, but in addition, women should be educated to seek abortions early and procedures should be simplified to achieve this objective.

3. On the basis of experience from eastern Europe, mortality from legal abortion can be anticipated to be low, particularly if performed early in pregnancy.[53] Complications in eastern Europe affect less than 3 per cent of patients.[54] England, as yet, has insufficient data on morbidity. One British authority has suggested that the requirement of a medical report within, seven days after the abortion is too short a time to provide accurate information on complications.[55] Accurate records and reporting are essential.

4. As the British experience indicates, the climbing rate of illegitimacy in the United States may be slowed by increased availability of abortion. With nearly 10 per cent of all U.S. births in 1967 illegitimate, the option of abortion will need to be made widely known and accessible if the risks to health and the social disabilities of births to unmarried mothers are to be lessened.[56]

5. Uneven application of the law by reason of varying attitudes on the part of physicians can be anticipated from the experience in England and Norway. California's experience is similar. Continuing education programs for the medical profession and reforms in medical education are urgent.

6. Shortages of medical and auxiliary personnel may impede full implementation of new laws. In England, however, it was found that, if evenly distributed among all gynecologists, the increased number of abortions would not constitute an excessive workload.[57] It has been suggested that in the United States the load might be distributed among a larger group of physicians than those specialized in gynecology, if the social policy expressed by the new laws is to be implemented. Residents and interns on all services might be expected to perform abortions. Nurse-midwives might also be trained and utilized to perform early abortions. Such a decision would require amendment of the licensure laws in the three states that now license nurse-midwives and enactment of such licensure laws in other states.

7. England's experience shows the bottleneck that may result from shortage of facilities. Ambulatory care, as provided in other countries and as now demonstrated in the United States, is a promising solution for early abortions. Moreover, ambulatory treatment reduces the cost of abortions.

8. Evidence from Chile, South Korea, and Taiwan indicates that, in a country with a high or increasing abortion rate, the conditions are favorable for effective family planning programs.[58] A possible hazard is that the easy solution of abortion may generate a lack of responsibility in using contraceptives. Zeal to meet a long-neglected human need should be accompanied by efforts to use abortion as a means of encouraging effective contraception. A number of European statutes prohibit abortion if an abortion has been performed in the preceding six-month period. A more effective deterrent to repeated abortion would consist in aiding every woman who has an abortion to obtain and use effective methods of contraception.

The dynamic legislative and judicial developments in the laws governing abortion in the United States have generated a ground swell of change. The action of the U.S. Supreme Court is crucial to the rate of progress, but, regardless of the outcome of cases pending before the court, the clock can never be turned back. Safe, legal abortion is now recognized as a fundamental right of women, a protection of maternal health and family welfare, and an assurance that every child is a loved and wanted child. Abortion, however, should be only one service in an array of services that should also include effective contraception, education for responsible sexual relationships, and health protection for mothers and children.

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FOOTNOTES

[1] American Law Institute, Model Penal Code, sec. 230.3(2) (Proposed Official Draft, 1962). On Aug. 4, 1970, the Commissioners on Uniform State Laws issued a Second Tentative Draft of a Uniform Abortion Act, which authorizes abortions within 24 weeks after commencement of the pregnancy without specific grounds or after 24 weeks on the grounds set forth in the code. The 12 statutes incorporating all or part of the Model Penal Code are: Ark. Stat. Ann., secs. 41–301 to 41–310 (Supp. 1969); Cal. Health & Safety Code Ann., secs. 25950–54 (Supp. 1970); Colo. Rev. Stat. Ann., secs. 40–2–50 to 40–2–53 (Supp. 1967); Del. Code Ann., tit. 11, sec. 301 (1953) and Laws 1969; Ga. Code Ann., secs. 26–9920a to 26–9925a (1969); Kan. Stat. Ann., sec. 21–3407 (Supp. 1969) and Laws 1969; Md. Ann. Code, art. 43, secs. 149E to 149G (Supp. 1969); Miss. Code Ann., sec. 2223 (Supp. 1968); N.M. Stat. Ann., secs. 40A–5–1 to 40A–5–3 (Supp. 1969); N.C. Gen. Stat., secs. 14–44 to 14–45.1 (1969 Replacement Vol. 1B); S.C. Code, secs. 16–82 to 86 (1962) and Laws 1970; Va. Code Ann., secs. 18.1–62 to 18.1–62.3 (Supp. 1970). For discussion of these laws, see Lucas, Roy, "Laws of the United States" in *Abortion in a Changing World* (Robert E. Hall, Ed.), vol. I, p. 127, Columbia Univ. Press, 1970.

[2] The American College of Obstetricians and Gynecologists has recently liberalized its position further to approve abortion on the decision of the patient and her physician without additional medical consultation. *AMA News*, Sept. 28, 1970.

[3] Elizabeth II, Ch. 87 (1967) permitting termination of pregnancy on the opinion of two registered medical practitioners that continuance of the pregnancy would involve risk to the life of the pregnant woman or injury to the physical or mental health of any existing children of her family greater than if the pregnancy were terminated.

[4] S.B. 193, amending Ore. Rev. Stat., secs. 465.110, 677.188, and 677.190 and repealing sec. 163.060 (Laws 1969).

[5] S.B. No. 527 repealing and re-enacting Alaska Stat., sec. 11.15.060 (Laws 1970).

[6] Public Law No. 1 amending Hawaii Rev. Stat., ch. 768 (Laws 1970).

[7] N. Y. Penal Law, sec. 125.05(3) (McKinney Supp. 1970–71).

[8] Many states require that the hospital be not only licensed but accredited. For discussion of the unreasonableness and probable unconstitutionality of a requirement restricting performance of abortions to hospitals accredited by the Joint Commission on Accreditation of Hospitals, see Brief *Amici Curiae*, Ass'n for the Study of Abortion, Inc., Planned Parenthood Ass'n, et al., in Vuitch v. Maryland, Court of Special Appeals of Maryland, Sept. Term, 1970, No. 32, argued Sept. 28, 1970.

[9] International Herald Tribune, p. 3, Aug. 19, 1970.

[10] Personal communication from Roy Lucas, President and Associate Counsel, The James Madison Constitutional Law Institute, N. Y., Oct. 22, 1970.

[11] 71 Cal. 2d 954, 458 P. 2d 194, 80 Cal. Rptr. 354 (1969), cert. denied, 397 U. S. 915 (1970).

[12] Id. at 963, 458 P. 2d at 199.

[13] 305 F. Supp. 1032 (D.D.C. 1969), ques. of juris. postponed to merits, 397 U.S. 1061, further juris questions propounded, 399 U.S. 923 (1970) (No. 84, Oct. 1970 Term). On the practical availability of abortion under D.C. law, see court order requiring the D.C. General Hospital to give abortions to women meeting the standards for admission to the hospital. Doe v. Gen'l Hosp. of D.C., 313 F. Supp. 1170 (D.D.C. 1970), on motions to hold hospital officials in contempt, —— F. 2d ——, No. 24011 (D.C. Cir. Mar. 20 and May 15, 1970).

[14] Roe v. Wade, 314 F. Supp. 1217 (N.D. Tex. 1970) (per curiam), appeal docketed, 39 U.S.L.W. 3151 (U.S. Oct. 7, 1970) (No. 808, Oct. 1970 Term).

[15] McCann v. Babbitz, 306 F. Supp. 400 (E. D. Wis. 1969) (three-judge court convened), 310 F. Supp. 293 (1970) (per curiam) (on the merits), appeal dismissed, 400 U.S. ——, 39 U.S.L.W. 3132 (Oct. 13, 1970) (per curiam), perm. injunc. issued, —— F. Supp. —— (E.D. Wis. Nov. 18, 1970) (per curiam).

[16] Rosen v. La. State Bd. Med. Examiners, 318 F. Supp. 1217 (1970) (Cassibry, J., dissenting).

[17] Planned Parenthood Ass'n of Phoenix v. Nelson, Civ. No. 70–334 PHX (D. Ariz. Aug. 24, 1970) (per curiam).

[18] Doe v. Scott, —— F. Supp. —— (N.D. Ill. 1971) (Illinois statute held unconstitutional as impermissibly vague and unduly infringing on the woman's right of privacy in restricting abortion during the first trimester of pregnancy.

[19] YWCA v. Kugler, Civ. No. 264–70 (D.N.J., filed Mar. 5, 1970).

[20] Crossen v. Breckenridge, Civ. No. 2143 (E. D. Ky.), dismissed June 15, 1970 by U.S. Judge Swinford, Lexington (Ky.) Herald, June 16, 1970. On appeal.

[21] Doe v. Randall, 314 F. Supp. 32 (D. Minn.

1970), rehearing denied, 314 F. Supp. 36 (D. Minn. July 1, 1970) (per curiam), appeal docketed *sub nom.* Hodgson v. Randall, 39 U.S.L.W. 3115 (Sept. 21, 1970) (No. 728, Oct. 1970 Term).

[22] Hall v. Lefkowitz, 305 F. Supp. 1030 (S.D.N.Y. 1969), dismissed as moot, Op. No. 36936 (S.D.N.Y. July 1, 1970) (per curiam).

[23] People v. Anast, No. 69-3429 (Ill. Cir. Ct., Cook County, 1970) (Dolezal, J.).

[24] Commonwealth v. Page. Centre County Leg. J. at 285 (Pa. Ct. Comm. Pl., Centre County July 23, 1970).

[25] State v. Munson (S.D. 7th Jud. Cir., Pennington County, Apr. 6, 1970) (Clarence P. Cooper, J.).

[26] State v. Ketchum (Mich. Dist. Ct. Mar. 30, 1970) (Reid, J.).

[27] Kudish v. Bd. of Registration in Med., 355 Mass. ——, 248 N.E. 2d 264 (1969). Similar decisions have upheld the Iowa and Vermont statutes as not unconstitutionally vague.

[28] See, for example, Arnold v. Sendak, No. IP 70-C-217 (S.D. Ind., filed Mar. 29, 1970): Rodgers v. Danforth, Civ. No. 18360-2 (W.D. Mo., filed May 15, 1970): Steinberg v. Brown, No. C-70-289 (N.D. Ohio); Doe v. Rampton, Civ. No. 234-70 (D. Utah, Sept. 14, 1970). (Temporary restraining order against enforcement of Utah statute issued.)

[29] Corkey v. Edwards, Civ. No. 2665 (W.D. N.C., filed May 12, 1970); Gwynne v. Hicks, Civ. No. 70-1088-CC (C.D. Calif., filed May 18, 1970); Doe v. Dunbar, Civ. No. C-2402 (D. Colo., filed July 2, 1970), juris. granted —— F. Supp. —— (D. Colo. Dec. 22, 1970). (One of the attorneys in the Colorado suit challenging the first ALI-style law enacted is Richard D. Lamm, sponsor of the reformed legislation in the Colorado Legislature.)

[30] Doe v. Burton, —— F. Supp. ——, Civ. No. 13676 (N.D. Ga. July 31, 1970) (per curiam), appeal docketed, 39 U.S.L.W. 3227 (U.S. Nov. 17, 1970) (Nos. 971, 973, Oct. Term 1970).

[31] People v. Robb, Nos. 149005 & 159061 (Calif. Mun. Ct., Orange County, Jan. 9, 1970) (Mast. J.); People v. Gwynne, No. 173309 (Calif. Mun. Ct., Orange County, June 16, 1970) (Thomson, J.); People v. Gwynne, No. 176601 (Calif. Mun. Ct., Orange County, Aug. 13, 1970) (Schwab, J.).

[32] People v. Barksdale, No. 33237C (Calif. Mun. Ct., Alameda County, Mar. 24, 1970) (Foley, J.).

[33] Ibid.

[34] The Jurisdictional Statement filed in the U.S. Supreme Court on Oct. 7, 1970 by Roy Lucas et al. in Roe v. Wade, 314 F. Supp. 1217 (N.D. Tex. 1970) (per curiam), No. 808, Oct. 1970 Term cites the following cases at p. 18, n. 30: Muncie v. Missouri, 398 U.S. 938 (June 1, 1970), denying cert. to 448 S.W. 2d 879 (Mo. 1970); California v. Belous, 397 U.S. 915 (Feb. 24, 1970), denying cert. to 71 Cal. 2d 954, 458 P. 2d 194, 80 Cal. Rptr. 354 (1969); Molinaro v. New Jersey, 396 U.S. 365 (Jan. 19, 1970) (per curiam), dismissing appeal from 54 N.J. 246, 254 A. 2d 792 (1969); Knight v. Louisiana Bd. of Medical Examiners, 395 U.S. 933 (June 2, 1969), denying cert. to 252 La. 889, 214 So. 2d 716 (1968) (per curiam); Morin v. Garra, 395 U.S. 935 (June 2, 1969), denying cert. to 53 N.J. 82 (1968) (per curiam); Moretti v. New Jersey, 393 U.S. 952 (Nov. 18, 1968), denying cert. to 52 N.J. 182, 244 A. 2d 499 (1968); Fulton v. Illinois, 390 U.S. 953 (Mar. 4, 1968), denying cert. to 84 Ill. App. 2d 280, 228 N.E. 2d 203 (1967); Carter v. Florida, 376 U.S. 648 (Mar. 30, 1964), dismissing appeal from 150 So. 2d 787 (Fla. 1963).

[35] McCann v. Babbitz, 310 F. Supp. 293 (E.D. Wis. 1970), appeal dismissed, 400 U.S. —, 39 U.S.L.W. 3132 (Oct. 13, 1970) (per curiam), supra note 15.

[36] Roemer, R. Abortion Law: The Approaches of Different Nations. A.J.P.H. 57, 11:1906 (Nov.), 1967; Roemer R. "Abortion Laws of the World: Recent Trends and Policy Issues" in *Abortion in a Changing World*, supra note 1 at p. 119.

[37] Bulgaria. Law of 16 Feb. 1968, Int. Dig. Health Leg., vol. 19, pp. 589-602, 1968.

[38] David, Henry P. *Family Planning and Abortion in the Socialist Countries of Central and Eastern Europe, A Compendium of Observations and Readings*, p. 69, The Population Council, New York, 1970.

[39] Finland. Law No. 239 of 24 Mar. 1970 on the interruption of pregnancy, Int. Dig. Health Leg., vol. 21, no. 4, 1970.

[40] Denmark. Law of 18 Mar. 1970, Int. Dig. Health Leg., vol. 21, no. 3, 1970.

[41] The Abortion Act of Singapore, 1969, Republic of Singapore, passed 29 Dec. 1969 and assented to by the President 31 Dec. 1969, Int. Dig. Health Leg., vol. 21, no. 4, 1970.

[42] South Australia. An Act to amend the Criminal Consolidation Act, 1935-1966, No. 109 of 1969, assented to 8 Jan. 1970.

[43] Sussman, William, and Adams, Anthony I. General Practitioners' Views on Pregnancy Termination. M. J. Australia, pp. 169-173, July 25, 1970.

[44] Supra note 38 at p. 233.

[45] India. The Medical Termination of Pregnancy Bill, 1969 (Bill No. XXII of 1969).

[46] Diggory, Peter, and Potts, Malcolm. Preliminary Assessment of the 1967 Abortion Act in Practice. Lancet, pp. 287-291, Feb. 7, 1970.

[47] Id. at p. 290.

[48] Ibid.

[49] Stats. of Canada, C. 38, sec. 18 (1968-69).

[50] Peru. Decree-Law No. 17505 of 18 Mar. 1969, Ch. 11, sec. 19, Int. Dig. Health Leg., vol. 21, p. 137 at 140, 1970.

[51] Potts, D. Malcolm. "Induced Abortion—the Experience of Other Nations" in *Population Control, Implications, Trends, and Prospects*, Proceedings of the Pakistan International Family Planning Conference at Dacca, Jan. 28-Feb. 4, 1969, p. 241, Sweden Pakistan Family Welfare Project, Lahore, West Pakistan, March 1969.

[52] See California State Department of Public Health, *A Report to the 1970 Legislature, Third Annual Report on the Implementation of the California Therapeutic Abortion Act*, p. 5, estimating that 81,600 abortions were done on California women in 1968, of which 76,600 were illegal. Even substantially increased numbers of therapeutic abortions—which have occurred since 1968—will not eliminate an illegal abortion problem of this magnitude. The source of the estimated number of illegal abortions was a carefully controlled study in North Carolina. Abernathy, James R.; Greenberg, Bernard G.; and Horvitz, Daniel G. "Estimates of Induced Abortion in Urban North Carolina." Demography, vol. 7, no. 1, p. 19, Feb., 1970.

[253] See Tietze, Christopher. "Abortion Laws and Practices in Europe," *Excerpta Medica International Congress*, Series No. 207, April, 1969; and Tietze, Christopher, "Mortality with Contraception and Induced Abortion," *Studies in Family Planning*, vol. 45, p. 6, Sept. 1969.

[54] Supra note 38 at p. 253.

[55] Supra note 46 at p. 290.

[56] On the higher risks of the unmarried mother and her child, see *Health Aspects of Family Planning*, Report of a WHO Scientific Group, World Health Organization Tech. Rep. Series, No. 442, p. 10, Geneva, 1970.

[57] Supra note 46 at p. 288.

[58] Engstrom, Lars Erik. "Abortion as a Method of Population Control," in *Population Control, Implications, Trends, and Prospects*, supra note 51 at p. 240.

Dr. Roemer is with the University of California Institute of Government and Public Affairs, Los Angeles, Calif. 90024.

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ONE HUNDRED AND TWENTY CHILDREN BORN AFTER APPLICATION FOR THERAPEUTIC ABORTION REFUSED

(By Hans Forssman and Inga Thuwe)

INTRODUCTION

The aim of the present study was to determine the mental health, social adjustment and educational level of children born after their mothers had applied for legal abortion on psychiatric grounds, and been refused. For this purpose we compared a series of children born of these pregnancies with an equally large control series, following all the subjects up to their 21st birthday.

Therapeutic abortion was first officially legalized in Sweden in 1939 and during the years of relevance to this study it was permissible on the following grounds (which are still valid):

When, because of disease, physical defect or weakness in the woman, the birth of the child would endanger her life or health.

When the pregnancy is the result of a felony, such as rape or incest, or intercourse with a girl under 15, or of the woman being made to submit to intercourse against her will because of being dependent on the man, or when it is any other way the result of gross violation of the woman's freedom of action.

When the expected child might inherit a mental disease, mental deficiency, or a severe physical disease or deformity, either from its mother or father.

On July 1, 1946, the law was broadened to include the following indication:

When, in view of the woman's living conditions or other circumstances, it can be assumed that the birth and care of the expected child will seriously undermine her mental or physical health.

This indication came too late for the mothers of the present subjects. It has led to much debate in Sweden, but the psychiatrists at our hospitals seem to have based their recommendations for or against abortion on essentially the same grounds before 1946 as they did afterwards.

Much has been written about abortion during recent years. Among Swedish studies are: *Lindberg's* (1948) What does the woman do when the psychiatrist says no to her application for abortion?; the social worker *Karin Malmfors'* (1951) follow-up study of 200 women who had applied for abortion; *Ekblad's* follow-up study (1955) of 479 women granted an abortion on psychiatric indications; *Arén & Amark's* (1957) study of the outcome in 244 cases of authorized but unperformed abortions; *Aréns* (1958) study of 100 newly delivered mothers who had a former pregnancy prematurely terminated on legal grounds; *Kerstin Höök's* (1963) follow-up study of 249 women refused a legal abortion. *Schlaug* (1952) studied the male partner in 488 cases of application for abortion. *Ekblad's* and *Höök's* publications also contained data on the men concerned.

Thus several studies have been made of the mothers and fathers involved in cases of abortion. But little has been written about the third member of the trio involved—the unwanted child. *Arén & Amark* (1967) related that 12 out of 162 children born to women who had gone through with their pregnancy were sent to a foster home for permanent care or adoption. *Malmfors* (1951) related that 7 out of 85 children born after an application for abortion had been refused were left for adoption. These authors said nothing more about the fate of these children, and *Arén & Amark* did not check their information in the official registers. Furthermore, both these studies were made between 3 and 5 years after the children were born, when they were too young to permit any conclusion about their mental health or social adjustment. *Höök* (1963) followed a number of features in 204 children in her series until they were 8½ years old, on the average, the ages ranging from 7 to 11½; 15 were left for adoption; the rest of her data about the children cannot be compared with any of the figures from the present study. This seems to be all that is written in Sweden about the fate of these unwanted children.

The Danish author *F. B. Nielsen* (1960), refused, 2 were stillborn, 82 healthy and 8 abnormal in some respect. But his children, too, were too young to permit any conclusion on their mental health and social adjustment.

It is beyond the scope of this investigation to go into the lengthy debate that has been going on about the legislation governing premature termination of pregnancy. Extensive reviews of this are given in the publications of *Ekblad* (1955) and *Hook* (1963).

The problem of abortion was given particular attention in the December 12, 1964, issue of the Lancet, which contained articles by *Tredgold* and by *Uhrus* and a leading article on the subject. The leading article concurred with the demand made at a meeting of U.S.A. specialists in 1955 for "more research into the background, motivation, mechanisms and results" of therapeutic termination of pregnancy.

As therapeutic abortion was not regularized by law in Sweden until January of 1939, it has hardly been possible until now to determine the long-term social and psychiatric consequences for the children born after application for abortion has been refused. In 1960 we published the preliminary results of this study in Swedish.

MATERIAL

Unwanted children

The subjects studied came from Göeborg, Sweden's second largest city, with a population of about 280,000 at the time in question—1939–1942. During these years, the city had only one large general hospital, the Sahlgren Hospital. In October of 1938, a psychiatric department was opened at the hospital, and among its other activities, this department served as a counseling center for mothers seeking legal abortion. During the years of relevance to the present study, it was the only center of this kind in Göteborg. The few cases taken in hand by private practitioners during this period are not included in our series.

Thus, the material for this investigation originates from all the cases of women living in Göteborg who applied for a therapeutic abortion to the Psychiatric Department of the Sahlgren Hospital during the years 1939 to 1941, inclusive, and were refused. These included both the women coming only to the outpatient service and the ones hospitalized for observation. We took 1941 as the last year so that we could follow the children born of these pregnancies until the age of 21.

During the years 1939 to 1941, altogether 197 women living in Göteborg had 199 applications for legal abortion refused, 2 women having been refused for two pregnancies. These do not include any woman who changed her mind and took back her application. In 188 of the 199, the psychiatrist at the department decided against abortion, in 10 cases, which had been referred to the Medical Board, the Board refused to authorize the abortion, and in one case, also referred to the Medical Board, the Board authorized the abortion but the obstetrician refused to do the operation because the pregnancy had proceeded too far.

Three of the 197 women could not be traced. One was a refugee who lived only a short time in Sweden. It is impossible to explain why the other 2 could not be traced; they may have given a false name or only a temporary address. This left 194 women and 196 refused applications.

Sixty-eight of these 196 pregnancies ended in abortion, spontaneous or provoked. Sixty-eight out of 196 is a large percentage—34.7 percent—and undoubtedly many of them were illegal. Since the drop-out rate is indicative to some extent of the kind of subjects chosen for study—the narrower the indications for legal abortion, the greater the number of illegal abortions—it is interesting to compare this figure with those from other Nordic countries on the frequency of interrupted pregnancy after legal permission for abortion had been refused. There is not much point in comparing our figures with those of other than these countries because the conditions differ too much.

Lindberg (1948) found that only 50 (14.5 percent) did not give birth at the expected time out of all 344 women refused an authorized abortion after being admitted as inpatients to the Psychiatric Department of the Sahlgren Hospital between 1940 and 1946. *Hultgren* (1959) found that 14.4 percent of 4,274 women whose petitions for abortion had been turned down by the Medical Board during 1954 to 1956 did not go through with their pregnancy; 224 of the 4,274 were from Göteborg, and 35 of these 224 (15.6 percent) did not go through with their pregnancy.

Thus the percentage of prematurely terminated pregnancies, spontaneous or provoked, was smaller in these two Swedish series than in ours. It is true that all *Lindberg's* women had been under observation as inpatients, as against only 49 of our 199. One probably does not get such a good psychotherapeutic grip on patients only coming to an outpatient service as one does when they are hospitalized. On the other hand, only 83 of 136 Danish women refused legal abortion after observation at the Psychiatric Department at Frederiksberg's Hospital went through while their pregnancies, the drop-out rate in this series thus amounting to 39 percent (*Delcomyn*, 1952).

A more probable explanation for the difference is this. *Lindberg's* series comes from 1940-1946, *Hultgren's* from 1954-1956, and ours from 1939-1941. In 1939 the number of legally authorized abortions in Sweden amounted to 439, in 1946 it rose to 2,378 and in 1951 it reached a peak of 6,328; it then fell slightly, amounting to about 5,000 in 1952-1954, 4,562 in 1955, and 3,851 in 1956. Another way of following the trend is to compare the number of legal abortions with the number of livebirths during the same period. During 1939 to 1942, 0.5 pregnancies were terminated by legal abortion for every hundred livebirths. In 1946 the proportion rose to 1.8, and in 1951 to 5.7. In 1952 and 1954 it was 4.8, in 1955 it was 4.3, and in 1956 it was 3.6.

In short, many more authorized abortions were done after than during the years of relevance to our investigation. Because it was harder to get permission for therapeutic abortion in 1939–1941 than later it is reasonable to assume that more illegal abortions were performed in our series than in later series. *Delcomyn* (1952), comparing the Danish figures for 1945-1949 with those for 1950 and the first half of 1951, found that there were relatively more authorized abortions in the second period, and also that a larger percentage of the women refused a legal abortion went through with their pregnancy the second period. She gave no figures for her observation.

Thus 128 of the pregnancies in our series (representing 126 women) proceeded to term. The result was 134 children, including 6 pairs of twins. Four of the 134 were stillborn, and 8 died within a year, one before it was 2 and one before it was 3. Excluding these 14 cases of early death left 120 children. The present study is based on these 120 all of whom reached the age of 21. They include 4 pairs of twins and 2 twins whose partners had died. Table 1 shows the 120 divided by year of birth and sex.

TABLE 1.—THE 120 CHILDREN BORN AFTER THEIR MOTHER'S APPLICATION FOR LEGAL ABORTION WAS REFUSED, BY YEAR OF BIRTH AND SEX

Year of birth	Boys	Girls	Total
1939		6	15
1940	32	13	45
1941	17	22	39
1942	8	13	21
Total	66	54	120

Control children

All but 1 of the 120 unwanted children were registered in Göteborg when they were born. We chose control subjects for these 119 as follows: When the infant was born in one of the city's maternity hospitals, we took the next same-sexed child born in the same hospital for its control subject. For the 17 born elsewhere, we took the first same-sexed child registered in the city hospitals on the same day. When the control subject died before the age of 21, we replaced it with the first same-sexed child born after it in the same hospital. For control subjects for twins, we took the next pair of twins, same-sexed or bisexed as the case was, born in the same hospital. For the 2 children of twin birth, one of whose partners was stillborn and one died within 3 months, we chose control subjects as if the original children were singletons.

For the control subject of the child born outside Göteborg we took the next child of the same sex registered in the book of the same parish.

SOURCES OF DATA ANALYZED*

From the civil and parish registry offices we found out: whether the would-not-be mother had had her child after her application was turned down; the addresses of the unwanted children and their control subjects from birth until they reached the age of 21; the marital status of the children and whether they in turn had had any children. One control subject lived in another country for six months when she was 18; apart from this we were able to follow every subject from the time they were born until they were 21.

From the child welfare boards (see p. 132) in the various districts in which the subjects had lived, we learned whether they had any of the subject's names in their files, if so, why.

At the child-guidance clinics and youth psychiatry centers in the districts where the subjects lived or had lived we asked whether they had been consulted for mental deviation or illness in any of the subjects. We did the same at all the mental hospitals and psychiatric departments in general hospitals, and at all the psychiatric outpatient services in the districts where the subjects had lived after the age of 15. We also wrote to all the rural and urban psychiatric consulting bureaus run independently of the psychiatric departments in the general hospitals. We were not able to cover all the private practitioners who might have been consulted and we therefore disregarded anything we happened to hear from one of them having been consulted.

Sweden has a central penal register for the whole country, where every act of the authorities restricting the liberty of an individual is recorded, whether it be sentence to an adult or juvenile prison or internment in some other kind of an institution; also every instance of exemption from legal punishment because of legal irresponsibility, fines above a certain level and fines for crimes for which the alternative is penal servitude. All cases of conditional sentence are also recorded there. After receiving special permission from the government, we went through these files to see whether we could obtain any further evidence of antisocial conduct on the part of the subjects until they reached the age of 21.

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*In these analyses we have called a P value of <0.05 probably significant, of <0.01 significant and of <0.001 highly significant.

We also inquired at all the official temperance boards and social agencies in the districts where the subjects lived after the age of 16. (Not until 16 are persons registered in their own names in the records of the social agencies.)

We inquired about the subjects' schooling in the various school districts to which they belonged. Whenever they proceeded to secondary schools, we inquired at these schools whether they had gone on from them to other forms of study, and about any examinations they had passed. Thus we have full information on all the examinations the subjects passed prior to university. We then learned whether they had studied at any university before the age of 21 by going through the annual lists of the students enrolled at the various Swedish universities.

The information we got from the schools and the files of the social agencies showed that there was no point in inquiring at the agencies for the education and care of the mentally retarded.

In Sweden military service is obligatory for men, but not for women. We enquired at the Swedish Institute of Military Psychology about the fitness group into which the male subjects had been classed, and, if they had completed their military service, about how they had succeeded with their duties there. As a rule the young men must enroll for military service the year they become 18, but they can put it off up to the age of 21 or more for reasons of health or education. When they did this, we sometimes extended our limit beyond the 21st birthday in this one respect.

Three subjects (1 original and 2 control subjects) were the children of leading citizens in small communities, and we felt that it would be unfair to make inquiries about them in the local agencies in their neighborhood. But we got all the information we needed about them from other sources and there being no difference between them and the other subjects in depth of penetration we have included them with the others in the various analyses.

DIFFERENCES BETWEEN ORIGINAL AND CONTROL SERIES

Age, maternal age and social group

The ages of the two series of subjects correspond almost to the day. The greatest difference amounted to 25 days (twin cases).

The unwanted children were born to mothers 30 years old on the average, the control children to mothers of 28, on the average. There is a significant difference here $(0.01 > p > 0.005)$.

We also compared the two series for the social group into which they were born, using the norms from the Swedish electoral statistics for the years 1937 to 1940. We did the grouping according to the father's occupation at the time, or if the mother was unmarried according to hers. Children adopted by couples neither of whom was their real parent, were grouped according to the occupation of the adoptive father at the time. But children adopted by men their mothers married after they were born were grouped according to their mothers' occupation when they were born. The result of this comparison is seen from table 2, which also shows how the inhabitants of Göteborg were distributed by social group in 1940.

More of the control than unwanted children were born into group II, and the reverse held for group III. Combining groups I and II gave 25 for the unwanted children and 36 for the control children, against 95 and 84 for group III. Thus the two series did not differ significantly in this respect $(p. \cong 0.10)$, though no consideration was given to social group when choosing the control subjects.

Seventy-seven pairs, each consisting of one subject from either series, belonged to the same social group, 43 did not.

TABLE 2.—THE UNWANTED AND CONTROL CHILDREN, BY ORIGINAL SOCIAL GROUP

Social group	Number		Percentage		
	Unwanted children	Control children	Unwanted children	Control children	Whole of Goteborg in 1940
I	3	4	2.5	3.3	6.5
II	22	32	18.3	26.7	31.4
III	95	84	79.2	70.0	62.1
Total	120	120	100.0	100.0	100.0

RESULTS OF COMPARING FAMILY AND SOCIAL ENVIRONMENT OF UNWANTED AND CONTROL CHILDREN

Insecure childhood

We considered that the following circumstances in the history of the subjects pointed to an insecure childhood background.

1. Complaints to a child welfare board about the way the subjects were being treated at home.

Every local authority district in Sweden is required to set up a child welfare board whose duty is to see that all children in its district are properly cared for. Up until 1960 the boards were required to interfere whenever children under 16 were being exposed to physical or mental harm through cruelty or neglect at home, or in danger of becoming delinquent because of their parents' depravity, negligence, or inability to bring up their children.

2. The child taken into custody by a child welfare board for protective care.

If consulting with, advising or warning the parents had no effect, or if the board decided that it would be a waste of time to try to persuade the parents to mend their ways, the board had the right to take the child away from its parents for protective custody.

3. Placement in a foster home.

4. Placement in a children's home.

4. Childhood in broken home, i.e. loss of a parent through divorce or death before the child was 15, or birth out of wedlock not followed by legitimization.

Table 3 shows how many subjects in either series were brought up under each of these circumstances. As seen there, 32 (26.7 percent) of the unwanted children were born out of wedlock, against only 9 (7.5 percent) of the control children. The difference is highly significant $(p < 0.001)$. Eighty-six pairs (one member from each series) agreed in regard to legitimacy; 34 did not. The parents legitimized 5 of the 32 unwanted children born out of wedlock by getting married 2 to 24 months after they were born, and the parents of 5 of the 9 illegitimately born control children did the same 2 to 33 months later. Eight of the unwanted children were adopted by others than their real parents (7 of these were illegitimate). None of the controlled subjects were adopted.

According to the criteria laid down, 72 (60 percent) of the unwanted children had an insecure childhood, as against only 34 (28.3 percent of the control children. If one disregards the stays in children's homes, many of which were for only a short while, the figures change to 65 (54.2 percent) against 26 (21.7 percent), and the difference remains highly significant $(p < 0.001)$.

In short, it is obvious that the children born after an application for abortion had been refused ran a greater risk of insecurity in childhood than did their control subjects.

TABLE 3.—COMPARISON BETWEEN UNWANTED AND CONTROL CHILDREN FOR CIRCUMSTANCES IN HISTORY POINTING TO INSECURITY IN CHILDHOOD (THE SAME CHILD MAY OCCUR IN SEVERAL CATEGORIES)

Circumstances pointing to insecure childhood		Unwanted children		Control children
Report to children's aid bureaus about unsatisfactory conditions at home		17		6
Child removed from home by authorities		2		0
Placement in foster home		19		4
Placement in children's home		30		10
Parents divorced before child was 15	60	23	22	13
Parents(s) died before child was 15		10		5
Born out of wedlock and never legitimized		27		4
Born out of wedlock and legitimized		5		5

Disposition to move to other local authority districts

There being more delinquency in cities than in other regions we determined how many of either series had stayed the whole time in Göteborg. Another reason for doing so was that we had unusually good possibilities of getting complete information about these subjects since our place of work is in Göteborg. We also checked whether they differed in tendency to move from place to place.

Seventy-seven (62.2 percent) of the unwanted children stayed in Göteborg until they were 21, and 85 (70.8 percent) of the control subjects. Twenty-one (17.5 percent) of the unwanted children had lived in three or more local authority districts, and 19 (15.8 percent) of the control subjects. Thus the two series agreed well, both for permanency of residence in Göteborg, and for tendency to move from one district to another. There were 55 pairs in which both the original and control subject had lived the whole time in Göteborg.

RESULTS OF COMPARING PERSONAL DATA IN ORIGINAL AND CONTROL SERIES

Psychiatric consultation and hospitalization

Thirty-four of the unwanted children (28.3 percent) had gone to a psychiatric clinic of some kind or received psychiatric care in a hospital. The corresponding figure for the control subjects was 18, or 15 percent. The difference is probably significant $(0.025 > p > 0.01)$.

Twenty-nine of the unwanted children had been under the care of a child psychiatrist, 28 only as an outpatient, and one as an inpatient as well. Six had visited a center for adult psychiatry; 3 of these had been hospitalized, one in a psychiatric department at a general hospital, one at a mental hospital, and one at both. One of the latter belonged to the 29 who had gone to an outpatient department for child and youth psychiatry.

Fifteen of the control subjects had visited a center for child psychiatry, all of them only for outpatient treatment. Four had been patients at a center for adult psychiatry, 2 as an outpatient, one at a mental hospital, and one at both a mental department in a general hospital and a mental hospital. One of these 4 belonged to the 15 who had gone to a center for child psychiatry.

The question arises: Was it because the mothers of the unwanted subjects had been in contact with psychiatrists before the children were born that so many of these children were registered at centers for child psychiatry? It may be that, having once consulted a psychiatrist, these mothers found it easier to do so again, whereas the mothers of the control subjects, who had seldom if ever consulted a psychiatrist about themselves, did not go to a psychiatrist for their children unless something was seriously wrong. Likewise, the mothers who had consulted a psychiatrist about abortion might be more apt than others to seek psychiatric advice for other personal troubles afterwards, and if they then complained about their children being nervous, the child might very likely be sent to a psychiatrist while the perhaps equally nervous children of other mothers might not.

In 1959 we determined how many of the mothers up to that year had consulted a psychiatrist for matters not directly concerned with the abortion, but only among the mothers of the 57 pairs in which both partners had lived in Göteborg all the time up to then. Twenty-seven of the 57 would-not-be mothers had gone to one of the municipal psychiatric outpatient departments for complaints not directly concerned with the abortion, and 10 of their children had done so. The corresponding figures for the control series were 9 and 0. It is apparent from this that it was not because the would-not-be mothers had consulted a psychiatrist about abortion that these children went more often than the others to a child psychiatrist. When all the subjects reached the age of 21, the number of pairs living the whole time in Göteborg dropped to 55, but we did not consider it worth while to do the analysis again for this sake.

Delinquency and crime

Our figures for acts of delinquent nature reported to the child welfare boards do not cover drunken misconduct; this will be taken up in the next section.

Twenty-two (18.3 percent) of the unwanted subjects, 19 boys and 3 girls, were registered with the child welfare boards for delinquency, against 10 (8.3 percent) of the control subjects, 9 boys and one girl. The difference is probably significant ($p<0.05$).

The boards had made investigations in 12 of the first 22 subjects and in 4 of the second to determine whether formal charges brought against them should be dropped. This happened 19 times in the original series, 8 times in the control series. Three of the first series and one of the second were removed from their homes and placed in protective custody elsewhere, in accordance with the law then in force, according to which correctional measures must be undertaken when children under 18 show severe forms of maladjustment. One of these 3 unwanted children, as well as the control subject, was sent to a reformatory.

The penal register contained the names of 10 of the unwanted children (8.3 percent) and of 3 control subjects (2.5 percent). The difference is not significant ($0.10>p>0.05$). Nine of the first 10 were male, one was female. The control subjects were all male.

Drunken misconduct

The records of the official temperance boards contained the names of 19 of the unwanted children (15.8 percent) and 13 control subjects (10.8 percent) for drunken misconduct. The difference is not significant ($0.50>p>0.30$). Two of the first 19 subjects were women. The 13 control subjects were all men.

Public assistance

Seventeen of the unwanted children (14.2 percent) had received some form of public assistance between the ages of 16 and 21, and 3 of the control subjects (2.5 percent). The difference is significant ($0.005> p >0.001$).

Only one subject, a boy in the control series, received a disablement pension from the government; he was an idiot and permanently institutionalized.

Educational subnormality

Under this heading we included all the uneducable subjects, the ones taught in special schools for the mentally retarded, those whose last year at school was spent in a special class. In the last group we also included a few subjects whose educational subnormality was well documented, but who were taught in ordinary classes because there was no form of special training available to them.

The large cities have a graduated series of special classes in the ordinary schools called remedial reading classes, observation classes, extra classes and health classes, but we paid no attention to the kind of special class the subjects pupil attended, mostly because it depended on where they lived what kind of class they could choose from.

According to these criteria, 13 of the unwanted children (10.8 percent) were educationally subnormal, as against 6 of the control subjects (5.0 percent). This difference is not significant ($p=0.10$).

There was one case of well documented mental retardation both in the original and in the control series.

Theoretical studies beyond the obligatory

On drawing a line between the subjects who had done more advanced theoretical study than that required by the school law, and those who had not, we found that only 17 (14.2 percent) of the unwanted had had some form of higher education, as against 40 (33.3 percent) of the control subjects. The difference is highly significant ($p <0.001$).

Eight unwanted and 12 control children had taken university entrance examinations. Five unwanted children and 11 control children had studied at a university. Neither of these differences is significant.

As mentioned (table 2), more of the control than original subjects came from social group II and the reverse was true for social group III. As a child's education depends a great deal on the social standing of its parents, we also compared the schooling in the two series after excluding the subjects left over when the two kinds of subjects were paired according to social group. This left 77 subjects in each series. Ten of these 77 (13.0 percent) unwanted children had had some form of higher education, against 21 of the 77 control children (27.3 percent). The difference is probably significant ($p <0.05$).

One can also study the effect of social standing on the education by taking one social group at a time; for this we had to combine groups I and II, as there were too few cases in group I. Five of the 95 unwanted children (5.3 percent) coming from group III had had higher education, against 17 of the 84 control subjects (20.2 percent) coming from the same social group. The difference is significant (p 0.01). The figures for group I+II were 11 out of 25 (44.0 percent) against 28 out of 36 (77.8 percent). Here the difference is probably significant ($p <0.05$).

Continuing with these calculations, chi square amounts to 7.93 for social group III and to 5.89 for I and II combined. The sum 13.82, with 2 degrees of freedom gives a p of <0.001, showing a highly significant difference for the three social groups combined.

Thus it was not differences in proportion of different social groups that caused the difference in schooling between the unwanted and control children.

Military service

Ten of the 66 males in the original series (15.2 percent) were judged unfit for military service, either at the time of enrollment or after they had started, as opposed to 4 (6.7 percent) of the control subjects. This is not a significant difference ($0.20 >p> 0.10$). According to our information, 4 of the 10 first males were exempted for mental reasons; our information in this respect may not be complete, however. Two of the control subjects were exempted on these grounds.

When a Swedish recruit enrolls, he is classified into one of four groups according to his fitness for military service, from group 1 for a completely satisfactory condition down to group 4 who are assigned to fatigue duty. Apart from exemption from service, our two series were distributed very much alike by fitness for military service.

Marital status and parenthood

As we only followed our subjects up to the age of 21, we cannot say much about how they compare with regard to marriage and parenthood. Some differences did emerge, however.

Twenty of the unwanted children (17 women, 3 men) married before the age of 21, and 14 of the control subjects (9 women, 5 men). The difference is not significant here, either for the sexes combined or for one of them.

Two of the female subjects from the original series had also divorced before the age of 21; none of the control women had done so, and no man from either series.

We restricted our analysis of parenthood to the women, as there was no hope of getting reliable figures for the men in this respect. Fourteen out of 54 women from the original series had had 19 children before they were 21, 4 out of wedlock, and 7 of the 54 female control subjects had had 9 children, 3 out of wedlock.

It is impossible to draw any conclusions from these figures. It will be noted, however, that the control series (which had more education on the whole) contained fewer cases of early marriage and of young mothers. This tallies with the observation that the age of marriage and parenthood rise with the degree of education.

Freedom from defect in all respects studied

Sometimes the same subject will occur in more than one of the groups studied here. Thus a subject registered with the authorities for abuse of alcohol will often be found in the files of the centers for child psychiatry as well; a man who has been in a mental hospital will sometimes be exempted from military service; an uneducable subject will be registered as receiving public assistance, as being educated in a special class, and so on. It is interesting, therefore, to compare the two series for the number of subjects showing no defect in any of the respects studies, i.e., registration for antisocial behavior in the books of the child welfare boards or penal register; official registration for drunken misconduct; education in a special class or school, or uneducability; public assistance or government pension; visits to psychiatric inpatient or outpatient departments during childhood or adulthood. Fifty-eight (48.3 percent) of the unwanted children showed none of these defects against 82 (68.3 percent) of the control subjects. The difference is significant ($0.005>p>0.001$).

Taking social group III separately from I and II combined showed the following: Forty of the 95 unwanted children (42.1 percent) coming from group III showed no defect, against 54 of the 84 control subjects (64.3 percent) from the same group. The difference is significant ($0.005>p> 0.001$). The corresponding figures for group I and II combined were 19 out of 25 (76.0 percent) against 28 out of 36 (77.8 percent). Here the difference is not significant.

The same analysis of the 77 pairs concordant for social group gave 34 unwanted cases (44.2 percent) showing no defect, against 54 control (70.1 percent). The difference is significant ($0.005>p> 0.001$).

Similar analysis of the 55 pairs living in Göteborg the whole time gave (36.4 percent) showing no defect against 38 (69.1 percent). The difference is highly significant ($p <0.001$).

As children from broken homes are more apt than others to be antisocial and mentally disturbed, we compared the two series for the number of cases showing none of the aforementioned defects among the subjects who had lived with both their real parents until they were 15. Thirty-three out of the 60 such subjects from the original series (55.0 percent) showed none of these defects, and 68 out of the 98 control subjects of this category (69.4 percent). The difference is not significant $(0.10 > p > 0.05)$.

DISCUSSION

Table 4 gives a survey of the ways in which the children born after their mother had been refused a legal abortion differed from the control series of same-aged subjects chosen at random. As seen there, the unwanted children were worse off in every respect, the only exception being due to the one case of a government pension which came from the control series. The differences were often significant, and when they were not, they pointed in the same direction (except for the case just mentioned)—to a worse lot for the unwanted children.

When one looks for a reason for the differences, one is struck mostly by the greater frequency of factors tending to disrupt the stability of the home in the case of the unwanted children, such as birth out of wedlock, and death or divorce of their parents while they were still young. In other words, not as many unwanted children were brought up by both their real parents as were control subjects. Probably as a corollary of this, more of them were brought up by foster parents of in children's homes. But the latter may also have been a consequence of the greater number of complaints to the children's welfare boards about the way in which they were being treated at home.

The difference that turned up most consistently in various forms of analysis was the difference in amount of education. Whatever categories of subjects were studied—different social ranks or different subgroups of the same social rank—the unwanted children got a significantly smaller amount of education than the control subjects.

TABLE 4.—SURVEY OF IMPORTANT DIFFERENCES BETWEEN THE UNWANTED AND CONTROL CHILDREN

	Unwanted children			Control children			
	Number in resp. series	Feature present		Number in resp. series	Feature present		Level of sign. of difference
		Number	Percent		Number	Percent	
Psychiatric consultation and hospitalization	120	34	28.3	120	18	15.0	•
Registration for delinquency at children's aid bureaus	120	22	18.3	120	10	8.3	•
Registration for crime in penal register	120	10	8.3	120	3	2.5	—
Registration for drunken misconduct	120	19	15.8	120	13	10.8	—
Public assistance between age of 16 and 21	120	17	14.2	120	3	2.5	••
Subnormal educability or uneducability	120	13	10.8	120	6	5.0	—
Theoretical studies beyond the obligatory:							
Whole series	120	17	14.2	120	40	33.3	•••
Subjects in pairs congruent for social group	77	10	13.0	77	21	27.3	•
Subjects from social group III	95	5	5.3	84	17	20.2	••
Subjects from social groups I + II	25	11	44.0	36	28	77.8	•
Exemption from military service	66	10	15.2	66	4	6.7	—
Freedom from inferiority in above respects:							
Whole series	120	58	48.3	120	82	68.3	••
Social group III	95	40	42.1	84	54	64.3	••
Social groups I + II	25	19	76.0	36	28	77.8	—
Subjects in pairs congruent for social group	77	34	44.2	77	54	70.1	••
Subjects living all their life in Göteborg	55	20	36.4	55	38	69.1	•••
Subjects brought up by both their real parents	60	33	55.0	98	68	69.4	—

The reason the unwanted children had had so much contact with psychiatrists was probably not—as we showed—that their mothers found it easier to consult a psychiatrist about their child because they had once before consulted a psychiatrist about themselves. It was probably because these mothers were more vulnerable mentally than the others, and passed on this failing to their children, either through genes or through the effect it had on the home environment, or both.

The investigation has shown that children born after their mothers have been refused permission for legal abortion are born into a worse situation than other children. From this one may assume that the children who are not born because their mothers get authorization for abortion would have had to face still greater disadvantages, socially and mentally. Thus, the very fact that a woman seeks an authorized abortion, no matter how trivial her grounds may appear to some, means that the expected child will run a larger risk than its peers of an inferior standing in life. In our opinion, the present investigation shows that the provisions for therapeutic abortion in the law should not only aim to prevent the private tragedy; they should also aim to improve mental hygiene in a wider sense. Thus the legislation should also consider the social handicaps awaiting the unwanted child, not only, as it does now, the genetic risk in the narrow sense of the terms.

SUMMARY

The authors examined 120 children born after their mothers had applied for therapeutic abortion on psychiatric grounds had been refused, comparing them with an appropriate control series of the same size. All the subjects studied lived and were followed up until the age of 21. Data were assembled from civil and ecclesiastical registry offices, social agencies, school authorities, military authorities and all the psychiatric inpatient and outpatient departments everywhere the subjects had lived. It was ascertained how many of each series had been registered for mental ill-health, antisocial and criminal actions, drunken misconduct, and different forms of public assistance; for the men it was ascertained how they had got on during their military service; likewise the marital status, number of children, and school ability and educational level was determined.

A study of the social features revealed that many more of the unwanted than control children had not had the advantage of a secure family life during childhood. They were also registered more often in psychiatric services, and a few more of them than control subjects received psychiatric care. They were more often registered for antisocial and criminal behavior, and slightly more often for drunken misconduct, and they got public assistance more often than the control subjects. A few more of them were educationally subnormal and far fewer had pursued theoretical studies over and above what is obligatory. They were more often exempted from military service. More of the females married early and had children early than in the control series. The differences between the two series in these respects were often statistically significant, and when they were not significant they always pointed in the same direction—to the unwanted children being born into a worse situation than the control children. Table 4 gives figures for most of the features just mentioned.

The authors conclude that the very fact a woman applies for legal abortion means that the prospective child runs a risk of having to surmount greater social and mental handicaps than its peers, even when the grounds for the application are so slight that it is refused. In their opinion, the legislation of therapeutic termination of pregnancy should also consider the social risks to which the expected child will be exposed.

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SOCIOECONOMIC OUTCOMES OF RESTRICTED ACCESS TO ABORTION

(By Charlotte Muller, Ph. D., F.A.P.H.A.)

The recent changes in the legality of abortion in the United States through repeal, reform and court action, and the various court cases and legislative movements in the current news, have changed the nature of the problem of access to a large degree. Once chiefly a matter of leveling legal barriers, the access problem now relates to financing, referral, organization of appropriate facilities for care, and patient factors influencing utilization in different social and age groups. The implications of restricted access to care, the subject of the present paper, apply, for different reasons, to post-repeal states (Alaska, Hawaii, New York and Washington), to reform ("health and life"*) states such as California, and to states with old-style laws, which still constitute the majority.

The small market for legal abortions in states with old-style laws has been restricted in access to a certain number of women of means who are able to procure private medical and psychiatric care [8] in hospitals amenities. Meanwhile, their less affluent sisters have rarely been able to receive medically equivalent care in the wards of public hospitals and as service patients in voluntary hospitals. These facts have been well-documented by Hall for hospitals in New York City, New York State, and the United States in reports showing ward/private differences in the ratio of abortions to deliveries, and similar differences between public and other hospitals.[5] [6]

The far larger market for illegal abortions (and now, for out-of-state legal abortions) has also been class-structured in that it was the non-poor candidate who could afford jet travel to a service area or the attentions of a qualified physician, although without hospital protections or amenities, in an illegal abortion. The poor candidate was more likely to end up in the hands of the non-medical practitioner or to substitute crude attempts at self-induced abortion through chemical and physical means.

Imperfection in the market inheres in uneven access to knowledge of sources of supply as well as in uneven access to suppliers for economic, social class, and geographical reasons. The result of market imperfections including legal constraints on entry is a lessening of consumer welfare, and in particular, a restriction on the option of couples to choose a fertility level consistent with their total set of preferences of leisure, material goods, the company of children, and the educational package they consider normal for each produced child.[4]

Unlike some other health services, the improved accessibility of abortion (which for the poor is a matter of present concern) is evidently a service whose utilization greatly rises in the event of legal accessibility. This is shown by the experience of countries which have passed laws broadening the grounds for abortion to include health as well as life of the mother and admitting socioeconomic considerations. It is also shown in states like California and Calorado which have liberalized the law.[1] A more advanced law in Great Britain was followed by a shift in performance of abortions from private auspices to National Health Service financing, as well as an over-all rise.[16] With wider legal access, the seeking of inferior substitutes, including attempts at self-induced abortion, will doubtless decline, with direct improvement in the maternal death rate among black and Puerto Rican women.[4] It is not clear that all latent demand would be satisfied: some women are held back by the lack or privacy of official procedures, and review committees as in states where "health and life" are accepted grounds; some physicians would continue to refuse to perform the operations; and, some women would deny the reality of the pregnancy until late in its course as they now do. The price of the service would still be a factor in utilization, although it is not easy to say just how elastic the demand is where the legal barrier exists.

Barriers to legal abortion affect the ratio of unwanted children born. Low-income couples express the same family-size goals as higher income couples,[7a] but are less successful, on the whole, in the use of contraception. The leverage power of abortion in adapting actual to desired family size is thus of relatively greater importance for low-income groups.

However, it is necessary to have a limited expectation of the extent to which, based on the foregoing, reduction in unwanted birth will solve poverty problems. So long as poor couples desire 3 or 4 children—or more—available means of birth prevention would not necessarily be used to control family size and per capita income would remain low. And, independent of family size among the poor, the reduction of poverty requires a variety of specific programs to deal with low job skills, deficient labor market organization, family health needs, and income maintenance problems, to cite a few items of the national agenda.

The negative effect of unwanted births on family economic and social welfare is felt by way of defects in the timing of the first birth, defects in spacing the interval between children, which affects family capacity to accept the new child, and defects in terminating family formation. Although the reduction of welfare is really the joint result of limitations of the present arrangements for birth control (deficient access, failure to utilize and imperfections in method) and of restricted access to abortion, it is nevertheless possible to avert negative outcomes by better availability of abortion alone, and this is especially true, for the reason cited above, for low-income groups.

One of the important situations relates to the separation of the teen-age male from the educational process.

Alvin Schorr has beautifully presented the mechanism and the evidence linking the family cycle and economic life. Early marriage is generally forced marriage, the result of premature pregnancy. The younger father leaves school and cannot return. His bargaining power in the job market is poor and his first job choices are in low-opportunity situations as a result of immediate necessity, lack of information, and low skill. He may also fail to find work. The marriage of the young is less stable, statistically speaking, than that of a later age, but the probability of a large family is also associated with early age of marriage. Whether the family is separated or united, the burden of support prevents the young adult from experimenting with various types of work. And the family fails to accumulate capital for any decisive improvement in circumstances such as additional training.

Statistical support for this model includes:

1. The high percent of premarital pregnancy in school-age marriage (one-third of all school age marriages, 87% where both spouses were high school students).

2. The larger family size for both white and black mothers who marry at 18 compared with 2 or 3 years later (white, 3.7 compared with 2.8 children; black, 4.3 compared with 4.0 children). This comparison also reveals the limited success of black families at birth control, with age of marriage having less effect on family size than among whites.

3. The occupational distribution of teen-age males compared with older workers.[15]

In 1966 there were 1.2 million young males aged 16 to 21 who were school dropouts and members of the labor force. Sixty-one per cent of them worked as operatives and non-farm laborers.[21a] (This number rose to 1.6 million in 1969.)[21b]

The crucial outcome in terms of the economic history of the teen-age male is the reduced lifetime earnings of a man who has not completed high school, and again the greater earnings of the college graduate compared to the high school graduate.† Differences also show up in a cross-section. Let us compare just two educational levels within white and black groups. Money income figures for 1968 by years of school completed show 5.9 million white family heads who are college graduates with median income of $13,589, and 7.1 million who started but did not finish high school with median income of $8,525. In non-white families, where the head finished college, the family income was $12,472 (267,000 families); where he started but did not finish high school (1.0 million families), the median income was only $5,766.[21c]

The ratios implicit in the above income figures would be altered with changes in the relative supply of males at the different educational levels, and are also influenced by the structure of demand for workers at different levels. But the return on human capital added by educational processing is real, and it is estimated that four-fifths of high school dropouts are intellectually capable of additional education.[20]

Another problem for economic improvement in the family concerns job-seeking by the mature woman with children. The crucial statistics is that median family income (1968) is 30 per cent higher for families with a male head when the wife is in the paid labor force than when she is not.[21d] The presence of children under six is a deterrent to labor force participation.[22] It is true that an untrained woman may not add greatly to family resources by her employment. What this implies, perhaps, is that training programs are needed to capitalize on the economic opportunity presented to the family by the mother's freedom from pregnancy. It also calls attention to the compulsory school-leaving for girls consequent on pregnancy in many communities, a factor which adds to the effect on long-run family earning potential described above for teen-age males. Girls who started their families in their teens, in their maturity make up a portion of the group of untrained women. Finally, for married women, mothers of young children, who must work out of financial necessity—48 per cent of those who took jobs in 1963 did so for this reason [24]—unsatisfactory arrangements for child care represent a family price that is paid for their labor force participation and a possible source of fluctuating availability for work. To a considerable degree this is also true for middle-class women who wish to work for personal satisfaction and extra income.

Like the married woman returning to the labor market, the young widow is available

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for employment to an extent dictated by the age of her youngest child and the number of her children. Half of widowed mothers with 3 or more children did not work at all in 1962, compared with 28 per cent with only one child, and the former group tended to work part-time, if at all. Since parttime employment is in lower-paying occupations, earning power was doubly affected. Furthermore, employment and earnings after termination of child care benefits under Social Security are found to be greatly affected by work experience in the preceding 5 years. Hence, the economic potential of young widows is greatly influenced by size and spacing of families.[29]

A third economic problem exacerbated by uncontrolled family size is present poverty. According to Mollie Arshansky,

> "The family with 5 or more children was still (in 1966) 3½ times as like to be poor as the family raising only one or two, and . . . almost half the poor children were in families with 5 or more children." [12a]

She further points out that large family size (4 or more children) was found in an increasing number of poor families where the head was a fully employed worker (37% in 1965).[12b] How poor is poor? The medium income of a poor family with male head in 1966 was $3,308 for a 4-child family, $3,590 for a 5-child family, and $3,440 for a family of 6 or more children.[12c]

About one-fourth of poor families, and about one-fifth of near-poor families, had 4 or more children [12d]—or 2,214,000 out of 15,240,000 families in the poor and near-poor categories.

The family income figures for the large poor family are equivalent to per capita income of $552, $513, and $430 (or less) respectively. In sharp contrast the lowest budget standard for a 4-person urban family, as priced by the Bureau of Labor Statistics in 1967, was $5,915 or $1,479 per capita.[23]

The immediate consequence of spreading fixed family resources over more persons is fewer goods and services per capita. Transfer payments received by about one-fourth of the poor (assistance, Social Security payments, veterans' pensions, and other devices to transfer current national income between persons by the tax-spending mechanism) are already counted in current income. Even with public assistance the large poor family could not hope to consume at anywhere near the lowest budget standard of the BLS.

Children who lack a welcoming and nurturing parental home can be counted along a continuum of extrusion from the family of origin. The continuum includes adoption, foster home placement, court action for neglect and dependency and less severe but indifferent or otherwise unsatisfactory parental role performance within the family of origin. To count numbers involved is to become cognizant of the numbers of children affected by various degrees and causes of being unwanted during childhood, although one cannot infer that the child was unwanted during the pregnancy. The program costs involved, as in foster or institutional care, must be reduced by the amount of the maintenance component, which would be incurred (although not necessarily at the same level), regardless of where a child is raised. However, program costs would be higher if services such as schooling for pregnant girls were more adequate.

One measure of children with a problem related to their birth is out-of-wedlock births. The number in 1967 was 318,072, with the figure expected to reach 403,000 by 1980 without any increase in rate. (The rate was 24 births per 1,000 unmarried women ages 15–44 in 1967.) Forty-seven per cent of these births are to girls under 20 years of age.[11] Illegitimate births were 9.7 percent of total live births in 1966.[21e] Occasionally, out-of-wedlock births are not unwanted, and some are followed by marriage.[14] If this indicates that the figure overstates the problem, it should be remembered that many births in married women are undesired as well as unplanned. One even finds children placed for adoption with both parents living and together. Both in this group and in children retained in the family origin are children born after pregnancy has been followed by marriage.

Another aggregate cited is the number of children given for adoption. This group numbered 158,000 in 1967, or 82.3 per 10,000 children under 5,[21f] but only two-thirds of these were out-of-wedlock births.[18] Extra-legal but permannent adoptions add to these figures.

Many children are not adoptable because of defect or retention of parental rights by incompetent parents or for reasons of racial or religious prejudice. Yet adoptions certainly provide a minimum estimate for the occurrence of preventable births.

The unwanted child is not necessarily indicated by birth order. A wealthy family can provide for a fourth or fifth child materially, and with personal care. A poor family, or one where the mother has a health impairment, may not be able to welcome a third child. Nevertheless birth order, especially in conjunction with income level, is a useful measure of the problem of preventable births. Orshanky's figures yield a count of at least 2.2 million fourth children in birth order among the poor and near-poor, 1.3 million fifth children, and .7 million sixth children.[12e] These figures may be compared with average family size preferences of 2.9 children for non-whites and 3.3 for whites.

It may be pointed out here that in a study of cases of service parental neglect, the average family size was 8 people. The neglectful family was cited as having inadequate diet, irregular meals and poor food preparation; lack of cleanliness, absence of routine; and neglect of medical problems. Apathy was the predominant attitude. There was a lack of internal and external means for building a positive life-style. The children were often having trouble in school.[30]

The possibility of identifying unwanted children by comparing family-size goals with family size achieved depends on the time at which desired family size is ascertained, since people adapt their announced goals in the event of pregnancy (and a portion of them even succeed in adapting their attitudes and behavior).[3] Conversely, a child originally desired may become unwanted because of the likelihood of deformity, the death or disability of a parent, income change—or the breakup of the marriage. (This change in status of the child has a bearing on the question of abortion only insofar as the change occurs soon after conception.)

If correct, this comparison is a powerful measure. It reaveals between 750,000 and 1,000,000 excess births a year between 1960 and 1965. These figures are based on a reanalysis of 1965 national survey data by Charles F. Westoff. The lower estimate is based on births unwanted by both parents, and the higher, on births unwanted by at least one parent. If one uses the higher estimate, 445,000 births among the poor and near-poor are classed as excess, or 42 percent of all their births, compared with 17 percent among the non-poor. The incidence of unwanted births increases rapidly with birth order. The estimates cited are minimal in that births retrosepctively rationalized by the parents, and births representing timing failures, are omitted.[32]

Children born and living their early years under psychological rejection by mothers, social abandonment by fathers, poverty and other disadvantaged conditions, are exposed to risk of impaired development which, regardless of all other consequences, is economically important as a cause of inferior earning power at maturity. In the several aspects of this problem to be discussed, it is suggested that it is chiefly impaired educational chances which threaten future economic potential. Let us look first at mental retardation.

Seeking of prenatal care late in pregnancy, and inadequate nutrition, are typical or frequent in unwanted pregnancies. At least for high-risk mothers, late care and nutritive lacks are a factor in complications and prematurity, which in turn are found to be related to impaired learning potential. Pasamanick has pointed out that very young mothers and older women had a higher risk of producing mentally defective children, and increasing birth order also increased the risk.[13a] It has also been noted that the extra medical risks of pregnancy among the very young are complicated by the unmarried status and poverty of the adolescent girl typically involved.[17]

Although the status of being unwanted does not predict a certain incidence of mental retardation, in the sense of being either a necessary or a sufficient cause, it is pertinent that of the many births among the poor, who are exposed to the hazards which may lead to mental retardation, a large per cent appear to be unwanted.

Since mental retardation is a multi-caused phenomenon in which the nurture, educational stimulation and social opportunities of the child affect outcome, it is surmised that a mild handicap (the more typical case) is continually reinforced in the large, poor, culturally isolated family.

Furthermore, once adolescence is reached, access to higher education and to jobs with responsibility for large assets is dependent on being in the upper track of learners. The chance to increase earning power either by adding to human capital or by associating with expensive cooperating factors of production is impaired by mild mental retardation.

General mental health of the infant is said to be affected by the same considerations of the prenatal environment as applied to development of learning capacity. Pasamanick mentions 5 clinical entities in children significantly associated with complications of pregnancy and prematurity: cerebral palsy, epilepsy, mental deficiency, behavior disorders and reading disabilities.[13b] "Cases" differ from controls not in operative procedures or in long and difficult labor, but in long toxemias and bleeding—i.e., in medical rather than obstetrical features. Summing up, Pasamanick states:

> "There exists a continuum of reproductive insult, at least partially socio-economically determined, resulting in a continuum of reproductive casualty extending from death through varying degrees of neuropsychiatric disability." [13c]

Acceptance by and interaction with parents continues to be an influential factor in the course of mental health throughout childhood.[10, 27]

In a study of cases of children requiring agency foster care in New York City, 10 per cent of initial placements were due to severe neglect or abuse and 33 per cent to family problems including rejection milder than the preceding category.[9] An annual figure of 154,000, 2.1 per 1,000 children, for juvenile court cases of dependency or neglect, in jurisdictions covering two-thirds of the population under 18, is said to be an understatement of the incidence of this problem.[19a]

Impaired mental health interferes with the formal educational process (for example,

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when there is a behavior problem in the classroom) and with socialization of the child so that he can perform in the labor market at the maximum level for his capacities. At the extreme, delinquency and punishment or other social response removes him from the conventional developmental sequence. It is noted that delinquents often come from broken homes or have many brothers and sisters. A correlation is also noted between adolescent misbehavior and the absence of the father or limited opportunity to identify with him.[28a] (We note about 700,000 children in juvenile delinquency cases in 1967, or 2.3 per cent of those between 10 and 17 years, and an upward trend in rate.)[19b]

Educational growth of the child is recognized to be handicapped in the large family where income and parental time are inadequate. (Income is a substitute for time as when the mother reads to the four-year-old while a sitter walks the baby, or when the four-year-old is sent to a private nursery school while the mother tends the baby.) This problem is broader than the case of actual retardation or diagnosed mental illness in a child.[28b]

Finally, the large poor family is less likely to secure medical attention for its children.[26] The number of school days lost because of illness is greater than for higher income groups.[25] Nutritional defects add to time of recovery after infection and are related to days of school missed. Continuous school attendance has significance for development of human capital.

SUMMARY

It is difficult to assign a weight to the importance of births in excess of desired family size, or births ill-timed in terms of family welfare, in the creation of social problems of neglect, delinquency, psychological and social incapacity to care for children, and the like. Nor is it easy to isolate the effects of this factor on the set of job *vs.* education choices made by the young father, the difficulties faced by the mature woman in planning re-entry to the labor market, and the experience of being a youthful consumer at the poverty-level of income. Equally, the underdevelopment of human capital by reason of mental retardation, physical and psychiatric health problems, and educational undernourishment defies exact division among specific causes. However well research methods for dealing with multi-caused phenomena succeed in elucidating these relationships in the future, there is in any event food for thought in the present. Ability to control family-size, including the right to abortion, must essentially seek approval on its merits. Personal freedom, equal access to care, and medical protection of the poor are all involved. Yet the discussion cannot help being influenced by observed associations between unplanned births and poverty, untimely marriage, and creation of stress on parental capacities of the more vulnerable for whatever reason.

FUTURE RESEARCH

The design of relevant research concerning access to, and financing of, abortion services calls for flexibility because of the fluid situation which now exists with respect to law and policy. If realistic, such research can be useful in guiding policy choices.

1. *Financial needs of patient groups* can be identified by studying total service costs under different marital, social, racial and medical-clinical situations of the patient. Women who have had illegal abortions appear to be more willing than it was previously assumed to reveal information bearing on incidence, prevalence, and attendant circumstances.[31] Legality should improve the information flow. This may make it possible to develop estimates for direct costs for medical care and associated travel, and for the indirect costs of lost work-time and child-care replacement, both on a per case basis, and for aggregates. The present cost of surgery, hospital days, and pregnancy tests, determined by familiar methods of medical care research, can serve as a guide to the program expenditures that would be necessary to assure economic access for the low-income woman as state laws yield to the reform movement.

2. Systematic observation of the medical and behavioral *effects of non-hospital service programs,* and of the use of manpower and facility space resources which they entail, could be carried out as such programs are mounted. Such study will aid in developing and revising standards for a non-hospital service.

3. Understanding of one and two is essential for the design of an adequate prepayment benefit: this task needs to be supported by *continuing surveillance of present coverage and gaps.* Insurance entitlements for maternity in the private sector vary widely by employment group and carrier.[33] Nevertheless, a knowledge of current practice as to waiting periods, in-hospital care requirements, payment schedule limits, and family contract conditions is needed for policy purposes. Public sector entitlements have their own sources of geographical and program variation within military dependents, welfare and OEO medical care programs.

4. Finally, *manpower needs* are crucial in view of previous unmet demand. The assessment of additional training required to prepare practicing physicians and medical students to participate in the provision of abortion service is one task, and the appraisal of the attitude of professionals focuses on an element as important as numbers with requisite preparation. The possible role of paraprofessionals is a related theme for health manpower research. This is especially interesting, because in creation of a service able to handle a mass demand, traditional guild issues may be somewhat subdued.

States which have liberalized their abortion laws constitute a natural laboratory for the trial of new approaches in regard to financing, organization, manpower, and referral. Although little advantage has yet been taken of this fact, evaluation of early experience should be encouraged to aid in the development of appropriate social mechanisms for service.

FOOTNOTES

*With account taken of present and future environment in determining the risk to health in Oregon's law.

† Data for 1968 estimate lifetime incomes for males 25 years and over by years of schooling: 1–3 years of high school, $294,000; 4 years of high school, $350,000; 4 or more years of college, $586,000. (*Statistical Abstract of the United States,* 1970, p. 111.)

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Geographic Distribution of Need for Family Planning and Subsidized Services in the United States

(By Raymond C. Lerner, Ph. D.)

INTRODUCTION

A study, *Need for Subsidized Family Planning Services: United States, Each State and County, 1918,* has recently been released by the Family Planning Office of the Office of Economic Opportunity. This paper will review the purpose and design of the study, and discuss findings which relate to the distribution of women at risk, the number reported served in subsidized programs, and the number unserved, by county, for the United States.

The object of this work was to collect, for each of the 3,072 counties in the U.S., basic data on the need for subsidized family planning services, the services currently available, selected characteristics relevant to need, and resources available for the delivery of services.

The purpose in compiling and collecting such data was, for the first time, to develop a capability for estimating the level of organized family planning services in the U.S. In addition, such information could assist in planning by making it possible to examine where program inputs were going and where they were needed. A file of this nature, it was felt, would also provide baseline data useful for monitoring improvements in the distribution of program efforts overtime, and might also serve as a preliminary tool for evaluating the effectiveness of publicly financed family planning programs in reaching program objectives.

For each county in the U.S., selected variables on needs and resources have been compiled from existing sources; however, data on services required field surveys. This paper will deal with only a limited portion of the material on file; the items included in the study for each county are listed in the Appendix.

METHODOLOGY

The report, *Need for Subsidized Family Planning Services: United States, Each State and County, 1968,*[1] includes a full discussion of the methodology and the limitations of data. However, a few important points relevant to the material in this paper will be discussed here.

Population

The basic population denominator and number of women age 15–44 in this work consist of 1966 population estimates for the United States, by county, made by the State and Local Population Estimates Branch, Population Division, U.S. Bureau of the Census.[2]

Need

The total number of women age 15–44 estimated to require subsidized family planning services consist of those who can be classified as medically indigent, fertile, exposed to risk of pregnancy, not currently pregnant or seeking a desired pregnancy. This has been approximated by applying the Dryfoos-Polgar-Varky formula to the census estimates for each county for 1966. The methodology employed by the formula, which was developed at Planned Parenthood, is described in detail in the full report.

Current Services

Because there was no readily available nationwide statistics giving patient figures from which to determine how many women were currently receiving family planning service from organized programs during the period from July 1, 1967, to June 30, 1968, three mail surveys had to be conducted.

We know that health departments, hospitals, and free-standing clinics are the major channels through which subsidized family planning services are delivered, but knowledge of the level of service and the exact locations of service facilities is severely limited. In order to establish a preliminary universe of agencies providing organized family planning services to low-income women, available data from previous reports and surveys were examined for each of these three channels. The field to be surveyed included voluntary and public hospitals, health departments, Planned Parenthood clinics, OEO family planning projects, Neighborhood Health Centers, maternity and infant care projects, and other agencies known to be providing family planning.

It was decided to survey hospitals, Planned Parenthood affiliates, and state health departments—individually and directly—to determine the number of patients served in their programs, and the addresses of their clinics. Responses originating from the same locality were compared for duplications, since combined funding and sponsorship sometimes result in duplicate reporting. When necessary, responses were also edited for conversion from visits to persons served since some agencies do not have record systems which enable them to report unduplicated counts of patients served. While the service figures are probably the best available nationally, they must be regarded as approximations.

No attempt was made to obtain figures on the number of women in the target population served by private physicians at their own expense or through Medicaid. Estimates based on scanty data place this proportion at less than 10 percent of those in need. Nor could a study of this kind attempt to assess the retention rate of service programs or to evaluate their general quality. Therefore, while the term "number of women served" is employed, it would be more accurate to refer to the "number of patients enrolled" by an organized family planning service. How well or how fully the patients are served is not known, and it is probable that great variation exists from program to program. The study, therefore, could be regarded as estimating the extent to which organized programs have been successful in at least enrolling the population in need—a necessary first step toward the systematic evaluation of any program.

Footnotes at end of article.

Within the defined universe of programs and agencies from which service data were sought, the response rate was excellent, nearly 100 percent in all categories.

FINDINGS

The data to be presented now are limited to distributions of need and services by county, along with a preliminary assessment of some general characteristics of the counties containing and not containing organized services.

Table 1 provides a summary of the distribution of U.S. counties by the number reporting organized family planning services in fiscal 1968.

In the U.S., it is estimated that, in FY 1968, there were approximately 5.4 million medically indigent women in need of subsidized family planning services. Among the 3,072 U.S. counties, only 1,200 reported organized programs, while, in 1,872 counties, no family planning programs for medically indigent women were identified. One hundred and twenty-two counties reported programs, but were not able to provide figures on the number of women served; they are included among the 1,200 counties with reported programs.

The 1,200 counties reporting organized family planning programs make up 30 percent of U.S. counties; they also contain approximately 75 percent of the total U.S. population, and of women aged 15–44, as well as the same proportion of low-income women in need of subsidized family planning services. Almost 800,000 women received subsidized services within these (1,200) counties, which amounts to about 15 percent of all the women in the U.S. who are estimated to be in need of family planning services (Table 1a). At risk and remaining to be served in the counties with reported programs, were 3.2 million women, or 70 percent of the total number of women who are unserved in the U.S.

While only 15 percent of the women in need are being served nationally, there is, of course, great variation from county to county in the current service picture; a few counties were found to provide service to more than 40 percent of the group at risk, while others reported less than 1 percent. Among the 1,200 counties reporting services, 20 percent of those at risk are being served. We still have a long way to go.

The 1,872 counties without reported programs constitute 61 percent of all U.S. counties but they contain only about 25 percent of the total U.S. population, about the same proportion of women age 15–44, and 1.4 million or 27 percent of all low-income U.S. women at risk and in need of family planning. Since no programs are reported, unserved females also equal 1.4 million and unmet need equals 100 percent.

In summary, about three-fifths of U.S. counties contain one-quarter of those at risk and report no organized programs; conversely, two-fifths of U.S. counties contain three-quarters of those at risk in the entire country and report service to about one-fifth of this group (Table 1). Since the two-fifths of U.S. counties with service contain roughly three-quarters of the U.S. population, it is obvious that these include most of the major urban areas in the country, where need is more highly concentrated. On the other hand, as noted earlier, the 1,872 counties with no organized programs contain only about 1.4 million women at risk, indicating that the need is much less concentrated in these counties.

TABLE 1.—DISTRIBUTION OF U.S. COUNTIES BY NUMBER REPORTING ORGANIZED FAMILY PLANNING SERVICES FOR MEDICALLY INDIGENT WOMEN SERVED AND UNSERVED: TOTAL U.S POPULATION,[1] WOMEN AGE 15 TO 44,[1] ESTIMATED NUMBER OF WOMEN IN NEED,[2] NUMBER OF WOMEN SERVED AND UNSERVED

	Number of counties	Total population (1966 estimate)	Female population [1] age 15 to 44	Female population in need [2]	Females reported served	Unserved females
U.S. counties reporting no organized family planning services to indigent women	1,872	[3] 48,888,000	9,577,000	1,430,000		1,430,000
Counties reporting organized services to indigent women	[4] 1,200	146,811,000	29,966,000	3,937,000	773,000	3,164,000
Total	3,072	195,699,000	39,543,000	5,367,000	773,000	4,594,000
Vertical percent:						
No service	60.9	25.0	24.2	26.6	0	31.1
With service	39.1	75.0	75.8	73.4	100.0	68.9
Total	100.0	100.0	100.0	100.0	100.0	100.0
Horizontal percent:						
No service	(N=48,888,000)		19.6	2.9	0	2.9
With service	(N=146,811,000)		20.4	2.7	.5	2.2
Total	(N=195,699,000)		20.2	2.7	.4	2.3

[1] U.S. Bureau of Census, 1966 population estimates.

[2] Estimated by applying the Dryfoos-Polgar-Varky formula to female population age 15 to 44, 1966.

[3] Rounding to the nearest thousand was done after computation.

[4] 122 counties reporting service but not providing figures on the number of women served have been included; present information is that the number of women served in these counties is not significant.

TABLE 1A.—NUMBER OF MEDICALLY INDIGENT WOMEN SERVED AND UNSERVED AS PERCENT OF U.S. TOTAL ESTIMATED AT RISK FOR SUBSIDIZED FAMILY PLANNING SERVICES, FISCAL 1968

	Number	Percent
Served	800	15.4
Unserved	4,600	34.6
Total need	5,400	100.0

Table 2 shows the distribution of counties ranked by quartiles of women served in the 1,200 counties with reported organized programs. The significant finding here is the concentration of service in relatively few counties: 8 counties, or 0.3 per cent of all U.S. counties, account for the first quartile in which about 200,000 women were served (or 25 per cent of reported services). Only 23 more counties, or 0.7 per cent of all U.S. counties, account for the next quartile—200,000 women served. Expressed cumulatively, *31 or only 1 per cent of all U.S. counties account for 50 per cent of all women reported served in subsidized family planning programs throughout the United States.*

Going one step further, the next quartile adds 86 counties. Thus, 117 counties, or 4 per cent of U.S. counties, account for 75 per cent of women reported served; that is, 600,000 out of 800,000 served throughout the U.S. This obviously reflects concentration of program inputs and, as will be shown later in more detail, those service areas include nearly all of the great urban counties where population is concentrated, where needs are most obvious, and where resources for delivery of services are most readily at hand.

Finally, the last quartile of women are served in 961 counties; these are for the most part quite small programs. On an average basis, there are about 200 women per county receiving service in the latter group of counties through all delivery agencies (although in most of these counties only one agency is usually providing services).

Table 3 shows the distribution of quartiles of unmet need: that is, the number of women estimated to be in need of subsidized family planning services but not reported as receiving them, and the number of counties in each quartile. There are approximately 4.6 million women still in need of service.

TABLE 2.—QUARTILE RANGE OF WOMEN SERVED IN SUBSIDIZED FAMILY PLANNING PROGRAMS FOR UNITED STATES, FISCAL 1968; NUMBER AND PERCENT OF COUNTIES IN EACH QUARTILE

Women served			Counties			
Number (thousands)	Cumulative (thousands)	Cumulative percent	Number	Percent	Cumulative	Cumulative percent
200	200	25	8	0.3	8	0.3
200	400	50	23	.7	31	1.0
200	600	75	86	3.0	117	4.0
200	800	100	961	31.0	1,078	35.0
			[1] 122	4.0	1,200	39.1
	(2)	(2)	1,872	61.0	3,072	100.0
			3,072	100.0		

[1] 122 counties reporting service but not providing figures on the number of women served have been included.

[2] None reported.

Here, too, great concentration is evident: relatively few counties in the U.S., 69 in all, account for 25 percent of the unmet need. The next quartile of unmet need involves 244 additional counties. Thus half of the unmet need of 2.3 million women is found in 313 counties (about 10 percent of all counties).

It can be noted at this point that most counties with the greatest need figures are also found heading the list of counties with the largest program inputs. For example, if one compares the 50 counties with the greatest need to the first 50, by numbers served, 29 appear on both lists, indicating that there is fair correspondence between location of needs and service efforts. However, the magnitude of the input relative to need is as yet grossly insufficient, inasmuch as several million women remain to be reached and over one million of these are in relatively concentrated target areas in only 69 U.S. counties.

Table 3 shows that the fourth quartile of unmet need is spread over a vast area involving 2.133 counties. While these counties include some metropolitan areas, they are for the most part rural and rural-farm areas with small and dispersed populations and with few health resources, making it difficult and costly to reach the patient.

TABLE 3.—QUARTILE RANGE OF WOMEN ESTIMATED AT RISK FOR SUBSIDIZED FAMILY PLANNING SERVICES NOT RECEIVING SERVICE FOR UNITED STATES, FISCAL 1968, AND NUMBER AND PERCENT OF COUNTIES IN EACH QUARTILE

Women served			Counties			
Number (thousands)	Cumulative (thousands)	Cumulative percent	Number	Percent	Cumulative	Cumulative percent
1,150	1,150	25	69	2	69	2
1,150	2,300	50	244	8	313	10
1,150	3,450	75	626	20	939	31
1,150	4,600	100	2,133	69	3,072	100
Total			3,072	100		

Table 4 expands on reported services as presented initially in Table 2. In Table 4, as in the earlier table, the number of women served is the controlling variable. The eight counties comprising the first quartile are detailed in Table 4 and vividly illustrate how service inputs have been concentrated in major urban areas. It was to show this that the county, state, and major city identifications were provided. Note that the East appears to be first with three New York City counties, Baltimore, and Washington, D.C. The Midwest is represented by Cook County (Chicago) and Wayne County (Detroit). Finally, in the Far West, we have Los Angeles County.

For proportion of those in need who are served, these areas represent fairly substantial program achievements when compared to the national average: in these eight counties 42 percent were served—200,000 of 471,000 in need—whereas nationally only 15 percent were served.

In the second quartile, involving 23 counties, 36 percent of those at risk were served, in the third quartile 23 percent, and in the fourth—the least densely populated countries of the U.S.—only 10 percent. The column labeled "total population" illustrates the increasing dispersion as one moves from high to low service areas. The first eight counties contain as many people as the next 23. The next 86 counties contain fewer people than the first two groups of 31 counties, and so on. The data make clear that the question of providing family planning services in those areas where population is spread thin has only begun to be examined. Indeed, this is generally true for nearly all health services, not merely family planning.

TABLE 4.—U.S. COUNTIES BY QUARTILES OF WOMEN SERVED IN SUBSIDIZED FAMILY PLANNING PROGRAMS; NUMBER OF WOMEN SERVED, ESTIMATED NEED, NUMBER UNSERVE FEMALE POPULATION AGE 15-44, TOTAL POPULATION[1]

Number of counties and rank by number served	County	State	Principal city	Thousands: Number served (fiscal 1968)	Estimated need	Unserved	Females 15-44 (1966)	Total population (1966)
Detailed listing of 8 counties comprising first quartile, with ranking by number served:								
1	Cook	Illinois	Chicago	38	82	44	1,029	5,400
2	Los Angeles	California	Los Angeles	33	126	94	1,375	6,814
3	New York	New York	New York City	30	49	19	305	1,540
4	Kings	do	do	22	64	42	548	2,702
5	Wayne	Michigan	Detroit	21	59	39	532	2,705
6	Bronx	New York	New York City	19	36	17	314	1,543
7	District of Columbia		Washington	18	21	2	164	805
8	Baltimore	Maryland	Baltimore	18	32	14	303	1,489
8				200	471	272	4,572	22,999
23				200	550	352	4,600	22,700
86				200	860	660	7,735	37,649
1,083 [2]				200	2,080	1,880	13,059	63,463
1,872				(3)	1,430	1,430	9,577	48,888
Total (3,072)				800	5,367	4,594	39,543	195,699

[1] Rounding to nearest thousand performed after computation. Total computed in columns or horizontals may not tally due to rounding.

[2] 122 reporting service but not providing figures on the number served have been included.

[3] No services reported.

Table 5 presents data on the population size and the range of the percentage of rural-farm population in the 1,200 counties reporting service figures, arranged again by quartiles of women served. It can be sent from the range of population size that, while in general the counties with least service in the fourth quartile must include many sparsely populated areas, they are not exclusively so. One county in this quartile contains 1.3 million people—suggesting that even in large urban areas the extent of programing for family planning services is severely deficient.

It appears that the first two quartiles, accounting for half of the women served, are comprised exclusively of high-population counties. For example, in quartile two the smallest county by population size is 320,000. Very few of these 31 counties in the first quartiles have any rural-farm population.

The third quartile contains counties that range from relatively small—25,000 population—up to quite large—1.4 million—and show a wide variation in percentage of rural-farm population.

In the fourth quartile, there is a tremendous range, both of population size—from less than 1,000 to 1.3 million—and of rurality—from zero to 59.5 per cent (an inordinately high proportion to be classified as rural-farm). These 1,083 counties are a great mixture of county types, including some highly urban areas which are in fact part of great metropolitan centers (i.e., Boston, Massachusetts; Passaic, New Jersey; Suffolk County, New York) as well as some of the most rural parts of the United States.

It is obviously not always possible to categorize counties as urban or rural-farm areas. The usual problems of classification plague the researcher on this as on so many other dimensions. For, within a single county, there may be extensive urban as well as rural-farm areas. The socioeconomic ecology of a region does not usually oblige us by observing county jurisdictional lines. This factor often results in the mixture of characteristics demonstrated in the tables.

TABLE 5.—QUARTILE RANGE OF WOMEN SERVED IN SUBSIDIZED FAMILY PLANNING PROGRAMS FOR UNITED STATES, FISCAL 1968; FOR EACH QUARTILE: THE NUMBER OF COUNTIES, RANGE OF POPULATION SIZE, AND RANGE OF PERCENT RURAL-FARM POPULATION

Range of population size [2]	Women served (thousands)	Number of counties	Percent rural-farm [3]
800 to 6,800	200	8	All less than 1.
320 to 2,000	200	23	0-2.4.
25 to 1,400	200	86	0-17.5
Less than 1-1,300	200	[1] 1,083	0-59.5
Total	800	1,200	

[1] 122 counties reporting service but not providing figures on the number of women served have been included.

[2] Bureau of Census estimate for 1966.

[3] 1960 census.

Table 6 provides an overview of the number of women unserved with respect to the rural-farm characteristics. All U. S. counties have been ranked from low to high according to per cent rural-farm, and then distributed by quarters by the number of women needing subsidized family planning service. In addition, the number of counties for each quarter with no reported programs are shown.

The 124 least rural counties contain a quarter of the number of women needing service (1.5 million). No county within this group exceeds 0.9 per cent of rural-farm population; and only 26 or one-fifth of these counties report no program. In the next group, all counties show a small proportion of rural-farm population, not less than 1 per cent and not more than 5 per cent. Here also a small number of counties, about one-eighth, report no program.

Group three moves into the middle to upper range with respect to rurality, and this includes 28.5 per cent of all U. S. counties; 500 or 57 per cent of these report no programs. Finally, in group four, we are really in the country. These are predominately rural counties and include over half of all counties in the U. S. Seventy-five per cent of these counties report no program. As rurality increases, programing decreases.

TABLE 6.—ALL U.S. COUNTIES RANKED BY PERCENT RURAL-FARM POPULATION AND DISTRIBUTED BY QUARTERS OF WOMEN UNSERVED (FISCAL 1968), RANGE OF PERCENT RURAL-FARM POPULATION PER QUARTER, NUMBER AND PERCENT OF COUNTIES, AND NUMBER AND PERCENT OF COUNTIES WITH NO PROGRAM

Range percent rural-farm population[1]	Number of women unserved (thousands)	Num-, ber of U.S. counties	Percent of U.S. coun-, ties	Counties with no subsidized programs: Number	Percent	N=—
0-0.9	1,150	124	4.0	26	21.0	124
1-5.2	1,150	359	11.7	45	12.5	359
5.3-17.8	1,150	876	28.5	500	57.1	873
17.9-86	1,150	1,713	55.8	1,301	75.9	1,719
Total	4,600	3,072	100.0	1,872	60.9	3,072

[1] 1960 census.

Table 7 illustrates the program potential of 1,872 counties with no reported service. In this table, the distribution of all counties with no service is controlled by the range of estimated number of women in need. The total number of women in need is also presented for each group of counties.

Line two in the table shows that a total of 438, or 24 per cent of counties with no program, contain 1,000 or more women at risk; cumulatively, these counties contain a total of 819,000, or 56 per cent, of all those unserved in counties without programs. They should be regarded as areas with high program potential since they contain 1,000 or more women at risk.

The figure of 1,000 or more women per county at risk and in need is a useful measure of the service potential in these areas, since it is estimated that this number of patients is sufficient to provide minimum economy of scale in the operation of a clinic program.

The remaining two groups, totaling three-quarters of all U.S. counties without programs, are the more sparsely populated ones and account for 44 per cent of women at risk in unserved areas.

TABLE 7.—NUMBER AND PERCENT OF U.S. COUNTIES WITH NO SUBSIDIZED FAMILY PLANNING SERVICES, BY RANGE OF ESTIMATED NUMBER OF WOMEN IN NEED; NUMBER AND PERCENT OF WOMEN UNSERVED

Range, estimated number of women needing service	Counties with no service: Number	Cumulative	Percent	Cumulative percent	Number unserved (thousands)	Cumulative (thousands)	Percent	Cumulative percent
2,000 to 10,000	123	123	6.6	6.6	382	382	26.7	26.7
1,000 to 1,999	315	438	16.9	23.5	428	810	29.0	55.7
500 to 999	558	996	29.7	53.2	395	1,195	27.8	83.5
000 to 499	876	1,872	46.8	100.0	235	1,430	16.5	100.0
Total	1,872		100.0		1,430		100.0	

SUMMARY

This paper has presented in broad terms the distribution and concentration of needs and services in the United States by county.

Of particular note is the concentration in relatively few urban counties of both the heaviest program inputs as well as the greatest number of women unserved. Equally important, a program potential exists in 438 counties with no service provided and more than 1,000 women at risk.

The data also point up the virtual nonexistence of *organized* programs in sparsely populated and rural-farm areas of the United States. In qualitative human terms, the need for family planning programs here is undoubtedly just as great as in metropolitan communities.

Dr. Lerner is Assistant Professor, Department of Community Health, Albert Einstein College of Medicine, Bronx, N.Y.

This paper was presented before a Joint Session of the Center for Population Research and the Epidemiology Section of the American Public Health Association at the Ninety-Seventh Annual Meeting in Philadelphia, Pa., November 13, 1969.

This work was performed at the center for Family Planning Program Development, the Technical Assistance Division of Planned Parenthood-World Population, N.Y.C., pursuant to a contract with the Office of Economic Opportunity, Washington, D.C., Contract No. B 89–4588. During the course of this work the author was director of planning of CFPPD.

APPENDIX—WHAT IS IN THE FILE—FOR EACH COUNTY IN THE UNITED STATES

a. Needs and services

Total population of U. S., 1966; women in the childbearing years, i.e., 15–44; number of women medically indigent needing subsidized family planning services; number receiving family planning services through subsidized clinic programs; number in need not receiving services, or unmet need; number of home-based migrant workers; number of American Indians under the jurisdiction of the Indian Health Service of DHEW.

Under needs we have also selected health and demographic indexes which provide greater insight into the characteristics of each county: infant mortality rate; number of infant deaths in excess of 17.8 per 1,000 for the five years 1961–1965; fertility rate per 1,000; live birth order as a per cent of all births; out-of-wedlock births per 1,000 live births (not reported for 16 states); births of 2,500 grams or less as a per cent of live births.

Each county is classified by whether it is within a Standard Metropolitan Statistical Area or State Economic Area (for New England) or a nonmetropolitan county according to total population of SMSA, SEA or county.

b. Resources

Physicians—Number of nonfederal physicians in patient care with offices in the county; ratio of M.D.'s per 100,000 population; number of general practitioners; ratio per 100,000 population; number of obstetrician-gynecologists and ratio per 100,000 population.

Hospitals—For all short-term, general-care, nonprofit hospitals reporting births, operated by private agencies, nonfederal governmental agencies, but including the Public Health Service and Indian Health Service hospitals: number in each county; total births reported for all hospitals in the county; number reporting family planning services.

Other Resources—Counties with medical schools; community action agencies: OEO-funded Family Planning Projects; OEO-funded Neighborhood Health Centers; counties with Model City Programs; Children's Bureau Maternal and Infant Care Projects; Public Health Service Neighborhood Service Projects; counties where the health department provides family planning services; and finally, counties where Planned Parenthood affiliates provide family planning services.

FOOTNOTES

[1] Available from the Family Planning Program, Office of Health Affairs, Office of Economic Opportunity, Washington, D. C., or the Center for Family Planning Program Development of Planned Parenthood-World Population, New York, N. Y. 10022.

[2] Current Population Reports Series, p. 25, Nos. 401, 404, 407 and 409, 1968, describe methodology.

ON THE HEALTHINESS OF 4,000 ABORTIONS IN A FREE STANDING ABORTION SERVICE

(By Horace Hale Harvey II, M.D., Barbara Yarnell Elizabeth Pyle)

We would first like to thank the people of New York, their legislators, and the Public Health Board for a law and a policy that allows for improvement and self-correction. This is a great moral step necessary to remove the fear of abortion.

We would next like to thank the National Clergy Consultation Service on Abortion (especially Reverend Howard Moody and Arlene Carmen) and the five hundred clergymen thoughout the United States who with their pioneering spirit have led the way in the concept of abortion reform. Planned Parenthood is likewise to be commended for its stand on this issue.

Lastly, we would like to offer a heartfelt thanks to the doctors working with us, the nurse-counselors, and to the entire staff of the Community Sex Information and Education Service. Our efforts and dreams would have come to nothing without your hard work and loyalty.

INTRODUCTION

New York is to be commended for leading the country in the repeal of abortion laws. The new law provides that a physician can perform an abortion under conditions that are healthy and safe on a consenting woman up to the twenty-fourth week of pregnancy. This law will inevitably become the model after which the rest of the country will pattern its laws when the reform becomes nationwide. As the New York law will become the model, so will New York's applications of this law. It is to the betterment of these future ends that we do hereby present this report.

The Community Sex Information and Education Service (hereinafter called CSI) is a not-for-profit incorporation devoted to developing nationwide sex education. In July of this year, the National Office of CSI recognized the need for there to be a quality control on the means whereby women in New York receive abortion. This conclusion was reached based upon the many phone calls that poured into our office and into the office of the Clergy and Lay Advocates for Hospital Abortion Performance complaining of the abusive treatment and the exploitive prices by many of the doctors, and profiteering referral agencies, and the hospitals performing abortions in the metropolitan area.

With the tripartite goal of safety, price control, and psychological health, CSI formed Women's Medical Group to act as a consumer control for women seeking abortions in the first ten weeks of pregnancy. Women's Medical Group is able to monitor the safety of the procedure by setting standards for the equipment and the methods, by supervising the participating doctors and by having a comprehensive follow up program consisting of a Women's Medical Group "hot line" telephone number making available to the women 24 hours a day, a doctor or a Registered nurse to answer any questions relating to the procedure or to their condition following the procedure. With these means, and a medical questionnaire completed and returned by the patient ten days later, Women's Medical Group is able to evaluate the participating doctors, and thereby offer the patients a safe procedure.

Women's Medical Group has been able to control abortion pricing since July 1, for slightly over 4,000 abortions by referring only to doctors who have agreed to charge a reasonable fair price, and who have also agreed to perform 25% of the procedures at no charge at all to welfare and indigent patients. The third goal of CSI, psychological health, is perhaps the factor that makes Women's Medical Group so unusual. To achieve this goal, the Group furnishes counselors who work closely with the doctors performing the abortions. The majority of these counselors are registered nurses who have had abortions themselves, and are therefore naturally sensitive to the complicated feelings and reactions that an abortion evokes in a woman. In addition, these nurses have received special training to enable them to deal with the varied psychological aspects and impacts of abortion.

To the furtherment of these three goals, and to the further help of the women of New York, we offer these satistics on the healthiness of 4,000 abortions performed by a free standing abortion service.

For operational details of Women's Medical Group, please see the attached appendix.

Abortion safety is usually measured by comparing the rates of the following medical complications which are often associated with abortions: death, shock, bleeding, infection, perforation, and incomplete abortion.

A) In four thousand abortions performed since July 1 using a local anesthetic, there have been *no deaths* and *no cases of shock or cardiac arrest*. This perfect record should be contrasted with the death rates ranging from two to five per one hundred thousand cases, which have occurred in the European and New York hospitals due to the use of general anesthesia for early abortions. The only abortion death in London last year was due to general anesthesia.

B) The *bleeding* varied from only a few drops in four to six week pregnancies to an average of about one ounce for cases eight to ten weeks pregnant. One ounce is the amount of blood loss a woman ordinarily has during a normal period. However, in our four thousand cases we also had three women who unexpectedly turned out to be ten to twelve weeks pregnant and who lost about a pint of blood during the abortion. This does not represent a serious blood loss, since one pint of blood is the usual amount of blood given during a blood donation to a blood bank. We also had one patient who was sixteen weeks pregnant and who lost about two pints of blood. No woman required a blood transfusion or intravenous fluids. It is important to note that all four of these women were found unexpectedly to be over ten weeks pregnant, thus we have every reason to believe that no woman who is less than ten weeks pregnant will bleed on an average more than she does with a normal period, and the earlier the abortion the less the blood loss. Independent research (*Obstetrics and Gynecology,* September-1970) has shown that abortions done in hospitals with general anesthesia result in about twice the blood loss of abortions done with local anesthesia. This is probably because general anesthesia prevents uterine contraction which normally would prevent bleeding.

C) *Fever and Infection*—We had four patients of the one thousand five hundred and sixty who returned our research form, who reported they had fever of 100.4 degrees or more for one day or more. In two of these cases the fever returned to normal in two days, while in two other cases the fever returned to normal in three days. None of these patients with fever required hospitalization.

(D) *Perforated Uterus*—This is the condition resulting when an abortion instrument goes through the uterine muscle wall. We have had nine such cases in four thousand abortions. However, eight of these cases occurred during the first two thousand abortions, whereas only one of these nine cases occurred during the second two thousand cases. This indicates that as the physicians gain experience and become more skilled, they are less likely to perforate a uterus. In fact, the one later perforation was by one of the newer and less experienced physicians (and in a ten and one half week pregnancy).

Thus, we have every reason to believe that uterine perforation can be eliminated as doctors gain skill at doing early abortions. Of the first eight perforations, only three were hospitalized. Two of these hospitalizations were found to be fifteen weeks pregnant. There was only one out of seven perforations in pregnancies less than ten weeks which required hospitalization. Therefore, perforations of such early pregnancies are not as serious a complication as it has been thought to be in the past, since none of these had later complications. All three of our hospitalizations were discharged without complications within three or four days.

(E) *Incomplete Abortion*—We have had one such case wherein the physician suspected in advance that he had not completed the abortion, because he found no pregnancy tissue when he examined the tissue removed from the uterus. (We require that physicians examine all tissues removed from the uterus to make certain that they have removed the entire pregnancy.) In this case, since the patient was only four or five weeks pregnant, the physician could not be sure that he completed the abortion, since in such an early pregnancy there is little or no tissue to be found. Thus, we asked this patient to have another pregnancy test done by us two weeks later. This test proved positive, so the abortion was completed immediately without complications. Let us now compare the complication rates of these 4,000 abortions with those rates of complications in New York hospitals' early abortions. This data is summarized as follows:

Complication	New York hospitals percent less than 12 weeks	WMG gross percent all cases	WMG correct percent less than 12 weeks
Hemorrhage	0.2	0.1	0
Infection	.2	.2	.2
Perforation	.2	.2	.1
Others	.4	.025	.025
Total	1.0	.525	.325

The third column above is corrected in the sense that in it we have removed all abortion cases of 12 week or more pregnancies, since this was done in the above hospital data. Comparing the above complication rates suggest that Women's Medical Group has had about one-third to one-half the overall complication rate of the New York hospitals. Since the number of these complications is so small in both Women's Medical Group and New York hospitals, the most important fact is that the New York hospitals have had deaths whereas Women's Medical Group has had none. Generally, from this data it can be concluded that early abortions (or abortions less than 12 week pregnancies) are very safe and free from serious medical complications, whether or not they are done in a free standing abortion service such as Women's Medical Group or in a hospital, just as long as no general anesthetic is used. In fact, from the point of view of medical techniques and safety, an early abortion is similar to having a tooth pulled—both usually involve the use of a local anesthetic, both usually involve very little loss of blood, both can easily be done relatively quickly on an ambulatory basis (e.g., during a lunch hour), both have similar "non-fatal" complications and dangers which occur in the range of one per each thousand cases. Thus, in view of the new evidence of the safety of abortion done in free standing abortion services, it would seem hard to justify more medical precautions for an abortion than we require for having a tooth pulled.

[From studies in Family Planning 45:6—Sept. 8, 1969]

MORTALITY WITH CONTRACEPTION AND INDUCED ABORTION

(*The following paper was written by Christopher Tietze, M.D., Associate Director, Bio-Medical Division. The Population Council.*)

An unwanted pregnancy can be avoided by the use of contraception; an unwanted birth, by induced abortion. Since the ultimate objectives are identical, it is appropriate to compare the two approaches in terms of the risks to the woman's life associated with their use. This can be done by means of a statistical model, based on 100,000 women of reproductive age in fertile unions and exposed to the risk of pregnancy, assuming the following rates of mortality.

1. *Maternal Mortality* from complications of, or associated with, pregnancy, childbirth, and the puerperium, excluding induced abortion: 20 deaths per 100,000 pregnancies. This rate corresponds to the current level of maternal mortality in the white population in the United States. Official statistics of maternal mortality in the United States are based only on deaths attributed to complications of pregnancy, childbirth, and the puerperium. Thus defined, the rate of maternal mortality, excluding abortion, was 18 per 100,000 live births in 1964–66.

"Associated" deaths, related to pregnancy and childbirth, but attributed to other causes, e.g., heart disease, are not available for the United States. In England, where such associated deaths are identified and shown separately, they comprise about one-third of the number of deaths attributed to complications of pregnancy, childbirth, and the puerperium. Raising the maternal mortality rate for the U.S. by one-third brings it to 24 per 100,000 live births. Since the number of spontaneous fetal deaths appears to be on the order of one-sixth of all pregnancies and since very few deaths result from spontaneous abortion, an overall risk to life, excluding induced abortion, of 20 per 100,000 pregnancies would seem to be a reasonable approximation.

2. *Mortality* associated with *illegal abortion* induced out of hospital by persons without medical training: *100 deaths per 100,000 abortions.* This is a very rough estimate, and, almost certainly conservative, since it is lower than the maternal mortality rate, excluding abortion, per 100,000 live births for white women in the United States 25 years ago. Fortunately, the precise level of this rate is not relevant to the argument.

3. *Mortality* associated with *legal abortion* performed in hospital, at an early stage of gestation: *3 deaths per 100,000 abortions,* based on current statistics from eastern Europe (73 deaths among 2,567,000 legal abortions in Czechoslovakia, Hungary, and Slovenia, 1957–67).[1]

4. *Mortality* associated with *highly effective contraception: 3 deaths per 100,000 users per year,* based on the studies recently published in Great Britain, on *excess mortality from thromboembolic disease* attributable to the use of *oral contraceptives.* According to the report by Inman and Vessey,[2] the excess mortality from pulmonary embolism, cerebral thrombosis, and coronary thrombosis was 2.2 and 4.5 per 100,000 users for women 20–34 and 35–44 years of age, respectively. A weighted average of these two figures yields an annual excess risk to life of about 3 per 100,000 users.

TABLE 1.—ILLUSTRATIVE ANNUAL RATES OF PREGNANCIES AND OF DEATHS ASSOCIATED WITH CONTRACEPTION, PREGNANCY, AND INDUCED ABORTION PER 100,000 WOMEN OF REPRODUCTIVE AGE IN FERTILE UNIONS

	Pregnancies	Deaths
1. No contraception, no induced abortion	40,000–60,000	8–12.0
2. No contraception, all pregnancies aborted out of hospital	100,000	100.0
3. Ditto, aborted in hospital	100,000	3.0
4. Highly effective contraception	100	3.0
5. Moderately effective contraception, no induced abortion	11,800–13,000	2.5
6. Ditto, all pregnancies aborted out of hospital	14,300	14.3
7. Ditto, aborted in hospital	14,300	.4

Line 1 of Table 1 illustrates the reproductive behavior of a group of women neither using contraception nor having recourse to induced abortion.

The interval between two successive conceptions consists of three segments: the period of gestation (G), the anovulatory period following confinement (A), and the average number of ovulatory cycles required for a new conception to occur (O).[3] Of these three segments, the first (G) can be estimated within narrow limits as eight months, allowing for about 15 per cent spontaneous abortions. The anovulatory period (A) is known to vary widely, depending on the extent and average duration of breastfeeding. The present model allows for a range from 4 months without breastfeeding to 14 months with universal and prolonged breastfeeding. The mean value for the third segment (O), also estimated at eight months, may be too high.

The relationship between the number of pregnancies (P and P′), the number of women (W), the time factor (T), and the duration of the three segments of the interval between conceptions (G, A, and O) is defined by the following formula:

$$P = W \times T / G + A + O$$

In our model, T equals 12 months and G, A, and O are also expressed in months. The application of the formula to the estimate described in the preceding paragraph yields the following results:

$$P = 100{,}000 \times 12/8 + 4 + 8 = 1{,}200{,}000/20 = 60{,}000$$

$$P' = 100{,}000 \times 12/8 + 14 + 8 = 1{,}200{,}000/30 = 40{,}000$$

Thus, without contraception or induced abortion, 100,000 women experience in the course of one year between 40,000 and 60,000 pregnancies, corresponding to average intervals between conceptions ranging from 30 months to 20 months. Given the level of maternal mortality, excluding abortion, assumed for this model, of 20 per 100,000 pregnancies, the 100,000 women would experience between 8 and 12 deaths associated with the reproductive process.

Line 2 assumes no contraception, but all pregnancies are aborted out of hospital. Because gestation and the post-gestational anovulatory period are both substantially shorter than under the assumptions of the preceding line (G=3 months, A=1 month), the number of pregnancies rises to 100,000 with 100 deaths:

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[1] C. Tietze, "Abortion Laws and Abortion Practices in Europe," *Advances in Planned Parenthood (v.5): Proceedings of the Seventh Annual Meeting of the American Association of Planned Parenthood Physicians, San Francisco, California. 9–10 April 1969.* (In press).

[2] W.H.W. Inman and M.P. Vessey, "Investigation of Deaths from Pulmonary and Cerebral Thrombosis and Embolism in Women of Child-bearing Age," *British Medical Journal,* 2:193–199. 27 April 1968.

[3] R. R. Potter, "Birth Intervals: Structure and Change," *Population Studies,* 17:155–166. November 1963.

$$P=100{,}000\times 12/3+1+8=1{,}200{,}000/12$$
$$=100{,}000$$

In line 3, the same number of abortions is performed legally in hospitals, resulting in 3 deaths instead of 100.

Line 4 assumes a highly effective method of contraception, such as the consistent use of oral anti-ovulants under the combined regimen. The expected number of pregnancies is on the order of 100.[4] Excess deaths from thromboembolic disease equal those resulting from legal abortions in hospitals, shown on the preceding line. Because of the small number of pregnancies, mortality associated with either pregnancy and childbirth or with abortion is insignificant.

A comparison of lines 3 and 4 shows that women regulating their fertility exclusively by means of abortions performed in hospitals are exposed to a risk to life of the same order of magnitude as an equal number of women using oral contraception consistently over the same period of time.

Lines 5, 6, and 7 each assumes a less effective but completely safe type of contraception which extends the average duration of ovulatory exposure required for conception from 8 to 80 months. This level of contraceptive effectiveness was approximately achieved by urban American couples in the 1950's, using the diaphragm or condoms, mainly for child spacing, and not for family limitation.[5]

Line 5 assumes no induced abortions and the number of conceptions is computed as follows:

$$P=100{,}000\times 12/8+4+80=1{,}200{,}000/92$$
$$\cong 13{,}000$$
$$P'=100{,}000\times 12/8+14+80=1{,}200{,}000/102$$
$$\cong 11{,}800$$

The corresponding number of deaths is on the order of 2.5 per 100,000 women per year.

Line 6 assumes that all pregnancies are aborted out of hospital by lay abortionists. The number of pregnancies increase slightly, owning to the shorter gestation and post-gestational anovulatory periods.

$$P=100{,}000\times 12/3+1+80=1{,}200{,}000/84$$
$$\cong 14{,}300$$

The expected number of deaths is 14.3 per 100,000 women per year.

In line 7, the same number of abortions is performed legally in hospitals and the number of deaths drops to 0.4 per 100,000 women or approximately one-seventh of the corresponding values shown in line 3 for no contraception but legal abortion, and in line 4, for oral contraception.

On the basis of this model, the following is my conclusion: In terms of the risk to life, the most rational procedure for regulating fertility is the use of a perfectly safe, although not 100 percent effective, method of contraception and the termination of pregnancies resulting from contraceptive failure under the best possible circumstances, i.e., in the operating room of a hospital.

While comparable estimates of morbidity, associated with pregnancy and childbirth, abortion out of hospital and in hospital, and oral contraception, are not available, it is not unlikely that the pattern would be similar to that which has been demonstrated in terms of mortality.

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[4] C. Tietze, "Oral and Intrauterine Contraception: Effectiveness and Safety," *International Journal of Fertility*, 13 (4):377–384, October–December 1968.

[5] P. C. Sagi, R. G. Potter, C. F. Westoff, "Contraceptive Effectiveness as a Function of Desired Family Size," *Population Studies*, 15:291–296. March 1962.

[110 American Journal of Obstetrics and Gynecology 580 (1971)]

ASPIRATION ABORTION WITHOUT CERVICAL DILATION

(By Sadja Goldsmith, M.D., Alan J. Margolis, M.D.)

SAN FRANCISCO, CALIF.—While aspiration abortion is accepted widely as a safe and effective technique, any modification is important which will make the procedure more simple, more safe, and less time-consuming without sacrificing completeness of uterine evacuation. Also, if performed without anesthesia or only with paracervical block, an anesthesiologist need not be in attendance and the morbidity of general anesthesia is not incurred.

Although it has been customary to use a cannula whose outside diameter in millimeters is equal to the duration of pregnancy in week,[1] evacuation can often be effected without dilation.[2] Such a technique shortens the procedure, decreases discomfort in the conscious patient, and decreases risk of cervical injury.

Our study was conducted to test the efficacy of a flexible 6 mm. diameter plastic aspiration cannula* developed by Harvey Karman to remove early first-trimester products of conception. This flexible cannula has two openings at its tip which permit bending without blockage if it is applied to the uterine fundus.

PROCEDURE

Seventy-two pregnant women whose last menses had occurred 10 weeks or less earlier were selected only on the basis of their willingness to be aborted while awake.

Preliminary procedures † included a medical and psychosocial history, physical examination, routine laboratory studies, Rh-antibody screening, and cervical culture for gonorrhea. The abortions were performed on a come-and-go basis at this medical center in a small surgical room attached to an operating suite. Many patients received an oral analgesic one hour before the procedure, while others had no premedication.

A medium Graves speculum was used to expose the cervix, which was then fixed with a tenaculum. A paracervical block was performed by injecting 4 ml. of one per cent lidocaine at each of 4 sites (3, 5, 7, 9 o'clock) 1 cm. deep to the vaginal fornix. The operator cleansed the cervix and vagina with povidone-iodine solution while waiting for the block to become effective. The uterus was sounded to verify its depth and confirm its inclination. The 6 mm. cannula was then passed to the fundus and, while negative pressure (60 to 70 cm. Hg) was applied, it was moved within the uterus to aspirate all parts of the cavity. The duration of aspiration was timed and the procedure was concluded when the uterine walls seemed closely applied to the cannula.

Completeness of evacuation was checked by exploring the uterine cavity with a small curette. When aspiration through the 6 mm. cannula did not produce sufficient tissue, the cervix was dilated to 8 or 9 mm. and a larger aspirator was used to ensure total tissue removal. All specimens were examined to confirm the presence of the products of conception, then sent to the pathology laboratory. Aspirated blood and amniotic fluid were also measured. The patient was discharged within an hour, with an appointment for a 2 week postabortion visit.

During the procedure, each patient was attended by a counselor who explained the procedure and gave encouragement and support.

RESULTS

Of the 72 women (Table I), aspiration abortion was completely successful in 67; 4 required cervical dilation and a larger cannula to empty the uterus. In 1 primigravida the internal os could not be identified by probe or small dilator. The procedure was stopped, and 2 weeks later abortion was performed without difficulty under general anesthesia. Mean aspiration time for the 67 successful cases was 3 minutes (range 1 to 7 minutes), and blood loss average 58 ml. (range 10 to 170 ml).

No patient presented any evidence of a morbid, febrile postabortal course. One patient was observed in the hospital after abortion because products of conception were not positively identified in the pathology laboratory and a diagnosis of ectopic pregnancy was considered but not confirmed. Another patient was seen 7 days postabortion in the emergency ward with the sudden onset of uterine bleeding. She was sent home with a diagnosis of nonsignificant bleeding from the organizing placental site. Five patients telephoned with minor questions which required reassurance only.

Seventy of the 72 women were seen at the 2 week postabortion checkup; the other 2 verified by telephone that they had no problems.

COMMENT

Abortions performed on healthy women, many of whom are young primigravidas, require meticulous scrutiny and safeguards to minimize early as well as late morbidity and death. There are several obvious advantages in performing early abortions without general anesthesia or cervical dilation. By avoiding general anesthesia, a small but definite risk is eliminated and the procedure is more economical of medical personnel and cost. Without cervical dilation, the conscious patient experiences primarily the cramps of terminal uterine spasm of short duration as the products of conception are completely removed. For this, the patient is amenable to verbal support and the encouragement of being able to leave the unit promptly and in full possession of her faculties.

TABLE I.—RESULTS OF EARLY ABORTION WITH THE USE OF THE 6 MM. FLEXIBLE CANNULA

	Total cases	Cases by weeks of gestation from last menstrual period			
		7	8	9	10
Abortions performed	72	2	15	32	23
Primigravidas (age range 16 to 36)	43	1	7	17	18
Multigravidas (age range 17 to 39)	29	1	8	15	5
Cases requiring larger cannula (8 or 9 mm.)	4	0	0	0	4

Avoidance of cervical dilation eliminates the risk of perforation with a dilator. It may also decrease the incidence of premature delivery in subsequent pregnancies, an abortion sequela discussed by Klinger.[3]

At our institution,[4] the most significant morbidity in a large series of first-trimester induced abortions was related to occasional uterine perforation and possible bowel complications. The ease with which the 6 mm. cannula tip bends without blocking aspiration diminishes this risk of perforation.

Early abortion without cervical dilation appears to be a safe and simple enough procedure to be used on a mass basis for early interruption of unwanted pregnancy. With well-qualified personnel who are careful to accept only pregnancies early in the first trimester, and who perform the aspiration technique skillfully, out-of-hospital abortion in well-equipped, licensed facilities seems feasible.

Footnotes at end of article.

FOOTNOTES

[*] Supplied as Vacurette F–6mm by Berkeley Bio-Engineering Company, Berkeley, Calif.

[†] Approval of patients for abortion was in accord with the revised California statute.

[1] Kerslake, D., and Casey, D.: Obstet. Gynec. 30: 35, 1967.

[2] Papazov, B., Atanasov, A., and Mikhneva, O.: Akush. Ginek. (Sofiia) 4: 45, 1965.

[3] Klinger, A.: Int. J. Gynaec. Obstet. 8: 680, 1970.

[4] Stewart, G.: Personal communication.

THE HONORABLE J. EDGAR HOOVER

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 60 minutes.

Mr. HOGAN. Mr. Speaker, I requested this Special Order today to eulogize J. Edgar Hoover and to give other Members an opportunity to include their remarks concerning his passing and his service to the country. One of the most important experiences of my life has been the years from 1948 to 1958 when I served with the FBI under Mr. Hoover's leadership. While the reputation of the FBI is outstanding in the eyes of an overwhelming majority of Americans, unless one has had the actual opportunity to see its workings from the inside, it is impossible to be able to really measure the efficient operations, the dedicated service to the American people, and the zealous concern with protecting individual liberty.

It has been a source of deep regret to me that in the past few years, Mr. Hoover and the FBI have been subjected to so much unfair and unjustified criticism. My colleagues know that I have taken the floor of the House to defend Mr. Hoover and the FBI against erroneous, unfair charges on a number of occasions. Because of his unblemished record in service to the country, some of our colleagues, for reasons best known to them, have joined in this cacophony of unwarranted abuse and criticism.

J. Edgar Hoover has had a tremendous influence on the history of this country and on those of us who had the privilege of serving with him. His 48 years of public service are unparalleled. At the age of 29 on May 10, 1924, Mr. Hoover was named Director of the scandal-ridden Bureau of Investigation. At that time Attorney General Harlan Fiske Stone told the young man:

> I want you to take over as Acting Director of the Bureau of Investigation.

Young J. Edgar Hoover, who had worked in the Department since 1917 and had served as Assistant Director of the Bureau for 3 years, replied that he would take the job on conditions that it be divorced from politics, that appointments and promotions be based on merit and that the Bureau be responsible to the Attorney General only. The Attorney General replied:

> I wouldn't give it to you under any other conditions.

Since that time, Mr. Hoover molded the FBI into the modeled law enforcement agency that it is today. Mr. Hoover set a rigid standard of personal behavior and performance for himself and all employees of the FBI. He has never tolerated any compromise with excellence or integrity in service or personal behavior.

By taking the FBI out of the sphere of political influence, Mr. Hoover built it into an organization which earned public respect and gratitude. He served under eight Presidents of both political parties and 16 Attorney Generals. As a lifelong resident of the District of Columbia, he has never been affiliated with either political party. One of the keys to J. Edgar Hoover's successful administration of the FBI has been the personal conduct standards which he has insisted upon.

From my personal experience, I know that the FBI credentials generally were an instant entree to complete cooperation from the average citizen because they had confidence in Mr. Hoover and the organization which he built. Any enumeration of his accomplishments with his 48 years with the FBI would take more time than I have in this 1 hour Special Order, but some of the highlights are: the nationwide centralization of criminal fingerprint records in the FBI Identification Division in 1924; the establishment in 1932 of the FBI Laboratory; the establishment in 1935 of the FBI National Academy which provided advance training for select law enforcement officers from all over the country; the establishment of the FBI National Crime Information Center.

These are landmarks, not only in the FBI's evolution, but in the history of law enforcement. But as far as I am concerned, Mr. Speaker, the No. 1 accomplishment of J. Edgar Hoover was that he transferred hero worship from the criminal element to the law enforcement officer. In the early years of his directorship notorious criminals such as John Dillinger, Alvin Karpis, Ma Barker, Pretty Boy Floyd, Machine Gun Kelly, et cetera, were the scourge of the country. In those depression years when so many of our citizens were out of work a great many people hero worshipped these criminals who were robbing banks all over the Nation.

The feeling was prevalent that only rich people had money in banks so many people applauded what this criminal element was accomplishing. J. Edgar Hoover, by attracting intelligent, dedicated, fearless young men to the FBI's service, declared an all-out war on these public enemies and with daring and courage captured the imagination of the American people. The FBI agent and all law enforcement then became the heroes, replacing the criminal heroes in the public's admiration.

Mr. Hoover believed in the supremacy of the law. He was a man of integrity, honesty, and fair mindedness. All throughout his career he urged the American people to respect the law. He emphasized that the law is the archway through which men and women achieve justice and security. He warned that if you take away that archway the Government will crumble into anarchy and chaos. It is appropriate that his passing came on May 1 which we commemorate in this country as Law Day.

One of the secrets of J. Edgar Hoover's success and that of the FBI was that he was able to instill in his employees the necessity for excellence in performance and integrity in personal behavior. He imposed his own high standards on all employees and, as I said, that is the reason that cooperation was so promptly and fully accorded to FBI agents by American citizens.

The achievements of the FBI would not have been possible were it not for the dedication and discipline of the FBI's longtime Director. We, as Americans, will be forever in his debt. The monument to his time on earth is not only the great organization which we know as the FBI, but the respect for the law which is so essential for the survival of our democracy. J. Edgar Hoover's passing is a loss of incalculable magnitude but the legacy he leaves behind for us must most assuredly have given him the satisfaction which comes from having lived a life of accomplishment and unselfish, dedicated service.

Mr. Speaker, at this time I include herein the remarks of other Members who will join with me in this Special Order and one of J. Edgar Hoover's last major addresses which he gave before the 25th anniversary dinner of the Washington Chapter of the Society of Former Special Agents of the FBI on October 22, 1971, as well as an interview with him which appeared in Nation's Business magazine in January of this year:

REMARKS OF J. EDGAR HOOVER

It is a pleasure to be able to participate this evening in the festivities marking the 25th Anniversary of the Washington Chapter of the Society of Former Special Agents of the FBI. It is particularly fitting that such a significant event is being commemorated in this superb setting.

As you are aware, a new Headquarters for the Bureau is very gradually emerging from the ground on Pennsylvania Avenue across the street from the Justice Building. One local newsman has compared it to the building of a "Great Pyramid." I feel I must disagree with his observation . . . I am convinced that the ancient Egyptians were able to build their pyramids in far less time than it is taking to erect our new building.

There are some who maintain that the only reason I am staying on as Director of the FBI is to be present at the dedication. This is absolute nonsense. At the rate the building is going up, *none* of us will be around by the time it is completed.

This, of course, is the fervent wish of some of my more virulent critics. One of them . . . his name escapes me for the moment . . . has apparently fallen off his merry-go-round once too often.

Last spring he spent considerable time sifting through my garbage. I'm not complaining, mind you. In fact, my only reason for mentioning it is that I understand he is becoming increasingly confused between the trash he examines and the trash he writes.

Remarkably consistent in his disregard for the truth, my personal garbage sorter recently alleged that I had censured and transferred an FBI Agent because he was not properly attired at the time he killed an armed hijacker holding a stewardess hostage at the Kennedy Airport in New York.

You may be sure that no such censure

has ever included anything like the commendation and the $500 check that this cool-headed young man received for averting what could have been a real tragedy. Under the circumstances, is it any wonder that there are some who question the accuracy, no less the integrity and motives of some so-called news scavengers?

Maybe those of us in the FBI are narrow-minded when we frown on indiscretions involving unmarried couples . . . Maybe we are intolerant when we refuse to permit our personnel to participate in the activities of groups and organizations that are hostile to our government . . . Maybe we are old-fashioned when we frown upon extreme hair styles and wearing apparel. If we are, I am confident that you and the majority of the American people share our views.

The Bureau's achievements over the years have been the direct result of the kind of men and women who have served in the FBI . . . people like you . . . clean-cut, highly intelligent, dedicated Americans of the finest moral character who are totally loyal to their country and to the organization for which they work.

We have exacting standards in the FBI and we apologize to no one for them. We have no intention of arbitrarily compromising these standards to accommodate kooks, misfits, drunks, and slobs . . . Were we to do so, you may be sure we would eventually merit the unwarranted criticism we now receive.

Over the years, law enforcement, including the FBI, has borne the brunt of criminal violence. Twenty-three Special Agents, whose memories we revere, made the supreme sacrifice. I am sure there are some in this room who may have known or worked with one or several of these heroic men. All of you have shared their hardships and dangers and we can be grateful that the toll in human life hasn't been greater.

The hazards of being a law enforcement officer . . . an FBI Agent . . . continue to increase at an alarming rate as certain elements in our society are determined to defy lawful authority and are encouraged in it by some vituperative segments of the news media.

Despite the fact that FBI Agents act in self-defense and use firearms only as a last resort . . . armed criminals, displaying shocking contempt for authority and human life, have engaged our personnel in 67 gun battles since 1966. In addition . . . during a recent 12-month period, no less than 105 Bureau Agents were assaulted while fulfilling their official responsibilities.

Disregard for law and order is encouraged by hate-mongers, extremists, and others who assert that revolution against society is justified and necessary . . . and that men should be permitted to murder, rob, loot, and pillage with impunity to achieve their goals.

Some of us are old enough to remember the hoarse, terrifying, mindless roars of Hitler Youth; and though it is a frightful thing to say, it must nevertheless be said: A thing not too dissimilar from Hitler Youth has been abroad upon the campuses, and elsewhere in this country.

They have twisted and perverted rights into license of intellectual terrorism, into a conscious subversion of lawful national purposes constitutionally arrived at.

The U.S. Supreme Court has said, "Civil government cannot let any group ride roughshod over others simply because their 'consciences' tell them to do so."

Disregard for law and order is the anarchistic banner of those who want the rule of no rule . . . who profanely proclaim that all of the values of the past have failed mankind and that real progress can only be achieved by discarding tradition, demolishing our democratic institutions, and ultimately destroying our existent society.

Disregard for law and order is the stock-in-trade of vicious hoodlums who are encouraged to think and act as if they are without fault, but who suffer from spiritual malnutrition.

It is the end product of a chaotic philosophy which maintains that there is no such thing as right or wrong, guilt or innocence, and which accuses responsible authority of violating rights and restricting freedom when it responds to protect society from vile depredations.

Society, to survive, must protect itself from the lawbreaker. Of course, there are some who maintain that to imprison a criminal, to place him behind bars, is to dehumanize him.

Incarceration for the lawbreaker is certainly no more dehumanizing than a rationale that would have us believe that man is without fault and should not be held responsible for his deeds . . . that he is a helpless victim of forces that he can neither master nor control . . . that he is in effect a mindless brute who, while he walks erect, is really no different from the savage beast.

Warped and distorted concepts such as these only serve to encourage the lawless and erode the moral and spiritual strength of our Nation.

Too long we have concerned ourselves with the plight of the criminal. We have coddled him, we have shown him our compassion, our mercy and our leniency and, unrepentant, he has shown us his contempt.

Justice is not served when innocent victims and society suffer while the vicious criminal goes free.

Justice cannot be served when the rights of society are trampled in our courts by over-indulgent judges and misguided attorneys whose overriding concern for the criminal and obsession with legal technicalities have all too often distorted the true meaning and purpose of our constitutional guarantees.

Justice cannot be served as long as penal institutions fail to rehabilitate and conditions continue to exist in our revolving-door systems of parole and probation whereby convicted felons are unleashed on society, more eminently qualified to resume a life of crime than when they were imprisoned.

It is time we stopped coddling the hoodlums and the hippies who are causing so much serious trouble these days. Let us treat them like the vicious enemies of society that they really are regardless of their age. Let the punishment fit the crime, not the age.

Justice is not a separate thing—it is inherent in law and order.

Nor can justice be served as there are some who suggest and others who believe that law enforcement itself is a sinister threat to our free society. There are a few journalistic prostitutes who in their jaundiced outlook upon realities and truth attribute the increase in crime as somehow the fault of the FBI or the result of inadequate performance by it. They do not merely skirt but ignore completely the fact that the overwhelming part of the increase in crime has been in areas where the FBI has neither the authority nor jurisdiction, namely at the local and State level.

As Abraham Lincoln once said, "When you see a lot of different people all popping off to the same effect at the same time, you have very good reason to believe that a concerted campaign is afoot."

While intemperate voices raise cries of police brutality and police repression with little to support their contention, there are others who regard the use of science, the computer, and other technical advances as a potential threat to their freedom.

To serve the public properly in a society that grows ever more complex, to contend with the criminal who becomes ever more mobile, law enforcement, to succeed, must continue to seek improvement in its training, methods, and techniques.

I would be less than candid if I were to maintain that there are no longer incompetent policemen and abuses of police power, for the record shows otherwise. Unfortunately, the one bad police officer, the one who commits that isolated act of brutality, turns up among thousands of outstanding men, and becomes the symbol of all policemen rather than the exception that he is.

Extremists and hate groups which are committed to violence use allegations of police brutality and repression as an excuse for their malicious activities and to discredit the entire law enforcement profession.

Incredible as it may seem, there have been instances in which the news media, particularly television, have accepted without question wildly improbable allegations made by hate groups against the police and, even when the facts have been readily accessible, certain segments of the media have, for whatever reason, chosen to ignore and disregard them. Unfortunately, the truth never seems to catch up with the "big lie," and even if it does, it is too late to undo the harm that has been done in denigrating the forces of law enforcement.

The publication of drivel, while admittedly a right—is not the best way of discharging the precious responsibilities of a free press.

Criticism, of course, is essential in our democratic society. . . but criticism, to be valid, must be based on knowledge and a desire to correct deficiencies. The foundation of any news media should be truth, objectivity, and justice.

Criticism without basis is demoralizing and serves the interests of those subversives and criminals who seek to serve only themselves and not democracy. No man has the inherent right to place himself above and beyond the law, even though he may personally consider that law to be onerous.

It is time for the voices of logic and decency to be heard and to make their influence felt.

People of goodwill must rededicate themselves to building greater public respect for and confidence in law enforcement in the crucial role it plays in our survival.

We are citizens of the greatest nation on the face of the earth. We enjoy the most envied way of life known to man. If we are to survive as a nation, we must challenge the attitude of those who have been selling America short . . . who want to destroy, who want rights without responsibilities, and who encourage disrespect for law and order.

We live in a period of stress and turmoil . . . in times that demand spiritual strength and moral fortitude. If this country is going to wage an effective war against crime, it cannot be done by lessening the severity of the present laws but by enforcing them.

This nation's greatness and our freedom are based solidly on respect for the law.

Difficult and trying days lie ahead. The FBI, undaunted and ever mindful of its obligations to the American people, faces the uncertain future with confidence and determination. This is our pledge to you who have given us your loyal support and made important contributions to the success of the FBI.

The going will be tough . . . however, when the going *gets* tough, the *tough* get going.

J. Edgar Hoover Speaks Out

About Presidents he has known; Attorneys General he has known; Crooks he has known; Organized crime in business; The FBI—past, present and future; and Demands that he retire.

Almost 48 years ago, a hard-working young Justice Department lawyer was called into the office of then Attorney General Harlan Fiske Stone and told: "I want you to take over as acting director of the Bureau of Investigation."

J. Edgar Hoover reflected for a moment. A Justice Department employee since 1917, he had been assistant director of the Bureau for three years, agonizing all the time as it became increasingly a product of the political spoils system.

"I'll take the job, Mr. Stone," he replied, "on certain conditions":

The Bureau must be divorced from politics. Appointments and promotions must be based on merit, and the Bureau must be responsible to the Attorney General only.

"I wouldn't give it to you under any other conditions," the Attorney General said. "That's all. Good day."

In the years since then, John Edgar Hoover has seldom been out of the public eye as he has molded the Federal Bureau of Investigation into a model law enforcement agency and kept it that way. (The word "federal" was added to the Bureau's title in 1935. The word "acting" was dropped from Mr. Hoover's own title a few months after his appointment.)

"FBI" became an abbreviation that commanded the respect and cooperation of citizens.

"G-Man" became a nickname feared by criminals and subversives.

Mr. Hoover set a rigid standard of personal behavior for himself and for the people of the FBI. To attain a goal of excellence, he believes there is one essential: integrity of self and deed. With absolutely no compromise.

A lifelong bachelor whose work is his first love, he does find time for other interests, too. In the evenings at his two-story house in a pleasant Northwest Washington neighborhood (a housekeeper oversees the establishment), he relaxes in front of the television set and in the company of his two cairn terriers. ("Naturally, they're spoiled. They boss me around.")

He loves gardening and is proud of his roses. And now that he's put down artificial turf in his spacious back yard, "I can forget about seeding grass every year. This stuff is wonderful."

His favorite sport is horse racing. A big reason is that "you can relax completely. I love to watch the horses run." The Ex-Agent Association recently gave him a statue of a stallion—"the first I've ever owned, though I've supported many of them."

He was also a fan of the Washington Senators before the franchise was moved to Texas last fall, and frequently went to games with Richard Nixon when he was Vice President. (Mr. Nixon "knew all the players by name and everything about them—batting, fielding, everything.")

His favorite vacation spot is La Jolla, Calif., and if he were an agent in the field, that's where he'd most like to be assigned. His second choice would be Butte, Mont.

"I've been accused of using Butte as a kind of Siberia for agents that displease me," he says with a chuckle. "When that allegation was made, I checked up and found we actually had 144 requests from agents to be assigned there. You know why? It's close to Glacier National Park, and some of the best hunting and fishing in the world is around there."

Mr. Hoover, 77 this New Year's Day, has been warmly lauded for his performance as director of the FBI. An inner corridor leading to his office is lined with plaques and citations from scores of organizations and with mementoes from notables he has known.

In recent years, he also has been the target of criticism, a fact he accepts as inevitable in light of the position he holds.

In this interview with editors Jack Wooldridge and Wilbur Martin of NATION'S BUSINESS, Mr. Hoover talks over many of the highlights of his career, taking note of achievements for which he has won praise as well as matters for which he's been criticized, and discussing other subjects ranging from Presidents and Attorneys General he has known to crooks he has known.

You have served under eight Presidents. Were you closer to some than others?

President Coolidge I only knew officially. I became very, very close personal friends with Herbert Hoover, but really this was after he left office. He was chairman of the board of the Boys' Clubs of America and I was a board member. I got to know him quite well.

I didn't know until he told me years after he left office that he was responsible for my being named director of the FBI. As a young lawyer in the Justice Department, I had worked with the Senate Foreign Relations Committee on an investigation of whether we should restore recognition to Russia. I had come to the attention of Mr. Hoover, who was then Secretary of Commerce.

Attorney General Stone mentioned to him that he was looking for someone to put in charge of the Bureau and Mr. Hoover recommended me.

I always felt President Hoover was terribly wronged. Everyone blamed him alone for the Depression. He was a very shy man, you know, very human. We used to walk down the street in New York City after he had been President and no one recognized him. I thought, "How terrible, to be forgotten."

I was so pleased that in his later years he was recognized for the great man that he was.

I was very close to Franklin Delano Roosevelt, personally and officially. We often had lunch in his office in the Oval Room of the White House. During his Presidency and afterwards, at Gettysburg, I was close with Gen. Eisenhower. He was a great man and a great President.

I lived across the street from Lyndon Johnson for 19 years. We were very close friends and this friendship continued during his Presidency and to this day. I hear from him regularly.

When he was in the Senate, and we were neighbors, he had a little dog he called Little Beagle Johnson. Every few days he would come over in the evening and say, "Edgar, Little Beagle Johnson's gone again. Let's go find him."

And we would go off looking all over the neighborhood.

When he was President, two of LBJ's beagles died. One swallowed a stone and the other one was run over by a Secret Service car.

I got a little beagle from a kennel in Atlanta and gave it to him. One day, I was visiting at the White House and he said, "Let's go look at the dogs." We were walking along when all of a sudden he hollered, in his big, Texas voice right in my ear, "Edgar, where are you?"

Well, I was right beside him and I didn't know what he meant. "I'm here, Mr. President," I said.

"Oh, I don't mean you," he answered. "I mean the dog, the beagle. I call him Edgar."

I had a letter from President Johnson just a few weeks ago and he told me Edgar was doing just fine on the ranch in Texas.

Of course, I have been friends with President Nixon for a long time. I first met him on the Alger Hiss case. A lot of hatred for President Nixon stems from this case, from some of the liberals and pseudoliberals who've never gotten over this case. I think much of the hatred for me stems from this case, too.

[Mr. Nixon, then a Congressman, played an active role in the case, in which Hiss, a former State Department official accused of having passed on secrets to the communists, was convicted of perjury.]

President Nixon has changed materially. He's much more extroverted today than when I first met him. That's good. I think he's doing an excellent job as President, despite the brickbats he gets thrown at him from some of the media. He never loses his cool. He's done an excellent job on economic matters and I think his coming trips to China and Moscow will turn out well. He knows how to negotiate with people without giving up principles.

You have also served under 16 Attorneys General and once termed Ramsay Clark the least effective. Who was the best?

Oh, that's hard to say. There are a half dozen that stand out, those I was very close to.

There was Harlan Fiske Stone who served under President Coolidge. He appointed me and we were very close. After he became Chief Justice of the Supreme Court he often would stop by. He'd say, "Edgar, I've come by to get an account of your stewardship." He considered me the steward of the FBI.

Then there was John G. Sargent [who also served under President Coolidge]. He was a big man, 6 feet 6 or 7, and wore a size 15 shoe. His feet always hurt and sometimes when I went home with him to lunch, he'd take his shoes off. He was like the mountains of Vermont—solid, very solid.

Herbert Brownell [under President Eisenhower] is a great lawyer, a great administrator. And Bill Rogers [William P. Rogers, now Secretary of State]. We were very close. When he was Attorney General and President Nixon was Vice President, we would frequently spend the Christmas holidays in Miami Beach together.

Frank Murphy [who served under President Roosevelt] was a very close personal friend. I don't know why. In the beginning, we were so opposite philosophically. Murphy was very shy and stiff in public. But in private he was the life of the party. After he was named to the Supreme Court, I would go up and we would walk from the Court to the Washington Hotel, where he lived.

Of course, there's John Mitchell, the present Attorney General. He is a very able man, a very down-to-earth individual, very unlike those Herblock cartoons in *The Washington Post*.

And I'm completely fascinated by his wife. Martha is a wonderful person. She speaks her mind. She has integrity in thought. I like that.

I was very close to the wives of some of the other Attorneys General. Mrs. Homer Cummings [her husband served under President Roosevelt], Mrs. Brownell, Mrs. Rogers.

What, in your mind, has made you successful in your administration of the FBI?

Principally, instilling in every FBI employee the absolute need for excellence in performance.

A law enforcement agency is only as good as the support it receives from the public. Over the long run, the public cannot be fooled. Only demonstrated performance produces the respect and cooperation necessary to achieve the results FBI responsibilities demand—and which the public has every right to expect.

This attention to a goal of excellence requires its sacrifices. It means long, often grueling hours of work on the part of our special agents. It means they must maintain personal conduct standards that raise no question as to our capacity to discharge FBI duties with skill and integrity, strict impartiality in conducting investigations, and self-discipline to withstand the frequent taunts and abusive manners of those who would impede the performance of our lawful obligations.

Some of my critics have charged me with being a harsh and autocratic administrator, but they fail to recognize the trust that must be generated from the proper discharge of FBI responsibilities. This fact leaves little room for error. An enforcement agency, by the very nature of its duties, is an easy and natural target for criticism.

You spoke of critics. In recent years, the most persistent criticism concerning you, Mr. Hoover, has been that you should retire and hand over the reins of the FBI to a younger man. What is your reaction to this?

I don't consider my age a valid factor in assessing my ability to continue as director of the FBI—any more than it was when, at the youthful age of 29, I was appointed to this position. I was criticized then as "the Boy Scout." Now, I'm called "that senile old man."

My appointment to head the FBI was based on performance and I believe that same standard should apply to any evaluations of my fitness to continue in this post.

Years are only a guide to a person's age and have little meaning when attempting to equate them with ability, vigor and demonstrated performance.

This is what I believe many young people are talking about today when, in spite of their youth, they demand a more active role in our society commensurate with the many obligations they are required to shoulder. And they are right.

Many of our great artists and composers did their best work in their 80s. They were judged on performance, not age. Other leaders, too.

Look at Bernard Baruch; he was brilliant in his 90s—and Herbert Hoover and Douglas MacArthur in their 80s.

That is my policy. I judge a man on the quality of his performance. So long as I am blessed with good health and enthusiasm for my work, I would hope that I may be judged in this same manner.

How much has the FBI grown since you assumed its leadership?

When Attorney General Stone appointed me on May 10, 1924, to head what was simply called the Bureau of Investigation, the Bureau had 441 special agents.

Compared with today, the Bureau's jurisdiction was quite limited. Through the years Congressional enactments, Presidential directives and orders of the Attorney General have substantially increased our jurisdiction to some 185 federal investigative matters.

We have 59 field offices located throughout the U.S. and Puerto Rico. In addition to these major offices, there are hundreds of resident agencies or suboffices. All told, the Bureau now has approximately 19,000 employees, and over 8,000 of these are special agents.

I might say here that the average agent works overtime 2½ hours every day, but gets paid only for one hour and 49 minutes, the legal limit. I think the amount of overtime is grossly excessive, but it's necessary because of the vastly expanded duties given the Bureau.

Has the nature of your own work changed as the Bureau has grown?

In the early days, I could get out and visit the field offices every year, personally see the agents in action, and spot those with potential, those who did more—or less—than their duty.

I can't do that now. I have to stay here.

I spend a lot of time in preparation for testimony before Congressional committees, and in testifying.

But the FBI inspection division reports to me on what you might call "the blood pressure of the service." It makes inspections of every field office—not to get somebody, but to find the soft spots, if any. We can't afford these.

Another difference is that in the early days, I could get out on cases. I wish I could do that now, but somebody has to run things here. I still sweat the hard cases out, though, here at headquarters.

The plane hijackings, for example.

What were some of the cases you went on?

Some were publicized, some were not. There was one involving John Henry Seadlund, in the '30s. He was wanted for the kidnapiing and murder of Charles S. Ross [a wealthy St. Paul, Minn., businessman]. Seadlund was arrested at the Santa Anita race track in California and I flew out there to get his confession.

In the FBI, we have never countenanced any rough stuff, never any "third degree." I believe psychology plays a large part in dealing with criminals. Psychology and integrity, even with criminals. This case makes that point.

I talked all day to Seadlund and I hadn't had any sleep. Or food. I asked him if he wanted something to eat.

"What do you want to know for?" Seadlund snapped at me. "You won't get it for me." I asked him pretty bluntly, "What do you want to eat?"

He said, "Steak, potatoes, and pie à la mode." I told an agent, "Just double that order."

The next day Seadlund asked to see me. He told me, "Well, you kept your word and got me my steak. Now get your steno and I'll tell you what you want to know." I got a full confession.

So psychology and integrity are tremendously important. FBI agents were warning suspects of their constitutional rights long before it was required by law.

We had to take Seadlund to St. Paul. When we left Los Angeles it was 78 degrees and when we got to St. Paul it was zero. We had to hide out from the press in the woods for two or three days, looking for the bodies of Ross and Seadlund's partner, whom he had also killed.

I asked one of the agents to get me some warm clothing. He brought me a suit of red woolen underwear. He could have at least gotten white, but it was a gag and it was appreciated.

Weren't you also personally in on the Alvin Karpis affair?

Of course, there was Karpis. He was part of the Ma Barker gang, and kept sending me postcards from all over the country, saying he was going to kill me like Ma Barker and her son [Fred] were killed in a gun battle in Florida. I passed the word that whenever we spotted him, I wanted to make the capture personally.

Well, we tracked him to New Orleans [in April, 1936] and I flew down there.

We try to make an arrest at dawn, or some other time when there aren't many people on the street. But we had to do this one at 5 in the afternoon. Karpis had been holed up in an apartment on Jeff Davis Parkway and it was the rush hour and there were people everywhere.

Karpis and a companion suddenly walked out of the house and got into a car. I ran up on one side and grabbed him. Another agent went to the other side and grabbed the other fellow.

I said, "Bring the handcuffs," but everybody had forgotten to bring handcuffs. So an agent who had grown up on a cattle ranch said, "I can tie him up so he can't move." And he did, tying his hands behind him with a necktie.

When we got into the car, Karpis called me by name. I asked him how he knew who I was and he said, "Oh, I saw your picture in the paper in Miami." I'd had my picture taken when I caught that sailfish on the wall over there, the only one I've ever caught. Karpis said that my luck was better than his, that he'd been trying to catch one for three years.

On the way downtown, the agent driving the car got lost.

Karpis spoke up, wanting to know where we were going. I asked him why he cared and he said, "Well, if it's to the post office building, I can tell you how to get there. I was planning to rob it." So he directed us.

The agent who was driving heard from me later.

You have always shown particular interest in kidnaping cases, haven't you?

Yes. Every case is important, but kidnapings strike me as being extremely vicious crimes against society. Often they involve young children or other family members. I don't think there is anything worse than the kidnaping of a child and the agony of the family. I look with a great deal of personal satisfaction on our accomplishments in these cases.

We first got the name "G-man" on a kidnaping, the Urschel case. [Oklahoma oilman Charles F. Urschel, kidnaped in 1933 by the George "Machine Gun" Kelly gang. Caught in a house in Memphis, Tenn., Kelly cringed and cried, "Don't shoot, G-men, don't shoot, G-men!"]

The federal kidnaping statute, passed in 1932 after the Lindbergh baby kidnaping, as well as a series of other special "crime bills" in the early '30s, greatly expanded our responsibilities in that field.

Do you have any advice on how to keep in good health?

I try to stay in good health by avoiding excesses. Moderation in everything you do is a good rule. I take a physical every year and the last one showed I was in better shape than when I took the first one, in 1938. I had to lose a little weight after that one.

All of our agents must be in top physical condition. They can be a little underweight, but they can't be overweight. When I put that rule in, some men groaned a little. But the wives all think it is great.

I exercise every morning on an exercycle.

I try to get enough sleep each night, but not too much.

In the evening I relax and watch television. I usually have a highball, maybe two. But never more than two. Jack Daniels black label—on the rocks, with a dash of soda. I never drink martinis. Martinis are poison. Nobody can drink four and be sober.

I never take work home with me Monday through Friday. But I take a lot of work home with me on the weekend when I have time to think.

Of course, I watch my diet. Again, you have to do everything in moderation.

I have two little cairn terriers. One is 17, blind and deaf, and the other is four. She's a little hussy, bosses the older one around. At breakfast, they get my bacon and eggs. I get the fruit juice and black coffee.

I always have the same thing for lunch: grapefruit, cottage cheese and black coffee. And usually I eat at the same place [the Mayflower Hotel].

I like to relax at lunch. One of the things that irritates me is for people to come up and ask, "You don't know me, do you?" I always say, "If you were ever in Alcatraz, I know you. We'd have a record on you."

My dinner at home is always moderate. I'd love to have a piece of chocolate cream pie. But I don't. Moderation in what you do, integrity in what you do. I believe in that absolutely.

Horse racing is your favorite sport. Have you seen any of the great winners?

Yes. I saw Whirlaway, for example.

As a matter of fact, I was at Aqueduct and asked a friend with me to get a ticket on him. He came back with a ticket on the wrong horse, Tola Rose I think it was, a 20–1 shot. Whirlaway was something like 2–5. And Tola Rose won. I told him I should let him pick the horses every time.

One fellow I wouldn't let ever pick a horse is George Allen [a friend of Presidents Roosevelt, Truman and Eisenhower]. He always bets three horses in the same race—to win.

President Eisenhower used to give George $5 to bet for him every now and then. I told President Eisenhower, "I'd never let George bet for me. He's the worst at picking horses I ever saw."

George said that if I'd told that to anybody else but the President, he'd have sued for slander. We're very good friends.

What are your 10 most important accomplishments as director of the FBI?

It's difficult to pick out any specific number of accomplishments. Certainly among the most important was cleaning up the Bureau, cleaning out the political hacks. This was the mandate given to me by Attorney General Stone when he appointed me. Also, winning the support the FBI has consistently received over the years from the law-abiding and concerned public.

Without these, it is doubtful the FBI could have realized many other accomplishments. I am particularly proud that FBI performance during my tenure has merited the public's support.

Other accomplishments which were important in the development of the FBI include the nationwide centralization of criminal fingerprint records in the FBI Identification Division in 1924; establishment in 1932 of the FBI Laboratory; and establishment in 1935 of the FBI National Academy, which provided a university-level advanced training program for select law enforcement officers throughout the nation.

Also, the capture of the Nazi saboteurs landed on our shores by submarine during World War II; the convictions of top communist leaders following the war; the successful investigations into the Rosenberg and Col. Rudolf Ivanovich Abel spy cases in the 1950s; the convictions resulting from investigations of the murders of a number of civil rights workers during the 1960s; and the beginning of the FBI National Crime Information Center.

There are many more, of course, but these stand out in my mind.

What about your own politics?

You know, when I took over with the mandate to clean out the political hacks and straighten out the Bureau and did, I was accused of being a Democrat because the Republicans were in office. Then I was accused of being a Republican when the Democrats took over.

I grew up in and live in the District of Columbia. I have never voted in my life. I don't like labels and I am not political. My feeling about politics is that both parties should nominate for all offices the very best qualified man—unfortunately, that isn't always the case—and that the people should vote for the man whom they believe is the best qualified.

You have been quoted as saying the FBI's National Crime Information Center is a real breakthrough in fighting crime. Why so?

The NCIC provides what was long urgently needed, a comprehensive and swiftly efficient informational exchange system of national scope.

This computerized index of documented crime data is now tied to all states and Canada by a vast telecommunications network. The total number of NCIC active records concerning stolen property and persons wanted for crimes has climbed to over three million, with daily transactions sometimes well over 75,000.

I'll give you an example of why I think this gives our nation's law enforcement community an essential tool to meet the challenge of crime.

Recently, two state troopers in New York State stopped a car. They radioed for a check on it and within two minutes—two minutes—they knew that the car had been stolen and that its two occupants were wanted for murder in California.

Some have charged that federal computer systems are leading to a huge national data bank that could strip the individual of his privacy. Could you comment?

As far as the FBI is concerned, those fears are groundless.

The National Crime Information Center is the principal FBI computer system and it contains only documented data concerning criminals and stolen property. Its information is available only to authorized law enforcement agencies and the system was designed to prevent any abuse or misuse of its data.

Any allegations that this could lead to a "big brother is looking at you" operation are completely false.

The FBI has been accused of engaging in unauthorized wiretapping. What are the facts?

The facts are that the FBI has not used wiretaps without the authority of the Attorney General, and then only to a limited extent in cases involving our nation's security.

Also, under the Omnibus Crime Control and Safe Streets Act of 1968, federal judges may authorize the FBI to use electronic surveillance techniques in some cases involving organized crime. The Attorney General has to approve each instance, and a written affidavit establishing probable cause for action must be presented to the judge.

Assertions that FBI wiretapping is widespread are absurd. If the FBI engaged in wiretapping to just a fraction of what its critics suggest, it would have no time for anything else.

These critics who accuse the FBI of this practice can never produce any proof.

Congressman Boggs [Rep. Hale Boggs (D.-La.), majority leader in the House] made a wild statement that his telephone had been tapped. That charge was simply not true. No telephone of any Congressman has ever been tapped since I became Bureau director in 1924. He was put in the position of having to "put up or shut up" on that charge and he shut up.

Another accusation against the FBI is that of snooping on campuses.

Completely false. I believe this is only a scare tactic to inflame the academic community against the FBI.

Yes, the FBI does conduct investigations on college campuses—or anywhere else in the nation. But only if there is a violation within its investigative jurisdiction.

If, for example, an ROTC building has been destroyed by a fire or explosion, we will investigate to see if there is evidence of sabotage or destruction of government property. Many campuses have government research or other government facilities. If government property is damaged or stolen, the FBI investigates.

We do not snoop on campuses, or in any way treat the campus different from any other area of society. The FBI has the highest respect for academic freedom.

American business is making great use of computer technology, particularly in records management. What steps has the FBI taken along this line?

One of the first actions I took upon becoming director was the establishment of a centralized national file of arrest records on fingerprints. This led to formation of the FBI Identification Bureau in 1924, the year of my appointment.

From 800,000 fingerprint records, this has now grown to nearly 200 million, including many civilian and military fingerprints that are kept separately from those filed as a result of arrests. I have always felt strongly that fingerprints for identification purposes are a protection for the public. I remember I personally took the fingerprints of John D. Rockefeller Jr. and his family in 1924 to encourage the public to take advantage of this protection, and to show there was no stigma in having your fingerprints recorded. Nelson was a little boy then.

As far back as 1934, the FBI installed a punch card system of searching fingerprints. However, because of the rising volume of fingerprint records this proved inadequate and, by necessity, the Identification Division had to return to manual searching. Presently, development contracts are nearing completion to computerize fingerprint files and to electronically read, classify and retrieve—within seconds.

In 1954, we had in operation the first automated payroll system in the federal government.

What are some of the major problems the FBI has run into in combating organized crime, especially in the field of legitimate business?

There is no question the two most serious problem areas are the complexity and size of the investigations themselves, and the general apathy of citizens directly or indirectly affected.

On one series of gambling raids we used over 200 FBI agents. In another series, we had to call upon over 400 agents. In one major hoodlum international bankruptcy case alone, we had investigations being conducted by 31 offices in 28 states, ranging from New York to California and from Minnesota to Alabama.

Many hoodlums, unfortunately, have acquired a facade of semirespectability in their communities. People find it hard to believe that these so-called "businessmen" can possibly be involved in illegal activities.

Even more disturbing, from a law enforcement view, is the seeming indifference of otherwise responsible citizens to the acknowledged existence of specific phases of organized crime in their communities.

What they are overlooking, of course, is that hoodlum-connected major thefts increase their insurance rates, that labor racketeering increases consumer costs, that gambling and narcotics corrupt youth, and that bribery of civic and police officials undermines good government and deprives the public of the protection to which it is entitled.

Is there a law which particularly helps the FBI to fight infiltration of business by criminals?

Under the Organized Crime Control Act of 1970, which the President signed into law in October, 1970, Title IX bans the investment of underworld funds in legitimate business ventures. This provides for severe criminal penalties, as well as forfeitures.

Successful businessmen place great emphasis upon personnel training. What is the FBI doing in this area?

I certainly agree with the importance of personnel training, and effective personnel training has been a keystone of FBI operations since I became director. In fact, the FBI pioneered advanced law enforcement training with the establishment of the National Academy in 1935.

In addition to the Academy, the FBI has some 1,500 specially trained special agent police instructors who go out where requested and give a wide variety of training. For example, this FBI Field Police Training Program just this past year conducted more than 9,000 training schools, attended by more than 300,000 people. And this involved over 83,000 hours of classroom instruction by Bureau personnel.

The new facility for our Academy at Quantico, Va., when we move in later this year, will enable us to increase the number of officers to be trained from 200 to 2,000 annually. It will also provide specialized courses for 1,000 others. These will be management courses, and I'm quite proud that we will be able to do this. I believe it will certainly strengthen local law enforcement.

Do you think the United States should have a national police force?

I am vigorously opposed to a national police force, or any trend toward one. I want to make one point clear, and it is one that critics of the FBI seem to want to overlook.

The FBI does not decide what it will investigate. It is given responsibilities by Congress, by the President, by the Attorney General. It is charged by law to carry out certain functions. And we will do that.

I might also say that I opposed our being given some of these responsibilities. For instance, we are charged with investigating an illegal gambling case if it involves five or more persons, remains in business 30 days, or has a daily $2,000 gross. I believe this is a function of local law enforcement.

The FBI has a relatively small number of Negro special agents. What is its policy with respect to employing members of minorities?

The FBI is unequivocally dedicated to the principles of equal employment opportunity. I insist that all appointments and other personnel actions be based on merit and fitness.

Let me say that nothing would please me more than to have a greater number of special agents from minority groups. We have a very real need for them, and they would be a most welcome asset. We will continue to make every effort to attract those qualified.

But I have not, and will not, relax the high standards which the FBI has traditionally demanded of special agents without favor or exception.

Attorney General [Robert F.] Kennedy became very angry with me over this.

I would not yield.

The standards for a special agent of the FBI are stringent. Applicants must be of outstanding appearance and outstanding character, and have the required education in law, accounting, languages or sciences, or three years of executive, professional or investigative experience.

We demand of FBI employees a standard of morality which can be approved by the majority of the American people. Some say we are too strict, but I submit to public judgment that discipline is an absolute necessity. An undisciplined law enforcement agency is a menace to society.

We do have exacting standards in the FBI and we apologize to no one for them. We have no intention of arbitrarily compromising these standards to accommodate kooks, misfits or slobs.

As I have said publicly, disregard for law and order is encouraged by hatemongers, extremists and others who say that revolution against society is justified and necessary.

A number of terrorist or revolutionary groups seem to have sprung up in recent years. Would you comment?

Terrorist-extremist sentiment is on the rise in the nation today, especially in the so-called New Left. The Students for a Democratic Society was formed in 1962 and by 1967 this group had developed a revolutionary, violent posture, urging destruction of our democratic institutions. In 1969, it was torn by factionalism and its extremist wing became the Weatherman.

The Weatherman, which went underground in 1970, believes in violence. Its adherents have collected explosives and set up bomb factories. They have carried out acts of violence not only against police facilities, but against military and government buildings and even private buildings which happen to house the offices of companies these extremists don't like.

Small terror groups, operating from underground, represent a great danger. Unfortunately, the Weatherman type of extremist mentality seems to have spread to some other young people and even some adults.

You have black nationalist terror organizations such as the Black Panther Party. The Panthers are hoodlum-type revolutionaries, and their true nature must be exposed.

Currently the Panther Party is doing everything possible to show a "humanitarian face"—to show that it is interested, for example, in the welfare of children through its so-called Breakfast for Children program.

This is a public relations gimmick. Part of the reason for this feigned emphasis on humanitarianism is to encourage contributions from wealthy white liberals, who have given thousands of dollars to the Panthers.

What is the FBI's role concerning protests, such as those against the Viet Nam War?

In America, we have freedom of expression. Individuals have a right on their own to oppose the war or say anything else they desire about Viet Nam.

There are a number of antiwar groups and they have the right to voice their viewpoints. The FBI does not in any way attempt to stifle groups or individuals who speak out against the Viet Nam War. Charges that we do are completely false.

The FBI becomes concerned only when members of these or any other groups violate laws within its investigative jurisdiction. Or when the activities of these groups become violent or terroristic and pose a threat to the internal security of the country.

You mentioned what you consider your most important accomplishments as FBI director. What would you consider the most important cases the FBI has investigated?

I like to think that all of our investigations are important. But in terms of their impact on FBI operations or the events of the time, a few stand out.

The successful investigation of the kidnaping of Charles Lindbergh's son in 1932 led to the passage that same year of the federal kidnaping statute, giving the FBI added jurisdiction over this despicable crime.

John Dillinger had become a full-blown American folk hero by the time our agents were forced to shoot while moving in to arrest him in Chicago during 1934. I saw an ad the other day that they were making another movie about Dillinger. I suppose this one will make him a hero again. I can't understand this. The worst movie ever made was that one about Bonnie and Clyde. They were nothing but a couple of bum criminals, the worst kind.

Just a few months prior to the Japanese bombing of Pearl Harbor in 1941, FBI agents arrested 33 members of the network of the German spy, Frederick Duquesne. This case, together with the FBI capture of the Nazi saboteurs landed secretly in this country, I am sure, stopped serious enemy attempts to sabotage our war effort. Those Nazi saboteurs were tried in Classroom No. 1 of this building [the Justice Department building].

In 1949 our investigations resulted in the conviction of 11 top leaders of the Communist Party, U.S.A. We were only a few years removed from working with the world's leading communist power, the Soviet Union, as an ally. It was hard for some to realize the conspiratorial nature of the Communist Party in those circumstances.

The trial in which the leaders were convicted galvanized public opinion to the fact the communists were attempting to subvert our democratic form of government. The Rosenberg atom bomb spy case the following year left little doubt of these motives.

The six-year-long FBI investigation of the 1950 robbery of Brink's, Inc., at Boston demonstrated the virtue of investigative persistence and hard work.

The FBI investigation of the assassination of President Kennedy at Dallas resulted in the interviewing of approximately 25,000 persons and the submission of more than 2,000 reports to the Warren Commission.

As a result of the assassination and the investigation, Congress passed legislation, approved by the President, providing for federal criminal penalties in instances involving Presidential assassination, kidnaping and assault. The FBI was charged to investigate such violations, which were previously the responsibility of the local jurisdiction in which the crime occurred.

The FBI investigation of the murder of three civil rights workers in Mississippi in 1964, as well as investigations of other similar instances of violence and brutality, helped to hasten the passage of broader civil rights legislation.

Mr. Hoover, is there one crook you remember most vividly?

Gaston B. Means. I think he was the worst crook I ever knew. I fired him from the Bureau the first thing when I took over and he became mixed up in all sorts of things. He was a scoundrel.

Evalyn Walsh McLean [the wealthy Washington socialite] knew he was a crook, but she thought because he was, he could help in the Lindbergh kidnaping. She gave him $100,000 to try to get the baby back, and would have given him more. She was going to pawn her jewels, but I stopped that.

We never did find the money Means got from Mrs. McLean and which he said he had buried. We had divers searching the Potomac. When he was convicted and in the hospital at Leavenworth, I flew out there and saw him.

"Why did you lie to our men about where the money is?" I asked him.

He put his hand over his heart and said, "Oh, Edgar. That wounds me."

He was a complete scoundrel. But he was the type some people liked—a sort of lovable scoundrel.

A headquarters building for the FBI is being constructed across the street. When will it be completed?

There are some who maintain that the only reason I am staying on as director of the FBI is to be present at the dedication of this new building. I say this is absolute nonsense. In a recent speech, I facetiously noted that at the rate it is going up, none of us will be around by the time it is completed.

Hopefully, it will be ready for occupancy in 1974. We have shared space with the Department of Justice since 1934 and during that period our staff and that of the Department have multiplied many times. It's been necessary to relocate many phases of our operations in seven other sites in the capital.

This new headquarters will bring everything under one roof and vastly improve our administration and efficiency.

Would you take a look ahead at the FBI's role in the years to come?

I would hope the FBI's role in the future will be identical with its role in the past and at the present. That is, being a servant of the people.

The FBI's success has been built on one vital base—the confidence of the people. If we knock on a citizen's door, he does not have to talk to us or give our special agents information. This is a decision he must make. We can solve cases only if citizens furnish information.

We want to maintain the confidence and support of citizens in all walks of life, in all areas of the country. If we don't, we simply cannot do the job for which we are responsible.

I want the FBI's work in the future to continue to merit the approval of the people. This means, on our part, top quality investigations. Efficient, loyal and responsible personnel. A willingness to work hard.

One last question, Mr. Hoover. You've spent your life fighting crime. Have you, as a person, ever been victimized?

Yes. Once by a fellow who came door-to-door. I bought a load of fertilizer from him for my roses. The stuff turned out to be black sawdust.

And then, once by the fellow they called "The Birdman of Alcatraz." He had two cells—one in which he lived, and another where he kept his birds.

My mother was alive then and she always liked to keep a few birds, so I bought a canary from him. Only it turned out to be just a sparrow, dyed yellow.

So I've been conned at least twice in my life. I guess that proves I'm human.

Mr. GROSS. Mr. Speaker, the death of J. Edgar Hoover leaves this Nation and its people immeasureably poorer for we have lost a truly great patriot and a man who was his country's servant in every meaning of the word.

In my lifetime, and in the lifetime of this Republic there have been few men who could equal his devotion to the principles upon which the United States of America was founded.

It is my prayerful hope that those who will walk in his footsteps will measure up to the task he did so well for so long.

Mr. **KUYKENDALL.** Mr. Speaker, I was deeply saddened to learn this morning that the much respected Director of the Federal Bureau of Investigation, J. Edgar Hoover, had passed away.

Mr. Hoover's dedication to the FBI, to the Department of Justice, and to the cause of freedom in this country has been an inspiration throughout these many years. J. Edgar Hoover was a tough taskmaster who demanded superlative performance and a high level of loyalty from those who worked for him in the Bureau. In my judgment this toughness was a credit to him. I wish more of our agency and bureau directors in the Federal Government had as firm a grasp on their organizations.

The Federal Bureau of Investigation has been known for its efficiency, thoroughness, and effectiveness during the years that Mr. Hoover has been at the helm. He will no longer be at that helm and he will be missed.

Mr. **YOUNG** of Florida. Mr. Speaker, America and the free world are diminished today by the death of J. Edgar Hoover, one of the greatest defenders of human rights and freedom of our times.

Mr. Hoover died at the age of 77 after more than 47 years as Director of the Federal Bureau of Investigation, an organization he built into the most effective law enforcement agency in the world. Fittingly, he was on the job until the end. The FBI was his life, and it is hard to imagine the FBI without J. Edgar Hoover.

Mr. Hoover was a patriotic, dedicated public servant, a man above petty partisan considerations, a man who served all Americans, regardless of race, creed, or color. He served Presidents of both parties; he was a friend and trusted confidant of many of the great leaders of our times.

Because of his untiring efforts, America is a safer nation today. He has been a relentless foe of those who would subvert this Nation from within—a foe to those who would break our country's laws.

While J. Edgar Hoover was held in contempt by enemies of our country and those who would change America by any means to serve their own ends; he was revered by the vast majority of his fellow citizens, who love their country and are pledged to its continued preservation.

In future years, others will take up the banner J. Edgar Hoover has carried so gloriously. He will be succeeded—but in our hearts, he will never be replaced. He holds a very special and most unique place in the history of our great America.

Mr. **McCOLLISTER.** Mr. Speaker, 48 years ago this month, the Attorney General of the United States summoned a 29-year-old subordinate to his office and told him he wanted him to be Acting Director of the Federal Bureau of Investigation.

The young man said he would take the job—but only under certain conditions. He said:

> The Bureau must be divorced from politics. It must no longer be a catchall for political hacks. We must base every appointment on merit. We should make promotions on proved ability only, and the Bureau should be responsible to no one but the Attorney General.

To which the Attorney General said:

> I would not give it to you under any other conditions.

The day was May 10, 1924, a day that will go down in history as the start of an era marked by dedication and leadership in the fight of crime in the United States.

Mr. Speaker, that inimitable era ended last night with the death of J. Edgar Hoover. We mourn his passing as a Nation, realizing the great debt we, as Americans owe him.

Under his direction, the FBI has become world-renowned as the best law enforcement agency ever established. A remarkable man, he built a remarkable institution. Year after year, the efficiency, productivity, and effectiveness of his leadership have been manifested by reports to Congress and the almost unchallenged review of his appropriations requests. In addition, any one who has ever had any contact with Mr. Hoover's management ability has realized another key factor in this success. He was able to instill in his employees a real sense of purpose and a dedication to the accomplishment of a job in the most expedient way possible without sacrificing the quality work which has become a trademark of the FBI.

Mr. Speaker, Mr. Hoover has left a legacy we are grateful to inherit, a debt we can never repay, and a record that will be difficult—maybe impossible—to duplicate or surpass. I know I speak for all Americans in expressing my gratitude.

Mr. **HUTCHINSON.** Mr. Speaker, the death of J. Edgar Hoover closes a truly historic career in law enforcement in the United States. Called by President Coolidge in 1924 to head the fledgling Federal Bureau of Investigation, Mr. Hoover built it into an institution equaling the famous Scotland Yard. Under his leadership the FBI achieved its high reputation and popularity as the most effective law enforcement organization in the country. His successor, whoever he may be, will have an unequaled record to match. We have lost a leader of highest integrity, patriotism, honesty, and courage.

Mr. **BAKER.** Mr. Speaker, today we mourn the death of one of America's greatest leaders, J. Edgar Hoover.

Mr. Hoover would have marked his 48th year as head of the Federal Bureau of Investigation later this month. He guided the FBI for more than four decades, serving his country with distinction under eight Presidents.

Under J. Edgar Hoover's leadership, the Federal Bureau of Investigation became synonymous with top-quality law enforcement. It became a model for law enforcement officials in other countries.

A man of unquestionable integrity and character, Mr. Hoover molded the FBI to his own high ideals. His influence in establishing the FBI as a bastion against activities of those who break the law will live for generations to come.

The internal security of this country is stronger, because of the vigilance of the FBI under J. Edgar Hoover. Not only we but future generations of Americans, owe him a great debt of gratitude.

At an age when he could have been enjoying a leisurely retirement, Mr. Hoover continued to serve his country. It is tragic his death has come before he could enjoy a well-earned rest. J. Edgar Hoover will never occupy offices in the new Bureau Headquarters, now under construction. But this imposing edifice will reflect the great heritage and legacy he leaves behind. America has lost a great patriot and a great public servant.

Last year, I was proud to place in the CONGRESSIONAL RECORD a joint resolution adopted unanimously by the Tennessee General Assembly and signed by Gov. Winfield Dunn commending this great American. For the record, I would like to have that resolution reprinted:

> HOUSE JOINT RESOLUTION NO. 64
>
> A resolution to honor J. Edgar Hoover:
>
> Whereas, J. Edgar Hoover has served this country well in law enforcement and fighting subversion; and
>
> Whereas, There are all too few men today willing to stand up and be counted as loyal Americans dedicated to the principles of freedom; and
>
> Whereas, Mr. Hoover as director of the Federal Bureau of Investigation has been a bulwark of solidity for the United States of America; and
>
> Whereas, Mr. Hoover has always answered the call of duty immediately; and
>
> Whereas, The forces of the radical left have sought to discredit Mr. Hoover with false and misleading statements; now, therefore,
>
> Be it resolved by the House of Representatives of the Eighty-Seventh General Assembly of the State of Tennessee, the Senate concurring, That the General Assembly expresses its deep appreciation for the years of untiring service J. Edgar Hoover has rendered to the United States and wish him well and Godspeed in the days ahead.
>
> Be it further resolved, That we express our full confidence in his ability, integrity and leadership.
>
> Be it further resolved, That copies of this Resolution be sent Mr. J. Edgar Hoover, Director of the Federal Bureau of Investigation; President Richard M. Nixon; Attorney General John Mitchell; and all eleven members of the Tennessee Congressional delegation.
>
> Adopted: March 10, 1971.
>
> JAMES R. MCKINNEY,
> *Speaker of the House of Representatives.*
> JOHN S. WILDER,
> *Speaker of the Senate.*
>
> Approved March 12, 1971.
>
> WINFIELD DUNN,
> *Governor.*

Mr. **WYLIE.** Mr. Speaker, last night one of America's finest and most dedicated public servants passed away. The news of the death of J. Edgar Hoover has come as a profound shock to the people he so capably served as the Director of the Federal Bureau of Investigation.

His record of service began almost 48 years ago on May 10, 1924, when Mr. Hoover assumed the directorship of the Bureau of Investigation. Thus began the public service career of a man who would eventually become an honored and uniquely American folk hero. Under his brilliant leadership, the Bureau was transformed from a scandal-plagued agency into the most respected law enforcement agency in the free world. Mr. Hoover demanded the highest of standards of all FBI agents and recruited men of moral, ethical, and professional competence for the demanding and often delicate job of investigating violations of Federal law and protecting the national security against foreign and domestic subversive elements. In fulfilling this most difficult task. Mr. Hoover always acted with restraint and never abused the immense power of his position. In fact, he always insisted that the FBI function only as an investigative agency for the Department of Justice and made certain that it would never become a national secret police while he was Director.

Since his appointment in 1924, he has served every President elected by the American people and they in turn have expressed their total confidence in his ability and integrity. Of more importance however, is the fact that he has served the American people with not only a brilliant record in his chosen field, but as an inspirational example of how a government agency should and can function efficiently in the public interest.

We have lost a great American, but beyond that I truly feel that his record in the service and defense of the Republic in which he so deeply believed and loved will be the ultimate, fitting, historical euology for J. Edgar Hoover. The cause of freedom in the United States of America has lost one of its greatest champions.

Mr. RUTH. Mr. Speaker, a year ago this month Members of Congress who were pleased with the leadership J. Edgar Hoover had given the Federal Bureau of Investigation had the opportunity to rise on the House floor and say so.

I am proud to say today that I was among the Members who chose to counter some of the criticisms of that time about this great American public servant.

There is good evidence everywhere of this man's leadership in law enforcement. The agency that he headed for so many years is the model for police agencies all over the world. The men of the FBI are model law enforcement officers, and their principles and dedication to duty are respected everywhere.

Perhaps his job required controversy and critics. If it did, then he was a remarkable man to have continued to serve his agency and his country in the finest tradition possible.

Mr. Speaker, I stand in respect of this great man and am entirely confident that the agency he directed for 48 years will continue in the Hoover tradition.

Mr. MIZELL. Mr. Speaker, I rise at this time to join my colleagues and the Nation in mourning the death of J. Edgar Hoover. As Director of the Federal Bureau of Investigation, he was a living example of the Bureau's principles of fidelity, bravery, and integrity. Mr. Hoover's contribution to America, a half-century of devoted and talented service, left this Nation immeasurably richer, and our loss today is great indeed. I deeply regret his passing, but I hope his deep sense of patriotism and his abiding devotion to the law will live as his legacy to a grateful nation.

Mr. HARVEY. Mr. Speaker, I was truly saddened this morning to learn of the passing of J. Edgar Hoover, one of the greatest public servants our Nation has ever known. Mr. Hoover dedicated his life to preserving our democratic system, and his accomplishments as Director of the Federal Bureau of Investigation will be remembered as long as Americans are free. As President Nixon said today:

> It can truly be said of him that he was a legend in his own lifetime. For millions he was the symbol and embodiment of the values he cherished most: courage, patriotism, dedication to his country, and a granite-like honesty and integrity.

Mr. Hoover cherished the principles of freedom and democracy, and he used his remarkable ability to see that all Americans were guaranteed the basic rights of our Constitution. For more than 45 years he directed the most efficient and the most sophisticated crime fighting organization in the world, and in this capacity he became, as President Johnson so aptly said in 1964, "a household word, a hero to millions of citizens and an anathema to evil men." Through his skill and his ability, J. Edgar Hoover built the FBI from a disorganized, inefficient section of the Justice Department to one of the most widely respected organizations in the world. His life closely paralleled the history of our Nation in the 20th century, and it would be impossible not to recognize the tremendous impact he has left on our way of life.

As a law enforcement official, Mr. Hoover was respected by everyone in his profession. It is only fitting, then, that one of the most moving tributes to his memory should have been issued by Chief Justice Warren Burger. In part, the Chief Justice said:

> In dedicating his life to building the FBI, J. Edgar Hoover did so without impinging on the liberties guaranteed by the Constitution and by our traditions. His passing leaves a large gap in the American structure, but his remarkable ability and talent for leadership have also left an enduring organization that will continue to serve all the people as it did for nearly a half century under his guidance. This country owes Mr. Hoover a great debt.

I think it is fitting and proper that this Congress, in recognition of the service that J. Edgar Hoover performed for our Nation, has instructed that his body lie in state in the rotunda of the Capitol so that all Americans can pay tribute to this great American. We should all pause to be thankful for his many achievements. America will miss one of her finest citizens.

Mr. TERRY. Mr. Speaker, last night a man who has become an institution in law enforcement during his long and illustrous career died quietly in his sleep at the age of 77.

In 1924, J. Edgar Hoover, at the age of 29, took the reins of the new Federal Bureau of Investigation. During the past 48 years, he molded it into the most effective streamlined investigative machine in the world.

Mr. Hoover weathered much criticism during his years as Director of the FBI, a great deal of it unwarranted. But that criticism never overshadowed the accomplishments of this truly dedicated public servant.

Under his tutelage, the FBI solved the great Brinks Robbery in 1950 during which more than $2.7 million was stolen, broke up the Duquesne spy ring of the late 1930's and early 1940's, and was instrumental in the arrest and conviction of Julius and Ethel Rosenberg.

Over the years, Mr. Hoover was instrumental in the FBI's development of the National Crime Information Center which contains vast amounts of information on the crime world which is available to all law enforcement agencies across the country. Without this central location of records, the solution of crimes would be greatly hampered.

J. Edgar Hoover has rightly become an institution in organized law enforcement. His contribution has been unequaled and will never be forgotten. There is no better epitaph than to simply say: "He was a great man."

Mr. NELSEN. Mr. Speaker, Americans are saddened today by the death of FBI Director J. Edgar Hoover. We have lost a champion safeguarder of this Nation's internal security. We have lost the country's No. 1 gangbuster.

Mr. Hoover was the archfoe of the Communists and other subversives working to overthrow the Government of the United States just as he was the archfoe of the domestic criminal element in this country. So his death is a tragic loss to the Nation and to the law enforcement community of the world.

Mr. Hoover created the FBI and he molded it into the finest professional and scientific criminal investigation agency in the world. In my own estimation, one of the best things he ever did for America was to remove any taint of politics from the FBI. He knew that if the FBI were to function successfully in behalf of all Americans, it would have to be entirely free of politics. He succeeded in this task where many lesser men might have failed.

All in all, Mr. Hoover was a remarkable man whose devotion to the Republic has set an outstanding example. He dedicated his long and colorful career to the service of America, and we are grateful for the many contributions he made.

Mr. HALL. Mr. Speaker, the death of J. Edgar Hoover, the Director of the Federal Bureau of Investigation, will come as a great shock to all Americans. In my opinion, no man in recent memory has been held in higher esteem by the law-abiding citizens of this Nation, or been feared more by the criminal element of our society.

It was J. Edgar Hoover who, in 1924, organized the FBI into what was to become the most efficient and able investigative instrument in the world. Its reputation for competence and honesty is already legendary.

J. Edgar Hoover's dedication to the principles that have made this Republic great, is a model that should be copied by all who believe that justice is the very "keystone" of this Nation, and that the judiciary must support the constabulary.

Mr. Hoover was a believer that law enforcement was everybody's responsibility. He once wrote:

> Much of the crime and violence in our society occurs, I am sure, because not enough Americans pull their weight, and not enough Americans devote measurable parts of their lives to further the existence of their homes and their Nation. They need to break from the "what's in it for me" syndrome, and help protect and preserve the freedoms which they take for granted.

J. Edgar Hoover will be greatly missed by the freedom-loving people of this Nation. It is not the ken of mortal men to understand God's sometimes apparently devious scheme of things on earth and among men, but faith is the answer. His commendable efforts to apprehend the criminal and seek out those who would threaten our national security has earned the Federal Bureau of Investigation the trust and respect of all Americans. Under our lamented departed's aegis it will persevere and grow until the representative Republic is saved in fact, and free men can again pursue their pursuits void of fear.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman from Maryland (Mr. HOGAN) most appropriately taking time today to pay a tribute to one of the few men in history, John Edgar Hoover, who has been able to live up to the high ideals and goals which were not only expected of him but also which his profession demanded. John Edgar Hoover was outstanding and a great man not only because he excelled in his profession in investigative and police work, but also because he constantly worked to raise the standard for all others to follow. More important, he never allowed his detractors or critics to improperly drag him into the slime of mudslinging politics but continued to exercise his responsibility under the law of the land and in keeping with the expectations of the American people.

Some in this House have seen fit to be critical and, in some cases, actually misrepresent J. Edgar Hoover's record. Even with this unwarranted harassment and sometimes unfair criticism, John Edgar Hoover remained on the highly principled record of the law, good faith, and meritorious performance. J. Edgar Hoover will indeed be missed, but his high standard and unswerving purpose will be an example for all of us to remember and emulate.

Mr. McCLURE. Mr. Speaker, there are no words eloquent enough to do justice to the career of J. Edgar Hoover. Likewise, there is no way of adequately expressing our gratitude for his service.

The Bible says that "it is required in stewards, that a man be found faithful." And, indeed, it would be hard to think of another man who gave so much of himself to his country.

On behalf of the people of my district, I wish to express the great sorrow we feel at this time.

Mr. SMITH of California. Mr. Speaker, the untimely passing of Mr. J. Edgar Hoover, Director of the Federal Bureau of Investigation, is certainly a tremendous loss, not only to all law-abiding people in the United States but to all law-abiding people throughout the world. My father lived to be 85 years of age. During my entire lifetime we were very, very close. Outside of my father, Mr. Hoover was the finest man that I have ever known.

Forty-eight years ago Mr. Hoover, as a young Justice Department attorney, was called into the office of the then Attorney General Harlan Fiske Stone. Mr. Stone spoke abruptly, saying:

> Young man, I want you to be the Acting Director of the Bureau of Investigation.

Mr. Hoover agreed to accept the position under certain conditions—that the Bureau must be divorced from politics and not be a catch-all for political hacks; that appointments must be based on ability; and that the Bureau would be responsible only to the Attorney General of the United States. Mr. Stone agreed. Mr. Hoover has directed the Bureau ever since, and always under the conditions stated.

When Mr. Hoover took over the operation at the age of 29 it was a floundering, ineffectual, politically controlled organization. He built it into the most respected, most effective, and most efficient investigative agency in the world. Only a dedicated, self-sacrificing, unselfish man could have accomplished this tremendous feat which has given our Nation a feeling of great security for 48 years.

It was my privilege to serve under Mr. Hoover as a special agent of the FBI for some 7 years. Every agent receives the same training. All must be able to handle every activity over which the Bureau has jurisdiction. Mr. Hoover demanded that each agent have a thorough knowledge of the law, be efficient, honest, courageous, courteous, abide by the rules and regulations, and at all times be completely loyal to the Bureau. Every agent knows this from the day that he is sworn in. And almost without exception, every agent performs in accordance therewith.

One of the reasons for the success of the Bureau is that all agents are held accountable for their mistakes. They all know that. But by the same token, Mr. Hoover was always as fair and human in his attitude toward each agent as any person could possibly be. He followed a policy of personally opening and reading every letter when the envelope was marked "personal and confidential." Any agent who had a personal problem could direct such a communication to Mr. Hoover and it would receive his personal attention which was always straightforward, human, honest, and in the best interests of the agent and the Bureau.

Ever since I was sworn in as an agent in 1935 I have been proud of the Bureau. I have been proud of Director J. Edgar Hoover and I have been proud of the tremendous accomplishments which the Bureau has made under his leadership. During the past 15 years in Congress I have been privileged to meet and talk with Mr. Hoover on many occasions. He has always been direct, forthright, honest, and fair in all his statements to me during these years, the same as he had been during the time I was in the Bureau. He was always just as interested in proving an individual to be innocent as he was to have the agents prove that the individual was guilty of a Federal offense within the jurisdiction of the Bureau.

He has always been mentally alert, and physically well qualified. His life has been the Bureau and the welfare of the honest citizens of the United States of America. The Bureau has been his home. The only extracurricular activity that I know of was an occasional visit to Del Mar racetrack. I saw him and talked with him there on several occasions. He did not engage in card playing, golf, or other activities which many of us participate in on occasion. In other words, his entire life was devoted to operating the Federal Bureau of Investigation in the highest of tradition and efficiency.

Only last Friday he was in great spirits, talking about the future of the Bureau and the welfare of the United States. He repeated a statement that he has made on a number of occasions:

> I have no thought of leaving my present position and intend to remain as Director of the FBI as long as I can be of service to the country and my health permits.

Mr. Hoover always believed in selecting assistant directors, supervisors, agents in charge, assistant agents in charge, and other administrative personnel from those within the Bureau. He believed in promoting agents from within the FBI and those who were most qualified. I talked with Mr. Hoover on occasion regarding a possible successor when the time might come. I am sorry that that time has now come.

Mr. Hoover stated that he hoped his successor would be someone from the Bureau, an individual presently in the Bureau, or one who has not been out of the Bureau for more than a few years. In that way, the person would know the operation of the Bureau and would have a reasonable chance of carrying on its success.

There are many who will be able to carry on, but not with the respect and ability that Mr. Hoover possessed. If some politician or bureaucrat is appointed to replace him, the Bureau could well return to the chaotic condition that it was in when Mr. Hoover took over. If so, it will be a catastrophe so far as the future of America is concerned.

I am pleased that the President and the Congress are making certain that Mr. Hoover is accorded the fullest honors that any American can receive for his long, loyal service to our country. I hope that the President will appoint the most qualified individual available, with the hope in mind that he will have some chance of carrying on the traditions of the Bureau as promulgated by Mr. Hoover.

I am grateful to you, Mr. Hoover, for the tremendous influence you have had upon my life in helping to make me a better American. I am certain that every honest, loyal American joins me in saluting you for your many years of devoted public service. We are indeed most grateful for your lifetime of devoted efforts in our behalf.

Mr. DORN. Mr. Speaker, J. Edgar Hoover built the Federal Bureau of Investigation into the greatest law enforcement agency in the history of the world. Presidents have come and gone since Mr. Hoover assumed direction of the Bureau in 1924, but he remained steadfast in his devotion to democratic institutions. Nothing could have been worse for the Nation during this 48-year period than to have had a weak-willed or politically inclined Director constantly snooping on and harassing political opponents. A lesser man than J. Edgar Hoover might not have had the personal prestige and integrity to say no to political pressures. Mr. Hoover was a man of great power who was deeply concerned with the protection of individual freedom.

Because of his extreme dedication to real Americanism he established in the Federal Bureau of Investigation an unsurpassed esprit de corps. His own absolute integrity, fairness, and intelligence are reflected in the splendid personnel of the Bureau. Their esprit de corps and effectiveness are a model for all law enforcement. In becoming acquainted with any of his agents at the local level one is impressed by the loyalty, fairness, and high principles exemplified so well by the Director. Never did Mr. Hoover allow this organization to be used as a political tool. He taught his agents respect for our democratic institutions, for the Congress, for the Chief Executive, and the courts. He was in favor of maintaining the traditional police powers of State and local government, for he realized far more than others the potential dangers that a national police force would pose to our democratic institutions. He advocated that the Bureau remain a highly disciplined, relatively small force assigned to crimes particularly under the jurisdiction of National Government.

Mr. Hoover, like the outstanding men selected for membership in the Bureau, was the personification of good judgment, discretion, coolness, skill, and determination. During a period in history when other nations were victimized by gestapos, and other dread, terroristic secret police, Mr. Hoover's institution grew into a great bulwark of freedom. The American people believed in him. They gave J. Edgar Hoover the full measure of confidence and trust so necessary to the preservation of our democratic way of life.

Mr. Hoover was a lifelong leader in the fight for law and order with justice. In 1935, the FBI National Academy under his leadership, was founded to offer training in law enforcement techniques to officers from local and State police forces. The academy typifies the excellent rapport that was developed between the Bureau and local law enforcement officials. We have met many times with our local law officers who are graduates of the FBI National Academy and we are especially proud of their skill and performance. Through the Academy, the most advanced techniques are made available to local officials without the dangers inherent in setting up a national police force. It has become the West Point of law enforcement training. Agencies such as South Carolina's splendid State Law Enforcement Division—SLED—have greatly benefitted through close cooperation with the FBI.

Mr. Hoover was one of the first to speak out against a growing climate of crime, deliquency, and moral decay. Twenty five years ago he predicted that crime and disorder would become a national crisis.

From the 1930's to the present, the FBI has been the Nation's major instrument in the fight against organized crime. In incidents involving John Dillinger, "Pretty Boy" Floyd, and Alvin "Old Creepy" Karpis, Mr. Hoover became a well-known figure for law and order. The Bureau's efforts against today's crime syndicates continues with ever-increasing success.

During World War II, President Roosevelt designated the FBI as the agency primarily responsible for the internal security of the Nation. Mr. Hoover and the Bureau met this responsibility with great skill and distinction in protecting the homefront from the machinations of the Nazi and Fascist spy rings. The Bureau was able to meet this challenge, because Mr. Hoover had seen the danger and was prepared to meet it after Pearl Harbor.

In the same manner, J. Edgar Hoover was one of the first in American public life to recognize the dangers of the international Communist conspiracy. He began his study of Communist methods and terror techniques shortly after World War I and was a lifelong advocate of constant vigilance against this menace. When after World War II many were blind to communism he was constantly aware of its antidemocratic nature.

Mr. Hoover was an outstanding leader in protecting the civil rights of all our people, and played a crucial role in protecting the legitimate rights of all minority groups.

Yes, Mr. Speaker, it will be extremely difficult to replace this public servant whose service to Nation and the cause of freedom spanned two generations of American life. From the time in 1924 when then Secretary of Commerce Herbert Hoover recommended him to the then Attorney General and later Chief Justice Harlan Fiske Stone, J. Edgar Hoover was a name linked to dedication to the law. He was respected by young and old. John Edgar Hoover was a dedicated public servant who ranks with the all time great leaders of American history. He gave an entire lifetime of service to country. The complete integrity of Mr. Hoover's tenure is best indicated by his response to Attorney General Stone's offer of the directorship of the Bureau in 1924. Mr. Hoover said:

> The Bureau must be divorced from politics and not be a catch-all for political hacks. Appointments must be based on merit. Second, promotions will be made on proved ability and the Bureau will be responsible only to the Attorney General.

Mr. RARICK. Mr. Speaker, with the passing of J. Edgar Hoover, a noble and gallant leader in the cause of law and order and the security of our country, is removed from our midst at a time when his services and experience will be sorely missed.

As the Representative of the people of the Sixth District of Louisiana, I join with the multitudes of liberty loving and patriotic Americans in mourning the great loss which we have all sustained.

Mr. BOLAND. Mr. Speaker, I want to join my colleagues in paying tribute to J. Edgar Hoover. Long a symbol of the lawman, as much a tradition in American folklore as the western sheriff, Hoover almost singlehandedly built the FBI into a law enforcement agency unparalleled anywhere else in the world. The FBI was still a fledgling agency, known to the public only by talk of ineptitude and rumors of corruption, when Hoover became its Director. Under his tutelage, the Bureau shook itself out of its lethargy and freed itself of even the slightest taint of corruption. The G-man's role was no longer one of the humble civil servant, but one of glamour and prestige: Sam Spade and Sherlock Holmes rolled up into one. J. Edgar Hoover made the cop's job more significantly respectable. As the FBI's celebrity grew, the image of police everywhere brightened.

Within the past few years, of course, Hoover was at sword's point with much of the political world's liberal community. His sulfurous controversies with the New Left are still smoking. Often attacked for his blunt and outspoken manner—even for what his critics charged was a kind of lofty moral dogmatism—Hoover steadfastly refused to surrender his responsibilities.

The merits of these disputes, Mr. Speaker, remain debatable.

What is not debatable, however, is Hoover's contribution to law enforcement—a contribution acknowledged even by his most ardent foes, however grudgingly. Still the lengthened shadow of J. Edgar Hoover, the FBI is the finest law enforcement agency in the world. It is as tough and as dogged and an incorruptible as Hoover himself. The Bureau's work with local police forces—its training programs, its publications, its pioneer research in crime detection—has been of immeasurable value to communities throughout the United States.

J. Edgar Hoover's fame in American law enforcement will long outlive the controversies that clouded his declining years.

UTOPIANISM—A THREAT TO THE CREDIBILITY OF GOVERNMENT

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, St. Thomas Aquinas once warned that for a society to dig a ditch in front of its youth and leave it unfilled is to court disaster. He knew that to pursue the unattainable goal—to forever seek and never find—was, when carried to an extreme, the enemy of both education and progress. Indeed, it is the unanswered questions, the unfulfilled promises, more than anything else, which has tended to polarize this Nation and has reduced the credibility of government in the eyes of its people. Affirming a utopian ideal cannot and does not lead to ready solutions; in fact, the very quest for an ultimate, a perfection, defies the easy answer.

St. Thomas Aquinas reminds us that while asking the right questions is important, we have an obligation to provide answers as well—and answers that are rational and realistic rather than subjective and utopian. It is a lesson of history we should not forget.

If one really wants to effect positive change, one does not start with the ideal and work toward the reality. Rather, one starts with what exists and progresses toward the ideal. To attempt the former disregards logic and practical wisdom. But to proceed from the reality allows one not only to view where he is going, but also to see from where he has come. That is perspective and it is in short supply these days among those running for high office.

This country has made great strides, in the context of our brief 200-year history and in the context of this generation—a span of time which has seen ignited long-smoldering areas of national concern. Racism, rural poverty, urban blight, and environmental protection are all newly recognized problems. Seen in this context, we as a people have made remarkable progress. But, as with the accumulation of knowledge, progress affirms only that there is so much more that needs to be done.

It is time for some plain talk to our young people—they must hear the good as well as the bad, the successes as well as the failures. The ability to ask the right questions must be preserved, but to that must be added the commitment to search for the answers.

This country is at one of its most crucial junctures in history—we are wrestling with issues that will effect the lives of countless generations. As Counsel General David Rivlin of Israel said in Buffalo on the occasion of Israel's 24th anniversary:

> A nation that forgets its past is doomed to destruction.

This appraisal of Israel is applicable to the United States as well.

We in government have a major responsibility to help lead the way in bringing to the attention of the American people the historical perspective so desperately needed to understand the scope and complexity of our problems, and to weigh and analyze, with reasonableness, understanding, and objectivity, their proposed solutions. To be imprisoned by the present and seduced by the latest opinion poll is to neglect the lessons of history and the long range best interests of the Nation.

Our youth will not inherit a perfect country—the imperfection of man and society will be with us long after we are gone. Ending war, eradicating poverty, and eliminatiing prejudice are all issues that defy easy solution. But a sense of perspective will insure that we never lose sight of the progress that has been made. Only a utopian vision of man and society undermines the capacity of this Nation to rise to the challenges of this less than perfect world.

Irving Kristol has written a compelling article which addresses itself to this topic: "A Foolish American Ism—Utopianism." Seldom have I heard articulated with more precision and clarity, the threat to progress that emanates from utopianism. I include it in the RECORD on behalf of the many fine young people in my district and this country whose idealism we very much need to help us meet our common goal of a better community and a better country for all:

A FOOLISH AMERICAN ISM—UTOPIANISM

(By Irving Kristol)

(NOTE.—Irving Kristol is co-editor of The Public Interest and Henry Luce Professor of Urban Values at New York University.)

Let us suppose that we have provided the President of the United States with two imaginary speeches, both of which he is dutifully prepared to deliver. They deal, in a highly general way, with the goals of American foreign policy. The first speech goes somewhat as follows:

"Our American nation, ever since its foundation, has pursued the ideal of a world without war. This ideal—the abolition of war—has been the ultimate foundation of our foreign policy, despite all circumstantial changes of strategy and tactics. The ideal is as alive today, in our hearts and minds, as it ever was. This Administration is dedicated to pursuing it with the utmost vigor, and with all the patience and skill that is necessary. We seek, by our policies, to create a world in which man's inhumanity to man will become but a horrible memory, in which men will, under the conditions of a just and secure peace, live harmoniously and creatively together. We seek a world without war, without bloodshed, without poverty, without oppression or discrimination. Such a world, I am convinced, is within our reach if only the statesmen of all nations are sufficiently farsighted to seize the opportunity. I am confident, moreover, that they will display such farsightedness, and will not let the opportunity for a universal and enduring peace slip from their grasp. The people of the world—the people of all nations—demand such a peace. We shall betray their aspirations, and shall certainly be held to account, if we fail to resolve our quarrels and conflicts so as to make man's dreams of permanent peace a reality in our own time."

What would happen if the President gave this speech (in a considerably lengthier version, of course)? It is fair to predict—it is indeed absolutely certain—that nothing would happen. It is a perfectly conventional speech, of a kind that many Presidents have given many times. The press corps would yawn over the familiar clichés; the citizenry would scan the headline ("President Reaffirms Goal of World Peace") and then turn to the sports or financial pages; the heads of all nations would formally indicate their approval of these noble sentiments; and "informed sources" in Washington would explain that it is too early to tell what significance, if any, the speech had for any particular area of American foreign policy. As I said: nothing would happen.

Now, let us have the President deliver a rather different speech—our second version. And let it proceed somewhat as follows:

"This American nation, ever since its foundation has for the most part pursued its national interests in a moderate and prudent way. This Administration is determined to continue on this path of moderation and prudence. However, we are well aware that there is no guaranteed path to peace with justice. True, men have always dreamed of perpetual peace, and presumably always will. This dream is a noble one, and a man must be deficient in humanity not to have felt its appeal. But let us remember. It is a dream, whereas we live out our lives in a real and material world that is governed, not by dreams, but by limited possibilities. In this real and material world, conflict between men and war between nations appear to be permanent features of the human condition. It has always been so; we must, if we are to be responsible statesmen, assume that it always will be so. I shall minimize our chances of experiencing war; if war is unavoidable. I shall do my best to limit its extent and the mischief it is bound to create; and whether I am able to limit it or not, I shall always do my utmost to ensure that the war we shall be engaged in will be a just war, and will be justly conducted. I cannot promise you a world without war, but such a promise is inherently fraudulent. But I can promise that we shall conduct our foreign affairs in a responsible and honorable fashion, that we shall make every effort to achieve a reasonable compromise of our differences with other nations, and that whatever calamities befall us will be as little as possible of our own making."

What would happen if the President gave *this* speech? One's imagination is inadequate to the prospect. It is fair to predict, however, that after a shorter or longer period of stunned silence, a storm of censure would gather round the President's head. The press corps would explode with moral indignation, and the headlines this time would be eye-catching ("President Denounces Peace as Impossible Dream"); the citizenry would be alarmed; the heads of all nations would express concern at "the new American belligerency"; only the "informed sources" in Washington would remain steady, explaining that it is too early to tell what significance, if any, the speech had for any particular area of American foreign policy.

And yet—what is wrong with the second speech? I submit that there is nothing wrong with it. It is, in every respect, superior to the meaningless banalities of the first speech. It reads 5,000 years of human experience truthfully and sagaciously, and it announces the results of this reading with a pleasing directness and candor. It is a statesman's speech—whereas the first version was nothing more than a politician's speech. True, it is an American statesman's speech; not everyone would agree that this nations' foreign policy has always displayed such moderation and prudence. But that sort of bias is comprehensible, easily discountable and even justifiable—after all, Presidents of the United States are not supposed to be objective and neutral political philosophers.

So the question arises: If the second speech is so much superior to the first, why is it that no President would ever dare to make it? Why is it that, if the President were to say that no reasonable man can expect enduring peace on earth until the day that our Redeemer cometh, this would be regarded as a terrible, cynical blasphemy—even though it is recognizably one of the most venerable platitudes of the Judaeo-Christian tradition? What is it about our political condition that constrains our leaders to define politics as the pursuit of impossible dreams? Are we the most high-minded people who ever lived, or the most hypocritical?

To that last question, the answer is: If you are extraordinarily high-minded in your political pronouncements, you are bound in the nature of things to be more than ordinarily hypocritical. But it is only in the last half century or so that high-minded hyprocrisy has completely driven statesmanlike reasonableness out of the American public forum. The point is important and not at all self-evident to our smog-beclouded eyes, so it is worth a bit of elaboration.

The United States has always had, by historical standards, quite ambitious ideological ends of a timeless and universal nature. George Santayana, echoing the worldly wisdom of Old Europe, could dismiss the Declaration of Independence as "a salad of illusions." But these "illusions" represented a deep emotional commitment by a new national community to the idea that government—all government, everywhere—should be subservient to the citizen's individual life, his personal liberty and his pursuit of happiness. True, and inevitably, this fundamental document of the American credo was involved in hypocrisy from the outset: It carefully refrained from saying anything about "the peculiar institution" of slavery which then flourished in this country. Nevertheless, one cannot begin to understand the American people and its history unless one appreciates the extent to which our literature, our journalism, our philosophy, our politics was shaped by this powerful ideological commitment. One does not exaggerate when one calls it a kind of Messianic commitment to a redemptive mission: The United States was to be "a city . . . set on an hill," "a light unto the nations," exemplifying the blessings of liberty to the common man in less fortunate countries, and encouraging him to establish a liberal and democratic regime like unto ours.

So, in a sense, the United States can be said to be the most ideological of all nations—far more ideological than the Soviet Union, for instance, whose official political orthodoxy has never been able to sink deep roots, has never become a popular civil religion, a consensual orthodoxy, as has happened here. But, in another sense, the United States can also be said to have been one of the least ideological of nations. For, in addition to the philosophy of the Enlightment, as incarnated in the Declaration of Independence, there was another and, for a long time, equally powerful political tradition that prevailed in the United States. This political tradition, rooted in centuries of British political experience and in British constitutional-juridical thought, found expression in the Constitution—a document that (unlike the contemporary French Revolutionary constitutions) was far more a lawyer's job of work than a social philosopher's. There is nothing particularly grand or visionary or utopian in the language of the Constitution. Its eloquence, where it exists, is the eloquence of British jurists as carried over and preserved in American legal education. And it proceeds to establish a mundane government based on a very prosaic estimate of men's capacities to subordinate passion to reason, prejudice to benevolence, self-interest to the public good.

For more than a century, these two traditions coexisted amiably if uneasily in American life. The exultant prophetic-utopian tradition was always the more popular, it represented, as it were, the vernacular of American political discourse. It was, and is, the natural rhetoric of the journalist and the political candidate, both of whom instinctively seek to touch the deepest springs of American sentiment. In contrast, the constitutional-legal tradition supplied the rhetoric for official occasions and for the official business of government—for Presidential messages, debates in Congress, Supreme Court decisions and the like.

Andrew Jackson, for example, was a radical populist in his time, and when he vetoed the bank bill in 1832, his followers celebrated this as "driving the money changers from the temple." He himself, however, in sending his message to the Senate, began it as follows:

"The bill 'to modify and continue' the act entitled 'An Act To Incorporate the Subscribers to the Bank' was presented to me on the 4th July instant. Having considered it with that solemn regard to the principles of the Constitution which the day was calculated to inspire, and come to the conclusion that it ought not to become a law, I herewith return it to the Senate, in which it originated, with my objections.

"A bank of the United States is in many respects convenient for the Government and useful to the people. Entertaining this opinion, and deeply impressed with the belief that some of the powers and privileges possessed by the existing bank are unauthorized by the Constitution, subversive of the rights of the states, and dangerous to the liberties of the people, I felt it my duty at an early period of my Administration to call the attention of Congress to the practicability of organizing an institution continuing all its advantages and obviating these objections. I sincerely regret that in the act before me I can perceive none of those modifications of the bank charter which are necessary, in my opinion, to make it compatible with justice, with sound policy, or with the Constitution of our country."

This "high" mode of discourse—without cant, without demagogy, without bombast—was then thought to be the normal way in which the American Government should engage in public conversation with its own people or with the world at large. Concurrently, the political vernacular was infused with a declamatory passion. John L. O'Sullivan, a Jacksonian Democrat journalist who subsequently became a leading popular exponent of the United States' "Manifest Destiny" to expand over the entire continent, composed an endless stream of demagogic-prophetic editorials. They are perfect specimens of their type. Thus he wrote in 1839:

"The far-reaching, the boundless future, will be the era of American greatness. In its magnificent domain of space and time, the nation of many nations is destined to manifest to mankind the excellence of divine principles, to establish on earth the noblest temple ever dedicated to the worship of the Most High—the Sacred and the True. Its floor shall be a hemisphere. . . ."

And so on and so forth. The public lapped it up, and the Fourth of July orations continued to serve it up. But if one turns to the official statements of American foreign policy—statements by Presidents and Secretaries of State—one finds almost nothing of this sort. From George Washington to William McKinley, practically all such statements are sober and measured formulations of "sound policy," composed by constitutional lawyers who felt the need to argue the merits of their cases before the bar of rational and informed opinion. It is rare for any kind of breathless utopian or shrill prophetic notes to be sounded. Even at the outbreak of the Spanish-American War, when jingoistic rhetoric was deafening in its persistence and intensity, President McKinley's War Message to Congress was a lawyer's brief, arguing the legality of American actions, emphasizing their moderate and prudent qualities, outlining the material issues involved, and offering only a minimum of that "high idealism" that has since become obligatory in Presidential prose.

Sometime around the turn of the century, the impact of the Populist and Progressive movements combined to establish the vernacular utopian-prophetic rhetoric as the official rhetoric of American statesmen. It happened gradually, and it was not until the nineteen-thirties that the victory of the vernacular was complete and unchallengeable. But it also happened with a kind of irresistible momentum, as the egalitarian, "democratic" temper of the American people remorselessly destroyed the last vestiges of the neo-Whiggish, "republican" cast of mind. By now, we no longer find it in any way odd that American Presidents should sound like demagogic journalists of yesteryear. Indeed, we would take alarm and regard them as eccentric if they sounded like anything else.

The effects of this transformation have been momentous, though not much noticed or commented upon. High-flown double-talk has become the normal jargon of American Government. This flatters and soothes the citizenry, but at the same time engenders a permanent credibility gap; instead of paying attention to what the Government literally says—a waste of anyone's time—we expend much energy trying to figure out what the Govenment really means. Official or quasi-official state documents, for the historian of today, have become trivial, superficial and unreliable sources of information. No historian of Abraham Lincoln's period would dare minimize the importance of what he said during his debates with Douglas or in his two inaugural addresses; no historian of the nineteen-sixties would bother paying nearly as close attention to the public words of John F. Kennedy, Lyndon B. Johnson or Richard M. Nixon. Our public rhetoric has become largely ritualistic—resounding utopian clichés that obfuscate a presumed "inside story" our reporters are always snuffing after.

The kinds of dangers this situation creates in the area of American foreign policy have been noted by some critics. Hans J. Morgenthau has pointed out that the closer we get to the Founding Fathers, the more sensible, the more forthright, the more realistic are our official statements of foreign policy. Conversely, the more we approach the present, the windier and more meaningless they become. Even our vocabulary becomes corrupted. The countries of Asia and Africa and South America used to be "poor"; in the course of the past 20 years they became first "underdeveloped," and now "less-developed." Plain language that accords with reality has become positively offensive to our sensibilities.

The corruption of plain language has been accompanied by—one might even say it has resulted in—the corruption of plain speaking. No Secretary of State can today describe the Governments of Greece or Peru or Bolivia or Spain or Argentina or Egypt as what they obviously are: military dictatorships. It would cause a diplomatic row; these nations have become so accustomed to our hypocritical double-talk that they would sense some sinister intentions in any deviation from it. Similarly, no Secretary of State could ever say that a particular regime—for example, the Communist Government of China—is abhorrent to our own political values but that we are nevertheless prepared to have diplomatic relations with it and do business with it, since it suits our national interests at this time to do so. No, he has to announce the dawn of a new diplomatic era, a giant step to world peace, and all the rest of that nonsense. It is nonsense because he has no grounds whatever for believing this, and it is altogether possible that a United States-China *rapprochement* could heighten the possibility of war in some parts of the world—on the Russian-Chinese border, for instance, or the India-Pakistan frontier.

A particularly striking instance of how impossible it is for simple and incontestable truths to be uttered in high places is provided by the rhetoric in which our foreign aid programs are cocooned. Never mind, for the moment, whether these programs are good or bad, overly generous or terribly niggardly. The one certain fact about these programs is that they cannot even begin to do what they promise: Namely, in our lifetime to bring the standard of living of the "less-developed" countries closer to the American-West European standard. *Nothing* can do that. If we allow that India's economy might grow at an uninterruptedly rapid rate (say, 10 per cent) for the next 29 years, and assume that the American growth rate will sustain itself at the modest level of 5 per cent during that period, then—because of the initial huge disparity—by the magic year 2000 the gap between the Indian and American per capita income will, in absolute terms, be *greater* than it is today. The notion, therefore, that any significant portion of the "third world" can even begin to "catch up" to the West in the next generation is an absurdity. Indeed, given the fact that "less-developed" countries are dependent on fairly high growth rates in the United States and Europe for their own economic growth, the probability is that they will not "catch up" anytime in the next several generations, and there is a good chance they may never "catch up" at all.

Yet, who can say this? No United States

Government official can—he would be denounced as a sour pessimist and driven from office. No official or political leader in a "less-developed" country can—he would be denounced as a traitor and driven from office. So, no one says it. Instead we talk grandly about "economic development" in a deceitful and misleading way. The inevitable result is that the economic growth which does take place in poorer lands—and many of them are doing quite well, by historical standards—is universally denounced as "inadequate." A more perfect recipe for permanent political instability in these nations cannot be imagined.

Worst of all, the corruption of language and speech results in the corruption of thought. One has only to observe the hearings before the Senate or House Foreign Relations Committees to realize that, once you surrender the liberty to speak plainly, you lose the capacity to think clearly. Sustained hypocrisy is one of the most intolerable regimens for the mind: In the end, you find yourself believing yourself and taking your own empty rhetoric seriously.

Thus, it is one of the oldest and truest proverbs in international relations that, under certain circumstances, the enemy of your enemy becomes your friend—even if, had you a freer choice, you would never want such a friend at all. All nations operate on this essential principle, and the United States is no exception. Yet one can read the testimony of Government officials and "expert witnesses" for years on end without coming across a clear enunciation of it as the rationale for some aspect of American policy. We have a terrible time explaining to ourselves that, while we have an instinctive, democratic (and healthy) dislike for dictatorships, we have precious little control over the way other peoples govern or misgovern themselves. Our relations with other nations, and theirs with us, are determined for the most part by calculations of mutual advantage. One gets the distinct impression that our Government is not only ashamed to admit it engages in such calculations—it actually is reluctant to engage in them, except under the random pressure of necessity which it then perceives as an "emergency." We have been telling ourselves for so long that our foreign policy proceeds on quite other principles that we have lost the art and skill of coping with the principles that do, in fact, prevail. Our statesmen are always reacting to reality as an "emergency," in an *ad hoc* fashion, and having at the same time to invent a fancy, "idealistic" motive for the most prosaic and practical actions.

Witness the typically American fuss and furor in recent months over whether the elections in South Vietnam were truly democratic—and if they were not, what we should then be doing about it. The assumption seems to be that the original purpose of our intervention in Vietnam was to establish parliamentary government there, and that the absence of such government presents us with a crisis. But this is a childish assumption. We did not intervene for any such purpose. (At least I hope we didn't—can't bring myself to believe that the men who make our foreign policy were quite that idiotic.) Our intervention was to help establish a friendly, relatively stable regime which could coexist peacefully with the other nations of Southeast Asia. If such a regime prefers corrupt elections to the kind of overt military dictatorship that more usually prevails in that part of the world, this is its own affair. It constitutes no problem for us—any more than does the fact that Communist China prefers to manage with no elections at all. Our relations with both of these Asian nations are based mainly on considerations of international stability and world peace, not on how they go about governing themselves.

To be sure, being an American I am keenly aware of the merits of representative government, and I do hope that the Vietnamese (South and North) will at some time recognize these merits. But I am also aware that these merits do not automatically commend themselves to all nations, at all times, everywhere. Our foreign relations, therefore, must of necessity be more concerned with the external policies of any particular nation than with its internal form of government. This is as true for South Vietnam as it is for China or Russia or Cuba. We are perfectly free, as Americans, to be critical of, or even to have contempt for, their systems of government. But, as Americans, we are also free not to live there, and we are therefore bound to be more interested in their behavior to others than in their behavior to themselves. I think most Americans would subscribe to this common-sense proposition. But it is not a proposition we would permit our spokesman at the United Nations to enunciate. And there do seem to be many eminent Americans—notably, an entire class of liberal journalists—who have been utterly bewitched by our official platitudes. These men and women, after traveling freely throughout South Vietnam, heap scorn upon its "corrupt" democracy. They then make a strictly guided tour of China to return aglow with admiration! One can only assume that such men and women think it natural to judge our allies by quite utopian standards, but are ready to give unfriendly nations the benefit of every possible doubt.

But it is not only in foreign affairs that our Government proceeds by utopian promises of future benefits and hypocritical explanations of actual performance. Our entire domestic policy is suffused with this same self-defeating duality. Thus, as a domestic counterpart to a "war to end all wars," we have in the past decade launched a "war to end poverty." The very title of that crusade reveals a mindless enthusiasm which could only lead to bitter disillusionment.

There are two ways of defining poverty: in absolute terms or relative terms. The absolute definition, involving estimates by Government agencies of an adequate diet, adequate shelter, adequate clothing for an average family, is relatively easy to make. It is also largely meaningless in a context of "the abolition of poverty." To see just how meaningless it is, one has only to report that the majority of welfare families in New York City are now above the officially determined "poverty line." Have we ceased regarding them—have they ceased regarding themselves—as poor? Of course not. If you take a family with an annual income of $3,800 and, one way or another, increase this income to $4,500, you have helped them somewhat—but you certainly have not abolished their poverty, as grandly promised. The consequence is that the modest but real improvement is obliterated by an exacerbated sense of "relative deprivation."

Most people, when they hear talk of "abolishing poverty," inevitably and immediately have in mind a susbtantial relative improvement, not merely a modest absolute one. They think in terms of elevating all those below the United States median family income—approximately $9,500 a year—to the vicinity of this level. That does not look like such an unreasonable goal. After all, families that make $9,500 a year have to watch their nickels and dimes if they are to make ends meet. (Ask them, and they'll tell you—and they'll be telling the truth.) But this is one of those cases where appearances are deceptive, and what looks like a reasonable goal is in fact utopian. To achieve it would require either the creation of new income or the redistribtuion of existing income to the tune of perhaps $200-billion a year.*

This is simply impossible, there is no policy, however "racial," that could come close to accomplishing this. We may be an "affluent" society by historical standards, but we are not nearly that affluent. (Total corporate profits last year, after taxes, were a little less than $50-billion). Yet who dares to say so? Instead, our politicians (and our journalists and professors, too) persist in holding up this impossible ideal, with the quite predictable effect of making people intensely dissatisfied with social policies that achieve (though never easily) smaller increments to their income or smaller improvements of their condition.

The upshot of this state of affairs is that any American who, today, passes his working life in moving from $4,000 a year to an ultimate $9,500 is regarded as a pathetic victim of circumstances, a prisoner in a "dead-end job." Yet just about half of all Americans pass their working lives in this way, and are going to do so regardless of anything said or done in Washington. All that our utopian rhetoric can do is to convince them that the normal working-class experience—the *inevitable* working-class experience, which would be as common in a socialist United States as in a capitalist United States—is a fate akin to degradation.

Or take our "welfare problem." Welfare policy in the United States is based on a very simple—and enormously flattering—thesis about American human nature. The thesis consists of the following propositions: (1) all Americans are highly motivated to work as a means of improving their material condition; (2) those Americans who seem not to be so motivated are suffering from temporary "psychological deprivation" as a result of poverty, bad housing, bad health and so on; (3) improve their material environment and the "normal" impulse to self-betterment will automatically assert itself. It is a plausible thesis to our American ears. Moreover, there is enough historical experience behind it to suggest it is not entirely false. Only, when applied indiscriminately, it turns out to be more false than true. Some people, whether in the United States or elsewhere, respond according to this formula. A great many others, however, do not. It turns out there are lots of people in the world, including a great many Americans, who do not fill the American prescription for "human nature."

Once you think about it, this is not really surprising. For what our high expectations and our high-flown rhetoric overlook—are bound to overlook, because they are so high-flying—is that we are for the most part talking about motivation directed toward small improvements. You can motivate almost anyone to become a millionaire, if the possibility is offered; but that possibility rarely is. And it is another thing entirely to motivate people to move from a badly paying situation (say, casual laborer) to a slightly better-paying but also more arduous one (say, laundry worker or drill-press operator). That is the kind of grim motivation you need to get "self-sustained" economic growth, whether among nations or among individuals. Not all human beings are born with this kind of grim motivation—which is just as well, I'd say, since the earth would then be a pretty dreary, if industrious, place.

In the absence of such ingrained motivation, the usual way we motivate people—even in America—has been by adding the spur of

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*One must remember: If you establish a guaranteed minimum family income of, say, $8,000 a year, you are then faced with the problems of those who work to earn $9,000 or $10,000. Are they to labor for a measly $1,000 or $2,000 a year? You cannot ask that, and they would not tolerate it if you did. So you have to make some kind of supplementary payments to those families, too. And *then* you are faced with the problem of those who work to earn $12,000 a year—and so on, and on. It is this "ripple effect" that makes the guaranteed income, at any level above a ludicrously low one, such a fantastically expensive proposition.

necessity to the offer of modest opportunity. That small improvement has to make a real difference: the difference between squalor and poverty, or between poverty and minimum comfort. These "little" differences—almost invisible to the middle-class eye, and never taken seriously by middle-class reformers—are absolutely crucial to the self-discipline and self-respect of ordinary working people. They need to be very much aware of the costs of not achieving them, if the achievement is to have any merit or meaning in their eyes.

I suspect that all of this sounds petty, and sordid, and mean-spirited. We are accustomed to thinking about poor people, and about ways of helping poor people, in more elevated terms than these. And so we introduce something like our present welfare policies. The policies, at one swoop, abolish all those important little differences in achievement. They generously offer all poor people more in the way of welfare than they can get for their unskilled labor on the open market—more, often, than they would earn at the legal minimum wage. Naturally, these people not being fanatics about work, move onto the welfare rolls in very large numbers. To be precise, the wives and children are pushed onto welfare. The men themselves drift away from their homes, demoralized by the knowledge that their function as breadwinner has been pre-empted by welfare. These men then merge into the shadows of street-corner society—superfluous men, subsisting by casual labor or casual crime, men whose families are materially no worse off for their absence and would be no better off for their presence. Has there ever been a more ingenious formula for the destruction of poor families? Indeed, one can fairly speculate how many middle-class families would hang together if the family suffered no financial inconvenience as a result of the husband's vanishing.

Welfare is wreaking devastation on the American poor—making the child fatherless, the wife husbandless, the husband useless. We see this "welfare explosion" happening and, disconcerted, turn this calamity of our own creation into an indictment of our social order.

Once you have put people on welfare, it is a nasty business getting them off. You can either (1) cut welfare rates so as to make it distinctly worth their while to go to work, or (2) keep welfare rates high for those truly unable to work—the aged, the sick, the disabled, the unemployed—but have a severe, suspicious welfare bureaucracy that defines its mission as getting as many of the rest off the rolls as is possible. Neither alternative is attractive, though the latter seems to me considerably more humane. (Its social consequences are also likely to be beneficial, since we know that families on welfare tend to develop social pathologies: they produce relatively more criminals, drug addicts, alcoholics, illegitimate children, etc.) But the second option does involve our taking a more realistic view of human nature and of human motivation—and this we are most unlikely to do. So we shall either veer toward the first course, indiscriminately penalizing all welfare recipients in the name of "economy," or, more probably, we shall simply stagger on until some kind of social explosion takes place.

It really is a curious phenomenon we are witnessing: a nation preferring to live under a perpetual, self-inflicted indictment of "social injustice," and amidst an ever-swelling and ever-more-demoralized population on the dole, rather than revise its utterly fanciful and utopian idea of human nature. There cannot have been many instances in history of such high-minded masochism. We may even be the first.

What is true of welfare is even more blatantly true of our other social problems. Our utopian illusions always are preferred to realistic assessments of human beings, and to the world in which real human beings live.

In no area are the ravages of American utopianism more visible than in education. Here intellectual fads and fashions reign supreme, all of them exultant in promise, all of them negligible in accomplishment. Our professional educators today are perpetually and enthusiastically engaged in deception and self deception, in part out of necessity, in part because they actually feel this is their "responsibility." We know a great deal about the relationship between schools and academic achievement. But it is the rare educator who dares to say what we know, to challenge the sovereign platitudes as to what a school can do to the young people who enter it.

We know from the Coleman Report and other studies, for instance, that there is practically no correlation between the physical plant of our schools and the academic achievement of our students. We may desire new, well-equipped schools for all sorts of reasons. They may be good reasons; they may even, in some vague sense, qualify as "educational" reasons; but they are not academic reasons. Students learn as well in old, decrepit school buildings as in new, shiny ones; or they learn as little in the latter as in the former. Middle-class parents who think they are improving their children's academic potential by sending them to a brand-new school with a fine library, a sumptuous gymnasium, a lovely lunchroom are kidding themselves. So are slum parents who think that their children's academic potential is weakened by old buildings, cramped gymnasiums (or no gymnasium), shabby lunchrooms, paltry libraries (or no library). What determines a child's academic achievement is his genetic endowment plus the values and motivation he acquires at home. All the rest may have significant consequences for a child's life-style, his appearance, perhaps (and I myself regard this as the most important function of schools) what we call his "character." But it will have little to do with his academic achievement.

Even class size turns out to have nothing to do with academic achievement. There are, in my view, good reasons—having to do with the role of the teacher as an "adult model" in the process of "character formation"—for preferring smaller classes to larger ones. But they are not academic reasons. Whether a class has 20 pupils or 30 or even 40 simply doesn't matter. Students who do well in small classes will do well in large ones. Students who do poorly in large classes will do no better in small ones. This subject has been studied to death by generations of educational researchers, and the results are conclusive.

Nevertheless, the educator who dares to utter these truths publicly is instantly classified as, at best, an eccentric. His opinions are marked as "controversial"—though they are not—whereas an educator who stresses the academic importance of new schools and small classes is simply seen as tediously "sound." Every year, in New York City, a furious debate breaks out when the statistics on the reading levels in the city schools are made available. These statistics always show that the average reading levels in New York's schools are lower than the national average—and they usually show that, with each year, they are steadily falling further below the national average. The publication of these figures always shocks, always provokes front-page news stories. But far from being shocking, these statistics aren't even newsworthy, since they are perfectly predictable. The reason that reading scores in New York's schools are falling away from the national average is that an ever-increasing percentage of our students come from very low-income families that are also broken, transient and generally problem-ridden families. The children in these families show low academic motivation and low academic aptitude. We insist that our schools "do something" about increasing the academic ability of these youngsters, and our educational leaders furiously institute every gimmick they can think of with the assurance that this time they will turn the trick.

Our insistence is as unreasonable as their assurances are worthless. The schools cannot perform this sociological miracle—which, if it is to take place at all, will happen in the family, at home, over a period of time that is rarely shorter than a couple of generations. As such poor families move up the economic and social ladder, as their home life becomes more stable and the family concern for education becomes more emphatic, the student's academic performance improves. In individual cases, "miracles' 'do certainly occur. But in the mass, statistical probability reigns supreme—and the schools play no role in the calculations. If you want to estimate the chances of a student doing well or badly in school, give him a physical examination, look at his home, and give him an intelligence test. But don't bother him with questions about his school—it is of no importance for *this* purpose.

And how do we react to this fact? With furious indignation, usually. So, as the schools' impotence to satisfy our unrealistic demands becomes ever more clear, we shall—it is already beginning to happen—abolish reading scores and reading tests on the grounds that they are irrelevant to eventual academic achievement. This monumental act of self-deception will, of course, fool nobody and change nothing. But it will certainly be hailed by professional educators as a marvelous innovation.

Of late, many educators have waxed enthusiastic over the educational possibilities of small mixed classes, with the older students helping to instruct the younger, and with every student proceeding "at his own pace." This is, of course, exactly what used to happen in the "little red schoolhouse." I have always been fond of the little red schoolhouse and was unhappy that, after a determined campaign over many decades, our professional educators succeeded in outlawing it. If they now wish to reinstitute it, I certainly have no objections. But I find it more than a little nauseating that they should now present it as a brilliant educational innovation which will solve all our educational problems. And I find it unconscionable that these educators can be so easy in mind and spirit about their newest fad when the huge educational parks which—only yesterday—they insisted were absolutely necessary, are just now coming into existence.

A good principal can always make a *small* difference in the academic power of a school—and a small difference is surely better than none at all. A dedicated teacher may make a big difference to a *few* students—and this difference is to be treasured. But none of this satisfies us. We insist that our schools fulfill impossible dreams—and so they pretend to be able to do this (given a larger budget, of course). As a result, the world of American education is at the moment suffused with charlatanism, and anyone with a sober word to say is encouraged to go elsewhere.

The consequences of this public insistence on a utopian vision of man, history and society is that our public life is shot through with a permanent streak of hysteria. We are constantly indicting ourselves, denouncing our nation, lamenting our fate. Indeed, an entire profession has emerged—we call it "the media"—which has taken up on itself the responsibility for leading this chorus. Just imagine what our TV commentators and our "news" analysts" would do with a man who sought elected office with the promise that, during his tenure, he hoped to effect some small improvements in our condition. They would ridicule him into oblivion.

In contrast, they are very fond of someone like John Lindsay, who will settle for only the finest and most glowing goals. Public figures in our society get credit for their utopian rhetoric—for their "charisma," as we now say—and only demerits if they emphasize their (necessarily modest) achievements.

Every society needs ideals and self-criticism and some prophetic admonition. It needs these to correct its "natural" tendency toward smugness, intertia and parochial self-satisfaction. But when the countertendency toward insistent self-dissatisfaction becomes overwhelming, then such a society is in grave trouble. The capacity for contentment is atrophied. So is the willingness to see things as they really are, and then to improve them in a matter-of-fact way. We certainly do have it in our power to make improvements in the human estate. But to think we have it in our power to change people so as to make the human estate radically better than it is, radically different from what it is, and in very short order, is to assume that this generation of Americans can do what no other generation in all of human history could accomplish. American though I be, I cannot bring myself to accept this arrogant assumption. I think, rather, that by acting upon this assumption we shall surely end up making our world worse than it need have been.

MOBILE HOME SAFETY LEGISLATION

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FREY) is recognized for 10 minutes.

Mr. FREY. Mr. Speaker, I am today introducing the National Mobile Home Safety Act of 1972 which, if enacted, will remedy a serious gap in State and Federal regulation by providing assurance to the potential mobile home buyer that the mobile home he purchases meets certain minimum safety standards.

More than 7 million Americans live in mobile homes. Half of the one-family houses built in the United States today are mobile homes and 95 percent of the houses sold for under $15,000 are mobile homes.

And, the demand is growing; 500,000 mobile homes were manufactured last year alone. In my own State of Florida which is the largest mobile home market in the Nation, there are 1,271 mobile home parks and over 165,000 individual lots.

While there has been a phenomenal increase in the manufacturing, sale, and purchase of mobile homes, there has been an alarming lack of effort by the States and the Federal Government to assure that the homes sold meet certain basic safety standards. And, with the rising demand, there have been and are bound to be a few manufacturers who utilize unsafe construction materials and techniques.

Mobile homes are not subject to local building codes. The distinction between standard homes and mobile homes is oftentimes meaningless as some of the newer mobile home models are not really mobile at all. The most common size is 12 feet wide and 60 feet long, but they can be purchased in double or even triple width. The only time such homes are ever mobile is for the trip between the factory and the mobile home park. Even then they must be moved by tractor or heavy-duty truck.

Furthermore, only about half of the States have adopted standards directly or as a guideline. The standards were developed by the American National Standards Institute. Five out of the 10 top manufacturing States have no code whatsoever: New York, Pennsylvania, Illinois, Michigan, and Ohio.

These same standards, it should be noted, are utilized for membership in the Mobile Home Manufacturers Association. But, like most self-regulatory activities, it lacks teeth.

Criticism has also been made of the code itself. The final report of the National Commission on Product Safety concluded as follows concerning the mobile home code:

> Although the limited space in mobile homes calls for special consideration in their design, exigencies are largely unheeded. The standard does not provide exits opening on either side at opposite ends, in the event of fire or upset; safety glazing; or braking to prevent fishtailing. It permits use of gas, fire floor heaters (which generate excessive grate service temperatures). It does not require that the heater vent be constructed to preclude blocking, nor that the operator be informed of the importance of an electrical ground.

Moreover, those States which have adopted the code for the most part only apply it to homes manufactured in the State and sold in the State. Thus, mobile homes manufactured in a State without one and sold in a State with a code and homes manufactured in a State with a code but sold in a State without one are in most cases not regulated at all.

More importantly, however, is the lack of enforcement in those States which have adopted the code. For instance, in my own State of Florida which is the largest manufacturer of mobile homes in the country—38,000 last year—and has the largest number of mobile home parks—1,271—and lots—165,023—there are three inspectors to handle all complaints against the manufacturers of mobile homes and recreational vehicles and also the construction of all vehicles. Since they handle all recreational vehicles—campers, motorhomes, and so forth—and receive on the average 20 complaints per month on mobile homes only, and 17 new applications daily from mobile home dealers, they must resort to random spot checks of manufacturers. They inform me that every time they inspect they find violations of the code. Florida, it should be noted, has just decided to add three inspectors which should improve the situation.

And Florida has one of the better enforcement programs in the country.

There is no formal regulation at the Federal level either, although both the FHA and VA require that before mortgage money is lent on a mobile home, it must meet the ANSI standard. The FHA employs a "self-certification" process which in reality means no regulation at all. The VA, on the other hand, has just inaugurated a quarterly inspection of manufacturing plants by a person from each of their State offices. Experts in the industry tell me that a great deal of expertise is required to adequately inspect a mobile home and they are skeptical of the VA's capabilities in this regard. So am I.

The Federal Home Loan Bank Board has just recently authorized Federal Savings and Loan Associations to make loans for the purchase of mobile homes. But, they do not require that the mobile home financed meet any safety standards whatsoever.

Since the FHA and VA are insuring the financing of mobile homes and the Federal Home Loan Bank issues deposit insurance for Federal Savings and Loan Associations, fiscal responsibility alone would seem to require adherence to uniform Federal standards.

The lack of effective regulation of this rapidly expanding form of living is resulting in property damage, financial ruin, human suffering, and, in some cases, death.

It should be clearly understood, however, that there are only a few manufacturers who fail to adhere to minimum safety standards in order to cut corners. Most violations of the code are due to deficiencies in construction caused by a workman who does not know the code or the proper procedure for installing the materials as they were designed to be installed.

Let us look at some recent facts. A leading mobile home insurance company estimated that the average mobile home fire loss in 1971 was $1,529, as compared to $350, for a conventional home. The average mobile home fire loss increased from $889 in 1966 to $1,529 today. An analysis made by one insurance company of 5,543 mobile homes fires in 1971 estimated that damage due to such fires amounted to $6,780,972.34. The State of Oregon estimates that the average loss to a mobile home as compared to its value is 3.80 times as great as the same ratio for a standard home. The average age of a mobile home that has a fire is 7½ years as compared to 40 years for a conventional home.

Because of the lack of exits and high flammability of the construction materials used, the mortality rate in mobile home fires has been estimated in the State of Arizona as eight times that of ordinary dwellings and 3.29 times greater in the State of Oregon. In one fire in Syracuse, N.Y., this past winter five people died within minutes of a mobile home catching fire. A 2-year-old baby died in an Indianapolis, Ind., mobile home fire; 19.2 percent of all mobile home fires were due to faulty electrical wiring. The primary cause was the extensive use made of aluminum wiring and heat tape. Heat tape has a life expectancy of about 3 years and eventually failure usually takes the form of an electrical short. When placed around the water pipe adjacent to the inflammable insulation in the flooring of a mobile home, the short can ignite a fire very early; 13 percent of such fires are due to faulty furnaces and flues. The area surrounding furnaces, gas water heaters, stoves, and so forth, should be but are not protected with fire retardant material. Insulation used in mobile homes should also be fire retardant.

Furthermore, the windows in mobile homes are small and they do not have a means of emergency escape in case of fire as required by other types of housing.

The second most pressing safety problem relates to wind damage. Most States do not require that mobile homes be tied down at the site. Without foundations they are particularly vulnerable to being blown over in windstorms. In January, a tornado swept through a mobile home park at Fort Rucker, Ala., killing five and injuring 80. The worst damage to nearby houses, a few roofs lifted but no personal injury.

And, in Boulder, Colo., recently, where the ANSI code has been adopted, but apparently not enforced, 35 mobile homes were destroyed during a windstorm of 65 miles per hour—$800,000 worth of damage was done. The cause of the destruction was threefold:

The turnbuckles used to fasten the cables were not adequate—they were three-eighths of an inch instead of five-eighths of an inch—the cable clamps which attach the cable to the turnbuckles were not properly tightened; and the ends of the cable were put 2½ inches into concrete rods which had no holding power.

Since the vast majority of mobile homes owners are either retired or young persons just getting started who have put their life savings and personal possessions in the mobile home, any fire or loss imposes quite a hardship—97 percent of the mobile homeowners in Florida are retired and the average income for a Florida mobile homeowner including social security is $5,702.

Most losses, moreover, are not covered by warranties. The warranties are oftentimes of very short duration and hard to comply with. Some companies, for instance, require that the mobile home be returned to the point of purchase.

In addition, insurance companies have become more and more reluctant to insure certain models of mobile homes due to the high risk of loss involved. Consequently, insurance rates for mobile homes are considerably higher than those for standard homes. The insurance on the average $6,000 mobile home is approximately $100 which is equivalent to the insurance on a $40,000 conventional home.

The legislation I am introducing today will authorize the establishment of enforceable uniform national safety standards that should provide protection to the elderly and very young who purchase mobile homes, and will also, undoubtedly, result in the expanded use of mobile homes as a low cost, enjoyable form of living.

The high water table and warm climate of Florida have made mobile home living highly desirable for many of our senior citizens. If my legislation is enacted, I am confident that the mobile home industry will expand even more rapidly as prospective purchasers will be more assured that the home they purchase meets certain basic safety standards. The loss rate will undoubtedly, reflect the use of safer construction materials and techniques.

The mobile home industry is concerned about the problem of safety as evidenced by the attempts at self-policing. But, their efforts are just not sufficient. Significant progress will not be achieved until Federal legislation is enacted.

Also, one uniform standard and one enforcement procedure will enable each manufacturer to know precisely what is required of him. At the present time, 26 States have adopted different versions of the ANSI standard and the VA and FHA have their own standard and enforcement procedure.

The legislation which I offer today is modeled to a certain extent on the Motor Vehicle Safety Act of 1970, although there are significant variations. It is, I emphasize, a balanced, fair approach to the problem. The thrust of it is to establish minimum, uniform, safety standards while at the same time promoting the use of the mobile home as a low-cost, desirable form of housing.

Under my bill, the Secretary of HUD shall through a National Mobile Home Safety Bureau establish Federal mobile home safety standards. In prescribing standards the Secretary shall consider: First, all relevant mobile home safety data; second, consult with the States; and third, consider whether any proposed standard is reasonable, practicable and will not place undue financial burden on the manufacturer or dealer or result in a substantial increase in the retail price of mobile homes.

The standards would be established no earlier than 180 days after enactment with revised standards at least 180 days later. A National Mobile Home Safety Advisory Council will be established. The majority will be representatives of the general public, including representatives of State and local governments, and the remainder shall include representatives of the American National Standards Institute Committee on Mobile Homes and Recreational Vehicles and representatives of the mobile home manufacturers, dealers, and insurers. The Secretary must consult with the Advisory Council before establishing or amending any standards. These standards shall not apply to the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of any mobile home after the first purchase of it in good faith for purposes other than resale.

Once the standards have been promulgated, no person shall manufacture for sale, offer for sale, or introduce or deliver for introduction in interstate commerce or import into the United States, any mobile home manufactured unless it conforms to such standards.

The Secretary is further authorized to conduct research testing, development, and training for the development of new standards and to determine the relationship between mobile home performance characteristics and accidents involving mobile homes and the occurrence of death or injury from such accidents.

The Secretary is also authorized to conduct with the advisory council a thorough study of standards for used mobile homes and recommend additional legislation if he feels such is necessary within 1 year after this legislation is enacted.

Each violation of the prohibited acts outlined in section 108 of the bill are subject to the civil penalty of $1,000. Injunctive relief is also available in the U.S. district courts. In addition, if a mobile home does not conform to applicable Federal mobile home safety standards and it is prior to a sale by a distributor or dealer, the manufacturer or distributor shall either repurchase the home at his cost or furnish the parts and costs of installation to the distributor or dealer.

Provision is made for judicial review for any person adversely affected by an order—standard—issued by the Secretary.

Inspection and investigation is authorized as may be necessary to enforce the standards established. Designated employees may enter at reasonable times factories or warehouses for prompt inspection. Each manufacturer, distributor, and dealer shall establish and maintain such records and reports as the Secretary may require. The Secretary may also require each manufacturer to give performance and technical data to each prospective purchaser. Finally, each manufacturer shall furnish to each first purchaser and all dealers notification of any defect in a mobile home produced that relates to mobile home safety which he has discovered after manufacturing such home or which has been discovered through testing or inspection by the National Mobile Home Safety Bureau.

Certification that each mobile home conforms to the Federal safety standards shall also be given by each manufacturer to each distributor or dealer at the time of delivery.

Section 120 of the bill allows any State to assume responsibility for the development and enforcement of mobile home safety standards if the plan they submit to the Secretary for such provides for the development and enforcement of mobile home safety standards which are at least as effective in providing safe mobile homes as is the Federal program. Detailed reports would still be made by manufacturers, distributors, and dealers to the Secretary. And, the State agency will make such reports as the Secretary may require. The Secretary shall make a continuing evaluation of the way each State is carrying out its plan. Approval may be withdrawn at any time.

Grants will be made to States that have designated a State agency to assist them in identifying their needs and responsibilities in the area of mobile home safety standards or in developing State plans. The Federal share shall not exceed 90 percent. Grants of up to 50 percent can also be made to assist the States in administering and enforcing State plans for mobile home safety. Title II in the bill amends existing law to provide that loans made by the FHA, VA or a Federal Savings and Loan Association for the purchase of a mobile home may only be made for a home that meets or exceeds the mobile home safety standards established by this legislation.

Following is the complete text of the bill:

H.R. 14716

A bill to provide for the establishment of safety standards for mobile homes in interstate commerce, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress declares that the purpose of this Act is to reduce the amount of insurance costs, property damage, personal injury, and death resulting from mobile home accidents without any substantial increase in the retail price of mobile homes. Therefore, Congress determines that it is necessary to establish practical Federal safety standards for mobile homes in interstate commerce; to authorize mobile home safety research and development; to encourage and provide financial assistance for the development of State mobile home safety programs; and to provide that for the purposes of any Federal guarantee of a loan for the purchase of a mobile home or the making or investing in any such loan by a Federal savings and loan association, each such mobile home shall meet or exceed such Federal safety standards.

TITLE I—MOBILE HOME SAFETY STANDARDS

SHORT TITLE

SEC. 101. This Act may be cited as the "National Mobile Home Safety Standards Act of 1972".

DEFINITIONS

SEC. 102. As used in this title, the term—

(1) "dealer" means any person who is engaged in the sale and distribution of new mobile homes, primarily to persons who in good faith purchase any such mobile home for purposes other than resale;

(2) "defect" includes any defect in the performance, construction, components, or materials of a mobile home;

(3) "distributor" means any person who is engaged in the sale and distribution of mobile homes for resale;

(4) "interstate commerce" means commerce between any place within a State and any place within another State, or between places within the same State through another State;

(5) "manufacturer" means any person engaged in manufacturing or assembling mobile homes, including any person engaged in importing mobile homes for resale;

(6) "mobile home" means a factory-assembled structure designed primarily for use as a dwelling unit without a permanent foundation and manufactured and equipped with the necessary service connections so as to be readily movable as a unit on its own running gear;

(7) "mobile home safety" means the performance of a mobile home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such mobile home, or any unreasonable risk of death or injury to the public if such accidents do occur;

(8) "mobile home safety standard" means a minimum, practicable standard for mobile home performance which meets the need for mobile home safety;

(9) "Secretary" means the Secretary of Housing and Urban Development;

(10) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and America Samoa; and

(11) "United States district courts" means the Federal District Courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

FEDERAL MOBILE HOME SAFETY STANDARDS

SEC. 103. (a) The Secretary shall establish by order appropriate Federal mobile home safety standards. Each such Federal mobile home safety standard shall be practicable, shall meet the need for mobile home safety, and shall be stated in objective terms.

(b) The provisions of sections 551 through 559 of title 5, United States Code, shall apply to all orders establishing, amending, or revoking a Federal mobile home safety standard under this title.

(c) Each order establishing a Federal mobile home safety standard shall specify the date such standard is to take effect, which shall not be sooner than one hundred and eighty days or later than one year from the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

(d) Whenever a Federal mobile home safety standard established under this title is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any mobile home, any safety standard applicable to the same aspect of performance of such mobile home which is not equal to or greater than the Federal standard.

(e) The Secretary may by order amend or revoke any Federal mobile home safety standard established under this section. Such order shall specify the date on which such amendment or revocation is to take effect, which shall not be sooner than one hundred and eighty days or later than one year from the date the order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

(f) In prescribing standards under this section, the Secretary shall—

(1) consider relevant available mobile home safety data, including the results of the research, development, testing, and evaluation activities conducted pursuant to this title, and those activities conducted by the American National Standards Institute Committee on Mobile Homes and Recreational Vehicles; to determine how to best protect the public;

(2) consult with such State or interstate agencies (including legislative committees) as he deems appropriate;

(3) consider whether any such proposed standard is reasonable, practicable, and appropriate for the particular type of mobile home for which it is prescribed;

(4) consider whether any such standard will place an undue financial burden upon manufacturers and distributors of mobile homes;

(5) consider whether any such standard will result in a substantial increase in the retail price of mobile homes; and

(6) consider the extent to which any such standard will contribute to carrying out the purpose of this title.

(g) The Secretary shall issue initial Federal mobile home safety standards upon the expiration of the one hundred eighty-day period which begins on the date of enactment of this Act. The Secretary shall issue new and revised Federal mobile home safety standards upon this title upon the expiration of the three hundred sixty-day period which begins on the date of enactment of this Act.

NATIONAL MOBILE HOME SAFETY ADVISORY COUNCIL

SEC. 104. (a) The Secretary shall establish a National Mobile Home Safety Advisory Council, a majority of which shall be representatives of the general public, including representatives of State and local governments, and the remainder shall include members of the American National Standards Institute Committee on Mobile Homes and Recreational Vehicles and representatives of mobile home manufacturers and dealers, and insurers.

(b) The Secretary shall consult with the Advisory Council before establishing, amending, or revoking any mobile home safety standard pursuant to the provisions of this title.

(c) Members of the National Mobile Home Safety Advisory Council may be compensated at a rate not to exceed $100 per diem (including traveltime) when engaged in the actual duties of the Advisory Council. Such members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this section shall not render members of the Advisory Council employees or officials of the United States for any purpose.

JUDICIAL REVIEW OF ORDER

SEC. 105. (a) (1) In a case of actual controversy as to the validity of any order under section 103, any person who will be adversely affected by such order when it is effective may at any time prior to the sixtieth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28 of the United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the order in accordance with the provisions of sections 701 through 706 of title 5, United States Code, and to grant appropriate relief.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary of any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this title, irrespective of whether proceedings with respect to the order have previously been initiated or become final under subsection (a).

RESEARCH, TESTING, DEVELOPMENT, AND TRAINING

SEC. 106. (a) The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this title, including, but not limited to—

(1) collecting data from any source for the purpose of determining the relationship between mobile home performance characteristics and (A) accidents involving mobile homes, and (B) the occurrence of death, or personal injury resulting from such accidents;

(2) procuring (by negotiation or otherwise) experimental and other mobile homes for research and testing purposes;

(3) selling or otherwise disposing of test mobile homes and reimbursing the proceeds of such sale or disposal into the current appropriation available for the purpose of carrying out this title.

(b) The Secretary is authorized to conduct research, testing, development, and training as authorized to be carried out by subsection (a) of this section by making grants for the conduct of such research, testing, development, and training to States, interstate agencies, and nonprofit institutions.

(c) Whenever the Federal contribution for any research or development activity authorized by this title encouraging mobile home safety is more than minimal, the Secretary shall include in any contract, grant, or other arrangement for such research or development activity, provisions effective to insure that all information, uses, processes, patents, and other developments resulting from that activity will be made freely and fully available to the general public. Nothing herein shall be construed to deprive the owner of any background patent of any right which he may have thereunder.

COOPERATION WITH PUBLIC AND PRIVATE AGENCIES

SEC. 107. The Secretary is authorized to advise, assist, and cooperate with, other Federal departments and agencies, and State and other interested public and private agencies, including the American National Standards Institute Committee on Mobile Homes and Recreational Vehicles, in the planning and development of—

(1) mobile home safety standards; and

(2) methods for inspecting and testing to determine compliance with mobile home safety standards.

PROHIBITED ACTS

SEC. 108. (a) No person shall—

(1) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States, any mobile home manufactured on or after the date any applicable Federal mobile home safety standard takes effect under this title unless it is in conformity with such standard, except as provided in subsection (b) of this section;

(2) fail or refuse access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 112;

(3) fail to issue a certificate required by section 114, or issue a certificate to the effect that a moblie home conforms to all applicable Federal mobile home safety standards, if such person in the exercise of due care has reason to know that such certificate is false or misleading in a material respect; or

(4) fail to furnish notification of any defect as required by section 113

(b)(1) Paragraph (1) of subsection (a) shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any mobile home after the first purchase of it in good faith for purposes other than resale. In order to assure a continuing and effective national mobile home safety program, it is the policy of Congress to encourage the adoption of State inspection of used mobile homes. Therefore, to that end the Secretary shall conduct a thorough study and investigation to determine the adequacy of mobile home safety standards and mobile home inspection requirements and procedures applicable to used mobile home vehicles in each State, and the effect of programs authorized by this title upon such standards, requirements, and procedures used for mobile homes, and report to Congress as soon as practicable, but not later than one year after the date of enactment of this Act, the results of such study, and recommendations for such additional legislation as he deems necessary to carry out the purposes of this title. As soon as practicable after the submission of such report, but no later than one year from the date of submission of such report, the Secretary, after consultation with the Council and such interested public and private agencies and groups as he deems advisable, shall establish uniform Federal mobile home safety standards applicable to all used mobile homes. Such standards shall be expressed in terms of mobile home safety performance. The Secretary is authorized to amend and revoke such standards pursuant to this Act.

(2) Paragraph (1) of subsection (a) shall not apply to any persons who establishes that he did not have reason to know in the exercise of due care that such mobile home is not in conformity with applicable Federal mobile home safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such mobile home, to the effect that such mobile home conforms to all applicable Federal mobile home safety standards, unless such person knows that such mobile home does not so conform.

(3) A mobile home offered for importation in violation of paragraph (1) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary; except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such mobile home into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such mobile home will be brought into conformity with any applicable Federal mobile home safety standard prescribed under this title, or will be exported or abandoned to the United States.

(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the temporary importation of any mobile home after the first purchase of it in good faith for purposes other than resale.

(5) Paragraph (1) of subsection (a) shall not apply in the case of a mobile home intended solely for export, and so labeled or tagged on the mobile home itself and on the outside of the container, if any, which is exported.

(c) Compliance with any Federal mobile home safety standard issued under this title does not exempt any person from any liability under common law.

CIVIL PENALTY

SEC. 109. (a) Whoever violates any provision of section 108, or any regulation issued thereunder, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. Such violation of a provision of section 108, or regulations issued thereunder, shall constitute a separate violation with respect to each mobile home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty shall not exceed $400,000 for any related series of violations.

(b) Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

JURISDICTION AND VENUE

SEC. 110. (a) The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this title, or to restrain the sale, offer for sale, or the introduction or delivery for introduction, in interstate commerce, or the importation into the United States, of any mobile home which is determined, prior to the first purchase of such mobile home in good faith for purposes other than resale, not to conform to applicable Federal mobile home safety standards prescribed pursuant to this title, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and, except in the case of a knowng and willful violation, shall afford him reasonable opportunity to achieve compliance. The failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this Act, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Actions under subsection (a) of this section and section 109(a) may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) In any actions brought under subsection (a) of this section and section 109(a), subpoenas for witnesses who are required to attend a United States district court may run into any other district.

(e) It shall be the duty of every manufacturer offering a mobile home for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions and requirements may be made for and on behalf of such manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions and requirements may be made upon such manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such manufacturer, and in default of such designation of such agent, service of process, notice, order, requirement or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this title or any standards prescribed pursuant to this title may be made by posting such process, notice, order, requirement or decision in the Office of the Secretary.

NONCOMPLIANCE WITH STANDARDS

SEC. 111. (a) If any mobile home is determined not to conform to applicable Federal mobile home safety standards, or contains a defect which relates to mobile home safety, after the sale of such mobile home by a manufacturer or a distributor to a distributor or a dealer and prior to the sale of such mobile home by such distributor or dealer—

(1) the manufacturer or distributor, as the case may be, shall immediately repurchase such mobile home from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than 1 per centum per month of such price paid prorated from the date of notice of such noconformance to the date of repurchase by the manufacturer or distributor; or

(2) the manufacturer or distributor, as the case may be, at his own expense, shall immediately furnish the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such mobile home, and for the installation involved the manufacturer shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 per centum per month of the manufacturer's or distribtuor's selling price prorated from the date of notice of such nonconformance to the date such vehicle is brought into conformance with applicable Federal standards, so long as the distributor or dealer proceeds with reasonable diligence with the installation after the required part or equipment is received.

(b) In the event that any manufacturer or distributor refuses to comply with the requirements of paragraphs (1) and (2) of subsection (a), then the distributor or dealer, as the case may be, to whom such nonconforming mobile home has been sold may bring suit against such manufacturer or distributor in any district court of the United States in the district in which such manufacturer or distributor resides, or is found, or has an agent, without respect to the amount in controversy, and shall recover the damage by him sustained, as well as all court costs plus reasonable attorneys' fees. Any action brought pursuant to this section shall be forever barred unless commenced within three years after the cause of action shall have accrued.

(c) The value of such installations and such reasonable reimbursements as specified in subsection (a) of this section shall be fixed by mutual agreement of the parties, or failing such agreement, by the court pursuant to the provisions of subsection (b) of this section.

INSPECTION OF MOBILE HOMES AND RECORDS

Sec. 112 (a) The Secretary is authorized to conduct such inspection and investigation as may be necessary to enforce Federal mobile home safety standards established under this title. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with such standards, for appropriate action.

(b) For purposes of enforcement of this title, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized—

(1) to enter, at reasonable times, any factory, warehouse, or establishment in which mobile homes are manufactured, or held for introduction into interstate commerce or are held for sale after such introduction; and

(2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, or establishment.

Each such inspection shall be commenced and completed with reasonable promptness.

(c) Every manufacturer, distributor and dealer of mobile homes shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this title and mobile home safety standards prescribed pursuant to this title and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with this title and mobile home safety standards prescribed pursuant to this title.

(d) Every manufacturer of mobile homes shall provide to the Secretary such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this Act. The Secretary is authorized to require the manufacturer to give such notification of such performance and technical data that the Secretary determines necessary to carry out the purposes of this Act, to—

(1) each prospective purchaser of a mobile home before its first sale for purposes other than resale at each location where any such manufacturer's mobile homes are offered for sale by a person with whom such manufacturer has a contractual, proprietary, or other legal relationship in a manner determined by the Secretary to be appropriate, which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser and (B) sent by mail to such prospective purchaser upon his request; and

(2) the first person who purchases a mobile home for purposes other than resale, at the time of such purchase, or in printed matter placed in the mobile home.

(e) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b) or (c) which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress.

NOTIFICATION OF DEFECTS

Sec. 113. (a) Every manufacturer of mobile homes shall furnish notification of any defect in any mobile home produced by such manufacturer which he determines, in good faith, relates to mobile home safety, to the purchaser of such mobile home, within a reasonable time after such manufacturer has discovered such defect.

(b) The notification required by subsection (a) shall be accomplished—

(1) by certified mail to the first purchaser (not including any dealer of such manufacturer) of the mobile home containing such a defect, and to any subsequent purchaser to whom has been transferred any warranty on such mobile home; and

(2) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such mobile home was delivered.

(c) The notification required by subsection (a) shall contain a clear description of such defect, an evaluation of the risk to mobile home safety reasonably related to such defect, and a statement of the measures to be taken to repair such defect.

(d) Every manufacturer of mobile homes, shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or purchasers of mobile homes of such manufacturer regarding any defect in such mobile home sold or serviced by such dealer. The Secretary shall disclose so much of the information contained in such notice or other information obtained under section 112(a) to the public as he deems will assist in carrying out the purposes of this title, but he shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, unless he determines that it is necessary to carry out the purposes of this Act.

(e) If through testing, inspection (investigation, or research carried out pursuant to this title, or examination of reports pursuant to subsection (d) of this section, or otherwise, the Secretary determines that any mobile home—

(1) does not comply with an applicable Federal mobile home safety standard prescribed pursuant to section 103; or

(2) contains a defect which relates to mobile home safety;

then he shall immediately notify the manufacturer of such mobile home of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance or that the alleged defect does not affect mobile home safety. If after such presentation by the manufacturer the Secretary determines that such mobile home does not comply with applicable Federal safety standards, or contains a defect which relates to mobile home safety, the Secretary shall direct the manufacturer to furnish the notification specified in subsection (c) of this section to the purchaser of such mobile home as provided in subsections (a) and (b) of this section.

(f) Every manufacturer of mobile homes shall maintain a record of the name and address of the first purchaser, other than a dealer or distributor, of each mobile home produced by that manufacturer. The Secretary may establish, by order, procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection which will not affect the obligation of manufacturers under this subsection. Such procedures shall be reasonable for the particular type of mobile home for which they are prescribed.

CERTIFICATION OF CONFORMITY WITH SAFETY STANDARDS

Sec. 114. Every manufacturer or distributor of a mobile home shall furnish to the distributor or dealer at the time of delivery of each such mobile home by such manufacturer, the certification that each such mobile home conforms to all applicable Federal safety standards. Such certification shall be in the form of a label or tag permanently affixed to each such mobile home.

NATIONAL MOBILE HOME SAFETY BUREAU

Sec. 115. The Secretary shall carry out the provisions of this title through a National Mobile Home Safety Bureau (hereinafter referred to as the "Bureau"), which he shall establish in the Department of Housing and Urban Development. The Bureau shall be headed by a Mobile Home Safety Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be a citizen of the United States, and shall be appointed with due regard for his fitness to discharge efficiently the powers and the duties delegated to him pursuant to this title. The Director shall perform such duties as are delegated to him by the Secretary.

EFFECT UPON ANTITRUST LAWS

Sec. 116. Nothing contained in this title shall be deemed to exempt from the antitrust laws of the United States any conduct that would otherwise be unlawful under such laws, or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws.

USE OF RESEARCH AND TESTING FACILITIES OF PUBLIC AGENCIES

SEC. 117. The Secretary, in exercising the authority under this title, shall utilize the services, research and testing facilities of public agencies to the maximum extent practicable in order to avoid duplication.

RULES AND REGULATIONS

SEC. 118. The Secretary is authorized to issue, amend, and revoke such rules and regulations as he deems necessary to carry out this title.

ANNUAL REPORT TO CONGRESS

SEC. 119. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on March 1 of each year a comprehensive report on the administration of this title for the preceding calendar year. Such report shall include but not be restricted to (1) a thorough statistical compilation of the accidents and injuries occurring in such year; (2) a list of Federal mobile home safety standards prescribed or in effect in such year; (3) the degree of observance of applicable Federal mobile home standards; (4) a summary of all current research grants and contracts together with a description of the problems to be considered by such grants and contracts; (5) an analysis and evaluation, including relevant policy recommendations, of research activities completed and technological progress achieved during such year; (6) a statement of enforcement actions including judicial decisions, settlements, or pending litigation during such year; (7) the extent to which technical information was seminated to the scientific community and consumer-oriented information was made available to mobile home owners; and (8) a list of all State plans in effect pursuant to section 120 and an evaluation of each such plan.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of mobile home safety and to strengthen the national mobile home program.

STATE PLANS

SEC. 120. (a) Nothing in this title shall prevent any State agency or court from asserting jurisdiction under State law over any mobile home safety issue with respect to which, no standard has been established pursuant to the provisions of section 103.

(b) Any State which, at any time, desires to assume responsibility for development and enforcement of mobile home safety standards relating to any safety issue with respect to which a Federal standard has been established under section 103, shall submit to the Secretary a State plan for the development of such standards and their enforcement.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

(2) provides for the development and enforcement of mobile home safety standards which are or will be at least as effective in providing safe mobile homes as the standards promulgated under section 103;

(3) provides for a right of entry and inspection of all factories, warehouses, or establishments in such State in which mobile homes are manufactured, and which is at least as effective as that provided in section 112;

(4) contains satisfactory assurances that such agency has or will have the legal authority and quality personnel necessary for the enforcement of such standards;

(5) give satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards;

(6) requires manufacturers, distributors, and dealers in such State to make reports to the Secretary in the same manner and to the same extent as if the State plan were not in effect; and

(7) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require.

(d) If the Secretary rejects a plan submitted under subsection (b), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under sections 106, 108, 109, 112, and 113 with respect to comparable standards established under section 103 for the period specified in the next sentence. The Secretary may exercise the authority referred to above until he determines, on the basis of actual operations under the State plan, that the criteria set forth in subsection (c) are being applied, but he shall not make such determination for at least three years after the plan's approval under subsection (c). Upon making the determination referred to in the preceding sentence, the provisions of sections 108, 109, 111, 112, and 113, and standards promulgated under section 103 of this title, shall not apply with respect to any mobile home safety issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 108 or 109 before the date of determination.

(f) The Secretary shall, on the basis of reports submitted by the State agency and his own inspections, make a continuing evaluation in the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan, he shall notify the State agency if his withdrawal of approval of such plan. Upon receipt of such notice by such State agency such plan shall cease to be in effect, but the State may retain jurisdiction in any case commended before the withdrawal of the plan in order to enforce mobile home standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(g) Each State may obtain a review of each decision of the Secretary withdrawing approval of or rejecting its plan by filing in the United States court of appeals for the circuit in which such State is located within thirty days following receipt of notice of such decision, a petition to modify or set aside in whole or in part the action of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such a plan is not supported by substantial evidence the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

GRANTS TO THE STATES

SEC. 121. (a) The Secretary is authorized to make grants to the States which have designated a State agency under section 120 to assist them—

(1) in identifying their needs and responsibilities in the area of mobile home safety standards; or

(2) in developing State plans under section 120.

(b) The Governor of each such State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(c) Any State agency designated by the Governor of the State desiring a grant under this section shall submit an application therefor to the Secretary. The Secretary shall review and either accept or reject such application.

(d) The Federal share for each State grant under subsection (a) of this section may not exceed 90 per centum of the total cost of the application. In the event the Federal share for all States under such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(e) The Secretary is authorized to make grants to the States to assist them in administering and enforcing programs for mobile home safety contained in State plans approved by the Secretary pursuant to section 120 of this title. The Federal share for each State grant under this subsection may not exceed 50 per centum of the total cost to the State of such a program. The last sentence of subsection (d) shall be applicable in determining the Federal share under this subsection.

AUTHORIZATION OF APPROPRIATIONS

SEC. 122. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

EFFECTIVE DATE

SEC. 213. The provisions of this title shall take effect upon the expiration of the one hundred eighty-day period which begins on the date of the enactment of this Act.

TITLE II—CHANGES IN EXISTING LAW

HOME OWNERS' LOAN ACT OF 1933

SEC. 201. The third paragraph of section 5 (c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by striking out clause (B) and inserting in lieu thereof the following:

"(B) any loan made for the purchase of a mobile home which meets or exceeds the mobile home safety standards established under the National Mobile Home Safety Standards Act of 1972."

NATIONAL HOUSING ACT

SEC. 202. The last sentence of the second paragraph of section 2(a) of the National Housing Act (12 U.S.C. 1703 (a)) is amended by—

(1) striking out "the livability and durability of the mobile home and" in clause (i);

(2) striking out "and" after the semicolon at the end of clause (i); and

(3) striking out the period at the end of clause (ii) and adding in lieu thereof "; and (iii) require that the mobile home meets or exceeds the mobile home safety standards established under the National Mobile Home Safety Standards Act of 1972."

TITLE 38, UNITED STATES CODE

SEC. 203. Section 1819 of title 38, United States Code, is amended by—

(1) striking out subsection (i) and inserting in lieu thereof the following:

"(i) No loan for the purchase of a mobile home shall be guaranteed under this section unless—

"(1) the mobile home meets or exceeds the mobile home safety standards established under the National Mobile Home Safety Standards Act of 1972; and

"(2) the lot, if any, meets or exceeds standards prescribed by the Administrator for the planning, maintenance, and development of mobile home sites which are attractive residential areas and which are free from, and do not substantially contribute to, adverse scenic or environmental conditions.

For the purpose of assuring compliance with such mobile home safety standards, the Administrator shall from time to time inspect the manufacturing process of mobile homes to be sold to veterans and conduct random onsite inspections of mobile homes purchased with assistance under this chapter."; and

(2) striking out "standards precsribed by the Administrator" in clause (1) of subsection (i) and inserting in lieu therof "safety standards required".

EFFECTIVE DATE

SEC. 204. The provisions of this title shall apply with respect to any loan application filed, pursuant to the provisions of the Home Owners' Loan Act of 1933, the National Housing Act, or section 1819 of title 38, United States Code, as the case may be, after the effective date of title I of this Act.

COST OF LIVING COUNCIL EXEMPTS SMALL BUSINESS

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the decision of the Cost of Living Council announced yesterday to exempt small businesses, small governments, and other employees from wage and price controls was designed to eliminate unnecessary redtape in stabilization, service and compliant activities in a manner that is equitable and noninflationary. It will enable the economic stabilization program to better allocate its resources, and provide closer supervision of and service for the large economic units remaining under controls.

The action taken by the Cost of Living Council affects 5 million small companies and 19 million employees in these small businesses.

Direct control of small units have created administrative difficulties for those units in excess of the anti-inflationary value of the controls. Small units, those with an employee force of 60 or less, typically are not as well equipped as large units to comply with recordkeeping, exemption and exception information demands, and compliance response data required by the controls.

C-5A COST OVERRUNS

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, the Air Force is planning to cover up at least $20 million in cost overruns in the problem-plagued C-5A jet transport.

I received from the Air Force a letter that I believe demonstrates that the Air Force hopes to juggle its books so that potentially hundreds of millions of dollars that will be spent to correct the serious technical foulups on the C-5A will not be considered cost overruns. I have been informed by the Air Force today that the C-5A project office estimates an additional $113 million will be needed to correct all deficiences on the C-5A. Hence, if these estimates are accurate, the Air Force plans to cover up $133 million in cost overruns.

The Air Force book juggling will be made easy by declaring the C-5A program complete while these serious technical difficulties remain unsolved. The Air Force has already announced that this year's budget of $207 million for the C-5A will be the last budget request specifically for that program. But beginning next year, the Air Force plans to hide all additional costs in other accounts.

The Air Force already plans to spend at least an additional $20 million tucked away in a modification/update budget account in an attempt to untangle this incredible mess. According to the information provided by the Air Force today, an additional $133 million will be needed and that money will also be tucked away in a modification/update budget.

Hence, the $20 million is a minimum cost overrun that the Air Force hopes to hide from the public. No one knows how much ultimately will be hidden from the public view through this technique.

As my colleagues may know, additional funds will probably be needed to iron out other technical difficulties, including faulty landing gears, weak wings and radars that do not work.

I originally wrote to the Air Force, asking for their assurance that $107 million contained in this year's budget would be enough to correct all deficiencies in the C-5A.

The Air Force response was a flat "no." The Air Force said that it will take at least $20 million more, but the fact is that no one yet knows how big these new overruns will be. They could total hundreds of millions of dollars.

The Air Force has formed a special team to estimate the final cost of eliminating all technical deficiencies on the C-5A. When that committee reports, we will finally know how much money the taxpayer has been bilked for on the C-5A.

Unfortunately, cost overruns on the C-5A have already totaled $2 billion. Mr. Speaker, when will these cost overruns stop?

DEPARTMENT OF THE AIR FORCE,
Washington, April 25, 1972.

DEAR MR. ASPIN: This is in response to your April 5, 1972, letter concerning a recent General Accounting Office report on the C-5A aircraft.

To date, the C-5 has flown over 47,000 hours in test, training and cargo airlift missions. As of January 1972, the aircraft had flown 430 regularly scheduled cargo missions which involved 45,350 tons of cargo. These missions produced 245,172,000 ton miles of airlift. In addition, 93 special assignment airlift missions have been flown which involved 4,360 tons of cargo. These special missions produced 46,320,000 ton miles of airlift. Based upon these accomplishments, we feel that the C-5 is providing an unmatched strategic airlift capability for DOD forces on a global basis.

Of the $207M cited in your letter, as contained in the Fiscal 1973 budget for the C-5A, only approximately $55M of this amount is for modifications to correct aircraft deficiencies. The balance of this funding is required to complete production of the 81 aircraft program.

Approximately $104M in modifications has been validated to date by the Systems Program Office and approved for incorporation into the C-5A fleet. Of this total, $29.0M will be financed from prior year funds; $55M is contained in the fiscal 1973 budget request and $20.0M of funding will be requested through the Air Force's modification/update budget account presented and justfied to the Congress annually. With the exception of the latter $20.0M, all of the above funding is included within the $4.5 billion estimated cost to complete the C-5A program.

However, a number of additional modifications could be validated and approved for incorporation into the C-5A during the next several years. If approved, funding for these modifications would be requested through the normal modification/update budget account in the out years, as in other Air Force programs.

The program for incorporation of these modifications into the C-5A fleet has been carefully planned in an effort to reduce costs and minimize the impact on our airlift capability. Incorporation of modifications began in December 1970 simultaneously at the contractor's facility and in the field. Some work has also been performed within the Air Force Logistics Command at the San Antonio Air Materiel Area depot. After July 1972, all modifications will be incorporated during regularly scheduled depot level maintenance programs. This will enable the Air Force to maintain the maximum amount of airlift capability while completing our modificaiton requirements in a cost-effective manner.

All modification effort will continue to receive top management attention within the Air Force to insure that we achieve maximum capability from our C-5A airlift force as soon and as efficiently as possible.

I trust this information will be helpful.

Sincerely,

THOMAS G. MCCONNELL,
Colonel, U.S. Air Force, Chief, Congressional Investigations Division, Office of Legislative Liaison.

CONGRESSMAN RODINO'S EFFORTS TO COMBAT DRUG ABUSE

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 10 minutes.

Mr. RODINO. Mr. Speaker, in the 92d Congress, we have made notable progress in the war on drug abuse. This progress has been a long time in coming, and I would like to review for the people of New Jersey's 10th District my efforts over the past 2 years to solve this country's drug problem.

In April 1970, I introduced a bill which would place all known addicts under the medical supervision and control of the Public Health Service. As a result, law enforcement officers would then be free to conduct vigorous crackdowns on the real criminal—the drug pusher.

In June 1970, I was the first Congressman to introduce a measure to authorize the President to cut off foreign aid to countries which did not cooperate with us in curbing the international traffic in hard drugs. In an effort to obtain quick passage of this measure, I also offered it as an amendment to another bill on June 4, 1970. Although it received the widespread support of many Congressmen, it was not adopted at that time.

In July 1970, I introduced another bill which would provide financial aid to those countries which agree to assist us in stemming the flow of heroin, morphine, and cocaine to this country.

In October 1970, I wrote to President Nixon urging him to support this legislation which would give him emergency powers to deal effectively with the drug problem. However, it was not until June of 1971—8 months later—that the President responded by requesting Congress to enact a comprehensive narcotics control plan, similar to the one I had proposed.

In November 1970, I attended an international conference in the Netherlands and urged all NATO nations to join in our effort to eliminate the widespread traffic in hard drugs. At this meeting, my proposal to establish a "Working Group on Narcotics Control," composed of representatives from several NATO countries, was unanimously adopted.

In December 1970, the House of Representatives recognized the urgent need for effective action to control the flow of hard drugs to this country and passed my proposal to cut off foreign aid to uncooperative countries. Because the 91st Congress was rapidly drawing to a close, the Senate did not have sufficient time to consider my proposal.

Therefore, in January 1971—on the first day of the 92d Congress—I reintroduced the bills comprising the Rodino narcotics control plan.

In May 1971, in behalf of the United States, I submitted a detailed report on the drug problem in this country to NATO's "Working Group on Narcotics Control." In this report, I stressed the need for urgent action by our NATO allies to halt the illegal production of opium. I was therefore very pleased when Turkey, one of the members of the "Working Group," announced 1 week later that it had banned all opium production after 1972.

In June, I also sponsored a bill to provide that drug-addicted servicemen be medically discharged and civilly committed for medical treatment. In the summer of 1971, I also appeared before two committees of Congress and testified in support of the Rodino plan.

In August 1971, the foreign aid bill passed the House containing my program on the international control of narcotics. I was extremely gratified when this program was signed into law by the President on February 7, 1972.

In September 1971, I was elected to chair the annual meeting of the Scientific Committee of NATO's North Atlantic Assembly. This committee unanimously adopted my formal recommendation that all NATO countries cooperate in curtailing the illegal production and distribution of dangerous drugs and in developing programs for the treatment and rehabilitation of narcotic addicts.

In February 1972, I vigorously supported passage of a bill to create a Special Action Office for Drug Abuse Prevention, proposed by President Nixon in response to repeated calls by myself and other Democratic Congressmen for an agency to coordinate and evaluate all existing narcotic treatment programs. Hopefully, this bill, which was enacted into law on March 21, 1972, will go a long way toward making medical care and treatment facilities available to all known addicts.

The fight to wipe out the horror of drug addiction is not an easy one, but I am totally committed to support every effort that can help in ending this terrible epidemic that has so devastated our youth.

FREEDOM FROM FEAR

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 10 minutes.

Mr. ROSENTHAL. Mr. Speaker, there is no denying that many of our citizens are never free from fear for their safety. Public transportation, stores, parks, streets and even homes are not safe. A recently completed poll of my constituents reveals that concern about crime is the number one priority issue.

I am convinced that a giant step toward alleviating their fears and curbing crime is eliminating handguns from our society. Accordingly, I am introducing legislation to outlaw the ownership of handguns by individual citizens. The key provision of the bill requires that all handguns be delivered to appropriate authorities within 1 year from the enactment of the law. The penalty for possession after this 1-year grace period will be a $1,000 fine or 30 days' imprisonment or both. Anyone who turns in his handgun will receive $25 or the worth of his gun, whichever is more.

Handguns are at best useless in deterring crime while at the same time they have caused or facilitated half of all homicides in recent years. Statistic after sad statistic demonstrates that homes without handguns are safer than those with them—only one victim in 2,000 of a householder's handgun will be a burglar while the other 1,999 victims will be innocent relatives or friends.

We must rid ourselves of our now-antiquated frontier heritage which requires a side-gun for protection. Today, the net effect of this thinking has been to make the United States the clear leader among modern, stable, and democratic nations in homicide, assault, rape, and robbery.

Objections will certainly be raised to this bill, but we simply can no longer afford the insanity of 25 million handguns in civilian hands. We must act forcefully and quickly to protect all our citizens, including our policemen, from the dangers that those millions of guns represent. Ninety-three policemen were murdered in the United States in 1971 by criminals using handguns. As New York City's Police Commissioner Patrick Murphy said:

> The widespread use of firearms in our society today offers freedom for violent and wanton self-destruction. There are few more urgent domestic problems for Congress to address than the reduction in the senseless slaughter our current national firearms policy permits.

ADDICTION AND CRIME

Yet, handguns are only the means for carrying out violent crimes. Dr. Milton Halpern, chief medical examiner in New York City identified the "enormous rise in drug abuse" as the prime component which combined with "the easy availability of handguns" to produce the high crime rate in recent years.

I am committed to the strongest possible measures to totally eradicate drug abuse. I am repelled and distressed by the agonies the abusers themselves suffer, but at the same time deeply disturbed by the costs society bears as the addicts try to support their habits. It has been estimated that 50 percent of the prisoners in New York City jails are addicts, and that 80 percent of feloneous crimes in the city are drug related. Obviously, most addicts must steal and rob to support their habits.

In an effort to find solutions to this problem, I have introduced the GI drug abuse bill. This legislation provides for the honorable discharge of GI drug addicts and their rehabilitation at civilian treatment centers. We exposed these young men to conditions that led so many of them to become addicts, and we must now recognize our responsibility to treat them. We cannot allow them to return to this country untreated only to become reluctant criminals struggling to support a horrible habit.

Drug abuse will only be eradicated to the extent there are no more illegal drugs in this country and no more people willing to use them. Accordingly, as chairman of the Europe Subcommittee of the House Foreign Affairs Committee, I have held hearings to determine the best method of shortcircuiting the illegal importation of drugs from abroad. We cannot permit any people, anywhere, to profit from the agony of addicts and the plight of the victims of their crimes.

We must also prepare our young people to resist the temptations of drug experimenting. If, through drug education programs, we can arm them with the facts and the strength they need, they can avoid the sorry road to addiction and crime. The cutbacks in drug education programs in the New York State Legislature, which I have protested since February, strike me as the cruelest and most unsound decision that body has made in recent years. Their error cannot be over-emphasized. As long as addiction ruins the lives of children as young as 12 years old, our responsibility is to expand drug education programs and certainly not to cut them back.

PARA-POLICE BILL

Expert criminologists agree that one way of reducing crime is to increase the likelihood that criminals will be apprehended and punished. I have introduced the para-police bill to provide civilian employees for many functions that highly-trained policemen now perform, thus freeing the policemen from direct crime prevention duties.

Big city police departments expend far too much manpower and resources on functions totally unrelated to fighting serious crime. All too often, due to shortages of funds, policemen operate animal pounds, register autos, bicycles, and pets, and serve as display artists and speech writers. Many police departments devote more attention to controlling automobile traffic and other noncrime related activities than to protecting the American public from serious, violent crimes.

My bill would provide $100 million over an initial 4-year period for the recruitment, training and utilization of para-police personnel. Enactment of this legislation would contribute substantially toward making our police forces much more efficient as a first line of defense against the ravages of violent crime.

Mr. Speaker, we must always be vigilant in protecting individual rights, but always balance that protection with concern for individual safety. In addition to promoting the social changes ultimately necessary for a drastic reduction in crime, we must make every possible constructive attempt to free our citizens from the fear of crime.

TAX EQUITY FOR SINGLE TAXPAYERS AND MARRIED WORKING COUPLES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, yesterday, the Ways and Means Committee held its second day of hearings on the inequities that exist for single taxpayers and working couples. Under consideration was my bill, H.R. 850, as amended, that would remove these inequities by establishing a single graduated tax rate to be applied to the taxable income of all individuals, regardless of whether they are married, single, widowed, or divorced. My bill is now cosponsored by 172 Members of the House; it has been introduced in the Senate by Senator ABRAHAM RIBICOFF.

Presently, some 29 million unmarried taxpayers pay up to 20 percent more in taxes because they are not allowed to use the lower rates of the joint return. This means that a single taxpayer whose taxable income is $12,000 pays $370 more in taxes than a married person of the same taxable income. Similarly, the tax penalty for being single at $16,000 is $570; at $20,000, $850; and, at $50,000, $3,130.

Unfortunately, the inequities caused by the proliferation of different tax rates for different categories of taxpayers have now been extended to working couples. With the new rates having gone into effect in 1971, married couples, where both the husband and wife work, find they would be paying less tax if they were not married and could file as two single individuals. This problem affects some 18 million married couples. In 1971, the "cost" of being married with two $6,000 incomes was $156; two $10,000 incomes, $344; and two $16,000 incomes, $1,229.

I realize that many people feel that, if both the husband and wife work, they can afford to pay higher taxes than two single individuals maintaining separate homes. Aside from the consideration of equity, I would like to point out that for most couples a wife's income is not a luxury, it is a necessity. The majority of working wives come from lower and middle income families, and they are working, often at personal sacrifices to their families, to meet today's high cost of living. Furthermore, women's median earnings are only about three-fifths of those of men. Women are already victimized by a labor market that underpays them; they should not be further penalized by a tax structure that extracts higher taxes from them.

I believe that taxes should reflect differences in taxpayers' responsibilities for dependent support, but the way to do this is through exemptions for dependents, not through different tax schedules. I have introduced legislation to increase the personal exemption and exemptions for dependents to $1,200.

Mr. Speaker, our tax code contains a number of tax preferences. What we are asking for here is not another preference but simple equity for the unmarried taxpayer and the working couples.

BRANDT'S PYRRHIC VICTORY

(Mr. GROSS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GROSS. Mr. Speaker, the results of last week's "no confidence" vote in the administration of West German Chancellor Willy Brandt by the Bundestag may be misleading to many Americans who were told that it was a victory for Brandt and his policy of courting Communist East Germany and Russia.

It may well have been a Pyrrhic victory for the Social Democrats, since, in one important way, the vote was a rigged one.

The voting was carried out under a parliamentary procedure whereby all members of the Chancellor's party were instructed to remain seated. Since any member of the Bundestag who wished to cast a ballot had to rise and walk to the ballot box, Social Democrats who otherwise might have voted against Brandt would have been highly conspicuous in exercising this right under such conditions.

Having thus intimidated the members of his own political party, Brandt scraped through the no-confidence vote by the skin of his teeth.

The next day, however, on a relatively insignificant budget proposal, Chancellor Brandt was beaten by virtue of a tie vote.

Mr. Speaker, it has come to my attention that certain public figures in West Germany have been employing the tactic of fear in urging the adoption of the treaties which are the keystone of the Brandt ostpolitik.

I am told that the magazine Der Spiegel last month quoted the West German Ambassador to the United States, Rolf Pauls, as saying that his country would, in effect, be abandoned by the Americans if the Bundestag failed to ratify the treaties. This, in my opinion, has absolutely no basis in fact.

I am advised that Chancellor Brandt himself said on April 7 that rejection of the treaties would damage West Germany in the eyes of the other nations of the West and would be a "rebellion against the Western community of interests."

What the Bundestag does is, of course, its own business, but I fail to see how the rejection of Brandt's ostopolitik could be viewed by the rest of the free world as anything but salutory.

INTRODUCTION OF CHILD DEVELOPMENT PERSONNEL TRAINING ACT OF 1972

(Mr. HANSEN of Idaho asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANSEN of Idaho. Mr. Speaker, today with 21 of my colleagues, I have introduced H.R. 14717, the Child Development Personnel Training Act of 1972. This legislation will enable us to move a major step forward in meeting the critical shortage of trained and qualified professional and para-professional personnel to staff child care programs.

Mr. Speaker, the last 5 years has seen a tremendous upward trend in the number of children receiving child care and child development services, in their own homes, in neighbor's homes or in organized day-care centers and nursery schools, in both licensed and unlicensed settings. This trend has resulted from the constantly increasing percentages of mothers of young children who are entering the job market as full-time employees outside the home. It has also happened because of the growing realization of parents and educators that the first years of a child's life are the most significant for the development and attainment of his potential.

Child care programs vary in quality from program to program, day-care center to day-care center. Quality can be measured in various ways. Certainly the Federal, State, and local standards regulating day-care centers represent one way of determining the quality of programs—by looking at such things as the student/teacher ratio, the amount of classroom space per pupil, the attention given to nutrition and health, and similar measures.

But one of the most important measures of the quality of any child development program, whether conducted in fancy or plain surroundings, is the kind of people interacting with the children. Anyone who has visited child care programs has sensed the difference that certain teachers or aides can make in the environment—they are warm, sensitive, obviously enjoy being with small children. These qualities are very difficult to define in quantitative terms, but we certainly know them when we see them.

While the quality of personnel coming in contact with the children is certainly of paramount importance, it is also crucial to provide enough personnel to staff child development programs. Judging from available statistics, we are heading for disaster, as far as quantity is concerned.

The estimated additional numbers of children who need child care services nationally are:

Kindergarten	1,300,000
Nusery schools	3,000,000
Daycare	1,310,000
Miniprograms	1,890,000

To care for these additional numbers of children, an estimated 456,000 additional professionals and 529,000 additional paraprofessionals will be required. If national program capacity grew by 250,000 child slots a year, it would take some 24 years to complete growth to the projected maximum capacity. But even at this rate, some 19,000 professionals and 22,000 paraprofessionals would have to be added every year. This contrasts rather sadly with our estimated present rates of 5,000 professionals and 10,000 paraprofessionals.[1]

To make matters even worse, the only Federal program making a systematic attempt to stimulate the development of professional personnel for early childhood programs will, for all intents and purposes, cease functioning in June, at the end of the fiscal year. I am speaking of part D of the Educational Personnel Development Act which for the past 3 fiscal years has provided $5 million, $5.9 million, and $4.3 million respectively to train some 11,500 professional early childhood personnel. Another important contribution of this program was the training of many trainers of teacher trainers. Three steps removed from the actual classroom these are nevertheless the personnel who form the backbone of any long-term personnel development capacity. No funds have been budgeted for this program for fiscal year 1973, which means that existing projects will terminate in August 1973, and no new projects will be begun. Funds currently being used for this program to train early childhood personnel will be channeled into the renewal program.

The Headstart program has made a significant contribution to training early childhood personnel and exposing large numbers of volunteers and parents to the principles of child development. In fiscal year 1970, for example, some 7,000 people were reached—2,000 in 6- to 8-week leadership development skill training courses, and 7,000 in college level courses in child development. In addition, some 60,000 people received short summer orientation and inservice training.

The Department of Labor's manpower programs trained some 1,500 nursemaids and child care attendants in fiscal year 1970.

These two programs will be augmented by title IV–C of the Social Security Act—the Talmadge amendment—which will increase the work incentive program's training component. It is still too early to determine how many early childhood paraprofessional personnel will be trained through this effort.

One thing is certain, however, our existing training efforts are just not reaching enough people to keep pace with the rapidly expanding need for child care and child development services.

Further exacerbating this numbers problem is the fact that several already passed or still pending pieces of Federal legislation will bring still more children into early childhood programs. Among these are the Talmadge amendment which liberalizes the Federal support program for child care services for welfare recipients enrolled in work training programs. The family assistance plan, passed by the House and still pending in the Senate will provide for some 875,000 children to receive services. The Headstart program continues to expand, this year receiving more funding than ever before in its history. In effect for the first time this tax year are substantial child care deductions for expenses incurred by working mothers—this is expected to result in more children being placed in daycare centers and programs. The comprehensive child development legislation vetoed in December would have added still more thousands of children to those receiving child development services. Private sector activity continues to increase in response to growing demands, as well.

What this all adds up to, quite simply, is a personnel shortage of near-crisis proportions. This holds true both from the standpoint of sheer numbers as well as from the standpoint of the quality and caliber of personnel staffing the program. Programs are now expanding and will continue to do so throughout the decade. We will be hard-pressed simply to find enough people to work in these programs, to recruit and train the kind of people we want to staff these programs will be even more difficult.

THE EARLY CHILD DEVELOPMENT PERSONNEL TRAINING BILL

The legislation I am introducing today, H.R. 14717, the child development personnel training bill, approach these problems through a variety of strategies.

First is the realization that although child development and child care programs are highly labor-intensive, it is not necessary, or even desirable, to require every person who cares for or comes in contact with the child to be a college graduate with training in child development. To do so would be wasteful of human resources and would raise the costs of early childhood programs to astronomical levels. A far more appropriate arrangement is to have a professional early childhood specialist who supervises the child care workers who actually work with the children. This is equally true whether the child caretakers are grouped in a daycare center or nursery school or work singly in their own homes caring for children from the surrounding neighborhood. For this reason, the bill specifies that at least half the funds appropriated will be devoted to preparing paraprofessional child care workers.

One of the most significant developments in some time is the concept of an entirely new middle-level profession of child care workers being developed by the Office of Child Development. These new professionals will be called child development associates—CDA's. Working with a consortium of national early childhood organizations, community colleges, training programs, child development centers, the Office of Child Development will facilitate the establishment of several kinds of programs and work with the States to see that CDA's are certified. Certification is perhaps the most important part of this new profession. All too often a person working in a child development program succeeds in climbing a few rungs on the career ladder only to find that this newly attained status cannot be transferred to programs operated by a different agency or to a different city. The CDA status, once earned, will be valued anywhere in the Nation and will enable its holder to find employment in any situation needing certified, trained midlevel personnel. Roughly equivalent to the associate in arts college degree, the CDA's will be certified on the basis of the demonstrated abilities and skills, not on the basis of the number of courses they have taken. As the CDA career becomes established, it is possible that specialized CDA's will be trained to work with infants, handicapped children, disadvantaged children, or in children's homes. The early childhood personnel development bill specifically authorizes the expenditure of funds for the development of training programs for CDA's.

The development and acceptance of appropriate credentials is the key to a successful buildup of our supply of trained personnel at every level and is not limited to just the CDA program. A person certified by one State as a qualified nursery schoolteacher may not be able to find employment in another State without first taking certain college courses required by the second State. In a different vein, a person who has passed all the required courses and fulfilled all the specified requirements may nevertheless not be well suited to working with young children, and may not perform well in the position for which he has been certified. A promising means of coping with both of these situations would be the development of performance-based credentials for the early childhood professions which would be accepted by all the States. The bill provides funds to assist in the development and refining of certification criteria and techniques for both professional and paraprofessional early childhood personnel.

Although it is true that most child services are and probably will continue to be provided in home settings, the number of large-scale child care centers and schools is continuing to grow at a rapid pace. The provision of services in these large settings requires a great deal of organization and management expertise to see that resources are organized in a manner to provide the best care at the least possible cost. But frequently a person whose specialty is curriculum development is pressed into service as the senior staff member in charge of a day-care center caring for several hundred children, and finds that the complexities of budgeting, personnel, supervision, scheduling, food planning, supply ordering and so forth are an overwhelming task. What is sorely needed is a supply of people who have been trained to organize and manage child development and child care programs so as to squeeze the greatest possible benefit from every dollar and thereby stretch our limited resources, while still maintaining high quality programs. The bill provides for the establishment of programs to train child care administrators.

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[1] Sugarman, Jule, "Joint Hearings Before the Subcommittee on Employment, Manpower, and Poverty, and the Subcommittee on Children and Youth of the Committee on Labor and Public Welfare, U.S. Senate," on S. 1512, part 1, May 13 and 20, 1971, pages 236–348.

Recruitment of the kinds of people best suited to working with young children is almost as much a problem as training them. One clear-cut example is the need for men in early childhood programs which have traditionally been almost exclusively the domain of women. A few years ago witnessed increasing numbers of young men being employed in early childhood programs, during a time when these positions meant draft exemption. With the alteration of our draft system and removal of much of the uncertainty the old system carried with it, we are not seeing as many men in positions where they work with young children. This is unfortunate because the children—both boys and girls—need environments where they can be exposed to both male and female adults. This is especially important for the almost 2 million children under age 6 who do not have a father living with them. It is widely said that the most important job in America is raising the future generation; I would challenge those men who give lipservice to this idea to take some of these most important jobs. The early childhood personnel development bill provides for attracting and recruiting men as well as women into training and subsequent employment in early childhood programs.

We have heard a great deal about the over supply of teachers in the United States. In many areas this is true, but early childhood is definitely not one of them. My bill addresses this imbalance by providing for the retraining of personnel who were originally trained and or experienced in another level of education. A person who once taught elementary school, for example, might need very little additional training to be able to work effectively on the preschool level. To the extent that we can make use of these people, we will be doing both them and the early childhood programs a service.

As with many Federal programs, one asks the question: "When the Federal funds stop flowing, will this effort continue?" It is the intention of this legislation to stimulate the development of a permanent capacity for training early childhood personnel, not to merely train the personnel. Priority is placed on the development of personnel development programs which promise to become self-sustaining after Federal assistance has ceased. To do otherwise would create an artificial supply of personnel entirely dependent on continued Federal support. This may mean augmenting existing schools of education as well as establishing new training programs and facilities. It will definitely mean that efforts must continue to prepare the trainers of teacher trainers whose work is so essential to the long-term success of our objective.

The training programs will utilize a wide variety of institutions. Trainers of teacher trainers will study at a handful of graduate schools specializing in this program. Colleges and universities will prepare professionals and management personnel needed to guide and supervise the early childhood programs. Community colleges, teachers colleges, private training corporations, and child development centers in every community will provide the inservice and preservice training needed by paraprofessionals.

Although taking advantage of many diverse training institutions is a valuable approach, it nevertheless carries with it the possibility that within a given community or State there may be a serious lack of coordination among all these efforts. At a conference I sponsored earlier this month in Boise, Idaho, I heard about an example of this in my own State. A group of day care workers had been trained through a vocational education program but could find no subsequent employment; at the same time, child development services in the area were growing apace, operated by people who had had neither preservice nor inservice training of any type in many cases. For this reason, the bill provides that the Secretary of Health, Education, and Welfare will take steps to achieve the coordination of all federally sponsored early childhood personnel training programs already in operation with the program to be established under this act. It also authorizes him to work to coordinate training programs with employment opportunities.

No matter how many children receive development and day care services, it will always be the parents who are the most influential educators of children in this country. Intervention programs can compensate to some extent for the effects of ineffective parenting, but the benefits that can come from good parenting can scarcely be provided through early childhood programs. Thus, the most important group of personnel to reach is the parents themselves.

There are a variety of ways to help parents provide their children with what is needed. One is to work with high school students who will in only a few years become parents themselves. Another is to include parents in the activities of child development programs so that they can observe effective techniques in operation. Several successful programs have been built around visits by trained child care workers to parents either in their own homes or in small neighborhood groups. The child care workers, themselves generally residents of the local neighborhood, demonstrate to the mothers different ways in which they can meet their children's needs and help develop in the mothers an awareness of the importance of what they do—or do not do for their children. Television is a valuable tool in reaching large numbers of parents with advice on such important child development principles as good nutrition, health care, reading and talking with children, providing toys for children to play with, and so forth. Finally, many of the people trained as early childhood workers will be or become parents themselves, thereby providing an extra dividend to the personnel training effort.

This legislation provides for funds for working with parents, and high school students, and the development of television programing and accompanying materials aimed at development of early childhood personnel.

This bill which follows is directed at a purpose too important to be overlooked. As a Nation, we are moving, step by step, into situations that require the care of children in large or small groups during all or a portion of the day. But as President Nixon pointed out when he vetoed the comprehensive child development legislation, we do not know the answer to "the crucial question of who the qualified people are, and where they would come from, to staff the child development centers." This bill is intended to provide an answer to that question.

Mr. Speaker, I include as a part of my remarks the text of my talk at Teachers College, Columbia University, yesterday on the subject of this legislation, together with relevent statistical information indicating the requirement for trained personnel, the full text of H.R. 14717, and the list of cosponsors:

A CALL TO LEADERSHIP

(Remarks by Hon. ORVAL HANSEN)

I feel honored to be asked to speak here today, in part because I am aware of the leadership position which Teachers College has held for so long in American education, and also because of the great names threaded through its history—teachers who have made such great contributions to our society through new insights and innovations in education. I don't know of any way in which to measure—perhaps evaluate is the correct word—such intangibles. But it would be interesting to know how much our world was affected by George Counts' mile-long question: *Dare the Schools Build A New Social Order?* We might not use the term "social order" in these days, but surely we are trying to reconstruct our society, to establish new priorities, and, as ever, we seek to do so in large part through our schools.

George Counts' book was written in 1932—40 years ago. My generation was in elementary school, with no fore-knowledge that a dreadful war lay in our path, to say nothing of the generation's new born and unborn which would fight in Korea and in Vietnam. We've hardly had time to think about the question that George Counts asked, which is being asked again, rephrased, by many men and from many platforms. And if we are to reform and reconstruct our society, underpin and shore-up, to cut loose its bindings and the bindings which hold the human spirit prisoner, we have no other way to go, no other help to seek save that of the teacher. We are committed to education in this country, it is the Great American Dream Machine; free, universal, compulsory, public education. I serve on the House Education and Labor Committee and I am chairman of the House Republican Task Force on Education and Training. It is exhilarating and encouraging to see the wide spectrum and the vigor of innovations in education which are underway, and the depth of much fresh educational philosophy and theory. It may well be, as the President said in a message to Congress on Education, that "Mankind has witnessed a few great ages when understanding of a social or scientific process has expanded and changed so quickly as to revolutionize the process itself. The time has come for such an era in education." But it is the teachers who must bring that revolution about. And so I have come to Teachers College today to talk about a new bill, The Child Development Personnel Training Act of 1972, which I and 21 of my colleagues will introduce tomorrow, an act I hope will serve as a benchmark for those who follow into this critical area at whose frontiers we now stand.

Another benchmark in legislation, The Higher Education Amendments of 1972, major portions of which I was privileged to co-sponsor, is now in conference. I expect we will spend long hours there before we resolve our differences, but when we are done, an historic bill will have emerged. That measure will mark the first time that unrestricted federal financial assistance will be offered to the nation's colleges and universities.

In addition, the National Institute for Education will have been established. In many ways, the establishment of the Institute holds as great a potential for the future of education as the rest of the Higher Education Amendments put together. We now spend 5 percent of our health budget on research and development, 10 percent of our defense budget—and about 0.3 percent of the education budget. The effectiveness of this small amount is probably limited because of the lack of a central focus that the NIE will provide. Less than one twentieth of our education funds are earmarked for the field of early childhood. Yet it is our exploding knowledge of the critical importance of the early years—the discovery, for example, that about half of the intellectual development takes place before age 4—that has suggested how we might reverse what Dean Corrigan of the University of Vermont has called the "spiral toward futility."

The Higher Education Amendments, and with it, the new Child Development Personnel Training Act, will, I hope, be the first steps toward a significant change in the direction of that spiral—a change in the social order if you will—the real fruits of which may not be seen for half a century. We are talking today about a legislative effort to affect the training of teachers of young children. As we move forward in learning how to develop these programs, as the impact is felt on young children and as they become parents, perhaps a couple of generations will be required before we see the real impact on the quality of life in this country. This emphasizes the importance of losing no time getting started.

"In earlier days when poverty was far greater than it is now and taxes were even harder to bear, people were willing to sacrifice almost anything rather than obstruct the door to education," Dean Corrigan told the Association for Early Childhood Education International last summer. "We are" he continued, "a far more affluent society, in spite of our high taxes and inflationary woes, but this affluence appears to have blinded us to the necessity of educating those who do not share its bounties. We are locking the poor into their poverty and will doubtless blame them for their state. Any system of universal education is ultimately tested at its margins. What is or is not done for the education of the physically, socially and educationally handicapped, those who have hitherto stood on the periphery of our concerns, will determine the effectiveness of the entire system. The education of other people's children is now and always has been as important as the education of our own; the reason, there are so many more of them. The future of a nation that evades the responsibility of educating its young is bleak, indeed. The greatest challenge facing education in the days ahead is to *reverse* the spiral toward futility. We must turn this country around, we must prepare our students and their parents to walk into the future forward, and not backward."

But if we are to prepare our students and their parents to walk into the future, if our schools are, finally, to dare design new social perspectives, if we are to reach our young as early as our new knowledge now tells us we must, then we must first prepare their teachers.

President Nixon stated, when he vetoed the Comprehensive Child Development Act, "There has yet to be an adequate answer provided to the crucial question of who the qualified people are, and where they would come from, to staff the child centers."

The Child Development Personnel Training Act will provide that answer.

Let me digress, at this point, to say that I hope that this will not be a one way talk. I am anxious to have your suggestions and comments on the newly proposed legislation. We in Congress need what I suppose in this computer-mediated world has to be called the "input" of the entire academic community. It is especially important that we hear from teachers and that teachers participate in the legislative process. I have frequently been astonished to find so many who have so little understanding of what the legislative process is and how it works. With so much financial support coming from the Federal government, with more likely, with so many regulations and standards being established, with new knowledge exploding in the field in which they are the professionals, some understanding of how a bill is developed, researched, what hearings are held, and the road it has to travel, should be a part of every teacher's general education. We in Congress will listen to what you have to say, but you have to tell us.

LEADERSHIP NEEDED IN THREE AREAS

I hope the new Child Development Personnel Training Act will provide a signal to teacher training institutions—a signal to provide a leadership that is badly needed in the field. A leadership which they, perhaps, are best qualified to provide, in three areas in which they have not previously been asked to provide leadership: One, the training of paraprofessionals; two, the training of parents; and three, the training of the teenagers and the older Americans who have so much to offer to our nation's youngest.

If our teacher training institutions fail, now, to provide this leadership they will do so at their own peril.

LACK OF EARLY CHILDHOOD PERSONNEL

I will return to this question. Let us turn, first, to that much vaunted question of the oversupply of teachers.

We have all heard a great deal about that oversupply. Given the number of children for whom we must plan in the future, in the area of early childhood education it is not true. A crisis in staffing now exists, and we do not, as yet, have the answer to that crucial question of who the qualified people are, and where they would come from, to staff the child care centers.

It is true that both the birth rate and the numbers of children born have been declining in recent years. The current emphasis on family planning will probably further reduce the birth *rate*. But during the next few years, the number of women in the child-bearing ages will increase sharply. Because of this, the Census Bureau estimates a reversal of the trend in terms of *numbers* of births. Averaging the Census Bureau's most conservative estimates, we must still estimate a 40 percent increase in the numbers of young children for whom we must plan in the future.

Jerome Kagan, professor of Human Development at Harvard, in a memorandum to the Education and Labor Committee as far back as November, 1969, stated:

"One of the major obstacles blocking the rapid expansion of early childhood services is the lack of qualified, trained personnel. This shortage of personnel in the early childhood area has been well documented."

Headstart statistics showed that of the professional staff, almost a third had had less than two full years of college work, nearly 80 percent had had practically no experience with primary education, and 80 percent had had little experience, if any, with disadvantaged children. This, at a time when new understanding of the critical importance of the early years was reaching us at a blinding rate.

Our colleges and universities have been graduating only about 5,000 early childhood personnel annually. New knowledge is of little use if there are none who can apply it.

The staffing problem at the professional level has been met largely with short term training drawing on a pool of already trained people with experience in other professional fields.

Such limited resources cannot begin to meet the future staffing needs of early childhood programs. One in every three mothers with children under six is working today—nearly six million preschool children whose mothers are in the work force. There is every indication that this trend will continue.

IMPORTANCE OF EARLY INTERVENTION

Many different reasons lead a family to seek early childhood programs for its youngest members. The family may wish to provide advantages the child cannot find at home, or, if it is an advantaged home, to add the additional advantages research shows pre-school experience provides for the child, or a working mother may be unable to be with her child and need a full day's care for him. If she is able to secure nothing more than custodial care, her child's development may be retarded while she watches helplessly.

Whatever the family's reason, one out of every five of the nation's three and four year olds was enrolled in a pre-school program in 1970, as compared with one out of ten in 1965. And almost without exception, the people who work with Headstart children tell us that this is too late to begin.

John Dewey, at the turn of the century, long before educators spoke of "economically deprived" or "educationally disadvantaged" children, first observed that the age of five or six was too late for effective intervention in the education and development of young children. It is the new knowledge we have been acquiring in the past decade, however, that has finally convinced us that all later learning is likely to be influenced by the very basic learning which has taken place in the first fifty months of life. It has also convinced us, in the words of Dr. Benjamin Bloom, that "if the intellective training of the young child cannot be done adequately by the home and by the parents, it is the responsibility of the schools." This position, Dr. Bloom suggests, may be taken in the interest of the individual child, or it may be taken to insure that the work of the schools for the next ten years will not be largely wasted because of what has taken place in the previous two or three years."

Some researchers believe that a critical period for the development of a child's potential occurs as early as between the ages of 8 months and 18 months. Others are beginning to wonder whether early environments can actually affect the organic neurological development of the human brain.

Let us take a moment for a brief look at some of the new research that is pouring in on us as man's knowledge doubles every ten years. It will help us to understand the pressing need for new legislation for the training of child development personnel, personnel who can reach—and teach—our nation's youngest children—and their parents.

J. McVicker Hunt, in his now famous "Intelligence and Experience", challenged the concept of fixed intelligence and predetermined development. That was in 1961, and he thought the average level of intelligence might be raised by as much as 30 points. He had attempted in his book to summarize all that was then known of the influence of experience on intelligence. But that was over 10 years ago, and the world's knowledge has doubled since then. Dr. Willard Gaylin, professor of Psychiatry and Law at Columbia Law School, writing in the New York Times last March 5, had this to say:

"The psychologist and psychiatrist have been aware that early imprinting on the mind and emotions has a profound a hold on an organism, and is as inflexible a determinant of adult behavior as any genetic trait or physiological endowment. Now research is confirming that beyond even this, early environmental conditioning will actually produce organic neurological changes in the brain."

In the February, 1972, *Scientific American*, Drs. Mark Rosenzweig, Edward Bennett and Marian Cleeves Diamond ask, "Does experience produce any observable changes in the brain?" and concludes that "there can now be no doubt that many aspects of brain anatomy and brain chemistry are changed by experience."

The researchers placed young laboratory rats, whose genetic background is completely known, in an enriched environment, filled with interesting objects and patterns to play with and explore. Each of the young animals in this enriched environment had a littermate, who grew up during *its* critical days in a barren, deprived environment.

The brains of the animals in the enriched environment grew faster than the brains of their littermates in the deprived environment. Among other evidences, the enriched animals' brains showed an increase in total weight of the cortex, and in the total amounts of the important enzymes which facilitate the transmission of impulse from neuron to neuron, along with a better blood supply and larger brain cells.

These significant changes in the anatomical and chemical composition of the brain, the Berkeley researchers believe, underlie and help to explain the changes in learning ability that seem to be brought about by enriching experiences.

It is obviously risky to extrapolate from the young rat to the young human, but the results of such animal studies, they suggest in February, 1972, "can serve as a guide, and investigators can look more penetratingly for the anatomical and chemical changes in the human brain that are correlated with experience and learning."

Dr. David Krech, Professor of Psychology at the University of California at Berkeley, who for almost two decades has participated in the rat experiments, told the 101st annual meeting of The American Association of School of Administrator's:

"By manipulating the environment of the young, one can truly create a "lame brain"—with lighter cortex, shrunken brain cells, fewer glia cells, smaller blood vessels, and lower enzymatic activity levels—or one can create a more robust, a healthier, a more metabolically active brain. If what is true for the rat brain should turn out to be also true for the human brain—if by careful manipulation of this or that group's early environment we can develop among them bigger and better brains or smaller and meaner ones—then the wondrous promises of a glorious future or the monstrous horrors of a Huxleian Brave New World are fairly self-evident."

We may well wonder what we have already been doing in our ignorance.

Dr. Krech hypothesized that *for each species there exists a set of species—specific experiences that are maximally enriching* and maximally efficient in developing its brain.

"Man's brain, and his alone, is a language supporting brain," Dr. Krech stated, and suggested that perhaps in language development might be found the species specific enrichment that could affect the human brain.

Here at Columbia, Dr. Thomas Bever, in the Department of Psychology, is working with language development in the human child, and the development of left hemisphere dominance in the human child's brain.

Enriching the environment, Dr. Bever has concluded, is critical in stimulating the emergence of cerebral dominance for the human child. A psychologically enriched environment for a two to five year old can help to create a brain that will be more capable of human speech and thought.

Of course the results are not all in yet on studies such as these—and much must still be highly *speculative*—but exciting new avenues of understanding have been opened to us. Justifiably, those concerned with the plight of our nation's children are urging that we can no longer afford to wait.

As early as 1965, Dr. Bloom was venturing the proposition that "a characteristic can be more drastically affected by the environment in its most rapid period of growth than in its least rapid period of growth." (If approximately 50 percent of future intelligence is reached by the age of four, the meaning of that proposition becomes clear.)

The pressure is now clear. But if we go rushing into new programs with inadequately trained personnel to carry them out, we can do more harm than good. As Erik Erikson has said, "the deadliest of all possible sins is the mutilation of a child's spirit." Who will care for and teach our youngest children?

This is not the place for the poorly trained amateur, or the lowest paid help. The young child is plastic and helpless in the face of his environment. The proper training of those to whom we entrust these youngest is a solemn responsibility. During the years when a child's body, brain and psyche are developing most rapidly, and when his experiences can so profoundly influence his future development, to entrust our most vulnerable young to the least trained, the most poorly educated, because they are available, or the cheapest, would be an educational disaster. No country in the world can do that if it wishes to march tomorrow with the leaders of mankind.

MAIN POINTS CONTAINED IN THIS BILL

We have to ask ourselves, where *are* the qualified people to come from? The Child Development Personnel Training Act is taking the first steps toward the answers. Let me describe briefly the main points contained in this legislation.

The bill will provide support for the development of seven specific types of learning efforts. The legislation is aimed at developing the *capacity* to continue these programs rather than merely to support them for a period of time and then see further efforts come to naught when federal funds are withdrawn. The programs are:

1. Postgraduate level training for teachers of professional and paraprofessional early childhood personnel and for teachers of teacher trainers—the triple T level.

2. Recruitment of personnel, both male and female, including students and older Americans, to training for and subsequent employment in child development programs.

3. Retraining of elementary and secondary school teachers and other educational personnel so that they can work effectively in early childhood programs.

4. Preservice and inservice training of professional and paraprofessional personnel for teaching. We will also try to begin some new programs geared specifically toward training management and administrative people for early childhood programs.

5. Development and refinement of certification criteria and techniques for professional and paraprofessional early childhood personnel.

6. Helping parents and high school students to understand and practice sound child development techniques.

7. Developing educational television programs and accompanying materials for training early childhood personnel, parents, and high school students in the principles of child development.

The bill authorizes 40 million for fiscal '73, 60 million for '74 and 75 million for the succeeding fiscal years through fiscal 1979. It is my hope that by 1980, therefore, sufficient early childhood training capacity will be in place and this act will no longer be necessary.

Five years ago, according to a U.S. Office of Education 1967–68 survey, only five doctorates were awarded in the field of Early Childhood Education, and 100 in the field of nursery or kindergarten education. Yet it is the Ph.D.'s and the Ed.D.'s who are the teachers of teachers, and who are needed to build up teacher training programs. Hopefully, five years from now, that picture will be very different. Hopefully, too, the picture will be very different as regards the number of men who are early childhood teachers and supervisors. The disadvantaged child particularly, who so often comes from a home in which the head of the household is female, is in great need of strong male role models with whom he can identify. This new legislation seeks to help encourage men to enter the field, and correct the current imbalance among teachers of young children, where teachers, and assistant teachers and all other personnel tend to be overwhelmingly female—an imbalance that is as much in need of correction in this field, as its opposite is in other fields.

It seeks also to correct the problem that has made many existing programs fall short of their real potential—the lack of supporting supervision and guidance at the local, state and regional levels. The act seeks to facilitate the development of a network of supervisors and trainees at all levels.

But it is the problems at the lower levels of the profession which this new legislation especially seeks to correct, and where the leadership of the teacher training institutions is now of such tremendous importance.

Some early childhood programs, hurriedly mounted and staffed in disadvantaged areas, have found that paraprofessionals, recruited with no previous training from the areas served, often viewed their involvement more as job opportunities for the poor than as educational programs for young children. Others, who did receive on-the-job training, found the same "lessons" repeated time after time, with no opportunity to progress towards positions of greater responsibility no matter how long they had served. The role of the paraprofessional and of the Child Development Associate must now be clearly defined.

The Child Development Associate, or mid-level professional, can be a great asset to both teacher and children, relieving the teacher of many unnecessary burdens and freeing him to guide more closely the learning process. The use of latent community talent at the paraprofessional level encourages the greater participation of parents and neighbors in the total educational process and motivates the child to overcome difficulties and frustrations as well. The paraprofessional who has lived in disadvantaged environments often speaks to the disadvantaged child in a way that is neither strange nor threatening. He can help the child adjust to the unfamiliar world of the school. His presence says to the child, "It is important to be here, it is worth trying, you can succeed here." This cultural bridge would be important even if there were no need to provide jobs for the poor, which, of course, there is.

But the guarantee of equal employment opportunity will be meaningless unless there is also a guarantee of equal opportunity for advancement. Eligibility for career mobility *cannot* be limited only to holders of higher educational degrees. We must be able to draw upon the relevance of experience as well as the tradition of degrees.

I am not suggesting the sacrifice of competence. Parents are now, themselves, demanding competence. For a while we saw a great pressure to give jobs to everybody. Many saw federally sponsored preprimary educational efforts as a lever with which to eradicate the social problems of poverty, or to provide political leverage and power for the disadvantaged. In the crush of conflicting objectives, the child often seemed to be a minor concern.

But parents soon realized that with untrained personnel the child's opportunities for learning are meager. Such experience soon degenerates into an emphasis on classroom control and behavior management. Here is where the teacher training institutions must make their contribution.

If we are to demand competence, then we must offer career mobility where competence has been proven. Early childhood programs cannot employ underpaid, poorly trained, poorly utilized aides who offer young children models of hopelessness. Neither can they place in positions of responsibility those who have not yet proven their ability nor been properly trained. For many paraprofessionals and Child Development Associates, as for many teachers, the classroom experience at its current level will prove deeply satisfying and endlessly challenging. But paraprofessionals and mid-level professionals who wish to secure further training and competencies, and additional experience, and have proven ability, must find a legitimate, defined route upon which they can proceed. Higher level competencies must be recognized with higher credentials and commensurate job responsibilities.

Professionals and Paraprofessionals

It is my belief that the training of paraprofessionals and Child Development Associates must become a primary responsibility of the teacher training institutions, as well as of the community colleges and other community institutions seeking to renew our educational system. The teacher training institutions must provide the innovative leadership that will help us to find the new ways, and the new places, in which those on the beginning steps of a career ladder can acquire the understandings, the skills and the experience that will permit our children to fulfill their true potential. The concept of classrooms without walls is a meaningful one, here. The arm of the institution must reach to where the need is felt and deal with that need imaginatively. An institution that ignores the felt needs of the community cannot survive.

Colleges and professional schools must, in addition, provide the needed courses in the supervision of paraprofessionals, and help to develop meaningful relationships between professionals and paraprofessionals. In a poll of teachers taken in 1968 to determine needs for in-service training, the teachers responded that they needed training most in learning to work with aides. Those supervising paraprofessionals must be able to provide the personal development, motivation and confidence, and knowledge and skills paraprofessionals need. What better way to train professionals to relate better to paraprofessionals, and to utilize them more effectively, than to train them together? There must be, as Professor Urie Bronfenbrenner has urged, a "close working relationship of mutual respect between workers from within and outside the child's own milieu. Mutual respect is essential in these relationships not merely for the purpose of maintaining a viable learning atmosphere, but more importantly to further the constructive development of the child's own sense of identity and worth as a person and as a member of society." I am aware that much thought is now being given to the training problems I have presented here, and I am confident that the pioneering leadership needed to meet the challenge will soon be forthcoming.

AN IMPORTANT ROLE FOR PARENTS

A second area where leadership is badly needed, is in the training of parents, and, especially, in the training of those who can teach parents.

Who is being taught to teach parents?

Dr. Bloom, as well as others, told us seven years ago that "The research makes it clear that there is a curriculum and a teaching style in each home, and that it is the variations in this home curriculum and teaching which accounts for much of the differences in children's preparation for the learning tasks of the school."

It is pleasant to point out that one of the pioneers in the research that revealed the influence of the home environment was Dr. Richard Wolf, of Teachers College. The original studies have now been replicated by investigators in Mexican American homes, Black inner-city homes, Puerto Rican homes, Navaho and Pueblo Indian homes and in Trinidad and Israel as well as the United States.

We now know that there is a very high correlation, +.80, between what happens in the home and school achievement. Almost two thirds of the variability in school achievement is attributable to what is, or is not, done in the home.

The current failure rate in our nation's schools has been compared to the mortality rate that once existed in the city of Chicago, where 40 percent of the newborn infants were dead before their first birthday.

A group of outstanding Chicago medical specialists worked out a systematic program to reduce this terrible rate of infant mortality. Among other measures, they provided parents with a short list of rules of sanitation and food preparation which, if followed, would help to keep their children alive. The infant mortality rates were markedly changed within a few years. Through new knowledge and education we have been able to change the entire nation's infant mortality rate. It has dropped 25 percent in only the last 10 years. We must now change the failure rate of the children in our nation's schools.

The new knowledge is available. We now know what it is that parents do—or do *not* do—that makes it possible for children to achieve, or *not* to achieve, in school. Our rates of failure, like our mortality rates, *can* be changed—*if* we educate the parents.

We must reach—and teach—the parent along with the child. Parents can be taught such behaviors as setting a model of language expected from the child—encouraging the toddler to use words, not just to point at desired objects, correcting the child if he names the object incorrectly. They can be taught the importance of encouraging aspiration by applauding small achievements, encouraging intellectual growth by talking with the child about problems to be solved—"what are the things Johnny needs to do today?"—and encouraging the child to think and to plan. Parents can be taught to support the child when he encounters temporary learning difficulties, to find an older child or neighbor, if necessary, who can help, and not permit the child to sink under a sense of failure. Parents can be taught the importance of providing a child with a sense of time and place—a time to eat, and a time to sleep, and a time to study—helping the child to gain a sense of control of himself and his life, and not act solely on impulse.

These are as simple as were the rules for how to keep young infants alive—and they are some of the behaviors that researchers have discovered make the difference in whether or not a child can achieve in school.

The important point, and it has now been proven over and over again, is that *any appreciable, enduring improvement in the child's development can be effected only through an appreciable and enduring change in the behavior of the persons intimately associated with that child.*

Lest you jump to the conclusion that there is a direct relationship between the socio-economic status of the parents and the development of the child, let me at once refer to the work of Drs. Dave and Wolf, and their landmark studies of the effects of home environment on intelligence and school learning. Their research demonstrated that it is what the parents *do* in the home, rather than their *status* characteristics, which are the powerful determinants in the home environment. They also found that the relationship between these home environment process variables and the parent's status was relatively low.

Clearly, parents with even relatively low levels of education or occupational status *can* provide stimulating home environments for educational achievement. But the parents must be taught how!

If our child development programs are to have any lasting effects, we must recognize the impact of the home environment on the developing child, and take the necessary steps to deal with it. We must reach the parents.

The training of teachers must now mean the training of those who will be qualified to teach parents as well as children.

Older Americans and Students

Our teacher training institutions must provide leadership in still a third area as well. We now know that older children and adolescents can serve as models for younger children, and, at the same time, learn some of the principles of child development which will help them become better parents in future years. Older Americans also, serving as foster grandparents, can, when properly trained, provide the stimulating environment so badly needed by our youngest Americans, and discover how much they are needed in one of the nation's most urgent social efforts.

But who will teach the old and the young to teach the nation's youngest, if not the teachers? And who is now teaching the teachers?

The few demonstration models we have had have proven how fruitful a field this can be. The time has come, now, to sow the seeds we wish to reap. Our retired teachers have a unique contribution to make here, for they, especially, are suited to assist in the training of older Americans. But they, too, must first be trained. It is the institutions who trained them, first, who must now offer them the opportunly to revitalize old skills and retain new ones.

The opening chapter of AACTE's *Teachers For the Real World* begins: "No more intolerable condition can be imposed on a human being than to render him useless." Our older teachers can discover that in their oldest years they may perhaps make their greatest contributions to society.

TELEVISION

There is one last area in which vision and imagination is called for. It is, perhaps, the most important one.

John Dewey said "Start where the child is." Today's child, and his parents and his grandparents, too, are in front of a TV set. Over 98 percent of America's homes are now reached by the most powerful communications tool ever known in the history of man. But its potential lies largely unused.

TV touches every American. It is available *and in use* in virtually every American home. Homes which literally have nothing else—no plumbing, no furnishings, no books or newspapers, no hope—have a television set.

The American Association of Colleges for Teacher Education, along with The American Association of School Administrators and The Laboratory for Research in Relevant Education *have* taken a leadership role here, and have proposed LEARNING AND GROWING, a television series which seeks the reeducation and strengthening of America's parents, teachers, and all of the "gatekeepers" who influence the growth and development of the nation's children. The proposed TV series will use the sophisticated production techniques that have proven to hold audiences of millions to bring to America's families and schools the new knowledge now exploding at the frontiers of research about how children grow and develop. It seeks to change the failure rate of the nation's children, just as, through new knowledge, the mortality rate of the nation's infants has been changed.

No project is more important, or has a more exciting potential.

We must use the powerful techniques of the television medium to help our audience understand all we have come to know about human growth and development, and, how, using our new knowledge—parents and teachers and all of us everywhere—may help to produce a generation of children better able to fulfill their human potential than any generation in all the history of man. The Child Development Personnel Training Act encourages the use of television for this purpose.

HUMANITY'S BASIC INVENTORY—OUR CHILDREN

It will do us little good to save the quality of life in this world, and to fight to save our environment for our children, if we have not saved the children.

The Child Development Personnel Training Act is the first of many steps that our generation must take for theirs. For three thousand years man used the yoke meant for a team of oxen on his horses before he developed a harness for his horse. Our first automobiles had a place for a horse whip. We are now in the position of a people who are attempting to solve the problems of the children who must live in the 21st century with the tools of an age long dead—while the most powerful communications tools and the most meaningful new knowledge man has ever had, lie waiting.

What we do—or do not do—about this will tell us what kind of a people we are.

A few short years ago we did not know how the lack of proper nutrition in the critical early years could affect the growth of the human brain, and deny to millions of children, all over the world, the potential they were born with. Millions of children, today, are growing to adulthood less intelligent than they might have been. All of humanity must suffer in their loss.

Now, as we are faced with the awesome evidence of what the lack of adequate educational fare may mean as well, we, who are responsible for the next generation of our nation's children, must ask ourselves one question: Dare we wait any longer?

Humanity has only one basic inventory in this world—the very young. All the rest is remedial.

Early Childhood Professional Personnel: Earned Degrees Conferred 1969–70

According to the just-issued report, *Earned Degrees Conferred: 1969–1970,* (National Center for Educational Statistics, U.S. Office of Education) the following numbers of professional personnel were trained in the 1969–70 school year for early childhood areas:

	B.A.'s			M.A.'s			Ph. D.'s		
	Total	Men	Women	Total	Men	Women	Total	Men	Women
Education:									
Nursery or kindergarten education	897	6	891	20	1	19			
Early childhood education	5,041	65	4,976	629	28	601	13	3	10
Home economics: Child development, family relations	1,710	43	1,667	270	35	235	37	20	17
Total (all fields—8,617)	7,648			919			50		

Note: Contrast these figures with the total B.A.'s prepared in elementary education: 84,846; or with the total number of B.A.'s prepared in all education fields: 166,423.

H.R. 14717

A bill to improve the quality of child development programs by attracting and training personnel for those programs

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Development Personnel Training Act of 1972".

STATEMENT OF FINDINGS AND PURPOSE

SECTION 1. The Congress recognizes that one of the major barriers hindering the development of quality child development services at the present time is the lack of sufficiently trained and prepared professional and paraprofessional staff; further that the number of children being placed in child development and child care will increase significantly in the next decade because of the impact of Federal welfare and child development programs and the continued entry of mothers of young children into full-time employment outside the home, and that this increase will, in the future, place an intolerable strain on the already limited numbers of personnel qualified for work in early childhood programs; that the development of quality early childhood programs depends, therefore, on the availability of trained personnel in far greater numbers than present training programs can respond to; and finally, that parents can be helped effectively to use child development techniques for their own children that will lessen or prevent the need for compensatory education programs for older children.

SEC. 2. It is the purpose of this Act to respond to the demonstrated need for child development personnel in the 1970's; by stimulating the development of sufficient training and educational programs in every State and region of the United States to assure an adequate supply of personnel to meet the staffing requirements of early childhood programs.

EARLY CHILDHOOD PERSONNEL DEVELOPMENT PROGRAMS

SEC. 3. The Secretary of Health, Education, and Welfare is authorized to make grants to or enter into contracts with institutions of higher education, State and local child development agencies, State and local educational agencies, child development programs, private companies and organizations engaged in teacher training, teacher training institutions, national child development organizations, and producers of television programing, for the purpose of establishing, developing, or upgrading early childhood personnel training programs which shall include, but shall not be limited to, the development of programs to—

(A) provide postgraduate level training for teachers of professional and paraprofessional early childhood personnel and for teachers of teachers of such personnel;

(B) attract and recruit personnel, both male and female, including students and older Americans to training for and subsequent employment in child development programs;

(C) retrain personnel prepared for and/or experienced in education at levels other than early childhood so as to enable them to function effectively in early childhood programs;

(D) provide preservice and inservice training of professional and paraprofessional personnel for teaching, management and supervisory, and administrative posts in early childhood programs, including the training and certification of Child Development Associates;

(E) help parents and high school students understand and practice sound child development techniques;

(F) develop educational television programs and accompanying materials for training early childhood personnel, parents, and high school students in the principles of child development;

(G) develop and refine certification criteria and techniques for professional and paraprofessional early childhood personnel.

APPROPRIATIONS

SEC. 4. There are hereby authorized to be appropriated to carry out this Act $40,000,000 for the fiscal year ending June 30, 1973, $60,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for each of the succeeding fiscal years ending prior to July 1, 1979.

DISTRIBUTION

SEC. 5. At least 50 per centum of the funds appropriated pursuant to section 4 shall be used for the development of programs to attract, train, retrain, or certify paraprofessional personnel and shall be apportioned among the States. Half of such 50 per centum shall be allotted among the States so that the amount allotted for each State bears the same ratio to such half as the number of economically disadvantaged children, as determined by the Secretary, in the State bears to the number of such children in all the States; and the other half of such 50 per centum shall be allotted among the States so that the amount allotted for each State bears the same ratio to such half as the number of children younger than age six with mothers who work full-time outside the home in that State bears to the number of such children in all the States.

Sec. 6. The remaining 50 per centum of the funds appropriated pursuant to section 4 shall be used for the other purposes enumerated in section 3 and for such related purposes as the Secretary may deem appropriate to carrying out the purposes of the Act.

Sec. 7. Priority shall be placed on the development of those personnel development programs which promise to become self-sustaining after Federal assistance has ceased.

COORDINATION

Sec. 8. The Secretary shall take whatever steps he deems appropriate to achieve the coordination of all federally sponsored early childhood personnel training programs already in operation with the programs to be established under this Act and to assure the coordination of training programs with employment opportunities for early childhood personnel.

DEFINITIONS

Sec. 8. As used in this Act, the term—

(a) "State" means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands,

(b) "Early childhood programs" and "child development programs" mean programs in children's homes or in day-care homes, schools, day-care centers, neighborhood centers which provide day care and/or educational services for children younger than age seven, or who have not reached the first grade.

(c) "Early childhood personnel" means any person working or volunteering in an early childhood program.

(d) "Professional early childhood personnel" means persons trained, either by attaining the A.A., B.A., M.A. or Ph.D. level through academic study, or on the basis of a credentialed combination of education and work experience that has been assessed as providing the person with specific competencies required to perform professional early childhood duties.

(e) "Paraprofessional early childhood personnel" means persons trained to less than A.A. degree level for service in early childhood programs.

(f) "State and local child development agencies" mean any State or local government agencies responsible for the operation and/or supervision of early chilhood programs.

Cosponsors of H.R. 14717

Mr. Hansen of Idaho.
Mr. Begich of Alaska.
Mr. Bell of California.
Mr. Dellenback of Oregon.
Mr. Eilberg of Pennsylvania.
Mr. Esch of Michigan.
Mr. Frelinghuysen of New Jersey.
Mr. Fuqua of Florida.
Mr. Garmatz of Maryland.
Mr. Gibbons of Florida.
Mr. Gude of Maryland.
Mr. Halpern of New York.
Mr. Heinz of Pennsylvania.
Mrs. Hicks of Massachusetts.
Mr. McClory of Illinois.
Mr. Meeds of Washington.
Mr. Nix of Pennsylvania.
Mr. O'Hara of Michigan.
Mr. Quie of Minnesota.
Mr. Scheuer of New York.
Mr. Steiger of Wisconsin.
Mr. Thone of Nebraska.

PERSONAL ANNOUNCEMENT

Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, yesterday I had the privilege of appearing before a legislative committee of the Illinois State Legislature which is considering legislation to protect Lake Michigan from further pollution and decay.

Regrettably I was absent from the floor and was unable to be recorded on three roll call votes which took place on May 1. Had I been present I would have voted as follows:

Aye on roll 130, final passage of S. 2713 authorizing the Attorney General to provide care for narcotics addicts who are on probation or parole;

Aye on roll 132, final passage of H.R. 9676 transferring Federal land to the State of Tennessee for use by the University of Tennessee;

Aye on roll 133, final passage of H.R. 13334 authorizing new executive positions in the Treasury Department.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. Fountain (at the request of Mr. Boggs), for Monday, May 1 and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Rousselot) and to revise and extend their remarks and include extraneous matter:)

Mr. Hogan, for 1 hour, today.
Mr. Kemp, for 10 minutes, today.
Mr. Frey, for 10 minutes, today.
Mr. Brown of Ohio, for 5 minutes today.

(The following Members (at the request of Mr. Denholm) and to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez, for 10 minutes, today.
Mr. Aspin, for 10 minutes, today.
Mr. Rodino, for 10 minutes, today.
Mr. Alexander, for 30 minutes, today.
Mr. Rosenthal, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, to revise and extend remarks was granted to:

Mr. Albert (at the request of Mr. Boggs) to extend his remarks following Mr. Gerald R. Ford.

All Members (at the request of Mr. Rousselot) to revise and extend their remarks on the subject of the special order of Mr. Hogan, today.

Mr. Hall and Mr. Gross, to extend their remarks in the body of the Record during Mr. Hogan's special order today.

(The following Members (at the request of Mr. Rousselot) and to revise and extend their remarks and include extraneous matter:)

Mr. Robison of New York.
Mr. Bell.
Mr. Sandman.
Mr. Findley.
Mr. Kemp in two instances.
Mr. Steiger of Arizona.
Mr. Duncan.
Mr. Frelinghuysen.
Mr. Nelsen.
Mr. Minshall.
Mr. Steiger of Wisconsin.
Mr. Shoup in two instances.

(The following Members (at the request of Mr. Denholm) and to include extraneous matter:)

Mr. Casey of Texas.
Mr. Rosenthal in five instances.
Mrs. Hicks of Massachusetts in two instances.
Mr. Corman in six instances.
Mr. Pucinski in 10 instances.
Mr. Hamilton.
Mr. Tiernan.
Mr. Eilberg in 10 instances.
Mr. Hagan in three instances.
Mr. Rarick in 10 instances.
Mr. Abourezk in five instances.
Mr. Brasco in two instances.
Mr. Pickle in five instances.
Mr. Begich in three instances.
Mr. Purcell.
Mr. Boland in three instances.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2713. An act to amend title 18 of the United States Code to authorize the Attorney General to provide care for narcotic addicts who are placed on probation, released on parole, or mandatorily released.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on May 1, 1972, present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 1029. A joint resolution to authorize the President to issue a proclamation designating the month of May of 1972 as "National Arthritis Month."

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 44 minutes p.m.) the House adjourned until tomorrow, Wednesday, May 3, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

1922. Under clause 2 of rule XXIV, a letter from the president, National Academy of Sciences, transmitting a report on interim 1975 motor vehicle emission standards, pursuant to section 202 (b) (5) (A) of the Clean Air Amendments of 1970, was taken from the

Speaker's table and referred to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EDWARDS of California: Committee on the Judiciary. H.R. 7375. A bill to remove the statutory ceiling on salaries payable to U.S. magistrates; with amendments (Rept. No. 92-1037). Referred to the Committee of the Whole House on the State of the Union.

Mr. MANN: Committee on the Judiciary. H.R. 12179. A bill for the relief of Swiff-Train Co.; with an amendment (Rept. No. 92-1038). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ABZUG:

H.R. 14715. A bill to enforce the constitutional right of females to terminate pregnancies that they do not wish to continue; to the Committee on the Judiciary.

By Mr. FREY:

H.R. 14716. A bill to provide for the establishment of safety standards for mobile homes in interstate commerce, and for other purposes; to the Committee on Banking and Currency.

By Mr. HANSEN of Idaho (for himself, Mr. Bell, Mr. Dellenback, Mr. Esch, Mrs. Hicks of Massachusetts, Mr. Meeds, Mr. O'Hara, Mr. Quie, Mr. Scheuer, Mr. Steiger of Wisconsin, Mr. Begich, Mr. Eilberg, Mr. Frelinghuysen, Mr. Fuqua, Mr. Garmatz, Mr. Gibbons, Mr. Gude, Mr. Halpern, Mr. Heinz, Mr. McClory, Mr. Nix, and Mr. Thone):

H.R. 14717. A bill to improve the quality of child development programs by attracting and training personnel for those programs; to the Committee on Education and Labor.

By Mr. McMILLAN (for himself, Mr. Cabell, Mr. Nelsen, and Mr. Broyhill of Virginia):

H.R. 14718. A bill to provide public assistance to mass transit bus companies in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. MIKVA:

H.R. 14719. A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes; to the Committee on Ways and Means.

By Mr. MORGAN:

H.R. 14720. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. STUBBLEFIELD (for himself, Mr. McMillan, Mr. Dorn, Mr. Vigorito, Mr. Jones of North Carolina, Mr. Sisk, Mr. Alexander, Mr. Jones of Tennessee, Mr. Bergland, Mr. Link, Mr. Denholm, Mr. Abourezk, Mr. Aspin, Mr. Begich, Mr. Edmondson, Mr. Henderson, Mr. Hillis, Mr. Kastenmeier, Mr. McFall, Mr. Quillen, Mr. Roy and Mr. Steed):

H.R. 14721. A bill to provide price support for milk at not less than 85 percent of the parity price therefor; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HAWKINS presented a bill (H.R. 14722) for the relief of Hilarion Ngayan, Jr., which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

PROF. G. I. SANCHEZ—EDUCATOR, LEADER, HUMANITARIAN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. PICKLE. Mr. Speaker, a few days ago The University of Texas, the State of Texas, and this country lost a great education leader with the death of Prof. George Sanchez.

Even before Professor Sanchez had completed his own education, this Government was calling on him to help in its work in inter-American relations and education fields. He has served well the cause of Spanish-speaking peoples in this country and abroad. And in so doing he has served well his country and his fellow man everywhere.

His loss will be sorely felt.

I would like at this time to place in the Record an article from an Austin, Texas, newspaper describing the life and works of Professor Sanchez.

The article follows:

UT PROF. G. I. SANCHEZ DIES

Dr. George Isadore Sanchez y Sanchez, 65, of 2201 Scenic Dr., professor of Latin American Education at the University of Texas, died at St. David's hospital Wednesday night after an illness.

Funeral is pending at the Cook-Walden Funeral Home.

Sanchez had been a faculty member at UT since 1940. He had also taught short terms at the University of Mexico, University of Alaska, University of Southern California, University of New Mexico and others.

Sanchez was born in Albuquerque, N.M., on Oct. 4, 1906, and was educated in elementary and secondary schools in Arizona and New Mexico. He received his bachelor of arts degree from the University of New Mexico in 1930, his master of science degree in education from UT in 1931 and his doctorate from the University of California in 1934.

Dr. Sanchez taught elementary school in New Mexico from 1923-30 and was director of research for the New Mexico Department of Education, 1931-35. From 1935-37 he was a research associate for the Julius Rosenwald Fund in Chicago and the chief technical consultant and director of the National Teachers College for the Venezuelan Ministry of Education from 1937-38.

He worked as a research associate at the University of New Mexico 1938-40. He also served as Education Specialist to the Coordinator of Inter-American Affairs in Washington, D.C. from 1933-34.

In 1961 Sanchez was named to the board of directors of the newly formed Peace Corps by President John F. Kennedy and also served on Kennedy's 50-member Citizen's Committee for a New Frontier Policy in the Americas.

He has also held government appointments with the U.S. Bureau of Indian Affairs and Office of Education.

Sanchez was a government witness in the Austin School desegregation case last year, during which he called prohibiting speaking of Spanish by children in public schools "virtually criminal."

He also spoke out against segregation of black and Mexican-American students calling for a "unitary" school where all children attended without reference to ethnic background.

Sanchez was the author of numerous books, articles, monographs and bulletins. Some of his principal books were "Mexico—A Revolution in Education," 1936; "Forgotten People," 1940; "The Development of Higher Education in Mexico," 1944; "The People—A Study of the Navajos," 1948; "Arithmetic in Maya," 1961; and "The Development of Education in Venezuela," 1963.

Sanchez is survived by his wife, Dr. Luisa G. Sanchez of Austin; one daughter, Mrs. Consuelo Sprague of Austin; a son-in-law, Nelson R. Sprague of Austin; and a son, George E. Sanchez, of Albuquerque, New Mexico.

THE INDEPENDENCE OF THE FEDERAL JUDICIARY

HON. ROBERT TAFT, JR.

OF OHIO

IN THE SENATE OF THE UNITED STATES

Tuesday, May 2, 1972

Mr. TAFT. Mr. President, the Honorable Frank J. Battisti, Chief Judge of the U.S. District Court for the Northern District of Ohio, has recently written an article entitled, "The Independence of the Federal Judiciary." This article appeared in the February 1972 issue of the Boston College Industrial and Commercial Law Review.

Because of the stresses which are placed on the independence of our judicial system in turbulent times, I commend this article to my colleagues and ask unanimous consent that it be inserted at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE INDEPENDENCE OF THE FEDERAL JUDICIARY [†]

(Hon. Frank J. Battisti[*])

It is indeed an honor to speak at the Boston College Law School. As you are probably aware, there has been some criticism directed at judges who deliver speeches and write articles on matters which may subsequently come before them in the course of litigation. The subject of my remarks is one that will likely not be part of any litigation that may come before me, and it is a subject of the highest interest to members of the bench and bar alike. I address myself today to the current congressional attempt to infringe upon the independence of what Professor Alexander Bickel calls "the least dangerous branch."

Footnotes at end of article.

As you are no doubt aware, in our unique system of government we have three independent, yet interdependent branches. Each limits and counterbalances the others so that the ship of state continues on a relatively even keel. The power of the executive and legislative branches is checked by the operation of the judicial branch; the jurisdiction of the courts is within the aegis of Congress; and the power to appoint Judges is vested in the Executive.[1]

A hallmark of our federal system is the independence of the judiciary. This independence is occasionally threatened by those who, while meaning well, would undermine the very attribute that makes the judicial system of this nation without peer. The paramount importance of the judiciary's independence was ably expressed by the late Circuit Judge John J. Parker:

> There is one qualification which is the *sine qua non* of judicial success or even judicial respectability. That quality is independence. . . . The judge must not only be independent—absolutely free of all influence and control so that he can put into his judgments the honest, unfettered and unbiased judgment of his mind, but he must be so freed of business, political and financial connections and obligations that the public will recognize that he is independent. It is of supreme importance, not only that justice be done, but that litigants before the court and the public generally understand that it is being done and that the judge is beholden to no one but God and his conscience. As was well said by John Marshall in the debate on the Constitution in the Virginia Convention: "The Judicial Department comes home in its effects to every man's fireside; It passes on his property, his reputation, his life, his all. Is it not, to the last degree important, that he (the judge) should be rendered perfectly and completely independent, with nothing to influence or control him but God and his conscience? . . . I have always thought, from my earliest youth till now, that the greatest scourge an angry Heaven ever inflicted upon an ungrateful and sinning people, was an ignorant, a corrupt, or a dependent Judiciary." [2]

The founding fathers were convinced that the independence of the judiciary was of paramount importance in their new government. Their belief was embodied in the Third Article of the Constitution, which provides that judges "shall hold their office during good behavior." The framers of the Constitution sought to establish the judiciary's independence by limiting the method for removal of federal judges to a cumbersome [3] impeachment process.

Alexander Hamilton expressed their views most clearly in his contributions to the Federalist Papers. In No. 79 he wrote:

> The precautions for their [judges'] responsibility are comprised in the article respecting impeachments. They are liable to be impeached for mal-conduct by the house of representatives and tried by the senate, and if convicted, may be dismissed from office and disqualified for holding any other. This is the only provision on the point, which is consistent with the necessary independence of the judicial character, and is the only one which we find in our own constitution in respect to our own judges.
>
> The want of a provision for removing the judges on account of inability, has been a subject of complaint. But all considerate men will be sensible that such a provision would either not be practiced upon, or would be more liable to abuse than calculated to answer any good purpose. . . . An attempt to fix the boundary between the regions of ability and inability, would much oftener give scope to personal and party attachments and enmities, than advance the interests of justice, or the public good. The result, except in the case of insanity, must for the most part be arbitrary; and insanity, without any formal or express provision, may be safely pronounced to be virtual disqualification.[4]

In Federalist No. 78, Hamilton concluded his argument for an independent judiciary by elucidating the benefits of the good behavior standard:

> The standard of good behaviour for the continuance in office of the judicial magistry is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince: In a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government, to secure a steady, upright, and impartial administration of the laws.
>
> [In view of] the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its coordinate branches; [and] . . . nothing can contribute so much to its firmness and independence as permanency in office.
>
> If then the courts of justice are to be considered as the bulwarks of a limited constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges, which must be essential to the faithful performance of so arduous a duty.
>
> But it is easy to see that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the constitution, where legislative invasions of it had been instigated by the major voice of the community.
>
> Upon the whole there can be no room to doubt that the convention acted wisely in copying from the models of those constitutions which have established *good behaviour* as the tenure of their judicial offices in point of duration; and that so far from being blamable on this account, their plan would have been inexcusably defective if it had wanted this important feature of good government. The experience of Great Britain affords an illustrious comment on the excellence of the institution.[5]

I. ATTEMPTS TO ENCROACH ON JUDICIAL INDEPENDENCE

In the last forty years Congress has considered several alternative methods for the removal of federal judges. In 1936, two bills were introduced which sought to provide an additional avenue for the removal of federal judges. Both bills gave the power of removal to a special court and allowed an appeal to the Supreme Court. One bill,[6] introduced by Senator McAdoo, proposed the establishment of a court to be composed of the senior judges of the ten circuit courts of appeals and the Chief Judge of the Court of Appeals for the District of Columbia. Its jurisdiction would have extended to the trial of all federal judges, except justices of the Supreme Court, upon the issue of misbehavior. Prosecution of the matter was to be entrusted to the United States Attorney General; and upon conviction and transmission of notice thereof to the President, the judge was to be automatically removed from office. The bill also provided for an appeal to the Supreme Court.

A second bill,[7] introduced by Congressman Summers, provided a method whereby the House of Representatives could transmit a resolution directly to the Chief Justice of the United States. This bill provided that if, in the opinion of the House, there were reasonable grounds for believing that any judge of the United States, other than a judge of any of the circuit courts of appeals or the Supreme Court, was guilty of misconduct, the Chief Justice should convene the circuit court of appeals for the circuit in which the judge's judicial district was situated to try the issue of the accused judge's good behavior. The Chief Justice would have been required to designate three circuit judges, none of whom had to be from the circuit of the accused judge, to serve on such a court. Prosecution was to be entrusted to managers designated by the House, and appeal was allowed to the Supreme Court of the United States by either the prosecution or the accused. Judgment was to be limited to removal from office.

Both of these bills were the subject of much criticism. Serious doubt existed as to whether a proceeding for removal constituted a "case or controversy" falling within the judicial power [8] of the courts under Article III.[9] A further objection was predicated on the argument that the impeachment provisions of the Constitution impliedly exclude all other methods for removal.[10] In rejecting the two proposals, Congress wisely adhered to the belief of the framers of the Constitution that the impeachment procedure should be the sole means for removing judges.

A similar and equally unfortunate attempt to tamper with the independence of the judiciary occurred when President Franklin Roosevelt sought to "pack" the Supreme Court with Justices who would sustain the legislation of the New Deal.[11] In 1937, President Roosevelt delivered a message to Congress in which he proposed a legislative plan that would have increased the number of justices from nine to a possible maximum of fifteen. Thus he brought into the open a disagreement between the Court on one hand, bent on maintaining the doctrine of judicial independence, and, on the other, those individuals and groups who wished the Court to refrain from reviewing matters of legislative policy. The unsuccessful action by President Roosevelt exemplified the angry collision between dynamic and popular presidents and the federal courts, and is illustrative of the numerous presidential and congressional efforts to encroach on the federal judiciary's independence.[12]

In a recent session of Congress, former Senator Tydings, together with other liberal senators,[13] introduced S. 1506, a bill entitled The Judicial Reform Act.[14] Although both Senator Tydings and his bill were unsuccessful in gaining popular approval, the principal aim of the bill—the establishment of a Commission on Judicial Disabilities and Tenure—still enjoys strong support. Addressing a convention of the American Bar Association, Deputy Attorney General Kleindienst expressed the Nixon Administration's approval of the bill. He stated, in part:

> I [regret] . . . that I did not either see or get the opportunity to speak in favor of Senator Tydings' proposal with respect to judicial removal. On behalf of the Administration and on behalf of the Attorney General, we favor this very much indeed, and judicial reform. Although we have not yet presented our position to the Congress, we will in the near future. We commend his effort and his activity and his diligence in this area, and, like you, as a result of the vote you took here this morning, we are hopeful that the Congress will enact this into legislation this year.[15]

In spite of its initial defeat, the terms of the proposed Act deserve considerable attention. It is to Title I of the Act that my comments and criticism will be directed, for it is this section that represents the most recent assault on the independence of the federal judiciary. Title I calls for the creation of a "Commission on Judicial Disabilities and Tenure" within the judicial branch.[16] This Commission would be composed of five members, each a federal judge in active service, and would include two district judges and two circuit judges to be assigned by the Chief Justice. In addition, no judge who is a member of the Judicial Conference [17] of the

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Footnotes at end of article.

United States could be assigned to the Commission.

The Act would provide that, upon a complaint, either formal or informal, of *any* person, the Commission could undertake an investigation of the official conduct of an Article III judge to determine whether that judge's conduct has been consistent with the standard of good behavior. Willful misconduct and persistent failure to perform his official duties would constitute conduct inconsistent with the requirement of good behavior. After an investigation, the Commission could order a hearing concerning the conduct of the judge and, within ninety days after the adjournment of the hearing, the Commission would have to make findings of fact and a determination regarding the judge's conduct. If, upon the concurrence of four of its members, the Commission decided that the conduct of the judge was inconsistent with the good behavior requirements of Article III, it would report its findings to the Judicial Conference with the recommendation that the judge be removed from office. If the Commission found that the judge's conduct was in keeping with good behavior, the matter would be dismissed; the judge under investigation could then decide whether to make public any or all information relating to the investigation.

The Judicial Conference or one of its committees would review the record, findings and determination of the Commission. It could hear oral arguments, receive additional evidence, or require the filing of briefs. The Conference could accept, modify or reject the findings of the Commission. Should the Conference accept the recommendation of the Commission, the Conference would then stay certification of its determination to the President pending review in the Supreme Court by writ of ceriorari. If the judge did not seek review, or if he did and the findings were affirmed, the Conference would certify to the President that the judge be removed from office. The judge then would be removed and a new one appointed by the President with the advice and consent of the Senate.

In addition, the Commission would be empowered to hear any claim by a retired judge that he was not being assigned court duties which he was willing and able to undertake. Such a claim would have to be substantiated to the satisfaction of a majority of the Commission, which would then transmit an appropriate order to the authority responsible for the assignment of judicial duties to retired judges.

The proposed Act attempts to circumvent the impeachment provisions of the Constitution. Its supporters correctly contend that the impeachment process is cumbersome; indeed, they argue that it is too cumbersome. In their haste to condemn it, however, they demonstrate its essential purpose. Impeachment was *designed* to be cumbersome in order to make removal by whim an impossibility.[18] It embodies the belief that before a judge can be removed from office he must have offended the Constitution to such a degree that the great weight of the Congress is moved to convict him. The supporters of S. 1506, who testified before the Tydings Subcommittee, claim that an easier method of removal for federal judges is necessary. However, the clear result of the bill would not be to make removal of federal judges easier than is provided by the Constitution; rather, the result would be to make it easy to remove federal judges. This change would violate the spirit and letter of the Article II impeachment grounds, which were purposely intended to make difficult the removal of federal judges and other civil officers. The impeachment provisions have been fundamental in permitting judges to retain their independence from political interference, which in turn, has allowed them to accord justice without favoritism. This beneficial and necessary aspect of the federal judiciary would be substantially undermined if the bill were to become law.

The impeachment process had been and continues to be a viable means of removing federal judges and policing their conduct. While thirteen men, eight of them judges and one of them a President, have been impeached and four have been convicted by the Senate, a total of fifty-five judges were subjected to congressional inquiry up to 1962.[19] As the testimony of Joseph Borkin, a proponent of S. 1506, makes clear, the benefits of the impeachment process are realized indirectly:

> [I]mpeachment is a costly, complicated, and cumbersome process, initiated rarely, and then only with the greatest of reluctance. Its only real effectiveness has been indirect. By threatening a misbehaving judge with exposure and disgrace, it has forced those judges guilty of the most flagrant abuses to resign rather than face the ordeal of impeachment.[20]

However, as an expert on judicial behavior, Mr. Borkin argued that the history of the impeachment of judges indicates the procedure's failure. This failure, he contended, is evidenced by the fact that while fifty-five judges were investigated, only eight were impeached. It should be noted that, in addition, eight were censured and seventeen resigned at some stage of the investigation, while the balance were absolved. Mr. Borkin thus concluded that the impeachment process is so cumbersome that the bar, the prosecuting officials and Congress "appear [to be] willing to permit resignation from the bench to serve as a curtain behind which judges of questionable character could hide the details of their misdeeds." [21]

It seems to me that supporters of S. 1506, such as Mr. Borkin, do not really want to see the federal judiciary improved; they want to see heads roll. It should not matter how a "judge of questionable character" leaves the bench so long as he does. The institution of the federal judiciary is better served by the resignation of a particular judge than by the successful witch-hunting of a few individuals bent on removing all those jurists who, in the opinion of a few, are not observing the requirements of good behavior.

In his testimony before the Subcommittee, Mr. Borkin explained in great detail the sagas of three federal judges [22] indicted for judicial corruption. They were sordid tales and most unfortunate. However, they missed the point. It is not surprising that a few judges have violated the canons of judicial ethics; judges after all are human, appointed by a less-than-perfect man, a President, and confirmed by less-than-perfect men and women, the United States Senate. Men may err. What is significant is the number of fine men and women who grace the federal bench and who are above reproach—men and women who are dedicated to their high position as federal judges—conservative judges, liberal judges, black judges, white judges—all, or at least the vast majority, of whom discharge their responsibilities to the utmost of their abilities. If a judge is to be placed in a position where he can be reviewed by five other judges on the complaint of "any person," many well-qualified individuals would refuse appointment.

The independence of the federal judiciary is more important to those persons than perhaps any other aspect of the position.

Many decisions of a judge may bestir bitter feelings in the litigants. If the proposed bill were passed, every judge would be made constantly aware of the possibility that an unsatisfied litigant might seek to discredit him and to have him removed by means of an investigation. This is especially true in the district courts, where the trial judge is regularly in personal contact with controversial issues, emotional settings, and, frequently, violatile personalities. Under these circumstances, a district judge *must* be able to act and decide cases and controversies free from the threat of reprisal through use of the investigative function of the Commission. For those who would deny that the power of the Commission could be used as a means of reprisal need only look to those unfortunate circumstances in Oklahoma involving Judge Chandler, a matter to which I shall later return.

It is easy to discern how the existence of such a Commission might have affected the work of a judge such as the former Chief Judge of this district, Charles E. Wyzanski. Judge Wyzanski is a man of integrity with definite, but enlightened, opinions. Yet one can imagine that in his more than thirty years on the bench he has angered some individuals who would have been happy to see him investigated, humiliated and removed. On the other hand, I think you would agree that there are many in this country who would wish that fate to befall Judge Julius Hoffman of the Northern District of Illinois. While there are those who have disagreed with Judge Wyzanski and with Judge Hoffman, it is the strength of our system that they are not to be investigated or removed for any reason other than a finding that they are guilty of the charge of "high crimes and misdemeanors" as determined by a trial in the Senate.

As a federal district judge I have the strongest feeling that Title I of the proposed bill would obstruct and effectively destroy the independence of the federal judiciary. There is, however, much disagreement on this point. Many fine judges, all circuit judges I might add, as well as esteemed members of the bar testified before the Senate Subcommittee on Improvements in Judicial Machinery to the effect that (1) the bill would strengthen the federal judiciary and (2) impeachment is not the exclusive remedy for removal.

Judge Craven of the Fouth Circuit testified before the Subcommittee that, in his view, impeachment might not be the exclusive remedy for the removal of judges since impeachment is an Article II procedure and judges are created by Article III. He did not find the standard of "willful misconduct in office"—the bill's new "definition" of misbehavior—overly vague, although he considered it less than satisfactory:

> A phrase like "willful misconduct" is like other phrases such as "judicial temperament" and "obscenity." It is almost impossible to define such phrases, but we generally recognize the quality when we see it. . . .
>
> But even if broad general terms are retained, I do not think that the federal judges need be fearful of a legislative grant of power to a committee composed of themselves enabling removal from office for willful misconduct in office or willful or persistent failure to perform official duties. It does not seem to me that the grant of such power *within* the judicial branch itself seriously infringes upon a proper tenure of office. I have never thought that independence of the judicial branch embraced hog-on-ice license for the individual judge. I do not believe that a federal judge will be inhibited or made timid in the discharge of his duties by recognition that he may not, with impunity, willfully engage in misconduct in office or persistently fail to do his job. Absolute tenure, in my opinion, is not necessary to assure judicial independence in deciding cases." [23]

With due deference to Judge Craven, to my knowledge, no reasonable man has ever argued that judges have absolute tenure. The impeachment process has kept many judges, both directly and indirectly, from completing their careers on the federal bench. It should also be remembered that judges are subject to the sanctions of the criminal law and that they, like any other citizen of the Republic, may be indicted, tried and found guilty of any criminal violation.

I cannot count the number of times nor

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recount the variety of claims upon which attorneys have brought suit against powerful public agencies in my courtroom. If the Commission were in existence and any disgruntled litigant could bring a judge before it, how, then, could a judge decide a case which requires the determination of a controversial social issue. Unquestionably, he would be reluctant to find against a contentious litigant if he knew that the loser could bring him before the Commission. Under the present system, the dissatisfied litigant returns to his office and prepares an appeal. If the Commission were in existence he might also call an investigative agency to request an inquiry into the judge's character and his activities on and off the bench. With the possibility of abuse so great, it is unlikely that the presence of the Commission would lead to the fair hearing of cases; rather, it would likely give dissatisfied litigants license to discredit federal judges.

With great regularity, cases come before me and every other federal judge involving vast sums of money and, often, the future of major business enterprises. Frequently, the cases involve a stockholder's derivative action or a class action in which the plaintiffs may be quite poor in comparison to the wealth and power of the defendant. The pressures on a judge in such a case can be enormous, especially where the livelihood of a city may depend on the outcome of the case. To add to the equation the possibility that the powerful corporation, should it lose, could attempt to have him removed from the bench or at least harassed by bringing him before the Commission, might well be more than any individual judge could withstand.

While it is uncertain whether S. 1506 should or could be applied to justices of the Supreme Court, we can well imagine the number of complaints that would have been made to such a commission against Mr. Chief Justice Warren and members of his Court. Imagine, also, the number of times that Mr. Justice Douglas, or the late Mr. Justice Black, might have been brought before such a commission. It is unlikely that with the ominous presence of a commission hanging over its head, the Warren Court could have handed down its landmark decisions in matters of race relations, criminal procedure and voting rights. These decisions have changed the face of the nation. It is not impermissible to speculate whether monumentally important cases such as *Marbury v. Madison*,[24] *McCulloch v. Maryland*[25] *and Dred Scott v. Sanford*[26] would have been decided differently, had the Commission on Disability and Tenure been in existence from the beginning of the Republic. It is quite possible that the power of the "third branch" might have been so weakened that, in truth, it would now be the least dangerous branch.[27]

I happen to be one who believes that there are no such things as political trials in the United States. However, I am convinced that this commission would create political federal courts, with judges fearful of deciding potentially volatile issues because of the threat of reprisal. While I do not intend to discredit or impugn the bar or the bench in any of these statements, the possibilities are alarming. I know that I personally would have great difficulty sitting in review of another judge's alleged willful misconduct in office; there may be others, however, who might relish such an opportunity. This is not to suggest that they are inferior men and women, but rather, that they are merely men and women who have likes and dislikes, hates and loves, each with his own judicial, political and personal philosophy of life and the law.

In his testimony, Judge Craven expressed his belief that S. 1506 would allow the federal judiciary to keep its own house in order.

He felt that as long as Congress described willful misconduct in office, then he, as a judge, would be on notice. He also felt that the congressional standard of "willful misconduct" could act as a stronger deterrent than the potential threat of impeachment:

> Now, I think this would have a very healthy effect not just on the crooked judge but on the judge who may be arrogant on the bench, who may be discourteous to counsel and even to the jury sometimes, who is utterly indifferent . . . to time, except his own time; who will come to court at 11 instead of 9:30 if it suits him . . . who continues cases . . . for a lawyer with whom he formerly practiced but it seems quite difficult to get a continuance if you didn't practice with him. You don't really know it is favoritism, but if you suspect it, injury has been done to the judiciary; even the suspicion of it reflects upon the whole judiciary.
>
> Then there is the judge who may be thought to be one who deliberately will delay adjudication of a particular class of cases; he doesn't like that kind of case, and it may take 9 months to get a decision out of him. It is impossible to know whether he is really guilty or not. But this sort of thing, I think, would tend to diminish if the judges felt that they were subject, at least, to inquiry, not necessarily to removal. . . .[28]

Judge Craven suggests that the inquiry might lead to the serious punishment of censure, but he assumes that this is unlikely to occur very often, since the Commission would make few investigations. He premises his conclusions on the personal belief that the Commission and members of the bench and bar would act with honor and would initiate such proceedings against a judge only under grave circumstances. I would like to believe this but, unfortunately, in order to accept such a conclusion, I would have to ignore my own experience on the bench as well as some events of recent history.

Mr. Justice Douglas, for example, whose absolutist views on First Amendment rights have often vexed conservatives, several terms ago published his controversial book, *Points of Rebellion*.[29] The outcry was significant enough to cause the House Judiciary Committee to begin yet another investigation into the public and private affairs of Justice Douglas. Although it is uncertain whether the Commission would have jurisdiction over justices of the Supreme Court, one can envision a situation in which a federal judge such as Justice Douglas would have to present his case before the Commission, after having been accused of being unfit by "any person" distressed by the judge's First Amendment views.

Another witness before the Subcommittee, Judge Maris, Senior Circuit Judge of the Third Circuit, also favored the Commission, arguing that impeachment is an inadequate mechanism to deal with those infrequent occasions when a judge is guilty of improper conduct or becomes physically or mentally disabled and refuses to retire. His only concern with the Commission was that of insuring that its proceedings be conducted with due process. With regard to the issue of the independence of the federal judiciary, Judge Maris stated:

> I believe it is perhaps salutary from time to time to have somebody looking over your shoulder. I don't see how any judge need fear any such provision if he is conducting himself properly. As a matter of fact, it seems to me our history teaches that judges receive great consideration in their conduct and in their work. They are regarded highly, as a group, and perhaps too often derelictions which may well be small are overlooked by the public. I just don't fear that this would be any real threat to the independence of the judiciary.[30]

With all due respect to Judge Maris, it appears that he offers "the wishing makes it so" theory in support of S. 1506. He believes that since men are basically honorable and that judges are, with few exceptions, basically competent and honorable individuals, judges have nothing to worry about. His argument assumes a premise which ignores the activities of those who lose important or controversial lawsuits.

Judge Haynsworth of the Fourth Circuit also endorsed the Commission. He stated, in part:

> I believe that the very existence of . . . the commission, which would initially handle complaints, would result in substantial protection to the fit judge who is the victim of misconceptions or frivolous complaints that may rankle widely in the absence of some readily available adjudicatory forum to assess them. I believe it would result in earlier retirements of those judges whose conduct is substantially questionable, and it would provide a much more orderly means for the involuntary removal of the rare unfit judge than the impeachment procedures now provide. I am heartily in favor of authorizing judges to remove from office the unfit judge whose willful misconduct reflects upon the entire system and the administration of justice, itself, so long as the judge in question has all of those rights to hearings and procedural due process which Title I of S. 1506 provides.[31]

Judge Haynsworth further testified that he was opposed, as were the district judges of the Fourth Circuit, to having district judges represented on such a commission. While the prospect of being reviewed by a judge or judges who may never have sat in a district court is somewhat disturbing, the prospect of being personally reviewed by a circuit judge from one's own circuit is, however, far more disconcerting. Were this latter prospect to become a reality, how regularly would a district judge disagree with the law in his circuit if he knew that his good behavior could be reviewed eventually by the same judge with whom he had disagreed?

In my review of the testimony of the witnesses before the subcommittee, I think I have fairly summarized the views of those who favor the Commission. They believe that a statutory alternative to impeachment may be devised which would enable the federal judicial system to clean its own house, and that the system, in fact, needs cleaning. The men who testified before the subcommittee are honorable and well-meaning, but they are wrong. The most unfortunate testimony was that contained in the statement of Bernard Segal, then President of the American Bar Association, who indulged in a broad indictment of the federal judicial system in his support of the proposed bill. His statement to the Subcommittee read, in part:

> In one respect, we have had continuing improvement in the federal courts during the past fifteen years. In my opinion, the quality of the judges on the federal bench, their general level of competence and diligence, has never been higher. But more than ever before, this fixes a glaring spotlight on the judge who because he is incompetent or physically or mentally disabled simply does not or cannot do his job. . . . It is regrettable, but true . . . that one bad judge can undo the efforts of a hundred excellent judges. This circumstance, present always, is aggravated in these days when causes beyond the control of even the most able of judges have created such widespread cynicism by our citizens as to the efficiency of our judicial system to meet the demands which the modern world presses upon it.[32]

Mr. Segal and those who share his views rely heavily on existing state procedures similar in principle to those proposed in S. 1506 to alleviate the shortcomings of the federal judiciary. In many instances these procedures are inapposite. In some states, for example, judges are subject to review through the elective process. In others, where the state constitutions contain no impeachment provisions, the states clearly must provide

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other means for removal. But putting aside these differences for a moment, it is possible that such a system could work. The question is, however, whether Congress should adopt such a program, regardless of the possible constitutional limitations, when the danger of abuse is so great. It is my belief that it should not.

In 1959 Professor Henry Hart of the Harvard Law School devoted forty pages to criticism of the opinions of certain members of the Supreme Court of the United States.[33] One of his criticisms of the opinions of the Court was, in general, that they were "threatening to undermine the professional respect of first-rate lawyers for the incumbent Justices of the Court. . . ." [34] Thurman Arnold, a former judge of the Circuit Court of Appeals, and himself a first-rate lawyer, responded eloquently to Professor Hart [35] in language that is relevant to the subject here under discussion:

"I do not know what 'first-rate lawyers' Professor Hart has in mind. But to the public, first-rate lawyers can only mean men with large corporate practices and leaders in the American Bar Association who are now attacking the Court. Therefore, regardless of what Professor Hart is saying to himself, he is saying to the public that the Court must so conduct itself as to regain the admiration of its critics in the American Bar Association and the corporate bar. Has Professor Hart forgotten that Mr. Justice Brandeis was bitterly opposed by those who were considered the first-rate lawyers of that time? Has he forgotten that in the early days of the New Deal the majority of the Court did so conduct themselves as to gain the admiration of the first-rate lawyers of that time and that they did this so steadfastly as almost to wreck the Court? Has he forgotten that the decisions bitterly attacked by 'first-rate lawyers' have often proven to be the Court's greatest decisions?"

Had I been judging the competence of the members of the Court as Mr. Hart does, I would have chosen Justice Black's eloquent dissent in *Barenblatt* and Justice Brennan's dissent in *Uphaus*, Justice Harlan's majority opinion in *Cole v. Young*, Chief Justice Warren's majority opinion in *Watkins*, and Justice Frankfurter's courageous dissenting opinion in *Rosenberg*. I would have concluded that the Justices who joined in these opinions were worthy of sharing with Holmes and Brandeis the honor of making the Court represent at least in part a great symbol of the ideal of civil liberties. . . .

At the time the *Barenblatt* and *Uphaus* opinions were written, there was a resolution pending in Congress to limit the appellate jurisdiction of the Supreme Court, which failed to pass the Senate by only one vote. The Court was under heavy attack from a prominent faction of the American Bar Association, all of whom could be classed as the "first-rate lawyers" who Mr. Hart tells us are losing confidence in the Court. I do not suggest that the majority was motivated by the pending resolution in arriving at their decision. I do suggest that had the dissent prevailed the resolution might have passed. It may well be fortunate that these great dissents did not prevail, so that they may later make a path to be traveled in the future. In any event, from these samples I would have presented a much more hopeful picture than Professor Hart does and, I suspect, a much more realistic one.[36]

I join with the late and distinguished Judge Arnold. Quite correctly, it seems to me, his reply dramatizes the potential impact that a powerful faction might have on the federal judiciary if such a resolution or S. 1506 were passed. The outcome would be precipitous. "The benefits of the integrity and moderation of the judiciary" of which Hamilton spoke in the Federalist Papers [37] might well be supplanted by the temerity and excessiveness which political power and wealth often breed. S. 1506 can only bring great harm to the courageous and independent members of the judiciary who have withstood a wide variety of pressures. In my opinion the passage of the Judicial Reform Act would be the sort of mistake from which the judiciary and the Republic could never recover.

Although I am most disturbed by the potential for abuse which lies dormant in this bill, proponents of the Judicial Reform Act must also convince its critics and, very likely, the Supreme Court, that the bill is constitutional. It is to the constitutional issue and to an examination of the exclusivity of the impeachment clause that I should now like to turn.

II. THE EXECUTIVITY OF THE IMPEACHMENT POWER

"The power of Congress to remove all civil officers by impeachment has always been regarded as an integral part of the system of checks and balances. . . . " [38] As noted previously, impeachment is the only method expressly provided in the Constitution for the removal of unfit civil officers, including federal judges. Therefore, it is my belief, and that of many others,[39] that the Constitution provides impeachment as the exclusive procedure for the removal of federal judges. This position is predicated on the language of the Constitution, the Federalist Papers and the principle of the independence of the federal judiciary.

A. Removal: The Cases and the Constitution

Three sections of the Constitution are relevant to a discussion of removal: (1) Article I, section 2 provides that the House of Representatives "shall have the sole power of impeachment"; (2) Article I, section 3 invests in the Senate "the *sole* power to try all impeachments" (emphasis added). Section 3 also requires that "no person shall be convicted without the concurrence of two-thirds of the members present." Article I further provides that "judgment in cases of impeachment shall not extend further than to removal of office"; and (3) Article II, section 4 enumerates the grounds for removal: "for conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Those who contend that a statutory alternative to impeachment would be constitutional note that the language of Articles I and II does not expressly provide that impeachment is exclusive. It is difficult for me to come to any other conclusion, however, after a careful reading of the language of the Constitution and the Federalist Papers. Despite the obvious intent of these documents, the nonexclusivists contend that the exclusivity argument is inconclusive since there are a number of cases which hold that impeachment is not the sole mode for removal of civil officers.

The first case usually cited for this proposition is *Parsons* v. *United States*.[40] Parsons was the United States Attorney for the Northern and Middle Districts of Alabama. Although Parsons term of office was to end on February 4, 1894, President Cleveland attempted to remove him from office on May 26, 1893. Upon his removal, Parsons sued to recover the salary owed to him from May 26 to December 31, 1893. The question before the Court was whether the President had the power to remove a United States Attorney when removal occurred prior to the end of a four-year appointment. Parsons claimed that the President had no power to remove him directly and that the President and the Senate had no authority to remove him indirectly by appointing his successor.

Mr. Justice Peckham, writing for the majority of the Court, analyzed the constitutional history regarding the President's power of removal. He found that, after long debates in the two Houses of the First Congress, both had voted to allow the President the power to remove the Secretary of the Department of Foreign Affairs.[41] He noted that in *In re Hennen* [42] Mr. Justice Thompson had stated:

> No one denied the power of the President and the Senate, jointly, to remove, where the tenure of the office was not fixed by the Constitution; which was a full recognition of the principle that the power of removal was incident to the power of appointment. But it was very early adopted, as the practical construction of the Constitution, that this power was vested in the President alone. And such would appear to have been the legislative construction of the Constitution.[43]

Justice Peckham also reviewed a case which involved the removal of a federal judge, *United States v. Guthrie*.[44] In *Guthrie*, the President had attempted to remove Chief Justice Goodrich of the territory of Minnesota, an Article I judge.[45] Judge Goodrich petitioned for a writ of mandamus in the Circuit Court of Appeals for the District of Columbia, to be issued against the Secretary of the Treasury to compel payment of the former's judicial salary. On appeal, the Supreme Court held that it lacked the power to command the withdrawal of money from the Treasury for the payment of any individual claim and that, therefore, the mandamus should not issue. Thus the question of the President's authority to remove Judge Goodrich was not reached.[46]

However, the Attorney General's advisory opinion to the President on the issue of removal prior to the litigation in *Guthrie* had implicitly recognized limits on removal other than by impeachment. Certain officials, the opinion indicated, are not exempted from the executive power which, by the constitution, is vested in the President of the United States over all civil officers appointed by him; and whose tenures of office are not made by the constitution itself more stable than during the pleasure of the President of the United States.[47]

The Attorney General concluded that the President had the authority to remove the territorial Chief Justice from office for any cause. During oral argument in *Guthrie*, however, the Attorney General modified this conception of the President's power of removal. He argued quite persuasively that territorial judges were not Article III judges but rather, Article I judges:

> Constitutional courts are such as are intended by the provisions of the third article of the Constitution. The judges of this class, by the express terms of the constitution, hold their offices during good behavior. It comprehends the judges of the Supreme Court and of the various judicial circuits and districts into which the United States are subdivided.[48]

Mr. Justice Peckham concluded in *Parsons* that the President had the power of removal, despite some question concerning construction of the tenure of office statute.[49] Therefore the President, in his discretion, was allowed to remove an officer, "although the term of office may have been limited by the words of the statute creating the office." [50]

Parsons may be construed as holding that the President may remove an officer appointed with the advice and consent of the Senate. But it seems to me that the facts of that case are simply not susceptible of such broad application. Parsons served with limited tenure and was appointed under the authority of Article II, rather than Article III. In addition, the United States Attorney General involved in *Parsons* is distinguishable from the current members of the federal judiciary. The latter, as Article III judges, serve during a period of good behavior, a standard prescribed by the Constitution, not a statute. *Parsons*, therefore, cannot be viewed as being dispositive of the case of an Article III judge.

In another removal case, *Shurtleff* v. *United States*,[51] the petitioner was a customs agent who had been removed from office

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solely by presidential action. As in *Parsons*, the petitioner sought to recover pay for the remaining period of his appointment. The duty of writing the Court's opinion again fell to Mr. Justice Peckham and, not surprisingly, he reaffirmed the position of the Court in *Parsons*. He stated, in part:

> It cannot now be doubted that in the absence of constitutional or statutory provision the President can by virtue of his general power of appointment remove an officer, even though appointed by and with the advice and consent of the Senate. . . . To take away this power of removal in relation to an inferior office created by statute, although that statute provided for an appointment thereto by the President and confirmation by the Senate, would require very clear and explicit language. It should not be held to be taken away by mere inference or implication. Congress has regarded the office of sufficient importance to make it proper to fill it by an appointment to be made by the President and confirmed by the Senate. It has thereby classed it as appropriately coming under the direct supervision of the President and to be administered by officers appointed by him, (and confirmed by the Senate,) with reference to his constitutional responsibility to see that the laws are faithfully executed.[52]

In discerning the intent of the statute, Justice Peckham reasoned that the right of removal exists unless precluded by the presence of explicitly contrary language in the statute. The right, he suggested, exists in the right to appoint rather than in the grant itself, and "it requires plain language to take it away." [53] The Justice went on to question whether Congress had intended to limit the right to certain enumerated causes:

> If so, see what a difference in the tenure of office is effected as to this office, from that existing generally in this country. The tenure of judicial officers of the United States is provided for by the Constitution, *but with that exception* no civil officer has ever held office by a life tenure since the foundation of the Government.[54]

That lone exception is the core of my position. Article III judges are creatures of the Constitution, not the Congress. They are provided with life tenure during good behavior and only the constitutionally authorized court of impeachment may remove them from office. In *Shurtleff*, Justice Peckham rather inconclusively blurred the distinction between creations of the Constitution and those of the Congress. He concluded that the impeachment requirement was never intended to prevent the removal of a customs agent for causes other than those listed in Article II, section 4 or by the President, if he so desired it. His observations on the removal of a customs agent certainly seem correct. But it is a giant leap from that premise to the conclusion that Article III judges may be removed by a commission established by the Congress operating under its Article I powers.

Another case which considered the limitations of nonimpeachment removal, *Myers v. United States*,[55] involved the removal of a postmaster four months before the expiration of his four-year term.[56] In that case, the Act establishing the position of postmaster was held to be unconstitutional because it made the President's power of removal depend upon the consent of the Senate. The Court found that the appointment of a postmaster was an exercise of the President's executive power, as provided in Article II, section 1, and although the power of appointment was limited by senatorial advice and consent, the Executive's power, the Court held, was not limited or tempered by the legislative branch in the matter of removals.

In *Myers*, Mr. Chief Justice Taft, writing for the majority, as well as Justice Brandeis, McReynolds and Holmes all in dissent, carefully reviewed the power of the President to remove executive officers. All the opinions contained dicta concerning the removal of federal judges. Despite disagreement among them on the issue in the principal case, the Justices agreed that even though Congress establishes the number of federal judges, the extent of their jurisdiction and their salary, judges are not to be treated like postmasters or United States attorneys on the issue of removal. The Chief Justice stated:

> It has been sought to make an argument, refuting our conclusion as to the President's power of removal of executive officers, by reference to the statutes passed and practice prevailing from 1789 until recent years in respect of the removal of judges, whose tenure is not fixed by Article III of the Constitution, and who are not strictly United States Judges under that article. The argument is that, *as there is no express constitutional restriction as to the removal of such judges*, they come within the same class as executive officers, and that statutes and practice in respect thereof may properly be used to refute the authority of the legislative decision of 1789 and acquiescence therein.
>
> The fact seems to be that judicial removals were not considered in the discussion in the First Congress, and that the First Congress . . . and succeeding Congresses until 1804, assimilated the judges appointed for the territories to those appointed under Article III, and provided life tenure for them, while other officers of those territories were appointed for a term of years unless sooner removed.[57]

Although *Myers* did not consider the removal of an Article III judge, Chief Justice Taft's dictum indicated that federal judges could be removed only by impeachment. Only some executive officers, he posited, could be removed by other means. To some degree, this view has been observed in legislation vesting the President with removal power. Revised Statutes 1768 [58] gave the President, in his discretion, authority to suspend any civil officer appointed by and with the advice and consent of the Senate, except judges of the courts of the United States. Chief Justice Taft further noted that Congress could never take onto itself the power to remove or the right to participate in the exercise of the powers to remove inferior executive officers.[59] It seems to me logical to ask, if Congress could not so act here, how could it constitutionally enact legislation which would permit the removal of an Article III judge by any means other than impeachment? Any legislation sanctioning other means of removal would seem to infringe the constitutional principle of the separation of governmental powers.

The question of removal was again raised in a later case, *Humphrey's Executor v. United States*.[60] That case concerned the issue whether a commissioner appointed to the Federal Trade Commission for a fixed term under the Federal Trade Commission Act could be removed by the President for a reason other than inefficiency, neglect of duty, or malfeasance in office. The Court held that Commissioner Humphrey could be removed by the President but only for one of the enumerated reasons. In limiting the grounds for removal to those expressly stated in the statute, the Court distinguished the *Myers* case which had permitted the removal of the postmaster for reasons unspecified in the relevant Act.[61] The Court found the office of postmaster to be essentially unlike the position of a Federal Trade Commissioner:

> A postmaster is an executive officer restricted to the performance of executive functions. He is charged with no duty at all related to either the legislative or the judicial power. The actual decision in the *Myers* case finds support in the theory that such an officer is merely one of the units in the executive department and, hence, inherently subject to the exclusive and illimitable power of removal by the Chief Executive, whose subordinate and aide he is.[62]

The petitioner in *Humphrey's Executor* was, in contrast, a member of a federal agency; the Court recognized this distinction as being crucial:

> The Federal Trade Commission is an administrative body created by Congress to carry into effect legislative policies. . . . Such a body cannot in any proper sense be characterized as an arm or an eye of the executive.[63]

Thus Mr. Justice Sutherland, speaking for the Court, read the *Myers* opinion as excluding from its grasp all officials "who occup[y] no place in the executive department and who exercis[e] no part of the executive power vested by the Constitution in the President." [64]

The distinction articulated by Justice Sutherland is not unlike the distinction made by Mr. Chief Justice Marshall in *Marbury v. Madison*.[65] The Chief Justice determined that a justice of the peace for the District of Columbia could not be removed at the will of the President. Such an officer was to be distinguished from one, such as the director of the Department of Foreign Affairs, appointed to aid the President in the performance of his constitutional duties.[66] Although Chief Justice Marshall might have disapproved of some of the decisions previously discussed, the Supreme Court has held that the President *does* have the power to remove executive officers at his whim and that his power to remove officials from positions established by Congress is limited to the conditions enumerated in the enabling legislation.

In the case of a federal judge, however, neither of these distinctions applies since the source of the judgeship is neither executive nor legislative. The authority to establish federal judgeships derives from Article III, and the Constitution has already established both the conditions under which a federal judge can be removed and the method by which removal is to be accomplished. In view of the constitutional provisions, the decisions in all the cases from *Marbury* through *Myers* and *Humphrey's Executor* ought not to be relied upon to reach the conclusion that the impeachment process is nonexclusive.

As I have suggested, it is a long leap from the principle laid down in *Myers* to the conclusion that Congress can provide a procedure by which one judge may try another's right to hold office. Despite the measure of distance between the premise and conclusion, such distinguished scholars as Solicitor General Griswold still subscribe to the nonexclusivity position. In his brief to the Supreme Court in *Chandler v. Judicial Council*,[67] a case I will examine in detail momentarily, the Solicitor General stated:

> The power of impeachment—which applies to all federal officers, not only to federal judges—is not defined in Article III but rather embodies the sole method by which the *legislature* may *directly* remove governmental officials—to the exclusion, for example, of the English practice of passing bills of attainder. Thus, just as the impeachment clause does not prevent the President from removing excutive officers in his own discretion, even though they are also subject to removal by Congress through impeachment . . . so also there is nothing in the Constitution to suggest that Congress cannot, consistently with the separation of powers, provide procedures by which the courts could try the right of a judge to continue to hold office.[68]

The Solicitor General posits that implicit in the good behavior clause is the assumption that judges must, therefore, be subject to supervision and control by "appropriate agencies." He states quite correctly that, in hierarchical judicial system, judges of "inferior courts" are subject to the supervision and control of superior courts.

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The writ of mandamus may, for example, be used to exert "supervisory control." However, I still cannot accept the conclusion that impeachment is nonexclusive by starting from the premise that superior courts may regulate inferior courts by the use of mandamus, or by reviewing their decisions on appeal. The existence of the Judicial Conference of the United States and the resolutions it promulgates may also be included within this "supervisory power." But this again is not the issue of the exclusivity of the impeachment remedy nor may the two be analogized.

On the issue of impeachment itself, the Solicitor General stated in his *Chandler* brief:

> There has been general agreement from the earliest times that Congress could constitutionally provide alternative procedures to impeachment, particularly judicial trials or hearings, for determining whether federal judges have abided by the requirement of good behavior.[69]

With all respect to the Solicitor General, this statement is inaccurate. Whether Congress has this power is a highly debatable issue. Unfortunately, the Supreme Court's attention in the *Chandler* case, as well as that of the Solicitor General, focused on whether the procedures at the removal tribunal were consistent with due process guarantees, rather than on the exclusivity of the impeachment remedy.

B. The Language of the Constitution

To return to the thread of the argument of the nonexclusivists, they contend that the terms of sections 2 and 3 of article I establish that the House and Senate shall both be involved in the impeachment of all civil officers and the two bodies hold exclusive power to remove federal judges. These sections provide that the House of Representatives "shall have the sole power of impeachment" and that the "Senate shall have the sole power to try all impeachments." Since impeachment is the only procedure available for the removal of federal judges, in my opinion, this language limits the procedure involved in the exclusively congressional process to impeachment and is not a grant of power to the legislature.[70]

There is some question, however, as to whether the removal process and the impeachment process are coextensive.[71] Article II section 4 provides that "all civil Officers of the United States shall . . . be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." The Constitution calls for removal *on* impeachment and conviction rather than *by* impeachment and conviction. Thus, although removal is a result of impeachment and conviction, the nonexclusivists argue that it is not limited solely to this process. As our review of the cases arising under this section indicated, the Supreme Court has refused to lump together all civil officers, including judges, for the purpose of approving removal by means other than impeachment. Removal of "executive" officers and "legislative" officers under certain conditions may be effected without impeachment proceedings; but there is no authority which indicates that removal by means other than impeachment applies to Article III judges.

The nonexclusivists also contend that the language of the Constitution creates difficulty in that there exists a gap between the conduct for which impeachment will lie and that which violates good behavior.[72] Nonexclusivists theorize that some additional removal process must have been contemplated to fill this gap. The argument is based on the traditional notions of impeachment in England, which permitted removal for even slight offenses. Those notions were considered too broad in scope by the framers of our Constitution. Thus removal was limited to legislative impeachment for serious crimes. The nonexclusivists maintain that "high crimes and misdemeanors" refer to offenses similar in magnitude to "treason" and "bribery," and that the standard of good behavior may be breached by conduct of a lesser magnitude.[73] It should be noted that good behavior had a rather well-defined meaning at common law:

> [Good] behaviour means behaviour in matters concerning the office except in the case of a conviction upon an indictment for any infamous offense of such a nature as to render the person unfit to exercise the office, which amounts legally to misbehaviour though not committed in connection with the office.
>
> Misbehaviour as to the office itself means improper exercise of the functions appertaining to the office, or non-attendance, or neglect of or refusal to perform the duties of the office.[74]

Nonexclusivists still complain that "high crimes and misdemeanors" is not comprehensive in scope because it excludes laziness which, as the English knew, was violative of good behavior.[75] The question whether laziness is something less than good behavior is purely academic. A more important question is whether the term "misdemeanor" covers unethical but not illegal conduct.[76] I believe it does. The fact that the Constitution fails to specify every possible misdemeanor does not mean that impeachment may not lie for conduct which may fall short of a crime of great magnitude, such as treason or bribery.

The nonexclusivists' argument continues that since the founding fathers were concerned primarily with the independence of the judiciary,[77] they intended a narrow definition of the grounds for impeachment in order to curb legislative interference with the operation of the judiciary.[78] Following this theory, one could find a distinction between the good behavior and the impeachment clause standards. I cannot accept this theory. It is true that the framers sought to avoid legislative intrusion into the affairs of the judiciary. Thus they intended that breaches of good behavior would refer to high crimes and misdemeanors, so that judges could be removed only by the Senate sitting as a court of impeachment. While this question is far from settled, any doubts should be resolved in favor of the constitutional provision, especially in view of the founders' belief that the legislative branch should refrain from interfering in judicial matters.

The theory that the constitutional language does not preclude the legislative creation of judicial removal machinery, the nonexclusivists claim, is supported by the doctrine of the separation of powers.[79] Each of the three branches is independent. Within this independence, it is argued, each branch has the inherent power to remove its own members, unless prevented by an express constitutional provision to the contrary. Their argument concludes that the Constitution denied the Judiciary this inherent power by vesting the impeachment power in the Congress. Apparently, the framers' intention in creating the impeachment provisions was to protect the judiciary from the political caviling that removal power often engenders.

Article I, section 5 does permit each House of Congress, by a concurrence of two-thirds, to expel its members for misbehavior. Since there is no such clause in Article III, it must be assumed that the founding fathers did not intend that the judiciary should police its own ranks. Nor is it likely that they intended to vest in Congress the power to create machinery by which the judiciary could carry out this purpose. The nonexclusivists, however, assert that the rebuttal to this argument lies in the concept of Federalism:

> The Framers established a Federal form of government and carefully delineated the powers of the national and state governments. Article I, section 4 of the Constitution establishes state authority over Elections for Senators and Representatives. "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legisture thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators." Had the Framers failed to provide for congressional punishment and expulsion of its own members ,the States may have exercised such powers incident to their "election" powers. Since judges are, however, appointed by the President with the advice and consent of the Senate, there is no similar threat of State removal. The absence of a judicial removal provision in Article III then, is not conclusive of an intent that the judiciary should have no power to punish misbehaving judges.[80]

I must confess that I do not grasp this argument. To suggest that the Constitution explicitly grants to Congress, and not the judiciary, the right to discipline and to expel the latter's members in order to avoid the rigors of state election rights is a tortured reading of the Document. This is especially true when one considers the illogical conclusion the nonexclusivists draw from this reading; namely, that Congress, as a result of the threat of state removal of its members, may create additional powers of removal of judicial officers besides impeachment. Unquestionably, this argument is outside the realm of reason.

C. The Federalist Papers

When the Summers Bill[81] was introduced in the House of Representatives, a minority report was filed.[82] The report indicated that the bill was unconstitutional and recommended its rejection. The House members who joined in the minority report[83] contended that the issue of good behavior should be tried only by a court of impeachment. They determined that the remedy of impeachment is as broad as the obligation of good behavior, because the words "high crimes and misdemeanors" were not used in their criminal sense but in their social sense.

For support of their position, the minority report drew from Hamilton's observation in the Federalist Papers:

> "Mr. Hamilton pointed out that a judge might be impeached for 'any conduct rendering him unfit to be a judge,' even though not involving any violation of a criminal statute. He pointed out for example that a judge might be impeached because of insanity if that rendered him unfit to perform the duties of his office. In fact, a judge was once impeached on that ground."[84]

The minority congressmen objected to the bill because the conduct and statements of the framers of the Constitution indicate that they thoroughly examined other methods for the removal of judges and discarded them all except for the procedure of impeachment. The dissenting congressmen frankly feared, and I think correctly so, that if Congress had the authority to legislate in this area, it could abuse the authority, causing great damage to the third branch of the Government. The fear of legislative abuse of the judiciary, which the minority report recognizes, has deep roots in our system of government. In number seventy-eight of the Federalist Papers, Hamilton expressed this same fear. He concluded that "all possible care is a [pre]requisite to enable [the judiciary] to defend itself against [congressional] attacks."[85]

The opinion of the signatories of the minority report has lost none of its validity in the intervening years, and it endures as wise counsel. The cases as well as the plain meaning of the Constitution indicate that impeachment is the sole means of removal of federal judges. The arguments of the nonex-

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clusivists, designed to contradict this conclusion, purportedly rest on the apparent motives of the framers; their reliance seems erroneously founded. As the Federalist Papers of Hamilton suggest, the framers likely intended that the impeachment provisions should be exclusive. The wisdom of the framers' belief is perhaps best demonstrated by the unfortunate saga of Judge Chandler. It is to his case that I will now address my remarks.

III. THE CASE OF JUDGE CHANDLER

Although a number of cases have discussed the removal issue [86] and much commentary has been written about the subject,[87] only one case has actually considered the issue of removal of an Article III judge by means other than impeachment. That case, *Chandler v. Judicial Council*,[88] considered the authority of the congressionally created Judicial Council to limit the powers of a federal judge.

On December 13, 1965, the Judicial Council of the Tenth Circuit, acting under the authority of 28 U.S.C. Section 332,[89] issued an order [90] finding (a) that Chief Judge Chandler of the Western District of Oklahoma was unable or unwilling to discharge his duties as a district judge and directing that he should not act in any case then or thereafter pending; (b) that until the Council's further order, no cases filed in the district were to be assigned to him; and (c) that if all the active judges could not agree upon the division of business and case assignments necessitated by the order, the Council, acting under the authority of 28 U.S.C. Section 137 [91] would make such division and assignments as it deems proper. In response, Judge Chandler filed a motion with the United States Supreme Court for leave to file a petition for a writ of mandamus or, alternatively, a writ of prohibition addressed to the Tenth Circuit Judicial Council.

During the four years prior to the order of December 13, 1965, Judge Chandler was involved as a defendant in a considerable amount of litigation. A civil suit,[92] which was later dismissed, was brought charging him with malicious prosecution, libel and slander. He was also named as a party defendant in a criminal indictment which charged him with conspiracy to cheat and defraud the state of Oklahoma.[93] In addition, he was "the subject of two applications to disqualify him in litigation in which . . . [he] had refused to disqualify himself." [94] For these reasons and because there was a long history of controversy between the Council and Judge Chandler, the Council had issued the order of December 13. Then followed some confusing months. Judge Chandler agreed not to take any new cases, but he continued to assert his judicial authority over cases pending before him. In February of 1966, the Council ordered Judge Chandler to continue to sit on the cases pending before him prior to December 28, 1965, the effective date of the December 13 order. Judge Chandler challenged all the orders of the Council relating to the assignment of cases in his district "as fixing conditions on the exercise of his constitutional powers as a judge." [95] He specifically urged that the impeachment power had been usurped by the Council. The Supreme Court, in an opinion by Chief Justice Burger, held that the administrative action of the Council was not reviewable and that even if it were, Judge Chandler had not made out a case for extraordinary relief.

The question raised before the Court was whether Congress can vest in the Judicial Council power to enforce reasonable standards concerning when and where federal court shall be held, how long a case may be delayed in decision, whether a given case is to be tried, and other routine matters. In essence, the Court was asked to determine whether Congress could enact legislation which significantly encroached upon the independence of a federal judge. Writing for the majority, the Chief Justice answered the questions affirmatively, but the majority avoided the crucial question—whether a creation of Congress, the Judicial Council, could place restrictions on a federal judge such that he was effectively removed from office. Instead, the majority found that the Court did not have the jurisdiction to entertain Judge Chandler's petition for extraordinary relief, and denied his motion for leave to file. The dissenters, however, discussed at length [96] both the issue of whether a judge could be removed from office by means other than impeachment and "the scope and constitutionality of the powers of the judicial councils under 28 U.S.C., § § 137 and 332."

Of the minority opinions, Mr. Justice Harlan disagreed on the matter of jurisdiction, as did Justices Black and Douglas. All three favored reaching the crucial issue of the independence of the judiciary, and it is their opinions which deserve our attention. Mr. Jutice Harlan, in his concurring opinion, felt that the order of February 4, 1966, did not constitute a removal from judicial office, or "anything other than an effort to move along judicial traffic in the District Court." [97] In treating the order in this way, Justice Harlan was able to avoid the delicate issue raised so vigorously by the other dissenters.

The dissents of Justices Douglas and Black were, in contrast, addressed to the necessity of preserving the independence of the federal judiciary. Mr. Justice Douglas stated:

"What the Judicial Council did when it ordered petitioner to "take no action whatsoever in any case or proceeding now or hereafter pending" in his court was to do what only the Court of Impeachment can do. If the business of the federal courts needs administrative oversight, the flow of cases can be regulated. . . . But there is no power under our Constitution for one group of federal judges to censor or discipline any federal judge and no power to declare him inefficient and strip him of his power to act as a judge.

"The mood of some federal judges is opposed to this view and they are active in attempting to make all federal judges walk in some uniform step. *What has happened to petitioner is not a rare instance; it has happened to other federal judges who have had perhaps a more libertarian approach to the Bill of Rights than their brethern.* The result is that the nonconformist has suffered greatly at the hands of his fellow judges.

"The problem is not resolved by saying that only judicial administrative matters are involved. The power to keep a particular judge from sitting on a racial case, a church-and-state case, a free-press case, a search-and-seizure case, a railroad case, an antitrust case, or a union case may have profound consequences. Judges are not fungible; they cover the constitutional spectrum; and a particular judge's emphasis may make a world of difference when it comes to rulings on evidence, the temper of the courtroom, the tolerance for a proffered defense, and the like. Lawyers recognize this when they talk about "shopping" for a judge; Senators recognize this when they are asked to give their "advice and consent" to judicial appointments; laymen recognize this when they appraise the quality and image of the judiciary in their own community.

"These are subtle, imponderable factors which other judges should not be allowed to manipulate to further their own concept of the public good. That is the crucial issue at the heart of the present controversy.[98]

* * * * *

"If they become corrupt or sit in cases in which they have a personal or family stake, they can be impeached by Congress. But I search the Constitution in vain for any power of surveillance that other federal judges have over those aberrations. Some of the idiosyncrasies may be displeasing to those who walk in more measured, conservative steps. But those idiosyncrasies can be of no possible constitutional concern to other federal judges." [99]

Mr. Justice Black's short dissent closes with these words:

"I am regrettably compelled in this case to say that the Court today, in my judgment, breaks faith with this grand constitutional principle. Judge Chandler, duly appointed, duly confirmed, and never impeached by the Congress, has been barred from doing his work by other judges. The real facts of this case cannot be obscured, nor the effect of the Judicial Council's decisions defended, by any technical, legalistic effort to show that one or the other of the Council's orders issued over the years is 'valid.' This case must be viewed for what it is—a long history of harassment of Judge Chandler by other judges who somehow feel he is 'unfit' to hold office. Their efforts have been going on for at least five years and still Judge Chandler finds no relief. What is involved here is simply a blatant effort on the part of the Council through concerted action to make Judge Chandler a 'second-class judge,' depriving him of the full power of his office and the right to share equally with all other federal judges in the privileges and responsibilities of the Federal Judiciary. I am unable to find in our Constitution or in any statute any authority whatever for judges to arrogate to themselves and to exercise such powers. Judge Chandler, like every other federal judge including the Justices of this Court, is subject to removal from office only by the constitutionally prescribed mode of impeachment.

"The wise authors of our Constitution provided for judicial independence because they were familiar with history; *they knew that judges of the past—good, patriotic judges—had occasionally lost not only their offices but also sometimes their freedom and their heads because of the actions and decrees of other judges.* They were determined that no such things should happen here. But it appears that the language they used and the protections they thought they had created are not sufficient to protect our judges from the contrived intricacies used by the judges of the Tenth Circuit and this Court to uphold what has happened to Judge Chandler in this case. I fear that unless actions taken by the Judicial Council in this case are in some way repudiated, the hope for an independent judiciary will prove to have been no more than an evanescent dream.[100]

Needless to say, I am in full agreement with the positions of the dissenters in this case. I find it distressing to think that the Chief Justice of the United States can countenance the removal of federal judges by any means other than impeachment. It also seems incredible to me that distinguished members of the Senate could continue to lend any support to a measure like S. 1506 in light of the *Chandler* situation. As the background of that case demonstrates, the potential for abuse by these congressionally created review boards is considerable.

IV. CONCLUSION

The time has come once and for all to end the harassment of federal judges. Every few years another attempt is made to impinge upon the independence of our unique judicial system. This time, however, there is some new evidence of the probable ill effects of such an impingement. Somewhat rhetorically I must ask how many more Judge Chandlers there must be before Congress recognizes that these legislative creations unconstitutionally encroach on the independence of the federal judiciary. Some members of Congress who support this kind of legislation seem intent upon creating some new tribunal for the removal of federal judges. But in assuming this position they ignore a tri-

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bunal which already exists—the Senate sitting as a court of impeachment. As I have noted, the arguments against sole reliance upon this Court are weak and unpersuasive.

The time has also come for all the interested parties, both judicial and congressional, to remember the limitations inherent in their offices. The Judicial Conference was created to aid in the efficient administration of the courts and not to sit as a reviewing body over the issue of the alleged misbehavior of federal judges. Similarly, the Supreme Court should be the ultimate arbiter of lawsuits, not the final authority in determining whether an inferior judge or one of its own members is unfit to sit.

I am a Chief Judge of the United States District Court. I attempt to administer within my own district, and I attempt to see that the judges in my district operate as efficiently as they can. It is not my role, however, to demand that any one judge not have a case on his docket for more than a specific length of time, or that he act more cordially towards litigants. We are judges, not policemen. If we fail in our duties, have us impeached. The Congress should neither foster nor condone conflicts within the judiciary; conflicts will inevitably arise through creation of any judicial commissions such as that proposed in S. 1506. As Senator Sam Ervin has noted on numerous occasions: "To me, the duty of a federal judge is to decide cases and controversies—not to meddle in the business of his colleagues." I agree.

FOOTNOTES

† This paper was delivered on November 18, 1971, at the Boston College Law School Forum. It is reproduced without substantial change, except for the addition of footnotes. The reader is asked to bear in mind that it was written primarily to be heard, not read.

* Chief Judge, United States District Court, Northern District of Ohio. A.B., Ohio University, 1947; LL.B. Harvard University, 1950.

[1] The power to appoint judges is, of course, subject to the advice and consent of the Senate. U.S. Const. art. II, § 2.

[2] Parker, The Judicial Office in the United States, 20 Tenn. L. Rev. 703, 705–06 (1949).

[3] The impeachment process is a cumbersome but carefully structured procedure which requires some analysis. Procedurally, the Constitution provides that a civil officer may be impeached by the House of Representatives and tried by the Senate, and, if convicted, may be removed from office and disqualified from holding any other. Congress alone possesses the power to remove all civil officers by impeachment, although many civil officials, with the exception of Article III judges, may be removed in other ways. See text at p. 440 infra. The authority for this result is implicit in various other sections of the Constitution. Id. The President has the power to remove all subordinate executive officers since the power of appointment carries with it, absent contrary authority, the power of removal. See text at p. 439 infra. Similarly, Congress may set the tenure of inferior officers and so may enforce those limits by necessary means. Id.

[4] The Federalist No. 79 at 532–33 (J. Cooke ed. 1961) (A. Hamilton).

[5] The Federalist No. 78 at 21–23, 525–27, 530. (J. Cooke ed. 1961) (A. Hamilton).

[6] S. 4527, 74th Cong., 2d Sess. (1936). For congressional discussion of the measure see 80 Cong. Rec. 5933–39 (1936).

[7] H.R. 2271, 75th Cong., 1st Sess. (1937). See congressional discussion of the measure in 81 Cong. Rec. 6157–96 (1937).

[8] "The judicial power shall extend to all cases . . . [and] controversies. . . ." U.S. Const. art. III, § 2.

[9] See Note, The Exclusiveness of the Impeachment Power Under the Constitution, 51 Harv. L. Rev. 330, 333-34 (1937).

[10] See text at pp. 449-50 infra.

[11] See generally W. Leuchtenburg, Franklin D. Roosevelt and the New Deal ch. 10 (Torchbook ed. 1963).

[12] See, e.g., the discussion of Lincoln's disregard for the Court in Ex parte Merryman, in R. Cushman, Leading Constitutional Decisions 79 (13th ed. 1966).

[13] The cosponsors were Senators Eagleton, Goodell, Hatfield, Magnuson, Mondale, Muskie, Scott, Stevens and Yarborough.

[14] S. 1506, 91st Cong., 1st Sess. (1969).

[15] Reprinted in Hearings on S. 1506 Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st & 2d Sess. 93 (1970).

[16] The proposed version of S. 1506 is contained in Hearings on S. 1506 Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st Sess. 10-47 (1969) [hereinafter cited as Hearings].

[17] 28 U.S.C. § 331 (1970) provides:

> The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of Claims, the chief judge of the Court of Customs and Patent Appeals, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the conference may be called by the Chief Justice at such times and places as he may designate.
>
> * * * * *
>
> Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.
>
> The conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary, and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.
>
> The Conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the Conference may deem desirable to promote simplicity in procedure, fairness, in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the Conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law.
>
> The Attorney General shall, upon request of the Chief Justice, report to such conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.
>
> The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

[18] See discussion in note 3 supra.

[19] See Hearings, supra note 16, at 100–15.

[20] Id. at 101.

[21] Id. at 104.

[22] Id. at 105–14.

[23] Id. at 116–17.

[24] 5 U.S. (1 Cranch) 137 (1803).

[25] 17 U.S. (4 Wheat.) 316 (1819).

[26] 60 U.S. (19 How.) 393 (1856).

[27] The Federalist, No. 78 at 523 (J. Cooke ed. 1961) (A. Hamilton).

[28] Hearings, supra note 16, at 121.

[29] W. Douglas, Points of Rebellion (1969).

[30] Hearings, supra note 16, at 130.

[31] Id. at 136.

[32] Hearings Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st & 2d Sess. 121–22 (1970).

[33] Hart, Foreword: The Time Chart of the Justices, The Supreme Court, 1958 Term, 73 Harv. L. Rev. 84 (1959).

[34] Id. at 101.

[35] Arnold, Professor Hart's Theology, 73 Harv. L. Rev. 1298 (1960).

[36] Id. at 1315–16 (footnotes omitted).

[37] The Federalist No. 78 at 528 (J. Cooke ed. 1961) (A. Hamilton).

[38] Note, The Exclusiveness of the Impeachment Power Under the Constitution, 51 Harv. L. Rev. 330 (1937).

[39] Included among those distinguished jurists who share or have shared this belief are Mr. Justice Story, Lord Bryce, Alexander Hamilton and Professor Hart. See Kramer & Barron, The Constitutionality of Removal and Mandatory Retirement Procedures for the Federal Judiciary: The Meaning of "During Good Behavior," 35 Geo. Wash. L. Rev. 455, 459 (1967) [hereinafter cited as Kramer & Barron].

Several recent articles deal with the exclusivity of impeachment proceedings. Of these, two deal exclusively with this issue and rely heavily on English precedents and the beliefs of the delegates to the Constitutional Convention, as contrasted with my focus on American Court decisions, infra. These articles are Ervin, Separation of Powers: Judicial Independence, 35 Law & Contemp. Prob. 108 (1970) and Shipley, Legislative Control of Judicial Behavior, 35 Law & Contemp. Prob. 178 (1970).

[40] 167 U.S. 324 (1897).

[41] Id. at 328–30.

[42] 38 U.S. (13 Pet.) 230 (1839).

[43] 167 U.S. at 331, quoting 38 U.S. (13 Pet.) at 259.

[44] 58 U.S. (17 How.) 284 (1854).

[45] For a discussion of other than Article III judges, see H. Hart and H. Wechsler, The Federal Courts and the Federal System 340–51 (1953).

[46] 58 U.S. (17 How.) at 303.

[47] 5 Op. Att'y Gen. 288, 290 (1851).

[48] 58 U.S. (17 How.) at 289.

[49] The statute in question may be found in 167 U.S. at 343.

[50] Id.

[51] 189 U.S. 311 (1903).

[52] Id. at 314–15. The Act which had created Shurtleff's position permitted his removal for inefficiency, neglect of duty or malfeasance in office.

[53] Id. at 316.

[54] Id. (emphasis added).

[55] 272 U.S. 52 (1926).

[56] The administratrix of the postmaster's estate argued that the postmaster could not be removed without the consent of Congress.

[57] 272 U.S. at 154–55.

[58] The statute is cited in full in McAllister v. United States, 141 U.S. 174, 177 (1891).

[59] See discussion at p. 444 infra.

[60] 295 U.S. 602 (1935).

[61] The Court distinguished the case on the grounds that the narrow issue treated in *Myers* "was only that the President had power to remove a postmaster of the first class, without the advice and consent of the Senate as required by act of Congress." Id. at 626. The Court also distinguished the *Shurtleff* case as one dealing with "exceptional" circumstances. Id. at 623.

[62] Id. at 627.

[63] Id. at 628.

[64] Id.

[65] 5 U.S. (1 Cranch) 137 (1803).

[66] Id. at 162, 165–66.

[67] 398 U.S. 74 (1970).

[68] Brief for Solicitor Gen. at 33, Chandler v. Judicial Council, 398 U.S. 74 (1970).

[69] Id. at 35 (footnote omitted).

[70] Much of the following discussion relies on the arguments raised in a memorandum prepared by the staff of the Subcommittee on Improvements in Judicial Machinery. The memorandum is entitled Constitutionality of a Statutory Alternative to Impeachment. See Hearings at 221.

[71] Shartel, Federal Judges—Appointment, Supervision, and Removal—Some Possibilities

under the Constitution, 28 Mich. L. Rev. 870, 895–97 (1930) [hereinafter cited as Shartel].

[72] Id. at 899.

[73] Hearings on S. 1506 Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st Sess. at 223–24 (1969) [hereinafter cited as Hearings].

[74] 7 E. Halsbury, Laws of England 22–3 (1909).

[75] Hearings, supra note 73, at 222–23.

[76] See Simpson, Federal Impeachments, 64 U. Pa. L. Rev. 803, 805 (1916).

[77] See generally The Federalist, Nos. 78 & 79 (J. Cooke ed. 1961) (A. Hamilton).

[78] Dwight, Trial By Impeachment, 15 Am. L. Reg. 257, 263 (1867).

[79] Hearings, supra note 73, at 224.

[80] Id.

[81] H.R. 2271, 75th Cong., 1st Sess. (1937).

[82] Reprinted in Hearings, supra note 73, at 234.

[83] Reprensentatives Guyer, Hancock, Michener, Gwynne, Graham and Springer.

[84] Hearings, supra note 73, at 234.

[85] The Federalist, No. 78 at 523 (J. Cooke ed. 1961) (A Hamilton).

[86] See discussion at pp. 438–46 supra.

[87] See generally Shartel, supra note 71; Note, The Exclusiveness of the Impeachment Power Under the Constitution, 51 Harv. L. Rev. 330 (1937); Kramer & Barron, supra note 39; Simpson, supra note 76.

[88] 398 U.S. 74 (1970).

[89] Section 332 provides:

(a) The chief judge of each circuit shall call, at least twice in each year and at such places as he may designate, a council of the circuit, in regular active service, at which he shall preside. Each circuit judge, unless excused by the chief judge, shall attend all sessions of the council.

(b) The council shall be known as the Judicial Council of the circuit.

(c) The chief judge shall submit to the council the quarterly reports of the Director of the Administrative Office of the United States Courts. The council shall take such action thereon as may be necessary.

(d) Each judicial council shall make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district judges shall promptly carry into effect all orders of the judicial council.

28 U.S.C. § 332 (1970).

[90] 398 U.S. at 77–8.

[91] Section 137 provides:

The business of a court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.

The chief judge of the district court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rule and orders do not otherwise prescribe.

If the district judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders.

28 U.S.C. § 137 (1970).

[92] O'Bryan v. Chandler, 352 F.2d 987 (10th Cir. 1965), cert. denied, 384 U.S. 926 (1966).

[93] 398 U.S. at 77 n.4. The indictment was later quashed.

[94] Id. at 77. See Occidental Petroleum Corp. v. Chandler, 303 F.2d 55 (10th Cir. 1962), cert. denied, 372 U.S. 915 (1963); Texaco, Inc. v. Chandler, 354 F.2d 655 (10th Cir. 1965), cert. denied, 383 U.S. 936 (1966). In both cases writs of mandamus were issued against Judge Chandler.

[95] 398 U.S. at 82.

[96] Id. at 89–143.

[97] Id. at 119.

[98] Id. at 136–137 (emphasis added).

[99] Id. at 140–41.

[100] Id. at 142–43.

BROADCASTING REGULATIONS

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BOLAND. Mr. Speaker, Julian Goodman, president of the National Broadcasting Co., has warned that Government regulations are slowly shackling the television industry. Recipient of the International Radio and Television Society's 1972 Gold Medal Award—presented each year for outstanding contributions to broadcasting—Mr. Goodman told the society at its annual dinner in New York that regulations threaten to inhibit the scope and reach of TV broadcasting.

I agree, Mr. Speaker.

No one can deny the Government's legitimate right to regulate the air waves—the property of the American people—but such regulation sometimes tends to smother creativity in broadcasting instead of encouraging it.

A distinctly American phenomenon, evolving ab ovo here in the United States, television is now the country's only authentic national medium—the source of news, entertainment, and information for millions. Viewing time in the average household has reached an astonishing 7 hours and 2 minutes daily, almost as much time as the American workday itself. We have been armchair spectators at the Olympic Games in Japan, President Nixon's trip to China, and the Apollo 16 moon mission within the past few months alone.

Yet a thicket of regulations, growing denser year by year, is ensnarling television's activities and encumbering its room for growth. Mr. Goodman cited just three of these regulations in his New York speech. One is the Communications Act's equal time provision—a provision that denies the American public the kind of revealing head-to-head confrontations between political candidates last witnessed 12 years ago during the Kennedy-Nixon debates. Another is the "fairness doctrine," created to give public service groups an opportunity to challenge the claims of cigarette advertisers, but broadened by the courts to cover virtually any product: a car ad gives rise to demands for a free ad about air pollution, a candy ad to demands for another on the dangers of tooth decay. Perhaps the most egregious regulation of all, Mr. Speaker, is the "prime time access rule." Forcing the networks to sacrifice a half hour of their prime time each evening to what is termed "local programing," the architects of this rule envisioned new diversity and new creativity on the living room screen. They were wrong. All the rule has achieved is a dwindling prime time audience—down significantly between 7:30 and 8 p.m., less significantly after that—and an almost overnight loss of $60 million for film studios and independent producers. Still worse, Mr. Speaker, the half hour reserved for local programing has been filled with little more than drivel—old TV series exhumed from their graves, reminiscent of the corpses once used to fill gaps in the wall of a medieval castle under siege.

I assume that all Members of the House have received a copy of Mr. Goodman's speech.

But in case they have not, Mr. Speaker, I put it in the RECORD at this point:

BROADCASTING IN WONDERLAND

(By Julian Goodman)

The IRTS Gold Medal is one of the great honors in broadcasting, and I am proud to have it. I recognize that receiving it means some remarks are clearly expected of me, and this poses a problem.

I would obviously like to say something that falls somewhere between the Gettysburg Address and Winston Churchill's Iron Curtain speech—but the frame of reference available to me is not quite broad enough to command that kind of attention.

As a matter of fact, it bores some people. When I asked a veteran reporter of our trade, one of my oldest friends, what I might talk about tonight, he said: "Just don't talk about all the problems facing televisions. I've heard these warnings of impending doom a long time, and they just never seem to happen."

Well, he's partly right, and I can understand how he feels. But it's hard to take his advice because a lot of those things have happened, and others seem well on their way to happening because the machinery that regulates broadcasting is lurching in that direction.

I do also understand that in presenting this award to me tonight you are overlooking any character deficiencies that might arise from my connection with that highly suspicious group known as the P.B.L.—the Powerful Broadcasting Lobby. Let me give you a brief catalogue of the accomplishments of this dread and mysterious group within the past year.

1. First, we got the FCC to deprive the public of nearly 600 hours of prime-time network programming a year—reducing the television audience by at least five per cent, and making possible such brilliant program progress as the nationwide reappearance of Mike Stokey's Pantomime Quiz.

2. We arranged a legislative coup that banned cigarette advertising on broadcasting alone, and instantly decreased our industry's revenue by $200 million a year. In all modesty, we have to recognize that we could hardly have accomplished this without the editorial support of the nation's newspapers and periodicals, which then took on $100 million of additional tobacco advertising they were not carrying the year before.

3. We managed once again to get Congress to keep the equal-time provision of Section 315 in force—ensuring that, when Pat Paulsen appears as a comedian on a program starring Mickey Mouse, we must give equivalent time to all his political opponents, including President Nixon, if they want it.

4. We have almost persuaded the Federal Trade Commission that the purpose of advertising on television is not to sell things, but to *not* sell them. And the Trade Commission is cooperating by trying to persuade the Federal Communications Commission to use its powers to implement that novel approach.

I have to confess that all of this achievement makes it hard—as Mr. Churchill urged in another speech—to be magnanimous in victory.

No Hollywood producer would accept a script so outlandish—as though it were by Franz Kafka, out of Lewis Carroll. But it is what's happening to broadcasting today, under such high-sounding slogans as fairness, access, the public interest, and truth.

The fact is that broadcasting is being nibbled away by regulations and regulators. Government processes start with one purpose and then go on forever, careening in various directions, often ending up with results directly contrary to the original purpose. Theory is in conflict with reality and reality is losing out. If broadcasting—especially television—is to go on serving the public to its full potential, the public will have to get by with a little less help from its Washington friends.

In less than a generation, television has become the only national mass medium in the country—the source of information and entertainment that is most used by most people and is most useful to them.

The mass character of television is unique and special. It is a measure of television's strength and the source of its value to the public I know it is fashionable in some places to scorn anything with mass dimensions and mass appeal. That sort of scorn often comes from those who do not really believe that this country draws its quality from its people.

They do not *want* to believe that television makes an honorable and essential contribution in entertaining millions of people, day in and day out, with what the people themselves select. They do not care that these audiences—attracted by television entertainment—also learn from television more about the world in which they live and about the events and issues of their times than they learn from any other source.

I personally find it astounding to confront the knowledge that, in the month of January, 1972, viewing in the average American household rose to an incredible seven hours and two minutes per day. And the Olympics from Japan, and the President's trip to China in February may even have increased the typical viewer's attention to television. I do not find this enormous public attachment to television so astounding when I search my own experience, and the experience of others, as I have observed it.

As this particularly historic year goes by—with the primaries leading up to the political conventions, then the campaigns, and the election of a President—attention to what we do in television should grow even more. Attention from those who like to watch television because it gives them information on which they base their own decisions . . . and attention from those who know this, and because of it, want to shape what we do and say to meet their own self-interest. Not the public interest—but their own interest.

There is no better example than the continued existence of the "equal time" requirement of the Communications Act.

In 1960, when the equal time provision was temporarily lifted, Richard Nixon and John Kennedy met in four historic encounters that were watched by 100 million people. That was 12 years ago. It has not been allowed to happen since.

Had we attempted to present the major Presidential candidates in 1968, we would have been required by law to give equal time to more than a dozen others, including: Lar Daly, dressed in an Uncle Sam suit; Louis Abolafia, who ran on a nudist platform with the assurance, "I have nothing to hide"; and Mrs. Yetta Bronstein, the candidate with the slogan, "The country needs a grandmother to run it."

But for Alice in Wonderland comparisons, the "equal time" rule has a close competitor in the FCC's prime-time access rule. Here is a clear-cut case of a regulatory action that began for one reason and ended with one that was totally opposite. It started more than ten years ago as an inquiry into advertising control of programming. It continued to shift ground so that the issue became network control of programming. By eliminating a half hour from each network's nightly schedule it was supposed to produce a diversity of program sources and bless the medium with a surge of creativity.

So far the access rule has produced little except confusion and hardship. Overnight it removed $60 million worth of network television production from the film studios and independent producers. It has reduced the number of sets turned on between 7:30 and 8:00 P.M. It has been at least partly responsible for an overall decline in audiences for the nightly network news programs.

I don't know anyone—in or out of television—who believes the prime-time access rule has succeeded in its purpose. Nor do I know anyone who has a really clear idea of what it was supposed to do in the first place, except to advance the self-interest of those who proposed it—and it hasn't even done *that.*

It is a troublesome thought that if one theory is a demonstrated failure it may be followed by others, even more restrictive, to try to patch up the failure or to prove a point. It seems to confirm the thesis Justice Brandeis expressed when he wrote: "Experience teaches us to be most on our guard to protect liberty when the goverment's purposes are beneficient." On the basis of broadcasting's experience, we could do with a little more liberty and a little less beneficience.

NBC plans shortly to petition the FCC for complete revocation of the prime time access rule. We believe that the sum total of all the experience of the public, the stations, the networks and the program producers demonstrates that the theory of the rule was unrealistic and the results have been absurd. It has caused real damage without creating any benefits. The way to correct the situation is not through further tinkering or tampering, but by recognizing a mistake and withdrawing the rule in its entirety. That's what NBC will seek, with supporting factual evidence of the rule's harmful results. And I urge all broadcasters who believe in freedom of action, and free competition, to join in the effort.

The burdens of the prime-time access rule may seem minor if the FCC's Fairness Doctrine is allowed to expand as some proponents, in and out of the Government, are now urging. It is no longer a doctrine, but a thicket of conflicting decisions that broadcasters enter at their peril.

The chain of events began when the Commission ruled that if a station editorialized on a controversial issue, it had to give opportunity for contrasting views. Years later, when Congressional legislation placed a moratorium on government regulation of cigarette advertising, the Commission used the Fairness Doctrine to require anti-smoking messages—insisting that this novel twist of extending the doctrine to advertising should apply only to cigarettes.

Predictably, that narrow point soon was extended by court decision to other products, and now the FTC urges the Commission to require counter-commercials to offset nearly all commercials. If you advertise big cars, you must put on announcements pointing out that they may contribute to pollution. If you advertise small cars, you must counter with announcements that question their safety. No matter what you advertise, there will be someone who has something negative to say about the product, and in the name of "fairness," the FTC claims, he has a right to say it to the nation, on television.

The public is supposed to be helped by hearing counter-claims and counter-counterclaims, with no end to the chain. The fact that this would destroy television's economic base—and the programming built on that base—seems to be unnoticed or disregarded, and the public itself is given no voice in the argument.

We urge that the way to deal with this weird scenario is through the people's representatives in Congress. The regulatory process has created a conflict between the specific provisions of the Communications Act that bar censorship and the provision—treated so elastically by the FCC—that requires broadcasters to operate in the public interest. Congress can resolve this conflict by making it clear that the anti-censorship provision means just what it says—that the Commission may not require broadcasters to put anything on the air or take anything off the air, subject to existing laws on profanity and obscenity.

The move to convert broadcasting from an advertising medium to a forum for debating the virtues and shortcomings of a limitless number of products and services of our economy is not only a disservice to the public, but an obstacle to economic progress.

We all see signs today that point to an upsurge of economic activity in the months ahead. I believe it will be paced by a significant rise in national advertising volume—the highest real growth in five years—especially in television. Even now, there are clear indications that an unprecedented number of new products are leaving the laboratory, ready to enter the marketplace. The nation appears to be emerging from an economic recession and ready to enter a period of growth.

Television and radio can contribute greatly to that growth in an economy based on mass production and mass distribution. To make our full contribution, we must be freer than we have been from the restrictions and shackles of those who want to reshape broadcasting, by Government action, to serve their own theories and concepts. The public is our real ally; and we can gain its support by broadcast leadership that does not quake at a threat from those in power. And all broadcasters must recognize that the things which make radio and television truly great can flourish only when we are free. Not free from responsibility or free from service to the audience. But free from that kind of governmental bondage that can be created by those who seek to impose their own social philosophies on the vast and growing audience that has a legitimate, long-term interest in a free system of broadcasting.

I trust that this time next year, when you present the fourteenth Gold Medal award, many of our problems will be behind us. I hope that common sense, fair play and realism will have taken over.

But hope alone is not enough. We will all have to work to make it happen.

RED CHINA AND THE U.S. GOLD CRISIS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. RARICK. Mr. Speaker, the uncontradicted report by the gentleman from Texas (Mr. GONZALEZ) that our Government delivered to the Communist Party of Red China $6.6 million in gold in order to firm up the final details of President Nixon's visit to Red China, has raised some speculation as to what the gold drain will be for the President's trip to Moscow.

Yesterday's wire service carried the unreported story that major New York banks are considering 6 percent financing to the Soviet Communist Party for credit purchases of U.S. machinery. While few Americans can obtain 6 percent financing, the Soviets reportedly want long-term loans at interest rates of 2 and 3 percent.

In the meantime, the price of gold on the London dealer market was $50.65. Possibly the gold increase reflects U.S. Treasury reports that it is considering the sale of U.S. gold on the free market. Whether the gold to be sold is in the vaults of New York City banks or supposedly at Fort Knox—is not certain.

I include in the RECORD the related news reports:

[From the Washington Post, Apr. 26, 1972]

CHINA REPORTEDLY GOT U.S. GOLD

SAN ANTONIO, TEX., April 25.—A newspaper quoted Rep. Henry Gonzalez (D–Tex.) as saying China demanded and received $10 million in gold for communications facilities before allowing President Nixon's visit.

"Ultmately, the cost to the United States after that gold hits the Zurich and London markets will be two to two and a half times as much as $10 million," the San Antonio Express quoted Gonzalez as telling a local television interviewer.

"My estimate is that $10 million in gold was involved, and there is no question of this having been delivered by a State Department aide," Gonzalez was quoted as saying.

"They had to be paid in full and it had to be delivered by an official of the government. They didn't want vouchers. They wanted gold," he said.

Gonzalez said that when he personally questioned the State Department about the matter "they didn't say it was not $10 million. They said a State Department aide had delivered $6.6 million."

Gonzalez was unavailable for comment, but a member of his staff said the congressman's statements were based on a Business Week article speculating that the United States may have made a gold payment to China to cover the communications costs related to the trip.

The staff member said Gonzalez had no first-hand information of his own.

The papers said a State Department staff member said he recalled that the United States paid the entire communications cost for the Nixon trip, then sold a ground station to China.

Gonzalez, the Express reported, said the payment was reported in "an insignificant form and I found out it had to do with incidental arrangements for the trip. Apparently it was to insure that costs of communication incidental to the trip would be met."

[From the Wall Street Journal, Apr. 28, 1972]

FEDERAL RESERVE REPORT—ASSETS AND LIABILITIES OF 12 WEEKLY REPORTING MEMBER BANKS IN NEW YORK CITY

[In millions of dollars]

	Apr. 26, 1972	Apr. 19, 1972	Apr. 28, 1971
ASSETS			
Total gold certificate reserves	9,475	9,475	10,475
U.S. Government securities:			
Bought outright:			
Bills	30,197	29,866	26,259
Certificates			
Notes	36,448	36,448	34,180
Bonds	3,540	3,540	3,220
Total bought outright	70,185	69,854	63,659
Held under repurchasing agreement	1,076	--------	353
Total U.S. Government securities	71,261	69,854	64,012
Total assets	97,265	95,031	88,430
LIABILITIES			
Federal Reserve notes	53,391	53,588	49,907
Total deposits	32,970	29,722	27,982
Gold reserves	9,588	9,588	--------

[From AP Wire Service]

SOVIET LOANS

NEW YORK.—The Soviet Union is considering borrowing from U.S. banks to buy machinery in the United States, banking circles said today.

The loans, if made, would mark a major change in financial policy for both the banks and the Soviet government. In the past, the Russians have sold gold as necessary, to pay for imports of grain from Canada.

"But they are learning how to use their finances," one banker from outside New York commented. "By buying machinery on borrowed money, they don't have to pay back the money until the machinery is paying off by increased production."

Bankers said that the first approaches to the Russians were made by some U.S. banks and that others, including some of the major New York ones, are now interested in the possibility. An interest rate of the U.S. prime rate plus ¾ of 1 percent has been discussed, although the Russians have objected to this level.

The U.S. prime rate is the interest charged a bank's best customers. A rate ¾ above the prime was described by one banker as "very good rate indeed." The American prime now is 5¼ percent, so on the basis of that, the Russians would be paying 6 percent. This is quite high for a Government loan.

So far as could be learned, no loan has been finally agreed upon. There was no indication of how much money might be involved, but a single bank is known to be talking about $4.5 million.

Since the money would remain in this country to be paid to machine builders, the loans would have no effect on the U.S. balance of payments at once. Later, of course, as the loan is paid, it would help this balance.

Bankers involved in the negotiations said the Russians badly need new machinery for the extractive industries—mines, quarries and oil fields. They said the loans would probably be made only for capital goods for use in the extractive industries, and that Russia would likely buy needed grain either through a U.S. Government loan or for cash.

There have already been reports that Russia would like a longterm cheap loan—an interest rate of only 2 or 3 percent—from the U.S. Government for sales of grain. This would likely be repaid by exports of natural gas or similar products from Russia to the United States over a term of 10 years or so.

[From Business Week, Feb. 19, 1972]

BRINGING THE PICTURE HOME FROM PEKING

When President Nixon arrives in Peking on Sunday night, the bamboo curtain will part and the Western world, via live television, will get its first look at China since the 1940s.

How extensive that look might be was up in the air as the TV networks dispatched news teams along with the President on his plane, The Spirit of '76. "At this time," said Jack Otter, who heads up NBC–TV sales, "we know we'll cover the arrival in Peking—but that's all. We hope to show the visits to the Forbidden City and the Great Wall, but no one knows when or where or if."

But these uncertainties did not stop NBC–TV and CBS–TV from lining up sponsors. Atlantic Richfield Co. took full sponsorship of NBC's coverage, replacing Gulf Oil Corp., which long has backed most of the network's special events coverage. ("Gulf has budgeted for some Apollo shots that are coming up," Otter notes.) American Express, Western Electric Co., and Merrill Lynch, Pierce, Fenner & Smith will back the CBS–TV reports. ABC says that several clients inquired about sponsoring its coverage but it decided to go the public-service route instead.

TOP NEWSMEN

Each network is sending its biggest guns in news. Harry Reasoner heads the ABC contingent, while Walter Cronkite and Eric Sevareid lead the CBS team, and NBC is sending the only female reporter, Barbara Walters, along with John Chancellor. In addition to the arrival and departure scenes, and some hour-long previews and special "wrapups" of the trip, each network is figuring on a half-hour nightly summary of each day's events. Live coverage during the day is subject to the Chinese willingness to release an agenda in advance and to the absence of the phrase most frustrating to TV newsmen: "technical difficulties."

It will be no small achievement to beam a TV signal out of China. But to the communications companies, which have been jockeying for weeks to provide communications for Nixon's trip, there is more at stake than technical prestige. Their hope is to get a toehold in the potentially lucrative Chinese communications market of the future.

For a while, it seemed that Western Union International had picked the plum when the Chinese selected it to set up a transportable 24-ft.-diameter earth station in Peking to provide a satellite link with the U.S. over the Pacific. But RCA Global Communications, Inc., meanwhile, had been negotiating quietly with the Chinese and announced that it had sold its 42-ft.-diameter earth station and was setting it up in Shanghai. RCA's station may not be ready to catch Nixon's arrival in Shanghai on his way to Peking, but it could be ready for his departure on Feb. 28.

Actually, RCA has only a temporary license to install its station, but the company is working hard to win final aproval. In the present climate of co-operation this seems likely.

SIGN ON THE LINE

In addition to WUI and RCA, American Telephone & Telegraph Co. and International Telephone & Telegraph Corp. have top-ranking officials in the Presidential party. Ostensibly they are there to assist with communications. But an official of one company says: "You can bet they will be selling like hell."

WUI's contract calls for providing live television, telephone, and telegraph services for the Presidential group, as well as for the 80 U.S. news personnel who will accompany Nixon. A WUI official says "the only English word in the contract is 'WUI,'" and the company admits it probably will not make any money on the deal.

Whether WUI's earth station (which is leased from its builder, Hughes Aircraft Co.) is removed after Nixon leaves is an open question. As one official puts it: "If the Chinese should ask to buy it and the President tells us to leave it, it won't come out."

The Chinese are paying for the lease on WUI's earth station and for service on the new Intelsat IV satellite over the Pacific. Communications will be routed from the Peking station, up to the satellite, and down to Comsat's earth station at Jamesburg, Calif,. near Monterey. Then they will go via land lines to New York for dissemination. The WUI station can accommodate 60 voice circuits and one color television channel simultaneously, mixing in telegraph service as needed.

PAY IN ADVANCE

The Chinese have stipulated that all bills must be paid in U.S. dollars before the President's party and the accompanying newsmen leave China. "We sent a bagman," says a government spokesman, explaining that a State Dept. official carried $6-million in cash to China to cover the anticipated costs of the trip.

Live color television is expected to cost about $1,100 for the first 10 minutes of transmission and $40 to $50 for each additional minute. This is about standard for telecasts from other Asian countries. Telephone calls will run about $13 for three minutes and teletype about 10¢ per word, also pretty standard. The users will be billed by the State Dept.

As a backup to the WUI communications link, the White House will carry a small satchel-type antenna for emergency use via military satellite. Radio communications for the President are also available through his airplane.

[From the Wall Street Journal, May 2, 1972]

SILVER AND GOLD PRICES

London bullion dealers yesterday set the spot silver price at 61.3 pence a troy ounce; three-month silver was 62.1 pence; six-months silver was 62.9 pence, and one-year silver was 64.7 pence, all up 0.15 penny from Friday. The U.S. equivalent price for spot was $1.601, three-month $1.621, six-month $1.642 and one-year $1.689.

The London dealer market's early quote for gold was $50.20 an ounce. The final quote was $50.35, up from $49.60.

U.S. gold prices: Handy & Harman's base for pricing gold content of shipments and for making refining settlements was $50.65. Engelhard Minerals and Chemicals Corp.'s buying price for gold was $50.75 and the selling price was $50.95.

SALE OF U.S. GOLD PILE WOULD SURELY BACKFIRE

NEW YORK.—March, one of the most quiet months of international gold trading, witnessed a minor sensation towards its end when the U.S. Treasury revealed that it was considering the possibility of selling some of the nation's gold in free markets. Except for a fleeting weakness, the rather dramatic announcement had no major influence on the price of the metal, which closed practically unchanged from a month ago. The move, nevertheless, provoked substantial interest in British as well as Swiss gold trading circles—and in Russia.

The Soviet Union had not sold any large quantity of the metal since 1967. Sitting on a bigger unmortgaged stock than the U.S., they apparently were not impressed by the American statement, which they considered an awkward move without a chance of success. In the meantime, some minor downtrends of a psychological nature may temporarily lead to small reductions of the gold prices in London and Zurich.

Gold futures, in small volume, had a stable market with practically unchanged quotations. One-year gold delivery listed in London at $51.25 to $51.50 per ounce against $51.50 to $51.70 a month ago. Singapore reported April 1973 delivery of the metal at $54.40 to $54.90 per ounce against $54.65 to $55.15 per ounce four weeks ago.

Approximate gold sales

	Million
March	$395
February	415
January '72	525
December '71	560
November	510
October	480

Trading volume for the first quarter of the year rose to $1,335,000,000 some 4¼% over the $1,280,000,000 in the corresponding period of last year.

America's plan to sell gold in the free markets of Europe, a rather bold decision by politicians who lack monetary knowledge, will impress other people and governments and may—temporarily at least—create some satisfaction among the currency amateurs of Washington. But in the very short run it will, if implemented, end in some sort of debacle, just like the silly efforts to master the cost-of-living increase in the U.S.

The record of the U.S. Treasury, already a chronicle of shame and expropriation of the law-abiding citizen, will grow much worse when, for example, some of the Eurodollars held by European governments are used to buy the American metal. Unfortunately, of the $80 billion or so Eurodollars, about $40 billion are owned by gold-minded governments, and only about $9.7 billion of U.S. gold can be sold. The entire project, the brainstorm of an intellectually underprivileged politician and his even more unintelligent advisors, could do more harm to the U.S. than the already-dying dollar could endure. Should the remnants of the dollar be deprived of their metallic "mini-reserve" which would shift into the tills of European central banks, Washington's poor paper unit would float in some hostile currency "no-man's land". Psychological reactions, domestic as well as foreign, would be disastrous.

GOLD TRANQUILIZER

As the free gold price, following a short decline, would go up everywhere including the U.S., some signs of severe capital flight would develop. The present "tame" inflation of about 6%–9% a year (unofficial) would be converted into a 10%–15% increase of living costs, and all "mini-deflations", such as "Phase Two", would simply cease to exist. During such a rather chaotic period the opposite of the planned result would happen. Instead of eliminating gold from its monetary function, the "aura sacra fames"—the holy hunger for gold—would again be satisfied by an increased hoarding volume of both the central banks and the public. In all these events the so-called backbone of saving, namely government bonds, would be degraded to documents of shame, just as the Continental Dollars were earlier in American history. People would simply turn to gold, the only substance which has never been conquered or defeated by governments and which, over 6,000 years, has radiated confidence and enabled the hoarder to sleep without tranquilizers in a world of crumbling paper values.

The really funny aspect of the U.S. Treasury proposal is the inevitable increase in the popularity of the metal. Should Washington's or Fort Knox's metal stock finally wind up in the vaults of a dozen well-managed central banks, a monetary plebiscite would be won.

The conclusion of this proposed adventure of the dollar, stated even before it has really started, is rather simple. Planned as an electoral maneuver, it would, if executed, reduce American power further, ruin part of the country's industry, make Eurodollars valueless, and bring about sharp retaliations from other countries, especially from the Common Market which, according to many official statements, will base its ultimate currency on gold. It would have been much wiser if the dilettantes of the U.S. Treasury would have planned to reduce the power of the ever-increasing corruption which celebrates monetary orgies in election periods.

"Quo usque tandem America?"—is a question without answer.

THREE NEW BOOKS ON OCCUPATIONAL SAFETY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ASPIN. Mr. Speaker, occupational health and safety has not been given the attention by the Congress, press, and the public that it deserves. Each American worker must be guaranteed the right to work in an environment that will in no way endanger his health and safety. While a great deal of progress has been made in reducing some types of industrial accidents, too little attention has been paid to the environment in which employees work.

The April 15, 1972, edition of Environmental Action magazine contains the review of three new publications which discuss one of the most serious problems in occupational health—asbestos pollution. It has been proven time and again that the existence of asbestos in the air in a industrial environment results in a high instance of asbestosis. The three publications are entitled "Asbestos and Enzymes," "Mortality Experience of Amosite Asbestos Factory Workers," and "Criteria for Recommended Standard-Occupational Exposure to Asbestos." The first two publications are discussions of the problems presented by the existence of any amount of asbestos in the atmosphere in an industrial setting. The third publication by the National Institute of Occupational Safety and Health which is a division of HEW preents the recommended criteria for asbestos exposure in conformity with the Occupational Health and Safety Act.

Much more attention must be given to the problems of occupational health and safety. I recommend this article as a primer to anyone interested in learning about problems in occupational health.

The article follows:

ECO MEDIA

(By Franklin Wallick)

Asbestos and Enzymes, Paul Brodeur. Introduction by Rene Dubos. Ballantine, New York, 1972—146 pp., $1.25.

"Mortality Experience of Amosite Asbestos Factory Workers", Drs. Irving Selikoff, Cyler Hammond, and Jacob Churg. Presented at the IVth International Pneumoconiosis Conference, Bucharest, September 29, 1971—Available free from OCAW, 1126 16th Street, N.W., Washington, D.C. 20036.

"Criteria for a Recommended Standard—Occupational Exposure to Asbestos", U.S. Department of Health, Education, and Welfare, National Institute for Occupational Safety and Health, 1972.—Available free from NIOSH, 5600 Fishers Lane, Rockville, Md. 20852.

Paul Brodeur's new book, a collection of two essays and a short afterword from the New Yorker is a timely addition to any environmentalist's library. It shows how community pollution begins in the workplace, how asbestos fibers on a worker's clothes can infect a whole family, and how fibers spewing from a factory can infect an entire neighborhood. It also points out that enzymes are equally hazardous, although curtailed production—a situation which might change at any time—has lulled the public into a state of remarkable non-concern.

A novelist-turned-investigator, Brodeur is currently researching the crass shutdown of a Pittsburgh Corning asbestos plant in Tyler, Texas, and a tragic sequel to his 1968 essay should be soon appearing in the New Yorker. What makes a reading of this book particularly pertinent at this time is the present tugging and pulling by the Department of Labor to set a new workplace standard for asbestos exposure. All the pressures that involve workplace environmental hazards or safety are occurring right now. Unhappily they are not reported in the daily press even though the consequences may involve millions of people.

For starters, let us realize that nobody is sure how many people are exposed to asbestos fibers—is it 200,000 as the Labor Department claims, or is it 10 to 20 million as some experts believe? Random autopsies in New York City within the past five years have shown 95 percent to have some evidence of asbestos in body tissue. Is this enough to worry about? A growing group of experts think it is. And what is really scary is the fact that production of asbestos has multiplied greatly (annual world production was 30,000 tons in 1910 and is up to 4 million tons today) and the symptoms of cancer of lung lining (mesothelioma), cancer of stomach, colon and rectum, and asbestosis do not occur until 20 to 30 years after exposure. Thus we could be facing a monumental cancer epidemic within a decade if the findings of experts with impeccable credentials, such as Dr. Irving J. Selikoff at Mount Sinai School of Medicine in New York, are to be believed.

The unions and some of the experts say

there is no safe level for asbestos exposure and they want a zero standard. The original Department of Labor standard was 12 fibers greater than 5 microns in length per milliliter of air. This set off a stern warning from Selikoff which reverberated throughout the occupational safety and health movement. Most health hazards, including asbestos, are so insidious even well-meaning labor officials are baffled and perplexed at how to detect them or how to do something once they are identified. Asbestos fibers can be measured only by powerful electron microscopes—beyond the capacity of many laboratories, and certainly beyond the everyday reach of labor officials or workers.

Luckily, Dr. Selikoff is neither a corporate patsy nor a shrinking violet. Last summer he sent off a letter to Secretary of Labor James Hodgson, warning of worker health hazards should the 12 fiber standard for asbestos be allowed to stand. "Our research," said Selikoff," in one asbestos trade—insulation work—demonstrates that work in the past in areas with levels of 2 to 3 fibers per cc of air has resulted in a very great increase of death due to cancer and to asbestosis . . . The proposed level (12 fibers) is much higher than actually now exists. It is so high as to make totally ineffective current efforts by both industry and labor to control this unhappy occupational health hazard. . . . I urge you, then, to recall this standard, and substitute one that will help protect workingmen forced to work with this dangerous material."

The Selikoff letter got results. An emergency standard of five fibers was invoked and the machinery for the recent Labor Department hearing was set in motion. Industry wants a return to the 12-fiber standard, and the unions are demanding that zero be the ultimate standard. The final decision is yet to come.

There is no way to do continuous monitoring of asbestos pollution, so some unions like the Oil Chemical and Atomic Workers (OCAW) are calling for strict "performance standards" as the only way to maintain a safe workplace environment. "Take an enclosed asbestos cutting operation," the OCAW suggests, "with the properly engineered, calibrated and tested dust collection/ventilation system. There is no need for reliance on monitoring. If the ventilator breaks down, the worker and the foreman immediately know the job is unsafe and work stops until the situation is corrected."

The Tyler, Texas, plant was represented by OCAW and it was pressure from the union which forced the National Institute for Occupational Safety and Health (NIOSH) to release data which showed very high levels of asbestos. When the information was made public, the company closed the plant, refusing to ventilate or to adopt safer methods. Some 1500 workers during the time this plant operated were not only exposed to dangerous hazards that will shorten their lives—in clear defiance of the new job safety and health law—but many were then thrown on the street without jobs. The company has a similar plant in Pennsylvania which is still doing the same work in the same way, but with no militant union to blow the whistle.

Anthony Mazzochi, the OCAW firebrand who mercilessly dogs the goverment for facts and industry for good behavior, has accused government and industry officials of a "My Lai syndrome" for covering up life-and-death information on asbestos and other hazards. The corporate decision in Tyler to keep asbestos exposure levels secret was particularly unforgivable in Mazzocchi's view, especially since Pittsburgh Corning's director of industrial medicine is Dr. Lee Grant, an official of the American College of Preventive Medicine.

"If workers were guinea pigs," said Dr. Sidney Wolfe of the Nader Health Research Group, in his testimony before the Labor Department's asbestos hearing, "and asbestos was a food additive, the Delaney Clause of the Food and Drug Act would have mandated the elimination of this carcinogenic dust from the environment long ago. However, in 1972, 12 years after the publication of data showing the relationship between asbestos exposure and mesothelioma (cancer of the lung lining) in humans, and at a time when there are now hundreds of cases of this cancer in workers exposed to asbestos, the slaughter continues."

Most of the information we have today on asbestos dangers to health comes from the relentless and no-nonsense research of Dr. Selikoff and Dr. Cyler Hammond, the great epidemiologist of the American Cancer Society whose findings led to the Surgeon General's report on smoking. In their remarkable paper presented last summer at the Bucharest International Conference on Pneumoconiosis, Selikoff, Hammond and Dr. Jacob Churg, a pathologist at Barnett Memorial Hospital in Paterson, New Jersey, released the results of a medical detective case that rivals anything out of a Sherlock Holmes story.

The Brodeur book tells a great deal about the hunt for clues which led to more data, more questions, and the search for answers. Selikoff built up a research team and was able to track down the whereabouts of 230 men who worked in a Paterson, New Jersey, plant identical to the Tyler plant. The workers at the Paterson plant had been exposed to asbestos from 1941 to 1945, and the cause of death data were accumulated between January 1, 1960 and June 30, 1971. The results of this epidemiological study were startling. Out of 333 workers, 88 had died by 1960 and 15 could not be traced. A careful study of the remaining 230 showed they were dying of cancer at five times the expected rate, of lung cancer at 10 times the normal rate, and were dying at twice the normal rate.

The government has belatedly rushed to gather information and publish it in a document called "Criteria for a Recommended Standard—Occupational Exposure to Asbestos." It is not exactly bedside reading but the NIOSH document does bristle with facts. (The cover, incidentally, tells why NIOSH has such a tough time making its voice heard: it is four layers down in the Department of Health, Education and Welfare hierarchy, under the Public Health Service and under the Health Services and Mental Health Administration—a remote place for a government agency with research and training responsibilities for 57 million workers. Moreover, NIOSH has been allotted a 1973 research budget of only $4 million.)

The NIOSH criteria document is an interim document until the final asbestos exposure level is decided upon, and it compares favorably with the HEW community air quality criteria documents for carbon monoxide, particulate matter, sulfur dioxide, and hydrocarbons. Certainly it is an improvement over the once-over-lightly documents formerly issued by the American Conference of Governmental Industrial Hygienists which provided the only major health guidelines before the 1970 Occupational Health and Safety Act.

As Sidney Wolfe points out: "The NIOSH criteria document on asbestos clearly shows the ability of industry to reduce the 8-hour weighted exposure to below 2 fibers/cc. If one or two plants can achieve this goal, there is no technical reason why all others cannot do the same."

On one point there is sharp disagreement between the NIOSH criteria document and some of the unions. How many people are exposed? The NIOSH people say "more than 200,000 people face risks from asbestos" but the OCAW testimony says that union alone represents 175,000 asbestos exposure risks. There are some 5 million building trades workers who face some risks, and asbestos is a ubiquitous substance throughout modern industry. Clearly the asbestos exposure universe is in the millions.

One corporate hangup which makes for a revealing footnote in this controversy is the union request for a skull-and-crossbones as part of the official warning symbol for asbestos. The data certainly justifies a death warning, but American industry vehemently opposes any skull-and-crossbones warning.

The enzyme story has yet to be fought with the same zeal and the same drama as the asbestos story. Industry has stepped back from all-out use of enzymes in detergents, but a new National Academy of Sciences study tends to pooh-pooh the bad effects upon consumers. So the push may be on again soon for more enzyme production and then we will have to dust off the health studies with fresh warnings about what enzymes do to workers.

It is the familiar problem of priorities and pressure-free research. Selikoff's asbestos studies are unique: they have been free of corporate hedging. And the asbestos processors are upset. Johns-Manville, Selikoff notes, even trailed him to South Africa to listen in while he read an academic paper. The NIOSH drawing board, sadly, has plans to research only a few of the many thousand workplace health hazards. The story of asbestos and enzymes are but small samples of what we can expect when the workplace environment is thoroughly researched, studied, and protected from the ravages of unchecked technology.

HARBOR AT NINILCHIK

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BEGICH. Mr. Speaker, the present Ninilchik Small Boat Harbor in the State of Alaska is inadequate, expensive to maintain, and is in need of replacement. This is an issue of concern to the people of the Kenai Peninsula area, as they are dependent on the fishing industry, and thus need adequate boat harbor facilities.

I have recently received a copy of a resolution by the assembly of the Kenai Peninsula Borough requesting a study of the Ninilchik Small Boat Harbor facilities with a view toward construction of a new offshore harbor. I am including a copy of this resolution in the RECORD for my colleagues' attention:

A RESOLUTION REQUESTING A FEASIBILITY STUDY OF THE NINILCHIK SMALL BOAT HARBOR FACILITIES

Whereas, the Ninilchik Small Boat Harbor is dangerously overcrowded because of an increasing use of the small facility by commercial and sport fishermen and becomes a fire hazard at low tide, and

Whereas, the Ninilchik Small Boat Harbor is near the geographic center of the salmon fishing activity in Cook Inlet and is vitally important as a harbor of refuge for the fishermen of Cook Inlet, and

Whereas, the economy of the Kenai Peninsula in general, and the Ninilchik area in particular, is dependent on the fishing industry and needs expanded small boat harbor facilities, and

Whereas, the present Ninilchik Small Boat Harbor is inadequate, expensive to maintain, and should be replaced, and

Whereas, the U.S. Senate Public Works Committee adopted a resolution on July 21, 1970 requesting a feasibility study for the Ninilchik Small Boat Harbor but it has not been subsequently funded.

Now, therefore, be it resolved by the Assembly of the Kenai Peninsula Borough:

1. That the State of Alaska Division of Waters and Harbors is hereby requested to make a study of the Ninilchik Small Boat Harbor facilities to aid the request of the Ninilchik Chamber of Commerce and the Kenai Peninsula Borough in renewing their request for funding of the approved feasibility study for construction of a new offshore harbor at Ninilchik.

2. That copies of this resolution be transmitted to the Honorable Ted Stevens, U.S. Senator; the Honorable Mike Gravel, U.S. Senator; the Honorable Nick Begich, U.S. Representative; the Honorable W. I. "Bob" Palmer, Alaska State Senator; the Honorable Clem Tillion, Alaska State Representative; the Honorable Keith Specking, Alaska State Representative; George W. Easley, Commissioner, Alaska Department of Public Works; Don Statter, Director, Division of Water and Harbors.

TRIBUTE TO OLLIE CRAWFORD BY SENIOR CITIZENS

HON. BOB CASEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. CASEY of Texas. Mr. Speaker, I would like to bring attention to the fact that the Jasper, Tex., chapter of the Texas Senior Citizens Association is today paying tribute to Mr. O. R. Crawford, one of Jasper's leading citizens and a personal friend of many of us here in Congress.

As a tribute to Mr. Crawford, I would like to share with you a resolution forwarded to me by Mr. H. A. Poole, president of the Jasper Jewels Chapter of the Texas Senior Citizens Association. The resolution reads as follows:

A RESOLUTION

Whereas Mr. O. R. Crawford, Vice-President of Eastex Inc. and General Manager of Southwestern Timber Company has exerted considerable leadership for the betterment of our Community, and

Whereas through this leadership Mr. O. R. Crawford members of his staff, and his many dedicated friends have made unselfish contributions to the welfare of the citizens of Jasper, and.

Whereas through his interest in all the citizens of our community; both young and old, have had the opportunity to participate in a more meaningful and productive life, now be it therefore

Resolved that the members of this Jasper Jewels Chapter of the Texas Senior Citizens Association duly recognize with grateful appreciation the contributions made to this organization by Mr. O. R. Crawford and commend him for his outstanding example of community spirit and compassion to his fellow citizens, and be it further

Resolved that a copy of this resolution be forwarded to the Honorable Marvin P. Hancock, Mayor, the City of Jasper, the Honorable T. Gilbert Adams, County Judge, Jasper County, Honorable Preston Smith, the Governor of the State of Texas, and the Honorable R. L. Jones, President of the Texas Senior Citizens Association.

This resolution is hereby presented for vote to the General Membership of the Jasper Jewels Chapter of the Texas Senior Citizens Association in its regular monthly meeting Tuesday, May 2, 1972.

I would like to join Mr. Poole and his organization in honoring this outstanding citizen of Texas who has contributed so much to the senior citizens of his community.

ANNUAL FUNDRAISING BY NATIONAL MULTIPLE SCLEROSIS SOCIETY

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BELL. Mr. Speaker, May 14 marks the beginning of the annual fundraising drive by the National Multiple Sclerosis Society. This event will continue until June 18.

Multiple sclerosis—MS—is well termed the "crippler of young adults." This disease affects an estimated 500,000 people in our country, generally between the ages of 20 and 40. The cure has not been found, but research continues and the outlook is promising.

MS is a neurological disease of the central nervous system—the brain and spinal cord. These areas affect the major motor and sensory systems of the body. Important and vital body functions such as walking, eating, seeing, and hearing are controlled by the brain and spinal cord.

It is estimated that 2 million American family members are personally involved with the heavy economic burden that accompanies MS. In an era of medical and technological advancements, it is tragic that no cure has been found for such a crippling and frightening disease as multiple sclerosis.

Approximately 200 local chapters of the National Multiple Sclerosis Society are scattered throughout the country to administer the society's community and patient service programs. These chapters receive 60 percent of the gross funds of the society. They are dedicated to the victims of this disease and their families and often provide the groundwork for the beginning of a productive and meaningful life for the MS victim.

National headquarters receive the remaining 40 percent of the funds. These funds are channeled into the programs of research, professional education, public information, and supporting services. The society is the only national voluntary health agency in the Nation engaged in the support of research for MS. All of its programs and services are supported by voluntary contributions by the public.

It is my fervent wish that my colleagues will join me in a salute to this organization and its many chapters. We should all be appreciative of their continuing services and research so that the generations to come might not be burdened by this disease.

I would like to acknowledge the Sherman Oaks, Calif. Chapter of the National Multiple Sclerosis Society and especially thank Mrs. Ann O'Halloran, chairman, for her time and the information she has made available to me. Ann is the young mother of seven children who was stricken with MS 5 years ago and who has since been confined to a wheelchair. Her dedication and service are sources of hope for the numerous MS victims across the country.

At this time, I urge support of this annual drive. The continued success of the society depends on the contributions received. We must not disappoint the National Multiple Sclerosis Society or the many MS victims. They need and deserve our assistance and support.

DISAPPOINTING AGREEMENT BETWEEN CANADA AND THE UNITED STATES ON GREAT LAKES WATER QUALITY

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. VANIK. Mr. Speaker, the President is to be commended on his recently completed state visit to Canada. His visit is a firm indication of the desire of everyone in our Nation to maintain and improve our relations with our northern neighbor.

The full text of the agreement which has been signed by the Governments of Canada and the United States concerning the water quality of the Great Lakes is now available. This agreement is a severe disappoinment to all of us in the Great Lakes States who are concerned about the preservation of the lakes.

The agreement continues the unsuccessful and outmoded pollution control policies of the past—the same policies which have failed so badly in the past—and which will fail to solve the pollution problems of the future.

Discussion of an international agreement on the Great Lakes held out the promise and potential for coordinated termination of pollution discharges into the lakes, and uniform controls over State laws concerning offshore oil and gas drilling.

A strong agreement could have helped end the pollution disaster on the Great Lakes. Instead, the agreement is a disaster.

The agreement is much weaker than either the recently passed House and Senate water pollution control bills. Since Executive agreements have the force of law, this agreement may confuse the administration of the pollution laws being passed by the Congress.

WATER ZONING

The agreement provides for a continuation of the policy of zoning water for various quality uses. As past history has shown, many Great Lake regions have been zoned for a level of water quality in which sludge worms can barely survive—yet this policy is now continued. A description of what water zoning can mean is vividly presented in a recent

Corps of Engineers report about the Cuyahoga River:

> In the reach below the Southerly plant, water quality is further reduced by discharges of large quantities of industrial wastes from steel and chemical processing plants. The river is grey, septic in pools, and odorous. Water temperature in this reach is also substantially increased by the discharge of spent cooling water from industries. The water, diverted into the old Ohio Canal upstream, now returns to the river as industrial wastewater. The long detention time in the navigation pool, lack of appreciable mixing, and the discharge of large quantities of oxygen-demanding compounds into this reach, lowers DO in the pool substantially; the river water is almost totally devoid of oxygen during low flow summer months.
>
> In a biological survey of this reach, only a few sludgeworms and midge larvae were found in occasional riffles upstream. Some aquatic life was also detected at the bottom in the extreme downstream reach where lake water extends under the river due to density stratification. The environment is also unsuitable for nitrifying bacteria, and this accounts for the build up of a large concentration of ammonia in this reach. This ammonia is carried into the lake where it eventually exerts its oxygen demand.

MERCURY AND PHOSPHORUS IN LAKE ERIE

The agreement permits the continued accumulation and deposit of phosphorus and toxic materials in the lakes. The level of mercury in Lake Erie has been rising during the past decade, yet the agreement states only that there should be a "substantial elimination of discharges into the Great Lakes System of mercury and other toxic heavy metals." Rather than banning outright these poisons in our waterways, we are being told that the amount of poison entering the Great Lakes will only be reduced. Similar permissive standards are set for pesticides, and—even more frightening—radioactive materials.

While the agreement sets a goal of lowering the level of phosphorous in the lakes, it fails to eliminate an amount of phosphorous that it required to revive the lakes—particularly Lake Erie. As an addendum to the agreement admits, the phosphorous control goal set for Lake Erie over the next 5 years still permits twice the amount of phosphorous to enter the lake as the lake can assimilate. A goal has been set—yet the goal will not save Lake Erie. Ontario has banned the use of high phosphate detergents—the agreement could have extended that ban to the American side of the lakes.

OIL ON TROUBLED WATERS

The agreement does, for the first time, provide coordinated controls on the shipping of oils and toxic materials on the lakes. This is important because of the heavy volume of oil and oil products which are daily transported on the Great Lakes.

The International Joint Commission on the Great Lakes has repeatedly warned about the grave dangers of large oil spills or oil well blowouts within the confined waters of the Great Lakes.

We have already suffered a number of major oil accidents on the Great Lakes. In a letter to my office of September 14, 1970, from the Corps of Engineers, the following record of accidents were reported:

> SEPTEMBER 14, 1970.
>
> Hon. CHARLES A. VANIK,
> *House of Representatives,*
> *Washington, D.C.*
>
> DEAR MR. VANIK: This is in response to your letter of 13 August 1970 requesting information on the history of major oil spills on the Great Lakes.
>
> A major oil spill as defined by the U.S. Coast Guard involves a quantity of 10,000 or more gallons of oil. Our records indicate such spills, as follows:
>
> 1. 2 December 1942—Barge *Cleveco* sank in Lake Erie about nine miles out of Cleveland Harbor, carrying one million gallons of oil. A considerable amount of this oil was lost at the time of the sinking. Several years later when the barge was salvaged, there was no oil aboard the vessel.
>
> 2. 13 November 1966—Tanker *Mercury*. A submerged hose was accidentally disrupted at unloading site, immediately Northerly of Harrisville Harbor, Lake Huron, Michigan. this unloading site accommodates U.S. Air Force Station, Wurtsmith, Michigan. Check valve difficulties allowed 160,000 gallons of JP 4 jet fuel to flow from a storage tank into Lake Huron. Detroit District Engineer reported the incident to the Federal Water Quality Administration and the U.S. Coast Guard.
>
> 3. 18 April 1967. Mackinaw Island College, Mackinaw Island, Michigan. No. 2 fuel oil escaped from storage tanks and entered Lake Huron. USCGC SUNDEW reported oil slick to be 4,000 yds. by 700 yds. At 1/1000 of one inch thickness spread over 70% of water surface, this would be approximately 12,000 gallons. After investigation by U.S. Coast Guard, ruptured pipe was found on the College fuel receiving dock.
>
> 4. 19 September 1967—General American Milwaukee Terminal. A leak from a storage tank through an abandoned drain allowed 800 barrels or 33,600 gallons of No. 2 fuel oil to spread into Lake Michigan.
>
> 5. 19 September 1967—Indiana Harbor, Indiana. Oil slick of unknown amount that stretched along a 75-mile area.
>
> 6. 27 May 1968—American Oil Company, Whiting, Indiana. Visible amounts of oil originating from cooling water outfall, quantity unknown but enough to cover a 1 x 4 mile area.
>
> 7. 22 April 1969. Chrysler Corporation, Trenton, Michigan wasted 117,000 gallons of Resin Soap and Oil in Monguagon Creek No. 2 which empties into Detroit River (Trenton Channel). Investigated by Michigan Water Resources and U.S. Coast Guard and Federal Water Quality Administration. Samples from Detroit River (FWQA) Monguagon Creek No. 2 (MWRC) and waste pond (MWRC) had very close resemblance to "Dresinate—95. One sample contained 37% oil. Thus, about 43,000 gallons of oil wasted into Detroit River. Detroit District referred to Department of Justice. Action by Department of Justice in progress.
>
> Sincerely yours,
>
> WILLIAM G. STEWART,
> *Colonel, Corps of Engineers.*

The Commission further noted that on any one navigation day on Lake Erie alone, there were an average of 22 lake freighters, four large tankers, and seven deep sea freighters carrying an estimated 120,000 barrels of oil as either fuel or cargo.

OIL AND GAS DRILLING

Unfortunately, no direct mention is made of controls on oil and gas drilling—drilling which has the potential of creating a Santa Barbara type blowout on the confined and slow-moving waters of the Great Lakes.

The lands under the waters of the Great Lakes not under the control of the Government of Canada are under the control of the various Great Lakes States—unless a U.S. treaty with Canada is developed controlling these lands. These States—and Canada—have a variety of regulations governing oil drillings on the lakes. For example, while at the current time there is a voluntary but temporary moratorium among the States on exploration and drilling for oil and gas from land under the waters of the lakes, the various States have almost no permanent controls on these operations. Further, the Province of Ontario has permitted some 32 drillings and brought in 14 gas wells on Lake Erie. Canada has leased 3.1 million acres of bottom land for drilling purposes.

As a result of its study, the International Joint Commission recommended that oil production and the production of "wet gas," containing appreciable amounts of liquid hydrocarbons from wells in Lake Erie, be prohibited and that all wells in Lake Erie capable of oil production be adequately plugged and that all drilling in the western basin of Lake Erie be totally prohibited. These recommendations are particularly important when one considers that though the Great Lakes Basin is not an active earthquake zone, we have experienced several major earthquakes during the last 100 years. An example of the type of oil well accident which can develop is the abandoned well in Lake Erie 30 miles north of Port Clinton, which recently sprung a leak and spewed out an unknown quantity of oil creating three slicks up to 3,000 feet long.

CONTROLS ON THE PLACEMENT OF POLLUTED DREDGINGS

One of the better points in the whole agreement is the mention of the development of controls on methods of dredging and disposal of dredged materials. Dredging controls are particularly important to Lake Erie.

Of the 10.8 million cubic yards of material dredged from Great Lakes harbors each year, 63 percent comes from Lake Erie harbors and the disposal of these dredging in the open waters of the lake would account for 8 percent of the total sediments and dissolved solids reaching the lake. In 1967, 660,000 tons of dry solids were dredged from Cleveland Harbor. It is estimated that this material contained 17,600 tons of oil and grease. If this material is stirred up and dumped in the open waters of the lake, it obviously is a serious source of additional pollution.

While the Federal Government, after a great deal of urging, is now placing the dredgings from many polluted harbors in diked disposal sites, so as to avoid further pollution of the waters of the lakes, I am concerned about the adequacy of designating only 35 harbors for this program. In a letter from the Office of the Chief of Engineers of June 21, 1971, I was given a list of the harbors where dredgings were being placed in land or diked disposal sites. That list did not include all the harbors which are considered polluted. In fact, on Lake Erie, material from nine polluted harbors is being dumped in open water; on Lake Ontario, the dredgings from two polluted harbors are being dumped in the open lake. On Lake Superior there are three such cases, and on Lake Huron, one such case. In a letter which I received from the corps on March 21, 1972, I was informed that about half of the material being dredged in the Cleveland area will be dumped in the open lake because of a lack of space in the confined disposal site.

PRIVATE EXCAVATION OF SAND NEEDED FOR PUBLIC PURPOSES

I am further concerned over the failure of the agreement to limit the removal of certain minerals from the lakes. For example, enormous amounts of sand and gravel are being dredged from the lake bottoms. At the present time, sand is being taken for commercial purposes from some 23 different locations in Lakes Michigan, Huron, and Erie. Nearly 800,000 cubic yards of sand and gravel are taken from Lake Erie each year. Some 350 million cubic yards of sand deposits have just been discovered in Lake Ontario and we may expect dredging to begin there in the future.

There are three questions at issue here.

First. Does the removal of this sand and gravel, a natural filtration system, hurt the ecology of the lakes. It seems to me that as the waters of our polluted lakes wash up on sand beaches they are to some extent filtered and purified. Sand deposits on the bottoms of the lakes may serve the same purpose as currents pass over them and as some of the water filters downward.

Second. The removal of this sand by commercial dredgers creates new gradients in the lake that may speed up the rate of erosion along the shore. Three months ago I received a letter from a homeowner in Geneva, Ohio, who said:

> For years, I have watched the beach on my lake front property receding, knowing full well that the sand dredge that works between Painesvile and Ashtabula is adding to the problem. I, personally, have spent thousands of dollars erecting jetties into the lake to prevent this erosion, but it is a losing battle.

Third. Finally, the sand and gravel in the lake is a valuable natural resource which could be used by local governments or by the Corps of Engineers to help stop the massive erosion which is destroying hundreds of homes and threatening public property and roads along the lakeshores. The U.S. Army Corps of Engineers recently completed their national shoreline study. The study found that on the Great Lakes there were 214.3 miles of shoreline eroding at a critical rate. The cost of protecting these shorelines, which are usually heavily developed, is estimated at $127 million. In many of these areas, sand and gravel placed along the shore can help stop this erosion. Yet as the corps report further notes:

> Sand is a rapidly diminishing natural resource.

FEDERAL FINANCIAL AID FOR THE GREAT LAKES

Finally, in the joint communique issued from Ottawa, it is reported that the United States will commit some $3 billion during the next 5 years, mainly in new sewage treatment systems, to help clean up the lakes. One can only comment that 2 months ago the administration canceled an EPA proposal to commit $141 million in fiscal year 1973 to clean up the 12 most polluted areas on the Great Lakes. In addition, a special $3 billion commitment to the Great Lakes Basin is only slightly above what the Senate passed water pollution control bill would routinely provide. Further it is nearly $1 billion under what the House bill would routinely provide to the Great Lakes Basin.

In sum, the agreement is a terrible disappointment. It ends where it should begin. It is obvious that the Federal commitment to cleaning up the Great Lakes will have to be substantially strengthened in the years ahead.

DR. FRANK L. BOYDEN

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BOLAND. Mr. Speaker, Dr. Frank L. Boyden, headmaster of Deerfield Academy for the almost unheard of term of 66 years left a mark on American education that will endure long after his death. Dr. Boyden succumbed last week at his Deerfield home, still within a stone's throw of the school he single-handedly built into an institution of international fame.

He took over Deerfield Academy in 1902, fresh out of Amherst College and looking for a place to study law undisturbed. Once at Deerfield, however, his interest in the law vanished. He had found a challenge that would occupy the rest of his life. Deerfield, at the turn of the century, was little more than a dying village school—its boarding department long since abandoned, its enrollment down to a handful. The school could not even field a full baseball or football team: Dr. Boyden, a small and agile man, became Deerfield's quarterback and first baseman.

Under his stewardship Deerfield Academy slowly evolved into one of the finest preparatory schools in the country—many contend the finest—yet Dr. Boyden never stood aloof from the boys who went there. Always finding time to chat with them, always goading them or lecturing them or kidding them into better work in the classroom and on the athletic field, Dr. Boyden helped thousands of boys to reach their full potential. As the late John Gunther wrote:

> He probably knows as much about boys between the ages of 14 and 18 as anybody alive.

As Deerfield's perspectives broadened, so did Dr. Boyden's. He was a trustee of many other schools, chairing the University of Massachusetts' board during that institution's remarkable spurt of growth in the 1960s.

I am sure my colleagues join me in expressing sympathy to Dr. Boyden's wife and children.

Mr. Speaker, I put in the RECORD a Springfield, Mass., Daily News editorial on Dr. Boyden and a New York Times article.

DR. BOYDEN LEAVES A RICH HERITAGE

In his 66 years as headmaster of Deerfield Academy, Dr. Frank L. Boyden had a profound influence on the shape of private school education in New England and throughout the United States.

His longevity record at Deerfield is probably without parallel in the annals of private or public education in this country. But quality of service and length of service—significant as they are—do not tell the entire story of this outstanding educator.

Dr. Boyden was, of course, a dedicated believer in the benefits of preparatory school education. He not only had to believe but to work tirelessly to transform a struggling academy with a faculty of one—himself—into a multi-million dollar facility with a national and even international reputation.

But, Deerfield's headmaster did not become a private school recluse who unilaterally proclaimed the superiority of his system and then shut his eyes to the rest of the education world.

Instead, he compiled a long and distinguished record of public service, including chairmanship of the board of trustees at University of Massachusetts and membership on the boards of other prep schools and colleges. In 1969, Dr. Boyden was cited by President Lyndon B. Johnson for "distinguished service to the nation."

Deerfield Academy, the New England community, and American education—private and public—have indeed lost a friend and champion. Dr. Boyden's death, at the age of 92, is a loss to us all. But there is the consolation that he leaves a rich educational heritage behind.

[From the New York Times, Apr. 26, 1972]

FRANK L. BOYDEN, 92, PRINCIPAL OF DEERFIELD ACADEMY, IS DEAD

(By Farnsworth Fowle, dean of headmasters)

DEERFIELD, MASS., April 25.—Frank L. Boyden, who came to Deerfield Academy in 1902 as principal of a dying village institution and made it a notable preparatory school for boys, died this morning at his home here. Mr. Boyden, who retired as headmaster in 1968, was 92 years old.

For over 60 years Deerfield Academy evolved around the quietly dominating personality of Frank Learoyd Boyden, one of the most original and eventually the best known American headmaster of his times.

The late John Gunther wrote that "he probably knows as much about boys between the ages of 14 and 18 as anybody alive."

Mr. Boyden, who held many honorary degrees, found his vocation by accident. He was born and grew up in Foxboro, Mass. On graduation from Amherst College in 1902 he needed money to study law and enter politics, the family foundry business having been wiped out by fire. He took the job in Deerfield, 10 miles from Amherst, as a chance to save and to start reading law books.

Deerfield Academy, founded in 1799, had 15 boys and girls as day pupils when Mr. Boyden took over the rickety old building that fall. The boarding department had long since lapsed.

The school could not field a full football or baseball team in his early years, and Mr.

Boyden, as coach, took on the additional duties of quarterback and first baseman. Opponents didn't object; Mr. Boyden was shorter and lighter than most of his players.

In athletics, he started early a pattern of good sportsmanship and outright courtesy to opponents, during as well as after a game.

As builder of this tradition, he received the Distinguished American Award of the National Football Foundation at its Hall of Fame dinner last December at the Waldorf-Astoria Hotel.

Mr. Boyden had an easy, unassuming way with the pupils—and with their parents. A Yankee in character and accent, he was not long in making himself at home in Deerfield, where the ancient houses, elms and perhaps even the personalities of 17th-century New England were well preserved.

He also made friends with the newer settlers on the farms up and down the Pocumtuck Valley. By 1904 enrollment at the academy had risen to 62.

In 1905, against what he later called his better judgment, he hired a young local woman, Helen Childs, a year out of Smith College and with less teaching experience than his own. Her humor was swift and warm; his was slow and dry. They were married in 1907. Mrs. Boyden, who turned out to be a natural teacher, coaxed six decades of students through mathematics and chemistry.

Mr. Boyden abandoned the classroom as soon as he had the teachers he wanted. Over the years he enlisted drillmasters of the old school, hearty young athletes fresh from college triumphs and others with the gift of stimulating a love of learning. He left them alone, explaining:

"If they don't know more about what they're teaching than I do, they shouldn't be here."

The boarding department was revived in World War I after out-of-town parents began arranging to board their sons in the village so that they could attend the academy. But there was no switch to the style of the fashionable preparatory schools of the day.

Every boy took his turn at chores, such as waiting on tables and raking leaves. Mr. Boyden was generous with scholarship aid but tried to keep it secret, even from the recipients. Every boy was made to feel a duty as host to go up to any stranger in Deerfield and ask if he could be of help.

Then and later, Mr. Boyden was not much given to lecturing his charges. His admonition, whether to one boy or to the whole school seated before him every evening on the carpeting of the school living room, was in the nature of a swift and penetrating aside.

A favorite maxim was: "There's nothing in the world like good hard work."

Deerfield's old school building was condemned in 1928, and a new fund-raising effort ran into the Depression. But Mr. Boyden and his old-fashioned, new-fashioned institution won new supporters. In 1931 a red-brick Georgian building opened on the old site facing the village common.

In later years Mr. Boyden served many other schools and colleges as a trustee. He was chairman of the trustees of the University of Massachusetts, which is located in Amherst, during its rapid expansion in 1960–'70.

A canny politician, he was able to persuade the Massachusetts Legislature in 1962 to grant the university much greater autonomy. Used to handling the reins of authority in his own institution, he became known to fellow-trustees from the eastern part of the state as "the fastest gavel in the West," as recounted in John McPhee's biography. "The Headmaster: Frank L. Boyden of Deerfield," published in 1966.

When he yielded his Deerfield post to David M. Pynchon, now headmaster, Mr. Boyden kept on giving much time and energy to a successful $20-million fund-raising drive; the school's endowment now exceeds $15-million. In failing health this spring, he nevertheless appeared briefly at the Franklin County alumni meeting here April 4 and at the Western Massachusetts Football Hall of Fame, of which he was a founder, on April 11.

Surviving are his widow; two sons, John C. of Yarmouth Port, Mass., and Prof. Theodore C. Boyden of Atlanta; a daughter, Elizabeth Boyden of Deerfield, and two grandchildren.

The funeral will be private. A public memorial service will be held at the academy on Thursday at 2 P.M.

NATIONAL ACADEMY OF SCIENCES PREFERS POLITICS TO RESEARCH

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. RARICK. Mr. Speaker, scientific exploration has now achieved a new dimension in America.

The National Academy of Sciences voted 44 to 24 against a proposal by Nobel-winning physicist William B. Shockley to review the evidence on heredity versus environment in determining intelligence. Then the same scientific body, with only two or three reported "nays" passed an antiwar resolution.

Our learned minds in the field of scientific research appear satisfied to abdicate their responsibilities to man and humanity while officiously using their prestigious positions of responsibility to interfere in solving crises in which they have little knowledge or expertise.

Following the new scientific contributions to humanity, Professor Shockley has now been prohibited at Stanford University to teach a graduate course on the "dysgenic question: new research methodology on human behavior genetics and racial differences."

Quite interestingly enough, the refusal to authorize the course was based upon doubts as to Professor Shockley's expertise for teaching the course.

Yet we have heard no overtures from the intellectual community regarding the lack of expertise of others in the scientific field concerning military operations, international diplomacy, or foreign relations. The antiwar scientists are lauded as courageous heroes for their actions against the war, while Dr. Shockley is denounced and persecuted because he dares suggest to the scientific community the crying need for research and data compilation to combat the illusion of flat human equality which as he says is "far more threatening to the future of the United States than was the flat earth illusion to the future of Italy in Galileo's day."

Related newsclippings follow:

[From the Washington Post, Apr. 27, 1972]

ANTIWAR STAND APPROVED BY SCIENCE GROUP

(By Victor Cohn)

In an unprecedented antiwar protest, the National Academy of Sciences yesterday urged President Nixon and Congress to de-emphasize U.S. "reliance on military force."

Instead, voted the country's leading body of scientists, the nation should develop foreign policies to use its huge technological skills to advance other peoples' welfare.

Several academy members felt that the statement was a thinly veiled anti-Vietnam war resolution. Academy President Philip Handler told a news conference that he "personally" opposed the war when the build-up began and "I disagree with bombing of the North."

In other important actions this week, the group:

Voted 44 to 24 against the latest proposal by Nobel-winning physicist William B. Shockley to review the evidence on heredity versus environment in determining intelligence. It was a rebuff for his attempt to spur research to test his belief that black intelligence is lower than whites' on the average. But his past resolutions have been tabled. He called the vote "encouraging" and said he would keep trying.

Approved a sweeping reorganization of the academy's research arm, the National Research Council, to put new multi-disciplinary departments and more full-time staffs to work on the growing number of jobs being given the academy of Congress and the government. These include monitoring automakers' ability to build clean-air cars and, in a bill passed by the House judging whether new clean-water standards can be met.

Voted to give members more opportunity to review agreements with the military to do classified studies. Such studies represent only 2 per cent of the group's $35 million annual budget, but include such sensitive subjects as undersea war and learning to counter act enemy land mines.

Prof. Alexander Rich of the Massachusetts Institute of Technology introduced yesterday's antiwar resolution. It was passed with only two or three nays by the 125 members present of the 750-member organization.

Among other prominent scientists attending were Harvard Prof. George Kistiakowsky, science adviser to President Eisenhower; Emanuel R. Piore, retired chief scientist of IBM and Harrison Brown of California Institute of Technology, the group's foreign secretary.

CIVIL, MILITARY STUDIES

The self-electing but federally chartered academy includes most of the nation's leading researchers. The government relies on it heavily for both civil and military studies, and for its more than 100-year history the group has generally leaned over backward to avoid tangling with any administration.

But now, Handler said, many members "feel strongly that there are larger moral issues in the world, and the academy has a right to express its views."

What their resolution tries to say, he added, is that "reliance on military force will not solve" the world's most pressing problems, but also that the United States should deploy its brains and resources to help solve them "rather than build a Fortress America and say 'to hell with it.' "

Yesterday's move to give members a greater chance to comment on use of their brains for the military came in response to severe prodding by strongly anti-militarist members.

RESIGNS IN PROTEST

Last year University of Chicago Prof. Richard Lewontin resigned to protest any secret military studies. The group finally accepted his resignation yesterday, but deferred action on a similar act by Cornell's Bruce Wallace.

Members hoped Wallace might be satisfied with yesterday's vote: to send all members brief unclassified descriptions of all classified programs, then give them three months to object and even send a delegation to Washington before any contract is signed.

Academy leaders fully expect to continue to accept secret projects. Vice President Kistiakowsky recently urged fellow scientists to continue to cooperate with the military, although he himself has refused to join in war projects because he opposes the Vietnam fighting.

"It's a complicated situation," he commented yesterday. "But we should not let the military become isolated, as has happened in some foreign countries."

[From the Washington Post, May 1, 1972]

STANFORD BARS COURSE ON GENETIC DIFFERENCES

STANFORD, CALIF.—Stanford University's administration has decided against allowing controversial Nobel Prize-winning physicist William F. Shockley to teach a graduate course on "dysgenics"—the negative evolution of genetic traits.

Shockley's course, "The dysgenic question: new research methodology on human behavior genetics and racial difference," had been undergoing intensive review by a faculty committee since early February. The decision was announced today by Lincoln E. Moses, dean of graduate studies.

A professor of electrical engineering, Shockley was a coinventor of the transitor in 1947. He received the Nobel Prize for his work in 1954.

"I will not authorize the course," Moses wrote in a letter to Shockley. "Your expertise for teaching this course is subject to doubts . . . (and) the level of objectivity on the proposed course is at least as troubling; the reading list is directed almost wholly to your own views; your description of the course displays it as polemical—a quality not generally objectionable in a professor's communications, but inappropriate to his classroom instruction."

Commenting on the decision, Shockley said he was seeking a forum to "combat the illusion of flat human equality, an illusion that I interpret as so central to the thinking of the graduate school administration at Stanford, as to exclude a sincere search for truth. The flat human equality illusion that thwarts objectivity is, in my opinion, far more threatening to the future of the United States than was the flat earth illusion to the future of Italy in Gallileo's day."

Shockley's classes at Stanford have been disrupted three times since January. Several students are being prosecuted through the campus judicial system for their alleged roles in the disruption, while eight persons face misdemeanor charges in Palo Alto Municipal court.

Last Wednesday, the National Academy of Sciences again vetoed Shockley's request that the group sponsor a study of his theory that heredity, not environment, is the major factor in determining human intelligence.

VETERANS ARE GOOD HOME LOAN RISKS

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. SHOUP. Mr. Speaker, I want to share some good news with you and my colleagues concerning the helpfulness and effectiveness of the GI bill loan program since enactment by the Congress during World War II.

In Montana and nationally more than 50 percent of the GI loans made to our servicemen and families have been repaid. Recently Charles C. Walter, director of the Fort Harrison Veterans' Administration Center, Mont., acknowledged "veterans are good risks" as he received final payment on GI loan No. LH 24351.

The VA director pointed out that 17,910 GI loans, totaling $181,775,999 have been made in Montana since the program began. More than half have been marked "paid in full." The recent repayment was made by a Billings couple who purchased their home in 1970, remodeled it, and plan to live there indefinitely.

Nationally over 7,900,000 loans have been repaid.

Vietnam veterans and servicemen who have served at least 181 days and veterans of World War II and Korea who served more than 90 days are eligible for GI home loans. Also eligible are widows of veterans who died as result of service-connected disabilities and wives of men missing in action or held prisoner of war.

Our dedicated servicemen and veterans deserve our salute, gratitude and continued support.

Thank you, Mr. Speaker.

FUND FOR HIGHER EDUCATION (IN ISRAEL)

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. GONZALEZ. Mr. Speaker, there is a unique organization in this land dedicated to the encouragement of higher education. This group is known as the Fund for Higher Education (in Israel). You will note that the "in Israel" is in parenthesis. This has been deliberately established by the founders to indicate that the Fund has a special concern for Israel, but its activities are not restricted to the country. It recognizes that Israel is America's ally in the Middle East and merits support but has few resources from which to gain that support. The Fund for Higher Education (in Israel) also recognizes its responsibility to America. The Fund so orders its priorities that its major investments go to Israel and a lesser, but still meaningful sum goes to American institutions.

Organized toward the end of 1970, the Fund has achieved a remarkable record. Already five important buildings are in the process of construction in Israel at Hebrew University, the Weizmann Institute and the Tel Aviv and Tel Hashomer Medical Centers affiliated with Tel Aviv University. The University of Southern California is now constructing a new School of Pharmacy which will contain a $150,000 student lounge sponsored by the Fund. A major project is under consideration which would involve Harvard and the Massachusetts Institute of Technology.

The Fund for Higher Education (in Israel) has been spurred to new heights by a Texan who will be honored at a tribute dinner on June 3 in San Antonio. He is Georges A. Hanzi, a business executive, sportsman, and a man with a strong sense of civic responsibility and a philanthropist. He is a Texan with a heart for the world.

Mr. Hanzi is vice president and director of Daylin, Inc., a New York Stock Exchange company, and serves as president of its San Antonio based chain of Handy Dan Home Improvement Centers. A former Navy pilot and a yachtsman of great skills, Mr. Hanzi also makes time for fulfilling civic responsibilities at local and national levels. He was a member of President Johnson's Council on Recreation and Natural Beauty and toured the Nation to promote the Discover America program as well as San Antonio's HemisFair '68.

On June 3, Mr. Hanzi will receive the Flame of Truth award of the Fund for Higher Education (in Israel), a unique honor signifying his vital contribution to the development of the Fund.

Guilding the destinies of the fund, in addition to its officers and directors, are an outstanding board of advisers and board of trustees. The board of advisers include the Honorable Abe Fortas, former Associate Justice of the U.S. Supreme Court; Alexander Goldberg, president of Technion; Dr. Albert B. Sabin, the discoverer of Sabin oral polio vaccine and president of the Weizmann Institute; Dean William Haber of the University of Michigan; Dr. Joseph J. Schwartz, renowned Jewish leader; Dr. George S. Wise, chancellor of Tel Aviv University; Aviad Yafeh, special consultant to the Jewish Agency in Israel; and Teddy Kollek, mayor of Jerusalem. The chairman of the board of trustees is Jerry M. Sudarsky, business executive and founder of the Truman Center for the Advancement of Peace. Others on the board are Jack Benny and Theodore Bikel of the entertainment industry; Marcus Glaser, Charles Krown, Allan Lararoff, and R. N. Slater, business executives; and Maj. Gen. Chaim Herzog, former Israeli chief of military intelligence.

Officers of the fund are Amnon Barness, chairman of the board and president; Samuel D. May, vice chairman of the board; Max Candiotty, Major Kurt Rodan, Dave Finkle, Albert B. Glickman, and Boris Young, vice presidents; Leon Beck, treasurer; Alvin M. Levin, secretary; Richard J. Segal, assistant treasurer; and Robert Hersh, assistant secretary.

The directors are Messrs. Barness, Candiotty, Finkle, Glickman, May and Young, as well as Sidney Kline, S. Jerome Tamkin, Charles Watt, and Eugene L. Wyman.

J. Norman Alpert, and the Texas honoree, Georges A. Hanzi, serve as project coordinators, Gerald J. Mehlman as general counsel, and Peter Grant as public information coordinator.

These are the man of the fund. These are the men that hold that every level of education requires support from preschool through graduate level. The very strength of the Nation comes from its end result—the output at the top—the educated elite. This is the area the fund chooses to support.

In recognition of their outstanding goals and significant achievements and their hopes for the future, Mr. President, I urge a vote of confidence to these devoted individuals for the task they have undertaken and ask you to join me in congratulations to Mr. Hanzi on his singular honor.

PAMPA JAYCEES' MODEL CONGRESS: MODEL PROGRAM IN POLITICAL EDUCATION

HON. GRAHAM PURCELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. PURCELL. Mr. Speaker, it has been a little more than 1 year since we approved the 26th amendment to the Constitution which granted our young citizens between the ages of 18 and 21 the right to participate in the leadership of this country.

I supported the 18-year-old vote because I had confidence in the youth of our Nation and knew that if given the opportunity, they would make an invaluable contribution to our political system.

Mr. Speaker, I bring up this subject because I have recently viewed a most encouraging display of student maturity and enthusiastic interest in the working of the legislative process. A short time ago I was given the chance to participate in a model congress in Pampa, Tex., in which over 150 high school students from cities throughout the Texas Panhandle experienced some of the frustrations, the satisfactions, and the thrills that come from personal involvement in the mechanics of government. I am impressed because what I saw reinforces the presumption on which the Congress voted to enfranchise 14 million young people.

The model congress to which I refer was sponsored jointly by the Pampa Jaycees, the JayceeEttes, and the social studies department of Pampa High School. Members of the sponsoring organizations assisted in preparing sample bills, retyping bills which needed revision, and in preparing copies for the student committee members. Sponsors also conducted orientation programs for those students who were to hold particularly key responsibilities. As soon as a sound support structure was assembled, the sponsors discreetly limited their presence, in order to make the congress a student experience.

In my opinion, the adults who contributed generously of their time and of their experiences in politics performed an invaluable civic service and are to be commended for the tremendous success of their efforts.

Patterned after our own operating procedures, the model congress at Pampa High School was complete with bicameral legislature, a committee structure for studying bills, lobbyists, elected officials to fill leadership roles, and even a president so that measures approved by the congress could be subjected to executive veto.

After viewing what can only be described as an impressive display of political awareness on the part of the young people who participated in the model congress, I can say with conviction that the legislation we approved more than a year ago lowering the voting age was one of the wisest things this body has done in many years. The young people I talked with during the day demonstrated an informed social conscience, a sense of public responsibility, and a discriminating intelligence that deserves every bit of trust the Nation put in them.

My enthusiasm for this type of program cannot be expressed strongly enough. I only hope many more of my colleagues will share in a similar program if they have not already done so.

THE COMPLETE TEXT OF A RECENT WASHINGTON REPORT TO NINTH DISTRICT CONSTITUENTS ON THE NATION'S ECONOMY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. HAMILTON. Mr. Speaker, the complete text of my recent Washington report to Ninth District constituents on the Nation's economy, follows:

WASHINGTON REPORT BY CONGRESSMAN LEE HAMILTON

I

The goal is managing the Nation's economy is to achieve a balanced economy with adequate rates of economic growth, full employment of resources—both men and material—and reasonable price stability. Any one of these goals can be achieved without difficulty. The complexity of the task is that all three of these goals must be pursued simultaneously, and they must be achieved in the context of harmonious international relations, adequate national security and economic freedom.

Steps taken to achieve one of the goals tends to make more difficult achieving another of the goals—for example, if the Nation stimulates demand by spending more to reduce unemployment, it tends to increase wages and prices. Recent years provide ample evidence of the difficulties of achieving really good economic performance. Difficult as the task may be, it can be done, as the experience of our economy from 1961 to 1965 suggests.

It is well to keep in mind these fundamental points when taking a look at the progress and the problems in the economy. The elusive goal of prosperity without inflation still has not been achieved, but the Nation's economy is gaining momentum.

The composite prediction of a large group of economic experts is that the economy is improving. In 1972, economic growth in the U.S. is likely to be in line with the consensus forecast of a $90 to $100 billion increase in the gross national product (GNP), the total goods and services produced in this country. About one-half of this growth, though, may result from price rises. Progress may also be expected in reducing unemployment at least below the average in 1971, which was about 5.9 percent of the civilian labor force. Other encouraging signs include:

The acceleration of retail sales around the country.

State and local government outlays are increasing.

The stock market is surging ahead.

Corporate profits are rising.

Industrial production is up.

Housing starts have risen to a new record annual rate of 2.7 million units, as of February.

Business investments in new plants and equipment is increasing.

Net exports from the U.S. are beginning to pick up as a result of the devaluation of the dollar.

Total employment is increasing.

It is still too early, however, to say whether the favorable signs will develop into a new economic boom, or whether a new surge will bring new inflation, with perhaps even harsher economic controls. But for the moment, at least, the outlook is guardedly optimistic, although no one is claiming that the Nation has mastered economic policy yet.

The strongest potential force for expansion, consumer spending, still remains the weakest indicator, and it depends upon the confidence people have in the economy. People seem to be encouraged about economic prospects, but that has not yet been translated into a buying surge.

Many still feel they are losing the battle against rising prices, especially because of the rapid increase in food prices, and they remain uneasy about their own well-being and that of the country's. For most, taxes and prices are too high, government expenditures too great and jobs too uncertain.

The biggest concern among the people I meet is the persistent rise in prices and the apparent inability of Phase II controls to reduce inflation. They doubt that prices can be held down with present policies, and that doubt is reflected in Washington.

II

The Nation's economy is clearly gaining momentum, but even so, there is an astonishing amount of economic discontent. Often, I hear angry outbursts about job preferences for minority groups, tax burdens, the price of meat, the need for assured pensions, mounting welfare caseloads—all of which are rooted in the economic discontent.

Uncertainty over jobs and rising prices are the chief complaints, with government spending not far behind. I respond this way to those who ask me the fair, but very tough question, "What will you do about it?":

Unemployment. The unemployment picture remains difficult, especially among the young and the minority groups. In 1971, there was the equivalent of 6.9 million Americans unemployed, and the unemployment rate averaged about 6 percent of the labor force. Ironically, even with this level of unemployment, a severe shortage of skilled workers exists.

Stimulative fiscal and monetary policies are needed, but additional steps are also necessary to restore full employment:

1. An expanded public service employment program to create jobs in areas of health care, education, public safety, pollution control, recreation, sanitation, and urban and rural maintenance;
2. Expanded manpower training programs tied to the available job opportunities, with special attention to the less skilled and less experienced workers, especially young people, female employees and minority workers;
3. Equal employment opportunities; and
4. Strengthened Federal employment services to match jobs with the unemployed.

Inflation. Inflation remains troublesome, too. It represented more than half of the Gross National Product growth in the January–March period this year, or 6.2 percent, making unlikely the achievement of the President's goal of an inflation rate of less than 3 percent for the year.

An active price and incomes policy must be a regular and continuing aspect of our anti-inflation policy. The present wage-price control program is exceedingly complex and has not been administered well. Although the official position in Washington is that the program is working, there is deep concern under the surface. A concentration of effort on those sectors of the economy which have strong market power would improve the chances of reducing inflation.

In addition, government programs which contribute to inflation should be reformed. These programs include import quotas, regulatory policies, government procurement practices, stockpile reserves, Federal subsidies, and many other practices which restrict artificially the market supply and inflate prices. Government policy should also include vigorous enforcement of the anti-trust laws and other steps to strengthen competition.

Budget Deficits. The size of the Federal budget deficits is a matter of grave concern, regardless of how appropriate a deficit may seem in terms of stimulating the economy. To improve the Federal budget position, several steps should be taken:

1. Respond to the pressing need for tax reform by shifting the tax system away from the regressive taxes, like property taxes, to relatively progressive income taxes. We should act to eliminate the most serious tax loopholes which would permit a substantial revenue increase. Federal estate and gift taxes should be re-examined for additional revenue sources and greater equity. Even with such measures, however, there is an increasing possibility of a Federal tax increase in 1973—either in the form of a value-added tax, or increased income taxes—to moderate the large budget deficits.
2. Revise the major subsidy programs to eliminate waste and unfair or outmoded subsidies. In fiscal year 1970, $63 billion in Federal funds went into subsidy programs, and no serious efforts are yet underway to evaluate or eliminate these programs.
3. Enact a rigid expenditure ceiling to assure the American people that the Federal budgetary process is not out of control, and to force the President and the Congress to keep the overall budget in perspective.
4. Scrutinize all spending, and especially military spending, to do a better job of eliminating waste and mismanagement. For example, a recent analysis of defense costs showed that 45 weapons currently being built showed cost overruns of $35 billion.

EMERGENCY MORATORIUM

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. DELLUMS. Mr. Speaker, tomorrow, beginning at noon and for the next 36 hours a bipartisan group of congressional employees will conduct a vigil to show their concern over the continuation of war in Southeast Asia.

They will read the names of American and Vietnamese war dead continually over the 36 hours. In addition, there will be a public liturgy tomorrow at 6:30, a midnight candlelight service, a daybreak service, and a lunchtime silent vigil on Thursday.

I support and encourage this show of concern by our staff. I believe that they have the right to indicate their concern as citizens and as employees of the legislature. From its inception, these staff members have concentrated their efforts on the whole question of war and its horrors—and not on any one policy which you or I might specifically favor.

I plan to take part in the vigil—both as a Representative and as a concerned citizen. I invite you also to join me in this completely nonpartisan expression of concern.

WHY AMERICA CARES WHAT HAPPENS IN VIETNAM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. KEMP. Mr. Speaker, the newest round of debate over American involvement in Southeast Asia has, as in the past, failed to focus on the relationship of Southeast Asia to American foreign policy en toto. It seems that each new round of Vietnam debate elicits new emotionalism from those who are no longer willing or capable of seeing Southeast Asia in the context of attempts to construct a delicately-evolving structure of world peace. It is no accident that Roosevelt, Truman, Eisenhower, Kennedy, Johnson, and Nixon have all believed that the future of Southeast Asia is crucial to our own national security. Indeed, even the Kennedy administration was convinced that the resolution of the Vietnam war would effect our relations not only with China, but with the rest of the world as well.

Since that time, our relations with much of Asia have improved, most particularly and dramatically with China. The success of world peace hinges on our relations with all the nations of the world, and should not be viewed exclusive of Asia and two-thirds of the world's population. An era of negotiation will emerge only as American perservance and commitment to freedom is reaffirmed. This whole question of American guilt and deception is specious and should not be perpetuated. Morality is not selective. To suggest that America is immoral for trying to save Vietnam from Communist domination, is a twist of logic that should not be tolerated.

The following article by Prof. Walt Rostow enunciates some of the reasons why the United States cares about Vietnam and why, if we see Southeast Asia in the context of American foreign policy and the world, we will not stand for the declaration that we are immoral, guilty of deception, or, as Anthony Lewis put it, "the most destructive force in the world."

Mr. Speaker, in the debate over American foreign policy as it relates to Southeast Asia, too many people, I believe, are unwilling to recognize that what happens in that corner of the world will have global repercussions. President Kennedy said in the early 1960's that what happens in Vietnam will effect our relations, not only with China, but with the rest of the world as well. At that time, our relations for instance, were far different with China than they are now and hopefully they will improve further.

If we are to truly have an "era of negotiation instead of confrontation" something we all want, it is vital that this country not lose its perspective about dealing with other nations in this less than perfect world.

The following article by Prof. Walt Rostow points out some of the reasons why this country cares about South Vietnam and why it is unfair to label all those who have tried to keep South Vietnam from being turned over to communism as somehow immoral or guilty of deception:

VIETNAM—WAS IT WORTH IT?

(By Walt W. Rostow)

The costs to us of the struggle in Southeast Asia make sense only if you agree with the last six American Presidents that the United States will be endangered if a potentially hostile power gains control of Asia, and that control over Southeast Asia is critical to the fate of all Asia.

Southeast Asia contains nearly 300 million people—as many as Africa or Latin America. It commands the sea routes of the South Pacific and the eastern Indian Ocean. It is a buffer area separating the two giants, China and India. If any single power attempts to seize control of Southeast Asia, the other major powers must instinctively react.

America, for example, passively stood by while the Japanese took over Manchuria in 1931 and then seized the major cities of China. But in 1940–41, the Japanese moved into Indochina and toward Indonesia. President Roosevelt had every interest at that time in concentrating American attention and resources on rearming at home, and on aid to Britain and, then, to Russia. But he refused to accept passively the Japanese take-over of Southeast Asia and the balance of power in Asia, including control of the sea routes to Australia, New Zealand and India. He cut off shipments to Japan of oil and scrap metal, and he froze Japanese assets in the U.S.

Indochina was at the center of our diplomatic dialogue with Japan right down to the eve of Pearl Harbor.

For similar reasons, President Truman threw our resources behind the French in Indochina at the time of the Korean War, despite reservations about the viability of French colonialism.

The same rationale lay behind President Eisenhower's (and the Senate's) support for SEATO in 1954–55; President Kennedy's policies in Laos and South Vietnam and his flat affirmation of the domino theory on September 9, 1963; President Johnson's basic Vietnam decisions of 1965; and President Nixon's insistence that America withdraw from Vietnam in ways compatible with stable peace.

Throughout this period of at least 30 years, it has been U.S. policy to sustain the independence of Southeast Asia from potentially hostile control. But sacrifice for a policy that cannot succeed is meaningless or worse. What have the sacrifices since 1965 achieved?

Look back and consider the panorama of Asia in 1965.

South Vietnam was on the verge of defeat and take-over, as the weight of North Vietnamese regular-army units, introduced in 1964 was fully felt.

Indonesia was out of the United Nations, in confrontation with Malaysia, making common cause with Peking, and eager to complete what both Jakarta and Peking described as a pincer movement to envelop the whole of Southeast Asia, through a "Jakarta-Phnom-Penh-Hanoi-Peking-Pyongyang Axis"—a concept enunciated on August 17, 1965, by President Sukarno himself.

Peking was proclaiming that "Thailand is next."

All of Asia knew that its future hung in the balance. Robert Menzies, then Prime Minister of Australia, said if Vietnam fell, it would be "not so very long" before Australia would be menaced. And the danger was still closer and more obvious in the other capitals—as, for example, Macapagal, in Manila, and Abdul Rahman, in Kuala Lumpur, made clear.

The domino theory was not just a theory in the first seven months of 1965: every observer of the scene knew the dominoes were about to fall unless American power was rushed into the balance.

Then, at the end of July, 1965, President Johnson moved to commit American forces.

Now, six years later, there is a different Asia.

South Vietnam has harvested the greatest rice crop in its history and is about to conduct its second presidential election under a democratic constitution. Well over 90 percent of its population live under reasonably reliable government administration.

Indonesia is independent and advancing hopefully in economic and social progress, after the successful defense of its independence in October, 1965, which, incidentally, triggered the Cultural Revolution in China.

Asian regional organizations have come into being; for example, the Asian and Pacific Council (ASPAC), the Association of South East Asian Nations (ASEAN), the Asian Development Bank. These offer great promise that in the future, Asians, working together, can increasingly shape their own destiny.

Japan, now the third industrial power in the world, is evidently prepared to use its expanding economic resources to help others in the region whose modernization began much later, but who are now moving forward with astonishing momentum: South Korea, Taiwan, Thailand, Malaysia, Singapore.

China is beginning to enjoy economic progress after a decade of external frustration and internal violence and is experimenting, at least, with the idea of normalizing its relations with Asia and the rest of the world.

Without the U.S. effort in Southeast Asia, there would now be no Ping-Pong diplomacy and no presidential visit to Peking planned.

But all this is still precarious and fragile.

As the South Vietnamese assume increasing responsibility for their own defense and try to make a constitutional system work (which very few post-colonial nations have been able to manage), they feel every day the threat of hasty, total American withdrawal and the pressure of those who would cut off all military aid to them in order to guarantee a Communist victory.

North Vietnamese troops are embedded, without a shred of legality, deep in Cambodia and Laos, threatening the Mekong towns and the Thai border. Not one weapon they carry or shell they fire was manufactured in North Vietnam. Putting aside their long-neglected tasks of economic and social development, the leaders in Hanoi continue to pour young men into the infiltration pipelines to South Vietnam in an effort to destroy the process of Vietnamization.

There is a decent hope that in the years ahead an Asia could emerge in which the North Vietnamese will go back within their own borders; the independent states will survive and increasingly work together; relations with China—and, indeed, North Vietnam—will be normalized; and the American role will continue to diminish, while remaining a relevant force in Asian and Pacific affairs.

There is also a real danger that all that has been achieved since 1965 by Asians and ourselves will be lost; that a vacuum will develop in Southeast Asia which Peking, as well as Hanoi, will feel impelled to try to fill; and that Asia will move from the promise of stability and progress to chaos or a war far worse than what we now see in Indochina.

Was it worth it? Clearly, the outcome of the common effort is still uncertain. If we mindlessly walk away from Asia, we shall make sure it was not worth it. If we patiently stay the course, the suffering of these years could be repaid with stable peace and security for ourselves and the two thirds of humanity who live in Asia.

What still remains to be done in Asia may not, if we are wise, involve the use of much American military force. Asians are now able to do vastly more to defend themselves than they were in 1965. And China, with some 50 Soviet divisions on its frontiers, may now be influenced to move in more peaceful directions than in the past.

But our resources and our treaty guarantees retain a decisive margin in the Asian balance of power. We ought to ask ourselves bluntly: What is likely to happen if we bury the past and leave Asia to its own devices?

First, the end of America's commitment in Southeast Asia would change the debate now under way in mainland China. Powerful forces there are working to move China toward the long-delayed concentration of its energies and talents on the modernization of life. American withdrawal would inevitably lead Peking to exploit its new opportunities to the South. No one can predict the precise form in which a nuclear China, with its huge ground forces, would exercise its power in the vacuum we would create. But I cannot believe that Peking would remain passive.

Second, the nations of Southeast Asia, certainly as far as Singapore—quite possibly as far as Indonesia—would lose their independence, as, for example, Lee Kuan Yew, Prime Minister of Singapore, believes; or they would be forced into a protracted military or quasi-military struggle that would force them to abandon their exceedingly promising economic, social and political development.

Third, Burma, in particular, would either fall under Communist domination or become the scene of an Indian-Chinese struggle. For Burma, not Tibet, is the point of strategic danger for the Indian subcontinent—a warning consistently made to me in private by high and responsible officials of both India and Pakistan.

Fourth, Japan and India would quickly acquire nuclear weapons, and the Nonproliferation Treaty would quite possibly die elsewhere in the world as well. The willingness of many nations to forgo the production of nuclear weapons depends on a carefully balanced calculation—a calculation that says the United States can provide greater security at less risk than going it alone with a national nuclear capability. An America that walks away from a treaty commitment after bringing into the field a half-million of its armed forces and encouraging a small ally to fight desperately for its independence, would not be regarded as a reliable ally on such a mortal issue as nuclear deterrence in Asia or anywhere else.

There are many, I know, who believe that, somehow, the United States can live safely divorced from the fate of Asia.

I do not.

Thirty years ago, an Asian power, reaching for Asian hegemony, was able to mount Pearl Harbor.

There is already one nuclear power in Asia, now moving to produce ICBM's. If we walk away from our commitments in Asia, there are liable soon to be at least three. Having come in these hard years as close as we now are to the possibility of stable peace in Asia, I think it would be disastrous to throw in our hand and leave future Americans to bear the inevitable costs of a nuclear-armed Asia.

The more than 50,000 Americans—and the more than one million Asians—who died in this struggle for a stable, peaceful Asia deserve better of us.

AN INCREASE IN SOCIAL SECURITY BENEFITS

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. HALPERN. Mr. Speaker, I hope that we in the Congress will soon be able to take final action on the provisions in H.R. 1 which would increase social security benefits for some 27.4 million Americans.

This legislation, which has passed the House and is now pending in the Senate, would increase social security benefits by 5 percent. As a result of this change, the minimum retirement benefit would be increased from $70.40 to $74 a month. The average retirement benefit would rise from an estimated $133 to $141, and the average benefit for an aged couple would increase from an estimated $222 to $234. The special benefits payable to certain people who are over 72 would increase from $48.30 for an individual and $72.50 for a couple to $50.80 for an individual and to $76.20 for a couple.

H.R. 1 would also increase benefits for about 3.4 million widows. Under the bill, widow's benefits would be increased from 82½ percent of the husband's retirement benefits to 100 percent of the retirement benefit the husband would be paid if he were alive. Benefits that begin before age 65 would be reduced according to an actuarial formula to take account of the longer period over which benefits would be paid.

Mr. Speaker, the benefits that would be increased as a result of H.R. 1 are designed to replace, at least partially, the income that is lost when a worker retires, becomes severely disabled, or dies. About 93 percent of the people now becoming 65 are eligible for monthly cash benefits; 95 percent of all children and their mothers can count on monthly survivor insurance benefits if the family breadwinner dies; and 80 out of 100 people of working age have worked long enough and recently enough so that they could get benefits should they become totally disabled during the year. In fact, 1 out of 8 persons in the country are now receiving cash benefits.

The increase in benefits contained in H.R. 1 will be of particular significance to our older Americans. As we all know, income is the major problem confronting older people. Our older citizens suffer a drop of from one-half to two-thirds of their working income when they retire.

These are the people who built the country we live in today, who saved what money they could, and maintained a reasonable standard of living during working years. Yet, all too often, these individuals retire after long years of work only to find that their relatively fixed retirement income is inadequate because of rising prices.

If these older people had sufficient incomes, they could obtain for themselves many of the services they need to solve their other problems. In many cases the isolation and unhappiness facing large numbers of our older population can be traced back to the inadequacy and insecurity of their financial resources.

The increase in social security benefits contained in H.R. 1 combined with the 26 percent increase provided by the Congress since 1969 means a great deal to the well-being and happiness of these individuals. I am hopeful that they will not have to wait much longer for these added dollars which mean so much to them in purchasing the basic necessities of life.

Because any delay in receiving increased benefits in a time of rising prices has such a serious impact on the daily lives of older people, I am also very pleased that H.R. 1 contains a provision for automatic annual increases in benefits whenever the cost of living in the previous year has risen by at least 3 percent, unless legislation increasing benefits had either been enacted or become effective in the previous year. This cost-of-living increase would be equal to the percentage rise in the cost of living.

In addition, the amount that a beneficiary can earn in a year and still be paid all of his benefits would be automatically increased each time there is a cost-of-living benefit increase. This increase would be based on the rise in average earnings covered under the social security program.

These provisions for automatic increases should prevent the lag that sometimes takes place now in improving benefits because the increases are tacked on to other more controversial proposals which Congress must deliberate. A perfect example of this problem is the present situation where the social security benefit increase is contained in the same bill as welfare reform proposals. Even though there is a general concensus that the benefit increase is needed it is held up awaiting the conclusion of lengthy discussions on how best to improve the welfare programs of the country.

In conclusion, Mr. Speaker, I urge the Congress to move quickly to provide these increased benefits to those who are awaiting them so expectantly.

COMPUTERS MAKE NO MISTAKES

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. TIERNAN. Mr. Speaker, I have now been informed by the Finance Office of the Environmental Protection Agency that they are sending a staff member tomorrow to the U.S. Water Quality Laboratory at Narragansett, R.I., in order to help straighten out the payroll mess that has resulted in payless paydays, lost vacations, and fractured morale for a number of employees at this facility.

EPA now tells me that it is all the fault of—yes—the computer. An easy target.

Quite frankly, I am not inclined to accept the computer as the culprit. The computer does only what humans want or direct it to do. The computer does not program mistakes, humans do, and for 4 months EPA employees have endured a host of frustrations due to unexplained and inexplicable bungling by some unknown and unconcerned bureaucrat.

I hope that EPA is now sufficiently informed about this problem and has the interest and the concern to solve what is an extraordinarily simple problem.

CRIME, WAR, INFLATION ARE TOP CONCERNS OF NEW YORK'S EIGHTH CONGRESSIONAL DISTRICT, ROSENTHAL POLL SHOWS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ROSENTHAL. Mr. Speaker, crime, the war in Indochina, and inflation are the major problems facing our society, according to my latest poll of residents of the Eighth Congressional District of Queens, which I represent.

More than two out of every five—42.7 percent—said they consider crime "the most serious problem facing the city of New York, and the Nation today." Second most urgent was the war—20 percent—followed by the cost of living—10 percent.

Of the more than 6,300 persons who responded to the poll: 74 percent said all firearms sales should be limited without exception so as to curb crime; 96 percent said that under the President's new economic policy, prices are still rising at an unacceptable level; 63 percent said the United States should set a definite date for withdrawal of forces from Indochina; and 70 percent said some form of amnesty should be offered to those who refused to serve in the Armed Forces because of the Indochina war.

Among the other results of the annual poll are strong support for: national health care reform; improved social security benefits and coverage, including prescription costs; stronger consumer protection legislation; increased Federal aid to education; and use of highway trust funds for mass transit projects.

A large majority said aircraft noise is a problem and that they would be willing to pay higher taxes or slightly higher prices to end air and water pollution.

The views expressed by my constituents in the poll will be extremely helpful to me dealing with these issues as they come before the Congress.

I include a list of the questions and the results of my questionnaire:

Question 1. *Crime* is clearly the most serious problem, followed by the war, inflation and welfare. This contradicts the Nixon Administration's contentions that crime and the war are back-burner issues, and that Phase II policies are working. Just the opposite is true. Last year's poll showed crime to be the top problem, followed by housing and air pollution.

Question 2. The President's economic policy gets a resounding no confidence vote from the citizens of Queens. Nearly 97% say prices are "at about the right level." Less than half of 1% think prices are actually going down as a result of Administration policy.

Question 3. Nearly 60% of the respondents voted in favor of a comprehensive national health care system. In fact, seven out of eight persons said some type of reform of the present system is needed. Only 5.33% felt "the present system is adequate." Another 8.06% were undecided. This decrease in confidence in the present system follows a pattern apparent in last year's Rosenthal poll when only 37.5% indicated they were satisfied with the medical care available.

Question 4. About two out of every three persons responding (63.27%) said they "believe that the establishment of a definite date for total withdrawal of U.S. forces from Indochina is the best chance we have for a speedy return of our POWs, an accounting of our MIA's and an end to the war."

Question 5. Some form of amnesty for those American men who chose to protest U.S. involvement in the Indochina War by refusing to serve was favored by nearly 70% of those responding. Of those in favor, two out of every three said amnesty should be "conditioned on a period of national service." Opposing amnesty were 24.28% and the remaining 5.75% were undecided.

Question 6. A 50% increase in Social Security benefits, with a $150 monthly minimum, was approved by 77.72% of those responding. Voting "no" were 13.90% and 8.37% were undecided.

Question 7. Nearly 80% said they feel "out-of-hospital prescription drugs (should) be included under Medicare coverage. The remaining 20% were almost evenly split between opposing and undecided.

Question 8. By margins of 88 to 95%, respondents said consumer laws "should be stronger" in the areas of food safety, food labeling, auto repair, TV and appliance repair, mail order abuses and product safety.

Question 9. Aircraft noise is a problem for 72% of those answering. Two out of every nine of these persons said the problem is serious. Just under 28% of those responding said aircraft noise is no bother. This is the only question on which no one was undecided.

Question 10. Two out of three persons answering the poll indicated they would be "willing to pay higher taxes or slightly higher prices to end air and water pollution."

Question 11. An overwhelming majority (92.94%) supported some form of gun control. Opposition was strongest among men (9%) and least among youth (4.41%); 5.39% of the women indicated opposition. Although presented with four alternative controls on firearms, the largest number (73.56%) supported a ban on "all firearms without exception."

Question 12. Increased federal funding was seen by nearly two out of three persons as the best way out of the financial dilemma facing public education. Only 36.12% (vs. 63.87%) felt states should pay for public education with a new system of financing.

Question 13. Four out of five favor "the use of funds collected under the Highway Trust Fund for the purpose of developing a more modern, efficient system of mass transit." Just under 14% opposed and 6.41% were undecided.

8TH CONGRESSIONAL DISTRICT QUESTIONNAIRE, APRIL 1972 (RESPONSES)

[In percent]

	All	His	Hers	Youth
I. What do you consider the most serious problem facing the city and the Nation today?				
Crime	42.7 (1)	41.2 (1)	46.8 (1)	36.1 (1)
Taxes	4.9 (7)	6.4 (5)	4.0 (7)	1.4 (9)
Jobs	6.2 (6)	5.4 (6)	6.1 (5)	9.7 (4)
Pollution	6.3 (5)	4.8 (7)	6.1 (5)	13.9 (3)
Mass transit	1.1 (9)	1 (9)	8 (9)	4.2 (6)
Schools	2.4 (8)	2.2 (8)	2.0 (8)	4.2 (6)
Welfare	6.5 (4)	7.7 (4)	6.5 (4)	2.8 (8)
Cost of living	10.0 (3)	10.2 (3)	10.5 (3)	6.9 (5)
Indochina war	20.0 (2)	21.5 (2)	17.7 (2)	20.8 (2)
II. Under the President's new economic policy, do you feel prices are:				
Still rising at an unacceptable level?	96.9	95.8	97.6	98.6
At about the right level?	2.6	3.8	1.5	1.4
Actually going down?	.5	.3	.8	0
III. Would you like to see a program of national health insurance which would:				
(a) Provide coverage for all health care through a social security-type program?	59.9	57.0	52.7	67.1
(b) Provide coverage for all health care through the present private health insurance industry?	13.3	13.6	16.7	9.6
(c) Cover only major illness or long-term hospital treatment?	13.4	16.6	14.3	6.8
(d) None of these, the present system is adequate	5.3	5.2	7.7	1.3
(e) Undecided	8.1	7.5	8.5	15.1
IV. Do you believe that the establishment of a definite date for total withdrawal of U.S. forces from Indochina is the best chance we have for a speedy return of our POW's, an accounting of our MIA's, and an end to the war?				
(a) Yes	63.3	59.9	65.2	71.4
(b) No	25.3	28.8	21.4	22.8
(c) Not sure	11.4	11.2	13.3	5.7
V. What do you believe should be the Nation's policy toward those American men who chose to protest U.S. involvement in the Indochina war by refusing to serve?				
(a) Total amnesty	23.3	20.2	23.7	35.2
(b) Amnesty conditioned on a period of national service	46.6	48.6	48.6	42.3
(c) No amnesty	24.3	29.1	21.3	14.1
(d) Not sure	5.7	4.6	6.3	8.4
VI. Do you feel social security benefits should be raised by 50 percent and the minimum to $150 a month?				
(a) Yes	77.7	77.2	78.2	77.9
(b) No	13.9	14.9	13.6	10.3
(c) Not sure	8.3	7.8	8.1	11.8
VII. Should out-of-hospital prescription drugs be included under Medicare coverage?				
(a) Yes	79.6	78.0	80.7	82.1
(b) No	10.3	12.1	9.6	5.1
(c) Not sure	10.1	9.8	9.6	12.8
VIII. Do you think present consumer protection laws should be stronger for:				
(1) Food safety:				
(a) Yes	95.0	94.2	96.1	93.8
(b) No	2.8	2.3	3.4	3.0
(c) No opinion	2.2	3.3	.42	3.0
(2) Food labeling:				
(a) Yes	93.6	92.1	95.0	95.4
(b) No	3.8	3.8	3.7	4.6
(c) No opinion	2.5	4.1	1.2	0
(3) Auto repair:				
(a) Yes	93.9	92.3	94.2	100.0
(b) No	1.8	2.4	1.6	0
(c) No opinion	4.2	5.2	4.2	0
(4) TV and appliance repair:				
(a) Yes	95.5	93.9	96.4	98.4
(b) No	1.6	2.3	1.2	0
(c) No opinion	2.9	3.7	2.4	1.5
(5) Mail order abuses:				
(a) Yes	88.5	87.7	88.6	92.3
(b) No	2.6	2.7	2.4	3.0
(c) No opinion	8.7	9.5	8.9	4.6
(6) Product safety:				
(a) Yes	95.6	94.7	96.2	96.7
(b) No	1.2	1.0	1.2	1.6
(c) No opinion	3.2	4.2	2.5	1.6
IX. Is aircraft noise a problem for you and your family?				
(a) Serious	16.0	17.2	16.0	10.9
(b) Moderate	56.0	53.6	57.8	60.3
(c) Not at all	27.9	29.2	26.1	28.7
(d) Undecided	0	0	0	0
X. Would you be willing to pay higher taxes or slightly higher prices to end air and water pollution?				
(a) Yes	66.1	66.5	63.9	71.0
(b) No	25.5	26.4	26.6	17.4
(c) Undecided	8.4	7.1	9.3	11.6
XI. Since mandatory jail sentences for use of handguns in crimes has not reduced crime, do you favor strong anticrime measures by limiting firearms sales?				
(a) Yes, all firearms without exception*	73.6	69.3	78.8	73.5
(b) Yes, but only nonsporting firearms	12.6	12.6	11.6	16.2
(c) Yes, but only nonsporting handguns	3.9	5.0	2.5	4.4
(d) Yes, but only nonsporting long guns	2.8	4.0	1.6	1.5
(e) No, I oppose all gun controls	7.1	9.0	5.4	4.4
(*) Those voting for some controls	92.9	91.0	94.6	95.6
XII. Courts in several states have recently ruled that local property taxes are an unfair system of financing public education. To correct this problem should:				
(a) Congress increase federal funds for schools?	63.8	64.2	62.2	68.4
(b) States pay for public education with a new system of financing?	36.1	35.9	37.8	31.6
XIII. Do you favor the use of funds collected under the highway trust fund for the purpose of developing a more modern, efficient system of mass transit?				
(a) Yes	79.6	77.4	80.8	84.2
(b) No	13.9	17.1	11.4	10.0
(c) Undecided	6.4	5.5	7.7	5.7

Note: Due to rounding off, totals may not be exactly 100 percent.

TRIBUTE TO ANGELO BERTELLI

HON. CHARLES W. SANDMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. SANDMAN. Mr. Speaker, it is my pleasure to rise to statute a great athlete and a great American on the eve of a well deserved testimonial dinner in his honor.

I refer to Angelo Bertelli, of Clifton, N.J. His is a name football fans, especially fans of the Fighting Irish of Notre Dame, will remember.

Angelo "Bert" Bertelli counts among his honors the famed Heisman Memorial Trophy.

And this year, he was elected to the National Football Hall of Fame.

The testimonial dinner being held Wednesday, May 3 at Mayfair Farms in West Orange, N.J., is to honor Angelo Bertelli for having achieved this great honor.

I know Angello as an outstanding businessman, a devoted family man, and as a friend. And I am happy to join his many other friends and fans in this testimonial salute.

TRAVEL GROUP CHARTERS RULING

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. SHOUP. Mr. Speaker, I would like to speak out today on behalf of my constituents and all Montanans whose way of life is now threatened by a recent Civil Aeronautics Board proposed rule on travel group charters.

Let me explain. A proposed rule before the Civil Aeronautics Board quite simply will destroy the United States scheduled airline network, as we have come to know it. In its place, and this will not happen overnight, but it is a beginning, will be substituted an "on call" type of our service. That means where groups of 50 or more passengers can be formed, there will be a flight to a common destination, not before. These travel group charters will, of course, be cheaper because they will operate only when there is a full plane load.

Those of you in Congress who like myself represent the less populated communities, must make ourselves heard on this vital issue. To illustrate, at present every morning at 7:20 a.m. from Billings; 8:30 a.m. from Great Falls; 10:26 a.m. from Missoula, at 10:48 a.m. from Butte, and at 11:19 A.M. from Helena, there are flights into our Nation's Capitol. The people of my home State of Montana depend upon this regularity of air service. They order their business and their way of life around this ease of transportation access to and from our Nation's Capitol and other important business and industrial areas of this great Nation. Now we are being told that this kind of convenience is no longer necessary—that what the public wants is to travel by cheaper, on call, group charters.

May I ask my fellow Members of this Congress who come from the less populated States and who represent the less populated districts this question: Will you and your constituents want to sacrifice regularly scheduled flights through your communities for the proposition that when you or your constituents desire to come to Washington or other points, you or they will put together or join a travel group charter? Of course, you do not want this.

Yet, this is exactly what is being proposed. Of course, the plan is very cleverly packaged. There is nothing in it that says the scheduled airlines cannot continue to serve such smaller communities as Missoula, Butte, Helena, and Bozeman, for example, and with the same frequency and convenience as in the past. However, what those of us recognize who live in and represent the smaller communities is that without the support of the traffic from the larger communities, the air service through out smaller yet no less important communities cannot be supported.

Thus, the proposed travel group charters between highly populated areas will simply erode away the scheduled airlines service to our communities. We must remember that to support the level of service we need, our scheduled airlines must be allowed at the minimum the current level of protection over their blue ribbon routes which are highly competitive in themselves. Putting new charter carriers in business over the scheduled airlines already competitive blue ribbon routes, and at the same time to expect the airlines to maintain the same high level of service to the smaller communities they serve, is an invitation to economic disaster.

Scheduled air service to and from Montana, and in fact all points in the United States, is supported by a mix of traffic. This traffic breaks down into individuals traveling on personal trips, such as a family emergency, pleasure trips, business or government. In addition, group travel on the scheduled services provides a measure of support for these flights. Further support for these flights is provided by U.S. mail and freight traffic which is an integral part of the commerce of this country. All these categories of traffic when combined permit the scheduled carriers to offer the high level of service we now enjoy.

We have built a sound scheduled air transportation system in this country. It has and is serving us well. One of its strengths is that we in the Congress have taken a keen interest in its growth and development. I call on all of you to make it plain to the Civil Aeronautics Board, the Department of Transportation and to the White House that we do not now intend to take backward steps. Quite the contrary, we intend to take forward steps to improve our scheduled airlines network.

Charter service concepts now being practiced are viable, profitable transportation methods that complement this basic scheduled service. The proposal before the Board would, in practice, allow charter airlines to compete directly with scheduled lines without the responsibility of providing facilities and schedules.

If the charter air carriers need some kind of special help, and remember it is they themselves that said all they needed was a business opportunity, and we have given that to them, then let us face that issue separately. It should be made clear to them that we will not destroy the scheduled airline network to give these charter carriers who have shown dramatic growth in recent years, further and unwarranted advantages.

The new travel group charter rule is a plan that must be put to rest before it starts. If not, it will begin to sap the very strength and sinew of our present air transportation system.

I call on my associates in both Houses to join with me and express their deep concern. I have taken such action today.

ECOLOGY ARMIES RABID RAMPANT WITH HYPOCRISY

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. STEIGER of Arizona. Mr. Speaker, on April 18 an editorial by Bill Norman appeared in the State Press. Mr. Norman, a mass communications major at Arizona State University, has made some interesting observations on ecological enthusiasts that are worth considering. I would like to include his article in the RECORD at this point.

ECOLOGY ARMIES RABID, RAMPANT WITH HYPOCRISY

(By Bill Norman)

In the past few years we have seen a nationwide ecology movement arise. College students in particular have evidenced growing concern over our deteriorating environment and have swelled the ranks of the antipollution army.

Polluters, from copper smelters to offshore oil rigs, from chemical factories to jet aircraft, have felt the legal and economic pressures of the pollution-fighting machine. And coupled with the environmental concern we have seen a mass exodus, on weekends, holidays and vacations, to nature in her primitive state.

In the West when school is out, students flock by the thousands to Parker on the Colorado, Rocky Point, Guaymas and Kino Bay. In the South they mass on Florida beaches, and at the festival communion of Woodstock half a million congregated in the New Jersey forest.

It is natural and good, I think, when one sees nature bespoiled about him, that he feel a desire to get away, to travel to places comparatively untouched, perhaps unseen, by other men. And his desire to be among kindred spirits in such an unspoiled place is not unnatural.

It is strange then, that those who cry the loudest to save the earth are those, who when they gather, are the dirtiest and sloppiest of the earth's creatures and those most likely to deface the land.

At one time we see them in the anti-pollution vanguard, decrying the filth in the air, the sludge that was water and the once-green things now twisted and dead.

But at a different time they personify hypocrisy.

See Woodstock when they had gone—square miles of rubbish alien to nature. A once-beautiful forest glade reduced to a repository for trash.

At Parker, the river and its banks are an expanse of garbage. The summer soldiers cannot be bothered with ecology now. Their refuse is somehow different. Perhaps it has a personal quality to them. Someone else can pick it up.

Our friends will seldom be found far from their automobiles for, despite their ostensible love for the great outdoors, they find cars acceptable gadgets. It doesn't matter that cars are the major cause of pollution. The part-time ecology buff can easily make an exception in his own case.

I cannot deny that strong and vocal public disapproval of increasing damage to our environment has been responsible for strict pollution standards.

But when I hear a man expound on the necessity for ecological balance, only to watch the same man dump his trash about him without a second thought, I question his motives, I reject his claim to honesty, and I wonder, with he and his two-faced brethren, what chance we actually have of keeping nature natural.

INCOME TAX HITS ELDERLY HARD

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BROYHILL of Virginia. Mr. Speaker, my friend and constituent, Mr. Oscar Kiessling of Falls Church, Va., wrote an article which was featured in the Washington Post on Sunday, April 16. 1972, concerning the impact of income tax on the elderly.

Mr. Kiessling's article is a result of nearly a year of research. As a Member of the House Committee on Ways and Means, I plan to present his findings to my committee colleagues when we begin consideration of a simplified income tax return, with the hope that some of the inequities especially applicable to the elderly can be eliminated.

As I believe this article would be of interest not only to my colleagues but to all who read this RECORD, I insert it at this point in the RECORD:

[From the Washington Post, Apr. 16, 1972]

INCOME TAX HITS ELDERLY HARD

(By Oscar Kiessling)

Many government and private agencies are showing concern wtih the serious problems facing the swelling ranks of the over-65 age group but little attention is being given to a field of vital importance—taxation.

While the government has allowed exemptions for the 21 million elderly persons in that group—now nearly 10 per cent of our total population—that relief has been too little and much too late because the government still collects nearly 10 per cent of all personal income taxes—about $7.5 billion—from them.

At the same time, the tax forms have been getting more complicated for the elderly, requiring, for example, computation of the retired income tax credit. The Internal Revenue Service offer to compute the tax for those using the standard deduction does not help most of the elderly because 62 per cent of them itemize their deductions for obvious reasons. They have extraordinary medical, dental and personal care expenses and many owning homes have heavy property taxes. They would be unable to make ends meet if they took the standard deduction.

The tax return season at our house, I believe, is becoming more and more typical. My wife and I still are working and have kept in training, so to speak, although five junior Kiesslings in the tax-age bracket contribute somewhat to the strain. But Aunt Marge and Uncle Will, both over 70, add a new dimension. Aunt Marge's vision is clouded by diabetes and Uncle Will's arthritic hands no longer can hold a pencil. Like millions of nearest relatives all over the nation, we gather the necessary information and fill out their returns, too.

The U.S. Treasury reports receiving 7.2 million returns from persons over 65 but more than 4 million of them were joint returns so that they cover about 11.2 million individuals, approximately 54 per cent of the entire over-65 clientele. How many are in better or worse health than Aunt Marge and Uncle Will is uncertain, of course, but more than one-third of the over-65 age group are past 75 and 750,000 of them are in nursing homes. Old people also occupy a disproportionately large share of the 1,600,000 beds in regular hospitals.

But the filing problem is relatively minor compared to the effect of inflation. Pensions, interest and dividends constitute about 55 per cent of the income of the elderly compared with only 10 per cent for the total population. Their pensions were earned and savings accumulated well before inflation had gathered its modern momentum and long before automatic cost-of-living increases were heard of.

A person who retired in 1960 with some nest-egg savings had a loss of 24 per cent in the purchasing power of such savings by 1970. Recent acceleration of inflation assures that more rapid erosion is already in the cards. With the average life expectancy of all persons at 65 being 14.6 years (12.8 years for men, 16.3 years for women), retirees can expect a loss of 50 per cent or more in the purchasing power of their savings over the next 15 years.

Aunt Marge and Uncle Will are more fortunate than many. Although they are largely confined, they have enough income from pensions and savings to get along. And since their expenses for medical and various other services are relatively high in most years, they have little or no taxable income. Nevertheless, tax regulations require them to fill out the forms with all the items listed. The Treasury reports that one-third of the returns from the over-65 age group are nontaxable. approximately 2.4 million returns reporting no-owe.

For all the returns filed in the elderly age group, the average adjusted gross income per person (1969 figures are the latest available) was $4,476 and the average taxable income was only $2,637. Moreover, 60 per cent of the returns showed adjusted gross incomes of less than $5,000 and only 16 per cent showed incomes of $15,000 or more.

Some very rich people are included in the over-65 group but they do not figure significantly in the total returns, doubtless due to earlier arrangements made by clever tax advisors and attorneys. Reporting of oldsters in the $100,000-and-up bracket was a mere 0.3 per cent of the total.

Why isn't it time to provide a simplified, more operable one-page tax form for the over-65 age group and one with more liberal exemptions, say, a flat $10,000 per person with a flat 5 per cent tax above that amount with no deductions?

MISSISSIPPI

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. GRIFFIN. Mr. Speaker, under leave to extend my remarks, I include a splendid article which appeared in the April issue of the Mortgage Banker published by the Mortgage Bankers Association of America. It follows:

THE SOUTH HAS RISEN—MISSISSIPPI

(By James Watts)

The soft-spoken, silver-haired, Southern gentleman in the white suit is a thing of the past in Mississippi. The man typifying the Now-Mississippi is a young man with hs sleeves rolled up (in bright contrast with yesteryear's pudgy Colonel sipping on a mint julep). He's lean and he moves swiftly. He's *involved* and he's knowledgeable. He's keenly aware of today's problems, and he's resourceful in finding solutions.

It has taken years to do so, but Mississippi is today, of age. She stands on her own feet and is testimonial fact that she's representative of the Southland that has risen. She is a state in transition and her movement is on a steady course toward even greater success.

Economic progress is noteworthy in Mississippi, not only because so much of it is the result of internal motivation, but because it has been accomplished with a unique blending of the philosophies of hospitality, tradition, ecology, modern means, and financial gain.

Perhaps more than elsewhere, Mississippi simply has more to offer and it is steadily becoming more apparent. Because she was late to industrialize, her sky is not gray and her streams are not brown. They remain, today, colorful, natural, serene, and uncommonly unspoiled in comparison to most areas of the country.

Mississippi's climate is mild, permitting maximum opportunities for pleasant living and productive work. Located in the heart of the Southeast, and bordered by the majestic river from which she took her name, Mississippi has an exceptionally desirable location. She also boasts a higher rate of productivity from her workers, as well as reduced construction costs.

Her people are friendly, well-trained, and hard-working. Mississippi universities are some of the most highly acclaimed in the nation, and her 20 vocational and technical training centers—connected with the statewide system of junior colleges—now offer more than 100 occupational training programs with more than 27,000 students.

Mississippi's power supply exceeds present demands, and there is no possibility of a shortage in the foreseeable future. Looking into the future, Mississippi Power and Light Company announced as late as eight weeks ago it will construct a nuclear fueled steam-electric station that will produce 1.25 million kilowatts of additional power. The $400 million project will represent the largest single industrial development investment ever made in Mississippi. It will be located in Claiborne County on the banks of "Ole Man River." The state's supply of water is abundant, and steps have been taken to insure a more-than-adequate supply for future requirements.

Dramatically illustrating her impressive growth rate, during the last six months of 1967 Mississippi's bank debits were $1.6 billion; during the last six months of 1971 they had grown to $3.1 billion. Comparing the same months, in 1967 the state used 5.6 million kilowatt hours of electricity, while in 1971 it used 8.5 million. Telephones in service grew from 678,752 to 889,930. Sales tax collections were up from $58.6 million to $123.9 million. All other state collections were up from $100 million to $203 million. During the same period, compensation claims decreased from 35,174 to 34,141.

Mississippi is the second largest producer of cotton in the nation. She is the largest producer of beef east of the Mississippi. She is the largest producer of chickens, commercial catfish, and Appaloosa horses. Mississippi has more tree farms than any other state, the nation's largest banana terminal, and ranks in the top ten in the production of oil, natural gas, soybeans, rice, pork, and the list is endless.

WAR DEVASTATES ECONOMY

She was one of the wealthiest states in the country at the outbreak of the War Between the States. Her cotton culture had created vast fortunes; the millionaires and mansions of Natchez and other cities were internationally known. Land subject to taxes was valued at $143 million.

After four years as a battleground, the state's antebellum wealth was gone with the bitter wind of material defeat. Her economy had been wrecked. Her plantations had been destroyed and thousands of her finest people had been killed or permanently disabled. Outside aid was not offered or received. A cruel reconstruction period shackled the state with debt and turmoil. Mississippi was forced to the bottom of the nation's economic ladder.

A return to cotton planting brought little success to Mississippians. Depressed prices, increased expenses, and the boll weevil all reduced or prevented profits. Timber cutting and a one-crop agriculture did not help. Attempts at new industrial enterprises never seemed to get off the ground. She experienced a temporary upturn during the World War I years, only to suffer another set-back in the depression of the 1930s. The years 1925 to 1935 did see the start of a transformation of the state's economy, but the going was slow.

In 1936, Governor Hugh White inaugurated a program to attract outside capital and new industries into Mississippi. This program was created under what eventually came to be known as the BAWI law. These initials stood for "Balance Agriculture With Industry." Although millions of words have been written about the purpose of the program, it could not be better summed up than in the four words of the title. The BAWI program was administered from 1936 to 1940 by the Mississippi Industrial Commission, and BAWI bond issues were approved for 12 industries.

The BAWI program was not in operation between 1940 and 1944. But, in 1944, it was reinstituted and the Agricultural and Industrial Board was organized. From that year through 1971, 706 bond issues totaling more than $363 million for new and expanded industry brought new life to Mississippi.

In 1900, Mississippi had some 30,000 persons engaged in the manufacturing field. In 1920, the figure had increased to 60,000, but, by 1940, had decreased to slightly more than 50,000. The industrial surge moved the figure to 80,000 by 1950 and to 110,000 by 1960. Today, the same figure is fast approaching 200,000.

Manufacturing's contributions to Mississippi's personal income rose from less than $50 million in 1940 to more than $1 billion in 1970. In 1940, manufacturing accounted for only 11 percent of Mississippi's total personal income, ranking fourth behind farm, trade, and government earnings. By 1970, the figure was above 21 percent, reflecting not only the increased manufacturing employment in the state, but also a rapidly increasing average wage.

Mississippi is now accommodating herself. She is self-sustaining, proud of the past and present, and looking forward to a bright future. She has streamlined herself, with Mississippians handling the planning, the designing, the financing, the construction, and the staffing.

ERA OF EXPANSION

Mississippi is obviously in its greatest era of expansion in its history. International Paper, Weyerhaeuser, St. Regis, and Georgia-Pacific have all constructed new mills in the state in the past ten years. In Jackson, the state's capital, there are at present three 20-story office buildings under construction. Two of the three are mortgage banker-financed projects and both will be occupied this year.

Jackson Mall, the fourth largest enclosed mall in the Southeast, and a mortgage banker-financed project, generated sales of more than $40 million in 1971. Its mammoth roof spans 14 acres, and it comes complete with 4,002 free parking spaces. Its cost was $10.5 million. Jackson Square, a $2.5-million shopping center, was planned, financed, and constructed by Mississippians in the late 1960s. Its sales total nearly $10 million annually.

One of two standard metropolitan areas in Mississippi, Jackson and the surrounding area saw its population increase by 25 percent between 1960 and 1970. The median school years completed by residents of the area, age 25 and over, is 14.1, ranking among the nation's leaders. The capital city is equipped with a modern coliseum that accommodates more than 10,000 persons. A 46,000-capacity football stadium finds itself overflowing several times a year. An architectonically magnificent municipal auditorium was erected in the late 1960s.

Family units totaling more than 2,100 were constructed last year in this booming area. More than 75 percent of these units, as well as commercial buildings, are being financed by local mortgage bankers, who are now investing some $100 million annually.

Other leading Jackson attractions include a modern municipal zoo; the 33,000-acre Ross Barnett Reservoir, located at Jackson's doorstep; two history-laden State Capitol Buildings (the old capitol, completed in 1839, is now a highly celebrated museum); a modern Mississippi Game and Fish Commission wildlife museum to be completed next year; and seven colleges, including a medical school.

The internationally known Mississippi Gulf Coast is Mississippi's other standard metropolitan area and, although Hurricane Camille daunted its spirit in August, 1969, it is almost completely restored and will be greater than before in months to come.

The coast's tremendous growth is best represented by the increased population of the three coastal counties. Between 1960 and 1970, Hancock County almost doubled its population with a gain of more than 48 percent; centrally-located Harrison County increased its population by more than 20 percent, while Jackson County showed the third greatest increase in the state with 35 percent.

Employing more than 13,000 employees, the marine division of Litton Industries in Jackson County, the modern constructor of nuclear-powered submarines, naval, and commercial service ships, is not only the largest maufacturing concern in the state, but one of the largest shipbuilding industries in the world.

Home of the world's longest manmade beach, 27 miles, the Mississippi Gulf Coast is the state's best known resort and vacation area. More than a dozen golf courses, famous hotels and restaurants, riding trails, camping facilities, outstanding fishing, and great nightclub entertainment have long been lauded by tourists.

One of the nation's leaders in producing and processing shrimp and oysters, the Mississippi Gulf Coast is a leader in the state's economic expansion, easily recognized by the millions of dollars being invested in the construction of homes, apartment complexes, street and highway improvements, airports, motels, restaurants, and industries.

Located in the northwest corner of the state, DeSoto County led Mississippi in increased population between 1960 and 1970. This expanding area grew an unprecedented 55 percent. In the northeast corner, Tishomingo and Lee Counties increased by some 25 percent during the past decade. Corinth and Tupelo, both northeast Mississippi industrial leaders, added dozens of manufacturing plants during the period.

In Mississippi, systematic planning, new legislation, and careful execution of dramatic ideas have combined to work a basic transformation in the state's economic structure. Today, the results of these efforts are being realized. Agriculture and forestry continue as vital expanding elements of Mississippi's economy, but a more equitable balance among these factors is being achieved. More Mississippians are employed in manufacturing than in agriculture now, yet Mississippi's cash farm income is at an all-time high.

Mississippi has done considerably more than merely alter its economic structure through industrial development. It has broadened and expanded its economic base so that agricultural, industrial, and commercial activities of all types have expanded and have become more productive and more profitable.

INDUSTRY LAUDS LOCATION

In recent years, an increasing number of manufacturing and distribution enterprises have come to realize and appreciate Mississippi's advantageous geographical location. Directly in the center of the growing Southern market, Mississippi can serve the Atlanta and Dallas areas with equal ease. Directly south of Chicago and bordered by the Gulf of Mexico and the Mississippi River, the state can serve both the central United States and Latin American markets efficiently and economically. It has been said that Mississippi has all the potential of Chicago as a distribution center without the disadvantages of Chicago's climate. Inclement weather seldom, if ever, causes serious transportation delays, and Mississippi's three rivers and three Gulf ports are, of course, ice-free 12 months a year.

Mississippi is served by 14 railroads, some of which have multiple lines. A modern network of highways connect the state with major cities throughout the United States. Increasingly, large stretches of these highways are being converted to four lanes each year. There are 78 publicly-owned and operated airports located throughout the state. Seafood, a highly air-oriented type of cargo because of its refrigerated state, is being geared for air markets. Mississippi produces many varieties of foods of the process nature, which are also items for the growing air trade.

Wildlife is another important renewable resource of economic value to Mississippi. The real value of wildlife, however, is not only for subsistence or commerce, but for its esthetic appeal and the recreational benefits it affords. Mississippi's woodlands abound with game, ranging in size from the 250-pound whitetail deer to the small but wily bobwhite quail, for which Mississippi is famous. The sounds of whirring wings, snorting bucks, and splashing black bass are all prevalent and common to all areas of the state. Mississippi has 24 state game management areas totaling 1.9 million acres; seven huge reservoirs; eight major rivers; 23 state lakes; 17 state parks; and an abundant supply of challenge for the most enthusiastic outdoorsman.

On the cultural side, many larger towns in Mississippi have active theater groups, orchestras, and other local performing groups, in addition to Broadway road shows. The Mississippi Arts Festival, held each year in the spring, brings visitors from throughout the South to Jackson for a week of entertainment by such outstanding Mississippi entertainers as Leontyne Price, Van Cliburn, and Charlie Pride.

Racial problems, which attracted national attention in past decades, are subsiding and are no longer creating headlines. Jackson attorney Bill Waller led his successful gubernatorial campaign last year on the theme of representing all the people. Lines of communication have been open in many areas for the first time.

The Mississippi Dixie National Livestock Show and Rodeo is the United States' second largest in participation. The picturesque Natchez Trace Parkway, with more than 300 miles of its 450-mile total in Mississippi, is the country's fourth most popular national park. Historic Vicksburg National Military Park, the old Spanish Fort at Pascagoula dating to 1718, and the ruins of Windsor at Port Gibson are more tourist favorites.

Local custom festivals that have existed for many years have become leading factors in Mississippi's $400-million annual tourist industry. Biloxi's Mardi Gras, McComb's Azalea Festival, Canton's Flea Market, Philadelphia's Choctaw Indian Fair, Natchez' Spring Pilgrimage, Meridian's Jimmie Rodgers Day Celebration, and, of course, the Mississippi Deep Sea Fishing Rodeo, the nation's largest, draw thousands of tourists.

Mississippi has, indeed, risen, and is definitely a part of the rapidly developing Southland.

MOUNT EDGECUMBE SCHOOL IN SITKA, ALASKA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BEGICH. Mr. Speaker, for the interest of my colleagues I am inserting a resolution of the city and borough of Sitka, Alaska, which sets out the virtues of the Mount Edgecumbe School in Sitka.

The resolution follows:

RESOLUTION NO. 72–16—A RESOLUTION SUPPORTING MAINTENANCE OF THE MOUNT EDGECUMBE SCHOOL FACILITY, MOUNT EDGECUMBE, ALASKA

Whereas, Senator William J. Hensley of Kotzebue, Alaska has proposed transfer of the Mt. Edgecumbe School facility and function from Mt. Edgecumbe, Alaska to Wildewood, near Kenai, Alaska; and

Whereas, Senator Hensley has given as reasons for such transfer the alleged student difficulties of alienation, isolation, and alcoholic problems, and alleged near physical collapse of the Mt. Edgecumbe facilities; and

Whereas, such allegations are incorrect as the facilities at Mt. Edgecumbe have been undergoing renovation, repair and improvement for two years and further work of like nature has been budgeted for so as to update the facilities even more; and

Whereas, the populace of the City and Borough of Sitka have always considered the students of Mt. Edgecumbe to be an integral part of the community and welcomed them as such; and

Whereas, any vestiges of alleged physical "isolation" which may have been due to the need to use a regularly-scheduled shoreboat public transportation system for access to and from the island of Mt. Edgecumbe will soon be eliminated by completion of the John W. O'Connell Memorial Bridge, one of the most meaningful highways expenditures of recent years in southeast Alaska; and

Whereas, Sitka has two swimming pool facilities which are available to Mt. Edgecumbe students, thereby furnishing access to one of the most needed safety aspects of life in Alaska, which is an ability to swim; and

Whereas, placement of students at Wildewood, which is some five miles from Kenai, would truly isolate the students and lead to greater danger of alienation by removing the students from the mainstream of Alaska life, activities and cultural benefits; and

Whereas, Sitka offers an educational climate of great benefit to students as it has a community college, the Sheldon Jackson College, and its own grade school and high school system from all of which there are students and teachers with whom Mt. Edgecumbe students associate in friendship and learning; and

Whereas, the Bureau of Indian Affairs has present intentions of constructing a southeast Alaska Regional High School in Sitka; and

Whereas, Sitka offers, in addition to its educational advantages, the benefits of constant exposure to visiting and touring musicians, artists and performers in other cultural fields; and

Whereas, Sitka, which has historically been known as the educational capitol of Alaska, welcomes the continued opportunity to earn such plaudits; and

Whereas, at the present time, approximately 500 Alaskan native students are sent to school outside of Alaska, to-wit: Chemawa in Oregon and Chilocco in Oklahoma; and

Whereas, concern for the welfare of Alaska's Native students can best be expressed and effected through addressing the State's resources towards providing an Alaskan educational facility for those students presently being sent out of the State, rather than in such unnecessary and unwarrantedly costly gestures as trying to move a present effective school facility from one city to another region;

Now, therefore, be it unanimously resolved by the Assembly of the City and Borough of Sitka, Alaska that it supports maintenance of the Mt. Edgecumbe School facility, the proposed Sitka Regional High School, welcomes the opportunity for this community to continue having Alaska Native students as an integral part of its society and culture, and deplores and strongly protests against efforts to move the Mt. Edgecumbe school facility and the unsubstantiated and incorrect reasons given for such efforts;

Be it further so resolved that the Mayor is instructed to send copies of this resolution to Senator Hensley, all members of the Alaskan congressional delegation, Governor William A. Egan, the President of the Senate, the Speaker of the House, Senator Meland and Representative Flynn, Sitka representatives to the State Legislature, the Chairman of the Health, Education and Welfare committees of both houses, the Area Director of the Bureau of Indian Affairs, and such other persons as the mayor and City/Borough Administrator deem appropriate.

Passed and approved by the Assembly of the City and Borough of Sitka, Alaska, this 18th day of April, 1972.

JOHN E. DAPCEVICH, *Mayor.*

TWO VIEWS OF VALUE-ADDED TAX

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ROBISON of New York. Mr. Speaker, on April 10, 1972, the Wall Street Journal included an editorial feature titled, "Two Views: What About the Value Added Tax?" The two views, expressed in companion articles for and against VAT, approach an even stalemate, and in both can be read rather more of an epitaph for the idea than a debate over a lively proposal.

It may be premature to evoke an end to the value-added tax debate. Response to the tax reform issue during recent Democratic primaries could certainly keep the VAT alternative simmering, and it would be unfortunate, indeed, if the concept were entirely dismissed before it had been given thorough consideration in appropriate public forums.

If only to bring the present revenue gathering processes into new perspective, a plausible value-added tax proposal would be well worth the time devoted to explaining, discussing, and possibly, debating on the floors of Congress.

Mr. Speaker, I insert the Wall Street Journal articles with the hope that VAT will create more discussion, not less.

The articles follow:

TWO VIEWS: WHAT ABOUT THE VALUE-ADDED TAX?

AN IDEA WORTH CONSIDERING

(By Jude Wanniski)

In December, when the Nixon administration "floated" the idea that it might soon be proposing a value-added tax, the chief aim had been to promote a national debate. Nixon aide John Ehrlichman, Treasury Secretary John Connally, and Commerce Secretary Peter Peterson—the principal VAT enthusiasts—hoped for a wide-ranging discussion among economists, politicians, businessmen and bankers.

The kind of discussion they had in mind never really materialized. Liberals spotted VAT as a thinly disguised national sales tax, a Republican trick to soak the poor, and denounced it as "regressive." Conservatives eyed it suspiciously as a Nixon scheme to pay for his grandiose social programs, particularly health and welfare reforms, and demanded that instead the federal budget be slashed. And in an election year, no politician is eager to talk about a tax hike of any kind; on Capitol Hill, nobody to speak of stepped forward, even timidly, to suggest VAT might be a good idea. For the rest of 1972, at least, VAT seems to have had it.

It will be back, though, if Richard Nixon wins a second term (this is reason enough, says MIT economist Paul Samuelson, to vote against Mr. Nixon). And realistically, only **when the President gets behind VAT** formally can the White House expect the kind of national debate the White House expected to get "for free." After all, why should the GOP rank and file stick their necks out if the President wants to remain at arm's length of the idea?

ALL ROADS LEAD TO VAT

VAT will be back because the administration sees no satisfactory alternative. In simplest terms, the government has before it an enormous problem, really a host of interlocking problems that together form an intricate work to find a solution, they can approach this mass from a dozen different directions but the answer they get is always the same: VAT. Indeed, they'll suggest that if next January Mr. Muskie, Mr. Humphrey or Mr. McGovern is in the White House, the same problem will have to be faced, different problem-solvers will be put to work, and whatever Prof. Samuelson thinks, the answer will still be the same: VAT.

The first piece of the problem is money. The states need more money. The cities need more money. The federal government needs more money. The catalog is all too familiar: health, welfare, quality education, rebuilding cities, pacifying cities, retraining manpower, etc. The most hidebound conservative could occupy the White House and be unable to contend with this juggernaut of demands. Edward Cohen, Assistant Secretary of the Treasury for Tax Policy, gives a sad little shrug: "If you tell me you want revenue, lots of revenue, just where the devil are you going to get it?" (Answer: taxes.)

The second part of the problem is capital formation. There's not enough of it. The U.S. industrial machine is being renewed and expanded at an annual rate of about 8%, down from the 1960–69 average of 13%. Even if Western Europe and Japan get bitten by the consumerism bug, they have plenty of room to slow their quarter-century emphasis on capital formation and still be running faster than the U.S. The Common Market countries have been reinvesting at between 14% and 20% a year; Japan's average since 1960 has been 27% a year.

The U.S. trade deficit last year was the first dramatic sign of this troubling state of affairs. And obviously, if the rate of capital spending abroad stays at double the U.S. rate, the problem gets worse and worse year by year. U.S. plant and equipment age in relation to that of its trading partners; only ever more frequent currency realignments and dollar devaluations could keep the U.S. competitive.

The heart of this problem, of course, is that the American people have had the luxury of being consumer-directed for 27 years, not having had industrial capacity blasted to bits during World War II. But there's not much international cushion left. As far as the White House problem-solvers can see, the only solution is to have the nation spend more of its earned income on capital goods and less on consumer goods. And the only way to force this turnabout is through tax policy.

Secretary Connally, in testimony before the Senate Finance Committee last October, made the observation that many countries "tailor their tax systems to encourage capital investment," unlike the U.S. where "our tax system is to a considerable extent biased in the opposite direction." In Europe, where VAT is the staple source of revenue, "purchases of new capital equipment are exempt from the tax," he pointed out.

Here, the two major pieces of the intricate problem facing the government can be seen clearly: If current U.S. tax policy is biased against capital formation, and more revenue must be raised to pay for social demands, an increase in taxes along current lines only serves to further discourage capital formation.

Thus, if revenue is to be raised, lots of revenue, a tax must be found that, compared to the present tax structure, encourages saving rather than spending, and encourages less spending for consumer goods and more for capital goods.

THE WORST FEDERAL TAX?

The corporate profits tax is, from the standpoint, the worst of the federal taxes. Because it taxes income from capital, it discourages the use of capital relative to labor. Writing in the Morgan Guaranty Survey, Richard Lindholm of the University of Oregon's College of Business Administration also observes that at present high rates the corporate income tax "creates a very strong inducement to minimize the legally definable tax base—that is, reported corporate profits." This, he says, discourages efficiency from internal cost control, encourages loose expense-account practices and, because profits are taxed again when passed to stockholders through dividends, there is an inducement to retain earnings. "This, of course, tends to funnel savings automatically into established, conventional use patterns rather than having the allocation determined by capital-market competition."

The personal income tax also has a heavy bias against capital formation, not weighing against consumption at all while taxing income from investment. Those liberals who propose raising federal revenue by treating capital gains as ordinary income would only compound the problem and further slow the rate of capital formation.

The VAT enthusiasts in and out of government argue that as taxes go the VAT is near ideal in meeting the problem at hand. It is, in fact, a national sales tax, a tax on consumption. The tax is on the value added to the goods and services sold by a business in the course of its operations—the amount of value business adds being the difference between its net sales and the value of its purchases from other businesses. Although it sounds like a lot of auditing and bookkeeping, if the VAT is kept to a single rate, proponents contend a monthly or quarterly VAT return could be filed on a postcard.

Because it reaches the broad base of almost all personal consumption, with no "loopholes" or tax preferences built into the VAT, it would raise lots of money. A 3% VAT would yield $18 billion. A 7% VAT could replace an effective corporate profits tax of 42%, although nobody seems to be seriously proposing such a move.

The big political drawback is that VAT is, in pure form, regressive. There are two parts to a solution that would overcome this drawback, suggests Treasury's Mr. Cohen. Assume, he says, at a 5% VAT rate, a family of four with an income of $4,300 spends all its income on VAT-taxed items. It has contributed $215 to VAT. Give them back the $215, he says, and give every other taxpayer, no matter how high their tax bracket, a $215 tax credit. This doesn't make VAT progressive, but Mr. Cohen maintains it does minimize its regressivity to a point where it is roughly "proportional." Then, the graduated personal income-tax rates can be altered slightly to produce an overall progressive effect. He also suggests that because the money raised by VAT would be spent for progressive, social purposes, the total impact of VAT could hardly be considered regressive. This, he says, is the rationale in Europe.

The fact that VAT has spread throughout Western Europe, with rates as high as 33% in France on luxury items (including autos), is another argument the VAT proponents make for adapting it to the U.S. Under the rules of the General Agreement on Tariff and Trade, or GATT, exporters are permitted a rebate on the full amount of VAT paid on an export item. There is no realistic way to rebate corporate taxes on exports, nor do GATT rules permit such rebating. Insofar as the U.S. would put emphasis on GATT and relieve pressure on corporate taxes, VAT supposedly would assist in expanding U.S. exports.

The administration tax specialists don't put much weight on this argument though. One study by the Office of Management and Budget, although highly favorable to VAT, reasons that the expected increase in exports of U.S. consumer goods would be offset by an increase in the imports of capital goods. The short-term impact on the balance of trade would be minimal, the reasoning goes, but the greater emphasis on capital formation would in the long run only serve to strengthen the U.S. international position.

From the perspective of those who look at this problem facing the nation—the demand for increased revenue and the urgent need to expand capital formation, there are no satisfactory alternatives to VAT in some form. The alternatives must be rejected, they say: a steady erosion of the U.S. competitive position in the industrialized world, with the U.S. adjusting through a constantly depreciating dollar. Or, the solution advanced by organized labor—economic isolationism, protectionism.

The VAT proponents have some interesting arguments, worthy of a national debate. But until Mr. Nixon himself advances the idea and is prepared to defend it, it's not likely such a debate will ensue.

Mr. Wanniski is a member of the Journal's editorial-page staff.

BETTER ALTERNATIVES EXIST

(By Lindley H. Clark, Jr.)

Early in January George P. Shultz, director of the Office of Management and Budget, confirmed that the administration was considering a "value-added tax." Since then the administration has taken so much flak on VAT that President Nixon finally said he had strong doubts that he would ever recommend it.

It's just as well. The value-added levy, a major revenue source in Europe, would indeed ease some of the problems facing the U.S. But all of those problems can be handled in other ways without the difficulties that a VAT system could create.

Although the administration hasn't been eager to say so, a value-added tax would be simply a form of national sales tax. The money would be collected from businessmen at each stage of production and distribution but, so far as competitive conditions permitted, the impact of the tax would fall on consumers.

The chief virtue of the value-added tax, its backers concede, is that it can raise a great amount of money. By one estimate a VAT rate of 4% or 5% would raise $20 billion a year. The gap between federal receipts and expenditures will be enormous this fiscal year and next, and a new tax is one approach toward bringing the figures closer together.

There are other approaches, though. A number of Democratic Congressmen argue for another effort to "reform" the existing tax structure. Although some of their ideas are the usual soak-the-rich schemes, it's true that a careful overhaul of the present tax setup could produce more revenue.

A sudden influx of $20 billion or so in additional revenue, moreover, would remove some of the pressure on Congress and the administration to police existing programs. Recent revelations of scandalous waste in the housing subsidy program do nothing to build confidence that the government is getting proper value for each dollar it spends.

PUSHING AN ARGUMENT

VAT backers contend that the levy would permit the federal government to channel more money to states and localities, and thus ease the squeeze on many of those lower jurisdictions. That argument has been pushed especially hard since court decisions have raised questions about the present method of financing schools largely with the local property tax.

One trouble with this approach is that 45 states and the District of Columbia, as well as a number of cities, already impose retail sales taxes. If the answer to the state-city squeeze is what amounts to a higher sales tax, why not let the states and the cities raise the tax themselves?

A state sales tax, after all, has administrative advantages over a federal levy. The collection machinery already exists, and it's far simpler than the arrangements that would have to be made for collecting VAT. The state levies are collected only from retailers, not from all the businessmen up and down the line.

There is one VAT "advantage" that the levy's proponents manage to say little or nothing about: It is largely hidden from the consumer who pays it. This would make it much easier, politically, to raise the rate. It would be a lot easier, surely, to raise the value-added rate than it would be to lift state sales tax rates enough to get the revenue that VAT backers have been talking about.

Another argument advanced for the value-added tax is that it would help to spur improvements in technology, an area where U.S. gains have been lagging behind those of a number of other nations. The reasoning is that VAT, a tax on consumption, would make it possible to lighten taxes on production—in other words, taxes on corporations.

It's true enough that the present tax setup does discourage investment. If Congress ever is so inclined, however, it can remedy this situation through changes in present taxes without adopting an entirely new system. The investment tax credit and easier tax depreciation rules were steps in this direction, and the government could, if it would, go farther still.

One of the weaker arguments for VAT is that the Common Market countries are using it. European tax systems have always differed sharply from the U.S. arrangement, and for some very good reasons. The major one, perhaps, is that several European countries long have found it hard to enforce a personal income tax and have been compelled to rely heavily on some sort of sales levies. VAT, in other words, was nothing new in Europe—just a change in existing sales levies.

European countries rebate VAT on exports and impose it on imports, and some of the levy's backers say this gives Europe a large trade advantage over the U.S. There may be some advantage, but it isn't large enough to merit a major restructuring of American taxes.

States sales taxes in the U.S. are not imposed on our exports, and they are collected on imported goods. If the U.S. decides that it wants to heighten the effect of this system it could encourage the states to try to raise their sales tax rates.

U.S. exporters naturally are subject to the corporate income tax, and this levy cannot be rebated. European countries, however, also impose sizable corporate taxes, and these are not rebated either. In fact, the argument that VAT will ease the tax burden on business loses force when Europe's corporate tax setup is considered. A new tax can ease other tax burdens, but it doesn't necessarily work that way.

Yet another argument for VAT is that it is a "neutral" tax. One meaning of this is that the levy does not discriminate between rich and poor consumers, and that's certainly true. The size of the consumer's VAT burden depends not on his income but primarily on how much he spends.

VAT's advocates recognize this problem and suggest that it can be handled by paying direct subsidies to the poor. In the administration's consideration of the levy, technicians proposed that part of the tax could be rebated to lower-income groups.

Such a plan would make the tax somewhat less regressive. The traditional U.S. way to handle the problem of regressivity, though, has been to rely heavily on individual income taxes, with their progressive rates. Although some of the subsidies and special provisions in the tax law make the income tax levy less progressive than the rate schedules appear, Congress can overcome this problem, if that's what it is, by dealing directly with the special subsidies.

Another form of "neutrality" claimed for VAT is that it is the sort of tax that would be least likely to influence business decisions. That may or may not be so. Every businessman would, so far as possible, pass the entire tax along to the final customer. If he passed it all along, VAT would indeed be a neutral levy, as far as he was concerned: He wouldn't pay it.

Yet no one can be sure exactly how well this pass-along would work: it would depend on the state of the market at the time. At some times it is more than possible that businessmen would be forced to absorb some or all of VAT, just as they now sometimes have to absorb some or all of the corporate income tax instead of merely adding it to the prices of their products.

OPPORTUNITIES FOR MANIPULATION

VAT, moreover, would be no more neutral than the government wanted it to be. In most European countries there are at least two value-added rates, as well as some special exemptions to benefit the types of transactions the governments want to encourage. In all of its complexities, VAT offers more opportunities for tax manipulation than most types of levies.

At the present moment, obviously enough, VAT would be especially worrisome since it would push up retail prices that are already high and still rising. That fact alone probably helps to explain why the administration's consideration of the tax stirred no euthusiasm whatsoever on Capitol Hill.

With extra-tight financial policies the government could sharply limit the price-lifting effect of VAT. But a fiscal-monetary crackdown now would be likely to abort the present business recovery, and the value-added revenues would have to be squeezed largely out of slim business profits.

In this election year, of course, neither the administration nor Congress is going to propose any measure to sharply increase voters' taxes. Mr. Nixon couldn't have made this one thing more clear: There "will be no increases in taxes this year."

For the future the President says that he and the Treasury have not entirely abandoned VAT but are studying other tax "reform." If he is re-elected this fall it is probable that both the administration and congressional Democrats will be promoting major tax bills early next year.

Some reforms certainly are desirable, not only in taxcs but in spending. To any such fiscal overhaul, however, VAT would appear to add little of value.

Mr. Clark is an associate editor of this newspaper.

NIXON AND THE FARMER

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. FINDLEY. Mr. Speaker, Prairie Farmer, the widely respected Illinois farm magazine recently completed a survey that shows President Nixon would be an easy winner among farmers in the November elections against Senators HUMPHREY, MCGOVERN, or MUSKIE.

The survey is scheduled for publication on May 6. Prairie Farmer, edited by James C. Thomson, is read by over 90 percent of Illinois farmers.

The survey and accompanying text are as follows:

NIXON IS STILL FAVORITE OF ILLINOIS FARMERS: MUSKIE IS FAVORED DEMOCRAT; WALLACE POLLS 9 PERCENT; PRESIDENT IS GIVEN NEARLY HALF OF VOTE

(By Jim Thomson)

President Richard Nixon would have nothing to worry about if the Illinois farm vote decided the presidential election in November.

The latest (April) Prairie Farmer poll indicates that nearly half of the Illinois farmers polled are for President Nixon's reelection.

When matched with 3 of the leading Democratic candidates for the presidential nomination, here is how Illinois farmers voted: Nixon 50% versus Humphrey 13.3%; Nixon 47.3% versus Muskie 18.6%; and Nixon 49.2% versus McGovern 12.6%.

An average of 9.3% of the farmers polled preferred George Wallace.

The following question was asked of a 500-sample cross section of farmers in all sections of the state:

If Hubert Humphrey (Edmund Muskie, George McGovern) should be nominated for president by the Democrats, if Richard Nixon were nominated by the Republicans, if George Wallace were running as an Independent third-party candidate, and if the election were being held today, how would you vote?

Here are the results:

	Men	Women	All
Nixon	51.4	48.5	50.0
Humphrey	12.9	13.7	13.3
Wallace	12.4	7.5	10.0
Undecided	23.3	30.3	26.7
Nixon	48.2	46.5	47.3
Muskie	17.7	19.5	18.6
Wallace	11.6	6.2	9.0
Undecided	22.5	27.8	25.1
Nixon	50.2	48.1	49.2
McGovern	13.3	12.1	12.6
Wallace	11.6	5.8	8.8
Undecided	24.9	34.0	29.4

If you split the undecided vote 3 ways between Nixon, the leading Democrats, and George Wallace you get these results: (1) Nixon 58.9%, Humphrey 22.2%, Wallace 18.9%; (2) Nixon 55.7%, Muskie 27.0%, Wallace 17.3%; (3) Nixon 59%, McGovern 22.4%, and Wallace 18.6%.

It is interesting to note that though Humphrey and McGovern are generally hostile to Farm Bureau on national farm policy, Illinois Farm Bureau members didn't seem to vote much differently than non-Farm Bureau members. Muskie is hardly a champion of Farm Bureau, yet Farm Bureau members gave him as much support as non-Farm Bureau members.

Here is how Illinois Farm Bureau and non-Farm Bureau members voted:

	Farm Bureau	Non-Farm Bureau
Nixon	51.9	48.0
Humphrey	12.3	12.0
Wallace	12.3	13.3
Undecided	23.5	26.7
Nixon	49.7	44.4
Muskie	16.8	16.7
Wallace	11.2	13.9
Undecided	22.3	25.0
Nixon	51.4	48.0
McGovern	11.7	16.0
Wallace	11.2	13.3
Undecided	25.7	22.7

A solid 82% of the Illinois farmers who consider themselves strong Republicans said they would vote for Nixon.

On the other hand from 30% to 40% of the strong Democrats were undecided. Those who had made up their mind gave 37% to Humphrey, 45.2% to Muskie, and 29% to McGovern.

Of the 3 Democratic candidates, young farmers give Muskie 15.2%, their best vote. Their lowest support went to Humphrey, 7.6%. They show a little more enthusiasm for McGovern, 12%.

College-trained farmers show the greatest enthusiasm for Nixon and the least for George Wallace.

Here is how Illinois farmers voted according to the extent of their education.

	Grade school	High school	Some college
Nixon	47.4	48.0	58.2
Humphrey	10.4	14.9	12.2
Wallace	12.9	10.9	4.1
Undecided	29.3	26.2	25.2
Nixon	43.1	45.8	56.1
Muskie	18.1	18.9	18.4
Wallace	8.6	10.9	4.1
Undecided	30.2	24.4	21.4
Nixon	48.3	46.5	57.2
McGovern	8.6	14.9	11.2
Wallace	11.2	9.1	5.1
Undecided	31.9	29.5	26.5

EDGAR M. "POP" BUELL

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. SCHMITZ. Mr. Speaker, on February 18 of this year I entered into the CONGRESSIONAL RECORD a story relating in part to a very brave people, the Meo tribesmen of Northern Laos, led by a fearless pro-American Laotian patriot, Maj. Gen. Vang Pao. Just recently, one of the valiant Americans mentioned in that article returned from that area of the Southeast Asia war, Edgar M. "Pop" Buell. For 12 long years Pop Buell, despite two heart attacks, stayed in Laos to help the anti-Communist people he came to regard as his own—the Meos. The Philadelphia Sunday Bulletin for April 9, 1972, reported the story of this little known, but much loved Hoosier farmer. In this age of the American cynic, of the "better Red than dead" yellow syndrome, men like Edgar "Pop" Buell stand out as voices crying in the wilderness. I for one, would like to render the thanks of what should be a grateful Nation to Pop Buell for all he has done for Vang Pao and his valiant Meos, as an American patriot. The story from the Philadelphia Sunday Bulletin follows:

LAOTIANS BID TEARFUL FAREWELL TO INDIANA FARMER "POP" BUELL

(By Arnold Abrams)

VIENTIANE, LAOS.—Among the more recent victims of the endless war in this mountain kingdom is a middle-aged farmer from Metz, Indiana.

His name is Edgar M. Buell, but here he was known as "Pop" Buell.

Pop left Laos last month, probably for good, because 12 years' of war and worry take a toll. He went weary and discouraged, but with the lasting gratitude of people he tried to help.

LOVED TRIBESMEN

They were hill tribesmen, mostly Meos, a war-shattered people who will be the conflict's biggest losers, no matter who wins. He loved them and they responded.

They called him "Tan Pop": Tan being Lao for "mister," Pop being a Meo deific meaning "sent from above." Always dropping from the sky, courtesy of Air America, to bring food and medicine and blankets, Edgar Buell was "Mr. Sent From Above."

The title was misleading, though, for Pop Buell is very human: a short, homely man of earthy speech, some irascibility and great appreciation of good liquor. Nobody mistook him for a deity, but he showed more concern for downtrodden people than most mortals.

"I love the Meos," Pop said. "They've got guts. Never mind the color of their skin or the cut of their clothes. They're just like folks in Indiana or Ohio or the hills of Kentucky—they'll fight for what they believe in."

LOSING BATTLE

The Meos believe in living atop mountains and maintaining a rugged, independent way of life. They have been fighting for these things more than a decade against the North Vietnamese. It has been a losing battle.

Pop came here in 1960 as a $65-per-month field worker for International Voluntary Services, a Peace Corps prototype.

Then 47, he was a recent widower with grown children, a profitable 250-acre farm, and need for a new meaning in his life.

"I didn't know Laos from Lapland," he recalled, "but they told me there were people here who needed help, and that maybe I could teach them some farming tricks."

SUPPLIES AIRLIFTED

Assigned to a tiny village near the Plain of Jars in northeast Laos, he established a school system and taught preventive medicine as well as agriculture.

By 1962, as warfare engulfed the strategically located plain, Pop aided the embattled Meos by organizing airlifts of supplies.

Pop befriended at that time a young, ambitious army major named Vang Pao. The two were an unlikely duo—one a farmer from the Middle West, the other a Meo from the mountains of Laos—but a deep bond developed.

Vang Pao soon caught other Americans' attention and subsequently became a key commander, leading the Meos' CIA-supported guerilla army. Buell, meanwhile, shifted to the U.S. Agency for International Affairs, where he coordinated refugee relief efforts.

Pop often could be found at Vang Pao's side as a personal friend, adviser and provider of needed goods for the hard-pressed tribesmen.

NOT ON CIA ROSTER

Buell often worked with clandestine U.S. agents assigned to Meo fighting units, but said he never was employed by the Central Intelligency Agency.

"We had the same things in mind," he explained, "but different ways of doing them."

Vang Pao was headquartered at Long Cheng, a military stronghold and northern nerve center of the CIA; Pop's place was Sam Thong, six miles north, where he ran a hospital and refugee center. Both sites have been overrun by the North Vietnamese.

Anguish ate away at Pop in recent years as he watched the Meos being killed off or pushed ever closer to the edge of their mountains.

TWO HEART ATTACKS

He suffered two heart attacks. He also grew increasingly bitter, with much gross anger directed at American critics of U.S. policies in Laos.

"Some of the folks back home seem to think North Vietnamese are a kind of religious order, doing good deeds here," he said. "Well, I have pictures of the work they do—pictures of Meo mothers with their breasts cut off, and babies who were feeding at those breasts lying dead with their head bashed in."

"Tan Pop," a tearful Gen. Vang Pao told Buell the day he departed, "my people will never forget you."

PLEADS FOR AN END TO INDOCHINA CONFLICT

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. HELSTOSKI. Mr. Speaker, since the President of the United States re-escalated the air war in Indochina, many citizens have written to me in dismay and despair, demanding an immediate end to this outrageous conflict. This morning I received a most striking and eloquent plea for an end to the insanity from Marianne Harms of North Arlington, N.J. In letters to me and to the President, Marianne Harms graphically describes the crisis of conscience afflicting millions of our citizens as they witness their Nation, under the leadership of Mr. Nixon, raining death and destruction on the helpless civilian population of Indochina. Marianne Harms' letters are eloquent testimony to the fact that, although conscience and compassion may be unknown in the White House and Pentagon, they are very much present among the American people.

Under unanimous consent, I include the text of the two letters at this point in the RECORD:

NORTH ARLINGTON, N.J.,
April 28, 1972.

Congressman HENRY HELSTOSKI,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HELSTOSKI: Enclosed you will find a copy of a letter I have just mailed to President Nixon. It is one of the many letters I have sent to his attention in my life of twenty-two years, all of which have been answered with smiling little cards thanking me for my understanding. I no longer have the patience nor the understanding I once had for any leader of this country. I am one of the countless thousands of youth who have thrown up their hands in apathy, voicing only occasionally my disgust at the horrid situations existing in this country, which are being continually ignored while all energy and money is spent on the murder of the innocent in Viet Nam.

I am not quite sure exactly why I have even contacted you, I suppose there is still some hope inside me. I have a feeling you sympathize with me and are willing to listen, that you are as much against war and repression as I am. Therefore I urge you to constantly remind your colleagues that you are losing the youth of America, not because of drugs or communism, but because we have shouted too long and have not been heard, because some of us fear speaking out because too many of us already are on file in Hoover's office. Some of us call for revolution, others have sought lives away from the system ignoring as much as we can, yet we all live with one thought in common, the freedom to live as each human designs as best.

I ask you to fight against the continuation of the war. Your voice may be small but we will notice, I assure you. If we all work together to preserve life, we can begin to work for the betterment of the life we now hold claim to. I thank you for your attention and wish you peace.

Sincerely,

MARIANNE E. HARMS.

NORTH ARLINGTON, N.J.,
April 28, 1972.

RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am appalled at the recent bombing of North Viet Nam. The slaughter of innocent women and children brings tears to my eyes as well as shame for being part of a country which would commit such atrocities, for being part, part of a country which I love so dearly yet fails to listen to the voice of its people.

I ask you, Mr. President, where is your conscience? Has the power of public office so affected you that you have lost all sight of your moral responsibility towards human life? Have your principles been so warped by the concessions you had to make for support on your road to political victory? Have you forgotten that false pride blinds the human spirit, that your honor is worthless when surrounded by death?

You, Mr. Nixon, may be the President but you are first and foremost a human being. Life is as important to you as it is to a Vietnamese woman, as it is to a Viet Cong soldier. Your responsibility, however, is to be an example to the peoples of this world. It is your job to teach others respect for human life. You have failed, you have maimed and destroyed innocent lives. Now it is your moral and ethical responsibility to reconsider, to cease waging a senseless war against people who bear you no threat.

I plead with you Mr. President to hear the cries of human life being torn to pieces, to hear the shouts of the people of America, so that I as well as countless others may raise our heads with joy at being citizens of the United States and point to you as a man sensitive to life and a just leader of his people.

Sincerely,

MARIANNE E. HARMS.

NEW OFFENSIVE IN THE WAR ON HEROIN

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. HALPERN. Mr. Speaker, back in January, the President signed an Executive order creating the Office of Drug Abuse Law Enforcement in the Justice Department. As chief of the new agency he appointed Myles Ambrose, the very able former Commissioner of Customs and a native New Yorker. The purpose of ODALE, as it is being called, is to drive heroin off the streets in the major urban areas of this country where it is a problem.

ODALE is not meant to supersede the Bureau of Narcotics and Dangerous Drugs, the Justice Department agency with primary jurisdiction over the regulation of narcotics and dangerous drugs. It is intended, rather, to supplement the Bureau on a presumably temporary, though indefinite, basis. It will bring to bear on the heroin sales syndicate many aspects of Federal, State, and local law—not merely the law governing narcotics. The approach will be very similar to that of the Justice Department's organized crime strike forces, which have had much success.

Thirty-three cities have been selected as targets of the drive supervised by ODALE. Although the number and composition of the heroin strike forces will vary from city to city, essentially they will be composed of Federal, State, and local law enforcement officials working under the guidance of a senior Justice Department attorney. The law enforcement officials will include both attorneys and investigators. A typical force might be one whose Federal components are the U.S. attorney heading it, four or five other lawyers, 10 agents from the Bureau of Customs and one liaison agent from the Internal Revenue Service. The forces will work with special grand juries, impaneled under the Organized Crime Control Act of 1970, which will hear evidence and prepare indictments.

In my own city of New York, unhappily the major center of addiction in the Nation, plans have been laid for an especially intensive effort. New York is the site of one of nine regional ODALE offices which are being established throughout the country. The region covers the area embracing New York State, northern New Jersey and New England. The regional director, appointed last month, is Andrew J. Maloney, formerly assistant U.S. attorney for the southern district of New York. Mr. Maloney has had experience with the kind of effort being made by ODALE, having served as head of the drugs and racketeering unit of the New York southern district while in his previous position.

The New York regional office was officially opened on March 20. As a demonstration of the administration's special concern over the drug problem, President Nixon flew to New York to be present for the opening. While there he met with Governor Rockefeller and a number of law enforcement officials, judges and narcotic addict rehabilitation specialists. On that occasion the President called for total war on drug addiction and referred to this problem as the Nation's domestic "public enemy No. 1."

One of the most significant things about the New York operation is the arrangements which have been made with New York City authorities. The city has recently established a special 37-man prosecution unit which is intended to handle all felony narcotics cases throughout the five boroughs. These cases are being handled in eight newly created narcotics courts. Last June the New York legislature enacted special legislation removing the legal barriers created by jurisdictional and county lines to establish these courts. The New York ODALE office is working closely with the city prosecutor unit and has provided space for it in the ODALE office itself.

The kind of close, day-to-day relationship of the Federal and city authorities which is being effected in New York should permit an exchange of information on a daily basis and result in the development of cooperative policies and sucessful operations. Mr. Ambrose has observed that the New York City project may serve as a model for similar efforts in other metropolitan areas across the Nation.

I wish to go on record as applauding these developments. As a representative from the great but troubled city of New York, I am considerably heartened—as are my constituents, I feel certain—by these determined and innovative moves. If the ODALE campaign can make real inroads into the ghastly business of heroin trafficking, it will indeed give new life—and new hope—to the Nation's embattled cities.

ONCE AGAIN THE FRENCH CONNECTION

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BRASCO. Mr. Speaker, not long ago I offered some remarks in the House regarding heroin traffic between this country and southern France. More specifically, I voiced a belief that high officials in the French Government know much about the heroin traffic, and simultaneously are protecting many important individuals involved in it. Such activities may even go so far as to involve actual participation by certain French officials.

My remarks raised significant official protests here and abroad. Other public figures, in the Congress and out, had voiced feelings similar to mine, resting their commentary on easily available facts based on a flood of news stories.

Our State Department, such as it is, pushed such accusations aside. This, of course, was anything but unexpected, because this agency usually puts purely American interests last.

Our Ambassador to France, such as he is, let it be known through spokesmen that such accusations were unfounded, unjust, unproven and deleterious to American-French relations.

Many papers in France, aroused to passion by such accusations, vehemently denied that any such possibility or actual activities ever transpired.

Mr. Speaker, I repeat my accusations. I repeat them in spades. America is being flooded with heroin. Our cities are turning into jungles. Our young people are being assailed by a veritable inundation of this poison.

Heroin starts in Turkey in the form of opium. From there it is routed to the southern French port of Marseilles by international cartels of gangsters making lush livings off this traffic. In and around Marseilles are found a series of laboratories where raw, smelly, and bulky Turkish opium is transformed into heroin.

There are many such laboratories in that area. French authorities either know of their location or identities of those who operate and control them. The cumulative evidence is incontrovertible.

In the wake of the massive outcry of recent months, a few bones have been thrown to the public and media in the form of several large heroin seizures. One such involved a Louis Marcel Boucan, whose shrimp trawler was stopped and eventually found to be carrying 937 pounds of pure heroin, largest such seizure ever made.

Yet newspaper stories stated that both American and French agents claimed Boucan's drug smuggling activities were known for years. He lived luxuriously on the French Riviera. His vessel made a series of constant trips to southern French ports, including, of course, Marseilles. In a few short weeks, he and several others were seized redhanded by narcotics police. When the "heat" got too great, a few small fry were thrown to the wolves to ease growing pressure. Of course, a few people still ask nasty questions, such as why French police knew of Boucan's activities for years and only very recently decided to actually approach him.

Takashi Oka, in a recent Christian Science Monitor article, carries the following paragraph in his story.

> From Turkey the route (for opium-heroin smuggling) leads by land or sea to southern France and its great port of Marseilles. Here the morphine base is refined into pure heroin, and then shipped to its final destination, the United States, by all the ingenious traditional and modern ways that criminal minds can devise.

Again, from Oka's same story:

> These clandestine laboratories, often described, seldom found, are believed to operate at irregular intervals in villas along the Cote d'Azur or in Marseilles itself.

For every such quote from a story mentioned here, there are a dozen more, each in different, respected newspapers, written by first-class investigative reporters. A steady stream of such reports can be found. Every story on drugs contains at least some casual factual mention that Marseilles is the entrepot for both conversion and shipment, and that authorities are at least aware of this.

Here in the United States, we are the end recipients of all consequences of the heroin traffic. A generation of American youth is being hideously perverted and mentally mangled because of it. We are increasingly desperate for some action. That is why I and others have spoken out.

Last August, we received additional assistance and confirmation when Mr. John Cusack, then representative of the American Bureau of Narcotics and Dangerous Drugs, supplied a specific accusation.

He was quoted in an interview as saying there were "big wheels" protecting narcotics trade and laboratories in France. Cusack has since been recalled, a tribute to the power of the French Government and our State Department's willingness to help them use pressure in the right places at home to get rid of an honest man. The U.S. Ambassador to France, notable for his wealth and sobriety, backed them up 100 percent. This is the same Ambassador, let it be noted, who took great umbrage at my attack on this heinous traffic recently.

To be sure, there are devoted, honest French narcotics officials valiantly doing their best to stave off some of this flood of heroin, knowing that their own nation is increasingly vulnerable to its inroads. Yet it seems that at the very top, there is not much commitment.

In fact, just under their own noses, it seems there is some commitment within French officialdom to profit from the agony of America's youth and cities. Some might even say that agencies or individuals in the French Government are actively involved in smuggling heroin into the United States. Shocking? Truly. Yet I believe it.

Here is one example.

In my original remarks, I indicated a steady stream of seizures were being made by our own customs people. Also that almost every one of these seizures involved French nationals and/or a vehicle or product loaded with heroin shipped originally from Marseilles or another southern French port. From one such event emanates a fascinating tale, as damning as it is revealing.

A former French secret agent has testified that his own nation's secret service at times resorted to drug trafficking in order to obtain money for a variety of reasons. This also included smuggling heroin into the United States.

Roger X. de Louette, a convicted drug conspirator and smuggler, gave such testimony at proceedings here emanating from his capture in connection with an attempt to smuggle $12 million of heroin into America. This testimony was fortuitously released by a Federal judge when he sentenced him to a prison term.

De Louette tried to claim a VW camper bus at Port Elizabeth. It had been shipped from Le Havre, and upon inspection was found to contain heroin under the floorboards. De Louette claimed a former superior in the French secret service recruited and brought him into this operation.

All in all, there is a 368-page transcript of his remarks. It is required reading for every American who has lost a child to the drug traffic. Every person in our Nation outraged, fearful and concerned for their own children should go over it piecemeal.

At this point in my remarks, it is well worth including a story from the Washington Post of a few days ago, cataloging a summary of the event and transcript. It seems the French consulate staff in New York City was alerted to the possible need of protecting De Louette if he were caught, evidence that this network involves both sides of the Atlantic in official French Government circles. Also, that when he was caught and talked, a massive coverup resulted in France, including a whitewash investigation of the superior he implicated and disappearance of a key report bearing out his accusations. I include that story by Morton Mintz of the Post at this point in my remarks:

"FRENCH CONNECTION" PLOT THICKENS

(By Morton Mintz)

NEWARK, N.J., April 18.—A three-day interrogation of the French counter-espionage agent who smuggled $12 million worth of heroin into the United States a year ago reveals that a key report implicating his superior disappeared in Paris after the agent's arrest here.

A transcript of the questioning also disclosed that the agent's mistress and a son were harassed by French authorities and that a member of the French consulate staff in New York City, identified for the first time, was to be his contact if trouble unrelated to the smuggling should develop.

The 368-page transcript may revive a furore in France over claims by French police and judicial authorities that they have not covered up for certain officials of the French counterpart of the CIA.

The questioning was conducted here last month, mainly by investigating magistrate Gabriel Roussel of Paris. It provides rare glimpses into the agency, SDECE (Service de Documentation Exyerieure et de Contre-Espionage).

The record of the interrogation was made public Monday by Donald A. Robinson, counsel for the agent, Roger X. L. DeLouette of Paris, when DeLouette, 48, received a minimum five-year sentence.

Judge Frederick B. Lacey, who imposed the sentence, and U.S. Attorney Herbert J. Stern, who objected to the introduction of the transcript, joined in praising DeLouette for the cooperation he provided federal investigators after his arrest on April 5, 1971.

On that day he went to Port Elizabeth, N.J., to pick up a Volkswagen camper he had shipped from France. Customs inspector Lynn Pelletier, 21, making a routine spotcheck of the interior of the VW, noticed sunlight coming through a hole in a front installation panel—the result, apparently, of a screw having shaken out in transit. Curious, she reached behind the panel—and pulled out a package of heroin.

Under a French-American agreement on narcotics trafficking, DeLouette was questioned the day after his arrest by a French policeman then assigned to the consulate, Daniel Hartwig, who took notes, and by U.S. customs agent Paul Boulard, who made a tape recording.

In a statement, DeLouette named the man he called the mastermind of the smuggling scheme as an SDECE department head known to him as "Col. Paul Fournier," who since has been identified as Paul Ferrer.

At one point, when the customs agent went to another room, Hartwig took DeLouette aside "to tell me that I should never have said this to the Americans," the agent said.

The transcript disclosed that Hartwig phoned someone in Paris, which led to an immediate visit to Ferrer by Michel Nocquet, chief commissioner of the Police Judicare in Paris. No written report on the conversation has been filed with Judge Roussel, French police, after closing a three-day investigation, pronounced Ferrer innocent.

DeLouette learned of the visit to Ferrer from John Cusack, then director for Western Europe of the Bureau of Narcotics and Dangerous Drugs. Cusack later created an angry controversy by accusing French authorities—who denied it—of not making bona-fide efforts to dismantle heroin laboratories in the Marseilles area.

"I was absolutely astonished," DeLouette said, explaining that he had expected his charge against Ferrer to be pursued in "a discreet investigation."

"Once they went to see him that was it. I never thought he would know that I had talked."

Also in the questioning a year ago, DeLouette identified Donald McNabb, a middle-level official at the French Consulate in New York, as the man Ferrer had told him to contact in event of unforeseen difficulties unrelated to the heroin smuggling, for which DeLoutte was to receive $50,000.

McNabb was "a representative of the SDECE," DeLouette charged.

Soon after DeLouette named McNabb, Hartwig and the top narcotics official of the Police Judiciare, Claude Chaminadas, called on McNabb to show him photos of DeLouette.

Stern, in a confrontation with Roussel during the interrogation last month, protested that Hartwig made a report on the question of DeLouette that got to French police, but, somehow, according to Roussel, did not reach him. Stern also recalled to Roussel a statement by the magistrate that Hartwig had claimed that DeLouette had never mentioned McNabb.

Last April, DeLouette said, Hartwig "gave me his word" that if he supplied the address of his mistress, Marie-Jose Robert, then 22 and pregnant, "nothing would be done against her."

But, DeLouette said, she subsequently was indicted for possession of $17,000 in counterfeit U.S. currency, which he said was in her apartment but of which she was "totally unaware." She was jailed for three months and was "liberated" only two days before giving birth. Recently, Roussel lifted her passport, temporarily preventing her from coming to see DeLouette.

In his statement to Hartwig, DeLouette told of being requested by Ferrer to meet a certain SDECE employee who then gave him an envelope containing the $17,000. DeLouette, following instructions, went to an Italian town on the French border, Modane, to deliver it to a contact.

But Ferrer cancelled the meeting, suggesting instead that DeLouette take the counterfeit currency to Algeria. The agent declined, not wishing to risk a severe penalty. He said the money was in a bureau drawer in the apartment when he left for the United States.

Last October, DeLouette said, one of the six children by his marriage, a son, arrived in the university compound in Bordeaux to look for a room. And, at Roussel's request, police interrogated the student for 7½ hours and searched his room "in order to seize his letters," DeLouette said.

On March 11—a day after the interrogation ended—Stern sent Roussel a tape of the recording made by the customs agent, Boulard, a year ago. No action against Ferrer is known to have resulted.

A grand jury indicted Ferrer, as well as DeLouette, last Nov. 15. Not until after that was there any public knowledge of the behind-the-scenes legal wrangle between French authorities and Stern and his top assistant, Jonathan L. Goldstein.

Mr. Speaker, what it all distills down to is this: A massive traffic in heroin is in fact being conducted. Much of it may be eventually coming in from Latin America or through the Caribbean. Nevertheless, opium comes from traditional opium cultivation areas in the Middle East. Cartels of French-Corsican gangsters see to it that this opium reaches southern France. In and around the Marseilles area it is transformed into what we know as heroin. French authorities on high levels know of all this, condone and protect it and in some spectacular cases participate in this degraded traffic. Whether for personal profit or just hate of America this is done, I do not pretend to know.

The orchestrated official outcry against anyone who dares lift this particular rock is based on an official policy of not offending the French. In France, anti-Americanism, personal motives of other kinds and quasi-official policy encourages ventures of this sort by the French Secret Service. It also seems as if the French foregn service is at least peripherally aware of what is transpiring.

Here at home, so-called French good will or other pressures overbalance obvious horrors of the heroin problem to our own citizens. The State Department, such as it is, will do nothing to aid in our war against the traffic. In fact, its resources and spokesmen, including our ambassador in France, such as he is, are ever ready to soothe ruffled Gallic feathers at the expense of American well-being.

In this most recent series of cases, because of the outcry and attendant publicity, a few seizures were made abroad within a few weeks of one another. One conversion laboratory in Marseilles was even raided and broken up. Of course, all they picked up were two stooges. As usual, higher-ups remain unaffected, and presumably have already gotten a replacement operation under way. Meanwhile, what is happening here at home? Go out into our streets at night and see for yourself. Take a look at our robbery, shoplifting and prostitution statistics. Talk to the local police. Visit one of our shabby prisons or jails.

It is conservatively estimated that America now contains more than half a million heroin addicts, and the number grows constantly. No community or State is immune anymore. Heroin is everywhere. In every neighborhood. In every school, including some of our grammar schools.

This traffic could be crippled tomorrow. Jack Anderson has just informed us of a secret CIA report confirming evidence of the French connection. That connection now leads into all our lives.

Mr. Speaker, all my accusations stand as before. Only reiterated with all the vehemence I can muster. What, then, is the U.S. Government going to do about it?

ROGERS PRAISES TRAINING OF POLICE FOR DEALING WITH RETARDED

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ROGERS. Mr. Speaker, despite the many educational programs throughout the country dealing with the problems of the mentally retarded, there still remains many misconceptions. I am pleased to announce that the State of Florida has taken steps to eliminate many of these misconceptions by introducing an educational program for police.

On September 1, 1971, Florida became the world's first governmental body to make mandatory the training in the recognition and handling of the retarded for basic police education.

For 12 years the 2-hour course has been given, developed, and refined at the West Palm Beach Police Academy, serving 39 municipalities of the county, by Dolores Norley, with the enthusiastic cooperation of West Palm Beach Police Chief William Barnes and his training staff.

In 1970, Mrs. Norley, then president of the Florida Association for Retarded Children, and chairman of the Council of State Presidents of Associations for Retarded Children, presented to the Florida Police Standards Board the rationale for the inclusion of such training in mandatory regulations for all Florida police officers. The board requested, received, reviewed, and finally adopted the curriculum used at the Palm Beach Police Academy as a part of their 280-hour minimum training requirement.

This subject has been traditionally a part of the mental health area umbrella training. This has led to natural confusion, reinforcing the erroneous thinking that retarded people are per se violent, erratic, and to be approached with caution. The delineation of the subjects has finally given the opportunity to point out that mental illness and mental retardation are separate and distinct conditions, the first falling within the medical rationale, the second a problem subject to the fields of education and psychology—not psychiatry.

Thirty-five other States, England, Canada, and Switzerland have requested direction in the implementation of such a program in their areas.

World-wide there is a normalization movement bringing inappropriately institutionalized retarded people back into the communities, where they are living in small homelike normal environments, working in either competitive or sheltered employment, and realizing their full potential. In the stream of society, using generic community services of medicine, recreation, training, education, and so forth, their handicap is finally handled in perspective, and with the least cost to the taxpayers because in actual fact, with a minimum of training and with proper placement, most of the retarded now institutionalized can, and are, becoming taxpayers themselves.

With these increased numbers of retarded people in the communities, often with visible yet handleable speech or ambulation handicaps, there has been heightened interest in the assurance of understanding and the protection from exploitation, including the prevention of the loss of due process.

Misunderstanding in the past has been the cause of innumerable arrests and improper bookings. True law breaking is not under question. The police procedure there is well defined and followed. Prevention is more the thrust. No specialized or exceptional treatment is being asked for—simply the avoidance of making a person go through steps of the legal process where not necessary. This can be accomplished by the education of the police so that they understand, as indeed they want to, the variations in acceptable behavior and the options they have in referral and personal aid.

The President's Committee on Mental Retardation interfaced with FARC and the International Association of Chiefs of Police by cooperating in the development of a training key as a final tool for the police schools.

PERSPECTIVE NEEDED BY DOVES AND HAWKS

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. CHAMBERLAIN. Mr. Speaker, all too much of the highly publicized criticism of U.S. policy in Vietnam during the past few weeks has failed to give a balanced appraisal of the new conditions that distinguish it from previous crises. In an editorial appearing on April 24, 1972, the Owosso, Mich., Argus Press, has underscored some very important facts that must be kept in mind by all if the current state of the war in Vietnam is to be viewed in proper perspective, and I commend it to the attention of my colleagues:

PERSPECTIVE NEEDED BY DOVES AND HAWKS

In a letter to the New York Times, eight members of the U.S. House of Representatives deplore the escalation of the war in Vietnam. A central paragraph puts the blame squarely where the congressmen believe it belongs:

"The President of the United States has called off the regular meetings of the negotiators at the Paris peace talks. And only this week the United States launched a massive air attack of both South and North Vietnam. In short, there are no signs of any moral leadership on the part of the administration to end the killings and the destruction of countries now.

In the 254 words of the letter, not a word alludes to the massive invasion of South Vietnam by North Vietnamese troops, nor to the killings of South Vietnamese civilians and destruction of their villages by North Vietnamese tanks, mortars and howitzers.

In a hearing before the Senate Foreign Relations Committee, Secretary of State William P. Rogers was asked if the stepped-up fighting was not proof that the administration's policy of Vietnamization had failed. None of the senators suggested that North Vietnam's invasion, to which it has committed more than 90 per cent of its regular forces, might mean just the opposite—that Vietnamization is working.

But a funny thing has been happening on the way to the embarkation ports in Vietnam. That it is ignored by those who, for some reason, hope for the discrediting of Vietnamization, is one thing. That the nation's representatives in Congress seem to be totally unaware of it is quite another.

The fact is that not only has the war been increasingly "Vietnamized," meaning that South Vietnam has taken over more and more of the burden of ground fighting, but the war has also become increasingly "North Vietnamized."

In the Tet offensive of 1968, which was such a telling psychological blow to the American public and to the Johnson administration, nearly every village and city throughout the length and breadth of South Vietnam was subjected to attacks by Viet Cong guerrillas, who seemingly sprang out of the earth—despite the fact that U.S. forces were at a peak of more than half a million men.

At that time, the argument that the conflict was a civil war against a repressive regime in Saigon which we were immorally supporting had more than a little credibility. Little remarked in the United States, South Vietnam since then has made significant strides in land reform and in truly pacifying the countryside.

Today, when U.S. troop strength has dwindled to well under 100,000 and no units are engaged in active combat, the current fighting is almost entirely a North Vietnamese operation—a textbook operation involving frontal assaults by armored columns across the Demilitarized Zone, artillery support, logistical lines of supply and all the rest, an operation made possible by weapons and material from the peace-loving Soviet Union.

At the Senate hearing, Sen. J. William Fulbright could ask the secretary of state, in sincere anguish at the continued killing and destruction: Why have you (the administration) placed us in the position where we have a Hobson's choice between either surrender or escalation?

Yet when President Nixon undertook to begin the withdrawal of American troops, with the full support of Congress and the vast majority of Americans, each reduction in our strength increased the possibility that we would be faced with one or the other eventually. North Vietnam was repeatedly warned what our reaction would be.

The real question that should be asked is, why has North Vietnam chosen to attempt an all-out military conquest of South Vietnam, and to humiliate the United States in the bargain, at a time when U.S. withdrawal was so near to being accomplished?

And why aren't more Americans asking that question?

WE DO CARE

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. MINSHALL. Mr. Speaker, it is with the greatest pride that I salute the We Do Care Committee of Fairview Park, Ohio, which, over the last few years of the tragic war in Vietnam has done such a noble job of keeping in touch with U.S. servicemen through newsletters, cards, and packages.

Mrs. Harriet Beekman, the We Do Care chairman, has sent me a heartwarming letter and copies of the many messages her committee has received from the grateful recipients of the committee's endeavors.

Regardless of one's view of the tragic conflict in Southeast Asia, there can certainly be no disagreeing with the magnificent work We Do Care has done and continues to do to help our servicemen.

Mrs. Beekman's letter and the words of thanks from some of the servicemen follow:

Hon. William Minshall,
Ohio State Congressman,
House Office Building,
Washington, D.C.

Dear Congressman Minshall: Thank you very much for helping Richard Turos. This was certainly a very sad case. We also realize how much you are doing for our Servicemen. It is my personal opinion that it is unbelieveable that any people back here can protest the action taken to save our beloved Americans in Vietnam. To leave them at the mercy of the communists is deplorable. I know that our President and members of Congress who put the safety of our young heroes first are putting their careers on the line. God bless them!

Everytime our young men have won a victory in Vietnam, some of the politicians and people have taken it away from them back here. I will not forget that some of the self-glory seeking politicians today are yelling because we are bombing supplies in order to try and save these brave, loyal Americans from being killed—or worse—captured.

We expanded our program last April 1971. We are helping as many Servicemen in the war area as possible. We have received letters from Servicemen all over the United States. I have enclosed a few for you to read.

To date we have mailed over 8,000 packages to the war area, each one large enough to be shared with many buddies. We have mailed over 40,000 newsletters and cards. All this is possible because we have people in this area who love their country and care for her young heroes. We will continue to mail this love and moral support just as long as we are needed.

God bless our country and help her to remain free. You and I know she is the greatest country in the world! I just wish we could get the "un-American thinking people" to help instead of destroying her.

Thank you again for your help.

Sincerely,

Harriet Beekman,
We Do Care Chairman.

We Do Care: Thank you very much for the real great "Care" package. It really makes me feel good to know that people will donate their time, money and effort to support, or should I say build up our morale, as GI's. I hope that all the people involved have a blessed Christmas and the most happiest New Year ever. Thanks again.

Jack J. Hare, Jr.

Dear We Do Care: Thank you very much for your thoughtfulness. You don't know how much better you will make these holidays for me. I just can't get over what you people are doing for us. It really makes a guy feel good to know his fellow citizens care so much.

My buddies also want to thank you for your kindness. You people deserve an awful lot of credit.

Thanks again.

Gary Schuld,
(Along with the guys from barracks 9075 at Hurlburt Field.)

The package arrived today and was in good condition except for the normal handling by the U.S. Postal Service.

Seeing as how I am due for discharge from active duty on February 8, 1972 this will be the last package I will receive. I wish to thank everyone on the We Do Care committee and especially Mrs. Beekman for everything that they have done over the past 4 years.

Taking on a task, such as you have can be quite a chore and headache at times. There is no amount of words that can express my gratitude and warm feelings for all of you. The news letter and boxes you all put together have kept me in contact with what has been happening back home, and just knowing that someone, somewhere cared about us guys made things seem a little better than they are.

All my deepest thanks,

Tom Stamatis.

Enclosed is an Insignia of my outfit here on Okinawa.

Thank you for the package. The fellows and I really enjoyed it.

Thanks again.

Mile Field.

Hi: Thank you very much for the package. I got packages last week like some people get letters but now it's all gone. Please do not send anything else to me. I am standing down and moving somewhere else. I will probably work only 2 or 3 weeks in one spot now until I leave—109 days.

Merry Christmas.

Bob Lutsch.

Dear We Do Care: My family and I appreciate the many useful and decorative items received in the box, and also the sincere wishes for a happy holiday. I think the fellows overseas and especially in S.E.A. would enjoy the box even more than those of us fortunate enough to be in the States.

I have accepted an early out and will be leaving the Air Force on February 29 next year. My job will be with Ford Motor Company (my previous employer), but I do not yet know in what city we will be relocating.

Thanks again for your continuing efforts, which show that you truly do care.

Sincerely,

Capt. Bob Null.

Dear Friends in Fairview: Would like to take just a moment to tell you all how very much I appreciated receiving not only your package but also the message of thoughtfulness and concern that came with it. Many of the items you sent can be exasperatingly hard to obtain over here, and were very welcome, but ever so much more so was the feeling that one's community had concerned themselves with those of us scattered so far from Fairview during the holiday season.

Sincerely,

Bill Gruber.

Dear We Do Care: I really don't deserve a wonderful package like this near as much as the guys overseas. Here I sit enjoying a decent life in an apartment with my wife while many Fairviewites compete with danger in Nam or somewhere else maybe. Even so, I spent a year there and at least I know how much your committee is appreciated.

Since I have only 36 days left in the AF I guess this will be the last package to me and it pleases me immensely to know that someone else will take my place in the joy of receiving these gifts. Thank you all so much for supporting me through my hitch.

Tim Nobbe.

Merry Christmas and Happy New Year! It's late but I still wanted to wish you all one.

Thank you all for the goody box! It was well received!!

I bet you all have snow now. I'd love to see it. All it does here is rain and blow during the winter months.

It was something here with Nixon here for three days. I drove for some of the secret service men. Not much sleep during his stay but it was very interesting.

So until late.

Jim.

Just a small note to say thank you ever so much for the box of goodies you sent me. It is very kind of you.

Thank you again.

Donald Gant.

Dear People of Fairview: First off I would like to say that it hit me for quite a shock, to think all those people sending me a gift. I can't think of anything that might have been left out except all your nice faces.

Though I decided to turn over the box to the base chaplin. I have only 2 weeks to go over here and there are a lot of guys here and in Nam that could use it.

All I can say is that with people like you back home standing behind us over here, it makes you proud to be an American.

Love,

Gary A. Wesnitzer.

(P.S.—Keep up the great work.)

Thank you very much—my friends thank you also.

Larry Prebis.

Thank you for your kindness—Merry Christmas.

Gary.

Thanks ever so much for the package of goodies. It is a good feeling to know that thoughtful people are still existent in the world. While I know that I'm as far away as others, it makes the thought no less great. May I wish all involved the happiest of holidays and nothing but good fortune for the coming year.

Thank you.

Mark G. McKinstry.

Dear We Do Care: Thank you very much for the package. I appreciate it! And my buddies do too!

We Do Care is a fine committee showing concern for the serviceman and really is giving the community some quality. Just wanted to take this opportunity to thank you—not just for materialistic things but for the love too.

Happy Holidays,

Lee Noss.

I intend to resign my commission some time after the first of the year and will be returning to Cleveland at that time. I would like to express my sincere thanks for the consideration that was shown to me in the past five years especially for the year I spent in Vietnam.

Robert J. Roffey.

Dear We Do Care: Thank you for the package. I have currently 79 days to go!! Short. Thanks again ladies for the package.

Yours truly,

Thomas A. Gartner.

DEAR WE DO CARE: Thanks very much for the package. My family and I enjoyed it very much. My children enjoyed the cookies because they came from home. My wife and I like to read the news you send.

I also wish to thank the "We Do Care" for the packages they sent me while I was stationed in Vietnam.

We appreciated the package very much but since I'm lucky to have my family with me this tour I thought maybe you would rather send the packages to boys who aren't as "lucky". Thanks again for caring.

Yours truly,

SSG ALLEN MOORE and FAMILY.

DEAR FRIENDS: My sincere "thanks" for your package. I appreciate the goods inside and can certainly use them. Even more than the package, however, I appreciate your vote of confidence in what we are attempting to do in Southeast Asia. It is very hard to be separated from wife and family for such a length of time, but knowing that many people support our actions helps us feel that our endeavors are worthwhile. My sincere thanks again.

LARRY O. OLIVER.

DEAR PEOPLE: I really appreciate your package—Keep up the good work. We men in this Hell hole would like to thank you fine patriots.

Thanks whole lots,

BOBBY PIAZZA.

DEAR WE DO CARE: Good work. I got the package just in time for my birthday. Will be 19 tomorrow 16 Sept. 71. Thanks a lot.

BOB PHILLIPS.

MRS. B: I've re-enlisted for a return assignment to the Philippines, and this is where I'll stay until 1974 or longer with my Filipino wife and son. Your thoughts were very much appreciated during the year I just spent in Korea, being alone and in an isolated area. Any I receive here, however, make a great present for little Charlie. Thanks and God Bless You! Say hi to Ernie for me.

Sincerely,

Sgt. HELLRIEGEL.

Thank you very much for the package. At times it can get pretty lonely out here and it is great to get a package from home.

Thanks again.

WAYNARD NELSON.

Thanks very much for your thoughtfulness in sending the Christmas box of gifts. I was amazed at the amount of items that were in the box. Everything came in perfect condition—even the cookies. I'm sure a lot of work was involved and it was truly appreciated.

Thank you again.

KARL J. ARENDT.

(P.S. Box received in good condition.)

Thanks again for remembering another serviceman at Christmas. I truly appreciate your fine work, and you have no idea the tremendous moral support you give me.

As the war slows for the army, the Air Force has been getting busier! I flew more combat missions last month than ever before. I hope people realize that the war is still going on and will continue for quite some time yet.

Thanks,

LARRY.

DEAR PEOPLE OF MY HOMETOWN: I am sorry I had to be so formal in the heading. I would truly like to thank you all. It was fantastic to see that someone would take so much time to prepare a package.

Your timing was perfect. We had just come in from out in the boonies. I had a couple of friends around when we opened the package. I think they were really jealous that they weren't from the same city!

We were able to use everything in the package except for the shoe brush. I don't think anybody in the infantry has used one since we've been here.

I truly appreciated your package and will never forget what Fairview Park did for us.

Thanks again.

STEVE.

Thank you very much for the package. I have received two others from you but failed to return your letters. Your gifts are greatly appreciated and rest assured the food will be enjoyed by many people.

Sincerely,

KENT ASHER.

I wish to express my sincere thanks to all those who helped in preparing the wonderful package received yesterday. All items were in perfect condition and will certainly be utilized. It will be my pleasure to place the items under the Christmas Tree, except the cookies—sorry—temptation was too great, as items from Santa Claus delivered by "We Do Care" of Fairview. It's great to know that someone takes the time and effort to express positive and sincere measures to let us know that all our time and effort is not being expended in vain. I've been around the world, in good areas and bad, with and without family, had my go in combat, as occupation and let me assure you that the packages and the "Newsletter" remind me constantly that although the newspapers and magazines exploit sensationalism at times to sell papers, it's only the minority back home that are left wing radicals trying to paint a black picture of us in the military as all being sadist at Mei Lai, dope addicts, drop outs from society etc.

Again my many thanks to all those involved in "We Do Care" and rest assured "We Do Care" also.

Merry Christmas and a Happy New Year to all.

JOHN PROVAN.

The package was addressed to B. C. Hoogensen. He gave it to some lonely servicemen and they greatly appreciated it. It made their Christmas a much merrier occasion.

Thank you very much.

Merry Christmas to you all too. I have found many happy recipients of the Christmas box and we all thank you.

Thanks.

STEVE.

DEAR WE DO CARE: Thank you very much for your package. It has helped to make it seem like Christmas even though I'm away from home. It's a good feeling to know someone else other than my parents and my girlfriend care about me. Once again THANK YOU for all you have done for me.

As of 10 January 1972 I will be stationed at Myrtle Beach, S.C. When I get a complete address I will let you know.

Sincerely,

RICHARD GARDIN.

DEAR FOLKS AT WE DO CARE: Just a short note to let you fine people know just what a great job you do. The far reaching effect that you, and people like you, bring at this time of year to people who cannot be home for the holidays is what the true spirit of Christmas is all about. If, for no other reason than there are folks like you thinking of people "who for the present," are having a rough time of it, makes this "hell" some must go through, worthwhile. You may not receive any financial reward, but the feeling of belonging that you have given so very many people will always place you fine folks on the top of my list of truly fine people.

Hope you all have a wonderful holiday,

Sgt. JOHN SIMON AND FAMILY.

Thank you very much for your package! By the items that you sent I realize that a lot of time and effort went into it. The items are all very useful. Thank you!

Thank you all so very, very much. It was greatly appreciated. Merry Christmas to you all.

Thank you.

G. J. GRAHAM.

Sure want to thank you for the Care-Power and to wish all of you a Merry Christmas and a Happy New Year.

GOTT MIT UNS.

Thank you very much for the Christmas package and the books you have been sending.

It's also good to know we have the love, respect and the moral support from our people back home.

Thank all of you very much.

Sincerely,

ALLEN D. MOORE.

We'd like to thank you very much for this Christmas package and all of the other packages you have sent. It really is nice to know that you Do Care. Keep up the good work and spirit lifters, especially for all of our fighting men who are so very far away from their home, family and friends. They really give up a lot to serve *our* country. "We Do Care" shows that their energies are really appreciated on the "Home Front."

Thank you again.

Mr. and Mrs. HENRY J. FEICHTMEIER.

Thank you for our Christmas box. We look forward to it every year. The children were particularly pleased with the Christmas tree ornaments which will become part of our collection which we use from year to year.

My husband thought the clothes brush was great—he thinks you're the only people in the world with an "in" with a good brush maker. The one you sent two years ago, I think, was about worn out so the new one is appreciated.

For myself, I enjoyed the copies of "West Life." Glad to hear as a former Fairviewite that the handsome young Mayor did it again and Dr. Barr still rules with an iron hand.

Things haven't changed much have they?

Do extend all our thanks—from six of us—the WDC people.

You do much to make Christmas away from home a little nicer.

JOHANNA HUMANEK MADER.

I sure appreciate the gifts. They made me feel better. You people are doing a good job. Me myself, I also like to help out other people by bringing happiness to them.

Have a merry Christmas and a happy new year.

DARRELL KELLY.

Merry Christmas Ladies: The box was greatly appreciated, not only by me, but by the rest of my shipmates. I opened it—well the guys opened it at breakfast this morning. That's when we get mail.

It really put everybody in Christmas spirit. We even put the Christmas tree up that afternoon.

I wish to thank you *ALL* for your cooperation in making Christmas at home, felt—away from home.

Have a happy.

J. B. WALTERS.

(P.S. The brownies were fantastic as well as the chocolate chips.)

DEAR WE DO CARE COMMITTEE: Thank you for the Christmas package.

Sincerely,

DANIEL WAGENKNECHT.

We Do Care, Dear Friends: Thanks for the bundle of books which was received in the mail today. I am well aware of the work that you are doing to support our servicemen from the Fairview Park area as they serve around the world.

Since your service is of special value to those who must serve without their families and in strange parts of the world, I will see that the books are passed on to someone here at Fort Leavenworth who can use them.

Again, thanks for your thoughts.

Sincerely,

Robert E. Tozier.

We Do Care, to Everyone Concerned: I want to take this opportunity to express my heartfelt thanks for your kind thoughtfulness during this holiday season.

It sure is great to know that someone at home is behind you. At times it is very difficult just existing from day to day in the armed forces, and gestures like yours are sure appreciated.

Fairview Park stands alone and at the top of the list of great communities as far as I am concerned. The "We Do Care" program is a very wonderful organization and a real crutch to the serviceman.

Thanks again.

Robert E. Nichols.

Thank you very much for the Christmas package. It really helped cheer up some of the people in the Mars station. I will be returning home in about two weeks so don't send me any more packages. I would like to thank you very much for the packages. They have made the tour over here more bearable.

Thanks.

Tom George,
Roger W. Walden,
Phil W. Samuelson,
Joel P. Stransberg,
Jed Rockwell,
Larry W. Norman.

I received the last box in excellent condition. I want you to know that the men where I work appreciated it as much as I do; however, I feel I should advise you that I'll be leaving Vietnam and the service in January. Thank you very much for all of your consideration.

Sincerely,

Lewis B. Allen.

Just a little note to say thanks again for everything. You people can really bring a lot of happiness into a guy's heart when he is away during the holiday season. I would like to wish you all a very blessed Christmas and a healthy New Year.

Jerry Cajka.

(P.S. I was promoted to SP5 on 10 Nov.)

Dear We Do Care: I had mixed feelings of guilt and happiness when I received this year's package. The guilt comes from my friends jealousy. The happiness comes from knowing my home town is still the best home town in the nation. I've eliminated some of the guilt by sharing my 320 sticks of Dentyne gum. Keep up the good work We Do Care.

Merry Christmas,

Jim Donnelly.

Thank you very much for the box. We enjoyed everything in the box and shared some of the items with the guys up here at Camp David. I hope you don't mind.

We had a very nice Christmas here. I had to work Christmas Eve, but was off for Chistmas Day. I'm sorry about being late with the Christmas card but things around here have been anything but normal.

I have very much enjoyed the news letters which you print up. I'm sorry I haven't let you know sooner. Please keep up the good work and say hello to everyone for me.

Thank you to the Greatest Bunch of People in the world!

Tony Coppola.

Dear We Do Care: Thank you so very much for the Christmas box. I passed out most of the gfits to the kids in the shop who had nothing for Christmas. I've been in now for almost 9 years and I like to take some of the younger boys under my wing in this the "New Navy". I only wish that other towns cared as much for their boys in the service.

Thank you again.

Donald R. Keils.

I received some of the cookies and items in a box that was sent to Pfc Steve Suhayda and I was very glad to get them. You are very considerate and I appreciated getting a few of the goodies enclosed in his package. I am also from Ohio like Steve.

Steve and I are both infantry and we spend most of our time in the field with the 101st. I thank you again.

Pfc. John MacKall.

Dear Friends: Thank you very much for sending these packages to me while I was stationed in Vietnam. They were a morale booster. It's nice to know everyone isn't anti military in the U.S.

I am reassigned now in England and don't have the need for your packages here in civilization again.

Again—thanks very much for sending them for the past year.

Sincerely,

Capt. Joy Carroll.

Again I would like to thank all the people of the We Do Care Committee of Fairview Park. The reason I say *again* is because at this time last year I was in Vietnam and I decided to return for a second tour. So this is the second Christmas package I have received from you people. It really helps one's morale, knowing that there are people who do care, even though the individual may be thousands of miles away from home.

Thank you very much, and I hope that all of you too, have a merry Christmas and the best for a New Year!

Sincerely yours,

Robert J. Coleman.

COOPERATIVA METRO AIDS BODEGA OWNERS

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BADILLO. Mr. Speaker, the Puerto Rican community in this country is very proud of our tradition of taking the initiative to achieve our goals and of helping each other in advancing ourselves and entering into the mainstream of American life. This self-motivation and self-reliance underscores many areas in which the Boricua is working to achieve fair and just treatment for himself and our people.

One of the primary examples of this fine tradition is the owner-operator of the many bodegas in Spanish-speaking sections of New York City and other areas with sizable Puerto Rican, Chicano, Cuban, and other Spanish-speaking populations. Marketing foods and other items unique to our people—black beans, rice, plantain, et cetera—the bodeguero hispano is an important and vital element in our community. Through his long hours and tireless efforts he symbolizes the dedication of our people to helping each other to achieve progress.

An especially exciting and important development has occurred with the formation of the Metro Spanish Food Merchants' Cooperative—Cooperativa Metro—in the Bronx. Established and promoted through the dedication and energy of Mr. John Torres, Cooperativa Metro serves as an ombudsman and aids the bodega owners in a variety of ways, such as protecting them from unfavorable business practices, furnishing technical assistance and so on. However, this outstanding organization furnishes help and guidance beyond the day-to-day operations of the member bodegas and plans are underway to provide important economic and unemployment assistance to the Puerto Rican community in New York.

This morning's New York Times carried a well-written and perceptive article on Johnny Torres' work and the fine job being performed by the cooperative. He and his organization offer great hope for our people and I am indeed proud of this vital self-help effort. I am pleased to bring this article to our colleagues' attention and insert it herewith for inclusion in the Record:

Bodega Owners Gain Strength in Co-op Here

(By Deirdre Carmody)

Spanish-speaking owners of small grocery stores who work an average of 108 hours a week to sell a few thousand dollars worth of goods, have been given stature and political clout through a food cooperative formed by an imaginative and energetic Puerto Rican businessman here.

At the same time, the city's Economic Development Administration is devising a plan to link manufacturers of consumer and industrial products in Puerto Rico to distribution centers here, based on the thought that outlets such as the food cooperatives provide a ready market for Puerto Rican products. The city has also offered several sites to Puerto Rican manufacturers to set up industries here and provide needed employment for Puerto Ricans in New York.

The Metro Spanish Merchants Foods Co-Op in the Bronx Terminal market is the brain child of John Torres, a 42-year-old Puerto Rican with a degree in interior design from New York University.

BROTHER CHANGES MIND

In 1960 Mr. Torres's brother came to him and proposed that they go into business together. He suggested that they buy a grocery store, even though neither knew anything about the food business.

With great reluctance, John Torres agreed to the proposal. After searching about, he bought a small grocery store on Concord Avenue in the Bronx for $9,000. That evening, his brother came to see him and said that he had changed his mind and decided he did not want to go into the grocery business.

"I said to him, 'You know, I've taken two years of judo and I've never used it.'" John Torres recalled the other day. "I said, 'I'm going to close my eyes and count to five and if you're still in the room when I open them, you have my word of honor I'm going to practice my judo.'"

ASSOCIATION FORMED

To his surprise the store prospered, but as he came into contact with other Puerto Rican bodega owners, he was astounded to find how little they knew about the most basic procedures of running a store. He decided the merchants needed to be organized, so he set out to conduct a survey and find out a few things.

"But the problem was how to conduct a survey without money," Mr. Torres said. "So I said to myself, who is the closest man to the grocer?" The salesman. So I made friends with salesmen and then I invited 18 of them to a cocktail party and gave them copies of a 32-question survey I had thought up. I told them I wanted the surveys returned within three months."

Soon he had 1,500 replies from small grocery-store owners. These told him that the average Spanish-speaking grocer was 45 years old, had five children, had been here for 25 to 30 years, had no education beyond third grade, worked 108 hours a week in his store and his wife worked 70 hours, stocked about 2,500 items and had sales of $2,000 a week.

Later he found out that most of these merchants had come from the sugar fields of Puerto Rico to earn enough money to enable them to return to their homeland to set up a business there.

In 1963 he organized eight Puerto Rican merchants in the Bronx and started the Metropolitan Spanish Merchants Association. Today, there are 1,000 members throughout the city—80 percent of whom are Puerto Rican. They include dry cleaners, restaurant and liquor-store owners, beauty-parlor operators and owners of bars and luncheonettes, as well as grocers. All pay $20 a year dues.

Mr. Torres helps them with problems, guides them through the city's labyrinth of red tape and, like a clubhouse politician, picks up the telephone when necessary to remind a legislator how much he had helped him while he was campaigning and how much the passage of a certain piece of legislation would mean now, or to put a bit of pressure on a civil servant who is indulging in legal harassment of a bodega owner.

"We saw that the big fish always winds up eating the little fish," he says. "But through Metro we are not little fish any more. Although we don't abuse our strength, we don't hesitate to show it, too."

Heliberto Santiago, for instance, came to Mr. Torres the other day with a problem. Mr. Santiago, whose father owns a grocery store on Macombs Road in the Bronx, had recently told his ice-cream deliverer that he would no longer buy from him because his ice cream was always melted. But the deliverer refused to remove his ice-cream freezer from Mr. Santiago's store and no other ice-cream company would deliver while that freezer was still here. Mr. Santiago's store is between two schools and ice cream is a major part of his business.

"That guy knows he has Mr. Santiago by the neck," Mr. Torres said. "I'll write him a letter and give him five days to get the freezer out of there. He is known for this kind of action with Puerto Rican businessmen, but he knows that we have three lawyers and he won't fool with us."

In 1967 Mr. Torres formed the Metro Spanish Merchants Food Co-Op, which now has 109 grocers as members. They must each buy a minimum of $550, on which they earn interest of up to 8 per cent. Last year they earned 2 per cent of their annual purchases. The co-op's total sales were $3-million.

One man earned 118 per cent of his original capital investment last year. The interest on his $550 earned him $44. He purchased $30,197.14 worth of groceries, on which he earned $604, for a total annual profit of $648.

In 1968, Mr. Torres gave up his own store (and two others he had bought after his initial success) to devote full time to the co-op. He now often works seven days a week, beginning at 6:30 A.M. and continuing until late at night. His salary is $13,000—his wife makes $9,000 as his assistant—and he points out quickly that the normal salary for directors of food cooperatives is a per cent of the profits. This would have amounted to $30,000 last year, a sum Mr. Torres feels would be too dear for the co-op at this time.

ONE MEMBER EXPELLED

The other requirements for joining the co-op are simple. The grocer must be a member of the Spanish Merchants Association and he must be "of good moral character," something that Mr. Torres checks out carefully. One member was expelled from the co-op when he punched an inspector in the nose, announcing that he was free from reprisal because he belonged to the co-op.

Mr. Torres is now planning to select nine promising young men with limited educations but with an aptitude for the food business. He will pay some of his best grocers to instruct these young men and he himself will closely supervise their training. They will be paid to work in the co-op for three months as part of the training program.

Mr. Torres hopes to raise funds for the program from advertising proceeds from Vocero Metro, a newsletter that goes to bodega owners.

Then, to test what they have learned, they will be sent out into member stores that need reorganization. This will test them and, hopefully, help out the stores.

If they pass this test, Mr. Torres will guarantee a loan for them from the Small Business Administration and set them up in their own stores. These stores, where prices will be uniform, will form a new chain, Metro Convenience Stores.

One of Mr. Torres's most enthusiastic supporters is Ken Patton, Economic Development Administrator. Mr. Patton calls Puerto Rico "the second most important economy to us" and has been working on establishing "Operation Bridgehead," which would link the Puerto Rican economy to the needs of Puerto Rican consumers in New York.

Plans are already under way to select a site for a packaging plant for a Puerto Rican panty-hose manufacturer and for a bicycle assembly plant.

THE 200TH ANNIVERSARY OF DON PEDRO FAGES' EXPLORATION OF CONTRA COSTA COUNTY IS COMMEMORATED AT DANVILLE, CALIF.

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. MILLER of California. Mr. Speaker, I always have believed that people who are proud of their history are good citizens—proud of their country, proud of their ancestry, and beneficial builders of their own locality.

It was my privilege recently to attend the dedication of an historical plaque in Danville, Calif., commemorating the 200th anniversary of the pioneer exploration by Don Pedro Fages of what is now Contra Costa County. Contra Costa means "opposite coast." It is located east of Alameda County and San Francisco Bay, and south of the Bay's upstream estuaries known as San Pablo Bay, Carquinez Strait, and Suisun Bay.

The dedication was sponsored by the San Ramon Valley Historical Society. I want to commend the officers of this society, present and past, who had the vision to plan this anniversary celebration and the enthusiasm to stage-manage a most interesting day at Danville on April 1, 1972.

The current officers, elected in March, are Roy S. Bloss, president; Howard Fereira, vice president; Virgie Jones, secretary; George C. Wood, treasurer; and as directors, Mabel Kuss, finance; Louise Crouch, landmarks; Beverly Sutton, librarian; Al Kaplan, membership; Valerie Gould, hospitality; and Eleanor Nilsen, publicity, who had sponsored the first meeting of the society in July 1970.

Charter officers who retired this March included Dr. Wilson E. Close, vice president; Grant Burton, landmarks; Ellen Leloy, librarian; and Bertha Linhares, hospitality. The site for the bronze plaque was donated by Herman J. Sandkuhle, Jr., owner of the Sunset Nursery in Danville.

It should be recalled that severe geographic isolation characterized the western coast of America before the Spanish colonization. Communication between it and the rest of the world was almost nonexistent. The land barrier to the east—high mountains, waterless deserts, and vast plains—was so difficult to traverse that there was almost no contact between the western and the eastern seaboard. The nature of the West was a mystery. Explorers wondered: Was there a water route connecting the two oceans? Did the desirable Northwest Passage actually exist?

It was speculation of this sort that motivated the early navigators and explorers, including Captain Pedro Fages who was stationed at Monterey, the Spanish capital of Alta California, where Father Junipero Serra had founded the Mission San Carlos Borromeo in 1770. Captain Fages was one of the first to venture inland. He and his party—including Father Juan Crespi and six soldiers—crossed the Santa Cruz mountains[1] into the Santa Clara Valley, went up the eastern shore of San Francisco Bay, along the Berkeley hills, and followed the shoreline of the seemingly endless estuary past San Pablo Bay and the Carquinez Strait to the delta of the San Joaquin River. They encountered elk, bears which they killed for food, and friendly natives whom they called "heathens" because these people had never heard of Jesus Christ.

Forced by the formidable estuary to turn back south, they then went up Walnut Creek and into the San Ramon Valley. The Fages-Crespi diary of the journey became the first written record of the eastern parts of Contra Costa and Alameda counties. After camping in the vicinity of what are now the towns of Alamo, Danville, and San Ramon, the party travelled into the Livermore Valley, then westerly across Mission Pass back into the Santa Clara Valley, and in due course to Monterey.

This historic adventure was vividly reenacted at the 200th anniversary observance at Danville on April 1. Roy Bloss, president of the San Ramon Valley Historical Society, served as master of ceremonies. Dr. Close played the part of Pedro Fages. Father Godfrey McSweeney portrayed Father Crespi. Members of the Danville Junior Horsemen's

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[1] The geographic names were adopted some years later.

Association represented Fages' soldiers and scouts. Entertainment was provided by Maruja Varges as a Spanish dancer, accompanied on the guitar by Herb Robson, both of the Danville Music and Dance Center. Mabel Kuss performed the unveiling of the plaque. Edmund A. Linscheid, chairman of the Contra Costa County Board of Supervisors, read a resolution proclaiming April 1 as Fages Day. Dr. K. Fillmore Gray, pastor of the San Ramon Valley United Methodist Church, gave the invocation. Greeting all of the invited guests and performing scores of incidental tasks was the indefatigable Historical Society secretary, Mrs. Alfred (Virgie) Jones.

Others in attendance included Andrew H. Young, commissioner on the Contra Costa County Planning Board; Robert Cook, president of the San Ramon Valley Chamber of Commerce; Justice A. Frank Bray, president of the Contra Costa County Historical Society; Janet Newton, regional vice president of the Conference of California Historical Societies; Louis Stein, newly elected president of the Alameda County Historical Society; Mrs. John D. Cronin, president of the Amador-Livermore Historical Society; and my field secretary in the Eighth Congressional District, Ken Larson.

Among the people who were unable to attend, but sent regrets by letter, telegram or phone, were the Honorable JEROME R. WALDIE of Antioch, Contra Costa County, Representative of the 14th Congressional District; State Senator John A. Nejedly of Walnut Creek, Assemblyman James W. Dent of Concord, Rev. William H. Abeloe, Father David Temple, Dr. Warren Linville of San Ramon, Mrs. Dorris Watts and Mrs. Viola Morley, who is an officer of the Conference of California Historical Societies.

It was, indeed, an historical day.

SALMONELLA POISONING

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. HALPERN. Mr. Speaker, Friday, in Wheaton, Md., a catastrophe was narrowly averted when four elderly patients of a well-known nursing home were rushed to the hospital with salmonella poisoning.

This dramatizes, more than ever, the need for Congress to act to prevent the spread of this dreadful disease.

Salmonella poisoning can come from many sources. Though the source of Friday's near tragedy is still unknown, it is common knowledge that pet turtles are carriers of salmonella poisoning.

The Center for Disease Control in Atlanta, Ga., the Department of Health, Education, and Welfare as well as medical experts in private practice firmly believe, however, that the spread of salmonella can be controlled.

Last December, I introduced the Salmonella Prevention Act with the intention of preventing the shipment of diseased turtles which could result in the contamination of small children. Clearly, salmonella poisoning whether transmitted through food or pet turtles must come under strong legislative law control if we are to eliminate this disease.

Mr. Speaker, this most recent outbreak of salmonella poisoning in Maryland indicates that the Congress must act swiftly and sternly. The first step in remedying this problem would be the enactment of H.R. 12303, the Salmonella Prevention Act which would protect our children from the spread of this disease by pet turtles. Our efforts today can prevent future outbreaks of the disease in the United States.

At this time I would like to insert into the CONGRESSIONAL RECORD, Friday's news articles from the Washington Post which tells of the near tragedy in Maryland:

SALMONELLA HITS PATIENTS IN WHEATON

Four patients of a Wheaton nursing home have been stricken with salmonella poisoning, a potentially fatal infection that often is transmitted by food, Montgomery County health department officials said yesterday.

None of the patients, who range in age from 75 to 91, is seriously ill, but all have been hospitalized to assure the infection does not spread to other patients, officials said.

Two other patients have been hospitalized with symptoms of the infection and tests earlier this week revealed six other patients may have the infection, although results of the tests will not be final for a few days, according to health officials.

The 89-bed nursing home is Manor Care Wheaton, at 11901 Georgia Ave. It is part of a chain operated by Manor Care Nursing Homes, which also operates nursing homes in Adelphi and Hyattsville.

Dr. Steven Lipson of the Montgomery County health department said yesterday investigations by state and local officials had found the nursing home's operation to be sanitary and revealed no link between the infection and the preparation of food in the home.

Lipson said investigators believe the source of the infection may be "a commercially prepared food product containing dry eggs and milk" that has been used at the home. The nursing home has stopped using the product, as well as all other foods that commonly transmit the infection, he said.

ANCHORAGE-FAIRBANKS JOINT RESOLUTION

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BEGICH. Mr. Speaker, I recently have received copies of two joint resolutions passed by the councils of the city of Anchorage and the city of Fairbanks concerning electric utilities. In an age when we hear so much about power shortages and energy crises, it is heartening to see responsible groups taking an active interest in working to alleviate these problems. This is the case with the city councils of Anchorage and Fairbanks, Alaska. I would like to include in the RECORD for today copies of these two resolutions requesting first, the formation of an Alaskan Electric Reliability Council; and second, the establishment of a State association of electric utilities. If instituted, these two organizations will contribute significantly to a reduction of common problems confronting the electric power utilities in Alaska.

ANCHORAGE-FAIRBANKS JOINT RESOLUTION

No. A/F 5–72

A resolution supporting the formation of an Alaskan Electric Reliability Council

Whereas, the Chief, Bureau of Power, Federal Power Commission, has proposed to the Administrator of the Alaska Power Administration and several of the larger Alaskan power utilities the establishment of a Regional Reliability Council in Alaska, and

Whereas, it appears that the formation of such a council will be beneficial to the electric power utilities in Alaska,

Now, therefore, be it resolved, by the Councils of the City of Anchorage and the City of Fairbanks, in joint session: That the Administrator of the Alaska Power Administration and Alaskan power utilities be encouraged to form an Alaskan Electric Reliability Council, and

Be it further resolved, that the electric utilities of the Cities of Anchorage and Fairbanks be authorized to become members of an Alaskan Electric Reliability Council.

Copies of this resolution shall be distributed to the Governor of Alaska, the Federal Power Commission, the Administrator of the Alaska Power Administration, and each electric power utility in the State of Alaska.

Passed and approved, this 17th day of March, 1972, in Anchorage, Alaska.

Attest:

GEORGE M. SULLIVAN,
Mayor, City of Anchorage.
BEATRICE PRICE,
City Clerk, City of Anchorage.

Attest:

JULIAN C. RICE,
Mayor, City of Fairbanks.
EVELYN M. RUSNELL,
City Clerk, City of Fairbanks.

ANCHORAGE-FAIRBANKS JOINT RESOLUTION

No. A/F 6–72

A resolution urging the establishment of a State Association of Electric Utilities

Whereas, there are a number of common problems confronting the electric power utilities in Alaska, and

Whereas, the organization of an association of electric utilities would contribute to the resolution of these problems, and

Whereas, the formation of such an association would lead to greater possibilities of agreements among Alaskan electric utilities,

Now, therefore, be it resolved, by the Councils of the City of Anchorage and the City of Fairbanks, in joint session: That the electric utilities of the Cities of Anchorage and Fairbanks take the initiative in the formation of a State Association of Electric Utilities, and

Be it further resolved, that the said electric utilities of Anchorage and Fairbanks call a meeting for this purpose during 1972.

Copies of this resolution shall be distributed to the Governor of Alaska, the Federal Power Commission, the Administrator of the Alaska Power Administration, and each electric power utility in the State of Alaska.

Passed and approved, this 17th day of March, 1972, in Anchorage, Alaska.

Attest:

GEORGE M. SULLIVAN,
Mayor, City of Anchorage.
BEATRICE PRICE,
City Clerk, City of Anchorage.

Attest:

JULIAN C. RICE,
Mayor, City of Fairbanks.
EVELYN M. RUSNELL,
City Clerk, City of Fairbanks.

TELEPHONE PRIVACY—XXI

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ASPIN. Mr. Speaker, I am presently circulating a "Dear Colleague" letter on the telephone privacy bill (H.R. 13267), which has already been cosponsored by 28 Members.

This bill would give individuals the right to indicate to the telephone company if they do not wish to be commercially solicited over the telephone. Commercial firms wanting to solicit business over the phone would then be required to obtain from the phone company a list of customers who opted for the commercial prohibition. The FCC would also be given the option of requiring the phone company, instead of supplying a list, to put an asterisk by the names of those individuals in the phone book who have chosen to invoke the commercial solicitation ban.

Those not covered by the legislation would be charities and other nonprofit groups, political candidates and organizations, and opinion polltakers. Also not covered would be debt collection agencies or any other individual or companies with whom the individual has an existing contract or debt.

As I noted in a statement on March 9, I have received an enormous amount of correspondence on this legislation from all over the country. Today, I am placing a 19th sampling of these letters into the RECORD, since they describe far more vividly than I possibly could the need for this legislation.

These letters follow—the names have been omitted:

SILVER SPRING, MD.,
April 24, 1972.

Representative LES ASPIN,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE ASPIN: We were a little late hearing of your bill re: unsolicited phone calls, but we're with you 100%.

Some kind of legislation concerning this nuisance is long over-due.

It wouldn't be too bad to receive just one call from each land developer (although we'd rather not), but we received no less (and I believe more) than ten calls each from Ocean Pines and Aquia Harbor even though after each call we were assured that our name would be removed from the list. Few have been persistant as these but new land development agencies seem to be popping up like mushrooms and there's hardly a day without at least one call.

It's not right that we and the phone company should be put to the expense and inconvenience of an unlisted number just to escape this scourge.

Your bill is certainly a step in the right direction: however imagine it would mean still some inconvience to telephone subscribers and considerable expense to the phone company. Any expense involved should certainly be the responsibility of the land development companies. If the phone company has to bear the expense it will eventually be passed on to the subscriber.

Good luck.

Sincerely yours,

——— ———.

PLAINFIELD, CONN.

DEAR SIR: Good luck on your bill allowing "no solicitors" sign on telephones.

I consider such solicitation an invasion of my privacy and resent it intensely.

Therefore my husband and I were happy to read of your impending bill.

Sincerely yours,

——— ———.

SAGINAW, MICH.,
April 24, 1972.

Hon. LES ASPIN,
U.S. House of Representatives.

DEAR CONGRESSMAN ASPIN: Your bill to protect private homes from unwanted telephone solicitation is a most welcome proposal. It is long overdue as a deterrent to marketers who resort to this weak, irritating merchandising strategy.

I wish you success in getting the bill voted into law.

——— ———.

HOUSTON, TEX.,
April 26, 1972.

Congressman LES ASPIN,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: Congratulations from down in Texas! Someone has finally thought of the unsolicited telephone calls that come at the baby's nap-time, when the housewife is involved in a dozen jobs, or just the unnecessary disturbance added to the tension of the day.

Please try to be sure light-bulb sales calls are on the banned list.

Thank you for introducing H.R. 13267 for telephone privacy; good luck and I have written my Representatives for support of your bill and I plan to write to Rep. Harley O. Staggers.

Sincerely,

——— ———.

THE COMMITTEEMAN AND THE COMMITTEEWOMAN

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. KEMP. Mr. Speaker, it is becoming increasingly clear that this election year is going to focus on the forgotten American who finds his taxes skyrocketing without a comparable increase in services; that American who continually hears of the agonized plight of his Nation and wonders what he can do about it; that American who finds himself lost in a sea of abundance but still faces the daily struggle to make ends meet. This year's political debate will center on the direction this country is taking, and all America will be watching to see if the future is to be filled with promise or clouded with despair.

It will be an emotion-laden election year; one in which a great number of Americans are going to be deeply involved in the process. Whether it is the newly enfranchised young voter or the seasoned committeeman, each of us has a stake in the outcome and each of us has a responsibility to try to effect it.

Not enough Americans take that responsibility seriously and fewer still make the sacrifice that constructive political action demands. There does exist, though, a group of Americans whose commitment is total, whose sacrifice cannot be measured, and whose successes can be seen both at the local school board as well as in the halls of Congress. I am speaking of the district committeeman—the forgotten man in the American election process. It is his participation in and dedication to politics that is the cornerstone on which useful and effective political involvement is based. It is the committeemen who help determine election victories. Every successful campaign begins and ends with the committeeman.

And yet he is even more than a partisan who registers voters and gets out the vote on election day. He is the go-between for Government and politics—he serves his district day after day and year after year. His presence is the only constant, direct contact the voter has with his Government.

Today, more than ever before, we need to seek and encourage the active participation of the voter. That is why I bring to your attention the outstanding efforts of the committeeman in this country. Thirty-eight million people above voting age were unregistered and could not vote in 1968. In 1972, 25 million more people, between the ages of 18 and 24, will be able to vote if they are registered. The opportunity and the responsibility of the committeeman has never been greater. A truly representative democracy must encourage and usher the support of its citizenry. It is the representative closest to the people, who knows each family, recognizes each face, and shares each concern—it is the committeeman who makes the whole thing go.

At this, the eve of a great and decisive election in our Nation's history, we should not forget the men and women whose role in this great experiment in Government is too often overlooked. All those who hold deep convictions about the nature of and need for participatory democracy cannot fail to recognize the committeeman's magnificent efforts, and his noble, self-bestowed responsibilities. In short, we cannot afford to be ungrateful.

COMMUNIST AGGRESSION CONTINUES

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. RARICK. Mr. Speaker, the armed military invasion of South Vietnam continues. According to the latest reports, over 200,000 South Vietnamese civilians are again Communist hostages, Quangtri has fallen, and the ancient city of Hue awaits attack from the north. But the streets of Washington, D.C., are vacant of marching feet—no protests against aggression are heard. No demonstrators have been reported at the Soviet Embassy in Washington demanding a cessation of their aggressive hostilities against the people of South Vietnam.

In New York City the United Nations continues its "peace-as-usual" activities without any protest, convening of the Security Council, or the sending of fact-finding committees to identify the aggressor nation and demand cessation of hostilities under the threat of sanctions.

Nor should such action be expected of the U.N. in its "search for peace" which has long been interpreted in Communist vernacular to mean the destruction of all non-Communist peoples and government. Both Red China and the Soviet Union, through their top party spokesmen have announced complete backing and support of the military invasion of South Vietnam. Under the present administration's new international policy of superpowers, two of the superpowers support this military aggression and our country is not only outvoted but lacks the moral courage to raise the question of aggression in the U.N.

For what purpose and for what benefit does the U.N. exist when it refuses to recognize open aggression against the people of South Vietnam?

The U.N. is a sham without any role as a peacemaking, peacekeeping organization of free people.

That is why some months back I introduced discharge petition No. 10 to discharge H.R. 2632 to revoke and rescind U.S. participation in that organization which calls itself the United Nations.

I include a copy of the bill H.R. 2632 to follow and again urge my colleagues to sign discharge petition No. 10 at the Clerk's desk:

H.R. 2632

A bill to rescind and revoke membership of the United States in the United Nations and the specialized agencies thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the effective date of this Act the ratification by the Senate of the United States on July 28, 1945, of the United Nations Charter, making the United States a member of the United Nations, be, and said ratification hereby is, rescinded, revoked, and held for naught; and all Acts and parts of Acts designed and intended to perfect and carry out such membership of the United States in the United Nations are hereby repealed.

SEC. 2. That from and after the effective date of this Act all Acts and parts of Acts designed and intended to make the United States a member of the specialized agencies of the United Nations, or any of them, are hereby repealed; and all executive agreements, international undertakings and understandings, however characterized and named, designed, and intended to make the United States a member of the specialized agencies of the United Nations are hereby rescinded, revoked, and held for naught.

SEC. 3. That from and after the effective date of this Act any and all appropriations for defraying the cost of the membership of the United States in the United Nations or in specialized agencies thereof are hereby rescinded and revoked; and any unexpended and unencumbered balances of any such appropriations shall be covered into the general fund of the Treasury of the United States.

SEC. 4. That the International Organizations Immunities Act of December 29, 1945 (59 Stat. 669; title 22, secs. 288 to 288f U.S.C.), be and it is repealed; and any and all Executive orders extending or granting immunities, benefits, and privileges under said Act of December 20, 1945, are hereby rescinded, revoked, and held for naught.

SEC. 5. This Act may be cited as the "International Organizations Rescission Act of 1969".

TWO AMERICANS DIED THIS WEEK

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. SCHMITZ. Mr. Speaker, two Americans died this week, John Edgar Hoover and Louis Francis Budenz. They were of the same generation, but their lives took different paths. J. Edgar Hoover built the Federal Bureau of Investigation and made it an effective tool against crime and Communist subversion. Through Hoover's leadership, the letters FBI came to mean: Fidelity—Bravery—Integrity.

Louis Budenz was a Communist. He served as a national committee member of the Communist Party and as the editor of the party's newspaper, the Daily Worker. In 1946, he broke with communism and rejoined the Catholic Church, the church of his fathers.

Both of these men made important contributions to our country's knowledge of the Communist enemy. The FBI, under J. Edgar Hoover, penetrated and destroyed both Nazi and Soviet spy rings. The Communist Party, U.S.A., formerly a major recruiting ground for Soviet spies, was severely hampered for many years in its anti-American work by the infiltration of FBI undercover agents.

When Louis Budenz broke with communism, he provided the American people with a detailed description of the leadership of Moscow's apparatus in the United States. He lectured, wrote, and testified in both court proceedings and congressional hearings about the experiences he had had in the upper echelon of the Communist Party. Both men were smeared by the leftist press for daring to expose the full truth about our Communist enemy.

The Washington Post stated April 29, 1972:

> Mr. Budenz' charges were vigorously denied by everyone he ever accused, and they never led to a single criminal conviction.

On this, as on many other occasions, the viciousness of the Washington Post story was equalled only by its inaccuracy. Mr. Budenz was a major witness in the 1949 Smith Act trial of the Communist leadership where 11 of them were convicted and served jail sentences for conspiracy to advocate the overthrow of the Government by force and violence. Gerhart Eisler avoided criminal conviction only by sneaking out of the United States aboard a Polish ship. Mr. Budenz had identified him before the House Committee on Un-American Activities as the Soviet supervisor of the American Communist Party.

Louis Budenz devoted the last 26 years of his life to fighting communism. J. Edgar Hoover devoted the last 54 years of his life to fighting communism.

Rest in peace, J. Edgar Hoover and Louis Budenz. May we be worthy of continuing the fight that these two men so valiantly fought.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

SENATE—*Wednesday, May 3, 1972*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, in whom we live and move and have our being, we give Thee thanks and praise for all Thy servants who have been the chosen instruments of Thy purposes and the lights of the world in their generations. Especially do we thank Thee this day for Thy servant, J. Edgar Hoover, for his lifelong trust in Thee, his steadfast devotion to the Nation, his elevated patriotism, his fidelity in a position of high trust, his commitment to justice and peace in the Nation. We thank Thee for his faith in Thee as the giver of the moral law, the guide to human conduct, and the ultimate judge of all men.

We thank Thee too for all the many graces and virtues of his life—his kindness and generosity, his strong sense of duty, his reverence for life, and his warmhearted friendship.

May a new spirit arise in us that we may be strong as he was strong, brave as he was brave, loyal as he was loyal, serve as he served, love the Nation as he loved it, worship Thee as he worshiped Thee.

In Thy holy name we pray. Amen.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 2, 1972, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

WORLD WEATHER PROGRAM—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

By monitoring and predicting weather over the globe and by assessing the impact of man's activities upon the atmosphere, the World Weather Program helps significantly to improve the quality of our life and the safety of the earth's inhabitants.

I am pleased to report that the World Weather Program is making significant strides forward:

—Through new satellites, telecommunications, and computer technology, global information for early predictions and hazardous weather warnings is being acquired, processed, and then distributed in increased volume and detail.

—Under the Global Atmospheric Research Program, intensive planning activities are underway for a 1974 international experiment to be conducted in the tropical Atlantic. The experiment will attempt to discover what role tropical weather systems play in maintaining the general circulation of the atmosphere. It will also probe tropical weather systems, with a view to improving weather prediction, including hurricane forecasts. Scientific data from this experiment will also help in making weather forecasts that are longer range, and in resolving important environmental problems. Many nations will participate in this experiment with ships, aircraft, satellites, and other facilities.

—Active international involvement in the program by many member nations has yielded peaceful collaboration on an impressive international scale.

The World Weather Program is essential to a total environmental monitoring system for our planet. The program can serve as a model, moreover, for other environmental systems. The atmosphere is but one part of our global ecology. Data on other aspects of our environment can be collected and exchanged through a vehicle like the World Weather Program.

In accordance with Senate Concurrent Resolution 67 of the 90th Congress, I am pleased to transmit this annual report which describes the advances of the World Weather Program made during the past year and the activities planned for the program by participating Federal agencies for the coming fiscal year.

RICHARD NIXON.

THE WHITE HOUSE, *May 3, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting several nominations, which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of Senate proceedings.)

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon tomorrow.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, beginning with new reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with new reports, will be stated.

PRICE COMMISSION

The second assistant legislative clerk proceeded to read the nomination of Mary Hamilton, of Illinois, to be a member of the Price Commission.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The second assistant legislative clerk proceeded to read the nomination of Rear Adm. Allen L. Powell, to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Coast Guard, which had been placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc; and, without objection, the President will be immediately notified of the confirmation of these nominations.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with Calendar No. 737 and proceeding in consecution through Calendar No. 742.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CLAIM OF JICARILLA APACHE TRIBE

The bill (H.R. 9019) to provide for the disposition of funds appropriated to pay a judgment in favor of the Jicarilla Apache Tribe in Indian Claims Commission docket numbered 22-A, and for other purposes was considered. ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-768), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 9019 is to authorize the use of a judgment against the United States recovered in the Indian Claims Commission by the Jicarilla Apache Tribe in New Mexico. The net amount available is $9,232,709, subject to the payment of attorney fees and litigation expenses. The money has been appropriated, but it may not be used until specifically authorized by act of Congress.

EXPLANATION OF BILL

The bill permits the money to be used for any purpose requested by the tribe and approved by the Secretary of the Interior. The tribe has adopted a resolution calling for the following uses, and the Department of the Interior concurs:

A. Community improvement.—$1,500,000 to be invested and the interest drawn upon as needed to provide capital or matching funds for construction of detention and correctional facilities, expansion of the domestic water system, paving of streets, and construction of new sewer systems.

B. Capital improvement.—$3,135,000 to be invested for income and job-producing purposes, including the development of additional lakes to complete the planned recreation program, improvement of a tribal livestock operation, creation of additional game parks, construction of a tribal sawmill, and the acquisition of stocks and bonds.

C. Per capita payments.—$4,515,000 to be used to make a quarterly per capita payment until each tribal member has received a total of $2,000 ($800 initial payment and $200 each quarter thereafter).

The tribe has a membership of 1,888 and 250 of them live away from the reservation.

COST

Enactment of H.R. 9019 will involve no additional cost to the Federal Government.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs unanimously recommends that H.R. 9019 be enacted.

AUTHORIZATION TO SELL CERTAIN LANDS OF THE SOUTHERN UTE INDIAN TRIBE

The Senate proceeded to consider the bill (S. 1140) to authorize the sale of certain lands of the Southern Ute Indian Tribe, and for other purposes which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 2, line 9, after the word "funds", insert "and title to any lands reacquired by the tribe by foreclosure of a mortgage or deed of trust"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the provisions of the Southern Ute Indian tribal constitution and the ordinances and resolutions adopted thereunder, any lands that are held by the United States in trust for the Southern Ute Indian Tribe or that are subject to a restriction against alienation or taxation imposed by the United States, and that are not needed for Indian use, may be sold by the Southern Ute Indian Tribe, with the approval of the Secretary of the Interior, and such sale shall terminate the Federal trust or restrictions against alienation or taxation of the lands, except that the trust or restricted status of said lands may be retained, upon approval of the Secretary of the Interior, in any sale to a member of the tribe.

SEC. 2. All funds derived from the sale of lands pursuant to this Act shall be used only for the purchase of real property within the boundaries of the Southern Ute Indian Reservation. Title to any lands purchased with such funds *and title to any lands reacquired by the tribe by foreclosure of a mortgage or deed of trust* shall be taken in the name of the United States in trust for the Southern Ute Indian Tribe.

SEC. 3. Any tribal lands that may be sold pursuant to section 1 of this Act may, with the approval of the Secretary of the Interior, be encumbered by a mortgage or deed of trust, and shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the State in which the land is located. The United States shall be an indispensable party to any such proceeding with the right of removal of the proceeding to the United States district court for the district in which the land is located, following the procedure in section 1446, title 28 of the United States Code, and the United States shall have the right to appeal from any order of remand in the proceeding.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–770), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT FROM REPORT NO. 92–770

PURPOSE

S. 1140 authorizes the Southern Ute Tribe, subject to the provisions of the tribal constitution, ordinances and resolutions adopted thereunder, to sell any land that is held by the United States in trust for the tribe or land subject to a restriction against alienation or taxation imposed by the United States, and that is not needed for Indian use. A sale would terminate the trust or restrictions on the land, except when a member of the tribe acquires the land, in which case title may, with the approval of the Secretary of the Interior, be taken in trust for the individual Indian purchaser. Funds derived from the sale of tribal land will be used only for the purchase of other land within the reservation with title to be taken in trust for the tribe. The tribe would also have the authority, with the approval of the Secretary, to encumber by mortgage or deed of trust any land that may be sold pursuant to section 1 of the bill.

NEED

S. 1140 contains authority needed by the Southern Ute Tribe of Indians to consolidate trust or restricted lands on their reservation into more usable and profitable units. These Indians voted for application of the provisions of the Indian Reorganization Act of June 18, 1934, to their affairs and therefore there is ample authority for the Secretary of the Interior to acquire lands for the benefit of the tribe and for the exchange of tribal lands for other lands of equal value. However, neither the 1934 act nor any subsequent act authorizes the sale of tribal lands on this reservation. This legislation is necessary to permit the tribe to dispose of lands not needed for Indian use, lands which usually consist of small isolated tracts of low income potential, and to acquire lands more advantageously located or otherwise more valuable for Indian use.

BACKGROUND

The Southern Ute Tribe owns approximately 302,000 acres of land in trust, approximately 38,000 of which are considered to be isolated tracts as they are not bordered on at least two sides by other tribally owned or Indian allotted land. The location of these tracts throughout the reservation area presents problems in use, access, development and management.

Most of the tracts which would be considered for sale are primarily isolated tracts or range land which provide only minimal returns. They are for the most part unfenced, lack a sufficient water supply, contain no commercial timber, have inadequate forage, and are of insufficient size to constitute an economic unit. Location, terrain, accessibility, soils and moisture supply make the cost of optimum development too high when compared with the return the owners may expect to receive after development.

The tribe has heretofore designated three primary areas for concentrated development efforts. It is developing a land consolidation plan which when completed will specify the areas of greatest importance for acquisition, set priorities, and determine kinds of land as well as resources to be used to acquire this land. This type of planning and the long-range goals established by the Southern Ute Tribe are significant steps in the progress of the tribe. It also denotes the desire of the tribal council to make every effort possible to retain and upgrade its landholdings.

In the past the tribe has been hampered in its attempts to acquire key tracts of land because of its limited resources, which are essentially from oil and gas royalties. In fact, the tribe has lost out on the purchase of key tracts of fee owned land it desired to acquire because it did not have funds immediately available.

The enactment of this legislation will provide an opportunity to improve the land base of the Indians and be of considerable economic benefit to the tribe. It may be able to dispose of undesirable isolated parcels and thus obtain funds to purchase land that has an immediate foreseeable value to the tribe. The chairman of the Southern Ute Tribe testified in favor of S. 1140 at the hearings before the Subcommittee on Indian Affairs on March 28, 1972.

COST

No additional expenditures of Federal funds will result from the enactment of S. 1140.

AMENDMENT

The Department of the Interior's legislative report on S. 1140 recommended a technical amendment to the bill, but at the time of the hearing on this measure the departmental witness withdrew the proposed amendment. The committee approved a technical amendment to section 2 of the bill offered by Senator Allott at the request of the tribe. Senator Allott's amendment added the following language to the second sentence in section 2, after the word "funds" and before the word "shall": "and title to any lands reacquired by the tribe by foreclosure of a mortgage or deed of trust". The purpose of this technical amendment is to ensure that through sale and subsequent default by the purchaser, the tribe's land base would not be diminished, and that in the event of default and foreclosure tracts of reacquired lands will revert to their former trust status.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affair recommends unanimously the enactment of S. 1140.

PREVAILING RATE EQUALIZATION ADJUSTMENT ACT OF 1972

The bill (H.R. 13753) to provide equitable wage adjustments for certain prevailing rate employees of the Government was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–771), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 13753 is a bill proposed by the administration to authorize retroactive wage adjustments for 214,000 wage board employees whose pay increases were delayed, either by the 90-day wage-price freeze or by the administration's postponement of wage surveys.

The bill was amended in the House of Representatives to provide that annual comparability pay adjustments for legislative employees (and adjustments in clerk-hire allowances for Members) on the one hand, and annual comparability pay adjustments for employees in the executive branch, on the other hand, shall have the same effective date, beginning with the October, 1972, pay adjustment.

BACKGROUND

The following events gave rise to the need for a retroactive pay adjustment for wage-board employees who have been denied such an adjustment:

August 15, 1971—the President announced a 90-day freeze, from August 15 to November 14, 1971, on wages and prices.

August 31, 1971—the President submitted to the Congress an alternative pay plan for statutory-pay-system employees.

The plan postponed for 6 months a pay increase due January 1, 1972.

September 1, 1971—the President ordered all wage surveys on which wage-board pay adjustments are based to be deferred for 6 months, beginning on the date of the order.

December 22, 1971—The President approved Public Law 92-210, the Economic Stabilization Act Amendments of 1971. The act had been amended to rescind the 6-month postponement of the pay adjustment for statutory-pay employees. Thus, by law, statutory pay adjustments were authorized for January 1, 1972. Although Public Law 92-210 is silent on pay adjustments for wage-board employees, the committee believes the Congress expected the President to allow suitable adjustments in wage-board pay so that the two classes of employees would be treated equally.

January 11, 1972—the President canceled the order deferring wage surveys for 6 months and ordered a resumption of the normal survey cycle.

STATEMENT

On August 15, 1971, by Executive order, wage increases for blue-collar employees were frozen until November 14, 1971, in 35 wage areas. On September 1, 1971, the President ordered that all wage surveys be deferred for 6 months. As a result of this, wage surveys were postponed until January 13, 1972 in 43 other wage areas. When the wage-price freeze ended on November 14, the Comptroller General was asked to determine whether any of the frozen wage adjustments could be made retroactively effective. He ruled that wage adjustments that would have gone into effect during the freeze period pursuant to a wage survey ordered prior to August 15, 1971, could be made.

Of the 35 wage areas having wage increases frozen, all but eight had surveys ordered prior to August 15, 1971. Thus, workers in 27 wage areas could receive retroactive pay increases.

The only way that the workers in the other eight wage areas can receive retroactive pay increases is through authorization by law. This is true also for the 43 wage areas in which wage surveys were deferred until January 13, 1972, under the President's September 1 memo. This bill provides statutory authority to provide for retroactive pay increases for those employees in the eight wage areas in which wage increases were frozen and the 43 wage areas in which wage surveys were deferred.

This bill provides specific authority for retroactive pay increases for wage-board employees under the following circumstances:

(1) Where wage surveys actually were ordered to be made on or after August 15, 1971, but, because of the 90-day wage-price freeze ordered under Executive Order Nos. 11615 and 11627, the resulting wage adjustments could not be placed into effect before November 14, 1971, such wage adjustments will be made effective retroactive to the normal effective dates determined under the provisions of section 5343 of title 5, United States Code.

(2) Where the normal wage surveys were scheduled to be made during the period beginning on September 1, 1971, and ending on January 12, 1972, but because of the action of the President, were not ordered to be made until after January 12, 1972, the wage schedule adjustments based on such surveys will be made effective on the dates such adjustments would have been effective had the normal schedule for adjustments for fiscal year 1972 wage surveys been followed.

THE HOUSE AMENDMENT

The bill was amended in the House to provide that the effective date for annual comparability adjustments in pay for legislative employees will be the same date as the date for comparability pay adjustments in the executive branch—on the first of October of each year. This is a housekeeping amendment which is needed to correct a technical imperfection in Public Law 91-256. Under that law, legislative employees must now receive pay adjustments 1 month later than employees in the executive branch because of a Comptroller General ruling on the language of Public Law 91-256.

COST

The retroactive pay authorized by this bill would amount to a one-time expenditure of approximately $12 million.

NATIONAL GUARD TECHNICIANS RETIREMENT

The Senate proceeded to consider the bill (S. 855) to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes which had been reported from the Committee on Post Office and Civil Service with amendments on page 1, line 5, after the word "sentence.", strike out "thereof which reads as follows: "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32, United States Code, on or after the effective date of the National Guard Technicians Act of 1968."."; on page 2, line 4, after the word "sentence.", strike out "thereof which reads as follows: "Notwithstanding the foregoing provisions of this subsection, the deposit with respect to a period of service referred to in section 8332 (b) (6) which was performed prior to the effective date of the National Guard Technicians Act of 1968 shall be an amount equal to 55 per centum of a deposit computed in accordance with such provisions."."; in line 13, after "(1).", strike out "thereof which reads as follows:"; after line 14, strike out:

"(1) In determining service for the purpose of computing an annuity under each paragraph of this section, 45 per centum of each year, or fraction thereof, of service referred to in section 8332(b)(6) which was performed prior to the effective date of the National Guard Technicians Act of 1968 shall be disregarded.".

On page 3, line 1, after the word "the", strike out "last" and insert"; and, at the beginning of line 2, strike out "thereof which reads as follows: "This subsection shall apply only in the case of persons who perform service under section 709 of title 32, United States Code, on or after the effective date of this Act."." so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8332(b) of title 5, United States Code, relating to creditable service for civil service retirement purposes, is amended by striking out the last sentence.

(b) Section 8334(c) of title 5, United States Code, relating to deposits for periods of creditable service for civil service retirement purposes, is amended by striking out the last sentence.

(c) Section 8339 of title 5, United States Code, relating to computation of civil service retirement annuities, is amended by striking out subsection (1).

(d) Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; Public Law 90-486), relating to crediting of National Guard technician service for Federal employees' leave, death, and disability compensation, group life and health insurance, severance pay, tenure, and status, is amended by striking out the *second* sentence.

SEC. 2. The foregoing provisions of this Act shall become effective as of January 1, 1969.

NATIONAL GUARD TECHNICIANS

Mr. BOGGS. Mr. President, I would like to take a few moments to bring to the attention of Senators a bill, S. 855, relating to retirement credit for Air Force and Army National Guard technicians. This bill was reported favorably by the Post Office and Civil Service Committee and is now on the Senate Calendar. I support it wholeheartedly.

National Guard technicians are civilian employees of the Federal Government who perform essential maintenance and technical services for National Guard units throughout the country. There are a total of 42,000 National Guard technicians, 392 of these in my own State of Delaware.

As a result of the National Guard Technician Act of 1968, these technicians were made Federal employees for purposes of retirement and other benefits. However, at that time they were permitted only 55-percent credit for their prior National Guard technician service on the grounds that they were covered during that period by social security and State retirement plans.

Moreover, only those who continued to serve as technicians after the 1968 act were eligible for Federal retirement computed at the reduced cost.

Mr. President, the inequity of this situation became apparent soon after the National Guard technicians were brought under the Federal retirement program. Thirty-one States, for example, did not include National Guard technicians in State retirement programs. Of those which do, three-fourths of the technicians do not have enough service to entitle them to a State annuity or enough quarters to receive social security.

For several years I have joined with other Senators to grant these dedicated servants the dignity and security of a full retirement income in line with those received by other Federal employees.

S. 855 would grant National Guard technicians 100-percent retirement credit for their service prior to 1968. They would have the option of paying into the retirement fund the amount that would have been withheld or taking a reduced annuity. In addition, technicians who moved to other positions would be eligible for retirement based on 100 percent of their service prior to 1968, and those already receiving annuities would have them recomputed to reflect the increase in creditable service.

Mr. President, many technicians who began their work during World War II and the years thereafter are now reaching retirement age. It is of the greatest importance that we act now so that they will be able to enjoy the hard-earned fruits of their labor.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–772), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

BACKGROUND

The National Guard has employed technicians since the early 1920's. These employees function to enhance the military readiness of the National Guard, which serves as a component of the National Defense Establishment. Working as civilian employees under the direction of the Governors and adjutant generals of the States, National Guard technicians draw their pay directly from the Federal Government and they are employed under the authority of Federal law. The Secretaries of the appropriate military departments set their salary levels and prescribe the conditions of their employment. Until 1969, these employees were not covered by the Civil Service Retirement Act.

Because of this exclusion, National Guard technicians have had to rely upon inadequate social security and State retirement programs. In 1953, the Federal Government began contributing the employer's share of social security taxes for them and toward State retirement programs in those few States that considered these technicians to be State employees for retirement purposes.

In 1968, the National Guard Technicians Act (Public Law 90–486) marked a step to improve the retirement provisions of law for these employees. In the act, making technicians of the Army and Air Force National Guard employees of the Federal Government, Congress declared service performed prior to January 1, 1969, creditable for civil service retirement purposes only to the extent of 55 percent of such service and only for technicians who continued to serve in the National Guard after January 1, 1969.

No credit is now allowable for National Guard technician service prior to January 1, 1969, unless the employee served in that capacity after that date. An employee, for example, who served as a National Guard technician prior to January 1, 1969, and then moved to another identical position with the Government but not with the National Guard would receive no Federal retirement credit at all for his National Guard technician service.

The National Guard Technicians Act was admitedly a compromise. The report on the measure from the Senate Armed Services Committee indicated that the 45-percent reduction of accreditation for prior service was intended to approximate the difference between the Government's contribution to social security and State retirement programs in behalf of these employees and the amount the Government would have contributed to the Federal retirement fund if they had been covered by the Retirement Act.

But National Guard technicians do not benefit equally from Federal contributions to social security and State retirement, and the benefits they receive are inadequate.

The Chief of the National Guard Bureau testified that—

In 31 States, technicians were not covered by State retirement programs. In other States, some technicians were covered and some were not.

Some technicians, covered by social security, will draw no benefits because they lack the necessary number of quarters of coverage before January 1, 1969.

Three-fourths of the technicians covered by State retirement systems do not possess sufficient service to acquire vested interests in the State systems and will never become entitled to State annuities.

The 55-percent limitation applies to service prior to 1953, when the Government made no contributions either to State systems or to social security.

STATEMENT

The committee believes that National Guard technicians are entitled to full retirement credit for all their technician service. S. 855 would make creditable for all Federal employees service as a National Guard technician prior to January 1, 1969. The employee must either deposit into the fund the amount which would have been withheld from his pay at the time of service; or the employee must authorize a permanent reduction in his annuity each year equal to 10 percent of the amount owed. It would remove the 55-percent limitation imposed by the National Guard Technicians Act on service prior to January 1, 1969.

Specifically, S. 855 would—

(1) Grant 100 percent retirement credit to all former technicians serving in any Federal position covered by the Retirement Act on and after January 1, 1969.

(2) Allow eligible technicians to pay the full amount of the optioned deposit due for the pre-1969 technician service. Current law limits such optional deposit to 55 percent of the amount determined to be due.

(3) Allow former technicians in the Federal service on and after January 1, 1969, to receive service credit for their pre-1969 technician service in determining length of service for leave, Federal employees' death and disability compensation, group life and health insurance, severance pay, tenure, and status.

(4) Provide that an annuitant with pre-January 1, 1969, technician service may have his annuity recomputed to reflect 100 percent credit for his pre-January 1, 1969, service.

HEARINGS

Hearings on S. 855 were held October 13, 1971.

COST

The Civil Service Commission reports that repeal of the 55-percent-credit provision would increase the unfunded liability of the retirement fund by $128 million. Under law this amount would be amortized by 30 equal annual installments of approximately $7.9 million. The cost of crediting past service cannot be accurately ascertained.

AMENDMENTS

The committee has amended the bill to make technical improvements in its language, but has not changed the provisions of the bill as introduced.

THE IMMEDIATE RETIREMENT OF CERTAIN FEDERAL EMPLOYEES

The Senate proceeded to consider the bill (S. 3380) to permit immediate retirement of certain Federal employees which was reported from the Committee on Post Office and Civil Service with amendments on page 1, line 8, after "(2)", strike out "while his agency or subdivision thereof," and insert "during a period when the agency in which he is employed"; on page 2, line 2, after the word "completing", strike out "twenty-five" and insert "25"; in line 3, after the word "becoming", strike out "fifty" and insert "50"; in the same line, after the word "completing", strike out "twenty" and insert "20"; and, after line 4 strike out:

Sec. 2. Notwithstanding the first section of section 8339(g) of title 5. United States Code, an employee retiring under clause (2) of section 8336(d) of such title (as enacted by the first section of this Act), during that period beginning on the date of enactment of this Act and ending on the three hundred and sixty-fourth day of such date, shall have his annuity reduced only by one-twelfth of 1 per centum for each full month the employee is under fifty-five years of age at the date of separation, except that such reduction shall not exceed 5 per centum.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8336(d) of title 5, United States Code, is amended to read as follows:

"(d) An employee who is separated from the service—

"(1) involuntarily, except by removal for cause on charges of misconduct or delinquency; or

"(2) during a period when the agency in which he is employed is undergoing a major reduction in force, as determined by the Commission, and who is serving in such geographic areas as may be designated by the Commission; after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to a reduced annuity."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–773), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

S. 3380, as amended, is based on an official recommendation of the Civil Service Commission to permit certain employees of the Government of the United States to retire when the Executive agency in which they are employed is involved in a major reduction of personnel.

STATEMENT

Under current civil service retirement law, an employee who has 25 years of service, or who has 20 years of service and has reached age 50, may retire on a reduced civil service annuity if he is involuntarily separated from the service for reasons other than misconduct or delinquency. Generally, such a separation is caused by the abolition of his position or a reduction of personnel in his agency.

Reductions in personnel result in the separation of those employees who have the least seniority and who generally are not entitled to retention preference under the Veterans Preference Act (5 U.S.C. 3502). Thus many younger employees are separated from the service while older employees, many of whom might be willing to retire in such circumstances, are retained. An older employee cannot volunteer to retire under the involuntary separation provisions cited above (5 U.S.C. 8336(d)); he is eligible for retirement only after a reduction in force has resulted in his termination.

S. 3380, as amended, will permit an otherwise eligible employee to voluntarily retire before a reduction in force is actually effected, thus permitting the agency to determine in advance the overall effect of the reduction in force.

The Committee has amended S. 3380 to make technical changes and to delete a provision which would have changed the reduction in annuity formula for employees retiring during the first year after enactment of S. 3380.

Under current law, an employee retiring under 5 U.S.C. 8336(d) is required to take a permanent reduction in his civil service annuity of ⅙th of 1 per cent of his annuity for each full month he is less than 55 years of age. Thus, an employee who is exactly 53 years of age at the time of his separation receives an annuity reduced by 4 per cent; an employee who is exactly 48 at the time of his separation receives an annuity reduced by 14 per cent. This reduction is based on actuarial estimates by the Civil Service Commission to maintain the liquidity of the Civil Service Retirement and Disability Fund. The Committee recommends that the present law be maintained.

S. 3380 authorizes the Civil Service Commission to determine what constitutes a "major reduction in force" and to designate which geographic areas of Federal employment shall be included within the provisions of this legislation when RIF's occur.

The essence of this legislation is that it vests in the employee the option to choose to retire if he is eligible under the involuntary retirement provisions of law. If he decides that he would like to retire, he may submit his resignation and the agency is bound to permit him to retire. Heretofore, the only way an employee could retire would be to have the agency request his resignation during a RIF, which has been interpreted by the Commission to be an involuntary separation.

CAREER PROGRAM FOR AIR TRAFFIC CONTROLLERS

The Senate proceeded to consider the bill (H.R. 8083) to amend title 5, United States Code, to provide a career program for, and greater flexibility in management of, air traffic controllers, and for other purposes which had been reported from the Committee on Post Office and Civil Service with amendments on page 2, line 1, after the word "the", insert "separation and"; in line 3, after the word "the", insert "separation and"; in line 6, after the word "this", strike out "section to the employees of the Department" and insert " section"; after line 10, insert a new section, as follows:

SEC. 2. (a) Section 3307 of title 5, United States Code, is amended to read as follows:

"§ 3307. Competitive service; maximum-age entrance requirements; exceptions

"(a) Except as provided in subsections (b) and (c) of this section, appropriated funds may not be used to pay an employee who establishes a maximum-age requirement for entrance into the competitive service.

"(b) The Secretary of Transportation may, with the concurrence of such agent as the President may designate, determine and fix the maximum limit of age within which an original appointment to a position as an air traffic controller may be made.

"(c) The Secretary of the Interior may determine and fix the minimum and maximum limits of age within which original appointments to the United States Park Police may be made.".

(b) Item 3307 of the analysis of chapter 33 of title 5, United States Code, is amended to read as follows:

"3307. Competitive service; maximum-age entrance requirements; exceptions.".

On page 3, at the beginning of line 6, change the section number from "2" to "3"; in line 11, after "(a)", strike out "If an" and insert "An"; in the same line, after the word "with", strike out "career tenure who has completed"; in line 12, after the word "controller", insert "who"; in line 13, after the word "removed", strike out "from duties"; in line 20, after the word "mental", strike out "well-being" and insert "health"; at the beginning of line 22, strike out "the Secretary may provide, with the writen agreement of the controller," and insert "is entitled to not more than the full-time equivalent of 2 years of"; in line 24, after the amendment just above stated, strike out "training to assist the controller in qualifying for employment in another position but such training shall not exceed 2 years in duration" and insert "training"; on page 4, after line 2, strike out:

"(b) The Secretary may provide training under this section in a Government or non-Government facility for employment in the Department of Transportation, in another Government agency, or outside the Government.

At the beginning of line 7, strike out "(c)" and insert "(b)"; in the same line, after the word "During", strike out "the" and insert "a"; in line 8, after the word "controller", strike out "shall" and insert "shall be"; in line 9, after "(1)"; strike out "be"; in line 11, after "(2)", strike out "be"; in line 12, after the word "provided", strike out "by or"; in the same line, after the word "under", strike out "statute" and insert "law"; in line 13, after "(3)", strike out "be"; in the same line, after the word "from", strike out "the"; at the beginning of line 15, strike out "(d)" and insert "(c)"; in line 19, after the word "another", strike out "Government" and insert "Executive"; in line 24, after the word "for", strike out "purpose" and insert "purposes"; in the same line, after the word "of", strike out "determining entitlement to severance pay under"; in line 25, after "section 5595", strike out "of this title"; on page 5, line 1, after the word "or", strike out "entitlement to immediate retirement under"; at the beginning of line 3, strike out "(e)" and insert "(d)"; in line 6, after the word "section,", strike out "including but not limited to, among the expenses, the necessary cost of—

"(1) travel and per diem instead of subsistence under subchapter I of chapter 57 of this title;

"(2) transportation of immediate family, household goods and personal effects, packing, crating, temporarily storing, draying, and unpacking, under section 5724 of this title, when the estimated cost of transportation and related services are less than the estimated aggregate per diem payments for the period of training;

"(3) tuition and matriculation fees;

"(4) library and laboratory services;

"(5) purchase or rental of books, materials, and supplies; and

"(6) other services or facilities directly related to the training of the controller." and insert "including expenses authorized to be paid under chapter 41 and subchapter I of chapter 57 of this title, and the costs of other services or facilities directly related to the training of a controller."; at the top of page 6, strike out "(f) The provisions of sections 4105(a), 4107 (a) and (b), and 4111 of chapter 41 of this title shall apply to the training provided under this section, but no other provisions of such chapter 41 shall apply to training provided under this section." and insert "(e) Except as provided by subsection (d) of this section, the provisions of chapter 41 of this title, other than sections 4105(a), 4107 (a) and (b), and 4111, shall not apply to training under this section."; at the beginning of line 9, strike out "(g)" and insert "(f)"; in the same line, after the word "not", insert "otherwise"; in line 14, after the word "for", strike out "an"; at the beginning of line 15, strike out "annuity" and insert "retirement"; in the same line, after the word "under", strike out "subchapter III of chapter 83" and insert "section 8336"; in line 17, after the word "service", strike out "for retirement"; at the beginning of line 23, strike out "well being" and insert "health"; in line 25, after the word "section.", strike out "The involuntary separation of a controller" and insert "Separation"; on page 7, line 3, after the word "month", strike out "which immediately follows" and insert "following"; in line 4, after the word "day", strike out "on which"; in line 9, after the word "later.", insert "A controller who is to be separated under this section is entitled to training under section 3381 of this title. Separation of such a controller who elects to receive training under section 3381 shall not become final until the last day of the month following the completion of his training."; in line 15, after "(a)", strike out "A" and insert "An air traffic"; in line 19, after the word "the", where it appears the second time, strike out "date of"; in line 22, after the word "such", insert "a"; in line 24, after the word "determination", strike out "of the Secretary"; on page 8, line 4, after the word "shall", insert "immediately"; in line 12, after "(c)", strike out "A" and insert "The"; in the same line, after the word "review", strike out "convened under subsection (b) of this section"; in line 13, after the word "review", insert "evidence supporting and inconsistent with"; in line 25, after the word "controller", strike out "from" and insert "within"; on page 9, line 2, after the word "Transportation", strike out "shall prescribe" and insert "is authorized to issue"; in line 3, after the word "regulations", strike out "necessary"; in line 4, after the word "subchapter.", strike out "Regulations pertaining to eligibility for and type and kind of training to be provided under section 3381 of this title shall be based on such considerations as the Secretary considers appropriate, including, but not limited to, length of service, previous occupational skills and education, training needs, and desires of controllers to be trained."; in line 12, after the word "subchapter", strike out "does" and insert "shall"; in line 15, after the word "of", where it appears the first time, insert "the"; in the same line, after the word "efficient", insert "separation and"; in line 16, after the word "mental", strike out "well-being" and insert "health"; in the same line, after the word "of", where it appears the second time, strike out "the" and insert "a"; on page 10, at the beginning of line 1, change the section number from "3" to "4"; at the beginning of line 16, change the section number from "4" to "5"; in line 21, after the word "inserting", insert "after subsection (d)"; on page 11, at the beginning of line 4, change the section number from "5" to "6"; in line 10, after the word "inserting", insert "after subsection (d)"; in line 15, after the word "employee.", strike out "unless that employee received training under section 3381 of this title"; at the beginning of line 17, change the section number from "6" to "7"; in line 19, after "8339 (h)", insert "each place it appears"; in line 20, after "8332 (b) (3)", insert "and (8)"; on page 12, at the beginning of line 1, strike out "(i)" and insert "(A)"; at the beginning of line 5, strike out "(ii)" and insert "(B)"; in line 6, after the word "and", strike out "(c)" and insert "(e)"; in line 7, after "section 8336 (f)", strike out "respectively,"; at the beginning of line 12, strike out "(iii)" and insert "(C)"; at the beginning of line 16, strike out "(iv)" and insert "(D)"; at the beginning of line 20, strike out "(v)" and insert "(E)"; in the same line, after the word "the", strike out "reference" and insert "references"; in line 21, after "(h)", insert "and subsection (i)"; in line 22, after the word "the", strike out "reference" and insert "references"; in line 23, after "(i)", insert "and subsection (j), respectively"; at the beginning of line 25, strike out "(vi)" and insert "(F)"; on page 13, at the beginning of line 3, strike out "(vii)" and insert "(G)"; in line 4, after "(e)", strike out "respectively,"; in line 10, after "section 8339 (i)", insert "and section 8339 (j)"; in line 11, after the amendment just above stated, strike out "respectively,"; in line 12, after "section 8339 (a)-(i)", strike out "and"; in line 13, after "8339 (j)", insert "and section 8339 (k)"; after line 22, strike out:

> (5) by striking out the reference "section 8339 (a), (b), (d), (g), and (h)" in section 8344(a) (3), (A), and inserting the reference "section 8339 (a), (b), (d), (e), (h), and (i)" in place thereof.

And, in lieu thereof, insert:

> (5) by amending section 8344(a)—
>
> (A) by striking out the reference "section 8339 (a), (b), (d), (g), and (h)" in subparagraph (A) and inserting the reference "section 8339 (a), (b), (d), (e), (h), and (i)" in place thereof; and
>
> (B) by striking out the references "section 8339(i) of section 8339(j) (2)" in the sentence following immediately below clause (ii), and inserting the references "section 8339(j) or section 8339(k) (2)" in place thereof.

On page 14, at the beginning of line 11, change the section number from "7" to "8"; at the beginning of line 15, change the section number from "8" to "9"; and, on page 15, at the beginning of line 1, change the section number from "9" to "10".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDENT pro tempore. Without objection, the amendments are considered and agreed to en bloc.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read as follows:

> On page 15, after line 3, insert the following:
>
> "SEC. 11. The Act of September 26, 1969 (Public Law 91-73; 83 Stat. 116), relating to age limits in connection with appointments to the United States Park Police, is repealed effective at the end of the eighty-ninth day after the date of enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I have offered this amendment on behalf of the distinguished Senator from Wyoming (Mr. McGee). It is a technical change in the bill as reported to repeal the provisions of Public Law 91-73, relating to the establishment of minimum and maximum age requirements in the U.S. Park Police. That authority is being continued elsewhere in the bill, and this repealer is merely a conforming amendment.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The Senator from New York is recognized.

(The remarks Mr. Buckley made at this point on the introduction of S. 3570 are printed in the Record under Statements on Introduced Bills and Joint Resolutions.)

QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Chiles). Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR STENNIS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, immediately following the recognition of the two assistant leaders under the standing order, the distinguished Senator from Mississippi (Mr. Stennis) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of the distinguished Senator from Mississippi (Mr. Stennis) tomorrow there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF SENATOR HATFIELD AS CONFEREE ON SECOND SUPPLEMENTAL BILL (H.R. 14582) IN LIEU OF SENATOR INOUYE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Hawaii (Mr. Inouye) be relieved as a conferee on the second supplemental appropriation bill (H.R. 14582) and that the Senator from Oregon (Mr. Hatfield) be appointed as a conferee on that bill in his place.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

USE OF FUNDS IN FOREIGN COUNTRIES

A letter from the Deputy Secretary of Defense certifying, pursuant to law, that no use was made of funds appropriated to make payments in a foreign country in which country the Treasury Department was holding excess foreign currencies; to the Committee on Appropriations.

ASSISTANCE-RELATED EXPENDITURES FOR LAOS

A letter from the Assistant Secretary of State submitting, pursuant to law, an additional report showing the total amount of assistance-related expenditures for Laos for the first two quarters of fiscal 1972 (with accompanying papers); to the Committee on Armed Services.

NOTIFICATION OF PROPOSED FACILITIES PROJECTS

A letter from the Deputy Assistant Secretary of Defense submitting, pursuant to law, a list of facilities projects proposed to be undertaken for the Air Force Reserve; to the Committee on Armed Services.

PROPOSED AMENDMENT OF TITLE 10, UNITED STATES CODE

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to provide for the temporary promotion of ensigns of the Navy and second lieutenants of the Marine Corps, to provide that these appointments may be made by the President alone, and for other purposes (with an accompanying paper); to the Committee on Armed Services.

REPORT OF THE DEPARTMENT OF LABOR

A letter from the Secretary of Labor transmitting, pursuant to law, a report on the Department's study and review of the program establish by the Emergency Unemployment

Compensation Act of 1971 (with accompanying report); to the Committee on Finance.

REPORT ON FUNDS APPROPRIATED FOR CERTAIN PROGRAMS AND ACTIVITIES

A letter from the Comptroller General of the United States, reporting, pursuant to law, that all funds previously appropriated and thereafter impounded during fiscal year 1971 for programs and activities administered by or under the direction of the Department of Agriculture, the Department of Housing and Urban Development, and the Department of Health, Education, and Welfare, have been released for obligation and expenditures; to the Committee on Foreign Relations.

REPORT ON THE EXCLUDED STUDENT

A letter from the Chairman and Members of the United States Commission on Civil Rights, transmitting, pursuant to law, a report on Educational Practices Affecting Mexican Americans in the Southwest (with an accompanying report); to the Committee on the Judiciary.

REPORT ON THE IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commission of Immigration and Naturalization transmitting, pursuant to law, reports concerning visa petitions which have been approved according the beneficiaries third preference and sixth preference classification (with accompanying reports); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation of certain aliens (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

S. 3572. An original bill to extend and amend sections 5(n) and 8(d) of the Federal Water Pollution Control Act, as amended (Rept. No. 92–777).

By Mr. BELLMON, from the Committee on Interior and Insular Affairs, with an amendment:

H.R. 5199. An act to provide for the disposition of funds appropriated to pay judgments in favor of the Miami Tribe of Oklahoma and the Miami Indians of Indiana in Indian Claims Commission dockets numbered 255 and 124–C, dockets numbered 256, 124–D, E, and F, and dockets numbered 131 and 253, and of funds appropriated to pay a judgment in favor of the Miami Tribe of Oklahoma in docket numbered 251–A, and for other purposes (Rept. No. 92–778).

By Mr. ANDERSON, from the Committee on Aeronautical and Space Sciences, with an amendment:

H.R. 14070. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (Rept. No. 92–779).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BUCKLEY (for himself and Mr. JAVITS):

S. 3570. A bill to authorize the Administrator of Veterans Affairs to convey certain real property in Canandaigua, New York, to Sonnenberg Gardens, a corporation. Referred to the Committee on Veterans' Administration.

By Mr. RIBICOFF:

S. 3571. A bill for the relief of Wayne Gafka. Referred to the Committee on the Judiciary.

By Mr. RANDOLPH, from the Committee on Public Works:

S. 3572. An original bill to extend and amend sections 5(n) and 8(d) of the Federal Water Pollution Control Act, as amended. Placed on the calendar.

By Mr. SCHWEIKER:

S. 3573. A bill exempting State lotteries from certain Federal prohibitions. Referred to the Committee on the Judiciary.

By Mr. FULBRIGHT:

S. 3574. A bill to change the name of the Beaver Dam in the State of Arkansas to the James W. Trimble Dam. Referred to the Committee on Public Works.

By Mr. COOPER (for himself and Mr. BOGGS):

S. 3575. A bill providing for an architectural design competition relating to the integration of Senate needs with the surrounding community. Referred to the Committee on Public Works.

By Mr. GAMBRELL:

S. J. Res. 230. A joint resolution proposing an amendment to the Constitution of the United States with respect to the process by which the Constitution is amended. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BUCKLEY (for himself and Mr. JAVITS):

S. 3570. A bill to authorize the Administrator of Veterans Affairs to convey certain real property in Canandaigua, N.Y., to Sonnenberg Gardens, a corporation. Referred to the Committee on Veterans' Administration.

Mr. BUCKLEY. Mr. President, I introduce a bill which would enable a group of New York residents to assume the responsibility for restoring and maintaining an historic and unique estate with its exceptionally beautiful gardens.

Sonnenberg Gardens is located in Canandaigua, N.Y., on land originally owned by Mrs. Frederick Ferris Thompson, who imported workmen and materials from diverse parts of the world to construct 10 separate and distinct gardens, reflecting a variety of cultures and styles. The result was incomparable beauty and elegance. The land was sold to the U.S. Government in 1930 and a Veterans' Administration hospital was constructed on a portion of it.

This bill would authorize the Administrator of Veterans' Affairs to convey approximately 45 acres of this 208-acre site to Sonnenberg Gardens, Inc., which has been granted a New York State charter as a nonprofit, tax-exempt, educational corporation.

This transaction would not adversely affect the operation of the hospital. Conversely, the substantially enhanced gardens, to which the patients would have access, would serve as a benefit to the patients and community as well. The Veterans' Administration, which has not been able to properly maintain the gardens, would be freed of the expense of upkeep. Should Sonnenberg Gardens, Inc., fail to meet its responsibilities, the land would revert to the Veterans' Administration.

I am happy to see this effort by local citizens who are concerned about history and their community volunteering their time and money to preserve a place of unique beauty in the Finger Lakes region of New York State.

Dr. N. A. Rotunno, professor emeritus, landscape architecture, Syracuse University, has written:

> There may be somewhere on the Eastern seaboard a garden or gardens that are as good as Sonnenberg. I doubt if there is any place in the East or in the country that has as many different gardens.
>
> It must be borne in mind that these gardens were the special creation of one person, the 'Lady, of Sonnenberg', Mrs. Frederick Ferris Thompson. Mrs. Thompson must have had a great sense of imagination, propriety and taste. It (the restoration) should, in a sense, be aimed to make this a national historic monument of gardening exemplifying the fine ideas of the past and their tie to the present and the future trends in gardening. The garden and grounds are of such caliber and interest that they should receive national attention.

Thus, in a very real sense what this restoration will accomplish will benefit not only residents of New York State but the Nation as well.

The President, I send the bill to the desk and ask that it be properly referred.

Mr. JAVITS. Mr. President, I am a cosponsor of the bill, S. 3570, introduced by my colleague from New York (Mr. BUCKLEY), to authorize the Administrator of Veterans' Affairs to convey certain property in Canandaigua, N.Y., to Sonnenberg Gardens, Inc., a nonprofit, educational corporation which has been granted a charter by the State of New York.

The many artists and citizens who have joined together to form Sonnenberg Gardens, Inc., have contributed substantial time and money to the effort to restore and maintain the beautiful and unique gardens and the mansion of Sonnenberg. The group has demonstrated that they possess the financial and artistic capability adequately to carry out the purposes set forth in its charter. These purposes are:

First, to receive, hold, restore and improve the gardens, grounds, and mansion of the estate known as Sonnenberg, formerly owned by Mrs. F. F. Thompson, and located at Howell Street in the city of Canandaigua, Ontario County, N.Y.;

Second, to display and exhibit for both study and enjoyment numerous and various types and styles of gardens, landscape architecture, and structural architecture;

Third, to provide a place for the display of paintings, sculpture, and art works in general;

Fourth, to provide a place for the performance of musical concerts, operas, dance and ballet recitals, arts exhibits, and the performing and fine arts generally; and

Fifth, to further such ends to act individually, in free association or by contract with others, including individuals, organizations, churches, schools, municipalities and government agencies, and institutions.

The former owner of this property, Mrs. Frederick Ferris Thompson, commissioned several noted horticulturalists and landscape gardeners to design and construct the Sonnenberg Gardens, each having a sepadate and distinct theme, such as the Italian, the Old Fashioned, the Japanese. This property is currently part of the Veterans' Administration grounds in Canandaigua. Access to the restored gardens would provide visitors to the Finger Lakes region an unforgettable and enriching experience. I commend the bill to the Senate because it would preserve this art treasure and, I might add, do so at no monetary cost to the Federal Government.

A similar bill, H.R. 13780, has been introduced in the House by Representative JOHN TERRY, who represents the district where the gardens are located, and who has taken an active interest in this matter for some time.

By Mr. SCHWEIKER:

S. 3573. A bill exempting State lotteries from certain Federal prohibitions. Referred to the Committee on the Judiciary.

STATE LOTTERY EXEMPTION ACT OF 1972

Mr. SCHWEIKER. Mr. President, I introduce today the State Lottery Exemption Act, a bill to exempt official State-operated lotteries from restrictive Federal postal, broadcasting, and gambling laws.

On March 7, 1972, the State of Pennsylvania joined New Hampshire, New Jersey, and other States, by inaugurating an official State-operated lottery for the purpose of raising revenue. Proceeds from the lottery will be put into the State's general revenue fund until June 30, 1972. But, thereafter, all proceeds will be devoted to the exclusive use of property tax relief for the elderly. This is a worthwhile objective I fully support.

The lottery has been a popular success in Pennsylvania and more than 44 million tickets at 50 cents apiece were sold in the first 6 weeks of the lottery's operation. After paying out prizes and administrative costs, the State has gained $1 million a week, and State officials estimate that in the first year alone the Pennsylvania lottery will net $50 million.

The purpose of my bill today is to exempt official State-operated lotteries like Pennsylvania's from the many restrictive laws on the books that were enacted to curb illegal gambling. The exemptions I recommend will enable States to more freely publicize the lottery, to attract more lottery ticket buyers, and to insure that all aspects of the lottery's operation are fully in accord with Federal laws. States today are hard-pressed to raise revenues for important public services. The popularity of State lotteries to date indicates that the public supports this method of raising revenue, and my bill will eliminate current Federal restrictions on the operation of State lotteries.

My bill will accomplish the following:

First, allow radio and television stations to broadcast information about the lottery, including the winning numbers. Title 18, United States Code, section 1304, currently bans any lottery broadcasting, and the Federal Communications Commission has specifically ruled that the current law is to be strictly enforced.

Second, allow newspapers to freely publish lottery information without fear of violating postal regulations. Title 18, United States Code, section 1302, prohibits the use of the mails for distribution of information about lotteries in newspapers. The U.S. Postal Service has permitted publication of legitimate "news" about lotteries so long as the "news stories were not merely fulfilling a necessary part of the operation of a lottery." However, Postal Service representatives have visited Pennsylvania newspapers in connection with publication of lottery information, and a memorandum which has been given to these newspapers in the State by the Postal Service says that—

> Even if the only information published is the winning number, identified as such, and no mention is made of the prizes pertaining thereto, the mailing of the publication might be found to be prohibited by postal lottery law.

The Postal Service has advised newspapers "to seek the guidance of private legal counsel as to contemplated mailings of items dealing with lotteries." I think it would be better to exempt State-controlled lotteries from the prohibitions altogether to eliminate any uncertainty or confusion for newspapers.

Third, allow advertisements of State lotteries in newspapers and on radio and television. This will allow the States to publicize their lotteries more comprehensively, and will help insure greater revenues from the lotteries.

Fourth, insure that States operating lotteries are not subject to the Federal 10 percent wagering tax. Section 4401 of the Internal Revenue Code requires that the operator of a lottery shall pay a 10-percent excise tax "on all wagers placed in such lottery." Exemptions from this tax provided by section 4402 only include lotteries where "the ultimate winners—are determined by the results of a horse race," and do not include computerized number lotteries such as Pennsylvania's. Clearly the intent of the law is to exempt legitimate fundraising events from the gambling tax, and I would hope that my bill might be passed quickly to clarify the law to insure that all State lotteries are exempted from this tax.

Fifth, exempt State-operated lotteries from the Federal tax on "coin-operated gaming devices" imposed by section 4461 of the Internal Revenue Code. This will allow States to utilize coin-operated vending machine sales of lottery tickets, without the threat of an additional tax.

Sixth, allow mailing of lottery tickets, and information about State lotteries. Title 18, United States Code, section 1302, prohibits the use of the mails for distribution of lottery tickets, for sending checks or money orders to purchase tickets, or for any solicitation connected with the lottery. Exemption of State-controlled lotteries from this prohibition would allow a State to expand its lottery sales.

Seventh, allow transportation in interstate commerce of State lottery tickets, equipment and information. Three sections of Title 18, United States Code—section 1301, dealing with "transporting lottery tickets;" section 1084, dealing with "transmission of wagering information;" and section 1953, dealing with "Interstate transportation of wagering paraphernalia"—all provide restrictions on transportation aspects of lotteries which should be exempted.

Eighth, exempt State-operated lotteries from section 3005 of the postal laws which allows postmasters to return mail concerning lotteries.

The bill will exempt official State lotteries from provisions of the law which seriously impair the ability of States to continue these revenue-raising methods successfully, such as the broadcasting, newspaper mailing, and 10 percent wagering tax provisions. Some of the other provisions are relatively technical exemptions. However, all of them should be enacted so that the laws of the U.S. Government are consistent in recognizing a State's legitimate interest in using lottery, sweepstakes, or wagering pools to obtain needed funds for public services.

Nearly half the States are either conducting or considering State lotteries. Some predict that every State will someday be engaging in some lottery system to raise revenues. It is in the interest of each Member of Congress to modify the Federal laws to permit the maximum operation of State lotteries, and I urge my colleagues to act promptly on this legislation.

Mr. President, I ask unanimous consent that the text of the "State Lottery Exemption Act of 1972" be printed in the RECORD following these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act shall be known as the "State Lottery Exemption Act of 1972."

SEC. 2. (a) chapter 1 of title 18, United States Code, (relating to general provisions), is amended by adding at the end thereof the following new section:

"§ 16. State-conducted lotteries, sweepstakes, and wagering pools

"(a) The provisions of chapter 61 and of sections 1084 and 1953 of this title shall not apply with respect to any lottery, sweepstakes, or wagering pool conducted by any agency of a State acting under authority of State law.

"(b) For purposes of this section, 'State' includes any of the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, or any territory or possession of the United States."

(b) The table of contents of chapter 1 of such title 18 is amended by adding at the end thereof the following new item:

"16. State-conducted lotteries, sweepstakes, and wagering pools."

SEC. 3. (a) Section 4402 of the Internal Revenue Code of 1954 (relating to exemptions from the wagering tax) is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) State-conducted lotteries, etc.—On any wager placed in a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents."

(b) Section 4462 (b) of such Code (relating to exclusions from definition of coin-operated gaming device) is amended—

(1) by striking out "or" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or", and

(3) by adding after paragraph (2) the following new paragraph:

"(3) a vending machine which (A) dispenses tickets on a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law and (B) is maintained by the State agency conducting such sweepstakes, wagering pool, or lottery, or by its authorized employees or agents."

(c) The amendment made by subsection (a) shall apply with respect to wagers placed after the date of the enactment of this Act. The amendments made by subsection (b) shall apply with respect to periods after such date.

SEC. 4. Section 3005 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The provisions of subsection (a) of this section shall not apply to any lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind conducted by any agency of a State acting under authority of State law. For purposes of this subsection, 'State' includes any of the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, or any territory or possession of the United States."

By Mr. FULBRIGHT:

S. 3574. A bill to change the name of the Beaver Dam in the State of Arkansas to the James W. Trimble Dam. Referred to the Committee on Public Works.

Mr. FULBRIGHT. Mr. President, I am today introducing a bill which would honor the late J. W. Trimble, who served 22 years in the House of Representatives, by naming the Beaver Dam on the White River in Arkansas the James W. Trimble Dam.

J. W. Trimble died at age 78 on March 10 in Eureka Springs, Ark. His death greatly saddened his many friends in Washington and in Arkansas.

As a news article in the Arkansas Gazette described him, "Judge" Trimble was "one of the best-loved men on Capitol Hill during his 22 years in Congress—a 'father confessor' to pages, a pal of doorkeepers, and a friend of Presidents."

The same article pointed out that, as the Congressman from the Third Congressional District of Arkansas, he brought "dams and reservoirs and rural electrification and millions in Federal money into northwest Arkansas."

It is particularly appropriate, I believe, that one of the dams in the Third Congressional District, which he represented so ably and diligently, be named in honor of J. W. Trimble.

When I was elected to the Senate in 1944, J. W. Trimble was elected to succeed me in the House of Representatives. Therefore, my acquaintance with Judge Trimble was a long-standing one, and I always had the utmost respect for him. He was a man of the highest integrity and of noble character.

He was one of the earliest and most consistent supporters of the Arkansas River navigation project, which has meant so much to the State of Arkansas.

Mr. President, I am hopeful that the Congress will rapidly approve this legislation to honor an outstanding American.

I ask unanimous consent to have printed in the RECORD a news article from the Arkansas Gazette of March 11, which provides some details about Judge Trimble's distinguished career, and an editorial from the Gazette of March 14, which provides some insight into his unique character. Further, I ask unanimous consent that an editorial broadcast by radio station KBRS, Springdale, Ark., March 17, advocating that Beaver Dam be named Trimble Dam, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Ex-Lawmaker Dies at 78—He Helped Bring Progress to State

EUREKA SPRINGS.—James W. Trimble, aged 78, of Berryville, who, as the state's Third District congressman, brought dams and reservoirs and rural electrification and millions in federal money into Northwest Arkansas, died Friday at a hospital here.

One of the best-loved men on Capitol Hill during his 22 years in Congress, the Judge, as he was called, was a "father confessor" to pages, a pal of doorkeepers and a friend of presidents.

He was regarded as the state's most liberal congressman, frequently voting in opposition to those other longtime congressmen who served with him—E. C. (Took) Gathings of West Memphis, Oren Harris of El Dorado and Wilbur D. Mills of Kensett.

For example, in 1965, the ultraconservative Americans for Constitutional Action gave Judge Trimble a 14 per cent rating, compared to 68 per cent for Gathings.

As a member of the House Rules Committee, he wielded power that helped him get many projects for Arkansas.

To become a member of this committee, Mr. Trimble gave up his seat on the House Public Works Committee, where he championed Arkansas waterway projects.

In 1964, when 500 supporters of the Arkansas River navigation system turned out to thank Representative Trimble for his efforts, Garth Whipple, the president of the Arkansas Basin Association, said: "Others talk pretty, but the Judge has got the votes [in Congress] to get things done. In my experience, there is one man whose contribution to the Arkansas River program stands out above all others, and that man is Judge Trimble."

As to his ability to get federal money for Arkansas projects, Senator J. William Fulbright said during Trimble's 1964 campaign:

"Jim Trimble has so many projects going in his district that it looks like he has backed up a truck to the Treasury. This is what seniority means to you."

STAND FOR DAMS HELPED BRING DEFEAT

Ironically, it was Judge Trimble's stand for more dams that helped bring on his unexpected defeat in 1966 by John Paul Hammerschmidt, the conservative Republican lumberman from Harrison.

Mr. Trimble believed that to complete his dream of water control on the White River of North Arkansas, dams were needed on the Buffalo River.

A half billion dollars had been spent on the White, he told constituents at Marshall as he opened his campaign of 1966. If the dams on the Buffalo weren't completed, it would leave only 90 per cent of the project done and that's like finishing only 90 per cent of the roof of your house.

But opposition from conservationists and sportsmen who wanted to keep the Buffalo free-flowing led to concerted action to beat him. He got 72,635 votes to Hammerschmidt's 80,495.

He was not bitter. He said of his defeat: "It's part of the game." And with the graciousness that characterized him in Washington, he offered Hammerschmidt his help.

During his 11 terms he represented a district that was strongly Republican, placing his reliance on diplomacy and a consistent plan of argument. He rarely acknowledged his opponents.

Because he grew up in an isolated area, one of 10 children, he had a dream of development for the Ozarks. In later years, he looked fondly at the dams and towers that carried electricity across the ridges.

HE ABHORRED WASTE OF SOIL

He was a conservationist, once saying: "Every muddy stream is an indictment of those of our generation and of past generations, because we've permitted our precious soil to flow down our streams. That soil is not ours. It is held in trust by us for future generations."

He was born February 3, 1894, in a farm home in the valley of the Osage River, the son of Allen and Anna McFarlane Trimble.

Early educators in that remote area helped guide him in his early years in the small towns of Carroll County and he frequently boarded with families while attending school. In the fall of 1913, he enrolled at the University of Arkansas, majoring in education and history. He worked after class as a custodian. He was editor of the college newspaper during his junior year.

A stint as a teacher at Texarkana after graduation was interrupted by World War I and he became an officer in the training cadre at Camp Pike. After the armistice, he returned to the mountains to become principal of the Osage school. Later he was principal at Pleasant Ridge.

ENTERED POLITICS IN 1920

In the summer of 1920 he began his political career, winning the Democratic nomination for Carroll County clerk. Mr. Trimble recalled that his opponent was a friend and that they went around the county introducing each other. He told voters they should do everything for his opponent—including feeding him and bedding down his horse—except vote for him.

His county next named him tax collector in 1924, a job he held for four years. As county clerk, he sold himself a marriage license on February 4, 1922, and was wedded to Ruth Maples of Berryville. They had twins, a boy and a girl, in 1923. The girl, Martha Carol, died 2½ years later. Their son, James Kerry Trimble, is a colonel with the Army Engineers.

Mr. Trimble studied law and was admitted to the bar in 1925. He returned to politics, and in a hotly contested race, he defeated two prominent opponents to become prosecuting attorney of the Fourth Judicial District. He served four terms and then was elected circuit judge in 1938. One of those among his circuit clerks was Orval Eugene Faubus of Huntsville, whose loyalty to Judge Trimble kept him from running for that congressional seat in later eyars.

In 1944, when his friend J. William Fulbright left his congressional post to go to the Senate, Mr. Trimble became the district's congressman. Senator Fulbright got Trimble his first committee post, on the Foreign Affairs Committee, but he gave it up after two years for the Public Works Committee.

As a member of the committee he gained seniority and influence valuable in promoting the dam building program of North Arkansas. He lived to see Norfolk, Bull Shoals, Table Rock and Beaver Dams completed and co-sponsored with Representative Mills the bill that created Greer's Ferry Dam near Heber Springs.

He was a strong proponent of rural electrification and in 1955 struck the match for a fiery new congressional row over private versus public power when he announced he would introduce a bill adjusting the computation of benefit to cost ratio hydro-electric power projects to include recreational, municipal and industrial water supply and irrigation benefits.

"Let us return the control of our natural resources to the Congress where it belongs," he said.

After his defeat, he and Mrs. Trimble returned to their home at Berryville. His death came less than two weeks after President Nixon signed the bill to make the Buffalo River a National River, free of dams.

Funeral arrangements are by Nelson Funeral Service here.

J. W. Trimble

They will be burying J. W. Trimble in his home town of Berryville this afternoon, and it will be the saddest of sad occasions for countless numbers of persons well beyond the immediate family circle, and, through the medium of his long service in the national Congress, for many present and former Members of Congress all across the land.

James William Trimble was a good man, and it would have been quite enough if he had been only that, for, if there are not really as many really bad men as some of us sometimes imagine, there aren't all that many truly good men, either. Jim Trimble was a truly good man—but he also was one of the adornments of the Congress during his years of service there, one of the adornments of the Arkansas delegation, especially.

"Judge" Trimble, as he was known from the days when he traveled the Fourth Judicial Circuit, first went to the Congress in 1944, at a time when the Third Congressional District of Arkansas comprised 10 contiguous counties in the extreme northwesternmost corner of the state, and there were seven Arkansas congressional districts, rather than the present four. If this makes J. W. Trimble sound dated, the assumption would be a misleading one. He was anything but dated, and never allowed himself to grow old in his thinking, if, in fact, he could have become so even if he tried.

He was one of the succession of "dam" congressmen from the Third District—Clyde T. Ellis, J. W. Fulbright, and then Trimble—whose combined, persevering, labors transformed the face of North Arkansas and reversed the population outmigration that had prevailed there for so long. As so frequently happens in the affairs of men, one of the unforeseen results was to help change the political complexion of the Third District. This result was unforeseen, but if Congressman Trimble had been able to foresee it, he would not, we are sure, have done anything differently. Let nobody judge the North Arkansas dams who does not remember the Third District "before."

This is not the place to rehash the circumstances of Mr. Trimble's defeat for reelection in 1966, other than to say that in our judgment there was no single reason for it. In general terms, it was the familiar story of staying in Washington too late doing the District's work, and perhaps of not taking the opposition seriously enough, rather in the fashion of Senator Ralph Yarborough in Texas in 1970. All we can say of Judge Trimble's enforced retirement was that it was premature. We do not know how long he would have wanted to stay on in Congress—not too much longer, probably—but his retirement when it came was premature.

In defeat, characteristically, he refused to sulk. Again, he wouldn't have known how. Instead, he said, "It's all in the game", and immediately offered to do everything he could to make the transition easier for his successor, who, we know, shares the grief of everyone who ever knew Jim Trimble. If Mr. Trimble ever had a personal enemy, we never heard his name.

KBRS Editorial

A gentleman, a scholar, a statesman is dead. . . . Congressman Jim Trimble passed away this last Friday in his beloved northwest Kansas. This was as it should have been and probably as he wanted it. Jim Trimble served his district, State, and Nation with honor and with dedicated service. While we disagreed with some of his votes in the House of Representatives, we must say that, on the whole, he did a splendid job. Those of our listening audience that were too young to know "Mr. Jim" or the "Judge" have missed an experience that they would not forget soon. The "Judge" was responsible for our many fine lakes and dams in northwest Arkansas and the rural electrification of our northwest corner. Since his death, we have heard many times over, in casual conversation and quotes from former Governors, and in editorials, that these things will be a monument for him. We don't think that this is enough. . . . We have advocated before his death that Beaver Dam should be named "Trimble Dam" with proper ceremonies and recognition. The time is past now to show our appreciation to Jim Trimble, but it's never too late to place a fine man's name on this beautiful place. We hope that the powers that be and the "Judge's" good friends will do what should have already been done.

By Mr. COOPER (for himself and Mr. Boggs):

S. 3575. A bill providing for an architectural design competition relating to the integration of Senate needs with the surrounding community. Referred to the Committee on Public Works.

Mr. COOPER. Mr. President, I introduce, for myself and for the senior Senator from Delaware (Mr. Boggs), a bill to provide planning for the Capitol Grounds.

Mr. President, I spoke on the floor of the Senate on Monday, opposing piecemeal development of the Capitol Grounds and pointing out that there should be better ways to proceed to meet the needs of the Senate, the House of Representatives and other governmental bodies on Capitol Hill, and at the same time preserve and provide for an orderly, useful, and beautiful development of the area. I believe there are ways to plan for the beauty of the whole area and to relate Federal activities to the community of which they are a part.

I have been thinking about this matter for some time. I have opposed on this floor in the past ugly, useless construction. I introduce a bill which I believe could stimulate more orderly development—and could provide, as well, guidance to the Senate, itself.

While I am not a member of the Buildings and Grounds Subcommittee, I am a member of the Committee on Public Works, and I hope very much this proposal may be considered by the subcommittee. I particularly hope this approach might be considered before our committee would authorize construction of an additional Senate Office Building or a parking garage. Hearings by the subcommittee would provide the opportunity for comments and suggestions by those interested in this subject.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is established an architectural design competition to encourage the preparation of imaginative designs providing for the orderly planning, development, and integration of the needs of the Senate for physical facilities with the surrounding residential and commercial community in that area of northeast Washington, D.C., in the immediate vicinity of the Senate Office Buildings and the Senate side of the Capitol Grounds.

(b) The competition shall be administered jointly by the Committee on Public Works of the Senate and the Architect of the Capitol.

Sec. 2. (a) One award for the best design shall be made, the amount of which shall be determined by the Committee and the Architect.

(b) (1) The award for the best design shall be determined by a design awards committee of 5 persons (including architects and city planners), selected by the Architect with the approval of the Committee on Public Works.

(2) Each member of the awards committee who is not otherwise employed by the United States Government shall be paid for each day he is engaged in the actual performance of his duties as a member of the committee (including travel time) an amount equal to the daily rate paid a GS–18 under the General Schedule of section 5332(a) of title 5, United States Code. A member of the committee who is an officer or employee of the United States Government shall serve without additional compensation. All members of the committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(c) The award shall be made to the person submitting the design which best demonstrates a means of integrating and relating groups of United States Government buildings to the structure and function of the community in such northeast area, maximizing the beneficial effects of such relationship and minimizing displacement, isolation, discontinuity, and disruption of the life of the community, and enhancing the potential for orderly and attractive development.

(d) Any design submitted in such competition shall provide for an additional Senate Office Building; parking facilities for employees of the Senate, other United States Government employees, and visitors and residents in such area; and the preservation and expansion of the Capitol Grounds. The designer should consider joint utilization of property that may provide an architectural transition from Government office space and other Government occupancy to neighborhood or other styles of architecture existing or planned for the surrounding community, and should consider any existing model cities or other governmental planning for such northeast area, including that by the National Capitol Planning Commission. Design comments may also address the questions of proper administration of such structures designed for mixed Government-private occupancy.

Sec. 3. There are authorized to be appropriated not to exceed $50,000 to carry out this Act.

Mr. BOGGS. Mr. President, I am happy to join the distinguished senior Senator from Kentucky (Mr. Cooper) in sponsoring this bill. The design competition proposed could encourage the development of Senate and other governmental facilities within the context of the community of which they are a part.

I serve on the Public Buildings and Grounds Subcommittee, and we have had before us a number of proposals for using or expanding the Capitol Grounds, such as the amendment adopted on the Senate floor Monday which would take part of existing Capitol parkland for parking spaces.

I believe we could do a better job of relating our needs to the life of the community in which the Capitol is the dominant architectural feature. It would be helpful to the subcommittee and the Senate to have ideas—not finished plans—setting forth outlines, perhaps with sketches, of desirable kinds of developments and suggesting to the Senate, including the Public Works Committee and Senate Office Building Commission, ways of accomplishing a more attractive plan.

The Architect of the Capitol can, I am sure, contribute greatly to such plans, but at present his jurisdiction is restricted to the Capitol Grounds, and he has received no instructions to consider and plan for related development in the surrounding area.

I know of the deep interest of the chairman of the subcommittee—the junior Senator from Alaska (Mr. Gravel)—who has talked to me about the possibility of commercial or joint use space as part of a proposed Senate garage. The subject may be discussed at a meeting of the subcommittee tomorrow, and I hope this bill may make a contribution to that discussion.

The Capitol—like the White House and other great monuments—is central to the design and feeling of Washington. It is especially important to address proposals for additional Federal structures with that in mind, and to consider the broader aspects of such proposals rather than simply providing parking or office space for the Government.

By Mr. GAMBRELL:

S.J. Res. 230. A joint resolution proposing an amendment to the Constitution of the United States with respect to the process by which the Constitution is amended. Referred to the Committee on the Judiciary.

Mr. GAMBRELL. Mr. President, I have proposed a workingman's bill of rights setting forth the rights and concerns of the average Americans who work for a living and support this country. The purpose of this bill of rights is to give recognition to working people, and to remedy the neglect and abuse to which they have been subjected.

Right No. 1 under the workingman's bill of rights is—the right to have a voice in running the system:

> American working people should not be excluded from managing the system. They have the right to speak out and be heard. The working man of this country supports and defends the system and is entitled to control it, because institutions which exist under the system are the servants of the people. Remedies for the concerns of the working man should be convenient and prompt, and reforms of the system should be easy.

One of the most frustrating experiences which average Americans have is the near impossibility of getting action on basic concerns affecting their lives. We are constantly being told that if the people do not like rulings made by the courts and the Congress, they will just have to "lump" it. The remedy we hear, is to elect a new Congress, which is impossible as a practical matter.

Many times it is impossible even to get a vote in Congress on such a matter, much less a vote by the American people.

We hear that some established politicians will not let an amendment out of a committee, or that judges have lifetime jobs regardless of the quality of their performance.

The people should have a direct remedy to correct abuses which a majority of them feel. There should at least be a way of letting the people vote on a matter, if the Congress will not respond to deeply felt public concerns. In order to give the people a stronger voice in Government, I am introducing today a proposed amendment to the U.S. Constitution which will give the American people a means of amending the Constitution on their own initiative. This "right to be heard amendment" will permit the people and their representatives to initiate constitutional amendments to be ratified by a direct vote of a majority of the voters. The amendment contains safeguards against reckless, sectional, and poorly formed amendments, but it will serve to restore to the people the final say under our system of checks and balances.

If we truly believe in democracy in this country, the people have a right to be heard.

Mr. President, I ask that the text of my proposed amendment be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 230

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within 7 years after its submission to the States for ratification:

"ARTICLE ——

"Section 1. Amendments to this Constitution shall be proposed and ratified in accordance with the provisions of this Article.

"Sec. 2. An amendment to this Constitution may be proposed by popular petition if (1) the petitions setting forth the text of the proposed amendment bear the signatures of a total number of eligible voters equal to twenty percent of the number of votes cast for Presidential electors in the next preceding Presidential election and (2) the signatures of not less than twenty percent of the eligible voters in at least one-half of the several States appear on the petitions. As used in this paragraph, the term 'eligible voter' means an individual who is eligible to vote for the election of Members of the House of Representatives.

"An amendment to this Constitution may be proposed by the legislatures of the several States if (1) the petitions setting forth the text of the proposed amendment are adopted by not less than one-fourth of the legislatures of the several States and (2) the legislatures adopting those petitions are the legislatures of States the population of which equals at least one-fourth of the population of the United States as determined by the most recent decennial census of the United States.

"An amendment to this Constitution may be proposed by petition when signed by one-half of the members of the House and Senate.

"Petitions and resolutions proposing amendments to this Constitution shall be delivered to the President, who shall immediately report the same to both Houses of Congress.

"Sec. 3. If an amendment to this Constitution is proposed by petitions under the first or second paragraph of section 2, the Congress may prohibit the submission of that proposed amendment to the people of the United States by concurrence of two-thirds of the members of each House. The Congress may by the concurrence of a majority of the members of each House call a national convention of the people to consider, veto, or propose an alternative amendment relating to the same subject matter as any amendment proposed under section 2. The convention shall be representative of the States by population and shall act by majority vote.

"Sec. 4. An amendment to this Constitution proposed under section 2 shall be ratified by the affirmative vote of a majority of the individuals casting votes in the election held for the election of Members of the House of Representatives next occurring more than 180 days after the date on which the petition or resolution proposing that amendment was delivered to the President, so long as a majority of those voting in a majority of the several States shall favor the amendment.

"Sec. 5. The Congress shall have power to implement and enforce this article by appropriate legislation."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2689

At the request of Mr. Church, the Senator from Nevada (Mr. Cannon) was added as a cosponsor of S. 2689, a bill to promote development and expansion of community schools throughout the United States.

S. 3300

At the request of Mr. Griffin, the Senator from Alabama (Mr. Allen) was added as a cosponsor of S. 3300, a bill to amend the Communications Act of 1934 to provide that renewal licenses for the operating of a broadcasting station may be issued for a term of 5 years and to establish certain standards for the consideration of applications for renewal of broadcasting licenses.

S. 3394

At the request of Mr. Dominick, the Senator from Arizona (Mr. Goldwater) and the Senator from New York (Mr. Javits) were added as cosponsors of S. 3394, a bill to permit citizens of the United States to buy, hold, and sell gold.

S. 3538 AND S. 3539

At the request of Mr. Bayh, the Senator from Nevada (Mr. Bible), the Senator from Iowa (Mr. Hughes), and the Senator from California (Mr. Cranston) were added as cosponsors of S. 3538, a bill to amend the Controlled Substances Act to require identification by manufacturers of each schedule II dosage unit produced; and S. 3539, a bill to amend the Controlled Substances Act to move certain barbiturates from schedule III of such act to schedule II.

FOREIGN RELATIONS AUTHORIZATION ACT—AMENDMENT

AMENDMENT NO. 1176

(Ordered to be printed and to lie on the table.)

Mr. DOMINICK (for himself, Mr. Bentsen, Mr. Gurney, Mr. Tower, Mr. Goldwater, and Mr. Buckley) submitted an amendment intended to be proposed by them jointly to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 999

At the request of Mr. Church, the Senator from Arkansas (Mr. McClellan), the Senator from Maine (Mrs. Smith), the Senator from Kansas (Mr. Pearson), the Senator from Illinois (Mr. Percy), the Senator from Pennsylvania (Mr. Schweiker), the Senator from South Carolina (Mr. Thurmond), and the Senator from Maryland (Mr. Mathias) were added as cosponsors of amendment No. 999, intended to be proposed to the bill (H.R. 1), to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

SENATE VOCATIONAL REHABILITATION HEARING SET FOR MAY 4

Mr. RANDOLPH. Mr. President, a week ago our Subcommittee on the Handicapped, of the Committee on Labor and Public Welfare, met in executive session concerning legislation involving amendments to the Vocational Rehabilitation Act, which is due to expire on June 30, 1972. The House of Representatives already has approved its version of the Rehabilitation Act of 1972, incorporating several new proposed programs which are of intense interest to the handicapped and to those who serve the handicapped.

I am pleased to announce that the opening hearing on this important legislation is scheduled at 9 a.m. Thursday, May 4, in room 6226 of the New Senate Office Building. Members of the Subcommittee on the Handicapped agreed to assign the Senator from California (Mr. Cranston) the responsibility of presiding at this and future hearings and conducting our consideration of the proposed legislation.

Witnesses for the opening hearing on vocational rehabilitation are Mr. Stephen Kurzman, Assistant Secretary for legislation, Office of the Secretary, Health, Education, and Welfare, accompanied by Mr. John Twiname, Administrator, Social and Rehabilitation Service, and Dr. Edward Newman, Commissioner, Rehabilitation Services Administration.

Senator Cranston has indicated that hearings are scheduled next week on Wednesday at 10:30 a.m. and Friday at 9:30 a.m., May 10 and May 12, to hear public witnesses.

NOTICE OF CANCELLATION OF HEARING

Mr. CRANSTON subsequently said: Mr. President, the Subcommittee on the Handicapped, of which the distinguished Senator from West Virginia (Mr. Randolph) is the chairman, of the Labor and and Public Welfare Committee, was scheduled to receive testimony from administration witnesses tomorrow morning at 9 a.m. on H.R. 8395, the Rehabilitation Act of 1972, and related bills amending the Vocational Rehabilitation Act. Senator Randolph had asked me to chair the subcommittee hearings on and consideration of this legislation, which I am honored to do.

Mr. President, because we have been advised late this afternoon that the administration will be unable to provide us its written testimony in advance by close of business today, in general compliance with rule 9 of the Labor and Public Welfare Committee and section 133A of the Legislative Reorganization Act requiring submission of testimony 24 hours in advance, we have decided to postpone the hearing until next Thursday, May 11, at 10 a.m. I regret the necessity of delaying consideration on this very important topic, but I do not believe that I, acting as chairman for this legislation, can proceed in an effective manner to understand and evaluate the adminstration testimony on such a complex matter without some reasonable opportunity to review their presentation in advance. I have discussed this matter with Senator Randolph and with the distinguished chairman of the Labor and Public Welfare Committee, Mr. Williams, who concur fully in this postponement.

The hearings previously announced on these bills for May 10 and May 12 will be postponed until the following week.

ADDITIONAL STATEMENTS

THE 750TH ANNIVERSARY OF THE GOLDEN BULL OF HUNGARY

Mr. INOUYE. Mr. President, I invite the attention of Senators to the current celebration of the 750th anniversary of "Bulla Aurea," the Golden Bull of Hungary. Similar to, and coming but 7 years after, the Magna Carta, the Golden Bull was an enactment by the Hungarian Diet of a fundamental pillar of the Hungarian constitution and an early guarantee of human liberty.

The Golden Bull of Hungary guaranteed the freemen's personal freedom and other basic rights and privileges while narrowing the gap which separated the existing social classes. Not only did this document order the nobles not to suppress and exploit the lower classes, but it further stipulated that if the king or his successors should violate the provisions of this document then the prelates, barons, and nobles had every right to resist.

I call attention to an exhibition, currently on view in the Library of Congress, commemorating this event. I ask unanimous consent to have printed in the Record a description of this document and its historic significance, published in the April issue of the Fight for Freedom, the newsletter of the Hungarian Freedom Fighters' Federation, U.S.A.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Golden Bull of Hungary

The 750th anniversary of the Hungarian Magna Charta recalls the past of a thousand-year-old state. And reminds us that the nature of some social and political conflicts remains more or less the same through centuries.

This cornerstone of the Hungarian constitution, named the Bulla Aurea (Golden Bull), was issued in 1222, seven years after the Magna Charta of England was granted in June 1215. While in England this charter of liberties strengthened the barons against the King, in Hungary, it served all landowners, in today's terms the middle and the lower middle classes.

Since it was a peculiarity of Hungarian history that incomparably more people were nobles than in any other European country and that they often remained noble even when impoverished, the Golden Bull gave constitutional protection to a much larger part of the population than other similar letters or rights elsewhere in medieval Europe, including England, the "cradle of parliamentarism", or Switzerland, the "flower-garden of individual liberties".

The fact that in Hungary the human rights of that period were extended over the mass of the lesser nobility, authorizing them to put up armed resistance individually or collectively against violation of their rights, limited not only the King's power. It made it easier for the middle classes to defy also the magnates, the "petty monarchs" of the realm.

The national Diet began to emerge before the end of the 13th century and was a precursor of our modern Parliaments. It was an assembly of locally chosen delegates of all landowners and was destined to protect the lesser nobility (which then consisted of all who owned land) as well as the Church more against the aristocracy than against the King. This was one of the main reasons why feudalism could not become firmly established in Hungary.

The Golden Bull, the trailblazer of the national Diet, was such an important step towards modern democratic institutions that some of its stipulations are worth remembering even now, 750 years after the event.

It attacked the very roots of feudalism by decreeing that the title and estates of the lords-lieutenant of counties were not hereditary. It provided for the degradation of any lord-lieutenant who abused his office; and promised safeguards to all nobles—i.e., to a significant portion of the nation—against arbitrary arrest.

THE FIGHT FOR FREEDOM

Soon after, in 1231, the Golden Bull was placed under the guardianship of the Archbishop of Esztergom, the Primate of Hungary. He was authorized to excommunicate the King for violation of the charter's articles.

This is why the Golden Bull, this 13th century bulwark of what today we call human rights, has been regarded as the foundation of Hungarian constitutional liberties.

If the Bull expressed them in legal terms, their political content became known as the Doctrine of the Holy Crown, the crown of the first Hungarian king, Saint Stephen, who was anointed in 1000 A.D. The constitutional Doctrine of the Holy Crown is based on the same principles as the Golden Bull: all political power, even royal prerogatives, were subject to, and derived from, the Crown that symbolized the union of, and independence between, King and nation; the Crown was considered the fountainhead of all rights, of the King's privileges as well as of the rights of all his subjects.

While according to the concept of that age the ruler's power was based on the Grace of God, in Hungary the effectiveness of royal power depended on the assent of the entire nobility. This tenet was defined by the great codifier of Hungary, Stephen Verboeczy, who also played a memorable part in European history when he accompanied Charles V of the Holy Roman Empire to Worms where the famous confrontation with Luther took place.

The basic idea of these principles—those of the Holy Crown dating from 1000, and those of the Golden Bull of 1222—is the same: a constitutional limitation of power, a limitation that served to keep a balance between economic and political forces.

A doctrine that could help us to heal some of the problems of our modern societies.

NOMINATION OF RICHARD KLEINDIENST TO BE ATTORNEY GENERAL

Mr. HANSEN. Mr. President, I take this opportunity to urge that the nomination of Mr. Richard Kleindienst to be Attorney General of the United States be brought to a vote. It is clear that the overwhelming majority of those of us who have followed the lengthy hearings and rehearings believe that Mr. Kleindienst is eminently qualified for this position and will be confirmed when the vote is taken.

Senators are well aware that the hearings before the Committee on the Judiciary explored every facet of the alleged improper relationship between the Justice Department and ITT. Despite the thoroughness of the investigation, not one iota of evidence was adduced to indicate that Mr. Kleindienst was guilty of any impropriety.

In fact, a careful review of all the testimony suggests the very opposite, that Mr. Kleindienst performed his official duties according to the high standards expected of public servants. The alleged wrongdoing exists only in the imaginations of those who would seize any opportunity in an election year to discredit the Department of Justice and the administration for partisan purposes.

The task that remains ahead is clear.

We must put a stop to the dilatory tactics that are being displayed and vote to confirm Richard Kleindienst.

To do otherwise would be a disservice to the country.

JOINT CIVILIAN ORIENTATION CONFERENCE

Mr. FULBRIGHT. Mr. President, it is my understanding that within a few days the Department of Defense will conduct a joint civilian orientation conference. On previous occasions I have discussed these conferences, which normally bring together about 70 business leaders for a red carpet tour of key military installations.

These conferences, referred to as JCOC's were the subject of considerable attention in the CBS documentary, "The Selling of the Pentagon" last year. As was pointed out in the documentary, participants pay part of their expenses during the tour. However, previous tours have resulted in considerable Government expense.

The General Accounting Office, in a study entitled "Joint Civilian Orientation Conference," dated June 29, 1971, reported that participants in a JCOC tour fired 18,700 rounds of ammunition from weapons ranging from the M–16 rifle to the 105–millimeter tank gun. The GAO concluded that the tour for 63 civilians cost the Department of Defense $80,000, compared with $14,000 estimated by the Pentagon. According to the GAO study, "use of weapons" alone cost $20,000.

The May 1 issue of Straus Editor's report, a newsletter for news executives, includes an article about the forthcoming JCOC, which is due to begin in Colorado Springs on May 7. It is a very interesting report and I ask unanimous consent, Mr. President, that it be printed in the RECORD, along with the letter of invitation and related material from the Secretary of Defense.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE SELLING OF THE PENTAGON—II

The power of broadcast journalism and the momentum of a bureaucracy could collide, once again, now that the Dept. of Defense is surreptitiously resuming its annual VIP tour of domestic military installations which had been stopped by the impact of the CBS News documentary.

"The Selling of the Pentagon"—first broadcast February 23, 1971 and rebroadcast several weeks later—reported on various public information functions of the Defense Department and raised questions regarding the extent of those activities. Film of one Dept. program—the Joint Civilian Orientation Conference (JCOC), which offers a personal view of the armed forces to DOD-selected opinion moulders—was an essential part of the documentary which aroused Congress as well as the public. Result: the DOD said last year that the tour was "deferred"—(Pentagonese for canceled). But last Thursday, information officer Col. T. H. Harlow said the JCOC had been dropped only temporarily "because a study of the structuring and format of the conference was underway to broaden the scope to include women and students." Though participation in this year's JCOC will be expanded (presumably to include female and youthful representation), the restructuring study is not available to the public.

Will there be a JCOC this year? "We hope to have one. Any announcement to that effect would be made within 30 days." Will the list of attendees be made public? "Yes." Is the entire JCOC open to press coverage? "Yes. The tour is totally unclassified. Only seating arrangements would preclude coverage." Is there any possibility that the JCOC would begin in the next 2–3 weeks? "No," said the official DOD spokesman.

But that's not what one learns from an invitation signed by Sec. Melvin Laird. The letter begins: "The Department of Defense, which initiated this program in 1948, will conduct a Joint Civilian Orientation Conference from May 7 to May 13, 1972. The purpose is to give approximately 70 civilian leaders, representing a cross section of our nation, a first-hand view of our Armed Forces and most especially an opportunity to meet our people in uniform."

A questionnaire enclosed asks for information which the Department might have known before sending out the invitation (name, address, occupation, etc). The defense establishment also wants to know the person's social security number, club memberships and jacket size. "Each conferee is responsible for his own travel arrangements" to and from the excursion—which starts in Colorado Springs and ends up in Washington, D.C. at the Pentagon—and an approx. $300 pro-rated cost of "meals, lodging accommodations, official receptions and other functions."

Newsmen covering the conference should expect to see bridges erected, targets bombed and other highly visual military maneuvers which are "scheduled to coincide with the JCOC." Of the expenditures involved, much is attributable to normal training costs. The major effort in the way of providing out of the ordinary items is in the area of special briefings that are given" (which reporters should be able to attend).

Here's a schedule of stopovers and contacts (the dates at the bases are approximate):

Antler's Plaza Hotel, Colorado Springs, Colorado, 303–473–5600 5/7/72 begins at 10 A.M.).

North Amer. Air Defense Command, Colorado Springs, 303–635–2388 Lt. Col. B. S. Rhees 5/7/72.

U.S. Air Force Academy, Colorado Springs, 303–472–4050 Capt. R. W. Boyle 5/8/72.

S.A.C. Hq, Offutt AFB, Nebraska, 402–294–2456 Maj. A. W. Luedtke 5/9/72.

U.S. Army Infantry Ctr., Ft. Benning, Georgia, 404–545–1544 Maj. Patrick Cannan 5/10/72.

Marine Corps Recruit Depot, Parris Island, South Carolina, 803–524–2111 5/11/72.

Atlantic Naval Comm. HQ, Norfolk, Virginia, 703–444–6295 Capt. Harry E. Padgett 5/12/72.

Dept. of Defense, The Pentagon, Washington, D.C., 202–697–6131 Col. T. H. Marlow 5/13/72 (concludes at 1 P.M.)

THE SECRETARY OF DEFENSE,
Washington, D.C.

DEAR MR. ———: The Department of Defense, which initiated this program in 1948, will conduct a Joint Civilian Orientation Conference from May 7 to May 13, 1972. The purpose is to give approximately 70 civilian leaders, representing a cross section of our nation, a first-hand view of our Armed Forces and most especially an opportunity to meet our people in uniform.

It is a pleasure for me to invite you to participate.

The Conference will open May 7 at the Antler's Plaza Hotel, Colorado Springs, Colorado. From there the group will begin a tour of military bases and installations to observe various aspects of military activities. Discussions with senior officials of the Department of Defense at the Pentagon on May 13 will close the Conference.

I feel that this year's Conference will be particularly meaningful in the light of the many changes which are being implemented throughout the Department of Defense, such as our movement towards the goal of zero draft calls by July 1, 1973, and the transition taking place in other vital areas under our Strategy of Realistic Deterrence to achieve and maintain peace.

To assist you in reaching your decision concerning participation, and in making plans, information is enclosed on transportation, costs, itinerary, and other incidentals of the Conference.

I hope that your schedule will permit you to participate. If you do accept, please do so on the basis that you intend to remain throughout the entire tour. I shall appreciate your returning the attached forms with your response.

To expedite planning and to assure the necessary reservations, it would be most helpful to hear from you within seven days of your receiving this invitation.

MELVIN R. LAIRD.

THE JOINT CIVILIAN ORIENTATION CONFERENCE OF THE SECRETARY OF DEFENSE

WHAT IT IS

The Joint Civilian Orientation Conference, begun in 1948, is a response by the Secretary of Defense to the desire and need of the American people to be informed about how their Department of Defense is operated. The Conference makes it possible for citizens representing a broad spectrum of our nation to study the accomplishments and problems of the Department of Defense.

HOW IT WORKS

A group of approximately 70 citizens representing a geographical cross section of American business, finance, industry, labor, agriculture, civic organizations, communication media, the clergy, students, and the professions are invited by the Secretary of Defense to visit military installations of all four Services.

WHAT IS ACCOMPLISHED

It stresses that the Department of Defense is open to public inspection. It responds to the desire of our citizens to maintain an interest in an understanding of national defense programs. It provides members of the Armed Forces and civilians an opportunity to know and understand each other better. It offers a medium for the exchange of ideas.

LENGTH OF THE CONFERENCE

The conference will start at the Antler's Plaza Hotel in Colorado Springs, Colorado with registration beginning at 10:00 A.M., May 7, and conclude in the Pentagon, Washington, D.C. around 1:00 P.M. on May 13, 1972. The detailed program has been designed to utilize conference time in the most effective and economical manner. If you accept this invitation, and we hope that you do, please do so on the basis of attending the entire conference.

ACTIVITIES TO BE VISITED

North American Air Defense Command—Colorado Springs, Colorado.

U.S. Air Force Academy—Colorado Springs, Colorado.

Strategic Air Command Headquarters—Offutt Air Force Base, Nebraska.

U.S. Army Infantry Center—Fort Benning, Georgia.

Marine Corps Recruit Depot—Parris Island, South Carolina.

Atlantic Command Headquarters—Norfolk, Virginia.

Department of Defense, The Pentagon—Washington, D.C.

EXPENSES AND TRANSPORTATION

Each conferee is responsible for his own travel arrangements, at his own expense to and from the conference. For example, each participant pays his own transportation costs from his home to Colorado Springs, Colorado and upon completion of the JCOC, from Washington, D.C. to his home. Participants pay all meals and lodging accommodations, and share the cost of official receptions and other functions during the conference. It is estimated that these expenses will total about $300.00. This amount will be collected during registration in Colorado Springs. Transportation during the conference will be provided by the Department of Defense at no cost to the participants. If you accept, please fill in the enclosed biographical information form for use in our JCOC program booklet and the acceptance letter and mail them in the pre-addressed envelope.

OFFICE OF THE ASSISTANT
SECRETARY OF DEFENSE,
Washington, D.C.

Capt. A. R. HAWKINS,
U.S. Navy, Conference Director—JCOC 41, Office of the Assistant Secretary of Defense (Public Affairs), the Pentagon, Washington, D.C.:

I accept the invitation of the Secretary of Defense for Joint Civilian Orientation Conference 41 which will begin with registration and briefings at the Antler's Plaza Hotel, Colorado Springs, Colorado the morning of Sunday, May 7, 1972.

I have completed and enclosed a JCOC biographical information form.

I understand that reservations have been made for me at hotels or military billets for all nights during the conference. These reservations begin the night of May 7 and end the night of May 12.

I (do) (do not) desire a reservation at the Antler's Plaza Hotel in Colorado Springs the night of Saturday, May 6, at my own expense. (Registration begins at 10:00 A.M. on Sunday and the Conference will officially convene at 2:45 P.M.)

I (do) (do not) desire a hotel reservation in Washington, D.C. for —— nights beginning Saturday, May 13, the day the conference terminates at my own expense.

I (will) (will not) require special medical treatment, medication, or other special attention during the Conference. (A medical officer will be available at each of the visited military installations.) I have detailed any special requirements on the back of this page.

My jacket size is Small—Medium—Large. (Please circle.)

Name (please print) ————————

My friends call me ————————
(Nickname)

TO END INDUSTRIAL CARNAGE

Mr. McGOVERN. Mr. President, it is time we did something truly effective about the disgraceful conditions under which millions of Americans labor every day of their working lives.

Working men and women in this country are constantly exposed to the risk of death, injury and disease on the job. And each year they suffer a tragic toll in lost lives, limbs, health, and hope.

Industrial accidents now take some 15,000 lives a year—more than twice as many as nonkinship murders.

Some 90,000 men and women are permanently disabled at their jobs—rendered incapable of working or supporting their families.

About 25 million are injured badly enough to be forced off work at least 1 day.

And a big part of the problem—industrial diseases—is not even calculated. We have no estimates of how many workers have their lives shortened by exposure to toxic fumes, chemicals, and the like; how many are gradually losing their hearing from excessive and harmful noise; how many are more susceptible to disease of all kinds because of their working environment.

But we do have some indications.

It is estimated, for example, that between 10 and 20 percent of all people who have been uranium miners will die during the next 20 years from radiation exposure.

One half the deaths of insulation workers are attributable to asbestos, and 3½ million workers are exposed to asbestos.

Soft coal miners die from respiratory disease at a rate five times greater than the general work force.

We have established environmental standards outside the plant, to protect our air and water from pollution. Those standards are vitally important for all of society, and for the survival of our planet.

Yet few consider that when we plug the industrial chimney, we often leave deadly fumes locked up inside where the worker is. As we protect our own well-being we tend to ignore, and often worsen, the situation of men and women inside our shops, plants, mills, and mines.

And the Surgeon General has reported that new scientific knowledge "points to hitherto unsuspected cause and effect relationship between occupational exposures and many so-called chronic diseases, cancer, respiratory ailments, allergies, and heart disease."

This evidence hints at the senseless level of industrial carnage in America. It stands in sharp contradiction to descriptions of the United States as a modern and civilized society—as a society that really cares about the health, security, and dignity of its people.

In this area as in others, the Nixon administration's preeminent concern for the comfort and prosperity of big business has left the ordinary worker with few friends in high places.

With present staffing, it would take between 20 and 30 years to make just one inspection of all the worksites covered by the Occupational Safety and Health Act of 1970.

The substance of citations under the act, and often the citations themselves, are frequently kept secret to avoid embarrassment for the offending company. OSHA inspectors have abandoned the practice of incorporating the results of their tests for toxic substances in their citation reports. Working people themselves usually have to fight hard to see the inspectors' reports—to find out what the Government knows about their working conditions. And citations are rarely backed up with tough enforcement—with real inducements for industry to obey the law and to provide a decent working environment.

In short, while the Occupational Safety and Health Act promised a Federal guarantee of job safety, timid enforcement and favoritism have left it a tool with no teeth. And the rate of industrial death injury, and diseases continues its steady climb.

The worker is neglected after the injury as well.

There is, for example, usually an upper limit on weekly workmen's compensation payments which sets the ceiling below the theoretical two-thirds compensation for lost income. And compensation is always limited to no more than a portion of lost wages plus medical expenses.

CONCLUSIONS AND RECOMMENDATIONS

The costs of unsafe and unhealthy working conditions are astronomical—in pain and wasted lives for workers, in compensation payments and lost time for industry, in welfare payments and depleted productivity for the Nation as a whole. Decisive Federal action is both justified and required.

The following steps, built around the Occupational Safety and Health Act of 1970, would provide a dramatic improvement in the capacity of the American worker to survive and stay healthy on the job:

First. There should be a minimum of 8,000 Federal inspectors working for the Occupational Safety and Health Administration, and their work should be supplemented by some 4,000 industrial hygienists trained to deal with the so-called invisible health threats.

Second. As a matter of right, workers and their representatives should have full, free, and fast access to the complete results of Federal inspections, including hazards not included in citations.

Third. Funds should be provided for industrial safety and health training in every State for the workers themselves, so they can serve as their own inspectors. This is especially important in smaller plants and in nonunion plants. Training should include methods of compiling evidence on hazardous working conditions and a full understanding of workers' rights under the Occupational Safety and Health Act.

Fourth. New techniques for removing job accident and health hazards should be a major priority for public research funding, with the results available to all industries and workers.

Fifth. A new Occupational Standards Administration should be established to set safety standards both for working conditions and for the 6,000 to 12,000 chemicals which are in common industrial use. This agency would complete tests and set exposure standards before new substances could enter the production process.

Sixth. Federal health teams should concentrate on generally recognized target health areas such as silica in foundries, asbestos in glass factories and foundries, cotton dust in textile plants, carbon monoxide, and lead poison inhalation.

Seventh. Workmen's compensation rates for occupational injury and disease should be standardized, with the minimum set at no less than two-thirds of lost pay, plus full medical benefits.

Eighth. Workmen's compensation boards and the courts should be given authority to determine additional payments for nonwage losses caused by occupational trauma.

ADDRESS BY SENATOR JAVITS BEFORE OAKBROOK WORLD AFFAIRS SERIES

Mr. JAVITS. Mr. President, I ask unanimous consent that the text of my prepared remarks before the Oakbrook World Affairs Series, entitled "Vietnam and The War Powers Issue," delivered in Oak Brook, Ill., on May 1, 1972, be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

VIETNAM AND THE WAR POWERS ISSUE

(An address by Senator JACOB K. JAVITS)

President Nixon's television address of April 26 placed the issues involved in the Vietnam war—as he sees them—before the Nation clearly and unmistakably. While I respect the integrity of the President's own perception of the stakes in Vietnam. I cannot agree and believe the end result of this strategy is capable of unnecessarily exposing the U.S. to very adverse developments.

Once again we are at a crossroads with respect to Vietnam. Our Nation wants to get out of the war. But the "battlefield logic" operating on the President as he acts in his role of Commander-in-Chief has induced him for the moment to reescalate the American role—at least in the air and at sea. What will be the outcome of this dilemma? How will the decisions be made and who will make them? These are life and death questions because in a broader sense what is at stake is first, our responsibilities all over the world for preserving the peace; and second, the survival of our constitutional system of government, based on the separation of powers and the system of checks and balances.

In his address, President Nixon articulated his Vietnam policy with remarkable candor, stating: ". . . our overall goal of ensuring South Vietnam's survival as an independent country."

With respect to the current fighting, the President said: "Our air strikes have been essential . . . in assisting the South Vietnamese in their efforts to protect their homes and their country from a communist takeover." He further said: "I have ordered that our air and naval attacks . . . be continued until the North Vietnamese stop their offensive in South Vietnam."

I believe it is also pertinent to note that the President said his plan to withdraw an additional 20,000 U.S. ground troops "has the approval of President Thieu."

It seems clear from the President's own words that our Vietnam disengagement policy—for which he has sought and deserved so much credit—is conditioned by a first and a second mortgage—one held by Saigon and one held by Hanoi.

It is possible that the current combination of ARVN ground forces and massive U.S. air and naval forces will succeed in inflicting a decisive battlefield defeat on North Vietnam's communist forces in the struggle now raging. Such a victory would free us to withdraw under the President's prescription. However, current battlefield reports and past history indicate that this outcome is not certain. The more likely prospect, is at least some more years of additional fighting by the South and North Vietnamese forces—but with U.S. air and naval forces providing the margin of survival for the South Vietnamese government. The question then arises, is our commitment to the Government of South Vietnam open ended? Can we be mired there without regard to our necessities at home and abroad for as long as Hanoi chooses to press attacks and as long as Saigon cannot alone fend them off. And, the President's silence on a residual force of U.S. troops on the ground in Vietnam can only mean we will continue to insure a policy of underwriting the government of South Vietnam with our own trip wire.

The President's Vietnam speech was his first address since his report to the Nation on his visit to Peking; a trip which he described as a journey for peace, which had a stabilization of relations as its principal objective. The President's trip to China has rightly been hailed as a masterpiece of sophistication and statesmanship. The symbolism of President Nixon engaged in earnest private conversation with Mao Tse-tung in Peking was taken to mark an end to the cold war anti-communism of the 1950's which served our Nation so poorly in Asia, and, reversion by the President to the cold war phrases of the 1950's in his Vietnam report was surprising and dismaying.

The overall position of the United States everywhere in the world is at stake and demands a complete withdrawal from Vietnam. We have done all any nation can be asked to do there.

It is time the South Vietnamese took over completely. We can continue financial aid but can do no more.

In my judgment, it is in the overriding national interest of the United States to set a date for the total U.S. disengagement and withdrawal of our forces from Vietnam this year. That necessity, and that decision, must take priority over the understandable bent of President Nixon and his military advisors to assure, if they can, the military success of the government of Vietnam.

I am prepared to be quite blunt about that. It is not in the interest of the United States to allow the ARVN to be overrun, and the Thieu government to be overthrown by this current North Vietnamese offensive. But we have already done in Vietnam all that any nation could ever do for an ally in terms of our own casualties and treasure spent, let alone in the division of our country. And, we have helped to establish a heavily armed one-million man force (and an airforce) with a capability at least as great and probably much greater than that of North Vietnam. Now we can do no more in the fighting without serious jeopardy to our national interests at home and abroad. We can be sure of the fact that if the South Vietnamese people and government want a country, they can have it, because we have equipped them for the purpose. But for us the time has come to get out completely. We cannot continue for the indefinite future to underwrite the survival and security of South Vietnam.

From beginning to end, the Vietnam war has been a "Presidential war which under the practice since World War II is synonymous with "undeclared" war. All the key decisions have been Presidential decisions, based on claims of authority asserted to be inherent in the President's role as Commander-in-Chief of the Armed Forces and as the essential "'conductor" of the Nation's foreign policy—and in essence to omit the Congress.

The very concept of a Presidential war is alien to our Constitution and our Nation's historical traditions. Yet, in practice the momentum of the "Presidential" war procedure is very powerful. Four years ago President Johnson, who had been elected in 1964 by the greatest plurality in our Nation's history, was forced out of politics by the Frankenstein he had created in Vietnam. Yet President Nixon, while he has done so very much more to wind down the war, is still contending for the same kind of Presidential power to wage undeclared war which undid President Johnson. And, this alleged Presidential power to wage undeclared war will continue unless we can devise a methodology for controlling it—and preventing the initiation of new "Presidential" wars.

As the principal sponsor of the War Powers Act recently adopted by the Senate by a vote of 68 to 16, and having studied the constitutional issues in depth, I was particularly interested in the latter part of President Nixon's speech. He posed the constitutional issue in its purest terms from his perspective of the Presidency, and he equated the vindication of his views with the highest stakes of national security.

The position which the President staked out in his speech is so serious that I think we must examine it in detail. Let me begin by quoting the President's own words:

"If the United States betrays the millions of people who have relied on us in Vietnam, the President of the United States, whoever he is, will not deserve nor receive the respect which is essential if the United States is to continue to play the great role we are destined to play. It would amount to a renunciation of our morality, an abdication of our leadership among nations, and an invitation for the mighty to prey upon the weak all around the world. It would be to deny peace the chance peace deserves to have. This we shall never do."

This equation of unfettered Presidential war power with peace, morality and honor was juxtaposed by the President with Congressional and public challenges to his policy and authority in the following vivid terms:

"Their one remaining hope is to win in the Congress of the United States, and among the people of the United States, the victory they cannot win among the people of South Vietnam or on the battlefield in South Vietnam."

The President stated his view of the consequences of successful Congressional action to end the war through legislation—and, perhaps even his view of the consequences of enactment of the War Powers bill—in the strongest terms. He said:

"Let us look at what the stakes are . . . If the Communists win militarily in Vietnam, the risk of war in other parts of the world would be enormously increased."

Adding—

"No man who sits here (i.e., the President) has the right to take any action which would abdicate America's great tradition of world leadership."

The President has here staked out a claim for almost unrestricted Presidential war power in the broadest possible terms and he has equated that claim with morality and national security.

I do not see how it is possible for us to ignore the President's claim or fail to meet the challenge it poses to the survival of our constitutional system based on the system of checks and balances, and separation of powers.

The task is twofold. First, we must find a way to end an ongoing "Presidential" war. Second, we must devise means to prevent future "Presidential" wars. These are separate, though interrelated, problems. I will speak to both of them.

I do not believe that the basic issue we face in this respect as a nation can be resolved satisfactorily by personalizing the problem in terms of opposition to President Nixon. The problem transcends the personality of the particular President in office. It is a question which touches upon the nature of the office of the Presidency as it has evolved in the past twenty-five years. It is a problem which must be solved institutionally, in my judgment. The real redress is a restoration of the constitutional balance between the President and Congress with respect to the authority to commit the nation to war.

If there is to be any effective action in the present situation, it will have to be legislative action by the Congress. Past efforts, as exampled by the Hatfield-McGovern amendment, have failed. And there are inherent difficulties in using the fund cut-off procedure in measures of this sort. We have found that fall-back reliance on the appropriations power of the Congress is a very unsatisfactory method of countering the constitutional challenge posed by "Presidential" war. Nonetheless, the battle has once again been joined. A new amendment has been adopted in the Senate Foreign Relations Committee, as a rider to the State Department authorization bill, seeking to bring about a complete withdrawal of U.S. forces from Vietnam this year—with no exception made for the so-called "residual" or "insurance" force which the Administration desires to retain in South Vietnam.

I believe that this latest Senate fund cut-off amendment will be more successful than its predecessors. My view is based to some extent upon the recent Senate debate—and overwhelming passage—of the War Powers Act. The War Powers debate did much to clarify the underlying constitutional issues and the continuing danger which flows from the serious constitutional imbalance which has resulted from the unilateral expansion of Presidential power in the war-making field over the past twenty-five years—as graphically exemplified by the archetype Presidential war in Vietnam.

The War Powers Act corrects the basic flaw of the post-war practice by restoring to the Congress and to the people a meaningful role on the question of war or peace.

The War Powers Act makes ample provision for emergency action by the President. Its unique feature is that, in doing so, it builds in an automatic stop-loss feature necessitating affirmative Congressional action within thirty days. If the President takes emergency action putting the armed forces into hostilities, he must immediately make a full report of the circumstances, authority for, and expected scope and duration of, the military measures he has initiated. If the President is unable to obtain the concurrence of Congress to extend his authority, he must terminate his actions at the end of thirty days. The bill has strict provisions to prevent filibuster or other delays.

The War Powers Act cannot create national wisdom where there is none. But it can insure that the collective wisdom of the President and the Congress will be brought to bear on the life and death questions of war and peace. The Pentagon Papers and the Anderson Papers have shown us how dissenting and questioning viewpoints can be screened out or excluded altogether from the Presidential decision-making process. The real danger to our security today is not that the Congress might hamstring the President. The real danger is that Presidents can—and do—shoot from the hip. If the collective judgment of the President and Congress is required to go to war, it will call for responsible action by the Congress for which each member must answer individually and for restraint by both the Congress and the President.

There has been criticism of the bill from Secretary Rogers, as well as from such former Kennedy and Johnson advisors as George Ball, Eugene Rostow and Arthur Schlesinger, Jr., and from Senator Goldwater. These criticisms have largely presented their objections to the bill from the perspective of "President's men." But I do not believe that they have grasped the "confidence of the people" reason for the bill, nor do they give sufficient weight to the constitutional and legislative imperatives arising from our national experience of the past several decades.

In summary, we are faced with the dual task of ending an on-going "Presidential" war while also finding ways to prevent future "Presidential" wars. The War Powers Act deals with the second of these two considerations. But it is closely related to the first part of the question also. The War Powers Act grew out of the Vietnam experience and the difficulty of getting a handle on undeclared war in an *ex post facto* way through a fund cut-off. But, in greatly clarifying the problem and the basic constitutional issues, the War Powers Act, in my judgment, has now made it possible and likely that the Congress will deal effectively with the ongoing Vietnam war, too. The consensus in the Senate is stronger than ever and a new ferment is clearly evident in the House of Representatives.

The year 1972 is likely to prove to be a decisive year in our Nation's history respecting the basic constitutional issue of committing the Nation to war. I believe that the constitutional crisis which has gripped the Nation over this question will be ended by effective Congressional action.

In closing, I must state my conviction that this resolution of our national dilemma over Vietnam will not bring on the consequences predicted by the President. On the contrary, I believe America will be strengthened infinitely both at home and abroad.

TRIBUTE TO LIEUTENANT GOVERNOR-ELECT JAMES E. FITZMORRIS, JR., OF LOUISIANA

Mr. ELLENDER. Mr. President, on May 9, in Baton Rouge, La., I will have the great pleasure of administering the oath of office to Louisiana's new Lieutenant Governor—Mr. James E. Fitzmorris, Jr., of New Orleans.

Mr. Fitzmorris is a long-time friend of mine. He is one of the most energetic civic and governmental workers the city of New Orleans has had in the past several decades. In his first attempt at State office last year, he scored an overwhelming victory in the Democratic primaries and followed that up by winning 76.5 percent of the vote in the February general election.

On April 18, in New Orleans, I had the privilege of introducing Mr. Fitzmorris at a testimonial luncheon attended by hundreds of his coworkers and admirers.

I ask unanimous consent that the remarks delivered on behalf of Mr. Fitzmorris be printed in the Record so that Members of the Congress may read about one of the outstanding upcoming young leaders of the State of Louisiana.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Fitzmorris Luncheon Testimonial April 18, 1972, New Orleans, La.

Ladies and gentlemen: Let me give you a quick idea of the kind of man we are honoring today:

As you know, I am 81 years old, plus almost six months. I have held public office for almost 59 years—nine years before Jimmy was even born. My biography runs five pages. But Jimmy has been so active that it already takes *six* single spaced pages to cover his career.

Look at it!

I wonder how many pages it will require when he is 81 years old.

Now relax. I am not going to read all this to you. It would take more time than you have to spare.

Besides, Jimmy is a good politician. I am sure he told you about most of this during his campaign for lieutenant governor.

Of course, this looks like a very up-to-date biography.

It even has Jimmy's new mailing address: It says you can reach him at: The State Capitol, Baton Rouge, Louisiana.

Seriously, let me refer just briefly to this man's life work.

He joined Kansas City Southern Railroad in 1940. He is resigning on May 1st—as vice president.

He enlisted in the U.S. Army as a private in World War II. He came out four years later as a major.

He served as a city councilman from 1954 to 1966. He emerged as president of that council.

Jimmy has also served as:

A vice president of the National Municipal League.

As president of the Mississippi Valley World Trade Council.

As chairman of the Union Passenger Terminal Committee.

As president of the Young Men's Business Club.

As vice president of the Chamber of Commerce.

As president of the Cultural Attractions Fund.

As chairman of Brotherhood Week.

As vice president of the National Defense Transportation Association.

You had to elect him lieutenant governor. There were no offices left around here for him.

In 1950 the Jaycees honored him as the outstanding young man in New Orleans.

In 1965 he received the Chep Morrison Memorial Award for government service.

In 1968 the National Municipal League presented him its Distinguished Citizens Award.

I predict he will win even more awards in the future.

The size of this turnout today is almost as impressive as the vote Jimmy received in the lieutenant governor's race.

He received 76.5 percent of the vote on February 1st . . . a pretty good showing around Louisiana for a New Orleans Catholic.

That's even two percent more than I got in the 1966 Democratic primary. I can recall that in only one election did I surpass his record. That was the election in which I had a Republican opponent. I got 89% of the vote.

The size of this turnout today is also an indication of the number of people Jimmy has helped and has worked with over the years.

It is a tribute to the manner he has served his city . . . his state . . . his country . . . his industry . . . and his church.

It is a tribute to the way he has worked

To help our young people.

To improve the transportation of our area.

To stimulate the growth of this city.

To improve world trade.

To help the poor and handicapped.

To stimulate the cultural growth of this community.

And to encourage brotherhood among our people.

As you know, Jimmy is resigning his railroad vice presidency to become a full time lieutenant governor.

This is a good move. I *know* because I gave up my private business when I went to the Senate in 1937. I have never regretted committing myself entirely to that job. Sure, we could make more money if we devoted all our energies to private practice, but I have learned—and so has Jimmy—that there is no greater satisfaction in life than representing and serving the people of your state and nation.

Call Jimmy and I politicians if you wish. We do not mind the word.

Politics can be a proud, demanding profession.

It is an essential part of the American system.

It is the only profession in which you have to obtain approval of the majority of your fellow citizens.

Politics demands guts enough to defend your job against all comers every few years.

Politics demands the intestinal fiber to defend your integrity with every move you make—in public and private.

In politics, they don't look at your batting average. They look at your last error.

It takes a man like Jimmy to put up with the pressures of politics.

I am very glad to see him devoting his full career to the business of representing our state.

He will help make this a better state.

I just hope that he saves a little time in Baton Rouge to spend with his devoted wife—Gloria—and his lovely daughter Lisa Marie. After all these years of sharing him with the railroad . . . the community . . . and with government, they deserve a chance to enjoy more time with him in the future.

Ladies and gentlemen, it is with pride and extreme pleasure that I introduce a man . . .

Who has proven that Louisiana is no longer divided by regional and religious barriers.

Who has served his industry and his city well.

And a man to whom I will soon have the great pleasure of administering the oath as lieutenant governor of the State of Louisiana.

Mr. James E. Fitzmorris, Jr.

THE ENVIRONMENT

Mr. McGOVERN. Mr. President, as public concern over the environment has increased, important new issues have come to the fore—issues concerning the problems that face a growing population on a finite earth.

Recently the Wisconsin Environmental Decade solicited from me my views on a number of the most critical environmental issues that face the Nation. I ask unanimous consent that their questions and my replies be printed in the Record.

There being no objection, the questionnaire was ordered to be printed in the Record, as follows:

Wisconsin's Environmental Decade Questionnaire, Senator George McGovern Response Dated March 24, 1972

(1) What percent of the highway trust fund should be diverted to mass transit and how could you as president see that this is enacted by a recalcitrant Congress?

The highway trust fund should be expanded into a "national transportation fund" with allocations among various forms of transportation based on need and environmental impact. I do not think the percentage apportionment between mass transit and highways should be fixed at the start, in part because that would likely increase traditional congressional resistance but also because I do not think there should be a statutory upper limit on the share available for transit systems. They should be the first priority in public spending on transportation, and as the interstate system is completed I can foresee directing the vast majority of all transportation fund money—including that raised from the present highway trust fund sources plus additional contributions from general revenues—toward mass transit.

(2) What do you consider to be your most effective course of action in demanding our industries internalize the costs of polluting our water and air, and bring about an immediate cessation of their environmentally destructive practices?

I would suggest two principal innovations.

First, the Environmental Protection Act which Senator Hart and I have introduced in the Senate would give individual citizens standing in federal courts to file suit against polluters. This would permit citizen enforcement of laws for the protection, preservation and enhancement of air, land and water resources, to supplement the work of regulatory agencies and to stimulate those agencies into doing a better job.

Second, I press for adoption of user charges or user taxes on polluters, to finance the cleanup of industrial waste. Thus far we have relied almost exclusively on broad and uniform standards for environmental protection which we attempt to enforce through administrative bodies and the courts. That process would be vastly strengthened if industry were given a firm cash incentive to adopt cleaner processes and to seek technological innovations leading in that direction. User charges could be set according to the volume and chemical composition of each firm's waste and the costs they impose on the regional management system.

(3) In view of the President's Commission of Population Growth's recent report urging an immediate need to achieve zero population growth (ZPG), what specific national measures do you intend to press for?

A top priority need is simply to budget sufficient funds for the Family Planning Services and Research Act. During debate on that legislation, which I cosponsored with Senator Tydings, I pointed out that the urgency of the problem "demands an open ended authorization which would say to our appropriations committees, to the executive, and to the American people, that the Congress is ready to spend such sums as may be necessary to defuse the population bomb." The legislation was written in those terms, but the message still hasn't penetrated the budget system.

In addition, we should be prepared to assure the universal dispensation of cheap, safe and effective birth control techniques, and we should do that at public cost where that is necessary. The evidence is that unwanted births comprise at least half of the excess of the average family size over 2.1 children per family, the figure which would correspond to zero population growth. And the average desired family size appears to be falling. This suggests that with continued and expanded research on new techniques, we can make great strides toward the ZPG goal by simply assuring that the American people can avoid unwanted pregnancies and meet their own family planning goals.

The issue of abortion is also mentioned frequently in this context. While I frankly doubt that steps to terminate rather than avoid, unwanted pregnancies will ever have a significant impact on population growth rates, I do favor reform of abortion laws, so that decisions of this kind can be made by the woman involved in consultation with her physician.

Finally, I think the President must fully commit himself to educating the public on the urgency of the population problem, and to establishing zero population growth as a firm national goal. I have proposed 1976, our bicentennial year, as the target date for achieving ZPG birthrate levels.

(4) How would you reverse the nation's present dangerous reliance on nuclear energy to meet our future power needs?

Our increasing reliance on fission as an energy source is a tragic consequence of the fact that since 1945, some 87 percent of total government and private investment in research on new energy sources has been devoted to fission. That record is probably the best current illustration of the fact that at least in the case of the Atomic Energy Commission, promotion and regulation cannot be served at the same table. I believe the burner reactors are being installed far too hastily, considering their production of radioactive wastes, the fact that they cause even more thermal pollution than fossil fuel plants, and our present incapacity to deal with the dangers of radioactive emissions and possible major accidents. The Great Lakes and other bodies of water are being literally ringed with reactors, with a great potential for harm.

To limit our short term dependence on these reactors, I intend to substantially increase funding for methods to de-sulphurize coal and oil and to control sulphur oxide and nitrogen oxide emissions from fossil plants. This research should have been conducted long ago. In addition, I would institute a high-priority effort to develop methods of increasing the efficiency of power generation and transmission from fossil fuels, including improved storage technologies, the use of fuel cells, magneto-hydrodynamics (MHD), and the establishment of reliable nationwide interconnections. The latter, a national grid system, would permit much more efficient use of existing power sources simply by allowing us to take advantage of the fact that peak power use periods vary in different parts of the country.

In preparation for the long term we should be fully committed now to explore the maximum potential of such possibilities as controlled fusion, solar energy, and safe and non-polluting breeder reactors, examining environmental safeguards at the same pace as the new technology itself.

(5) What people do you think have the qualifications to be effective leaders of our various national environmental control agencies?

Aside from technical competence, I would look for people who have no ties to the industries involved in environmental disputes, and who are therefore capable of unmitigated advocacy of the public interest.

(6) Would you support a reversal of the present rate structure for the sale of electric power, charging higher rates to larger consumers? What other measures for curtailing power consumption do you propose?

The present rate structure encourages excess energy consumption, and we simply cannot afford it. As the Sierra Club pointed out in its brief asking for abolition of the Potomac Electric Power Company's differential rate structure, "such a revision . . . would not only provide a vastly needed incentive to conserve power and promote efficient usage, but would also serve ultimately to minimize the total cost of services, place the social costs where they belong—on large users—and reduce present discrimination against low-income, small users of power."

There is an overwhelming public interest in curbing the growth in electric power consumption, and that interest is damaged not only by the rate structure but also by regulations permitting deduction of advertising as an operating expense in setting prices. Such regulations have a great deal to do with the fact that the major utilities spend some eight times as much on advertising as on research and development. It is difficult to justify even minimal advertising in a monopoly setting, and such promotion is especially harmful when it is aimed at multiplying consumption of a commodity which is in extremely short supply. Government regulations should stop encouraging, and start limiting, promotional activities of this kind.

The growth in power consumption also reflects the spread of electric heating, which requires some fifty percent more fuel than other methods, the development of new electric appliances, and the use of electricity in conversion industries such as steel, petroleum and aluminum. We may find it necessary to discourage electric heating and the development of new, marginal appliances until we have assured the technology to meet long term power needs clearly and efficiently.

7) Would you issue an executive order on wilderness areas, and what lands would you include for preservation?

Yes. I would issue an executive order which would permit reviews of all potential federal wilderness areas under the Wilderness Act of 1964, and would assure protection of such areas until the review is completed. While I cannot list specific sites nationwide, one logical case to review for wilderness potential would be portions of the Apostle Islands.

In the same context it is important to note that other areas deserve protection as well. Federal activities such as Project Sanguine, which has been questioned on many grounds including costs, military worth and technical feasibility, can senselessly mar the landscape and disturb the ecology. I would halt further development on that project in northern Wisconsin.

TAX REFORMS

Mr. HANSEN. Mr. President, I have received considerable mail recently about the need for tax reform and I note that various presidential candidates in their campaigning around the country have charged that the tax laws have been titled in the last 4 years in favor of corporations at the average citizen's expense.

I am glad to note that administration spokesmen are not taking these attacks lying down and one of them, Edwin S. Cohen, Assistant Secretary of the Treasury for Tax Policy, spelled out the Nixon administration's stand on the issue at a Boston meeting of the Federal Tax Institute of New England recently.

Also, Mr. President, a most appropriate answer to the issue was made during a WTOP–TV–CBS network program on April 2 by James J. Kilpatrick.

In answer to Nicholas von Hoffman in the "60 Minutes" TV program, Mr. Kilpatrick responded:

> Well, Nick, I just spent four days in Wisconsin chasing the Democratic candidates around. And it's just as you say. They're all yelling for tax reforms.
>
> But you know, its a funny thing. The Democrats have controlled Congress ever since Nixon came in. How come they didn't discover all those chasms and craters long ago and take corrective action then?

Mr. President, I ask unanimous consent that a transcript of the interview with Von Hoffman and Kilpatrick and the full text of Assistant Secretary Cohen's speech in Boston be printed in the Record for the edification of tax reform advocates.

Also, Mr. President, the distinguished Senator from Louisiana (Mr. Long), the Democratic chairman of the Committee on Finance, made some very pertinent and appropriate remarks about tax reform in an unrehearsed television interview on March 29.

Senator Long has furnished me a copy of the transcript of that interview. I ask unanimous consent that the part of the interview pertaining to tax reform be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From "60 Minutes", Apr. 2, 1972]

An Interview With Von Hoffman and Kilpatrick

Morley Safer. The deadline for filing income tax is just two weeks away. And predictably, Nicholas Von Hoffman and James J. Kilpatrick have some opposing thoughts on that subject.

Here's point counter point.

Nicholas Von Hoffman. So it's finally hit the politicians that the people have had it up to here with the taxes. There's a whole bunch of them loose out in Wisconsin, crying down the skies for tax reform. Plug up the loopholes!

Well, the first question is, why aren't they back here in Washington doing it, and not in Wisconsin talking about it?

Actually, you can't plug up the tax loopholes, because they're not loopholes, they're craters, caverns, gorges, chasms. There isn't enough plugging material in the world to patch up those holes.

Loopholes, ha! What kind of a loophole is it that lets U.S. Steel Corporation get away without paying a dime of federal income taxes last year? Not a dime. Not a penny.

No, this structure can't be reformed. It must be abolished and entirely replaced. We need a completely new tax code that is simple, comprehensible, and uniform, one that taxes all income of every kind without favor, privilege, or mystery.

We need a tax code that ceases to terrify and baffle. There's no reason why the government should put us through such unmitigated Hell every April 15. Why should working men and women who have no outside income have to even fill out a tax return? Isn't it enough that the money is taken out of our paycheck every week?

We need a whole new beginning on taxes. And Jack, I don't hear any of those politicians, in office or out, talking about that.

James J. Kilpatrick. Well, Nick, I just spent four days in Wisconsin chasing the Democratic candidates around. And it's just as you say. They're all yelling for tax reforms.

But you know, it's a funny thing. The Democrats have controlled Congress ever since Nixon came in. How come they didn't discover all those chasms and craters long ago and take corrective action then?

The answer, I suppose, is that most of their hollering is the same old gas bag stuff. The oil depletion allowance, for one thing, makes a wonderful campaign kicking boy. But it's been on the books for 50 years through 25 Congresses, for one reason: because it makes sense in terms of the peculiar nature of the oil industry.

The interest on tax exempt municipal bonds is another fat target. But take away that exemption and you've piled one more burden on the backs of local taxpayers, who are taxed enough as it is.

In a society as complex and varied as ours, it's nonsense to suppose that simple and uniform measures can be applied fairly to everyone.

Nick, yours is the equality of the bandit Procrustes, who made his victims fit an iron bed—lop 'em off or stretch 'em out. Well, that was equal treatment, all right, but it had one flaw. None of his victims survived.

I too would like to see some repairwork done on our tax laws. But Nick, the answer isn't to put some simple Simon on the seat of a bulldozer with instructions to level everything in sight.

Television Interview With Senator Russell B. Long, March 29, 1972

Announcer. From Washington, a 15-minute, unrehearsed interview with Senator Russell B. Long of Louisiana, Chairman of the powerful Senate Finance Committee. The Senator will be questioned today by Darlene Schmalzried, Washington correspondent for *The Shreveport Journal* and Spencer Rich, national reporter for *The Washington Post*. Now, with his first question, here is Mr. Rich.

Rich. Senator, you are the chairman of one of the most powerful committees in Congress, maybe the second or third most powerful committee, and you have control over the destiny of every person in this country through the tax mechanism. What are you doing to equalize the wealth of this country? I have followed two tax bills and I haven't seen much equalization. Yet the vote in Florida for Gov. Wallace and others seemed to be a consensus that the people of this country would like the wealth of the nation equalized.

Long. I managed that tax reform act and that is the only tax reform act that has been passed since the income tax went into effect before I was born. That reform bill increased the tax on business people, generally—and they are the ones who get the tax breaks by $7 billion. It reduced taxes for laboring people, in the main, by $9 billion. That is a big tax adjustment. It is a $16 billion tax adjustment to benefit people. I am sorry we couldn't put more taxes on some of those who are better able to pay it. Now, I would like to see some additional taxes on people who are paying nothing, such as those who pay all that money into foundations where, theoretically, they are giving to charity and it turns out that the charity they are giving it to is themselves. Some of these groups manage to get by with paying nothing. It was my suggestion, long before it was suggested by someone else, that we ought to have a minimum income tax law so if we missed you with everything else we could catch you with that. One of these days we will have to find a way to tax the tax-exempt interest on state and local bonds. But, I have never been able to support it up to this point because there is not so much state sovereignty left and taxing local bonds gives the federal government the power to destroy what little power is left in state government. That is one of the items which there is no tax paid.

Rich. What about the oil industry? They notoriously pay a small amount of taxes and they get tax breaks for overseas investments. On one hand, they get an import quota system on the theory they are going to invest in the United States; then we turn around and we give them a lot of tax breaks on overseas drilling and all the rest of that stuff.

Long. Let's talk about the oil industry for a moment. First, about the overseas thing. Most of these countries give their oil companies that produce oil abroad a great deal more advantage than we do. If somebody is going to produce it over there and bring money back to his country I would just as soon Americans would go over there and produce it. That gives us some control over that oil and, in particular, some say-so about how it is going to be hauled around, who is going to control the transportation of it, and that sort of thing. Insofar as they make money in foreign lands, most countries tax people hardly at all on what they can make in doing business in a foreign country. We tax them more than other countries do. That includes the oil industry. If we tax them any more our people wouldn't be competitive with the Germans or the Japanese, the Italians or the others in foreign lands. Now, you say that the industry pays a small amount of taxes. That is true of the income tax; it is not true of anything else. It is not true of property taxes; they pay more in property taxes. It is not true of severance taxes. In Louisiana, I helped to make it that way, by the way—the oil industry pays more than anybody else. It pays 44% of all the taxes to support the State of Louisiana, for example. Oilmen get hit harder at the state and local levels than almost any industry in the country. If you take all their taxes into account, they pay more than anybody does compared to their income. That is not including the tax on their product, the tax on the gasoline. I know you will say, "Oh, but the consumer pays that." But it is a burden on their product. They could sell more gas, presumably, if they didn't have to bear that big tax. I know that we raised it in Louisiana and when my uncle was governor 20 years ago.

Rich. Esso sells more gasoline in Europe than it sells in the United States and it collects about half as much money for it; yet, the tax there is about 3 times as high. They pay about 72¢ a gallon.

Long. The point is that we can't make a lot of tax money by making revenue from what our people do in foreign countries. If we tax them very much, in addition to all the taxes foreign countries levy, then our companies couldn't compete in a foreign land. Insofar as you bring something back, you are that much better off. We tax our people doing business abroad more than any other country we are competing with in that line of endeavor.

Remarks of the Honorable Edwin S. Cohen, Assistant Secretary of the Treasury for Tax Policy

It is a great personal pleasure to me to return to Boston to review with this distinguished audience the status of our work at the Treasury on some important tax matters and to share with you a few thoughts on tax issues that are currently being discussed.

Two years ago you were kind enough to invite me to speak to you at this luncheon, and the program indicated that I was to give a half-hour talk to end at 2:15. The gracious introduction I was given ended at 2:12. It was not easy for a fellow with a Southern drawl to compress a half-hour speech into three minutes, and I am grateful to you for inviting me back for my remaining 27 minutes.

There has been a good deal said of late in the political campaigns and elsewhere on the subject of taxes and the need for further changes. It is scarcely necessary to say that we must constantly be watchful of the operation of our tax system, and use our best efforts, research and debate to make it as fair and equitable as possible and make it best serve the economic and social well-being of the Nation.

Undoubtedly changes can be made and should be made to correct some deficiencies in the tax system, to continue the process of improving its equity, and particularly to simplify this grievously complex law. To accomplish this end, however, we need to make calm and objective appraisals of available data, and to weigh carefully the alternative and the practical consequences of possible revisions. On a matter so vital we cannot afford to fall prey to political promises and rhetoric uttered in the heat of a campaign year.

Three months after taking office, the President sent to Congress in 1969 wide-ranging tax reform proposals. Almost the entire year 1969 was spent in public hearings, executive sessions, debates and drafting on the Tax Reform Act of 1969. On December 30, 1969 the President signed the bill into law. As the Congressional Committee reports stated, there was "no prior tax reform bill of equal substantive scope."

Another major tax bill, the Revenue Act of 1971, was signed into law last December 10. In addition to restoring the Job Development Investment Credit and affirming with some modifications the Asset Depreciation Range System established in Treasury regulations earlier in the year, the bill made important individual income tax and excise tax reductions.

EFFECT OF EXTENSIVE 1969–1971 TAX CHANGES

A charge has recently been made that the changes in the tax laws and regulations since the beginning of 1969 have favored corporations to the disadvantage of individuals. This is not so. Treasury estimates show that the tax reform and relief provisions of the 1969 Act, the ADR regulations and the 1971 Act in combination have had the following effect:

For the four calendar years 1969–1972 they will have—

Increased corporate income taxes by an aggregate of $4.9 billion;

Decreased individual income taxes by an aggregate of $18.9 billion; and

Decreased excise taxes on automobiles and telephones, mostly affecting individuals, by $3.5 billion.

For the current calendar year 1972 they will have—

Decreased corporate income taxes by $0.4 billion;

Decreased individual income taxes by $12.0 billion;

Decreased excise taxes by $2.6 billion.

For the 12-year span from 1969 through 1980, assuming economic growth, they will have—

Decreased corporate income taxes by an aggregate of $8.1 billion, an average of $0.7 billion a year;

Decreased individual income taxes by an aggregate of $140.7 billion, an average of about $11.7 billion a year;

Decreased excise taxes by $19.7 billion, an average of about $1.6 billion a year.

Thus it cannot properly be said that the benefits of the 1969–1971 changes have favored corporations as against individuals. Substantially all the reductions have gone to individuals.

I think it interesting to observe that the general reductions in the individual income tax levels made periodically in the past decade (1964, 1969 and 1971) have had the overall effect of keeping the effective federal individual income tax level at about 10.6 percent of total adjusted personal income, roughly the level which it has averaged for the past 15 years. (It has varied from a low of 10.0 percent in 1965 to a high of 11.6 percent in 1969, averaging just below 10.9 percent). Had these reductions not been made, the effective income tax rate would today have risen to 14.7 percent of total personal income, almost a third higher than had previously existed. This would have occurred because of the operation of our progressive income tax structure on the increasing personal incomes that have resulted from inflation and rising standards of living and education. The tax reductions have counterbalanced these factors, leaving the net effective rate roughly the same.

In considering the fairness of the changes made since the beginning of 1969 it is particularly important to note how the individual income tax reductions they produced have been distributed among the different income classes. This is shown in the table below:

EFFECT ON INDIVIDUAL INCOME TAX LIABILITY OF TAX REFORM ACT OF 1969, ADR AND THE REVENUE ACT OF 1971—FULL-YEAR EFFECT AT CALENDAR YEAR 1971 LEVELS OF INCOME

Adjusted gross income class	Tax under 1968 law[1] (millions)	Tax under 1972 law (millions)	Change under 1972 law from 1968 law: Amount (millions)	Change under 1972 law from 1968 law: Percent
$0 to $3,000	$1,469	$265	−$1,204	−82.0
$3,000 to $5,000	3,488	1,995	−1,493	−42.8
$5,000 to $7,000	5,543	4,025	−1,518	−27.4
$7,000 to $10,000	12,263	10,112	−2,151	−17.5
$10,000 to $15,000	22,065	19,202	−2,863	−13.0
$15,000 to $20,000	15,287	13,891	−1,396	−9.1
$20,000 to $50,000	19,375	18,377	−998	−5.2
$50,000 to $100,000	7,344	7,217	−127	−1.7
$100,000 and over	7,131	7,658	+527	+7.4
Total	93,965	82,743	−11,222	−11.9

[1] Excluding surcharge.

Note: Figures are rounded and will not necessarily add to totals.

Source: Office of the Secretary of the Treasury, Apr. 26, 1972, Office of Tax Analysis.

Taking into account all the changes for these three years, we find from this table that the income tax burden has been reduced in all of the income classes below the level of $100,000. The greatest percentage reduction of tax liability is 82 percent in the zero to $3,000 income class; and taxes have been reduced in gradually decreasing percentages in each higher income class to the $50,000 to $100,000 income level, where the reduction is only 1.7 percent.

But the 1969–1971 changes have increased the tax liability of the income class above $100,000 by 7.4 percent.

Thus in these three years from 1969 to date the greatest percentage reductions have been made in the low income groups, substantial reductions have been made in the middle income groups and yet significant increases have been made in the income levels above $100,000. These results reflect major achievements in eliminating previous inequities and producing a fairer system.

The large decreases in tax on the low income groups occurred primarily because of the President's 1969 recommendation to Congress of the Low Income Allowance to remove from the federal income tax rolls substantially all persons below the poverty levels. This principle was adopted and has been followed and updated in the 1971 Act. Thus for 1972 and subsequent years single persons earning less than $2,050 will pay no federal income tax nor will a family of four pay tax if it earns less than $4,300. I think this principle is a major step forward in achieving equity in the federal income tax structure.

PERSONS WITH HIGH ADJUSTED GROSS INCOME

Much has been said recently about the fact that about 100 individuals in the United States in 1970 had "adjusted gross incomes" above $200,000 without paying any tax. Some have argued that this handful of cases shows that the system is unfair and that the rich do not pay taxes. I shall talk further about those few cases in a moment.

But I do not think we should let that group of individuals obscure the fact that, according to our preliminary data, there were in 1970 a total of some 15,300 persons in the country with adjusted gross incomes above $200,000, and that some 15,200 of them paid an average federal individual income tax of $177,000 each—a total of some $2.7 billion.

This is an effective rate of 44.1 percent of their adjusted gross income and 59.5 percent of their taxable income.

From this it is perfectly clear that in general the rich are paying federal income taxes in large amounts. And they are paying more than they were in 1968 while other taxpayers are paying less

Let me now refer to the cases of the few nontaxable persons with adjusted gross income above $200,000. The statistical data now shows that there were 106 such persons. The number of these nontaxable persons was down from 300 in 1969. The adjusted gross income on these 106 returns was less than 17 percent of that on the 300 returns in 1969.

We have now done some further analysis of these returns and have classified them according to the five principal causes of nontaxability: foreign tax credit, deductions for taxes paid, deductions for charitable contributions, deductions for interest payments, and miscellaneous deductions.

As to the seven cases in which nontaxability was due primarily to the foreign tax credit, it is interesting to note that these seven taxpayers paid income tax to foreign countries of about $1.5 million, an average of more than $200,000 tax per taxpayer. This represented an effective foreign income tax rate of 62 percent of their adjusted gross income and 70 percent of their taxable income. It is clear that while these individuals were not required to pay U.S. income tax, they were subjected to heavy income taxes abroad.

Another group of 12 individuals whose adjusted gross income aggregated $4.1 million, paid no 1970 federal income tax because their deductions for state and local taxes exceeded $4.1 million. Substantially all these deductions were for state income taxes. A review of these returns suggested that these individuals had large amounts of nonrecurring income in 1969 on which they paid substantial state income taxes in the spring of 1970, which were deductible on their 1970 federal income tax returns. To check out this hypothesis, we have now obtained data as to the 1969 federal income tax returns of 11 of these 12 individuals and have found that the 11 persons paid 1969 federal income tax totalling about $18 million, an average of more than $1.6 million of tax per individual. The fact that they paid no federal tax for 1970 after paying huge taxes for 1969 is simply a result of the cash basis of accounting which is used by most individuals, and the fact that the state taxes on their large 1969 income were paid in the spring of 1970. To change the tax laws to overcome this result for these dozen individuals would produce undue complexities and require additional expense for many thousands or millions of other taxpayers. This would not be worth the effort. No tax system can achieve perfection, certainly not without incredible complexities and expense.

Another 12 cases involved individuals with adjusted gross income of $8.5 million whose principal deductions consisted of charitable contributions aggregating $4.2 million. The 1969 Act terminated the "unlimited charitable contribution deduction" provision of prior law and set the contribution deduction limit at 50 percent of adjusted gross income. It was recognized that if charitably inclined individuals can deduct their contributions up to one-half of their adjusted gross income, there will necessarily be a few cases in which other deductions for interest, taxes, medical expense, etc., will exceed the other half of adjusted gross income and result in nontaxability.

In 55 of these cases interest paid was the principal deduction, aggregating $17.3 million. But in these returns dividends and interest received aggregated $16.5 million. In general, when interest is paid to borrow money needed to make investments on which dividends and interest income is received, the interest paid should be charged against the interest and dividends received and only the net profit should be reflected in adjusted gross income. If a man pays interest in his business, only the net profit goes into adjusted gross income. But for simplicity sake, the tax law for many years has said that where this occurs in an investment situation, the gross dividend and interest income is reflected in his adjusted gross income—and makes him appear on the surface to be in a high income category—while the offsetting interest expense that he incurs is classed as a personal deduction along with taxes, charitable contributions, casualty losses, alimony, etc. Possibly we should change the definition of "adjusted gross income" so that net investment income is treated like net business income.

There are, however, some cases in this group in which the interest paid exceeds the investment income by substantial amounts. In these cases, as well as some others, there are indications that the minimum tax may be due for 1970 and may be assessed on audit. For 1972 and subsequent years, investment interest paid that exceeds by more than $25,000 the taxpayer's investment income may be disallowed as a deduction under the 1969 Tax Reform Act.

The final category consists of 20 cases in which the principal deduction was miscellaneous deductions, aggregating $10.5 million. Of this total, more than $5.5 million represents items described in the returns generally as loss of securities pledged to secure loans, losses on guarantees of loans, and payments in settlement of litigation. Another $2.2 million of miscellaneous deductions represents an aggregate of accounting, bookkeeping and professional fees, and investment counsel and management fees. If these items are properly deductible—and this can only be determined after audit—it is because they represent expenses of earning business or investment income and may indicate that we should change the definition of "adjusted gross income" to drop these people out of the high income category.

To illustrate, consider one of the returns that reported as the only income more than $400,000 of gambling gains and reported an equal amount as gambling losses under miscellaneous deductions, for a net income of zero. This return, too, will be audited; but if the return stands up under audit, we might consider levying an amusement tax, but the income tax is supposed to apply only to the successful gamblers.

Now I do not mean to imply from this review of the 106 cases that there is not a constant need for vigilance and improvement in the tax laws. Most assuredly there is a definite need. I mean only to indicate that there is relatively little guidance to be gained from these particular returns in relation to major issues of tax policy, and the attention that has been devoted to them is unwarranted and unwise.

REVENUE AND OTHER EFFECTS OF RECENT PROPOSALS

There have been a number of proposals and bills introduced in the Congress to change the tax laws. Some of these deserve serious consideration. But many of them have been advanced with claims that by closing so-called "loopholes" in the tax law we can immediately raise vast sums of additional revenue. These claims, I submit, are quite exaggerated. Moreover, in many instances sudden tax changes made without substitution of other programs would damage the economy and endanger important social goals.

Let me illustrate. One of the proposals made in a number of the bills recently introduced in the Congress is to tax capital gains at death. It has been asserted that this will raise in the first year some $2 to $3 billion in revenue, and that this was recommended in 1968 by the then Treasury staff. While the previous staff headed by my distinguished predecessor, Stanley Surrey, did recommend taxing capital gains at death, it also recommended (as do most of the pending bills) that only the gains accruing after the enactment of the new law would be taxed. As a result there would be a relatively little revenue effect for some years to come.

Moreover, the previous Treasury staff proposals recommended that the revenue gains in future years from taxing capital gains at death be used to reduce the burden of the estate tax, so that the total tax burden on persons dying would not be increased but would be reallocated among them. All of this requires careful thought and attention and a balanced program. In any event, it is not likely to produce significant short-term revenue yields.

Consider the proposals made in some of the bills with respect to the taxation of interest on state and local obligations. One of these bills would permit state and local governments at their option to issue taxable securities, with some amount—ranging from 25 percent to 50 percent of the interest payments—to be reimbursed to the states by the federal government. There may well be merit in this proposal, and indeed a form of this proposal was contained in the 1969 House bill; but it is clear that it will not raise any net revenue for the federal government in the short term at least, since it would only apply to future issues. Moreover, any proposal would inevitably require an alternative subsidy, which also would prevent any substantial net revenue gain.

On the same subject, many of the proposed revisions of the minimum tax would include in the list of preferences subject to that tax interest on state and local bonds. The Congress concluded in 1969 that this should not be done, and my impression was that this was a very firm conclusion. But even if it were done, it is unlikely that such a rule would be applied to existing obligations; and the shot-run revenue yield from including interest on future obligations under a minimum tax would be negligible.

Again, there are various proposals to limit the tax benefits accorded to real estate investments. In 1969 we cut back extensively on these benefits to the extent of almost $1 billion in estimated long-run annual revenue yield, but we exempted from the new restrictions investments in housing. The housing exception was made because the Housing Act of 1968, which set as a goal the production of some 2½ million houseing units a year, was built around the then existing income tax incentives for housing construction. We have recently exceeded the 2½ million housing unit goal for the first time in history, and it is a bright spot in the current economic recovery.

Granted that there are problems with respect to the tax treatment of housing, it would be unwise at this point to remove these tax incentives without having a new governmental program as a substitute. If changes are to be made, they require a careful evaluation of the effect of the 1969 Tax Reform Act in the nonhousing field and the development of carefully designed substitute housing programs. These are difficult and time-consuming matters.

There are further tax proposals to collect additional revenue by repealing the recently approved Asset Depreciation Range System and/or the Job Development Investment Credit. We have just been through a long period of analysis and debate on both ADR and the investment credit, and both were approved by the Congress.

Before these depreciation and investment credit changes were made in 1971, our Treasury estimates showed that our income tax laws made the capital cost of business equipment higher than that of any other major industrial nation in the Western World. The 1971 changes restored American business in this regard to a position somewhat more favorable than Canada, France and the Netherlands, but still behind West Germany, Japan, the United Kingdom and others of our principal competitors in the world markets.

Moreover, a recent Department of Commerce-SEC survey showed a very encouraging 10½ percent rise in business expenditures for plant and equipment for 1972 over 1971. An even more recent McGraw-Hill survey just released shows a 14 percent rise. These are most encouraging developments—another strong force in the economic recovery—and I think it is far too early to consider changing this successful policy agreed upon only last year after so much careful deliberation.

There are the usual round of proposals to reduce the tax incentives with respect to oil and gas. Atfer a long series of debates in 1969, the Tax Reform Act increased the taxes on the oil and gas industry by more than $600 million. With the energy shortage that is facing us and the dire need for a coordinated energy policy, we should be sure that we move cautiously and intelligently with a coordinated energy resource program.

Among the proposals for a quick increase in revenue yield is to change the minimum tax in various ways. One of the major minimum tax proposals is to eliminate the deduction for the regular income tax paid by the taxpayer in computing the amount subject to minimum tax. If the deduction for the regular income tax were eliminated, the minimum tax would simply be a tax on items of preference income, regardless of the amount of regular income tax which the taxpayer is paying on his nonpreference income. Neither the 1968 Treasury staff proposals for a minimum tax, nor our 1969 proposal for a Limit on Tax Preferences (LTP) nor the current minimum tax law, would apply when the taxpayer has a relatively small proportion of tax preferences in relation to his total income.

To convert the minimum tax into a direct income tax on preference income without regard to nonpreference income would simply reduce the effect of tax incentives that the Congress has introduced in various parts of the tax law for purposes that it has deemed desirable. If those purposes are not desirable or the incentives are too great, they should be modified or eliminated, but there is no point in merely whittling them down by a complex separate tax on the allowed preferences. The point of the 1969 law and both sets of Treasury proposals was to impose an additional tax burden only when a taxpayer had so concentrated on taking advantage of the preferences that he was sheltering too high a proportion of his income. I would hope, therefore, that before any such transformation of the minimum tax would be made, it would be given thorough consideration. The issues are far too important for hasty action.

I believe these illustrations show that the claims that vast sums of immediate revenue can be raised from "loophole" closing are vastly exaggerated. Moreover, it shows, I believe, that in each important area there are serious problems that require calm, deliberative reflection; and that, in many instances, such as housing, extensive consideration would have to be given to substitute programs that in themselves would involve serious questions of equity and practicality. This was the lesson we learned in the lengthy study and debate that occurred in the development and passage of the Tax Reform Act of 1969. It is a lesson that I think stands us in good stead today.

There is one other lesson from the 1969 Act that I learned and I am sure you experts in the tax field, as well as the taxpaying public, will appreciate. That lesson is that we are in desperate need of simplifying the federal income tax law. I hope we can bend every effort toward that goal of simplification and eliminate attenuated distinctions and intricacies that confuse us all.

REGULATIONS UNDER THE 1969 ACT

It is with great pleasure that I report to you today that we have substantially completed the job of drafting and publishing in proposed form for comment the extensive regulations under the Tax Reform Act of 1969. We had divided the regulations work under the 1969 Act into 179 different projects. We have made an intensive drive to finish this work, realizing the importance to the public of knowing the positions the Treasury proposes to take on the many important questions of interpretation that are involved.

We have now published, or sent to the Federal Register for publication shortly, all but eight of these proposed regulations. Of the remaining eight, some had been deferred temporarily because they will not have practical effect until a future date (such as the tax on excess business holdings of private foundations); some are being withheld from publication until other related proposed regulations have been finalized (such as the disallowance of deductions for excess investment interest, which depends upon interpretations proposed under the minimum tax); and some are procedural or of limited application.

The only two regulations still to be proposed that I think will be of general interest are those relating to so-called "arbitrage bonds" issued by state and local governments and those under the new Section 385 that would establish guidelines for distinguished indebtedness from stock. The arbitrage bond regulations have reached their final stages, but we have held up publication until we have had opportunity to confer further with representatives of state and local governments about some of the problems that are involved.

As to the regulations regarding the distinctions between indebtedness and stock, we have devoted considerable time and discussion to this difficult subject. But as you all know, we have gone almost 60 years without significant regulations in this area, and much as I would like to see that project brought to a conclusion, we have thought that other pressing matters deserve a higher priority.

It is difficult to appreciate the several hundred thousand man-hours of time devoted by talented and dedicated men and women in the government service that have been required to analyze the problems, assemble the necessary information, reach decisions on so many difficult issues, and draft and review all these many regulations. As a rough guess, I would estimate that the proposed regulations under the Tax Reform Act of 1969 cover at least 8,500 typewritten pages. No other country in the world makes an effort to publish extensive regulations of this kind. To have accomplished this task under the 1969 Act within a period of two and a third years is a record heretofore unmatched, and I am sure you will agree that the many persons on the staffs of the Commissioner and the Chief Counsel of the Internal Revenue Service and of the Treasury deserve the greatest praise for their untiring and dedicated work on these projects.

We are anxious to press onward to promulgating in final form all the regulations that have been proposed for public comment. We receive many helpful comments and criticisms, and review all of these before making final decisions. It is important that this process go forward to provide answers to the taxpaying public as soon as possible.

We must also proceed with regulations under the Revenue Act of 1971, which the President signed into law on December 10, 1971. We have already issued proposed regulations under the Job Development Investment Credit and the Asset Depreciation Range amendments made by the 1971 Act, published an extensive pamphlet regarding the new Domestic International Sales Corporation (DISC) and issued guidelines under the new provision for deduction or credit for political contributions. But there are numerous other provisions under the 1971 Act, such as the deduction for expenses of working mothers, for which regulations must be provided.

STATISTICAL DATA RE EFFECT OF 1969 ACT

It is also of great importance to obtain statistical data upon which to base judgments as to the effects which have flowed from the many tax reform provisions of the 1969 Act. Most of the 1969 Act reforms became effective as of January 1, 1970, although some of them go into effect gradually over a period of years. Thus the 1970 income tax returns provide the first statistical information that we can obtain about the practical effect of the 1969 reforms.

With respect to individual returns, this statistical data is obtained from transcripts made of a large sample of the approximately 75 million individual income tax returns. The data from the transcripts is then fed into a computer, and the first preliminary runs from the computer became available toward the end of last November. We now anticipate that the complete statistical report on 1970 individual returns will be available by mid-July and that printed copies will be publicly available about two months later.

It is also quite important to obtain statistical data regarding the effect of the 1969 Act on corporations. Because of the time required to prepare the voluminous returns of major corporations, most of them file estimated returns on March 15 and obtain extensions of time to September 15 for filing their final detailed returns. Hence the process of extracting the statistical data from 1970 calendar year corporation returns could not start until after September 15, 1971, and it is a much more complex task than is involved for individual returns.

We expect the preliminary report from the corporate data to become available in August. Tables from the final 1970 corporate report will become available beginning in October.

With all the extensive changes made by the 1969 Tax Reform Act, I think we should carefully review the individual and corporate data from the 1970 returns before we embark upon another round of individual and corporate tax reform. This data should be available in time for action in 1973, but it will not be available in time for action by Congress this year. Moreover, we should finish the process of finalizing the regulations under the 1969 Act this year in order that necessary and desirable legislative changes can be made intelligently.

A NEW TAX REFORM PROPOSAL

I thought I should tell you today about a deep-seated division of opinion within the Treasury, heretofore unrevealed, regarding an important tax reform proposal. I had ordered that there be no internal memoranda written about it that might be leaked or subpoenaed, and until now the entire subject has been dealt with by magnetic tapes that self-destruct.

For some time I have been looking for a simplified, equitable tax revision program. There is considerable research to indicate that, in general, tall people have a great economic advantage over short people and are far more successful as leaders in the business and political world. I have maintained, therefore, that the tax law should provide compensation for the inequities thrust upon the short people of the world.

I would draw the line at a height of 5 feet 6 inches and provide half rates of tax for those below that level and the regular rates for those above. Because of the notch problem that might be involved at the dividing line, I would be willing to consider a sliding scale between 5 feet 6 inches and 6 feet.

This proposal is easily administered by an objective standard and provides in my judgment a high degree of equity and fairness in the tax structure. I must confess, however, that all those over 5 feet 6 inches in the Treasury—and this represents a high percentage of the male personnel—are opposed to my proposal. My reserach, however, discloses that most of the ladies in the Treasury will qualify and strongly support the proposal.

Because of this division I have become a charter member of an organization to sponsor the proposal. It will probably be known as the Association of Short People—or ASP's. The motto will be "Ad Astra per ASPera."

We expect that there will be immediately created a competing organization to be known as the Association of Long People—or ALP's. But standing firmly on our platform, we expect to look the ALP's right in the eye.

To administer this system the ASP's are advocating the restoration of the old Form 1040–A so that we can once again have the short form and the long form tax return.

I have been asked what I would do about a joint return of a tall husband and a short wife (or the few vice versas). But I only deal with tax policy, and this seems to me an administrative matter that should be easily handled by the able Commissioner of Internal Revenue.

I hope you will forgive me for ending my discussion of this most serious subject on a note of levity. I have tried to retain a sense of humor and proportion throughout my more than three years in office. In particular, I have tried to bear constantly in mind the words of the President in his Inaugural Address on January 20, 1969, when he advised us:

"To lower our voices would be a simple thing.

"We cannot learn from one another until we stop shouting at one another—until we speak quietly enough so that our words can be heard as well as our voices."

MATT REESE, POLITICAL CONSULTANT

Mr. BAYH. Mr. President, I invite the attention of Senators to the article published in the Wall Street Journal of March 23 concerning a good friend of many of us, one whose name became synonymous with political organization. The man is Matt Reese.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Modern Machine: How Savvy Matt Reese, A Political Consultant, Gets Out Winning Vote

(By Dennis Farney)

St. Louis.—Matt Reese shoves open the door, uncoils his six-foot, six-inch frame and hoists his 340 pounds out of the car. Then, like some great dirigible, he floats across the frigid plaza, coattails flapping in the wind.

The effect is electric. Newspaper photographers maneuver for position. Mr. Reese shakes a hand, booms out a hello, laughs a great belly laugh.

"The best and highest-priced professional registration and voter-turnout man, anywhere"—a detractor's assessment of the celebrated political campaign consultant—has jetted half-way across the country this cold morning, catapulting himself from a quiet home in suburban Washington to the tumult of a political rally to plan strategy with a man who'd like to be the next governor of Missouri. It is Mr. Reese's lot in life to be continually moving into hectic, disjointed scenes like this. And he loves it. Matt Reese thrives on tumult.

"It's *chaos!*" he explains happily when asked what it is about politics that intrigues him so. "I've found I have a talent for putting a bit of order to it, working through other people, not by myself. And it gives me a feeling of creativity." A little later, asked to conjure up his ideal candidate, he names Sargent Shriver. Old Sarge, he explains, is a superb campaigner. "And talk about *chaos!* He could please the biggest nut in the world!"

A 58–14 RECORD

This is the 79th campaign, all for Democrats or nonpartisan candidates, for the 44-year-old West Virginian who first captured national attention in 1960 as director of volunteers for John F. Kennedy in West Virginia's crucial primary. Later, working for the Democratic National Committee, he directed a national drive that registered one to two million new voters—a feat that election chronicler Theodore H. White would later describe as "nearly incredible." Since turning to consulting in 1966, he has rolled up a 58–14 won-lost record, working for everyone from Robert Kennedy to candidates for city and county offices.

Mr. Reese has flown here to confer with gubernatorial hopeful Joe Teasdale, the 36-year-old prosecutor of Jackson County (Kansas City). Mr. Teasdale is an underdog in the August primary, with little organized support and a campaign apparatus built around friends and family. So his showing will depend heavily on how successfully Mr. Reese employs his consulting specialty: building an "Instant Organization" and deploying it for maximum impact.

This emphasis on grassroots organization makes Mr. Reese all but unique among political campaign consultants and puts him at the opposite pole from the TV consultants and their techniques of mass persuasion Some people think the TV men and their "media campaign" have rendered his kind of organizing almost obsolete; Mr. Reese would like to write a book for such people. He'd call it "Up the Boob Tube."

TV CAN'T GRAB YOUR ELBOW

"We've got to the point where we've overemphasized the mass media," he argues. "I do think that the image end is probably more important than the organization end, and I don't like to take a candidate unless he can take TV and use it. But at the same time, I've seen many campaigns depend upon the tube and flounder."

A good organization, to Mr. Reese, is a warm, living, intensely human thing. "The tube is impersonal," he growls. "It doesn't make you a part of anything. An organization makes you a part, gives you satisfaction." The tube can reach a lot of people. But only an organization can seek out the voter man-to-man and say, "Come on (Mr. Reese turns abruptly and grabs his companion by the elbow) you *want to*, don't you?"

Mr. Reese's job in every campaign is to set priorities for the investment of four scarce resources: time, money, manpower and talent. And central to his method is the concept of "targeting," a semi-computerized analysis of past voting patterns to identify individual precincts—and even individual households—offering maximum potential.

Essentially, targeting identifies "high performance" precincts where intensive get-out-the-vote efforts will yield maximum dividends, and it ranks them in priority order. (When Mr. Reese is working for a Democrat, these are precincts that go solidly Democratic in election after election.) Targeting also identifies precincts where the most "persuadable" voters live, and it ranks these in priority order. (These are precincts where voters are shifting party loyalties over the long run or splitting their tickets in individual elections.)

HARD-CORE AND SOFT-CORE

Ideally, Mr. Reese's next step is to pore through public records showing the elections in which each registered voter actually voted. This identifies two basic types of voters: "Hard core," who vote regularly, and "soft core," who need motivation. When combined with the precinct rankings, this breakdown enables Mr. Reese to pinpoint his campaign to the individual household.

In the "high performance" precincts where almost everybody is predisposed in favor of Mr. Reese's candidate, Mr. Reese zeroes in on "soft-core" voters on Election Day and prods them to the polls. In the "persuadable" precincts, he goes after "hard core" voters—who are almost certainly going to vote for someone—and urges them to vote for his man. He downplays the hard-core voters in the predisposed precincts (they're presumed in the bag already) and the soft-core voters in the persuadable precincts (it's too hard to motivate a man both to vote and to vote your way).

Having isolated his targets, Mr. Reese reaches them through a grass-roots organization he builds from scratch. He hires a bank of telephone operators to saturate the target precincts with calls. The voters most favorably inclined to the Reese candidate are recruited as "block captains." The other favorable and undecided voters the operators turn up become the targets of an interlocking effort: more calls, direct-mail appeals and repeated visits from the block captains themselves.

It is a curious amalgam: intense personal contact within target areas impersonally selected; the organizational techniques of the old machine, but refined and linked to the computer. Once the big urban machines supplied this kind of block-by-block campaign infrastructure almost routinely. Now candidates pay Mr. Reese to do it, because the big machines have pretty well broken down.

"Why is Matt Reese in a political campaign? Why?" asks Mr. Reese, who often repeats himself for rhetorical impact. "Because there is no organization that is effective any more. We help candidates build an organization."

Being compared to the old machines doesn't offend Mr. Reese, although his technique of recruiting thousands of idealistic campaign volunteers is antithetical to the "old politics." He unabashedly admires the machine as an organization, if not for the government it produced. Consider Frank (I Am the Law) Hague, he says enthusiastically. Boss Hague ran Jersey City from 1917 to 1947, and Mr. Reese is taken by the way he would send his block workers to the gym before each campaign. Why? Because there are a lot of three-story walkups in Jersey City, and a block worker had to be in shape to climb them. It was the careful detail work of a professional.

"Frank Hague didn't come out one morning and say 'I am the boss,'" Mr. Reese explains, his voice rising in excitement and his gray locks tumbling around his ears. "He got there by doing the things necessary to be done, by paying attention to the principle of personal contact.

Mr. Reese pauses. "I don't know why I have to holler," he says thoughtfully. "I can't talk without getting passionate." But, he brightens, "I'm a Leo, and that explains everything." This astrological accident is Mr. Reese's standard explanation for everything from his natural exuberance to his style (aggressive) of playing poker.

A CHARACTER FAULT

Mr. Reese has recruited more than 400,000 block captains and Election Day captains to date, and he spends much of his time motivating these mercurial people—extravagantly praising them, only rarely yelling at them. "If I do, it's usually an act," he says "because I rarely get angry." He grins. "Character fault, I guess."

Those volunteers have helped produce an impressive string of victories. In 1966, shoring up the Democratic Party organization in four urban counties, Mr. Reese helped Robert Docking win the governorship of traditionally Republican Kansas. That same year he engineered the drive of a reform-minded group (including Mr. Teasdale) that wrenched control of Jackson County, Mo., from remnants of the old Pendergast machine.

In 1967, he went to work for then-Mayor James H. J. Tate of Philadelphia, whose renomination was imperiled because the local party organization had turned against him. Mr. Reese simply substituted his own organization: 10,054 block captains and a battery of telephone operators capable of making 18,000 calls a day. The mayor won the primary by nearly a 2-to-1 margin and went on to win the general election.

In 1968, Mr. Reese helped Robert Kennedy win the Indiana and South Dakota primaries and Sen. Birch Bayh survive a tough reelection fight. In Missouri's senatorial race, he worked for liberal Thomas Eagleton who unseated a veteran in the primary and won in November.

In 1970, working for Indiana Sen. Vance Hartke (as well as for politicians in California, Texas, Rhode Island and other states), he helped hold an expected Hartke loss of 25,000 to 30,000 votes in the Republican bastion of Marion County (Indianapolis) to fewer than 12,000. Mr. Hartke won the statewide election, though it is being contested.

SOME HUMBLING EXPERIENCES

"You know," Mr. Reese reminisces, "I won seven of my first eight campaigns. I was convinced I could take this thing anywhere I wanted to—I could elect any dog that came down the pike. I was really arrogant." Then came some humbling experiences.

Among them is New Jersey's 1969 gubernatorial race, where Mr. Reese organized several key counties for Robert Meyner, an ex-governor trying for a comeback. Mr. Meyner was swamped. "It was," says Mr. Reese, "like trying to bail out the Queen Mary with a tin pail."

And one Reese victory, helping get Thomas J. Whelan reelected mayor of Jersey City in 1969, has proved an embarrassment. In 1971 Mr. Whelan was sentenced to 15 years in prison for extortion and conspiracy; last month he drew an additional five-year sentence, to run concurrently, for income-tax evasion. "When I worked for him, I thought he was a fine man," Mr. Reese says. "A jury said otherwise, and, of course, if I had known that I wouldn't have worked for him."

Among his projects so far this year, Mr. Reese is working in two other gubernatorial races, one senatorial and three congressional campaigns. Although he doesn't disclose these clients, he is willing to talk generally about his fees, which vary according to the type of campaign he joins and the services he provides.

"You can hire me at $600 a day plus expenses, and the biggest fee excluding expenses we (his firm, Matt Reese & Associates) have ever had was $62,000 for a statewide campaign," he says. His firm's fee for a congressional race can run anywhere from $10,000 to $20,000, plus expenses, he says. Mr. Teasdale, his candidate here in Missouri, is a friend and not overly endowed with campaign contributions. So, says Mr. Reese, lapsing into his West Virginia idiom, "he's getting a 'cousin price.'"

As Mr. Reese jets back and forth across the country, he's battling not only his clients' opponents, but also a theory. The theory: changes in the American electorate are undermining the Reese type of approach.

"TRULY OUTSTANDING"

Consultant Walter DeVries, whose recent book, "The Ticket-Splitter," supplies additional evidence that the American voter is abandoning old party loyalties and exercising increasing independence, is inclined to believe the theory. "When you've got 54% of the people splitting their tickets, it's pretty hard to run a campaign based on party ties, which is essentially what an organizational campaign is," he argues. "Today, I think the bulk of the (campaign) money should be spent trying to communicate with people. That means TV and direct mail."

On the other hand, a number of "media candidates" went bust in 1970, and there seems to be a renewed respect for organization this year. The Nixon campaign reportedly will emphasize it more heavily than in 1968. And Democratic National Chairman Lawrence F. O'Brien, himself the author of the classic "O'Brien Manual" of organization, believes "there's still no discernible substitute for a very carefully organized registration and get-out-the-vote effort." He calls Mr. Reese "truly outstanding" in both areas.

Others agree. "The best guy in the business" of organization, declares Mike Rowan, an ebullient media expert with the Washington consulting firm of Joseph Napolitan Associates Inc. Mr. Rowan (along with Mr. DeVries) believes the Reese techniques fall off in effectiveness if spread beyond compact geographical areas (a mayoralty or congressional race, for example), or if applied to races where the undecided vote is high or party loyalties weak. But Mr. Reese is "dynamite," Mr. Rowan concludes, and "definitely here to stay."

Mr. Reese certainly hopes so, but he isn't taking it for granted. He ticks off competitors while awaiting his flight out here, his big voice filling the air and his great bulk sprawling in a purple chair in the Washington airport. No doubt about it, he announces at the end, "Old Dad's gotta hustle."

He's hustling now, a day after his arrival here, as he lumbers down a hall and into a crowded motel conference room. Seventeen others crowd in with him, the air turns blue with cigaret smoke, and the ventilation system proves to be broken down. Basic decisions have to be made amid a welter of competing ideas. It is, in short, Matt Reese's kind of situation: Chaos.

WHOA! WHOA!

Mr. Reese hulks over the table, drinking ice water and booming out crisp directives: "All right . . . let's get it down. Who's going to do it? Who's going to be responsible?" Later, when the conversation lurches off the track, he will bring it back with a roar: "Now-now-now—Whoa! Whoa!" But right now his concern is the candidate himself.

On Mr. Reese's advice, Mr. Teasdale has been biking across Missouri to garner publicity and voter recognition. Now he's tired and irritable, worried about a grueling campaign. He glowers at the aide who has committed him to a morning-to-night round of coffees just before a big TV debate. "You're packing me in again," he bristles, "and that's what I don't want to do."

"Hell, you're the candidate," the aide retorts.

"I'm going to be a dead candidate," Mr. Teasdale mutters.

"You can't take a tired candidate into a debate," interjects Mr. Reese, exasperated and anxious to cut short a developing argument. "Cancel the coffees," he ordered.

"But-but-but," Mr. Reese stutters in agitation, his voice rising and his hand thumping the table, "you can't have a schedule if every time a butterfly flies by, you cancel. . . . You can't make a pattern of this." Even though he ordered it, the cancellation has clearly violated a fundamental tenet of his professional code "You can't cancel out coffees," he lectures the room. "You can't cancel out something where you're obligating people."

"HE LOVES THOSE HANDS"

The candidate leaves, and Mr. Reese goes to work on a campaign schedule—a good tight schedule, he insists. "I think I know this man well enough," he says. "If you cut out the frustration, he'll go. He loves those hands, he loves those hands."

Later he conducts a primer on organization-building. Mr. Reese already has launched the Teasdale campaign on a massive telephone canvass of some 10,000 Missouri "community leaders." Now he outlines a blitz of most of Missouri counties: Teasdale workers go in and recruit county campaign workers, Mr. Reese fires up the workers at a statewide "workshop," the workers get specific targets to achieve. And all the while, campaign headquarters spurs them on with a barrage of computerized letters.

By now the meeting has lasted nearly four hours. Mr. Reese is fanning himself with a paper, and some of his listeners have gone glassy-eyed in the smoke. "Argue with me," Mr. Reese pleads. "God didn't tell me everything." Nobody argues. Reese fans himself and surveys the table.

"I have," he begins, "50 items to go . . ."

WORKINGMAN'S BILL OF RIGHTS

Mr. GAMBRELL. Mr. President, on Thursday, April 20, of this year, I proposed and published in Washington a bill of rights for the American workingman.

In an appearance before the Atlanta Legal Secretaries Association on April 29, I elaborated on the bill of rights. I ask unanimous consent to have printed in the RECORD the text of my remarks to this group as well as my workingman's bill of rights.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE ATLANTA LEGAL SECRETARIES ASSOCIATION

On Thursday, April 20 of this year, I proposed and published in Washington a bill of rights for the American working man.

The working man's bill of rights expresses in common sense terms the rights of American working people who have supported and defended the American system. The bill of rights demands respect for their labor, and respect for the things they believe in, such as patriotism, equal opportunity, equal taxation, law and order, and the right to be heard. The working man's rights are expressed in terms of the responsibilities of citizenship, rather than in terms of the privileges.

This statement of the rights of working men and women has been formulated from my experiences, and from listening to disappointed and frustrated citizens on my "listening tours" throughout Georgia and in other parts of the country.

In publishing this statement of the working man's rights, I am seeking to focus attention on average Americans and their concerns. By their support of the American system, they have earned the right to receive special attention from those who serve them.

During the upcoming senatorial campaign in Georgia, I expect to talk about the working man's rights and to propose specific solutions for the problems that concern them most. I will challenge other candidates in this campaign to join me in giving American working people the recognition they deserve.

I have sent copies of the working man's bill of rights to each of the major candidates for the Democratic presidential nomination, as well as to President Nixon, urging them to support this proposal as a means of recognition and national commitment to American working people. If this Nation is to survive, and in fact if any of these candidates are to be elected, it will only be through the support and efforts of the American working man.

The Democratic Party's presidential primary campaigns in Florida, Wisconsin, Pennsylvania and elsewhere have dramatically displayed a confidence gap between American working people on one hand, and American political leaders and the press on the other. The results of these campaigns demonstrate that the so-called "leading candidates" have been out of touch with the people on the issues that concern the people most. Candidates such as George Wallace and George McGovern, whom the press and political experts discounted, have become the men to beat.

Specific issues may vary from State to State, but it is clear that the public has no use for established politicians, and that a feeling of being used and abused is prevalent among average Americans.

The political analysts, and the public opinion experts, like to refer to working people as the "silent majority," and the national press likes to think they are Democrats who are "liberal", and anxious for changes. This is because most of the Democrats with whom the press feels comfortable, enjoy tinkering with society and the economy. But make no mistake about it, the working people of this country, even the poor ones, are "conservative." They look for strong governmental action to protect their status and their opportunities. But, as a group in society, they are not interested in radical changes, economically, morally, politically, or socially. In fact, they take pride and comfort in the security of the status which they have. Threats to undermine what they have fought, sweated, and died to hold on to are not welcome.

For some time, the American working man has blindly trusted his leaders to serve him, and he has fallen for the myth about progress for the average American working man.

But what had been only a 'pinch", has now become a throbbing pain, and the pain has become too great for him to ignore.

His pocket book has been eroded by taxes and inflation, his moral values have been eroded by permissiveness, his communities have been destroyed by social manipulation, and his sons have been killed and maimed in misdirected warfare.

At the same time, he gets court-martialed while the generals get more medals. His children are bused, while the snobs who support busing send their children to private schools. He lives on take-home pay while the rich have subsidies and tax-free income, and on top of all of that, the smut peddlers, dope peddlers, and rapists are set free on his children by courts that he has paid for.

Talk about pollution of the air and water!

And what is more, he can see that the leaders, political, intellectual, business, military, and trade union, who have conducted this fiasco are still in place, rich, comfortable, and established, full of new so-called "programs" for more of the same, and not only do the bosses keep driving him for more work, blood, and taxes, but they want to exclude him from their participation in the political life of the country. It is popular with the elite commentators to contemptuously refer to him as "Archie Bunker", a face on "the Civic Club Circuit", a hard hat, a blue collar, a red neck, or even a racist.

When a spokesman comes along who begins to express some of his deeply felt views, the top leaders he help elect to head the Democratic party tell him he is not welcome at the National Convention. He can sleep on the beach. He is not invited to the fund-raising banquet. There is no room at the inn. Why, he is so maligned by the established powers that no so-called respectable politician wants to be identified with him. Well, the feeling is mutual.

He is tired of establishment leadership. He wants one of his own boys, who has sweated and bled a little with him, lately, one who knows how to get the hay down where the goats are.

Politically, he is out for the best deal he can get. Many life-long democrats among this group no longer see the Republican party as the only enemy of the American working man. They feel as unwelcome among the "intellectual snobs" as they would among the "robber barons." They may even cast a protest vote for a candidate who supposedly "can't win." They are becoming more and more the "independents" of today's political spectrum.

In substance, American working people are fed up with established leadership.

They know that the sweat of American working men and women has supported the American system, and that their blood has defended it. In this political year, they are entitled to have those running for office recognize their concerns, and to commit themselves to protect their interest.

It is for this purpose that I have proposed a bill of rights for the American working man. It is a commitment by me, and any others who will join me, to honor America's working people and the things they believe in.

The working man's bill of rights states that the American system should guarantee to the working man who supports it the following rights:

First, the right to have a voice in running the system—that is the right to speak out, to be heard, and to get action.

Second, the right to be free of abuse and neglect by those in power—bureaucrats entrusted by the people with power over their lives should not be arrogant or insensitive, and should not manipulate working people for political purposes.

Third, the right to have others share in supporting the system—a favored few should not be exempted from taxation and military service, while the working man and his earnings are heavily burdened with supporting the American system.

Fourth, the right to live and work in dignity—the working man should be respected for supporting himself, his family and his government through honest labor, and his economic security should be protected.

Fifth, the right to equal opportunity—equal access to education, employment and business opportunities should be available under free enterprise and freedom of choice.

Sixth, the right to have law and order—the freedoms and opportunities of the American people are based on equal justice under law.

Seventh, the right to be protected in religious and moral values—community morality is a cornerstone of the American system and it should be protected against those who have no moral values.

Eighth, the right to be respected for their patriotism—American working people do not hesitate to stand up for America, and they should be honored for doing their patriotic duty.

Ninth, the right to be free of free-loading—the earnings of working people should not be squandered through subsidies, give-aways, extravagance and waste, either at home or abroad.

Tenth, the right to be free of brainwashing by the national press—the press should see that the working man's voice is heard, along with those self-styled "experts" whose views the press prefer. Freedom of the press is a responsibility, as well as a privilege.

These are the concerns of average American people, and this is "the message" which they want to send to Washington.

Now you might ask, who are the American working people who have these rights?

They are a broad mixture of American citizens of all ages, who, because of their station in life, their opportunities, and their education, are not free to shape the political, economic or social directions of the country. Yet, they are concerned about our country. They are concerned about its future as a place in which they and their children can live and work. They are black as well as white, urban as well as rural, many relatively wealthy, as well as the relatively poor. They include men and women, white collar and blue collar, young and old.

Characteristically, they work for a living: They are patriotic: They believe in fair treatment for others: They have a sense of community: They believe in personal responsibility: And they have a strong religious faith.

In summary, they are hardworking, God-fearing, patriotic, tax paying, self-reliant Americans who have been taught to do their duty, and to be respectful of authority, and they expect those entrusted with power to run things right.

These are the working people whose concerns I have sought to express in the "working man's Bill of Rights". I am telling them that I have heard their message, and that I am passing it on at the national level.

I expect to keep talking about the working man and his rights, during the political campaigns this summer and fall. Hopefully, this discussion will develop a positive program for the solution of many of the problems which have been troubling our country. The themes which run through the working man's Bill of Rights are "All-American". They are themes upon which American working people from all sections of the country can agree. They are the themes upon which this great Nation was built, and upon which we can rebuild for the future.

The Working Man's Bill of Rights

The American system should guarantee to the working man who supports it the following rights:

The right to have a voice in running the system—American working people should not be excluded from managing the system. They have the right to speak out and be heard. The working man of this country supports and defends the system, and is entitled to control it, because institutions which exist under the system are the servants of the people. Remedies for the concerns of the working man should be convenient and prompt, and reforms of the system should be easy.

The right to be free of abuse and neglect by those in power—persons entrusted with power have special responsibilities to the working people. They must protect working people, as well as leave them alone. Bureaucrats should avoid treating working people as statistics to be manipulated for political purposes. They should handle the people's business with clean hands. Those who are arrogant or insensitive to the people they serve should be quickly removed from office.

The right to have others share in supporting the system—neither tax dodging nor draft dodging should be permitted. People with accumulated wealth should not be favored and exempted, while the working man and his earnings are heavily burdened with supporting the system. Every citizen has an obligation to serve in the defense of the country and to pay his fair share in taxes.

The right to live and work in dignity—the American working man should be respected for supporting himself, his family and his government through honest labor. His personal worth as a contributing citizen should be recognized and his security both now and in future years should not be degraded by economic mismanagement.

The right to equal opportunity—the American working man is entitled to share in the prosperity produced by a fair economic system. A productive economy will be the result of free enterprise and freedom of choice by the working man. Access to opportunities in education, employment and business should be available on an equal basis without arbitrary interference by monopolies, unfair economic controls or discrimination.

The right to have law and order—Law and order must be preserved. This is the foundation upon which the freedoms and opportunities of the working man are based. The system should provide for one standard of justice to be applied without regard to class, race, or station in life among those who support the system. Laws and the officers who enforce them are entitled to respect, and legal technicalities should not be permitted to cripple effective law enforcement.

The right to be protected in religious and moral values—Personal and family morality should be protected against permissiveness and disrespect. Every American community is sustained by the religious and moral values of its people. Religious worship should not only be tolerated, but should be respected and upheld.

The right to be respected for their patriotism—Honor should be the reward of working people who have tried to do their patriotic duty. They are committed to a strong national defense system and are prepared to stand up for America. They have every reason to be proud of themselves and their country, and should not be ridiculed for their patriotism or made scapegoats for mismanagement by higher-ups.

The right to be free of free loading—The earnings of working people should not be squandered through subsidies, give-a-ways, extravagance and waste. The American working man is compassionate, but his generosity should not be taken for granted by those capable of supporting themselves. Charity should not be extended to freeloaders . . . at home or abroad.

The right to be free of brainwashing by the national press—The press should not scorn or ignore the concerns of the working people and should see that the working man's voice is heard. Freedom of the press, air waves, and mail service obligates the media to serve the working people and not cater to special interest groups and power structures. The press is obligated to publish the truth. The American working man does not need to be spoon fed by self-styled "experts" who feed him only what they want him to know.

THE ALASKA PIPELINE

Mr. PACKWOOD. Mr. President, the American people are near the end of their rope if all indications regarding the Alaska pipeline are correct—May 4 will end the 30-day waiting period following the filing of the Interior Department's environmental impact statement. It is assumed by many that the ax will then fall.

Perhaps the biggest tragedy in this whole matter is not the pipeline itself, but the total disregard for public debate during this 30-day period. Under force of NEPA Interior prepared and filed the required environmental statement, but the law stopped there, and so Interior stopped there. All any concerned individual had to do to review the statement was to fork over $42.50 and then settle down to read the voluminous document. From the weight of the statement alone, one can only assume the reader would then be thoroughly apprised of the environmental impact. Unfortunately, since public participation ended there, the concerned American would then consider his duty finished. What a shame.

Where are our leaders to speak out for the public? Many of them are in Congress. Many of us in the Senate have urged the Interior Department and the White House to assess the public feeling on this issue, and allow for the democratic process of public hearings. Numerous Members on the House side have made similar requests.

Mr. President, I have not read the environmental impact statement. I consider it an affront to ask $42.50 for the privilege of finding out what the experts in the Department of the Interior say will be the environmental impact. This is an age when such information should be made readily available, and opportunity for public debate encouraged.

Perhaps the best statement in this regard was made in an editorial of The Christian Science Monitor, published yesterday. I ask unanimous consent that the editorial be printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Of People and Pipelines

May 4 marks the end of the 30-day period following publication of the Interior Department's nine-volume report on the proposed trans-Alaska pipeline. At that point Secretary of Interior Rogers Morton can grant Alyeska Pipeline Service Company the right to go ahead with the disputed project—subject, of course, to court approval.

Presumably the 30-day period was intended to allow a time for public appraisal and debate over contents of the voluminous report. Unfortunately, there has been no such debate. And for a very practical reason. No public hearings have been called, despite repeated requests from conservationists and congressmen. And only seven copies have been made available without cost to the public in six cities across the entire "lower 48" states. Groups, libraries, or interested individuals wishing their own complete sets must buy them, by mail, at $42.50 a set.

Clearly the department has not tried to encourage hearings or informed debate. On March 20 Undersecretary William Pecora stated that "a public hearing would be a circus" and would "interfere with a more thoughtful and rational analysis of this complex document." Apart from being a slap in the face of the democratic process, this statement raises the question of how much "thoughtful and rational analysis" the Interior Department has itself given to the study.

We refer to the number of environmental dangers which the first six volumes spell out, contrary to Interior Department efforts in the past to brush such issues aside; and to discrepancies in the final three volumes, devoted to economic and defense questions.

Among the environmental questions raised is the "almost certain" occurrence of "one or more large earthquakes" in the pipeline route between Prudhoe Bay and Valdez, which could "damage—even rupture—the proposed pipeline." Also, the failure of efforts to prove that tundra torn up by construction can be revegetated; the threatened loss of caribou, grizzly bears, birds, and other wildlife from loss of habitat, spilling of toxic substances on forage, and disrupted migration patterns; and possible catastrophic salmon fishery losses from oil spillage and siltation of rivers.

Questions also arise regarding an alternate and less ecologically hurtful route through Canada, particularly since the study finds that a gas pipeline through Canada would be an "essential element" of the proposed pipeline project. Backers of the trans-Alaska route have objected that this might take another two years, extending U.S. fuel oil shortages. But Canada has pledged to supply enough oil to meet American needs for that length of time, if the oil pipeline were built through its territory.

Dozens of other significant questions can and should be raised, to which the department should be answerable. But without public hearings, who can put the questions? And who can be held responsible for answering them?

Far from being a "circus," public hearings are the very essence of the democratic process. And that is a treasure that outweighs all the oil in Alaska.

Mr. PACKWOOD. Mr. President, this followed by 1 day a summary of the history in this matter written by Peter C. Stuart. I ask that the article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Alaska Pipeline Approval Expected Soon, Unless . . .

(By Peter C. Stuart)

Washington.—One day soon Interior Secretary Rogers C. B. Morton is expected to step to a cluster of microphones, perch a pair of half-lens spectacles on his nose, and announce federal approval of the controversial Alaska oil pipeline.

His action will uncork the project's first commodity—not oil, but a bewildering stream of statistics: a four-foot pipeline to carry

2 million barrels of oil per day heated at 145 degrees for 789 miles across Alaska at a cost of $2.7 billion.

But only two statistics probably mean much to most Americans:

1.7 cents. That's how much the pipeline could theoretically reduce the price of oil per gallon, the Interior Department speculates in its environmental study (nine volumes weighing 25 pounds, to cite two more statistics). In Washington, it could cut a family's annual heating bill (for the average 1,400 gallons of fuel oil) by $23.80.

Such potential savings in the late 1970's may evaporate, however, under what the Interior Department calls the "mechanisms of the oil import quota system."

The real pocketbook value of the pipeline for oil customers thus may avert price hikes. "Without that supply," warns an American Petroleum Institute spokesman, "It's logical to assume prices will go up."

235 million acres. That's the amount of land—larger than Texas—which American public will own in Alaska when current land negotiations are completed. It's an irreplaceable treasure both forbidding and fragile.

This "last American frontier" contains the loftiest mountains in North America; more than twice the coastline of the lower 48 states; glaciers the size of Belgium, and wildlife species long ago driven from the rest of the United States—mostly encased in super-delicate tundra and permafrost.

The pipeline, most agree, will be a prominent intruder. It will cross 350 rivers and streams, three mountain ranges, one known earthquake fault (skirting two others), and unnumbered caribou migration paths. "The largest remaining wilderness in the United States would be cut in half," the Sierra Club states with numbing simplicity, "and its character forever changed."

UNSATISFIED NEEDS

Choosing between these two conflicting concerns—energy vs. environment—has vexed two interior secretaries. But both Walter J. Hickel (himself an Alaskan) and his successor, Mr. Morton, have leaned heavily toward the energy arguments.

Speaking to the oilmen of the National Petroleum Council earlier this year, Secretary Morton talked urgently of "the enormous backlog of unsatisfied needs that can only be met by increasing higher levels of energy and of productivity."

Unlike Britain's recent oil discoveries in the North Sea, the Alaskan strikes inspire no dreams of national petroleum self-sufficiency. But with 25 percent of all known American reserves, they promise to lessen reliance on oil imports and allow more time to develop other resources, such as shale.

The government's thinly disguised desire to permit the pipeline has been frustrated chiefly by a 1969 environmental-rights law—appropriately nicknamed, like the Colt revolver in the old American West, "The Great Equalizer."

WAITING PERIOD EXPIRING

But the "equalizer" now is running out of ammunition. An environmental impact study, required by the law, has been wrung from the Interior Department by a lawsuit pressed by three national environmental groups. And the 45-day waiting period expires May 5.

Secretary Morton is completing a round of consultations with White House officials (including the reluctant Council on Environmental Quality), affected Cabinet secretaries, congressmen, and scientists.

An aide candidly concedes that the imminent pipeline decision could be "no" only under two circumstances:

1. "Unexpected calamities," such as a major earthquake on the Pacific Coast or a disastrous oil spill, which would remind Americans of similar dangers associated with the pipeline.

2. "If the Canadians could pull a rabbit from their hat." That is, if financing and routing could be speedily arranged for an alternate oil pipeline through Canada.

CANADA WILLING

This late-blooming Canadian compromise has evidently been rejected by Washington.

While three times longer than the Alaskan route, a 2,500-mile pipeline through Canada's Mackenzie River Valley to Chicago (alongside an already-planned gas pipeline) would cost roughly the same.

It would be "dramatically less hazardous to the environment," the Environmental Defense Fund concludes from the Interior Department's own study, because a Canadian line would cross fewer earthquake zones, traverse less-vulnerable permafrost and eliminate the ocean-spillage threat posed by shipping the oil from the Alaska pipeline terminus at Valdez to West Coast ports.

Substituting the Canadian route would delay the slow-moving project two to three more years. The Canadian Government, however, offers to take up the temporary slack by exporting more oil to its southern neighbor.

But even one of the Canadian pipeline's staunchest advocates, Rep. Les Aspin (D) of Wisconsin, pessimistically admits: "The only circumstances under which I can see the administration deciding against the Alaska pipeline is if the White House feels that approving it would hurt Mr. Nixon politically."

Mr. PACKWOOD. Mr. President, while I have raised my voice frequently in this matter, I ask unanimous consent that my latest letter to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., April 28, 1972.

Hon. RICHARD M. NIXON,
President of the United States,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: I have in the past contacted my good friends, Russ Train and Bill Ruckelshaus and Rogers Morton, regarding the seriousness of the proposed Alaskan pipeline, and the need for hearings on the environmental impact statement. Only this week, I have a lengthy response from Rog Morton indicating there will be no such hearings.

This is no longer an issue carried by those of us in Congress who have a natural conservation bent, but we find ourselves joined by others who are deeply concerned about the public reaction both here and in Canada. As you know, Canada has expressed its fear about tanker activity along its coast, and has offered to supply the United States with oil beyond a two-year period. Should not we consider fully the Canadian offer, and allow public hearings on the environmental impact statement before proceeding with any approval? The West Coast has reason to fear oil spills.

Those of us in the Senate and the House who have contacted the Administration on this matter are justly reflecting the feelings of their respective constituencies. I join again with my colleagues, Senators CASE, BUCKLEY and GRIFFIN, as well as the many others in Congress, in urging hearings on the environmental impact statement.

Sincerely,

BOB PACKWOOD.

Mr. PACKWOOD. Mr. President, an AP report in this morning's Washington Post states that Senators from the Midwestern and Eastern States have joined in an appeal to the White House. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REPUBLICANS URGE HALT ON ALASKA OIL PIPELINE

Led by Senate Republican whip Robert P. Griffin of Michigan, 12 Midwestern and Eastern Republican senators yesterday urged the Nixon administration to withhold any go-ahead signal for the proposed Alaska oil pipeline.

They asked instead that the administration examine the merits of an alternate oil and gas system that would cross Canada into the American Midwest.

The senators called on Secretary of the Interior Rogers C. B. Morton "to delay any decision on the pipeline until the newly feasible alternative of a trans-Canada pipeline can be given close study, as has now been given the trans-Alaskan proposal."

They said a cross-Canada route holds economic, environmental and national security advantages over the Alaskan route.

"In view of the publicly stated willingness of the Canadian government to cooperate in the construction of a trans-Canada pipeline, and the ultimate advantages—economic, environmental, and security—which would accrue to both countries, we believe this alternative should be given more serious consideration than appears to have been the case so far," the senators said.

Mr. PACKWOOD. Mr. President, in a leaflet entitled "Pipeline Alert," The Wilderness Society has summarized why public hearings are desirable. I ask unanimous consent that the section entitled "Why Public Hearings Are Needed" be printed at this point in the RECORD.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

WHY PUBLIC HEARINGS ARE NEEDED

Actually, the impact statement itself is one of the best arguments for public hearings. One of the strongest impressions one gets reading through it is of the number of unsolved problems which still exist—problems that the statement openly recognizes and for which it has no answers. These problems relate to untried and untested engineering methods, incomplete environmental research, deficient land-use control and planning, and other matters of critical importance.

Many important aspects of the proposed Prudhoe Bay-to-Valdez pipeline are described for the *first time* in the statement. Without hearings, the many interested scientists not involved in government or oil company research will have no meaningful opportunity to comment on this new material. Or, if they do, their communications can be safely filed away and ignored.

Here are some other reasons why public hearings are needed:

GAS TRANSPORTATION SYSTEMS

The department says "it seems clear that a single gas line will be built through Canada to the United States markets." (Economic Analysis, Vol. I, p. C–22.) It says such a transportation system is an "essential" element (Vol. I, p. 50) of any oil pipeline system and states that "less enviromental cost would result from a *single* [gas and oil] transport corridor than from two separate corridors" (Vol. I, p. 273). But no effort has been made to evaluate these savings in environmental cost and, on March 20 a department spokesman said, "We are completing such an analysis from the economic point of view only." Further, impact analysis is limited (Vol. I, p. 175) because the "absence of any firm gas transportation proposal by the owner companies limits the amount of descriptive information available." (Vol. I, p. 74.) Apparently Interior didn't even ask the oil companies for information on Canadian pipeline plans—despite the intensive studies going on in Canada.

Congressman Les Aspin of Wisconsin points out *why* the Interior Department hasn't received an application for an Alaska-Canada pipeline. "The same oil companies which dominate the Alyeska (trans-Alaska pipeline) consortium also dominate the Mackenzie Valley Pipe Line Co., and they are hardly likely to submit an application in competition with themselves." However, it's important to note that as recently as March 29 the Canadian government reiterated its longstanding interest in having the oil pipeline go through Canada rather than having tankers carrying oil from Valdez past and through Canadian coastal waters to the west coast of the United States.

ALTERNATIVE OIL PIPELINE THROUGH CANADA

Acknowledging that potential *gas* pipeline routes through Canada are also attractive *oil* pipeline routes, the report notes that the Canadian routes avoid the maximum earthquake threats, eliminate impacts and hazards to *west coast marine areas,* and have no greater terrestrial impact in many significant respects in spite of their greater overland lengths. (Vol. 5, p. 238.)

The report states that an oil pipeline through the Mackenzie Valley of Canada would be "an equally efficient [economic] alternative" to the trans-Alaska route (Economic Analysis, Vol. I, p. 1) *but also admits it did not consider the additional economies of building an oil pipeline through the same corridor as the gas line.* (Economic Analysis, Vol. I, p. C–23.) Obviously, with such economies considered, the Mackenzie alternative would not be "equally" but "more" efficient. This gross error must not be allowed to stand!

MARINE TRANSPORTATION SYSTEM

Volume 3 (449 pages) contains extensive descriptive material on the marine environment and tanker transport of oil between Alaska and west coast ports. The evaluation of oil tanker traffic indicates unavoidable adverse effects from chronic oil pollution in port areas, from intentional ballast treatment discharge at Port Valdez, and from accidental discharge by collision or by negligence. Estimates of accidental discharge are as high as 140,000 barrels a year, but "the impacts of oil upon various biological systems cannot be predicted in a quantitative manner." (Vol. 4, p. 196.)

Elsewhere the report (Vol. 4, p. 608) says an "irreversible commitment of some marine biotic resources would occur in Valdez Arm as a result of chronic oil pollution." But the actual area or extent can't be predicted. Even so, "permanent and far-reaching effects upon certain forms of plankton would occur," causing a "general decrease in primary productivity, which would in turn affect other organisms of the ecosystem, such as salmon, herring, razor clams, murres, auklets and other species of birds, fish and shellfish."

But all this was known before the statement was written. Is this kind of solid, substantial and detailed information on which decision-makers can render a sober and objective judgment? With no more than this to go on, how could they know we would gain more than we lost by proceeding with the pipeline-tanker transportation system?

PIPELINE BREAKS AND CONTINGENCY PLANS

The statement acknowledges that a "no-spill performance" would be "unlikely." (Vol. 1, Summary.) It goes on to say that even under emergency shutdown procedures as much as 64,000 barrels (2.6 million gallons) of oil could escape from a pipeline break (Vol. 1, p. 23); and that "minor leaks are practically undetectable" (Vol. 4, p. 11). A "minor leak" turns out to be anything less than 750 barrels (31,500 gallons) a day (Vol. 4, p. 135). In spite of this, the effectiveness of surveillance, monitoring and cleanup procedures has not been fully discussed.

What effect would a pipeline break have on the environment and ecology? Throughout the report there is an unwillingness to quantify the damage. But occasionally one stumbles on a shocker like this: "For example, a significant spill into the upper Gulkana River during the peak of the salmon run would likely cause fishery damages of catastrophic proportions." (Vol. 4, p. 135.) And this is only part of the story, for as one can find in Volume 3, page 311, the Gulkana flows into the Copper River, which supports one of the greatest birdlife concentrations on earth. (Here lies one of the more irritating aspects of the impact statement; you have to search through the massive text and piece together many of its implications—one of the reasons public hearings are so necessary.)

Despite all these dire implications, the recently announced Interior Department engineering stipulations fail to require Alyeska to submit its contingency plans to the government before the construction permit is granted!

THE ALTERNATIVE OF DEFERRAL

Much of this voluminous statement consists of advocacy rather than a careful weighing of alternatives open to the U.S. government. Excluding Volume 6 (comments and attachments) and the three-volume economic and security statement, some 1,850 pages—77 percent of the first five volumes—are devoted to the environmental impact of *granting* the permit. Fewer than five pages—two-tenths of one percent—deal with the alternative of *deferring* the project. (Vol. 1, p. 258; Vol. 5, p. 1 and pp. 8–10.)

Yet the paragraphs devoted to deferral note these advantages: (a) an opportunity for studies of "innovative pipeline technology," (b) "operation of a pilot plant for ballast treatment," (c) "installation and operation of a large-scale hot oil pipeline experiment" in relation to permafrost terrain, (d) "pipeline leak detection research," (e) "more exact definition of the gas transportation system that would be proposed," and (f) more definitive studies of marine and arctic ecosystems.

Mr. PACKWOOD. Mr. President, it is my strong hope as I appeal to the administration from the Senate Chamber that they will join with us in the Senate and the House, with the Canadians, and with the millions of Americans who have contacted congressional offices, and open public hearings. This is the American way.

A LETTER FROM CAM RANH BAY

Mr. EAGLETON. Mr. President, as we debate the pros and cons of legislation affecting our involvement in Vietnam, we too often overlook the effect this war has on the personal lives of those military men who are assigned the impossible task of trying to assure the success of a misguided policy.

We can read newspapers and official reports from Vietnam—we can see the pictures of maimed bodies and battered babies—we debate endlessly our opposition or defense of the war—and yet despite our exposure, we manage to anesthetize ourselves from the countless human beings, Americans and Asians, who suffer from this interminable conflict.

I shall place in the RECORD today a letter from an Air Force sergeant stationed at our base at Cam Ranh Bay. The letter illustrates in succinct personal terms the grief this war has caused in one man's life. It indicates the growing frustration and failure of our continuing presence in Southeast Asia in the name of "Vietnamization."

President Nixon has justified so much in recent weeks on the grounds that our troops must be protected. But what protection does our policy afford? This letter tells us that in the face of enemy attacks our soldiers must use mattresses for bunkers; that 50 M–16 rifles are available for use by 180 soldiers; that ARVN forces cannot secure even the previously invincible Cam Ranh Bay. Our troops, in short, feel like sitting ducks on a pond.

Now is the time to end this senseless war and the unnecessary human suffering it causes. This sergeant at Cam Ranh Bay has asked, "Why can't we come home now?" I do not know the answer to that question. Perhaps the White House does.

Mr. President, I ask unanimous consent that the entire letter be printed in the RECORD. I have excluded the author's name to protect his privacy and his career in the Air Force.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. THOMAS EAGLETON:

Sir, I have never written to one of my states representatives before but I feel due to the situation that now I must.

I am a member of the United States Air Force and have been for over ten years. At present I am stationed at Cam Ranh Bay Air Base, Vietnam. I have been here for eight and one half months.

Before arriving here I was informed that this base was the most secure in Vietnam. Not only did this please me but my wife was deeply relieved or as much as possible. Then when I arrived I was told that this base, on the average took more hits per month than any base in Vietnam. We were told one thing in the states while the facts were just the other way around. And I know now what they meant. Since I have been here the ammo dump has been blown twice and we've had numerous rocket attacks and sapper assaults.

Now, that the base is phasing down for close out, things are getting even worse. We are getting more rocket and sapper attacks than ever. And our security is something else. Just the other night, the V.C. hit the Army base here and killed 4 and wounded 18 while they were asleep in their bunks. The ARVN have been placed around the base for our security. Some security. Since the ARVN took over the V.C. have blown our ammo dump, hit us with rockets, shot one man on guard duty in addition to the Army incident mentioned earlier.

Our personal protection is a real winner. They tell us to get under our bunks when we come under attack. No bunkers, just a mattress and ply wood walls. I don't consider that much protection from 122mm rockets. We have also been told that there is a chance we might come under a mass ground assault. So what do we do? We turn almost all our weapons in to be shipped out. We have about 180 guys in my Sqd. now and only 50 M16 rifles to go around.

Our target date to leave here is in May. But now we have been placed on hold. They even took some guys off the plane last week who were on their way home. And now no one is leaving. Yet we continue to close. We have no aircraft as they have been turned over to the VNAF and are not even on this base anymore. Our gym has been closed, hobby shops, chapel and next week the theater closes. But they tell us to stay busy when not on duty. Still the club stays open and they never run out of booze and thats about all there is left to do.

In the meantime we are sitting like ducks on a pond. Perfect targets for the V.C. and they are starting to open up. I'm drafting this letter on the morning of 13 April. Just two hours ago we took 9 122 rockets. And they tell us tonight it could be even worse. I don't mind telling anyone that I am scared. All I want is to go home and be with my family. My wife is almost a nervous wreck. Every time she hears that we have been hit she sends an inquiry through the Red Cross to find out if I'm alright. The News she hears is never right and since mail takes four or five days she has no way of knowing what's going on.

I can't understand why we can't leave here now. What difference does a few thousand dollars worth of material make when its compared to the billions of dollars we have spent here already. And what about all the lives that have been lost? Haven't we lost enough already? Why do we stay here and lose more everyday. Our mission here at Cam Ranh is gone but here we stay. For what? I did not want to come over here and had I known what it was going to be like before hand I would have done everything in my power to keep from coming. If I thought there was any chance that I would have to come back here or any place like this, then my Air Force career would just have to go down the drain. If there was any way that I could leave here now I would not wait one second.

I believe I know why the younger generation feels like they do about this war. They are being asked to support a war that we become involved in while most were still in grade school. I too am against this war. I hope that we never let our great country become entangled in a situation such as this ever again. I would ask you to ask yourself this one question. HAS IT BEEN WORTH THE PRICE WE HAVE PAID?

My wife and 6 year old daughter are waiting for me in Missouri. We have plans to add one more to our family next year. We are both from the Joplin area. And right now all we care about is my getting home as soon as possible. We could all be headed home tomorrow but we won't and every day we stay the chances are someone won't be going home at all.

This letter is not meant to lodge a complaint or request a favor. It is intended only to express my opinion, feelings and a few facts as I see them. Also to ask one last question. Why can't we come home now?

I thank you for your efforts on behalf of our great country and state. Also for the time you spend reading this letter.

THE PRESIDENT'S BUDGET

Mr. McGOVERN. Mr. President, the Phoenix Peace Center has prepared a thoughtful study of the President's budget which I think deserves the careful consideration of all Americans. The study documents the fact that the proposed budget for the coming fiscal year will not bring us one step closer to the new priorities that most Americans want.

It discusses the fallacies that are involved in the claim that our investment in human resources now exceeds our investment in war. It discusses the true costs of the war in Indochina. It discusses some of the facts that tend to be ignored.

I ask unanimous consent that the report of the Phoenix Peace Center on the President's budget be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE PRESIDENT'S BUDGET FUDGET

(Prepared by John Kincaid, director, the Phoenix Peace Center)

Is the President's budget for real?

When he presented his $246.3 billion fiscal 1973 budget to Congress, President Nixon said: "The highest priority of my administration is to bring about an era of peace and prosperity." In saying this, Mr. Nixon—who rates himself "a deeply committed pacifist"—escalated his peace language. First, it was a "generation" of peace, then a "century", and now an "era" as if to suggest the millennium is next.

As citizens and taxpayers who wish to invest in life, we believe that the President's budgetary message is misleading and that serious questions must be raised by the publice before Congress again disregards our opinions.

IS THE BUDGET PACIFIC?

Once again the Pentagon is slated to receive the lion's share. The President has asked for an increase in war expenditures equaling about $1 billion this coming year and $6.3 billion in new spending spread over several fiscal years. This amounts to $85.4 billion for war, and if Congress approves, will be the largest military budget since the end of World War II.

This prompted Senator Proxmire, chairman of the Joint Economic Committee, to say: "What the President has done is to take the so-called 'peace dividend' and give it to the Pentagon."

Under the section "Strategy For Peace" the President listed only programs to increase and streamline our military forces. As Max Frankel of *The New York Times* commented: "The years of saving on military expenditures are over."

IS THE BUDGET HUMANE?

In the message, the President proudly announced that under his budget "human resources spending will be 45% of the 1973 budget, while defense programs will be 32%." However, further analysis shows clearly that Mr. Nixon is still asking us to hand over at least 60 cents of every tax dollar for war—past, present and future. Why the discrepancy?

SANE (318 Massachusetts Avenue, N.W., Washington, D.C. 20002) has kindly provided us with the following analysis that explains the difference.

"President Nixon's assertion that defense spending is now lower than spending on "human resources" can be made only by including government trust funds such as Social Security and the Highway Trust Fund as part of the federal budget. These trust funds were set up years ago to provide specific benefits, and are financed by separate taxes. Congress cannot dispose of the contents of the trust funds. They should rightfully be considered as separate cookie jars, not as part of the federal pie. (The trust funds were *not* included in the federal budget until 1968).

"The Nixon Administration also misleads the public by its failure to acknowledge in their proper place two items which belong under the costs of past wars: veterans payments and the interest on the national debt (most of which is war-incurred). The first is placed in the Nixon budget under 'human resources.' The second is listed separately.

"When the trust funds are set aside and veterans payments and the interest on the national debt are placed under the costs of past wars, the budget submitted a year ago by the President for Fiscal 1972 looked like this:

[In percent]

Military programs: Defense, AEC, military assistance, Selective Service	44
Costs of past wars: Veterans and interest on national debt	17
Military-related programs	61
Human resources: Education, manpower, health, and income security	17
Physical resources: (Agriculture, rural development, natural resources, commerce, transportation, housing, community development	11
All other: International affairs and finance, space, general government, revenue-sharing, non-military pay increases, contingencies)	11

These figures were compiled by the Legislative Reference Service of the Library of Congress at the request of Senator Mark Hatfield. They show that human and physical resources combined were slated by the President to receive only 28% of the funds voted by Congress, against 44% for the military and another 17% to pay off the costs of past wars.

Using the same process, the proposed Fiscal 1973 budget looks approximately like this:

[In percent]

Military programs	42
Costs of past wars	18
Military-related programs	60
Human resources	19
Physical resources	11
All other	10

"Thus, when the trust funds are removed and the various budget items are placed where they belong, we see that in the past year the cost of current military programs has gone down 2% and the cost of past wars has increased 1%. This amounts to a net decrease of 1% in military-related programs, an insignificant difference. Moreover, the increase in human resources from 17% in Fiscal 1972 to 19% in Fiscal 1973 is barely visible."

Hence, as SANE concludes: "In terms of national priorities, the Fiscal 1973 budget is more of the same."

IS THE BUDGET FULL OF PROSPERITY AND EMPLOYMENT?

Even though government officials are admitting that the jobless rate will only decline from 6.1% to 5% by the end of 1972, the President's message calls for "full employment without inflation and without war, a condition we have not experienced in this generation." To achieve this the President calls for a "$6.3 billion increase in budget authority" to beef up the Pentagon's dead-end capitalism and deficits for 1972 and 1973 totaling $64.3 billion!

However, as many economists have pointed out, including Louis B. Lundborg, chairman of the board of the Bank of America, "the war in Vietnam has seriously distorted the American economy, has inflamed inflationary pressures, has drained resources that are desperately needed to overcome serious domestic problems confronting our country, and has dampened the rate of growth in profits on both a before and after tax basis."

Continuing his testimony before the Senate Committee on Foreign Relations, Mr. Lundborg noted: "The expenditures related to the Vietnam war, added to the near full employment economy that existed in mid-1965, generated severe inflationary pressures. Consumer prices began increasing rapidly as the Federal deficit grew. While there is room for a wide range of opinion covering proper tax policies during this period, especially over the timing and magnitude of tax increases, and the proper role of monetary policy, the basic cause of the inflationary forces was a sharp increase in Federal spending associated with the escalation of the conflict in Vietnam."

"The Report Of The Steering Committee Of The Congressional Committee For A Vote On The War" said flatly: *"The answer to inflation is to end the war."* The Report noted that:

"Telephone service is declining due to a lack of men, material and adequate research and development.

"Food prices are going up 5% every year.

In some areas, the price of a house has gone up 25% in two years.

The cost of going out to the movies or to dinner has doubled in the big cities in the last five years."

The Report also pointed out that while, in 1969, the Defense Department provided some $21,666.67 for ammunition to shoot at each Viet Cong and North Vietnamese soldier, whether they hit him or not, the Administration provided only $44 for the education of each American child. Do you wonder why our cities are decaying with pollution, crime, overcrowding, and unemployment? In 1970 the military share of Federal income tax revenue from New York City was $6 billion, larger than the city's budget!

"Every hour the United States spends $2 million on the Indochina war. These are some of the programs that are not receiving necessary funds because of the war effort and *all of which* could be financed out of war expenditures in a two year period:

"Provision of public libraries for 12 million Americans who have no access to libraries.

"Construction of 296,000 new elementary classrooms.

"Four years of training for 125,000 nurses and 50,000 doctors.

"Provision and equipment of 600,000 hospital beds.

"Capital spending program for mass transportation systems amounting to $10 billion over 10 years.

"Federal grants for urban renewal of $14 billion over 10 years.

"Provision of the Federal government contribution of $13 billion to end air and water pollution."

The President must have been standing on his head when he prepared the 1973 budget. His priorities are, to say the least, inverted. For example, the total proposed budget of about $2.5 billion for the Environmental Protection Agency is about two-thirds less than the $6.3 billion increase the Defense Department will receive on its already bloated share. The $2.5 billion request for EPA is the same as last year and of this, about $2 billion is already slated for the Federal share of new sewage facilities, leaving only about $500 million for other programs. Despite continued injustices against the real Americans, The Bureau of Indian Affairs is slated for only a $102 million increase over its present $419,531,000.

These inverted priorities are grossly negligent of the human and ecological needs of America today. Once again, like previous Administrations, by pouring the lion's share into the military sector, the President and Congress, if it approves, will continue distorting and skewing the economy away from the kinds of domestic, civilian programs that might bring full employment, better health, education and mass transit, and perhaps end poverty, pollution and crime. As SANE has pointed out, "it is unnecessary to increase military spending (or build space shuttles) in order to create new jobs and lower the unemployment rate."

"Several recent studies have concluded that spending on domestic priorities is just as good, if not better, at generating jobs as defense and space spending. The U.S. Arms Control and Disarmament Agency's *Adjustments of the U.S. Economy to Reductions in Military Spending* (ed. by Bernard Udis, 1970) suggests that civilian programs are just as effective at creating jobs as military spending. It emphasizes that 'there is nothing unique about the capacity of military spending to generate jobs.' Dr. James Scoville, Economics Prof. at the University of Illinois, has concluded in a chapter in the Urban Coalition's *Counterbudget* that: 'Reallocation of a fixed federal budget from high-cost (i.e., high outlays per job created) defense programs to lower-cost social welfare operations is sufficient to generate a modest increase in total employment. With an increased total budget, as proposed in this report, this effect would be somewhat greater.'"

IS THE BUDGET DESIGNED TO END THE WAR IN INDOCHINA?

Since the President refuses to separate Vietnam from other defense costs in his budget messages, it is more difficult to answer this question. However, the requested increase in military expenditures suggests that Secretary Laird was correct in his prediction that the Vietnam war costs would be about the same $8 billion in the coming fiscal year. This is down slightly from the $8.6 billion this year.

Judging from the magnitude of the continuing war under President Nixon, we can conclude, indirectly, that the budget does not assume an end to the war.

Although our boys are gradually coming home and American casualties have declined, the war is wiring up, not winding down, because computers, remote sensors, and bombs are replacing our men. The intensive "Electronic Battlefield" program is designed to maintain a level of defensive and offensive firepower equal to, if not greater than, the largest number of troops we have ever had in Indochina.

The Pentagon reported in January that more than 435,000 men have been killed in battle in Indochina since President Nixon entered the White House. This is 30,000 *more* than the 405,000 men killed in the last three years of Johnson's Administration.

President Nixon has already unleashed the *majority* of the more than 6.2 million tons of bombs dropped on Indochina—three times the tonnage we dropped in all of World War II! As of mid-1971, the monthly bombing under Mr. Nixon averages about 95,000 tons as opposed to approximately 60,000 tons under Mr. Johnson. According to Herbert Mitgang writing in *The New York Times* (Sept. 21, 1971): "The cost of one B–52 sortie in Southeast Asia today—for fuel and bombs alone—is between $35,000 and $45,000." Needless to say, this has resulted in a 30% increase in the number of POW's and MIA's since Mr. Nixon became President.

According to the Library of Congress' report: *Impact of the Vietnam War:* between early 1965 and early 1971, there were 1,050,000 civilian casualties in South Vietnam alone, including 325,000 killed, of whom 30% were children under age 13! In all of Indochina, as of August 1971, the average monthly civilian toll under President Nixon was 130,000 people as opposed to 95,000 people under President Johnson.

Finally, President Nixon has expanded the air war in Laos and opened a new front in Cambodia at the cost of some 1 million refugees in Laos and 1½ million in Cambodia. Furthermore, Senator Edward Kennedy's Subcommittee on Refugees has confirmed the charges made by Nguyen Van Tien, deputy chief of the PRG's Paris delegation, that South Vietnam is presently relocating hundreds of thousands of Vietnamese peasants from their homes in the northern provinces.

DOES THE BUDGET MEET YOUR NEEDS?

Only you can add up your taxes and make this decision. Our conclusion is that the proposed budget fails to meet the desperate peacemaking and life-giving needs of our world and our nation today.

WHAT WILL YOU DO ABOUT THE BUDGET?

Congress must act. Please write now to your Congressmen and express your opinions. Press for an end of the war now!

Contribute and help the Phoenix Peace Center work for peace and purchase more copies of this report (50¢) for your friends and neighbors.

MILITARY BUDGETS AND SECURITY POLICY

(Statement by Seymour Melman, Co-Chairman of SANE and Professor of Industrial Engineering, Columbia University.)

Five different military budgets have been recently proposed for the United States:

(1) The Nixon budget for National Defense, $85.4 billion.

(2) Senator McGovern's defense budget, $54.8 billion.

(3) The Urban Coalition's *Counterbudget*, $50.4 billion.

(4) The Brookings Institution's *Agenda for the Nation* budget, $50 billion.

(5) Seymour Melman's proposed budget, $29 billion.

These five budgets pay for the different military forces that are necessary to implement the national security policies that are preferred by each of the proponents.

President Nixon proposes a budget that is competent to pay for armed forces for operating a nuclear war, plus two conventional wars at the same time. One of the conventional wars is the war in Indochina to be continued. In addition, the Nixon program includes major new investments in aircraft, missiles, submarines and surface craft for adding to nuclear overkill forces. By mechanizing major parts of the non-nuclear armed forces, the Nixon Administration hopes to be able to operate conventional wars with fewer men in the uniformed services. The Nixon budget continues the strategy of using military power as an all-purpose political instrument and defines the security of the U.S. as equivalent to numerical preponderance of instruments of military power.

The McGovern budget is a major step away from the Nixon concept of security based on military power. The McGovern budget withholds additional funds for adding to overkill, terminates the Indochina War, withdraws half of U.S. troops from Europe, and reduces U.S. armed forces to 1.7 million, as against the Nixon plan of 2.5 million under arms. The difference of about $30 billion between the Nixon and McGovern budget makes available the funds that would be required for implementing a true shift in national priorities toward emphasizing civilian, rather than military economy. The McGovern defense budget is the first step toward demilitarizing America.

The Urban Coalition's military budget in *Counterbudget* relies primarily on the elimination of mismanagement and waste in the operation of the Pentagon, ending of the war in Indochina, and elimination of obsolete weapons systems to accomplish a reduction in defense spending to $50.4 billion.

The Brookings' budget of 1971 was based on a security policy similar to that of President Nixon's, but included allowance for substantial reductions in forces on grounds of economizing and making more efficient use of manpower.

The Melman budget defines forces and equipment adequate for three functions: nuclear deterrence; guarding the U.S.; and capability for participating in international peacekeeping. The forces for these functions are calculated at no more than 1 million men in a volunteer army.

We offer the following critique of the Nixon budget:

(1) It continues the Indochina war;

(2) It finances major additions to nuclear overkill. In 1971 the U.S. could deliver 4,600

nuclear warheads to foreign locations by intercontinental delivery vehicles. For the 175 Soviet cities of population of 100,000 or over this meant an overkill of 26 times. The Soviets, with a lesser nuclear force, 2,000 warheads, could "overkill" the 150 U.S. cities of 100,000 or more 13 times. This nuclear arms race has become absurd. People cannot be killed more than once. If the U.S. and U.S.S.R. were to exchange their nuclear forces would it make any military difference between these two countries?

(3) The Nixon budget prepares for more wars of intervention in the Vietnam fashion. It includes a continued emphasis on the Westmoreland program for the "electronic battlefield" which depends on mechanization for delivery of destructive power and requires fewer men per ton of ordnance delivered.

(4) The Nixon budget commits more than 8 million man-years for non-productive economic growth in the U.S., assuming $10,000 as the cost of a man-year. This means 8 million man-years whose produce does not contribute to the quality of life nor to further production. The concentration of skilled manpower on economically non-productive work is the prime cause of the growing noncompetetiveness of many U.S. industries and the collateral increase in unemployment and uninvested capital.

(5) The Nixon program includes no preparation whatsoever for conversion from military to civilian economy. Despite catastrophic unemployment conditions in many cities and regions, the Nixon Administration has declined to respond to any proposals for preparing the way for conversion of either enterprises or individuals to civilian economy.

(6) The Nixon military budget commits over $400 per person in the U.S. to military power in the name of security. Actually, this priority diminishes the security of the American people; for in every nation the security of the modern state is a function not only of military position but also of the economic and social well-being of the population. The security of the American people is menaced today by the plague of hard drug addiction, the breakdown of community, and unemployment rates extending to 34.9% as among teenagers in the ghettoes. The Nixon budget with its military priority offers no prospect of improvement of life for the 30 million Americans, white and black, who are still the disinherited of American society.

A set of practical steps could be taken by the federal government to improve American security, including:

(1) sharp reduction in the Pentagon budget along the lines proposed by Senator McGovern, as a first step;

(2) reduce sharply the irrationally large overkill forces;

(3) stop the Indochina War and bring American forces home;

(4) negotiate mutual force reductions with the U.S.S.R.;

(5) start withdrawal from the grossly over-extended military commitment system in 48 countries;

(6) use the savings from the McGovern defense budget to finance major job-creating activities, especially in the major metropolitan centers and civilian industrial areas of the United States. The agenda prepared by the Council of Economic Advisors in its 1969 Economic Report can be used as a first guide to a civilian priorities program.

WORKINGMAN'S BILL OF RIGHTS

Mr. GAMBRELL. Mr. President, since announcing the workingman's bill of rights on April 20, I have received considerable correspondence regarding it. I want to share one of these letters which came from George A. Heap, who is running as a Democrat for assemblyman to represent the 63d assembly district, California, which said:

> Just thought you would like to have a copy of your "Workingman's Bill of Rights" which I have been and am now using in my current campaign—63 A.D., California, per attached enclosures. Excellent good thinking on your part and very timely. Hope you won't mind my use. Best regards and luck to you.

Mr. Heap had attached a piece of his own campaign literature on which he had reprinted the "Workingman's Bill of Rights," giving me credit for having proposed it.

Although I do not know Mr. Heap, I appreciate his endorsement of the workingman's bill of rights. I encourage every candidate for any public office in the United States to support the rights of the working people who support and defend the American system.

EMERGENCY FOOD AND MEDICAL SERVICES PROGRAM

Mr. EAGLETON. Mr. President, I want to commend the Appropriations Committee for including in the second supplemental appropriations bill for fiscal 1972 the sum of $30 million for OEO's emergency food and medical services program.

The phasing out, now underway, of this valuable component of the effort to end hunger and malnutrition is in flagrant disregard of the expressed will of Congress.

With the submission of its budget requests for fiscal 1972, the administration made known its intention to end the emergency food and medical services program, and asked for no new funds other than $3.5 million to continue projects serving Indians and migrants.

Twice in the past year Congress has indicated its disagreement with that judgment and its intention that the program be continued.

S. 2007, the OEO bill later vetoed by the President, earmarked $62.5 million for EFMS for fiscal years 1972 and 1973.

In a previous appropriations act Congress directed that $52.7 million be used for EFMS in the current fiscal year.

Despite these clear indications of congressional support, the emergency food and medical services program is now being phased out. The number of projects supported by EFMS funds has been reduced from over 700 to about 400 since the beginning of the fiscal year. Unless the administration's course is reversed, the number of projects will be down to 150 by July 1 and to virtually zero by fall.

Mr. President, the emergency food and medical services program has been one of the most effective and popular of all OEO programs, funding projects and activities which meet a real need and for which no other funds are available.

In St. Louis, the supplemental food program for pregnant women, new mothers, and infants provides nutritionally enriched foods to as many as 12,000 persons each month. The food is made available by the Department of Agriculture, but EFMS is the only source of Federal funding for the handling and distribution of the food. The St. Louis Human Development Corporation's EFMS contract expires on June 30.

Funding for the supplemental food program in Kansas City will terminate later this year.

In northwest Missouri, EFMS funds have been used primarily to expand participation in, and improve the effectiveness of, the commodity distribution program. Activities have included outreach to locate eligible individuals, assistance in the certification process, delivery of food to those without transportation, and an education program relative to the proper handling and storage of the donated foods.

The Missouri Valley Human Resources Development Corp. in central Missouri has implemented a demonstration school breakfast program. The State department of education provides 15 cents for each breakfast served. EFMS funds are used to match this contribution and to pay the personnel costs.

The program of the Delta Area Economic Opportunity Corp. in the Bootheel includes delivery service to the handicapped, and education in nutrition, money management, and budget buying.

In west central Missouri a successful effort was undertaken in cooperation with the county governments to establish a family food assistance program in the six counties that were without one in 1969. A supplemental food program has issued vouchers to such high-risk groups as the elderly, children, and expectant and nursing mothers to enable them to purchase the fresh vegetables, fresh fruits, fresh milk, and meat that are not available through the commodity distribution program. Other activities have included assistance to local school administrations in expanding their school lunch programs, and technical advice and assistance in the establishment of food production cooperatives.

These are only a few of the activities that have been made possible in Missouri by the emergency food and medical services program. Unless the phaseout of this program is reversed within the next few months, funding for these activities will be terminated.

Last week the Senate Labor and Public Welfare Committee approved S. 3010, extending the Economic Opportunity Act for 3 years. This bill authorizes an appropriation of up to $62.5 million for EFMS for each of fiscal years 1973 and 1974. It specifically mandates the expenditure of $30 million for this program in each of these years.

Hopefully, the administration will now understand that Congress intends to see the emergency food and medical services program continued. The $30 million included in the second supplemental appropriations bill will permit the refunding of many worthwhile projects that should be continued but would otherwise be terminated this summer.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement on the appropriation of funds for the emergency food and medical services program by the distinguished

Senator from South Dakota (Mr. McGOVERN).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MCGOVERN

As Chairman of the Select Committee on Nutrition and Human Needs, I want to support particularly strongly the amendment introduced by Senator Magnuson to provide an additional $30 million for the Emergency Food and Medical Services Program (administered by the OEO). Many of you will recall that the Program began as a response to the early evidence of hunger in America, resulting directly from an amendment to the Economic Opportunity Act introduced by my colleague from Mississippi, Senator Stennis. Many will also not need to be reminded that the problems which prompted the creation of this program persist with a terrible resiliency. The Select Committee on Nutrition and Human Needs continues to document that fact even now, fully five years later.

Over the years, this relatively small, relatively inexpensive program has accomplished much. From its grantees we have learned new ways of reaching the elderly who are in need of food assistance; we have enjoyed the Supplemental Food Program which provides specially nutritious foods to a particularly vulnerable group—pregnant women and young children; we have had access to nutrition-related research; and we have seen new ways to monitor our school lunch program developed. In every area of federal food assistance we find the small grants of the EFMS supporting new initiatives, enabling the development of improved program operation, securing broader program participation among the hungry poor.

More than once I have joined with my colleagues in supporting this program with funds and with continued authority. But in recent months I have also found myself—again more than once—taking positive actions designed to assure that the funds and the authority granted to the program would in fact be used. I would hope that our acceptance of Senator Magnuson's amendment would leave no doubt that the Congress intends that this program continue with full support. Just last week the Senate Labor and Public Welfare Committee approved the extension of the Economic Opportunity Act including an authorization for EFMS of $62.5 million for each of the next two fiscal years, and a mandate that at least $30 million be expended on the program.

Monday's action underscores, the repeated, consistent, actions by the Senate in support of this program. The Senate conferees will have still another opportunity to reiterate this support when they meet with members of the House later this week. It is my hope that that conference will accept the Senate provision and that the EFMS may get on with the business of enabling food assistance programs to better do their job.

SCIENTIFIC POLICIES OF THE NATION

Mr. McGOVERN. Mr. President, the Bulletin of the Atomic Scientists was established 25 years ago by a group of scientists who were concerned about the broad implications of scientific discoveries. It has continued to raise the vital questions about the uses and applications of science—and about the steps we must take if we are to put our knowledge to constructive and not destructive uses.

I was, therefore, pleased to respond to a questionnaire submitted to me by the Bulletin—a questionnaire that raised crucial questions about the scientific policies of the Nation. I ask unanimous consent that the questionnaire and my replies be printed in the RECORD.

There being no objection, the Bulletin was ordered to be printed in the RECORD, as follows:

BULLETIN OF ATOMIC SCIENTISTS QUESTIONNAIRE

(Senator George McGovern response dated Mar. 24, 1972)

(1) President Nixon has recently established a new program to provide federal support to technologies needed to solve domestic problems. Do you favor the federal government supporting science research for these technologies? What technologies would you emphasize?

I strongly support federal funding to develop new technology for meeting civilian needs, both in the public and private sectors. The President's effort is commendable, but at the same time I do not believe it moves forcefully enough to either counter potential obstacles or to grasp the full opportunities.

I have been proposing legislation since 1963 to help facilitate the transfer of excess military resources to civilian research, development and production. Certainly that includes scientific and technical manpower. In the public sector the most important element in a successful conversion program is to translate the need for new technology into effective demand through expanded funding of civilian research and development and through a commitment to apply new technology as it becomes available. In addition, I believe the United States should help underwrite "conversion internships" for scientific and technical personnel in private industry, to stimulate better technology in commercial fields while avoiding the enormous waste involved in the enforced idleness of highly-trained manpower released from defense and space programs.

Another series of problems is posed by the dispersal of government scientific and technological activities throughout almost all agencies of the federal government. Funds tend to be allocated on the basis of bureaucratic competition instead of according to a conscious priority choice. Those which do not have established backers tend to be neglected, and appropriations are wasted in needless duplication. S. 1184, which I am cosponsoring in the Senate, would confront these difficulties by establishing a cabinet-level Department of Science and Technology, with jurisdiction over all federal research and development activities including those of NASA, the AEC, the NSF, and the Department of Defense. I would undertake the reorganization as President.

The most pressing priorities for civilian research and development include pollution control technology and cheap, fast and convenient ground transportation systems. Equally important, though not requiring equal sums, are the development of new birth control technologies, new sources of energy, medical research, low-cost housing and housing rehabilitation.

(2) What sort of balance should be sought between our technological needs and our environmental concerns? Do we have to accept certain detriments to the environment to have the technological advances required by our society?

The question must, of course, be answered on a case by case basis. If the basic needs of human life—food, clothing, housing and the like—cannot be met without some environmental cost, then obviously we will choose in favor of meeting those needs and accepting the cost. The balance is shifted in cases where we are damaging the environment to provide only slight improvements in human well-being. But in any case, it seems to me that we ought to concentrate on disproving the premise that technological advance and environmental protection are natural adversaries, by elevating environmental considerations when we choose among alternative uses of technical resources.

(3) What solutions do you see to alleviate the current energy crisis? What forms of nuclear power are you in favor of developing?

In preparation for the long term we should be fully committed now to explore the maximum potential of such possibilities as controlled fusion, solar energy, and safe and non-polluting breeder reactors. We can look for colossal demands for energy several decades hence in order to maintain a decent standard of living, in large part because raw materials, such as iron, are being exhausted and we are thus forced to use such energy-intensive substitutes as aluminum. Controlled fusion and solar energy both appear to offer the potential for large energy production with relatively minor environmental effects.

However, even with an increased federal commitment, these developments do not provide a short term answer. Energy consumption has been growing ten times as fast as population, and we are running dangerously short now. One response is to slow that growth rate, by discouraging the promotion of new minor uses for electricity. In addition, we should increase the federal effort to use fossil fuels more cleanly and efficiently, concentrating on methods to de-sulphurize coal and oil, to control sulphur oxide and nitrogen oxide emissions from fossil fuel plants, on new storage and transmission technologies, and on magnetohydrodynamics (MHD). I do not favor rushing ahead with the present generation of water-moderated U–235 reactors.

(4) Environmentalists are concerned about the possible hazards of nuclear reactors in the event that an accident should occur releasing radioactivity into the biosphere. In addition they stress that standards for radioactive emissions should be more strict. How do you answer their concern?

I share the environmentalist view that every effort must be made to assure that nuclear reactors are safe before they are installed. As indicated above, I do not think construction of reactors on a large scale is a major priority now. They will never supply more than a fraction of the need, in part because the supply of U–235 is limited. This, plus the fact that so little is known about the potential hazards of radioactive emissions, suggests that we can afford to be extremely cautious in going ahead with these installations.

(5) The Atomic Energy Commission has come under attack for its position as both regulator and promoter of nuclear energy. How would you resolve that seeming conflict?

I would remove promotional activities from the AEC's jurisdiction. Today's serious conflict between environmental protection and nuclear power plants can be traced at least in some degree to the AEC's haste in encouraging implementation of reactor technology, and in its enthusiasm for nuclear power generation as the answer to our energy needs, including overoptimism on the timing of the breeder reactor. Both experience and common sense support the conclusion that promotion and regulation cannot sit comfortably at the same table.

(6) With the continued development of nuclear power is the concomitant problem of storing nuclear waste. What do you recommend?

The priorities outlined above would abate this problem somewhat, but it nevertheless remains an important research need. I do not pretend to know the best answer now, although I have been interested in some of the possibilities mentioned, including the sealing of wastes in glass-like solids to be buried deep in the earth.

(7) Many people would like the United States to back off and study the consequences of the new technologies being developed that use nuclear energy, for example, nuclear reactors and underground explosions to stimulate natural gas. Do you advocate a moratorium on this type of technology?

Until safety and environmental concerns have been satisfactorily answered—and until there is an undeniable need for going ahead—I think the proposed moratorium is a good idea.

(8) A segment of our population has lost confidence and trust in those controlling the development of new technologies in our country. How would you restore this?

The loss of confidence is an understandable and healthy reaction to our failure to adequately control one of the overwhelming forces shaping our lives. Michael Harrington's label, "The Accidental Century," is an instructive description of largely unplanned technological growth.

The proposed Department of Science and Technology can be the best response to this condition, because it will coordinate the government's scientific and technological activities with national priorities and thus allow conscious control, and particularly popular control, over the directions science pursues.

(9) What position would the space program hold in your administration? Would you promote the continued and increased support of space exploration?

I would support a reduced program for space exploration, designed primarily to consolidate and apply what we have learned thus far. I expect to oppose the space shuttle, and I generally do not believe that the potential incremental benefits from further manned flights warrant the large outlays required.

(10) What action would you take to halt the arms buildup between the United States and Russia? Are you in favor of continued construction and deployment of more sophisticated nuclear weapons to match or surpass the USSR stock?

We are already far ahead of the Soviet Union in deliverable warheads, and our forces are far in excess of those required to perform the essential deterrence mission. Contrary to the impressions left by Secretary Laird, the Soviet nuclear threat is substantially less ominous than it appeared last year and the year before. Under these circumstances we can well afford to freeze all further nuclear deployments pending the outcome of SALT.

For the longer term, the alternative national defense posture which I have outlined suggests that we should concentrate on buying what we need to meet realistic and foreseeable threats to our security, but that we should buy no more than that. I do not believe that such esoteric objectives as nuclear superiority have much meaning at a time when both the Soviet Union and the United States have the unquestioned capacity to destroy each other many times over; on the contrary, the pursuit of such goals has supplied most of the propulsion for the arms race which has damaged the security and swallowed the resources of both countries.

(11) Do you feel China, France, Great Britain and India ought to be involved in the arms limitations talks?

I would not favor suspending the talks with the Soviet Union until other nuclear parties could be brought in because at this late date such a step could endanger the prospects for an initial two-party agreement. However, I do believe such an agreement should be followed immediately by broadened talks to include both existing and potential nuclear powers.

(12) What approach do you favor in the Strategic Arms Limitation Talks? How much should the United States be willing to bargain for an agreement?

The most fruitful limitation, and the one most easily policed, would be a halt to all new deployments on both sides. The implications of multiple warhead technology suggest that a simple quantitative missile limitation, with no attempt to prevent qualitative advances, will leave the most serious arms race problem almost entirely untouched.

Considering the specific weapons and the stakes involved, I think it has been a grave mistake to approach the talks as if they were an international poker game, and to build weapons as "bargaining chips" which will probably be unnecessary or inappropriate even if negotiations fail. For example, our own Poseidon and Minuteman III MIRV deployments have already sharply narrowed the options available to SALT negotiators, by rendering MIRV a nonnegotiable item in the absence of a total freeze. There was no demonstrable immediate need for either MIRV or the Safeguard ABM. And the real bargaining chips have been the opportunity costs of those weapons—the improved housing, transportation systems, nutritional programs, and other domestic needs we could have taken care of with the same money. These are the reasons why I reject the notion that the best way to end the arms race is to continue it, and why I favor a hold on all new deployments which cannot be justified by a realistic evaluation of the Soviet threat as it develops. In this context we should see the triad as a vehicle for stability rather than as an excuse for rising strategic budgets. Considering all three systems together, it allows us to wait to see if a counterforce threat against one or another element really does develop, so long as we have full confidence that such a threat would not endanger our ability to deter war with the remaining system or systems.

POLISH CONSTITUTION DAY

Mr. PERCY. Mr. President, this week commemorative programs will take place all over the United States marking Polish Constitution Day, the national holiday of Poles still longing for freedom and independence. The continuing American interest in the welfare of the Polish people is symbolized by President Nixon's forthcoming trip to Poland.

At the time of its adoption, the Polish Constitution of 1791 was heralded all over the world as a great victory for freedom. Indeed, President George Washington wrote:

> Poland appears to have made large and unexpected strides toward liberty—

And Edmond Burke, the English statesman, wrote at the time:

> Humanity must rejoice and glory when it considers the change in Poland.

The tragedy of Polish history is that this freedom has not endured. Perhaps no people in modern times has suffered so much or so often or for so long.

Here in the United States many organizations work to serve the interests of Polonia and to keep alive the legitimate aspirations of the people of Poland. These organizations merit our praise and our support. I am especially pleased to be a friend of Aloysius Mazewski, a distinguished Illinoisan who is president of both the Polish American Congress and the Polish National Alliance.

We must continue in our efforts to sustain the concept of freedom for Poland. The President's trip emphasizes our concern. We also are working to have the Thaddeus Kosciuszko home in Philadelphia designated as a national historic site, and we are going to establish ethnic heritage study programs which will bring to all Americans the brilliance of Polish traditions which have produced such geniuses as Kopernik, Chopin, Madame Curie, Kosciuszko, Pulaski, and Paderewski.

It is in this spirit that we rededicate ourselves to the cause of the Polish people and congratulate all Polish Americans on the occasion of Polish Constitution Day.

NEEDLESS POLLUTION

Mr. FANNIN. Mr. President, during the past several years the ecology movement has attracted the attention of millions of people, especially the young. As in all zealous campaigns, there have been people who are deeply devoted to the cause, others who have taken advantage of the movement for their own personal gain, and those legions that have gone along because it was the in thing to do.

An editorial appearing in the April 18 edition of the State Press at Arizona State University notes that many of the people who are pointing the finger at industry are at the same time contributing to needless pollution themselves.

Mr. President, I ask unanimous consent that this thoughtful editorial by Bill Norman be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ECOLOGY ARMIES RABID, RAMPANT WITH HYPOCRISY

(By Bill Norman)

In the past few years we have seen a nationwide ecology movement arise. College students in particular have evidenced growing concern over our deteriorating environment and have swelled the ranks of the anti-pollution army.

Polluters, from copper smelters to offshore oil rigs from chemical factories to jet aircraft, have felt the legal and economic pressures of the pollution—fighting machine. And coupled with environmental concern we have seen a mass exodus, on weekends, holidays and vacations, to nature in her primitive state.

In the West when school is out, students flock by the thousands to Parker on the Colorado, Rocky Point, Guaymas and Kino Bay. In the South they mass on Florida beaches, and at the festival communion of Woodstock half a million congregated in the New Jersey forest.

It is natural and good, I think, when one sees nature bespoiled about him, that he feel a desire to get away, to travel to places comparatively untouched, perhaps unseen, by other men. And his desire to be among kindred spirits in such an unspoiled place is not unnatural.

It is strange then, that those who cry the loudest to save the earth are those, who when they gather, are the dirtiest and sloppiest of the earth's creatures and those most likely to deface the land.

At one time we see them in the anti-pollution vanguard, decrying the filth in the air, the sludge that was water and the once-green things now twisted and dead.

But at a different time they personify hypocrisy.

See Woodstock when they had gone—square miles of rubbish alien to nature. A once-beautiful forest glade reduced to a repository for trash.

At Parker, the river and its banks are an expanse of garbage. The summer soldiers cannot be bothered with ecology now. Their refuse is somehow different. Perhaps it has a personal quality to them. Someone else can pick it up.

Our friends will seldom be found far from their automobiles for, despite their ostensible love of the great outdoors, they find cars acceptable gadgets. It doesn't matter that cars are the major cause of pollution. The part-time ecology buff can easily make an exception in his own case.

I cannot deny that strong and vocal public disapproval of increasing damage to our environment has been responsible for strict pollution standards.

But when I hear a man expound on the necessity for ecological balance, only to watch the same man dump his trash about him without a second thought, I question his motives, I reject his claim to honesty, and I wonder, with he and his two-faced brethren, what chance we actually have of keeping nature natural.

THE 20TH ANNIVERSARY OF RADIO FREE EUROPE

Mr. PERCY. Mr. President, 20 years ago, Radio Free Europe began broadcasting to the people of Poland, Czechoslovakia, Hungary, Rumania, and Bulgaria, bringing news and viewpoints that were repressed in those countries.

The value of Radio Free Europe has been demonstrated over the intervening years as much by the efforts of the Communist governments to jam its signal, as by the cautious letters from grateful listeners in Eastern Europe.

Even though tensions have been reduced between East and West, the rulers of the countries of Eastern Europe still lack sufficient self-confidence in their power and popularity to permit a free and uncensored presentation of news for public consumption.

Hence, the thirst for objective news and commentary from non-Communist sources continues unabated, and that is why I pledge my own continuing efforts in support of further funding for Radio Free Europe.

LEAA FUNDS FOR ILLINOIS

Mr. PERCY. Mr. President, there have been recent reports in both the national press, and in the Illinois press, concerning the Law Enforcement Assistance Administration. The thrust of these reports has been that LEAA has been negligent in its duty to help fight crime at the local level. Of particular interest to me were the allegations that Illinois had not been receiving its fair share of Federal crime-fighting money.

Last Tuesday, in my office, I met with the director of the Illinois Department of Corrections, Peter Bensinger; the chairman of the Illinois Law Enforcement Commission, Arthur Bilek; and the Administrator of LEAA, Jerris Leonard. I discussed this whole problem with these men and also separately with Acting Attorney General Richard Kleindienst. The purpose was to clear the air of the rumors that have been circulating and get the facts. I would like to take this opportunity to set the record straight, for I look upon it as a direct responsibility of mine, as a Republican Senator with a Republican administration to see to it that Illinois does receive its full fair share of benefit from Federal programs.

Statements have been made that Illinois received only $8.5 million from LEAA last year, and that this represented a per capita expenditure of LEAA funds in Illinois of only 76 cents. This is not correct.

The record is clear. Last fiscal year, Illinois received a total of $24,534,478. In fact, this represents a per capita expenditure of $2.21, more than in either New York or California. What some critics have overlooked is that this money is put to the credit of the State of Illinois for a period of several years, to be drawn on like a bank account. How much is actually spent in a given year is an entirely different matter. But in fairness, it should be pointed out that Illinois has indeed been allotted its share of Federal crime-fighting money.

It has also been stated recently that of the money given to Illinois, Chicago, and Cook County have not been receiving their fair share and that they have gotten only 31 percent of this crime-fighting money. This also is without foundation.

By law, at least 75 percent of all action money given to a State must go to units of local government. Illinois has provided an average of 76 percent of these funds to units of local government.

In fiscal year 1969, Chicago and Cook County submitted very few requests for grants, and as a result received only 15 percent of the money that went to units of local government. However, in fiscal year 1970, they received 53 percent of that money; in fiscal year 1971, they received 59 percent, and in fiscal year 1972, 50 percent. Thus, Chicago and Cook County have received their fair share of the money that the Illinois Law Enforcement Commission has funneled into local units of government in the last 4 fiscal years.

But, even though this money has been set aside for Cook County and Chicago, they have not been spending it. Since fiscal year 1969, ILEC has made $9 million available to the city of Chicago. Of that, only $3 million has been spent. So in fact, Chicago has been getting its share of Illinois money. It is regrettable, however, that Chicago is not using that money to fight crime. Let me offer some specific examples of money that the city of Chicago requested and which was made available, but which was not spent:

On May 28, the city of Chicago was awarded $115,121 to develop a system of intelligence based on microfilm. The city was advanced $23,024, but never used the funds, and just recently they decided they did not want the project after all.

The city of Chicago also wanted to build an area 4 headquarters. ILEC made a flat award of $1,700,000, and promised to grant another $2.3 million when needed. This was approved in December of 1970; Chicago has not spent any of the money so far.

These are just two examples of how Chicago has been granted funds but has not used them.

The last item that needs to be clarified is the report that Illinois has had $8.6 million taken away from it by LEAA. This is not accurate.

Illinois requested $8.6 million in discretionary funds as the optimum amount of money that it could use to fund certain programs. This is the regular procedure used in grant applications. Though Illinois was never promised $8.6 million or any specific amount, Illinois officials expected to receive a proportion of the discretionary funds by LEAA commensurate with the size of the State's population.

After this request was submitted, Illinois was informed that the total amount of money available to the States in discretionary funds was to be cut from $48 to $28 million. The other $20 million was to be used to help fund the new high impact anticrime program in eight major cities, none of which are in Illinois.

At this point, the fear developed that Illinois would receive less than it might otherwise have in discretionary funds. However, LEAA and Acting Attorney General Kleindienst have assured me that the diversion of funds to the high impact anticrime program will not reduce the discretionary funds that will be made available to Illinois. State officials are now completing grant applications, and I have full confidence that these projects will be funded in the proportion to which Illinois is entitled.

To summarize: Illinois is not 41st in the Nation with regard to receipt of LEAA funds. LEAA money does not represent a 76-cent per capita expenditure in Illinois. In fact, Illinois has been near the top of the list of States receiving LEAA money, and the $24 million given to Illinois last year comes out to $2.21 per capita.

Chicago and Cook County have been consistently getting the money they have asked for to help in the local campaigns against crime. Unfortunately, a great deal of this money has been unused, as the city of Chicago has chosen not to spend it.

LEAA has not taken any money away from Lllinois. I have been personally assured that Illinois will get every dollar it is entitled to and deserves.

I am pleased that with the help of the Department of Justice I am able to clear the air with these facts. I want to thank Peter Bensinger, Arthur Bilek, Jerris Leonard, and Acting Attorney General Kleindienst for their help in better enabling me to bring these facts to the attention of my Illinois constituents.

WELFARE COUNCIL OF CHICAGO POSITION ON WELFARE REFORM

Mr. PERCY. Mr. President, the Welfare Council of Metropolitan Chicago, now known as the Council for Community Services, is a private organization with a distinguished record of social service. Since its founding in 1914, the council has promoted the well-being of children, families, and the aged. Its involvement in community problems and planning, in leadership training, and in voluntary civic action has been of immeasurable benefit to the people of the Chicago area.

Recently, the council has issued a position statement on welfare reform. I find the principles espoused by the council to be intelligent and realistic. Because of the Senate's current concern with welfare reform, I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Welfare Council of Metropolitan Chicago Position Statement

The Welfare Council finds that the present welfare system is obsolete, inefficient and inadequate and that there is a compelling need for a new system. In this document, the Council addresses the issue delineating (1) the major principles which should act as the framework for a welfare system; and (2) policy pertaining to the major components of any welfare system. Discussion of a health care program has been omitted. The Council will issue a separate statement on health services for the needy at a future date.

This statement should be prefaced with two cautionary notes. One, our society will always have those persons who because of disability, age, illness, or other reasons beyond their control, are dependent and who cannot survive on their private resources. Our society has an obligation to meet these human needs. Two, no welfare program should be viewed as a panacea. The real problems of unemployment, inadequate education and vocational training, substandard housing, inadequate health care and facilities, social disorganization, discrimination, and other ills threatening society must be faced realistically. These barriers which serve to isolate the poor must be removed so that all persons receive a fair position in society.

PART A

We propose the following general principles as guidelines and criteria for a new program:

1. A guaranteed floor of income to poor families. A welfare system should insure that each American family would have an annual income sufficient to maintain at least a minimum adequate standard of living.

2. The inclusion of the working poor A welfare system must include those individuals and families who have inadequate income, opportunity, and training as well as those individuals and families who have no income.

3. A requirement that recipients accept appropriate work or training when they are capable of doing so If we accept the principle of a guaranteed floor of income, we can expect that each person capable of working has the responsibility to demonstrate his attempts to be self-sufficient.

4. The inclusion of work incentives Substantial incentives should be developed to increase the advantages of working and the enjoyment of self-sufficiency and self-respect.

5. Uniform eligibility standards, uniform federal administration of the family and adult programs, and elimination of the assistance categories. It is necessary to have full federal administration, simplified administrative procedures, and a single set of new rules to replace the wide variations and inequities in the 54 separate state systems currently administering the federal public assistance program.

6. Expanded programs for work training, placement in private sector and public service jobs. Because the government's official economic policy has a direct effect upon the availability of jobs (or unemployment), the federal government must also assume the responsibility to stimulate the job market particularly in the private sector.

7. Expanded developmental day care programs for low income families. High quality developmental day care programs must be made available to meet the needs of children from low-income families.

8. Fiscal assistance for states. The federal government should move quickly towards full assumption of welfare costs. Immediate steps should be taken to remove the burden of cash grants from the states and to enable the states to administer ancillary social services.

PART B

The Welfare Council takes the following positions regarding components of a welfare system:

Eligibility

Coverage (Definition of Recipients)

New programs should not be limited to families with at least one child or to persons who are aged, blind or disabled. Childless couples and individuals who are not aged, blind or disabled should be included in the total welfare system. At present, these persons are covered by the General Assistance Programs administered by the various states. These persons need a better welfare system for the same reasons that necessitate a new federal program for families.

Resource Limitation

Resource limitation should exempt, in addition to home, household, and personal items, at least $2,000 in liquid assets, an automobile, and savings designated for the education of children. The latter two items should be discretionary depending upon each individual's situation. In many cases, mobility is an essential ingredient in freeing one's self and family from the poverty cycle. In addition, special provision should be made to encourage and protect family savings designated for the education of children, thereby avoiding punishment of those children whose parents display concern that they acquire the skills they will need to be more adequately self-sufficient.

Method of Determination of Eligibility

The Council has long advocated that applicants have the right to receive prompt determination of eligibility without extensive investigation. Eligibility by affidavit would eliminate massive paperwork by requiring the recipient to sign a statement that all documentary evidence is true. Affidavits can be verified by random audits similar to those done by the Internal Revenue Service. Extensive investigations not only waste administrative resources but also demean recipients by prying into their personal affairs through questioning of employers, neighbors, and landlords. At the present time, 20 states are using a simplified declaration method under directives from H.E.W. and experience to date indicates no increases in fraud or inaccurate grant payments.

Benefits

Method for Determination of Benefits (Accounting Period)

Budgets should be computed according to current need.[1] It is unrealistic to assume that past income has not been expended and that a family will save all income in excess of the payment levels because they anticipate going on welfare. The resource limitation suggested in Section 1.A above would effectively curtail any excess accumulation from other income periods. Methods of determining benefits based on other than current need would present an extreme hardship to those who are supporting their families by keeping temporary jobs and securing piece-meal employment, those who must rely upon seasonal work, and those who are abruptly thrown out of employment due to economic fluctuations.

Income Floor

We urge that an "income floor" be established for all recipients (including those newly eligible). All applicants not required to register for work or training[2] and employable applicants who are unemployed, should receive a cash grant to bring them up to this floor. Employed applicants with earnings less than the floor should be given supplementary assistance as based on a scale which would reduce the assistance as earnings increase. Such a scale should be developed which would both guarantee all employed recipients a gross income level (combination assistance plus earned income) at least equal to the floor and at the same time, make it profitable to work. Therefore, the floor would not necessarily be a cut off point for assistance, nor would all employed recipients be given an equal grant. The grant should decrease as earnings increase and would, for example, result in a small grant to those whose total earnings come close to the floor.

Income Floor—The Beginning Level

At the outset of the new program, the floor should be set at no less than the current "poverty level".[3] This floor should be adjusted to reflect conditions in the various geographical areas and disparities in the cost of living in urban and rural areas.

Income Floor—Annual Increases

Annual increases should be provided to bring this floor from the "poverty level" up to the Bureau of Labor Statistics (BLS) minimum needs for Lower Standard Budget[4] level adjusted to reflect conditions in the various geographical areas and disparities in costs of living in urban and rural areas. Such a transition from the recommended beginning floor ("poverty level") to the more adequate and responsible floor ("BLS Lower Standard Budget") should be made gradually over a ten-year period. Thereafter, the floor should be increased to meet the Lower Standard Budget which is adjusted annually. In addition, the Internal Revenue Act should be revised to be consistent with the incentive purposes of this program.

Mandatory State Supplementation to Maintain Present Benefit Levels

The Council further urges that in those states where present payments plus food stamps exceed this new floor, the states should be required to supplement the grant to the existing payment level and the federal government should fund an increasing proportion of the supplementary grant so as to fully federalize the basic assistance grants after a five-year period.

Employable Recipient—Freeze Level

In order to support the implementation of the work requirement and to avoid undue hardship to families with a member who refused to accept suitable work or training, we recommend that all those able to work or participate in training (again, those defined as employable) who refuse to do so would receive only the poverty grant level adjusted only to reflect annual cost-of-living increases. Therefore, as all other recipients' grants are increased each year to reach the BLS Lower Standard Level, this group would be frozen at the beginning floor level.[5]

Employable Recipient—Work Incentive

The disincentives in the current program must be removed. (For example, provisions which discourage individuals from raising their income or hours of work due to potential loss of total eligibility for assistance.) Work incentives must be included with primary emphasis upon retention of a decreas-

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Footnotes at end of article.

ing portion of the basic grant as earned income increases. This would help create a greater interest in remaining in the labor force and thereby increase an interest in moving upward in the work society.

Emergency Grants

A cash emergency grant in addition to the basic benefit levels should remain available to recipients in certain situations. (For example, when living accommodations are destroyed by fire.) Such grants should not be recovered from the regular payments and should be available at any time.

Emergency grants are an essential component as emergencies will continue to occur, and the private health and welfare agencies are not equipped to meet demands for cash grants in addition to the already noteworthy role which such private agencies play in providing extensive social, educational, health and employment and other services to public aid recipients. Furthermore, a payback would cut into already inadequate monies available to provide a minimal diet, and recipients will resort to relying on other recipients, others in the community, and other (including illegal) methods to meet their crisis.

Method for Determining Continued Eligibility

A simplified method for determining continued eligibility should be instituted. Provisions which would call for a cessation of payments after a period of time despite continued need, unless a family goes through the entire application process again, would be punitive. Such provisions will not only place undue hardship upon the recipient and cause large numbers to lose their benefits, but also it will create an unnecessary administrative burden and expense. Periodical re-application would shift the burden of review to the client rather than the agency employee. Some burden should be placed upon the recipient to encourage self-respect and control over one's own financial and person affairs, however, a simple affidavit issued by the agency would be a more workable and adequate solution. Further, a more elaborate procedure would be superfluous if periodic reviews and random audits were conducted.

Work requirement and provisions

The Principle

We believe that for those who are able to work, employment and training is the only satisfactory solution to the problem of dependency. We accept, in principle, a work-training requirement for certain individuals because it necessarily follows the principle of guaranteed income floor. The right to public assistance and the obligation of the government to provide for the helpless becomes a conditional benefit for those able to work. If the government places a floor below each family's income, then each family with the ability to do so has the responsibility to demonstrate that it is attempting to be self-supportive and independent. However, we caution that compulsory work and training programs are potentially demeaning. First, compulsory programs should not function as a system by which a recipient "earns" welfare but as vehicles for obtaining meaningful work or training. Such programs, in particular, any public service jobs, should avoid the weaknesses of the work relief programs of the past. Second, the emphasis should be on encouraging productive and meaningful participation in the economy, not on compelling meaningless and marginal employment. Third, some motivation beyond losing eligibility for assistance has to exist for a person to have the incentive to work or participate in training. Emphasis should be placed upon the development of educational and training opportunities to teach fundamental habits, attitudes and skills which would increase the hard-core unemployed individual's satisfaction with and ability to deal with work.

The Program

Expanded programs of job placement in the private sector, to provide training and to create constructive public service employment should be developed. Recipients should be required to register for such a program (for placement in regular [private sector] employment, training or public service jobs) except those who are: 1) Elderly or disabled; 2) Mother or other individual caring for a child under sixteen; 3) Children under sixteen, and students; 4) Caretaker of an ill or disabled family member; and 5) A parent (or spouse) where the other parent (or spouse) has registered or accepted work or training.

A registrant should be offered a job located in the private sector which he must accept if appropriate. If necessary, he should accept an appropriate training program. The final recourse would be an appropriate public service job, preferably at the community level, which in essence designates the government as the employer of last resort. In addition, we urge that serious study be allocated to the possibility of providing tax incentives to those in the private sector who employ individuals from this employment and training program.

Mandatory Work Requirement for Mothers or Other Caretakers of Children

Mothers or other caretakers of children under 16 years of age should be afforded the option of either working (or participating in training) or caring for their children at home.

(1) The Welfare of the Child.—An arbitrary coercive work provision would be in complete disregard of the welfare of the child and could be damaging to both the child and family life. The needs of the child and the responsibility to develop his capacity to function adequately in society should override coercive participation in the labor force. Human development must be placed before mandatory participation in a labor market which foreseeably, for the unskilled mother, could lack job satisfaction and adequate wages.

(2) Freedom of Choice.—The choice of whether to care for the child or work should be the mother's even if the mother is not, by whatever standards, fully capable, or even if day care would seem to be advantageous to the child. The right to make such a decision should be the parents.

(3) Caring for a Child or Children Should be Considered as Important a Function as Employment Outside the Home.—In many cases, it would be more beneficial to society for a mother or father to provide for the care and needs of his or her own children rather than to work for example, at minimum wage for 40 hours or more a week for a little over $3,000,[6] a year at a location possibly an hour and a half away from home.

(4) A Mandatory Work Requirement for Caretakers of Children Is Not Economically Sound.—In many cases, the cost of day care training or job placement, or the creation of a public service job would far exceed the cost of maintaining the child in the home.

(5) Mothers Would Volunteer for Work.—Reliable studies indicate that poor mothers want to work and will voluntarily take advantage of help in getting jobs or training. In a 1967 Wisconsin study of AFDC mothers of pre-school children, it was found that 53.7% of the mothers interviewed wanted to go to work if adequate child care were available. Twenty-two per cent of those interviewed were already working, 25% had worked at some time while receiving AFDC, and about 8% had never worked but had tried to find jobs since coming on the program. There was no earned income incentive at the time of the study. High income incentives would undoubtedly increase the desire to work. The House Ways and Means Committee in its Report on Hearings on H.R. 1 cites substantial data on the trend towards mothers voluntarily assuming support of their children. This date would suggest that a coercive work requirement for mothers of pre-school children is unnecessary. Under the WIN (Work Incentives) program, volunteers were plentiful. A joint labor HEW task force on WIN discovered that under-utilization of the program has been due to the ignorance of case workers and lack of outreach, plus insufficient child care and medical facilities, rather than to the intransigence of recipients.[7]

Protections Pertaining to the Work Requirement

The system must embody some provisions necessary for an equitable work provision. Any work program will have some basic problems, however, steps must be built in to minimize these. The following comments pertaining to both private sector and public service jobs and training programs.

(1) The recipient must be afforded the opportunity to challenge the suitability of work or training offered him. Definitions of suitable employment should be made clear and should include provisions regarding health, safety, risk, prior work, training and earnings, distance to be traveled and prospects of obtaining work more attuned to potential.

(2) The jobs offered the recipient in the private sector and those public service jobs should pay the federal minimum wage or the prevailing rate in the community for that particular job, whichever is higher. Exploitation of the poor is a risk in any compulsory work and/or training program. Employment that offers no real chance for the recipient to rise above or at least come up to the poverty level set by the federal government cannot be deemed as an incentive.

(3) A recipient should be allowed to refuse a job, when it would cause "undue hardship" to the family or individual, without losing benefits.

(4) No training should be undertaken unless the recipient is reasonably assured that work opportunities are available in the particular field. Compulsory training programs that do not realistically prepare a recipient for full employment opportunities at an adequate living wage are equally unrealistic.

(5) In addition, public service jobs can contribute significantly to reducing the number of employable persons who are unemployed, however, they should be full time jobs.

(6) Recipients should not be required to move to a different community for employment purposes.

Mandatory Medical, Vocational, Drug and Alcohol Rehabilitation

Vocational rehabilitation services for those who cannot accept work or training due to illness, physical disability, or age and treatment for those incapacitated due to illness, accident, drug or alcohol abuse should be provided on a voluntary basis. We question both the administrative feasibility of mandatory programs and the benefit which would accrue from forcing individuals to undergo rehabilitative and treatment services.

Priority in Referral to Work or Training

Priorities in work and training programs should be spelled out to include first, unemployed males with special emphasis towards regional unemployment trends and characteristics and the available labor market.

Administration

Poor administration can destroy any program and thereby decreases benefits and services to the recipient. Sound policies of coordination of all federal agencies involved should be established. Particular emphasis should be placed upon efficiency and the protection of the recipient. If it is necessary to operate a welfare system through more than one agency (e.g., Labor and H.E.W.) some protections must be built in to prevent the

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Footnotes at end of article.

recipient from hardships caused by repeated re-determination of eligibility and reapplication. Because family status will tend to fluctuate in many cases (e.g. family breakup, temporary disability, childbirth, death), it is foreseeable that many families will shift back and forth between administering agencies.

Fair hearings

There are great differences between the protections afforded a person who has been deprived of a government benefit and one who is a criminal or civil defendant. Oftentimes the loss of a government benefit has much more an impact upon an individual's life. An adequate welfare system must have the following safeguards built in as recipient protections:

Termination of Benefits During Challenge

Hearings should not be after the fact—following any action denying, withholding or modifying benefits. Provision should be made to maintain benefits while the recipient contests the action. The Supreme Court in March, 1970, held that prior hearings are constitutionally compelled for termination for benefits.[8] Lower courts have held that this principle applies to other actions as well.

Payment of Expenses

Experience has indicated that nearly half of all AFDC determinations are reversed after hearings. The recipient should not be deprived from challenge and due process because of a lack of funds. Therefore, especially in the light of the high incidence of error on the part of the government, provisions should be included requiring the payment of reasonable expense incurred by the recipient in pursuing his claim.

Right to Counsel and Notification of Rules and Rights

Claimants right to representation of counsel must be explicit. Further, the administering agencies must notify both the various groups representing recipients of proposed rule regulation changes and all recipients of rights on a regular basis.

Representation of Claimants

The present policy of free choice of recipient representation in dealing with officials should be maintained. Restrictions must not be placed upon representatives who are not attorneys. Lay advocates have been extremely beneficial in the past in assisting recipients to understanding their rights.

Residency requirement

Residency requirements should not be allowed. Residency requirement statistics have illustrated that the experience in Illinois is that the needy do not move here to gain higher welfare payments.[9] Across the country there is little relationship between migration and the residency laws which the Supreme Court has found discriminate against one needy group as opposed to another solely because they are new arrivals in a state.[10] Welfare is intended for those who are re-settling in a new community in search for a new life through better employment and who are thereby in need of temporary assistance.

Advisory committees

Many recipients are extremely capable of providing input into the evaluation process and should be utilized for this purpose. This practice should be continued.

Child care

Adequate child care provisions must be made to accommodate those individuals who would be required to work or accept training and those who voluntarily accept training and work. The design for a child care component of the welfare system must address questions such as: How can child care contribute to family stability? What hardships does it place upon the child? What benefits does the family receive? Will this child care provision strengthen family life? As stated above, child care services should be developed with the goal of contributing to child development and family stability and only secondarily in terms of making it possible for mothers to work.

The following guidelines must act as criteria for a child care design:

Guarantee of Parental Rights and Participation

(1) Parents must be guaranteed the right and opportunity of selecting services which their children may need.

(2) Parents must be involved in the development of programs which meet the needs of their children.

(3) Parents must have the opportunity of participating in child development training programs designed for the parent.

(4) Facilities should be located in close proximity to the home or place of work. Such centers should be easily accessible to parents and children.

(5) Families below a certain minimum income level should be provided free child care and others should pay according to ability.

Protection of Children's Rights

(1) Child care facilities should guarantee a child his safety and well being.

(2) Child care programs should be designed according to the developmental needs of each age level served.

(3) The program should provide opportunities for the child to grow to his maximum potential.

Minimum Program Standards

(1) Minimum educational health, recreation and social services should be included.

(2) The program should not be restricted to families on public assistance.

(3) The program should be available to mixed socio-economic groups in order to promote the social development of each child.

(4) There should be national standards designed to protect children's rights and meet his needs for social growth and development.

INTERPRETIVE NOTE

A position is a statement of principle, setting forth the position of the Board of Directors of the Welfare Council, against which to measure proposals pertaining to health or welfare programs and policy. Positions do not identify specific legislative proposals by name but do identify basic principles arrived at from an objective appraisal of needs.

This is the thirteenth position in the field of public welfare adopted by the Board since 1964, including a policy paper of July, 1971 addressing the Governor's Welfare Reform Message delivered in May of that year. This statement was written in a climate of considerable concern regarding a public aid fiscal crisis in the state; changes in the state program; and in a number of proposals before Congress addressing the welfare system, including a House passed version of the Administration's "welfare reform" proposals (H.R. 1). The statement was developed by a special Ad Hoc Committee consisting of members of the Council Board, the Committee on Public Policy and the Panel on Public Welfare. It was approved as amended by the Board on February 16, 1972.

FOOTNOTES

[1] H.R. 1, for example, presently before the Senate Finance Committee, provides that budgets be computed on a quarterly basis in order to determine the need for and amount of grant. Under this method, any income in excess of exempt income (that income which may be retained as a work incentive) received during the previous three quarters is to be deducted from benefits due the current quarter. A family not on assistance and suddenly thrown out of work which yields marginal wages could have to wait up to nine months before it is eligible for any payment, regardless of its ability to meet current needs.

[2] See Section 3.B for a definition of those who should be required to register for work or training.

[3] The poverty level, established annually by the O.E.O., is a guideline which defines the income level below which a family of a particular size would be considered to be poverty stricken. For a non-farm family of four, the poverty level was $4,000 in November, 1971. (Cook County Office of Economic Opportunity. Revised OEO Income Poverty Guidelines, November, 1971.)

Although it is less recognized as a scientific and accurate standard, we are proposing it here for lack of an alternative and as an initial beginning point for the establishment of a national income floor.

[4] The BLS Lower Standard Budget Level for 1970 was $6,960 for an urban family of four. (U.S. Department of Labor, Bureau of Labor Statistics. Three Standards of Living for an Urban Family of Four Persons, Spring, 1970. Supplement to Bulletin 1570–5.)

The Lower Standard Budget represents the lowest income needed for a family of a particular size to maintain minimum health, social and nutritional levels. For example, a housing allowance only for rent, use of public transportation and a low cost food plan are required under this budget.

[5] In effect, there would be two floors—one at the "poverty" level (for the employable recipient who refuses suitable work) and the other floor gradually progressing to the "BLS Lower" level over a ten-year period.

[6] At the Federal Minimum Wage ($1.60 per hour) for 40 hours a week for 52 weeks, an individual would earn $3,328. Work related expenses such as transportation, social security, taxes, sick leave, etc. would be deducted from this gross figure of course.

[7] H.R. 1: The Opportunities for Families Program and Family Assistance Program, Commentary by the Center on Social Welfare Policy and Law, Columbia University, June, 1971, page 8.

[8] *Goldberg v. Kelly*, 397 U.S. 254 (1970).

[9] Illinois Department of Public Aid, *Monthly Report*, March, 1971, p. 11–25 and *Monthly Report*, November, 1971, p. 20.

[10] *Shapiro v. Thompson*, 394 U.S. 618 (1969).

TAX REFORM: A SOUND PLAN TO TURN TALK INTO ACTION

Mr. CHURCH. Mr. President, during this election year there is much talk of tax reform. Recently, the Senator from Wisconsin (Mr. Nelson) and I, along with others Senators, joined in cosponsoring a bill which would turn that talk into substantive action. I am sorry that President Nixon has chosen to take the position that tax reform is not necessary. It is a position which I do not share, and I do not feel a majority of the American people share that feeling either.

Recently, the Idaho Daily Statesman, of Boise, Idaho, in an editorial entitled "Reform Plan Could Cut Idaho Property Tax in Half," discussed in some detail the tax reform legislation I have cosponsored. As I have said before, the Nixon administration should press for tax reform before it attempts to impose a nationwide sales tax on the American people. I ask unanimous consent that the article be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Idaho Statesman, Apr. 9, 1972]

Reform Plan Could Cut Idaho Property Tax in Half

The tax reform bill co-sponsored by Sen. Frank Church of Idaho could replace most of the $58 million Idahoans now pay in school property taxes.

It would be replaced with revenue raised by closing "loopholes" in the federal income tax law. Altogether the proposed changes would add $16 billion in revenue, which the sponsors propose to use to replace school property taxes.

President Nixon has suggested replacement of school property tax with federal revenue. He has been looking at a value added tax, a sort of national sales tax.

This idea has stirred strong opposition because a sales tax is regressive—falling heaviest on lower and middle income people.

The plan offered by Church and 11 other Democratic senators is an alternative which would raise the revenue from the individual and corporate income tax. (The other sponsors are Senators Nelson, Eagleton, Harris, Hart, Hughes, Humphrey, Kennedy, McGovern, Metcalf, Mondale and Tunney.)

If the $16 billion were distributed to the states on a population basis, Idaho's share would be $56 million. Idaho school property taxes in 1971 amounted to $58.9 million—and more than half of the total property taxes of $108 million.

The same formula would give Oregon $198 million for property tax replacement.

Here is a summary of provisions as described by Sen. Gaylord Nelson of Wisconsin:

Although it will be strongly attacked by those with a vested interest in the present tax structure, this is not a radical program. It represents a compromise between what would be an ideal tax reform and what it may be possible to accomplish at this stage in history.

It does not close every loophole. Rather, it concentrates on those provisions which are most unfair, and on which there is widest agreement among the experts. It incorporates a number of the recommendations made by the Treasury Department in its comprehensive "Tax Reform Studies and Proposals of December 1968." It has benefited from the assistance and advice of some of our most eminent tax lawyers and economists.

One area that most of the tax experts agree is badly in need of reform is capital gains.

Under present law, the federal government taxes only 50 per cent of any increase in the value of property—such as real estate or corporate stock—held over six months. The other 50 per cent is tax-free.

This one provision removes about $16 billion from federal taxation. It costs the Federal Treasury almost $8 million a year in lost revenue.

Nothing could be more unfair. The average worker who must live off his hard-earned wages is taxed at regular income tax rates. But the rich man can invest his wealth, and then simply wait—without lifting a finger—until it has increased in value. At that point, 50 per cent of his gain goes tax-free.

Defenders of capital gains like to invoke the myth of the small investor who supposedly would be hard hit if this tax preference were to end.

In fact, only one taxpayer in 12 receives any capital gains. Only 5 per cent of those earning under $10,000 receive any; and this group receives only a little over 1 per cent of the total tax giveaway. Meanwhile, 88 per cent goes to families earning over $25,000. Over half goes to people earning over $100,000.

But that is not the end of it. Many capital gains beneficiaries pay no tax at all. This is because no capital gains tax is due on property held until death.

Suppose a taxpayer bought $5 million of stock in 1950. The company has fluorished, and the stock is now worth $15 million. If he sells the stock, the taxpayer pays the capital gains tax on the $10 million increase in value. But if he holds the stock until he dies, neither he nor his heirs ever pays any capital gains tax on the $10 million.

The best long-term solution to the capital gains loophole is to treat these gains like other income. Indeed, I will shortly introduce legislation to do just this. The investor would pay tax on 50 per cent of the first $10,000 of gains in any one year, but above that he would pay tax on the whole gain. This proposal will be introduced and considered separately from the tax reform package because it is a much more dramatic reform and is not as widely supported as the other provisions of this bill.

But the proposal here is not so broad. It closes the major loophole in the transfer of property at death. It provides that capital gains shall be taxed at death as proposed both by President Kennedy and by the Treasury Department in its comprehensive study of 1968. This alone would add $2 billion to Federal revenues.

Another serious loophole is the oil depletion allowance. This allows oil men to receive 22 per cent of their income tax free.

In theory, the oil man gets the depletion allowance because his well is being "used up," in the same way that a businessman receives depreciation as his plant and machinery are wearing out.

There is one big difference, however. A businessman can claim depreciation on a machine up to the amount that it cost him. But the oil man can reecive his depletion allowance year after year as long as the well is producing.

The result is hardly surprising. According to Treasury estimates, the cost of the average oil well was recovered 19 times in 1966. Meanwhile, the 20 top oil companies were making profits of $4¾ billion and paying taxes at the rate of only 8½ per cent.

There is no good reason why the oil industry should receive this special treatment. Indeed, the Consad study prepared for the Treasury in 1968 concluded that total elimination of percentage depletion would have a minimal effect on our oil reserves.

However, the Tax Reform Act of 1972 follows the more modest proposal made by President Truman in 1950: it would simply reduce percentage depletion to 15 per cent, thus saving the Treasury over $400 million a year.

But not all the tax loopholes are as simple as capital gains and oil depletion. Some of them actually serve a social useful purpose.

Consider, for instance, the tax exemptions for state and local government bonds.

Because the interest from these bonds is tax free, investors are willing to buy them at lower interest rates. As a result, hard-pressed local governments can raise funds at a relatively low cost with a saving to the local taxpayer.

This is one loophole that appears to make sense.

But the appearance is misleading. In fact, this is an extremely wasteful way of helping state and local governments. And the beneficiaries of this waste—as usual—are the very rich.

Here is how it works. Suppose corporate bonds are paying 7 per cent, while tax-free local government bonds pay 4 per cent.

For the average wage-earner, his $100 corporate bond yields him $7. He pays $1.30 in Federal taxes, but the remainder—$5.70—is still more than the $4 he could get from tax-exempt bonds. However, for the millionaire—in the 70 per cent tax bracket—the $7 corporate bond dividend really means $2.10 in income, because $4.90 goes to the federal government in taxes. Obviously, he will prefer the $4 dividend, tax-free.

In short, here is another tax give-away that benefits only the rich.

True, this provision saves local governments about $1 billion in interest costs. But the Federal Treasury loses about $2 billion in tax income. The difference is about $1 billion, of which over 80 percent goes to the richest one per cent of the population.

The proposal in this bill allows local authorities the choice of continuing to issue tax exempt bonds, or of issuing taxable bonds and having the federal government pay 50 per cent of the interest cost. Since the 50 per cent of the interest cost subsidy is worth much more than the lower interest cost resulting from the tax exemption, state and local governments will have a strong incentive to issue taxable bonds. At the same time, the new provision in no way violates their freedom of choice.

A similar proposal was passed by the House in 1969.

The effect of this change is to give an additional $1 billion of Federal funds—now benefiting investors—to State and local governments. Indeed, combined with the $16 billion that would be returned directly to State and local governments under my proposal, this in effect makes a total of $17 billion that could be used to finance the local schools, or pay for property tax relief.

Numerous other tax changes are also needed.

We should substitute a $150 credit for the $750 personal exemption. At present, every taxpayer gets a $750 deduction for each member of his family.

The problem is that this deduction is worth $105 to the low-income taxpayer and $525 to the man in the 70 per cent bracket. A $150 credit would put everyone on the same footing, give a sizable tax cut to most lower- and middle-income families, and raise $1.9 billion for the federal treasury.

We should repeal the accelerated depreciation system—ADR. Originally, we were told that this depreciation speed-up would help the economy because it would encourage businessmen to invest more, and this, in turn, would create jobs. But the ADR system has now been in effect over a year, and it is hard to find an economist who believes it has helped anyone but corporate stockholders. Meanwhile, it is costing the rest of us about $3 billion a year.

We should close the real estate loophole. A rich investor can put up an apartment building, take accelerated depreciation on it, and use the depreciation to shelter from tax his other ordinary income, such as salary and dividends. Moreover, if he then sells the building at a profit, he can frequently receive favorable capital gains treatment on part of it. Changing these provisions will increase federal revenues by up to $1 billion annually.

We should beef up the minimum tax adopted in the 1969 Tax Reform Act. This provision was supposed to end tax avoidance by the rich, by making even loophole income subject to a small tax. Unfortunately, the minimum tax has turned out to be a gentle "love tap" to the rich. This is because some income is not subject to the minimum tax; there are overgenerous exemptions; and the tax is only 10 per cent—about the average rate paid by the taxpayer earning $12,000 a year. Changing these features will raise $3 billion a year.

These eight proposals described so far will raise over $11 billion a year in new Federal revenues. There are 47 other proposed changes in the Tax Reform Act of 1972. Together, these would raise well over $5 billion a year, to bring the annual total for the whole bill to over $16 billion.

The exact formula for distributing these funds within a state has yet to be worked out. Certainly, it should give relatively greater assistance to areas of major need.

J. EDGAR HOOVER

Mr. FANNIN. Mr. President, I was very saddened yesterday to learn of the death of one of the greatest men in America, J. Edgar Hoover.

He was a man of great character and strength, a magnificent leader whose devotion to duty inspired our people.

Under his direction the Federal Bureau of Investigation was built into an organization which was respected by all law-abiding Americans and feared by criminals.

J. Edgar Hoover was a man of intense loyalty to his country. He believed strongly in the principle of rule of law, and this spirit is a part of the tradition of the FBI.

Mr. President, Mr. Hoover restated his belief in the rule of law in the FBI Law Enforcement Bulletin which was dated May 1, 1972. In his message, Mr. Hoover stressed that:

> Unless we honor and obey the rule of law, the tyranny of extremists may inevitably result.

I ask unanimous consent that the last message from the Director be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

MESSAGE FROM THE DIRECTOR—TO ALL LAW ENFORCEMENT OFFICIALS

MAY 1, 1972

Extremists of all stripes in our society ceaselessly attempt to discredit the rule of law as being biased and oppressive. They have no conception of—or purposely choose to ignore—its role and history. It is not suprising that these divisive elements concentrate their abuse on the law enforcement officer. Above all, he stands firmly in the path of mindless actions that would reduce our government of laws to mob rule or the whims of lawless men.

To permit such attempts to damage the reputation of our government by law is, of course, a necessary condition of democracy. While it must tolerate the lawfully expressed views of extremists, its citizens cannot through their own ignorance be entrapped with sympathy for bankrupt doctrines that would lay waste the foundations of their Nation.

In observing Law Day, USA, this May 1st, we have an opportunity to view our laws in their proper perspective and appreciate the role they have played in developing our Nation. This day is also a time to renew our obligation of support to law enforcement officers, 126 of whom selflessly gave their lives last year in upholding the law.

Our greatest democratic heritage is the rule of law. It is the foundation for and the guardian of the rights, liberties, and orderly progress we enjoy. It is also the soil that has nurtured the "American dream" implicit in the Declaration of Independence pledge to provide ". . . Life, Liberty, and the Pursuit of Happiness" for all our citizens.

The tests of time and challenge in our Nation's history have more than proven the majesty of the law. Were this not so, our country would not have endured its strife to now stand before the nations of the world as a model of freedom and accomplishment. This is not to say the law has always been right, but that it has been organized to ultimately seek justice. Recognition of its power for good is not merely the experience of our nearly two centuries of democratic government. The struggle to insure the right of the individual and his social organizations by written decree has roots which reach far back into antiquity. The authors of our Constitution were mindful of this legacy when they drafted that historic document.

Nor was the importance of a definitive rule of law lost to the general public of our infant Nation. Worn by the ravages of the Revolutionary War, our expectant forefathers appealed for and got amendments to the Constitution which formed the Bill of Rights—specific guarantees of law that responded to the heart of their grievances. Together the Constitution and the Bill of Rights gave birth to our rule of law and it is the flesh and blood of our Nation.

The law is dynamic because it responds to change as it did for those who argued for and received the Bill of Rights. And our Nation's history has been a chronicle of change. But the process of change in a democracy requires discipline and responsibility that will not unleash unrestrained forces that would rip the fabric of our freedoms. That fabric derives its strength through the warp and woof of laws that orderly guide the process of change by defining our individual and corporate duties. Change in our society would otherwise simply result from those who could impose their will on others without regard for the validity of their arguments or the rights of those who do not share their views.

Law Day honors an indispensable commitment of a free society: that democracy be dynamic but not self-destructive. If we do not value this commitment by both honoring and obeying the rule of law, the tyranny of extremists may inevitably result.

JOHN EDGAR HOOVER, *Director*.

AMERICAN PUBLIC SUPPORTS FUND CUTOFF

Mr. CHURCH. Mr. President, I invite attention to the most recent Gallup poll concerning U.S. military involvement in Indochina. According to Dr. Gallup's latest findings:

> The American public gives overwhelming support to a bill now in Congress which would cut off all funds for the support of U.S. troops in Vietnam after December 31, provided North Vietnam agrees to release all U.S. prisoners. Seventy-one percent favor this bill, 23 percent are opposed and 6 percent are undecided.

The "bill" referred to here is the Case-Church amendment which is title VII of the Foreign Relations Authorization Act of 1972.

Before the Senate votes whether or not to strike the Case-Church provision from the pending bill, I hope that each Member take a close look at what the American people overwhelmingly favor—for Congress to use its power over the national purse-strings to secure the release of our prisoners of war, and bring our participation in this winless war to a close.

I ask unanimous consent that Dr. George Gallup's latest poll, the language of the Case-Church amendment, and the committee report explaining the provision's intent be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Salt Lake City Tribune,
Apr. 25, 1972]

GALLUP POLL—AMERICANS DIVIDED ON RAIDS

(By Dr. George Gallup)

PRINCETON, N.J.—The American people are sharply divided on the issue of the bombing of North Vietnam, with 47 percent in favor, 44 percent opposed and 9 percent undecided.

At the same time, the public gives overwhelming support to a bill now in Congress which would cut off all funds for the support of U.S. troops in Vietnam after Dec. 31, provided North Vietnam agrees to release all U.S. prisoners. Seventy-one percent favor this bill, 23 percent are opposed and 6 percent are undecided.

A close division of opinion is found regarding President Nixon's overall handling of the Vietnam situation, with 48 percent expressing approval, 44 percent disapproval and 8 percent undecided.

These findings are based on a nationwide survey of 1,483 adults, 18 and older, who were interviewed in person last Saturday and Sunday.

TITLE VII—TERMINATION OF HOSTILITIES IN INDOCHINA

SEC. 701. Notwithstanding any other provision of law, none of the funds authorized or appropriated in this or any other Act may be expended or obligated after December 31, 1972, for the purpose of engaging United States forces, land, sea, or air, in hostilities in Indochina, subject to an agreement for the release of all prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972—S. 3526

TITLE VII. TERMINATION OF HOSTILITIES IN INDOCHINA

Section 701, hereafter referred to as the Case-Church amendment, would bring about a total withdrawal of all American military forces from Indochina, provide an inducement for the release of American prisoners of war and an accounting of those Americans missing in action, and reinforce Title VI of Public Law 92–156 (known as the Mansfield amendment). It is also designed to give the President's program of Vietnamization the best possible chance for success.

The Case-Church amendment utilizes Congress' power of the purse. It prohibits the expenditure or obligation of funds for the maintenance or support of United States military forces in or over North or South Vietnam, Cambodia, or Laos, on or after December 31, 1972. This means that, beyond this explicit date, the purse strings will be drawn shut and there will be no financing of American armed forces for the purpose of engaging any further in the war on the Indochina peninsula, once an agreement is reached for the release of U.S. prisoners of war now held by the Government of North Vietnam and forces allied with that Government as well as an accounting for all Americans missing in action who have been held or known to be held by the North Vietnamese or its allies. The Committee is convinced that the best way to get American prisoners home, other than through a negotiated settlement, is to bring all our troops, airmen and sailors home. That is the objective of this provision.

Case-Church, on the other hand, does not prohibit the furnishing of military assistance nor the maintenance of traditional Military Assistance Advisory Groups (MAAGs) in the countries of Indochina. U.S. monies and materiel can be provided the various governments of Indochina, but participation by U.S. personnel shall be limited to small numbers of technicians responsible for the distribution and end-use checking of said monies and materiels only. Advisers of any kind are barred from involvement throughout Indochina, as they are already in Cambodia by Section 7 of Public Law 91–652 (known as the Cooper-Church amendment). There shall also be the normal-diplomatic complement of military attaches.

The Case-Church provision, approved by a vote of 9–1, is the latest attempt by the Committee to bring about an orderly and rapid termination of our military involvement in the war in Indochina. It follows on the two Cooper-Church amendments which are now law. These bar the introduction of U.S. ground combat troops into Laos, Thailand, and Cambodia, plus American military advisers in Cambodia. It follows the repeal of the Gulf of Tonkin Resolution. It follows the Mansfield amendment which passed the

Senate three times last year and was enacted into law, setting a government policy to terminate U.S. military operations in Indochina by a date certain and withdrawing all our forces contingent upon the release of all American POWs. Another Cooper-Church amendment to end U.S. military involvement in Indochina was deleted from the Foreign Assistance Authorization bill by the Senate last October 28th by one vote.

The Case-Church provision is an example, too, of the Committee's efforts to restore the proper Constitutional balance between Congress and the Executive branch in matters of war and peace. In 1969, the Senate voted for the Commitments Resolution; on April 13, 1972, the Senate passed the War Powers bill, making explicit what the President can and cannot do vis-a-vis the Constitution in engaging the armed forces of the United States in hostilities.

The Committee believes that for American national interest to be served and for the President's policy of Vietnamization to succeed, America's allies in Indochina must be put to the test of defending themselves against hostile forces without U.S. military involvement and back-up support. Such a time is now, not five years or 20 years from now.

After so many years of U.S. participation in the Indochina war, it is the strong view of the Committee that the United States has fulfilled its commitment in arming and assisting as well as in engaging in combat for another country. In fact, the United States has done evertyhing legitimately possible for South Vietnam to help it stand as a nation on its own two feet. If it is unable to do so now, neither the bombing of North Vietnam, the use of more devastating military tactics, or the continued presence of Americans will enable it do so. If the South Vietnamese are to become self-reliant on the battlefield, then 1972 is the year for total American military withdrawal and for a total take-over of the war by the peoples of Indochina themselves.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The PRESIDING OFFICER (Mr. Chiles). Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Mississippi (Mr. Stennis), No. 1175.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would hope that during the afternoon the Senate could proceed with debate on the pending question, which is on agreeing to the amendment of the Senator from Mississippi (Mr. Stennis). In a moment I shall move to recess the Senate until 2 o'clock, in order that the Senators who are authors of the Church-Case language in the bill, Senator Stennis and other Senators may be able to sit down and discuss a possible agreement with respect to a date and time for voting on the Stennis amendment. We will meet shortly for that purpose, and in view of that fact, and due to the additional fact that no Senators are presently on the floor other than the distinguished Senator from Mississippi and the assistant Republican leader at this point and no one seeks recognition as of this moment——

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STENNIS. Reserving the right to object, and I shall not try to prolong the session, I think the acting majority leader is correct, that there must be a conference here. As author of this amendment, I do not wish to unduly rush my colleagues at this point, but I think we could get at the issue here, have a reasonable debate, and vote, say, tomorrow afternoon or Friday morning. I would agree to either time. Of course, I realize others may have problems.

Turning to another point: I do want to have a chance to get the floor this afternoon to make a speech of reasonable length in support of the amendment. I assume that when the recess is over, this will still be the pending matter.

Mr. ROBERT C. BYRD. It will be.

Mr. STENNIS. I shall try to be here and ready at that time.

Mr. ROBERT C. BYRD. Does the Senator wish to be recognized at 2 o'clock?

Mr. STENNIS. Well, I would not request that now, but I shall be here and we can consider it then.

Mr. GRIFFIN. Mr. President, I am glad to hear the distinguished author of the pending amendment indicate his readiness to vote tomorrow or the next day. I simply want to indicate that as far as the leadership on this side of the aisle is concerned, that would be our position. I hope we can move to a vote.

Maybe there is no opposition to this amendment. I do not know. If there is, I am sure we would like to hear from the opponents pretty soon.

Mr. ROBERT C. BYRD. Mr. President, may I say for the leadership on this side of the aisle that as far as I am concerned there is no wish on my part to delay action on the pending amendment or on the pending bill, but I must respect the wishes of all Senators, and seek to find a middle ground, so that at some point in time we can vote on the pending amendment, allowing Senators ample time in which to be notified as to the date and hour for such a vote.

I would be very agreeable, personally, to setting the pending amendment aside some time during the afternoon if we cannot get a vote on it today or tomorrow, and proceed to the consideration of some other amendment on which we might be able to get a vote, in the meantime, and thus make progress; but having discussed this with various Senators, I sense that it will not be possible to do so at this time.

So, in the interest of possibly working out such an agreement among the principal Senators concerned on both sides of the aisle and on both sides of the question, unless the able Senator from Michigan wishes me to yield, I shall now move for the recess.

Mr. President, directing my remarks now to the very distinguished Senator from Florida (Mr. Chiles), who now presides over the Chamber, I move that the Senate stand in recess until 2 p.m. today.

The motion was agreed to, and at 12:44 p.m., the Senate took a recess until 2 p.m.

The Senate reassembled at 2 p.m., when called to order by the Presiding Officer (Mr. Weicker).

QUORUM CALL

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Weicker). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hatfield). Without objection, it is so ordered.

AMENDMENT OF THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS

Mr. BURDICK. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of S. 2030, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Mr. Weicker). Without objection, the bill will be stated by title.

The assistant legislative clerk read as follows: "To amend section 6(b) of the Revised Organic Act of the Virgin Islands relating to qualifications necessary for election as a member of the legislature."

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was read the first time by title and the second time at length.

The bill was ordered to be engrossed for a third reading and was read the third time and passed.

Mr. BURDICK. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 735, H.R. 9545.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk proceeded to read as follows:

H.R. 9545, to amend the Revised Organic Act of the Virgin Islands to provide that the Legislature of the Virgin Islands shall prescribe the minimum age for membership in the Legislature.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BURDICK. Mr. President, I move that all after the enacting clause be stricken and that the language of S. 2030 be substituted therefor.

The motion was agreed to.

Mr. BURDICK. Mr. President, the language of my bill is identical to that which the Legislature of the Virgin Islands requested the Congress to approve, and I believe it is incumbent upon the Congress to comply with the wishes of the elected representatives of the people of the Virgin Islands. The Organic Act, which my bill would amend, is to this territory what a constitution is to each of the States. The customary method of prescribing the age requirements for public service is found in the State constitutions. Therefore, to set this age requirement in the Organic Act is consistent with what is done in the States.

I am hopeful that the House of Representatives will agree with the language which represents the wishes of the Virgin Islands Legislature.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 9545) was read the third time and passed.

Mr. BURDICK. Mr. President, I ask unanimous consent that the title of H.R. 9545 be appropriately amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

The title was amended so as to read: "To amend section 6(b) of the Revised Organic Act of the Virgin Islands relating to qualifications necessary for election as a member of the legislature."

Mr. BURDICK. Mr. President, I ask unanimous consent that S. 2030 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BURDICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEN-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 10 minutes.

The motion was agreed to; and at 2:25 p.m. the Senate took a recess until 2:35 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WEICKER).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BUCKLEY TOMORROW

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that on tomorrow, following the remarks of the distinguished Senator from Mississippi, the distinguished Senator from New York (Mr. BUCKLEY) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate resumed the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

Mr. STENNIS. Mr. President, what is the pending order of business before the Senate?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Mississippi (Mr. STENNIS) to strike out section 701 on page 30 of the bill, S. 3526.

Mr. STENNIS. I thank the Chair. In the printed bill, I believe it is on page 38.

The PRESIDING OFFICER. The Senator from Mississippi is correct.

Mr. STENNIS. Mr. President, the purpose of this amendment is to strike out all the language of section 701, which is all on page 38 of the printed bill that is now before the Senate, S. 3526. I ask unanimous consent that the text of that section be printed at this point in the RECORD.

There being no objection, the text of section 701 was ordered to be printed in the RECORD, as follows:

TITLE VII—TERMINATION OF HOSTILITIES IN INDOCHINA

SEC. 701. Notwithstanding any other provision of law, none of the funds authorized or appropriated in this or any other Act may be expended or obligated after December 31, 1972, for the purpose of engaging United States forces, land, sea, or air, in hostilities in Indochina, subject to an agreement for the release of all prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.

Mr. STENNIS. Mr. President, this is the so-called war amendment, or the so-called withdrawal amendment. The substance of the amendment is that no funds authorized or appropriated in this or any other act may be expended or obligated after December 31, 1972, for the purpose of engaging U.S. forces—land, sea, or air—in hostilities in Indochina, subject to an agreement for the release of all POW's and an accounting of those missing in action, and so forth.

I have been drawn into this debate and have offered this amendment because I saw that with the presentation of this amendment, this early in the session—a similar one having been offered and debated last year extensively on the military procurement bill—this was the first test, the first debate, and that I would be confronted with similar amendments when the military procurement bill came before the Senate. I felt that I might just as well try to prepare for and meet this issue now, as best I can, rather than wait until the later debates.

I hope we can get a voting agreement soon. I am not trying to press anyone, but I hope we can get a unanimous-consent agreement soon, so that, after reasonable debate, we may vote this amendment up or down. To that end, we have had conferences, and the floor leaders will explain that to the Senate later. There is no agreement now, but I am just expressing my hope. If other Senators desire to do so, debate could occur today, tomorrow, and Friday, and I would be willing to vote as early as Friday of this week.

Mr. President, this matter now has a special significance, because I consider that the battle that is going on now in South Vietnam—and I am not discrediting the South Vietnamese Army one bit beyond the naked facts—is not being won. The war is not being won, but the battle is being won by the North Vietnamese. There is no doubt about that. We hope by the hour that the situation will change.

But it is now being lost, and that is in spite of the air cover that we are giving—and we are giving all that can be given. That is what I am told, and I believe it is the fact. We are giving all the air cover in this battle, wherever it may be ranging north of Hue, that can be brought in under the circumstances, when it is not precluded by cloudy weather.

This is by no means a lost battle, but there is a crisis there now of the greatest kind. It is almost 30 days since the crossing of the DMZ, and the North Vietnamese have been steadily overcoming the resistance they have met, and they were met with considerable resistance. A great amount of valuable and creditable fighting has been put up by the South Vietnamese, but so far the battle is going the way I have described. Within the next few days—it might be 7 days or less, or it might be 2 or 3 weeks; I am not a military expert, but one can see what is coming—it is going to develop rapidly to a crucial point with reference to the city of Hue, a very important area and a critical part of this war. South Vietnam, fortunately, has some of its finest troops there, and I am sure that they will fight with great credit.

The issue has been joined, and for the next 10 days, 2 weeks, 3 weeks, or 4 weeks, the battle is going to ebb and flow and continue in a critical situation. As that battle continues, if it goes against the South Vietnamese, it will be very difficult for them without our assistance from ground troops—in my opinion—to recover from the crushing blows. Nothing is further from my mind than that we could now, or should now, send back in our ground troops. I do not think the President has anything like that in mind, based on what he said many times to the American people.

In round numbers, we have about 68,000 troops remaining in the country—not all around Hue—but in South Vietnam. These are U.S. troops in American uniforms. That figure is not classified. There is no secret about it. They are there. They could not all be taken out in 24 or 48 hours. They are there. We are responsible for them, as we are responsible for the prisoners of war. The 68,000 troops are there and they represent the flag.

That is a part of the picture. I emphasize that we have been providing all the air support in these battles that could be provided. We had it there and we have used it. It helped a great deal.

I emphasize, too, that we hope the North Vietnamese can be stopped. I think there is a chance that the North Vietnamese will be successfully challenged. But then, they may not be. I warn now that—if the North Vietnamese are not stopped—the American people will go through weeks of travail and they will be deeply concerned. They will be, if it comes to the worst, humiliated to a degree. I know that the American people want to get out of the war. I want to get out. Every other Senator here does. But if we scratch beneath the surface of the American people, we will find that they do not want to be driven out. They do not want, like a whipped dog, to have to leave the scrap he has been into.

We are facing a tragic situation. The American people do not want all our sacrifices and loss of life to go down the drain. I am sure that this is not the purpose of those Senators who support section 701. But I believe that this provision of this law, if approved by the Senate, will tend—will help—to bring about a situation whereby those sacrifices could go down the drain, or be made worse.

I do not believe the American people want that to happen. They do not want it to happen now in the weeks of this crucial battle and in the feeling now prevalent in the Senate. For that reason alone, I think we should establish a barrier here, to stop, look, and listen, and strike this amendment from the bill. If Senators want to bring it up in some other form, at some other time, that would be a different matter. But the crucial weeks are here, just as certain as night follows day.

What else is happening, at the same time, during the same weeks that this battle will be raging?

The SALT talks are coming to a head. They have been in progress for 3 years. We have been trying to get some kind of starting point—just a starting point, some kind of agreement with Soviet Russia with reference to limiting these terrible nuclear powered weapons—so-called atomic weapons, and others—just some kind of start.

I verily believe that, this time, we will get something. I do not know what it will be. I do not know how far it will go, but I think it will be enough to be called a start. I believe the American people generally will approve, if we get in the neighborhood of what I think we have the chance to get, after all these years of deliberation, by our capable representatives led by Ambassador Smith and engaged in, to an extent, by the President and others. That deliberation has been going on. We are right down to the crucial point. It will come to a head within 3 or 4 weeks, for better or worse. I think it will be for the better. It will be something that will come to the floor of the Senate for debate, and on which a decision will have to be made, unless something happens to scuttle it.

What else is happening during these next 3 or 4 weeks that the battle is going on in North Vietnam? The SALT talks in Moscow have come to a head, and President Nixon is going to be on his way to Moscow to deal with the heads of state there. President Nixon is a man like everyone else, but he is the Chief Executive of this Nation. He is the man that the people of this country have chosen, under the Constitution, to exercise the Executive power of the Government. There may be another President after the election in November, but he is the only one we have now. He is the only one that has the power—the same man who has been making all the preparations and has gotten this thing this far.

What are we going to do to him under these circumstances? The battle is being waged in the far Pacific. The agreements on the SALT talks are on the verge of being won—maybe—in Western Europe. The Chief Executive is going over there—for what?—to represent the American people.

But we are going to tie his hands and pull his feet out from under him?

Do not be misled. That is what section 701 will do. It will tell the President, it will tell others, especially the enemy—everywhere—that we are not going to let our President have a dime of money after December 31 for operations in all of Indochina unless certain things happen.

The committee report says, and I am sure they are honest about it, that they are trying to help President Nixon on Vietnamization with this withdrawal provision. As I said, with all deference, this is a new way to help a person, by tying his hands and taking his feet out from under him.

I do not believe that it will happen. I do not believe the majority of the Members of this body will vote for section 701. If it does, however, I can say that nothing like it has happened in this Nation, or even come near happening, since that unfortunate war of more than a century ago, in Lincoln's time. My people were on the other side then. But we have studied that history a little more closely than some. The same effort was made then to tie President Lincoln's hands, to restrain and restrict him. It all came to naught, but the Senate was going to help him get a peace.

Mr. President, if they had prevailed, he would have been stopped in his tracks and the Union would not have been saved in that war. It might have been saved later in some way, I do not know. I cannot pass on that matter. However, I know about the history well enough to know that if that group had prevailed then—and they were sincere and they were patriotic, no doubt about that—the purpose, the saving of the Union, would not have prevailed. Some other result would have happened. No one knows what it would have been or where it would have left us.

So far as the President of the United States is concerned, the Constitution puts responsibility on him. He is prepared. He is primed both with respect both to the Pacific and the Soviet Union.

Let us keep the responsibility on him. That is my doctrine with reference to any chief executive, to keep the responsibility on him. At times we have to stand up here and take votes that we do not like to take. That is so that the Nation can survive and have an executive head with power to function and the support of the Congress. Whether I particularly believe that these steps should be taken or not, we have a responsibility here.

I have no word for a President on a personal basis, Mr. Nixon or anyone else. However, I tell the Senate that we are flirting with dangerous facts here. We are playing with fire.

The bill has a section that, if agreed to, can create doubt and uncertainty in the minds of our adversaries on both sides of the world and confound our friends. So, I urge and warn against it. I do not want the war to continue. I want our prisoners of war to come home, just as everyone else does. But I think the timing of this matter is certainly just as bad as it could be. And those who might not agree with me on the merits of the facts I have related and my conclusions, I challenge their minds and their patriotism to consider the timeliness of this provision.

I submit that it is totally wrong. I submit that the timing of the provision is wrong.

I leave a second thought with the Senate. I know that there is considerable sentiment in favor of approving section 701. I believe that this body is still a great body. We should say that this is not the time.

I hope that there will not be a close vote. I believe this is one time that we will have to buckle up our belts and say that we are going to stand firm, although we do not like the situation. We will say that to the American people, also. We must tell them the truth about this and the reasons why we make that clear.

I have no doubt at all as to what their stand will be.

This thing over there in South Vietnam gets worse and worse. Battles are lost, one after the other. I think that the American people will have to go through a period of travail and bereavement and disappointment and evaluations such as this generation has never had to do before.

They can stand it if we give them the facts. I hope, Mr. President, that the bill will pass, but only after deletion of section 701. We will have a full debate and everyone will have a chance. I am sure that we will have a full debate. I submit this matter now to the judgment, and the conscience, and the spirit, and the dedication of the Members of this body, and I trust that they will examine and reexamine all the facts.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. GOLDWATER. Mr. President, I compliment the Senator for his usual foresight and his usual logic in opposing section 701. I admit that this body has the power to do this. It would be a dreadful mistake to do this at this time. It has been tried before unsuccessfully, and I think it was wisely rejected at that time. I can understand the desire to end the war as well as anyone else in the United States. I can understand the desire to get our prisoners of war back and to confirm our missing-in-action figures as well as anyone else in the United States.

I agree with the Senator from Mississippi that it would be an utter disaster if we were to pass section 701, particularly at this time when the President is about to embark on a trip to Moscow, stronger, I might say, than any other President of the United States has ever been when he went abroad. That is mainly because he had the plain guts to react to Hanoi in the way that it should have been reacted to. It is strange, but I feel very unhappy that I have not heard anyone in this body who is opposed to the war recognize the fact that the enemy is now Hanoi and North Vietnam and recognize the fact that the Soviets are now openly supplying the enemy in the North.

I have a resolution to back the President. It has not been acted on. I have an amendment that will reexpress this resolution. And I will offer it at the proper time.

I think that we have come to a pretty sad pass in our long history of determination and courage when we even hear talk about the United States being pulled out of something against the will and desire of the President. We can argue as to whether the President is right or wrong. However, the power given him by the Constitution is his. It is not ours.

We can cut off the funds. However, I think before we do that we ought to realize how we will look in the eyes of people around the world. I know that there are some in this body who will say: "We do not care how we will look in the eyes of people around the world." Mr. President, we had better start caring, because this world is a different world than it was 2 or 3 years ago. The world is no longer a world of two superpowers. There are now five superpowers. And others are coming along every day. We no longer have an umbrella over the Pacific, because we foolishly gave away Okinawa. We will no longer see Japan become a superpower, because we reneged there in our responsibility.

I suggest that we should have a full debate on this matter and have both sides express their views. I hope that the Senate will, not by a narrow margin but resoundingly, reject section 701.

We have 68,000 men left in Vietnam. They have to be protected. This attack made against North Vietnam by our Air Force was not against the enemy, per se. It was made to support our men and to protect the lives of 68,000 Americans who are in very vulnerable positions.

In my opinion, Danang would be the most difficult place to defend on the whole global map. We are faced there now with Communist guns and mortars. The only restraint has been their fear that attacking Danang would bring the full power of the U.S. Navy and airpower against cities of the North.

We have Camranh Bay where we have large concentrations of people, and it is very difficult to defend and evacuate, as would be Danang.

I do not want to be one-millionth responsible for having pulled back the support that our Air Force and our airpower can give in protecting these 68,000 men who are over there. I think the President used the only judgment he could have used. I dare say that every President we have known in modern times would have done precisely what he did.

I do not want to see us in this body give an indication to the world that the Senate of the United States has suddenly decided that we are going to turn tail and eventually say no to those with whom we have been friendly all around the world, that we are going to abrogate our treaties, and become an isolated country once again.

In conclusion let me say that if this ever happens I think I can safely draw a ring around the year when world war III will start, a war that will make World War II look like a Sunday outing of a Cub Scout troop.

I thank the Senator from Mississippi for his usual courage in presenting this amendment. It will not be easy to stand on this floor and, in essence, sound like we are defending war, but we are defending the integrity and dignity of the United States, and we are defending the Constitution and our President, and some may not like it but he was elected by the American people. I do not want to see this power destroyed or tampered with, unless it be by an amendment put to the people of America, and not a measure in this body decided by 100 people who are elected for 6 years, some lasting longer than that.

Mr. President, I intend to work actively against this section. I think it is a very dangerous mistake. I look forward to supporting my chairman in this matter.

Mr. STENNIS. I thank the Senator very much for his fine comments.

Mr. President, I yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I thank the distinguished author of the pending amendment, the Chairman of the Committee on Armed Services. I wish to join in commending him for the very statesmanlike leadership he is providing and for the excellent statement he has made on the floor of the Senate today.

It is unfortunate, indeed, it is almost tragic, that the Senate is even compelled to debate section 701 of the bill at a time like this. The timing could not be more inappropriate, as the distinguished Senator from Mississippi has already pointed out. The situation on the battlefield is critical. The situation as far as negotiations are concerned is critical.

It is very difficult for this Senator to see how even the debate, let alone adoption of the language contained in section 701, could have any effect other than to make it more difficult for the President of the United States to achieve peace.

Mr. President, this section would have the effect—and, of course, I certainly do not ascribe any such purposes to the authors of the section—of demonstrating to the enemy and to the outside world a division within the United States Senate; and it will have the effect of undercutting the ability of the President of the United States to negotiate a peace agreement. I cannot understand for the life of me why we would want to do that at this time.

The proposed section 701 is not likely to become law. I know there may be some who think otherwise, but I do not see how it could become law. If section 701 is retained and the bill passes the Senate, it would still have to be approved by the House and thereafter signed by the President. I wonder how many people really think this provision 701 is going to become the law of the land.

Obviously, if it is not going to become the law of the land, it cannot end the war and it cannot cut off any funds. The only effect it could have by its adoption here on the floor of the Senate would be to encourage the enemy, to discourage the South Vietnamese forces as they fight valiantly for their survival, and to undercut the ability of the President of the United States at the bargaining table.

I realize that those are not the motives or purposes of those in this body who have proposed section 701 but that is the effect, as I see it. Accordingly, it will be very unfortunate, indeed tragic, if the amendment of the Senator from Mississippi, to strike out section 701, is not agreed to.

It is not as though the President of the United States had left some doubt in the minds of the people about his course of action, about his purposes, with respect to Vietnam. He announced just recently that another 20,000 U.S. ground forces will be withdrawn. I do not think anyone doubts his credibility. He has performed on each one of the promises that he has made concerning the withdrawal of troops. He has said that no U.S. ground forces are now committed to the ground battle over there and that none will be; and I think most people believe him.

As the Senator from Mississippi has said, the next 3 or 4 weeks are very crucial as far as the battle is concerned; the will of the people of South Vietnam is an important factor in how the battle may turn out. The next 3 or 4 weeks are important with respect to what may or may not happen at the negotiating table.

It is altogether possible that the South Vietnamese forces may not be able to make it; they may lose, even with our support. It is altogether possible that the President of the United States may not be able to negotiate a settlement.

Why in the world does the Senate want to be responsible for that failure if events should turn out that way? Why would Senators want a vote endorsing section 701 to contribute to such a result? If the Senate votes down the Stennis amendment, and in effect approves the Church-Case provision, it certainly would not be unreasonable to say that the Senate—and the Congress to the extent that the rest of the Congress might follow the leadership of the Senate—could and would be held responsible in the eyes of the people and in history for that failure.

At present, the responsibility rests on the President of the United States; he has assumed that responsibility and he has sought to exercise it. Not only that, but there is reason to believe the majority of the American people have confidence in him; they realize he has problems, but they know he is doing the very best he can, and they support him.

So, I fervently hope that the Senate in this very difficult hour will rise to the occasion and to its high responsibility by adopting the amendment offered by the Senator from Mississippi.

Mr. STENNIS. Mr. President, I certainly thank the able acting minority leader. I have listened to his logic before on grave matters, and he certainly has sized up the situation that we are confronted with here now.

If this bill should become law, it would be something that could not be ignored, because it would cut off the money provided in all other acts that have been passed in prior years. It is inconceivable that any President would sign a bill like this, much less the present President. But if it should become law in some way, by overriding a veto or something of that kind, it would certainly be the most binding provision that could be written into law to cut off appropriations, and it is self-operating. You do not have to put this in motion if it ever becomes law—it operates itself.

I want to refer briefly to the remarks of the Senator from Arizona, too, and what he said about the SALT talks. I have been here almost as long as we have had nuclear bombs. The atomic bomb was developed a couple of years before I came here, but, since I have come, there has never been a more critical time or effort to get some kind of arms limitation agreement that would be at least a start with the Soviet Union on this important matter, and one that up until now has been insoluble. There has been no solution for it.

So I just wonder how the Soviets would feel in their minds, and how the President would feel in his mind, if he had to sit down in conference with them on this matter if this amendment had passed even the Senate, much less passed the House, and had become law. If it had passed the Senate, I think in the back of their minds the Soviets would be looking upon him in semicontempt, as having had an expression from the Senate that would take away his power from the important field of the trouble in the Pacific area.

So I hope that there would be not even a close vote on this matter. I submit that we ought to adopt this amendment, the sole purpose of which is to strike out section 701, which is all the language of page 38 of S. 3526 now before the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Mississippi.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR WEICKER TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that on tomorrow, following the remarks of the distinguished Senator from New York (Mr. Buckley), the distinguished Senator from Connecticut (Mr. Weicker) be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum .

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the amendments of the House to the bill (S. 2676) entitled "An Act to provide for the control of sickle cell anemia."

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11417) entitled "An Act to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corp. for the purpose of purchasing railroad equipment, and for other purposes," requests a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Staggers, Mr. Jarman, Mr. Dingell, Mr. Springer, and Mr. Devine were appointed managers of the conference on the part of the House.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 14582) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes," agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Mahon, Mr. Whitten, Mr. Rooney of New York, Mr. Passman, Mr. Evins of Tennessee, Mr. Boland, Mr. Natcher, Mr. Flood, Mr. Steed, Mrs. Hansen of Washington, Mr. McFall, Mr. Bow, Mr. Jonas, Mr. Cederberg, Mr. Michel, Mr. Conte, Mr. Shriver, and Mr. McDade were appointed managers of the conference on the part of the House.

The message also announced that the House had passed the following bills in which it requested the concurrence of the Senate:

H.R. 4494. An act for the relief of Mrs. Latife Hassan Mahmoud;

H.R. 11632. An act for the relief of Vincent J. Sindone; and

H.R. 10676. An act for the relief of Lester L. Stiteler.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred to the Committee on the Judiciary:

H.R. 4494. An act for the relief of Mrs. Latife Hassan Mahmoud;

H.R. 11632. An act for the relief of Vincent J. Sindone; and

H.R. 10676. An act for the relief of Lester L. Stiteler.

THE INDOCHINA WAR

Mr. KENNEDY. Mr. President, I wish to discuss today what is labeled in "National Security Study Memorandum No. 1"—the so-called Kissinger memorandum—one of the "lesser issues" of the Indochina war. I refer to the people problems of this war—the plight of more than 10 million war victims—or what the memorandum calls "war damage to the civilian population."

The television and newspapers remind us every hour of the day, that the war continues. The bombing goes on, the violence escalates—from both sides. More civilians become casualties or die. More children are maimed or orphaned. More refugees flee devastated villages and towns.

Inevitably, the situation of civilians in Vietnam is taking second place to the political issues at stake—and to the interests of those who have much to lose, or to gain, by the outcome of the battle. But the people of Quangtri, of An Loc, of Kotum, and of the hamlets and towns throughout the area also have interests. For many, it is mere survival, and so, as governments and negotiators—on both sides—posture and bicker and threaten and ignore their responsibilities for peace and the lives of millions, a regional crisis of people builds and builds—in South Vietnam, Laos, Cambodia, and North Vietnam as well.

Up to 500,000 civilians are on the move today in Vietnam. Thousands upon thousands are being injured or killed. And the situations continues to deteriorate. This is all very familiar—only the latest chapter in a seemingly endless story of human suffering in Vietnam. This latest chapter finally underscores, dramatically and graphically, that what is called Vietnamization is not a plan for peace, but a plan for continuing war. It finally underscores the failure of the administration's policy, and the cosmetic approach our Government has used in defining hamlet security in Vietnam and success in pacification. Today, we do not hear about progress in pacification. We do not hear about security in the countryside. We do not hear all the statistical criteria of success in the countryside. This is not really because the North Vietnamese have launched a new offensive, which they have. Rather, to quote a 1970 report of the Subcommittee on Refugees, it is because Saigon has not had "the capacity or will to really serve the people and sustain the peace."

Our country cannot do for Saigon what it cannot do for itself, and we should have ceased pretending this fiction long ago, by ending the war.

Mr. President, we really do not comprehend the implications of the human costs of the Indochina war on the social fabric and traditions of the small countries directly involved. The Kissinger memorandum reminds us of this fact.

Under the subtitle of "Lesser Issues" we find this paragraph:

> Every agency, except the military assistance command in Vietnam and the Joint Chiefs of Staff, agrees that the available data on war damage to the civilian population is inadequate. . . . C.I.A. concluded that even under the most generous interpretation of the available data . . . it must be admitted that the rural hamlets take a tremendous beating.

This section of the memorandum concludes by stating that the impact of the war on the civilian populations needs "further U.S. Government attention and analysis." That was in 1969.

But today, in 1972, the problem of war victims remains a "lesser issue"—and has yet to receive the "attention and analysis" recommended in the Kissinger memorandum.

In fact, by every possible measure—budgets, rules of engagement, long-term planning, and the official record of the present administration—the issue of war victims in Indochina is given less priority today than at any time since 1965. This would be bad enough if we were only dealing with the aftermath of war—if we had the peace long promised the American people. But each new day of war is adding heavily to the human toll, and putting more and more strain on existing relief programs.

Mr. President, since 1965, war-related civilian problems in South Vietnam, and all of Indochina, have been an item of primary concern to the Judiciary Subcommittee on Refugees, which I serve as chairman, our objective has been a continuing effort to document people problems in Indochina, and to upgrade official priority and concern for civilians suffering and for needed relief programs.

Field studies have been conducted. Numerous hearings and consultations have been held. Reports of findings and recommendations have been issued. And to supplement these activities, the General Accounting Office—GAO—has periodically filed expert reports with the subcommittee—the latest series of reports updating the situation in South Vietnam, Laos, and Cambodia through the end of 1971. Let me say at this point, Mr. President, that the GAO teams, which have prepared the many reports since 1965, have made an important contribution and they deserve high tribute.

The most recent findings of the GAO are contained in a series of five reports. These reports document the "lesser issue" syndrome of this administration—and, in the main, these reports are a devastating commentary on the low priority our Government attaches to the care and protection of civilians in Indochina. I would like to summarize these reports by dealing first of all with South Vietnam, second with Laos, and third with Cambodia.

SOUTH VIETNAM

Vietnam faces a massive refugee and social welfare problem—the accumulation of years of neglect and continuing war. Despite all the official talk in recent years of progress in resettling refugees and success in pacification—the GAO reports document, at the end of last year, that one overwhelming fact remained unchanged: A vast segment of Vietnam's civilians was still not convinced that their villages were secure enough to live in, and they remained as refugees separated from their homes, their lands, and their regular source of livelihood. Moreover, many programs for war victims were in shambles, and our country remained saddled with the same dilemmas and the same problems of involvement which we were facing for several years.

Some discouraging findings of the GAO reports included the following:

> That by the end of 1971 the Vietnam war had produced more than 6,000,000 refugees, more than a third of Vietnam's population;
>
> That only about half of these refugees have ever received relief assistance;
>
> That the monthly average of new refugees "generated" in 1971 "exceeded the average monthly level of the 2 previous years;"
>
> That top U.S. officials have continued to support "forced relocations," despite very strong opposition to this discredited practice by their colleagues at the "working level;"
>
> That "future relocation plans" includes the movement of 300,000 persons in 2 provinces of military region 1 during 1972;
>
> That U.S. humanitarian assistance to war victims is given low priority; in 1971 it only ranked 7th in a list of 10 items considered important by aid;
>
> That U.S. dollar assistance for GVN humanitarian programs is fast declining and will "be phased out by fiscal year 1974";

I might mention at this point, Mr. President, that in 1969 $16 million was appropriated for the refugee program in Vietnam. In 1970 it was down to $6.6 million. In 1972 it will be $3.2 million. There are no requests for the following year.

The administration is very effective in terminating U.S involvement as it applies to refugees, civilian programs, those programs which are directly related to human beings, health programs, and refugee programs; but we see, on the other hand, the easy escalation of our military involvement in the war.

In spite of these very limited funds for civilian programs, the fact remains that approximately two-thirds of the money has never even been expended by the South Vietnamese Government. So there has been only a trickle, in terms of support for the people of South Vietnam, particularly the refugees.

When we realize that there are approximately 700,000 orphans in Vietnam, 145,000 war widows registered, and nearly 200,000 both civilian and military, personnel who have lost arms or legs and have to wait a period of up to a year to receive prosthetic devices. When we know children ought to receive a change of prosthetic devices every 6 months in order that they do not grow up with twisted or maimed bodies, we wonder what the real basis of our interest is.

Are we supposed to be in South Vietnam because of our concern for the South Vietnamese, or is our interest really based more on the great power struggle in Southeast Asia?

How interesting it would be to provide a small cottage industry to provide prosthetic devices for maimed people, people who have lost arms and legs, many of them older people and children. What we are talking about is a few hundred thousand dollars, but even under the previous administration we were unable to develop much interest in this area. That lack of interest, tragically, has followed into the Nixon administration.

Today we see that, with 700,000 orphans, there is a $1 million grant by AID for all the various orphanages in South Vietnam. There will be no support at all in terms of aid for war victims in 1973, and those people who have been maimed.

I think this is really a tragic situation in human terms when we see, night after night, the flow of refugees out of I Corps and realize the tremendous sufferings which they have experienced, and we see the virtual termination of our involvment in civilian problems that are already inadequately funded and supported.

The long-term planning for rehabilitation of war victims has all but been ignored. The fact is that President Johnson talked about the postwar period and how important it was to begin a program for health maintenance for the people in the whole Indochina peninsula.

Nothing was done to further that program. President Nixon has made a similar proposal. All we have to show for it is a study made by Columbia University, a very scant study, which was nevertheless worthwhile, but we have not come to grips with exploring different ways which we as a nation can effectively, through multinational channels, help aid human problems existing in the whole Indochina peninsula.

Certainly that planning ought to be done, particularly when we look back on our lack of planning in responding to humanitarian needs most recently in Bangladesh, and in the Nigeria-Biafra area, where 1 million, mostly children, perished for lack of food. A tremendous number perished in Bangladesh. Many of them did so because of violence, but many of them died because of the failure of the Western Powers to respond to humanitarian needs. So we know the importance of future planning at the present time.

I continue with the reading of the conclusions of the GAO reports.

> That long term planning for the rehabilitation of war victims has been all but ignored in studies "dealing with the comprehensive policies and programs on the postwar development of Vietnam"—these studies have been conducted at the "higher levels" of the U.S. Government and GVN;
>
> That millions of dollars worth of U.S. P.L.–480 food commodities and other supplies have rotted in warehouses;
>
> That pilferage and unauthorized distributions of U.S. commodities are common;
>
> That numerous community centers constructed with U.S. counterpart funds "are not being utilized";
>
> That up to 75% of the funds programmed for various categories of war victims are not being spent;
>
> That "long delays" exist in recognizing and registering new refugees, and in making relief payments;

One of the tragic results is that there are camps which might have 10,000 to 15,000 refugees. They are held on the list and categorized as refugees one day, and then when the Government of South Vietnam reaches a certain ceiling in terms of refugees, they fill out a form and they are no longer refugees; they are "resettled." It is just in writing—it is just a bookkeeping change, without changing the substance of conditions for resettlement or a better livelihood. Of course, as a result of this change of category, many of the people have other kinds of assistance terminated, such as provisions for food.

> That in some regions, more than 90% of refugee resettlement areas officially listed as "normalized" are in fact substandard;
>
> That civilian war casualties continue at a very high level—some 3,508 per month, by official count, based on hospital admissions alone;
>
> That official statistics on civilian war casualties are understated because of unreported data.

Official statistics on civilian war casualties are constantly understated because of unreported data. For instance, they never report any casualties that never get treated in any of the hospitals, and it is usually true, as we have seen in the course of our studies and visits in Vietnam, that rarely do you ever see, in the provincial hospitals, people who have been wounded in the critical portions of their bodies, their chests or heads, because they never survive and rarely make it to hospitals and, so, they are never listed as war casualties.

The statistics never include people who go to outside clinics and fail to get formally admitted to a hospital. They are not included in hospital statistics, nor are those treated privately in South Vietnam, or even civilians wounded and treated with the limited resources available to the other side.

So even the GAO figures are understated.

The GAO also found:

> That, despite vast and growing need brought on by war, United States-supported health programs are being eliminated or drastically reduced;
>
> That such eliminations and reductions are having an adverse effect on the level of civilian health care, causing serious problems in such areas as health equipment maintenance, and are closing needed health facilities throughout the country; and finally,
>
> That the inaccuracy of official records on the allocation and use of medical supplies is a major problem wasting thousands of dollars.

LAOS

As if the situation among the war victims in Vietnam is not enough, thousands of refugees and civilian casualties in Laos continue to document a shadowy war in which the purpose and degree of American participation are still being kept from the American people. The recent GAO reports on Laos document:

> That "refugees" in Laos not only include civilians displaced by military conflict, but also military and paramilitary forces and their dependents;
>
> That two-thirds of government territory has been lost to the enemy, thus making the successful resettlement of refugees, generally, "difficult";
>
> That there is "no ready solution" to the problem of hill-tribe refugees, because there are no mountain areas in government territory large enough to support these people;
>
> That official statistics on civilian war casualties remain "incomplete and of doubtful validity"; as in the case of Vietnam, the actual occurrences of civilian casualties are much higher than official statistics;
>
> That hospital facilities are often overcrowded, congested, dirty and without adequate facilities;
>
> That the mortality rate in some villages is often extremely high, up to 900% above the accepted "criterion" which requires "special remedial measures";
>
> That "accidental bombings" continue;
>
> That AID funds programed for war victims continued to be used for CIA activities—*after* a 1971 assurance to the subcommittee by AID Administrator John Hannah that the practice would be "terminated" on June 30, 1971;
>
> That "steps" initiated by AID to eliminate management weaknesses documented in earlier GAO reports have "not resulted in any readily discernible differences in USAID/Laos policies and practices";
>
> That AID incurs "excessive freight costs" in transporting commodities to Laos through Thailand—AID pays "a premium of about 43 percent" to a Thai Government entity, express transport organization; and
>
> That commodities shipped within Laos are often "not accounted for at destination."

The GAO account clearly indicates the enormous pilferage and graft involved in many of these programs in Laos, much of it being "grafted" by Government troops.

CAMBODIA

Next was Cambodia. Mr. President, there are approximately 2 million people who are refugees in Cambodia today, and yet the United States fails to provide even one dollar of help and assistance for the refugees in Cambodia.

I can remember last year when we had administration officials before the committee to ask them about why we were not developing a program to help assist refugees in Cambodia. They said they have never received a request from the Cambodian Government for help and assistance.

Once again, we are prepared to send in military troops, American air support and American troops, whenever we feel it is in the military interest of the Government, but we fail to respond to the humanitarian needs of the people in Cambodia, the some 2 million refugees.

All one has to do is consider the results of this failure of policy to see that there are hundreds of thousands of children, women, and old people who are suffering, many of them dying, because of the lack of any kind of effective program.

Inevitably, the familiar pattern of Vietnam and Laos has been repeated in Cambodia. Massive bombing and ground military operations over the last 2 years have produced countless civilian casualties—and a rising tide of refugees, who now swell the normal population of the cities and towns, or cram makeshift refugee camps.

A Refugee Subcommittee report of September 1970—after a field investigation by members of the staff—states the following:

> The Cambodian Government did not anticipate any massive relief problems of the kind experienced in South Vietnam, and therefore was not engaging in any contingency planning. The Government would, of course, respond on an ad hoc basis should pockets of need arise. The Director (of the Commissariat for War Victims) suggested his optimism was based on the belief that the war in Cambodia would be a short one—especially if "we have more weapons to get our territory back." He called this the "pacification" of the countryside.
>
> This official Cambodian view of the refugee situation was apparently shared, in large measure, by the U.S. Embassy in Phnom Penh. Although U.S. officials were obviously aware of the widespread displacement of people, there was little evidence to suggest they were much concerned about the situation, its tragic potential if the war in Cambodia continued, or the impact of U.S. military activities on the civilian population. In fact, on the latter point—especially on the rising number of U.S. air sorties over Cambodia and their target areas—officials all but pleaded ignorance of them, as did high level U.S. military personnel in Saigon.

The report goes on to say:

> In early August the general view and attitudes of both Cambodia and U.S. officials in Phnom Penh were hauntingly familiar to earlier opinion out of Saigon and Vientiane. Needless to say, if such views and attitudes—and the conflict in Cambodia—continue, there is little doubt that human priorities will again get lost in the tide of war. Khmers will then pay a heavy toll in misery and death, which may very well exceed the toll being paid for many years by their neighbors in Indochina.

That judgment, Mr. President, was made in 1970. Today, after 2 years of heavy battle—which began with an American sponsored invasion from South Vietnam—a GAO report on Cambodia documents:

> That it is the policy of the U.S. "to not become involved with the problems of civilian war victims in Cambodia";
>
> That there are "no specific programs" for providing relief to war victims;
>
> That between March 1970 and September 1971, official estimates put the number of refugees at more than 2,000,000;
>
> That civilian casualties number in the thousands;
>
> That, at the time of the GAO survey, refugees were "being generated as a direct result of combat activity involving Cambodian and/or South Vietnamese forces and of Allied air strikes"; and
>
> That "lack of sufficient food rapidly was becoming serious".

I would say, Mr. President, on the creation of the refugees in Laos, we saw a direct relationship between the increase in bombing to the increase in refugees as well as civilian casualties. The one study that has been made was done by the Agency for International Development, AID in Laos. Their studies show that approximately 75 percent of all refugees were created by American military weaponry, and approximately 25 percent by the North Vietnamese. The overwhelming preponderance was by——

Mr. SAXBE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. SAXBE. Is the Senator intimating that these refugees flooding the roads today are caused by American action?

Mr. KENNEDY. I would say that up to 2 weeks ago, the conclusion of our committee was that 75 percent of civilian war casualties as well as refugees, particularly in the area of Laos studied, were created by American military firepower. The one study that was done by our Government documents that, and we stand by that.

Second, I think we will see that a very heavy proportion of the refugees and civilian casualties will have been created by American firepower in the current situation.

Mr. SAXBE. Well, now, the Senator has talked about the refugees flooding the roads as shown in the recent pictures. Are we the ones mining the roads? Are we the ones responsible for this invasion of the last 3 weeks, that is creating the millions of refugees and the casualties?

It bothers me that nowhere in the Senator's statement has he in any way referred to the fact that this situation has been caused by North Vietnam. The Senator's entire statement tends to make it appear that America is flooding the roads with casualties and killing the old women and children.

It seems to me that it is quite obvious that what is happening since the North Vietnamese violated the cease-fire line and came through there is that they are concentrating on these hamlets; they are concentrating on the civilian population by mining the roads used only by the refugees.

We know what happened the last time they went into Hue. They murdered approximately 7,000 people. They seem to be getting ready to do the same thing.

I do not know how the Senator can blame these refugees on us all the time.

Mr. KENNEDY. If the Senator had been present during the earlier part of my statement, he would know that I indicated that the bombing goes on, the violence escalates from both sides. Obviously, all of us deplore the impact of violence, no matter which side creates it. I mentioned that, and I do not think the Senator was present during the earlier part of my comments.

Mr. SAXBE. I have read the statement.

Mr. KENNEDY. If the Senator will look at the first page, he will note that I said that "the bombing goes on and violence escalates on both sides."

When the Senator talks about the killings in Hue, all of us deplore that as well as deploring the Phoenix program, which has been continued from the previous administration by this administration. It is a policy of assassination of the local infrastructure of the Viet Cong.

I think we ought to condemn all the violence and all those who support the creation of violence, whether it is the recent mining of roads by the North Vietnamese, or the kind of violence that has been done by the Viet Cong, or the violence of our Phoenix program, which was supported by the previous administration and has been continued by this administration. I do not think any of us are holding any kind of brief for any of this violence.

I think this is part of the broader question of when are we going to bring an end to all of the violence and bring an end to all of the killing. Quite obviously, that remains within our power. The quickest way to stop any kind of violence to the civilians in Vietnam is to end the war. I would be glad to debate that question. We can debate how best that can be done.

The point remains—and the American people ought to understand it—that at a time when the military war is being escalated, all kinds of help and assistance for the people in Vietnam is being cut out, and this administration has been a part of that—cutting back on the resources to aid the humanitarian problems in Southeast Asia. There is not 1 cent for 2 million refugees in Cambodia—not 1 penny—and not 1 cent recommended for next year for the 6 million refugees in South Vietnam. There was $2.3 million this year, $6 million the year before, and $16 million 2 years ago.

We are all set to deescalate that aspect of the war, but we are not prepared to deescalate the other aspect of it. I think it is appropriate that we draw the attention of the American people to those who do not have the strong voices here to speak out about what is happening to the civilians. There are those who will speak out in terms of the military, and yet they say they are interested in the people of Southeast Asia.

Look at what has happened and look at the record, and this is just as broad an indictment of the record of the previous administration as it is of this administration, on programs that vitally affect the children, the women, the old people, the civilian casualties, and the refugees; and you find that they are on the bottom of the priority list of this administration as well as of the previous administration. No one can take any kind of solace in the fact that the previous administration was putting out approximately $16 million for the refugees. That is the cost of approximately four of the jets that have been lost—perhaps a day's loss, or 10 days of sorties over Laos.

Nobody is defending the violence that is perpetrated upon the civilian population by the North Vietnamese offensive. I am not doing so.

Mr. President, I have briefly summarized some of the principal findings in the recent GAO reports. However, in light of the widespread public and congressional interest in the problems of Indochina war victims, I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, additional findings in the reports on Vietnam and Laos, and the full text of the report on Cambodia.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, these reports and others tell us how Cambodia has gone the route of Vietnam, and how Laos traveled that same route of destruction and death years before. Yet the slaughter of innocents continues in Indochina. Each new day of war brings another day of human misery and suffering, and each day the statistics of death—both those recorded and those unseen—mount. And the people of Indochina, like the people of America, ask: How long?

It is time—it is past time—for our Nation to turn its policies around in Southeast Asia—to stop pretending that we can do from the air what we could not do from the ground, to stop the delusion that we can do for the South Vietnamese Government what it cannot do for itself, and to end the horrible spectacle of the greatest military power on earth bombing some of the smallest nations on earth.

Let us end this senseless slaughter.

Mr. President, I will just say finally that many Americans are constantly shocked, as I am, by what we see on television of the impact of this offensive, or aerial bombardment of the war generally in Indochina, and the impact it has had, and continues to have, on civilians.

The more tragic irony is the failure of this great Nation, during the period of this war—since we have seen pictures of women and children on the front pages of newspapers and on our television screens for years—to develop a program to help and assist these war victims. We develop great sympathy and great compassion when we see them on television and the pictures on the front pages of the newspapers. The tragedy is that we in Congress, and even the South Vietnamese Government, have failed to respond to these needs in a meaningful way.

I grew tired of listening—and this goes back through the mid-1960's—to administration officials who would say, "As this problem involves the South Vietnamese, we have to let the South Vietnamese run these programs; we have to let South Vietnam develop a civilian war casualty program, or to look out after orphans, or to look out after refugees; we have to let them do it." But when the time came to be making a military decision, we were all ready to take that responsibility into our own hands. I think that has been true from the beginning and it continues through today.

Why is it that the Air Force, for example, refuses to develop a set of rules—a manual of air warfare? The Navy does. The Army does. But the Air Force refuses to do it. They refuse to give instructions to the young men who are going out there—to make them sensitive and more cautious to civilian needs.

I wrote to the Secretary of Defense, asking him when they were coming out with better rules of engagement in civilian populated areas. I asked him other questions about the impact of the war. We waited 8 months before we got a response and it was completely inadequate because they do not have the information. They are not getting it together. I think this has been true, as I have said repeatedly, not only of this but also previous administrations.

If we can try to suggest what we have to do in the future, obviously the first need is to end the violence by ending the war. I think, in the meantime, we should be planning a program for what this great Nation can do in consort with other nations, to insure a rebuilding process for the peoples who have suffered so much in so many ways on the Indochina peninsula.

EXHIBIT 1

CIVILIAN HEALTH AND WAR-RELATED CASUALTY PROGRAM IN VIETNAM—1 YEAR LATER

(Refugee Subcommittee's summary of the General Accounting Office report)

TREATMENT AND NUMBER OF CIVILIAN WAR-RELATED CASUALTIES

1. "One of the goals of United States assistance to Vietnam is to ease the suffering of civilians displaced or injured by the war; however, there is no special AID project in Vietnam solely for the care of civilian casualties."

2. "There continues to be no reliable measure of the total number of civilian war-related casualties in Vietnam." Official statistics are misleading and understated; for they "reflect only the admissions to Ministry of Health and U.S. military hospitals." They do not reflect civilian casualties treated as out-patients in these hospitals, those treated elsewhere, those not treated at all, and those who die.

3. Official statistics, based exclusively on Government of Vietnam and U.S. military hospitals, show some 234,235 civilian war casualties from the beginning of calendar year 1968 through August of 1971.

1968 (Tet)—87,522 admissions for a monthly average of 7,296.

1969—67,766 admissions for a monthly average of 5,647.

1970—50,882 admissions for a monthly average of 4,240.

1971 (8 months)—28,065 admissions for a monthly average of 3,508.

(NOTE: 1) the current GAO report does not reflect official statistics for 1967—48,724 admissions for a monthly average of 4,060. This increases the total official statistics on civilian war casualties to some 282,959 since figures were first compiled at the Subcommittee's request in 1967.

2) Contrary to official statistics, estimates of the Subcommittee on Refugee place the total number of civilian war casualties since early 1962 at more than 1,200,000—including at least 350,000 deaths. These estimates are based on repeated field studies by subcommittee personnel and reported data from official sources.)

4. Through 1970, Military Region 4 (delta area) reported the number of civilian casualties. Since early 1971, however, Military Region 1 (northern provinces has "surpassed the delta region in the number of reported casualties.")

5. "Most of the information on hospital admissions was compiled by USAID/VN from monthly reports received from U.S. advisors in the field. These reports contain statistical data only. There is no regular reporting to USAID/VN Public Health Division from the field on actual conditions at Ministry of Health hospitals; the adequacy of Vietnamese staffing; the adequacy of logistical support; and the progress made in preventive aid medicine, malaria control, and environmental health. This type of information was reported to USAID/VN prior to March 1971, but at that time the reporting requirement was reduced sharply to include only statistical data.

LEVEL OF FINANCIAL ASSISTANCE

1. "From fiscal year 1968 through fiscal year 1971, AID obligated over $87 million to assist the Government of Vietnam in providing medical care to the civilian population of Vietnam. For fiscal year 1972, AID plans to provide $14.1 million—a reduction from the $20 million average of previous years."

2. "Department of Defense provided $52.7 million in assistance to the civilian health program from fiscal year 1968 through fiscal year 1971. Over 40 percent of these funds have been spent by the Department of the Army for medical supplies and equipment under an agreement with AID." Although this is still in effect, the Army believes it "is no longer equitable" because "Army forces are not a significant contributing factor to (civilian) casualties . . ."

3. Reflecting a general trend within the Department of Defense, its Medical Civic Action Program and Military Provincial Health Assistance Program teams—which have been in operation since 1963 and 1965 respectively—are being discontinued this year.

4. Since 1968, the Government of Vietnam has spent some 14.8 billion piasters ($125.6 million) for civilian health care. This includes some $2 million worth of piasters provided from the United States—controlled local currency generated from other U.S. assistance programs. The amount of GVN funds used to support civilian health programs has increased since 1968. "The health programs share of the Government of Vietnam's civil budget, however, has not kept pace with other civilian programs' shares; the health programs share of the GVN's civil budget decreased from 7.6 in 1968 to 4.5 percent in 1971.

5. "Future reductions in U.S. financial assistance will place further burdens on the GVN civil budget. Also, financing of essential medical commodities and equipment, formerly provided by AID and the Department of Defense, will have come from GVN's foreign-exchange earnings unless other external sources of funds are obtained. Vietnam's foreign-exchange earnings are already insufficient to finance other essential imports. The shortage of foreign exchange will become more serious as further reductions are made in U.S. activities in Vietnam, a source of significant foreign-exchange earnings for GVN."

STAFFING AND MANPOWER

1. "On the basis of our review, we believe that the shortage of qualified medical personnel in Vietnam remains a serious problem . . ."

2. AID has decreased authorized health personnel by 56 percent since 1970 and plans to decrease them still further in future years.

3. The major factors contributing to a decline in US personnel are the reductions in AID's Vietnam budget and a Presidential directive to effect reduction wherever possible in overseas personnel.

4. "U.S. advisors generally agreed that the loss of (AID) medical personnel may have an adverse effect on the level of medical care in Vietnam, particularly in rural areas where Vietnamese medical personnel are scarce and where Ministry programs are not well established."

5. The U.S. military health program decreased from 25 teams totalling 194 assigned personnel in June 1970 to 11 teams totalling 45 assigned personnel in September, 1971. As noted above, this program will be eliminated this year probably by July.

6. Like the reduction in the AID health program, the elimination of military medical programs will adversely effect civilian health in Vietnam. It will "reduce the level of care" because the GVN cannot "fill the gap."

7. Training Vietnamese medical personnel is a slow process. "The two medical schools in Vietnam are expected to graduate 226 physicians in 1971. With free-world assistance the schools are estimated to have the potential of graduating 250 physicians per year. At that rate it would take over 10 years to attain the World Health Organization's minimum standard for developing countries of one physician for 5,000 persons.

8. "In June 1971 there were 1,520 licensed physicians in Vietnam, or one for about every 12,000 persons; however, 1,130 physicians, or 74 percent, were in the Army."

MEDICAL FACILITIES

1. The GAO reports that "conditions had generally improved" over their last investigation in 1970. However, GAO also points out that requirements for medical equipment, personnel, and medicine at villages and hamlets where refugees reside will probably "become serious problems as U.S. financial assistance is reduced and U.S. advisors and third-country-national technicians are withdrawn."

2. "Health facilities, particularly those in rural areas, built in past years by GVN and the U.S., are now unused because of lack of staff." Such facilities are "prevalent throughout the country."

3. The GAO "noted instances where hospitals were under construction or had recently been completed but no provisions had been made for either staff or equipment. The United States has turned down requests to equip these hospitals.

4. "In our review of assistance to war victims in Vietnam, we noted numerous refugee sites and former refugee sites that needed health-care assistance. At 38 refugee sites—which contained about 140,000 persons—that we visited in Military regions 1, 2, 3, and 4, we found that many had health-care deficiencies: some had no health care facilities and others had health facilities but had no health personnel and/or no medicine. A survey, conducted by U.S. advisors in Military region 1 during 1970 and 1971, indicated that a number of the 252 temporary and resettlement sites surveyed lacked medical facilities and personnel."

5. GAO reports "that the shortage of manpower, facilities, and medicines can be only accentuated as the U.S. withdraws personnel and reduces its financial support."

6. Despite improved conditions in some medical facilities, the GAO still found hospitals where "drainage was bad", where toilets and showers were "inoperable", where conditions were "unsanitary", where there was a "lack of running water", where "wards were dirty and gloomy", etc.

7. GAO reports that U.S. officials "believe that when U.S. support is withdrawn after fiscal year 1972, equipment maintenance will become a widespread and major problem."

8. "From May 1970, 12 DOD hospitals had ceased operations in Vietnam. Of these 12 hospitals, six were retained by the United States—two were mobile units and four were used for other purposes. The remaining six were offered to GVN; three were not considered suitable, and three were taken over and were being operated by the Vietnamese Army. The Ministry of Health has not received any hospital facilities from the U.S. military. We were informed that more U.S. hospitals probably will be turned over to GVN when the United States stops using them. The Ministry of Defense is interested in taking over four U.S. military hospitals having a total of 870 beds. The Ministry of Health also expressed interest in these four hospitals and in one other having 310 beds. Under existing turnover procedures. GVN Armed Forces have first priority on excess U.S. facilities."

9. The United States has been providing 86 percent of all medical and medical-related commodities used in the GVN Ministry of Health system. US commodity assistance will be reduced substantially this year, with no alternative source to fill the gap.

10. A similar situation exists in most phases of health care in Vietnam. In the case of maintenance of medical equipment, the GAO reports that the need for qualified personnel is "critical" and that the amount of equipment on hand in health facilities has increased "to a point beyond the repair capabilities of Vietnamese repair technicians." The GAO reports that "the overall level of medical equipment maintenance probably will deteriorate when U.S. assistance is withdrawn."

11. Regarding general medical supplies, GAO found "that the percent of active stock items for which a critical need existed—that is, either no stock was on hand or the stock on hand was less than enough to meet a thirty day demand—was 11.6 percent of stock items in fiscal year 1971 compared with 7.2 percent in fiscal year 1970." The situation is deteriorating.

12. On the other hand, there are many items in excess of the desired 6 month stock level. The value of excess items uncovered by the GAO was some $1.7 million.

13. The GAO is critical of the "inaccuracy of records." For example, the GAO reports: "An error in records processing resulted in the needless destruction in January 1971 of one lot of penicillin solution costing $11,800. The penicillin, which was on hand in October 1970, was entered erroneously on a destruction authorization form. USAID–VN logistics advisors and the Ministry's Director of Logistics did not notice the error and approved the destruction of the penicillin."

Follow-Up Review on Assistance to War Victims in Vietnam

Summary of General Accounting Office report

PROGRAM MANAGEMENT

1. "The Government of Vietnam (GVN) provides assistance to war victims under a refugee relief and social welfare program which receives financial, commodity, and technical assistance from the United States. The program has, over the years, evolved from a program of assistance to persons displaced by the war (refugees) to a program intended to assist all persons who have suffered from the war (war victims)—refugees, widows, orphans, the physically disabled, the economically handicapped, and persons who have suffered personal injuries, loss of family members, or property damage."

2. The Ministry of Social Welfare is the primary GVN organization responsible for refugee relief and social welfare activities.

3. U.S. support for these activities is administered through the Civil Operations for Rural Development Support (CORDS) War Victims Directorate of the U.S. Mission in Saigon. CORDS reports to the U.S. Military Assistance Command, Vietnam.

4. As in prior years, GAO reports that "no formal list of priorities has been established for U.S. assistance activities in Vietnam . . . the allocation of available resources was considered by AID officials in Washington and Vietnam to be an indication of relative priorities. . . ." By this measure, assistance to war victims has a very low priority in a list of 10 AID projects programed in dollars. In fiscal year 1971, highway improvement led the list with $52,500,000. Assistance to war victims was seventh on the list with some $6,300,000.

5. Narrative reports on war victims are often inaccurate—statistical data has always been understated, etc., and continues to be "erroneous, misleading and confusing".

6. "The CORDS War Victim Directorate was aware of the apparent deficiencies of the reports. Many instances of inaccurate and unreliable data had been brought to the attention of American advisors in the field. In some cases corrective actions had been taken, but, in numerous instances, repeated notices to field personnel had brought little results. Inaccurate and unreliable data continued to be reported."

LONG-RANGE PLANNING FOR THE REHABILITATION OF WAR VICTIMS

1. GAO states that "some progress has been made in meeting the immediate needs of war victims. . . . The many years of U.S. assistance have increased the GVN capability to deal with emergency relief. It has not effectively strengthened or developed, however, an essential GVN capability to deal with the long-term problems of war victims—rehabilitation and reconstruction."

2. "The United States has not developed long-range plans for dealing with the long-term human problems of refugees and other war victims who continue to suffer from social and economic disadvantages caused by the war. Also the U.S. has not made projections as to the magnitude of effort that would be required to meet the long-term needs of war victims."

3. "Future levels of U.S. commitments in the areas of reconstruction and rehabilitation are unknown. The proposed fiscal year 1973 Mission project budget submission calls for U.S. dollar commitments to be phased out by fiscal year 1974."

4. It appears that the GVN "would like to carry out a wide variety of programs" to rehabilitate war victims. GAO reports, however, that "it was difficult to make realistic plans without knowledge of the amounts or resources available, especially when external assistance was declining."

5. GAO notes that an October 1971 policy statement from the Department of State comments on meeting emergency refugee needs, but the GAO also observes that the policy statement ignores the massive long-term rehabilitation needs of Vietnam's war victims.

6. GAO also notes that "a 2-year study supported at the higher levels of the U.S. Government and GVN and dealing with comprehensive policies and programs on the post-war development in Vietnam recommended that the primary postwar objective should be the attainment of economic independence. No recommendation was made concerning overall objectives and policies for aiding all war victims."

7. The concentration on short-run emergency activities "evolved from a policy decision made by AID in 1969 to eliminate social welfare as a separate project."

8. Top AID officials feel that "problems of war victims would be solved by economic development." CORDS officials in the field, however, told GAO "that they did not subscribe to this position; instead they favor a separate program for humanitarian assistance. This, they feel, would give the human problems appropriate recognition and support."

9. "CORDS social development officials have advocated in the past that GVN and the U.S. should identify the problems of the immediate and long-term future that may be experienced by physically disabled war victims, displaced citizens suffering property losses, war widows, and orphans."

10. "One of the most comprehensive studies was conducted as early as 1967 by an AID-financed social welfare task force. The resulting report indicated that there were recognizable social welfare problems, both short term and long term. The task force made many recommendations including social development planning that would establish goals and objectives, set priorities, outline programs, and estimate personnel and financial needs. . . . The study, in general, was not acted on. . . ."

REFUGEE NUMBERS

1. At least 6,000,000 Vietnamese—more than a third of the population—have become refugees since 1965, according to *official* estimates.

2. Only 2,500,000 of the 6,000,000—little more than 40%—have been *officially* listed as having received emergency and temporary assistance. And only 3,200,000 of the 6,000,000—some 53%—have been *officially* listed as having received resettlement or return-to-village assistance.

3. Even though there was "an overall reduction in the scale of the military operation" throughout Vietnam in 1971, "the number of refugees generated and placed in GVN-controlled areas . . . exceeded the average monthly level of the 2 previous years."

4. Statistical summary of new refugees since 1969:

1969—115,000 for a monthly average of 9,750.

1970—135,000 for a monthly average of 11,250.

1971 (9 months)—120,484 for a monthly average of 13,387.

(NOTE: the figures above only represent the number of new refugees *officially registered* with the GVN for relief assistance. Based on the pattern of prior years, the *actual* number of new refugees is undoubtedly higher.)

FORCED RELOCATION OF MONTAGNARDS AND OTHERS

1. Over the years many relocations have occurred throughout Vietnam. The "forced relocations" of Montagnards and others in Military Region 2 are relatively recent examples.

2. From May 1970 through August 20, 1971, some 62,546 people were relocated in Military Region 2.

a. The relocations took place in the provinces of Pleiku, Binh Thuan, Darlac, Phu Bon, Dontum, Tuyen Duc, and Phe Yen.

b. The relocations were "termed the campaign 'Gathering the People.'"

c. "The reasons given for the relocations were (1) to bring the persons to more secure areas and (2) to deny support to the Viet Cong."

3. "A CORDS observer reported that many persons had been relocated against their wills—without adequate preparation and without the approval of the Central Pacification Development Council. Many of the Montagnards complained of being forced to leave behind their prized personal possessions, such as gongs, jars, and hardwood furniture. A Montagnard from Buon Kli B, located in Darlac province, told us that the GVN soldiers had killed some of their livestock and had stolen some of their personal possessions. We were told that many of the families had been moved—with only a few hours' notice—and that adequate transportation had not been provided. Most had been forced to walk either part of or all of the way to the relocation site."

4. CORDS officials at the working level "opposed these massive relocations." Top officials in CORDS "made no representations" to the GVN or anybody else to oppose the moves.

5. One CORDS official said that "the desire to publicize . . . the political propaganda that 95% of the population lives under GVN control is no justification for relocations." Another told GAO "that he was opposed to the relocations because they did not materially enhance the economic and physical security of the persons moved."

6. Conditions at relocation sites "were generally inadequate—"lack of water, food, relief supplies and farmland"—"a general lack of medical facilities"—"numerous deaths" because of exposure, malnutrition, etc.

7. For example, out of the 2,500 Montagnards "forcibly relocated" in January 1971 to a resettlement site at Plei De Groi

in Pleiku province, up to 300 had died in March.

8. "GVN officials promised the relocated people that land would be made available; however, this promise has not always been kept. In Buon Kli B, Darlac Province, the relocated Montagnards were promised land surrounding their relocation site; however, other Vietnamese have moved in and are farming at least three quarters of the promised land. In some cases the Montagnards are returning to their original fields, which in some instances involves walking between 2 and 6 miles. Although the Montagnards moved from their land for security reasons, other Vietnamese in some cases moved in to farm the Montagnards' land.

9. Future relocation plans:

a. One plan, according to GAO, involves the moving of 300,000 persons in 1972 from Quang Nam and Quang Ngai provinces in Military Region 1.

b. One reason given for this possible relocation is "the 'embarrassing situation' in Military Region 1, where refugees frequently had little or no land to farm and were caught in the fighting still going on."

c. Another reason given is "the worsening unemployment situation."

d. Still another reason is "that the abandoned land could be turned into a free-fire zone to make it easier to fight the enemy."

e. GAO states that "such massive relocation imposes refugee problems which may exceed the ability of GVN to effectively handle required relief operations."

EMERGENCY ASSISTANCE TO NEW REFUGEES

1. "Long delays have occurred" in recognizing and registering refugees and in making payments.

2. "To be eligible for assistance, the refugee must live in a recognized GVN refugee site. Refugees living outside sites have not been recognized by GVN since the end of 1970."

3. Typical of the delays in recognizing refugees and in making payments, is a situation in Darlac province. Some 736 Montagnards were relocated in 1968. GAO reports that these refugees were not recognized as such, and "did not receive temporary assistance benefits until 1971."

4. In a June 1971 memorandum, a CORDS refugee advisor stated: "I cannot understand why the U.S. and the Vietnamese Governments spend so much on propaganda telling people about the 'good life' available to those who seek government protection, when in fact so little is actually done."

ASSISTANCE TO RESETTLED AND RETURN-TO-VILLAGE REFUGEES

1. Assistance suffers from a number of "deficiencies".

a. "Payments of resettlement and return-to-village benefits are not promptly made." Payments "were at much slower rates during the first 6 months of 1971 than during the same period in 1970. Moreover, fewer refugees were paid in 1971, even though the actual active caseload increased." In the 1970 period 183,000 out of 342,000 were paid. In the 1971 period 156,000 out of 409,000 were paid.

b. Commodities, such as roofing are "not provided when needed." Moreover, no emergency stocks are provided to the provinces, "although sufficient stocks for normal and emergency requirements" are on hand in Saigon.

c. Site development (wells, latrines, teachers and classrooms, medical facilities, water pumps, etc.) falls far below "development project criteria established by GVN to satisfy the needs of refugees in resettlement and return-to-village."

2. In 1971, about 539 million piasters were budgeted for resettlement and return-to-village site development. As of August 31, 1971 about 491 million had been allocated. But less than 26% of the allocation—about 127 million piasters—had been expended.

3. GAO states that another problem was the fact that sites "were stereotyped" and "were not designed to meet the specific needs of the refugees. For example, we observed that schools were built and that wells were dug; yet the one overriding need of most of the refugees had not been provided by the GVN—land to farm. Also, the construction of a dispensary is of little value without providing medicine and medical personnel and classrooms are useless without teachers. We found that such situations were prevalent in several of the sites we visited."

CONDITIONS AT REFUGEE SITES

1. GAO visited 38 representative sites in the 4 Military Regions in Vietnam.

2. GAO states that "on the basis of criteria established by GVN, many refugee sites needed facilities such as housing, classrooms, wells, medical facilities, medical services, and sanitation facilities. The most serious problem found at most of the sites visited was the lack of opportunity for self-support and/or economic potential."

3. "No where in Vietnam are the problems of assisting refugees noticeable than in Military Region 1 that comprises the 5 northernmost provinces in Vietnam."

a. A March 1971 CORDS survey reported an unemployment rate of 40%, little education and medical services, and insufficient security.

b. According to GAO, over 90% of the 252 sites covered by the CORD Survey were officially "listed as being normalized, when, in fact, the survey showed that they did not meet GVN criteria."

c. GAO states that 450,000 refugees lived in the 252 sites surveyed. No one was being responsive to the needs of the refugees in these sites, "although the sites were in existence about 4 years."

ASSISTANCE TO OTHER WAR VICTIMS

1. In addition to refugees and civilian war casualties, there are war widows, orphans, the physically disabled, and war compensation claimants. In 1970 the GAO reported that "relatively low priority" was being attached to the problems of war widows et al. The GAO now reports that there has been "no change" in this priority—that only a pittance is being spent to meet the needs of these war victims, and that their numbers are rapidly on the increase.

2. The following statistical summary of other war victims is based on official GVN estimates as of September 1971. CORDS officials say these estimates are "of questionable validity". For example, the official U.S. estimates on the number of orphans runs over 700,000.

War victims	Civilian	Military	Total
War widows	69,000	75,800	144,800
Orphans	107,000	303,300	410,000
Physically disabled	132,000	53,000	185,000
War compensation claimants	241,000		241,000
Total	549,000	432,000	981,000

3. The miniscule efforts being made to assist the physically disabled illustrates the low priority attached to the needs of "other war victims."

a. Statistical summary of assistance to the physically disabled:

Year	Total registered	Total assisted	Cumulative blacklog
1968	1,070,000	900,000	170,000
1969	289,900	290,000	169,000
1970	198,100	131,300	236,700
1971 (September)	129,378	124,627	241,451

b. Current plans call for the production of some 10,000 prosthetic devices annually. At this rate—which is not being met—"it would be 9 years before all of the now-existing 88,620 amputees could receive a device. The problem is more serious, however, because a large number of devices must be replaced or repaired periodically. An adult requires a replacement every 2 years, a child requires a replacement every 6 months."

4. The grim situation is also illustrated by assistance to war compensation claimants.

a. GAO reports "that backlog has increased on a yearly basis"—from 169,900 in 1969 to 241,451 in 1971.

b. The slow response in responding to war compensation claimants is typical in what happened to some in Quang Nam province. GAO reports that "in September 1971 war victims in Quang Nam province received some 6,328 of the 7,900 required sheets of tin. Some of these war victims were generated in 1969."

5. "Since 1962 there has been a major population shift to urban areas because of the war. War victims who seek refuge in urban areas, however, are not recognized as refugees. . . ."

6. To relieve the vast over-crowding of urban areas, the GVN, among other things, established in March 1971 a Directorate General of Land Development and Hamlet Building to encourage the development of virgin land. GAO reports that "the program is still in the formulation stages and no land has been distributed."

7. In the area of vocational training, for which there are hundreds of thousands of "prime candidates," accomplishments "have not been significant."

8. "According to CORDS the war fragmented the traditional Vietnamese family and community social structure. Mass movements of people have generated new social and economic problems and have aggravated existing ones. The community center program seeks to resolve some of these problems. Similar programs have been implemented successfully in other Asian countries and to some extent in Vietnam."

a. With U.S. counterpart funds, "as of November 1971, a total of 17 community centers had been constructed throughout Vietnam and an additional 23 centers were under construction.

b. "Now that facilities have been constructed throughout the country, they are not being utilized. A large unused center in DaNang was being turned into a regional referral center for vocational rehabilitation of disabled persons, and the center in Nha Trang was being used for GVN offices."

U.S. FOOD AND OTHER COMMODITY SUPPORT

1. Out of some $75,200,000 of P.L. 480 title II commodities programmed from the fiscal year 1969 through fiscal year 1971, only $42,900,000 were actually shipped. Fiscal year 1972 support is expected to be about $5,000,000.

2. "Department of State auditors and AID auditors found cases where the food had been (1) used to feed farm animals or exchanged for traditional diet items, (2) held in storage for excessive periods allowing it to become unfit for human consumption, and (3) not always issued on the basis of need."

3. GAO reports that "a high percentage of food is wasted in transit or storage . . ."

4. "Commodities frequently are held in storage for excessive periods causing a high rate of condemnation loss . . ."

a. In May and June 1971, 10 percent of the inventories were identified as being unsuitable for human consumption."

b. "Between April 20, 1971 and September 22, 1971 commodities valued at about $3.3 million had been disposed of due to condemnation."

5. "Pilferage of commodities in transit is also a problem . . . In Region 2, advisors told us of instances where cases had been received with cans filled with sea water or rocks

which had apparently been substituted for cans of cooking oil."

6. "Often Public Law 480 items are given and distributed without regard to the need of the individuals. In September 1971, after the presidential election campaign began, the Phu Yen province warehouse doors were opened and commodities were given to anyone who wanted them. Authorized versus actual issues of commodities in September 1971 were as follows:

Commodity	Authorized	Actual
Bulgar wheat (bags)	33	697
Cooking oil (cases)	72	4,919
Corn, soybean, and milk (bags)	33	3,218
Rolled oats (bags)	33	589

7. Other AID commodities were found to be stored in warehouses for excessive periods.

a. In Darlac province, for example, aluminum roofing sheets, tarpaulins, cloth, and farming tools were on hand for 2 to 4 years. The tarps were "rotten" from dampness.

b. In Phu Yen province, GAO observed shop tools, such as anvils and saws, that has been in storage for up to seven years. Most of the tools, according to GAO, "were not the type traditionally used by the Vietnamese and probably would never be used."

OTHER RESOURCES APPLIED IN SUPPORT OF WAR VICTIMS PROGRAMS

1. "U.S. advisory personnel authorized for war victims programs have been reduced from 116 positions in January 1969 to 62 positions in September 1971—a reduction of nearly 47 percent. Further reductions are to be made to 36 positions in June 1972 and to 10 positions 2 years later. Thereafter it is expected that only minimal advisory assistance will be required. Personnel shortages continue to exist. As of September 1971 only 71 percent of the authorized positions were filled."

2. The lack of GVN manpower and expertise is becoming "increasingly more apparent." GAO reports that "there has not been an increase in GVN Ministry of Social Welfare personnel to offset the decline in the U.S. personnel. . . . The Ministry's staffing decreased from 2,293 in October 1970 to 1,944 in October 1971. . . . There is also an imbalance in the distribution of assigned staff." GAO reports that, on a per capita basis, those areas with the highest number of war victims are assigned the least personnel.

a. The case load per assigned staff member varies from 66.3 in Military Region 3 to 1,340.7 in Military Region 4.

b. "Ten of the 44 provinces and four autonomous cities handle about 56 percent of the total refugee and other war victims case load and use about 18 percent of the staff. Conversely, 17 provinces handling less than 1 percent of the case lead have 34 percent of the staff. For example, the case load in Chuong Thien province quadrupled during 1971 because of military activity in the U-Minh Forest. The province's 16 man staff handled an average case load of 81,000 refugees a month. During the same period a nearby province, AnGiang, had a staff of 30 but did not have a single active case."

3. "The GVN refugee and social welfare programs reportedly received, from all sources, financial assistance totaling about $72.4 million and $65.6 million in fiscal years 1969 and 1970 respectively. The fiscal year 1971 estimate is $50.4 million, down about 21 percent. The U.S. contribution decreased from 85 percent in fiscal year 1969 to 69 percent in fiscal year 1971, whereas GVN contributions increased from 5 percent to 18 percent during the same period."

4. Direct U.S. dollar assistance budgeted for refugee and social welfare programs decreased from $16,400,000 in fiscal year 1969 to $6,282,000 in fiscal year 1971. The amount actually obligated decreased from $10,075,000 in fiscal year 1969 to $3,791,000 in fiscal year 1971. During this period, less than 60% of budget funds were expended. An estimated $2,300,000 will be provided in fiscal year 1972.

5. The slow release of funds for the relief of war victims by the Ministry of Social Welfare continues to be a major problem.

a. During the first 8 months of 1971, only 38% of budgeted funds were expended.

b. A breakdown for the various categories follows:

For temporary refugee relief, 29%.

For war victims relief, 42%.

For resettlement and return to village, 38%.

For social welfare, 24%.

6. "Voluntary agencies and countries other than the United States are potential sources of financial and technical support available to GVN, but little effort has been made by the Ministry of Social Welfare to increase assistance from these sources. As the American involvement declines, we believe that it is increasingly important that alternate sources of support are identified and used extensively by the Ministry if social welfare programs are to be sustained and developed further.

FOLLOW-UP REVIEW OF CIVILIAN HEALTH AND WAR-RELATED CASUALTY PROGRAM IN LAOS

(Sanitized summary of the General Accounting Office report)

GENERAL

1. "There is virtually no indigenous medical capability in Laos to meet the immediate or long-range public health needs of the general population or to treat casualties in war zones."

2. "As stated in our prior report on civilian health and war-related casualties in Laos (B–133001, November 25, 1970), USAID/Laos does not have a formal civilian health and war casualty program. The assistance rendered in this area is included as part of the Public Health Development program, which consists of the Operation Brotherhood project, the Village Health project. . . ."

a. Operation Brotherhood helps to operate hospitals in 6 urban areas through contract with a Filipino charitable group.

b. The Village Health Project supports a large number of small dispensaries, two hospitals, and one hospital functioning as a dispensary—all located in rural areas. Although the stated purpose of the Village Health Project is classified "secret" in the main body of the GAO report, the official summary of the report clearly states the project's purpose is to "provide essential care to military and paramilitary groups, refugees and local village communities."

3. Recent USAID/Laos finding:

[In thousands of dollars]

	Fiscal year—		
	1970	1971	1972
Obligations	4,575	4,774	4,956
Percent:			
Operation Brotherhood Project	33.5	40.3	42.6
Village Health Project	66.5	59.7	57.4
Total	100.0	100.0	100.0

"For fiscal year 1970 and 1971, $500,000 to $600,000 additional is also applicable to these projects for air transport of commodities and personnel."

4. "At the initiation of our review, Department of State and AID officials in Washington, D.C., advised us that files would be reviewed to remove (1) documents prepared separately or jointly by other agencies (2) sensitive information requiring higher levels of review before release, (3) congressional and White House correspondence, and (4) any classified information determined not to be important to GAO's review."

ASSISTANCE TO LAO MILITARY AND PARAMILITARY FORCES AND THEIR DEPENDENTS

1. This chapter of the GAO report is classified "secret".

2. This chapter, however—as did similar chapters in earlier GAO reports on Laos—continues to document and support independent findings of the Subcommittee.

3. Some background to current report:

a. Although AID officials publicly recognized in mid 1970 that economic assistance funds should not be used as a cover to finance military activities, AID continued to furnish substantial amounts of medical support to Lao military et al. This was being done on a non-reimbursable basis, and with little or no control over the distribution and use of the medical support items.

b. As a result of the 1970 hearings by the Subcommittee on Refugees, USAID/Laos proposed that a cost sharing agreement pertaining to U.S. support of Lao military et al, be negotiated by AID with the other U.S. government agencies involved. Progress on such agreements was very slow.

c. Finally, in a May 7, 1971 letter addressed to Senator Kennedy, AID Administrator John Hannah stated: "I can report to you now that with one shift made early this year and others that will be effective at the beginning of fiscal year 1972, all of the A.I.D. financing with which you have been concerned will be terminated."

4. Despite this assurance by Dr. Hannah, A.I.D. funds programed for civilian war casualties and health care in Laos continued to be used to support Lao military et al., after the "beginning of fiscal year 1972."

INFORMATION ON ACCIDENTAL BOMBINGS

1. This chapter of the GAO report is classified "secret".

2. This chapter, however, continues earlier documentation of the Subcommittee on Refugees regarding incidents of accidental bombing, the number of civilians killed or wounded, and the disposition of claims arising from accidental bombings.

OBSERVATIONS ON USAID/LAOS MANAGEMENT

1. Delegation of responsibility:

a. "We previously reported that management of the AID program had been delegated largely to USAID/Laos. AID officials in Washington, D.C., exercised some control over operations in the field through authorization of funds for support of the program. Most of the records concerning the details of the program were located at USAID/Laos. There has been no change in these management practices."

b. "USAID/Laos officials do not attempt to monitor in any detail the activities of the mission's technical divisions, such as the Public Health Division. The USAID/Laos Director keeps informed of the technical divisions' programs primarily through regular staff meetings. Written procedures governing the operations of the Public Health Division have not been considered necessary because the Division Chief has held that position from the inception of the program 8 years ago and because the management of the medical program has been carried out by this Division Chief."

2. Management Information System:

a. Last year we reported that there were few written internal instructions within the USAID/Laos Public Health Division and noted that overall management information data showing the results of public health projects were not being compiled."

b. Management deficiencies "persist"—

Adequate written instructions, guidelines, and procedures have not been issued.

Management decisions have not been documented.

Dispensaries and hospitals have not always reported on their operations.

Field activities have not reported information on a consistent basis.

c. USAID/Laos advised the GAO that "the staff had little time for record keeping and long-range planning considered by the GAO as desirable for effective management."

3. Training of Lao personnel:

a. Laos has never had a sufficient number of trained medical personnel to care for its people. For example, "there are about 36 Laotian doctors, of which 17 are in the military and 19 are administrators of the Royal Lao Government."

b. A major objective of the U.S. assistance is to train Lao health personnel. The training programs are "behind schedule."

c. However, "the Public Health Division Chief stated that he did not plan to start another training program for new medics before the end of fiscal year 1972. He said that there was no need for additional medics and nurses now, although ideally it would be nice to have two medics trained for every dispensary. At the time of our review, there were 223 medics for 220 dispensaries. Public Health Division officials were of the opinion that—in the absence of catastrophes, such as epidemics, large numbers of deaths in a particular area, or complaints from the Laotian people themselves—the medical program was adequate."

4. Even though there has been a slight increase in U.S. health personnel, nothing is being done to develop "long-range plans relative to civilian war casualties, training programs, and management systems."

OPERATION BROTHERHOOD PROJECT

1. Operation Brotherhood activity has developed and operated six hospitals. A seventh "was overrun by the enemy in May 1971."

2. Hospital admissions (in patients) have "increased significantly"—from some 20,831 in fiscal year 1970 to some 26,887 in fiscal year 1971. This was an increase of 29%.

3. In 1971 outpatients at the hospitals averaged some 15,400 per month.

4. In 1971, the GAO found that all hospitals "were handling more patients than they were staffed to handle." The "maximum feasible number of beds" available was 245—the "average actual daily patient load" was 321.

5. GAO reports that medical services would probably "suffer with any substantial increase in the number of patients if the hospitals staff was not increased." GAO reports some progress in additional hospital staff, and also reports some progress in increasing bed capacity at three hospitals.

6. GAO visited all six Operation Brotherhood hospitals. GAO observed that conditions at these hospitals were better than other hospitals in Laos. Nevertheless, GAO notes:

a. "Patients overcrowding at five of the six hospitals. Beds were close together and often had to be supplemented with cots. At Keng Kok patients were put outside in screened verandae, and at Sayaboury patients were put in an open breezeway."

b. "Ward areas congested by patients' relatives and friends who ate and slept in ward areas. This condition was not observed at Vientiane and Keng Kok, where family visiting hours were enforced."

c. "Generally poor sanitary conditions, such as dirty sheets and wearing of dirty street clothes in hospital beds. At Khong Sedone, the bathrooms were inoperable and had been for over a year and ambulatory patients were required to use a nearby wooded area and creek."

d. "Conditions at the Pakse provincial hospital considerably worse than those at any of the Operation Brotherhood or Village Health hospitals. Patients' rooms were poorly lighted; floors were dirty; and dietary kitchen, laboratory, laundry, and autoclave equipment were considered inadequate by Operation doctors. Overall, this appeared to be the most unsanitary hospital observed."

VILLAGE HEALTH PROJECT

1. Important sections of this chapter are classified "secret"—notably those discussing the purpose of the Village Health Project, the types of facilities supported, the number of patients treated, and the funding arrangements.

2. GAO observations on conditions in Village Health Project hospital facilities:

a. Patient overcrowding—ward areas congested by patients' families—poor sanitary conditions, such as dirty cots and sheets.

b. GAO observed "substantial improvement in the site 272 facilities which resulted from the construction of new wards to replace the open huts observed last year."

3. GAO observations on conditions in Village Health Project dispensaries:

a. "Generally orderly"—each "staffed by at least one medic"—"well stocked with medical supplies"—

b. "Our visits and discussions with refugees in the villages revealed that the people were using these medical facilities and that there was no evidence visable of insufficient medical attention. Moreover, the death rates in the villages were not abnormally high."

CIVILIAN WAR CASUALTIES AND MORTALITY

1. GAO reports some improvement in the overall reporting of public health statistics—but official statistics on civilian war casualties are "incomplete and of doubtful validity".

2. "We previously noted that during the first six months of 1970, the Village Health project dispensaries treated, on the average, 2,000 war casualties a month, of which about 600 were civilians, according to Public Health Division documents. For a similar period during 1971, war casualties treated by all USAID/Laos-supported medical facilities averaged 1,072 a month, of which 157 were civilians. Although this information showed a decrease in the number of war casualties, the available data were not complete or reliable enough to allow us to reach any conclusions concerning the nature, extent, or trends of war casualties in Laos. The Public Health Division Director believes, however, that the number of civilian casualties has been decreasing since the 1968 and 1969 period, because civilians are now in more secure areas."

3. According to Public Health Division documents, USAID/Laos supported facilities treated some 1,668 civilians war casualties from July 1970 through September 30, 1971. The monthly rate increased very substantially from November 1970 through June 1971.

(Note: The Director of the USAIS Public Health Program in Laos informed Subcommittee staff members in August 1970, that the civilian casualty rate in Laos since 1968, "probably ran at least as high as that in Vietnam." What this probably meant in specific terms for Laos—with a population of less than 3,000,000—was that at least 30,000 civilian war casualties occurred from early 1969 to mid 1970. This figure would include deaths, those treated in medical facilities and those not treated at all. As is the case in Vietnam, the actual occurrences of civilian casualties are much higher than official figures based solely on incomplete hospital admission data.)

4. GAO reports that "our inquiry revealed that reports on mortalities were incomplete, and available data on the causes of death were insufficient to allow us to reach any conclusions concerning war-related mortality rates."

5. GAO reports that "we were unable to obtain sufficient data to permit an objective evaluation of USAID/Laos efforts to minimize mortality rates."

6. USAID has established a maximum mortality level for villages. If the level is exceeded, special remedial measures are supposed to be taken.

7. GAO reports that "in analyzing the reports available on mortalities for the 3-month period ended June 30, 1971, we found that, for the month of June, the actual deaths exceeded this criterion from 110 percent to 900 percent at 16 locations. For the months of April and May, we found that the criterion was exceeded at 10 locations for each month."

8. "Documentation indicating that Public Health Division officials were aware that the mortality rate was significantly beyond the established criterion was available in only three of the 26 locations referred to above."

FOLLOW-UP REVIEW OF THE REFUGEE RELIEF PROGRAM IN LAOS

("SANITIZED" SUMMARY OF CLASSIFIED GENERAL ACCOUNTING OFFICE REPORT)

INTRODUCTION

1. Refugee relief in Laos is administered under the terms of a project agreement between the United States Government and the Royal Lao Government.

a. GAO states that "although this is a joint program, the United States has assumed virtually all operational and funding responsibility for it."

b. Although the reference is classified "secret" in the report, it is generally recognized that U.S. assistance is provided jointly through at least A.I.D., the Department of Defense and the C.I.A., and that AID has the overall responsibiltiy for administering this assistance.

2. "Refugees" covered by the U.S. assistance programs include civilians displaced by military conflict, and certain military and para-military forces and their dependents. Although the reference is classified "secret" in the report, it is generally recognized that the number of refugees, officially registered for assistance during the GAO investigation, exceeded 300,000. The number of refugees on official relief rolls, at any given time, has steadily increased in recent years.

(NOTE: The total number of refugees created by the Laos War approaches 1,000,000—more than a third of the population of Laos.)

3. "At the initiation of our review, State Department and AID officials in Washington, D.C., advised us that files would be reviewed to remove (1) documents prepared separately or jointly by other agencies, (2) sensitive information requiring higher levels of review, (3) congressional and White House correspondence, and (4) any classified information determined not to be important to our review.

"Although we have no knowledge of the withholding of any information concerning the matters discussed in this report, we cannot be certain that we had access to all relevant data. It did appear that restrictions were not being applied at USAID/Laos."

AID ASSISTANCE TO REFUGEES

1. The number of officially registered refugees, at any given time, has "increased by about 11 percent" in recent years, "while the value of assistance provided by the U.S. Government increased by about 81 percent."

2. Refugees programs costs are financed through a number of channels.

a. Unverified costs reported by AID in recent years follow:

Fiscal year:	
1969	$8,423,000
1970	15,776,000
1971	15,850,000
1972 (est.)	16,284,000

b. Unverified costs reported as transferred to USAID/Laos from the Department of Agriculture for PL–480 commodities are as follows:

Fiscal year:	
1969	800,000
1970	600,000
1971	1,300,000
1972 (est.)	1,400,000

c. Unverified costs reported by other agencies are classified "secret".

3. The various elements of AID costs and a breakdown for the last two fiscal years are as follows:

[Thousands omitted]

	Fiscal year— 1971	Fiscal year— 1972
Refugee relief and resettlement	$4,800	$6,285
Air technical support	4,020	3,845
Public health development	2,347	1,649
General technical support	672	690
Development of rural economy	3,570	3,256
Agricultural development	390	492
Education development	51	47
Total	15,850	16,248

4. For assistance purposes, refugees are classified as being (1) fully dependent, (2) partially dependent, (3) in need of no food assistance but requiring other types of support, and (4) paramilitary forces and their dependents.

5. Depending upon the classification of each refugee, assistance to those registered, officially includes some or all of the following:

Food.
Shelter.
Medical assistance.
Water supply.
Educational assistance.
Clothing, utensils and knives.
Vegetable and rice seeds.
Tools.
Fertilizer and insecticides.
Animals, such as pigs and chickens.
Land clearing, wells, and dams.

6. "The ultimate objective of the refugee relief program is to resettle the displaced people and make them self-sufficient. . . . At the time of our review, 51 resettlement villages inhabitated by 45,178 has been established" under the national relocation program created in 1966.

7. Although the references are classified "confidential", the GAO report confirms these independent findings of the Subcommittee:

a. that the successful resettlement of *all* Laos refugees will be difficult because two-thirds of the land in Laos has been lost to the enemy.

b. that there is "no ready solution" to the problem of *hill-tribe* refugees, mainly paramilitary combatants, because there are no mountain areas in government territory large enough to support these people.

8. The "Air Technical Support" category of AID refugee costs is used for "the distribution of commodities and the evacuation of refugees." Up to two-thirds of *total* AID obligations in the overall Air Technical Support Project, involving several U.S. agencies, are "refugee related." Nearly all paragraphs relating to the Project in the current GAO report are classified "secret" or "confidential."

9. The "Public Health Development" category of AID refugee costs was discussed in an earlier GAO report, released by the Subcommittee on March 19, 1972. Among other things, this report documented that AID health funds officially programmed for war victims continued to support CIA activities—after a 1971 assurance to the Subcommittee by AID Administrator John Hannah that the practice would be "terminated" on June 30, 1971.

10. Other categories of AID refugee costs are defined as follows:

a. General Technical Support—"supply management, warehousing, housing, office support, and surface transportation."

b. Development of Rural Economy—"rural self help, rural public works, and well-drilling."

c. Agricultural Development—"general management support, support of irrigation projects, and agricultural extension projects."

d. Education Development—"advisory assistance and certain commodity support."

11. PL–480 commodities:

a. GAO states that "we found that USAID/Laos needed to develop a plan for implementing its policy to substitute Public Law 480 commodities for a part of the food ration. The purpose of such substitution is to reduce dollar expenditures from purchases abroad of rice and protein supplement by USAID/Laos."

b. GAO notes that "in our visits to refugee offices located in the various military regions, we found that PL–480 commodities were not being used and were not being planned for use as substitute for rice in three of the regions. The only region that was using them as substitute was Vientiane. . . ."

c. U.S. commodities are "donated" to Laos under a Government-to-Government agreement under Title II of PL–480.

d. Wide gaps exist between what is programmed, received in country, and actually issued. For example, in fiscal year 1971, out of 8,456 metric tons of food programmed, only 4,585 metric tons were received, and only 2,596 metric tons were issued.

ASSISTANCE TO MILITARY AND PARAMILITARY FORCES AND THEIR DEPENDENTS

1. All paragraphs in this chapter of the GAO report are classified "secret" or "confidential".

2. This chapter, however—as did similar chapters in earlier GAO reports on Laos—continues to document and support independent findings of the Subcommittee. Separate GAO reports on refugee assistance and health care in Laos were initially released by the Subcommittee on February 7, 1971. A follow-up report on health care was issued on March 19, 1972. The report summarized here is the follow-up report on refugee assistance.

3. Some background on the current report on refugee assistance:

a. The decision to involve AID as a "cover" for support of Lao military et al—including, according to an internal USAID memorandum of January 1970, "direct military/logistical support"—was made at a high level of the U.S. government.

b. Early in 1971, the Subcommittee reported that a number of agreements among U.S. government agencies were transferring some portion of the funding responsibility from AID to more appropriate agencies, including Department of Defense. The Subcommittee also reported, however, that a very significant measure of this assistance was apparently continuing.

c. On May 7, 1971, in a letter addressed to Senator Kennedy, AID Administrator John Hannah stated: "I can report to you now that with one shift made early this year and others that will be effective at the beginning of fiscal year 1972, all of the A.I.D. financing with which you have been concerned will be terminated."

4. The current report documents more progress in negotiating and implementing agreements on the transferring of obligations from AID to other agencies—but the report also documents that much confusion remains; that some AID support of Lao military et al continued after "the beginning of fiscal year 1972"; and that a Department of the U.S. Government, other than A.I.D., is also involved in the support of Lao military et al.

OBSERVATIONS AT REFUGEE VILLAGES

1. GAO inspected conditions at 32 representative refugee villages out of a total of some 380. The villages included both permanent and temporary resettlement areas.

2. Majority of refugees are either elderly or young children—an absence of men in the 15 to 25 year age category—they are serving military—food and clothing appeared to be adequate.

3. The water supply appeared to be adequate—in "sites visited by GAO last year where wells were said to be required, drilled wells subsequently had been provided."

4. Housing appeared to be adequate in most villages visited, but "overcrowded and congested living conditions" were observed.

5. Land supply is inadequate—for example, "adequate paddy land for rice crops is not currently available in Laos."

6. Medical facilities were discussed in the earlier GAO report referred to above.

7. Schools seem to operate in many villages.

8. "Generally the refugee relief program appeared to be adequately meeting refugee needs"—but this is primarily true only in terms of emergency and temporary relief. The fact that some two-thirds of the Laos land area has been lost to the enemy, the fact that refugee numbers are steadily increasing, etc., make the long-term picture very bleak.

OBSERVATIONS ON PROGRAM MANAGEMENT BY USAID/LAOS

1. GAO states that "our follow-up work showed that USAID/Laos had taken steps to eliminate many of the weaknesses noted in our previous report (1970) and, as a result, had strengthened the management of the refugee program. . . . We found also that USAID/Laos had placed greater emphasis on refugee affairs by a reorganization which upgraded the responsible organizational entity."

2. GAO also states, however, that "steps" to elminate management weaknesses have "not resulted in any readily discernible differences in USAID/Laos' policies and practices."

3. For example, GAO states: "We pointed out in our prior report that in July 1970 the refugee program was being carried out under an outdated Mission and function statement, that there were no written operating procedures, and that field personnel were left largely to their own resources.

"Our current work showed that, although USAID/Laos had issued an updated policy statement and had described the responsibilities and functions of the Office of Refugee Affairs, there was still a need for the development of written procedures for the guidance of field personnel to help ensure operational consistency.

"For example, during our visits to various field offices, we found disparities in the amounts of rice being given refugees. The AID Auditor General found a similar situation regarding distribution of Public Law 480 commodities and, in a July 1971 report, recommended that written procedures be developed. We also noted that there were no written procedures or guidelines for the distribution of nonconsumerable commodities, such as pots, pans, knives, and blankets."

CONTROL OVER REFUGEE COMMODITIES

1. GAO states: "We reviewed the corrective actions taken to resolve the problems discussed in the report we submitted to the Subcommittee last year, entitled "Need for Improvement in the Control Over Refugee Relief Commodities Shipped Laos" (B-133001, Sept. 21, 1970). These problems involved weaknesses in AID's controls over the receipt, storage, and issuance of refugee relief food, and of medical and nonconsumerable commodities."

2. GAO found "that certain problems persisted."

3. "USAID/Laos continues to be limited to the exclusive use of three carriers—Express Transport Organization, Ear Peng Chiang, and Lao Transport Association (Society de Transport Laos)—for moving cargo between Thailand and Laos. We also found that freight bills still are being paid without appropriate documentation evidencing the actual receipt of transported items."

4. "Because Laos is a landlocked country, all cargo arriving by sea must be transited through Thailand. Express Transport Organization is the only carrier authorized by the Kingdom of Thailand to transport cargo received at the port of Bangkok for transshipment to the Laotian border."

a. "Express Transport uses published rates which are not negotiable, and, although these rates were lowered after our prior review, they still appear to be unduly high. For example, using Express Transport, AID will pay about $165 for the movement of a 10-ton truck from Bangkok to Vientiane. Ear Peng Chiang charges only $115 for the same haul. Ear Peng Chiang, however, can be used to haul only commodities which were purchased in Thailand, and cannot be used for the transshipment of sea-borne freight."

b. "Because of Express Transport's monopoly position, AID must pay a premium of about 43 percent ($165 compared with $115) for moving much of the freight received in Bangkok for transshipment to Vientiane. AID paid Express Transport about $220,000 in fiscal year 1971 for transporting cargo from the port of Bangkok to border points in Laos. On the basis of the rates charged by Ear Peng Chiang, we estimated that the same volume of freight could have been moved for about $66,000 less or about $154,000."

c. "According to USAID/Laos, Ear Peng Chiang is the only carrier that holds licenses to operate in both Thailand and Laos. Therefore unlike other carriers, including Express Transport, Ear Peng Chiang can move freight from within Thailand to its ultimate destination in Laos. Ear Peng Chiang's rates are negotiable and AID has succeeded in obtaining rate deductions over the past several years. We noted, however, that AID has not attempted to solicit competition for the services provided by Ear Peng Chiang."

d. "Express Transport does not have a license to operate in Laos; therefore cargo hauled from the port of Bangkok must be off-loaded at a customs warehouse on the Thai-Laotian border. It must then be reloaded on Lao Transport Association trucks for movement to its ultimate destination in Laos. Laos Transport Association is an association of carriers who have been given a monopoly by the Royal Lao Government to transport all cargo entering Laos. Lao Transport Association's rates, like those of Express Transport, are nonnegotiable. Moreover an USAID/Laos official informed us that Ear Peng Chiang was a member of the Lao Transport Association."

5. "Our current review showed that USAID/Laos was continuing to pay freight bills submitted by certain carriers, without independent verification from within its own organization that the freight was actually received. This weakness in control exists with respect to billings from Express Transport Organization, the carrier handling freight received in Bangkok for transshipment to Laos, and from carriers handling freight within Laos."

a. On shipments from Bangkok to Laos, GAO found "that the Bangkok Operation Branch of USAID/Laos continued to approve for payment each Express Transport freight billing without independent confirmation that the cargo had arrived intact at the port of entry in Laos."

b. GAO states that this "is not a prudent practice. . . . We believe . . . that the need to exercise a greater degree of prudence is dictated by USAID/Laos' own past experience. As discussed in our prior report, one carrier submitted a *signed* shipping and receiving report in support of a freight billing for cargo in a truck was *demolished* en route to Laos from Bangkok."

c. "A similar situation also continues to exist regarding payment to local carriers for intra-Laos hauling. Although an attempt is made to verify receipt of cargo prior to payment, about 30 percent of the receiving documents (according to the estimate of a USAID/Laos official) are never returned to the transportation branch. The freight bills for these shipments are paid solely on the basis of documentation submitted by carriers . . . we believe that prudent management requires independent verification of receipt prior to payment of freight bills."

6. GAO reports a continued "need to improve controls over commodities received in Laos."

a. "In Vientiane we made a limited test of receiving documents and stock records to determine the adequacy of the receiving and recording procedures for commodities shipped from Bangkok. These records indicated that all the commodities in our sample had been received and properly recorded except for two Public Law 480 commodities—corn-soya milk and wheat-soya blend."

b. GAO tests of commodities shipped from Vientiane—to such places as Pakse, Site 272, and Luang Prabang—revealed several deficiencies, such as:

"Commodities were shipped and not accounted for at destination";

"At Site 272, no inventories have been taken since the warehouse was opened in March 1970";

At Luang Prabang, receipt of commodities was not being recorded on cards, "because the warehouse had run out of cards."

c. In discussing the messy situation existing at the warehouse in Luang Prabang, GAO reports: "USAID/Laos officials stated that it would be beneficial to the Refugee Relief program if someone with warehouse expertise would visit Luang Prabang to assist in setting up sound warehouse procedures."

Comptroller General
of the United States,
Washington, D.C.

Hon. Edward M. Kennedy,
Chairman, Subcommittee To Investigate Problems Connected with Refugees and Escapees, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: In your letter dated July 7, 1971, you requested that we make an inquiry into problems in Cambodia concerning war victims, civilian health, and war-related casualties. This is our report on that inquiry.

In accordance with an understanding with your office, we have not followed our usual practice of submitting a draft report to the Department of State to obtain the Department's official comments. We have discussed, however, the general observations in our draft report with responsible U.S. officials in Phnom Penh, Cambodia, and Washington, D.C., and have given consideration to their views where appropriate. We suggest that the lack of official agency comments on the matters included in our report be given due consideration in any use made of this report. It has been reviewed by agency officials for security classifications.

We believe that the contents of this report are of current interest to other committees and members of Congress, and, in view of public disclosures made of the substance of the report, we concurrently have made it available to other interested committees and agencies.

Sincerely yours,
Elmer B. Staats,
Comptroller General of the United States.

Problems in the Khmer Republic (Cambodia) Concerning War Victims, Civilian Health, and War-Related Casualties

(*Comptroller General's report to the subcommittee to investigate problems connected with refugees and escapees, Committee on the Judiciary, U.S. Senate*)

DIGEST

Why the review was made

In July 1971 the Chairman, Subcommittee to Investigate Problems Connected With Refugees and Escapees, requested that the General Accounting Office (GAO) update its prior reports on Vietnam and Laos and make an inquiry into refugees and civilian war casualty problems in Cambodia.

This report deals with problems concerning war victims, civilian health, and war-related casualties in Cambodia.

The North Vietnamese Army's invasion of Cambodia on March 28, 1970, culminated a long history of sanctuary activities along the border between Cambodia and South Vietnam. On April 30, 1970, the Government of the United States, in cooperation with the Government of South Vietnam, launched military operations into the North Vietnamese-controlled territory in Cambodia. These actions resulted in at least three types of refugees: (1) persons of Vietnamese origin residing in Cambodia, most of whom have subsequently been relocated in South Vietnam, (2) Cambodians fleeing from Communist-controlled territory—the largest single source of refugees—and (3) Cambodians fleeing from combat activity and air strikes.

In this report the term "refugees" is used generally to describe those Cambodians who have fled their homes in Communist-controlled territory or who have been displaced or are war victims as a result of combat activity in that country.

In accordance with agreements made with the Subcommittee's office, GAO did not follow its usual practice of submitting a draft report to the Department of State to obtain its official comments. GAO discussed, however, the general observations in a draft report with responsible U.S. officials in Phnom Penh, Cambodia, and in Washington, D.C., and has given consideration to their views where appropriate. Communications with Cambodian nationals were arranged through the facilities of the U.S. Embassy in Phnom Penh.

Findings and conclusions

Policy Concerning War Victims

The policy of the United States has been to not become involved with the problems of civilian war victims in Cambodia. There is no specific U.S. program for assisting refugees in that country; however, the United States is providing military and economic aid to Cambodia.

The Cambodian Government has not developed an overall program to deal effectively with the civilian war victim problem. There are, as yet, no specific programs for providing temporary relief to refugees. Relief has been granted on a case-by-case basis.

Some resettlement efforts have been made on a case-by-case basis by the Cambodian Government to assist refugees in obtaining vocational training and employment.

The Cambodian Commissioner General for War Victims and the Ministry of Community Development are the two agencies most directly concerned with the war victims problems. There have been as many as nine Cambodian Government agencies involved, to some degree, with civilian war victims, but there is a lack of coordination among the agencies.

Numbers of refugees and war damage claims

The total number of refugees in Cambodia is largely conjectural. There is no system for enumerating refugees, and they are moving continually. It has been estimated by the Cambodian Ministry of Health that more than two million persons have been displaced by the war between March 1970 and September 1971. GAO found no basis, however, for assessing the reliability of this figure or any other overall figures.

A total of 23,030 war damage claims for the equivalent of $130 million have been recorded by the Cambodian Government, but none have been paid.

Level of financial assistance

Cambodian Government funds for programs relating to the problem of civilian war victims have been channeled through the Commissioner General for War Victims and the Ministry of Social Action, Labor and Employment. The total budget for the Commissioner General for War Victims is the equivalent of about $252,000 for the 18-month period ended December 31, 1971. As of March 1971, $114,435 had been expended.

The Ministry of Social Action, Labor and Employment had expended the equivalent of $1,292,770 as of September 1971 for repatriation and relief of war victims. This included more than $800,000 for both military personnel and civilians killed or wounded. GAO was informed that most of these payments had been made for military casualties.

As of September 1971 foreign countries and/or private organizations had contributed at least $4.6 million for humanitarian assistance. About $3.7 million of this assistance was received from the Japanese Government. The assistance consisted primarily of medical supplies and equipment, foodstuffs, medical-purpose vehicles, and prefabricated buildings (to be used for refugee housing).

Condition of refugees

Although living conditions varied from place to place, conditions were generally less than adequate. Lack of sufficient food rapidly was becoming serious.

Civilian war-related casualties

There is no reliable measure of the number of civilian war-related casualties. It has been estimated by Cambodian Government officials that as many as 1,400 civilians have been killed and that as many as 20,000 combined military personnel and civilians have been injured. GAO is not in a position to comment on the reliability of these estimates. Shortages exist in all areas of health services, and certain types of pharmaceuticals are in critically short supply. GAO found that about 64 percent of the prewar health facilities were functioning.

CHAPTER 1. INTRODUCTION

At the request of the Chairman, Subcommittee to Investigate Problems Connected With Refugees and Escapees, Senate Committee on the Judiciary, in a letter dated July 7, 1971, the General Accounting Office has inquired into the handling of war-related civilian problems in Cambodia.

Our review which was performed during September and October 1971, primarily at the Department of State, Washington, D.C., and at the American Embassy, Phnom Penh, included discussions with Cambodian Government officials and with representatives of voluntary relief agencies. We made field trips to observe conditions of war victims. GAO communications with Cambodian nationals were arranged through the facilities of the U.S. Embassy in Phnom Penh. Embassy officials and Cambodian Government officials were most cooperative in providing data and in making the necessary arrangements which enabled us to make direct observations of refugee conditions in the country and to develop much of the detailed information contained in this report.

The scope of our review was limited in certain areas. At the initiation of our review, Department of State officials advised us that files would be reviewed to remove (1) documents prepared separately or jointly by other agencies, (2) sensitive information requiring higher levels of review before release, (3) congressional and White House correspondence, and (4) any classified information determined not to be important to GAO's review.

Although we have no knowledge of the withholding of any data concerning the matters discussed in this report, we cannot be certain, in view of the agencies comment, that we have had access to all relevant information. Although it did not appear that these restrictions were being applied in Cambodia, our review in Cambodia, of necessity, was limited because Cambodian documents required translation and because discussions and interviews with Cambodian officials and other persons required the use of interpreters.

Origin of the refugee problem

Cambodia, which comprises an area of about 66,000 square miles, has a total population estimated at seven million. (See map, p. 8.)

The United States recognized Cambodia on February 7, 1950. Relations deteriorated in the early 1960's and were broken in May 1965 by Cambodia, following a serious incident on its border with South Vietnam. The North Vietnam military forces had been using sanctuary areas in Cambodia to direct fire at U.S. and South Vietnamese troops across the Cambodian border. According to a Department of State publication, U.S. elements would return this fire in self-protection and sometimes would inflict casualties among the Cambodians. The publication reports that such incidents at times were due to human error but more often were provoked by the North Vietnamese military forces. Diplomatic relations were restored on July 2, 1969, by mutual agreement.

A series of increasingly energetic military and political efforts were made prior to March 1970 to force a withdrawal of the North Vietnamese military forces.

Cambodia was invaded by the North Vietnamese on March 28, 1970, shortly after Prince Norodum Sihanouk, the Cambodian Chief of State, was dismissed by the Cambodian Parliament.

In April 1970 President Nixon announced that the United States would provide small arms and other material to support the defense of Cambodia against armed aggression by North Vietnamese military forces.

Prime Minister Lon Nol's government proposed negotiations looking toward a peaceful withdrawal of forces from Cambodia. The North Vietnamese, however, rejected these proposals. Initially they took measures to defend their base areas against Cambodian military pressure. Early in April 1970 the North Vietnamese began moving out of their sanctuaries and deeper into Cambodian territory in an effort to establish a solid Communist-held zone reaching to the port of Kompong Som and the sea along the nearly 600-mile-long Cambodian-South Vietnamese border. This movement would have changed considerably the sanctuary situation which had continued over the previous 5 years.

On April 30, 1970, President Nixon announced that the Government of the United States, in cooperation with the Government of the Republic of Vietnam, was launching military operations into North Vietnamese-controlled territory in Cambodia, for a period of 2 months, to protect its military forces and the process of Vietnamization in the Republic of Vietnam.

The situation with regard to refugees, occasioned by the outbreak of hostilities between the Cambodians and the North Vietnamese, has been quite different than that which has existed in neighboring Laos and South Vietnam. An early problem, after the North Vietnamese invasion occurred in force on March 28, 1970, concerned persons of Vietnamese origin residing in Cambodia at that time. Various estimates represented their number to be between 420,000 and 500,000; many of these refugees had originated from North Vietnam in a migration of 1954 and later. By the end of August 1970, some 200,000 of these persons had been relocated in South Vietnam and about 200,000 remained in Cambodia. There is no information concerning the location of others included in the estimates.

From March 28, 1970, to late summer 1970, Cambodians migrated from war-afflicted areas to Phnom Penh. By February 1971 these persons reportedly had been integrated almost totally with families or friends in Phnom Penh, although some had simply moved to Phnom Penh and were supporting themselves.

The Cambodian Ministry of Public Health has estimated that more than two million persons have been displaced by the war at one time or another since March 1970. As of September 1971 the Commissioner General for War Victims estimated that about 150,000 refugees were living in Phnom Penh and that about 70,000 were living in provincial capitals. We believe that the Commissioner General's estimates may be low, as discussed in chapter 3.

CHAPTER 2. POLICY CONCERNING WAR VICTIMS

U.S. policy concerning war victims in Cambodia

According to the U.S. Ambassador to Cambodia, it has been the policy of the United States to not become involved with the problem of civilian war victims in Cambodia. At the time of our review in September 1971, the Ambassador did not consider the civilian war victim problem to be of such serious proportions as to require U.S. assistance. He said that, since the United States was providing military and economic aid to Cambodia, it was the policy of the United States to encourage other countries—which could not provide military assistance because of their own internal political situations—to assist Cambodia with its humanitarian needs.

The U.S. Ambassador told us in October 1971 that the Cambodian Government had not requested any U.S. assistance with the civilian war victim problem. We were advised that, until the Cambodian Government made such a request, there were no plans for the United States to become involved in this problem.

According to the Ambassador, it is not likely that the Cambodian Government will request humanitarian assistance from the United States even if the civilian war victim problem becomes much more severe than it has been.

There appear to be two reasons for this. First, the Cambodian Government's own policy—discussed in a subsequent section of this chapter—provides for a low-key approach to the problem. Secondly, the war effort has been given priority by the Cambodian Government. Cambodian Government officials realize that the United States is a source for necessary military assistance and desire that any assistance obtained from the United States be channeled toward the advancement of the war effort.

At the time of our review, one official from the American Embassy's Political Section had been assigned responsibility for monitoring the civilian war victim problem in Cambodia. This responsibility was accomplished as a part of his regular duties as an Embassy political officer. In our opinion this official was cognizant of the broad aspects of the civilian war victim situation.

Cambodian Government policy toward civilian war victims

Embassy officials informed us that the Cambodian Government was aware of the civilian war victim problem; however, we were told that the Cambodian Government had not developed an overall program to effectively deal with the problem. There are no specific programs for providing temporary relief to refugees; instead, each case is handled individually.

We were unable to obtain written policy guidelines from the Cambodian Government with regard to (1) the general civilian war victim problem or (2) the specific refugee problem. We were advised by Cambodian Government officials that it was their Government's policy to provide emergency and temporary relief and, in general, to manage the problem in such a way that refugees did not become dependent on the Government. As one Cambodian official involved with the refugee problem stated, the Government did not want to make beggars out of the people.

According to American Embassy officials, the Cambodian Government's general mobilization directive, as it applies to refugees, more closely resembles written policy guidelines than does any other document. This directive, issued about September 1971, provides that, within the framework of general mobilization, (1) all refugees be counted, (2) assistance be given in finding employment for refugees, (3) lodging for refugees be found with the "generous village people" or in transit camps, and (4) refugees be encouraged to return to their villages as they become secure.

Some efforts have been made by the Cambodian Government to assist refugees in obtaining vocational training and employment in order that the refugees may be integrated into the local society and economy. There are, however, no specific programs designed to accomplish these objectives, but efforts are made on a case-by-case basis.

No program has been developed to assist refugees in resettlement either in their former villages or in new locations. We were advised by the Cambodian Government officials that there were several social and cultural reasons for a low-key approach to the refugee problem.

Cambodian officials stated that, as a result of these social and cultural factors, the refugee problem in Cambodia was not as severe as it might have been in a different environment, given the same degree of destruction experienced by Cambodia. They stated that there was a high degree of national identity and unity among the Cambodians, particularly since they were faced with the task of fighting a foreign invader. The "extended family concept" is a Cambodian tradition which has helped alleviate the burden which normally would rest with the Government.

Cambodians are said to be very individualistic and attached to their land and to prefer to take care of themselves rather than to request help from the Government. We were told that, for these reasons, persons driven from their homes by the war tended to return to their homes as soon as the fighting stopped. Because of this presumed short-term displacement and the tendency of Cambodians to be self-reliant, the Cambodian Government prefers to describe the problem as a war victim or displaced-person problem rather than a refugee problem.

In this report, we have used the term "refugees" to generally describe all Cambodians who have fled their homes in Communist-controlled territory or who have been displaced or are war victims as a result of combat activity in that country.

Although our observations confirm that the Cambodians seen to be self-reliant and do, to a great degree, depend on the family in times of need, it appears that these phenomena also could have resulted from a lack of Government programs for assistance as well as from the cultural traditions of the Cambodian society.

Functions of Cambodian Government agencies concerning war victim relief

We found that there was no systematic approach to the total problem of civilian war victims—either for providing temporary assistance or for assisting in the resettlement of refugees. Functions and responsibilities are fragmented, and there is little or no coordination among agencies involved with the problem. We noted that there had been as many as nine Cambodian Government agencies involved, to some degree, with civilian war victims.

At the time of our review the two agencies most directly concerned with the war victims problem were (1) the Commissioner General for War Victims and (2) the Ministry of Community Development. Prior to September 1970 the Ministry of Social Action, Labor and Employment had a major role in providing assistance to civilian war victims; however, these functions were transferred to the Commissioner General for War Victims. The Commissioner General for War Victims is a civilian agency established in July 1970 that appears to be subordinate to the Minister of Social Action, Labor and Employment.

The Commissioner General for War Victims is primarily responsible for providing temporary relief to persons displaced by the war. Such relief includes the operation of refugee camps if necessary. In addition, the Commissioner General (1) coordinates the receipt and distribution of donations from private persons and organizations, (2) records claims for war damage losses, and (3) makes payments for civilian war casualties.

Although we were advised that the Ministry of Community Development was the agency primarily concerned with the long-term resettlement of refugees, we noted that, in September 1971, the Commissioner General for War Victims developed a plan designed to assist refugees wishing to return to their villages. The Commissioner General found that one of the most serious problems a refugee faced upon returning to his village was the fact that his home and property had been destroyed. The Commissioner General's plan calls for providing 45 sheets of roofing—either metal or fiber cement—to each returning refugee family whose home has been destroyed.

The Commissioner General estimates that from 100,000 to 150,000 homes have been destroyed by the war, which would require from 4.5 million to 6.75 million sheets of roofing for replacement.

The Commissioner General's plan had not been implemented as of October 1971, since no funds were available in the Cambodian Government budget for this project. The Commissioner General is hoping for donations from other countries to implement the resettlement plan.

The Ministry of Community Development also was in the process of developing a plan to assist a number of refugees to resettle on Government-owned land in the Phnom Penh area. As of October 1971, however, the plan was still in the formative stages and no specific information was available concerning the substance of the proposed program or the time when the program was to become operational.

We found that there was no coordination between the Ministry of Community Development and the Commissioner General for War Victims with respect to their resettlement assistance plans. Neither agency was aware of the resettlement plan being developed by the other agency.

CHAPTER 3. NUMBERS OF REFUGEES AND WAR CLAIMS

The total number of refugees in Cambodia is largely conjectural. As of October 1971 there was no enumerating system. We were advised that the reason it was so difficult to make an accurate estimate of the number of refugees was that the situation was so fluid. Refugees continually move between the cities and their villages as security improves or deteriorates in various areas of the country. Many refugees move in with relatives or build their own thatched shacks on the periphery of Phnom Penh or provincial capitals and do not register with the Cambodian Government.

The Ministry of Public Health has estimated that more than two million persons have been displaced by the war since March 1970. GAO found no basis for assessing the reliability of this figure or any other overall figures.

As of September 1971 the Commissioner for War Victims estimated that 150,000 refugees were living in Phnom Penh and that 70,000 refugees were living in provincial capitals.

The population of Phnom Penh reportedly has doubled from about 600,000 to 1.2 million since March 18, 1970. According to a U.S. Embassay official, this increase is attributable to the war and not to the worldwide urban drift phenomenon.

The International Committee of the Red Cross representatives in Phnom Penh estimated in September 1971 that there were 100,000 to 150,000 refugees living in the peripheral area—the so-called "Green Zone"—of Phnom Penh. These refugees are squatters who have built thatched shacks on vacant land around Phnom Penh, and the number does not include those refugees living with relatives.

There simply are no reliable population estimates for provincial capitals to indicate the validity of the Commissioner General's estimate of 70,000 displaced persons. We were informed by the Governor of Svay Rieng Province, however, that prior to March 1970 the city of Svay Rieng—the provincial capital—had a population of about 100,000. He stated that between March 1970 and September 1971 the population of the city increased to about 250,000. Many of these persons move between the provincial capital and their homes in nearby villages; however, the Governor stated that, because of security, about 45,000 people had not returned to their villages in over a year.

We believe that these estimates indicate, to some degree, the extent of the refugee problem in Cambodia. It is apparent, however, that any realistic, quantitative assessment of refugee needs in Cambodia requires more reliable data. The figures referred to throughout this report should be considered merely as rough indicators.

Registered refugees

As of September 30, 1971, a total of 77,572 persons in the Phnom Penh area had registered as refugees with the Commissioner General for War Victims. About 1,500 refugees were living in four camps in Phnom Penh, and the remainder were living either with relatives or in the Green Zone.

On the basis of population estimates discussed above, it was apparent that only a small percentage of the refugees had registered with the Commissioner General for War Victims.

In an attempt to ascertain the reason so few refugees had registered, we interviewed at random 18 refugees living in the Green Zone of Phnom Penh. Of the 18 refugees, five were registered with the Commissioner General, and one was aware of the office of the Commissioner General but had not registered. The other 12 said they had never heard of the Commissioner General for War Victims but that they would have registered had they known. The five refugees who had registered stated that they had never received any assistance from the Government.

Military dependents

In addition to the civilian refugees discussed above, as of August 1971 there were 1,259 military families and dependents—5,487 persons—living in 31 centers throughout Phnom Penh. Although families generally accompany Cambodian military personnel to the areas where fighting is taking place, this sometimes is not possible, and therefore the families live in military-provided centers for short periods of time. Although the living conditions in these 31 centers are similar to those of the civilian refugees' centers, the Cambodian Government does not consider military personnel and their dependents as refugees since the head of the household has a regular source of income.

Registered war damage claims

As stated above, one of the functions of the Commissioner General for War Victims is to record claims for damages caused by the war. Claims were accepted from (1) public bodies, (2) religious organizations, (3) business enterprises, and (4) private individuals. As of September 1971 the Commissioner General had recorded 23,030 claims for a total value of the equivalent of $130 million—all amounts shown in equivalent dollars in this report have been converted at the official rate of 55.54 riels to $1.

Included in the total number of claims recorded were claims for 12,076 destroyed homes and other property owned by private individuals and valued at the equivalent of about $78.7 million. Although this aggregate value may be overstated, on the basis of our observations and interviews with both Cambodian Government officials and refugees, it appears that only a small fraction of the total number of war damage losses have been reported.

At the time of our review, none of the claims for war damages had been paid. It was apparent that funds had not been made available for liquidating claims, and we were advised that it was unlikely that any claims for war damages would be paid until after the war was over. Moreover specific procedures have not been established to offset war damage claims with any resettlement assistance that may be provided by the Commissioner General for War Victims or the Ministry of Community Development.

CHAPTER 4. LEVEL OF FINANCIAL ASSISTANCE FOR WAR VICTIMS

Cambodian Government Resources for Civilian War Victims

Cambodian Government funds for programs relating to the problem of civilian war victims have been channeled through two agencies—the Ministry of Social Action, Labor and Employment and the Commissioner General for War Victims. Also the Ministry of Community Development budgeted the equivalent of about $90,025 for its refugee resettlement project; however, we could not ascertain whether any of these funds had been expended at the time of our review.

The total budget of the Commissioner General for War Victims was the equivalent of about $324,090 for the period July 15, 1970, through December 31, 1971. Because of the higher priority afforded the military effort, however, the Commissioner General stated that the war victims' budget had been reduced to about $252,070 for the 18-month period ended December 31, 1971.

The Commissioner General for War Victims was unable to provide us with a detailed estimate of expenditures through December 31, 1971; however, he advised us that a large percentage of the funds provided by the Cambodian Government for war victims was used to make payments for civilian casualties. The following schedule itemizes expenditures of the Commissioner General for the 9-month period from July 1970 through March 1971.

Type of expenditure—Equivalent U.S. dollars

War casualty payments for:	
Civilians killed	$23,569
Civilians wounded	42,266
Missing Government employees	2,855
Total	68,690
Food purchases and other refugee relief	28,515
Administrative expenses	17,230
Total	114,435

If expenditures for the period April through December 1971 are made at the same rate that the $28,515 was expended during the previous 9 months, we estimate that the Commissioner General will expend a total of about $61,250 for refugee relief for the 18-month period ended December 31, 1971. In view of the $72,020 reduction in the budget of the Commissioner General, however, we believe that Cambodian Government expenditures for actual refugee relief probably will be less than $61,250 for the 18-month period ended December 31, 1971.

Prior to September 1, 1970, the Ministry of Social Action, Labor and Employment was responsible for making payments for all war casualties—civilian and military. Subsequent to September 1, 1970, responsibility for civilian casualties was assigned to the Commissioner General for War Victims and responsibility for military casualties was assigned to the Commissioner General for Veterans.

The Ministry of Social Action, Labor and Employment assisted in the repatriation of over 200,000 Vietnamese nationals from Cambodia to South Vietnam during the period April 1970 through June 1971. In addition, this Ministry contributed to the relief of refugees. An itemization of the expenditures of the Ministry from March 1970 through September 1971, as related to war victims, is shown below.

Type of expenditure—Equivalent U.S. dollars

Payments for persons killed—civilian and military	$432,175
Payments to persons wounded—civilian and military	412,748
Repatriation of Vietnamese nationals	360,100
Miscellaneous	87,747
Total	1,292,770

We were unable to obtain a more detailed itemization of expenditures for civilian and for military casualties; however, we were informed that most of these payments had been made for military casualties. We also were advised that the "miscellaneous" category included administrative costs as well as expenditures for refugee relief items.

ASSISTANCE PROVIDED BY FOREIGN COUNTRIES AND VOLUNTARY AGENCIES

Much of the burden of refugee relief and humanitarian assistance in Cambodia has been borne by voluntary relief agencies and foreign countries. As of September 1971, 30 foreign countries and/or private organizations had contributed at least $4.6 million of humanitarian assistance to Cambodia. Because of the nature of the donations, however, we were unable to determine their exact values. (See app. II for a listing of humanitarian contributions as of September 1971.)

Contributions from foreign countries generally were channeled through their respective Red Cross Societies to the Cambodian Red Cross Society, either directly or through the International Committee of the Red Cross and/or the League of Red Cross Societies. Some private organizations also channeled their humanitarian assistance through the Cambodian Red Cross Society, and others contributed directly to the Commissioner General for War Victims.

The Cambodian Red Cross Society redistributed an estimated $342,096 worth of relief material to the Commissioner General for War Victims and redistributed other humanitarian relief having an unknown value directly to hospitals, clinics, the Ministry of Public Health, refugee camps, and war victims.

The Commissioner General for War Victims reported that the following private donations had been channeled through his organization as of September 1, 1971:

Donor—Equivalent U.S. dollars

Persons	$4,783
Cambodian Red Cross Society	342,096
Catholic Relief Services	144,597
Catholic Church Committee for Mutual Aid and Assistance	$110,824
Mutual Aid Committee of the Khmer Evangelical Church	10,642
Total	612,942

Japanese humanitarian assistance

The largest humanitarian assistance contribution to Cambodia was made by the Japanese Government. This assistance, valued at about $3.7 million, was channeled through the Japanese Red Cross Society to the Cambodian Red Cross Society and consisted primarily of medical supplies and equipment, foodstuffs, medical-purpose vehicles, and 100 prefabricated buildings to be used for refugee housing. Many of these items were redistributed by the Cambodian Red Cross directly to the Ministry of Public Health. Other items were redistributed to the Commissioner General for War Victims, and some items were used by the Cambodian Red Cross for its humanitarian activities.

The 100 three-family prefabricated buildings arrived in June 1971. At the time of our review, none of the prefabricated buildings had been used for refugee housing. We were advised that there were no plans for using these buildings as housing for refugees because Cambodian people preferred to live in traditional Cambodian houses built on stilts rather than in the prefabricated buildings. We were advised that the prefabricated buildings were being kept in open storage and were deteriorating rapidly.

Other contributions for refugee housing

The Office of the United Nations High Commissioner for Refugees had donated $50,000 and World Vision had donated $10,000 for a refugee housing project to be constructed near Phnom Penh. This project, to be supervised by the Cambodian Red Cross, was begun in January 1971 and consisted of three buildings, each with 16 family cubicles. In August 1971, the project was about 75-percent complete and no provision had been made for water or electricity. In addition, the building site, which was on filled land, had begun to sink.

According to the Commissioner General for War Victims, the average cost of over $1,000 a unit for this project was outrageous in view of the fact that it costs about $100 to construct a traditional Cambodian house.

CHAPTER 5. CONDITION OF REFUGEES

There are two general categories of refugees in Cambodia: (1) those living in refugee camps, including about 4,670 of Vietnamese origin who are interned, and (2) those living with relatives or housed in squatter shacks in the peripheral areas of Phnom Penh and provincial capitals. During our review we visited six locations in the Phnom Penh area and nine locations in four provinces where refugees were living. These locations included four camps in the Phnom Penh area and five camps in the provinces. Our observations are presented below.

Availability of food

Interviews with numerous persons indicated that, up to the time of our review in October 1971, the availability of an adequate food supply was considered not to be a serious problem. Representatives of the World Health Organization, the International Committee of the Red Cross, and the Cambodian Red Cross and doctors from the Ministry of Public Health, however, stated that the lack of sufficient food very rapidly was becoming a serious problem among the population in general and among the refugees in particular. We were told that there were signs of malnutrition and vitamin deficiency.

We were advised that several factors were increasing the pressure on the food situation. Since March 1970, the price of basic food commodities, such as rice, has more than doubled and some items, such as meat, poultry, and pork, are nearly impossible to obtain. We were told that even fish, which was a traditional item in the Cambodian diet, had become so expensive that it could be afforded only by the wealthy. Price increases were brought about by reduced supplies and by changes in demand for food items as a result of the war-caused dislocations.

We were told that most of the refugees—particularly those in the provinces and in the Green Zone of Phnom Penh—traditionally were farmers and grew much of their own food.

In their status as refugees, it is generally not possible for them to grow their own food.

Our observations and interviews with numerous refugees living outside refugee camps generally confirmed that the lack of sufficient food rapidly was becoming a serious problem. Most of the refugees we interviewed had some type of employment; however, their family earnings ranged between an equivalent of 36 cents and $3 a day. The number of family members ranged from four to 11 persons.

All but two of the refugees that we interviewed stated that it was very difficult to obtain sufficient food for their families. The representative of the International Committee of the Red Cross estimated that, as of September 1971, the minimum cost to adequately feed one person in the Phnom Penh area was the equivalent of about $1.80 a day.

LIVING CONDITIONS

Condition of refugees in Phnom Penh

Tuol Kauk Camp—In September 1971 this site housed 400 Khmer Montagnards from Ratanakiri Province. This facility was a former youth camp that was converted into a refugee camp in June 1970, at which time it housed 1,970 refugees. The facility consisted of four concrete buildings divided into individual family cubicles. The buildings appeared to be in adequate condition, and the facility was not crowded. Water was supplied to the camp by the city water system, sanitary facilities were adequate, a medical station was available, and a large classroom had been established. We noted that small plots of land had been made available for growing vegetables and that a small poultry project had been started.

We were advised that every 2 weeks 69 of the 89 families in the camp received 200 kilograms of rice through the commissioner General for War Victims. The remaining 20 families had a source of income and received only free shelter from the Cambodian Government.

St. Joseph's Seminary—In September 1971 this site housed 224 Canadian refugees, primarily from Kompong Thom Province. We were advised that, when this Catholic seminary was converted into a refugee camp in August 1970, it housed about 20,000 refugees of Vietnamese origin and was in very poor condition. These ethnic Vietnamese were later repatriated to South Vietnam.

At the time of our visit, conditions at the camp appeared adequate. We noted that land was available for growing food and that poultry and pigs were being raised. Although no medical facilities were available at the camp, transportation to nearby medical facilities was provided, if necessary, by the Commissioner General for War Victims. Except for providing this service, the Cambodian Government did not provide assistance to refugees at this camp.

Chak Angre Camp—In September 1971 this camp housed 252 civilian refugees. The camp, which was opened in December 1970, was built specifically as a refugee camp. The camp was not crowded; however, living quarters consisted of canvas-covered platforms constructed about 12 inches above use ground. Family compartments were about 5 by 8 feet in size and had no partitions between living quarters.

We noted that showering facilities and latrines had been constructed. Water was supplied from the city water system and appeared adequate. No school facilities were available at the camp; however, we were told that children attended public schools in Phnom Penh. At the time of our visit, only 10 families were receiving food assistance through the Commissioner General for War Victims.

Cao Dai Pagoda Camp—In September 1971, 616 refugees of Vietnamese origin, primarly from Battambang Province, were housed on the grounds of the Cao Dai Pagoda near the center of Phnom Penh. This camp was guarded by the Cambodian military. Refugees of Vietnamese Origin having proper credentials were free to come and go during the day; however, they were required to be inside the camp at night. About 40 of the male refugees without proper credentials were prohibited from leaving the camp.

Families were crowded into makeshift living quarters constructed on platforms about 12 inches above the ground. Roofs and walls were constructed of any available material—thatch, tin, cardboard, burlap, or wood. Conditions were generally unsanitary; there were pools of stagnant water around the living quarters. We noted that adequate latrines had been provided and that adequate water was available from the city water system.

We were told that this camp was supported primarily by the Cambodian Catholic Church and that some assistance had been provided by the Government of South Vietnam. The refugees also had received 600 kilograms of rice a week through the Commissioner General for War Victims.

Green Zone—We visited two locations in the peripheral area of Phnom Penh—the so-called Green Zone. Cambodian officials did not know how many refugees were living in this area; however, the estimates ranged from 100,000 to 200,000 persons. These refugees were squatters who had built shacks on vacant land—either Government-owned or privately owned. We noted that the shacks generally were constructed of thatch and were built on stilts. Both areas we visited were flooded, and the water was stagnant. No sanitary facilities were available, and all the refugees we interviewed had to purchase drinking water and transport it for some distance to their homes.

No special medical facilities for refugees had been established in these areas; however, the dispensary and hospital facilities of the Ministry of Public Health were available. These facilities were located a considerable distance from the areas we visited, and most of the refugees did not know the locations of hospitals or dispensaries. Because of the extreme shortage of medicines in Cambodia, refugees who did utilize Government medical facilities were not provided with free medicines. Rather, they were given prescriptions to buy their own medicines at local pharmacies. Because the refugees had no money, they usually went without medicines.

The refugees we interviewed had not received any Government assistance except for the assistance available at the public health facilities. Most had some type of employment; however, their earnings were very meager and generally were inadequate for providing the necessities of life. Notwithstanding our observations in the Green Zone, it appeared that the living conditions of these refugees were somewhat better than those we observed at some of the refugee camps.

Condition of refugees in the provinces, Battambang Province

We inspected three camps located in and near the city of Battambang; the camps housed a total of 4,054 refugees of Vietnamese origin from the provinces of Siem Reap and Battambang. These camps were basically internment camps, since the movements of these internees were restricted and since the camps were guarded by the Cambodian military. The adults were issued passes permitting them to leave the camps during the hours 6 a.m. to 6 p.m.

There were no medical facilities at any of the camps; however, we were told that a mobile medical unit visited the camps every 2 weeks. In addition, a nearby public health hospital was available in case of an emergency. We were advised that most of the refugees of Vietnamese origin had found some menial employment in the city of Battambang and that the Government was no longer providing food assistance.

Following are examples of the conditions we observed at the three camps.

Wat Leap Camp—In September 1971 this camp housed 1,917 ethnic Vietnamese nationals in an area about the size of an average city block. The camp was exceedingly crowded. It was surrounded by a barbed-wire fence, and military guards were at the gate. The camp area was unsanitary, and stagnant water and open sewers were around the living quarters. A common latrine had been constructed. (See photo on p. 27.) Water was obtained from a city water system; however, because the water pressure was so low, the supply appeared to be inadequate for the camp.

No school facilities had been established at the camp. A Cambodian Government official advised us that the children could attend the public schools in Battambang; however, we were advised by the camp chief that none of the children had been enrolled in school.

At this camp each family of five persons or less had been allocated an area of about 10 by 16 feet on which to construct its own living quarters. Larger families were allocated additional space. The living quarters were constructed in rows and generally did not have partitions between individual family compartments. The quarters—constructed on low platforms—were made of thatch, tin, wood, burlap, or any scrap material which was available. (See photo on p. 29.)

Bank of Agricole Camp—The camp, constructed in the courtyard of a former bank building, housed 1,179 refugees of Vietnamese origin. Sanitary conditions at this camp were somewhat better than those at the Wat Leap Camp; however, conditions were very crowded. No latrine had been constructed, and we were told that the people used a nearby river as a latrine. Water was obtained from the city water system, and the supply appeared adequate. Living quarters had been constructed of materials similar to those at Wat Leap Camp; however, we did not observe open sewers or stagnant water around the living area. (See photo on p. 30.)

Former Chinese school camp—This camp is a former school building, located in the downtown area of Battambang. It housed 958 refugees of Vietnamese origin who formerly lived in the city of Battambang. These refugees were principally mechanics and other craftsmen who were still employed at their trades during the day. Sanitary conditions at the camp appeared to be adequate; there was a sufficient water supply and adequate latrines. The camp was overcrowded. The former school building has a total of 26 rooms. Each room is about 16 by 20 feet and houses an average eight families. We were shown one room (see photo on p. 31) which officials stated housed 52 persons. It was apparent that the space was inadequate to sleep 52 persons, and we were told that the people slept in the open courtyard.

Svay Rieng Province

In the Parrot's Beak area, we inspected two camps established for Cambodian refugees and observed the general living conditions of refugees living outside the camps in the vicinity of the city of Svay Rieng and the village of Prasaut. Cambodian Government officials did not know the exact number of displaced persons living in the area because they tended to move back and forth between their homes and the city. We were told, however, that there were about 45,000 refugees in the area who had been unable to return to their homes because of security conditions. This is an area where considerable fighting has taken place that involved both Cambodian and South Vietnamese forces. (See photo on p. 33.)

Bak Ronas Camp—This camp was constructed by the Cambodian Government in November 1970 at an equivalent cost of about $9,000. The camp, consisting of two long wooden buildings and one thatched building with concrete floors and sheet-metal roofing, housed about 500 persons in September 1971. Living conditions appeared adequate, although somewhat crowded. Water was obtained from two wells; however, we were told that the supply was inadequate and that river water was used to supplement the water supply. Sanitary conditions appeared generally adequate. We were advised that medical and school facilities were available at a nearby village. (See photo on p. 34.)

Ba Yap Camp—The camp was a former military camp which, in September 1971, housed about 5,000 civilian refugees. Living conditions at this camp were very inadequate. There were no sanitary, medical, or school facilities available, and drinking water was obtained from a nearby river. We were told that the refugees had constructed the thatched huts in which they were living and that they had not received any Government assistance. The thatched huts were constructed on the ground and were generally about 4 feet high. We noted that there was a great deal of stagnant water around the camp area. We were told that these refugees had lived in this camp from June 1970 and that, at one time, the camp had housed as many as 15,000 refugees. (See photo on p. 35.)

Refugees living outside camp areas—One of the areas we visited was the village of Prasaut near the city of Svay Rieng. We were told that 607 refugee families living in this area were housed in thatched huts, bombed-out buildings, and other available shelters. The thatched huts were built directly on the ground, and we observed that there was a great deal of stagnant water in the area. The only medical facility available was a small military infirmary; however, we were advised that the supply of medicine had been exhausted. No school facilities were available. We were told that water was obtained from shallow wells dug by the refugees. (See photos on pp. 37 and 38.) (Photos mentioned not printed in RECORD.)

Kompong Chhnang Province

In the city of Kompong Chhnang—the provincial capital—there were 1,959 Cambodian refugees living in an area around the Yeay Tep Pagoda. The pagoda was used as a center for providing emergency relief; however, very few refugees lived inside the pagoda compound.

We were told about 200 refugee families lived on boats and that the remainder lived in thatched houses near the pagoda. Some of the boats being used by the refugees were of the type normally used for living purposes; others were not and appeared to be quite crowded. We were advised that the boats had been owned by fishermen of Vietnamese origin who had been repatriated to South Vietnam. The thatched houses were constructed on stilts by the refugees in a flooded area and were generally about 10 by 12 feet in size.

We were told that the only assistance that had been provided to these refugees was from private individuals and the Cambodian Red Cross. We were told also that sufficient emergency relief material had been provided; however, the food situation was becoming serious. Notwithstanding these observations, conditions did not appear to be as bad as those we observed in Svay Rieng Province. (See photo on p. 39.) (Photos mentioned not printed in RECORD.)

CHAPTER 6. FACTORS GENERATING REFUGEES

We were advised that a large percentage of the refugees in Cambodia were persons who had fled from their homes in Communist-controlled territory and that a lower percentage of refugees were generated as a direct result of aerial bombardment and other combat activity. Because of the lack of reliable data, we were unable to determine the percentage of refugees generated as a result of any one factor.

On the basis of our observations, it appears that the more affluent persons flee their homes when Communists take over the areas but that the less affluent persons tend to remain in their homes in Communist-controlled areas and flee only if actual fighting breaks out in the area. It appears that refugees currently are being generated as a direct result of combat activity involving Cambodian and/or South Vietnamese forces and of Allied air strikes. For example, in March 1971 the Cambodian Government estimated that a maximum 20 percent of property damage was a result of Cambodian and Allied air operations.

U.S. air support

After the withdrawal of U.S. ground forces from intervention areas in Cambodia on June 30, 1970, the U.S. Air Force was authorized to continue air interdiction—strikes at enemy troop and supply concentrations and lines of communication. The air role of the U.S. Air Force subsequently has expanded in Cambodia and, at the present time, includes direct close air support of combat operations conducted by Cambodian and South Vietnamese forces in Cambodia. The U.S. air war in Cambodia is controlled by the Commander, U.S. Military Assistance Command, Vietnam.

We were advised that there are no free-fire zones in Cambodia similar to those in Vietnam. Saturation-bombing missions are carried out, however, by high-altitude B–52 aircraft over the Communist-controlled eastern and northeastern areas of Cambodia. We were advised that, although these areas represented about 26 percent of Cambodia's territory, they contained only 5 percent of the population.

U.S. Air Force close-air-support activities are conducted at the request of the Cambodian military and are controlled by forward air control aircraft operating over Cambodia. We have been advised that close-air-support strikes are coordinated through Cambodian military unit commanders and are provided in any area of Cambodia where combat action is taking place. Air support is also provided by the South Vietnamese Air Force and the Cambodian Air Force.

Information concerning the number and types of U.S. Air Force strikes in Cambodia, the types of bombs used, general target locations, and rules of engagement governing air activity is classified "Secret." Consequently, in the interest of providing an unclassified document, we have not included this data in the report.

REFUGEES RESULTING FROM ACTIVITIES OF ARMED FORCES OF SOUTH VIETNAM

In accordance with an agreement between the Governments of Cambodia and South Vietnam, South Vietnamese troops conduct combat operations against Communist forces in Cambodia, primarily in those provinces bordering South Vietnam. Numerous atrocities by South Vietnamese troops in Cambodia were reported during the months of February through September 1971. The Governor of Svay Rieng Province told us that over 50,000 persons in this province had fled from their homes because of South Vietnamese forces' depredations.

Cambodian refugees stated that both the Viet Cong and the South Vietnamese forces looted property; destroyed what they could not carry; burned villages; and raped, beat, and murdered the villagers.

In March 1971 there were other reports showing indiscriminate shelling, murder, pillage, rape, and theft. The only pattern in the incidents seems to be that they occurred generally in the border regions, for example in Prey Veng Province and in Svay Rieng Province.

Early in 1971 a Cambodian-Vietnamese Mixed Committee was established to investigate the alleged depredations by South Vietnamese troops. The Mixed Committee, however, appears to have been ineffective. In September 1971 the Commissioner General for War Victims advised us that over 300 cases had been investigated by the Mixed Committee but that compensation had been paid in only two cases—one woman received the equivalent of $90 for rape and one family received the equivalent of $180 for the murder of a family.

REFUGEES INTERVIEWED

We interviewed 22 refugees in Phnom Penh and Kompong Chhnang concerning the reasons why they had fled from their homes. Nine refugees stated that they had fled their homes either because they had feared aerial bombardment or because their homes had been destroyed by aerial bombardment.

One of these refugees, who had fled from Kompong Speu Province, stated that her entire village had been destroyed by aerial bombardment; however, this refugee did not know what types of aircraft were used or whether they were U.S. Air Force, South Vietnamese Air Force, or Cambodian Air Force aircraft. This refugee stated also that she had never seen North Vietnamese or Viet Cong troops in her village.

Three of these refugees at Kompong Chhnang stated that their homes had been burned as a result of aerial bombardment. One of the three described the bombs as large canisters of liquid fire. The refugees did not know the identity of the aircraft.

In March 1971 the Commissioner General estimated that a maximum of 20 percent of the 100,000 to 150,000 homes destroyed and other property damage were a result of Cambodian and Allied air operations.

CHAPTER 7. CIVILIAN WAR-RELATED CASUALTIES

There is no reliable measure of the number of civilian war-related casualties. It has been estimated that as many as 1,400 civilians have been killed. It has been estimated further that possibly 20,000 military personnel and civilians have been injured. We are not in a position to comment on the reliability of these estimates.

Shortages exist in all areas of health services, and certain types of pharmaceuticals are in critically short supply. Conditions at four public health hospitals which we visited were critical. Although Embassy officials were generally knowledgeable of refugee problems, they were not fully aware of the seriousness of the shortages in the areas of health services, particularly in pharmaceuticals.

Various estimates of civilian war-related casualties

The Cambodian Armed Forces reported 355 civilians killed and 648 wounded during the period March 18, 1970, through March 6, 1971, and 53 additional civilians killed during the period June 18 through October 13, 1971. On the basis of our discussions with Embassy employees, a Cambodian Government official, and refugees from areas where the fighting took place, it is apparent that the casualty figures reported by the Cambodian Armed Forces are incomplete. Civilians wounded as a result of the war generally are treated at Ministry of Public Health hospitals; however, the Ministry apparently does not have a system for reporting the number of wounded civilians treated.

Since September 1, 1970, the Commissioner General for War Victims has been responsible for making payments for civilian war casualties. Each hospitalized wounded person receives a weekly allowance equivalent to 90 cents and, upon release from the hospital, receives a one-time allowance equivalent to $18. As of March 31, 1971, the Commissioner General for War Victims had paid allowances equivalent to about $42,266 to wounded civilians; however, the Commissioner General was unable to provide us with the specific number of civilians paid.

The family of each civilian killed as a result of the war receives the equivalent of $90 in a death benefit. As of March 31, 1971, the Commissioner General for War Victims had paid an equivalent of about $23,569 to the families of 262 civilians killed.

The foregoing payments do not include payments made by the Ministry of Social Action, Labor and Employment prior to September 1, 1970, for civilian war-related casualties.

At the time of our review, the Commissioner General for War Victims was unable to provide us with more current information concerning the total amount paid or the number of casualties. The Commissioner General estimated, however, that as many as 1,400 civilians had been killed between March 1970 and September 1971.

In addition, the Ministry of Health estimated that 20,000 persons had been injured. We were unable, however to determine how many of these were civilians.

Public Health Services

In an attempt to get some understanding of the extent of treatment facilities for civilian war-related casualties, we obtained information from the Ministry of Public Health concerning the number of available facilities, personnel, and medicines, and visited four public health hospitals and one military hospital to observe their conditions.

Although public health programs received considerable support during the period 1962 through 1969 from both the Government and the public in general, there was still a shortage of facilities and medical personnel when war broke out in March 1970. As a result of the war, shortages in all areas of health services have become severe and some items, such as certain types of pharmaceuticals, are in critically short supply.

The following table shows the number of health facilities, both public and private, available in March 1970 and at September 30, 1971; the number in areas outside Government control; and the number in Cambodian Government-controlled areas that had been destroyed or were in need of repair.

Type	Number in March 1970	Number in areas outside Government control [1]	Government control: Destroyed or damaged [1]	Government control: In need of repair [1]
Hospitals	40	6	10	5
Health centers	29	5	10	4
Clinics and maternity centers	42			
Dispensaries	19		1	1
Infirmaries	568	49	93	51
Total	698	60	114	61

[1] As of Sept. 30, 1971.

These facilities contained a total of 7,433 beds, of which 6,186 were in hospitals.

The following table shows the number of health facilities noted above that were under the control of the Ministry of Public Health as of March 1970.

Type:	*Number*
General hospitals	2
Specialized hospitals	3
Provincial hospitals	23
Health centers	25
Health subcenters	6
Dispensaries	17
Specialized dispensaries	2
Infirmaries	295
Total	373

We were unable to determine the exact number of health facilities currently functioning; however, the Ministry of Public Health estimated that about 64 percent of Cambodian health facilities were functioning and that $16 million was needed to repair and reequip facilities.

We were advised that, as a result of the war in Cambodia, the shortages of medical facilities, equipment, supplies, pharmaceuticals, and personnel became severe. In Phnom Penh there are two major public health hospitals with a normal total capacity of 1,510 beds. Since March 1970, the number of beds has increased to about 4,000 but there has been no increase in facilities. These facilities are extremely crowded and understaffed. Admissions increased from 31,000 in 1969 to about 39,000 in 1970, and the Ministry of Public Health estimated that, at the current rate, admissions would reach 50,000 for 1971. We noted that hospital conditions in the provinces did not appear to be as severe as those in Phnom Penh.

Medical personnel	As of March 1970	As of September 1971
Physicians and health officers	462	367
Pharmacists	81	63
Dentists	57	43
Nurses	2, 929	1, 670
Auxiliary nurses	573	868
Midwives	332	395
Rural midwives	933	933
Laboratory technicians		59
Sanitary agents	476	476
Total	5, 843	4, 874

We were advised that the reductions in the number of public health employees after March 1970 were primarily the result of medical employees joining the military.

The budget of the Ministry of Public Health has also suffered as a result of the military effort in Cambodia. On July 7, 1971, the fiscal year 1971 national budget was approved at an equivalent of about $335.8 million. The Ministry of Public Health was allocated the equivalent of about $8.7 million, representing 2.6 percent of the national budget. This is the lowest percent of the total budget in the last few years.

Shortages of Pharmaceuticals

We were advised by the Minister of Public Health and several public health doctors that there was a very serious shortage of all types of pharmaceutical products in Cambodia. The total annual input of pharmaceuticals into Cambodia from all sources amounts to the equivalent of about $14.4 million. This amounts to the equivalent of about $2 a year for medicines for each individual.

The Minister of Public Health stated that he had requested, through the Minister of Finance, that $3 million worth of pharmaceuticals be included in the fiscal year 1972 U.S. Commodity Import Program. At the time of our review, a final decision had not been made with regard to this request; however, Embassy officials advised us that the Agency for International Development was reluctant to include pharmaceuticals in the program. We were advised that there were significant inadequacies in the Cambodia Government's control system for pharmaceuticals, and U.S. officials fear diversion of commodities to North Vietnamese or Viet Cong forces.

At one of the public hospitals we visited in Phnom Penh, we observed an example of the critical need for medicines. The hospital director advised us that, in the preceding 2 months, they had experienced an alarming mortality rate among small children. We were informed that this resulted from a gastric disorder which, if not treated, caused dehydration and, in some cases, death. The hospital director stated that the disorder could easily be treated; however, no medicines for treatment were available.

At the time of our visit, there were 69 children in the hospital, most of whom were suffering from the same gastric disorder. The hospital director advised us that, at that time, the mortality rate was about 15 percent.

Condition of Hospital Facilities

During our review we visited four public health hospitals and one military hospital to observe their conditions. Three hospitals were located in the Phnom Penh area, and two of the public health hospitals were located in the provincial capitals of Battambang and Kompong Chhnang.

Hospitals in the Phnom Penh area

In the Phnom Penh area we visited two public health hospitals—the Khmer-Soviet Friendship Hospital and the Sonn Mam Hospital—and one military hospital. Public health hospitals in Cambodia treat military, as well as civilian, patients. We were advised that all hospitals in Phnom Penh were very crowded and that conditions varied from hospital to hospital. Following are examples of our observations.

Khmer-Soviet Friendship Hospital—This hospital was constructed about 12 years ago under the Soviet aid program. The hospital facility appeared rather impressive, and we were told that at one time the hospital had been well equipped. Because of age and lack of repair capability, however, most of the equipment was no longer operable. At the time of our visit in October 1971, this hospital was extremely crowded, poorly equipped, unsanitary, and understaffed.

The hospital initially was designed for a capacity of 500 beds. We were advised that in March and April 1971 the hospital had a peak load of 1,200 patients. At the time of our visit, the hospital had a staff of 27 doctors and a total of 1,009 patients. The hospital director stated that at least 80 doctors were needed. The caegories of patients were as follows:

Category	*Number*
Civilian war wounded	342
Military war wounded	248
Ordinary sicknesses requiring hospitalization	266
Pediatrics	69
Maternity	84
Total	1, 009

We observed that the hospital was extremely crowded. Staff offices had been converted into the emergency unit. Some rooms in this unit had nearly wall-to-wall beds; folding cots were used because of a shortage of beds. We noted patients lying on wooden benches and on grass mats on the floor. The surgical wards—where the wounded civilian and military patients were kept—were extremely crowded. Patients were in the hallways and the lobby, and rooms which normally would contain three beds contained from six to eight beds.

Conditions in the maternity ward were also crowded. Mothers and newborn babies—some less than 12 hours old—were lying on folding cots in the hallways. Because of the shortage of beds and nursery baskets, the newborn babies were sleeping with the mothers on folding cots without sheets or other bedcovers. The hospital director commented that the whole situation was pitiful but that there was nothing he could do to alleviate the situation because adequate facilities, equipment, and supplies simply were not available.

We observed that the hospital was very poorly equipped. The laboratory contained virtually no equipment. The only operable X-ray units available were two small portable units, and there was a shortage of sterilization equipment.

Sonn Mam Hospital.—This facility is the Ministry of Public Health mental hospital which was built for a capacity of 300 patients. At the time of our visit in October 1971, the hospital had about 1,100 patients and was staffed by six doctors, 22 nurses, one midwife, 54 administrative employees, and 89 guards. None of the professional staff had received specialized training in mental illness.

Conditions at the hospital were appalling. We observed one "ward" which contained about 200 patients. The ward consisted of two areas—one was an outside walled area where about 100 patients stayed day and night (the ground was used for sleeping) and the other was a large room about 20 by 80 feet which contained about 100 more patients. The room was dark and had no ventilation. Concrete benches about 4 feet in width ran the length of each side of the room and were used for sleeping purposes. Sanitary conditions were very poor.

Preah Monivong Hospital.—This is the

major military hospital in Phnom Penh. Military hospitals are not under the jurisdiction of the Ministry of Public Health and normally do not treat civilian war-related casualties. We visited this hospital to observe conditions, however, because civilian hospitals treat military patients, which increases the pressure on civilian facilities.

The hospital originally was designed for a maximum of 200 beds; however, since March 1970 there have been as many as 600 beds in the hospital. On the day of our visit, 370 beds were occupied. The hospital director stated that the patient load was low because of the reduced level of military activity during the rainy season. We noted that patients were quartered in the hallways and that two wards, which normally contained 20 beds each, contained 60 beds each.

We observed that the hospital generally was in poor condition and that there were shortages of medical instruments and equipment. At this hospital, however, the director advised us that there were no serious shortages of medicines or of medical employees.

Provincial Hospitals

Kompong Chhnang Hospital.—The hospital at Kompong Chhnang appeared generally inadequate to the need. The hospital had a total of 177 beds, 96 of which were occupied at the time of our visit. We were advised that 15 of the patients were military war casualties and that three of the patients were civilian war casualties. The hospital director, the only doctor at the hospital, advised us that, because of inadequate facilities, all serious casualties were evacuated to Phnom Penh. We noted shortages of all types of medical supplies, equipment, and medicines, as well as shortages of staff. The building in which civilian war casualties were maintained was dirty and generally in poor condition.

This ward contained about 17 other patients, in addition to the civilian casualties.

Battambang Hospital.—Conditions at the hospital appeared generally adequate. Facilities were relatively modern, clean, and not crowded. The hospital had a total capacity of 250 beds, of which 161 were occupied at the time of our visit. The hospital contained two surgical units, two delivery rooms, an X-ray room, and a laboratory, all of which appeared clean and well equipped. The hospital director advised us that there was a shortage of pharmaceuticals—primarily antibiotics and various types of serums. We were advised that there were six doctors assigned to the hospital but that the hospital needed five additional doctors. At the time of our visit, this hospital contained 25 civilian war-related casualties. We were advised that these casualties had occurred as the result of a terrorist attack in the city of Battambang and of the ambush of a train near Battambang.

Medical Items Included in the Military Assistance Program

We noted that, as of September 8, 1971, a total of $742,967 had been included in the fiscal years 1970 and 1971 Military Assistance Program for Cambodia for medical supplies, equipment, drugs, and chemicals. Included in this amount in the fiscal year 1971 program were funds for five hospitals—one 400-bed field hospital and four 100-bed station hospitals. We were advised that these field hospitals were scheduled to arrive in Cambodia in October or November 1971. We believe that the operation of these hospitals should alleviate, to some extent, the pressure currently felt by civilian hospitals.

APPENDIX I

U.S. SENATE,
Washington, D.C., July 7, 1971.

Hon. ELMER B. STAATS,
Comptroller General, U.S. General Accounting Office, Washington, D.C.

DEAR MR. STAATS: As you know, since 1965 war-related civilian problems in Indo-china have been a major concern of the Judiciary Subcommittee on Refugees. On three occasions the Subcommittee requested the General Accounting Office to investigate the handling of these problems and related matters, and reports were subsequently filed with the Subcommittee.

In light of continuing Congressional and public interest, I would like to request a continuing inquiry into the situation in both Vietnam and Laos, and request as well that the inquiry now include Cambodia. Additionally, in view of growing interest in long-term programs of rehabilitation and reconstruction, I would also like to request that a separate inquiry be made into United States policy, projection, and planning in this area of concern.

To facilitate these requests it would be helpful if you would designate a representative of the General Accounting Office to get in touch with Mr. Dale de Haan, Counsel to the Subcommittee, for additional information.

Many thanks for your consideration and best wishes.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees.

APPENDIX II

FOREIGN COUNTRY HUMANITARIAN ASSISTANCE FOR THE PERIOD MARCH 1970 THROUGH SEPTEMBER 1971

ASSISTANCE TO THE CAMBODIAN RED CROSS VIA THE INTERNATIONAL COMMITTEE OF THE RED CROSS FROM VARIOUS NATIONAL RED CROSS SOCIETIES

Donor	Type of assistance	Estimated value [1]
Japan	Medical supplies and equipment, foodstuffs, medical-purpose vehicles, and prefabricated buildings for refugee housing.	$3,700,000
International Committee of the Red Cross.	Medical supplies and equipment	45,000
League of Red Cross Societies/International Committee of the Red Cross.	Medical supplies and equipment, foodstuffs, mosquito nets, and other relief material.	[2] 30,000
United States	2 Red Cross delegates sent to assist in setting up a storage and distribution system—remained in Cambodia for 2 months.	10,000
Thailand	Medical team of 14 persons and 8 tons of equipment and supplies for the period August 1970 to March 1971.	(3)
Italy	Medicines (amount unknown)	(3)
Sweden	16 cases of medicine, 1 case of surgical instruments, and 326 cases of used clothing.	(3)
France	228 cases of condensed milk and 500 blankets	(3)
Republic of Vietnam	196 cases of medicines	(3)
Philippines	4 cases of medicines	(3)
Singapore	Medicines (amount unknown)	(3)
World Vision	22 cases of medicines, 1,298 units of plasma, and 100 crutches.	(3)
Philippines Kiwanis	10 cases of medicine	(3)
Association of Khmer Doctors and Students in Europe.	4 cases of medicine	(3)
Magen David Adom (Israel: Red Cross).	8 cases of medicine	(3)
Total		$3,785,00

BILATERAL ASSISTANCE TO THE CAMBODIAN RED CROSS

Donor	Type of assistance	Estimated value [1]
West Germany	4 ambulances, X-ray unit, other medical equipment (crutches and wheelchairs), and antibiotics.	[4] $152,439
Republic of China	Various medical supplies	50,000
New Zealand	Medical supplies, including Hartman's solution, dextrose, plasma, and sterile bandages.	114,640
Korea	Medical supplies	90,000
U.S. Veterans of Foreign Wars.	Cash grant to purchase equipment for the manufacture of prosthetic devices.	50,000
United Nations High Commissioner for Refugees.	Grant for refugee housing	50,000
World Vision	do	10,000
Denmark	13 cartons of streptomyocin	1,602
Australia	400 bed sheets, 100 flasks of plasma, and 19 cases of medicine.	(3)
Republic of Vietnam	Foodstuffs and medicine	(3)
Switzerland	100 flasks of plasma	(3)
Canada	35 cartons of clothing	(3)
Total		518,681

ASSISTANCE PROVIDED DIRECTLY TO THE COMMISSIONER GENERAL FOR WAR VICTIMS

Donor	Type of assistance	Estimated value [1]
Catholic Relief Service	Foodstuffs, clothing, drugs, and shelter for refugees	$144,597
Catholic Church's Committee for Mutual Aid and Assistance.	Foodstuffs, clothing, and drugs	110,824
Mutual Aid Committee of the Khmer Evangelical Church.	Foodstuffs and clothing	10,642
Cambodian Red Cross Society.	Foodstuffs, medicines, clothing, and transportation equipment.	[5] 342,096
Private individuals	Cash grants and pharmaceuticals	4,783
Total		612,942

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[1] Estimated value based on Cambodian riels exchange rate of 55.54 riels equals $1.

[2] The amount of about $30,000 was donated in cash by National Red Cross Societies of Belgium, Australia, Canada, Great Britain, Ireland, New Zealand, the Netherlands, the Philippines, Sweden, and Switzerland, in response to a joint League of Red Cross Societies-International Committee of the Red Cross appeal for aid in June 1970.

[3] The estimated value of the donations was not available.

[4] West Germany donated humanitarian assistance valued at 500,000 Deutsche marks. The estimated U.S. dollar equivalent is based on the Oct. 8, 1971, exchange rate of 3.28 Deutsche marks equals $1.

[5] The amount provided by the Cambodian Red Cross to the Commissioner General for War Victims represents a redistribution of donations received by the Cambodian Red Cross from other Red Cross societies.

Source: The data shown in this appendix were derived from records of the American Embassy, Phnom Penh; the Cambodian Government Commissioner General for War Victims; the International Committee of the Red Cross; and the Cambodian Red Cross. Because of the variety of contributions and methods of donation, we cannot be sure that we have accounted for all the humanitarian assistance provided to Cambodia.

APPENDIX III. NUMBER OF U.S. PERSONNEL IN CAMBODIA

The magnitude of U.S. programs has resulted in an increase in the number of U.S. personnel. When U.S. assistance resumed in April 1970, there were 11 persons on the Embassy staff. In March 1971 there was a total of 91 persons assigned to the Embassy, and on October 1, 1971, there was a total of 137 persons assigned. The increase in Embassy staff was due primarily to increased military assistance to Cambodia.

The following schedule shows a detailed comparison of Embassy personnel strengths as of April 1970 and March and October 1971.

Section	Apr. 22, 1970	Mar. 4, 1971[1]	Oct. 1, 1971[1]
Executive	2	4	4
Political military[2]		22	61
Political		4	4
Economic	[3] 2	6	14
Consular		1	1
Defense attaché	3	24	22
U.S. Information Service		3	3
Administrative[4]	4	27	28
Total	11	91	137

[1] Includes 17 persons and 23 persons on temporary duty as of Mar. 4 and Oct. 1, 1971, respectively. Temporary duty employees are used in Cambodia to fill permanent positions.

[2] Includes 16 military personnel and 54 military personnel as of Mar. 4 and Oct. 1, 1971, respectively, assigned to the military equipment delivery team and 1 U.S. Navy officer in charge of construction assigned to supervise a military assistance program construction project as of Oct. 1, 1971.

[3] 2 persons are responsible for the political, economic, and consular functions.

[4] Includes Embassy Marine Corps guards.

Note: This table does not include foreign national employees

APPENDIX IV. LEVELS OF U.S. MILITARY AND ECONOMIC ASSISTANCE TO CAMBODIA

The United States recognized Cambodia on February 7, 1950. Relations deteriorated in the early 1960's and were broken in May 1965 by Cambodia, following a serious incident on its border with South Vietnam. During the years 1955 through 1963, the United States provided about $309.6 million in economic aid and about $83.7 million in military aid. Diplomatic relations were restored on July 2, 1969, by mutual agreement.

In accordance with the "low profile" policy of the United States, military hardware and training and economic assistance have been provided since April 1970 to the Cambodian Government; however, technical assistance and advisors have not been provided.

Level of military assistance

The fiscal year 1970 military assistance program was designed to provide emergency support to the Cambodian Armed Forces. The primary U.S. military assistance objectives were (1) to provide the Cambodian Armed Forces with the capability to sustain national independence and neutrality and (2) to develop sufficient capability to disrupt North Vietnamese or Viet Cong base areas and lines of communications in Cambodia, as a corollary objective of facilitating Vietnamization of the war in South Vietnam. Vietnamization continued to be the top priority of U.S. aims in Southeast Asia.

As a result of a series of Presidential determinations and congressional authorizations, the total authorized program for fiscal year 1970 and 1971 amounted to $8.9 million and $185 million, respectively, for a total authorization of $193.9 million. Sophisticated military items were excluded from the programs; ammunition accounted for about 52 percent of the programmed amount.

The United States has supported the Cambodian military forces in a variety of ways in addition to military assistance program funding. We have not determined the total value of this additional assistance which has included such items as (1) U.S. air support of combat operations in Cambodia, (2) communications facilities, (3) captured war materials, and (4) support of psychological-warfare operations in Cambodia.

Level of economic assistance

The two primary objectives of U.S. economic assistance to Cambodia are to (1) enable the country to withstand abnormal economic dislocations caused by the war by providing imports at approximately prewar levels and (2) complement U.S. support of Cambodian military efforts through application of local currency generated by the U.S. economic programs.

The United States has entered into agreements with the Cambodian Government to finance $70 million worth of commodities under the Commodity Import Program and $8.9 million worth of agricultural commodities under Title I, Public Law 480, for a total of $78.9 million in economic assistance for fiscal year 1971. Both of these programs generate local currency. It is anticipated that about $75 million in equivalent local currency will be used for military personnel costs in support of the Cambodian Government national defense budget for calendar year 1971. The equivalent of about $2 million in local currency will be used for U.S. administrative and other expenses in Cambodia.

The $70 million Commodity Import Program was implemented in three phases. Phase 1, a $10 million agreement signed March 2, 1971, and phase 2, a second $10 million agreement implemented by a March 27, 1971, amendment to the original agreement provided for the importation of numerous commodities, a considerable part of which was allocated for petroleum products. As of September 1971 petroleum and petroleum products valued at about $1.16 million had been delivered to Cambodia under the first $20 million part of the program. The following schedule shows the breakdown of eligible commodities and deliveries as of September 1971 under the first $20 million part of this program.

APPENDIX IV

[In thousands of dollars]

Commodity	Amount eligible	Amount delivered
Petroleum and petroleum products	7,800	1,163
Chemicals, dyeing and tanning materials, and plastic materials	4,590	
Machinery other than electrical	2,700	
Manufactured paper products	1,220	
Manufactured rubber products	1,100	
Manufactured nonmetallic minerals	1,100	
Electrical machinery	720	
Transportation equipment	270	
Gas, natural and manufactured	90	
Nonferrous metals	90	
Manufactured metal hoes	90	
Polishing and cleaning preparation	80	
Sanitary, plumbing, heating, and lighting fixtures	50	
Cotton blankets	40	
Miscellaneous books and other reading material	40	
Mineral tar, tar oil, and crude chemicals	20	
Total	20,000	1,163

On May 31, 1971, the United States entered phase 3 of the Commodity Import Program with the signing of a $50 million agreement. According to the agreement any commodities determined eligible under Agency for International Development criteria may be imported into Cambodia. As of October 6, 1971, provisional importation licenses valued at about $7.45 million had been issued; however, no commodities had been delivered to Cambodia under the $50 million agreement.

The Title I, Public Law 480, agreement was entered into on March 2, 1971, and authorized the importation of $8.5 million worth of agricultural commodities. This agreement was increased to $8.9 million by an amendment dated September 7, 1971. As of October 1, 1971, $1.9 million worth of commodities had been shipped and $825,000 worth of wheat flour and vegetable oil had arrived in Cambodia. The following schedule shows the breakdown of commodities authorized, shipped, and delivered as of October 1, 1971.

Commodity	Authorized	Shipped	Delivered
Wheat flour	$1,381	$981	$712
Vegetable oil	350	175	113
Cotton fiber	2,016		
Cotton yarn	3,175	481	
Tobacco	1,984	360	
Total	8,906	1,937	825

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed without amendment the following joint resolutions:

S.J. Res. 173. A joint resolution to provide for the appointment of A. Leon Higginbotham, Junior, as citizen regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 174. A joint resolution to provide for the appointment of John Paul Austin as citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 175. A joint resolution to provide for the appointment of Robert Francis Goheen as citizen regent of the Board of Regents of the Smithsonian Institution.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 11589) entitled "An Act to authorize the foreign sale of certain passenger vessels."

RECESS UNTIL 5:30 P.M.

Mr. KENNEDY. Mr. President, I move that the Senate stand in recess until 5:30 p.m. today.

The motion was agreed to; and, at 5:02 p.m. the Senate took a recess until 5:30 p.m.; whereupon the Senate reassembled, when called to order by the Presiding Officer (Mr. Robert C. Byrd).

The PRESIDING OFFICER. In the Chair's capacity as the Senator from West Virginia, the absence of a quorum is suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hart). Without objection, it is so ordered.

RECESS UNTIL 6 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 6 o'clock p.m. today.

The motion was agreed to; and at 5:33 p.m. the Senate took a recess until 6 p.m.; whereupon the Senate reassembled, when called to order by the Presiding Officer (Mr. Allen).

QUORUM CALL

The PRESIDING OFFICER (Mr. Allen). The Chair, acting as the junior Senator from Alabama, suggests the absence of a quorum, and the clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President,

I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess subject to the call of the Chair, with the understanding that the recess not extend beyond 7 p.m. today.

The motion was agreed to; and at 6:15 p.m., the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 6:26 p.m. when called to order by the Presiding Officer (Mr. ALLEN).

ORDER FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow at the conclusion of the routine morning business the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVER OF RULE OF GERMANENESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Pastore rule concerning germaneness be waived during the session of the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the Senate has been kept in session today and has recessed from time to time because of the hope on the part of the joint leadership that an agreement might somehow be arrived at whereby a date and time could be set for a vote on the pending amendment, No. 1175, by Mr. STENNIS, and other amendments, motions, and appeals, and also with respect to a time limitation on the bill. That effort was made, but was not successful. However, I think that Senators can be apprised of the strong likelihood that there will be a vote on the amendment by Mr. STENNIS 1 day in the early part of next week, hopefully.

In the meantime, those efforts to work out an agreement will continue on tomorrow after, again hopefully, a good night's sleep can be had, and at that time the Senate will then be apprised of the outcome of those efforts. In the meantime, the amendment by Mr. STENNIS will continue to be the pending question, with a likelihood that there will be no setting aside of that matter for the taking up of other amendments to the bill.

However, conference reports, being in order and being highly privileged, may be called up at almost any time. At least the conference report on the black lung legislation may be called up and acted upon at a reasonably early hour on Friday.

AUTHORIZATION FOR COMMITTEE ON LABOR AND PUBLIC WELFARE TO SUBMIT BLACK LUNG CONFERENCE REPORT FOR PRINTING UNTIL MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare may have until midnight tonight to submit the black lung conference report for printing.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock noon. After the two assistant leaders have been recognized under the standing order, the following Senators will be recognized in the order stated and each for the time stated: Mr. STENNIS, for 15 minutes; Mr. BUCKLEY, for 15 minutes; and Mr. WEICKER, for 10 minutes.

At the conclusion of the unanimous-consent orders recognizing Senators, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes.

At the conclusion of the routine morning business, the Chair will lay before the Senate the unfinished business, S. 3526, and the pending question will be on the amendment No. 1175 by Mr. STENNIS.

It will be my purpose at that time to move that the Senate go into closed session. That closed session will not last over 2 hours—hopefully, not that long—and when the Senate then returns to open legislative session, the Senate will resume consideration of the unfinished business. There could possibly be rollcall votes tomorrow.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to, and at 6:33 p.m. the Senate adjourned until tomorrow, Thursday, May 4, 1972, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate May 3, 1972:

U.S. DISTRICT COURTS

Albert W. Coffrin, of Vermont, to be a U.S. district judge for the district of Vermont, vice Bernard J. Leddy, deceased.

U.S. COURT OF CUSTOMS AND PATENT APPEALS

Howard T. Markey, of Illinois, to be chief judge of the U.S. Court of Customs and Patent Appeals, vice Eugene Worley, retiring.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 3, 1972:

PRICE COMMISSION

Mary Hamilton, of Illinois, to be a member of the Price Commission.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rear Adm. Allen L. Powell to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration.

U.S. COAST GUARD

Nominations beginning Charles E. Sibre, to be lieutenant (jg.), and ending James R. Nagle II, to be lieutenant (jg.), which nominations were received by the Senate and appeared in the Congressional Record on Apr. 11, 1972; and

Nominations beginning John H. Ingram, to be chief warrant officer (W-4), and ending Stanley E. Burgess, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on Apr. 27, 1972.

HOUSE OF REPRESENTATIVES—*Wednesday, May 3, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward O. Latch, D.D., offered the following prayer:

I have fought a good fight, I have finished my course, I have kept the faith.—II Timothy 4: 7.

Almighty God, from whom we come, with whom we live, and to whom our spirits return, Thou art our refuge and strength, our present help in trouble. Grant us Thy blessing during these hours and enable us so to put our trust in Thee that our spirits may be strengthened and our hearts find comfort.

We come in this moment of sad and loving memory to thank Thee for J. Edgar Hoover, who now is at rest with Thee. For the nobility of his character, for his untiring devotion to our country and to the Federal Bureau of Investigation, for the competence of his mind, for the energy of his spirit as he gave himself for law and order, for his grace and dignity in public service, for his dedication to church and state, and for his witness to moral and spiritual values we thank Thee.

Thy spirit lived in him and may Thy spirit live in us that together we may fight the good fight, finish our course, and keep the faith.

In the spirit of Christ, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolution of the House of the following titles:

H.R. 11589. An act to authorize the foreign sale of certain passenger vessels.

H. Con. Res. 600. Concurrent resolution expressing the sense of Congress that the body of J. Edgar Hoover should lie in state in the U.S. Capitol.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2743. An act to establish a working capital fund for the Bureau of Land Management of the Department of the Interior, and for other purposes.

APPOINTMENT OF CONFEREES ON H.R. 14582, SUPPLEMENTAL APPROPRIATIONS, 1972

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14582) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. MAHON, WHITTEN, ROONEY of New York, PASSMAN, EVINS of Tennessee, BOLAND, NATCHER, FLOOD, STEED, Mrs. HANSEN of Washington, Messrs. MCFALL, BOW, JONAS, CEDERBERG, MICHEL, CONTE, SHRIVER, and MCDADE.

REPRESENTATIVE HAYS INTRODUCES RESOLUTION CALLING FOR RELEASE OF AMERICAN PRISONERS OF WAR TO A NEUTRAL COUNTRY AND WITHDRAWAL OF U.S. TROOPS FROM INDOCHINA

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, today I am introducing a resolution saying that not more than 90 days after the Government of North Vietnam releases or transfers all American prisoners to a neutral country—and I do not mean China or Russia or North Vietnam—that we will promptly and orderly withdraw our troops from Indochina.

I am sure that this is not going to make a lot of supporters of the North Vietnamese in the United States happy, but this will sure be the acid test as to whether they really are going to ever release our prisoners or not. And it will be a resolution, that if the Democratic Caucus brings it out, will be something that I can subscribe to. Not more than 90 days after they release our prisoners we will start a prompt and orderly withdrawal.

THE AGREEMENT AT CONNALLY'S RANCH

(Mr. VANIK asked and was given permission to address the House for 1 minutes and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, last weekend at John Connally's tax write-off ranch at Floresville, Tex., the President of the United States met with prominent Texans, who constitute some of the fattest cats in the world. They came in limousines and 17 private planes to meet with the President on a subject dear to their hearts—no new taxes and support in the presidential election of 1972. It was the average taxpayer who was barbecued at the Connally ranch.

Like the infamous Appalachian Conference of November 14, 1957, the guest list was kept secret. While the FBI investigated everyone who attended the Appalachian Conference, the same FBI protected the Connally assembly from the press and the public, providing secrecy at public expense.

The American taxpayer is entitled to know who was present at the conference at Connally's ranch and to know what promises were discussed and what agreements were reached.

There can never be tax reform in America as long as the fat cats are protected and pampered by the President of the United States.

TAXES AND TEXAS MILLIONAIRES

(Mr. BINGHAM asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, my remarks also are directed to the recent barbecue at the Secretary of the Treasury's ranch in Texas.

President Nixon's millionaire hired hand from Texas, Treasury Secretary John Connally, has now come up with an elaborate study supposedly showing that no reform is needed in the Federal income tax system. At the big beef roast—rich Texas ranchers are the only folks who can afford beef these days—Connally just held for his millionaire friends and the President, Mr. Nixon is reported to have assured everyone that he listens only to Connally when it comes to taxes. Meanwhile, back at the White House, announcement was being made that the administration would oppose any major revision of the Federal income tax system this year.

No wonder, Mr. Speaker, the people have lost faith in government and politicians. One hundred and twelve millionaires with incomes over $200,000 paid not a penny in taxes last year, and some politicians are the biggest offenders when it comes to taking advantage of tax loopholes, like Gov. Ronald Reagan who paid no State income taxes last year despite an income estimated at over $150,000 and personal assets worth well over a million dollars.

In the face of such obvious and outrageous injustices in the tax system, about the only thing that can be said in response to Secretary Connally's whitewash of the tax system is that Secretary Connally is full of whatever Texas millionaires are full of, and the public will not be fooled.

THE LATE J. EDGAR HOOVER

(Mr. KEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEE. Mr. Speaker, I was stunned to learn of the passing of our beloved and highly respected J. Edgar Hoover, the first and only one to have served in the vital position of responsibility as Director of the Federal Bureau of Investigation. It was under his courageous, able and dedicated leadership that what was once a small investigative body became the world's most respected organization.

J. Edgar Hoover has been a symbol of strength to young and old alike for the devotion he has given in his efforts to maintain law and order.

We will miss him, but he will never be forgotten. His contributions to the welfare of our society have earned him a place of honor in American history.

As a nation we have lost because of his departure from the world we know. He has entered into the greater life—the life reserved for those who have contributed so magnificently during the time allotted to those who walk upon this earth.

HEROIC KOREAN SOLDIERS TAKE ANKHE PASS

(Mr. CARTER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CARTER. Mr. Speaker, last year it was an honor and a pleasure to be a member of the Speaker's committee which visited Korea, Hong Kong, Taiwan, and the Philippines.

While in Korea, the delegation was most cordially entertained. The Koreans were assured of our eternal friendship. Korea now has two combat divisions—40,000 men—in South Vietnam. Just last week, April 26, these heroic Korean soldiers, known as the ROK's, took Ankhe Pass. Four hundred of their valiant men were killed, 300 were wounded.

This is the same area where in 1954 3,700 of 5,000 of the flower of the French army were killed. The action of the Koreans was in behalf of our country, at our request. They shed their blood in our behalf.

I submit, Mr. Speaker, that greater love hath no man than this, that he lay down his life for his friend. The Koreans are our friends and our brothers. I submit, Mr. Speaker, that the United States of America owes them the same protection and safe withdrawal that it owes our own men.

Most of the Members of this body realize that our South Vietnamese venture has been a disaster. But let calmness and wisdom prevail now as they did not prevail when the Tonkin Gulf resolution was passed. Let us use every means possible to assure the safe withdrawal of our men and of our loyal Korean allies.

Lord God of Host be with us yet,
Lest we forget—lest we forget!

GOOD ECONOMIC NEWS

(Mr. PETTIS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. PETTIS. Mr. Speaker, as April ended there was increasing evidence that the strong economic growth that we have seen in the last 6 months is accelerating. Last week brought an abundance of good economic news.

According to the F. W. Dodge Division of McGraw-Hill Information Systems Co., construction contracting in March was 15 percent above the level a year earlier, raising the first quarter 1972 total to 20 percent above the 1971 first quarter level. Total contracting in March was $7.28 billion, almost $1 billion above a year earlier. For the entire quarter, construction awards totalled $19.06 billion this year, compared to $15.93 billion last year. Residential building registered most of the gain.

At the same time, McGraw-Hill Publications Co. indicated that businessmen have increased their plans for capital improvement expenditures to $92.9 billion during 1972. That is 14 percent more than in 1971 and considerably above the increase which was being planned only a few months ago. The McGraw-Hill survey indicated that planned capital investment averages $100 billion a year over the next 3 years. The survey shows airlines planning a 47-percent capital improvement spending program this year, with stone, clay and glass manufacturers and nonrailroad transportation companies close behind at 45 percent and 41 percent, respectively.

These increased business spending plans are directly related to rising corporate profits. Late last week the Wall Street Journal reported that based on a survey of after tax profits of 599 companies, profits rose 11.7 percent in the first quarter of 1972 over the first quarter a year ago. Expansion means more jobs and employment indicators should improve in the coming months, as well.

APPOINTMENT OF CONFEREES ON H.R. 11417, AMENDING RAIL PASSENGER SERVICE ACT OF 1970

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11417) to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation for the purpose of purchasing railroad equipment, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, JARMAN, DINGELL, SPRINGER, and DEVINE.

PROVIDING FOR CONTROL OF SICKLE CELL ANEMIA

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 2676) to provide for the control of sickle cell anemia, with Senate amendments to the House amendments, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendments as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill insert:

SHORT TITLE

SECTION 1. This Act shall be cited as the "National Sickle Cell Anemia Control Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that sickle cell anemia is a debilitating, inheritable disease that afflicts approximately two million American citizens and has been largely neglected;

(2) that the disease is a deadly and tragic burden which is likely to strike one-fourth of the children born to parents who both bear the sickle cell trait;

(3) that efforts to prevent sickle cell anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the sickle cell trait;

(4) that simple and inexpensive screening test have been devised which will identify those who have the disease or carry the trait;

(5) that programs to control sickle cell anemia must be based entirely upon the voluntary cooperation of the individuals involved; and

(6) that the attainment of better methods of control, diagnosis, and treatment of sickle cell anemia deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, control, and treatment of, and reesarch in, sickle cell anemia.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), and references thereto, as sections 1201 through 1214, respectively.

(c) The Public Health Service Act is further amended by adding after title X the following new title:

"TITLE XI—SICKLE CELL ANEMIA PROGRAM

"SICKLE CELL ANEMIA SCREENING AND COUNSELING PROGRAMS AND INFORMATION AND EDUCATION PROGRAMS

"SEC. 1101. (a) (1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation of voluntary sickle cell anemia screening and counseling programs, primarily through other existing health programs.

"(2) The Secretary shall carry out a program to develop information and educational materials relating to sickle cell anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(3) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, $30,000,000 for the fiscal year ending June 30, 1974, and $35,000,000 for the fiscal year ending June 30, 1975.

"PROJECT GRANTS AND CONTRACTS

"SEC. 1102. (a) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) research and research training in the diagnosis, treatment, and control of sickle cell anemia, (2) the development of programs to educate the public regarding the nature and inheritance of the sickle cell trait and sickle cell anemia, and (3) the development of sickle cell anemia counseling and testing programs and other programs for diagnosis, control, and treatment of sickle cell anemia.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, $10,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975.

"VOLUNTARY PARTICIPATION

"SEC. 1103. The participation by any individual in any program or portion thereof under this title shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1104. (a) A grant under this title may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

"(3) provide for appropriate community representation in the development and operation of any program funded by a grant under this title;

"(4) in the case of an application for a grant under section 1101(a)(1), provide assurances satisfactory to the Secretary that (A) the screening and counseling services to be provided under the program for which the application is made will be directed first to those persons who are entering their child-producing years, and secondly to children under the age of 7, and (B) appropriate arrangements have been made to provide counseling to persons found to have sickle cell anemia or the sickle cell trait;

"(5) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

"(6) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(b) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"PUBLIC HEALTH SERVICES FACILITIES

"SEC. 1105. The Secretary shall establish a program within the Public Health Service to provide for voluntary sickle cell anemia screening, counseling, and treatment. Such program shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

"REPORTS

"SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

Amend the amendment of the House to the title so as to read: "An Act to amend the Public Health Service Act to provide for the control of sickle cell anemia."

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Senate amendments to the House amendments were concurred in.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, the Senate amendment to the House amendment is the same as the bill passed by the House, with the following differences:

First. The House bill referred to prevention of sickle cell anemia, and the Senate amendment refers to "control."

Second. The House bill authorized $75 million over a 3-year period for programs of screening and counseling. The original Senate-passed bill provided $100 million. The Senate amendment provides $85 million, an increase of $10 million in the House figure and a reduction of $15 million in the Senate figure.

Third. A number of technical and conforming amendments were made to correspond to the use of the word "treatment" rather than the word "control."

I urge the House to agree to the Senate amendment.

Mr. ROGERS. Mr. Speaker, I am pleased to report that the Senate has concurred, with minor revisions, to the House amendment to S. 2676, the National Sickle Cell Anemia Control Act. I urge the House to accept this measure. This legislation will provide valuable assistance in the battle against this inherited disease which affects more than 2 million black Americans. Its package of $115 million authorizes more money in the battle against sickle cell anemia than has been spent by the Federal Government since the sickle cell syndrome was first identified more than 60 years ago.

Testimony received during hearings conducted by our Subcommittee on Public Health and Environment clearly establishes that sickle cell anemia research and control clearly deserves this commitment of our national medical resources, and I again urge the House to pass this measure unanimously.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

MAY 2, 1972.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 3:50 p.m. on Tuesday, May 2d, and said to contain a message from the President wherein he transmits the report of the Civil Service Commission required by the Job Evaluation Policy Act of 1970.

With kind regards, I am
Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.

REPORT OF CIVIL SERVICE COMMISSION PURSUANT TO JOB EVALUATION ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

Pursuant to the Job Evaluation Policy Act of 1970, I am hereby transmitting the report of the Civil Service Commission required by that Act.

I am pleased to see that the Civil Service Commission believes that by adopting methods and techniques recommended by the Job Evaluation and Pay Review Task Force, it may be possible to make very significant improvements in the Government's job evaluation program. The Task Force has made many other recommendations which would require legislative action and which deserve more careful consideration than has been possible to date.

RICHARD NIXON.
THE WHITE HOUSE, *May 2, 1972.*

PERMISSION FOR THE COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 13591, NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 926 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 926

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13591) to amend the Public Health Service Act to designate the National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 926 provides for consideration of H.R. 13591, which, as reported by our Committee on Interstate and Foreign Commerce, would amend the Public Health Service Act to designate the National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases. The resolution provides an open rule with 1 hour of general debate, after which the bill shall be read for amendment under the 5-minute rule.

Mr. Speaker, H.R. 13591 does not represent a mere euphonic change of name of an established institute within the National Institutes of Health. It proposes a change of name based on a sobering fact: That there is a critical need today to expand research and training in the field of digestive diseases.

Gastroenterology—the study of the diseases and pathology of the stomach and intestines—is presently one of 10 separate fields of study within the National Institute of Arthritis and Metabolic Diseases and is allocated, for research and training, just about 10 percent of that Institute's annual budget. In terms of emphasis and the Nation's urgent health needs, as I shall point out, that is wholly inadequate.

The proposed legislation would give digestive diseases their proper emphasis among the various fields of medical study, establish a committee to advise the Director of the Institute on activities relating to digestive diseases, and give the Director of the Institute statutory authorization to carry on research and training in digestive diseases.

National health statistics show that nearly 13 million Americans suffer from chronic digestive diseases. The situation is nothing short of appalling when we consider that, in terms of treatment by specially trained doctors, there are fewer than 700 physicians in the United States who have been certified as specialists in digestive diseases, with about half of the States having less than 10 physicians who are specialists in this field.

Comparatively, cancer of the digestive tract and other diseases of the digestive system together produce the fourth largest death toll among Americans. The number of hospitalizations required for treatment of digestive diseases is 173 percent of the number of hospitalizations required for cardiovascular disease. Finally, digestive diseases each day account for 200,000 absentees from work due to illness, making such diseases the leading cause of lost time from work among male employees.

H.R. 13591 contains no new authorization for appropriations. According to the Department of Health, Education, and Welfare, the only expense that enactment of the bill would entail is an estimated $25,000 in additional administrative expenses covering a 5-year period.

Because digestive diseases seem particularly to affect persons who are at the peak of their most vigorous and productive periods, the Members of this body may well be among the unnamed beneficiaries of the legislation contained in H.R. 13591.

Mr. Speaker, I urge the adoption of House Resolution 926 in order that H.R. 13591 may be considered and passed.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 13591 is to place greater emphasis on programs dealing with digestive diseases in the National Institutes of Health. Digestive diseases are the No. 1 reason for hospitalization in America today, according to the National Center for Health Statistics.

The bill makes four changes: First, changes the name of the present National Institute of Arthritis and Metabolic Diseases—NIAMD—to "National Institute of Arthritis, Metabolism and Digestive Diseases"; second, provides for an Associate Director for Digestive Diseases in this Institute; third, establishes within this Institute's presently existing advisory council, a committee to review research grant applications related to digestive diseases, and fourth, requires the Director of this Institute to carry out a program of support for research and training in digestive diseases.

With regard to cost, present law does not set a statutory ceiling for authorizations for NIAMD, and no ceiling is set by this bill. The anticipated spending is $135,177,000. While no new authorizations are in this bill, the Department of Health, Education, and Welfare estimates that the establishment of the new committee will cost about $25,575 in added administrative expenses over a 5-year period.

The Department of Health, Education, and Welfare is opposed to this bill. The Department notes that the proposed name change will only create a precedent for other disease fields which can claim equally legitimate reasons for inclusion in a broadened name for individual institutes. The proposed special committee for final review of research grant applications related to digestive disease would conflict with the existing advisory council, which already has final review of all research grant applications in NIAMD. Finally, NIAMD has already established, last year, the position of Assistant Director for Digestive Diseases and Nutrition. To designate this position by law as Associate Director would only create pressure for similar recognition for other disease fields in the other Institutes.

Mr. Speaker, I have no further requests for time, but I reserve the balance of my time.

Mr. MATSUNAGA. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WORLD WEATHER PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The **SPEAKER** laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

By monitoring and predicting weather over the globe and by assessing the impact of man's activities upon the atmosphere, the World Weather Program helps significantly to improve the quality of our life and the safety of the earth's inhabitants.

I am pleased to report that the World Weather Program is making significant strides forward:

—Through new satellites, telecommunications, and computer technology, global information for early predictions and hazardous weather warnings is being acquired, processed, and then distributed in increased volume and detail.

—Under the Global Atmospheric Research Program, intensive planning activities are underway for a 1974 international experiment to be conducted in the tropical Atlantic. The experiment will attempt to discover what role tropical weather systems play in maintaining the general circulation of the atmosphere. It will also probe tropical weather systems, with a view to improving weather prediction, including hurricane forecasts. Scientific data from this experiment will also help in making weather forecasts that are longer range, and in resolving important environmental problems. Many nations will participate in this experiment with ships, aircraft, satellites and other facilities.

—Active international involvement in the program by many member nations has yielded peaceful collaboration on an impressive international scale.

The World Weather Program is essential to a total environmental monitoring system for our planet. The program can serve as a model, moreover, for other environmental systems. The atmosphere is but one part of our global ecology. Data on other aspects of our environment can be collected and exchanged through a vehicle like the World Weather Program.

In accordance with Senate Concurrent Resolution 67 of the 90th Congress, I am pleased to transmit this annual report which describes the advances of the World Weather Program made during the past year and the activities planned for the program by participating Federal agencies for the coming fiscal year.

RICHARD NIXON.

THE WHITE HOUSE, *May 3, 1972.*

PROVIDING FOR CONSIDERATION OF H.R. 13089, ACCELERATED REFORESTATION OF NATIONAL FORESTS

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules and on behalf of the distinguished chairman of the Committee on Rules, the gentleman from Mississippi (Mr. COLMER), I call up House Resolution 951 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 951

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13089) to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation and for other purposes, and all points of order against said bill for failure to comply wtih the provisions of clause 4, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The **SPEAKER.** The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 951 provides an open rule with 1 hour of general debate for consideration of H.R. 13089 to accelerate reforestation of national forests. The resolution also waives points of order for failure to comply with the provisions of clause 4 of rule XXI—appropriation in a legislative bill.

The purpose of H.R. 13089 is to provide funds to accelerate the reforestation of national forests where most needed.

Section 32 of Public Law 74–320 is a continuing appropriation which draws 30 percent of the import duties on all commodities coming into the country under customs laws. These funds, which include $300 million in unused balances, are made available to the Secretary of Agriculture at the beginning of each fiscal year. The funds are annually reviewed and allocated for departmental programs by the Appropriations Committees.

In addition, under the Agricultural Act of 1956, the Department is authorized an appropriation of an additional $500 million annually to carry out the purposes of section 32.

These funds are used for a variety of programs.

H.R. 13089 would earmark approximately $65 to $75 million annually of the funds collected on import duties under section 32, which would be equal to the receipts collected on wood, paper, and printed matter. The funds would be used for reforestation work on our national forests. It is stated that each young tree returns from 50 to 100 times the original investment.

The Secretary of Agriculture would within 1 year of the date of enactment and annually thereafter submit a report to the Congress setting forth the reforestation needs and a planned program for reforesting.

The cost estimate is $72.2 million annually.

Mr. Speaker, I urge the adoption of the rule in order that the legislation may be considered.

Mr. SISK. Mr. Speaker, I reserve the remainder of my time.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

May I simply state that the gentleman from California has explained House Resolution 951, and I urge its adoption.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR COMPENSATION OF H.R. 14015, PEAR MARKETING ORDERS

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 952 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 952

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14015) to amend section 2(3), section 8c(2), section 8c(6)(I), and section 8c(7)(C) of the Agricultural Marketing Agreement Act of 1937, as amended. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered in the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California (Mr. Sisk) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. Smith), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 952 provides an open rule with 1 hour of general debate for consideration of H.R. 14015 authorizing pear marketing orders.

The purpose of H.R. 14015 is to authorize marketing orders for pears for canning and freezing.

Also, it would authorize any form of marketing promotion, including paid advertising, under marketing orders for pears and any other commodity for canning and freezing which is regulated under a marketing order.

A two-thirds majority of the growers voting or two-thirds of the volume voted in each State of the production area would be required for the issuance of an order regarding pears.

The administrative agency of the marketing order must have equal representation of processors and producers.

A majority of each State's representatives on the administrative agency must concur in any recommendation for regulation.

Additional cost to the Government is estimated at $25,000 per annum.

Mr. Speaker, I urge the adoption of the rule in order that the legislation may be considered.

Mr. Speaker, I reserve the remainder of my time.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

I concur in the remarks made by the gentleman from California (Mr. Sisk) and I urge the adoption of House Resolution 952.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13591) to amend the Public Health Service Act to designate the National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13591, with Mr. Fuqua in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. Staggers) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. Springer) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 13591, a bill to designate the existing National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases.

Mr. Chairman, this was considered by the Subcommittee on Health after full hearings, was ordered reported to the full committee without a dissenting vote, and was reported to the House by a voice vote unanimously by the full committee.

The bill would involve no added cost to the United States, other than the approximately $26,000 additional administrative expenses for a new committee formed of members of an existing committee.

The principal effect of the bill is the change in the name of the institute to add digestive disease to its title, in order to indicate that the committee feels that greater emphasis should be placed on research and training relating to diseases of the digestive system.

The bill would provide for establishing an associate director for digestive diseases, who would have primary responsibility within the Institute for programs for research and training in that field. The bill also establishes within the existing Advisory Council of the Institute a new committee composed of members of that council who are outstanding in the field of digestive disease. This new committee would review applications for grants for research projects relating to digestive diseases and make recommendations to the Director. This would not, however, eliminate the existing provisions of law under which the full Advisory Council is required to recommend grants prior to their approval.

Mr. Chairman, impressive support was given during the hearings before the subcommittee concerning the need for greater emphasis on research and training in digestive diseases. One out of every five illnesses in our population arise primarily from digestive disease. Nearly 13 million Americans have chronic digestive disease, and such conditions constitute the No. 1 reason for hospitalization in the United States, exceeding in frequency all forms of heart disease and all forms of accidents.

Of all the causes of disability due to illness in the United States, digestive disease ranks No. 2. Over 2 million Americans are impaired in some degree by the disease, of whom 400,000 are totally disabled. When calculated by the Public Health Service in 1963 the total cost of illness resulting from digestive disease was approximately 1 percent of the gross national product, which means that today this costs us approximately $10 billion per year.

The resources to contend with the problem are inadequate. There are fewer than 700 physicians in the United States who have been certified as specialists in digestive diseases. On the average there are less than three full-time teachers of digestive disease on the faculties of our medical schools, and some schools have none. About half of the States in the United States have less than 10 physicians certified as specialists in digestive diseases.

In view of the needs in this area, Federal support has been far less than adequate. Total Federal support for research and training in digestive diseases has been less than $30 million annually, of which about two-thirds comes from NIH.

We believe that this legislation should lead to greater emphasis in the field of digestive diseases through the programs of the National Institutes of Health.

The administration has stated that it is opposed to the legislation, fundamentally on the basis that they already have the authority they need in this area. This argument might have some force, if the administration could point out any substantial accomplishments in this field. Although they may have the authority, they certainly have not exercised it in a fashion commensurate with the problem. For that reason, the committee feels that the measure is both necessary and desirable and we urge its adoption.

Mr. SCHMITZ. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I shall be happy to yield to the distinguished gentleman from California.

Mr. SCHMITZ. As the sole member of the subcommittee who did not choose to coauthor this bill, I would like to state that my reluctance to do so was that I just do not know where it is all going to end. Every sector of the health field seems to want to be designated as an institute, or included in an institute.

However, if my recollection is correct, during the testimony, the testimony showed that the Department was opposed to this bill as not being necessary.

Is that not a correct interpretation of the position of the Department?

Mr. STAGGERS. This is true. However, it is just a question as to whether we as the Congress and Representatives of the people want to give emphasis to this problem, because it was testified to—and I think Dr. CARTER will testify to the importance of the treatment of this disease—that based upon the history of the disease, we should give some recognition to it and do something about it. It is the No. 1 cause of hospitalization in America. We are not asking for any additional money. We are just saying to give recognition to digestive disease. Some of the most eminent doctors in America came to me personally—from Mayo Clinic and others—saying that this ought to be done because it is one of the greatest causes of disability to the people.

Maybe by giving digestive diseases emphasis we can do something about it, and concentrate on it.

Mr. SCHMITZ. Having heard the testimony as a member of the subcommittee, I am not going to dispute the experts who came before us. But I just cannot help recalling what a very wise man once told me, and that is if you want to get someone mad take something away from him, but if you really want to get someone mad give something to someone else.

I am simply saying that we are going to have every facet of medicine coming in and wanting their own institute or wanting to be included in some institute. I believe we should consider these things very seriously. What we do for one sector of the medical field we will be called upon to do for the others.

Mr. STAGGERS. The gentleman speaks of polarizing, but let me point out to the gentleman and ask the gentleman if he will not agree that this is the No. 1 cause of hospitalization in America, and one of the great causes of loss of work?

Mr. SCHMITZ. That is what they told us, and I will have to take their word for it.

Mr. STAGGERS. I might point out to the gentleman from California that a young friend of mine died recently from this same disease, and he had not known about it. They said that he went down and got a sandwich and ate it in a hurry, and that night he became quite ill, and the next morning they took him to the hospital. They opened him up, and he had gangrene because of a clogged bowel. He only lived one more day. If he had had someone he could have gone to who knew more about this probably he would be living today, because he was a young man, right at the height of his abilities. I am citing that as just one example because I believe that if we can save one life then certainly we have done something worth while, and I am sure that the gentleman as a Congressman will agree with me that if that is the case then we have done something worthwhile.

Mr. SCHMITZ. What I would like to do as a Member of the Congress is to consider these matters very seriously so that we are not just going to create institutes for all of the sicknesses that are the main killers and the main hospitalizers, and that after they have slipped into the background and are no longer of importance then let us do away with that institute.

But as the gentleman knows, and as I know, that when they eliminate such diseases that it is not a simple matter to do away with that institute, and we really never do away with it. If that institute can do any good toward ridding the Nation of these digestive diseases which, as you say, is the No. 1 hospitalizer and the No. 1 killer, then when that slips into the second, third, fourth or fifth place maybe we should do away with that institute. But we do not do that. Instead we create institute upon institute.

Mr. STAGGERS. I might point out that the National Institutes of Health came out of our committee, and I am proud of all the wonderful things that they have done. They have eliminated some of the main killers in our land, and I am proud of it, and I know that the gentleman from California is also. I think that if we can save one person so that he can have a useful life, that that will be a worthwhile thing. But, really, this will help millions and millions of people.

We have 13 million people who are suffering from this disease and, the gentleman knows that we are not talking about a great deal of money, we are only talking of $25,000 over a 5-year period. This is to help our people. I do not see how we can spend money in any better way. I do not want to argue with the gentleman, but I have to say that we are not doing too much for health, and you cannot do to much for the health of the people in this land. And with our rich Nation I think we should be doing a lot more. I repeat that this is the No. 1 disease that hospitalizes people in America. And the gentleman says he does not want to add it to the others.

Mr. SCHMITZ. I simply say that unless we are dedicated to complete Government control over medicine and health, once an institute has served its purpose, the Government should do away with the institute.

Mr. STAGGERS. This is something that is going to be coming out of this Congress, something that is going to do good for our people and something that we will all be proud of. The gentleman is a member of the committee, and I know that he would wish to save a life, because it could even be one of the members of his family, or one of his friends.

Mr. SCHMITZ. I would just say that as a former teacher of logic, that I do not want to engage in what is known as argumentum ad misericordiam. You are indeed tugging at the heart strings.

I am simply saying that when an institute has completed its work on such a disease, then we should do away with that institute. I say that when that disease has slipped backward, and is no longer the killer, or the hospitalizer which was the basis for the creation of an institute, then we should do away with that institute.

But the gentleman knows as well as I do that once you create one of these institutes it is almost impossible to do away with it. It is a principle that one can observe here in Washington—that the size of bureaucracy changes in only one direction.

Mr. STAGGERS. If the gentleman from California is a teacher of logic, I do not see his logic. If we do not provide some congressional direction to the present Institute to provide move emphasis on digestive diseases, so that it can be corrected it will never be corrected. I am saying let us get rid of what we are talking about and then we can talk about the other.

But this is a simple proposition here today. I understand what the gentleman is trying to do and the question he is trying to raise. But I would say that this is a simple proposition. We are just voting this into the present Institute to give digestive disease the importance that it deserves.

Some of the great specialists of this land have come forward and say that it ought to be given that importance now and to highlight the importance of it, I think this is the way to do it.

Mr. SCHMITZ. A specialist from the department came in and said that it was superfluous and that it is not needed.

But if I may make this point by analogy. We have a wooden propeller factory left over from World War I, but no longer needed, once it was set up we just could not seem to get rid of it. I would say we ought to be very slow in setting up something like this especially when the department says it is superfluous and it is not needed.

Mr. STAGGERS. If I may ask the gentleman one question—you are in favor of this bill now; are you not?

Mr. SCHMITZ. I am going to listen to the arguments and I want to hear what someone else might have to say. I did not go for it in the committee and I like to leave my mind open and I would like to listen to the debate here and make up my mind after listening to all the angles and arguments.

Mr. STAGGERS. You have listened to experts, I think, and should have made up your mind on it.

Mr. SCHMITZ. But we have had testimony from experts who said they did not need it and I want to hear my colleagues on this.

Mr. STAGGERS. The experts say that we do need it and we need it to give emphasis to this matter.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Florida (Mr. ROGERS), the chairman of the subcommittee.

Mr. ROGERS. Mr. Chairman, I rise in support of H.R. 13591, a bill which would provide emphasis on Federal research and training programs in the field of digestive disease. This bill was introduced by eight members of the Subcommittee on Public Health and Environment on March 6, 1972, after hearings on a number of related bills.

Ailments of the gastrointestinal tract are among the most common illnesses in this country. It is estimated that nearly 13 million Americans have chronic digestive diseases and that these conditions together are the No. 1 reason for hospitalization in the country. Digestive diseases also include several of the most common forms of cancer which together account for about 30 percent of all cancer deaths. In 1963, the U.S. Public Health Service estimated the total cost of these diseases at nearly $8 billion per year and it may be reasonably assumed that this figure now approaches $10 billion per year. This is truly a health problem of major proportions.

Unfortunately Federal funding of programs for digestive disease research and training has not been indicative of the extent of the problem. In fiscal 1972, funding for digestive disease programs at the National Institute of Arthritis and Metabolic Disease totaled only about 10 percent of the Institute's budget of approximately $14.8 million in fiscal year 1972. At the same time we pay out approximately $100 million a year to nearly 140,000 veterans for service-connected disability due to gastrointestinal conditions. Shortages of specialists in the field of digestive diseases is another serious problem. There are less than 700 physicians in the United States who are certified as specialists in digestive diseases. Federal training programs in this area have received minimal funding in comparison with other specialties even though nearly half of the States have less than 10 specialists in digestive diseases.

In an effort to deal with the problem of providing emphasis for digestive disease programs, this bill renames the National Institute of Arthritis and Metabolic Disease and its advisory council as the National Institute of Arthritis Metabolism and Digestive Diseases. Within the newly named advisory council would be a committee made up of members outstanding in the field of digestive diseases. The bill also establishes the position of associate director for digestive diseases to carry out the Institute's research program in this area.

Mr. Chairman, digestive diseases are certainly a major health problem in this country. If we are to deal with this problem effectively, we must provide additional emphasis on this program through expanded Federal commitments to research and training in digestive diseases. This is the purpose of H.R. 13591 and I urge support for its passage.

Mr. SPRINGER. Mr. Chairman, I yield myself such time as I may consume.

The purpose of this bill, Mr. Chairman, is to draw considerably more attention to the fact that more people suffer from some kind of bellyache or related discomfort than almost any kind of disease. It also intends to promote somewhat more research into the causes and cures of gastroenterology as it is known in the medical profession. The legislation does not propose an entirely separate institute to handle this health category although that was proposed at one point in some bills which were introduced. Testimony indicated that there are great advantages in keeping the research efforts tied in with the others being carried on in the Institute of Arthritis and Metabolic Diseases. Research in such things as diseases of the stomach, intestines, liver, and the pancreas which include ulcers, hepatitis, cirrhosis, and colitis presently are carried on in that health institute.

Monetary outlays for research in the Institute have been increased markedly for fiscal year 1972 over fiscal year 1971 and will amount to more than $135 million for the year about to end. Of this amount about $15 million will be directed at the conditions described as digestive diseases. There are no new or increased authorizations in this bill but it is expected that the increased effort shown in fiscal year 1972 will be continued.

Since the purpose of this legislation is to keep up or to further increase the attention paid to digestive and related diseases and the research concerning them it was felt that including the reference to digestive diseases in the title of the appropriate institute would be helpful. In addition, a special committee is formed within the advisory committee already established to assist the Director of the Institute in determining the kinds of research which should be conducted.

The Department of Health, Education, and Welfare does not feel any great necessity for the legislation proposed here today. It was definitely opposed to the creation of a new institute on the grounds that the research to be done in this area related directly to research being done or to be done in some of the other areas covered by the Institute as now organized. What is being done here can hardly jeopardize any efforts now underway and should be helpful in placing research, because of the attention directed at it.

Although this is hardly the most high powered health bill to come forth from our committee it can be helpful and I recommend support for it.

Mr. SPRINGER. Mr. Chairman, I yield such time as he may consume to my distinguished colleague from Kentucky, a member of the subcommittee.

Mr. CARTER. I thank the gentleman for yielding.

Mr. Chairman, the purpose of the bill is to place emphasis on the critical need for further support of research and training in the field of digestive diseases within the presently existing National Institute of Arthritis and Metabolic Diseases, one of the several institutes of the National Institutes of Health. For this reason, the bill redesignates the name of the Institute as the "National Institute of Arthritis, Metabolism, and Digestive Diseases"; establishes within that Institute's presently existing advisory council a committee to advise the Director of the Institute on activities relating to digestive diseases; and provides a statutory authorization for the Director of the Institute to carry out intramural research, extramural research, and training in the diagnosis, treatment, and prevention of digestive diseases.

Mr. Chairman, we need to do a great deal in the field of research on digestive diseases. In the period during which I have served here in the House I have noticed many Members who have severe digestive diseases.

The late Congressman Leonard Lipscomb, of California, had cancer of the colon, which was not diagnosed until he had been to the hospital, though here on the floor of the House we did notice symptoms of his losing blood, and if our laboratories and our physicians had been able to arrive at a diagnosis earlier than they were, Congressman Lipscomb's life might have been saved.

Futhermore, there are so many other diseases upon which we need to do more research. I strongly favor enactment of this legislation.

I rise in support of H.R. 13591, which would amend the Public Health Service Act so as to emphasize the need for increased Federal support of research and training programs in the field of digestive diseases.

I am privileged to serve on the subcommittee which considered this legislation—the Subcommittee on Public Health and Environment of the Committee on Interstate and Foreign Commerce. Last fall we held 2 days of hearings on various bills concerning digestive diseases, including my own bill, H.R. 11684.

During the course of these hearings, I was very impressed by the testimony of the expert witnesses who appeared before us. One witness, Dr. Carroll Leevy, of the New Jersey College of Medicine and Dentistry, was especially persuasive in advocating an increased Federal effort in the digestive disease field. Dr. Leevy, president of the International Association for the Study of the Liver, told us, in part:

> Research and training are important ingredients in both health services and lay education. Technology developed during the past decade now makes it possible to more efficiently prevent liver injury, to detect liver disease before it is symptomatic and cure it without development of debilitating clinical abnormalities, and to provide symptomatic and supportive measures which greatly reduce morbidity and prolong life. The great number of victims of liver disease in this country have not benefited and are not profiting from this expertise. It is, therefore, essential to develop ways and means by which these individuals can share in the fruits of our new age by improving health care delivery in this area. Models have already been developed for management of the alcoholic and drug addict with liver disease; these should be used as a key approach to control the causative social problem as well as reducing the economic burden of chronic liver disease.

Other witnesses reviewed progress being made and financial problems encountered in such areas as gallstones, cirrhosis of the liver, and ulcerative colitis.

As a physician, I can readily appreciate the magnitude of the digestive disease problem: It is the No. 1 cause of hospitalization in the country; it chronically afflicts nearly 13 million Americans; and it accounts for one of every six illnesses suffered by our people.

As an elected representative, moreover, I am very concerned that we as a nation are not doing enough to solve the important problems of digestive diseases. We need both more research in this field and more trained specialists to deliver the care we currently know how to provide.

H.R. 13591 would make some improvements in the way digestive disease research and training programs are administered by the National Institutes of Health and would generally demonstrate congressional support for a greater Federal effort in this area.

I strongly support H.R. 13591 and I urge all my colleagues to vote in favor of passage.

Mr. VANDER JAGT. Mr. Chairman, recently Congressman William A. Steiger and I announced that we would offer an amendment to H.R. 13591. While I applaud the recognition which the committee proposes to give to digestive disease, I see an obvious and compelling need to accelerate federally conducted and supported research and training in the field of diabetes. As a first step in this direction, this amendment would insert diabetes as well as digestive disease into the title of the currently designated Institute of Arthritis and Metabolic Diseases, and make certain administrative changes to encourage greater attention to diabetes.

Almost 4½ million Americans have diabetes. Ten million of our people will develop it at some point in their lives. They face a prospect of warped and abbreviated lives. The eighth leading cause of death by disease, diabetes kills more than 40,000 Americans each year and causes the deaths of an additional 51,000 persons from other diseases brought on by diabetes. Heart attack, stroke, and kidney failure frequently evolve from diabetes. Birth defects and stillbirths are associated with it, and the disease is the second leading cause of blindness.

Despite its prevalence and destructiveness, the Federal Government's commitment to diabetes is minimal. Between 1950 and 1970, while the national population rose by 35 percent, the number of diagnosed diabetics rose by 115 percent. Yet today we are spending less on diabetes than we were 4 years ago. Only about one-half of 1 percent of all Federal medical research dollars, or about 6 percent of the budget of the Institute of Arthritis and Metabolic Diseases, is devoted to diabetes. Afflicted youngsters who face difficulties in their education and later in their occupations, as well as the prospect of shortened lives, deserve a greater Federal effort to discover a means of preventing diabetes' development and better forms of treatment.

Because Chairman Paul Rogers of the Public Health and Environment Subcommittee has pledged to hold comprehensive hearings into the Federal Government's activities in the field of diabetes, we are withdrawing the amendment, confident that these hearings will contribute greatly to public recognition of the importance of research in this field, and to intensified activity by the National Institutes of Health.

Mr. PREYER of North Carolina. Mr. Chairman, I rise in support of H.R. 13591, the purpose of which is to emphasize the great need for additional federally supported research and training in the field of digestive diseases.

These diseases include: Peptic ulcer, ulcerative colitis, hepatitis, cirrhosis of the liver, gallstones, ileitis, infectious diarrhea, cancer of the colon/rectum, and malabsorption. According to the findings of a recent conference cosponsored by the Department of Health, Education, and Welfare, the digestive diseases constitute a staggering national problem in both human and economic terms:

Digestive disease accounts for one out of every six illnesses suffered by citizens of this country;

Digestive disease is the major or contributing cause of the hospitalization of 5.1 million people each year;

Digestive disease results in the loss of 30 million man-days of productive labor each year; and

Digestive disease is the third most important cause of death from cancer in the United States.

Despite the seriousness of digestive diseases, only about $30 million per year is being spent on Federal research and training programs in this field. I agree wholeheartedly with the report of the Committee on Interstate and Foreign Commerce which contends that—

> This field of study is seriously underfunded in light of the tremendous adverse impact on the health of this Nation caused by these diseases.

Mr. Chairman, I intend to vote for H.R. 13591 and I urge all my colleagues to do likewise.

Mr. KYROS. Mr. Chairman, I rise in support of H.R. 13591, the Digestive Diseases Act. As a member of the Subcommittee on Public Health and Environment, which considered this legislation, I would like to comment briefly on some of the problems which make this bill necessary.

First, it must be recognized that we are not dealing with some obscure disease category. On the contrary, digestive disease accounts for one out of every six illnesses in our population. A total of nearly 13 million Americans suffer from chronic digestive disease conditions. According to the National Center for Health Statistics, one digestive disease alone—gallbladder disease—accounts for more than half a million hospitalizations each year. Another digestive disease—peptic ulcer—accounts for an additional half million hospitalizations. In my own State of Maine, some 400 deaths from digestive disease occur annually, with deaths from duodenal and peptic ulcers accounting for about one-fifth of those.

The economic cost of digestive disease is equally staggering: Over $8 billion a year. For example, it is the second leading cause of disability and the No. 1 cause of disability among men. Every day, 200,000 workers are absent, because of digestive disease. Another 400,000 Americans are totally disabled from this cause and are completely unable to work. Payments to veterans for service-connected digestive disease conditions cost this country about $100 million annually.

In contrast to this background of high disease incidence and great cost of digestive disease is the relatively low level of effort supported by the National Institutes of Health. As our report on H.R. 13591 points out, less than $30 million annually is allocated to research and training programs in the digestive disease area. This is only about 3.5 percent of the total extramural budget of NIH.

The bulk of the digestive disease research and training programs of the Federal Government are lodged in the National Institute of Arthritis and Metabolic Diseases. This is a "catch-all" Institute which encompasses 10 relatively unrelated fields of study, including digestive disease. One purpose of the legislation reported by our committee is to give digestive disease much greater visibility within this Institute.

We seriously considered recommending a separate NIH Institute for Digestive Disease, feeling that this may some day be necessary unless the Federal effort within the existing Institute is substantially enlarged.

Mr. Chairman, H.R. 13591 is a fine

piece of legislation which should help to alleviate the problems I have mentioned today. I strongly urge its swift passage.

Mr. PICKLE. Mr. Chairman, as a member of the Committee on Interstate and Foreign Commerce, I rise in support of H.R. 13591, the bill concerning research and training in digestive diseases.

The case for H.R. 13591 is clearly spelled out in House Report No. 92–940. I commend this report of our committee to my colleagues in order to gain an understanding of the magnitude of the digestive disease problem and the urgency of the need for action. Three paragraphs from the report sum up the case very concisely:

> In the opinion of your committee, digestive diseases constitute a health problem of great magnitude. Using several national indices, the fact emerges that one out of every six illnesses in our population arises primarily from disease of the digestive tract. The National Center for Health Statistics of the Health Services and Mental Health Administration has found that nearly 13 million Americans have chronic digestive diseases; and that such conditions together constitute the number one reason for hospitalization in this country, exceeding in frequency all forms of heart disease and all forms of accidents. Moreover, of the 705,000 patients discharged from Veterans Hospitals in fiscal year 1970, almost 27 percent had suffered from gastrointestinal conditions, and in half of these it was the principal diagnosis.
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> In the committee's opinion, the problem is that the important field of digestive diseases is currently buried in a "catch-all" Institute of NIH. The National Institute of Arthritis and Metabolic Diseases encompasses a total of 10 separate fields of study: arthritis, dermatology, diabetes, endocrinology, hematology, metabolism, orthopedics, kidney diseases, and nutrition, as well as gastroenterology (digestive disease). Yet its annual budget is smaller than that of each of three other Institutes which serve but one or two categorical fields. Despite the great impact of digestive diseases, only about 10 percent of the funds of the Arthritis and Metabolic Disease Institute are allocated for research and training in digestive diseases.
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> In your committee's judgment, this field of study is seriously underfunded in light of the tremendous adverse impact on the health of this Nation caused by these diseases. For this reason, the committee believes that legislation which will insure an expanded role of digestive disease research and training within the NIAMD is crucial.

Mr. Chairman, I urge the full support of this House for H.R. 13591, and I commend those physicians and research scientists who have brought this matter to the attention of the Congress. Dr. Nicholas C. Hightower, of Temple, Tex., president of the American Gastroenterological Association, very dramatically hit the nail on the head when he said, in recent congressional testimony:

> In less time than is required for me to read my prepared statement today, seven Americans will have died, 137 Americans will have gone to the hospital, and 23.6 million dollars in economic loss will have occurred; all as a result of digestive disease.

Mr. ROY. Mr. Chairman, it is my privilege to serve on the Subcommittee on Public Health and Environment of the Committee on Interstate and Foreign Commerce which reported out this bill H.R. 13591, the Digestive Disease Act on March 22 of this year. I supported H.R. 13591 in committee and plan to vote in favor of the bill here on the House floor. It is a fine bill which should go a long way toward encouraging more research and training in the important area of digestive diseases.

As we are all aware, many serious health problems confront our Nation and cry out for solutions through research and training programs. Last year cancer received our primary attention and this year we are taking a very close look at heart and lung disease. Nevertheless, we certainly cannot afford to overlook a disease category—digestive disease—which accounts for one out of every six illnesses suffered by our people. We must make certain that we are supporting research and training in this field at an appropriate level.

To date, we have clearly not done this. As stated in our committee's report:

> The level of Federal expenditures for research and training in digestive diseases is minimal when compared with Federal support of other categorical fields. Total Federal support has been less than $30 million annually, compared with over $175 million for cardiovascular diseases, and almost $270 million for mental health in 1972. Of the 30 million dollars for digestive diseases, about two-thirds is allocated through the budget of NIH. Approximately $14.8 million of this NIH money is allocated by the National Institute of Arthritis and Metabolic Diseases, and the remainder by other Institutes in support of studies related to cancer, infectious diseases, and other types of digestive disorders. These figures have changed little since 1966, when the NIAMD allocated $12.8 million and other institutes $9.4 million.

Mr. Chairman, I urge the passage of H.R. 13591.

Mr. VAN DEERLIN. Mr. Chairman, I rise in support of H.R. 13591, because it would encourage urgently needed research and training in the digestive disease field.

In 1967, a conference on digestive disease at a national problem produced some graphic evidence as to the scope of the problem. Since it is as timely as ever, I would like to quote briefly from a report on that conference:

> Digestive Disease (DD) includes disorders of the stomach, intestines, biliary passages, liver, and pancreas. Their causes are various—infection, cancer, alcoholism, genetic defects, and reactions to life stress.
>
> Half the population of the United States has digestive complaints, and one-sixth of all illnesses are in this category. It causes one-third of all deaths from cancer, and is the leading cause for hospitalization and for inability to work due to illness. The estimated economic loss to the nation is $8 billion yearly.
>
> Yet this major national health problem is the special concern of only 2,000 physicians and a smaller number of research workers, and programs to augment this number are lagging far behind the efforts in other fields. DD research receives but 5% of the extramural budget of the National Institutes of Health, much smaller amounts from other federal agencies, and virtually no categorical support from nongovernmental sources.
>
> A survey of the major digestive diseases reveals many urgent needs for new knowledge which can and should be met by larger-scale, better organized research and training at the laboratory bench, at the bedside, and in the community. It is proposed that this effort be organized by the joint actions of professional societies, a national voluntary health agency, and agencies within the federal government made especially responsible for the problems of digestive disease.

Since 1967, the proportion of the NIH extramural budget allocated to digestive disease programs has actually decreased from 5 to 3.6 percent.

H.R. 13591 is aimed at remedying this situation by emphasizing the need for greater support of research and training in the field of digestive diseases. I endorse this legislation and urge all our colleagues to lend their support.

Mr. DONOHUE. Mr. Chairman, I most earnestly urge and hope that this bill, H.R. 13591, to create a National Institute of Arthritis, Metabolism, and Digestive Diseases, is resoundingly approved by this House this afternoon.

Mr. Chairman, it has been authoritatively established that many ailments involving the gastrointestinal tract are poorly understood and rank second only to diseases of the heart and circulation in requiring medical diagnosis and treatment. Medical history also discloses that diseases of the stomach and intestines may afflict persons of any age, but most often affect those in the middle-aged groups at the peak of their most vigorous and productive period, often causing prolonged and expensive hospitalization and countless social and emotional problems.

It is known that of all the causes of disability due to illness in our country, digestive diseases rank No. 2. We also know that the level of Federal expenditures for research and training in digestive diseases is minimal when compared with Federal support of other categorical fields.

It is obvious, therefore, that this field of study is seriously underfunded in light of the tremendous adverse impact on the health of this Nation caused by these diseases. It is equally obvious that this pending legislation, designed to insure an expanded role of digestive disease research through the National Institute of Arthritis, Metabolism, and Digestive Diseases, is in the best national interest and I believe it merits the overwhelming support of the House.

Mr. SPRINGER. Mr. Chairman, I have no further requests for time. I reserve the balance of my time.

Mr. STAGGERS. Mr. Chairman, I will take only a moment to say that the services of the two medical doctors on the committee, Dr. CARTER and Dr. ROY, have been helpful beyond measure to our committee. I believe we ought to have more doctors in the House to give of their time and their talent to helping the American people, because their help is so important.

I certainly would be remiss if I did not say something about the chairman of the subcommittee, Chairman PAUL ROGERS, and all the other members of the subcommittee for the diligent work they have done on the many measures they have passed that will help to make this a better America, a better place for ourselves and our children to live.

Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,* That (a)

part D of title IV of the Public Health Service Act is amended by adding after section 433 the following new section:

"NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

"SEC. 434. (a) The Research Institute on Arthritis, Rheumatism, and Metabolic Diseases established under section 431(a) is designated the 'National Institute of Arthritis, Metabolism, and Digestive Diseases', and the Advisory Council established under section 432 to advise the Secretary with respect to the activities of the Institute is designated the 'National Arthritis, Metabolism, and Digestive Diseases Advisory Council'. There shall be in the Institute an Associate Director for Digestive Diseases.

"(b) There is established in the National Arthritis, Metabolism, and Digestive Diseases Advisory Council a committee to advise the Director of the Institute respecting the activities of the Institute concerning digestive diseases. The committee shall be composed of those members of the Advisory Council who are outstanding in the diagnosis, prevention, and treatment of digestive diseases. The committee shall review applications made to the Director for grants for research projects relating to the diagnosis, prevention, and treatment of digestive diseases and shall recommend to the Director for approval those applications and contracts which the committee determines will best carry out the purposes of this part.

"(c) The Director of the Institute, acting through the Associate Director for Digestive Diseases, shall (1) carry out, at the facilities of the Institute, a program of research in the diagnosis, prevention, and treatment of digestive diseases; and (2) carry out programs of support for research and training in the diagnosis, prevention, and treatment of digestive diseases, including support for training in medical schools, graduate clinical training, epidemiology studies, clinical trials, and interdisciplinary research programs."

(b)(1) Section 431(a) of the Public Health Service Act is amended by striking out "and metabolic diseases" and inserting in lieu thereof "digestive diseases, and metabolism".

(2) The heading for part D of title IV of such Act is amended to read as follows:

"PART D—NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES; NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE; AND OTHER INSTITUTES".

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was very much interested in the statement of the gentleman from Florida (Mr. ROGERS) that 200,000 people are unable to report for work each day because they have digestive troubles of one kind or another. Was that the statement of the gentleman?

Mr. ROGERS. That is correct. It is in the report on page 4. Not only that, the figure is confined to males alone. The figure does not include female workers but is the number of male workers alone, and it is 200,000 a day.

Mr. GROSS. I might suggest that perhaps female workers do not have digestive troubles.

Mr. ROGERS. I do not think the gentleman can assume that.

Mr. GROSS. I did not assume it. I merely suggested it.

Let me ask the gentleman another question. I assume this information was gained from witnesses before the committee.

Mr. ROGERS. Yes. There is no question about it.

Mr. GROSS. Were those figures backed by doctors' certificates that 200,000 workers are unable to work each day because of digestive trouble? What is the evidence back of that information?

Mr. ROGERS. This was from a study done which showed that because of illness of this type, these people were not able to work.

Mr. GROSS. And each of those 200,000 workers was excused or did not report for work?

Mr. ROGERS. I do not know whether they were excused or not.

Mr. GROSS. Whether excused or not, each had a doctor's certificate stating he was suffering from a digestive ailment of some kind?

Mr. ROGERS. It may have been the nurse's statement, or it may have been the wife's. They may have called in themselves. I am sure the gentleman would know if he had a stomach ache or diarrhea. I presume they would take the gentleman's word or the word of the worker.

Mr. GROSS. Or perhaps they just did not want to go to work that day.

Mr. ROGERS. Let us not assume 200,000 just did not want to report to work. I do not think that is an appropriate assumption.

Mr. GROSS. In the absence of some kind of medical evidence that the individuals were suffering from a digestive ailment, I think we can assume that some part of the 200,000 did not report for work because they did not want to work.

Mr. ROGERS. They may not have been counted in the study.

Mr. SCHMITZ. Mr. Chairman, will the gentleman from Iowa yield?

Mr. GROSS. I yield to the gentleman from California.

Mr. SCHMITZ. Mr. Chairman, during the committee hearings on this bill I suggested something that might give the gentleman an insight as to why women were not included in the statistics regarding absenteeism for digestive disturbances. I suggested if we did not stop creating institutions or adding institutions to the institutions to deal with particular problems, that maybe we could have an institute for menopause and maybe the women could be counted as absentees for that purpose.

Mr. GROSS. Mr. Chairman, I am not necessarily opposed to this bill, but when I hear a statement that 200,000 people do not go to their jobs each day because of some kind of digestive ailment, I want that backed by evidence. I just cannot accept it at face value.

AMENDMENT OFFERED BY MR. VANDER JAGT

Mr. VANDER JAGT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANDER JAGT: Page 1, line 6, insert "DIABETES," after "ARTHRITIS,".

Page 2, insert "Diabetes," after "Arthritis," in lines 1, 5, and 8.

Page 2, line 7, insert "and an Associate Director for Diabetes" before the period.

Page 3, line 4, strike out the close quotation marks and insert after line 4 the following:

"(d) There is established in the National Arthritis, Diabetes, Metabolism, and Digestive Diseases Advisory Council a committee to advise the Director of the Institute respecting the activities of the Institute concerning diabetes. The committee shall be composed of those members of the Advisory Council who are outstanding in the diagnosis, prevention, and treatment of diabetes. The committee shall review applications made to the Director for grants for research projects relating to the diagnosis, prevention, and treatment of diabetes and shall recommend to the Director for approval those applications and contracts which the committee determines will best carry out the purposes of this part.

"(e) The Director of the Institute, acting through the Associate Director for Diabetes, shall (1) carry out, at the facilities of the Institute, a program of research in the diagnosis, prevention, and treatment of diabetes; and (2) carry out programs of support for research and training in the diagnosis, prevention, and treatment of diabetes, including support for training in medical schools, graduate clinical training, epidemiology studies, clinical trials, and interdisciplinary research programs."

Page 3, line 7, insert "diabetes," immediately before "digestive diseases".

Page 3, line 10, insert "DIABETES," after "ARTHRITIS,".

Mr. VANDER JAGT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. VANDER JAGT. Mr. Chairman and members of the committee, first I should like to commend the committee for bringing forth a very significant piece of legislation, focusing attention on a very important disease in America. I pay particular tribute to the subcommittee chairman and to the members of the subcommittee for the work and the hearings that went into this legislation. I commend them for elevating digestive diseases into the title of this existing National Institute of Arthritis and Metabolic Diseases, and thus putting the spotlight on them. Putting digestive disease on the marquee, will lead people to focus their attention on this need, and to expand vital research aimed at preventing its occurrence.

My amendment will do exactly the same thing for a disease that is even more a giant killer stalking the land today: the disease of diabetes. Diabetes is the eighth leading cause of death by disease in America. It is behind only the heart-related diseases, cancer, and respiratory diseases. Diabetes is a major cause of heart attack, stroke, and kidney failure. It is related to birth defects and stillbirths, and reduces average life expectancy by 30 percent.

Nearly 10 million Americans now suffer from diabetes or will develop it before they leave this earth of ours.

Despite the fact that the disease is

increasing at a tremendous rate, increasing three times as fast as our population—the incidence of diabetes has more than doubled within the last 20 years—the Federal Government, in terms of research on this dread disease, has not increased its efforts. In fact, it is spending today less on research into this disease than it spent 4 years ago. The allocation for diabetes amounts to only one-half of 1 percent of the medical research dollars that the Federal Government commits.

So this amendment would elevate the disease of diabetes and give it the same kind of prominence and attention that the committee recommends for digestive diseases, and would encourage our Federal Government to focus its attention and its efforts on this serious and widespread disease. Afflicted youngsters in particular deserve a greater Federal effort.

In a recent report National Institutes of Health officials said that if we zeroed in on the subject of diabetes they would feel within their grasp the possibility of preventing its onset in predisposed individuals, and certainly of suppressing its most severe complications, complications which often lead to fatal disease, loss of sight or limbs. Diabetes is the second leading cause of blindness in America today, and frequently of amputation.

A vote for this amendment is a vote for encouraging the focusing of attention on the dread disease of diabetes, and would provide encouragement and hope for 10 million Americans and for their families who suffer along with them.

Mr. GERALD R. FORD. Mr. Chairman, I fully support the amendment offered by the gentleman from Michigan (Mr. VANDER JAGT) to insert diabetes as well as digestive disease into the title of the Institute of Arthritis and Metabolic Diseases. However, I also concur in Mr. VANDER JAGT's decision to withdraw his amendment on the basis of the assurances given him by the gentleman from Florida (Mr. ROGERS) that comprehensive hearings will be held on the Federal role in the field of diabetes.

Mr. Chairman, I believe the hearings to be held by the Committee on Interstate and Foreign Commerce will fully establish the need for expanded Federal activities with regard to diabetes. I personally am convinced the information to be compiled by the committee will justify the action proposed by the Vander Jagt amendment.

Several months ago I met with a committee from the Michigan Diabetic Association. From that group I learned of the seriousness of diabetes in America and the need to concentrate a greater proportion of our resources on the problem. The Vander Jagt amendment points up the critical nature of the problem and focuses greater attention on possible solutions.

I personally will devote my best efforts to convincing the committee that the Federal Government should assume a major role in combating the disease of diabetes. Diabetes is a far more serious disease than most Americans recognize it to be. We must end our long years of neglect in this area.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate very much the gentleman's yielding. I want to join with him in urging support for this amendment.

I might say to the gentleman from Michigan that diabetes is the sixth leading cause of death in this country, not the eighth.

It is true that while the number of individuals is about 5 percent of our population today or 10 million Americans, for those who are diabetic or who will be diabetic in their lifetimes, for every one diabetic known today there are about four carriers of the disease. So it is a significant disease within the United States, and it is one which does deserve more attention.

What the amendment does is to try and increase the visibility of the effort to work toward prevention or a cure for diabetes.

Particularly we should mention the fact that there is today now being tested the implantation of a control mechanism for allowing insulin to be put into the bloodstream in the same manner the pancreas does for those who do not have diabetes. Thus it is particularly important now for us to undertake a renewed and expanded effort in this field.

With properd iet, exercise, and control, diabetics lead a normal, healthy life. There is unfortunately much misinformation and mistreatment associated with diabetes. Much more needs to be done and I would hope that NIH would increase its support for research related to diabetes. The present $8,360,000 is inadequate and represents only 6 percent of its total budget.

I commend the gentleman from Michigan for his leadership and initiative, and I urge the adoption of the amendment.

Failing adoption of the amendment, I would urge the Committee on Interstate and Foreign Commerce, which has done an extraordinarily good job over the years of attempting to take care of these problems, to give this disease a greater degree of attention.

I thank the gentleman.

Mr. VANDER JAGT. I thank the gentleman.

Mr. FREY. Mr. Chairman, will the gentleman yield?

Mr. VANDER JAGT. I yield to my distinguished colleague from Florida.

Mr. FREY. Mr. Chairman, I would like to join with the gentleman from Wisconsin and the gentleman from Michigan in urging the adoption of this amendment.

Certainly, the chairman of the subcommittee and the ranking member have done an outstanding job in this area.

However, I think this is one area that we do have to dwell upon more fully.

I have been personally involved with the Goslin Clinic in Boston where they are developing the implantation of an insulin-producing device. I understand it is being used in monkeys right now and that there is a good chance of a breakthrough in this area in the very near future.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SPRINGER. Mr. Chairman, I move to strike the last word.

Mr. FREY. Mr. Chairman, will the gentleman yield to me in order that I may complete my thought?

Mr. SPRINGER. I am delighted to yield to the gentleman from Florida.

Mr. FREY. I thank the ranking member of our committee for yielding to me at this time.

We are getting more attention in this area, but more research needs to be done. There are some problems in connection with the research, such as the motor device and the pumping device, but the time is close in my opinion when with added attention and added Federal money we will achieve a breakthrough with reference to the treatment of this disease.

Mr. Chairman, I think the gentleman from California has a good point. I think this is a disease where insufficient attention has been given to it and it is my hope that the gentleman will join me in support of this amendment.

Mr. SPRINGER. Mr. Chairman, although I cannot support the amendment, I do want to compliment my distinguished colleague from Michigan who has carried on a very important separate investigation of his own in order that he could be knowledgeable in the field of diabetes. That he has shown here today.

As the gentleman has stated there is a great deal of public interest in this subject. I do think, however, that the Subcommittee on Health should have separate hearings on it and I am not sure that I would be opposed to it at the appropriate time. However, I do not believe this would be the time without hearings on it to add diabetes to this institute.

It is only for that reason that I would be opposed to the gentleman's amendment. However, I do want to pay a compliment to the gentleman for the very excellent manner in which he has presented this very vital subject and the medical history and background on diabetes on the floor of the House today.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly rise to oppose the amendment, because I recognize the sincerity behind it and the work that the gentleman from Michigan (Mr. VANDER JAGT) has done. Further, I realize the worthiness of what he proposes, because when you have diabetes in your family, you realize the seriousness of it.

However, a great deal of work needs to be done on this subject. We have not had hearings on it. I think it would be premature, as my colleague from Illinois has said, to accept the amendment now and would urge the Committee of the Whole House on the State of the Union to defeat the amendment. Let us have hearings on it at the appropriate time and see where it does belong. If it belongs in this category, or wherever it might belong, then consideration should be given to it. But I do believe that hearings should be held before our committee on it.

I want to commend the gentleman upon his presentation and I do recognize the fact that it is a serious problem, but let the subcommittee hold hearings on it at a later date to see what we can do to bring it before the House.

Mr. VANDER JAGT. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I am glad to yield to the gentleman from Michigan.

Mr. VANDER JAGT. I thank the gentleman for yielding and also for his words of recognition with respect to the seriousness of this disease. I also thank the ranking Republican member on the committee for his statement.

Mr. Chairman, in view of the fact that the chairman has indicated a desire and a willingness to hold hearings on the subject of diabetes, in order that we can get this subject off the back burner and onto the front burner, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. SCHMITZ. Mr. Chairman, reserving the right to object; the gentleman from Michigan has emphasized my point very well, namely that once you start, where do you stop?

Now, the only argument which has been brought up against the gentleman's amendment is that we have not had hearings on it. Yet, I daresay that if we had held hearings, we would have had just as fine testimony and medical opinion from the experts who would have appeared before us to tell us why we should add diabetes to the functions of this institute as we had appear before us on behalf of adding digestive diseases.

The whole issue here revolves around the myth that the best solution to any problem is for the Government to assume the leadership and provide the dollars with which to do it. In the case of health care we feel that any problem can be solved by creating an institute or adding to an existing institute.

I just, once more, want to thank the gentleman from Michigan for making my point so well.

If you are going to add digestive diseases to this institute, why not diabetes, why not menopause, why not adolescent mental illnesses, why not compartmentalize all sickness into one or another institute?

Why should we continue to hide from the American people the fact that the Federal Government is taking over control of the field of medicine.

I am not objecting to curing illnesses, I am just asking the question as to whether the creation or expansion of government institutes is the proper way to solve health problems. Is the Government the best agency for solving health problems in the first place? That has not been proven and an excellent case can be made against such a premise.

We became the envy of the world in the realm of health before we accepted on faith this double myth that everything that has to be done has to be done by the Government, and that the Government can accomplish anything in the health field by creating or expanding another institute, and all this of course with more money.

I think it is about time that we reevaluate our basic assumption on how to solve all of the health problems in this country. And I want to ask that question again, with regard to the proliferation and expansion of institutes: Where do we stop?

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan (Mr. VANDER JAGT) to withdraw his amendment?

There was no objection.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FUQUA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13591) to amend the Public Health Service Act to designate the National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases, and for other purposes, pursuant to House Resolution 926, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SPRINGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 358, nays 10, not voting 64, as follows:

[Roll No. 134]

YEAS—358

Abbitt
Abernethy
Abzug
Adams
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Aspin
Aspinall
Badillo
Baker
Barrett
Begich
Belcher
Bell
Bennett
Bergland
Betts
Biaggi
Bingham
Blackburn
Blanton
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Cabell
Camp
Carey, N.Y.
Carlson
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Ill.
Colmer
Conable
Conte
Corman
Cotter
Coughlin
Crane
Daniel, Va.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Dulski
Duncan
du Pont
Dwyer
Edmondson
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Fuqua
Garmatz
Giaimo
Gibbons
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Grover
Gubser
Hagan
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Keating
Kee
Keith
Kemp
King
Kluczynski
Koch
Kuykendall
Kyl
Kyros
Landgrebe
Landrum
Latta
Leggett
Lennon
Lent
Link
Lloyd
Lujan
McClory
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKevitt
McKinney
McMillan
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mikva
Miller, Calif.
Miller, Ohio
Mills, Md.
Minish
Mink
Minshall
Mitchell
Mizell
Monagan
Montgomery
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pirnie
Podell
Poff
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Reid
Reuss
Rhodes
Riegle
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarbanes
Satterfield
Saylor
Scherle
Schneebeli
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Snyder
Spence
Springer
Staggers
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalley
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Zablocki
Zion
Zwach

NAYS—10

Ashbrook
Dellenback
Gaydos
Gross
Hall
Martin
Michel
Pike
Schmitz
Smith, N.Y.

NOT VOTING—64

Abourezk
Addabbo
Anderson, Tenn.
Arends
Baring
Bevill
Biester
Bow
Byrne, Pa.
Byrnes, Wis.
Caffery
Carney
Celler
Chisholm
Clay
Collins, Tex.
Conyers

Culver
Curlin
Daniels, N.J.
de la Garza
Diggs
Dowdy
Eckhardt
Edwards, La.
Eshleman
Evins, Tenn.
Flowers
Fountain
Fulton
Galifianakis
Gallagher
Gettys
Griffiths
Gude
Halpern
Hébert
Jones, Ala.
Kazen
Long, La.
Long, Md.
McCloskey
McKay
Macdonald, Mass.
Madden
Metcalfe
Mills, Ark.
Mollohan
Patman
Poage
Pryor, Ark.
Rees
Roberts
Rodino
Roy
Runnels
Scheuer
Stanton, James V.
Stokes
Stratton
Stubblefield
Whalen
Wiggins
Young, Tex.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Celler with Mr. Arends.
Mr. Hébert with Mr. Whalen.
Mr. Addabbo with Mr. Biester.
Mr. Runnels with Mr. Eshleman.
Mr. Daniels of New Jersey with Mr. Gude.
Mr. Macdonald of Massachusetts with Mr. Byrnes of Wisconsin.
Mr. James V. Stanton with Mr. Wiggins.
Mr. Young of Texas with Mr. Collins of Texas.
Mr. Stubblefield with Mr. Halpern.
Mr. Anderson of Tennessee with Mr. Bow.
Mr. Bevill with Mr. McCloskey.
Mr. Jones of Alabama with Mr. Patman.
Mr. Evins of Tennessee with Mr. Galifianakis.
Mr. Flowers with Mr. Gallagher.
Mr. Fountain with Mrs. Griffiths.
Mr. Fulton with Mr. Mills of Arkansas.
Mr. Gettys with Mr. Kazen.
Mr. Rodino with Mr. Long of Maryland.
Mr. Mollohan with Mr. Clay.
Mr. Byrne of Pennsylvania with Mr. Long of Louisiana.
Mrs. Chisholm with Mr. Rees.
Mr. Metcalfe with Mr. Madden.
Mr. Stokes with Mr. Stratton.
Mr. Carney with Mr. Eckhardt.
Mr. Culver with Mr. Curlin.
Mr. Baring with Mr. Diggs.
Mr. de la Garza with Mr. Scheuer.
Mr. Caffery with Mr. Roy.
Mr. Roberts with Mr. McKay.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed, H.R. 13591, and on S. 2676.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

ELECTION TO COMMITTEE

Mr. GERALD R. FORD. Mr. Speaker, I offer a privileged resolution (H. Res. 954) and ask for its immediate consideration.

The Clerk read the resolution as follows:

HOUSE RESOLUTION 954

Resolved, That Clifford D. Carlson of Illinois be, and he is hereby, elected a member of the standing committee of the House of Representatives on Education and Labor.

The resolution was agreed to, and a motion to reconsider was laid on the table.

ACCELERATED REFORESTATION OF NATIONAL FORESTS

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13089) to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13089, with Mr. FUQUA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Iowa (Mr. KYL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, certainly no issue should meet with greater agreement in this Committee and in this House than the protection of our natural resources, particularly the great natural resources of our public lands.

The distinguished gentleman from Iowa (Mr. KYL) introduced with bipartisan sponsorship the bill now before the Committee.

This bill is for the purpose of accelerating the reforestation of our national forests lands. Unfortunately, in the pressure of other budget commitments, we have fallen far behind in the essential task of reforestation and the Federal forest management agencies, particularly the National Forest Service has estimated that there are 5 million acres of Federal timber lands which are badly in need of reforestation, which are not presently being reforested.

The purpose of this legislation is very simple. It would assign revenues from section 32—that portion of section 32 revenues that are received from customs receipts and duties upon wood and wood products, cork and cork products, wood veneers, plywood, and other wood veneer assemblies and building boards, paper, paperboard, and products thereof, and books, pamphlets, and other printed and manuscript material, to a special fund to be established and to be known as the supplemental national forest reforestation fund.

It is estimated that the portion of section 32 revenues which would be assigned by this bill would reach a level of approximately $65 million to $75 million annually. The funds deposited in this special fund would be available for appropriation by the Congress. I want to emphasize this point. The special fund would not in any way diminish the authority of the Committee on Appropriations to make judgments on the appropriation of these funds.

If, after a period of 2 years, the sums deposited in the special referendum fund were not appropriated by the Committee on Appropriations and by the Congress, they would revert back to the general section 32 account.

The bill also provides a direction to the Secretary of Agriculture to yearly report to the Congress on the condition of our national forests and reforestation needs and a planned program for reforesting such lands including a description of the extent to which funds authorized by this act are to be applied to the program.

Mr. Chairman, many authorization bills and appropriation bills come before this House on which there is legitimate disagreement because they involve policies on which there is often sharp dispute. Certainly, we should have little or no disagreement on the desirability of reinvesting in one of our great national assets, the national forests. Our forests are enormously valuable not just in terms of economic resources and revenues, but in terms of esthetic and environmental values as well.

For every dollar that we invest in reforestation, we can look forward not only to the benefits of esthetic and environmental enjoyment, but in an economic return of 50 to 100 times our investment.

It seems to me, this is one issue on which all Members of the House, whatever their party or whatever their region, could concur.

I want to compliment the distinguished gentleman from Iowa and his cosponsors who have advanced this legislation through the Committee on Agriculture and brought it to the floor for consideration.

I would like to remind the Members that there was unanimous support from both the majority and minority sides of the committee for this bill at every stage of its consideration, both in the subcommittee and in the full committee. It comes here with the full support of all members of the Committee on Agriculture.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the distinguished gentleman from Missouri.

Mr. HALL. I appreciate the gentleman from the great Northwestern territories, and the State of Washington, the land of the Potlatch, explaining this bill. As I understand it, it would simply recycle some of the title 32 funds for the purpose of national forest reforestation, is that correct?

Mr. FOLEY. That is correct.

Mr. HALL. Of course, by the same token it would keep those funds from being recouped into the general Treasury; is that not also a fair assumption?

Mr. FOLEY. I believe the present law requires a surplus of $300 million annually in the section 32 account before section 32 revenues are recouped to the general Treasury. This bill would require the expenditure of perhaps $65 to $75 million of that $300 million. As I pointed out, however, if the funds are not further appropriated by the Appropriations Committee, the House and the

Senate, or by the respective bodies, they would return to the section 32 account.

Mr. HALL. I understand that, but if the gentleman will yield further, I appreciate the expedience, and certainly I am for reforestation, but coming from a part of our Nation which has the greatest forest of all still remaining, would the gentleman explain to us why we need legislation of this type to reforest our national forests and at the same time the Department is issuing clear-cutting orders under which we strip the land of all trees, shrubs, and everything else by contract and by permissive license?

Mr. FOLEY. First of all, I think there has been a tendency, which I think unfortunate, to give attention to what some feel are more immediate demands on our budget resources.

The assignment of funds for rather long-range objectives, such as reforestation, which may take 25, 35, or 40 years to realize, does not have the appropriate attention and support in my judgment that it should have. This bill, without doing any violence to the orderly procedures of this House or the Senate, would assign revenues from section 32 funds to insure the availability of a fund on which the Appropriations Committee could draw, if in their wisdom they felt that an accelerated program was desirable, as I would hope they would.

Second, on the issue of clearcutting, in some areas of our national forests clear-cutting practices have been permitted under specific regulations. In other areas they have not been permitted. The Subcommittee on Forests of the Agriculture Committee has before it now a bill to authorize a thorough investigation of clear-cutting practices and a report to the Congress. A hearing on this bill will probably be held in the near future.

Mr. HALL. But it certainly is a paradox that we do one while we are considering the other; is that true?

Mr. FOLEY. I believe the two matters can and should be considered separately.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. In partial response to the gentleman from Missouri, quite candidly there is a differing opinion by certified foresters on the question of clear-cutting versus selective cutting. I would further state that in many cases the decision depends upon the nature of terrain and the geological factors involved. In some areas it is more advantageous to enter into clear-cutting type of reforestry practice as opposed to selective logging. It would be very helpful, and I would be happy to submit to the Members for their information, to consider the differing points of view of recognized foresters.

Mr. FOLEY. I thank the gentleman from California. He is precisely correct. There is a very sharp division among professional foresters concerning the effect of clear-cutting. As the gentleman also pointed out, much depends upon the area and region in which the practice is carried on. I personally feel that we ought to have a continuing review, I will say to the gentleman from Missouri, of the cutting practices in our national forests so that we may be aware of any difficulties that are arising in the maintenance and management of the forests and in the protection of multiple-use values.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding. Do I correctly understand that the moneys to be expended under the provisions of this bill for reforestation would be derived solely from revenues obtained from import duties on timber and timber products?

Mr. FOLEY. I would like to answer the question in this way: The bill does not bar other appropriated funds for reforestation. That would be a matter which would be considered by the Appropriations Committee. This bill would assign funds from section 32 that are derived from import duties on wood and wood products, paper and paper products, that is estimated to be somewhere between $65 and $75 million annually. Those funds would be taken from section 32 and placed in a special fund from which the Appropriations Committee could then further appropriate for reforestation purposes.

Mr. GROSS. What happens to the revenue derived from the cutting of timber on national forest lands?

Mr. FOLEY. That revenue is still assigned to various purposes. Most of that revenue goes to the Treasury of the United States, as the gentleman knows. Twenty-five percent of forest revenues are usually assigned, after expenses, for administration to local governments, specifically counties for schools and roads.

Mr. GROSS. But none of those funds will be for reforestation?

Mr. FOLEY. Almost all reforestation has been carried out under direct appropriation programs.

Mr. GROSS. This bill, as it stands, as to expenditure is open ended; is it not?

Mr. FOLEY. There is nothing in this bill that requires appropriation. It is still a matter for the committee of which the gentleman is a distinguished member to determine. The bill assigns those revenues from section 32 that are from wood and paper products to a special reforestation fund. They are estimated—and it is not certain—to be around $60 million to $75 million annually, and we would expect that would probably rise over the years if there is an increase in imports. If there is any lack of appropriations from this fund, the amounts are returned to the section 32 after 2 years.

Mr. GROSS. How is that fund made up?

Mr. FOLEY. At present, the law places a $300 million limit on the annual balance in the section 32 fund. There is, in other words, up to $300 million surplus that runs in this fund annually. We are proposing to take from that between $65 million and $75 million. We do not anticipate, under any circumstances, that the fund would be depleted. In addition to that, the Appropriations Committee reviews the final decision as to how much of it is spent, and the expended funds will go back to the section 32 fund, so the Appropriations Committee really has the final determination as to how much will be finally assigned out of the section 32 funds.

Mr. GROSS. Then is there anything to inhibit the Appropriations Committee from appropriating funds for section 32 and/or appropriating funds to take care of any shortfall with respect to reforestation?

Mr. FOLEY. No, sir. I think, as the gentleman knows, there is a provision of law dating from 1956 which authorizes the appropriation of up to $500 million of additional funds for section 32 purposes annually. That has never been appropriated, but authority and authorization for it exists. I would assure the gentleman the Appropriations Committee in no way would be inhibited in appropriation of these funds for reforestation or supporting reforestation from other appropriation sources.

Mr. GROSS. So as matters stand now, the gentleman is saying it is not anticipated that there will be expended from whatever source more than $60 million to $75 million a year on reforestation under the provisions of this bill?

Mr. FOLEY. I would have to say to the gentleman the estimated revenues from the section 32 funds to the supplemental reforestation fund will be between $65 million to $75 million on present estimates, but they are determined by a formula of those duties collected on wood and paper products, so that may well rise in the future. But the Appropriations Committee retains the determination of how much, if any, of those funds so derived and assigned to the special reforestation program will actually be expended for reforestation, so the gentleman's committee retains complete jurisdiction over the matter. I believe we could wisely spend more than $100 million annually for reforestation.

Mr. WYATT. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oregon.

Mr. WYATT. Mr. Chairman, I thank the gentleman for yielding to me. I would like to respond to the inquiry of my friend, the gentleman from Missouri (Mr. HALL) about whether or not this is a paradoxical program where we are asking for reforestation and at the same time we have in controversy the question of clearcutting. I would say to my friend the questions of clearcutting and reforestation are completely consistent in many areas of this country. There are many areas where, such as in the Douglas-fir portion of the Northwest and certain portions of northern California in some of the pine areas, it is very, very clear that clearcutting is the best way to harvest timber.

We have natural regeneration, natural regrowth. Reforestation is cheaper and easier. We have much faster growth.

We have some very dramatic instances showing identical trees planted under clear-cutting circumstances and under circumstances where selective logging has occurred, where the growth has been 10 or 12 times as much. So I would say in some areas, depending upon the geography, clearcutting is very consistent with and actually is a supplement to and makes easier reforestation.

Mr. FOLEY. I thank the gentleman from Oregon. I know how well informed and how concerned he is about wise forest management practices. I believe his comments are particularly valuable.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. LEGGETT. I commend the gentleman for bringing this legislation to the floor. I believe everybody has known for years about our 5 million unseeded acres that need reforestation. We have had no money to put into this because of our continuing other priorities.

I believe the gentleman has developed an ingenious system for financing this program. Of course, the $300 million holdback we are eating into is really a bookkeeping transaction, if I am not incorrect, because there was an article the other day in a national magazine which indicated that the Government at all times has from $3 billion to $11 billion of funds on deposit with its favorite national banks at no interest whatsoever. These are the kinds of funds we would be perhaps affecting by these kinds of expenditures, so this bill will not cost the taxpayers a dime.

I believe it is going to be a real stroke of progress for conservation.

Mr. FOLEY. I thank the gentleman from California.

Mr. Chairman, I reserve the remainder of my time.

Mr. KYL. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I will take a few moments to try to clarify some of the matters brought up by the previous discussion.

We have to look at the history of the American forest for just a moment to discover that this is an all too common story that we see in regard to forests, energy, and other resources of the United States. There was a time when this Nation was largely tree-covered and when the tree was actually an enemy to advancing civilization. Large areas were burned off. They were sold for as little as 10 cents an acre. They were cleared for farming.

Then all of a sudden we discovered that this was not an inexhaustible resource, and the National Forest Service was established. That Forest Service had these missions to perform under its charter. It was to protect watersheds and forest areas, and it was to administer the forests under a multiple use and sustained yield concept.

It is this third factor of sustained yield which we deliberate today. We find we are in short supply. The United States today is the biggest importer of timber products in the world. Sixty percent of all old growth saw timber we have left is in three States of the Northwest, northern California, Oregon and Washington. We are 5 million acres behind in reforestation.

There are other millions of acres which were acquired for the purpose of forestry which have never been planted.

As we cut we have to plant, unless it is in a species which is regenerated naturally, as Douglas-fir in some cases is. We have to plant trees if we are to have a supply.

Why do we have to use this form of financing?

I believe it is human nature—and all of us are prey to that human nature—to want to make investments which pay off in the shortest time possible, and certainly in a lifetime, and to avoid or postpone very long-term investment. When we talk about a cycle of forests we are talking about a human productive lifetime, perhaps 50 or 60 years. And because of this human nature we have not been willing to put the kind of money we need in investments in forestry, because there is no immediate cash return.

It is true that from the moment a tree starts to grow there are benefits, but those benefits to the environment and the esthetic and all the rest of these factors cannot be measured in dollars.

At the same time the forests have decreased, the costs of forestry itself have increased. The costs themselves, of course, have gone up because of inflationary factors. The Department must now spend more time on recreation management, on planning activities, on meetings, and even on court cases at a time when their personnel is being decreased. So the money that is available goes to meet the needs of the day instead of for investments for the future.

Mr. Chairman, this process we are suggesting today is not a momentary whim. Over half a dozen years many Members of this body, the gentleman from Colorado who is here, the gentleman from Pennsylvania, and I, among others, looked at two dozen different approaches to forestry funding because what we have lacked, and what we need, is a guaranteed funding of a long-range management program. We have not been able to achieve that goal. Most of these other plans which have been discarded have been discarded because they use as the basis for financing, funds that are generated by the cutting of timber, by the sale of timber. The environmental groups with majority support, I think, of the public in the United States do not like that kind of financing system, because what it says is this: the more you cut the more money you have to manage. Therefore, the impetus is to cut as much as you can so that you can get more funds to manage. That kind of financing is no longer accepted by the American people. Therefore, we have to have a more indirect means such as this.

Mr. Chairman, the real need for this legislation is the need for long-range adequate funding for planning. Today the Forest Service is actually developing management which comes very close to that ideal which the people of this country seek. Within the last week I have witnessed these forest practices as they are in effect today. There is no longer a simple sale on the basis of "here are some trees, so let us cut them." Now there is a multidisciplinary management practice. A whole team looks at a watershed area which has natural trees in it. Included in that team are environmentalists, soil conservation specialists, culturists, other botanists and wildlife specialists and a market analyst and a program is laid out for a complete watershed so that we can have all of these benefits of the forests realized to their full extent. The best kind of application of the multiple-use concept. That is the way the people want it, and that is the way it is being done.

The Region 6 forests with which the gentleman from Oregon and the gentleman from Washington are most familiar now has a limitation. At no time can any block larger than 35 acres be clear cut. There is always a concern for wildlife, regeneration, and all of the other factors that should go into the kind of a program that you and I want.

This bill deals with one aspect. There are many problems and conflicts other than that which we seek to correct in this bill. We cannot find the answers to all of those at this time, but this I think is absolutely clear: if we do not plant trees today, we cannot harvest trees tomorrow. It is as simple as that. We are 5 million acres behind in reforestation, and we have other millions of acres needing first planting. This bill we present today is the best solution that we could find to this very basic problem among all of the problems involved in forest management.

Mr. WYATT. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Oregon.

Mr. WYATT. I thank the gentleman for yielding.

I would like to commend the gentleman for his vision and for his statesmanship and for his foresight in assisting in leading the way to this legislation. In the 8 years that I have been in Congress I have spent the largest portion of my time attempting to promote reforestation not only among national forests but also in our other federally owned forest lands and other publicly owned forest lands and in the great third forest, the great private wood lots in this country.

We have been talking now for several years—and I know the great pressure that there has been over about 2½ years—about the necessity of increasing the use of wood fiber in this country. However, we have done very little about it.

The Presidential Task Force laid out the job before us, but we have really done very little about it in order to meet the crisis that is sure to come if we are to meet the housing goals and the other purposes for which we maintain the forests in this country.

Mr. Chairman, everyone can agree upon the need for additional information with reference to the use of our forest and reforestation, but everyone concedes—the people who are in the wood fiber industry, the people associated with the other products—with 4.8 million acres of national forest lands needing reforestation, there is little excuse for not going forward with it at the present time on an economically sound basis.

We have from 70 million to 75 million acres in this country that need reforestation.

Many people do not realize the fact that each tree that is grown in this country is a small oxygen factory. This is one of the side benefits in addition to the many other benefits about which we have been talking.

Mr. Chairman, I think the program that the gentleman from Iowa (Mr. KYL) and the committee has devised is a very important one, is formulated upon an economically sound basis upon which to put this program and one of which we can be proud to leave as a heritage to our children.

Mr. KYL. I thank the gentleman from Oregon. He has opened up another facet of this problem. We do need lumber for housing. Housing is not a fad or a frill. This is a basic necessity.

Sometimes we hear the claim made that we should use substitutes for lumber. The people prefer wood products. All of the substitutes are more likely to disturb the environment through mining, through production, and so on. Most of the substitutes which are spoken of for housing also are those elements which use the most energy, which is also in short supply in this country.

So, by all odds, the timber lands are still the basic building resource that we have in this country.

Mr. WYATT. I think the RECORD should also show that almost all the substitutes that are being suggested or considered or used are also more expensive than the wood fibers we are talking about and, therefore, prices housing out of the market.

Mr. KYL. The gentleman is correct.

Mr. BAKER. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Tennessee.

Mr. BAKER. I thank the gentleman for yielding. I thank the gentleman from Iowa for the knowledge which he possesses in order to understand this problem and to be able to explain it to the extent and to the degree which he does so ably on the floor.

This is a broad concern and interest of everyone in the forest areas of our Nation. There is certainly concern for the products which come from our forests in the form of lumber. The people in every section of our country need the products of our forests.

I want to commend the gentleman from Iowa and to associate myself with his remarks and urge the passage of this legislation.

I thank the gentleman for yielding.

Mr. KYL. I thank the gentleman for his contribution.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. KYL. Mr. Chairman, I yield myself 3 additional minutes.

Mr. DELLENBACK. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Oregon.

Mr. DELLENBACK. Mr. Chairman, I join very strongly in the commendation which has been given to the gentleman from Iowa for introducing this legislation and to the committee for bringing it along.

I wish to express my personal thanks for the time which the gentleman spent in our Northwest area in the last week and the discussions which we have had since he returned as to what he saw there.

There is one aspect although which has been touched upon inferentially, I would like to emphasize for all of the members of the committee.

We are here dealing with a renewable asset. So much of what we are doing today, as our standard of living rises, is to deal with assets which cannot be replaced. However, the forest is a renewable asset.

If we follow the policy of sustained yield, that means when you cut down a tree you must plant again, we are able to continue to utilize this valuable resource. The thrust of this bill is to make sure that this priceless asset is used wisely. I urge this body to act favorably on the legislation now before us.

And that we use these funds, in the language of the bill, for the purpose of supplementing programs of tree planting, and seeding of national forest lands.

I think we are here today dealing with a thing that is obviously extremely important to the Pacific Northwest. The economic health of the entire area depends upon this particular industry. Jobs, payrolls, everything else goes with it, either directly or indirectly, coupled not only with the area interests and need, but with the national need, which the gentleman from Iowa has alluded to earlier, stating that we cannot meet the goals set for this Nation without under the present technology, producing the forest products that go into them. And that means that while we want to overcut our forests today so that we can meet the present goals, we have no chance in the world of meeting on an indefinite basis those goals unless we do something such as enacting this legislation and doing everything possible within this Nation, and outside, to be sure that the forests are replanted as they are cut off.

Mr. Chairman, I wish to associate myself with the remarks of the gentleman in the well, and I commend him once again for his excellent effort in a very worthwhile direction.

Mr. KYL. I thank the gentleman.

The genteman has pointed out that forest problems are everyone's problems. As the gentleman knows, we have no national forests in the State of Iowa. While I was visiting a lumber mill in the gentleman's State recently, I was standing next to a very large pile of timbers which were labeled "to be shipped to Iowa," and that was because the State of Iowa is the only State that has its own specific standards for planks to be used in bridge construction. We, of course, utilize the timber for our needs that comes from his State.

I wish that every person could have the opportunity to look at a forest area 15 years following seeding, and to see what a tremendous forest has developed just in that relatively short period of time. I wish every Member here could have the opportunity to look at two cuts, two slices of trunks from two trees, one of them by actual count of the rings 423 years old, and the other one exactly the same diameter 37 years old, the one grown in accordance with the best modern forestry practices; the other in accordance with the old style methods of forestry.

This bill does concern the people in all parts of the United States.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I thank the gentleman for yielding, and being a Representative from northern California I want to join my colleagues from the States of Washington and Oregon in associating myself with the remarks of the gentleman from Iowa.

I further want to state that we are all deeply in his debt for having not only been the lead author of this legislation, of which I am privileged to be a coauthor with the gentleman and others, but also for the fact that the gentleman came out to the forested areas in order to gain further knowledge. His diligent work is evidenced by his ability to articulate this important message here on the floor of the House.

It is certainly regrettable, as has been stated, that more Members of this Congress could not come to the forested areas. I happen to represent the great redwood country in northern California that has mixed forests of redwoods, Douglas-fir, and other species.

I also want to commend, Mr. Chairman, the committee and the gentleman from Washington (Mr. FOLEY) who is handling this legislation on the majority side, and to say that he presented his case very well.

Mr. Chairman, as I evaluate all that has been said I think this legislation can be summarized by one simple statement: For too long there has been inadequate attention given to the reforestation of our public and private forests in this Nation. And what we are dealing with here is for the public forests and the agencies of the Government—giving them the opportunity to develop in a positive way and to carry on the financing of the reforestation requirements of our national forests.

This, of course, coupled with the American Forest Association's trees for people program is, I believe, the first positive effort that I have seen since I have been in the Congress in order to get an action program in the field of watershed stabilization and, of course, the most important thing—reforestation in addition to all the other things said by my colleagues here on the floor.

So I would ask that I be permitted to revise and extend my remarks, but I certainly want to express my appreciation to the committee, and particularly for the gentleman from Iowa for his outstanding leadership in this very important field.

This bill is one in a series of legislative proposals I support which constitute a unique, comprehensive concept that will combine protection of our existing forest resources; enhancement of areas with reforestation potential; and utilization of increased research to solve forest-related problems.

If there is one key to meeting our reforestation needs it is the availability of a positive method of finance that will create an adequate, consistent level of funding for reforestation activities. This measure, by earmarking a portion of the funds collected under section 32, will supply about $70 million annually for tree planting on public lands.

The bill is particularly appropriate, in my judgment, in that the amount made available under the legislation is equivalent to the section 32 receipts from duties collected on imported wood and paper and related products.

With a positive method of finance we can insure that the concept of sustained yield forestry can in fact become a perpetual sustained yield. In making certain tree growth exceeds tree utilization, we can make a lasting contribution to the economic strength and stability of the communities in timber-producing States and simultaneously insure the ability to meet the rapidly growing demand for lumber for housing and paper, and other wood-based products.

The benefits of this proposal far outweigh the relatively small costs authorized by the bill. I note that the Committee on Agriculture estimates that each dollar invested in this program will return 50 to 100 times the original investment.

However, even this estimate cannot include the intangible benefits that spring from reforestation programs. How can we measure the aesthetic enhancement, erosion protection, water quality improvement, or recreation values that surely come from tree planting?

The bill combines forest management with fish and wildlife enhancement, development of recreational values, and esthetic considerations.

If undertaken wisely it would allow extensive use of the public forests for leisure time activities while meeting the needs for lumber production for important national goals such as adequate housing for all Americans.

We must remember that timber is a renewable resource that we can both use and retain for all time.

Mr. PIRNIE. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman.

Mr. PIRNIE. Mr. Chairman, I wish to take this opportunity to congratulate the gentleman now in the well not only for his efforts in behalf of this piece of legislation, but for his intelligent and studied concern for the protection of our natural resources.

Not only are there great economic factors at stake, but also really the life of this Nation, and only through intelligent planning and through expert guidance and early concern will we take the steps that are necessary for the protection of our natural resources.

Therefore, we have to have men like the gentleman now in the well who developed this expertise and who have devoted long and faithful service in the committee. Also because of their personal concern in order to give us the guidance and to permit us, as we will here today, to support a most constructive measure in this field. I congratulate the gentleman most heartily.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Chairman, I think we all owe our thanks to the gentleman from Iowa for offering this legislation.

I happen to be the ranking Republican Member of the subcommittee that handled this, but the major share of the credit certainly goes to the gentleman from Iowa.

Mr. Chairman, this bill has my support and I recommend its adoption.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, I also want to congratulate the gentleman from Iowa for his leadership on this legislation and for bringing it to the floor of the House for consideration.

The gentleman has performed a real service for all the people of the Northwest, since this is such an important matter to everyone in that area.

Mr. KYL. Mr. Chairman, I want to thank the gentlewoman from Oregon (Mrs. GREEN).

Mr. Chairman, I want to thank the gentleman from Washington (Mr. FOLEY) for his excellent work in the committee and before the Committee on Rules with respect to this measure.

Mr. McCLURE. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman.

Mr. McCLURE. Mr. Chairman, I take this time only to congratulate the gentleman for his leadership in this field and for the enlightening foresight with which he led the fight to obtain funding for reforestation which is of such vital necessity not only for those areas which produce lumber, but as has been pointed out here for the entire Nation in which lumber products are used and consumed.

I recall not too many years ago, as a matter of fact only a couple of years ago, when lumber prices had skyrocketed because of a number of factors, one of which was the limited supply along with a peak demand for lumber products. People all over this country were demanding that something be done to make lumber more available in the city markets and for housing for the urban poor. As the supply temporarily met demand, prices fell and national concern abated. The very same conditions that preceded that national crisis in lumber supply exists again, and this time we must also deal with national environmental concerns. If we are to have any hope of meeting both concerns—and both are entirely legitimate—we must increase timber supply. If we are to avoid pressure for cutting in areas which we wish to preserve, we must increase supply in areas other than those set aside for scientific and esthetic purposes. If we don't move now we lose our options in the future, just as the failure of past Congresses to appropriate sufficient money for proper management of our forests is even now creating pressures on roadless areas of our national forests. If we really are concerned over the barren wastelands that can follow improper forestry practices—and they are not typical of modern practices—we must have proper timber management, adequately funded. Let's recognize, too that young vigorous growing orchards produce more than pleasing esthetic environments, they also produce oxygen—and to a much greater degree than an overage or climax forest. So, for many reasons, more money is needed and this bill will go part way in that very important direction.

Mr. KYL. Mr. Chairman, I thank the gentleman.

Mr. ROUSSELOT. Mr. Chairman, I rise in support of H.R. 13089, a bill which the gentleman from Iowa (Mr. KYL) has introduced and in which my colleagues from California, Mr. DON CLAUSEN, Mr. BIZ JOHNSON, and Mr. JERRY PETTIS, have been instrumental in assuring would be brought to the floor today. The bill, as has already been stated, provides for acceleration of constructive programs to plant trees on national forest lands that are in critical need of reforestation.

My distinguished predecessor, the late Glennard P. Lipscomb, was most influential in alerting the Congress to the important long-range planning needed in any national forest, but especially—following the critical fire and subsequent floods in 1968 and 1969—in the San Gabriel Valley area of California. Congressman Lipscomb worked hard and long to convince our colleagues that our national forest areas many times serve as key watershed systems directly affecting more heavily populated areas downstream from our U.S. forests. For years Glen Lipscomb worked to encourage the Forest Service to provide a total watershed stabilization program of which this legislation today is the direct result. Our Nation is, apparently, about 5 million acres behind in reforestation. Although the funds of $65 to $75 million annually represent taxpayer dollars, they will be utilized to support preventive planning activities that can well save much grief and heavy costs to homeowners and businesses which are affected by the devastating fire and follow-on floods that many times occur in our San Gabriel Valley area of California.

It is especially rewarding to me and so many of those who would profit each year from the recreational and environmental values available to those that live near and in the Angeles National Forest that this legislation, long sought by Glen Lipscomb, is now coming to pass.

I join my colleagues who have cosponsored this bill in asking for its passage.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, as you well know, the Second Congressional District of California, which I represent, contains approximately 13 million acres of national forest land and it is used for all purposes under the multiple-use concept enacted by Congress. It represents a major factor in the economy of my congressional district and in the State of California as a whole, therefore, anything that we can do to improve the management of these forest lands is beneficial to the State and the Nation.

It was for these reasons that I joined our good friend and colleague from Iowa (Mr. Kyl) in the introduction of H.R. 13089, in an effort to accelerate the programs for planting of trees on the national forest lands, which are in need of reforestation. It has been estimated that there are 5 million acres of national forest lands in need of seeding and planting today in order to catch up and subsequently keep up with the reforestation requirements of our national forests.

Throughout the years the reforestation programs have been tied directly to the sale of the timber produced on national forest lands, therefore, you can only pick up the pace of reforestation by increasing the harvest of timber which in turn increases the need for reforestation. This is the vicious cycle which has resulted in this Nation being 5 million acres in the hole as far as reforestation is concerned. Under the existing procedures there is no way we can catch up.

I believe that the most realistic approach is that proposed here today to utilize funds developed by import duties on timber products to help reforest our own Federal lands. Even with that substantial source of income it will take this Nation at least 10 years to catch up with the backlog of reforestation. I believe that there is adequate authority and precedent for taking this step on the books today, with the statutes permitting the use of import duties for promotion of domestic agriculture on a category basis.

In addition to solving our reforestation problems by earmarking these funds, I believe we will achieve secondary benefits by releasing what minimum amounts have been spent on reforestation under the present procedures to other management purposes. While the reforestation funds have been woefully inadequate they are there and cannot help but benefit other programs of the Forest Service, programs which will improve the conservation and preservation of our natural resources do abound on these Federal lands.

Thank you.

Mr. KYL. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. Goodling).

The CHAIRMAN. The gentleman from Pennsylvania is recognized.

Mr. GOODLING. Mr. Chairman, as a cosponsor I rise in strong support of H.R. 13089.

This bill is drawn up to satisfy a definite need. The fact of the matter is, according to the Forest Service, our country is about 5 million acres behind in tree seeding and planting in our national forests. This deficit has occurred because of the hand of man and Acts of God. Man's hatchet and saw have exceeded the trees' growth, while fire, wind, and infestations have visited great losses on our national forests. In my State of Pennsylvania the destructive antics of the gypsy moth will occasion a major tree replacement effort at both the national forest and private woodland levels.

The question will arise as to why something was not done to take care of this national forest deficit prior to this time. The answer is that other Federal programs, particularly those of the welfare variety, have had priority over reforestation in our National Forest System. We cannot, however, afford to put this reforestation off any longer without placing our national forests in jeopardy. We must take corrective action now, and H.R. 13089 is the ideal instrument for such action.

Under this bill a supplemental national forest reforestation fund would be set up. Money for this fund would be derived from the so-called section 32 program, which primarily is designed to encourage the exportation, consumption, and diversion of agricultural commodities. The amount of money that would go into this fund would be equal to the gross receipts from duties collected under our custom laws on wood and paper and printed matter. Under this arrangement it is expected that between $65 and $75 million would be earmarked to carry out accelerated programs of tree plantings in our national forests.

I know that voices will ring out in this Chamber today to challenge H.R. 13089 on the basis of its costs. I, too, am cost conscious. I am sure that every Member of this House recognizes that I am a strong advocate of economy in Government, and that I yield to no one for challenging Federal programs of the big spending variety. If the bill before us were in that category, I could not support it. But it is not.

By its makeup this bill is more an investment than an expense. This is borne out by the fact that, as forest experts advise us, for every $1 spent for this reforestation program, there will be a generated return ranging from $50 to $100.

That is not to say that these beneficial returns will be immediately realized, for the growth process of a tree is slow and time consuming. As a fruit grower, I know this. The benefits will accrue in the distant future for our children and our children's children. In this respect, then, it can be said that this bill is today's investment in tomorrow.

There are other than momentary benefits associated with this legislation, for it will make a giant contribution to our environment. New trees will rise as real vegetative monuments on our landscape, making a superb contribution to the scenic beauty of America.

As byproduct benefits, the growing trees will contribute to our fresh water supply by providing valuable watersheds and water-holding areas. Too, certain physical functions involved in the life process of the new trees will have a beneficial effect on the air within and adjacent to the forest areas concerned. Additionally, these tree-planted areas of today would be the recreational areas of tomorrow, a guarantee of multiple outdoor pleasures for our future.

In brief, then, this legislation is an "environmental plus." It is, in a manner of speaking, a manifestation of conservation.

H.R. 13089 is unique in that it has the strong endorsement of both commercial and conservation groups, which customarily are poles apart in their views on matters pertaining to our natural resources. The legislation holds a promise of reward for both of these interests.

Reforestation is a complex and time-consuming process. It is for us to determine here today whether Americans of tomorrow will judge us to have acted wisely with respect to a highly valuable natural resource.

The question raised by this bill for the present is this: If I may paraphrase, Who needs our national forests? The answer thunders in from the future: We all do.

Mr. KYL. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. Mizell).

Mr. MIZELL. Mr. Chairman, I rise to congratulate the gentleman from Iowa (Mr. Kyl) for the vision he has shown in his work in developing this legislation and bringing it to the House floor, as well as to congratulate the gentleman from Washington (Mr. Foley) and the subcommittee that have had the foresight to report this legislation to the House, so we might act on it today.

This is going to be a giant step toward catching up the backlog we have now on the public lands which need to be reforested at this time, looking to the future when we are going to be even more dependent on our wood products to meet the needs of our society.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. Bennett).

Mr. BENNETT. Mr. Chairman, I rise in support of H.R. 13089. Our national forests are a part of the real treasure of America. They provide the much needed natural resource required by our many forest industries. Most people in my district probably look upon national forests as primarily protections for natural scenic beauties and our wildlife; and in areas large enough to really make contributions in these fields for the benefit of all of our citizens.

The national forests do achieve these results; but they are in fact important resources for the timber needs which are so urgent now and which will be even more urgent in the future. The bill will give us the funds needed for the reforestation which is so urgently needed, paticularly in some areas where proper reforestation and cutting procedures were not followed in the past. It is hoped that the mistakes of the past will remain in the past; and that this bill will make the important investment for the future which we can no longer intelligently postpone.

Mr. FOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. Taylor).

Mr. TAYLOR. Mr. Chairman, as the cointroducer of this legislation, I rise in support of the legislation.

It was my privilege to join in introducing H.R. 13089 and I desire to express my support for it today. This bill is designed to make additional funds available to the Forest Service for planting more trees on those areas of the national forests that are in the most need of reforestation.

It is difficult to get adequate funds for this vital work through direct appropriations, because it is so long after a tree is planted that one can expect a monetary return on the investment. This is the fact of life, even though a dollar invested in a tree eventually will return 50 to 100 times that amount.

This natural and understandable impatience which has handicapped the Forest Service can be offset by passage of this bill, which earmarks a portion of section 32 funds, an amount equal customs collected on wood and wood products imported into the United States, to be used for reforestation. I understand this approximates $65 to $75 million annually.

To many people, trees mean timber harvesting opportunities. To other people trees mean a beautification of outdoor spaces—an improvement in our environment. Both of these groups should profit as more trees are planted on national forest lands which need reforestation.

I hope this measure will soon be sent to the White House and signed into law.

Mr. KYL. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. PETTIS).

Mr. PETTIS. Mr. Chairman, I would like to speak today in support of H.R. 13089, a bill I cosponsored, which seeks to provide needed funds for the reforestation of our national forests. In addition to the growing demand for national forests as recreational areas, for watershed protection, the preservation of fast diminishing natural beauty and the protection of natural game, our national forests have met with continuous destruction due to fire, smog, and floods. Our reforestation efforts have not kept pace with these developments. In the San Bernardino National Forest area which is in my congressional district, some 110,000 acres were destroyed by fire in 1970. Burned out areas, such as these, must be replanted if national forests are to protect watersheds and remain available for recreation.

H.R. 13089 will provide the necessary funds and program to insure a proper and effective response to this critical challenge. Therefore, I urge my colleagues to cast an affirmative vote for H.R. 13089.

Mr. WYATT. Mr. Chairman, Forest Service contracts today require reforestation. What we are talking about is the 4.8 million acres which under older and antiquated forest practices were not required to be reforested and were not reforested.

The fact remains that some species of trees, notably the Douglas-fir and among others, some varieties of pine, do not grow, or do not grow well in the shade. These species grow well and fast in open sunlight.

This is not true in all sections of the country. You cannot have standard economic practices throughout the country, treating all species of trees and varying climatic and soil conditions as if they were the same.

Mr. VANIK. Mr. Chairman, despite its very fine intentions, I must oppose H.R. 13089, legislation to accelerate reforestation of our national forests. I oppose this bill because I do not feel we can at this time earmark funds from section 32 for the purpose of this bill.

H.R. 13089 proposes to earmark $65 to $75 million annually for a national forest reforestation fund, with all of this money being drawn from section 32 funds. Currently the funds of section 32 are utilized for numerous worthwhile programs, including food stamp, school lunch, and summer feeding programs. These programs have been tremendously successful in the past and have grown at a steady rate. But the President's budget for fiscal 1973 has cut funds from most of these programs. The President has frozen $135 million of badly needed section 32 funds. The school breakfast program has been cut from a budget of $25 million to $18.5 million; the food program for nonschool children has been cut from $37.8 to $20.8 million. One-half of the children eligible for and in need of the summer feeding program will not be fed this year. These are only a few examples, but the general trend is clear. The programs for the poor which only a short time ago showed great promise are now being reduced to totally inadequate levels.

Now, with many programs losing funds, we are confronted with legislation authorizing up to $75 million of section 32's funds for reforestation. This money would be specifically earmarked for this purpose, thereby causing the other section 32 programs, to have access to less funds.

Until the President releases the funds he is holding up from feeding programs, I cannot allow remaining section 32 funds to be used for anything but existing programs. The feeding programs have proven themselves highly beneficial—we cannot afford to cut them.

Mr. Chairman, I would like, now, to elaborate on the problem of the reforestation of our national forests, the need for a massive reforestation program, and who should assume the responsibility for this program.

The land we have set aside for our national forest system is rapidly becoming the only area where the American public can enjoy real wilderness. Now, more and more of this virgin land is blighted by excessive and destructive logging every year.

The key to the future of our national forest system is its involvement with the timber industry. The U.S. Forest Service was founded in 1905, and for almost half a century very little lumber production was required of it. Up to World War II approximately 95 percent of the Nation's lumber was supplied by privately owned forests. Then came the war and an unprecedented demand for lumber, which coincided with an also unprecedented shortage of timber on private lands. The lumber industry had finally begun to run out of trees.

The demand for lumber escalated prices and the Forest Service began to sell to the timber industry large sections of trees. In 1940 there were 87,000 miles of roads in the national forests; by 1960 new logging roads had swelled the figure to 160,000 miles. Timber sales by the USFS soared, from 1.5 billion board feet in 1941 to 4.4 billion in 1951, to 8.3 billion in 1961—to 11.5 billion in 1970, 40 percent of total U.S. production. And the demand for public timber is increasing. A White House task force recommended that the national forest timber harvest be increased by 50 percent by 1978. Such rapid growth has led to many serious problems in the Forest Service.

By increasing production of timber, the Forest Service has strayed from the guidelines by which it is supposed to function. The legislative guideline set for the Service is the Multiple Use—Sustained Yield Act of 1960. This act provides that the Service must insure that our national forests are devoted equally to five purposes: outdoor recreation, range lands, timber growth, watershed, and wildlife and fish conservation. Yet numerous studies and reports have all agreed that the current priorities of the Service are incongruous with the Multiple Use Act. It is stated that much more emphasis has been placed on timber production than on forest management. The Forest Service study of the Bitterroot, Mont., National Forest stated:

> There is an implicit attitude among many people on the staff of the Bitterroot National Forest that production goals come first and that land-management considerations take second place.

Yet Bitterroot is not the only—nor the worst—national forest in this respect. More than 500 letters from Forest Service personnel, rangers, and forestry professors were received by the Bolle Commission, which also released a critical report on the conditions of the Bitterroot forest, after it released its report, and four of five confirmed the report's findings in their own areas. Overwhelming evidence proves that most of our 154 national forests are being improperly utilized for the production of timber at the expense of the other four purposes of the forests as dictated by the Multiple Use Act. Our national forests were not created to be economically profitable ventures; rather, they were to be the last strongholds of America's nature at its majestic peak.

The Forest Service has, by its own admission, been out of balance in favor of timber production. What is more catastrophic are the results of this rampant production. The two most flagrant violations of nature a timber production operation can make are: First, irresponsible clear-cutting, and second, lack of adequate reforestation. The Forest Service and the timber companies cutting Service forests are guilty of both of these.

A clear-cut is sometimes necessary to combat tree disease or for other beneficial purposes. However, the Service and the timber industry have abused this practice. Guy Brandborg, retired former supervisor of the Bitterroot Forest, said in a Reader's Digest article by James N. Miller:

> A clear-cut should be maybe 30 or 40 acres at most. Some of the cuts on the Bitterroot approach a thousand acres. They're wiping out animal habitats. They're scraping logging roads out of steep slopes where the gashes in the soil pour mud in the streams. They've destroying some of the forest's most beautiful trails and campsites. They're no longer a multiple-use agency, they've sawlog foresters.

Sixty percent of the recent national forest timber harvest has been clear-cut, more than double the proportion on public and private lands generally. In West Virginia's Monongahela National Forest, clear-cuts have been up to a mile wide, totally, ruining the ecological balance of the forest there. Excess erosion and siltation due to "improper, low-cost logging operations" is as serious a cause of river pollution in the Northwest as are pulp mills and municipal sewage plants there, according to a 1970 report of the Federal Water Pollution Control Administration. Irresponsible clear-cutting is a blight on our forests, destroying them for all our future generations.

The effects of Forest Service timber production are magnified by the lack of sufficient reforestation. Reforestation is essential to the continued life of a forest. This is specifically the meaning of "sustained yield" in the 1960 act. The act states roughly that the Service may not cut down trees at a pace faster than it replaces them. The Forest Service and the timber industry have been negligent in this area. Dr. Edward C. Crafts, former second-in-command of the Forest Service, told a congressional hearing in 1969:

> The Service is cutting about twice as much softwood sawtimber (the principal type of construction lumber) as it is growing. This situation cannot last.

Eighteen million acres of productive land—in terms of sawtimber, the equivalent of 30 national forests—are currently inadequately forested. The future beauty of our forests depends solely on the amount and effort of reforestation in them.

Mr. Chairman, the Congress is now being asked to authorize $75 million per year in section 32 funds for reforestation of our forests. I am firmly committed to the reforestation of our national forest system, but we cannot now afford to cut funds from our tremendously worthwhile feeding programs being funded by section 32. I propose, therefore, that the timber industry assume the responsibility for reforesting our national forests. It is not unreasonable to ask the timber industry to correct what they have destroyed.

The industry owes the Federal Government a great debt for the tax benefits it has received. Let me detail the tax benefits accorded the timber industry and the industry's abuse of them.

The Revenue Act of 1943 was passed in the heat of World War II, when lumber was in tremendous demand. The act recognized timber as a capital gain for owners who cut it or owners who sold it before cutting. President Franklin D. Roosevelt vetoed the act, calling it a tax bill for "the greedy, not the needy." The act was passed over FDR's veto, but the timber industry has dramatically borne out his words.

The capital gains provisions have resulted in much lower rates for the timber industry than for other industries. In 1971 the timber industry paid taxes at a rate of approximately 30 percent, while many industries were taxed at rates close to the statutory 48 percent. In 1971 Weyerhaeuser Co. and its subsidiaries earned $166.1 million but it appears to have had Federal corporate taxes of only $44 million.

Due to large investment credits, Westvaco, a timber and paper corporation which had $430 million in sales and a net income of $4,016,000, paid absolutely no income taxes in 1971 and actually received a tax refund of $7,695,000. The Treasury has lost millions and millions of revenue dollars due to the preferential capital gains treatment of the timber industry.

Though the provisions of the Revenue Act of 1943 ostensibly were to create equity for and in the timber industry, the results have been just the opposite. Let me quote from a 1969 joint publication of the House Committee on Ways and Means and the Senate Committee on Finance:

> The tax advantage of capital gains treatment of timber accrues mainly to large corporations and high-income individuals. Small corporations with taxable income of less than $25,000 do not benefit from the capital gains provision. In 1965 there were 13,251 corporate returns filed in the lumber and paper industries. Of these, sixteen corporations with assets over $250 million reported 64.8% of the long-term capital gains. The sixty-three corporations with assets over $50 million reported 80.4% of the long-term capital gains. In fact, five companies reported 51.3% of the long-term capital gains.

The corporations with income below $25,000 do not benefit from the capital gains provisions, because their income is only taxed at about 22 percent, whereas the capital tax rate is 25 percent. The larger a corporation, the greater are its tax benefits. Many large corporations have abused their capital advantages in order to minimize their tax rates. The joint report cited above further stated:

> An examination of Table 1 indicates that the average large firm has nearly minimized its tax liability by having almost 100% of its taxable income taxed at the preferential capital gains rates. It presumably was the intention of Congress in 1943 to provide capital gains treatment only for the income derived from the increase in the value of standing timber. However, it appears that large integrated corporations with income from logging and later manufacturing are able to shift all their income into the lightly taxed capital gain category. This would not appear to accord with the purpose of the special treatment.

To sum up, Mr. Chairman, the timber industry has saved tremendous amounts of money due to the capital gains treatment provided by the Revenue Act of 1943, and much of this saving has been contrary to the intentions of the act.

The timber industry cannot claim that they do not have the financial resources to successfully reforest our national forests. As of February of this year, most types of lumber were selling for over $100 per thousand board feet, and, due to the upswing in housing, prices were rising. Yet the retired manager of the Western Timberlands region of Georgia-Pacific Corp., Rae L. Johnson, has stated:

> First, you get the crop. Then it costs about 10¢ a thousand board feet (of the harvested crop) to re-forest. What can you do so cheaply and get a better return on your money?

This is an excellent point, Mr. Chairman, especially when one realizes that the timber industry saves approximately $150 million annually due to Federal tax benefits.

The timber industry should reforest our national forests. The timber industry is financially capable of assuming this burden. The industry has admirably served America's lumber and paper needs, but now I urge it to take upon itself the task of rebuilding the last refuge of wilderness in the United States, our national forests.

By regrowing our national forests as we cut them, and by exercising responsible harvesting methods, we can increase the productivity of our national forests without permanently harming them. Good forestry will uphold the noble purposes of the Multiple Use—Sustained Yield Act.

I am writing to the Secretary of Agriculture and requesting that he alter the contract the Forest Service offers to prospective timber cutters to include clauses requiring the harvester to reforest the land he damages.

In the near future, I will also introduce legislation to revise the tax laws as applicable to the timber industry to insure that the industry does not continue to take unfair advantage of the capital gains provisions. This legislation will incorporate conservation incentive features to stimulate better forestry. Such a bill will finally lead to the timber industry assuming the forestry responsibility it has so far refused to bear, especially in our national forests.

Mr. Chairman, reforestation of our national forests is crucial to the natural beauty of America. Due to the mismanagement of the Forest Service and irresponsible harvesting practices by the timber industry, tree cutting has far outdistanced tree planting in our national forests.

The public should not be now asked to repair the damage done to public lands by the timber industry. The industry has made tremendous profits at the public's expense. This abuse and subsidy must be stopped.

Mrs. GREEN of Oregon. Mr. Chairman, I rise in support of H.R. 13089. And at the very outset, I think we owe a vote of thanks to the timely action of both the distinguished gentleman from Iowa (Mr. KYL) and the equally distinguished gentleman from Washington (Mr. FOLEY) for bringing to our collective attention the dangerous trend in the management of our national forests which has unquestionably led to an urgent need for accelerated reforestation.

In view of the fact that in 1970, the most recent year for which we have complete statistics, 11.5 billion board feet were harvested from these national forests, it is not surprising to find that reforestation efforts have not kept pace. Certainly, there will be corresponding growth in consumer demand for valuable forest products in the decades ahead. There is a particularly urgent need for replanting some 5 million acres of national forest land which have been damaged by fires and epidemics or else were marginal to begin with when first acquired by the Forest Service.

What a violation of a sacred trust it would be—what a betrayal of generations of Americans yet to come—should we ever fail to act to replace this majestic bounty of God's earth as soon as possible after it has been taken, in accordance with sound principles of forest management. When we begin to slip too far into arrears, be certain that it will be our sons and daughters and all generations who come after us who will pay the price of such shameful improvidence.

The bounty we enjoy today is properly their inheritance tomorrow, and it is a spiritual as well as a temporal inheritance—as anyone will attest who has ever had the experience of walking through a stand of stately Douglas-fir or Ponderosa pine. In Oregon, where well over half of the land is already held by the Federal Government, we appreciate this fact—as well as the fact that the Federal Government is the best guarantor against careless management of this national treasure. Strongly conservation-minded, the vast majority of Oregonians would enthusiastically endorse not only the accelerated reforestation of our national forests as provided for in this bill but even the acquisition of more lands threatened by commercial exploitation, to be placed under the protective mantle of the U.S. Forest Service where, on a sustained yield basis, we would continue to enjoy their commercial bounty as well as their majestic beauty.

I again congratulate the authors of this legislation who have provided us not only a way to preserve these priceless national resources, but the means to pay for it as well.

Mr. KYL. Mr. Chairman, I yield back the balance of my time.

Mr. FOLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of Agriculture shall establish a "Supplemental National Forest Reforestation Fund", and transfer to that fund beginning with the fiscal year commencing July 1, 1972, and ending on June 30, 1987, from moneys made available to carry out the provisions of section 32 of the Act of August 24, 1935 (49 Stat. 774, as amended, 7 U.S.C. 612c), amounts equal to the gross receipts from duties collected under the customs laws on wood and paper, and printed matter (including wood and wood products, cork and cork products, wood veneers, plywood, and other wood veneer assemblies and building boards, paper, paperboard, and products thereof, and books, pamphlets, and other printed and manuscript material).

Sec. 2. Moneys transferred to the National Forest Reforestation Fund under the provisions of this Act shall be available to the Secretary of Agriculture, for expenditure upon appropriation, for the purpose of supplementing programs of tree planting and seeding of national forest lands determined by the Secretary to be in need of reforestation. Such moneys shall be available until expended, and shall be provided without prejudice to appropriations or funds available from other sources for the same purposes, including those available pursuant to section 3 of the Act of June 9, 1930 (46 Stat. 527, 16 U.S.C. 576b). Any money transferred to the fund and not subsequently authorized for expenditure by the Congress within two fiscal years after which such money was transferred to the fund shall be retransferred to the fund established by section 32 of the Act of August 24, 1935.

Sec. 3. The Secretary of Agriculture shall, within one year after the date of this Act, provide a report to the Congress which sets forth the scope of the total national forest reforestation needs, and a planned program for reforesting such lands, including a description of the extent to which funds authorized by this Act are to be applied to the program. The Secretary shall annually thereafter make a report to the Congress on the use of funds authorized by this Act and the progress toward completion of his planned national forest reforestation program.

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. HALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think there is no question about the long-range economic feasibility—or investment, as it has been referred to—of this bill. I come from an area where the sodbusters have done the same thing to national prairie hay that the lumber cutters have done and are continuing to do to the forests primeval or even the reforested lumber areas.

I think it has been well pointed out there are two problems involved. One is that we are resorting to expedience in order to finance this reforestation, and perhaps that is well if we can wait for 37 years for the regrowth and additional harvesting. There is no question about the paramount need for lumber as we further build America, especially when the Government subsidizes housing by such devices as section 235 of the Housing Act, so the entrepreneurs can expedite it, parlay investments and profits, and get tax writeoffs in the process.

Then, of course, there is the paradox of the so-called clearcutting, and I would only say: Fee fi fo fum, I smell the blood of a lumberman. If it is efficacious to clearcut in certain areas, it certainly is not because there is automatic reseeding or regrowth. One has but to drive through this country where clearcutting has been licensed—and incidentally licensed without the requirement of reseeding—to see the great gashes in the verdant Mother Earth beneath the pine needles, beneath the humus that is established and as the subsequent waterfall rushes to the nearby streams and muddies them and carries off tons upon tons of silt. Try to sell clearcutting to anyone who knows the basic principles of land management? Ridiculous.

Try to sell it to anyone who really knows the true principles of recycling rain at the point of infall, predicated on the root structure, contouring, or any of the other measures of seed and soil retention along with recycling moisture? Clear cutting is ridiculous.

Try to sell those who might participate in any modern mechanism of determining lumbering, who are interested in the environment, on clear cutting, which is paradoxical to the need of this bill, when those who would profit from the harvest should be required to replant in the first place? It is a paradox beyond conjecture.

I think I shall vote for this bill, because I do think it is a good long-range investment, although I do not plan to be around here in 37 years, let alone 50 or 100 years, for the regrowth and harvest. I hope my grandchildren will be.

I know we should have done this long since. Indeed, we should have made it a requisite to the licensee for stumpage and for lumberage in the first place. There is no question about that.

I think the people who are today shouting about environment practices should take a lesson from good farming practices and restoration of the soil. Of course we can regrow in 37 years what used to take 437 years in the forest primeval. If we overfly defoliate the brush, winged-elm, cedar, et cetera; and seed and weed properly, and if we fertilize with modern techniques we can do it. We should take full advantage of this.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. HALL. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I should like to commend the gentleman from Missouri for the position he has expressed on clear cutting. I, too, plan to support this bill, although I do have some reservations which the gentleman shares, and also reservations about the matter of funding.

I believe the gentleman has really hit the nail on the head when he has outlined some of the damages which result from this practice in my State and in his State and in many other States. I commend him for the position he has taken.

Mr. HALL. I thank the gentleman for his contribution and repeat that we have pointed out the expediency herein plus the paradox involved.

Mr. Chairman, I yield back the remainder of my time.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened to the gentleman from California (Mr. Leggett) earlier this afternoon. I believe he stated that this bill would not cost the Federal Government a cent. I wonder if he could explain where the money is coming from?

Mr. LEGGETT. I am glad the gentleman asked the question.

It is my understanding, of course that all surplus funds from trust funds are invested in bonds, and, of course, the money is spent, these funds, for bonds.

But I understand that, in addition to this, the Government has on deposit with Chase Manhattan, Bank of America, and some of the other very large banks around the country on the order of from $3 billion to $11 billion of money at all times, which the Government uses as a sort of revolving amount, which is used by these banks interest free to handle their own affairs and sometimes to handle the affairs of the Government.

Merely drawing on the surplus for purposes like this, and the additional use for section 32 purposes in drawing down of the required $300 million reserves, it is my understanding of economics, would have no effect whatsoever upon the Treasury.

Mr. GROSS. But that does not get away from the fact that these are still Federal funds. This is money derived, as I understand it, from duties on imports.

Mr. LEGGETT. Right; so the money comes in.

Mr. GROSS. Which otherwise, if not earmarked for this purpose, would go into the Federal Treasury. Is that not true?

Mr. LEGGETT. No; I think the gentleman misses the point. I know the gentleman is a student of national economics. The Government does have all these taxes that are collected that it does not need on a daily basis.

So it does maintain these very high reserve balances in banks all over the country. We are merely talking about maintaining a required technical paper reserve on the one hand as required by section 32 and where we in fact maintain large physical reserves which are not required by law for which we get not one dime's worth of interest, which is the main point here. The mere fact that we want to deplete the reserves does not affect the Federal Government one iota.

Mr. GROSS. Interest or no interest—that is beside the point as far as my question is concerned. This is Federal money that is being expended. I do not see why the gentleman would beat around the bush about it.

Mr. KYL. Will the gentleman yield?

Mr. GROSS. Yes; I will be glad to yield to anyone who can give me an answer.

Mr. KYL. The gentleman from California (Mr. LEGGETT) makes a theoretical economic argument. I do not want to have this bill approved on such a basis.

Mr. GROSS. I do not want theory. I want somebody to answer the question directly.

Mr. KYL. That is just exactly what I am getting ready to do. I do not want to get off the subject before us here.

Any time you spend money which is any kind of a governmental fund and any time you take money which would otherwise go into the Treasury of the United States in real practice it means that you diminish the amount of money that the Government has to spend for other things. The gentleman is right.

Mr. GROSS. That is obvious.

Mr. KYL. But we think the money that we take for this purpose in this fashion is the only means by which we can get long-range guaranteed funding, No. 1, and No. 2, we agree that there is certainly money expended here, but we think it is a wise investment.

Mr. GROSS. I am not talking about the merits or demerits of the proposed legislation. I am saying that, slice it thick or thin, it is Federal money that will be used.

Mr. KYL. The gentleman is, of course, correct. There is nothing that is free.

Mr. GROSS. Does the gentleman from Iowa know whether the objections of the Department of Agriculture have been met in the terms of this bill? The Department seems to think this money ought to be provided under the normal appropriation procedure.

Mr. KYL. Since the gentleman asked the question I will try to give him a serious and complete answer.

The Department of Agriculture has never been opposed to this bill. The Office of Management and Budget, which is about as close as you can get to God in Washington, D.C., is opposed to it and always is opposed to every other bill that comes to the House or to the Senate, as a matter of fact, if there is an expenditure of money concerned. The Department of Agriculture is trying to present a case here, and they said we could do this another way and we could do that in some other way, but the answer is simply that they never have done it another way.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GROSS was allowed to proceed for 1 additional minute.)

Mr. GROSS. I ask for this time in order to permit the gentleman from Iowa to finish his explanation.

Mr. KYL. Will the gentleman yield further?

Mr. GROSS. Yes, of course.

Mr. KYL. In further response to the gentleman I have to point out this fact: We have had a great deal of discussion in the country in recent weeks about the necessity of having Congress take back some of its prerogatives from the executive branch. Here we are doing that.

I think Congress is supposed to. I think that the Congress is supposed to appropriate the money, and I am not one who is turned off or on because someone in an administrative branch downtown says that the Congress shall not do something at any given time.

Mr. LEGGETT. Will the gentleman yield for a further answer to his question?

Mr. GROSS. Yes.

Mr. LEGGETT. The law provides that we have to maintain this $300 million reserve at the present time. If, on the other hand, we are not collecting any interest on that $300 million reserve, which I am sure the gentleman from Iowa will agree we are not, then, if we change the law by this particular bill and say that the reserve can be less than $300 million or, for example, can be $225 million, then it is obvious that it will not require any additional taxes to fund this bill. We may be eating into an asset of the Federal Government but, considering the fact that we never intend to recapture that asset, it is not costing us anything on an annual basis.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. GROSS. Mr. Chairman, I ask for 1 additional minute.

Mr. FOLEY. Mr. Chairman, reserving the right to object——

Mr. GROSS. Mr. Chairman, I withdraw my request for 1 additional minute.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do this for the purpose of assuring the gentleman from Iowa—and I will be glad to yield to the gentleman—that as the one handling the bill for the majority side, I concur in the remarks of the gentleman from Iowa (Mr. KYL).

We are not suggesting to the committee that this bill will not cost any money.

What this bill proposed to do, however, is only to make available funds which have to be further appropriated by the Appropriations Committees for reforestation purposes. If that figure is $65 million or $75 million of funds a year, that is an expenditure. We cannot quarrel about the fact that it is.

Again, without intruding into the discussion between the gentleman from Iowa (Mr. GROSS) and the gentleman from California, I want to assure the gentleman that we hope for the expenditure of Federal funds to the extent of, perhaps, $75 million a year if the Appropriations Committee sees fit to approve. We feel that this level of appropriation would represent a most valid investment in the future welfare of the country. We do not dispute the fact that there is involved a potential substantial expenditure of funds in this bill. And indeed we hope and trust that such will be the case.

Mr. GROSS. That is my only point. I disagree with any statement that this is something for free; that this does not cost the Federal Government anything. That is my only point.

Mr. FOLEY. Yes, and I think the gentleman has made that point very clear and I concur in it.

Mr. GROSS. The only place you find free cheese is in a mousetrap.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FUQUA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13089) to provide for acceleration of programs for planting of trees on national forest lands in need of reforestation, and for other purposes, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SEBELIUS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 371, nays 5, not voting 56, as follows:

[Roll No. 135]

YEAS—371

Abbitt
Abourezk
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
Aspinall
Badillo
Baker
Baring
Barrett
Begich
Belcher
Bell
Bennett
Bergland
Betts
Biaggi
Bingham
Blackburn
Blanton
Blatnik
Boggs
Bolling
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrnes, Wis.
Byron
Cabell
Camp
Carey, N.Y.
Carlson
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Ill.
Colmer
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Culver
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Donohue
Dorn
Dow
Downing
Drinan
Dulski
Duncan
du Pont
Edmondson
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Fuqua
Gallagher
Garmatz
Gaydos
Giaimo
Gibbons
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Gross
Grover
Gubser
Hagan
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Keating
Keith
Kemp
King
Kluczynski
Koch
Kuykendall
Kyl
Kyros
Landrum
Latta
Leggett
Lennon
Lent
Link
Lloyd
Long, Md.
Lujan
McClory
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
McMillan
Mahon
Mailliard
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills, Md.
Minish
Mink
Minshall
Mizell
Monagan
Montgomery
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Podell
Poff
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Reid
Reuss
Rhodes
Riegle
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarbanes
Satterfield
Saylor
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalley
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Zablocki
Zion
Zwach

NAYS—5

Abernethy
Landgrebe
Seiberling
Vanik
Whitten

NOT VOTING—56

Alexander
Anderson, Tenn.
Arends
Bevill
Biester
Boland
Bow
Byrne, Pa.
Caffery
Carney
Celler
Chisholm
Clay
Collins, Tex.
Curlin
de la Garza
Diggs
Dingell
Dowdy
Dwyer
Eckhardt
Edwards, La.
Eshleman
Flowers
Fountain
Fulton
Galifianakis
Gettys
Griffiths
Gude
Halpern
Hébert
Jones, Ala.
Kazen
Kee
Long, La.
McCloskey
Macdonald, Mass.
Madden
Metcalfe
Mills, Ark.
Mitchell
Mollohan
Patman
Poage
Pryor, Ark.
Roberts
Rodino
Roy
Runnels
Scheuer
Stanton, James V.
Stokes
Stubblefield
Whalen
Young, Tex.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Celler with Mr. Arends.

Mr. Hébert with Mr. Gude.

Mr. Runnels with Mr. Halpern.

Mr. Macdonald of Massachusetts with Mr. McCloskey.

Mr. James V. Stanton with Mr. Bow.

Mr. Young of Texas with Mr. Collins of Texas.

Mr. Stubblefield with Mr. Kee.

Mr. Anderson of Tennessee with Mrs. Dwyer.

Mr. Fountain with Mr. Long of Louisiana.

Mr. Fulton with Mr. Mills of Arkansas.

Mr. Byrne of Pennsylvania with Mr. Biester.

Mr. Stokes with Mr. Whalen.

Mr. Carney with Mr. Curlin.

Mr. Roberts with Mr. Eshleman.

Mr. Roy with Mr. Galifianakis.

Mr. Madden with Mr. Scheuer.

Mr. Rodino with Mr. de la Garza.

Mrs. Chisholm with Mrs. Griffiths.

Mr. Clay with Mr. Boland.

Mr. Metcalfe with Mr. Mollohan.

Mr. Dingell with Mr. Mitchell.

Mr. Diggs with Mr. Eckhardt.

Mr. Jones of Alabama with Mr. Kazen.

Mr. Alexander with Mr. Caffery.

Mr. Bevill with Mr. Flowers.

Mr. Gettys with Mr. Patman.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON DISTRICT OF COLUMBIA TO FILE REPORT ON H.R. 14718, PUBLIC ASSISTANCE TO MASS TRANSIT BUS COMPANIES IN THE DISTRICT OF COLUMBIA

Mr. CABELL. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia have until midnight tonight to file a report on the bill H.R. 14718.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PEAR MARKETING ORDERS

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14015) to amend section 2(3), section 8c(2), section 8c(6)(I), and section 8c(7)(C) of the Agricultural Marketing Agreement Act of 1937, as amended.

The SPEAKER. The question is on the motion offered by the gentleman from Washington.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14015, with Mr. FUQUA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from California (Mr. TEAGUE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have had the honor of serving for the past 8 years on the distinguished House Committee on Agriculture and I know I reveal no secret in informing the Members of the Committee of the Whole House on the State of the Union that it is seldom that the Committee on Agriculture is able to report a bill to the floor of the House with respect to which there is not some dispute or disagreement among major agricultural organizations.

However, I have the happy opportunity to report to the committee today that this bill to establish a marketing order for pears for canning and freezing has the support of all the great farm organizations of this country which have commented upon it.

Mr. Chairman, on that ground alone

this is a rather exceptional bill. Its purpose is fivefold.

First, it would authorize marketing orders for pears for canning and freezing.

Second, it would authorize any form of marketing promotion including paid advertising under a marketing order for pears. It would also provide that when the handling of any commodity for canning or freezing is regulated under a marketing order, research and development projects providing for any form of marketing promotion including paid advertising under such order may deal with the commodity or its products in canned or frozen form.

Third, it would require a favorable vote of two-thirds of the growers voting or two-thirds of the volume voted in each State of the production area, for issuance of an order applicable to pears for canning or freezing.

Mr. Chairman, I want to emphasize the next purpose of this bill.

Fourth, the bill would require that processor and producer representation on any agency selected to administer such an order shall be equal.

This bill not only provides for the processor representation on such an agency board to administer the marketing order, but it provides for the equality of such representation. There would be a balance of representatives from the processing as well as the producing sectors and that balance would be maintained in each State which participates in the marketing order.

Finally, it would require that at least a majority of each State's representatives on such agency concur in any recommendation for proposed regulation.

This is another point I would like to emphasize: this bill provides that processors have equal participation with producers in the administration of the marketing order and any regulation promulgated has to be recommended by a majority of the representatives. This means that no regulation recommendation can go to the Secretary unless there was some concurrent judgment on the part of both the producers and the processors from that State.

The bill has had strong bipartisan support in the Subcommittee on Domestic Marketing, and in the full Committee on Agriculture.

Why do we need a marketing order for pears for canning and freezing? There are three Federal marketing orders presently existing regulating the handling of fresh pears. One order covers Bartlett-type pears produced in California, one covers similar pears produced in Oregon and Washington, and there is a third order for winter pears for similar varieties for all three States. But all of these marketing orders presently in existence deal only with fresh pears, they do not deal with pears destined for canning or freezing processing.

The percentage of the crop in the three States—Washington, Oregon, and California—which is destined to processing has been increasing. During the 1945 to 1949 period, 40 percent of the U.S. pear crop was processed. That portion of the crop processed increased to 59 percent during the 1965 to 1969 period. But in the States of Washington, Oregon, and California, Bartlett pears are now processed to the extent of 79 percent of the total crop.

So marketing orders that exclude these basic processing channels are not really dealing with a very great percentage of the total crop, and for this reason it is necessary to amend the basic act to include authorization for marketing orders for pears for canning or freezing.

Now, under the provisions of this bill, before a marketing order could be promulgated by the Secretary there would have to be a referendum or vote by the producers in the proposed marketing area. The bill provides, as past bills have provided, that two-thirds of the producers by number, or two-thirds by volume, must concur before the Secretary of Agriculture may promulgate the order. As a practical matter the Department has never promulgated a marketing order where the referendum has not shown the requisite support of two-thirds by number as well as two-thirds by volume.

In previous approaches to this legislation there was no specific requirement for processor participation on the administering board. I repeat again that under this legislation as a matter of law any marketing order for pears for canning or freezing must include a provision that 50 percent of the representatives to be appointed to the administering agency must be selected from the processing industry. This same ratio would have to exist in each one of the three State delegations that would be members of the board.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Chairman, I thank the gentleman from Washington for yielding to me and for getting the committee's attention.

Mr. Chairman, I would like to go back to a prior point about the requisite two-thirds in order to promulgate a marketing order—and the gentleman may recall that I asked the same question on September 8, 1968, when similar legislation was before the body. Could this be voted en bloc by cooperatives, or organizations?

Mr. FOLEY. Yes.

Mr. HALL. Or would it be required that each individual farmer or producer cast his own ballot?

Mr. FOLEY. Cooperatives could vote by bloc under this bill.

Mr. HALL. I would say that would be a defect in the bill. But I thank the gentleman again for yielding.

Mr. FOLEY. I know the gentleman has raised this point before. It is, I might say, a characteristic of almost all marketing orders that cooperatives have been permitted to cast cast a bloc vote. But I emphasize again the Department policy of not promulgating any marketing order unless two thirds of the producers by number and volume have supported the marketing order.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. PEYSER. As to the effect of putting this under a marketing order, can this have a possible effect on the price of canned pear products? Would this have the effect, for instance, of bringing the price up?

Mr. FOLEY. No; its purpose, I might say to the gentleman, is to stabilize marketing conditions for particular commodities.

We have seen serious price instability in the marketing of many commodities—commodities where there is no marketing order and no provisions for regulation or control of marketing conditions. With such commodities, marketing and price conditions are often so volatile that one year prices will double and the next year fall to below the cost of production. There is no advantage to the producer or the consumer under these conditions.

There is no desire here to artificially boost prices on canned or frozen pears. After all, I think all producers realize that these products have to be competitive with other products on the market, and their hope is that by establishing some grade and quality standards and proposing some sort of method of dealing with large surplus crops which sometimes occur that the general economic conditions for producers can be stabilized and that the quality and desirability of the product can be improved for the consumer.

Mr. PEYSER. I thank the gentleman.

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. HUTCHINSON. I understand under this bill, as it stands, the marketing order on pears for processing could be put into effect by a vote of two-thirds of the producers; is it?

Mr. FOLEY. By number or volume.

Mr. HUTCHINSON. By number or volume it requires two-thirds?

Mr. FOLEY. That is right.

Mr. HUTCHINSON. But the processors under the bill, as it stands, would have no vote on whether or not the crop should be subjected to a marketing order?

Mr. FOLEY. That is correct.

Mr. HUTCHINSON. In that regard, it is different from other fruits presently involved in marketing orders for processors such as cherries, for instance.

Mr. FOLEY. I would have to say to the gentleman, there is a cherry marketing order in which the processors have a vote on the creation of a marketing order. But that is one of the exceptions and not the rule.

In the vast number of marketing orders that we have established by law, the processors or handlers have no voice in the setting up of a marketing order. That is a matter that is left to the producers.

Mr. HUTCHINSON. Is that true with reference to cranberries?

Mr. FOLEY. There is an order on cranberries and on cherries in which the processors do have participation in establishing the order.

To my knowledge, those are the two active order exceptions. Every other active marketing order does not provide for processor or handler participation. In the establishment of the order, authority exists for two order processor participation orders but they are not in effect.

Mr. HUTCHINSON. Is it not true that it is ordinarily in the case of fruits that processors participate in the creation of the marketing order?

Mr. FOLEY. I would have to insist and say to the gentleman with the exception of four marketing orders—two active and two not active—that the processors have no participation in creating the marketing order.

There is a marketing order on cherries and cranberries which does provide for processor participation. These have been established. There is authority for marketing orders for grapefruit and apples that have not been proposed or established—but for which authority exists.

In every other case involving over forty marketing orders for fruits and vegetables, the processors or handlers do not participate in the marketing order referendum.

In this particular bill, we have, however, required equal participation of the processers' representatives on any agency set up to administer the order. I would have to insist that this bill is really more typical of the average marketing order that we have established than the cranberries and cherry orders that the gentleman has cited.

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield further?

Mr. FOLEY. I yield to the gentleman.

Mr. HUTCHINSON. Can the gentleman indicate a marketing order now in existence involving fruits in which the processors do not have a voice in the creation of the marketing order.

Mr. FOLEY. We have the fresh pear marketing orders that I mentioned to the gentleman earlier, three of them on the west coast. None of these, to my knowledge, requires participation by processors.

Mr. HUTCHINSON. Yes, but, if the gentleman will yield further, the fresh pear marketing orders would apply only to the fresh fruit market; is that correct?

Mr. FOLEY. Yes. I thought the gentleman asked if there were areas where the fruit marketing order requires the participation by processors.

Mr. HUTCHINSON. I did. What I was getting at—and I think the gentleman misunderstood the purport of my question—I am searching for a case which would parallel the case which the bill would provide. In other words, the creation of a marketing order for processed fruits to which the processor had no voice in the creation of the market.

Mr. FOLEY. There is no precise parallel in fruits for processing but it has been the policy of the Committee on Agriculture to frame marketing orders in each case in accordance with the conditions of that particular commodity. We have not in fact dealt with these products on the basis of what some conditions might be or might not be in another marketing order. There is no tendency to establish one marketing order as a carbon copy of another. The committee has always rejected that approach and has had, instead, individually analyzed the particular commodity, its geographic area and so forth. This marketing order, if it is adopted, will have no precedent effect on the creation of any other marketing order in the fruit and vegetable field. Each commodity will have to stand on its own merits.

Mr. HUTCHINSON. If the gentleman will yield one further time, is the gentleman aware of any area of the country in which a processing and marketing order on pears is contemplated except along the west coast?

Mr. FOLEY. No. At every stage of the consideration of the bill it was always known to be a bill which is limited to Washington, Oregon, and California.

Mr. HUTCHINSON. I thank the gentleman.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. TEAGUE of California. Further in response to the gentleman from Michigan, is it not true that there are other Federal marketing orders in which processors are not represented on the board?

Mr. FOLEY. Oh, yes, indeed. The majority of marketing orders do not have processor or handler participation in establishing them, and there are examples, as the gentleman just pointed out, of marketing orders where the processors or handlers have no role either in creating the marketing order or in administering it. I thank the gentleman for bringing that point forward.

Mr. WALDIE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. WALDIE. In reading the report, I came across a sentence:

> The exemption of such a large proportion of the crop from regulation makes it difficult to attain the objective of the Act to improve returns to producers.

I did not quite understand the gentleman's answer to a question seeking information as to the impact of this act on consumers. If we improve returns to producers, do we not have an adverse impact on consumers?

Mr. FOLEY. No, indeed. I think the consumer is not necessarily hurt by such returns to the producers. We have great surpluses of many of our vegetable crops. If problems connected with them arise one year, the price falls drastically for the producers. The result often eliminates some producers entirely. It may be that the next year, through crop damage or other adverse conditions there is a short crop and the prices skyrocket. It is not in the interest of stable marketing conditions, either for the welfare of the producer or the consumer to have these great peaks and valleys in supply and price. One of the purposes of the marketing order is to try to establish a standard of quality, grade, and size of the product. Another purpose is to approach the problems of surplus conditions so that the producers can obtain more economic benefit from their labor and investment. But stable working conditions and grade and quality standards are in the interest of consumers as well.

I would say, as I said to the gentleman on the other side of the aisle, the producers are not benefited by being priced out of the market for the crop they produce. They have an interest in seeing that the consumer gets a high quality product at a reasonable and competitive price.

Mr. WALDIE. Mr. Chairman, will the gentleman yield further?

Mr. FOLEY. I yield to the gentleman from California.

Mr. WALDIE. The report further states:

> Marketing orders customarily provide for an administrative body comprised of members selected from the industry. The interests of both growers and handlers should be considered in arriving at decisions under any regulatory program affecting them. Provision in the act for representation as specified would assure growers and processors of appropriate representation in the administration of any marketing order applicable to pears for canning or freezing.

I ask the gentleman if the concern is to involve the processors, why are they precluded from voting on the adoption of the marketing order?

Mr. FOLEY. It has been the feeling in the past in the committee that the question of whether a marketing order should be established is basically a question for the producers. The producers pay the cost of this marketing order. The cost of the order is collected by the processor who either passes it on to the consumers or deducts it from the price paid to the producer.

The purpose of the act is to help the producers establish orderly marketing conditions. I do not think it is any secret that this bill has been opposed by processors now and in the past. The whole concept of the marketing order is generally opposed by certain portions of the industry. To let the processors participate in a judgment of whether a marketing order should be established is really giving the processors a double veto over the marketing order.

In order to be absolutely fair to the processors' interests, we have amended this bill with the consent of its sponsors to include equal representation on any agency administering the marketing order, but that apparently is not satisfactory for some in the processing industry. They want to have a veto even over the creation of the marketing order.

I feel we have gone absolutely as far as we can in being fair to the processor industry. Indeed, under the terms of this bill the industry is given not only participation but equal participation in administering a marketing order once established. In addition once the marketing order has been established the industry representatives have an effective veto over any specific regulations recommended to the Secretary of Agriculture.

But I do not think it would be fair to the producers to amend a bill that ostensibly gives producers an instrument of self-help with a requirement of the approval of those who are sincerely opposed to the instrument itself.

Mr. WALDIE. If the gentleman will yield further, if I understand the thrust of the bill, it is an attempt to settle a dispute between growers and processors and provide growers with greater bargaining power in dealing with processors.

Mr. FOLEY. No, this does not reach

questions of specific bargaining between processors and producers. It is not a bill for that purpose. Its purpose is to set up certain standards, certain procedures, for dealing with grade, quality, size, and with the pooling of excess crops, and so on. The producers still deal individually with processors for their crops and for the terms of price of their crops. This does not establish farm bargaining machinery or anything like that. The gentleman from California (Mr. SISK) has proposed legislation for that purpose which is under consideration in the Subcommittee on Domestic Marketing and Consumer Relations.

Mr. WALDIE. And it is not designed to limit production?

Mr. FOLEY. No, except as limitations of production are necessary to smooth out enormous surplus problems. It is not designed artificially to short the market in order to create price increases.

Mr. WALDIE. And there is the conviction on the gentleman's part that the growers will exercise that restraint and not attempt to limit production in order to increase the price?

Mr. FOLEY. I must repeat the administration of this act must take place through recommendations made to the Secretary for those particular regulations, and those particular regulations cannot go forward to the Secretary unless a majority of the representatives from each State concur in them, and the majority means including processors, because half the board is made up of processors.

Mr. DOWNING. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Virginia.

Mr. DOWNING. Mr. Chairman, I thank the gentleman for yielding. I missed a part of the colloquy between the gentleman in the well and the gentleman from California, and perhaps the gentleman has already answered the question. It is my understanding the processors are covered in certain of the areas in certain vegetables and fruit, such as cherries, cranberries, apples in certain States, and grapefruit, I believe.

If they are allowed to participate in the referendum in those areas of fruits and vegetables, why is it that they are not allowed in the pears.

Mr. FOLEY. The gentleman may recall the colloquy, but let me repeat it. The committee has always approached these individual marketing orders with great specificity. We have always wanted to have the particular commodity analyzed in terms of a request for a marketing order, and we have not tried to copy the terms of another order.

The gentleman pointed out correctly that there are two active marketing orders, one in cherries and one in cranberries, where the processors can participate in the election to determine whether the marketing order should be set up. But in the vast majority of the fruit and vegetable marketing orders we have no such rule.

In addition, I might say there are marketing orders where producers alone are represented on the administering board and the processors have no part at all.

In this bill we give the processors 50 percent representation and require that there must be a majority decision before regulations can be proposed to the Secretary.

If we want to consider it as such, the processor has a veto over any proposed regulation before it will go to the Secretary. Why is that not adequate protection?

The gentleman suggests, why not let the processors have a vote? My reaction personally is it is inappropriate to do that. The question of whether the marketing order should be established is primarily one for the producers. If the processors have to be given equal representation and participation on the board, that is a protection against any abuse of the marketing order approach.

Mr. DOWNING. Did I understand the gentleman to say that the producers pay for the cost of the marketing arrangement?

Mr. FOLEY. In effect the producers do pay, because the handlers and processors collect that cost of running the marketing order. But it is passed on, as the gentleman knows.

Mr. DOWNING. But the processor actually pays for it, and in effect he taxes the producer?

Mr. FOLEY. He taxes the producer.

Mr. DOWNING. But the processor pays for it.

Mr. FOLEY. If the gentleman thinks that a processor who acts as a collector pays for it, and that the person from whom it is collected does not pay for it, he knows the alternate effect of the burden differently than I do. The cost comes out of the funds of the producers. The only role the processor has is as a collector.

Mr. DOWNING. Will this tend to increase the price of pears?

Mr. FOLEY. As I said to other Members who have asked that question, I cannot predict what will happen to future pear crops, or future pear prices. They may well drop as they have in recent years. This legislation does not have the purpose of directly increasing prices. It does have the purpose of trying to stabilize a very unstable market, trying to set up quality and grade standards, and perhaps helping to control excess surpluses which diminish the price.

I do not believe it is in the interest of consumers to have this supply and price instability.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. LEGGETT. Is it not a fact that this legislation already is compromise legislation, that it is much different from the bill we had on the floor before, and that we have given the canners and processors now not only an equal voice but also a veto in the implementation of any program as to which any marketing order is passed by the farmers?

Mr. FOLEY. I want to be very accurate about this so as not to mislead any Member of the committee. We do not give processors a veto over whether the marketing order is to be created. That is a determination of the producers. Whether a marketing order is approved or not is determined by the producers rather than the processors. Once approved, the specific regulations under which the order is administered are recommended to the Secretary by a board made up of equal numbers of producer and processor representatives.

Mr. LEGGETT. And an order is not an actual program, and the program is what the canners have control of by the requirement of a majority vote of the board.

Mr. FOLEY. Again I want to be accurate. Neither the producers nor the processors have total control over the board. The bill requires joint equal membership and majority concurrence in certain decisions.

The question of whether a marketing order is voted or not in this bill is a question for producers only, but its implementation and regulation and so on are mutual responsibilities of processors and producers.

Mr. TEAGUE of California. If the gentleman has more requests for time on his side, I will be glad to yield him some of my time later.

I just want to make a brief statement to you which is in reference to the question asked by the gentleman from Virginia.

I had the owner of one of the finest restaurants who came into my office and asked me about the effect of this. I tried to explain to him about pear marketing orders, and he said to me, "It sounds like a great idea. You would be surprised at how many times I get green, semimature pears. I would buy a whole lot more of them if I could be sure that the quality would be what it ought to be."

Mr. FOLEY. I thank the gentleman.

This is really one of the important reasons for any marketing order, that is, to maintain standards of the very highest quality.

Mr. HALL. Will the gentleman yield?

Mr. FOLEY. I will be glad to yield to the gentleman from Missouri.

Mr. HALL. I appreciate the gentleman yielding.

Will he tell us quickly whether or not this bill is different from the one that was lost when we debated in the well of the House back in 1968?

Mr. FOLEY. It is different in two respects. First of all, under this bill by law there must be equal participation by processor as well as producer representatives on any board or agency to administer the marketing order. That is the first difference. The second difference is that there must be a majority of representatives from any State that must concur before recommended regulations to implement the program can be forwarded to the Secretary.

I want to say it was designed to protect the State's interest, but also it has the effect of giving the processor's or the producer's representatives, either one, a veto over any proposed regulation which they do not wish to see go forward to the Secretary.

Mr. TEAGUE of California. Mr. Chairman, I shall be very brief, and if there are Members on the Democratic side of the aisle who wish time, I have very few requests—as a matter of fact, only one of 2 or 3 minutes' duration—so there will be ample time for further discussion.

Mr. Chairman, it is very unusual for me to be here supporting a bill coming out of the Committee on Agriculture on which I have served for 16 years. I find myself, I am afraid, at least half of the time opposed to the bills that we bring out, but I have no hesitancy at all in supporting this bill.

There is no purpose in going over in any further detail the excellent explanation made by the gentleman from Washington (Mr. FOLEY). I am not a member of the subcommittee. I am not as familiar with the details as the gentleman is.

I would remind my Republican colleagues that the bill was voted out unanimously from the committee, and it does have the approval of the administration and of all the farm organizations.

In that connection, Mr. Chairman, I would like to read this letter dated May 2, 1972:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., May 2, 1972.
Hon. CHARLES M. TEAGUE,
House of Representatives.

DEAR MR. TEAGUE: This is in response to the request from the Committee on Agriculture for our views on H.R. 14015. H.R. 14015 would authorize marketing orders for pears for canning or freezing. Also, it would provide for any form of marketing promotion, including paid advertising, under marketing orders for pears.

The Department recommends that H.R. 14015 be passed.

H.R. 14015 was substituted for an earlier bill, H.R. 5825, by the Committee on Agriculture. These two bills are identical except for the provision relating to the vote of the agency established to administer any marketing order under the bills in making recommendations for regulations. H.R. 14015 requires that a majority of the representatives from each State on such agency concur in the recommendations for regulations. However, H.R. 5825 required that only at least 50 per centum of the representatives from each State on such agency concur in the recommendations for regulations.

We filed a legislative report recommending H.R. 5825 and also testified in favor of it at a hearing held on June 1, 1971.

We do not object to the change in H.R. 5825 that is incorporated into H.R. 14015.

Sincerely,
RICHARD LYNG,
Assistant Secretary.

There is no question of the fact that the administration does support this bill. I support it mainly because it is a means of self-help rather than a subsidy for the farmers. It is fair to the processors in that they have in effect a veto power over the details and operation of any marketing order.

I urge that the bill be favorably acted upon.

This bill is not like the average farm bill that comes to the floor of the House calling for the expenditure of millions and millions of dollars. It is instead a bill that amends the self-help structure of the Federal marketing order law to add pears for canning and freezing to the list of commodities for which these Federal orders can be issued.

Let us understand at the outset that a Federal market order is nothing more than Government rule or mandate that requires processors to market only the size, quality, grade, and maturity of a specified farm commodity. Under the law, the terms and conditions of these orders must be approved by farmers voting either individually or through their cooperatives. This bill, in addition to making pears for canning and freezing eligible for marketing orders, is also designed to protect the interests of producers in the States that produce pears. It specifically requires a two-thirds vote—either by growers or by volume—in each State of the production area. That means that the producers in Washington and Oregon can be assured that the larger production areas in my State of California will not dominate or dictate the terms of any new marketing order on pears for canning and freezing.

The bill also makes another change in existing law and in this respect makes it quite different from the earlier bills considered by the House in past years. This bill specifically awards processor representation on the marketing agency that is selected to administer the program. In fact, the bill requires there be equal representation on this body. It also requires that at least a majority of the representatives from each State on this agency must concur in any proposed regulation.

Boiled down to its simplest terms, this means that pear processors will not only participate in a methodical application of the terms of the order but will also, for all practical purposes, have a veto over these terms and conditions. For example, if the State of Washington were to place two members on the board that administers the program, one of them must be a processor, and if a majority of these two representatives must vote for any proposed change, the vote has to come out to two-to-nothing. A majority of two is two. Thus, Mr. Chairman, I feel that the processor interest has been fully accommodated in this legislation and will be given most fair treatment.

A final provision in the bill relates not only to pears for canning and freezing but also to any other commodity for canning and freezing that is regulated under an order and wishes to have a research and marketing program.

In summary then, this bill adds pears for canning and freezing to the list of commodities for which Federal marketing orders may be applicable. It protects the rights of producers in pear-producing States outside as well as within California. It provides processors with a direct participatory role in the administration of the program. Finally, it extends to all commodities for canning and freezing, the benefits of research and advertising.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. I am glad to yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I rise in support of H.R. 14015. This legislation extends the benefits of marketing orders to growers of pears for canning and freezing.

The pear producers of my State need this legislation. Unless they are able to cope with market extremes of supply and demand and cost in the pear industry, they cannot stay in business.

We all need this legislation so that the consumers of this Nation will have reason to expect an adequate supply of reasonably priced, high-quality pears.

The pear industry today is plagued by demands which call for continually larger crops from larger orchards on the one hand; and on the other hand, a collapsing market that can mean bankruptcy at anytime. In recent years, consumers have been irritated with shortages of pears, low-quality products and high prices one year; and the producer by surpluses and economic ruin the next.

As if this were not enough, the American pear producers have no idea when they will be faced with imports from Australia, Italy and South Africa.

The farmers of the west coast have attempted to meet this dilemma through formulation of cooperatives, through independent research and by just plain gambling on what will happen next year. The result has been, as stated on this floor today, that many of our farmers are being driven from the land. This legislation provides the only reasonable solution. It allows for advance planning by the producer, the handler, and the processor. It provides for research and development, and thus for an improved quality product for all of us. The farmers, in particular, who are attempting to make their living by providing quality food for American consumers, deserve at least reasonable market stability and individual security.

I urge my colleagues to vote for this legislation, to benefit both the industry and the consumer.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. Yes, I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, in the course of the past few days we have all been deluged by telegrams from a few cannery spokesmen urging defeat of the canning pear marketing order bill H.R. 14015.

Gentlemen, the arguments presented by the canners can most politely be described as deceptive in the extreme. Every one of their objections was presented to the Agriculture Committee; every one was examined and rejected. The bill was reported without objection from any member of the committee: Democrat or Republican, liberal or conservative.

Now the canners are attempting to take advantage of the fact that marketing orders constitute a highly technical subject with which most Members of Congress have had no experience. They are trying to present their side of the story in the hope that Members will be too busy to listen to the other side.

I am now going to help present the other side: the case for the bill, which every member of the Agriculture Committee found to be persuasive, as has the Agriculture Department.

First, let us briefly run through what the bill does.

It permits the implementation of marketing orders for pears for canning and freezing, as is presently the case with olives, grapefruit, cherries, cranberries, and asparagus, as well as fresh pears and many other fresh fruits. States have hundreds of local orders for commodities, A Federal marketing order for canning pears under this bill could permit a program to sponsor research into pear tree diseases, to establish and administer grading systems for quality and size, to engage in advertising to encourage people to eat more canned pears, to deal with projected surpluses in an equitable manner, and for other purposes of lesser significance. All of these activities would be financed entirely by the pear growers through assessments levied on them.

Now it is important to understand the procedure that must be followed before a marketing program can be established.

First, the Secretary of Agriculture drafts the order and distributes it to all pear growers.

Second, the growers have an up-or-down referendum on the marketing order. Passage requires a two-thirds vote, either by number of growers or by volume of pears produced.

Third, the Secretary appoints a committee in each State containing pear growers and processors to vote a proposed program under the marketing order. Each State representative must be evenly divided between growers and processors, and passage requires majority approval by every State representation. Some processors must agree.

This last step is most significant, and I want to direct your attention to it. In 1968 the House defeated a pear marketing order bill by a vote of 165 to 111. This earlier bill contained no such provision for processor representation on the administrative committee. So we have responded to the objection of the canners and given them full and equal representation.

I have here a telegram from the Campbell Soup Co. which says:

> Food processors would not be allowed to vote in the referendum on a proposed order. This is unconscionable.

Gentlemen, what is unconscionable is the deceptiveness of the Campbell Soup Co., who incidentally do not can pears. It is true the processors would not be able to vote in the referendum, but they have no need to.

Since they make up 50 percent of the administrative committee and an outright majority in the committee and of the representatives of each State covered is required for approval, the processors have a clear veto over anything the referendum approves.

I repeat; they have an absolute veto. They have no need to participate in the referendum. No program can be put into effect over the opposition of their committee representatives.

Since the processors can veto any marketing order, why then do they oppose the bill? The answer, I suggest, lies in the canners' general attitude. The number of processors has become progressively fewer, which means that each processor has become progressively more powerful. In contrast, the producers are small and there are many of them. Just as management once opposed any attempt on the part of workers to organize for any purpose no matter how moderate, so the processors oppose any attempt at organization on the part of producers.

There is no reason why we should be a party to maintaining an unfair balance of power. There is no reason why we should prevent the peargrowers from working together constructively to improve the production and marketing of their product.

The canners say the bill is anticonsumer because it will raise prices. It is true that in years of great surplus, marketing orders can be used to prevent prices from falling through the floor. But the ability to raise prices above the norm is very sharply limited by two factors:

First, producer's prices constitute only about one-fourth of the price of the final canned pear. Thus, an 8-percent increase in farm prices would produce a mere 2-percent increase to the housewife. In fact, there is little relationship between what the peargrower receives from the canner and what you and I pay for canned pears at the market.

Second, prices are limited by foreign competition. Pears are also produced in Australia, South Africa, and Italy. The American product must meet this ever-increasing competition in domestic and overseas markets. Growers know unless this is accomplished they will face even larger surpluses.

Remember, American pear producers receive no subsidy or price support of any kind.

So this is why I believe the objections to the bill to be invalid. But what are the positive reasons for the bill? Why do we actually need it?

We need it because the American farmer, the most efficient producer of food in the world, has not shared in the economic progress our Nation has made. In the past 21 years, the dividends have increased 200 percent and wages have increased 229 percent, but farm prices have increased only 9 percent and the farmer's share of the retail food dollar has decreased 22 percent. This is particularly true of specialty crops such as pears where the growers are facing a disastrous future.

As I said a moment ago, peargrowers are not subsidized and they do not ask for subsidy now. They ask merely for an opportunity to work together under programs which must be approved by the canner representatives and by the Secretary of Agriculture. I urge you to give them this opportunity.

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. Yes, I yield to my colleague from California.

Mr. JOHNSON of California. Mr. Chairman, as a cosponsor of H.R. 14015, I am, of course, very appreciative of the consideration which the House of Representatives is giving to this legislation.

The benefits of the Agricultural Marketing Act program are available to several specialty crops including fresh Bartlett pears.

This legislation which we have before us today would extend these same benefits now available to the growers and processors of the fresh fruit to the growers of canning pears.

Virtually all of the canned pears sold throughout the Nation are grown in the west coast States of California, Oregon, and Washington.

Representatives in Congress of the west coast pear growing areas are virtually unanimous in support of the proposal.

This includes Senators from all three States and several Members of the House of Representatives.

This legislative proposal has the full endorsement of all farm organizations.

This broad base of support indicates the importance which those of us representing farm producing areas attach to marketing order programs.

The legislation before us is enabling legislation giving the growers in the individual States the right to ratify the marketing order programs on a State-by-State basis.

If the States do not ratify the program by a two-thirds majority then the marketing order will not be applicable in that State.

Pear producers in small States are assured that programs they may not endorse cannot be forced upon them by producers in larger States.

The cost of the program will be borne by the growers who are the prime advocates of the legislation.

This procedure has worked very effectively for California producers who during recent years have operated under State legislation patterned after the 1937 act.

All reports I have received indicate that the cooperative administration in California canning pear program has been effective.

Thus we have a proven program and one which, I believe, should be expanded to include the neighboring States to the north, Oregon, and Washington, as the three States together are the principal canning pear growers in the Nation.

This, of course, would have to be accomplished through a Federal marketing order, such as is already in effect for asparagus, olives, grapefruit, cherries, and cranberries all going into the canning and freezing market.

Mr. Chairman, this legislation received the blessing of the House Agriculture Committee during the 91st Congress.

You will recall that because of objections on the floor, the House bill failed to achieve the two-thirds majority required under the suspension of the rules.

Since that time some changes have been worked out and I believe that the legislation now meets the objections which were raised at that time.

Processors have been assured that producers will bear the entire cost of all assessments.

Additionally, the processors have been given equal representation with producers including voting rights on the administrative committee.

And finally the bill clearly exempts pears in the can, except for trade promotion.

The bill is fair and reasonable.

Mr. Chairman, I believe that we have before us a realistic approach which will stabilize the future of the pear industry.

There will be little cost to the Federal Government because basically we have a nonsubsidized industry which is standing on its own feet.

I believe that the legislation will help the industry to continue to stand on its own feet.

Thank you.

Mr. TEAGUE of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Gubser).

Mr. GUBSER. I thank the gentleman for yielding.

Mr. Chairman, I must confess at the outset that I will be forced to vote "present" on this bill due to the fact that I have an unquestioned conflict of interest. I happen to own and operate a small pear orchard.

So, the balance of my remarks, which are in favor of this bill, will be only for the purpose of conveying to the House, if it is interested, the plight in which the pear growers of California find themselves and what the situation actually is.

I will be frank with the Members of the Committee. I am trying to do my best to become an ex-pear grower. I have my place listed for sale and have relisted it at a drastic reduction due to the fact that the market has fluctuated so violently that one simply cannot rely upon pear production as a sound business investment

Mr. Chairman, this is an important bill which will allow the pear growers and the processors to get together and do something to stabilize their industry, to promote their product, and to improve their product quality. It is my considered opinion that it will not result in an increased price to the consumer.

Mr. Chairman, this is not the bill which I opposed several years ago, and opposed strenuously. This is an entirely different bill.

This bill provides that the processor shall have 50-percent representation. Though the producers will pay most of the cost of the bill, the processors will still have 50-percent representation on the board. They will have a veto power. I truly believe, although I cannot vote for this bill due to a conflict of interest that this is in the best interest of the pear growers who need help and who need the opportunity to help themselves.

Mr. Chairman, I sincerely hope that the bill passes.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I am glad to yield to the gentleman from Washington.

Mr. FOLEY. I just want to take the opportunity to thank the gentleman from California (Mr. Gubser) for his remarks.

I had the occasion to be managing the last effort on this bill when it was in a different form and I remember with particular vividness the effectiveness of the gentleman from California in opposing it.

So, I am delighted to know that with his experience as a pear grower and his skill as a parliamentarian, he has come over to our side in support of the bill and we welcome him enthusiastically.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I yield to my colleague from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of this legislation. I believe everything that needs to be said has been said.

Mr. Chairman, I appreciate having this opportunity to express my strong support for the passage of H.R. 14015 which will authorize marketing orders for pears used for canning and freezing.

As one who has introduced companion legislation to achieve this goal, I am pleased that the Agriculture Committee has responded to an obvious need to assist producers in the orderly marketing of their crops. A marketing order exists for fresh pears but there is none for processed pears.

After long negotiations, agreements have been reached to insure fair and appropriate representation on the marketing board for both the growers and the processors. With the agreement in hand, the Congress should move to permit establishment of the marketing board.

Marketing orders provide an improved opportunity for farmers to regulate the quality and availability of their products and a means to advertise to consumers the value of their products. By insuring quality and availability, marketing orders are equally as beneficial to the consumer as to the growers and processors.

I am not aware of any objections to the bill within the pear industry and the growers in my congressional district fully support this legislation. I trust the House will give it favorable consideration.

Mr. VANDER JAGT. Mr. Chairman, I will support the amendment that will be offered by the gentleman from Pennsylvania (Mr. Goodling) and I strongly urge its adoption. My support in this matter is based on substantial experience with marketing orders in the past, particularly in regard to tart cherries, in which Michigan leads the Nation in production and in which my district leads production in Michigan.

Until several years ago producers of tart cherries and processors of these products fought each other vigorously over a cherry marketing order. Producers wanted a marketing order, but processors did not. And the processors won those early battles. However, in time it became apparent that in order to continue in the production of tart cherries, producers badly needed a marketing order to help them survive periods of over production and consequent low price. Processors acknowledged a need for stable production. It became apparent to both sides that a marketing order was essential. I had the opportunity to help mediate this dispute and bring about voluntary agreement to establish a marketing order. And I believe it to be in the best interests of all parties involved that such agreements be voluntary. In our society voluntary agreement is constructive agreement.

The amendment being offered to H.R. 14015 would allow the application of voluntary agreement to the establishment of a pear marketing order. I am certain that the logic of such an approach is apparent to the Congress.

I am also certain that the experience we have had with the tart cherry marketing order legislation provides a sound basis for satisfaction that a similar approach for pears will be successful. I urge adoption of the amendment.

Mr. VANIK. Mr. Chairman, I am opposed to this legislation, H.R. 14015, which would provide for marketing orders for pears, either canned or frozen.

This kind of legislation extends to this fruit the same kind of cartel controls that prevail extensively in other fresh food products. The controls which are created can be used to control competition, to limit market supplies and increase the cost of the ultimate product to the consumer.

It is interesting to note that the agency administering these orders does not include consumer representation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended as follows:

(1) Section 8c(2), as amended, is further amended by inserting "pears," after the words "canned or frozen" where they first appear and also before "olives" in subdivision (a) in the first sentence thereof.

(2) Subsection (I) of section 8c(6), as amended, is further amended by striking "fresh" immediately before "pears" in the proviso and by adding at the end thereof the following: "and when the handling of any commodity for canning or freezing is regulated, then any such projects may also deal with the commodity or its products in canned or frozen form."

(3) Section 8c(7)(C) of the Act is amended by inserting "or pears," immediately after "a marketing order applicable to grapefruit" and by replacing the period following "in such order" with a colon and adding: "*Provided,* That in a marketing order applicable to pears for canning or freezing the representation of processors and producers on such agency shall be equal."

(4) Section 8c(19) is amended by adding at the end thereof the following: "For the purpose of ascertaining whether the issuance of an order applicable to pears for canning or freezing is approved or favored by producers as required under the applicable provisions of this title, the Secretary shall conduct a referendum among producers in each State in which pears for canning or freezing are proposed to be included within the provisions of such marketing order and the requirements of approval or favor under any such provisions applicable to pears for canning or freezing shall be held to be complied with if, of the total number of producers, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of 66⅔ per centum except that in the event that pear producers in any State fail to approve or favor the issuance of any such marketing order, it shall not be made effective in such State."

(5) A new paragraph (J) is added to section 8c(6) to read as follows:

"(J) In the case of pears for canning or freezing, any order for a production area encompassing territory within two or more States or portions thereof shall provide that the grade, size, quality, maturity, and inspection regulation under the order applicable to pears grown within any such State or portion thereof may be recommended to the Secretary by the agency established to administer the order only if a majority of the representatives from that State on such agency concur in the recommendation each year.".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDMENTS OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I have three technical amendments, and I ask unanimous consent that they may be read and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Foley: Page 1, line 9, strike "(a)" and insert "(A)",

Page 2, line 7, strike out the period after the word "form", and

Page 2, line 9, strike out the comma after the word "pears".

The CHAIRMAN. The question is on the amendments offered by the gentleman from Washington (Mr. Foley).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goodling: Page 1, line 10, strike the period after the word "thereof" and insert the following: "and Section 8c(2)(B), as amended, is further amended by inserting the word 'pears,' after the word 'cherries,' where it appears in the second sentence thereof."

Mr. GOODLING. Mr. Chairman, the purpose of my amendment to H.R. 14015 is to correct what I regard as a basic inequity of the legislation—an inequity that undoubtedly contributed substantially to rejection to similar bills in prior Congresses. As reported, H.R. 14015 would modify the long established exemption from marketing order controls for fruits and vegetables for canning or freezing by authorizing the establishment of marketing orders for pears for canning or freezing solely on the basis of the vote of the producers within each State in which that commodity is grown.

At this point a bit of history should be in order. The Agricultural Marketing Agreement Act of 1937 originally authorized marketing orders for a large class of agricultural commodities, except that fruits and vegetables for canning or freezing were deemed not to be appropriate for regulation in this manner. The only limitation on this exception was to authorize controls for both olives and asparagus for processing.

Since the enactment of the basic act there have been repeated proposals that the exception for fruits and vegetables for canning or freezing be lifted, or alternatively that the exception be rendered inapplicable to particular commodities. Time after time Congress has considered and rejected these proposals, in apparent recognition of the fact that fruits and vegetables for canning or freezing should not be regulated, or at least not on the basis solely of a producer referendum and approval.

Only four times since 1937 has Congress deemed it advisable to limit the exception for processing fruits and vegetables. In 1954 orders were authorized for grapefruit for canning or freezing, and in 1961 authorization was added for cherries, cranberries, and apples produced in certain States. In each case, however, the act was further amended to provide that marketing orders could not be adopted for these processing fruits unless the order was approved not only by producers, but also by processors of more than 50 percent of the total volume of the affected commodity.

The effect of these changes down through the years was thus to provide that marketing orders for grapefruit, cherries, apples, and cranberries for canning or freezing would be authorized, but only with the approval of at least two-thirds of the growers of the commodity by number or volume, and with the approval of the processors of more than 50 percent of the commodity. Congress recognized the joint interest of producers and processors of these processing fruits in the establishment of regulatory controls that would significantly affect the production, processing, and marketing of the product. It was concluded that the imposition of drastic supply controls for these commodities could not hope to succeed unless the controls were developed with the consideration and approval of both producers and processors.

The pattern of congressional action in this area is thus quite clear. At no time in recent yars have marketing order controls been authorized for any fruit or vegetable for canning or freezing without a corollary amendment to provide for at least 50 percent processor approval. Indeed, at one time an effort was made to repeal the provision for processor approval of marketing order controls for cherries for canning or freezing, and that attempt was voted down on the floor of the House. In the two immediately past Congresses attempts were made to push through legislation to authorize regulation of pears for canning or freezing, but without provision for processor approval. These attempts were, of course, unsuccessful.

My amendment would simply remedy this basic defect in the legislation now before the House. It will provide processors not only with the opportunity of participating in the administration of any order that might be adopted, but also to have an opportunity to express their views concerning the wisdom of the adoption of the basic controls. My amendment is consistent with every congressional action in this area in the last 30 years. It would recognize the inequity of authorizing controls over the processors of a commodity without providing those processors participation in the development and approval of these controls.

In summary, Mr. Chairman, my amendment would extend to pear processors the same legal rights that are enjoyed by cherry, cranberry, apple, and grapefruit processors.

It would give the pear industry—from producer through processor—the opportunity to work together, not at loggerheads.

It would make this program both workable and equitable, and I hope it will be adopted.

(Mr. GOODLING, at the request of Mr. Abbitt, was granted permission to proceed for 1 additional minute.)

Mr. ABBITT. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman.

Mr. ABBITT. Mr. Chairman, as I understand the gentleman's amendment, it simply puts pears on a parity with cranberries and cherries; is that right?

Mr. GOODLING. My amendment will do that—yes.

Mr. ABBITT. In other words, as of now the present bill does not provide the same standards that it does for orders for cranberries and cherries, and your amendment will simply say that so far as pears are concerned, the processors will have the same rights and prerogatives that they have as to cranberries and cherries.

Mr. GOODLING. My amendment would put pears in the same category as the four fruits.

Mr. ABBITT. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(Mr. GOODLING, at the request of Mr. Teague of California, was granted permission to proceed for 1 additional minute.)

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman.

Mr. TEAGUE of California. Is it not true that in the case of cherries and cranberries that the processors do not sit on the board which administers the marketing order, as it would, and have an equal opportunity and they would under the bill before us now?

Mr. GOODLING. I am sorry I did not hear the gentleman.

Mr. TEAGUE of California. Is it not true that in the cranberry or cherry marketing order, the processors do not have the veto power which they have under the proposed pear marketing order that we are considering here?

Mr. GOODLING. Yes, I think that is a fair statement.

Mr. TEAGUE of California. So there is still a very important distinction.

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will say that the gentleman from California, the gentleman from southern California (Mr. Teague) just brought up the very point—that in the situation of cherries and cranberries, the canners have this two-thirds veto at the marketing order level.

In this legislation we have here before you, the canners have been given a veto at the program implementation level.

I would say that they are not entitled to a double veto. I can also say that pears are as different from cherries as bananas are from oranges. All of these things are different items. They all relate to a particular situation. The pear industry is a three-State industry in the West.

This bill in its current form, after being very substantially amended and modified, passed the Committee on Agriculture by 100 percent and passed the Committee on Rules by a 100-percent vote.

It is in support of the 1937 Agricultural Marketing Agreement Act that was intended to give producers a plebiscite on the implementation of the marketing order.

The canners exerted their heavy hand at that time and excluded themselves from the act.

Now we are making an exception to that old law in bringing this commodity in to give the canners a very heavy weapon to control in appropriate action by producers.

So I say the amendment should be rejected. The canners have plenty of protection and the bill should be passed as it was passed out by the committee.

Mr. TEAGUE of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would simply point out, if I am correctly informed, that should this amendment be adopted, there is one processor, one alone, which is large enough, with just one vote, that it could prevent the creation of a marketing order.

Therefore, Mr. Chairman, I urge that the amendment be rejected.

Mr. PEYSER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the question I raised before when the chairman of the committee was speaking on this bill was: Would this have any effect on the consumer, the purchaser of canned or frozen pears in the marketplace?

In listening to the argument and in reading the report, and particularly the reference in the report on page 4 where it states:

> The exemption of such a large proportion of the crop from regulation makes it difficult to attain the objective of the act—

And that is the objective of the act we are talking about—

> to improve return to producers.

It seems very clear to me that, regardless of the question whether we have surplus years or bad years in the marketplace, the establishment of a quality control has nothing to do with what the price is going—whether it is a good year or a bad year has nothing to do with it, but the establishment of a quality control is definitely going to bring about a change in the price to the consumer. I support the amendment the gentleman from Pennsylvania has offered because it seems to me, at least, the processor involved in this program will have a greater awareness of the consumer reaction to any change in price.

Personally I feel, unless I can be convinced otherwise, that I would be opposed to the entire bill on the basis of really putting the burden right in the consumer's lap, where I find the quality of canned pears and frozen pears today to be excellent.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from California.

Mr. LEGGETT. We have a situation in California today where we have an overproduction in the peach industry. It so happens that if you have a small overproduction, and your price goes down about 50 percent, you go below your cost. We are trying to build up farm wages in this country. We cannot do it unless we get adequate prices for our commodities. In the peach industry, in order to control production, we had to physically remove from the ground 17 percent of the trees last year, in 1 year alone. In addition, we shook the trees until 10 percent of the green peaches dropped from the trees, in order to control production. We have done this for many years. We have not taken quite so many trees out of the ground. We came up with a local bill in the State to try to control the situation so we would not have quite so many plantings, and so farmers would not go quite so bankrupt, so we could get some supply-and-demand control.

That bill went to the Governor, the canners got to the Governor, and he vetoed that bill. If the gentleman is concerned about prices to consumers in New York, I would remind the gentleman that in the past 21 years dividends have increased 200 percent, wages have increased 229 percent, and farm prices have gone up 9 percent. The farmer's share on the average has gone down by 22 percent. Any increase that goes to the farmer would only be reflected by those percentages.

If he were to get 8 percent, there would be only a 2-percent increase in food prices. So I say to the gentleman that we are selling pears today as we were selling pears in 1969—at 1952 prices, and if you think that that is sufficient, and if you think that Charlie Gubser is wrong when he tells you that he has put his farm up for sale and he is going out of the business, you really ought to come out and see the fruit industry in California.

Mr. PEYSER. I appreciate the gentleman's comment. What I am confronted with in New York, and others are in many other areas of the Nation, is that for 4 to 5 months we have seen food prices across the board increase anywhere from 20 to 30 percent. That includes canned food products. I just think that, if we are attempting to pass legislation that will obviously again increase the price to the consumer, I find it very difficult to support such legislation today, and I think there is no other way around this.

Mr. GUBSER. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from California.

Mr. GUBSER. I should point out to the gentleman that if he would check, he would find that the wholesale price of the canned pears in the last year has gone down. So if canned pears on the shelf have gone up, I think the gentleman should look to the retailers and some of the food chains.

To emphasize what the gentleman from California (Mr. Leggett) has been saying, and also to explain the fact that wholesale prices of canned pears have gone down in the last year, the year before last—or was it 2 years before last—one or the other—the price of pears to growers was $125 a ton.

The very next year it was $80, less than the cost of production. So it is that kind of violent fluctuation that this marketing order seeks to avoid. I think the gentleman will agree that from $125 in 1 year to $80 the next year is too much of a dive.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Goodling).

The question was taken; and on a division (demanded by Mr. Goodling) there were—ayes 15, and noes 25.

So the amendment was rejected.

The CHAIRMAN. Under the rule, the Committee rises. Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Fuqua, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14015) to amend section 2(3), section 8c(2), section 8c (6)(I), and section 8c(7)(C) of the Agricultural Marketing Agreement Act of 1937, as amended, pursuant to House Resolution 952, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. GOODLING. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Goodling moves to recommit the bill H.R. 14015 to the Committee on Agriculture.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

TITLE AMENDMENT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the title of the bill (H.R. 14015) just passed by the House be amended to read as follows: "To amend section 8c(2), section 8c(6), section 8c (7)(C), and section 8c(19) of the Agricultural Marketing Agreement Act of 1937, as amended."

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. Without objection, the bill H.R. 5825 is laid on the table.

There was no objection.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill (H.R. 14015) just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING CLERK OF THE HOUSE TO APPOINT AND FIX COMPENSATION OF SPECIAL COUNSEL

Mr. HAYS. Mr. Speaker, I offer a privileged resolution (H. Res. 955) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES 955

Resolved, That the Clerk of the House of Representatives is hereby authorized to appoint and fix the compensation of such special counsel as he may deem necessary to represent the Clerk and the interests of the House in any suit now pending or hereafter brought against the Clerk arising out of his actions while performing duties or obligations imposed upon him by the Federal Corrupt Practices Act, 1925, or the Federal Election Campaign Act of 1971; and be it further

Resolved, That any expenses incurred pursuant to these resolutions, including the compensation of such special counsel and any costs incurred thereby, shall be paid from the contingent fund of the House on vouchers approved by the Committee on House Administration.

The SPEAKER. The gentleman from Ohio is recognized for 1 hour.

Mr. GROSS. Mr. Speaker, will the gentleman yield for a question?

Mr. HAYS. I yield to the gentleman from Iowa.

Mr. GROSS. Does this give the Clerk of the House carte blanche authority to hire at will anyone he wants and to pay anything he wants?

Mr. HAYS. If the gentleman listened to the last paragraph, it is with the approval of the Committee on House Administration, and that will not be very easy to get.

This comes out of the fact that the Clerk already has been served in a lawsuit filed by Mr. John Gardner and an outfit called "Common Curse" or common something—anyway, it is common—in which they want to say how much the House shall spend for computer equipment to get them information they want in a hurry, and then they want to tell the House how much the House can charge them for it.

The Clerk already has been served, and a restraining order has been served on him, so there is an emergency and the privileges of the House are involved.

Mr. GROSS. This has nothing to do with elections?

Mr. HAYS. Yes, it has to do with elections. These are copies of election reports which some Members who have had primaries have filed under the 1971 elections law.

Mr. GROSS. But it has nothing to do with yesterday's election in Ohio?

Mr. HAYS. No; that is in three or four other courts already.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman from Ohio yield?

Mr. HAYS. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. In further response to the gentleman's inquiry, a meeting was just held in the Speaker's office. It was agreed that counsel should be employed and that the watchful eyes of the gentleman from Ohio (Mr. HAYS) and the gentleman from Ohio (Mr. DEVINE) would protect the House interests as to getting good counsel and also protect the House on the fees that are to be charged.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. HAYS. I yield to the distinguished majority leader.

Mr. BOGGS. I believe the RECORD should show that a suit has been filed. An answer is required. A date has been set for this coming Friday, and the Clerk must act. This legislation is most essential.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the emergency part of this situation. As the gentleman says, with the coverage in the last paragraph I think it is probably all right. Certainly we want the best provided against these people who would harass and repetitively attack what is going on in the Congress as to attempts to reestablish proper reform of election laws.

Was consideration given by the Committee on House Administration to perhaps using the Counsel of the Joint Committee on Congressional Operations, which the Reorganization Act of 1970 purportedly had established for this purpose?

Mr. HAYS. That was discussed, as well as using counsel of the Committee on House Administration, and others, but the Parliamentarian, who was present was unable to give us a quick ruling as to whether that would be a conflict of interest.

If there are going to be a lot of harassing law suits filed I will say that my committee will give some consideration to hiring permanent year-round counsel for the House of Representatives.

Mr. HALL. For too long a time there has been a paradox. With all of the lawyers we have in our own House, the Congress of the United States has no counsel it can turn to, as the executive branch turns to the Attorney General.

Mr. HAYS. That is right. We may have to do something about it.

To give a quick rundown for the House, these people under the law were not satisfied to get a 10-percent zerox copy. They wanted them on computers, wanted them on a scanner, and wanted to press a button and get it right now. We were perfectly willing to have a girl go to a file cabinet and put it on zerox and give them a copy for a dime.

What is required, as a beginning, is: Two Recordak Retiant 700 Microfilmers with accessories at $431.77 per month rental each.

Three page search reader printers at $220 per month rental; one Xerox model 3600 duplicator, which is a computer-type thing, at $575 a month rental; and one model 7000 at $800 a month rental, and three people to operate them at a total annual salary of $25,000.

That is just the beginning, but this great organization, whose motto is "Send me $10 and harass your Congressman" wants to load all of this cost on the taxpayers of the United States.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF A. LEON HIGGINBOTHAM, JR., AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 173) to provide for the appointment of A. Leon Higginbotham, Jr., as citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES 173

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That A. Leon Higginbotham, Junior, a resident of Philadelphia, Pennsylvania, be appointed a member of the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF ROBERT FRANCIS GOHEEN AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 175) to provide for the appointment of Robert Francis Goheen as citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 175

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Robert Francis Goheen, of Princeton, New Jersey, be appointed a member of the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF JOHN PAUL AUSTIN AS CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 174) to provide for the appointment of John Paul Austin as citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 174

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That John Paul Austin, of Atlanta, Georgia, be appointed a member of the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE ATOMIC ENERGY ACT OF 1954, TO AUTHORIZE THE ATOMIC ENERGY COMMISSION TO ISSUE TEMPORARY OPERATING LICENSES FOR NUCLEAR POWER REACTORS

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 953 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 953

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14655) to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for nuclear power reactors under certain circumstances, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Joint Committee on Atomic Energy, the bill shall be read for amendment under the five-minute. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, I know of no opposition to this rule.

I reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 953 which would make in order for consideration H.R. 14655 under an open rule, with 1 hour allotted for general debate. This bill, which was reported from the Joint Committee on Atomic Energy, would add a new section 192, "Temporary operating license," to the Atomic Energy Act. In essence, this new provision would authorize the Atomic Energy Commission to issue a temporary operating license for a nuclear power reactor whose electrical energy is needed to meet energy needs in its service area. Prior to the issuance of such a license, the Commission must first determine that the plant can be operated safely on a temporary basis, and with adequate protection of the environment.

In connection with this, I want to emphasize that the temporary license would not deprive the public of a full review of the health and safety and environmental issues which may be contested. The issuance of a temporary license would not prejudice in any way the rights of parties who are participating in contested hearings on the full-term license nor would it prejudice the actions which the final decision on the full-term license may require in the interest of additional conditions pertinent to full-term operation. Interested parties would be given an opportunity initially to express their views on the petition in the form of affidavits, and a hearing on the petition would be held by the Commission under expedited procedures. If the Commission determines that the affidavits raise a substantial issue of merit in connection with the proposed temporary operating license, interested parties would be given an opportunity to present evidence and question witnesses on that issue under the expedited procedures. Finally, if any temporary license is issued by the Commission, the Commission action would be subject to judicial review under the Administrative Orders Review Act of 1950.

So I think it is fair to say, Mr. Speaker, that this is a sound bill, a reasonable bill, and a balanced bill in terms of competing interests. I noted with interest an article in Saturday's Washington Post which quoted environmental lawyer Anthony Z. Roisman to the effect that this bill contains, in his words, "elements responsive to our concerns."

Mr. Speaker, in addition to being a sound, reasonable and balanced bill, this is a necessary bill, responsive to the concerns of millions of Americans who live in areas which will be affected by power shortages in the latter part of this year. Areas which merit special attention this summer are northern Illinois, Wisconsin, Iowa, Virginia, the Carolinas, and Florida where estimated reserves are well below the accepted 20 percent reserve level. And regions which will be most adversely affected next winter include New England, the Virginia-Carolinas areas, Florida, the Tennessee Valley, and the Rocky Mountain area, where in some instances reserve levels will fall below 5 percent.

Additional reserve capacity could come from 13 nuclear plants which have already been constructed and which the Federal Power Commission has identified as critical for peak power needs this summer and next winter. There are currently some 41 nuclear plant license applications pending before the AEC, and the temporary operation of some of these could help to avert the threatened power shortages. Some of these plants are now the subject of contested AEC hearings, and Commission Chairman Schlesinger has testified that the AEC needs additional licensing authority to permit the interim operation of such plants under expedited procedures. The bill before us today is responsive to that request as well as to the concerns of those who want an opportunity for a complete review of the safety and environmental aspects of nuclear powerplant operation. I, therefore, urge its adoption.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. PRICE of Illinois. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14655) to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for nuclear power reactors under certain circumstances, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14655, with Mr. FOLEY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 30 minutes, and the gentleman from California (Mr. HOSMER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before us, H.R. 14655, is for the purpose of giving the Atomic Energy Commission explicit authority to issue a temporary operating license for a nuclear power reactor if the electrical output from the plant is needed to supply essential power needs, and in that event, only if the Commission makes the required safety and environmental findings for purposes of the temporary operation.

The bill is an emergency measure of the type which officials of the executive branch and of the major utilities have testified before the Joint Committee on Atomic Energy and other committees is needed to be responsive to power shortages of an emergency nature expected in certain parts of the country commencing this summer. Data available at present indicate that the shortages will continue through the summer of 1973.

This is emergency type legislation and the licensing authority would be limited for the period of the emergency identified, which is through October 30, 1973.

The bill was unanimously adopted by the Joint Committee on Atomic Energy, on which I have the honor to serve as vice chairman. It was reported out by our committee without a dissenting vote after deliberate and lengthy consideration.

The bill had its origin in the administration proposal, H.R. 13731, considered by the Joint Committee on Atomic Energy at hearings on March 16 and 17. The legislation which H.R. 14655 embodies is responsive to the administration's request for the temporary licensing authority and to concerns expressed that interested members of the public who qualify for intervention in AEC licensing proceedings should be permitted to express their position in a meaningful way in a licensing proceeding. I believe that, at this time, the committee has struck a sound and reasonable balance between the public interest involved in taking all reasonable steps to help meet emergency power situations and the interest of certain members of the public to participate in the licensing proceedings.

It should also be understood that this is simply a stopgap measure. It in no way reduces the need for the prompt consideration of legislation on powerplant siting which would remove some of the existing complexities and uncertainties regarding the approvals needed for nuclear as well as other types of generating facilities. It emphasizes the need for permanent changes which would establish a legislative system for the early approval of powerplant sites and the related approvals under such a system. Hopefully, the emergency situations of the type which have been presented to us could be avoided by such a system; and without doubt, costly delays in the millions of dollars could be avoided.

At the outset it should be clearly understood that the amendment which is being considered in no way relaxes or lifts any of the safety requirements which are now in the law. The Atomic Energy Commission is still responsible for making the necessary safety determinations. That responsibility will continue without change. The statutorily independent Advisory Committee on Reactor Safeguards and the Joint Committee on Atomic Energy also maintain a close interest in the manner in which the Commission handles its important safety responsibilities.

I will now briefly summarize the contents of H.R. 14655.

The new licensing authority would enable the Atomic Energy Commission to license for temporary operation nuclear powerplants which have been constructed, but whose full-term, full-power operating license is the subject of a contested hearing. Under the present act, the AEC does not have explicit authority to issue a temporary operating license if the permanent license is contested. In the absence of a contest on the permanent license, the AEC now has the authority to issue any appropriate license for which it can make the necessary findings. This new authority could be used only if the electrical energy from the plant is needed to supply essentially needed power from the plant, and in that event only if the Commission makes the necessary safety and environmental determinations for purposes of the temporary license.

The temporary license would not deprive interested members of the public, who qualify under the AEC's regulations for intervention in a licensing proceeding, of a full review of the health and safety and environmental matters which they have contested. All substantive requirements of applicable law would have to be satisfied. The report of the statutory Advisory Committee on Reactor Safeguards on the plant would have to be available as well as the safety evaluation of the AEC's regulatory staff.

Mr. Chairman, I would like to emphasize that interested members of the public who qualify as intervenors under AEC regulations would continue to participate in the AEC licensing hearings. Such interested parties would be given an opportunity to initially express their views on the proposed temporary operation in the form of affidavits. A hearing would be held on the petition for a temporary operating license under expedited procedures which the Commission deems appropriate. If, in the view of the Commission, the affidavits raised a substantial issue of merit in connection with the proposed temporary operating license, interested parties would be given reasonable opportunity to present their views to the Commission under expedited procedures which the Commission deems appropriate. The Commission is given the authority to develop flexible procedures which would be adequate to deal with the circumstances of individual cases.

No one can predict in advance whether, in the Commission's judgment, there will be a substantial issue raised with regard to the temporary operating license findings. Thus the Commission should not be put in a procedural straitjacket on the assumption that such substantial issues will be raised and will have to be considered in the decisionmaking process for the temporary license. In other words, the Commission is given the authority to tailor the prescribed procedure and the conduct of the hearing to meet the actual practical exigencies of individual situations, with preservation of the opportunity for qualified intervenors to raise meritorious questions regarding the proposed temporary operating license.

In the absence of meritorious issues, specific proffers by intervenors on the facts they propose to adduce on such issues, by what witnesses, etc., the decision on the temporary operation could be rendered on the pleadings, and the hearing with regard to temporary operation would be pro forma. Any broad conceptual demand for a trial type hearing which is not, in the judgment and discretion of the Commission, buttressed by the foregoing—meritorious issues, facts proposed to be adduced, witnesses, and so forth—should be rejected. In other words, intransigent opponents of a nuclear powerplant or any other action which, in the judgment of the Commission, is consistent with a desire for protracted delay, should be rejected.

Mr. Chairman, the bill provides an opportunity for judicial review of any Commission decision authorizing temporary operation under this new section 192.

The bill would also specifically require the Commission to include all necessary terms and conditions in the temporary operating license. One condition which is specifically identified in the legislation is that the temporary licensee not retire or dismantle any of its existing generating capacity on the ground of the availability of the capacity of the facility which is operating under the temporary license. The purpose of that condition is to assure that such actions do not perpetuate the need for continuing a temporary operating license.

The authority under this section could be used in proceedings in which the issuance of the full-term license is being contested on the date of the enactment of this legislation. Further, if procedures have already been followed in any such contested proceeding in connection with a request for partial operation which is pending on the date of enactment of this legislation and which, in the judgment of the Commission, are adequate to comply with the procedures under section 192, these procedures would not have to be repeated. Specific examples of such procedures are the requirement for publishing notice of petition for temporary operating authority, and the opportunity for parties to express their positions on that petition.

Even though a temporary license is issued, the licensee must still pursue with due diligence his application for the permanent license. If the licensee does not meet its test, the Commission is directed to vacate the temporary operating license. The purpose of this is to assure that the temporary license is not viewed by anyone as being an adequate substitute for the permanent license.

Mr. Chairman, it should be apparent from this summary that the effectiveness of this legislation will depend in large measure on the Atomic Energy Commission's implementation of it. In that regard, I include in the RECORD my May 1, 1972, letter to Dr. James R. Schlesinger urging the Commission to anticipate the enactment of the legislation and have the implementing regulations available for immediate use.

The letter referred to follows:

JOINT COMMITTEE ON ATOMIC ENERGY,
Washington, D.C., May 1, 1972.
Hon. JAMES R. SCHLESINGER,
Chairman, U.S. Atomic Energy Commission, Washington, D.C.

DEAR MR. SCHLESINGER: As you are aware, the Joint Committee on Atomic Energy reported (House Report 92–1027) H.R. 14655 to the House on April 27. That bill may well be passed by the House this week, and by the Senate in the near future. A key feature of the bill, if the Commission is going to be successful in meeting emergency type licensing situations, is the implementation of the authority given to the Commission to provide for flexible procedures which may be tailored to the circumstances of each individual case. These procedures, under the bill, are those which the Commission deems appropriate by rule, regulation or order to facilitate timely decision-making as regards a petition for a temporary operating license.

In view of the emergency nature of this legislation, and the importance of the Commissions procedures to implement it, the Committee would like to receive within a week from the date of this letter, or such earlier date as may be practicable, the Commissions regulations implementing H.R. 14655 or a draft thereof. If the Commission has any question concerning the scope of the authority which it would be given under this legislation, I would like to be informed promptly. Also, after the Commission submits the initial draft of its procedures implementing the bill, it is requested that you provide the Committee on a weekly basis with the results of your staff's efforts to further develop and refine the need regulations. In other words, the Committee wants the Commission to be in a position to be able to use this new authority as soon as it is enacted into law. It would seem highly desirable for the Commission to anticipate the enactment of this legislation and have the necessary implementing regulations published at the earliest date, even prior to the enactment.

Sincerely yours,

MELVIN PRICE,
Vice Chairman.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. PRICE of Illinois. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Chairman, I rise in support of the bill, H.R. 14655.

Mr. Chairman, H.R. 14655 is soundly conceived legislation which is responsive to the administration's request for licensing authority to deal with emergency power situations. I think it is indeed unfortunate that our inaction has been one of the many contributors to a variety of causes of the pending emergency. To avoid or reduce the need for similar measures in the future we have to develop, and do so on a priority basis, national energy policies and means for them to be carried out. Among other things, this probably will require some changes in the executive and legislative branches.

As far as the immediate situation is concerned, here are some of the problems disclosed in the hearings held by the Joint Committee on March 16 and 17 on the proposed legislation from which H.R. 14655 emerged:

First. That the combined effects of two judicial decisions, the so-called Calvert Cliffs and Quad Cities cases, on the AEC licensing process have contributed substantially to delay in that process. As a result, many nuclear powerplants are not coming on the line as scheduled.

Second. Electric power reserves in several regions of the Nation could fall quite low during peak load periods this summer, next winter, and the summer of 1973.

Third. The low reserves during these periods will present very real risks to the adequacy and reliability of the power supplies in these regions.

Fourth. The consequences to the health and safety of the people and to the economy of any shortages of or interruptions in the power supply could be serious.

Fifth. These threatened power shortages stand a good chance of being avoided or ameliorated by the passage of legislation to authorize the Atomic Energy Commission to issue temporary operating licenses for plants which are ready to go into operation, except that its permanent license to operate is being contested.

Sixth. The temporary operating licensing authority could only be exercised if the Commission made the necessary safety and environmental findings for purposes of the temporary operation.

Seventh. Issuance of a temporary operating license would not prejudice in any way any parties' right in the contested hearing on the permanent license, nor any action which the licensee may ultimately have to take as a result of the contested hearing.

Eighth. In view of the need for the legislation, the precise manner in which it deals only with the emergency situation, I urge my colleagues to promptly pass H.R. 14655. The arguments for its speedy enactment are compelling: The consequences which could occur if it is not enacted are real and serious; no one will be adversely affected by the enactment of H.R. 14655; there is everything to gain by the prompt enactment of this legislation.

One further point, Mr. Chairman:

I would like to comment briefly in connection with the provision in H.R. 14655 which is intended to assure that the temporary operating authority shall not be used by the licensee as a device upon which to base the dismantling or retiring of existing generating capacity. The temporary authority is intended to provide for capacity which is needed in regions where predicted reserve margins are not adequate. It is obvious, therefore, that a nuclear powerplant licensed for a temporary period on the basis of inadequate reserve capacity should not be utilized in place of plants owned by the utilities which are in serviceable condition and could be used to provide reserve margin during that same period. In order to assure that such a situation does not prevail, the committee included in the bill the following sentence (p. 4, lines 11–17):

> The temporary license shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof, and the requirement that the licensee not retire or dismantle any of its existing generating capacity on the ground of the availability of the capacity from the facility which is operating under the temporary license.

Although, as a practical matter, it does not appear that an electric utility would want to take such action during the early period of operation of a new large generating unit on its system, the committee nevertheless believed that it would be prudent to include this proviso in the bill.

Mr. ASPINALL. Mr. Chairman, will the gentleman yield?

Mr. PRICE of Illinois. I yield to the gentleman from Colorado.

Mr. ASPINALL. Mr. Chairman, I strongly support H.R. 14655 and urge that it be passed by this body. Dr. James R. Schlesinger and others have testified that there is a clear need for this legislation to give the Commission necessary licensing flexibility to anticipate power need situations for the coming summer, for the winter of 1972–73, and for the summer of 1973.

This is transitional legislation to deal with the emergency situation for the period ending with the summer of 1973.

By no means should this legislation be viewed as a panacea for energy problems. Instead, it is an early symptom of more serious problems we are going to encounter if actions are not taken soon. The House Interior and Insular Affairs Committee, which I am proud to serve as chairman, last month held extensive hearings on our Nation's energy problems. During this decade and beyond, there will be many challenges which have to be met if we are going to maintain our position of strength domestically and in world affairs. Without adequate supplies of energy, no nation can continue to be strong at home and abroad. Policies must be carefully developed and implemented. To assure that the necessary actions are taken, organizational revisions are needed in both the executive and legislative branches. We need a united and coordinated effort to establish vitally needed national energy policies. There is no time for agencies, departments, or congressional committees which have various pieces of the energy action to work at cross purposes. This will continue to be nonproductive and counterproductive.

If we do not meet these challenges, future emergencies will, in my view, be much more serious than the ones which face certain areas of the country through 1973. And for the future, we may not be as fortunate as we are now to have plants which are already constructed and are, for the most part, ready to operate except for a proliferation of administrative redtape, which to some considerable degree has been caused by laws which the Congress has enacted.

My position as a staunch supporter and protector of our Nation's public lands and their resources for the benefit of all of our people is well established. I support the objectives of recently enacted laws to protect them and the rest of our environment. But, I simply do not believe that broadly worded legislation which permits a field day for plaintiffs in courts and chaos in the administrative process is in the public interest. These are not recent views. In this Chamber in 1969, I informed my colleagues that fundamental and wide-ranging changes were being made in the administrative decision-making process by the National Environmental Policy Act. Although I support the objectives of NEPA, there was practically no thought or meaningful guidance given in the legislation for its practical implementation. And, regrettably, little or no guidance has been given by the Council on Environmental Quality. I am informed that the pleas of AEC representatives were also unheeded by those involved in the legislative process which ultimately resulted in the enactment of the National Environmental Policy Act.

If we are to meet the energy challenges of this decade and those which are to follow in this century, we simply have to coordinate our efforts and talents and develop meaningful policies which can be practically implemented.

For the current emergency, H.R. 14655 is carefully drawn legislation which is designed to meet the specific energy shortage problems now foreseen through the summer of 1973. I commend its precise approach to drafters of future environmental legislation. Surely legislation which would give the Atomic Energy Commission the flexibility, provided it makes the necessary safety and environmental findings, to license plants on a temporary basis to meet emergency power needs is in the interest of our citizens.

I urge its passage by this body and its speedy enactment into law.

Mr. HOSMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Mr. Price of Illinois, the distinguished vice chairman of the Joint Committee on Atomic Energy, has ably summarized the principal features of H.R. 14655. I would like to elaborate on the purpose of the bill and the urgency which surrounds this requested authority.

At the hearings conducted by the Joint Committee on March 16 and 17, both the administration and the utility witnesses testified to the threatened power shortages commencing this summer in certain parts of the country. Essentially the same testimony has been presented at the joint hearings of the Senate Committees on Public Works and Interior and Insular Affairs, before the Subcommittee on Fisheries and Wildlife Conservation of the House Committee on Merchant Marine and Fisheries, and the Senate Committee on Interior and Insular Affairs.

Five regions merit special attention in evaluating power supply conditions in the summer of 1972: New York; northern Illinois-Wisconsin; Iowa; the Virginia-Carolinas; and Florida areas. Without the output from the nuclear plants which have already been constructed, the estimated reserve margins will be 17.4 percent in New York; 8.7 percent in northern Illinois-Wisconsin; a negative 1.5 percent in Iowa; 3.9 percent in the Virginia-Carolinas; and 11.5 percent in Florida. These levels will be reduced if the fossil plants scheduled to come into operation are delayed. In the winter 1972–73, the regions most adversely affected, if the planned generation additions from nuclear plants are not allowed to operate, are New England, the Virginia-Carolinas area, Florida, the Tennessee Valley, and the Rocky Mountain area.

No one can say with certainty that the expected power shortages in these areas will materialize or, if they do, that they could be avoided by a temporary licensing of these plants. Responsible officials of the Government and officials of the utilities have testified both before the Joint Committee and before other committees that threatened power shortages stand a good chance of being avoided or ameliorated by the passage of this legislation. The administration has recommended urgently the passage of such legislation.

The undisputed testimony received by the committee indicates that at least 2 months' leadtime is needed for testing before completed nuclear powerplants can operate at full power.

As noted by Mr. Price, this legislation in no way adversely affects the right of interested members of the public to participate in the AEC licensing process. It permits such participation to continue under the existing requirements of the Atomic Energy Act, but provides additional licensing authority under which the public interest can be served by a temporary operating license when the energy from a completed plant which the Commission has found can be operated safely is needed to meet energy needs in particular service areas.

Over the past several years considerable attention has focused on the hearing phase of the AEC regulatory function. To some lesser degree, attention is also focused on the application review process which is conducted by the AEC's regulatory staff and the statutorily independent Advisory Committee on Reactor Safeguards. Some people would have us believe that everything about the safety of a nuclear power reactor depends on their having the right to be heard. And, if a reactor is allowed to operate without a hearing with adversary courtroom procedures, there will be no control over the reactor from the standpoints of health and safety, environmental matters and so on. This is simply not so. The Atomic Energy Commission has the responsibility not only to make the necessary safety and environmental determinations for purposes of initial licensing, but the continuing responsibility in that regard for the full term of the license.

The operation of a nuclear power reactor under an AEC license must be in accord with applicable terms and conditions placed in the license by the Atomic Energy Commission; applicable rules and regulations of the Commission; and applicable requirements of law. The operation of a nuclear power reactor is subject to the continuing regulatory control of the Atomic Energy Commission. If, as a result of the Commission's own compliance and inspection programs or upon petition by an interested member of the public, the need for compliance action is evident, the Atomic Energy Act requires the Atomic Energy Commission to act. This kind of continuing regulatory responsibility, and the opportunity for any interested member of the public to bring to the attention of the Commission facts or other matters which he believes warrant the Commission's attention and regulatory action, continues throughout the term of the license. In other words, the opportunity for officials and interested members of the public to present their views to the Commission on the operation of a nuclear power reactor is not limited to the specific time when the question being considered is whether an operating license should be issued.

As noted by Mr. Price of Illinois, H.R. 14655 has been reported by the Joint Committee without any dissent. I am confident that the bill which the Joint Committee has recommended to the Congress is a sound one and I trust that we will have the support of the House when the time comes for a vote.

Mr. Chairman, at the present time there are two licenses that are required in connection with nuclear reactors for power. This bill would add a possible third.

Now the first license that is required is a license to construct a nuclear powerplant. That is before any brick or mortar is put in place (down) and the construction permit is only issued after an intensive study of the proposed reactor by the Atomic Energy Commission, analysis of all the requirements for safety, and the other things that are involved.

The second license now on the books is a license which is required to operate a nuclear reactor. That comes after all of this construction is completed and the installation is ready to go and start turning out kilowatts.

Now the period of time between the construction permit and the time for the operating license today amounts to around 7 years.

Now what has happened in the 7 years since many construction permits were issued and these reactors have been built was the passage of the National Environmental Policy Act of 1969. That act has interposed a requirement in connection with this operating license, that a very comprehensive environmental analysis be made—so comprehensive in fact that there has not been time even since January 1, 1970, over a year ago to complete the number of such analyses as required by law in time to finish them before these reactors are ready to go on the line.

As a matter of fact, there are about 13 reactors involved that are ready or will be ready either this summer when the power peak occurs or next winter when another power peak occurs that will not have the benefit of the completion of these environmental studies.

A couple of weeks ago, the gentleman from Michigan (Mr. Dingell) brought a bill (H.R. 13752) in here which would partially meet that problem. We passed the bill and sent it over to the Senate. It proposed to allow a reactor to be licensed when there was a power shortage in its service region and under certain other circumstances even though this lengthy environmental study had not been completed. This was a kind of suspension, for a particular purpose, of the Environmental Protection Act under very, very limited and discrete conditions. But that did not take care of our other problem which was the Atomic Energy Commission's lack of authority to license plants under these circumstances. That is what we are in here for today, to amend the Atomic Energy Act so that you can have a simplified procedure in these situations where there is a power shortage to get an interim, temporary license issued in order to take care of a power shortage to the extent of freeing those plants that otherwise are ready to go on the line.

There are safeguards, and many of them—many discrete ones—in this legislation. It has to be established that the plant would be safely operable and there would be adequate protection of the environment before such temporary license could issue. Also, there must be a report on the safety of that reactor by the Advisory Committee on Reactor Safeguards and also a completed safety evaluation by the AEC regulatory staff.

In the event that such an interim license is issued, it is always cancelable for any good reason concerning the environment or safety, or even cancelable if, in fact, a utility does not go ahead and pursue the getting of its regular full-term license with due diligence.

Mr. SEBELIUS. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Kansas.

Mr. SEBELIUS. What kind of public hearing would be held on an interim license application for a nuclear powerplant?

Mr. HOSMER. The hearing required to be held on a petition for a temporary operating license is purposely not specified in the bill or required to be an "on the record" adjudicatory-type or trial-type hearing. If this were not the case, this legislation would hardly have been needed.

As the House report on the bill makes clear, the requirement for trial-type hearing was not considered appropriate to provide the procedural flexibility needed for the Commission to be responsive to emergency situations. This is underscored by the fact that the adjudicatory proceeding on the full operating license will continue unaffected by the interim licensing proceeding. While the Commission has the necessary latitude to tailor the hearing procedures to the circumstances of the case at hand, it is a requirement of the bill that those procedures be "expedited procedures."

Thus, it is expected that rarely, if ever, will extensive cross-examination as such be either needed or allowed. The basic purpose of the hearings is to amplify, to the extent necessary, matters that have been put forward in the required affidavits and pleadings.

In short, what is basically intended is a non-trial-type hearing, not the adjudicatory hearing now required on the demand of an interested person for a full-term operating license. We are facing up to potential emergency situations and what is intended is emergency procedures that can be conducted with expedition and dispatch.

Mr. SAYLOR. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. I gather the intent of this bill is to allow the issuance of a temporary license notwithstanding the passage by Congress, I believe unanimously, of a bill known as the Environmental Protection Act. Is that correct?

Mr. HOSMER. That is not correct, but in essence it gives somewhat the flavor of the situation.

Mr. SAYLOR. Therefore, what we are actually saying is that while the rest of the country, all other agencies of the Federal Government, all other agencies of State governments, and all other individuals must comply with that act, the Atomic Energy Commission alone does not have to.

Mr. HOSMER. That is incorrect. The correct situation is that the original National Environmental Policy Act was not written on a mountain and carved in stone. It was like any other piece of legislation, designed to meet a situation. Imperfectly, in some cases, it did meet that situation.

For example, it failed to recognize the fact that there might be a conflict between a pristine protection of the environment in every essence and the people's need for power in times when there were great demands for electricity. Power peaks occur in both summer and winter, and we are facing precisely and exactly that situation this summer and next winter. This measure will balance the needs of the people for power as against protection of the environment and, believe me, there is nothing inimical to the protection of the environment in this bill.

In order to have one of these temporary interim licenses issued, there must be a NEPA report. In other words, for the length of the time that this temporary license will be in force and permitting the production of power, there has to have been a competent analysis on behalf of the public—the U.S. public—to make certain that any environmental impact of operating this plant has been analyzed and balanced against the need for such temporary operation. There can be no ignoring of the potential environmental consequences of the proposed operation—the full intent of NEPA will be carried out.

Mr. PRICE of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HOSMER. I yield to the gentleman from Illinois.

Mr. PRICE of Illinois. The language on page 2, lines 8–17, of the bill specifically states the necessity for compliance with the provisions of the National Environmental Policy Act. At line 14 the language of the bill states—

> The Commission must satisfy the applicable requirements of the National Environmental Policy Act prior to issuing any temporary operating license under this section 192.

Mr. HOSMER. I hope the gentleman from Pennsylvania was listening and understood. He is still on his feet. I will ask him if he wishes me to yield further.

Mr. SAYLOR. I will be happy to have the gentleman yield. I have read the report, and even though the language which the gentleman has read is in the bill, the report indicates that this is not the case because it states on page 8 the requirements would be a limited environmental review after balancing all the factors. In other words, what we are faced with right now I think might be analyzed as it was by Admiral Rickover when he appeared before our committee, that it might be advantageous to turn out a few lights and turn off a little air conditioning rather than to run this chance.

Mr. HOSMER. I suppose if the gentleman wants to incur the cost of running short on power, which in terms of what happened in Great Britain during the recent strike resulted in deaths of the old and sometimes the young, as well as other possible serious consequences, that is his business. Frankly, I advocate we avoid that kind of thing and pass this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. Chairman, I include at this point material which will be of value to my colleagues:

ATOMIC ENERGY COMMISSION,
Washington, D.C., April 17, 1972.

Mr. EDWARD J. BAUSER,
Executive Director, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. BAUSER: This will respond to your request for a statement of the Commission's position with respect to the interim licensing legislation now before the Joint Committee, and the letter written to the Joint Committee by the Sierra Club dated April 11, 1972.

The need for legislation has not basically changed since the time of our testimony on the pending bills on March 22. The immediate Quad Cities situation has eased, but other plants still remain in uncertain status vis-a-vis the licensing process with respect to availability in the coming summer, the winter of 1972–1973, and the summer of 1973. The cloud on the Commission's *Calvert Cliffs* NEPA regulations remains. And while we continue to take the position that these regulations are, in fact, consistent with NEPA—including continued reliance on them in the licensing process—the Commission believes the need for legislative clarification continues.

Contrary to certain comments or statements attributed to me, my position on the need for legislation is unchanged. I have repeatedly stated that a bill is necessary, and that action on legislation is necessary well before summer. The bill pending in the Committee on Merchant Marine and Fisheries, while it technically amends NEPA, is not so much an amendment of the basic purpose of NEPA as it is a clarification of the application of NEPA in the interim licensing of nuclear plants. The Commission does not lightly seek legislative relief. Were there alternatives to the passage of a bill that would be as effective in responding to the public interest in this situation, we would not have taken the affirmative position that the legislative course represented by interim licensing proposals is a necessary and proper one.

The implications with respect to the safety hearing process of the AEC inherent in the interim licensing legislation are most salutary, in our view. The interim licensing proposal would allow an enhanced degree of discretion to the Commission in its review of those safety and radiological issues put into issue by an interim operating license application. The procedures can be tailored to the circumstances, to the duration of interim operation sought, and to the power needed, pending the full hearing before the Board on the full operating license. This is a necessary option for the Commission in cases where the public interest may require and the practicalities of an individual case (and the issues raised in connection therewith) may properly allow such interim licensing without detriment to the public health and safety. The basic findings of the Act relating to public health and safety—including the ACRS letter and staff findings—would be made prior to interim operation. This is to say that all relevant findings would be made as a prerequisite to interim operation that would be made in respect to the same operation plant as to which there was no licensing contest.

The amendment in and of itself would not license a plant, and the Commission would regard its responsibilities under the amendment to be no less in respect to interim licensing than they are with respect to any other licensing action taken by the Commission upon which the public health and safety depend.

Sincerely,
JAMES R. SCHLESINGER,
Chairman.

Adequacy of Electric Generating Capacity in Areas With Pending Nuclear Plant Operating Licenses

This section discusses in some detail the impacts of nuclear delays in several areas where critical generating capacity deficiencies could develop during the next 12 months.

Because of the uncertainty about ability to issue interim partial power permits occasioned by the recent Quad Cities court decision, no consideration has been given in the following analysis to the availability of power prior to a full license or to the effect of partial power licenses as a means of advancing the date of full commercial power. It has been assumed that full commercial power could not be available sooner than two months after issuance of a full power license. While this is believed to be a realistic interval, it is recognized that longer periods may be involved in some cases and the best information available to the FPC has been used.

As noted, in some instances the listed capacity for peak load periods includes new fossil capacity scheduled for service beyond the May 31 and October 31 cut-off dates normally used by the FPC to identify dependable summer and winter capacity levels. Experience has shown that such capacity often cannot be considered fully dependable during the first few months of operation.

NEW ENGLAND POWER POOL

The winter-peaking New England Power Pool has an indicated reserve margin of 21.4 percent during the summer of 1972, with Pilgrim, Vermont Yankee and Maine Yankee units not available for full commercial power. (Commercial dates 12/72, 12/72, and 3/73 respectively). However, the ability of the New England Power Pool to assist the summer-peaking New York Pool will be quite limited.

For the winter of 1972–73, with Pilgrim and Vermont Yankee commercially available, the reserve margin would be 25.1 percent. However, further slippages of the units would jeopardize the winter 1972–73 power supply adequacy. Without these units the winter reserve margin would be 16.5 percent.

	Summer 1972 [1]	Winter 1972–73 [2]	Winter 1972–73 [3]
Net power resources, megawatts	14,579	16,942	15,772
Peakload, megawatts	12,128	13,543	13,543
Reserve margin, megawatts	2,451	3,399	2,229
Reserve margin, percent of peakload	20.2	25.1	16.5

[1] Without Pilgrim, Vermont Yankee, and Maine Yankee.

[2] With Pilgrim and Vermont Yankee, without Maine Yankee.

[3] Without Pilgrim, Vermont Yankee, and Maine Yankee.

NEW YORK POWER POOL

With Consolidated Edison's Indian Point Unit 2 commercial full power availability slipping to August 1972, the adequacy of power in the summer of 1972 will be dependent upon the occurrence of heavy demands resulting from very hot weather, upon whether 1,334 MW of new fossil and gas turbine capability scheduled for June and July 1972 will be in service, and upon the rate of unscheduled capacity outages. With both Indian Point 2 and the new fossil units counted as part of the Pool capacity, the reserve margin would be 21.8 percent, a level which has not always been adequate in the past. Without Indian Point 2, the reserve margin would be 17.4 percent and, considering the character of the reserve, difficulties are probable unless supplemental power can be obtained from outside the area. Because of delays in new capacity, which has kept older units in service and required deferment of maintenance, much of the reserve has a below-average reliability.

For the Con Ed system itself, the summer 1972 projected peak load is 8,400 MW and its generating capability, assuming the full capability of Indian Point 2 and several new fossil units, will be 10,205 MW. Without Indian Point 2, its summer 1972 generating capability, assuming no delay of the new fossil units, would be 9,332 MW giving a margin of 932 MW or 11.1 percent.

The reserve margin in the winter of 1972–73 would be 39.2 percent with Indian Point 2 and 34.5 percent without it, both considered to be generally adequate.

	Summer 1972 [1]	Summer 1972 [2]	Winter 1972–73 [1]
Net power resources, megawatts	24,414	23,541	26,440
Peakload, megawatts	20,050	20,050	18,990
Reserve margin, megawatts	4,363	3,491	7,450
Reserve margin, percent of peakload	21.8	17.4	39.2

[1] With Indian Point 2 and scheduled fossil capacity.

[2] Without Indian Point 2.

VIRGINIA-CAROLINAS (VA–CARS)

With late July 1972 as the earliest for some commercial power from Virginia Electric & Power Company's Surry 1 unit, and with commercial availability of Oconee 1 out of the picture for the summer because of steam generator damage, the adequacy of power in the summer of 1972 for this area may be dependent upon the occurrence of peak power demands resulting from hot weather and the availability of supplemental power from neighboring areas. Counting the Surry 1 plant as part of the available capacity, and also 1,010 MW of fossil capacity scheduled for June and July 1972, the reserve margin is a very low 7.9 percent. Since these fossil units are questionable, the reserve even with Surry 1 could be as low as 3.0 percent. These margins are substantially below required levels.

For the winter of 1972–73, the reserve margin with Oconee 1 and Surry 1, but without Oconee 2 or Surry 2 is 23.4 percent.

	Summer 1972 [1]	Summer 1972 [2]	Winter 1972–73 [3]
Net capability, megawatts	22,237	21,417	23,412
Load responsibility, megawatts	20,605	20,605	18,965
Reserve margin, megawatts	1,632	812	4,447
Reserve margin, percent of load responsibility	7.9	3.9	23.4

[1] With Surry 1, but without Oconee 1.

[2] Without Oconee 1 and Surry 1.

[3] With Oconee 1 and Surry 1, but not Oconee 2 and Surry 2.

FLORIDA

Florida, which lacks adequate transmission interconnections within the state and with other areas, is largely dependent upon its own resources and requires more reserve margin than some other interconnected areas. Turkey Point 3, on the basis of present predictions, has an earliest full power commercial availability date of August 1972 and may assist in meeting the 1972 summer peak load if it meets that schedule. Turkey Point 4 will have a commercial full power availability date several months later than Turkey Point 3. With Turkey Point 3, the reserve margin in the summer of 1972 would be only 12.4 percent and without it a critically low 6.7 percent. On the Florida Power and Light system itself, without Turkey Point 3, the summer 1972 capability, 6,857 MW, exceeds the projected peak load of 6,500 MW by 357 MW, giving a margin of only 5.5 percent.

The reserve margin in the winter of 1972–73, with both Turkey Point 3 and 4 in service, also would be 17.1 percent.

	Summer 1972 [1]	Summer 1972 [2]	Winter 1972–73 [3]
Net capability, megawatts	13,154	12,754	14,802
Peakload, megawatts	11,706	11,706	12,231
Reserve margin, megawatts	1,448	1,048	2,571
Reserve margin, percent of peakload	12.4	9.0	21.0

[1] With Turkey Point unit 3, limited to 400 megawatts. Excludes the 300 megawatts Northside 2 unit ready for service December 1971, but awaiting water discharge permit.

[2] Without Turkey Point unit 3 or Northside 2.

[3] With Turkey Point units 3 and 4 at full combined rating of 1,450 megawatts.

TENNESSEE VALLEY

TVA is a member of the Southeastern Electric Reliability Council, which also includes the Virginia-Carolinas sub-region and the Florida sub-region discussed above. Although the TVA system itself experiences a slightly higher load peak in the winter than in the summer, it has firm power exchange agreements with other power systems which result in summer generation demands greater than those of the preceding winter.

The Browns Ferry Nuclear Plant has three 1,065 MW units under construction, with expected dates of authorization for full power operation of October 1972 (Unit 1), July 1973 (Unit 2), and February 1974 (Unit 3). Although the slippages already experienced by Unit 1 will make it unavailable for the summer of 1972, when the TVA generation reserve margin is only 15.0 percent, it is still needed in time for the winter 1972–73 peak. With Browns Ferry 1 in service, the reserve margin in the winter of 1972–73 will be 19.1 percent, without it the margin will be 13.2 percent.

	Summer 1972 [1]	Winter 1972–73 [1]	Winter 1972–73 [2]
Net capability, megawatts	20,746	20,540	21,605
Peakload responsibility, megawatts	18,040	18,140	18,140
Reserve margin, megawatts	2,706	2,400	3,465
Reserve margin, percent of peakload	15.0	13.2	19.1

[1] Without Browns Ferry, unit 1.

[2] With Browns Ferry, unit 1.

MICHIGAN POOL

If the Palisades plant, which recently received a 60 percent power license, attains full power commercial service by July 1972, the Michigan Pool reserve margin for the summer of 1972 will be 19.2 percent. Without this capability, the reserve margin would be only 12.3 percent and there could be an additional demand on the reserve power available from the East Central Area, which will probably be needed to support prospective shortages in the Northern Illinois area.

	Summer 1972 [1]	Summer 1972 [2]	Winter 1972–73 [1]
Installed capability, megawatts	12,067	11,367	12,367
Estimated demand, megawatts	10,125	10,125	10,295
Reserve margin, megawatts	1,942	1,242	2,072
Reserve margin, percent of demand	19.2	12.3	20.1

[1] With full capacity of the Palisades plant.

[2] Without Palisades unit.

NORTHERN ILLINOIS, WISCONSIN, AND UPPER MICHIGAN

Recent court decisions and environmental modification requirements make highly uncertain the availability of power from Quad Cities Units 1 and 2 during the summer of 1972. The Point Beach AEC-estimated date of June 1972 for a full power license indicates that commercial full power status is not probable before August 1972, when the summer load peak may have been already reached. It is clear that without these plants, the adequacy of power in the summer of 1972 will depend critically upon the extent of unscheduled outages and the availability of power from neighboring areas, especially the East Central area.

If the two Quad Cities units and the Point Beach unit were available for the 1972 summer peak, the reserve margin would be 14.7 percent. With none of these three units available, the reserve margin would be only 8.7 percent, which is extremely low. Commonwealth Edison itself has a projected summer 1972 peak load of 12,520 MW, and without its Quad Cities or Zion units, has a capability of 13,189 MW providing a reserve margin of 669 MW or only 5.4 percent.

Because the winter peak is considerably less than the summer peak, the reserves in the winter of 1972–73 appear to be adequate (assuming no shortage of fossil fuel), without the Quad Cities units, the Point Beach 2 unit, the Kewaunee 1 unit or the Zion Unit 1. However, some of these units may be needed in that period to allow performance of urgent maintenance on existing units which is being deferred during the current period of low margins.

SUMMER 1972

Net capability, megawatts	[1] 20,920	[2] 20,018
Peak load, megawatts	18,414	18,414
Reserve, megawatts	2,506	1,604
Reserve, percent of peak load	13.6	8.7

[1] With quad cities 1 and 2, at a combined capacity of 809 megawatts due to cooling limitations, and Point Beach.

[2] Without quad cities 1 and 2, or Point Beach. (Note that half the capacity of the quad cities plant, up to 404 megawatts, is committed to the Iowa Pool).

IOWA POOL

The Iowa Pool, of which Iowa-Illinois Gas and Electric Company is a member, faces the summer of 1972 with a total generating capacity that is 45 megawatts less than predicted peak load if the latter's share of the capacity of Quad Cities Unit 1 is unavailable. With only its existing capacity, and delays of new units on adjacent systems making uncertain the availability of supplemental power, the Iowa systems position is marginal. Projected Iowa Pool conditions for the 1972 summer are presented in the following table.

	Summer 1972 [1]	Summer 1972 [2]
Net dependable capacity, Megawatts	3,476	3,072
Peak load, Megawatts	3,117	3,117
Reserve margin, Megawatts	359	−45
Reserve margin, percent of peak load	11.5	−1.5

[1] With Iowa Pool's full share of Quad Cities 1 (404 MW).

[2] Without Quad Cities 1.

UPPER MISSISSIPPI VALLEY POWER POOL

The Prairie Island, Unit 1, generation facility of the Northern States Power Company (530 MW) is scheduled for commercial service in November 1972. Because in this area the summer peak loads are somewhat greater than the winter peaks, the reserve margin in the winter of 1972–73 appears to be adequate even if the unit is delayed a few months. However, its availability for the summer of 1973 is essential, as indicated in the following table for the Power Pool. Northern States Power itself, for the summer of 1973, has a projected peak load of 3,982 MW and a capability without Prairie Island of only 3,665 MW, for a negative reserve margin of 317 MW or—8.0 percent.

	Summer 1972 [1]	Winter 1972–73 [1]	Winter 1972–73 [2]	Summer 1973 [1]	Summer 1973 [2]
Net capability, MW	6,879	6,985	7,515	7,035	7,565
Peak load, MW	6,185	6,086	6,086	6,689	6,689
Reserve margin	693	899	1,429	346	876
Reserve margin, percent of peak load	11.2	14.8	42.3	5.2	13.1

[1] Without Prairie Island 1.

[2] With Prairie Island 1.

ROCKY MOUNTAIN AREA (PUBLIC SERVICE COMPANY OF COLORADO)

The Fort St. Vrain unit, with an estimated full operating license date of July 1972 and a commercial full power availability date of the fall of 1972, cannot be considered as capacity for meeting the peak 1972 summer loads. Without Fort St. Vrain, the company's summer 1972 reserve margin is only 18.4 percent even with 100 MW of leased gas turbine capacity. Because of limited transmission interconnections, little assistance can be provided from neighboring systems.

With Fort St. Vrain available for the winter of 1972–73, the reserve margain would be 22.2 percent, but without it the reserve would be only 8.8 percent. The importance of Fort St. Vrain to an adequate electric power supply is evident.

	Summer 1972 [1]	Winter 1972–73 [2]	Winter 1972–73 [1]
Capacity (PSC), MW	1,878	2,108	1,878
Peak load (PSQ), MW	1,586	1,725	1,725
Reserve margin, MW	292	383	153
Reserve margin, percent of peak load	18.4	22.2	8.8

[1] Without Fort St. Vrain in service, but including 100 MW of leased gas turbine capacity.

[2] With Fort St. Vrain in service.

NUCLEAR STEAM-ELECTRIC GENERATING UNITS SCHEDULED FOR SERVICE BETWEEN OCT. 1, 1972, AND SEPT. 30, 1973

Reliability council region	Utility	Unit	Megawatts	Scheduled commercial operation date
NPCC	Power Authority of State of New York	Fitzpatrick	821	June 1973.
	Vermont Yankee Nuclear Power Corp	Vermont Yankee	514	December 1972.
	Maine Yankee Atomic Power Corp	Maine Yankee	790	January 1973.
	Boston Edison Co	Pilgrim	655	December 1972.
MAAC	Baltimore Gas & Electric	Calvert Cliffs 1	845	February 1973.
	Philadelphia Electric Co	Peach Bottom 2	1,065	April 1973.
	Metropolitan Edison Co	Three Mile Island 1	831	March 1973.
SERC	Virginia Electric & Power Co	Surry 2	780	January 1973.
	TVA	Browns Ferry 1	1,065	October 1972.
	TVA	Browns Ferry 2	1,065	April 1973.
	Duke Power Co	Oconee 2	886	February 1973.
	Do	Oconee 3	886	November 1973.
	Florida Power Corp	Crystal River 3	858	December 1972.
	Florida Power & Light Co	Turkey Point 4	693	Fall 1972.
ECAR	Indiana & Michigan Electric Co	D.C. Cook 1	1,054	March 1973.
MAIN	Commonwealth Edison Co	Zion 2	1,050	May 1973.
	Wisconsin Public Service Co	Kewaunee 1	541	December 1972.
SWPP	Arkansas Power & Light	Arkansas nuclear 1, unit 1	820	September 1973.
MARCA	Northern States Power Co	Prairie Island 1	530	October 1972.
	Omaha Public Power District	Fort Calhoun 1	457	June 1973.
	Nebraska Public Power District	Cooper	778	July 1973.
WSCC	Sacramento Municipal Utility District	Ranchc Seco 1	804	May 1973.

Mr. PRICE of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Chairman, I rise in support of H.R. 14655. The bill has the unanimous support of the Joint Committee on Atomic Energy.

Enactment of this bill is needed to enable the Atomic Energy Commission to license the operation of already constructed nuclear powerplants on a temporary basis, only if the plant is needed to supply energy requirements in the area served by the plant and then only provided the Commission makes the necessary safety and environmental determinations for purposes of the temporary license.

Mr. Chairman, until comparatively recently the Atomic Energy Commission's licensing authority was statutorily limited substantially to radiological and common defense and security matters. In recent months the Commission's licensing authority has been extended to cover the consideration of all environmental matters associated with the operation of a nuclear powerplant under the National Environmental Policy Act, which became law on January 1, 1970, and subsequent judicial interpretations thereof.

Dr. Schlesinger, since his appointment as Commission Chairman last fall, has labored to make the Commission's licensing program fully responsive to the new environmental requirements. The question is no longer whether that will be the Commission's policy, but what additional resources are needed to carry out the new responsibilities and the difficult transitional problems associated with the licensing and operation of plants which were substantially constructed before the new requirements were imposed.

The Commission has assured the committee that it will be able to deal with all of these new responsibilities adequately and on a timely basis in the very near future. At the present time, however, the Commission has not been able to complete the final environmental impact statements for full-term, full-power operation for all plants which have been constructed and are ready to operate. They will be able to complete an interim environmental statement for the temporary operation of such plants. As a matter of fact, some of the interim statements have been completed.

Before nuclear fuel can be placed in a nuclear powerplant and before it can be operated, the Atomic Energy Commission must issue a license authorizing those activities. Initially after fuel loading, the plant must go through a period of low-power testing which takes at least 2 months. These tests are for the purpose of demonstrating and assuring safety of the reactor.

H.R. 13752 which was passed by the House by a vote of 284 to 78 on April 17 would accommodate that transition problem which will end on October 30, 1973. H.R. 14655 complements H.R. 13752 by giving the AEC the authority to issue temporary operating licenses.

Mr. Chairman, I would like to get to the heart of the matter and inform my colleageus why I believe that this authority is urgently needed.

At the hearings conducted by the Joint Committee on March 16 and 17, both the administration and the utility witnesses testified to the threatened power shortages commencing this summer in certain parts of the country. Essentially the same testimony was presented at the joint hearings of the Senate Committees on Public Works and Interior and Insular Affairs, and before the Subcommittee on Fisheries and Wildlife Conservation of the House Committee on Merchant Marine and Fisheries.

NATIONAL ELECTRIC RELIABILITY COUNCIL REPORT

A February 1972 report of the National Electric Reliability Council presents the results of an assessment of the impact on the adequacy of electric bulk power supply of potential delays of 12 months in the operation of all new nuclear and fossil-fired steam generating plants.

Based on a 12-month delay in the operation of new nuclear and fossil-fired steam generating capacity, an aggregate of 25,000 megawatts, or one-third of the scheduled generation reserves in NERC, would be unavailable during the summer 1972 peakload period. In the winter 1972–73 peakload period, 32,000 megawatts, or about 30 percent of the scheduled generation reserves would not be available. In the summer 1973 peakload period, there would be a reduction in scheduled generation reserves of about 29,000 megawatts, or 35 percent of these reserves.

The normal rule is that reserves from 15 to 20 percent are required to assure reliability of power supply. For some systems, if the reserves were cut in half—from 20 to 10 percent—the probability of insufficient capacity to carry the load increases sixty-fold. In other words, if a 20-percent-reserve level results in only one occasion in 10 years when generating capability might be insufficient to carry the load, a reduction to 10-percent-reserve level would be expected to result in six occasions per year when loan curtailment would occur.

The impact of such delays is analyzed for each of the nine regions of the National Electric Reliability Council, encompassing the entire bulk power supply in the United States and parts of Canada. The study is directed to an evaluation of the adequacy of region reserves for the peak-load periods of summer 1972, winter 1972–73, and summer 1973 The conclusions of this study have been substantially supported by data supplied by the Federal Power Commission and interested State agencies.

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The impact of such delays would be considerably more severe in some regions than in others. In five of the nine regions—east-central, Texas, mid-America, mid-continent, and Southeastern—generation reserves would drop to 10 percent or less in the summer of 1972, reaching levels so low that periodic load curtailment would be expected. Reserves in the mid-America region would fall to less than 5 percent, and the Southeastern region to 6.3 percent, values which are extremely low for any semblance of reliability.

WINTER 1972–73

Reserves during the winter 1972–73 peak-load period, while somewhat higher generally than during the previous summer, would still be critically low at 12 percent in the Southeastern region and 10.3 percent in the Rocky Mountain power pool area of the Western region. Furthermore, if essential maintenance requirements during the winter period are taken into account, the east-central and mid-America regions, as well as the New York-New England subregion, would drop to marginal and submarginal reserve levels.

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In the summer of 1973, five regions—east-central, mid-Atlantic, midcontinent, southeastern, and southwest—would fall again to 11 percent or less, with reserves in the midcontinent region actually dropping to 4.6 percent. In addition, the mid-America region and the New York-New England subregion may well be critical in view of the fact that a substantial part of the generating capacity subject to a 12-month delay would then be scheduled for service just prior to or during the summer of 1973. Should difficulties arise in startup and this capacity becomes unavailable, reserves would drop in mid-America and New York-New England to 10.4 percent and 10.7 percent, respectively, a level which is critical.

No one can say with certainty that the expected power shortages in these areas will materialize or, if they do, that they could be avoided by a temporary licensing of these plants. Responsible officials of the Government and officials of the utilities have testified both before the Joint Committee and before other committees that threatened power shortages stand a good chance of being avoided or ameliorated by the passage of this legislation. The administration has recommended the urgent need for the passage of legislation which would authorize the AEC to license the operation of nuclear plants on a temporary basis.

The undisputed testimony received by the committee indicates that at least 2 months' leadtime is needed for testing before completed nuclear powerplants can operate at useful levels.

I would like to again express my support for H.R. 14655 and urge that it be enacted.

Include the following material:

ECONOMIC AND ENVIRONMENTAL IMPACTS CAUSED BY LICENSE SUSPENSION OR PROCEDURAL DELAY

Owner and plant	Capacity in thousands megawatts electrical	Additional financial burdens caused by delays in operation and construction of scheduled nuclear plants.	Replacement fossil plant environmental impact expressed in increased emission of pollutants (tons)		
			SO_2	NO_x	Particulate
1. Consolidated Edison Co.: Indian Pt. No. 2	873	$4,000,000 per month; $48,000,000 total if delayed 1 year	29,000	16,000	1,245
2. Northeast Utilities.					
Millstone Pt. No. 1	662	$58,271,000 minimum for a 1-year suspension of operation	23,000	15,000	1,100
Millstone Pt. No. 2	830	$74,000,000 for a 1-year suspension and $158,000,000 over the lifetime of the plant.	26,000	17,000	1,300
3. Northern States Pewer Co.:					
Monticello No. 1	543	$21,000,000 for a 1-year suspension of operation	80,000	27,000	18,000
Prairie Island No. 1	550	$108,000,000 for 15-month suspension	150,000		35,000
Prairie Island No. 2	550				
4. Metropolitan Edison Co.:					
Three Mile Island No. 1	830	$161,700,000 minimum for 1-year delay in commercial operation for both units.	29,000		
Three Mile Island No. 2	950		(1)	5,800	2,680
5. Wisconsin Michigan Power Co.: Point Beach No. 1	503	$49,500,000 for 1-year suspension of operation	31,000	6,200	2,490
6. Carolina Power & Light Co.:					
Robinson No. 2	739	$40,000,000 for a 10-month suspension of operation			
Brunswick No. 1	821	$173,000,000 if commercial operation is delayed 18 months for both units.			
Brunswick No. 2	821				

Footnotes at end of table.

Owner and plant	Capacity in thousands megawatts electrical	Additional financial burdens caused by delays in operation and construction of scheduled nuclear plants.	Replacement fossil plant environmental impact expressed in increased emission of pollutants (tons)		
			SO$_2$	NO$_x$	Particulates
7. Consumers Power Co.: Palisades No. 1	700	$4,009,000 per month if Palisades is not available at 100 percent power during the 1972 summer.			
8. Commonwealth Edison Co.:					
Dresden No. 3	809		300,000	35,000-70,000	18,000-30,000
Quad Cities No. 1	809		(2)		
Quad Cities No. 1	809				
Zion No. 1	1,100				
9. Florida Power Corp.: Crystal River No. 3	825	$83,657,000 for an 18-month delay in commercial operation			
10. Florida Power & Light Co.: Hutchinson Island No. 1	850	$102,882,000 for a 1-year suspension			
11. Duke Power Co.:					
Oconee No. 1	886				
Oconee No. 2	886	$313,000 per day to $330,400 per day			
Oconee No. 3	886				

[1] Given in terms of sulfur and ash content of equivalent fossil fuels to be burned: 34,698 tons of sulfur and 150,686 tons of ash in 1,629,024 tons of coal; 275 tons of sulfur in 21,986 thousand gallons of oil.

[2] If plants were not permitted to operate in 1972.

(Mr. ANDERSON of Illinois, at the request of Mr. HOSMER, was granted permission to extend his remarks at this point in the RECORD.)

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of the bill H.R. 14655, which has already been discussed by my distinguished colleagues on the Joint Committee on Atomic Energy. The bill is well-conceived, timely, and has been reported out by a unanimous vote of the Joint Committee following intensive consideration directed toward determining the best legislative approach at this time to deal with the problem before us. The committee's action in recommending this legislation is founded upon careful study of a special situation which confronts us during a relatively brief period of transition.

Specifically the problem arises in that a number of nuclear powerplants were already sited, designed, and well-advanced in construction in January of 1970 when NEPA became effective. Subsequently, a series of court decisions have caused to be brought into play a broader scope of consideration concerning the factors the Atomic Energy Commission must address itself to during the preparation, processing, and review of environmental impact statements associated with the granting of operating licenses for these nuclear plants. These statements cannot and should not be hastily prepared. They must be preceded by careful indepth study of the present state of the environs of the specific plantsite and the potential impacts which may result from plant operation. The applicant for license must perform certain initial studies, technical experts acting on behalf of Federal and State review bodies must perform their own evaluation, and the inputs of all must be weighed and balanced in the final environmental impact statement which must be completed before there can be obtained full conformance with NEPA, in its content and its intent.

Enactment of H.R. 14655 would make possible temporary licensing of nuclear plants whose electrical supply is urgently needed but only after the required safety and environmental impact determinations are made for the purposes of the proposed temporary operation.

The principal characteristic of the problem before us is one of timing. In many cases under consideration or soon to be considered, conformance with procedural requirements rather than dispute over safety and environmental matters could cause continuing delay where such delay would be costly to power availability and would contribute little toward improving either safety or the environment.

On February 29, before this body—volume 118, page 6094—I discussed the impending shortage of electrical generating reserve capacity which plagues broad regions of our country. I shall not repeat those remarks at this time. I will simply point out that in the operation of electrical generating systems there is a continuing need to perform scheduled maintenance on equipment. This calls for planned outages of the various units of the system. In addition, unanticipated failures of items of equipment—even turbines and generators—cause forced outages of individual stations. For these reasons reserve generating capacity is needed to compensate for both types of outages. The rule of thumb is that to meet peak loads adequately one should have about 20 percent reserve capacity. Some systems, through reliable interconnection to a neighboring system or because of other characteristics can tolerate a lower reserve. However, as I pointed out on February 29, one study—by the National Electric Reliability Council—predicts that delays being encountered in bringing new fossil and new nuclear plants on the line might well result in dangerously low reserves throughout our country this summer, next winter and the following summer. I cited the very low 4.9 percent reserve predicted for the network serving my own State of Illinois and neighboring States. The southeast region would have only 6.3 percent reserve and the east-central region only 10.1 percent.

Under such conditions brownouts could become common and occasional prolonged blackouts may occur. This situation has serious public health and safety implications. Some are obvious, others less so. In this age of high mechanization and reliance upon electrical energy in industry and agriculture, intermittent electrical supply could have disastrous impact in farming States, as I pointed out on April 17, 1972—CONGRESSIONAL RECORD, April 17, 1972, pages 12972–12973.

My point is—many of us think of power shortage or interruptions as having major impact on the health and safety of those in cities and urban areas. Let us not overlook the effects of such shortages on farm operation and income as well as the products of such operations upon which we all have dependence.

I have appended to my remarks pertinent background correspondence from the Secretary of Agriculture and from the Commonwealth Edison Co.:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 12, 1972.

Mr. EDWARD J. BAUSER,
Executive Director, Joint Committee on Atomic Energy, Congress of the United States, Washington, D.C.

DEAR MR. BAUSER: This is in reply to your letter of March 31 in which you ask for information on the impact of interruption of electric service to certain livestock farming operations. I am pleased to meet your request with brief general statements as to the problems that producers might have to cope with in the event of interruptions in electrical service.

1. Milk Production.

a. The impact of interruption of electric service would have a most severe effect on milk production, particularly in large dairy herds. The most severe effect would be in milk yields and actually getting cows milked twice each day at near normal intervals. Cows in most all herds are milked by electrical powered milking machines. This is particularly true in large herds. There are two alternatives. One is hand milking that would be most difficult to accomplish in large herds, but possible in the smaller herds. The other alternative is the provision of power from fuel consuming auxiliary engines. Few dairymen have them, but installations are possible and probably cheaper than hiring labor for hand milking. Unusual irregular milking would have an effect on milk yield of varying degree depending on degree of irregularity. The effect may be in the range of 10 to 15 percent decrease in production. Missed milkings would be more disastrous with effects of as much as 30 to 50 percent in daily yield. Diseases such as mastitis may increase.

b. Most milk stored on the farm is in bulk tanks operated by electricity. Loss of electric power would have major effect on milk quality and on the income of farmers.

c. Loss of a steady, dependable water supply would have major adverse effects on meeting cattle needs and for the milk handling operations.

d. Many other operations involving machines operated with electrical power would interfere with herd operations and, therefore, milk production. However, these would be somewhat easier to cope with than milking and the keeping quality of milk.

2. Feedlot Operation.

a. Interruption of electrical service in feedlot operations would have less effect than in dairy. The major impact would be in powering the equipment that services the operation such as feed preparation, feeding, manure disposal, and related activities. These operations could be done with hand labor but with difficulty and with added expense. A water supply provided by electrically operated facilities if it failed would be a major factor and would otherwise have to be provided at added cost. Loss of electrical power might cause shifts in the kind and amount of rationing of cattle on finishing and adversely affect rate of gain.

3. Operation of Large Poultry and Poultry Product Plants.

a. The Midwest is a major egg producing area. The Southeast is a major broiler producing and egg producing area. Thus, there are numerous large hatcheries concentrated in these two areas.

b. A major proportion of the eggs and broilers are produced in large semiautomated units. Automatic feeding, egg collection, egg grading, ventilation, lighting, cooling, and manure removal systems are common and many units have complete environmental control. Most of these operations have standby emergency electric power units, but many are designed for only minimal short-term needs and would not be adequate for long duration blackouts. In most areas, adequate numbers of trained workers would not be available on an emergency short-term basis to handle the work routinely done by automation. In many cases, particularly those where birds are maintained in windowless, totally controlled environments with almost complete automation, it would be impossible to operate without electric power because of the nature of the automatic equipment and the size of the operations. Smaller production units would probably be better able to survive extended power failures because they depend less on automation. They would, however, still have need for electric power to operate ventilation, lighting, and cooling systems. Many would have need for electricity to operate water pumps. These small farms would be less likely to have standby power units.

c. If electric power were not available for a period of several hours during the summer months, it could result in a total mortality of laying hens or broilers depending on the location, type of housing, and equipment used by the producer.

d. Most hatcheries have standby electric power units, but much like other poultry enterprises, they are designed for use during short duration blackouts. Any electric power failure of several hours in length would result in a total loss of embryos in hatchers and loss of impairment of chick embryos in those eggs in incubators.

e. Similar effects would be experienced at poultry product plants where electric power is depended on to operate machinery used to receive and prepare poultry for processing. Interruption or stoppage of the processing activity would have rather immediate effects on holding up receipt of live poultry for processing and on the availability of poultry meat in the markets. This could cause loss of income to producers and increased prices to consumers.

Sincerely,

NED D. BAYLEY,
Director of Science and Education.

INFORMATION FOR THE JOINT COMMITTEE ON ATOMIC ENERGY ON COMMONWEALTH EDISON CO.

1. RESPONSIBILITY TO SERVE CUSTOMERS

The attached exhibit is Page 5 from the City of Chicago Franchise to Commonwealth Edison Company. Paragraph 3.2 covers the responsibilities of the Company to provide service to its customers. We have approximately 400 additional Franchises covering service to the communities in our service territory outside Chicago, which entail similar responsibilities to our customers in this area.

2. GENERATION RESERVE

In planning for the power supply to an area it is necessary to provide capacity in excess of the estimated peak loads to take care of various contingencies, the principal one being the unavailability of generating equipment due to break-downs. Other factors that may require reserve are the possibility of the load exceeding the estimate and the possibility that scheduled new capacity may be delayed. The amount of reserve capacity for a particular system will vary depending on the type of generating equipment and its reliability. The Federal Power Commission has stated that systems generally should plan for a reserve equal to 20 to 25% of their estimated peak load.

At Commonwealth Edison we believe that for our system a reserve of 14% provides adequate protection. Edison is a member of MAIN (Mid-America Interpool Network) which includes the systems in Illinois, Wisconsin, Missouri, and parts of Iowa and Minnesota. We have high voltage transmission lines in all directions from our extensive system, which covers 13,000 sq. miles in Northern Illinois. Edison is one of the most heavily interconnected systems in the world. These interconnections enable us to import power from systems distant from the Chicago area. We have purchased power from Oklahoma, the TVA, systems on the Eastern Seaboard and others. For example, on June 28, 1971, we were importing 2,300,000 kilowatts which represented about 21% of our load.

Because of this ability to receive large amounts of power from neighboring systems, we think that a 14% reserve will provide a safe margin. The advantage of a lower reserve is that it reduces the capital invested in the system and the fixed charges which have to be passed on to our customers. The reserve margin of 14% is amongst the lowest in use in the country.

On the other hand, to plan for a lower reserve, such as 5%, would not be prudent and would result in a degradation of our reliability of supply. Our experience of the last few years has shown that troubles in generating equipment can lead to a high degree of unavailability. Our records for the summer of 1971 show that on 50% of the weekdays, 22% or more of our capacity was unavailable. This example alone shows the impropriety of a reserve of 5%. Operating with too low a reserve would inevitably result in power shortages in our territory and would necessitate shedding customer load from time to time.

3. TEMPERATURE SENSITIVE POWER DEMANDS

Experience with the Commonwealth Edison Company system shows that during the summer peak load season with temperatures in the range of 85°–95° it is estimated that the load varies in the range of 90,000–150,000 kilowatts per degree Fahrenheit. During the winter season when the temperature is two or three degrees below zero the power demand changes about 14,000 kilowatts per degree Fahrenheit.

For the summer of 1972 it is estimated that the temperature sensitive portion of the peak power demand will be about 38% of the total or 4,600,000 kilowatts out of a total of 12,190,000 kilowatts. This percentage is increasing and by 1977 it is expected to be over 44% of the total.

4. EMERGENCY ASSISTANCE TO NEIGHBORING UTILITIES

In addition to releasing reserve generating capacity to assist neighbors, Commonwealth Edison applies other emergency procedures in order to provide assistance.

As an example, on June 17 and 18, 1969 a widespread heat storm in the East increased loads in that area to near and above expected peaks and all available generating capacity was in use. In response to an appeal for emergency help from the PJM* System in the East, Commonwealth Edison Company reduced its voltage by 2½% for the period from 12:30 p.m. to 6 p.m. on July 17 and in this way released some generating capability for power export to the East.

Another example occurred on July 2, 1970, when Wisconsin suddenly lost a generating unit during the peak hour. This was a day of a widespread heat wave and systems in our region were fully loaded because Wisconsin had lost a large unit earlier in the day. To supply emergency assistance to Wisconsin, Edison resorted to a 2½% voltage reduction for over 2 hours and dropped our interruptible customers for 40 minutes.

Edison will apply voltage reductions and/or reduce its "interruptible" loads to assist a neighbor if the interconnected company has already exercised such load management procedures on its own system.

Normally we would not expect to interrupt firm customers on our system, to provide power for neighboring systems that are in difficulty. However, if the integrity of the interconnected system is threatened because of a problem originating on a neighboring system, we will interrupt firm customers to avoid a complete blackout of the area in trouble.

FROM CITY OF CHICAGO FRANCHISE TO COMMONWEALTH EDISON CO.

Section 2. Grant. The right, permission and authority are hereby granted to Commonwealth Edison Company, an Illinois corporation, herein sometimes called Licensee, for the Term hereof, and subject to and upon all of the conditions of this ordinance, to Provide Electric Energy to consumers thereof within the City and to acquire, construct, lease, maintain, operate and remove its Utility Facilities in, upon, along, across, over and under Public Ways or Property, as herein defined.

Section 3. Management and Service. Licensee, at all times during the Term hereof, shall:

3.1. Be directed, managed and operated honestly, prudently, efficiently and economically; finance its capital requirements prudently and upon terms and conditions reasonably calculated to make lawful, and to attract and maintain investment in its Capital Securities by all classes of investors; and to the extent it legally may, pay such dividends upon its capital stock, consistently with its funds available therefor, as shall be reasonably necessary to attract and maintain investment in such capital stock by investors;

3.2. To the full extent of its ability, Provide Utility Facilities adapted for serviceable, efficient and economical Provision of Electric Energy, adequate for actual and potential users thereof in City, and operate and maintain such Facilities efficiently and economically and in accordance with the highest standards and best systems, methods and skills then reasonably available for the Provision of Electric Energy, adequate and sufficient to meet all reasonable needs and demands of the actual or potential users thereof within City;

3.3. Upon acceptance of this ordinance, file with Chicago a copy of its current Plant Report, and thereafter, on or before April 30 of each succeeding year, file with Chicago a copy of its revised Plant Report, showing such changes as have been made in the preceding year;

3.4. Not discriminate against any person employed or seeking employment with respect to hire, promotion, tenure, terms, conditions, or privileges of employment on account of race, color, religion, national origin or ancestry, including, without being limited to, any employee * * *

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*Pennsylvania, New Jersey, Maryland.

Mr. HOSMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. McCulloch).

Mr. McCULLOCH. Mr. Chairman, I rise to support H.R. 14655 and urge its enactment. The provisions of this bill, its purpose, and the need for its speedy enactment have all been covered by my distinguished colleagues on the Joint Committee on Atomic Energy. There are, however, two aspects of this legislation which appeal to me, particularly from the standpoint of my service and responsibilities on the House Judiciary Committee.

This is emergency legislation which gives the Atomic Energy Commission the authority to use expedited procedures which in its judgment are warranted by the specific circumstances of each individual proceeding. The first point I want to emphasize is that notwithstanding its emergency nature, the legislation in no way casts aside any of the concepts of reasonableness and fairplay embodied in the administrative process. The AEC, the agency which has the regulatory responsibility and expertise, is given the authority to prescribe flexible, expedited procedures which can be tailored in light of a variety of emergency situations.

The second point of particular interest to me is that the legislation preserves the safeguard of judicial review of any decision which authorizes the issuance of a temporary operating license. Had the legislation been silent in this regard, it is questionable whether a reviewing court would have regarded a decision authorizing a temporary license as a final order subject to review, or as an interlocutory order not subject to review. I think the Joint Committee on Atomic Energy should be commended for not leaving this very important matter in doubt, by providing explicity for judicial review. Such foresight in legislation serves to enhance the dual partnership played by both the administrative and judicial process in a wide variety of public interest type regulatory actions.

AEC licensing decisions are reviewable by petition to U.S. court of appeals under the Administrative Orders Review Act of 1950 (28 U.S.C. 2342 et seq.). The mode of judicial review provided for in that act evolved from long study and careful consideration by all persons concerned with the difficult questions involved. That act provides for the full protection of parties seeking review of agency decisions by, among other features, providing for the taking of evidence either by the agency or in the district court, when for one reason or another that is necessary because a suitable hearing was not held prior to the initiation of the proceeding in the court of appeals.

H.R. 14655 is sound legislation to deal with an emergency. I urge its early enactment.

Mr. PRICE of Illinois. Mr. Chairman, I have no further requests for time.

Mr. HOSMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho (Mr. Hansen).

Mr. HANSEN of Idaho. Mr. Chairman, as a cosponsor of this bill, I rise to associate myself with the views on H.R. 14655 expressed by Mr. Price, Mr. Holifield, and Mr. Hosmer.

The committee's discussion of the legislative proposals which preceded its agreement on H.R. 14655, focused in large measure on two factors. The first is the need for emergency-type licensing legislation which would be responsive to to the public interest in having power shortages prevented or alleviated without any relaxation of safety requirements. The second is an emergency licensing procedure which would permit interested members of the public who have qualified for intervention in the proceeding to present their views on material issues of fact which, in the Commission's judgment, relate to the findings the Commission is required to make regarding temporary operation.

I am convinced that the approach taken in H.R. 14655 is a sound one and would facilitate timely decisionmaking when the need for power so requires. An essential feature for the success of the emergency authority is the action which the Commission takes to implement it procedurally. The committee has urged the Commission to proceed immediately with the development of implementing regulations so that they will be available on the date this legislation is enacted into law. This new authority gives to the Commission the procedural flexibility which it says it needs to tailor expedited procedures to individual licensing statutes. The Commission should prepare itself so that it is ready to use that authority when the legislation is enacted.

In regard to the safety finding which the Commission must make for purposes of temporary operation, the applicable substantive findings required by section 185 of the act, which are prerequisites for the issuance of an operating license, would have to be made with respect to the temporary operating license. In making these findings, the Commission would take into account the temporary duration of the license, and the nature of the activities to be licensed on a temporary basis. These findings for purposes of temporary operation could be made even though there is a contested hearing either in progress or requested on the permanent license.

The authority given to the Commission to adopt and follow expedited procedures is, in my view, a part of the genesis of the administrative process that its flexibility permits adoption of approaches subject to expeditious adjustment in the light of the particular exigencies of individual situations. Further, those procedures would preserve opportunity for interested parties to participate in the process in a meaningful way if they have something meaningful to contribute.

Under the proposed legislation, if an interested party after being given the opportunity to file an affidavit in opposition to a petition for a temporary license does not raise any substantial issue of material fact, or identify the kind of facts they propose to adduce thereon, and by what witnesses, there should be no excuse for any delay in the licensing process. Prompt action in the light of an absence of a substantial issue is not some strong innovation either to the administrative or judicial process. Under such circumstances, the Commission, in its discretion, could make a decision on the basis of the pleadings and any other supporting submissions without having any kind of oral presentations. In any event, a hearing under such circumstances would not be of the trial or evidentiary type and should be initiated and completed promptly if held at all.

One further point is that even in the absence of an emergency, there is considerable latitude in the present law for the Commission to expedite hearings. The presentations and contentions of parties can, in most cases, be fully and fairly considered by procedures other than prolonged hearings. Incidentally, I understand that the Commission has taken the position over the years that the hearing requirements now in the Atomic Energy Act are statutorily of the evidentiary type. I find nothing in that act or its legislative history which says that these hearings must be "on the record" or that the Commission lacks authority under present law to control the manner in which hearings are conducted and the type of hearing held. There may well be a role for such hearings if there is something to adjudicate. But the fortuity of an agency's use of adjudicatory proceedings when there is nothing to adjudicate should not be available for certain groups to abuse that process and thereby the interest of a majority of the public as well. A procedure which permits a selected few, who are not responsible to the public, to control the wishes and interest of the majority is not compatible with government through elected and appointed officials, and can result in an unwarranted abuse of the administrative process. Procedural maneuverings and similar actions which are consistent with, and perhaps attributable to, a desire for protracted delay must not be tolerated either in an emergency or a routine licensing situation.

I fully support H.R. 14655. I will append to my remarks some pertinent excerpts which emphasize the need for additional actions to help avoid future emergency-type measures:

Excerpt From Joint Committee on Atomic Energy Report No. 91–315 Authorizing Appropriations for the AEC for Fiscal Year 1970

Comprehensive site planning.—As suggested above, current conflicts between production and distribution of electricity and protection of the environment—regardless of the fuel employed—are a prelude to larger long-term problems. The seriousness of the siting situation has been reviewed by the committee during recent hearings. Also, it is emphasized by recent reports noting that the United States will require more than three times its existing generating capacity within the next 20 years. An interdepartmental study, "Considerations Affecting

Steam Powerplant Site Selection," sponsored by the Office of Science and Technology, pointed out last year that "The need for coordinated planning to identify the prime sites that will best satisfy the many economic and environmental requirements for future plants is rather obvious." The Chairman of the Federal Power Commission underscored this point earlier this year when he observed:

"Undoubtedly, the major problem that the industry faces is the sharply increased concern of the United States over environment and esthetic considerations. Electric utilities are now barred from burning certain fuels in some major cities in this country; electric utilities can no longer select a site for a generating plant exclusively on the basis of where it fits most effectively from the point of view of system design; no longer is it prudent for utilities, regardless of form of ownership, to keep their plans for powerplant sites and transmission line rights-of-way close to their chest; no longer are hydroelectric sites on the Nation's rivers automatically developed because engineering studies disclose the tremendous electrical potential available from such facilities. In short, there is a new day."

The industry trade magazine, Electrical World, has asserted that—

"One of the utility industry's most pressing needs is for a long-term policy approach that will assure the availability of generation plant sites in the decades ahead.

"The pinch is already being felt. Hardly a region in the Nation has escaped some kind of hassle over powerplant siting. At the moment, two or three of the larger utilities are in a bind either because they are being restrained from using the sites they have acquired, or because the sites they have considered do not satisfy certain requirements.

"There are several reasons why the problem of plant siting promises to become more critical in the years ahead. First, the expanding population with its increasing industrial and recreational needs is preempting land areas suitable for siting. Second, the geometric expansion of power generation, involving single units in the 1,000-megawatt range, greatly escalates the physical requirements—particularly the water requirements—for sites. Third, society's increasing sensitivity to environmental values is already greatly reducing the availability of sites."

The magazine cited site identification surveys, State-sponsored reservations or zoning, and advance utility purchases as means of overcoming the problem, and concluded:

"But whatever approach is taken, we think that the public interest will be served by reserving, designating, or acquiring plant sites as far ahead as possible. Further, we think much is to be gained by informing the public as far in advance as possible of the planned use of such sites. Unless some thoughtful, constructive approach is worked out, this problem of plant siting will go from worrisome, to critical, to disastrous in the years ahead."

In the eyes of the Joint Committee the problems of electric generating plant siting has already passed the "worrisome" stage—it is becoming critical. Intense and strengthened followup actions are essential to the initial efforts on the Interdepartmental Steam Power Plant Siting Study. Therefore, the committee urges that the Nation's electric utilities and appropriate agencies of government at all levels redouble their efforts and join forces to establish realistic, long-range plans for the selection and utilization of sites for large generating facilities so as to best meet the dual public demand for electric power and environmental protection. A half century ago, procedures were initiated for rational, regional development of the power potential of our Nation's rivers. Now more meaningful efforts should be directed toward applying similar comprehensive planning principles to systematic solution of siting difficulties associated with the burgeoning number of thermal stations and their power transmission systems. Reliance on ad-hoc plant-by-plant arrangements has already proved inadequate; a bold new approach is long overdue.

Legislation regarding AEC licensing procedures, 92d Congress, First Session.—The Joint Committee's Subcommittee on Legislation held extensive public hearings on June 22, 23 and July 13 and 14, 1971, on legislation proposed by the AEC to amend certain of the existing provisions of the Atomic Energy Act of 1954, as amended, which concern the licensing of nuclear facilities (S. 2152 and H.R. 9286 and S. 2151 and H.R. 9285). An opportunity was also afforded sponsors of related bills referred to the committee to testify. The related bills concern Federal-State regulation of radioactive effluents from nuclear facilities (H.R. 997, H.R. 1743, H.R. 3683, H.R. 6933, H.R. 7539, and S. 2050); and the transfer of certain AEC regulatory authority to other agencies (H.R. 1197, H.R. 1742, H.R. 6310, and H.R. 9542). The four-volume record of these hearings has been printed ("AEC Licensing Procedure and Related Legislation").

The testimony presented at the hearings emphasized the need for procedural changes to improve the licensing process for nuclear power reactors. Although the objective of the AEC's proposed early site legislation of providing for early resolution of environmental issues was generally viewed favorably by the witnesses, numerous valid questions were raised regarding its practicability. Such matters as the relationship between the early site and construction permit proceedings, the relationship of the early site authorization proceeding to other requirements such as the review required to comply with the National Environmental Policy Act (NEPA), requirements under water quality legislation, and the permits under the Refuse Act of 1899, the opportunity for hearing at the operating license stage, and the compatability and harmony of the siting provisions in H.R. 9286 with general powerplant siting legislation currently pending before other committees were not thoroughly developed in the testimony. Furthermore, considerable doubt was expressed as to whether sufficient information could reasonably be made available at the early site authorization stage to settle with finality all significant site-related environmental matters.

There was general agreement that the Commission, under its existing legislative authority, could take many procedural steps to improve the licensing process.

In view of such questions and in the absence of any clear showing by the AEC that the proposed legislation would resolve any short-term problem even if enacted this session, the Subcommittee on Legislation announced on October 19 (JCAE Press Release No. 665) that it would appear more prudent for legislative action to await further developments on overall powerplant siting legislation currently pending before other committees. An objective of overall powerplant siting legislation should be to recognize the AEC's responsibility for all radiological considerations associated with nuclear plants, and to place in State and regional authorities the general responsibility for deciding other environmental matters. The press release stated that it is hoped that such legislation, which is vitally needed to provide our Nation with a coherent and rational powerplant siting policy, will soon be enacted; and in the meantime, the Commission was urged to work with States, such as Maryland, which have recently enacted powerplant siting legislation to assure that appropriate State officials are aware of applicable requirements for the approval of sites for nuclear plants and that everything is done to coordinate the required approvals.

A Joint Committee on Atomic Energy staff analysis of the testimony presented at the regulatory hearings was published in the CONGRESSIONAL RECORD, volume 117, part 29, page 38597.

Subsequent to the completion of these hearings, a major influence upon the licensing process was the Calvert Cliffs decision rendered by the U.S. Court of Appeals for the District of Columbia Circuit on July 23, 1971. Practically all of the basic problems raised by that decision stem from interpretation of NEPA and the Water Quality Improvement Act of 1970. Corrective legislation, if needed, would be under the cognizance of the committees responsible for NEPA and water quality legislation and could address the problems involved which are not concerned solely and directly with the licensing of nuclear powerplants—they affect all Federal activity within the scope of those basic acts. In this regard, the Senate Interior and Insular Affairs Committee held hearings on November 3 on the impact of the Calvert Cliffs decision. If it is demonstrated that corrective legislation is needed and that it is not forthcoming from others, the subcommittee stated that it will carefully consider proposals relating to the implementation of NEPA in the limited sphere of licensing of nuclear powerplants. It is noted that the Commission has published regulations, which it believes will be adequate, to meet the dual challenge of environmental protection without undue delay which would threaten the vitality of regional power supplies. That view was expressed by Commission witnesses at the November 3 hearing and at a hearing held on November 15 by the Subcommittee on Public Works of the House Appropriations Committee.

During the hearings held in June and July, it was announced that additional hearings might be held at a later date to receive testimony from interested members of the public on matters associated with nuclear powerplant licensing other than in connection with H.R. 9285 and H.R. 9286. These additional hearings also await the corrective action taken under existing authority, and a reasonable opportunity will be afforded the Commission to act in that regard. It is noted that, during the closing months of this session, the Commission appeared to be acting positively to help alleviate some of the problems identified in the June-July hearing record and in subsequent committee correspondence with the Commission.

In that regard, Congressman Price, in his letter of October 19, 1971, to Dr. Schlesinger, forwarding the press release (No. 665) of the same date on the AEC's bills referred to above, said:

"The press release also reiterates several earlier suggestions by the Committee that the Commission act under the existing authority bestowed on it to make procedural changes in the licensing hearing process which are long overdue. . . .

"Although these matters have been discussed and considered for some time, the remedial action has been slow. It would be very much appreciated if the Commission would advise me of the specific procedural changes which are being considered, and the target dates for their implementation. I would also like to know the extent to which the services of the Chairman of the Administrative Conference of the United States and other interested persons will be used in this effort. I would like to be informed of any obstacles which are foreseen to implementing the procedural changes which may be needed to provide for more effective public participation in the licensing process and to restore vitality to the administrative licensing process.

"I close in noting that the press release also stated that if it develops that needed procedural changes will require additional legislative authority, the Committee stands ready upon request to consider carefully any proposal which the Commission forwards to the Congress."

Mr. HOSMER. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee (Mr. BAKER), who now represents the Atomic Energy Commission's Oak Ridge National Laboratory.

Mr. BAKER. Mr. Chairman, by an act of the Tennessee Legislature, my congressional district has been extended to include Oak Ridge in Anderson County, Tenn.

As everyone knows, Oak Ridge has been one of the centers of research and development of atomic energy in this Nation.

Several weeks ago, I had the opportunity to make an initial visit to Oak Ridge and crowded into a heavily scheduled day were meetings with the officials of the Oak Ridge National Laboratory, the Atomic Energy Commission, and the Oak Ridge Associated Universities. They gave me a most comprehensive briefing on activities which are underway at this critically important scientific complex.

During an information-crowded 2 hours, so much was thrown at my brain it is imposssible to recall all the intensive development which is taking place across a broad spectrum. I do recall that emphasis was placed on the exploding demands for energy throughout this Nation and the rapidity with which these requirements continue to recur.

Our electrical energy needs, I was told, have doubled in each 10-year period since 1930. Experts considered it impossible for these demands to double during the 1960's—but they did. Again to double during the 1970's seems impossible—but prudent men must benefit from statistics as they reflect for them the future which is described by the past.

We are launching on the development of a nuclear breeder reactor which will utilize a lower level of uranium so that we will literally burn the rocks and the minerals of the ocean. A great deal of concern is being expressed by environmentalists relative to the safety surrounding these facilities. I am taking this opportunity to strongly suggest that the experimental breeder reactor project be located as near as possible to Oak Ridge and the National Laboratory where nuclear scientists and their families can live close by. They thus prove to the Nation that every precaution is being taken to make this energy effort completely safe to the extent that they will feel no hazard to their families or to themselves by living constantly close to nuclear installations.

I am deeply impressed with the diligence which has been manifested by these dedicated scientists in Oak Ridge where an unimaginable concentration of scientific training, knowledge, and experience is located.

I have absolutely no reservations in granting to the Atomic Energy Commission the authority to issue temporary licenses for nuclear power reactors and would not hesitate for a moment to give their evaluations full faith and credit beyond any evaluation which may be made by any private or governmental agency, including the Environmental Protection Agency.

Mr. Chairman, I urge the passage of this legislation as necessary to the comfort and well-being of the people of this Nation.

Mr. HOSMER. Mr. Chairman, I have no further requests for time.

Mr. PRICE of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Chairman, I believe that the passage of this bill by a simple yea-and-nay voice vote offers more potential dangers to this Nation than might be immediately perceived. H.R. 14655 provides that the Atomic Energy Commission can issue temporary licenses for nuclear powerplants deemed essential to meet energy needs. It will authorize the emergency use of nuclear powerplants during emergency periods—that is, during blackouts. Such usage will be feasible even though a plant's full-time license is being contested.

I believe that such an authorization is dangerous in this sense. We all know of the energy shortage which threatens our country. We have already suffered more than one blackout in major metropolitan areas. What most people do not realize is that energy usage in this country has the habit of doubling every 10 years. Thus what appears at the outset—and is—an energy shortage is more than matched by an energy habit. Driving down any major interstate highway at 4 o'clock in the morning, you will perceive a fully illuminated expanse of concrete, stretching mile on end, with almost no one on it. This is energy usage, based on an energy habit. The same manifestation can be witnessed in those enormous skyscrapers in cavernous Manhattan, lit from the lobby to the top floor from dusk until dawn.

What I am trying to say is that we are in the habit of increasing our use of energy far over our resources. Should this habit continue, blackout shall follow blackout. Our invocation of H.R. 14655 will become no emergency at all, but a habit, a constant way of life, with all of the resultant environmental and safety problems that can be expected from plants whose full-time licenses are still being contested.

As a matter of fact, such plants may begin operating full-time, even though on paper they will still function only in emergencies. This would be an extremely dangerous situation. The passage of H.R. 14655 by the House today opens the door to such a possibility. My hope is that it will not come to pass. My fear, however, is that it may.

And there is another danger. Competent geologists assure us that there are only about 30 years worth of uranium beneath American soil. My fear is that this will become depleted through emergency usage before we can develop the fast-breeder reactor so that it can be used commercially. Thus, we may well find that we have depleted all or most of our uranium stockpile before we can turn it into a resource, through usage of the fast-breeder reactor, which will truly close the gap between energy needs and energy resources in this country.

Should we do that, Mr. Chairman, it would indeed be a tragedy for America. And once again it is my fear that H.R. 14655 opens the door to such a likelihood.

Mr. BINGHAM. Mr. Chairman, H.R. 14655 is a bill which would amend the Atomic Energy Act of 1954 to provide for the issuance, under certain circumstances, of licenses for temporary operation of nuclear powerplants. This bill is a far different one from the interim licensing proposals introduced several weeks ago—H.R. 13731, H.R. 13732, and H.R. 14060. Most importantly, Mr. Chairman, H.R. 14655 retains the right of the public and interested parties to participate in the decisionmaking process by having such temporary operating authority issued only after a hearing and certain specified findings.

Section 192a first provides that a petition for temporary operating authority may not be filed until after the Advisory Committee on Reactor Safeguards has issued its report, the Commission has completed and published the regulatory staff's safety evaluation, and all of the applicable requirements of the National Environmental Policy Act are complied with. Thus, a petition for temporary operating authority cannot even be filed until after the administrative review has been completed. This section further provides that a mandatory public hearing must be held on any such petition and that upon completion of the hearing, the Commission must make findings that the plant has been constructed properly and will operate in accordance with the rules and regulations of the AEC; that there will be adequate protection of the environment; and that limited operation of the facility is essential to meet the power shortage which is the subject of the petition.

The hearing required by H.R. 14655 is an adjudicatory hearing, so that parties opposing the license will have the opportunity to investigate fully the facts which are alleged in support of the temporary operating authority. Thus, the Commission's ultimate decision in connection with an issuance or not of a temporary operating license will be made after all parties have had an opportunity to be heard, which includes the traditional rights of discovering valuable and relevant information in support of each of their positions and of cross-examination of persons holding opposing views. Thus, the bill does not disturb the present and salutary concept in sections 181 and 189 of the Atomic Energy Act, as supplemented by the relevant sections of the Administrative Procedure Act—5 U.S.C. sections 554, 556, and 557—that public hearings and public participation are an important check upon in-house administrative review.

It is clear that the bill provides for the issuance of temporary operating authority to meet a power shortage only after it has been demonstrated that all safety, radiological and environmental problems associated with such limited operation have been resolved satisfactorily in accordance with the Atomic Energy Act and the National Environmental Policy Act. Since the bill would not permit the issuance of a temporary operating license when there remains outstanding in a contested operating hearing an unresolved safety issue which is also related to temporary operating authority, H.R. 14655 would not permit the bypassing of adjudication of unresolved safety issues by virtue of an expedited hearing in connection with the issuance of a temporary operating license.

Finally, H.R. 14655 permits the Commission to issue rules and regulations—not inconsistent with the purposes of H.R. 14655—to expedite the hearings in connection with the temporary operating license. That is, the Commission could devise rules and regulations which could shorten the discovery process prior to the actual hearing by, for example, requiring that all information in support of the petition and the various administrative reviews be made publicly available upon the filing of the petition for a temporary operating license; but the Commission could not issue rules and regulations to expedite temporary operating hearings which would do away with the traditional rights of a party to a hearing, to discovery, to cross-examination and to a full opportunity to be heard.

Mr. Chairman, I opposed the various interim licensing bills proposed in the Joint Atomic Energy Committee. Although H.R. 14655 mains public participation and an adequate adjudicatory process in the granting of interim operating licenses, nevertheless I consider it unwise, unnecessary, and I oppose it. As I argued during consideration of the sister proposal, H.R. 13752, which amended NEPA to create an interim licensing execption for nuclear power plants, the AEC has the authority to grant, in effect, "interim licenses" without new legislation. Moreover, the proponents of the bill have failed to show one plant which would go into operation sooner for this summer's peak energy period because of H.R. 14655.

Mr. BADILLO. Mr. Chairman, I rise in opposition to H.R. 14655. Although this legislation is intended to authorize the AEC to issue only temporary operating licenses for certain nuclear powerplants, we have had sufficient experience with similar measures to know that "temporary" often becomes permanent.

Further, I fail to be reassured that the public interest and the environment will be fully protected by the bill's requirement that public hearings be guaranteed. All too often these hearings are simply pro forma and the goals of narrow special interests manage to be railroaded through the proceedings with hardly any meaningful consideration.

Certainly we must effectively cope with the serious problem of being assured of inexpensive, reliable electrical power. However, the manner in which we meet this urgent need must be wholly consistent with the protection of our environment. The answer to this problem is not the construction and operation of nuclear powerplants which are potentially dangerous to people and surroundings and create a further ecological imbalance.

Last summer I introduced legislation to establish a national power grid to achieve electric reliability while protecting the environment. Joined by Representatives TIERNAN and ABOUREZK and Senator METCALF in sponsoring this measure, I pointed out at that time that by connecting all our major power systems we would create a spinning reserve available to take care of any emergency.

The answer to our electrical energy crisis is not more nuclear facilities. I am convinced that the best interests of the public and the environment will not be served by H.R. 14655 and believe the "protections" attributed to it are deceptive. I urge our colleagues to join with me in defeating this measure.

Mr. FLOOD. Mr. Chairman, I have not opposed H.R. 14655 because I consider that this bill will not in any significant way change the safety hearing process for nuclear powerplants. The public will still be able to raise legitimate issues concerning nuclear safety. The public will still be able to present testimony, to rebut evidence and to cross-examine witnesses as is the course in the trial-type safety hearings now being conducted. The public will still be guaranteed that the hearing will meet the provisions of the Administrative Procedure Act. In short, H.R. 14655 does little more than slightly modify the timing arrangements for the conducting of the hearing and change slightly some minor legal procedures.

This bill is far different from H.R. 13752 which I strongly opposed. That bill seriously affected the application of the national environmental policy as related to the licensing of nuclear powerplants. H.R. 14655 is also far different from H.R. 13731, H.R. 13732, and H.R. 14065 which were under consideration by the Joint Committee on Atomic Energy. Those bills would have essentially cut out the public's right to the airing of safety issues relative to the licensing of nuclear plants. The public would only have been able to take part in a legislative type hearing and would not have been assured any judicial review. Had any of these bills reached the floor I would have opposed them.

H.R. 14655 assures the public's rights and for this reason I support it. Discussions on floor today by members of the Joint Committee on Atomic Energy attempting to create legislative history are unnecessary, are confusing, and serve no purpose. H.R. 14655 is a very carefully drawn piece of legislation that was reported out of committee as a compromise measure. My support for this bill is based solely on a careful reading of H.R. 14655 and my understanding that it protects in every way the public's rights to a fair hearing and due process. It is not based in any way on various members of the committee construing on the floor that the legislation means this or that.

Mr. FRENZEL. Mr. Chairman, I rise today in support of H.R. 14655. I wish to commend the Joint Committee on its action in bringing this particular proposal to the floor rather than the original version, H.R. 14065. The bill reaffirms the Atomic Energy Commission's existing authority to issue operating licenses for interim plant operations. It also firmly reconfirms the public right to a hearing on that interim license.

The permits issued under H.R. 14655 are intended to be utilized solely for emergency purposes. They exist only for the duration of the emergency period or until the full NEPA and safety reviews are completed, whichever occurs first.

This bill guarantees that these hearings will meet the requirements of the Administrative Procedure Act (5 U.S.C. secs. 554, 556, and 557) and the Atomic Energy Act (secs. 181 and 189). These guarantee a public hearing on any order for the insurance of a license by a Federal agency (5 U.S.C. sec. 554(c)(2) and 42 U.S.C. sec. 2239(A)).

As a minimum these hearings would include the right to submit relevant documentary and oral testimony. Included also would be the rights of conducting cross examination to disclose factual information and the use of rebuttal material. The language of the committee report specifically confirms that the right to discovery and cross examination by stating they shall not be abused.

Also, consistent with present AEC procedures, H.R. 14655 maintains these requirements that findings on safety and environmental matters must be made by the Hearing Board. This applies in any case where a hearing has been properly requested.

Mr. Chairman, I support this bill in the form which the Joint Committee endosed and I am hopeful that its original intent will be maintained. I am particularly pleased with what is apparently a new attitude within the Joint Committee which is dramatized by the substitution of H.R. 14655 for earlier, more objectionable versions.

Mr. EILBERG. Mr. Chairman, I support H.R. 14655, for I believe that, although it allows a shortened and speeded up safety hearing process for the issuance of temporary operating licenses for nuclear powerplants, it in no way eliminates or substantially alters the right of the public to an adequate safety hearing and to the due process as guaranteed by the requirements of the Administrative Procedure Act. I strongly opposed H.R. 13752 when it was before this body on the grounds that amending the National Environmental Policy Act would serve no purpose since there was not at that time and is not at this time one single nuclear powerplant in this country that is being held up for any NEPA considerations. I argued that H.R. 13752 was actually a subterfuge for speeding up the licensing process while ignoring the increasing number of nuclear experts who have now openly expressed grave doubts about the operability of the emergency core cooling system. The system of last resort to prevent a major nuclear accident. During the floor debate last month, I stated that I was not willing to compromise public safety and I want to emphasize that point again. Surely, there is no one in the Congress today who would be willing to risk a major nuclear accident by speeding up the hearing process to omit the adequate consideration of the safety issues posed by the construction and operation of nuclear powerplants.

H.R. 14655 does alter the right of the public to a hearing on an interim license. However, such hearing will meet the minimum requirements of the Administrative Procedure Act (5 U.S.C. 554 556, and 557) and the Atomic Energy Act (secs. 181 and 189) which guarantee a public hearing on any order for the issuance of a license by a Federal agency (5 U.S.C. 554(c)(2) and 42 U.S.C. 2239(a)). Intervenors in this hearing would have the minimum right to submit relevant documents, present oral testimony, rebut evidence and conduct cross-examination to fully disclose the facts. The only procedural changes this bill authorizes are a substantial and liberalized discovery process before the hearing—to save hearing time—a fixed length to be established for the hearing, and the establishment of ground rules whereby areas of cross-examination and the issues would be defined. The committee report confirms the right to discovery and cross-examination by indicating that they shall not be subject to abuse, meaning the applicant's abuse of discovery by refusing promptly to produce all data requested and the intervenor's abuse of cross-examination by using it in lieu of discovery.

A most important provision is that H.R. 14655 is only to be used when an emergency exists and when an independent investigation of an emergency power claim has been substantiated. This means a thorough study would have to reveal that alternatives such as the availability of alternate sources of power were considered and found not to exist. The Committee on Merchant Marine and Fisheries report on H.R. 13752 contains a good discussion of the definition of "emergency" and while the report leaves the discretionary power with AEC, a recommendation made on page 9 of the report is worth noting here. The report states:

> Efforts to avoid this contingency (declaring an emergency) should probably include the curtailing of interruptible power (since this was purchased at substantially lower rates with the prior understanding that service may be cut off) . . ."

It is clear that a utility should not be able to claim an emergency to institute the procedures contained in H.R. 14655 if the utility is doing this just to maintain its "interruptible power" service, a service which the utility has said by definition is not essential.

Finally, H.R. 14655 is intended to be used only as long as an emergency exists and the AEC is charged with assuring that there is no delay in the completion of the full operating license permit procedure.

Mr. WOLFF. Mr. Chairman, when H.R. 13752 was being considered by the Joint Committee on Atomic Energy, I vigorously opposed it as a needless and dangerous amendment to NEPA. I am supporting H.R. 14655 because while its objective is also the interim licensing of nuclear powerplants, its method for achieving that objective are consistent with the principles of due process of law and with the National Environmental Policy Act.

Unlike the other interim licensing proposals, H.R. 14655 guarantees the public's right to a hearing and full judicial review under the provisions of sections 554, 556, and 557 of title 5 of the United States Code. Equally important is the fact that H.R. 14655 narrowly defines the conditions under which its authority may be utilized by establishing that no emergency warranting interim licensing shall be deemed to exist until the applicant has thoroughly exhausted available electric power resources and alternatives to interim licensing, or until an appropriate reserve requirement as historically deemed necessary has been established to measure available supply against, or until the ability of the plant to meet the problem has been proven.

In this respect, the utility has a heavy burden to establish by a detailed factual presentation—not merely by opinion testimony—that it has met these preconditions to the issuance of an interim license. These factual presentations even where they are supported by the FPC or other Federal agencies, will be subject to the public's right of cross examination. No issue shall be deemed foreclosed in the hearing unless the hearing board determines that there is no genuine issue of fact with respect to that issue.

A recent example of utility industry's ability to develop imaginative sources of power when nuclear plants are not available underlines the desirability of the AEC requiring a utility to exhaust completely all possible alternatives prior to considering interim licensing. The Consolidated Edison Co. of New York has alleged that it needs more electric power for this summer in New York City. Originally it claimed that all possible sources for electric power other than its Indian Point No. 2 nuclear plant had been exhausted and that it needed the plant to operate during the summer. However, several problems including a fire and a safety modification to the steam valves, made it impossible for the plant to be available to generate electricity this summer. Suddenly, Con Ed found a solution. Today Con Ed is attending a hearing for the purpose of purchasing electric power from other sources. I am sure that if they had to, other utilities could be equally inventive.

I am gratified that as a result of my efforts, and those of many who joined with me in opposing earlier interim licensing efforts, the committee has reported to the floor a bill which provides both for licensing and for protection. The key factor is that nuclear powerplants can, under this legislation, be licensed for operation only when there is no other alternative. The retention of the hearing and judicial process should insure adequate environmental safeguards.

Mr. PRICE of Illinois. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby added to the Atomic Energy Act a new section 192 to read as follows:

"SEC. 192. TEMPORARY OPERATING LICENSE.—

"a. In any proceeding upon an application for an operating license for a nuclear power reactor, in which a hearing is otherwise required pursuant to section 189 a., the applicant may petition the Commission for a temporary operating license authorizing operation of the facility pending final action by the Commission on the application. Such petition may be filed at any time after filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by subsection 182 b.; (2) the safety evaluation of the application by the Commission's regulatory staff; and (3) the regulatory staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 853) or, in the case of an application for operating license filed on or before September 9, 1971, if the regulatory staff's final detailed statement required under section 102(2)(C) is not completed, the Commission must satisfy the applicable requirements of the National Environmental Policy Act prior to issuing any temporary operating license under this section 192. The petition shall be accompanied by an affidavit or affidavits setting forth the facts upon which the petitioner relies to justify issuance of the temporary operating license. Any party to the proceeding may file affidavits in support of, or opposition to, the petition within fourteen days after the filing of such petition, or within such additional time not to exceed ten days as may be fixed by the Commission. The Commission shall hold a hearing after ten days' notice and publication once in the Federal Register on any such petition and supporting material filed under this section and the decision of the Commission with respect to the issuance of a temporary operating license, following such hearing, shall be on the basis of findings on the matters specified in subsection b. of this section. The hearing required by this section and the decision of the Commission on the petition shall be conducted with expedited procedures as the Commission may by rule, regulation, or order deem appropriate for a full disclosure of material facts on all substantial issues raised in connection with the proposed temporary operating license.

"b. With respect to any petition filed pursuant to subsection a. of this section, the Commission shall issue a temporary operating license upon finding that:

"(1) the provisions of section 185 have been met with respect to the temporary operating license;

"(2) operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection of the environment during the period of the temporary operating license; and

"(3) operation of the facility in accordance with the terms and conditions of the temporary operating license is essential toward insuring that the power generating capacity of a utility system or power pool is at, or is restored to, the levels required to assure the adequacy and reliability of the power supply, taking into consideration factors which include, but need not be limited to, alternative available sources of supply, historical reserve requirements for the systems involved to function reliably, the possible endangerment to the public health and safety in the event of power shortages, and data from appropriate Federal and State governmental bodies which have official responsibility to assure an adequate and reliable power supply.

The temporary license shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof, and the requirement that the licensee not retire or dismantle any of its existing generating capacity on the ground of the availability of the capacity from the facility which is operating under the temporary license. Any decision or other document authorizing the issuance of any temporary license pursuant to this section shall recite with specificity the reasons justifying the issuance. The decision of the Commission with respect to the issuance of a temporary operating license shall be subject to judicial review pursuant to the Act of December 29, 1950, as amended (ch. 1189, 64 Stat. 1129).

"c. The hearing on the application for the final operating license otherwise required pursuant to section 189 a. shall be concluded as promptly as practicable. The Commission shall vacate the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license pursuant to subsection b. of this section shall be without prejudice to the position of any party to the proceeding in which a hearing is otherwise required pursuant to section 189 a.; and failure to assert any ground for denial or limitation of a temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license.

"d. The authority under this section shall expire on October 30, 1973."

Mr. PRICE of Illinois (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. If there are no amendments to be proposed, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FOLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 14655) to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for nuclear power reactors under certain circumstances, and for other purposes, pursuant to House Resolution 953, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks and to include pertinent matter on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON INTERNATIONAL TRADE PROBLEMS

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, if the $2 billion trade deficit this Nation suffered last year, our first in nearly 100 years, did not open the eyes of Congress and the administration about our international trade problems, perhaps the latest report from the Department of Commerce will.

According to DOC, we have, in just 3 short months, nearly equaled that record. In the first quarter of 1972, we have posted a trade deficit of $1.5 billion, getting off to the worst start in our history. Projected over the remainder of the year, we face an unbelievable deficit of $6 billion.

All is not gloom, however. The DOC links its ominous announcement on trade with a cheerful report on the Nation's economy. The reason for our lousy start in trade, DOC says, is because our economy is in such good shape as compared to that of other countries that America is the best place for them to sell their goods.

That should come as heartening news for nearly 6 million Americans who are paying the high cost of food these days from their unemployment checks.

STATEMENT OF CONGRESSMEN BOB MATHIAS AND B. F. SISK, IN THE HOUSE OF REPRESENTATIVES, MAY 3, 1972, ON NATIONAL RAISIN WEEK

(Mr. SISK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SISK. Mr. Speaker, in the interests of bipartisanship my colleague, Congressman BOB MATHIAS, of Visalia, and I are joining in a statement on a distinctly nonpartisan issue and one on which there certainly is no partisan disagreement—the delectability of California raisins.

The 63d National Raisin Week, which we are celebrating through May 7, gives special recognition to the California raisin industry, which, in a normal crop year, produces, processes and markets one-half the world's supply of raisins.

National Raisin Week, the Nation's oldest food festival, calls attention to a quarter-billion dollar industry which directly involves many thousands of people in the production, distribution, and sales of raisins in the retail grocer and industrial and institutional handling of raisins in all forms.

California vineyards and the related industries engaged in producing, processing, and distribution supply an average of well over 200,000 tons of delicious raisins a year for eating out of hand, for cooking, for use in baked foods, and in gourmet dishes.

Unfortunately, a severe frost has sharply curtailed this year's raisin variety grape crop, and various raisin industry organizations are urging growers to make as nearly a normal supply of raisins as possible to maintain domestic and export markets.

High commendation for its work in this effort and for its activities in the fields of research, promotion, and advertising, is merited by the California Raisin Advisory Board.

Utilizing funds provided by participating producer and processor members, CALRAB carries on its program of aggressive advertising and promotion not only domestically but in countries throughout the world by utilizing market development funds from the U.S. Department of Agriculture's Foreign Agricultural Service.

The California Raisin Advisory Board has developed the practically nonexistent Japanese market to the No. 1 export outlet, which now consumes more than 20,000 tons of California raisins each year. CALRAB is now exerting maximum effort to supply the Japanese and other markets during this year of crisis in the raisin industry.

I also wish to point out the important role of the Raisin Bargaining Association, in this and other efforts. During a brief span of less than 6 years, the RBA has brought raisin growers together in a concerted effort to give them a better voice in determining the price they will receive for their products.

Raisins packers are also deserving of praise for their early accceptance of an RBA price offer designed to encourage greater raisin production.

Also meriting special commendation in the raisin industry is the work of the Federal Raisin Advisory Board and the Federal Raisin Administrative Committee, who operate under Federal marketing orders which have done so much to bring about the orderly marketing of our raisin crops and have also been instrumental in the development of export markets.

The raisin industry, which effectively utilizes the self-help tools of sales promotion and advertising in the best American tradition, well deserves a special salute during this National Raisin Week.

RETIREMENT OF CHARLES A. QUATTLEBAUM AFTER LONG SERVICE TO CONGRESS

(Mr. BROYHILL of Virginia asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BROYHILL of Virginia. Mr. Speaker, May 31, 1972, will mark the retirement of a man who for more than 35 years has performed unique service in the field of education to Congress and thus to the Nation. Mention the Federal role in education here on Capitol Hill, or anywhere throughout the education world, and to many the name Charles A. Quattlebaum immediately will come to mind.

Mr. Speaker, I believe we owe this man respect and appreciation.

Mr. Quattlebaum, a long-time resident of Arlington, Va., obtained his formal education at the University of Georgia; the George Washington University in Washington, D.C.; and Northwestern University in Evanston, Ill. After some years of experience as a public school administrator, he began his career in the Federal Government. Since 1937 he has borne the responsibilities of the top position in the subject field of education in the Congressional Research Service—formally the Legislative Reference Service—of the Library of Congress, which is widely recognized as being one of the world's greatest educational institutions.

In response to requests from congressional committees and individual Members of Congress, through the years Mr. Quattlebaum has not only carried out extensive research undertaking, but has also provided information through conferences with Members, and through numerous written, analytic reports.

In 1951, Mr. Quattlebaum completed the first comprehensive study ever made of Federal educational activities and educational issues before Congress. This was first published in two volumes, as committee prints of the Committee on Education and Labor, and later as a House document, which was widely distributed throughout the Nation. This became generally known as "the Quattlebaum Report" and was so identified in some other publications. Because of the disclosures in this report, Chairman Graham A. Barden of the Committee on Education and Labor referred to Mr. Quattlebaum on the floor of the House as "the best research man in Washington."

In response to requests from the chairmen of the Committee on Education and Labor, in 1960 and again in 1968, Mr. Quattlebaum made comprehensive studies of "Federal Educational Policies, Programs, and Proposals." Each of the reports was published in three volumes, the 1960 report in the form of committee prints and the 1968 report in the form of a House document.

Altogether during his career in the Congressional Research Service Mr. Quattlebaum has written more than 30 congressional documents and committee prints. To meet the nationwide demand for copies, each of a number of these reports has been reprinted several times, even though the first edition has sometimes run as high as 25,000 copies. One of the reports was ordered printed by three different congressional committees, as each committee wanted its own edition.

Several agencies in the executive branch of the Government, and also nongovernmental agencies, have, from time to time, paid for the printing, or purchased from the Government Printing Office, large numbers of copies of one or another of the "Quattlebaum reports." One Government agency several years ago authorized one of its officials to order "5,000 copies of any official report prepared in the future by Charles A. Quattlebaum."

As an unofficial activity throughout the years, Mr. Quattlebaum has written many articles that have been published in educational journals and reference works, including articles in the Encyclopedia Americana and a chapter in the 1960 Yearbook of the American Assembly. He recently served over a period of 2 years as an editorial advisor to a large publishing house in connection with the preparation of a 10-volume "Encyclopedia of Education."

However, it is with regard to his long and unique service to Congress in one of the subject fields of greatest legislative activity that I feel we should take this note of his pending retirement from his career in Government, express our thanks and wish him success in whatever new career he may undertake.

BAD ELECTIONS

(Mr. KEATING asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KEATING. Mr. Speaker, the apparent difficulties in the election procedures that occurred in Cleveland during the Ohio primary point up the urgent need for action in the area of election administration.

I proposed an amendment, that was adopted, to the Federal Election Campaign Act of 1971.

Section 308(c) provides for the Comptroller General to serve as a national clearinghouse for information in respect to election administration.

What happened in Cleveland may have been avoided if they had been able to get the experience of other bad elections that have occurred across the Nation. At the present time, there is no one central place where information on election administration can be obtained.

In Cincinnati, Ohio, during the city council race there were no election returns until the Sunday after the election. The voters of Cincinnati had to wait 5 full days before the results of their election was known. Detroit had a serious election breakdown in both 1970 and 1971. In one of their elections many ballots were never counted, as they were destroyed in a rainstorm.

In November of 1971, the Detroit Free Press reported "for the second time in a row the counting of Detroit's new punchcard ballots turned into a colossal foulup Tuesday night." Some computers broke down.

Election administration problems have also occurred in San Francisco, Atlanta, and Philadelphia.

Election day is the most important in any democratic nation. When the Government fails to function efficiently on this day, a tremendous credibility gap occurs between the Government and the people.

This amendment, which is now law, provides for the Comptroller General to act as a national clearinghouse for information ranging from the personnel working on election boards to the voting and counting methods.

The incidents last night in Cleveland only were the most recent in a long line of election foulups. With a major presidential election coming up this November, the time for action is now.

I insert a letter I am sending to Elmer B. Staats, Comptroller General of the United States:

Congress of the United States,
Washington, D.C., May 3, 1972.

Hon. Elmer B. Staats,
Comptroller General of the United States,
General Accounting Office,
Washington, D.C.

Dear Mr. Staats: During consideration of the Federal Election Act of 1971 I proposed an amendment to establish the Comptroller General as a clearinghouse of information on election administration. This amendment was accepted and is Section 308(c) of the new law—P.L. 92–225. The serious election day troubles in Cleveland only point out the need for immediate study in this area. With a major Presidential election coming up this November, it is essential that information be made available to local officials on how to avoid these mistakes.

I urge you to send investigators to Cleveland and other cities that have had election day difficulties.

My own study done during the development of my amendment showed that serious breakdowns in the election process had occurred in Cincinnati, Ohio; San Francisco; Atlanta; and Philidelphia. I am sure there are other cities that have experienced similar problems.

The most recent difficulties in Cleveland only point out the need for immediate action. Thank you in advance for your cooperation.

Very truly yours,
William J. Keating,
Member of Congress.

INTRODUCTION OF "TRANSPORTATION PAYMENT ACT OF 1972"

(Mr. ADAMS asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. ADAMS. Mr. Speaker, I am today introducing the "Transportation Payment Act of 1972." This legislation, recommended to the Congress by the General Services Administration—GSA—will eliminate or alleviate transportation payment problems which are costly and cumbersome to both the Federal Government and transportation carriers. It will do so by facilitating preparation or elimination of documentation, simplification of transportation procurement practices, reduction in number of lost Government bills of lading, improvement of administrative, and financial flexibility, reduction of billing problems, and facilitation of the audit function.

This legislation resulted from recommendations made by the Joint Agency Transportation Study Group, a group called together to investigate allegations of "excessive" billing points, unwarranted delays in the payment of bills for freight and passenger service, and related administrative cost problems. Its report found that $8.6 million could be saved annually if appropriate administrative and legislative changes were made in the Government transportation business.

Among others, the bill will eliminate the "consignee's certificate of delivery," a practice which is based on an 1823 law and which today clearly is unnecessary. Substitution of a certificate of delivery by the carrier, as authorized by this bill, provides adequate protection to the Government. In addition, this legislation will permit the GSA's bill of lading system to show actual, rather than estimated, transportation charges and will allow payment to be made to carriers on a periodic basis without the necessity of carrier billing. This will reduce sharply the administrative costs of both the Government and the carrier.

Mr. Speaker, I hope this bill will be favorably considered during this session.

THE U.S. POSTAL SERVICE CONCEALS INFORMATION FROM CONGRESS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. ALEXANDER. Mr. Speaker, since March I have tried to secure a copy of a certain option to purchase real property from the U.S. Postal Service. I have been denied this information.

One report that has come to me from within the Postal Service reveals that the Postal Service has paid $713,250 for an unrecorded option to purchase property in Memphis, Tenn., on which it intends to build a regional bulk mail facility. The postal officials will not produce the document and I am unable to determine the accuracy of this information.

Why does the Postal Service refuse a Member of Congress information which should be available to every citizen of the United States? Does it need time to cover up its mistakes? Is it afraid of the truth?

It is my belief that the arrangements made by the Postal Service for the announced site in Tennessee are secretive, excessively expensive, and in violation of congressional intent.

The Congress has a right to know the affairs of the Postal Service. I bring this travesty to the attention of my colleagues.

SUPPORT FOR VOA BROADCASTS TO RUSSIA IN YIDDISH

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, we will shortly have before us a bill which will contain moneys for the U.S. Information Agency. I am already receiving mail, as I am sure other Members are, urging that I resist efforts to cut the funding of that Agency.

Over the last year, many Members of this House have urged USIA to allot some time in its broadcasting to the Soviet Union for the express purpose of providing broadcasts in the Yiddish language; but USIA had refused to do so. In correspondence which I and many others have had with the State Department and USIA, it became clear that their opposition has not been predicated on any technical problem but rather on policy.

We in this House who are concerned about the plight of Soviet Jews have expressed that concern by the passage of House Concurrent Resolution 471 by a vote of 359 to 2. We made it clear that we wish to assist the Jewish minority in the U.S.S.R. in whatever reasonable way they can. One way would be to have Yiddish language broadcasts. It is not that the Soviet Jews do not read and write in the Russian language that we make this request. No, it is made because those familiar with the plight of the Jews in the Soviet Union know that their spirit will be buoyed up by such an acknowledgment by the United States of this national language no longer taught in the Soviet Union while other groups are encouraged to learn in their national language. Even so, great numbers of Jews in the Soviet Union hold fast to their mother tongue—the Yiddish language, not withstanding the efforts of the Soviet Union to engage in cultural genocide.

I am appending a letter to USIA Director Frank Shakespeare sent today by 16 of our colleagues, including myself, informing him of our intentions to seriously consider eliminating funds for all VOA broadcasts to Russia unless it changes its position on this matter:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 3, 1972.

Mr. FRANK SHAKESPEARE,
Director, USIA,
Washington, D.C.

DEAR MR. SHAKESPEARE: We the undersigned wish to inform you that we are dissatisfied with U.S.I.A.'s response to the requests made many times to your Agency for the initiation of broadcasts into the Soviet Union in the Yiddish language.

Our correspondence and meetings with you have been to no avail and our requests have apparently fallen on deaf ears. Furthermore, the reasons for your refusal to include a broadcast in Yiddish have never been adequately defined nor have those offered been satisfactory.

We appreciate that the Congress has authorized you to make decisions on programming. Ultimately, however, the authorization of the entire program rests with the Congress.

We wish to advise you that unless our request is met with a commitment that the VOA will initiate regular weekly broadcasts in Yiddish to the Soviet Union, we will consider a move to eliminate funding for all VOA broadcasts to the USSR when the foreign aid bill comes before the House.

We would appreciate receiving your response in this matter as soon as possible and if you would like to meet with us, we would be pleased to arrange a convenient time.

Sincerely,

EDWARD I. KOCH.

The following Members have authorized the appending of their names to this letter:

William Ryan, Mario Biaggi, John Dow, Bertram Podell, Lester Wolff.

Benjamin Rosenthal, Jonathan Bingham, Hamilton Fish, Jr., Melvin Price, Joshua Eilberg.

Abner Mikva, John Buchanan, Claude Pepper, James Scheuer, Robert Drinan.

VOICE OF AMERICA BROADCASTS IN YIDDISH

Mr. RYAN. Mr. Speaker, on May 26 of last year, I introduced a resolution in the House, House Resolution 454, calling upon the Voice of America to institute broadcasts in the Yiddish language to the Soviet Union. Over 100 of my colleagues have joined in cosponsoring this measure, a clear indication of the strong support that exists for this resolution. I have repeatedly urged the Director of the U.S. Information Agency, through correspondence and in meetings with USIA representatives, to begin Yiddish broadcasts. Yet the USIA has remained adamant in its refusal to initiate these broadcasts.

After the introduction of my resolution and after a meeting which I arranged between concerned Congressmen and State Department and USIA officials, the USIA decided to broadcast twice a week a 10-minute Russian language—not Yiddish—program of "news of particular interest to Jews in the Soviet Union." As I said at the time, that was an inadequate and disappointing response.

Certainly, the precedents exist for Yiddish broadcasts. Currently, the Voice of America broadcasts to several population groups within the Soviet Union whose numbers are less than the total of Soviet Jewry. Reliable estimates place the number of Soviet Jews at 3 million and Yiddish-speaking Jews at 1.25 to 1.75 million. How can the Voice of America continue to justify its policy of allocating 7 hours a week in each of Estonian, 1.4 million population; Latvian, 1.43 million; Lithuanian, 2.1665 million; Georgian, 3.245 million; and Armenian, 3.559 million; whereas only about 20 minutes is broadcast to 3 million Soviet Jews? There is no justification for this warped set of priorities which simply illustrate the lack of understanding of the desperate situation confronting Soviet Jewry.

Soviet Jews are engaged in nothing less than a struggle for survival—a struggle to maintain their religious and cultural identities in the face of a systematic attempt by the Soviet Government to obliterate what remains of a rich cultural and religious heritage. They are being denied the fundamental rights of cultural and religious freedom at the same time as they are prohibited from emigrating to countries where these rights would be honored.

Soviet Jews are prisoners who have committed no crime but have been sentenced to life in a cultural and religious vacuum. How can we continue to refuse them a powerful psychological uplift in the form of broadcasts in their mother tongue? How can we continue to refuse them tangible evidence of our concern about their continued existence as a viable cultural and religious entity?

I say that we cannot, and we must not, sit back while 3 million people yearn for a sign of hope. Let us give them that sign. Let us demonstrate that our commitment to justice and freedom does not stop at our borders but extends to all mankind.

OPPOSITION TO THE WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RYAN) is recognized for 60 minutes.

Mr. RYAN. Mr. Speaker, today and tomorrow—throughout the Nation—millions of Americans will participate in activities designed to demonstrate their peaceful, nonviolent yet total opposition to the continuation of the war in Vietnam.

This House must heed their call.

The war must end. And the Congress must end it.

For over a decade, this Nation has fueled the fires of war in Southeast Asia. The price for this mistaken tragic venture has been incalcuably high—in terms of lives lost and blood shed, in terms of opportunities missed and resources squandered, in terms of division and alienation within our own society.

Yet the war drags on—sapping the very lifeblood of America and bringing untold devastation to Indochina.

The events of the past few weeks should have dispelled whatever illusions may have remained as to the administration's Vietnam policy. Vietnamization is a failure and a fraud. While the President has attempted to reassure the American people with a scene of a war dwindling away, the truth is that the administration is engaged in a massive reescalation of the war.

Behind the facade of such terms as "Vietnamization" and "protective reaction," the facts of Vietnam remain as stark and as brutal as ever.

No amount of Presidential rhetoric can mask the fact that the President's policy is not one of peace—but of continued death and destruction.

A bloodbath has not been prevented in Southeast Asia—it has been created. The self-determination of the Vietnamese people has not been protected. But the Vietnamese people have been subjected to a corrupt military dictatorship.

This dreadful conflict has drained our resources and stained our conscience. It has sacrificed thousands of our most precious possessions—our young men—to the jaws of death. It has warped our priorities. It has brought the twin plagues of unemployment and inflation to our economy. It has brought bitterness and division to our people.

Yet while the administration speaks out of one side of its mouth for peace, it opts for military adventurism—reescalating the war—out of the other. The war is not winding down—it is raining down, raining down ton after ton of devastation dropped from American war planes.

Vietnamization must now be seen for what it is: a device designed to screen from the American people the bankruptcy of our military intervention in Southeast Asia. It is a public relations effort to tranquilize the American people, while the administration heaps coals upon the fire of war in Indochina.

In an effort to keep this policy from coming apart at the seams for all to see, President Nixon has recklessly ordered massive air strikes against the North, spreading as far as Haiphong and Hanoi. A tragic reversion to the discredited bombing policy of the past, this is not the path to peace but the road to more war. The failure of the bombing strategy has been apparent throughout the past 7 years. And it is glaringly apparent now. It has not broken the will of the North Vietnamese to resist, but it has yielded untold death, vast devastation, and millions of refugees. Under President Nixon, the air war has more than continued; it has skyrocketed, with more bomb tonnage being dropped during 1969, 1970, and 1971 than in the previous years of the war.

Last week, on April 26, the President addressed the Nation to explain the current situation in Southeast Asia. Tragically, his address merely echoed the same litany of disaster that was heard time and time again during the Johnson years. After so many years, after so many lives, one would think that the administration would have learned that bombing is not the path to peace; that it would realize that the regime of General Thieu does not promote the real interests or desires of the Vietnamese people; that it would learn that the only course for this Nation to take is to extricate itself entirely from this dreadful war—immediately.

But it has not. Rather than learning from the mistakes of the past, this administration is intent on repeating them. The President's speech of April 26 could easily have been given by President Johnson years ago. Although this week marks the seventh anniversary of the first vote in the House of Representatives on appropriations for the Vietnam war, the policy remains the same.

But there is one difference. On that day in May of 1965, only seven of us in the House voted "no" to war. Now, the vast majority of the American people are with us in our quest for peace.

Time and time again, the people of this country have demonstrated their steadfast opposition to this ghastly war—in the voting booths, in public opinion polls, in the streets. Yet, this administration—as deaf as its so-called majority is silent—has ignored the voices of the people and has fed the fires of war. Not only in direct opposition to the will of the people, but in direct opposition to the law of the land as well.

Section 601 of the Military Procurement Act of 1971—Public Law 91-156—declares it to be the policy of the United States to terminate at the earliest practicable date all U.S. military operations in Indochina and to provide for the withdrawal of all U.S. military forces at a date certain subject to the release of all American prisoners of war.

Yet as we meet here today, American bombers are spreading the ravages of war throughout Southeast Asia, expanding our involvement in this terrible conflict.

This policy must stop. And it is the Congress that must stop it.

As I said on May 5, 1965:

> We cannot bomb people into democracy, nor can we bomb people into negotiations.

It is high time our policy in Indochina reflects this fact.

As I have pointed out time and time again on this very floor, it is the Congress—and only the Congress—which has the constitutional responsibility over war and peace. And the Congress must exercise that responsibility—now.

This House cannot close its ears to the demands of the American people any longer.

This House cannot close its eyes to the horrors of war any longer.

This House cannot shirk its responsibilities any longer.

We have an obligation to our country and to ourselves to do everything within our power to bring the bloodshed and devastation in Vietnam to an immediate halt. I call upon my colleagues to join with me in demanding that the President order an immediate and complete halt to all American air strikes; end our military involvement; and promptly withdraw our forces. I call upon my colleagues to join with me in voting against appropriations for the war.

As I have said time and again on the floor of the House, Congress can end the war by exercising its power of the purse and cutting off all funds for conducting it. That is the how to curb a President who deliberately ignores the will of Congress. That is how to assert congressional responsibility in response to the overwhelming desire of the American people.

At this point in the RECORD I include a perceptive article by Anthony Lewis from the April 17, 1972, New York Times, which points out the damage the renewed bombing has caused to America's place in the world as well as the domestic consequences:

SLAUGHTERHOUSE SIX

(By Anthony Lewis)

LONDON, April 16.—In my generation we grew up believing in America. We knew there was a fundamental decency and humanity in our country, whatever its wrongs, and openness: The wrongs could be changed by reason and persuasion.

The violent anti-American rhetoric of the radicals and the young has therefore repelled us. To call the United States an aggressive country, so tightly controlled that only revolution could change its course, seemed the stuff of fantasy. A general might talk about bombing the Vietnamese back to the Stone Age, but our political system would never allow it.

That faith in America has been sorely tested in these last years, but never more terribly than by Richard Nixon's bombing of Hanoi and Haiphong. For the truth is now impossible to escape if we open our eyes: The United States is the most dangerous and destructive power in the world. And its political leadership seems virtually immune to persuasion by reason and experience.

It is seven years—seven years!—since Lyndon Johnson began bombing North Vietnam. Literally millions of tons of American explosives have been dropped on Indochina since then, but the peninsula is no more "secure"—secure for the American system that we want to impose on it. Only a fool or a madman could believe, now, that more bombing will bring peace to Indochina.

Why are we bombing? To keep Nguyen Van Thieu in office in Saigon. To make sure that Nixon is not the first American President to lose a war. To teach the Russians a lesson about supplying arms to our enemies.

Those are some of the reasons that are advanced. To state them is to laugh, because none of them could remotely justify the disproportionate cost of the bombing in human or political terms.

Proportion: That is the terrible failure of American policy in Vietnam. Of course the Communists are fighting the war too, and attacking in the South, and killing human beings. But they are doing so in what they regard as their own country, for a genuine cause and at immense sacrifice to themselves. The United States is dropping bombs from 50,000 feet above a country thousands of miles from our shores, for no cause that Americans can state. How different the moral equation would be if the officials and the generals who give the bombing orders ever found their own lives at risk.

It is the old question of means and ends. For American leadership in the world there is no more important question. Our allies have accepted our leadership because they believed we would exercise our power with restraint and wisdom.

Englishmen and Frenchmen will not easily lose their affection for America, and certainly not their fear of Communist tyranny, but they can hardly help noticing that it is not the Russians or the Chinese but the Americans who are bombing a distant country for reasons of pride and pique.

Yes, pique. Thinking about it, one realizes that that is the real reason for the escalation: Richard Nixon does not know how else to react to the Communist's advances on the ground, so he has chosen to punish them by slaughter in the mass. That is the ultimate disregard of the relationship between means and ends. It passes mistake and approaches crime.

The effect on Indochina will be to delay still further the adjustment to political reality that must some day take place—reconciliation among the people who inhabit the peninsula. Bombing can only destroy and embitter.

For America's place in the world, too, there must be damage. The reason was expressed the other day—before the expanded bombing—by a German known to American strategists as an outstanding thinker on alliance problems. Theo Sommer, deputy editor of Die Zeit.

Writing in The Financial Times of London, Mr. Sommer said: "It would be sad to see South Vietnam go down, but fatal to see the United States go in again." For "re-escalation" by the American side, he said, would make more likely an eventual American "revulsion" against military commitments elsewhere, notably in Europe.

But the most disastrous effects of the bombing escalation must be inside the United States. For no society can be at peace within when it begins to see itself as a destroyer outside.

What is left to say to those who question the very nature of America? After seven years, it is not possible to go on saying that it will all work out, that peaceful change within the political system will have its effect eventually. I cannot believe myself that violence improves the lot of mankind. The only hope left is that somehow—in some new form of protest—the decent strain in American life will make itself felt. The alternative is black despair.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. RYAN. I yield to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, the President's reescalation of the immoral war in Southeast Asia continues. Out of the ashes of his Vietnamization policy, another phoenix of death and bloodshed arises. And there is no end in sight.

The American people are tired of their complicity in this senseless conflict which has already cost the lives of over 1 million human beings. The rhetoric of "national pride" and "defending our free-world allies" is stale and empty.

Excuses? There are no excuses for the resumption of American bombing of North Vietnam and intensified bombing of South Vietnam.

Democracy? Not in Saigon where a regime as cruel and undemocratic as any in the world reigns with an iron fist.

Peace? Peace will not come from more strafing and more destruction. Peace will not come from hollow words or B–52 bombers. Peace will only come when all American military forces come home from Southeast Asia, when America pledges itself instead to fight substandard housing, racism, drug abuse, inadequate health services, and unemployment at home.

The enemy? Who is the enemy? Is the enemy the men, women, and children of Indochina who seek to determine their own destiny? Or is the enemy in reality those who view war as a game of wits and who seek more and more Pentagon war toys with which to ravage the earth?

And the American people? Do not they have a say in this matter? Congress has time and time again refused to heed their words of protest against the war. The majority of our countrymen cry out for peace and are drowned out by the sounds of bombs dropping.

Tomorrow, May 4, has been set aside as Emergency Nationwide Moratorium Day, a day for the people of this country to peacefully send a message to the White House that the war is wrong and that it must end now.

If the American people cannot influence Congress and the President, then who can?

Mr. RYAN. Mr. Speaker, I certainly thank my distinguished colleague, the gentleman from New York, for his kind remarks. I know how concerned the gentleman has been about the continuation of this war, the effect it has had on the people of his congressional district, and what it has meant in terms of programs which have gone unfunded, intensifying the lack of housing, the lack of educational opportunities, and the lack of hospital care. This war must end, so we can get on with the reconstruction of our cities and eliminate the conditions which are far too widespread in the Harlems and Bedford-Stuyvesants of this country.

Mr. DOW. Mr. Speaker, may I inquire of the gentleman from New York whether I may have some of his time.

Mr. RYAN. Mr. Speaker, I am glad to yield to the gentleman from New York (Mr. Dow) as much time as the gentleman desires to consume.

Mr. DOW. Mr. Speaker, I take this time to congratulate the gentleman from New York (Mr. RYAN) because no Member of this House has been more steadfast, nor more fervent, in his opposition to the war. Even in the darkest days when it seemed to be most unpopular, the gentleman stood firm and resolute. He was a tower of strength amongst the small group that spoke for peace in the early part of the 7 years that the gentleman alludes to. I do not think we can take up the subject any too often, nor do I think that we can fail to congratulate the gentleman from New York (Mr. RYAN) any too often for his leadership.

Now, Mr. Speaker, I should like to make a statement, if I may, and I can do that from this position, I am sure.

Mr. Speaker, our Nation and our President are confronted suddenly with a new aspect of the war in Vietnam. After 7 years of warfare which stayed on course, where surprise was absent, we now have a sudden and ominous situation to meet.

Faced with this tremendous but uncertain challenge, in the high councils of our country the leadership is largely silent. The President himself, when he speaks, stays close to the old words we have heard for so long. Yet everyone knows that our response or nonresponse to the military advances by the other side must soon be determined, and this will indeed require "agonizing reappraisal."

From the words of the President, I judge he realizes the situation is agonizing. But we can detect little in his statements that indicate any reappraisal. The danger is great that the President will still assess the situation in Vietnam on the same old inaccurate scales that have long outlived their usefulness. In his evening talk last Wednesday, he speaks as usual of "naked and unprovoked aggression across an international border." Is this value judgment, raked up across the span of decades, to be the basis for our decisions now in 1972? Still convinced of "Communist aggression," the President says:

> We will not be defeated; and we will never surrender our friends to Communist aggression.

This is a next-to-certain assurance that our reaction to the latest military change in Vietnam will be a major input of force.

Not only is the President still standing four-square on the nebulous base of "Communist aggression," but he sees the present events in Vietnam as a challenge to the Office of President of the United States, where any setback will cause that Office to lose respect. And he said on May 1:

> But if the United States at this time leaves Vietnam and allows a Communist takeover, the office of President of the United States will lose respect, and I am not going to let that happen.

The President, being human, might even conceive that such a loss of respect coming at this time would affect his chances for reelection.

What is in the President's mind, then, has much to do with the decision that has to be made, and very soon, to meet the unexpected situation in Vietnam. It is most disturbing that the President appears to be animated by worn-out and discredited concepts of the threat to us that exists in Southeast Asia, the shibboleth of Communist aggression, and the rationalization which he utters from time to time that military activities in Vietnam are a prerequisite to peace throughout the world.

With all the emphasis that we command, it must be made known to the President that the foundations of his concepts about our involvement in Southeast Asia have crumbled long ago in the face of fact. What he calls "Communist aggression" is really the effort of a once-colonial people to free themselves from Western domination, first French and now American. Since World War II, millions of colonials have secured their release from such domination. It happened all over Africa; India and Pakistan were freed from British rule; Indonesia from Dutch rule; and we, ourselves, granted freedom to the

Filipinos. Freedom was denied to the Vietnamese. Yet, the urge for it burns so strongly that they are fighting still. The determination of their forces, no better armed than the Saigon military group, is a clear indication of the inspiration that Vietnam nationalism instills in soldiers on the other side.

The barley-veiled intention of the President not to be "defeated" in his purpose to bar a "Communist takeover" suggests an ominous and unpredictable exercise of options. Since the use of our principal option, in the past, the employment of ground troops, is still being renounced, we can only speculate in a very vague way about the options still open. After 7 years of bombing, how can we expect more bombing to resolve the situation in a military way? Will there be a sudden landing of the Marines in North Vietnam, predicated on the fact that North Vietnam is largely denuded of troops? Will we bomb Russian ships in Haiphong, or mine the harbor, or use other weapons, too awful to contemplate? Each of these options involves the most practical objections, to say nothing of their moral and political bankruptcy.

Given the declared attitude of the President, it behooves us to bring home to him the fact that immense numbers of Americans no longer accept the simple prejudices and reasonings of the past. We no longer accept the possibility of a military solution in Vietnam.

When he says that respect for the office of the President is at stake, let me answer that respect for the office might be greater on the unique occasion when he admits that Presidents of the United States have made mistakes in Vietnam. I do hope that our President is up to this level of coolness and resolution.

Mr. RYAN. Mr. Speaker, I commend the gentleman for his splendid statement on the situation in southeast Asia. He has been one of the most courageous Members of the House on this subject since he came here to represent the people of his district.

Mrs. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. RYAN. I will be glad to yield to the gentlewoman from New York.

Mrs. ABZUG. Mr. Speaker, as hundreds of thousands of Americans prepare to act on moratorium day, May 4, to demonstrate their opposition to the war in Indochina, once again the House of Representatives is notable for its failure to act and its failure to assert its constitutional authority to help determine whether this Nation shall be at war or peace.

I participate in this special order with a sense of frustration because when there is so much that we as an elected legislative body can do, all that we choose to do is to talk.

Personally, I believe that the House should call a halt to all routine business and focus its attention on legislation that will cut off funding of the war and make clear to President Nixon that the Congress will not longer be an accessory to his disastrous and deliberately deceptive policy in Southeast Asia.

As I have indicated on previous occasions, there are many courses of action open to the House. It could immediately call up any number of bills, especially the Gravel-Drinan bill, for action. I hope that the Committee on Foreign Affairs, which has been instructed by resolution of the Democratic caucus to take action in setting the date for stopping the bombing of North Vietnam and, contingent on the release of our prisoners of war, the leaving of Indochina, will act to report out that bill, which provides for the stopping of bombing immediately and total withdrawal of our forces within 30 days thereafter. It could censure the President for his continuing violation of Public Law 92–156, which called on him to set a specific date for withdrawal of all American forces from Indochina, contingent only on the release of prisoners of war. It could at the very least demand from the executive branch, through the resolution of inquiry device, basic information on the extent of the bombing, the status of Vietnamization, and the present military situation.

At the moment, all we know is what we read in the newspapers, and the headlines tell us that Vietnamization is in a state of collapse, that the South Vietnamese Army is being routed, that Saigon's troops are deserting in huge numbers, and that the response of the United States is to bring in still another aircraft carrier and more bombers.

As in Cambodia and Laos, President Nixon has once again presided over a debacle for American policy, and probably the only surprising aspect of the current military happenings is the coolness with which the President is attempting to cover up the mess he has made in Indochina. I am certainly not known as an admirer of Mr. Nixon, but I do marvel at his nerve in the current crisis and his gall in perpetuating the same lies and policies that have cost the American people so heavily in the past decade.

If there were the House of Commons, the President would have been called on the carpet to defend in person the rationale for his Vietnam policy. Here, the House does not even bother to summon his deputies to explain why the American people should let this war continue for another day.

By default, the Members of this Congress place their seal of approval on policies that are stupid and blundering, at the very least, or, in my opinion and that of many other Americans, actually criminal.

By default, the Members of this Congress must share the President's reputation as the greatest bomber of all time. I call to your attention an editorial that appeared in the Washington Post on April 9, 1972, which noted that:

> Mr. Nixon has dropped more than one ton of bombs per minute during every single minute of his administration. He has become—here is a "first" for you—the man who has assembled and let loose more devastation from the sky than anyone else in the history of creation; all this, mind you, while "winding down" the war.

The Post editorial continues:

> President Nixon's general bombing rationale, as restated by the American command in Saigon just the other day, has been "to help protect the lives of the diminishing United States forces in South Vietnam." Yet virtually none of the remaining Americans are in a combat role (except in the air) or in a combat zone; their lives are *not* threatened. Asked on Thursday about the current raids, Admiral Moorer, chairman of the Joint Chiefs, candidly avoided the customary misleading bows to "protective reaction" and protecting American boys. The bombing will continue, he said, "so long as the battle that is currently going on is surported with resources from North Vietnam . . . as long as there are valid military targets supporting this operation." Defense Secretary Laird confirmed the point on Friday.
>
> For at least the span of "this operation," then, we are back essentially to the Johnson policy of regular daily attacks on North Vietnam. A record 500 tactical aircraft and a record 100 B–52's are on the job; a record fifth carrier is being readied to steam into the waters off Vietnam. The ranks of American P.O.W.'s are again being increased.
>
> "In sum, having established himself as the greatest bomber of all time, having surpassed Lyndon Johnson in havoc wrought to the land if not also to the people of Indochina, having failed nonetheless to break the will of Hanoi or to deter its largest offensive since Dienbienphu, and having addicted Saigon more than ever to a reliance on American air power even while proclaiming ever greater success for Vietnamization—having done all this, Mr. Nixon is bombing still more, while the Russians, undeterred, are providing ever heavier firepower, in the form of artillery and SAM missiles, to their North Vietnamese allies."

So, the Washington Post concludes:

> In what conceivable sense can this be described as "winding down"—let alone ending—the war?

The answer is, of course, in no sense at all. Instead, the Nixon administration is responsible for a military policy that merges war crimes with warfare on the electronic battlefield. These are the words of Raphael Littauer, a professor of physics at Cornell University, who for the past year has been coordinating the research by a team of Cornell investigators into the facts about the biggest air war in history.

In an article in the New York Times this morning, Professor Littauer says that escalation is built into the Nixon air strike policy.

He points out:

> The trend to computerized warfare increases remoteness and removes the last psychological inhibitions which might have had a humanizing influence. War crimes merge with warfare on the electronic battlefield. Indochina has in fact been our proving ground and the costly new technologies (over $3 billion through June, 1971, perhaps reaching $20 billion by the end of the decade) generates powerful new pressures for proliferation.
>
> Territories under enemy control are subjected to sustained bombardment to deny the enemy the fruits of his victory—the population resources he has come to control. An uglier phrase for this is *scorched-earth policy*. An unspeakable price is exacted from the people of Indochina in return for "saving" them.
>
> The threat of retaliation against North Vietnam, an explicit element of U.S. air war policy, requires frequent saber-rattling to maintain "credibility." The cost must be reckoned not only in the lives of the victims but in a hardening of positions on both sides. The Communists, after decades of struggle,

> are in no mood to be deterred. The U.S. closes off its options for more moderate, politically oriented policy choices. We back ourselves into a corner from which only a frustrated lashing out is possible.

Professor Littauer goes on to point out that the character of the air war is changing, with B-52's delivering an ever-larger fraction of the bombs.

> One must know a little about these bombers to appreciate them fully, Professor Littauer notes. "They carry over 100 bombs each, to a total of 30 tons, and shed them rapidly from close-formation flight at high altitude. The bombs explode in a dense pattern covering, for a typical mission of six planes, 1.5 square miles with 150 tons of explosives. Such a B-52 box of distributed tonnage is lethally effective. It is easy to calculate that the blast overpressure will exceed 3 PSI (pounds per square inch) everywhere within the pattern, enough to knock down any residential structures other than reinforced concrete. Six hundred points will be hit directly by bombs, and all locations in the area will be within 125 feet of such a hit.
>
> The nighttime retaliation raids against Haiphong and Hanoi included enough B-52's for three such 1.5 square-mile missions. The Red River delta is the most densely populated region of Indochina. No wonder these raids, which included about 75 fighter-bombers as well, caused a certain repugnance in the American public. In a saner moment such acts of retribution would be recognized as essentially unAmerican.
>
> But the tip of the iceberg is not all, and unfortunately we are less aware of the rest. Over 130 B-52's are now working in Indochina, completing more than ten such six-plane missions (or their equivalent) every day. The number of fighter-bombers is soaring so rapidly, both on land and at sea, that current figures do not stay current for long. America is dumping over 3,000 tons per day in this regular exercise. The dollar cost can be reckoned conservatively at $20 million per day. But who would count dollars when confronted with the costs imposed on the hapless recipients of this cargo?

Professor Littauer calls Nixon's air war of horror "essentially un-American." It certainly is if one has any respect for the principles upon which this Nation was founded and any veneration for the individual's right to life, liberty and pursuit of happiness. But the air war itself is totally American, in conception, execution and financing, and the responsibility is ours. We are responsible, too, for the continuation of the ground war because the fact is that the Nixon administration has it within its power to end the war tomorrow on terms that would be acceptable to the American people.

Instead, Mr. Nixon chooses to stake the prestige of the Presidency on the perpetuation in power of General Thieu's Saigon regime, an American creation that was sanctified last fall in a non-election.

The President has enmeshed himself in a policy of military escalation that is based on a big lie. In his Vietnam policy statement of April 26, the President claims that the only thing his Government has refused to do in pursuit of peace is "to accede to the enemy's demand to overthrow the lawfully constituted Government of South Vietnam and to impose a Communist dictatorship in its place."

The President knows that this is not true. He knows that this is not what is holding up a political settlement in Paris.

When Le Duc Tho of the North Vietnamese Government returned to Paris on April 30 to reopen negotiations, he stated:

> In South Vietnam what we want is a government of national harmony. . . . We in no way want to impose a "Communist regime" in South Vietnam, such as Mr. Nixon has fabricated, but our people is also determined not to permit the American administration to establish a puppet power in place.

This position has been stated over and over again by spokesmen for the North Vietnamese and the National Liberation Front. I have heard it directly myself.

On the weekend of April 21 I went to Paris with Congresswoman PATSY MINK on a factfinding mission at our own expense. We conferred for 6 hours on April 21 with Madame Binh, head of the Provisional Revolutionary Government—the governmental arm of the NLF—and for several hours the following day with Minister Thuy, head of the North Vietnamese delegation to the Paris peace talks, which had been unilaterally suspended by the United States before the current military offensive began. We also met with U.S. representatives at the American Embassy and with nongovernmental Vietnamese.

Madame Binh told us, and I took careful notes, that the forces she represents "adopt a realistic point of view. The NLF since 1960," she said, "has called for an independent, peaceful, neutral, democratic South Vietnam."

In spite of the deep-rooted aspiration for reunification, she said:

> The NLF is not demanding socialism or communism, as Nixon says we do. We are only demanding independence, neutrality, and the right of self-determination.

Madame Binh and, subsequently, Minister Thuy, made clear that their peace terms call for an agreement by the United States to withdraw all its forces from Indochina by a specific date and withdrawal of support from the government of General Thieu. They favor a neutral, nonalined, nonsocialist government in South Vietnam. They propose the election of a three-segment coalition government that would include representatives of the NLF; the Buddhists, Catholics and other religious, political, and social groups; and members of the present Saigon government, with the exception of General Thieu himself. They stated specifically that any member of the Saigon government who subscribed to the goal of a neutral, peaceful, nonalined coalition government would be acceptable, even the present chief of police. The sole exception, they said, would be General Thieu, and they stated that Thieu's removal is also the demand of many members of parliament and the Thieu administration in Saigon. If a coalition government is elected, committed to a policy of peace and neutrality, they said, such a government would want to receive aid from all countries, including the United States. But, they added, such aid would have to be based on mutual respect and interest.

I believe the American people should know that the Nixon administration's insistence on retaining General Thieu in power is the major obstacle to a political settlement that would result in the election of a neutral coalition government in Saigon. I believe that it would be in the best interests of the people of Indochina and the people of the United States if General Thieu would immediately announce his resignation and we could then get on with establishing peace.

I believe the American people should also know that under General Thieu the policy of Vietnamization, which has been the linchpin of Nixon's rationalizations for continuing the war, has been a farce and a failure. I think they should also know that the Nixon administration was told in early 1969 that the outlook for the success of Vietnamization was gloomy, and yet President Nixon embarked on a policy allegedly based on Vietnamization that resulted in thousands of more American casualties and unspeakable horrors for the people of Indochina. I refer to prognosis in National Security Study Memorandum 1, a set of documents on Vietnam prepared by Henry Kissinger's staff for Mr. Nixon soon after he took office.

Some day the war in Indochina will end. We in the House must move to end it now. We have a deep responsibility in this matter. What we do can literally determine whether more Americans and more Indochinese will suffer and die, or whether they will be allowed to live. When will we face that responsibility? When will we act?

Mr. RYAN. Mr. Speaker, I thank the gentlewoman from New York for her contribution.

Mr. DOW. Mr. Speaker, will the gentleman yield?

Mr. RYAN. I yield to the gentleman from New York.

Mr. DOW. Mr. Speaker, I merely want to congratulate the gentlewoman from New York (Mrs. ABZUG) for her fine and consistent observations about the crisis in Vietnam. I think it is very timely that we are speaking here today on this issue because of the serious situation that exists in Vietnam which calls for a decision from the United States. We must reassert the prerogative of the Congress to participate in this decision, and to make sure that any decision which the President provides will be weighted by the consciousness that not only the Congress but millions of the American people want new and fresh thinking, and a new and fresh resolution of this critical problem at this hour when a decision must be made, and made soon.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. RYAN. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Speaker, I thank the gentleman for yielding and I wish to commend the gentleman from New York for trying once again to highlight the sense of futility and frustration felt by Members of the Congress and by the whole Nation. We stand appalled as the level of violence increases, and as the pilgrimages of thousands upon thousands of refugees once again enter our consciousness. These refugees are not fleeing from the alleged blood bath that the President talks about which allegedly would be inflicted by the Vietcong; these refugees are fleeing from the blood bath that will come from American bombers after a city has been taken by the North Vietnamese.

Today U.S. fighter-bombers flew 606 strikes, one of the largest invasions on any day during the last 4 years.

I am not going to repeat how on four occasions during the past year this House of Representatives failed to stop this war.

On June 17, 1971, this House refused to enact the Nedzi-Whalen bill; by a vote of 254 to 158 this House refused to live up to its legal and constitutional duties. On that very day also the Mink amendment, a provision stronger than the Nedzi-Whalen amendment, was defeated by a vote of 327 to 79.

There was some hope, though, with the enactment of the Mansfield resolution by the House of Representatives, but that hope was dashed by the defeat of the Boland amendment on November 17, when only 163 Members of this House voted to stop the war, the objective of the Boland amendment.

But, Mr. Speaker, with the hope that perhaps finally a new day has come. I will ask unanimous consent to insert at this point in the RECORD a copy of H.R. 14055, a bill filed by myself, along with a list of the 78 cosponsors in the House of Representatives. This has been called the Gravel-Drinan bill, which I hope will be enacted into law in the very near future together with a list of the cosponsors.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

(The bill referred to follows:)

H.R. 14055

A bill to provide for the cessation of bombing in Indochina and for the withdrawal of United States military personnel from the Republic of Vietnam, Cambodia, and Laos

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That subject to the provisions of section 3 of this Act, no funds heretofore or hereafter appropriated may be expended for longer than thirty days after the enactment of this Act to support the deployment of United States Armed Forces or any other military or paramilitary personnel under the control of the United States in or the conduct of military or paramilitary operations in or over the Republic of Vietnam, the Democratic Republic of Vietnam, Cambodia, or Laos.

SEC. 2. (a) That no funds heretofore or hereafter appropriated may be expended after the date of enactment of this Act to conduct offshore naval bombardment of, or to bomb (including the use of napalm, other incendiary devices, or chemical agents), rocket, or otherwise attack by air, from any type aircraft, any target whatsoever within Laos, Cambodia, Thailand, or the Democratic Republic of Vietnam.

(b) No funds heretofore or hereafter appropriated may be expended after the date of enactment of this Act to conduct offshore naval bombardment of, or to bomb (including the use of napalm, other incendiary devices, or chemical agents), rocket, or otherwise attack by air, from any type aircraft, any target whatsoever within the Republic of Vietnam unless the President determines any such bombardment of air operation clearly to be necessary to provide for the immediate safety of United States Armed Forces during their withdrawal from the Republic of Vietnam, and submits to the President pro tempore of the Senate and the Speaker of the House for immediate transmission to the respective bodies of the Congress, within forty-eight hours of each such bombardment or operation (or if the Congress is not in session, as soon thereafter as it may return), a written report setting forth the time, place, nature, and reasons for conducting such bombardment or operation.

SEC. 3. (a) If, by twenty days after the date of enactment of this Act, the Democratic Republic of Vietnam and other adversary forces in Indochina holding American prisoners of war have not made arrangements for the release and repatriation, by the date in section 1, of all such prisoners—

(1) the date in section 1 shall be extended for thirty days, and

(2) the Congress may by joint resolution authorize such further action as is recommended by the President to secure the release and repatriation of American prisoners of war.

(2) Nothing in this section shall be construed to affect the authority of the President to arrange asylum or other means of protection for individuals who might be physically endangered by the withdrawal of United States military or paramilitary personnel from the Republic of Vietnam, Cambodia, or Laos, or to arrange for the return of United States equipment or stores from the Republic of Vietnam.

PRESENT 78 COSPONSORS OF H.R. 14055, STATE BY STATE

ALASKA

Nick Begich.

CALIFORNIA

Glenn Anderson, Phillip Burton, George Danielson, Ron Dellums, Don Edwards, Gus Hawkins, Paul McCloskey, Thomas Rees, Edward Roybal, Jerome Waldie.

FLORIDA

Claude Pepper.

HAWAII

Spark Matsunaga, Patsy Mink.

ILLINOIS

Ken Gray, Ralph Metcalfe, Abner Mikva, Sidney Yates.

INDIANA

John Brademas.

IOWA

Fred Schwengel.

MAINE

Peter Kyros.

MARYLAND

Gilbert Gude, Parren Mitchell, Paul Sarbanes.

MASSACHUSETTS

Ed Boland, James Burke, Silvio Conte, Harold Donohue, Robert Drinan.

Michael Harrington, Margaret Heckler, Louise Day Hicks, Thomas O'Neill, Torbert Macdonald.

MICHIGAN

John Conyers, Don Riegle.

MINNESOTA

Bob Bergland, Don Fraser, Joe Karth.

MISSOURI

Wm. Clay.

NEW JERSEY

Henry Helstoski, Frank Thompson, Joseph Minish.

NEW YORK

Bella Abzug, Joseph Addabbo, Herman Badillo, Jonathan Bingham, Hugh Carey, Emanuel Celler, Shirley Chisholm.

John Dow, Seymour Halpern, Edward Koch, Bertram Podell, Charles Rangel, Benjamin Rosenthal, Wm. F. Ryan, James Scheuer.

NORTH DAKOTA

Arthur Link.

OHIO

John Seiberling, Charles Vanik.

PENNSYLVANIA

Bill Green, Fred Rooney, Robert Nix, Joshua Eilberg.

RHODE ISLAND

Robert Tiernan, Fernand St Germain.

SOUTH DAKOTA

James Abourezk.

TENNESSEE

Wm. Anderson.

TEXAS

Bob Eckhardt.

WASHINGTON

Brock Adams, Lloyd Meeds.

WEST VIRGINIA

Ken Hechler.

WISCONSIN

Bob Kastenmeier, David Obey, Henry Reuss, Les Aspin.

DISTRICT OF COLUMBIA

Walter Fauntroy.

Mr. DRINAN. Mr. Speaker, I would also ask unanimous consent to have inserted in the RECORD at this point a resolution that was adopted by the Democratic Caucus on April 20 of this year.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

(The material referred to follows:)

RESOLUTION AS ADOPTED BY THE DEMOCRATIC CAUCUS, APRIL 20, 1972

Resolved, that it is the sense of the Democratic Caucus of the House of Representatives that in the 92nd Congress of the House of Representatives that the recent bombings of North Vietnam represent a dangerous escalation of our role in the Indochina war and a direct contradiction of the Administration's stated policy of "winding down" the war;

Resolved further, that the national interest in obtaining a permanent peace with security would best be served by promptly setting a date to terminate all U.S. military involvement in and over Indochina, subject only to obtaining the release of our prisoners of war and all available information on the missing in action;

Resolved further, that the Democratic Caucus of the House of Representatives hereby directs the Democratic Members of the House Foreign Affairs Committee to prepare and report within 30 days legislation designed to accomplish these specific objectives; and

Resolved further, that in the 92nd Congress the House of Representatives should condemn the current military invasion of South Vietnam by the forces of North Vietnam.

Mr. DRINAN. I hope that the adoption of the foregoing resolution will be the beginning of a new day and that finally the majority of the majority party will recognize that we cannot drift on and allow all these abominations to continue.

That resolution was strongly supported by Common Cause and if I may, Mr. Speaker, I would like to insert at this point a letter sent out on April 17, 1972, by John W. Gardner, the distinguished chairman of Common Cause to every Member of the House of Representatives.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

The matter referred to is as follows:

COMMON CAUSE,
Washington, D.C., April 17, 1972.
HOUSE OF REPRESENTATIVES,
Washington, D.C.

DEAR CONGRESSMAN: Common Cause strongly endorses the end-the-Indochina war resolution that will be put before the Democratic caucus on April 19th. We urge your support of the resolution sponsored by Majority Whip O'Neill, Congressmen Drinan, Anderson, Burton, Matsunaga, Reuss, and Vanik. It is an effective and immediate response to the reckless escalation caused by the United States' bombing in the Haiphong and Hanoi areas.

During 1971 Common Cause strongly supported legislation and numerous amendments in the House and Senate to establish a termination date for all U.S. military efforts—ground, naval and air—in Vietnam, Laos, and Cambodia. We will continue to do so in 1972.

In our view there is only one legitimate U.S. condition to ending our military participation in the war—obtaining the return of all prisoners and all available information on the American men missing in action. That principle will best be accomplished by setting a date certain for ending our total military participation. The principle is fully embodied in the resolution under consideration by the Democratic caucus.

We propose further that before debate begins on the resolution the Caucus take this opportunity to outlaw closed-door Caucus meetings and secret Caucus votes, permanently and with no exceptions.

We believe that the House Democratic Caucus has no more right or reason to meet behind closed doors than does the House itself. The majority Caucus is one of the most powerful institutions in America. It nominates the Speaker, it selects the majority leader, it effectively chooses committee chairmen, it has the power to nominate Democratic Congressmen to legislative committees and it lays down substantive policies of the majority party. These are public functions. Nothing could be plainer!

Each Congressman's position on the pending end-the-war resolution, and any amendments thereto, should be made known to the public on April 19th just as though a record vote of the House had occurred. If there is a call for a quorum the absent Congressmen should be listed.

We strongly urge you to be present and vote in support of the proposed end-the-war resolution.

Sincerely,
JOHN W. GARDNER,
Chairman.

Mr. DRINAN. Mr. Speaker, we should recognize the leadership of the chairman of the Democratic study group, Mr. Phillip Burton, and I would like to commend him for not merely his leadership in changing the position of the majority of the majority party, but also for his letter under date of April 20, 1972, which I ask unanimous consent to insert at this point in the RECORD.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

The matter referred to is as follows:

DEMOCRATIC STUDY GROUP,
Washington, D.C., April 20, 1972.

STATEMENT BY DSG CHAIRMAN
PHILLIP BURTON

Adoption of the O'Neill resolution by this morning's Democratic Caucus by an overwhelming margin is a magnificent victory for the American people. I am proud of the Democratic Study Group and its Members, who provided almost all the votes to pass this resolution and worked tirelessly to get this issue before the Caucus.

For the first time, we in DSG have broken through the parliamentary barricades erected by the Republican/Dixiecrat conservative coalition and forcefully condemned the Nixon Administration's unecessary prolongation of this bloody war.

The majority of the majority party in the House—the legislative body closest to the people—has spoken, and the Nixon Administration ignores the message at its peril. The American people want out, their Representatives in Congress want out, and this Administration had better get us out—Now.

The Democratic Caucus has in addition taken the historic step of establishing its authority over the committees of the House and their chairmen. For the first time, the Caucus has *directed*—not "urged" or "recommended"—that a chairman and his committee report legislation to accomplish the will of the Caucus.

We have instructed the Democratic members of the Foreign Affairs Committee to bring legislation to the floor of the House within 30 days to get our troops, planes, and ships out of Indochina before the end of this Congress. By previous resolution of the Caucus—also initiated by DSG—we set the date certain for total withdrawal of our military forces as within the 92nd Congress. We in DSG will now direct our effort to getting such legislation out of the Foreign Affairs Committee.

Victory has many fathers. Many outside groups and Members of Congress participated in this effort, but particular credit goes to Common Cause and its members, under the leadership of John Gardner, for mobilizing and coordinating public oncern for passage of the resolution. I also want to commend the initiative and leadership of Rep. Robert Drinan (D-Mass.) in this effort. His foresight and determination to get this issue before the Caucus were essential to success. But above all, credit for this victory goes to the American people, who for some time have known that what we are doing in Indochina is wrong. Thank God their Representatives in Congress have at long last received this message.

Mr. DRINAN. Mr. Speaker, it is also very relevant that we know that the majority whip of the Democratic Party under date of May 1, 1972, has issued a letter to all of the members of the Democratic Party in Congress stating that this is, in fact, a binding resolution.

I wish to commend Congressman O'NEILL, the distinguished whip from Massachusetts for his very clear, precise, and cogent presentation of this particular point. If I may, I ask unanimous consent to insert that letter in the RECORD at this point.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

The matter referred to is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 1, 1972.

DEAR COLLEAGUE: As you know, there is a great deal of confusion and misunderstanding regarding the obligation of Members who opposed the Indochina resolution adopted by the Democratic Caucus April 20.

Since I offered those portions of the resolution which are involved in the misunderstanding, I may be able to help clarify the situation.

The resolution I offered in caucus was intended to accomplish two purposes: It was intended to express certain views regarding re-escalation of our role in Vietnam and the urgency of terminating that role, and it was intended to "direct" the Democratic members of the House Foreign Affairs Committee "to prepare and report" a bill setting a date for terminating "all U.S. military involvement in and over Indochina" in order that the House might have an opportunity to vote directly on this vital matter.

However, my resolution was not intended to direct how Members should vote on such legislation on the House floor after it has been reported from committee. Regardless of whether the resolution was approved by a two-thirds vote or a unanimous vote, it does not make sense that Members could be bound to vote on the House floor for legislation which does not yet exist and a date which is still unspecified.

Thus I do not consider any Member to be bound under Caucus Rule 7 as to how he votes on the House floor. Caucus Rule 7 does not apply to this action of the Caucus.

By the same token, I do not see how the provisions of Caucus Rule 7 can be used by Democratic Members of the Foreign Affairs Committee who oppose the proposed legislation to exempt themselves from compliance with the direction of the Caucus.

It is my strong feeling that the Democratic Members of the committee—including those who may be opposed to such legislation—are absolutely bound as agents of the Caucus "to prepare and report" a bill setting a date for terminating all U.S. involvement in and over Indochina.

This does not mean that Democratic Members of the Committee who oppose the legislation cannot argue against it in committee, file views recommending it be amended or defeated by the House, and actually vote against it on the House floor. But while in committee they must abide by the will of the majority of Democrats on the committee as to how they vote on amendments and reporting the bill.

In short, I think the Democratic Members of the committee are obligated in this instance to report a bill in accordance with the Caucus resolution regardless of whether or not they support it, just as I believe I am obligated as a member of Rules Committee to provide for House consideration of legislation I may not support.

I hope this letter will clear up any present misunderstanding and help avoid any future conflict regarding Members' obligations in regard to the April 20 Caucus Resolution.

Sincerely,
THOMAS P. O'NEILL,
Member of Congress.

Mr. DRINAN. Mr. Speaker, as dreadful as this subject is, I think we should face the fact that the American people and perhaps even many Members of Congress are really largely unaware of the full nature and extent of the antipersonnel technology that is now in use in Indochina.

Somehow the media in America have not really presented to the American people the truly horrendous nature of the weaponry that we are using in South Vietnam and North Vietnam and in Laos and Cambodia—and that this weaponry is designed only to kill and maim human beings.

I ask permission, Mr. Speaker, to insert at this point in the RECORD the statement on antipersonnel weaponry, done by an expert, Mr. Fred Branfman, director of Project Air War, a gentleman who spent many years in Indochina. Mr. Branfman describes in the paper which I insert in the RECORD the unbelievable and savage weapons that we are using to torture individuals, to destroy life and to plant mines in a way unprecedented in any war at any time in all of recorded history.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

The matter referred to is as follows:

STATEMENT ON ANTIPERSONNEL WEAPONRY

(By Fred Branfman, Director, Project Air War)

The widespread use of antipersonnel weaponry in Indochina is one of the most striking and prominent features of today's air war. From 1969–71, for example, I interviewed several hundred victims of American bombing in Laos. The vast majority of these civilian casualties were caused by antipersonnel bombs. From our research on the air war both out in Indochina and with Project Air War here at home, from 1970-72, we would concur with Professor Pfeiffer and Westing's estimate that at least ½ the total tonnage dropped on Indochina is antipersonnel in nature. For example, I was told in November 1970 by an airforce captain in charge of the ordnance dump at Udorn Air Force base that about 75–80% of the ordnance on hand was antipersonnel.

But although the use of antipersonnel bombs has been reported since 1966, the American public to this date remains largely unaware of the full nature and extent of antipersonnel technology in use in Indochina. Few Americans are aware of the many kinds of antipersonnel bombs in use, the frequency with which they are deployed, and their effects on the human body.

We are not aware, for example, that any major newspaper or magazine in this country has ever published a major piece containing the information revealed in the supplement to this statement.

The reason is clear. Almost all information about antipersonnel weaponry has been classified out of public reach.

This material does not appear to be classified because publishing it would aid the people against whom these bombs are directed. As the film "U.S. Technique and Genocide in Vietnam" makes clear, the DRV, PRG, Pathet Lao, and FUNK are fully aware of the technology deployed against them. It would appear, rather that secrecy has been followed for fear of the domestic repercussions that might result from full disclosure, and because much of the weaponry is outlawed by international law.

The U.S. Army Manual on the Laws of Land Warfare, for example, states that the use of "irregular-shaped bullets" and "glass-filled projectiles" is illegal. The United States is using both in the form of flechettes and plastic casings which break into hundreds of un-x-rayable jagged slivers, 1/8th by 1/16th of an inch at this very moment.

It is a sad commentary on the state of public knowledge of the war today that one must turn to the Democratic Republic of Vietnam for knowledge of what our leaders are doing in the name of America.

It is even more distressing to note that the use of anti-personnel weaponry continues to increase under the Nixon Administration without public and congressional awareness or restraint.

Whether or not one agrees that the Administration has the right to employ this anti-personnel weaponry in Indochina, this much seems clear:

1. *It is clearly antithetical to the laws of the land that any small group of men would unilaterally develop, produce and deploy such weaponry without the knowledge of consent of the public or Congress.*

2. *The unceasing refinement of weapons designed only to kill or maim human beings is one of the most important developments of our time. At the very least, it ought to be reported in full to the general public by the media, so that some kind of national debate can be undertaken.*

ANTIPERSONNEL WEAPONRY

Anti-personnel weaponry is designed to kill or maim human beings. Although sometimes used in other ways, such weaponry cannot destroy a factory, a bridge, an anti-aircraft site. Its objective is human flesh.

American involvement in Indochina has been characterized by unceasing refinement of new ways to kill from the air. The varieties and variations of anti-personnel weaponry are innumerable. What follows are only some examples, divided into three main categories: anti-personnel projectiles, incendiary bombs, and anti-personnel mines.

Anti-Personnel Projectiles: These are dropped by jets and B52s when there is some target in mind; intelligence justifying their use is generally some sign of human life: cut grass, tire tracks, smoke or heat from fires, ploughed fields, or metal sound, or movement picked up by electronic sensors or infra-red detectors. In a guerrilla war, such bombs are almost never dropped on a clearly identifiable military force out in the open:

1. The *Pineapple* anti-personnel bomb is a yellow-colored, cylindrical-shaped bomblet which contains 250 steel ball-bearing pellets which shoot out *horizontally* on impact. One sortie with a full load carried 1000 such bombs, which means that one sortie sends 250,000 steel pellets shooting out horizontally over an area the size of 4 football fields. Anything above ground is hit.

2. The *Guava* anti-personnel bomb (BLU 24/26) is an improvement over the pineapple. Gray in color and round in shape, without the pineapple's fins, the guava is thus smaller, allowing one planeload to carry 4–500,000 steel ball-bearing pellets. It also rotates on its axis and will either explode in the air or on impact with the ground depending upon the type of fuse. In either case, it avoids the pineapple's problem of sending its pellets out horizontally, which thus explode harmlessly over the heads of people hiding underground. The guava's pellets shoot out diagonally so they'll go into holes where people are hiding.

3. The *Fragmentation* anti-personnel bombs, including the smooth orange, striated orange and BLU 63 fragmentation projectiles, are also designed as improvements over the pineapples and guavas. Unlike the latter two projectiles, they do not employ steel pellets. Rather they break into hundreds of jagged fragments which do far more damage to the human body.

4. The *Flechette Rockets* are even more destructive to the human body. The flechettes, fired from rockets in the air war (as well as M79 grenade launchers and artillery in the ground war), are tiny steel nails with larger fins on one end and a sharpened point on the other. They peel off the outer flesh, enlarge the wound as they enter the body, shred the internal organs, and lodge in the blood vessels. Extremely delicate surgery is necessary to remove them.

5. The *plastic* bombs consist of a pressed plastic casing which breaks up into hundreds of tiny jagged slivers, ⅛th of an inch by 1/16th of an inch. These slivers are un-X-rayable so that if a person is hit with enough of them and they must be removed, he must be laid on the operating table (if surgical care is available), his body opened up, and the doctor then tries to pick through his body removing what slivers he can find.

Incendiary bombs: Interviews with pilots and other U.S. airmen and targeting officers have made it clear that incendiary bombs, while designed for a wide variety of purpose, are in practice primarily used as an anti-personnel weapon. Since they cover such a wide area and destroy all human life above and often below ground through burning or suffocation, they are regarded as a particularly effective weapon.

1. Most Americans are aware of *Napalm.* Few, however, are aware of the fact that they are also using *Napalm B, Supernapalm, Napalm Paragel,* all improvements on the original napalm. These later variants burn at a higher temperature, explode over a wider area, and have greater adhesiveness.

2. Even few Americans are aware of *white phosphorous* and *magnesium.* These substances burn on an oxidation principle, which means that they cannot be rubbed out or even put out by water (they take the oxygen out of water and continue burning under the skin). In fact, the more one rubs, the more they burn. If a person is hit with incendiary bombs containing these substances, he must wait until they burn themselves out, which usually means they have to burn their way down to the bone.

3. And I have met no one who is aware of *thermite,* a substance which greatly increases temperature at which incendiary bombs burn.

4. These substances are all combined in the most destructive incendiary bomb yet developed, the *napalm-phosphorous-thermite* bomb. It explodes over an extremely wide area, cannot be extinguished until it burns itself out, and burns at 3,500 degrees centigrade as compared with 900 degrees centigrade for conventional napalm.

Anti-Personnel Mines: Unlike anti-personnel projectiles or incendiary bombs, anti-personnel mines are not used with any particular target—whether suspect or confirmed—in mind. Rather they are simply strewn over 100's of square miles as part of an officially-designated "Area-Denial" program designed to make whole areas of Indochina uninhabitable for human life. The scope of the use of these mines staggers the imagination. For example, a Honeywell contract that we have signed calls for the production of over 200,000 of one of these types of mines (the WAAPM) in a single month. In the November 1970 Electronic Battlefield Hearings, the Air Force Revealed that this area denial program has been installed throughout one-half of southern Laos. This is an area inhabited by over 200,000 people, according to the estimate of the U.S. Embassy in Laos. The area denial program has also been implemented in northeastern Cambodia, northern Laos, North Vietnam, and portions of South Vietnam. These mines include:

1. The *Gravel and Dragontooth* mines, which come in small cloth bags and metal containers disguised to look like leafs or animal droppings. One F4 sortie will drop 7,500 of such mines.

2. The *WAAPM* (Wide-Area-Anti-Personnel-Mine) mines, which are round in shape and emit 8 cords each 8 yards in length. A person tripping on one of these cords will cause an explosion of a charge sufficient to kill or maim him. The other side has charged that some of these mines also emit a noxious gas.

3. The Button Bomblets are even smaller charges, strewn in the 10's of 1000's, and extremely difficult to detect with the human eye.

Nothing explains the nature of the air war today more than the expansion of the area denial program under the Nixon Administration. It is clear that these anti-personnel mines cannot distinguish between human beings and animals, let alone military and civilians. The deployment of the area denial program violates the very basis of international law calling for at least some minimal attempt to distinguish between military and civilians in time of war.

Mr. RYAN. Mr. Speaker, I want to take note of the efforts of the gentleman from Massachusetts to put the Democratic Party in the House on record with respect to the war in Vietnam. Two weeks ago the Democratic Caucus voted to condemn the bombing and also took the unprecedented action of directing the House Foreign Affairs Committee to report back within 30 days legislation to set a date for the termination of the war. The gentleman is entitled to great credit for diligently pursuing that objective.

I recall the great compassion Father

DRINAN showed approximately 1 year ago when he accompanied me to the Washington Coliseum where thousands of young people were being detained, having been arrested in dragnet, unconstitutional fashion during the demonstrations. We spent most of the afternoon and night doing our utmost to see that their rights were protected. It has been a privilege to serve with him in the House where he has constantly raised the moral issues of the war.

Mr. DRINAN. Mr. Speaker, again I commend the gentleman from New York (Mr. RYAN) for his leadership and initiative in this matter. It was Congressman RYAN's leadership, initiative, and moral sense of outrage many, many years ago that started this Congress on the way, hopefully on a pilgrimage toward peace. I commend him because he is the father of all of us in the peace movement.

Mr. RYAN. I thank the gentleman very much.

I yield back the remainder of my time.

Mr. SEIBERLING. Mr. Speaker, tomorrow, May 4, is the anniversary of one of the saddest days in the recent history of our country. I live in the neighborhood of Kent State University and have many friends among the faculty and students there. The city of Kent has recently been added to the congressional district which I represent. The tragic events that took place there 2 years ago tomorrow epitomize for all the country and all the world the terrible divisions which have been brought about by our Government's actions in Indochina.

It is incredible that 2 years later we should be debating the wisdom of yet another escalation by the administration in a war in which we should have never been involved at all. It is incredible that the President who promised 4 years ago that he had a secret plan to end our involvement in Vietnam should have said only last week that he would not accept a defeat in Vietnam.

We should be debating the best way of healing the divisions in this country, repairing the terrible damage we have inflicted on the land and the people of Vietnam, and groping our way once more toward the kind of policies that will restore the faith of the people in their Government's honesty and humanity and will regain the confidence and trust of decent people everywhere in the world. We cannot do that so long as we are engaged militarily in Vietnam. Sooner or later, we must begin. Will there be any better time than now?

As a first step, the members of the House Foreign Affairs Committee can report to the floor with a favorable recommendation, H.R. 14055, which is designed to bring about cessation of bombing, the early release and repatriation of American prisoners of war, and the prompt withdrawal of all U.S. forces.

As a second step, we can insist that the administration cease its endless outpouring of false information about Vietnam. On this point, I submit for the RECORD, an editorial which appears in today's edition of the Cleveland Plain Dealer, entitled "Lies on Viet Blot U.S. History," the text of which follows:

LIES ON VIET BLOT U.S. HISTORY

The appalling misinformation given to the American people about Vietnam is a blot on the history of this country. The fall of Quang Tri comes within two or three days of reports from the White House that all was going well.

The outpouring of lies about how well our side has been doing in Vietnam during the Johnson and Nixon administrations, constitutes a major breaking of faith between the government and people of this country. The corruption of the Saigon regime, the ineffectiveness of Vietnamization and the failure of the American involvement there are obvious to all.

If Henry Kissinger is not able to make a deal with Le Duc Tho in Paris, President Nixon could be in a political box from which he cannot escape.

Because most American troops have been withdrawn from Vietnam, there is no way for the United States to shore up the South Vietnamese except by massive bombing. Bombing largely is ineffective in guerrilla warfare and has been overrated generally. This was proved in World War II. Studies of bombing show that while innocent citizens always are killed, the tenacity and ability of a bombed people to resist actually is greater than before the bombing. Supplies and production facilities for war are shifted and the resistance is stiffened, according to assessments of strategic bombing.

President Nixon, in an address last week, said he would not put up with a defeat in Vietnam. With massive American ground forces removed, with only ineffective bombing raids to try to counter the successful enemy attacks, what is President Nixon talking about? If the President has in mind a real escalation of the war, he will face uprisings at home and certain political defeat on the same issue that forced his predecessor out of office.

The next two or three weeks will decide a lot of things, perhaps also the political future of President Nixon. If the President escalates the war, his political position will deteriorate at home. If he allows the enemy to continue its successful operations, he will be contradicting what he said on television last week. Either way the President will lose something.

The only hope is that Kissinger can make a deal in Paris, but under the circumstances the North Vietnamese will drive a very hard bargain.

Mr. ROSENTHAL. Mr. Speaker, tomorrow, thousands of Americans across the country will participate in moratorium day activities in order to dramatize their opposition to the continued American involvement in the Indochina war. Millions more will sympathize with their efforts. In fact, Mr. Speaker, an overwhelming majority of our citizens know that the Vietnam war is a tragic and senseless conflict which should have been brought to a conclusion many years ago.

A "balance sheet" on the effects of the war adds up to an incredible indictment of those who continue to excuse our Government's conduct in Southeast Asia. On the negative side of the ledger: It has killed and maimed thousands of soldiers and civilians on both sides of the conflict; it has created a minination of refugees; it has caused the capture and prolonged the detention of American servicemen and it has made prisoners of war out of loyal young Americans who went to jail or to Canada rather than participate in an illegal and immoral war; it has bankrupted our country both morally and financially; it has turned American against American; it has precipitated an incredible distrust of Government by the people; it is a major cause of inflation; and, it has caused a wasteful diversion of our resources from areas of pressing domestic need. On the positive side there is nothing.

The recent reescalation of the war, through the bombing in the North, is just another tragic example of the administration's misguided policies. Each bomb dropped explodes the Nixon campaign pledge to end the war and demolishes the promised success of his Vietnamization plan. The bombing represents a reprehensible return to the discredited policies of the Johnson administration and the "brinksmanship" of the Dulles years. It shows that the President is more attuned to the political ambitions of President Thieu and the demands of the military-industrial complex, than to the voices of the American people.

Mr. Speaker, President Nixon's speech to the Nation last week on the situation in Southeast Asia was more a locker room pep talk to a weary Nation than a rational and responsible explanation of why the war has not ended. It is becoming increasingly clear from the President's words and deeds that for this administration we are only at "half-time" in this tragic game of war. The Nixon administration may be committed to an indefinite military involvement in Vietnam—at the expense of our prisoners of war and our domestic tranquility—but the American people and, hopefully, their Representatives in Congress, are not.

Mr. Speaker, all that can be gained from this war is not worth the agony of even a single American captive; it is not worth the despair of one serviceman's family; it is not worth the destruction of one peasant's hut; it is not worth the disillusionment of an entire Nation. The war can and must end now.

The recent action of the House Democratic Caucus in ordering the Foreign Affairs Committee to consider and approve legislation to end the war in 30 days is a hopeful step. The Foreign Affairs Committee, on which I serve, and the entire Congress, have an opportunity at last to end our involvement in the war in Southeast Asia. If ever there was a need for resolve, it is now. If ever there was a need for true patriotism, it is now. If ever there was a need to save the soul of our Republic, it is now. Each of us has a vital and historic role to play in writing a fitting end to a very tragic chapter in American history.

Mr. MIKVA. Mr. Speaker, tomorrow, millions of people across the country will pause at midday to protest the continued U.S. involvement in Southeast Asia. At rallies, silent vigils, and prayer meetings, they will ask Congress and the President to stop the bombing, to end the killing, to generate peace in Southeast Asia, and to bring the troops and the prisoners of war back home. It is not an unreasonable request—not after 10 years of an American war that has cost more than 50,000 American lives. After all that, we have very little to show for it except perhaps a picture of two countries torn by war: Vietnam by the physical destruction wrought by the napalm, the herbicides, and the high explosives; and the United States by the moral destruction wrought by the immortality of this war, the doubt, and the stubborn refusal to admit a mistake.

Besides the death and destruction, this war has generated an incredible lapse of confidence in our Government. Through almost 20 years—and four administrations, two Democratic and two Republican—the American people have not been told the truth about Vietnam. Instead, the people and the Congress have been spoon fed, told only as much as each administration thought they would stomach. It has the characteristics of a geometric progression, so that by this year the people believe very little of what they are told. More than any other, this administration has not trusted the people and, more than any other, the people have returned that mistrust.

Over the years, the American people have been given any number of "justifications" and "explanations" and even rationalizations for our continued presence in Southeast Asia. Like his predecessors, the President is testing us with this latest escalation of the war, testing the people to see if they will accept just a few more years in Southeast Asia.

There have been tests before and, each time, the American people have been given a new reason for throwing their men and their dreams into the jungles of Southeast Asia. First, it was because the South Vietnamese needed help so they would be able to elect their own democratic government. Then, after any dissent was crushed and two mock elections were held, it was because the Communists had to be stopped before they reached the west coast. Then, after we sent half a million men there to protect the Vietnamese, it was because we had to protect our own troops. Now, we are dropping a ton of bombs every minute of the day on Southeast Asia to shore up the South Vietnamese army—an army the administration told us would not need to be shored up—to protect the Thieu regime, and to prove a point to the Soviet Union. The Government in George Orwell's 1984 used slogans to justify its violence, and the American people have been given an eerie reminder of one of those slogans: "War is Peace."

The latest escalation of the air war provides the latest example of that. The administration said it bombed Hanoi and Haiphong to cut off North Vietnam's military supply so the tanks and weapons used in the invasion would not be used against American troops. As the revelations of Dr. Kissinger's "secret" document NSSM-1, indicate, the bombings have had little, if any, effect on North Vietnam's military ability and would have little, if any, effect on the current offensive.

That memorandum indicates something even more disturbing. When the United States decided to bomb Hanoi and Haiphong, it did so with the knowledge that there would be civilian casualties—perhaps extensive casualties, given the bombing pattern of B-52's. The administration and the Pentagon responded by saying that some civilians "might" be hit, but the targets were strictly military and "every effort" would be made to avoid civilian areas. There now is evidence that even the justification for the justification has been false.

The Chicago Sun-Times of April 28 carried a story quoting a British physician who had been in Hanoi shortly after the bombing. He saw some of the dead and wounded civilians and said that they had been riddled by plastic pellets from a new antipersonnel bomb—a bomb designed to damage people, not trucks and warehouses. Let me read briefly from the article:

> (Dr.) Harvey said that the pellets penetrate the victims' bodies at 1,300 feet a second, creating heat so intense that the flesh vaporizes. "They can fracture a bone without even making contact with it," he said . . . they had no effect on property or structures.

In addition to every other shocking aspect, these pellets do not even show up on X-rays, so that they become most difficult to remove.

I have asked Secretary of Defense Melvin Laird to comment on the article and, if it is true, to explain why this bombing is apparently designed to kill civilians. The report by the British physician casts serious doubt on earlier statements made by Secretary Laird and the President that only military and defense targets are being attacked.

By now, most of the people in this country agree that the United States should get all of its forces out of Southeast Asia now. Certainly, the immorality of our involvement and the wall of doubt and mistrust that it has erected between the people and their Government are primary reasons. The bombing of Hanoi and Haiphong—and the use of antipersonnel bombs in the process—are examples of both that immorality and mistrust. It is made all the worse by the refusal of the administration to tell the truth or even admit the truth about our involvement in Southeast Asia. Throughout it all, there is that awful feeling of deja vu—a feeling that the administration does not comprehend. One is reminded of something the poet and philosopher Santayana said:

> Those who cannot remember the past are condemned to repeat it.

We are repeating the mistakes of the past in Southeast Asia, and it is a frightening experience.

The article follows:

PLASTIC POSES PROBLEMS: U.S. BOMBS SHREDS STUN HANOI

(By Harold Jackson)

LONDON.—A new type of antipersonnel bomb dropped on Hanoi by American aircraft is causing severe medical problems for the North Vietnamese, according to a British consultant physician who has just returned from the northern capital.

The physician, Dr. Philip Harvey, who works at St. Stephens Hospital in London, arrived in Hanoi on April 8 to carry out an extensive medical education program at the invitation of the medical faculty at Hanoi University. On Sunday, April 16, a week after he arrived 60 U.S. aircraft bombed the city, causing extensive damage to eight residential districts.

Harvey said he visited one of the areas, about a kilometer from his city center hotel, and examined some of the dead and wounded.

"I saw the body of one woman—she was pregnant—and she had been riddled with plastic pellets from an antipersonnel bomb," the doctor said. "This is a new development. The pellets used to be metal but now that they are using plastic it is impossible to locate the pellets by normal X-rays. They can be found with the use of ultrasonic vibrations but the North Vietnamese do not have such equipment." A full ultrasonic-vibration unit costs $50,000.

Harvey said that the pellets penetrate the victims' bodies at 1,300 feet a second, creating heat so intense that the flesh vaporizes. "They can fracture a bone without even making contact with it," he said. The wounded people seen by Harvey all had multiple penetrating wounds caused by cubic pellets.

Harvey said six or seven brick-built thatched houses had been destroyed in the area he visited. Two persons were killed and eleven injured, five seriously. Later two of the injured died, and another two bodies were found in the ruins. The bombs dropped seemed to be an equal mixture of high explosive and antipersonnel. The latter, Harvey said, had no effect on property or structures. "I dug some pellets out of the brickwork and they had only gone in about a quarter of an inch."

Mr. TIERNAN. Mr. Speaker, I join with my colleagues today in expressing grave concern over the escalation of bombing in Southeast Asia. Four years ago Richard Nixon said he had a plan to end the war, but the war continues and the plan has yet to be revealed. American deaths have decreased dramatically, but their positions on the death rolls have been quickly assumed by South Vietnamese casualties. With little fanfare we recently passed the 1 million mark; 1 million human beings dead and our Government still refuses to come from behind its shield of false patriotism.

The recent escalation of fighting dramatically proves the failure of our Vietnamization program. Reports from the Quangtri and Hue areas tell us of chaos and panic hitting not only civilians, but the South Vietnamese troops as well. And throughout these hectic days the man upon whom President Nixon has placed so much faith remains questionably silent. Where is President Thieu now that real leadership is needed? Is he the man we must depend on to lead the South Vietnamese into the promised land of "peace with honor?"

Let me say that the leaders of our own country also concern me. After 10 years have they not learned that the American people want and deserve the truth? Just this week Secretary of State Rogers was quoted as saying:

> We are encouraged by the courageous fighting of the South Vietnamese.

Mr. Speaker, the people of this country are not blind; they need not continue to be treated like children who must have their pills coated with candy. It is high time President Nixon and his advisers begin to be candid with the public.

One October 9, 1968, while campaigning for the Presidency, Richard Nixon stated:

> Those who have had a chance for four years and could not produce peace should not be given another chance.

President Nixon has had his chance and he too has failed. The Congress has the right and responsibility to end this war. The State Department now warns that the United States may again refuse to participate in public peace talks if Hanoi refuses to discuss the North Vietnamese invasion as the first order of business. Once again, negotiations will be stalled and the killing will continue. We will continue to contribute to the bloodbath we are supposedly there to prevent.

Our hope now lies here in the Congress. I urge the Foreign Affairs Committee to report out the Drinan bill, of which I am a cosponsor. Only by enacting this legislation can we truly end American military involvement in Southeast Asia.

Mr. HELSTOSKI. Mr. Speaker, behind the glaring headlines, the Presidential pronouncements and the Pentagon press releases, there is a human side to the Vietnam war. It is to be seen in the terror-stricken expression of a refugee, in the face of a child horribly scarred by napalm, or in a million graves. After a decade of merciless slaughter in Indochina I fear we have, as a nation, become immunized against feelings of horror at what is going on in Southeast Asia. At the very least it is all to easy to close our eyes to the daily slaughter and suffering.

It was gratifying, therefore, though discomforting, that CBS news last Friday night focused its cameras on the human impact of the fighting just south of the DMZ. As is all too characteristic of the entire Indochina war, the worst victims of the fighting were civilians. A truck carrying dozens of women and children refugees heading south to the relative safety of Hue, hit a land mine and was destroyed. In the aftermath, the mangled bodies of women and children littered the side of the highway as far as the camera's eye could see.

On another television news report, the American people were informed of the case of a small Vietnamese boy who needed corrective facial surgery. It seems this child had found a phosphorus grenade near his family's hut in the countryside and brought the curious device home. It detonated, killing two of his brothers and sisters and blinding his grandmother. The boy was more lucky. He lived, but his face was unbelievably scarred by the weapon and his eyesockets destroyed. His eyes were literally falling out of his head. Two major operations later, the sockets were restored and there was a chance that the boy's eyesight might be saved.

Such atrocities are the rule rather than the exception in an Indochina racked by 25 years of continuous warfare. But the blame for these tragedies cannot be laid exclusively at the feet of the insurgent Vietcong and North Vietnamese. The military and civilian leaders of this Nation who have engaged in a relentless air war and who have callously employed all manner of antipersonnel weapons, many of which are outlawed under international conventions, share a large portion of the blame as well for the continued decimation and maiming of the civilians of Indochina. Nor can a Congress which has complacently appropriated billions for this cruel war's prosecution and which has refused to legislate an end to the insanity, escape blame. Many years will pass before the stain of what we have done to the peoples and lands of Southeast Asia is washed from our hands.

Mr. Speaker, I am well aware that apologists for the administration on both sides of the aisle point to the atrocities committed by the Communist forces, as some kind of justification for this Nation's policies in Indochina. This is obviously a diversionary tactic employed to distract our attention from the real moral issues raised by our involvement in this war.

I know of no Member of this House who does not condemn every act of terror committed by the North Vietnamese. But this House is only accountable for the policies of the United States.

We appropriate funds for the American war machine in Southeast Asia. We are, in the final analysis, responsible for what our leaders and our missiles and our airplanes do there. The antiseptic terminology of the President and the Pentagon—free-fire zones, protective reaction air strikes, and all the rest—cannot mask the unspeakable consequences of unlimited bombing, of a thousand My Lais of the air. One might legitimately ask why not one word of outrage or protest has been heard from the President's defenders about these atrocities stemming from our military actions.

A curious sort of moral short circuitry seems to afflict the President's apologists. Apparently, according to their logic, if the foe executes a village chief or otherwise murders civilians, the President should feel free to loose the B-52's regardless of how many more thousands of hapless civilians die, are maimed, or witness the destruction of their homes and land. According to this rationale, peace will be brought to Indochina only through more escalation of the violence.

If there is any lesson to be learned from our tragic, misguided participation in that war it is this: The only peace which the United States can bring to Vietnam is the peace of the grave. Only after every last village has been bombed into rubble, after every last civilian is killed, and after every last refugee drops in his tracks, will the President's plan for "peace with honor" be a reality. The Vietnamese people, I think, care little for that kind of peace and even less for the honor that comes with it. To paraphrase the now famous remark of an American GI during the Tet offensive, it has become necessary to destroy Vietnam in order to save it.

Mr. Joseph Kraft of the Washington Post recently articulated the fears of many about the perversion of honor and decency which is the sum and substance of the President's Indochina policy:

> The fact is that decency knows no excuse for the President's willingness to bomb cities the better to prove he is tough. Honor offers no support for the view that it is all right to destroy a country to maintain what Mr. Nixon is pleased to call "respect for the Presidency."

This last point provides a shocking insight into Mr. Nixon's moral astigmatism which blinds him to all considerations associated with the destruction of the Indochinese peoples. This theme of "respect for the Presidency" has recurred more and more frequently in the Presidents public utterances of late. In his address to the American people on April 26, the President stated:

> In the 18 countries I have visited as President, I have found great respect for the office of President of the United States. I have reason to expect, based on Dr. Kissinger's report, that I shall find the same respect for the Presidency when I visit Moscow.
>
> If the United States betrays millions of people who have relied on us in Vietnam, the President of the United States, whoever he is, will not deserve nor receive the respect which is essential if the United States is to continue to play the great role we are destined to play of helping to build a new structure of peace in the world.

And this past weekend, at a cozy breaking of bread with scores of Texas millionaires at the Connally ranch, Mr. Nixon returned to his favorite theme of "respect for the Presidency:"

> . . . the office of President—not the man, but the office of President—of the United States is respected in every country we visited. I think we will find that same respect in Moscow. But, if the United States at this time leaves Vietnam and allows a Communist takeover, the office of President of the United States will lose respect, and I am not going to let that happen.

"Respect" becomes a hollow and abstract word in contrast to the very real suffering in Southeast Asia. Will the people and leaders of the world be expected to respect a President who employs all the horrors of modern technology to crush the insurgents in a civil war in an agrarian society half a world from our shores? Will the world respect a President for whom "peace with honor" means unlimited war, "free world forces" means the minions of a military dictatorship, and "pacification" means the decimation of a civilian population.

Will the world respect a President whose official vocabulary, so replete with terms like "peace with honor" and "respect," is devoid of words like "decency" and "compassion."

Mr. Speaker, the longer this insane war continues, the more divorced from reality becomes the rhetoric of those prosecuting the war. At first we fought in Vietnam to prevent a set of imaginary dominoes from crashing down, one after another, along the rim of the Asian Continent. Next we learned that latter-day George Washingtons and Thomas Jeffersons had taken up residence in the Saigon Presidential Palace and that it was our sacred duty to keep the lamps of democracy burning brightly in South Vietnam. Soon it became apparent they were never lit. And behind every Vietcong foray into every hamlet we saw the hand of international communism. Now the President is reduced to justifying the 11th year of our combat involvement in this war with appeals to preserve respect for the Presidency. It is tragic that he cannot realize that his prosecution of this immoral war has done more than anything else to undermine that respect. There have been too many American and Vietnamese lives lost for the result to be otherwise.

One by one the intellectual underpinnings of this house of cards known as our Vietnam policy are crumbling. It is only a matter of time, a few weeks perhaps, before the whole structure comes crashing down around the heads of those policymakers whose moral insensitivity and utter divorce from reality have led us to this sorry state we find ourselves in. Future historians, I fear, will look back at the records of the past decade of involvement in Vietnam and rub their eyes in disbelief.

Mr. Speaker, there is really nothing left to say about the horror of this war, except that we must stop it and stop it now.

GENERAL LEAVE

Mr. RYAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my Special Order today.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from New York?

There was no objection.

POLISH CONSTITUTION DAY—1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PUCINSKI) is recognized for 60 minutes.

Mr. PUCINSKI. Mr. Speaker, today marks the 181st anniversary of Polish Constitution Day, or it was on May 3, 1791, that Poland adopted its Constitution. In doing so, Poland led the way in showing her continental neighbors that she was desirous of entering the age of enlightenment and reason.

This is a day of joy, celebration and remembrance for Poles around the world for it is a day of recommitment to the principles of freedom.

In many communities throughout the United States, Polish-Americans will hold observances and celebrations to honor Polish Constitution Day as a reaffirmation of their patriotic feeling, for May 3 is a landmark in the struggle of men to provide government by the consent of the governed. With the adoption of the Constitution, Poland helped to shape the ultimate quest of other nations for greater individual freedoms, for elimination of class distinctions, for removal of economic barriers, and for liberty to worship God as individuals wish.

This day has come to symbolize for all Polish-Americans the struggle for freedom which has characterized the spirit of the Polish people for over 1,000 years. But May 3 is not only a Polish holiday. It is a day of reaffirmation for all people who cherish their freedom.

Two of Poland's greatest statesmen, Casimir Pulaski and Thaddeus Kosciuszko, fought in the American war for independence and thus were greatly instrumental in helping the United States adopt her Constitution.

In the 16th and 17th century, Poland produced prominent men in the fine arts, the sciences and politics, such as Copernicus, Modrzewski, Goslicki, and many others who matched the finest minds of Western nations.

Many historians believe that the signers of the Declaration of Independence were influenced by Goslicki, who first espoused a theory for establishing a commonwealth, which was later to become the basis for the American system of government.

One must study the past to understand the indomitable spirit of the Poles, a magnificent spirit which has survived more than a thousand years of turmoil and persecution in its stubborn defense of freedom and human dignity.

Poland's peculiar geographic position made her prey for her rapacious neighbors, and she suffered many partitions by Prussia, Austria, and Russia.

Throughout, this bastion of Christianity never gave up hope for a better day and refused to compromise with tyranny, regardless from which quarter it came. Poland's tortured history inspired many poets and romantic writers of many nationalities throughout the centuries. Poland's history is, indeed, a breathtaking chronicle of endurance against man's inhumanity toward his fellow man. It is a rippling litany of unparalleled bravery which is heralded around the world.

Jean-Jacques Rousseau described it best when he wrote:

> Poles. If you cannot prevent your neighbors from devouring your nation, do your best to make it impossible for them to digest it.

It has always been stated that the greatest works of man came from those who were oppressed in their own countries. One cannot help but marvel, then, that in between her unyielding struggles for survival, Poland was able to make so profound a contribution to the cultural development of Europe and the world. One can only describe as incredible the monumental cultural contributions of Chopin and Paderewski, of Nobel Prize winners Sienkiewicz and Reymont, of Mickiewicz and Slowacki, of Copernicus, Marie Sklodowska Currie, and many, many more.

From their earliest beginnings, the Poles exemplified the Christian belief that there is more virtue in defending a right than in denouncing a wrong. Thus, Polish writers have long preached doctrines of fundamental justice and equity. During the reformation, it was Modrzewski who evolved the concept of a system based on Christian principles of equality of men before God and before the law. This concept went far beyond the accepted ideas of the time, and it is notable that this concept is part of our American heritage today.

Mr. Speaker, even though Poland is today ruled by the Communists, the people will never accept totalitarian communism. For over a thousand years, the Polish people have never accepted any principle or ideology save that of freedom and liberty, which were embodied in the Constitution of 1791.

As history is our teacher and guide, we can be sure that the day will soon come when Poland has a renaissance of her past glory, a resurrection of her Christian freedom, and a resumption of her historic role as humanist and defender of man's right to control his destiny. When that day comes, I am confident that other enslaved nations will follow the guiding spirit of the indomitable Poles. When that day comes, apostasy everywhere will fall by the wayside, and free people in all lands will join together to rededicate themselves to a new era guided by the majesty and blessings of Almighty God. When that day comes, fear, oppression and tyranny will be no more, Armageddon will be behind us, and the dawn of a new Genesis will be before us.

With great honor and humility, I am proud to take part in observing Polish Constitution Day.

Mr. HELSTOSKI. Mr. Speaker, today, May 3, is the 181st anniversary of the adoption of Poland's Constitution. It is the aniversary of the first democratic constitution, and the Polish people, in and out of Poland, join in commemoration of this great national event. The adoption of the Constitution in 1791 constitutes one of the brightest and most significant landmarks in Poland's entire history. The event came at a time when nearly all of the nation was parceled out among the three greedy monarchs of Austria, Prussia, and Russia. Yet a small band of patriotic, farsighted, and dauntless Poles dared to draft and to present to the country the document of freedom.

That Constitution made Poland a constitutional monarchy with a responsible, cabinet form of government. Ancient class distinctions and privileges were wiped out, and the government was strengthened by bringing the peasantry under the protection of the law. What is perhaps even more significant for those days and that part of the world was the fact that the Constitution guaranteed absolute religious freedom. In this and other ways, the Polish Constitution was in the vanguard of democracy's advance into Central and Eastern Europe.

In commemorating the 181st anniversary of the adoption of the Polish Constitution, we are paying our respects to the memory of its creators—some of the most valiant figures in the heritage of Western democracy.

Those figures are part of the American heritage today. The deeds and sacrifices, and the views and the ideals, of men like Pulaski, Koscuiszko, and Chopin are, indeed, an integral part of our traditions. These men, and many others I could name, developed from the same ideological ferment that produced George Washington, Benjamin Franklin, and Thomas Jefferson in our own land.

The Polish Constitution of 1791, the French Constitution of 1792, and the American Constitution are among the great landmarks in the growth and development of constitutional law the world over.

Throughout the years, there have come to our land millions of men, women, and children of Polish birth. They have brought to this country the rich heritage of their own culture along with the passionate love of freedom and order under law which was their birthright. These traditions and qualities have been amalgamated into the tradition that we call American. America has been enriched and Western civilization has been enriched by this process.

In this period prior to World War I the cause of Poland rapidly became a cause of universal concern. The presence of thousands of Polish men and women in the United States served as a constant reminder to Americans of the unfortunate nation beyond the Atlantic shores. Exiles in Britain and France also emphasized the plight of Poland in its struggle for freedom.

When the war ended, bringing on the defeat of Germany and the collapse of the Russian Empire, Poland regained its historic position among the states of Europe as a free and independent nation. The principles of democracy, which had been pitted in this world struggle against the tyranny of militarism and autocracy, were victorious. With universal acclaim the Polish people, proclaiming their support of the principles for which the war was fought and won and reaffirming the fundamental concepts set forth in their Constitution of 1791, adopted a new Constitution in 1918 through which was created the Republic of Poland. By this act the Polish people resumed their rightful place in Western Europe and rejected categorically the ties which had bound them to Russia.

The tragic fate of Poland in World War II and the lamentable aftermath need no recounting here; the facts are well known to all of us. Once again Poland, overthrown by enemies at home and from abroad, was prostrate beneath the heel of another oppressor. Once again these proud people were enslaved without a remnant of its former freedom. Once again the democratic constitution, the tradition of which extends far into the past of Polish history, was thrown aside. Once again the Polish nation as we knew it was no more.

We in America had a major part in bringing back to life the Polish Republic after World War I. Yet at Yalta and Potsdam we apparently forgot the advice of Woodrow Wilson, when in a speech to Congress on January 8, 1918, he outlined as one of his 14 points the following position regarding Poland.

An independent Polish state should be recreated to include the territories inhabited by indisputably Polish populations, which should be assured a free and secure access to the sea, and whose political and economic independence and territorial integrity should be guaranteed by international covenant.

Instead of attempting to fight for the creation of an independent Polish nation after the Second World War, the framers of our foreign policy took an opposite course.

With over a 1,000 years of national existence, Poland ranks among the oldest of European nations. There was a time when she constituted one of the major powers of Europe, when princes and monarchs sought her favor and aid; but at no time has she sought her neighbors' possessions, or sinned by invading their lands and terrorizing their people. If Poland grew territorially, it was not through conquest, but as a result of concord with the adjoining countries which freely desired a permanent union with her. For through alliance with Poland they found the realization of the freedom and personal liberation which no other country offered.

Mr. Speaker, as we join in this tribute to Poland on this anniversary, the United States of America is indebted to Poland for its many contributions to our progress and well-being. It is indebted to Poland for the millions of its citizens who came to this country to help build it into the greatest nation of all time. The same zeal and warm desire for freedom, that same determination to develop itself further, which characterized the Poles through the ages, has been a dominant factor in the growth and development of our great Nation.

This annual commemoration of the Polish constitution in this American House of Representatives provides a forum through which we pay tribute to the men who forged the inspiring document and also to those brave souls who through the years have sacrificed their lives so the ideals embodied in the constitution of 1791 might take root and prosper.

Mr. ANNUNZIO. Mr. Speaker, today, May 3, is the anniversary of an event of momentous significance in the history of the people of Poland. It was on this day, 181 years ago, that Poland adopted its first democratic constitution. It is with a sense of great honor that I join millions of Americans of Polish ancestry and Poles everywhere in the commemoration of this event.

The May 3 constitution not only serves the Polish people as a symbol of progressive government under the democratic principles of human dignity and honor, but serves as well those men and women the world over who are ceaselessly striving toward the goal of freedom from any coercion, be it coercion of the body or of the spirit.

It was through the constitution of May 3, 1791 that Poland stepped out of medieval times and emerged as a land of limited monarchy with a constitutional government. Tragically, however, only 4 years after the adoption of the constitution, Poland was partitioned and conquered by several powerful and autocratic neighbors.

Thus, the exemplary ideals promulgated in the infant constitution came only to represent the aspirations of a people who desired to be free and not the reality in which they found themselves. The lofty principles embodied in that constitution such as "All power in civil society should be derived from the will of the people," came to be cherished in the hearts of Poles and men of good will everywhere as goals to work and struggle for as long as persecution and injustice oppressed mankind.

The Polish people know only too well the terrible price in human suffering that sometimes must be paid for the acquisition, maintenance, and enlargement of even the most basic and fundamental freedoms. For the Poles of the 20th century there has been little, if any, progress made in their struggle for self-determination and for a revival of the spirit of the constitution of 1791.

Two devastating wars have been fought on Polish soil and when not directly occupied by foreign troops, Poland has been within the sphere of influence of and directly subject to governmental policies decided not by Poles for Poles, but by foreign powers manipulating Poland for their own self-interest.

This 3d day of May, therefore, is an important day not only for Polish-Americans, but also for the whole of mankind. It is a time to reconfirm our moral commitment to and encouragement of those who continue the fight for human dignity and liberty.

I join my colleagues in the Congress in recognizing the rich history of achievement of the Polish people, in Poland itself, and in the new homelands to which they went seeking refuge and freedom.

In spite of the adversity which characterizes much of Polish history, the indomitable spirit of the Polish people has been and will continue to be a beacon-light of inspiration to those who treasure the concept that the individual himself should have the right to make and pursue his own destiny without interference from tyrants.

Mr. Speaker, as Americans of Polish ancestry all over the country commemorate the 181st anniversary of Polish Constitution Day, I join with the tens of thousands of Polish-Americans in my own city of Chicago in a tribute to those who have struggled and are continuing to struggle in order to transform into reality the noble ideals expressed in the Polish constitution of May 3, 1791.

Mr. ZABLOCKI. Mr. Speaker, today we are commemorating one of the important events in the history of man's advancement in freedom. That milestone is the Polish Constitution of May 3d, adopted by the people of Poland in 1791.

It is fitting for us in the Congress of the United States to pause in our deliberations to consider that remarkable political document.

The Polish Constitution provided for the separation of powers between the executive, legislative, and judicial branches of the government. It was based on the principle that all power in civil society is derived from the will of the people, that sovereignty resides in the citizenry, not in the state itself.

It is in the preservation of this spirit that we commemorate this 181st anniversary of Poland's famous Constitution of May 3d.

Our world today is still beset by many problems. Examples of international violence and suppression are still before us. Issues which have troubled relations between countries since the end of World War II are still on the scene—and still unresolved.

In a real sense, the world atmosphere today is not unlike that which prevailed in Poland at the end of the 18th century.

Dark clouds of pessimism, frustration, and disappointment obstruct our vision of the future.

Yet it was during such a time that the Polish people rose to great heights in adopting its famous constitution.

On this anniversary of the Polish Constitution of 1791, I submit we should restate our determination to further the basic principles—respect for freedom and justice, the dignity of man, and the responsibility of the State—embodied in this great document. These principles are as valid today as they were in 1791.

As we pause to observe this anniversary, Mr. Speaker, may we all derive encouragement and the hope of a better tomorrow from this great milestone of human progress. The spirit of the Polish Constitution of May 3d shall continue to live in the hearts of the Polish people and shall hopefully hasten the day when the principles embodied in this document shall once again be proclaimed and practiced openly and freely in Poland.

TRIBUTE TO J. EDGAR HOOVER

The **SPEAKER** pro tempore. Under previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 60 minutes.

Mr. HOGAN. Mr. Speaker, President Nixon and J. Edgar Hoover shared much in common. And one thing they shared in common was confused critics who were not inhibited by the truth or the facts in their frenzy to scream that everything they do is wrong. There are many among us who think that everything this country does is wrong, and everything that our enemies do is right.

They lose sight of the fact that the North Vietnamese invaded South Vietnam and are determined to destroy that free country. The Representative from New York went to Paris, she tells us, to talk to the Communist negotiators, and it is obvious that she swallowed everything they told her. But it occurred to me as I was listening to her why she did not ask the North Vietnamese to call off their invasion of South Vietnam. She calls upon President Nixon to stop the bombing. It seems it would be only right that she ask the other side to call off their invasion, but I am sure that did not occur to her, because it is much easier to criticize President Nixon.

But those of us who are not confused on this issue know that President Nixon has withdrawn over a half million men from Vietnam and has drastically reduced our casualties there.

Mr. Speaker, I did not take this special order today to debate the Vietnam war, because the House has, on a number of occasions, overwhelmingly indicated its support for President Nixon's policies in ending the war there. But I could not resist the opportunity to comment on this unwarranted criticism which the previous speakers have leveled at President Nixon.

I am sure that the President has become accustomed to unjust criticism as J. Edgar Hoover became accustomed to it during his lifetime. Unfortunately, it seems that this is part and parcel of public service. In fact, when I saw Mr. Hoover in his office a few weeks ago we discussed the matter of all the unjust criticism which has been leveled at the FBI, and he laughed it off, as is typical of the man, and he joked that when these critics stopped criticizing him, he would become worried that he was no longer doing his job.

It is interesting that now, now that he has passed from this earth, his harshest critics are begrudgingly paying tribute to his accomplishments during his outstanding career.

The real monument to the memory of J. Edgar Hoover, of course, is the FBI which he built, but today I have introduced legislation to create a tangible memorial to this great American. I have introduced a bill which would require that the new FBI Building now under construction on Pennsylvania Avenue between 9th and 10th Streets be named the J. Edgar Hoover Building.

There has been a great outpouring of praise from our colleagues in regard to Mr. Hoover since his death, and I am pleased that so many Members are participating with me in this special order and the one which I had yesterday for the purpose of eulogizing Mr. Hoover.

At this time I would be happy to yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding.

Mr. Speaker, I would like to begin my remarks by commending the gentleman on his remarks in memorializing and eulogizing J. Edgar Hoover. I would certainly also like to commend the gentleman, for I know he was a member of the Federal Bureau of Investigation for some 10 years and served our country in that Bureau very well.

I also recall so well the occasion when the gentleman from Maryland stood in that very spot in the well of this House and answered specific critics and their criticism of J. Edgar Hoover. I commend the gentleman at this time for the action he took at that time.

Mr. HOGAN. Mr. Speaker, I thank the gentleman from Indiana.

Mr. HILLIS. Mr. Speaker, I would like to add a few words expressing my deep sense of loss at the passing of this great American.

When I think of J. Edgar Hoover, I automatically think of "Mr. Law and Order." I know this is true for most of the residents of Indiana's Fifth Congressional District—and I know it is a title Mr. Hoover would be proud to bear.

For some people, "law and order" represents repression of minorities or elements of change. For others, it represents a maintenance of the status quo. For J. Edgar Hoover, it meant maintaining an orderly society with change by evolution, not revolution.

It is well established that Mr. Hoover, as FBI Director, had tremendous power. But he also had a tremendous respect for individual rights and freedoms, and was a staunch defender of the American system. That is why I personally admired him so much.

Despite the power he wielded, this man would have no association with the repressive measures associated with dictatorships—he found Gestapo methods repugnant. Because of men like Hoover, these methods will not become a part of American law enforcement.

J. Edgar Hoover stood for something very important to the bulk of American citizens. He represented the right to walk down the block without fear of being attacked. He stood for the assurance that our laws will be upheld, that criminals will be tracked down and brought to justice, yet individual rights of every citizen will continue to be upheld. Only in a society which maintains this respect for law and individual freedoms can citizens go about their business feeling secure and safe. Only in an orderly society can we progress and work steadily toward solving our social problems.

Mr. Hoover built the FBI into the greatest law enforcement body in the world. He and the FBI have apprehended untold numbers of criminals, broken up numerous criminal rings, and maintained a constant vigil over the internal security of this Nation. They have organized crimefighting into a profession—one which has kept pace with the times in terms of modern criminology, yet one which is solidly based on the age-old value of order with freedom.

Mr. Hoover himself was a true professional—and instilled this quality into the FBI. He understood the importance of receiving criticism without retribution, and held no personal vendettas against his critics, despite the power to do so. Further, he must hold a record for being one of the only major Government servants to serve under four Republican and four Democratic administrations. This record accentuates his bipartisanship and unquestionable value to this country, regardless of which political party was in power.

Certainly, the FBI will continue its fine record in the future, carrying on the strong traditions established by Mr. Hoover. However, on this day I feel it is proper for us to honor the great contribution to America which this one man made. He will long be remembered in the history books. I hope he and the values for which he stood will also be long remembered in our hearts.

Mr. HOGAN. Mr. Speaker, I thank the gentleman from Indiana for his contribution and all Members for their contributions to this special order eulogizing J. Edgar Hoover.

Mr. Speaker, a great American leader has been called from this earth and no longer walks among us, but his spirit is still with us. It lives on in the men and women of the FBI and in their carrying on of the work which he began.

J. Edgar Hoover's dedication to his principles and his unselfish service to this country and his untiring devotion to others should be a continuing inspiration to all Government employees.

Mr. HUNT. Mr. Speaker, the United States has suffered a great loss with the passing of FBI Director J. Edgar Hoover this morning and I will miss his longtime personal friendship.

May 10 would have been Mr. Hoover's 48th anniversary as Director of the FBI. Just a year ago I joined with a number of other Members in honoring the Director in words that I would like to repeat in part:

> I am proud to be in the company of those whose recognition of Mr. J. Edgar Hoover on his 47th anniversary date as Director of the FBI is a tribute to this giant of a man whose contributions to law enforcement and the internal security of this Nation are unequaled.
>
> The continuity of service which Mr. Hoover has brought to his office during the recent years of turmoil, civil disobedience, and a rapid growth of subversive activities, is something for which we as Americans should be thankful . . .
>
> I say thank God for Mr. Hoover and those of his character whose loyalty to country, devotion to God, and dedication to duty ought to be, and are in my mind, marks of distinguished respect rather than targets for the subtle degredation of the institution for which he stands.

Mr. Speaker, while Mr. Hoover's passing is mourned, his contributions to liberty, justice, and the sanctity of our form of government are monuments that rank him among the most able and patriotic men who have ever served this Nation. The void left by the Director will be a challenge to fill, but I am confident the President will seek out someone who will exemplify the qualities that distinguished Mr. Hoover.

Mr. QUILLEN. Mr. Speaker, it is with a sense of profound grief and personal loss that I join my colleagues today in paying tribute to a great American, Mr. J. Edgar Hoover.

It was at this time last year that I participated in a special order to honor Mr. Hoover on his 47th anniversary as Director of the Federal Bureau of Investigation.

To millions of Americans, Mr. Hoover was considered the Dean of Law Enforcement. He did more for the cause of law and order than any other person in the history of this land.

During his years as director of the FBI he transformed an infant agency into the most potent and respected force for law and order in American history.

He was a man of great power and influence who used these qualities in constructive measures for the good of all Americans.

He has been admired by young and old alike for decades, and he became the symbol of basic American values of decency, fair play and respect for the law.

We have all come to depend on the FBI largely due to the job he did to protect the peace and preserve the security of our country.

It seems unnatural to even think of anyone replacing Mr. Hoover, although we know the FBI will go on, and able men who have been trained under Mr. Hoover will continue their work to uphold the Constitution of the United States.

Mr. Hoover's death truly marks the end of an era—a dedicated, unselfish, and courageous career of public service.

Mr. CARTER. Mr. Speaker, let us pause at this time to reflect upon the life of the dedicated citizen whose contributions to his country and impact upon the world will live long past his death.

We now pay tribute to a man who established a record of 48 years of distinguished service under eight Presidents of the United States.

The highly effective organization that this man constructed virtually out of his own will and determination has lost a firm and able Director. This man was one who realized a deep sense of duty and was successful in following it. He was a man who sought personal fulfillment in his work, and truly he achieved it.

I join with my colleagues today in giving a final measure of praise for the late Director of the Federal Bureau of Investigation, J. Edgar Hoover.

Mr. SHRIVER. Mr. Speaker, today the body of J. Edgar Hoover lies in state in the Rotunda of the U.S. Capitol. It is highly appropriate that the American people have this opportunity to pay last respects to this great American. It is fitting that he be so honored.

J. Edgar Hoover was a giant among Americans. Under his personal direction he moulded the Federal Bureau of Investigation into the most effective law enforcement organization in the world.

The internal security of this Nation is stronger because of the vigilance of the FBI under Mr. Hoover.

The aggressive FBI campaign waged against organized crime achieved unprecedented success last year with the recording of a new high of 631 convictions of hoodlum, gambling, and vice figures.

J. Edgar Hoover was a man of unquestioned integrity and character, and he insisted upon the same standards from those who served with him in the FBI.

Mr. Hoover, in recent years in particular, was not without his critics and detractors. At the opening of hearings on the FBI appropriations for fiscal 1973, he told the subcommittee:

> I have a philosophy. You are honored by your friends and you are distinguished by your enemies. I have been very distinguished.

Mr. Speaker, one of the great American patriots is dead. His 48 years of devoted and outstanding service as Director of the FBI stands as a perpetual memorial to J. Edgar Hoover. On behalf of the people of the Kansas 4th District, I express our heartfelt sorrow on the death of Mr. Hoover. We owe him a lasting debt for what he did for our country.

Mr. KYROS. Mr. Speaker, today we mourn the death of a man whose long years of public service and dedication to the enforcement of the Nation's laws will cause him to be remembered as one of the great Americans of the 20th century.

For 48 years and under eight Presidents, J. Edgar Hoover served as Director of the Federal Bureau of Investigation. He left a personal mark on our system of law enforcement that is indelible and unparalleled in our history.

It cannot be denied that J. Edgar Hoover was a highly controversial figure in his later years. This will always be part of his living memory. How important it is, then, that in remembering him we also recognize the simple fact that 48 years ago he took charge of a politics-ridden organization and molded it, almost singlehandedly, into a serious and effective law enforcement agency that is respected and emulated the world over.

J. Edgar Hoover's life was one of great personal achievement. And his was an outstanding record of creative innovation and modernization in the field of law enforcement. The centralized fingerprint file, which now contains over 200 million marks; the National Crime Information Center; the National Police Academy, which set a world standard of professionalism—these are only a few of his personal creations, and they are testaments to his ability and dedication.

Even those who most vigorously disagreed with J. Edgar Hoover saw in him a man whose personal qualities commanded respect. He was a man of extraordinary discipline, unquestioned loyalty, and great personal integrity.

I am proud to join my colleagues today in honoring the memory of this outstanding American.

Mr. BRASCO. Mr. Speaker, J. Edgar Hoover's death leaves a massive void in the life of our country. Every American shall miss him.

His standards of excellence provided America with an organization that shall always be his monument. Taking over the FBI when it was ridden with scandal, corruption, and political favoritism, he turned it into a law enforcement organization that today is the envy of every similar operation. The FBI sets a standard for excellence, and this is Mr. Hoover's doing.

Insisting on the elimination of politics from the Bureau, he put teeth into Federal law enforcement activities. He created an image of the Federal officer that replaced the favorable image of criminals which had previously prevailed in the mind of much of the great American public.

Mr. Hoover served America well for almost 48 years, devoting his entire life to the cause he believed in so fervently. Rarely has such single-minded devotion ever been seen in any kind of service.

The list of FBI credits is almost endless. Law enforcement all across the country evolved in an image shaped for it by Mr. Hoover. Professionalism in a thousand categories became the order of the day, as FBI training was given to several generations of American law enforcement officials.

Scientific law enforcement was given its showcase in FBI work, resulting in revolutionary advances in dozens of different fields. As a direct result, criminology as we know it came into its own, to the benefit of our entire Nation.

Mr. Hoover served under eight different Presidents, earning the thanks of a grateful Nation in the process. He managed to bring to the bar of justice several generations of our Nation's enemies and lawbreakers. From bootleggers and Nazi sympathizers to Communists and hijackers, his personal example, men, and organization put the cause of our country first.

All America is the better overall for his life's work.

It is my hope that the new FBI Building on Pennsylvania Avenue, now in the process of construction, will bear his name.

I know that all Americans feel that a respected, sincere, and devoted man has left us. He has set an example of service for others to emulate.

Thank you.

Mr. MATHIS of Georgia. Mr. Speaker, I am extremely proud to join with other Members of Congress in paying tribute to J. Edgar Hoover. No man in this century more epitomized constitutional law and the preservation of the American way of life than Mr. Hoover. His name was synonymous with law and the protection of liberty. Although he was criticized throughout his later years Mr. Hoover never once compromised his position and he steadfastly remained the inspirational leader of the world's best law enforcement agency. I personally never had the opportunity to meet Mr. Hoover but this did not lessen my respect for him. The people of my district can feel extremely proud of the fact that on the morning he died, a delegation from Tifton, Ga., was scheduled to present Mr. Hoover a plaque expressing their appreciation for the diligent work and leadership he has rendered in his career. The Tifton delegation was truly representative of the deep respect held for Mr. Hoover by the citizens of my district.

Mr. ICHORD. Mr. Speaker, it is with a feeling of deep personal sadness that I join my distinguished colleagues in mourning the passing of a truly great American, the Honorable J. Edgar Hoover. Millions of Americans throughout the length and breadth of our Nation will mourn his passing and will remember him in their prayers for the blessings of freedom they and their families now enjoy.

Mr. Hoover's death, which came to me as a great shock, leaves a void that is wide and deep. He was a great patriot. The American people held him in high esteem and regard him as a giant among men. Few men have been as universally admired or will be missed as greatly. The memory of Mr. Hoover will forever serve as a guiding beacon for high performance in public office.

There were many facets to the character of this remarkable man. He was a dedicated civil servant. He was an advisor to numerous Presidents and Attorneys General. He was an able administrator, building and guiding the Federal Bureau of Investigation from its inception on a course to become the finest law enforcement agency in the history of the world. He was a faithful friend to police officers throughout the Nation and at the same time far ahead in safeguarding the rights of persons suspected and accused of crime. As a bitter foe of communism and as one who intimately recognized its dangers to our free way of life, he carried the burden of informing the public of this menace that would destroy our free society. Mr. Hoover's honesty, integrity, and dedication to liberty under law were unquestioned. The outstanding reputation of the FBI stands as an everlasting tribute to this one man and the ideals he imbued in employees of the organization. His great courage and energy were employed with wisdom and discretion to back up his convictions.

Mr. Hoover was one of the great men of our century and his name will forever be inscribed on the rolls of great Americans. His deeds and accomplishments will serve as their own memorial to a life lived fully and well. The Christian life he led was exemplary. He has indeed left his mark on all of us and on the history of our country. His memory will be deeply emblazoned in the hearts and memories of the people of this Nation and shall be a perpetual monument to him.

Mr. NICHOLS. Mr. Speaker, our hearts are deeply saddened as we pay tribute to the loss of a great American, John Edgar Hoover, the builder and Director of the Federal Bureau of Investigation. J. Edgar Hoover has made a remarkable record in the service of his country and will be long remembered in the annals of our Nation's history.

As a result of his tireless efforts the FBI was transformed from an insignificant agency in the Department of Justice to the most elite crime-fighting organization in the world. When the late Director took command of the Bureau in the early 1920s it totaled only about 500 agents. Today, the Bureau's organization numbers about 15,000 employees. Yet this increase in size has not resulted in a loss of efficiency for the Bureau, as it has in some agencies.

Under Mr. Hoover's leadership the FBI has been responsible for cracking many shocking crimes and ending the reign of terror imposed on society by many notorious criminals. During times of national and international crises the Director also was diligent in thwarting the efforts of those who would endanger our survival as a free nation under God.

Mr. Speaker, some months ago an Alabama State trooper visited my congressional office. As a long time admirer of Mr. Hoover he requested that his Congressman might go with him to achieve a life long dream of his in being able to personally meet and shake hands with this great law enforcement officer. Together we walked into the hallowed office displaying the momentos of America's worst criminals who had been apprehended and convicted as a result of the excellent work of officers of Mr. Hoover's organization. The Director was most cordial and when I inquired if we might make a picture of my Alabama State trooper and the Director, Mr. Hoover replied:

> I would be most honored—after all we are partners in crime fighting.

Mr. Speaker, America has lost a great patriot in J. Edgar Hoover. This great American was indeed a legend in his own time, and his influence will continue to be felt in our Nation for many years to come.

Mr. WHALLEY. Mr. Speaker, our Nation has lost a dedicated public servant and a great American. We join those from across the land in mourning the death of J. Edgar Hoover.

Centuries ago a great teacher declared:

> To whom much is given, of him much shall be required.

By that exacting standard, J. Edgar Hoover patterned his life, both public and private.

As Director of the Federal Bureau of Investigation for nearly half a century, Mr. Hoover embodied those qualities of vigilance, enterprise, and prudence which not only made the FBI the most effective investigative organization in the world, but won for himself the deep respect and admiration of even his most vocal critics.

Mr. Hoover was steadfast in his defense of the ideals of his Nation and his God. And this honesty and integrity was reflected in the rank and file of the FBI—from his top assistants to secretaries and clerks. Throughout the history of the FBI, no agent has ever been dismissed for dishonesty.

J. Edgar Hoover was legendary in his own remarkable lifetime. He will be succeeded, but never replaced. While we mourn his death, let us give thanks for his life. History will surely rank J. Edgar Hoover among the great patriots of this or any time. His legacy will be with us always.

Mr. PRICE of Texas. Mr. Speaker, it is time to pause and mark the passing of a man—not just any man, but a man who was the embodiment of all that is good about America, a man whose integrity, strength of character, and courage could never be defeated.

Today we pay tribute; we offer a generous portion of accolades, some from the heart, and others from those who now regret previously uttered intemperate, unkind, and undeserved remarks. But this man really does not need our eulogies, for long after most of us are gone and forgotten and our words are buried in the dust of antiquity, the name of this man will be remembered and revered. We cannot dedicate that which is already immortal, for this man who was bigger than life was already a legend in his own time.

To say we owe this man a debt would be a grave understatement. His relentless battle against the forces which have sought to divide and destroy our Nation and to upset the fragile balancing forces of a democratic society is known to every American—indeed, every living generation of Americans. A unique man, whose love of this great land shall be his legacy—who among us shall ever rise to the stature of J. Edgar Hoover?

Mr. LUJAN. Mr. Speaker, no man has contributed more to the internal security of our Nation, nor to the insecurity of organized crime, than Mr. Hoover. To those of us brought up with the traditions of "G-Men" and "Gangbusters," he has long been a living legend. The Federal Bureau of Investigation stands as a monument to his dedicated patriotism, but the greatest legacy he leaves us is his unswerving vision of a morally straight America where good must always triumph and where lawlessness must always give way before the law. I hope we never lose that vision.

Mr. RHODES. Mr. Speaker, it is a privilege to join my colleagues in paying tribute to J. Edgar Hoover.

The dedicated man's passing should be mourned by every American. He was a great American and the country will miss his dedication and influence.

Probably more than any other individual Mr. Hoover raised the status of police work in this country. Under his direction the FBI set high standards for professionalism and proper conduct in police work. This example has done a great deal to make law enforcement a respectable career.

Mr. Hoover came to the FBI in 1924. From that time on the record speaks for itself. His is a record of achievement, public service and patriotic discipline.

In nearly 48 years as Director of the FBI he was neither partisan nor partial in his use of the enormous power of this national investigative agency. Following his policies the FBI established a reputation for honesty, credibility, and devotion to the law; a reputation that is unequalled anywhere.

The Nation, and each citizen, owe Mr. Hoover a sincere thank you. His job was his life, and his job was a job well done.

Mr. **CRANE**. Mr. Speaker, our Nation has suffered an irreparable loss in the death of J. Edgar Hoover, Director of the Federal Bureau of Investigation.

Mr. Hoover's record of public service since 1924, under eight Presidents, and his selfless devotion to principle were an example to us all. For nearly a half-century this great American patriot displayed the fairness, courage and dedication necessary in building the most effective law enforcement agency our Nation has known.

Mr. Hoover's constant loyalty to country and the principles of justice and fair play never flagged, despite the trials and bitter criticism he often faced. He demonstrated that he was truly worthy of the mantle of greatness he had assumed. Mr. Hoover will be deeply missed by us all.

Mr. **BRAY**. Mr. Speaker, J. Edgar Hoover: In memoriam—

> Exert your talents and distinguish yourself, and don't think of retiring from the world until the world will be sorry that you retire. I hate a fellow whom pride or cowardice or laziness drives into a corner, and who does nothing when he is there but sit and growl. Let him come out as I do, and bark.

The above, attributed to Dr. Samuel Johnson, sometime in the 18th century, might well serve as an epitaph for one of the very few men in the history of our Republic who were legendary symbols during their lifetime and who passed immediately into the pantheon of American heroes at the time of their death.

Measure the man, and his life, by his enemies. I am sure he was always proud of the fact that the most dedicated of his enemies, and the most vicious of his detractors, were also the most deadly and unswerving enemies of the American Republic and its citizens.

Measure the man, and his life, by his deeds. I am equally sure he must have counted it a signal honor to be the symbol of the forces that stood between these people and his country.

He made the FBI. He was the FBI. He always will be the FBI. This organization, the wonder of the law enforcement world, was outstanding for a multitude of reasons and one of the most significant was that in its history it had never had an inner scandal arising from a corrupted agency or agents. I have often seen this fact dwelt upon; people ask why this should have been so. I believe the answer is basically simple, in that it lay in J. Edgar Hoover himself, and the example he set, and can be summed up in a statement made by Oliver Cromwell in 1643:

> If you choose godly, honest men to be captains of Horse, honest men will follow them.

No one will ever know the inner motives and reasons and thoughts of the then-Attorney General—and later Chief Justice of the United States—Harlan Fiske Stone, who named Hoover as head of the old Bureau of Investigation in 1924. But Stone's injunction to Hoover, and his remarks at the time, indicate to me that somewhere and sometime Stone had read Cromwell's remarks.

Stone wanted high standards; he felt—

> That the organization itself should be law abiding; that all appointees should be men of intelligence and some education; that they should be subjected to a thorough course of training for their work.

Said Stone:

> I am firmly convinced that officials of the Department of Justice can more effectively perform their duties by acting the part of gentlemen than by resorting to tactics of a different character. The work of gathering evidence and of conducting litigation should be done in a gentlemanly way.

Stone was a remarkable prophet. So was Hoover's high school yearbook, which said this of him:

> A gentleman of dauntless courage and stainless honor.

His life showed what one man can do. A grateful Republic will never forget what this one man did.

This is the legacy he has left his fellow countrymen, and it is best summed up in the following line from Shakespeare's Henry VIII:

> Be just, and fear not. Let all the ends thou aim'st at be thy country's, and thy god's, and truth's.

Mr. **SNYDER**. Mr. Speaker, the best eulogy we, as Americans, could provide J. Edgar Hoover is the emulation—in our personal convictions and political lives—of the dedication with which he served his country.

I do not speak here simply of working long hours to effect the completion of a preordained project or someone's mechanical conception of how to run a Government agency efficiently. Detractors and admirers are agreed in those respects. For decades Mr. Hoover ran a tight ship, an efficient and constantly improving arm of our Government. He obeyed orders—and performed a vital function. But the same could be said of other dedicated public servants—although not all public servants.

Some are motivated by achieving the top pay grade; others by a driving desire for the thrill of competition; still others by the urge for quiet efficiency. J. Edgar Hoover stepped beyond the common motivations for dedication and into the realm of the extraordinary. What drove him in his often seemingly thankless task was the firm and fervent love of his country which characterized his work, his life, and the organization he headed since its very inception.

He was a man who clearly perceived the enemies of America and her spirit—and fought tirelessly to turn them back from success. You might say that his unblinking perception was too good at times—for the enemies he saw, identified, and relentlessly pursued were not so readily identified by others less perceptive. And they criticized him for it.

He was, at different times, the idol and the ogre. To a great majority of American citizens he was the permanent embodiment of the patriot. To students of communism, he was the foremost authority on the domestic practice of subversion. To the voter and taxpayer he was the stanchest bulwark against organized crime and the exploitation of the innocent. But to some others—a minority, but a vocal one—he represented the American equivalent of a Gestapo or KGB chief. I join the above-mentioned three categories in rejecting the latter one. I rejected it while he was living and I reject it at his death. History will vindicate me in this judgment—just as history will vindicate the man.

And if America's destiny means what he believed it to mean, he will stand in the annals of our land astride the harbor to the Nation's soul—like a bronze colossus of unshakeable conviction.

Others may eulogize by enumerating his services, his tenure, his loyalty—and rightfully. But in death I believe he would want his eulogy to be one of action, his memorial to be inscribed in the hearts of his fellow citizens. J. Edgar Hoover is dead. America is alive. That is what he worked for—and that is how he would be remembered. We can do no better in eulogy than the furtherance and reaffirmation of his legacy.

Nations look to their heroes for guidance and inspiration. Heroes represent the highest traits of which a country feels itself capable. Heroes are legends for children, models for citizens, pillars for peoples.

J. Edgar Hoover lies today, in state, in the rotunda of the Capitol of the United States—a place reserved for heroes.

Mr. **ANDERSON** of Illinois. Mr. Speaker, when J. Edgar Hoover came before the Rooney Subcommittee on Appropriations in early March, he said:

> You are honored by your friends and you are distinguished by your enemies. I have been very distinguished.

It is certainly true that the late Director was distinguished by his enemies, but this sustained tribute here this afternoon bears ample testimony to the fact that he was also distinguished and honored by his friends. Few Americans of any era could command the respect and admiration which has been so evident in the eulogies delivered here this afternoon.

I would like to add but one brief thought to those which have already been offered by my colleagues. At a time when our proudest institutions have been under attack, when changing values have confused our young people and troubled their elders, he has stood firm and proud as a defender of those institutions and an embodiment of those values which, even in troubled times, rest as the bedrock on which our Nation was built—integrity, courage, imagination, perseverance.

Mr. Speaker, today we mourn the passing of a man who symbolized not only an ideal, but an epoch. His rest is well deserved, as are the honors we bestow upon him here.

Mr. BROYHILL of Virginia. Mr. Speaker, we have been privileged in this century to share with two noble patriots of this Nation, two matchless men of honor, dignity, and greatness, their dreams and their efforts to keep America strong, free, and secure.

Several years ago, death reached into our hearts and hopes when it claimed the life of General of the Army Douglas MacArthur. It did so again yesterday with the passing of J. Edgar Hoover. I equate their place in history, Mr. Speaker, as unsurpassed in devotion to their country.

We will miss J. Edgar Hoover, Mr. Speaker. We will miss his leadership. We will miss his integrity. We will miss his humanness and his devotion and determination.

Let us never forget that he worked a lifetime for the American people. Let us never forget that he served a lifetime in behalf of the American people. Let us never forget that he died of age and weariness, deepened by his devotion to the American people.

We are short of heroes with his passing, Mr. Speaker. But his life, and the memory of those patriots of yesterday who shared with him a love for his country, will be the monuments for tomorrow's leaders who can only excel by matching the majestic record of his own public service.

Mr. CELLER. Mr. Speaker, we all mourn the loss of J. Edgar Hoover. His was a life of accomplishment. He was indeed an activist—a doer. Although controversy swirled around him, he held steadfastly to his philosophy.

He and I had our personal differences, particularly with regard to civil liberties and civil rights. Nonetheless, our relations with each other were always most cordial and friendly.

Edgar Hoover was a truly dedicated public servant, having served under nine Presidents of the United States. His is indeed an unbeatable record. His passing spells the end of an era.

Mr. SIKES. Mr. Speaker, it is highly fitting that we in the House express the regrets of this great deliberative body at the passing from the earthly scene of one of the truly outstanding leaders of modern America. I think it can be said without qualification that J. Edgar Hoover was not only one of our outstanding modern leaders, but he was one of America's all time greats. I am confident that his memory will be properly honored by a grateful nation for he was a man whose lifetime was a symbol of devotion to a sound and strong nation, a nation with respect for law and order and a nation which loves God. His was a long and faithful service to the public, one of the longest tenures in responsible office in the annals of our country. Appropriately he died in harness. This is way he would have wanted to go.

The clamor against him by a few, some of it based on his opposition to crime and communism, two evils which so often go together in America, is lost in the plaudits of the multitude who saw in him a man of dignity, a patriotic American who was willing to give his life for his country and who did that very thing.

I had known him for many years. I had worked with him as a Member of Congress and of the Appropriations Committee which funded his budget requests. I was proud to share his friendship and the grief which I feel at his death is that which comes with the death of a good friend who not only was a man of great stature, but one whose services have been vital to our country.

Mr. BROWN of Michigan. Mr. Speaker, the passing of J. Edgar Hoover is a loss of greater import to this Nation than just the loss of a dedicated and capable public servant; with his passing an era ends.

I submit that no other function of the Federal Government has been so molded, organized and structured by the input of one man as has been the Federal Bureau of Investigation under J. Edgar Hoover. His accomplishments are all the more unique when one considers for a moment the delicate nature of the function of Government served by the FBI and the minimal criticism that has been lodged against that organization throughout its existence and while guided by Mr. Hoover.

Mr. Speaker, Mr. Hoover was not an ordinary man. Insisting upon a high level of professionalism and high level of dedication for both himself and those who worked with him in the Bureau, Mr. Hoover was still a man of great compassion and understanding with respect to the needs and concerns of those who had difficulty in understanding the commitment of the Director and the agency he headed.

The years during which Federal investigations have been conducted by an organization headed by Mr. Hoover, from the beginning with the Bureau of Investigations to the present Federal Bureau of Investigation, have seen many critical times and law enforcement has never been an easy business. Nevertheless, the FBI, under Mr. Hoover's direction, has developed into an investigatory and law enforcement agency unparalleled in history for its competence and freedom from criticism, either professional or popular in nature.

In mourning the loss of Mr. Hoover, we pay our respects not only to the man but to the essential function of government he so ably headed, the Federal Bureau of Investigation.

Mr. RAILSBACK. Mr. Speaker, J. Edgar Hoover became our country's No. 1 policeman over 40 years ago when Calvin Coolidge was President and the Bureau of Investigation was a small, ineffective, and scandal-ridden branch of the Department of Justice.

Since that time, Mr. Hoover almost single-handedly transformed the FBI into a professional organization of worldwide reputation. He was a hero to millions of Americans, serving justice with dedication and wisdom.

He was a legend in his own time. In fact, because of the cries of his fervent admirers and just as fervent enemies, J. Edgar Hoover was practically a "national issue."

Born and reared in Washington, D.C., Mr. Hoover worked as a messenger for the Congressional Library and studied law at George Washington University. In 1919, he was appointed special assistant to Attorney General Palmer, and, as such, was the director of the newly created General Intelligence Division.

In 1921, J. Edgar Hoover was appointed an assistant director of the FBI, and within 3 years he was the Director. From the very beginning, he demanded that the Agency be one of the finest, most efficient law enforcement agencies in the world. He replaced untrained and unqualified men, and set up rigid rules and requirements for employees of the Bureau. He eliminated political influence in appointments. He had the foresight to promote highly scientific methods of dealing with crime—such as the fingerprint collection which has proved an indispensible resource in arresting criminals.

He had always devoted full time to his job, and our country has benefited by his dedication. Presidents have paid him homage. And now the Nation will mourn his death. We have truly lost a great man.

Mr. ANNUNZIO. Mr. Speaker, it is with sadness I rise to eulogize the passing of J. Edgar Hoover who served as Director of the Federal Bureau of Investigation under eight American Presidents.

His tenure of service spanned 48 years, and during that time, Mr. Hoover was responsible for building the FBI from a small Bureau in the Justice Department to an agency with a $334 million budget and 19,000 employees. Not only has the FBI grown in strength under Mr. Hoover's capable leadership, but in stature as well, for it is regarded by many as being the most outstanding law enforcement agency in the world.

Over the years, J. Edgar Hoover made a genuine and lasting contribution toward effective law enforcement in our country. His dedication and devotion to America were unparalleled, and his courage and patriotism were evidenced throughout his long and productive career.

J. Edgar Hoover will long be remembered for his steadfastness of purpose, his integrity, and his competence. And he will be missed by his colleagues, his associates, and his friends, for America has lost a dedicated public servant and a distinguished citizen.

Mr. EVINS of Tennessee. Mr. Speaker, I join with my colleagues in expressing sorrow in the passing of J. Edgar Hoover, for 48 years—almost half a century—Director of the Federal Bureau of Investigation.

J. Edgar Hoover was a great American, an uncompromising patriot, and an excellent administrator. He built a weak bureau into the world's greatest crime-fighting organization. He became an institution himself as Director of the FBI. His integrity and professional competence were his hallmarks, together with his outstanding ability as a leader.

His record of public service, his commitment to protecting the United States from criminals and subversives, and his unflagging dedication stand as monuments to his contributions toward preserving, promoting, and perpetuating the cherished American way of life.

J. Edgar Hoover was an American giant—a man among men—and America owes this legendary leader a deep debt of gratitude.

Mr. MILLS of Maryland. Mr. Speaker, I join other Americans in mourning the death of a great man and a great leader. The death of J. Edgar Hoover is a great loss to all of us who believe in our Nation's system of law and order.

Mr. Hoover took over the helm of the Federal Bureau of Investigation way back in 1924. Until his death, this man steered a good ship. The FBI has grown, under his direction, into one of the world's great law enforcement agencies. A man of high and disciplined principle, Mr. Hoover led the Bureau with a firm but fair hand. Those same principles of honesty and integrity which were ingrained in the spirit of J. Edgar Hoover have become the principles on which the Bureau stands.

America does not mourn his loss alone. Mr. Hoover may be considered the father of modern professional law enforcement. People around the world, searching for law and order, looked to him, and he inspired them. His greatness rests not only in his great accomplishment, but in the man himself.

J. Edgar Hoover was a great American and a great leader. He earned the respect and gratitude of a nation. I join America in mourning his loss. We lost the man but time and even death cannot take his spirit from us.

Mr. HATHAWAY. Mr. Speaker, it is with a deep sense of loss that I join my colleagues today in eulogizing Hon. J. Edgar Hoover.

The United States has lost a very dedicated public servant with the death of J. Edgar Hoover. The Federal Bureau of Investigation, under Mr. Hoover's direction, has become the most effective crime-fighting organization ever to function in a free society.

Sometimes the methods of the Bureau appeared to contradict some of the principles of the society which it served. To be sure, this was the exception rather than the rule. The freedom and security which we enjoy today as citizens of the United States are due in great part to the men and women of the FBI, directed and inspired by J. Edgar Hoover.

Mr. Hoover's dedication to the preservation of the domestic peace and security of the American people can never be called into question. For this dedication, which has spanned four decades, he deserves our sincere gratitude and deepest respect.

Mr. LLOYD. Mr. Speaker, with the ending of the era of J. Edgar Hoover, we profit from evaluation of contributions made to the Nation.

The name J. Edgar Hoover stood for honesty, courage, fidelity to highest principles, and respect for the basic traditions upon which this country was founded.

J. Edgar Hoover and the G-men became models of achievement for American boys who are attracted by higher character. In Utah we felt a particular attachment to Mr. Hoover through the experience of Samuel P. Cowley. On June 1, 1934, Mr. Cowley, a 34-year-old Utahan and former Mormon missionary, was assigned to take charge of the search for John Dillinger, America's public enemy No. 1. Dillinger was killed on July 22, 1934, outside a movie house in Chicago by Cowley's team of FBI agents. Cowley was commended for his work in the Dillinger case and promoted to inspector. Four months after Dillinger's death, Cowley and another agent were killed during a gun battle when they attempted to capture Baby Face Nelson and another gangster near Barrington, Ill. Samuel Cowley's body lay in state in Utah's Capitol as thousands of people paid their respects to the finest example of law enforcement.

The name J. Edgar Hoover has become synonymous with obedience to law and respect for law. The law enforcement profession has assumed a greater distinction because of him and because of that, all of us have been immensely benefited.

Mr. SPENCE. Mr. Speaker, fearless, incorruptible, thorough, objective, effective, brilliant, considerate, a rock of strength, a fine neighbor, a devoted public servant, a loyal and dedicated American, a legend in his own time, a living institution.

These adjectives—and many, many more—flow into the pages of history in well-deserved tribute to the late Honorable J. Edgar Hoover, who for nearly half a century has served as our first and only Director of the Federal Bureau of Investigation. And even such superlatives cannot begin adequately to describe what J. Edgar Hoover meant to this Nation. Nor are words adequate to convey the sense of shock and loss we all feel in his death, even as we remind ourselves that all men are mortal and Mr. Hoover had a wonderfully long and useful life.

I regret that I did not have the chance to know Mr. Hoover as well and as personally as did many Members of this body. But I am extremely proud of the fact that I had several occasions in which to publicly pay tribute to his leadership and to defend his record and that of his Agency while he was still at its helm. His very thoughtful, gracious notes of appreciation, responding to my remarks, will always be among my most treasured communications.

It has always been inconceivable to me that people could be so blind as not to appreciate and applaud the work of this great man. Men who came to this floor to criticize should have been here expressing eternal gratitude. To their credit, some who have criticized in the past are now paying tribute, but praise of the dead makes small amends for unjustified criticism of the living.

In recent years—indeed, as recently as the day before his death—small people with access to the public ear have taken it upon themselves to castigate the FBI and Mr. Hoover personally. It is so disturbing to me to find people who have contributed nothing to our society but complaining and bellyaching making attacks on a man who has done so much for his country.

I believe J. Edgar Hoover appreciated, perhaps above any other living public official, the truth so eloquently expressed by William James in 1897 in his oration upon the unveiling of the Robert Gould Shaw Monument when he said:

> The deadliest enemies of nations are not their foreign foes; they always dwell within their borders. And from these internal enemies civilization is alway in need of being saved. The nation blessed above all nations is she in whom the civic genius of the people does the saving day by day, by acts without external picturesqueness; by speaking, writing, voting reasonably; by smiting corruption swiftly; by good temper between parties; by the people knowing true men when they see them, and preferring them as leaders to rabid partisans or empty quacks.

J. Edgar Hoover not only recognized the danger from internal enemies and devoted his life to protecting America from them, but he had unwavering faith in the civic genius of our free people. It is a tribute to the people of America that, knowing true men when they see them, the vast majority had faith in J. Edgar Hoover.

His critics delighted in referring to Mr. Hoover as authoritarian. It is an understandable reaction from people who have no appreciation for the worth of spiritual and moral discipline. It is that quality of spiritual and moral discipline and the value he placed upon it which, above all else I think, distinguished J. Edgar Hoover from his critics and which set him apart as one of the remarkable figures of our time.

Mr. ROSTENKOWSKI. Mr. Speaker, as Director of the Federal Bureau of Investigation for more than 45 years, J. Edgar Hoover carved for himself and for his Nation, a reputation of excellence by developing the world's most important law-enforcement agency. Although Mr. Hoover credited Attorney General Harlan Fiske Stone as the "father of the Federal Bureau of Investigation," few would deny that J. Edgar Hoover's character, pride, and strong-willed determination were the true foundation of the Bureau. Hoover often said that "to tell the story of the FBI is to recite the history of men and women seeking to make America more secure."

Mr. Hoover was a man of immovable patriotism and integrity. From the 1930's to the 1970's the FBI, under his direction, served as a massive crime-combatting force. Hoover's unprecedented service under eight Presidents and his legendary bipartisanship brought respect and admiration from every level of government. His high-principled approach to law enforcement, his demand for well disciplined, expertly trained agents, and his constant crusade against communism became legend long ago. Above all, Hoover's unwavering commitment to preserving democracy—to assuring the survival of Americanism—sets him apart. His devotion to his country was unquestionable.

The death of J. Edgar Hoover is not only a great loss to the Bureau and to the

Government he served, but also to the people he protected. Before him, this country had seldom witnessed such untiring allegiance to an ideal. He leaves behind him his beloved FBI—a constant tribute to a life devoted to securing internal peace in the United States.

Mrs. GRASSO. Mr. Speaker, J. Edgar Hoover was zealous and indefatigable in his service to the Nation he loved. He gave of all his strength and effort to the duties of the department of which he was first chief and gained the praise and appreciation of Presidents and his fellow countrymen.

He will be missed at the Office of Chief of the Federal Bureau of Investigation where he served with commitment and a devotion that made his name synonymous with the office to which he had been appointed and reappointed in every administration from President Calvin Coolidge to President Nixon. His tenure as FBI Director spanned long years of turbulence and dissent as a maturing nation strove to fulfill the American dream of justice and equality under law, and the war on crime which reflected his concern for the protection of our people from violence and lawlessness.

Mr. ZABLOCKI. Mr. Speaker, the Nation is saddened by the passing of a truly great patriot and American, the Director of the Federal Bureau of Investigation. The 48 years of his distinguished service to the Nation as the major contributor to law enforcement with the building of the FBI are a monument to his dedication and perseverence.

In spite of the many challenges he had to face in the process of constructing the well-disciplined, highly principled, and incorruptible law enforcement agency, he demonstrated total dedication to public service and a sincere desire to do what he thought best for the country. He was a man motivated by strong religious principles. In his dealings with all, whatever their rank or station, he was forthright, humble, and honest. The courage of his convictions was never underestimated, and he was respected by those in his profession.

Mr. Hoover became an American legend and his contributions to the protection, safety, and welfare of his fellow man will be long remembered. He was a great man and a great American, all of us owe him a debt of gratitude. All who were privileged to know and work with him have benefited from his experience. In these troubled times, when the knowledge of what is right, the courage of convictions, and the determination to carry them out is so vital, it behooves us all to not only recognize these qualities so clearly demonstrated by J. Edgar Hoover, but to resolve to emulate him.

Mr. HORTON. Mr. Speaker, I wish to join with my colleagues today in paying our respects to J. Edgar Hoover.

Mr. Hoover's unstinting efforts to develop an effective system of law enforcement have earned him a unique place of honor in our Nation's history. We are indebted to Mr. Hoover for devoting almost 50 years of his life to building and directing the Federal Bureau of Investigation. Few institutions in this country have so completely reflected the work of a single individual. We must be grateful that this powerful man applied his own principles of integrity and strict discipline when shaping our country's primary investigative service.

Together with Mr. Hoover's very tangible accomplishments, he was a highly controversial public official. Yet, even his sharpest critics have unhesitatingly voiced respect for J. Edgar Hoover's extreme dedication to public service. It is an unusual man who can earn such tribute from both friend and foe.

Mr. MICHEL. Mr. Speaker, earlier today we witnessed the ceremony placing the casket of J. Edgar Hoover upon the historic catafalque that was originally used for Abraham Lincoln when he lay in state in the Capitol Rotunda.

The last time it was used prior to today's ceremony was for the late departed distinguished Minority Leader, our dear friend, Senator Everett M. Dirksen. In my eulogy to him I made reference to the "indestructible man" and there sure is a similarity today as we eulogize again one of the greatest Americans of all time, Mr. J. Edgar Hoover. No one in public service throughout the history of our country has had the image of being such an institution himself for the agency he served. The Federal Bureau of Investigation and J. Edgar Hoover were synonymous.

He was Mr. Integrity on all counts. He instilled in his agents and administrative personnel esprit de corps that has been unexcelled in our history.

There are so many, many nice things that could be said about Mr. Hoover and will be said for a good long time to come. I am just ever so glad that I had the privilege of knowing him personally. Less than a year ago it was my good fortune to take our oldest son, Scott, into his office for a personal visit and the taking of a picture that we shall treasure for the rest of our lives.

Mr. Speaker, an editorial appearing in today's edition of the Chicago Tribune together with a column by Bob Wiedrich who writes the Tower Ticker for the Tribune capture the essence of J. Edgar Hoover and his career, and I include them in the RECORD at this point:

[From the Chicago Tribune, May 3, 1972]

J. EDGAR HOOVER

After 56 years in the Department of Justice, within a few days of his 48th anniversary as director of the Federal Bureau of Investigation, J. Edgar Hoover is dead, and such a national institution was he that it is as if the Washington Monument was no more.

His great talents for organization, his judgment of the men who became his agents, his rigid discipline, and his cool-minded judgment made the FBI what his former superior, Atty. Gen. John N. Mitchell, called "the finest investigative organization in the world." Mitchell called Hoover "a great and dedicated American."

J. Edgar Hoover served under eight Presidents and had the confidence of them all. Entering the Justice Department in 1916 as an agent in the Alien Enemy Registration Service, he was called five years later to the post of assistant director of what was then known as the Bureau of Investigation. On May 10, 1924, at the age of 29, he was named director of the bureau by Atty. Gen. Harlan Fiske Stone, later a justice of the Supreme Court.

The bureau was in disarray when Hoover took over. He was equipped with a law degree and was tough-minded. The job he faced was formidable, for the bureau had degenerated into a scandal-ridden haven for political hacks. Hoover's thoro housecleaning turned things around. In a short space of time the FBI was on its way to becoming a respected, world-famous organization, admired for its detachment and integrity.

Under Hoover it vigorously moved against the prohibition mobsters and such outlaws as John Dillinger, the Ma Barker gang, Alvin Karpis, and George [Machine Gun] Kelly. Its careful investigation produced the evidence which sent the notorious Al Capone to prison.

During World War II the bureau investigated espionage, sabotage, and subversion. It caught German saboteurs landed by submarine. At the end of the war it caught up with the naturalized British atomic scientist, Klaus Fuchs, and such Communist agents as Julius and Ethel Rosenberg, Morton Sobell, Harry Gold, and David Greenglass, who were instrumental in passing along the secrets of the atomic bomb to the Soviet Union.

Hoover had no illusions about communism. He recognized it as the greatest threat to the United States. Party members, he said, are owned body and soul by the party, and, abetted by fellow travelers, are able to achieve ends out of all proportion to their numerical strength. In his book, "Masters of Deceit," he warned that the objective of the Communists was to achieve a Soviet United States—"to steal your rights, liberties, and property . . . *now,* in your lifetime."

His view of the New Left, student revolutionaries, and such organizations as the Black Panthers was equally severe, but his organization also moved against such organs of the totalitarian Right as the German-American Bund, the Ku Klux Klan, and the Minutemen, and it served as an arm for the enforcement of civil rights legislation.

Hoover had his enemies in plenty and they were forever screaming charges against him and the bureau and demanding that he step down. But in no instance was the smearing sustained, and long after the mandatory retirement age of 70 he continued in his post, serving longer than any other public official in memory. He served his country well and gave it a quality of performance the like of which we are unlikely to see again. The task of replacing him will be difficult, and we trust that President Nixon will see that the directorship will be filled by a man of conspicuous character and attainments.

TOWER TICKER

(By Bob Wiedrich)

This nation lost a great American yesterday and we lost a man we counted as a friend from afar.

Just Monday, we received a portrait autographed with best wishes by J. Edgar Hoover, director and guiding spirit of the Federal Bureau of Investigation for 48 years.

It is perhaps one of the last signed by Mr. Hoover. Thus, we will cherish it even more, for he had become an historic figure in his lifetime.

In our judgment, no finer man ever served more devotedly this land we love so well.

J. Edgar Hoover was a revered man, an honored man, and, at the same time, a much maligned man, especially in recent years when revolt and rebellion seemed to rule the nation and it was fashionable among some public figures to hurl barbs at the foremost symbol of law and order in the United States.

But Mr. Hoover stood firm, his ardor and dedication to duty and country undiminished, his detractors ignored for the most part in the pursuit of a job that had often meant the difference between a well-ordered society and chaos.

We have a letter from Mr. Hoover dated May 17, 1971, in which he discussed a series of unwarranted, unfounded attacks upon the

FBI by Rep. Hale Boggs of Louisiana, a man apparently tortured by hallucinations of being spied upon.

Boggs was never able to sustain his charges. They were quickly discredited.

But they gained credence thru wide circulation by the media and that is why we wrote a column at the time deflating in detail the fabric of Rep. Boggs' allegations.

The letter is one of three Mr. Hoover wrote us in that period when there was an obviously well organized cabal dedicated to destroying the man who had forged and tempered the finest weapon for law enforcement in the world.

Mr. Hoover closed that letter with these words, words we will treasure in the years to come: "Your support certainly means a great deal to me."

We are grateful for having had the opportunity to support this man who gave so selflessly of himself during more than a half century of federal service.

We are glad Mr. Hoover did not resign in the face of renewed attacks upon his integrity and that of the FBI. We are glad he died while still in his post.

J. Edgar Hoover loved this country and served it well.

And in passing, he left it a living legacy in the men and women of the FBI, one for which this nation can be eternally thankful.

The Passing Scene: Typical of the attacks upon the FBI has been the reaction of top commanders of the Chicago Police Department, a handful of whose men have become the target of a Justice Department probe of alleged bribery and corruption.

The brass have sought to dismiss as politically motivated in an election year both the investigation and the indictment of some of the men.

But no matter how you slice that hunk of baloney, it remains just that. The FBI launched its inquiry long before anyone was thinking about the election.

Therefore, let us hope that when Mayor Daley and several hundred civic leaders meet this morning in City Hall to discuss community relations with the police the real core of the problem is not lost amidst the rhetoric of partisan complaints.

Inevitably, there will be charges of brutality, maladministration of justice, and discrimination against minorities. Some of these charges will be real; others blown far out of proportion. All, however, must be explored.

But the real heart of the problem confronting efficient law enforcement in this city is the dishonesty of a small group of men who use their badge of office as a passport to a few lousy bucks.

That is what has proven most demoralizing to the 13,000 dedicated men and women of the Chicago Police Department who each day serve and protect the citizens of Chicago.

Yet, it is these same few men whom the top command would seek to dismiss behind a shameful facade of political excuses rather than admit the slightest flaw in their personal performance as leaders.

The men who are targets of the FBI are thieves, not policemen. That distinction should be made eminently clear. They have long ago lost any right to that honorable label.

If that is understood by the people who gather in City Hall this morning, then perhaps the department can be rid of the scum who would soil its record of distinguished service. Certainly, the city will be the better for it.

Mr. BOB WILSON. Mr. Speaker, J. Edgar Hoover's passing represents an almost irreplaceable loss to this country. Beginning almost half a century ago, he took over a corrupt and ineffective agency and built it by sheer force of determination and ability into the most effective law enforcement organization in the world. News that his FBI had entered the search for a criminal caused all citizens to breathe more easily. He was feared and despised by lawbreakers and subversives, respected and revered by the law abiding. His FBI academies have trained many thousands of police throughout the Nation. His innovations in scientific crime detection are without number, and have been emulated the world around.

I feel a special personal loss at his passing as do many of his friends in San Diego which he frequently visited, but all America will mourn him. He was a great and loyal public servant. I fear we shall not see his like again.

Mr. DERWINSKI. Mr. Speaker, J. Edgar Hoover was one of the most dedicated public officials ever to serve the American people. His death is a great loss to our Nation.

J. Edgar Hoover was a man of the greatest integrity. He was absolutely incorruptible. He was unswerving in his devotion to his country. He was a great American who served his Nation faithfully, steadfastly, and honorably. Under his leadership, the FBI achieved a worldwide reputation for excellence. He developed an organization whose crime-fighting record is outstanding. He transformed the FBI into the superlative law enforcement agency that it is.

J. Edgar Hoover professionalized crime-fighting. He made crime detection a real science. He made the FBI a proud organization, and the American people are proud of its service to our country.

We in Congress who had the responsibility and privilege of working with him surely realize what a great loss his passing is to our Nation. I know that he will long be remembered by citizens throughout the land who live in a strong, safer country because of his dedicated and effective public service.

Mr. WYMAN. Mr. Speaker, I am deeply saddened by the untimely passing of J. Edgar Hoover. America has lost a dedicated patriot and public servant without equal.

Appointed Director of the Federal Bureau of Investigation in 1924, J. Edgar Hoover molded a fledgeing and ill-organized effort into a modern highly efficient crime-fighting organization without peer. More than any one person, J. Edgar Hoover was responsible for eliminating gangland crime in the 1930's. During the Second World War, he and his team formed the impenetrable main line of defense against Nazi infiltration and sabotage. With the onset of the cold war in the 1950's, J. Edgar Hoover, in the face of mounting opposition, took on the task of reminding the Nation there were those actively dedicated to and seeking the overthrow of the United States operating within our free society.

While J. Edgar Hoover was a masterful administrator and vigorous crime-fighter, his major contribution has been his scrupulous honesty and unswerving patriotism. His goal was to protect his country and J. Edgar Hoover put nothing ahead of that objective. America has seldom been served with such devotion and has suffered a tragic loss.

Mr. FREY. Mr. Speaker, yesterday morning one of our Nation's greatest leaders passed away. The loss of this man, who was the symbol of law enforcement for many, many years, will be felt deeply by all Americans, regardless of their personal philosophies.

J. Edgar Hoover joined the Justice Department in 1917. In 1921 he became the Assistant Director of what was then called the Bureau of Investigation. In May of 1924, 48 years ago this month, Mr. Hoover became the Director of the FBI. Since that time he has accomplished what to others would have been impossible.

He kept politics out of the Bureau while he continually improved the training, ability and professionalism of the men working with him. He was directly responsible for the arrest of many of the gangsters of the twenties and thirties. In the forties he and the Bureau were instrumental in stopping and apprehending many Nazi espionage agents. Even to the day of his death he was dedicated to fighting the criminal elements within our society. J. Edgar Hoover was a man who made the news. He was a very controversial figure, but few will disagree that when the chips were down this man was responsible for the professional law enforcement work of the FBI. He was the man who got the job done.

Mr. SCHERLE. Mr. Speaker, he was hated by a few, feared by some, loved by many and respected by all. Now J. Edgar Hoover, the intrepid Director of the Federal Bureau of Investigation, is gone. His passing leaves us with a great sense of personal and national loss, but there is some comfort in the reflection that only death could accomplish what his enemies tried to do for 48 years: to dislodge him from the unique position of power he forged for himself and his organization.

Hoover's influence and the strength of the FBI were not built on graft and corruption. He eschewed politics and relied instead on unshakable integrity and firm discipline. Hoover was not only the Nation's toughest cop—a popular accolade he wore with pride—he was also one of the Federal Government's best administrators. Imbued with personal and professional dedication, he transformed the weak and scandal-ridden FBI into one of the most efficient law enforcement agencies in the world. He challenged the enemies of national security in all their various guises for nearly five decades and, in most cases, his vigor and determination triumphed over them all, from gangsters to Nazis and Communists.

As a result of nearly half a century of achievement, Hoover has earned a secure place in history and in the hearts of his fellow countrymen. Even death cannot dislodge him from the pedestal he occupies in our esteem. Now more than ever, he symbolizes the values he sought to realize throughout his life—courage, patriotism and reverence for the rule of law. When the solemn funeral rites are over and the chorus of tributes dies away, we will still remember him. We can pay no greater honor to Hoover's memory than to emulate him, to keep alive the virtues he cherished, and to continue the work to which he devoted his life.

Mr. KEMP. Mr. Speaker, it is with a deep sense of personal loss that I join my colleagues today in paying tribute to a great American and patriot, J. Edgar Hoover.

I know that Americans everywhere share this grief at the sudden passing of one of our Nation's most dedicated public servants. For almost half a century, under eight Presidents, he served our country with quiet integrity. Through his efforts the FBI became the finest law enforcement agency in the world.

John Edgar Hoover selflessly devoted his life to the preservation of those values on which this Nation was founded. His life and accomplishments stand as an example for every American who would better serve his country.

He will be sorely missed.

Mr. Speaker, respect for the law was a keystone of J. Edgar Hoover's philosophy. In tribute to Mr. Hoover, I include in the Record at this time his statement on Law Day 1972 which clearly points out that where there is no law there can be no freedom:

May Day is also Law Day, USA

(By John Edgar Hoover)

Extremists of all stripes in our society ceaselessly attempt to discredit the rule of law as being biased and oppressive. They have no conception of—or purposely choose to ignore—its role and history. It is not surprising that these divisive elements concentrate their abuse on the law enforcement officer. Above all, he stands firmly in the path of mindless actions that would reduce our government of laws to mob rule or the whims of lawless men.

To permit such attempts to damage the reputation of our government by law is, of course, a necessary condition of democracy. While it must tolerate the lawfully expressed views of extremists, its citizens cannot thru their own ignorance be entrapped with sympathy for bankrupt doctrines that would lay waste the foundations of their nation.

In observing Law Day, USA, this May 1, we have an opportunity to view our laws in their proper perspective and appreciate the role they have played in developing our nation. This day is also a time to renew our obligation of support to law enforcement officers, 126 of whom selflessly gave their lives last year in upholding the law.

Our greatest democratic heritage is the rule of law. It is the foundation for and the guardian of the rights, liberties, and orderly progress we enjoy. It is also the soil that has nurtured the "American dream" implicit in the Declaration of Independence pledge to provide ". . . Life, Liberty, and the Pursuit of Happiness" for all our citizens.

The tests of time and challenge in our nation's history have more than proven the majesty of the law. Were this not so, our country would not have endured its strife to now stand before the nations of the world as a model of freedom and accomplishment. This is not to say the law has always been right, but that it has been organized to ultimately seek justice. Recognition of its power for good is not merely the experience of our nearly two centuries of democratic government. The struggle to insure the rights of the individual and his social organizations by written decree has roots which reach far back into antiquity. The authors of our Constitution were mindful of this legacy when they drafted that historic document.

Nor was the importance of a definitive rule of law lost to the general public of our infant nation. Worn by the ravages of the Revolutionary War, our expectant forefathers appealed for and got amendments to the Constitution which formed the Bill of Rights—specific guarantees of law that responded to the heart of their grievances. Together the Constitution and the Bill of Rights gave birth to our rule of law and it is the flesh and blood of our nation.

The law is dynamic because it responds to change as it did for those who argued for and received the Bill of Rights. And our nation's history has been a chronicle of change. But the process of change in a democracy requires discipline and responsibility that will not unleash unrestrained forces that would rip the fabric of our freedoms. That fabric derives its strength thru the warp and woof of laws that orderly guide the process of change of defining our individual and corporate duties. Change in our society would otherwise simply result from those who could impose their will on others without regard for the validity of their arguments or the rights of those who do not share their views.

Law Day honors an indispensable commitment of a free society: that democracy be dynamic but not self-destructive. If we do not value this commitment by both honoring and obeying the rule of law, the tyranny of extremists may inevitably result.

Mr. LANDGREBE. Mr. Speaker, I proudly join my colleagues in recalling almost half a century of unexcelled law enforcement. However, I am most saddened by the death of the great man that established that record.

In the 48 years that J. Edgar Hoover directed the Federal Bureau of Investigation, the Nation has seen a Federal crime-fighting organization develop into the greatest law enforcement agency in the world.

Mr. Hoover demanded expertise and perfection and he got it. The result was lives saved, property restored, and saboteurs routed out. But most important, Americans see a greater and safer life thanks to the watchful eye and protective hand of this great American.

I grieve the death of a loyal citizen and a devoted public servant. I grieve the passing of an era. I grieve the death of the Director of the Federal Bureau of Investigation, Mr. J. Edgar Hoover.

Mr. CAMP. Mr. Speaker, J. Edgar Hoover was a tremendous man who devoted his life to his work. I grieve his loss with his friends and employees, and with the millions of Americans to whom he was the ultimate in honest law enforcement.

Mr. Hoover was an American institution. Taking over the Federal Bureau of Investigation in 1924 at only 29 years of age, he built the Bureau into the world's most effective and formidable law enforcement agency. He served under eight Presidents for nearly five decades. Through the years, he was consistently and deservingly identified as the foremost defender of law and order and decency in America.

I think it is fitting that the Director worked a full day as usual on Monday before his death. He was active to the end in the job that made him famous.

America now mourns the death of a great citizen whose memory will be revered throughout the country and the world.

Mr. FUQUA. Mr. Speaker, the Nation mourns the passing of J. Edgar Hoover, and rightfully so. As Director of the Federal Bureau of Investigation for almost half a century, he led the fight against crime in a manner that demanded the respect of each and every citizen in our country. Though some may have been critical of Mr. Hoover during the past several years, I do not believe that any red-blooded American could honestly say that he ever acted other than as a concerned and dedicated law enforcement officer. He will be remembered by all as a man of the highest character and integrity whose shoes can never be filled.

Mr. DICKINSON. Mr. Speaker, I join with millions of Americans in expressing my deepest regret at the death of FBI Director J. Edgar Hoover. This giant of law and order dedicated his entire life to impartial enforcement of our Federal statutes.

J. Edgar Hoover devoted 48 years to the FBI, serving under eight Presidents and 16 Attorneys General. He is solely responsible for the impeccable reputation enjoyed by that organization.

Over the years, Mr. Hoover slugged it out with the deadly enemies who threatened the welfare and security of our country. During the 1930's he directed the FBI's hard-hitting attack against the gangsters in the United States. During World War II the FBI, under the direction of J. Edgar Hoover, assumed the responsibility of protecting our Nation against espionage, sabotage, and subversion and became a top-flight intelligence agency. Most recently Mr. Hoover directed the campaign to stop the spread of communism in America. Mr. Hoover was devoted to crushing any threatening element to our freedom.

Probably no man since Sir Robert Peel, who reorganized the English police in the early 1800's, has contributed so much to the improvement of law enforcement as J. Edgar Hoover. His dedicated hard work and genius are chiefly the reason the FBI is a highly respected, complex, and modern law enforcement organization.

Over the years, Mr. Hoover adhered to the highest ethics and principles. His words, "Fidelity, Bravery, Integrity," have become more than just a motto. They are the qualities J. Edgar Hoover exhibited in his life and the qualities he taught the men of the FBI.

America owes a tremendous debt of gratitude to J. Edgar Hoover. All Americans can be grateful for the example he provided to all hard-working, dedicated, loyal public servants everywhere.

J. Edgar Hoover has truly given of himself to this Nation as have few men in our history, and all law-abiding citizens are the beneficiaries.

The Nation has lost a great man—a man who was the epitome of "crime's arch enemy." We will miss him.

Mr. ABBITT. Mr. Speaker, all Americans are saddened by the sudden passing of J. Edgar Hoover, the remarkable longtime director of the Federal Bureau of Investigation. Few men in our time have reached the pinnacle of success and public admiration which J. Edgar Hoover achieved, and the FBI and our society has suffered a profound loss in his departure from the American scene. J.

Edgar Hoover was an institution whose name was so inexorably tied to the Federal Bureau of Investigation that the two have for many years been synonymous in the thinking of the average American. What he has made of the FBI in the 48 years of his leadership is a monument to his memory.

J. Edgar Hoover's passing is more than the loss of another great American. He stood for the high principles of law and order, decency and patriotism which should be the goal of every American. Unfortunately, in our time there are many who, through their permissiveness and laxity, have strayed from the high ideals which he tried so successfully to inculcate among his associates at the FBI So long as Mr. Hoover held control of the Bureau, many Americans felt a sense of security amid the uncertainties of our changing times.

Millions of words have been written and spoken about the tremendous impact which this man had on the American Government and law enforcement throughout the world. I believe that the greatest measure of his place in our society will be best determined in the search which now must be made to select his successor.

J. Edgar Hoover believed unapologetically in positive law enforcement. He was a fair man, but he held fast to the concept that the society in which we live cannot and must not be destroyed simply to preserve the unfettered rights of those who seek to undermine it. He was a champion of the fundamental belief that civil rights for all Americans should be protected and that no single agitator or organized group has the right to tear down the fabric of our society simply to prove their point or for political expediency.

He was a quiet man who often became a center of controversy, but I can recall no instance in which the position he took was not in the best interest of America. His fight against gangsters and racketeers won him wide recognition, and his steadfast opposition to Communists should be applauded by all Americans. He was a stern disciplinarian who ran his department efficiently and well, and his successor will inherit an institution whose foundation has been laid with careful hands and a dedicated sense of purpose.

Mr. MILLER of Ohio. Mr. Speaker, this country will miss J. Edgar Hoover.

His tough character, his blunt, bulldog honesty, his loyalty to the eight Presidents he served as well as his unrelenting adherence to law and justice were all the marks of a man millions have admired.

For more than 48 years, J. Edgar Hoover commanded one of the most difficult operations in the country. Under his guidance, the Federal Bureau of Investigation grew from a small bureau in the Justice Department to the most extraordinary investigative machine in the country tracking down America's "10 Most Wanted" and, in the process, emerging as the symbol of the Nation's criminal watchdog.

I concur with President Nixon's evaluation that Mr. Hoover was "a legend in his own lifetime."

The President eulogized:

> For millions, he was the symbol and embodiment of the values he cherished most: courage, patriotism, dedication to his country, and a granite-like honesty and integrity.

J. Edgar Hoover knew his job; and the record shows that he did it well—extremely well, in fact. Had he been a coach, he would have doubtlessly been a winner. Had he been a soldier, he would have been a general. Had he chosen to enter business, he would surely have been a success.

J. Edgar Hoover was first and foremost a doer; and for what he did for America, he will long be remembered and respected.

Mr. MINSHALL. Mr. Speaker, we mourn the passing of a great and unique American, J. Edgar Hoover, who single-mindedly devoted his life—almost literally every waking moment of it—to his country's service.

His courage, his patriotism, his incredibly high standards of performance awed not only this Nation but the entire world for almost half a century as Director of the Federal Bureau of Investigation. He built the FBI from an insignificant, politics-ridden little investigative agency into the world's finest, most effective crime-fighting organization, respected and emulated around the globe.

He will stand for the ages as one of our most shining symbols of integrity, fearlessness, and complete devotion to America.

Yes, he was all that, and more. Those of us who had the privilege of knowing Mr. Hoover were acquainted with the sharp wit, the enormous sense of humor, the warmth that lay behind the stern public image of the Nation's No. 1 "G-Man". He was a kind and gracious gentleman. His reputation and his noble deeds will be his best memorial.

Mr. CLANCY. Mr. Speaker, this is a mournful day for all Americans. John Edgar Hoover is dead.

For most of our lives, and for all of the lives of millions of citizens, there has been an inborn feeling of security in America. Mr. Hoover was a source for much of this feeling. We have always felt that the Federal Bureau of Investigation was on guard for America. We have believed that no enemy could land on our shores without being immediately apprehended. We have developed a trust, a faith, that subversives and spies would be stymied before they could commit espionage. We have known that organized and unorganized criminals would be tracked down and insulated from good, honest citizens.

But J. Edgar Hoover has done more for Americans than to organize and direct the Federal Bureau of Investigation in its unerring and dogged flight against enemies and criminals. By his example and by his demands on the Bureau and its employees, he has exalted the images that are America and American. He lived by his beliefs and his beliefs were in America. He was alert, courageous, and loyal to family and country. Even his enemies, who distinguished him by their fear and hate, respected him for his constant dedication. He was hard working and willingly spent long hours in the cause he knew was just and right. He was always on call. No one who knew him questioned his honesty and integrity. Americans usually cited those two qualities as the outstanding characteristics of Mr. Hoover and the Federal Bureau of Investigation.

J. Edgar Hoover believed implicitly in freedom for the honest and the innocent. It was he who opposed the isolation and encamping of foreign nationals when World War II broke out and frightened Americans called for the collection and virtual imprisonment of foreign nationals.

He believed in justice but his agents were advising suspects of their civil rights long before the Supreme Court rulings. He was a lawyer who used the law as his guide.

Foremost of all, the man who commanded the FBI for 48 years was tough. He knew full well that America's enemies were cunning, tough, and dedicated—to greed and power. Mr. Hoover fought them with every weapon at his disposal, particularly with the law and science, but always within the rules of justice.

Tough as he was, he was a compassionate man. With tender, loving grief, he interred his pets as they died in a beautifully kept cemetery. Time after time, he gave his support to charitable causes and various boys organizations.

As he believed all Americans should, Mr. Hoover put his trust in God. He said he read the Bible regularly, drew inspiration from it and lived by its teachings in all of his 77 years.

In truth, J. Edgar Hoover devoted his life to his country. Few patriots in history have given more than he. There were countless times when he was alone and lonely. He sacrificed personal comfort and recreation. He went without many close friendships. The Director chose to serve his country as most of us would serve our families. He loved it and he protected it.

Mr. McCLORY. Mr. Speaker, I join today in tribute to FBI Director J. Edgar Hoover whose long and colorful career ended in his passing on Monday, May 1.

Mr. Speaker, in addition to his unremitting personal dedication to his duties and the successful administration of this greatest of all law enforcement offices, it seems well to recall at this hour, the inspiration which J. Edgar Hoover provided to the entire law enforcement segment of our society as well as to virtually all law-abiding citizens of our Nation.

Mr. Speaker, millions of our young people, including those who experienced their youth throughout the entire 48-year period that J. Edgar Hoover served as Director of the FBI—have been provided with his example to respect and emulate.

Mr. Speaker, many of the improvements which have been developed in the FBI under J. Edgar Hoover's leadership are patterns which other units of government have followed. I am thinking of the scientific research and advanced techniques which have characterized the FBI in the detection and prosecution of criminal elements.

Mr. Speaker, there is a mistaken view that FBI Director Hoover did not have full respect for the rights of those charged with crime. I find little basis for this charge. Indeed the practices adopted by the FBI have been quite consistent with according every constitutional right to those who have run afoul of the law. Still, his position has been firm and deliberate in behalf of our law-abiding citizens. This is as it should be, and as I hope all of our Federal and other law enforcement officers will carry out their responsibilities.

Mr. Speaker, I know that a full account of Director Hoover's career will be discussed in the course of this final tribute and I merely join in expressing respect and a sense of loss on the part of those whom I represent in this body in the passing of a great and honored American, J. Edgar Hoover.

Mr. CLEVELAND. Mr. Speaker, yesterday our Nation lost one of its greatest and most dedicated public servants. J. Edgar Hoover, Director of the Federal Bureau of Investigation for almost half a century, under eight Presidents of both parties, died at the age of 77. He was active to the end in the job he loved and made famous.

Today his body lies in state in the Capitol rotunda, an honor offered to only 20 other great Americans before him. Thousands are taking the opportunity to pay their respects and say thank you to this man who served them the best way he knew how until the day of his death.

J. Edgar Hoover will not soon be forgotten. A man of character, integrity, and boundless energy, he dedicated his whole life to fighting those who threatened to destroy the United States and the principles on which it was founded, especially respect for the law.

Mr. Hoover was first appointed Director of the Federal Bureau of Investigation by Attorney General Harlan Fiske Stone, who recognized his unique qualities. At this time I remember vividly going to Chesterfield, N.H., where Mr. Stone was born and raised. It was in 1948 and a commemorative postage stamp was being issued in his honor. Surely one of Chief Justice Stone's greatest of many contributions to the law was his appointment of J. Edgar Hoover, the man who has personified the law and respect for the law for so many, for so many years.

Under the leadership of J. Edgar Hoover the Federal Bureau of Investigation became a very effective and unquestionably honest law enforcement agency. Despite its powerful position, the FBI never became involved in partisan politics. In this regard, it again followed the example of its leader. It was an institution in which all but a few could, and did, have faith and confidence.

Often a controversial figure, J. Edgar Hoover was never questioned on his patriotism, honesty, or courage. He was respected by friend and foe alike and will be missed and remembered by all Americans. He loved his country, and his country owes him a debt of gratitude.

Mr. FASCELL. Mr. Speaker, the death of FBI Director J. Edgar Hoover marks the end of a public service career unequaled in our Government's history.

The Director exemplified the ultimate in integrity, dedication, diligence, and determination in his role as the Nation's chief law enforcer. Only a man with these qualities and with his outstanding administrative skill could have molded the world's foremost law enforcement agency as he did.

Indeed, the greatest living tribute to Mr. Hoover is the organization he built. Because of his insistence of strict adherence to administrative procedures he developed throughout the nearly 48 years he served as Director of the Federal Bureau of Investigation, that agency will, I am sure, continue to function with the efficiency and excellence we have all come to expect. It must be said, however, that while Mr. Hoover will be succeeded, he will never be replaced.

The forcefulness of J. Edgar Hoover's influence will be missed by all in the law enforcement community and by all Americans.

Mr. HALPERN. Mr. Speaker, America has lost a trusted and highly respected public servant with the death of J. Edgar Hoover. His record reads like the almost lengendary success story that it was. As the only Director that the Federal Bureau of Investigation ever had, Mr. Hoover made it the world's single greatest law enforcement agency.

J. Edgar Hoover's life bore the stamp of the true professional—and he put his imprint upon the FBI to the extent that the Bureau stands today as a living monument to his organizational genius and single-minded devotion to law, order, justice, and the protection of the United States of America.

He took over, on May 14, 1924, what was then a small bureau that had become encrusted by politics—and, in a few short years, turned it into the modern standard by which investigative agencies around the world are judged. He made the word "G-man" a household word in the 1930's and drew the attention of the public away from the front-page antics of those who defied the law to where it properly belonged—with those who met the challenge of crime through professional, highly skilled law enforcement.

There have been some who have regarded Mr. Hoover's efforts to build the FBI into the highly respected organization it became as overly intent upon publizing the activities of the Bureau. J. Edgar Hoover's answer was best stated after the infamous Kansas City massacre of June 17, 1933—after newspapers had ran banner headlines on the crime, and countless details of the killings. He said:

> If there is going to be publicity, let it be on the side of law and order.

And down through the years the reputation of Mr. Hoover and his Federal Bureau of Investigation has grown, founded upon 48 years of his dynamic leadership and unblemished record. He was an innovator who believed in the need to modernize crime fighting, in order to fight crime that had come of age in the 20th century.

Many are the landmarks left by J. Edgar Hoover. The centralized fingerprint file, which he established in 1925, at the Bureau's identification division now contains over 200 million prints. The FBI crime laboratory was created in 1932, and is a high point in the application of science to police work.

He constantly fought to upgrade the standards for law-enforcement personnel, and to elevate the status of the police profession. The National Police Academy was opened in 1935 to train the leadership of local forces throughout the Nation. And he recruited accountants and lawyers to staff the special agent core of the FBI.

He fought crime in peace and international counterespionage in times of both hot and cold wars. "Public enemy" became a catchword for those who made the FBI list of 10 most wanted criminals. The list was a changing one—for the FBI invariably apprehended those whose notority preceeded their capture. The agents of J. Edgar Hoover's wartime FBI arrested German saboteurs within mere days after Nazi submarines had landed them on the darkened shores of the Atlantic coast—and, to his everlasting credit, not a single act of successful enemy sabotage was committed within the United States during World War II.

J. Edgar Hoover was an individual whose single-minded devotion to duty was such that any attempt at writing a eulogy inevitably become almost synonimous with writing the story of the FBI. For such was the man that whenever the words Federal Bureau of Investigation are spoken, whenever reference is made to the FBI and its massive and impressive history, there will come to mind the rugged features and firm countenance of J. Edgar Hoover.

He once told a reporter that "the greatest enemy is time." Now time has taken him, but his legacy of public service lives on as an undying inspiration to all Americans.

Mr. BROWN of Ohio. Mr. Speaker, I wish to add to the remarks of my colleagues on this occasion of eulogizing one of the most dedicated public servants this Nation has known, J. Edgar Hoover.

Mr. Hoover spent his life in complete and unswerving service to building one of the most remarkable institutions in the world. He had the respect and loyalty of the people who have made the Federal Bureau of Investigation, during the 48 years of its existence, the efficient, restrained and successful and respected organization it is.

But that respect and loyalty has not been just for Mr. Hoover. It has been for the work and ideals of the agency in carrying out its public trust. Last night, for example, one news commentator made the point that no FBI agent has ever been indicted for a crime connected with his work as an FBI agent. That is probably the greatest legacy that the Director could leave to the FBI. Hopefully, it will be a legacy the American public will insist upon maintaining. Mr. Hoover's example must be maintained in the years ahead if the FBI is to continue to do the job to which it has been committed by Mr. Hoover. America and his agency will not be the same without Mr. Hoover—who stood bigger than life in the minds of the vast majority of Americans. But the bigger than life legend will survive and continue to serve as an example of complete dedication to the goal of frustrating crime, protecting freedom, and maintaining America as the last best hope of earth.

So while it saddens me to speak of the death of J. Edgar Hoover, it gives me the greatest confidence that the spirit of his life and work will be long remembered and practically applied in the continuing fulfillment of the FBI's task. During his life, I am certain that J. Edgar Hoover's goal was also to that end. May we all thank him for it.

Mr. HAMMERSCHMIDT. Mr. Speaker, the Nation has lost one of its finest and most dedicated public servants with the death of J. Edgar Hoover. I join with millions of Americans in expressing deep sorrow over this great loss and in paying sincere tribute to the countless and enduring contributions which Mr. Hoover made to his beloved country.

His outstanding leadership as Director of the Federal Bureau of Investigation made J. Edgar Hoover a symbol of the effective law enforcement which his Agency could be depended upon to provide. Mr. Hoover's name has long been virtually synonymous with that of the FBI.

Holding the position of FBI Director for 48 years, J. Edgar Hoover served under eight Presidents and 16 Attorneys General. In unceasing efforts during these many years, Mr. Hoover built the FBI from a small bureau in the Justice Department in the early 1920's into the great law enforcement agency that it is today.

The FBI has become a model of law enforcement and crime detection techniques for law enforcement agencies throughout the world. Today's FBI is an agency with 19,000 employees, including 8,000 agents across the land. As only a part of its far-reaching responsibilities, the FBI carries the burden of the fight against organized crime, internal security threats, drug traffic, civil disruptions, aircraft hijacking, and interstate car thefts.

Under Mr. Hoover's able leadership, furthermore, the FBI's contributions to effective law enforcement extended to officials at every governmental level throughout the country. Mr. Hoover coordinated the Bureau's activities with every police and sheriff's office in the United States. The Bureau acts as a storehouse of information, conducts training schools, and assists thousands of law enforcement officers annually on new techniques and methods of investigation.

It is, of course, the American people who have benefited most from the effective law enforcement provided through the leadership of J. Edgar Hoover. The United States was founded on the principle that ours is a nation of laws and not men; that the rights and privileges of our citizens are guaranteed by law and are not dependent upon the political preferences or whims of governmental leaders. J. Edgar Hoover dedicated his life to this principle and to upholding the laws based upon it.

The legacy left by this great American includes far more than what is considered to be the world's finest law enforcement agency. The legacy includes the qualities and character of the man himself. The courage, honesty, integrity, and unswerving devotion to his work and to his country exemplified by J. Edgar Hoover have served and will continue to serve as an inspiration for millions of Americans.

GENERAL LEAVE

Mr. HOGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in connection with this special order and eulogy of J. Edgar Hoover.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

LEGISLATION TO INCREASE VIETNAM VETERANS' EDUCATION BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, amid the outpouring of words in the Congress concerning American policy in Vietnam, too little attention has been given to the future of the hundreds of thousands of brave Americans who have served and continue to serve our Nation.

Those who have volunteered or been called to duty are deserving of not only our gratitude but of a tangible expression of that gratitude.

With this continuing obligation in mind, to our veterans I am introducing legislation today which would double GI educational benefits beyond those currently provided by law.

Such an increase is fully warranted in view of the rising cost of living in recent years and the continuing skyrocketing of education costs, even in our State universities. Because of these cost increases, many of our Vietnam veterans have been unable to avail themselves of their GI educational eligibility because of the inadequacy of benefits.

My bill would double the present $500 ceiling a year for tuition, books, and other fees to $1,000 annually, provide a $175-a-month subsistence allowance and establish a Veterans' Administration guaranteed loan program for educational assistance to provide veterans a wider choice of educational opportunities.

I consider that America's investment in such a program, which would be available to some 7 million veterans, is in the long-term interests of our Nation. The veterans who availed themselves of GI benefits after World War II have more than repaid the country they served in terms of productivity, improved technology and other contributions.

Beyond these considerations, we face the high unemployment rate of veterans who, having interrupted their schooling and civilian jobs to serve in the Armed Forces, have returned home to find they have neither the skills nor training to compete with contemporaries who were not called to serve.

Mr. Speaker, during the past weekend, I had the privilege to participate in the 23d annual Loyalty Day parade ceremonies sponsored by the Erie County Council, Veterans of Foreign Wars and to attend the Erie County Council of AMVETS' 28th annual convention.

The members of these organizations, including members of the American Legion and others who dedicate their efforts to assist the millions of men who have served our country, in wars past and in Vietnam, are deeply aware of the needs of former servicemen and fully back the legislation I am introducing.

Finally, Mr. Speaker, I should like to bring to the attention of my colleagues an essay which was brought to my attention by Chaplain Kydson Powell of the Erie County AMVETS.

The essay, which won honorable mention in the "Greatest American" contest, was written by 17-year-old Michael D. Papero of Erie County who recently enlisted in the Air Force.

This young man's following words, I believe, reflect the feeling of millions of Americans who feel, as I do, that we are grateful to those who have helped defend the freedom of so many, the veterans of America:

THE GREATEST AMERICAN

(By Michael D. Papero)

Hut, Hut, Hut, One, Two, Three, Four,—Hut, Hut, Hut, One, Two, Three, Four, Back and Forth, Up and Down, one soldier marches in perfect coordination in front of a huge marble tomb at Arlington National Cemetery. Twenty-four hours a day, seven days a week, Honor Guards keep up the vigil. What great American receives such treatment? Surely he must be famous and well-known to his fellow countrymen! Was he a President, a General, or a great Statesman? No! He is known but to God, for he is the American Unknown Soldier.

Who is this honored American? Maybe he is a sailor lying entombed in his ship on the bottom of the sea, or a marine killed in some foxhole in the jungles of the South-Pacific. He may have been an airman killed instantly when his bomber received a direct hit and exploded over Germany. He may even have been a soldier who never even reached the beach from his assault craft.

When did he die? It could have been during one of the terrible shellings of World War I or during a huge naval battle in World War II. Maybe he was killed in Korea or Vietnam, but it really doesn't matter. What counts is that he gave his life for his country. He may have been afraid of death or have been resigned to his fate, but regardless of his personal feelings, he made the supreme sacrifice.

Why do we treat this man with such renown and honor? The reason is that he represents the thousands of unidentified Americans who never came back. Although many of their mortal remains are resting in foreign soil, this monument at Arlington National Cemetery is a symbol to the whole world of the great pride and feeling of gratitude that we have toward our fellow Americans who were called upon to make the supreme sacrifice.

Granted, the identity of the Unknown Soldier will never be known, but we can at least honor his memory in a tomb of fitting glory. This is why we honor the Unknown Soldier who is known but to God.

U.S. MULTINATIONAL INVESTMENT IN MANUFACTURING AND DOMESTIC ECONOMIC PERFORMANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. FRELINGHUYSEN) is recognized for 5 minutes.

Mr. FRELINGHUYSEN. Mr. Speaker, many statements and articles have appeared in the RECORD on the subject of the multinational corporation. These have included surveys of the effects of the American-based multinational firms upon domestic employment. Some surveys, however, have been criticized because they represent only a limited sample, concentrating on firms with favorable stories to tell, or because they counted increases in employment due to acquisitions and mergers.

As a further contribution on this subject I am submitting the summary of a study recently released by the Center for Multinational Studies, which is affiliated with the International Economic Policy Association. The study was undertaken by Prof. Robert G. Hawkins of the New York University Graduate School of Business Administration. Dr. Hawkins' study is based not upon survey data or samples; but on the aggregate data available in official Commerce Department and other Government sources.

The study divided U.S. industries into those with high and low intensities of foreign direct investment. It then measured domestic performance indicators involving domestic employment growth, domestic sales growth, the balance of trade, and changes in the ratios of imports and exports to sales. The conclusion was that industries with the highest investment abroad have had, on average, the fastest growth in American employment and production.

This, of course, does not prove that the higher rates of investment in manufacturing abroad have caused superior domestic performance, for many other factors could also contribute to this result. Rather, the significance of the study is that if the charges were true that the multinational corporation has "exported jobs"—by virtue of its investment in foreign manufacturing affiliates—then those industries with the greatest degree of such investment should show below average domestic performance. Since the reverse is shown to be the case by Dr. Hawkins' study, the notion of significant net displacement of U.S. jobs by multinational firms on an aggregate basis is pretty well disproved.

The study points out that there are some dislocation burdens, because jobs created in the United States, because of the multinationals' operations abroad are often in different skills than those which may be displaced. Although in such cases the net burden, if any, may be small, the human economic and social costs in individual cases can be severe. The summary follows:

U.S. MULTINATIONAL INVESTMENT IN MANUFACTURING AND DOMESTIC ECONOMIC PERFORMANCE

(By Robert G. Hawkins)

Contrary to the allegations of organized labor that multinational corporations have displaced or "exported" many American jobs, industries with the highest investment abroad have had, on average, the fastest growth in American employment and production.

The study finds that:

1. Industries with high foreign investment intensity tended, on average, to have export surpluses. As the overall trade balance of the United States deteriorated substantially in the late 1960's, high foreign investment industries experienced less deterioration or greater improvement in their export-import position than did relatively low foreign investment industries.

2. The increase in the portion of U.S. production of goods which was exported in the late sixties was also positively related to the intensity of foreign direct investment by industry.

3. Average growth in U.S. employment proved to be higher, on average, in industries with high intensities of foreign investment than in those with low; a similar relationship was found for growth in U.S. production.

It has been argued that production and employment in particular fields might have been still higher had there been less foreign investment. The evidence of this study is that sectors with heavy foreign investment have, in fact, significantly outperformed those with lower investment in terms of growth rate of sales, exports, and employment. Whether this above average growth might have been still higher with less investment can never be known, since in economics, as in history, the "might have been" situation cannot be proven—although many individual case studies have shown that the option of expanding production domestically instead of abroad did not exist.

Consequently, the real and measurable test of the "burden" posed by foreign investment for the American economy and employment is that of absolute displacement; i.e., actual declines in employment and production.

The findings of this study, as well as some others, indicate that actual reductions in domestic production or empoyment in the same industries where foreign investment is occurring is quite rare. More often, production by U.S. foreign affiliates has increased to serve expanding foreign markets while local production in the United States expands at the same time to fill growing U.S. markets and for export. This has been the case almost universally, with a few notable exceptions, such as electronic components and consumer electrical equipment. In these cases, foreign production may, in fact, have been accompanied by actual reductions in domestic employment in certain localities or occupations, although this would not be true on an industry-wide basis as other production and employment expands in the same industry.

These conclusions are derived from a statistical analysis based on data for the 1960's. A rank-ordering of manufacturing industries by intensity of foreign investment was established. For example, chemical, nonelectrical machinery, electrical equipment and transport equipment are among the manufacturing industries with the highest intensity of foreign investment. Textile, clothing and food products are some of those at the "low" end of the foreign investment spectrum.

The central question addressed in the study is whether the industries with high intensities of foreign investment had greater domestic difficulties, greater adjustment problems, and poorer foreign trade performance than industries with lower intensities. This should be the case if the arguments of the multinational critics are correct—that is, MNC operations should have led to actual disruptions in domestic markets, as measured by poor "performance" in those industries having the greatest incidence of such foreign operations. But in fact, the opposite appears to be the case—suggesting that efforts to restrain foreign direct investment are a misplaced remedy for problems which have other roots. For example, in the electrical equipment industry, which has a high intensity of foreign direct investment, exports increased by 97 percent between 1963–64 and 1969–70, while domestic sales rose by 41 percent and domestic employment by 25 percent. At the other extreme, the apparel industry, with a low foreign investment ranking, experienced only a 39 percent increase in exports, a 37 percent increase in domestic sales and only a 5 percent increase in domestic employment.

This analysis reveals that multinational firms in manufacturing are most often found in the dynamic and rapidlly growing industries in the United States. Local sales expand, as do exports, concurrently with foreign investment and expanding production by foreign affiliates. It is, of course, impossible to prove statistically that high foreign investment causes superior performance in those industries. A positive correlation between superior economic performance and high foreign investment intensity might be the result of informed and aggressive management seeking out the rapidly expanding fields and markets, including those abroad. But regardless of the direction of causation, efforts to constrain U.S.-based multinational operations might adversely affect the economic performance of these firms, and hence suppress the dynamism of the economy.

Establishing cause and effect is, however, not essential to the issue of the study, which is whether there have been significant absolute displacements or declines in domestic employment and production in those sectors where foreign investment has been heavy. The study shows that the answer is negative in general.

A wide range of estimates can be made on the total jobs created or displaced by the expansion of production by American affiliates abroad. But all depend on their assumptions about the extent to which markets could have continued to be served from American production. Reasonable assumptions on both the job displacing and job creating effects of U.S. multinational firms tend to create roughly the same range of estimates for both effects, that is a "washout." In any case, even the gross displacement, if any, due to the annual increases in foreign production—a more relevant question than estimated cumulative totals—is small in relation to increases in the labor force or current unemployment levels. The magnitude of job dislocations is small because both the American and foreign markets served by the MNC's expanded rapidly enough, except in a few cases, to accommodate the dramatic expansion of production abroad while maintaining and increasing production and employment in the United States.

Since superior domestic performance with respect to employment and sales growth and international competitive position tends to occur in industries which have invested heavily abroad, the adjustment and job dislocation burden on the economy in those sectors is relatively less than that which arises in other industries with lower foreign investment. The study recommends, however, that such dislocations as do occur should be met with positive programs, such as better adjustment assistance, advanced warning systems by business of contemplated plant closings, and more thorough governmental technological and economic forecasting. This would permit better programming of manpower needs and incentives for investment in labor surplus areas and retraining in skills likely to be in short supply.

EXEMPTIONS FOR SMALL BUSINESSES FROM WAGE AND PRICE CONTROLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. J. WILLIAM STANTON) is recognized for 5 minutes.

Mr. J. WILLIAM STANTON. Mr. Speaker, in removing 5 million small firms from the wage and price controls program, the Cost of Living Council has followed the congressional mandate to provide such exemptions for small businesses as may be feasible without impeding the goals of the stabilization effort.

As ranking minority member of the Banking and Currency Subcommittee on Small Business and a member of the Select Committee on Small Business, I think this is a sound move at this time. It eliminates burdensome redtape in the stabilization program in a manner that is equitable and in keeping with our national effort to combat inflation. The small enterprises are not as well equipped as larger businesses to comply with the recordkeeping requirements and information demands of the program.

The Council, in taking this action, recognized that the administrative burdens to small businesses outweigh the value of the controls. These firms are not the source of a cost-push inflation and maintaining direct restraints on them hinders the effectiveness of the stabilization machinery. By concentrating its resources on the larger economic units the program will be better able to maintain effective controls over the firms which do have a serious inflationary impact. While these smaller units are no longer under direct regulation, their prices and wages will be restrained by competitive forces in the marketplace. The large companies within an industry—which are subject to the strict pricing guidelines—can be expected to exert some price discipline over smaller firms. Wage settlements, too, are influenced by the pattern of settlements affecting the big units which remain subject to the program.

In announcing the exemptions Council Director Donald Rumsfeld said that the Council would watch carefully the pay and price behavior of small firms to see that they do not create inflationary problems. He also said that the Council is "calling on these companies to function and conduct themselves in a responsible way, in recognition of the anti-inflationary goals that have been put forward."

As one who has worked closely with the small business community, I am sure that small businessmen will respond to this plea for assistance in rebuilding our economy—as they have in the past.

I do not think this action should be interpreted as a step toward ending controls on wages and prices. The stabilization agencies still maintain direct controls over 72 percent of annual sales.

While the Nation is making progress in its efforts to cut the rate of inflation it has not yet reached the goals set for the program. This refinement of the controls mechanism which is in keeping with the intent of Congress should aid the stabilization agencies in reaching the objectives.

Mr. Speaker, I strongly support the Council's action and I am certain that the small businessmen who are affected by this move will continue to operate in such a way as to help the Nation achieve economic prosperity.

LET'S GIVE OUR VETERANS THEIR DUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker during the the first session of the current 92d Congress, I introduced H.R. 9610, a bill to provide for automatic cost-of-living increases in VA compensation, dependency and indemnity compensation, and pension payments. The concern that veterans and their families receive the full and true amount of the pension or compensation due them is, I believe, a reflection in the operation and intent of my bill.

As the cost of living rises, higher prices eat into the small, semifixed compensation or pension provided by the VA. The veteran living on this income must use up some of his savings or cut his consumption of very basic items in order to make do with this pension of compensation payments while waiting for Congress to enact an increase in the pension and compensation rates that would restore the purchasing power of his VA payment. Often it is a year or more before an increase reaches him. Simply, it is to reduce this "lag" between rises in the cost of living and congressional action that I have introduced this bill.

In the face of our current inflation, the purchasing power of those on fixed incomes, such as people who depend on VA pension and compensation payments, suffers significantly. These men and women are usually too old or disabled to work and consequently do not get the benefit of rising wages. In addition, these people, many of them aged, are often unable to shop around and take advantage of the best prices thus increasing the impact of inflation. This group of low income, aged, and disabled citizens must depend on congressional action to match rising prices and maintain the value of their incomes.

In the past, Congress has responded generously and fairly to maintain the real value of veterans' pensions and compensation. The last of these periodic adjustments was the comprehensive increase in payments made 2 years ago in Public Law 91–558—to take effect January 1, 1971. Though this was largely in response to the 15-percent social security raise which cut into many pensions, it also provided an increase in VA pension and compensation payments which roughly covered the rise in prices since the effective date of the last increase—January 1969. But even with the increases Congress has provided, there still remains the problem of the veteran who had to live on his fixed income during the 2 years between increases and must now pay prices that have risen almost 5 percent since the effective date of the last pension increase in January of this year.

Unfortunately, we in Congress are limited in the time we can devote to consideration of these necessary increases and adjustments of pension and compensation payments. Prompt and frequent as our action can be, there is still a lag between the time a veteran or his survivors need an increase in pension or compensation payments—because of the increased cost of living—and the time congressional action becomes effective.

My bill would, by providing automatic quarterly adjustments in veterans' pension and compensation payments based on the Consumer Price Index, act to maintain the value of pensions and compensation in the face of inflation and remove the necessity of waiting for congressional action. Basically, H.R. 9610 reduces to a practical minimum the impact inflation has on those receiving VA-provided incomes. It would relieve Congress of the extra burden, in an already heavy legislative schedule, of enacting periodic pension and compensation increases to counter inflationary trends.

The system mandated in my bill would operate in the following way:

Each calendar quarter, the Veterans' Administration would determine whether the Consumer Price Index, measuring general cost-of-living increases, has increased more than 3 percent in the previous quarter, compared to a base quarter. If the VA finds that the Consumer Price Index has risen more than 3 percent, then veterans' benefits would be increased by the same percentage—with provisions for rounding off the results. The new increase added to the previous payment would then become the new base for the next computation.

The benefits of these increases would go to those receiving compensation for service-connected disabilities, dependency and indemnity compensation for service-connected death, pensions for non-service-connected disabilities, death, or service, and those receiving "old-law" pensions.

In conclusion I would point out that this legislation is not designed to reduce congressional authority over pensions and compensation payments or, in effect, to reduce the generous pension increases that, in the past, Congress has provided. I am aware that, over the long history of the VA pension and compensation programs, Congress has provided a total increase which has gone well beyond the rise in the cost of living. And, I am sure that Congress will continue to review the pension and compensation programs and revise them when it finds inadequacies in their operation or the rates of payment. Rather, my bill frees Congress to act on pressing needs for change in other areas of veterans' affairs and for comprehensive review of existing and proposed programs—including pension and compensation programs—while leaving the necessary periodic adjustments to the operation of a cost-of-living escalator.

I therefore plan to urge favorable action on H.R. 9610 in the Congress, so that the modest compensation and pensions that we provide those who sacrificed so much for their country will maintain their real value in the face of any present or foreseeable inflation.

REVENUE-SHARING BILL SHOULD INCLUDE REVENUE-RAISING TAX REFORMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, when the

revenue-sharing bill (H.R. 14370) comes before the House, an effort will be made to attach to it two revenue-raising tax reforms. I join with Congressmen DONALD FRASER, CHARLES VANIK, and DAVID OBEY in this proposal, and I urge our colleagues to join with us in the effort.

H.R. 14370 is scheduled for floor action in the House shortly. While views differ on its merits, there is general agreement that the bill attempts to share revenues the Federal Government simply does not have. Huge and unproductive budget deficits—unproductive in the sense that they are not reducing the present severe unemployment—once again threaten the international stability of the dollar.

We propose to offer a fiscal responsibility amendment to the revenue-sharing bill. The amendment would raise $5 to $6 billion in additional revenues a year, and thus meet the estimated costs of revenue sharing. It would do so by plugging two of the more outrageous loopholes in the Federal tax system:

One. The asset depreciation range system, a giveaway to corporations of some $2 to $5 billion a year. It permits corporations to depart from true depreciation schedules by as much as 20 percent, thus reducing the income taxes they pay. It is a largely wasted investment incentive, since it applies to plant and equipment that corporations were going to invest in anyway, traditionally about 10 percent of GNP, year in and year out. This tax gimmick, therefore, is the same as an across-the-board tax reduction for corporations.

Second. The minimum tax, first legislated by Congress in 1969, has proved to be ineffective in forcing large-scale tax avoiders to pay even a modest minimum to the Treasury. Despite the minimum tax, nearly 400 people with incomes over $100,000 escaped all Federal income taxes in 1970. The fiscal responsibility amendment would raise an additional $2 to $3 billion a year by increasing the minimum tax rate from 10 to 20 percent, eliminating the deduction for regular taxes paid and reducing the present $30,000 exemption to $12,000. Even with the amendment, the minimum tax would still result in many wealthy taxpayers paying less than an average wage earner—but it would greatly reduce the loophole.

The fiscal responsibility amendment will not, it is true, come to grips with many other tax reform problems, such as the oil depletion allowance, capital gains at death, and tax-exempt bonds. But what is needed is action now, and curing these other loopholes probably does require detailed work by the tax-writing committees. The two reforms in the fiscal responsibility amendment, however, are appropriate for floor consideration. The changes they make are simple ones—principally changes in rates and numbers—and no long and complex draftsmanship is necessary. Furthermore, the issues involved are familiar ones, the ADR system having been considered by Congress just last December, and the minimum tax in 1969.

The fiscal responsibility amendment is particularly suitable to the revenue-sharing bill. It will provide an appropriate amount of revenue to share. Moreover, by at least partially reforming the Federal tax system, it will give States a better base on which to impose their own income taxes under the "piggy-back" option of the revenue-sharing bill.

We shall ask the House Committee on Rules for a rule which will permit us to offer the fiscal responsibility amendment to the revenue sharing bill, and waive points of order in connection with it.

If the Rules Committee does not grant such a rule, we will then move on the floor to amend the rule so as to permit our amendment to be offered. The critical rollcall vote will thus come when we ask Members to vote down the previous question on the rule so that it can be amended.

Wiseacres have been saying that all tax reform this year is impossible, because of the implacable opposition of President Nixon and Secretary Connally. They could be wrong.

SAN GABRIEL VALLEY HOSPITAL CELEBRATES SILVER ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, the San Gabriel Valley Hospital is celebrating 25 years of providing quality health care to the residents of the San Gabriel Valley with a special anniversary dinner this weekend. My colleague, Representative JOHN ROUSSELOT, of California's 24th District, joins me in giving tribute to the hospital which serves residents of both our districts, and to its dedicated supporters, staff, and volunteers on this occasion of their silver anniversary.

The hospital was started in 1947 by five general practitioners who took the initiative of building a hospital sufficient to meet the health needs of the small suburban community of San Gabriel. As a result of their efforts, a 48-bed structure was erected. By 1954, just 7 years later, the growth in population and medical staff had necessitated the addition of 34 more beds.

The population of San Gabriel has now grown to approximately 30,000 and the hospital's role and responsibilities have increased. The present building was designed for medical care of a much simpler era and on this 25th anniversary the hospital is looking forward to the development of a new structure while maintaining the high-quality delivery of health care that has been its heritage.

The dedication of the employees throughout the years has been extraordinary, as exemplified by their long tenure of service not characteristic of most hospitals.

Another distinguishing feature of San Gabriel Valley Hospital is its orientation toward the practice of family medicine. While providing the skills of 26 medical specialties, this hospital continues to stress the importance of treating the whole patient, in an age of increasing reliance upon specialization and fragmentation.

It is an honor to take this occasion to congratulate the San Gabriel Valley Hospital on its 25 years of outstanding service. The following letter was sent by Mr. ROUSSELOT and myself to the administrator and chief of staff:

JAMES A. BAILEY,
Administrator,
JAMES A. BONGARD, M.D.,
Chief of Staff,
San Gabriel Valley Hospital,
San Gabriel, Calif.

DEAR FRIENDS: We would like to commend all of those who are responsible for this proud occasion, the Silver Anniversary celebration of the San Gabriel Valley Hospital. Congratulations are due those who first had the vision to plan and work for the future health care needs of the people of San Gabriel. Congratulations and continuing thanks belong to those who have kept that vision alive in the intervening years by their own dedicated service and concern for the years ahead.

It is valuable to gather on this occasion to reflect on the achievements of the past and the growth of the hospital staff and facilities that provide outstanding professional and personal medical care in the community of San Gabriel. It is equally significant to continue to plan for improvements that can expand the capabilities of the hospital to keep abreast of advances in medical knowledge and to serve new generations.

We commend, also, the supporters of San Gabriel Valley Hospital, for their commitment during the past twenty-five years to which this evening pays tribute.

Very truly yours,
GEORGE E. DANIELSON,
Member of Congress.
JOHN H. ROUSSELOT,
Member of Congress.

WEST HARTFORD LEAGUE OF WOMEN VOTERS HOLDS ENVIRONMENTAL CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, as we are all aware, the League of Women Voters has performed and continues to perform outstanding services in the public interest.

On June 13, 1972, the League is holding an environmental conference to stress individual efforts in environmental programs.

I have been fortunate in securing the advice and counsel of League members on a number of issues. This advice on ecology combined with my own deep concern over ecological problems has prompted me on numerous occasions to vote to strengthen antipollution legislation. Just recently I worked for amendments to strengthen the Clean Water Amendment of 1972. I believe that our Nation should be mobilized—both in the Government and in the private sector—to end water pollution by the 1980's. To accomplish this goal, I believe the Government should provide both positive incentives and when necessary negative restrictions. It is obvious to me that we cannot allow environmental decay to continue.

With the enactment of the clean air amendments, various antinoise bills and in the near future, the clean water amendments, I believe we are witnessing positive and constructive Federal action.

We are not naive enough to believe that just passing legislation will be enough. The problems of environmental abuse require constant attention and action by both the Government and the individual.

It is individual action that in large measure will determine the success of this effort to purify our air and water and conserve our natural resources.

I have read an interesting booklet, which proposes some constructive steps for individual participation in the fight against environmental decay. For the benefit of the readers of this RECORD and the participants in the Women's League of Voters' conference on ecology, I am including an abbreviated version of this informative pamphlet:

GUIDELINES FOR CITIZEN ACTION ON ENVIRONMENTAL PROBLEMS

ENACT—Environmental Action for Survival, Ann Arbor, Mich.

RECIPES FOR ENVIRONMENTAL ACTION

The crisis now facing our environment demands that all of us take immediate effective action. It is not enough simply to be aware and concerned. We all must act, even if the action is only in our back yards. There are ways that YOU can help resolve environmental problems. The first thing is not to add to the problem through your own actions. The real enemy, as Pogo has said is "US." We all must be willing to make personal commitments and sacrifices to protect the environment. The following is a beginning; a list of suggestions of what you can do to reduce your own contributions to environmental degradation.

AIR POLLUTION

1. Do not burn leaves or trash. Why not start your own compost pile to return to the soil the nutrients in leaves and other wastes?

2. Do not let your automobile idle unless this is necessary. The automobile is the single greatest source of air pollution; conscious efforts should be made to reduce its contribution to unclean air.

3. Whenever possible, walk, bicycle, or use rapid transit rather than your car. If you must drive, form driving pools.

4. When buying a new car, ask for detailed information about pollution control equipment. Compare the cars you are considering and buy that one which has the best abatement device. In general, smaller engines cause less pollution than larger, more powerful ones.

5. Check to see if your town has an air-pollution control ordinance. If it does not, or if one it has is ineffective, obtain copies of model ordinances from the National Air Pollution Control Administration.

6. A tuned car emits fewer pollutants. Keep your car well tuned. Air pollution control devices also need constant upkeep.

7. Make an oral or written statement at hearings on air pollution and insist on enforcement of air pollution laws. Report offenders.

8. Stop smoking. The average New Yorker takes into his lungs the equivalent in toxic materials of 38 cigarettes a day. Don't add to the problem—for your own body and for your environment.

9. Inefficient incinerators cause much unnecessary pollution. Check or inquire about incinerators in schools, public buildings, offices, etc. Large users of paper should bale and re-cycle their paper not burn it.

WATER CONSERVATION

1. Gently place a brick in the flush tank of every toilet you use. This will reduce the amount of water used without decreasing the efficiency of the toilet. Potential savings in a city of 100,000 equal 300,000 gallons a day.

2. Do not use colored tissue, colored paper, or colored napkins. Dyes released in the manufacturers' effluent pollute streams visually and biologically.

3. Turn off or request that officials turn off all drinking fountains or bubblers that flow continuously in hallways, public places, etc.

4. Let your lawn or yard go "natural." Instead of undertaking massive watering or irrigation efforts, plant vegetation of a variety of species that can flourish under normal rainfall conditions.

5. Switch light bulbs not used for reading to lower wattage bulbs. Be conscious that lower electrical power consumption reduces home or office operating costs and reduces thermal water pollution loads at electrical generating plants. Do you really need an electric toothbrush?

6. If your bathtub has a shower, the next time you take a shower put the plug in position to measure how much water you use during your shower. After comparing the volume used for a shower with that used for a bath, use whichever procedure saves more water.

7. Make arrangements with the local sewage treatment plant and/or water purification plant to provide tours for organization to which you belong.

8. Discover who the three worst water polluters in your region are and call each one to ask what you personally can do to help reduce the problem. If efforts are unsuccessful, pressure law enforcement agencies to do their job.

9. Determine how much leakage takes place in your community's water supply system and learn what steps need to be taken to reduce that loss.

10. Collect waste water or effluent from public or private water users and deliver it to the company or agency as a reminder that their activity is frowned upon and corrective action should be taken. Personally visit the plant manager.

11. One of the worst power users, at perhaps the worst time, is the air conditioner. Well insulated houses shaded by trees and vines help reduce the need to use coolers.

12. Use detergents, toothpaste, shampoos, and other household commodities that have the least detrimental effect on the water environment where they will eventually end up. Demand information on effects of content by writing to company presidents and sending copies of letters to political representatives.

13. Discourage the practice of street washing unless the advantages clearly outweigh the disadvantages in your city. Too often this practice is left over from the days of manure in the streets.

14. Take personal steps to see that oil and other products do not leak out of your car onto the streets and driveways.

15. Demand that only limited application of salt be permitted on your city streets. Salt does extensive damage to lawns, trees, water conditions, and soil drainage.

16. "Brighter than Bright." A great deal of pollution comes from the phosphate chemicals in the detergents, scouring cleansers, floor cleaners, and dish washing powders you use. The new bio-degradable detergents merely cut down the foam. They still contain phosphates that fertilize algae and vegetation that help make the green scum that increasingly borders our lakes and rivers. You as a consumer can hasten the production of non-polluting detergents. The following is a list of the percentages of phosphates in major detergent brands. (The fewer phosphates, the less the product harms our lakes and rivers.)

Write the manufacturers and urge them to change!

17. Avoid buying white clothes, sheets, or other items that require strong detergents to make them "white." The difference, if any, between colored items washed in the high phosphate detergents and those washed in more desirable cleaning agents is not significant.

18. Soap and soda will clean your clothes nearly as well as phosphate detergents. Before adopting the soap and soda method, however, you must first remove any detergent residue to avoid yellowing of some clothes. Do this by washing all clothes using only washing soda and your regular wash cycle. Repeat this process until the water is sudsless and all the detergents are removed.

19. Periodically check faucets for leakage, since this is one of the greatest water wasters. Washers are easy to replace when worn.

20. Does your community have a soil conservation and sedimentation ordinance? The U.S. Soil Conservation Service can advise you of simple and effective ordinances that will prevent erosion in the construction of houses, subdivisions, shopping centers, etc.

PESTICIDES

1. Chemical poisons should not be used for pest control except when absolutely necessary for health or economic reasons. Chemical poisons should never be used for nuisance pests like midges or mosquitoes. Never dispose of pesticides by emptying them into a water supply. Call local health offices for disposal advice.

2. Consider alternatives before using chemical poisons. If you must use a chemical poison, follow these guidelines:

a. Use only recommended dosages.

b. Use at the proper time of year.

c. Do not use the following compounds under any circumstances (check labels carefully):

DDT, dieldrin, lindane, chlordane, heptachlor, endrin, aldrin, BHD, 2,4,5, 4–D, toxaphene, or any compound containing lead, mercury, or arsenic.

d. Recommended pesticides include such brands including Rotenone, Sevin, Malathion, Pyrethrum, and Methoxychlor.

e. Avoid direct contact with the pesticides used, including the mists. Some, such as Parathion, can be absorbed through the skin, directly and cause serious damage.

f. Apply pesticides carefully and only where necessary. Never use them near food or water.

g. Planting a mixture of trees, shrubs, or garden plants instead of a mono-culture reduces the chances of an insect outbreak.

h. Removal of dead or diseased plants reduces the sources of pest populations.

i. Remove weeds in lawns by hand rather than by applying herbicides.

3. Many natural predators are available to control pests naturally and harmlessly. Birds like purple martins and wrens, for example, consume large volumes of insects. Providing homes and habitat for such birds will help control pests. Some insects, such as the ladybug and the praying mantis, also feed on undesirable insects. These predacious insects can be purchased.

4. Accept produce with blemishes caused by insects or plant diseases. Farmers are often forced to use chemical sprays merely to save the appearance of produce.

5. Block the use of herbicides on roadside vegetation. Encourage the development of hedgerows with a pleasant visual effect. Varied roadside vegetation serves as a valuable source of insect predators.

6. Use organic fertilizers rather than chemical ones, which contain herbicides.

SOLID WASTES

Solid wastes cause either land pollution or, if burned, air pollution. Every effort should be made to cut down on the volume of such wastes. The average American generates about five pounds of solid wastes a day. The general answer is to minimize wastes by curtailing excessive packaging and to recycle wastes.

1. Use returnable bottles not throw-aways or cans.

2. Don't purchase liquids sold in milk-

white plastic containers. This material is polyvinyl chloride. When burned, polyvinyl chloride produces a very strong hydrochloride acid mist that can destroy nearby vegetation as well as the inside of an incinerator.

3. Don't buy products with merely decorative, unnecessary packaging. Toothpaste and shampoo containers, for example, don't need outside paper boxes.

4. Develop compost piles that cut down on the volume of organic matter you throw away.

5. Take your own basket shopping to cut down on the use of paper bags.

6. Reuse paper bags, boxes, envelopes, plastic bags, and other containers.

7. Carry a litter bag with you and collect the litter your fellow citizens cause. It costs the State of Michigan 32c for every piece of litter its road crews have to pick up. That's your hard earned tax money.

8. Conduct regular paper and metal can drives in your community to encourage recycling.

9. Use handkerchiefs and cloth napkins, and towels instead of paper products.

10. Flatten containers before discarding.

NOISE

1. Support local noise pollution ordinances and demand strict enforcement.

2. Be sure your own muffler, radios, air conditioners, TV's, etc., are not part of the noise problem.

3. Be sure that motorcycles, model airplanes, construction equipment, boats, etc., have adequate noise control devices.

4. Support efforts to ban sonic booms.

5. Make a tape recording of your local environment and play it back at city council meetings to support demands for noise control.

6. Demand that new airports be zoned away from population centers.

7. Encourage the Federal Aviation Agency to set noise abatement standards for airlines.

VISUAL BLIGHT

1. Check to see that your community has a strong sign ordinance and make sure it is enforced. Do not do business with offenders.

2. Keep your own environment clean and attractive. Do not litter.

3. Seek landscaping ordinances that require shopping centers, housing projects, and schools to include landscaping and open space in their developments.

4. Encourage the use of easements and buffer strips along highways and roads.

5. Encourage groups to plant flowers and other vegetation in your community.

6. Pressure city officials to provide and maintain on a regular basis attractive litter barrels. Local service organizations, artists associations, and schools can sponsor community projects to clean, paint, and decorate such receptacles.

7. Organize your own group of volunteers to paint over graffiti on bridges, walls, and buildings

GUIDELINES FOR CITIZEN ACTION

A major part of the task of maintaining or restoring a quality environment must be assumed by local governments in cooperation with and with the support of business interests, private organizations, and private citizens.

How, if at all, will your community meet the challenge of providing environmental quality? What programs are needed to attain and maintain a quality environment and how will these programs be implemented? If you do not attempt to influence local policy on such issues, who will? Will anyone? Many environmental programs fail to materialize, not because they were strongly opposed, but simply because no one promoted them.

This pamphlet suggests several action steps and guidelines for effective citizen action. Although local conditions will often call for modifications, these guidelines are suggested as general measures for improving the chances for success.

Define the problem or issue

The first thing that must be done is to define the problem. A concise analysis of the problems facing the environment is necessary if you are to understand the problem, formulate specific action plans, and communicate your ideas to others.

Become informed

Once you have satisfactorily defined the problem, it is important to obtain the additional facts. You should seek to gather whatever information is relevant to the particular situation, and to keep up to date.

The mass media—radio, television, the newspapers, and magazines—are increasingly presenting their audiences with pertinent information on current issues. Although frequently limited to a brief examination of particular issues, their content quality is normally very good. Local radio, television, or newspapers may focus in depth on environmental problems facing the community. Encourage yours to do so.

Attending public meetings, hearings, and conferences provides further opportunities to gather and disseminate facts and opinions. On such occasions the alert observer could obtain substantive economic and political information and could estimate the extent of support for various positions while identifying the nature of that support. Information exchanges with the opposition can be extremely valuable because they often give rise to the possibility of devising an acceptable compromise. It should be recognized that more than one satisfactory solution to a problem may exist.

Whenever possible, gather information through first-hand observation. Individual or group field trips, for example, to a proposed park site or wildlife sanctuary, a polluted water resource, or a source of air pollution may prove extremely helpful.

Individuals and groups can acquire much information through their own efforts in researching the literature, attending public meetings and hearings, conducting or attending group discussions and conferences, and making personal observations.

In addition to government officials in your own community, agencies in state government and state universities are good sources of information. Several federal agencies also maintain offices on the local level. Representatives of the United States Soil Conservation Service, for example, are located in nearly every county in the nation. Check your telephone directory under your state government and federal government listings.

Develop a plan

Whether you form a new group or join an existing organization, the next step is to develop a plan of action. Your plan should include, to the extent that it is possible, a listing of the sequences of the events and activities to be accomplished and of individuals, both in and out of public office, to be contacted; a description of the nature of petitions or information to be conveyed; a summary of tactics for gaining public support; and a schedule of meetings, conferences, and hearings to be organized or attended, and other necessary arrangements to be made.

It may be desirable to develop a time schedule for the implementation of various phases of your plan of action so that it is possible to evaluate your actual progress against that expected at the outset. The proper timing of activities for maximum effect and the early recognition that the fulfillment of certain conditions is prerequisite to later events should be facilitated by a carefully conceived, time-budgeted plan of action. If various parts of the plan are to be accomplished by different committees, it is important to coordinate committee activities so that your position will be heard before policy is officially formulated—before, in other words, it is too late.

Your goal is to turn your ideas into action. Local circumstances may require variations, but ordinarily the public officials of your community are a good place to start. If you have previously solicited their assistance for data or advice and have kept them informed of your progress in formulating a proposal to achieve your objectives, a major task may have already been accomplished. They may well already appreciate and even sympathize with your intentions, particularly if they helped to formulate your group's objective. If they are not familiar with your preparatory efforts, attempt to inform them with a concisely stated history of your endeavor. They are probably aware of the research and thought that has gone into your proposal and the intensity of support behind it.

A variety of methods may be used to publicize your ideas and gain public support for your proposal: letters to the editor, editorials, or feature articles in the local newspaper; weekly environmental action columns, radio and television announcements, panel discussions, "talk" programs, documentaries, or other informative programs; handbills or fact sheets; and organized speaking tours.

The above examples of measures to gain support for your policy proposal are, obviously, illustrative and far from exhaustive. Knowledge of the local community and the nature of your proposal should suggest some measures as highly applicable and others as obviously inappropriate.

Whatever endeavor you undertake, Think Big! That is, develop and recommend a plan that will adequately serve the purpose; one that will achieve the proposed objectives. Consider the long range effects of your proposal and the ramifications of its adoption on the environment and on your community. Think and act in the broadest ecological terms and urge others to do likewise.

(Second edition prepared by: Dr. William B. Stapp, Dr. James Swan, Dr. Spenser Havlick, Mr. Chris Hard, Mr. Doug Fulton, Mr. Fred Kingwill—editor.)

INVESTIGATION OF USO IN VIETNAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 20 minutes.

Mr. ASPIN. Mr. Speaker, I am publicly releasing today new statements revealing that Sam Anderson, USO's executive director was aware of and may have benefited from, alleged corrupt practices in USO Vietnam operations.

I have written to Maj. Gen. Francis Sampson—USA, retired—requesting that he remove Mr. Anderson from any involvement in the USO's current investigation.

It is my belief that since such serious allegations have been leveled at Mr. Anderson, questioning not only his judgment but possible involvement in illegal activities, he should not be involved in the investigation in any way.

If what my informants have told me is true, then Mr. Anderson has presided over and very possibly benefited from a major multimillion-dollar scandal involving the cheating of our GI's in Vietnam.

As many of my colleagues may know, the USO is presently conducting its own investigation of the growing scandal. The

Department of Defense is also investigating.

One of the statements I am releasing today was made by Mr. Michael Moriarty, a former USO staff aide and security guard. Mr. Moriarty believes that Mr. Anderson was made aware of the stealing of gifts and packages sent by U.S. companies to Vietnam. He was also told by two other USO officials, Judy Grenburg and Shirley Warner, that Anderson benefited from a 35-percent rakeoff collected from concessionaries by USO Saigon director, Chuck LaMoy. Mr. Moriarty also personally saw LaMoy's books which revealed the 35-percent rakeoff. Mr. Anderson sponsored, either personally or with USO funds, a Vietnamese singing group giving them $3,000 worth of equipment and automobiles valued at $10,000. While USO personnel were using a broken down scout vehicle, the Vietnamese singers had brandnew cars.

Another one of my informants has told me that Richard Shireman, Mr. Anderson's successor as USO director in Vietnam, was told to hide from the military the illegal purchase of $70,000 worth of merchandise by former USO club director, Richard Alexander.

We do not have legal proof that Mr. Anderson was engaged in illegal activities, but the belief that he was is apparently widespread and based in part on specific allegations. Not removing him completely from the present USO investigation, makes a mockery and farce of that investigation.

I am also today asking Secretary of Defense Melvin Laird to disclose the extent and the nature of the brewing USO scandal.

The American people must be assured that funds given to USO are helping our GI's, not promoting a syndicate that exploits them.

Several additional witnesses, like Mr. Moriarty, have come forward since I first announced this investigation of the alleged USO scandal. What is shocking is that many former USO employees like Mr. Moriarty felt earlier that blowing the whistle was useless because top USO officials like Sam Anderson would suppress any investigation.

The testimony and the letters to General Sampson and Secretary Laird follow:

INTERVIEW

B. This is an interview.

P. OK it's Tuesday April 25, 8:00 PM, the Interview is with Mike Moriarty, Bill Broydrick, Peter Gruenstein.

B. Mike what did you do while you were in Vietnam for U.S.O.

M. I was in charge of security for the USO for about 11 months.

B. You were the security guard responsible for the security at the USO Saigon building in the evening.

M. Yes, I locked up every night, checked, personally searched all Vietnamese entering and leaving so they didn't steal anything. I locked myself in completely, there's no other way in.

B. What could you tell us about what you heard in general about Mr. Anderson, who was then in charge of USO in Vietnam.

M. It was my understanding through other people not directly that I can particularly prove that he was, the other people that I talked to and with that were staff members USO and directors of USO's they told me that he was involved in setting up concessionaires and taking commissions over and above what the bookkeeping department had records of as well as setting up Pat Lam and the Shot Guns, which is a musical group that entertained every Wednesday and usually Saturday for USO in Saigon as well as at various times at other USOs.

P. Who is Pat Lam?

M. Pat Lam is a I think he's about a private in the Vietnamese army and the rest of his group is also military and they are active in the military, although they stay in some sort of capacity which allows them freedom unlike other military, they are always entertaining or whatever pull they get in some high place.

P. Can you describe in some depth some of the illegal activities that Anderson was as I understand it is the head of USO world wide was involved in.

M. The activities involved were utilizing the U.S. planes, that is planes that were supposed to be for military personnel serving in Vietnam for R & R purposes or leave purposes, whatever. As far as seating capacity allows, the capacity being say two flights a year for a years tour, free flights which are given to USO personnel as though they were military. So these personnel were allowed more than two flights due to his arranging the paper work and misappropriating US planes.

P. Now this is not a question of getting special favors from friends he had in the Army, but actually it was involved with paper work, is that right?

M. That's true. They were going out and buying, they were going out, not on R & R trips specifically but on buying trips in which they went out and bought items which were sold in concessions which they had shipped in and didn't have to pay customs on coming through USO. And in other words they were cheating the Vietnamese economy as tax dollar coming in as imports. And they were selling this merchandise through a fake concessionaire, in other words the GI was lead to believe that the person he was buying the stuff from was sort of the one in business who bought the stuff and actually sold it but in fact they were just selling it for the USO for a substantial profit.

P. And they were cheating the U.S. military out of R & R by getting extra flights illegally for USO personnel right?

M. That's correct.

P. What about how do you know that Anderson had personal knowledge of these activities or had personal gain by it.

M. Well I talked to his bookkeeper.

B. What's her name?

M. His, he's got a male bookkeeper, that for the life of me I can't think of his name, but he is Vietnamese, his bookkeeper at various times is disgruntled with the way things are running as well as several of the other Vietnamese staff which confided in me because I was the only one that was a friend to them because I was an English teacher in the Vietnamese area.

P. What specifically did he tell you? the bookkeeper.

M. Well the bookkeeper at various times indicated to me that there were extra high profits, that there were things that were being written up that weren't correct, that he was keeping two separate sets of books, more or less, whether they are still available I don't know. For instance they showed on their books that the concessionaires paid the USO most of them paid 15% but in fact were paying 50 and the records of the USO should show 15% but the concessionaires were testifying I think that they actually paid 50, and 35% goes into somebody's pocket.

P. And Anderson had direct responsibility for these books and worked directly with him, is that right?

M. The way it worked most of the time was before the concessionaires was allowed to operate, they had to they were pretty well interrogated quite a lot, they usually came from the better families and they were usually Chinese, which is why Miss Phu didn't like them. I know one was fired because of complaining about the amount of money she had to pay into the USO and I know Miss Phu knows who that was I think that was the only Vietnamese they ever had in the concessions.

B. Who fired him?

M. She was fired from the head office which would mean Mr. Anderson's office.

B. What was the reason she was fired?

M. No one would actually come right out and say it but they said he was complaining about Vietnam but she was actually getting a kickback after . . .

B. Do you have any particular, who was told you the difference that 35% was in fact going into Anderson's pocket?

M. The past director of USO TanSoHnut and a temporary director of USO Saigon.

B. And what were their names?

M. Judy Grenberg who is now in Seattle.

B. How do you spell her name?

M. G R IN BERG, GRENBURG, I'm sorry, had indicated to me that this was going on as well as these. Shirley Warren, who was director.

P. OK, Now going back to the bookkeeping operation for the moment, the bookkeeper was hired by Anderson, Anderson had authority to fire him or her and presumably was directly responsible to Anderson and Anderson would have known for instance if I assume to understand if there were two sets of books being kept. Is that right?

M. That's correct. To the best . . . profits they were taking in say in the restaurant facility usually no restaurant could compete with the finest restaurants in town. No question as far as income. They collected the cash register in fact three times a day because of the amount of money that was in there.

B. What's unusual about that, they were doing a lot of business.

M. The amount of money running through the cash register versus what their expenses were was a tremendous difference, as well certain items like that were donated, for instance coco-cola, that comes in donated I assume by the U.S. government or coco-cola bottling company or whatever. It just comes in donated and that is for the GIs and sometimes they would wind up across the counter for 20 cents.

P. You mean there was.

M. It was donated for——

P. For the expressed purpose of being given to the GIs?

M. That's correct, as well as sometimes they were sold to both Vietnamese for instance the staff that worked there as well as other US Personnel which were not authorized to use the PX, in other words——

B. Who sold them the coco-cola——

M. Well various staff or whatever that they were directed to do by USO. For instance, there was a price list which is in the mail room, the price list on the wall in the mail room told how much certain items would be sold for across the counter to U.S. personnel or who ever came in and wanted it which was in violation of the PX regulations because they weren't authorized PX facilities.

P. Now how do you know that money was used went back into the pockets of Anderson and other USO personnel and certainly didn't go back into USO funds was used by USO for quite legal purposes.

M. Well there seemed never to be enough money since in conversations I used to have direct access for instance to Tansohnut's books because while I worked out there I worked with them on the books because for a while when Judy came there she didn't trust Miss Phu who was the bookkeeper. Naturally being a new director she suspects everybody and wants to know what was going on so I checked Miss Phu's books on several occasions and this was under the direction of her and I'm sure that Anderson didn't know I was doing this.

B. What was wrong with books?

M. Her books were fine but the difference would be between her books and the books in the office as well as the amount of money.

B. Did you ever have a chance to compare Miss Phu's books with the books that were in the main office?

M. Not at the same time but I had been able to look at, not month for month but one opportunity I did see USO Saigon's books for all of Vietnam showing exactly the income per month for every one of the USO's the expenses per month for every USO.

B. Did the income contain for Tansohnut at the USO at Saigon jive with what you found in Miss Phu's books?

M. No, they didn't.

B. What was the difference approximately?

M. The difference was pretty great not knowing completely how they worked the change from one to the other. I think part of the change was in the amount of money that supposedly they paid for a lot of items for instance, while USO had to buy items across the counter meaning from the Vietnamese economy sometimes. And when this would happen this would give them a good chance to change the books because they would end up with paper showing they paid a lot more than what they did which would bring the books it would allow an escape of money for instance, paying for entertainment, paying for supplies if so its virtually easy to put a receipt in your books saying you paid someone a certain amount of money when there is no way to check how much they did pay. Because with the Vietnamese, for instance, if you paid them partly mpc and partly piasters which was Vietnamese currency, they are not going to complain because there are getting way ahead by getting mpc.

P. MPC is military currency?

M. Yes.

P. What sort of specific things did you see in the books which made you believe that there was actual graft and accounted for the discrepancy in these two sets of books that you were talking about.

M. It was easy to get a receipt, nothing is actually done businesslike as we do here in the U.S. They don't give an exact receipt for what you buy, in other words, if I went in and bought some Vietnamese camera, I could have any sort of receipt I wanted. I could have a receipt saying that I paid, what I paid, less or more depending on what my purposes would be. If I wanted to sell it to someone else I could get a receipt saying I paid more. If I wanted to take it to the U.S. I'd get one less. They are doing the same thing with all the miscellaneous invoices, the art work, the jewelry, the pictures they had an Artist painted and supplied them with pictures of which they were doing the same sort of thing. In other words, inflating the prices so that it looked like it was higher than they bought it, actually paying a lot less which meant that somewhere they had a margin of money which they wouldn't have to account for.

P. This is a specific example where they might import jewelry from Bangkok and put it at a dollar per piece, get a receipt say for 3 dollars whatever, and then sell it at 3 dollars or 4 dollars.

M. Sell it for 30, say they buy it for a dollar and they get a receipt saying they paid 10 and sell it at 30, well the commission would be to the USO supposedly 15% of 30 dollars while they also have a set figure which they paid the Vietnamese for selling the stuff, so the difference between 15% they are suppose to get and the actual amount that was the difference between what the Vietnamese were paid for selling the item and the cost, shippage and sale price is the money that they don't have to account for which usually I would say would amount to about say a $30 sale pretty close to 20.

B. How do you know that this is true, did you see this in the books, how could you.

M. I didn't see it in the books myself. I was told by a director in the USO that she suspected it going on and that she had been told it was going on through the Vietnamese staff. This operation was in progress in this sort of arrangement.

P. This sort of arrangement going on would require knowledge I assume by USO personnel at the highest levels at least at the specific USO.

M. The USO highest level is the organization which sets up all the concessionaires. If let's say I wanted to be a concessionaire in the USO I would not just go to that director, I would have to be approved by that director and then sent in to talk to Mr. Anderson, his inner-office group and be accepted by them at their terms, before they would allow me to.

B. In other words, Anderson was the only guy who was authorized to assign a concession to.

M. That's true, as well as, for instance there was one group that was kicked out of the concession and there was quite a bit of complaint and hard feelings whatever and it was pretty hard to find out what exactly happened through the Vietnamese that worked at USO Saigon. I was told that this was pressing because they didn't want to pay. They just were tired to paying the high amount of money the USO required in order to allow them a concession.

P. What other evidence do you have that Anderson himself either covered up or squelched possible investigations of wrongdoing within his organization or being benefited himself from wrongdoing?

M. Well there was a fire in USO Saigon in 1969 and they were supposed to have an investigation into the fire to find out what the actual reasonable cause for the fire and when the fire inspectors came to check the place, because I had reported to them that I knew something was wrong the day before, meaning that at 4:10 in the morning the lights came on while I was there, the switch was on in the building and the only one with access to the control panel would turn the lights on, I reported to them that morning that the lights had been rewired, the whole wiring system and no one had it checked the following day the building burned down to the ground claiming to be a wiring deficiency which is gross negligence because there is no way you can turn the wires on or turn the lights on without rewiring all the switches because like I had a panel of switches about two and a half feet long just to double throw switches, and whenever they are off I went out and checked them when the lights came on at 4:10 in the morning, being the only one in the building I was terrified and I went out and checked the switches, the switches were still off. I turned the switches up to see if I could break the circuit and obviously the switches had been all rewired around and I reported this in the morning.

B. Who did you report it to?

M. I reported it to Fern, which is the head of aides. I don't know what her last name is, her first name is Fern, she's been there around 6 years, part of the furniture . . . I reported it to Chuck LaMoy when he came in, Jack Rogers, who is the head of the telephone, and he also quit because he couldn't take it. he's a good one and he could be found I reported it to nearly everyone, I was quite shaken to say the least I sat there and——

B. Did you tell Anderson about it?

M. I don't know if I told him personally at that time I may have told him, I know I told at least Brownie, which is one of his staff aides. Before leaving I have—I teach school in the morning at 7:00 as part of my military duties, so I opened the USO at that time when the first aid comes on and then leave and come back at night and I did report to at least half a dozen people what had happened, the surprising thing about it was when the Fire Marshall came, I was not to talk to him, in other words, I was never given the opportunity to talk to the Fire Marshall.

B. Who decided who talked to the Fire Marshall?

M. This came from the inner office from Mr. Anderson. For instance I was told that see, there were a few multi-million dollar projects involved that are under Senate Appropriations that had something to do with funds in the USO and they couldn't afford to have anything at all come out, it may squelch some of the appropriations for whatever use that they operate and they didn't want any sort of investigation to go any further than necessary in order to keep from slowing down these funds or whatever.

P. What motive was behind the fire, what, why are you suspicious what did they have to hide?

M. As far as I'm concerned the time that the fire occurred I being there all the time I know when the place is full or when it's not and it seemed to me that we were running about half or less than the normal stocks that we did supply. The only thing that we had an abundance of at that time was coco-cola and it was all stored on stage. There is a possibility that some of the records, they wanted more money from people the USO hadn't been getting, I know at that time had not been good support from the states and this operation required a lot of donations when it hit the papers that the USO Saigon had burned down which was the head of the office of the USO Saigon they wouldn't be able to get their money together and so on and there were a lot of donations coming in at that time which had been very slight up to that point because I myself was asked to try to see if I could find someone to raise money for a film that we wanted to show, a film that I think the United Artists sponsored where you pay $320 and get on their mailing list and they send you wired film a week, not the current ones but the old ones which we wanted to show. Saigon USO they wanted appropriations for supposedly. And suddenly there became all kinds of money for everything.

P. Doesn't it sound a little far fetched Mike that they would burn down one of their main buildings in order to promote contributions. In any event that wouldn't reflect personally on Anderson's personal profit motives would it? Or any body else's.

M. This is something that is pretty hard to say. At that time they wanted to do extensive work on the buildings, for instance they wanted to build a new stage for drama club or whatever that they were hoping to get started. They had a lot of things that they wanted to do that supposedly there was no money for. They had purchased a couple of new pieces of equipment but some of the older equipment was about the end of its leg, for instance, the freezers and so on.

P. So you do believe the reason that was the only possible reason assuming it was done intentionally.

M. I don't know what their fire insurance was and if there was any or exactly how far this thing could go but there was serious damage to say the least. It brought a lot of good publicity for the USO and during the way the wiring had happened and no one taking any notice of it and it was indicated to me by some of the USO staff that they had felt for quite a long time that some of the other buildings in the same block that USO was on had been wired through the USO system because the amount of the electricity in some of the USOs was about 5 times what a normal building that size would consume.

B. But all of the electricity charges were charged to the USO?

M. All of the electricity charges were charged to the USO in some * * *.

B. And what buildings were near there that might conceivably be using the electricity?

M. There were several apartment buildings in which USO staff did live which had airconditioning all of the stuff which required high voltage which could very easily been charged into this system, in other words supply these other buildings and——

B. Who lived in these USO staff apartments?

M. Just various staff some of the Tansohnut staff lived there some of the Dion staff lived there, just various people that had affiliations with USO.

P. Now did these people live generally, let's take Anderson because he's the most important. Did do you know what approximately his salary was?

M. I would say his salary was about $15 to $16 thousand a year.

P. Did he live beyond his means?

M. Well if you considered giving vehicles that were approximately $10 thousand a piece away as living beyond your means.

P. Could you go into that in more depth.

M. For instance, Pat Lam was given a vehicle

P. Pat Lam again is the Vietnamese private?

M. He's a private?

B. Is he Chinese by origin?

M. That I'm not sure but he may be partly. He's intelligent for a private in Vietnam.

P. Let's go back to the car—who did he give the car to.

M. That's what I'm getting to.

P. Oh I see, OK, I'm sorry.

M. The girl who ran the Vietnamese pottery, art work and so on which was all imported also was given a car.

B. Given, when you say given a car did USO give her a car?

M. Mr. Anderson or somehow they were appropriated a car through the USO.

B. And was she—they actually were giving new cars or? What kind of cars?

M. They are foreign whatever type I'm not, sure, I think they are French.

P. How do you know they came from USO?

M. Well because they said they came from USO given people in the USO, the head, the guy who does all the buying of the groceries for the USO had been given a car.

B. What was his name.

M. I don't have it, he was there.

P. Pat Lam obviously couldn't have been making a hell of a lot of money if he was merely a private in Vietnam.

M. About $216 a year.

P. But he was very close was he with Anderson? What was their relationship.

M. Their relationship was more a business venture, Mr. Anderson completely sponsored Pat Lam so far as advertising, he bought all of his equipment approximately $3,000 worth of electronic equipment for the band, he——

B. You say he bought this, did he buy it personally or did he have the USO buy it?

M. That I don't know, somehow it came from the office of the USO.

P. Were they personal friends, how did the director of USO get to know a private in the Vietnamese Army anyway.

M. That I don't know, I was never told they were, it was a special relationship was more like someone would treat Mr. Anderson treated Pat Lam more like he was his son. I think most everyone felt that Mr. Anderson had almost adopted Pat Lam as his son.

B. Did you ever hear about Mr. Anderson and Pat Lam having a joint bank account?

M. No.

B. Did Pat Lam's wife ever have a concession in the USO when you were there?

M. I believe she did.

B. What was her name do you remember? Does LuLu strike a bell?

M. No but I have a picture of her.

P. Do you recall what kind of concession she had?

M. No. I think she's either the one that had the artists on display and took care of all of the outside traditional Vietnamese dress, which was a mail order business that GIs would pick up a cheap fill in the measurements of the girl friends supposedly send these in with a certain amount of money about three times twice to three times what the dress costs to have made on the Vietnamese economy and they would send this into the USO and supposedly get a dress back in the mail.

B. Did they get the dress back?

M. I don't know, I didn't ever order one and didn't have any actual contact with it. That was a mail order business in the USO.

P. Going back to the cars, you mentioned two people that either Anderson or USO bought cars for, about how much did these cars cost?

M. They are probably worth about $10,000. $10,000 in Vietnam and that's due to the import tax which is 300%.

P. And of course all these cars had to be imported.

M. That's true.

P. Do you know of any other instances where Anderson and the USO bought cars for people?

M. No. I know that they had problems securing vehicles, in fact 4 of the actual paid American staff, they had extreme difficulty in getting vehicles. They had an old scout that was on his last leg that was always being repaired, they had a military jeep which was evidently stolen.

B. Stolen from the USO or military?

M. From the military.

B. And eventually got into the hands of the USO?

M. That's true.

P. How do you know it was stolen from the U.S. military?

M. Because it was a U.S. jeep and was a reasonably new one. They are not available on the market unless they are stolen.

B. Could you tell us in detail about money manipulations that allegedly some of these people were involved in, how they went about getting the money out of Vietnam.

M. The money manipulations are quite easy, they have a general in the Vietnamese air force that converted green to mpc at approximately 4 to 1.

B. Green to MPC at 4 to 1?

M. Greens to MPC. In other words for a dollar green is worth green being $1 in Vietnam worth $4 mpc which the USO could easily bank in their account at the Chase Manhattan, which does all their banking into the Chase Manhattan bank and turn right around and write themselves or some fictitious company or whatever a check for a certain amount and deposit it anywhere they like which would be converted back to green. For instance, if they had a bank in the United States they would send the check on to Chase Manhattan Bank to the bank in the U.S. and have the bank or have someone else mail in simply greens. $1,000 today on the market would be $4,000 tomorrow. Or say convert back which would be $16,000 the following day. It always multiplies 4 to 1.

P. How do they get the green in first place, aren't they worried about?

M. Well they fly the green, they have been flying the green in they buy from U.S. and other miscellaneous sailors that come ashore off different cargo vessels because.

B. When you say they you mean USO?

M. USO. The office staff aids are not authorized to do it but the staff aids are told to send anyone with green to their main office and they will convert it for them. The Vietnamese banks are not allowed to take green.

B. Was it legal for the USO to convert green.

M. No. It's a violation of United States regulations.

P. Let me ask one preliminary question. How, why was green worth so much more than mpc, after all mpc was worth vertical when you got finished with it to a green, right?

M. Well the difference being that it's worth more to the Vietnamese on the economy because the GI will not take or not GIs let's say the people who actually run the show in Vietnam, the people who the Vietnamese officers who own the buildings, the hotels, the houses of prostitution, all of this. They take in a vast amount of mpc and mpc is worthless to them so they have to buy green so in order for them to buy green because green is the only thing that is any good to them when they leave the country or if they want to leave the country, they in turn will pay 4 to 1 to get this green so that they can get it out of the country.

P. Now geting into the specifics again, how the USO personnel specifically what USO personnel were dealing in the green exchange. How do they get the money other than gaining other USO GIs that they were taking the green from and getting mpcs and returning using the greens.

M. Not GIs; GIs were not allowed to authorize greens in Vietnam?

B. Sailors.

M. The Sailors are not Vietnamese, they are international, in other words they are off international ships, they would be a Dutch ship or whatever foreign ship is carrying goods to Vietnam that would come in. They also brought in other excursions out of the country for instance, if someone flew out of the country to on a trip to Bangkok they might just happen to bring back in say $10,000 in green.

P. Was any body ever caught carrying greens in?

M. There was a major in the Air Force who had been dating one of the USO staff that was caught at the airport after he arrived in Saigon with I was told around a quarter of a million dollars.

B. In green? What happened?

M. This was a preliminary investigation which in other words it came out in Stars and Stripes and he was released.

P. He wasn't from USO.

M. No he was not USO staff but he was pretty well aligned with several of the people.

B. Why do you think the investigation ended?

M. I think and a lot of other people think that Mr. Anderson had something to do with it because he would get anything he wanted anytime. He had complete cooperation with the military.

P. Do you have any evidence that Anderson himself was involved with exchanging of greens?

M. No but I had inquired as if I had wanted to exchange greens because I had MPC's only, where one would convert green if they had it on the market in order to get the prime rate, for instance there were several rates for green. You can get 2 to 1, 3 to 1, 4 to 1 where everyone was being the prime rate. If one wanted to convert it and they had several thousands of dollars for instance, where do you convert? In other words, I was told by Brian Sweeney told me where to convert money being about two blocks away from Tansohnyt USO.

B. Did he tell you that he converted money there?

M. Well, he said that is where the money is converted so I took his word for it and went out just curiosity and wanted to see who came. I saw him there. I saw several of the USO staff coming from this particular location.

B. Who?

M. I have never seen Mr. Anderson, but some of the other people that work in and around that area, some of the female personnel, just

M. Chuck LaMoy was one, yes.

B. The public relations gal?

M. I don't know if I ever saw her there, they generally have some body else doing their running for them, the Vietnamese.

P. What were you saying about Anderson? You said that somebody did anybody ever see Anderson doing it? Did anybody ever tell you about Anderson?

M. Mr. Anderson is a very careful man. He runs a dictatorship among some of this staff as well as his, he allows certain people within his staff to run a dictatorship, for instance, in the kitchen the guy that runs there who is in charge has a car, that is in charge of buying all the foods and so on. If someone, for instance, rubs him the wrong way he'll fire him. He may have him beaten up or whatever.

P. He has them beaten up?

M. Yes, what ever he feels is necessary.

P. Do you have any evidence on that?

M. I have been told that a couple of them had their arms broken.

P. Told by who?

M. Some of the staff were terrified of this guy.

P. Of Anderson?

M. No of kitchen supervisor.

P. And they had their arms broken because of whom?

M. Because of the way they were doing things, maybe they were stealing, no one knows exactly because it was sort of an inner click, most of the kitchen staff only speak Chinese or Vietnamese.

P. Who broke their arms?

M. Well it was done through the supervision of the Vietnamese, I'm sorry Chinese fellow that runs the kitchen.

B. What's his name, can you remember?

M. I'll think of it.

P. Anderson didn't order it?

M. No, its sort of a relationship whereby Anderson gave this guy absolute authority to do whatever he feels is necessary in order to keep the security whatever—they really fear this guy.

P. Did people, USO personnel that you had contact with generally feel that Anderson was in on the take, were there any exceptions, did anybody you came in contact with think that any USO personnel or other people that you came in contact with think that he was honest?

M. No.

B. Did they think he was incompetent rather than corrupt?

M. I've heard he was incompetent most of the people that I knew him could not understand how he managed to secure his position as long as he had.

P. It was the case that people thought he was incompetent or not anybody thought that he was consciously crooked, not just.

M. Hard to say crooked because for instance at each USO realizing the vast amounts of profits that came in to any USO. For instance the amount of money that they were given to work with supposedly being

P. Let me digress for just a moment. Why did you leave USO and when did you leave USO?

M. Let's see, 14th September 1969, Shirley Warner was transferred out of USO Saigon to Chuon USO to become the director there. She and Judy Grenberg worked together as director and assistant director at the USO Saigon and Judy Grenberg was transferred to Tansohunut where she left from Danang and become the director for USO in Saigon. Both Shirley and Judy were quite unhappy with their transfers and I talked to them several times after they were transferred Shirley quit the USO before her contract and left and got married and part of this was due to her distant . . . she would have stuck it out and finished it away. Judy Grenberg stayed her term and quit the USO.

P. Let me ask you why you, did you quit or were you fired?

M. I was told approximately that sometime in February that my position would no longer be required by the USO.

B. February in what year?

M. February in 1970. My position would no longer be required and they weren't going to fill it but in fact a friend of mine did fill the position and when I left, the reason being I think Chuck LaMoy realized that I was a threat to him because he knew that I knew too much about his personal affairs with the USO. And he paid me two weeks severance pay and the whole works which really I shouldn't have gotten it was sort of just paying to keep me going. But when he took over USO in September we sort of immediately had a run in because he didn't want me to have access to any of the records anymore, he didn't want me to have any access to anything. His office was usually kept locked.

P. Why would you as a security guard have access to his office anyway?

M. I had access to everything simply because of the lights, the air-conditioners, everything had to be checked, turned off and so on. Sometimes the staff, some of the Vietnamese would be working. LaMoy has secretaries, Anderson had secretaries and bookkeepers and all this sort of thing which did stay sometimes. Beyond their hours which I let out, closed, and locked up.

P. So then you were in effect fired and paid because you knew too much and because you were straight and they were worried that you would have information on them and would blow the whistle.

M. I think that they had felt that I had taken pretty much and seeing as much as I was going to take because at that time it was beginning to bother me quite a bit and I was at that time very consciously trying to and put together a record of what was going on in the event that there would ever be an invesigation. Unfortunately about 6 months ago I dumped most of that stuff because nothing never happened.

P. Does that account for all the notes you have and that you've saved * * * be an investigation . . .

M. That's correct. For instance I have in my possession a letter from a Swiss bank that came for Mr. LaMoy and it was concerning his Swiss checking account.

B. Did he have a numbered Swiss bank account?

M. He had a numbered Swiss account, I have the number in my other * * *

B. You are sure you had the number of his account?

M. Yes and at one time I knew the number of the account.

B. How did you get a hold of that letter?

M. That letter just happened to be on his desk one day when I was in there after the explosion and the fire at the USO. Explosion being the gas bottles that were in the kitchen that blew when the electricity got too hot. I simply left that office open because it was about the only place I could be and be concealed should someone come in USO. So I often times slept in Chuck LaMoy's office on three of his big cushions that lay on the floor. So I was usually in his office at night which is a pretty good size office.

P. Let me just go back to the circumstances surrounding your * * * in effect firing. Were you given a reference?

M. No I didn't ask for one.

B. You were in the service at the time?

M. I was in the military, yes this was not a military duty, I was hired under the capacity of a civilian guard but yet, military meaning that I had my guns and military knowledge necessary to protect the building.

P. I see. The military paid your salary?

M. The military paid my salary normally for teaching English, which was my day job which consumed five hours a day five days a week. The rest of the time I spent working for the USO.

P. So you were a USO employee? OK you didn't ask for a reference?

P. The last question was why you didn't ask for a reference.

M. I didn't ask for a reference because I was so disappointed in the U.S.O. as being a charitable organization and actually being so corrupt that it turned my stomach. I had written to various other people during this time that I was there working for them and with them. I was just interested in anything that would do anyone any good in the event that there would be some sort of an investigation.

P. Now, would you have gotten the reference, do you believe you would have gotten the reference that you asked for?

M. I think he would have given me a reference.

B. Who's he?

M. Mr. Lamoy would have given me a reference solely out of worrying about himself concern more than something that he'd want to do as a favor to help someone.

P. He wasn't a charitable fellow. He stepped on a lot of people.

P. I see. Now, you have any reason to be bitter about Lamoy? I mean, after all, he was the guy who, in effect, fired you.

M. Let's see. He paid me—I was paid up until two weeks before I was discharged from Vietnam.

P. And you would have left the U.S.O. at that point anyway?

M. Anyway. In other words, he let me out two weeks earlier than I'd planned to quit, but he paid me for two weeks anyway.

B. So it really didn't make any difference to you?

M. Right. The financial difference was simply that when he took over the U.S.O. back in September of '69, he did not like the salary which I had been working under. I don't recall exactly what it was, but I believe it was approximately $3.00 an hour, let's say, for security duty. A good part of the time I was sleeping, so it was pretty good pay because generally my duty was simply—you lock yourself in as though you are someone there and they had a night buzzer, for instance, if somebody had beer there or they had whatever they were going to have a party they could come by and ring the buzzer, I'd come down. Lamoy very often was just stone drunk and come in there, you know.

P. So this was when he was drunk? In what . . .

M. He was extremely friendly to say the least. He tried to be. You know, if you can put someone down like that a few times, eventually they wise up, but.

P. Friendly?

M. In a homosexual matter, yes, trying to be.

P. With you?

M. Yes. Not only with me, but with the other guard that finally took my place. I think also with the guard before me because he'd warned me about it.

P. The guard. The guard warned you that you might be approached by Lamoy?

M. Right. The guard before me that had left the country.

P. And you told me about your salary, being at $3.00 an hour, he thought that was too high?

M. Right. So he put. I wasn't actually salaried, I was paid by the hour at that price. And when he took over, he busted me down to so much money per month. I don't exactly recall what it was, but it was in the neighborhood of $350 a month.

P. So it would have been a drop if you were working—what were you working? Forty hours a week?

M. I was working more than 40 hours a week.

P. 50?

M. I was making in the neighborhood of $550–$600 a month.

P. So that was a drop of $200–$250, is that correct?

M. Correct.

P. Did that drop occur after you had shunned his advances?

M. That drop happened the first, I was notified in written form the first of January of 1970. In other words, he paid me at the old contract. In other words, our old agreement, up until January of 1970 and then he came in one day and he said, look, he says, we don't know if a guard here or not, but if you're going to stay, it's going to be at this rate.

B. But the question was, was that before or after he had made the advances?

M. This was after. He, He made.

P. How much before?

M. I can't say. He made some initially along the way, in other works, someone who is a homosexual, I've known many, in other words, they just kind of feel someone out. Supposedly trying to find out if they are likewise and obviously, he thought I wasn't and didn't pursue me. There was a few times, by homosexual pursuit, he was sort of free with the hand and would come up and sort instead of patting you on the back, he'd reach down and grab your butt, or something like that.

P. What.

B. Did you suspect that there was anyconnection between any member. Be careful. I don't want to suggest that you didn't actually think of it at the time, but did you suspect or believe that there was any connection between the drop in salary and your resistence to his sexual advances?

M. I think that this was about the time that he started his Swiss bank account. He opened his Swiss bank account in November, I believe of '69.

P. But the question was, do you believe that there was a connection between reduction in your hourly rate and the fact that you . . .

M. I don't really know for sure on that, but I think what he was trying to do, was he trying to channel more money into his pocket.

P. So you think that he took the excess.

M. Off of me, as well as several other people had cuts in pay.

B. But that you . . . You do have . . . Have you seen any document that would indicate that your salary was kept at the old level and the money was funneled to landy?

M. There is so way that I would have any way of showing this. Likewise, the records supposedly that the Vietnamese are paid. They are paid in little envelopes that come out of Mr. Anderson's office. They are paid supposedly in piasters which is the current over there. The money supposedly is passed to them through the head man that runs the kitchen and if he's controlling them, he can take out anything he wants out of those envelopes after they come out of the head office which gives him a chance to take what he wants out.

B. Did any of the Vietnamese employees tell you that this guy had stolen money from them? Had taken money out of the envelopes?

M. Several of the people had told me that this had happened, but no one would go up and testify against him because he is a dictator, more or less. He is an extremely powerful man in the community, you know. In Vietnam, it is very easy to have someone harassed by the police to the point of having them broken up. I've seen other people broken up by the police. In other words, I've seen a lady on the curb jumping around this sort of thing. You know, very inhumane. In other words, if he would say to the Vietnamese police, you know, like, this guy has been giving us some trouble or they may give us some trouble, harass them a bit. A, they might come out and find that their bicycle has been impounded by Vietnamese police and it will cost them $100 to get it back and the bicycle is worth peanuts. But things like this happen and they happened while I was there.

P. One thing I don't understand is, in general, is the money manipulation, that is exchanging money for MPCs seems too simple but also so profitable. You have in our ——— almost perpetual motion sort of arrangement, you know, where your wealth increased geometrically. And the, I don't understand why with the ease of that particular operation, why a guy like LaMoy would get involved in cutting your salary by a couple hundred bucks a month so that he can take . . .

M. The problem is simply getting the money back in the U.S.O. funds so that it doesn't look like any has been put in. In other words, if he has an excessive amount of MPCs, green or whatever and he wants to get it into his account, he either has to set himself up through one of the concessionnaires so that the money is paid to one of the concessionnaires comes back to him. In other words, direct. Or he has to find some method due to the monetary controls, they can only buy $200 worth of money orders which used to be the way that everyone got illegal currency out of the country. You would just go in to the nearest post office and buy a money order and send it home.

P. MACV is what?

M. MACV is the military systems command Vietnam. Which is in charge of all of Vietnam. The only people who don't fall under MACV regulations so far as currency control were civilian employees such as R&K, VRJ Construction Company and U.S.O. personnel. Later, due to investigations into the black market by CID, the restrictions were clamped also onto these personnel.

P. So the basic problem, the reason why they haven't LaMoy and others had to go through rather intricate sort of operations such as cutting your salary so that they get more themselves, was because they had to find ways of getting it into their accounts without it showing up?

M. Right.

B. Also, getting money out of the country is a problem too?

B. Getting money out of the country is no problem because the U.S.O. which right until the day I left paid me illegally for, for instance, every time. I was given a check every instead of Mack V regulations require that any personnel in Vietnam not being paid in a negotiable instrument or green, they be paid only in MPC. But the whole time I was there, I received checks, which are directly negotiable. Bartering, I would get 4 to 1 for my check if I so desired.

B. Is that true for everyone else in U.S.O.?

M. That's true for everyone else in the U.S.O.. which means anytime you get a salary, say someone would be paid $1200–$1500 a month, they could turn around and take that money and convert it 4 to 1. And then fund it back through the U.S.O.

P. How many of them did that?

M. There is no way of knowing.

P. How come you resisted all of this stuff? I would have, temptation would have overwhelmed me.

M. Temptation never was overwhelming. Right until the last, I was glad to get out. I was about ready to take ——— and some of the easy money because it was just too much of it going on. And it got to the point where everyone I know was doing it.

P. Were they very open about it?

M. They were very open about it because after I'd been there a while and they realized that I knew what was going on. especially when I questioned them about where all this money actually goes, you know.

B. Who was open about it now?

M. Ever, the whole thing.

B. Everyone assumed that everyone else was involved, had been involved in money manipulation or was involved in doing another kind of dishonesty.

M. The whole thing. The whole money manipulation, selling on the black market, everything.

P. There must have been suspicions of you at least, you know, I assume they all knew you were straight.

M. I assume they knew I was straight. I, for instance, for my time, I spent 5 hours a day teaching English. I went to school at the University of Maryland, Overseas Division, 3 hours, 4 nights a week which was just before just prior to 9 o'clock. In other words, I came in at 9 o'clock, searched everybody and locked up. So from 6 to 9 every night I went to class and then I came there, I studied, I virtually, you know, when you have a security position such as you are the only one there with nothing to watch, nothing to check. You know, you're alone, any sound would be the alert that you'd want. As well as there is a Vietnamese guard in front who sleeps most of the time . . . I used to go down and wave at the Vietnamese guard just to keep him awake, especially during times that I knew that we had a lot of activity in the area. We had several bomb threats and so on.

P. I'm surprised these people knew you were straight . . .

M. But, you see, it's sort of assumed. In a way they peg you and everything that you're going to do just like they are. In other words. if they give you a convertible instrument, for instance, their checks, I guess that they assume that you're going to take right out and get some.

B. So you would dispute the assertion by the U.S.O. that only 5 or 6 people were involved in illegal activity?

M. Oh, yes.

B. GIs were allowed only a percent of the—$200 a month. Now, how would a GI be able to black market or manipulate more than $200 a month.

M. Well, for a GI, it wouldn't work, but for a civilian contractor U.S.O. staffer as executive staff the people that had access to the books and direct control of the finances of the U.S.O. could very easily write themselves under false busines names, saying that they paid more a particular purchase price for anything, the difference between what they paid and what they claimed they paid into their own accounts, whatever.

B. Did you ever see any specifically checks that were like that were in fact --------?

M. No, I didn't see any checks like that except Mr. Cam, the head of the kitchen, told me that they had done this before with the kitchen supplies(?)

B. Who had done it before?

M. He had done it for the U.S.O.

B. Under whose orders? Do you have any idea?

M. No. You see, he was the purchaser for the whole U.S.O. of Vietnam meaning . . . not solely. . . .

B. Not just the kitchen in Saigon?

M. Not just the kitchen in Saigon, all the supplies that came through U.S.O. Saigon.

P. Did you ever see large amounts of cash either with U.S.O. personnel or in safes or whatever?

M. Yes, I have had initially when I came to work for the U.S.O. I was given combinations of the safes under a different director, that is, the Saigon U.S.O. safes. At which time, there was amounts taken of something like $10,000. After the administration changed, they became completely, the combinations were changed on the safes supposedly to keep people out that they didn't want to know what was going on. And at one time, I didn't know that when they had left the safe open, one time when I was there for security, that there was at least $30,000 in the safes which I didn't count, by the way.

B. $30,000 in green or MPC?

M. MPC and some miscellaneous green, maybe $200 or $300 worth. Small notes. The safe downstairs on the first floor had miscellaneous funds in there, totalling $1,000 or so. The main safes inside Mr. Anderson's office I have seen a couple of times that I have been in there for miscellaneous business. Pretty good stacks of 20s—several thousand dollars—30 or 40.

B. 30 or 40 thousand dollars?

M. Yes.

P. In some safe?

M. Yes, in one safe.

B. And how many safes are there all together?

M. In the total U.S.O. building there, perhaps 4, perhaps 6 that contain money.

P. Now, can you think of any possible explanation for having that much cash on hand?

M. No, there is not supposed to be that much cash on hand, I am certain of that. I know that one of the small safes that was involved in the fire had over $10,000 when they pulled it out of the rubbish. Which is much higher than what might be allowed somewhere.

P. Was it dangerous having that much money in the safes, do you think?

M. It was very dangerous because to start with, there is not supposed to be money like this available due to the high crime rate in Saigon. In other words, if any of the AWOL GIs, anyone that could have been a crook would have thought or dreamed that there would be say $50,000 or $100,000, or whatever loose in the U.S.O. would they all crack safes. You know, a 16 year old boy can ———. It would be extremely dangerous.

P. What was your conclusion about why there was so much money on hand?

M. I think the reason that the money was there was they had to figure out a way to channel it back through. In other words, this was sort of a storing place. They didn't have to really account for it because no one ever came into to check their safes.

P. So that money would either then go where from the safes?

M. Well, it's supposed to be channeled through Mac V or Chase Manhattan Bank, but apparently it works its way out in the west.

P. Why do you say apparently? How do you know?

M. Well, I, for one thing, if they had this sort of money and they didn't start making deposits of say $20,000 or $30,000, I think they would have raised a little suspicion as to where all this money was coming from.

B. Now, was this the money for all the U.S.O. offices and operations in Vietnam or just for U.S.O. Saigon?

M. There was the one safe in Chuck Camoy's office had about $30,000 one day which would have been supposedly just U.S.O. Saigon's funds.

B What does U.S.O. Saigon consist of? Isn't it a restaurant, a game room and a number of concessions? Isn't it conceivable during a week's time that $30,000 would accumulate in U.S.O. Saigon?

M. Well, it probably would, except for the fact that they normally make regular deposits and so on of this money.

B. Daily deposits?

M. I'm not sure. I'm not certain that it's daily deposits, but I know that they make a lot of deposits. They collect the cash registers from the restaurant either two or three times a day. I think it's 3 times.

B. So what you're saying is that it's unusual to have that amount of money, given the fact that they were making regular deposits at least several times a week?

M. I would say yes.

This is April 26 at 9:37 a.m.

B. Could you tell us a little bit about the books that you saw that Mr. LaMoy, as director of the U.S.O. Saigon kept with his concessions? Did you ever see them?

M. Yes, I saw them. I was used to seeing the books on several occasions before that because I worked quite closely with some of the other directors previous to LaMoy. When Mr. LaMoy came on, he was very secretive about everything. He didn't want anyone to know anything about what went on.

B. Including the Assistant Director?

M. Including the—well, I don't know about the Assistant Director specifically, but most of the staff that had previous combinations to the safe in order to take care of the petty cash funds that they kept for purchases and this sort of thing. The safe combinations were changed so that no one had access to this sort of thing.

P. Why is that unusual? I would think he would want to be careful with access to the safe.

M. Well, he wouldn't . . . this is, say, your smaller safe which just contained miscellaneous petty cash funds so maybe $1,000 or $2,000 that might accumulate. Say a GI was going on leave and he would leave his money there to be held safe so that none of the bar girls wouldn't take it from him. But, it's quite strange because it's a policy that had been going on for quite some time and they'd never had any problem. Most of the staff had been there a couple of years anyway, so there would be no need to doubt their honesty Or they should have been fired. But on a couple of occasions before I had seen the books under different directors, because when a new director come on, they generally are leary of all the staff, knowing how much money is passed around through the U.S.O. and naturally, they all come not really trusting anyone to the point they should, so they sort of double check everyone to make sure that most people are on, doing things the way they want it done. But when I'd seen how Chuck La Moy's copies of his financial statement, he was shocked that profits were substantially less than what they had been up to that time, for no apparent reason, seeing that business had been the same.

P. How do you know that?

M. Well, being there every day. I——

P. You mean, the operations weren't that complicated? You could see whether business was the same?

M. That's right.

P. Just in terms of how many people were there?

M. Yes. For a while I had a door count of how many people came per day It was generally in excess of 1,000. When you have 1,000 people coming in, nearly everyone buys something, so you can just sort of guess yourself. Hardly anyone can get out of the U.S.O. without spending a dollar. So the amount of money that they received . . .

P. OK.

B. Now we talked before a little about the existence of a discrepancy which between what the U.S.O. said it was extracting as commission from its concessionnaires and what in fact the U.S.O. chief personnel were extracting from their concessionnaires. You mentioned figures that seemed to be something like 15% compared to 50%. How do you know, in fact, that that's true? Did you see the books at all?

M. Yes. I've seen some books indicating that this was going on as well as I had been told by at least 3 or 4 directors of the U.S.O. in Saigon that they felt that this was happening.

B. I just want to make this very clear. You saw two sets of books that were kept by U.S.O. By whom. By LaMoy?

M. These books are kept by either—I'm not sure whether LaMoy makes all the entries or whether he just takes care of them or they have two people that take care of the books in U.S.O. Saigon. A male and a female—both Vietnamese.

B. OK, but the point is that there, that you saw two sets of books, one of which indicates that there was a 15% commission coming from a concessionnaire. Is that right?

M. That's correct.

B. And was that the official U.S.O., what U.S.O., let's say back in New York, was told about?

M. That's correct.

B. And the second one was what kind of books?

M. Well, the sort of book that they would keep their own personal records as to how much money was coming into the individual director. In other words, this would be probably his personal property as he would take it in, which is in the form of ledger sheets.

B. But how do you know that there was this discrepancy between the 15% and the 50%? And could you see it in the books?

M. You could see it because they often listed the names of the concessions and so on along with, in other words, what the concessionnaire gross was, what the percentage pay was and what his profit was and so on.

B. And then would you see entries with the names of the concessionnaires in the second set of books?

M. That's where these things were, as well as in the first set.

B. I see. In the set, which indicated a 50% one that in La Moy's personal, in effect, almost personal books, you saw an entry increase of a concessionnaire and what his gross was and what his—I don't want to say kickback—what his percentage pay back was and what his profit was?

M. That's right.

B. Does that strike you as a little strange?

M. Well, it struck me as strange, but I think that you'll find that with the U.S.O. staff, many of the directors—the ones that are no longer with the U.S.O.—knew this was going on and were very disappointed. There seemed to be no way of stopping.

B. Who told you, for instance about. You saw the books, but who told you about the existence of the books?

M. The existence of the books was told to me, I was told by Judy Renberg.

P. What do you suppose was happening to the money that he was handling?

M. Well, back in November and December, in fact, in December I picked up——

B. December of 1969?

M. In fact, its dated December 15, 1969. I have a letter from Chuck LaMoys bank called the Overseas Development Bank, in Rome for ——— and Geneva, Switzerland, that Dear Client: We take much pleasure in informing you that your Overseas Development Bank has become a member of the Swiss check system. Indicating that he does have a Swiss bank account and it was numbered.

B. Have you seen the number?

M. Yes, I have seen the number and one of his balance sheets. But at that time, it was a new account and it was extremely low. I think this was, I think he opened his account in November because of the paper work that was lying around. That was the first time I saw anything on the Swiss account.

P. What was the balance of his account at that time?

M. It was pretty low—maybe $15,000 or $20,000. Something like that.

B. How did Chuck LaMoy make as a . . .

M. I think Chuck LaMoy made around $9,000–$10,000 as director of the U.S.O.

B. Did you ever have any indication that he was independently wealthy? For instance, parents?

P. Or had any legitimate outside sources of income?

M. Chuck La Moy didn't have much money. At least not on the outward appearance. He wasn't what you'd call a brave man as far as the other people knew him. He spent a lot of money on booze and parties. Just in general, saying he had nice clothes or anything, he didn't show any money at all.

P. Did he have a college education?

M. Yes, he must have.

B. To be a U.S.O. director? To be a U.S.O. professional staff guy, you had to be, you had to have a college education?

M. Yes.

B. One question, why would he have a Swiss bank account? Do you know or did you have a feeling that any other U.S.O. personnel having Swiss bank accounts?

M. I believe that most of the U.S.O. personnel in the head office had Swiss accounts. At one time I asked about a Swiss account to find, just to sort of sound out, to find out.

B. You asked sort of like as a cover up how do I get a Swiss account?

M. Right. And they indicated to me, not this particular bank or any other bank, but that it could be arranged so to speak.

P. Who told you that?

M. Chuck LaMoy.

P. Then why do you believe that others and what's your source of information for believing had Swiss bank accounts?

M. Obviously, Chuck got his overseas bank address and that was through someone else, and the only friends he had in Vietnam that were adult were U.S.O. staff, so . . .

P. But that's your only source of information?

M. Right.

P. You mean you never heard of, say, Anderson, or anybody else having a Swiss bank account?

M. No, but there was some who did take care of all the mail and that would be a lady by the name of Fern. She would know whether or not any mail came in.

B. You don't remember her last name?

M. No.

B. Think about it. OK.

P. Tell us what would happen to gifts that were sent to the U.S.O. for distribution to GIs.

M. Well, sometimes the merchandise was given in small amounts usually. There was a warehouse which they stored a lot of these free items—for instance, the coca cola—at about Christmas time English Leather and Jade East sent huge Christmas parcels of which some, I would say maybe a third of it was passed out to people in the U.S.O.

B. To U.S.O. staffers—not to GIs?

M. No, to U.S.O. or to GIs in the U.S.O. The rest of the stuff was taken by the U.S.O. staff in large quantities. I have seen several of them carry full cases.

B. Who have you seen carry full cases?

M. Frazier Browning, Chuck La Moy, just miscellaneous people—I can't think of all the names. But different people carrying the stuff out to their cars and I've seen it for sale on the market, which means that it was the only source that it could have come from because it's just not available and when you walk along the streets and you see some of the stuff sitting in boxes along the sidewalks, you realize that there is only source.

B. Well, wouldn't a lot of these things be stamped "sample" not for sale". Most of the things I have seen in this country . . .

M. No, this is simply promotion. In fact, I still have some if you want the batch numbers. "Cause, you know, I don't use that stuff and I just happen to have some full bottles."

B. What kind of items besides Coke, what other items were brought in?

M. Sometimes the record companies would send records—miscellaneous promotional records supposedly for the use of the GIs within the U.S.O. Those would often wind up in the homes of U.S.O. staff personnel for their own personal enjoyment instead of for the enjoyment of the GIs in the U.S.O.'s.

P. Did anybody ever complain about this? It's hard to, you know, for me to believe that nobody ever got a little upset about this, even the people who might have been on the take in other areas such as money manipulation, that would, you know, it's hard for me to believe that some people wouldn't have said, hey, this has gone too far. It sounds like a very petty sort of . . .

M. I think this was the case with most of the directors, many of the directors, in fact, had several heated discussions. I think nearly everyone I know had some confrontation, at least one large confrontation with the head officer to the point of nearly quitting over such things as where is all this money going and what's happening to it all. The inter office is a very tight circle. They don't tell the directors what is happening, but the directors realize something is going, let's say turning a certain amount of money and when they need money for operations and it's not there.

B. Could you cite us a specific example of some kind?

M. A specific example would be one time with the U.S.O. in Saigon. We needed $310 for a film fair that we wanted to have where we would show one film in an exchange program, I believe Universal City Studios. where we would show one show film a week that they would send us older films and $310 was more or less the postage for this service.

It was more of a donation and U.S.O. wouldn't come up with the money for $310.

B. You said before that they had $30,000 lying around in safes and that was just one safe. It's impossible for me to imagine that they couldn't come up with $310.

M. That's just the way things were. It didn't make rhyme nor reason sometimes. There were many times when things would be needed and they wouldn't be able to get just due to the fact that the head office said that there wasn't any money available.

P. A moment ago you were talking about directors going into the head office. Did Anderson ever do that?

M. Yes, Anderson many times had heated discussions. He had one with me that I don't recall the facts—but I don't recall what that was about. One pet peeve that Anderson had was he did not want, he would not hire any military personnel that would wear a uniform. He hated the U.S. uniform. If, for instance, if I came on duty and I had my uniform on, you know, I was practically blackballed. You know, I really got pretty stern talking to, so to speak. In other words, when I was in the U.S.O. army I would not wear the uniform.

B. Why was that?

M. Just a thing he has about U.S. military uniforms. Being U.S. military, I couldn't wear civilian clothes on the street, but within the U.S.O., I had to finally paper work put through to do it just in order to keep the job and to keep Mr. Anderson off my back.

P. Let's get back to the thing we were talking about a moment ago—directors being upset because a lot of these gifts supposedly for free distribution to GIs were not being used for that purpose. The question was, did Anderson ever go to the mat on that? Did he ever try and do anything about it? Was it brought to his attention?

M. I'm sure it was brought to his attention by Shirley Warner and one of the directors by the name of Paul who was the director of Diar U.S.O.. because Paul and Shirley, as well as Renberg had talked to me about this at different times. They were concerned about all this sort of thing and as well as the possible false publicity that was concerned with some of the gifts. In other words, where they had the stuff stacked up and a few guys standing around, you know, like it was going out to all these different people, but in fact, you know, they'd show this and send it back as though it had all went and that was the only place the stuff was disseminated.

P. So what did Anderson do? You mean it was definitely brought to his attention?

B. There is not doubt in your mind that Anderson was aware of the black marketing of these gift packages. That he was aware of the money manipulation? He was aware in general of what was going on in Vietnam?

M. That's correct.

P. Let's just stick to this one instance. He . . . it was brought to his attention that things like the Jade East were not getting to the GIs.

M. In fact, yes, it was stored, part of it was stored in his inner office room. In other words, say there is a center hallway and maybe 3 or 4 offices on either side. His office is the front one which heads right on to the hallway. And I know that one time a lot of this stuff was stacked in there where the U.S.O. staff was either giving it to other certain people for favors or what ever they wanted to sell and they were swapping for whatever, which wasn't what the gifts were intended for at all.

P. How do you know he never tried to do anything about it? That he contacted the Head office?

B. You mean in New York.

P. Yeah, or CID, for instance.

M. If it's going on right in front of him within his inner office, and he didn't you know, he seemed to condone the matter because he allowed it to go on time after time after time. It wasn't a one time instance. The U.S.O. continually received gifts of one kind or another—be it cigarettes, cups, saucers, plates, all kinds of promotional things that the companies send and often times this stuff would be found in, for instance, the U.S.O. party house which is under his direct control.

P. If he wanted to stop it how hard or easy would it be for him to do so?

M. Well, if he wanted to stop it, all he'd have to do, he has absolute control over any U.S.O. personnel. He could have them sent out of the country back to New York or whatever if he felt that there was any corruption.

B. Did you ever hear of anyone who lost his job or was disciplined or reprimanded for any kind of illegal activity in Vietnam by Anderson?

M. No. Never. I know he did try and cover up one instance. Chuck LaMoy in DaNang was arrested on morals charges, morals charges were filed against him. Be it with Vietnamese or American personnel who filed the charges, we don't know but all of the staff knew that that's why he was transferred rather abruptly from the U.S.O. in DaNang to Saigon. Within a couple of days so to speak. With leaving U.S.O. in DaNang without a director for a period of time because they had to find someone that they could ship there.

P. How did they find out that he'd been charged with morals?

M. I think the assistant director to Chuck LaMoy that was there had told somebody in the U.S.O.

B. Who, what was his name?

P. Do you have any specifics about what the morals charges was about?

M. No.

B. Mike did you ever know about or hear about or see any kind of food that was intended for U.S.O. being sold on the black market?

M. Yes, I have. In fact, myself, I bought some steaks for a party on a couple of occasions.

B. From whom?

M. From, you know, just the U.S.O. director, in fact.

B. From?

M. Chuck LaMoy's staff, um.

B. Sold you steaks. Was it at an inflated price or was it just . . .

M. Well, it was an inflated price because he got them for nothing, but it was about the same that I would pay for them say here.

B. What do you mean, he got them for nothing?

M. U.S.O. in order to get steaks and a lot of this sort of thing drew them as favors from the military. In other words, their commanders because of this or that or whatever often times would just, for instance, when they'd go to pick up food, just throw in a couple extra this or extra that, or whatever cases, or steaks. . . .

B. But the commanders were doing that with the idea that it was going to GIs.

M. That's correct.

B. But, it wasn't going to the GIs?

M. That's correct.

B. Now, when you paid for this, did you pay for it in greens or MPC?

M. MPC.

B. And what happened to the MPC? Did he just pocket it?

A. Well, you know, there is no way of knowing to the MPC.

B. And did you ever hear of other instances?

M. Yes. The other U.S. staff that U.S. personnel also sold nationals that did work at U.S.O. national being someone who was not Vietnamese or American but did either work or have association with the U.S.O. Philippino or whatever they may be, had bought stuff from the U.S.O.—eggs, milk, you know, different commodity items from the U.S.O. which they were not authorized to buy from the PX as well as the head man, Mr. Kon, often took home big bunches of groceries.

P. This is all food that would be going to the GIs either at reduced prices or in some cases for free?

M. That's correct.

P. How widespread is it? I mean, that's a tough question, but how long did it occur and what kinds of foods were involved?

M. There is no way of knowing how much food went out the back door. I mean through Mr. Kan because Mr. Kan had sort of a special arangement with the U.S.O. There were about five nationals, meaning either Vietnamese or Chinese, that were not ever to be searched or . .

B. What do you mean, were not ever to be searched?

M. Well, part of my duty as a security guard was to check purses and persons themselves to make sure they're not walking out with anything.

B. Who told you not to search these people?

M. Chuck La Moy as well as the head office, protecting the, say the bookkeeper and so on that work in Mr. Andersons office. But you see, with this back door arrangement, anything that he wanted to go out the back door, his car was parked out behind the building, he could just take out, he had sole access to that door and you know, whatever he wanted to go could easily just be taken out and put into his car. And taken somewhere. As well as, for instance, beer for a party and this sort of thing could be drawn from the PX unrationed for use of the U.S.O. and then resold through, say, third country nationals or whatever, that were not authorized.

B. In other words, the PX would think, the PX would assume that they were giving unrationed beer to the U.S.O. to be used at, say, a U.S.O. party? But in effect, the third country nationals were taking the beer and sell it on the black market. Now, who got the money for that beer?

M. That's something I don't know. I didn't ever see the money passed, whether it's through favors, or however they worked this. But Pam Lam and the shotguns, the group that Mr. Anderson privately sponsors or through the U.S.O. sponsors, or whatever, often times they lived as well as the top Vietnamese politicians which are, you know, the richest men in Vietnam. They had their own villas, cars, the whole thing, which is an impossibility.

B. That that was the private in the Vietnamese army?

M. Right, which is impossible.

P. Going back to the question about how widespread the, what the quantities of stuff involved were, can you just describe some of the, you know, in some more detail, food sold by U.S. personnel—U.S.O. personnel?

M. Well sometimes, the food that was sold or consumed by U.S.O. staff for parties and so on was often times stuff that was donated free. Sometimes we'd get peanuts and coke, cookies. That's one thing that kind of disgusted me was the cookies the U.S.O. staff took the cookies they liked when they in a Christmas time.

P. Cookies coming in from what Companies?

M. Cookies coming from individual families that they'd been sent, you know, just gift packages for the U.S.O. to redisburse. They always this stuff to see what was in it and then disbursed it.

P. You mean they were like families of GIs who were not giving . . .

M. Not just individual families . . .

B. People who make up gift packages and send them?

M. So this is just the gift packages from anyone U.S.A. so to speak.

B. To any GI?

M. To any GI. And that's the way they're labeled. You know, through the U.S.O. Saigon.

P. So they actually opened the package and looked at them and took out the chocolate cookies and then passed the rest on. Or did they just lift out whole packages?

M. If they liked what was there, they'd take out the whole package.

P. It's incredible to think tht these guys go through individual packages looking for the kinds of cookies they like.

M. This is actually the way it was carried on.

P. Incredible. They actually had the time to do it.

M. Between counting their money and opening their packages have all that they can do.

P. In general, were there, there seems to be——

P. In general there seems to have been a hierarchy in the USO clear difference between the men who were running it and the women who were assistant directors and were lower down on the hierarchy. Was there also a difference in terms of women getting paid as much as the men, is there any way you can generalize about that sort of thing?

M. Yes, in general I say women were more naive, they weren't aware of what was going on, they had suspicions, most the women who talked to me about it before and some of the men, and very seldom, there was something going on but they didn't know how or where, none of them understood money conversion or any of this.

B. Did you ever hear of a gal named Lucey Guinn?

M. Yes.

B. Did you ever hear anything about whether she was straight or whether she was involved in any of these things?

M. I have no way of knowing for sure on her, I think, yea there is no way I can say on her particularly, because I didn't have much contact with her. P.

P. What are you saying in general then was the women were clearly less aware, were they also more honest?

M. I think the women involved in the USOs in Vietnam were really sincere about their efforts in take care and serve the GIs in the way of hospitality versus, I think most of the men out there are trying to make a fast dollar and the GI was just an instrument to this means.

B. What in your judgment in general about the USO operation in Vietnam? If you were to describe it or categorize it in general. Did it serve the GIs, was it a disservice to the GIs, were they cheated, were they held, after having been there as a GI and also as a USO employee, what's your overall judgment?

M. My judgment of the USO is really sort of a rotten organization they did cheat GIs in service, for a non-profit organization they made one hellava lot of money.

P. Now they meaning the organization?

M. The organization as well as the individuals.

P. Explain that, how did the organization make more money?

M. The organization actually made a lot of money unless somehow they managed to cover it up wtih exorbitant expenses.

B. You mean in terms of high prices.

M. In terms of high prices and miscellaneous quantities of whatever they received or used.

P. Presumably the money that the USO as an organization made was winding up in the hands and pocketbooks of individuals, right.

M. Both things, I'm sure. Meaning that for instance just say for the record that Pat Lam is a concessionaire. Some of the inner office staff is the way it's supposed to work. In other words the inner office staff apparently took his cut and a lot of the other guys took his cut and it was sort of like a cover up, you know you pat me on the back and I'll pat you.

B. There were kickbacks all up the line.

M. All up the line.

P. What do the GIs think of USO? Just the average GI.

M. Well the average GI felt the prices were too high that I talked to, that their service was not what it was suppose to be for, and not very many of them really knew how much money was going through except through say the restaurants and they could see the vast amount of money that was there. When you have to pay more for a hamburger in USO in Saigon with all donated material and labor that's 20¢ an hour, then you have in a fancy restaurant in downtown Washington for instance but you realize that there is some going somewhere.

P. But a lot of the GIs use the USO, you mentioned that there were thousands in the city.

M. The USO is about the only place in Vietnam that the GI can see a real round eyed girl and that's the main attraction, round-eyed meaning European or American.

P. You mean USO personnel?

M. Right, that was the main attraction for the USO, just that a man could have a look at a real, for instance, Mobs Snyderly.

P. Can you think of any other or can you think of a services which the USO provided that were the GIs liked, that were really providing services to the GIs?

M. Quite often they had they tried to keep several things going keep the GI's interested, keep their minds from going hay wire and keep them active, for instance, a drama club was started to keep people off the streets and miscellaneous other things. They had card parties and certain things like this, but I think the main attraction was somebody could come in speak to a round-eyed girl. I don't know of a single GI that's ever come in and didn't make it a point to go over and at least say hi to one of the USO staff being a round eyed.

P. How in general would you say the morale of the USO personnel was?

M. The morale of the USO personnel was poor. Because they all believed that they were being deceived, through the head office, because of the amounts of money that they turned in to purchases, all this sort of thing, versus the amount of money that are given back to them to hold programs with and this sort of thing.

B. The USO has said probably two things, that I'd just like to find out what your comment is: One is that no USO funds were involved in any of the admittedly illegal activities that went on.

M. That's false. For instance, another example might be Pat Lam and the Shotguns, Mr. Anderson's group, whereby the things in their apartments a lot of that stuff came from the PX and this sort of thing where somehow it was channeled from the PX through whatever channels to them, which should never have happened.

B. And you also disagree with the USO assertion that there was no damage or defrauding of any American GI?

M. I know several GIs that complained about miscellaneous things that had been right, for instance, they are sort of at USOs mercy, especially the guys that come out of the fields and don't know what's happening in Saigon. They get taken for a ride down the streets, but they don't realize that oftentimes the prices within the USO are as much as 200% higher than what they could buy off the street which is already 200% higher than what you could buy.

P. Let me ask you this, why didn't, you know what you know presumably what other USO personnel who were straight knew, why didn't you, let me ask you personally, why didn't you do something about this? Why didn't you go to somebody?

M. The reason I didn't go to anyone is because there has been investigations in the past of the USO and they had been stopped because I was told through Mr. Anderson.

P. By Mr. Anderson?

M. By Mr. Anderson, a powerful man.

P. Just because of his position?

M. Because of his position solely as the director of the USO he has the power.

B. Now you are saying that CID had undertaken an investigation of USO in the past and they were squashed by the direct intervention of Mr. Anderson?

M. The CID or some, whatever investigation authority, in conjunction, that there had been some sort of investigations into activities and so on that they all were squashed as well as, another example would be the fire situation, whereby they had about 10 men checking what happened and there was no interview for instance with myself, the wiring situation what happened.

B. You were the only person there in the building right.

M. Right no one took any notice whatever of the switches being rewired they took it as the sun comes up every morning, so what.

P. So the reason you didn't go to anybody while you were in the USO was because you felt the previous investigations had been squashed.

M. That's correct as well as knowing at that time having more information than I have now because I had written back at one time I even had some figures off the balance sheets, but I was afraid in that with the power that Mr. Anderson and some of the others had that they could come forth and say at that time if I started anything well this man had been a security guard here and he had taken $10,000 out of the safe and we were just depending on his honesty to put it back some time ago, I didn't want to leave myself open to an open attack like that which I couldn't prove, having access to the safe.

P. In other words you were afraid that if you came out with something you might be framed?

M. Right, at that time, which would be very simple for someone with power that he has.

P. And when you got out of the USO and were back in the states did you ever think about going to the press or going to military authorities?

M. I thought about it before and in fact I discouraged anyone that I know of this thought about dumping them on to the USO. Because the money not going to where it supposedly intended to go to the GIs and I talked about this to maybe a hundred people just different people that I've met and have talked to me about Vietnam and my services with the USO and so on, they haven't been aware of what's going on. But seeing that there is not much I didn't feel there was any use in using this until perhaps someone within the USO himself had brought it before a congressional committee and I think.

P. How would you categorize the structure of USO in relation to these wrongdoings that you described?

M. Well I would consider in the order of a syndicate, very strong, very protective, very tight group, very well protected with a great deal of influence such as to squelch an investigation or coverup anything, they had complete control over either their personnel to the point where their personnel are terrified of any decision that could be made . . . which had all the authority and power over it anyway.

The following is an additional interview conducted April 14, 1972, with a former woman staff member of the USO:

I'd hate to know that that slob was down in his villa eating them and I said that I'd think this is wrong and as far as I know he never even mentioned it to him. It certainly didn't stop.

B. So he was stealing stuff.

M. Well you know it sounds trivia to talk about care packages.

B. Yea but it is important to the GI.

M. And some of them were very nice can pound hams and salamis and really nice things and this slob would go in there and help himself.

B. I see.

M. This could get serious about this and he didn't seem to get really too concerned about it.

B. Is there anything else you can think of that you think is important that we should know about.

M. Well I know right before I left Vietnam I saw a memo Richard Alexander had purchased something like $70,000 worth of merchandise in piasters and the CID called the head office and wanted to know what in the hell was going on and I saw a memo.

B. What did Shireman tell him.

M. Well I saw he didn't know so they went down to investigate and he got in touch with Sam in NY and I saw a memo because I thought at the time I should make a copy of it and anyway it said try to keep this from the military don't let them find out.

B. Find out what.

M. That it was illegal.

B. It was illegal to bring.

M. What would USO be doing with $40,000 worth of merchandise from India?

B. And who said we should keep it from the military?

M. The memo, Sam Anderson said that.

B. And who was Anderson writing the memo to?

M. Dick Shireman.

B. I see what did Shireman do?

M. I don't know it was about one week before I left Vietnam.

B. What was the $70,000 worth of merchandise. What was it?

N. It was stuff to sell in the clubs.

B. What was Alexander going to do with it?

M. I don't know see he wasn't authorized to see everything.

B. Anderson wrote a memo to Shireman that it was illegal.

M. He said try to keep it from the military don't let them find out.

B. Why not?

M. Number 1 you weren't suppose to order anything for the USO unless it went through the office and Alexander ordered this stuff without telling anybody and $70,000 worth of stuff from India is a lot of stuff.

B. It sure is.

M. But I don't know what happened I don't think Dick Alexander is over there any more.

B. Have you talked to anyone else doing this investigation?

M. The only person I talked to is oh I beg your pardon I talked to the OSI.

B. The Air Force people what did they ask you about?

M. Oh about the same thing you have.

B. What do they plan to do, do you know?

M. I don't know they just called me one day on the telephone and said that they had some questions from the Defense Department and wanted me to come out there and spend about an hour and a half.

B. OK could you hold on for just a second?

M. Yea.

Congress of the United States,
House of Representatives,
Washington, D.C. May 2, 1972.

Maj. Gen. Francis Sampson (U.S.A., retired),
President, United Services Organization, New York, N.Y.

Dear General Sampson: I am sure that you share my concern about the proper operation and functioning of our U.S.O. clubs around the world. As you probably know, I have publicly released testimony by several individuals which contain allegations regarding some former U.S.O. employees. These witnesses and others have also made allegations concerning Mr. Anderson, the former director of U.S.O. Vietnam and presently U.S.O.'s executive director.

I am writing to you today to request that you remove Mr. Anderson from any involvement in the U.S.O.'s current investigation. Since such serious allegations have been leveled at Mr. Anderson, questioning not only his judgment but possible involvement in illegal activities, he should not be involved in the investigation in any way.

If what informants have told me is true, then Mr. Anderson has presided over, and very possibly benefited from, a major multimillion dollar scandal that has cheated our GIs in Vietnam.

Several of my aides who have been conducting interviews with former U.S.O. personnel have been told that they believe Mr. Anderson had personally benefited from illegal black marketing and money manipulation while head of U.S.O. in Vietnam.

We do not have legal proof that Mr. Anderson was engaged in illegal activities but the belief that he was, is apparently widespread and based in part on specific allegations.

Not removing him completely from present U.S.O. investigation would make a mockery and a farce of that investigation.

I am also writing to Secretary Laird requesting that he disclose the extent and nature of the brewing scandal in U.S.O. The American people must be assured that funds given to U.S.O. are helping our GIs, not promoting a syndicate.

You may be interested to know that some of the witnesses like Mr. Michael Moriarty who served as a U.S.O. staff aide in Saigon have come forward since I first announced this investigation.

What is shocking is that many former U.S.O. employees, like Mr. Moriarty, felt earlier that blowing the whistle was useless because top U.S.O. officials like Sam Anderson would suppress any investigation.

I still believe that U.S.O. has served many of our GIs around the world. I am hopeful that U.S.O. will continue to serve them in the future. But I am afraid that from what I have been told, that there has been a serious scandal within U.S.O. that may possibly reach the very highest levels of administration officers in the organization.

If I can be of any further assistance to you or to anyone else in U.S.O. in conducting this investigation, please do not hesitate to call upon me.

Sincerely,

LES ASPIN,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 3, 1972.

The Honorable MELVIN R. LAIRD,
Secretary of Defense, Department of Defense,
The Pentagon, Washington, D.C.

DEAR MR. SECRETARY: As you may know, I have been investigating the current scandal in the United Services Organization.

I share your concern that some individuals within U.S.O. have been responsible for allegedly illegal acts. U.S.O. has been of great service over the years to many of our GIs around the world, but it is becoming increasingly apparent if these allegations are true, that a major scandal, possibly reaching the highest administration levels of U.S.O., has occurred.

I am enclosing the testimony which I have released recently, which I hope may be of assistance to you in pursuing the investigation.

Thank you very much for your attention to this matter.

Sincerely,

LES ASPIN,
Member of Congress.

MR. HARRINGTON IN VIETNAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 15 minutes.

Mr. O'NEILL. Mr. Speaker, our colleague (Mr. HARRINGTON) recently returned from an official inspection trip to South Vietnam and Thailand. He was accompanied on his trip by William Wasserman, his former administrative assistant, who is a newspaperman by profession. On their return, Mr. Wasserman wrote an interesting and thoughtful review of their activities which was printed in the North Shore newspapers, which Mr. Wasserman publishes.

Because of their compelling interest on a subject of critical importance to all of us, I insert these articles by Mr. Wasserman into the RECORD at this time:

AIR WAR SECRECY IS MOST FRIGHTENING

(By Bill Wasserman)

You can be frightened after a week in Southeast Asia that U.S. policy is not successful.

You can be even more frightened when you see that we are rigidly pursuing that same policy of failure, and perhaps widening it to include Thailand.

But you can be most frightened by the effort of the U.S. government to conceal the whole business from the U.S. public, and even from a Congressman who votes the authorization for all U.S. military programs.

After three days of intensive briefings and tours of the five U.S. air bases in Thailand, Congressman Harrington learned from a newsman that several shifts in squadrons and aircraft were shortly anticipated which would increase the fighter squadrons in the area.

"That newsman's information is remarkably good," we were told by an Air Force officer.

"Why wasn't I told about it?" asked Cong. Harrington.

"You didn't ask," said the Air Force officer.

At Udorn Air Base in Thailand, a civilian pilot staying in the civilian hotel where I was billeted told me very openly that all Air America helicopter flights over Laos originated from Udorn Air Base. Air America is a contract airline paid by the American government, and presumed to be a CIA operation.

When Congressman Harrington asked the base commander at Udorn, "What is that squadron of helicopters over there?" pointing to the lined up aircraft.

"I don't know, sir," said the base commander. "Those are contract flights and I don't know anything about them."

A press association reporter who has spent five years in Thailand and has consistently sought to report on American air bases there, as reporters freely do in Vietnam, said that he has been unable to obtain permission to go on the bases. "The U.S. officials say 'Ask the Thais.' The Thais say 'Ask the U.S.'"

Craig Whitney, chief of the N.Y. Times bureau; Peter Osnos, Washington Post; Kim Willenson, United Press International; Don Sutherland, Christian Science Monitor—they have all tried and so far been refused permission to report first hand on the U.S. air war being waged out of Thailand.

Yet the U.S. has about 26,000 airmen in Thailand and its five bases account for about 5 million dollars a day. We have invested billions of dollars in Thailand, and from these bases we are bombing Laos, Cambodia, Vietnam, and now North Vietnam. We have nearly twice as many airmen in Thailand as in Vietnam. It is a gigantic effort, but it is concealed from the U.S. public.

One reason given for concealing the air-war from the U.S. is "security"—

But momasans, Thai women, come on the U.S. bases in droves every day to do the house chores of the U.S. airmen. They clean the barracks. They wash airmen's clothes. With their children, and their washtubs, and their picnic lunches, they make a colorful sight squatting between the GI barracks at lunch hour. Along with Thai men who work on the base, they can easily be the cover for any hostile agent seeking general information about the airbase. To suggest that what they know as common knowledge cannot be available to the American public just doesn't make sense.

SOUTHEAST ASIA, WHERE THE UNITED STATES PRACTICES A POLICY OF MAKE-BELIEVE

(By Bill Wasserman)

(North Shore Weeklies' publisher Bill Wasserman traveled with Cong. Michael J. Harrington to Vietnam and Thailand for 10 days from March 29 to April 8. In Vietnam they visited Saigon and DaNang. In Thailand, they were in Bangkok and Udorn, and Mr. Harrington visited four other air bases. Harrington spent his days being briefed on the military operations which he, as a member of the Armed Services Committee, oversees. Wasserman interviewed airmen, civilians and newsmen.)

Ambassador Ellsworth Bunker, tall, patrician and gracious, leaned forward, his hands folded, and said, "You must look at the whole picture, not just the military. You must see the economic side too. The military, however, is now working."

That was less than three weeks ago.

Ambassador Bunker had received me before Congressman Harrington's arrival in Saigon because he was leaving for a week's trip over Easter to visit his wife, the U.S. Ambassador to Nepal.

It was a calm, sunny day in Saigon. We sat in comfortable chairs at one end of the Ambassador's large, air conditioned office in the embassy. The Ambassador's youngest son had been my roommate in school for two years, and now, after catching up on family histories, he told me about Vietnam.

The U.S. initially had failed, said Mr. Bunker, to appreciate the need to provide the wherewithal for the South Vietnamese. "It was a new experience for the U.S. to be involved in a civil war and a war from without at the same time."

The Tet offensive in 1968, psychologically a blow to the U.S., had been the source of fresh determination by the Vietnamese, continued Bunker. They saw the need to be better armed, and, the Ambassador observed, the U.S. supplied M-16's. The ARVN (Army of the Republic of Vietnam) was modernized and expanded and now numbered 1.1 million.

The Ambassador dwelt on the economic development in the south. "I drove recently with President Thieu through the countryside. The farmers used to have bicycles. Now they have Hondas and tractors, radios and tv's, outboard motors for their sampans."

He urged me to arrange an air trip for Cong. Harrington over the delta to see the prosperity and to see, also, to the north towards An Loc—now the scene of desperate fighting—how air interdiction had not meant total destruction but selected destruction.

What Bunker was clearly saying was that Vietnamization was working, that we should on this trip pay attention to the broad, civilian achievements under President Thieu. He mentioned land reform, specifically.

As the interview drew to a close, the erect septogenarian who had completed a successful business career before joining the government, noted that he had served five Presidents. "Of course, I expected to stay here a much shorter time."

He smiled and described how President Nixon had arranged for him to visit his wife in Nepal regularly. "But that was impossible. It was so busy here—seven days a week, it used to be. It's better now," and he made a little joke about how he had to make this particular trip because his wife surely would not permit him to be absent over Easter.

Forty-eight hours later, the North Vietnamese offensive was underway. And within those few hours, Quang Tri and Hue, major bastions in the north, were threatened.

The American public at home was also calm as our trip to Vietnam took shape. One local newspaper even queried, "Why go?" Cong. Harrington, their editorial suggested, would do better to stay home and tend to his district. Going to Vietnam now, they said, was a junket.

In general it seemed the American public felt that the war was almost over. Casualties had almost disappeared—U.S. casualties, at least. Our troops were leaving. The air war? What was that? A distant war, Cong. Harrington said it needed seeing, it needed exposure. He suspected, but could not get firm figures that it was costing $10 to $20 billion dollars a year, and devastating three countries.

A gentle breeze swayed the palm trees over the ornate Buddhist temple while saffron robed young men, monks in training, strolled by. This was Thailand, where the people, commented the Air Force captain escorting me, were "very easy going and gentle," and where the U.S. now maintains its major Southeast Asian air bases.

Down the dirt road in front of the pagoda walked a young couple hand in hand. He was obviously American in his khaki trousers and sport shirt. She was obviously Thai. "Who would that be?" I asked.

"One of the guys from the base, and his girl," was the reply.

I was in Udorn, 30 miles from the Laotian border and the location of our largest fighter base in Thailand.

The airman was one of 26,000 airmen now stationed in Thailand. That is already many more than we have left in Vietnam. We have five bases in Thailand, bases which have cost us billions to construct, and from which we mount an operation costing about $5 million a day. Out of Thailand we fly about 500 aircraft, although that figure has been augmented within the last few days in response to the current hostilities. The aircraft include B–52's, F–4 fighter bombers, gunships, observation aircraft, reconnaissance planes, and highly complex electronically geared control planes and bombers which work the Ho Chi Minh trail.

Indeed, from gentle Thailand it is only about 20 minutes to targets in Laos, Cambodia, and Vietnam, and it is to Thailand that the air war has quietly shifted.

Thai bases are reckoned as desirable duty by U.S. airmen. The civilian population is friendly, and airmen are free to come and go in the land—like the young airman and his girl. Our B–52's take off from a base bordering the Gulf of Siam, and the crews, upon return from their high altitude runs, come back to an earth which includes beaches, cabanas, and Thai girls.

Capt. M., a young black graduate of the Air Force Academy, told me he was very happy in Thailand. An F–4 co-pilot, he said he loved to fly, and next to that, he liked being in Thailand. Yes, he had been fortunate to make friends with several Thai families in Udorn. He found them wonderful people.

Coolly, like an athlete detailing a difficult and exciting game, Capt. M. described avoiding the Soviet-built Sam missiles, missiles which follow their target and must be outmaneuvered as in a dogfight against another airplane. But as for the warfare itself, that was, he said, all quite distant when you are traveling hundreds of miles an hour in a modern jet.

Another pilot had said, "You can't see the war. Just little puffs of smoke occasionally. That's all."

The pilots are not the only ones who can't see the war. The ground crews and the support crews in Thailand see no war either. They have no contact with the land to which they send the war; they neither see the people nor experience any connection with them politically or socially.

Nor does the American public see this air war from Thailand. It was, in fact, no accident that I was at a Buddhist pagoda instead of interviewing men on the flight line for Cong. Harrington. As a journalist, I was, despite my temporary status on Cong. Harrington's staff, severely restricted. Journalists are not allowed on U.S. bases in Thailand, and this policy, consistently enforced for a decade, has kept the profile of U.S. presence in Thailand low in American newspapers. It is a policy which contrasts sharply with that in Vietnam, where newsmen are not only allowed on bases, but often fly on combat missions.

U.S. Ambassador to Thailand Leonard Unger told Cong. Harrington that the reason for restricting newsmen was because the Thai government made that stipulation.

"They are so exposed, so close to China and North Vietnam. They have gone out on a limb to associate themselves with us. They don't need it publicized."

A newsman, however, said that the Thai government refers him to the U.S. government when he asks permission to go on the bases.

Clearly it is a mutual program of keeping the newsmen out. "We are concealing as much as possible the extent of the U.S. involvement, the cost of the air war, and the kinds of warfare we are conducting, including highly experimental destructive devices," Cong. Harrington has reported.

In my own case, I was denied permission in Thailand, (not in Vietnam) to fly with Cong. Harrington, an action which effectively limited me to one of the five bases. Cong. Harrington sought to contract privately for the transportation, was quoted a price which he accepted; the price then doubled. A reservation by commercial airline was made for me but the embassy booker made a mistake, and the plane left an hour prematurely. Arriving finally at Udorn air base, a consular officer met me and immediately drove me off base.

"Where are you taking me?" I asked.

"Downtown to your hotel."

"No," I replied heatedly. "You are taking me to Cong. Harrington."

We argued. I insisted, and he drove me to a base office where I contacted Cong. Harrington by phone. We agreed that I should interview on base before joining him. Our escort, an Air Force major from Saigon headquarters, told me I could go anywhere on base for interviews.

But once in a government car, I was denied access to the flight line crews. I could take no pictures. I was followed by an Air Force captain and the consular officer, the kind of escorts no reporter needs on a casual interview with an ordinary soldier.

"Hi, I'm on base with Cong. Harrington, and I wondered what you think of things over here?" . . . and the airman checks the brass with me and says, "Yes sir."

I had one moment of satisfaction. I edged into a group of airmen standing at a corner. To my delight a bus pulled up. In a moment I was on the bus and it was moving and I was talking to soldiers. My escort was left behind.

The suppression of news is remarkably effective as a device of downplay our role.

It is true that in 24 hours at Udorn I learned a lot about our military activities. On the airplane to Udorn a pilot returning from leave told me about the increasing SAM missiles fire on the Ho Chi Minh trail. At the civilian hotel in which I was billetted, an Air America pilot flying over Laos described his work. In an airport waiting room, the wife of an air officer detailed life in Laos. But that's a slow, not very precise way to accumulate a story, and the Department of Defense knows it. The result is that few stories get written, and they lack the authority of official confirmation; they are exposes rather than statements of accepted fact and they get published with some suspicion. How different it would be if our airmen were regularly interviewed about their jobs and their lives, and if the air bases were easily visited by newsmen.

Behind the wall of secrecy are thousands of competent, ordinary guys who do the best job they can, and who don't have ideological objections to their work.

The Air America pilot with whom I talked had spent 10 years flying for the private group which is known to be cover for the CIA. He was dressed in khakis and wore silver wings.

"Yes, I like it," he responded. Then he volunteered, "There are about 600 of us in Laos, and a smaller group of Continental pilots doing the same thing."

The contract pilots mostly fly helicopters to deliver supplies to anticommunist groups. They also fly rescue missions to retrieve downed pilots. Some are forward observers in light aircraft.

"Have many pilots been in Laos as long as you have?"

"No," replied this lean, weathered man in his late 40's. "But lots have been there six years."

He cited how useful the Air America pilots were when U.S. pilots were shot down. "We really know the country. Air Force pilots are only over here a year. They can't find their way as quickly as we can when a man's reported down."

"Aren't you scared, doing that kind of work?"

"Naw," he shrugged. 'A few guys get scared and quit at the very beginning, but once you know your way around, it's not bad."

A microbus drove up. It was nearly 7 a.m. My companion said goodby, grabbed a small suitcase and joined a dozen others in the bus, probably in a trip to the airfield since most Laotian missions originate from Udorn. He went off to work like a commuting businessman, but his work has for 10 years been "classified"—so classified that Cong. Harrington was unable to get answers to his questions regarding Air America activity in Laos.

A flight crew chief from Oklahoma characterized what many felt about their service. "Hell, this is a job to be done, and we're doing it."

A young airman from Braintree, recently arrived in Thailand, said he enlisted so he could travel and learn a profession. He complained that his schooling in the Air Force had not been as good as he anticipated, but he didn't mention the war.

At Da Nang, two airmen were moving aircraft cannon shells. They complained that the city was off limits. "All there is to do here is work," said one of them. "Work and go to the movies."

I asked about the work. It looked dangerous.

"Ammo?" said one of them with a grin. "Don't make no difference to me. Why I used to load those great big ones for the B–52's. It ain't nothin'."

Often there was an expression of teamwork. "When this plane goes out, those are our guys on it. We're part of that team. We want to be sure everything goes right for them," said a mechanic as he tightened a rivet on a black, night gunship flying out of Da Nang.

Some men who had thought about their role as warriors, had a positive feeling about their duty.

A career major in the Army helicopter business was returning to Vietnam for his third tour of duty. His job was to turn over helicopters to the Vietnamese. "We haven't wasted our time over here," he said, "I think it has worked. You have to have seen it in '63 and '67 to understand."

Now, said the major, the ARVN was showing capacity. The unit with which he had most recently been serving he termed "excellent."

"I've had just as good cover from ARVN helicopters as from our own. And they know the land. That gives them great tactical advantage. They don't have to ask 3 or 4 people where they are and how to get there."

These views were echoed by a fighter pilot, a lieutenant colonel who had been flying since World War II. "They're fine pilots," he said of the VNAF (Vietnam Air Force) jet pilots with whom he flew. "They're well trained in the U.S. and then once on duty over here, they fly more than our pilots and they know the land. They're better to fly with than our own boys."

If there was resentment about the war, and the demand that Americans serve in it, it came chiefly from the men who had served or were serving in Vietnam.

An Air Force sergeant from Louisiana was with a Caribou group ferrying artillery ammunition. He was being reassigned from Vietnam to Thailand. But he was angry.

"They're just moving us out of Vietnam into other areas—Thailand, Taiwan, the Philippines. And for what? We're not accomplishing anything."

A career Air Force man, he claimed many Air Force personnel were bitter. He said the sortie figures being released were dishonest and that the Air Force had no business being secretive in Thailand.

"Are many Air Force personnel as angry as you are?" I asked.

"Damn right," he replied. "These people over here don't want us to tell them what to do. It's crazy."

Then he cited the time it took for a B–52 to fly a sortie from Guam to Vietnam. "18 hours round trip," he said.

My fact sheet showed that each B–52 sortie cost an estimated $41,000. A BU professor has estimated each flight, counting equipment and back-up and logistics, really costs $1 million.

A 20-year-old helicopter gunner had been shot down six times in his 10 months tour. With a back wound from his last flight, he was reluctant to climb back into the small Loch helicopters often used to draw fire from the enemy, thus exposing them as targets for higher flying gun ships.

"I've played hero enough for these damn people. They don't care anyhow," said the gunner. "I came over here thinking I would help fight to make them free. But they don't want to be free."

The small fixed wing airplane taxied to a stop at the Da Nang airport. It was a two seater, but only one man was aboard. The hood went up, and a lieutenant from New Jersey wearily climbed out of his forward air control observation aircraft, a plane used for flying low and spotting targets, then directing attacks upon them.

The offensive was underway just north of Da Nang.

"There's been about a 2000 percent increase in enemy fire," said the pilot.

Then he added, "Boy, I'm tired. I've been scared for four hours. That makes you tired, being scared all that time."

Further down the runway at Da Nang, an airport which is busier than O'Hare in Chicago, an F-4 fighter bomber returned from its mission of attack bombing. As the pilot and co-pilot climbed down from their sleek $4 million machine, I asked how their mission had been.

"Lousy," said the blond, crew cut pilot. "Can't see a thing. It was a radar mission."

"Yeah," picked up his co-pilot, "somebody just wanted to report a sortie, so they sent us out. It's a waste if you can't fly visual."

"Do you know what you are hitting when you drop your radar?"

"What, are you kidding?" said the pilot, and he turned to go off the flight line for another mission's briefing.

Cong. Harrington shook his head tiredly. It was evening after a full day and he had just come in from a briefing with top level air commanders. "I just can't get an answer. It's not that they don't want to give an answer. They don't have it."

He sat down. "I ask them whether the bombing is stopping the traffic of supplies on the Ho Chi Minh trail, and they show me a picture of a truck being blown up. That doesn't answer my question."

A veteran news service reporter who has concentrated on the air war, sat on the grass outside the Public Information office at Da Nang Air Base, home of the only fighter wing left in Vietnam.

"The cost of getting one North Vietnamese truck I calculate at about $1 million," he said.

The reporter looked up as an F-4 took off. With a swish and a roar the exciting plane was up and moving out of sight. Thirty seconds later its flight companion followed.

He shook his head. "That plane was built for the defense of Western Europe. At its speeds and with its equipment, it just is not an effective weapon in jungle warfare. The World War II propeller planes we have given the Vietnamese are better equipped to do the job.

On board an airplane which flew us north to Da Nang was a French priest, Father Dozance. He was the head of the Foreign Paris Mission, a group of 84 French priests serving in Vietnam. His trip was a sad one for he was flying to Hue to say a funeral Mass for one of his priests killed two days before by the Viet Cong.

"We have lost 12 in Vietnam," he said. "Five near Hue."

Father Dozance, a large, strong man in his sixties, was interested in our trip and happy to converse about Vietnam.

"What will happen in South Vietnam, Father?" I asked this missionary who first served in China; then in 1954, when he was evicted from China, came to Vietnam.

"Thieu can survive only if the Americans support him," he replied.

"How?"

"Oh, you must continue your air support and economic support. Without it—poof, he goes."

Cong. Harrington asked again, "Look, we've been bombing the Ho Chi Minh trail consistently. We have sensors, electronic systems for detection of traffic, we have television bombers, we have laser bombs. We're so wired and computerized that we can even hear the North Vietnamese talking on that trail. How then have the North Vietnamese moved enough equipment down that trail to mount a major military offensive in a variety of locations in South Vietnam?"

Driving through the teeming city of Da Nang, the junior State Department officer pointed to the wired off and vacated American bases. "We had more than 100,000 troops here last year. Now at the air base and with one infantry brigade, there's only about 15,000. It's made a big hole in the local economy."

"Will it work?" I asked. "Can the Thieu government survive?"

Even with bombing and air support from the U.S., said the consular officer, he questioned if Thieu would survive. Without our air support? Not a chance.

A Vietnamese professor, who holds a masters degree from Harvard and studied at the Sorbonne, sits on an economic council which advises the government. "But we don't meet," he observed.

He predicted economic chaos as the Americans withdrew and said already unemployment was on the rise. Profiteering, said this economist, was rampant. Billions of dollars of war surplus were making a few people fortunes instead of being used broadly for the country.

Thieu could not survive. he said.

"The Thieu regime will probably fall as we pull out. And that's not so appalling as some suggest."

For the State Department officer in Saigon to make that statement came as a surprise. I had expected a more doctrinaire line.

"No, I don't think there'll be such a bloodbath, either," he continued. "Most of the people will be accommodated in a new government."

"How about the people out there?" I asked, waving at the hundreds of Vietnamese hurrying through Saigon streets. "Don't many of them work for the military?"

"Even the military employes, they'll be all right. If they weren't too aggressive. They'll get six months retraining, then they'll be absorbed. Of course, some will have to leave, but they already have their money and children out of the country."

Peter O'Loughlin, Associated Press chief in Thailand, put down his cup of coffee and sat back in the French restaurant in Bangkok. "The trouble is," he said, "the people who failed in Vietnam are now in Thailand pushing the same kind of deal."

The Thais have an insurgent movement against the government. It's small, it's scattered in four sections of the large country. "The reaction to these insurgents should be a police operation," said Mr. O'Loughlin. "But we have given the Thais helicopters and tanks. The Thais are becoming over muscled. They won't be able to maintain their army themselves. Who makes spare parts for helicopters in Thailand? No one!"

In a Udorn barracks, a career Air Force sergeant corroborated what O'Loughlin had said. The sergeant had just reported in from a small American base in the central part of Thailand where Thai forces had been operating against insurgents. "The Thai army is neither efficient nor effective," said the sergeant.

That same master sergeant commented broadly about the war. "We're not winding it down. I am in communications and I know that the air traffic in Thailand has been increasing. The war is just moving westward."

"I've been here nearly 18 months. My tour is over and it's almost time to leave," said Peter Osnos, Washington Post reporter in Saigon. "And it's time to leave. It's—it's so depressing here really, such a feeling of failure."

"Yes," acknowledged the diplomat. "Most of the personnel in the embassy have had previous tours in Southeast Asia."

I had asked for the backgrounds of each ranking U.S. state department officer in Thailand, but already from first hand observation the answer was clear. Area specialization was a tenet of State Department career programming. No longer are diplomats shipped helter skelter around the world; today they become experts in a given part of the world and they learn the languages, the customs and the politics of their areas.

From one point of view, that has to be a plus for our officers.

From another point of view, it can be disastrous.

Ambassador Leonard Unger in Thailand formerly was the assistant secretary for Southeast Asia in Washington, and before that served in Laos. Deputy Ambassador Charles Whitehouse in Saigon served earlier in Vietnam as a senior provincial advisor. George Muller, political military officer in Thailand, served before in Vietnam—indeed so did most of the department's personnel.

"Without malice, I suggest that these officers are captive to their own past," said Cong. Harrington. "They have to believe in the ultimate success of Vietnamization and a defeat of the North Vietnamese in order to justify their own earlier existence."

Graffiti, say sociologists, is a meaningful expression of what is just below the surface in men's minds. Udorn was so remote, and so pleasant, I had not suspected the anti-war sentiment, but an airman told me to look around—to dig a little deeper. He was right.

Most of the latrine walls at Udorn in the half a dozen barracks I visited were newly scrubbed and freshly painted. A sophisticated statement on one latrine door clearly attacked the management—the base command—for the apparently relentless policy of cleaning the walls.

"Removing graffiti from latrine walls is a textbook case reflecting immature paranoia and deviate sexual aspirations," said the legend.

In one barracks I had apparently arrived ahead of the scrub and paint brigade.

"Why are we killing people who kill people to show people that it is wrong to kill people?" said the first one.

"By destroying Southeast Asia, are we saving the USA?" said the next.

And then, in a more traditional barracks expression, "Booze is the only answer."

The next wall went back to the anti-war theme. "We have spent a little time—12 years—and a few expendable lives—50,000."

The final text paraphrased an old line which General Douglas MacArthur made famous in his swan-song Congressional appearance. It said, "Old soldiers never die . . . The young ones do!"

"WE FACE A HARD CHOICE . . ."

Cong. Harrington said upon his return from his trip, "In my inspection of American, South Vietnamese and Thai military installations, I found no one in any responsible position who honestly believes that the South Vietnamese can carry on the war on their own without American military involvement. The American people deserve to be told the truth: we face a hard choice in South Vietnam, notwithstanding the optimistic rhetoric of the Administration about successful Vietnamization. We were not able to impose a settlement of our choosing with 500,000 American troops. We are no more likely to succeed in doing so with 50,000.

"Several weeks ago the United States unilaterally broke off the public peace talks in Paris. And last week, an attack by North Vietnamese and Viet Cong—an attack which our government had told us they knew was coming—revealed the complete inability of the South Vietnamese Army to hold their ground in the absence of full-scale American military support from the air and sea.

"Taken together, these events mean one thing: that current American policy requires us to maintain our involvement in the Indochinese War for the foreseeable future. As long as we remain committed to the maintenance of a pro-American regime in Saigon, and as long as the pro-American forces are unable to sustain themselves in power, American men, money and weapons will be deeply engaged in that war."

WE MUST LEARN ANEW TO COMPETE FOR TRADE ABROAD

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, in the wake of dollar devaluation and in the midst of the President's wage-price freeze program, there are continuing reports the U.S. trade position abroad is deteriorating.

These reports go to make up a sad story for American business and the American workingman.

There are things which can be done to turn the tide of trade deficits, among them tougher positions on the part of the U.S. trade negotiators with regard to imports. Steps should be taken to assure that tax incentives granted American business for the purpose of financing plant and equipment expansions do not go instead to pay for larger and more efficient factories in foreign countries.

The United States must adopt an aggressive attitude to stimulate foreign markets for American goods. In this there is a role for the State Department which, according to American businessmen, now often leaves them to fend for themselves in efforts to develop overseas markets.

I believe the time has come to seriously consider adopting policies followed by other nations in support of domestic business firms. Trade delegations financed by governments of other nations roam the world in search of new business. Trade missions operating under official auspices maintain residence in concert with legations and embassies of America's overseas business competitors. The effectiveness of these operations is evident when one compares the record of trade between the United States and foreign nations. The picture is clear: our exports are dwindling and our imports are soaring.

Some among us explain this disturbing situation in part by saying that American products are pricing themselves out of the world marketplace, and to an extent this is true. But price alone has never been the sole basis of the demand for American goods abroad. American-made goods have long been sought after abroad because American-made goods are well made, are unique in nature, or advanced technologically. These factors remain in force today, but, somehow, we are not making sales.

The result is that American workers are losing their jobs to foreign imports, American business is fast becoming multinational in nature with U.S. capital expended overseas to develop—not markets for U.S.-made goods, but factories in which our competitors work—and the future prospects for business at home become gloomier in consequence.

So, Mr. Speaker, the time has come to take a new look at our trade position. If it is necessary to provide official Government help in the development of foreign markets, then let us get on with it before the situation becomes critical. If our trade negotiators are not stern enough in their dealings with foreign governments, let us reverse that policy before the U.S. market abroad dwindles to nothing and before we become hopelessly dependent on other nations for the goods we need. If tax incentives are being misused to expand abroad rather than at home, let us have a tougher policy on tax incentives.

But let us not sit on the sidelines of world trade, wringing our hands, and wondering why it is that our role as a leader in world trade has slipped so seriously.

THE WAR POWERS ACT IS A PROPER STEP

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the April 13 action by the Senate in passing the War Powers Act is a proper step toward filling a need which long has existed.

Although seen by some as a curb on the President's constitutional responsibility as Commander in Chief, the act is nothing more than the establishment of procedures whereby the Congress can exercise the warmaking powers granted only to the Congress by the Constitution. The act neither confers nor detracts from the President's duty and authority to protect the United States and its people from hostile action by another nation.

For good reasons, the Founding Fathers carefully constructed the Constitution to deprive a Chief Executive of the power to engage in war solely on his own initiative. Until recent years there has not been a requirement to establish the machinery whereby the Congress would assume that responsibility. But now we have fought two undeclared wars.

American Presidents have taken us into conflicts in Korea and in Vietnam without congressional authority. Whether Congress would have declared war in these instances is not as important as the fact that a dangerous precedent has been established. This practice cannot continue.

The War Powers Act as passed by the Senate does not tie the hands of the President. It provides he can take steps that are necessary to protect American interests and citizens, including the commitment of American Armed Forces, so long as he officially notifies the Congress promptly that he has taken such action. It is then up to the Congress to grant him, within 30 days, the authority to continue the use of those troops. But, the President also may continue to use the troops beyond the 30-day period provided he certifies in writing the need for continued use as being in the best interests of the United States.

The act received broad philosophical support in the Senate and this is commendable. I hope the same will be true when the House considers this vital legislation.

The War Powers Act should quickly and favorably be considered by the House and signed into law by the President.

FEDERAL INCOME TAX CREDIT FOR ELDERLY HOMEOWNERS AND RENTERS

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, today, I am introducing legislation which would ease the property tax burden for senior citizens. Specifically, the bill would provide a Federal income tax credit or refund of up to $800 for low- and middle-income homeowners or renters over the age of 60 years. The bill would virtually end property taxes for older citizens with incomes under $5,000 and living in homes valued at $25,000 or less, and would provide some property tax relief for older taxpayers with incomes up to $15,000 a year.

The property tax is one of the most regressive taxes in the fiscal arsenal. Generally, low- and middle-income families, whether owners or renters, spend a greater proportion of their income for housing, than do high-income families. Further, taxes on housing are relatively higher for them than any other consumer commodity. And for the elderly, rising taxes on property take a disproportionate share of scarce family funds. It is time the Federal Government provided some relief against this unfair threat to citizens at or approaching retirement on limited fixed incomes.

The following is a chart of the tax burden in various cities across the Nation. It is based on figures for FHA-insured property with mortgages of $25,000, compiled for the period April–June 1971. The chart demonstrates not only the disparity of property tax charges throughout the Nation, but the relative burden on low- and middle-income families. For my own city of New York, the figures reveal that homeowners and apartment dwellers, pay one of the highest tax in the Nation—almost $800 on a $25,000 home:

PROPERTY TAX BURDENS—HOW THEY VARY

(From a survey in the April–June 1971 period of new homes financed with FHA mortgages)

Average tax on new home with actual market value of $25,000

Metropolitan area (central city and suburbs):	
Albuquerque	$493
Anaheim-Santa Ana, Garden Grove	575

Atlanta	$343
Austin	483
Baltimore	503
Birmingham	233
Charlotte	345
Chicago	528
Columbia, S.C.	203
Columbus, Ohio	440
Dallas	455
Denver	663
Detroit	583
El Paso	520
Fort Lauderdale-Hollywood	293
Fort Worth	530
Greensboro, Winston-Salem, High Point	358
Honolulu	260
Houston	428
Jackson, Miss.	188
Jacksonville	520
Kansas City	416
Knoxville	293
Las Vegas	370
Little Rock-North Little Rock	340
Los Angeles-Long Beach	648
Louisville	273
Memphis	398
Miami	348
Minneapolis-St. Paul	763
Montgomery	158
Nashville	295
New Orleans	115
New York	795
Norfolk-Portsmouth	280
Oklahoma City	355
Orlando	313
Philadelphia	745
Phoenix	473
Portland	463
Reno	365
Richmond	230
Sacramento	630
St. Louis	500
Salt Lake City	370
San Bernardino-Riverside, Ontario	570
San Diego	568
San Francisco-Oakland	638
San Jose	595
Seattle-Everett	488
Shreveport	245
Tampa-St. Petersburg	$338
Tucson	580
Washintgon, D.C.	405
Wilmington	298

Source: U.S. Department of Housing and Urban Development.

The inequities of the system hit older Americans hard for another reason. Many tenants and homeowners over the age of 60 wonder how they will be able to maintain their home after retirement. This uncertainty can plague them for a long time and can seriously disrupt communities. By reducing or ending the burdensome property tax, older Americans would have greater security and could look toward those years knowing their investment would not be wiped out by the burden of property taxation. Also, this security would go a long way to insuring greater stability in our communities.

The mechanics of the bill are quite simple. A household with a taxpayer over the age of 60 years would be able to file a claim for tax credit or a refund based on his income and the eligible tax—the expense of the property tax for those who own their home or one-fourth of the annual rent for those who rent their homes, up to $800. Where the allowable claim exceeds the income tax due, the taxpayer would receive a refund check from the Federal Government for the difference. Where the allowable claim is less than the income tax, the tax would be reduced dollar for dollar. Applying my formula, persons with adjusted income of $5,000 or less per year would receive 100 percent credit for their taxes. For those with adjusted income between $5,001 and $15,000, the credit would be progressively reduced. The following chart describes the progression:

I		II	III	IV	V
"If household income is—		Then the allowable claim is the product of—(percent)	Times the amount of the eligible property taxes and rent	plus—(percent)	of household income in excess of—
At least—	but not more than—				
0	$5,000	100	Tax	0	----------------
$5,001	6,000	90	Tax	5	$5,001
6,001	7,000	80	Tax	5	6,001
7,001	8,000	70	Tax	4	7,001
8,001	9,000	60	Tax	4	8,001
9,001	10,000	50	Tax	3	9,001
10,001	11,000	40	Tax	3	10,001
11,001	12,000	30	Tax	2	11,001
12,001	13,000	20	Tax	2	12,001
13,001	14,000	10	Tax	1	13,001
14,001	15,000	0	Tax	1	14,001

Mr. Speaker, there is a growing recognition of the fact that the Federal Government must make clearer its commitment to aiding the elderly. I believe that property tax relief must rank high on our list of priorities for providing security and additional resources for the older American.

MOBILE CLINICS TO TREAT DRUG ADDICTS

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, crime, and the drug problem which is its cause, are limiting the effectiveness of too much of our legislation. Consider our efforts to improve the physical environment. We want clean air and attractive parks, yet our children cannot even play in them because their safety is threatened.

We want to clean the garbage from our streets, yet our citizens cannot walk on those streets at night because they fear for their safety.

We want to beautify our cities, yet we cannot effectively protect our cities, or their residents, from the scourge of vandals who are intent upon defacing, destroying, and desecrating.

Mr. Speaker, it is time that we tried to clean up our social environment.

Fortunes have been spent to improve our cities, with little noticeable improvement.

The police try, but they cannot deal with crime all by themselves. They need the help of the community and everyone in it who is interested in a crime-free environment.

Beyond the need for more money then, beyond the need for more police, there is need for more imagination in dealing with crime. The concurrent resolution I introduce today is an imaginative, effective and simple way to deal with one aspect of the crime and drug problem. My resolution calls for the support of mobile methadone treatment clinics, rather than large institutional centers for drug addicts.

The resolution expresses the sense of Congress that in the administration of Federal programs of assistance for drug abuse treatment programs priority should be given to those treatment programs which utilize mobile facilities.

The intent of the resolution is to clarify and reinforce the "congressional findings" in the Drug Abuse Office and Treatment Act of 1972 as it was signed into law on March 21, 1972.

Specifically, it serves to focus the attention of the special action office for drug abuse prevention on the desirability and the need for establishing "mobile" drug dispensing and addict treatment centers in high-density population centers. Large concentrations of addicts reporting regularly to institutionalized facilities frequently attract increased numbers of drug pushers. The explosive situation thus created is often followed by an increase in crime in the immediate area of the facility.

It is a phenomenon familiar to those who have worked in addict rehabilitation. and to those in law enforcement who must cope with flareups in community crime.

In addition to that particular problem there has been an increase of drug theft from treatment facilities—drugs that inevitably find their way into the community. This has been particularly prevalent in the methadone maintenance programs. so much so that it was the subject of a recent Food and Drug Administration order removing methadone from prescriptions and drugstore shelves to eliminate diversion to illicit use. Methadone will not be available only through government approved treatment programs that are closely monitored.

The already complex medical and psychological problems associated with treating addiction are further complicated by locating addiction treatment centers in local communities. The people do not want them. There is strong resistance from the community to the establishment of institutionalized centers that attract large numbers of hard-core addicts. That fact is recognized in the guidelines set down by the National Institute of Mental Health. The Institute will not fund a drug center to which a community strongly objects.

During March 1972 the Addictions Services Agency of New York City treated nearly 40,000 drug addicts, mostly heroin users, representing less than one-third of the known addicts in the city. The city spends from $1,500 to nearly $4,000 per patient per year. Yet, the New York centers are closing for lack of funds and the drug abuse problem continues to grow. Most of those treated were in methadone programs.

My proposal is to establish mobile methadone units that keep a prearranged schedule in high drug abuse areas and at times and places that lend themselves readily to crime control. They would operate much the same as blood mobiles and X-ray mobiles now operate. They would go to where the problem is as an extension of an outpatient clinic of a participating hospital. And the cost of operating them would be considerably less than that of negotiating long-term leases and converting old buildings into clinics in neighborhoods that object to them in the first place.

I suggest this plan as an alternative to the bulldozer approach too frequently used until now where hundreds of millions of dollars have been dissipated in drug rehabilitation with insignificant results. This plan would bring more services to more of the people who need them, at a lower cost, and without upsetting community life by concentrating large numbers of addicts for long periods of time in neighborhood situations.

DISABLED OFFICERS AWARD BANQUET HELD IN MIAMI

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on April 22 it was my privilege to attend the Disabled Officers Association awards banquet in Miami, Fla., where the highlight of the evening was the eloquent and able address of Lt. Gen. A. O. Connor, commanding general of the 3d U.S. Army at Fort McPherson, Ga. Included in General Connor's inspiring address was an expression of the appreciation of the U.S. Army to all of those in Florida who have done so much to make the "Operation Florida Sunshine" program the great success it has been. I join with General Connor in commending the individuals and organizations in south Florida who have made it possible for some 500 to 600 wounded soldiers to enjoy a few days in the relaxing sunshine of Miami and Miami Beach. It gives me great pleasure, therefore, Mr. Speaker to include General Connor's inspiring address in the Record immediately following my remarks:

REMARKS OF LT. GEN. A. O. CONNOR

After the tremendous banquet meal we had tonight I'm reminded of a story which I'd like to share with you. You have to be a TV fan to appreciate this one. (Story about Noah and his party trying to find the ark to preserve it for posterity. Asked elephant if he remembered where they left it. Asked giraffe if he could see it. Finally noticed a termite sitting on a board picking his teeth mumbling to himself—"I can't believe I ate the whole thing.")

The hour is growing late and I won't detain you with lengthy remarks. But I would like to take a few moments to express my profound thanks and the appreciation of the United States Army for the efforts of the many people of greater Miami who have made Florida Sunshine possible.

I came across an article recently, which said something to the effect that if you are wondering if there is any thing right about America, look beyond the massed ills of the cities, look beyond the clouds of war and rumors of war, look beyond the strife and dissent we hear so much about, and see the people—and you will find the stability that has long sustained our nation.

The Florida Sunshine project is a perfect example of the truth of that observation and give it substance. Through the efforts of many individuals and organizations here in south Florida some 500 to 600 wounded soldiers have been able to enjoy a few days in the pleasant, friendly atmosphere of Miami and Miami Beach. They were accommodated in the hotels and motels, entertained in your homes, guests at luncheon and dinner parties, shows, athletic events, and many other activities too numerous to mention.

The benefits derived from these trips are immeasurable—especially in terms of the morale boosts. This was your way of saying to these groups of wounded GI's "We appreciate what you have done for America."

I often think as I'm sure you do also, of another group of Americans, many of whom are wounded and who can't be reached directly by this project. I refer to our prisoners of war and missing in action in Southeast Asia. I say they aren't *directly* affected by this project but I believe that indirectly and in a very meaningful way they are. I'm convinced that the greatest assist the American people at home can give those fellow Americans is through a show of appreciation, support, unity of purpose, and most of all the will to keep our nation's commitments to its own sons and to fellow nations.

And so as I view it, the effect of your efforts go well beyond the soldiers you've hosted and entertained here.

With the sharp decline in ground fighting for our soldiers in Southeast Asia, there has been a corresponding decline in the number of wounded patients in our hospitals. At present we don't have enough wounded soldiers in hospitals in the Third Army Area to fully support the program. I'm pleased to note that the steering committee is still functioning and that the project has been expanded to include military representatives from the other services. I understand that through their efforts a contingency of wounded servicemen from Valley Forge General Hospital will be arriving the last weekend of this month for 5 days of sun and fun in Florida.

In a few months I will retire from active service and step down from the position of commander of Third Army. And I will look back over the last 3 years that I have been in command here and view them as among the most satisfying of my 35 years in uniform. For here in the southeast I have found more people with an appreciation of the fundamental problems we face as a people, and who are willing to give of themselves to solve these problems.

I would like to close this evening by reading to you a Freedoms Foundations award winning paper for 1971. The paper was written by U.S. Air Force Capt. Arthur L. Barnes and is entitled, "What is an American."—Because I know that you are Americans.

WHAT IS AN AMERICAN

If one can look at America's tall, snow capped mountains and realize that she is beautiful, and see her miles upon miles of waving fields of grain and realize that she is fruitful, and watch her mighty rivers flowing to the sea and realize that she is powerful, then He is An American.

If one can look at America's vast, dry wilderness and know that she is harsh, and walk through her lush, green forests and know that she is wild, and observe her soggy, damp swamps and know that she is full of adventure, then He is An American.

If one can gaze at America's towering skyscrapers and know that she is progressive, and watch her men walking on the moon and know that she is constantly seeking knowledge, and watch machines probing into her abundant natural resources beneath the earth and know that she is rich, then He is An American.

If one stands a little taller when he hears her National Anthem, and senses a thrill when he sees her flag waving in the gentle breeze, and realizes her freedom when he watches her great bald eagles winging silently in space, then He is An American.

If one can be proud when she is faithful, and hurt when she has been wronged, and fearful when she is restless and violent, then He is An American.

If one is willing to speak in her behalf when she has been criticized, and willing to fight for her when she has been threatened, and willing to die for her if she calls him to her aid, then He is An American.

If one can watch her long, straight lines of men in uniform and know that she is strong, and watch her gather the world's needy to her bosom and know that she is compassionate, and observe her courts in process and know that she is just, then He is An American.

If one can speak one's thoughts without fear of punishment, and write one's ideas for the whole world to read, and simply be allowed to be one's self without fear or criticism from others, then He is An American.

If one can sing when America sings and shout when she shouts, and laugh when she laughs, and pray when she prays, and struggle when she struggles, and cry when she cries, then He is An American.

The people who have given of themselves, their time and money since the inception of Florida Sunshine in November of 1967, and are still carrying on that good work—these are Americans.

Thank you.

POLISH CONSTITUTION DAY

(Mr. RYAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, today people of Polish descent all over the world commemorate the 181st anniversary of the Polish Constitution of 1791. This Constitution converted Poland into a hereditary limited monarchy with ministerial responsibility, and provided for biennial meetings of Parliament. Much of the obstructive machinery of the old system of government was forever abolished, and Polish towns, in a special bill confirmed by the new Constitution, received full judicial and administrative autonomy, as well as a measure of parliamentary representation.

The adoption of the Constitution not only marked Poland's first step toward a constitutional democracy, but also led to other changes for the citizens of Poland. The possession of land and access to public office, once special privileges of the gentry, were thrown open to the townsmen. The peasants were placed under the protection of the law, and their serfdom was mitigated with a view toward its eventual abolition. Absolute religious toleration was established, and provision was made for further periodical reforms by subsequent Parliaments.

The absolutists regimes of Russia, Germany, and Austria, however, would not allow this new liberalism to flourish, and in 1795 these three countries invaded Poland and subsequently partitioned her. The history of Poland documents the long struggle of the Polish people for freedom and independence in the face of numerous invasions and harsh foreign dictatorships. They are still fighting to regain their natural rights and liberties which today are being denied them by a Communist government that functions in the shadow of the Soviet Union.

Polish citizens have been prominent in the causes of other nations and have aided many countries to achieve independence. The friendship of the people of the United States for the people of Poland has its roots in our own Revolutionary War days and has been strengthened through the years by the many valuable contributions made by Polish immigrants to America.

The ideals of local government and judicial autonomy, of private ownership and free enterprise, of religious freedom and unrestricted access to public office, are still cherished by the people of Poland. These are the concepts of government which the Polish people first wrote into their Constitution on May 3, 1791, and to which they have aspired ever since. I think it only fitting that on Polish Constitution Day we salute these brave people who have kept alive their dream of a free society and who continue to long for the day when Poland will once again be numbered among the free nations of the world.

NADERISM

(Mr. BROYHILL of Virginia asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BROYHILL of Virginia. Mr. Speaker, on Wednesday, April 19, the gentleman from Ohio, (Mr. Devine) was kind enough to place notice in the Record concerning the latest publicity gimmick of Ralph Nader which involves an investigation of Congress. The endeavor consisted of sending volunteer interviewers to congressional offices to ask a huge list of questions.

Because the significance of Mr. Devine's warning was not clear, I lost many hours of staff time and 4 hours from the busy day of our 10th district Republican chairman, all for a purpose that hardly warrants 10 minutes time from a file clerk. Further, the interviewer is still calling to request the waste of a large amount of my personal time.

I am taking this means to add emphasis to Mr. Devine's notice and to state the significance bluntly. Members who are lured into serving as pawns in Nader's game will suffer a great imposition to provide a benefit for one person: Nader.

I can assure the Members that this investigation of Congress is actually an investigation purely for purposes of publicizing Ralph Nader.

As my colleagues know, the close proximity of my district to Washington makes my office one of the busiest, if not the very busiest, on Capitol Hill. My administrative assistant, who sees an average of 20 constituents daily, and talks to more than a hundred by telephone, in addition to managing my office and seeing to it that constituent services are provided, set an appointment for one of Nader's interviewers not knowing that he would be expected to answer more than 100 detailed questions. He said the questions were overly simplified and often ridiculous, indicating a total absence of information on the part of the interviewer or whoever prepared them about the simple basic operation of a congressional office. In short, he felt he had wasted 2 hours of costly time without providing the interviewer with information which would be essential to anyone seeking to evaluate the operation of a congressional office. Further, he said most of the questions were unrelated to office functions and showed obvious bias against any office holder.

Next, Nader's people contacted the 10th district Republican chairman, Mr. William Stanhagen. Mr. Stanhagen's experience is described in his own words in an article in the Northern Virginia Sun dated April 21, 1972.

Might I point out that Bill Stanhagen is a successful and busy attorney who holds office as 10th district Republican chairman at sacrifice to himself in both time and money because he believes in representative government and feels he should contribute to it. He has always been willing to make time to discuss the 10th district Republican organization and its candidates with anyone seeking information. I have never known him to be ruffled or visibly annoyed with those seeking information from him. His description of the visit of one of Nader's presumptuous investigators is, therefore, fair and unbiased, and deserving of the careful attention of all my colleagues.

According to Nader's instructions to interviewers, each person interviewed is to be told that information he gives does not preempt a later interview with the Member himself. Unless some of our colleagues have nothing to do for a day or so, I do not see how they can possibly give this group the time they demand to satisfy their egos, particularly when they can show no credentials proving them either worthy or able to evaluate the Congress of the United States.

For my own part, I do not intend to deny my constituents the hours of my time I should devote to their problems in order to respond to hundreds of questions from self-styled experts bent on building up the reputation of their organization and accomplishing whatever political programs or objectives they may now have in mind.

Under leave to extend my remarks I insert the text of the Northern Virginia Sun article at this point in the Record:

NADERISM

(By William H. Stanhagen)

I think "Naderism" has gone full circle, or at least is fast on its way there.

While at first providing a much-needed focal point for consumerism, Nader's organization now has become as bureaucratic and, in his words, "inhuman," as many of the institutions he is challenging.

I received a call about three weeks ago from a "researcher" from "Ralph Nader's Congress Project." He wanted to see me for about three hours, he said, but couldn't do so until Friday, April 14, at 10 a.m. When I asked him what on earth he needed three hours for, he said he had a long series (I forget the number, but in excess of 100) of questions to ask me in my capacity as chairman of the 10th Congressional District Republican Committee. Fridays are tough days for me and I would like to have scheduled the three hours—which turned out to be four—on another day. Nothing doing. It had to be Friday.

In a further effort to save time, I suggested that he send me the questionnaire so that I could answer the routine questions at my convenience, or at less inconvenience. "No way." His words.

When the young man arrived in my office, he announced that he had already been to see my counterpart in the Democrat party. They were studying the 1970 elections, so this meant he had already seen Gus Johnson. He further announced that his report was due the following Monday. In other words, unfair questions are asked orally, with answers required without an independent record being made.

An inexperienced reporter sets the answers down and reports on them. Then a study is put together and the press has a field day with innuendo, half-truths and the like. I also was concerned about the number of questions asking me what I thought of Harold O. Miller. What the hell difference does that make? Or for that matter, what difference does it make what Miller thinks of Broyhill, or me? If Nader wants facts, then he should go to the record. Why ask opinions? Obviously, he doesn't want facts—opinions are more fun.

Every dog has his day, and it is well known that many ideas have their day. Sometimes, an idea is so past due, so loaded with current meaning, so timely and even so needed, that, in a phrase, its "day" has arrived, Consumerism is one of those ideas. And its day has indeed arrived.

Throughout history, opportunistic individuals have ridden an idea that has arrived, to the pinnacles of glory. Nader is riding consumerism for all it's worth. His reputation of aestheticism confuses the issue. One does not have to be materialistic to be glory mad. If my experience with Naderism is a typical one, he has grown too big for his britches, and his organization has become like those he criticizes—callous and "inhuman."

No one is a stronger advocate of fair campaign practices than I, and no one could be more in favor of a study aimed at upgrading campaign practices and procedures and making Congress more effective and responsive. But precious few questions were asked that, in my opinion, were directed at anything other than headlines.

I thought then, and think now, that it was curious he had seen all the Democrats first. One wonders what instructions were given him. As the question and answer game progressed, it became clear that many, if not most, of the questions were elementary and could easily have been answered ahead of time, as I had expected. When I referred to my original request to have the questionnaire sent ahead of the questioner, and pointed out that most of the questions lent themselves to that approach, he said that was not possible as they wanted oral, spontaneous, off-the-cuff comments. Obviously, I thought to myself, to trip the individual being questioned into something inimical to his best interest, or that of the Congressman. In fact, many of the questions were structured in a fashion to elicit an answer that more often than not would give a less than complimentary impression of Congress and the individual Congressman. Indeed, it was impossible to answer some of the questions in a way that was fair to Congress as an institution or to the individual congressman.

I was further chagrined by the fact that the researcher was obviously abbreviating what I said, and on several occasions, when I asked him to read back my answer, he had my words so jumbled up as to give not only an unfair, but an erroneous, answer.

Now don't get me wrong. I don't mind Congress being studied. There isn't an institution going that doesn't need an in-depth study once in a while. But I object to the way this one is being done. When one takes into account the undue publicity this particular study will receive when published, then the (as Ralph Nader would say) "inhumanity" of it is compounded.

I have a suggestion for Ralph Nader. Instead of coming at us with loaded questions and neophyte questioners, why not send experienced designers of polls to members of Congress and their District chairmen throughout the country, and ask us what questions ought to be asked. I have a few in mind. I wouldn't eliminate the question asked of me, "How much of your money comes from land speculating?" But I would add a question which wasn't asked of me, "How much of your money comes from unions?"

And I would leave those I had questioned with a copy of the questions. Here is why. I was asked "How many people worked in the 1970 Broyhill campaign." I gave a candid answer and then inadvertently noticed that the figure written down eliminated one zero, and my answer was set down as 10 percent of what I said! Now I could be wrong on this. I could have read it wrong and it might be corrected on the final reporting, but anyone who handles questionnaires knows full well that the best way to get error is to ask a question orally, get an oral answer and write it down without allowing the person questioned to review what was said, in its written form.

In the words of Ralph Nader, the whole experience was inhuman.

RUMSFELD EXPANDS PARKINSON'S LAW: NUMBER OF FIRMS CONTROLLED DECREASED; GOVERNMENT EMPLOYEES INCREASED

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, on May 1, Donald Rumsfeld, Chairman of the Cost of Living Council announced a major departure from the administration's wage and price control policy. Chairman Rumsfeld announced the exemption from regulations for small businesses and their employees affecting companies with 60 or fewer employees. The reason given: too much redtape involved. Naturally, the argument was dressed up and a short story was made long, but the fact remains that the administration is finding it difficult to control everything in this diverse country of ours. Perhaps this augers well for the future and the American economy will soon be unleased from the dead hand of governmental interference with free enterprise, but that is a separate story.

The real point of this statement Mr. Speaker is to point out that while the number of firms to be controlled by the Government is decreased, the Price Commission and the Pay Board are to have more employees to meet this reduced work load.

Tucked away on page 8 of the 9-page statement, Mr. Rumsfeld says that Price Commission will increase its staff from 445 to 595, or a 33-percent increase and the Pay Board will expand its staff from 137 to 174, or a 27-percent increase.

It appears that the Cost of Living Council has inflated Parkinson's Law—"work expands to fill time available"—by well over the 5.5 percent guidelines it established for the rest of the country.

MOORHEAD URGES POSTPONEMENT OF EFFECTIVE DATE OF NEW PRESIDENTIAL EXECUTIVE ORDER ON SECURITY CLASSIFICATION SYSTEM

(Mr. MOORHEAD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOORHEAD. Mr. Speaker, when news of the draft of the administration's new security classification Executive order was leaked to the press last February, I took the floor of the House of Representatives to urge the President not to play politics with truly vital defense secrets by prematurely issuing an Executive order without adequate time for consideration, review, and reflection. At the same time, I formally requested the White House to make available to our subcommittee a copy of the draft of the new order so that our Members and staff experienced in this field could make constructive suggestions. This request was refused and the new order was issued shortly thereafter on March 8.

On March 21, I placed into the CONGRESSIONAL RECORD a detailed, section-by-section comparative analysis of the existing and proposed new Executive order that revealed what we believe to be massive technical defects and major loopholes that will make the new order dangerous and unworkable. I have invited rebuttal from Mr. Young of the National Security Council and other architects of the order from the executive branch to the subcommittee analysis to show us where we are mistaken in our interpretation of the new order. Mr. Young has not been permited to testify. Defense and State Department witnesses yesterday did not address themselves in rebuttal to the specific defects we have pinpointed in the new order.

But, another serious problem was also raised at the hearings yesterday. The subcommittee learned from Mr. J. Fred Buzhardt, General Counsel of the Defense Department, and from Mr. William D. Blair, Assistant Secretary of State, that the National Security Council has not yet issued its guideline directive to departments and agencies affected by the new Executive order. This is despite the fact that the new order is to take effect on June 1, less than 28 days from now. No departmental or agency directives or regulations can be written until such guidelines are received. Even after they are drafted, they must be reviewed, cleared, printed, promulgated, and physically delivered to U.S. military and diplomatic stations in the far-off corners of the globe. Moreover, since the new order differs greatly from the old in some respects, extensive familiarization and training of personnel will be required to make it fully effective in safeguarding the legitimate security interests of our national defense and foreign policy.

Mr. Speaker, I am, therefore, calling on the President of the United States to indefinitely suspend the effective date of the new Executive order. Its inherent defects and the lack of time to fully implement it make it imperative that he act promptly to prevent further chaotic conditions that could adversely affect our national defense and foreign policy.

While the existing Executive Order 10501, governing the security classification system is far less than perfect, it has been in effect since 1953. The hasty, ill-conceived replacement classification system provided for in the new Executive order is not the answer. The delay in the effective date of any new system would be a rational approach and in the national interest.

Mr. Speaker, this delay will also give the Congress adequate opportunity to consider a statutory alternative to the Executive order approach in this vital area of security classification which we all agree is necessary to protect our national defense and foreign policy interests. I will introduce such a bill in the near future and expect that many of my colleagues in the House will join me as cosponsors.

LETTUCE BOYCOTT

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, yesterday in Los Angeles Cesar Chavez announced that United Farm Workers would begin another nationwide boycott of lettuce growers in an effort to obtain collectively bargained contracts for our Nations' farm lettuce workers.

That is an attempt to preserve human decency and dignity. Farm laborers in this country, who are subjected to the most inhumane working and living conditions, must confront hazardous pesticides in the fields, poor field sanitation, and wages far below those earned by statutory workers covered by the Labor-Management Relations Act. Agriculture is exempt from the State-Federal unemployment insurance system; only a minority of farmworkers are covered by social security and agricultural laborers are still excluded from the maximum hours provision of the Fair Labor Standards Act.

The Counsel to the NLRB filed an injunction in March to enjoin the United Farm Workers' secondary boycotting of retail wine merchants, although the NLRB is not authorized to take such action against an agricultural labor union, as stipulated in Public Law 92-80. But they did, ignoring a 37-year-old policy which specifically excluded farm labor from the secondary boycott proscription, as well as every other provision, of the NLRB.

Although a Defense Department regulation states that "military departments shall remain impartial in, and refrain from taking a position on the merits of, any labor dispute," during the Delano grape strike, and the lettuce boycott of 1970-71, the Pentagon purchased excessive quantities of grapes and lettuce.

My bill, H.R. 1659, which I introduced in January 1971, to limit the excessive procurement by the Department of Defense of lettuce produced by growers not affiliated with the United Farm Workers Organizing Committee, is still pending, and I shall continue to press for its adoption so that the Department of Defense will understand that any repeat of last years' actions, with regard to the new lettuce boycott, will meet substantial congressional opposition.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. Griffiths (at the request of Mr. Boggs), for May 3 and 4, on account of official business.

Mr. Aspinall, from 4 p.m. May 4 until 4 p.m. May 9, on account of official business.

Mr. Byrne of Pennsylvania (at the request of Mr. Moss), for May 3 and 4, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Pucinski for 60 minutes, today; to revise and extend his remarks and to include extraneous matter on Polish Constitution Day.

(The following Members (at the request of Mr. Sebelius) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. Hogan, for 1 hour, today.

Mr. Kemp, for 10 minutes, today.

Mr. Frelinghuysen, for 5 minutes, today.

Mr. J. William Stanton, for 5 minutes, today.

Mr. Halpern, for 5 minutes, today.

(The following Members (at the request of Mr. Denholm), to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez, for 10 minutes, today.

Mr. Danielson, for 5 minutes, today.

Mr. Reuss, for 10 minutes, today.

Mr. Cotter, for 5 minutes, today.

Mr. Aspin, for 20 minutes, today.

Mr. O'Neill, for 15 minutes, today.

Mr. Randall, for 60 minutes, on May 8.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Bolling, and to include extraneous material.

Mr. Ryan to follow Mr. Koch's 1 minute speech.

Mr. Pickle in the Committee of the Whole today on H.R. 13591.

Mr. Gerald R. Ford, today, in the Committee of the Whole on the bill H.R. 13591, immediately following the remarks of Mr. Vander Jagt.

Mr. Rousselot following the remarks of Mr. Kyl on H.R. 13089.

Mr. Price of Illinois and to insert a letter with his remarks during general debate on H.R. 14655.

Mr. Holifield and to include pertinent material in his remarks on H.R. 14655.

All Members (at the request of Mr. Drinan) 5 legislative days to revise and extend their remarks and include extraneous matter on the subject of the special order of Mr. Pucinski, today.

(The following Members (at the request of Mr. Sebelius) and to include extraneous material:)

Mr. Heinz.

Mr. Burke of Florida.

Mr. Erlenborn in four instances.

Mr. Hosmer in three instances.

Mr. Hunt.

Mr. Terry in two instances.

Mr. Quillen.

Mr. Whalley.

Mr. Hall.

Mr. Kemp in two instances.

Mr. Carter.

Mr. Frelinghuysen.

Mr. Schwengel in three instances.

Mr. Derwinski.

Mr. Pelly.

Mr. Shriver in two instances.

Mr. Frenzel.

Mr. Lujan.

Mr. Brown of Ohio in two instances.

Mr. Wyman in two instances.

Mr. Broomfield.

Mr. Bob Wilson in two instances.

Mr. Conte.

Mr. J. William Stanton.

Mr. Lloyd.

Mr. Halpern.

Mr. Spence.

Mr. Whitehurst.

Mr. Bell.

Mr. Ware.

(The following Members (at the request of Mr. Denholm) and to include extraneous matter:)

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Rogers in five instances.

Mr. Hagan in three instances.

Mrs. Hicks of Massachusetts in two instances.

Mr. Begich in five instances.

Mr. Annunzio in six instances.

Mr. Helstoski in 10 instances.

Mr. St Germain.

Mr. Hamilton.

Mr. Hungate in six instances.

Mr. Pucinski in six instances.

Mr. Corman in 10 instances.

Mr. Bergland in three instances.

Mr. Wolff in five instances.

Mr. Downing.

Mr. Mathis of Georgia.

Mr. Mollohan.

Mr. Donohue.

Mr. Mahon.

Mr. Roy in two instances.

Mr. Reid in two instances.

Mr. Harrington in two instances.

Mr. Waldie in six instances.

Mr. Hawkins in three instances.

Mr. Evins of Tennessee in two instances.

Mr. Biaggi in 10 instances.

Mr. Mikva in eight instances.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 11589. An act to authorize the foreign sale of certain passenger vessels.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2743. An act to establish a working capital fund for the Bureau of Land Management of the Department of the Interior, and for other purposes; to the Committee on Interior and Insular affairs.

ADJOURNMENT

Mr. DRINAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 1 minute p.m.) the House adjourned until tomorrow, Thursday, May 4, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1923. A letter from the Assistant Secretary of Defense (Comptroller), transmitting certification that no use was made of funds appropriated in the Department of Defense Appropriation Act, 1972, or the Military Construction Appropriation Act, 1972, during the 6 months ended December 31, 1971, to make payments under contracts for any program, project, or activity in a foreign country except where it was determined that the use of currencies of such country was not feasible because the Treasury Department was not holding excess foreign currencies in the country involved; to the Committee on Appropriations.

1924. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the total amount of assistance-related expenditures for Laos for the first two quarters of fiscal year 1972, pursuant to section 505(f) of Public Law 92-156; to the Committee on Armed Services.

1925. A letter from the Assistant Secretary of State for Congressional Relations, transmitting copies of Presidential Determination 72-13 that overriding requirements of the national security of the United States justify the waiver of the ceiling on military assistance and sales to Latin America for fiscal year 1972, pursuant to section 339(c) of the Foreign Military Sales Act, as amended; to the Committee on Foreign Affairs.

1926. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with the Perkin-Elmer Corp., Pomona, Calif., for a research project entitled "Development of an Optical Carbon Monoxide Detector System," pursuant to Public Law 89-672; to the Committee on Interior and Insular Affairs.

1927. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of March 31, 1972, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

1928. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report on educational practices affecting Mexican-Americans in the Southwest, pursuant to Public Law 85-315; to the Committee on the Judiciary.

1929. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality

Act, as amended; to the Committee on the Judiciary.

1930. A letter from the Administrator, Environmental Protection Agency, transmitting the fifth annual report on the national requirements and costs of water pollution control, pursuant to section 26(a) of the Federal Water Pollution Control Act, as amended; to the Committee on Public Works.

1931. A letter from the Secretary of Labor, a report on experience under the Emergency Unemployment Compensation Act of 1971 during the period January 30 to March 25, 1972, pursuant to section 206 of the act; to the Committee on Ways and Means.

RECEIVED FROM THE COMPTROLLER GENERAL

1932. A letter from the Comptroller General of the United States, transmitting certification that all funds previously appropriated and thereafter impounded during fiscal year 1971 for programs and activities administered by or under the direction of the Department of Agriculture, the Department of Housing and Urban Development, and the Department of Health, Education, and Welfare have been released for obligation and expenditure, pursuant to section 658 of the Foreign Assistance Act of 1971; to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE of Illinois: Committee on Standards of Official Conduct. House Resolution 933. Resolution expressing the sense of the House of Representatives with respect to actions which should be taken by Members of the House upon being convicted of certain crimes, and for other purposes; (Rept. No. 92–1039). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 956. Resolution providing for the consideration of H.R. 13918, a bill to provide for improved financing for the Corporation for Public Broadcasting, and for other purposes; with amendment (Rept. No. 92–1040). Referred to the House Calendar.

Mr. COLMER: Committee on Rules. House Resolution 957. Resolution providing for the consideration of H.R. 4383, a bill to authorize the Office of Management and Budget to establish a system governing the creation and operation of advisory committees throughout the Federal Government which are created to advise officers and agencies of the Federal Government; with amendment (Rept. No. 92–1041). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 958. Resolution providing for the consideration of H.R. 6788, a bill to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the Act of December 31, 1970, and for other purposes; with amendment (Rept. No. 92–1042). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 959. Resolution providing for the consideration of H.R. 11627, a bill to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes; with amendment (Rept. No. 92–1043). Referred to the House Calendar.

Mr. COLMER: Committee on Rules. House Resolution 960. Resolution providing for the consideration of House Joint Resolution 55. Joint Resolution proposing the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the U.S. Navy; with amendment (Rept. No. 92–1044). Referred to the House Calendar.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 14718. A bill to provide public assistance to mass transit bus companies in the District of Columbia, and for other purposes; with amendments (Rept. No. 92–1045). Referred to the Committee of the Whole House on the State of Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADAMS:

H.R. 14723. A bill to amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM:

H.R. 14724. A bill to amend title 5, United States Code, to include as creditable service under the civil service retirement system certain additional service performed on a temporary or indefinite basis by employees in regular positions covered by such system, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 14725. A bill to provide relief to certain individuals 60 years of age and over who own or rent their homes, through income tax credits and refunds; to the Committee on Ways and Means.

By Mr. CELLER:

H.R. 14726. A bill to amend the act of May 11, 1954 (ch. 199, sec. 1, 68 Stat. 81; 41 (U.S.C. 321), to provide for full adjudication of rights of Government contractors in courts of law; to the Committee on the Judiciary.

By Mr. CURLIN:

H.R. 14727. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

By Mr. FRASER:

H.R. 14728. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning women, and for other related educational purposes; to the Committee on Education and Labor.

H.R. 14729. A bill to provide for the establishment of an Older Workers Conservation Corps, and for other purposes; to the Committee on Education and Labor.

By Mr. GARMATZ (for himself, Mr. DINGELL, Mr. PELLY, Mr. KARTH, Mr. MAILLIARD, Mr. NEDZI, Mr. GOODLING, Mr. MOSS, Mr. CONTE, Mr. LEGGETT, Mr. MCCLOSKEY, Mr. ANDERSON of California, Mr. STEELE, Mr. KYROS, Mr. FORSYTHE, Mr. TIERNAN, Mr. METCALFE, and Mr. HANNA):

H.R. 14730. A bill to provide protection for the fish resources of the United States including the freshwater and marine fish cultural industries against the introduction and dissemination of diseases of fish and shellfish, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. GARMATZ (for himself, Mr. SAYLOR, Mr. OBEY, Mr. DON H. CLAUSEN, Mr. EDWARDS of California, Mr. FREY, Mr. HANNA, Mr. KARTH, Mr. LENT, Mr. O'HARA, Mr. DINGELL, Mr. PELLY, Mr. DOWNING, Mr. MAILLIARD, Mr. LEGGETT, Mr. GOODLING, Mr. BIAGGI, Mr. MCCLOSKEY, Mr. MCDONALD of Michigan, Mr. ANDERSON of California, Mr. RUPPE, Mr. KYROS, Mr. FORSYTHE, Mr. TIERNAN and Mr. METCALFE):

H.R. 14731. A bill to amend the Fish and Wildlife Act of 1956 in order to provide for the effective enforcement of the provisions therein prohibiting the shooting at birds, fish and other animals from aircraft; to the Committee on Merchant Marine and Fisheries.

By Mr. GUDE:

H.R. 14732. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. HALPERN:

H.R. 14733. A bill to amend title 38, United States Code, to permit eligible persons training under chapter 35 to pursue programs of education at certain educational insititutions outside the United States; to the Committee on Veterans' Affairs.

By Mr. HAYS:

H.R. 14734. A bill to authorize appropriations for the Department of State and for the U.S. Information Agency; to the Committee on Foreign Affairs.

By Mrs. HICKS of Massachusetts:

H.R. 14735. A bill to establish National Centers for Spinal Cord Injuries; to the Committee on Interstate and Foreign Commerce.

H.R. 14736. A bill to amend title 38, United States Code, to increase the rates of compensation for disabled veterans, to make peacetime compensation rates equal to wartime rates, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 14737. A bill to amend chapter 15 of title 38, United States Code, to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations; to provide for such veterans a certain priority in entitlement to hospitalization and medical care; and for other purposes; to the Committee on Veterans' Affairs.

H.R. 14738. A bill to amend the Internal Revenue Code of 1954 to provide tax relief for homeowners; to the Committee on Ways and Means.

By Mr. HOGAN:

H.R. 14739. A bill to name the new Federal Bureau of Investigation building the "J. Edgar Hoover Building"; to the Committee on Public Works.

By Mr. JARMAN (by request).

H.R. 14740. A bill to amend the act of September 7, 1957, authorizing aircraft loan guarantee, in order to expand the program pursuant to such act; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH (for himself, Mr. BADILLO, Mr. CONYERS, Mr. DELLUMS, Mr. EDWARDS of California, Mr. HALPERN, Mr. MITCHELL, Mr. RANGEL, Mr. ROSENTHAL, and Mr. SCHEUER):

H.R. 14741. A bill to amend certain provisions of the Controlled Substances Act relating to marihuana; to the Committee on Interstate and Foreign Commerce.

By Mr. MONTGOMERY (for himself, Mr. TEAGUE of Texas, Mr. TEAGUE of California, Mrs. HICKS of Massachusetts, Mrs. GRASSO, Mr. ZWACH, Mr. SAYLOR, Mr. WYLIE, Mr. CARNEY, Mr. DORN, Mr. DULSKI, Mr. HALEY, Mr. HAMMERSCHMIDT, Mrs. HECKLER of Massachusetts, Mr. HELSTOSKI, Mr. HILLIS, Mr. KYROS, Mr. PUCINSKI, Mr. ROBERTS, Mr. RUTH, Mr. SATTERFIELD, Mr. SCOTT, Mr. WINN and Mr. WOLFF):

H.R. 14742. A bill to amend title 38, United States Code, to encourage persons to join and remain in the Reserves and National Guard by providing full-time coverage under servicemen's group life insurance for such members and certain members of the Retired Reserve up to age 60; to the Committee on Veterans' Affairs.

By Mr. PERKINS:

H.R. 14743. A bill to provide for the addition of approximately 4,000 acres of land to the Kehoe Lake project on Little Sandy River and Tygarts Creek, Ky.; to the Committee on Public Works.

H.R. 14744. A bill to provide for the conversion of dam No. 3 on the Big Sandy River in Kentucky to a fixed-type structure, and the repair of the same, in the interest of water supply and other benefits to local interests; to the Committee on Public Works.

By Mr. REID:

H.R. 14745. A bill to amend the Internal Revenue Code of 1954, as amended, to allow a deduction to tenants of houses, apartments, or other dwelling units used as their principal residence; to the Committee on Ways and Means.

By Mr. RHODES (for himself and Mr. Steiger of Arizona):

H.R. 14746. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law-enforcement officers' grievances and to establish a law-enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

By Mr. ROSENTHAL:

H.R. 14747. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, in any manner affecting interstate or foreign commerce, and the possession of handguns, except for or by members of the Armed Forces, law-enforcement officials, and as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and pistol clubs; to the Committee on the Judiciary.

By Mr. SHRIVER:

H.R. 14748. A bill to authorize the President, through the temporary Vietnam Children's Care Agency, to enter into arrangements with the Government of South Vietnam to provide assistance in improving the welfare of children in South Vietnam and to facilitate the adoption of orphaned or abandoned Vietnamese children, particularly children of U.S. fathers; to the Committee on Foreign Affairs.

By Mr. STAGGERS:

H.R. 14749. A bill to amend the Railroad Retirement Act of 1937 to increase annuities and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SYMINGTON:

H.R. 14750. A bill to give effect to the sixth amendment right to a speedy trial for persons charged with offenses against the United States, and to reduce the danger of recidivism by strengthening the supervision over persons released on bail, probation, or parole, and for other purposes; to the Committee on the Judiciary.

By Mr. TEAGUE of California:

H.R. 14751. A bill to amend the Federal Aviation Act of 1958 so as to limit the power of the Secretary of Transportation to delegate his authority to examine medical qualifications of airmen; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE of Texas (for himself, Mr. Teague of California, Mr. Carney, Mr. Dorn, Mr. Dulski, Mrs. Grasso, Mr. Haley, Mr. Hammerschmidt, Mrs. Heckler of Massachusetts, Mr. Helstoski, Mrs. Hicks of Massachusetts, Mr. Hillis, Mr. Kyros, Mr. Montgomery, Mr. Pucinski, Mr. Roberts, Mr. Ruth, Mr. Satterfield, Mr. Saylor, Mr. Scott, Mr. Winn, Mr. Wolff, Mr. Wylie, and Mr. Zwach):

H.R. 14752. A bill to provide for the conversion of Servicemen's Group Life Insurance to Veterans' Group Life Insurance, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. TERRY:

H.R. 14753. A bill to name the new Federal Bureau of Investigation building the "J. Edgar Hoover Building"; to the Committee on Public Works.

By Mr. THOMPSON of New Jersey:

H.R. 14754. A bill to amend section 518 of the National Housing Act to broaden and improve the existing authority of the Secretary of Housing and Urban Development to protect homebuyers by correcting or compensating for substantial defects in mortgaged homes; to the Committee on Banking and Currency.

H.R. 14755. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMSON of Wisconsin:

H.R. 14756. A bill to amend the Rural Electrification Act of 1936, as amended, to enhance the ability of the Rural Telephone Bank to obtain funds for the supplementary financing program on favorable terms and conditions; to the Committee on Agriculture.

By Mr. THONE:

H.R. 14757. A bill to amend title 23 of the United States Code to authorize a demonstration project for the relocation of certain railroad facilities; to the Committee on Public Works.

By Mr. WYATT:

H.R. 14758. A bill to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes; to the Committee on Agriculture.

By Mr. BLATNIK (for himself and Mr. Harsha) (by request):

H.R. 14759. A bill to authorize appropriations for the construction of certain highways and public mass transportation facilities in accordance with title 23 of the United States Code, to establish an urban transportation program, and for other purposes; to the Committee on Public Works.

H.R. 14760. A bill to amend the Highway Safety Act of 1966, title 23, United States Code, section 401 et seq.; to the Committee on Public Works.

By Mr. BLACKBURN:

H.R. 14761. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. CELLER (for himself and Mr. Mikva):

H.R. 14762. A bill to amend title 18 of the United States Code to protect more fully certain constitutional rights; to the Committee on the Judiciary.

By Mr. DOW (for himself, Mrs. Abzug, Mr. Badillo, Mr. Collins of Illinois, Mr. Frelinghuysen, Mr. Gallagher, Mrs. Grasso, Mr. Helstoski, Mr. Ryan, and Mr. Waldie):

H.R. 14763. A bill to amend the Federal Aviation Act of 1958 to prohibit the expenditure of Federal funds for certain airport development projects unless the Secretary of Transportation certifies that there has been afforded the opportunity for public hearings to consider the economic, social, and environmental effects of such development and its consistency with local planning, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DRINAN (for himself and Mr. Seiberling):

H.R. 14764. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. EVINS of Tennessee:

H.R. 14765. A bill to authorize the establishment of the Big South Fork National River and Recreation Area in the States of Kentucky and Tennessee, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GIAIMO:

H.R. 14766. A bill to amend title 18 of the United States Code to permit certain broadcasts and mailings of advertisements of State-operated lotteries; to the Committee on the Judiciary.

H.R. 14767. A bill to amend title 39 of the United States Code to exempt State-operated lotteries from the group of enterprises with respect to which certain matter is nonmailable; to the Committee on Post Office and Civil Service.

By Mr. KEMP:

H.R. 14768. A bill to amend title 38, United States Code, to provide for the payment of tuition, subsistence, and educational assistance allowances on behalf of or to certain eligible veterans pursuing programs of education under chapter 34 of such title, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MANN:

H.R. 14769. A bill to amend the Social Security Act to provide that medical records relating to an individual shall be made available to such individual upon his request if the physician or health facility involved consents to their disclosure; to the Committee on Ways and Means.

By Mr. PREYER of North Carolina:

H.R. 14770. A bill to amend the Transportation Act of 1940, as amended, to facilitate the payment of transportation charges; to the Committee on Interstate and Foreign Commerce.

By Mr. SAYLOR:

H.R. 14771. A bill to repeal chapter 44 of title 18, United States Code (relating to firearms), and to reenact the Federal Firearms Act; to the Committee on the Judiciary.

By Mr. WALDIE:

H.R. 14772. A bill to authorize Federal cost sharing in promoting public safety through the elimination of hazardous open canals by converting them to closed conduits and by fencing; to the Committee on Interior and Insular Affairs.

By Mr. HALPERN:

H.J. Res. 1184. Joint resolution designating May 1–7, 1973, as "National Bikecology Week"; to the Committee on the Judiciary.

By Mr. MONTGOMERY:

H.J. Res. 1185. Joint resolution designating the J. Edgar Hoover FBI Building; to the Committee on Public Works.

By Mr. SCHMITZ:

H.J. Res. 1186. Joint resolution proposing an amendment to the Constitution of the United States to insure that due process and equal protection are afforded to an individual from the moment that he is conceived; to the Committee on the Judiciary.

By Mr. STAGGERS (for himself, Mr. Byron, Mr. Blanton, Mr. Stuckey, Mr. Hastings, Mr. Denholm, Mr. Mathis of Georgia, Mr. Moss, Mr. Rooney of Pennsylvania, Mr. Sarbanes, Mr. Carney, Mr. Kyros, Mr. Long of Maryland, Mr. Yatron, Mr. Podell, Mr. Helstoski, Mr. Tiernan, Mr. Roy, and Mr. Thompson of Georgia):

H.J. Res. 1187. Joint resolution to suspend temporarily the authority of the Interstate Commerce Commission to permit the abandonment of a line of railroad or the operation thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. PODELL:

H. Con. Res. 601. Concurrent resolution expressing the sense of Congress that in the administration of Federal programs of assistance for drug abuse treatment programs priority should be given to those treatment programs which utilize mobile facilities; to the Committee on Interstate and Foreign Commerce.

By Mr. DEVINE:

H. Res. 961. Resolution to name the new Federal Bureau of Investigation building the "J. Edgar Hoover FBI Building"; to the Committee on Public Works.

By Mr. FINDLEY:

H. Res. 962. Resolution expressing the sense of the House to release rural electrification funds; to the Committee on Appropriations.

By Mr. HAYS (for himself and Mr. FUQUA):

H. Res. 963. Resolution providing for the withdrawal of U.S. forces from Indochina; to the Committee on Foreign Affairs.

By Mr. GRAY:

H. Res. 964. Resolution expressing the sense of the House of Representatives that the full amount appropriated for the rural electrification program for fiscal 1972 should be made available by the administration to carry out that program; to the Committee on Appropriations.

By Mr. PERKINS (for himself, Mr. THOMPSON of New Jersey, Mr. ASHBROOK, and Mr. ERLENBORN):

H. Res. 965. Resolution authorizing the Speaker to appoint delegates and alternates to attend the International Labor Organization Conference in Geneva; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

384. The SPEAKER presented a memorial of the House of Representatives of the State of Missouri, relative to the Federal Government making payments to counties on the land owned by them in the same ratio that the county collects taxes on similar privately owned land; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and several referred as follows:

By Mr. BROWN of Michigan:

H.R. 14773. A bill for the relief of Mrs. Terri McCullough; to the Committee on the Judiciary.

By Mr. BROWN of Michigan:

H.R. 14774. A bill for the relief of Jack Bradshaw, Jr.; to the Committee on the Judiciary.

By Mr. BURTON:

H.R. 14775. A bill for the relief of Hipolito Mangampat Resngit; to the Committee on the Judiciary.

By Mr. MACDONALD of Massachusetts:

H.R. 14776. A bill for the relief of Luis Francisco LiDonni; to the Committee on the Judiciary.

By Mr. MANN:

H.R. 14777. A bill for the relief of Maude Cantrell; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

224. The SPEAKER presented a petition of the city council, East Lansing, Mich., relative to the war in Southeast Asia; to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

HONORING EDWARD J. DALY

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WALDIE. Mr. Speaker, today I am extremely pleased to recognize the splendid achievements of a good friend and constituent, Mr. Ed Daly of Orinda, Calif., who has been named the recipient of the 1972 Outstanding Citizens Honor Award presented by the Bay Area Friends of the National Jewish Hospital and Research Center.

This award is being given Mr. Daly for his outstanding accomplishments in assisting the Bay Area community's philanthropic organizations and educational institutions.

Ed Daly is chairman of the board and chief executive officer of World Airways, Inc., of Oakland, Calif.

Despite the time-consuming nature of those positions, Ed Daly has worked tirelessly to help those who need it.

He is a member of the advisory council of the San Francisco Area Council of Boy Scouts. He is a member and past chairman of the Board of Regents of the University of Santa Clara. He is also active in such organizations as Boys' Club, American Irish Foundation, United Negro College Fund and the Bay Area Council.

One of the most impressive of Ed Daly's accomplishments was his sponsorship and guidance of FIPCO, a minority-owned and managed aircraft service firm in Oakland. While many people express their concern for the problems of providing blacks with job and business opportunities, Mr. Daly used his resources and the resources of his company to do something very real about minority underemployment.

When the World Air Center, an aircraft maintenance base owned by World Airways, was completed, Ed Daly worked with the black community to establish FIPCO—which operates with the World Air Center as its principal customer.

FIPCO has progressed very well since its inception and an on-the-job training program is maintained at FIPCO to teach employees the skills that will permit them to qualify for technical positions at the Air Center itself.

In 1968, President Johnson appointed Ed Daly as the Oakland chairman on the National Alliance of Businessmen. This appointment has proved to be an enlightened one as Ed Daly has been reappointed to this position by President Nixon and now has the distinction of having served as a metropolitan chairman longer than any other chairman in the Nation.

The National Alliance has spearheaded a crucial program in the Oakland area called job opportunities in the business sector, or JOBS.

JOBS has been a very successful program in the Bay Area placing many who were considered unemployable into meaningful jobs. Much of the credit for JOBS' success is due Ed Daly.

Also in 1968, Mr. Daly was appointed by President Johnson to serve as one of 16 incorporators of the National Corporation for Housing Partnerships. This organization has as one of its goals the construction of an average of 600,000 housing units a year for low- and moderate-income families. The program provides for community participation in the planning of new projects and will provide jobs for the people in the area of construction. As with his reappointment to the chairmanship of the National Alliance of Businessmen, Mr. Daly was also reappointed to the National Corporation for Housing Partnerships by President Nixon.

Two Presidents and thousands of people throughout the Nation know Ed Daly's contributions to his community and his country. Thus, Mr. Speaker, I am delighted to honor this great man and recognize his latest achievement as recipient of the Outstanding Citizens Honor Award of 1972.

POLISH CONSTITUTION DAY

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, May 3, 1972

Mr. SCHWEIKER. Mr. President:

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty and good order of society, on an equal scale and on a lasting foundation.

Mr. President, those words are taken from the Constitution of the Polish People's Republic. Today, May 3, is Polish Constitution Day, and I would like to join with Polish-Americans throughout Pennsylvania and the Nation in commemorating the day, 201 years ago today, that the Polish Constitution was adopted.

Polish Constitution Day, 1972, is a special day for me because the burgeoning tide of ethnic pride in this country has given birth to two long-awaited legislative measures, both of which I am proud to sponsor. The first is S. 1973, the bill to make Philadelphia's Thaddeus Kosciuszko Home a National Historic Site, which passed the Senate March 28. Gen. Thaddeus Kosciuszko fought in the American Revolution and later returned to his native Poland to lead a revolution to secure freedom for his own people. After returning to the United States he gave the moneys awarded to him by Congress to the cause of freeing the slaves. I believe it is fitting to honor the memory of this great Polish-American patriot in this way.

The second measure that has met with success in recent months is S. 23, the Schweiker Ethnic Heritage Studies Act, which was approved by a Senate-House conference committee as a part of the Omnibus Higher Education Bill. The Ethnic Studies Act is intended to foster ethnic pride and ethnic identity throughout the Nation, and it has received considerable support from such organizations as the Polish-American Congress, and many, many others.

In addition to celebrating our accomplishments of the past year, we must also pause on Polish Constitution Day 1972 to rededicate ourselves to those courageous and freedom-loving Poles who remain in their native land. And let us always strive to live up to those principles upon which their nation was founded.

NEW PROGRAM FOR OCCUPATIONAL HEALTH

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. ASPIN. Mr. Speaker, Senator George McGovern yesterday announced an eight-point program to "guarantee the American worker's right to health and safety on the job".

The problem of occupational health and safety is one that is often shoved to the side by American public officials and industrial leaders. Every American worker has an absolute right to work in an environment that does not endanger his health and safety.

Senator McGovern's proposal entitled "To End Industrial Carnage" follows. I recommend it to my colleagues for their study:

To End Industrial Carnage

It is time we did something truly effective about the disgraceful conditions under which millions of Americans labor every day of their working lives.

Working men and women in this country are constantly exposed to the risk of death, injury and disease on the job. And each year they suffer a tragic toll in lost lives, limbs, health and hope.

Industrial accidents now take some 15,000 lives a year—more than twice as many as nonkinship murders.

90,000 men and women are permanently disabled at their jobs—rendered incapable of working or supporting their families.

About 25 million are injured badly enough to be forced off work for at least one day.

And a big part of the problem—industrial diseases—is not even calculated. We have no estimates of how many workers have their lives shortened by exposure to toxic fumes, chemicals and the like; how many are gradually losing their hearing from excessive and harmful noise; how many are more susceptible to disease of all kinds because of their working environment.

But we do have some indications.

It is estimated, for example, that between ten and twenty percent of all people who have been uranium miners will die during the next twenty years from radiation exposure.

Over half the deaths of insulation workers are attributable to asbestos, and three and one-half million workers are exposed to asbestos.

Soft coal miners die from respiratory disease at a rate five times greater than the general work force.

We have established environmental standards outside the plant, to protect our air and water from pollution. Those standards are virtually important for all of society, and for the survival of our plants.

Yet few consider that when we plug the industrial chimney, we often leave deadly fumes locked up inside where the worker is. As we protect our own well-being we tend to ignore, and often worsen, the situation of men and women inside our shops, plants, mills and mines.

And the Surgeon General has reported that new scientific knowledge "points to hitherto unsuspected cause and effect relationships between occupational exposures and many so-called chronic diseases, cancer, respiratory ailments, allergies, and heart disease."

This evidence hints at the senseless level of industrial carnage in America. It stands in sharp contradiction to descriptions of the United States as a modern and civilized society—as a society that really cares about the health, security and dignity of its people.

In this area as in others, the Nixon Administration's preeminent concern for the comfort and prosperity of big business has left the ordinary worker with few friends in high places.

With present staffing, it would take between 20 and 30 years to make just one inspection of all the worksites covered by the Occupational Safety and Health Act of 1970.

The substance of citations under the Act, and often the citations themselves, are frequently kept secret to avoid embarrassment for the offending company. OSHA inspectors have abandoned the practice of incorporating the results of their tests for toxic substances in their citation reports. Working people themselves usually have to fight hard to see the inspectors' reports—to find out what the government knows about their working conditions. And citations are rarely backed up with tough enforcement—with real inducements for industry to obey the law and to provide a decent working environment.

In short, while the Occupational Safety and Health Act promised a federal guarantee of job safety, timid enforcement and favoritism have left it a tool with no teeth. And the rate of industrial death, injury and diseases continue its steady climb.

The worker is neglected after the injury as well.

There is, for example, usually an upper limit on weekly workmen's compensation payments which sets the ceiling *below* the theoretical two-thirds compensation for lost income. And compensation is always limited to no more than a portion of lost wages plus medical expenses.

CONCLUSIONS AND RECOMMENDATIONS

The costs of unsafe and unhealthy working conditions are astronomical—in pain and wasted lives for workers, in compensation payments and lost time for industry, in welfare payments and depleted productivity for the nation as a whole. Decisive federal action is both justified and required.

The following steps, built around the Occupational Safety and Health Act of 1970, would provide a dramatic improvement in the capacity of the American worker to survive and stay healthy on the job.

(1) There should be a minimum of 8,000 federal inspectors working for the Occupational Safety and Health Administration, and their work should be supplemented by some 4,000 industrial hygienists. Trained to deal with the so-called "invisible" health threats.

(2) As a matter of right, workers and their representatives should have full, free and fast access to the complete results of federal inspections, including hazards not included in citations.

(3) Funds should be provided for industrial safety and health training in every state for the workers themselves, so they can serve as their own inspectors. This is especially important in smaller plants and in non-union plants. Training should include methods of compiling evidence on hazardous working conditions and a full understanding of workers' rights under the Occupational Safety and Health Act.

(4) New techniques for removing job accident and health hazards should be a major priority for public research funding, with the results available to all industries and workers.

(5) A new Occupational Standards Administration should be established to set safety standards both for working conditions and for the 6,000 to 12,000 chemicals which are in common industrial use. This agency would complete tests and set exposure standards before new substances could enter the production process.

(6) Federal health teams should concentrate on generally recognized target health areas such as silica in foundries, asbestos in glass factories and foundries, cotton dust in textile plants, carbon monoxide, and lead poison inhalation.

(7) Workmen's compensation rates for occupational injury and disease should be standardized, with the minimum set at no less than two-thirds of lost pay, plus full medical benefits.

(8) Workmen's compensation boards and the courts should be given authority to determine additional payments for non-wage losses caused by occupational trauma.

METROPOLITAN SCHOOL INTEGRATION AND THE BLACK EDUCATIONAL CRISIS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. HAWKINS. Mr. Speaker, I am pleased to submit for the Record a background paper on school integration in metropolitan areas by William L. Taylor, director of the Center for National Policy Review, School of Law, the Catholic University of America.

The paper was presented at the recent National Policy Conference on Education for Blacks in Arlington, Va., on March 29 to April 1, 1972.

The paper follows:

Metropolitan School Integration and the Black Educational Crisis

(By William L. Taylor)

INTRODUCTION

On January 5, 1972 Federal District Court Judge Robert R. Merhige ordered the merger of Richmond, Virginia's predominantly black school district with the predominantly white districts of two adjacent suburban counties, Henrico and Chesterfield. Several months earlier, a District Court Judge in Detroit had ordered Michigan state officials to submit by February, 1972 a plan of desegregation for the Detroit metropolitan area.

Similar cases are pending in Indianapolis, Wilmington, Delaware, Hartford and Grand Rapids.

These cases mark a new and important phase of the struggle for equal educational opportunity. If the Richmond and Detroit decisions are upheld, they will for several reasons, have a broad impact on metropolitan areas throughout the nation. First, the cases provide a school integration remedy in places where it was previously thought to be a rapidly diminishing possibility. Black students now constitute a majority of the school enrollment of many cities, particularly large ones, and their numbers are growing rapidly. The black enrollment in Richmond, for example is now about 65 percent and in Detroit is more than 60 percent. Accordingly, substantial school integration can only be accomplished in many places if the area covered by a court decision is larger than the city itself. Viewed from another perspective, Brown v. Board of Education may become a historical anachronism unless its principles are interpreted broadly enough to encompass metropolitan relief. Since 37 percent of all black citizens live in the twenty-five largest cities of the country where racial concentrations tend to be the highest, without metropolitan relief school integration can be a reality only in smaller cities and rural areas which are rapidly being depopulated—at least until the distant day when low-income minorities can obtain homes in suburbia.

(Richmond itself provides a good example of how the constitutional rights of black children can be frustrated if new remedies are not devised. A school desegregation case had been pending in the Federal courts for ten long years during which time state and local officials had used every tactic of delay and evasion available to avoid compliance with Brown v. Board of Education. By the time a full desegregation plan was ordered in 1971, a mass movement of white families to suburban counties had taken place with no similar housing opportunities provided for black families. The Richmond school system was left with a 2/3 black student enrollment which was continuing to grow. Thus, unless relief was available on a metropolitan basis integration would not have been possible).

LEGAL AND FACTUAL CONSIDERATIONS

Second, the Richmond and Detroit decisions have wide implications because they rest upon legal principles and factual findings which would make them applicable throughout the country. The principles, best articulated in the Richmond case, may be summarized as follows:

(1) Public education is the responsibility of state government and the state must make it available to all on equal terms. The constitutional principle, of course, was articulated most clearly in Brown. It is also at the heart of recent successful challenges to state school financing systems which make expenditures a function of local property wealth. In Virginia, Judge Merhige found, the state had assumed extensive responsibility. General supervision of the public school system is vested by law in the State Board of Education which establishes the policies and duties of division superintendents, prescribes standards for certifying teachers, sets down standards of quality for school divisions, sets standards for school construction and approves local construction programs. In Detroit, Judge Roth found that the Michigan Board of Education had similar responsibilities as do State boards of education in all of the states.

(2) Political subdivisions, including school districts, are creations of the state and will be altered when necessary to meet the overriding demands of the Constitution. This principle, long established, has had its major contemporaneous application in the reapportionment cases. It has also been applied specifically to school districts in situations where courts have been able to find that the districts were clearly segregated as a matter of law. In the Richmond case, the Court said, ". . . the power conferred by state law on central and local officials to determine the shape of school attendance units cannot be employed, as it has been here, for the purpose and with the effect of sealing off white enclaves of a racial composition more appealing to the local electorate and obstructing the desegregation of the schools."

(3) Unlawful school segregation is established by demonstrating that school assignment policies are based upon segregated housing policies. Judge Merhige's resolution of this issue was crystal clear:

"School authorities may not constitutionally arrange an attendance zone system which serves only to reproduce in school facilities the prevalent pattern of housing segregation, be it publicly or privately enforced. To do so is only to endorse with official approval the produce of private racism." (Op. 30)

In so ruling, the Court was following the most recent line of decisions in Northern school segregation cases involving Pontiac, Michigan and Pasadena, California. As a Federal court said in a recent San Francisco case constitutional violations may be established by the "knowing pursuit of policies which cannot but produce racial separation."

In both Richmond and Detroit, these holdings were supported by massive evidence of officially sanctioned housing segregation. This included the policies of the Federal Housing Administration during the 1930's and 1940's—policies which called for the maintenance of racially and economically homogeneous neighborhoods and schools protected from "adverse influences" by "proper zoning regulations and deed restrictions" and whose persistent effect could be gauged by continuing segregation in FHA assisted sale and rental housing; the enforcement of racially restrictive covenants in the courts until Shelley v. Kraemer; the location of public housing only in the predominantly black sections of th inner city; the refusal of suburban jurisdictions to permit the construction of federally subsidized housing for low and moderate income families (and the predominantly white occupancy of such units were permitted); the continuing racially discriminatory practices of realtors and developers unrestrained by effective governmental action. In addition, there was evidence tying practices of housing segregation directly to segregated schools. In Richmond, for example, it was established that when new suburban subdivisions were built, new schools were frequently constructed to serve only the all-white populace of the subdivision.

In short, the core element of the Richmond and Detroit decisions was the containment of the black population within the central cities by housing discrimination in which government was heavily involved. Thus, the attendance of black children at geographically zoned segregated schools was hardly accidental or fortuitous. Efforts to integrate the schools are well within the mandate of *Brown* to end governmentally imposed segregation and can not fairly be described as imposing "artificial racial balance."

(4) There is no justification for maintaining racially separate school systems within a single metropolitan community. While the dividing lines between city and suburbs may have existed for many years, they rarely serve any useful educational purpose and are artificial in many ways. In Richmond, the city and the two suburban jurisdictions form the great bulk of what is defined in Census terms as a single interdependent metropolitan community.

A substantial proportion of suburban residents work in the city; suburban people make many of their purchases in Richmond city stores; a large volume of traffic flows back and forth daily across the borders; almost everyone in the metropolitan area is born or dies in a Richmond city hospital; many of the recreational and cultural facilities located in one jurisdiction serve people in the entire metropolitan area.

In Detroit, there is even less educational justification for defending existing boundaries, for there are some 85 separate school districts in the metropolitan area and, unlike Richmond, they vary in their school enrollments and overlap other kinds of political subdivisions.

The issue of justification for existing boundaries has arisen in still another form in Indianapolis where in a school segregation suit directed initially at the city school board, the court has asked how the maintenance of several separate school districts can be justified in a metropolitan area which has consolidated almost all other functions.

Establishing this "community of interest" between city and suburbs is important, not only because it serves to nullify the argument that district lines are inviolate, but because it underscores the fact that we are dealing with schools that are racially identifiable within a single metropolitan community (not simply racially "imbalanced").

In Richmond, of course, there was much more proof than that already summarized. The case had dragged through the courts for ten years while the city schools were becoming predominantly black; accordingly, metropolitan relief could be viewed simply as a question of effective remedy under Brown to dismantle the dual system. The state of Virginia had intervened massively to preserve segregation, freely transferring children across district lines and busing them long distances. (Until 1968, the State of Virginia maintained regional schools for black children, often busing them hundreds of miles or keeping them in dormitories except on weekends). Yet Judge Merhige apparently did not regard these factors as essential to his decision:

"When a school board . . . operating in any area where segregated housing patterns prevail and are continuing, builds its facilities and arranges its zones so that school attendance is governed by housing segregation, it is operating in violation of the Constitution . . . These conclusions apply in a case where no history of past intentional segregation was relied on in order to establish an affirmative duty to desegregate. In a situation such as the instant one, when officially mandated segregation was enforced by numerous other means, the legal principles are all the more demanding." (Op. 36–37)

In sum, the crucial elements of the Richmond and Detroit decisions were State responsibility for public education, the containment of black people in the central city by policies of housing discrimination, and the lack of justification for maintaining separate districts in a single metropolitan community where such districting resulted in segregated schools.

Contrary to the charges of some critics, the decisions are not based upon a patronizing view that it is necessary for black children to sit next to whites in order to learn. Rather the courts are saying that so long as black children are locked in the inner city and denied access to schools outside the ghetto, they are being deprived of equal educational opportunity. It is racial discrimination that puts blacks in segregated schools in Richmond, Detroit and other big cities, just as in the rural areas of the South, and that discrimination is the evil that must be cured.

REMEDY

In Richmond, the Court had ordered into effect a plan prepared by the city school board which will consolidate the three districts into one district of 104,000 students governed by a single school board and district superintendent. While the ruling has refueled the furor over busing, several key aspects of the decision and of other allied cases are frequently overlooked:

Logistically, metropolitan plans may be less difficult to implement than desegregation plans for a single district.

In Richmond, for example, the desegregation plan adopted by the Court would divide the metropolitan area into six subdistricts. The maximum time for any trip would be 45 minutes in five of the six subdistricts and one hour in the sixth (a rural area of Chesterfield County where long distance busing is already common). Very few children would actually travel the maximum time—times which are well within limits set by the Virginia State Department of Education twenty-five years ago. The number of children to be transported would increase by no more than 10,000 from 68,000 to 78,000. And the requirements of busing about equally by black and white children.

In Hartford, where another metro case has survived a motion to dismiss and is awaiting trial, all schools with minority group enrollments of 90 to 100 percent are in the North End of the city where no predominantly white schools are situated. Integrating the minority students in the North End with white students in the South End would necessitate busing students through Hartford's large commercial and industrial center. It would be simpler logistically to integrate the North End of Hartford with the adjacent suburban community where schools are within walking distance for many students. Thus, in Hartford, the pairing of nearby schools would be available as a technique for metropolitan integration, while only busing would be feasible for intracity desegregation.

Obviously in larger cities, planning for metropolitan integration may be more complex, but the logistics may be no more difficult. In Detroit, for example, preliminary planning by the State Board suggests that substantial racial and economic integration can be accomplished between the city suburbs and a group of adjacent suburbs without an increase in transportation costs or in the number of children to be transported.

Remedies can be made flexible enough to achieve the desired educational result. Total consolidation is only one option. Others include partial merger, redistricting or even the assignment of children across existing boundaries. The only prerequisite would be that the remedy accomplish integration.

Metropolitan plans offer the prospect of stable integration.

In the Richmond metropolitan area, where there is a minority population proportionately as large as any area in the nation, the consolidated school system would have an enrollment of 66 percent white and 34 percent black. Under the Richmond Board's plan, all schools would have an enrollment ranging from 18 to 40 percent black.

Such an arrangement should enhance prospects for stability. "White flight" is variously regarded as being predicated upon racism or upon a judgment that schools consisting of a majority of advantaged children offer the greatest educational benefits. In either case, the dangers of rapid resegregation would be decreased where the obligation to desegregate is system wide and the racial and economic class composition of each school is within a defined range. For most families there would be an incentive to remain living where they are in an effort to make integration work instead of moving to more distant areas.

Metropolitan plans offer educational advantages beyond those of integration.

As expert witnesses in the Richmond and Detroit cases testified, a metropolitan approach in many places will provide economies of scale that will make possible spending on new facilities and services which now are too costly for smaller districts. These include the development of special schools and programs to serve the gifted and handicapped, improved facilities for teacher training, and the wider use of television and computers as instructional tools. (In some places, New York for example, the state now provides special incentives to suburban districts—but not to cities—to cooperate among themselves in providing such services. It seems reprehensible as well as probably unconstitutional, for a state to hold out incentives for consolidation and cooperation only in a manner that results in entrenching racial separation).

Metropolitan plans do not decrease and may even enhance the accountability of schools to parents and the opportunities for community participation.

Under the plan adopted in Richmond, the new consolidated district of 104,000 students is to be divided into six subareas consisting of 9,000–20,000 students in each. A nine member central board is to be established consisting of four members from Richmond, three from Henrico and two for Chesterfield. While the plan is not specific in apportioning responsibility between the central authority and the subdivisions, there is no reason why each subdivision cannot be delegated broad authority to determine the kind of educational program that best meets the needs of children in the area. This might well include the hiring of faculty and administrative personnel and decisions about curriculum and allocation of budget. Thus, there is no basis for the suggestion that metropolitan school integration plans necessarily entail a loss of "local control."

Judge Merhige's order also seeks to protect the black community against various forms of discrimination that have often accompanied the desegregation process. The order contains detailed provisions prohibiting discrimination in the retention, reassignment and hiring of faculty or staff.* It also requires the development of plans for "in-service training of staff, creation of biracial committees, employment of black counselors in all schools, and plans for biracial extracurricular activities."

None of this brooks the fact that black children, who will be a minority in each of the six subdivisions, frequently encounter difficult problems when they enter desegregated schools. But the battle to win respect for one's heritage and fair treatment from teachers, administrators, and fellow students is a new phase of the desegregation struggle. The fact that it is difficult does not present a compelling argument for abandoning the effort. The struggle to win equality of status in desegregated schools should be viewed as an integral part of the effort to win equality of status in a biracial society. It is at least doubtful that students who are shielded from any inter-racial contact in the name of avoiding mistreatment will be well prepared for the struggle of equal status they will face in the larger society.

Further there is little evidence to suggest that school systems are more accountable or black parents more influential in predominantly black districts than in integrated systems. To the contrary, it is likely that community participation of minority and low income parents in school affairs will increase—not decrease—under metropolitan integration arrangements. Parents in Evanston, Rochester, Boston whose children have moved from racially isolated to integrated schools have reported feelings of greater participation and influence in their children's education in the new situation than in the old.

POLITICAL FACTORS

One concern that has been raised about metropolitan school litigation is the possibility that it may be the precursor of general metropolitan government. And general metropolitan government, it is said, may result in a dilution of minority political power, particularly in areas where blacks have attained a voting majority in the central city and have elected (or are about to elect) their own candidates to municipal office.

But there is no necessary link between metropolitan school integration and metropolitan government. This was well illustrated in Richmond where, during the pendency of the school suit, another group of black plaintiffs sued to de-annex a predominantly white portion of Chesterfield county that had been merged with the City of Richmond. Their claim was that the purpose of the annexation was to prevent black citizens from becoming a voting majority in Richmond. Judge Merhige—the same judge who later ordered metropolitan school relief—upheld plaintiffs' contention that the annexation was racially motivated and required some form of redress. It is clear then that equal educational opportunity in a metropolitan area is an issue quite separate from political representation in the same area. One may urge the former without committing oneself either in legal or policy terms to a position on the latter.

At the same time, the move toward metropolitan school integration may result in a significant realignment of political forces. In Richmond, the city school board, long a defendant, was a principal moving party in the request for metropolitan relief. In Detroit, a group of white city residents initially raised the metropolitan issue.

Whether these parties are truly convinced of the need for school integration may vary from situation to situation. But they do assert that whatever social burdens are involved in integrating the schools should be borne equally by the generally more affluent citizens of suburbia and by the white and black working people of the cities.

There is merit to this view, and the fact that it is being asserted in the courts indicates that the potential political support for metropolitan solutions is not limited to black people. It also suggests that despite all of the controversy the Richmond and Detroit decisions have aroused, a metropolitan approach may help to defuse the current conflict between blacks and whites in the inner city.

CONCLUSION

It is far too early yet to offer a prediction on the outcome of metropolitan school integration suits.

Given the current hysteria over busing and the sparsity of courageous political leadership, it is possible that the effort may be thwarted by action in the Congress. The Senate, for example, has already passed legislation which would stay the implementation of any order involving inter-district integration until all appeals have been exhausted. And any direct restraints placed upon busing as a tool for integration would obviously frustrate the possibility for metropolitan integration.

A more sophisticated—yet hardly less dangerous—approach would be for public officials to embrace the equalization of school financing as an alternative to integration. Ever since the decision of the California Supreme Court in Serrano v. Priest, there has been a surge of interest in litigation and legislation to apply its principle that financing of schools should not vary with the property wealth of local districts. While there is a need to deal with fiscal inequity, it must be recognized that there are limits to what such reforms can accomplish:

(1) It is being discovered that in some states there is no positive correlation between the property wealth of an area and the wealth of families who reside there. New York City is an example of a city with a good tax base and many poor families. There, poor and minority children would be hurt—not helped—by an application of the Serrano principle of redistributing property wealth for school financing purposes:

(2) The Serrano decision is pointed at equalizing the property tax base, not toward a

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*Although the interests of black teachers are often threatened by desegregation, it is heartening to see that many continue to support it. Recently for example, the Baltimore Teachers Union issued a statement encouraging consideration of a metropolitan approach in Baltimore. Godfrey Moore, the black executive director of the BTU, said "instead of fighting the [Richmond] decision, people should be getting ready to implement a program that would run smoothly. We do not believe all poor kids should be together. We know that integration is a part of learning and kids do learn better where kids are integrated."

system of financing based on educational need (which is what poor children really require), or even toward a system of equal expenditures.

(3) Even in the best of circumstances there is no persuasive evidence that differences in expenditures except on a major scale produce significant differences in educational results. It is problematical at best that increases in funding alone will bring about the higher quality teaching that poor children so desperately need.

(4) While the Serrano principle removes the additional costs involved for a community in educating new students and thus strips away the rationale that affluent suburbs employ in refusing to provide shelter for poor and minority families, it is hardly assured that suburban barriers to the poor and minorities will now be removed.

In short, while fiscal reform may be needed it is clearly not a panacea for educational ills that are traceable in large part to discrimination and racial isolation. And care must be taken that it does not become the modern day version of the "separate but equal" theory of Plessy v. Ferguson.

In contrast, should Congress decide to adopt a constructive stance of support for the courts there is much it could do to assure the success of a metropolitan approach. Much of the current concern about integration arises from widespread dissatisfaction with the quality of public education. If people become convinced that integration was one part of a broader effort to improve the quality of public education for all children some of the opposition to it would abate. New facilities, such as education parks, located in areas accessible both to suburban and city residents might temper the cross-busing controversy. Federal assistance to programs of individualized instructions could help to convince parents that the learning problems of their children will not be neglected in an integrated system.

This may be too helpful a view at a time when public officials, including the President of the United States, are manipulating the integration issue for narrow political gain. But major progress in school integration has been achieved in the South even in the face of massive resistance, and a new brand of leadership, best exemplified by Governor Askew of Florida, is emerging which encourages people to face their problems and solve them rather than to retreat to racism. It just may be that in the long run, the realpolitik of Richard Nixon's Washington will prove to be more illusory than the dream of Martin Luther King.

J. EDGAR HOOVER

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ROONEY of New York. Mr. Speaker, I must confess in joining my colleagues today in tribute to the late J. Edgar Hoover that I am at a loss to match words to the occasion and the man. His 48-year record as Director of the Federal Bureau of Investigation is a monument to J. Edgar Hoover that can neither be embellished nor sullied. Courage, honesty, loyalty, patriotism, devotion to duty—all these words fit J. Edgar Hoover, yet not even in total do they do the man justice. I stand in awe, as do we all, Mr. Speaker, of the magnitude of the man. Yet, this does not say it for those of us who were fortunate enough to be his friends. For over a quarter of a century Director Hoover and his associates would come before the Subcommittee of the House Appropriations Committee, of which I am chairman, for the annual appropriation for the FBI. I am sure the other members of my subcommittee will join me in saying that no one, no agency, no member of Government ever made a better presentation than Director Hoover did annually. Over the years I got to know Director Hoover very well and indeed we became close friends. He was, despite his unrelenting battle against crime and those who would destroy the American way of life, a truly warm kindly man. He had at times an almost puckish sense of humor coupled with a deep respect for his fellowman. John Edgar Hoover's life was the FBI. It will stand as his monument and every American looking at it will know what a loss his death was to our country. Some will also have the cherished memory of a great human being.

COAST GUARD VESSELS

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BEGICH. Mr. Speaker, the Alaska State Legislature recently sent me a copy of a resolution passed by that body relating to the permanent assignment of additional Coast Guard patrol vessels in Alaska. This is an area of particular concern to Alaskans as our fisheries are increasingly being taken over by foreign fishing fleets, and unless increased protection of these fisheries is forthcoming, the economic impact on Alaska will be quite devastating.

I would like to insert into the RECORD a copy of this important resolution:

ALASKA SENATE JOINT RESOLUTION NO. 66

Be it resolved by the Legislature of the State of Alaska:

Whereas traditional American and especially Alaska fisheries are increasingly being taken over by sophisticated foreign fishing fleets; and

Whereas currently there are neither adequate numbers of Coast Guard personnel nor any modern Coast Guard ships stationed in Alaska equipped with the latest electronic gear that have the maneuverability necessary to adequately and continuously patrol Alaska's some 31,383 statute miles of tidal shoreline; and

Whereas the Coast Guard does have ships with the capacity to improve greatly its surveillance activities in Alaska waters, as is evidenced by the temporary assignment of the "Mellon", a class of vessel uniquely designed for more adequate protection of our fisheries; and

Whereas the "Mellon" has been assigned to temporary duty in Alaska waters, but will shortly be forced to return to its home base; and

Whereas, unless more adequate equipment and personnel are assigned on a permanent basis to duty in Alaska, the detrimental economic impact will be felt not only in maritime states, but eventually throughout the nation; and

Whereas, unless increased protection of the traditional Alaska fisheries is immediately forthcoming, the economic impact on Alaska will be particularly devastating;

Be it resolved by the Alaska Legislature that it commends the U.S. Coast Guard for its foresight in designing ships of the secretary class and in particular for assigning a secretary-class ship to temporary duty in Alaska waters; and be it

Further resolved that the U.S. Coast Guard is urgently requested to assign one or more ships of the "Mellon" class to duty in Alaska on a permanent basis, the only means by which our fisheries may receive increased protection from foreign encroachment.

Copies of this resolution shall be sent to the Honorable Richard M. Nixon, President of the United States; the Honorable John A. Volpe, Secretary, Department of Transportation; Admiral Chester R. Bender, Commandant, United States Coast Guard; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Nick Begich, U.S. Representative, members of the Alaska delegation in Congress.

OPIUM WARRIORS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WOLFF. Mr. Speaker, WCBS–TV in New York City has long been noted for one of the Nation's most aggressive editorial policies. That policy has most often greatly enlightened the public at large.

To state the obvious, I have not always agreed with certain judgments rendered by WCBS–TV, but I believe deeply in the right of radio and television to air forcibly their views—free, ideally and hopefully, from the threat of Government coercion. Freedom is best judged when it is least judged.

The problem of hard drug usage among American servicemen has greatly bothered me. It remains but one of the more awful manifestations of the war in Vietnam. Our failure as a nation to deal with this problem, except in the most piecemeal fashion, is scandalous beyond compare. Some of us are trying desperately to do something about those who come home from Southeast Asia hard drug users. Recently Sue Cott of WCBS–TV looked at this problem and I think what she had to say about it merits our attention:

WCBS–TV EDITORIAL—THE OPIUM WARRIORS

The use of hard drugs by G.I.'s in Vietnam made the headlines several months ago. In response, President Nixon sent a message to Congress declaring "war on heroin" and he affirmed the right of all drug-addicted servicemen to be rehabilitated. After a while, military sources said the rate of heroin use was declining; and the public's initial shock and dismay gave way to complacency.

But just because the furor had died down, don't think the problem has gone away. Far from it. For despite the establishment of two drug treatment centers in Vietnam and a thirty-day period in a drug-free environment for all servicemen found to be addicted, thousands of veterans with drug problems are being discharged.

The New York City addiction services agency estimates that right now there are at least 10,000 drug-abusing veterans in the city in need of treatment.

In theory, at least, the Veterans Administration hospitals should be handling the problem. But according to the Addiction Services Agency, the three V.A. hospitals in New York City are currently treating only 417 drug-abusing veterans.

The reason for this is that V.A.'s are hamstrung by inadequate staff and facilities. And further, many drug-users are ineligible for V.A. hospitals because they have been less than honorably discharged.

The main burden of aiding addicted veterans is being shouldered by civilian agencies. Thirty-five hundred ex-G.I.'s are in locally funded rehabilitation programs. But these programs can't afford to continue providing services to veterans without financial help.

We think this help should come from the Federal Government and that funds should be made available to the local agencies that are currently carrying the heaviest caseloads. We also think that the role and capability of the V.A. hospitals should be expanded so that all drug-abusing veterans can have access to a full range of treatment.

We're glad that President Nixon has declared war on heroin. This is one war we'd like to see escalated.

REDUCTION OF HOME HEALTH SERVICES

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WALDIE. Mr. Speaker, adequate health care for the aged is of prime importance. We have recently discussed the problems our elderly citizens are faced with relating to the high expense of medical assistance. Today I will address myself to a particular type of health care directed at the elderly which has helped greatly the homebound of our Nation. Home health aid offered by the San Francisco Home Health Service, oftentimes acts to prevent, postpone or reduce expensive institutional care. I feel this preventive type of medical care deserves our utmost attention.

In late March of this year I received a memorandum regarding the reduction of services from the San Francisco Home Health Service from Mr. Don Fibush. The reason for this reduction of needed health service was pure and simple—money.

I think it is outrageous that the rendering of health care to those who have worked many years in service to this country are now relegated to asking the country they helped to help them. I also feel that the use of preventive medical assistance to the elderly which could act to lower overall medical expenses, should be exhaustively looked into.

Further I feel this letter I am bringing to your attention is exemplary of many health offices serving the elderly and encountering the problems of being reimbursed by the Federal, State, and local health care programs. Because of the problems in receiving reimbursement for services rendered by the San Francisco Home Health Service, it may be necessary to terminate 25 staff personel serving the homebound.

This termination of service will inevitably show an increase in the number of elderly people being institutionalized either in old age homes or costly hospitals. Subsequently, with the skyrocketing medical costs we have been attempting to bring into balance, an increase in the amount of government aid needed will grow proportionately.

The people who will suffer in this reduction are first and foremost the powerless elderly citizens receiving services, who are homebound. Second though, the U.S. Government will suffer because of this portrayal of leaders placing funds before the lives of those who have worked diligently for their country.

For these reasons our need to provide health service to the elderly and the possibility of preventive medicine lowering overall expenditures of medical care, I am bringing to your attention the situation of the San Francisco Home Health Service.

The text of the comment forwarded to us on behalf of Mr. Don Fibush follows:

MEMORANDUM REGARDING REDUCTIONS IN SERVICES, MARCH 13, 1972

It is necessary to reduce our services and terminate twenty-five members of our staff who provide help to the homebound. The reason for this is simple enough—money. People need the service but the programs do not pay the providers of care. The providers are forced to reduce their staff, therefore, fewer clients are served, expenditures are decreased and fewer needs are said to exist. We ask that you tell your elcted representatives how you feel about this development.

What brings this situation about? We know that the number of individuals who need our help and our services increase and the number of aged in San Francisco continues to grow larger every day. Most of our homebound citizens have less real income to spend for safe housing or an adequate diet today than they did just one month ago. Appropriate medical care is less available now than three months ago.

It is ironic that at a time when all of these pressures are engulfing our homebound and senior citizens, we should also permit the continued and drastic reduction of home health services. Home health services are a group of services that will often prevent, postpone or reduce expensive institutional care. Some limited home health services are purchased for Medicare and Medi-Cal beneficiaries. Some services are purchased by Departments of Welfare and some are purchased by insurance companies, United Funds and special projects. Governmental agencies on all levels state that they pay for services to the homebound citizens. However, the regulations and the administration of these programs are producing a continued decline in these sources of reimbursement. The Federal Government (Medicare), the State Government (Medi-Cal), the City Government (Department of Social Services) seem to vie with each other to see which can be more complex. The result is a restrictive program. For example:

MEDICARE

Medicare is simply not paying agencies for covered services agencies have provided to beneficiaries in good faith. The Social Security Administration and one of its Fiscal Intermediaries (Blue Cross of Northern California) advertise that home health services are covered benefits under Medicare. Social Security has a "red, white and blue" brochure entitled "Your Medicare Handbook" stating that 100 home health visits are available following hospitalization under Part A of Medicare and an additional 100 home health visits are available under Part B of Medicare. Nonprofit community agencies with established integrity have provided these services to appropriate patients only to have payments denied. Some of the reasons for denial are contained in the attachment.

In many cases these "denials" occur months and years after the service has been provided. In some cases the beneficiaries are not available to protest the action by the fiscal intermediary. The result is that home health agencies are left "holding the bill"—having already paid the staff who kept the person out of expensive institutional care.

You will recall that of the Medicare and Medicaid dollars ($12.7 billion for 1970), 67% went for the fees of physicians, hospital charges and drugs. Nursing homes received 32%. Less than one-third of the remaining one per cent was spent for home health services during 1970. Nearly all of this three tenths of one per cent of the Medicare/Medicaid dollar was used to pay for nurses, physical therapists and other health professionals employed by certified home health agencies. The amount used to pay for Home Health Aides—the persons who keep patients out of expensive institutions—was microscopic.[1]

Some say Medicare was "not to be a panacea" or "was not meant to cover everything". Through bitter experience, we can say" we know it doesn't 'cover everything' " and we have great difficulty determining why Medicare fails to reimburse licensed agencies for appropriate and necessary services.

Incidentally, Blue Cross of Northern California is taking money away from agencies for services given in 1966 and 1967 even though the Medicare audits have been completed and the accounts finalized.

If we want home health services covered under Medicare as a benefit, we will have to demand changes from our representatives and administrators. One might assume that the Social Security Administration does not want home health benefits available to people to help keep them out of expensive institutions.

Medi-Cal

In 1968, the San Francisco Home Health Service provided an array of home health services to 80 Medi-Cal patients including 20,257 hours of home health aide services, or less than 22 hours of home health aide services per patient per month. The average number of visits per patient per month was less than nine. In January of 1972, we billed Medi-Cal for zero (0) hours of home health aide services. What changed? The number of people and their needs increased—they did not go away—they are still moving from one unsafe "tenderloin" hotel to another, often paying the rent and not eating. This population—the old, the ill, the homebound—have not fled to the suburbs or checked into mental hospitals. What changed was not the needs of people but what Medi-Cal would pay for.

During 1971, Medi-Cal instituted a complex and cumbersome array of devices to correct abuses—some proved and others alleged. The result has been a plan to eliminate home health services as a program. Community home health agencies serving Medi-Cal patients decreased to two in the Bay Area by December, 1971. Some alleged abuses (often referred to as "overutilization") do not continue since there is no utilization because there is no payment source.

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[1] Medicare will not purchase some necessary health equipment. For example, a toilet seat (commode) costs $84.00 (new). Medicare will not purchase this piece of equipment for home health agencies or allow a home health agency to be reimbursed for a purchase/loan arrangement. However, in a two-year period, Medicare has paid over $400.00 to Abbey Rents for the rentals of these little, but necessary, pieces of equipment. If it were not so serious it would be funny!

In short, to quote one agency executive: "The Medi-Cal cuts were not designed to reduce abuses but to abuse providers and cut, trim and squeeze the number of Medi-Cal patients."

Incidentally, the audits for the period 1966–1970 are still not complete. Capricious and arbitrary adjustments continue—retroactively! Our files are full of unsuccessful attempts to solve our problems. The correspondence and memoranda describe, in poignant detail, the vicious cycle in which voluntary agencies find themselves. We turn to you for help.

Some of the Reasons Used by Fiscal Intermediaries for Denying Medicare Payments

"Skill is exhausted"—Skilled nursing was ordered by the physician but a "clerk" determines that skill is "exhausted".

"The care was custodial"—This implies that the patient needed to be in the "custody" of an expensive institution, yet, someone receiving part-time and intermittent services can hardly be considered in "custody". In the past few years, it has been documented repeatedly that more than one-half of the patients in nursing homes do not need 24-hour care.

"The care was for too long a duration"—Honest providers rarely exceed the 100 visit limits and have not exceeded these limits since organized care at home was started except in rare but justifiable circumstances.

"The care is beyond the generally accepted practice in the community"—This standard of "generally accepted practice" has never—and we repeat, never—been identified or communicated. If such a standard were available, we would greatly increase our patient load, *not* decrease it.

"The patient was not 'actively treated' "—Treatment of the aged and homebound is often less "active" than treatment for "acute" medical problems. In any case "active treatment" has never been defined.

"The potential for rehabilitation has been exhausted"—The statute states that one of the purposes of the home health service benefit is to prevent or postpone institutionalization. The statute recognizes the very logical and real limitations of the "target group"—those over 65—for they never get younger, their medical conditions are usually acute exacerbations of or secondary to chronic illnesses and the conditions nearly always get more complicated.

WAGE AND PRICE CONTROLS ON SMALL BUSINESS REMOVED

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. EVINS of Tennessee. Mr. Speaker, I am pleased to join with others in announcing that 5 million small businesses with less than 60 employees will be exempted from wage and price controls.

The Select Committee on Small Business, which I am honored to serve as chairman, has recommended this exemption. In times of national economic difficulty, the small businessman is usually hit first, hardest, and longest.

Donald Rumsfeld, Director of the Cost of Living Council, in announcing the Council's action, indicated that competition will exert pay and price controls on small business. While there was some difference of opinion on the 60-employee figure for those firms which would be removed from control, the Pay Panel did not disagree with the economics of the move, although they had reservations as to its timing.

Further study should be continued to determine whether employee size or other measures should be used in determining the exemption of small businesses from the wage and price controls.

Because of the great interest of the American people and my colleagues in this matter, I place in the Record herewith an article which appeared in the Washington Post on May 2 last on this subject.

The article follows:

Five Million Small Firms Decontrolled

(By James L. Rowe, Jr.)

The Government yesterday lifted wage and price controls from 5 million small businesses despite the objections of the Price Commission.

Donald Rumsfeld, director of the Cost of Living Council, announced at a press conference that all controls would be removed from firms with fewer than 60 employees. He said the exemption would affect about 5 million firms and 19 million employees.

Rumsfeld told reporters that the 5 million firms account for 28 percent of the nation's sales ($500 billion) and the 19 million employees constitute about 26 per cent of the nation's payroll employees.

He said it "appears to us that competition will exert pay and price control on these small businesses." Rumsfeld called the move a "refinement" of the controls mechanism and insisted that it did not indicate a step toward total decontrol of the economy. "It is not Phase III" he said.

Price Commission Chairman C. Jackson Grayson Jr. told a reporter the commission had recommended that the administration "hold off" any more exemptions from controls until more evidence of the success of the Phase II program was in.

Last January the Cost of Living Council exempted all retailers (about 1.5 million firms) with annual sales of less than $100,000 and in March lifted wage controls on all workers making less than $1.90 an hour.

Rumsfeld said yesterday's move would enable wage and price controllers to concentrate on large companies and unions which the administration believes are the major sources of inflationary pressure.

As a result of the exemptions, Rumsfeld said the Internal Revenue Service, the enforcement arm of Phase II, would be able to assign an additional 900 agents to direct enforcement of controls regulations.

According to Rumsfeld, nearly two-thirds of the 3,000 IRS stabilization agents had been assigned to dealing with requests for exceptions, alleged violations and general inquiries—nearly half of which concerned smaller economic units.

Rumsfeld also announced that the staffs of both the Pay Board and Price Commission would be beefed up. Pay Board staff will be increased from 137 to 174, while Price Commission staff would grow to 595 from 445.

The decontrol plan was submitted last March to both the Price Commission and the Pay Board for their comments. While the pay and price panels advise on coverage, the Cost of Living Council decides what segments of the economy are subject to regulation.

The Pay Board generally concurred with yesterday's action though there was a wide range of opinion on payroll size. Business members opted for 20 employees, public members for 50, while labor members voted to exempt all firms with fewer than 100 employees.

Price Control Chairman Grayson said the seven-member price panel did not disagree with the economics of the move, but "did not concur that this was the right time" to lift controls from a large portion of the economy. He said the commission would discuss the matter at a meeting today.

Rumsfeld said the controls program has been making progress against inflation, though the goals "clearly have not been reached." The President's target is to reduce the rate of inflation to less than 3 per cent by the end of 1972. Rumsfeld told newsmen he did not think the new exemptions would have an adverse impact on inflation.

Yesterday's move did not lift controls on firms in either the construction industry or the health services field—two of the major sources of inflation over the last five years.

Instead, CLC tightened controls on these two industries. In the medical field, all firms with annual sales of more than $10 million are now classified as Tier I companies (which means they need prior approval from the Price Commission to raise prices).

Construction companies with annual sales over 750 million are now in Tier I. Generally, Tier I companies include only those with annual sales exceeding $100 million.

The council action exempted from controls all local government units with 60 or fewer employees, representing 67,500 small businesses (83 percent of the total) and 378,000 employees (7 percent).

The statement said the action should not be construed as a step toward decontrol because:

"Voluntary restraint is expected from small units and their employees . . ."

Large companies "within an industry tend to exert some price discipline over small companies," just as large wage settlements set the tone for smaller pacts.

Sen. William Proxmire (D-Wis.), chairman of the Joint Economic Committee, called the latest move "exactly the right kind of action." He has long advocated removing controls on all but big business and big unions.

Labor's reaction thus far has been critical. Harry Brinkman, president of the National Small Business Association, said the "arbitrary approach" to exemptions (based solely on the number of employees) will "aid in destroying the objectives of the stabilization program."

Harry Bridges, president of the West Coast longshoremen's union, called for a nationwide general strike against the President's wage control program.

AFL-CIO President George Meany, a strong critic of the controls programs, is expected to give his views on the latest move at a press conference today.

AN IMPORTANT STEP BY LABOR AND INDUSTRY IN WICHITA, KANS.

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. SHRIVER. Mr. Speaker, I want to bring to the attention of my colleagues in the House a significant agreement between labor and management which occurred in Wichita, Kans., last month. At that time the most extensive agreement in the Nation to influence price stabilization in the important construction industry was reached.

A 1-year moratorium on wage increases, initiated by local union members, has been agreed to by six of the basic building crafts that negotiate with members of the Associated General Contractors of Wichita.

This agreement to delay taking wage increases already authorized for the 1972 year, which averages approximately $1 per hour, is an unselfish and sincere action by the unions involved, their leaders and their individual members. It will contribute to the continuing growth and economic stability of the Wichita area which is now recovering from a period of high unemployment.

It also will mean a savings to local taxpayers on major construction projects, as well as to other buyers of construction in the area.

Mr. Speaker, this voluntary act of restraint by these six building crafts unions in Wichita is deserving of national attention and the highest commendation. I have brought it to the attention of the President and those responsible for the economic stabilization program.

Under leave to extend my remarks in the RECORD, I include statements made at a news conference in Wichita at which this agreement was announced:

REMARKS BY MR. ED KANDT

(Business Agent, Carpenters' Local 201)

Basically, three reasons led to this decision by: Bricklayers Local No. 2; Carpenters Local No. 201, No. 2179, No. 2278 and No. 2383; Cement Masons Local No. 199; Ironworkers Local No. 606; Laborers Local No. 94; and Teamsters Local No. 795.

First, this moratorium will facilitate substantial savings to the public and private buyers of construction in our area, which, in turn, will stimulate additional building and thereby create more construction jobs.

Second, it is our belief that price stabilization of construction costs will encourage new industry to locate in Wichita.

Third, Wichita is our home and we want to do everything possible to enhance its continued growth and development.

Very briefly, these are the highlights which brought about this decision.

The crafts involved work on a daily basis with the Associated General Contractors of Wichita, and at this time I'd like to introduce the Association's President, Mr. Alanson Foreman.

REMARKS BY ALANSON FOREMAN

(President, the Associated General Contractors of Wichita)

On behalf of The Associated General Contractors of Wichita it is my pleasure to express our appreciation to organized labor for this significant effort to hold down the costs of construction in the Wichita Area.

This effort has already effected savings for our local taxpayers in the construction of a new school and we estimate that, during the year the wage moratorium is in effect, buyers of construction in our area will realize savings of approximately four million dollars!

This is further evidence of the longstanding record of good relations that exist in our area's construction industry between labor and management. As a result of this relationship, Wichitans can take great pride in the fact that our city does not have a history of labor disputes, strikes or slowdowns in local construction.

We believe that these unions, their leaders, and their individual members have earned, and most assuredly deserve, the gratitude of all citizens of the Wichita Area.

Representing the members of the Associated General Contractors of Wichita, I am pleased to publicly thank all of the individuals who were courageous enough to voluntarily make this personal sacrifice for the benefit of our community.

The Wichita Area Chamber of Commerce also has a keen interest in all factors affecting the economy and growth of the Wichita Area. How the decision announced today will assist efforts directed toward total community development, will be discussed by Chamber President John M. Bell.

REMARKS BY JOHN M. BELL

(President of the Wichita Area Chamber of Commerce)

Savings in construction costs will be a very important factor in the continued growth of the Wichita Area through expansion of local business and industry and in the unified program to secure new industry.

Certainly, this agreement will help stabilize construction costs and will place Wichita firms in a more competitive position in bidding on construction projects in a larger geographical area. Hopefully, it will motivate local companies to accelerate their construction plans and should stimulate additional construction throughout our area.

This combined effort by labor will also be a tremendous boost to joint industrial development efforts by the City, Sedgwick County and the Chamber by enhancing our competitiveness in attracting new industry and by further evidencing the continuing cooperation between labor and management in Wichita.

We are very pleased with today's news and we join in congratulating the six basic crafts involved in the construction industry, their leaders and their individual members, on their wage moratorium!

1972 MEMBERS OF ASSOCIATED GENERAL CONTRACTORS OF WICHITA, INC.

Coonrod & Walz Construction Co. Inc.
Dondlinger & Sons Construction Co. Inc.
Dopps Construction Co. Inc.
Martin K. Eby Construction Co. Inc.
Hahner, Foreman & Harness.
E. W. Johnson Construction Co. Inc.
Law Construction Co. Inc.
McBride & Dehmer Construction, Inc.
W. C. Mierau Construction Company.
Milt Pollit Co. Inc.
Simpson & Son, Inc.
Snodgrass & Sons Construction Co. Inc.

UNION REPRESENTATIVES OF THE SIX BASIC CRAFTS

Brickmasons Local No. 2
Carpenters Locals No. 201, 2383, 2179, 2278
Cement Masons Local No. 199
Ironworkers Local No. 606
Laborers Local No. 94
Teamsters Local No. 795
Marvin Morrison, Business Agent
Eddie Kandt, Business Agent
Calvin Berry, Business Agent
Bill January, Business Agent
Joe Howard, Business Agent
Sam Smith, Business Agent

POLISH CONSTITUTION DAY

HON. PAUL S. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. SARBANES. Mr. Speaker, on this date 181 years ago the people of Poland adopted a constitution which peacefully transformed their government from a monarchy to a democracy and in so doing set an example for freedom-loving men and women, of courageous commitment to human rights and individual freedom. The Polish people's indominitable spirit and their dedication to freedom allowed them to create in 1791, just 2 years after the adoption of the U.S. Constitution, a historic document which abolished class distinction, established absolute religious toleration, and declared the equality of all citizens under law. It is with the deepest respect and admiration that I join today with citizens across the Nation in paying tribute to the gallant Polish people and their heritage of heroic dedication to freedom.

Across the country the Polish American Congress, a national organization with chapters in all major cities, will commemorate the 181st anniversary of this historic event on Sunday, May 7, 1972. In Maryland the anniversary will be marked by our distinguished Polish community at Baltimore's Polish Home Hall where ceremonies underscoring the meaning and importance of this occasion will take place.

A brave people long recognized for their chivalry and compassion, the Polish people have for generations struggled for liberty, a struggle which led them to carry on their national banner the motto "For Our Liberty and Yours." But theirs is a tragic history. Despite the fact that it was Poland which stopped Genghis Khan's invasion of Europe in 1250, despite the heroism of Poland's King Jan Sobieski and his 40,000 Polish troops who turned back at Vienna on September 13, 1683, Turkey's invasion of Europe despite the great courage and skill of men like Thaddeus Kosciuszko in the 1790's, Jan Paderewski in the 1920's, and the brave sons of Poland who fought with the Allies in World War II, Poland has time and again been attacked and occupied by aggressive neighbors. But the spirit of this great people has never died—neither in Poland nor in the lands where Poland's sons and daughters began life anew.

Mr. Speaker just as the Polish people courageously sought their own freedom in 1791, so they have contributed to this Nation's struggle to create a free society since the earliest days of our colonial beginning. In 1608, almost 12 years before the Pilgrims landed at Plymouth Rock, Polish artisans arrived in Virginia's Jamestown, and by the fall of that year had built America's first glass factory. A year later two of these Polish colonists saved the life of the colony's leader, Capt. John Smith. But it was in 1619 that these sons and daughters of Poland demonstrated their unquenchable love of freedom. Responsible for the colony's glass and soap factories, they refused to work until they were accorded the same voting privileges enjoyed by the English settlers. Since their services were essential to the well-being of the colony, these first Polish-Americans quickly won their rights, and in so doing, to use the words of a scholar on the era, established themselves "among the first champions of American political freedom."

America was to benefit again and again from the commitment to freedom of its citizens of Polish descent. During the American Revolution Thaddeus Kosciuszko and Count Casimir Pulaski, rallied to the banner of our new-born country as it struggled for its independence. With the exception of Lafayette, Kosciuszko was the only foreigner ever admitted to the American Order of the Cincinnati, an honorary society of Revolutionary War officers. Jefferson wrote of Kosciuszko:

> He is as pure a son of liberty as I have ever known.

After America's war he returned to Poland, and there was a courageous leader in the movement which created the Constitution of 1791 and later in the heroic but unsuccessful effort to withstand the foreign invasions which followed.

Count Pulaski arrived in America in July 1777 and shortly thereafter he was commissioned a brigadier general by the Continental Congress. During the spring and summer of 1778, General Pulaski came to our city of Baltimore to recruit and organize an independent corps of cavalry and infantry. Pulaski's Legion from Baltimore and neighboring areas served with distinction in South Carolina and Georgia and Pulaski himself gave his life for the cause of American freedom when he was shot and mortally wounded during the siege of Savannah.

From these early examples of the contribution Polish Americans have made to our land and to the cause of freedom throughout the world, there are thousands more which can be found in each generation which followed. Today Americans of Polish descent number well over 10 million and their contribution to the strength and vitality of this Nation is beyond measurement. The list of distinguished Polish Americans grows with each generation and marks the ranks of every profession and walk of life. In government Polish Americans have distinguished themselves as Senators and Congressmen, Cabinet officers, Governors, and mayors, jurists, and in countless other positions in Federal, State, and local governments. Polish Americans have contributed significantly to American industry and strengthened American labor. They have added their many talents to our intellectual, artistic, and social life. And, above all, they have always championed our Nation's freedom and honor.

In joining with Polish Americans throughout our land in commemorating that proud triumph in 1791 when Poland immortalized her people's love of freedom in a democratic constitution, let us recall the great contributions Americans of Polish descent have made to our Nation. Let us recall that our national heritage is rich with the gifts of the Polish people, and let us hope that we will all see again a free Poland, fulfilling its heritage and its destiny.

POLAND'S CONSTITUTION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. DERWINSKI. Mr. Speaker, this afternoon the Members of this body depart briefly from their customary activities to commemorate the 181st anniversary of the adoption of the Constitution of Poland. That country's fundamental law took effect May 3, 1791, but 2 years after our own Government began functioning under the Constitution of the United States.

We are all familiar with the events of 1787, when the Constitutional Convention met in Philadelphia and drew up the charter which, along with the Bill of Rights and subsequent amendments, has been the guide for our Federal Government ever since. We are well acquainted with the roles played by such outstanding men as George Washington, Benjamin Franklin, James Madison, and Alexander Hamilton. Unfortunately, most Americans know all too little about the history of Poland. This anniversary is a most appropriate time for a brief recital of one of the great chapters in that history and a tribute to the memories of some of its patriots.

While the Thirteen Colonies were fighting together in a revolution that culminated in victory and collaborating in the framing of a new constitution that made American union permanent, Poland was being robbed of its territory by powerful and greedy neighbors, its new Constitution being but a temporary obstacle to the obliteration of its existence as an independent nation. It had been deprived of about a third of its territory and about half of its population in 1772, when Austria, Russia, and Prussia engineered the first partition. The second partition, by Russia and Prussia, took place in 1793, and the third partition, by all three partners in crime, occurred in 1795 and meant the extinction of Poland as a free nation except for the years between the two World Wars.

Between the first and final partitions, Poland enjoyed a brief interlude of constitutional government, the new Constitution being the product of the Four Years Diet of 1788–92. Stanislaus Malachowski, Hugo Kollontay, and Ignacy Potocki led the movement that resulted in the new charter.

Under the new Constitution, Poland, which had been an elective kingdom, became a hereditary monarchy. Executive power was conferred upon the sovereign and a council of state, with legislative power being entrusted to a bicameral diet. Earlier diets had been reduced to impotency by the liberum veto, which the new charter abolished.

Other reforms included parliamentary representation, full administrative and judicial autonomy for the towns, absolute religious toleration, the ending of class distinctions, and the mitigation of serfdom. The townspeople became eligible to landownership and access to state and ecclesiastical offices, privileges which had previously been reserved to the gentry.

The years that followed the establishment of constitutional government did not parallel the situation that prevailed in the United States. While America became the greatest nation on earth, Poland, as I have already mentioned, disappeared completely from the family of independent nations until the two decades that followed World War I. The fourth partition of Poland, by Adolf Hitler and Josef Stalin, was one of the earliest episodes of the second world conflagration. The National Socialists were eventually defeated, but the Communists remain firmly in possession of Poland.

Mr. Speaker, Poland's soil has been taken from her, Poland's freedom has been destroyed, and Poland's people have been enslaved, but the spirit of Poland is eternal. That spirit, which helped Nicolaus Copernicus, Marie Curie, Ignace Paderewski, and numerous other great Poles to accomplish great things for the benefit of all mankind, will someday inspire the Polish people to unchain themselves from Communist imperialism and regain the constitutional freedoms of which they have been deprived for all too many years. May God speed the day of deliverance for Poland and its people.

THE GLOBE—AT THE 100-YEAR MARK

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, the Boston Globe, a newspaper which serves my congressional district is completing its first century "as an institution rooted in New England, whose pages have mirrored the life of its region and have both influenced and reflected its condition through these hundred years."

During the Boston Globe's first 100 years, it has chronicled the extraordinary changes in our national life which has brought our country to greatness, and it has done so in a way that has earned it the reputation of one of America's most distinguished journalistic enterprises.

Through all but the first year of its century, the Boston Globe has been owned and managed by the members of one family. Three generations of Taylors have published the Boston Globe; the fourth generation of the family is now represented by the paper's general manager. President John I. Taylor, W. Davis Taylor, and W. O. Taylor II carry forward the tradition of aggressive journalistic excellence begun by their pioneering forebear, Charles H. Taylor, who, at the age of 27, began bringing back the fledgling Boston Globe from the brink of insolvency, by creating a new newspaper on the broadest possible readership and advertising base, one eagerly read by women and children and newcomers to American shores.

After the first floundering half-dozen years, just four editors, two Taylors, then two Winships, have spanned the whole epoch. One man, James Morgan, was, in effect, editorial director and adviser to three successive publishers, serving the Boston Globe from 1884 to 1955. Two of his editorial writers, Lucien Price and James Powers, were colleagues through more than 40 years.

Such continuity is unmatched in American journalism. It largely accounts for the character of the paper and its place as a community institution, One Man, A. A. Fowle, was managing editor for 42 years. One man, William D. Sullivan, was city editor for 37 years. One man, Harry Poor, as night editor, presided over the organization of the morning paper for more than a third of a century. One man, Francis X. "Doc" Rooney, decisively influenced its typographical appearance, as composing room superintendent, for more than 50 years. Such Globe bylines as those of M. E. Hennessy, Frank A. Sibley, A. J. Philpott, James O'Leary, and Willard DeLue became household names in the region. Andrew Dazzi ran "classified" from the days when he opened all the "want ad" envelopes himself, to his retirement at the end of 1969 from a department that handles 17 million lines a year. The Boston Globe has benefited markedly from such redoubtable length of service by gifted and energetic men.

The innovations achieved by Charles H. Taylor brought about one of the great success stories in American journalism. The Boston Globe assumed a leading position in New England, a position which it held throughout the half-century of the founder's personal management. His sons, who joined the Boston Globe right out of college, carried on that tradition as the paper struggled for survival against war restrictions, depression, and fierce competition.

The Globe was built on Charles Taylor's intuitive understanding of his reader's interests. It has always had in rare degree a personality of its own. Its "Uncle Dudley" editorials, famous for 75 years, reflected this; and their liberal spirit inspired sermons in countless New England pulpits. The wit and whimsy of its "Editorial Points" and "Weather Ears," its household recipes, and its remarkable club of women letter-writers in "Confidential Chat" have made it welcome in many New England households, down through the years.

James Morgan's character and wisdom infused the spirit of the Boston Globe staff through two generations, and his judgment guided Globe policy. In his steps, Laurence Winship combined instincts for human relations and for the human side of the news. Their strategic roles in editorial direction covered three-fourths of the Boston Globe's century.

They had the confidence of the publishers and the affection of the staff. In the last 15 years, Davis Taylor has opened the paper to a strong sense of civic responsibility, which editor Thomas Winship has applied with fresh vitality and enthusiasm in developing an exceptionally resourceful and youthful staff.

The Boston Globe observed its centennial by publishing an anniversary edition on March 5. A Sunday was chosen for this edition, so that it might reach the largest possible number of readers, although March 4, 1872, was the date of the Globe's first edition.

In the anniversary edition was a 64-page rotogravure section called "Treasurers of Massachusetts," presenting in full color the painting, furniture, sculpture, buildings, maritime and historic shrines that together form the Commonwealth's cultural heritage. In preparing the section, the Boston Globe had the willing cooperation of museums, libraries, and other institutions throughout Massachusetts. The section was printed on heavy stock so that it could serve as a lasting guide to the places where everything shown in it may be seen or visited.

Louis M. Lyons, a former Globe man and former curator of the Nieman Foundation at Harvard, wrote a history of the Boston Globe entitled "Newspaper Story—One Hundred Years of the Boston Globe," a 482-page volume published by the Belknap Press of Harvard University. A serial of 21 installments was condensed from the book and ran one each day, starting March 5.

Sports editor Jerry Nason wrote an eight-chapter account of Globe sports over the century, and this ran daily in the sports section, March 12 to March 19. With it were pictures showing great moments in sports in those years.

At the last Globe Book Fair, visitors showed great interest in reprints of early Globe front pages. Therefore, for the centennial, the Globe prepared a 118-page booklet called "Famous Front Pages From the Boston Globe, 1872–1972." The cover simulated a mat used in curving pages for modern circular presses. This one reproduced the mat used on the Globe's front page the day that man first walked on the moon. In addition to reproducing 100 front pages, the booklet contains, from various years, a selection of firsts from the Globe—the first story ever sent by telephone, the first full-page advertisement in the Nation—and its Pulitzer Prize award "for meritorious public service."

An unexpectedly heavy snowfall occurred on March 5. In most places, people were still digging out early in the afternoon. Yet the sale of the Globe's anniversary issue was the greatest in Globe history—665,000—80,000 above the usual Sunday circulation. Thousands of letters from readers have expressed their thanks for the anniversary edition and their best wishes to the Globe for the future.

Mr. Louis M. Lyons in his book, "Newspaper Story—One Hundred Years of the Boston Globe" stated:

> In perspective—this account of one newspaper has been written in years of crisis challenging historic concepts of journalism, as of all institutions. Its chief problem has been to find perspective for these latest years of change. Instant history loses in perspective what it may claim of contemporaneity:
>
> The Globe has been well in advance of all but a very few newspapers in recognizing and adapting to the dynamics of its times. The dilemma of the editor over "participatory journalism" is suggestive of the issues and problems of the newspaper, both internally and as a civic voice, that will pose questions of the future, both in communications and throughout a society in transition.

Mr. Speaker, I would like to include an editorial of the Boston Globe which expresses the Globe principle.

THE GLOBE—AT THE 100-YEAR MARK

The Globe was born in the same year as the American postal card and the unbreakable billiard ball. They, in their time, were accomplishments. So was the book people were then about to read Jules Verne's "Around the World in Eighty Days."

In 1872 people had no phones, electric lights, stereos, automobiles, movies or television. All of these brought change. Yet it was nothing compared with what is now happening.

Living today has become so complex and terrifying. Great problems of environment and overpopulation search desperately for answers.

The Globe, which battled through the last century, will continue to dedicate itself to finding these answers, and to building a New England, an America and a world community where people can live together in peace and plenty.

In this effort, the fine people in all departments who put out The Globe will keep doing their best to stay abreast of the new times and new problems.

Their aim will be, as the late Globe editor James Morgan wrote a quarter-century ago, "to conduct in season and out, an unending campaign of education in the enduring principles which underlie the political, economic and social questions of the day."

Vital to all this is a free press, more necessary now than ever before. Newspapers will remain free only if the people insist they remain free—and if the press does an ever better job of informing them, defining the issue, interpreting the changing customs, defending the poor and the young and the weak in this increasingly complicated society.

The Globe in its second century, as a strongly independent paper bound to no political party, aims to do just that.

And this newspaper renews its determination to help the people of this distinguished city and all of New England enjoy better, more exciting daily lives.

CRITICAL SHORTAGE—COMMERCIAL FERTILIZER

HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BERGLAND. Mr. Speaker, commercial fertilizers will be in short supply this year, and barring some change in the administration's policies, the matter will grow steadily worse with time.

I am inserting in the RECORD a letter from Edwin Wheeler, president of the Fertilizer Institute, 1015 18th Street, NW., Washington, D.C., to Secretary of Agriculture Earl Butz detailing the situation.

I commend this letter to my colleagues in the House, so they may be aware of this growing crisis:

APRIL 6, 1972.

Hon. EARL BUTZ,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: Per the discussion at the Agricultural Chemical Manufacturing Seminar on April 4, I thought it would be helpful to put in writing the dilemma as it pertains to fertilizer supplies and the problems created by the fiat of the Price Commission.

American fertilizer industry sources—be it producer, retailer, fertilizer broker—report either an extreme tightness in supply or, in individual cases, nonavailability of the following materials:

Diammonium Phosphate (DAP)

Concentrated Superphosphate (Triple Super)

Phosphoric Acid (Phos. Acid)

There will be a snug supply of urea and ammonium sulphate, but not approaching the crisis—as it may truthfully be called—situation in the three phosphates enumerated above.

We have three situations which contribute to this dilemma.

First, great overproduction and great financial losses in the mid-1960's, culminating in the year 1969 in a loss of nearly $200 million on $2+ billion in sales, compelled managerial decisions to shut down the less economic older plants. Stringent proposed or promulgated environmental controls also dictated which plants should be set aside and closed. We, therefore, estimate that, as of July 1, 1971, there were, conservatively, 600,000 tons of phosphoric production shut down, compared with eighteen months prior, i.e., January 1, 1970.

Second, as of June 30, 1971, (traditional end of our fertilizer year), it was clear that 1971 had seen a domestic increase in demand for these products rise about 4%. Hence, the cotton and the corn usage had risen faster than for other fertilizers in the face of a dip in production. Export demand was good, but not "red hot."

Farmers and retailers put a heavy demand for these products on the producer all through October, November and December, 1971.

Third, contemporaneous with this was the devaluation of the dollar, and Phase II price controls began to have an effect—a far-reaching effect. The real effect of these two events is illustrated by DAP in export trade. For comparative purposes, let us examine a three-year period. It is the most dramatic illustration of what occurred:

DIAMMONIUM PHOSPHATE, EXPORT

[In thousand short tons]

	1969–70	1970–71	1971–72
November	79.4	46.1	86.3
December	39.7	137.0	183.3
January	53.9	122.3	160.0
February	88.0	81.8	212.0
Total	261.0	387.2	641.6

Note: 1969–70 versus 1971–72 exports were nearly triple in the last most current period and not quite double over just a year ago.

Simplifying:

1971–72 DAP

	Production	Export	Available for domestic
November	344	86.3	257.7
December	400	183.3	216.7
January	320	160.0	160.0
February	337	412.0	125.0
Total	1,401	641.6	759.4

[1] Excluding imports.

Thus, nearly 46% of total DAP production was going into export during this four-month period. With the Price Commission delays and subsequent inconsistent rulings, the material naturally moved into the unregulated foreign market and away from our domestic customers. Even now, foreign buyers are willing to pay nearly any price to get the material—at least 20% above U.S. ceiling on these short supply materials.

While not as dramatic, exports and domestic use are up on Triple Super, and the heavy manufacture of both have made Phosphoric Acid well nigh impossible to buy.

With the Price Commission and the Cost of Living Council oblivious to soaring world prices, economics—sound economics—would dictate these materials moving into the foreign market. Export prices commendably are exempt from price control. Cost increases—no profit theories, with no recognition of demand on a global basis for a commodity, have contributed significantly to a domestic shortage.

Our best estimate today is a shortage of 10%–15% on these phosphates. We hedge on a firm figure until we begin heavy movement of fertilizer in the Corn Belt country in this coming six weeks. Weather and crop planting decisions will determine what finally happens. Based on the already heavy movement in the South now, running 7%–10% higher than a year ago, a 10% over-all shortage would be a conservative figure.

We do know of companies now allocating material on the basis of 85% of last year's sales. Thus, in these instances, the customer is going to be short 15% plus any growth. 1973 sees no relief in sight in so far as additional production is concerned. Certainly, phosphate imports will not fill the gap.

What about 1973, 1974, and beyond? With the unbelievable Price Commission rules on profits, no one of sound mind wants to make the investment in plant engineering, design and construction. First, the industry has lost huge sums of money, e.g., Exhibit I and Ia. Gulf Oil, Continental Oil, Mobil Oil, all have withdrawn from the business for this reason. Thus, to make any improvement in profit, one must examine the regulations and rulings of the Commission. They are in two groups:

For example, the Commission has held that where a division or subsidiary of a profitable company has been losing money, it is only permitted to raise its prices (of the subsidiary or division) so that it (subsidiary or division) will break even. One could not conceive of the parent corporation's making additional investments of either money or personnel in such a division or subsidiary.

As a second example, where an entire company has been losing money in its base period, it may increase prices to where it will make a maximum of 3% on sales and no single item shall be increased more than 8%. The short phosphatic materials, based on international awards (tenders) are up in price 20% over a year ago.

In the second group, to further confuse the issue, the Term Limit Pricing orders on fertilizer have been from allowing 15% (one at 25%!) increase down to 4.5%. Thus, some major multi-line companies got 15% price increases, and the money losers got 8%. This triple ruling on commodities such as fertilizers is wreaking havoc in the orderly marketing of fertilizers, even ignoring the export situation above referred to.

It is almost silly to be regulating an industry as depicted in Exhibit I or Exhibit II. Exhibit II shows the farmer paying less and less for plant nutrients, and this is in the face of skyrocketing transportation costs which are included in the data. Exhibit III shows fertilizer costs compared with cost-of-living costs and, again, it convincingly demonstrates *our industry has, in no wise, contributed to inflation.*

RECOMMENDATION

What, then, must be done to assure an adequate supply of all fertilizer material, looking to 1973 and beyond?

1. De-regulation of price and profit for the fertilizer industry would be the simplest.

A. Potash is in great abundance. (Mines in Canada are operating at 45% capacity. Price floor is set by the Provincial Government.) There would be no increase in price because of the above, as production could be quickly accelerated.

B. Nitrogen. Ample supply is on hand. Depending on availability of natural gas, this should be true in 1973. Soon (1974–1975), additional capacity will be needed. Without profit, this will not be accomplished.

C. Phosphate. Plenty of raw material available. Manufacturing capacity apparently needed now or in the near future. Again, no construction under present rules on profits.

ALTERNATIVE

2. Base period profit of 6 out of the last 10 years. This would be a more normal period in the industry. It would permit the companies to have a ratio of net to sales of 11.3% (Exhibit I) if there was no limit of 8% per any one item and the rule was applicable to the independent company, division or subsidiary, regardless of a parent company's profit margin. As another possibility, a 6-out-of-10-year return on investment test: Per Exhibit I, this would equate to 10%.

SUMMARY

The American farmer and, ultimately, the American consumer is going to soon feel the effect of a shortage of certain fertilizer materials. Demand at home and abroad for these life-sustaining materials must be recognized and immediate consideration be given to permit all segments of the industry to earn sufficient profits that will attract capital to ensure adequate production of fertilizers.

Sincerely yours,

EDWIN WHEELER.

EXHIBIT I.—THE FERTILIZER INSTITUTE, FINANCIAL SURVEY

[In percent]

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970
DOLLAR WEIGHTED AVERAGES FOR ALL COMPANIES—18–38 PARTICIPANTS											
Net sales	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Cost of goods sold	76.4	75.8	76.2	75.6	76.1	76.6	77.8	79.3	85.9	89.6	83.3
Gross margin	23.6	24.2	23.8	24.4	23.9	23.4	22.2	20.7	14.1	10.4	16.7
S.G. & A. expense (total)	11.7	12.2	12.7	12.7	13.1	13.0	13.7	15.8	17.4	18.9	18.9
Pretax margin	11.9	12.0	11.1	11.7	10.8	10.4	8.5	4.9	(3.3)	(8.5)	(2.2)
SIMPLE AVERAGES OF DATA REPORTED—6–16 PARTICIPANTS											
Return on equity	18.3	14.7	13.0	7.3	7.9	18.8	17.5	14.2	(1.7)	(7.5)	(1.4)
Equity to sales	1.22	1.00	0.99	1.12	0.83	0.82	1.04	1.09	1.17	1.59	1.33
Long-term debt (thousands)	8,748	8,955	11,452	15,851	15,138	18,414	25,853	30,487	37,651	35,972	33,614
Profit as percent of shareholders' equity	20.8	17.8	15.5	9.8	10.7	21.9	17.4	11.0	(4.0)	(10.5)	(0.3)

TOTAL DOLLAR (THOUSANDS) REPORTED BY ALL COMPANIES—18-38 PARTICIPANTS

Net sales	595, 058	725, 486	825, 423	961, 372	1, 176, 942	1, 431, 569	1, 707, 113	1, 760, 660	1, 828, 712	1, 866, 675	2, 032, 035
Cost of goods sold	454, 368	549, 913	629, 073	726, 987	895, 442	1, 096, 581	1, 327, 212	1, 396, 619	1, 570, 361	1, 671, 843	1, 692, 764
Gross margin	140, 690	175, 583	196, 350	234, 385	281, 500	334, 988	379, 901	364, 041	258, 351	194, 831	339, 271
S.G. & A. expense (total)	69, 541	88, 311	104, 593	122, 060	153, 745	185, 515	234, 350	277, 247	319, 520	354, 090	384, 685
Pretax margin	71, 149	87, 262	91, 757	112, 325	127, 755	149, 473	145, 551	86, 794	(61, 169)	(159, 259)	(45, 414)

6-16 PARTICIPANTS

Long-term debt	52, 486	71, 640	91, 616	126, 806	151, 386	239, 377	361, 944	396, 326	527, 116	539, 578	537, 827

DOLLAR AVERAGES DERIVED FROM PERCENTAGES REPORTED—6-16 PARTICIPANTS

Equity	63, 940	57, 389	63, 723	73, 836	71, 285	72, 280	84, 010	93, 662	94, 494	74, 317	74, 411
Shareholders' equity	57, 756	44, 188	51, 795	53, 562	54, 642	51, 617	55, 630	60, 045	53, 953	57, 902	57, 319

TOTAL DOLLARS (THOUSANDS) DERIVED FROM REPORTED PERCENTAGES—6-16 PARTICIPANTS

Equity	383, 638	459, 111	509, 784	590, 686	712, 850	939, 639	1, 176, 135	1, 217, 603	1, 322, 909	1, 114, 755	1, 190, 580
Shareholders' equity	288, 782	343, 305	414, 361	428, 492	546, 417	671, 027	778, 823	780, 589	755, 339	868, 532	859, 791

FEDERAL CIVILIAN EMPLOYMENT, MARCH 1972

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. MAHON. Mr. Speaker, I include a release highlighting the March 1972 civilian personnel report of the Joint Committee on Reduction of Federal Expenditures:

FEDERAL CIVILIAN EMPLOYMENT, MARCH 1972

Total civilian employment in the Executive, Legislative and Judicial Branches of the Federal Government in the month of March was 2,866,368 as compared with 2,868,122 in the preceding month of February. This was a net decrease of 1,754.

These figures are from reports certified by the agencies as compiled by the Joint Committee on Reduction of Federal Expenditures.

EXECUTIVE BRANCH

Civilian employment in the Executive Branch in the month of March totaled 2,826,231. This was a net decrease of 2,037 as compared with employment reported in the preceding month of February. Employment by months in fiscal 1972 follows:

Month	Full-time employees in permanent positions	Change from previous month	Temporary part-time, etc.	Change from previous month	Total employment	Change from previous month
July 1971	2, 521, 703	+1, 391	381, 448	+18, 755	2, 903, 151	+20, 146
August	2, 524, 098	+2, 395	366, 062	−15, 386	2, 890, 160	−12, 991
September	2, 527, 518	+3, 420	317, 021	−49, 041	2, 844, 539	−45, 621
October	2, 529, 832	+2, 314	303, 236	−13, 785	2, 833, 068	−11, 471
November	2, 528, 233	−1, 599	300, 256	−2, 980	2, 828, 489	−4, 579
December	2, 525, 858	−2, 375	300, 662	+406	2, 826, 520	−1, 969
January 1972	2, 552, 081	+26, 223	272, 945	−27, 717	2, 825, 026	−1, 494
February	2, 550, 984	−1, 097	277, 284	+4, 339	2, 828, 268	+3, 242
March	2, 539, 790	−11, 194	286, 441	+9, 157	2, 826, 231	−2, 037

Administration orders announced last August were directed at reductions in the category of full-time permanent employment. In the 7 months since, full-time permanent employment has been reduced by approximately 14,300, mainly in the Defense Department. This would indicate further reduction of about 8,300 to reach the level of 2,531,500 projected for June 30, 1972.

Of the 14,300 reduction in full-time permanent employment since last August, 13,400 was reported by the Defense Department. The civilian agencies reported a net decrease of about 900 (exclusive of approximately 30,000 reclassified Postal Service employees)—reflecting decreases mainly in GSA, Agriculture, Transportation, NASA and Interior, partially offset by increases in Treasury, Veterans and EPA.

Changes in total employment in January in Civilian Agencies of the Executive Branch as compared with civilian employment in Military Agencies were as follows:

	March	February	Change
Civilian agencies	1, 705, 959	1, 703, 448	+2, 511
Military agencies	1, 120, 272	1, 124, 820	−4, 548
Total, civilian employment	2, 826, 231	2, 828, 268	−2, 037

The civilian agencies of the Executive Branch reporting the largest increases in March were Interior with 608 and Justice with 529.

In the Department of Defense the largest decreases in civilian employment were reported by Navy with 2,361 and Air Force with 1,728.

Total Executive Branch employment inside the United States in March was 2,643,202, an increase of 484 as compared with February. Total employment outside the United States in March was 183,029, a decrease of 2,521 as compared with February.

LEGISLATIVE AND JUDICIAL BRANCHES

Employment in the Legislative Branch in March totaled 31,853, an increase of 247 as compared with the preceding month of February. Employment in the Judicial Branch in March totaled 8,284, an increase of 36 as compared with February.

In addition, Mr. Speaker, I would like to include a tabulation, excerpted from the Joint Committee report, on personnel employed fulltime in permanent positions by executive branch agencies during March 1972, showing comparisons with June 1970, June 1971, and the budget estimates for June 1972:

FULL-TIME PERMANENT EMPLOYMENT

Major agencies	June 1970	June 1971	March 1972	Estimated, June 30, 1972[1]
Agriculture	82, 912	84, 252	83, 156	83, 000
Commerce	25, 427	28, 435	27, 820	28, 500
Defense:				
Civil functions	30, 297	30, 063	30, 093	30, 600
Military functions	1, 129, 642	1, 062, 741	1, 048, 796	1, 011, 000
Health, Education, and Welfare	102, 297	104, 283	106, 034	102, 000
Housing and Urban Development	14, 661	16, 030	15, 775	15, 200
Interior	59, 349	57, 570	56, 721	56, 900
Justice	38, 013	42, 662	43, 455	45, 100
Labor	10, 217	11, 352	11, 974	11, 800
State	23, 618	23, 398	22, 775	22, 700
Agency for International Development	14, 486	13, 477	12, 856	12, 400
Transportation	63, 879	68, 482	67, 320	66, 400
Treasury	86, 020	90, 135	95, 109	98, 500
Atomic Energy Commission	7, 033	6, 920	6, 813	6, 700
Civil Service Commission	5, 214	5, 324	5, 175	5, 600
Environmental Protection Agency[2]		5, 959	7, 892	8, 000
General Services Administration	36, 400	38, 076	35, 797	39, 400
National Aeronautics and Space Administration	31, 223	29, 478	28, 112	27, 500
Panama Canal	14, 635	13, 967	13, 856	14, 200
Selective Service System	6, 665	5, 569	5, 814	6, 200
Small Business Administration	4, 015	4, 004	4, 022	4, 000
Tennessee Valley Authority	12, 657	13, 612	13, 762	14, 000
U.S. Information Agency	9, 989	9, 773	9, 491	9, 400
U.S. Postal Service	565, 618	564, 782	593, 494	[3] 613, 400
Veterans Administration	148, 497	158, 635	161, 294	162, 700
All other agencies	29, 807	31, 333	32, 384	34, 300
Contingencies				2, 000
Total[4]	2, 552, 571	2, 520, 312	2, 539, 790	2, 531, 500

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[1] Source: As projected in 1973 budget document; figures rounded to nearest hundred.

[2] Established as of Dec. 2, 1970, by transfer of functions and personnel from Interior, HEW, Agriculture, Federal Radiation Council and Atomic Energy Commission.

[3] Includes approximately 39,000 postal employees subject to reclassification by June 30, 1972, under a labor-management agreement. Such reclassification was reported to the committee in January 1972.

[4] March figure excludes 2,947 disadvantaged persons in public service careers programs as compared with 2,950 in February (see table 3, p. 11).

HIGHER EDUCATION FOR BLACK AMERICANS: ISSUES IN ACHIEVING MORE THAN JUST EQUAL OPPORTUNITY

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. HAWKINS. Mr. Speaker, I am honored to insert in the RECORD the excellent statement on Higher Education for Black Americans presented at the recent National Policy Conference on Education for Blacks by the distinguished president of the Institute for Services to Education, Elias Blake, Jr. I urge my colleagues to read this carefully prepared analysis of the status of black Americans in higher education.

The statement follows:

HIGHER EDUCATION FOR BLACK AMERICANS: ISSUES IN ACHIEVING MORE THAN JUST EQUAL OPPORTUNITY

(By Elias Blake, Jr.)

INTRODUCTION

The paper will do the following things:

Develop a factual profile on the status of Black Americans in higher education, undergraduate through graduate and professional schools.

Analyze the conflicting data on exactly how many blacks are being educated beyond high school. This is crucial to projecting the magnitude of what still needs to be done.

Project some divisive issues which must not be allowed to divert Black Americans from coalescing their need for "Unity without Uniformity" in achieving *equity* not just equality of opportunity in higher education.

Indicate needs, financial and programmatic, at "crisis points" for achieving equity not just equality of opportunity: (1) college admission and survival after high school; (2) college completion and movement into graduate and professional training.

Indicate financial and programmatic needs at "crisis points" for achieving equity not just equality of opportunity. Some crisis points are: (1) getting into college with restrictive admissions; (2) survival in college after admission; (3) college completion and support for graduate and professional training.

No attempt was made to do detailed justifications of a particular point of view. It tries to go through the things we must all attack if equity in higher education is to be achieved.

The paper attempts to avoid moving into areas which dealt with what would be done in specific educational progams. If the issues outlined can be joined and effectively worked on, greater equity will be forthcoming. A more philosophical stance was felt to be inappropriate as a starting point for a national group.

PART I.—PROFILE OF BLACK AMERICANS IN HIGHER EDUCATION

In the fall of 1970, various estimates projected from 400 to 500,000 blacks were enrolled in institutions of higher education. 970,000 should have been enrolled at that point and 1,070,000 should be enrolled by 1972. Without the most drastic attacks on current methods of college recruiting, admission, and available financial support, the 600 to 700,000 deficit will occur. By 1982, 1.8 million should be enrolled in college.

There are no reliable estimates of how many black youth are graduating from any level of higher education, whether two year colleges, four year colleges and universities, or graduate and professional schools. The only hard data are from the 100 black colleges in the South. Using the fact that the black colleges will produce about 25,000 graduates in June, 1972 and this probably represents *at least* 60 percent of the national total, that would mean about 41,700 graduates of all kinds; baccalaureate, graduate, and professional.

From 1960 to 1968, the gap increased between the percentage of blacks and the percentage of whites who have finished four years of college in the 25 to 34 year old age group.

[In percent]

	1960	1968
White	11.7	15.7
Black	4.3	6.3
Difference	7.4	9.4

According to estimates by Michael Flax,* the gap will be no smaller in 1976 than in 1968, and by 1987, blacks would just reach the *1968* level of college educated white people in the 25 to 34 age group! The serious problem this presents for equity in income levels and participation in the professional, technical, and managerial segments of the society can not be overestimated.

About 3 percent of the enrollment in graduate and professional schools is black, though some higher percentages have been reported for the 1971 entering classes in law and medicine. (These are as high as 8 to 9 percent of the most recent entering classes.)

For the first time in a hundred years, a majority of blacks in college may be enrolled outside of the predominantly black colleges in the South. If this is in effect true, it occurred in the last four to five years indicating how recent is the involvement of blacks in any numbers in predominantly white institutions of higher education. (The "Quality" of the non-black college enrollment will be discussed shortly.)

How is the enrollment distributed? The following data are for fall 1970.

	Number	Percent
Total enrollment	[1] 379,138	
Predominantly black colleges (South)	170,000	44
Predominantly white colleges	204,138	56
1st 2 years of college	264,000	74
Last 2 years of college	93,000	26
Graduate and professional	22,000	

[1] Office of Civil Rights Ethnic Survey of Higher Education Institutions. I prefer to use the more conservative data from OCR rather than the 482,000 figure of the Census Bureau, since no knowledgeable observers can find the rapid expansion of enrollment in the last 7 years—234,000 in 1964 to 482,000 in 1970, physically present across the country.

Black college students come from families with less money than the general college going population. The following data are for students from families with more than $10,000 income.

All students—64% are from families above $10,000;

Black Students—17% are from families above $10,000;

In Black Colleges—7% are from families above $10,000.

A special note is appropriate about the educational clientele of the Southern Black Colleges in the region where 53 percent of the black population still resides. The median income of entering freshmen is $3,900 as compared to a median income for black families in the South of $5,226. About half of their students come from small and semi-rural towns reflecting the fact that in the 1970 census 44 percent of the Southern black population lived in non-metropolitan areas. This is a caveat on some very important institutions which still have a heavy role to play and a large part of it is outside of the cities.

Over two-thirds of all black students in college could not remain there without continued and substantial financial aid. About 75 percent of their financial aid comes through the institutions they attend and from federal sources.

Though black families produce about 20 percent of the average students' expenses, it is a substantial sacrifice representing as much as 10 to 20 percent of their money income in already over extended family budgets. Presently, there are no real alternatives to major increases in federal support for black college students.

Conflicts in Estimates of College Enrollment: Is "Progress" Really Progress?

In 1968, the Census Bureau reported 434,000 blacks ages, 16 to 34 in college; this represented an 80 percent increase over 234,000 reported in 1964. The previous highest estimate was about 300,000. Since that time, the three main sources of racial data have remained in substantial conflict. They are: (1) the Census Bureau, (2) the Office of Civil Rights (OCR) HEW, and (3) the American Council on Education (ACE). For example, in fall 1970, the OCR reported 356,836 black undergraduates, while the Census Bureau reported 484,000, while the ACE estimates were somewhere in between. This 125,000 gap has remained consistent for three years now.

Another highly related issue is what proportion is in Southern predominantly black colleges. It is widely quoted that now only 34 percent of the blacks in higher education are enrolled there. This writer, along with the ACE, Office of Research, John Edgerton, who wrote "State Universities and Black Americans," all view the census data as inflated. It is a way to suggest a diminishing role for the colleges which have supported black aspirations for over a hundred years. It is also associated with highly restrictive programs in the private sector that will benefit only a smaller number of these institutions which still produce a majority of the black graduates.

The drift of all this would be to kill off the historic black colleges, thereby making *all* higher education of black youth dependent on predominantly white institutions in which the problems of control and influence are enormous.

Enrollment after all is only a sign of what may be possible not what is happening to Black Americans in higher education. The quality is important. We must be alert to some seriously deceptive factors in the enrollment data. *Quality factors* are the following:

1. How many are enrolled full-time?
2. How many are in degree credit programs?
3. How many are in two year versus four year colleges?

Productivity factors are the following:

1. How many are graduating and in what fields and are those the needed areas?
2. How many in the two year colleges are in baccalaureate transfer programs versus terminal programs out of which few college credits can be carried towards a B.A. degree?
3. How many are going on into graduate and professional areas such as, law, medicine, engineering, advanced science, research, and technology?

Despite all the publicity on increases, no studies of any comprehensive nature exist with solid answers to these questions. All kinds of head counts are taken but almost as in a conspiracy nothing else is known (except for some studies in individual colleges and some estimates). Most estimates agree that about 75 percent of the blacks are in the first two years of college. It is difficult to get a breakdown on what proportion are in two year versus four year colleges. Nationally, 26 percent of all students are in community colleges. More than that proportion of blacks is generally assumed to be in two year colleges. Though some community colleges, particularly those under black leadership, are being responsive to black students, there are still major characteristics of community colleges in general which must be scrutinized carefully.

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* Michael Flax, "Blacks and Whites: An Experiment in Racial Indictors," *Urban Institute,* 1971.

The Question of What Kind of First Two Years: Dead End or a Chance to Make It?

Most community colleges enroll degree-credit and non-degree credit students. A major question is whether too many black youth are being directed into such terminal programs when the need is for programs giving the option for transfer to a four year college. A look at some data from the Los Angles Community College district shows that the more blacks and Chicanos are in college, the more the enrollment is in non-degree credit work. Despite problems in determining the actual size of the colleges and their number of blacks enrolled, the basic finding is accurate that a lot of non-degree credit work is going on and most heavily in the places where blacks are concentrated. Another factor is that male degree credit enrollment is from half to two-thirds part-time in the majority minority schools while two-thirds of the degree credit male enrollment is *full-time* in the community colleges with 88 to 94 percent white enrollment in Los Angeles.

It could well be that a substantial portion of the so-called increased enrollment could be part-time students, in non-degree credit work with substantial financial problems and married with families. It is essential that opportunity be available to these black people, but they need to be almost superhuman to survive all the obstacles and gain college degrees or their vocational goals. Steps must be taken to create the same pattern seen in the predominantly white colleges in Los Angeles. A major proportion of the so-called black enrollment is being programmed for failure or as the menial labor of the Technological Society of the year 2000.

By comparison, 87 percent of the enrollment in the black colleges is full-time baccalaureate degree credit enrollment and 95 percent of the enrollment is in four year degree granting four year colleges and universities. These facts are never mentioned as arguments ensue about what enrollment is where.

Unless we ask the quality and productivity questions, the keepers of the "social progress" data may well be directing our attention away from the real issues.

Greater pressure then must be brought in all regions of the country to produce some reliable indices of what is actually happening to black enrollees. State level efforts in this regard are important. The task is more manageable and more consistent pressures can be brought at the state level to produce data. Once the data are available, then the pressure shifts to performance of institutions in graduating competent blacks.

TABLE I.—A COMPARISON OF THE PROPORTION OF MINORITY GROUP ENROLLMENT AND THE PROPORTION OF NONDEGREE CREDIT ENROLLMENT IN LOS ANGELES COMMUNITY COLLEGE DISTRICT

	Percent minority est.[1]	Percent black	Percent others	Percent nondegree enrollment
L.A. Tech cc	70	34	36	57.5
(15,500)[2]	[3] (10,850)			
L.A. City cc	54	28	26	39.9
(18,000)	(9,720)			
East L.A. cc	53	6	47	38.0
(14,000)	(7,420)			
Southwest cc	96	92	4	33.1
(3,000)	(2,880)			
Peirce cc	6	1	5	31.0
(16 000)	(960)			
L.A. Harbor cc	30	11	19	24.0
(8,500)				
L.A. Valley cc	12	3	9	20.9
(18,000)	(2,160)			

[1] The minority percentage was taken from the Office of Civil Rights Ethnic Survey 1970. The total enrollment was taken from Fall Enrollment in Higher Education 1970: Institutional Data NCES, Office of Education. The total minority enrollment is possibly inflated because the total size of the colleges was more accurate in the Office of Education report than in the Office of Civil Rights Survey. The problem then is that the numbers reported here are greater than those in the OCR Survey. This points up the problem of accuracy in enrollment data. For example, OCR reports 1,936 blacks, 2,049 other minorities out of a total enrollment of 5,694 at L.A. Trade Tech. The Office of Education reports a total enrollment of 6,550 in degree credit enrollment alone. At O.E., L.A. City Community College reports 10,842 in degree credit enrollment as compared to a total enrollment of 7,507 in the OCR Survey.

[2] Total enrollment degree and nondegree credit enrollment.

[3] Estimated minority enrollment based on OCR reports that there is a 70 percent minority enrollment at L.A. Tech. The other percentages in the column follow the same pattern. If the O.E. enrollment data are not accurate, then the numbers will be inaccurate. From conversations with educators, the O.E. enrollment data are more accurate. Yet that does not answer the questions about whether more blacks are enrolled because the total numbers in enrollment are larger. For example, 1,936 blacks could be all that there are at L.A. Trade Tech. and no more are included in the 900 additional students beyond the 6,550 reported to OCR. All this adds up to some very fuzzy data on how many blacks are actually in college.

A more subtle question about what is happening to blacks deals with the psychological and emotional pressures of the predominantly white campus (particularly on the larger state universities or where a small proportion of blacks are on a smaller campus). Those black youth who are not already well formed as to their personal identity, can be very much confused by their educational experiences. Thus we lose their effectiveness for some years after graduation while they recover from the emotional battleground of their educational experience. It is also becoming apparent that some of the new black professionals on these campuses are also under similar pressures and not able to be of much help to the students.

Some of these pressures deal with the role of a black person in a white institution and how much time and effort should be put into dealing with the personalized and institutionalized racism of students, faculty, administrators, and staff personnel (guards, cafeteria people, student union, staff, etc.). The incidents often tend to be in enough volume to make up a full-time effort for a student in reacting to each and every instance of racism. Though one is deeply involved with blacks in Afro-American unions or other group activities, a substantial amount of ambivalence exists as to whether one is following the right actions. There is also the business of being "on" all the time in acting in a way so as to not to allow whites to continue to do racist things.

DIVISIVE GAMES BEING PLAYED IN HIGHER EDUCATION POLICY FORMULATION

The Numbers Game: Whose Got the Black Students So Who Gets the Money?

Major segments of the blacks in higher education institutions can easily be put at each others throats because of the numbers game. It is fairly clear that the Congress can be influenced to put money into programs that help students in financial need. Though the definitions of need include essentially middle class families in the new legislation poorer students still result in more federal aid to students coming into a school. A part of both of the new higher education bills includes some general support based on how many poorer students a school enrolls. General support is free money to be used as a school sees fit. A proportion of this free money is based on how many students one has on financial aid.

Black students are clearly the lowest income segment of students in higher education. Thus if you can prove you have lots of them, lots of money can come in your direction. Not only that, but foundation grants and research grants also can be pursued to do research on the "disadvantaged".

Three major segments all have black professionals who have been put on the firing line in getting money for black students. These three groups should beware the use of the numbers game to force one group of blacks to be influential in killing off the educational efforts of another group.

These three groups are:

1. Blacks (teachers-administrators) in community colleges including black presidents of predominantly or heavily black community colleges mainly in the 20 largest cities.

2. Blacks in predominantly white four year colleges and universities flowing mainly from black student pressures and the rise of Afro-American and Urban Studies programs.

3. Blacks in the historically predominantly black colleges in the South where 53 percent of the black population still resides.

Each group has been forced to scramble for scarce resources and has been encouraged to believe, based on the contradictory enrollment data that each is the dominant force in the field. So far no unifying force has developed to put a stop to these developing trends and turn the attention of all three to the fact that all of them should combine their efforts cooperatively.

The predominantly black colleges in the South are under greatest pressure in this three way divisive game. This is encouraged by the racism which says anything predominantly black is automatically second rate and the second rateness is the fault of those who run the black institution. Too often one hears criticisms from those in the community colleges and predominantly white institutions echoing these ideas. In such phrases as "are they really black schools?" "Are they really being relevant?" "Are not they going to soon die off?" In regards to the last question, no they will not die, but they can be killed lest the national black community becomes more vigilant.

Blacks should be aware these schools are still the only institutions run by black men which are accredited for awarding degrees. Black presidents outside the South so far have been in community colleges with one or two exceptions, even in heavily black cities such as New York, Chicago, and Detroit. If these institutions are hooked into the national black college community, they can represent (as they always have) a most dependable means to maintaining momentum in achieving equity.

The numbers game should be in terms of dollars, hundreds of millions more than are currently available for educating black youth.

The Ideology Game: What Comes First, Ideological Clarity or Technical Skills?

Clearly there are disagreements within the national black community about education for what. The highest priority must be given to rethinking what our educational efforts are all about. We must prepare black youth for dealing forcefully with their status in America without confusion and ambivalence. What kind of person we are producing in terms of knowing who he is, is as important as the technical know how.* Clearly both will have to develop simultaneously along a variety of paths. Black educators must be doing it now while they pursue philosophical clarity. The unifying force should be productivity, that is getting black youth into college, keeping them there, and getting them out with competence and capabilities. Some of them to be sure will turn away from the pressing needs of the black community, but most will not. The new awareness forces itself too deeply into the consciousness of our youth. An anecdote makes the point. A young couple engaged to be married on a college campus went to get an engagement ring. They could not buy one that had not been made in South Africa. They did not get the ring. Though this was a black campus, its programs have no strong ideological focus, yet the training of two such young people will benefit black people everywhere in the world.

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* These issues have been dealt with at more length in another paper. "Future Leadership Roles for Predominantly Black Colleges and Universities in American Higher Education", *Daedalus*, Summer, 1971. My own "ideology" is set forth here.

If black educators are making *concrete productive* efforts, that is producing larger numbers, then their dialogue of disagreement, if such be the case, should not intrude on their productivity. Our wrath should be directed at those whose approaches to technical competence, whether in art, music, or science and technology, are not productive or whose approach to ideology results in their most vicious attacks falling on other blacks with whom they disagree.

If another person is not "black enough" for you, check out his program of education for black youth. If he is being productive, then do not try to stop him because he "is not together". Stand outside his door and recruit his trained manpower to your cause.

There can be Unity in Productivity with diversity in paths to productivity. If the pool is large enough, we will get enough trained people to serve the ends of any point on the ideological spectrum. Without the writers, engineers, doctors, lawyers, computer experts, city planners increasing five fold, no manpower will exist to make any of the dreams of the black community for its own development come true. The last thing we need is a black educational community that is composed of a few strong leaders and legions of followers. Strength comes when the bonds of unity cannot be destroyed by the diversity they encompass. Minds must be strong and forceful behind whatever the skills. Strong minds are not produced by uniformity of thought.

PART II

The goal of the following section is more than just opportunity. It is educational parity. Opportunity is not enough if a 17 year old's training is crippled by inadequate preparation in inadequate educational institutions. Parity is a number of graduates and professionally trained personnel equal to the proportion of black people in America. Parity is essential by the end of this decade. The effects of the institutional racism of the past must not blight the fair chances of black youth as they clamor for their fair share of the trained manpower which will be running America in the year 2000. If programs of opportunity do not produce parity, they will have been a cruel hoax contributing to frustration that is heightened by raising expectations.

EDUCATIONAL PROGRAMMING FOR EQUITY NOT OPPORTUNITY

This crisis points (see attached chart) where educational programming is vital for bright but educationally cheated minority youth fall: (1) from high school graduation through the first two years of college, and (2) from college graduation through the first year of graduate and professional work. The poor quality of elementary and secondary education available to most minority students puts them at a distinct disadvantage in higher education and necessitates additional counseling and instruction. No signs of improvement are seen in elementary and secondary education and with the increasing concentrations of black people in our central cities, North and South, adequate support for improvement become more difficult. Educational programming at the indicated levels is a must if black youth are to achieve educational equity. Without it, student aid will be less effective.

The admissions crisis point: getting into the systems

The equity argument moves toward an open enrollment system for public higher education at all levels until equity is functional.

Open enrollment means no traditional added on criteria such as a specific test score, a specific academic average beyond a passing one, a specific rank in class, e.g., the upper third. If one completes high school with a C average, he is eligible for admission to any public college, not just a community college. If a community college is completed, one is eligible for admission to a four year college. If one graduates from a four year college with a C+ average, he is eligible for law, medical, dental school, or graduate school so long as he has the appropriate undergraduate major.

Functional equity means that the proportion of blacks in a state ought to be enrolled and graduating in higher education. In those metropolitan areas where they are concentrated, they should be enrolled in higher education in proportion to their share of the population. If, however, blacks are throughout a state system in the appropriate numbers, that would compensate for a smaller proportion in college in a metropolitan area. Graduating proportions is the key factor not just how many are enrolled, but how many are at all levels. What this would mean as a goal is illustrated below based on the 1970 Census (not reproduced in the RECORD).

	Percent black	Blacks as percent of the public school population
Newark	54.0	72.2
New Jersey statewide	10.7	15.4
New York City	21.2	34.5
New York statewide	10.6	15.5
Chicago	32.7	54.8
Illinois statewide	12.8	18.2
Atlanta	51.3	68.7
Georgia statewide	25.9	33.2
New Orleans	45.0	69.5
Louisiana statewide	29.8	40.4
Birmingham	42.0	54.6
Alabama statewide	26.2	34.3

In Newark, 54 percent of those enrolled and *graduating from* all levels of higher education should be black including doctors, lawyers, Ph. D's. etc. If the percentage is less in Newark than in the state as a whole. 10.7 at all levels should be involved. These are conservative estimates because the public school population in the state is a higher proportion than the population and that proportion should be used for the state as a whole.

My choice would be the public school population as a performance standard for functional equity. The fastest rise in enrollment curves should result from pressures to achieve that level of equity. In Chicago then, 54.8 percent of the enrollment at Chicago State, Prairie State, and the University of Illinois at Chicago should be black as well as in the community colleges. If that is not the case, then 18 percent of the statewide higher education population ought to be black. If these proportions are achieved by 1975, then by 1979, 18.2 percent of the University of Illinois Medical School in Chicago ought to be black. In fact, admissions to graduate and professional schools should be 18 percent by 1974 since these schools pull from the national population as well as the state.

East state and metropolitan black community should determine what equity means for them and begin to pursue those goals. Without open enrollment, however, nothing like the increases required can be achieved.

Undergraduate Crisis Point: Revolving Door or Maintenance of Progress

The first two years of college are critical. Most drop-outs occur in that period. A majority of students who return for their third year of college graduate. Two factors are of paramount importance: (1) money for student expenses, and (2) an educational program to hold in rather than push out students.

Financial aid programs should extend into the summer before a student comes to college or his aid package should allow charges to be made for preparations to come to college, such as, clothing, possible travel, and so on. There would be no fees for tests since they would be given only after admission and for diagnosis only.

The aid program should:

1. Free a student from any work requirements for at least his first year of college. Ideally all work should come in the last two years after two successful years of *Achievement*.

2. All colleges should give the maximum grant support possible in the first two years; reducing overall indebtedness where loans are used and giving the student a maximum chance to do his school work.

3. New kinds of packages are needed for older students in metropolitan centers. For example, veterans should be able to get additional money from other programs, such as, educational opportunity grants and loans. Students over 21 should have a program created with a base of $4,000 a year in a tax exempt stipend for full-time attendance. Colleges such as Federal City College in Washington, D.C., reveal an enormous backlog of older students. These backlogs are a result of the kinds of deficits cited earlier where less than half of those who ought to be enrolled are enrolled.

Educational Programming: From Institutional Racism to Institutional Support for Equity

Historically, except for the black colleges, all levels of the higher education structure excluded black people. The elementary and secondary schools crippled the education of black youth and then colleges and universities excluded them for being "unprepared." This vicious circle of institutionalized racism must be broken all along the line. Increasing college entrants is not enough without increasing college graduates. Increasing college graduates is not enough without increasing Ph. D's, lawyers, architects, urban planners, engineers, doctors, dentists, and other health professionals. Predominantly black colleges will expand their role and enrollment in achieving the goal of equity, but they cannot do it alone. Higher education in America must follow the black college model, taking young people as they come and doing what is necessary to give them the skills necessary to become leaders of tomorrow. *Educational programing* with adequate support will achieve the goal.

1. Colleges must redesign their freshmen year programs for *all* students so that they will be responsive to the needs of black students in larger numbers. Remedial non-credit programs must be rejected because they represent the first revolution of the revolving door. Through remedial programs the regular faculty avoids its need to retrain itself in better teaching and use of more accurate content in the social sciences and humanities. All colleges generally designed their freshmen year as a revolving door even before blacks had arrived. Continuation of the approach will have predictable results.

2. Colleges should receive a cost of education allowance for each black student who would not qualify except via open enrollment. The express purpose of these funds is to support the redesign and retraining of faculty as well as putting in whatever extra counseling services are needed. For each stu-

dent who does not survive, however, the college should have to produce a refund of a portion of the allowance. Where a large proportion of the black students are not surviving, a college must show how it intends to remedy the situation as a basis for continued support *or not receive the funds.*

3. Particular pressure should be put on institutions to redo their approach to science and mathematics instruction. Too few black youth are majoring in these fields. A major effort should be mounted to have the National Science Foundation make better college level instruction in beginning science courses a national priority. Its new program, Research Applied to National Needs (RANN) is being designed and carried forward with the same cast of characters that left black people out of the rapid development of scientific personnel in the last 20 years.

The outlay of state and federal funds for grants for student aid should project 300,000 low-income black students at a minimum of $2,000 a student for 600 million dollars. This grant pool will approach one billion dollars a year if America is serious about educational equity for Black Americans.

In addition, the college work study program should be expanded to 300 million a year in order to pay a better hourly wage for part-time work in the last two years of college and to produce summer work for black students in smaller towns where there is little work available.

The cost of educational allowances for the same 300,000 start-up pool would cost 150 million at $500 a student. Again, this is a start-up figure that by 1978 would be at the level of 550 million a year.

These figures are put forward as benchmarks against which you can judge the adequacy of the efforts being projected.

GRADUATE AND PROFESSIONAL LEVEL CRISIS POINT

National post-baccalaureate programs are needed, directed toward recruiting and interesting larger numbers of blacks to pursue graduate and professional training. Too many black youth of considerable ability do not even consider going beyond the B.A. degree. They feel a sense of obligation to help others in their families as well as to avoid further indebtedness by going forward into law, medicine, or a Ph.D. What is possible can be determined from looking at the pool of talent coming out of the black colleges this June and in June of 1973. If just the top 20 percent of approximately 21,000 B.A. degrees in the black colleges went into graduate and professional school, that is 4,200 applicants, and if about 2,600 came from other schools, that is an annual pool of 6,800 to 7,000. If one made a special effort to pick up 10 percent of the places nationally in law, medicine, and dentistry, one would need only 5,218 applicants.

There were in 1970: 11,394 first year Doctors—1,140 for 10% black; 4,639 for first year Dentists—464 for 10% black; 36,136 first year Lawyers—3,614 for 10% black.

An immediate national effort would then yield real results in these fields as well as in Ph. D. programs.

A very real crisis is facing black American equity in gaining the doctorate. The so-called oversupply of Ph. D.'s is drying up major programs for the support of doctoral study. Rather than redirecting funds toward blacks, the programs are being phased out.

The NDEA Fellowship Program is being phased out in the Office of Education. The National Science Foundation gave the last new awards in its graduate traineeship program in 1970. In 1973, the last awards for those already being supported will be made: 1,808 people are in the program; in 1969, 2,842 were in the program.

All institutions of higher education with predominantly black student populations should be aware that this means that very few black doctorate level applicants will be available in the next five to ten years. The competition for the existing pool will be intensified and there will be convenient excuses for all kinds of universities and industries under pressure to hire more blacks with this level of training.

Rather than phasing out these programs, they should be maintained and focused on Black Americans. This decade represents a rare opportunity to do for blacks in graduate and professional education what has been done in developing scientific personnel for the space and defense industries.

HIGHER EDUCATION INSTITUTIONS AS MAJOR RESEARCH SOURCES

Over an eight-year period, the National Institutes of Health spent $40 million to support a team of scientists working on an artificial heart. These scientists have subcontracted specialized work out to universities, research institutes and companies. The group has involved physicists, chemical and electrical engineering, as well as specialists in such fields as hematology and physiology.

A great many problems of direct importance to the black community can use such a concentrated effort with long-term funding. Sickle cell research is one of those in the medical field. Some rather sophisticated economic development research is also needed to deal with options for the development of the economic resources of Black Americans beyond just a nation of wage earners.

Can nutrition and health in the ghetto be improved through additives to popular foodstuffs in carry-outs and small grocery shops? Can the chicken and barbeque places which dot the ghetto be a positive force in nutrition without changing the diet?

Teams of nutritionists, marketing experts, and legal experts should collaborate on how to produce and then popularize a new high protein soft drink aimed at young children and teen aged mothers during their pregnancies or a new kind of ice cream truck with diet enriching ice cream at subsidized lower prices.

Drugs are of such epidemic proportions that a vaccine of immunization may be needed and made compulsory annually from age 4 to age 21. So much greed is involved in the traffic that parallel approaches are needed. Who knows if such a thing is possible?

The NIH heart development model can be applied to predominantly black colleges or independent research groups made up of black professionals associated with a university. The grant making machinery already exists. The problem is forcing a break with continuing to support those institutions, they have developed over the last 25 years. Agencies which make grants for such purposes should be identified and pursued for multi-million dollar efforts over a decade. *It seems important to put such efforts in a historically black college or university. Institutionalization for long term benefits of black people seems more likely there than in the more recent and less certain situations on the predominantly white campuses.*

THE LEGAL STATUS OF THE BLACK PUBLIC COLLEGE IN THE SOUTH

Black public colleges enroll about two-thirds of the 170,000 students enrolled in predominantly black colleges. Without them, the pattern of building equity for blacks would be almost impossible. For example, in Tennessee without the public college, only 5.6 percent of the enrollment would be black in the State as opposed to 11 percent with the black public colleges. At least 21 percent of the enrollment in the State should be black. If there was equity, the University of Tennessee System should have 8,000 blacks enrolled out of 40,000 students. These would be *in addition* to the black students enrolled at Tennessee State University.

The problem is that some attention is being turned to the "desegregation" of the predominantly black campuses. This attention ignores the fact that, if white students are recruited to the currently predominantly black campuses, they cannot be at the expense of fewer blacks attending these schools. Enrollment should be expanded so that, if some whites are recruited, they do not further diminish the underrepresentation of blacks in the public higher education system.

These campuses cannot legally remain *all* black or exclude whites. Neither of these things is true now. In fact, almost uniformly, the predominantly black campuses have more white faculty than the predominantly white campuses have black faculty. Because of strong racial attitudes in the white community, it is more difficult to get white students.

Eventually, the Department of Health, Education, and Welfare will require a plan for desegregation of the public higher education system in each state. It is imperative that the black community in each state have an impact on that planning process. Just as the white community protects its interests in public school desegregation, so must the black community protect its interests with these black colleges and universities. The plan should be acceptable to the black citizens and they should not accept the easy assumption that mergers of two schools in the same city is the appropriate action to take. These plans can meet the legal requirements of the Civil Rights Act of 1969 in a variety of ways. Certainly since the interests of the black community are a paramount goal of these plans, it should force access through its elected officials if appropriate to the planning process. In some states the primary higher education boards are still all white or has only one black on them in states where 25 to 50 percent of the school population is black.

The main questions are not the racial composition of each campus, but rather:

1. Do blacks have equity to enrollment and graduation in the state system in proportion to their share of the population?

2. Do blacks have equity of representation on the decision-making boards which run the system?

3. Is there a plan for expanding the size of the public higher education system to accommodate underrepresented blacks?

4. Is there a plan for making up for decades of unequal support to the public colleges in a state? Recent figures are deceptive, one must go back beyond the equal formulas of the last five to seven years to discover the inequities.

Without a great deal of vigilance, the largest pool of black enrollment in the country could be "desegregated" out of a continued fair share of its places. Also educational programs built up over years by blacks could be turned over to whites who probably could not run them very well.

Some Summary Questions

The paper to this point has consciously stayed away from pressing a particular point of view or making forceful recommendations. It is important, however, that some issues be highlighted and they can be accepted, rejected, or ignored. These issues and the way they are stated can become focal points for discussion and policy formulations.

Undergraduate Financial Aid Patterns. What is the direction for reform or new programs? What specific actions need to be projected for this summer and fall that would be helpful to more students entering or remaining in school?

Graduate and Professional School Aid Patterns. Can a counter effort be made on the phasing out of major programs for gaining the doctorate before they are shut down?

The future status of the predominantly black colleges can very well be influenced for the better. Can an effort to give them special status as regional or national resources be developed? The special status would justify special direct federal funding. Can they be viewed as a potential network expanding to an enrollment of half to three quarters of a million by 1985? With support by the national black community, they are an alternative to complete dependence on predominantly white institutions for education of all our youth.

Should statewide analysis of the equity of blacks in the higher education system be undertaken and an action plan projected with time periods for achieving equity set out? Out of these specific state level actions, there could be recommendations made to legislators or state education authorities.

Should specific non-partisan issues be projected on which all presidential candidates would be asked to state a position? These would be stated as domestic tranquility, public interest issues.

Should a policy statement be put forward projecting unacceptable and inacceptable ways for institutions of higher education to respond to black students, e.g., in remedial programs which require no fundamental change in the institution and its faculty's actions or in alternate patterns of instruction involving major change.

The open enrollment and equity question. Is there substantial enough agreement on its importance to project it as a policy issue? What about graduate and professional school "open enrollment"? Should programs analogous to undergraduate entry level programs be projected in professional and graduate schools?

KENNETH WILLIAMSON RETIRES

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. ROGERS. Mr. Speaker, it is with regret that I advise the Members that Kenneth Williamson, deputy director of the American Hospital Association and director of its Washington office, has announced his retirement after 25 years of service with the American Hospital Association, the last 18 of which have been spent in the direction of the activities of the Washington office.

Ken Williamson, whom I know many of you count among your close associates, truly has been "Mr. Health and Hospitals" in Washington. He and I entered the Washington scene at about the same time back in the 1950's and I have always found him, as I am sure many of you have, a source of unending information on the health affairs of this Nation. I must say that he has contributed greatly to much of the health legislation which we in the Congress have enacted over recent years.

He cut his legislative teeth in the development and perfection of the Hill-Burton legislation which was enacted following World War II, and which has had such a tremendous impact on getting hospital care to all of the people of this Nation. He also played a key part in expanding this legislation to include Federal guaranteed and subsidized loans for the construction of hospital and health facilities. And when this great hospital construction program was endangered by the President's veto of H.R. 11102 in the 91st Congress—a bill which proposed to extend and expand that program—Ken Williamson organized the hospital field to support the Congress in overriding the veto.

I could not hope to recite all of the health legislation in which Ken Williamson played a key role. However, I think of particular significance was his untiring contribution to the development and enactment of the medicare legislation. While this legislation is not without its problems clearly this could not have been accomplished without the full cooperation of hospitals of the Nation. It was not only Kenny's job to help mold the medicare legislation, but he took a great part in securing the full cooperation of our Nation's hospitals, so necessary to make the program work.

Of more recent vintage was Ken Williamson's early recognition of the serious shortage in health manpower and the fact that drastic action would be needed to catch up this shortage if the health field was to be able to make good on the philosophy accepted by the Congress and by the administration that health care is a matter of right for all our citizens.

He initiated efforts in the hospital field to ascertain the needs of institutions for training health personnel, and particularly in the area of nursing, brought to our attention the need to provide additional Federal assistance if we were to keep many of the needed training facilities in operation and to expand these facilities to provide the needed professional nurses.

Just in the last session of the Congress Ken worked closely with my health subcommittee in connection with the consideration of the National Cancer Act of 1971, and once we arrived at a firm proposal to take concerted action in this area, he organized the hospital field to fully support the committee's bill.

Ken Williamson announced his retirement at a staff meeting of the Washington Service Bureau attended by the association's present officers. Stephen M. Morris, AHA president, speaking in behalf of the officers and staff, said that:

> The Association has moved ahead in these last two decades largely through the efforts and leadership of Dr. Crosby and Kenneth Williamson. While we regret Mr. Williamson's decision to retire early, we respect it, and will be calling on him frequently for his judgment and help in this crucial time in the AHA's history. Few have served the Association for so long and so well.
>
> Many of the Association's most imaginative and innovative programs, and especially its policies in the public interest, are the direct result of Mr. Williamson's tireless efforts and drive.

Williamson first joined the association staff at its Chicago headquarters in December 1943, following several years in hospital administration and after having served as assistant director of the Blue Cross Plan in southern California, as director of the Association of Western Hospitals. Following the formative years of the association as an organization representing all of the Nation's hospitals, he left the AHA in 1950 to become executive vice president of the Health Information Foundation in New York City, but rejoined the association staff in 1954 to direct its Washington Service Bureau.

Ken Williamson originated the AHA journal, Trustee, and organized a nationwide movement for hospital auxiliaries in behalf of AHA. He is an honorary fellow of the American College of Hospital Administrators, and a fellow of the American Public Health Association.

While I regret that Kenny has decided to retire from active day to day participation with the American Hospital Association, it is reassuring to know that he will still be contributing to the efforts of that organization from time to time on a consulting basis. He assures me that he will always be available to Members of the Congress and to the appropriate committees at any time to provide whatever assistance we require in connection with health matters.

STATEMENT OF JOHN HUTCHISON, DIRECTOR, TEXAS STATE EXTENSION SERVICE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. TEAGUE of Texas. Mr. Speaker, the following statement was delivered to the House Subcommittee on Agricultural Appropriations by Mr. John Hutchison, director of the Texas State Extension Service. I am proud to count John Hutchison as one of my friends, having known him for a long time. All during this association, I have known John to be a most dedicated individual; most knowledgeable on his subject and has proven to be a good leader of this most valuable service.

The statement follows:

Appropriations Request of the National Association of State Universities and Land-Grant Colleges for the Cooperative Extension Service for Fiscal Year 1973

Mr. Chairman, gentlemen of the committee, I am John E. Hutchison, Director of the Texas Cooperative Extension Service, Texas A&M University. Appearing with me on behalf of the state Cooperative Extension Services of the Nation is Director George S. McIntyre, Michigan Cooperative Extension Service, Michigan State University. We appreciate the privilege of presenting the budget request for the state Cooperative Extension Services.

In developing the appropriations request for the state Cooperative Extension Services for fiscal year 1973, careful consideration was given to (1) the guidelines set forth in the report of the Joint United States Department of Agriculture, National Association of State Universities and Land-Grant Colleges Extension Study Committee, *A People and A Spirit;* (2) national concerns identified and reported by bipartisan Presidential commissions and committees; (3) the results of a national survey of Extension directors to determine the program areas which they consider to have the highest priority based on state and national needs; and (4) suggestions submitted by the Extension Service, United States Department of Agricultre.

The request for increases reflects priorities for those areas of greatest national concern in which the Cooperative Extension Service has demonstrated competence and recommends a level of funding which will be required to make significant contributions toward the solution of problems in each area of concern.

The specific request for increased funds for fiscal year 1973 which we present today has been approved by the Extension Committee on Organization and Policy, the Division of Agriculture, and the Executive Committee—each a part of the National Association of State Universities and Land-Grant Colleges. In addition, the request has been approved by all state Cooperative Extension Service directors.

The highest priority need is for funds to meet increased operating costs (primarily for salary adjustments) to maintain programs at present levels. For this purpose, $12,000,000 is required.

The request includes increases for the following major areas of work:

[In millions]

Increased opertaing costs	$12.0
Rural development	17.6
4-H and youth	25.0
Improving environmental quality	25.0
Family living program (money management, consumer education, housing, health education, family stability, et cetera)	10.0
Programs for low-income farmers	10.0
Expanded nutrition program and related programs for low-income families	25.0
1890 institutions	4.0
Total increase requested	128.6

Mr. Chairman, I would like to submit for the record a statement of justification for the request of each of these items. In this brief summary, I would like to direct your attention to our most pressing needs.

INCREASED OPERATING COSTS

Our highest priority need is for increased *operating costs*, including funds for salary adjustments. We believe the Federal-State-local cooperative relationship which has been developed in support of the Cooperative Extension Service presumes increases in federal funds sufficient to provide the Federal Government's pro rata share of increased operating costs, including critically needed salary adjustments for staff members. For several years, federal appropriations for operating costs have been inadequately to provide for cooperative employees of the Federal Government's share of salary increases equal to those providing classified civil service personnel and with no increases for other operating costs. The amount requested, $12,000,000, is required to provide an increase for Cooperative Extension employees (Federal Government's share) equal to that already provided "straight-line" federal agency personnel.

4-H

4-H is recognized as one of the most effective youth development programs ever created. Millions have profited from their 4-H experiences. Five million of the 45 million youth of 4-H age (nine to nineteen) in the United States were involved in 4-H Club programs during the past year. Growing up is difficult for today's youth. Youth are faced with many alternatives requiring them to make many decisions which are crucial to their future. The requirements for education and preparation for life and their exposure to mass media raise aspirations far in excess of those of a generation ago. Peer pressures tend to increase while family influence is tending to decline. Stresses on today's youth are reflected by the collective nature of youth rebellion, juvenile crime, drug abuse, accidental deaths, and an increasing rate of suicide. A basic need of modern youth is to find useful and viable social roles appropriate to their age.

4-H is currently providing the kinds of experience which are meeting the developmental needs of participating youth.

In 1971, approximately five million (4,954,600) youth were reached through 4-H youth programs. Of these, 35 percent are from farm families; 41 percent are from small towns and open country areas; and the remainder from large towns, central cities, and suburban areas.

In 1971, 501,530 adult, junior, and teen-age volunteer leaders assisted with the 4-H youth program. Additionally, 33,153 served as voluntary leaders in the Expanded Nutrition Youth Program in fiscal year 1971.

The above figures reflect growth in every category over the previous year.

We appreciate especially the increased funds made available for support of the Expanded Nutrition Youth Program beginning in fiscal year 1970.

The need for expanding the proven 4-H program to reach additional youth is great. The $25 million requested would enable the Cooperative Extension Service to involve 1,000,000 additional youth in 4-H with the goal of helping them to prepare themselves for becoming happier, better adjusted, more useful and productive citizens. The increased funds would make possible the addition of new programs for urban poor youth in manual skill development, health improvement, career investigation, communication skill development, and cultural education; the employment of professional and paraprofessional staff to provide leadership for new educational programs; and the development and implementation of a 4-H service corps employing youth to lead in community development and environmental improvement projects.

RURAL DEVELOPMENT

Rural America lags behind the rest of the Nation in per capita income, available services, and governmental assistance. Employment opportunities are limited and pay scales are lower than for similar work in metropolitan areas. This situation prompted many of the more productive age groups to migrate to urban areas leaving a disproportionate number of youth who must be educated and senior citizens who need special care. An expanded *rural development program* is needed to close the gap in quality and quantity of the available services and employment opportunities so that rural areas will be attractive as a place for more citizens to live and work.

The Cooperative Extension Service can perform an important role in helping communities recognize their problems and opportunities, identify and analyze alternative solutions, mobilize resources within the community, and help them learn about and take advantage of the existing and developing programs which can provide resources and assistance in solving their problems. Cooperative Extension has demonstrated its effectiveness in rural community resource development in many areas, but it is hampered by limited resources. It has the established delivery system that can carry out the educational, motivational, and necessary referral function in any community in any county in the Nation if given the necessary resources in terms of trained personnel.

The funds requested will enable States to greatly increase the number of communities that could be assisted toward the Nation's goal of balanced growth and a rural America which provides citizens a choice of a place to live and work as they strive to achieve a fully satisfying life.

IMPROVING ENVIRONMENTAL QUALITY

Decisions that affect the quality of our environment will ultimately be made by the public at large. Rational individual and group decisions and actions based upon factual information will enhance the quality of the environment and the quality of living of people in a community. Rational decisions can only be made after awareness and understanding have been brought about through public affairs education rather than being based upon fanatic expressions of opinion.

Cooperative Extension has clearly demonstrated its capability of successfully conducting mass public educational programs. It has the organizational framework which projects into every community of the Nation. Its relationship to the land-grant university provides direct access to the interdisciplinary resources related to environmental problems. It can be fully objective in presenting educational programs on issues as it has no vested interests to protect or promote.

The funds being requested would be utilized to employ additional specialists in the broad array of disciplines related to environmental problems. Such specialists are not only needed to support the Extension agents conducting "grass roots" educational programs, but also to provide continuous counsel to various public and private groups which make decisions having environmental implications. In addition, there is a need for the preparation and widespread distribution of information designed to provide unbiased public understanding of environmental issues. Information on the safe and minimal necessary use of chemical pesticides and alternative methods of control are examples of such an issue.

EXPANDING FAMILY LIVING PROGRAMS

The family is the basic unit in the social structure and is universal to man. It is within the family where values are inculcated which serve consciously or unconsciously as guides to future actions and behavioral patterns of its members. *Family living programs* conducted by the Cooperative Extension Services encompass money management, consumer education, housing, health education, family stability, clothing, and many other related areas. The programs are directed toward developing a family environment that is conducive to the maximum development of children, youth, and adults as family members and the productive citizens in society.

Physical, intellectual, and emotional growth and stability are contingent upon healthy individuals living in a healthy environment. Great strides have been made in the scientific and technical fields of disease prevention and health services. However, great need still exists in helping individuals recognize the importance of and how to be responsible for their own health and how to avail themselves of the health services that are or could be available. This is particularly true in rural, sparsely populated areas that have limited access to health care services.

The increased funds requested would enable state Cooperative Extension Services to hire qualified personnel required to reach thousands of families with needed information in the specific areas mentioned to support the vital role of families in our society.

PROGRAMS FOR LOW-INCOME FARMERS

While much of the agricultural industry has prospered, many *low-income farmers* have been bypassed in our technological and economic development. Almost two-thirds of the farmers in the United States (63.9 percent) have gross farm sales of less than $10,000. Approximately half of these fall well below the $3,000 income level. Projects conducted recently have demonstrated that Extension can dramatically assist low-income farmers to significantly increase their income through the use of nonprofessional aides to teach basic skills needed to utilize existing resources. It has been demonstrated that aides are most effective when they serve as a "middle man" between the individual small farmer operator and agencies offering assistance and businesses supplying goods and services. Additional funds to expand the use of nonprofessionals can help disadvantaged farmers, including various ethnic groups such as Negroes, Latin Americans, and American Indians, materially improve their net family income situations. The funds would be primarily used to employ nonprofessionals in areas of the country which have a high incidence of low-income farm families.

EXPANDED NUTRITION AND RELATED PROGRAMS FOR LOW-INCOME FAMILIES

The fact that pockets of abject hunger were found to exist in many communities throughout the Nation and that widespread malnutrition existed among all socioeconomic groups of our society was among the most shocking discoveries of the decade of the sixties. The need for effective nutrition education has never been more critical for all people. This need is intensified among low-income families and those with limited education.

The employment of paraprofessional program aides who have been trained by professional home economists in the *Expanded Nutrition Program* has demonstrated remarkable success in reaching the most critically hard-to-reach poor and near-poor audiences. A trained paraprofessional program aide can fill the need at much less cost and many times greater effectiveness than can be achieved by professionals alone. One aide can be expected to reach and teach about 100 families per year. One professional home economist can supervise and train twenty program aides. As of December 21, 1971, there were over 9,000 program aides working with over 351,000 families which included 1,680,000 family members. The youth phase of the Expanded Nutrition Program has involved over 33,000 volunteer leaders working with 4-H type activities in nutrition education with nearly 600,000 participating youth.

Increased funds being requested would provide for an additional 250 professional staff and an additional 5,000 program aides which would be capable of reaching approximately 500,000 additional families annually.

FUNDS FOR UTILIZING RESOURCES FROM 1890 LAND-GRANT INSTITUTIONS

The institutions designated as additional land-grant colleges under the provisions of the 1890 Amendment of the 1862 Morrill Act have staff competencies which are relevant to the development of educational programs for certain special groups that find themselves in economic and social disadvantaged situations. These 1890 Institutions located in 16 states can make a significant contribution in helping many Americans acquire knowledge and skills necessary for them to become a part of the mainstream of society. Last year specific funds were provided for the direct involvement of the 1890 Institutions in Extension educational programs along with the 1862 Institutions. The additional amount of funds being requested is needed to further develop these programs and to insure that they reach larger numbers of people who stand to benefit from these programs.

We respectfully request approval of the above items.

OPEN THE BOOKS ON LOCKHEED

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. DINGELL. Mr. Speaker, the Detroit, Mich., Free Press of Saturday, April 15, 1972, carried an excellent editorial entitled "Open the Books on Lockheed" pointing out the need for the law to be followed with regard to a General Accounting Office audit of the $250 million Federal loan guarantee for Lockheed Aircraft Corp.

The editorial clearly sets out the reasons for compliance with Federal law with respect to this loan guarantee authorized by the Congress. It also points out the fact that the Emergency Loan Guarantee Board, which is headed by Secretary of the Treasury John Connally, has thus far failed to comply with the requirements of law as set forth in an amendment which I offered to require a full GAO audit of this loan transaction.

For the information of my colleagues, I insert the text of the Detroit Free Press editorial at this point in the RECORD:

[From the Detroit Free Press, Apr. 15, 1972]

OPEN THE BOOKS ON LOCKHEED

When Congress decided to provide a $250 million government loan guarantee for Lockheed Aircraft Corp., it did so with the greatest reluctance and misgiving.

Now Secretary of the Treasury John Connally is trying to deny the General Accounting Office, the auditing agency responsible to Congress, the right to review the handling of the Lockheed loan guarantee. Controller General Elmer Staats says that the three-member Emergency Loan Guarantee Board, which Connally heads and which administers the guarantee, is in "clear violation of the law" providing for the GAO to audit government operations.

Mr. Connally argued that "it was not the intent of Congress that the decisions of the board be review by the GAO." Mr. Staats, in his turn, says it would be bad precedent for an executive agency to deny the GAO the information necessary to a thorough review of the administration of important funds.

Mr. Staats clearly has the better of the argument. Even the supporters of the loan guarantee were plagued by doubts about the wisdom of such a use of government funds. Many of them were persuaded to cooperate only with strong assurances that the measure would, in the end, cost the taxpayers of the country nothing and would preserve jobs.

That decision, so deeply suspect at the time, has not yet been vindicated. The record of Lockheed's performance on some major contracts, particularly the C5A transport plane, leaves considerable room for doubt that the national interest required direct federal action to save Lockheed.

The least that the Nixon administration can do is let its decisions on how and when to aid Lockheed be subjected to continuing review by the respected General Accounting Office. It might be more peaceful for Secretary Connally to operate without being under the watchful eye of the GAO, but it is not in the national interest.

Indeed, Congress should insist that Mr. Staats search his staff for a corps of the most eagle-eyed auditors he can find and turn them loose on the Lockheed loan. It was a dubious expedient, and it needs to be watched.

SELECTIVE AIR WARFARE BY REMOTELY PILOTED VEHICLES

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BOB WILSON. Mr. Speaker, with the increasing risk to pilots and flight crews caused by tightened air defense and surveillance, inclement weather, and improved missile accuracy, we may have a possible new solution in the increased use of RPV's—remotely piloted vehicles. Teledyne Ryan Aeronautical, located in my congressional district, is a leading manufacturer of drones and remotely piloted vehicles and I hope my House colleagues will have an opportunity to review carefully the following article entitled "Selective Air Warfare by RPV," written by Jack G. Broward, the editor of the Teledyne Ryan Reporter:

SELECTIVE AIR WARFARE BY RPV

(By Jack G. Broward)

Returning from bombing strikes over North Vietnam in the closing days of 1971, Navy Commander R. G. "Mink" Ehrman was quoted by the Associated Press aboard the USS Coral Sea as saying: "Frankly, I don't know what effect our bombing had, the cloud cover was so thick."

A five-tour combat veteran in the North Vietnam air war, squadron commander Ehrman disclosed in the interview that air defenses had been "built up" significantly since his last tour.

While his remarks were casual and offered informally, they trace a pattern in air warfare today that has been reinforced by the statements of countless other combat pilots engaged in strikes over North Vietnam.

In essence, the pattern imposes severe risks to manned combat aircraft flying certain missions where weather, sophisticated air defenses and mission ranges are helping stack the odds against a safe return.

Fortunately, there is an alternative. It lies within a concept now under intense study by Teledyne Ryan Aeronautical for the Air Force Systems Command's Aeronautical Systems Division.

The study calls for assessment of technologies for RPVs (Remotely Piloted Vehicles) in areas such as materials, avionics, manufacturing techniques and propulsion. Based upon this assessment and missions defined by the Air Force, systems concepts, preliminary designs of vehicles to perform air-to-air, air-to-ground and reconnaissance-electronic warfare missions will be developed.

Definition of necessary efforts required to develop RPVs as systems will be the next step, taking into account such factors as costs, capabilities, schedules and the technical risks involved.

A major objective is the formulation of a quantitative data basis from which to assess RPVs in a truly operational situation.

Addressing the National Security Forum at Maxwell Air Force Base in May 1971, General George S. Brown, Commander of the Air Force Systems Command, stated, "Through the use of drones or Remotely Piloted Vehicles, we avoid exposing aircrews to heavily defended areas. These RPVs can be designed to be light, relatively inexpensive, and far more maneuverable than human tolerances would permit if a pilot were aboard. Remotely 'flown' from the ground or by a pilot in a 'mother' ship 20 or more miles away, they can serve as air-superiority fighters, as command and control and surveillance platforms, for reconnaissance or as decoys, target markers and covert jammers.

"They could mount guns, rockets and missiles, or, since they are expendable, could be flown directly into the target."

Lieutenant Colonel William H. Starnes, Jr., Chief of Tactical Air Command's Electronic Warfare Requirements Division, supports this view in an article published by Electronic Warfare magazine in late 1971.

"Tactical Air Command's newest capability (tactical drone operations) may be the catalyst for an entirely new and different way to conduct future air warfare." He concluded his article by stating, "Indications are that unmanned aircraft have a definite place in tactical operations."

If additional testimony to the values served by RPV air warfare were needed, there were abundant sources available by January 1972.

Writing for Popular Science magazine's million-plus readers, Ben Kocivar directed attention to what was termed by his article as, the "Wild New World of Drones." His graaphically supported presentation echoed what a growing number of military, aerospace and scientific-technical authorities have been repeating in print since mid-1970: "The newest age of aviation is here. Its catalyst is most likely the Remotely Piloted Vehicle."

One of the nation's most highly regarded aerospace writers, Barry Miller, wrote for Aviation Week & Space Technology magazine in June 1970, "A system project office was recently set up at Wright-Patterson (Air Force Base) to coordinate and plan USAF drone activities over the next decade. It is investigating a family of drones, including a silent, jet-powered aircraft for directly monitoring acoustical noise generated by trucks, tanks, etc."

His article reported investigations of possible combat applications of remotely piloted vehicles by the Air Force's Air Systems Command and Rand Corporation in the areas of Air Superiority, Interdiction and Close Air Support, Reconnaissance and Surveillance, Command, Control and Communications and other areas.

There followed in the succeeding 18 months a deluge of more than 39 major articles, presentations and speeches on the subject of RPVs, offered through major trade-industrial and military publications in the U.S. and abroad as well as network television and news syndicates.

Air Force magazine's Associate Editor, Edgar Ulsamer, in October 1970, led off an article by stating: "For certain Air Force pilots, tomorrow's combat cockpit may be a swivel chair in a bombproof underground control center. From there, a USAF pilot may 'fly' by remote control his air-superiority fighter or interdiction bomber against targets hundreds of miles away.

"His system will be deadlier and cheaper than any manned system. Most important of all, these pilots will not be exposed to death, injury or capture."

Barry Miller turned to the subject again for AVWEEK in November 1970, supporting his article with drawings and photographs of vehicles (produced by Teledyne Ryan Aeronautical) that are in use today.

Miller reported in this article, "The Cuban missile crisis proved to be the final catalyst for an all-out drone reconnaissance effort. Shortly after an Air Force U–2 was shot down on a mission over the Caribbean island, killing its pilot, Major Rudolph Anderson, Jr., the government was stunned to learn that while an unmanned aircraft might have done the same job, only two drone aircraft were available in the U.S. military inventory.

"At that point, drone reconnaissance aircraft development won presidential backing and needed funding." His article reports that two years later, the Chinese Communists succeeded in shooting down their first American reconnaissance drone after many fruitless tries, in what had by then come to be known facetiously as a "Chinese William Tell" shooting match.

In a succeeding article, Miller reported, "The main motivation for resorting to RPVs is the growing cost of modern aircraft and increasing reluctance to risk men's lives in conventional warfare. During World War II, the United States lost about 40,000 aircraft and about 80,000 crewmen.

"The cost of these aircraft was about $100,000. The cost of these losses in today's prices of about $4 million per aircraft would be a staggering $160 billion."

Continued Miller, "In World War II, it cost about $100,000 to kill a target. Today, at the lower attrition rate accepted in North Vietnam, it costs about the same. But at an attrition rate approaching that of World War II, it would cost about $10 million per target, a measure of better defenses and limited weapon delivery accuracy.

"Thus, to conduct modern warfare with manned aircraft without reducing Circular Error of Probability (CEP) of weapon delivery will require diminishingly low attrition rates, especially as the enemy continues to improve the quantity and accuracy of his defense. The RPV offers possiblity of degrading enemy defenses, improving CEPs, reducing losses of trained pilots and saving manned aircraft."

A Chicago Sun-Times article, syndicated in December 1970, contrasts the costs of a modern fighter "which costs millions of dollars apiece with an RPV estimate of about $175,000 that could offer a 250-mile range and a 2,200 pound payload."

The article reports that Milt Thompson, a top space agency test pilot, has actually 'flown' an RPV-type aircraft at altitudes of 50 to 75 feet and at speeds above 500 mph. He is quoted as saying that operating an RPV makes him as emotionally and physically tired as actual cockpit flying.

Physiological aspects of the manned fighter versus RPVs is offered by Business Week magazine, reporting January 2, 1971, that "In many respects, a robot plane may perform even more effectively than a manned aircraft. It could be designed, for instance, for 12g sustained acceleration, nearly double the gravity pull an experienced pilot can briefly tolerate.

"The plane's turn rate could be set up to exceed that of a manned aircraft by nearly 100%. It could thus outmaneuver even the most advanced manned fighters over a broad range of speeds and altitudes.

"RPVs could be built of inexpensive materials, such as fiberglass, and molded plastics." Upgraded cost estimates over that offered by the Chicago Sun-Times article are projected, noting that, "One preliminary design of a robot fighter aircraft—one that would be launched from a mother plane and be recoverable—bears an estimated price tag of $250,000. It would weigh 3,500 pounds gross, have an 18-foot wingspan and be able to maintain Mach 2.5 pursuit capability for two minutes."

As in any uniquely new concept, design configurations, costs, performance capabilities and specifics vary according to points of reference and authority.

Writing for Air Clues magazine in January 1972, Royal Air Force Flight Lieutenant R. W. Health-Whyte explores a broad spectrum of values related to RPVs, arriving at the conclusion that, "The Firebee I is a subsonic fixed-wing jet target aircraft and an obvious choice for development of RPVs.

"Similarly, the supersonic Firebee II is ideal for development as a supersonic weapons carrier or reconnaissance RPV.

"The cost of procurement of new aircraft and equipment for the RAF inventory has now reached the stage where even with multinational collaboration we cannot afford to build as many equipments as we need to meet even our reduced commitments. To maintain a credible conventional deterrent in Europe we must build up the strength of our air forces. In short, we need more, not less, airborne weapon systems."

U.S. News & World Report magazine, in its Feb. 28, 1972 edition, emphasized the view that, "RPVs are regarded by Air Force sources as a complement to the manned aircraft and not a substitute."

A key logistics factor is described by the magazine's report, related to enormous costs currently associated with manned fighter aircraft. "Since planes are boosted from their launch railings by rockets or mother aircraft in flight, there would be no need for airfields. They return and land (or are recovered) by parachute," according to the magazine.

Its presentation continued, "In a guarded discussion of the RPV, an Air Force officer—a pilot—said, 'The day of automated warfare is closer than we think, with machines fighting machines.

"But there is more to this business than just military applications. It is perfectly possible that children alive today will fly in robot planes. The Apollo lunar-landing craft is essentially that. So is the Mariner satellite circling Mars. The potential is unlimited.' "

Reporting for the San Diego Union March 21, 1972, Military Affairs Editor Kip Cooper quoted Teledyne Ryan Aeronautical President Laurence M. Limbach's prediction that, "Air missions of the next 10 or 15 years may be flown by pilots seated in consoles on the ground.

"Tactical Air Command is going to be the next big user of the present generation of drones, plus improvements," the article quoted Limbach as saying.

Limbach said his company, which is a leading manufacturer of drones and remotely piloted vehicles, has also had specific discussions with the Navy about using RPVs on the new 'sea control ships' of the future.

Cooper's article also noted that the Air Force is reportedly flying armed Teledyne Ryan 147 reconnaissance vehicles using air to surface missiles and guided bombs.

Of a certainty is this knowledge. Feasibility for RPV applications supporting manned military aircraft has been proved. One article published in 1971 reveals use of a photo reconnaissance vehicle bringing back strike damage assessments in North Vietnam that had previously been attempted by two manned aircraft without success.

Robert R. Schwanhausser, Vice President, Aerospace Systems for Teledyne Ryan Aeronautical, claims there is no simple answer to the question of why this country needs Remotely Piloted Vehicles.

"The short of it is that we possess the technical as well as practical capabilities and that it is a cheaper, more effective way to go." He adds that RPVs are not meant to compete with pilots. "It can provide a role under very hazardous conditions. It can provide a lead role where follow-up would be provided by manned aircraft. It is complementary to manned aircraft as well as to the ballistic missile field."

The man guiding the Teledyne Ryan Aeronautical RPV study for the Air Systems Command, Schwanhausser notes, "A point to emphasize is that the subject of RPV is not something new. It has been around for many, many years.

"What we're talking about today is the application of newly developed technologies. Without question, no major identification will be given to RPV's in terms of new hardware within the next five years. Within that time frame, many small projects will evolve. Out of this effort will come the major new programs which could be equal to the major programs we are engaged in today."

One of two prime contractors assigned to the RPV study, Teledyne Ryan's efforts include joint work by RCA in areas of avionics.

Just as the coming age of Remotely Piloted Vehicles has been heralded throughout the world during the past 18 months, there is certain knowledge that current studies will point the way for this new era.

And men like Navy Commander "Mink" Ehrman may someday "fly" their missions hundreds of miles from the combat environment in the relative safety of a "cockpit" swivel chair.

ANCHORAGE-FAIRBANKS JOINT RESOLUTIONS

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BEGICH. Mr. Speaker, we in Alaska are naturally interested in development of our public works facilities. Alaska is a huge region, and though we have done much to fulfill our public works needs, a great deal more remains.

In connection with this I have recently received copies of four joint resolutions passed by the city councils of the cities of Anchorage and Fairbanks, Alaska. Because the developmental needs in Alaska are so great, development with foresight regarding preservation of our environment, I wish to include in the RECORD for my colleagues' attention copies of these four important joint resolutions.

The resolutions deal with requests for appropriations and allocation of grants for sanitary sewer systems, and for the improvement and extension of municipally owned water systems. Additionally, these resolutions concern the need for office building construction and the need for improved parking facilities.

The resolutions follow:

ANCHORAGE-FAIRBANKS JOINT RESOLUTION NO. A/F 7-72

A resolution urging the adoption and allocation of grants for sanitary sewer systems

Whereas, there is a continuing need in Alaska for improvement and expansion of sanitary sewer collection and treatment systems, and

Whereas, the capital funds demands for the construction of such improvements and expansions exceed available local funds, and

Whereas, the provision for this important utility is of both State and federal interest.

Now, therefore, be it resolved, by the Councils of the City of Anchorage and the City of Fairbanks, in joint session: That the State of Alaska and federal government are urged to appropriate and allocate adequate funds for State and federal participation in the sanitary sewer improvement expansion programs in Alaska.

Copies of this resolution shall be distributed to the Governor of Alaska, the Alaska Legislature, Department of Housing and Urban Development, U.S. Environmental Protection Agency, and members of the Alaskan Delegation in Washington, D.C.

Passed and approved, this 17th day of March, 1972, in Anchorage, Alaska.

ANCHORAGE-FAIRBANKS JOINT RESOLUTION NO. A/F NO. 2-72

A resolution urging the appropriation of Federal funds to assist in the improvement and extension of municipally owned water systems

Whereas, the Cities of Anchorage and Fairbanks, as well as other cities in the State of Alaska, are experiencing an unprecedented growth and resultant demand for municipal water source and distribution system improvement and expansion, and

Whereas, the cost to meet such demand is a financial burden greater than can be absorbed by municipal water system funds, and

Whereas, the public supply of water is mandatory to the health and safety of the cities of the State, and

Whereas, Alaska has unique and unusual problems in that most of the basic water systems are only now being built,

Now, therefore, be it resolved that the Councils of Anchorage and Fairbanks, in joint session, urge the Department of Housing and Urban Development to give special consideration to the development of a funding program that will take cognizance of the special financial problems confronting municipally owned water systems in Alaska.

Copies of this resolution shall be distributed to the Secretary, Department of Housing and Urban Development, in Washington, D.C., Members of the Congressional Delegation, Washington, D.C., the Governor of Alaska, and all Members of the Alaska Legislature.

Passed and approved this 17th day of March, 1972.

ANCHORAGE-FAIRBANKS JOINT RESOLUTION NO. A/F NO. 4-72

A resolution urging the approval of Federal Office building construction in Anchorage and Fairbanks

Whereas, existing Federal office buildings in Anchorage and Fairbanks are inadequate to meet the needs of the Federal agencies of the respective areas, and

Whereas, legislation is pending in the Congress to broaden the programs for acquisition and/or lease of Federal office buildings, and

Whereas, approval of this legislation would provide the authority under which Federal office building can be accomplished in Anchorage and Fairbanks, and

Whereas, to best serve the public these new Federal office buildings should be located within the central business districts of the respective communities,

Now, therefore, be it resolved by the councils of the cities of Anchorage and Fairbanks in joint session that approval of appropriate amendment of the Public Building Act of 1959 to provide for financing the acquisition and construction of Federal public buildings is urged, and sites for the Anchorage and Fairbanks Federal office buildings should be in the central business districts of the respective communities.

Copies of this resolution shall be sent to the Public Works Committees of the Congress; Administrator, General Services Administration, Washington, D.C.; Regional Administrator, General Services Administration, Auburn, Washington; and the Alaska Delegation in Washington, D.C.

Passed and approved this 17th day of March, 1972.

ANCHORAGE-FAIRBANKS JOINT RESOLUTION NO. A/F 3-72

A resolution of the cities of Anchorage and Fairbanks, Alaska, endorsing House Resolutions No. 9360 and 9361

Whereas, H.R. 9360 would amend the Urban Mass Transportation Act of 1964 to authorize grants and loans to States, local public bodies and agencies thereof for parking projects and facilities; and

Whereas H.R. 9361 would, under certain conditions, authorize cities to use monies apportioned to the Federal Aid Highway System for construction of parking projects and facilities in connection therewith; and

Whereas, the cities of Anchorage and Fairbanks, Alaska, because of unprecedented growth are suffering from a critical shortage of parking facilities, both on-street and off-street; and

Whereas, passage of the above House Resolutions would do much to alleviate the existing traffic congestion in the central business districts of Anchorage and Fairbanks, Alaska,

Now, therefore, be it resolved by the city councils of Anchorage and Fairbanks:

1. That the City Councils of Anchorage and Fairbanks, Alaska, respectively, endorse passage of House Resolutions No. 9360 and 9361.

2. That a copy of this resolution be sent to the Chairman of the Committee on Public Works, Chairman of the Committee on Banking and Currency, Senator Mike Gravel, Senator Theodore Stevens and Representative Nicolas Begich.

Passed and approved by the City Councils of the City of Anchorage and City of Fairbanks, Alaska, this 17th day of March, 1972.

NATIONAL HEALTH INSURANCE PROGRAM

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. GAYDOS. Mr. Speaker, the issue of a comprehensive national health insurance program is one which is receiving increasing attention in the public press and news media. It is an issue which will continue to grow in importance since it affects the lives of practically every American.

Mr. George Meany, president of the AFL-CIO, recently addressed the Health Care Conference of the United Steelworkers of America on this most important issue, and I would like to insert into the RECORD the text of his remarks for the information of my colleagues:

ADDRESS BY AFL-CIO PRESIDENT GEORGE MEANY

About 2½ years ago, President Abel kindly invited me to speak at an Industrial Union Department conference on "The Crisis in Health Care."

That conference focused public attention on the need for comprehensive national health insurance. It also pointed up some distressing facts about the health care many Americans receive or don't receive.

In the intervening time, many others—even President Nixon—have discovered the health care crisis.

It is important, then, for us to consider where we are today. The health care crisis is still with us—and, if anything, it is getting worse.

National health insurance hasn't been enacted. Millions of Americans are deprived of even the most basic health services. Medical costs continue to soar—creating a vast gap between the health care American families need and the care they can afford.

That is why the entire trade union movement is united behind the National Health Security bill introduced by Congresswoman Martha Griffiths and Senator Edward Kennedy.

It is the only bill that meets these tests:

Provides quality medical care for all Americans as a right;

Controls costs;

Emphasizes preventive care to keep people well, instead of just treating them when they are sick;

Would transform the health care system from an uncoordinated wasteful one into a system that maximizes the resources that are available for the benefit of all Americans;

Relies on proven ways of providing better care for more people—such as prepaid group practice plans; and

Eliminates the costly middleman—the insurance companies with their gluttonous profits, and their policies that only an attorney can read and their high expenses for advertising, executive salaries and commissions.

We are justly proud of the Health Security program. But just because the trade union movement has its own proposal in the fight for national health insurance doesn't mean that we have ignored the other proposals.

We try to keep an open mind. So we have examined closely the proposals of the Nixon Administration, the American Medical Association and the commercial health insurance companies.

While I'm confident that other speakers will go into more detail on these proposals—and, for that matter, Health Security—I would like to give you an idea of what our opponents are proposing and what they are saying about Health Security.

First, the proposal of the Nixon Administration.

It is wrong to call President Nixon's proposal really his. It was written with the insurance companies, not health consumers, chiefly in mind. There isn't one thing in the Administration bill that the insurance companies can't live with and get fat on.

It seems to me, that there is real cause for concern when people like Clement Stone—the son of the Republican fat cat insurance executive from Chicago—are called in to help write a federal health insurance program.

Stone's daddy—W. Clement Stone—has two claims to fame: he boasts about contributing a million dollars to Republican candidates; and secondly, that his insurance company—Combined Insurance Company—is notorious for writing policies that are long on profits and short on benefits.

The more "respectable" companies—and I say that in quotes—helped to write the Nixon proposal. The big boys—Aetna, Occidental, Mutual of Omaha—want to make sure that they get a big piece of the national health insurance pie.

And the Nixon Administration took care of them. Its health insurance bill reads like an insurance policy—deductibles, coinsurance, exclusions, limitations, "high" risks, "low" risks. In other words, business as usual, and the health consumer pays the bill.

That philosophy is unacceptable when we are talking about health care for the American people.

Let me give you just two examples of how the Nixon Administration is protecting the insurance companies.

When President Nixon announced his national health insurance program—and, believe me, he used all the right words, like "health care for all" and "reform"—he said that insurance companies were going to be regulated by the federal government.

Now that's something the labor movement has been after for many years—regulation of insurance companies. The states are "supposed" to regulate insurers. Actually, with the exception of three or four states, the insurance companies have regulated the states, not vice versa.

Well, the insurance company big boys were worried that President Nixon meant it when he said they were going to be regulated.

They haven't learned what we in the labor movement learned a long time ago. What the Nixon Administration says and what it does are two diametrically opposite things.

The Department of Health, Education and Welfare sent over to the White House the first draft of the so-called regulations. The White House sent them back. Too tough. It seems that the HEW staff had things mixed up—they proposed to protect the consumer, but the White House wanted to protect the insurance companies.

So every couple of weeks Secretary Richardson would tell the press or a congressional committee that the regulations would be out next week. That went on for seven months.

And when the regulations finally were announced, it was business as usual, again. In other words, the Administration was giving the job back to the states, although the only reason for national regulations is that the states can't or won't do it properly. Outmanned, understaffed, poorly-financed state regulatory agencies have been trying to keep track of conglomerate insurers, with their retinues of high-priced lawyers, sharp-pencil accountants and teams of public relations experts. I don't have to tell you who is winning that one.

The Nixon Administration did precisely what the insurance companies wanted done. It gave the regulatory power to the states. Of course, the companies aren't afraid that the Nixon Administration would be zealous regulators, but they are scared to death about what would happen when a new Administration—one concerned about the consumer—comes into office.

But that's just one example. I promised you two.

HEW is covering up the full story on how the private insurance companies undermined Medicare, squandered millions of dollars, padded expense accounts and payrolls, failed to check on fraud and, in general, have tried to ruin a program to help the nation's senior citizens.

The tip of the iceberg has been found by AFL–CIO staff members. And it is not just the fly-by-night companies that are involved. It is the so-called "respectable" companies.

Aetna—which has free and easy access to the highest levels of government—was found to have made an estimated $3.2 million in duplicate payments in 28 months. They paid out another $1.3 million in Medicare funds in excess of reasonable charges.

When these facts were first revealed, HEW and Aetna quickly reassured the public that these "errors" had been taken care of. But no refunds were made of the $3.2 million in duplicate payments. The overcharges were not returned to Medicare. Instead the overcharges help force an increase in the premiums and deductibles paid by the elderly.

HEW may consider the case closed, but the American people, who pay for the Medicare program, consider the case still open.

Medicare is only a small part of Aetna's health insurance business. And if that accounted for $4.5 million in squandered funds, can you imagine how much was wasted in their entire health business?

Aetna is only one of the companies involved. There are others. Mutual of Omaha, for example, spent nearly $1 million in cost over-runs for Medicare contracts. In addition, they were short about $5 million in overpayments Mutual of Omaha had made to nursing homes and hospitals.

You know, Mutual of Omaha sponsors a pretty good television show, "Wild Kingdom", that many of our children and grandchildren watch. Well, "Wild Kingdom" is the only phrase I know that describes their insurance practices.

Perhaps the worst offender of the insurance companies is Occidental—loyal friend of Governor Ronald Reagan of California. These are the problems the auditors discovered:

1—Occidental paid about $3.2 million to certain physicians and medical groups with past histories of defrauding Medicare, or who were under investigation for possible fraud, or had past histories of irregular billing practices. As a result, the propriety of these payments is in question.

2—Occidental permitted unauthorized people to approve claims from these questionable sources.

3—Occidental paid about $437,000 in excessive claims for physician visits to patients in nursing homes.

4—By bad money management, Occidental cost Medicare $168,000 a year in interest payments from banks.

5—In nearly one-quarter of the cases in which Occidental paid claims for the rental of what is called durable medical equipment—wheelchairs, braces and the like—the rental price exceeded the purchase price.

What this adds up to is millions of dollars wasted by insurance companies. And there are many more cases amply documented.

On top of the millions the insurance companies have wasted through Medicare, what does President Nixon propose to do? He wants to give the same companies billions to waste through what he calls national health insurance. Of course, it isn't; it's the same old insurance company gravy train.

The Administration bill would rely on insurance companies which have proven themselves incapable of administering even a limited national health program like Medicare. Insurance companies exist for the purpose of making a profit. But the goal of national health insurance should not be profit. That goal should be good health care for all Americans.

And the Nixon bill wouldn't begin to provide that.

It would be a bureaucratic nightmare. Thirty-five different categories of health benefits would be established—35. On top of that there are 1500 insurance companies with separate forms, differing deductibles and varying degrees of responsibility and concern for the policyholder. Elaborate means tests would be established to determine which class of health care a family is entitled to—tests that would be revised every six months.

Contrast that with Health Security. Doctors who choose to be paid on a capitation basis would file one form a year for a family—not a form every time a member of the family was sick.

The Administration calls Health Security a "monolith." Then, they say, Health Security will take away the patient's right to choose his doctor and the doctor's right to choose how he wants to practice medicine. That's just more baloney—more scare propaganda. I don't know where they get their propaganda, but Health Security offers more "freedom of choice" for patients and physicians than any other program. This includes prepaid group practice, fee-for-service physicians and virtually every other form of delivering health care yet devised..

Prepaid group practice is emphasized by Health Security, because, as I said earlier, it is the best way to provide care. President Nixon agrees—at least verbally.

One of the most disturbing aspects of the Nixon health program is its blanket endorsement of "for-profit" Health Maintenance Organizations, which are similar to prepaid group practice plans.

What they are trying to do is deviously simple. It is just another foot in the health care door for insurance companies.

A year ago, the AFL–CIO Executive Council said, and I repeat today: "The profit-making philosophy of the market place—to make money for those who provide and finance medical services—is not an acceptable philosophy for medical care."

On this basis, and because of its failure to provide a single standard of high quality medical care for all Americans, we completely reject the Nixon Administration proposal.

It would be easy to dismiss the health insurance industry bill—the so-called Healthcare proposal—for the same reasons as the Nixon bill. Except for one thing: everything that is bad about the Nixon bill is worse in the insurance industry bill. Maybe, just maybe, the reason they made their bill so bad is to make the Nixon bill look good.

It is the classic example of how insurance companies operate. They would take all the so-called good risks—the young, healthy, middle-class people who would probably make fewer claims—and leave the poor risks to the government. By insurance company standards, anyone is a "poor risk" if they are poor, if they are a member of a minority group, if they are over 50, if they are a female head of a household or if they were born in a foreign country.

That would work the opposite of the way national health insurance should work. The element of "risk" should be spread throughout the entire society to reduce costs. Under both the Nixon and insurance industry bills, the cost to the federal government of providing health care for the poor would be excessive, difficult to administer and wasteful.

One of the arguments to union people that the insurance companies use in favor of their bill goes something like this: unions should be free to bargain for better health benefits for their members. That may sound reasonable, but it really isn't. Health Security would provide better health benefits at less cost to our members than the best policy any insurance company could ever write—today or five years from now.

So we reject their bill, too. That leaves the American Medical Association proposal.

It's got a cute title—Medicredit. What it would do is use income tax credits to offset part of the premium cost of private health insurance voluntarily purchased by the taxpayer. Those who have no tax liability, for example, would receive a certificate for full payment of the premiums.

This means that the millionaires who pay no taxes because of loopholes in the tax laws could receive money from the federal government to purchase sickness insurance.

For example, the late Mrs. Dodge, who had an annual income of $1.5 million from tax-free municipal bonds, would have had private health insurance purchased for her by the federal government.

The AMA, of course, also attacks Health Security as "monolithic". However, it is important to note that not all doctors oppose Health Security.

In fact, a recent poll of 17,000 doctors by the magazine *Modern Medicine* showed that, while most physicians are against any form of national health insurance, more preferred the Health Security program than the Nixon program or even that of the AMA.

So, here we are. We are still talking about the need for national health insurance. But there is a difference now. We are closer today to enactment of a good national health insurance program than at any time since the Truman Administration.

People are listening. Doctors are listening. We have a good program; one that the trade union movement can take pride in having championed. And we are going to win. Because America needs Health Security, and just as fast as we can get it on the books.

TERRY PHILLIPS OF WINDBER, PA., HONORED BY RED CROSS FOR ACT OF MERCY IN SAVING MAN'S LIFE

HON. J. IRVING WHALLEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WHALLEY. Mr. Speaker, occasionally one comes across a man who rises above the tide of isolationism which is so popular today and voluntarily gets involved in the service of a fellow human being. One such young man, I am happy and proud to say, is a constituent who was recently awarded the Red Cross Certificate of Merit for his act of mercy which resulted in saving a man's life. His name is Terry D. Phillips of Windber, Pa.

On January 27, 1972, Mr. Phillips and a fellow worker, both trained in Red Cross first aid, came upon an automobile accident where the victim's car had crashed into a bridge abutment, gone over an embankment, and the driver had received severe head injuries and amputation of the left leg below the knee. Mr. Phillips and his fellow rescuer called for an ambulance, applied a tourniquet to the victim's leg and gave immediate first aid for other injuries. The attending physician stated that their knowledge and skill had undoubtedly saved the victim's life.

When Terry Phillips came across this accident, he did not stop to consider what personal repercussions could result from his involvement; he did not stop to outline the reasons why he should not get involved. He only knew that a human life was in jeopardy, and he was in a position to help. And he did.

For this, Terry Phillips was awarded the Red Cross Certificate of Merit. But more importantly, he has set an example which could result in the saving of even more human lives. He showed that good breeds good, and if we act in an unselfish cause, in an act of human mercy, the most important thing is that, like the Good Samaritan, we reached out to a fellow human being without regard to self.

Mr. Speaker, I wish to call to the attention of the House this heroic act of mercy and extend to Terry Phillips the congratulations, admiration, and gratitude of all of us for a job well done.

DECLARATION OF PERSONAL INCOME

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WALDIE. Mr. Speaker, as has been my practice in past years, I am again disclosing my income as shown on my income tax return for 1971.

My salary as a Member of Congress is shown at $42,500 on my return, and with other income, totals $46,533. My adjusted gross income for 1971 was $41,810, taking into consideration my business expenses as adjustment to income in the amount of $4,723.

My total income tax was $8,378, plus a self-employment tax of $225, making a total tax of $8,603. Total Federal income tax withheld from my salary was $8,391, leaving a balance paid with my return of $212.

My principal sources of income, aside from my congressional salary, were dividends in the amount of $191.33; $3,000 from the law firm of Waldie & Rockwell; interest accrued in the amount of $1,533 from savings and loan deposits; and a speech honorarium in the amount of $500.

My deductions totaled $7,157, which included medical expenses in the amount of $371.71, real estate taxes in the amount of $1,444.92, State and local taxes in the amount of $2,685, contributions in the amount of $573.50, interest expense in the amount of $1,493, and professional dues and subscriptions expense in the amount of $589.

My tax return is prepared by a certified public accountant.

CREATING A VIABLE SOCIETY FOR YOUTH IN THE 1970'S

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WOLFF. Mr. Speaker, I recently had the pleasure of reading an address presented to the North Shore Child Guidance Center in Nassau County by Mr. Michael Gorman.

Mr. Gorman is executive director of the National Committee Against Mental Illness and is a member of the Joint Commission on Mental Health of Children. He has been elected an honorary fellow of the American Psychiatric Association and a fellow of the New York Academy of Sciences, one of a small group of laymen ever to be singled out for these honors.

Mr. Gorman's remarks, entitled "Creating a Viable Society for Youth in the 1970's," concerned the need for developing imaginative programs to ensure the healthy development of this Nation's youth. The comments of this recognized authority on such a vital topic, I believe, are worthy of note, and I would like to share them with my colleagues:

CREATING A VIABLE SOCIETY FOR YOUTH IN THE 1970'S

(By Mike Gorman)

In 1965, Senator Abraham Ribicoff introduced legislation providing partial federal funding for a privately incorporated Joint Commission on Mental Health of Children to take a long, hard look at the plight of our emotionally disturbed children and come up with specific legislative and policy recommendations.

The Commission, composed of representatives from 53 national organizations interested in children, labored long and hard over a period of four years. Those of us who had the privilege of serving on its Board of Directors waded through thousands of pages of documentation from 10 expert task forces and held innumerable meetings—many of them quite stormy—in an effort to produce the most meaningful final report.

We frequently assert that ours is a nation devoted to its young. Our acts, however, belie our words. We have failed to commit our vast resources to eliminating the innumerable ills which hinder the healthy development of our young. Through our failure, we do violence to our most precious natural resource and, ultimately to the destiny of our nation. The number of mentally, emotionally, and physically handicapped youngsters in our midst is living testimony of the most devastating form of this violence.

From the time of the first White House Conference on Children in 1909 we have repeatedly, and with considerable eloquence, announced our intentions to develop strong, imaginative programs for children and youth. Yet, our programs for maintaining the health and mental health of infants and children remain woefully inadequate to the present day. Further, our preventive programs are most deficient where they are most crucially needed, that is, during the prenatal period and the first three years of life. For millions of our young, these highly critical periods of development go unattended. The consequent damage to health and mental health are inseparable and frequently lead to irreversible handicaps.

Our corrective and remedial efforts often reflect the same historical apathy. For example, we have not even met the needs of our emotionally disturbed children and youth although these needs have long been recognized. The 1930 White House Conference on Child Health and Protection, composed of several thousand citizens and government officials, proclaimed that:

"The emotionally disturbed child has a right to grow up in a world which does not set him apart, which looks at him not with scorn or pity or ridicule—but which welcomes him exactly as it welcomes every child, which offers him identical privileges and identical responsibilities."

The 1930 White House Conference estimated that there were, at that time, at least two and one-half million children with well-marked behavioral difficulties, including the more serious mental and nervous disorders.

In the four decades since the issuance of that report, the care of the emotionally disturbed child in this country has not improved—it has worsened considerably. During the four years of its deliberations and fact-finding efforts, the Joint Commission gathered together an impressive body of descriptive material on the plight of the emotionally disturbed child in America today.

Our major national, professional organizations estimate that there are now approximately four million children under the age of 18 who are in need of some kind of therapeutic intervention because of emotional difficulties. Of this number, anywhere from one-half million to a million children are so seriously disturbed that they require immediate treatment.

Are they getting this treatment? A survey undertaken recently by the National Institute of Mental Health concluded that, of the 70 million children under 18 in the United States, 1,400,000 were in need of psychiatric care. Only 473,000 of these children received even minimal attention, indicating that our service facilities failed to reach two-thirds of those in need. Other estimates of those in need of care, based on surveys conducted through various school systems, all confirm the need for psychiatric care for two to three percent of the children. However, these studies identified an additional seven to nine percent who need help for emotional problems.

What happens to these emotionally sick children for whom there are no services in the community? Each year, increasing numbers of them are expelled from the community and confined in large state hospitals so understaffed that they have few, if any, professionals trained in child psychiatry and related disciplines. It is not unusual in this year 1972 to tour one of these massive warehouses for the mentally ill and come upon a child, aged nine or ten, confined on a ward with 80 or 90 sick adults. Data for 1969 indicates that over 27,000 of these children were confined in state and county mental institutions. On the basis of a trend which had been developing over the past few years, the National Institute of Mental Health correctly projected in 1963 that by the end of 1970 the number of children aged 10–14 hospitalized in these institutions would double.

Sad to relate, it did.

The National Institute of Mental Health also reports that thousands upon thousands of elderly patients now confined on the back wards of these state institutions were first admitted as children 30, 40, and even 50 years ago. A recent report from one state estimates that one in every four children admitted to its mental hospitals "can anticipate being permanently hospitalized for the next 50 years of their lives."

What happens if the disturbed child is fortunate enough to escape the state institution treadmill? In a few of the major cities in this country, there are private, residential treatment centers which care for about 10,000 children a year. Since the average cost to the parents of such hospitalization ranges from $50 to $75 a day, it is obvious that only those of our citizens who are in the higher income brackets can take advantage of such services. Even among those rarified income brackets the situation is far from satisfactory; for every child admitted to one of these private facilities, 10 or more are turned away because of lack of space. In 15 of our states, there are no such facilities for children, either public or private; in 24 of our states, there are no public units to care for children from low and middle income groups.

What about all the rest of our four million children who, as indicated above, need some kind of help for an emotional disturbance? Here the statistics become much less precise, since a vast majority of these children are literally lost. Many are bounced around from training schools to reformatories to jails and whipped through all kinds of understaffed welfare agencies. No one is their keeper. No agency in the community is equipped to evalaute either the correctness of their placement, or the outcome of such placement.

If they are sent to a training school, as cent testimony before a Senate committee revealed, they may receive poorer treatment than caged animals or adult convicts. Appearing several years ago before a Senate committee, Joseph R. Rowan, an expert on delinquency who is now director of the John Howard Association of Illinois, characterized these institutions for juvenile as "crime hatcheries where children are tutored in crime if they are not assaulted by other inmates or the guards first." Another witness, Arlen Specter, the District Attorney of Philadelphia, told the same committee that these so-called correctional institutions for juveniles take a 13-year old and, in 11 years, turn out "a finely honed weapon against society."

Commenting on the failure of juvenile courts and juvenile correctional facilities even to begin to meet the manifest needs of emotionally disturbed and sociopathic children Judge David Bazelon, a member of the Joint Commission, noted in a recent talk that, although this nation is aware of the problem, it does not support funds to treat and care for these children *because it has really given up on them.*

From all of its studies, the Joint Commission concluded that it is an undeniable fact that there is not a single community in this country which provides an acceptable standard of services for its mentally ill children.

The Commission therefore recommended that federal funding be provided for the establishment of a network of Child Development Councils throughout the nation. These Councils would act as the direct advocate for children and youth. They would have the responsibility and prerogative of insuring that complete diagnostic treatment, and preventive services were made available to all children and youth in the neighborhoods which they serve.

Our report received almost unanimous acclaim. Practically every professional organization concerned with the problem of mental health hailed the Commission report as both a definitive description of the crisis in child mental health and a bold and pragmatic prescription of the measures we had to take as a nation to tackle the problem.

A task force of the Commission was appointed to work with Congressional leaders in devising legislation designed to drastically alter our priorities with regard to our concern for emotionally disturbed children. Although one of our task forces had noted that the federal government spends approximately $190 per capita a year for services to children, as compared to $2,000 per year for services to individuals over 65 years of age, we were modest in recommending an initial appropriation of $200 million a year to get our child advocacy network off the ground.

Legislation was introduced early in 1971, but it languished on the back burner while the Congress voted a $250 million loan to Lockheed and pledged hundreds of millions of dollars to save the Penn Central and other examples of creative American enterprise from immediate collapse.

While the legislation was bottled up in committee, the problem didn't go away. Drug addiction among our youth reached a record high. Because of shortages of staffs and facilities, Mental Health Clinics and Community Mental Health Centers all across the country turned away hundreds of thousands of children who could not function either in the world of school or in the world of work. In the nearby borough of the Bronx a recent report noted that, although an estimated 15% of children in the South Bronx suffer from serious emotional problems, only a handful of these can even be evaluated. At the other end of the age spectrum, a Harvard University psychiatrist reported on a five-year study which indicated that of the 7½ million students in college today, at least one million will drop out because of mental illness.

However, a remarkable series of events occurred last year which gave strong hope that we could develop and pass a monumental piece of legislation which, under the umbrella concept of comprehensive child development centers, could bring about an even more dramatic revolution in child care than the child advocacy concept.

We are not talking here about baby sitting services for working mothers. Let me give you the definition of a comprehensive child development program as enunciated by the Office of Child Development of the Department of Health, Education, and Welfare:

"An attempt is made to meet all the needs of a growing child and his family. The program directs itself to the educational, nutritional, health and psychological needs of children and involves parents through instruction in the fundamentals of child development and family counseling."

There is nothing new in this comprehensive child development concept. It exists in one form or another in most of the European countries and has reached its fullest fruition in the Soviet Union. Those of us who were members of the official U.S. Mental Health delegation to the Soviet Union in 1967 came away with the very crystal clear impression that from the fifth month of pregnancy, every resource is brought to bear to aid the new-born child. I cannot give you the full flavor of the Russian system in a short time, but let me quote just two paragraphs from an article I wrote for the International Journal of Psychiatry:

"For children under the age of three, there is a vast network of nurseries. It is estimated that more than 50 percent of Russian children get their early upbringing in these nurseries. Working parents may leave them in these nurseries during the entire working week, just bringing them home for weekends. In addition to intensive pediatric care, the nurseries in recent years have concentrated on developing educational staffs to motivate the child and introduce him to the learning process. If the psychiatric consultant to any of the regular nurseries detects an emotional problem in a child, he can transfer him to one of the specialized nurseries that handle psychiatric disorders in children.

"From the ages of four to seven, the child goes to a kindergarten, which may be located in the district where he lives or in the factory in which his father and/or mother works. Here, again psychiatric consultation is available, and there are several specialized kindergarten schools for disturbed children."

Contrast this with the situation in our country. Today, more than 26 million children have mothers in the labor force (up ten million in a decade); six million of them are under six years of age. That's a lot of kids.

What happens to these children while the mother is working? The average woman in the work force earns $4,000 a year. Even the least expensive center charges $10 to $20 a week per child; the services vary from good to deplorable. Because of these obvious economic considerations, day care centers (defined as facilities for more than six children) enrolled only a little over half a million children in 1970—less than ten percent of the preschoolers with working mothers.

How are the rest of the children "cared for"? You should know the story. For some of the kids, its a latch key as they wander the streets; for others somewhat more fortunate, a relative, a boarder or a neighbor may try to do the job.

Both the House and Senate addressed themselves to this problem with great energy and determination throughout the latter part of 1970 and all through 1971. A House committee, under the leadership of Congressman John Brademas of Indiana and Congressman Ogden Reid of New York, held innumerable days of hearings, as did a comparable Senate committee under the jurisdiction of Senator Walter Mondale of Minnesota. Their major purpose, as outlined by its sponsors, was to give reality to President Nixon's oft-quoted 1969 commitment "to provide all American children an opportunity for healthful and stimulative development in the first five years of life."

As finally drafted, the legislation which was sent to the White House late in 1971 was exceedingly modest in scope. For a family of four with an income ceiling of less than $4,300, day care would be free. Between that figure and $7,000 a year, a small escalating fee would be charged depending upon income. For families above $7,000, there would be a fee schedule to pay for the services.

It seemed for a while as though the Administration looked favorably on this tremendously important development in the care of our children. In June of 1971, for example, Doctor Edward F. Zigler, director of the Federal Office of Child Development, which was supposed to carry out President Nixon's 1969 commitment to the first five years of life, was quoted in the New York Times as saying that, "people don't recognize the monumental nature of this legislation and what effect it can have on the country in 20 years."

A few months later, the situation looked even better. The Washington Post noted that on September 9, 1971 the Senate had approved legislation "that could dramatically change the lives of American children and their mothers. The bill would provide high quality child day care at no cost for millions of poor children and at partial cost for millions more in the middle class . . . it would deeply involve the country in comprehensive early education for its pre-school children."

But the story does not have a happy ending. Despite overwhelming votes for its passage in both the House and Senate, President Nixon vetoed the bill on December 9, 1971. The veto message is a weak collection of old bromides about "the family weakening implications of the bill and the dangers of collectivizing our young." The one about the weakening of the family is a little hard to take when one thinks of several million latch key children wandering around the streets all day while their mothers work. What kind of family structure is that?

But the main thrust of the President's veto was directed at the estimated cost of the program—roughly $2 billion a year. As a nation with a trillion dollar gross national product, we just couldn't afford this kind of money to salvage these many millions of children Mr. Nixon was seemingly so worried about in the spring of 1969.

Can we afford it? Well, last year as a nation we spent 20 billion on recreation; 12 billion for alcohol and 7 billion for tobacco products.

I could talk about cost over-runs at the Pentagon running into billions of dollars, and I could question a projected 15 billion for a space-shuttle program; 10 to 15 billion dollars for a new generation of bombers and, somewhat on the same order, 15 billion for ULMS (Undersea Long Range Missile Systems).

But I would like to bring it somewhat closer to home where you all participate and must share a portion of guilt. Since the passage of the original Federal Highway Act of 1956, which President Eisenhower described as "the greatest public works program in history," we have spent billions and billions of dollars in an effort to cover this country with a layer of concrete. In 1956 the anounced goal was for 41,000 additional miles of interstate highways; the cost was estimated at $27 million. Each time the Highway Act was renewed, the cost estimates soared. The latest estimate when this "temporary" act was renewed again in 1970 was that 90 billion dollars will ultimately be expended by 1977, when the present act expires.

But this is not all. The Highway lobby is insatiable. The American Association of State Highway Officials was quoted recently as stating that when the present Highway Act expires in 1977, it will lobby for another $78 billion worth of public taxes for a vastly expanded road system by 1985.

You participate actively in this conspiracy in Nassau County. You should know that each year there are more than 60,000 deaths on our highways and two million serious injuries. You participate in the prevailing belief that the super-highway is king—we tear up beautiful rural America so that its reach can be expanded.

It really all gets down to a set of priorities, and that's all I am really talking about this morning. In the very same year that the Highway boys added billions of dollars to their program, we passed a miniscule amendment to the Community Mental Health Centers Act providing $62 million over a three-year period to start some Children's Units in our Community Mental Health Centers. What happened to this $62 million? Mr. Nixon recommended not one cent of the first year's authorization of $12 million, so we got not one cent. In 1971, when the authorization was $20 million, he again recommended nothing. After a vicious eight-month battle, we were able to get the Congress to vote $10 million for these Children's Units. This year Mr. Nixon has recommended $10 million—the same amount as the Congress voted last year. In very simple terms, with the fantastically small authorization of $62 million for Children's Units, the best we have been able to do is $20 million—less than one-third of the authorized sum.

In the coming year, as H.E.W. officials admitted in testimony exactly two weeks ago before the House Appropriations committee, we will be able to open the staggering total of four new Children's Units for the needs of the entire nation.

As you drive your cars along the turnpikes and super-highways which have desecrated the Nassau and Suffolk countries which I used to know as a boy, just think about this—billions for highways and pennies for children.

And you are partially responsible. The elected officials are spending *your* taxes, and they have decided that these are *your* priorities.

But you and I know that these aren't really your priorities. I have read very carefully the material on the development of the North Shore Child Guidance Center; it is a magnificent story of citizen initiative starting with the pioneer work of the Willets Road PTA some two decades ago. From those modest beginnings, you now operate a major center affiliated with the North Shore Hospital and four branch clinics which together serve hundreds of children and their parents each year. Your therapeutic nursery school is a pioneer example of the kind of service we have been struggling to achieve nationally for so many years.

In reading very carefully the paper which your board and staff presented at the American Orthopsychiatric Association meeting in Washington, D.C. exactly a year ago, I was impressed with the thoughtful approach the team used in examining, not only the roles of professionals and nonprofessionals on the staff, but the challenge in developing a board which was more than a middle class operation serving the less fortunate. The use of Child Guidance Assistants has been a key element in your success, for they are recruited from the neighborhoods you serve. I have observed the work of Child Advocates or Child Guidance Assistants in the few centers where they exist over the past few years; you and I must continue to push for the addition of thousands of these people to our mental health services in the years ahead.

Your association has 1,700 members. This is impressive evidence of citizen involvement. If every one of the 3,300 counties in this country had such citizen representation, we would not have suffered the setbacks I outlined earlier in this talk.

Mr. Thomas Jefferson, in many ways the most glorious figure in our history, put it very simply when he wrote:

"There is no substitute for the enlightened action of an aroused citizenry."

What you have done here at the local level we will eventually do on a national scale. I am absolutely convinced that our defeats have been only temporary; we will in this decade begin to invest heavily in mental health services for children from the pre-primary level through the college years.

May I express my deep gratitude for your shining example of citizen action.

Thank you very much.

MARSELLUS CASKET CO. CELEBRATES 100TH ANNIVERSARY

HON. JOHN H. TERRY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. TERRY. Mr. Speaker, Monday marked the 100th anniversary of a business enterprise which has played a major role in the development and expansion of Syracuse, N.Y. The firm is the Marsellus Casket Co., which is known and recognized nationwide as the leading manufacturer of hardwood caskets.

The following article appeared in the Syracuse Herald American newspaper April 30. It details the evolution of an enlightened business and the progressive family which has molded it into the major enterprise it is today.

Casket Firm To Celebrate 100th Year

(By Kenneth F. Sparrow)

A young commercial traveler, selling his wares in the areas along the Erie Canal a century ago, found strong evidence of future growth and economic stability in the Syracuse community.

That is why John Marsellus selected the city as the location for his own business enterprise which today is Marsellus Casket Co., recognized as the leading manufacturer of hardwood caskets.

Tomorrow marks the 100th year of the Marsellus family association with the casket industry and four generations have played important roles in its growth and expansion.

On May 1, 1872, John Marsellus, at the age of 26, entered the casket business in New York City, later coming to Syracuse in 1877 because, according to his diary, "the city had a bustling atmosphere about it."

John Marsellus retired as president of the company in 1917. He died in 1941 at the age of 95.

His son, John C. Marsellus was made general manager in 1917, president in 1925 and chairman of the board in 1948. He died in 1959.

Since 1946, John F. Marsellus, grandson of the founder, has been president and currently also serves as chairman of the board.

The latter's son, John D. Marsellus, representing the fourth generation, is now executive vice president.

Originally the company was established to serve the local community. The factory was located in the Gere Block at what is now W. Fayette and School streets. A downtown selection room was maintained on S. Clinton St. Usually the trip from the factory in Geddes to the showroom was made on a packet boat.

As transportation facilities improved, the area served by the Marsellus company was broadened to include all of New York State and then New England and today serves the entire nation and parts of Canada.

IMPROVEMENTS IN TRANSPORTATION SPARKED SERIES OF EXPANSIONS

The expansion in business resulted in a move in 1888 to a new factory site along the Erie Canal. That same site, at Erie Boulevard W. and Van Rensselaer Street, today is the location of a greatly expanded manufacturing facility and showroom. The company has undertaken eight major expansions since its founding and has acquired various adjoining buildings and property as rcently as 1971.

At the beginning of the business, advertised products were broomsticks, novelties, medicine chests, shoe brush handles and caskets. There was no machinery. Everything was made by hand.

For more than 40 years, John Marsellus had numerous stockholders, bank loans and mortgage commitments. At one particularly troublesome period loyal employes worked for six weeks before being paid.

Company records show that in 1918 when the company was financially troubled, there was but $331 in the bank and the factory was mortgaged with $67,000 due to four banks.

John C. Marcellus, son of the founder, assumed responsibility for the company in 1917 and began to reorganize its financial structure, product line and organization.

As a first step, all products unrelated to the casket business were eliminated and the company started concentrating on manufacturing caskets exclusively. Under his guidance, the firm gradually worked off its debt. Plant and equipment additions were made and capital was further increased to stimulate steady, solid growth.

COMPANY RECOGNIZED AS MODEL OF ENLIGHTENED FREE ENTERPRISE

Since 1954, more funds have been reinvested for expansion in new equipment and modernization than in the entire preceding 32 years. Today it serves leading funeral directors from coast to coast and in Canada. Two years ago, Marsellus formed Heritage Casket Co. in Burlington, N.C. for assembly and distribution operations to serve the mid-South area.

It has been a model of enlightened free enterprise. There has not been a layoff or shutdown at the company in more than 50 years. Many Marsellus employes have never worked for any other firm. Sons, daughters and other relatives of present and former employes have joined the company. Likewise, Marsellus is serving the third and fourth generations of several of its funeral directors and customers.

Late in life, John Marsellus was asked why he selected Syracuse as the location for his own business enterprise. He explained "the city had a bustling atmosphere about it." In the privacy of his diary he confessed to "having a love affair" with the then small upstate community.

In retrospect, it is impossible not to conclude that the young salesman, endowed with considerable insight, saw in Syracuse strong evidence of future growth and economic stability. And he recognized its strategic location.

TRIBUTE TO RABBI EDGAR MAGNIN

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BELL. Mr. Speaker, on Thursday, May 11, 1972, a ceremony will be held by the West Gate Masonic Lodge No. 335, Free and Accepted Masons, at the Scottish Rite Temple in Los Angeles to honor my friend Rabbi Edgar F. Magnin and to celebrate his 50th anniversary as a member of the lodge and as a Master Mason.

Born in San Francisco in 1890, the grandson of early California pioneers, Edgar Magnin grew up in the bay area and attended Hebrew Union College in Cincinnati. In Cincinnati he met and, later, married Evelyn Rosenthal. They have two children, Mac and Henry, and celebrated their golden wedding anniversary in Vienna in 1966.

In 1915 at the age of 25, Rabbi Magnin was called from his first pulpit, Temple Israel in Stockton, to Congregation B'nai B'rith in Los Angeles. He has been a leader in our community for 57 years.

Congregation B'nai B'rith, which was the only Reform Temple in this area when Rabbi Magnin joined it, is presently known as Wilshire Boulevard Temple. The congregation has grown to 2,770, one of the largest in the world.

Rabbi Magnin has received an honorary doctor of laws degree from Wilberforce University in Ohio; an honorary doctor of human letters degree from the California College of Medicine; and an honorary doctor of sacred theology degree from the University of Southern California.

He has served as grand president and grand orator of the Independent Order of B'nai B'rith, District Four; as president of the University Religious Conference; and as grand chaplain of the Grand Lodge of Free and Accepted Masons, the State of California.

Rabbi Magnin was asked to deliver a prayer at the inauguration of President Richard Nixon in January 1969. He also participated in inauguration ceremonies for Governor Reagan in 1967 and 1971. He has been named "Man of the Year" by both the Beverly Hills Chamber of Commerce and Los Angeles Lodge, No. 487, B'nai B'rith.

He is a member of the Newspaperboy Hall of Fame; a contributor to the Encyclopedia of Jewish Knowledge and to many national periodicals; the author of "How to Live a Richer and Fuller Life," published by Prentice Hall; a former contributor to King Features Syndicate and, presently, a columnist for the Los Angeles Herald-Examiner.

In 1962 Rabbi Magnin received the National Brotherhood Award from the National Conference of Christians and Jews for what was called "his distinguished contribution to the advancement of good human relations among all people."

He is internationally known and is one of the most distinguished and respected religious leaders in our Nation. He has been a towering progressive and moral force in Los Angeles for more than half a century.

For these reasons, Mr. Speaker, it is with special pleasure that I call attention to the ceremony of the West Gate Masonic Lodge No. 335, Free and Accepted Masons, honoring Rabbi Edgar F. Magnin on May 11 and note that I will be joining his many friends in southern California on that evening to show him something of our profound admiration, gratitude, and respect.

BILL'S LAST HAND

HON. DURWARD G. HALL

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. HALL. Mr. Speaker, the legendary exploits of "Wild Bill" Hickok have been the subject of songs, prose, and films for lo these many years.

From the time he started on his road to fame in Springfield, Mo., to the day he died, holding aces and eights, Bill is the subject of a poem, penned by a friend and neighbor, Mr. George V. Hennessey, who resides in the "Queen City of the Ozarks," Springfield, Mo.

For those who are interested in the saga of Wild Bill Hickok, I offer the words of George Hennessey:

Bill's Last Hand

(By George V. Hennessey)

After Hickok killed Tutt on the Queen City's Square
He traveled to Kansas, turned lawman out there;
Became U.S. Marshal in tough Abilene
Where outlaws were plenty and all of them mean.
He was fast on the draw and he laid down the law
With a shotgun whose end he'd cut off with a saw,
Toted twin 44's plus a big Bowie knife,
His tools to cool fools bent on taking his life.

In his fancy frock coat, ruffled shirt, vivid vest,
Well-dressed was this lawman who walked to old West;
His eyes icy-blue pierced a man through and through,
And law-breakers learned that a lie wouldn't do.
On the 2nd of August, 1876
Out to Deadwood, Dakota, he rode just for kicks;
He played cards with some pards in Saloon No. 10,
Where a "Damn!" was heard oftener than an "Amen!".
Wild Bill had a rule not to play cards at all
Unless he could sit with his back to the wall;
His only real fear was attack from the rear
In face-to-face fighting the man knew no fear.
Some way off that day Bill ignored caution's call
And he sat where his chair was away from the wall;
With all eyes on the shuffle, the ruffle, the deal,
Back of Bill crept a cur with the soul of a heel!
Jack McCall, with the gall and the cunning of Cain
Fired a 44 slug in the back of Bill's brain;
Red gore stained the floor—Wild Bill was no more—
From the West he loved best he was gone evermore!
Still clutched in his paw was his ill-fated draw:
Two Aces, two Eights and a Queen, viewers say;
And to this very day, careful card-players say,
Draw this death-branded hand and it don't pay to stay.
Though I hope there's no "croaker" in your poker game,
Don't buck Lady Luck—she's a dangerous dame;
As you scan your card's pips, take this truest of tips:
If you land "Dead Man's Hand," better cash in your chips!

PULITZER PRIZE FOR NEW YORK TIMES

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WOLFF. Mr. Speaker, on Monday the Pulitzer Prize was awarded to the New York Times. The Pulitzer carries with it high honor and seldom has a single newspaper been more deserving of that profession's highest distinction.

The Pulitzer this time was awarded for publication of the Pentagon papers, those most revelatory of documents, detailing as they do the folly of American policy in Southeast Asia. Publishing the Pentagon papers was, and will remain, one of the supreme moments in journalism history. That judgment will stand, I believe, long after the passions aroused by their publication have cooled and when the principals involved no longer matter in the formation of public policy.

What the Times did and what the Pulitzer judges have acknowledged exemplifies best what Louis Brandeis meant when he wrote:

> This function of the press is very high. It is almost holy. It ought to serve as a forum for the people, through which the people may know freely what is going on. To misstate or suppress the news is a breach of trust.

Mr. Sulzberger and his editors at the Times understand very well what the late Justice Brandeis was saying.

Those of us who serve in elective public office have, at best, an adversary relationship with the press. That is as it should be. Even when, as we are from time to time, hoisted on the sharp end of a reporter's pen. For the issue is not whether politicians are well served by the press, but whether or not the public is.

Fewer Presidents, Mr. Speaker, were more assailed by the press than Thomas Jefferson, but he knew the value to a democratic society of a free press. And it was Mr. Jefferson who wrote:

> To the press alone, chequered as it is with abuses, the world is indebted for all the triumphs which have been gained by reason and humanity over error and oppression. . . .

It is thus that I congratulate the Times for its Pulitzer Prize and I hope the day will soon come when all men of reason will both understand and appreciate the magnitude of what the "good, gray lady of Times Square" did in publishing the Pentagon papers.

NEWS BULLETIN OF THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WHITEHURST. Mr. Speaker, I am inserting in the RECORD the news bulletin of the American Revolution Bicentennial Commission. I take this action to help keep my colleagues informed of activities preparing for the bicentennial in 1976. The bulletin is compiled and written by the news staff of the ARBC communications committee. The bulletin follows:

BICENTENNIAL BULLETIN

The White House announced last week the appointment of eight new public members to the ARBC. They include Dr. Frank Angel, Jr., Albuquerque, New Mexico; Mr. Kenneth L. Beale, Jr., Westchester, Pennsylvania; Mr. Roy Lavon Brooks, Storrs, Connecticut; Miss Thomasine Ruth Hill, Tuscon, Arizona; Mr. Vernon E. Jordan, Jr., White Plains, New York; Miss Judith L. Kooker, Washington, D.C.; Mr. Charley Pride, Dallas, Texas; and Mr. Clarence W. Taylor, Wilmington, Delaware. An indoctrination meeting will be held at ARBC headquarters for the new members prior to the next full Commission meeting in Boston. Complete biographical data on the new members will be included in the May issue of the ARBC Newsletter.

On Wednesday, April 19, Mr. Jack I. LeVANT was sworn in as Director of the ARBC by The Chief Justice of the United States, Honorable Warren E. Burger, at ARBC headquarters.

A contest to design an emblem for the Oyster Bay (New York) ARBC was announced recently by Town Supervisor John W. Burke. The contest, which will run until June 1, is open to resident elementary, secondary and college students. The winning entry will become the official symbol for the Oyster Bay commemoration of the Bicentennial, and its designer will be awarded a $200 prize. Two of the seventeen member local Bicentennial Commission are high school students. Chairman of the Oyster Bay ARBC is historian Dorothy Horton McGee.

ARBC Chairman David J. Mahoney appeared on NBC's TODAY show on Thursday morning, April 27. On that same evening he was presented in a special ceremony with the Congressional Medal of Honor Society's Patriots Award "in recognition of his outstanding contributions toward a more significant understanding of the historical meaning and future implications of the American experience."

Mrs. Gene Jones Riddle has been named Executive Director of the Texas ARBC. Mrs. Riddle was previously Assoc. Executive Director of the Commission and assumes the office formerly held by Dr. Frank E. Vandiver. Dr. Vandiver resigned to accept his appointment by President Nixon to the National Endowment for the Humanities.

Mr. Richard S. Allen, program coordinator for the New York State ARBC has informed the Commission that the Oneida County Historical Society recently sponsored an Upper Mohawk Valley Bicentennial Forum for representatives of town and county historical societies to discuss the state's proposed Bicentennial observance. Dr. Louis Tucker, Executive Director of the New York ARBC, delivered an address to the larger than expected crowd. Other Empire State forums planned for the next year include the Hudson Valley and Northern New York regions.

On Wednesday, April 19, Chairman Thurston Twigg-Smith and the Hawaii Bicentennial Commission held a news conference to invite every citizen in the state to suggest how Hawaii should officially commemorate the Bicentennial. A "Bicentennial Idea Chart" was unveiled with easy-to-fill-out sections in which citizens can summarize their ideas, how much money they think should be spent, and suggest who should carry out the task. Local newspapers in Hawaii have been publishing the Chart. The Commission plans to start and maintain a Registry of Bicentennial Projects and Events for public information and planning coordination.

Mrs. Marion Russell, editor of Coin World and vice-chairman of the ARBC's Coins and Medals Advisory Committee has been speaking recently to several diversified groups on the Bicentennial, including Alpha Delta Kappa Sorority of Ohio, the Delta Kappa Gamma Honorary Teachers' Society, and the Sidney, Ohio Reading Club. In concluding, Mrs. Russell tells her audiences that almost every person in every community in the nation will be involved in the Bicentennial between now and 1976.

A Mississippi ARBC has been appointed by Governor William L. Waller to be chaired by Judge James P. Coleman of Ackerman. The Commission has 18 members who will hold their initial meeting in the next several weeks. All state correspondence shuold be directed to the Executive Director of the Commission, Dr. R. A. McLemore, Director, Mississippi Department of Archives and history, P.O. Box 571, Jackson, Mississippi 39205.

The National 4-H Conference was held in Washington, April 23-28, and some 240 youth members viewed the Bicentennial film, "Call to Action." On Wednesday, April 26, a group of 4-H'ers who will be concentrating on involvement in the Bicentennial met with ARBC staff at Headquarters and discussed potential programs for the 4 million youths who belong to various 4-H clubs across the nation.

On April 28, the American Revolution Bicentennial Committee, Special Libraries Association, New Jersey Chapter inaugurated their 1972 committee activities with a ceremonial "Liberty Tree" planting on the Centennial of Arbor Day. New Jersey Governor William T. Cahill issued a statement endorsing the festivities, which also commemorated New Jersey's participation in the American Revolution and acknowledged the group's concerned interest in environmental ecology. The committee pointed out that in the ceremony the American Revolution was symbolically linked to the Bicentennial decade with a seedling from the Mercer Oak at Princeton Battlefield.

ARBC member, Mrs. Ann Hawkes Hutton, addressed the 81st Continental Congress of the Daughters of the American Revolution in Washington last week on the subject "The Bicentennial and You." Mrs. Hutton urged the delegates "to work together in the shaping of a new 'Spirit of '76' that recognizes the enduring strength of our great, our incomparable American heritage."

Washington Crossing, Pennsylvania has hired Carol Briels of the Netherlands to make an 80-minute film dramatizing the role of immigrants in building America. One of the aims of the $50,000 venture is to interest Europeans in the Bicentennial. Briels plans to return to the U.S. in March with a budget and script and to complete the film by Christmas. It will be shown in major European cities and in countries that gave the United States most of its immigrants. According to Briels, "The film will thank America for freedom, the help it has given other nations, its preservation of democracy throughout the world and the liberation of Europe in the Second World War." Briels organized his own theater company during the German occupation of the Netherlands. After the war he produced two dramas about the occupation and the liberation.

J. EDGAR HOOVER

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BIAGGI. Mr. Speaker, I rise to join my colleagues in paying tribute to a great American, J. Edgar Hoover.

Mr. Hoover was a legend in his own time in the field of law enforcement. He became the Director of the FBI in 1924 and transformed that organization into the No. 1 crime-fighting body in the world. We are all well aware of the major cases which the FBI solved over the years.

In 1932, for example, the son of Charles Lindbergh was kidnaped. Once the FBI was put on the case, they used the most modern methods available and scientific processing of evidence which led to the arrest of Richard Haumptmann. Haumptmann was later convicted and executed for the kidnaping and murder which had shocked the country.

The 1930's also saw the FBI, under the able leadership of its Director, track down the major public enemies of the time. Mr. Hoover's highly educated agents ripped into the gangs and hoodlums and put such notorious criminals as John Dillinger, George "Baby Face" Nelson, Charles "Pretty Boy" Floyd and "Ma" and Fred Barker out of operation.

From that time on the American public had a deep respect for J. Edgar Hoover and his Federal Bureau of Investigation.

Indeed, Mr. Hoover had the respect and support of eight Presidents all of whom considered the Director as an indispensible crimefighter.

Mr. Speaker, as a former police officer, I have a profound personal respect for the memory of J. Edgar Hoover. During my 23 years with the New York Police Force I was deeply impressed with the success of the FBI as a crime-fighting organization.

The success of the Bureau during World War II in apprehending Nazi spies was most impressive. These spies were arrested as fast as they infiltrated into the United States.

Mr. Speaker, the country has suffered the loss of a great man. A man who dedicated his entire life to protecting America from criminal and conspiratorial influences. No one can question the sincerity of his convictions nor the depth of his feelings for what he considered to be the fundamental values of America. This feeling was reiterated by Mr. Hoover recently when I was fortunate enough to have spent some time with him in his office. At that time he told me stories of his colorful past during which a recurrent theme came forth that his prime concern was for the betterment of the American way of life. Indeed, this great man never waivered in his conviction that America is a great Nation.

He shall always be remembered for maintaining his ideals even in the face of criticism. It is not surprising that such a man became America's No. 1 crime fighter.

HON. ALTON A. LENNON RECEIVES THE 1972 NEPTUNE AWARD

HON. THOMAS N. DOWNING

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. DOWNING. Mr. Speaker, the distinguished chairman of the Subcommittee on Oceonography, the Honorable Alton A. Lennon of North Carolina is the recipient of the 1972 Neptune Award of the American Oceanic Organization.

This award is given to an individual or group that has made to the national oceanic program an outstanding contribution involving strong elements of innovation and imagination, and representing a distinct recognition of and contribution to the overall public interest in the marine environment. The contribution may be in the nature of present or potential resource development, improvement in the economic, legal, social or esthetic utilization of the marine environment, more viable organization and communication affecting the national oceanic program, or a combination of these.

The 1972 award was presented to our colleague with the following citation:

To Alton A. Lennon: The Neptune Award—1972.

As an eminent legislator of our Nation.

As an able, humble, and dedicated public servant of the people of the State of North Carolina and of the United States of America.

For his outstanding, vigorous, and effective sponsorship of oceanic science and technology for the prosperity of our nation and the utilization and conservation of its resources for mankind.

For his unwavering devotion and endeavors in support of strong national defense, a powerful military establishment, and a superior navy.

For his prominent leadership and energy in preparing and managing the establishment of laws to advance the cause of marine affairs, to foster the growth of the technology and commerce of the sea, and to enhance the stature of the oceanic community.

For his outstanding achievements in guiding this nation to the more effective use and management of the oceans and our coastal lands, especially in the creation of the legislative cornerstones—the Marine Resources and Engineering Development Act of 1966, the National Sea Grant Program Act of 1966, and the National Advisory Committee on Oceans and Atmosphere Act of 1971.

And for his wise understanding and love of the sea, the shore, and his fellow citizens.

The presentation was made by Dr. William A. Nierenberg, director of the Scripps Institute of Oceanography and chairman of the National Advisory Committee on Oceans and Atmosphere.

In his acceptance remarks, Congressman Lennon traced the Nation's program in oceanography and set forth certain goals of which we must constantly remain aware. As a further tribute to our distinguished colleague who has chosen to retire from our midst at the end of this Congress, I am pleased to include his remarks in the Record:

American Oceanic Organization Neptune Award, April 26, 1972

Thank you, Dr. Nierenberg, for your gracious and kind remarks.

President Shepherd, Dr. Nierenberg, honored guests, ladies and gentlemen, friends all—I deeply appreciate the American Oceanic Organization's Neptune Award. It is a high honor and particularly gratifying to be recognized by one's peers for public service. This will always be a cherished honor. Thank you.

I cannot say that my efforts in ocean affairs have been as extensive as Dr. Nierenberg has just told you, but I have worked closely with marine problems for the past fifteen years. I recognize many of you here who have participated in formulating national programs in ocean affairs—my distinguished colleagues serving in the Congress, the able administrators and military leaders from the executive branch, the dynamic leaders from industry and the brain trust of ocean affairs from the academic sector.

In many ways, each of you has contributed to the effort for a more responsive national ocean affairs program. I believe the Neptune Award to be symbolic recognition of all this effort, and I humbly accept this award for all who are joined in this great work.

In the history of ocean awareness, I consider the year 1959 to be a milestone. The National Academy of Sciences' Committee on Oceanography had just released a comprehensive report entitled: "Oceanography 1960–70." Two days later, the House Merchant Marine and Fisheries Committee established the special subcommittee on oceanography which immediately began hearings under the able leadership of the Honorable George P. Miller.

This marked the beginning of a concerted effort to create a national awareness in the oceans. We began the task of defining national goals and developing the necessary attitude toward serious formulating a national policy for marine affairs. We saw the first efforts to organize and coordinate the ocean activities of the Federal Government—a difficult task, I can assure you.

Partial results were achieved in the sixties by the enactment of the Marine Resources Act of 1966, and its title II, the Sea Grant College Program. As most of you know, the act established the Commission on Marine Science, Engineering and Resources, and the National Council on Marine Resources and Engineering Development. The council was our answer to the need for coordination while the commission conducted its studies and made its recommendations.

This act also declared it to be the policy of the U.S. "to develop, encourage, and maintain a coordinated, comprehensive, and long-range national program in marine science for the benefit of mankind to assist in protection of health and property, enhancement of commerce, transportation, and national security, rehabilitation of our commercial fisheries, and increased utilization of these and other resources"—still meaningful goals to be achieved.

In January, 1969, the commission submitted its famous and authoritative report—"Our Nation and the Seal". The report covered every component of oceanography and marine affairs. It recommended an array of reforms, legislation and organization. In my view, the most focal were coastal zone management, the establishment of an independent ocean agency called NOAA and an advisory body called NACO—National Advisory Committee on Oceans.

At this point we witnessed the acrobatics of interagency rivalries, with every department or agency of the Federal Government with a marine program trying to become the lead agency. When the dust settled, the Nation had an ocean agency—the National Oceanic and Atmospheric Administration—under the Commerce Department. It is not the independent agency the Commission recommended and it falls short of the specifications deemed necessary for its success—but it is a step in the right direction.

I mean no criticism of NOAA or of our esteemed Administrator, Dr. White, but I firmly believe that an independent NOAA is essential for the survival of our oceanographic programs—but time will tell on that score. We have our advisory committee on oceans and atmosphere in operation under Dr. Nierenberg with its capable membership, and they know of our great expectations.

The oceans become progressively more important as time goes on and world population increases—scientists must be free to conduct ocean research—rights and ownership of the resources of the seabed must be determined—marine technology must be developed to give us more precise knowledge of the deep ocean and its resources, and international questions must be resolved for peaceful use of the oceans.

Under the capable and dynamic leadership of Chairman Hébert and Chairman Garmatz, steps have been taken to strengthen our Navy with a modernized fleet and to revitalize our maritime service with a new shipbuilding program. The Armed Services Committee has authorized an expenditure of close to $10 billion over the last three years for a new naval fleet, while the House just passed a maritime authorization bill in excess of $550 million as part of the planned expansion of our marine program under the Merchant Marine Act of 1970.

This is progress. Yet there is much to do, and I have confidence in those who will carry on this struggle. Even though I am leaving public life, I intend to continue my interest in marine affairs.

In closing, I want you to know that I am proud of what we together have accomplished in marine affairs—much of this progress can be attributed to the bipartisan solidarity of the members of our committees. I am convinced that this cooperation will be the key to future progress. But let us make no mistake—when the life of the Marine Science Council expired, we lost an important national focal point for marine affairs under the Office of the Vice Presidency. We need that focus and the support of the Chief Executive.

Let us make the American Oceanic Organization's annual Neptune Award a reminder to rededicate ourselves to the affirmation of renewed vigor in oceanic and marine affairs. We cannot win this struggle by a philosophy of acceptance of things as they are. Definitive action can be taken, and I would like to suggest to you that we determine to insist that our national political parties include in their respective platforms significant policy positions for forthcoming emphasis on marine affairs. Unified in this common goal, we can make our voices heard for a cause vital to this Nation's future.

CONGRATULATIONS TO AMTRAK

HON. THOMAS M. PELLY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. PELLY. Mr. Speaker, you might almost classify me as a railroad buff because since boyhood I have enjoyed traveling by railroad. I guess I have gone coast to coast by rail more than most people. I started as a student and in the past 20 years as a Congressman whenever I had time I used this method over a weekend so I could arrive in Seattle on a Monday morning refreshed and ready to take care of my business in the district, having done my homework and rested crossing the broad plains and lofty scenic mountains of this great land. Since Amtrak took over the intercity passenger business, as a rail enthusiast, I have traveled on practically every one of the intercity trains and now on the first anniversary of Amtrak I can speak firsthand as to the progress and success of this Government experiment.

As was to be expected, at first the inherited schedules were not coordinated and there were all too frequent incidents causing justified customer complaint. However, conscientiously the employees sought to please their customers the service was far from good.

One of the causes of this situation, I was told, was that when the various railroad companies knew that their equipment such as sleeping cars, diners, and coaches were to be taken over by Amtrak, all regular servicing of equipment was discontinued. Furthermore, the extra parts for repair of air conditioning and heating fans and the like were in short supply and the cars not in use were cannibalized. As a result Amtrak was unable to fix their equipment promptly, and usable cars were in short supply.

However, I have found the morale of the railroad employees good and I give them a very high mark for their efforts. They are determined to make the program proceed.

One immediate change instituted by Amtrak was to find out passenger destinations and connecting trains and within reason these trains are held. In fact, I was on the Broadway Limited departing from Chicago and it was held for an hour and thereby 94 passengers arriving on the Santa Fe made their connection. Also, in many cases schedules used to be such that the trains did not connect which was a source of great irritation to passengers and entailed extra time and expense in waiting over a day, thus driving customers to the airlines and buses.

As for critics, I have long known that before Amtrak and since, the most vociferous critics in Congress, especially one Senator from the West, have never ridden trains. One or two complaints by his constituents caused him to condemn railroad management without mercy.

As to the public, I do think their complaints have been justified on the basis of their experiences, but none perhaps as irritating as one of mine years ago when I was marooned on the North Coast Limited in a huge snowdrift near Fargo, N. Dak. for 2 days. That was before Amtrak but no management can meet every contingency. In general, I have found that the public is happy with the new management.

Meanwhile, considering the difficulties due to old equipment, I think Amtrak employees do their utmost to overcome these problems. They want Amtrak to succeed, and given time, I believe it will succeed. Recent improvements are making new friends and customers, such as with the increased service and patronage between Washington, New York, and New England.

So, on the occasion of its first anniversary, I extend congratulations and best wishes to all those connected with Amtrak.

And, Mr. Speaker, may the future see ever-increasing improvement and ultimate success.

CONCILIATOR FOR LABOR

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WOLFF. Mr. Speaker, this morning's New York Times included an excellent article which gives an insight into the character and accomplishments of Jacob Samuel Potofsky, one of the great leaders of the American labor movement. Mr. Potofsky is about to retire from the presidency of the Amalgamated Clothing Workers of America, a position he has held since 1946. I believe that the Times article is a fine tribute to Mr. Potofsky's independence and vision and request that it be inserted following my remarks.

The article follows:

CONCILIATOR FOR LABOR—JACOB SAMUEL POTOFSKY

(By Emanuel Perlmutter)

Erect and vigorous-looking, despite his 77 years, Jacob Samuel Potofsky stood yesterday before a microphone at a journalism award luncheon in the Commodore Hotel and declared:

"The labor movement can only thrive and grow in a climate of freedom." This philosophy has guided his devotion to progressive causes since he joined the Amalgamated Clothing Workers of America at its founding in 1914 and from which he is about to retire after having served as its president since 1946.

Mr. Potofsky has long been considered a mediator between the right and left wings of the American Federation of Labor and Congress of Industrial Organizations. Nonetheless, as a senior member of the merged labor movement's 35-man executive council, he has not hesitated to differ with George Meany, the A.F.L.-C.I.O. president, on American involvement in the Vietnam war, which Mr. Meany and most of the council supports. But he and Mr. Meany have remained warm friends.

AN IMPECCABLE DRESSER

Trimly bearded and a conservative, impeccable dresser, Mr. Potofsky looks more like a State Department dignitary than a labor leader and one-time pants-pocket maker. In fact, he has been occasionally mistaken for a diplomat. One such occasion was in 1949 when he debarked from the Queen Mary in Cherbourg on a trade union mission and found himself the object of a welcoming address by a representative of the French Foreign Ministry.

The man from the Quay d'Orsay had mistaken him for Count Carlo Sforza, the Italian Foreign Minister, who was a passenger on the same ship.

Mr. Potofsky does not pound tables. He is a conciliator, as well as a leader, and other labor leaders often turn to him for advice in complicated situations. His prestige is enhanced, too, by the fact that he heads a union of 385,000 members.

For five decades, he has been an advocate of the concept that labor unions should affirm their needs through political involvement as well as on the picket line. In the days when garment workers were laboring in sweatshops, he would declare: "What you win at the bargaining tables can be taken away in the legislative halls."

Under his leadership and before that under the presidency of Sidney Hillman, the amalgamated has been innovative and socially conscious. It was the first to open health, housing and recreation centers for its members as well as the first to have lobbyists in Washington.

For one who began working as a 13-year-old, marking tags in a pants shop 54 hours a week at $3 a week, he developed into a self-educated and cultured man with a polished wit.

On one occasion, at a dinner in New York he jokingly reproached President Dwight D. Eisenhower for creating unemployment among clothing workers by wearing a dinner jacket that was several years old. When the President asked how he knew that, Mr. Potofsky said he could tell by the cut of the coat.

He is a restless sleeper and keeps a pad at his bedside in his apartment at 19 East 88th Street in New York. He will frequently switch on the light to jot down a note about some union problem. When he was a young man, he used to write poetry. He relaxes mainly at the 90-acre farm he owns near Flatbrookville, N.J., in the Delaware Water Gap.

Mr. Potofsky came to Chicago in 1908 with his parents from Radomski in the Russian Ukraine. Two years later, he joined his father and two older brothers on a picket line that led to the formation of the amalgamated. He went to work for the union in 1914 as a business agent at $15 a week and successively moved up in its hierarchy.

His first wife, Callie Taylor, a one-time shirtmaker, died in 1946. Five years later, he married his present wife, Mrs. Blanche Lydia Zetland, widow of a Brazilian exporter. He has two daughters and three grandchildren.

PERSECUTION OF LITHUANIAN CATHOLICS

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. GUDE. Mr. Speaker, when a country so relentlessly pursues a policy of discrimination against one group, it can only expand its activities to include many others. Many of us in Congress have expressed our sense of outrage at the religious and cultural persecution of Soviet Jewry. Now, Lithuanian Catholics, the predominant religious group in this small republic on the Baltic Sea, also appear to be the victims of intense repression and harassment by Soviet authorities.

The following article from the Catholic Standard outlines recent developments in this matter. It is further evidence that persecution begets only persecution.

The article follows:

[From the Catholic Standard, Washington, D.C., Apr. 20, 1972]

APPEAL MADE TO U.N.—SOVIETS PERSECUTING RELIGION, CATHOLICS IN LITHUANIA CHARGE

MOSCOW (NC).—More than 17,000 Lithuanian Catholics sent petitions to the United Nations accusing officials of the Lithuanian Soviet Socialist Republic of persecuting Catholics.

Copies of the petitions were made available to Western newsmen here. The petitions, bearing the signatures of more than 17,000 "believers," were sent to UN Secretary General Kurt Waldheim in February after Soviet officials in Moscow had ignored earlier protests, according to a group of dissident Russians.

The Soviet Union annexed Lithuania, a small republic on the Baltic Sea, in 1940. Its population of more than three million is predominantly Catholic.

Last September, about 2,000 Catholics in the south central Lithuanian town of Prenai, whose population is less than 10,000, signed an open letter to the Soviet leadership charging that Prenai authorities were curbing freedom of religion.

The Prenai Catholics said that Lithuanian clergymen were being restricted in the performance of their religious duties and that the petitioners' own parish priest had been arrested for "teaching catechism to children."

The letter to Waldheim said that three other open letters, with a total of 5,000 signatures, were sent last fall to Soviet Communist party leader Leonid Brezhnev and that police in Lithuania, "using threats, prevented the mass collection of signatures."

"Such action by the authorities," the letter said, "prompted the conviction that the present memorandum, signed by 17,000 believers, will not attain its aim if it is sent by the same means as previous collective declarations."

The signers also said they were complaining to the United Nations because "believers in our republic cannot enjoy the rights set out in Article 12 of the Universal Declaration of Human Rights." Passed by the United Nations, with the Soviet Union abstaining, the declaration calls for the recognition of religious freedom by all countries.

The constitution of the Soviet Union, while guaranteeing the "freedom to perform religious rites," also grants the right of antireligious propaganda, widely used to promote atheism.

The Lithuanians petitioning the United Nations said that Soviet officials limit the number of candidates admitted to seminaries to 10 a year and control the assignment of priests to parishes.

There are so few priests in Lithuania, they said, that one priest often has to serve two or three parishes and that "even old and sick priests have to work."

They also said that Lithuanian officials do not enforce a law requiring that those who persecuted churchgoers be punished.

Lithuanian officials have not allowed Catholics to rebuild churches destroyed during World War II, the petitioners said, and have made it difficult to obtain permission for services in private homes.

The petition to the United Nations repeated charges made last fall that two parish priests had been sent to labor camps for giving religious instruction to youngsters and that two bishops had been exiled without trial.

'If in the future, the organs of the state take the same attitude toward believers' complaints as they have until now," the petitioners said, "we will be obliged to address ourselves to international bodies, to the Pope, the head of our Church, or to the United Nations, as an authoritative institution defending human rights."

NIXON WOOS TEXAS—NEW ENGLAND PAYS THE PRICE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. HARRINGTON. Mr. Speaker, last weekend President Nixon made a pilgrimage to Treasury Secretary John Connally's ranch in Texas. Gathered there were Secretary Connally's personal friends, the oilmen and bankers whom Nixon hopes can deliver him Texas in the election and help finance his campaign.

While he was there, he assured the oilmen that he would not alter the depreciation allowance, quota system, or tax privileges which transfers billions of dollars from the taxpayers of the Nation to the corporate accounts of the large oil companies.

New England suffers most from the aid for dependent oil companies program by having to pay artificially high prices for artificially scarce oil. The New England congressional delegation has been attempting to get the President to eliminate import quotas on No. 2 fuel oil, or at least to increase the amount that New England can import. This is the oil we use to heat our homes in the winter.

If next winter is a severe one, a serious fuel shortage could occur, one that could adversely affect the health and safety of the citizens of New England, not to mention their pocketbooks. Yet letters sent to the administration by the New England delegation have simply been ignored.

Perhaps it is cynical to note the fact that the New England winter will not come until after the November election. But cynicism comes naturally when one reads that the President piously told his audience of oil men and bankers that too many people were getting the idea that this was a "something for nothing" economy.

This comment and others were reported in a column by David Broder, political reporter and columnist for the Washington Post. That column, which appeared in the May 2 edition of the Post, follows:

A Barbecue Spiced With Politics

(By David S. Broder)

San Antonio.—The scene was right out of Edna Ferber's "Giant." The flagstone ranch house was ablaze with light. The magnificent live oaks in the yard were hung with pots of orange mums, swaying in the evening breeze; more flowers floated in the pool, and the sweet scent of the prairie grass mingled with the odors of the steaming barbecue.

The guests arrived Texas-style, setting their executive jets down on the Picosa Ranch airstrip, with the great red Santa Gertrudis cattle watching. Nearby, two cowhands sat astride their perfectly groomed horses, posed against the last rays of the sun, as if by a photographer.

But not even a novelist would have dared concoct the guest list that was present Sunday night when President Nixon visited John Connally's Floresville Ranch, just south of here. As Neal Peirce says in his new book, "The Megastates of America," "The political life of Texas is directed by a single, moneyed Establishment. There is no other state of the union where the control is so direct, unambiguous and commonly accepted."

Connally, the Democratic former governor, is as Peirce says, "The epitome of the Establishment," and his guest list was a directory of its members.

For years, there has been speculation and anticipation of the political realignment that would bring the wealth and power of the Texas Democratic Establishment into firm alliance with a conservative Republican president.

Once before, in the 1950's, the marriage seemed on the verge of consumation. Governor Allen Shivers (Democrat) led the Democratic Party into support of President Dwight D. Eisenhower in 1952.

But the Eisenhower-era Republican romance with the Texas Democratic Establishment was broken up by the ambitions of Lyndon B. Johnson, who carried his state in 1960, 1964 and 1968.

But Johnson is old and ailing now; the state Democratic leadership is tainted by scandal and wracked by division; and the national party is veering off in dangerous directions; talking of nominating a George McGovern with his unacceptable views on oil depletion, capital gains and the Communist menace.

The time is ripe for a new romance, and Richard Nixon knows it. As one watched that picture book scene under the trees Sunday, the ladies in their long dresses, the men in tailored ranch suits and cowboy boots, the strolling Mexican Mariachi band, and the black waiters passing drinks, the realization dawned: It's happening: it's really being consumated right here.

Our President moved easily in this group, the grocer's son who rose to the heights of political power feeling right at home among the millionaires, many of whom are also self-made men.

After supper, he answered their questions for more than an hour, never hitting a false note. He told them exactly what they wanted to hear. He praised their friend and host and hero John Connally, who saved the state government from a serious liberal challenger in 1962 and gave them six years more of freedom from corporate income taxes or real utility regulation; the President called Connally a man "capable of holding any job in the United States."

He told them that American bombing of North and South Vietnam would continue until Communist aggression has been defeated and they were moved to toast "the courage of the President of the United States."

He said that Washington was full of doubters, the victims of "intellectual incest," but that the country was strong and confident and that if they would stand with him "against the trend toward permissiveness, the trend toward weakness," America would be itself again.

He told them that "rather than moving in the direction of reducing the depletion allowance, the government should do more to provide incentive . . . for people to go out and explore for oil."

He noted pointedly that his adviser on tax reform was sitting at his right—John Connally.

And having said that, he quickly added that he was concerned that too many people were getting the idea this was a "something-for-nothing" economy. If there was irony in the juxtaposition, the President did not note it.

Look at all the want ads, he told the bankers and publishers and oilmen, and ask yourselves why there are millions unemployed and millions on welfare when jobs are going begging. It is because too many people have forgotten that "no job is menial if it provides bread on the table and shelter for a family. . . . It is that spirit we need revived," the President said.

It was late now, and the jets would have to take off, returning their owners to Houston and Dallas. But there was one more topic that might serve to foster the romance a bit further, so Connally himself asked the President if he might, perhaps, have any thoughts on busing.

The President did, and those too went down as easily as bordeaux and champagne Connally had served. At the end, when one of the publishers said he'd like "as a newspaper man," to say the traditional, "thank you, Mr. President," it was hard not to believe that a transaction of some significance had occurred. The Picosa Ranch barbecue just might make political history.

I CAN'T BELIEVE WE WON THE WHOLE THING

HON. JOHN WARE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WARE. Mr. Speaker, Immaculata College, in the Ninth Pennsylvania Congressional District, surprised the sports world on March 19 when it won the first women's national intercollegiate basketball championship in Normal, Ill.

The Philadelphia Evening Bulletin carried an excellent story in its March 26 edition. Because I am proud of the recognition gained by this college in my district and because I believe that Immaculata's team, its coach, Mrs. Catherine Rush, and the school itself deserve tribute for the combined efforts which brought victory, I am having this article reprinted below:

Basketball Championship

The Philadelphia sports world was caught napping last Sunday when Immaculata College won the first women's national intercollegiate basketball championship in Normal, Illinois.

Suddenly national titlists were in our own backyard and some sportswriters had to brush up on girls' rules. "I didn't even know they'd gone to full court," exclaimed one startled TV newsman when he heard about the victory.

For years, girls played a ladylike game of basketball in which forwards on one team could only do their stuff in half the court with guards passing the ball up to them from the other half of the court. A toe over the center line meant a penalty. They were also limited to a couple of dribbles. After that they had to pass the ball.

"Today, it's just like the boys' game with only a couple of minor differences," said Mrs. Catherine Rush, the pretty, blonde 24-year-old coach who has been with the girls two seasons.

SOMEWHAT SURPRISED

Even Mrs. Rush and the eight jubilant players who made the trip were somewhat surprised at the U. S. victory, it turns out.

"I thought that if we could win two games, putting us in the top four, that would be enough," she said.

Maureen Mooney, a junior from Philadelphia and co-captain of "The Macs" with Pat Opila, a senior from Drexel Hill, said that she went to the national competition feeling that "we'd put our best game on out there."

A banner hanging in the rotunda of the main building at Immaculata reflects some surprise, too. "I can't believe we won the whole thing!" It says.

Immaculata, a girls Catholic college, near Frazer, in Immaculata, Pa., had the distinction of being the smallest school qualifying for the nationals. They have about 800 students and don't even offer a physical education major.

"And we only had eight girls out there, five playing and three on the bench," said Sister Mary of Lourdes, president of the college. She is still reeling a little herself from the title.

Most schools, Mrs. Rush said, brought 15 players.

NEIGHBORS OF "MACS"

If there was a team that local sports watchers would have put their money on, it would have been the West Chester State College team, neighbors of "The Macs."

"The Macs," who went into the eastern regional competition at the University of Maryland the weekend before the nationals with a 20-game winning streak, were beaten in the finals there by West Chester. Score, 70–38.

At Normal, "The Macs" beat the University of South Dakota in the quarter-finals, Indiana State University in the semi-finals, University of Mississippi in the playoff semi-finals, and in the finals, March 19, they met West Chester again. "The Macs" squeaked through with a 52–48 victory.

Cathy Rush believes that Immaculata, small as it is, has developed such a good team for a variety of reasons.

"We were sort of lucky that several good players came into the school at the same time," she said. "We'll lose only one of our starting eight players next year."

She said she thought they came through with the title because of their "excellent defense" and deadeye foul shots and because "the girls are calm under pressure."

"A lot have come from the Catholic League and are used to playing at the Palestra before crowds of 8,000" she said.

TEAM'S TALLEST GIRL

High-scorer and tallest girl on the team, Terry Shank, a sophomore from Glenolden, who is slightly over five feet 11 inches tall, played on Catholic League championship teams from Cardinal O'Hara High School. So did "Mac" teammate Maureen Stuhlman, a freshman from Havertown.

The other "Macs" are Janet Ruch, a junior from Upper Darby; Janet Young, a sophomore from York, Pa.; Denise Conway, a sophomore from Havertown, and Maureen Muth, a freshman from Broomall.

School spirit was another factor in the win, said Cathy Rush, whose husband, Ed, is a National Basketball Association official. Students, faculty, alumnae, trustees and parents raised the $3,000 for the trip to the nationals, and presented the money to the team at a big pep rally held in the school rotunda.

NATIONAL MINORITY BUSINESS DIRECTORY

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. FRENZEL. Mr. Speaker, Mr. H. Peter Meyerhoff is a former electronics engineer who has published the National Minority Business Directory. Mr. Meyerhoff has devoted much of his time and all of his considerable talents and energies to persuading this country's industries to buy goods and services from minority-owned businesses. The attached article from Newsday of February 21, describes Meyerhoff's success in publishing his national directory.

The directory of 1,600 minority-owned firms has been sold to businesses throughout the United States. Surveys indicate that the directory has been a successful business builder for minority firms. Meyerhoff, his former employer, Honeywell, Inc., and the Minneapolis Urban League, and the many citizens who have worked with him on producing this directory are to be congratulated. We are proud that this national success is located in the city of Minneapolis.

The Newsday article follows:

[From the Long Island Newsday, Feb. 21, 1972]

DIRECTING BUSINESS TO MINORITIES

(By John Lundquist)

MINNEAPOLIS, MINN.—An electronics engineer who used to put gyroscopes together to guide missiles is now trying to steer more of the nation's industries into buying goods and services from minority-owned businesses.

After nearly four years of campaigning, H. Peter Meyerhoff has come up with a new edition of the National Minority Business Directory, listing about 1,600 firms. Earlier editions tended to plug the "buy black" theme. Now, it urges industry to buy from all minority entrepreneurs, whether Aleuts, American Indians, Eskimos, Orientals, Mexicans, or others.

Meyerhoff's current goal is to get industry to make one per cent of purchases from minority suppliers. And to help achieve this, he is working toward a computerized version of the directory. He hopes eventually to include more than 40,000 industry-oriented minority firms in all major cities.

Meyerhoff knows what it is to be in a minority. He was a boy in Nazi Germany. As a Jew, his father, the operator of a profitable cannery, was imprisoned in a concentration camp. Shortly after he was freed, the family fled to the United States. He graduated from City College of New York in 1950 and spent two years in the Army.

In 1959, he went to work for Honeywell, Inc., an electronics control and computer manufacturer. When the Rev. Dr. Martin Luther King Jr. was assassinated in April, 1968, Meyerhoff was shocked and grieved.

"I asked myself what I could do to help out in this troubled time of hostility and resentment," he says. "One thing I decided was that I could buy from blacks. I don't have to ask questions. I don't have to get organized. I don't have to ask anyone's permission. That's what was appealing, the simplicity and directness of the approach. I didn't have to worry about any organization."

But it wasn't long before Meyerhoff did get involved in a big way. He located a black grocer and started buying from him. Soon, he'd talked nine neighbors into doing the same, and the grocer could truck deliveries to suburban Fridley and make the long route pay off.

His initial success spurred Meyerhoff to get out a mimeographed directory of all black-owned business in the area. These were distributed to churches and human rights organizations and more than 20,000 area homes of whites. The campaign began to have an impact on black businesses. The grocer took on 75 new customers in five neighborhoods. A second black-owned grocery started a similar delivery service. A painter doubled his workload and an upholsterer got 20 to 30 per cent more business.

It wasn't always a smooth path. Meyerhoff was heckled by anonymous callers who'd phone even at 3 AM.

By late summer of 1968, his sideline was beginning to swamp him. An official of the Minneapolis Urban League convinced Honeywell officials to give him a three-month leave with pay. For about two years, the Urban League paid his salary, and since June, 1970, the enterprise has been largely on its own.

"Last year, we didn't quite make it," he says of the nonprofit organization, which was $1,600 short of breaking even. Meyerhoff says several community-minded companies or agencies have made donations or furnished research personnel.

In association with Business Enterprises for American Minorities, Meyerhoff began by sending out thousands of letters to urban leagues, urban coalitions, Small Business Administration offices, and local offices of the National Association for the Advancement of Colored People, as well as black newspapers. From these leads, he mailed questionnaires asking minority-owned businesses to list basic data so a potential buyer could size up the company.

"I had to make hundreds of long-distance telephone calls to get exact information," he said.

A six-month survey in 1970–71 conducted by General Mills' research department for the directory indicated 22 per cent of firms that bought copies of the directory had made purchases from minority businesses.

"It's better than I had hoped for but not as good as it should be," publisher Meyerhoff says.

More than half of the nation's 1,250 largest businesses have at least one copy of the current 100-page directory. Numerous government agencies use it. Of the 10,000 copies that have been printed of the $6.50 book, about 3,000 have been sold.

Interspersed with the listings are sketches and brief biographies of some achievers among minorities. Examples are William Keeler, a Cherokee Indian who became board chairman of Phillips Petroleum Co.; Dr. Daniel H. Williams, a black who pioneered in heart surgery, and Maria Tallchief, described as the "unsurpassed" Osage Indian prima ballerina.

Meyerhoff, a 46-year-old father of three, whose hair is tinged with gray, gave up an $18,000 salary at Honeywell and now earns $6,000 less in his campaign for minorities. His wife and another woman help run the office, in a cramped former plumbing and heating office, with a "Buy Black" sign out front. The Neighborhood Youth Corps helps parttime.

A sign on one wall states: "Black people have excelled whenever a door was opened. The most important closed door in America today is business."

And the director offers this advice: "If you are unlucky and have a bad experience with a minority business, try another one. After all, you haven't stopped patronizing white firms just because you have had trouble with a few."

NIGHTMARES PRODUCED BY THE COMMITTEE BILL TO INCREASE THE MINIMUM WAGE—PART I

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. ERLENBORN. Mr. Speaker, today and tomorrow I will cite examples of how H.R. 7130, a bill approved by the Education and Labor Committee, irresponsibly deviates from its intended purpose of remedying the inadequacy of current minimum wage scales.

EXPANSION OF COVERAGE

FEDERAL EMPLOYEES

The committee bill would bring the Federal Government under the minimum wage law's definition of employer. Obviously, to do so encroaches upon the jurisdiction of the Civil Service Commission; but that is not all.

This alteration of the definition of employer includes your staff and mine, and the staffs of our committees. Few, I doubt, are now paid less than the minimum wage; but how many are paid overtime? How many Capitol Hill offices keep time cards? How many of our offices and committees can budget their payroll funds if overtime has to be paid?

Needless to say, employees of the judicial branch would similarly be covered, and the same problems would be experienced.

STATE AND LOCAL EMPLOYEES

With equal flippancy, the committee bill would extend coverage to State and local governments. Again, it is likely that the number of people involved is nominal so far as the minimum wage is concerned. However, to require our city, county, and State governments to pay overtime—when almost without exception they are finding it difficult to meet their budgeted needs—can only result in increased taxes at these levels.

DOMESTIC SERVICE EMPLOYEES

Many of our elderly who do not want to lose or to reduce their social security benefits—or who do not have social security—turn to now-and-then domestic service to supplement their incomes. Grass cutting, baby sitting, and doing odd jobs are the primary avenues available to those who can only work a few hours or a few days a week.

The committee bill would close the doors to work for many of these people. If requiring that they be paid the minimum wage will not do it, the recordkeeping entailed will.

CONGLOMERATE EMPLOYEES

What is a conglomerate? More of us know what a conglomerate is not than what it is, and the committee bill's definition is a complete misnomer.

A conglomerate is not simply an employer engaged in two business activities; but the committee bill would require such an employer to pay the minimum wage and overtime in both businesses, even if one is a losing proposition.

The small franchiser is not a conglomerate; but the committee bill would make these same requirements of the small franchiser, ignoring the fact that he or she does not share in the profits of the parent company.

PHASING OUT EXISTING EXEMPTIONS

AGRICULTURAL (CANNERIES, TOBACCO) PROCESSING, SEASONAL INDUSTRY, AND SUGAR PROCESSING EMPLOYEES

Have the peak employment demands that brought about exemptions in agricultural processing, seasonal industries, and sugar processing magically disappeared? The committee bill assumes that they have by removing their exemptions.

TRANSIT EMPLOYEES

Do you know of any industry where more companies are perched on the brink of bankruptcy than the transit industry? The committee bill would help push them over the brink by phasing out their overtime exemptions.

NURSING HOME EMPLOYEES

Removal of the provision in existing law that exempts work up to 48 hours a week in nursing homes from overtime requirements can only raise the costs of taking care of our elderly. And not one of us needs to be reminded that these are the people who inflation hurts the most.

These are but a few of the faults of H.R. 7130. You need not despair, however; there is an alternative.

Two of our colleagues—Mr. FUQUA and Mr. QUIE—and I will offer a substitute to this committee bill. Our substitute, H.R. 14104, does not extend coverage of the minimum wage law; and it does not remove or reduce any exemptions in the existing law.

Our substitute has only two major provisions: it grants reasonable increases in the current minimum wages rates and encourages the employment of young people by establishing a special youth differential wage.

Tomorrow, I will tell you of other damaging defects of the committee bill.

FEDERAL ASSISTANCE TO SAVE LIVES—COVER CANALS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WALDIE. Mr. Speaker, I am greatly concerned over the mounting toll of human lives being lost yearly in uncovered, open irrigation, and municipal water supply canals.

It is estimated that more than 100 persons each year die by drowning in these canals.

In my district, the Contra Costa Canal operated by the Contra Costa County Water District has claimed 48 lives—most of them small children who have wandered too close to the canal, slipped, and were unable to climb out of the steep sides of the canal.

Mr. Speaker, these tragedies will continue as long as canals existing in areas of urban encroachment continue to be open.

Today I am introducing legislation that will allow the U.S. Department of Interior to participate in up to 50 percent of the cost of covering those canals.

Presently, the water users must bear the entire cost of covering or fencing canals. It is a terribly costly business and many water districts are simply unable to finance this construction.

The need is clear and I am hopeful that this legislation will be acted on in the near future.

GREATER KANSAS CITY MOBILIZES FOR PLANNED GROWTH

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BOLLING. Mr. Speaker, there is an air of such defeatism and despair pervading so many of our cities that the Secretary of Housing and Urban Development was recently prompted to plead for "one example of a city concerned about saving its residential areas as well as its downtown business areas." In still another instance the Commission on Population Growth and the American Future wrote off as obsolete many of this Nation's old, smaller towns as not worth rehabilitating.

As is so often the case, negative news creates more attention than the positive. I know there is at least one city of the type Secretary Romney seeks, a city that is concerned about its downtown as well as its residential area, a city that is spending $3.2 billion for its own growth, of which only 2.8 percent comes from Federal sources, a city where two State legislatures, the government of six counties, two metropolitan areas and some 30 other self-determining subdivisions have managed to work collaboratively in a rational program that is planned to double the area's population to 2½ million by 1980 without eroding the quality of life of the area.

I speak of Greater Kansas City, encompassing 316 square miles and parts of two cities, Kansas City, Mo., and Kansas City, Kans.

Mr. Speaker, I would like to bring to everyone's attention a report made recently by four of that area's leading citizens, Mr. Donald J. Hall, Mr. Ilus W. Davis, Dr. Charles Kimball, and Mr. Miller Nichols.

Mr. Hall, chairman of a citizens committee representing business, city, and county government in the area, sounded what I consider the keynote when he flatly declared at a news meeting in New York City recently that all cities are not obsolete or unmanageable. He said that the coalition of city officials, county government, and private businessmen was introducing more progressive change in the city than has ever taken place in a similar metropolitan area in a similar period of time—but he emphasized that the growth was a controlled or managed growth, not growth aimed at satisfying a lust for bigness.

Mr. Davis, two-time mayor of Kansas City, Mo., former councilman and chairman of the Mayor's Committee on Municipal Finance, has admirable credentials to put into perspective the extraordinary growth story of the area. It is an object lesson for many other cities who still have the physical plant and the options for growth if they bestir themselves and take the initiative and not wait for the government to do their jobs for them.

And there are, Mr. Davis emphasizes, some 75 metropolitan areas in the United States with populations under one and a half million now that appear to be logical centers to absorb in an orderly fashion the expected increase of 75 to 100 million people in our country by the end of this century.

Mr. Speaker, I insert in the RECORD the reports made by these four citizens in New York on March 28, 1972:

REMARKS BY DONALD J. HALL, CHAIRMAN, KANSAS CITY CITIZENS COMMITTEE

My name is Don Hall. I am president of Hallmark Cards, Kansas City, and chairman of a citizens committee representing business, city and county government organizations in the Kansas City area.

On behalf of the gentlemen here with me—all of whom you will meet shortly—I would like to thank you for coming here today.

An obvious question is why have we come to New York from Kansas City today and why have we asked you here this morning.

It's really not complicated. We're here because New York is the communications capital and we have a story to tell—an extraordinary story, we believe.

We've also chosen New York to tell our story because this city has come to symbolize the beleaguered state of many cities—cities that are characterized as ungovernable, unlivable and unhappy homes for millions of Americans.

What is happening today in Kansas City is not just exciting, but an important urban case study for problem urban centers. Our coalition of city officials, county government and private businessmen want to share the Kansas City story with you.

We don't happen to believe that all cities per se are obsolete or unmanageable. Ours isn't, and we're about to show you why. We are here to report that Kansas City is in the midst of an unprecedented revitalization. This is manifested in a building and expansion program that is introducing more progressive change in our city than has ever taken place in a similar metropolitan area in a similar period of time.

Our construction boom is only one tangible evidence of the area's recent surge—it is the result of important changes.

The trouble with statistics is that they are one dimensional. They do not reveal what changes really lie behind all this activity.

Viewed historically, what is happening in Kansas City today and tomorrow is very much what happened in our coastal communities yesterday.

In an age of jet airplanes and modern communications systems, Kansas City has become a communications and distribution center, a foreign trade zone, an international city. In an age of urban migration, Kansas City has become an urban center—still a center for the agricultural businesses to its east and west, but much more deeply involved in industry and science, government and finance, in manufacturing and trade crossing both oceans.

The Greater Kansas City area is moving inevitably toward its role as America's Inland Capital—a regional center with direct international links to other nations, a regional capital for federal government soon to decentralize out of Washington, D.C., a center of international trade, a planned metropolis of several million people that is not only the geographic center of this nation, but the center of population as well.

We have come to New York because so few people realize what is happening in our area. We have been identified with machine politics, but we cleared that up 32 years ago.

We are frequently considered a dominantly agricultural city, yet only Detroit builds more motor cars than we do.

We are not often considered as culturally conscious, yet our art gallery is among the top ten over-all and one of the top three in the excellence of its oriental collection.

We are viewed as flat and dusty with wheat piled in the streets by those who have never visited our area, yet we live amid sizable hills, in a forest, with ample water, and enjoy the nation's finest park system.

We would like to be recognized for our quality of life and our scenic beauty. But it is more likely that the national press will only look our way because of the current construction boom. Some aspects of this hyperactivity have interesting perspectives:

The current $3.2 billion construction program exceeds any similar program of any city our size—including Dallas, Atlanta, St. Louis.

Of all construction investment, more than three fourths is private capital—indicating the strong confidence of the business community.

Our per capita investment in the building under way in Kansas City is more than $2,500. This is the largest per person investment in growth of any city anywhere in America. As a matter of fact, it's five times that of New York.

Most of the construction projects serve people directly—stadiums, convention centers, sports arenas, airports, inner-city residential communities, streets and highways, innovative retail centers, schools and colleges, and hospitals.

The fact that more than $2 billion of this building comes from private investment in an inland metropolis of international importance also means that this money will stimulate an additional $7.7 billion in income. And, this $10 billion total will unquestionably add impetus for additional investment.

Such multiplying growth concerns us. Our concern—and our mission—is to talk about controlled growth, managed growth, not bigness, but growth based on quality of living.

Remarks by Ilus W. Davis, Member, Kansas City Citizens Committee

You've heard in general terms the thrust of the $3.2 billion in construction that will be coming on stream in Kansas City over the next 18 months or so. You've been given an overview of what we call the centrality of Kansas City that heralds our inevitable emergence as the nation's distribution and computer-communications capital.

I'd like to put some of the facts and figures already mentioned—plus some new ones—into perspective for you, and touch upon the relationships among the various government bodies involved in the Kansas City growth story.

First, how much is $3.2 billion in public and private construction? Although we'll see most of it up and in operation by the end of this year, it's only fair to average the expenditures out over a three-year period. While some of the projects were initiated more than three years ago, they were held up by two long construction industry strikes, and the bulk of the activity would fall in a three-year time span. Incidentally, we and the unions have made our peace and we have no damaging labor strife facing us.

On an annual basis, Kansas City is spending something in excess of $1 billion a year.

For the three years, the Kansas City metropolitan area is spending $2,552 per person in new construction. If the New York metropolitan area spent at the same rate, it would come to $29.4 billion—enough probably to upgrade your schools, subways and commuter lines and have enough left over for another World Trade Building, in three years!

HIGHEST PER CAPITA INVESTMENT NATIONWIDE

Comparative statistics are awfully hard to come by, but we believe the investment being made in Kansas City far exceeds that of other cities on the move during their most expansive three years of redevelopment. And we believe that Kansas City's per capita spending is higher than that of any major city, anywhere, anytime.

We think it's significant—particularly to this audience which is accustomed to, if not happy about, staggering portions of your taxes being sopped up by Washington and Albany—that only $88.8 million, or 2.8%, of our area's $3.2 billion comes from federal sources, and that is for a new federal office building, some interstate highway construction and some education and airport grants.

The states' contributions, both Missouri and Kansas, amount to $209.6 million, or 6.6%, mainly for highways and universities.

Of the remainder of the $3.2 billion, the citizens of the Kansas City area, through local and county government bonds and taxes, authorized $587.6 million, or 15.2% of the entire cost.

More than 75% of the entire investment—$2.4 billion of the $3.2 billion—comes from the private sector, which proves to us that, at least in Kansas City, private enterprise is not only alive and well; it's downright precocious!

There have been proposals for the creation of 100 new cities to accommodate our nation's population increase through the year 2000.

This is a provocative concept, but in my experience and study, I just don't think it provides a viable way of meeting the needs of the people.

SEVENTY-FIVE METROPOLITAN AREAS IN UNITED STATES TO HANDLE POPULATION GROWTH

There are 75 metropolitan areas in the United States with populations under one and a half million now that appear to have the physical plant to absorb in an orderly fashion the expected increase of 75 to 100 million people in our country by the end of this century. Many of these cities still have options open that, properly exercised, can assure that they will be both livable and governable in the year 2000.

Unfortunately, few of these cities today appear to be thinking about this or exploring their options in this context. Because of where Kansas City is today, we feel a responsibility has been thrust upon us to show clearly just how a city can continue to grow, can continue to make life more attractive for its people, and continue to be manageable and governable.

Our people are setting the style and standard for urban life as we hope it will be in the United States in the next century.

Our position today is, as has been said, a result of planning and efficient use of our resources. But just as important—and perhaps of more significance to you in the East—is the ecumenical spirit that has been created among the multiplicity of governments within the area of Greater Kansas City.

Strides have been taken in establishing new and unusual forms of government units that, while maintaining the sovereignty of conventional political division are effective in dealing, sometimes by law and sometimes by protective covenant, with the problems of orderly growth for the benefit of all.

ECUMENICAL POLITICAL ACTION

The governmental problems we face and are solving in Kansas City are compounded by the fact that a state line runs through our metropolitan area. If we are to treat the entire area as a whole, and we are, we must plan, zone and take advantage of all resources on both sides of the Missouri River.

This means bi-state compacts and agreements among two state legislatures, six counties, two cities and some 30 other self-determining sub-divisions. The land surrounding the Kansas City International Airport for 100 miles in each direction, encompassing a multitude of communities, counties and the two states, is zoned according to a master plan.

In one endeavor, a treaty between the states of Kansas and Missouri was drawn up and approved by the Senate of the United States.

You will see more of this kind of thinking and planning in the future in other cities, if they are to meet the challenges of the decentralizing of American industry and government, an increasing population, and the continuing quest for a better way to live.

Remarks by Miller Nichols, Kansas City Citizen Committee

I will start with two statements from men who have known our city. The French intellectual, Andre Maurois, after spending several months in Kansas City following World War II, described the city as, "one of the most beautiful in the world." He further commented that the Kansas City residential suburbs should be copied by the most vaunted cities of Europe.

The other man was Brian Dunning of BBC, who knew our town as an undergraduate student in the mid-fifties. He wrote, "If Kansas City were in Europe, everyone would rave about it, including American tourists who would fall all over themselves to see a city which contrives to be modern without being brash, historic without being senile, and polished without being flamboyant."

This hasn't happened by chance. Kansas City for more than 100 years has had the advantage of great planners and dreamers. Men capable of transforming their dreams into realities. One of them was my father, the founder of the J. C. Nichols Company. Starting in 1905, with no money and little credit, he built in the southern portion of Kansas City, residential areas recognized throughout the world, as the largest high-class contiguous residential development under one management.

His concepts were based more on philosophies than they were on profits, that is not to say, however, that there is no profit in creating the very best in living environment, for I assure you, there is. His planning and building ability was recognized by three of our nation's Presidents, who appointed him as a dollar-a-year man to serve on our National Capital's Park and Planning Commission. Also, he was the founder of the Urban Land Institute.

One of his statements lives on to guide us today. He said, "Let us endow Kansas City with the elements of beauty and permanence and build a city affording the commercial opportunities of New York and the cultural amenities of Paris."

Our Country Club District, recognized as Kansas City's finest residential area, offers its residents a way of life unexcelled by any city. We emphasize beauty with curving streets, preserved streams, adorned parks with gracious-sized lawns and gardens. Throughout the residential area, we have erected and contributed to the residents, many fountains and fine pieces of statuary brought from the Old World.

We are celebrating this year, the 50th anniversary of the first shopping center that was conceived and built without the benefit of public transportation. In 1922 no one thought the automobile would play an important role in suburban shopping. During the intervening years, many shopping centers have come and gone—not so with the Plaza.

Much of our area is committed to parks and guarantees to future generations that these green areas, "the lungs of the city," will always be there. We have ample land within our city limits and nearby rural areas to accommodate orderly growth.

However, many cities' growth will be controlled by the availability of water. The Missouri River that runs through the middle of Kansas City flows more water in a day than we could possibly use in a year.

The heritage of a great newspaper man, William Rockhill Nelson of the Kansas City Star, provided funds to build the William Rockhill Nelson Gallery and Mary Atkins Museum, truly one of America's finest structures. The Gallery is located at the apex of a huge Cultural Center which also includes our Kansas City Art Institute; the Conservatory of Music; Rockhurst College, a Jesuit school; the 100-acre campus of the University of Missouri at Kansas City; Midwest Research Institute, and finally, the Linda Hall Library, which is exceeded in scope and importance as a technical resource only by the Library of Congress. This library serves every state in the Union and many foreign countries. Among the states, New York is the second largest user.

In the field of spectator sports, our Chiefs have made it twice to the Super Bowl. Our Royals, an expansion team, have moved up to second place in their division. We have just gotten our basketball Royals from Cincinnati and we expect to have a major league hockey team by the start of next year's season. Kansas City is really sports oriented.

In the field of participating sports, we are fortunate to have an abundance of both public and private golf courses, and to be within an afternoon's drive to one of America's finest recreational playgrounds, the Ozarks, where both rivers and lakes afford our citizens ample opportunity for varied types of recreation. Skiing, the fastest growing sport in the country, is at our doorstep and thousands of Kansas Citians ski the Rocky Mountains, an hour away, where skiing is not "just good," but truly the finest and most dependable of any place in the world.

We have under construction a $21,000,000 Disneyland-type park called "Worlds of Fun." Located on 500 acres of wooded, rolling land within our city limits. The owner and developer is Lamar Hunt, also the owner of the Chiefs.

Our Starlight Theatre is the second largest open-air theatre in the country. During the summer a full season of Broadway musicals entertain on a seven-nights-a-week basis. Our Philharmonic, Galleries, libraries and Universities provide the people of Kansas City and our territory, a wide variety of cultural opportunities.

Of the six Presidential Libraries in the nation, three are in the Kansas City trade area, with one, the Truman Library, within the metropolitan area.

We have our problems as all cities do, but ours are manageable and we are accomplishing our goals. The leadership in the various groups work amazingly well in a community that tries to understand. I am not saying, however, that we don't have imperfections to keep us busy seeking solutions.

We are not a "hustling, bustling" area racing "pell-mell" in many directions to achieve growth for growth's sake. Our rate of immigration is slower than Dallas, Houston or Atlanta and we like it that way so long as we can obtain quality oriented growth for we expect to maintain our life style. Newcomers to Kansas City find that it is easy to establish roots and to become a part of the community. Life can be rewarding in a community like Kansas City, so much so that corporate personnel officers frequently find that asking a man to transfer away from Kansas City is difficult to accomplish and many resign before they move their family away from their home and friends in Kansas City. This speaks well for our town.

REMARKS BY DR. CHARLES KIMBALL, MEMBER, KANSAS CITY CITIZENS COMMITTEE

What I would like to say about the larger subject of *all* cities is the distillation of some 25 years of experience at Midwest Research Institute, observing, measuring and forecasting events in both the private and public segment of our country. There are important changes under way—not all of them as tragic, depressing, and hopeless as headlines imply. There is a marked shift in the cities that lead in our country—a rejection of traditional influences—and Kansas City is in the forefront.

Historically, the inland cities have always looked to the sea coasts as models for their life style. The mass communication offices (be they Hollywood studios or New York editorial offices) told us what to wear, how to govern, where and how to live. This is unacceptable today. We are not willing to embrace either the sprawl and smog of Los Angeles or the degrading density of the East.

The cities we live in are not plagued as are the coastal cities, with too many people, too rapid growth, extreme poverty, commuting, and lack of recreation. These are great issues, now commanding the highest level of your attention.

So, the time has come for a new set of alternatives. The people and leadership of Kansas City are serving notice to the nation that we now offer an attractive new option for quality life in a metropolitan center—an option so favorable in the case of Kansas City, that it will serve as a progressive model throughout the balance of this century.

A second major shift in the course of American cities is interconnected with what we might call the revolution of the service industries, a dramatic historical progression following the agrarian revolution and the industrial revolution.

Our cities—nearly destroyed by archaic property taxes and the onslaught of the internal combustion engine—now face a new series of demands brought into focus by the new employee, the service employee.

EVOLUTION OF SERVICE-ORIENTED ECONOMY

Ours is the first country in history to employ more people in services than in manufacturing. This calls for a new kind of city, not the gathering place where farmers can buy, sell, and barter goods, and not the waterfront town of the industrial revolution, but a new approach with reduced emphasis on industrial sites and railroad sidings, cheap labor and hauling heavy goods over water.

It emphasizes values based on being in the center of things, geared to house skilled minds and highly mobile people, linked to international air routes, and structured for the dignified life style demanded by those within the service professions. The company town we knew as kids is passe.

Have you ever wondered why the insurance industry, one of the most powerful of the service forces, repeatedly selects cities like Hartford, Omaha, Kansas City, Wausau, Des Moines?

Finally, and perhaps most important, we must ask ourselves now where all of us are going to live in 1999, or more practically, where our kids are going to live—and not just where but how we are going to live—in good style, with dignity, with reasonable accessibility to each other, and above all, with room to stretch?

It is generally held that by the turn of the century, all but 10 to 15 per cent of Americans will live within metropolitan areas, and there is much talk of the nation's need for 100 new cities to accommodate the then population of 300 million people—thus 100 new cities for 100 million more people.

There are arguments that are convincing to me, at least, against the idea of many new cities, rising unnaturally on the virgin landscape, without the cultural traditions of the present communities. More sensible, less costly, less damaging to the countryside, and more rewarding in human values—is to plan now on the 100 million additional new persons to locate on the average in each of one hundred cities of manageable size.

MODEL OF URBAN DEVELOPMENT

This is what is happening today in Kansas City by a group of private businessmen, an involved city hall, a county court, and sound planning.

As one example, in Kansas City, Hallmark has created and funded a "downtown suburb" called Crown Center to provide quality living, safe living, for 10,000 people just a few blocks from down-town, without losing openness, trees, and parkland normally associated with the suburbs.

Barbara Ward, the British economist, put the current urban problem very well when she said that "excessive growth in very large cities can best be controlled not by any rigid attempt to set limits; expansion can be checked only by attracting it to other centers."

Much more serious thought will need to be given in the years immediately ahead to some redistribution of population, which is as was done a hundred years ago when the inducement was the Homestead Act—the GI bill of rights for Union Soldiers, which opened up the West. But plans cannot be forced on the people. They must not conflict with our rising personal level of expectations.

Ours is one of the four largest cities in America in area with room for growth—lots of it. even within our present city limits. We are not here to pirate your factories or your corporate offices. Instead, we wish to put the nation on notice that we are ready to take our share of the 100 million new people who will show up in the next 30 years.

Over the 25 years I have lived in the Middle West, we have seen an exodus of talented people to both coasts, the best ones leaving first, what the British called the "Brain Drain." There simply were not adequate-level employment opportunities. But now we notice a marked reversal in that trend. Some of the best ones, former emigrants who have located in the cities on the coasts and the Great Lakes, have "had it"—commuting, congestion, corruption, and concern with pollution. Many of the key people on my own staff have come back to the Midwest, and this movement is not due only to the fact that the cost of living and cost of doing business in Kansas City averages $1,000 annually per employee less than New York, San Francisco, Chicago, Los Angeles, Atlanta, St. Louis and Dallas.

Some of the "return of the native" movement has to do with what unions call "portal to portal time." In our area of 1.3-million persons, more than 90 per cent live within 30 minutes of their work—most within 20 minutes.

This sort of accessibility has new and important meaning today, for it enriches leisure time for the individual without reducing productivity for the employer. To the brainy, talented, individuals of the service revolution, "portal to portal time" is increasingly significant.

Some thoughts about Kansas City.

Our city is solvent, thanks to former

Mayor Davis. It has the most modern tax structure of any city in the land with more than half a million people. Its economy is beautifully balanced. We never did manage to cash in on the Space Age, like many coastal cities, nor are we now suffering from the Space Age recession.

We manufacture everything but ships and cigarettes. On a per capita basis, we are first in the country in the manufacture of automobiles and trucks, vending machines and greeting cards. Per unit of population, we are first in retail sales, in the number of consulting engineers, and in printing and publishing.

The centrality of Kansas City is money in the bank with a great concentration of AT&T facilities and Long-Line headquarters, Western Electric Plan, United Utilities, the third largest telephone company in the country. You newsmen know our community as a regional center for the wire services.

This centrality is one reason why the federal govenment selected Kansas City as a regional headquarters for at least a dozen major federal agencies.

Our future is not just national, but international—soon to become the nation's first inland foreign trade zone; something heretofore reserved only for seaports.

It is exactly this sort of anachronism that American cities must overcome. The seaports now have too many people, responsibilities, problems, and corporate expansions. The airports like Kansas City, are bound to attract this activity away from the congested areas as Barbara Ward suggests, based on the careful planning we have been doing for certain growth.

As 100 million Americans expand into 100 cities like ours, the centralization of our inland capital will greatly enhance personal mobility. For example, I can now take a morning flight from Kansas City to 48 of the 50 largest cities in the country, hold a meeting, make a speech, sell something, and be back in time to sleep in my own bed. Typically, our new airport, and the massive support systems built by TWA, are planned for the 1990's. To show the interest of the man in the street in these matters, the airport bond issue passed not by a 3 to 2 margin (as required) but by 24 to 1.

While the dollar value of our construction projects is emphasized, these are projects that serve people directly.

In Rodgers and Hammerstein's *Oklahoma*, Ado Annie's boyfriend used to sing "Everything's Up To Date In Kansas City." He was right then, and he would be right today.

But, then he went on to sing, "They've gone about as far as they can go." Don't you believe it!

HIGHLIGHTS OF KANSAS CITY $3.2 BILLION CONSTRUCTION

A total of $3.2 billion worth of public and private construction projects will be coming on stream in the Kansas City area this year and next.

Here is a list of the major projects, which include colleges, hotels, office buildings, a new international airport, twin stadiums for pro football and baseball, a convention center, retail and service facilities and a major theme amusement park:

Completion this January of the nearly-$5-million American Telephone & Telegraph accounting center.

Groundbreaking in January of the $13-million University of Missouri-Kansas City Medical School.

Grand opening this April of the $8-million 400-room Alameda Plaza Hotel near Kansas City's Country Club Plaza.

Begin construction in mid-April on 10-story Executive Plaza office building in downtown section of Kansas City.

Opening this April of Phase One of the River Quay recreation-shopping development, a riverfront area being restored in 19th Century style.

Celebration in May of the 50th anniversary of the Country Club Plaza, America's first organized and planned shopping center district.

Completion this spring of four buildings totaling more than $8 million at the University of Missouri-Kansas City.

Completion this spring of $25-million Hallmark Cards distribution center on 595-acre site in suburban Liberty.

Completion this May of the 100-bed Dr. Martin Luther King Jr. Memorial Hospital, located in the black community and financed with $2 million in federal grants and $3 million in community-wide contributions.

Completion this June of the last 12.5-mile link and bridge of Interstate 435 linking Jackson and Clay counties.

Completion in July of $8-million, 8-building learning center of Kansas City, Kansas Community College.

Opening in June of $29-million teaching hospital of the Kansas City College of Osteopathic Medicine. The 10-story, 426-room structure is the largest all-private-room hospital in the Midwest.

Completion this summer of the Kansas City Royals Baseball Club's new 42,000-seat stadium in Harry S. Truman Sports Complex.

Transfer of commercial airline service from Municipal Air Terminal to the $212-million Kansas City International Airport.

Groundbreaking in 1972 for Kansas City's $20-million convention center, in a two-block area adjacent to Municipal Auditorium downtown.

Completion in August of the first five buildings on the new 222-acre campus of Johnson County Community College, a $13,-million addition to the area's junior college facilities.

Completion this August of 78,000-seat Arrowhead Stadium in the $51-million Truman Sports Complex; the stadium is the new home of the Kansas City Chiefs Football Club.

Groundbreaking this September for the 600-room Stouffer Inn within Tiffany Centro, a $75-million planned business community under construction two miles from Kansas City International Airport.

Begin construction on $28-million, 32-story office tower and commercial retail complex in the heart of downtown Kansas City.

Completion in late 1972 of Southwestern Bell Telephone Company's 13-story, $14-million office building.

Completion this September of the $20-million Penn Valley Community College, the first of five community colleges to be constructed in Greater Kansas City during the early 1970's.

Completion in November of $2.2-million Municipal Courts Building in Kansas City.

Completion by the end of 1972 of a series of new TWA facilities adjacent to Kansas City International Airport totaling $55 million and including new overhaul facilities for jumbo jets, a new test call for 747 jet engines, water treatment and total energy plants.

Dedication in March, 1973, of the 730-room Crown Center Hotel.

Opening in April, 1973, of Worlds of Fun, a $20-million theme park in Clay county being backed by Lamar Hunt, owner of the Kansas City Chiefs.

Completion in mid-1973 of Southwestern Bell's $14–million long-distance facility expansion.

Completion by Labor Day, 1973, of Phase One of Crown Center's $200-million urban redevelopment project. Ths phase comprises about half the total cost of the project.

Completion by January, 1974, of a $2.3-million two-floor addition to the diagnostic and treatment center at Kansas City General Hospital.

THE CHILDREN'S LOBBY

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WALDIE. Mr. Speaker, it has often been said that children are the future. They are one of the most precious natural resources in any country.

A group called the Children's Lobby has organized in my State of California. Their aim—which I believe is a very worthwhile one—is to look after the interests of young people.

While the large majority of children have parents who love and care for them, there are an unfortunate few whose parents mistreat and neglect them or whose parents are limited in their ability to provide adequate opportunity for them. There are others whose families are unable to afford medical or dental care. They too need help.

The following article from the March 31 issue of the Los Angeles Times, by Art Seidenbaum is about the Children's Lobby. I would like to share it with my colleagues in the hope that they will take cognizance of the needs of a fairly substantial, if voteless, part of our population. The article follows:

HELP FOR HALF-PINTS

(By Art Seidenbaum)

And now we have the Children's Lobby, which is to give clout to little Californians with no political voice of their own.

There are 1.6 million kids in this state 4 years and younger. There are 80,000 kids who are beaten or neglected annually. There are as many as half-a-million children in need—financial need, educational need—of care beyond their immediate families.

The Children's Lobby has those kids as their single special interest, the first state body in the country in behalf of the voteless.

Rep. Jerome Waldie described the new group for his national colleagues: "Wigmakers have a paid lobbyist in Sacramento, Calif. So do the abalone, wine, mortuary, and motorcycle associations . . . The fact is that 650 special-interest groups have a 'voice' in the halls of the state Legislature. But until recently, a crucial segment of the population has been unrepresented—children and young people . . ."

The three areas of major concern at the moment are child care centers, child abuse prevention and children's dental care.

CENTERS POPULAR

Care centers, especially for children in single-parent working families, are already popular on a bipartisan basis. Last year's Welfare Reform Act included such facilities and made possible state-federal funding of about $17 million—but enabling legislation, spelling out county implementation, is still to come.

Liz Berger, lobby executive director, is working with legislators to move a bill by next month, careful not to call such institutions "day care centers" because that term somehow sets up bad communal associations in the minds of sensitive conservatives.

Meanhwile, state Sen. Donald Grunsky, himself a sensitive conservative, is helping the lobby's effort to assure that all counties will protect children suffering from parental beating or neglect.

One of the most gut-wrenching aspects of the battering business, says lobby president Robert Pauley, is that many victims still love their parents, "beating being better than no love at all." While the children need outside intervention, the parents are the ones who need outside treatment.

CRUNCH AND CLOUT

No politician in his running mind is going to announce against children but the lobby has already learned that many legislators would like to exercise their love for little nonvoters freely, without appropriation. The crunch comes when clout has to cost.

The lobby is bound to run into other problems as child-advocacy grows up. Children are the unrepresented pawns in matters ranging from public education to divorce. The simple proposition that in certain cruel circumstances society may know best—better than natural father or natural mother—is a profound philosophical issue at odds with many old ideals.

And I have another reservation about adults trying to represent children: How arrogant do we have the right to be in predicting their needs in the next culture? The battering must cease and attention must be paid to human beings not yet big enough to be their own advocates. But I hope the good lobby remembers that while pleading for children one does not necessarily speak for them.

THE BYELORUSSIAN-AMERICAN ASSOCIATION RESOLUTION

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WOLFF. Mr. Speaker, recently it was my privilege to attend a meeting of the Byelorussian-American Association commemorating the 54th anniversary of the Byelorussian Declaration of Independence. At this affair an address was presented by Dr. Roger Horoshko, president of the Byelorussian-American Association.

In his remarks, Dr. Horoshko decried the forced assimilation into the Soviet Union of Byelorussia, a charter member of the United Nations, and today a constituent Republic of the U.S.S.R.

I would like to share with my colleagues Dr. Horoshko's interesting comments, as well as the resolution adopted by the Byelorussian-American Association commemorating Byelorussian Independence Day.

The material referred to follows:

RESOLUTION

Whereas this year marks the 200-th anniversary of the first significant Russian attempts to enslave Byelorussian people and which attempts in 1772 had resulted in the Russian conquest of Eastern Byelorussia;

Whereas this year also marks the 50-th anniversary of creation of the Union of the Soviet Socialist Republics, the latest Russian instrument used to deprive the Byelorussian people of their natural and inalienable rights as free men and which rights had been granted to them by the Byelorussian Democratic Republic in 1918;

Whereas currently within the Byelorussian Soviet Socialist Republic (BSSR) the campaign against Byelorussian national institutions is intensifying and new attempts are being made to eradicate a "recurrence of Nationalism";

Whereas the Soviet censorship of Byelorussian Soviet literature and art, which in 1971 was tightened to require a universal glorification of Soviet ideology now attempts to extend its influence into the Free World and even over publications of UNESCO which depict Byelorussia in non-Soviet terms;

Whereas within the territorial limits of the BSSR and the USSR Moscow follows a calculated colonial policy of Russification, political and economic exploitation of Byelorussian people, and of demoralization of Byelorussian intellectuals with rigid party controls;

Now, therefore, we the participants of this Commemorative Assembly observing the Fifty-Fourth Anniversary of the Declaration of Independence of the Byelorussian Democratic Republic, do hereby unanimously condemn the governments of the BSSR and the USSR for perpetuating the crime of genocide against the Byelorussian people; furthermore—

We appeal to all freedom loving peoples and nations to speak for Byelorussia in the United Nations;

We urge the United States to adopt a policy which would help the Byelorussian delegation to the United Nations to become a true representative of the Byelorussian people;

We demand that the "Voice of America" end its discrimination against Byelorussian language, the language of the second most populous non-Russian nation within the USSR and Poland, and that Byelorussian broadcasts be added to the current list of seven Soviet languages used by the "Voice of America" in its broadcast to the USSR;

We appeal to the people of Byelorussia to continue their arduous opposition to Russian attempts to rule them and to destroy them as a nation;

We pledge our continued support and dedication to the cause of Byelorussian freedom and independence, and the resurrection of the Byelorussian Democratic Republic.

New York, March 26, 1972.

THE GOLDEN AGE OF BYELORUSSIAN CULTURE

INTRODUCTION

Byelorussia, a charter member of the United Nations, and today a constituent Republic of the U.S.S.R., is a country of rich cultural and national heritage dating back a thousand years. Soviet Russia is using its "Operation Rewrite" to obscure this fact and in its place promotes its own thesis, namely that only with Soviet help did the Byelorussian people attain their nationhood.

In reality, the political and cultural role that Byelorussia played, especially during the time of its "Golden Age" in the 16th century, had a paramount impact on Eastern Europe. In Byelorussia this was an era characterized by advanced democratic basis of life and by religious and political tolerance hardly found anywhere else in Europe at that time. While most of Europe suffered from the effects of religious fanaticism, from persecutions and from inquisitions, the enlightened atmosphere in Byelorussia permitted Symon Budny, a philosopher, theologian and a disciple of Michael Servetus, to freely preach, publish and to disseminate his religious ideas. This took place at the time when in Geneva, Michael Servetus was burned at the stake for his "heretic beliefs."

It was this tolerance of all ideas and an almost unlimited freedom of speech, conscience and faith, which led Todar Eulasheuski, a Byelorussian writer of the late 16th century, to call that century golden.

Historically Byelorussia was known as Litva and the Byelorussian State as the Grand Duchy of Litva. The name Byelorussia was introduced during the Russian occupation of the Grand Duchy in the 18th and 19th centuries and has since then gradually gained acceptance. Litva should not be confused with the present day Lithuanian, which under its historical name of Zhamoyc (Samogitia in Latin), was but a small part of the Grand Duchy to which it was semi-permanently annexed. On several occasions Zhamoyc was traded by the Grand Duchy in return for favorable military settlements.

BYELORUSSIA—THE CROSSROADS OF EAST AND WEST

During the last quarter of the 15th century, the Grand Duchy of Litva attained its maximum territorial expansion, encompassing vast territories from the Baltic to the Black Seas. To the east the boundary reached to within eighty miles of Moscow. Byelorussian lands formed the nucleus of this huge state and Byelorussian people were its masters both politically and culturally.

Simultaneously with the territorial growth of the Grand Duchy, commerce expanded. The rivers Nioman, Dzvina, Dniapro, and various overland trade routes connected Byelorussia with countries of Western and Eastern Europe. Along these routes also came new cultural and spiritual ideas and influences of the Western and Byzantine civilizations. The synthesis of these two cultural elements occuring on the substrata of Byelorussia's own national traditions later became the cultural characteristic of the Byelorussian people.

Cultural ties of Byelorussian with the West were also maintained through the educational opportunities which Byelorussian youth found at the Universities in Prague, in Germany and in Italy. A great number of Byelorussian statesmen, officials and well-to-do citizens used this opportunity to educate their sons, and through them Byelorussia was exposed to a continuous stimulating flow of progressive and bold ideas of the Renaissance and the Reformation.

Especially fruitful contacts with Western Europe were in the arts-painting, architecture, and graphic arts. Churches, castles, palaces and city halls were being built or renovated in the Gothic style, in the styles of the Renaissance and later in the Baroque style. In the 16th century an original Byelorussian building style was developed which combined harmoniously the Gothic and Byzantine forms with local architectural traditions. Excellent examples of this "Byelorussian Gothic" style are the churches in Mazheiki, Synkavichy and Suprasl.

BYELORUSSIAN—AN INTERNATIONAL LANGUAGE

An important prerequisite for the fast pace of development of Byelorussian writing and literature during the "Golden Age", was the high level of development of the Byelorussian literary language attained previously. For centuries the Byelorussian language was not only the language of everyday use and religious writing, but also the official language of the Government of the Grand Duchy of Litva, and not only in Byelorussian lands, but also in all other lands comprising this state.

Byelorussian language was used widely by the Orthodox Church which served 80% of the population of the Grand Duchy. Only in liturgy and other prescribed services was Church-Slavonic retained. The Catholic Church of the Grand Duchy used Byelorussian side-by-side with Latin. Scholars and preachers of the Reformation used Byelorussian language in their writings and publications. In the 16th century, Byelorussian was also introduced into the Holy Books (Koran) of a small but politically significant Muslim population of the Grand Duchy.

The dominant political and cultural position of the Grand Duchy in Eastern Europe inevitably led to the wide use of Byelorussian language beyond its borders. Trade and peace agreements with other states of Eastern Europe were written in Byelorussian. The great Dukes used Byelorussian language in their correspondence and relations with the rulers of states and regions of Eastern Europe, among them Muscovy (Russia), Great Novgorod, Tver, Pskou, the then German Riga, Poland, Moldavia, Walakhia, and the Tartar Khanates. The rulers of these states, as a rule, replied to Great Dukes of Litva also in Byelorussian.

Latin was the only other language used by the Grand Duchy in diplomacy, and its use was limited to relations with Western Europe.

Thus during the 15th and 16th centuries Byelorussian language played an international role in the diplomatic relations of Eastern Europe similar to that of Latin in the West. For example, when in 1646 a dispute arose between Poland and Moscow concerning the language which was to be used in their diplomatic relations, the settlement came only after they both agreed to return to the established tradition—the use of the Byelorussian language.

AN ADVANCED LEGAL SYSTEM

The ancient democratic traditions of the Byelorussian people and a mass of accumulated legal and judicial records, provided just the right conditions for a high level of development of law in Byelorussia during the "Golden Age".

Codification of law had already begun in the 15th century and in 1468 the first compilation of laws of the Grand Duchy, entitled "The Judgement Book", was completed. However, it wasn't until the 16th century that the high level of Byelorussian legal system was reached with the publication of the judicial code of the Grand Duchy known as the "Litouski Statut". The basic principles embodied in this code were deeply rooted in the traditional norms of Byelorussian common law.

Following two handwritten editions of 1529 and 1566, the first printed edition of the "Litouski Statut" appeared in 1588, and because of its completeness became one of the most authoritative judicial codes in Europe. Byelorussia's neighbors, the despotic Moscow and the anarchist-aristocratic Poland did not at that time attain a similar achievement in the legal field.

The chief editor and publisher of the third edition of the "Litouski Statut" was the Chancellor of the Grand Duchy, Leu Sapieha (1577–1633). In all three of its editions, "Litouski Statut" was written in Byelorussian. Later it was translated into Latin, Polish, Russian, and German. The "Litouski Statut" remained in use for three centuries, and was used even after that Russian occupation of Byelorussia. It was only in 1839 that the judicially binding force of the code was terminated by Czar Nicholas I and Russian laws were universally imposed.

CHRONOLOGY

Chronology was another field which reflected the vigorous political and national life of the Byelorussian nation. During the 16th century there appeared a large number of new editions of old chronicles as well as a host of new chronicles. The more important chronicles that have survived the turbulent events of history are the chronicles of Bykhaviets, of the Great Dukes, of the Dukes of Slutsk, chronicles of Krasinski and Baczynski, and a whole series of lesser local chronicles.

BYELORUSSIAN PRINTING

A very important factor in the development of Byelorussian written "Golden Age" was the birth of Byelorussian printing at the beginning of the 16th century. The foremost pioneer of Byelorussian printing was a renowned scientist and humanist of his time, Francisak Skaryna (1485?–1540). After obtaining his Doctorate in Medicine from the Padua University in Italy, Francisak Skaryna set forth as his main goal the dissemination of knowledge and education among his own people with the aid of printed books, and in the language best understandable to them, that is in his native Byelorussian. In 1517–19 in Prague and later in 1522–25 in Vilna, Skaryna published the books of the Bible in Byelorussian translation. This was the first bible printed in Eastern Europe and one of the first in the world.

Commentaries and introductions to Skaryna's books were filled with expressions of intense patriotism, love of the common people and with religious tolerance. Historians of printing refer to Skaryma's richly decorated and illustrated books as "Slavic Elsevir." Skaryna's varied interests and activities, typical of the learned men of Renaissance, left a legacy in many areas of Byelorussian cultural life-in religion, literature, art, linguistcs, as well as in printing.

Following in Skaryna's footsteps were such men as Symon Budny, Vasil Ciapinski, Vasil Haraburda, Peter Mscislaviec, brothers Lukas and Kuzma Mamonich, Ryhor Chadkievich, and the Orthodox Brotherhood of Vilna. By the end of the "Golden Age" there were over ten publishing houses in Byelorussia. Their books could be found not only throughout Byelorussia, but also in the territories of the southern Slavs and even in Moscow despite the fact that there they were banned and often burned as "heretic."

Printing literature was used extensively by the Byelorussian Reformation movement, forcing the Orthodox and the Catholics into a lively debate in print. Consequently, an extensive religious and polemic literature had been accumulated by the second half of the "Golden Age."

The most prominent representative of the Byelorussian Reformation movement was Symon Budny (1530?–1593), a philosopher and a student of the Bible. Budny, first a Calvinist, and later the leader of Byelorussian Unitarians, was a prolific writer of polemic letters and theological treatises which he wrote in Byelorussian, Polish and Latin, and distributed in Switzerland, England, Prussia, Poland, Hungary, and in Byelorussia. Budny's main work in Byelorussian is a large theological treatise "Katykhyzis" (Niasviz, 1562) which lays down the basis for his reformist ideas and expresses his views on the main social problems of that time.

Among the Orthodox, a notable activist and a reformer of the Orthodox Church of the "Golden Age" was the Metropolitan of the Grand Duchy, Jazep Soltan (Metropolitan in the years 1497–1519). A prolific contributor to Byelorussian Orthodox writing was Archimandrite Siarhei Kimbar (1532–1565) of the Suprasi Monastery. The second half of the century marks important literary and editorial activity by Ryhor Chadkievich (1505–1572). In 1575 Orthodox books were being printed in Vilna by Peter Mscislaviec. Famous for both their quality and the number of religious books published, were the Vilna publishing houses of Mamonich Brothers and of the Holy Trinity Brotherhood.

EDUCATIONAL AND SECULAR LITERATURE

Along with the general rise of the educational level in Byelorussia, the need for textbooks and reference books also increased. Publishers of religious books of all denominations turned their attention to this need. Special credit goes to the Orthodox Brotherhood in Vilna which published Byelorussian grade school readers, Byelorussian grammar and textbooks, and in 1595 published the first Byelorussian dictionary and lexicon edited by Laurenci Zyzani, an educator, scholar and theologian, Zyzani's Byelorussian grammar later became the primary source material for the Russian grammar of Michael Lomonosov.

In the field of secular literature both Byelorussian and Latin were used. In 1521, during his stay in Rome, Mikola Husouski wrote a poem for Pope Leo X, entitled "The Song of the Zubr". This poem of nearly 2000 stanzas was written with remarkable talent and presents vividly the beauty of Byelorussian wilderness and masterfully describes a relative of the bison—zubr, the king of Byelorussian forests. It further describes all the dangers of hunting the zubr, and clearly reflects poet's love for his country and his views on the major political events of his time. Also in Latin, Michael Litvanus published "The Habits of Tartars, Lithuanians (Byelorussians) and Muscovites (Russians)". In the years 1573–74, Filon Charnabylski of Orsha wrote in Byelorussian his "Vodpisy" (Reports). During the last quarter of the century poet John Radvan glorified Byelorussian magnates, his benefactors, with his Latin poems. A "Diary" describing a wealth of topical and historical events was written in Byelorussian by Todar Eulasheuski (1546–1604?).

CONCLUSIONS

This short survey points to a record of remarkable cultural and political achievements of the Byelorussian people and of the Byelorussian State, the Grand Duchy of Litva. In the 16th century, this level of accomplishment could not even be approached by Moscow, Poland or any other state in Eastern Europe. This is also the record which Soviet Russia tries to camouflage and falsify, thereby attempting to deny the cultural inheritance and historical achievements of the Byelorussian people. In this connection the change of names from the historical Litva to Byelorussia and from the historical Zhamoyc (Samogitia) to Lithuania, contributes to the confusion which the Russians exploit. However, a heritage of this scope and an abundance of documentary evidence from the era of the "Golden Age" still in existence, can not be suppressed either by might or by fraud.

BYELORUSSIAN DEMOCRATIC REPUBLIC

Today we are commemorating the 54th anniversary of the Declaration of Independence of the Byelorussian Democratic Republic, proclaimed on March 25, 1918 in Miensk.

The will of the Byelorussian people to be free was expressed by the Declaration of Independence as follows:

"We the Rada of the Byelorussian Democratic Republic, cast off the last fetters of political servitude which has been imposed by Czars on our free and independent land. From this day, the Byelorussian Democratic Republic is declared free and independent state. The people of Byelorussia, through their Constituent Assembly, will henceforth decide the future relations of Byelorussia with other states."

A Constitution was then adopted which provided:

1. for the creation by a direct and secret ballot of a Byelorussian Legislative Assembly based upon proportional representation of all citizens regardless of national origin or religion;
2. for a guarantee of all freedoms of speech, press and assembly;
3. for full national and cultural autonomy of all people of the Republic;
4. for the institution of an eight hour working day;
5. for the protected legal right to strike.

This Declaration of Independence soon became a new life-force of the Byelorussian nation and left deep impressions on the whole of its people.

The meaning of the Declaration of Independence was very eloquently expressed by the former president of the Byelorussian Democratic Republic, Peter Krecheuski, speaking in Prague at the Sixth-Anniversary of the Declaration of Byelorussian Independence. He said: "Nothing is more beautiful than a birth of a new idea, the content of which is liberation of its people. In Byelorussian history, the Declaration of Independence of March 25, 1918, has become this new idea. It is the most beautiful flower that has sprung up from our soil, and its delicate petals watered by the tears of our people, will live forever."

This "most beautiful flower", or the idea of liberation of which Peter Krecheuski spoke, can not ever grow old, nor will it lose its alurement for the Byelorussian people.

The newly established Byelorussian Democratic Republic was unable to enjoy its independence and sovereignty for long. Russian Communists consolidated their forces and the Red Army invaded Byelorussia. Byelorussian territory was turned into a battlefield, and the nation soon found itself in Russian captivity again.

The government of the Byelorussian Democratic Republic, being unable to defend itself successfully against the overwhelming Communist forces, had made repeated attempts to secure aid from the West, but to no avail.

In order to pacify the national aspirations of the Byelorussian people, the so called Byelorussian Soviet Socialist Republic (BSSR) was created and which was supposed to replace the Byelorussian Democratic Republic (BDR). However, the new Soviet regime turned out to be nothing more than a new form of subjugation of the Byelorussian people.

This year will mark the 50th anniversary of creation of the USSR of which Byelorussia is a part. According to its constitution, the BSSR is a totally sovereign nation. It has the right to freely secede from the Soviet Union, has the right to enter into direct relations with other states and to conclude agreements and exchange representatives with them, and has the right to determine the manner of organization of its military forces. The distinctive national flag, emblem, and anthem of the BSSR symbolically represent its sovereignity and independence. Furthermore, it was as a sovereign nation that the BSSR became an original charter member of the United Nations.

But is the BSSR really independent? Clearly not. Today the BSSR is hardly more than a colony of Moscow, equivalent in every respect to the "North West Province" as Byelorussia was often called under the Czarist Russia.

In the BSSR, its administration, army, foreign policy, economics, agriculture, education, theater, press, radio and television are all under Moscow's direct control.

According to Moscow's interpretation of sovereignty, the BSSR must become an integral and an inseparable part of the new Soviet Nation. This concept of a Soviet Nation, which now is being observed for the first time in history, can also be called either a "new theory of modern Russian imperialism", or else a "National-Communist-Totalitarianism". Foundations of this theory are the antithesis of the principles expressed by the Byelorussian Declaration of Independence on March 25, 1918 and by the Constitution of the BDR.

This year Moscow began a new campaign against Byelorussian National Institutions. The Central Committee of the Byelorussian Communist Party has issued its grave warning against the apparent "resurgence of Byelorussian Nationalism". The "Teacher's Newspaper" of Feb. 5, 1972, issued in Miensk, reports:

"Particular attention is being given to the question of combating a resurgence of nationalism and nationalistic views. Today, the national question is one of the most crucial elements in the political and ideological struggle between Socialism and Capitalism. The leaders of anti-Communism place an ever increasing emphasis on nationalism and try to use its poisonous weeds against Socialism. Within the USSR the national question no longer remains in such form as it still is in the burgeois countries and in some others. As a consequence of the Socialist victory, a new historical entity of the Soviet people has arisen—the Soviet Nation."

The author of this article completely agrees with the directives of the Central Committee of the Byelorussian Communist Party. In their understanding a nation is not a permanent factor of social and historical development of the people, nor an organic element of humanity, but rather that the Byelorussian nation, as well as other nations of the USSR, have attained their nationhood only with Russian help after 1918, and that the national liberation of all nations of the USSR must now be considered complete.

The new entity, the "Soviet People", according to Moscow is the only and the most realistic solution to the nationalities problem of the Soviet Union. Furthermore, according to this theory, in the course of history, all non-Russian people of the USSR are supposed to melt and to disappear for the good of the new "entity".

The concept of the "Soviet Nationality" is of course dangerous and alien to the Byelorussian nation; and it is the implementation of this concept, more than anything else, which explains the recurrence of Byelorussian nationalism as described in the "Teacher's Newspaper". "Regeneration" of nationalism is an understandable natural consequence of opposition and of reaction to this "Russian entity." It is very characteristic and significant that the Russian interpretation of Socialism departs ever further from the orthodox concepts of Marxism and historical materialism, and transforms ever closer into purely Russian nationalism.

The intensifying attacks on the Byelorussian national institutions, particularly Byelorussian language, are very apparent, and they do arouse counterreactions from the people. The native language is first of all a means for cultural ties and contacts between whole generations, between the present and the past, and between the present and the future. The alien Russian language which is being forcibly imposed upon the Byelorussian people, if successful, can have the effect of neutralizing these contacts, and in the end may even lead to a cultural collapse of the nation. Finally the very history of a nation without a language of its own is incomplete, uncolorful and ill. In such cases the national culture, particularly for the smaller nations, stops being the central moving force of that nation.

Such is a general plan devised by Russia, for assimilation of all nations enslaved by her. It is however doubtful whether a forced de-nationalization plan, no matter how cleverly conceived, can have much success. There is ample historical evidence that forced assimilation on a large scale never succeeds. This is true especially now in the times of strong nationalistic feelings in much of the world. Forced assimilation attempts only provoke resentment and opposition and lead to ideas and attitudes of the people which no physical force can change. The situation is of course different when a man freely agrees to abandon some of his national principles, but this happens only under conditions of relatively complete political and religious freedom, and when equal economic opportunities exist.

This year also marks the 200th anniversary of the first Russian conquest of Eastern Byelorussia. In 1772 these territories, for the first time in their history, became part of the Russian Empire. Russification began then has not ceased to this day. However the net result of this 200 year long occupation of Byelorussia by aliens, and their constant attempts to eradicate Byelorussian national conscience, is largely a failure. Byelorussian people, especially the peasants, have remained faithful to their national traditions and have preserved their language in its complete purity.

Already in 1962, in his book "Freedom and Foreign Policy", Senator Thomas J. Dodd, was one of the first to note that Russia is not only a captor of nations of Eastern and Central Europe, but in the future will be a real threat to the rest of the world and the United States, and for this reason it is necessary of the United States to help all nations of Eastern Europe in their struggle for freedom.

Senator Dodd wrote as follows:

"But more important we must devise a carefully thought out policy that will encourage the liberation movements in the captive countries, and we must find ways of sharpening our ideological impact on the enslaved peoples."

"Liberation is indeed a pipe-dream, if the word is used to signify an external initiative using subversive movements under the aegis of Western governments. But it is not a pipe-dream if one accepts a premise that liberation will come from within, that the role of the West must be limited to keeping the spirit of liberation alive through its propaganda and supporting it through its diplomacy. . . ."

"Thus the most effective deterrent to Communist expansion in Europe at this juncture would be to place our basic diplomatic emphasis on the ultimate freedom of the captive people of Eastern Europe. If we are not prepared to do so for their sake, then we must do so to save ourselves."

"Liberation does not mean that we confront the Soviets with an ultimatum and launch a war if they reject it. Nor does it mean that we organize subversive movements and foment revolutions in the captive nations. Either proposal would be irresponsible folly, in addition to running counter to our entire tradtion. Liberation as I have pointed out, will have to come essentially from within. But what we say and what we do can encourage or discourage the spirit of liberation and, in this sense can exert a decisive influence.

"How do we go about encouraging liberation movement? The first step would be to demonstrate the earnestness of our concern by raising the issue of captive nations at every diplomatic conference and at every United Nations session—"

The thoughts and ideas expressed by Senator Dodd have, in recent years, found their reflections in several resolutions submitted in the House of Representatives.

Last year Congressman John Rarick of Louisiana had introduced a resolution which would have had the United States Ambassador to the United Nations place the question of denial of the right of self-determination, and other human rights violations, including genocide, in the Soviet-occupied Byelorussia on the agenda of the United Nations Organization.

More recently, after the expulsion of the Nationalist China from the United Nations, two resolutions were introduced. One sponsored by Congressman Burke of Florida and by over 27 other Congressmen, would question the eligibility of the USSR for membership in the United Nations because Byelorussia has not been a truly independent nation since 1920. The other resolution sponsored by Congressman Zablocki of Wisconsin, would use Byelorussia membership in the United Nations as a leverage to crack open the Soviet block by establishing diplomatic relations with the Byelorussia Soviet Socialist Republic.

In conclusion we note that the movement for Byelorussia independence is gaining momentum, both within Byelorussia and without, and that the principles of freedom and justice expressed by the Byelorussian Declaration of Independence on March 25, 1918, are approaching their fulfillment.

THE J. EDGAR HOOVER BUILDING

HON. JOHN H. TERRY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. TERRY. Mr. Speaker, I am today introducing legislation which would name the new Federal Bureau of Investigation building the J. Edgar Hoover Building.

Mr. Hoover has become an institution in law enforcement during his nearly 48 years as Director of the FBI. He has suffered much criticism of late, but that criticism has never overshadowed the contributions of this man who always put service to public above all else.

Over the years, J. Edgar Hoover's name has become synonomous with the FBI. I can think of no finer tribute to him than to have the new home of the Federal Bureau of Investigation bear his name.

Mr. Hoover's contribution to the modernization of law enforcement in the country will never be equaled or forgotten. He has rightly become an institution.

THE UNIONS—EMPLOYERS—AND THE PUBLIC INTEREST

HON. SHERMAN P. LLOYD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. LLOYD. Mr. Speaker, for 3 months, two Washington Post staff writers, Haynes Johnson and Nick Kotz, examined the state of the labor unions in this country. They have interviewed union leaders and union members alike, as well as businessmen and the general public, so their examination has been both from within and from without. The results of their study have now been published in a series of 10 articles in which they report on what they found.

Mr. Speaker, their reports are an unusually objective and comprehensive insight into the accomplishments and failures of unions, the frustrations and aspirations of union members, and the future role of unions in our industrial society.

The articles are especially timely, in light of the serious disruptions our economy has experienced due to strikes by big unions in the transportation industry.

As chairman of the House Republican Task Force on Labor-Management Relations, which has been working to help the Congress find a viable solution to strike crises, I wish to commend Mr. Johnson and Mr. Kotz for their valuable contribution to the present-day debate over the state of labor unions and their influence on the economy. All Americans should benefit from the information they have gathered.

At this point, Mr. Speaker, I will insert the 10 articles in the RECORD:

[From the Washington Post, Apr. 9, 1972]

UNREST AMID RANK AND FILE—I

(By Haynes Johnson and Nick Kotz)

When tough old Sam Gompers was the unchallenged leader of the American labor, he spelled out simply and bluntly his goal for all trade unions: "More."

Over the years, at great cost in energy, effort and bloodshed, the unions broadened their goals, perfected their organizing and bargaining techniques and got more—more members, more wages, more benefits, more legislation, more influence.

Today, with their direct challenge to the President over wage and price controls and the prospect of a potentially historic conflict between organized labor and the government, the question of union power in America has assumed critical importance. There appears to be no neutral ground. The unions are either the most positive—or negative—force in the country.

Listen to these critics of the unions.

Says Herbert Hill of the NAACP who deals principally with organized labor:

"There's probably no more bureaucratic institution in the United States than organized labor. The most powerful affiliates of the AFL–CIO have simply become narrow protective organizations functioning for a small group of dues payers in a collective bargaining unit. In every industry, organized labor has now carved out an area of control. This is the basis of their strength.

"George Meany is not running a labor movement. George Meany and his colleagues are now businessmen engaged in the business of unions."

A liberal Democratic senator on Capitol Hill:

"They have the power because they have the money and the manpower. There are damn few free men on this Hill."

Malcolm Denise, vice president in charge of labor relations for Ford:

"I think it's fairly obvious that the unions, as institutions sanctioned by the law of the land, have power denied to the employer side."

Unfavorable comment is hardly new to labor leaders. They do not feel they have to plead their case or worth. They think their accomplishments speak for themselves.

"We are the only group in America society—the only organized group—that works day in and day out on a broad range of progressive social and economic issues," says Nat Goldfinger, research director of the AFL–CIO. "There is no other such group in the country. We are the whole solid-core base of progressive social and economic change in America. Without us, there's nothing."

What is new today is a set of conditions that threatens the unions both from without and within.

The problems are political, economic and, in an almost indefinable way, psychological. Taken together, they add up to hard times in the house of labor.

"Politically, you don't need any special clairvoyance to understand that at the present time the President of the United States is going against big labor," said Edward Carlough, president of the Sheet Metal Workers union. "We're the substitute for the Red Scare. I think we're as threatened legislatively and politically in this presidential election as we were in 1948. And I think on labor issues this is the most important election we've had."

This spring's dramatic developments, when union leaders walked off the Pay Board denouncing the President and the President quickly and forcefully picked up their challenge, underscore the seriousness of the present situation. They pose the threat of open labor-management, labor-government conflict—strikes, injunctions and court suits—across the country.

A leader in the building trades unions, still the heart of the AFL–CIO, described the main problem facing the unions differently.

"Right now," said Robert Georgine, secretary-treasurer of the AFL–CIO's building trades department, "this is probably the most critical time the building trades have had since their inception, since 1908."

He was referring to the increasing use of nonunion labor across the country and the general economic problems facing the construction industry.

Other union leaders talk about other problems: the export of jobs to overseas markets and the import of foreign goods; personnel changes on the Supreme Court and such agencies as the National Labor Relations Board, raising the possibility of new restrictions on organized labor; shifts away from blue-collar employment, accelerating use of automation with machines replacing men, and the rise of white-collar and service industries—all holding critical significance for the future of the unions.

Added to these are two related factors. One is what appears to be increasing hostility toward unions, as measured in public opinion surveys. In the recent surveys, for instance, 64 per cent of the public felt that union leadership is doing only a fair or poor job in meeting its responsibilities to the public as well as to its own members. The other involves big business. Some businessmen believe the present climate offers the greatest opportunity since the enactment of the Taft-Hartley Act a quarter of a century ago to curb what they regard as an imbalance of power between labor and management.

All of these problems, internal and external, will be examined in a series of articles, of which this is the first.

THE USES OF POWER

In these articles we will report on how labor uses its power politically, legislatively and economically; how its influence extends, no matter which party is in power, into all areas of the executive branch; how businessmen are attempting to organize quietly to change what they consider crippling union abuses.

We will explore, also, the changing attitudes of young workers toward the unions, toward union leaders and politics and toward work. These changing attitudes pose a special kind of problem for the unions, for manufacturing companies and for a society oriented toward the consumption of goods. They have produced incidents of industrial sabotage and increasing use of hard drugs in factories.

These articles are the result of three months of travel through the country conducting tape-recorded interviews, nearly all of them on the record, with a score of international union presidents and with labor leaders from George Meany down to workers in their homes and on the job. Accompanying each article will be verbatim extracts from men in labor's ranks as well as from leading business and other public figures who deal with the unions.

We begin with a primer:

1. The federal government lists more than 80 million Americans currently in the work force. Under 20 million—fewer than one out of every four workers—are members of unions. Union membership in the total work force actually has been declining.

These facts are vital for the unions in several respects. It means they represent a distinct minority of the work force—and thus wield a power far out of proportion to their total membership. (One union official, for instance, pointed out that the unions, although representing less than a fourth of all American workers, had *all* the labor representatives on the Pay Board. That, he suggested, clearly means that George Meany is the second most important man in the United States, ranking only behind the President in power and influence.)

But those figures also mean the unions are not growing, and historically their vigor and influence have depended on their ability to organize new members. This conflict figures in a fundamental debate today about the role of the unions.

When we asked George Meany, for example, if he wasn't concerned that the percentage of union members in the work force has been fairly static or declining in recent years, he answered: "To me, it doesn't mean a thing. I have no concern about it . . ."

Others inside the labor movement are in deep disagreement with that point of view.

2. While the public has the impression that union membership includes the poorer element of society, the fact is that most

union members are now earning at least $3 to $5 an hour. A secondary labor market of some 11½ million workers is not affiliated with unions. Their income is far below the union member's. They are, in truth, the poor working man in America.

VIOLENCE BETWEEN UNIONS

3. Another impression has to do with union strife and reports of violence, usually associated with strikes that affect the public. Actually, the greatest union strife lies solely within the trade union family. Jurisdictional battles pit one union against another for control of a job or market. As Joseph Beirne, president of the Communications Workers of America, remarked:

"This is something that is going on in hundreds and hundreds of communities every single day of the week and every single day of the year. I don't think there's any statistic anybody could compile that would give an actual picture of the time and energy and everything else that's wasted and lost in these jurisdictional fights between unions. Hundreds and hundreds and hundreds of man-hours, with all the countless thousands of dollars behind every one of those man-hours, are involved where two unions are battling for one plant or five unions are trying to organize the same group of workers."

A business agent from another union in Florida expressed the same problem, but less philosophically.

"We have these jurisdictional disputes over different areas of work," said Joe Valdastri of Sheet Metal Workers' Local 223. "And it's back and forth and back and forth until finally we come to a showdown on the job site where three or four or five hundred men get into it with two-by-fours and pipes. We've had two of those in the last three years.

"It certainly doesn't help the building trades as a whole to come together. The people out there are beating each other's brains in.

"My personal opinion is if you're going to do something like that, get out there on a nonunion job and run the goddamn rats off rather than fight among yourselves. If you're gonna fight, go out there and chase someone else."

As we will show in later articles, those are not words of braggadocio alone. Violence, complete with bombings and shootings, are a fact of life on some non-union job sites today.

WHAT THE WEALTH MEANS

4. There is no question that unions have great power. Total union wealth runs into the billions of dollars. The unions collect anywhere from $75 million to $100 million a month in dues. They have big pension funds and huge investments in real estate, banks, hotels, motels, transit lines and life insurance companies.

Yet all that wealth does not accurately depict the individual standing of a union member himself. An auto worker in Detroit, for example, the highest paid factory work, averages $10,000 a year—and has very little economic margin for survival. We have found sheetmetal workers, living in a far less costly area, who have been averaging over $20,000 a year. At the same time, there are union members working in the most expensive American city—New York—trying to live on $72 a week.

And for all the union's undeniable power in so many areas, union leaders in Washington inevitably argue that their power is not equal to that of the corporations.

"Our power is inadequate," said Tom Harris, AFL–CIO counsel and one of George Meany's closest associates. "The maldistribution of wealth has grown worse since 1940. The success of the labor unions should be measured on the redistribution of wealth. We haven't accomplished that since 1940.

"The place where we have lost, basically, is in the tax laws. Wilbur Mills has thrown us an occasional bone, but that's all. The power of the corporations is in Ways and Means and Finance congressional committees and that's where we lose."

5. Ideologically, the unions are caught between two irreconcilable views. To some businessmen and conservatives, the unions are militant or radical power brokers for the left, the heart of the liberal legislative lobby on Capitol Hill. To liberals and the left, the unions are often regarded as one of the most reactionary forces in America, a special interest group concerned only with money and defending the Establishment, whether it be on the issues of the war or student protest or permitting itself to be used as a cover for secret CIA financing.

To some extent, both criticisms are valid. Liberals, who are interested in reforming American institutions, see labor as conservative and hidebound despite the role it takes in lobbying for liberal legislation or backing liberal senators for office. Many rank-and-file union members, however, think their union leadership should be working primarily on money issues for workers. They aren't for such liberal causes as defending busing and fighting for civil rights legislation.

A key internal debate among top union leaders today centers around those points of view. One side argues that the unions should revert to their old role, as enunciated by Sam Gompers, of getting "more" for the workers—more meat and potatoes, that is, and less social action. That the unions have been getting more economically and still leading the liberal coalition—all the while being sharply criticized from either flank—is merely another indication of the complexity of organized labor as an institution.

6. Again depending on the cast of mind, labor leadership is often pictured as sterile and monolithic. Much of it is. But it may come as a surprise to some businessmen that top labor leaders often express the same kinds of complaints and concerns as do corporation vice presidents.

These union men are deeply disturbed about the ability of business to remain competitive, and equally concerned about such questions as productivity and poor quality of workmanship.

"We have very serious productivity problems," one international union president said. "I watch the building trades unions and I'm very distressed about several aspects. If you tried you couldn't get a union guy to come in and work on your house, if you own a house. And if you try to build a public building without union guys that's equivalent to gang rape in the White House. The unions and the contractors are ganging up on the * * * consumer, and they're not only killing the consumer but killing the industry and killing the workers and lousing up housing and so on."

RANK-AND-FILE UNREST

Ironically, the day may come when some of labor's most severe critics of the present will yearn for the return of these older men who are leading the unions today. The next wave of unionists promises to be a far different breed—less wedded to the old trade union principles, less certain about the merits of the free enterprise system, less concerned about the old values of pride in craft and work, more independent, more demanding, more insistent on change now. Yet they also could turn out to be more attuned to a rapidly changing society.

Already, union leaders who came up in another era are finding it increasingly difficult to control their own rank and file. They cite lack of union discipline, poor attendance at meetings, increasing wildcat strikes, and rising numbers of cases of rank-and-file members overturning contract recommendations of the leadership.

Something new is stirring among today's workers, particularly the young. Although it is difficult to generalize about so large and diverse a group, nothing struck us more strongly than to discover just how different those young workers really are. Yet many top union and management leaders do not fully recognize what is taking place in their ranks. A communications problem exists at high echelons of both. There are some, of course, who express concern. Two of the most thoughtful union men we met tried to put what's happening to the worker in perspective.

"What goes on everywhere else, goes on inside the union," said Victor Gottbaum, who heads the New York local of the fastest growing union in America, the American Federation of State, County and Municipal Employees. "So if there is unrest among the young and the blacks, you'll find that unrest amongst the trade union movement itself.

"You can't escape it, it's too big an institution. This manifests itself in interesting ways. For instance, I read in the paper about young workers recently stopping that General Motors plant. It's understandable. There's a restlessness that's very hard to define among young workers today."

THE DOWNGRADING OF WORK

In Washington, Nat Goldfinger pointed to another dimension of that young worker discontent.

"I think the public attitude toward the worker has declined substantially," he said, "and the American worker is now looked down upon on the radio and television and news media generally. You make fun of the plumber and the carpenter and the working man. Well, why the hell should he put out?

"Who in American society in the past 15 or 20 years pays any attention to the importance of skilled manual work? The emphasis in society has been on the Ph.D. degree, upon the mathematician, the scientist, the engineer and so forth.

"I use words which sound kind of phony—the dignity and honor of manual work—but I think all of this has been very sharply downgraded in the society.

"And most recently you find it in all the fun that's poked at the hard hats. The hard hat is the bigot, the racist, the sexist, the male chauvinist pig. He's viewed almost as the enemy within.

"And why should he put out? He knows what he's doing, he knows what he's contributing. He's working hard and he also has a keen sense. Maybe he overplays the extent to which he's being imposed upon by society. But the other thing is the pressures of society are mostly focused on him. He's the guy that bears the brunt for racial integration, for all of these social and economic changes—automation in the plant, changes in the neighborhood and schools. The urban crisis impinges most directly on him.

"And so with all these kinds of things—as well as the fact that his individual contribution to the product he makes is slight and that he feels divorced and alienated from that product—there may well be a changing attitude toward work in this country."

The situation he describes poses new problems not only for labor and management, but for the American people as well.

[From the Washington Post, Apr. 10, 1972]

TODAY'S WORKER: "IDEALISM'S GONE"—II

(By Haynes Johnson and Nick Kotz)

Stan Geist is only 30 years old, but like so many union officials he sees something new and disturbing developing among the young workers he represents.

"It's the young guy who's taking off," said Geist, secretary-treasurer of a large United Auto Workers local in Detroit. "We don't have any answers. They have the 'I don't care' attitude. They know they've got to work, but when they want a day off they want a day off and they don't care about anything else.

"The young guy wants it all without the overtime. And I think it's something that society has created. We've created it. You, me, we all created it."

What Geist was saying was echoed by virtually every other union leader interviewed who deals most closely with rank-and-file workers. Their explanations about what's happening—and why—differ, but they all add up to the same general point of view:

"He's a new breed. He hasn't lived through hard times. He's not a follower. You don't have followers today. You've got a bunch of disbelievers down there. . . ."

"Yesterday's were career people. Today, they're not. . . ."

"I think the problem is the idealism's gone. The worker who comes into a ready-made union is different from the one who builds it. . . ."

"The younger workers today don't have the pride in craft like the older people. There's more going for the younger kid. The car, the TV, the party time. They don't have the consideration toward the union like they did in the past. Talk union to them and they'll say, 'What'd the union ever do for me? They just take my eight or nine dollars and that's all.' They don't remember how our forefathers used to fight for us."

If the young workers we met are a true cross-section, all these comments by their elders are valid. Yet they do not begin to reflect the dimension of the differences.

Indeed, perhaps the most striking conclusion after interviewing union leaders and members these last three months is the degree to which young workers today share common attitudes with the far more publicized—and favored—young college students. Call it what you will—counterculture, drug culture, anti-establishment feeling or youth rebellion—the same forces are moving and motivating both groups.

There are, however, two important differences between them. Even though they far outnumber their collegiate contemporaries, the young workers receive much less public attention. And their frustrations are much more intense.

The young worker, after all, didn't go to Harvard or Berkeley. If he goes beyond high school at all, he often attends a small community college before entering the blue-collar work force to perform some of the hardest, dirtiest jobs in America.

These facts are important to any understanding of the turmoil and tension—the absenteeism, the increasing drug use in factories, the cases of industrial sabotage, the problems of quality and productivity—that exist in so many work places today. What comes through clearly after talking to these workers is the enormous dissatisfaction they feel about their jobs. In effect, they too are rebelling against the system—whether it is a system personified by their union or company official or society in general.

Nowhere is this more prevalent than on the mass-production factory lines.

"The problem on the factory line is that the job controls the man," says Doug Fraser, a top UAW official. "It's different from a job in which a man can put in some initiative. I don't know what will help. Absenteeism runs 12 per cent on Saturday despite 1½-time pay. That should be a message. Guys won't give away their social life or their free time for $50 or $60 a day."

A DIFFERENT LIFE STYLE

Paradoxically, that young worker wants more—and less. He wants more cash, now. Fringe benefits as such are not that important. But he also wants more free time and a different life style. Material possessions do not seem all that important. If he can't get the time, he'll often just take off from the job.

Down in Florida, Mike Marshall, 26, a sheet-metal worker, expressed a common attitude. He had been averaging more than $15,000 a year for the last few years, Marshall was saying, but last year his income dropped to around $10,000. It wasn't the economy; it was Marshall's own choice.

"See, I only made 10 last year," he said, "but that's because I took time off myself. I took off because I wanted to. I'd just lay around and take it easy. I have a little bit of money put away and I thought, 'What happens if I'm not here tomorrow? I might as well enjoy what I have.' So I decided to take some time off and lounge and take it easy. I have some property and a horse and I messed around there a little bit."

Obviously, such an attitude creates problems for both union and management. It also leads to internal friction between older and younger workers on the job.

Almost without exception, the older workers we interviewed expressed strong resentment against their younger colleagues. One night in Detroit while talking to a group of older and younger auto workers, for instance, the conversation became so heated that two of the men were practically at each other's throats.

The older worker resents many things: what he thinks is the young man's lack of appreciation for how hard it used to be, and how hard he has worked all his life; the wages and benefits the younger man seems to take for granted; the drug use that he believes endangers his own safety, and the new attitudes about work itself. But most of all, he resents being affected by the absentee rate among the younger workers.

He wants to send his children to college so they can have a better life, but finds it increasingly difficult with inflation and his basic income. The younger worker faces the same economic woes. Inflation hits him severely, too. On his average salary of $10,000 a year, he has a hard time buying a home. In fact, contrary to the popular attitude that today's industrial worker has it made and lives a life of affluence with a boat, two cars, a vacation home in the country, Bureau of Labor Statistics figures show that the real income of the factory worker has declined in the last five years.

But the older man feels the pressure most acutely of all, while his younger colleague doesn't seem that interested in material questions alone.

"You take a lot of these younger workers now," said Louis Johnson, a 26-year veteran of the automobile assembly line. "They hire in and they say the hell with it. They say you can take this job and you know what you can do with it. They'll walk off. So that hits me.

"Today they're short of welders. So I go and weld. Well, tomorrow they're short of a man in the grinding booth. Then the next day I'll be over in mill finishing. But time comes for a cutback, I'm the one that gets hurt. The younger man, he gets the job. He gets the gravy that I worked 26 years for."

The young worker's complaint is simple. He says he hates the job, particularly the monotonous factory job. At times he hates it so much that he deliberately will throw a monkey wrench in the machinery, or turn to drugs to escape the boredom. To him, whether the job is better than it used to be or pays more and gives greater benefits is beside the point.

"NOTHING BUT THE TOOL"

Those are, of course, sweeping generalizations, but they are the common denominators of the young factory workers we met. They feel, as James Humphrey, 26, said in Detroit, "nothing but a tool."

But let the experience of one man speak for them all.

Tom Armstead, 28, began working on the auto assembly line seven years ago after getting out of the Army. Armstead, who is black, was a member of the union and eventually was promoted to foreman. Along the way, he encountered all the problems described in fragmentary form by others.

"Payroll and everything is done by numbers from the minute you hire in here," he was saying. "I was 9374. Names are not important. After 17 months at Warren truck, I was transferred to Plymouth. There I am, a new man in a strange plant. . . .

"I got there in plenty of time, but as a result of parking in the wrong parking lot, going in the wrong entrance, and going through the maze of departments, I was 12 minutes late. I walked in and I said, 'Is this department 9175?' And he said, 'Yeah.' And I said, 'I'm Tom Armstead. I'm supposed to report here this morning?' And he said, 'Hey, do you know what time we start to work here?' And I said, 'Yes, sir. I was under the impression that we started at 6:12.' So he said, 'That's right. How come you're late?' So I said, 'Well, sir, it's the first time I've been here. I got lost trying to find the office.'

"And he said, 'Fire him!' And I say, 'Hey, you can't fire me. I've got seniority.' And he said, 'Where are you transferred from?' I said, 'Warren truck.' And he said, 'Well, god-damn it, I don't know how they work it at Warren truck, but you come here every day on time.' And I kept trying to tell him I make a point of being on time."

THE REAL PROBLEMS BEGIN

Much later, Armstead was promoted to foreman. That's when his real problems began. He said both whites and blacks resented his being put ahead of them. After that, he said, "I started applying more pressure in the areas of quality and workmanship—and they [the other workers] started applying their own pressure." He encountered a series of sabotage incidents on the assembly line.

"They would do things like turn the air pressure off in the chute for the tires to come down and call me and say the chute broke. So I'd call the repair man to look at it, and they'd say the air's not turned on. . . . But in the engine room the line would have to be stopped and I would have to let five or six jobs go on without tires.

"Another thing they used to do was a job called the W-500. It's a large four-wheel drive vehicle. They would take a two-by-four and jam it down in the line so I couldn't see it. And when the cradle came by, it would hit the 2-by-4 and throw it out of kilt. The line would be shut down. It would cost us $2,000 a minute.

"So it took me a few months to learn all the tricks of the trade."

But in the end that wasn't enough for Armstead.

The "feeling with me was that every waking moment—my whole life—revolved around that lousy job," he said. "I'd get up in the morning at 4:30, eat and get myself together, drive to work. Work started at 6:20. I'd get home at 3:30 or 3:45, read a newspaper, have dinner and go to bed. It seemed that every waking minute was involved in that job. On Saturdays and Sundays, you'd spend the whole weekend dreading Mondays."

Four months ago Armstead quit. He now works for an anti-poverty program in Detroit.

THE INCIDENCE OF SABOTAGE

As with the drug problem, described in more detail in two accompanying interviews, there seems to be no way of documenting how serious—or how minor—industrial sabotage is today. That it can—and does—happen at times from plant to plant is hardly disputable.

"Now the whole question of sabotage, you probably won't believe this, but this is not a new technique," said Leonard Woodcock, president of the United Auto Workers union. "There has to be some control to it some place, I suppose.

" I remember a plant up in Flint that had a lot of sabotage and I went up there and

I met with the union leadership, and I said to them, 'I know you have nothing to do with this, but it would be very useful if the sabotage stopped. It would give us the opportunity to work out these problems.' And sure enough the God-damned sabotage stopped for 10 months.

"And I'm sure General Motors was convinced, since I could go up there and make a speech and stop it, that obviously I had something to do with starting it, controlling it, planning it, whatever. But when you get a wave of hatred in a plant, it communicates itself into guys doing all sorts of imaginative things just to take it out. They do it in some very, very ingenious ways."

"JUST LET IT SLIDE"

However serious the cases of sabotage, drugs and absenteeism may be, they are only symptomatic of a larger problem. That is what appears to be a changing attitude toward work among so many young people today.

Occasionally a worker will articulate something that goes beyond a specific gripe about his job or his union.

Fred DiSisto, a 33-year-old sewage treatment worker and shop steward of his union local in New York City, put in a larger perspective.

If you try to do a job, a man is just beaten down so much that he eventually gives up," he said. "He's one man against the whole system. It's just too much.

"I have to admit I was a little more conscientious about the job than I am now. But I gave up. You keep pounding your head against the wall and you don't get anywhere. It's not the nature of the work. It's just what we call the system today."

DiSisto spoke of a number of incidents to show what he meant.

Then he added:

"They've made it so the guy doesn't worry or doesn't care or have pride in his work. He's worried about the good old buck. I think this is the reason why unions were able to get as powerful as they are. Because this was the main object in everybody's mind. You know, 'Look at what we've done for you. We've doubled your salary in 10 years.' They push for the money, money, money. And they seem to think that'll keep us happy.

"At one time it did make us happy because we weren't making that much. But I think we've reached a plateau where we just about squeezed everything out of it that we can."

Like Tom Armstead, Fred DiSisto is thinking of finding something else. He'd like to move far out into the country where the taxes are low.

"See, I like to hunt and fish," he said. "I like to get into the woods somewhere where I could be next to Mother Nature, so to speak."

He's another reminder of the point made by I. W. Abel, president of the United Steelworkers of America.

"I think the main problems of the trade union movement," Abel said, "are the problems of society. I don't find it easy to sort out that segment of society known as labor. I think we're a part of society, and a large segment of it, and our problems are similar."

[From the Washington Post, Apr. 11, 1972]

For Young Workers, Old Leaders—

(By Haynes Johnson and Nick Kotz)

Eddie Carlough wears his hair long and his clothing style mod. Some of his fellow international union presidents tell him he shouldn't wear sandals and body shirts to AFL–CIO Executive Council meetings in Miami Beach, but Carlough laughs off the criticism. He's closer to his young union members than they are, he says. And indeed, at 39 Carlough is one of the youngest union presidents in the country.

When asked how you get to be president of a big union, Carlough replied:

"I'd say the best way is to have a president who is the best president in the history of our union, well loved, who nominates you to succeed him—and who also happens to be your father."

Carlough laughed. Then he said:

"I think that's the best system, although there may be other systems."

Carlough was not speaking only in jest. He explained how he happened to succeed his father as president of the large and powerful Sheet Metal Workers Union:

"My father would have been re-elected unanimously in Atlantic City in 1970 and I suppose he could have run again and been elected and then stepped down and the board would have named me. But when he stepped down it was very open. There was plenty of time for anyone to object and the floor was open for nominations."

Carlough was the only man nominated. There were 737 delegates at the Sheet Metal Workers convention. Not a single delegate voted against young Carlough. It was unanimous.

Carlough's case is not unusual. Two things characterize the make-up of the AFL–CIO's Executive Council, composed of the international union presidents who form labor's leadership elite—old age and nepotism.

John Lyons, president of the Iron Workers Union, succeeded his father. S. Frank (Bud) Raftery, president of the Painters' Union, succeeded his father. Maurice A. Hutcheson, president of the United Brotherhood of Carpenters, succeeded his father.

Hutcheson will be 75 next month. Patrick E. Gorman, president of the Amalgamated Meat Cutters' Union, will be 80 later this year. Jacob S. Potofsky, president of the Amalgamated Clothing Workers of America, is 78. A. Philip Randolph, president emeritus of the Brotherhood of Sleeping Car Porters, is 83. Richard F. Walsh, president of the Theatrical and Machine Operations Union, is 72. Joseph D. Kennan, secretary of the international Brotherhood of Electrical Workers, is 76. Louis Stulberg, president of the International Ladies' Garment Workers Union, is 71. Six years ago, he succeeded David Dubinsky, under whom he served as union secretary. Dubinsky is now 80.

At the top of them all is the most powerful man in organized labor, George Meany. The AF–CIO president is now 78.

Meany is only the third man to hold the presidency of the American Federation of Labor since it was formed in 1886. Samuel Gompers, the first president, died in office in 1924 at the age of 72. He was succeeded by William Green, who died in office in 1952 at the age of 82. Meany, who served as Green's principal assistant for 12 years, has been president since then.

He says he has no intention of stepping down. "I decide if I'm too old," he said in an interview. He also said: "If my health stays good and I feel like it, I'll stay in. And very frankly I think I'd know if there was a movement to push me out within the organization."

JOBS FOR RELATIVES

The mentality of the old days of the family store, when a father automatically turned over the business to a son, lives on in the unions. Friends and relatives are rewarded with jobs.

George Meany, for instance, has three married daughters. All of his sons-in-law are doing union business.

Robert Mayer, husband of his daughter Regina, is a partner in the AFL–CIO's law firm, J. Albert Woll. Mayer is also on the board of the National Bank of Washington, the bank that is owned by the United Mine Workers Union.

John (Jack) Lutz, husband of Meany's daughter Genevieve, is assistant to the director of the AFL–CIO's union label and services trades department.

Ernest Lee, husband of Meany's daughter Eileen, is executive assistant to the director of the international affairs department of the AFL–CIO.

Both Lutz and Lee have been put on the union payroll since Meany became AFL–CIO president.

Few union officials will acknowledge publicly that their leadership is too old or out of touch or that a pattern of nepotism exists. Age alone, they will say, is not the criterion; ability is the only meaningful measurement of the leader. They insist they have strong and able leaders.

A rare word of open criticism from within labor's hierarchy came from Jerry Wurf, president of the American Federation of State, County and Municipal Employees, the fastest-growing union in America.

"I think it has to be said," Wurf said. "The problem is this. When you think that at 52 I'm one of the youngest men who occupies a position of substance in the national union structure—and I think I'm the youngest vice president on the AFL–CIO, although Lane Kirkland's probably younger than I am—but between the two of us we have a monopoly on youth, which is kind of ridiculous. A lot of my colleagues are products of an era and an environment that is no longer in existence."

Wurf went on to say:

"One of the things that troubles me in my own union is that our older staff guys tend to talk to the workers with a dialogue that was created during the depression, or created by the generation that immediately followed the depression and was seriously affected by it.

"The common American worker doesn't know what the hell we're talking about and has given up trying to understand. He does not relate to us and we don't relate to him, and we've got to be very careful about this.

"In essence, the kind of complaint I have heard is simply the inability of leadership—some leadership, not all—to communicate and relate to those who are their constituencies. And this is a process that's not related to labor. As somebody who's interested in the political processes in this country, I see the same thing going on. I see the same thing going on in the academic community.

"In 1936, the fathers of most workers were terribly grateful for a union official telling them where a job is. In 1972, an American worker likes to think that he's paying and that the union official has a responsibility for delivering pork chops. Instead of relating to him or serving him or being responsible to him, he's not sure the union official isn't patronizing him. And if he thinks he's patronizing him, he resents it."

Many other criticisms are leveled at top union leadership. Some of the sharpest come from inside the union ranks. They range from charges that the AFL–CIO is sterile and stultified in its outlook to arguments that it is reactionary in positions on major national issues, particularly foreign affairs.

WHY THE UAW LEFT

Irving Bluestone, a top official of the United Auto Workers, the second largest union in the country, explained why the UAW broke with the AFL–CIO by saying: "The AFL–CIO in our judgment had become stultified. It was no longer a cause. It was a kind of business." Bluestone also said: "When you talk about the AFL–CIO, the things that you see are static, rigid."

Victor Reuther, brother of the late UAW President Walter Reuther and like him a leader on the union, was most critical of the AFL–CIO's foreign policy positions.

"George Meany has been to the right of every Secretary of State and every President from Foster Dulles and Eisenhower on. And that is very sad.

"I believe in the field of world affairs, the trade union movement ought to be the same forward-looking and progressive influence which it is on domestic policy. But that tragically has not been the case with the AFL–CIO.

"I think there are several reasons for this. One is that foreign affairs has long been treated as very personal prerogative of the AFL–CIO president and his advisor [Jay Lovestone].

"I found, for instance, this particularly pointed at a time when Nixon at long last recognizes there are 800 million Chinese who are in existence on the mainland. This is perhaps the only positive thing I know of that Mr. Nixon's done in recent years in the field of foreign affairs.

'To have the AFL–CIO condemn him for it is appalling to me."

Herbert Hill, labor director of the NAACP, raised another critical area—the problem of union democracy and the strong internal control exercised by Meany.

"Local union autonomy is a phony sacred cow in the AFL–CIO," Hill said. "When they don't want to do something, they invoke the notion of local union autonomy. And you can quote me on this point. But when Meany wants to act, he doesn't know anything about local union autonomy, or autonomy with international unions."

GEORGE MEANY ON YOUTH

Perhaps the most common criticism of union leaders, though, concerns their age and attitudes. As in other critical areas, George Meany figures as the largest target. Most of the labor leaders we interviewed praised Meany as vigorous and in touch with—if not actually ahead of—rank and file union members. But Meany does have his union critics. Some are willing to speak publicly.

Victor Gotbaum, who heads the New York operation of Jerry Wurf's union, was talking about this in his office. "Have you seen Meany's Labor Day statement two years ago about American youth?" he asked. "It's a classic." Gotbaum reached into his desk drawer, pulled out a copy of Meany's statement, and began quoting it aloud.

"By what stretch of imagination can you say that a 20-year-old kid knows what is wrong with the world and what should be done about it. . ."

Gotbaum interrupted his reading to say, "It gets worse," and then continued quoting Meany.

"Especially when you see the behavior of the kids. There is more venereal disease among them than there was in my time, and it's going up all the time. There are more of them smoking pot and to say that they have long beards and look dirty and smell dirty, that they are better qualified to run the world than the older generation, that to me is a lot of baloney."

Gotbaum stopped, and gave his own response. "Is he that bad? No, But the extent of animosity, the lack of understanding of what is hitting the kids, is so acute here. How the hell are they going to understand the kids' restlessness? How are they going to understand the feeling that an affluent society doesn't seem to be paying off enough for them in the belt-line process that they inherited? Well, the job isn't that important. You can't do this to them."

The differences between those attitudes of the older union leader and the young workers we described yesterday are immense. The young workers often express strong disagreement with the policies of their international union presidents on everything from Vietnam to politics and progressive social legislation.

Take the question of the war. While George Meany has been stoutly defending American involvement in Vietnam under both Democratic and Republican administrations, the rank and file is by no means solidly behind him.

"I don't believe in giving anything to North Vietnam, South Vietnam, or nobody," said Rick Foshia, in Detroit. 'I don't believe in being over there in the first place because they ain't done nothing to me. Them South Vietnamese ain't done nothing to me. The * * * done nothing to me. Leave them people alone. If they want to fight a war, let them fight it."

MEAT-AND-POTATOES REVOLT

Discontent in the ranks poses difficult problems for all labor leaders. It is common to hear leaders complaining that they find it increasingly hard to control their men.

"There is a real generational upsurge among business agents, local union officers," says AFL–CIO research director Nat Goldfinger. "Part of the somewhat wild and weird wage movements in the building trades in the past three or four years is related to this. It's an upsurge of meat-and-potatoes kids who are coming in and upsetting the old leadership and tossing out contracts.

"The emphasis is on now—on 'We want whatever we can get right now'—and no concern for cost or other things like that."

His comment points up two other significant things about union leadership. The unions are far from being static. Even if the young workers are frustrated about taking over the top positions, there are ferment and aggressive action throughout the ranks. It is, of course, a healthy sign of vitality.

But even that raises another dilemma for present top union leaders. Ideologically, there is solid evidence that many young workers do not agree with continuing pressures for much domestic social legislation of the type for which the unions have fought so long and so hard.

Nothing bothers the old-time unionist more than the belief that today's young worker may not support the liberal causes which the older man regards as perhaps the union's finest achievements—not only for the trade union movement, but for the country.

"There's never been any question in my mind that on something like integrated housing I, for example, didn't reflect the views of a majority of our members," said Doug Fraser, who was narrowly defeated by Leonard Woodcock for the UAW presidency. "I happen to be for busing. I suppose if you took a vote of my constituents I'd probably lose by about 90 per cent on that.

"Then that poses a philosophical question: what is the role of a leader? Is the role of a leader to echo the opinions or the prejudices of his constituents? I don't think so. I think the role of a leader is to lead—and you do it at your own peril. It's like the language of the United States Constitution. You govern with the consent of the governed, and if they are too unhappy with you on too many issues, I suppose they throw you out."

Fraser perhaps touched on a fundamental point about union leadership. For all the criticisms and all the animosities aroused merely by the word "unions," organized labor in America represents a unique force in America, and indeed the world.

Jerry Wurf put it best.

"You've got to understand something fundamental about the American labor movement;" he said. "Every labor movement in and economic philosophy. Some of them are Socialist. Some of them are Christian Socialist. In many societies there's a competition between Communist unions and socialistic unions.

"In the United States, you've got something else. It's obvious and everybody takes it for granted. You have a labor movement that ideologically buys capitalism, that ideologically buys the system. That makes our labor movement different."

Unless you understand that, Wurf added, you cannot possibly understand Meany. In fact, he said, "George Meany is one of the most understood men in America."

Virtually everyone who has been close to Meany makes the same point. In his strengths and weaknesses, Meany personifies the labor movement. Stubborn, proud, vain, at times arrogant, Meany represents an older period in American life. The young people who attack him so bitterly for his anti-Communist stands or his unceasing support for the President—of whatever name or party—in a time of national crisis do him a disservice. George Meany believes in the system, in the flag and in the country.

The forces that shaped him—an alltime successful lobbyist in New York State during a period when he successfully fought a Communist attempt to take over the unions, the threat of fascism in Germany, the necessity to stand behind the Chief Executive on an issue of war and peace—are all present in his outlook today.

Meany can reminisce with touching eloquence about the pride of being a working man, and how that seems to have changed today.

"There's such a thing as a worker's pride in his work," he said in an interview, "which I know quite a bit about. To me as a young fellow this was all-important. This was *really*—well, you almost worshipped the skilled mechanic. I mean, you'd look at an older man as if he were almost God because of his tremendous skill.

"And there was one thing I recall in my younger days—you never wanted to be disgraced. If you were fired for doing shoddy work, you were disgraced. If you got fired for being unable to produce the proper type of installation or do it properly, boy, that was a disgrace!

"Around the trade, a fellow who got into that situation was dubbed a boot. Nobody ever wanted to be called a boot."

A MEMORABLE TOAST

The same kind of unquestionable conviction comes through when he talks about Vietnam. He was speaking critically about Richard Nixon, when he brought up Vietnam and said: "I think he wants to end the war, I don't think there's any question. I think he wants to end it honorably. I don't think he wants to bug out and run, and as far as I'm concerned he's right."

Those who know him best say one trait characterizes George Meany. He likes a man who is "regular"—in other words, who is dependable. Only if you understand that, his closest associates insist, can you put the historic open break between Meany and President Nixon in perspective. Meany privately believes, these men say, that Mr. Nixon did not treat him "straight."

They say the first of a series of events that affected their relationship came on a Labor Day celebration two years ago when the President invited the heads of organized labor and their wives to the White House. It was supposedly the first time in history that such a Labor Day event had been held in the White House.

In a long toast to the President, spoken in his familiar Bronx accent, Meany reviewed his personal acquaintances with every President since Franklin D. Roosevelt. As he reached the end of his toast, Meany referred to President Nixon in these words: "FDR was just as tricky a politician as anyone who bore the name of Tricky Dick. And let me tell you about Lyndon, who was no slouch as a politician."

He closed by saying: "They all had one thing in common. They wanted to be the best President possible for the American people."

Meany was infuriated to learn that the White House had made a verbatim transcript of his toast that was circulated widely throughout the country. He felt it was an attempt to demean him and a betrayal on the part of the administration.

NIXON'S AFL–CIO APPEARANCE

Over the months, as the economic situation worsened nationally, Meany and the

President drew farther apart. One of his aides describes what was happening this way.

"Meany was furious about a number of things. He felt Nixon hadn't leveled with him. He had invited him two months before [to attend the AFL–CIO's convention in Miami Beach last fall] and never heard from him. Then a flunky called and wanted an appearance the next day."

That was the famous meeting where Meany appeared to slight the President, and labor leaders firmly believe they had been "set up" to appear bad by the White House.

"Meany was also sore that the wage-price freeze was sprung on him. A [White House] flunky called up an hour before Nixon announced the freeze and said 'You ought to watch the speech on TV.' "

Next came word that Federal Judge George Boldt was under consideration to head the Pay Board. "Someone told Meany, 'You don't have to worry. He's not qualified and won't be appointed,' " the Meany aide recalls.

"The next thing you know he was appointed. George was mad."

The final break when Meany led other union leaders off the Pay Board last month was inevitable. At 78, after a lifetime of battles, George Meany was heading into what could well be the greatest political fight of his life.

But political battles are nothing new in the House of Labor. If anything, the unions are preeminent practitioners of the art of politics. Politics is where they all live.

[From the Washington Post, Apr. 12, 1972]

POLITICS AND LABOR'S "MACHINE"—IV

(By Haynes Johnson and Nick Kotz)

The meeting took place, as many of them do, in a private room of the Sheraton Carlton Hotel two blocks from the White House. Present were a senator and his assistants and the principal political operatives of the major unions.

"Al had called the meeting," said one of the union representatives present that day, referring to Alexander E. Barkan, director of the AFL-CIO's Committee on Political Education. "And Al said, as he usually does, 'We all know why we're here. Sen. (Lee) Metcalf (D-Mont.) is here and I've pledged the senator $10,000 to give him an indication of how we feel about his campaign. He knows if we collect more than that we'll try to do better, but we have a lot of other senators, too.

"Senator, will you tell the fellows what committee is set up that can appropriately take money for your campaign?"

Reports of this meeting came from a number of sources. James O'Brien, the political director of the United Steelworkers' Union, with offices in Washington, was present and confirmed that the meeting was typical of sessions between the unions and political candidates. The AFL-CIO's Committee on Political Education (COPE), of which he is a member, meets regularly to discuss campaign strategy and financing with candidates seeking their support.

In the case of Sen. Metcalf, O'Brien's own union, the Steelworkers, was an important factor because, as O'Brien says, "we are the largest union in the West and in Montana." And Metcalf, O'Brien went on, was especially deserving of organized labor's support because "he has championed the cause of the small farmer and of the consumer, and has fought the big utilities. The utility companies will be pouring money from all over the country to try to beat him. He's the kind of senator who requires special help in running against the special interests."

The meeting wasn't just an AFL-CIO private affair. Political representatives of the two largest unions in the country—the Teamsters and the United Auto Workers—also were present, although the unions are not members of the AFL-CIO. When it comes to politics, the big unions usually work together. Also present at the meeting were representatives of rural electric cooperatives, the National Farmer's Union, the National Farmer's Organization and several consumer groups.

After Al Barkan made his initial comments to the group, representatives of the co-ops and farmers' organizations spoke up. They told Metcalf that although they couldn't make a special commitment that day they would do their best to give him maximum support in money and manpower. An REA representative said his group would help pay the cost of polls.

Sen. Metcalf responded.

"I'm grateful to you fellows," O'Brien remembers him as saying. "For a fellow who lives on a Senate salary—and I mean lives on his salary—you can imagine what I have left over to finance a campaign.

"I think I can run a good campaign for $300,000. There aren't many big contributors. There are no $100 dinners in Montana we're lucky if we get $10 or $15 a plate. I have some friends. There'll be some five and ten thousand dollar contributors, but most of this is going to have to be raised by your work.

"I've never made any secret about it. They can say Lee Metcalf's campaigns are financed by organized labor, that I'm too close to organized labor. Well I'm as close as I can get and if I can get any closer or if I start straying away, you guys better come around and tell me. Nobody has to come to my office to tell me what to do on a bill. In fact, I think I've been ahead of you guys on a number of pieces of legislation."

THE BEST POLITICAL OPERATION

The scene described wasn't a page out of the smoke-filled Washington rooms of the past. It is but one of countless examples of how deeply involved the unions are in national politics on a day-to-day basis.

Organized labor does not run the country politically, but it mounts what is probably the single best political operation in the nation. Without the power of union money, manpower and know-how, for instance, the Democratic Party today would come close to being impotent. And in this presidential year the unions are girding for what many of their key leaders see as their most critical election. The unions this year are determined to do more than they ever have in electing a President.

But as that meeting with Sen. Metcalf shows, labor's political role is not confined to making—or breaking—a President. The unions are intimately involved in politics from the grassroots level on up to congressional races and to helping decide who occupies the White House. To a striking degree, politics permeates the labor union movement. The way to rise in a union itself, whether business agent or local president or international officer, is through elections. Whatever else they might be, the unions thus are the most pre-eminent political institution in America.

There is nothing new about the relationship between the unions and politics, of course. Ever since the early days of the New Deal, organized labor has been keenly aware of the need for political actions.

But it has only been in the last decade that the unions have refined and perfected their political activities and put them on a day-to-day professional basis.

Many involved in labor's political operation say the real growth and consolidation of power date from the 1960 presidential campaign. That was the first time the unions raised money on a large scale for voter registration. The late Roy Reuther, brother of the then United Auto Workers president, was assigned to the campaign to run the registration drive for the Democrats. Today, roughly $1 million a year is spent on voter registration alone from national COPE money. Present plans call for doubling that sum on a permanent basis.

The COPE money comes from a variety of sources, and is spent in varying ways. The $1-million-a-year spent on voter registration drives comes from dues paid into the AFL–CIO by union members through their international unions. Union dues legally can be used because voter registration efforts are classified as an "educational" expense.

COPE money that goes directly to candidates comes from "voluntary" contributions solicited from union members by the various internationals. This money is divided 50–50 between national COPE and state and local AFL–CIO campaign organizations. In the 1968 and 1970 election years, unions were urged to collect $1 per member. This year COPE director Al Barkan has asked unions to seek $2 contributions from each member. In addition to COPE, the largest international unions conduct their own separate campaign fund operations. But none of this activity begin to tell the whole story of labor's contributions to campaigns across the country.

Labor's money, like that of big business, often does not show up in reports to Congress. No one knows exactly how much is spent or to whom it goes. Just on what's on the record alone, it becomes obvious that the AFL–CIO spent nearly $3 million on politics in the year ending June 30, 1971—a non-presidential year.

Only a few union leaders will speak on the record about their political contributions. One is Victor Gotbaum, head of the New York district of the American Federation of State, County and Municipal Employees, who told us his union was the chief financer of Arthur Goldberg's gubernatorial campaign in 1970. "This union was the biggest contributor," Gotbaum said. "When we go in, we go all out. I think in terms of printing and money, we spent about $250,000 before it was over."

Asked whether the money for Goldberg was raised through voluntary contributions, Gotbaum replied, "No, this was legal union money. It came right out of the treasury, you know. It's the difference betwen soft money and hard money. On state campaigns you can use union treasury money. On federal campaigns, you can't."

Although Gotbaum didn't say so, the "soft" money in federal elections is generally understood to involve such things as supplying campaign workers and money charged for "educational endeavors" and union business.

Although labor unions are forbidden from using union dues to finance federal election campaigns, there is no such provision in many states. Union dues, it is also said, are funneled to independent organizations, such as the Americans for Democratic Action, which in turn can make a contribution to a national candidate.

Over the years, the unions have grown more sophisticated politically. Today you can go into a key industrial state like Pennsylvania, sit down with Mike Johnson, vice president of the State AFL-CIO, and get 900,000 names of workers, their wives, their children of voting age and other vital political statistics broken down accurately in terms of Democrats, Republicans, independents—all complete with latest home addresses.

For $35,000 a month, Vic Gotbaum's union in New York City rents an IBM 2314 computer. In addition to using that computer for union business, another union official there proudly said, "we can use it to canvass the whole city, organize letter writing for candidates, and break the whole thing down into assembly districts."

THE LIMITS OF POWER

The unions are far from the sole or decisive political force in every area of the country, but they do wield immense power in enough major states as to be a critical factor in any presidential election.

"We are," one COPE member in Washington said, "the kingpin of any possible presidential election for a Democrat, and very likely the only cohesive force that can assure relatively progressive majorities in the House and Senate."

That doesn't mean all of labor's efforts automatically pay off in certain votes among those they have supported on Capitol Hill. Listen, for example, to the bitter words voiced by one union operative about a certain senator whose seat labor helped retain in 1970. One of the first matters to come before the Senate in 1971 was the Democratic whip contest between Sen. Robert Byrd (W. Va.) and the labor-backed Sen. Edward M. Kennedy (Mass.).

"I called [the senator] up one day to say, 'Now if Bobby Byrd has a fight with Teddy Kennedy, what are you going to do?' 'I resent your question,' he said. And I said, 'Yeah, you didn't resent questions for the last 18 months, you know'.

"He said, 'I don't know where people get the idea that my victory was in any way dependent on labor. Labor's not that strong.' I said, 'Yeah, they were just stronger than anything else you had going for you, Senator.'

"And he said, 'Well, anyway, if you want to know, I'll vote for Bob Byrd.' A great reward from that son of a bitch."

Neither do the unions reflect only one political view, either at the top or among their rank-and-file members.

The day long since has passed, if indeed it ever existed, when union leaders can impose their political preferences on their members. Union members, like Americans at large, increasingly are exercising independence when they vote. The appeal of George Wallace to many blue-collar workers is the most dramatic manifestation of this attitude.

Along with the strong sense of discontent among working men already described in these articles, we found deep currents of resentment about the way union leaders in Washington are involved in politics. What many workers particularly expressed is a belief they have no say in what union leaders are doing with their money—and that the working man's views are often being ignored.

"Rather than just go out and say we're going to back Muskie, why not ask all the rank-and-file members at meetings?" said Fred DiSisto, a sewage treatment worker in New York City. "Filter it down to the various locals and say we'd like to get a consensus of opinion as to who we should back in this coming election, which is a big one. Instead, they get together themselves. The general executive boards have a pow-wow someplace and come back and say 'We're backing Muskie,' or whoever.

"It just may happen that I go along with it but on the other hand maybe I don't. But I never had a say one way or the other. I didn't get a chance to say, 'O.K., I'm for it—or against it.'

"Let's face it. I'm supporting them with my $1.75 a week."

At a New York district council meeting after this worker's union already formally had announced support for Sen. Edmund S. Muskie (D-Maine), it became clear that local union officials had not been consulted. A few even protested that their locals hadn't had a chance to meet on it yet.

Out in Detroit, a United Auto Workers' local official himself was expressing much the same thought, and this in a union that probably has as democratic heritage and tradition as any.

"The guys talk about the union being no good," said Fred O'Brien, "that the leadership makes decisions without referring back to the people they represent. O.K. It's like congressmen and senators, the same way. We elect them but they never come back and say, 'What do you think about this thing?' This is the same way with our union leaders, and I think we have good unions.

"The only thing is I feel that when they go to decide who they're going to support as a candidate for president, they should go back to the people they represent. They should find out what those people feel. Give them the choice of a candidate. This is where you determine who your candidate for president is, not [Leonard] Woodcock [UAW president] saying we're going to support Muskie."

THE HIGH-WATER MARKS 1968

Such attitudes clearly make it more difficult for the unions to present a solid political front backed up by the support of their members. But if the unions face problems in that area, as in others, they still retain considerable political power.

The result of the last presidential campaign shows what labor can do when faced with a twin threat of a presidential candidate they cannot support, Richard Nixon, and the serious drift among their own members toward another man they oppose, George Wallace. In the 1968 campaign, labor worked as never before—and came within a eyelash of turning almost certain defeat into victory for Democratic candidate Hubert H. Humphrey.

"After the shambles of the Democratic convention," said George Meany in an interview, "we were all Humphrey had."

While Meany would not elaborate on his personal role in that campaign, another union official who worked closely inside the Democratic presidential effort said: "At the most in a period of three weeks, Meany and his guys got together after the convention and decided to turn it around. More than any campaign I ever saw, Meany was personally asking executive council members to go out into the field."

In other words, Meany was assigning international union presidents to do grassroots political chores. The AFL-CIO president also was meeting personally and regularly with Hubert Humphrey about top-level strategy, it is reliably reported. Eventually, the union leaders were able to convince their members that Wallace was not a friend of the working man and that Humphrey merited their support. The persuasion was not accomplished by words alone; it took hard, grueling, intensive work. By election day, 1968, organized labor could tote up these tangible statistics of what they had achieved:

They had registered 4.6 million voters; national COPE had distributed 55 million pieces of literature and another 60 million pieces were passed out through local unions; the unions had established 638 city phone banks with 8,055 phones and 24,611 people manning them. Before election day, the number of union members involved in canvassing potential voters numbered 72,255. On election day itself, the unions turned out 94,457 precinct workers from within their ranks. And those figures are for the AFL-CIO alone; they do not include the political activities of the two largest American unions, the United Auto Workers and the Teamsters, neither of which is a member of the federation.

One figure out of that mass of statistics—the nearly 100,000 union members who turned out to work in precincts on election day—is particularly important. Supposedly, those workers leave their jobs voluntarily without pay for political action. In reality, their presence turns out to be something else.

"We have a provision in our contract that an employee can request a leave for union business," said William O'Brien, Chrysler Corp. vice president in charge of labor relations, who deals with the UAW. "It just happens that on election day there's an awful lot of leave for union business. It was appreciable numbers of people."

Perhaps even more than money, manpower is the ingredient that makes labor's political endeavors so formidable. No other group in society can put so many people into a political campaign. Probably no one ever did more than labor in 1968.

Even if Nixon was narrowly elected, he became the first President since 1848 to enter the White House without control of either house of the Congress. Unquestionably, organized labor helped turn the balance.

Small wonder that key union political directors refer to that election as their finest effort. "The best single thing the American trade union movement ever did was 1968," one of them said. "That was the epitome; that was the summit. That was the maximum money, maximum manpower, maximum everything. From everything I can put together, it cost about $5 million real dollars."

This year, the unions are talking about doubling their financial efforts. They already have begun the presidential year far ahead of the pace set in any previous election.

The unions' political strategy this year differs from the past. One of labor's political weaknesses before was that it had only 4 per cent of the delegates to the last Democratic convention. To remedy that, the unions have been concentrating on getting additional delegate strength through state presidential primaries.

The strategy was for labor to have a large, uncommitted block of delegates, or, where not possible for labor to get delegates by backing likely winners in state contests.

Labor wants to be in a position to exercise maximum influence not only in determining who will run against Nixon but also on platform positions, composition of the credentials committee—and, as one person said, "everything else."

Part of labor's intense attention to the convention this year stems from a new political factor: the party reforms instituted to make the delegate selection more democratic and representative of society at large.

Politically, organized labor is establishment oriented. At the top, Meany sets the tone and Meany has been a staunch advocate of the status quo on such critical questions as the war in Vietnam and relations with Communist nations. Political reform and sudden changes are anathema to the unions. They want no part of a Democratic convention dominated by what Al Barkan, the national COPE director, privately and disparagingly regards as kids, kooks, Communists and other far-out "kinky" left liberals.

THE INFLUENCE OF AL BARKAN

Barkan is a central figure in the trade union movement. As Meany's right-hand man on politics, he is the chief strategist for the political approach the unions take. He exerts great influence and power.

Barkan, a controversial, blunt and bluff former high school teacher, a loyalist in politics, is credited with doing more than any other person to perfect organized labor's political machinery from the 1960 campaign to the present. "Al's mind lacks sweep and it lacks breadth," a close associate says. "But it doesn't lack a certain amount of commitment to some very fine ideals, and his underlying philosophical premises are very good. Al has this great vision in some areas and this tremendous myopia in others. On some things he's grown tremendously, and some things he's stood still. He's been standing still on that terrible war."

Barkan, by the way, is the only union figure, from the highest international officer to the man on the job, who refused to be interviewed—on or off the record—during research for these articles. And it is Barkan, operating with Meany's personal approval, who is the chief architect of labor's 1972 campaign strategy. Already, the solid, uncommitted-to-any candidate stand that Barkan seeks has been broken from within labor's top echelon.

Privately, the union leaders have their own personal preferences: Meany is said to be for Sen. Henry (Scoop) Jackson (D-Wash.), I. W. Abel of the Steelworkers and others are for Humphrey. But publicly they are all "neutral."

A BREAK IN THE RANKS

The first break in labor's ranks came earlier this year from Jerry Wurf, president of the American Federation of State, County and Municipal Employees. Ideologically, this union represents significantly different approaches to both national problems and trade union action, from many old-line craft unions. Wurf came out for Muskie at a time when he was the Democratic front-runner.

How Wurf's decision was reached and implemented provides a footnote to the making of the President in 1972. It also shows how union leaders operate personally at the highest political levels. Wurf had concluded that only Muskie had the best chance to defeat President Nixon this year. He was disturbed by growing Humphrey sentiment inside the union movement.

When word leaked out early in January, as it inevitably does, of Wurf's impending endorsement, a number of political developments were set in motion. First, Wurf paid a personal visit to another Democratic contender, Sen. George McGovern of South Dakota.

Wurf went to McGovern's home in Northwest Washington and told him of his decision. He had the difficult role of telling a leading politician he thought he couldn't win.

In the meantime, Humphrey personally tried to convince Wurf not to come out for Muskie. The Democratic presidential candidate of four years ago sent Wurf a letter and a telegram urgently asking him not to make the move. He asked for a personal meeting.

On the night of Monday, Jan. 17, Wurf flew from Washington to Columbus, Ohio, to see Humphrey alone in a hotel room. The two men talked until well after midnight, Wurf praising Humphrey for all he had done in the past, Humphrey saying he was the working man's best friend and the best candidate. "I've given service," Humphrey is reported to have told him. "What kind of service has your union ever got from Ed Muskie?"

Two days later, nonetheless, Wurf appeared at a Washington news conference wearing a Muskie-for-President button. With Muskie at his side, he announced his support of the Maine senator.

The incident was another indication of how vital the unions think it is for the Democrats to regain control of the White House. But their political influence and power does not rest solely with the chief executive. The unions also have their friends in high places on Capitol Hill and in the executive branch.

[From the Washington Post, Apr. 13, 1972]

PRESIDENTS COME AND GO, BUT LABOR'S MIGHT STAYS—V

(By Haynes Johnson and Nick Kotz)

From his paneled office on the top floor of AFL–CIO headquarters George Meany can swing around in his swivel chair to look out across Lafayette Park and down on the White House. Some labor officials say irreverently that Meany not only can look but walk, from his building through a mythical tunnel under the park and into the President's Oval Office.

Whether underground or across the table, the connection is real.

AFL–CIO President Meany and organized labor exercise widespread power in Washington, regardless of who is President of the United States. Labor's influence within the federal government is the ultimate payoff for tireless years of organizing workers, financing and staffing political campaigns and building its own sophisticated Washington apparatus. Take, for example, the freeing of Jimmy Hoffa.

One episode in the story of how former Teamsters Union President James R. Hoffa received a presidential commutation of his prison sentence began late last year when Leonard Woodcock, president of the United Auto Workers Union, paid a quiet visit to the White House.

At the time, organized labor was loudly denouncing President Nixon's economic controls. But Woodcock came on a different mission. He urged that the President free Hoffa, who was in Lewisburg, Pa., federal penitentiary on charges of union pension fund fraud and jury rigging.

Meeting privately with presidential adviser George Shultz, Woodcock found that the White House wanted ironclad assurances that Meany and other top labor leaders would praise such a presidential action—or at the very least, would not publicly criticize it. Woodcock obtained the requested pledges. Hoffa soon was a free man.

Woodcock's intervention was not the only one from a high union official. Teamsters President Frank E. Fitzsimmons has told other union leaders that he personally talked to President Nixon on Hoffa's behalf.

These are examples of how organized labor wields influence with its friends, and even with its sometime enemies in the highest seats of power. No other segment of American life brings its organized collective power to bear on so many aspects of government—in the White House, on Capitol Hill and in the executive agencies.

Labor has a permanent power base in the executive branch. The U.S. Department of Labor serves unions much as Commerce services businessmen and Agriculture tends to farmers.

But the heart of labor's power, especially during Republican administrations, is on Capitol Hill, where a disciplined corps of labor lobbyists daily attempts to persuade the Congress. Their effort is by all accounts the best single lobbying operation in Washington.

Labor is not only competent and powerful. It is feared. We found that some of the most respected members of the Senate were unwilling to talk "on the record" about how they candidly view the House of Labor. Even in the privacy of their offices, with assurances that their identities would remain confidential, these senators became nervous at the tape recording of their views. The reluctant senators are all considered "reform liberals" and friends of organized labor.

Labor's lobbying operation is directed by a stocky, rumpled-looking, bespectacled man who is probably Washington's single most influential lobbyist. Andrew J. Biemiller is respected by friend and foe alike as a superb legislative craftsman. Attesting to his influence, one liberal senator says: "When Andy comes lumbering up here, you know they are really serious."

Biemiller's credentials as AFL–CIO director of legislation include varied careers as Congressman, state legislator, labor organizer, labor lobbyist at the state and local level and college professor. His personal power is based on an intimate allegiance to George Meany, who appointed him 20 years ago as his chief emissary to Congress.

Biemiller boasts that he knows everyone worth knowing in Washington, including old and warm friendships with Lyndon Baines Johnson, Senate Minority Leader Hugh Scott (R-Pa.), and Sen. Margaret Chase Smith (R-Me.).

The AFL–CIO lobbying process begins with a weekly strategy meeting in Biemiller's conference room. At 10 a.m. each Monday morning, he meets with six AFL–CIO staff lobbyists and 5 to 10 others from major international unions. Each reports on the status of legislation he is watching. Assignments are made for the corraling of votes, with each lobbyist concentrating on congressmen with whom he has particular personal rapport.

Many of these lobbying efforts never receive public attention. For example, labor has amended virtually every new federal assistance program to require that work be performed at union-scale wages. In some cases, the labor lobby has suffered crushing public defeats, as in its failure to ban state right-to-work laws. But it has also scored spectacular victories, including its role in defeating two Supreme Court nominations.

The defeat of two Nixon nominees to the court provides case studies of how labor seeks to take charge of vital issues affecting not only the present but the future for every American citizen.

Biemiller takes credit for launching and directing the fight to defeat the nomination of Judge Clement Haynsworth to the Supreme Court. Many liberals opposed Haynsworth primarily because of his civil rights record. But labor was just as concerned, explains Biemiller, "that he had all kinds of bad verdicts on labor issues." Haynsworth's "anti-labor" rulings involved the bitter battles to unionize Southern textile mills.

Furthermore, AFL–CIO counsel Tom Harris already knew about Haynsworth's part ownership of a vending machine company that enjoyed business with these mills. Thus labor could quickly develop the conflict-of-interest charges which eventually brought down the nominee.

"Early in the game we enlisted Birch Bayh (D-Ind.) who became the key guy," Biemiller recalls. "I went to Birch with the thing because, in looking over the Democratic side of the Senate Judiciary Committee, I felt that Phil Hart (D-Mich.) had been too closely identified with defending Abe Fortas. And as far as Ted Kennedy was concerned, it was awfully close to Chappaquiddick.

"So then Birch became the logical person if we could persuade him. Well, we dug up enough material so that Birch agreed to do it.

"Another important thing in the Haynsworth fight was getting senators to lobby other senators. In one case, we persuaded Senator X to lobby Senator Y and Senator Y in turn persuaded Senator Z. Now, when you get that kind of thing, you've really got your lobby going."

Influencing national government policy is really the central activity of AFL–CIO. The federation's distinct role is often confused with the roles of individual international unions. The 130 unions, which voluntarily join together to comprise the labor federation, concentrate mainly on collective bargaining, organizing workers, and protecting their jurisdictions from rival unions.

But for the Washington-based federation, the name of the game is politics—and its payoff in tangible legislation and executive policy. Prior to the formation of the AFL–CIO in 1955, its predecessors had not developed the sophisticated lobbying resources of today. "The old AFL did practically nothing," says AFL–CIO Research Director Nat Goldfinger, adding that "The federation's present comprehensive, day-by-day attention to national policy" has developed over the last 10 years. Of the AFL–CIO's 1971 budget, $2.5 million was spent on politics, lobbying and related research.

Just how powerful is labor? Does it run the country?

The extent of labor's power to influence legislation and the sources of that power are issues about which there is strong disagreement. Business groups tend to overstate the actual power of their labor opponents, at the same time conveniently ignoring their own considerable influence—superior to labor's in such a vital area as federal tax policy. And labor's own sense of self-importance and pride of accomplishment may color its assessment. Listen to George Meany:

"We go far beyond the questions of wages and hours. We're into everything. You could not have passed the civil rights bills of the 1960s without us. You could not have passed the tremendously important education bills—Lyndon Johnson's so-called program. He'd be the first to admit that if he didn't have labor over there, he wouldn't have passed it."

President Johnson did indeed publicly praise labor's legislative efforts for doing "more good for more people than any other group in America."

Beyond question, labor lobbying helped win crucially needed moderate and conservative votes for major social legislation, including a multitude of laws in the mid-1960s. "When you have a tough fight on any issue like day care or legal services," says Sen. Walter Mondale (D-Minn.), "it's nice to say your bill has the support of the AFL–CIO. That support wraps the bill in a warm blanket of respectability."

But the legislative prowess attributed to labor in the 1960s was also the product of a unique blend of a liberal Congress, closely coordinated White House-labor alliance, and a coalition effort among labor, civil rights, education, religious and civic groups.

"We were in agreement with the White House on almost every piece of legislation," Biemiller recalls. "At least once a week I would compare notes with Larry O'Brien, when he was in charge of congressional relations, and then with Barefoot Sanders, who succeeded him. And of course the phones were always busy. Occasionally, we would sit in on the White House legislative meetings and vote-counting operations. It was amazing how often we had information they did not have."

During the five years of his Presidency, Lyndon Johnson has said, he conferred personally with Meany 49 times, and on the telephone 82 times.

Since Richard Nixon became President, however, joint labor-White House efforts have been limited to a few issues; support of the Vietnam war, the SST, the Lockheed loan and the administration's version of welfare reform. None has been marked by great success.

Aside from having allies and friends in the White House, Biemiller would ascribe labor's day-to-day lobbying successes to meticulous hard work blended with a touch of political influence. "We can't direct our members how to vote," he says. "My God, that's nonsense."

Yet Biemiller readily acknowledges the effectiveness of combining his group's lobbying skill with the political clout of Alexander Barkan, the AFL–CIO political director. For example, Biemiller called on Barkan to contact vitally needed senators for their votes during labor's drive to defeat the Haynsworth and Carswell nominations.

And Biemiller concedes that he occasionally pleads the political merits of a congressman who has been helpful to him on legislation. As he explains it: "I may go over to Al Barkan from time to time and say, 'Look. Why don't you lay off that guy's district. That guy isn't so bad. Why the hell do you waste the money? You can't beat him anyway.'"

Numerous legislative experts stress the labor's victories in Congress depend considerably on its joining in coalition efforts with liberal groups. The so called "liberal-labor" coalition functions most often through the Leadership Conference on Civil Rights, which is composed of 125 labor, religious, civic, and civil rights organizations.

"Labor has power when it joins together in coalitions," says Ken Young, Biemiller's chief deputy and a respected lobbyist on civil rights and social legislation. "Labor has more power than anyone else in the coalition and I think we are very effective. But labor standing alone does not have that much power. Labor alone damn well can't pick up those 30 or so Republicans it takes to win a major social issue in the House."

Another assessment of labor's legislative power can be made from its almost total failure to win legislation on strictly labor issues. "We can't get situs picketing legislation through Congress," says Sheet Metal Workers President Edward Carlough.

Carlough's frustrations typify a growing debate within organized labor about where it should direct its legislative energies. Some leaders, particularly from the building trades, want the federation to concentrate more on strictly trade-union issues. Other leaders, notably from the United Auto Workers (which is not an AFL–CIO member) and the government employee unions, stress that labor must recharge its social idealism or risk being isolated as an unpopular, selfish special interest.

This disagreement between the older craft unions and the more socially conscious industrial unions is not a new one. What is new is that today's workers are increasingly disenchanted about legislative policies on which they have not been consulted and with which they often strongly disagree.

Today's worker was not part of the union-building, crusading depression era. He may differ sharply with labor's legislative policies, particularly on welfare and civil rights. He may want to support George Wallace with his "voluntary" union funds, not Edmund Muskie or Hubert Humphrey. He may want a militant protectionist trade policy to protect his job from foreign competition.

Young workers resent the emphasis on Social Security and pensions. Many workers feel their leaders are even out of touch on what they consider the new "bread and butter" issues.

Take work safety, for example. At the mention of the safety issue, Detroit auto worker Fred O'Brien angrily pulled off his shirt to show us his scars from welding-spark burns. He doesn't think either the company or the union is responsive enough to conditions in the workplace.

Some labor leaders we interviewed seemed blissfully unaware of discontent among members. Several scorned the thought of taking polls to find out how their members felt on legislative issues. "We took a poll once," said one labor lobbyist, "and it showed what we expected. Our members disagreed with us on civil rights." Another lobbyist put it critically: "The leadership goes out of its way not to consult the members, figuring it will just complicate things."

Other leaders, however, are agonizing about how to bridge the gap to their membership; about how to supply leadership and to reconcile their own liberal idealism with the discontents of the troubled working man.

"It's just great for a bunch of us liberal lobbyists to sit around talking about how we are going to handle the busing issue," says AFL–CIO lobbyist Ken Young. "It's lovely for us to sit back and say, 'Those guys don't understand.' But I think that's absolutely wrong.

"I'm not convinced that our members are bigots or a damn bit different than anyone else. But I'm also sure that the Detroit worker who has finally gotten out of the city damn well doesn't want his kids bused back in. He's scared to death of violence. He knows he now has better schools. And I think he has a case to say who the hell are we to tell him he has to send his kids back in there."

Yet Young, a dedicated civil rights advocate, is also convinced "that as long as the suburbs can do what they want with total impunity, as long as the tax money is outside the city, we are going to have a worsening problem for the minority kids and for the country, and no way to solve it."

"So I sort of rationalize," says Young, "believing we have to provide leadership. Busing itself is not the answer, but we shouldn't deny federal aid to communities which are voluntarily trying to solve their problems and to comply with the courts. We've got a problem and we have to keep working on it."

The liberal community and labor face another dilemma. There are growing signs of tension and a rending apart on both sides of the "liberal-labor" coalition. Civil rights leaders complain that labor dominates the Leadership Conference and arrogantly refuses to cooperate unless it gets its own way. Labor finds the liberal organizations unrealistic, too radical and ungrateful for labor's past help.

A few examples illustrate the complaints of liberals about their labor allies:

The AFL–CIO supported the recent effort to strengthen the Equal Employment Opportunity Commission, but only in return for the Leadership Conference's agreement that enforcement powers should be transferred from the more effective Justice and Labor Departments to the understaffed, overworked and relatively impotent EEOC.

The AFL–CIO blocked the Leadership Conference from supporting a more generous welfare reform bill. At a meeting on this issue, Biemiller acknowledges that he paralyzed the coalition effort with a negative shake of his head and the words, "We can't go along with that."

The AFL–CIO sought through its beholden allies in the Leadership Conference to discourage a U.S. Civil Rights Commission study of racism in the unions.

"I know some of the red-hots get mad at me," commented Biemiller, "but they forget that the Leadership Conference doesn't move without a consensus. The other side of the coin is—who really operates on the Hill besides us? We do the work."

Tensions in the "liberal-labor" alliance are not confined to disagreements over civil rights and social welfare. The major issue dividing and embittering old allies has been the Vietnam war, which has produced a violent mutual antagonism between George Meany's hawks and liberal doves.

Another source of conflict involves clashes between the AFL–CIO's perception of special labor interests and other leaders' ideas about meeting the broader problems of a troubled society. For example, the UAW supported and the AFL–CIO opposed legislation to encourage industrialized housing to meet the nation's housing needs. The UAW supports and AFL–CIO opposes legislation to insure all worker pension funds. The building trades believe such insurance would be needlessly expensive to meet their special needs.

With criticism mounting from local leaders and the rank-and-file, the AFL–CIO is starting to give more attention to issues with worker appeal. Its three primary legislative objectives this year are: trade legislation to protect American jobs, national health insurance, and a plan to finance social security partly from the Treasury rather than taking a bigger bite from worker's paychecks.

Labor also feels that it faces a crisis in defending the working man's interests in the new era of government economic controls. Economic policy is a legislative area in which labor has been weak, particularly in the House Ways and Means and Senate Finance Committees, which decide tax policies and therefore exercise considerable control over how American wealth is distributed.

The AFL–CIO believes that the economic policies of President Nixon and Congress are shifting the tax burden from investors and property owners toward the working man. Labor has unsuccessfully argued that more citizens would benefit if the economy was stimulated by increased investment in needed public services, rather than by giving tax concessions to big business.

In the recent legislative battle over President Nixon's economic control policies, both labor and business claim that the other side won.

One fact is clear: Labor seeks more power and big business is mounting a campaign to stop it.

[From the Washington Post, Apr. 14, 1972]

Business Takes Aim at Labor's Power—VI

(By Haynes Johnson and Nick Kotz)

Early last December, some 35 businessmen, chairmen of the boards or presidents of a cross-section of America's largest corporations, accompanied by about 50 of their vice presidents for industrial relations, attended a private dinner meeting in New York City. They had assembled as members of something called the Labor Law Study Group.

"The fact that those kinds of people came to a meeting like that from across the country is an indication of the interest of the guys who pay the bills," said a business lobbyist on Capitol Hill .

His point was that the cream of big business—big oil, big steel, big auto—had gathered privately in an unusual show of unanimity about a subject that concerns them all. They were meeting at the Union League Club to discuss further steps to curb what they regard as abuses of union power.

For the last six years, the Labor Law Study Group, comprised of more than 50 companies representing a broad cross-section of private industry and backed up by approximately 40 trade associations including the National Association of Manufacturers and the U.S. Chamber of Commerce, has been operating quietly behind the scenes. The goal, as one of the members describes it, is to "restore the balance to the collective bargaining process and the conduct of labor relations."

To businessmen, the excesses of union power have been mounting for 5 years. If the balance of power once was weighted in favor of business, the businessman now thinks unions have excessive power both through government and through the collective bargaining arena.

Businessmen say federal law has granted unions special privileges and immunities, such as protection of union-scale wages, unlimited protection from the antitrust laws, and permission to use certain union funds in political campaigns. Another complaint is that federal agencies such as the National Labor Relations Board and the Labor Department have favored unions with partisan administration of labor laws. (The unions, however, claim the NLRB is biased against them during Republican administrations.)

Businessmen list a number of complaints which they say are inimical to the public interest, as well as to business. These include:

Strikes, in which the public is virtually held captive by the power of unions to cripple vital industries and services.

Restrictive work practices that make American industry inefficient.

Resistance to automation that would increase efficiency.

Exorbitant salary demands that far exceed gains in productivity.

Restrictions on the job market, which hurt minority workers and deny management in such industries as construction the manpower they need to function efficiently.

To combat this, their behind-the-scenes work has led them into many fields. They have been instrumental in introducing 24 "labor law reform" bills now pending before Congress. They have met privately with senators and congressmen, Cabinet officers and key White House officials. They have commissioned a series of lengthy polls dealing with public attitudes toward unions, and especially focusing on how rank-and-file union members themselves feel.

Their latest poll, for instance, concludes that there is a growing national feeling that strikes and labor problems have seriously hurt the country and that criticism of union leadership is rising.

FEW TANGIBLE RESULTS

Over the years, their goals have broadened. They are now more involved in the lobbying process, in influencing presidential appointments, in legal cases, going as high as the Supreme Court and in the entire wage-stabilization issue. And today, as they read the public opinion surveys about the unions, some of these big businessmen think they have the greatest chance to cut down union power since passage of the Taft-Hartley bill 25 years ago. Internally, some members of the group want to proceed vigorously to capitalize on these conditions.

Yet for all their collective power and all their efforts, the businessmen have little to show in the way of tangible results. Neither are their immediate prospects promising. Part of the reason, as will be seen, lies within business itself.

"The simple fact is that if this entire package of bills now before Congress were passed overnight, it would simply improve some of our running rules of the game," says Virgil Day, a vice president of General Electric and until recently a business member of President Nixon's Pay Board. "It would not get us to where we need to be."

The labor reform bills Day referred to would do such things as assure employees freedom of choice on whether or not to join a union, tighten secret ballot rules, require an employee strike vote, and grant protection of employees against union fines. They also cover such issues as boycotts, picketing, jurisdictional disputes and the arbitration of disputes.

Day, a key business figure involved in union questions, was one of the original members of the Labor Law Study Group. He says the group first grew out of a casual luncheon with two other businessmen in New York, Fred Atkinson of R. H. Macy & Co. and Doug Soutar of American Smelting & Refining Co. Atkinson now is a principal figure in the group's work. Day describes how they first organized this way:

"The inception was actually a kind of defensive false alarm that came about a number of years ago. Our union friends were about to push through some changes in the basic law on the theory that the NLRB was too favorable to management. So the alarm bell rang. This particular fire was not too difficult to put out.

"But some of us were sitting around wondering why we even had this problem, and it occurred to us that it might be useful to see if it wouldn't be possible to reverse the process of always waiting until we had to meet some union pressure. So we decided it would be worth a try.

"We tapped the three leading labor lawyers in the country [Guy Farmer, former NLRB chairman under President Eisenhower, now in private practice in Washington; Gerard Reilly, also formerly on the NLRB and now a federal judge in Washington, and Theodore Iserman, a Wall Street lawyer] and turned them loose and told them we wanted to have an analysis of the labor problem from the standpoint of potential legislative remedies.

"We had just several ground rules. No. 1, no antitrust approach, No. 2, no baying at the moon in terms of unrealistic, theoretical conclusions. And No. 3, we wanted to have something that was completely researched and could withstand any hostile or friendly scrutiny."

The lawyers came up with an extensive study proposing specific amendments to the Labor-Management Relations Act. After their findings were circulated and approved by a committee consisting of some 150 other leading specialists in labor law around the country, the work was debated internally throughout the business community.

Out of that came the formation of the Labor Law Study Group, now headed by a steering committee composed of high officers of the following 16 companies: American Smelting & Refining Co.; American Telephone & Telegraph Co.; Bethlehem Steel Corp.; Columbia Gas System, Inc.; First National City Bank; Ford Motor Co.; General Dynamics Corp.; General Electric; B. F. Goodrich Co.; Humble Oil & Refining Co.; R. H. Macy & Co., Inc.; 3M Co.; Olin Corp.; Sears, Roebuck & Co.; Union Carbide, and United States Steel.

Among the other 40 firms in the group are such corporate giants as the Aluminum Co. of America, Chase Manhattan Bank, Chrysler Corp., duPont, General Motors, International Harvester, Shell Oil and Youngstown Sheet & Tube Co.

Privately the group succeeded, as one of them said, in "stirring up the business community about union abuses in a way that hasn't happened before." Publicly, they got nowhere. Indeed, the general public knows virtually nothing of their efforts.

When Richard Nixon was elected President, some of the businessmen thought their quiet campaign would be crowned with success. They were naive, and wrong. One man active in the group tells of a meeting with Arthur Burns, then the President's chief economics adviser. It followed similar sessions with such key White House aides as John Ehrlichman and Bryce Harlow.

After the group had outlined its program and made an appeal for assistance, this participant recalls, Burns looked down his glasses and said, "I can't do this. There aren't any heroes in this administration on this subject."

But their real problem involves much more than lack of powerful political pledges. After talking with a number of these corporation executives, we came away with several strong impressions.

Although they may grouse among themselves about union abuses, they are extremely reluctant to take their case to the public. They talk, essentially, to each other. Businessmen still seem to favor operating behind the scenes. It is impossible to say whether this stems from the old pattern of exerting influence or from business fears of a public impression of big corporate power and exploitation.

Businessmen say the antitrust laws and the appearance of collusion prevent them from organizing effectively on a united front, but that is only part of their problem. The companies operate in their own self-interest—and those interests often collide.

"If you're in the rubber industry, you're not going to get too all fired up about some pollution legislation that's going to affect the copper industry," a business lobbyist said. "Industry lobbies with a real rifle shot to protect their own individual interests once every couple of years, but the unions do it once a week. They're realists. They understand what they're doing."

Malcolm Denise, vice president of labor relations for Ford, gave another example of why business is unable to compete with labor in a general lobbying operation.

"The fundamental answer," he said, "is that organized labor is organized in a sense to react to one aspect of business activities—the labor input. But businesses are not organized per se to do battle with labor, they're not organized per se to hire people but to serve customers and to make a profit. Much of their success depends on not how well they battle labor but serve the public. Business is not class-oriented—an employer association versus a union association. The concept of us being a class against a class doesn't exist.

"The practical problem of a Macy's, a Union Carbide, and a Ford are so different that you can't say there is one unified answer that will help all of us. For example, local bargaining would work for some but not for others.

"Without discounting the value of public sympathy, public victories are not what we are after. Unions are striving as political institutions. Union officials don't get elected unless they produce. Business has a different constituency—the consumer and what he buys. We can't go on a big crusade against the unions. We are going to have to live with them after this fight is over."

An executive of one of America's most powerful corporations, one that is also a member of the Labor Law Study Group, described the basic dilemma in more personal terms.

"I'm a practitioner in this business," he said. "My job is to represent the corporation with the unions that represent our people. We don't need any assistance in developing an area of conflict with them. They are already there. This is an adversary life in which I live.

"So to antagonize these people by getting into a public debate about what should be done to the unions is not in my interest. It doesn't help me in carrying out my responsibility with the corporation.

"I don't think there is any question that the unions are too damn powerful. We have all the evidence that we could possibly need. But I'm not going, on or off the record, to express my feelings of the specific proposals [of the Labor Law Study Group]."

WEAKNESS IN TWO AREAS

He also said this:

"I don't think, and they would be unhappy if they heard it, that they are too damn realistic in their optimism today. They seem to think that the environment today is the greatest from their viewpoint since Taft-Hartley. I'm not one, and this is off the record, who shares this view. I think that, yes, the climate is better from the standpoint of labor law reform than it was a few years ago, but I don't think it's any climate in which they can expect to be successful in the terms and to the extent they visualize they can."

This much is clear: business at this point does not operate with anything like the effectiveness of the unions in two critical areas—political action and political legislative lobbying.

Andrew J. Biemiller, the AFL-CIO's chief lobbyist on Capitol Hil, summed up the situation as many see it:

"As far as the Hill is concerned, I suppose the business people think they are making some headway with their right-to-work operation. And they're now filing a case trying to take away our tax exemption. Tom Harris [AFL-CIO counsel] is so busy on that I can hardly get him to think about anything else these days. It's evidently serious enough that he's damned worried about it.

"But business has never been very successful on the Hill in curbing us. Now there have been attempts in the past to pass compulsory arbitration legislation, but big business doesn't want compulsory arbitration any more than we do.

"It's an interesting phenomenon. I think the situation on labor legislation is about a draw at the moment. Nobody can win."

Both of Biemiller's points about the real power of big business and big labor, and the general opposition of each to compulsory arbitration, go to the heart of a more serious question. Who represents the public interest?

A case can be made that both big unions and big business represent special interests.

The unions exert powerful, if not decisive, influence on the congressional labor committees. Big business does the same on the committees dealing with the basic tax structure.

Critics of unions have been arguing that organized labor really hasn't tried to alter the distribution of wealth between capital and labor. It tries instead to get more of the pie for its members. No one, it is argued, truly represents the citizen consumer on those key committees.

ISSUE OF COMPULSORY ARBITRATION

Compulsory arbitration is another issue in which the public interest can come into conflict with big business and big labor's position.

Virgil Ray, for instance, recalls there was "a very strong difference of opinion within the business community" on what to do about emergency disputes at the time the Labor Law Study Group was formed.

"Almost all the business community other than the transportation industry, which now includes the airlines and trucking as well as the railroads and shipping, were very strongly opposed to compulsory arbitration in any manner, shape or form," he says.

"The transportation people were very, very strongly of the theory that they were powerless—the airlines are the latest ones who feel this way—and they would say, 'We're just helpless, they have a shotgun at us, we have no effective economic response and some of us believe compulsory arbitration is a way out.' "

But the rest of big business did not agree. Compulsory arbitration was not adopted as one of the labor reform group's basic goals.

That isn't the only area where the individual citizen's desires may run into conflict with those of business and organized labor. We already have described, for example, the intense frustrations and job dissatisfactions expressed by many workers, particularly those in mass-production factory jobs. Our impression is that management either is not entirely aware of these feelings, doesn't believe they exist or doesn't want to acknowledge them publicly.

THE AFFLUENT WORKER

Take the picture painted by one businessman of a factory worker who makes about $10,000 a year. George B. Morris, Jr., director of labor relations for General Motors, told why he would characterize the auto worker he employs as an affluent American.

"I'll tell you why. Because he lives in Flint, or one of the communities around Flint, he's got a hell of a nice home, two-car garage. He has two cars.

"He's got a trailer that he hooks on the back of one of those and he hauls his boat up north and he's got a hell of a big outboard motor on the back of that and does that on the weekend in the summer. And he probably has a summer place up north, too, on one of the fine lakes in northern Michigan.

"In the wintertime, he puts a couple of snowmobiles on that trailer and hauls them up there. He leaves Friday night while you and I work.

"I guess I'm not affluent by my definitions here. But this fellow has everything you could aspire to. You come to our plants and look in our parking lots on Friday and see how many of them—even second shift people—will be there with their trailers and their campers and have them all loaded."

Morris was asked if he thought his employees were able to live that way on $10,000 a year. "You're damn right I do," he said sharply, adding:

"Do you think all the people that are driving up I-75 are corporation presidents and bankers and stock brokers and lawyers? The hell they are. They're hourly rated people that work in these plants. What more do you want? If affluence is too strong a word, this is certainly not a pauper society we're talking about. This is a fellow that has aspired to material things and has them."

That may all have been true several years ago when wages were rising, overtime work booming and the inflationary spiral had not cut so severely into the pay check. But without exception, the only workers we found able to afford the boat, the camper, the country place or what ever else had a wife who worked fulltime, and often he himself took on another job. They are not living the soft life.

Just as we found union leaders in the rarefied air of Washington or Miami Beach often not seeming to know how their rank-and-file members think about many things, so we found business apparently unaware of new currents flowing through the work force, particularly affecting the young factory employee.

If your reporting of the anger, the rising use of drugs and even the willingness to sabotage equipment on the assembly line is in any way an accurate reflection of young workers, it leads to a serious conclusion. It could well be that business—and American society—face a greater crisis involving dissatisfaction of work than merely worrying about the power of labor unions across the bargaining table and in the halls of Congress.

[From the Washington Post, Apr. 15, 1972]

BUILDING TRADES: FUELING INFLATION—VII

(By Haynes Johnson and Nick Kotz)

"We built this nation," said one building trades official. And indeed the history of construction in America is distinguished by the fierce pride of skilled craftsmen, the rugged daring of rags-to-riches contractors and the solid structural accomplishments of 200 years.

Now, however, the construction industry is suffering. It is beset by grave internal illnesses that threaten to poison the entire economy.

"We may have killed the goose that laid the golden egg," admits Martin Ward, president of the Plumbing and Pipefitting Union, one of the 17 unions in the building trades.

For construction today is crippled by antiquated building codes, bloated by labor union featherbedding, ripped apart by violent union and nonunion struggles or disputes over job jurisdictions, constricted by union hiring hall monopolies and caught in a pervasive, inflationary web of greed.

These are stark assessments. But they come from labor union leaders, building contractors and captains of the biggest industries—men who admit contributing to the problems themselves.

Labor leaders, contractors and corporate executives now all say that the magic bubble has burst, exposing an inflationary, inefficient industry.

Listen to the insiders:

Robert Georgine, secretary-treasurer of the AFL-CIO building trades department: "We've got a serious problem of featherbedding, where two guys are assigned to a piece of equipment that only needs one. We have 'nail keg' jobs where a guy just sits on a nail keg and watches the work. We have 'bull stewards' who do nothing but walk around."

Joseph Valdastri, business agent for Local 223 of the Sheet Metal Workers Union: "The biggest problem in the building trades today is unions fighting each other in jurisdictional disputes. The carpenters, for instance, take the attitude that Jesus Christ was a carpenter and that they were here first, so the rest of you guys stand in line."

"Contractors must share the blame," says the executive director of a Miami, Fla., contractors association. "As long as the contractor was making a buck, everything was fine. He just passed along the extra labor costs and made even more money himself in the process."

Virgil Day, vice president of General Electric Corp. and until recently a business member of President Nixon's Pay Board: "The corporate construction users are part of the problem. A corporation executive is told to get his new plant on line by some impossible date. So if there is a strike, he says: 'Hell, don't fight it, I've got to have my building. I've got to have my overtime. I've got to have anything it takes to get that building up.' "

And finally there is the affluent consumer who wants his new recreation room built this month, not next month, and the wealthy couple who want to move into their Florida condominium apartment this winter, not next winter. They also help drive up construction costs.

RESENTMENT AMONG THE PUBLIC

The construction industry has stirred resentment in the rest of society among consumers who can't afford housing or a repairman, workers envious of the far higher wages paid construction tradesmen, and other union and business executives who feel that construction provides most of the gasoline for an inflationary engine which hurts everyone.

Again, listen to their complaints:

Jerry Wurf, president of the American Federation of State, County and Municipal Employees: "An unreasonable relationship exists between the contractors and the building trade unions. They continue to have those big fat settlements that force inflated prices so that the pay raises we get are not catching up."

Richard Foshia, a young Detroit auto worker: "I make $4.20 an hour. A laborer in the construction industry here starts out at $5.50, and he doesn't do anything but carry bricks or whatever he carries. I don't go along with that at all. He doesn't have any more know-how than I do. I can't afford to buy a house or rent an apartment, and I want those prices to come down."

Malcom Denise, vice president for labor relations of Ford Motor Co.: "We have to be concerned about the relative costs of making things here and in the rest of the world. Construction and trucking don't seem to feel that they are in competition with overseas markets. But they are, because they're part of our costs and we have growing foreign competition."

A WORLD UNTO ITSELF

The actual work of the construction industry is probably more visible than any other. We all watch with wonder as skyscrapers, highways and bridges rise from the ground. Yet the inner workings of this largest American industry—its $100 billion annual business is greater than automobiles and steel combined—is little understood and seldom examined by outsiders. "Unfortunately, the building trades are kind of a world unto themselves, and the industry is a world unto itself," says AFL-CIO Research Director Nat Goldfinger.

Inside that world, 10,000 local unions representing about 3 million workers bargain with a majority of the nation's 870,000 contractors. Another 500,000 construction workers are not members of labor unions.

Most of the local unions are small but powerful independent baronies which take only minimum direction in collective bargaining from their international unions. Most contractors are small businessmen, with only 1,200 firms hiring more than 100 workers each, and the four largest firms controllingg less than 1 per cent of American construction.

The industry is marked by seasonal fluctuations and considerable uncertainty. Thousands of contractors go in and out of business every year. Workers' loyalties and their livelihoods are tied to their union hiring hall, as most contractors don't employ many year-round employees.

The unions exert power by controlling many of the functions normally reserved to management in other industries. For example, building trade unions not only supply manpower to the job but even appoint foremen and general foremen. Although contractors finance them, the unions administer various health, welfare, pension and vacation benefits.

The construction union work force is old and highly organized with the national federation of American building craft unions dating from 1908. Those early unions drew strength from the rich traditions of far older European craft guilds. The unionized work force is divided into 17 building crafts, which compete against one another and tightly resist entry from outsiders.

And these building trades collectively comprise the center core of power in the AFL-CIO. It is no accident that a former plumber, George Meany, runs the federation. The AFL-CIO's pecking order of power is readily discernable at the Miami labor conventions, where Meany and his favorite building trade presidents occupy the most prestigious row of hotel suites.

The AFL-CIO's political power has been applied most consistently and successfully to protect union wages in the construction industry. Construction wages have risen three times more than those in other industries in the last 10 years.

The industry itself has been undergoing revolutionary changes, with new equipment and materials pushing historic handcraft construction methods towards a factory production system. Reacting to this process, the unions have fiercely opposed change or demanded special compensation before permitting efficiencies that sharply reduce the need for skilled manpower.

THE DECISION TO INTERVENE

What is new today is that the federal government and big business—both alarmed by runaway inflation and foreign competition—have decided to intervene in the clannish workings of the construction industry.

The nation's largest corporations several years ago quietly formed the Construction Users Anti-Inflation Roundtable—to seek government controls, to help contractors strengthen their management and resist demands for wage increases, and to persuade each other that corporate industry should avoid crash building schedules which raise construction costs for everyone.

The Roundtable members were motivated by concern over their own skyrocketing costs for new factories and by the "rippling effect" of construction salary raises on their own workers' salary demands.

"Prior to our auto negotiations in 1970, the construction industry got extravagant salary increases," says George Morris, a General Motors Corp. vice president and Roundtable member. "There's no damn way we can afford to raise salaries 18 per cent for construction or any other group and remain competitive.

"We have building trade union members rubbing shoulders with our own auto worker union skilled mechanics who perform the same jobs. The building trade people are not above saying: 'Hey, buddy. If you were a member of the electrical workers union instead of the auto workers, you'd have this kind of check.' They jab them and they irritate them, so that our electrician goes down to his UAW local and says, 'God damn. How come that guy gets $8.50 an hour and I get $5.80?'

"So we have a hell of a lot of pressure inside the union from the skilled trades group and the UAW has to reflect that when they sit down to bargain with us."

"If I may use a Chinese expression, construction wages took a great leap forward about 1966," says Roger Blough, retired board chairman of U.S. Steel Corp. and chairman of the Roundtable. "I think it's really one of the most uneconomic and inflationary types of workmanship—if you can call it workmanship—that we have anywhere in the country."

The unions also acknowledge the problem. "I'm not concerned where construction has come the last six years with respect to wage rates," says John Lyons, president of the International Association of Bridge and Structural Iron Workers. "My concern—and many in the industry share this—is where are we going. The industry cannot maintain these 17-19-22 percent annual wage increases."

"A TERRIBLE CONSPIRACY"

Yet the building trade unions regard the behind-the-scenes Roundtable effort as a dangerous threat, particularly when they discover corporation presidents working inside the Nixon administration to control construction wages and open the industry to more nonunion workers. The administration established the Construction Industry Stabilization Committee last year, responding to inflation and to endless entreaties from the Roundtable, which met regularly with Cabinet members and White House officials.

"This is probably the most critical time the building trades have had in their history," says AFL-CIO official Georgine, referring to the Roundtable, government and growing nonunion competition. "I think it's an out-and-out effort to break the unions. If you want to get melodramatic, you could say it's a terrible conspiracy."

Sheet Metal Workers President Edward Carlough, however, brushes off the Roundtable threat. "It's been an old ladies' coffee table so far," he said.

And George Meany reacts angrily: "Let me tell you about this Roger Blough, the man who is dedicated to keeping wages down. He drew $916,000 in wages his last three years at U.S. Steel. Are we going to pay any attention to him?

"If he were to succeed, America would become a low-wage country. The progress of America has been made on high wages. Now, as far as I'm concerned, I'd rather have inflation than deflation because I know the difference between the evils."

Virtually all the building trade presidents we interviewed insisted that the public does not understand the nature of the industry or its $5 to $12 an hour building-trade wages—which have been rising at rates far in excess of rises in the cost of living.

They stress that most construction workers still don't work the full year, even though in prosperous times there are far fewer seasonal layoffs. They point out that construction salaries are not directly comparable to those in other industries, because fringe benefits are included. For example, an $8 an hour building trade salary might include $1.50 which the union keeps for the worker's health, welfare, pension and vacation funds. In most other industries, such fringe benefits are calculated separately and not listed as a part of hourly salaries.

Building trade officials are not cooperative in supplying statistics about the estimated "annual wages" of their members, but Labor Department statistics indicate these salaries, although higher than factory workers', are not anywhere near as high as the hourly rates would imply.

Building trade officials argue that their unions' large wage increases have been justified to permit workers to share the increased productivity of new equipment and materials which cut down on needed manpower. (The Roundtable argues, however, that worker productivity has fallen.)

"An operating engineer may make $8 or $9 an hour," says S. Frank Raftery, president of the International Brotherhood of Painters and Allied Trades, "but you've got one operating engineer grading thousands of yards of road where you used to have hundreds of workers with picks and shovels. One man can paint an apartment in the same time it used to take three or four. In 10 minutes we can do an apartment ceiling."

Raftery also contends that giant-size construction wage increases were taken as defensive measures, and that the inflationary problems could have been avoided if President Nixon had taken the AFL-CIO's advice to impose controls earlier.

"It's Nixon's own damn fault," Raftery said. "Everybody was trying to get what they could bargain for against the day when controls would be imposed. There was ' I don't give a damn' attitude."

"THE WORK RULES LIVE ON"

Despite all these explanations and rationalizations, few labor leaders we interviewed denied that there are serious inefficiencies in construction for which unions are mainly responsible.

Of all the labor union officials we interviewed, only George Meany denied any union-caused problems in construction. "I don't know of any restrictive practices, any featherbedding, that creates useless jobs or provide pay for doing no work," said Meany, repeating this point several times in a lengthy interview.

In contrast, Ironworkers President Lyons said his local unions often improperly require unneeded men in work crews.

"The work rules live on," he said. "It's one thing when wage rates are low, but if you get the wage rates up to where they are satisfactory, these work practices don't make sense. It's very difficult to get people to recognize the fact that they can't continue doing something they have been doing for years."

Meany also refused to accept as featherbedding the numerous jurisdictional disputes that are settled by requiring two men for one job.

A Miami general contractor describes a common practice: "You install the elevators in a multistory building and start using them to lift both personnel and materials. Once you use the inside elevator, you must have an operating engineer and an elevator constructor sitting there side by side. If a passenger comes up, the elevator constructor pushes the button. If material comes up, the operating engineer pushes the button." Another common practice requiring even less work is one in which an electrician's sole job is to flip a switch turning an engine on at the beginning of the work day and off at the end.

Meany concedes that many building codes are outdated but claims "we don't make the building codes." Other labor leaders disagree.

Robert Connerton, general counsel of the Laborers' International Union, describes a common building code requirement involving Meany's own trade: "Plumbing codes are supposedly for the purpose of protecting the health and safety of all citizens. But they often are an illegal conspiracy in restraint of trade. The plumbers and plumbing contractors get together and pass those codes defining what is plumbing work that can be done only by plumbers.

"The law will say that plumbing work includes all pipe that is laid within property lines. Well, our laborers have been laying pipe within property lines all their lives and these codes prevent them from working. So we're trying to tear down these codes."

BENEFITS FOR THE CONTRACTOR

Building trade officials stress that the "industry club" very much includes the contractors, who benefit also from their unique clannish relationship with unions.

The coziness of the contractor-union relationship is illustrated by one common industry practice: Contractor associations often are partially financed by assessments to all builders, which are required by union collective bargaining agreements.

Union contractors also have benefited from the Davis-Bacon Act, which requires the payment of "prevailing wages" on most federally assisted projects. In practice, the Labor Department usually has accepted union scale as the prevailing wage. Union contractors therefore are given some protection in bidding government contracts against nonunion competition.

EFFECTS ON THE POOR

Ironically, the AFL–CIO's success in adding Davis-Bacon to most new social legislation often defeats or limits the principal purpose of the legislation, which is often supported by the AFL–CIO in its social lobbying role. For example, the union-scale provision raises the cost of "low-cost housing" for the poor and often blocks the poor from getting construction training jobs in such programs as Model Cities, where their participation is an integral part of the intended program.

A special labor-contractor relationship exists even in the administration of government wage controls, critics contend. While all other wages were controlled by a board equally divided among public, business and labor members until labor walked out recently, the special Construction Industry Stabilization Committee consists only of the building trades, contractors and John Dunloy, a Harvard University professor regarded as a friend by the building trades.

"While the Pay Board was rejecting deferred wage increases of less than 8 per cent," says I. W. Abel, president of the United Steelworkers of America, "the building trade board was still approving agreements for 10 to 15 per cent wage increases right now. It just doesn't make sense to me.

"I'm not going to quarrel with what the construction worker gets, but if they are entitled to it so are the steelworkers. If construction can have its own special board, I want the same thing for steel. I'll find a few employers I get along with too, you know."

Union leaders complain bitterly that building trade wage increases are given the entire blame for construction inflation, when soaring interest and land costs are equally to blame and these costs are not controlled at all. Labor leaders stress—and here the Roundtable agrees—that a major part of the construction industry's problem is weak management, not all of which results from excessive labor power.

Labor leaders claim they also are wrongly given full responsibility for "scheduled overtime"—that is, a construction project on which the work is regularly scheduled in advance to include extra hours at doubletime pay. "The Blough Roundtable keeps yapping about overtime," says union official Carlough, "but we have these overtime problems because industry doesn't schedule its job properly. When General Motors wants to build an extension, it's 'Hurry up, hurry up. Get the model changes out. Get this. Get that.'"

GM'S ROCHE APOLOGIZES

As a matter of fact, GM board chairman James Roche sheepishly apologized to his fellow Roundtable members for ordering a crash factory construction project in Lordstown, Ohio, as GM raced to get its compact Vega into the field against Ford's Pinto. GM's haste and disregard for construction costs is said to have escalated wages and costs throughout Ohio. "Look fellows, I know what you are trying to do, but we have our problems, too," Roche reportedly explained at a Roundtable meeting.

Building trade officials especially resent being criticized for rises in the cost of homes, since most individual homes are built by nonunion contractors.

Sheet Metal Workers President Carlough admits: "The nonunion competition is devastating to us and anyone who doesn't think so is a total idiot. Jurisdictional disputes, work stoppages, paying guys for not working—these practices are hurting us severely. We have flabby muscles, and if we don't adapt to change, we're in serious trouble."

Disagreeing with—or taking advantage of—the "flabby muscle" theory, the Construction Users Roundtable aims to help builders regain management control of their industry. The Roundtable wants contractors to develop full-time work forces and get needed men through a new national manpower referral service.

Management loses control, the Roundtable contends, because unions dictate employment through union hiring halls. For example:

"I needed plasterers," Miami contractor John Scott complains. "The union didn't have any to supply me, yet they wouldn't accept qualified people as members. They were harassing me because I was doing dry-wall work rather than the plastering work they wanted.

"Their theory is to keep only the maximum number of members in the union that can fill the minimum amount of work that might be available. Their theory is fine for their people, but can throw a contractor into ruinous situations."

Other contractors complained to us that if they reject workers as unqualified, the union hiring hall often insists on sending the same men back to the job site on a "take it or leave it" basis.

On the other hand, hiring halls have provided valuable service to contractors as well as workers. Painters Union President Raftery says:

"What is the alternative to the hiring hall? Is it profitable to go down on the corner and have a shape-up like they used to have on the waterfront? Have 500 workers show up at some candy store or something? And then have the employers go down in their trucks and say, 'You, you, you, you and you are carpenters. Hop in the truck!'

"The hiring hall provides the people with the competency and skills to perform a certain type of work. It brings them together, so that a contractor can grab a phone and say, Hey I, need 40 guys on my job tomorrow."

The hiring hall system also lies at the heart of another problem in the building trades—the power of the labor union officers, and the dependence on them by workers.

Many national building trade leaders insist there is too much local autonomy in their local unions, with local leaders—nervous about their own re-election—giving in too easily to a new breed of construction worker who wants "more now." These leaders say larger-size bargaining units are needed to bring stability to the industry. Others say an annual wage is needed to promote stability.

Roundtable members tend to agree with the suggestion for larger bargaining units, since they place more confidence in the "reasonableness" of the international presidents than in the rank and file.

The construction industry also is affected by another problem—growing violence between competing unions and against nonunion contractors. When nonunion contractors have tried to move into the bigger jobs until now "reserved" for the unions, they have encountered threats, sabotage of equipment, illegal mass picketing and violence.

Violence has almost reach epidemic proportions in South Florida, as nonunion contractors have pushed to participate in a building boom. For example, R. D. Hall, 38, a nonunion Miami contractor, told us he has been repeatedly threatened and had his equipment damaged. Describing one incident where his company was laying pipe on an otherwise unionized project, Hall said.

"About 200 men swarmed in and hit my crew. We had eight men working with three trucks, an equipment trailer, a ditching machine and a back-loader. These men split into groups with each taking a truck or a piece of equipment like it was all planned. They broke up the trucks, shooting bullet holes through the engines.

"They set one trenching machine on fire, broke windshields and slashed tires. They were throwing rocks and were armed with pick handles, crow bars, and two guys had pistols. And all of this took place in the matter of three to four minutes and they were back in their cars and taking off."

[From the Washington Post, Apr. 16, 1972]

LABOR'S VIOLENT WORLD: BIG MONEY, CORRUPTION—VIII

(By Haynes Johnson and Nick Kotz)

Richard Nell and his family are in the labor union business. It is a life of big money surrounded by violence.

Nell is president of Local 675, International Union of Operating Engineers in Fort Lauderdale, Fla. Last year the 60-year-old labor official received a salary of $41,056 and allowances of $6,232. He drives a Cadillac, paid for by the union. He owns two acres of land in a booming Florida development; the union sold him the land for $1 per acre and "good and valuable services." He took his wife on a European vacation financed by the union.

His entire family profits from his union business. Nell's son, William, earned at least $8,893 in commissions last year selling insurance to Local 675's various health and welfare plans, of which President Nell is trustee. Son William has a second business, renting heavy construction equipment. His customers include contractors hoping to avoid labor trouble with his father's union. President Nell's daughter has also served the family business, working in the union hall as a paid secretary.

Richard Nell and his 1,899-member union are deeply involved in the violent world of Florida construction, where union fights union to control job turf—and where unions employ guerrilla warfare to stop projects manned by nonunion workers.

Five times in the last two years, Florda courts have ordered Nell's union to abstain from further labor violence—to stop destroying construction equipment and beating up other workers. A jury declared that Local 675 and its international union shared responsibility for the beating that a Local 675 member gave one union member. The jury awarded the man $1.2 million in damages after hearing testimony that Nell had ordered his men "to tear 'em up" and that the international union failed to intervene to prevent a well-planned construction site riot.

Nell recently was convicted of trying to bribe a Florida county official. He assessed union members to pay his attorney's fees.

Within his own union Nell wields a heavy hand. Some members of Local 675 have complained to federal authorities that they are discriminated against in work referrals by the union hiring hall because they are in disfavor with the union leadership. One member who testified in the damage suit was fined $450 by the union for refusing to discuss his testimony beforehand with Nell and the union's lawyer.

We started looking into Richard Nell's private and public life because his name was brought up by virtually every person we interviewed in the Florida construction industry. We found that the activities of Nell and his union serve to illustrate fundamental concerns about the state of the unions today—concerns about the misuse of union power and about the imperfect processes of union democracy.

The ethical atmosphere in some union and the status of union democracy cannot be judged fairly in a moralistic vacuum or from a comfortable perch in the white-collar world. Abuses of raw union power come out of a relatively recent and violent history in which unions fought their way into existence and still struggle against their enemies. Violence wasn't invented by the labor unions; it is only 35 years since Henry Ford's thugs pummelled workers in Detroit's battle of the Rouge.

Big, tough Richard Nell, who grew up in the depression in West Virginia coal mine country, built his Florida union almost from scratch—starting from a time when most Florida construction workers were unorganized and poorly paid. Now Nell and other Florida building tradesmen see a revival of nonunion construction as threatening the gains they have won. Nell shows visitors photos of the battered faces of his own members to illustrate that they have taken punishment as well as given it.

Nell believes thousands of low-paid Cuban workers provide unfair competition to union construction workers and should be relocated around the country rather than concentrated in south Florida.

In an interview, Nell responded to various criticisms against him: His conviction for attempting to bribe a county official was "a frame up." The union members paid his attorney fees in the case "because we bail each other out of problems." He buys the union's insurance from his son "because he knows the business and helps us buy good policies." He doesn't help his son get crane rental business from union contractors. The union gave him two acres of land, which he says is worth more than $20,000 today, because he had discovered a choice 15-acre resort site, but let the union buy it rather than just buying it for himself.

Violence in the blue-collar workplace is largely shielded from much of a nation that only rarely sees it described in the news media.

The nation did get a rare look inside the seamier, brutal world of some unions 15 years ago, courtesy of the Senate Permanent Subcommittee on Investigations.

With the glare of television cameras focused on union hoodlums and their partners from organized crime, the AFL–CIO expelled the Teamsters, the International Longshoremen's Association and several other unions. In the wake of the Senate hearings, Congress in 1959 passed the Landrum-Griffin Act, designed to expose union corruption and to protect the rights of individual labor union members.

The law required unions to file a public record of their finances. It prohibited persons found guilty of certain crimes from holding union office. And it sought, in a worker bill of rights, to prevent union leaders from taking arbitrary actions against their members.

Today, most labor leaders angrily protest that labor crime is judged more critically than similar business crime. At least six international union presidents, in addition to AFL–CIO President George Meany, told us the same story: that more bank employees annually are convicted of robbing the till than are union employees. Union leaders, they also say, are unfairly criticized for enjoying life styles that are publicly accepted as the fruits of accomplishment for their counterparts in business.

"A DEAD LETTER NOW"

Whatever the extent of corruption and undemocratic rule in unions, it is clear that labor's leadership has little inclination to deal with them.

Meany and most of his ranking international presidents who sit on the AFL–CIO Executive Council disclaim any responsibility for dealing with dishonest or undemocratic unionism. They contend (although others strongly disagree) that the Landrum-Griffin Act relieved them of the authority to maintain union integrity.

Furthermore, Meany and the others argue that demands for union democracy have been carried too far, making it impossible for national labor leaders to discipline rebellious or dishonest local leaders.

Officially, the labor federation now plays no role at all in maintaining union integrity. The AFL–CIO's Ethical Practices Committee, created when widespread publicity caused a furor about corruption in the 1950s, has not held a meeting in years.

Here is what the labor leaders told us in tape-recorded interviews about union responsibility:

Leonard Woodcock, president of the United Auto Workers: "The instinctive tradition of the labor movement is that it's not our job to clean up corruption. It's sort of traditional that we don't cooperate with government on those things, because government to some extent is the perennial enemy . . .

"The union most charged with corruption is the strongest in terms of numbers—the Teamsters—and it certainly has been no handicap to them in their effective functioning as a trade union force. The fact that, in 'influential ruling circles,' the UAW is given a clean bill of health doesn't help us when it comes down to a crunch over some basic matter."

Edward Carlough, president of the Sheet Metal Workers Union: "I don't want anybody interfering in my union and I'm not going to interfere in anyone else's."

AFL–CIO President Meany: "We had this ethics committee. It's more or less a dead letter now. Landrum-Griffin practically rendered our machinery obsolete.

"Now, to think we could police the unions is absolute nonsense. We don't have a police force. I don't suppose you'll ever eliminate crime or corruption, but you try to keep your standards high. And I think, by and large, the trade union movement is better now than it was 5, 10 or 15 years ago."

Joseph Beirne, president, Communication Workers of America: "I'm certain the AFL–CIO Ethical Practices Committee would meet if somebody brought up an ethical question. Now, when no questions arise, the committee doesn't meet."

"TO ME, HE WAS JUST A CROOK"

With very few exceptions, organized labor's top leaders either defend or refuse to criticize those few confederates who have been found guilty of betraying their own members.

We interviewed the labor union presidents at a time when James R. Hoffa dropped in to pay them visits during an AFL–CIO Executive Committee meeting in Bal Harbour, Fla. The former Teamsters president had just been released from prison, where he served terms for attempted jury rigging and mail fraud in connection with misuse of his members' pension funds.

Sheet Metal Workers President Carlough exclaimed: "Did you see Jimmy in the lobby this morning? Didn't he look great? From all that I know about it, Jim Hoffa shouldn't have spent that time in the pen."

Of the leaders we interviewed, only Communications Workers President Beirne criticized Hoffa, saying: "To me he was just a crook who got caught and went to jail."

Most AFL–CIO board members also were warm in their praise for the United Mine Workers President W. A. (Tony) Boyle, who was having his troubles with the law. Boyle's union has been found guilty of improperly failing to invest its pensions' funds and of making illegal contributions to the 1968 presidential campaign. It still faces charges of union election fraud and of dictatorially holding most UMW districts in trusteeship. Two local UMW officials are among those charged with the murder of Boyle opponent Joseph Yablonski.

Of the presidents we interviewed, only John Lyons, president of the Iron Workers, would criticize Boyle and his union. "Continuing all those trusteeships was wrong," he said. "The system of using retired people to vote is wrong. Keeping that pension money in the bank without drawing interest is outrageous."

The solidarity of labor's top leaders with the embattled Boyle was symbolized in recent weeks when Teamsters President Frank Fitzsimmons and AFL–CIO Counsel Robert Mayer (a Meany son-in-law) both went on the board of the UMW-owned National Bank of Washington.

SUSPICION OF OUTSIDERS

In praising Boyle and dismissing his critics, Steel Workers President I. W. Abel expressed attitudes held by many labor leaders. "I don't buy it when a lot of outsiders get a sudden great interest in the activities of the labor movement," said Abel.

If labor's top national leaders are suspicious of "outsiders" who crusade critical of some insiders: those in the ranks who rebel against their leaders. Again, Abel expresses a commonly held viewpoint:

"I think Landrum-Griffin makes it most difficult to do an effective job of leadership. It encourages irresponsible dissidents to shoot everything down . . .

"I'd like to see democracy exercised to the fullest in our union or any other union, but democracy in the labor movement, as in various segments of life, can be carried to an extreme."

Executives from big business tend to agree about "too much" union democracy. Officials of General Electric, the three major auto manufacturers, American Telephone and Telegraph and other major corporations also complained about how local leaders and rank-and-file members exercise their voice in union affairs. That voice has been increasingly used to reject contracts or to express strong resentment of national labor union leaders, as well as management.

In contrast to these views from big labor and big management, we heard different protests from rank-and-file workers and from those who seek labor union reform. They contend that the Landrum-Griffin law, guaranteeing freedom from labor bossism, is not enforced by the Labor Department, that the AFL–CIO's leadership has "copped out" on its responsibilities maintain union integrity and that the rights of the individual working man are infringed upon by both management and labor.

"NO SIGNS OF CHANGE"

These are some of the general complaints we heard:

Clarice Feldman, an attorney for Miners for Democracy, which is challenging the United Mine Workers leadership: "Big labor and big business have identical interests in preventing union democracy. Democracy takes time to work its will. It's simpler to work it out at the top."

Sen. Robert Griffin (R–Mich.), coauthor of the Landrum-Griffin Act: "This law in no way relieves the unions of any responsibilities to keep their houses in order. We have lacked cooperation by the unions and enforcement by the Labor Department. Every administration, including this one, has been timid and reluctant to enforce the law. They have very carefully selected people to administer the law that labor is not going to be unhappy with."

H. W. Benson, a worker and editor of Union Democracy in Action: "I would say that things are no better today in the labor movement than they were at the time of the McClellan hearings. There are absolutely no signs of change."

Herbert Hill, labor director of the NAACP: "With a few exceptions, you have a systematic pattern where the leadership of unions violates the democratic rights of union members that are supposed to be guaranteed by law."

"Payoffs are epidemic and a way of life," said a career Justice Department attorney, describing collusive arrangements between labor officials and contractors in the construction industry. "Contractors just write them off as a normal cost of doing business."

Justice Department officials agree, however, with the complaint of union leaders that the illegal participation of the businessman in union corruption too often goes unnoticed.

"I'm troubled about whether there is equity in the way we treat certain practices in business or in the unions," says one Justice Department official.

"We make virtually all our bribery cases against the union official, not the businessman who handed out the bribe. That's the way we get our cases. The employer comes in after he gets scared or tired of paying off. In the course of the investigation, he acquires immunity, but the union guy goes to jail. . . . And it's usually very difficult to distinguish between a bribe being offered by the contractor or extorted by the union official."

The bitterness of labor officials about one-way justice is reflected by President Abel: "It gripes me that the poor ——— of a ——— who accepts the bribe is always the one who goes to jail. How can a guy accept a bribe unless some ——— of a ——— offers to bribe him?"

But a Labor Department investigator who keeps track of violence in the construction industry says: "I don't blame the contractors for paying off. We can't protect their equipment from being destroyed."

"NOBODY WILL ADMIT IT"

In investigating problems in the Florida construction industry, we found few unionized contractors who were willing to be interviewed "on the record." An exception was P. A. Prendergast, a Fort Lauderdale contractor who employs union labor and for years has been battling with Richard Nell's Local 675.

"All the contractors are having difficulties," says Prendergast, "but most of them are afraid to stand up and fight. There are a lot of payoffs going on in this industry but nobody will admit it except to his fellow contractors. The FBI has been investigating and they can't get anybody to talk."

The Florida contractor told us that some of his fellow contractors rent equipment from Nell's son in order to avoid labor trouble. It was Prendergast's general superintendent who was beaten up, and who won the $1.25 million jury award from the local and international union.

"They've threatened to run us out of business," says Prendergast, who complains that Nell has refused to supply him with equipment operators to do work on jobs opposed by the union.

"We have armed guards on our projects because we keep getting threatened," Prendergast said. "I've had five equipment rigs 'sanded' within the last year and a half. They pour sand into the place where you put the oil. It just freezes the engine and ruins it so you have to pull it out and have it overhauled. It costs $5,000 apiece to repair them, plus delay to the job. There has been nothing but grief down here."

Nell said in an interview: "We never bombed his machines. I don't say there aren't things done, but we didn't bother his machines, because we knew we would be fingered for it."

A Justice Department attorney said a grand jury investigation into violence involving Local 675 collapsed because witnesses refused to testify. One woman told investigators she wouldn't testify "because they would shoot my eyes out at 300 yards."

Robert Georgine, secretary-treasurer of the AFL–CIO building trades department, described for us various forms of corruption in the construction industry, which he says become important only when they threaten the union's ability to compete:

"They're just payoff-type things. In other words, you have a big job and you don't want union problems so you say you're going to put this steward on that's got nothing to do. He's a relative of the business agent or a friend or something like that. So he goes on a job and just walks around and is being paid $300 or $400 a week. These are some of the things we have to eliminate.

"You talk about corruption. Take some of those missile sites and things that have been built over the last 10 or 15 years, where the business agent has supposedly been holding up the contractor. Well, it never would have happened if the contractor didn't let them do it in the first place . . . It was allowed to happen and it mushroomed.

"Well, in order to change it, you have got to have a need for change. If nobody was getting hurt and everybody was doing fine you wouldn't even worry about it. But it's not that way today. Nonunion people are moving in and taking jobs that were always union before. They're coming in on sacred ground. Now, you've got to show your people if they don't straighten up, they are not going to have a job."

Carried to extremes, corrupt power in the building trades costs consumers dearly. Veteran Justice Department lawyers say they have wrestled for years with family dynasties in the building trades that dominate construction in entire states.

Peter Weber, former business manager of New Jersey Local 825 of the Operating Engineers, for example, was convicted of accepting bribes from contractors and forcing them to subcontract work to his friends. Justice Department officials say Weber doubled the cost of pipeline over that in surrounding states—a cost ultimately passed on to consumers of natural gas. Weber went to prison. His brother now runs the union.

"The guy fighting for democracy in a union has enormous odds against him," says a Justice Department lawyer specializing in union problems. "The guys who come in here for help usually walk out disappointed. The federal government doesn't have the tools. The individual union member doesn't have the money to get a lawyer. Anyway, most labor law specialists work either for the unions or management.

"People in the union are afraid to join him. He really has very few remedies. It is very infrequent that a well-entrenched incumbent gets turned out of office."

Within the labor union movement, there is continuous debate about how much democracy can be permitted and still allow the union to achieve its purpose. For example, Steelworkers President Abel argues that John L. Lewis needed to put virtually all the local United Mine Workers district under trusteeships years ago to prevent weak and unstable unions from being destroyed by their enemies. Yet, reform factions in the UMW contend that the continuation of these trusteeships over many years gradually snuffed out democracy in the union.

The fight for union democracy is heated today in another historic old union, the International Ladies Garment Workers. Members of the union are mostly women, blacks and Puerto Ricans, yet virtually all the officers are white men who built the union years ago.

AFL-President Meany told us he had inquired into this situation and satisfied himself that the women don't want to run for office and "the blacks are not represented because they don't get the votes—they don't try or anything else." But recent Labor Department decisions tell another story.

The Labor Department recently overturned one ILGWU election on grounds that members were denied their democratic rights.

In another ILGWU case, the Labor Department ruled that the union's constitution prevented democratic election contests and that the union illegally prevented a group of black challengers from appearing on the ballot, distributing campaign literature and exercising other political rights.

Labor editor Benson contends that liberal Democrats' dependency upon organized labor robs the union reformer of his best potential ally. "A couple of guys go to a liberal senator and tell him they're getting ———," says Benson. "He listens to them, and says 'you're right. This is terrible.' But he weighs their problem against all the good work labor does on legislation and in helping elect liberals like himself. He balances the two factors and does nothing.

"I don't care where a labor leader stands on Martin Luther King or the United Nations. The acid test of that leader is what happens when someone gets up to oppose him. What he does when he is challenged determines whether honesty and democracy prevail for the working man. It's crucially important for that working man and it should be for all of us. The labor movement plays a special role in our society as a defender of democracy. If that institution itself can't maintain democracy, we are in rough shape."

In the final analysis, Unions are what their members make of them.

Members of Local 675 of the Operating Engineers voted Richard Nell his sizeable salary, his free land, his fancy car, his European vacation and his legal defense fees. "Nell has a sizeable hard core of followers that will vote him anything he wants," says a federal investigator. "Most members of most unions don't attend the meetings where decisions are made that affect their lives."

But it takes a brave man to fight a hiring-hall system in which the union boss may decide who works and does not work. Many would-be labor reformers have found that the price for union democracy is high, and it may be too high for a man trying to support his family.

Take Frank Schonfeld, a New York official in the Painters Union. Schonfeld became secretary-treasurer of District Council 9 of the Painters Union after a long fight with his predecessor who was accused, but not convicted of, accepting $800,000 in bribes from painting contractors. The contractors pleaded guilty to the charges. Schonfeld and his fellows also had to wrest control of the union district from its international President S. Frank Raftery, who placed the district under trusteeship.

In dissolving the trusteeship and ordering a federally supervised election of union officers, U.S. District Judge Marvin Frankel painted a classic picture of union corruption.

Judge Frankel ruled that Schonfeld's predecessor, Martin Rarbach, had betrayed the membership, governed repressively, ignored democratic procedures, perpetuated his dynasty by illegal election practices, engaged in election fraud, illegally used union-discipline machinery to punish Schonfeld and other opponents, blacklisted opponents from employment and permitted employers to violate the union contract.

Judge Frankel ruled further that international President Raftery had improperly dismissed complaints against Rarbach without granting Schonfeld and other opponents a hearing. The judge ruled that the trustee appointed by Raftery had taken no action to stop corruption and restore democracy in the union. He criticized Raftery and the trustee for installing Rarbach, then under indictment, back in a position of union authority.

Although that court opinion was issued five years ago and Schonfeld was elected, many of the same issues are still unresolved. Raftery still seeks to put the district under trusteeship.

We visited with Schonfeld and a group of his supporters as they prepared to exercise a newly won right—the election of officers to administer the union's vast pension fund.

The pension fund issue has become a crucial one in union reform. Thousands of workers have lost their pensions because pension funds have been mishandled by union officials, and legislation has been introduced in Congress to better protect workers' benefits.

[From the Washington Post, Apr. 17, 1972]

Union Ratio of Workers Falls as Economy Rises—IX

(By Haynes Johnson and Nick Kotz)

From the back alleys of Memphis garbage routes to the back wards of New York public hospitals, a new kind of union militancy is reaching a responsive audience.

Thousands of public employees, many of them poor, are joining labor unions for the first time.

"Black people wouldn't be anywhere if it wasn't for this union," says Mrs. Edward Butler, 65, a nurse's aide at New York's Bellevue Hospital. "We now get a lunch hour, a decent white uniform, a raise in pay, a chance for professional advancement. We are treated like human beings. We are really working for a living instead of slaving."

Mrs. Butler is a member of the American Federation of State, County and Municipal Employees (AFL–CIO), the fastest-growing union in the country. This union has doubled in size the last six years to 525,000 members, moving it from 18th to 6th largest of all AFL–CIO unions.

Its growth is not typical of the labor union movement today, for the AFSCME is growing by 1,000 members a week at a time when organized labor's total membership is virtually stagnant and unions represent an ever declining minority of the work force. Fewer than one in four American workers belong to unions.

Many of the largest old-line unions such as the Steel Workers and Machinists are losing members, and small unions are faced with threats of insolvency. With new members hard to find, as many as four or five international unions are seeking—in bitter and sometimes bloody jurisdictional warfare—to organize the same worker.

Organized labor is painfully aware that its membership is weak in the fastest growing parts of the economy—wholesale and retail sales, government, services of all kinds and the insurance, financial and real estate fields. Labor's strength has been concentrated in areas of the economy that are not growing rapidly or are actually declining—mining, transportation, manufacturing and construction.

Furthermore, labor leaders are concerned that 75 per cent of their membership is concentrated in 10 large industrial states, while their membership is weak in fast-growing areas of the South and Southwest. There are more labor union members in New York State, for example, than in 11 Southern states, including Texas.

Union leaders disagree strongly about whether the labor union movement is endangered by its failure to keep pace with growth in the work force.

Some leaders see the entire future of unions threatened. They see organizing as the cornerstone to labor's vitality, sense of purpose and political power.

Labor leaders also are aware that their increasing minority status in the work force makes them vulnerable to charges that labor has too much power for the numbers it represents.

"IT DOESN'T MEAN A THING"

But concern about organizing new workers is not expressed in the executive offices of the AFL–CIO. George Meany told us in an interview that he is not worried about the declining percentage of union members.

"To me, it doesn't mean a thing," Meany said. "I have no concern about it, because the history of the trade union movement has shown that when organized workers were a very, very tiny percentage of the work force, they still accomplished and did things that were important for the entire work force. The unorganized portion of the work forces has no power for the simple reason that they're not organized."

Lane Kirkland, AFL–CIO secretary-treasurer and a likely successor to Meany, echoed his leader's sentiments: "I've never been very concerned about what proportion of the working force is organized at any given time . . .

"In many industries, there has been a declining percentage of production workers and increased percentage of people employed in sales, advertising, clerical, managerial and research. Well, those haven't been areas we've found particularly responsive to organizational appeals. Nor have we felt much compulsion to make a major effort at it.

"Frankly, I don't care whether the salesmen are organized. If they want to be organized, fine. If they don't, I don't feel any ideological compulsion to organize them. I don't feel any compulsion to organize foremen, plant managers; advertising men, hustlers, what have you."

These attitudes are not shared by some other labor leaders, who see organizing as holding the key to labor's future.

"I disagree with George Meany and Lane Kirkland," said S. Frank Raftery, president of the Painters and Allied Trades Union. "My big concern is the constant erosion of the organized percentage of the work force.

"Many unions have lost a hellova lot of members, and maybe we're organizing five or six people just to keep one nowadays. In that sense, the health, the financial strength, and the viability of individual unions are being challenged. You can't have the power and the influence and the drive and the virility that you have to have as a good hustling labor organization if you're going to have a constantly declining percentage of the whole."

BOTTOM OF THE LADDER

The dispute over organizing goes deeper than a mere numbers game. At its heart, the disagreement involves how much effort, money and trouble should be invested to bring union benefits to those workers furthest down the economic ladder—the poor and minority workers. One problem is that such an effort would challenge many unions to organize or admit blacks they have historically excluded. Another problem is that even if there is a willingness to organize the low-paid worker, the expense is heavy.

Herbert Hill, national labor director of the NAACP, expresses the view of many critics who contend labor's unwillingness to mount such organizing drives indicates that labor has lost its sense of purpose and become another narrow special interest. Says Hill:

"The unions have long ceased to be a social movement. Most have degenerated into narrow protective service agencies for their dues payers. They have carved out certain areas of the economy where they have established a decisive role.

"They have retreated to a narrow view of organized labor as business unionism. They collaborate with employers to maintain the status quo. They have no vision of organizing the great mass of unorganized workers in the cities, which today, in large part, means the black, Puerto Rican and Chicano worker."

AFL-CIO official Kirkland believes that such comments ignore realities. He believes various unions basically will grow or decline depending on how their members' jobs fare in a rapidly changing economy. Forty years of organizing work in the textile mills of the South, he points out, largely failed because of massive resistance by business and the entrenched power structure of local communities. Referring to companies like Stevens Mills, which have fought unionization for years in the courts and continue to resist even after court defeats, Kirkland said:

"As long as they're willing to spend that kind of money and pay those fines, as long as they'd rather do that than pay the wages and accept the unions, and as long as we're still of the disposition to use legal, orderly processes in organizing these people rather than violence and terrorism, it's going to be very difficult." The resistance is so severe and laws so insufficient in certain areas, said Kirkland, that "you could organize yourself right into bankruptcy."

A very different view of organizing is taken by leaders of the expanding American Federation of State, County and Municipal Employees. Leaders ranging from President Jerry Wurf to rank-and-file organizers pursue their goals with a militant spirit-reminiscent of the 1930s.

"The greatest weakness of lots of unions comes when they start looking at the balance sheets and accumulating large amounts of money," said Wurf. "We think it's more important to collect members than dollars, and to play a meaningful role in society."

The AFSCME is capitalizing on the huge growth in public employment—an increase from 6 million to 13 million workers in 20 years—and on the general and longtime neglect of many state and local employees.

During a period when the salaries and benefits of unionized workers in the private sector rose steadily hundreds of thousands of blue-collar public employees continued to work for less than the minimum wage. These hospital workers, garbage collectors and sanitation workers often were not covered by such other basic benefits as unemployment compensation or workmen's compensation, much less health care or pension benefits. Most important, public employees are not covered by the Wagner Labor Relations Act, which means that a public employer does not have to recognize or bargain with a union even though the entire work force belongs to the union.

"We've got no law," says Wurf. "Everything is against us. We pull a strike and they take away our paychecks and send our leaders to jail, penalize our members."

Nevertheless, Wurf's union has used the strike—which is illegal for virtually all public employees—as a weapon to force a community to meet the issues being raised. Strikes or work stoppages by public employees increased from 36 in 1960 to 410 in 1970.

Case studies in New York and Memphis illustrate the vitality involved in this revolt of the civil servant.

Until six years ago, most of the 14,000 orderlies, nurse's aides, food handlers, and cleaning help in New York's public hospitals worked for less than $3,500 a year. The AFSCME organized these workers with a program to give their jobs more dignity and to provide chances for advancement from deadend jobs.

Lester Wright, a black who heads the New York hospital division of the union, started working in the hospital after the war for $37 a week. Twenty years later he was making $90. He describes the changed situation:

"People were given some dignity and patients have reaped benefits from the greater pride of the workers. A person used to come in here as a porter, and that was it until he died. Now he can upgrade himself through a series of promotions and become an executive housekeeper."

Similarly, nurse's aides have signed up by the hundreds for training opportunities to become licensed practical nurses, and even registered nurses.

AN EVIDENT PRIDE

Problems are still severe in New York's public hospitals and the newly won base pay of $6,300 provides only the barest subsistence income in that city. Yet the spirit of the new union was apparent as we visited with workers in the huge Bellevue Hospital.

"Things have changed tremendously," say Bertram Bolt, 50, an oxygen technician, who was wearing the new uniform of white clinical jacket, white shirt and necktie. "There is more dignity to our jobs.

"I like my new job and hope to go as far as I can. My salary has increased in a few years from $2,500 to almost $8,000."

N. H. Bridges, a $6,900 nurse's aide in the Bellevue ward handling skin diseases, talked about work attitudes with a fierce pride that demands respect: "Somebody's got to give a damn, and we do. Working with some of the diseases I do, you just have to be dedicated.

"Let me give you an example. A woman was visiting her father at lunch time, and I said to her, 'Madam, would you please feed your father?' She cringed, looked disgusted and left the room. Yet we have to feed them, bathe them, cuddle them. And we have to work on alternate weekends. You can't take the patients home with you."

The same spirit can be found among Charleston, S.C., hospital workers who withstood a community riot to win union recognition, and Memphis garbage handlers who won improved conditions only after the Rev. Dr. Martin Luther King Jr. was murdered in their midst. Dr. King had gone to Memphis to march with the garbage workers.

"We've come a long way," says Nelson Jones, a 64-year-old black garbage worker. "It's like a difference of night and day. The night before Dr. King was killed I heard him speak, and I knew we were going to win. I believed in it. I trusted the Lord."

The battle cry of the Memphis strike was "I Am A Man," still more evidence that the issues for most workers were far broader than wages and hours.

"The trouble with many unions," says William Lucey, a national AFSCME official who directed the Memphis effort, "is that they're organizing around the nickel or dime wage increase. But people join us as a means to focus their views and aspirations, which are not just confined to economic well-being.

"Poor workers are interested in dignity and decency in the workplace. They're concerned about the services in their city, because these people don't commute to the suburbs. They have to use the inner city schools and hospitals. They are interested, in the broadest sense, in civil rights. They are trying to overcome their sense of powerlessness in the community."

Whatever progress AFSCME has brought to the worst-paid public employees, the potential force of this and similar unions is a hotly debated issue in and out of government. For the public employee unions, as they grow stronger, have the power to deny vitally needed public services.

Many public employees feel that the public looks down on them. "Scratch an American and you'll find a person who has utter disdain for the public servant," says Victor Gotbaum, executive director of the AFSCME district in New York City.

"We're a democracy with contempt for the public servant. A guy gets mugged on the street and you want a hundred more cops. If your car hits a rut in the road you curse the city laborer for not paving it. If Willie isn't learning to read rapidly enough, you scream for more teachers and paraprofessionals—and then you hate the bastards because you need them."

The bitterness against strikes by public service employees extends to the union movement itself and can have racial overtones. When striking black Memphis laborers, including street cleaners, appealed to the local building trades for help, an AFSCME official said, he was told: "You owe the people of Memphis an apology. Those niggers didn't work. Someone might have slipped on the ice and gotten hurt."

ORGANIZING OTHER POOR WORKERS

There are many poor workers outside the ranks of public employees, of course, and some unions are making slow strides in organizing them.

The Amalgamated Meat Cutters Union has grown the last 10 years as it organizes low paid workers in fish canneries and other food processing plants. "The lowest paid workers are so depressed that they are difficult to organize," said Leon Schachter, a vice president of the union." And if we organize one plant, it's not going to be able to stay in business unless we also can then organize its competitors."

Although the general record of the AFL–CIO in recent years has been to avoid trying to organize the lowest paid workers, a major exception has been the federation's considerable efforts to help Cesar Chavez's United Farm Workers Union. But even here, as George Meany revealed to us in an interview, traditional trade unionists are troubled.

"We have poured into California since 1959 close to $3 million to try to develop a farmworkers union that would be effective," said Meany. "Now, we haven't succeeded.

"We've got a union out there that makes a lot of noise, but in my book it's not what I would call an effective, solid union. That union is not a union in the sense that it makes contributions to the working of this organization. In other words, it's a union that gets funds from us that are given to us by other unions."

Chavez and his followers bitterly resent what they consider to be this attitude of "business unionism." In their view, the union's success should be measured not only in the benefits won for some California farm workers, but in the union's catalytic effect in raising the pride and hopes of poor Mexican Americans throughout the country.

The AFL–CIO has argued for years over whether the national labor federation should play a more active role in union organizing rather than leaving the task almost entirely to the individual international unions. In leaving the AFL–CIO, the United Auto Workers listed as a major reason the unwillingness of the federation to engage in a massive coordinated organizing effort.

A superficial glance at the AFL–CIO's payroll would indicate it is in organizing in a big way, since 140 persons are listed as organizers. However, it is an open secret that the majority of these "organizers" spend a great deal of their time, particularly in election years, working on political campaigns. "All our people will work some in politics this year," said William Kircher, Meany's director of organization.

If the AFL–CIO were more interested in organizing, there are various groups of poor workers interested in being organized.

The National Committee on Household Employment has repeatedly and unsuccessfully sought help from the AFL–CIO and individual unions in its efforts to help organize and establish basic benefits for the nation's 2 million domestic servants.

"We get a lot of words from the unions but absolutely no help," said Edith Sloan, executive director of the Household Workers Committee.

"If I was with the AFL–CIO I don't think I'd be highly motivated to help us. Our people have traditionally been ignored. It would be a very difficult and expensive job to help them. It's a very altruistic step. It takes a very high level of commitment which we don't find exists even among very liberal people today."

AFL–CIO leaders dismiss the effort, saying household workers would be too difficult to organize because each works for a separate employer.

Another group which the AFL–CIO has refused to help is pulpwood cutters of the Southeast who have organized themselves into a group called the Gulf Coast Wood Haulers Association.

"The AFL–CIO and its unions just don't seem interested in helping a bunch of poor Southern people who are just fighting to stay alive and are up against the power of the big paper companies," said Jim Simmons, president of the association. AFSCME did contribute $1,000, he said.

Kircher said the AFL–CIO couldn't help the organization of pulpwood cutters because many of them might be legally classified as independent businessmen.

Ironically, unions are not expanding in size and power in part because the building trades still vigorously resist attempts to open up their membership, particularly to black workers.

The federal courts have ruled repeatedly in recent years that building trade unions continue to bar black workers despite court orders, despite the qualifications of the workers and despite a shortage of workers in skilled trades.

A Federal Court of Appeals in New York, for example, ruled that Local 638 of the Plumbers and Pipefitters had barred 169 fully qualified black plumbers. And the court noted: "There has been a shortage of construction steamfitters in the New York area in the post war era and as a result employers have had to spend substantial money for overtime."

In recent cases in Seattle, Chicago and New York, the federal courts have held various building trade unions in contempt of court for failure to carry out court-ordered desegregation plans. In holding the New York Lathers' Union in contempt, U.S. District Judge Marvin Frankel said:

"There is a deep-rooted and pervasive practice of handing out jobs on the basis of union membership, kinship, friendship and generally 'pull.' Numerous blacks, often with substantial, relevant work experience, vainly shape up at the union hall (waiting for job assignments) day after day during summer months at a time when inexperienced students and other inexperienced white men got jobs through people they knew."

Less well known are a series of federal court rulings holding that Northern industrial giants and their unions jointly discriminated against blacks. In a case against the Bethlehem Steel Co. plant in Lackawanna, N.Y., and the United Steel Workers, a federal court of appeals said of company and union practices:

"A microcosm of classic job discrimination in the North. Job assignment practices were reprehensible. Over 80 per cent of black workers were placed in 11 departments which contained the hotter and dirtier jobs in the plant. Blacks were excluded from higher paying and cleaner jobs. . . . The pervasiveness and longevity of the overt discriminatory hiring and job assignment practices are embodied in nationwide agreements negotiated between the company and union in 1963, 1965, and 1968."

Civil rights leaders say that the only change in the building trades in the last 20 years has been the names of the plaintiffs on the lawsuits. Many union officials still express unconcern.

Yet there are signs that the building trades may open their doors to ward off non-union competition.

"The building trades, by and large, have done very little organizing," said Robert Connerton, general counsel of the Laborers Union, which is one building trades union with substantial black membership. "They've been sitting on what they have. But they've really been shaken up by growing non union competition. They're talking to themselves for the first time in 10 years about organizing and a number of them are very intent to get out and organize."

Another phenomenon in the union organizing scene today is the growth of new unions, which organize very poor workers only for the mutual benefit of the union builder and the employer. Justice Department officials are attempting to keep track of a flurry of new unions whose officials have made large sums of money without providing any apparent services to their low-paid members.

Thoughtful critics point out that the unions would have trouble meeting the needs of the unorganized poor even if they mounted massive efforts and ended all discriminatory practices.

AFL–CIO Organizing Director Kircher described as typical a recent Arizona situation in which the federation tried to help organize laundry workers who are paid $1.15 an hour and receive no other benefits except the right to one week's vacation after five years of service. The laundries fought against unionization in the courts and National Labor Relations Board for five years. The workers voted 10–1 in favor of a union but still don't have one.

As in other such lengthy legal struggles, Kircher said, many of the workers lost their jobs as well.

Kircher raises questions about the broad economic problems inherent in what University of Maryland economist Bennett Harrison calls the "secondary labor market," which is characterized by low pay, casual work and no union organization.

Harrison says 11½ million persons work full time in secondary market jobs which pay less than the minimum wage. "The employers don't mind the instability of their work force," Harrison said. "They encourage it. The jobs are simple. People don't stay around very long, and if they did they might get the idea to start a union."

Harrison and others say it is unfair to place the total blame for racial discrimination on blue collar union workers.

"The real problem is that there simply are not enough jobs that pay a living wage in this country," said Harrison.

"The classic strategy for political rape is to turn the blue-collar worker and the poor against each other. It is politically cruel and brutal to attack these fundamental structural problems in the economy as if they were just problems of blue-collar racism. We have to deal with the structure of the economy and that means create more jobs. Manpower training programs for the poor are worthless if we don't have more jobs.

Harrison and others believe that the private sector of the economy, even in the best of times, cannot produce enough jobs to provide a living to everyone in the work force. He believes that the country must provide more work by creating public service jobs, a concept supported by union leaders.

[From the Washington Post, Apr. 18, 1972]

A BASIC PROBLEM: WORK ATTITUDES CHANGING—X

(By Haynes Johnson and Nic Kotz)

James Humphrey reports to work on the automobile assembly line at 6 o'clock every morning. For the next five hours he stands in place spotwelding nine rear seat bracket parts as the cars roll by 58 times an hour. At 11 o'clock he takes a 30-minute break for lunch gulping coffee and eating a prepackaged hamburger out of a vending machine.

"It's slop," he says, "it's bad food. They put that hamburger in the machine and if you don't buy it today it's still there tomorrow."

Then he returns to the line. For three more hours he continues spotwelding those cars 58 times an hour.

Humphrey is 26, black and unmarried. A shy, slender man, he is not given to emotional expressions of anger. When he speaks critically, he does so quietly.

"Sometimes you get the feeling you just want to stop this God-damned machinery," he says. "That happens all the time. You're nothing but a tool. But there's nothing you can do about it. Just keep pushing. Try to make it till 2:30. Keep on every day."

Some day Humphrey wants to get married and have children and some day he wants something better. "Right now I can't better myself," he says. "Maybe some day I can work myself up." As far as the children he may have, "I want them to be anything but a factory worker," he says. "Any kind of a job except a factory worker."

In our experience, Humphrey's discontent is not unusual. His attitudes about his job add up to a problem for his union, his company and his country. Of all the problems we have explored over the past nine days in these articles, nothing is more fundamental than the changing attitudes about work in America. They pose perhaps the greatest challenge for the unions and for American society.

Thoughtful people representing labor, management and government are aware of the complexities and difficulties of this challenge, but the general public does not seem to recognize how serious it is. Perhaps America's preoccupation with its immediate problems—the war, the state of the economy, the spreading drug culture, the struggle of minorities to achieve a more equitable place in society, the lack of faith in established institutions—has obscured even more basic questions. These are how to make work itself more attractive and meaningful, and how to improve the quality of life—on and off the job.

"FEELING OF FRUSTRATION"

"We see a potential problem of vast significance to all industrial companies," said Walter Dance, senior vice president of General Electric, at a stockholders' meeting. "This involves the slowly rising feeling of frustration, irritation and alienation of the blue-collar worker, the 'hard hats,' if you will, but not just the activists in big cities. It involves a gut feeling on their part that industrial society has left them with the dull, hard, dirty jobs—and doesn't care."

From inside organized labor came another viewpoint.

"The reality is there is a system, and as long as the job controls the man rather than the worker controlling the job, I think you're going to have difficulty," said Doug Fraser, a top official of the United Auto Workers, the second laregst union in America. "Some people could argue maybe we should change the system, that being the problem. We should have workers in groups of 20 rather than 60. Every hour they're doing the same thing, job after job. So restructure the whole work place. Put a team of 20 and build a car from the chassis up and thereby give the workers greater satisfaction and a greater sense of achievement.

"There are two problems connected with that. I don't think we actually have the floor space to have that kind of system. And I suspect if you assembled a car in that fashion the car would cost about $25,000."

Some companies—notably Chrysler—are experimenting with new ways to combat the dehumanizing monotony of the factory job.

William O'Brien, Chrysler's vice president for personnel, says in some plants his company is applying a team-concept of letting a group of workers build an entire component rather than each man doing only a small part of the whole. "We've had some favorable results from that," he says, "but we've just started this really. We have done it on a small scale."

ABSENTEEISM A SERIOUS PROBLEM

O'Brien added:

"We start with the premise that the society in our plants is just the same as society in general. I think the problems with the young workers are the same problems with the students and the young militants. I think a lot of it comes from the fact that they are better educated than we were at the comparable age and the media have informed them more about what is going on in an industrial society. They don't like the routine, repetitive jobs. And money doesn't seem to have any impact. When we were working six days a week a few years ago our worst absentee day was Saturday. And Saturday was time and a half. We think absenteeism is more prevalent among these younger people than the older. It's a serious problem."

Our experience of examining the labor unions these last three months leaves us convinced the problem is more serious than even he realizes. In these articles we have focused particularly on the attitudes of young workers—not because it is fashionable to look at the young, but because they seem to represent something significantly different.

Of a work force of some 80 million Americans, more than 22 million today are under 30. The number of these young workers is expected to increase in the years to come. Among that group we found the most striking evidence of frustration, anger, rebellion and disenchantment. The way they feel about their jobs—and their union and their company—goes far beyond their own personal satisfactions. It affects such basic questions as productivity, pride in craft, the ability to remain competitive and a willingness to accept the goals and standards set by both unions and companies.

Not surprisingly, the young workers we met were also the most afflicted by another American phenomenon. The desire for more—and more today, not tomorrow.

"WHY ARE THEY SO DISSATISFIED?"

"Why do our guys have to attain, attain and attain levels of living beyond anything dreamed of by their parents or grandparents" asked James O'Brien, the political director of the United Steelworkers of America. "Why are they so dissatisfied, unhappy, rebellious, and so on?"

There are, of course, no simple answers. More than one person pointed to what they believe is a general downgrading of the worth of the skilled worker in America. The worker, they say, is made to feel that manual labor is demeaning. He aspires to achieve what he thinks is a more respectable and rewarding white-collar professional job. In that sense, perhaps the dynamics of the American system have had unfortunate effects that no one ever intended.

"We are guilty of this," said Joe Valdastri, business agent of a Sheet Metal Workers union local in Florida, "because we have built a fat cat over the last six to eight or 10 years.

"The worker goes in over his head. He moves into a neighborhood where he has accountants, attorneys, professional and semiprofessional people living beside him. He's a little bit ashamed to be a sheet metal worker. He leaves his home in dungarees and he sees the others coming out in a white shirt and tie. And he kind of disassociates himself from his union.

"He goes to a cocktail party and he meets a journalist, an attorney, a dentist, and they say, 'What do you do?' and he says, 'Oh, I'm a sheet metal worker,' and they say, 'A sheet metal worker?' He's ashamed to be a sheet metal worker. But he's earning just as much as these people, and in a lot of cases like teachers and accountants he's making a helluva lot more. But it's the old white-collar syndrome, you know."

The result, as Valdastri says, is "we've built a middle-class snob."

UNION LEADERS SHOW CONCERN

Among union leaders, there is no lack of concern or vision about these problems. To a man, they speak of the need to be more creative and imaginative in the future.

Lane Kirkland, the No. 2 man in the AFL-CIO and most likely successor to George Meany, recalled an incident involving Sen. Edmund S. Muskie and the frustration of one worker. Muskie told Kirkland he had stopped to chat with a girl working in a shoe factory while campaigning recently. The senator asked what she did on the job. All day long, she said, all she did was put a drop of glue on the heel of a shoe and then apply patent leather. Muskie asked how she liked her work. She hated it, she replied.

"Well, of course she hated it," Kirkland said. "We have to pay more attention to the fact that people have got to do something more with their lives outside of their jobs. A man's life is becoming less and less a totally job-centered thing.

"But the job is still the secret to a guy's general happiness and attitude. If you like your work, you're happy. If you don't, you're miserable."

What complicates the situation is that both labor and management today are faced with a number of critical and complex problems—and the anti-Establishment, the I'm-out-for-my-own attitudes and the new values about the worth of work compound these difficulties. There exists among labor and management today a sobering recognition that they are all facing some new and hard realities, that America's resources and its capacity for affluence are not unlimited, that the uncontrolled appetites of big business, big labor and the rest of us consumers have led the nation into hard times.

One corporation executive, who did not want to be identified, posed the problem this way.

"THE 'PASS THROUGH' THEORY

"Big business could accommodate a lot of stupidity at a time of great prosperity," he said. "But now the mistakes we made in the past are coming back to haunt us. We came to believe during a period of boom that we could do no wrong. In the short run, we couldn't. Everybody operated on the 'pass through' theory. So what if wages went up? We could always pass it through to the consumer.

"Both big labor and big business in effect knowingly did this without too much reflection that they eventually were going to hurt 200 million people as consumers. Now let's look at the new power conglomerations in this country and the effect they've had on everyone. We've had three major strikes the last five years with enormous disruptive effects on the economy. Consider them: Ford, the nation's second largest company, 49 days in 1967; GE, the fourth largest, 101 days in 1969 and 1970, and GM, the largest, 67 days in 1970.

"The country has never had these massive kinds of confrontations which get more massive as the companies and the union grow and become more important to the economy. The same thing could happen with public employees as these unions continue to grow. The GM strike, for instance, affected many different parts of the country and many different groups of employees. Its GNP is larger than that of many countries, and the effect would be that of a general strike in a Latin American nation."

Business executive and union official alike are puzzled about what satisfactory device could replace, modify or improve the present system of collective bargaining. Aside from the transportation industry, neither big business nor big labor wants a system of mandatory arbitration. Neither side wants to place that much power in the hand of either the government or an outside arbitrator.

AFL-CIO President George Meany and I. W. Abel, president of the United Steelworkers of America, are among those who think America may have reached the point where the day of major strikes is ending. Abel also thinks the unions and management inevitably are moving closer toward accepting the idea of some kind of binding arbitration, in whatever form that may finally take.

Indeed, in talking to both labor and management officials one comes away with a feeling that they have far more in common on most issues than in conflict.

"SENSE OF SOCIAL CONSCIOUSNESS"

Again, to quote the UAW's Doug Fraser: "Management has developed a sense of social consciousness that they never had before. Even 10 years ago, the traditional position was that the problems of society were none of their concern. Well, that's changed. And that's to the good."

Neither is it unusual to hear top management express respect for the unions. "I think unions serve a necessary function," says Chrysler's William O'Brien. "They came into being because of management abuses, and I don't think a man in industry dealing with the unions could last if he's antilabor. He couldn't be at all effective."

Top labor and top management face similar problems in another respect: the increasing demands for more from the workers they represent and employ. As a distinguished Washington economist said, that situation raises another paradox. He senses structural changes in the labor movement, with weakened national leadership and stronger rank-and-file membership producing a trend without parallel in American history—high wage demands coming at a time of high unemployment.

Part of the reasons for this, he suggested, are rooted in larger changes taking place in American society. We live in a time when people at the grass roots are demanding more power and greater participation. The unions are affected by these conditions in two ways. Both the ability of workers to approve or disapprove their leaders' collective bargaining agreements and the I-want-mine-now attitude of members have weakened the ability of national union leaders to moderate wage demands and strategy.

No advanced industrial society, he went on, has been able to reconcile three fundamental areas: full employment, price stability and free institutions.

"PERMANENT INCOMES POLICY"

"You can pick any two of those and achieve them," he said, "but not all of them together. We're going to be forced, whether we like it or not, into some kind of permanent incomes policy in America. The unions haven't faced it."

The country, in fact, hasn't faced it.

At the heart of labor-management questions are fundamental disagreements about how the American economic system should function—about how the pie should be divided and how capitalism should operate. Business argues that labor has crippled the American free enterprise system by demanding and getting more than is rightfully its productive share of new wealth. Labor argues that business seeks to shift more of the total wealth away from workers' salaries and toward dividends, capital gains and property.

While they are debating those questions, other critics of the economic system are making a different kind of argument. Neither business nor labor, they say, has paid sufficient attention to other inadequacies. The system clearly isn't working perfectly if 11½ million full-time workers—one-seventh of the total workforce—are earning less than the minimum wage of $1.60 an hour.

That is not the only unanswered question involving American workers.

Business and labor leaders recognize that society must also come to grips with the enormous displacement of manpower caused by constantly changing technology and automation. Business, to be more efficient and meet increasing competition, needs to employ more advanced techniques of increasing production. But it is only natural that labor unions and their members will vigorously resist innovations which they see as displacing their jobs. Such has been the case, for instance, in the construction and newspaper industries.

In construction, the failure to resolve differences over new production techniques and business modernization in part have resulted in runaway costs. Everyone has been hurt. Faced with similar problems, many newspapers have gone out of business. Others have sought to break unions.

These are not economic questions alone. As we have reported, something needs to be done to make the assembly line production job more attractive—some process that makes work more satisfying and also increases productivity. Today, as the level of expectations of American workers continues to rise, there is an inevitable collision between rising educational attainments and rising technological changes. To put it simply, better educated workers are being asked to do simpler and less challenging work.

All these are among the dilemmas facing the country and the unions.

In the past 10 days we have reported criticisms of union leadership and union practices, union democracy and union power. But let this also be said: the unions do not have a single problem that cannot be found in virtually every other area of American life, whether politics or business or in the labor relations of The Washington Post, including the newsroom of this newspaper.

The unions, like the country, are in a period of great change and challenge from within and without. Within labor's ranks there is no shortage of ideas about what is needed to meet these challenges.

Some say the unions must revitalize themselves and recapture the sense of idealism and adventure that, supposedly, characterized the early trade union movement days. They see this occurring only after the present top leadership changes.

Some say organized labor must reduce the number of international unions down from 130 or more to 10 or 15 big unions. This, they say, will permit the unions to save energy and money and stop the bitter jurisdictional struggles among themselves. It will enable labor to concentrate on much broader aspects of trade union work in education, in organizing the unorganized, in political and legislative work that affects every American.

Some say the unions must take the lead in the next stage on the road to industrial democracy. They mean that all the unions have accomplished in the past for the American working man—better wages, better working conditions, better benefits—have not been enough. The next stage, as Irving Bluestone of the UAW envisions it, "is going to move in the direction that society is moving. And that is more and more people are insisting to be part and parcel of the decision-making process which affects their welfare."

He thinks that the next step inevitably will come in the desire of workers to participate in the employer-employee relationships that determine the nature and conditions of their jobs.

"WE STILL HAVE POVERTY"

Some say unions must also guarantee more participation of their rank-and-file in the decision-making of their own unions. But they say the larger question involves giving citizens a greater voice in shaping the massive economic forces that affect their lives, whether unions or corporations.

"If you want to talk about the future of the labor movement, you've got to talk about the future of America," said Joseph Beirne, president of the Communications Workers of America. "The labor movement is but an instrument in our society. Every society may not need a labor movement. In a totalitarian one they don't have it. But in a society like ours, the labor movement is the only private organization in American life that's dedicated to the best interests of all the American people. And we still have a lop-sided society.

"We still have poverty. We still have discrimination. We still have inequality. We still have dirty, filthy cities. And we still have lousy services given to the people of this country. So you start making changes as best you can."

Beirne was expressing the best sentiments of organized labor's historic tradition—to improve American society. The early labor movement, as the present one, was marred by imperfections, by excesses and by positions over which honest men can disagree in a democracy. The American Federation of Labor of the 1890s had narrow and selfish interests, as do most American institutions. But it also had idealism.

"We want more schoolhouses and less jails, more books and less arsenals, more learning and less vice, more constant work and less crime, more leisure and less greed, more justice and less revenge," said Samuel Gompers, the first AFL president, nearly 80 years ago.

His kind of vision lives on in the labor movement today. Jerry Wurf, president of the American Federation of State, County and Municipal Workers, spelled out the imperfections and promises of organized labor.

As we have already said, Wurf's union is a model of vitality and democracy. Membership in Wurf's union is voluntary; you do not have to pay dues or receive the union's permission to work. It is also a union that works incessantly at communicating with its members and in espousing causes that many other unions shun.

"The sorriest thing that ever happened to some unions was when they started looking at their balance sheets," Wurf says, "when they began accumulating large amounts of dollars. Some unions can accumulate members and dollars, some unions can accumulate members, dollars and good conditions of employment. Some unions can indulge in pure trade union responsibility, which means narrow economic needs for its members. And some unions really understand the role of a trade union as an institution in a society."

Then Wurf said:

"The litmus test of a free society is a vital labor movement. Sorry as our labor movement has been at times in its history, I think you'll find that the vigor of a society is closely related to the vigor of the trade union movement.

"And I would say to you that if you have a dull, meaningless, unconcerned labor movement, you'll find there's a very important lack in the society in its narrowest and broadest sense."

The American labor movement is neither dull nor meaningless. Its problems are serious, its potential great. It can and should be better. Its future is uncertain.

In all of its strengths and weaknesses, it is a reflection of the country itself.

BUSING, THE CONSTITUTIONAL CRISIS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. RARICK. Mr. Speaker, few Americans realize that the key issue in the busing question is the source of authority in our constitutional structure.

The constitutional crisis threatened by the busing issue is who governs America—the Congress which expresses the deliberate sense of the people, or the judges presently sitting on the Federal bench.

The Constitution is quite clear on this in the supremacy clause:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land: and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Furthermore, the Constitution clearly establishes the power of the Congress over appellate jurisdiction of the Supreme Court by giving the representatives of the people the power to determine what class of cases the Supreme Court can and cannot hear. In other words, the Congress has the power to give or revoke or regulate the appellate jurisdiction of the Supreme Court.

Professor Jeffery Hart of Dartmouth points out quite clearly that:

> Too many heavy investments have been made in government by judicial fiat.

Thus, as Professor Hart points out:

> The "deliberate sense" of the people has been clearly outraged.

The true answer to the busing issue and other problems of Federal intervention into the lives of our people lies in the restriction of the appellate jurisdiction of the Supreme Court. Such an act would restore supremacy to the true representatives of the people—the Congress—and would enable us to return to a government representing the "deliberate sense of the people."

The bill H.R. 390, reintroduced in 1971, would accomplish this purpose by requiring the concurrence of the full membership of the Court to decide that any provision of a statute of the United States, a State statute, or a State constitution, is invalid because it is in violation of any provision of the Constitution of the United States, or reverse, alter, or modify any decision or rule of law made by the Court.

This country's greatness lies in the fact that ours is a system of government in which change is possible under the law, yet our system is so constructed with its checks and balances as to protect itself from the destructive whims of the people as well as political expediency by those temporarily entrusted with power. In other words, our constitutional Republic insists that any change be made through a reasoned, deliberate process so that the people truly realize what is happening in their society and can, therefore, exercise some degree of control.

This is the constitutional crisis facing America. The Supreme Court, assuming the role of the great arbiter of American life, has become but a doting mother whose spoiled child gets exactly what he thinks he wants, whether it is good for him or not. My bill, H.R. 390, would restore sanity and reason to the appellate role of the Supreme Court and obviate the constitutional crisis now threatening America.

I insert a copy of my bill and related newsclippings to follow my remarks:

[From the Manchester Union Leader, May 2, 1972]

COURTS AGAINST PEOPLE

Professor Jeffrey Hart of Dartmouth, one of the most profound thinkers among the national columnists of this day, points out that when President Nixon asked Congress to take action against the senseless busing of black and white students out of their neighborhoods into distant schools just for the sake of achieving some sort of racial balance, he put the Congress, expressing the will of the people, in direct conflict with the courts. Congress has the power, given by the U.S. Constitution, to actually determine what class of cases the Supreme Court can hear and what it cannot hear. The exact words of the Constitution, Article III, are:

"In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all other cases before mentioned (the list appears in the preceding section), the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

For some time now the federal courts, including the Supreme Court, have been operating as if they were under divine instruction as to what is best for the rest of the nation and with no regard to the "deliberate sense" of the people. The arrogance of the federal judiciary has become SO overbearing that at least, on the specific issue of busing, there is a revolt on the part of the people and the determination that this type of government by unelected judges must come to an end.

As Professor Hart points out in his brilliant column at the top of our back page today, Congress and the courts have been behaving as if a tacit agreement existed not to have a head-on collision. Professor Hart says they may find a way this time to avoid it, but he doubts it. As he says, and as this newspaper sees it, the "deliberate sense" of the people has been outraged in this busing situation.

This newspaper feels such a confrontation would be a healthy situation—that it is high time some members of the federal judiciary be made to realize they are NOT God Almighty's anointed representatives on this earth, but are very much subject to restraint by the "deliberate sense" of the people.

William Loeb,
Publisher.

[From The Manchester Union Leader, May 2, 1972]

Confrontation of Congress and Supreme Court on Constitutional Powers Looms—Busing Question: Who Governs America?

(By Jeffrey Hart)

Wherever you stand on the merits of busing, the issue as it is now shaping up is of the most intense interest to the political philosopher, for what is in question, finally, is the source of authority in our constitutional structure.

At present, there are two theories of government virtually at war in the United States. According to the first theory, we are governed by the "deliberate sense" of the people. To be sure, the "sense" must indeed be "deliberate." A carefully designed system of buffers and filters guards against major change at the hands of temporary emotional majorities.

We have a separation of powers, the Presidential veto, judicial review, the filibuster, and so on. Nevertheless, according to the first theory, we are governed, finally, by the deliberate sense of the people as reflected in Congress and the Presidency.

According to the second theory, on the other hand, we are governed, finally, by the courts, and, ultimately, by the Supreme Court. In this theory, the authority of the courts is grounded on the "all men are created equal" clause of the Declaration of Independence, the Bill of Rights—especially the First Amendment—and the "equal protection clause of the Fourteenth Amendment.

At present, according to the second theory of government, these texts are to be understood as enjoining the government, state and Federal, to proceed as expeditiously as possible to the establishment of general equality. This, indeed, is the major priority of government.

Profound issues are at stake here, indeed the ultimate issue of politics: Who governs?

Whether in fact those texts really do mean that the American system is dedicated to the achievement of equality is a fascinating argument. It has been demonstrated to my satisfaction that they do not. But, at this point, it scarcely matters—for the issue has been joined with President Nixon's recommendation that the Legislative branch take on the courts.

Is our system one of judicial supremacy? The Constitution gives a clear answer. The pertinent language is in Article III, which gives Congress the power to remove a wide range of matters from the purview of the Supreme Court: "In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all other cases before mentioned (the list appears in the preceding section), the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

FINAL AUTHORITY

This is unequivocal. Congress can make "exceptions" to the "appellate jurisdiction" of the Court. It is clear that the framers of the Constitution meant to lodge final authority in the Congress.

The fact that head-on collision between Congress and the courts has been infrequent is beside the point. Historically, Congress and the courts have behaved as if a tacit agreement existed not to have a head-on collision. This prudential restraint has even ben given mythic express: in the assertion that we have three separate and equal branches of government.

It may be that Congress and the courts will, as often in the past, find a way to shy away from the present confrontation. But it does not look that way. Too many heavy investments have been made in government by judicial fiat. And the "deliberate sense" of the people has clearly been outraged.

H.R. 390

A bill to impose certain restrictions upon the appellate jurisdiction of the Supreme Court

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 81 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1259. Appellate jurisdiction; limitations

"The Supreme Court shall not have appellate jurisdiction to—

"(1) decide that any provision of a statute of the United States, a State statute, or a State constitution, is invalid because it is in violation of any provision of the Constitution of the United States, or

"(2) reverse, alter, or modify any decision or rule of law made by the Court,

except upon the concurrence of the full membership of the Court.".

(b) The section analysis at the beginning of chapter 81 of title 28, United States Code, is amended by adding at the end the following new item:

"1259. Appellate jurisdiction; limitation.".

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

POLISH CONSTITUTION DAY ONCE AGAIN SAD

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mrs. GRASSO. Mr. Speaker, May 3 is the national holiday of free Poland—the 181st anniversary of the Polish Constitution of 1791. Unfortunately, Polish Constitution Day will once again be a sad and silent holiday. Poland is not free and the principles contained within the Constitution are not recognized by the rulers of that proud people.

During the 18th century, Poland was the pawn in the political games of its powerful neighbors. Cognizant of their weakness, the Poles sought an opportunity to exercise their rights as a people and a state. Finally, in early 1791, circumstances throughout Europe allowed them the chance to again grasp the reins controlling their destiny.

Influenced by the philosophies which contributed to the American and French Revolutions, members of the Polish Diet overcame their differences and drafted a document of monumental importance on May 3. People throughout the land cheered the dawning of a new age. The reforms of this document brilliantly shone through the darkness of political tyranny in Eastern Europe. Poland had inaugurated a bloodless revolution which eliminated the vestiges of a system greatly responsible for the political weakness of the country.

Unfortunately for Poland and the people of the world, her neighbors had no desire to allow the seed of constitutional monarchy the opportunity to bear fruit on their borders. They invaded Poland, and even the gallant struggles of men such as Prince Joseph Poniatowski and General Thaddeus Kosciuszko could not halt the relentless drive of the invaders. The Constitution was overthrown, and within 4 years, Poland disappeared from the map of Europe.

Despite the merciless demise of the Constitution, the Poles remained steadfast in their will. The spirit of liberty and national independence which inspired the Constitution remained their treasured hope. In succeeding generations, wherever they migrated, Poles held dear the basic principles behind the Constitution of 1791.

As the descendants of a people who saw their freedom crushed under the heels of despotism, Polish-Americans have jealously guarded their freedom and have bravely fought to preserve it. Their boundless energy, industry, love of family, and devotion to duty are inspiration to those who still struggle for the right to determine their own fate.

The Polish national anthem begins: "Poland is not lost forever . . ." The principles of the Polish Constitution will not be lost so long as men strive for liberty anywhere in the world.

INCREASE OF FOREIGN FISHING OFF U.S. COASTS

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BEGICH. Mr. Speaker, many Alaskan villages and communities are dependent to an exceptional degree upon the economic benefits directly or indirectly derived from the fishing industry. Fishing provides an estimated 30,000 seasonal jobs to Alaskans, most of whom are Natives, and the Alaskan fishery catch of 1970 ranked first in value and fourth in volume among the 50 States.

I have recently received the March 1972 Report on Foreign Fishing off U.S. Coasts published by the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce. According to that report, the number of foreign fishing and fishery support vessels sighted off the U.S. coasts in March 1972 increased for the fifth consecutive month.

Since the Alaskan coastline comprises 53 percent of the total U.S. shoreline, it is not surprising the NOAA notes that most of the increase was due to increased Japanese fishing effort off Alaska, where a total of 330 Soviet and Japanese vessels now fish.

For too many years, fishermen in Alaska have suffered severe economic losses because of inadequate protection. I have continuously urged that three steps must be taken in order to protect our ocean resources and the economic stability of the State of Alaska.

First, the capabilities of the Coast Guard in Alaska must be increased to enable it to carry out the mission of protecting our marine resources. The Coast Guard does an excellent job of guarding our waters and resources, even with its very limited equipment and manpower. The tremendous task the Coast Guard faces in patroling Alaskan waters and in particular the Bering Sea is demonstrated by the continual growth of the numbers of foreign fishing vessels encroaching on Alaskan territorial waters. Manpower must be increased in Kodiak and other areas of southeast Alaska.

Second, the establishment of a helicopter detachment in Cordova is vitally needed. Due to the rapidly increasing fishing activity in the Prince William Sound, such a detachment would significantly facilitate the protection of Alaskan fishing rights.

Third, the establishment of a Coast Guard station in Cordova, Alaska, is very badly needed for the adequate conservation of fishing resources.

As you can see, the encroachment of foreign fishing vessels in Alaskan waters is one of the most important problems facing the State of Alaska. Increased protection of the Alaskan coastline is absolutely essential to the growth and stability of Alaska.

I have brought the number of fishing violations off the coast of Alaska to the attention of my colleagues before, and, on a monthly basis, I will continue to keep the Members of Congress abreast of fishing activities in Alaskan waters.

I now include in the RECORD the Department of Commerce's Report on Foreign Fishing off U.S. Coasts, and I believe it deserves your careful consideration:

REPORT ON FOREIGN FISHING OFF U.S. COASTS, MARCH 1972

(Maps mentioned are not printed in RECORD)

The number of foreign fishing and fishery support vessels sighted off the U.S. coasts in March 1972 increased for the fifth consecutive month to over 650, or 100 vessels more than in February 1972. Most of the increase was due to increased Japanese fishing effort off Alaska, where a total of 330 Soviet and Japanese vessels now fish. About 300 foreign vessels fished off the Atlantic coast. Foreign fishing off the Pacific Northwest and California was still negligible; a dozen Cuban vessels fished off Florida in the Gulf of Mexico. Table 1 shows the composition of foreign fleets by country and type of vessel.

The largest concentration of foreign vessels in March was off Alaska where the Japanese increased their effort to over 170 vessels (from over 80 vessels in February 1972), while the Soviet Union's fleet decreased slightly in number (from 170 in February to 160 vessels in March). The Japanese abandoned herring fishing in the central Bering Sea in March and began fishing for king and tanner crabs 32 vessels on the U.S. Continental Shelf in the eastern Bering Sea. Under the bilateral agreement concluded with the United States in December 1970, Japan will be permitted to harvest 37,500 cases (½-lb. 48's) of king crab and 14.6 million tanner crab (with 10 percent allowance) in 1972. The Japanese also greatly increased their effort for Alaska pollock (from 9 to 81 vessels). Nine Japanese longliners fished for sablefish (blackcod) in the Gulf. Herring was sought only by the Soviet fishermen (62 vessels); however, their main target was Bering Sea flounders. Shrimp was caught by the Soviets only (19 vessels) in the Gulf of Alaska. Small fisheries for Pacific ocean perch and various groundfish species were also conducted by both countries.

Off the U.S. Atlantic coast, the Soviet Union had by far the largest number of vessels (190), followed by Poland and East Germany (63 and 27 vessels, respectively). All were fishing primarily for herring and mackerel. The fisheries of other European countries (Bulgaria, Romania, Spain, Norway) and Japan were minor. During the month, the Soviets reduced their effort in the Mid-Atlantic and concentrated their fleet on Georges Bank. Other countries, especially the Poles and East Germans, continued their fisheries in the Mid-Atlantic Bight, mostly for sea herring and mackerel. The Japanese fished for squid and butterfish, while the Norwegians longlined for sharks.

Foreign fishing activity off New England and in the Mid-Atlantic Bight showed a significant increase in March 1972 (20 percent above sightings made in March 1971). Many foreign vessels continued to fish in the "no-fishing zone" in the Mid-Atlantic established under bilateral agreements concluded with the Soviet Union and Poland to protect spawning concentrations of hakes between January and mid-April. The Soviets did not violate the "no-fishing zone". Several Polish vessels, however, were sighted fishing there. The Department of State made a strong protest to the Polish Government and temporarily suspended the entry of Polish vessels into U.S. ports. The entry of Polish fishing vessels into certain U.S. ports is permitted under the 1971 U.S.-Polish bilateral fisheries agreement, in effect until June 30, 1972.

FISHING VESSEL SIGHTINGS (EXCLUDING DUPLICATE SIGHTINGS); BY TYPE OF VESSEL AND COUNTRY

Fishing grounds	Stern trawlers [1]	Medium trawlers [2]	Other fishing vessels	Process and transport vessels	Support vessels [3]	Research vessels [4]	Total
OFF PACIFIC COASTS							
Off Alaska:							
Japan	31	115	9	17	2		174
Soviet Union	29	99		26	6		160
Republic of Korea							
Total	60	214	9	43	8		334
Off Pacific Northwest:							
Japan			[5] 1				1
Soviet Union							
Other							
Total			1				1
Off California:							
Soviet Union							
Japan							
Total							
IN GULF OF MEXICO							
Mexican							
Cuban			[6] 12				12
Soviet							
Japanese							
Other							
Total			12				12

Footnotes at end of table.

Fishing grounds	Stern trawlers [1]	Medium trawlers [2]	Other fishing vessels	Process and transport vessels	Support vessels [3]	Research vessels [4]	Total
OFF ATLANTIC COASTS							
Soviet Union	39	136		10	3	2	190
Poland	23	37		3			63
East Germany	10	15		2			27
Federal Republic of Germany							
Bulgaria	8						8
Romania	1						1
Spain	2	6					8
Japan	7						7
Italy							
Norway			[5] 2				2
Canada	(7)	(7)	(7)	(7)	(7)	(7)	(7)
Other							
Total	90	194	2	15	3	2	306
Grand total	150	408	24	58	11	2	653

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[1] Includes all classes of stern factory and stern freezer trawlers.

[2] Includes all classes of medium size trawlers (nonrefrigerated, refrigerated, and freezer trawlers).

[3] Includes fuel and water carriers, tugs, cargo vessels, etc.

[4] Includes exploratory, research, and enforcement (E) vessels.

[5] Longliners.

[6] Vessels using handline gear.

[7] Not available.

OFF ALASKA

Soviet: Approximately 160 Soviet vessels were engaged in fisheries off Alaska in March. This was a decrease of about 15 vessels from the previous month, but was about the same number of vessels that operated in March 1971.

The trawl fishery for groundfish along the Continental Shelf edge in the eastern Bering Sea, north of the Fox Islands, was continued by 6 medium trawlers until mid-month when the fishery was terminated. It is believed that the trawlers moved into the central Bering Sea flounder and pollock fisheries (see Map 1).

The Soviet shrimp fleet in the Gulf of Alaska remained at 17 medium trawlers, joined by a factoryship late in the month. The factoryship is processing the raw shrimp delivered by the trawlers. Before its arrival, the trawlers were freezing the shrimp and periodically delivering their catches to a refrigerated transport vessel. Late in the month, one of the trawlers began exploratory operations east of Kodiak Island on Portlock Bank; the remainder of the fleet, however, remained east of the Shumagin Islands in the western Gulf of Alaska. The whale killer/patrol vessel continues to remain with the fleet on enforcement duty.

Soviet fishing in the northern central Bering Sea continued throughout the month with emphasis on herring and pollock. By month's end, the fleet was composed of 10 stern trawlers, 37 medium trawlers, and 15 support vessels. The center of fishing continues to be on the Continental Shelf edge, southwest of St. Matthew Island.

The eastern Bering Sea flounder fleet increased from 70 to 77 vessels. Included in the fleet were 17 stern trawlers, 45 medium trawlers, and 15 support vessels. The fishery was centered on the Continental Shelf edge from the Pribilof Islands southward to Unimak Island. Many vessels (about one-half) in this fleet were fishing Alaska pollock.

The Soviet fishery for ocean perch continued throughout the month with 2 stern traw trawlers operating on Albatross Bank, south of Kodiak Island, in the central Gulf of Alaska.

Japanese: Approximately 174 Japanese vessels were engaged in fisheries off Alaska in March. This was an increase of about 90 vessels that were in this area in March 1971.

The number of independent stern trawlers fishing for ocean perch in the Gulf of Alaska decreased from 8 to 6 early in the month and remained at that level throughout the remainder of March, supported by 1 refrigerated transport vessel. The vessels were scattered in the eastern and central Gulf ranging from off Kodiak Island eastward to southeastern Alaska (see Map 1).

Early in March, 4 Japanese factoryships, accompanied by a total of 77 trawlers, arrived in the eastern Bering Sea and commenced fishing for pollock along the Continental Shelf edge, northwest of Unimak Island. This brought the total of factoryship fleets fishing for pollock to 5, but by mid-month 1 fleet that had been fishing throughout the winter months departed for Japan. Each fleet is supported by 1 refrigerated transport vessel.

The Japanese winter flounder fishery (2 fleets with 17 trawlers) on the Continental Shelf edge in the eastern Bering Sea was terminated during the month. One fleet departed early in March, the other by month's end.

The number of independent stern trawlers fishing for groundfish along the Continental Shelf edge in the Bering Sea increased from 20 to 25. This fleet was supported by 2 refrigerated transport vessels and fished between Unimak Pass and Pribilof Islands.

The Japanese herring fishery in the central Bering Sea was abandoned mid-month. The stern trawlers fishing herring shifted to groundfish trawling along the Continental Shelf in the eastern Bering Sea.

The annual Japanese king and tanner crab fishery on the Continental Shelf in the eastern Bering Sea began early in the month with the arrival of 2 factoryships accompanied by a total of 30 crab pot and tangle net vessels. Initial reports indicate the fleet is fishing only crab pots at this time and is taking principally tanner crab, and that the use of tangle nets for king crab will be limited to 2 one-month periods later in the season.

The number of longliners fishing for sablefish in the Gulf of Alaska varied between 8 and 9 throughout the month. The fishery remained centered in the eastern Gulf of Alaska, with 7 vessels fishing there, 2 fishing off the Kakutat grounds, and (at month's end) one fishing near the Shumagin Islands.

Japanese vessels seized for violation of U.S. contiguous fishery zone

On April 3, a joint U.S. Coast Guard-National Marine Fisheries Service (NMFS) aerial fisheries patrol sighted, 9.1 miles south of Sitkalidak Island, the Japanese stern trawler *Ryuyo Maru*, moored alongside the cargo vessel *Kohoku Maru No. 31*, conducting fishery support operations in violation of U.S. law. The aircraft advised the vessels, via message block, to remain there and await the arrival of a Coast Guard cutter. The CGC *Mellon* with an NMFS agent aboard was dispatched from Kodiak and, upon arrival approximately 4½ hours later, seized both vessels. The ships were escorted to Kodiak without incident. The District Court at Anchorage assessed fines totaling $180,000. In January 1972, two Soviet vessels were seized for a similar violation which resulted in total penalties of $250,000.

OFF THE PACIFIC NORTHWEST

Japanese: One Japanese longliner was fishing the entire month near the La Perouse Bank. By comparison, 2 longliners were observed during the month of March in 1971 and 5 in 1970.

Soviet: No Soviet fishing was observed in March of 1972 or 1971.

OFF CALIFORNIA

Soviet: No fishing vessels were observed during March. One Soviet research vessel from the Pacific Institute of Fisheries and Oceanography (TINRO) received permission to enter U.S. waters at Drake's Bay, north of San Francisco, to exchange scientists with a research vessel of the National Marine Fisheries Service. Both vessels then jointly conducted studies of spawning Pacific hake off the California coast. This research project is provided by the U.S.-U.S.S.R. Pacific fisheries agreement. The joint cruise lasted from March 3 to March 15; two weeks later the Soviet vessel (the *Alba*) was sighted off northern California conducting her own research.

OFF SOUTHERN U.S. COASTS

Twelve Cuban fishing vessels were sighted fishing off the southern U.S. coast in March. A number of Soviet fishing vessels transited the Florida Straits.

OFF THE WEST COAST OF FLORIDA

Cuban: Ten Cuban *Lambda* class vessels and two *Sondero* class vessels were observed about 60 miles west of Cape Romano (see Map 2). Approximately 70 motor dories carried by the *Lambda* vessels were handlining and bottom longlining for snappers, groupers, and possibly king mackerel. The *Sondero* class vessels are used to transport catches back to Cuba, allowing the *Lambda* vessels in the flotilla to remain on the fishing grounds for longer periods.

IN NORTHWEST ATLANTIC

A total of 306 individual foreign fishing and support vessels from the Soviet Union, Poland, East Germany, Bulgaria, Romania, Japan, Spain, and Norway was sighted off the New England and Middle Atlantic coasts during March 1972.

The number of Soviet vessels sighted was the largest; weekly concentrations were estimated to average between 140 and 150 vessels. Of the 190 individual vessels recorded, 39 were freezer and factory stern trawlers, 136 medium side trawlers, 3 factory base ships, 7 refrigerated fish carriers and supply vessels, 2 tankers, 1 tug, 1 scientific research vessel, and 1 fisheries enforcement vessel.

In addition to the Soviet vessels, 63 Polish, 27 East German, 8 Bulgarian, 1 Romanian, 8 Spanish, 7 Japanese, and 2 Norwegian vessels were sighted in March.

OFF SOUTHERN NEW ENGLAND AND GEORGES BANK

Soviet: Early in March, most Soviet vessels shifted unexpectedly from the mid-Atlantic northward to waters off Southern New England and eventually along the eastern slope of Georges Bank and the Gulf of Maine (see Maps 3 and 4).

During the first 3 weeks of the month, the heaviest Soviet fishing (75 to 80 vessels) occurred along the 50 and 100 fathom curves 55–75 miles south of Block and Nantucket Islands off Rhode Island. The fleet was within the ICNAF Red Hake-Silver Hake Management Area (see Map 3). Moderate to heavy catches of fish were identified as red and silver hake, herring and mackerel. Most of the stern trawlers were using heavy bottom trawl gear and the bulk of their catch was seemingly hakes. The Soviet side trawlers, on the other hand, using the standard herring trawl, were seen catching herring, mackerel, and small amounts of red and silver hake.

By month's end, about 60 vessels moved slightly eastward to the southwest part of Georges Bank (see Map 3). Moderate and at times heavy catches were identified as red hake, silver hake, and herring.

At the same time and directly to the north, the Soviets conducted a substantial ocean perch (redfish) fishery with some 50 medium side trawlers (SRTs), 1 factory base ship, and several stern trawlers between 90–115 miles east northeast of Cape Cod (see Map 3). This area, known as the Fundian Channel, is a canal 100 to 190 fathom deep separating Georges and Browns Banks. Judging from the heavy deck loads on board most trawlers, including the factory base ship, these vessels were making excellent catches. (A similar fishery by 40 to 50 Soviet side trawlers occurred in May 1971 in the vicinity of Georges Basin, slightly south of the present Soviet fishery (see Map 3). Heavy ocean perch catches were observed also in 1971).

Spanish: A total of 8 vessels (2 stern trawlers and 6 side trawlers) was sighted in March. Heaviest fishing by 5–6 vessels occurred 65–75 miles south of Martha's Vineyard and Nantucket Island (within the Red Hake-Silver Hake Management Area). Several vessels also fished intermittently in the Mid-Atlantic "no fishing zone."[1] (By agreement concluded with the United States, Soviet and Polish vessels are prohibited from fishing in this zone from January 1 through April 15).

Romanian: A single stern trawler was sighted at month's end fishing herring and mackerel 80 miles south of Martha's Vineyard.

Off Mid-Atlantic

Soviet: The Soviet fishing fleet withdrew from the Mid-Atlantic Bight early in the month (nearly two months ahead of their seasonal withdrawal in previous years). Poor catches are believed to be the main reason for this premature switch.

From 35 to 40 vessels remaining in the Mid-Atlantic area during the first half of the month fished along the northern shores of New Jersey and off Long Island (see Map 4). From mid-month, only a few scattered vessels were seen. Limited catches were identified as hakes and some herring.

Polish: A total of 63 vessels (23 stern trawlers, 37 large side trawlers, 1 factory base ship, and 2 transports) was sighted. The Polish fleets moved constantly between New York and North Carolina in search of fish. From 15 to 20 side trawlers fished consistently 15–30 miles off the North Carolina and Virginia coasts the entire month. Moderate and, at times, heavy catches of fish were identified as herring and mackerel. To the north, a larger fleet of 25 and 30 vessels was sighted at various points off Long Island and New Jersey (see Map 4). Moderate to heavy catches were mostly herring and mackerel. At month's end about 20 vessels (mostly stern trawlers) began fishing 75–80 miles south of Block Island and Martha's Vineyard. Heavy catches appeared to be mostly mackerel.

East German: A total of 27 vessels (10 stern trawlers, 15 side trawlers, and 2 refrigerated fish carriers) was sighted. This fleet was dispersed over two distinct areas: 15 side trawlers and 1 refrigerated fish transport fished throughout the month 15–30 miles off the North Carolina and Virginia coasts. Consistently good to excellent catches were identified as herring and mackerel. To the north an average of 10 East German stern trawlers fished the entire month within the Mid-Atlantic "no fishing zone" (see Map 4). Moderate catches were identified occasionally as herring.

Bulgarian: A total of 8 stern trawlers was sighted. These vessels also fished consistently in the "no fishing zone" with the East German fleet. Moderate catches observed were mostly herring and some mackerel.

Japanese: A total of 7 freezer stern trawlers was sighted fishing mostly the Mid-Atlantic "no fishing zone." Catches were reported in Japanese trade periodicals to consist mostly of squid and butterfish.

Norwegian: Late in the month, a single Norwegian longliner was sighted about 80 miles southeast of Cape May, New Jersey (within the "no fishing zone"). No catch was visible on deck. (At least 2 Norwegian longliners will reportedly fish for porbeagle sharks starting off Virginia in March and working their way north to waters off Cape Cod by early June).

US/USSR–US/Polish Mid-Atlantic Fisheries Agreements

On March 9, eight Polish stern trawlers were sighted fishing inside the Mid-Atlantic "no fishing zone," 75–80 miles east of Cape May (New Jersey). Deck loads of fish were covered with ice preventing species identification. On March 31, one Polish stern trawler (repeater from March 9 sighting) was again fishing in the "no fishing zone." The Polish government was informed of these violations.

No Soviet vessels have been observed fishing in the "no fishing zone" in 1972.

NOTE.—During surveillance patrols the total number of vessels sighted is recorded; in addition, each vessel is identified as to type. At the end of the month all sighted vessels are counted but once, i.e., if a vessel was sighted more than once during the month it will be counted only as one vessel, thus excluding duplicate sightings. Since vessels continuously arrive at and depart from fishing areas, the total number of identified vessels for the month will always be larger than the actual size of the fishing fleets observed during surveillance patrols.

WILBUR WRIGHT COLLEGE ON VIETNAM

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. ANNUNZIO. Mr. Speaker, the student governing body of Wilbur Wright College, 3400 North Austin Avenue, Chicago, Ill., has contacted me deploring the administration's decision to resume the bombing of Hanoi and Haiphong.

In accordance with the request of Patrick M. Barton, president of the student governing body of Wilbur Wright College, I would like to read into the CONGRESSIONAL RECORD at this point the letter to me conveying the views of the Wilbur Wright College students regarding escalation of military action in Vietnam. The letter follows:

STUDENT GOVERNING BODY,
WILBUR WRIGHT COLLEGE,
Chicago, Ill., April 28, 1972.

Hon. FRANK ANNUNZIO,
Capitol Hill,
Washington, D.C.

DEAR SIR: We the Student Governing Body of Wilbur Wright College deplore the administration's decision to resume the bombing of Hanoi and Haiphong and demand the immediate cessation of the military action in Indochina and the immediate withdrawal of U.S. land and air forces from South Viet Nam, Laos, Cambodia, and Thailand.

We request that this letter be read into the Congressional Record.

Yours truly,

PATRICK M. BARTON,
President.

REFUGEE REHABILITATION

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. HALPERN. Mr. Speaker, today I would like to focus on a praiseworthy activity of our State Department, about which the American public has far too little knowledge—namely, our refugee rehabilitation programs.

As every Member in this Chamber is well aware, the constant misfortunes of war, epidemic disease, and natural catastrophe force millions of people annually to rearrange their lives and to relocate in foreign lands.

I wish to insert into the RECORD a most informative speech recently delivered by Frank L. Kellogg, special assistant to the Secretary of State for Refugee and Migration Affairs. With his accustomed directness and innate feel for quality analysis, the enormously capable Mr. Kellogg has succeeded in outlining the most salient aspects of the critical refugee problems with which our State Department is dealing.

This excellent address, Mr. Speaker, was delivered before the American Immigration and Citizenship Conference on April 28 in New York. I am sure its contents will prove most enlightening:

REMARKS OF FRANK L. KELLOGG

As I have often said, my long association with the American Immigration and Citizenship Conference has been among the rewarding experiences of my life. It was just a year ago Sunday, though, that I first appeared before you in the role of Government official.

The months since then have been eventful. There have been elements of high drama in refugee and migration affairs. And, I think there has been progress in our country's responses to the rights and the needs of people caught up in the conflicts and rivalries which continue to plague mankind.

Today, I want to share with you some of the highlights of the year—and briefly to discuss some of the milestones we have passed in Washington.

First, the drama:

To my best recollection, when we met last April, I made only a passing reference to what was beginning to develop in South Asia. The situation was young then. About 150,000 persons had fled into India from violence-torn East Pakistan.

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[1] Off Long Island and New Jersey.

We were concerned, of course. But no one then anticipated the magnitude of the disaster which had begun to develop. Even now, it challenges comprehension. Before it was over, nearly 10 million men, women and children were huddled in more than a thousand crude camps, dependent on strangers for the barest necessities of life. I visited some of the more accessible camps in India. I moved among incredible crowds of refugees. And yet, those I saw were only the smallest fraction of the total number.

In the annals of refugee affairs, 1971 in the subcontinent made tragic history.

But the world's humanitarian response made history as well.

India's appeal to the United Nations triggered what was to become the largest single international emergency relief effort on record. It involved dozens of governments, and scores of voluntary agencies in many nations. It supplied veritable mountains of materials, foods measured in the thousands of tons, medicines in the millions of doses.

Logistical resources were primitive. Transport was difficult. Bottlenecks abounded. And yet, somehow, supplies were delivered to the camps on time. Shelter was provided. Epidemics were averted. And there was no famine.

But you know the basic story. I will take time only to cite some of the innovations of this vast relief operation. And to call attention to some outstanding performances.

Within the United Nations, there was no precedent for dealing with a disaster of this size. Secretary General U Thant found a solution. He established a *focal point* for international assistance, under direction of the U.N. High Commissioner for Refugees. The High Commissioner, Prince Sadruddin Aga Khan, lost no time in organizing a staff whose subsequent performance I can only describe as superb. The UNHCR coordinated rather than directed. He mediated. He cut red tape. He saw to it that the job was done.

India's response was exemplary. From the beginning, the Government of India insisted that its own employees—and personnel of its own voluntary agencies—would handle all operations in the camps and centers, and the immense and complicated logistics as well. Many hundreds of paid and unpaid workers took part. Necessarily, they were organized in haste. Necessarily, there were severe problems. Here and there, there were shortcomings.

But overall, the quality of Indian management, the efficiency of ration and registration systems, the warm attitudes toward the refugees of those in charge at the camps, impressed all observers including me.

In Washington, the Administration's reaction combined humanitarian concern with a no-nonsense approach to U.S. participation.

U.S. Government assistance, it was determined, would be routed through the United Nations rather than bilaterally. The President appointed an Interagency Committee to coordinate support from throughout the Government. I served as chairman. The White House, State, Defense, Agriculture and A.I.D. all were represented. We had guidance and sound advice from a special group—also appointed by the White House—called the President's Advisory Panel on South Asian Relief. The panel's six distinguished members include our chairman today, Max Rabb.

The U.S. Government was the first and largest donor to the U.N. program. Our food fed millions of refugees. Our airlifts delivered emergency cholera vaccines. Our high-protein diet supplements saved thousands of children from death or deformity by malnutrition. Our polyethylene—used for the first time as mass emergency shelter—fended off the monsoon rains. Our blankets filled dozens of cargo jets to Calcutta, and an entire steamship as well.

The international community joined in with unparalleled generosity. Seventy nations made contributions. All told—apart from India itself—the world's governments gave $245 million in cash and kind. Our share was about 37 per cent.

But governments were not alone. National and international voluntary agencies gave an additional $69 million. American organizatons alone raised $11 million. All over our country, concerned citizens conducted campaigns on behalf of the refugees.

In retrospect and in balance, I think this was a very successful relief operation. I use the word *was* because, as you know, with establishment of Bangladesh, the refugees have gone home. Their return migration, now virtually complete, will go down in history as an absolutely remarkable mass movement of people. Nearly 10 million human beings, many making long journeys, returned in only about three months, by every conceivable means of transportation including just walking.

I will leave the story here. For the issue now is refugee care no longer. It is rehabilitation within Bangladesh, with different U.S. and U.N. agencies involved.

That was the big drama of the refugee year. And now, another mass assistance program—although not nearly so large—looms on the horizon.

After years of civil strife in the Southern Sudan, an accord has just been reached between leaders of the government and the dissidents. It is hoped that the agreement will bring voluntary return to their homes of perhaps 200,000 people who have fled to neighboring nations—and reportedly as many as 500,000 more displaced within their own country.

The Government of the Sudan has made an appeal for resettlement help. The United Nations is assessing the situation, and the needs. So it is possible that the U.N. will be asking governments and voluntary agencies for assistance.

And with nearly 8 million persons in refugee status around the world, repatriation and resettlement of these large numbers of Sudanese would indeed be welcome.

Mass relief efforts aside, our other Government refugee programs continued thoughout the year.

There was a spate of 20th anniversary observations. On the international scene, these involved both the UNHCR and the Intergovernmental Committee for European Migration. I don't need to dwell here on the importance of these programs.

Only a month ago, in Washington, I was privileged to participate with Secretary Rogers at a ceremony during which the American Council of Voluntary Agencies for Foreign Service paid tribute to the United States Refugee Program on the occasion of USRP's 20th anniversary. A number of prominent people in this audience were there. In connection with USRP, a milestone of the year was our conclusion of an arrangement which permits Soviet emigres to enter the United States under the Attorney General's immigration parole authority. And under the parole authority, since the first of the year, about 60 of them have begun to reconstruct their lives in the United States, and an equal number are in the process of coming to this country. There will be more. About 14,000 Jews left the Soviet Union during 1971, most of them to resettle in Israel. The U.S. Refugee Program has supported these movements—both to Israel, and to the United States.

In 1970, we made it possible for eligible Chinese refugees in Hong Kong to enter the United States under 7th preference. Last November, we made another breakthrough of sorts. We began to make travel loans to these immigrants, under our Far East Refugee Program. The newly-arrived Chinese thus have the opportunity to become self-supporting and successfully integrated in a shorter period of time, without unnecessary burdens of unmanageable debt.

A widely publicized event during the year was our issuance of a new *General Policy for Dealing with Requests for Asylum by Foreign Nationals.*

This seven-page unclassified document sets forth no departures—for, in the words of Secretary Rogers, "the right of asylum is rooted in our history and our tradition." What the document does do is clarify beyond doubt the unflagging American beliefs in the right of asylum. It gives specific instructions to our authorities at all levels on how to handle requests for asylum in the U.S.

The document is a "best-seller." It has been distributed throughout the Government, to all our missions overseas, and to state and local police forces. Foreign governments, including the Soviet Union, have asked for and have received copies. Our object, of course, is to make sure that when a foreigner seeks asylum in the U.S., our authorities—wherever they may be— understand their responsibilities and what steps to take.

There is ample evidence, since we issued it, that the guidance has taken effect.

I would like to note here that there has been the fullest cooperation, during the year, among the organizations with primary interest in these areas. These, in addition to the voluntary agencies, are Barbara Watson's Bureau of Security and Consular Affairs, the Immigration and Naturalization Service, and my own Office of Refugee and Migration Affairs. We have shared many mutual problems and concerns. We have dealt as partners in development of the asylum and parole procedures I have mentioned.

In the presence of Congressman Celler, I am happy to be able to report continued warm support on Capitol Hill for refugee and migration programs.

State Department budget requests now require authorization by Congress every year, as well as appropriations. This development puts us before four committees a year instead of two. And, of course, there are additional subcommittees which are interested in our work.

The record shows that when humanitarian needs are under consideration, our legislators usually are on the side of the angels. I have appeared during the year—sometimes backstopping Mr. Macomber—at six hearings of different committees of the two House of Congress. I found among the members, without exception, attitudes of sympathy and concern for human beings in trouble.

Beyond personal compassion, Congressional interest in these matters reflects, I think, the basic humanitarianism of Americans, and particularly the public-opinion weight of the more than 40 million voters who belong to or support our voluntary agencies engaged in refugee and immigration matters.

These operations are non-controversial for the most part, and they receive only passing attention from the news media. Yet they constitute an integral part of American foreign policy. And they command full support from Congress and the American people.

When I appeared here last April, as some of you may remember, I devoted my talk in part to the indispensable role of the voluntary agencies engaged with the Government in refugee service overseas.

I have had opportunities during the past year to see your selfless and dedicated workers assisting refugees abroad. And I have had almost every-day contact with voluntary-agency leaders, including many of you here in this room.

Our Government programs could not operate without you and your people, and the organizations which you represent. For it is the human, sympathetic, person-to-person counseling and service to refugees which makes these programs successful. And this, only the voluntary agencies can provide.

Thank you.

AUTISM

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. HARRINGTON. Mr. Speaker, one of the most overlooked, if not unknown, facts about mental illness in this country today is that mental illness touches one family in three. It is indeed alarming to learn that there are more than 10 million mentally ill children in America. More than 2 million of these are severely disturbed. Another 2 million are mentally retarded. These are very disconcerting facts.

Another disconcerting, even heartbreaking fact is that there are about four autistic children in every 10,000 live births. But this remains just a statistic to those who are unaware of what autism actually is. Autism is a mysterious, enigmatic language and behavior disorder that hinges on a child's inability to communicate with others. Mrs. Lois J. Blackwell, of the Judevine Center for Autistic Children at Washington University in St. Louis, Mo., quite perceptibly defines the plight of an autistic child:

> An autistic child is a child who appears to be living in a world of his own: a world in which love seems to be niether sought nor given, nor even accepted; a world in which fingers, mechanical devices, tiny objects of any sort, and bits of string take primary significance while parents, family members, and, in fact, all people are of little or no importance; a world in which no changes in the environment can be tolerated; in short, a world seemingly governed by rules totally alien to our own, making it a baffling and frightening place not only in the eyes of those who love him, but also to the child himself.

Mr. Speaker, for the information of my colleagues, I would like to insert the following articles on childhood autism:

[From the Globe Democrat, May 21, 1971]

To Reach a Child: Judevine Foundation Offers New Hope to Autistic Boys and Girls

(By Susan Croce Kelly)

"When Joey was three and a half our pediatrician finally admitted that something was wrong with him," said the young woman.

The boy hadn't learned to walk or talk as soon as the other children, and had never learned to play with them. Moreover, he threw temper tantrums and his bizarre behavior in public was enough to keep the whole family on edge all the time.

"We spent two years and nearly a thousand dollars going from doctors to special services to psychiatrists. Two of them did diagnose Joey as being autistic, but their only advice was that we'd eventually have to institutionalize him."

Joey, like thousands of other children in the U.S., is autistic—he lives in a world of his own, a world with no outlet into the common everyday world where most people live. He would talk without knowing what he was saying, repeating the same phrases over and over in a hollow monotone. Sometimes he'd have a temper tantrum, throwing himself against a wall with such force that his laced and tied shoes came off his feet. His family, from sheer frustration, had virtually stopped going anywhere.

But they persisted in trying to find help for their child. Finally, someone told them about the Social Exchange Laboratory on the Washington University campus where an experimental program has been set up to work with autistic children, their parents and teachers.

The Social Exchange Laboratory has been supported for the last several years by the Central Midwestern Regional Educational Laboratory. This summer, the experimental program will be terminated, and a permanent Center For Autism will be established in St. Louis County under the direction of Mrs. Lois J. Blackwell, currently assistant director of the Washington University program.

"Our school will be a prototype," said Mrs. Blackwell recently. "Right now there are no schools specifically for autistic children in the U.S."

The new school, under the auspices of the Judevine Foundation, will provide teaching for children, and help for their parents.

Autism is an enigmatic language and behavior disorder that hinges on the child's inability to communicate with others.

"During infancy, when most children are involved in the eager acquisition of all those skills we call growing up, autistic children spend their days performing a small number of rituals—twirling matchsticks, rolling a ball, rocking back and forth, gesturing strangely with their hands and fingers, curling up under furniture, tearing bits of plaster or wallpaper from the wall, breaking crayons and so forth," says Mrs. Blackwell.

Even at the Social Exchange Lab, where parents can watch group sessions through darkened windows, the program is geared as much toward educating the mothers and fathers as it is toward helping the child himself.

It is also a place for mothers and fathers to compare notes, and to talk to other couples in their same situation.

"I used to lie in bed at night," said one young mother, "and I'd think, 'There's something I could do for my son if only somebody would tell me what to do.' Now Mrs. Blackwell is helping us. I don't know what we would have done if we couldn't have come here."

The children are given individual training every day until they're ready to join one of the small classes. In addition, every parent keeps a daily log of what goes on at home so the staff can help them solve their daily problems.

"We begin by rewarding the children with bites of their favorite food for even looking at us," explained Andrea Emrich, the program's head teacher. "Our object is to get the kids to accept rewards for jobs well done. We move them from gross rewards, like food, to socially accepted types of rewards—a hug, a pat on the shoulder, gold star. In the beginning, these things don't mean anything to our children."

From the darkened room where Miss Emrich sat with three mothers, watching the progress of a small class in the next room, they could see and hear the teachers talking to the children.

"Fingernails are to hands," said the teacher, "as toenails are to ——"

"Feet," came the answer back. Since they were right, the children got to add another peg to the small pegboards they had in front of them. This is the advanced class. These children are almost ready to go to regular public schools: they've rejoined the world.

One of the boys' attention had wandered, meanwhile, and he hadn't answered with the rest. "Jimmy," said the teacher, "look at me!" And Jimmy looked up.

Behind the screen his mother sighed happily. "Before he came here, he wouldn't pay any attention to anything, almost as though he was dead."

"You don't know what our life was like a year ago," added another young woman, one who has several more children at home. "I couldn't get through to my child. You learn quickly where you are and are not wanted—which of your friends will still have you in their home. And you get to the place where you're unconsciously letting your child run your life.

"Our child had to put on his left shoe before his right shoe, or he'd dissolve into a temper tantrum. Or we'd have to go slide down a slide 10 times before we could go to the zoo. It wouldn't really change our life to go along, so we got so we'd just go along to keep peace. Now we're learning to break up these patterns, and he's so much happier."

Nearly all of the women and men who come to the school wear smiles and are eager to talk to others about their children's progress.

Their lives are still full of hassles, but for the first time in half a dozen years, they have hope again for the future.

"We never make a promise of how far a child can go in our program," cautioned Mrs. Blackwell. Even so, the parents note progress every day, seeing their children talk in sentences, smile and laugh. One "graduate" of the program is already making steady progress in public first grade. Another is entering regular school on a graduate basis—for a few hours every day and will begin full time next fall."

"My eight-year-old put it the best," laughed one young woman talking about the change that his brothers and sisters had noticed in her autistic son: "He sure has gotten decenter since he started going to that school."

[From the St. Louis (Mo.) Post-Dispatch, Jan. 12, 1971]

Living With Autistic Child Is Being on Constant Alert

(By Connie Rosenbaum)

Dr. and Mrs. Joseph D. Judy have a comfortable white brick home in Ferguson. Their gently sloping front yard is dotted with tall evergreens. A small lake sits across the road.

Four of their children live in the one-story house. Beth, 11 years old, shares a room with Lisa, 9. Amy, 8, shares a room with her father. Mrs. Judy stays with Amy's twin brother Jim.

"Jim used to have his own room, when he was staying up all night," Mrs. Judy said. "Thank goodness he is past that period now."

The wood around the window frames in Jim's room is eaten away. He used to chew on it when he was locked in. Pictures of children, flowers and animals are scratched into the piano. Orange and green crayon circles decorate the white living room walls.

"These are just a few examples of Jim's destructiveness," Mrs. Judy said. "We aren't going to redecorate the house until we are sure that it is all over."

Three years ago the Judys had little hope that their son would ever improve. He is not malicious or mentally retarded. Jim's condition has been diagnoised as autism, a disruptive and puzzling affliction for which the causes and cures are unknown.

His bizarre behavior was frustrating for his family because Jim seemed to shield himself behind an invisible barrier, a prisoner in his own private world. Today, however, the Judys are confident that Jim will eventually enroll in regular school and attend classes without tearing things apart and throwing temper tantrums.

"He was a fine baby," Mrs. Judy recalled. "Neither of the twins showed any signs of brain damage at birth. Jim didn't smile much or respond to affection, but we didn't worry then.

"He was late walking. When he finally did, he just stood up and started without ever crawling. He refused to chew his food so we gave him soft things. And we usually had to force him to eat.

"He didn't talk until he was 5. When we sent him to summer camp, he was forced to use words. But mostly he made strange squealing sounds.

"Jim always liked music and he would hum whole tunes. The record player and any other spinning object fascinated him. He used to sit in the middle of the living room floor and watch the pan lids rotate for hours. He slept with his favorite lid on his head.

"As soon as he learned to move around the house, he began breaking or shredding things. We had to lock the doors to all the rooms and watch him constantly."

The Judys sent Jim to a preschool for retarded children. He stayed there for three years, but Mrs. Judy is convinced that the last two terms were wasted.

"He was in a class for Mongoloid children and others with severe learning disabilities," she said. "Even though Jim wouldn't always respond, I never thought that he was retarded. We knew he was thinking, but we didn't know how to reach him."

Mrs. Judy and other mothers of autistic children have been aided by the Social Exchange Laboratory, a research and development project at Washington University, cosponsored by the Central Midwestern Regional Educational Laboratory (cemrel). The program accepts about 18 autistic students a year. Teachers use behavior modification techniques in which good actions are rewarded and reinforced with tokens.

The classroom exercises are designed to lengthen a child's attention span, calm his behavior and make him responsive to and communicative with others. Often the instructor will force eye contact in an attempt to draw him out of his private world. Teachers emphasize verbalizing and associating words with objects. Children are encouraged to play with mirrors so they become more aware of themselves.

Other treatment and education methods are being tried around the country. Some doctors prescribe drug supplements. Others prefer psychotherapy in conjunction with extensive home care.

Dr. Mary Stewart Goodwin initially used the "talking typewriter" as a diagnostic tool. Now she uses the computerized typewriter to instruct autistic students in speech and reading.

Bruno Bettleheim, psychologist and director of the University of Chicago Orthogenic School, provides a program of psychotherapy and permissive learning in a free environment. In his book, "The Empty Fortress," Bettleheim describes how young Joey, a boy who thought he was a machine, was transformed into a person again by loving and understanding care.

Bettleheim believes that autistic children withdraw because they need to escape from overwhelming pain. They carefully erect a shield to protect their hypersensitive feelings. This effectively inhibits emotional relationships with other people, he says.

A shift in a parent's attitude can change radically a child's behavior. The big danger is that a parent will pamper the child and overrespond to his demands for attention. A behavior pattern is established and the child gets worse. The Social Exchange Laboratory trains parents to assist therapists by rewarding well-behaved actions.

The arrival of an autistic child usually means confinement for the mothers. Babysitters who understand the problem are rare and young siblings cannot be trusted with total responsibility for his care.

"It was like being a prisoner in my own home," Mrs. Judy said. "We had to lock all the doors and watch him constantly. Our social life was nil because Jim couldn't be left unattended."

When the mother is trapped in the home all day, additional strain is placed on the marital relationship. Mrs. Judy said her family had been fortunate, however.

"My husband and I always agree when it comes to handling Jim," she said. "Others aren't so lucky. They feel guilty and blame their partner for their misfortune."

Because autistic children rarely give or respond to affection, their parents continually feel rejected.

"If it hadn't been for the school, my son would have been in an institution . . . or I would have," said a mother of six whose youngest boy is autistic. "It isn't that you don't love the child. But after a while you can't do any more for him and he threatens to tear apart the rest of the family."

Sibling rivalry is intensified in most cases. Young children especially cannot understand why their brother or sister receives constant attention and lax discipline. However, with proper parental guidance they usually can make a good adjustment.

"Our girls are wonderful with Jim," Mrs. Judy said. "They spend lots of time with him and make him feel wanted."

The community's reaction is most disturbing to many parents of autistic youngsters. Because their children look normal, often beautiful, outsiders cannot understand their unruly behavior.

"I try to take Jim everywhere—the Zoo, grocery shopping, church," Mrs. Judy said. "Sometimes he starts making his funny noises or acting up. People say "Why doesn't she control him?' but what can I do?"

For most parents such outbursts are frustrating. Only recently Mrs. Judy has developed a sense of humor about her situation.

"Three years ago I was terribly depressed," she recalled. "I couldn't see any future for Jim. But at the school he has improved steadily. Now I take things in stride and pray the progress will continue."

Mrs. Judy is also encouraged by the new local chapter of the National Society for Autistic Children. She estimates that the group can bring together the more than 200 area families with autistic children, plus friends and professionals.

"These families form an invisible population," she said. "Many of the mothers never go out and don't know where to turn for help."

Membership in the chapter is open to all area residents. For more information, write to the society in care of Mrs. Judy, 6 Lake Pembroke Drive, 63135.

[From the St. Louis (Mo.) Post-Dispatch, Jan. 12, 1971]

Help Needed For Autistic Child

(By Connie Rosenbaum)

Infantile autism was first identified in 1943, but only recently have parents and professionals organized to obtain better facilities and services for these children.

"There is little available in this area for the autistic child under the age of 12," said Dr. Thomas Bugger, director of the child psychiatric clinic at Barnes Hospital. "The best care seems to be a combination of intensive home care, psychotherapy and an ego-building experience such as nursery school."

Because autistic children exhibit many symptoms similar to children with brain damage or mental retardation, the diagnosis is often difficult. Indicative signs are how well a child gives and receives affection and how well he relates to his parents and playmates. The National Society for Autistic Children, formed in 1965, hopes to alert doctors and parents to the traits of autism so that children can receive proper treatment early.

Immediate attention is essential, say specialists. The sooner a child receives therapy, the better are his chances of learning to speak, read and take care of himself.

Members of the Society's local chapter are hopeful that a private school, currently in the planning stage, will open. Many have made the rounds of psychiatrists, psychologists and other specialists seeking proper diagnosis and treatment recommendations.

"We tried getting Jim into the special district school but he acted up so badly that they couldn't test him," Mrs. Joseph D. Judy said. "These children are often excluded from a classroom because of their behavior, yet that is the reason that they need special schools."

It is estimated that there are more than 10,000,000 mentally ill children in America. More than 2,000,000 of these are severely disturbed. Another 2,000,000 are mentally retarded. There are about four autistic children in every 10,000 live births.

For their families, these children are more than statistics. The child seems to live in a private world of self-imposed isolation.

The word autism is derived from the Greek word for self, "autos." Specialists have attributed the affliction to a lack of parental affection, vitamin deficiencies, genetic imperfections or body chemistry disorders.

"So much more research is needed about the causes and cures," Mrs. Judy said. "The society distributes what information is available. Hopefully we can encourage support for more education facilities to enable these children to reenter the world instead of institutions."

[From the St. Louis (Mo.) Dispatch, July 29, 1971]

Research Here Produces Plans for Center For Autism

(By Ray Beaumont)

"Put him away and forget about him. There is no help and no hope."

This, in essence, has been the advice given to many parents when they have sought help—or at least hope—for their autistic child. The diagnosis of autism generally has placed the child under the classification "uneducable," with the consequence that no one attempts to educate him.

But research conducted over the past four years at the Social Exchange Laboratory at WU has convinced Lois Blackwell, laboratory director, that there is hope, that the autistic child should not be dismissed as uneducable. Sponsored under a research grant from Central Midwestern Regional Education Laboratory (CeMREL), this research project is being terminated this week.

As an outgrowth of the program, however, Mrs. Blackwell plans to establish a Center for Autism which "will replace and expand the program of the Social Exchange Laboratory." Target date for opening of the Center is September 1st, but a lease for the building being considered has not yet been finalized.

The Judevine Foundation, established to sponsor the Center, will be privately funded and operated, with the eventual aim of being self-supporting, Mrs. Blackwell explained. The Foundation is currently attempting to raise its initial goal of $100,000, which is "our most pressing need."

"The Center For Autism will be a prototype," said Mrs. Blackwell, "new not only in the community but also in the nation." Its goals are: to demonstrate through a Center School an educational environment for autistic children; to provide a training center for parents, paraprofessionals, teachers, and others interested in the development of these children; and to provide a research center in which effective programs of educational techniques and curricula for these children, along with quick and efficient training of their parents, can be developed, documented, and marketed to those desiring such programs.

Currently, staff members at the Social Exchange Laboratory are putting together a "development kit" which they hope to complete and publish this fall. This kit will help parents determine the various tasks or behaviors which their child can and cannot do, and will provide curricula which parents can use to teach their child. This method will enable parents to bring their child to a developmental level where he can meet the requirements of a school.

Though facilities have been provided for the learning disabled, the mentally retarded, and the emotionally disturbed, the only facilities now in existence for autistic children are those supported by research funds—which are dwindling. This has been due, at least in part, to the pessimistic attitude of hopelessness toward the treatment and prognosis of autism.

"An autistic child is a child who appears to be living in a world of his own: a world in which love seems to be neither sought nor given, nor even accepted; a world in which fingers, mechanical devices, tiny objects of any sort, and bits of string take primary significance while parents, family members, and, in fact, all people are of little or no importance; a world in which no changes in the environment can be tolerated; in short, a world seemingly governed by rules totally alien to our own, making it a baffling and frightening place not only in the eyes of those who love him, but also to the child himself," Mrs. Blackwell reports.

CeMREL's program at WU has been designed "to break down the resistance of autistic children to interaction with others at the behavioral level, and to make possible the growth of behaviors that never occurred spontaneously," she adds.

"Viewed in terms of behavior," the director notes, "autism is not the disintegration of the personality, but its total absence, and autistic children do not require the nursing of a damaged personality so much as the presence of experiences through which their personalities can find birth."

The approach used at the Laboratory has been to modify behavior through "social exchange." The child is taught to be aware of other persons, and to value his relationships—exchanges—with people. At this point the child will begin to learn to control his own behavior.

Success in this field is hard to measure, because one is never sure which yardstick to use. But Mrs. Blackwell notes that 42 percent of the children she has worked with at the laboratory have been placed in other facilities, including public school. The prognosis on several others is very good, she said.

On Saturday, August 14, the Judevine Foundation is sponsoring a "toll road" in order to raise funds. They are looking for volunteers who are willing to spend three hours that morning to help them. The Foundation can be contacted at 966-8935. Donations, which are tax deductible, can be sent to the Judevine Foundation, 14 Countryside Lane, St. Louis, Missouri 63131.

[From the St. Louis (Mo.) Review, Aug. 27, 1971]

AUTISTIC CHILDREN—OUT OF THEIR SHELL AND INTO THE WORLD

(By Robert J. Byrne)

There is an old empty school building near downtown St. Louis that is on the brink of becoming a Center for Autism, and that requires a bit of explanation.

What needs explanation is autism, and the first-in-the-United-States attempt to do something about it.

According to dictionaries, autism is "absorption in fantasy to the exclusion of reality," and that's about all that is said. Autism in children was described some 30 years ago, but little has happened since.

"Autistic behavior looks to the neurologist like the most patent brain damage; to the psychotherapist, like the severest of psychoses; to the special educator like obvious mental retardation.'

That summary was offered by Mrs. Lois J. Blackwell, a cheerful and hardworking woman who is the leader in an effort to do something about autism in children.

For the past four years, Mrs. Blackwell has been working with autistic children—developing ways to penetrate the murky fantasy that blankets them—in a basement huddle of rooms at Washington University. Through experience and the contributions of medical and psychological professionals, she has become, as much as anyone can, expert in describing what autism is.

"An autistic child is one who has withdrawn inside himself and lives there, trapped, unable to get out," she explains.

The child seems unable to progress beyond repetitious body and hand movements, is virtually unaware of anyone else around and, in about half the cases, is speechless. "These children must be taught, not only to speak or speak meaningfully, but to play, to enjoy, to dislike, to show fear, to be afraid, to like, to love, to smile, to interact—in short, to be a person and to derive satisfaction from being a person."

The experience of one child, while not completely typical, helps to describe the problem. Mrs. Henry Balmer of St. John Parish in Imperial said their son Michael, up to age four, was in a constant turmoil. He would neither look at nor acknowledge his parents or brothers or sisters. His only speech was an echo, precise but unvarying, of what was said. "We'd ask him, 'Michael, are you hungry?' " Mrs. Balmer said, "and he'd reply: 'Michael, are you hungry!' "

As he grew older, Mrs. Balmer continued, Michael became more aggressive, challenging the doors and windows of his room and their home, occasionally attacking furniture or objects, developing into a silent, unpredictable and, to the rest of the family, a perplexing problem that demanded some sort of solution.

Diagnosis discovered no brain damage or retardation, no particular emotional disturbance or any organic defect. "The psychiatrist said it was infantile autism, and suggested that, eventually, we'd have to put Michael in an institution," she said.

At about age five, however, Michael's habits began to change somewhat. "He would spend at least half of his day sitting on the living room couch and paging through Time magazine. For once, he was doing something quietly."

Some evenings, the boy and his father would sit together, just looking through the magazine and the youngster kept pointing to the page numbers. After several weeks of repeating aloud the numbers on the page, the Balmers discovered that Michael was actually reading them, up to 100 and even beyond. "And to test him, we would deliberately misread the number he was pointing to. He became furious," she said.

The Balamers progressed to words—the section headings in Time—like People, Music, Business, and the boy seemed to be understanding. "It struck me," she said, "that there's a mind, an intelligence there. How could we put him into an institution and forget about him?"

Via referrals from one and another sources, Michael was enrolled in the classes conducted by Mrs. Blackwell at Washington U., classes which are available nowhere else in the U.S.

His instruction began last September on a one-to-one basis, with Michael and a teacher trying to develop what most autistic children lack: eye contact with another person. In the succeeding months, he has learned to talk—imperfectly, to be sure, but understandably. At the same time his blindly aggressive and repetitive behavior has slacked to the point that he functions well in his own family at home and in the class of four youngsters that meets three hours a day at the WU school.

Mrs. Blackwell and the school's instructors employ what are called "behavior modification techniques." These techniques, although carefully worked out and implemented, are basically performance-reward actions. The child is coaxed to look the teacher in the eye, for example. When he does, he is immediately rewarded in some minor but desirable way. This develops into a whole system of "social exchanges": the instructor motivating the child to some small deed by exchanging a reward in return for the performance.

It takes a great deal of time, Mrs. Blackwell notes, but the techniques can be learned by anyone—even parents.

Indeed, for a child to be accepted for the classes, the parents must agree to learn the teaching techniques, in order that they both use them with the child at home and also to come in and teach other children in the classes. "That," Mrs. Blackwell noted, "is the principle of exchange."

The successes being accomplished in the WU classes are threatened however. The educational research group that has underwritten the work up to now is being pressed by other needs, and Washington U. has needs, too, for the space being occupied.

Anticipating the upcoming crisis, Mrs. Blackwell and several professional advisors, along with parents of autistic children, formed the Judevine Foundation (a family name of Mrs. Blackwell's) to solicit funds to carry on the work.

The Foundation is still seeking money to get firmly established. In the meantime, it is going ahead on plans to lease the old school building standing empty on the near north side. If all works according to plan, Judevines' Center for Autism—the only one of its kind in the nation—will be located there, teaching autistic children individually and in classes, training parents and teachers in the behavior modification techniques and marketing a package of instructional materials.

The basic problem at present, Mrs. Blackwell added, is to direct attention to the problem. Autistic children, while not mentally or emotionally defective, are sometimes placed in schools designed for children with those other disorders. The autistic child usually benefits little from those approaches, and because of his aggressive behavior is often shunted out and into an institution.

Yet all the while, there is an intelligence and an ability straining to break through the indefinable blanket that has muffled his development.

"Not all can be helped equally," Mrs. Blackwell added, "but nearly all that we've had here have improved."

"Our goal is to get the child into a normal school at his own age and grade level. We don't know how far he'll be able to go, but at least he's out of his shell. At least he's in the world."

HON. ARTHUR SUMMERFIELD

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 27, 1972

Mr. CEDERBERG. Mr. Speaker, it is with a deep sense of personal loss that I join my colleagues in noting the passing of former Postmaster General Arthur Summerfield. I have known Art Summerfield ever since the middle forties when he was already deeply involved in his commitment to good government. He was an inspiration to everyone who had the pleasure of knowing or working with him.

Art was born in Pinconning which is in the congressional district of Michigan which I represent. Over the years his dedication to serving people on the local, State, and national levels certainly marked him as one of the finest public servants our Nation has had. Over the years he has contributed immeasurably to the quality of life for the citizens of Flint, Mich., his home for most of his life. As a member of the Republican Party he served his State and Nation in positions of great responsibility as a dedicated and committed partisan, but always with the respect and firmness which are the hallmark of the true believer in the worth of our two-party system.

As Postmaster General of the United States, Art Summerfield served with a distinction characteristic of his high regard for America and its people.

After leaving the office of Postmaster General, Art Summerfield returned to Flint and continued his service to his community and his party. Sadly, he died at a time when he was most able to pursue these interests from his vantage point as a retired and respected business and civic leader. My home State of Michigan, the Republican Party, and the U.S. Government will miss his advice and assistance.

Mrs. Cederberg and I extend to his lovely wife Mariam and his family our deep and sincere sympathy.

RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION SETTING A DATE FOR COMPLETE U.S. WITHDRAWAL FROM SOUTHEAST ASIA

HON. HAROLD D. DONOHUE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. DONOHUE. Mr. Speaker, at this time I would like to include in the RECORD the resolutions adopted by the Massachusetts State Senate, memorializing the Congress of the United States to enact legislation setting a date for complete U.S. withdrawal from Southeast Asia. The resolutions follow:

RESOLUTIONS MEMORIALIZING THE CONGRESS OF UNITED STATES TO ENACT LEGISLATION SETTING A DATE FOR COMPLETE U.S. WITHDRAWAL FROM SOUTHEAST ASIA

Whereas, The most recent stepped-up bombing of the people and territory of North Vietnam is a dangerous escalation of our role in the Indochina war; and

Whereas, This move is a flagrant and direct violation of the declared policy of the Nixon Administration to wind down the war; and

Whereas, The national interest would be best served by setting at once a date for the immediate and complete withdrawal of all materiel and armed forces—land, sea and air—in and over all of Southeast Asia; and

Whereas, This step is the best and most promising assurance that American prisoners of war now in North Vietnamese hands will be at the earliest time released; now, therefore, be it

Resolved, That the Massachusetts Senate respectfully urges the Congress of the United States to prepare at once legislation designated to accomplish the aforesaid objective and requests the President of the United States to expedite the implementation of such action; and be it further

Resolved, That copies of these resolutions be transmitted by the Clerk of the Senate to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

REMARKS OF HON. EMANUEL CELLER ON IMMIGRATION AND REFUGEES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. EILBERG. Mr. Speaker, the esteemed dean of the House of Representatives and distinguished chairman of the Committee on the Judiciary, the Honorable EMANUEL CELLER, addressed the American Citizenship Conference in New York City last Friday, April 28, 1972.

Mr. CELLER's speech was enthusiastically received and hailed for its enlightened, timely, and forward-looking thoughts.

Mr. CELLER's speech is so significant that I feel that it should be included in the RECORD and brought to the attention of all Members of the Congress:

REMARKS OF HONORABLE EMANUEL CELLER

THE FUTURE OF IMMIGRATION—UNFINISHED BUSINESS AND NEW HORIZONS

I am genuinely pleased and honored to be here today and I welcome the opportunity to address this distinguished group on the subject of immigration.

We, in Congress, have long appreciated the expert advice and cooperation of the American Immigration and Citizenship Conference (AICC) and we recognize that the members of this Conference are intimately familiar with every aspect of our present immigration laws and policies.

Therefore, rather than discuss where we stand *today* in terms of United States immigration policy, I think it would be more useful to comment upon the future of immigration—to review the "unfinished business" of the 1965 Act and to explore "new horizons."

I think we can all agree that this country is rapidly approaching a new era in immigration policy.

Before characterizing the proper direction which this new policy should take, it is necessary to discuss recent developments which relate to, or may affect, future immigration. Unquestionably, the recently issued Report of the Commission of Population Growth and the American Future, will have a definite effect on our future policies.

In recommending the need for adopting a deliberate population policy, the Commission concluded that, "no substantial benefits will result from further growth of this Nation's population . . . and that population growth of the current magnitude has aggravated many of the Nation's problems and made their solutions more difficult."

Many individuals, including some Commission members, recognizing the increasing impact on immigration on our population growth, immediately responded by suggesting a decrease in immigration.

Fortunately, the majority of the Commission members rejected the suggestion and recommended that the present level of immigration should be maintained "because of the contributions which immigrants have made and continue to make to our society."

I mention the findings of the Commission not to define the proper relationship between immigration policy and demographic conditions—and it is ridiculous for anyone to assume that immigration policy is formulated in a vacuum, without regard to population growth or population distribution—but to emphasize that some individuals may deliberately misinterpret or misuse the Commission findings to support a curtailment of immigration.

It is quite unfortunate that individuals, who advocate a restrictive immigration policy will easily acquire a great number of followers in those who are predisposed to blame all of the social and economic "ills" of this Nation on the newly-arrived immigrant.

In many cases, this hostility emanates from their depression or frustration over social and economic conditions in this country. In some instances, it may result from their impulsive or suspicious reaction to aliens in general.

I am reminded of the story involving the famous English writer, Charles Lamb.

In the early 1800's, Lamb was walking along a London street with a friend when suddenly he stopped and pointed.

"Do you see that man over there?" he said. "I hate him."

"Hate him?" His friend inquired, "how can you hate him, you don't even know who he is?"

"Precisely," Lamb said.

It was this type of an unreasonable reaction to strangers that enabled this country to maintain a discriminatory immigration policy for almost a half century.

We are all aware that the various arguments presented by restrictionists are not novel or unique. In fact, as early as 1797, it was argued on the Floor of the House that "while a liberal immigration policy was suited to the needs of the country when it was new and unsettled, now that the United States had reached maturity—and was fully populated, all immigration should be stopped."

We cannot allow the xenophobes and restrictionists in this country to arouse, or in many cases to intensify, public sentiment against immigration.

Because many Americans distrusted and feared all foreigners, the United States was saddled for decades with an immigration law that was based exclusively on a known quantity—the ethnic ratio in this country in 1920.

I vigorously opposed this national origin quota system when I first came to Congress in 1923 and I was truly gratified when this repugnant system was repealed in 1965.

In considering the future course of immigration, and in evaluating its impact on our population growth, I should emphasize that there is no great pressure nor unified desire to substantially increase immigration to this country.

The primary concern, and the concern of all interested groups, is to remove the inequities of the present law and to provide an equal opportunity for all persons competing for immigrant visas.

In his Nation of Immigrants, the late President Kennedy, realistically observed that an "enlightened policy of immigration need not provide for unlimited immigration . . . but it should be generous; it should be fair; it should be flexible."

He then added, "With such a policy we could turn to the world with clean hands and a clear conscience."

How can we turn to the people of the Western Hemisphere with a clear conscience?

We are all aware that there are inadequacies in our present immigration law which were either uncorrected, or created, by the 1965 amendments to the Immigration and Nationality Act.

Therefore, I say it is incumbent upon the Congress to complete the "unfinished business" of the 1965 Act, and more particularly, to correct the iniquitous situation in the Western Hemisphere.

You will recall that in 1965, the Senate first imposed an overall ceiling on Western Hemisphere immigration. Although my Committee and the House did not favor such a ceiling it was retained in Conference Committee. Subsequently legislation which I proposed to extend the Select Commission on Western Hemisphere Immigration and to delay the imposition of the ceiling passed the House, but was not acted on in the Senate.

Consequently, on July 1, 1968, the 120,000 annual limitation was imposed on Western Hemisphere countries.

This ceiling has resulted in untold hardships for many potential Western Hemisphere immigrants and this fact is clearly demonstrated by the 16-month waiting period which they are presently facing.

In my judgment, a separate ceiling on Western Hemisphere immigration is patently unjust to the people of the Western Hemisphere and consequently should be removed.

Moreover, it represents a radical departure from our traditional good-neighbor policy and it has created an atmosphere of resentment among many nations of this hemisphere.

The ceiling, however, is just one example of the countless inequities confronting potential Western Hemisphere immigrants.

In addition:

(1) there is no preference system;

(2) the labor certification requirement has become unwieldy and imposes an unreasonable burden on the prospective immigrant;

(3) adjustment of status is unavailable in the United States for natives of the Western Hemisphere; and

(4) Cuban refugees who adjust are counted against the 120,000 ceiling.

In order to correct these injustices I have proposed legislation, which would establish a world-wide ceiling on immigration and a unified preference system.

In 1965, the Senate concluded "that to continue unrestricted immigration for persons born in Western Hemisphere countries is to place such aliens in a preferred status compared with aliens born in other parts of the world." Today, however, the converse of that statement is true.

Undeniably, individuals from the Eastern Hemisphere now enjoy a preferential position—particularly since all of the preference and nonpreference categories are presently current with the exception of the third preference.

Furthermore, in 1965, we acknowledged that family reunification and the admission of professionals and other workers in short supply were the primary goals of a sound immigration policy.

Yet, family relationship is entirely ignored insofar as the Western Hemisphere is concerned.

Therefore, in the interest of pure logic and simple justice, we should provide a similar preference for both hemispheres.

In addition, my proposal would relax the present labor certification requirement by restoring the procedures which were in effect prior to 1965. In other words, a prospective immigrant would not be required to obtain an individual certification and a specific job offer.

Instead, the intending immigrant would be admitted unless a determination was made that he may displace a United States citizen or adversely affect labor conditions. This would reasonably place the burden on the Government and not on the alien who, under the present system, does not possess the resource nor the means to satify our rigid certification requirement.

We recognize that we have—a continuing task to examine our immigration policies in the light of experience—and a clear responsibility to remove all vestiges of discrimination and bias from our procedures for selecting immigrants.

Further legislative efforts to complete the "unfinished business" of the 1965 Act are definitely required if we are to demonstrate to the world our dedication to the concept of "equal treatment of all immigrants."

This leads directly to my second topic and that is—what other areas of concern are being, or should be, explored by the Judiciary Committee.

First of all, as you know, the Immigration and Nationality Subcommittee, under the able chairmanship of Peter Rodino, has just concluded a detailed investigation of the illegal alien problem in this country. Unfortunately, this study has revealed that the presence of untold numbers of illegal aliens in this country—many of whom are displacing American workers—has nurtured a negative attitude toward legal immigration.

It has also been learned that the inequitable Western Hemisphere situation—which I mentioned earlier—has actually exacerbated the illegal alien problem. Many desperate individuals, who find our doors closed to them, are forced to flout our immigration laws in order to provide for themselves and their families.

It is therefore apparent, that legislative efforts to remedy the illegal alien problem should be followed by legislation which would: (1) provide an adequate opportunity for Western Hemisphere immigration; and (2) recognize the special relationship existing between the United States and our contiguous neighbors, Canada and Mexico.

Secondly, there is an urgent need to expand and revitalize our asylum policy for refugees.

Because of the present numerical and definitional limitations on the admission of refugees, it was necessary for me and my Committee last year to urge the Attorney General to invoke his discretionary parole authority for the relief of Soviet Jews.

On several occasions over the past several years, our present law was unable to accommodate reasonable numbers of refugees fleeing from political persecution in Hungary, Poland, Cuba, and Czechoslovakia.

In each of these emergencies, it was necessary to persuade a usually reluctant Attorney General that he possessed sufficient authority under the parole provisions of the Immigration and Nationality Act to provide for the admission of these refugees.

I have long endeavored to broaden the United States refugee policy of assisting and resettling those who flee from their country to escape oppression.

Although our Government can be justly proud of its magnificent record in behalf of refugees everywhere, the Congress should seek to enact a generous, flexible and comprehensive refugee program which would obviate emergency legislation.

In addition, I have proposed that we substantially liberalize the definition of "refugee" by bringing it into conformity with the definition contained in the Protocol Relating to Refugees adopted by the United Nations.

The last item on the agenda of "new horizons" is the urgent need to provide for the entry of "new-seed" immigrants. As you know, these immigrants are unable to qualify under our present law, since they do not possess the necessary family relationships, nor the skills required for labor certification.

None of us need to be reminded, that this is the type of immigrant who was responsible for founding and maturing this great Nation. The "new-seed" has enriched our tradition and has contributed immeasurably to the cultural, economic and social development of this country.

These are some of the numerous reforms which are necessitated by, or not included in, the 1965 Act. Time simply does not permit an exhaustive discussion of other areas of urgent concern.

Enactment of meaningful immigration reform truly presents a formidable challenge at a time when this country is facing severe social and economic problems at home and even more difficult problems abroad.

Therefore, we appreciate the efforts of this organization in educating Americans as to the desirability of a fair, equitable and nondiscriminatory immigration policy—and we welcome your continued cooperation in convincing the Congress and the Administration to give immigration issues the priority and attention they properly deserve.

KHRUSHCHEV AND STALIN'S GHOST

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. SNYDER. Mr. Speaker, forgeries are big these days. We hear a lot about the "mellowing" of the Communists.

At first glance these two subjects would appear disparate and unrelated. They converge, however, in the case of the "Khrushchev Memoirs," published in 1970 amid wide public credulity.

I do not think it would be going too far to say that Paul Cole Beach, one of our country's brightest young scholars, has written the most cogent and rational analysis of these purported "memoirs" yet to appear. It is not impossible that we might refer to Mr. Beach's work on this subject as definitive.

Beach has written in a wide variety of scholarly, intellectual, and popular magazines and is presently completing his doctoral disertation on Jose Ortega y Gasset at Johns Hopkins University.

I recommend his treatment of this vital question to all my colleagues here in Congress. The paper, which originally appeared in March 1971 as a book review, demands and merits wide circulation.

["Khrushchev Remembers," translated by Strobe Talbot (Boston: Little, Brown & Co., 1970)]

KHRUSHCHEV AND STALIN'S GHOST

I

"If Marxism-Leninism is false," a Soviet citizen asks, "must we believe in God again?"[1] A crisis of ideology haunts Soviet life. It is a crisis which may be laid partly to the relaxation of terror that followed Stalin's death, and partly to the campaign of de-Stalinization that Nikita Khrushchev launched on his way to power.[2]

Within a year of Stalin's death, Nikita Khrushchev had emerged as a central contender for the dictator's empty position. Yet there was sharp opposition to Khrushchev from a sizeable minority in the Politburo. When Khrushchev took the position of First Party Secretary, which put him within reach of total power, Malenkov, Molotov, Kaganovich, and others intrigued with renewed vigor, and such conflicts surfaced dramtically at the Twentieth Party Congress.[3] Mikoyan made highly critical remarks on Stalin that

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Footnotes at end of article.

by implication seemed to include Khrushchev, who had been taking the Stalinist line on heavy industry and on the U.S.S.R.'s military "invulnerability," and who alone had made it a point to praise Stalin's determined smashing of "enemies of the people." Yet not two weeks later, Khrushchev delivered his famous "secret speech" to the Congress condemning Stalin for having "deviated from the clear and plain precepts of Lenin" and for having created a "personality cult" which ruled by *diktat* and arbitrary police terror.[6]

Scandal was inevitable. Khrushchev himself, of course, was deeply implicated in Stalin's crimes.[5] Yet he managed, in pursuit of the leading role, to turn "de-Stalinization" into a weapon against his opponents. He told Congress delegates that it was necessary, "in a Bolshevik manner, to condemn and to eradicate the cult of the individual as alien to Marxism-Leninism," and that the Party had "to fight inexorably every attempt at bringing back this practice." When he concluded his speech with a call for a return to Leninism, he was greeted with a standing ovation and tumultuous applause.[6] With this shift, he turned his opponents into a neo-Stalinist faction—into an "anti-Party group" seeking its own ends.

Not that Khrushchev was able to stop his rivals at once with this ploy. He was forced to continue this line of struggle for most of his career, a pragmatic necessity which resulted in much of the Soviet Union's internal "liberalization." For when Khrushchev attacked the wisdom of Stalin's rule and leashed police terror, he stirred deep fissures in Soviet society. Not only had he called into question the regime's moral and historical legitimacy, he was also led to seek support outside the ruling circle. He thereby sparked real anti-Stalinism. Solzhenitsyn's expose of camp life, for example, evoked storms of genuine protest.[7] The upshot of Khrushchev's course was a growing loss of Party control over Soviet society and a spreading discontent with Communist rule which reverberated throughout the Eastern bloc.[8] "Khrushchev's iconoclasm," says Soviet scholar Carl Linden, "inevitably placed the legitimacy of party rule in doubt, an inescapable fact which hastened his own ouster from power." [9]

Steps were taken to tighten the Party's hold on Soviet society, indeed, even before Khrushchev's fall from power; and in the intervening years there has been a still greater hardening of the Kremlin's attitude.[10] Since the Czechoslovakian upheaval particularly, the collective leadership of Khrushchev's former proteges, Brezhnev and Kosygin, has fallen back rapidly before more militant Politburo members, like Suslov and Shelepin, who show little interest in the U.S.S.R. becoming some kind of Westernized "socialist democracy." [11] A real neo-Stalinist faction is now making a serious bid for power, and the critical moment in the power struggle might well come at the Party Congress scheduled this month.[12] Wadislaw Gomulka's fate in Poland, on the eve of the Congress, is an ominous portent. The Soviet Union stands at a crossroad that might lead back to a Stalin-like dictatorship. It is in this context that Nikita Khrushchev's purported "memoirs have surfaced.

II

Whether they are genuine or not, the timing of the "memoirs" makes them a political act of high importance. However, their meaning is ineluctably linked to their source, and nothing is clearer than that no one not intimately connected with the publication of the "memoirs" *knows* where they came from. Yet with the notable exception of Victor Zorza, the Western analysts in print (including some thirty Soviet area specialists from the intelligence community who recently met at the State Department) have rushed to vouch for their authenticity. Moreover, they have done so with little more than rumor, speculation, and personal assertion for evidence. The State Department consultants, for example, frankly admit that they do not know "how or why" the "memoirs" reached the West.[13]

Such credulity sheds light on why the KGB's foreign intelligence branch operates a "misinformation section" and why, by contrast, it protects its own espionage and evaluation process by insisting scrupulously on certain rules—not the least being that the paramount factor in judging a document is the reliability of a *known* source. The K.G.B. equally insists on physical and content analysis of the procured material. Similarly, it is more wary of documents gotten from informants anxious for money, and most skeptical where the amount of the reward hinges on the document's alleged importance. Moreover, the K.G.B. simply refuses to deal with middlemen who decline to name the source of their material, and it rarely favors conclusions strained from limited data.[14]

So far Western analysts have blithely ignored these rules. The key "evidence" for the Khrushchev book's authorship, indeed, has so far been little more than the favorable views of various Soviet experts—Harrison Salisbury, Foy Kohler, Michel Tatu, Henry Shapiro, Llewelln Thompson, and others—who claim enough knowledge of Khrushchev to make an informed opinion. What do such opinions amount to? Edward Crankshaw's preface to *Khrushchev Remembers* is a pertinent example, one typical in the thrust of its analysis.

It is, Crankshaw says, "Khrushchev himself, quite unmistakably speaking." What convinced him of that? Maintaining that he has read almost every word of Khrushchev's and has met and listened to him publicly and privately, he argues that "there was no mistaking the authentic tone." Yet what tangible evidence is there of the book's authenticity? According to Crankshaw, he is as "sure as it is possible to be sure of anything that *cannot be scientifically proved* . . . [emphasis added]." When pressed for tangible evidence, Crankshaw can only turn rhetorical: "How was this remarkable document assembled, and why? I have to say at once that I do not know. My own personal decision as to its authenticity had to be based on the evidence of a Russian typescript and nothing else at all." [15] But was it the original typescript? Silence.

Apparently, Crankshaw let himself be convinced by nothing more certain than "*a* Russian typescript" and the "authentic *tone*" of the book. Frankly, these are hardly very solid norms of evaluation even considering Crankshaw's expertise. Since his own "first thought" was that the book was faked, one suspects he might have meditated longer on how Soviet analyst E. H. Carr and former C.I.A. chief Bedell Smith were beguiled into crediting Maxim Litvinov's "memoirs," which were forged by a Russian defector.

Speculation about the origins of Khrushchev's memoirs," of course, has proceeded rapidly. Several major theories have been set out.

The most popular theory, it seems, is that the "memoirs" stem from handwritten notes or tapes of conversations taken down over time by members of Khrushchev's immediate family, which is to say, former *Izvestia* editor Aleksei Adzhubei and his wife Rada or perhaps Yulia or her late husband Lev Petrov. The secret police, who guard Khrushchev closely and provide his house staff, allegedly uncovered this activity sometime in 1969, and are supposed to have decided (with or without the consent of Party higher-ups) to surface his recollections in the West.[17]

Speculation has it that Victor Louis, a Soviet reporter who writes for London's *Evening News*, was called into the affair at this point. Although Louis is notorious for his links with the K.G.B., he has extensive contacts in the West and has floated manuscripts before. He tried to sell a bastardized version of Svetlana's memoirs, peddled Gordon Lonsdale's espionage apologia, and acted as middleman for N.B.C.'s televised interview with Khrushchev in 1965–1966. He has also played a prominent role in several spy exchanges, and it is widely speculated that he also purveyed the bulk of Khrushchev's "memoirs."

The Scandinavian press says Louis met two representatives of *Life* magazine—Jerrold Schecter and Murray Gart—in Copenhagen's Hotel d'Angleterre last August 20–27, and tried to negotiate a deal for a transcription of some 300–500 thousand words and a series of photographs. He completed the deal, it is said, for a huge sum. Mentioned figures range from $600 thousand to $5 million. Much of the money was deposited, claims Stewart Alsop, in a Swiss bank account opened for Khrushchev and his family. family.

Why were the "memoirs" surfaced? Some argue that the book reflects the work of "liberals" in the Soviet hierarchy—Aleksandr Shelepin, say, or others in police and military circles—trying to stave off the neo-Stalinist faction led by Brezhnev, Kosygin, and Podgorny. Some suggest instead that it is the product of neo-Stalinists seeking to ruin Khrushchev and the surviving "liberal" faction—a pretext for convicting them of anti-Soviet slanders and cooperation with Western intelligence (who else opens Swiss bank accounts for Soviet figures?). It is also said that the K.G.B. seized and surfaced the "memoirs" to discredit them before Khrushchev could edit or make corrections, or that the K.G.B. sold them in order to replenish its reserve of foreign dollars.

Frankly, this is the crudest conjecture. No solid evidence supports any of the chain of events posited in this theory. Not surprisingly, Victor Louis himself denies any involvement in the affair. Moreover, the suggested motives for publication are not terribly credible either. If Shelepin is a "liberal" and Kosygin a "Stalinist," then Khrushchev is a Zionist saboteur! If the K.G.B. wanted to scuttle the "memoirs," why didn't it merely destroy them? I prescind from asking who knows the real state of the Soviet secret police's foreign currency reserves.

Henry Shapiro speculates differently.[17] It was not Aleksei Adzhubei who smuggled the "memoirs" out of the Soviet Union, he contends, but Lev Petrov, who was married to Khrushchev's adopted daughter Yulia. Shapiro maintains that Adzhubei's relations with Khrushchev were strained, while Petrov was for sometime his confidante. For many years Petrov edited Novosti's English-language newspaper *Soviet Weekly*, which was distributed in Britain, and therefore had good contacts in the West. He was resentful of Khrushchev's poor treatment, Shapiro claims, and of Stalin's growing rehabilitation. Since he suffered from a terminal cancer that precluded any fear of retaliation, Petrov might have stolen a fragment of Khrushchev's notes and smuggled them abroad within anyone's knowledge. Shapiro sets this out as only an educated guess.

Another thesis is that Khrushchev's recorded one million words of commentary on tapes which were brought out by couriers over an eighteen-month period to Helsinki, Copenhagen, Vienna, and Sofia before being turned over to Time Inc. According to the *New York Times*, this report was advanced by "informed sources" in Washington and confirmed by "reliable Soviet sources." [18] It is also said that the authenticity of the tapes was determined by "voiceprint." Walter Scott revealed this last item.[19] While the use of "voiceprints" is a developing part of police technology, Scott's revelation probably indicates little more than familiarity with Solzhenitsyn's *The First Circle*.[20] When queried by reporters, in any case, Donald Wilson,

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Footnotes at end of article.

vice president for Time's corporate and public affairs, refused to confirm the report. Moreover, no tapes have been produced to support the story, though a photo of Khrushchev allegedly carrying a portable tape recorder (the news photo only reveals a closed, leather carrying-case) has been widely published in the United States.

The Soviets, of course, have their own view of the book. In early November, the Novosti press agency called the memoirs a "non-book" and a "form of forgery." Shortly thereafter, *Pravda* labeled the book an example of "bourgeois subversion," and *Izvestia* termed the "memoirs" the latest of a series of documents concocted by Western intelligence agences and renegade Communists. Within days Khrushchev himself issued a handwritten denial of authorship which Tass and Fotokhronika (the official Soviet photo agency) reproduced and distributed abroad. "I have never passed memoirs or material of this nature to the Time publishing house or to other foreign publishing houses. I did not turn over such material to Soviet publishing houses either. Therefore, I declare this a fabrication. The venal bourgeois press has been exposed many times for such lies." [21]

Western newsmen countered that this was Soviet propaganda, and that Khrushchev's denial was completely predictable, either as a safety precaution or as something forced on him by the Kremlin. His denial, moreover, has quite a few loopholes. While he denies having *passed* on "memoirs" to any publishing house, he does not explicitly deny *authorizing* such a work or having given it to someone else. While his denial is conditional, however, it could be completely true. The silent premise of the Western reaction is that the "memoirs" *are* genuine. Yet maybe neither he nor the Soviets were involved, or perhaps only Khrushchev himself can be exempted. Either interpretation would imply forgery, East or West.

So far the only truly critical Western view is that of Victor Zorza, who suggests that the "misinformation section" of the K.G.B. and Western publishers fabricated the "memoirs" (albeit with contrasting motives). He accepts the involvement of Victor Louis, and then builds a case that "the K.G.B." is acquiring through Louis the experience of negotiating and bargaining with Western mass media organizations. It is learning how to manipulate them [and their cupidity] for its own purposes. . . . The publication of the Khrushchev reminiscences, already assured of perhaps the widest magazine and book audiences in the Western world, looks like a dry run for some more ambitious psychological warfare operations.[22]

Zorza's analysis may lie close to the truth. Yet it is only sophisticated speculation, and it has its own shortcomings. Why did the K.G.B. pick the most delicate possible moment in the current power struggle, for example, to surface a document with such explosive potential? It seems highly unlikely that K.G.B. chief Yuri Andropov would proceed alone with such a dangerous operation at this historical moment, particularly if it were nothing more than a strict psywar experiment. Moreover, it is scarcely clear that the Soviets are not already rather skillful propagandists who know how to use the Western press.

Harrison Salisbury calls the book "backstairs kitchen gossip." [23] While some of the published analyses have been carefully qualified, much of the extant speculation falls into the same category. Few Soviet scholars seem willing to wait for firmer evidence before committing themselves, which is partly the case, one suspects, not only because of the book's political importance now, but because of an in-built academic and media pressure to speak. What is known about the book now, and what if anything does it mean?

III

When *Life* started serializing Khrushchev's recollections, managing editor Ralph Graves observed that the magazine had kept silent about Khrushchev's "reminiscences" for "more than a year," and implied that *Life* had material in its possession which it took pains to authenticate during this time; though he added that "intensive work on the articles and pictures" only started this fall, when Moscow bureau chief Jerrold Schecter labored over "the manuscripts and piles of photos" and Gedeon de Margitay went overseas to try to sell them to major European publishers and news outlets.[24]

When Little-Brown brought out the book in December, it noted that it was "made up of material emanating from various sources at various times and in various circumstances." It too avoided the use of the word "memoirs." Strobe Talbott, who translated and edited the book, wrote that: "The original material, when it came into my hands, was quite disorganized. . . . I have had to take certain liberties with the structure . . . to render Nikita Khrushchev's reminiscences into a coherent, if informal, narrative." The book, as Edward Crankshaw phrased it, was "assembled." [25]

Among other things that raises a pertinent question which *Life* spoke to in a pre-publication advertisement: "Did Khrushchev intend this manuscript to be published in the West? We do not know." [26] The book publisher said much the same thing: "Whether the author intended or expected his words ever to find their way into print, either in his own country or in the West, is a matter of speculation." [27] Where did the material come from then? The *London Times*, which bought British rights, said in November that Khrushchev's manuscript originated with the K.G.B. "There is reason to believe that [the complete manuscript] is in the possession of the K.G.B., which, for its own reasons, decided to sell excerpts in the West." [28] These are rather remarkable statements.

Much can be said of them depending on how much one wants to factor the psychology; such statements could be deliberately misleading, or they could be meant to appear that way. Yet if they are in any way true, what can fairly be said of them? The publishers leave the impression that the principal question is whether or not Khrushchev expected or intended his manuscript to be published, either in the Soviet Union or abroad; which at once implies not only that Khrushchev composed a manuscript, but that it may have been made public without his knowledge or permission. The silent premise is that the "memoirs" are authentic.

Khruschev is implicated, of course, regardless of his "intention" since the Kremlin could hardly be expected to overlook the inflammatory character of the book on the basis of his subjective wishes in the matter. Moreover, mistakes of such magnitude would be treated as criminal negligence politically. Yet at the same time the publisher hedges against this initial impression by carefully avoiding use of the term "memoirs" and by conceding that the original material was not a book as such.

The material had to be collected for over a year from "various sources." Moreover, the material itself was fragmentary, and at least one of the publishers thinks that the Soviet secret police provided most of it, excerpts which were then edited into a "coherent narrative" by Strobe Talbott; or, in Crankshaw's words, "assembled." From this, it is reasonably clear that Khrushchev himself did not write a book or memoir; and that if he wrote anything, it was not intended to go "into print." While "the voice is largely the voice of Khrushchev," as Henry Shapiro says, "the hands are somebody else's." [29] Most of the material, moreover, was already known in the West; was it compiled and embroidered from that? If so, by whom?

Such a "forgery," after all, is not impossible. Most of the content analysis of Khrushchev's book, indeed, has so far been cast toward whether or not he might have made such remarks, which is to say, whether or not such a "memoir" is intrinsically possible. Some well-respected Soviet analysts have contended that, in fact, Khrushchev's remarks are not either impossible or even improbable. Khrushchev has long been known, it is said, to have a tendency to box the ideological compass. When he speaks, he tends to track back on his statements, presumably to cover himself against criticism from his opponents.

Such scholars also point out that he has been known to be indiscreet in private, particularly when drunk, and to make extreme comments in public which depart from his formal or prepared texts. Similarly, they maintain that the "iron curtain" today is very far from being total and that a large quantity of dissident material can still be smuggled out, sometimes with police collaboration. Yet even if this were conceded, it leaves unanswered the question of Khrushchev's motives for writing, which has evoked speculation that he might wish not only to settle accounts with his former enemies, but to "rehabilitate" himself. Memoirs might help to polish his rather tarnished image.

Such a line of argument is highly plausible, except that showing an event to be possible intrinsically is not the equivalent of showing that it took place. Moreover, it raises the question of whether a "forger" might not have counted on precisely this line of reasoning lending substance to his efforts, particularly when coupled with the use of a body of known material which would itself elicit recognition from the experts as genuine. Minor errors in the text would not be enough to discredit it and might even lend it verisimilitude, since Khrushchev has never been known for his penchant for accuracy. Motives for such a "forgery," in the labyrinth of Soviet or international politics, are legion.

Michel Tatu, in any case, terms the book "a collection of anecdotes which make lively enough reading but leave an overall impression of déjà vu." [30] Moreover, Crankshaw himself states that the book does not cut much new ground, and that it exhibits some extraordinary gaps. "What is missing," he says, "is any sort of account of the power struggle inside the Kremlin which ended in his victory and subsequent defeat, [and] we are told next to nothing about the domestic scene during the Khrushchev era." [31]

Since the book is presumably intended to help reestablish Khrushchev's place in history (a motive spelled out in the book itself), it is striking that he should neglect his time at center stage. Not only is Khrushchev voluble, but modesty is not one of his more noticeable traits. Yet it is not merely a question of this. If Khrushchev means to help himself and hurt his enemies, he makes so many less than acute confessions that it is suspicious. "I should tell you of my association with Vlasov," he writes, "who later turned traitor and betrayed his homeland." Although Vlasov was guilty of treason, Khrushchev explains in some detail how he was responsible for helping him attain high military position.

Moreover, he notes that since Vlasov defected and organized an anti-Soviet army for the Nazis, he got a deserved punishment when he was captured: "He was tried and hanged." [32] It is highly unlikely that any Soviet, not to say a person seeking to rehabilitate his reputation, would willingly link himself with Vlasov, Nazism, and treason. Not only would it be politically mindless, but it would be hard to link oneself with any more odious incident, one calculated not to rehabilitate a reputation, but to destroy it.

Footnotes at end of article.

Scattered about Khrushchev's narrative, as Edward Crankshaw comments, are many remarks with such "explosive implications." While the hook largely centers around Stalin's crimes, Crankshaw rightly points out that when Khrushchev condemns Stalin, he also condemns himself; he says "quite enough to constitute the most damaging direct admission of complicity, over a long period, with Stalin at his worst." For that matter, Khrushchev condemns by implication "the whole system that had made Stalin possible."[33] So far from working to his advantage, several such passages constitute a veritable death warrant, which is hardly calculated to hurt his opponents.

Since Khrushchev is a highly practiced intriguer, one of the few men from the Ukraine to survive a long-term connection with Stalin, such ineptitude is hard to accept. Much of the book is evasive, of course, and some of the deceptions appear deliberate.[34] Yet the most suspicious passages are precisely those where Khrushchev's political position is compromised, where his stated reasons for writing happen to bear on the current power struggle, and where the Kremlin's current political vendettas are carried out—like the one against Svetlana Alliluyeva.

Most analysts have concentrated on Khrushchev's cloying show of sympathy for "Svetlanka," but have said little about his attacks. "Svetlanka wasn't a stable person." She seems to have had a "gradual psychic breakdown," Khrushchev claims, and to have become "psychologically stratified," or perhaps schizophrenic. "There's something odd," he says, "and even sick about her book." Moreover, she "gave the enemies of the Soviet way of life something to gossip about, and she allowed her name, the name of Stalin's daughter, to be exploited by the enemies of Socialism. . . . It was an unforgivable thing for a Soviet citizen to do."[35]

Yet what is Khrushchev himself doing in letting his own memoirs be published in the West except the "unforgivable"? This part of the book recalls the attack on Svetlanka which Victor Louis tried to trade as a *quid pro quo* for the televised Khrushchev interview. There is even a thinly veiled threat against her children if she does not return to the U.S.S.R., which would "welcome" her back and "won't hold [her defection] against her."[36] No doubt there are hospitals that would help her in the U.S.S.R.—the Serbsky Institute in Moscow perhaps.

Numerous such passages haunt the book. Not the least is an attack on Stalin and the Soviet system which implicates Khrushchev himself. Stalin is subjected to a torrent of abuse. He is alternately described as a drunkard, a family tyrant, a coward, a psychotic, a political despot, a criminal, a murderer, an anti-semite, and a mass murderer who sabotaged intelligent state policy and the norms of Party rule. Stalin, says Khrushchev, turned the Party into a "band of thugs"; he was "a criminal, an assassin, a mass murderer" who turned the Soviet Union into a "Fascist state like Hitler's and Mussolini's." Stalin probably was not even a working-class revolutionary, since "his father wasn't a worker and simple shoemaker at all, but had a workshop with at least ten employees under him. For those days [prior to 1917] that was a big enterprise."[37] While most of what Khrushchev alleges is true, it is not what might be expected from a former First Party Secretary, since it abandons a restraint (apparent in the "secret speech") necessary to the preservation of at least some semblance of legitimacy in Soviet rule.

Yet this striking line, much of which exceeds any charges he levied previously, overlays another in which he identifies himself with Stalin. "I will give Stalin credit for one thing: he didn't simply come with a sword and conquer our minds and bodies." According to Khrushchev, he himself believed and "worshipped" Stalin like the rest of the Party. "I still think that Stalin's ideological position was basically correct . . . it was not accident that Stalin held the leading position in the party, and it was no accident that the Party supported him." It was not an accident in one sense, because "he really was a man of outstanding skill and intelligence. He truly did tower over everyone around him . . ."

"Stalin supported modern improvements," Khrushchev adds, "and progressive developments of all kinds." In this regard, Khrushchev maintains that "there's no doubt that he held me in great respect" and that he himself enjoyed "a position comparable to Stalin" in the Party's eyes.[38] Yet it was no accident in a second sense, because the Party's course, like the choice of its leaders, is ultimately governed by the laws of *history*. Such a line, when viewed in this light, goes quite beyond tmhe "cult of personality" criticism of earlier years. If it was no accident that the Party followed Stalin into nothing less than Nazism and mass murder, then Marxism-Leninism and the leading Soviets state are monstrous frauds. When Khrushchev takes this tack, he is no longer criticizing the abuses of an individual who has deflected the Party from its correct course, he impugns Communism itself.

Such a line, indeed, runs throughout the book. Khrushchev compares Stalin ("Josef I") to Tsar Nicholas I, suggests that Lenin and Stalin were of a kind, implies that the working class (including himself) were better off before the Revolution, and ends his "memoirs" with a set of policy proposals Communists used to term "rotten liberalism." Moreover, he interlaces the book with warnings against the careerists, militarists, and chekists who want to continue Stalin's way. With considerable irony, he even predicts that "if we don't change our position in this regard, I'm afraid we will discredit the Marxist-Leninist ideals on which our Soviet way of life is based." However, he expresses confidence that "the new generation . . . will soon replace the current leadership of our country" with more intelligent rulers.[39]

The Stalin line is more complex and subtly introduced than telescoping it suggests; but when the mosaic is looked at whole, it is incredible. Khrushchev may be a revisionist, as the Chinese say, but he is not mad. Yet there is enough "social democratic" heresy in this book to shoot Khrushchev, not to say his sympathizers, several times over. It is so crudely dangerous in this respect, that it is not terribly plausible any reasonably prudent anti-Stalinist member of the ruling circle would risk compromising himself by being associated with it. Moreover, it is hard to conceive that Khrushchev himself could be responsible for the book.

Whatever else he is, Khrushchev is not Amalrik. He is not a liberal reformer. When he undertook his original campaign of "de-Stalinization," he did so out of the pragmatic necessities of Kremlin politics, and he reneged on his "liberalizations" whenever the situation required or permitted him to plausibly do so. Whatever his bitterness toward Stalin or toward his fall from power, Khrushchev has killed thousands if not millions of citizens and Party members in the interests of Marxist-Leninist ideology.

Such actions imply a commitment which is hard to reconcile with the use of crude anti-Soviet slander merely to change the policy of Brezhnev and Kosygin, a policy in many ways not unlike his own prior to his fall, or even to effect a change in the Soviet leadership. With his age and heart condition, he himself can scarcely entertain ambitions, and the other members of the ruling circle do not seem much closer to him in terms of policy than his former proteges. What stands to be gained by anti-Soviet slanders?

Yet if Khrushchev himself is not responsible for the "memoirs" as constituted, nor astute anti-Stalinists, who then is accountable? The most likely candidates are Time and the K.G.B. By preventing independent verification, the publishers, one suspects, can only be shielding themselves or the Soviet secret police. Such secrecy hardly protects Khrushchev, who is compromised merely by the fact of publication. Nor does it offer much protection to his entourage. If the regime were intent on it, they would suffer anyway. So far from offering comfort to anti-regime activity, indeed, the "memoirs" are so crude that they look like a provocation by Stalinists to tar their opponents with a charge of "ideological wrecking"—with being objectively anti-Soviet.[40]

FOOTNOTES

[1] Anatole Shub, *An Empire Loses Hope: The Return of Stalin's Ghost* (New York: Norton, 1970), p. 150.

[2] *Ibid.*, pp. 137–142; and Leonard Schapiro, *The Communist Party of the Soviet Union* (New York: Vintage, 1960), pp. 587–590.

[3] For details of the infighting, see Myron Rush, *The Rise of Khrushchev* (Washington: Public Affairs Press, 1958); and Wolfgang Leonard, *The Kremlin Since Stalin* (New York: Praeger, 1962). For a treatment of the succession problem as such, see Howard Swearer, *The Politics of Succession in the U.S.S.R.* (Boston: Little, Brown & Company, 1964); and Andrew Gyorgy, *Issues of World Communism* (New York: van Nostrand, 1966), pp. 208–220.

[4] *The Anti-Stalin Campaign and International Communism* (New York: Columbia University Press, 1960).

[5] Lev E. Dobriansky, *U.S.A. and the Soviet Myth* (Greenwich: Devin-Adair, 1971), p. 44 f. Cf. U.S. Congress, Senate, Comm. on the Judiciary, *The Soviet Empire: A Study in Discrimination and Abuse of Power*, Comm. Print, 89th Cong., 1st sess., 1965, pp. 23–27 passim.

[6] *The Anti-Stalin Campaign and International Communism.*

[7] Aleksandr Solzhenitsyn, *One Day in the Life of Ivan Denisovich* (New York: Praeger, 1963); cf. U.S. Congress, Senate, Comm. on the Judiciary, *Rebellion in Russia's Europe*, Comm. Print. 89th Cong., 1st sess., 1965; U.S. Congress, Senate, *Aspects of Intellectual Ferment in the Soviet Union*, S. Doc. 130, 89th Cong., 2nd sess., 1966; and Ernest J. Simmons, "Recent Trends in Soviet Literature," *Modern Age*, 7 (Fall 1963), 393–406. See also note 9 infra.

[8] Gyorgy, *Issues of World Communism*, pp. 65–85.

[9] Carl Linden, *Khrushchev and the Soviet Leadership: 1957–1964* (Baltimore: Johns Hopkins University Press, 1966), p. 219 passim.

[10] Shub, *An Empire Loses Hope*, pp. 437–441; cf. my "Soviet Terror; Neo-Stalinism Emerging?" *Triumph*, 5 (March 1970), 16–18.

[11] See Vincent Buist, "Kremlin Trio Said to Write Attack on Brezhnev-Kosygin," *The Washington Post*, March 12, 1970, A–2; James Clarity, "Supreme Soviet Open: Tighter Labor Code Planned," *The New York Times*, July 15, 1970; Abraham Brumberg, "How Russia Uses Asylums to Kill Dissent," *The Washington Post*, October 18, 1970, B–2; Anthony Astrachan, "The Creeping Rehabilitation of Stalin," *The Washington Post*, January 30, 1971, A–16; and Astrachan, "Newsman Beaten in Moscow," *The Washington Post*, January 28, 1971, A–28.

[12] Shub, *An Empire Loses Hope*, pp. 418–422; "The Soviet Union: The Risks of Reform," *Time*, March 29, 1971, 27–39; and Tibor Szamuely, "Are Things Really Improving in the U.S.S.R.?" *National Review*, 22 (March 10, 1970), 250–257.

[13] Terence Smith, "U.S. Experts on Soviet Union Find Khrushchev Memoirs Authentic," *The New York Times*, January 21, 1971, 2.

[14] For a treatment of these rules, see Alexander Orlov, *Handbook of Intelligence and Guerrilla Warfare* (Ann Arbor: University of Michigan Press, 1965), pp. 184–187.

[15] *Khrushchev Remembers,* trans. Strobe Talbott (Boston: Little, Brown & Company, 1970), p. vii–viii.

[16] This section is based on 'Khrushchev: Notes from a Forbidden Land," *Time,* November 30, 1970, 20 f.; Harrison Salisbury, "Khrushchev Remembers," *The New York Times,* January 3, 1971; Stewart Alsop, "Who is Mr. X?" *Newsweek,* January 4, 1971; Foy Kohler, "Nikita Remembers: But Not Very Well," *The Miami Herald,* December 20, 1970; Crosby Noyes, "Khrushchev's Reminiscences," *The Washington Evening Star,* January 8, 1971; Michel Tatu, "Who Edited the Khrushchev Memoirs?" *Le Monde Weekly,* December 9, 1970; Paul Wohl, "The Controversial Memoirs," *The Christian Science Monitor,* January 7, 1971; "Khrushchev 'Memoir' Criticizes Stalin," *The New York Times,* November 23, 1970; "Khrushchev Memoir Linked to Possible Internal Issue," *The New York Times,* November 21, 1970; 'The Great Khrushchev Mystery," *Newsweek,* November 30, 1970; Chalmers Roberts, "Mr. K's Memoirs? The Debate Goes On," *The Washington Post,* February 7, 1971, C–1, C–4.

[17] Henry Shapiro, "Son-in-Law Might Have Been Courier," *Los Angeles Times,* January 3, 1971.

[18] James Clarity, "Khrushchev Memoirs Are Linked to Tape Recordings He Made," *The New York Times,* November 28, 1970; Harrison Salisbury, "Voice of 'Unperson' Creates Worldwide Interest," *The New York Times,* November 22, 1970; David Kraslow, "Taped Voice Identified as That of Khrushchev Informed Sources Say," *The Los Angeles Times,* November 18, 1970.

[19] Walter Scott, "Personality Parade," *Parade,* January 24, 1971.

[20] See Claudia Levy, "Voiceprint Admitted as Evidence in D.C. Case," *The Washington Post,* December 17, 1971, B–3; and Aleksandr Solzhenitsyn, *The First Circle* (New York: Harper & Row, 1968).

[21] This section is based on Paul Wohl, "Khrushchev 'Memoirs' Shrouded," *The Christian Science Monitor,* November 24, 1970; Anthony Astrachan, "Izvestia Attacks Memoirs," *The Washington Post,* November 25, 1970; "Soviet Press Agency Calls Book 'Forgery'," *The Washington Post,* November 14, 1970; and Bernard Owertzman, "Khrushchev Denies Releasing Memoirs," *The New York Times,* November 17, 1970.

[22] Victor Zorza, "Khrushchev's Denial Gets a Bad Press," *The Manchester Guardian,* November 17, 1970; Victor Zorza, "Khrushchev Story: True or Plot?" *The Los Angeles Times,* November 17, 1970; Victor Zorza, "A Request to Interview Khrushchev," *The Washington Evening Star,* November 22, 1970; Victor Zorza, "On the Khrushchev Memoirs," *The Washington Post,* February 19, 1971; cf. Tibor Szamuely, "Technological Fraud," *National Review,* (February 23, 1971), 201 ff.; and U.S. Congress, Senate, Comm. on the Judiciary, *The Techniques of Soviet Propaganda,* S. Doc. 34, 90th Cong., 1st sess., 1967, pp. 8–31 passim.

[23] Harrison Salisbury, "Khrushchev Remembers," The New York Times, January 3, 1970.

[24] Ralph Graves, "The Jones Project," Life, (November 27, 1970).

[25] Khrushchev Remembers, pp. v. xxi, viii.

[26] Time, November 23, 1970, 88 f.

[27] Khrushchev Remembers, p. v.

[28] Victor Zorza, "Khrushchev's Denial Gets a Bad Press," The Manchester Guardian, November 17, 1970.

[29] Henry Shapiro, "Son-in-Law Might Have Been Courier," The Los Angeles Times, January 3, 1971.

[30] Michel Tatu, "Who Edited the Khrushchev Memoirs?" Le Monde Weekly, December 9, 1970.

[31] Khrushchev Remembers, p. x ff.

[32] *Ibid.*, p. 180 ff.

[33] *Ibid.*, p. x ff.

[34] *Ibid.*

[35] *Ibid.*, pp. 292–296.

[36] *Ibid.;* Marlise Simons, "Psychiatric Treatment of Soviet Dissidents Hit," *The Washington Post,* November 30, 1971, A–12; "Psychiatrists Shun Censure of Soviets," *The Washington Post,* December 3, 1971, A–20.

[37] *Khrushchev Remembers,* pp. 6 ff., 63, 74 ff., 89, 124, 160, 173, 205, 258–269, 279, 298–291, 302, 343, 352.

[38] *Ibid.,* pp. 3 f., 6, 20, 26, 30, 44, 49 f., 57, 61 f., 64, 80, 94, 102, 107 f., 124, 205, 210, 307, 314, 323.

[39] *Ibid.,* pp. 7 ff., 17, 19 ff., 31, 46 f., 57, 225, 235, 287, 349, 520, 521, f., 525.

[40] Yet this itself is only a hypothesis, which rests on the presumption that Khrushchev and the "liberal" faction is powerful enough to require staging an international incident and running the risk of ideological scandal to be silenced effectively. Such a presumption is tenuous at best. With his heart condition, Khrushchev himself might be silenced in a more politic fashion from the Kremlin's standpoint if he were to have a heart attack and expire quietly in a Moscow hospital, something which is well within the capacity of the secret police to have arranged. Similarly, those few "liberals" in the Politburo might more effectively be shunted into state or provincial positions, or if necessary treated to a stay at the Serbsky Institute in Moscow. Something like this would seem more in keeping with the Kremlin's traditional way of acting, rather than floating "memoirs," which may have originated (if this is true) somewhere in the West.

**Since this paper was first published, several articles have appeared which are worth noting. For example: Victor Zorza, "Zorza on the Khrushchev Memoirs," *The Washington Post,* February 19, 1971, A–19; Victor Zorza, "Is a Major Rift Under Way in the Kremlin?" *The Washington Post,* October 11, 1971, A–18; Victor Zorza, "Soviet Right Grows Restless," *The Washington Post,* January 26, 1972, A–23; Victor Zorza, "Hughes: Reprise of Khrushchev," *The Washington Post,* February 2, 1972, A–15; Strobe Talbott, "Khrushchev Remembered," *Parade,* October 10, 1971, 17 ff.; John Kenneth Galbraith, "Days in the Life of Comrade Khrushchev," *Book World,* 5 (March 14, 1971), 1 ff.

DISTINGUISHED OHIOAN AWARD

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BROWN of Ohio. Mr. Speaker, last Monday evening, the dean of the Ohio congressional delegation, the Honorable William M. McCulloch, and two of his distinguished Ohio colleagues, Congressmen Frank Bow and Jackson E. Betts, were honored by the Ohio Chamber of Commerce during its annual banquet in Washington, D.C.

The Distinguished Ohioan Award was given to each "in recognition of his leadership and accomplishments on behalf of the State of Ohio, its business and all of its citizens, reflecting its State motto 'With God all things are possible.' "

The honor, which the Ohio chamber began in 1968, was previously awarded to Senator Bricker, Governor Rhodes, Senator Lausche and Mr. Barton Holl.

JOHN J. SYNON—AMERICAN PATRIOT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. RARICK. Mr. Speaker, John J. Synon, a pro-American newspaper writer died April 5, 1972, in Richmond, Va., and was laid to rest under a Confederate Flag in Hollywood Cemetery within speaking distance of Jefferson Davis' plot of earth.

John Synon's life was one of courageous journalism, including a campaign biography of George C. Wallace. He served as director of the Coordinating Committee for Fundamental American Freedoms, Inc.; director of the National Putnam Letters Committee; started the Patrick Henry Press; and his syndicated column appeared in many newspapers throughout the country.

John's intellectual wit and service to his people will be sorely missed. He used his pen in many causes, but always in the search of truth.

No better eulogy could be given of John J. Synon, the American journalist, than the introduction to his final column, a reprint of "A Visit With Jefferson Davis"—on the future of the South.

I include the "final column" at this point:

A Visit With Jefferson Davis

(By John J. Synon)

(Publisher's note.—This will be the final column by John J. Synon. The introduction to it was written by one of Mr. Synon's closest friends.)

John Synon was an Irishman. He enjoyed a good fight. But on April 5, 1972, at St. Luke's Hospital in Richmond, Va., John lost the most important fight of his life—his battle against what he called "The Big 'C' "—and all of us are the poorer. He was 62.

John's wife and two daughters have lost a husband and father who worshiped them, for he was above all an old-fashioned family man. He constantly referred to "My Molly," and "My Mary Ellen," and Margaret . . . well, wise, gentle, pretty little Margaret was the heart of John Synon, and he was proud to let the world know it.

John had a big heart; big enough for Margaret and his girls, big enough for Ireland—yes, Synon Castle still stands in County Cork—and big enough for his native land, Virginia, and the whole of the South.

No one has fought harder for the South, and he knew how to fight. In his personal, inimitable style through this column, through his stirring speeches, through the halls of Congress, through the hills and backwoods, through his people, as he was fond of calling the Unreconstructed.

Yes, John was a fighter. Above all, a fighter, for his friends and colleagues; total unquestioning loyalty. For his foes; not the time of day, or even the back of his hand.

For almost a year, John knew he had the fatal malignancy that had already marked his two brothers But not one complaint, not one appeal for pity escaped his lips or his pen. You never saw the slightest suggestion of his darkening struggle in this column. He wanted to be in the thick of things for as long as he could. And he was. Can any man do more?

One of the most poignant notes of John's life was when he confided to a close friend a few weeks ago that his one great fear was that he would outlive Margaret. God has spared old John that fear, and Margaret carries on with the same courage and determination as always. John would be—he is—proud of her.

John Synon had a particular kind of insight that Providence, in its wisdom, seems to have granted to certain favored Celts. In John's case, it was what the Irish would call "second sight." Thus, he was able to "see" things, to foretell, as those who followed his column know so well.

A few months back, John wrote "A Visit With Jefferson Davis." Most of you probably saw it. But read it again, in the light of what you now know John knew when he wrote it. You will understand a new dimension of this man's greatness of soul and the sensitive imagery of his mind.

John's friends can think of no more fitting way to bring this column to an end than by asking you to read again, in reverence, "A Visit With Jefferson Davis."

John Synon was laid to rest, under a Confederate battle flag, in Hollywood Cemetery in Richmond, within speaking distance of Mr. Davis' own plot of earth. On a quiet evening, when the softness of dusk gathers around, you will hear them talking again.

Montgomery.—A person doesn't go around expecting to run into Jefferson Davis, you know, so when I saw him sitting alone under that magnolia near the south entrance to the capitol, I was nonplussed.

"President Davis?"

"Hello, John," he replied, casually enough. "Sit down."

I hesitated a moment, then did as I was told.

"Mr. President, I thought you were in Richmond."

"Well, I am, most of the time, with my family. But I enjoy coming back to Montgomery, every now and then."

"You certainly are looking well."

"Well, I've had some rest," he smiled.

For a while we went on like that, making small talk. Finally, I said:

"Mr. President."

"Yes."

"Why do you suppose they never took you to court? They had you indicted for treason; why didn't they go through with it?"

"I don't know really. Perhaps if you'd ask Sumner or Butler or Thad Stevens, they could tell you. But I do have a theory."

"Well, you kept asking them to get on with the case, didn't you?"

"Indeed so. As I remember, I demanded trial six or seven times. I kept going back to the Federal building there in Richmond, my lawyer or me, one of us, but they just never would proceed. Finally, they dismissed me, untried, and, I may add, unhung."

"Yes, sir. I know. But why? They sure had the goods on you if they ever had it on anybody."

"That's exactly right, John, they didn't have any treasonous goods on anybody. They didn't try me and therefore convict me because what I did—what all of we Southern people did—had a perfect right to pull out of the union. In a court of law, they knew I could prove that."

"But if you could have proved your innocence in court, how could they have convicted you?"

"My dear man, they could have and, no doubt, would have convicted me—they had the power—had they proceeded.

"That wasn't what they were concerned about, convicting me. I believe they were afraid of history; history was their stumbling block. They were afraid the facts would have made a martyr of me. Couple my hanging with the clear legality of our cause and the people of America, some day, may well have come to realize that the States, being sovereign, do have the right to secede. That was their concern. By not trying me, our case was never put, you see."

"Yes, sir."

"That was part of it. Suppose, on the other hand, the jury had found me not guilty. That would have stirred things even more."

"How's that, Mr. President?"

"Well, a not-guilty verdict would have said, in effect, we did have—as we do have—the constitutional right of secession and in that simple decision we would have won what we failed to win in four bloody years of fighting."

"Oh."

"That's why, in my opinion they refused to press their indictment. Either way, they could not have won."

I thought that over for a while, then started again.

"Mr. President, what do you see for us in the future, I mean, the South?"

He smiled.

"What did the witch say: 'Trouble, trouble, toil and trouble'.

"Yes, trouble. And there is another saying you will remember: 'Truth, pressed to earth shall rise again.' And I might add to that: But not without toil and trouble."

"But, sir, there doesn't seem to be much leadership. There is George Wallace but . . ."

"There will be. There will be," he interrupted, with what I thought to be a bit of flint in his voice.

And that seemed to close the conversation. For a while we just sat.

"Well, John," he finally said, "it's been nice visiting with you but it is tea time and a person tries not to keep Miss Varina waiting."

We both rose and the former President of the Confederacy extended his hand.

"There will be leadership," he said, "there will be."

And with that he left me. And I watched his long form go down the slope and beyond.

ADDRESS BY MELVIN R. LAIRD, SECRETARY OF DEFENSE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BOB WILSON. Mr. Speaker, in case my House colleagues have not yet had an opportunity to review his remarks, I am pleased to include in today's Record the April 26 address of our distinguished Secretary of Defense, the Honorable Melvin R. Laird, before the Rotary Club of Brooklyn at the Saint George Hotel in New York City:

ADDRESS BY HON. MELVIN R. LAIRD, THE SECRETARY OF DEFENSE

I am pleased to be here today because I know that pride grows in Brooklyn, and I want to talk about pride.

I want to talk about how proud I am of our men and women in uniform, both in the active forces and in the National Guard and Reserve.

I also want to talk about my pride in the thousands and thousands of men and women who have served their nation honorably during the war in Vietnam. They deserve a full measure of recognition for their service to our country.

The men and women serving in Southeast Asia today are striving to help restore peace in a troubled part of the world. Other uniformed Americans serving at home and abroad are part of the peace-keeping forces with which we seek to deter conflict.

You will note that I refer to men and women. In the Department of Defense, manpower means womanpower as well. I can reveal to you today that appointment of our nation's first woman Admiral is imminent. She will join the women Generals already serving in the Army and Air Force.

I recognize, of course, that some may consider it old fashioned to talk about pride. I am aware that there are some who find it easier to snipe at our servicemen and women, rather than extending a helping hand. I think it is most appropriate for me to be speaking here today in Brooklyn where facing up to reality is a way of life.

Let's face it. The reality is our armed forces have a difficult job today. They know it and you know it. They also know that they can count on the support of people like you who believe that our country must stay strong to remain free.

If there are those who say this sounds like flag waving, so be it. I think we need some of that these days. Our President, who is the world's leader for peace, today is challenged by a Communist enemy who scorns international conventions, international accords and international understandings. This communist enemy is North Vietnam—equipped with sophisticated Soviet-supplied weapons, thinks nothing of mounting and maintaining an invasion across what Hanoi itself had for almost 20 years recognized as a demilitarized zone.

The communists have changed a demilitarized zone in a battlefield.

In launching this invasion, the enemy clearly endangered the lives of the diminishing force of Americans under the command of General Abrams. No one should have been surprised by our response.

President Nixon, our Commander in Chief, has said repeatedly that as we withdrew additional thousands of our forces from Vietnam we would protect them. We have done this. We are doing this. And we will continue to do this.

I think you common-sense people of Brooklyn would not want it any other way. And you must be mystified, as I am, that some Members of Congress today are talking about restricting the President's authority to protect these withdrawing Americans by seeking to deny General Abrams the air and sea power he needs to protect his troops. As one who was elected to the Congress for nine terms, I find it impossible to understand how those who sought no limits in the years when we were going up and up and up in U.S. military strength in Vietnam today seek limits on protection of Americans as our troop levels go down and down and down.

If I seem to be blunt today, it is because I am frankly fed up with those who would compromise the safety of Americans for whom the President and I are responsible. There will be no compromise with the safety of U.S. servicemen so long as I am Secretary of Defense. And I know General Abrams feels the same way.

What a magnificent job General Abrams has done. This is another source of my pride. He has simultaneously withdrawn hundreds of thousands of Americans from Vietnam—last week alone he sent home 8500—and he has continued training programs which have enabled the South Vietnamese to assume all of the ground combat responsibilities, and he has reduced U.S. casualties to a fraction of what they were in 1969 when the Vietnamization program was begun.

Obviously, I did not come to Brooklyn to burden you with some kind of fancy semantic essay. I came here to talk hard facts.

And one of these hard facts, one of these realities is that by reducing our armed forces by more than one million men and women as we have made significant transitions during the past three years, we have created the need for more civilian jobs for those who have served their country in the Armed Forces.

Since January, 1969, President Nixon has been guiding our country through a series of historic transitions:

From an era of confrontation to an era of negotiation.

From arms competition toward arms limitation.

From the draft to all-volunteer services.

From a federal budget dominated by defense expenditures to one dominated by Human Resource Programs.

From war to peace.

From a wartime economy to a peacetime economy.

As we have turned over responsibility for ground combat operations and an increasing part of the responsibility for combat support to the Vietnamese, we will have reduced our forces in Vietnam by more than 87 per cent as of next Monday. Concurrently, we have cut our entire military establishment back to peacetime size. Some five and three-quarter million people have left the U.S. armed forces for civilian life in the past eight years. As a result, the veteran population of our nation has risen sharply.

I want to talk for a few moments about veterans of the Vietnam war and one of their problems. That problem is jobs.

These veterans had a wartime task that was in some ways the most difficult ever given to our armed forces. Yet despite all the difficulties, with rare exception, they did it well. They are entitled to the nation's gratitude and I believe they are entitled to a special measure of assistance as they rejoin their families and re-enter the civilian community.

Perhaps the most important single project to help the veteran is the Jobs for Veterans program inaugurated by President Nixon in June 1970. I know of the special interest that Rotary Clubs throughout the country, at the suggestion of Rotary International, have taken in supporting this program. I commend Rotarians for what they are doing and urge continued and intensified effort.

Persistently over the course of the past several years, the unemployment rate for Vietnam-era veterans has been higher than that for non-veterans in the same age group. But now, there are signs of improvement in this situation. In the past year the gap between the unemployment rate for veterans in their 20's and the rate for non-veterans in the same age bracket has been cut about in half—although the rate for veterans is still higher. This improvement undoubtedly results from the vigorous effort which President Nixon initiated last year to spur the hiring of veterans as well as from the excellent cooperation of labor and business.

The Vietnam veteran is ready to make his contribution to the nation's economic progress. He is better educated than the veteran of earlier wars. More than eight out of every ten of these veterans have had 12 or more years of schooling. By contrast, only six out of every ten World War II veterans were high school graduates.

The Vietnam veteran is eager to learn. Today more than 2 million of these veterans are using GI Bill Benefits to further their education. This number has risen significantly in recent years. It represents an increase of one-half million over the 1971 figure and is 35% greater than the comparable figure in 1970.

Today's veteran shows a particularly high capability for leadership and responsibility but is seeking a job in a difficult labor market.

The Jobs for Veterans program has achieved considerable success. But the problem that it was established to cope with is still with us. It will continue at least for the next year or two. This year, the normal complement of new entries to the labor market will be swelled by perhaps 700,000 who will be discharged from the armed services. This addition to the normal growth of the labor force requires continued effort to spur economic growth, increase the number of jobs in the economy, and match job-seeking veterans with job openings. The real work that has to be done to make Jobs for Veterans successful can only be accomplished at the local level. It can be done only by employers who seek out qualified veterans to fill the jobs that they have to offer.

Here in New York City the Jobs for Veterans program is in the best of hands. Its chairman is Gilbert W. Fitzhugh, the Chairman of the Board of the Metropolitan Life Insurance Company and the man I chose to head a thorough study of the organization of the Defense Department three years ago.

I hope that the Rotary Club of Brooklyn will give Gil Fitzhugh and his Committee here in New York City generous cooperation in their efforts to help the veteran.

I speak of helping the veteran, but really this program helps the nation. All that the veteran asks is a chance to put to use his energy, his skill, his productive capacity. He wants to work. He wants to do his part in increasing the output of the economy on which depend all our hopes for the solution of the problems of poverty and slums and ignorance which beset us as well as our hopes for peace and progress for our nation. In short, the veteran who is seeking a job is not asking us to give him something. He is asking for the chance to give us something. Hei s asking for the chance to serve his nation in peace as he did in war. If anyone has earned this chance, if any one deserves a job, it is the Vietnam veteran.

A FINE CANDIDATE TO LEAD THE NATIONAL JAYCEES

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. MOLLOHAN. Mr. Speaker, in June of this year, one of the Nation's most outstanding public service organizations, the National Jaycees, will select a young man to lead the many Jaycee clubs across this Nation. There are many outstanding young men competing for this presidency, and this is what one could expect from such an organization, for the Jaycees over the years have actually taught young men the skills of community leadership and have produced young men with devotion to the tasks of building better communities.

Because of the civic enthusiasm and mood of down-to-earth activism associated with the Jaycees, many young men eager to make concrete contributions to their communities have been drawn to the ranks of the club.

Just such a young man is Sam Winer of New Martinsville, W. Va. Sam first became known as a capable young businessman, a fair dealer and a man whom his friends and neighbors could count upon for a quick and positive response to their needs. In 1970 Sam was elected president of the West Virginia Jaycees. He has served well, never accepting a compromising or half-hearted answer to the challenges of community service which constantly came before him.

The State is justly proud of Sam Winer, for we know firsthand of his contributions to West Virginia and to the rest of the Nation as well during his current term as national vice president of the Jaycees.

The name of Sam Winer is on the list of those outstanding young men who are candidates for the presidency of the National Jaycees, and although I have not had the honor of meeting each and every one of those candidates, I can personally attest to the character, intelligence, and energy of Sam Winer. The National Jaycees could choose no more deserving a man, and the club would continue to benefit from its characteristically sound direction under the leadership of Sam Winer.

THE PROTECTIONIST SURGE

Hon. PETER H. B. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. FRELINGHUYSEN. Mr. Speaker, the minimum wage bill, Fair Labor Standards Amendments of 1971 (H.R. 7130), will probably be considered by this body in the near future. Recently a column appeared in the Newark Evening News by Kevin P. Phillips which draws attention to title III of this bill. As the provisions of title III could significantly affect the present American foreign trade posture, I insert this article in the RECORD:

THE PROTECTIONIST SURGE

(By Kevin P. Phillips)

WASHINGTON.—Official Washington is just awakening to an unusual legislative threat—Title III of the Minimum Wage bill about to be considered by Congress—that exemplifies the new and dangerous economic protectionism influencing the American labor movement.

Title III is "Buy American" run amuck. Under its provisions, Federal agencies would be unable to purchase goods from foreign sources. Even vital, strategic materiel would have to be bought in America—or nowhere.

Alerted to this possibility only a few weeks ago, Federal agencies are rushing to produce lists of their strategically essential foreign purchases. Defense Department officials privately admit that Title III would have a devastating effect on procurement. And the National Aeronautics and Space Administration has already weighed in with a sheepish confession that the U.S. space program, so grandly displayed this week, depends on some imported materials: for example, British-developed anti-fog chemicals used on the visor of astronaut space helmets since Apollo 11, as well as West German-produced flame retardant used for flameproofing paper and cellulose spaceflight equipment.

NO ALTERNATIVE IN SIGHT

For all its Know-Nothingism, Title III is hardly a laughing matter. Congressional unwillingness to buck "Buy American" sentiment in an election year could very well speed the measure through the House of Representatives, where consideration is expected in a few weeks. Opponents seem unable to agree upon and rally around a single alternative minimum wage bill that, among other things, would omit Title III. If the AFL–CIO decides to support Title III as part of its general campaign to push Congress toward protectionism, organized labor's efforts could prove decisive.

Title III's author is Rep. John Dent, a Democrat from industrial Westmoreland County, Pennsylvania, who chairs a key subcommittee of the House Education and Labor Committee. Several years ago, Dent got a bill like Title III through the House, but it died in the Senate. This year, he may do better.

Business lobbyists worry that the AFL–CIO may decide to boost Title III not so much for its own sake as to increase pressure for consideration of organized labor's Number One protectionist favorite, the kindred Burke-Hartke bill. So far, House Ways and Means Committee Chairman Wilbur Mills has refused to call hearings on Burke-Hartke, but a House vote for Title III could force his hand.

White House aides share this worry as well as another: that Congress—and the nation—may be drifting into a protectionist mood that would make it hard for President Nixon to make needed international economic decisions that go against the sentiment of the hour.

Certainly the signs are there—witness the legislative stirrings in the century-old protectionist heartland reaching from the shoe and cigar factories of Rep. James Burke's Boston-area district through Rep. John Dent's glass- and pipe-manufacturing bailiwicks to the Great Lakes steel centers represented by Sen. Vance Hartke. As any good historical atlas will show, this is the area that has voted for protectionist measures since pre-Civil War days.

A SWITCH FROM BIG BUSINESS

Until recently, though, big business was the driving force for economic protectionism: originally to safeguard fledgling industries, later to maintain high profits. But now many of America's large corporations are multinational operations, and they oppose protectionist measures. Labor has picked up the banner.

The result is a bunch of thoughtless bills that make the Smoot-Hawley tariff and others look like industrial statesmanship. America's corporate robber barons and their henchmen at least had vision to go with their avarice. But from organized labor and its minions, we get petty measures; measures befitting leaders who, for all their shop talk of "international brotherhoods," are wholly parochial in outlook.

Unhappily, labor's protectionist trend is bound to increase. Organized labor ranks have not grown with the national work force in recent years. Their great strength is concentrated in the large manufacturing industries unionized during the 1930s and 1940s—just those industries, like shoes, steel, textiles, and pipes, under pressure from foreign competition. And while the corporations can set up subsidiaries in Asia or elsewhere, their employees do not have the same flexibility. So the unions are turning to protectionism.

Under these circumstances, labor pressure for measures like Title III and Burke-Hartke can only grow. Organized labor—its leadership and policies—is rooted in the economic past, and that, in the end, is what Title III and Burke-Hartke are trying to preserve.

PROVIDENCE CITY COUNCIL RESOLUTION

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. ST GERMAIN. Mr. Speaker, at a time when the question of Federal aid to nonpublic schools is being widely discussed, I believe the position of the city council of Providence, R.I., will be of interest to my colleagues.

The text of the resolution approved by the city council on April 24, 1972, follows:

RESOLUTION No. 174

Whereas, In order for democracy to survive and succeed it must develop youth with a strong sense of values and ethics, and

Whereas, The Day Schools which teach religious values and ethics especially the ten commandments such as thou shalt not covet thy neighbors' property to have played a vital and necessary role in developing youth with value and ethics, and

Whereas, These Day Schools have been closing at an alarming rate, and

Whereas, Recent decisions of the United States Supreme Court cast a cloud on the legality of Governmental cost sharing of secular and non religious subjects taught at said schools.

Now, therefore, be it resolved, That the Rhode Island Congressional Delegation and the President of the United States of America be and they are hereby urged to introduce and work for passage of An Amendment to the Constitution of the United States to permit governmental financial aid to Religious Day Schools to help defray the costs of their secular program, and

Be it further resolved, That copies of this Resolution be sent to the President of the United States of America; the United States Director of Health, Education, and Welfare; the Rhode Island Congressional Delegation; the United States Senate and House of Representatives; Leaders of the Rhode Island Legislature and the Governor of the State of Rhode Island.

CLARKE H. HARPER

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. CONTE. Mr. Speaker, over the years many persons have contributed greatly to this country and its people through dedicated but often unsung government service. Such a person is Clarke H. Harper of the Federal Aviation Administration, who has been an exemplary civil servant for 38 years.

Today, however, Mr. Harper is no longer unsung. He has been selected as one of the winners of the National Civil Service League Annual Career Awards. The selection of Mr. Harper for this honor is warmly endorsed by all who know him, and I am pleased to extend my congratulations to him at this time.

I came to know Clarke through my role on the Transportation Appropriations Subcommittee. His wealth of knowledge, his integrity, his dedication per's that constitutes the nuts and bolts him a most valuable witness for the committee's hearings on the FAA budget.

His painstaking and intelligent work, and his talent for explaining programs and proposals, go a long way in assisting the committee in its deliberations on the FAA budget. It is work such as Mr. Harper's that constitutes the nuts and bolts of our governmental system. When an individual performs this work in an outstanding manner, the system and the people it serves are the beneficiaries.

The National Civil Service League has added new lustre to its career awards by its selection of Clarke H. Harper. I congratulate the League for its wise choice, and I extend my most sincere congratulations to Mr. Harper for this well-deserved honor.

POISONING PROGRAM FOR PREDATORY ANIMALS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. HAMILTON. Mr. Speaker, I include the following statement by 13-year-old Debbie Thomas, of Nashville, Ind., on the Government's poisoning program for predatory animals on public lands. In a remarkably mature statement of concern, Miss Thomas warns of the ecological consequences of this program, and I believe it deserves the attention of all Members of Congress. It reads as follows:

WHO'S THE REAL VICTIM?

(By Debbie Thomas)

Have you ever seen a coyote? Well, you had better look fast! Our U.S. Government is sponsoring a poisoning program through the use of a non-selective poison called 1080(ten-eighty).

In 1963, curiously enough the last year such information was available to the public, a branch of the U.S. Fish & Wildlife Service used this poison to kill 90,000 coyotes. Today they are still using 1080 poison to kill predatory animals in seven of our western states.

Ten-eighty is an odorless and tasteless poison that is most often injected into a meat bait. This poison is so potent, one pound can kill 320,000 coyotes. Keep this in mind as I tell you that between the years of 1964 and 1969 well over two million pounds of 1080 poison were used to kill anything that would pick up a meat bait.

This poison doesn't degrade easily, which means if an animal feeds from a poisoned carcass, it too is poisoned. Ten-eighty is rendered harmless only when diluted in a large body of water. Therefore, if this poison finds its way into a smaller water system, say under five acres, the fish that swim in this water, and the animals that feed on the fish and drink this water are all poisoned.

In the states of New Mexico, Utah, Texas, Arizona, Colorado, Oklahoma, and Wyoming, ranchers are allowed to graze their stock on public land at ridiculously low prices. These lands, by the way, were originally set aside to protect predatory animals. The ranchers demand that all predatory animals be removed from this land at public expense. And, it's costing you plenty! In 1970, eight million dollars of the taxpayers' money were spent for this purpose. This money, being spent to protect livestock, exceeds their actual value.

To give you a better idea of how much protection the sheep and cattle need, I now describe a coyote. The coyote feeds mainly upon small rodents such as mice, moles, rats and rabbits. It also has the canine instinct to attack any snake it sees. On the other hand, the coyote is afraid of man and keeps his distance. But this poison kills the coyote's natural food once it has entered the food chain, and he is forced as a victim of circumstance, to bring down the domestic livestock, or starve. It seems the poison, in the final analysis, defeats the purpose of protecting the livestock.

In addition, there are laws in these seven states that forbid any random poisoning; which the government is conveniently overlooking. Any branch of the government will do anything in the face of enough public opinion; therefore, I call on you as the public and you as the individual, to write to your congressman, the Fish & Wildlife Service, or another branch of the government to stop this needless killing and to find another way to solve this problem.

I've talked to the young people in my class at school, and I really got response. We are writing, as a class, to many branches of the government. But we can't do enough alone. We need your help to get anything done.

Unless we all act now, the coyote is another animal to which we can all say—Good-bye.

POWER POOL INQUIRY

HON. JAMES ABOUREZK

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ABOUREZK. Mr. Speaker, the Judiciary Committee of the Senate has completed hearings on President Nixon's nomination of Acting Attorney General Richard Kleindienst to become head of the Department of Justice. Those highly useful hearings have focused public attention on the techniques employed by one of the Nation's great conglomerates to win sympathetic decisions from the White House and the Department of Justice.

ITT is not the only large corporation to secure sympathetic and favorable attention from the Nixon administration. By the same token the antitrust division of the Department of Justice does not have a monopoly on generous treatment for giant corporations.

The Department of the Interior markets hydroelectric power generated at multipurpose water resource development projects constructed by the United States. The Department is required by law to sell this power on a preferential basis to municipal utilities, public agencies, and cooperatives.

James R. Smith, an official of the Northern Natural Gas Co. was the Nixon administration's designee to administer this important program.

On February 7, without any prior consultation, Assistant Secretary Smith informed the small municipal utilities and rural electric cooperatives that the Bureau of Reclamation would affiliate with the power company dominated MAPP Pool. It has been established that he made that decision without any legal or technical analysis of his decision's relationship to the law or the Department's ability to discharge its existing contractual commitments.

My fears that the public interest is being subordinated to the interests of Northern States Power Co. prompted me to prepare a letter to Secretary Morton. The letter requests that he give this matter his personal attention and that no action be permitted until legal and technical analyses have been prepared which satisfy the Secretary and the affected Members of Congress.

Five of our colleagues joined me in signing the letter. I ask to make this letter a part of the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 26, 1972.
Hon. ROGERS C. B. MORTON,
Secretary, Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: We understand that Assistant Secretary Smith has committed the Bureau of Reclamation to affiliation with a power pooling arrangement developed by the utilities affiliated with MAPP. This decision by your Assistant Secretary has caused both concern and consternation on the part of many rural electric cooperatives and municipal utilities that are, by law, preferred customers for Federally generated power.

We are informed, and assume that you have been informed as well, that the sponsoring utilities were unwilling to permit the small utilities in the Missouri Basin Systems Group to participate in the drafting process. We are told that the commitment to MAPP was made without any advance discussions with the Systems Groups or its members.

Fred Simonton, Executive Director of the Mid-West Electric Consumers Association, tells us that the record established since February 7th makes it clear that a major decision was made without proper staff work and analysis.

If his information is correct, this decision was made without any legal analysis setting out the relationship between the MAPP Pool and the antitrust laws, the preference clause and the Federal Power Act.

He tells us that the Department has not supplied and apparently has not prepared a legal analysis of the effects of this proposed action on existing contracts. Similarly, the Bureau of Reclamation was not required to document the anticipated effects of affiliation on its system from an engineering and technical point of view.

We have reviewed the legal analysis prepared for the Missouri Basin Systems Group by William C. Wise, as well as the technical analysis prepared by R. W. Beck and Associates. We find these analyses convincing. No doubt the Department's inability to produce similar documentation magnifies the importance of the available studies.

Moreover, we are impressed by the constructive and positive posture assumed by the Missouri Basin Systems Group in the presentation entitled, "A Suggested Arrangement For MBSG Pool Participation in The Proposed MAPP Pool."

We believe that the MBSG proposal provides your Department with a unique opportunity to provide leadership and to serve as a catalyst to bring about real power pooling involving all utilities regardless of ownership in the broad and general public interest.

We respectfully request that you give this important matter your immediate and personal attention. We shall expect to hear that action will not be taken until after careful legal and technical analyses have been prepared in the Department and made available to and discussed with the Members of Congress from the area.

May we have your assurances that you will not act until you have complied with this request?

FIRST ANNIVERSARY OF AMTRAK

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. SCHWENGEL. Mr. Speaker, it was my pleasure to be on hand for the first anniversary celebration of Amtrak on Monday, May 1. This was indeed a very impressive display. It was here that we saw some good evidence of the wisdom in Congress to establish the National Railroad Passenger Corporation, and I had an opportunity to review briefly the contributions made in a brief 12-month period.

Mr. Speaker, the record of activity is very well summarized by the remarks made by Secretary John Volpe, under whose guiding hand and direction the progress was made. The remarks by the Secretary speak more eloquently than anything I could add. It is my hope that every Member of Congress and those interested in what I call the fifth great freedom—the freedom of movement of men and goods, will read and ponder on his eloquent testimony.

Mr. Speaker, it is fortunate, also, that the National Railroad Passenger Corporation commissioned Roger Lewis its president. He has proven that it has the capability to bring the railroad passenger transportation out of chaos and the modern age.

Mr. Speaker, the selection of Mr. Lewis as president was a very fortunate development and his remarks are ample proof of his ideas, concepts, and vision. It is my hope that all will read and ponder this as well.

The remarks of Mr. Lewis and Secretary Volpe follow:

FIRST ANNIVERSARY CEREMONY OF NATIONAL RAILROAD PASSENGER CORPORATION

(Remarks of Roger Lewis, president)

Secretary Volpe, Chairman Stafford, Members of Congress, Members of the Railroad Industry and Honored Guests:

This is the first anniversary of Amtrak. Just 365 days ago, Secretary Volpe led the inaugural run from here to New York signaling the start of Amtrak's nationwide railroad passenger service as directed by Congress.

We didn't have a lot to start with—a bare handful of employees, rented locomotives and passenger cars, a new route pattern somewhat disrupted by a sharp reduction of the number of trains to be operated. But we did have the challenge and the opportunity to create for the traveling public another viable essential link in our country's transportation system, by consolidating the services of 13 separate railroads into a unified nationwide system.

If we had great problems we also had great assets. Our network of right of way and trackage is the greatest in the world. And we had some of the finest passenger train service such as the Santa Fe's Super Chief and the Metroliners already in service to the public. Then we had 15 million passengers each year who needed the trains. And we knew there were countless millions more who would ride good trains if the service could be improved. Lastly, of course, as we approach the 21st century when population is expected to double again and as we congregate more and more around the big cities, the railroad right of way running as it does without interruption from city-center to city-center and suburb to suburb represents perhaps our greatest under-utilized national asset. An America without a dynamic and growing intercity rail passenger service is as inconceivable as an America without a growing air transport system or an expanding highway system.

We think Amtrak has an important job of catching up to do and we are very pleased to say that the White House and the Congress think so too. We have made a lot of solid progress in the first year. We have assembled a dynamic management team; we have bought our initial locomotives and passenger cars from the best the railroads were operating; we have started a program of complete overhaul and redecoration; we have issued nationwide timetables and we now have a single tariff to simplify ticketing. We have a consolidated, computerized reservations system in operation in Chicago. We have credit cards; package tours with bus companies, airlines, and auto rental firms. And we now have more than 4,600 travel agents selling U.S. rail passenger tickets across the country and abroad.

Our immediate goal is to operate clean equipment, on-time service, render prompt and courteous service in reservations and sales, at the station and on the train. We know that Americans have high standards in choosing their ways to travel. We know they want excellence but at the lowest possible cost and we are determined to offer a service that is competitive in quality and price with the best that is available.

The train you see behind me today, the Broadway Limited, is one going into service tomorrow between the East Coast and the Midwest. It has been redone from end to end and I think you will find it very attractive. Before the start of the summer season we expect to have trains like it on the Merchants Limited between New York and Boston, the Silver Meteor between New York and Miami, the Coast Daylight and Starlight from Seattle to Los Angeles, the City of San Francisco between Chicago and San Francisco and the Super Chief. All of our other trains won't be this way for a while because it's a big job even when you have seven shops hard at work overhauling our fleet of almost 1,300 cars, but it will give the country an excellent idea of what we are planning to offer and what every section of the country will soon have.

And there will be new equipment. This year we will commit $100 million to acquire new locomotives and passenger cars. Additional money will be spent on new stations, track and right of way improvements and on research and development. The TurboTrain and the Metroliners you will see here are examples of the kinds of equipment available. And there are others of interest embodying modern advanced technology in other countries to be considered.

But the big thing about Amtrak is people. Railroad and Amtrak people serving people who ride our trains. Many of them have been discouraged, finding it difficult to see a future in passenger service. One of our big accomplishments has been to demonstrate that national railroad passenger service in the United States is here to stay. We are setting high standards of individual performance; we are giving our people the tools with which to work. We are offering training and refresher courses in the most modern methods of serving the public. We have a way to go but we are making progress, some of which is as impressive as this new Broadway Limited train you are about to see. We believe that people want to do a good job and will do a good job if they are told what is expected and given recognition for a job well done.

We think they understand that this is what Amtrak is all about. The sales people, porters, waiters, conductors, trainmen, passenger service representatives, telephone operators, supervisors and executives, whatever his or her job, have a stake and a future in Amtrak, one which through the years will be easily measured if more and more people ride the trains because they like them.

Whatever we have accomplished has only been possible because of the support of government agencies and Congress and particularly the Department of Transportation and its dynamic and hard-driving Secretary, the Honorable John A. Volpe. He has honore us by being here with us this morning. For the record I don't think there would have been an Amtrak in the first place or that we would have made the progress we have made to date without his direct, personal commitment to the restoration of soundly constructed railroad passenger service as a part of our nation's transportation system. It gives me a great deal of pleasure to introduce him to you, the Secretary of Transportation, the Honorable John A. Volpe. I wonder, Mr. Secretary, if you would care to say a word or two to our friends here who have come to join us in our first birthday party.

AMTRAK ANNIVERSARY

(Secretary Volpe's Remarks)

Thank you, Roger. I'm very pleased to be here. I have a keen appreciation for your remarks comparing today's anniversary celebration to the birthday of a child. I helped preside over Amtrak's birth. And I know I speak for thousands of Department of Transportation employees when I say that although it was hard labor, we're proud of the product—proud of the tremendous start Amtrak has made in revitalizing America's rail passenger service.

This is just the beginning, of course. And many of the biggest challenges are still ahead. Nevertheless, I find it difficult to restrain my enthusiasm. I believe in rail passenger service. I ride the trains—especially the Metroliner. And I believe rail passenger service is essential to meeting the intercity mobility needs of this country.

As most of you know, my background is in the construction business. And I've attended literally hundreds of ground breaking, ribbon cutting, dedication and anniversary ceremonies. But I think today fits into another category, perhaps a foundation completion ceremony. Certainly, the foundation has been laid for the kind of train service our citizens deserve.

With this modern and refurbished train here today, with the metroliners, the turbotrains, and the many other trains now in various stages of modernization, we can see the beginning of a new kind of rail transportation.

We can see a system that runs safely, comfortably, efficiently, courteously and on time. We see this progress reflected in many ways—from increased ridership to favorable press accounts.

I was delighted to see a complimentary newspaper article just last week on the metroliners. The comments were favorable, the passengers were appreciative, and the service was courteous.

For me the message was clear: People like the trains and the trains are providing better service to the people. That's a beginning—a foundation—and we're going to build on it.

I certainly pledge the resources of our department to that task.

I want to offer my congratulations to Amtrak and all of its employees on this first year of operations.

It's your dedication, enthusiasm and ingenuity that will insure a bright future, for America's rail passenger service. Happy birthday!

CONTINUED REMARKS OF ROGER LEWIS

I would like now to ask the conductor and one of our passenger service representatives of the Broadway Limited, Mr. Frank Bittner and Miss Christy Koontz, to step forward and help us dedicate the train and then it will be ready for your inspection. Late tomorrow afternoon it will pull out of Penn Station in New York on its historic run west with every seat filled. That more than anything you will see or hear today portends the future for Amtrak.

Thank you.

BUSING ROLLS ON AS NATIONAL ISSUE

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BURKE of Florida. Mr. Speaker, I recently submitted the following statement to the House Committee on the Judiciary in support of a proposed Constitutional Amendment to forbid the busing of public school children to achieve racial balance in our schools. I would like to share my views with you on this matter:

STATEMENT BY CONGRESSMAN BURKE OF FLORIDA

Mr. Chairman, in my two decades of serving the people as an elected official, first on the local level and now on the national level, I do not believe that I have witnessed such a persistent, emotional issue as the controversy over the busing of children to achieve racial balance in our public schools.

All of us have, in the past, received a good number of letters on such issues as taxes, the war, gun registration, and on many other matters, but busing is, and will be a persistant issue; one which we in the Congress should face honestly and with resolute determination.

I feel it is my duty to testify today in favor of H.J. Res. 620 and an accompanying measure which I introduced, H.J. Res. 606, both of which call for a Constitutional Amendment which will outlaw the busing of children to achieve a racial balance in our schools, and which, if enacted, preserve the concept of neighborhood schools.

The issue should be the proper and equal education of all children rather than the busing of our children to achieve racial balance, yet, the question of busing has probably become one of the hottest national issues confronting all of us today. It grew from a spark in the 1960's when federal agencies ordered mixing plans of students in order for school districts to qualify for federal monies. It became a national problem when federal courts upheld the views of the national planners, contrary to the intent of the 1964 Civil Rights Act.

In March of this year, when Florida became the first state to hold a referendum on the subject, 74 percent of the voters indicated they oppose busing and support the Constitutional Amendment set forth in H.J. Res. 620. This support came from all areas of the State, including two counties with a majority of its population composed of Black citizens, as well as from one county with an almost equal population of Whites and Blacks. In Gadsden County which has a population of 15,933 Whites and 23,228 Blacks, the vote for the Constitutional Amendment was 4,639 in favor, and 1,727 against.

In Hamilton County, with a population of 4,695 Whites and 3,083 Blacks, the vote was 979 for the amendment and 213 against. In Jefferson County with a population of 3,874 Whites and 4,897 Blacks, the vote was 1,325 for and 458 against.

Florida, however, is not alone in voicing its opposition to busing. National polls consistently show a strong resentment in almost every part of the Nation to the busing of students. Even the delegates to the National Black Political Convention, which was held in Gary, Indiana voted overwhelmingly in opposing busing and in favoring local schools.

I have never felt that the protection of the rights of the minorities call for overruling the equal rights of the majority. To solve our racial problems in such a way will only lead to further polarization of the races. Yet, despite this danger, we are witnessing federal judges who enjoy the comfort of lifetime appointments, imposing radical sociological views on the majority of the American people.

What it really amounts to is a brand of judicial dictatorship by judges who under the protection of their judicial robes legislate by judicial decree for social expediency rather than to interpret the law within the scope of the Constitution.

There seems to be little hope for the majority of the people from our Supreme Court. On April 20, 1971 the High Court in Swann, et al. v. the Charlotte (North Carolina)—Mecklenburg Board of Education, et al. held:

"That assignment of children to the school nearest their home serving their grade would not produce an effective dismantling of the dual system is supported by record."

The decision further states: "That desegregation plans cannot be limited to the walk-in school."

While the federal courts, and perhaps the U.S. Supreme Court will not alter their views, it should be apparent to all that the majority of Americans resent their rulings as a usurpation of their rights of freedom of choice and an invasion of the constitutional concept of the preservation of neighborhood schools.

Meanwhile, thousands of youngsters are caught in the maze of objections.

I strongly believe that all of us should abide by the law, but one can hardly blame the thousands of parents who are wondering when the Court will begin interpreting the laws as passed by the legislature in accordance with the Constitution, instead of ignoring the Constitution or passing law by judicial dictate.

It is my honest conviction that most Americans want quality education for all children regardless of color or creed, but do not honestly believe in destroying the pride of children in their neighborhood schools with busing as the answer.

Most parents, who want good education for their children will move to areas where it is provided. This is the principle of the neighborhood school that we have all accepted and this is why higher taxes are paid in some neighborhoods than in others. State and local taxes have gone up and a large part of this money has gone to school systems.

Those who disguise the busing of students as a means to better education either ignore the fact, or fail to realize that busing is used mainly in rural areas to transport students to the nearest school in their area. School busing in urban areas is a fairly new concept for it was not too long ago that most urban students walked to school or used public transportation.

The only honest answer is not busing, but is, instead, quality education for all children. This is a fact that most of us recognize today. It is true perhaps that we should have been concentrating our efforts on this in the past, but the truth is that populations of the urban areas have changed in the past few years. New people moved in while others moved out. Neighborhoods have changed and so has the concept of education.

The costs of education have risen tremendously and our American taxpayer, namely, the middle class working man, who carries the greatest brunt of the taxes levied is beginning, and I think rightfully so, to ask: "What has happened to our rights?"

President Nixon, in his message to Congress on March 20th placed the legislative responsibility on our shoulders. Regrettably, if the Supreme Court and the lower courts had ruled on that part of the 1964 Civil Rights Act, which was passed in the 88th Congress and forbid the busing of students to achieve racial balance, this issue would be mute today.

The problem would also be solved if the courts would heed the various amendments to some education appropriation bills forbidding the use of federal funds for the purpose of busing to achieve a racial balance.

Also in his recent speech, the President proposed a moratorium on all new busing and asked the Congress to enact legislation to halt busing for the sole purpose of promoting racial balance, and once again called for the Congress to pass the Quality Education Act so that standards in inferior schools can be upgraded to an acceptable level.

I regret that the question of busing must be the subject of an Amendment to the Federal Constitution, but if such an Amendment is the only answer then so be it.

To those who argue that this method is too extreme, I say let your courts quit legislating. Let the majority retain the rights granted them as free Americans.

I am sure that the majority has learned to respect the rights of all Americans—Black, White, Red and Yellow. The rights granted to all under our Constitution are too great for the courts to ignore.

It is then our judiciary that has lost faith in the justice of the American people, and not the American people who have lost faith in our Constitution, or in each other.

This Constitutional Amendment may help restore that faith once again.

THE U.N. AND VIETNAM

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WALDIE. Mr. Speaker, over a quarter-century ago, this Nation cooperated with several other nations across the globe to form the United Nations.

About the same time, this Nation took the first steps toward military involvement in Indochina, first in concert with France, then in concert with the newly created regime of Ngo Dinh Diem.

The costs and pains of our involvement are now familiar to every American. The tragedy is greater because we have consistently and arrogantly refused to subordinate our own perceptions and objectives to the judgment and assistance of that international organization we created to handle such conflicts.

The United Nations shall never be influential, if the greatest powers on earth stand in its way. The U.N. shall never be helpful, if the greatest powers do not seek its help.

The following letter from Patricia K. DiGiorgio, president of the United Nations Association of San Francisco eloquently makes the case for ending our involvement in Vietnam, and turning over the responsibilities for rehabilitation and reconstruction to the U.N.

UNITED NATIONS ASSOCIATION
OF SAN FRANCISCO,
San Francisco, Calif., April 28, 1972.

HON. JEROME R. WALDIE,
Representative in Congress, Cannon House Office Building, Washington, D.C.

MY DEAR CONGRESSMAN: Dean Rusk recently stated that the most serious error in judgement that the United States government has made with concern to Vietnam was its failure to "seriously seek the involvement of the United Nations." Today over 10 years later this country finds itself in an intolerable and untenable situation which might have been entirely different if such help had been sought.

Secretary-General Kurt Waldheim has offered his "good office" to the United States as well as all other parties concerned to help mediate this very serious and critical problem. To this date he has received no positive response from any of the parties involved. It would seem that this is a most unusual opportunity for the United States government to rectify the wrong that occurred in previous administrations and as Dean Rusk stated "seriously seek" United Nations help.

It is apparent that the will and morale of the South Vietnamese people themselves is deteriorating rapidly, while on the other hand, the bombing of North Vietnam, which was commenced in December, has only served to strengthen the will and determination of the North Vietnamese to reunite their country.

The United States committed itself many years ago to the "containment" of China. This containment is no longer valid. 50,000 American lives, untold thousands of Vietnamese lives, untold devastation and the attendant agonies which wars produce has been uselessly expended and endured.

It is time that the United States government expressed a certain degree of maturity by publicly admitted our error in judgement. It would then seem appropriate to commit ourselves to the task of directing our energies toward the reconstruction and reunification of this devastated country.

Most sincerely,
PATRICIA K. DI GIORGIO,
President.

UNCONTROLLED FOREIGN IMPORTS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. GAYDOS. Mr. Speaker, a recent editorial in the Pittsburgh Press amused, interested, and intrigued me, and I thought it would be of considerable interest to those of my colleagues who share my concern about uncontrolled foreign imports and their damaging effect on domestic industries.

It seems, gentlemen, we are about to witness the breakthrough of another export from Japan. Fifteen Japanese executives are coming here, according to the Press, at their own expense to teach American businessmen the tricks of the export trade. Of course, as the Press points out, the fact Japan is fearful we may demand more trade concessions and controls on Japanese-made goods shipped here may have something to do with this sudden display of good fellowship.

American manufacturers do have some exporting problems, much of them arising from high costs, low productivity, and outmoded plants. But a considerable factor in our current trade deficit are the barriers erected against American-made goods by foreign governments, including Japan.

The Press editorial asks a most pertinent question:

Since the Japanese are now giving us technical help, do you think they'll teach us that self-preferential technique, too.

I wonder.

The editorial follows:

BACKWARD AMERICANS

Have you heard about the latest underdeveloped nation to qualify for technical aid from abroad? It's called the United States of America.

At their own expense, 15 Japanese business executives are coming to the United States to teach businessmen here how to do a better job of exporting to Japan.

All of them speak English, and one hopes that the backward natives over here will be capable of absorbing the lessons.

"I admit it's rather unusual for us, trying to explain these things to people who've been our big brother," said the Japanese delegation head. "It was only logical that we should help our American friends take greater advantage of the export opportunities that already exist for them."

As welcome as the Japanese help is, it isn't purely altruistic. Our trade deficit is now running at a record $3.3 billion annual rate in Japan's favor. And the government and business community in Tokyo are fearful that the U.S. will demand more trade concessions and controls on Japanese goods.

It's true that American businessmen have a lot to learn about exporting. But that is not the main reason for America's trade deficit.

We have structural handicaps like high costs, obsolescent industrial plant and lagging productivity. Those are our problems and shouldn't be blamed on foreigners.

But some of our export trouble—a considerable part, in fact—is the fault of our friends abroad: They do not give the United States a fair shake in international trade.

The Common Market, for example, clearly discriminates against U.S. goods through tariffs, export subsidies and preferential trade deals. Led by the French, who are geniuses at manipulating trade rules, Western Europe is successfully stalling off U.S. complaints.

Although postwar Japan has worked hard and well, not all its export success is due to such praiseworthy qualities.

In relation to the United States, the Japanese also are past masters at erecting trade barriers of dubious legality, ingeniously delaying their removal, and meanwhile pumping goods into the American market.

Since the Japanese are now giving us technical help, do you thing they'll teach us that self-preferential technique, too?

AIR SERVICE IN ALASKA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BEGICH. Mr. Speaker, Alaska has unique and considerable transportation problems as a result of her vast size and surrounding terrain. Because of this, air travel becomes a virtual necessity. I have received from the Alaska State Legislature copies of two resolutions passed by that body dealing with air service and air safety in Alaska. Their passage of these two resolutions reflects on their part a real sensitivity of, and concern with these vitally important issues. By tackling specific problems such as those outlined in these resolutions, air service in Alaska will be made to be the finest possible.

The two resolutions deal with a ground-controlled approach radar at Kodiak to meet the utmost safety requirements, and a request for establishment of scheduled airline service between Kodiak, Alaska, and the Aleutian chain for increased convenience and decreased cost. At Kodiak there currently exists a ground-controlled approach radar system operated by the U.S. Navy. The Coast Guard has requested the Navy to continue operation of the facility on a reimbursable cost basis. The Alaska State Legislature indicates strongly its agreement with the Coast Guard request.

The second resolution attempts to remove a needless inconvenience and inefficiency relative to airline service between Kodiak and the Aleutian chain. Currently, although Dutch Harbor is only 600 miles from Kodiak, the persons who continually need to travel to and from these two areas must travel twice that distance as they must travel through Anchorage. This continues despite the fact that the number of charter flights between Kodiak and Dutch Harbor already equal the number of scheduled flights between Anchorage and Dutch Harbor. There is no reason why this inefficiency needs to continue.

Because problems such as these are so vitally important to Alaska I would like to include in the RECORD for today copies of these important resolutions so that my colleagues may more fully become aware of them:

ALASKA STATE LEGISLATURE—SENATE JOINT RESOLUTION NO. 47

Relating to scheduled airline service between Kodiak, Alaska and the Aleutian Chain

Be it resolved by the Legislature of the State of Alaska:

Whereas there are presently no direct scheduled transportation facilities between Kodiak and the Aleutian Chain; and

Whereas, although Kodiak is approximately only 600 miles from Dutch Harbor, the many persons who continually need to travel from the Chain to Kodiak or from Kodiak to the Chain must travel twice that distance as they must go and come via Anchorage; and

Whereas Kodiak is the site of the Regional High School for the Chain, offers the closest medical and dental facilities to the many Alaskan residents on the Chain, is the Fish and Game Department's headquarters for the Chain, and is the State Trooper headquarters for the Aleutians; and

Whereas the number of charter flights between Kodiak and Dutch Harbor already approximate the number of scheduled flights between Anchorage and Dutch Harbor, all to the great inconvenience and expense of Alaskans desiring to travel between these two points;

Be it resolved by the Alaska Legislature that the Civil Aeronautics Board is urgently requested to take all action necessary to establish scheduled airline service between Kodiak, Alaska and the Aleutian Chain.

Copies of this resolution shall be sent to the Honorable Richard M. Nixon, President of the United States; the Honorable Secor D. Browne, Chairman, Civil Aeronautics Board; the Honorable Alphonse M. Andrews, Director, Bureau of Operating Rights; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Nick Begich, U.S. Representative, members of the Alaska delegation in Congress.

ALASKA STATE LEGISLATURE—SENATE JOINT RESOLUTION NO. 36

Relating to ground-controlled approach radar at Kodiak, Alaska

Be it resolved by the Legislature of the State of Alaska:

Whereas, by July 1, 1972, the Federal Aviation Administration is expected to establish tower service at the Kodiak Airport; and

Whereas the Federal Aviation Administration has only an instrument landing system programmed for Kodiak and does not plan on operating the ground-controlled approach system currently in use at Kodiak under the auspices of the United States Navy; and

Whereas, because of the United States Coast Guard mission requirements at Kodiak, the Coast Guard has requested the United States Navy to continue its operation of the ground-controlled approach radar at Kodiak on a reimbursable cost basis; and

Whereas the continued availability of ground-controlled approach radar at Kodiak is not only desired by the United States Coast Guard, but would assure all aircraft, military and civilian alike, that the Kodiak Airport offers the optimum services and facilities necessary to meet the utmost safety requirements;

Be it resolved by the Alaska Legislature that the United States Navy is urged to agree with the request made by the United Sates Coast Guard that the Navy continue to operate the ground-controlled approach radar system at Kodiak after July 1, 1972, or, failing agreement to that effect, that the Federal Aviation Administration reconsider its decision to utilize only an instrument landing system at the Kodiak Airport

Copies of this resolution shall be sent to the Honorable Richard M. Nixon, President of the United States; the Honorable John A. Volpe, Secretary, Department of Transportation; the Honorable John M. Chafee, Secretary of the Navy; Admiral Chester R. Bender, Commandant, United States Coast Guard; the Honorable John M. Shaffer, Administrator, Federal Aviation Administration; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S Senators, and the Honorable Nick Begich, U.S. Representative, members of the Alaska delegation in Congress.

THREATS TO THE WORLD ENVIRONMENT

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. HALPERN. Mr. Speaker, there is ever-increasing evidence that man is wreaking environmental havoc on his ocean, air, and land masses, so vital to his survival. As all of my colleagues are surely aware, the United Nations Conference on the Human Environment, scheduled to convene in Stockholm this June, marks the first time that the nations of the world will join together to combat the deterioration of commonly shared natural resources.

I would like to insert into the RECORD, Mr. Speaker, an excellent environmental article written by Ed Blanche which appeared in the Long Island Press. This article, which appeared in the Sunday, April 30th edition of the Press, offers an insightful description of the problems which such countries as Poland, Portugal, Britain, Japan, and Holland are experiencing in the struggle to control the ecologically adverse effects of industrial development. I would heartily commend Mr. Blanche's article to my colleagues in the House.

The article follows:

WORLDWIDE POLLUTION FIGHT AN UPHILL BATTLE

(By Ed Blanche)

LONDON.—The problem of pollution is drawing increasing worldwide attention but is still not a major concern in many countries.

Industrialized countries' governments over the past year or two have responded with tougher legislation, more court actions, better enforcement machinery.

But an Associated Press survey shows that in many nations the fight against pollution remains an uphill battle overshadowed by the drive for industrialization.

Many Africans and Asians fear that industrialized nations will divert pollution-producing industries to less developed regions that lack resources to handle the problem.

In Nairobi, Kenya, motorists switch on their headlights during the day to drive through thick smog caused by clouds of oily fumes from trucks and buses.

South Africa, the most industrialized country on the continent, is also the most polluted. An airline pilot reports: "On a clear day you can see the industrial complex around Johannesburg and Pretoria 100 miles away. It looks like a gathering of big, black storm clouds."

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The complex, including blast furnaces and iron foundries, pumps 22 tons of solids into the air every day.

Thailand has begun at the bottom of the pollution scale with massive cleanup in Bangkok, long regarded as one of Asia's filthiest cities. There are hefty fines for dumping.

Countries like Spain and Portugal, still scratching to burst into the industrial age, as well as most countries in Latin America, Asia and Africa, have virtually no antipollution laws. If they have, they are weak and rarely enforced.

Chile, one observer notes, "is an ecologist's nightmare and a polluter's dream."

The unsophisticated millions in Africa and Asia, are emerging from countries of primitive life, where disease was rampant, into the space age . . . to find progress can be just as deadly.

Africa faces a growing refuse problem due to lack of sewage disposal plants. Every year, millions of tons of garbage and human waste flow down rivers, fueling disease like cholera, typhoid and hepatitis. The same is true in parts of Asia.

Many countries, like Mexico, now give tax cuts to companies which install antipollution devices in their factories.

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Poland, which will spend $50 million on fighting the growing pollution menace that has damaged 600,000 acres of forest and farmland, plans 800-foot skyscraper chimney stacks on all factories to push dangerous gases high into the sky.

Many countries report an open defiance of antipollution laws. In Sweden, authorities found big corporations were willing to pay for violating the code. But the government is now moving to force the companies into line.

In Communist bloc countries officials found fines imposed on factories were not effective. So they started fining the managers, too. That did the trick.

"It's the only way we can really get any action," an Industry Ministry official in Czechoslovakia explained.

Aggressive young magistrates in Italy have cracked down on violators of the country's vague 40-year-old laws. They ordered the arrest of one Rome industrialist who'd ignored several warnings. Within four days, he installed filters at his seed oil plant.

Some people are prepared to risk the perils of pollution.

The engineer in charge of a vast new petrochemical plant in Portugal shrugged the whole thing off by saying the plant "may result in a bit of pollution of the atmosphere, but this is the price of progress. In a sense, pollution is progress."

Lisbon authorities have warned that art treasures in the National Museum of Ancient Art overlooking the Tagus River are menaced by fumes from cars and ships. In India sulfur gases from railroad yards and power-generating plants are eating away at the marble finish on New Delhi's 300-year-old Red Fort.

Greece's ruling military junta, afraid of losing the flood of tourists who spend millions every year, has cleared up the idyllic Bay of Eleysis near Athens "by sheer terror," as one official puts it.

The bay, which lies in a major shipping lane, was once one of the dirtiest stretches of coast in Greece because of dumping by thousands of ships. One merchantman spotted ditching waste overboard was fined a five million drachmae, or $166,000, earlier this year.

The Acropolis in Athens, experts say, has suffered more damage to its marble in the last 20 years from fume-filled air than it did from the ravages of climate in 25 centuries.

Tougher legislation is on the books for Sweden, France and the Netherlands.

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Britain, which has been fighting pollution since the 1950s, is now pressing for stricter control of industrial dumping. The government has pledged $3.8 billion for a five-year program to clean up 1,000 miles of sludge-clogged rivers.

Britain also is pushing hard for an international convention on sea pollution in the Atlantic. Twelve European neighbors have already signed the pact.

European governments are setting up special departments charged with combatting pollution. The Russians, rudely awakened from decades of industrialization to find their vast land threatened by environmental dangers, are planning to reverse north-flowing Siberian rivers to replenish the Aral sea, whose level is dropping and salinity increasing.

The Volga River in Russia is so polluted it is killing off the caviar-producing sturgeon fish in the Caspian Sea. Supplies of the region's "black gold" are dwindling.

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Japan, which plans to spend $9 billion this decade on antipollution operations, has begun work on a huge waste disposal plant at Osaka and forced industrialists into taking measures to cut pollution. Major auto makers are working on new fume-free cars.

A Japanese court ordered a major chemical firm to pay 272 million yen ($883,000) to 77 persons poisoned by mercury dumped in the Agano River.

In the chemically soured industrial cities of Japan, hundreds of persons have died from poisoned air. In some parts of Tokyo, one in three persons suffers from severe lung trouble caused by industrial fallout of ash and grime totaling 150 tons a square mile every year.

In central Japan, 46 persons died and 150 were mentally or physically disabled after being struck by the "itai-itai (ouch-ouch) plague—mercury poisoning of rivers which damages brain cells and softens bones so much they can be broken at a touch.

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In the Dutch industrial city of Rotterdam, people had to buy cartons of fresh water in supermarkets after the Rhine River was polluted by salt. Dutch officials blamed the crisis on vast dumping of waste by potassium mines in the French Alsace.

Hong Kong in Chinese means "Frangrant Harbor. Ecologists call it "Stinking Harbor," now because an estimated 195 million gallons of liquid waste deluges into the British colony's harbor every day.

In the remote African mountain kingdom of Swaziland, tribesmen believed the god of the Usutu River was angry with them when thousands of fish were killed off by millions of gallons of sludge surging downstream when a pulp mill's dam burst.

Israeli authorities, anxious over the rising noise level in Tel Aviv, have reactivated a rarely enforced law banning piano playing with open windows during siesta time.

LAW DAY

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. BRASCO. Mr. Speaker, today is the celebration in the Western and non-Communist world of Law Day, which notes our devotion as a society to the rule of law, rather than to that of men alone.

Across the world today, free societies and obedience to democratic laws is at a premium. Such rules are notable only by the fact that men trample upon them with impunity. Here in America and in a few other places we seek, in spite of all obstacles, to adhere to obedience to laws. It is my feeling that a free society abiding by a rule of law has to tread a hard, difficult path, strewn with obstacles and temptations to take the easier, totalitarian path. Most societies give in to such temptations. So far, we have spurned the call. And to our credit.

It is incumbent upon the Congress, especially in such a time, to continue to set a special example for the rest of our Nation and the world. We must show how much the rule of law means to us. We must add to that body of American law judiciously, with a care for the rights of the mass of our citizens. And at all times, we must revere the spirit of the laws as well as observe their letter. Only in this way will we endure as a Congress, as a nation and as a society, much less as an example to other nations in a time when totalitarianism clouds so much of the world.